

VOL. I OF II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

L. Casey Manning, Circuit Court Judge

RECEIVED

OCT 16 2013

S.C. Supreme Court

RANDY ELDERS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2012-213665

A P P E N D I X

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STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

COURT OF GENERAL SESSIONS

THE STATE

-VS-

RANDY C. ELDERS

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:
:
:

TRANSCRIPT OF RECORD
2005-GS-40-3540
2005-GS-40-3544
2005-GS-40-3545

FEBRUARY 13-17, 2006
COLUMBIA, SOUTH CAROLINA

B E F O R E:

HONORABLE JAMES W. JOHNSON, JR., JUDGE.

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

KATHRYN L. CAMPBELL, ASST. SOLICITOR
AARON S. JOPHLIN, ASST. SOLICITOR
ATTORNEYS FOR THE STATE

APRIL W. SAMPSON, ASST. PUBLIC DEFENDER
STACY R. OWINGS, ASST. PUBLIC DEFENDER
ATTORNEYS FOR THE DEFENDANT

VIRGINIA ROLAND
CIRCUIT COURT REPORTER
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1 (THEREUPON, ON TUESDAY, FEBRUARY 14, 2006, THE TRIAL
2 WAS COMMENCED AS FOLLOWS:)

3 (THEREUPON, VARIOUS ITEMS WERE MARKED STATE'S EXHIBIT
4 NO. 1-54 AND MADE A PART OF THE RECORD.)

5 THE COURT: THE INDICTMENTS THAT HAVE BEEN HANDED
6 UP AT THIS TIME, THERE ARE FOUR INDICTMENTS. STATE VERSUS
7 RANDY C. ELDERS, 05-3540, 3542, EXCUSE ME, THERE ARE MORE
8 THAN FOUR, SIX INDICTMENTS, 05-3540, 42, 44, 43, 46 AND 45,
9 STATE VERSUS RANDY ELDERS. NUMBER 3540, THE CHARGE OF CAR
10 JACKING; 3542, ARMED ROBBERY; 3544, KIDNAPPING; 3543,
11 KIDNAPPING; 3546, ASSAULT AND BATTERY WITH INTENT TO KILL;
12 AND 3545, ASSAULT AND BATTERY WITH INTENT TO KILL.

13 AFTER MEETING WITH COUNSEL YESTERDAY IT WAS, I
14 THINK, AGREED TO WE'LL GO AHEAD AND SELECT A JURY THIS
15 AFTERNOON, DISMISS THEM FOR THE AFTERNOON POSSIBLY AND HEAR
16 PRE-TRIAL MATTERS AND I THINK I LEFT IT UP IN THE AIR
17 WHETHER WE WOULD ACTUALLY START THE TESTIMONY THIS AFTERNOON
18 OR TOMORROW. IS THAT WHAT YOU FOLKS REMEMBER?

19 MS. CAMPBELL: I WASN'T THERE BUT THAT'S WHAT I
20 UNDERSTOOD, YOUR HONOR.

21 MS. OWINGS: YES, YOUR HONOR. THAT'S WHAT I
22 RECALL.

23 THE COURT: THEN YOU'RE READY TO SELECT THE JURY?

24 MS. CAMPBELL: YES, SIR.

25 THE COURT: IS THE DEFENSE READY?

1 MS. OWINGS: THAT'S FINE, YOUR HONOR.

2 THE COURT: ALL RIGHT. STRIKES ARE TEN AND FIVE
3 BELIEVE ON THIS.

4 MS. CAMPBELL: YES, SIR.

5 THE COURT: ANY SPECIAL VOIR DIRE BEING REQUESTED?

6 MS. OWINGS: YES, YOUR HONOR.

7 MS. CAMPBELL: I'VE JUST BEEN HANDED THIS. I
8 HAVEN'T HAD A CHANCE TO SEE THAT.

9 MS. OWINGS: YOUR HONOR, SPECIFICALLY WE WANT TO
10 CALL YOUR ATTENTION TO NUMBER THREE BECAUSE I KNOW YOU, OF
11 COURSE, USE YOUR DISCRETION ON WHAT YOU CHOOSE TO CHARGE.
12 BACK WHEN THIS INCIDENT OCCURRED BACK LAST APRIL THERE WAS A
13 LOT OF, THERE WAS A SPECIAL FEATURE ON MR. AND MRS. RIGGS ON
14 W.I.S.

15 MS. CAMPBELL: I'VE INCLUDED A QUESTION, HAS ANY
16 MEMBER OF THE JURY PANEL READ A NEWSPAPER OR HEARD ANYTHING
17 ON TELEVISION ABOUT THIS CASE? I WOULD ASK THAT YOU READ
18 THAT ONE.

19 THE COURT: YOU'RE TALKING ABOUT NUMBER SEVEN?

20 MS. OWINGS: YES, SIR.

21 THE COURT: STATE WOULDN'T HAVE ANY PROBLEM WITH
22 THAT QUESTION, WOULD YOU?

23 MS. CAMPBELL: NO, SIR. BUT I DO HAVE A PROBLEM
24 WITH SOME OF THE OTHER ONES.

25 THE COURT: I WILL NOT BE ASKING 11, 12, 13, 14,

1 OR 15. NUMBER SIX, I WILL ASK ABOUT VIOLENT CRIMES. I'M
2 NOT JUST GOING TO OPEN THAT UP TO ANY CRIMES AND AS FAR AS
3 EMPLOYED BY, RELATED BY WITH THE ATTORNEY GENERAL,
4 SOLICITOR, THERE WILL BE A RECIPROCAL QUESTION ABOUT PUBLIC
5 THE PUBLIC DEFENDER'S OFFICE.

6 MS. OWINGS: CERTAINLY.

7 THE COURT: ANYTHING FURTHER?

8 MS. CAMPBELL: YES, SIR. YOUR HONOR, WE WOULD
9 JUST ASK ON NUMBER ONE AND NUMBER THREE, MAYBE JUST COMBINE
10 CIVIL OR MILITARY. I THINK THEY'RE REPETITIVE.

11 THE COURT: ALL RIGHT.

12 MS. CAMPBELL: AND THEN NUMBER TWO, RECIPROCAL AS
13 TO DEFENSE ATTORNEYS, PUBLIC DEFENDER'S OFFICE, SOLICITOR'S
14 OFFICE OR APPELLATE DEFENSE.

15 THE COURT: YES, SIR.

16 MS. CAMPBELL: NUMBER FOUR, YOUR HONOR, IN THAT
17 SAME MANNER, YOUR HONOR, IF ANYBODY HAS PRISONERS' RIGHTS AS
18 A PRIMARY FOCUS.

19 THE COURT: IS THAT RIGHT? SAY THAT AGAIN,
20 MS. CAMPBELL.

21 MS. CAMPBELL: I THINK IN ADDITION TO THE CASE,
22 THERE HAS BEEN RECENTLY A LOT IN THE NEWSPAPER ABOUT
23 PRISONERS' RIGHTS AND GROUPS THAT ARE DEVOTED TO THOSE TYPES
24 OF THINGS JUST IN GENERAL.

25 THE COURT: ALL RIGHT. ANYTHING FURTHER?

JURY SELECTION

1 MS. CAMPBELL: NO, SIR.

2 THE COURT: ALL RIGHT. WE'LL STRIKE THE JURY.
3 LET'S GET A PANEL UP HERE, JACKIE.

4 (THEREUPON, THE JURY PANEL ENTERS THE COURTROOM.)

5 WERE THERE ANY ADDITIONAL POTENTIAL WITNESSES I
6 NEED TO PUT ON MY LIST FOR VOIR DIRE FIRST?

7 MS. OWINGS: NOT FROM THE DEFENSE, YOUR HONOR.

8 THE COURT: LADIES AND GENTLEMEN, THOSE OF YOU IN
9 THE JURY PANEL, MY NAME IS JIM JOHNSON. I'M FROM LAURENS
10 COUNTY. IT'S MY PLEASURE TO BE PRESIDING OVER COURT IN THIS
11 COURTROOM THIS WEEK. I'VE BEEN ASSIGNED TO THE COLUMBIA
12 AREA FOR THE ENTIRE YEAR OF 2006. I HELD COURT DOWN HERE A
13 GOOD BIT BACK IN 1996 AND THEN I'VE HELD COURT PERIODICALLY
14 SINCE THEN. ANYWAY BEFORE WE GET STARTED WITH THE JURY
15 SELECTION PROCESS, I KNOW OR AT LEAST I HOPE YOU HAVE BEEN
16 TOLD A NUMBER OF TIMES TO BE SURE AND TURN YOUR CELL PHONES
17 OFF AND THINGS LIKE THAT.

18 I'VE HAD TO TAKE TWO AWAY FROM LAW ENFORCEMENT
19 OFFICERS IN THE LAST WEEK OR 10 DAYS AND THE GOING PRICE TO
20 GET THEM BACK IN RICHLAND COUNTY, AS I UNDERSTAND, IT'S
21 \$200. THAT'S PRETTY STEEP FOR A CELL PHONE. YOU CAN
22 PROBABLY BUY IT FOR ABOUT \$50 SO PLEASE BE SURE THEY ARE
23 TURNED OFF IN THIS COURTROOM. IN THIS COURTROOM THIS WEEK
24 WE'RE HOLDING A TERM OF COURT WE CALL GENERAL SESSIONS OR
25 CRIMINAL COURT. THE JURY SELECTION PROCESS IN CRIMINAL AND

JURY SELECTION

1 CIVIL COURT IS DIFFERENT. IF SOME OF YOU MAY HAVE ALREADY
2 BEEN THROUGH THE SELECTION PROCESS AND IT WAS FOR A CIVIL
3 CASE, IT WILL NOT BE THE SAME PROCESS THAT WE GO THROUGH.

4 AT THIS TIME I'M GOING TO INTRODUCE SOME FOLKS TO
5 YOU AND TELL YOU WHAT THE CASE IS AND WHAT THE CHARGES OR
6 THE ALLEGATIONS ARE. I'LL THEN READ TO YOU A LIST OF THE
7 POTENTIAL WITNESSES IN THE CASE AND THEN I'LL HAVE A NUMBER
8 OF QUESTIONS TO ASK YOU ABOUT THIS CASE. IN A CRIMINAL CASE
9 THE CASE IS PROCESSED THROUGH THE COURT SYSTEM BY DOCUMENTS
10 CALLED INDICTMENTS. THESE ARE THE PIECES OF PAPERS THAT I'M
11 HOLDING HERE IN MY HAND. YOU MAY HAVE HEARD THAT WORD EVEN
12 BEFORE. THE INDICTMENT HAS INFORMATION, A CASE NUMBER AND
13 CASE NAME.

14 THEN IT HAS GOT THE CHARGE OR CHARGES IN THIS
15 PARTICULAR CASE AND WHILE IT HAS THESE CHARGES IN IT, IT IS
16 NOT EVIDENCE AND CANNOT BE CONSIDERED BY THE JURY PANEL AS
17 EVIDENCE OF THE CHARGES THAT IT CONTAINS. THESE DOCUMENTS
18 HAVE BEEN SERVED ON THE DEFENDANT AND THE DEFENDANT'S
19 ATTORNEY AT SOME TIME PRIOR TO THIS WEEK. IT PUT THOSE
20 FOLKS ON NOTICE OF WHAT CHARGE OR CHARGES THE DEFENDANT
21 WOULD BE FACING WHEN THE CASE WAS CALLED FOR TRIAL. IN THIS
22 CASE THERE ARE SIX SEPARATE INDICTMENTS. THEY ARE
23 NUMBERED 05-3545, 3546, 3543, 3544, 3542 AND 3540. THEY ARE
24 ALL ENTITLED THE STATE VERSUS RANDY C. ELDERS. MR. ELDERS
25 IS PRESENT. HE IS REPRESENTED BY MS. OWINGS AND

JURY SELECTION

1 MS. SAMPSON.

2 MS. OWINGS, IF YOU WILL INTRODUCE YOUR CLIENT AND
3 COCOUNSEL TO THE JURY PANEL AS WELL AS YOURSELF, PLEASE?

4 MS. OWINGS: THANK YOU. LADIES AND GENTLEMEN, MY
5 NAME IS STACY OWINGS. I'M THE ATTORNEY FOR RANDY ELDERS AND
6 MY COCOUNSEL IS PUBLIC DEFENDER APRIL SAMPSON.

7 THE COURT: THANK YOU. THE STATE IN THIS CASE
8 WILL BE REPRESENTED BY KATHRYN LUCK CAMPBELL AND AARON
9 JOPLIN WITH THE SOLICITOR'S OFFICE.

10 MS. CAMPBELL, IF YOU'LL INTRODUCE YOURSELF AND
11 COCOUNSEL ALSO, PLEASE.

12 MS. CAMPBELL: I'M LUCK CAMPBELL. AARON JOPLIN
13 AND BOTH WORK FOR THE SOLICITOR HERE IN RICHLAND COUNTY.

14 THE COURT: ALL RIGHT. THANK YOU.

15 THE CHARGES THAT ARE MADE IN THIS CASE, AGAIN
16 THESE ARE THE CHARGES IN THE INDICTMENT BUT THEY ARE NOT
17 EVIDENCE OF THE CHARGES THAT THEY CONTAIN. INDICTMENT 3540
18 IS A CHARGE OF CAR JACKING. INDICTMENT 3545 IS A CHARGE OF
19 ARMED ROBBERY, 3544 AND 3543 ARE CHARGES OF KIDNAPPING
20 AND 3546 AND 3545 ARE CHARGES OF ASSAULT AND BATTERY WITH
21 INTENT TO KILL. THOSE ARE THE ALLEGATIONS THAT ARE MADE IN
22 THE CASE. IT IS ALLEGED IN THE INDICTMENTS THAT THESE
23 OFFENSES OCCURRED ON ABOUT APRIL 17TH OF 2005. IT IS
24 ALLEGED IN THE INDICTMENT THAT THE VICTIMS OF THE ASSAULT
25 AND BATTERY WITH INTENT TO KILL AND THE ALLEGED KIDNAPPING

JURY SELECTION

1 CHARGES ARE DWIGHT RIGGS AND KATHRYN RIGGS.

2 IT'S ALLEGED IN THE ARMED ROBBERY INDICTMENT THAT
3 THE VICTIM IS KATHRYN RIGGS AND IT IS ALLEGED IN THE
4 INDICTMENT FOR CAR JACKING THAT THE VICTIM IN THAT CAR WAS
5 DWIGHT RIGGS. THERE ARE A NUMBER OF POTENTIAL WITNESSES TO
6 BE CALLED IN THIS CASE. I'M GOING TO GO OVER THIS LIST WITH
7 YOU AND I'M JUST GOING TO READ THE NAMES AND ASK THESE
8 FOLKS, SOME OF THEM WILL BE PRESENT BUT A NUMBER OF THEM
9 WILL NOT BE PRESENT SO YOU NEED TO PAY CLOSE ATTENTION TO
10 THE NAMES. IF THESE POTENTIAL WITNESSES ARE PRESENT, I
11 WOULD ASK THEM TO STAND BRIEFLY SO THAT YOU CAN SEE WHO THEY
12 ARE.

13 POTENTIAL WITNESSES IN THE CASE ARE CHRISTINA
14 HALL; SCOTT FAUST, AN INVESTIGATOR WITH THE SHERIFF'S
15 OFFICE; SERGEANT SCOTT MCDONALD, ALSO WITH THE SHERIFF'S
16 OFFICE; CAPTAIN STAN SMITH, ALSO WITH THE SHERIFF'S OFFICE;
17 SERGEANT DAVID LINFERT, ALSO WITH THE SHERIFF'S DEPARTMENT;
18 JANELLE MACMILLAN, WITH THE SHERIFF'S OFFICE; BRADY NIMMONS,
19 ALSO WITH THE SHERIFF'S OFFICE; AS WELL AS STAN RICHARDS, AN
20 INVESTIGATOR WITH THE SHERIFF'S OFFICE; THOMAS CAMPBELL;
21 SHARRRI ABBOTT; STEVEN REEVES WITH THE SHERIFF'S OFFICE;
22 RICHARD SMITH.

23 DEIDRE BROWN, WITH THE SHERIFF'S OFFICE; DAWN
24 SMITH, Minor , CHRIS SMITH, SARAH HERBERT; LIEUTENANT
25 ZANE PAGE, WITH THE SHERIFF'S DEPARTMENT; JAY RUSSELL WITH

JURY SELECTION

1 THE SHERIFF'S DEPARTMENT; INVESTIGATOR CHARLES EARLES WITH
2 THE SHERIFF'S DEPARTMENT; INVESTIGATOR J. A. BAKER, WITH THE
3 SHERIFF'S OFFICE; INVESTIGATOR CHRIS LINDLER, WITH THE
4 SHERIFF'S DEPARTMENT; DEBRA WATERS; TINA GOFF, WITH THE
5 SHERIFF'S OFFICE; DAVID L. BELL, ANDY JONES ALSO WITH THE
6 SHERIFF'S OFFICE; JOHN BARRON, WITH THE SHERIFF'S OFFICE;
7 ANNA CLEMENS, WITH THE SHERIFF'S OFFICE.

8 INVESTIGATOR TRISHA COLLINS, WITH THE SHERIFF'S
9 OFFICE; LONNIE GROSS WITH THE SHERIFF'S OFFICE; BRENDA
10 CARROLL; INVESTIGATOR WALTER MCDANIELS, WITH THE SHERIFF'S
11 OFFICE; STEPHANIE BAUTISTA; MAUDE GOODSON; ALEX RAMOS; MIKE
12 RUHL, R-U-H-L; JENNIFER BLAIR; JUDY SPELL; BEV CRANE, WITH
13 THE SHERIFF'S DEPARTMENT; JOE LEE RISH, R-I-S-H; AND
14 SERGEANT ALBERT MCLENDON WITH THE SHERIFF'S OFFICE. THOSE
15 ARE POTENTIAL WITNESSES IN THE CASE AND AS I'VE INDICATED
16 I'VE GOT SEVERAL QUESTIONS TO GO OVER WITH YOU AND ASK YOU
17 ABOUT THIS PARTICULAR CASE.

18 FIRST OF ALL IS ANYONE ON THE JURY PANEL RELATED
19 BY BLOOD OR CONNECTED BY MARRIAGE EITHER TO THE DEFENDANT
20 MR. ELDERS OR ANY OF THESE POTENTIAL WITNESSES IN THE CASE?
21 IF YOU'RE RELATED BY BLOOD OR CONNECTED BY MARRIAGE TO ANY
22 OF THESE INDIVIDUALS WOULD YOU PLEASE STAND?

23 (NO RESPONSE.)

24 THE COURT: IF ANYONE ON THE JURY PANEL HAS ANY
25 TYPE OF BUSINESS OR PERSONAL OR SOCIAL RELATIONSHIP EITHER

JURY SELECTION

1 WITH THE DEFENDANT MR. ELDERS OR ANY POTENTIAL WITNESSES IN
2 THE CASE, I'M GOING TO ASK YOU TO STAND. SOMETIMES I'M
3 ASKED WHAT DO YOU MEAN BY SOCIAL OR BUSINESS OR PERSONAL
4 RELATIONSHIPS. REALLY WHAT WE'RE LOOKING FOR IS IF YOU KNOW
5 ANYBODY, IF YOU HAVE ANY TYPE OF RELATIONSHIP, WHETHER IT'S
6 YOU BELONG TO THE SAME CIVIC ORGANIZATION, GO TO THE SAME
7 CHURCH OR BELONG TO ANY OTHER KIND OF ORGANIZATION WHERE ANY
8 OF THESE FOLKS MAY BELONG. THAT'S THE TYPE THING THAT WE
9 ARE LOOKING FOR. LET ME REMIND YOU THAT IN SELECTING A
10 JURY, WHAT WE'RE ATTEMPTING TO DO IS FIND 12 PEOPLE WHO
11 DON'T KNOW ANYTHING ABOUT THE CASE, HAVE ABSOLUTELY NO
12 CONNECTION WITH ANYONE INVOLVED IN THE CASE, AND WHO WILL BE
13 ABLE TO MAKE A FAIR AND IMPARTIAL DECISION IN THE CASE BASED
14 ONLY ON THE EVIDENCE THAT'S PRESENTED HERE IN COURTROOM. SO
15 LET ME AGAIN GO OVER WITH YOU IF YOU HAVE ANY TYPE OF
16 BUSINESS, SOCIAL OR PERSONAL RELATIONSHIP EITHER WITH THE
17 DEFENDANT MR. ELDERS OR ANY POTENTIAL WITNESS IN THE CASE,
18 WILL YOU PLEASE STAND?

19 (NO RESPONSE.)

20 THE COURT: IS THERE ANY MEMBER OF THIS JURY PANEL
21 WHO IS SENSITIVE TO OR AWARE OF ANY KIND OF BIAS OR
22 PREJUDICE THAT YOU MAY HAVE THAT WOULD PREVENT YOU FROM
23 BEING FAIR AND IMPARTIAL BOTH TO THE STATE AND TO THE
24 DEFENDANT IN THIS CASE? IF SO WOULD YOU PLEASE STAND?

25 (NO RESPONSE.)

JURY SELECTION

1 **THE COURT:** IS THERE ANY MEMBER OF THIS JURY PANEL
2 WHO HAS FORMED OR EXPRESSED AN OPINION AS TO THE GUILT OR
3 THE INNOCENCE OF THE DEFENDANT IN THIS CASE? IF SO, WOULD
4 YOU PLEASE STAND?

5 (NO RESPONSE.)

6 **THE COURT:** IF THERE IS ANY MEMBER OF THE JURY
7 PANEL WHO HAS EITHER CURRENTLY OR IN THE PAST BEEN
8 REPRESENTED BY ANY OF THE ATTORNEYS INVOLVED IN THIS CASE OR
9 IF YOU HAVE ANY OTHER KIND OF BUSINESS, PERSONAL OR SOCIAL
10 RELATIONSHIP WITH ANY OF THE ATTORNEYS INVOLVED IN THE CASE
11 WOULD YOU PLEASE STAND?

12 (NO RESPONSE.)

13 **THE COURT:** IS THERE ANY MEMBER OF THE JURY PANEL
14 OR ANY MEMBER OF YOUR IMMEDIATE FAMILY WHO IS EMPLOYED BY
15 ANY LAW ENFORCEMENT AGENCY WHETHER IT'S LOCAL, COUNTY,
16 STATE, FEDERAL OR MILITARY, ANY TYPE OF LAW ENFORCEMENT
17 AGENCY EITHER YOU OR AN IMMEDIATE MEMBER OF YOUR FAMILY?

18 **A JUROR:** FANNY PEDERSEN.

19 **THE COURT:** PEDERSEN. LET ME FIND YOU,
20 MS. PEDERSEN.

21 **THE COURT:** IS IT JUROR 152? DOES THAT SOUND
22 RIGHT?

23 **A JUROR:** UH-HUH.

24 **THE COURT:** IF YOU CAN TELL ME WHO AND WHAT
25 AGENCY, PLEASE, MA'AM?

JURY SELECTION

1 A JUROR: MY HUSBAND DICK PEDERSEN, COLUMBIA
2 POLICE.

3 THE COURT: THE CITY POLICE DEPARTMENT. WOULD THE
4 FACT THAT HE IS EMPLOYED THERE IN ANY WAY AFFECT YOUR
5 ABILITY IN THIS CASE TO BE FAIR AND IMPARTIAL?

6 A JUROR: NO, SIR.

7 THE COURT: THANK YOU. YOU MAY HAVE A SEAT,
8 MRS. PEDERSEN.

9 STAND UP PLEASE. WILL YOU HOLD YOUR HAND UP? I
10 CAN'T SEE YOU VERY WELL. YOUR NAME, PLEASE, MA'AM.

11 A JUROR: MARGARET BELTON.

12 THE COURT: MS. BELTON, NUMBER 21.

13 A JUROR: OUR SON IS IN THE MILITARY.

14 THE COURT: IS HE IN THE MILITARY POLICE OR JUST
15 IN THE MILITARY?

16 A JUROR: JUST IN THE MILITARY.

17 THE COURT: WOULD THAT HAVE ANY IMPACT ON YOUR
18 ABILITY TO BE FAIR AND IMPARTIAL?

19 A JUROR: NO, SIR.

20 THE COURT: THANK YOU, MA'AM. YOU CAN HAVE A
21 SEAT.

22 IF ANY MEMBER OF THE JURY PANEL IS EMPLOYED OR ANY
23 MEMBER OF YOUR IMMEDIATE FAMILY IS EMPLOYED BY THE ATTORNEY
24 GENERAL, THE SOLICITOR'S OFFICE OR ANY PROSECUTING
25 ATTORNEY'S OFFICE OR THE APPELLATE DEFENSE OFFICE OR THE

JURY SELECTION

1 PUBLIC DEFENDER'S OFFICE OR ANY PRIVATE ATTORNEY WHO ENGAGES
2 IN CRIMINAL DEFENSE MATTERS IF YOU ARE OR A MEMBER OF YOUR
3 IMMEDIATE FAMILY ARE EMPLOYED BY ANY OF THOSE ENTITIES,
4 WOULD YOU PLEASE STAND?

5 THE COURT: YOUR NAME, PLEASE, SIR?

6 A JUROR: LORENZO SINGLETARY.

7 THE COURT: LET ME FIND YOU, MR. SINGLETARY. YOU
8 ARE JUROR NUMBER 176. IF YOU CAN TELL ME WHO AND WHO IT IS
9 THEY ARE EMPLOYED BY?

10 A JUROR: CARLA SINGLETARY, SHE'S IN THE PUBLIC
11 DEFENDER'S OFFICE.

12 THE COURT: WHAT RELATIONSHIP IS SHE TO YOU?

13 A JUROR: MY SISTER.

14 THE COURT: SISTER. WOULD THE FACT THAT SHE WORKS
15 FOR THAT OFFICE AND THAT OFFICE IS INVOLVED IN THIS CASE IN
16 ANY WAY AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL?

17 A JUROR: NO, SIR.

18 THE COURT: THANK YOU, SIR. YOU CAN HAVE A SEAT.
19 IS THERE ANY MEMBER OF THE JURY PANEL WHO IS A MEMBER OF OR
20 MAKES CONTRIBUTIONS TO ANY GROUPS THAT HAVE AS ONE OF THEIR
21 PRIMARY CONCERNS THE PROMOTION OF LAW ENFORCEMENT OR
22 VICTIMS' RIGHTS? SUCH GROUPS COULD INCLUDE BUT NOT BE
23 LIMITED TO C.A.V.E. OR M.A.D.D., S.A.D.D., SISTER CARE OR
24 ANY SUCH GROUP THAT MAY HAVE AS ONE OF ITS PRIMARY CONCERNS
25 THE PROTECTION OF PRISONERS' RIGHTS. IF YOU BELONG TO OR

JURY SELECTION

1 MAKE CONTRIBUTIONS TO ANY SUCH GROUPS, WOULD YOU PLEASE
2 STAND?

3 (NO RESPONSE.)

4 THE COURT: IS THERE ANY MEMBER OF THIS JURY PANEL
5 OR ANY MEMBER OF YOUR IMMEDIATE FAMILY WHO HAS EVER BEEN THE
6 VICTIM OF A VIOLENT CRIME? IF SO WILL YOU PLEASE STAND?

7 ALL RIGHT. YOUR NAME PLEASE, MA'AM.

8 A JUROR: GRACE JOHNSON.

9 THE COURT: JOHNSON.

10 A JUROR: NUMBER 99.

11 THE COURT: LET ME FIND YOU, PLEASE.

12 (PAUSE)

13 THE COURT: MS. JOHNSON, WAS IT YOU OR A FAMILY
14 MEMBER?

15 A JUROR: ME.

16 THE COURT: HOW LONG AGO HAS THAT BEEN?

17 A JUROR: THREE YEARS.

18 THE COURT: WOULD THAT EXPERIENCE IN ANY WAY
19 AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN THIS
20 CASE?

21 A JUROR: YES, IT WILL.

22 THE COURT: YOU THINK IT WILL. BASED ON THAT I
23 WILL EXCUSE YOU FROM THIS CASE. IF YOU WILL STEP BACK TO
24 THE BACK OF THE COURTROOM AND HAVE A SEAT BACK THERE,
25 PLEASE. IT'S NUMBER 15 ON THE LIST, JUROR 99.

JURY SELECTION

1 ANYONE ELSE?

2 YOUR NAME, PLEASE?

3 A JUROR: SARA LONG.

4 THE COURT: AND LET ME SEE, MS. LONG.

5 WHEN MY LIST COMES FROM THE COMPUTER IT'S GOT YOUR
6 NAMES. THEY'RE NOT IN NUMERICAL ORDER OR ALPHABETICAL
7 ORDER. THEY'RE JUST ALL JUMBLED. I'VE FOUND YOU ON HERE,
8 MS. LONG. WAS IT YOU OR A MEMBER OF YOUR FAMILY?

9 A JUROR: IT WAS MY HUSBAND.

10 THE COURT: YOUR HUSBAND. HOW LONG AGO HAS THAT
11 BEEN?

12 A JUROR: PROBABLY THREE YEARS AGO.

13 THE COURT: WOULD THAT EXPERIENCE IN ANY WAY
14 AFFECT YOUR ABILITY IN THIS CASE TO BE FAIR AND IMPARTIAL?

15 A JUROR: NO.

16 THE COURT: ALL RIGHT. YOU MAY HAVE A SEAT.
17 THAT'S MS. SARA LONG.

18 BEFORE I ASK THE NEXT QUESTION LET ME TELL YOU
19 THAT I HAVE BEEN ADVISED, AS I INDICATED I'M FROM CLINTON UP
20 IN LAURENS COUNTY, I'VE BEEN ADVISED THAT THIS CASE MAY HAVE
21 GENERATED SOME PUBLICITY IN THE NEWSPAPER OR TELEVISION OR
22 BOTH. I NEED TO KNOW WHETHER ANYONE ON THE JURY PANEL HAS
23 READ OR HEARD OR WATCHED OR SEEN ANYTHING ABOUT THIS CASE
24 FROM ANY SOURCE AT ALL. IF SO WOULD YOU PLEASE STAND?

25 (NO RESPONSE.)

JURY SELECTION

1 THE COURT: IS THERE ANYTHING IN THE NATURE OF THE
2 ALLEGATIONS, I HAVE TOLD YOU WHAT THE CHARGES OR THE
3 ALLEGATIONS ARE IN THIS CASE. IS THERE ANYTHING ABOUT THE
4 NATURE OF THE ALLEGATIONS IN THIS CASE THAT WOULD CAUSE ANY
5 MEMBER OF THIS PANEL ANY PROBLEM WITH SITTING AS A FAIR AND
6 IMPARTIAL JUROR? IF SO WOULD YOU PLEASE STAND?

7 (NO RESPONSE.)

8 THE COURT: I'VE ASKED A NUMBER OF QUESTIONS AND
9 I'VE SORT OF GOT A FINAL QUESTION. IT'S SORT OF A CATCHALL
10 QUESTION AND IT'S GOING TO BE ESSENTIALLY THIS: IF YOU KNOW
11 OF ANY REASON WHETHER IT TOUCHES ON SOMETHING I'VE ALREADY
12 GONE OVER WITH YOU OR ANY OTHER REASON, THAT I HAVEN'T
13 TOUCHED ON AT ALL, IF YOU'RE AWARE OF ANY REASON THAT YOU
14 COULD NOT BE FAIR AND IMPARTIAL AS A JUROR IN THIS CASE,
15 I'LL ASK YOU TO STAND IN JUST A MINUTE BUT ONE OF THE
16 REASONS THIS QUESTION IS REQUIRED BY LAW IS SEVERAL YEARS
17 AGO I WAS IN NEWBERRY DOING THIS SAME THING AND WE WERE
18 ABOUT TO SELECT A JURY.

19 AS A MATTER OF FACT WE HAD ALREADY SELECTED THE
20 JURY AND WE DETERMINED LATER ON THAT ONE OF THE JURORS WAS
21 THE MOTHER OF TWO SONS WHO BOTH HAD BEEN CHARGED AND HAD
22 CHARGES PENDING BY THE SOLICITOR'S OFFICE, AND IT WAS A
23 CRIMINAL CASE AND SHE DID NOT DISCLOSE THAT AND THAT WOULD
24 BE ONE THING THAT WE NEED TO BE DISCLOSED AT THAT PARTICULAR
25 TIME, BUT ANYWAY AGAIN LET ME ASK IF YOU KNOW OF ANY REASON,

JURY SELECTION

1 ANY REASON AT ALL THAT YOU COULD NOT BE FAIR AND IMPARTIAL
2 AND GIVE BOTH THE STATE AND THE DEFENDANT A FAIR AND
3 IMPARTIAL TRIAL IN THIS CASE WOULD YOU PLEASE STAND?

4 (NO RESPONSE.)

5 THE COURT: ALL RIGHT. SOLICITOR, ANYTHING
6 FURTHER?

7 MS. CAMPBELL: MAY WE APPROACH?

8 THE COURT: ALL RIGHT.

9 (THEREUPON, THERE WAS A BENCH CONFERENCE WITHIN THE
10 PRESENCE OF THE JURY PANEL BUT OUT OF THE HEARING OF THE
11 JURY PANEL.)

12 THE COURT: LET ME JUST CLARIFY ONE OTHER THING.
13 I READ YOU A LONG LIST OF POTENTIAL WITNESSES. IN GOING
14 OVER THAT LIST I HAD ALREADY EXPLAINED TO YOU THAT IN THE
15 ALLEGATIONS MADE IN THE INDICTMENTS THAT THE ALLEGED VICTIMS
16 IN THE CASE ARE KATHERINE RIGGS AND DWIGHT RIGGS. THEY OF
17 COURSE ARE ALSO POTENTIAL WITNESSES IN THE CASE AND ALL THE
18 QUESTIONS I'VE ASKED YOU ABOUT RELATIONSHIPS WITH POTENTIAL
19 WITNESSES OR KNOW ANYBODY OR HAVE ANY KIND OF PERSONAL OR
20 BUSINESS RELATIONSHIP. THEY WILL BE INCLUDED AS POTENTIAL
21 WITNESSES. SO LET ME ASK IF I REPEATED ALL THE QUESTIONS
22 THAT I'VE GONE OVER INCLUDING THE RIGGS AS POTENTIAL
23 WITNESSES IN THE CASE DOES ANYONE, WOULD YOUR ANSWERS TO THE
24 QUESTIONS THAT I'VE ALREADY GONE OVER BE ANY DIFFERENT THAN
25 WHAT THEY HAVE ALREADY BEEN?

JURY SELECTION

1 (NO RESPONSE.)

2 THE COURT: ALL RIGHT. AND ONE FINAL QUESTION IF
3 ANY MEMBER OF THE JURY PANEL OR ANY MEMBER OF YOUR IMMEDIATE
4 FAMILY HAS EVER BEEN ACCUSED OF COMMITTING ANY TYPE OF
5 VIOLENT CRIME, WOULD YOU PLEASE STAND AT THIS TIME?

6 THE COURT: ALL RIGHT. YOUR NAME PLEASE, MA'AM.

7 A JUROR: MICHELLE JEFFERSON.

8 THE COURT: JEFFERSON?

9 A JUROR: UH-HUH.

10 THE COURT: HOW LONG AGO WAS THAT, MS. JEFFERSON?

11 A JUROR: LAST WEEKEND.

12 THE COURT: WAS THAT YOU OR A MEMBER OF YOUR
13 FAMILY?

14 A JUROR: MEMBER OF MY FAMILY.

15 THE COURT: WOULD THAT EXPERIENCE IN ANY WAY
16 AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR?

17 A JUROR: NO, SIR.

18 THE COURT: ALL RIGHT. WHAT WAS YOUR FIRST NAME,
19 MS. JEFFERSON?

20 A JUROR: MICHELLE.

21 THE COURT: 96, NUMBER 96. THANK YOU. YOU CAN
22 HAVE A SEAT.

23 ANYTHING FURTHER FROM THE STATE?

24 MS. CAMPBELL: NO, SIR.

25 THE COURT: FROM THE DEFENSE?

JURY SELECTION

1 (PAUSE.)

2 MS. OWINGS: NOTHING, YOUR HONOR.

3 THE COURT: ALL RIGHT. NOW, LADIES AND GENTLEMEN,
4 WE ARE GOING TO DO WHAT WE CALL STRIKE A JURY. WE'RE NOT
5 GOING TO HIT ANYBODY. WE'RE GOING TO CALL YOUR NAMES ONE AT
6 A TIME. THE CLERK OF COURT WILL CALL YOUR NAME. IF YOUR
7 NAME IS CALLED WHAT I WOULD LIKE FOR YOU TO DO IS BRING
8 WHATEVER PERSONAL BELONGINGS YOU BROUGHT WITH YOU UP HERE TO
9 THE COURTROOM, BRING THEM WITH YOU; COME DOWN TO THIS
10 MICROPHONE HERE AT THE FRONT OF THE COURTROOM RIGHT IN FRONT
11 OF THE CLERK'S DESK.

12 YOU'RE NOT GOING TO BE ASKED ANY MORE QUESTIONS
13 BUT THE ATTORNEYS ARE NOW GOING TO BE ASKED WHETHER THEY
14 WOULD LIKE YOU TO BE SEATED AS A JUROR IN THIS CASE OR
15 WHETHER THEY WOULD LIKE TO EXCUSE YOU FROM THIS PARTICULAR
16 CASE. IF BOTH SIDES ASK THAT YOU BE SEATED THEN YOU'LL HAVE
17 A SEAT OVER IN THE JURY BOX. IF EITHER SIDE SAYS PLEASE
18 EXCUSE THIS JUROR FROM THIS CASE, THEN YOU'LL SIMPLY GO BACK
19 TO THE BACK OF THE COURTROOM AND HAVE A SEAT BACK THERE.
20 WE'LL DO IT ONE AT THE TIME. ALL RIGHT.

21 JACKIE, STRIKES ARE TEN AND FIVE AND WE WILL
22 SELECT ONE ALTERNATE.

23 THE CLERK: NUMBER 87, ANDREA HEMINGWAY.

24 (BLACK FEMALE)

25 THE CLERK: WHAT SAYS THE STATE?

JURY SELECTION

1 MS. CAMPBELL: PLEASE PRESENT MS. HEMINGWAY.

2 THE COURT: WHAT SAYS DEFENSE?

3 MS. OWINGS: PLEASE SEAT THE JUROR.

4 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

5 NUMBER 168, DAN ROSCH.

6 (WHITE MALE)

7 THE CLERK: WHAT SAYS THE STATE?

8 MS. CAMPBELL: PLEASE PRESENT MR. ROSCH.

9 THE CLERK: WHAT SAYS THE DEFENSE?

10 MS. OWINGS: PLEASE SEAT THE JUROR.

11 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

12 NUMBER 162, JOHNNY RATLIFF.

13 (WHITE MALE)

14 THE CLERK: WHAT SAYS THE STATE?

15 MS. CAMPBELL: PLEASE PRESENT MR. RATLIFF.

16 THE CLERK: WHAT SAYS THE DEFENSE?

17 MS. OWINGS: PLEASE SEAT THE JUROR.

18 THE CLERK: HAVE A SEAT IN THE JURY BOX.

19 NUMBER 10, LOIS BALL.

20 (WHITE FEMALE)

21 THE CLERK: WHAT SAYS THE STATE?

22 MS. CAMPBELL: PLEASE PRESENT MS. BALL.

23 THE CLERK: WHAT SAYS THE DEFENSE?

24 MS. OWINGS: PLEASE EXCUSE THE JUROR.

25 THE CLERK: PLEASE RETURN TO THE BACK OF THE

JURY SELECTION

1 COURTROOM.

2 NUMBER 187, CAROLYN STROMAN.

3 (BLACK FEMALE)

4 THE CLERK: WHAT SAYS THE STATE?

5 MS. CAMPBELL: PLEASE PRESENT MS. STROMAN.

6 THE CLERK: WHAT SAYS THE DEFENDANT?

7 MS. OWINGS: PLEASE SEAT THE JUROR.

8 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

9 NUMBER 19, LUEVENIA BLUEFORT.

10 (BLACK FEMALE)

11 THE CLERK: WHAT SAYS THE STATE?

12 MS. CAMPBELL: PLEASE PRESENT MS. RUPERT.

13 THE CLERK: WHAT SAYS THE DEFENSE?

14 MS. OWINGS: PLEASE EXCUSE HER.

15 THE CLERK: PLEASE RETURN TO THE BACK OF THE

16 COURTROOM.

17 NUMBER 46, MICHAEL COBB.

18 (WHITE MALE)

19 THE CLERK: WHAT SAYS THE STATE?

20 MS. CAMPBELL: PLEASE PRESENT MR. COBB.

21 THE CLERK: WHAT SAYS THE DEFENSE?

22 MS. OWINGS: PLEASE EXCUSE THE JUROR.

23 THE CLERK: PLEASE RETURN TO THE BACK OF THE

24 COURTROOM.

25 NUMBER 152, FANNY PEDERSEN.

JURY SELECTION

1 (WHITE FEMALE)

2 THE CLERK: WHAT SAYS THE STATE?

3 MS. CAMPBELL: PLEASE PRESENT MS. PEDERSEN.

4 THE CLERK: WHAT SAYS THE DEFENSE?

5 MS. OWINGS: PLEASE EXCUSE THE JUROR.

6 THE CLERK: PLEASE RETURN TO THE BACK OF THE
7 COURTROOM.

8 NUMBER 105, DVANE KEELS.

9 (BLACK MALE)

10 THE CLERK: WHAT SAYS THE STATE?

11 MS. CAMPBELL: PLEASE PRESENT MR. KEELS.

12 THE CLERK: WHAT SAYS THE DEFENDANT?

13 MS. OWINGS: PLEASE SEAT THE JUROR.

14 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

15 NUMBER 37, JONATHAN BUSH.

16 (WHITE MALE)

17 THE CLERK: WHAT SAYS THE STATE?

18 MS. CAMPBELL: PLEASE PRESENT MR. BUSH.

19 THE CLERK: WHAT SAYS THE DEFENSE?

20 MS. OWINGS: PLEASE SEAT THE JUROR.

21 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

22 NUMBER 50, MARGARET DART.

23 (WHITE FEMALE)

24 THE CLERK: WHAT SAYS THE STATE?

25 MS. CAMPBELL: PLEASE PRESENT MS. DART.

JURY SELECTION

1 THE CLERK: WHAT SAYS THE DEFENSE?

2 MS. OWINGS: PLEASE SEAT THE JUROR.

3 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

4 NUMBER 204, WILLIAM TUTEN.

5 (WHITE MALE)

6 THE CLERK: WHAT SAYS THE STATE?

7 MS. CAMPBELL: PLEASE PRESENT MR. TUTEN.

8 THE CLERK: WHAT SAYS THE DEFENSE?

9 MS. OWINGS: PLEASE SEAT THE JUROR:

10 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

11 NUMBER 85, VERA HAMMOND.

12 (BLACK FEMALE)

13 THE CLERK: WHAT SAYS THE STATE?

14 MS. CAMPBELL: PLEASE PRESENT MS. HAMMOND.

15 THE CLERK: WHAT SAYS THE DEFENDANT?

16 MS. OWINGS: PLEASE SEAT THE JUROR.

17 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

18 NUMBER 157, JAMES POYNOR.

19 (WHITE MALE)

20 THE CLERK: WHAT SAYS THE STATE?

21 MS. CAMPBELL: PLEASE PRESENT MR. QUINN.

22 THE CLERK: WHAT SAYS THE DEFENSE?

23 MS. OWINGS: PLEASE EXCUSE THE JUROR.

24 THE CLERK: RETURN TO THE BACK OF THE COURTROOM.

25 NUMBER 201, KIMBERLY TOLIVER.

JURY SELECTION

1 (BLACK FEMALE)

2 THE CLERK: WHAT SAYS THE STATE?

3 MS. CAMPBELL: PLEASE EXCUSE MS. TOLIVER.

4 THE CLERK: PLEASE RETURN TO THE BACK OF THE
5 COURTROOM.

6 NUMBER 142, KRISTIN MUISE.

7 (WHITE FEMALE)

8 THE CLERK: WHAT SAYS THE STATE?

9 MS. CAMPBELL: PLEASE PRESENT MS. MUISE.

10 THE CLERK: WHAT SAYS THE DEFENSE?

11 MS. OWINGS: PLEASE SEAT THE JUROR.

12 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

13 NUMBER 22, NOLAND BOYD.

14 (BLACK MALE)

15 THE CLERK: WHAT SAYS THE STATE?

16 MS. CAMPBELL: PLEASE EXCUSE MR. BOYD.

17 THE CLERK: PLEASE RETURN TO THE BACK OF THE
18 COURTROOM.

19 NUMBER 119, SARAH LONG.

20 (WHITE FEMALE)

21 THE CLERK: WHAT SAYS THE STATE?

22 MS. CAMPBELL: PLEASE PRESENT MS. LONG.

23 THE CLERK: WHAT SAYS THE DEFENDANT?

24 MS. OWINGS: PLEASE EXCUSE THE JUROR.

25 THE CLERK: PLEASE RETURN TO THE BACK OF THE

JURY SELECTION

1 COURTROOM.

2 NUMBER 176, LORENZO SINGLETARY.

3 (BLACK MALE)

4 THE CLERK: WHAT SAYS THE STATE?

5 MS. CAMPBELL: PLEASE EXCUSE MR. SINGLETARY.

6 THE CLERK: PLEASE RETURN TO THE BACK OF THE
7 COURTROOM.

8 NUMBER 16, MARGARET BELTON.

9 (BLACK FEMALE)

10 THE CLERK: WHAT SAYS THE STATE?

11 MS. CAMPBELL: PLEASE PRESENT MS. BELTON.

12 THE CLERK: WHAT SAYS THE DEFENSE?

13 MS. OWINGS: PLEASE EXCUSE THE JUROR.

14 THE CLERK: PLEASE RETURN TO THE BACK OF THE
15 COURTROOM.

16 NUMBER 149, RUTHANN PAYNE.

17 (WHITE FEMALE)

18 THE CLERK: WHAT SAYS THE STATE?

19 MS. CAMPBELL: PLEASE SEAT THE JUROR.

20 THE CLERK: WHAT SAYS THE DEFENSE?

21 MS. OWINGS: PLEASE SEAT THE JUROR.

22 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

23 NUMBER 83, PAUL GROVER.

24 (WHITE MALE)

25 THE CLERK: WHAT SAYS THE STATE?

JURY SELECTION

1 MS. CAMPBELL: PLEASE PRESENT MR. GROVER.

2 THE CLERK: WHAT SAYS THE DEFENSE?

3 MS. OWINGS: PLEASE EXCUSE THE JUROR.

4 THE CLERK: PLEASE RETURN TO THE BACK OF THE
5 COURTROOM.

6 THE CLERK: 161, CECILIA QUEEN.

7 (WHITE FEMALE)

8 THE CLERK: WHAT SAYS THE STATE?

9 MS. CAMPBELL: PLEASE PRESENT MS. QUEEN.

10 THE CLERK: WHAT SAYS DEFENSE?

11 MS. OWINGS: PLEASE SEAT THE JUROR.

12 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

13 THE COURT: ALL RIGHT. WE'LL SELECT AN ALTERNATE.
14 STRIKES WILL BE TWO AND ONE ON THE ALTERNATE.

15 THE CLERK: NUMBER 182, BARBARA STEELE.

16 (BLACK FEMALE)

17 THE CLERK: WHAT SAYS THE STATE?

18 MS. CAMPBELL: PLEASE EXCUSE MS. STEELE.

19 THE CLERK: PLEASE RETURN TO THE BACK OF THE
20 COURTROOM.

21 NUMBER 112, KLAUSMAN.

22 (WHITE FEMALE)

23 THE CLERK: WHAT SAYS THE STATE? CHALLENGE FOR
24 CAUSE?

25 MS. CAMPBELL: PLEASE PRESENT MS. KLAUSMAN.

JURY SELECTION

1 THE CLERK: WHAT SAYS THE DEFENSE? :

2 MS. OWINGS: PLEASE SEAT THE JUROR.

3 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

4 THE COURT: ALL RIGHT. ANY MOTIONS, ANY MATTERS
5 OF LAW CONCERNING THE STRIKING OF THE JURY? ANYTHING FROM
6 THE STATE?

7 MS. CAMPBELL: NOTHING FROM THE STATE, YOUR HONOR.

8 THE COURT: FROM THE DEFENSE?

9 MS. OWINGS: YOUR HONOR, MAY WE APPROACH?

10 THE COURT: SURE.

11 (THEREUPON, THERE WAS A BENCH CONFERENCE WITHIN THE
12 PRESENCE OF THE JURY PANEL BUT OUT OF THE HEARING OF THE
13 JURY PANEL.)

14 THE COURT: ANYTHING FURTHER FROM THE DEFENSE?

15 MS. OWINGS: NO, YOUR HONOR.

16 THE COURT: ALL RIGHT. THOSE OF YOU WHO HAVE NOT
17 BEEN SELECTED IN THE CASE, THANK YOU VERY MUCH. YOU'RE
18 EXCUSED TO GO BACK DOWNSTAIRS. EVERYONE STAY SEATED WHILE
19 THE JURY PANEL IS EXCUSED.

20 THE COURT: COUNSEL, Y'ALL COME BACK UP HERE FOR
21 JUST A MINUTE.

22 (THEREUPON, THERE WAS A BENCH CONFERENCE WITHIN THE
23 PRESENCE OF THE JURY PANEL BUT OUT OF THE HEARING OF THE
24 JURY PANEL.)

25 THE COURT: LADIES AND GENTLEMEN OF THE JURY,

JURY SELECTION

1 THOSE OF YOU WHO HAVE BEEN SELECTED IN THE CASE, WHAT I WANT
2 TO DO IN TRYING TO PLAN FOR TRIAL IS GO AHEAD AND GET THE
3 JURY SELECTED TODAY AND WE'VE DONE THAT. I'VE GOT A NUMBER
4 OF PRETRIAL MATTERS THAT I'VE GOT TO TAKE UP AND THEY'RE
5 TAKEN UP OUTSIDE OF THE JURY'S PRESENCE. RATHER THAN HAVE
6 YOU SIT IN THE JURY ROOM FOR AN HOUR AND A HALF OR TWO HOURS
7 AND SEE IF WE CAN ACTUALLY GET STARTED WITH THE TESTIMONY,
8 I'M GOING TO SORT OF CUT YOU LOOSE FOR THE AFTERNOON AND
9 TAKE CARE OF WHAT I'VE GOT TO TAKE CARE OF SO WE'LL BE READY
10 TO GO FIRST THING IN THE MORNING WITH TESTIMONY AND WHATNOT.

11 I AM GOING TO ASK YOU TO DO A COUPLE OF THINGS.
12 WELL, I'VE GOT TO ORDER YOU TO DO ONE THING. I NEVER KNOW
13 WHAT CASES GENERATE PUBLICITY ONCE THE TRIAL STARTS EITHER
14 BY WAY OF NEWSPAPER, TELEVISION, RADIO OR ANYTHING ELSE BUT
15 YOU ARE NOW THE JURY IN THIS CASE AND YOU ARE NOT PERMITTED
16 TO WATCH ANYTHING ABOUT THIS CASE OR READ ANYTHING ABOUT THE
17 CASE OR LISTEN TO ANYTHING ABOUT THE CASE AND THE REASON FOR
18 THAT IS THIS: WE DON'T WANT, KIND OF LIKE I TOLD YOU
19 EARLIER, WE DON'T WANT ANYONE TO BE INFLUENCED BY ANY
20 OUTSIDE INFLUENCES.

21 AS ACCURATE AS PEOPLE AND REPORTERS MIGHT TRY TO
22 BE, SOMETIMES THEY MAY NOT QUITE GET IT RIGHT AND YOU NEED
23 TO MAKE YOUR DECISION BASED ON THE EVIDENCE THAT'S PRESENTED
24 IN THE COURTROOM AND NOT SOMETHING THAT MAY APPEAR IN THE
25 MEDIA. NOW, THERE IS ONE OTHER THING THAT I NEED TO TELL

JURY SELECTION

1 YOU THAT I THINK SOMETIMES JURORS ARE SURPRISED TO HEAR THE
2 JUDGE TELLING THEM. OF COURSE YOU CANNOT TALK TO ANYONE
3 ABOUT THIS CASE HERE AT THE COURTHOUSE OR ANYWHERE ELSE.
4 THAT WOULD MEAN HUSBANDS, WIVES, CHILDREN, FRIENDS, THOSE
5 WHO KNOW YOU HAVE JURY DUTY.

6 I CAN GUARANTEE YOU THAT LATER ON TODAY WHEN YOU
7 GET HOME THEY'RE GOING TO SAY, WELL, YOU'VE GOT YOUR JURY
8 SERVICE. ARE YOU ON A JURY? WHAT KIND OF CASE IS IT? WHAT
9 IT'S ABOUT? YOU CAN'T DISCUSS IT WITH THEM FOR THAT SAME
10 REASON. I DON'T WANT A SPOUSE OR SOMEONE ELSE TO
11 INADVERTENTLY SAY SOMETHING TO YOU THAT WOULD HAVE SOME
12 IMPACT ON YOUR DECISION IN THIS CASE. SO JUST BLAME IT ON
13 ME. TELL THEM I'M A TERRIBLE, BAD OLD JUDGE AND I WON'T LET
14 YOU TALK TO ANYBODY ABOUT IT, BUT YOU CAN'T DISCUSS IT.
15 IT'S A SERIOUS PROBLEM IF YOU DO.

16 SO PLEASE DON'T DISCUSS THE CASE WITH ANYONE AND
17 THAT INCLUDES YOUR FELLOW JURORS DURING THE COURSE OF THE
18 TRIAL AND I THINK THAT'S SOMETIMES WHAT SURPRISES PEOPLE.
19 WHEN YOU'RE BACK IN THE JURY ROOM IF WE TAKE A BREAK AND YOU
20 GET HERE IN THE MORNING AND YOU ARE WAITING FOR EVERYBODY TO
21 GET HERE OR WE BREAK FOR LUNCH AND YOU GO TO LUNCH WITH A
22 COUPLE OF OTHER JURORS, YOU ARE NOT PERMITTED TO DISCUSS THE
23 CASE. YOU CANNOT DISCUSS THE CASE AT ANY TIME UNTIL I TELL
24 YOU TO AND THAT WILL BE AT THE END OF THE CASE. I WILL GIVE
25 YOU PLENTY OF WARNING WHEN I SEND YOU BACK TO DELIBERATE AND

JURY SELECTION

1 REACH A VERDICT IN THE CASE.

2 THAT'S THE FIRST TIME AND THE ONLY TIME THAT YOU
3 CAN DISCUSS THIS CASE AND OF COURSE AT THAT TIME ONLY WITH
4 YOUR FELLOW JURORS. IF SOMEONE HAPPENED TO APPROACH YOU OR
5 YOU WERE STANDING OUT IN THE HALLWAY AND OVERHEARD SOMEBODY
6 TALKING ABOUT THE CASE, MOVE AWAY FROM THEM. IF SOMEBODY
7 APPROACHES YOU, YOU'VE GOT YOUR BADGE ON. LET THEM KNOW
8 THAT YOU'RE ON A JURY AND DON'T DISCUSS IT. REPORT THAT TO
9 THE COURT AND WE WILL DEAL WITH THAT. ONE OTHER THING I
10 NEED TO TELL YOU AND ASK YOU TO DO BEFORE YOU LEAVE THIS
11 AFTERNOON. IN SOUTH CAROLINA THERE ARE TWO DIFFERENT WAYS
12 OF HAVING A JURY FOREPERSON SELECTED OR A FOREMAN.

13 ONE IS FOR ME TO SIMPLY PICK ONE OF YOU AND THE
14 OTHER WAY THAT I'VE BEEN DOING FOR ABOUT 10 YEARS NOW IS I
15 LET THE JURY DECIDE WHO THEY WOULD LIKE FOR THE FOREPERSON
16 TO BE. WHETHER IT'S MAN OR A WOMAN, WHOEVER THAT PERSON IS,
17 THEIR VOTE DOES NOT COUNT ANY MORE THAN ANY OTHER MEMBER OF
18 THE JURY. THAT PERSON DOES PRESIDE IN THE JURY ROOM AND
19 WILL BE THE SPOKESPERSON FOR THE JURY HERE IN THE COURTROOM.
20 SO I'M GOING TO SEND YOU BACK TO YOUR JURY ROOM AND LET YOU
21 TALK AMONGST YOURSELVES AND DECIDE WHO YOU WOULD LIKE FOR
22 THE FOREMAN OR YOUR FORELADY TO BE.

23 IF YOU WILL WRITE THAT NAME ON A SLIP OF PAPER AND
24 HAND IT TO THE BAILIFF AND THAT'S ALL YOU NEED TO DO THIS
25 AFTERNOON. YOU'RE GOING TO BE EXCUSED. YOU'RE GOING TO GET

JURY SELECTION

1 STARTED TOMORROW MORNING AT NINE O'CLOCK AND PLEASE
2 UNDERSTAND WE CAN'T GET STARTED TILL ALL OF YOU ARE HERE.
3 THE PAST COUPLE OF WEEKS EVERY NOW AND THEN WE'VE HAD A
4 PROBLEM WITH ONE JUROR. WE'LL HAVE EVERYBODY HERE BUT ONE
5 AND WE CAN'T GET STARTED UNTIL EVERYBODY'S HERE. SO PLEASE
6 BE HERE PROMPTLY AT NINE O'CLOCK. I'M GOING TO GET THROUGH
7 WITH ALL THE PRE-TRIAL MATTERS THIS AFTERNOON SO WE CAN
8 START WITH THE TESTIMONY AND OPENING STATEMENTS FIRST THING
9 IN THE MORNING AT NINE O'CLOCK AND YOU WILL REPORT DIRECTLY
10 TO YOUR JURY ROOM.

11 WHEN YOU COME BACK IN TOMORROW MORNING YOUR
12 FOREMAN OR FORELADY WILL TAKE THE FIRST SEAT ON THE FRONT
13 ROW AND KEEP THAT SEAT THROUGHOUT THE TRIAL AND THEN,
14 MS. KLAUSMAN -- DID I PRONOUNCE THAT CORRECTLY -- YOU'RE MY
15 ALTERNATE JUROR. YOU'LL NEED TO SIT ON THE BACK ROW
16 THROUGHOUT THE TRIAL. THE REST OF YOU CAN SIT WHEREVER
17 YOU'D LIKE TO IN THE JURY ROOM. AGAIN AT THIS TIME IF YOU'D
18 STEP BACK TO THE JURY ROOM AND SELECT A FOREPERSON AND ONCE
19 YOU'VE DONE THAT YOU'RE EXCUSED TILL NINE IN THE MORNING.
20 YOU'RE EXCUSED AT THIS TIME. EVERYONE ELSE STAY SEATED,
21 PLEASE.

22 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
23 JURY.)

24 THE COURT: I WILL HAVE THE DEFENSE'S VOIR DIRE
25 REQUESTS MARKED AS AN EXHIBIT SO IT WILL BE IN THE RECORD ON

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL (IN CAMERA)

1 WHAT WAS NOT ASKED.

2 MR. OWINGS: THANK YOU, YOUR HONOR.

3 (THEREUPON, DEFENDANT'S REQUESTED VOIR DIRE WAS MARKED
4 COURT'S EXHIBIT NO. 1 AND MADE A PART OF THE RECORD.)

5 THE COURT: ALL RIGHT. THERE WERE PRE-TRIAL
6 MATTERS. THERE WERE SEVERAL THAT WERE DISCUSSED BRIEFLY
7 YESTERDAY AND I WILL TAKE THEM IN WHATEVER ORDER Y'ALL WOULD
8 LIKE TO DO THEM.

9 MS. CAMPBELL: ONE OF THE VICTIMS IN THE CASE MADE
10 AN IDENTIFICATION. I THINK MAYBE THAT WOULD BE THE
11 APPROPRIATE PLACE TO START.

12 THE COURT: ALL RIGHT. WE'LL START WITH THAT.

13 MS. CAMPBELL: THE STATE WOULD CALL DWIGHT RIGGS.

14 THE COURT: COME UP AND BE SWORN, PLEASE.

15 DWIGHT RIGGS, BEING FIRST DULY
16 SWORN, TESTIFIED AS FOLLOWS:

17 DIRECT EXAMINATION BY MS. CAMPBELL: (IN CAMERA)

18 Q MR. RIGGS, DO YOU LIVE IN RICHLAND COUNTY?

19 A YES, MA'AM, I DO.

20 Q HOW LONG HAVE YOU LIVED IN THE COLUMBIA AREA?

21 A SINCE 1983.

22 Q ARE YOU EMPLOYED?

23 A YES, MA'AM, PARTIALLY. I AM SOMEWHAT RETIRED FROM
24 MILITARY AND THEN I PAINT HOUSES.

25 Q YOU PAINT HOUSES?

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL (IN CAMERA)

1 A YES, MA'AM, CLEAN HOUSES INSIDE AND OUTSIDE THE HOUSE.

2 Q I WANT TO TURN YOUR ATTENTION BACK TO APRIL 17TH LAST
3 YEAR. I BELIEVE THAT WAS A SUNDAY. ON THAT MORNING WHAT
4 WERE YOU AND YOUR WIFE DOING THAT DAY?

5 A THAT MORNING?

6 Q THAT MORNING.

7 A WE HAD GONE TO CHURCH AS WE NORMALLY DO EVERY SUNDAY
8 MORNING.

9 Q WHICH SERVICE WERE YOU ATTENDING?

10 A WHAT CHURCH?

11 Q WHICH SERVICE? WHAT TIME?

12 A WE WENT TO SUNDAY SCHOOL AT 9:30 THEN WORSHIP SERVICE
13 AT QUARTER TO 11.

14 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE HAVE NO
15 OBJECTION TO THE OUT-OF-COURT IDENTIFICATION. WE DON'T NEED
16 TO GO THROUGH THE IDENTIFICATION OF THE DEFENDANT.

17 THE COURT: NO OBJECTION TO IT?

18 MS. OWINGS: NO, SIR.

19 THE COURT: SOLICITOR.

20 MS. CAMPBELL: THEN WE CAN ELIMINATE THREE
21 WITNESSES.

22 THE COURT: ALL RIGHT. THAT IS NOT CHALLENGED.
23 ALL RIGHT, SIR. YOU MAY STEP DOWN.

24 MS. CAMPBELL: JUDGE, THIS NEXT THING AND I'LL
25 GIVE YOU A LITTLE BIT OF BACKGROUND. THESE OFFENSES

PRETRIAL MATTERS

1 OCCURRED IN THE AFTERNOON OF APRIL 17TH. THERE HAD BEEN
2 ANOTHER INCIDENT WHICH OCCURRED IN THE EARLY MORNING HOURS
3 IN WHICH THE DEFENDANT USED AN A.T.M. CARD BELONGING TO A
4 MS. DEBRA WATERS AND USED IT AT A LOCAL A.T.M. MACHINE. THE
5 ONLY REASON THAT WOULD BE SIGNIFICANT IS BECAUSE THE POLICE
6 IN THE COURSE OF THEIR INVESTIGATION AND I HAND THIS UP AT
7 THIS TIME. YOUR HONOR, WE WERE ABLE TO RETRIEVE A SERIES OF
8 PHOTOGRAPHS AND VIDEOS FROM THE A.T.M. IN WHICH THE
9 DEFENDANT IS SEEN AND HE GIVES A STATEMENT ADMITTING THAT
10 WAS HIM AT THE A.T.M. HE'D BEEN SEEN WEARING A CERTAIN
11 JACKET. THAT JACKET WAS LEFT AT THE SCENE OF THIS ASSAULT
12 AND ARMED ROBBERY, YOUR HONOR, AND WAS LATER RECOVERED BY
13 THE POLICE AND FOR THESE PURPOSES WE WOULD INTEND TO GO INTO
14 A STATEMENT THAT HE GAVE ABOUT THAT CRIME AFTER BEING
15 ADVISED OF HIS RIGHTS, JUST TO THE PART HE ADMITTED HE WAS
16 USING THE A.T.M. ON THIS MORNING.

17 MS. OWINGS: YOUR HONOR, IF I MAY RESPOND.

18 THE COURT: SURE.

19 MS. OWINGS: WE ARE NOT CONTESTING I.D. I DON'T
20 SEE WHERE ANY OF THIS RELEVANT. WE'RE NOT CONTESTING THE
21 I.D.'S. THE FACT HE WAS THERE IN THE COAT IS NOT RELEVANT
22 BECAUSE WE ARE NOT CONTESTING THAT IT WAS HIM. I WOULD
23 OBJECT TO ANY OF THAT COMING IN.

24 MS. CAMPBELL: IF SHE'S WILLING TO STIPULATE THE
25 FACT THAT THE COAT WAS LEFT AT THE SCENE WAS THE ONE THAT HE

PRETRIAL MATTERS

1 WAS WEARING THAT DAY THAT HE LEFT AT THE SCENE IN THE COURSE
2 OF STABBING MR. RIGGS, WE WOULD HAVE NO PROBLEM.

3 MS. OWINGS: THAT'S FINE, YOUR HONOR.

4 THE COURT: ALL RIGHT. WHY DON'T YOU THEN, UNDER
5 THE RULES, ALL STIPULATIONS, JUST TO BE CLEAR, NEED TO BE IN
6 WRITING. Y'ALL COME TO WHAT YOU CAN AGREE TO AND THAT WILL
7 THEN BE, IF THAT IS THE CASE THEN THERE SHOULD NOT BE A
8 PROBLEM.

9 MS. OWINGS: THANK YOU, YOUR HONOR.

10 THE COURT: ALL RIGHT.

11 MS. CAMPBELL: BEG THE COURT'S INDULGENCE.

12 (PAUSE)

13 THE COURT: I'VE GOT A FEELING THAT OUR PRE-TRIAL
14 TIME IS BEING CUT AS WE MOVE THROUGH THIS; IS THAT RIGHT?

15 MS. CAMPBELL: OUTSIDE OF WITNESSES, YOUR HONOR,
16 MAYBE IT WOULD BE APPROPRIATE AT THIS POINT FOR HER TO MAKE
17 WHATEVER MOTIONS SHE WANTS. SHE SEEMS TO BE STIPULATING TO
18 EVERYTHING.

19 THE COURT: LET ME ASK, BEFORE I ASK WHAT WE DO
20 NEED TO TAKE UP, YESTERDAY THERE WAS SOME MENTION ABOUT THE
21 POSSIBILITY OF THE NEED FOR A JACKSON V. DENNO AND THEN
22 THERE WAS A STATEMENT. I DON'T REMEMBER EXACTLY WHAT WAS
23 SAID ABOUT IT BUT THAT WAS ONE REASON I HAD IT IN MY MIND
24 THAT WE MIGHT NEED TO HAVE SOME PRE-TRIAL MATTERS HEARD. IS
25 THERE A STATEMENT THAT THE STATE IS INTENDING TO PUT IN?

PRETRIAL MATTERS

1 MS. CAMPBELL: THE ONLY STATEMENT WE'RE INTENDING
2 TO PUT IN WAS THE PART OF THE STATEMENT ABOUT THE OTHER
3 CRIME WHICH PUTS HIM USING THE A.T.M.

4 THE COURT: THAT GOES WITH THESE PHOTOGRAPHS; IS
5 THAT RIGHT?

6 MS. CAMPBELL: WE WON'T GO INTO THAT BEFORE THE
7 JURY.

8 THE COURT: AS FAR AS JACKSON V. DENNO, COUNSEL,
9 ANYTHING THAT YOU KNOW OF THAT YOU ARE AWARE OF THAT NEEDS
10 TO BE TAKEN UP?

11 MS. OWINGS: NOT AS FAR AS THESE CHARGES GO. IF
12 THEY'RE PLANNING TO GO INTO THE OTHER INCIDENT OF THE
13 BURGLARY THEN, YES, WE DO.

14 THE COURT: I DON'T KNOW. THERE WAS A SHAKE OF
15 THE HEAD INDICATING NO.

16 MS. OWINGS: THE ONLY REASON WHY I'M ASKING IS
17 BECAUSE THE WITNESSES, FOUR WITNESSES, A LARGE NUMBER OF
18 THOSE PERTAIN TO THE OTHER CASE, INVESTIGATOR MCDANIEL,
19 DEBRA WATERS AND THERE ARE OTHER WITNESSES PERTAINING TO
20 THAT CASE SO THAT'S. . .

21 THE COURT: THYE'RE INDICATING ANYTHING ABOUT,
22 WHAT KIND OF CHARGES IS THAT, BURGLARY?

23 MS. CAMPBELL: BURGLARY IN THE FIRST DEGREE,
24 KIDNAPPING AND ARMED ROBBERY.

25 THE COURT: ANYTHING ABOUT THAT PARTICULAR

PRETRIAL MATTERS

1 INCIDENT AT THIS TIME THE STATE IS NOT INTENDING TO GO INTO
2 AND IF YOU CHANGE YOUR MIND OR DECIDE TO OR IT STARTS TO
3 COME OUT, WE NEED TO GET THE JURY OUT. I CAN DEAL WITH
4 WHATEVER ISSUES MAY ARISE BECAUSE OF THAT.

5 MS. OWINGS: YOUR HONOR, WE DO HAVE A FEW THINGS.
6 A LOT OF THESE PERTAIN TO WHAT PEOPLE ARE GOING TO BE
7 TESTIFYING TO, TO LIMIT THAT TESTIMONY ONCE THE TRIAL
8 STARTS, SPECIFICALLY INVESTIGATOR STAN SMITH IN HIS REPORT
9 HE HAS A COMMENT IN THE REPORT THAT IT WAS DURING THE TIME
10 FRAME THE OFFICER KNEW AND WAS FAMILIAR WITH ELDERS. HE WAS
11 INVOLVED IN ANOTHER CASE, THE HOMICIDE OF ROBERT WILCOX ON
12 FAIRMONT ROAD. THIS IS IN INVESTIGATOR STAN SMITH'S REPORT.
13 I WOULD PREFER THAT NONE OF THAT BE MENTIONED, IN PARTICULAR
14 THAT ANY HOMICIDE WOULD NOT BE LINKED TO MR. ELDERS. I
15 BELIEVE IT WOULD BE PREJUDICIAL FOR THAT TO COME OUT.

16 THE COURT: NUMBER ONE, I HAVE NO IDEA WHAT THE
17 STATE'S INTENDING TO GO INTO. JUST BECAUSE SOMETHING'S IN A
18 REPORT DOESN'T MEAN, NUMBER ONE, THAT IT WOULD BE ADMISSIBLE
19 HERE OR THAT THE STATE WOULD ATTEMPT TO GET IT IN AND
20 OBVIOUSLY SOMETHING ABOUT AN ALLEGATION LIKE THAT WOULD BE
21 HIGHLY PREJUDICIAL.

22 MS. OWINGS: CORRECT.

23 THE COURT: I THINK AS FAR AS THOSE THINGS ARE
24 CONCERNED, I DON'T THINK WE NEED TO PICK AND CHOOSE AND TELL
25 THEM YOU CAN'T MENTION THIS AND YOU CAN'T MENTION THAT. IF

PRETRIAL MATTERS

1 THEY DO DURING THE COURSE OF THE TRIAL THERE ARE RIGHT
2 SEVERE CONSEQUENCES TO THAT. I THINK IT'S REALLY TOO MUCH
3 FOR EITHER COUNSEL OR THE COURT TO TRY TO ANTICIPATE
4 ANYTHING LIKE THAT. THEY MAY COME UP, OTHER THAN WE
5 HOPEFULLY ALL KNOW WHAT THE RULES PROVIDE FOR AND I
6 UNDERSTAND WHAT YOU'RE TRYING TO DO IS CAUTION OTHER PEOPLE
7 THAT YOU CANNOT GO INTO THOSE MATTERS.

8 **MS. OWINGS:** BUT ONCE IT'S OUT, YOUR HONOR, IT'S
9 OUT.

10 **THE COURT:** I UNDERSTAND. WELL, IF IT'S AS
11 SERIOUS AS THAT INDICATION YOU JUST MADE, IT MAY LEAD TO
12 MORE SEVERE CONSEQUENCES.

13 **MS. OWINGS:** THERE IS ANOTHER REASON WHY. THERE
14 IS ALSO ANOTHER WITNESS, I BELIEVE IT'S CHRIS SMITH AND I'M
15 ONLY BASING THAT ON DISCOVERY I'VE RECEIVED. THERE IS A
16 WITNESS CHRIS SMITH AND IN HIS STATEMENT TO THE POLICE HE
17 SAYS THAT HE MET MR. ELDERS IN JAIL. THAT'S ANOTHER THING
18 THAT I WOULD RATHER NOT COME OUT. BY DRESSING OUT OUR
19 CLIENTS WE TRY TO CLOAK HIM SO THAT IF HE DOESN'T TESTIFY
20 HIS RECORD SHOULDN'T COME OUT. THERE ARE SOME THINGS THAT
21 ARE ALREADY IN THE DISCOVERY RIGHT NOW THAT I WAS TRYING TO
22 PREVENT FROM COMING OUT.

23 **THE COURT:** ALL RIGHT. AGAIN I'M NOT SURE WHAT I
24 CAN DO AT THIS POINT IN TIME. I DON'T KNOW IF THIS MAKES
25 ANY SENSE TO HAVE YOUR WITNESS OR EVERYONE WHEN THEY TAKE

PRETRIAL MATTERS

1 THIS STAND SAY, YOU CAN'T SAY THIS OR CAN'T SAY THAT. YOU
2 CAN'T GO INTO THESE VARIOUS MATTERS. I RELY ON COUNSEL TO
3 GO OVER THE TESTIMONY WITH THEIR WITNESSES AND LET THEM KNOW
4 WHAT THEY CAN AND CAN'T DO AND IF SOMETHING IS INADVERTENTLY
5 BLURTED OUT AND IT'S A PROBLEM, I'LL DEAL WITH THE PROBLEM.

6 MS. OWINGS: THANK YOU. YOUR HONOR, FURTHERMORE
7 THERE ARE SEVERAL WITNESSES ON HERE THAT ARE LAY WITNESSES
8 AND AREN'T MEMBERS OF THE SHERIFF'S DEPARTMENT. WE WOULD
9 LIKE TO SETTLE THE RECORD OF THOSE DEFENDANTS THAT THE STATE
10 DOES NOT HAVE A COPY OF THEIR RAP SHEET. WE'D LIKE THEIR
11 BIRTH DATES SO WE CAN GET THESE FOR OURSELVES SPECIFICALLY
12 MR. CAMPBELL, MS. ABBOTT, RICHARD, DAWN, Minor AND CHRIS
13 SMITH, SARAH HERBERT, DEBRA WATERS, DAVID BELL, BRENDA
14 CARROLL, STEPHANIE BAUTISTA, MIKE RUHL.

15 THE COURT: HAVE YOU FURNISHED THOSE? HAVE YOU
16 RUN THOSE YET, MS. CAMPBELL?

17 MS. CAMPBELL: WE'VE RUN SOME OF THEM, YOUR HONOR.
18 WE WILL DO SOME MORE THIS AFTERNOON. WE'RE DON'T ANTICIPATE
19 THAT THEY ARE COMING UP IMMEDIATELY AND WHO WE ANTICIPATE
20 CALLING.

21 THE COURT: WHATEVER ONES YOU HAVE RUN IF YOU'LL
22 PROVIDE THOSE THIS AFTERNOON TO DEFENSE COUNSEL. ANY ONES
23 THAT YOU HAVE NOT RUN THAT YOU ARE GOING TO CALL AS
24 WITNESSES YOU NEED TO GET THEM TO THE DEFENSE AS SOON AS
25 POSSIBLE SO THAT WE DON'T HAVE TO BREAK DOWN. YOU'RE

PRETRIAL MATTERS

1 ENTITLED TO HAVE THAT INFORMATION AND I'LL GIVE YOU
2 SUFFICIENT TIME TO GO OVER IT BEFORE YOU CROSS-EXAMINE IF WE
3 RUN INTO ONE THAT YOU HAVEN'T GOT.

4 MS. OWINGS: THANK YOU, SIR. I APPRECIATE IT.
5 FURTHERMORE, YOUR HONOR, THE DEFENSE WOULD LIKE TO HAVE ALL
6 OF THE WITNESSES SEQUESTERED EXCEPT OBVIOUSLY INVESTIGATOR
7 FAUST WHO IS THE LEAD INVESTIGATOR. WE'D LIKE TO HAVE ALL
8 THE WITNESSES SEQUESTERED.

9 THE COURT: ANY PROBLEM WITH THAT, SOLICITOR?

10 MS. CAMPBELL: YOUR HONOR, I'VE GOT NO PROBLEM
11 SEQUESTERING THE LAY WITNESSES. I DON'T KNOW IF SHE'S GOT
12 ALL THE REPORTS FROM LAW ENFORCEMENT. I DON'T KNOW WHAT THE
13 PURPOSE OF SEQUESTERING THE LAW ENFORCEMENT WITNESSES WOULD
14 BE. I UNDERSTAND HER CONCERN ON LAY WITNESSES OF COURSE.

15 THE COURT: AFTER HEARING THE LAW ENFORCEMENT
16 OFFICER WHO IS NOT LOCAL LAST WEEK IN A TRIAL, IT'LL PERTAIN
17 TO ALL WITNESSES, LAW ENFORCEMENT AND LAY WITNESSES EXCEPT
18 FOR YOUR CHIEF INVESTIGATING OFFICER AND YOUR VICTIMS. OF
19 COURSE THEY HAVE THE RIGHT TO BE IN THE COURTROOM. SO IT'LL
20 PERTAIN TO EVERYONE AND THAT INCLUDES ANY POTENTIAL DEFENSE
21 WITNESSES AND LET ME GO AHEAD AND TAKE CARE OF THIS. I
22 DON'T THINK IT'S OCCURRED IN RICHLAND COUNTY BUT I'VE HAD IT
23 OCCUR IN OTHER PLACES. IF THE STATE CALLS SOMEONE IN THEIR
24 CASE IN DIRECT IN THE CASE IN CHIEF AND IF THERE IS ANY
25 POSSIBILITY OF CALLING THEM IN REBUTTAL, THEY STILL NEED TO

PRETRIAL MATTERS

1 STAY OUT AFTER THEY TESTIFY. I HAVE NO WAY OF KNOWING THAT
2 BUT IF THEY STAY IN THE COURTROOM AND THEN THE STATE WANTS
3 TO RECALL THEM IN REBUTTAL, IT'S A PROBLEM.

4 MS. CAMPBELL: YOUR HONOR, SOMETIMES WE CAN'T
5 ANTICIPATE THE DEFENSE.

6 THE COURT: I UNDERSTAND. I WOULD BE REASONABLE
7 WITH THAT BUT THAT IS AS A GENERAL RULE.

8 MS. CAMPBELL: I WOULDN'T ANTICIPATE ANYTHING
9 LIKE THAT, JUST LIKE I DIDN'T ANTICIPATE HER MOTIONS TODAY.

10 THE COURT: I UNDERSTAND. HOPEFULLY I'M
11 REASONABLE WITH EVERYBODY. ALL RIGHT. ANYTHING FURTHER?

12 MS. OWINGS: BEG THE COURT'S INDULGENCE FOR ONE
13 MOMENT, YOUR HONOR.

14 THE COURT: SURE.

15 (PAUSE)

16 MS. OWINGS: YOUR HONOR, FINALLY MR. ELDERS WOULD
17 LIKE TO TENDER A PLEA OF GUILTY ON THE CAR JACKING AND THE
18 A.B.W.I.K. OF DWIGHT RIGGS AND HE'S PLEADING NOT GUILTY TO
19 THE OTHER CHARGES, THE ARMED ROBBERY, THE A.B.W.I.K. OF
20 KATHRYN RIGGS AND THE KIDNAPPING. HE'S ALREADY PLED TO THE
21 CAR JACKING AND THE A.B.W.I.K. WITH REGARD TO DWIGHT RIGGS.

22 THE COURT: SOLICITOR.

23 MS. CAMPBELL: YOUR HONOR, I BELIEVE SINCE THE
24 MATTER HAS COME BEFORE YOU AND HE PLED GUILTY ON PART.

25 THE COURT: I THINK THERE IS A CASE THAT SAYS A

PRETRIAL MATTERS

1 DEFENDANT HAS NO CONSTITUTIONAL RIGHT TO PLEAD GUILTY, I
2 THINK AND I THINK A GUILTY PLEA HAS TO BE DONE WITH CONSENT
3 OF THE STATE. SO I THINK I'M RIGHT ON THAT.

4 MS. OWINGS: ARE WE ALLOWED TO CONCEDE IT IN
5 OPENING WE'RE NOT FIGHTING THE CAR JACKING OR THE
6 A.B.W.I.K.? ARE WE ALLOWED TO CONCEDE?

7 THE COURT: THERE IS NOTHING, I DON'T KNOW THAT
8 THERE IS ANYTHING TO KEEP THAT FROM THE JURY. I DON'T THINK
9 YOU CAN SAY, WE PLEAD GUILTY BUT THAT YOU ARE NOT CONTESTING
10 IT, WHATEVER.

11 MS. OWINGS: OKAY.

12 THE COURT: IF THAT'S YOUR POSITION I DON'T THINK
13 THERE IS ANYTHING TO KEEP YOU FROM MAKING THAT STATEMENT.

14 MS. OWINGS: YES, SIR. I JUST WANT TO MAKE SURE
15 WE'RE VERY CLEAR ON THE GUIDELINES BEFORE WE GO INTO ANY OF
16 THAT.

17 THE COURT: Y'ALL CAN DO SOME RESEARCH ON THAT
18 OVERNIGHT. I THINK THAT WOULD BE AN APPROPRIATE MATTER TO
19 TELL THE JURY WE'RE NOT CONTESTING THIS CHARGE AND THIS
20 CHARGE AND PLEADING NOT GUILTY TO THESE CHARGES.

21 MS. OWINGS: OKAY. THANK YOU, SIR.

22 MS. CAMPBELL: I THINK THAT'S DONE DEFINITELY.

23 THE COURT: ALL RIGHT. DOES THE STATE HAVE
24 ANYTHING FURTHER?

25 MS. CAMPBELL: NO, YOUR HONOR.

PRETRIAL MATTERS

1 THE COURT: ALL RIGHT. WE'LL BE READY TO GO AND
2 UNLESS I RUN INTO A PARKING LOT ON I-26 IN THE MORNING,
3 WE'LL START AT NINE O'CLOCK.

4 (THEREUPON, THE TRIAL OF THIS CASE WAS RECESSED
5 UNTIL 9:00 A.M. WEDNESDAY, FEBRUARY 15, 2006.)

6 THE COURT: ALL RIGHT. I WOULD LIKE FOR THE
7 RECORD TO REFLECT THAT I HAD A BRIEF CONFERENCE WITH COUNSEL
8 IN CHAMBERS CONCERNING THE ISSUE THAT WE LEFT ON YESTERDAY
9 AND THAT WAS WHEN THE DEFENDANT THROUGH COUNSEL HAD TENDERED
10 A PLEA ON TWO OF THE FOUR INDICTMENTS. CASE LAW WAS HANDED
11 UP. NOTHING WAS RIGHT ON POINT AND I TOLD COUNSEL QUITE
12 FRANKLY THAT WHAT I INDICATED YESTERDAY THAT I RECALL THE
13 CASE THAT SAID THE DEFENDANT DID NOT HAVE A CONSTITUTIONAL
14 RIGHT TO PLEAD GUILTY. THE CASE I WAS THINKING ABOUT WAS
15 DEFENDANT DID NOT HAVE A CONSTITUTIONAL RIGHT TO HAVE A
16 BENCH TRIAL ON ISSUES THAT I HAD FACED PREVIOUSLY.

17 THE CASES THAT WERE HANDED UP WERE WHERE A PLEA
18 HAD BEEN TENDERED ON ONE CASE WHERE A DEFENDANT WAS CHARGED
19 WITH MURDER AND ACCESSORY, I THINK BEFORE AND AFTER THE FACT
20 AND MAYBE SOME OTHER CHARGES AND TENDERED A PLEA ON THE
21 ACCESSORY CHARGES. THAT WOULD HAVE PREVENTED THE STATE FROM
22 GOING FORWARD ON THE MURDER CHARGE AND THE COURT SAID THAT,
23 THE SUPREME COURT SAID THAT THE DEFENDANT WAS NOT ENTITLED
24 TO PLEAD IN THAT SITUATION. THERE ARE OTHER CASES THAT
25 INDICATE A DEFENDANT IS NOT ENTITLED TO A PLEA ON LESSER

PRETRIAL MATTERS

1 INCLUDED OFFENSES.

2 APPARENTLY FROM THE CASE LAW THERE ARE NO CASES
3 ADDRESSING, OR AT LEAST I, AND I ASSUME COUNSEL HAVE NOT
4 FOUND ANY CASES ADDRESSING A SITUATION WHERE AN INDIVIDUAL
5 DESIRES TO PLEAD STRAIGHT UP ON CHARGES AS LONG AS THEY DO
6 NOT IMPAIR THE STATE'S ABILITY TO PROSECUTE ON THE REMAINING
7 CHARGES AND AS LONG AS IT'S NOT EITHER AN ACCESSORY
8 SITUATION OR WHERE A LESSER INCLUDED OFFENSE IS INCLUDED.
9 MY RECOLLECTION FROM CHAMBERS IS THAT THE DEFENDANT WAS NOT
10 TAKING EITHER ONE OF THOSE POSITIONS; IS THAT CORRECT,
11 COUNSEL?

12 MS. OWINGS: THAT'S CORRECT, YOUR HONOR.

13 THE COURT: HE DESIRES TO PLEAD STRAIGHT UP ON CAR
14 JACKING AND WHAT OTHER CHARGE?

15 MS. OWINGS: ASSAULT AND BATTERY WITH INTENT TO
16 KILL DWIGHT RIGGS.

17 THE COURT: ALL RIGHT. SOLICITOR, I'LL BE GLAD
18 FOR YOU TO PUT ON THE RECORD WHATEVER YOU'D LIKE TO. I KNOW
19 THAT THE STATE DOES OBJECT TO HIS BEING PERMITTED TO PLEAD
20 TO ANYTHING.

21 MS. CAMPBELL: YOUR HONOR, THE STATE'S POSITION IS
22 THAT WE WOULD ATTEMPT TO PRESENT THE CASE IN A MANNER THAT
23 WOULD NOT CONFUSE THE JURY. OF COURSE AS SHE SAID YESTERDAY
24 AND SHE PUT ON THE RECORD, HE CONCEDED THOSE TWO CHARGES AND
25 SHE WISHED TO ADMIT THAT IN THE OPENING STATEMENT. OUR

PRETRIAL MATTERS

1 POSITION IS THAT WE HAVE THE RIGHT TO GO FORWARD ON ALL THE
2 CHARGES AND DEFENDANT'S RIGHT ARE GUARANTEED BY THE
3 CONSTITUTION HIS RIGHT TO A TRIAL BY JURY. I THINK WHERE IT
4 CONCERNS THE SECURITY OF THE SOLICITOR OR THE JUDGE THAT HE
5 DOES NOT HAVE THE ABSOLUTE RIGHT TO PLEAD GUILTY. I GOT
6 LANGUAGE FROM THE WHITING CASE WHICH I BELIEVE IS QUOTED BY
7 EASLER AND A MORE RECENT CASE.

8 OUR POSITION WOULD BE THAT WE WOULD, THAT SHE
9 COULD CONCEDE ANYTHING SHE WANTED TO IN ARGUMENT TO THE
10 JURY. HOWEVER WE HAVE A RIGHT TO GO FORWARD ON ALL THE
11 INDICTMENTS IN ORDER TO PRESENT OUR CASE IN A FASHION, YOUR
12 HONOR, I'M JUST TRYING TO ANTICIPATE IF SHE GETS UP THERE
13 AND SAYS TO YOU HE PLEADS GUILTY TO CHARGES AND IS SHE GOING
14 TO SAY THEN HE'S AWAITING SENTENCING ON THOSE OR HE'S BEEN
15 SENTENCED. I DON'T KNOW QUITE HOW THAT WOULD BE ADDRESSED.
16 I THINK THAT IS THE REASON THE STATE WOULD BE HAMPERED IN
17 OUR ABILITY TO GO FORWARD.

18 IF SHE JUST CONCEDES THEM ON THE RECORD, THEN THAT
19 WOULD BE A DIFFERENT SITUATION. I DO THINK IT DOES HAMPER
20 OUR ABILITY TO PRESENT A COGENT CASE AND VERY FRANKLY I
21 ASSUME, AND I DON'T MEAN TO SPECULATE AS FAR AS WHAT THE
22 DEFENSE STRATEGY. I ASSUME THEIR STRATEGY WILL BE
23 ANTICIPATED. HE'D PLED GUILTY TO WHAT HE'S GUILTY OF. THE
24 STATE JUST WANTS TO PILE UP CHARGES ON HIM. I THINK THAT
25 ALLOWING HIM TO PLEAD GUILTY GIVES HER A MORE VALID ARGUMENT

PRETRIAL MATTERS

1 TO THAT EFFECT. I MEAN, SHE DOES NOT WISH TO ARGUE THAT
2 THEN OF COURSE MY ARGUMENT IS MOOT. HOWEVER, YOUR HONOR, I
3 DON'T KNOW OF ANY OTHER REASON SHE WOULD WISH TO PROCEED IN
4 THE MANNER IN WHICH SHE HAS PROPOSED. I JUST DON'T THINK IT
5 GIVES THE STATE THEIR TRIAL THEY DESERVE AS WELL.

6 THE COURT: LET ME POSE THIS QUESTION: AS I
7 UNDERSTAND IT, WHERE THE DEFENSE HAS INDICATED THEY ARE AND
8 WHAT THEY INDICATED IN CHAMBERS IS THAT BECAUSE THE OFFENSES
9 ARE SO INTERTWINED THAT THEY WOULD NOT BE SEEKING TO
10 PROHIBIT THE STATE FROM PRESENTING EVIDENCE ON CHARGES THAT
11 THE DEFENDANT INDICATES HE WOULD LIKE TO PLEAD ON DURING THE
12 COURSE OF THE TRIAL. IS THAT RIGHT, MS. OWINGS?

13 MS. OWINGS: THAT'S CORRECT, YOUR HONOR.

14 THE COURT: LET'S TAKE A SITUATION WHERE IF THOSE
15 WERE ONLY TWO INDICTMENTS AND THE DEFENDANT CAME IN AND SAID
16 I WANT TO PLEAD, NO DEALS, STRAIGHT UP; BUT THE STATE SAID,
17 NO. WE'VE GOT THE RIGHT TO TRY YOU.

18 MS. CAMPBELL: AND, YOUR HONOR, I DON'T KNOW ANY
19 SOLICITOR THAT WOULD DO THAT BUT BASED ON THE CHARGES.

20 THE COURT: I DON'T EITHER.

21 MS. CAMPBELL: BUT BASED ON THE LANGUAGE IN
22 WHITTINGTON IS WHAT I'M RELYING ON. THAT WAS A DIFFERENT
23 SITUATION. I'M NOT, THE LANGUAGE THEY RELIED ON PRETTY MUCH
24 SAYS THAT A GUILTY PLEA CAN BE BARRED UNLESS THE TRIAL JUDGE
25 AND THE SOLICITOR CONSENT.

PRETRIAL MATTERS

1 THE COURT: THE ISSUE IN THAT, IT TALKS ABOUT
2 TRIAL BY JURY. IT'S NOT TALKING ABOUT THE RIGHT TO PLEAD.
3 I'M GOING TO GO AHEAD AND HEAR WHAT THE DEFENDANT HAS TO SAY
4 ON THE PLEA AND I THINK I HAVE THE RIGHT TO EITHER ACCEPT IT
5 OR REJECT IT BASED ON HOW IT'S PRESENTED. IF HE WANTS TO
6 PLEAD TO THESE CHARGES IF THE COURT ACCEPTS IT, WE GO FROM
7 THERE. IF I DO NOT ACCEPT IT WE GO FROM THERE.

8 MS. CAMPBELL: I WOULD ASSUME IF YOU ACCEPT IT YOU
9 WOULD BE WITHHOLDING SENTENCE?

10 THE COURT: I DO NOT KNOW.

11 MS. CAMPBELL: WOULD THE DEFENSE BE ALLOWED TO
12 ARGUE ABOUT THAT?

13 MS. OWINGS: I DON'T THINK WE WOULD BE, YOUR
14 HONOR.

15 THE COURT: WELL, IF THE PLEA IS ACCEPTED AND IF
16 THE DEFENDANT IS THEN SENTENCED, THE SENTENCE IS IRRELEVANT
17 TO THE OTHER CHARGES AND IT WOULD NOT BE PROPER TO BE
18 BROUGHT BEFORE THE COURT. JUST LIKE IF A PERSON HAS A PRIOR
19 RECORD IT'S PROPER FOR IMPEACHMENT PURPOSES. WHATEVER
20 SENTENCE THEY RECEIVED ON THAT DOESN'T MATTER. IT'S THE
21 CONVICTION THAT COMES IN.

22 MS. CAMPBELL: AND THE OTHER REASON THAT I HAVE A
23 PROBLEM WITH HIM PLEADING GUILTY IS UNDER WHAT THEORY DO
24 THEY HAVE THE RIGHT TO INTRODUCE THE FACT THAT HE HAS PLEAD
25 GUILTY TO THOSE TWO CHARGES? IN FACT, ISN'T THE STATE THEN

PRETRIAL MATTERS

1 PROHIBITED TO GO INTO THAT? THOSE WOULD BE PROPER CHARGES.
2 BECAUSE HOW DO WE INTRODUCE THEM? WHEN THEY ARE GOING TO
3 GET UP THEY ARE GOING TO GET UP THERE AND ARGUE HE'S PLED
4 GUILTY TO WHAT HE'S GUILTY OF AND THAT THERE IS NO BASIS IN
5 THE RECORD. HOW DO THEY DO THAT? HOW DOES THAT NOT THEN
6 MAKE IT MORE DIFFICULT FOR US TO TRY OUR CASE ON THE
7 REMAINING INDICTMENTS BECAUSE WE AREN'T GOING TO MENTION
8 THAT HE'S PLED GUILTY ON TWO? HOW WOULD THEY HAVE THAT
9 RIGHT TO INTRODUCE THAT?

10 THE COURT: WELL, THAT WOULD BE A MATTER THAT I
11 WOULD HAVE TO ADVISE THE JURY THAT INSTEAD OF SIX
12 INDICTMENTS OR SIX CHARGES THERE ARE NOW FOUR INDICTMENTS,
13 FOUR CHARGES BECAUSE HE HAS PLED TO THE OTHER TWO. IF I
14 DON'T EXPLAIN IT TO THE JURY AND I'VE ALREADY TOLD THEM
15 THERE ARE SIX INDICTMENTS, SIX CHARGES THEY'RE GOING TO BE
16 LEFT TO WONDER WHAT HAPPENED TO THE OTHER TWO IF HE PLEADS.
17 NOW, SEE WE ARE SORT OF JUMPING AHEAD OF THE GAME RIGHT NOW.

18 MS. CAMPBELL: YES, SIR. BUT I JUST WANTED TO
19 EXPLAIN OUR POSITION ON HOW THAT HAMPERS OUR ABILITY TO
20 PRESENT A CASE. WE SAY THAT WOULD BE A SEVERE HAMPERING OF
21 OUR ABILITY BECAUSE THEN WE ARE IN A POSITION OF ARGUING
22 THAT THEY'RE GOING TO GET UP THERE AND HOW IS THAT
23 ADMISSIBLE UNLESS WE USE IT TO IMPEACH HIM BEFORE THAT JURY?

24 THE COURT: COUNSEL.

25 MS. CAMPBELL: THEN WE HAVE EVIDENCE INTRODUCED BY

PRETRIAL MATTERS

1 THE COURT AND NOT BY THE STATE OR THE DEFENSE.

2 MS. OWINGS: YOUR HONOR, I DON'T UNDERSTAND WHAT
3 THE DIFFERENCE IS BETWEEN SAYING WHAT HE CAN PLEAD TO. WE
4 HAVE STIPULATED THAT HE, WE CAN'T SAY ANYTHING ABOUT
5 SENTENCING OR TALK ABOUT WHAT HE'S FACING. WE DON'T EVEN
6 KNOW IF HE'LL BE SENTENCED TODAY BUT HE HAS A RIGHT TO PLEAD
7 TO WHAT HE WANTS TO PLEAD TO. THE CHARGES HAVE ALREADY BEEN
8 CALLED. THE INDICTMENTS HAVE BEEN CALLED. I DON'T SEE HOW
9 IT HAMPERS THE STATE'S ABILITY IN ANY WAY. WE'RE NOT
10 CONTESTING THAT THEY HAVE TO TALK ABOUT THE CARJACKING.
11 WE'RE NOT CONTESTING THAT THEY HAVE TO TALK ABOUT AN
12 A.B.W.I.K. I DON'T KNOW. WE'RE NOT CONTESTING ANY OF THAT.
13 HE WANTS TO PLEAD TO THE CAR JACKING AND A.B.W.I.K. AND HE
14 WANTS TO GO TO TRIAL ON THE OTHER FOUR CHARGES. WELL,
15 ACTUALLY, YOUR HONOR, WE ANTICIPATED POSSIBLY DOING AN
16 ARRAIGNMENT BEFORE THE JURY PANEL SO THEY CAN HEAR HIM SAY,
17 I AM NOT GUILTY OF FOUR OF THOSE CHARGES. I AM GUILTY OF
18 THE OTHER TWO BUT WE CHOSE NOT TO DO THAT.

19 MS. CAMPBELL: AGAIN, YOUR HONOR, I THINK HE'S GOT
20 A RIGHT TO MAKE THAT ARGUMENT IF THE INDICTMENTS ARE BEFORE
21 THE JURY.

22 MS. OWINGS: THEY ALREADY ARE BEFORE THE JURY,
23 YOUR HONOR. THEY WERE PRESENTED TO THE JURY WHEN THEY WERE
24 IMPANELED.

25 MS. CAMPBELL: EFFECTIVELY IF HE PLEADS TO THE TWO

PRETRIAL MATTERS

1 INDICTMENTS THEN THAT REMOVES THEM FROM THE JURY'S
2 CONSIDERATION. ANY REFERENCE TO THEM WOULD HAVE TO COME IN
3 AS SOME TYPE OF EVIDENCE. I DON'T KNOW HOW THAT WOULD BE
4 PROPERLY BEFORE THEM AND I DO AGREE WITH YOU, JUDGE, TO EVEN
5 MAKE IT MAKE ANY SENSE AND I STILL THINK IT'S A DETRIMENT TO
6 THE STATE. YOU WOULD HAVE TO EXPLAIN TO THEM THEN HE'S PLED
7 GUILTY. THAT'S NOT EVIDENCE BEFORE JURY OR IF THEY --

8 MS. OWINGS: YOUR HONOR.

9 THE COURT: WAIT. DON'T INTERRUPT.

10 MS. CAMPBELL: OR IF THEY CHOOSE TO INTRODUCE THAT
11 EVIDENCE YOU SAY THEY COULD DO THAT. IS THAT THEN THEIR
12 CASE. I JUST DON'T KNOW PROCEDURALLY HOW IT DOESN'T HURT US
13 BECAUSE NO MATTER WHAT WE'RE SITTING THERE EXPLAINING HE'S
14 PLED TO TWO AND I UNDERSTAND THE STRATEGY. HE'S PLED TO
15 TWO. THAT'S WHAT HE'S GUILTY OF. THE STATE'S JUST, YOU
16 KNOW, GOING FORWARD ON THE OTHER CHARGES THEY CAN'T PROVE.

17 MS. OWINGS: YOUR HONOR, IF I MAY.

18 THE COURT: GO AHEAD.

19 MS. OWINGS: I MEAN WE CAN DEFEND MR. ELDERS
20 HOWEVER WE FEEL, WHATEVER OUR STRATEGY IS. HOWEVER WE FEEL
21 IS PROPER AS FAR AS GETTING INTO THE I'M A DEFENSE ATTORNEY
22 MAKING THIS ARGUMENT. WHERE THEY CAN ARGUE IT'S RES GESTAE.
23 IT'S ALL PART OF THE SAME CIRCUMSTANCES.

24 MS. CAMPBELL: THE CONVICTIONS, YOUR HONOR, WOULD
25 NOT BE RES GESTAE. THE ASSAULTS WOULD AND I GUESS UNDER

PRETRIAL MATTERS

1 THAT THEORY SHE CAN GET UP THERE AND ARGUE HE CAN BE GUILTY
2 OF THOSE TWO BUT NOT THE OTHERS.

3 **THE COURT:** AS I UNDERSTAND WHAT THE DEFENSE HAS
4 SAID BOTH IN CHAMBERS AND HERE IN THE COURTROOM, THERE WOULD
5 BE NO OBJECTION TO THE STATE PRESENTING IN THEIR CASE ON THE
6 OTHER FOUR INDICTMENTS ANY OF THE EVIDENCE THAT THEY WOULD
7 HAVE INTRODUCED ON THE TWO THAT HE PLEADS; IS THAT CORRECT?

8 **MS. OWINGS:** THAT'S CORRECT, YOUR HONOR.

9 **THE COURT:** ALL RIGHT. ALL RIGHT. DO YOU NEED
10 FOR HIM TO GET TOGETHER TO BRING IT BACK?

11 **MS. CAMPBELL:** I WAS GOING TO CHECK ONE THING.
12 OUR POSITION WOULD BE, I JUST DON'T UNDERSTAND THEN HOW THAT
13 WOULD BE PROPERLY BEFORE THE COURT AND THEN THAT WOULD FORCE
14 US TO GO FORWARD ON FOUR CHARGES MINUS TWO OF WHAT WE
15 CONSIDER OF THE MAJOR, ALL THE CHARGES AND THEN THIS JURY'S
16 REQUIRED TO ACCEPT A WAIVER OF THOSE CHARGES WE DON'T CHOOSE
17 TO INTRODUCE.

18 **MS. OWINGS:** PLEASE. HE'S PLED GUILTY TO THOSE.

19 **MS. CAMPBELL:** THEN THAT WOULD BE EVIDENCE THAT
20 WOULD HAVE TO BE PUT BEFORE THE JURY AND THAT THEN PUTS US
21 IN A POSITION FOR US TO PUT -- AND HOW WOULD THAT EVEN
22 PROPERLY BE BEFORE THEM UNLESS WE CHOOSE TO IMPEACH HIM WITH
23 THOSE CONVICTIONS? IT'S DIFFERENT, JUDGE, IF THE
24 INDICTMENTS ARE BEFORE THE JURY IT'S ONE PLAYER CONSIDERING
25 IF THEY'RE GOING TO GET UP THERE AND SAY, YES, HE'S GUILTY

PRETRIAL MATTERS

1 OF THOSE TWO BUT NOT OF THESE OTHERS BECAUSE THEN THOSE
2 CASES ARE PROPERLY BEFORE THE JURY. THIS REMOVES THEM FROM
3 THEIR PURVIEW.

4 MS. OWINGS: YOUR HONOR, THERE IS NO NEED FOR THEM
5 TO CONSIDER HE'S PLEADING TO THEM. THERE IS NO NEED FOR
6 THEM TO DETERMINE GUILT OR INNOCENCE BECAUSE HE'S ADMITTING
7 HE'S GUILTY.

8 MS. CAMPBELL: JUDGE, RESPECTFULLY THE ONLY WAY
9 THAT WOULD COME BEFORE THE COURT OR BEFORE THIS JURY IS IF
10 YOU TELL THEM WHAT OUR POSITION WOULD BE THAT WOULD BE
11 GIVING THEM INFORMATION THAT'S NOT PROPERLY BEFORE THEM OR
12 NUMBER TWO, IF HE GETS UP THERE AND TESTIFIES WHICH OF
13 COURSE IS HIS RIGHT NOT TO TESTIFY AND WE OF COURSE CANNOT
14 FORCE HIM TO DO THAT. IF THEY WERE TO STIPULATE THAT HE IS
15 GOING TO TAKE THE STAND AND TESTIFY, WE MIGHT WITHDRAW OUR
16 OBJECTIONS BUT IT DOES AFFECT OUR ABILITY TO PRESENT THE
17 CASE TO THE JURY.

18 THE COURT: WELL, IF HE PLEADS TO TWO CHARGES THE
19 JURY HAS NOT YET BEEN SWORN, WHAT'S TO PREVENT THE STATE
20 FROM MOVING FOR A CONTINUANCE SO THAT YOU DON'T HAVE THE
21 SAME JURY TO WORRY ABOUT WHAT THEY'VE HEARD ABOUT SIX
22 INDICTMENTS AND NOW IT'S FOUR?

23 MS. CAMPBELL: THEN AGAIN YOU'RE PUTTING US IN A
24 POSITION WHERE WE'RE READY TO GO FORWARD. WE HAVE TO OPT
25 FOR THAT. IT AFFECTS THE STATE OF OUR CASE.

PRETRIAL MATTERS

1 THE COURT: I'M STILL HAVING A DIFFICULT TIME
2 DETERMINING OR UNDERSTANDING WHAT IT IS THAT THE STATE
3 CANNOT PUT INTO EVIDENCE IF THE COURT ACCEPTS A PLEA ON TWO
4 OF THESE SIX CHARGES WHEN THE DEFENSE HAS INDICATED THEY
5 UNDERSTAND IT'S INTERTWINED AND YOU COULD PUT UP WHATEVER
6 YOU'D PUT UP.

7 MS. CAMPBELL: I THINK THE DIFFERENCE IS, YOUR
8 HONOR, NOT WHAT THE STATE CAN PUT UP. IT'S MORE WHAT THE
9 STATE ADDITIONALLY WOULD HAVE TO PUT IN, SOMEBODY'S GOT TO
10 PUT IN HE PLED GUILTY TO TWO CHARGES. THAT IS NOT PROPER
11 EVIDENCE WOULD BE OUR POSITION SO. . .

12 THE COURT: BUT THE COURT --

13 MS. CAMPBELL: IF WE DID NOT MENTION THOSE TWO
14 CHARGES.

15 THE COURT: THE COURT WOULD HAVE TO ADVISE THE
16 JURY THAT THE DEFENDANT AND ONE OF THE REASONS FOR THE DELAY
17 WE DIDN'T START AFTER NINE O'CLOCK IS BECAUSE THE DEFENDANT
18 HAS NOW PLED GUILTY TO TWO CHARGES, CAR JACKING AND ASSAULT
19 AND BATTERY WITH INTENT TO KILL.

20 MS. CAMPBELL: YES, SIR.

21 THE COURT: AND THAT THE JURY WILL NOT BE CALLED
22 UPON TO DECIDE GUILT OR INNOCENCE ON THOSE TWO CHARGES.

23 MS. CAMPBELL: YES, SIR.

24 THE COURT: THAT'S ESSENTIALLY WHAT I WOULD TELL
25 THEM.

PRETRIAL MATTERS

1 MS. CAMPBELL: YES, SIR.

2 THE COURT: WHAT DOES THAT DO?

3 MS. CAMPBELL: THAT WOULD PUT EVIDENCE BEFORE THEM
4 OF HIS TWO CONVICTIONS THAT WOULD NOT BE PROPERLY BEFORE
5 THEM.

6 THE COURT: NO. I THINK IT IS PROPERLY BEFORE
7 THEM WHEN THE CASE HAS BEEN CALLED AND THE COURT'S ALREADY
8 TOLD THE JURY YOU'VE GOT SIX INDICTMENTS AND SIX CHARGES AND
9 THESE ARE WHAT THEY ARE.

10 MS. CAMPBELL: AND THEN YOU WOULD THEN PUT BEFORE
11 THEM THAT THEY ARE NOT TO CONSIDER.

12 THE COURT: THE TWO CHARGES HE HAS PLED TO AND
13 THEY'RE NOT GOING, AND THE JURY'S NOT GOING TO BE MAKING A
14 DECISION.

15 MS. CAMPBELL: HOW IS THAT EVIDENCE THAT WOULD BE
16 PROPERLY BEFORE THEM?

17 THE COURT: THERE IS NO OBJECTION TO IT AS I
18 UNDERSTAND FROM THE STATE.

19 MS. CAMPBELL: IN FACT THAT'S PART OF THEIR
20 STRATEGY. I SAY IT HAPPENS BEFORE THE STATE. YOU'RE GIVING
21 THEM INFORMATION THEY'RE NOT OTHERWISE ENTITLED TO. SAY
22 HE'S GUILTY OF THOSE CHARGES IN FRONT OF THEM AND THEN THEY
23 GOT THE ADVANTAGE. OH, YES, HE'S ADMITTED HIS GUILT. HE'S
24 ADMITTING HIS GUILT TO WHAT HE'S GUILTY OF. HE'S ADMITTED
25 HIS GUILT TO WHAT HE'S GUILTY OF AND THAT WOULD BE TESTIMONY

PRETRIAL MATTERS

1 AND THIS IS OUR POSITION, JUDGE, THAT WOULD BE THEN IN
2 ESSENCE TESTIMONY BEFORE THEM OR INFORMATION. IT WOULD
3 LIMIT, HAVE TO BE A STIPULATION BEFORE THEM THAT OTHERWISE
4 WOULD NOT BE PROPERLY BEFORE THEM.

5 MS. OWINGS: YOUR HONOR, I WOULD LIKE TO RESPOND
6 TO THAT. THE FACT THAT HE PLED WOULD BE INFORMATION THAT
7 YOU PROVIDED JUST LIKE THE INDICTMENT THAT YOU READ TO THEM.
8 WE WOULD BE STATING IN OUR OPENING, YES, HE HAS PLED GUILTY
9 TO THE CHARGE OF ARMED ROBBERY, THE A.B.W.I.K. I'M SORRY
10 THE A.B.W.I.K.

11 THE COURT: I'M GOING TO TAKE A SHORT BREAK AND
12 READ ONE OTHER THING BEFORE I MAKE THE DECISION ON WHETHER I
13 CAN CONSIDER HIS PLEA. IF THE COURT DOES CONSIDER A PLEA ON
14 CAR JACKING AS I UNDERSTAND IT THE CHARGE HAS BEEN INDICTED
15 AND I ASSUME WOULD BE PLED TO, WOULD BE INVOLVING GREAT
16 BODILY INJURY; IS THAT RIGHT, OR SERIOUS BODILY INJURY?

17 MS. OWINGS: I THINK IT'S THE, I THINK THE
18 INDICTMENT IS FOR THE 20 YEAR.

19 THE COURT: I DON'T KNOW. I HAVEN'T LOOKED AT IT.

20 MS. CAMPBELL: IT'S THE 20 YEAR, YOUR HONOR.

21 THE COURT: IT'S THE 20 YEAR.

22 MS. CAMPBELL: EVEN THAT.

23 THE COURT: SO IT'S UNDER THE 20 YEAR STATUTE?

24 MS. CAMPBELL: YES, SIR.

25 MS. OWINGS: YES, SIR; THAT'S CORRECT.

PRETRIAL MATTERS

1 THE COURT: WE'LL TAKE A SHORT RECESS. THANK YOU,
2 SIR.

3 (THEREUPON, THERE WAS A BRIEF RECESS IN THE TRIAL OF
4 THIS CASE.)

5 THE COURT: ALL RIGHT. ANYTHING FURTHER BEFORE I
6 TELL YOU WHAT I PLAN TO DO?

7 MS. OWINGS: NO, SIR.

8 THE COURT: ALL RIGHT. I'M GOING TO QUESTION THE
9 DEFENDANT. IF HE INDICATES TO THIS COURT THAT HE WANTS TO
10 PLEAD AND I'M CONVINCED THAT HE'S DOING IT FREELY AND
11 VOLUNTARILY, I'LL IN ALL LIKELIHOOD ACCEPT YOUR PLEA ON
12 THESE CHARGES AND THEN PROCEDURALLY I'LL EXPLAIN TO THE JURY
13 THAT THOSE TWO CHARGES HAVE BEEN PLED TO AND WE WILL
14 CONTINUE ON THE OTHER FOUR AND SENTENCING WOULD BE DEFERRED.

15 MS. CAMPBELL: IS THAT OUTSIDE OF THE JURY
16 SENTENCING IS DEFERRED? YOU'RE GOING TO TELL THE JURY THAT
17 SENTENCING'S GOING TO BE DEFERRED?

18 THE COURT: NO. NO. NO. NOTHING WILL BE
19 MENTIONED TO THE JURY.

20 MS. CAMPBELL: WILL THAT BE EVIDENCE? I HAVE
21 HEARD THAT THIS WILL BE THE COURT TAKING JUDICIAL NOTICE
22 THAT I'VE ACCEPTED A PLEA ON TWO CHARGES.

23 THE COURT: AND THAT WOULD, AND I DON'T MEAN TO
24 DIFFER BUT HOW WOULD THAT BE PROPERLY BEFORE THE JURY IF
25 IT'S NOT INTRODUCED AS EVIDENCE? WHAT WOULD THE EVIDENCE

PRETRIAL MATTERS

1 BE?

2 MS. CAMPBELL: THAT HE PLED GUILTY. THAT WOULD BE
3 CONVICTIONS.

4 THE COURT: IT'S JUST. . .

5 MS. CAMPBELL: THAT'S MY CONCERN, JUDGE, IS THAT I
6 JUST DON'T THINK THAT WOULD BE PROPERLY BEFORE THEM AND THEN
7 OF COURSE IT WOULD BE UP TO US OR IF THEY WANT TO INTRODUCE
8 THAT EVIDENCE THAT WOULD BE ANOTHER THING BECAUSE THAT WOULD
9 BE EVIDENCE THEY WANTED TO HAVE BEFORE THE JURY.

10 THE COURT: I REALLY DON'T SEE WHERE IT'S A
11 PROBLEM ONCE I HAVE TOLD THE JURY THE DEFENDANT HAS PLED
12 GUILTY TO TWO CHARGES. WHAT IS IT THAT YOU WANT TO DO WITH
13 IT THAT YOU COULDN'T DO WITH IT AT THAT POINT IN TIME?

14 MS. CAMPBELL: AT THAT POINT IN TIME THAT'S
15 EVIDENCE THAT IS NOT PROPER. THE INDICTMENTS ARE NOT
16 PROPERLY BEFORE THEM. IT'S OUR POSITION HOWEVER IF YOU WISH
17 TO INTRODUCE IT, WE UNDERSTAND IF THE DEFENSE WANTS TO
18 INTRODUCE IT. WE DON'T HAVE A PROBLEM WITH IT BUT THAT
19 WOULD THEN BE EVIDENCE PUT IN BY THE DEFENSE. OTHERWISE IF
20 YOU DIDN'T MENTION IT AND IT'S NOT PUT IN AND YOU'RE GOING
21 TO TAKE JUDICIAL NOTICE, THAT THEN PUTS THE STATE,
22 INFORMATION THAT WOULD NOT BE PROPERLY BEFORE THIS JURY IN
23 ANY OTHER MANNER. THEY KNOW AFTER THAT'S THEN BEFORE THEM
24 THAT THEY WILL CONSIDER IN THEIR DELIBERATION AND SOMETHING
25 THAT WILL BE ARGUED EXTENSIVELY.

PRETRIAL MATTERS

1 **THE COURT:** WELL, IT'S NOT EVIDENCE OF GUILT OF
2 THE OTHER FOUR CHARGES. JUST LIKE I'M GOING TO INSTRUCT HIM
3 IF HE DOESN'T PLEAD TO TWO THAT EACH OF THE SIX CHARGES HAS
4 GOT TO BE DECIDED. IT CAN'T BE USED AS EVIDENCE OF GUILT OF
5 THE OTHER SIX. YOU CAN PUT IN THE EVIDENCE AND THE DEFENSE
6 HAS ALREADY INDICATED WHAT EVIDENCE THE STATE WANTS TO PUT
7 IN THAT WOULD GO ON THESE TWO CHARGES. THEY'RE NOT GOING TO
8 OBJECT TO IT WHEN IT COMES IN ON THE OTHER FOUR CHARGES.

9 **MS. CAMPBELL:** AS LONG AS, YOUR HONOR, THAT'S FINE
10 IF THEY ARE MAKING THE ARGUMENT HE'S PLED GUILTY TO THE ONES
11 WHICH IS WHAT I ANTICIPATED THE ARGUMENT.

12 **MS. OWINGS:** WHICH IS, HOW IS THAT DIFFERENT FROM,
13 I INDICATED YESTERDAY THAT IN MY OPENING STATEMENT THEY WANT
14 TO SAY WE'RE NOT CONTESTING THESE TWO. WE'RE CONTESTING
15 THOSE FOUR.

16 **MS. CAMPBELL:** THOSE INDICTMENTS WILL BE BEFORE
17 THEM AND THAT WOULD BE PROPER WOULD BE OUR POSITION.

18 **THE COURT:** I AM GOING TO ADVISE THE JURY IF HE
19 PLEADS, WE'RE SORT OF JUMPING THE GUN RIGHT NOW, IF HE
20 PLEADS TO THESE TWO CHARGES, I AM GOING TO SIMPLY ADVISE THE
21 JURY THAT HE HAS PLED TO THESE TWO CHARGES AND THE TRIAL IS
22 GOING FORWARD ON THE OTHER FOUR AND Y'ALL CAN PUT IN
23 WHATEVER YOU WANT TO PUT IN AND IF WE GET TO A PROBLEM OF
24 WHAT YOU WANT TO SAY OR ENTER THE PLEA, WE'LL DEAL WITH THAT
25 WHEN IT COMES UP. I THINK WE'RE SPENDING LOTS OF TIME ON A

GUILTY PLEA

1 NON-ISSUE BUT I COULD BE WRONG ABOUT THAT. ALL RIGHT. IF
2 Y'ALL WILL STEP FORWARD, PLEASE.

3 (THEREUPON, THE DEFENDANT WAS DULY SWORN.)

4 THE COURT: ALL RIGHT. YOU ARE RANDY C. ELDERS;
5 IS THAT CORRECT?

6 THE DEFENDANT: YES, SIR.

7 THE COURT: MR. ELDERS, HOW OLD ARE YOU?

8 THE DEFENDANT: I'M 31.

9 THE COURT: THIRTY-ONE.

10 THE DEFENDANT: YES, SIR.

11 THE COURT: HOW MUCH FORMAL EDUCATION DO YOU HAVE?

12 THE DEFENDANT: NINTH GRADE.

13 THE COURT: DO YOU HAVE A G.E.D.?

14 THE DEFENDANT: YES, SIR.

15 THE COURT: ARE YOU MARRIED?

16 THE DEFENDANT: YES, SIR.

17 THE COURT: DO YOU HAVE CHILDREN?

18 THE DEFENDANT: YES, SIR.

19 THE COURT: HOW MANY?

20 THE DEFENDANT: FOUR.

21 THE COURT: WHAT KIND OF WORK HAVE YOU DONE IN THE
22 PAST?

23 THE DEFENDANT: REMODELING.

24 THE COURT: REMODELING CONSTRUCTION. WORKING FOR
25 YOURSELF OR FOR SOMEONE ELSE?

GUILTY PLEA

1 THE DEFENDANT: FOR MY FATHER.

2 THE COURT: HOW LONG HAS HE BEEN IN JAIL, COUNSEL?

3 MS. OWINGS: YOUR HONOR, HE HAS BEEN IN JAIL SINCE
4 HE WAS ARRESTED IN APRIL. I DON'T HAVE MY FILE, APRIL
5 THE 19TH.

6 THE COURT: OF LAST YEAR?

7 THE DEFENDANT: YES, SIR.

8 THE COURT: MS. OWINGS, YOU AND MS. SAMPSON ARE
9 REPRESENTING MR. ELDERS; IS THAT CORRECT?

10 MS. OWINGS: YES, YOUR HONOR.

11 THE COURT: IN INDICTMENTS 05-3540, CHARGE OF CAR
12 JACKING CARRIES A POSSIBLE 20 YEARS; 05-3544 -- EXCUSE ME,
13 THAT'S THE WRONG INDICTMENT -- 3545 A CHARGE OF ASSAULT AND
14 BATTERY WITH INTENT TO KILL WHICH IS ALSO A 20 YEAR OFFENSE.
15 ARE THOSE THE OFFENSES AND THE POSSIBLE SENTENCES THAT
16 YOU'VE EXPLAINED TO MR. ELDERS?

17 MS. OWINGS: YES, SIR, I HAVE.

18 THE COURT: IN YOUR OPINION HE UNDERSTANDS THOSE
19 CHARGES AND THE POSSIBLE SENTENCE ON EACH ONE.

20 MS. OWINGS: YES, SIR.

21 THE COURT: ALL RIGHT. HAVE WE GOT SENTENCING
22 SHEETS ON THOSE? HAS HE BEEN SIGNED UP?

23 MS. OWINGS: NO, SIR. I'M SORRY.

24 THE COURT: ALL RIGHT. MR. ELDERS, AT THIS TIME
25 DO YOU HAVE ANY QUESTIONS ABOUT WHAT THE TWO CHARGES ARE

GUILTY PLEA

1 THAT YOU ARE TENDERING A PLEA ON OR WHAT THE POSSIBLE
2 SENTENCE COULD BE ON EITHER ONE OF THOSE CHARGES?

3 THE DEFENDANT: NO, SIR, I DO NOT.

4 THE COURT: YOU'VE HEARD YOUR ATTORNEYS INDICATE
5 THAT YOU DO WANT TO PLEAD GUILTY TO CAR JACKING AND TO
6 ASSAULT AND BATTERY WITH INTENT TO KILL ONE DWIGHT RIGGS; IS
7 THAT CORRECT?

8 THE DEFENDANT: YES, SIR.

9 THE COURT: IS THAT YOUR DECISION?

10 THE DEFENDANT: YES, SIR.

11 THE COURT: HAVE YOU MADE THAT DECISION OF YOUR
12 OWN FREE WILL?

13 THE DEFENDANT: YES, SIR.

14 THE COURT: YOU'VE HEARD A GOOD BIT OF THE
15 DISCUSSION THIS MORNING IN THE COURTROOM. DO YOU HAVE ANY
16 QUESTIONS ABOUT WHAT IS GOING ON OR THE EFFECT OF A GUILTY
17 PLEA?

18 THE DEFENDANT: NO, SIR.

19 THE COURT: AND HAVE YOU HAD ENOUGH TIME TO
20 DISCUSS ALL OF THIS WITH YOUR ATTORNEYS?

21 THE DEFENDANT: YES, SIR.

22 THE COURT: HAVE YOU TOLD THEM EVERYTHING THAT YOU
23 KNOW ABOUT THESE CHARGES SO THAT THEY COULD PREPARE AND
24 DEFEND YOU ON THESE CHARGES?

25 THE DEFENDANT: YES, SIR.

GUILTY PLEA

1 THE COURT: IS THERE ANYTHING THAT YOU HAVE ASKED
2 THEM TO DO THAT THEY HAVE FAILED TO DO?

3 THE DEFENDANT: NO, SIR.

4 THE COURT: SO YOU'RE SATISFIED WITH THE LEGAL
5 REPRESENTATION THAT YOU HAVE RECEIVED ON THESE CASES; IS
6 THAT CORRECT?

7 THE DEFENDANT: YES, SIR.

8 THE COURT: I NEED TO KNOW WHETHER THERE HAVE BEEN
9 ANY PROMISES MADE TO YOU BY ANYONE WITH THE SOLICITOR'S
10 OFFICE, LAW ENFORCEMENT OR ANYONE ELSE OR HAS ANYONE MADE
11 ANY THREATS AGAINST YOU IN ANY WAY TO FORCE YOU TO PLEAD
12 GUILTY TO THESE CHARGES?

13 THE DEFENDANT: NO, SIR

14 THE COURT: YOU'RE DOING IT OF YOUR OWN FREE WILL;
15 IS THAT CORRECT?

16 THE DEFENDANT: YES, SIR.

17 THE COURT: YOU'RE SURE YOUR ATTORNEYS HAVE GONE
18 OVER WITH YOU THE CONSTITUTIONAL RIGHTS THAT YOU HAVE THAT
19 YOU WILL BE GIVING UP IF YOU PLEAD TO THESE CHARGES. YOU DO
20 HAVE THE RIGHT TO HAVE A JURY TRIAL. WE HAVE ALREADY
21 SELECTED A JURY ALTHOUGH IT HAS NOT BEEN SWORN BUT WE HAVE
22 SELECTED A JURY AND YOU HAVE THE RIGHT TO TAKE THESE CASES
23 TO THE JURY AND HAVE A JURY TRIAL TO DETERMINE WHETHER THE
24 STATE HAS MET THEIR BURDEN OF PROOF IN THESE TWO CHARGES
25 BEYOND A REASONABLE DOUBT AND THAT IS THE BURDEN OF THE

GUILTY PLEA

1 STATE.

2 AS A DEFENDANT YOU DO NOT HAVE TO PROVE THAT YOU
3 ARE NOT GUILTY. THE STATE HAS TO PROVE THAT YOU ARE. THEY
4 HAVE THE BURDEN OF DOING THAT. YOU DO HAVE THE RIGHT TO
5 PRESENT WHATEVER DEFENSE MAY BE AVAILABLE TO YOU. YOU HAVE
6 THE RIGHT TO SUBPOENA WITNESSES TO COME IN AND TESTIFY ON
7 YOUR BEHALF BUT AGAIN THE BURDEN OF PROOF REMAINS WITH THE
8 STATE TO PROVE YOUR GUILT BEYOND A REASONABLE DOUBT BEFORE
9 YOU COULD BE CONVICTED OF THE THESE CHARGES. IF YOU ENTER
10 THIS PLEA YOU WILL NOT HAVE A JURY TRIAL ON THESE TWO
11 CHARGES. DO YOU UNDERSTAND THAT YOU'LL BE GIVING UP YOUR
12 RIGHTS?

13 THE DEFENDANT: YES, SIR.

14 THE COURT: YOU HAVE A CONSTITUTIONAL RIGHT OF
15 CONFRONTATION WHICH SIMPLY MEANS THE RIGHT TO LOOK AT AND TO
16 SEE THE WITNESSES AGAINST YOU AND TO HAVE YOUR ATTORNEYS
17 CROSS-EXAMINE AND QUESTION THOSE WITNESSES WHILE THEY
18 TESTIFY. IF YOU DO PLEAD GUILTY TO THESE CHARGES YOU'RE
19 GOING TO GIVE UP AND WAIVE YOUR RIGHT TO CONFRONT AND TO
20 CROSS-EXAMINE THE WITNESSES WHO WOULD BE CALLED TO TESTIFY
21 AGAINST YOU ON THESE CHARGES. DO YOU UNDERSTAND THAT?

22 THE DEFENDANT: YES, SIR.

23 THE COURT: YOU ALSO HAVE A CONSTITUTIONAL RIGHT,
24 MR. ELDERS, TO REMAIN SILENT. YOUR SILENCE CANNOT BE HELD
25 OR USED AGAINST YOU IN ANY WAY. THAT SIMPLY MEANS THAT YOU

GUILTY PLEA

1 CANNOT BE FORCED OR COMPELLED BY ANYONE, NOT YOUR ATTORNEYS,
2 NOT THE SOLICITOR'S OFFICE, NOT EVEN THE JUDGE CAN FORCE YOU
3 TO TAKE THE WITNESS STAND AND TO TESTIFY AGAINST YOURSELF.
4 IF YOU EXERCISE THAT RIGHT AND DO NOT TESTIFY YOUR SILENCE
5 CANNOT BE USED AGAINST YOU OR HELD AGAINST YOU. THE JURY
6 WOULD BE INSTRUCTED THAT THEY CANNOT EVEN DISCUSS THAT BACK
7 IN THE JURY ROOM. IT'S AN IMPORTANT RIGHT. IF YOU ARE
8 GOING TO PLEAD GUILTY THEN YOU DO HAVE TO GIVE UP THAT RIGHT
9 IN ORDER TO ADMIT YOUR GUILT HERE IN OPEN COURT. DO YOU
10 UNDERSTAND THAT?

11 THE DEFENDANT: YES, SIR.

12 THE COURT: AT THIS TIME, MR. ELDERS, DO YOU HAVE
13 ANY QUESTIONS ABOUT ANY OF THE RIGHTS THAT I HAVE GONE OVER
14 WITH YOU?

15 THE DEFENDANT: NO, SIR.

16 THE COURT: AND YOU UNDERSTAND THAT YOU'RE GOING TO
17 BE GIVING UP AND WAIVING ALL OF THOSE RIGHTS IF YOU ENTER
18 THIS PLEA.

19 THE DEFENDANT: YES, SIR.

20 THE COURT: IS THAT STILL WHAT YOU WANT TO DO?

21 THE DEFENDANT: YES.

22 THE COURT: ARE YOU GUILTY OF THE TWO CHARGES THAT
23 YOU ARE PLEADING TO HERE TODAY, THE CAR JACKING CHARGE AND
24 THE ASSAULT AND BATTERY WITH INTENT TO KILL ONE DWIGHT
25 RIGGS?

GUILTY PLEA

1 THE DEFENDANT: YES, SIR.

2 THE COURT: TODAY ARE YOU UNDER THE INFLUENCE OF
3 ANY KIND OF DRUGS OR ALCOHOL?

4 THE DEFENDANT: NO, SIR.

5 THE COURT: YOU TAKING ANY KIND OF MEDICATION?

6 THE DEFENDANT: NO, SIR.

7 THE COURT: ARE YOU NOW OR HAVE YOU EVER BEEN
8 TREATED FOR ANY KIND OF MENTAL HEALTH PROBLEM?

9 THE DEFENDANT: NO, SIR.

10 THE COURT: DO YOU HAVE ANY QUESTIONS ABOUT WHAT'S
11 GOING ON TODAY?

12 THE DEFENDANT: NO, SIR.

13 THE COURT: SOLICITOR, ON THESE TWO CHARGES GIVE
14 ME YOUR FACTUAL BACKGROUND.

15 MS. CAMPBELL: MAY IT PLEASE THE COURT. ON THE
16 EVENING OF APRIL 17TH, 2005, THE VICTIMS IN, EXCUSE ME,
17 VICTIM IN THIS CASE MR. DWIGHT RIGGS AND HIS WIFE WERE
18 RETURNING FROM CHURCH THAT EVENING. THEY STOPPED AT THE
19 GROCERY STORE, BI-LO ON GARNER'S FERRY ROAD. MR. RIGGS HAD
20 LET HER GO INTO THE STORE. HE WAS APPROACHED BY A YOUNG
21 WOMAN WHO ENDS UP BEING CHRISTINA HALL WHO IS THE GIRLFRIEND
22 OF THE DEFENDANT IN THIS CASE. YOUR HONOR, SHE APPROACHED
23 HIM AND ASKED IF HE WOULD GIVE HER A RIDE TO MIKE'S MARKET.
24 SHE NEEDED A RIDE.

25 ON THAT DATE IN QUESTION HE AGREED TO GIVE HER A

GUILTY PLEA

1 RIDE. HIS WIFE THEN CAME BACK OUT OF THE GROCERY STORE.
2 UPON COMING OUT OF THE GROCERY STORE HE WAS GIVING THIS
3 YOUNG WOMAN AND HER FRIEND A RIDE AT WHICH TIME THE TWO OF
4 THEM GOT INTO THE BACK SEAT. MR. RIGGS WAS DRIVING.
5 MRS. RIGGS WAS IN THE FRONT PASSENGER SEAT. CHRISTINA HALL
6 IS IN THE RIGHT REAR, EXCUSE ME, THE LEFT REAR BEHIND THE
7 DRIVER'S SEAT AND THIS DEFENDANT GOT IN BEHIND MRS. RIGGS.
8 AS THEY APPROACHED MIKE'S MARKET WHICH IS JUST A SHORT DRIVE
9 DOWN GARNER'S FERRY ROAD THEY HEARD THE DEFENDANT ANNOUNCE
10 THERE HAD BEEN A CHANGE OF PLANS THEN PULLED OUT A KNIFE,
11 WHAT APPEARED TO BE A STEAK KNIFE.

12 HE REACHED AROUND THE FRONT SEAT, PUT THE KNIFE TO
13 MRS. RIGGS, TOLD THE VICTIM WHO WAS THE DRIVER TO KEEP
14 DRIVING OR HE WAS GOING TO SLIT HER THROAT, MEANING HIS
15 WIFE'S THROAT. AT THAT POINT THE VICTIM MR. RIGGS HAD
16 ALREADY PUT THE CAR INTO PARK. HE HAD OPENED THE DOOR. HE
17 LOOKED DOWN AND SAID, NO, I'M NOT GOING TO LET YOU DO THAT.
18 WITHIN A COUPLE OF SECONDS HE THEN REACHED OVER TO GRAB THE
19 DEFENDANT'S HANDS, THE ONE HOLDING THE KNIFE THAT WAS AT HIS
20 WIFE 'S THROAT. AT THAT POINT A STRUGGLE BEGAN. YOUR
21 HONOR, THE DEFENDANT WAS STILL IN THE BACK SEAT.

22 MR. RIGGS WAS ABLE TO GET HIS HANDS AND HOLD HIM.
23 AT THAT POINT HE WAS MERELY TRYING TO GET THE KNIFE OUT OF
24 HIS HANDS. AT SOME POINT THE DEFENDANT DID LUNGE INTO THE
25 FRONT SEAT COMING OVER THE TOP OF THE SEAT. MR. RIGGS WAS

GUILTY PLEA

1 THERE IN THE FRONT SEAT. EVENTUALLY THEY FELL OUT OF THE
2 DRIVER-SIDE DOOR WHICH HAD ALREADY BEEN OPENED. THE
3 STRUGGLE CONTINUED OUTSIDE. THERE WERE INDEPENDENT
4 WITNESSES WHO SAW THE THREE OF THEM. BASICALLY MR. RIGGS
5 WAS DOWN ON THE GROUND. THE WITNESS WHO DIDN'T SEE THE
6 KNIFE INITIALLY THOUGHT HE WAS JUST PUNCHING AT HIM.

7 INSTEAD THE TESTIMONY WAS BEING THAT HE WAS
8 ACTUALLY TRYING TO STAB HIM IN BOTH THE FACE AND THE CHEST
9 AREA. AT SOME POINT DURING THE ALTERCATION, I'M NOT SURE
10 QUITE WHEN, HE WAS ABLE TO STAB MR. RIGGS IN THE HAND AND
11 THEN ULTIMATELY IN THE CHEST. MR. RIGGS WAS TRYING TO GET
12 AWAY. AT THAT POINT THE DEFENDANT AND HE SEPARATED. THE
13 DEFENDANT AGAIN DEMANDED THE CASH WHICH WAS ACTUALLY IN
14 MR. RIGGS POCKET. MR. RIGGS IT WAS LIKE I'M NOT GOING TO
15 GIVE THEM TO YOU. HE EXPRESSED THAT HE THOUGHT THAT AT THAT
16 POINT HE REACHED INTO HIS POCKET.

17 THEY WERE AROUND THE REAR OF THE VEHICLE AND THREW
18 THE KEYS AS FARAS HE COULD, KIND OF ACROSS A SMALL ROAD
19 INTO A DRIVING RANGE AREA, A GRASSY AREA. IN THE MEANTIME
20 MRS. RIGGS WAS ABLE TO GET OUT OF THE CAR. THE CODEFENDANT
21 IN THE CASE CHRISTINA HALL, YOUR HONOR, HAD ALREADY EXITED
22 THE CAR. MRS. RIGGS ACTUALLY TRIED TO SLAM HER WITH THE CAR
23 DOOR AND SHE WAS PUT BACK IN THE CAR. AT SOME POINT THE
24 CODEFENDANT CHRISTINA HALL HAD WANDERED AROUND TO THE BACK
25 OF THE CAR. MRS. RIGGS IS YELLING FOR HELP AT THIS POINT.

GUILTY PLEA

1 CHRISTINA HALL WAS RUNNING AROUND.

2 SHE WAS YELLING AT MR. ELDERS, COME ON; COME ON;
3 LET'S LEAVE; LET'S GO. HE DID NOT. ONCE HE HAD GOTTEN
4 ACROSS THE STREET AND GRABBED THE KEYS MR. RIGGS CHASED
5 AFTER HIM. HOWEVER, HE DIDN'T REALIZE AT THAT POINT HE HAD
6 BEEN STABBED BUT HE WAS LOSING ENERGY. TO SAY THE LEAST
7 ONCE THE DEFENDANT HAD THE KEYS HE WENT BACK ACROSS THE
8 ROAD. MRS. RIGGS WAS STANDING THERE. SHE HAD HER PURSE ON
9 HER ARM. SHE WAS STILL YELLING FOR HELP. PEOPLE WERE
10 COMING FROM THE DRIVING RANGE OVER. YOUR HONOR, AT THAT
11 POINT SHE WENT OUT.

12 SHE STARTED RUNNING BECAUSE SHE KNEW HE HAD THE
13 KNIFE. HE THEN CAME UP BEHIND HER. THE TESTIMONY WOULD BE
14 SHE FELL. EYEWITNESSES WOULD SAY THAT HE TACKLED HER AT
15 THAT POINT, GOT HER DOWN ON THE GROUND, WAS LAYING ON TOP OF
16 HER, WAS ABLE TO GET THE PURSE FROM HER ARM AT WHICH POINT
17 HE HAD HER DOWN ON THE GROUND. SHE WAS NOT ABLE TO GET BACK
18 UP IMMEDIATELY BECAUSE SHE HAD A BROKEN TOE AS WELL AS
19 MULTIPLE LACERATIONS FROM WHERE HE FORCED HER DOWN. AT THAT
20 POINT HE THEN DID GET IN THE CAR. MS. HALL HAD ALREADY
21 GOTTEN INTO THE CAR. SHE WAS THEN DRIVING.

22 THEY LEFT IMMEDIATELY AND DROVE TO HORRELL HILL
23 WHERE THE TESTIMONY WOULD BE THEY WENT AND TOOK A \$100 BILL
24 FROM THE VICTIM'S POCKETBOOK AND PURCHASED SOME CRACK
25 COCAINE THAT SAME OR I BELIEVE THAT NEXT DAY. THERE WAS A

GUILTY PLEA

1 SHORT CHASE INVOLVED IN THE ROSEWOOD AREA WHERE THE
2 DEFENDANT WAS EITHER DRIVING OR A PASSENGER IN THE CAR. HE
3 GOT AWAY FROM THE POLICE AND SOMETIME THE NEXT DAY POLICE
4 DID RECOVER THE CAR AT THE CORNER OF BLUFF ROAD AND SOUTH
5 BELTLINE. YOUR HONOR, JUST NEAR THAT I.D.D. INTERCHANGE
6 RIGHT THERE AT BLUFF ROAD WHEN THEY RECOVERED THE PURSE WAS
7 I THINK HOWEVER THE MONEY WAS GONE.

8 THE DEFENDANT AND HIS GIRLFRIEND WENT BACK TO HER
9 MOTHER'S HOUSE. THEY MADE CONTACT WITH A FRIEND OF THEIRS
10 IS ACTUALLY A PERSON THAT MR. ELDERS HAD MET ALTHOUGH THIS
11 WOULD BE IN EVIDENCE HE THEN CAME AND GOT HIM. AT THAT
12 POINT MR. ELDERS CONFESSED TO HIS FRIENDS AND OTHER
13 WITNESSES THERE AT THE SCENE THAT HE HAD ACTUALLY CAR JACKED
14 AND REMEMBERED THESE PEOPLE. SUBSEQUENT TO THAT POLICE GOT
15 A TAPE INDICATING THAT THE DEFENDANT WAS AT A HOUSE IN THE
16 IRMO AREA WHICH IS IN FACT HIS FRIEND'S HOUSE CHRIS SMITH.
17 POLICE RESPONDED WITH A SEARCH WARRANT.

18 WHEN THEY GOT THERE MR. ELDERS WAS THERE.
19 CHRISTINA HALL WAS THERE. THEY ADVISED BOTH OF THEM OF
20 THEIR RIGHTS. MR. ELDERS INVOKED I THINK ALMOST
21 IMMEDIATELY, YOUR HONOR; BUT MS. HALL DID GIVE A STATEMENT.
22 SHE ALSO INDICATED THAT THERE WERE SOME KNIVES; THAT THEY
23 WERE PROBABLY IN THE BAGGAGE BELONGING TO MR. ELDERS. I
24 THINK A SWITCH BLADE THAT WAS RECOVERED IN THE HOUSE OR NEAR
25 HIS SHOE IN THE HOUSE AREA. THERE WOULD HAVE BEEN MULTIPLE

GUILTY PLEA

1 WITNESSES, YOUR HONOR, TESTIFYING TO THESE EVENTS BASICALLY
2 THAT'S JUST THE BASICS.

3 THE COURT: ALL RIGHT.

4 MS. CAMPBELL: THE FACTUAL BACKGROUND.

5 THE COURT: AS THOSE FACTS PERTAIN TO THESE TWO
6 CHARGES, COUNSEL, THAT'S WHAT YOU HAVE REVIEWED WITH
7 MR. ELDERS.

8 MS. OWINGS: YES, SIR.

9 THE COURT: YOU BOTH ARE FAMILIAR WITH WHAT THE
10 STATE IS ALLEGING; IS THAT CORRECT?

11 MS. OWINGS: YES, SIR.

12 THE COURT: MR. ELDERS, THAT'S WHAT HAS BEEN
13 EXPLAINED TO YOU AS THE FACTS PERTAIN TO THE ASSAULT AND
14 BATTERY WITH INTENT TO KILL MR. RIGGS AND THE CAR JACKING;
15 IS THAT CORRECT?

16 THE DEFENDANT: YES, SIR.

17 THE COURT: THAT'S WHAT YOU'RE PLEADING GUILTY TO?

18 THE DEFENDANT: YES, SIR.

19 THE COURT: ARE YOU GUILTY OF THOSE TWO?

20 THE DEFENDANT: YES, SIR.

21 THE COURT: I'LL ACCEPT MR. ELDERS' PLEA. IT HAS
22 BEEN ENTERED FREELY AND VOLUNTARILY WITH THE ADVICE AND THE
23 ASSISTANCE OF COUNSEL. THERE CERTAINLY IS SUFFICIENT
24 FACTUAL BASIS AS INDICATED BY THE STATE FOR THESE TWO
25 CHARGES. SENTENCING ON THESE CHARGES WILL BE DEFERRED.

COURT'S PRELIMINARY REMARKS

1 MS. SAMPSON: THANK YOUR HONOR.

2 THE COURT: ALL RIGHT. ANYTHING FURTHER AT THIS
3 TIME BEFORE THE JURY'S BROUGHT IN TO BE SEATED?

4 MS. CAMPBELL: NO, SIR.

5 THE COURT: FROM THE DEFENSE?

6 MS. SAMPSON: NO, SIR.

7 THE COURT: ALL RIGHT. YOU READY TO BRING THE
8 JURY IN, PLEASE?

9 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
10 JURY.)

11 THE COURT: ALL RIGHT. MR. FOREMAN, I CAN'T SAY
12 MR. FOREMAN YET UNTIL I APPOINT THE FOREMAN. MR. ROSCH, YOU
13 ARE APPOINTED AS THE FOREMAN. THAT'S THE NOTE I RECEIVED.
14 YOU CAN HAVE A SEAT. AGAIN YOUR VOTE WILL NOT COUNT ANY
15 MORE THAN ANYONE ELSE'S BUT YOU WILL PRESIDE IN THE JURY
16 ROOM AND BE SPOKESMAN FOR THE JURY HERE IN THE COURTROOM.
17 THE FIRST THING WE NEED TO DO IS TO HAVE YOU SWORN IN AS THE
18 JURY. IF YOU'LL STAND AND RAISE YOUR RIGHT HAND, THE CLERK
19 WILL ADMINISTER YOUR OATH IN THIS CASE.

20 (THE JURY WAS DULY SWORN.)

21 THE COURT: NOW, MR. FOREMAN, LADIES AND
22 GENTLEMEN, I HATE TO START THE TRIAL. WE HAVE HAD A DELAY
23 THIS MORNING AND IT'S NO ONE'S FAULT. WE HAVE BEEN HERE
24 SINCE NINE O'CLOCK AND I KNOW YOU FOLKS WERE HERE AT NINE
25 O'CLOCK ALSO. I DO NEED TO ADVISE YOU FOLKS THAT YESTERDAY

COURT'S PRELIMINARY REMARKS

1 WHEN WE SELECTED THE JURY I EXPLAINED TO YOU WHAT THE
2 CHARGES AND THE ALLEGATIONS WERE AND I WENT OVER BRIEFLY THE
3 INDICTMENTS IN THE CASE. IN THIS CASE THERE WERE SIX
4 INDICTMENTS. THE DEFENDANT HAS NOW ENTERED A GUILTY PLEA TO
5 TWO INDICTMENTS.

6 HE HAS NOW PLED GUILTY FOR CAR JACKING AND TO
7 ASSAULT AND BATTERY WITH INTENT TO KILL ONE DWIGHT RIGGS
8 WHICH MEANS THAT THE INDICTMENTS THAT REMAIN THAT THE TRIAL
9 WILL BE ABOUT ARE TWO COUNTS OF KIDNAPPING, ONE COUNT OF
10 ARMED ROBBERY AND ONE COUNT OF ASSAULT AND BATTERY WITH
11 INTENT TO KILL KATHRYN RIGGS. LET ME MAKE A FEW VERY BRIEF
12 COMMENTS TO YOU THEN WE WILL GET STARTED WITH THE TESTIMONY
13 AND THE OPENING STATEMENTS. WHAT I'M ABOUT TO GO OVER WITH
14 YOU FOLKS IS CERTAINLY NOT INTENDED TO BE A SUBSTITUTE FOR
15 THE DETAILED INSTRUCTIONS OF THE LAW THAT I WILL BE GIVING
16 YOU AT THE END OF THE CASE.

17 AGAIN THIS IS A CRIMINAL CASE. IT HAS BEEN
18 COMMENCED BY THE STATE. I MAY REFER TO THE STATE AS THE
19 PROSECUTION OR THE SOLICITOR. THE CASE IS AGAINST ONE RANDY
20 ELDERS WHO HAS BEEN INTRODUCED TO YOU. THE CASE IS BASED ON
21 INDICTMENTS THAT I'VE BRIEFLY WENT OVER WITH YOU YESTERDAY.
22 AGAIN YOU NEED TO UNDERSTAND THAT THE INDICTMENTS ARE SIMPLY
23 CHARGES THAT ARE MADE AND THEY ARE NOT EVIDENCE OF THE
24 CHARGES THEY CONTAIN. THE DEFENDANT HAS PLEADED NOT GUILTY
25 TO THE FOUR INDICTMENTS. THEY'RE GOING FORWARD AND THE

COURT'S PRELIMINARY REMARKS

1 STATE THEREFORE DOES HAVE THE BURDEN OF PROVING EACH OF THE
2 ESSENTIAL ELEMENTS OF THOSE CHARGES AND THOSE INDICTMENTS
3 BEYOND A REASONABLE DOUBT AND THE PURPOSE OF THIS TRIAL IS
4 TO DETERMINE WHETHER THE STATE HAS MET THAT BURDEN.

5 YOUR PURPOSE AS JURORS IN THIS CASE, IS TO FIND AND
6 DETERMINE WHAT THE FACTS ARE. UNDER OUR SYSTEM OF CRIMINAL
7 PROCEDURE YOU'RE THE SOLE JUDGES OF THE FACTS AND THE
8 SUPREME COURT AND CONSTITUTION HAS STATED THAT THE TRIAL
9 JUDGE CANNOT INTIMATE OR COMMENT UPON OR MAKE ANY STATEMENT
10 CONCERNING THE FACTS. I DO NOT AND I WILL NOT AT ANY TIME
11 HAVE ANY OPINION AS TO THE FACTS OF THIS CASE. THAT IS A
12 MATTER SOLELY FOR YOU THE JURY TO DETERMINE AND YOU MAKE
13 THAT DETERMINATION BASED ON THE EVIDENCE THAT'S PRESENTED
14 HERE IN THE COURTROOM.

15 THE SAME LAW THAT MAKES YOU THE JUDGE OF THE FACTS
16 DOES MAKES ME THE JUDGE OF THE LAW AND I'M THE SOLE JUDGE OF
17 THE LAW AND AT THE END OF THE CASE I WILL EXPLAIN THE LAW TO
18 YOU AND UNDER THE OATH THAT YOU HAVE JUST TAKEN, YOU'VE
19 AGREED TO ACCEPT AND APPLY THE LAW AS IT WILL BE EXPLAINED
20 TO YOU AT THAT TIME. AGAIN YOU CANNOT CONSIDER ANYTHING
21 THAT YOU MAY HAVE READ OR HEARD OUTSIDE THE COURTROOM OR
22 INSIDE THE COURTROOM WHETHER DURING, BEFORE OR DURING THE
23 TRIAL EXCEPT THE EVIDENCE THAT'S PRESENTED HERE IN OPEN
24 COURT.

25 AND AGAIN UNTIL THE CASE IS SUBMITTED TO YOU, YOU

COURT'S PRELIMINARY REMARKS

1 CANNOT DISCUSS IT WITH ANYONE, NOT EVEN WITH YOUR FELLOW
2 JURORS AND AFTER THE CASE IS SUBMITTED TO YOU OF COURSE YOU
3 CAN ONLY DISCUSS IT AT THAT TIME WITH YOUR FELLOW JURORS IN
4 THE JURY ROOM. FROM TIME TO TIME DURING THE TRIAL THERE MAY
5 BE OBJECTIONS THAT ARE MADE BY THE LAWYERS. NUMBER ONE, YOU
6 DO NOT HOLD ANYTHING AGAINST A LAWYER OR LAWYER'S CLIENT.
7 IF THEY MAKE AN OBJECTION, IF A LAWYER DOES OBJECT TO A
8 QUESTION OR TWO, AN EXHIBIT'S OFFERED INTO EVIDENCE AND IT'S
9 OBJECTED TO, THEN THAT IS SIMPLY THE LAWYER'S WAY OF LETTING
10 ME KNOW I'VE GOT TO MAKE A RULING AND APPLY THE RULES OF
11 EVIDENCE.

12 AND IF I SUSTAIN AN OBJECTION YOU ARE NOT
13 PERMITTED TO TRY TO GUESS AT WHAT THE QUESTION THAT I
14 ANSWERED MIGHT HAVE BEEN OR THE ANSWER TO THE QUESTION
15 MIGHT HAVE BEEN OR WHAT THE EXHIBIT MIGHT HAVE BEEN. IF IT
16 HAS BEEN ADMITTED INTO EVIDENCE, AGAIN YOU CAN ONLY RELY ON
17 THE TESTIMONY AND THE OTHER EVIDENCE THAT IS ADMITTED INTO
18 THE RECORD. ALSO FROM TIME TO TIME THAT SIMPLY MEANS TO
19 TAKE THAT EXHIBIT AND PASS IT AROUND AMONG YOU FOLKS WHILE
20 THE TRIAL'S GOING ON. THERE IS NOTHING WRONG WITH THAT BUT
21 I WOULD CAUTION YOU TO PLEASE CONTINUE TO LISTEN TO THE
22 TESTIMONY THAT'S GOING ON WHILE THAT EXHIBIT IS BEING
23 PUBLISHED TO YOU.

24 AND I HAVE HAD JURORS IN SOME PLACES EXPRESS SOME
25 CONCERN TO ME THAT THEY DIDN'T HAVE ENOUGH TIME TO LOOK AT

COURT'S PRELIMINARY REMARKS

1 SOMETHING FOR AS LONG AS THEY WANT TO WHILE IT WAS BEING
2 PASSED AROUND. I WOULD SIMPLY POINT OUT TO YOU WHEN YOU ARE
3 DELIBERATING IN THE CASE ALL THE EXHIBITS WILL BE WITH YOU
4 IN THE JURY ROOM SO YOU CAN LOOK AT THEM AS LONG AND AS HARD
5 AS YOU WANT TO. AT THIS TIME PROCEDURALLY WHAT WE WILL
6 START WITH WILL BE OPENING STATEMENTS. I'LL BE RECOGNIZING
7 THE SOLICITOR FIRST AND THEN THE DEFENSE ATTORNEY WILL BE
8 GIVEN THE SAME OPPORTUNITY TO MAKE OPENING STATEMENTS.

9 YOU DO NEED TO UNDERSTAND THAT THE LAWYERS DON'T
10 TESTIFY. THEY'RE NOT TO TESTIFY. THE PURPOSE OF OPENING
11 STATEMENTS IS TO EXPLAIN TO YOU WHAT THEIR POSITION IS IN
12 THE CASE AND AFTER YOU'VE HEARD FROM BOTH ATTORNEYS OR BOTH
13 SIDES, WE'LL PROCEED WITH THE PRESENTATION OF TESTIMONY AND
14 OTHER EVIDENCE. WHEN ALL THE EVIDENCE HAS BEEN PRESENTED TO
15 YOU, THEN THE ATTORNEY WILL COME BACK BEFORE YOU AND MAKE
16 WHAT ARE CALLED CLOSING ARGUMENTS AND THEN I WILL INSTRUCT
17 YOU IN THE LAW AND THEN YOU'LL BE SENT BACK TO DELIBERATE
18 AND TO REACH A VERDICT.

19 ONE OF THE THINGS I'LL BE DOING DURING THE COURSE
20 OF THE TRIAL IS I SORT OF KEEP AN EYE ON YOU FOLKS TO BE
21 SURE YOU'RE PAYING ATTENTION, STAYING ALERT, EVERY NOW AND
22 THEN WE'LL HAVE A, WE'LL TAKE A BREAK ABOUT EVERY HOUR, HOUR
23 AND 15 MINUTES JUST SO YOU DO STAY ALERT. I'LL GIVE YOU AN
24 OPPORTUNITY TO STRETCH YOUR LEGS. WE MAY PROVIDE
25 REFRESHMENTS FOR YOU. IF YOU GET TO THE POINT THAT YOU HAVE

COURT'S PRELIMINARY REMARKS

1 TO TAKE A BREAK AND IT DOESN'T LOOK LIKE I'M ABOUT THERE GET
2 MY ATTENTION. IF THERE IS A WITNESS WHO IS TESTIFYING AND
3 YOU'RE NOT ABLE TO HEAR OR UNDERSTAND, PLEASE GET MY
4 ATTENTION.

5 I'LL BE SURE THAT EVERYONE SPEAKS LOUDLY AND
6 CLEARLY ENOUGH FOR YOU TO BE ABLE TO UNDERSTAND WHAT THEY
7 HAVE TO SAY IN THE CASE. ONE OTHER THING I NEED TO MENTION
8 TO YOU THAT I'M GOING TO HAVE TO BE BREAKING PROBABLY IN
9 ABOUT AN HOUR AND WE'LL BE TAKING LUNCH EARLY AND I'LL GO
10 AHEAD AND EXPLAIN TO YOU, I WASN'T GOING TO TELL YOU WHY BUT
11 JUDGES IN THIS STATE ARE ELECTED BY THE LEGISLATURE AND
12 THERE ARE ABOUT 20 JUDGES WHO ARE UP FOR REELECTION TODAY
13 INCLUDING ME AND I NEED TO STEP DOWN TO THE STATE HOUSE FOR
14 A FEW MINUTES AND GET THAT DONE AND COME BACK OVER.

15 WE'LL CONTINUE THIS AFTERNOON SO WE'LL BE BREAKING
16 IN ABOUT AN HOUR AND THEN I'LL TELL YOU WHEN TO BE BACK THIS
17 AFTERNOON. AT THIS TIME IF YOU'LL PLEASE GIVE BOTH
18 ATTORNEYS AND ALL OF THE WITNESSES YOUR FULL ATTENTION WE'LL
19 PROCEED.

20 SOLICITOR.

21 MR. JOPHLIN: LADIES AND GENTLEMEN, NO GOOD DEED
22 GOES UNPUNISHED. THIS APRIL 17 THIS LAST YEAR MR. AND
23 MRS. RIGGS WHO ARE SITTING RIGHT OVER THERE THEY JUST LEFT
24 CHURCH SUNDAY EVENING. THEY JUST LEFT CHURCH BEING THERE
25 FOR A CHOIR HEADING TOWARDS SUMTER, HEADING TOWARDS HOPKINS.

STATE OPENS TO THE JURY

1 THEY STOPPED BY THE BI-LO, THE NEW BI-LO TO PICK UP A FEW
2 GROCERIES BEFORE THEY WENT HOME. MRS. RIGGS WALKED IN THE
3 STORE AND MR. RIGGS STAYED OUT IN THE CAR. WHILE IN THE
4 PARKING LOT MR. RIGGS WAS APPROACHED BY A YOUNG WOMAN. SHE
5 SIMPLY SAID THEY NEEDED A RIDE.

6 IF THEY COULD JUST HAVE A RIDE DOWN TO MIKE'S
7 MARKET A MILE OR TWO DOWN THE ROAD AND JUST DROP THEM OFF SO
8 SHE COULD GET A RIDE FROM HER MOTHER FROM THERE AND HE,
9 TRYING TO SET A GOOD EXAMPLE I GUESS FOR HIMSELF, HERE'S
10 SOMEBODY IN NEED. I NEED TO HELP THEM SO HE SAID, SURE,
11 WHEN MY WIFE COMES OUT. LET HER COME OUT AND I'LL MAKE A
12 MOTION TO Y'ALL TO COME ON OVER AND WE'LL GIVE YOU A RIDE
13 DOWN TO MIKE'S MARKET AND MRS. RIGGS CAME OUT OR MR. RIGGS
14 TOLD HER I'M GOING TO GIVE THAT YOUNG COUPLE A RIDE. AT
15 FIRST SHE'S AGGRAVATED.

16 YOU DON'T JUST GIVE RIDES TO STRANGERS SO HE WAS,
17 YOU KNOW, TRYING TO LEAD BY EXAMPLE AND LET'S GIVE THEM A
18 RIDE. THEY NEED SOME HELP SO HE MOTIONED TO THE YOUNG
19 COUPLE TO COME OVER. THEY COME OVER AND GOT IN THE CAR.
20 THE YOUNG MAN SAT BEHIND MRS. RIGGS, THE WOMAN BEHIND
21 MR. RIGGS IN THE DRIVER'S SEAT AND THEY DROVE TO MIKE'S.
22 ONCE THERE THINGS, THE PLANS HAD CHANGED AND THAT'S WHAT THE
23 DEFENDANT SAID AS HE HELD A KNIFE TO MRS. RIGGS'S THROAT.
24 HE REACHED AROUND WITH THE KNIFE, HELD IT TO HER THROAT, THE
25 OTHER HAND ON HER ARM.

STATE OPENS TO THE JURY

1 HE SAID, THINGS HAVE CHANGED; KEEP GOING FORWARD.
2 MR. RIGGS HAD ALREADY STOPPED THE CAR, STOPPED IT CLEAR
3 THERE IN THE PARKING LOT AND HE HAD A FLASH. HE SAID, NO,
4 I'M NOT GOING TO LET THIS HAPPEN TO MY WIFE. SO HE
5 PROCEEDED TO TAKE THE DEFENDANT'S ARM, PULL IT AND THEY GOT
6 INTO A FIGHT. THE DOOR, DRIVER DOOR WAS OPEN. THEY FELL
7 OUT ONTO THE GROUND. THEY KEEP FIGHTING. THEY'RE ROLLING
8 AROUND ON THE GROUND. ALL THE WHILE THE DEFENDANT'S JUST
9 SWINGING THE KNIFE, SWINGING THE KNIFE IN THE FIST, SWINGING
10 THE KNIFE AT THE BODY.

11 MR. RIGGS KEEPS FIGHTING WITH HIM, JUST GLAD TO
12 HAVE PULLED HIM OUT OF THE CAR WITH HIS WIFE. HE'S GOTTEN
13 OUT OF THE CAR. THE PEOPLE AT THE DRIVING RANGE, THE GOLF
14 COURSE RIGHT BEHIND THERE SCREAMING FOR HELP. PEOPLE AT
15 MIKE'S PRODUCE AND FINALLY MR. RIGGS AND THE DEFENDANT
16 SEPARATED AND THE DEFENDANT DEMANDS THE KEYS. MR. RIGGS
17 SAYS NO BECAUSE THEY'RE IN HIS POCKET. HE DECIDES TO TAKE
18 THE KEYS AND THROW THEM IN THE GRASS AND MAYBE THAT WAY
19 THEY'LL GET SOME HELP. HE THREW THEM ACROSS THE ROAD. THE
20 DEFENDANT RAN OVER THERE, GOT THE KEYS, CAME BACK TO THE CAR
21 WHERE MRS. RIGGS WAS STANDING OUTSIDE, TACKLES HER, THROWS
22 HER ON THE GROUND AND TOOK HER POCKETBOOK.

23 NOW, IN THE MEANTIME THE CODEFENDANT HAD GOTTEN
24 OUT OF THE CAR, CAME AROUND THE DRIVER'S SIDE SO THE
25 DEFENDANT GOT IN THE PASSENGER SIDE AND THEY SPED OFF. AS A

STATE OPENS TO THE JURY

1 RESULT OF HIS ACTIONS THAT DAY THE DEFENDANT WAS CHARGED
2 WITH CARJACKING, ARMED ROBBERY FOR TAKING MRS. RIGGS' PURSE,
3 TWO COUNTS OF ASSAULT AND BATTERY WITH INTENT TO KILL AND
4 TWO COUNTS OF KIDNAPPING. NOW, AS THE JUDGE'S ALREADY
5 EXPLAINED HE'S ALREADY ADMITTED FOR THE STABBING. I'M
6 SORRY, I FORGOT TO MENTION MR. RIGGS GOT UP. ALL THE WAVING
7 AROUND THE KNIFE THAT WAS BY HIS FACE.

8 HE ENDED UP GETTING STABBED RIGHT HERE
9 (INDICATING) AND LUCKY HE'S STILL SEATED WITH US BUT BECAUSE
10 OF THAT MISTER, THE DEFENDANT WAS CHARGED WITH ASSAULT AND
11 BATTERY WITH INTENT TO KILL. HE'S ALREADY ADMITTED GUILT TO
12 THAT. HE'S ALREADY ADMITTED TO TAKING THAT CAR BY FORCE AND
13 VIOLENCE BUT WHAT WE ARE HERE TODAY FOR IS WE'RE GOING TO
14 PROVE THAT HE'S ALSO GUILTY OF KIDNAPPING BOTH MR. AND
15 MRS. RIGGS. HE'S GUILTY OF ASSAULT AND BATTERY WITH INTENT
16 TO KILL FOR MRS. RIGGS AND HE'S ALSO GUILTY OF THE ARMED
17 ROBBERY THAT DAY.

18 MY NAME IS SETH JOPLIN. I'M AN ASSISTANT
19 SOLICITOR HERE IN RICHLAND COUNTY. SITTING AT THE STATE'S
20 TABLE IS LUCK CAMPBELL. WE'RE BOTH ASSISTANT SOLICITORS.
21 IT'S OUR JOB TO PROSECUTE ALL CRIMES IN RICHLAND COUNTY.
22 I'VE ALREADY WENT OVER THE CRIMES HE'S CHARGED WITH
23 CARJACKING, TWO COUNTS OF ASSAULT AND BATTERY WITH INTENT TO
24 KILL, KIDNAPPING. ASSAULT AND BATTERY WITH INTENT TO KILL
25 IS BASICALLY THE LAW SAYS IT IS AGAINST THE LAW FOR SOMEONE

STATE OPENS TO THE JURY

1 ELSE TO HIT OR INJURE SOMEONE ELSE WITH EXPRESS OR IMPLIED
2 MALICE AND MALICE IS JUST AN UNJUST ACT.

3 THERE IS NO EXCUSE FOR IT AND MALICE CAN BE
4 INFERRED BY THE USE OF A WEAPON SUCH AS A KNIFE. KIDNAPPING
5 IS AGAINST THE LAW. FOR SOMEONE ELSE TO TAKE SOMEONE
6 AGAINST THEIR WILL TO SEIZE, CONFINED, INVEIGLE OR IN ANY WAY
7 TAKE THEM WITHOUT AUTHORITY TO DO SO, THE KIDNAPPING CAN
8 OCCUR. IT'S AN ONGOING CRIME. IT STARTS THE MINUTE IT
9 HAPPENS UNTIL THE PERSON IS RELEASED. YOU CAN STAND FROM
10 ONE MINUTE 30 SECONDS, ONE MINUTE TO DAYS, WEEKS. THERE IS
11 NO TIME FRAME ON HOW LONG IT LASTS.

12 ONE MORE IN THERE INVEIGLE AND I WASN'T AWARE OF
13 THIS WORD UNTIL I HAD TO LOOK IT UP. IT MEANS TO LURE
14 DECEPTIVELY TO GET SOMEONE TO GAIN CONTROL OF SOMEONE
15 DECEPTIVELY SUCH AS WITH GOING UP AND DECEPTIVELY GETTING
16 INTO SOMEONE'S CAR AND THEN ALL OF A SUDDEN YOUR PLANS COME
17 OUT LIKE THE TRUE MOTIVE WAS BEHIND TAKING THAT CAR.
18 FINALLY, HE'S CHARGED WITH ARMED ROBBERY AND THAT'S
19 BASICALLY YOU CAN'T TAKE SOMEBODY ELSE'S STUFF FORCEFULLY BY
20 VIOLENCE WHILE ARMED WITH A DEADLY WEAPON.

21 NOW, AS JUDGE JOHNSON'S ALREADY EXPLAINED TO YOU
22 HE SITS UP THERE. HE'S THE JUDGE OF THE LAW IN THIS CASE.
23 IT'S HIS JOB TO EXPLAIN THE LAW TO YOU, THE JURY; AND HE'LL
24 DO THAT BETTER THAN I DO AT THIS POINT OF THE CASE AND IF
25 THERE IS ANY DISPUTE BETWEEN ANY OF THE ATTORNEYS AND HE

STATE OPENS TO THE JURY

1 MAKES A RULING, YOU FOLLOW HIS RULING AND DON'T FOLLOW WHAT
2 OUR ARGUMENTS ARE. FOLLOW WHAT HE SAYS BUT DURING THIS
3 TRIAL Y'ALL ARE THE TRIERS OF THE FACTS. EACH AND EVERY ONE
4 OF YOU TODAY ARE WEARING A SYMBOLIC BLACK ROBE MUCH LIKE
5 JUDGE JOHNSON IS WEARING A BLACK ROBE UP THERE.

6 INDIVIDUALLY AND COLLECTIVELY YOU WILL DECIDE IF
7 THE DEFENDANT IS GUILTY OF THE CRIMES THAT WE SAY HE IS BUT
8 HOW DO YOU DECIDE IF HE'S GUILTY? ON THE FACTS THAT WE WILL
9 PRODUCE AND THE EVIDENCE WE WILL PRODUCE, Y'ALL CAN FIND HIM
10 GUILTY BEYOND A REASONABLE DOUBT AND THAT'S A HIGH STANDARD
11 TO MEET. AND WHAT IS A REASONABLE DOUBT, SORT OF AN
12 AMBIGUOUS TERM BUT IT'S EVIDENCE THAT LEAVES Y'ALL FIRMLY
13 CONVINCED THE DEFENDANT IS GUILTY. SOME OF THE EVIDENCE
14 Y'ALL ARE GOING TO HEAR WILL BE WITNESS TESTIMONY. Y'ALL
15 ARE GOING TO HEAR FROM MR. AND MRS. RIGGS.

16 THEY'RE GOING TO TELL YOU EVERYTHING THAT HAPPENED
17 THAT DAY, HOW THIS AFFECTED THEIR LIVES, WHAT INJURIES THEY
18 SUSTAINED BECAUSE OF THIS DEFENDANT'S ACTION THAT AFTERNOON.
19 YOU'RE GOING TO HEAR FROM SEVERAL INVESTIGATORS AND DEPUTIES
20 FROM THE RICHLAND COUNTY SHERIFF'S DEPARTMENT AND THEY'RE
21 GOING TO TELL YOU HOW THEY RESPONDED TO THE SCENE; HOW
22 THEY'VE HAD TO GO TO THE HOSPITAL; HOW THEY FOUND THE CAR
23 ABANDONED A COUPLE DAYS LATER. YOU'RE GOING TO HEAR HOW
24 THEY FINALLY CAME TO FIGURE OUT WHO TOOK THE CAR WHEN THEY
25 WERE DOING D.N.A. TESTING ON A LOT OF ITEMS LEFT IN THERE BY

STATE OPENS TO THE JURY

1 MR. RIGGS BUT WHEN THEY FOUND THERE WAS CIGARETTES OR
2 BOTTLES, JUST TRASH EVERYWHERE AND THE SHERIFF'S DEPARTMENT
3 WAS ABLE TO FIGURE OUT WHO LEFT THAT TRASH IN THAT CAR.

4 AND YOU'RE ALSO GOING TO HEAR ABOUT A TIP THE
5 SHERIFF'S DEPARTMENT RECEIVED ON TELLING THEM WHERE THESE
6 DEFENDANTS WERE THE NIGHT THEY WERE ARRESTED. Y'ALL ARE
7 GOING TO HEAR FROM LAY WITNESSES AND WITNESSES AT THE SCENE
8 AT THE FARMER'S MARKET AND THE GOLF COURSE AROUND THAT AREA
9 AND WHAT THEY SAW THAT DAY AND AS I SAID YOU'RE ALSO GOING
10 TO, WE'RE ALSO GOING TO PRODUCE JUST TANGIBLE EVIDENCE, SOME
11 OF THE THINGS IN THIS BOX. YOU'LL BE ABLE TO SEE SOME
12 PHOTOGRAPHS THAT WE HAVE AND THERE IS RESULTS OF D.N.A.
13 TESTING.

14 YOU'LL BE ABLE TO SEE WHO WAS IN THAT CAR WHILE
15 MR. RIGGS, MR. AND MRS. RIGGS HAD IT TAKEN AWAY FROM THEM
16 AND AS YOU LISTEN TO THE WITNESSES, ALL THE DIFFERENT
17 WITNESSES WE'RE GOING TO PUT, I'VE GOT ONE MOST IMPORTANT
18 WITNESS CHRISTINA HALL, THE CODEFENDANT. SHE'S GOING TO
19 TELL YOU EVERYTHING THAT HAPPENED THAT DAY. SHE'S GOING TO
20 TELL YOU WHAT THEY WERE DOING BEFORE THEY GOT IN THAT CAR;
21 WHAT HAPPENED DURING THE EVENT. THEY'RE GOING TO TELL YOU
22 WHERE THEY LEFT AND WENT AFTERWARDS THE NEXT TWO DAYS UNTIL
23 THEY WERE ARRESTED AND SHE CONFESSED.

24 BUT ASK YOURSELF WHEN YOU'RE LISTENING TO ALL
25 THESE WITNESSES EACH TIME EVERY ONE OF THEM TESTIFIES IS THE

STATE OPENS TO THE JURY

1 TESTIMONY, ARE THEY FORTHRIGHT WITH THEIR TESTIMONY; ARE
2 THEY HOLDING SOME THINGS BACK; WHAT IS THEIR DEMEANOR ON THE
3 STAND AS THEY'RE TELLING Y'ALL THE STORY? IS THEIR
4 TESTIMONY CONSISTENT? THEY'VE GIVEN STATEMENTS IN THE PAST.
5 IS THAT CONSISTENT ALL THE WAY UNTIL TODAY; IS IT
6 CORROBORATED AMONG OTHER WITNESSES THAT YOU'RE GOING TO HEAR
7 FROM AND FINALLY DOES THE WITNESS HAVE ANY REASON TO BE
8 BIASED OR PREJUDICED?

9 WE FEEL AFTER Y'ALL HEAR ALL THE EVIDENCE AND
10 TESTIMONY, YOU'LL SEE THAT THE DEFENDANT'S GUILTY OF
11 KIDNAPPING MR. RIGGS, OF KIDNAPPING MRS. RIGGS AND
12 ASSAULTING MRS. RIGGS WITH AN INTENT TO KILL HER AND ALSO
13 ARMED ROBBERY OF MR. RIGGS. THANK YOU.

14 THE COURT: ALL RIGHT, SOLICITOR.

15 MS. SAMPSON.

16 MS. SAMPSON: THANK YOUR HONOR. MAY IT PLEASE THE
17 COURT.

18 THE COURT: ALL RIGHT.

19 MS. SAMPSON: GOOD MORNING. AS Y'ALL HAVE ALREADY
20 HEARD MY NAME'S APRIL SAMPSON AND I REPRESENT MR. ELDERS.
21 THE FIRST THING I WANT TO TELL YOU EVERYTHING YOU HEARD
22 MR. JOPHLIN TELL THEY CAR JACKED MR. RIGGS. HE HELD A KNIFE
23 TO MRS. RIGGS AND THAT MR. RIGGS ENDED UP GETTING STABBED IN
24 THAT ALTERCATION. ALTHOUGH THIS IS GOING TO BE ONE OF THOSE
25 CASES OR SOMEONE'S GOING TO GET UP HERE AND SAY I REALLY DID

DEFENSE OPENS TO THE JURY

1 IT INSTEAD OF MR. ELDERS BECAUSE YOU KNOW WHAT HE DID. HE
2 GOT INTO MR. RIGGS' CAR. CHRISTINA HALL AND HE TOOK THE
3 CAR.

4 YOU'RE NOT GOING TO HEAR ANY SMOKE AND MIRRORS OR
5 MUDDYING THE WATERS FROM US. THERE IS NONE OF THAT. THE
6 QUESTION BEFORE YOU IS DID HE DO THOSE OTHER CHARGES; DID HE
7 ARMED ROB HER AND DID HE COMMIT AN ASSAULT AND BATTERY WITH
8 INTENT TO KILL. THAT'S ALL BEFORE YOU. BUT WHAT I WANT TO
9 FOREWARN YOU ABOUT IS YOU'RE GOING TO SEE A LOT OF THINGS
10 THAT POINT RIGHT THERE SITTING NEXT TO MS. OWINGS IS RANDY
11 ELDERS.

12 STAND UP, MR. ELDERS.

13 HE'S NOT A MONSTER. HE'S NOT A DEMON. HE'S NOT A
14 REALLY, REALLY AWFUL PERSON.

15 YOU CAN SIT DOWN.

16 HE'S THE DEFENDANT WHO DID SOME REALLY AWFUL
17 THINGS BUT THE FIRST IS WHAT YOU'RE GOING TO SEE IS A LOT OF
18 WITNESSES GET UP HERE AND SAY I SAW THAT MAN DO THESE BAD
19 THINGS AND I'M JUST WARNING YOU. YOU KNOW WHAT HE DID. NO
20 DOUBT ABOUT IT. THE QUESTION IS IS WHETHER HE DID THE CRIME
21 HE'S CHARGED WITH OR NOT AND AS MR. JOPLIN ASKED YOU HE
22 WANTS YOU TO LISTEN TO ALL THE EVIDENCE AND THINK ABOUT DO
23 THEY HAVE A REASON TO LIE. FOR EXAMPLE, HIS CODEFENDANT
24 MS. HALL, DOES SHE HAVE A REASON TO LIE? IS SHE FACING
25 CHARGES?

—DEFENSE OPENS TO THE JURY—

1 DOES SHE HAVE A REASON THAT SHE MIGHT WANT TO
2 TESTIFY ONE WAY OR ANOTHER? THINK ABOUT THOSE THINGS
3 BECAUSE YOU'RE ALLOWED TO THINK. YOU NEED TO LOOK AT IS A
4 WITNESS' STATEMENT DIFFERENT NOW THAN IT WAS BACK THEN
5 BECAUSE THAT'S IMPORTANT. WHICH DO YOU THINK IS THE MORE
6 TRUTHFUL? STATE WHAT YOU GIVE TODAY. IT HAPPENED THE DAY
7 AFTER SOMETHING HAPPENED OR THIS MORNING, TEN MONTHS LATER.
8 WHICH DO YOU THINK IS MORE CORRECT? BECAUSE THERE IS GOING
9 TO BE DIFFERENT STATEMENTS THAT COME OUT. THE FIRST
10 STATEMENT WILL NOT HAVE THINGS IN IT THAT THE LAST
11 STATEMENTS DO.

12 YOU'LL HEAR ONE ACCOUNT OF THE EVENTS THAT DOESN'T
13 EVEN MENTION THE FACT THAT MRS. RIGGS' PURSE IS GONE. THOSE
14 ARE THE THINGS YOU NEED TO THINK ABOUT. IF THEY DON'T
15 MENTION IT THE FIRST TIME AND DON'T MENTION IT TILL 10
16 MONTHS LATER IT'S, IS THE FIRST ONE TRUE OR THE LAST ONE
17 TRUE? THOSE ARE THE THINGS WE WANT YOU TO LOOK AT BECAUSE
18 AGAIN YOU WILL NOT BE HEARING FROM MYSELF, MS. OWINGS OR
19 MR. ELDERS THAT HE DIDN'T COMMIT THE ASSAULT ON MR. RIGGS.
20 HE DID. HE HAS PLED TO THAT. HE ACCEPTED RESPONSIBILITY.
21 YOU WILL NOT HEAR FROM US THAT HE DIDN'T COMMIT THE CAR
22 JACKING. HE DID.

23 HE'S PLED TO THAT. HE HAD THE RESPONSIBILITY. HE
24 HAS NOT PLED TO THE OTHER FOUR CHARGES AND AGAIN WE'RE NOT
25 SAYING THOSE DIDN'T HAPPEN, THAT THOSE FACTS DID NOT HAPPEN;

DEFENSE OPENS TO THE JURY

1 THAT HER PURSE DOES NOT GET TAKEN AND THAT HE DIDN'T GET AN
2 INJURY BUT THE QUESTION BEFORE YOU IS THAT AN ARMED ROBBERY
3 AND IS THAT AN ASSAULT WITH INTENT TO KILL AND ONLY YOU ALL
4 GET TO DECIDE THAT. IT DOESN'T MATTER IF THE SOLICITOR
5 TELLS YOU THAT IT IS BECAUSE ONLY YOU CAN DECIDE THAT IT IS.
6 IT DOESN'T MATTER THAT I'M TELLING YOU THAT. IT ISN'T ONLY
7 YOU GET TO DECIDE WHETHER IT IS OR NOT SO YOU MUST LISTEN TO
8 ALL THIS AND DECIDE WHAT MR. JOPHLIN ASKED YOU TO DO AND
9 WHAT I'M ASKING YOU TO DO AND JUST DECIDE WHICH VERSION WAS
10 THE BEST.

11 THE ONE THAT'S TOLD RIGHT AFTER THE INCIDENT OR
12 THE THINGS YOU'RE GOING TO HEAR TODAY THAT HAVE NEVER BEEN
13 TOLD BEFORE OR GOT BIGGER AND BIGGER AND BIGGER. AT THE END
14 OF THIS CASE MR. JOPHLIN IS GOING TO COME TO YOU AND ASK
15 THAT YOU NOT FIND HIM NOT GUILTY OF THE ARMED ROBBERY OF
16 MRS. RIGGS AND FIND HIM NOT GUILTY OF KIDNAPPING MR. RIGGS
17 BECAUSE THOSE THINGS, EVEN THOUGH HE DID DO SOME VERY BAD,
18 VERY, VERY BAD THINGS HE DIDN'T COMMIT AN ARMED ROBBERY,
19 ASSAULT AND BATTERY WITH INTENT TO KILL, TWO COUNTS OF
20 KIDNAPPING. THANK YOU.

21 THE COURT: ALL RIGHT. THANK YOU.

22 COUNSEL, CALL YOUR FIRST WITNESS, PLEASE.

23 MS. CAMPBELL: STATE CALLS DEPUTY NIMMONS.

24 THE COURT: LET ME REMIND COUNSEL OF THE
25 SEQUESTRATION ORDER.

BRADY NIMMONS-DIRECT BY MS. CAMPBELL

1 MS. CAMPBELL: YES, SIR. WE HAVE LEAVE AS
2 INSTRUCTED.

3 BRADY NIMMONS, BEING FIRST
4 DULY SWORN, TESTIFIED AS FOLLOWS:

5 DIRECT EXAMINATION BY MS. CAMPBELL:

6 Q WHERE ARE YOU EMPLOYED?

7 A RICHLAND COUNTY SHERIFF'S DEPARTMENT.

8 Q WHAT DO YOU DO?

9 A I'M A SHERIFF'S DEPUTY.

10 Q AS A SHERIFF'S DEPUTY DO YOU WORK ACTUALLY OUT ON THE
11 ROAD?

12 A YES, I DO.

13 Q WHAT REGION ARE YOU CURRENTLY ASSIGNED?

14 A LOWER RICHLAND AREA.

15 Q ARE YOU FAMILIAR WITH THE GARNER'S FERRY AREA?

16 A YES.

17 Q IS THAT AN AREA WHERE YOU ACTUALLY WORK?

18 A YES.

19 Q WERE YOU ASSIGNED TO THIS AREA IN APRIL, 2005?

20 A YES, I WAS.

21 Q I WANT TO TURN YOUR ATTENTION BACK TO THE EVENING OF
22 APRIL 17, 2005, WHAT WERE YOU DOING?

23 A I WAS ON PATROL.

24 Q AND WHAT SHIFT WERE YOU WORKING?

25 A I WAS WORKING THE EVENING SHIFT.

BRADY NIMMONS-DIRECT BY MS. CAMPBELL

1 Q AND IS THE EVENING SHIFT, WHAT HOURS DO YOU TYPICALLY
2 WORK?

3 A SEVEN TO SEVEN AT NIGHT TILL SEVEN IN THE MORNING.

4 Q DURING THE COURSE OF YOUR EMPLOYMENT THAT NIGHT WHILE
5 YOU WERE OUT THERE ON THE ROAD, DID YOU RECEIVE A CALL TO
6 MIKE'S MARKET?

7 A YES, I DID.

8 Q WHAT KIND OF CALL WERE YOU RESPONDING TO THAT EVENING?

9 A I WAS ACTUALLY TURNED FROM LOWER RICHLAND ON PINE VIEW
10 GOING TO ANOTHER CALL AND I WAS ADVISED BY CENTRAL DISPATCH
11 TO REDIRECT TO AN ASSAULT, SOME TYPE OF ASSAULT AT MIKE'S
12 MARKET.

13 Q AND MIKE'S MARKET IS THAT LOCATED HERE IN RICHLAND
14 COUNTY?

15 A YES, IT IS.

16 Q AND IS THAT LOCATED NEAR GARNER'S FERRY ROAD?

17 A YES.

18 Q ARE YOU FAMILIAR WITH THE BI-LO THERE AT THE LOWER
19 RICHLAND AREA?

20 A YES.

21 Q APPROXIMATELY HOW FAR IS MIKE'S MARKET FROM THE BI-LO
22 RIGHT THERE ON GARNER'S FERRY?

23 A ABOUT A MILE.

24 Q ABOUT A MILE?

25 A YES, MA'AM.

BRADY NIMMONS-DIRECT BY MS. CAMPBELL

1 Q HOW LONG DID IT TAKE YOU TO RESPOND TO THAT EVENT AFTER
2 YOU GOT THE CALL; DO YOU REMEMBER?

3 A PROBABLY MADE IT WITHIN FIVE TO SEVEN MINUTES.

4 Q AND WERE YOU THE ONLY PERSON RESPONDING ON THAT
5 EVENING?

6 A NO, SIR, I WAS NOT.

7 Q ONCE YOU GOT TO THE GENERAL AREA OF MIKE'S MARKET, WHAT
8 DID YOU FIND? TELL THE JURY.

9 A I FOUND MR. RIGGS WAS LAYING ON THE GROUND. A CROWD
10 HAD GATHERED AROUND AT THAT TIME.

11 Q AND YOU SAY MR. RIGGS DO YOU SEE HIM HERE IN THE
12 COURTROOM?

13 A YES.

14 Q CAN YOU POINT HIM OUT TO THE JURY?

15 A HE IS THE GENTLEMAN SITTING RIGHT THERE.

16 Q YOU SAID YOU FOUND HIM LAYING ON THE GROUND AND WHERE
17 IN CONJUNCTION TO MIKE'S MARKET WAS HE LYING DOWN TO YOUR
18 KNOWLEDGE TO THE SIDE CLOSE TO, CLOSE TO GARNER'S FERRY
19 ROAD. WHEN YOU FIRST GOT THERE THAT EVENING, WHAT WAS YOUR
20 PRIMARY FOCUS?

21 A FIRST THING I DID I MADE SURE THAT E.M.S. HAD BEEN
22 CALLED. THAT HAD ALREADY BEEN TAKEN CARE OF SO AT THAT TIME
23 I STARTED GATHERING WITNESS INFORMATION ASKING WHAT
24 HAPPENED.

25 Q AND WERE YOU ABLE TO GET THE NAMES OF SOME OF THE

BRADY NIMMONS-DIRECT BY MS. CAMPBELL

1 WITNESSES?

2 A YES, I DID.

3 Q AND WHILE YOU WERE THERE ON THE SCENE THAT EVENING DID
4 YOU TAKE A DETAILED STATEMENT OR ANYTHING OF THAT TYPE?

5 A I DID NOT GET DETAILED STATEMENTS BASICALLY JUST THE
6 BASICS OF WHAT HAPPENED.

7 Q AND WHEN YOU GOT THE BASICS OF WHAT HAPPENED, WHAT DID
8 YOU THEN FOCUS ON DOING?

9 A WHEN I GOT A COUPLE WITNESSES BASICALLY WHAT HAPPENED,
10 ALSO MRS. RIGGS INFORMED ME QUICKLY WHAT HAPPENED, ALSO
11 PICKED UP A JACKET WHICH THE DEFENDANT HAD DROPPED, PUT THAT
12 IN A BAG IN MY TRUNK. OFFICER REEVES PULLED UP. I
13 IMMEDIATELY QUICKLY TOLD HIM AND THEN I JUMPED IN MY CAR AND
14 WENT EASTBOUND ON GARNER'S FERRY TRYING TO FIND THE VEHICLE
15 THAT WAS CAR JACKED.

16 Q WITHIN THE COURSE OF YOUR INVESTIGATION YOU REALIZED
17 THAT A VEHICLE HAD BEEN STOLEN AMONG OTHER THINGS?

18 A YES, SIR.

19 Q WERE YOU ALSO MADE AWARE THAT OTHER ITEMS HAD BEEN
20 TAKEN?

21 A AT THAT POINT I DIDN'T HEAR ABOUT OTHER ITEMS. THE
22 MAIN FOCUS WAS ON MR. RIGGS' HEALTH AS HE AGAIN WAS LAYING
23 THERE BLEEDING AND JUST BASICALLY TOLD WHAT HAPPENED IN THE
24 CAR AND WAS IT STOLEN.

25 Q AND THAT POINT YOU SAID YOU TOOK OFF EAST BOUND; IS

BRADY NIMMONS-DIRECT BY MS. CAMPBELL

1 THAT CORRECT?

2 A YES.

3 Q AND WHAT DIRECTION, COMING INTO COLUMBIA OR GOING OUT?

4 A THAT WOULD BE HEADING DOWN 378 OUTBOUND TOWARDS MYRTLE
5 BEACH.

6 Q TOWARDS THE SUMTER AREA?

7 A YES.

8 Q I WANT TO SHOW YOU SOME DIAGRAMS JUST OF THE AREA. I
9 SHOW YOU THIS DIAGRAM. ARE YOU FAMILIAR WITH THIS?

10 A YES, MA'AM.

11 Q AND DOES THAT SHOW GENERALLY THE AREA WHERE THE BI-LO
12 IS LOCATED AND THE MARKET?

13 A YES, IT DOES.

14 Q BEFORE I GET IT MARKED, MIKE'S MARKET IS THAT LOCATED
15 AT 810 GARNER'S FERRY ROAD?

16 MS. SAMPSON: YOUR HONOR, SHE HASN'T INTRODUCED
17 THEM. SHE'S SHOWING THEM TO THE JURY. JUST SHOW THEM TO
18 THE WITNESS.

19 MS. CAMPBELL: I'LL BE GLAD TO. I DIDN'T REALIZE
20 THIS WAS CONTESTED.

21 BY MS. CAMPBELL:

22 Q FINALLY, I'LL SHOW YOU THIS THIRD DIAGRAM?

23 A YES.

24 Q WHAT DOES THAT DEPICT?

25 A THAT WOULD BE THE BI-LO AT GARNER'S FERRY ROAD.

BRADY NIMMONS-DIRECT BY MS. CAMPBELL

1 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'LL
2 OFFER THE THREE OF THEM INTO EVIDENCE.

3 MS. SAMPSON: WITHOUT OBJECTION, YOUR HONOR.

4 THE COURT: HAVE THEY ALREADY BEEN MARKED?

5 MS. CAMPBELL: NO, SIR. I'M OFFERING THIS.

6 THE COURT: THESE THREE WILL BE MARKED AND
7 ADMITTED.

8 (THEREUPON, A MAP OF SOUTH CAROLINA WAS MARKED STATE'S
9 EXHIBIT NO. 1, A MAP OF 8103 GARNER'S FERRY ROAD WAS MARKED
10 STATE'S EXHIBIT NO.2, AND A MAP OF GARNER'S FERRY ROAD WAS
11 MARKED STATE'S EXHIBIT NO. 3 AND ENTERED INTO EVIDENCE.)

12 MS. CAMPBELL: NO, YOUR HONOR. MAY THE WITNESS
13 STAND DOWN? STATE'S EXHIBIT 1 WHAT IS THAT; CAN YOU TELL
14 THE JURY?

15 THE WITNESS: THIS IS A MAP OF THE GENERAL
16 VICINITY OF THE INCIDENT LOCATION, INCIDENT LOCATION BEING
17 RIGHT HERE.

18 BY MS. CAMPBELL:

19 Q AND JUST FOR THE JURY YOU SAID THE INCIDENT LOCATION IS
20 WHERE?

21 A IT WAS APPROXIMATELY RIGHT HERE NEAR THE INTERSECTION
22 OF THE OLD GARNER'S FERRY AND GARNER'S FERRY.

23 Q AND YOU REFERRED TO IT AS 378. IS THAT GARNER'S FERRY
24 ROAD?

25 A YES.

BRADY NIMMONS-DIRECT BY MS. CAMPBELL

1 Q IS THAT --

2 A THAT WOULD BE GARNER'S FERRY ROAD OR 378.

3 Q AND THEN FINALLY YOU MENTIONED THAT MARKET AT THIS
4 CORNER OF OLD GARNER'S FERRY AND GARNER'S FERRY? AND I ALSO
5 ASKED YOU SOME QUESTIONS ABOUT A BI-LO. IS THAT SHOWN ON
6 HERE?

7 A IT'S GOING TO BE IN THIS AREA RIGHT UP HERE.

8 Q THIS IS FURTHER ON DOWN?

9 A YES.

10 Q AND AGAIN THIS IS ALL RICHLAND COUNTY, IS IT NOT?

11 A YES, MA'AM.

12 Q SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT NO. 30.
13 DO YOU RECOGNIZE THAT?

14 A YES, I DO.

15 Q AND WHAT IS THAT EXHIBIT?

16 A THAT IS DEPICTING BI-LO RIGHT THERE. THAT IS PINE VIEW
17 ROAD WHICH I CAME OFF OF.

18 Q AND THAT'S WHERE YOU CAME OFF OF WHEN YOU RESPONDED
19 AND THAT ROAD RIGHT HERE IN THE MIDDLE.

20 A THAT'S GARNER'S FERRY ROAD OR 378.

21 Q FINALLY FOR THE RECORD I'M GOING TO SHOW YOU STATE'S
22 EXHIBIT NO. 2. DO YOU RECOGNIZE THIS?

23 A YES. THIS IS OLD GARNER'S FERRY. MIKE'S MARKET IS IN
24 THIS AREA. THE GOLF COURSE IS RIGHT HERE AND THIS IS
25 GARNER'S FERRY, 378.

BRADY NIMMONS-DIRECT BY MS. CAMPBELL

1 Q AND MIKE'S MARKET AS YOU MENTIONED IS RIGHT HERE?

2 A RIGHT IN THIS AREA.

3 Q YOU TESTIFIED WHEN YOU CAME UP YOU SAW MR. RIGGS LYING
4 IN THE PARKING LOT?

5 A YES, I DID.

6 Q APPROXIMATELY WHERE?

7 A HE WOULD BE LIKE RIGHT IN THERE AND I CAN'T,
8 APPROXIMATELY RIGHT IN THERE.

9 Q WHERE IS MRS. RIGGS?

10 A SHE WAS STANDING BESIDE HIM.

11 Q WERE YOU ABLE TO GET ANY DETAILED INFORMATION FROM
12 EITHER OF THEM OTHER THAN GENERAL KNOWLEDGE?

13 A I WAS TOLD THAT IT WAS A WHITE MALE AND WHITE FEMALE
14 WHO APPROACHED THEM AT BI-LO AND ASKED FOR A RIDE. I WAS
15 TOLD THAT THEY AGREED TO GIVE THEM A RIDE TO THIS LOCATION
16 AND THAT A KNIFE WAS HELD TO MRS. RIGGS THROAT; THAT A FIGHT
17 DID ENSUE; THAT MR. RIGGS WAS STABBED AND THE CAR WAS TAKEN.

18 Q OKAY. OTHER OFFICERS RESPONDED AFTER YOU GOT TO THE
19 SCENE?

20 A YES, SIR.

21 Q AND WOULD THEY HAVE GOTTEN ADDITIONAL INFORMATION?

22 A YES, DEPUTY STEVEN REEVES CAME WITHIN A COUPLE OF
23 MINUTES OF MY ARRIVAL AND HE TOOK OVER AT THAT POINT AS I
24 WENT OUT LOOKING FOR THE CAR.

25 Q AND YOU ALREADY HAD DETERMINED THE AMBULANCE WAS ON ITS

BRADY NIMMONS-CROSS BY MS. SAMPSON

1 WAY?

2 A YES.

3 Q DID YOU ACTUALLY DETERMINE AT THAT POINT WHAT
4 MRS. RIGGS' INJURIES WERE?

5 A AT THAT POINT I HAD NOT.

6 Q YOU MENTIONED THAT YOU TOOK OFF GOING DOWN 378 TOWARDS
7 SUMTER. WERE YOU ABLE TO LOCATE THE CAR THAT DAY?

8 A I WAS NOT.

9 MS. CAMPBELL: THANK YOU, SIR. THAT'S ALL I HAVE.

10 THE COURT: CROSS-EXAMINE.

11 MS. SAMPSON: THANK YOUR HONOR. MAY IT PLEASE THE
12 COURT.

13 CROSS-EXAMINATION BY MS. SAMPSON:

14 Q GOOD AFTERNOON, DEPUTY NIMMONS, YOU SAID YOU GOT SOME
15 GENERAL INFORMATION FROM THE RIGGS WHEN YOU GOT THERE?

16 A YES.

17 Q AND YOU STATED THEY TOLD YOU ABOUT THE CAR JACKING?

18 A YES.

19 Q AND ABOUT MR. RIGGS BEING STABBED. DID THEY MENTION
20 THAT MRS. RIGGS WAS INJURED?

21 A NOT AT THAT TIME.

22 Q AND THERE WAS NO MENTION OF HER PURSE BEING TAKEN AT
23 THIS TIME?

24 A NOT THAT I RECALL.

25 MS. SAMPSON: NO FURTHER QUESTIONS, YOUR HONOR.

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 THE COURT: ANY REDIRECT?

2 MS. CAMPBELL: NO, SIR. MAY HE BE EXCUSED?

3 THE COURT: ANY OBJECTION? WHY DON'T WE, RATHER
4 THAN HAVE EVERY WITNESS EXCUSED IF THE STATE WANTS TO EXCUSE
5 THEM, THEY'RE ALL EXCUSED UNLESS THERE IS AN OBJECTION TAKEN
6 WHEN THEY COME OFF THE STAND.

7 YOU'RE EXCUSED, SIR. THANK YOU.

8 ALL RIGHT. GO AHEAD, SOLICITOR.

9 MS. CAMPBELL: DWIGHT RIGGS.

10 DWIGHT RIGGS, BEING FIRST DULY
11 SWORN, TESTIFIED AS FOLLOWS:

12 DIRECT EXAMINATION BY MS. CAMPBELL:

13 Q MR. RIGGS, HOW OLD ARE YOU?

14 A SIXTY-FOUR, MA'AM.

15 Q YOU LIVE HERE IN RICHLAND COUNTY?

16 A YES.

17 Q HOW LONG HAVE YOU LIVED HERE, SIR?

18 A SINCE 1983.

19 Q AND ARE YOU CURRENTLY EMPLOYED?

20 A PART-TIME. I'M A PAINT CONTRACTOR.

21 Q AND PRIOR TO BECOMING A PAINT CONTRACTOR WHAT DID YOU
22 DO, SIR?

23 A I WAS A CHAPLIN IN THE ARMY FOR 26 YEARS AND. . .

24 Q AND?

25 A RECENTLY RETIRED.

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

- 1 Q YOU RETIRED?
- 2 A FROM THE ARMY AS CHAPLIN, YES, MA'AM.
- 3 Q ARE YOU MARRIED, SIR?
- 4 A YES, MA'AM.
- 5 Q AND WHO ARE YOU MARRIED TO?
- 6 A KATHRYN RIGGS.
- 7 Q IS SHE HERE IN THE COURTROOM TODAY?
- 8 A SHE IS. SHE'S IN THE RESTROOM NOW I THINK.
- 9 Q SHE WAS HERE EARLIER?
- 10 A YES, MA'AM.
- 11 Q WHAT PART OF TOWN, WHAT PART OF TOWN DO YOU LIVE?
- 12 A IN THE LOWER RICHLAND AREA NOT FAR FROM THE SCENE.
- 13 Q I WANT TO TURN YOUR ATTENTION BACK TO APRIL OF LAST
- 14 YEAR, SPECIFICALLY ONE DAY APRIL 17TH. YOU REMEMBER THAT
- 15 DAY?
- 16 A YES, MA'AM.
- 17 Q AND THAT DAY WERE YOU, Y'ALL ATTENDING CHURCH SERVICE?
- 18 A YES, MA'AM.
- 19 Q AND WHAT CHURCH DO Y'ALL GO TO, SIR?
- 20 A FIRST NAZARENE ON SAINT ANDREWS ROAD.
- 21 Q AND IT'S APPROXIMATELY FROM YOUR HOUSE, APPROXIMATELY
- 22 HOW LONG DOES IT TAKE YOU TO DRIVE OVER TO SAINT ANDREWS?
- 23 A APPROXIMATELY 30 MINUTES THE INTERSTATE AND BYPASS.
- 24 Q AND YOU ATTENDED CHURCH SERVICES THAT MORNING?
- 25 A YES, MA'AM.

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 Q THAT AFTERNOON DID Y'ALL HAVE OCCASION TO RETURN TO
2 YOUR CHURCH?

3 A NO, MA'AM. WE STAYED AT HOME.

4 Q THAT EVENING DID YOU GO BACK TO CHURCH?

5 A YES, WE DID, WE ATTENDED.

6 Q THAT WAS AT YOUR CHURCH?

7 A YES, MA'AM.

8 Q AFTER YOU ATTENDED THE CONCERT DO YOU REMEMBER
9 APPROXIMATELY WHAT TIME IT GOT OVER?

10 A ROUGHLY ABOUT SEVEN O'CLOCK. BASICALLY IT STARTED AT
11 SIX SO NORMALLY IT TAKES ABOUT 30 MINUTES.

12 Q WHERE DID Y'ALL GO ONCE YOU LEFT CHURCH?

13 A WE IMMEDIATELY HEADED TOWARDS HOME AND THEN STOPPED AT
14 THE MARKET.

15 Q AND YOU SAY YOU STOPPED AT THE MARKET. WHAT KIND OF
16 MARKET DID YOU STOP AT?

17 A IT WAS A BI-LO MARKET AROUND THE INTERSECTION OF
18 GARNER'S FERRY AND HOLBROOK.

19 Q WHY WERE Y'ALL GOING TO THE BI-LO THAT EVENING?

20 A MY WIFE SAID SHE NEEDED TO STOP AND GET SOME BANANAS
21 AND I SAID OKAY.

22 Q AND DID YOU ACTUALLY GO INTO THE GROCERY STORE AND HOW
23 DID THAT HAPPEN?

24 A NO, MA'AM. WE PULLED INTO THE PARKING LOT AND I SAID,
25 YOU CAN GO GET THE BANANAS AND I'LL STAY HERE AND WAIT FOR

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 YOU.

2 Q WHAT KIND OF CAR WERE YOU DRIVING THAT DAY?

3 A YES, SIR. OUR FAMILY CAR IT'S A 1997 LINCOLN.

4 Q ONCE YOU DROPPED HER OFF DID SHE GO INTO THE GROCERY
5 STORE?

6 A YES, MA'AM.

7 Q WHERE DID YOU GO IN THE PARKING LOT?

8 A I JUST PARKED IN ONE OF THE PARKING PLACES AND WAS
9 LISTENING TO A CHRISTIAN RADIO STATION AWAITING HER RETURN.

10 Q THAT EVENING DID SOMEONE APPROACH YOU?

11 A YES, MA'AM.

12 Q AND TELL THIS JURY WHAT HAPPENED AND WHO APPROACHED
13 YOU?

14 A I WAS LISTENING TO THE RADIO AND A FEMALE
15 APPROXIMATELY 25 YEARS OF AGE, A WHITE FEMALE APPROACHED THE
16 CAR ON THE DRIVER'S SIDE AND I ROLLED DOWN THE WINDOW AND
17 THE CONVERSATION ENSUED.

18 Q AND THE FEMALE THAT YOU WERE TALKING TO HAD YOU EVER
19 SEEN HER BEFORE?

20 A NO, MA'AM, I'D NEVER SEEN THIS FEMALE BEFORE, NO,
21 MA'AM.

22 Q WHAT WAS SHE WANTING YOU TO DO FOR HER THAT EVENING?

23 A SHE APPROACHED ME AND SHE SAID, SIR.

24 MS. SAMPSON: OBJECTION, YOUR HONOR. HEARSAY.

25 BY MS. CAMPBELL:

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 Q WITHOUT SAYING WHAT SHE SAID TO YOU, I'M SORRY. YOU
2 CAN TELL THEM THOUGH WHAT YOU TOLD HER?

3 THE COURT: GO AHEAD.

4 THE WITNESS: REPEAT PLEASE.

5 BY MS. CAMPBELL:

6 Q YOU CAN SAY WHAT YOU SAID TO HER. YOU CAN'T SAY WHAT
7 SHE SAID TO YOU?

8 A I OFFERED THEM TO GIVE THEM A RIDE TO MIKE'S PRODUCE
9 MARKET.

10 Q YOU OFFERED TO GIVE THEM A RIDE OR YOU AGREED TO GIVE
11 THEM A RIDE?

12 A I AGREED. THANK YOU.

13 Q AND AT THAT POINT DID SHE GET INTO THE CAR? WAS SHE
14 ALONE WHEN SHE APPROACHED YOU?

15 A SHE WAS ALONE, YES, MA'AM.

16 Q AT THAT POINT DID SHE IMMEDIATELY GET IN THE CAR OR
17 WHERE DID SHE GO?

18 A NO, MA'AM. ONCE I HAD AGREED TO OFFER HER AND HER MALE
19 FRIEND A RIDE, SHE WENT BACK AND SAT ON THE CONCRETE LEDGE
20 ABOUT SIX INCHES HIGH, SIX INCHES WIDE RIGHT UNDER THE
21 PORTICO OF THE ENTRANCE TO BI-LO AND I CONTINUED TO SIT IN
22 THE CAR.

23 Q WAS IT LIGHT OR DARK?

24 A IT WAS VERY LIGHT APRIL 17TH. THIS HAPPENED ABOUT 7:30
25 P.M. SO STILL PLENTY OF DAYLIGHT.

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 Q DID THEY CONTINUE TO REMAIN THERE NEAR THE ENTRANCE TO
2 THE BI-LO?

3 A YES, MA'AM, THEY DID UNTIL MY WIFE CAME OUT OF THE
4 STORE.

5 Q ONCE SHE CAME OUT OF THE STORE DID YOU TELL HER WHAT
6 YOU HAD AGREED TO?

7 A YES, MA'AM. YES, MA'AM.

8 Q WOULD YOU CONTINUE TO GO INTO WHAT HER REACTION WAS AT
9 THAT POINT; WHAT HAPPENED CONCERNING THE TWO PEOPLE THAT
10 WERE SITTING THERE?

11 A AS SOON AS MY WIFE GOT IN THE CAR AND I HAD TOLD HER
12 THAT WE WERE GOING TO GIVE THE COUPLE A RIDE. THEN I
13 MOTIONED FOR THE COUPLE TO COME, THIS WHITE MALE AND WHITE
14 FEMALE AND THEY CAME TO THE CAR.

15 Q AND DID THEY GET IN THE CAR?

16 A YES, MA'AM, THEY DID.

17 Q AND WHO GOT WHERE? WHERE WERE Y'ALL SITTING IN THE CAR
18 AND WHERE DID THEY SIT?

19 A YES, MA'AM. I WAS AT THE DRIVER SIDE. MY WIFE WAS
20 SITTING BESIDE ME IN THE FRONT PASSENGER SEAT. THE MALE GOT
21 IN THE CAR, THE BACK SEAT BEHIND MY WIFE. THE FEMALE GOT IN
22 THE BACK SEAT SITTING BEHIND ME.

23 Q AT THAT POINT DID YOU KNOW WHERE, NOT SAYING WHAT THEY
24 SAID TO YOU, WHERE DID YOU GO?

25 A THEY WANTED TO GO TO MIKE'S PRODUCE MARKET AND WE

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 PROCEEDED DRIVING AWAY OUT OF THE PARKING LOT AND HEADED
2 TOWARDS MIKE'S PRODUCE MARKET WHICH DOESN'T TAKE LONG AT
3 ALL.

4 Q IS THAT RIGHT ON GARNER'S FERRY ROAD?

5 A YES.

6 Q AND DID YOU DRIVE DIRECTLY THERE OR DID YOU GO ANYWHERE
7 ELSE?

8 A GO DIRECTLY THERE.

9 Q DURING THE TIME THEY WERE IN THE CAR WITHOUT SAYING
10 WHAT WAS SAID DID Y'ALL HAVE A CONVERSATION?

11 A BRIEFLY, YES, MA'AM.

12 Q ONCE YOU GOT TO MIKE'S MARKET APPROXIMATELY HOW LONG
13 DID IT TAKE YOU TO GET THERE?

14 A I TIMED IT, TOOK NO MORE THAN 30 SECONDS.

15 Q AND ONCE YOU GOT TO MIKE'S MARKET WHERE DID YOU PULL
16 IN?

17 A IN THE THE INTERSECTION GARNER'S FERRY ROAD AND OLD
18 GARNER'S FERRY ROAD SORT OF A "V" SHAPE FASHION AND MIKE'S
19 PRODUCE MARKET SITS IN THAT "V" CORNER. SO I PULLED RIGHT
20 INTO THE PARKING LOT RIGHT THERE.

21 Q ONCE YOU PULLED INTO THE PARKING LOT WHAT DID YOU DO?

22 A WELL, I IMMEDIATELY TURNED THE ENGINE OFF TOOK THE KEYS
23 FROM THE IGNITION, PUT THE KEYS IN MY RIGHT-HAND POCKET AND
24 WITH MY LEFT HAND I OPENED THE DOOR ON THE DRIVER'S SIDE.

25 Q OKAY. AND AT THAT POINT DID YOU HEAR THE DEFENDANT?

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 YOU CAN SAY WHAT HE SAID. DID YOU HEAR THE DEFENDANT SAY
2 SOMETHING?

3 A YES, MA'AM, I DID.

4 Q WHAT DID HE SAY?

5 A HE SAID KEEP GOING STRAIGHT BECAUSE WE WERE HEADED DOWN
6 ON VERTICALLY TOWARDS OLD GARNER'S FERRY ROAD. THAT'S WHEN
7 HE SAID KEEP GOING STRAIGHT AND I KNEW THERE WAS A PROBLEM.

8 Q PRIOR TO THAT DID HE SAY ANYTHING ABOUT CHANGING PLANS?

9 A YES. HE SAID THERE'S BEEN A CHANGE IN PLANS. KEEP
10 GOING STRAIGHT AND AS SOON AS HE SAID THAT I KNEW THERE WAS
11 A SERIOUS PROBLEM.

12 Q AND AT THAT POINT WERE YOU STILL FACING AHEAD?

13 A YES, MA'AM, I WAS STILL FACING AHEAD.

14 Q ONCE YOU HEARD HIM SAY THAT AND YOU SENSED THAT THERE
15 WAS A PROBLEM, WHAT HAPPENED?

16 A WELL, I HAD ALREADY TURNED OFF THE IGNITION.

17 Q YES, SIR.

18 A TOOK THE KEYS AND PUT THEM IN MY POCKET AND OPENED THE
19 CAR DOOR AND I TURNED TO SEE HIM. HE WAS SEATED BEHIND MY
20 WIFE AND HE WAS NO LONGER SEATED IN THE BACK SEAT. HE
21 PULLED UP TO THE EDGE AND WITH HIS LEFT HAND HE WAS HOLDING
22 ONTO MY WIFE'S LEFT SHOULDER AND HE HAD A KNIFE AT HER NECK.
23 I WOULD ASSUME ABOUT TWO INCHES AND HE SAID IF YOU DON'T
24 KEEP GOING I'M GOING TO CUT YOUR WIFE'S THROAT.

25 Q AT THAT POINT WAS YOUR WIFE ABLE TO SAY ANYTHING?

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 A NO, MA'AM, SHE DID NOT.

2 Q AND YOU INDICATED THE KNIFE WAS ACTUALLY AT HER THROAT?

3 A YES, MA'AM.

4 Q AND THAT'S WHEN HE SAID ABOUT CUTTING HER THROAT?

5 A CORRECT, YES, MA'AM.

6 Q ONCE HE SAID THAT WHAT HAPPENED?

7 A WHEN HE SAID THAT I HADN'T SEEN HIS FACE YET. I ONLY
8 GLANCED AT HIS FACE WHEN HE GOT IN THE CAR AT THE PARKING
9 LOT AT BI-LO'S. SO I GOT JUST A QUICK GLANCE WHEN I TURNED
10 AROUND AT MIKE'S PRODUCE. THEN I SAW HIM FULL FACE WITH THE
11 KNIFE. I JUST FROZE IN FEAR. I REALLY THOUGHT, WOW, THIS
12 IS NOT A T.V. PROGRAM ANYMORE. I DON'T BELIEVE THIS IS
13 HAPPENING TO MY WIFE. SOMEBODY'S GOING TO CUT HER THROAT
14 AND I HONESTLY BELIEVE THAT HE WOULD HAVE HAD I NOT TAKEN
15 ACTION.

16 Q WHAT DID YOU DO, SIR?

17 A JUST A SPLIT SECOND I IMMEDIATELY TWISTED. I'M STILL
18 SITTING BEHIND THE DRIVER'S, IN THE DRIVER'S SEAT AND
19 SOMEHOW, AND I DON'T KNOW HOW, I GOT HOLD OF BOTH OF HIS
20 HANDS OR BOTH OF HIS WRISTS. OF COURSE THE KNIFE IS IN HIS
21 RIGHT HAND. I COULDN'T, I NEVER SAW THE HANDLE BECAUSE IT
22 WAS CONCEALED BY HIS HAND BUT I KNEW SOMETHING HAD TO BE
23 DONE QUICKLY AND IMMEDIATELY I JUST GRABBED AND IN AN
24 AWKWARD POSITION WITH MY BODY TWISTED, HOLDING ON THOSE
25 HANDS THAT'S WHEN THE FIGHT ENSUED.

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 Q WHEN YOU SAID A FIGHT ENSUED WHAT WERE YOU TRYING TO
2 DO?

3 A I WAS TRYING TO KEEP HIM FROM STABBING MY WIFE BECAUSE
4 HE KEPT TRYING TO STAB AT HER AND STAB AT ME. ,SO HE'S STILL
5 IN THE BACK SEAT AND I'M STILL IN THE FRONT SEAT IN THIS
6 VERY AWKWARD TWISTED POSITION WITH MY BODY AND MY ARM.

7 Q DID HE REMAIN IN THE BACKSEAT OR DID THE POSITIONS
8 CHANGE?

9 A HE DID REMAIN IN THE BACKSEAT FOR 15, 20 SECONDS. I
10 CAN'T REMEMBER THE TIME. IT SEEMED LIKE AN AWFUL LONG TIME
11 AND I'M STILL HOLDING, AT THAT POINT I HEAR MY WIFE
12 SCREAMING. I THINK SHE WAS SCREAMING SOMEBODY HELP US,
13 PLEASE AND HE WAS TRYING TO STAB AT HER AND STAB AT ME AND I
14 WAS STILL HOLDING AND THEN HE LUNGED INTO THE FRONT SEAT
15 PUSHING HIMSELF OVER THE FRONT SEAT AND HE LUNGED BETWEEN MY
16 WIFE AND I AND I'M STILL HOLDING ONTO HIS WRISTS. HE'S
17 STILL TRYING TO STAB AT ME.

18 Q WERE YOU ABLE TO GET AWAY FROM HIM AT THAT MOMENT?

19 A NO, MA'AM, I WAS NOT ABLE TO GET AWAY FROM HIM BUT
20 FORTUNATELY I HAD OPENED THE CAR DOOR ALREADY STILL HOLDING
21 ONTO HIS WRISTS. I PULLED HIM OUT OF THE CAR ONTO THE
22 BLACKTOP PAVEMENT THERE AND WE CONTINUED TO STRUGGLE, TO
23 FIGHT AND TO ROLL.

24 Q WHY WERE YOU TRYING TO GET HIM OUTSIDE OF THE CAR?

25 A I WAS TRYING TO GET HIM AWAY FROM MY WIFE BECAUSE I

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 KNEW HE WOULD HAVE KILLED HER. AT LEAST I FELT THAT'S WHAT
2 HE WOULD HAVE DONE OR CUT HER THROAT.

3 Q ONCE YOU WERE OUTSIDE THE CAR WERE YOU ABLE TO GET AWAY
4 FROM HIM?

5 A FINALLY WE ROLLED AND FOUGHT FOR, AGAIN COULD HAVE BEEN
6 A MINUTE, TWO MINUTES, I DON'T KNOW. I JUST REMEMBER
7 THINKING WHEN IS THIS FIGHT GOING TO END. I WAS JUST SO
8 SHOCKED THAT THIS WOULD HAPPEN. WE CONTINUED TO FIGHT.
9 SOMETIMES I WOULD BE ON TOP OF HIM; SOMETIMES HE WOULD BE ON
10 TOP OF ME AND EVEN NOW I CAN STILL SEE HIM TRYING TO STAB AT
11 ME, MY FACE OR CHRIS AND SOMETIMES MY HAND WOULD SLAM AND
12 I'D THROW MY ARM TO THWART OR BLOCK HIS BLOWS AND DURING
13 THIS TIME I WAS STABBED AND DIDN'T KNOW IT.

14 I KNEW MY RIGHT WRIST WAS STINGING. I THOUGHT IT
15 WAS BECAUSE OF JUST BEING SCRAPED ON THE BLACKTOP PAVEMENT.
16 I DIDN'T KNOW IT WAS A DEEP GASH AND I DID NOT KNOW THAT I
17 HAD BEEN PUNCTURED IN THE CHEST, DIDN'T KNOW THAT. SO AFTER
18 FIGHTING AGAIN MAYBE A MINUTE, TWO MINUTES I DON'T KNOW
19 ROLLING AND TOSSING ON THE GROUND. THEN WHEN I FINALLY GOT
20 AWAY FROM HIM AND STOOD UP AND THERE WAS A DISTANCE MAYBE
21 FOUR OR FIVE FEET BOTH OF US STANDING.

22 Q AS CLOSE AS I AM TO YOU NOW?

23 A APPROXIMATELY, YES, MA'AM.

24 Q OKAY. WHAT HAPPENED? WHAT DID HE SAY?

25 A HE DIDN'T. THEN HE SAID, GIVE ME THE KEYS AND I HAD

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 ALREADY HAD THE KEYS IN MY POCKET AND I HAD READ JUST
2 RECENTLY I THINK IN A READER'S DIGEST MAGAZINE 'AND IF THAT
3 EVER HAPPENS AND SOMEBODY WANTS THE KEYS TO YOUR CAR THROW
4 THE KEYS UNDER A BUSH THAT WAY THE CRIMINAL HAS TO SEARCH IN
5 THE BUSH AND GIVE THE VICTIM THE CHANCE TO RUN AWAY. WELL,
6 THERE WERE SOME BUSHES BEHIND ME. I DIDN'T KNOW THAT AT THE
7 TIME. WHEN I WENT BACK AND SEEN LATER I SAW THE BUSHES BUT
8 I SAW THE GOLFING RANGE RIGHT ACROSS THE ROAD SO I THREW THE
9 KEYS ACROSS THE ROAD AND THEY LANDED ONTO THE GRASS WHERE
10 THE DRIVING RANGE IS LOCATED.

11 Q DURING THIS TIME THAT YOU'RE FIGHTING AND EVERYTHING,
12 IS YOUR WIFE STILL THERE IN THE AREA?

13 A YES, MA'AM. HE HAD GOTTEN OUT OF THE CAR AND WAS
14 STANDING AT THE CAR DOOR STILL SCREAMING FOR, I THINK SHE
15 WAS SAYING, SOMEBODY PLEASE HELP US; HE'S TRYING KILL MY
16 HUSBAND. I THINK THOSE ARE THE WORDS SHE SAID OR SIMILAR TO
17 THAT.

18 Q AND INITIALLY DID ANYBODY COME OVER TO HELP?

19 A NO, MA'AM, NO ONE INITIALLY CAME WHILE WE WERE FIGHTING
20 AND EVEN WHEN I THREW THE KEYS ACROSS THE ROAD ONTO THE
21 GRASS. IN FACT AT THAT TIME THERE WERE A NUMBER OF PEOPLE
22 LINED UP AT THE GOLF DRIVING RANGE AND I GLANCED AND SAW
23 THEM STOP AND THEY WERE WATCHING THE FIGHT GO ON BUT I
24 DIDN'T SEE ANYBODY COME TO MY AID OR MY WIFE'S AID AT THAT
25 TIME, NO, MA'AM.

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 Q AND AT THIS POINT JUST FOR THE RECORD HAS HE STILL GOT
2 THE KNIFE?

3 A PARDON ME?

4 Q DOES HE STILL HAVE THE KNIFE?

5 A WHEN I THREW THE KEYS ACROSS THE ROAD, HE STILL HAD THE
6 KNIFE IN HIS HAND.

7 Q AND COULD YOU SEE THE KNIFE IN HIS HAND?

8 A YES, MA'AM.

9 Q ONCE Y'ALL RAN ACROSS THE ROAD NEAR THE DRIVING RANGE
10 IN THE GRASSY AREA, WHAT HAPPENED?

11 A WELL, WHEN I THREW THE KEYS I THOUGHT MAYBE THEY WOULD
12 LAND SOMEPLACE WHERE HE COULDN'T SEE THEM BUT HE COULD SO HE
13 RAN AFTER THE KEYS AND AGAIN I STILL DIDN'T WANT OUR CAR
14 STOLEN MAYBE THAT'S SELFISH SO I RAN TO TRY TO GET THE KEYS.
15 WHEN HE GOT THERE FIRST THE FIGHT ENSUED AGAIN.

16 Q AND WHEN YOU SAY YOU TRIED TO PURSUE HIM, WERE YOU ABLE
17 TO KEEP UP WITH HIM?

18 A I WAS BUT WHEN I GOT THERE HE HAD ALREADY GOTTEN THE
19 KEYS AND THEN KNOCKED ME OVER AND BY THIS TIME I WAS VERY
20 WEAK, I GUESS FROM THE FIGHTING AND FROM THE LOSS OF BLOOD.

21 Q AND AT THAT POINT YOU INDICATED HE RAN BACK OVER
22 TOWARDS THE CAR?

23 A YES, MA'AM, TOWARD THE CAR.

24 Q AND WHEN HE RAN BACK TOWARDS THE CAR WHICH IS STILL
25 PARKED IN THE SAME PLACE?

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 A YES.

2 Q WHERE WAS YOUR WIFE?

3 A SHE WAS STILL STANDING BESIDE THE CAR DOOR.

4 Q DID YOU SEE HIM?

5 A HE RAN AROUND THE CAR TOWARDS HER. SHE HAD THE PURSE I
6 BELIEVE OVER HER LEFT SHOULDER, I THINK, IF I REMEMBER
7 CORRECTLY.

8 Q AND DID YOU SEE WHAT HE DID WHEN HE RAN TOWARDS HER?

9 A HE TRIED TO RIP IT FROM HER. THEN HE ACTUALLY PUSHED
10 HER DOWN OR TACKLED HER AND THEN HE PULLED HER PURSE FROM
11 HER ARM STILL WITH THE KNIFE IN HIS HAND.

12 Q WHEN HE RAN UP TOWARDS YOUR WIFE, WHAT WAS SHE DOING?

13 A SHE WAS STILL SCREAMING.

14 Q AND AT THAT POINT WAS SHE TRYING TO GO TOWARD HIM, AWAY
15 FROM HIM OR COULD YOU TELL?

16 A SHE WAS JUST STANDING AT THE CAR.

17 Q AND THAT'S WHEN YOU MENTIONED THAT HE ACTUALLY TACKLED
18 HER?

19 A YES, HE DID. YES, MA'AM.

20 Q AND HE TACKLED HER. WHERE WAS SHE IN RELATION TO HIS
21 BODY ONCE HE WENT DOWN ON THE GROUND?

22 A SHE WAS STILL ON THE PASSENGER SIDE STANDING THERE
23 THREE OR FOUR FEET FROM THE DOOR I'D SAY AND HE TACKLED HER
24 RIGHT THERE.

25 Q OKAY. YOU SAY HE TACKLED HER. DID HE PHYSICALLY GET

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 ON TOP OF HER?

2 A HE DID. HIS BODY WAS PHYSICALLY ON TOP OF HER AND SHE
3 WAS HOLDING TO THE PURSE. SHE DIDN'T WANT HER PURSE STOLEN
4 EITHER.

5 Q DO YOU KNOW HOW LONG HE ACTUALLY HELD YOUR WIFE DOWN?

6 A I WOULD SAY, I'M JUST GUESSING, 10 OR 15 SECONDS JUST
7 ENOUGH TIME TO PULL THE PURSE FROM HER ARM OR SHOULDER.

8 Q AND AT THIS POINT DOES HE STILL HAVE THE KNIFE?

9 A YES, MA'AM.

10 Q AND WHAT WAS YOUR CONCERN AT THAT POINT HE, AS HE
11 TACKLED YOUR WIFE AND GOT ON TOP OF HER?

12 A IT'S HARD TO DESCRIBE BECAUSE I WAS STILL IN SHOCK THAT
13 THIS WAS HAPPENING. I WAS HORRIFIED THAT THIS HAPPENED AND
14 I SAW HER AND I DID NOT KNOW THAT HER KNEE WAS CUT PRETTY
15 BADLY AND SHE HAD BROKEN A TOE THROUGH THIS BUT I COULDN'T
16 GET TO HER. I WAS SO WEAK AND THEN THE GIRL GOT IN THE CAR.
17 HE GOT IN THE PASSENGER SEAT IN THE FRONT AND THEY DROVE
18 OFF.

19 Q OKAY. DID YOU SEE WHICH DIRECTION THE CAR WENT?

20 A ON 378 TOWARDS SUMTER, TOWARDS LOWER RICHLAND HIGH
21 SCHOOL, IN THAT DIRECTION, YES, MA'AM.

22 Q AT SOME POINT DURING ALL THIS THAT WAS GOING ON, SOME
23 PEOPLE DID COME OVER TO TRY TO GET HELP?

24 A YES, FINALLY WHEN THE CAR WAS BEING DRIVEN OFF THEN
25 PEOPLE SAID, WHAT HAPPENED. I SAID. HE STOLE OUR CAR AND

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 HE TRIED TO KILL ME AND KILL MY WIFE. AT THAT POINT I STILL
2 DID NOT KNOW THAT I HAD BEEN STABBED.

3 Q ONCE THEY GOT AWAY WITH THE CAR WHERE WERE YOU IN THE
4 PARKING LOT; DO YOU REMEMBER?

5 A I HAD FINALLY GOTTEN OFF THE GRASS OF THE DRIVING RANGE
6 ACROSS OLD GARNER'S FERRY ROAD AND WAS ON THE EDGE OF THE
7 PARKING LOT WHEN THEY WERE DRIVING AWAY AT THAT POINT. SO
8 THAT WAS APPROXIMATE DISTANCE OF ME TO KATHY AT THAT TIME.

9 Q SO YOU WERE TRYING TO GET TO YOUR WIFE?

10 A I WAS TRYING TO BUT I WAS JUST SO WEAK.

11 Q AFTER THEY DROVE OFF DID THE POLICE COME AFTER?

12 A YES, MA'AM, THEY DID.

13 Q WERE YOU ABLE TO SPEAK TO THEM?

14 A YES, MA'AM.

15 Q OKAY. DID YOU GET, BRIEFLY TELL US WHAT HAPPENED?

16 A SAID, MA'AM, THE MAN GOT IN THE CAR. WE GAVE HIM A
17 RIDE TO MIKE'S PRODUCE MARKET. THE FIGHT ENSUED. HE TRIED
18 TO KILL ME, TRIED TO KILL MY WIFE, STOLE OUR CAR.

19 Q DID THE AMBULANCE COME THAT AFTERNOON?

20 A YES, MA'AM.

21 Q AND DID YOU EVER TO GO TO THE HOSPITAL?

22 A YES, MA'AM.

23 Q WHAT HOSPITAL DID YOU GO TO?

24 A RICHLAND MEMORIAL.

25 Q WENT TO THE HOSPITAL, DID YOU GET TREATED?

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 A YES, MA'AM.

2 Q DID YOU HAVE TO STAY OVERNIGHT OR WERE THEY ABLE TO
3 TREAT YOU OR WERE YOU RELEASED?

4 A NO, MA'AM. THEY TREATED ME FOR SEVERAL HOURS THERE AND
5 I WAS RELEASED.

6 Q ONCE YOU GOT TO THE HOSPITAL WERE YOU ABLE TO REALIZE
7 THE EXTENT OF YOUR INJURIES?

8 A YES, MA'AM.

9 Q AND CAN YOU TELL THE JURY ABOUT YOUR INJURIES?

10 A MY RIGHT WRIST WAS SEVERELY CUT OPEN AND I WAS STABBED
11 ABOUT AN INCH JUST BELOW THE RIGHT PECTORAL MUSCLE.

12 MS. CAMPBELL: BEG THE COURT'S INDULGENCE.

13 THE COURT: ALL RIGHT.

14 BY MS. CAMPBELL:

15 Q I'M GOING TO SHOW YOU SOME PHOTOGRAPHS, JUST A COUPLE.
16 THOSE ARE TWO PHOTOGRAPHS. YOU RECOGNIZE THOSE?

17 A YES, MA'AM.

18 Q THOSE PHOTOGRAPHS WERE ACTUALLY TAKEN THAT DAY WHEN YOU
19 WERE IN THE HOSPITAL?

20 A YES, MA'AM, AT RICHLAND MEMORIAL HOSPITAL.

21 Q SPECIFICALLY ALSO AGAIN IT SHOWS THE WOUNDS OF YOUR
22 CHEST?

23 A CORRECT. IT SHOWS THE WOUND TO THE CHEST, CORRECT.

24 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER
25 THEM INTO EVIDENCE.

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 (THEREUPON, TWO PHOTOGRAPHS OF MR. RIGGS WERE MARKED
2 STATE'S EXHIBITS NO. 4 AND 5 AND ENTERED INTO EVIDENCE.)
3 BY MS. CAMPBELL:

4 Q YOU MENTIONED THAT YOU FIRST MET UP WITH THESE TWO
5 PEOPLE AT THE BI-LO; IS THAT CORRECT?

6 A YES, MA'AM.

7 Q I'M GOING TO SHOW YOU TWO PHOTOGRAPHS AND SEE IF YOU
8 RECOGNIZE THOSE?

9 A YES, MA'AM, THAT'S THE ENTRANCE TO BI-LO.

10 Q AND DO THOSE FAIRLY AND ACCURATELY DEPICT HOW IT
11 APPEARED THAT DAY?

12 A YES, MA'AM.

13 Q FINALLY THREE MORE PHOTOS. YOU MENTIONED MIKE'S
14 MARKET. DO YOU RECOGNIZE THOSE?

15 A YES.

16 Q DO THESE FAIRLY AND ACCURATELY DEPICT MIKE'S MARKET TO
17 THE FRONT DOOR?

18 A YES, MA'AM.

19 MS. SAMPSON: YOUR HONOR, THEY'RE NOT MARKED.

20 THE COURT: YOU SAY THERE IS AN OBJECTION TO ONE
21 PHOTO?

22 MS. SAMPSON: JUST THE ONE OF THEM. THE OTHERS I
23 HAVE NO OBJECTION TO.

24 THE COURT: ALL RIGHT. WE'LL MARK THEM ALL AND
25 THEN WE'LL GET STRAIGHT ON WHAT THE NUMBERS ARE AND WHAT'S

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 OBJECTED TO AND WHAT'S NOT.

2 (THEREUPON, THE PHOTOGRAPHS WERE MARKED STATE'S
3 EXHIBITS NO. 4 THROUGH 10 AND ENTERED INTO EVIDENCE.)

4 THE COURT: STATE'S EXHIBIT FOUR THROUGH 10 IS
5 THAT WHAT THEY'VE BEEN MARKED? ALL BUT ONE ARE COMING IN
6 WITHOUT OBJECTION.

7 MS. SAMPSON: YES, MA'AM, THE ONLY ONE THAT I
8 WOULD OBJECT TO IS STATE'S EXHIBIT 5.

9 THE COURT: STATE'S 5. LET ME TAKE A LOOK.
10 (PAUSE)

11 THE COURT: ALL RIGHT. AND THE BASIS OF THAT.

12 MS. SAMPSON: I DON'T KNOW IF WE NEED TO DO THIS
13 OUTSIDE THE PRESENCE OF. . .

14 THE COURT: ALL RIGHT. MR. FOREMAN AND LADIES AND
15 GENTLEMEN, LET ME TAKE THESE ARGUMENTS OUTSIDE YOUR
16 PRESENCE. IT MAY BE THAT WE RUN INTO THE STOPPING TIME, IF
17 SO I'LL SEND WORD TO YOU AND YOU'LL BE EXCUSED AND THE
18 BAILIFF WILL TELL YOU WHAT TIME TO BE BACK. OF COURSE DON'T
19 DISCUSS THE CASE AT THIS TIME. JUST STEP BACK TO YOUR JURY
20 ROOM. DON'T DISCUSS THE CASE, PLEASE.

21 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF
22 THE JURY.)

23 THE COURT: ALL RIGHT. LET ME SEE WHAT SHE'S
24 HANDING.

25 MS. SAMPSON: YOUR HONOR, MY OBJECTION TO THAT

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 PHOTOGRAPH JUST LOOK AT THE, THERE IS ONLY TWO OF MR. RIGGS
2 AND I'M OBJECTING TO THE ONE, THE FULL-BODY PICTURE IT'S GOT
3 HIM, SHOWING HIM ATTACHED TO THE I.V.'S, GOT ANOTHER PERSON
4 IN THERE. I THINK IT'S INFLAMMATORY. HE'S CLEARLY IN THE
5 HOSPITAL. CLEARLY ADMITS TO THE A.B.W.I.K. AND I UNDERSTAND
6 SHE CAN STILL GET INTO THOSE THINGS. I'M NOT GOING INTO
7 THAT BUT I THINK THAT IT CAN BECOME PREJUDICIAL OR
8 INFLAMMATORY. THAT'S IN THAT POSITION. IF SHE WANTED TO
9 JUST SHOW THE WOUNDS OF HIMSELF IS THE OTHER PICTURE OF
10 MR. RIGGS. IT'S JUST SHOWING THE FULL BODY, PEOPLE AROUND
11 HIM WITH ALL THIS MEDICAL EQUIPMENT ATTACHED TO HIM. I JUST
12 FEEL IT'S PREJUDICIAL AND INFLAMMATORY.

13 THE COURT: I DON'T FIND IT ANY MORE PREJUDICIAL
14 THAN THE OTHER PHOTOS. THERE IS NO MONITOR AROUND, HEART
15 MONITOR. IN ADDITION IT SHOWS OTHER WOUNDS ON THE HAND AND
16 WHATNOT. I WOULD OVERRULE THE OBJECTION AND IT BE ADMITTED.

17 MS. SAMPSON: YOUR HONOR, JUST FOR THE RECORD IF
18 SHE DOES INTRODUCE MORE PHOTOS, IF THERE ARE GOING TO BE
19 MULTIPLE.

20 MS. CAMPBELL: YOUR HONOR, MAYBE WE CAN GET
21 TOGETHER AND SHOW THEM ALL THE PHOTOS.

22 THE COURT: EVEN IF YOU CAN GET THEM MARKED AT
23 LEAST FOR IDENTIFICATION IT WILL SAVE US SOME TIME RATHER
24 THAN BRINGING THEM BACK IN FOR FIVE MINUTES. I THINK THE
25 BEST THING TO DO IS BREAK NOW. WE'LL START BACK AT I WISH I

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 COULD SAY 1:30 BUT TO BE SAFE I PROBABLY NEED TO SAY TWO
2 O'CLOCK. WE'LL HAVE A FULL DAY. WE'LL RUN ALL AFTERNOON
3 AND MAYBE A LITTLE BIT LONGER THAN THAT. WE'LL BREAK AT
4 THIS TIME UNTIL TWO O'CLOCK. ANY OBJECTION TO THE BAILIFFS
5 ADVISING THE JURY SINCE I'VE ALREADY INSTRUCTED THEM TO BE
6 BACK IN THE JURY ROOM AT TWO O'CLOCK?

7 MS. OWINGS: NO, SIR.

8 THE COURT: ALL RIGHT. JUST TELL THEM TO BE BACK
9 AT TWO O'CLOCK, PLEASE. WE'LL BE IN RECESS UNTIL THEN. ALL
10 RIGHT. I'LL SEE YOU FOLKS AT TWO O'CLOCK.

11 (THEREUPON, THE TRIAL OF THIS CASE WAS RECESSED
12 UNTIL 2:00 P.M.).

13 THE COURT: ALL RIGHT. ANYTHING FURTHER BEFORE WE
14 RESUME?

15 MS. CAMPBELL: YOUR HONOR, I HAVE A COPY THERE
16 WITH A STIPULATION, HANDWRITTEN THING.

17 THE COURT: ALL RIGHT. THE STIPULATION HAS BEEN
18 HANDED UP AT THIS TIME AND DEFENSE HAS STIPULATED THAT THE
19 RED AND BLACK PLAID JACKET THAT WAS FOUND AT THE SCENE WAS
20 WORN BY RANDY C. ELDERS.

21 MR. OWINGS: YES, SIR.

22 THE COURT: STATE HAS AGREED UPON THAT; IS THAT
23 CORRECT?

24 MS. CAMPBELL: YES, SIR.

25 THE COURT: ALL RIGHT. I WILL READ THE

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 STIPULATION TO THE JURY I DON'T THINK IN THE MIDDLE OF A
2 WITNESS' TESTIMONY. PERHAPS AT THE CONCLUSION OF THIS
3 WITNESS' TESTIMONY, I'LL PUBLISH THIS STIPULATION AND WE'LL
4 MAKE THIS A COURT EXHIBIT.

5 (THEREUPON, THE STIPULATION WAS MARKED COURT'S EXHIBIT
6 NO. 2 AND MADE A PART OF THE RECORD.)

7 MS. CAMPBELL: THANK YOU.

8 THE COURT: ALL RIGHT. ANYTHING FURTHER FROM THE
9 STATE?

10 MS. CAMPBELL: NO, SIR.

11 MS. OWINGS: NO, SIR.

12 THE COURT: MR. RIGGS, IF YOU'LL COME BACK UP ON
13 THE STAND, PLEASE, SIR.

14 MS. CAMPBELL: YOUR HONOR, JUST FOR THE RECORD WE
15 DID PREMARK A NUMBER OF EXHIBITS, TOTALLY INCLUSIVE OF MOST
16 OF THEM.

17 THE COURT: ALL RIGHT. SOLICITOR, YOU'RE IN
18 DIRECT. YOU MAY CONTINUE.

19 MS. CAMPBELL: MAY IT PLEASE THE COURT.

20 THE COURT: ALL RIGHT.

21 DIRECT EXAMINATION BY MS. CAMPBELL: (CONTINUED)

22 Q I'M SORRY, MR. RIGGS. PRIOR TO US BREAKING I'VE SHOWN
23 YOU SOME PHOTOGRAPHS AND I'LL SHOW YOU THEY'VE BEEN MARKED
24 STATE'S EXHIBITS NO. 4 AND 5. YOU STATED EARLIER YOU
25 RECOGNIZE THOSE?

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 THE COURT: STATE'S EXHIBIT 4 AND 5 ARE NOW INTO
2 EVIDENCE.

3 (THEREUPON, TWO PHOTOS OF MR. RIGGS WERE MARKED STATE'S
4 EXHIBITS NO. 4 AND 5 ENTERED INTO EVIDENCE.)
5 BY MS. CAMPBELL:

6 Q WHAT DO THOSE SHOW?

7 A SHOW ME LYING ON THE HOSPITAL BED IN THE EMERGENCY ROOM
8 WITH THE STAB WOUNDS TO THE RIGHT PECTORAL MUSCLE.

9 Q AND STATE'S EXHIBIT NO. 5 SHOWS YOU IN THE BED; IS THAT
10 CORRECT?

11 A CORRECT.

12 Q AND STATE'S EXHIBIT NO. 4 IS A CLOSER UP?

13 A CLOSER.

14 Q STAB WOUND OF YOUR CHEST?

15 A YES.

16 Q AND YOU RECEIVED TREATMENT FOR THAT THAT DAY IN THE
17 HOSPITAL?

18 A YES, MA'AM.

19 Q STATE'S EXHIBIT NO. 10, 9, AND 8 DO YOU RECOGNIZE WHAT
20 THOSE SHOW?

21 A YES.

22 Q STATE'S EXHIBIT NO. 8 AND 9 WHAT DO THOSE SHOW?

23 A THAT'S THE PRODUCE MARKET, MIKE'S PRODUCE MARKET.

24 Q IS THAT HOW THE MARKET WOULD HAVE APPEARED AS YOU
25 PULLED IN THAT DAY WHEN YOU WERE PULLING UP?

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 A YES, MA'AM.

2 Q TWO DEFENDANTS IN THE BACK OF YOUR CAR?

3 A YES, MA'AM.

4 Q AND THEN STATE'S EXHIBIT NO. 10 IS AT A DIFFERENT
5 ANGLE, IS IT NOT?

6 A YES, MA'AM.

7 Q HOW IS THAT, WHERE WOULD YOU BE LOOKING OUT IN WHAT
8 AREA?

9 A THAT'S LOOKING AWAY FROM THE MARKET TOWARDS THE V.A.
10 HOSPITAL WHERE GARNER'S FERRY INTERSECTS WITH OLD GARNER'S
11 FERRY.

12 Q SO STATE'S EXHIBIT NO. 10 THAT WOULD BE STANDING IN
13 FRONT OF IT LOOKING OUT AT THE ROAD?

14 A YES, MA'AM.

15 Q APPROXIMATELY ON HERE, DO YOU REMEMBER WHERE YOUR CAR
16 WAS PARKED?

17 A SOMEWHERE IN THIS AREA HERE SO IT REALLY WASN'T UP
18 CLOSE TO THE BUILDING BUT ABOUT HERE..

19 Q ABOUT WHERE I'M POINTING?

20 A YES, MA'AM.

21 Q SO THAT DAY WHEN YOU PULLED YOUR CAR INTO THE MARKET
22 AND STOPPED IT, THESE DEFENDANTS WERE GOING TO GET OUT.
23 THAT'S WHERE YOUR CAR WOULD HAVE BEEN?

24 A YES, MA'AM.

25 Q LOOKING AT THE PICTURE CAN YOU SEE A LITTLE BIT OF

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 WHERE THAT DRIVING RANGE, THE GOLF DRIVING RANGE?

2 A I CAN JUST ON THE EDGE OF IT RIGHT THERE.

3 Q IN FACT THERE WAS A "V" THERE AT THE MARKET AND IT
4 WOULD BE ACROSS THE ROAD TO GET TO THE DRIVING RANGE, RIGHT?

5 A YES, MA'AM.

6 Q YOU MENTIONED ALSO THAT WHEN YOU FIRST CAME IN CONTACT
7 WITH THE DEFENDANTS IT TOOK PLACE IN BI-LO'S LOT, THE
8 GAMECOCK BI-LO DOWN ON DEVINE STREET?

9 A THAT'S RIGHT. IT'S ON HALLMARK AND GARNER'S FERRY
10 INTERSECTION.

11 Q DOES THAT SHOW THE FRONT?

12 A YES.

13 Q AND IS THIS THE ENTRANCE RIGHT HERE UNDER THE L.O.
14 WHERE YOU LET YOUR WIFE OUT AND SHE WENT IN THAT DAY?

15 A YES, MA'AM.

16 Q YOU MENTIONED EARLIER IN YOUR TESTIMONY THAT THE
17 DEFENDANTS WERE SITTING ON A LEDGE, A CONCRETE LEDGE.

18 STATE'S EXHIBIT 6 DOES THAT SHOW WHERE THE LEDGE IS?

19 A JUST BARELY BACK IN THERE BUT IT'S ABOUT SIX INCHES
20 HIGH, SIX INCHES WIDE.

21 Q WHAT ARE THOSE CARTS?

22 A THE SHOPPING CARTS.

23 Q WHERE THEY WERE SITTING IT WAS ACTUALLY UNDERNEATH THE
24 ROOF?

25 A IT WAS UNDERNEATH THE ROOF, YES, MA'AM.

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 MS. CAMPBELL: YOUR HONOR, MAY I PUBLISH THOSE
2 PHOTOGRAPHS?

3 THE COURT: YOU MAY.

4 MS. CAMPBELL: THANK YOU.

5 BY MS. CAMPBELL:

6 Q YOU MENTIONED EARLIER THAT YOU WERE IN THE HOSPITAL FOR
7 SEVERAL HOURS?

8 A YES, MA'AM.

9 Q AND YOU WERE RELEASED THAT EVENING OR THE EARLY MORNING
10 HOURS THE NEXT DAY?

11 A EARLY MORNING HOURS.

12 Q DID YOU RECEIVE ANY FURTHER TREATMENT AS FAR AS YOUR
13 WOUNDS WERE CONCERNED?

14 A YES, MA'AM, I HAD TO GO BACK WITH, OKAY, REMOVAL OF
15 STAPLES, FOR MEDICATION ON THAT.

16 Q WHERE WERE YOUR STITCHES?

17 A THE RIGHT WRIST.

18 Q YOU HAD A NUMBER OF STITCHES THERE?

19 A THERE WERE SUTURES, MA'AM.

20 Q DO YOU KNOW WHAT CAUSED THE STITCHES THERE? WAS IT A
21 KNIFE WOUND?

22 A I'M ASSUMING IT WAS.

23 Q THEN THE PUNCTURE WENT INTO THE CHEST?

24 A YES, MA'AM.

25 Q THE DOCTORS TREATED THAT, ALSO?

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 A YES, MA'AM.

2 Q AND LUCKILY YOU DIDN'T PUNCTURE YOUR LUNG?

3 MS. SAMPSON: OBJECTION, YOUR HONOR.

4 THE COURT: YOU CAN'T GO INTO WHAT THE DOCTOR
5 SAID. I SUSTAIN THE OBJECTION.

6 BY MS. CAMPBELL:

7 Q DID YOU REQUIRE FURTHER TREATMENT FOR THAT AS WELL?

8 A CHECK-UP, YES, MA'AM.

9 Q AT THE TIME WHEN YOU REPORTED THIS TO THE POLICE YOU
10 WERE LYING OUT THERE ON THE GROUND AT THE MARKET; IS THAT
11 RIGHT?

12 A WELL, I WAS BUT I DIDN'T REPORT IT TO THE POLICE BUT IT
13 WAS REPORTED.

14 Q SOMEONE CALLED 911?

15 A YES.

16 Q WAS IT YOUR WIFE?

17 A NO, MA'AM.

18 Q AT SOME POINT THOUGH DID THE POLICE MAKE CONTACT WITH
19 YOU AND GET SOME, NOT EVERY DETAIL BUT SOME OF THE
20 INFORMATION THAT DAY?

21 A INITIALLY I DON'T REMEMBER WHO THE POLICEMAN WAS
22 BECAUSE I WAS LYING ON MY BACK AT THAT TIME.

23 Q WERE YOU ABLE TO GIVE THEM A DESCRIPTION, A GENERAL
24 DESCRIPTION, OF THE TWO PEOPLE THAT HAD ROBBED YOU?

25 A YES, MA'AM, A GENERAL DESCRIPTION.

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 Q HAD YOU EVER SEEN EITHER OF THE TWO BEFORE?

2 A NEVER, NO, MA'AM.

3 Q THE NEXT DAY AFTER YOU WERE ASSAULTED INTO THE NEXT DAY
4 DID YOU HAVE ANY FURTHER CONTACT WITH THE TWO PEOPLE THAT
5 HAD ROBBED YOU?

6 A NO, MA'AM.

7 Q INTO THE NEXT, INTO THAT WOULD HAVE BEEN ON MONDAY; IS
8 THAT RIGHT?

9 A CORRECT. THIS HAPPENED ON SUNDAY NIGHT. YOU'RE ASKING
10 ABOUT THE NEXT DAY, MONDAY.

11 Q AT SOME POINT OVER THE NEXT TWO DAYS DID YOU BECOME
12 AWARE THAT THE POLICE RECOVERED YOUR CAR?

13 A YES, MA'AM, I DID GET A CALL.

14 Q AND WOULD THAT HAVE BEEN THE MORNING OF THE 19TH?

15 A I BELIEVE THAT THEY RECOVERED THE CAR.

16 Q AS A RESULT OF THEIR, AT THIS POINT WERE YOU AWARE
17 WHETHER THEY HAD MADE ANY ARRESTS OR FOUND WHO HAD DONE THIS
18 TO YOU?

19 A NO, MA'AM.

20 Q HAD YOU HAD ANY FACE-TO-FACE CONTACT WITH ANY OF THE
21 INVESTIGATORS IN THE CASE?

22 A NO, MA'AM.

23 Q ONCE YOU RECEIVED A CALL THAT YOUR CAR HAD BEEN
24 RECOVERED, DID YOU HAVE ANY INFORMATION THAT THE SUSPECTS
25 HAD BEEN ARRESTED OR --

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

- 1 A NO, MA'AM.
- 2 Q AS A RESULT OF THAT CALL DID YOU END UP GOING TO THE
- 3 POLICE STATION?
- 4 A IT WAS THE SHERIFF'S STATION WHERE THE CAR WAS LOCATED.
- 5 Q SHERIFF'S?
- 6 A YES, MA'AM.
- 7 Q IS THAT THE SHERIFF'S DEPARTMENT THERE ON TWO NOTCH?
- 8 A YES, MA'AM.
- 9 Q WHAT WAS THE PURPOSE OF YOU GOING TO THE SHERIFF'S
- 10 DEPARTMENT THE AFTERNOON I BELIEVE IT WAS AROUND LUNCH TIME,
- 11 WASN'T IT?
- 12 A TO RETRIEVE THE CAR.
- 13 Q WHEN YOU GOT THER WHERE WAS THE CAR LOCATED? DO YOU
- 14 REMEMBER?
- 15 A IN A SPECIAL GARAGE WHERE THEY DO A LOT OF FORENSIC
- 16 TESTING AND ANALYSIS OF EVIDENCE.
- 17 Q AND IS IT LOCATED IN CONJUNCTION WITH THE ACTUAL
- 18 SHERIFF'S DEPARTMENT?
- 19 A IT'S SITTING IN THE SAME COMPLEX OF THE BUILDING.
- 20 Q WHEN YOU GOT THERE DID YOU MAKE CONTACT WITH LIEUTENANT
- 21 ZEN PADGETT? LIEUTENANT PADGETT, DO YOU REMEMBER?
- 22 A I REMEMBER THE NAME.
- 23 Q DID YOU MAKE ARRANGEMENTS TO GET YOUR CAR BACK?
- 24 A YES, THEY CALLED AND SAID YOU CAN COME AT A CERTAIN
- 25 TIME AND I DID GO.

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 Q AND THAT AFTERNOON DID YOU HAVE AN OPPORTUNITY WHEN YOU
2 GOT DOWN TO THE SHERIFF'S STATION TO OBSERVE THE CONDITION
3 YOUR CAR WAS IN?

4 A YES, MA'AM.

5 Q AND WAS IT SIGNIFICANTLY ALTERED FROM THE TIME YOU HAD
6 IT TAKEN FROM YOU?

7 A YES, MA'AM.

8 Q CAN YOU TELL GENERALLY THE JURY WHAT KIND OF
9 DIFFERENCES WERE IN THE CAR?

10 A THE INTERIOR OF THE CAR WAS QUITE A MESS; THERE WAS A
11 BUTT; THERE WERE SEVERAL CIGARETTE BUTTS IN THE ASHTRAY AND
12 NEITHER MY WIFE AND I SMOKE AND THERE'S NEVER BEEN ANYBODY
13 IN OUR CAR WHO SMOKED. THERE WAS A LOT OF DISARRAY IN THE
14 FRONT SEAT. THERE WAS A LOT OF DAMAGE ON THE RIGHT SIDE
15 INSIDE OF THE CARE LIKE, LIKE I SAID.

16 Q THE POLICE ACTUALLY CHECKED EVIDENCE?

17 A YES.

18 Q THEY RELEASED IT TO YOU AFTER THEY COLLECTED THE
19 EVIDENCE?

20 A YES, MA'AM.

21 Q I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
22 EXHIBITS NO. 15 AND 16. DO YOU RECOGNIZE THOSE?

23 A YES, MA'AM. THAT'S OUR CAR AND THAT'S THE DAMAGE THERE
24 AND THAT'S THE DAMAGE DONE BY THE SIDESWIPING AND THE DAMAGE
25 DONE TO THE MIRROR.

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 Q AND GENERALLY JUST STATE'S EXHIBITS NO. 1 AND 2 DO YOU
2 RECOGNIZE THOSE?

3 A YES, MA'AM. MY CAR AND THE DAMAGE DONE TO IT AND THE
4 WHOLE FRONT WAS BROKEN OUT.

5 Q IS THAT HOW IT APPEARED WHEN YOU RECOVERED IT THAT DAY?

6 A YES, MA'AM.

7 MS. CAMPBELL: YOUR HONOR, WE WOULD OFFER THESE IN
8 EVIDENCE.

9 THE COURT: ANY OBJECTION?

10 MS. SAMPSON: WITHOUT OBJECTION.

11 THE COURT: THAT WOULD BE STATE'S 15, 16, AND 21;
12 IS THAT CORRECT?

13 MS. CAMPBELL: YES, SIR.

14 THE COURT: THOSE ARE ADMITTED INTO EVIDENCE.

15 (THEREUPON, THE PHOTOGRAPHS OF THE CAR WERE MARKED
16 STATE'S EXHIBITS NOS. 15, 16, AND 21 AND ENTERED INTO
17 EVIDENCE.)

18 MS. CAMPBELL: PERMISSION TO PUBLISH THEM.

19 THE COURT: YES, SIR.

20 BY MS. CAMPBELL:

21 Q THAT DAMAGE THAT WE TALKED ABOUT IN THOSE PHOTOS WAS
22 THERE WHEN YOUR CAR WAS TAKEN?

23 A THAT'S CORRECT, MA'AM.

24 Q WHILE YOU WERE THERE AT THE SHERIFF'S DEPARTMENT THAT
25 DAY, DID YOU HAVE AN OPPORTUNITY TO OBSERVE SOMEONE WALKING

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 TOWARDS YOU?

2 A YES, MA'AM.

3 Q CAN YOU TELL THE JURY WHAT HAPPENED?

4 A AFTER I WAS THERE MEETING WITH THE. . .

5 Q FORENSIC PEOPLE?

6 A FORENSIC PEOPLE, I'VE FORGOTTEN THE GENTLEMAN'S NAME
7 WHO WAS IN CHARGE OF THAT.

8 Q YES, SIR?

9 A IT WAS OPENED, THE GARAGE DOOR AND WE WERE GOING TO
10 PULL THE CAR OUT AND IT DIDN'T HAVE ANY GAS IN IT FOR ONE
11 THING SO HE GOT SOME GAS FROM THE FIVE GALLON CAN. I PUT IT
12 UP SO WE COULD GET DOWN TO A STATION GOING TO FILL IT UP.
13 SO WE SATRTED TO PULL THE CAR OUT AND I GOT OUT OF THE CAR
14 AND I NOTICED SOME SHERIFF'S DEPUTY WALKING TOWARDS ME WITH
15 AN INDIVIDUAL.

16 Q AND DID YOU RECOGNIZE THAT INDIVIDUAL?

17 A YES, I DID, YES, MA'AM.

18 Q AND WHY DID YOU RECOGNIZE THE INDIVIDUAL THAT WAS
19 WALKING TOWARDS YOU AT THAT POINT?

20 A MY FIRST THOUGHT WAS THAT LOOKS LIKE THE FELLOW WHO
21 TRIED TO KILL ME AND WHO STOLE MY CAR AND I WAS SHOCKED TO
22 SEE HIM.

23 Q HAD YOU HAD ANY INFORMATION UP TO THAT VERY MOMENT THAT
24 THEY HAD ARRESTED ANYONE?

25 A NO, MA'AM.

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 Q HAD YOU EVER SEEN THE POLICE OFFICERS THAT WERE
2 ESCORTING HIM TO FOCUS IN ON?

3 A NO, MA'AM, I HAD NEVER SEEN HIM BEFORE.

4 Q AND IN FACT YOU RECOGNIZED THAT AS THE MAN WHO HAD
5 TRIED TO KILL YOU?

6 A YES, MA'AM.

7 Q DID YOU TELL ANYONE THAT YOU RECOGNIZED HIM?

8 A YES, MA'AM.

9 Q AND WOULD THAT BE, I BELIEVE THAT'S THE LIEUTENANT WHO
10 WAS HELPING YOU GET THE CAR?

11 A YES, MA'AM.

12 Q DID THEY CONTINUE JUST TO WALK HIM ON AWAY FROM YOU
13 BESIDE YOU?

14 A THEY DID, YES, MA'AM. THEY WERE GOING TO ANOTHER
15 ENTRANCE.

16 Q WAS THERE ANY DOUBT IN YOUR MIND THAT WAS THE MAN THAT
17 HAD TRIED TO KILL YOU?

18 A NO, MA'AM.

19 Q LATER THAT DAY DID THEY TAKE AN OPPORTUNITY TO SHOW YOU
20 A SERIES OF PHOTOGRAPHS?

21 A THAT'S CORRECT, YES, MA'AM.

22 Q AND I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
23 EXHIBIT NO. 36 WHICH IS AN AFFIDAVIT AND ONE PHOTO LINEUP.
24 ACTUALLY IT SHOULD BE TWO PHOTO LINEUPS. DO YOU REMEMBER
25 INVESTIGATOR FAUST?

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 A YES, MA'AM.

2 Q HE'S SITTING HERE AT THE TABLE?

3 A CORRECT. YES, MA'AM.

4 Q DID HE HAVE AN OPPORTUNITY TO SHOW YOU TWO WHAT'S
5 CALLED PHOTO LINEUPS?

6 A YES, MA'AM.

7 Q WHEN HE SHOWED THEM TO YOU DID HE SHOW THEM TO YOU
8 SEPARATELY, ONE AT A TIME?

9 A YES, MA'AM.

10 Q DID HE TELL YOU WHO THIS MAY BE OR ANYTHING OF THAT
11 NATURE?

12 A HE DID NOT, MA'AM.

13 Q I'M GOING TO SHOW YOU FIRST ONE OF A SERIES OF
14 PHOTOGRAPHS.

15 A YES, MA'AM.

16 Q WHOSE HANDWRITING IS THAT?

17 A IT'S MINE.

18 Q OKAY. AND WHEN HE SHOWED YOU THIS FIRST SET OF
19 PHOTOGRAPHS, DID HE IN ANY WAY TELL YOU WHICH ONE TO CHOOSE?

20 A NO, MA'AM.

21 Q AND WHEN YOU SAW THESE SIX PHOTOGRAPHS DID YOU
22 RECOGNIZE THEM?

23 A YES, MA'AM.

24 Q WHO DID YOU RECOGNIZE?

25 A THE GENTLEMAN ON THE LEFT, THE UPPER LEFT.

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 Q AND WHY DID YOU RECOGNIZE HIM?

2 A THAT WAS THE MAN WHO ATTACKED ME.

3 Q OKAY. A MOMENT LATER I BELIEVE AT 5:26 P.M. AFTER YOU
4 TOLD HIM YOU RECOGNIZED THIS MAN AND WHEN YOU WERE SHOWN THE
5 LINEUP IT DIDN'T HAVE THIS WRITING ON IT, DID IT?

6 A THAT'S CORRECT.

7 Q YOU PUT THIS WRITING ON THERE?

8 A YES, MA'AM.

9 Q INDICATING YOU RECOGNIZED HIM?

10 A THAT'S HIM.

11 Q AT THE SAME TIME AFTER YOU WERE SHOWN THAT LINEUP, WERE
12 YOU ALSO SHOWN A LINEUP OF SIX FEMALES?

13 A YES, MA'AM.

14 Q AGAIN DID HE TELL YOU WHICH ONE TO PICK?

15 A NO, MA'AM.

16 Q WHEN HE SHOWED YOU THE PHOTO LINEUP, DID YOU LOOK AT
17 ALL THE PICTURES?

18 A YES, MA'AM.

19 Q DID YOU RECOGNIZE ANYONE IN THAT PHOTO LINEUP?

20 A YES, MA'AM.

21 Q WHICH ONE DID YOU RECOGNIZE?

22 A THE FEMALE IN THE LOWER RIGHT-HAND CORNER.

23 Q SPECIFICALLY DOWN THERE?

24 A YES, MA'AM.

25 Q AND I NOTICE THAT YOU --

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 MS. SAMPSON: YOUR HONOR, NONE OF THESE HAVE BEEN
2 INTRODUCED. THEY'RE BEING SHOWN TO THE JURY ALREADY.

3 MS. CAMPBELL: I WON'T SHOW THEM TO THE JURY.

4 BY MS. CAMPBELL:

5 Q YOU INITIALED IT AND CIRCLED THE ONE YOU RECOGNIZE?

6 A YES, MA'AM.

7 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'LL
8 INTRODUCE THEM INTO EVIDENCE. THEY'RE ALL UNDER 36. IT'S
9 TWO PIECES, THREE PIECES OF PAPER TO MAKE UP EXHIBIT.

10 MS. SAMPSON: I JUST WANT TO MAKE SURE THERE IS
11 MORE THAN ONE. THERE PIECES OF PAPER, TWO PAGES OF PHOTOS
12 AND ONE AFFIDAVIT THAT INDICATES --

13 THE COURT: WITHOUT OBJECTION THAT WILL BE
14 STATE'S 36. IT IS ADMITTED.

15 (THEREUPON, THE PHOTO LINEUP WAS MARKED STATE'S EXHIBIT
16 NO. 36 AND ENTERED INTO EVIDENCE.)

17 MS. CAMPBELL: THANK YOU, SIR.

18 BY MS. CAMPBELL:

19 Q I NOTICE THAT ON THE SECOND PAGE THOUGH YOU WROTE A
20 LITTLE NOTE UNDER THE PHOTOGRAPH OF THE WHITE FEMALE YOU'VE
21 IDENTIFIED?

22 A YES, MA'AM.

23 Q WHAT DOES THAT NOTE SAY?

24 A PICTURE DOES NOT REVEAL THE MISALIGNED TEETH.

25 Q AND IS THAT PART OF THE DESCRIPTION YOU ORIGINALLY GAVE

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 ABOUT THE MISALIGNMENT?

2 A MISALIGNED TEETH, YES, MA'AM.

3 Q THE FRONT PAGE ON THE STATE'S EXHIBIT 36 IS THAT
4 AFFIDAVIT INDICATING WHICH ONE YOU PICKED OUT?

5 A YES, MA'AM.

6 Q AT THE POINT WHEN YOU ACTUALLY IDENTIFIED THE PHOTO
7 LINEUP, YOU HAD SEEN OR RECOGNIZED THE PERSON WHO ATTACKED
8 YOU, THE MALE OUT IN THE PARKING LOT?

9 A YES, MA'AM.

10 Q DID YOU SEE THE FEMALE THAT DAY AT ALL?

11 A NO, MA'AM.

12 Q DURING THIS ASSAULT WERE YOU ABLE TO GET A GOOD LOOK AT
13 THE KNIFE THAT HE WAS USING?

14 A I GOT QUICK GLANCES AND THAT WAS ALL.

15 Q AT A LATER TIME DID LAW ENFORCEMENT ACTUALLY, I ASK YOU
16 TO LOOK AT A SERIES OF KNIVES?

17 A YES, MA'AM.

18 Q AND I SHOW YOU THESE KNIVES THAT ARE, FIRST OF ALL DID
19 YOU REVIEW THESE KNIVES?

20 A I DID, YES, MA'AM.

21 Q STATE'S EXHIBITS NO. 47, 46, AND 44?

22 A YES, MA'AM.

23 Q AND IN YOUR REVIEW OF THESE KNIVES WERE ANY OF THESE
24 THE EXACT KNIFE HE USED?

25 A EXACT KNIFE, NO, MA'AM.

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 Q JUST SO I CAN MAKE SURE THE FIRST TIME YOU SAW THE
2 DEFENDANT WITH THE KNIFE?

3 A WHEN HE ENTERED OUR CAR AT THE BI-LO PARKING LOT
4 OUTSIDE THE STORE.

5 Q YOU SAW HIM WITH THE KNIFE?

6 A NO. I SAW THE DEFENDANT NOT WITH THE KNIFE.

7 Q WHEN IS THE FIRST TIME YOU ACTUALLY SAW THE KNIFE?

8 A WHEN HE YELLED AT MY WIFE WHEN WE PULLED IN THE MARKET,
9 MIKE'S PRODUCE MART.

10 Q YOU'VE ALREADY DESCRIBED TO THE JURY THE ASSAULT AND
11 THE STRUGGLE TO GET AWAY, ALL THAT?

12 A YES, MA'AM.

13 Q DURING THAT ENTIRE TIME DID THE DEFENDANT HAVE THAT
14 KNIFE?

15 A REPEAT THE QUESTION.

16 Q FROM THE TIME YOU FIRST SAW HIM WITH THE KNIFE TO THE
17 WIFE'S THROAT UNTIL HE LEFT THE CAR, DID THAT DEFENDANT
18 STILL HAVE THAT KNIFE?

19 A YES, MA'AM.

20 Q AND THE MAN THAT ROBBED YOU AND YOUR WIFE, TOOK YOUR
21 CAR, KIDNAPPED YOU, YOU SEE HIM HERE IN THE COURTROOM?

22 A YES, MA'AM.

23 Q CAN YOU POINT HIM OUT FOR THE JURY?

24 A MR. RANDY ELDERS.

25 Q DID YOU KNOW HIS NAME AT THAT TIME?

DWIGHT RIGGS-DIRECT BY MS. CAMPBELL

1 A I DID NOT AT THAT TIME, OF COURSE NOT.

2 Q UNTIL AFTER HE WAS ARRESTED YOU HAD NO IDEA?

3 A YES, MA'AM.

4 MS. CAMPBELL: YOUR HONOR, MAY THE RECORD REFLECT
5 HE IDENTIFIED THE DEFENDANT.

6 THE COURT: IT WILL SO REFLECT.

7 MS. CAMPBELL: BEG THE COURT'S INDULGENCE.

8 THE COURT: ALL RIGHT.

9 MS. CAMPBELL: THANK YOU. PLEASE ANSWER ANY
10 QUESTIONS.

11 THE COURT: CROSS-EXAMINE, MS. SAMPSON.

12 MS. SAMPSON: MAY IT PLEASE THE COURT.

13 CROSS-EXAMINATION BY MS. SAMPSON:

14 Q GOOD AFTERNOON, MR. RIGGS?

15 A GOOD AFTERNOON, MA'AM.

16 Q I JUST WANT TO MAKE SURE THAT I UNDERSTAND THE
17 DEFENDANT A LITTLE SINCE YOU TESTIFIED EARLIER THIS MORNING.
18 YOU STATED THAT WHEN YOU PULLED UP TO THE MARKET YOU TURNED
19 THE CAR OFF?

20 A YES, MA'AM.

21 Q PUT THE KEYS IN YOUR POCKET?

22 A YES, MA'AM.

23 Q AT THAT TIME NOTHING HAD HPPENED; IS THAT CORRECT?

24 A IN BEHAVIOR, CORRECT.

25 Q AT THAT TIME THE KNIFE HAD NOT BEEN PULLED OR ANYTHING

DWIGHT RIGGS-CROSS BY MS. SAMPSON

1 LIKE THAT?

2 A I SEEN IT BECAUSE I WAS LOOKING STRAIGHT AHEAD DRIVING.

3 Q OKAY. SO IT WASN'T UNTIL AFTER YOU STOPPED THE CAR,
4 TOOK THE KEYS OUT THAT THINGS STARTED GOING DIFFERENTLY?

5 A CORRECT.

6 Q AND JUST, I WANT TO MAKE SURE WHAT HAPPENED WHEN YOU
7 GOT TO HEADQUARTERS THE NEXT DAY I THINK IS WHAT IT WAS
8 THE 18TH OR 19TH. I'M NOT TRYING TO CONFUSE YOU?

9 A COUPLE DAYS LATER I BELIEVE AFTER THE INCIDENT.

10 Q WHEN YOU WENT TO GO PICK UP YOUR CAR?

11 A YES, MA'AM.

12 Q DID YOU HAVE TO DO A WRITTEN STATEMENT AS TO WHAT
13 HAPPENED THAT DAY WITH THE OFFICERS?

14 A NO, MA'AM, I DO NOT RECALL.

15 Q DID YOU EVER SPEAK TO THEM AND GIVE THEM A RECITATION
16 OF WHAT HAPPENED AFTER YOU RECEIVED YOUR MEDICAL TREATMENT
17 AND EVERYTHING?

18 A I DO NOT RECALL, NO, MA'AM.

19 Q YOU DON'T RECALL DOING IT OR YOU'RE NOT, I'M NOT SURE
20 WHAT YOUR ANSWER, YES, YOU DID OR YOU DON'T RECALL IF YOU
21 DID?

22 A I DON'T RECALL GIVING INFORMATION EXCEPT TO THE POLICE
23 OFFICER WHO CAME THAT NIGHT OF THE ATTACK.

24 Q OKAY.

25 A BUT I WAS LYING ON THE GROUND.

DWIGHT RIGGS-REDIRECT BY MS. CAMPBELL

1 Q SO THAT DAY WHEN YOU WENT TO PICK UP YOUR CAR THE ONLY
2 THING YOU DID WAS PICK UP YOUR CAR AND DO THE IDENTIFICATION
3 OF PHOTOS?

4 A CORRECT, YES, MA'AM, THAT I RECALL, YES, MA'AM.

5 MS. SAMPSON: NO FURTHER QUESTIONS, YOUR HONOR.

6 THE COURT: ANY REDIRECT?

7 MS. CAMPBELL: JUST ONE.

8 REDIRECT-EXAMINATION BY MS. CAMPBELL:

9 Q YOU DID DO, I BELIEVE, IT'S A TEN-PAGE STATEMENT THAT
10 YOU PROVIDED ABOUT WHAT HAPPENED; IS THAT CORRECT?

11 A YES, MA'AM.

12 MS. CAMPBELL: THANK YOU, SIR.

13 THE COURT: ALL RIGHT, SIR. YOU MAY STEP DOWN.

14 THE WITNESS: THANK YOU.

15 THE COURT: ALL RIGHT, SOLICITOR.

16 MS. OWINGS: THANK YOUR HONOR. NEXT WITNESS IS
17 KATHRYN RIGGS.

18 THE COURT: GO AHEAD, SOLICITOR.

19 MS. OWINGS: THANK YOUR HONOR. IT PLEASE THE
20 COURT.

21 KATHRYN RIGGS, BEING FIRST
22 DULY SWORN, TESTIFIED AS FOLLOWS:

23 DIRECT EXAMINATION BY MS. CAMPBELL:

24 Q HOW ARE YOU DOING THIS AFTERNOON, MRS. RIGGS?

25 A I'M FINE THANK YOU.

KATHRYN RIGGS-DIRECT BY MS. CAMPBELL

1 Q THAT'S GOOD. IF I CAN I KNOW THIS IS A RUDE QUESTION
2 BUT I HAVE TO ASK HOW OLD ARE YOU?

3 A I'M 62.

4 Q WHERE DO YOU LIVE?

5 A , NORTH COLUMBIA, SOUTH CAROLINA.

6 Q ARE YOU MARRIED?

7 A YES.

8 Q AND TO WHOM?

9 A DWIGHT.

10 Q HOW LONG HAVE Y'ALL BEEN MARRIED?

11 A 42 YEARS.

12 Q OKAY. AND CAN YOU PLEASE I'LL JUST LET YOU TELL WHAT
13 HAPPENED ON THE DAY OF THIS INCIDENT. IF YOU CAN JUST START
14 FROM THE BEGINNING, WE'LL GO FROM THERE?

15 A OKAY. WE LEFT CHURCH SUNDAY NIGHT AFTER WE HAD A
16 CHORAL CONCERT AND I TOLD MY HASBAND WE NEED SOME BANANAS.
17 WE STOPPED AT BI-LO AND HE PUT ME OUT AND I NOTICED TWO
18 PEOPLE SITTING ON THE LEDGE RIGHT NEXT TO THE WALL AT BI-LO
19 AND I DID NOT REALLY LOOK AT THEM. I SAW THEM OUT OF THE
20 CORNER OF MY EYE. I WENT IN. I CAME OUT AND WHEN I GOT IN
21 THE CAR DWIGHT SAID, WE'RE GOING TO GIVE A YOUNG COUPLE A
22 RIDE. I SAID, THEY COULD KILL US. HE SAID, YES, THEY COULD
23 BUT THEY NEED HELP. SO HE MOTIONED FOR THEM TO COME TO THE
24 CAR AND THEY GOT IN. THEY WANTED TO GO DOWN TO THE FRUIT
25 STAND. WE GOT DOWN THERE AND DWIGHT SAID THIS WHERE YOU

KATHRYN RIGGS-DIRECT BY MS. CAMPBELL

1 WANT TO GO, ISN'T IT AND THEY DIDN'T SAY ANYTHING AND I
2 WONDERED WHY THEY HESITATED AND THEN HE SAID AGAIN THIS IS
3 WHERE YOU WANT TO GO ISN'T IT AND CHARLES ELDERS SAID
4 ACTUALLY THERE HAS BEEN A CHANGE IN PLANS. IF YOU DON'T
5 KEEP GOING STRAIGHT WHICH IS OLD ORANGEBURG ROAD HE SAID,
6 I'M GOING TO CUT YOUR WIFE'S THROAT AND HE HAD HIS HAND ON
7 MY SHOULDER AND A KNIFE AT MY NECK.

8 Q NOW, WHEN THEY GOT IN THE CAR WHO SAT WHERE?

9 A CHARLES SAT BEHIND ME AND CHRISTINA HALL SAT BEHIND
10 DWIGHT.

11 Q WHEN DID THEY GET IN THE CAR AFTER YOU HAD GOTTEN IN
12 THE CAR, I'M SORRY, I, AFTER YOU GOT IN THE CAR?

13 A HE MOTIONED FOR THEM TO COME GET IN THE CAR.

14 Q OKAY. AND YOU CAN CONTINUE?

15 A THEN WHEN HE SAID THAT TO MY HUSBAND, DWIGHT SAID, I'LL
16 NOT DO IT AND HE TURNED OFF THE CAR AND HE MADE ME MAD,
17 CHARLES ELDERS MADE ME MAD. I WAS GOING TO HIT HIM IN THE
18 FACE BECAUSE HE CUT MY ELBOW WAS ONE THING BUT TO CUT MY
19 THROAT IS ANOTHER AND I DIDN'T GET TO HIT HIM. MY HUSBAND
20 GRABBED BOTH OF HIS HANDS AND THEN THEY STARTED TUSSLING AND
21 THEN HE WOUND UP IN THE FRONT SEAT AND I WAS HELPLESS,
22 COULDN'T DO ANYTHING BECAUSE I DIDN'T HAVE ANYTHING TO DO
23 ANYTHING WITH AND I WAS AFRAID IF I DID I WOULD AGGRAVATE
24 HIM EVEN MORE AND HE WOULD KILL MY HUSBAND RIGHT THERE IN
25 THE CAR AND OF COURSE DWIGHT TURNED OFF THE CAR AND OPENED

KATHRYN RIGGS-DIRECT BY MS. CAMPBELL

1 THE CAR DOOR IMMEDIATELY FOR SOME REASON AND THEY WENT OUT
2 ON THE GROUND AND I WATCHED HIM TRY TO KILL MY HUSBAND. HE
3 TRIED TO STAB HIM ALL OVER AND THEY WOULD ROLL OVER AND
4 OVER. DWIGHT WOULD BE ON TOP AND HE WOULD BE ON TOP.

5 Q I KNOW THIS IS HARD TO RELIVE THIS BUT WHERE WERE YOU
6 WHILE HE WAS STRUGGLING WITH YOUR HUSBAND?

7 A SITTING IN THE FRONT SEAT.

8 Q AND THIS TIME WERE YOU ABLE TO SEE THEM OUTSIDE THE CAR
9 AS HE WAS TRYING TO STAB YOUR HUSBAND?

10 A WHEN THEY FIRST WENT OUT THEY WERE RIGHT OUTSIDE THE
11 DOOR ON THE GROUND.

12 Q AND WHAT HAPPENED NEXT?

13 A WELL, I TRIED TO THINK WHAT SHOULD I DO.

14 Q I'M SORRY. WHERE WAS THE FEMALE DURING ALL THIS?

15 A SHE WAS IN THE BACKSEAT BEHIND DWIGHT'S SEAT AND SO I
16 TOOK MY PURSE AND I PUT IT ON MY ARM AND I OPENED THE CAR
17 DOOR AND I GOT OUT AND WHEN I DID CHRISTINA HALL HAD SLID
18 ACROSS THE SEAT AND GOT, AND SHE WAS FIGHTING ME AND I
19 DIDN'T SAY IT OUT LOUD BUT IN MY MIND I SAID YOU WANT TO
20 BEAT ME UP. I JUST TOOK THE CAR DOOR AND SLAMMED HER REAL
21 HARD BETWEEN THE CAR DOOR AND THE CAR AND I THINK HE FELL
22 BACK INSIDE AND THEN SHE GOT UP WALKING AROUND THE BACK OF
23 THE CAR AND SAID TO CHARLES ELDERS, LET'S GO, LET'S GO BUT
24 HE WAS TOO BUSY TRYING TO KILL MY HUSBAND. HE WASN'T
25 INTERESTED IN HER.

KATHRYN RIGGS-DIRECT BY MS. CAMPBELL

1 Q AND DID YOU NOTICE ANY OTHER INDIVIDUALS OUT THERE THAT
2 DAY?

3 A YES, WHEN I GOT OUT OF THE CAR AND TOOK CARE OF THAT I
4 WAS SCREAMING, PLEASE HELP US. THERE WERE ABOUT 10 PEOPLE I
5 GUESS STANDING UP AT THE LITTLE GOLF DRIVING RANGE JUST
6 LOOKING AT US LIKE WATCHING A MOVIE AND NOBODY HELPED US AND
7 I WAS SCREAMING AND SCREAMING PLEASE HELP US AND THEN
8 CHARLES ELDERS STARTED COMING TOWARD ME WITH A KNIFE AND I
9 TRIED TO RUN AWAY AND HE KNOCKED ME DOWN AND HE GRABBED MY
10 PURSE AND APPARETNLY HELD ME DOWN BUT HE BROKE MY BIG TOE ON
11 THE RIGHT FOOT AND TOOK THE STOCKING OFF MY LEFT KNEE.

12 Q YOU HAD YOUR PURSE OVER YOUR SHOULDER?

13 A AND HE DRUG MY PURSE OFF OF MY ARM AND SCRAPED MY ARM
14 AND STOLE MY PURSE.

15 Q AND THE REASON WHEN HE WAS RUNNING TOWARDS YOU WHAT
16 WERE YOU DOING?

17 A WELL, I FIGURED HE WAS GOING TO TRY TO KILL ME AND I
18 WAS TRYING TO RUN AWAY FROM HIM BUT HE JUMPED ME ANYWAY.

19 Q YOU SAW THE KNIFE IN HIS HAND; HE WAS COMING TOWARDS
20 YOU?

21 A I DIDN'T SEE THE KNIFE. I KNEW HE HAD IT THOUGH.

22 Q AND FROM THERE WHAT HAPPENED FROM THERE?

23 A I KNOW THAT SHE GOT IN THE FRONT SEAT ON THE DRIVER
24 SIDE, CHRISTINA HALL, AND THEN HE RAN TO THE CAR WITH THE
25 KEYS AND MY PURSE AND THEN DROVE OFF. THEN THE PEOPLE FROM

KATHRYN RIGGS-DIRECT BY MS. CAMPBELL

1 THE GOLF DRIVING RANGE CAME OVER TOO LATE NOW.

2 Q AND THEN THE POLICE WERE CALLED BY SOMEONE?

3 A YES, THE POLICE CAME OUT. THEN I WENT TO MY HUSBAND

4 AND I LOOKED AT HIM AND I SAID, DWIGHT, YOU'RE STABBED

5 BECAUSE BLOOD WAS COMING THROUGH HIS SHIRT AND HE WAS JUST,

6 WELL, HE WAS DOWN ON THE GROUND JUST TREMBLING AND OBVIOUSLY

7 HIS HAND WAS CUT, TOO, AND I TALKED TO THE POLICEMAN WHO WAS

8 IN HERE THIS MORNING?

9 Q OKAY. AND WERE Y'ALL TRANSPORTED TO THE HOSPITAL?

10 A YES.

11 Q WHICH HOSPITAL DID YOU GO TO?

12 A RICHLAND AND I SAT IN THE FRONT SEAT OF THE AMBULANCE.

13 Q OKAY. AND WHEN YOU TALKED DID YOU TALK TO AN OFFICER

14 THERE OR AT THE HOSPITAL?

15 A BOTH. I TALKED TO ONE AT THE HOSPITAL. THEY TOOK

16 PICTURES OF MY KNEE AND TALKED TO DWIGHT.

17 Q WERE YOU ABLE, HOW LONG WERE YOU ABLE TO VIEW RANDY

18 ELDERS AND CHRISTINA HALL?

19 A IT HAPPENED SO FAST I DON'T KNOW.

20 Q WERE YOU ABLE TO GIVE A DESCRIPTION TO THE POLICE?

21 A YES.

22 Q OKAY.

23 A WELL, NO, NOT AT THAT TIME. I COULD VAGUELY

24 DESCRIBE --

25 Q JUST VAGUELY?

KATHRYN RIGGS-DIRECT BY MS. CAMPBELL

1 A -- CHRISTINA HALL IN THE FACE.

2 Q OKAY. WHEN YOU WERE IN THE HOSPITAL LET ME SHOW YOU,
3 DO YOU RECOGNIZE THOSE PICTURES?

4 A ME. THAT'S MY BROKEN TOE AND MY KNEE.

5 Q OKAY. AND THIS FAIRLY AND ACCURATELY DEPICTS THE
6 INJURIES YOU SUSTAINED?

7 A YES, VERY CLEAR.

8 MS. CAMPBELL: YOUR HONOR, WE'D LIKE TO MOVE THIS
9 INTO EVIDENCE, STATE'S 11, 12, AND 13.

10 MS. SAMPSON: WITHOUT OBJECTION TO 12 AND 13 BUT
11 THE SAME OBJECTION THAT HE HAD TO THE OTHER PHOTO WE HAVE TO
12 OBJECT.

13 THE COURT: ALL RIGHT. LET ME TAKE A LOOK,
14 PLEASE. ALL RIGHT. THE OBJECTION IS OVERRULED.
15 STATE'S 11, 12 AND 13 ARE ADMITTED.

16 (THEREUPON, THE PHOTOS OF MRS. RIGGS WERE MARKED
17 STATE'S EXHIBITS NO. 11, 12, AND 13 AND ENTERED INTO
18 EVIDENCE.)

19 MS. CAMPBELL: THANK YOUR HONOR, PERMISSION TO
20 PUBLISH.

21 THE COURT: ALL RIGHT.

22 BY MS. CAMPBELL:

23 Q YOU WERE TREATED FOR THOSE INJURIES AT THE HOSPITAL?

24 A YES, I WAS.

25 Q AND DID YOU AFTER THIS INCIDENT OCCURRED AFTER Y'ALL

KATHRYN RIGGS-DIRECT BY MS. CAMPBELL

1 LEFT THE HOSPITAL, DID Y'ALL RECEIVE ANY PHONE CALLS AT
2 HOME?

3 A YES, WE DID, SEVERAL.

4 Q OKAY. DO YOU RECALL ANY IN PARTICULAR FROM SOMEONE
5 WHO'S INVOLVED IN THIS CRIME?

6 A WE RECEIVED A CALL, THE LADY DID NOT STATE HER NAME BUT
7 WE KNEW IT WAS CHRISTINA HALL BECAUSE SHE WOULD NOT HAVE
8 KNOWN THE THINGS SHE SAID IF IT HAD NOT BEEN HER BECAUSE SHE
9 TALKED ABOUT MY PURSE.

10 MS. SAMPSON: OBJECTION, YOUR HONOR.

11 THE COURT: WAIT JUST A MINUTE.

12 MS. SAMPSON: IT WOULD BE HEARSAY.

13 BY MS. CAMPBELL:

14 Q YOU DID RECEIVE A CALL?

15 A YES, I DID.

16 Q FROM SOMEONE WHO KNEW SPECIFICS ABOUT WHAT HAPPENED?

17 A YES, IN DETAIL.

18 Q OKAY.

19 A THEY SPOKE IN SECOND PERSON.

20 Q IF YOU'RE SAYING CHRISTINA HALL, NOW, RANDY ELDERS HE
21 DIDN'T HAVE --

22 A I HAVE NO IDEA. THE NAMES WERE DIFFERENT ON THE PHONE.

23 Q EXCEPT FOR ONE RANDY ELDERS' FATHER CALLED AND
24 APOLOGIZED?

25 MS. SAMPSON: OBJECTION, YOUR HONOR.

KATHRYN RIGGS-DIRECT BY MS. CAMPBELL

1 THE COURT: ALL RIGHT. JUST ANSWER THE QUESTIONS,
2 PLEASE. ALL RIGHT. JUST ANSWER THE QUESTIONS.

3 I SUSTAIN. DISREGARD THE LAST STATEMENT,
4 MR. FOREMAN, LADIES AND GENTLEMEN, NOT RESPONSIVE TO
5 ANYTHING.

6 GO AHEAD, SOLICITOR.

7 MS. CAMPBELL: THANK YOU, YOUR HONOR.

8 BY MS. CAMPBELL:

9 Q WERE Y'ALL CONTACTED BY ANY INVESTIGATORS WITH THE
10 RICHLAND COUNTY SHERIFF'S DEPARTMENT?

11 A YES, WE WERE.

12 Q AND DO YOU REMEMBER THEIR NAMES?

13 A FAUST.

14 Q FAUST. AND WERE YOU ABLE TO TALK WITH HIM ABOUT THE
15 EVENTS THAT HAPENED?

16 A YES, WE WERE.

17 Q JUST GIVE A GENERAL OVERVIEW OF EVERYTHING THAT
18 HAPPENED THAT DAY?

19 A YES.

20 Q AND WHEN DID Y'ALL RECOVER THE CAR?

21 A TWO DAYS, SUNDAY, MONDAY, TUESDAY.

22 Q OKAY. AND CAN YOU START OVER; DESCRIBE FOR THE JURY
23 THE CONDITION OF THE CAR WHEN Y'ALL PICKED THESE TWO UP AT
24 THE BI-LO WHAT WAS THE CONDITION OF YOUR CAR?

25 A IT WAS IMMACULATE. I KEEP MY CAR DETAILED ALL THE

KATHRYN RIGGS-DIRECT BY MS. CAMPBELL

1 TIME.

2 Q OKAY. DO YOU USUALLY HAVE A LOT OF PEOPLE DO THIS; DO
3 YOU HAVE ANYTHING TO DRINK OR ANYTHING IN THAT CAR?

4 A ONE BOTTLE OF WATER THAT I KEEP IN THERE ALL THE TIME.

5 Q YOU DO?

6 A UH-HUH.

7 Q OTHER THAN THAT WAS THERE ANYTHING ELSE IN THAT CAR?

8 A NO.

9 Q OKAY. I WANT TO SHOW YOU A COUPLE MORE PICTURES.
10 SHOWING YOU STATE'S EXHIBIT 21, 22, 15, AND 16 WHICH I
11 BELIEVE HAVE ALREADY BEEN ADMITTED INTO EVIDENCE. BUT THESE
12 FAIRLY AND ACCURATELY DEPICT THE CONDITION OF THE CAR WHEN
13 YOU PICKED IT UP?

14 A YES.

15 Q AND DID YOU SEE THE KNIFE THAT WAS HELD TO YOUR NECK?

16 A I DID, VERY CLEARLY.

17 Q DID YOU DESCRIBE IT?

18 A I DID. THE BLADE WAS MAYBE SIX, EIGHT INCHES LONG AND
19 I THINK IT KIND OF HAD A HUMP ON IT.

20 Q WHAT DO YOU MEAN WHEN YOU SAY HUMP?

21 A THE DESIGN OF IT KIND OF HAD A LITTLE HUMP LIKE THAT
22 AND THE BLADE DID NOT. THE BEST I CAN REMEMBER DID APPEAR
23 TO BE REAL SHINEY BUT USED.

24 Q OKAY. MRS. RIGGS, I ASKED YOUR HUSBAND, I'LL ASK YOU,
25 TOO. PREVIOUSLY YOU LOOKED AT A FEW KNIVES IN OUR OFFICE?

KATHRYN RIGGS-DIRECT BY MS. CAMPBELL

1 A YES.

2 Q DO ANY OF THESE KNIVES APPEAR TO BE THE KNIFE THAT WAS
3 USED?

4 A THEY DO NOT APPEAR TO BE, NO.

5 Q AND WHILE Y'ALL WERE AT THE SHERIFF'S DEPARTMENT, WERE
6 YOU SHOWN A PHOTO LINEUP?

7 A YES, MA'AM, I WAS.

8 Q BY INVESTIGATOR FAUST?

9 A YES, MA'AM.

10 Q AND DOES THIS APPEAR TO BE THE PHOTO LINEUP THAT WAS
11 SHOWN TO YOU?

12 A IT IS. THAT'S MY CHECK MARK.

13 Q OKAY. LOOK OVER THE FIRST ONE WITH THE MALES. DO YOU
14 RECOGNIZE ANYONE?

15 A YES, THAT'S MY INITIALS.

16 Q OKAY. AND OUT OF THIS PHOTO LINEUP WHO DID YOU PICK
17 OUT?

18 A FIRST ONE AT THE TOP LEFT, LAST ONE AT THE BOTTOM
19 RIGHT. I SAID IT WAS EITHER OF THE TWO.

20 Q YOU COULD NOT DECIDE?

21 A BECAUSE THEY FAVOR.

22 Q YOU TESTIFIED EARLIER THIS ALL HAPPENED VERY QUICKLY.
23 THEY WERE ROLLING ON THE GROUND?

24 A RIGHT.

25 Q AND OF THE FEMALES DID YOU PICK ANY?

KATHRYN RIGGS-DIRECT BY MS. CAMPBELL

1 A YES, I PICKED TWO CHECK MARKS ON THAT ONE. OKAY. THE
2 BOTTOM LEFT AND THEN THE ONE JUST ABOVE HER.

3 Q IN THE BOTTOM CORNER?

4 A THAT'S MY INITIALS.

5 Q AND DID ANYONE SUGGEST TO YOU AT ANY TIME WHAT PICTURES
6 TO PICK?

7 A NO, MA'AM.

8 Q HAS ANYONE SHOWN YOU ANY PICTURES BEFORE?

9 A NO, MA'AM, NEVER SEEN EITHER ONE OF THEM.

10 MS. CAMPBELL: OKAY. STATE WOULD LIKE TO OFFER
11 INTO EVIDENCE STATE'S EXHIBIT 37.

12 THE COURT: ANY OBJECTION?

13 MS. SAMPSON: MY ONLY OBJECTION WOULD BE SHE
14 DIDN'T MAKE, ANYWAY I'M NOT SURE IT WOULD BE RELEVANT. SHOW
15 THE PHOTOS WHERE MR. RIGGS PICKED OUT MR. ELDERS'
16 CODEFENDANT ONE OF TWO CHOICES THAT SHE WOULD HAVE PICKED.
17 I'M NOT OBJECTING TO THE CODEFENDANT. THE PHOTO I'M
18 OBJECTING TO THE ONE OF MR. ELDERS THAT SHE DID NOT
19 IDENTIFY.

20 THE COURT: ALL RIGHT. OBJECTION IS OVERRULED.
21 THAT WILL BE STATE'S EXHIBIT 37 ADMITTED.

22 (THEREUPON, THE PHOTO LINEUP SEEN BY MRS. RIGGS WAS
23 MARKED STATE'S EXHIBIT NO. 37 AND ENTERED INTO EVIDENCE.)

24 MS. SAMPSON: BEG THE COURT'S INDULGENCE.

25 (ATTORNEYS CONFER)

KATHRYN RIGGS-DIRECT BY MS. CAMPBELL

1 BY MS. CAMPBELL:

2 Q AND JUST TO TOUCH BACK BRIEFLY ON THE INCIDENT AT THE
3 PRODUCE MARKET WHEN HE WAS RUNNING TOWARDS YOU HOW, DESCRIBE
4 HOW HE WAS RUNNING TOWARDS YOU AND DESCRIBE HOW HE WENT
5 AWAY WITH YOUR PURSE?

6 A HE RAN TOWARDS ME, KNOCKED ME DOWN, STOLE MY PURSE, AND
7 TURNED.

8 Q AND WHEN YOU SAY KNOCKED YOU DOWN DID IT, HOW LONG WERE
9 Y'ALL ON THE GROUND; WAS HE WRESTLING WITH YOU TO GET YOUR
10 PURSE?

11 A PROBABLY NOT A MINUTE.

12 Q OKAY. DO YOU FEEL YOU WERE FREE AND ABLE TO MOVE
13 DURING THAT TIME PERIOD?

14 A I WAS UNDER CONTROL.

15 Q AND WHEN YOU WENT TO THE GROUND YOU WERE PRETTY MUCH,
16 HE KNOCKED YOU DOWN ON THE GROUND?

17 A MY RIGHT LEG WAS CRAMPED UNDERNEATH, MY BIG TOE WAS
18 BROKEN.

19 Q IT WASN'T JUST A FALL. IT WASN'T JUST A PUSH BUT HE
20 RAN YOU DOWN?

21 MS. OWINGS: OBJECTION, YOUR HONOR. SHE'S
22 LEADING.

23 THE COURT: I SUSTAIN TO THE FORM OF THE QUESTION.

24 MS. SAMPSON: NOTHING FURTHER, YOUR HONOR.

25 THE COURT: ALL RIGHT. CROSS EXAMINE.

KATHRYN RIGGS-CROSS BY MS. SAMPSON

1 MS. SAMPSON: THANK YOUR HONOR.

2 CROSS-EXAMINATION BY MS. SAMPSON:

3 Q GOOD AFTERNOON?

4 A GOOD AFTERNOON.

5 Q WHEN THE, I BELIEVE YOU SAID ON DIRECT WHEN THE
6 INCIDENT STARTED AT THE MARKET THAT THE CAR WAS STILL
7 RUNNING WHEN HE FIRST SAID THERE WAS A CHANGE OF PLANS?

8 A RIGHT, CORRECT.

9 Q SO YOUR HUSBAND DID NOT TURN THE CAR OFF UNTIL AFTER
10 THE KNIFE HAD BEEN PUT TO YOUR THROAT. WOULD THAT BE FAIR
11 TO SAY?

12 A MAY I STATE WHY?

13 Q THAT'S FINE BECAUSE YOU CAN SAY THAT?

14 A BECAUSE WHEN HE FIRST SAID I'M GOING TO CUT YOUR WIFE'S
15 THROAT, MY HUSBAND COULDN'T BELIEVE IT AND THEN WHEN HE
16 LOOKED AND SAW IT HE TURNED IT ON AND SAID I'LL NOT DO IT.

17 Q SO THE ANSWER IS YES. HE DIDN'T TURN THE CAR OFF UNTIL
18 AFTER THE INCIDENT STARTED?

19 A YES.

20 Q I BELIEVE YOU STATED ON DIRECT THAT WHEN AFTER YOUR
21 HUSBAND HAD BEEN CUT AND THE DEFENDANT WAS COMING AT YOU,
22 HAD GOTTEN THE KEYS AND WAS COMING TOWARDS YOU THAT YOU SAW
23 THE KNIFE AT THAT POINT?

24 A I SAID I WAS NOT SURE. I DON'T THINK I SAW THE KNIFE.
25 I DON'T THINK I REALLY SAW THE KNIFE BUT I KNEW HE HAD IT.

KATHRYN RIGGS-CROSS BY MS. SAMPSON

1 Q YOU ASSUMED THAT HE STILL HAD IT?

2 A YES, I DID BECAUSE HE WAS COMING FOR ME.

3 Q DID YOU SEE IT?

4 A NO.

5 Q I'M SORRY. YOU NEED TO ANSWER OUT?

6 A NO, MA'AM.

7 Q AND ON DIRECT YOU SAID HE TACKLED YOU OR THREW YOU TO
8 THE GROUND?

9 A OR FELL ON ME, WHATEVER YOU WANT TO SAY.

10 Q OR FELL ON YOU. DO YOU REMEMBER TALKING TO
11 INVESTIGATOR BAKER?

12 A I DON'T REMEMBER NAMES.

13 Q IT WOULD HAVE BEEN THE DAY AFTER THE INCIDENT. DO YOU
14 REMEMBER TALKING TO ANY OFFICERS THAT DAY?

15 A YES, MA'AM, I DID TALK TO SOME POLICE OFFICERS.

16 Q DID YOU TELL THEM THAT HE THREW YOU TO THE GROUND OR
17 FELL ON YOU OR TACKLED YOU?

18 A I DON'T REMEMBER. I WAS IN SUCH A STATE FROM THE
19 TRAGEDY.

20 Q SO YOU MAY OR MAY NOT HAVE TOLD THEM?

21 A YES, MA'AM.

22 Q AND DO YOU REMEMBER GIVING A STATEMENT TO
23 MS. CAMPBELL'S OFFICE ABOUT THE INCIDENT, A WRITTEN
24 STATEMENT?

25 A YES, MA'AM.

KATHRYN RIGGS-REDIRECT BY MR. JOPHLIN

1 Q AND DO YOU REMEMBER IN THAT STATEMENT THAT YOU SAID YOU
2 DIDN'T KNOW WHETHER YOU FELL OR HE TACKLED YOU?

3 A UH-HUH.

4 Q THAT WAS THE STATEMENT?

5 A THAT'S WHAT I WROTE AT THAT TIME, YES, MA'AM.

6 Q THAT YOU DON'T KNOW WHETHER YOU FELL OR HE TACKLED YOU?

7 A YES, MA'AM.

8 MS. SAMPSON: NO FURTHER QUESTIONS, YOUR HONOR.

9 THE COURT: REDIRECT.

10 REDIRECT-EXAMINATION BY MR. JOPHLIN:

11 Q HE FELL ON TOP OF YOU AND YOU WERE DOWN THERE
12 STRUGGLING?

13 A YES, SIR, AND I COULD NOT GET UP.

14 Q COULD NOT GET UP?

15 A (NODDED HEAD.)

16 MR. JOPLIN: THANK YOU.

17 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

18 WHILE THE WITNESS IS COMING IN, SOLICITOR AND
19 DEFENSE COUNCIL, LET ME TELL THE JURY IN SOME CASES THE
20 ATTORNEYS ENTER INTO WHAT'S CALLED A STIPULATION. A
21 STIPULATION IS AN AGREEMENT AND YOU CAN ACCEPT IT AS A FACT.
22 IT DOES NOT REQUIRE ANY ADDITIONAL PROOF. IN THIS CASE
23 THERE HAS BEEN A WRITTEN STIPULATION ENTERED INTO BY THE
24 STATE AND THE DEFENSE AND IT IS AS FOLLOWS: THE STATE AND
25 THE DEFENSE HAVE STIPULATED THAT THE RED AND BLACK PLAID

SHERRY ABBOTT-DIRECT BY MS. CAMPBELL

1 JACKET THAT WAS FOUND AT THE SCENE WAS WORN BY RANDY C.
2 ELDERS WHEN ASSAULTING MR. RIGGS. THAT HAS BEEN STIPULATED
3 TO BY THE ATTORNEYS.

4 ALL RIGHT. CALL YOUR NEXT WITNESS.

5 MS. CAMPBELL: STATE CALLS SHERRY ABBOTT.

6 SHERRY ABBOTT, BEING FIRST
7 DULY SWORN, TESTIFIED AS FOLLOWS:

8 DIRECT EXAMINATION BY MS. CAMPBELL:

9 Q WHERE ARE YOU EMPLOYED?

10 A AT THE SCHOOL AS OF TODAY BUT I WAS AT THE LEGISLATIVE
11 PLANNING STATE'S OFFICE.

12 Q WHAT ARE YOU DOING NOW?

13 A FRONT END RECEPTION FOR THE SCHOOL.

14 Q WHAT PART OF THE COUNTY DO YOU LIVE IN, MA'AM?

15 A HOPKINS.

16 Q AND YOU'RE FAMILIAR WITH GARNER'S FERRY ROAD?

17 A YES.

18 Q I WANT TO TURN YOUR ATTENTION BACK TO APRIL THE 17TH OF
19 LAST YEAR. DID YOU HAVE AN OCCASION TO BE GOING DOWN
20 GARNER'S FERRY ROAD BY A PLACE CALLED MIKE'S MARKET?

21 A MIKE'S PRODUCE.

22 Q AND CAN YOU TELL THE JURY WHAT MIKE'S PRODUCE, CAN YOU
23 TELL THE JURY WHAT YOU SAW AS YOU WERE DRIVING BY?

24 A WELL, I WAS GOING HOME WHICH I MEANT I WAS GOING EAST
25 AND AS I WAS PASSING MIKE'S PRODUCE I NOTICED THAT THERE WAS

SHERRY ABBOTT-DIRECT BY MS. CAMPBELL

1 ON THE DRIVER'S SIDE TWO MEN HAD JUST STARTED FIGHTING AND
2 THE OLDER MAN KEPT GOING AND IT JUST, I IMMEDIATELY PULLED
3 OVER TO THE SIDE BECAUSE I WAS LOOKING FOR MY CELL PHONE.

4 Q OKAY? WHY WERE YOU LOOKING FOR YOUR CELL PHONE?

5 A TO CALL 911.

6 Q YOU OBSERVED AN ALTERCATION GOING ON AND YOU DECIDED
7 YOU NEEDED TO CALL 911?

8 A RIGHT.

9 Q DID YOU FIND YOUR CELL PHONE?

10 A NO.

11 Q ONCE YOU HAD PULLED OVER TO THE EMERGENCY LANE, YOU
12 COULDN'T FIND YOUR CELL PHONE, WHAT DID YOU DO?

13 A I CHECKED TO SEE IF I COULD HELP THEM BUT HERE WAS TOO
14 MUCH COMMOTION AND THE CAR BETWEEN THE OLDER GENTLEMAN AND
15 THE YOUNGER GENTLEMAN FIGHTING AND THE LADY THAT WAS
16 INVOLVED, THE OLDER LADY WAS SCREAMING LIKE IT WAS SLOW
17 MOTION BUT IT WAS REALLY JUST A MATTER OF MINUTES SO I
18 PULLED OVER TO SEE IF I COULD HELP.

19 Q WHEN YOU PULLED OVER WHERE WAS YOUR CAR AS FAR AS IN
20 CONNECTION WITH WHERE THEIR CAR WAS?

21 A MY CAR WHEN I ORIGINALLY PULLED OVER TO THE EMERGENCY
22 LANE, I WAS NEXT TO THEM, EXCUSE ME, I'VE GOT -- AND THEN I
23 BACKED MY CAR UP AND THE FRONT END OF MY CAR WAS ALMOST
24 MEETING THE FRONT END OF, I GUESS, THE RIGGS' CAR.

25 Q WHEN YOU FIRST SAW THE TWO GENTLEMEN THAT YOU SAW

SHERRY ABBOTT-DIRECT BY MS. CAMPBELL

1 FIGHTING, WHERE WERE THEY IN RELATION TO THE RED CAR? WERE
2 THEY ON THE DRIVER'S SIDE OR THE PASSENGER SIDE?

3 A WHEN THEY WERE FIRST FIGHTING THEY WERE ON THE DRIVER'S
4 SIDE.

5 Q WAS THE OLDER MAN, WAS HE ABLE TO GET AWAY? DID YOU
6 OBSERVE ANYTHING, THE OLDER MAN THROWING ANYTHING?

7 A I KEPT SEEING SOMETHING WAS BEING THROWN TO THE REAR OF
8 THE CAR BECAUSE I COULDN'T TELL WHAT IT WAS BECAUSE
9 EVERYBODY WOULD GO BACK TO THE REAR OF THE CAR AND IT'S
10 ALMOST AS THOUGH, I DON'T KNOW WHAT IT WAS THAT THEY WERE
11 TRYING TO GET BUT HE WAS TRYING TO THROW SOMETHING OUT OF
12 REACH OF SOMEONE ELSE.

13 Q OKAY. AND THAT WOULD BE THE OLDER GENTLEMAN TRYING TO
14 THROW SOMETHING OUT OF REACH?

15 A RIGHT.

16 Q WHEN HE THREW THAT ITEM BACK THAT WOULD BE OVER TOWARD
17 THE DRIVING RANGE AND DID YOU OBSERVE WHETHER OR NOT THE
18 YOUNG MAN WENT?

19 A NOT REALLY. I DIDN'T REALLY PAY ATTENTION.

20 Q YOU WERE SOMEWHAT BLOCKED BECAUSE OF YOUR POSITION?

21 MS. CAMPBELL: OBJECTION, YOUR HONOR. SHE'S
22 LEADING.

23 THE COURT: LET THE WITNESS TESTIFY.

24 BY MS. CAMPBELL:

25 Q WHAT IF ANYTHING WAS BLOCKING YOUR VIEW? CAN YOU

SHERRY ABBOTT-DIRECT BY MS. CAMPBELL

1 EXPLAIN THAT TO THE JURY?

2 A WELL, BECAUSE I WAS AT AN ANGLE, ORIGINALLY I WAS
3 LOOKING AT THE TWO GENTLEMEN FIGHTING AND OF COURSE STILL
4 TRYING TO FIND MY CELL PHONE WHEN I SAW SOMETHING WAS BEING
5 TRIED TO BE RETRIEVED. I DIDN'T REALLY OBSERVE WHO GOT WHAT
6 SO I DIDN'T REALLY SEE.

7 Q SO YOU WERE ABLE TO SEE WHAT HAPPENED BEHIND THE CAR?

8 A NO.

9 Q AS FAR AS ANY RETRIEVED ITEMS OR TACKLING?

10 A NO.

11 Q DID YOU KNOW ANY OF THESE PEOPLE AT THAT TIME?

12 A NO.

13 Q AND THE YOUNGER MAN THAT YOU SAW THAT RAN TOWARDS THAT
14 DIRECTION DID YOU SEE HIM COME BACK TOWARDS THE CAR
15 EVENTUALLY?

16 A YES.

17 Q AND WHERE DID YOU SEE HIM GO WHEN HE CAME BACK TOWARDS
18 THE CAR AFTER COMING OUT FROM BEHIND THE BACK OF THE CAR
19 WHERE MR. AND MRS. RIGGS WERE?

20 A HE GOT INTO THE PASSENGER SIDE FRONT DOOR.

21 Q WERE THERE ANY OTHER PEOPLE AROUND AT THIS POINT?

22 A UH-HUH.

23 Q BY THE TIME HE GOT BACK IN THE CAR?

24 A RIGHT. THERE WAS A LOT OF PEOPLE FROM THE DRIVING
25 RANGE THAT HAD RUN OVER. IN FACT ONE THAT WAS A BLACK

SHERRY ABBOTT-DIRECT BY MS. CAMPBELL

1 GENTLEMAN THAT ACTUALLY APPROACHED THE WINDOW AND SWUNG BACK
2 LIKE HE WAS GOING TO KNOCK ON THE WINDOW.

3 Q WHEN YOU SAY THERE WAS A BLACK GENTLEMAN THAT
4 APPROACHED THE CAR?

5 A HUH?

6 Q WHICH CAR WINDOW WAS HE APPROACHING?

7 A HE WAS APPROACHING THE FRONT PASSENGER WINDOW.

8 Q AND IS THAT THE SAME SIDE OF THE SAME DOOR THAT THE
9 PERSON, YOUNG GENTLEMAN, HAD BEEN IN THE FIGHT WAS GETTING
10 BACK INTO?

11 A YES.

12 Q WAS HE ALREADY BACK INTO THE CAR?

13 A YES.

14 Q WHEN DID YOU OBSERVE THE YOUNG MAN THAT GOT BACK IN THE
15 CAR THAT HAD RUN ACROSS THE STREET AND COME BACK. WHEN DID
16 HE GO?

17 A WHEN THE BLACK GENTLEMAN RAISED A GOLF CLUB AT HIM, HE
18 HELD UP A KNIFE AND YOU COULD SEE THE KNIFE CLEARLY AT THAT
19 POINT, RIGHT.

20 Q AND AGAIN THIS WENT ON FOR AWHILE AND YOU WERE JUST
21 ABLE TO SEE?

22 A RIGHT.

23 Q DID YOU HAVE A GENERAL DESCRIPTION OF THE MAN, THE
24 YOUNGER MAN THAT WAS FIGHTING WITH THE OLDER MAN?

25 A UH-HUH.

SHERRY ABBOTT-DIRECT BY MS. CAMPBELL

1 Q COULD YOU TELL IF HE WAS WHITE OR BLACK OR ANYTHING OF
2 THAT NATURE?

3 A HE WAS WHITE. HE WAS A LOT THINNER.

4 MS. CAMPBELL: BEG THE COURT'S INDULGENCE.

5 BY MS. CAMPBELL:

6 Q AND WHEN THEY RAN TO THE BACK OF THE CAR COULD YOU SEE
7 THE DEFENDANT OR ANYTHING ELSE, WHAT WAS GOING ON BACK
8 THERE?

9 A THE ONLY THING I COULD SEE WAS THAT THE OLDER GENTLEMAN
10 KEPT JUMPING BACKWARDS AS IF, I THOUGHT HE WAS THROWING
11 PUNCHES AND IT WASN'T UNTIL AFTERWARD THAT WHEN THE COUPLE
12 TOOK OFF IN THEIR CAR AND I GOT OUT OF THE CAR. THEN I
13 LEARNED THAT HE HAD BEEN STABBED. WHEN HE WAS, IT LOOKED
14 LIKE HE WAS TRYING TO GET AWAY.

15 Q RIGHT. AND YOU THOUGHT IT WAS PUNCHES?

16 A RIGHT.

17 Q AND THE FIRST?

18 A WHEN HE HELD IT UP AND THE GUY WITH THE GOLF CLUB WAS
19 GOING TO HIT THE WINDOW OUT.

20 Q YOU MENTIONED THERE WAS A COUPLE, A YOUNGER WHITE
21 FEMALE INVOLVED?

22 A YES.

23 Q WHERE WAS SHE WHEN YOU OBSERVED HER THERE AT THE SCENE?

24 A SHE WAS ON THE SIDE OF THE CAR. I DIDN'T REALLY PAY
25 ATTENTION TO HER BECAUSE THE MAIN COMMOTION WAS THE TWO MEN

SHERRY ABBOTT-DIRECT BY MS. CAMPBELL

1 FIGHTING AND THROWING SOMETHING AWAY BUT THEN HE AND SHE
2 ENDED UP IN THE DRIVERS' SEAT AND SHE'S THE ONE THAT
3 ACTUALLY DROVE THE CAR AWAY.

4 Q AND THE ONLY PEOPLE THAT YOU OBSERVED IN CARS THAT
5 DROVE AWAY WERE WHO, WHICH ONES?

6 A THE YOUNG LADY AND THE DEFENDANT.

7 Q AND WHICH WAY DID THEY GO?

8 A THEY WENT EAST.

9 Q ON WHAT ROAD?

10 A ON SUMTER HIGHWAY.

11 Q SUMTER HIGHWAY, GARNER'S FERRY ROAD?

12 A RIGHT.

13 Q AND THAT WOULD BE OUT TOWARD THE HOSPITAL, CORRECT?

14 A RIGHT.

15 Q DID YOU THAT DAY TALK TO THE POLICE BRIEFLY?

16 A I DID. I WAS THE ONLY ONE THAT ACTUALLY HAD THE TAG
17 NUMBER BECAUSE I SAW THE CAR DRIVE OFF. TWO BALCK MEN HAD
18 ACTUALLY CHASED THEM AND THEY CAME BACK.

19 Q AND THEY WERE RIGHT TO HELP?

20 A RIGHT.

21 MS. CAMPBELL: I DON'T HAVE ANYTHING ELSE.

22 THE COURT: ALL RIGHT. CROSS-EXAMINATION.

23 MS. SAMPSON: THANK YOUR HONOR. PLEASE THE COURT.

24 CROSS-EXAMINATION BY MS. SAMPSON:

25 Q GOOD AFTERNOON. ALL RIGHT, MS. ABBOTT, YOU STATED THAT

SHERRY ABBOTT-CROSS BY MS. SAMPSON

1 YOU SAW THE TWO GENTLEMEN KIND OF STRUGGLING?

2 A UH-HUH.

3 Q IS IT TRUE THAT AT SOME POINT YOU THOUGHT THEY WERE
4 STRUGGLING OVER A PURSE?

5 A I DIDN'T KNOW WHAT THEY WERE STRUGGLING OVER.

6 Q DO YOU REMEMBER TALKING TO SOMEONE FROM OUR OFFICE, A
7 LITTLE BLONDE WOMAN, AN INVESTIGATOR?

8 A I REMEMBER I TALKED TO SOMEBODY OVER THE TELEPHONE.

9 Q OVER THE TELEPHONE YOU TALKED TO. . .

10 A TALKED TO SOMEBODY BUT I DON'T KNOW WHO IT WAS AND I
11 DIDN'T KNOW WHO THEY REPRESENTED.

12 Q DO YOU REMEMBER TALKING TO LEE COGGIOLA?

13 A IT'S POSSIBLE.

14 Q IN JANUARY?

15 A IT'S POSSIBLE.

16 Q DO YOU REMEMBER TELLING HER THAT YOU THOUGHT THEY WERE
17 STRUGGLING OVER A PURSE?

18 A I SAW THEY WERE STRUGGLING OVER SOMETHING. I DON'T
19 KNOW WHAT IT WAS. I MEAN, IT COULD HAVE VERY WELL BEEN THE
20 PURSE OR THE KEYS. I WASN'T SURE.

21 Q YOU WEREN'T SURE OF THAT AND DID YOU EVER SEE, YOU DID
22 NOT SEE MR. ELDERS OR ANYONE ELSE JUMP ON MRS. RIGGS, DID
23 YOU?

24 A MR. ELDERS JUMP?

25 Q OR ANYBODY JUMP ON MRS. RIGGS?

STEVEN REEVES-DIRECT BY MR. JOPHLIN

1 A MR. RIGGS THE OLDER, NO, I DIDN'T SEE THAT.

2 Q AND I BELIEVE YOU SAID YOU WERE MORE FOCUSED ON THE
3 FIGHT BETWEEN THE TWO MEN?

4 A YES.

5 Q WERE YOU ABLE TO SEE OR DID YOU SEE ANYONE TAKING A
6 PURSE FROM MRS. RIGGS?

7 A NOT THAT I REMEMBER.

8 MS. SAMPSON: NO FURTHER QUESTIONS, YOUR HONOR.

9 THE COURT: REDIRECT.

10 MS. CAMPBELL: NO, SIR. THAT'S ALL.

11 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

12 STEPHEN REEVES, BEING FIRST
13 DULY SWORN, TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION BY MR. JOPHLIN:

15 Q DEPUTY REEVES, I'M SORRY. WHERE DO YOU WORK?

16 A RICHLAND COUNTY SHERIFF'S DEPARTMENT.

17 Q AND WHAT IS YOUR POSITION THERE?

18 A I'M A PATROL DEPUTY, ROAD DEPUTY.

19 Q OKAY. AS FAR AS YOUR DUTIES, WHAT DOES THAT ENTAIL?

20 A IT BASICALLY ENTAILS ANSWERING ANY DISPATCH CALLS, JUST
21 CALLS FOR SERVICE, ENTAILS PATROLLING AREAS. I WORK IN
22 REGION ONE WHICH IS THE LOWER SIDE, LOWER RICHLAND AREA,
23 PLACE TO LOOK OUT FOR CRIME.

24 Q AND WHERE DID YOU WORK APRIL OF LAST YEAR?

25 A APRIL OF LAST YEAR I WAS WORKING LOWER RICHLAND AREA.

STEVEN REEVES-DIRECT BY MR. JOPHLIN

1 Q OKAY. AND DID YOU HAVE AN INCIDENT THAT OCCURRED ON
2 APRIL 17TH LAST YEAR?

3 A YES, SIR.

4 Q WHAT HAPPENED?

5 A TO BEGIN WITH I WAS THE SECOND OFFICER TO RESPOND. I
6 BELIEVE I WAS THE SECOND OFFICER TO RESPOND TO THIS CALL AT
7 THE CORNER OF GARNER'S FERRY AND OLD, EXCUSE ME, OLD
8 GARNER'S FERRY PERTAINING TO THE CALL WE GOT WAS A CAR
9 JACKING AND THE DEPUTY NIMMONS WAS THE FIRST ONE TO RESPOND
10 THERE. I WAS BASICALLY THE BACKUP OFFICER, TALKED TO
11 PEOPLE, SECURED THE SCENE.

12 Q SHOW YOU REAL QUICK THIS IS STATE'S EXHIBIT NO. 21.
13 WHAT DOES THIS DEPICT?

14 A YES, SIR, RIGHT THERE IN THE FRONT OF THE ROAD. OKAY.

15 Q OKAY. AND WERE YOU THERE WHILE THE VICTIM'S CAR WAS
16 STILL AT THE LOCATION?

17 A THE VICTIM'S CAR WAS NOT THERE WHEN I GOT THERE.

18 Q OKAY. AND WHAT HAPPENED LATER ON THAT NIGHT?

19 A LATER THAT EVENING, I CAN'T TELL YOU THE TIME I'M, I
20 DON'T HAVE ANY PAPERWORK IN FRONT OF ME HERE. LATER THAT
21 EVENING I DID NOTICE THE VEHICLE MATCHING THE DESCRIPTION.
22 I WAS ON BLUFF ROAD RIGHT AT IDLEWILD AND NOTICED THE
23 VEHICLE MATCHING THE DESCRIPTION OF THE CAR JACKING AND I
24 GOT BEHIND THE VEHICLE AND FOLLOWED IT FOR A LITTLE WHILE
25 AND I THINK IT WAS A BUMPER STICKER ON IT AND THE TAG NUMBER

STEVEN REEVES-DIRECT BY MR. JOPHLIN

1 MATCHED THE TAG THAT WAS GIVEN.

2 Q WOULD IT HELP TO REFRESH YOUR MEMORY IF YOU LOOKED AT
3 YOUR REPORT?

4 A YES.

5 Q AND WHAT AREA OF TOWN WAS THIS IN THAT YOU PROCEEDED ON
6 THIS CAR CHASE?

7 A IT STARTED AT BLUFF ROAD IDLEWILD WHICH IS A LANDMARK
8 IS THE U.S.C. STADIUM DOWN IN AN AREA WHERE I WAS. I
9 NOTICED THE CAR RIGHT THERE AT BLUFF ROAD. I GOT BEHIND THE
10 CAR AND IDLEWILD WHICH RUNS BETWEEN BLUFF AND SHOP ROAD TO
11 THE LEFT ON SHOP ROAD. AT THAT TIME I RADIOED OUR DISPATCH,
12 TOLD THEM I WAS BEHIND THE VEHICLE THAT WAS STOLEN EARLIER
13 THAT NIGHT AND THEY CONFIRMED THE TAG, TAG NUMBER. I GAVE
14 646 "E""D""N" AND I PROCEEDED TO FOLLOW THE VEHICLE AND HAD
15 A UNIT HEADING MY WAY BECAUSE THAT WAS THE VEHICLE THAT THE
16 SUSPECT WAS PROBABLY DRIVING.

17 Q LET ME SHOW YOU A COUPLE PICTURES. IS THIS THE LICENSE
18 TAG ON THE CAR YOU WERE CHASING THAT NIGHT?

19 A YES, SIR.

20 Q AND DOES THIS PICTURE FAIRLY, DO ALL THE PICTURES
21 FAIRLY AND ACCURATELY DEPICT THAT VEHICLE YOU WERE CHASING
22 THAT NIGHT?

23 A YES, SIR.

24 MR. CAMPBELL: YOUR HONOR, WE'D LIKE TO INTRODUCE
25 STATE'S EXHIBITS 23 AND 24.

STEVEN REEVES-DIRECT BY MR. JOPHLIN

1 MS. SAMPSON: WITHOUT OBJECTION.

2 THE COURT: WITHOUT OBJECTION STATE'S 23 AND
3 STATE'S 24.

4 (THEREUPON, THE TWO PHOTOGRAPHS OF THE CAR WERE MARKED
5 STATE'S EXHIBITS NOS. 23 AND 24 AND ENTERED INTO EVIDENCE.)

6 MS. CAMPBELL: PERMISSION TO PUBLISH.

7 THE COURT: ALL RIGHT.

8 BY MS. CAMPBELL:

9 Q AND DURING THIS CHASE DID YOU ACTIVATE THE BLUE LIGHT
10 OR SIRENS OR SHOW ANY KIND OF DISPLAY THAT YOU WERE TRYING
11 TO STOP THIS?

12 A YES, SIR. I CALLED THE VEHICLE FROM IDLEWILD AND SHOP
13 ROAD TO GEORGE ROGERS BOULEVARD. AT THE TIME I DID LET
14 DISPATCH KNOW THAT I WAS BEHIND THIS VEHICLE AND IN ORDER TO
15 GET OTHER MARKED UNITS BY WAY AND WE ONE TIME GEORGE ROGERS
16 BOULEVARD STANDING TOWARDS ASSEMBLY WE WERE TURNING TO
17 ASSEMBLY STREET. WE TOOK A RIGHT ON ROSEWOOD DRIVE AND THE
18 WHOLE TIME I WAS LETTING MY DISPATCH KNOW WHERE I WAS. WE
19 TOOK A RIGHT ON ROSEWOOD, WENT UP THE STREET MAYBE A QUARTER
20 MILE ORIGINALLY UNTIL WE TOOK A RIGHT ON INERIOR STREET IS
21 WHEN THE VEHICLE BASICALLY FLED AT A HIGH RATE OF SPEED.
22 THAT'S WHEN I INITIATED MY BLUE LIGHT AND SIREN.

23 Q APPROXIMATELY HOW LONG DID THIS CHASE GO ON FOR?

24 A APPROXIMATELY ABOUT 10 MINUTES.

25 Q AND WHERE DID YOU LAST SEE THE BURGUNDY VEHICLE YOU

MICHAEL RUHL DIRECT BY MS. CAMPBELL

1 WERE CHASING?

2 A I LAST SAW THE VEHICLE WE PROCEEDED DOWN THE INTERIOR
3 STREET SEE HERE PLACE OF RESIDENCE, PLENTY OF TURNS, RUN A
4 STOP SIGN AND EVERYTHING. LAST PLACE I SAW THE VEHICLE WAS
5 AROUND GLEN HAVEN. AGAIN I'M NOT SURE THAT'S GLEN HAVEN
6 STREET OR DRIVE. IT'S GLEN HAVEN AND EDMOND STREET I
7 BELIEVE DOWN IN THE ROSEWOOD AREA, SOUTH BELTLINE AREA AND
8 THAT'S THE LAST TIME I SAW THE TAIL LIGHT SO.

9 Q AND DURING THIS WHOLE TIME HOW WAS THE VEHICLE DRIVING
10 AS FAR AS SAFETY AND DRIVING ON THE ROAD?

11 A THE VEHICLE WAS GOING A VERY HIGH RATE OF SPEED BACK
12 THROUGH A RESIDENTIAL NEIGHBORHOOD. I CAN'T TELL YOU HOW
13 MANY STOP SIGNS THE VEHICLE RAN WITH DISREGARD FOR ANYTHING.
14 THANKFULLY THERE WAS NO TRAFFIC OUT THAT NIGHT. I LOST THE
15 VEHICLE BECAUSE I WAS STOPPING AT MOST STOP SIGNS BECAUSE I
16 DIDN'T WANT TO GET HIT BY A VEHICLE. IT WAS VERY CARELESS,
17 NO REGARD FOR ANYTHING.

18 MS. OWINGS: NOTHING FURTHER, YOUR HONOR.

19 THE COURT: ALL RIGHT. CROSS-EXAMINATION.

20 MS. SAMPSON: NO QUESTIONS, YOUR HONOR.

21 THE COURT: ALL RIGHT, SIR. YOU MAY STEP DOWN.

22 MS. CAMPBELL: CALL DEPUTY RUHL.

23 / / /

24 / / /

25 / / /

MICHAEL RUHL DIRECT BY MS. CAMPBELL

1 MICHAEL G. RUHL, BEING FIRST
2 DULY SWORN, TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION BY MS. CAMPBELL:

4 Q MR. RUHL, WHERE ARE YOU CURRENTLY EMPLOYED?

5 A I'M CURRENTLY EMPLOYED WITH THE RICHLAND COUNTY
6 SHERIFF'S DEPARTMENT. DETECTIVE PROTECTION. MY JOB IS
7 MAKING SURE THEY DON'T HAVE ANY INTERNAL THEFT IN THEIR
8 OFFICE.

9 Q BACK IN APRIL OF LAST YEAR WHERE WERE YOU EMPLOYED?

10 A RICHLAND COUNTY SHERIFF'S DEPARTMENT.

11 Q WHAT WOULD YOUR DUTIES INCLUDE THERE?

12 A MY AREAS WERE TO HELP THE CORPORAL SUPERVISE THE AREA,
13 THE REGION ONE AREA, PATROL MY ZONE AREA, PROTECT THE
14 CIVILIANS.

15 Q REGION ONE, WHAT AREA?

16 A THAT COVERS THE LOWER SIDE, LOWER RICHLAND AREA ALL THE
17 WAY AROUND TO ALL THE WAY OUT TO SUMTER COUNTY, 601.

18 Q THAT WOULD INCLUDE THE ROSEWOOD, BLUFF ROAD AREA?

19 A YES, MA'AM.

20 Q AS FAR OUT AS TO I BELIEVE WHERE MIKE'S PRODUCE IS?

21 A YES, MA'AM.

22 Q I WANT TO TURN YOUR ATTENTION TO THE EVENING OF APRIL
23 THE 17TH INTO THE EARLY MORNING HOURS OF APRIL 18TH?

24 A YES.

25 Q WHAT SHIFT WOULD THAT HAVE BEEN?

MICHAEL RUHL DIRECT BY MS. CAMPBELL

1 A IT'S BRAVO SHIFT, NIGHT SHIFT.

2 Q WHAT HOURS WOULD THAT TYPICALLY BE?

3 A SHIFT STARTS AT 6:45, GET OFF THE AT SEVEN AND 12 HOURS
4 SHIFT.

5 Q AND YOU'RE FAMILIAR WITH DEPUTY REEVES WHO JUST WALKED
6 IN HERE?

7 A YES, MA'AM.

8 Q WAS HE ALSO WORKING THAT SHIFT THIS NIGHT?

9 A YES, MA'AM.

10 Q SO I BELIEVE DEPUTY NIMMONS?

11 A YES, MA'AM.

12 Q DURING THE COURSE OF THIS EVENING DID YOU GET A REPORT
13 ABOUT A ROBBERY AND A STOLEN CAR?

14 A YES, MA'AM.

15 Q AND I WANT TO TURN YOUR ATTENTION THAT WAS A RED OR
16 BURGANDY COLORED CAR. I WANT TO SHOW YOU WHAT'S BEEN PUT IN
17 EVIDENCE STATE'S EXHIBIT 4 AND 23. DO YOU RECOGNIZE THAT?

18 A YES, MA'AM.

19 Q AND WAS THERE A BOLO OUT?

20 A FIRST OF ALL IT'S AN ALL POINT BOLO. IT'S A PERSON OR
21 VEHICLE REFERRED TO.

22 Q AND THAT EVENING WAS THERE A BOLO OUT FOR THIS CAR?

23 A YES, MA'AM. I REALLY THINK IT WAS A CAR JACKING STOLEN
24 PROPERTY.

25 Q DID YOU HAVE AN OCCASION TO COME IN CONTACT WITH THAT

MICHAEL RUHL DIRECT BY MS. CAMPBELL

1 VEHICLE DURING THE COURSE OF YOUR 12 HOUR SHIFT THAT NIGHT?

2 A YES, MA'AM.

3 Q AND WAS THAT IN THE EVENING HOURS OF THE 17TH OR THE
4 EARLY MORNING HOURS?

5 A IT WAS EARLY MORNING HOURS.

6 Q CAN YOU EXPLAIN TO THE JURY HOW YOU FOUND THAT
7 VEHICLE?

8 A WE HAD ALREADY BEEN, AFTER THE VEHICLE WAS LOST IN THE
9 CHASE I HAD BEEN PATROLLING THE AREA. WE HAD BEEN SEARCHING
10 SEEING IF WE COULD COME UP WITH THE VEHICLE, PATROL THE
11 OTHER. AS FAR AS SUBDIVISIONS AND BUSINESSES IN THE AREA
12 AND WHEN I WENT DOWN TO SOUTH BELTLINE STATION TOWARD
13 HEATHWOOD HALL IS WHEN I FOUND THE VEHICLE IN THE MIDDLE OF
14 THE ROAD.

15 Q AND YOU SAID SOUTH BELTLINE AREA, WHERE?

16 A ACTUALLY SOUTH BELTLINE EXTENSION.

17 Q SO SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
18 NO. 58. EXCUSE ME STATE'S EXHIBIT 38. DO YOU RECOGNIZE
19 THAT

20 A YES, MA'AM.

21 Q DOES THAT FAIRLY AND ACCURATELY DEPICT THE AREA WE'RE
22 REFERRING TO JUST NOW?

23 A YES, MA'AM.

24 MS. CAMPBELL: YOUR HONOR, AT THIS TIME I'D OFFER
25 INTO EVIDENCE.

MICHAEL RUHL DIRECT BY MS. CAMPBELL

1 THE COURT: WITHOUT OBJECTION THAT'S STATE'S 38;
2 IS THAT RIGHT?

3 MS. CAMPBELL: YES, SIR. STATE'S 38.

4 (THEREUPON, THE AN ENLARGED PHOTO OF BLUFF ROAD WAS
5 MARKED STATE'S EXHIBIT NO. 38 AND ENTERED INTO EVIDENCE.)

6 MS. CAMPBELL: YOUR HONOR, MAY THE WITNESS STEP
7 DOWN. YOU CAN KEEP YOUR VOICE UP WHILE YOU'RE TESTIFYING,
8 PLEASE, SIR.

9 BY MS. CAMPBELL:

10 Q COME DOWN HERE AND JUST SHOW IF YOU CAN COME ON THIS
11 SIDE SO THE COURT REPORTER CAN HEAR YOU BETTER.

12 A BASICALLY THIS IS A DIAGRAM OF THE BLUFF ROAD AND THIS
13 IS SOUTH BELTLINE DOWN HERE, MA'AM.

14 Q THAT'S SOUTH BELTLINE?

15 A YES, MA'AM.

16 Q AND THIS YELLOW LINE WHAT ROAD IS THAT?

17 A THAT'S BLUFF ROAD.

18 Q FIGURE EIGHT HERE, WHAT IS THAT?

19 A THAT IS I-77, CORRECTION, AND THAT'S THE ON AND OFF
20 RAMP FOR THE I-77 CORRIDOR.

21 Q YOU MENTIONED IN A MINUTE THAT YOU LOCATED THIS
22 AUTOMOBILE AND I'M SHOWING YOU WHEN, I SHOWED YOU STATE'S
23 EXHIBITS NO. 24 AND 25 PHOTOGRAPHS THAT A VEHICLE LOCATED
24 WHEN YOU FOUND IT ON THE EARLY MORNING HOURS OF THE 18TH?

25 A THE VEHICLE ALMOST RIGHT HERE TOWARDS THE END OF THE

MICHAEL RUHL DIRECT BY MS. CAMPBELL

1 MAP IT'S CLEAR IN HERE, THIS AREA, IN BLUE HERE IS ACTUALLY
2 SWAMP AREA AND YOU ACTUALLY DO THROUGH A STRAIGHT AWAY HERE
3 AND GOING TO GET SHORTLY PAST THE OPEN FIELD WHERE I SAW THE
4 VEHICLE RIGHT HERE ON THE EDGE OF THE MAP.

5 Q ON THE INTERSECTION OF BLUFF AND SOUTH BELTLINE IS
6 RIGHT HERE APPROXIMATELY HERE?

7 A YES, MA'AM.

8 Q WAS IT LOCATED IN THE ROADWAY OR BESIDE THE ROAD OR
9 WHAT?

10 A ACTUALLY IN THE ROADWAY.

11 Q WHEN YOU APPROACHED IT DID YOU OBSERVE ANY DAMAGE TO
12 THE CAR?

13 A NOT IMMEDIATELY. WHEN IT CAME UP AMERICAN FLAG PLATE I
14 KNEW IT WAS THE VEHICLE WE WERE LOOKING FOR SO I IMMEDIATELY
15 CALLED IT IN RESPONDING I DIDN'T NOTE ANY DAMAGE TO THE
16 VEHICLE UNTIL ACTUALLY I HAD ALREADY BEEN AROUND THE FRONT.
17 DOORS WERE TORE UP, LOOKED LIKE THEY HAD HIT SOMETHING.

18 Q WHEN YOU FIRST APPROACHED THE VEHICLE YOU CALLED HIM
19 BACK, DIDN'T YOU?

20 A YES, MA'AM.

21 Q WHY DIDN'T YOU DO THAT?

22 A BECAUSE I DIDN'T KNOW WHETHER THE VEHICLE WAS STILL
23 OCCUPIED OR NOT.

24 Q YOU WERE AWARE THAT PEOPLE HAD TAKEN THE VEHICLE OFF?

25 A YES, I KNEW THEY HAD ALREADY STABBED SOMEONE, YES,

MICHAEL RUHL DIRECT BY MS. CAMPBELL

1 MA'AM.

2 Q AS YOU REACHED THE VEHICLE AND YOU GOT BACK AGAIN AND
3 YOU APPROACHED THE VEHICLE WERE YOU ABLE TO TELL OR DID YOU
4 HAVE ANY IDEA HOW LONG THEY HAD BEEN THERE?

5 A I DON'T HAVE AN APPROXIMATE EIME. I KNEW IT HAD BEEN
6 THERE AFTER CHECKING TEH ENGINE IT WAS COLD THAT NIGHT HAD
7 ALREADY FORMED ON THE CAR AND GENERALLY IT TAKE THE CAR
8 ESPECIALLY RUNNING FOR A FACT IT USUALLY TAKES A WHILE TO
9 DO. I'D ESTIMATE ABOUT TWO HOURS.

10 Q SHOW YOU STATE'S 21, 22, 15 AND 16. YOU MENTIONED SOME
11 DAMAGE TO THE CAR?

12 A YES, MA'AM.

13 Q SHOW YOU THE FRONT RIGHT HEADLIGHT. IS THAT HOW IT
14 WAS, APPEARED WHEN YOU ACTUALLY GOT IT?

15 A I REMEMBER THERE WAS SOME DAMAGE, YES, MA'AM.

16 Q AND I'LL SHOW YOU THAT NO. 22?

17 A YES, MA'AM, I DID REMEMBER THAT.

18 Q THAT'S HOW IT WAS WHEN YOU FOUND IT?

19 A YES, MA'AM.

20 Q AND FINALLY THE EXTERIOR?

21 A YES, MA'AM.

22 Q DID YOU DO, YOU CAN GO BACK ON THE STAND?

23 A OKAY.

24 Q DID YOU PERSONALLY DO ANY KIND FO TESTING OR FORENSIC
25 WORK ON THE EXTERIOR OR THE INTERIOR OF THE VEHICLE THAT

MICHAEL RUHL DIRECT BY MS. CAMPBELL

1 NIGHT?

2 A NO, MA'AM.

3 Q WHAT IN FACT DID YOU DO, PROPER PROCEDURE AS FAR AS
4 HAVING THE CAR EXAMINED FOR A D.N.A. TEST SCREEN?

5 A I KNEW WE SINCE WE HAD THE VEHICLE APPEARED TO BE THAT
6 THE BEST PROCEDURE WOULD CALL IT IN AND HAVE IT TAKEN TO THE
7 LAB TO TEST IT WHICH MEANS WE DIDN'T EVEN HANDLE THE CAR.

8 Q SO YOU DIDN'T DO ANY INSPECTION OF THE INTERIOR OF THE
9 CAR YOURSELF?

10 A ONLY FROM LOOKING INSIDE FROM THE OUTSIDE OF THE CAR.

11 Q SO AT THAT POINT WOULD IT HAVE BEEN TOWED TO
12 HEADQUARTERS?

13 A YES, MA'AM.

14 Q AND THEN THE FORENSIC LAB COULD DO ANY TESTING IT NEED
15 TO DO AT POINT?

16 A YES, MA'AM, WITHOUT ME HAVING TO HANDLE IT.

17 MS. CAMPBELL: THANK YOU, SIR.

18 THE COURT: CROSS-EXAMINATION.

19 MS. OWINGS: NO QUESTIONS, YOUR HONOR.

20 THE COURT: SIR, YOU MAY STEP DOWN.

21 MS. OWINGS: STATE WOULD CALL STAN RICHARDS.

22 STAN RICHARDS, BEING FIRST
23 DULY SWORN, TESTIFIED AS FOLLOWS:

24 DIRECT EXAMINATION BY MS. CAMPBELL:

25 Q THANK YOU INVESTIGATOR RICHARDS. WHERE DO YOU WORK?

STAN RICHARDS-DIRECT BY MS. CAMPBELL

1 A WITH RICHLAND COUNTY SHERIFF'S DEPARTMENT.

2 Q AND WHAT IS YOUR POSITION THERE?

3 A I'M A CRIME SCENE INVESTIGATOR.

4 Q AS PART OF THAT WHAT DOES IT ENTAIL?

5 A WHAT I DO IS IDENTIFY, COLLECT AND PRESERVE EVIDENCE AT
6 CRIME SCENES AND WHENEVER POSSIBLE I INTERPET THE CRIME
7 SCENE BASED ON PHYSICAL EVIDENCE THAT I COLLECT.

8 Q AND DID YOU HAVE AN INCIDENT ON APRIL 17TH OF LAST YEAR
9 TO COME IN CONTACT WITH VICTIMS IN THE MR. AND MRS. RIGGS?

10 A YES, I DID.

11 Q AND WHERE DID YOU COME IN CONTACT WITH THEM?

12 A I WAS REQUESTED TO RESPOND TO RICHLAND MEMORIAL
13 HOSPITAL TO PHOTOGRAPH THE VICTIMS' INJURIES.

14 Q SHOW YOU A FEW PICTURES HERE. I SHOW YOU STATE'S
15 EXHIBITS 35, 34, 14, 13, 12, AND 11. ARE THESE SOME OF THE
16 PHOTOS YOU TOOK AT THE HOSPITAL OF THE VICTIMS?

17 A YES, THEY ARE.

18 Q AND THOSE PICTURES FAIRLY AND ACCURATELY DEPICT THE
19 CONDITION OF THE VICTIMS WHEN YOU CAME IN CONTACT WITH THEM?

20 A YES, THEY DO.

21 Q STATE WOULD OFFER INTO EVIDENCE AND I BELIEVE THERE IS
22 ONLY ONE HERE THAT HAS NOT BEEN PREVIOIUSLY ENTERED. THAT
23 WOULD BE STATE'S EXHIBIT NO. 14?

24 MS. SAMPSON: WITHOUT OBJECTION.

25 THE COURT: WITHOUT OBJECTION STATE'S 14 IS IN THE

STAN RICHARDS-DIRECT BY MS. CAMPBELL

1 RECORD.

2 (THEREUPON, THE PHOTOS OF MR. RIGGS WERE MARKED STATE'S
3 EXHIBIT NO. 14 AND ENTERED INTO EVIDENCE.)

4 BY MS. OWINGS:

5 Q WHAT DOES THAT PHOTO DEPICT?

6 A I BELIEVE THAT DEPICTS THE RIGHT HAND AND WRIST OF
7 MR. RIGGS.

8 MS. OWINGS: MAY I PUBLISH THIS ONE PICTURE?

9 THE COURT: YOU MAY.

10 BY MS. OWINGS:

11 Q AND THE NEXT DAY DID YOU HAD ANY CONTACT WITH THIS
12 CASE?

13 A YES, MA'AM, ABOUT 7:30 IN THE MORNING OF APRIL THE
14 18TH, I RECEIVED INTO OUR POSSESSION THAT MEANS PUT INTO OUR
15 GARAGE A VEHICLE AND IT WAS BURGUNDY IN COLOR LINCOLN TAG
16 NUMBER 646 "E" "X" "N" FROM --

17 Q THAT'S YOU READING TO REFRESH YOUR MEMORY BEFORE YOU
18 READ OVER YOUR NOTES FROM THIS REPORT?

19 A THAT WAS MY NOTES.

20 Q I'M GOING TO SHOW YOU SEVERAL PICTURES AND ASK IF THESE
21 ARE THE PICTURES YOU TOOK WHEN YOU PROCESSED --

22 A I DID NOT PROCESS.

23 Q OKAY. BUT YOU DID RECEIVE THIS CAR INTO EVIDENCE?

24 A I RECEIVED THE CAR INTO THE GARAGE AND LOGGED IT IN.

25 Q YOU LOGGED IT IN?

STAN RICHARDS-DIRECT BY MS. CAMPBELL

1 A YES, MA'AM.

2 Q WHAT DOES THAT ENTAIL WHEN YOU LOG IT IN?

3 A JUST PUTTING ON THAT LOG THE TIME THAT IT GOT THERE,
4 WHO BROUGHT IT THERE, THE CASE NUMBER, GENERAL INFORMATION
5 AND THEN THE GARAGE WAS LOCKED AGAIN BY MYSELF AND SECURED.

6 Q OKAY. SO IT'S SECURED?

7 A YES, MA'AM.

8 Q ALL THE WHILE THE VEHICLE IS INSIDE IT?

9 A YES, SIR.

10 MS. OWINGS: BEG THE COURT'S INDULGENCE.

11 THE COURT: ALL RIGHT.

12 MS. OWINGS: NOTHING FURTHER, YOUR HONOR.

13 THE COURT: ALL RIGHT. CROSS-EXAMINATION.

14 MS. SAMPSON: THANK YOUR HONOR. IF IT PLEASES THE
15 COURT.

16 CROSS-EXAMINATION BY MS. SAMPSON:

17 Q INVESTIGATOR RICHARDS, I JUST HAVE A FEW QUESTIONS. I
18 UNDERSTAND YOU TESTIFIED EARLIER THAT ON THE 17TH OF APRIL
19 YOU JUST HAD THE OPPORTUNITY TO GO TO THE RICHLAND COUNTY
20 MANAGEMENT ROOM, IS THAT CORRECT?

21 A THAT'S CORRECT.

22 Q AND THAT'S WHERE YOU ACTUALLY PHOTOGRAPHED THE VICTIM'S
23 SECURED PROPERTY?

24 A THAT'S CORRECT.

25 Q AND I BELIEVE YOU MADE A REPORT OF WHAT YOU OBSERVED;

STAN RICHARDS-CROSS BY MS. SAMPSON

1 IS THAT CORRECT?

2 A YES, MA'AM.

3 Q DO YOU HAVE A COPY OF THAT REPORT WITH YOU?

4 A YES, MA'AM.

5 Q I BELIEVE YOU NOTE IN THE RECORD THAT YOU PHOTOGRAPHED
6 A SMALL KNIFE WOUND TO THE RIGHT SIDE CHEST AND A CUT TO THE
7 RIGHT WRIST OF MR. RIGGS; IS THAT CORRECT?

8 A THAT'S CORRECT.

9 Q LACERATIONS OF THE RIGHT KNEE AND BRUISES TO THE RIGHT
10 FOOT OF MRS. RIGGS?

11 A THAT'S CORRECT.

12 Q AND YOU ALSO NOTED THAT ALL THE INJURIES NON-LIFE
13 THREATENING?

14 A THAT WAS MY OPINION, YES, MA'AM.

15 Q THAT YOUR OPINION AT THE TIME?

16 MS. SAMPSON: THANK YOU, SIR.

17 I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

18 THE COURT: ALL RIGHT. REDIRECT ANYTHING?

19 MS. OWINGS: NOTHING FURTHER, YOUR HONOR.

20 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

21 (THEREUPON, THERE WAS A BRIEF RECESS IN THE TRIAL OF
22 THIS CASE.)

23 THE COURT: READY TO PROCEED?

24 MS. CAMPBELL: STATE'S READY.

25 THE COURT: DEFENSE READY?

ZANE PADGETT-DIRECT BY MS. CAMPBELL

1 MS. SAMPSON: YES, SIR, YOUR HONOR.

2 THE COURT: ALL RIGHT. GET THE JURY BACK IN,
3 PLEASE.

4 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
5 JURY.)

6 THE COURT: LADIES AND GENTLEMEN, WE'LL CONTINUE
7 WITH THE SOLICITOR'S NEXT WITNESS, PLEASE.

8 MS. CAMPBELL: MAY IT PLEASE THE COURT, CALL
9 MR. PADGETT.

10 ZANE PADGETT, BEING FIRST DULY
11 SWORN, TESTIFIED AS FOLLOWS:

12 DIRECT EXAMINATION BY MS. CAMPBELL:

13 Q LIEUTENANT PADGETT, WHERE ARE YOU EMPLOYED?

14 A I'M EMPLOYED RICHLAND COUNTY SHERIFF'S DEPARTMENT.

15 Q WHAT DO YOU DO THERE, SIR?

16 A I'M A LIEUTENANT.

17 Q AS THE SUPERVISOR OVER THE FORENSIC LABORATORY, CAN YOU
18 TELL GENERALLY WHAT'S GOING TO THE FORENSIC LABORATORY?

19 A THE FORENSIC LABORATORY GENERALLY PROCESSES CRIME
20 SCENES. WE ACTUALLY GO TO THE SCENE. WE DO CRIME SCENE
21 COLLECTION OF ALL THE EVIDENCE WE COLLECT AND DOCUMENT, WE
22 BRING BACK AND DO FURTHER ANALYSIS AND IT'S PRETTY MUCH LIKE
23 YOU SEE ON T.V. BUT NOT QUITE.

24 Q ALL RIGHT. ABOUT HOW MANY PEOPLE WORK IN THE LAB?

25 A ABOUT 23.

ZANE PADGETT-DIRECT BY MS. CAMPBELL

1 Q ONE TENTH OF THEM ARE ACTUALLY CRIME SCENE
2 INVESTIGATORS. YOU ALSO HAVE CRIME SCENE INVESTIGATORS.
3 YOU ALSO HAVE D.N.A. ANALYSTS?

4 A WE HAVE BALLISTICS ANALYSIS, D.N.A. ANALYSIS, .

5 Q CAN YOU TELL THE JURY A LITTLE BIT ABOUT YOUR TRAINING
6 AND EDUCATION?

7 A I STARTED WITH THE LABORATORY ABOUT FOUR YEARS AGO,
8 HAVE BEEN IN THE LAB EVER SINCE. I'VE BEEN IN CHARGE OF THE
9 LAB THE LAST 16 YEARS AND I HAVE BEEN TO JUST ABOUT EVERY
10 SCHOOL IN FORENSICS. ALTHOUGH WE'RE CONSTANTLY TRAINING
11 BECAUSE THE COURSES KEEP CHANGING FINGERPRINT, BLOOD PATTERN
12 ANALYSIS.

13 Q AND CRIME SCENE INVESTIGATION ARE YOU TRAINED AS FAR AS
14 PHOTOGRAPHING A CRIME SCENE OR A CAR THAT MAY BE RECOVERED
15 FROM A CRIME SCENE?

16 A YES, MA'AM, ABSOLUTELY.

17 Q AND IN ADDITION TO THAT ARE YOU ALSO TRAINED ON HOW TO
18 COLLECT LATENT PRINTS?

19 A LATENT PRINTS WE ARE TRYING.

20 Q WHEN YOU LIFT A LATENT PRINT HOW IS THAT DIFFERENT FROM
21 WHAT'S KNOWN AS A KNOWN PRINT?

22 A A LATENT PRINT IS THE ACTUAL TERM LATENT SO IT'S A
23 LATENT FINGERPRINT THAT YOU CAN'T SEE WITH THE NAKED EYE.
24 YOU NEED TO DO SOMETHING WITH A CHEMICAL OR AND THEN YOU CAN
25 LIFT IT.

ZANE PADGETT-DIRECT BY MS. CAMPBELL

1 Q AS FAR AS YOU I THINK THAT ALSO OR ANY MEMBER OF YOUR
2 UNIT, ARE YOU ALSO TRAINED AS FAR AS TRAINING TO COLLECT
3 EVIDENCE FOR SAY FURTHER D.N.A. TESTING OR SOMETHING?

4 A ABSOLUTELY. D.N.A. HAS COME PRETTY FAR IN RECENT YEARS
5 AND WE USE IT MORE THAN FINGERPRINTS. NOW D.N.A. COLLECTION
6 IS MUCH EASIER BECAUSE YOU BASICALLY WILL TAKE A SWAB IF YOU
7 WANT TO COLLECT THE D.N.A. THEN YOU CAN ANALYZE IT.

8 MS. CAMPBELL: YOUR HONOR, AT THIS TIME I'D OFFER
9 HIM AS AN EXPERT IN CRIME SCENE INVESTIGATION INCLUDING THE
10 AREAS I'VE JUST COVERED.

11 THE COURT: ANY OBJECTION OR CROSS-EXAMINATION TO
12 QUALIFICATION?

13 MS. OWINGS: NO, YOUR HONOR.

14 THE COURT: ALL RIGHT. MR. FOREMAN, LADIES AND
15 GENTLEMEN, LET ME EXPLAIN VERY BRIEFLY TO YOU THAT GENERALLY
16 SPEAKING WITNESSES ARE NOT PERMITTED TO VOICE THEIR
17 OPINIONS. THEY CAN TESTIFY TO WHAT THEY SEE AND HEAR AND
18 SENSE AND THINGS LIKE THAT. ONE EXCEPTION TO THAT GENERAL
19 RULE IS WHEN A WITNESS IS QUALIFIED AS AN EXPERT. THAT
20 GIVES THAT WITNESS THE RIGHT TO VOICE HIS OR HER OPINION IN
21 THAT PARTICULAR FIELD. I'LL HAVE SOME FURTHER INSTRUCTIONS
22 FOR YOU ABOUT EXPERT TESTIMONY THE AT CONCLUSION OF THE CASE
23 BUT THIS WITNESS HAS BEEN FOUND TO BE AN EXPERT IN THE FIELD
24 OF CRIME SCENE INVESTIGATION AND THE OTHER FIELD THAT HE HAS
25 BEEN OFFERED IN. SO, SOLICITOR, YOU MAY CONTINUE.

ZANE PADGETT-DIRECT BY MS. CAMPBELL

1 MS. CAMPBELL: THANK YOUR HONOR.

2 BY MS. CAMPBELL:

3 Q LIEUTENANT, EACH CRIME SCENE INVESTIGATOR THAT YOU HAVE
4 DO THEY ALSO RECEIVE TRAINING IN THE AREA?

5 A YES, WE HAVE A FORMAL TRAINING PROGRAM IN THE
6 LABORATORY. IT'S A STEP-BY-STEP PROGRAM. WE DO A LOT OF
7 READING, A LOT OF PAPER TESTING, A LOT OF HAND ON TESTING
8 UNTIL WE FEEL THEY GET TO THE POINT OF THINKING THEY'RE
9 COMPETENT, SURE THAT THEY KNOW THE CORRECT METHOD OF WHAT TO
10 DO.

11 Q I WANT TO TURN YOUR ATTENTION TO SOME MATTERS THAT
12 YOU'VE HANDLED BY YOURSELF, SIR, SPECIFICALLY, DID YOU HAVE
13 AN OCCASION ON I BELIEVE IT WAS MAY THE 19TH OF 2005 TO
14 RELEASE AN AUTOMOBILE TO A DWIGHT RIGGS?

15 A YES, MA'AM, I DID BUT THERE IS A TYPO ERROR ON THAT
16 SHEET. IT WAS APPARENTLY APRIL THE 19TH.

17 A RIGHT. THAT WAS MY MISTAKE. IT'S JUST A TYPO.

18 Q CAN YOU TELL THE JURY WHAT HAD BEEN DONE TO THE CAR UP
19 TO THAT POINT, WHY YOU WERE RELEASING IT TO MR. RIGGS ON
20 THE 19TH

21 A THAT AFTERNOON OF THE 19TH INVESTIGATOR DEBRA BRADLEY
22 HAD PROCESSED THE CAR THAT MORNING. WHEN I SAY PROCESSED
23 SHE HAD PHOTOGRAPHED IT, TRIED TO COLLECT FINGERPRINTS FROM
24 IT, D.N.A., COLLECT EVIDENCE FROM IT OUTSIDE AND INSIDE THE
25 CAR. SHE'S ALSO ASSISTED BY ANOTHER INVESTIGATOR. ONCE

ZANE PADGETT-DIRECT BY MS. CAMPBELL

1 THEY HAD COMPLETED THEIR WORK IN THE CAR THERE WAS NO REASON
2 TO KEEP THE CAR ANY MORE SO LONG AS IT'S BEEN PHOTOGRAPHED.
3 SO I WAS BASICALLY OUT THERE AND GOING TO RELEASE IT TO THE
4 OWNER THAT AFTERNOON.

5 Q AND AS FAR AS YOU KNEW THAT AFTERNOON WHEN YOU MET WITH
6 MR. RIGGS HAD ANY SUSPECT, BE IT MALE OR FEMALE, BEEN
7 APPREHENDED IN THIS CASE AS FAR AS YOU KNOW?

8 A NOT TO MY KNOWLEDGE, NO, MA'AM.

9 Q CAN YOU TELL THE JURY WHAT HAPPENED?

10 A AS I RECALL WE HAD TO DO A LITTLE BIT OF WORK ON THE
11 CAR. I THINK THERE WAS SOMETHING WRONG WITH THE TIRE. WE
12 HAD TO DO SOMETHING WITH THE TIRE. SO IT TOOK A LITTLE
13 WHILE. WE GOT THE CAR OUT OF THE GARAGE. I WAS TALKING TO
14 MR. RIGGS AND I NOTICED THAT HIS FACIAL EXPRESSION, I MEAN,
15 JUST TOTALLY CHANGED. IT WAS ALMOST A LOOK OF SHOCK, A
16 LOOK OF NOT QUITE SCARED BUT HIS FACIAL EXPRESSION JUST
17 CHANGED. IT MADE ME ASK HIM, I WAS LOOKING AT WHERE HE WAS
18 LOOKING AT AN INDIVIDUAL FROM THE BACK PARKING LOT AT ABOUT
19 25 FEET AWAY. I ASKED HIM, I ASKED HIM IF HE RECOGNIZED
20 THAT SUBJECT THAT HE WAS LOOKING AT BECAUSE OF HE WAS
21 LOOKING AT THIS INDIVIDUAL HIS INITIAL EXPRESSION CHANGED
22 AND HE SAID TO ME OR WORDS TO THIS --

23 MS. OWINGS: OBJECTION, YOUR HONOR, HEARSAY.

24 THE COURT: NO, HE TESTIFIED. CROSS-EXAMINATION,
25 OVERRULED. GO AHEAD.

ZANE PADGETT-DIRECT BY MS. CAMPBELL

1 MS. CAMPBELL: THANK YOU, SIR.

2 THE WITNESS: AFTER I ASKED HIM IF HE RECOGNIZED
3 THE SUBJECT THAT WAS WALKING ACROSS THE PARKING LOT HE
4 STATED TO ME THAT WAS THE PERSON THAT STABBED HIM OR WORDS
5 TO THAT EFFECT.

6 BY MS. CAMPBELL:

7 Q AT THAT POINT WHAT IF ANYTHING DID YOU DO?

8 A I KIND OF STEPPED IN THE MIDDLE BETWEEN THEM AND KIND
9 OF JUST TOOK MR. RIGGS ASIDE AND LET EVERYTHING GO AND THE
10 INDIVIDUAL THAT WAS BEING ESCORTED IN I LET HIM GO INSIDE
11 THE SHERIFF'S DEPARTMENT.

12 Q DID YOU HAVE ANY IDEA WHO THAT INDIVIDUAL WAS WHEN YOU
13 LOOKED UP?

14 A NEVER SEEN HIM IN MY LIFE, NO, MA'AM.

15 Q AT THAT POINT DID YOU, DO YOU REMEMBER WHAT YOU JUST
16 TESTIFIED TO?

17 A I DID BECAUSE IT WASN AN EVENT. I THOUGHT IT WAS A
18 VERY IMPORTANT EVENT.

19 Q AND THEN WHEN HE OR ANYONE ELSE TOLD MR. RIGGS THAT
20 THAT PERSON HAD BEEN COMING THROUGH?

21 A NO ONE, EVEN NO ONE AT THE GARAGE KNEW THAT HE HAD BEEN
22 ARRESTED.

23 Q LATER ON THAT DAY DID YO UHAVE OCCASION TO MAKE CONTACT
24 WITH THE DEFENDANT IN THIS CASE, MR. RANDY CHARLES OR CHUCK
25 ELDERS?

ZANE PADGETT-DIRECT BY MS. CAMPBELL

1 A I DID.

2 Q WHAT WAS THE REASON YOU WERE MAKING CONTACT WITH HIM?

3 A HE WAS BROUGHT INTO THE LABORATORY AND I TOOK SOME
4 PHOTOGRAPHS OF HIM AND HIS INJURIES.

5 Q AND WERE YOU AWARE OF THE CIRCUMSTANCES SURROUNDING
6 THIS CASE?

7 A I WAS, YES, MA'AM.

8 Q AND I'LL SHOW YOU A SERIES OF PHOTOGRAPHS WHICH IS
9 GOING TO BE STATE'S EXHIBIT 34, EXCUSE ME, 26 THROUGH 34.
10 CAN YOU SEE IF YOU RECOGNIZE THOSE?

11 A . YES, MA'AM, THESE ARE COPIES OF THE PHOTOGRAPHS THAT I
12 TOOK THAT SAME AFTERNOON BETWEEN 1:34 AND 2:10.

13 Q 1:34 AND 2:10. WERE THOSE TAKEN AT THE SHERIFF'S
14 DEPARTMENT?

15 A IN MY LABORATORY.

16 Q WHO WAS THE SUBJECT TAKING PHOTOGRAPHS OF?

17 A THE DEFENDANT RANDY ELDERS.

18 MS. CAMPBELL: YOUR HONOR, AT THIS TIME I'D OFFER
19 INTO EVIDENCE.

20 THE COURT: THAT WAS 26 THROUGH 34.

21 MS. CAMPBELL: YES, SIR.

22 MS. OWINGS: WITHOUT OBJECTION, YOUR HONOR.

23 THE COURT: WITHOUT OBJECTION STATE'S 26 THROUGH
24 34 NOW IN EVIDENCE.

25 (THEREUPON, THE PHOTO OF A HAND WAS MARKED STATE'S

ZANE PADGETT-DIRECT BY MS. CAMPBELL

1 EXHIBIT NO. 26 AND PHOTOS OF THE DEFENDANT WERE MARKED
2 STATE'S EXHIBITS NO. 27 THROUGH 34 ENTERED INTO EVIDENCE.)

3 BY MS. CAMPBELL:

4 Q I'M GOING TO SHOW YOU THIS SERIES OF PHOTOGRAPHS.

5 MS. CAMPBELL: MAY HE STEP DOWN, SIR?

6 THE COURT: SURE. JUST KEEP YOUR VOICE UP,
7 PLEASE, SIR.

8 BY MS. CAMPBELL:

9 Q FIRST I WANT TO SHOW YOU STATE'S EXHIBIT 34. DO YOU
10 RECOGNIZE THAT?

11 A YES, I TOOK THAT THIS AFTERNOON. THAT'S JUST A FULL
12 FLASH SHOT.

13 Q YOU'RE GOING TO NEED TO SPEAK LOUDER. THE COURT
14 REPORTER MIGHT CAN HEAR YOU BUT I CAN'T. MY HEARING'S
15 GOING.

16 A OKAY, SIR.

17 Q WHY DON'T YOU COME ON THIS SIDE. STATE'S EXHIBIT 34
18 WHAT IS THAT?

19 A A PHOTOGRAPH. THAT'S THE FRONT OF THE FACE OF THE
20 DEFENDANT RANDY ELDERS.

21 Q WHY WAS IT IMPORTANT TO THIS INVESTIGATION THAT YOU
22 DOCUMENT ANY SCRATCHES OR MARKS?

23 A ANY TIME A PERSON GETS IN AN ALTERCATION MORE THAN
24 LIKELY HE'S GOING TO BE INJURED IN SOME WAY. YOU WANT TO
25 DOCUMENT IT AS SOON AS POSSIBLE.

ZANE PADGETT-DIRECT BY MS. CAMPBELL

1 Q AGAIN THAT WAS ON THE AFTERNOON OF. . .

2 A 12:32 IN THE AFTERNOON.

3 Q STATE'S EXHIBIT 33 DO YOU RECOGNIZE THAT?

4 A YES, I DO. STATE'S EXHIBIT 33 IS A, ACTUALLY HOLD IT
5 THIS WAY, THERE IS ANOTHER SCRATCH ACROSS THE RIGHT PART OF
6 HIS CHEST.

7 Q . SHOW YOU STATE'S EXHIBIT NO. 32. DO YOU RECOGNIZE
8 THAT?

9 A YES, MA'AM, IT'S AN ABRASION ON THE, LOOKS LIKE, THE
10 RIGHT CALF, BACK OF THE RIGHT ANKLE.

11 Q STATE'S EXHIBIT NO. 31?

12 A YES, MA'AM, THIS IS ALSO AN INJURY, ABRASION TO THE
13 KNEE.

14 Q STATE'S EXHIBIT NO. 30?

15 A NO. 30 IS ABRASION ON THE OTHER KNEE.

16 Q TWENTY-NINE IS A, LOOKS LIKE A, IT APPERAS TO BE A
17 FINGERNAIL SCRAPING OR A SCRATCH ON HIS LEFT FOREARM?

18 Q STATE'S EXHIBIT NO. 28?

19 A TWENTY-EIGHT MORE SCRATCHES.

20 MS. CAMPBELL: STATE'S EXHIBIT NUMBER, EXCUSE ME,
21 ONE I JUST REFERRED TO STATE'S EXHIBIT 29, YOUR HONOR.

22 THE WITNESS: TWENTY-NINE, SCRATCHING.

23 BY MS. CAMPBELL:

24 Q STATE'S EXHIBIT 28?

25 A TWENTY-EIGHT IS ALSO MORE ABRASIONS HERE AND THEN MORE

ZANE PADGETT-DIRECT BY MS. CAMPBELL

1 SCRATCHES ON THE ARM AREA.

2 Q STATE'S EXHIBIT 27?

3 A TWENTY-SEVEN, AGAIN MORE SCRATCHES. THEN YOU HAVE
4 ABRASION DOWN HERE.

5 Q STATE'S EXHIBIT NO. 26, HE'S GOT SOME ABRASIONS ON
6 THESE TWO OF THE KNUCKLE AREA AND THIS KNUCKLE AREA HERE.
7 JUST FOR CLARIFICATION OF THESE PICTURES?

8 A WHEN YOU'RE TAKING CLOSE-UP PICTURES, ESPECIALLY
9 DIGITAL PHOTOGRAPHS, IF YOU USE A FLASH IT HAS A TENDENCY TO
10 WHITE EVERYTHING OUT EXPECIALLY ON A WHITE PERSON. IT JUST
11 TOTALLY WHITES THE SKIN OUT WHERE YOU ACTUALLY CAN'T SEE
12 THESE WERE ACTUALLY TAKEN WITH NATURAL LIGHT. WHEN YOU DO
13 THAT IF IT'S A FLUORESCENT BULB, IT KIND OF GIVES AN ORANGE
14 TINT TO IT.

15 MS. CAMPBELL: YOUR HONOR, MAY I PUBLISH THESE?

16 THE COURT: YES, MA'AM.

17 BY MS. CAMPBELL:

18 Q DURING THE COURSE OF THAT DAY YOU'RE AWARE OF THE CAR
19 COMING IN APRIL 16TH. THE CAR HAD BEEN CHECKED IN BY
20 INVESTIGATOR RICHARDS?

21 A YES, WE HAVE A SECURE FORENSIC GARAGE OUT IN THE BACK
22 OF THE SHERIFF'S DEPARTMENT. WE ACTUALLY PUT, I BELIEVE IT
23 DID COME IN THE DAY BEFORE IN THE AFTERNOON.

24 Q YOU ANSWERED PARTLY WHAT HE --

25 A THERE IS A REASON WHY YOU WON'T PROCESS THE CAR OUT AT

ZANE PADGETT-DIRECT BY MS. CAMPBELL

1 THE SCENE WHERE IT WAS FOUND. TOW IT IN FIRST. FIRST OF
2 ALL MY KNOWLEDGE IT WASN'T UNTIL LATER. AT THAT POINT
3 YOU'RE BETTER OFF GETTING IT IN A SECURE AREA, GETTING IT
4 OUT OF THE ENVIRONMENT, THE WIND, THE RAIN WHERE THINGS CAN,
5 YOU KNOW, END UP MISSING. SO YOU WANT TO PUT IT IN THE
6 GARAGE. ACTUALLY WORK ON IT, THE HEAT, THE SUN, THE WIND.

7 Q IS THAT UNUSUAL TO SAY WHEN A STOLEN CAR OR ARMED
8 ROBBERY IS UNUSUAL THAT IT BE TRANSPORTED TO HEADQUARTERS?

9 A MOST OF THE SERIOUS CRIMES WHERE CARS ARE INVOLVED WE
10 WILL TRANSPORT THEM TO HEADQUARTERS AND PROCESS THEM INSTEAD
11 OF AT THE SCENE.

12 Q ONCE THE CAR REACHED YOUR FACILITY YOU THEN TESTIFIED
13 I'M SURE I GUESS IT'S HELD IN A SECURE FACILITY?

14 A THAT'S CORRECT.

15 Q AND THE CAR ACTUALLY I BELIEVE ANOTHER INVESTIGATOR
16 FROM THE DEPARTMENT ACTUALLY PROCESSED THE CAR IN THIS CASE?

17 A YES, MA'AM, THE VERY NEXT MORNING INVESTIGATOR BAKER
18 ACTUALLY WENT OUT TO PROCESS THE VEHICLE ITSELF ALONG WITH
19 INVESTIGATOR.

20 MS. OWINGS: OBJECTION, YOUR HONOR. MAY WE
21 APPROACH?

22 (THEREUPON, THERE WAS A BENCH CONFERENCE WITHIN THE
23 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY.)

24 THE COURT: LET ME NOTE THE LAST OBJECTION IS
25 OVERRULED AT THIS TIME.

ZANE PADGETT-DIRECT BY MS. CAMPBELL

1 MS. CAMPBELL: THANK YOU, SIR.

2 BY MS. CAMPBELL:

3 Q THE PERSON THAT ACTUALLY PROCESSED THE CAR, WHEN YOU
4 SAY PROCESSED WHEN WE USE THOSE WORDS?

5 A THEY'RE GOING TO GO OUT THERE DO EVERYTHING THEY CAN TO
6 THAT CAR TO TRY TO COLLECT ANY EVIDENCE. THEY'RE GOING TO
7 PHOTOGRAPH AND DOCUMENT AND BEFORE THEY TOUCH IN VERY EXACT
8 RECORDS OF THEY'RE GOING TO LOOK FOR LATENT FINGERPRINTS.
9 THEY'RE GOING IN IT AND OUT CHECKING OBJECTS FOR D.N.A.
10 THEY'RE GOING TO LOOK FOR IMPORTANT ITEMS IN THE CAR, MAYBE
11 A DRINK CAN, MAYBE A CAP THAT WASN'T USED BY THE VICTIM,
12 MAYBE USED BY THE SUSPECT. SO THEY'RE BASICALLY LOOKING FOR
13 ANY EVIDENCE NO MATTER HOW SMALL IT WOULD BE AT THE SCENE OF
14 PUT THEM IN THE CAR.

15 Q AND IN EVERY CASE THERE ARE CERTAIN PROCEDURES DONE BY
16 YOUR D.N.A. EVIDENCE, FINGERPRINT EVIDENCE?

17 A YES, MA'AM. WE HAVE SPECIAL PROTOCOLS IN HOW TO CHECK
18 CERTAIN TYPES OF EVIDENCE VARY TO CERTAIN DEGREES BUT WE
19 HAVE SPECIFIC PROTOCOLS TO PROCESS FOR D.N.A. AS WELL.

20 Q YOU'RE FAMILIAR WITH THE PACKAGING, COMMON SWABS ARE
21 COLLECTED AND ITEMS OF EVIDENCE ARE COLLECTED?

22 A ANY CRIME SCENE BASICALLY IT'S GOING TO BE PACKAGED THE
23 SAME.

24 Q MARKED STATE'S EXHIBIT NO. 49 FOR I.D. AT THIS POINT
25 THERE IS SOME RED TAPE ON THAT. IT IS AN ENVELOPE. IS THAT

ZANE PADGETT-DIRECT BY MS. CAMPBELL

1 A PROPER WAY TO COLLECT SOMETHING SUCH AS A CIGARETTE BUTT?

2 A THAT IS CORRECT; UNLIKE T.V. WE PACKAGE MOST OF OUR
3 STUFF IN ENVELOPES BECAUSE PLASTIC CAN DEGRADE A BIOLOGICAL
4 OF D.N.A. OUR POLICY IS IF IT'S SEALED AN ENVELOPE TAPED ON
5 ALL THE OPENINGS THEN YOUR INITIALS WILL BE PLACED ACROSS
6 THAT TAPE SO YOU'LL KNOW THAT NO ONE'S TAMPERED WITH IT.

7 Q THESE INITIALS ARE D.B.

8 A THESE INITIALS ARE INITIALS OF INVESTIGATOR DEIDRE
9 BROWN.

10 Q IS INVESTIGATOR BROWN --

11 A NO. SHE RESIGNED SOMETIME IN DECEMBER.

12 Q WHERE IS SHE NOW?

13 A SHE IS SOME WHERE IN KOSOVO.

14 THE COURT: DO WE KNOW WHAT HER STATUS KOSOVO.
15 WHEN SHE LEFT SHE TOLD ME SHE COULD GET A HALF AND GIVE ME A
16 FORWARDING ADDRESS, A NUMBER TO CONTACT HER IN CASE WE, I
17 HAVE YET TO HEAR FROM HER.

18 MS. CAMPBELL: AFTER SHE LEFT, AT MY REQUEST MY
19 OFFICE REQUESTED YOU MAY ATTEMPT TO TRY TO LOCATE HER MYSELF
20 AND MANY OTHER PEOPLE. WE DON'T KNOW WHETHER SHE'S DEAD OR
21 ALIVE.

22 THE COURT: I, I HAVE NO IDEA WHERE.

23 MS. CAMPBELL: ARE YOU HER SUPERVISOR?

24 THE COURT: YES, I WAS.

25 BY MS. CAMPBELL:

ZANE PADGETT-DIRECT BY MS. CAMPBELL

1 Q TURNING BACK TO THIS CASE YOU'RE AWARE THAT THE MORNING
2 OF THE 19TH AFTER THE CAR HAD BEEN WRECKED THE DAY BEFORE
3 DEIDRE BROWN CTUALLY PROCESSED THIS CAR?

4 A INVESTIGATOR BROWN ACTUALLY HAD HER GO TO THE CAR AND
5 START PROCESSING THE SCENE.

6 Q WAS ANYONE ELSE AROUND WHILE SHE WAS PROCESSING THE
7 CAR?

8 A I WAS IN AND OUT OF THE GARAGE JUST CHECK MAKE SURE
9 SHE'S FOLLOWING PROTOCOL AND ALSO INVESTIGATOR JAY RUSSELL
10 WAS ALSO, IF NOT ALL THE TIME, MOST OF THE TIME WITH HER.

11 Q ONCE A CAR IS PROCESSED AND ITEMS ARE GATHERED UP, IS
12 THERE A WRITTEN REPORT THAT IS GENERATED BY THE INVESTIGATOR
13 IN THE ROBBERY?

14 A THERE IS AN ANALYSIS BEFORE FOR JUST ABOUT EVERYTHING
15 WE DO TO INCLUDING THAT.

16 Q AND IN THIS CASE DID MS. DEIDRE BROWN GENERATE TWO
17 DIFFERENT REPORTS, CRIME SCENE CHRONOLOGY THAT SHE HAD DONE
18 TO THAT CAR ON THE DATE OF THE 16TH?

19 A YES, SHE DID. SHE GENERATED A REPORT ON THE 19TH OF,
20 ACTUALLY PROCESSING THE CAR, INSIDE THE CAR. THEN SHE DID
21 ANOTHER REPORT THAT AFTERNOON ON WHAT SHE DID WITH SOME OF
22 TEH ITEMS THAT SHE OBTAINED OUT OF THE VEHICLE.

23 Q LET ME SHOW YOU A COPY OF THOSE. JUST SEE IF THOSE ARE
24 A COPY OF THOSE?

25 A YES, MA'AM, THEY ARE.

ZANE PADGETT-DIRECT BY MS. CAMPBELL

1 Q AND ARE THOSE REPORTS KEPT IN THE NORMAL COURSE OF
2 BUSINESS IN THE LABORATORY?

3 A YES, MA'AM, THESE ARE WORKING DOCUMENTS.

4 Q THOSE ARE ACCURATE COPIES OF REPORTS SHE THEN GENERATED
5 INTO THIS CASE?

6 A YES, THEY ARE.

7 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER
8 INTO EVIDENCE.

9 MS. OWINGS: YOUR HONOR, I JUST RENEW MY
10 OBJECTION.

11 THE COURT: ALL RIGHT. PURSUANT TO 803
12 SUBPARAGRAPH SIX THE OBJECTION IS OVERRULED.

13 MS. OWINGS: THANK YOU, SIR.

14 THE COURT: WHAT'S THAT?

15 MS. CAMPBELL: I'VE GOT STATE'S EXHIBIT 55 AND 56
16 HAVE BEEN ADMITTED.

17 THE COURT: LET ME ASK ARE THERE ANY SUBJECTIVE
18 OPINIONS OR JUDGMENTS THAT ARE FOUND IN THOSE DOCUMENTS?

19 MS. CAMPBELL: NO, SIR, BUT I'D BE GLAD TO HAND
20 THEM UP TO THE COURT.

21 THE COURT: THERE IS NO NEED TO TAKE A LOOK WOULD
22 NOT BE PERMISSIBLE; IS THAT RIGHT? ALL RIGHT. THOSE
23 DOCUMENTS HAVE BEEN ADMITTED.

24 MS. CAMPBELL: THANK YOU, SIR.

25 BY MS. CAMPBELL:

JAY RUSSELL-DIRECT BY MS. CAMPBELL

1 Q LIEUTENANT, YOU MENTIONED INVESTIGATOR JAY RUSSELL WAS
2 OUT THERE WITH HER THAT DAY?

3 A YES, MA'AM, HE'S OUT THERE MOST OF THE TIME WITH HER,
4 YES, MA'AM. I WAS IN AND OUT THIS MORNING.

5 Q HE WAS ALSO OBSERVING WHAT SHE WAS DOING AND HOW SHE
6 WAS PROGRESSING?

7 A YES, MA'AM. HE WAS A SENIOR TO INVESTIGATOR BROWN.
8 INVESTIGATOR BROWN HAD NOT BEEN AT THE DEPARTMENT A LONG,
9 LONG TIME BUT WE LIKE TO HAVE A SENIOR AND JUNIOR ONE TO
10 PROCESS SO JAY WAS WITH HER MOST OF THE TIME.

11 MS. CAMPBELL: OKAY. I'LL PUT THOSE UP HERE.

12 THANK YOU, SIR. ANSWER ANY QUESTIONS SHE MAY HAVE.

13 THE COURT: ALL RIGHT. CROSS-EXAMINE.

14 MS. OWINGS: THANK YOUR HONOR. MAY IT PLEASE THE
15 COURT. I HAVE NO QUESTIONS, YOUR HONOR.

16 THE COURT: SIR, YOU MAY STEP DOWN.

17 ALL RIGHT, SOLICITOR.

18 MS. CAMPBELL: MAY IT PLEASE THE COURT, THE STATE
19 CALLS JAY RUSSELL.

20 JAY RUSSELL, BEING FIRST DULY
21 SWORN, TESTIFIED AS FOLLOWS:

22 DIRECT EXAMINATION BY MS. CAMPBELL:

23 Q AND HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S
24 DEPARTMENT, SIR?

25 A LITTLE OVER SIX YEARS.

JAY RUSSELL-DIRECT BY MS. CAMPBELL

1 Q WHAT DO YOU DO AT THE RICHLAND COUNTY SHERIFF'S
2 DEPARTMENT?

3 A I'M A FORENSIC INVESTIGATOR.

4 Q CAN YOU TELL US A LITTLE BIT ABOUT YOUR EDUCATION AND
5 TRAINING IN THE FIELD OF FORENSIC INVESTIGATING?

6 A I HAVE A FOUR-YEAR COLLEGE DEGREE AND HAD TEN YEARS OF
7 LAW ENFORCEMENT. THE LAST SIX YEARS I'VE BEEN TO A LOT OF
8 SECONDARY SCHOOLS TO DO WHAT I DOFORENSIC LAB WORK AT THE
9 CRIME SCENE FINGERPRINT ANALYSIS, FINGERPRINT
10 IDENTIFICATION, FOOTWEAR, ANYTHING ON CRIME SCENE THAT'S TO
11 ADVANCE OUR KNOWLEDGE AND TEACH US HOW TO FIND THE EVIDENCE
12 AND ANALYZE THE EVIDENCE.

13 Q YOU TESTIFIED BEFORE AS AN EXPERT IN CRIME SCENE
14 INVESTIGATION?

15 A YES, MA'AM.

16 Q PUT IN THE AREA OF THE FINGERPRINT COLLECTION, D.N.A.
17 COLLECTION, THINGS OF THAT NATURE?

18 A YES, MA'AM.

19 Q APPROXIMATELY HOW MANY TIMES DO YOU KNOW YOU'VE
20 QUALIFIED AS AN EXPERT IN THOSE AREAS?

21 A PROBABLY FOUR OR FIVE AT LEAST.

22 MS. CAMPBELL: YOUR HONOR, AT THIS TIME I OFFER
23 HIM AS AN EXPERT IN CRIME SCENE INVESTIGATION.

24 MS. OWINGS: WITHOUT OBJECTION.

25 THE COURT: WITHOUT OBJECTION HE IS FOUND TO BE

JAY RUSSELL-DIRECT BY MS. CAMPBELL

1 QUALIFIED AS AN EXPERT IN FINGERPRINT AND D.N.A. COLLECTION.
2 YOU MAY CONTINUE.

3 MS. CAMPBELL: THANK YOU, SIR.

4 BY MS. CAMPBELL:

5 Q FIRST I WANT TO TURN YOUR ATTENTION BACK TO APRIL 19TH
6 OF 2005. DID YOU KNOW DEIDRE BROWN?

7 A YES, MA'AM.

8 Q WAS SHE A CRIME SCENE INVESTIGATOR IN THE RICHLAND
9 COUNTY SHERIFF'S DEPARTMENT?

10 A YES, MA'AM.

11 Q ON THAT MORNING WAS IT HER RESPONSIBILITY, WAS SHE THE
12 PRIMARY PERSON THAT WAS RESPONSIBLE FOR PROCESSING A RED
13 LINCOLN TOWN CAR?

14 A YES, MA'AM.

15 Q SHOW YOU A COUPLE PHOTOGRAPHS OF THE EXTERIOR STATE'S
16 EXHIBIT 4 AND 2 THAT ARE ALREADY IN EVIDENCE. DOES THAT
17 LOOK LIKE THE CAR?

18 A YES, MA'AM. IT DOES.

19 Q WERE THOSE PHOTOGRAPHS ACTUALLY TAKEN THAT MORNING BY
20 MS. BROWN?

21 A YES, MA'AM.

22 Q WHAT THIS AREA; YOU SEE THE BACKGROUND?

23 A THAT'S A FORENSIC PROCESSING CENTER. IT'S A GARAGE AT
24 THE SHERIFF'S DEPARTMENT HEADQUARTERS.

25 Q IN THIS CASE THE CAR HAD BEEN CHECKED THE DAY BEFORE.

JAY RUSSELL-DIRECT BY MS. CAMPBELL

1 WOULD IT HAVE BEEN HELD SECURE OVERNIGHT TILL THE ACTUAL
2 PROCESSING COULD BE DONE?

3 A YES.

4 Q AS FAR AS THE D.N.A. AND FINGERPRINTS AS LONG AS IT'S
5 IN A SECURE AREA A WAY FROM THE --

6 A YES, MA'AM.

7 Q I WANT YOU, SHOW YOU SOME ADDITIONAL PHOTOGRAPHS THAT
8 ARE NOT IN THE EVIDENCE STATE'S EXHIBIT 18, 17, 25, 23,
9 AND 19. I'M SURE I HAD THESE PREMARKED SO THEY'RE NOT IN
10 ORDER. ARE YOU FAMILIAR WITH THOSE PHOTOGRAPHS

11 A YES, MA'AM.

12 Q ARE THOSE PHOTOGRAPHS THE INTERIOR OF THE CAR AS IT
13 APPEARED ON THE MORNING OF THE 19TH?

14 A YES, MA'AM.

15 Q YOU ACTUALLY OBSERVED THAT CAR YOURSELF?

16 A YES, I DID.

17 Q AS WELL AS MS. BROWN WAS DOING?

18 A THAT'S RIGHT.

19 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER
20 THOSE ITEMS INTO EVIDENCE.

21 MS. OWINGS: WITHOUT OBJECTION, YOUR HONOR.

22 THE COURT: WITHOUT OBJECTION. I MADE A NOTE 17,
23 18, 19, 20, AND 25; IS THAT RIGHT.

24 MS. CAMPBELL: YES, SIR. I'M SORRY, SIR. THEY
25 WERE PREMARKED. THEY'RE A LITTLE OUT OF ORDER.

JAY RUSSELL-DIRECT BY MS. CAMPBELL

1 THE COURT: YES, SIR. THOSE ARE NOW IN EVIDENCE
2 WITHOUT OBJECTION.

3 MS. CAMPBELL: MAY THE WITNESS STEP DOWN BEFORE
4 THE JURY?

5 THE COURT: KEEP YOUR VOICE UP, SIR.

6 BY MS. CAMPBELL:

7 Q INVESTIGATOR, COMMENT ON THIS TESTIMONY ABOUT THE DAMAGE
8 TO THE INTERIOR OF THE CAR PHYSICALLY, STATE'S EXHIBIT
9 NO. 18. DO YOU RECOGNIZE THAT?

10 A YES, MA'AM.

11 Q IS THAT, WHAT YEAR CAR IS THAT?

12 A THAT'S IN THE FRONT DASH AREA.

13 Q OKAY. AND SPECIFICALLY WHAT ITEM IS THIS?

14 A THAT'S THE ASHTRAY.

15 Q THE ASHTRAY. AND IN THIS ASHTRAY YOU'VE OBSERVED THIS
16 CLOSER-UP VIEW OF STATE'S EXHIBIT NO. 17. WHAT DO YOU
17 OBSERVE IN THAT?

18 A CIGARETTES, BURNED CIGARETTES.

19 Q BURNED CIGARETTES?

20 A CIGARETTE BUTTS.

21 Q SHOW YOU STATE'S EXHIBIT NO. 19. DO YOU RECOGNIZE
22 THAT?

23 A YES, MA'AM.

24 Q AND WHAT DOES THAT SHOW?

25 A THAT'S A PHOTO FROM THE INSIDE THE DRIVER'S, THE

JAY RUSSELL-DIRECT BY MS. CAMPBELL

1 A-FRAME THERE, THE DRIVER'S DOOR, THE DRIVER'S SIDE OF THE
2 VEHICLE.

3 Q SHOW YOU STATE'S EXHIBIT NO. 20. YOU RECOGNIZE THAT?

4 A YES, MA'AM.

5 Q AND THIS ITEM HERE IS THAT A PURSE?

6 A IT IS.

7 Q THAT'S STATE'S EXHIBIT 20 AND AGAIN THAT'S THE INTERIOR
8 OR THE EXTERIOR?

9 A INTERIOR OF THE PASSENGER SIDE.

10 Q FINALLY THE OTHER SIDE, STATE'S EXHIBIT NO. 25. DOES
11 THAT SHOW THE INSIDE OF THE CAR?

12 A YES, MA'AM.

13 MS. CAMPBELL: YOUR HONOR, PERMISSION TO PUBLISH.

14 THE COURT: SURE.

15 BY MS. CAMPBELL:

16 Q IN EVERY CASE WHEN A CAR'S BEING PROCESSED OR SOMETHING
17 IS IT CUSTOMARY TO PHOTOGRAPH THE INTERIOR OR EXTERIOR OF
18 THE CAR?

19 A YES, MA'AM.

20 Q WAS THAT DONE IN THIS CASE?

21 A YES, MA'AM.

22 Q THERE ARE TWO EXHIBITS I WANT TO HAND UP TO YOU. THEY
23 WERE MADE BY INVESTIGATOR DEIDRE BROWN BACK WHEN THIS
24 HAPPENED. FIRST IS STATE'S EXHIBIT NO. 35?

25 A CORRECT.

JAY RUSSELL-DIRECT BY MS. CAMPBELL

1 Q THANK YOU. AND IS THAT FOR WHAT YOU OBSERVED HER DOING
2 THAT DAY INITIALLY?

3 A YES, MA'AM.

4 Q WHEN SHE WAS PROCESSING THE ACTUAL CAR?

5 A RIGHT.

6 Q AND CAN YOU READ TO THE JURY WHAT SHE NOTED AND WHAT
7 SHE COLLECTED?

8 A OKAY. JUST READ HER REPORT. OKAY. I'M THE
9 INVESTIGATING OFFICER, THAT WOULD BE WHOEVER'S DOING THE
10 PROCESSING. I PROCESSED AND PHOTOGRAPHED THE INTERIOR,
11 EXTERIOR USING A DIGITAL "J" TAG 646 "E" AND IT HASN'T BEEN
12 DONE. I'M NOT GOING TO GO THROUGH THE WHOLE RICHLAND COUNTY
13 SHERIFF'S DEPARTMENT INVESTIGATOR CHILD, I.E., PROCESSED THE
14 INTERIOR FOR PRINTS AND VISUAL DASH BOARD, FRONT AND REAR
15 SEAT, REAR VIEW MIRROR, PASSENGER SIDE, PASSENGER SIDE DOOR,
16 NO PRINTS ON THE REMAINING INTERIOR DOOR, WINDOWS.

17 THE COURT: COULD YOU SPEAK UP A LITTLE?

18 THE WITNESS: I ALSO PROCESSED THE INTERIOR FOR
19 LATENTS FRONT TO LEFT AND RIGHT QUARTER PANEL, DRIVER'S AND
20 THE DRIVER'S FRONT DOOR, SIDE DOOR, PASSENGER SIDE DOOR OF
21 THE FRONT DOORS. I LIFTED AND SUBMITTED FOR COMPARISON
22 LATENT PRINTS L-1.1 FROM THE REAR VIEW MIRROR L-2.1 FROM THE
23 DRIVER'S SIDE QUARTER PANEL AND A LATENT PALM PRINT FROM THE
24 FRONT.

25 BY MS. CAMPBELL:

JAY RUSSELL-DIRECT BY MS. CAMPBELL

1 Q ALL RIGHT. CAN YOU STOP RIGHT THERE?

2 A YES, MA'AM.

3 Q CAN YOU EXPLAIN TO ME WHAT YOU JUST READ, WHAT WAS DONE
4 IN THIS CASE?

5 A THIS VEHICLE WAS PHOTOGRAPHED AND PROCESSED FOR ANY
6 EVIDENCE.

7 Q AND TELL THE JURY IN THIS CASE HOW WAS IT PROCESSED;
8 WHAT TYPE OF PROCEDURE WAS DONE TO THE VEHICLE IN AN ATTEMPT
9 TO LIFT IDENTIFIABLE FINGERPRINTS?

10 A APPLIED FINGERPRINT POWDER TO THE SURFACE. YOU ALSO
11 HAVE A VISUAL. YOU CAN ALSO SEE IF IT'S LATENT OR A HIDDEN
12 FINGERPRINT. YOU DO SEE IT AS FAR AS HE APPLIED POWDER.
13 IT'S A MEDIUM THAT GOES ON JUST TO SEE IT BETTER. YOU CAN
14 ACTUALLY LIFT THIS MEDIUM FROM OBJECTS. THE PRINT, THAT'S
15 WHAT HE'S EXPLAINING IN SHORT THAT HE APPLIED THE
16 FINGERPRINT POWDER TO ALL THESE SURFACES AND WHAT THE RESULT
17 WAS.

18 Q AND THAT WAS ON THE INTERIOR AND EXTERIOR?

19 A YES, MA'AM.

20 Q AND AS A RESULT OF DOING THIS WE NECESSARILY CAN FIND
21 USABLE FINGERPRINTS?

22 A NO, MA'AM.

23 Q AND EXPLAIN THAT TO THE JURY. IF I WALK UP HERE AND
24 PUT MY FINGERPRINT NECESSARILY?

25 A YOU CAN LEAVE A PRINT BUT LIKE YOU A FINGERPRINT BUT IT

JAY RUSSELL-DIRECT BY MS. CAMPBELL

1 MAY NOT BE OF ANY QUALITY THAT CAN BE USED TO GIVE A
2 FINGERPRINT ANALYSIS OR ANYTHING, GET A MATCH OR NOT MATCH
3 TO AN INDIVIDUAL. SO NINE TIMES OUT OF 10 YOU JUST LEFT A
4 SMUDGE.

5 Q THAT WAS GOING TO BE MY NEXT QUESTION. WHAT IS A
6 SMUDGE? IF I WALK UP HERE SWEATING, NERVOUS, AM I GOING TO
7 LEAVE AN IDENTIFIABLE FINGERPRINT?

8 A NO, MA'AM. A SMUDGE IS JUST A SIGN THAT A FINGER HAS
9 BEEN THERE WITH A FINGERPRINT HAS WATER AND THAT MOISTURE
10 JUST --

11 Q IN HIGH TRAFFIC AREAS SUCH AS DOOR HANDLES AND SUCH
12 THERE ARE FURTHER CHOICES AS FAR AS FINGERPRINTS ON TOP OF
13 FINGERPRINTS?

14 Q AND IN THIS CASE IT INDICATED THAT SHE WAS ABLE TO LIFT
15 HOW MANY USABLE IDENTIFIABLE PRINTS?

16 A SHE ACTUALLY, TWO LATENT FINGERPRINTS AND ONE PALM
17 PRINT. SHE SUBMITTED THEM FOR EXAMINATION TO ANOTHER LATENT
18 EXAMINER AND I DON'T HAVE THAT BUT THEY WERE SUBMITTED. THEY
19 LOOK LIKE THEY PROBABLY CONTAIN QUALITY.

20 Q AND PROCESSING THE INTERIOR SHE WAS ABLE TO COME UP
21 WITH THREE?

22 A YES, MA'AM.

23 Q IS THAT UNUSUAL?

24 A NO, MA'AM.

25 Q AGAIN FOR THE REASONS YOU ALREADY STATED?

JAY RUSSELL-DIRECT BY MS. CAMPBELL

1 A THERE ARE PRINTS THERE. WHETHER THEY'RE PRINTS THAT
2 CAN BE USED TO MAKE IDENTIFICATION OR NOT IT TAKES FURTHER
3 EXAMINATION.

4 Q I INTERRUPTED WHEN YOU WERE TALKING ABOUT THERE IS
5 ANOTHER PHOTOGRAPH TALKING ABOUT ITEMS THAT SHE ACTUALLY
6 COLLECTED FROM THE CAR?

7 A RIGHT. YOU WANT ME TO READ? I COLLECTED FOUR FOR
8 OTHER PROCESSING, THREE CIGARETTE BUTTS LABELED MARLBORO
9 LIGHTS IN THE FRONT CONSOLE AND PLASTIC BOTTLE LABELED
10 SPRINGTIME ARTESIAN, ONE PLASTIC BOTTLE, NO LABEL, ONE TUBE
11 OF U.A. HAND LOTION, ONE TORN PIECE OF WHITE IN COLOR PAPER
12 WITH N.Y. 446840 WRITTEN ON IT.

13 Q AND I WANT TO SHOW YOU, TALKING ABOUT THOSE ITEMS
14 FIRST. THE FIRST ONE IS ITEM MARKED STATE'S EXHIBIT NO. 49
15 WHICH IS ITEM NUMBER 1, THE CIGARETTE BUTTS, THOSE
16 COLLECTED?

17 A YES, MA'AM.

18 Q THAT WOULD HAVE BEEN PLACED IN THAT AND SEALED FOR
19 TESTING LATER?

20 A THAT'S CORRECT.

21 Q AND THAT WAS DONE IN THIS CASE?

22 A YES, MA'AM.

23 Q YOU MENTIONED TAHT SHE COLLECTED SEVERAL BOTTLES. I'LL
24 SHOW YOU STATE'S EXHIBIT NO. 43, 42, AND 41. THERE WERE
25 THREE DIFFERNT BOTTLES, I BELIEVE SPRING TIME WATER, A PLAIN

JAY RUSSELL-DIRECT BY MS. CAMPBELL

1 PLASTIC BOTTLE AND A MOUNTAIN DEW BOTTLE. THEY WILL BE YOUR
2 ITEM NUMBER 12, 13?

3 A RIGHT, THIS HAS BEEN LABELED.

4 Q AND 14?

5 A 13 AND 12.

6 Q AND THOSE WILL BE THE THREE BOTTLES SHE COLLECTED AND
7 THIS IS HOW THEY WOULD HAVE BEEN PACKAGED WHEN SHE COLLECTED
8 THEM

9 A YES, MA'AM.

10 Q AND I BELIEVE ITEM NUMBER 10 ON YOUR EVIDENCE HEET
11 WHICH IS STATE'S EXHIBIT 50?

12 A RIGHT. WHITE IN COLOR TISSUE PAPER.

13 Q TISSUE PAPER AND SOME OTHER ITEMS THAT TESTING WAS DONE
14 ON LATER?

15 A RIGHT.

16 Q IS THAT RIGHT?

17 A YES, MA'AM.

18 Q AND ALL THOSE ITEMS SHE GATHERED UP AND PACKAGED IN AND
19 YOU WERE PRESENT FOR THAT?

20 A YES, MA'AM.

21 MS. CAMPBELL: YOUR HONOR, AT THIS TIME I'D OFFER
22 THOSE ITEMS INTO EVIDENCE.

23 MS. OWINGS: SAME OBJECTION, YOUR HONOR.

24 THE COURT: SAME OBJECTION AS EARLIER CONCERNING
25 THE CHAIN; IS THAT CORRECT?

JAY RUSSELL-DIRECT BY MS. CAMPBELL

1 MS. OWINGS: YES, SIR.

2 THE COURT: OBJECTION IS OVERRULED. THOSE ITEMS
3 WILL BE ADMITTED. WHAT WERE THE NUMBERS AGAIN, PLEASE,
4 COUNSEL?

5 MS. CAMPBELL: THEY'RE ITEMS 49, 50, 41, 42,
6 AND 43.

7 THE COURT: THOSE ITEMS ARE NOW IN EVIDENCE OVER
8 THE OBJECTIONS OF THE DEFENSE.

9 (THEREUPON, THE A SPRINGTIME WATER BOTTLE WAS MARKED
10 STATE'S EXHIBIT NO. 41, A PLASTIC BOTTLE WAS MARKED STATE'S
11 EXHIBIT NO. 42, A MOUNTAIN DEW BOTTLE WAS MARKED STATE'S
12 EXHIBIT NO. 43, THREE CIGARETTE BUTTS WERE MARKED STATE'S
13 EXHIBIT NO. 49, TISSUE PAPER WAS MARKED STATE'S EXHIBIT
14 NO. 50, AND ENTERED INTO EVIDENCE.)

15 BY MS. CAMPBELL:

16 Q INVESTIGATOR, CAN YOU EXPLAIN TO THE JURY WHY YOU CLOCK
17 THOSE ITEMS UPON PUTTING THEM IN THAT, WRAP THEM AND SEAL
18 IT. WHAT KIND OF TESTING CAN BE DONE ON IT IN THE FUTURE?

19 A THE ACTUAL BOTTLES ARE SWABBED WHEN YOU COLLECT THE
20 BOTTLE FOR D.N.A. AS DONE IN THIS CASE AND THEN EACH ITEM IS
21 SEALED AND SIGNED WITH A EVIDENCE SEAL TO PRESERVE IT, TO
22 DEEP THE CHAIN OF SECURITY. ONCE IT'S SEALED THAT TAPE WITH
23 THEIR INITIALS ON IT. IF IT'S BROKEN THEN YOU KNOW
24 SOMEONE'S BEEN IN THERE ARTER YOU PUT IT IN THE BAG OR
25 WHATEVER YOU PUT THE EVIDENCE IN AND THAT'S DONE TO KEEP THE

JAY RUSSELL-DIRECT BY MS. CAMPBELL

1 CHAIN OF CUSTODY IN TACT.

2 Q NEXT SHE ALSO COLLECTED SOME SWABS FROM THE INTERIOR OF
3 THE CAR ON THE STEERING WHEEL AND OTHER PLACES. CAN YOU
4 TELL THE JURY WHAT SHE DID AS FAR AS THAT'S CONCERNED?

5 A WANT ME TO READ THAT PART?

6 Q PLEASE, SIR.

7 A IT SAYS ONE COTTON SWAB FROM THE STEERING WHEEL. ITEM
8 TWO, ONE COTTON SWAB FROM THE INSIDE DRIVER'S DOOR HANDLE.
9 ITEM THREE, ONE COTTONSWAB FROM THE FRONT INSIDE PASSENGER
10 DOOR HANDLE. ITEM FOUR, COTTON SWAB FROM THE REAR PASSENGER
11 SIDE INTERIOR AND FIVE, ONE FROM THE REAR DRIVER'S SIDE
12 INSIDE ONE COTTON SWAB FROM THE HOOD OF THE VEHICLE.

13 Q SHOW YOU --

14 A INSIDE AND OUTSIDE THE DOOR HANDLES IT GETS CONFUSING.

15 Q SO BASICALLY WHAT IS SHE LOOKING FOR UNDER THE STEERING
16 WHEEL?

17 A ANY KIND OF D.N.A. EVIDENCE OR SKIN CELLS THAT COULD
18 HAVE BEEN DEPOSITED ON THOSE PARTICULAR AREAS OF THE
19 VEHICLE.

20 Q AND THOSE ARE ITEMS ONE THROUGH SIX; IS THAT CORRECT?

21 A THAT'S CORRECT.

22 Q AND THOSE WOULD BE INCLUDED IN STATE'S 45, OTHER SWABS
23 IN THAT?

24 A RIGHT.

25 Q ONCE THAT SHE HAD PROCESSED THE CAR AND COLLECTED ALL

JAY RUSSELL-DIRECT BY MS. CAMPBELL

1 THAT, DID SHE ALSO DO SOME PHOTO PROCESSING. I SHOW YOU
2 STATE'S EXHIBIT NO. 56?

3 A YES, SHE DID.

4 Q AND DID SHE ACTUALLY COLLECT SOME ADDITIONAL SWABS THAT
5 ARE ITEM NUMBER SEVEN THROUGH 9?

6 A YES, MA'AM.

7 Q WHAT ARE THOSE SWABS?

8 A THAT'S THE ACTUAL SAME COTTONSWAB WITH THE STILL WATER
9 ON IT AND IT'S USED ON THOSE BOTTLES, THE MOUNTAIN DEW,
10 SPRING TIME ARTESIAN, THE PLASTIC BOTTLE WITH NO LABEL AND
11 JUST TAKE A COTTON TIP AND GO AROUND THE AREA OBVIOUSLY
12 WHERE YOUR MOUTH WOULD HAVE BEEN. IF YOU DRINK OUT OF THE
13 BOTTLE THAT'S WHERE YOU'RE GOING TO DEPOSIT THE D.N.A.

14 Q THOSE WERE THE ITEMS SHE DEPOSITED THAT AFTERNOON THA
15 SHE COLLECTED IN THE MORNING?

16 A THAT'S CORRECT.

17 Q THESE ITEMS WERE SEALED?

18 A RIGHT.

19 MS. CAMPBELL: AT THIS TIME WE --

20 MS. OWINGS: 35 IS WHAT AGAIN?

21 MS. CAMPBELL: SWABS ONE THROUGH NINE.

22 MS. OWINGS: WELL, STANDARD OBJECTION, YOUR HONOR.

23 THE COURT: THE OBJECTION IS OVERRULED.

24 STATE'S 45 IS NOW ADMITTED INTO EVIDENCE.

25 BY MS. CAMPBELL:

JAY RUSSELL-DIRECT BY MS. CAMPBELL

1 Q DID INVESTIGATOR BROWN DO ANY PROCESSING OF ANY
2 ADDITIONAL ITEMS AS FAR AS TRYING TO FIND PRINTS, ADDITIONAL
3 PRINTS?

4 A SHE DID. SHE PROCESSED THE BOTTLES. SHE LISTED IN THE
5 SPRINGTIME ARESTIAN WATER BOTTLE, THE MOUNTAIN DEW BOTLE
6 WITH NO LABEL. SHE ALSO LISTED A PLASTIC BAG CONTAINING
7 FOUR STICKS OF CHEWING GUM.

8 Q WAS SHE ABLE TO GET USABLE PRINTS FROM THOSE ITEMS WHEN
9 SHE PROCESSED THEM?

10 A NO, NO.

11 Q DID SHE INDICATE WHAT IF ANYTHING SHE DID WITH THE
12 SWABS SHE DID COLLECT?

13 A SHE PLACED THOSE SHE'S GOT LISTED AS FOLLOWS: ITEMS
14 THAT WERE SUBMITTED AFTER THEY WERE SEALED THEY'RE PUT IN A
15 LITTLE BOX. THEY'RE SEALED UP ALL IN ENVELOPES LIKE SHE
16 HERE AND ARE SUBMITTED INTO OUR EVIDENCE ROOM IN A LOCKED
17 CONTAINER OR EITHER YOU CAN, TECHNICIANS, THEY PLACED THEM
18 IN THERE THEN THEY'RE SCURED UNTIL THE D.N.A. ANALYSIS, TO
19 ACTUALLY DO THE D.N.A. ANALYSIS.

20 Q THAT WOULD INCLUDE NUMBERS ONE THROUGH NINE?

21 A YES, MA'AM.

22 Q ENTAILS ITEM NUMBER TEN?

23 A THAT'S CORRECT.

24 Q AND WHAT'S THE SIGNIFICANCE TO THAT?

25 A THE THREE CIGARETTE BUTTS.

JAY RUSSELL-CROSS BY MS. OWINGS

1 Q WHAT'S THE NAME BRAND OF THESE CIGARETTES?

2 A MARLBORO.

3 Q THE REST OF THE EVIDENCE, THE BOTTLES THAT SHE HAD
4 PROCESSED ALREADY, THE OTHER ITEMS THAT WHEN SUBMITTED FOR
5 THE D.N.A. TESTING. DID SHE ALSO SUBMIT THOSE INTO
6 EVIDENCE?

7 A YES, MA'AM.

8 MS. CAMPBELL: THANK YOU INVESTIGATOR. PLEASE
9 ANSWER ANY QUESTIONS.

10 THE COURT: ALL RIGHT, MS. OWINGS.

11 MS. OWINGS: THANK YOUR HONOR.

12 CROSS-EXAMINATION BY MS. OWINGS:

13 Q INVESTIGATOR, I HAVE A FEW QUESTIONS?

14 A OKAY.

15 Q IT WAS YOUR TESTIMONY THAT YOU WERE IN THE EVIDENCE
16 SHED SUPERVISING MS. BROWN?

17 A YES, MA'AM.

18 Q BUT YOU DIDN'T ACTUALLY COLLECT ANY OF THESE ITEMS; IS
19 THAT CORRECT?

20 A NO, MA'AM. I WAS JUST THERE OBSERVING HER.

21 Q SHE PROCESSED EVERYTHING?

22 A YES.

23 Q AND SHE SUBMITTED THESE RECORDS?

24 A THAT'S CORRECT.

25 Q NOWHERE IN ANY OF HER REPORTS DID SHE LIST YOU AS BEING

JAY RUSSELL-CROSS BY MS. OWINGS

1 A PERSON PRESENT; IS THAT CORRECT?

2 A THAT'S CORRECT.

3 Q AND ALL OF THESE ITEMS WE'VE TALKED ABOUT FINGERPRINTS,
4 THE D.N.A., THE ITEMS TAKEN FROM THE CAR THAT WERE SUBMITTED
5 FOR FINGERPRINTS AND D.N.A. ALL OF THE THINGS REALLY TELL US
6 WAS THAT SOMEBODY WAS IN THE CAR; IS THAT RIGHT, BECAUSE IT
7 WOULD TELL US THAT THERE WAS A PERSON PRESENT IN THE CAR?

8 A YES, THAT'S CORRECT.

9 Q SO IT WOULDN'T TELL US IF AN ASSAULT HAPPEND IN THE
10 CAR?

11 A WELL, SHE HAD BLOOD.

12 Q OR SOMEONE'S PURSE WAS STOLEN FROM THE CAR OR WRESTLED
13 AWAY IN THE CAR?

14 A THAT'S CORRECT.

15 MS. OWINGS: I HAVE NO OTHER QUESTIONS, YOUR
16 HONOR.

17 THE COURT: REDIRECT.

18 MS. CAMPBELL: NO, SIR.

19 THE COURT: ALL RIGHT. YOU MAY STEP DOWN, SIR.
20 WHO WILL YOUR NEXT WITNESS BE?

21 MS. CAMPBELL: TENA GOFF, SIR. I APOLOGIZE FOR
22 THE DELAY.

23 / / /

24 / / /

25 / / /

JAY RUSSELL-CROSS BY MS. OWINGS

1 TENA GOFF, BEING FIRST DULY
2 SWORN, TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION BY MS. CAMPBELL:

4 Q WHERE ARE YOU EMPLOYED?

5 A RICHLAND COUNTY SHERIFF'S DEPARTMENT.

6 Q WHAT DO YOU DO THERE, MA'AM?

7 A I AM A SUPERVISOR EVIDENCE TECHNICIAN.

8 Q CAN YOU TELL US A LITTLE BIT ABOUT YOUR DUTIES?

9 A MY JOB IS ACCEPT INVENTORY AND MAINTAIN THE EVIDENCE IN
10 A CASE AS WELL AS THE CHAIN OF CUSTODY TO PROVE WHERE THE
11 EVIDENCE WAS DURING THE TIME IT WAS WITHIN THE EVIDENCE
12 ROOM.

13 Q AND IN THE EVIDENCE ROOM AT THE SHERIFF'S DEPARTMENT IS
14 THERE ANY KIND OF SECURITY IN PLACE TO MAKE SURE ITEMS DON'T
15 GET TAMPERED WITH?

16 A THERE ARE ONLY THREE PEOPLE WITHIN THE SHERIFF'S
17 DEPARTMENT WHO HAVE KEYS TO THE EVIDENCE ROOM. MYSELF, RIAN
18 WHO'S THE FULL TIME PERSON IN THE EVIDENCE ROOM AND MY
19 SUPERVISOR DR. DENNY GARLAND.

20 Q I WANT TO TURN YOUR ATTENTION TO THE CASE INVOLVING RANDY
21 OR CHARLES "CHUCK" ELDERS. DID YOU RECEIVE CERTAIN ITEMS OR
22 EVIDENCE IN THIS CASE?

23 A YES.

24 Q SPECIFICALLY THE FIRST THING I'LL BRING YOUR ATTENTION
25 TO IS ANY D.N.A. CASES. WHAT'S CALLED BUFFER SWAB OR SWABS

JAY RUSSELL-CROSS BY MS. OWINGS

1 THAT ARE KNOWN PEOPLE SUBMITTED; IS THAT CORRECT?

2 A YES.

3 Q IN THIS CASE DID YOU RECEIVE ANY SWABS THAT HAD BEEN
4 TAKEN FROM THE DEFENDANT RANDY ELDERS?

5 A YES.

6 Q WHO, DID YOU RECEIVE THOSE FROM --

7 A STAN SMITH.

8 Q WHEN DID YOU GET THOSE?

9 A APRIL 20TH, 2005.

10 Q AND ONCE THEY WERE RECEIVED INTO YOUR EVIDENCE WHAT
11 HAPPENED TO THEM?

12 A THERE WAS ADDITIONAL EVIDENCE IN THE CASE AND IT WAS
13 PUT ON THE SHELF WITH THE OTHER EVIDENCE THEN LATER ON IT
14 WAS SEEN DR. JOHN BARRON FOR D.N.A. ANALYSIS.

15 Q WHEN DID THAT OCCUR?

16 A OCTOBER 12, 2005.

17 Q THE NEXT ITEM I WANT TO LOOK AT IS YOU ALSO RECEIVED
18 SWABS THAT'S A KNOWN D.N.S. SAMPLE, CHRISTINA HALL?

19 A I DID NOT ACCEPT THOSE.

20 Q ARE YOU THE SUPERVISOR OVER THE EVIDENCE ROOM?

21 A I AM.

22 Q AS PART OF YOUR DUTY WHO DID ACCEPT THOSE IN?

23 A ANDY JOHNSON.

24 Q ONCE THEY WERE ACCEPTED IN AGAIN WHAT WOULD BE THE
25 PROCEDURE; HOW WOULD THAT EVIDENCE BE HANDLED UNTIL IT'S

JAY RUSSELL-CROSS BY MS. OWINGS

1 TURNED OVER, SAY, FOR D.N.A. TESTING?

2 A ALL EVIDENCE THAT'S TURNED IN IS SEALED. IF IT'S NOT
3 PROPERLY SEALED AND PACKAGED, WE WOULDN'T TAKE IT. SO IT
4 WAS PROPERLY SEALED. HE TOOK IT AND PUT IT WITH THE REST OF
5 THE EVIDENCE ON THE SHELF.

6 Q LATER IT WAS RELEASED TO WHOSE CUSTODY?

7 A DR. JOHN BARRON.

8 Q AND THAT WAS ACTUALLY RELEASED BY YOU I BELIEVE?

9 A YES.

10 Q AND I WANT TO TURN YOUR ATTENTION TO ANOTHER KNOWN
11 CODEFENDANT IN THIS CASE, KNOWN SWABS OR D.N.A. FROM THE
12 VICTIM IN THIS CASE DWIGHT AND KATHRYN RIGGS?

13 A GIVE ME JUST A MOMENT, PLEASE.

14 Q I'M SORRY?

15 A YES.

16 Q AND DID YOU RECEIVE THAT THE INVESTIGATOR WITHIN YOUR
17 DEPARTMENT?

18 A ANNA CLEMMONS.

19 Q WHAT WAS SUGGESTED CLEMMONS TURN THOSE ITEMS OVER TO
20 YOU. WERE THEY AGAIN WAS EVERYTHING SEALED PROPERLY?

21 A YES.

22 Q DID YOU AT A LATER DATE TURN THAT EVIDENCE OVER TO THE
23 D.N.A. PERSON?

24 A I DID.

25 Q AND YOU DID THAT YOURSELF?

JAY RUSSELL-CROSS BY MS. OWINGS

1 A I DID.

2 Q AND THAT WOULD HAVE BEEN TO INVESTIGATOR JOHN BARRON?

3 A YES.

4 Q AND FINALLY THE CAR, THE CONTENTS WHICH I BELIEVE
5 PRETTY MUCH INTO EVIDENCE INCLUDING SPECIFICALLY ITEMS ONE
6 THROUGH NINE, TEN, 11, 13, 12, AND 14. WERE THOSE ITEM
7 SSUBMITTED INTO EVIDNECE IN THIS CASE?

8 A SURE.

9 Q PLESE?

10 A YES, I DID.

11 Q AND WHEN THESE ITEMS WERE SUBMITTED FOR STORGE TILL A
12 LATER DATE WERE THEY SEALED IN THE PROPER MANNER?

13 A YES, THEY WERE.

14 Q YOU ACTUALLY NOTE THAT ON THE SHEET?

15 A YES, I DID.

16 Q ONCE THEY CAME INTO YOUR CUSTODY, WERE THEY TURNED OVER
17 TO INVESTIGATOR BARRON?

18 A YES, THEY WERE.

19 Q AND THAT WOULD HAVE BEEN BY ANOTHER PERSON WHO WORKED
20 FOR ANDERSON AND JOHNSON?

21 A YES.

22 Q ALL THESE ITEMS THAT WE'VE DONE GONE OVER AND TALKED
23 ABOUT WHILE THEY WERE IN YOUR CUSTODY DID ANYONE HAVE AN
24 OPPORTUNITY TO TAMPER WITH THEM, CHANGE THEM OR DO ANYTHING
25 TO THEM?

JAY RUSSELL-CROSS BY MS. OWINGS

1 A NO.

2 MS. CAMPBELL: YOUR HONOR, AT THIS TIME I'D SUBMIT
3 THE CHRISTINA HALL SWAB WHICH IS STATE'S EXHIBIT 42, RIGGS
4 SWAB WHICH IS STATE'S EXHIBIT 51 AND WHICH IS SWABS FOR
5 RANDY ELDERS.

6 MS. OWINGS: WITHOUT OBJECTION, YOUR HONOR.

7 THE COURT: THOSE WITHOUT OBJECTION; IS THAT
8 CORRECT.

9 MS. OWINGS: YES, SIR.

10 THE COURT: STATE'S 48, 51 AND 54 IN.

11 BY MS. CAMPBELL:

12 Q FINALLY JUST A COUPLE MORE ITEMS I WANT TO SHOW YOU.
13 CERTAIN ITEMS WHICH HAVE BEEN MARKED STATE'S EXHIBIT 46, 44,
14 AND 47 WERE THOSE ALSO SUBMITTED IN THIS CASE?

15 A YES, THEY ARE.

16 Q AND WHAT ARE THOSE ITEMS?

17 A STATE'S EXHIBIT NO. 46 IS ONE SILVER LOCK BLADE KNIFE.
18 STATE'S EXHIBIT NO. 47 ARE THREE POCKET KNIVES AND STATE'S
19 EXHIBIT NO. 44 IS ONE STEAK KNIFE.

20 Q AND THOSE AND THOSE ARE ALSO SUBMITTED INTO YOUR
21 CUSTODY IN CONJUNCTION WITH THIS CASE; IS THAT CORRECT?

22 A YES, MA'AM.

23 Q AGAIN WHEN THEY WERE SUBMITTED TO YOU WERE THEY SEALED
24 PROPERLY SEALED?

25 A YES, THEY WERE.

JAY RUSSELL-CROSS BY MS. OWINGS

1 Q AND DID ANYONE HAVE AN OPPORTUNITY TO TAMPER WITH THEM
2 OR ALTER THEM IN ANY WAY?

3 A NO, THEY DID NOT.

4 Q FINALLY I'M GOING TO LOOK AT SOME CLOTHING. STATE'S
5 EXHIBIT NO. 53. DID YOU RECEIVE CLOTHING FROM THE VICTIM, A
6 BROWN SUIT?

7 A YES, I RECEIVED THE CLOTHING.

8 Q AND FINALLY STATE'S EXHIBIT NO. 35. DID YOU RECEIVE A
9 PLAID JACKET?

10 A YES, I DID.

11 Q AND DID THAT JACKET HAVE ANYTHING IN THE POCKET WHEN IT
12 WAS SUBMITTED?

13 A DEPUTY MCMILLAN HAD INDICATED ON THE EVIDENCE FORM THAT
14 THERE WAS A PLAID JACKET WITH A MARLBORO WHITE CIGARETTE
15 PACK THAT HE HAD FOUND IN THE POCKET.

16 Q OKAY. AND THOSE ITEMS WHEN THEY WERE SUBMITTED TO YOU,
17 YOU ACTUALLY TOOK THOSE INTO EVIDENCE?

18 A YES.

19 Q AND DURING THE TIME PERIOD THEY WERE IN YOUR CUSTODY
20 ALTERED OR CHANGED THEM IN ANY WAY?

21 A NO.

22 MS. CAMPBELL: YOUR HONOR, OFFER STATE'S
23 EXHIBIT 35, 53, 44, 46, AND 47

24 THE COURT: ANY OBJECTION?

25 MS. OWINGS: YES, YOUR HONOR, I DO OBJECT TO THE

JAY RUSSELL-CROSS BY MS. OWINGS

1 KNIVES BEING IN EVIDENCE. I THINK THAT THE VICTIM'S GOING
2 TO TESTIFY THAT NONE OF THE KNIVES THAT WERE SHOWN IN THE
3 SOLICITOR'S OFFICE MATCHED THE ONE THAT THEY SAW AT THE
4 CRIME SCENE.

5 THE COURT: COME UP FOR JUST A MINUTE.

6 (THEREUPON, THERE WAS A BENCH CONFERENCE WITHIN THE
7 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY.)

8 THE COURT: OBJECTION IS SUSTAINED AS TO
9 STATE'S 44, 46, 47. NO OBJECTION TO STATE'S 35 AND 53.
10 THEY ARE ADMITTED WITHOUT OBJECTION.

11 (THEREUPON, THE JACKET WAS MARKED STATE'S EXHIBIT
12 NO. 35 AND THE VICTIM'S CLOTHING WAS MARKED STATE'S EXHIBIT
13 NO. 53 ENTERED INTO EVIDENCE.)

14 MS. CAMPBELL: THANK YOUR HONOR. BEG THE COURT'S
15 INDULGENCE. THANK YOU. I HAVE NOTHING FURTHER OF THIS
16 WITNESS.

17 THE COURT: CROSS-EXAMINATION.

18 MS. OWINGS: I HAVE NO QUESTIONS OF THIS WITNESS.

19 THE COURT: MA'AM, YOU MAY STEP DOWN.

20 ANDY JONES, BEING FIRST DULY
21 SWORN, TESTIFIED AS FOLLOWS:

22 DIRECT EXAMINATION BY MS. CAMPBELL:

23 Q WHERE ARE YOU EMPLOYED?

24 A RICHLAND COUNTY SHERIFF'S DEPARTMENT.

25 Q HOW LONG HAVE YOU WORKED THERE, SIR?

ANDY JONES-DIRECT BY MS. CAMPBELL

1 A I WORKED 27 YEARS, RETIRED IN 2001. I WENT RIGHT BACK
2 TO WORK PART-TIME IN THE EVIDENCE ROOM.

3 Q AND YOU'RE FAMILIAR WITH THE EVIDENCE ROOM?

4 A YES, MA'AM.

5 Q IS THAT WHERE YOU CURRENTLY ARE EMPLOYED?

6 A YES, MA'AM.

7 Q I WANT TO TURN YOUR ATTENTION SPECIFICALLY JUST TO SET
8 THE EVIDENCE CHRISTINA HALL SWABS WERE TAKEN FROM HER KNOWN
9 D.N.A. WERE THOSE SUBMITTED TO YOU BY INVESTIGATOR SCOTT
10 MCDONALD?

11 A I DON'T HAVE THAT.

12 Q I KNOW I GOT SOME FROM YOU?

13 MS. MCDONALD: BEG THE COURT'S INDULGENCE. I'M
14 SORRY.

15 BY MS. CAMPBELL:

16 Q IS THIS EVIDENCE, PROPERTY EVIDENCE SHEET?

17 A YES, IT IS.

18 Q DOES THAT INDICATE THAT YOU RECEIVED FROM SCOTT KNOWN
19 SWABS OF D.N.A.

20 A YES, IT DOES.

21 Q AND WHEN YOU RECEIVED THOSE WERE THEY STILL INTACT?

22 A YES, THEY WERE.

23 Q AND AT THE POINT WHEN YOU RECEIVED THEM IN THE EVIDENCE
24 ROOM UNTIL MS. GOFF RELEASED THEM AT A LATER DATE?

25 A YES, DID.

ANDY JONES-DIRECT BY MS. CAMPBELL

1 Q FINALLY I WANT TO RETURN TO SOME ITEMS THAT WERE
2 COLLECTED FROM THE CAR BY INVESTIGATOR LINDLER. THOSE ITEMS
3 HAD BEEN GONE THROUGH AND THERE WERE SOME SWABS, CIGARETTE
4 BUTTS AND THINGS OF THAT NATURE; IS THAT CORRECT?

5 A GOT ONE HERE WITH A MARLBORO CIGARETTE PACKAGE. I
6 FORGOT THE SWABS AND CIGARETTE BUTTS.

7 Q THINGS OF THAT NATURE?

8 A YES, MA'AM.

9 Q AND I BELIEVE THAT YOU ACTUALLY CHECKED THOSE. WERE
10 THOSE PLACED INTO EVIDENCE BY INVESTIGATOR GOFF. AT A LATER
11 DATE YOU RELEASED THOSE TO INVESTIGATOR JOHN BARRON FOR
12 D.N.A. TESTING?

13 A THAT'S TRUE.

14 MS. CAMPBELL: ANSWER ANY FURTHER QUESTIONS.

15 THE COURT: ALL RIGHT. CROSS-EXAMINE.

16 MS. OWINGS: NO QUESTIONS, YOUR HONOR.

17 THE COURT: SIR, YOU MAY STEP DOWN.

18 MS. CAMPBELL: STATE WILL CALL SERGEANT SCOTT
19 MCDONALD.

20 SCOTT MCDONALD, BEING FIRST
21 DULY SWORN, TESTIFIED AS FOLLOWS:

22 DIRECT EXAMINATION BY MS. CAMPBELL:

23 Q WHERE ARE YOU EMPLOYED?

24 A RICHLAND COUNTY SHERIFF'S DEPARTMENT.

25 Q WHAT DO YOU DO THERE?

SCOTT MCDONALD-DIRECT BY MS. CAMPBELL

1 A I'M A SARGEANT IN THE MAJOR CRIME DIVISION. I'M
2 PRIMARILY OVER THE ARMED ROBBERIES, CAR JACKINGS AND HOME
3 INVASIONS THAT COME IN.

4 Q TURNING YOUR ATTENTION BACK TO APRIL THE 18TH OF LAST
5 YEAR, DID YOU BECOME INVOLVED IN ASSISTING OTHER
6 INVESTIGATORS IN THE PURSUIT OF AN ARMED ROBBERY,
7 CARJACKING, KIDNAPPING, ASSAULT AND BATTERY WITH INTENT TO
8 KILL THAT OCCURRED AT MIKE'S PRODUCE ON GARNER'S FERRY ROAD?

9 A YES, I DID. I ASSISTED INVESTIGATOR FAUST WITH THIS
10 CASE.

11 Q INITIALLY ON THE 18TH?

12 A I LEARNED FROM INVESTIGATOR FAUST AND SEVERAL PHONE
13 CALLS THAT CAME IN TO THE VICTIM'S HOME PHONE NUMBER AN
14 UNIDENTIFIED FEMALE CALLER. WE GOT A SEARCH WARRANT TO GET
15 HER PHONE RECORDS TO THE VICTIM'S PHONE TO TRY TO IDENTIFY
16 WHO WAS CALLING THE POLICE.

17 Q AT THAT POINT ON THE AFTERNOON OR THE EVENING OF APRIL
18 THE 18TH WHICH THE DAY AFTER THIS OCCURRED. DID Y'ALL HAVE
19 ANY LEADS AS FAR AS THE IDENTITY OF THESES TWO PEOPLE WHO
20 HAD PERPETRATED THESE CRIMES?

21 A NOT AT THAT TIME. THAT'S WHAT WE WERE HOPING TO LEARN
22 FROM THE SEARCH WARRANT.

23 Q THE MORNING OF APRIL THE 19TH, DID YOU COME INTO SOME
24 INFORMATION?

25 A YES, I DID. I WAS ONE OF THE FIRST ONES THERE. I

SCOTT McDONALD-DIRECT BY MS. CAMPBELL

1 SIGNED THE REPORT. WHEN I ARRIVED THAT MORNING THERE WAS A
2 CRIMESTOPPERS TIP THAT HAD COME IN ABOUT 4:40 THAT MORNING
3 WITH A LOT OF INFORMATION ON IT ABOUT THE, HOPEFULLY TO
4 IDENTIFY THESE SUSPECTS. WE HAD ACTUALLY BEEN GIVEN BITS
5 AND PIECES OF INFORMATION THAT MAY LEAD US TO THE RESIDENCE
6 WHERE THEY WERE STAYING.

7 Q I JUST HAND YOU A DOCUMENT. IS THAT A COPY OF THE
8 CRIMESTOPPER TIP YOU GOT?

9 A YES, IT IS.

10 Q IS THAT THE INFORMATION THAT WAS GIVEN TO YOU?

11 A YES, IT IS.

12 Q IS THAT A DOCUMENT KEPT IN YOUR OWN COURSE OF BUSINESS?

13 A YES.

14 MS. CAMPBELL: YOUR HONOR, I'D OFFER THIS AS A
15 BUSINESS RECORD.

16 MS. SAMPSON: YOUR HONOR, TO THE REPORT IT, WE
17 WOULD NOT OBJECT BUT THERE ARE THINGS WITHIN IT THAT WE
18 WOULD OBJECT TO. I DON'T KNOW IF WE NEED TO REDACT IT OR
19 SHE WOULD LIKE TO DO THAT. WE NEED TO APPROACH.

20 (THEREUPON, THERE WAS A BENCH CONFERENCE WITHIN THE
21 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY.)

22 THE COURT: THERE HAS BEEN REDACTION. WITH THE
23 REDACTIN THERE IS NO OBJECTION TO THE DOCUMENT; IS THAT
24 CORRECT?

25 MS. CAMPBELL: I'M SORRY, YOUR HONOR.

SCOTT McDONALD-DIRECT BY MS. CAMPBELL

1 THE COURT: I SAID WITH THE REDACTION THERE WOULD
2 BE NO OBJECTION TO THE DOCUMENT; IS THAT CORRECT?

3 MS. OWINGS: THAT'S CORRECT.

4 THE COURT: ALL RIGHT. WE'LL HAVE THE REDACTION
5 MADE AND THAT ALSO NO OBJECTION TO A COPY OF IT BEING
6 SUBSTITUTED FOR THIS COPY LATER ON; IS THAT RIGHT?

7 MS. OWINGS: THAT'S CORRECT, YOUR HONOR.

8 THE COURT: WHAT'S THE NEXT NUMBER?

9 THAT WILL BE MARKED AS STATE'S 57 ADMITTED WITHOUT
10 OBJECTION AND A COPY WILL BE SUBSTITUTED.

11 (THEREUPON, THE CRIMESTOPPERS TIP WAS MARKED STATE'S
12 EXHIBIT NO. 57 AND ENTERED INTO EVIDENCE.)

13 MS. CAMPBELL: INCLUDING THE PARTS THAT HAVE BEEN
14 MARKED THROUGH. OKAY. STATE'S EXHIBIT 57.

15 BY MS. CAMPBELL:

16 Q IS THAT THE CRIMESTOPPERS TIP YOU ALL RECEIVED IN THE
17 MONTH OF APRIL THE 19TH?

18 A YES, IT IS.

19 Q CAN YOU PUBLISH THE INFORMATION THAT'S LOCATED IN THAT
20 CRIMESTOPPERS TIP?

21 A JUST WANT THE NARRATIVE SECTION OF IT?

22 Q THE NARRATIVE SECTION?

23 A CALLER ONE REPORTED THAT SHE LEARNED FIRSTHAND THAT
24 THESE TWO SUSPECTS ROBBED AND CAR JACKED THE ELDERLY COUPLE.
25 THE VICTIMS HAD STOPPED TO GIVE THE SUSPECT ASSISTANCE. THE

SCOTT MCDONALD-DIRECT BY MS. CAMPBELL

1 SUSPECT TOLD HER STORY IN GREAT DETAIL AFTER SHE GAVE A RIDE
2 TO THE FRIEND'S HOUSE ON THE EVENTS ON APRIL 18TH, 2005.
3 CALLER REPORTED TO RICHLAND COUNTY SHERIFF'S DEPUTY HAS
4 ALREADY RECOVERD THE CAR, SUSPECTS ARE STAYING WITH DON OR
5 DAWN AROUND THE ASHFORD SUBDIVISION NEAR DUTCH FORK HIGH AND
6 THE MISTY GREEN NEIGHBORHOOD BY THE PHONE NUMBER. THEY

7 CALLED FROM 1. THE RESIDENT HEARD SMITH HAS A
8 SON KNOWN AS Minor . THE MOTHER, DON OR DAWN, WILL
9 COVER FOR THE SUSPECT AS WELL AS HER SON. THERE ARE OTHER
10 SIBLINGS IN THE HOUSE, CHRIS AND HIS GIRLFRIEND SARA GABER.

11 Q IS THERE ALSO A POINT ON HERE THAT WHERE THEY GIVE A
12 DESCRIPTION AND MAKE NAMES FOR THE ACTUAL SUSPECT IN THE
13 CASE?

14 A THERE IS A DESCRIPTION FOR THE SUSPECT. ONCE THERE IS
15 A NAME OF CHUCK WITH AN ADDRESS GIVEN, BLUFF ROAD AREA, A
16 WHITE MAN IN HIS LATE 20'S, TELEPHONE NUMBER ,
17 STATES THE NUMBER HAS CALLED, BLOND HAIR, BLUE EYES,
18 HEAVY-SET, COUNTRY LOOKING, CARRIES A POCKET KNIFE.

19 Q AND WAS THERE ALSO A DESCRIPTION OF ANOTHER SUSPECT IN
20 THE CASE?

21 A YES, SUSPECT NUMBER TWO IS LISTED AS JESSICA, ALSO
22 ADDRESS BLUFF ROAD AREA, WHITE FEMALE, LATE 20'S, SAME
23 INFORMATION ON PHONE NUMBER, THE SANDY BLONDE HAIR.

24 Q AND IN A CRIMESTOPPERS TIP GENERALLY WHEN YOU GET
25 INFORMATION LIKE THAT YOU GO ABOUT PURSUING IT?

SCOTT MCDONALD-DIRECT BY MS. CAMPBELL

1 A WELL, THIS ONE HAD QUITE A BIT OF INFORMATION.
2 OFTENTIMES WE DON'T GET A LOT OF INFORMATION THE THESE ARE
3 ANONYMOUS SO WE GENERALLY HAVE NO WAY TO CONTACT THE CALLER
4 BUT IN THIS INCIDENT, YOU KNOW, WE HAD A PHONE NUMBER WE
5 COULD CROSS-REFERENCE. WE KNEW THEM FROM THIS INFORMATION
6 TO BE STAYING IN A HOUSE IN THE ASHFORD SUBDIVISION
7 SPECIFICALLY IN THE MISTY GREEN NEIGHBORHOOD WITHIN THE
8 ASHFORD SUBDIVISION AND WE HAD A NAME.

9 Q BASED ON THE INFORMATION WERE YOU ABLE TO TRACK DOWN
10 ANY ADDRESSES SUCH AS WITH THAT PHONE NUMBER?

11 A I DID.

12 Q AND WHAT WAS THE ADDRESS YOU CAME UP WITH INITIALLY?

13 A INITIALLY IT CAME BACK TO AN ADDRESS OF
14 IN IRMO. SHADY GROVE IS JUST OUTSIDE THE ASHFORD
15 SUBDIVISION.

16 Q SOMETIME WHEN GETTING INFORMATION, SAY, FROM A
17 CRIMESTOPPERS TIP OR SOMETHING LIKE THAT CAN THERE BE A
18 MIXUP IN NUMBERS? YOU DO FURTHER INVESTIGATION?

19 A RIGHT. THE CALLER HERE SEEMED TO BE ADAMANT ABOUT
20 WITHIN ASHFORD, NOT OUTSIDE AND SPECIFICALLY WITHIN A
21 PARTICULAR NEIGHBORHOOD IN THAT SUBDIVISION. SO WE
22 CONTINUED ON NOT KNOWING IF THIS WAS THE RIGHT HOUSE OR NOT.

23 Q YOU MENTIONED THAT YOU CHECKED ANOTHER DAY AT A BASE.
24 WERE YOU CHECKING OUT A NAME CALLED CHRISTOPHER SMITH THAT
25 WAS PROVIDED?

SCOTT MCDONALD-DIRECT BY MS. CAMPBELL

1 A MENTIONED THAT THERE WAS A SON BY THE NAME OF CHRIS
2 THAT LIVED THERE, CHRIS SMITH AND WE CROSS-REFERENCED THAT
3 AND WE DID FIND A CHRIS SMITH IN OUR DATA BASE.

4 Q WERE YOU ABLE TO TRACK AN ADDRESS FOR HIM?

5 A YES, SIR.

6 Q THAT WAS ACTUALLY IN THAT ASHFORD SUBDIVISION?

7 A AX WHICH ONE WE LOOKED THAT WAS
8 IN THE ASHFORD SUBDIVISION SPECIFICALLY WITHIN THE MISTY
9 GREEN NEIGHBORHOOD AND A CONTACT NAME HE HAD GIVEN A DAWN
10 SMITH.

11 Q BASED ON INFORMATION YOU GOT FROM CRIME STOPPERS AND
12 WHAT YOU WERE ABLE TO CORROBORATE BASED ON INFORMATION THEY
13 GAVE YOU, DID YOU GO THERE?

14 A YES, WE DID. I DROVE TO THE SCENE TO GET A DESCRIPTION
15 OF THE RESIDENCE AND MAINTAIN SURVEILLANCE ON THE RESIDENCE
16 WHILE THE SEARCH WARRANT WAS PRODUCED.

17 Q AND APPROXIMATELY HOW LONG DID YOU MAINTAIN
18 SURVEILLANCE THAT MORNING PRIOR TO THE OTHER OFFICERS
19 COMING?

20 A APPROXIMATELY ABOUT TWO HOURS.

21 Q ONCE THE SEARCH WARRANT HAD BEEN SECURED, DID Y'ALL
22 THEN ATTEMPT TO EXECUTE A SEARCH WARRANT AT THE ADDRESS OF
23 ?

24 A YES, I DID.

25 Q AND THAT WAS THE RESIDENCE I BELIEVE OF DAWN SMITH?

SCOTT McDONALD-DIRECT BY MS. CAMPBELL

1 A THAT'S CORRECT.

2 Q AS THE INFORMATION HAD BEEN PROVIDED TO YOU?

3 A RIGHT.

4 Q AND TELL THE JURY HOW THE SEARCH WARRANT WAS EXECUTED
5 THAT DAY?

6 A SEVERAL OTHER INVESTIGATORS INCLUDING INVESTIGATOR
7 FAUST, SERGEANT LINFERT, CAPTAIN SMITH ALL ARRIVED THERE. I
8 BELIEVE THAT WAS IT AND I BELIEVE A COUPLE LINE OFFICERS
9 ALSO CAME TO THE SCENE. WE KNOCKED AT THE DOOR, DIDN'T
10 IMMEDIATELY GET AN ANSWER. SEVERAL OF THE INVESTIGATORS
11 WENT TO THE SIDE OF THE RESIDENCE AND ENCOUNTERED SOME ON
12 THE PORCH. EVENTUALLY WE WERE ABLE TO GAIN ENTRY INTO THE
13 RESIDENCE.

14 Q ONCE INSIDE THE RESIDENCE WHO IS INSIDE THE RESIDENCE
15 ONCE YOU ENTERED?

16 A IN THE RESIDENCE SEVERAL SUBJECTS. I WAS OUTSIDE THE
17 RESIDENCE MAINTAINING SECURITY ON THE OUTSIDE, MADE INITIAL
18 ENTRY. INVESTIGATOR FAUST SOON BROUGHT A WHITE FEMALE TO ME
19 OUTSIDE THAT I HEARD HER TALKING.

20 Q SO BASICALLY YOU WERE OUTSIDE AND INVESTIGATOR FAUST,
21 OTHER PEOPLE WERE INSIDE THE HOUSE?

22 A THAT'S CORRECT.

23 Q YOU THEN MADE CONTACT WITH THE WHITE FEMALE?

24 A THAT'S RIGHT.

25 Q WHE YOU MADE CONTACT WITH THE FEMALE WERE YOU ABLE TO

SCOTT McDONALD-DIRECT BY MS. CAMPBELL

1 IDENTIFY HER?

2 A YES, CHRISTINA HALL.

3 Q CHRISTINA KATHERINE HALL AS SHE IDENTIFIED HERSELF AND
4 THAT'S THE CODEFENDANT IN THIS CASE?

5 A THAT'S CORRECT.

6 Q ONCE YOU MADE CONTACT, WHAT DID YOU DO?

7 A I ADVISED HER OF HER MIRANDA RIGHTS IMMEDIATELY.

8 Q WHY DID YOU DO THAT, SIR?

9 A BECAUSE AT THAT POINT SHE WAS POTENTIALLY IN CUSTODY
10 AND ANYTHING SHE TOLD US COULD BE CONSIDERED EVIDENCE IN THE
11 CASE. WE WANT TO BE OUT OF ABUNDANCE OF CAUTION.

12 Q WHEN YOU SAY MIRANDA RIGHTS THAT'S THE RIGHT TO REMAIN
13 SILENT?

14 A THAT'S CORRECT.

15 Q RIGHT TO REMAIN SILENT, ANYTHING SHE SAYS CAN AND WILL
16 BE USED AGAINST HER IN A COURT OF LAW AND SHE HAS A RIGHT TO
17 HAVE AN ATTORNEY. IF SHE CANNOT AFFORD AN ATTORNEY, ONE
18 WILL BE APPOINTED. SHE CAN QUIT ANSWERING QUESTIONS AT ANY
19 TIME UNTIL A LAWYER IS PRESENT OR SHE CAN STOP ANSWERING AT
20 ANY TIME. DID SHE APPEAR TO UNDERSTAND WHAT HER RIGHTS
21 WERE?

22 A SHE DID.

23 Q AT THAT POINT DID YOU START ASKING HER ABOUT THE EVENTS
24 TWO DAYS AGO?

25 A I TOLD HER WHY WE WERE HERE ABOUT THE ROBBERY THAT HAD

SCOTT McDONALD-DIRECT BY MS. CAMPBELL

1 OCCURRED WITH THE ELDERLY COUPLE. SHE IMMEDIATELY BOWED HER
2 HEAD AND STARTED CRYING AND WRINGING HER HANDS AND TOLD ME
3 ABOUT IT AND IMPLICATED RANDY ELDERS.

4 Q AT THAT POINT WHAT SHE SAID SPECIFICALLY SHE TOLD YOU
5 ABOUT HER INVOLVEMENT?

6 A YES, SHE DID.

7 Q AS WELL AS MR. ELDERS?

8 A THAT'S CORRECT.

9 Q SPECIFICALLY AT SOME POINT DID YOU THEN RETURN BACK
10 INTO THE DEN AREA LOOKING FOR A CERTAIN ITEM BASED ON WHAT
11 SHE TOLD YOU?

12 A RIGHT. I ASKED HER ABOUT A KNIFE. SHE INDICATED THAT
13 WAS A KNIFE IN OR ADJACENT TO MR. ELDERS' SHOES.

14 Q DID YOU ENTER THE LIVING ROOM AND LOOK FOR THE KNIFE?

15 A YES, SHE DID.

16 Q WAS THERE A KNIFE WHERE SHE SAID IT WOULD BE?

17 A YES, THERE WAS.

18 Q YOU ACTUALLY RECOVERED THE KNIFE FROM WHERE?

19 A EITHER IN HIS SHOE OR RIGHT ADJACENT TO THE SHOE THERE
20 WAS A KNIFE IN ELDERS' SHOES. LOOK IN THE LIVING ROOM.

21 Q AND AT THAT TIME DID YOU THEN PLACE HER UNDER ARREST
22 FOR HER INVOLVEMENT IN THIS CRIME?

23 A THAT'S CORRECT.

24 Q AT A LATER TIME AFTER THIS CRIME DID YOU LATER QUESTION
25 HER?

SCOTT McDONALD-DIRECT BY MS. CAMPBELL

1 A YES, I DID. I RETURNED TO OUR HEADQUARTERS WITH HER
2 AND IN MY OFFICE INTERVIEWED HER, TOOK A WRITTEN STATEMENT
3 FROM HER ABOUT HER INVOLVEMENT.

4 Q THAT AFTERNOON, TOO, WHEN YOU MADE FURTHER CONTACT WITH
5 HER DID SHE ALSO GIVE YOU SOME PERMISSION TO TAKE WHAT'S
6 CALLED A BUCCOL, MUCOUS SWAB I BELIEVE.

7 A YES, SHE DID.

8 Q WHAT'S THE PURPOSE OF DOING THAT?

9 A WE OBTAIN D.N.A. THROUGH THAT MUCOUS SWAB IN THE MOUTH
10 IN CASE ANY D.N.A. IS OBTAINED FROM THE VICTIM OR THE CRIME
11 SCENE

12 Q BASICALLY D.N.A. USED FOR COMPARISON?

13 A THAT'S CORRECT.

14 Q AND SHE CONSENTED TO DOING THAT?

15 A YES, SHE DID.

16 Q THE DEFENDANT IN THIS CASE MR. RANDY ELDERS WHAT'S HIS
17 FULL NAME; DO YOU KNOW?

18 A I DON'T BELIEVE I HAVE A FULL NAME IN MY NOTES. MAYBE
19 I BELIEVE IT'S RANDY CHARLES ELDERS BUT I DON'T HAVE THAT IN
20 FRONT OF ME.

21 Q SHOW YOU 24, BACK BOARD, RANDY CHARLES ELDERS AND ARE
22 YOU FAMILIAR WITH HIS NICKNAME?

23 A CHUCK.

24 Q THANK YOU?

25 MS. CAMPBELL: JUST FOR CLARIFICATION, YOUR HONOR,

SCOTT McDONALD-CROSS BY MS. SAMPSON

1 ONE MORE QUESTION.

2 BY MS. CAMPBELL:

3 Q THAT AFTERNOON WHEN YOU ARRESTED MS. HALL IN THAT HOUSE
4 WAS MR. ELDERS ALSO ARRESTED AT THAT HOUSE THAT DAY?

5 A YES, HE WAS.

6 Q BY OTHER OFFICERS?

7 A YES.

8 MS. CAMPBELL: THANK YOU, SIR.

9 THE COURT: THANK YOU, SIR.

10 ALL RIGHT. CROSS-EXAMINATION.

11 MS. SAMPSON: THANK YOUR HONOR. PLEASE THE COURT.

12 CROSS-EXAMINATION BY MS. SAMPSON:

13 Q GOOD AFTERNOON, SERGEANT?

14 A GOOD AFTERNOON.

15 Q YOU STATED AT SOME POINT YOU TALKED TO MS. HALL ABOUT
16 WHAT HAD HAPPENED?

17 A THAT'S CORRECT.

18 Q DID SHE EVER INDICATE TO YOU THAT MR. ELDERS ASSAULTED
19 MR. RIGGS?

20 A SHE INDICATED, I SAW RANDY'S ARM GO AROUND THE OLD
21 LADY'S SEAT.

22 Q IN THE CAR, CORRECT?

23 A IN THE CAR.

24 Q ANYTHING OUTSIDE OF THE CAR, ANYTHING THAT SHE STATED
25 THAT MR. ELDERS OR INDICATED TO YOU THAT MRS. RIGGS WAS

SCOTT McDONALD-CROSS BY MS. SAMPSON

1 ASSAULTED?

2 A NOTHING THAT SHE INDICATED ON HER STATEMENT, NO.

3 Q AND SHE DIDN'T INDICATE ANYTHING ABOUT MR. ELDERS
4 TAKING MRS. RIGGS' PURSE?

5 A NOT IN THIS STATEMENT, NOT.

6 Q AND OU NEVER SPOKE WITH MR. ELDERS ABOUT HIS
7 PARTICIPATION IN THE CRIME, CORRECT?

8 A NO, I DON'T.

9 MS. CAMPBELL: OBJECTION, YOUR HONOR. WE HAVE A
10 MATTER OF LAW.

11 THE COURT: ALL RIGHT. MR. FOREMAN, LADIES AND
12 GENTLEMEN, WE NEED TO ASK YOU TO STEP BACK TO YOUR JURY ROOM
13 WHILE I TAKE THIS MATTER UP, PLEASE. IF YOU'LL STEP BACK TO
14 THE JURY ROOM, DON'T DISCUSS THE CASE.

15 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
16 JURY.)

17 MS. CAMPBELL: SHE NOW HAD THE INFORMATION THAT IN
18 ONE TALK HE INVOKED HIS RIGHT TO REMAIN SILENT WHICH WE WERE
19 GOING INTO. WE DON'T WANT TO MENTION HOW THE JURY HAS AN
20 INFERENCE THAT NOBODY BOTHERS TO TALK TO HIM. HE WAS
21 ADVISED OF HIS RIGHTS AND HE SAID SHE DIDN'T WANT TO TALK.

22 THE COURT: ALL RIGHT. WHAT WAS THE LAST QUESTION
23 THAT WAS ASKED? THAT'S WHERE THIS IS COMING FROM; IS THAT
24 CORRECT?

25 MS. CAMPBELL: YES, SIR.

SCOTT McDONALD-CROSS BY MS. SAMPSON

1 THE COURT: WHAT WAS THE QUESTION AS YOU RECALL
2 IT, SOLICITOR?

3 MS. CAMPBELL: AS I RECALL THE QUESTION, YOUR
4 HONOR, SHE MENTIONED YOU TALKED TO CHRISTINA HALL. CAN I DO
5 REDIRECT ON HIM? BUT ANYWAY, THEN SHE SAID SOMETHING TO THE
6 EFFECT BUT YOU NEVER TALKED TO MR. ELDERS ABOUT HIS STORY,
7 DID YOU, IS THE IMPRESSION I GOT.

8 THE COURT: ALL RIGHT. MS. SAMPSON, I'LL HEAR
9 FROM YOU.

10 MS. SAMPSON: MY MOTION IS THAT WE HAVEN'T SAID
11 THEY DIDN'T TRY OR MAKE ANY CONTACT. I JUST SIMPLY ASKED
12 DID THIS PARTICULAR OFFICER TALK TO HIM ABOUT THE CRIME. HE
13 SAID, NO, HE DIDN'T. I'LL ASK HIM DID HE INVOKE HIS RIGHTS.

14 THE COURT: WELL, I THINK IN FAIRNESS WHOLE, IF
15 THAT INFACIT IS WHAT OCCURRED THAT OUGHT TO BE ASKED AND IT
16 NORMALLY WOULD NOT BE AN ISSUE BUT SINCE THE LAST OF THAT
17 QUESTION WAS ASKED I THINK IT WOULD BE FAIR TO DO THAT.
18 YOU'RE STILL ON CROSS-EXAMINATION. WHETHER YOU WANT TO
19 BRING IT UP, THE STATE BRINGS IT UP ON REDIRECT, THAT'S UP
20 TO Y'ALL. I WILL PERMIT THE STATE TO ASK THAT QUESTION IF
21 IT'S NOT BROUGHT UP I'LL PUT IT THAT WAY.

22 MS. SAMPSON: THAT'S FINE, YOUR HONOR.

23 THE COURT: ANY --

24 MS. CAMPBELL: JUDGE, ONE OTHER CONSIDERATION THAT
25 WE'RE LOOKING INTO FOR OPENING STATEMENT MS. SAMPSON, SHE

SCOTT McDONALD-CROSS BY MS. SAMPSON

1 WAS NOT A MONITOR. SHE WAS JUST A HUMAN BEING. SHE WASN'T
2 A BAD PERSON. WE FEEL LIKE THAT WOULD OPEN UP THE DOOR TO
3 HIS OTHER CRIME AND WE ARE GOING TO BE LOOKING AT THE CASE
4 LAW.

5 THE COURT: Y'ALL CAN TAKE A LOOK AT IT. OPENING
6 STATEMENT, YOU'VE GOT A LONG WAY TO GO TO TURN AN OPENING
7 STATEMENT INTO EVIDENCE.

8 MS. CAMPBELL: THE CASES WE'RE RELYING ON FURTHER,
9 STATE VERSUS DUNLAP. I JUST WANT TO GIVE THE COURT A HEADS
10 UP.

11 THE COURT: ALL RIGHT. GET THE JURY BACK IN,
12 PLEASE.

13 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
14 JURY.)

15 THE COURT: ALL RIGHT. MS. SAMPSON, YOU MAY
16 CONTINUE YOUR CROSS-EXAMINATION.

17 CROSS-EXAMINATION BY MS. SAMPSON: (CONTINUED)

18 Q LET ME JUST BE CLEAR. WHEN YOU TALK TO ANYBODY AS AN
19 OFFICER WHEN THEY WOULD BE A SUSPECT IN CRIME?

20 A THAT'S CORRECT.

21 Q WOULD IT BE FAIR TO SAY IF YOU DON'T DO IT SOMEONE IN
22 YOUR DEPARTMENT OR ONE OF THE OTHER INVESTIGATORS DOES THIS?

23 A THAT'S CORRECT.

24 Q IN THIS CASE DID ANYONE DO THAT WITH MR. ELDERS?

25 A FROM WHAT I'VE BEEN TOLD --

SCOTT McDONALD-REDIRECT BY MS. CAMPBELL

1 Q HE INVOKED HIS RIGHT TO REMAIN SILENT?

2 A I BELIEVE SO.

3 Q SO THEY INVOKED THEIR RIGHTS?

4 A IT DOES OCCUR.

5 REDIRECT-EXAMINATION BY MS. CAMPBELL:

6 Q MR. ELDERS CHOSE NOT TO GIVE YOU HIS STORY?

7 A THAT'S CORRECT; I NEVER DIRECTLY INTERVIEWED HIM.

8 Q BUT THAT DID OCCUR BY SOMEONE ELSE?

9 A THAT'S CORRECT.

10 Q FINALLY SHE ASKED QUESTIONS ABOUT CHRISTINA HALL'S
11 STATEMENT. WAS CHRISTINA HALL COMPLETELY FORTHCOMING IN
12 THIS ISSUE?

13 A NO, SHE WASN'T BECAUSE SHE LATER WANTED TO AMEND HER
14 STATEMENT.

15 Q AND IN FACT DID SHE GIVE YOU, I GUESS, WAS IT A NUMBER
16 OF EXPLANATIONS FOR WHAT HAD HAPPENED IN HER INVOLVEMENT?

17 A YES.

18 MS. CAMPBELL: THANK YOU, SIR.

19 THE COURT: ANY RECROSS?

20 MS. SAMPSON: NO, YOUR HONOR.

21 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

22 ALL RIGHT. MR. FOREMAN, LADIES AND GENTLEMEN, I
23 THINK WE'RE GOING TO GO AHEAD AND BREAK FOR THE DAY. WE'VE
24 BOTH HAD A FULL DAY AND WE WILL BREAK FOR THE DAY. I'VE
25 ADVISED YOU AND ORDERED YOU NOT TO DISCUSS THE CASE WITH

1 ANYONE. I THINK YOU CAN UNDERSTAND AS LONG AS WE'RE ALL
2 HERE AT THE COURTHOUSE, THAT'S PRETTY EASY TO COMPLY WITH.
3 ONCE YOU GO HOME WITH FAMILY AND FRIENDS BEGIN BLAME IT ON
4 ME BUT PLEASE DON'T DISCUSS THE CASE WITH ANYONE. WE WILL
5 START BACK, I TELL YOU WHAT IF YOU FOLKS WILL BE HERE AT
6 9:30 WE'LL START BACK AT 9:30.

7 COUNSEL, I NEED Y'ALL TO BE HERE AT NINE O'CLOCK
8 TO DEAL WITH ANY MATTERS THAT MIGHT COME UP SO WE WON'T
9 DELAY, IF ANYTHING COMES UP.

10 IF YOU FOLKS WILL BE HERE AT 9:30, WE'LL EXCUSE
11 YOU FOR THE AFTERNOON.

12 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
13 JURY.)

14 THE COURT: ALL RIGHT. ANYTHING FURTHER?

15 MS. SAMPSON: JUST A QUESTION FOR ME PERSONALLY TO
16 PICK UP MY CHILDREN, CHILD CARE ISSUE. IS YOUR INTENT TO
17 PROBABLY STOP AT THE SAME TIME TOMORROW.

18 THE COURT: THAT'S WHAT I WOULD SHOOT FOR. THE
19 ONLY THING THAT THROWS ME OFF WITH THAT IS IF IT GOES TO THE
20 JURY; THEY'RE OUT DELIERATING AND I CAN'T CONTROL THAT. IF
21 THEY'VE BEEN OUT FOR THREE OR FOUR HOURS, IF THEY'VE BEEN
22 OUT FOR HALF AN HOUR, I'M NOT GOING TO STOP AT 5:30 JUST FOR
23 CONVENIENCE PURPOSED BUT WE'LL JUST PLAY IT BY EAR BUT
24 NORMALLY I TRY TO STOP AROUND 5:30.

25 MS. SAMPSON: IF WE'RE DOING SOMETHING I CAN'T

1 CALL ANYBODY. WE'LL KNOW IN PLENTY OF TIME FOR YOU TO MAKE
2 OTHER ARRANGEMENTS.

3 THE COURT: ALL RIGHT. Y'ALL HAVE A GOOD NIGHT.
4 I'LL BE HERE AT NINE O'CLOCK AND IF Y'ALL HAVE ANYTHING
5 PLEASE COME TO CHAMBERS.

6 (THEREUPON, THE TRIAL OF THIS CASE WAS RECESSED UNTIL
7 THURSDAY, FEBRUARY 16, 2006.)

8 - - - - - END OF VOLUME ONE - - - - -

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Vol II

1 STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

2 COUNTY OF RICHLAND

3
4 THE STATE :

5 -VS- :

TRANSCRIPT OF RECORD

2005-GS-40-3540

6 RANDY C. ELDERS :

2005-GS-40-3544

2005-GS-40-3545

7
8
9
10 FEBRUARY 13-17, 2006

COLUMBIA, SOUTH CAROLINA

11
12
13 B E F O R E :

14 HONORABLE JAMES W. JOHNSON, JR., JUDGE.

15
16 A P P E A R A N C E S :

17 KATHRYN L. CAMPBELL, ASST. SOLICITOR

AARON S. JOPLIN, ASST. SOLICITOR

18 ATTORNEYS FOR THE STATE

19 APRIL W. SAMPSON, ASST. PUBLIC DEFENDER

STACY R. OWINGS, ASST. PUBLIC DEFENDER

20 ATTORNEYS FOR THE DEFENDANT

21
22
23 VIRGINIA ROLAND

CIRCUIT COURT REPORTER

24 VOLUME II OF II

25

1 THE COURT: ALL RIGHT. ANY PROPOSED CHARGES, IF
2 YOU FOLKS WILL HAVE THEM PREPARED, I'LL BE GLAD TO LOOK AT
3 THEM.

4 MS. CAMPBELL: MAY IT PLEASE THE COURT.

5 THE COURT: YES.

6 MS. CAMPBELL: YOUR HONOR, WE'RE GETING READY TO
7 GET INTO SOME WITNESSES THIS MORNING WHO MIGHT HAVE A PRIOR
8 RECORD. IT MAY BE A GOOD TIME TO SETTLE THEIR RECORD AS
9 WELL AS THE DEFENDANT'S. THE FIRST IS A POTENTIAL WITNESS
10 CHRISTINA HALL.

11 THE COURT: ALL RIGHT.

12 MS. CAMPBELL: AND HER PRIOR RECORD INCLUDES
13 A 2004 BURGLARY THIRD CONVICTION, AND THEN SHE HAS A
14 POSSESSION OF CRACK CONVICTION, 2005; AND ALSO, YOUR HONOR,
15 SHE HAS PENDING CHARGES INCLUDING BURGLARY IN THE FIRST
16 DEGREE, ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE,
17 KIDNAPPING, STRONG ARMED ROBBERY AND THEN THE SAME CHARGES
18 AS THE DEFENDANT IN THIS CASE. I BELIEVE THAT THEY HAVE A,
19 THEY HAVE A RIGHT TO GET INTO THE FACT THAT SHE HAS THOSE
20 CHARGES PENDING. I DON'T KNOW THAT THEY HAVE A RIGHT TO GET
21 INTO THE ACTUAL --

22 MS. OWINGS: YOUR HONOR, ACCORDING TO STATE VERSUS
23 MIZZELL AND GILLIAN, I HAVE A CONSTITUTIONAL RIGHT TO ASK
24 HER WHAT SHE FACES ON THESE CHARGES. I HAVE THOSE CASES.
25 IF YOU'D LIKE TO SEE THEM I HAVE COPIES.

1 THE COURT: LET ME TAKE A LOOK. WERE YOU TALKING
2 ABOUT THE POSSIBLE PENDING CHARGES OR WHAT SENTENCE SHE
3 COULD ACTUALLY RECEIVE ON THE CONVICTION?

4 MS. CAMPBELL I'M TALKING ABOUT THE PENDING
5 CHARGES.

6 THE COURT: OKAY. LET ME TAKE A LOOK AT THOSE
7 CASES.

8 MS. OWINGS: THANK YOU.

9 MS. CAMPBELL: AND IF I COULD HAVE A COPY OF THOSE
10 CASES.

11 MS. OWINGS: YOU CAN BORROW MY COPY. I JUST NEED
12 A MOMENT JUST TO LET THE WITNESS KNOW THAT WE'LL BE GOING
13 INTO THAT.

14 THE COURT: BASED ON THE CASE I THINK THE, IN
15 ORDER TO PROTECT THE DEFENDANT'S RIGHTS UNDER THE
16 CONFRONTATION CLAUSE, THE DEFENSE WOULD BE ENTITLED TO
17 CROSS-EXAMINE.

18 MS. CAMPBELL: THOSE CHARGES ARE PENDING.

19 THE COURT: BOTH OF THE CURRENT CHARGES AS THEY
20 PERTAIN TO THE CURRENT CHARGES AS FAR AS ON THE CONVICTIONS,
21 I DON'T THINK IT'S RELEVANT.

22 ALL RIGHT. WHAT ELSE OR WHO ELSE I GUESS I SHOULD
23 SAY.

24 MS. CAMPBELL: THAT WOULD BE THE EXTENT OF HER
25 PRIOR RECORD. I THINK WE AGREE WITH THAT. THE OTHER PERSON

1 IS CHRISTOPHER SMITH. HE HAS IMPEACHABLE CHARGES I BELIEVE
2 IS SHOPLIFTING FROM 2002, A MALICIOUS INJURY TO PERSONAL
3 PROPERTY IN 2003, A GRAND LARCENY AND I BELIEVE THAT'S THE
4 EXTENT OF HIS CONVICTIONS.

5 THE COURT: DEFENSE AWARE OF ANYTHING ELSE?

6 MS. OWINGS: YOUR HONOR, IT LOOKS LIKE HE HAD BEEN
7 TO THE DEPARTMENT OF CORRECTIONS ON NEW CONVICTIONS. I
8 CAN'T TELL IF IT'S A PROBATION REV OR ANOTHER DRUG CHARGE.
9 HE'S IN PRISON RIGHT NOW FOR TWO YEARS ON A P.W.I.D. FIRST
10 AS I ASSUME THAT MAY BE THAT'S WHAT HE HAD PENDING CHARGES
11 AND A PROBATION REV. I CAN'T REALLY TELL BUT HE HAS A
12 BURGLARY SECOND AND LOOKS LIKE HE'S IN PRISON ON THE GRAND
13 LARCENY, ALSO A PROBATION REVOCATION.

14 MS. CAMPBELL: WHAT ARE YOU LOOKING AT?

15 MS. OWINGS: IT'S ATTACHED TO THE RECORD THAT YOU
16 PROVIDED ME.

17 MS. CAMPBELL: I HAVE, JUST NEED TO DOUBLE-CHECK
18 ON THAT, MAKE SURE WE GOT THE RIGHT CHARGE.

19 THE COURT: A P.W.I.D. AND A BURGLARY.

20 MS. OWINGS: AND A CRIMINAL CONSPIRACY AND A GRAND
21 LARCENY. IT LOOKS LIKE SOME MAY BE NEW CHARGES, SOME MAY BE
22 PENDING, SOME MAY BE PROBATION REVOCATIONS, SOME MAY BE
23 CONVICTIONS. I'M SORRY, YOUR HONOR. THIS IS THE RECORD
24 THAT THE STATE PROVIDED TO ME YESTERDAY.

25 MS. CAMPBELL: AND, YOUR HONOR, DOUBLE-CHECK.

1 THEY'RE JUST ASSUMING IT'S CORRECT AT THIS POINT IN TIME.

2 THE COURT: ALL RIGHT.

3 MS. CAMPBELL: YOUR HONOR, AS FAR AS THE
4 DEFENDANT'S PRIOR RECORD, I DON'T KNOW IF THIS WOULD BE AN
5 APPROPRIATE TIME TO TALK ABOUT THAT.

6 THE COURT: WE CAN GO AHEAD AND GET INTO IT.

7 MS. CAMPBELL: REGARDING IMPEACHABLE OFFENSES,
8 YOUR HONOR, I BELIEVE HE DOES HAVE POSSESSION OF CRACK
9 COCAINE, USE OF A VEHICLE WITHOUT OWNER'S PERMISSION.

10 THE COURT: WHEN WAS THAT?

11 MS. CAMPBELL: THAT WAS IN 2004.

12 THE COURT: BOTH OF THEM.

13 MS. OWINGS: NO, SIR. ONE WAS IN 2005. HE PLED
14 TO BOTH OF THEM 4 JUNE, 2005.

15 THE COURT: WHAT WAS THE NEXT CHARGE?

16 MS. CAMPBELL: USE OF MOTOR VEHICLE WITHOUT
17 OWNER'S CONSENT.

18 THE COURT: WHEN WAS THAT?

19 MS. CAMPBELL: THAT WAS FROM 2000. HE PLED
20 IN 2002 AND THEN FINALLY, YOUR HONOR, GRAND LARCENY OF A
21 MOTOR VEHICLE FROM 1988.

22 THE COURT: SO TWO POSSESSIONS OF CRACK, ONE USE
23 WITHOUT CONSENT AND ONE GRAND LARCENY; IS THAT RIGHT?

24 MS. CAMPBELL: IMPEACHABLE WITHIN THE 10 YEAR.

25 MS. OWINGS: YOUR HONOR, RIGHT. AT THIS POINT THE

1 DEFENDANT HAS NOT DECIDED WHETHER OR NOT HE'S GOING TO
2 TESTIFY BUT UNDER STATE V. COLE AND STATE V. ALEXI AND STATE
3 V. DUNLAP ANOTHER ISSUE IT DOES SAY THAT POSSESSION CASES
4 ARE PROBATIVE. MAYBE I WASN'T PLANNING TO GET INTO THOSE
5 CONVICTIONS BECAUSE THEY ARE POSSESSION CASES BUT AT THIS
6 TIME THE DEFENDANT HAS NOT DECIDED TO TESTIFY.

7 THE COURT: WELL, I'M PRETTY SURE THE DUNLAP CASE
8 WAS A DRUG CASE. IS THAT NOT CORRECT?

9 MS. OWINGS: IT'S QUOTED IN HERE. IT'S NOT A PART
10 OF THE HOLDING BUT SAYS WE TAKE THE OPPORTUNITY HOWEVER TO
11 REMIND THE BENCH AND THE BAR THAT VIOLATIONS OF NARCOTIC
12 LAWS ARE NOT PROBATIVE OF TRUTHFULNESS AND THAT COMES FROM
13 STATE V. ALEXI.

14 THE COURT: BUT AT THE SAME TIME THESE OFFENSES
15 FALL SQUARELY WITHIN WHAT IS PERMITTED.

16 MS. CAMPBELL: IT --

17 MS. OWINGS: IT'S UNDER THE 10 YEARS.

18 THE COURT: NO QUESTION ABOUT THAT. I THINK I
19 KNOW THE DUNLAP CASE AT LEAST BY NAME, NOT FAMILIAR WITH THE
20 OTHER TWO THAT YOU'VE JUST CITED. THE GENERAL PROPOSITION
21 THERE IS THAT IF YOU'VE GOT A DRUG CHARGE AND THE PRIOR
22 RECORD ARE DRUG CHARGES THAT HAS SORT OF AN INHERENT
23 PREJUDICE THAT WOULD OUTWEIGH THE PROBATIVE VALUE OF IT, BUT
24 I KNOW THAT THAT OTHER LANGUAGE IS IN THERE BUT THERE IS NO
25 PROHIBITION AS I UNDERSTAND IT IN A CASE LIKE THIS WHERE

1 THERE ARE NO DRUG CHARGES PENDING THAT WOULD SAY THAT THAT
2 WOULD NOT BE PROPER FOR IMPEACHMENT PURPOSES AS LONG AS
3 THEY'RE NOT SIMPLE POSSESSIONS THAT HAVE BEEN, YOU KNOW,
4 LOWER COURT OFFENSES AND BOTH OF THESE WOULD BE PROPER AT
5 THE TIME EITHER THREE OR FIVE YEAR OFFENSES AS I UNDERSTAND.

6 **MS. OWINGS:** THESE ARE GENERAL SESSIONS CHARGES,
7 YES, SIR.

8 **THE COURT:** ALL RIGHT. I BELIEVE IT WOULD BE
9 APPROPRIATE FOR IMPEACHMENT PURPOSES.

10 **MS. CAMPBELL:** YOUR HONOR, (JUST ONE OTHER THING
11 JUST TO BE FAIR ABOUT EVERYTHING. CHRIS SMITH DID MEET THE
12 DEFENDANT WHILE IN JAIL AND CAUTIONED HIM WITH THE COURT'S
13 APPROVAL HE WOULD NOT GO INTO WHERE HE MET HIM.

14 **THE COURT:** THAT WAS AN ISSUE THAT HAS BEEN
15 DISCUSSED. I DON'T KNOW IF THAT'S IN CHAMBERS OR ON THE
16 RECORD. BASED ON STATEMENTS THEY MET IN JAIL, IN PRISON
17 SOMEWHERE AND IT WAS AGREED THAT THAT WOULD NOT BE SOLICITED
18 FROM THAT WITNESS.

19 **MS. CAMPBELL:** AND THE ONLY OTHER ISSUE, YOUR
20 HONOR, IS THEN THAT AT A LATER DATE THE LAST YEAR THE
21 DEFENDANT AND THE WITNESS WERE BACK IN ALVIN S. GLENN
22 TOGETHER, THEY AGAIN DISCUSSED THE CHARGE AND THINGS OF THAT
23 NATURE. WE DO NOT INTEND ON GETTING INTO THAT HOWEVER, IF
24 CROSS-EXAMINATION, I'M NOT TRYING TO CAUTION ANYBODY ABOUT
25 WHERE TO GO. I'M JUST SAYING THAT THERE WAS ANOTHER ISSUE

1 AND I JUST WANT TO LET THEM KNOW THEY WERE IN THE, I THINK
2 IT WAS THE DORM TOGETHER, AND THEY DID HAVE DISCUSSIONS
3 ABOUT THE CHARGES, ABOUT PLEA NEGOTIATIONS, ABOUT WHAT HE
4 DID AND THINGS OF THAT NATURE. WE DO NOT INTEND UNLESS HE
5 GOES THERE BUT I JUST WANT TO LET THE COURT KNOW ABOUT THAT.

6 THE COURT: YOU HAVE QUESTIONED THIS WITNESS ABOUT
7 THAT MATTER AS FAR AS --

8 MS. CAMPBELL: I WOULD LIKE JUST TWO MINUTES TO GO
9 BACK AND REITERATE THAT.

10 THE COURT: THAT'S FINE. YOU DON'T HAVE ANY
11 OBJECTION TO HER ADVISING HIM OF THIS?

12 MS. OWINGS: NO, YOUR HONOR, BUT I DO WANT TO GO
13 BACK. IF ONE THING I THINK IS YOU DECIDED THAT THE
14 POSSESSION OF CRACK, I DO INTEND TO PROPERLY ASK THE OTHER
15 TWO WITNESSES I HAVE NOW. I JUST WANT YOU TO KNOW THAT I
16 PROBABLY WILL ASK ABOUT THOSE.

17 THE COURT: THAT'S FINE. OKAY.

18 MS. CAMPBELL: YOUR HONOR, I HAVE ANOTHER MATTER.
19 YOUR HONOR, THE LAST THING I'D ADDRESS YOU DID ANY REQUESTS
20 TO CHARGE?

21 THE COURT: THAT'S FINE. I JUST, I CAN GLANCE
22 THROUGH THEM WHILE WE'RE PROCEEDING WITH THE TRIAL THIS
23 MORNING AND MAYBE SAVE A LITTLE TIME. WE'LL HAVE A
24 CONVERSATION BEFORE WE EVER GET TO THAT POINT.

25 MS. CAMPBELL: OKAY. I JUST WANT YOU TO KNOW I

1 WAS JUST TRYING TO --

2 THE COURT: I DON'T THINK I'VE GOT THE AUTHORITY
3 TO SAY IF YOU DON'T HAND ANY UP I'M NOT GOING TO CHARGE THE
4 JURY BUT I THINK WE'D ALL BE IN TROUBLE IF I DID THAT.

5 THE COURT: ANYTHING FURTHER, MS. OWINGS?

6 MS. OWINGS: NO, SIR.

7 THE COURT: ANYTHING FURTHER, SOLICITOR?

8 MS. CAMPBELL: NO, SIR.

9 THE COURT: BRING THE JURY IN PLEASE, SIR.

10 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
11 JURY.) .

12 THE COURT: ALL RIGHT. THANK YOU. GOOD MORNING,
13 MR. FOREMAN, LADIES AND GENTLEMEN. I APPRECIATE YOUR BEING
14 HERE. WE'LL CONTINUE WITH THE TRIAL. CALL YOUR NEXT
15 WITNESS, SOLICITOR.

16 MR. JOPHLIN: THANK YOUR HONOR. STATE CALLS
17 TRISHA COLLINS.

18 TRISHA COLLINS, BEING FIRST
19 DULY SWORN, TESTIFIED AS FOLLOWS:

20 DIRECT EXAMINATION BY MR. JOPHLIN:

21 Q INVESTIGATOR COLLINS, WHERE ARE YOU EMPLOYED?

22 A RICHLAND COUNTY SHERIFF'S DEPARTMENT.

23 Q WHAT ARE YOUR DUTIES THERE?

24 A I'M A FORENSIC INVESTIGATOR SPECIALIZING IN LATENT
25 PRINT ANALYSIS.

TRISHA COLLINS-DIRECT BY MR. JOPHLIN

1 Q AND CAN YOU SORT OF EXPLAIN TO THE JURY WHAT YOU DO
2 WITH LATENT, WHAT A LATENT PRINT IS AND HOW YOU ANALYZE IT?
3 SORT OF WORK THROUGH THE PROCESS, THE SCIENTIFIC PROCESS.

4 A I USE THE TERM LATENT FINGERPRINT. LATENT MEANS
5 UNSHOWN. SEEN THEY'RE NOT ALWAYS LIKE THAT. WHAT I DO IS I
6 LOOK AT ANY FINGERPRINTS THAT ARE COLLECTED FROM A CRIME
7 SCENE OR FROM AN UNKNOWN SOURCE TO TRY TO IDENTIFY THEM WITH
8 A KNOWN SOURCE, A ROLLED FINGERPRINT CARD OR A ROLLED
9 LAMINATION CARD. WE DO THAT ALSO FOR IDENTIFICATION
10 PURPOSES.

11 IF SOMEONE HAS PASSED AWAY AND WE DON'T KNOW WHO
12 THEY ARE, WE IDENTIFY THEM THROUGH THE USE OF FINGERPRINTS
13 AND TYPICALLY WHAT I DO IS I TAKE THE FINGERPRINTS THAT ARE
14 COLLECTED FROM CRIME SCENES AND I COMPARE THEM TO CERTAIN
15 PEOPLE. IT COULD BE REQUESTED. I COULD GET A NAME FROM OUR
16 A.F.I.S. SYSTEM AND I TRY TO DETERMINE WHETHER OR NOT THE
17 PERSON WHOSE NAME IS GIVEN TO ME ACTUALLY DENOTES THE
18 FINGERPRINTS THAT WERE COLLECTED IN THE FILE.

19 Q SO YOU BASICALLY COMPARE UNKNOWN FINGERPRINTS TO KNOWN
20 FINGERPRINTS AND SEE IF IT MATCHES?

21 A RIGHT.

22 Q AND WHAT TRAINING HAVE YOU HAD IN THIS AREA?

23 A I'VE HAD BASIC FINGERPRINT TRAINING FROM THE SOUTH
24 CAROLINA CRIMINAL JUSTICE ACADEMY. I'VE GONE TO BASE PALM
25 PRINTS SCHOOL THAT WAS OFFERED OUT OF STATE FROM A PRIVATE

1 COMPANY AND I'VE ALSO BEEN FOR NUMEROUS CLASSES ABOUT THE
2 DEVELOPMENT OF LATENT FINGERPRINTS AND COMPARISON OF LATENT
3 FINGERPRINTS AND A LOT OF PRACTICE.

4 Q OKAY. AND WERE YOU IN THIS POSITION BACK IN APRIL OR
5 MAY OF LAST YEAR?

6 A I WAS.

7 MR. JOPHLIN: OKAY. YOUR HONOR, AT THIS TIME WE'D
8 OFFER INVESTIGATOR COLLINS AS AN EXPERT IN LATENT
9 FINGERPRINT EXAMINATION.

10 THE COURT: ANY OBJECTION OR CROSS-EXAMINATION OF
11 QUALIFICATIONS?

12 MS. OWINGS: NO OBJECTION.

13 THE COURT: ALL RIGHT. THE WITNESS IS FOUND TO BE
14 AN EXPERT IN THE FIELD OF LATENT FINGERPRINT IDENTIFICATION.

15 MR. JOPHLIN: THANK YOU, YOUR HONOR.

16 BY MR. JOPHLIN:

17 Q DID YOU HAVE A CHANCE TO WORK ANY OF THIS CASE WITH THE
18 ELDERS, RANDY CHARLES ELDERS, THE DEFENDANT?

19 A I WAS REQUESTED TO MAKE A COMPARISON. YES, I WAS.

20 Q AND WHEN DID YOU RECEIVE ANY KIND OF KNOWN LATENT
21 FINGERPRINTS?

22 A I DON'T SPECIFICALLY REMEMBER THE DATE THAT I RECEIVED
23 THE LATENT FINGERPRINTS. I RECEIVED A REQUEST, MADE A
24 COMPARISON AND WROTE MY REPORT ON MAY THE 20TH OF 2005.

25 Q AND WHO DID YOU RECEIVE THAT REQUEST FROM?

1 A INVESTIGATOR DEIDRE BROWN.

2 Q AND WERE YOU GIVEN ANY KIND OF PRINTS TO COMPARE THESE
3 UNKNOWN LATENTS TO?

4 A YES, I WAS GIVEN WHAT WE CALL LAMINATION PRINTS THAT
5 ARE KNOWN PRINTS TAKEN FROM THE VICTIM OR SOMEONE WHO WOULD
6 HAVE BEEN AT THE SCENE LAWFULLY AND I WAS ALSO GIVEN THE
7 NAME OF RANDY ELDERS AND ASKED TO MAKE A COMPARISON.

8 Q OKAY. AND WE HEARD YESTERDAY INVESTIGATOR TOLD US A
9 COUPLE NUMBERS, I GUESS LAB NUMBERS THAT HAVE BEEN ASSIGNED
10 TO FINGERPRINTS THAT WERE TAKEN BY INVESTIGATOR BROWN. WHAT
11 WERE THE LAB NUMBERS SUBMITTED TO YOU BY INVESTIGATOR DEIDRE
12 BROWN?

13 A WE ACTUALLY GAVE THEM NUMBERS. IT'S AN "L" DASH NUMBER
14 MEANING LATENT WHATEVER. I WAS GIVING L-1, L-2 AND L-3,
15 CARDS AND ON L-2 THERE ARE I THINK SUB FINGERPRINTS.

16 Q OKAY. AND DID YOU HAVE A CHANCE TO COMPARE THE LATENT
17 PRINT L-1.1 L-2.1 L-3.1 TO THE FINGERPRINT OF THE VICTIM AND
18 THE FINGERPRINT OF THE DEFENDANT?

19 A YES, I DID.

20 Q WHAT WERE YOUR CONCLUSIONS?

21 A FIRST OF ALL THAT AND THE LATENTS THAT WERE
22 NUMBERED L-2.1 AND L-3 WERE IDENTIFIABLE AND THAT THEY
23 BELONG TO DWIGHT RIGGS.

24 Q AND THERE IS A VICTIM IN THIS CASE?

25 A I BELIEVE SO, YES, SIR.

1 Q AND "L" PRINT TWO WHAT WAS THAT?

2 A JUST FINGERPRINT, FINGERS AND A PALM OR L-2.1 WAS
3 MATCHED TO THE VICTIM'S LEFT INDEX FINGER.

4 Q AND L-3?

5 A L-3 WAS A MATCH TO THE VICTIM'S LEFT PALM.

6 Q AND THE REMAINING UNKNOWN LATENTS THAT YOU HAVE
7 RECEIVED FROM INVESTIGATOR BROWN WHY WON'T YOU MATCH THOSE?
8 ARE THERE ANY REASONS YOU KNOW YOU COULD NOT MATCH THOSE TO
9 ANY KNOWN INDIVIDUALS?

10 A THEY'RE UNIDENTIFIABLE, THAT MEANS THERE IS NOT ENOUGH
11 RIDGE DETAIL IN THE DEPOSITED FINGERPRINTS TO MAKE
12 IDENTIFICATION TO ANYONE.

13 Q AND THAT HAPPENS HOW? AS FAR AS LEAVING A FINGERPRINT,
14 HOW CAN THAT HAPPEN?

15 A IT CAN BE SMEARED. THAT'S THE BIGGEST THING WE HAVE
16 THAT IT'S SMEARED. ALSO IT COULD BE A REALLY LIGHT TOUCH
17 PRINT WHICH WOULD MEAN WE DON'T HAVE ENOUGH. IT'S NOT
18 ENOUGH PRESSURE TO LEAVE THE RIDGE DETAIL BEHIND. A
19 FINGERPRINT IS BASICALLY LIKE AN INK STAIN. YOU DO THE INK
20 THAT YOU HAVE IS THE OIL AND THE SWEAT AND THE DIRT THAT YOU
21 ENCOUNTER.

22 THIS OIL THAT COMES THROUGH YOUR PORES ON THE
23 FINGERPRINT OR ON YOUR FINGERS AND THE RIDGES THEMSELVES ARE
24 THE LITTLE IMPRESSIONS THAT, LIKE IF YOU, YOU HAD AN INK
25 STAMP AND PUT IT IN INK AND YOU DROP IT DOWN ON SOMETHING IT

1 WOULD MAKE THAT SAME IMPRESSION OVER AND OVER AND THAT'S THE
2 SAME WAY THE FINGERPRINT WORKS AND IF YOU DON'T HAVE ENOUGH
3 INK ON IT YOU DON'T GET A PROPER, A PROPER DEPICTION OF WHAT
4 THE INK ACTUALLY IS AND THAT HAPPENS SOMETIMES.

5 Q WERE YOU GIVEN ANY OTHER UNKNOWN LATENTS IN THIS CASE
6 TO COMPARE?

7 A NO.

8 MR. JOPHLIN: BEG THE COURT'S INDULGENCE.

9 THE COURT: ALL RIGHT.

10 MR. JOPHLIN: THAT'S ALL. YOU CAN ANSWER ANYTHING
11 THE DEFENSE HAS FOR YOU.

12 THE COURT: ALL RIGHT. CROSS-EXAMINATION, LADY.

13 MS. OWINGS: INVESTIGATOR COLLINS, THANK YOU. YOU
14 MAY STEP DOWN.

15 YOUR HONOR, I DO WANT TO RENEW MY RUNNING
16 OBJECTION TO THE CHAIN.

17 THE COURT: ALL RIGHT. OVERRULED.

18 MS. CAMPBELL: STATE WOULD CALL CHRIS SMITH.

19 YOUR HONOR, MAY WE APPROACH?

20 THE COURT: SURE.

21 (THEREUPON, THERE WAS A BENCH CONFERENCE WITHIN THE
22 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY.)

23 MS. CAMPBELL: I APOLOGIZE FOR THE DELAY, YOUR
24 HONOR, JUST THE LOGISTICS INVOLVED.

25 / / /

CHRIS SMITH-DIRECT BY MS. CAMPBELL

CHRIS SMITH, BEING FIRST DULY

SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION BY MS. CAMPBELL:

Q MR. SMITH, HOW OLD ARE YOU?

A TWENTY-TWO.

Q AND WHERE ARE YOU CURRENTLY RESIDING?

A PERRY CORRECTIONAL INSTITUTE.

Q ARE YOU CURRENTLY SERVING TIME FOR A NUMBER OF
DIFFERENT CHARGES?

A YES, MA'AM.

Q DOES THAT INCLUDE I BELIEVE GRAND LARCENY MORE
THAN 1,000 LESS THAN 5,000?

A YES, MA'AM.

Q AND THEN GRAND LARCENY 5,000 OR MORE?

A YES, MA'AM.

Q BURGLARY IN THE SECOND DEGREE, NONVIOLENT, CORRECT?

A YES, MA'AM.

Q A CRIMINAL CONSPIRACY CONVICTION?

A YES.

Q AND IS THAT A P.W.I.D. MARIJUANA?

A YES, MA'AM.

Q DO YOU KNOW CHUCK ELDERS, RANDY ELDERS?

A YES, MA'AM.

Q IS HE A FRIEND OF YOURS?

A YES, MA'AM.

1 Q I WANT TO TURN YOUR ATTENTION BACK TO APRIL OF LAST
2 YEAR. OKAY. WERE YOU SERVING TIME THEN?

3 A I WAS, YES, MA'AM.

4 Q IN APRIL OF LAST YEAR DO YOU REMEMBER GETTING A PHONE
5 CALL FROM CHUCK?

6 A YES, MA'AM.

7 Q AND BEFORE THE QUESTIONS GO ANY FURTHER DO YOU SEE
8 CHUCK HERE IN THE COURTROOM?

9 A YES, MA'AM.

10 Q OKAY. CAN YOU SHOW THE JURY WHERE YOU SEE HIM?

11 A RIGHT THERE. (INDICATING)

12 Q RIGHT HERE?

13 A YES, MA'AM.

14 Q BETWEEN THE TWO LADIES. AND WITHOUT SAYING ANYTHING
15 MORE APPROXIMATELY HOW LONG HAD YOU KNOWN CHUCK? JUST
16 ANSWER THAT QUESTION?

17 A AS OF TODAY, A LITTLE OVER A YEAR.

18 Q A LITTLE OVER A YEAR AND I WANTED TO TURN YOUR
19 ATTENTION YOU'VE GOT A YOUNGER BROTHER I BELIEVE?

20 A YES, MA'AM.

21 Q WHAT'S HIS NAME?

22 A Minor

23 Q Minor . WHEN'S HIS BIRTHDAY DO YOU KNOW?

24 A APRIL 18TH.

25 Q APRIL THE 18TH?

1 A I THINK SO.

2 Q I WANTED TO TURN YOUR ATTENTION BACK TO APRIL THE 18TH
3 OF LAST YEAR, YOUR BROTHER'S LAST BIRTHDAY. WHERE WERE YOU
4 LIVING AT THAT POINT?

5 A WITH MY MOM, IRMO.

6 Q IN IRMO?

7 A YES, MA'AM.

8 Q WHAT WAS THAT ADDRESS?

9 A , YES, MA'AM.

10 Q WAS YOUR BROTHER Minor ALSO LIVING THERE AT THAT
11 TIME? -

12 A YES, MA'AM.

13 Q SO IT WAS YOU, YOUR MOM AND RICHARD?

14 A YES, MA'AM.

15 Q AND THAT DAY OF Minor D'S BIRTHDAY WERE Y'ALL HAVING A
16 PARTY?

17 A YES, MA'AM.

18 Q DURING THE COURSE OF THAT DAY AND LET ME PUT THIS WAY,
19 BUT DAYS PRIOR TO THAT HAD YOU SEEN CHUCK OR RANDY?

20 A NO, MA'AM.

21 Q DURING THE COURSE OF THAT DAY, YOUR BORTHER'S BIRTHDAY,
22 DID YOU GET A PHONE CALL FROM CHUCK ELDERS?

23 A YES, MA'AM.

24 Q AND TELL THE JURY WHAT WAS SAID TO YOU WHEN CHUCK
25 ELDERS CALLED YOU. ABOUT WHAT TIME OF DAY WAS IT; DO YOU

1 REMEMBER?

2 A I KNOW IT WAS IN THE EVENING.

3 Q IN THE EVENING?

4 A YES, MA'AM.

5 Q AND JUST TELL THE JURY WHAT CHUCK CALLED YOU ABOUT?

6 A HE HAD CALLED ME AND TOLD ME THAT HE HAD GOT IN TROUBLE
7 AND HE NEEDED ME TO COME AND PICK HIM UP.

8 Q AND WHO WAS OVER AT YOUR HOUSE VISITING YOU THAT
9 EVENING THAT HAD A CAR?

10 A ALEX.

11 Q WHO'S ALEX?

12 A RAMOS.

13 Q AND WAS ANYBODY WITH ALEX?

14 A HIS GIRLFRIEND.

15 Q WHAT WAS HER NAME?

16 A E. A.

17 Q ONCE YOU GOT THE PHONE CALL FROM CHUCK DID YOU AGREE TO
18 DO ANYTHING?

19 A TO GO AND PICK HIM UP.

20 Q WHERE WERE YOU SUPPOSED TO GO TO PICK HIM UP ON THE
21 EVENING OF THE 18TH?

22 A OFF OF GARNER'S FERRY.

23 Q OFF OF GARNER'S FERRY?

24 Q ARE YOU FAMILIAR WITH THE BLUFF ROAD?

25 A YES, YES, BLUFF ROAD. I BELIEVE IT'S BEHIND LIKE THAT

1 FIRE STATION, DOWN PAST A BIT.

2 Q DID YOU IN FACT GO AND PICK UP CHUCK THAT NIGHT?

3 A YES, MA'AM.

4 Q AND WHO WENT WITH YOU WHEN YOU WENT TO PICK UP CHUCK?

5 A ME, ALEX AND EVAN A.

6 Q WHEN YOU GOT TO THE HOUSE DID YOU GET DIRECTIONS TO GET
7 TO THE HOUSE?

8 A YES, MA'AM.

9 Q WHEN YOU GOT TO THE HOUSE WAS CHUCK THERE?

10 A YES, MA'AM.

11 Q AND WHAT HAPPENED THEN, TELL THE JURY?

12 A HIM AND HIS GIRLFRIEND THEY WERE OUT. THEY CAME
13 OUTSIDE AND THEY HAD THEIR BAG PACKED. THEY GOT IN THE CAR
14 AND CAME WITH ME TO MY MOM'S HOUSE.

15 Q YOU SAID THEY HAD THEIR BAGS PACKED. DID YOU KNOW THAT
16 THEY WERE GOING TO BRING SUITCASES?

17 A NO, NOT AT THE TIME.

18 Q AND THE GIRLFRIEND DID YOU KNOW HER NAME?

19 A CHRISTY.

20 Q DID YOU EVER MEET HER BEFORE THAT NIGHT?

21 A YES, MA'AM.

22 Q OKAY. SO WHEN YOU GOT THERE TO THIS HOUSE OFF BLUFF
23 ROAD, YOU PICK UP CHUCK AND CHRISTY AND THEIR BAGS?

24 A YES, MA'AM.

25 Q AT THAT POINT WHAT HAPPENED?

1 A WE LEFT AND WENT TO MY MOM'S HOUSE ON MISTY LANE.

2 Q YOU MENTIONED WHEN HE FIRST CALLED THAT HE WAS IN
3 TROUBLE, RIGHT?

4 A YES, MA'AM.

5 Q DURING THE RIDE BACK OVER TO YOUR MOM'S HOUSE, DID HE
6 TELL YOU ANYTHING ABOUT WHAT HE WAS IN TROUBLE FOR?

7 A HE JUST SAID HE HAD GOT IN TROUBLE. HE HAD STOLEN A
8 CAR.

9 Q DID HE TELL YOU ANYTHING ELSE?

10 A I'M TRYING TO REMEMBER BUT HE DID MENTION THAT HE HAD
11 ROBBED SOMEONE AND HE HAD TO STEAL A CAR AND HAD TO GET
12 AWAY. HE HAD LEFT THE CAR SOMEWHERE. I'M NOT SURE EXACTLY
13 WHERE.

14 Q AND MENTIONED THAT NIGHT SOME OF THAT AT LEAST IN THE
15 RIDE OVER THERE?

16 A YES, MA'AM.

17 Q DID YOU TAKE HIM BACK TO YOUR HOUSE?

18 A YES, MA'AM.

19 Q WHO WAS AT YOUR HOUSE THAT EVENING?

20 A ME, MY BROTHER AND MY MOTHER AND MY GIRLFRIEND SARAH.

21 Q AND DURING THE COURSE OF THE EVENING --

22 A WELL, I TOLD YOU ABOUT THAT.

23 Q WHERE DID THEY PUT THEIR BAGS WHEN THEY GOT TO YOUR
24 HOUSE?

25 A IN MY GARAGE.

1 Q WHERE DID THEY GO WHEN THEY GOT TO YOUR HOUSE?

2 A WE ALL SLEPT FOR AWHILE.

3 Q INSIDE THE HOUSE?

4 A YES, MA'AM.

5 Q AND DURING THE COURSE OF THIS EVENING DID YOU HAVE SOME
6 MORE DISCUSSIONS WITH CHUCK ABOUT WHAT HAPPENED?

7 A AT ONE POINT, YES, MA'AM.

8 Q WHAT DID HE TELL YOU AT THAT POINT?

9 A I HAD ACTUALLY ASKED HIM ABOUT THE ROBBERY AND IT WAS
10 THAT IT MIGHT HAVE BEEN A DOPE WAR THAT HE HAD.

11 Q A DOPE BOY?

12 A THAT'S SOMEBODY DEALING DRUGS.

13 MS. OWINGS: OBJECTION, YOUR HONOR.

14 THE COURT: COME HERE.

15 (THEREUPON, THERE WAS A BENCH CONFERENCE WITHIN THE
16 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY.)

17 THE COURT: OBJECTION IS OVERRULED. GO AHEAD.

18 BY MS. CAMPBELL:

19 Q YOU ASKED HIM IF IT HAD BEEN A DOPE WAR?

20 A YES, MA'AM.

21 Q AN ELDERLY COUPLE?

22 A YES, MA'AM.

23 Q DID HE MENTION ANYTHING ELSE ABOUT THE CAR?

24 A THAT HE NEEDED TO BURN IT BECAUSE --

25 Q MR. SMITH, CAN YOU SPEAK UP? I'M HAVING TROUBLE

1 HEARING YOU. PULL THAT MICROPHONE DOWN JUST A LITTLE BIT?

2 A HE SAID THAT HE HAD TO BURN THE CAR.

3 Q THAT HE HAD BURNED THE CAR OR NEEDED TO BURN THE CAR?

4 A HE NEEDED TO BURN THE CAR.

5 Q DID HE MENTION ANYTHING ABOUT HIS CLOTHES?

6 A HE HAD BURNED THEM.

7 Q DID HE MENTION ANYTHING ELSE ABOUT THE PLACE IN THE
8 CAR?

9 A SOMETHING ABOUT HE HAD BEEN IN A CHASE DRIVING THROUGH
10 ROSEWOOD, CITY OF ROSEWOOD.

11 Q DID HE MENTION ABOUT THE ROBBERY, HOW MUCH MONEY HE
12 GOT?

13 A A LITTLE OVER \$100 I BELIEVE.

14 Q AND FINALLY DID HE INDICATE WHO WAS WITH HIM DURING THE
15 ROBBERY?

16 A CHRISTY.

17 Q AND Y'ALL HAD THAT DISCUSSION IN YOUR HOUSE?

18 A YES, MA'AM.

19 Q DO YOU REMEMBER WHERE YOUR MOM WAS AT THAT TIME?

20 A SHE WAS UPSTAIRS.

21 Q WHERE WERE CHUCK AND CHRISTY ON THAT NIGHT; WHERE DID
22 THEY STAY ON THE NIGHT OF YOUR BROTHER'S BIRTHDAY?

23 A I BELIEVE DOWNSTAIRS.

24 Q IN YOUR HOUSE?

25 A YES, MA'AM.

1 Q THE NEXT MORNING WHEN YOU GOT UP WHO ALL WAS IN THE
2 HOUSE?

3 A ME, CHUCK, CHRISTY, MY BROTHER, MY GIRLFRIEND SARAH AND
4 MY BROTHER'S FRIEND TIM.

5 Q DURING THE COURSE OF THAT EVENING YOU MENTIONED THAT
6 YOU HAD ALEX AND E. A. WHEN YOU WENT TO PICK THEM UP?

7 A NO.

8 Q DID YOU, DID THEY STAY THAT EVENING?

9 A NO.

10 Q DO YOU REMEMBER WHEN THEY LEFT?

11 A ABOUT ONE O'CLOCK IN THE MORNING.

12 Q WAS IT ON GOOD TERMS OR BAD TERMS?

13 A BAD.

14 Q WHO WERE THEY ANGRY WITH?

15 A ME.

16 Q WHAT WERE THEY ANGRY WITH YOU ABOUT?

17 A BECAUSE THEY SAID I DIDN'T GIVE THEM NO GAS MONEY FOR
18 DRIVING OUT.

19 Q THE NEXT DAY, THAT WOULD BE THE 19TH, THAT DAY AROUND
20 LUNCHTIME WERE YOU IN THE HOUSE?

21 A YES, MA'AM.

22 Q AND TELL THE JURY WHAT HAPPENED?

23 A THERE WAS A KNOCK ON THE DOOR. THE POLICE HAD COME TO
24 THE HOUSE WITH A SEARCH WARRANT AND THEY SAID THEY HAD, THAT
25 SOMEBODY HAD CALLED AND TOLD THEM THAT CHUCK AND HIS

1 GIRLFRIEND WERE AT MY HOUSE, MY MOTHER'S HOUSE.

2 Q AND DID YOU ACTUALLY ANSWER THE DOOR?

3 A YES, MA'AM.

4 Q AND WHEN YOU ANSWERED THE DOOR DID YOU TELL THEM WHERE
5 CHUCK, THE PEOPLE WERE?

6 A NO, MA'AM.

7 Q DID THE POLICE COME INSIDE?

8 A YES, MA'AM.

9 Q AND ONCE THEY WERE INSIDE WHAT HAPPENED?

10 A MY BROTHER HAD RAN OUTSIDE.

11 Q OKAY. WAIT A MINUTE. LET'S NOT TALK ANYTHING ABOUT
12 YOUR BROTHER?

13 A YES, SIR.

14 Q LET'S TALK ABOUT THE PEOPLE. DID THEY FIND CERTAIN
15 PEOPLE IN YOUR HOUSE?

16 A YES.

17 Q AND THE PEOPLE THEY FOUND IN YOUR HOUSE ONE OF THEM WAS
18 YOU?

19 A YES, MA'AM, MY MOTHER AND MY GIRLFRIEND'S THERE.

20 Q WHAT ABOUT CHUCK AND CHRISTY DID THEY FIND THEM?

21 A YES, MA'AM.

22 Q AND THAT DAY DID YOU, DID THEY ASK YOU SOME QUESTIONS
23 ABOUT CHUCK?

24 A YES, MA'AM.

25 Q AND LATER DID YOU ACTUALLY GIVE THEM A STATEMENT?

1 A YES, MA'AM.

2 Q AND THAT WOULD HAVE BEEN AROUND 12:46 P.M. ON APRIL
3 THE 19TH?

4 A YES, MA'AM.

5 Q AND YOU ACTUALLY SPOKE I BELIEVE TO INVESTIGATOR FAUST?

6 A YES, MA'AM.

7 Q AND TOLD THEM WHAT YOU KNEW ABOUT WHAT CHUCK TOLD YOU?

8 A YES, MA'AM.

9 Q DID THE POLICE TAKES CHRISTY AND CHUCK WITH THEM?

10 A YES, MA'AM.

11 Q JUST SO I CAN BE SURE ABOUT YOUR PRIOR RECORD YOU HAVE
12 SHOPLIFTING CONVICTION IN 2002?

13 A YES, MA'AM.

14 Q AND MALICIOUS INJURY TO PROPERTY CONVICTION IN 2003?

15 A YES, MA'AM.

16 Q AND THEN THE OTHER CONVICTION YOU'RE CURRENTLY SERVING?

17 A YES, MA'AM.

18 MS. CAMPBELL: THANK YOU. PLEASE ANSWER ANY
19 QUESTIONS THE DEFENSE MAY HAVE.

20 THE COURT: ALL RIGHT. CROSS-EXAMINATION.

21 MS. OWINGS: THANK YOUR HONOR, PLEASE THE COURT.
22 CROSS-EXAMINATION BY MS. OWINGS:

23 Q MR. SMITH, WHEN YOU PICKED CHCK UP THAT NIGHT AND HE
24 GAVE YOU SOME DETAILS ABOUT WHAT HAPPENED, HE TOLD YOU THAT
25 HE STOLE A CAR?

CHRIS SMITH-CROSS BY MS. OWINGS

1 A YES, MA'AM.

2 Q THAT HIS PRINTS WOULD BE ON THE CAR?

3 A YES, MA'AM.

4 Q AND THAT HE WANTED TO GET RID OF THE CAR AND THE
5 CLOTHES?

6 A YES.

7 Q AND HE WAS IN THE CAR?

8 A HE MENTIONED NOTHING ABOUT THE CLOTHES BUT HE MENTIONED
9 THAT HE NEEDED TO GET RID OF THE CAR.

10 Q AND HE ALSO TOLD YOU THAT HE WAS INVOLVED IN A CHASE IN
11 THE CAR?

12 A YES, MA'AM.

13 Q IN THE ROSEWOOD AREA?

14 A YES, MA'AM.

15 Q SO HE TOLD YOU HE WAS IN THE CAR?

16 A YES, MA'AM.

17 Q HE DIDN'T SAY ANYTHING TO YOU ABOUT ATTACKING A WOMAN?

18 A NO, MA'AM.

19 Q TAKING HER PURSE FROM HER?

20 A NO, MA'AM.

21 MS. OWINGS: THANK YOU. I HAVE NO FURTHER
22 QUESTIONS.

23 THE COURT: ANY REDIRECT?

24 MS. CAMPBELL: YES, SIR.

25 / / /

CHRIS SMITH-REDIRECT BY MS. CAMPBELL

1 REDIRECT EXAMINATION BY MS. CAMPBELL:

2 Q ON THAT LINE OF QUESTIONING DID YOU GIVE THE POLICE
3 THIS STATEMENT BACK WHEN IT HAPPENED?

4 A YES.

5 Q YOU SAID THAT CHUCK SAID SHE ASKED YOU ABOUT YOUR
6 STATEMENT?

7 A HE HAD ROBBED SOMEONE.

8 Q OKAY. REPEAT THAT?

9 A THAT HE ROBBED SOMEONE AND STOLE THE CAR.

10 Q HE ROBBED SOMEONE AND THAT HE HAD STOLEN THE CAR AND
11 YOU ALSO TOLD THEM ABOUT MONEY HE HAD TAKEN?

12 MS. OWINGS: OBJECTION, YOUR HONOR.

13 THE COURT: ALL RIGHT. WHAT'S THE BASIS?

14 MS. OWINGS: I DIDN'T ASK HIM ANYTHING ABOUT THE
15 STATEMENT. SHE'S GOING BEYOND THE PARAMETERS OF CROSS.

16 THE COURT: IT'S IN RESPONSE TO THE QUESTION SO
17 THAT WE WERE ASKED. IT'S FOR THAT REASON YOUR OBJECTION IS
18 OVERRULED.

19 BY MS. CAMPBELL:

20 Q THE SECOND PAGE OF YOUR STATEMENT DID YOU TELL THEM
21 THAT AS YOU TOLD THE POLICE?

22 A YES.

23 Q HOW MUCH MONEY DID HE SAY HE GOT?

24 A \$100.

25 Q SO HE TOLD YOU THAT THEN?

DAWN SMITH-DIRECT BY MS. CAMPBELL

1 A YES, MA'AM.

2 MS. CAMPBELL: THANK YOU. THAT'S ALL I HAVE.

3 THE COURT: ANY FURTHER CROSS?

4 MS. OWINGS: NO, SIR.

5 THE COURT: ALL RIGHT. THE WITNESS MAY STEP DOWN.

6 ALL RIGHT. WHO'S YOUR NEXT WITNESS, SOLICITOR?

7 MS. CAMPBELL: DAWN SMITH.

8 THE COURT: WHAT'S THE NAME, DAWN SMITH?

9 MS. CAMPBELL: DAWN.

10 DAWN SMITH, BEING FIRST DULY

11 SWORN, TESTIFIED AS FOLLOWS:

12 DIRECT EXAMINATION BY MS. CAMPBELL:

13 Q AND MS. SMITH, HOW OLD ARE YOU?

14 A I'M 45.

15 Q AND ARE YOU CURRENTLY EMPLOYED?

16 A YES, MA'AM.

17 Q WHERE DO YOU WORK, MA'AM?

18 A I WORK TWO JOBS. I WORK FOR THE FEDERAL GOVERNMENT ON
19 FORT JACKSON AND PIT STOP.

20 Q AT THE PIT STOP?

21 A YES.

22 Q AND THAT'S A CONVENIENCE STORE?

23 A YES.

24 Q WHERE DO YOU LIVE?

25 A , IRMO.

1 Q WHAT SUBDIVISION IS THAT IN?

2 A IT'S MISTY GREEN. IT'S A SUBDIVISION IN ASHFORD.

3 Q HOW LONG HAVE YOU BEEN LIVING THERE?

4 A AT LEAST THREE YEARS.

5 Q DO YOU HAVE ANY CHILDREN?

6 A YES, I HAVE THREE.

7 Q AND HOW OLD ARE YOUR CHILDREN?

8 A MY DAUGHTER IS 23, MY SON CHRIS IS 22 AND I HAVE A 17
9 YEAR OLD BOY.

10 Q WAS YOUR SON CHRIS WHO WAS JUST IN HERE?

11 A YES.

12 Q I WANT TO TURN YOUR ATTENTION BACK TO APRIL OF LAST
13 YEAR, SPECIFICALLY YOUR YOUNGER SON Minor WHAT WAS HIS
14 BIRTHDAY?

15 A APRIL 18TH.

16 Q AND ON THIS EVENING WAS YOUR SON CHRIS THERE THAT
17 EVENING FOR Minor)'S BIRTHDAY?

18 A YES, WE WERE HAVING HIS BIRTHDAY PARTY.

19 Q AND DURING THE COURSE OF THAT EVENING DID YOUR SON
20 CHRIS RECEIVE A PHONE CALL?

21 A YES.

22 Q AND AS A RESULT OF THIS PHONE CALL DID HE GO AND GET
23 SOMEONE?

24 A YES.

25 Q AND WHO ENDED UP BACK AT YOUR HOUSE WITH CHRIS?

1 A IT WAS TWO PEOPLE IT WAS CHRISTINA HALL AND IT WAS
2 RANDY ELDERS.

3 Q YOU'RE GOING TO HAVE TO SPEAK UP A LITTLE BIT?

4 A CHRISTINA HALL AND RANDY ELDERS.

5 Q HAD YOU EVER MET HIM BEFORE?

6 A NO, SIR.

7 Q DID YOU KNOW HIM AS RANDY OR DID YOU KNOW HIM AS CHUCK?

8 A I KNEW HIM AS CHUCK.

9 Q AND YOU UNDERSTAND THAT THEY WERE FRIEND OF YOUR SON,
10 CHRIS?

11 A YES, CHRIS HAD ASKED ME IF A GUY HAD CAME OVER THAT HE
12 HAD MET WHEN HE WAS INCARCERATED.

13 MS. OWINGS: OBJECTION, YOUR HONOR.

14 THE COURT: COME UP.

15 (THEREUPON, THERE WAS A BENCH CONFERENCE WITHIN THE
16 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY.)

17 THE COURT: THE OBJECTION TO THE RESPONSE BY THE
18 WITNESS OF THE LAST QUESTION IS SUSTAINED AND, MR. FOREMAN,
19 LADIES AND GENTLEMEN, I WOULD ORDER YOU AT THIS TIME TO
20 DISREGARD THE LAST STATEMENT MADE BY THIS WITNESS AND,
21 MS. SMITH, IF YOU WILL SIMPLY LISTEN TO WHAT THE QUESTIONS
22 ARE AND RESPOND SPECIFICALLY TO THOSE QUESTIONS AND DON'T
23 VOLUNTEER ANY TYPE OF INFORMATION, PLEASE.

24 SOLICITOR, YOU MAY CONTINUE.

25 / / /

1 BY MS. CAMPBELL:

2 Q I'M GOING TO TURN YOUR ATTENTION TO THE EVENING OF
3 THE 18TH. WHO ALL WENT WITH CHRIS WHEN HE WENT TO GET
4 CHUCK?

5 A IT WAS, THE DRIVER WAS ALEX. HIS GIRLFRIEND I KNOW HER
6 AS E. A. I DIDN'T KNOW HER FULL NAME.

7 Q AND THEY CAME BACK SOMETIME AFTER THEY LEFT AND THAT'S
8 WHEN YOU MENTIONED IT WAS CHRISTY AND CHUCK?

9 A YES.

10 Q DURING THE COURSE OF THE EVENING DID THEY STAY IN YOUR
11 HOUSE?

12 A YES.

13 Q WHAT TIME DID THEY GO TO BED THAT NIGHT?

14 A IT WAS LATE. IT WAS BETWEEN ONE AND TWO.

15 Q OKAY. AFTER YOU WENT TO BED, WAS YOUR BEDROOM UPSTAIRS
16 OR DOWNSTAIRS IN THE HOUSE?

17 A UPSTAIRS.

18 Q WERE YOU STILL ABLE TO HEAR SOME CONVERSATIONS FROM
19 DOWNSTAIRS?

20 A YES.

21 Q AND DURING THE COURSE OF THAT EVENING, LIMIT IT TO JUST
22 WHAT YOU HEARD FROM THE DEFENDANT CHUCK. WHAT DID YOU HEAR
23 HIM SAYING TO YOUR SON?

24 A THAT --

25 Q YOU --

1 A THAT I HAD HEARD THAT HE SAID HE HAD STABBED SOMEBODY.
2 THEY HAD TAKEN THIS PERSON'S CAR AND IT WAS AN ELDERLY
3 COUPLE, SOMETHING THAT HAD TO DO WITH CHURCH, A RIDE HOME
4 FROM CHURCH, THE ELDERLY COUPLE SOMETHING WITH CHURCH.

5 Q AND YOU COULD RECOGNIZE THE VOICE?

6 A YES.

7 Q AND THAT'S WHAT YOU HEARD?

8 A YES.

9 Q THE NEXT MORNING DID YOU DO ANYTHING ABOUT WHAT YOU HAD
10 HEARD THAT NIGHT?

11 A YES.

12 Q AND WHO DID YOU CALL?

13 A I CALLED CRIME STOPPERS.

14 Q WHY DID YOU CALL THEM, MA'AM?

15 A CAUSE THAT'S JUST ME. IT'S THE RIGHT THING TO DO.

16 Q THAT MORNING, THAT NEXT MORNING DID YOU GO TO WORK?

17 A YES.

18 Q APPROXIMATELY WHAT TIME DID YOU GO TO WORK THAT
19 MORNING?

20 A IT'S ABOUT SIX O'CLOCK.

21 Q SIX A.M.?

22 A YES.

23 Q YOU MADE THAT PHONE CALL BEFORE OR AFTER YOU GOT TO
24 WORK?

25 A BEFORE I GOT TO WORK.

1 Q WHEN YOU GOT OFF WHAT TIME DID YOU GO HOME THAT
2 AFTERNOON?

3 A IT WAS BETWEEN 1:30 AND ONE.

4 Q AND WHEN YOU GOT HOME WHO WAS AT YOUR HOUSE?

5 A A BUNCH OF PEOPLE.

6 Q WAS IT POLICE OFFICERS?

7 A YES, THERE WAS LIKE ABOUT FIVE, SIX UNDERCOVER CARS
8 PARKED BY MY HOUSE AND WHEN I GOT IN THERE --

9 Q DON'T SAY ANYTHING ELSE BUT THAT DAY DID THEY THEN TAKE
10 CHRISTY AND CHUCK INTO CUSTODY?

11 A CHRISTY WASN'T THERE AT THE TIME. CHUCK WAS THERE.

12 Q OKAY. SO SHE HAD ALREADY GONE BY THE TIME YOU GOT
13 THERE?

14 A YES.

15 MS. CAMPBELL: THANK YOU. I DON'T HAVE ANYTHING
16 ELSE.

17 THE COURT: ALL RIGHT. CROSS-EXAMINATION.

18 MS. OWINGS: THANK YOU, YOUR HONOR.

19 BEG THE COURT'S INDULGENCE ONE SECOND.

20 THE COURT: ALL RIGHT.

21 (ATTORNEYS CONFER.)

22 MS. OWINGS: NO QUESTIONS, YOUR HONOR. THANK YOU.

23 THE COURT: MA'AM, YOU MAY STEP DOWN.

24 MR. JOPHLIN: STATE WOULD CALL CHRISTINA HALL.

25 THE COURT: SPEAK RIGHT INTO THE MICROPHONE,

CHRISTINA HALL-DIRECT BY MR. JOPHLIN

1 PLEASE. ALL RIGHT.

2 CHRISTINA HALL, BEING FIRST

3 DULY SWORN, TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION BY MR. JOPHLIN:

5 Q MS. HALL, HOW DID YOU MEET THE DEFENDANT RANDY ELDERS?

6 A THROUGH A FRIEND.

7 Q AND HOW LONG Y'ALL BEEN, Y'ALL BOYFRIEND AND
8 GIRLFRIEND?

9 A UH-HUH.

10 Q HOW LONG HAVE Y'ALL BEEN GOING TOGETHER?

11 A ALMOST TWO YEARS.

12 Q OKAY. AND WHERE WERE YOU LIVING LAST YEAR APRIL, 2005?

13 A MY MOM'S.

14 Q AND I TURN YOUR ATTENTION BACK TO APRIL 17TH OF 2005
15 THIS INCIDENT OCCURRED. WHERE DID YOU STAY THE NIGHT BEFORE
16 THIS HAPPENED, THE NIGHT OF APRIL 16TH? WAS IT AT YOUR
17 MOTHER'S?

18 A (NODDED HEAD.)

19 THE COURT: YOU'RE GOING TO NEED TO ANSWER. WHEN
20 YOU NOD YOUR HEAD AND SHAKE YOUR HEAD -- YOU'RE GOING TO
21 HAVE TO ANSWER YES OR NO.

22 THE WITNESS: YES, SIR.

23 THE COURT: ALL RIGHT. GO AHEAD, SOLICITOR.

24 BY MR. JOPHLIN:

25 Q ON THE DAY THIS OCCURRED WHERE WERE YOU?

1 A AT MY MOM'S.

2 Q AND DID Y'ALL LEAVE THERE AND GO ANYWHERE DURING THE OF
3 BEFORE THIS INCIDENT?

4 A NO.

5 Q WHERE WAS IT THAT YOU APPROACHED THE VICTIMS IN THIS
6 CASE?

7 A AT THE BI-LO'S ONLY GARNER'S FERRY.

8 Q AND DIRECTLY WHERE WERE Y'ALL SITTING AT AT THE
9 BI-LO'S?

10 A RIGHT BESIDE THE DRINK MACHINES RIGHT OUTSIDE.

11 Q AND DIRECTLY BEFORE, EARLIER THAT DAY WHERE WERE Y'ALL?
12 LET ME SHOW THIS HAS ALREADY BEEN INTRODUCED. I HAD, I'M
13 SORRY, IT'S STATE'S EXHIBIT 3 AND THERE IS BI-LO?

14 A IN THE BACK RIGHT THERE.

15 Q BACK HERE?

16 A YES.

17 Q WHAT'S BACK THERE?

18 A IN THE WOODS.

19 Q OKAY. SO Y'ALL WERE IN THE WOODS EARLIER RIGHT BEFORE
20 THIS YOU APPROACHED THE VICTIMS?

21 A YES.

22 Q AND BEFORE YOU WENT TO GO SIT BY THE DRINK MACHINES AT
23 BI-LO WHAT HAD YOU AND MR. ELDERS JUST DONE?

24 MS. OWINGS: OBJECTION, YOUR HONOR. MAY WE
25 APPROACH, YOUR HONOR?

1 THE COURT: ALL RIGHT.

2 (THEREUPON, THERE WAS A BENCH CONFERENCE WITHIN THE
3 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY.)

4 THE COURT: OBJECTION AT THIS TIME IS OVERRULED.
5 GO AHEAD.

6 BY MR. JOPHLIN:

7 Q AS I WAS ASKING MS. HALL RIGHT BEFORE YOU WENT UP TO
8 SIT ON THE FRONT STEPS OF BI-LO WHAT HAD YOU DONE?

9 A SMOKING DOPE.

10 Q AND AFTER YOU SMOKED THAT, WHAT DO YOU MEAN BY DOPE?

11 A CRACK.

12 Q CRACK. AND AFTER YOU SMOKED THAT, THAT CRACK YOU HAD,
13 WAS THERE, DID Y'ALL HAVE MORE TO SMOKE?

14 A NO, SIR.

15 Q THANK YOU. SO THEN FROM THERE Y'ALL WENT, SAT ON THE
16 FRONT STEP OF BI-LO. WHAT DID YOU TELL MR. ELDERS AT THAT
17 POINT?

18 A TOLD HIM I WANT TO GO HOME.

19 Q AND DID YOU TELL HIM ANYTHING ELSE ABOUT WANTING TO GET
20 HIGH?

21 A NO.

22 Q AND HOW WERE Y'ALL GOING TO GET THE CRACK TO GET HIGH
23 AGAIN; HOW WERE YOU GOING TO ACHIEVE GETTING THAT CRACK TO
24 GET HIGH IF YOU JUST SMOKED THE LAST?

25 A GET MORE MONEY.

1 THE COURT: REPEAT THAT, PLEASE. I CAN'T HEAR
2 YOU. YOU'VE GOT TO SPEAK UP PLEASE, MA'AM.

3 BY MR. JOPHLIN:

4 Q HOW WERE YOU GOING TO ACHIEVE GETTING MORE ROCK TO
5 SMOKE?

6 A TO GET SOME MORE MONEY.

7 Q AND WAS THAT RELATED TO MR. ELDERS; DID YOU TELL HIM
8 THAT?

9 A YES.

10 Q DID EITHER OF Y'ALL HAVE ANY MONEY?

11 A NO.

12 Q THANK YOU. AND NOW Y'ALL WERE SITTING IN THE FRONT OF
13 BI-LO?

14 A (NODDED HEAD.)

15 Q TELL ME HOW YOU CAME INTO THE CONTACT WITH THE VICTIMS
16 IN THIS CASE?

17 A I SEEN THEM WHEN THEY PULLED UP AND HIS WIFE MRS. RIGGS
18 GOT OUT OF THE CAR.

19 Q MRS. RIGGS GOT OUT OF THE CAR?

20 A YES.

21 Q WHERE DID MR. RIGGS GO?

22 A HE WENT TO THE PARKING SPOT.

23 Q AND HE PARKED. WHAT DID YOU DO?

24 A HE PARKED. I WALKED AND ASKED HIM FOR A RIDE.

25 Q WHAT DID HE SAY?

1 A HE SAID TO WAIT UNTIL HIS WIFE COMES OUT OF THE STORE.

2 Q OKAY. WHAT DID YOU DO THEN?

3 A WENT BACK AND SAT BACK DOWN AND WAITED FOR THE RIDE.

4 Q OKAY. AND HIS WIFE CAME OUT?

5 A YES.

6 Q AND THEN WHAT DID HE DO?

7 A HE MOTIONED FOR US TO COME ON AN GET IN THE CAR.

8 Q DID Y'ALL?

9 A YES.

10 Q AND WHERE DID YOU AND CHUCK SIT IN THE CAR?

11 A I-SAT BEHIND MR. RIGGS AND HE SAT BEHIND MRS. RIGGS.

12 Q SO HE, MRS. RIGGS WHERE WAS SHE AT?

13 A PASSENGER SEAT.

14 Q MR. RIGGS WAS DRIVING?

15 A YES.

16 Q AND CHUCK WAS SITTING BEHIND MRS. RIGGS?

17 A IN THE REAR PASSENGER SEAT.

18 Q AND YOU'RE SITTING BEHIND MR. RIGGS IN THE REAR

19 DRIVER'S SEAT?

20 A YES.

21 Q OKAY. AND WHERE DID Y'ALL ASK HIM FOR A RIDE TO?

22 A TO THE PRODUCE STAND.

23 Q AND WHERE, CAN YOU DESCRIBE WHERE THAT IS IN RELATION

24 TO BI-LO; HOW YOU GET THERE TO THE PRODUCE STAND?

25 A WHEN YOU PULLED OUT OF BI-LO.

1 Q UH-HUH?

2 A GO BACK TO THE LEFT LIKE YOU'RE GOING TOWARDS SUMTER.

3 Q OKAY. I'M GOING TO SHOW YOU STATE'S EXHIBIT NO. 2. IS

4 THIS THE PRODUCE STAND THEY TOOK YOU TO? THAT'S 378 RIGHT

5 THERE. THAT'S OLD GARNER'S FERRY. AND THIS RIGHT HERE IN

6 THE MIDDLE THOSE TWO ROADS, IS THAT THE PRODUCE STAND HE

7 TOOK YOU TO?

8 A YES.

9 Q OKAY. AND HE GOT YOU THERE. HE GOT YOU IN THE PARKING

10 LOT. WHAT HAPPENED THEN ONCE YOU ARRIVED AT THE PRODUCE

11 STAND?

12 A REPEAT THAT AGAIN.

13 Q THAT'S OKAY. WHAT HAPPENED ONCE YOU, Y'ALL GOT TO THE

14 PRODUCE STAND; I MEAN JUST WHAT HAPPENED?

15 A (NO RESPONSE.)

16 THE COURT: YOU NEED TO ANSWER THE QUESTION,

17 MA'AM.

18 THE WITNESS: THERE HAD BEEN, PLANS WERE CHANGED.

19 BY MR. JOPHLIN:

20 Q AND WHO SAID THAT?

21 A CHUCK.

22 Q AND HE SAID THE PLANS HAVE CHANGED I THINK YOU SAID AND

23 WHAT HAPPENED THEN?

24 A HIS ARM WENT AROUND MRS. RIGGS AND THEN THAT MR. RIGGS

25 TRIED TO STOP HIM AND THERE WAS A STRUGGLE BETWEEN HIM AND

1 MR. RIGGS.

2 Q AND YOU SAID HIS ARM WENT AROUND MRS. RIGGS WHERE DID
3 IT GO AROUND?

4 A AROUND HER NECK; AROUND HER NECK.

5 Q AROUND HER NECK. DID YOU SEE ANYTHING IN HIS HANDS?

6 A NO, NOT AT FIRST.

7 Q DID YOU SEE SOMETHING IN HIS HAND LATER?

8 A YES.

9 Q WHAT WAS THAT THAT WAS IN HIS HAND?

10 A A KNIFE.

11 Q AND YOU SAID THEN A STRUGGLE ENSUED BETWEEN MR. RIGGS
12 AND THE DEFENDANT?

13 A YES.

14 Q RANDY?

15 A YES.

16 Q WERE THEY FIGHTING IN THE CAR OR WHERE WERE THEY
17 FIGHTING?

18 A OUTSIDE THE CAR.

19 Q AND COULD YOU SEE WHAT WAS GOING ON?

20 A NO.

21 Q WHERE WERE YOU AT THE TIME?

22 A I WAS IN THE BACKSEAT.

23 Q OKAY. DID YOU EVER TRY GET OUT OF THE CAR AT ANY
24 POINT?

25 A YES.

1 Q WHAT HAPPENED WHEN YOU TRIED TO GET OUT?

2 A I GOT PUSHED BACK IN THE CAR.

3 Q WHO PUSHED YOU BACK IN?

4 A MRS. RIGGS.

5 Q SHE DID?

6 A YES.

7 Q DO YOU REMEMBER GETTING OUT AND YELLING FOR RANDY?

8 A NO.

9 Q DID YOU EVER YELL?

10 A I DON'T REMEMBER.

11 Q BUT I'M GOING TO JUST GO BACK A LITTLE BIT. RIGHT

12 BEFORE THAT Y'ALL JUST SMOKED?

13 A YES.

14 Q SOME CRACK. SO HOW WERE YOUR FEELING AT THAT TIME?

15 A I WAS SCARED.

16 Q WERE YOU UNDER THE INFLUENCE?

17 A YES.

18 Q AT THE TIME?

19 A (NODDED HEAD.)

20 Q SO DO YOU REMEMBER EVERYTHING THAT HAPPENED THAT DAY
21 DURING THIS INCIDENT?

22 A MOST OF IT.

23 Q OKAY. YOU GOT PUSHED BACK IN THE CAR BY MRS. RIGGS AND
24 THEN WHAT HAPPENED?

25 A THERE WAS THE FIGHT STILL GOING ON BETWEEN RANDY AND

1 MR. RIGGS.

2 Q OKAY. DID HE COME BACK IN THE CAR?

3 A YES.

4 Q DID YOU SEE HIM RUNNING TOWARDS THE CAR?

5 A YES.

6 Q WERE THE KEYS IN THE CAR AT THE TIME?

7 A NO.

8 Q AND DID YOU, DO YOU KNOW WHO HAD THE KEYS WHILE

9 MR. RIGGS AND RANDY WERE FIGHTING?

10 A NO.

11 Q AND YOU WERE IN THE BACKSEAT. DID YOU STAY IN THE

12 BACK? ONCE YOU WERE PUSHED BACK IN DID YOU STAY IN THE BACK

13 SEAT?

14 A NO. I CRAWLED UP IN THE FRONT SEAT IN THE DRIVER'S

15 SIDE.

16 Q OKAY. AND WHEN DID CHUCK COME BACK INTO THE CAR?

17 A A FEW MINUTES AFTER I GOT BACK IN THE FRONT SEAT.

18 Q ONCE HE GOT BACK IN THE CAR WHAT DID HE DO?

19 A GAVE ME THE KEYS AND WE LEFT.

20 Q OKAY. NOW, WHEN YOU LEFT WHERE WERE Y'ALL HEADED ONCE

21 YOU LEFT?

22 A TO GET SOME MORE DOPE, GET SOME CRACK.

23 Q NOW, WHEN YOU WERE AT BI-LO'S DIDN'T ANYBODY OR NOBODY

24 DIDN'T HAVE ANY CRACK; NOW YOU'RE GOING TO GET MORE CRACK?

25 A (NODDED HEAD.)

1 Q HOW DID YOU GET THE MONEY TO GET THAT CRACK?

2 A THE MONEY WAS IN MRS. RIGGS' WALLET.

3 Q NOW, WHEN DID YOU, WHEN DID YOU FIRST SEE THAT PURSE?

4 A AFTER WE HAD ALREADY STARTED TO LEAVE.

5 Q AND WHERE WAS IT WHEN YOU SAW IT?

6 A IN THE FRONT SEAT.

7 Q AND DID YOU SEE IT SITTING THERE? WAS IT, I'LL

8 REPHRASE THAT. I'LL JUST LEAVE IT THERE AND YOU WENT TO

9 YOUR DEALER'S HOUSE; HOW MUCH CRACK DID YOU BUY?

10 A \$100 WORTH.

11 Q AND WHAT DID YOU USE TO BUY THAT \$100 WORTH OF CRACK?

12 A THE MONEY IN MRS. RIGGS WALLET.

13 Q DO YOU REMEMBER WHAT KIND OF BILLS THEY WERE THAT YOU
14 USED?

15 A NO.

16 Q NOW, Y'ALL BOUGHT THAT \$100 WORTH OF CRACK; WHAT DID
17 Y'ALL DO THEN?

18 A TOOK, JUST DROVE, SMOKED AND DROVE.

19 Q WHO WAS DRIVING?

20 A RANDY.

21 Q DID HE SAY ANYTHING TO YOU WHILE Y'ALL WERE, PERTAINING
22 TO THE DAY'S EVENTS WHILE Y'ALL WERE RIDING AROUND?

23 A I DIDN'T UNDERSTAND THE QUESTION.

24 Q WHILE Y'ALL WERE RIDING AROUND SMOKING CRACK THAT
25 EVENING?

1 A UH-HUH.

2 Q DID Y'ALL TALK ABOUT WHAT HAD HAPPENED DURING THE DAY?
3 DID HE SAY ANYTHING TO YOU; DID YOU SAY ANYTHING TO HIM
4 ABOUT WHAT HAD GONE ON GETTING THE CAR WITH THE RIGGS?

5 A NO, WE JUST, NO.

6 Q AND DID Y'ALL HAVE AN ENCOUNTER WITH THE POLICE AT ALL
7 THAT NIGHT?

8 A YES, SIR.

9 Q WHAT HAPPENED THERE? YOU REMEMBER WHAT HAPPENED WHEN
10 YOU WERE WITH THE COPS THAT NIGHT.

11 A NO.

12 Q SO Y'ALL WERE SMOKING?

13 A YES.

14 Q A LOT OF CRACK?

15 A YES.

16 Q GOING BACK A LITTLE BIT YOU SAY THE MONEY THAT YOU USED
17 TO BUY THE CRACK CAME OUT OF MRS. RIGGS POCKETBOOK OR
18 WALLET. WHO TOOK THE MONEY OUT?

19 A RANDY.

20 Q AND DO Y'ALL SMOKE CIGARETTES?

21 A YES.

22 Q DO YOU SMOKE CIGARETTES?

23 A YES.

24 Q DO YOU KNOW THAT MR. ELDERS SMOKES CIGARETTES?

25 A YES.

- 1 Q WHAT KIND OF CIGARETTES DO Y'ALL SMOKE?
- 2 A MARLBORO LIGHTS.
- 3 Q WERE Y'ALL SMOKING THAT NIGHT CIGARETTES AS WELL?
- 4 A YES.
- 5 Q DRIVING AROUND IN THE CAR?
- 6 A YES.
- 7 Q YOU, DID Y'ALL STOP AND PUT GAS IN THAT NIGHT?
- 8 A YES.
- 9 Q DID YOU ALSO BUY, SORRY, DID Y'ALL HAVE ANYTHING TO
- 10 DRINK THAT NIGHT WHILE YOU WERE RIDING AROUND?
- 11 A YES.
- 12 Q WHAT WAS IT?
- 13 A MOUNTAIN DEW.
- 14 Q NOW, A LITTLE BIT LATER COMING IN THE EARLY MORNING
- 15 HOURS, WHAT HAPPENED TO THE CAR?
- 16 A WE DITCHED THE CAR.
- 17 Q WHY DID Y'ALL DITCH THE CAR?
- 18 A HAD A FLAT TIRE.
- 19 Q IT HAD A FLAT TIRE. REMEMBER TO SPEAK UP A LITTLE BIT.
- 20 A YES.
- 21 Q AND WHERE DID Y'ALL ABANDON THE CAR?
- 22 A RIGHT THERE OFF OF BLUFF ROAD.
- 23 Q OKAY. YOU RODE AROUND WHERE ON BLUFF ROAD?
- 24 A RIGHT BY THE INTERSTATE.
- 25 Q WHICH INTERSTATE YOU TALKING ABOUT?

1 A 77.

2 Q 77, BLUFF ROAD?

3 A YES.

4 Q I'M GOING TO SHOW YOU STATE'S EXHIBIT 39. HERE'S BLUFF
5 ROAD. HERE'S 77, DRIVING RIGHT AROUND WHERE IN RELATION TO
6 THIS, LIKE THIS IS HEADING DOWN TOWARDS THE JAIL; THIS IS
7 BACK TOWARDS THE STADIUM UP HERE. I THINK THIS IS SWAMPY
8 AREA?

9 A RIGHT IN THERE.

10 Q SPEAK UP?

11 A BACK UP IN BETWEEN THERE, BACK UP IN THERE.

12 Q RIGHT IN HERE?

13 A YES.

14 Q OKAY. WANT TO TALK ABOUT ALEX ABANDONED IT. WHAT DID
15 Y'ALL START DOING OR WHERE DID Y'ALL GO?

16 A STARTED OFF WALKING.

17 Q WHERE WERE YOU WALKING TOWARDS?

18 A SOMEONE ELSE'S HOUSE.

19 Q WHERE DID SHE LIVE?

20 A RIGHT OFF OF BLUFF ROAD ON KIMMY LANE.

21 Q IS THAT IN THE VICINITY OF THE MAP I JUST SHOWED YOU?

22 A THAT'S GOING BACK TOWARDS GADSDEN.

23 Q DID YOU ARRIVE AT YOUR MOTHER'S HOUSE?

24 A YES.

25 Q RIGHT AROUND THE TIME WAS THAT?

1 A I DON'T KNOW.

2 Q OKAY. DAYLIGHT, STILL DARK?

3 A STILL DARK.

4 Q AND ONCE THERE WHAT DID Y'ALL DO; ONCE AT YOUR MOM'S
5 HOUSE WHAT DID Y'ALL DO?

6 A WENT TO SLEEP.

7 Q AND WHEN DID Y'ALL WAKE UP?

8 A THE NEXT AFTERNOON.

9 Q AND AT THAT TIME WHAT WERE Y'ALL, WHAT DID Y'ALL PLAN
10 TO DO AT THAT TIME YOU WOKE UP?

11 A THERE REALLY WAS NO PLAN AT THAT POINT.

12 Q SO WHAT DID Y'ALL DO WHEN YOU WOKE UP?

13 A WOKE UP, ATE BREAKFAST, WATCHED T.V.

14 Q OKAY. IS THERE ANYTHING SIGNIFICANT ON T.V. THAT YOU
15 SAW?

16 A I HEARD ABOUT THE INCIDENT THAT HAPPENED ON T.V.

17 Q AT THAT TIME ONCE YOU SAW A LITTLE REPORT ON T.V. ABOUT
18 WHAT HAD HAPPENED, DID YOU MAKE ANY PHONE CALLS?

19 A I MADE PHONE CALLS TO THE RIGGS TO MAKE SURE THEY WERE
20 OKAY.

21 Q AND DID YOU EVENTUALLY GET A RIDE OUT OF, TO SOMEWHERE
22 ELSE?

23 A YES.

24 Q WHO DID YOU CALL TO GET THAT RIDE?

25 A CHRISTOPHER SMITH.

- 1 Q WHERE WAS HE TAKING Y'ALL?
- 2 A BACK TO HIS HOUSE.
- 3 Q DID Y'ALL BRING ANYTHING WHERE YOU, WHEN YOU LEFT YOUR
- 4 MOTHER'S HOUSE AND WENT TO CHRIS' HOUSE?
- 5 A CLOTHES.
- 6 Q OKAY. CHRIS HAS COME PICKED YOU UP; YOU'RE GOING BACK
- 7 TO HIS HOUSE?
- 8 A YES.
- 9 Q WERE Y'ALL TALKING, THIS IS YOU AND MR. ELDERS IN THE
- 10 CAR?
- 11 A YES.
- 12 Q DO YOU REMEMBER WHO ELSE WAS IN THE CAR?
- 13 A TWO OTHER GUYS AND CHRIS.
- 14 Q OKAY.
- 15 A THE DRIVER, ANOTHER GUY AND CHRIS.
- 16 Q ANY WAY WERE THERE ANY CONVERSATIONS IN THE CAR, ANY
- 17 RELEVANCE TO THIS INCIDENT?
- 18 A NO.
- 19 Q YOU GOT TO CHRIS SMITH'S HOUSE; DID YOU SAY ANYTHING TO
- 20 ANYONE ABOUT WHAT HAD HAPPENED?
- 21 A I DIDN'T KNOW.
- 22 Q DID YOU HEAR ANYONE ELSE TALK ABOUT WHAT HAD HAPPENED?
- 23 A NO.
- 24 Q OKAY. WELL, Y'ALL SPENT THE NIGHT THERE AS PLANNED?
- 25 A YES.

1 Q AND WHAT HAPPENED NEXT DAY?

2 A THE NEXT DAY WE CAME TO THE HOUSE AND WE WERE ARRESTED.

3 Q WHO CAME TO THE HOUSE?

4 A THE LAW CAME TO THE HOUSE.

5 Q DO YOU REMEMBER TALKING TO ANY OF THE OFFICERS --

6 A YES.

7 Q -- THAT CAME TO THE HOUSE. DO YOU REMEMBER BEING
8 ADVISED OF YOUR RIGHTS?

9 A YES.

10 Q WHEN THEY CAME TO THE HOUSE?

11 A YES.

12 Q AND YOU GAVE THEM A STATEMENT ABOUT WHAT HAPPENED?

13 A YES.

14 Q AND WHEN THEY CAME IN AND ARRESTED Y'ALL -- BEG THE
15 COURT'S INDULGENCE ONE SECOND.

16 THE COURT: ALL RIGHT.

17 (ATTORNEYS CONFER.)

18 BY MR. JOPHLIN:

19 Q DID YOU TELL THEM ABOUT ANY WEAPONS IN THE HOUSE?

20 A THERE WAS A KNIFE IN RANDY'S SHOE AT THAT POINT.

21 Q AND WHAT HAPPENED TO THE CLOTHES THAT Y'ALL BROUGHT
22 OVER TO CHRIS' HOUSE? YOU SAY YOU BROUGHT SOME CLOTHES WITH
23 YOU.

24 A YES, WE BROUGHT CLOTHES.

25 Q WHAT HAPPENED TO THEM?

1 A THEY GOT LEFT AT CHRIS' HOUSE WHEN WE WERE ARRESTED.

2 Q DID ANYBODY SEARCH THROUGH THEM?

3 A YES.

4 Q WHO DID?

5 A THE INVESTIGATORS.

6 Q AND GOING BACK A LITTLE BIT TO THE NIGHT BEFORE, YOU
7 SAID Y'ALL CALLED CHRIS TO COME PICK YOU UP?

8 A YES.

9 Q WHO CALLED CHRIS TO PICK YOU UP?

10 A RANDY DID.

11 Q RANDY DID?

12 A YES.

13 Q AND YOU SAID YOU GAVE A STATEMENT THAT DAY?

14 A YES.

15 Q WERE YOU COMPLETELY HONEST IN THIS STATEMENT?

16 A NO.

17 Q WHY NOT?

18 A I WAS SCARED.

19 Q SPECIFICALLY I'M GOING TO SHOW YOU A LITTLE BIT. THE
20 OFFICER ASKED YOU DID YOU OR RANDY TAKE ANYTHING FROM THE
21 OLD LADY'S PURSE. IS THAT A TRUTH OR A LIE?

22 A THIS WAS A LIE.

23 Q DID YOU SEE RANDY WITH THE KNIFE DURING THIS INCIDENT
24 IS NO. IS THAT A TRUTH OR A LIE?

25 A A LIE.

1 Q AND WAS THE DEFENDANT INJURED IN ANY WAY FROM ALL THIS?

2 A SOMETHING WAS WRONG WITH HIS ARM. EXACTLY WHAT WAS
3 WRONG BUT I KNOW HE HAD SOMETHING WRONG WITH HIS ARM.

4 Q NOW, THE CLOTHES Y'ALL WORE, THIS IS GOING BACK TO THE
5 DAY WHEN --

6 A YES.

7 Q -- CLOTHES Y'ALL WORE WHILE YOU WERE TAKING THE CAR;
8 WHAT HAPPENED TO THOSE CLOTHES?

9 A . BURNED THEM.

10 Q WHO BURNED THEM?

11 A I-DID.

12 Q I'M SORRY?

13 A I DID.

14 Q YOU DID AND WAS IT YOUR CLOTHES?

15 A NO.

16 Q BOTH YOUR AND RANDY ELDERS' CLOTHES AND DO YOU KNOW
17 WHAT HAPPENED TO THE KNIFE HE USED THAT HE HELD TO
18 MRS. RIGGS' THROAT?

19 A NO.

20 (ATTORNEYS CONFER.)

21 BY MR. JOPHLIN:

22 Q AND YOU PACKED, Y'ALL PACKED CLOTHES UP TO BRING OVER
23 TO CHRIS SMITH'S HOUSE. WHY DID YOU DO THAT? Y'ALL PARKED.
24 WERE Y'ALL PLANNING ON STAYING IN COLUMBIA

25 A YES, FOR A LITTLE WHILE.

1 Q THEN WHERE WERE YOU GOING TO GO?

2 A I DON'T KNOW.

3 Q YOU WEREN'T PLANNING ON STAYING IN COLUMBIA?

4 A NO.

5 Q I'M JUST GOING TO SHOW YOU A FEW THINGS. SEE IF YOU

6 RECOGNIZE THEM. DO YOU RECOGNIZE THIS?

7 A YES.

8 Q WHOSE JACKET IS THAT?

9 A RANDY'S.

10 Q HOW DO YOU KNOW THAT IT'S HIS JACKET?

11 A I BOUGHT IT.

12 Q YOU BOUGHT IT?

13 A YES.

14 Q AND WHEN WAS THE LAST TIME YOU SAW HIM WEARING THAT

15 JACKET?

16 A BEFORE THE INCIDENT HAPPENED.

17 Q WAS HE WEARING THIS JACKET WHEN Y'ALL LEFT THE

18 INCIDENT?

19 A NO.

20 Q LEFT IN THE CAR?

21 A YES.

22 Q DO YOU RECOGNIZE THIS.

23 A YES.

24 Q WHAT IS IT?

25 A IT'S A KNIFE.

1 MS. OWINGS: OBJECTION, YOUR HONOR.

2 THE COURT: WAIT JUST A MINUTE.

3 MS. OWINGS: THE KNIFE ISN'T IN EVIDENCE. SHE'S
4 SHOWING IT TO THE JURY.

5 MS. OWINGS: WE HAVE OBJECTION TO THE KNIFE.

6 THE COURT: ALL RIGHT. THOSE HAVE NOT BEEN
7 ADMITTED INTO EVIDENCE AT THIS TIME. THEY'VE JUST BEEN
8 IDENTIFIED; IS THAT CORRECT?

9 MS. OWINGS: YES, SIR.

10 MR. JOPHLIN: CORRECT, AND I'D LIKE TO GO THROUGH,
11 IDENTIFY THEM FURTHER WITH THIS WITNESS.

12 MS. OWINGS: MAY WE APPROACH?

13 THE COURT: TELL YOU WHAT, MR. FOREMAN LADIES AND
14 GENTLEMEN, IT'S A GOOD TIME FOR A BREAK. YOU'VE BEEN IN
15 HERE FOR ABOUT AN HOUR AND A HALF. DON'T DISCUSS THE CASE.
16 JUST STEP BACK TO YOUR JURY ROOM. WE'LL TAKE ABOUT 10 OR 15
17 MINUTES. YOU'RE EXCUSED.

18 EVERYONE ELSE IN THE COURTROOM STAY SEATED,
19 PLEASE.

20 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
21 JURY.)

22 THE COURT: ALL RIGHT. LET'S GET THE OBJECTION ON
23 THE RECORD.

24 MS. OWINGS: IT'S MY UNDERSTANDING THAT THERE ARE
25 ABOUT FIVE KNIVES THAT WILL POTENTIALLY BE INTRODUCED INTO

1 EVIDENCE. CHRISTINA HAS TESTIFIED THAT SHE DOESN'T KNOW
2 WHAT HAPPENED TO THE KNIFE THAT WAS USED WHEN THE RIGGS WERE
3 ROBBED. I UNDERSTAND THAT THAT'S, THERE MAY BE, THERE WAS
4 JUST A KNIFE FOUND IN MR. ELDERS' SHOE. I DON'T THINK ANY
5 OF THOSE KNIVES, THEY'RE NOT EVIDENCE IN THE ROBBERY.

6 THE COURT: ALL RIGHT, SOLICITOR.

7 MS. CAMPBELL: YOUR HONOR, I THINK ONE OF THE
8 ISSUES IN THE CASE BASED ON OPENING STATEMENT IS WHETHER OR
9 NOT THE DEFENDANT WAS ACTUALLY ROBBED, I MEAN ARMED DURING
10 THE ROBBERY BUT THE FACT THAT HE HAD A KNIFE ON HIM AT THAT
11 TIME AND THAT HE CARRIED THESE KNIVES WITH HIM TO US IS
12 PRETTY CRUCIAL BECAUSE IT SHOWS THAT IN FACT HE DEALS WITH
13 KNIVES AND CARRIES KNIVES, THE REASON WE WANT TO INTRODUCE
14 THE FACT THAT THIS IS AN ARMED ROBBERY, ASSAULT AND BATTERY
15 WITH INTENT TO KILL. BASED ON CROSS-EXAMINATION IT'S MY
16 UNDERSTANDING THAT HE WASN'T ARMED AT LEAST DURING PART OF
17 THIS ATTACK IF NOT ALL OF IT AND I THINK WE HAVE THE RIGHT
18 TO SHOW THAT HE WAS FAMILIAR WITH KNIVES, CARRIES A KNIFE
19 AND WAS PACKING THAT NIGHT PLANNING TO.

20 MS. OWINGS: MAY I RESPOND, YOUR HONOR?

21 THE COURT: YES.

22 MS. OWINGS: THERE WAS A KNIFE FOUND IN HIS SHOE
23 SEVERAL DAYS LATER. WE'VE ALREADY CONSENTED TO THE
24 CRIMESTOPPERS REPORT BECAUSE HE WAS FOUND WITH A POCKET
25 KNIFE. THEY HAVE IT IN. THEY HAVE A POCKET KNIFE. IT'S

1 BEEN TESTIFIED BY SEVERAL PEOPLE THAT THIS WAS NOT THE KNIFE
2 THAT WAS USED. SHE DOESN'T KNOW WHAT HAPPENED THAT NIGHT
3 AND SHE WOULDN'T HAVE FIRSTHAND KNOWLEDGE AS THE PERSON
4 THERE. I WOULD LIMIT IT TO ANY OF THOSE OTHER KNIVES. THIS
5 WASN'T MR. ELDERS' HOUSE. THIS WAS CHRIS SMITH'S HOUSE
6 WHERE THESE KNIVES WERE FOUND. I DON'T THINK THEY'RE
7 RELEVANT.

8 **THE COURT:** SOLICITOR, I CAN CONTACT --

9 **MR. JOPHLIN:** YES, SIR. I'LL SET A FOUNDATION AND
10 SHOW THESE KNIVES WERE FOUND IN HIS BELONGINGS. CHRISTINA
11 HALL SAW HIM TAKE THESE TO CHRIS SMITH'S HOUSE.

12 **MS. OWINGS:** BUT NONE OF THESE KNIVES WERE THE
13 WEAPON USED IN THE CARJACKING.

14 **THE COURT:** IS THERE ANY IDENTIFICATION OF A
15 PARTICULAR KNIFE BEING USED AT THE TIME OF THE INCIDENT?

16 **MR. JOPHLIN:** NO, SIR. JUST THE FACT THAT HE DOES
17 CARRY AROUND KNIVES. ONCE AGAIN WHEN HE'S FLEEING HE IS
18 AGAIN CARRYING AROUND FOUR KNIVES.

19 **THE COURT:** ALL RIGHT. AT THIS POINT IN TIME HOW
20 IS THE KNIFE THAT WAS ALLEGEDLY USED IN THE CAR DURING THE
21 FIGHT, WHATEVER, HOW HAS IT BEEN DESCRIBED?

22 **MR. JOPHLIN:** FIVE, SIX INCH LONG BLADE.

23 **THE COURT:** WITH A HOW MUCH BLADE?

24 **THE WITNESS:** A TIP, ROUND TIP ON THE END.

25 **THE COURT:** ANY OF THE KNIVES THAT HAVE NOT BEEN

1 BEEN INTRODUCED.

2 MS. OWINGS: YOUR HONOR, IF I MAY.

3 THE COURT: WAIT A MINUTE. DO ANY OF THEM FIT
4 THAT DESCRIPTION?

5 MR. JOPHLIN: THERE IS ONE KNIFE THAT IS ABOUT
6 FOUR INCHES LONG WITH A CROOKED TIP ON THE END.

7 THE COURT: ALL RIGHT, COUNSEL.

8 MS. OWINGS: YOUR HONOR, THE STATE SPECIFICALLY
9 ASKED THE RIGGS THE KNIVES THAT THEY WERE SHOWN LATER ON IN
10 THE SOLICITOR'S OFFICE DO ANY OF THOSE MATCH THE
11 DESCRIPTION AND THE RIGGS SAID NO. THEIR OWN WITNESSES HAVE
12 SAID THEY DON'T MATCH.

13 THE COURT: WELL, THEY'RE STILL CALLING THEIR OWN
14 WITNESSES.

15 MS. OWINGS: BUT THE PEOPLE INVOLVED IN THIS THEY
16 HAD SAID THEY HAD SEEN THOSE KNIVES IN THE SOLICITOR'S
17 OFFICE AND NONE OF THOSE KNIVES MATCH THE KNIFE THAT WAS
18 USED IN THE ROBBERY.

19 THE COURT: WELL, THE ONE THAT THE SOLICITOR HAS
20 JUST DESCRIBED IS IT THE ONE THAT, I DON'T KNOW ANYTHING
21 ABOUT THE KNIVES OR WHAT THEY LOOK LIKE BUT IF WHAT HAS BEEN
22 DESCRIBED IS FIVE OR SIX INCHES LONG WITH A HUMP OR THE
23 POINT OR WHATEVER AND YOU'VE GOT A TEN-INCH SWITCHBLADE
24 WHAT'S THE REAL ADVANTAGE OF THAT?

25 MS. OWINGS: MAY I PUT OUT AND SHOW, YOUR HONOR?

1 THE COURT: YES, MA'AM, I'M GOING TO HAVE TO LOOK
2 AT THEM. I THINK IT'S ABOUT FOUR INCHES WITH THE CROOK ON
3 THE END. PUT THEM UP HERE. IS THAT THE ONLY ONE YOU HAVE?

4 MS. OWINGS: THE REST DO NOT MATCH THE
5 DESCRIPTION.

6 THE COURT: IS THIS THE ---

7 MS. OWINGS: THE REST ARE POCKET KNIVES.

8 THE COURT: POCKET KNIVES?

9 MR. JOPHLIN: YES, SIR.

10 THE COURT: WHERE WAS THIS PARTICULAR KNIFE
11 LOCATED? WAS THAT IN THE CLOTHING OR WAS THAT IN THE SHOE?

12 MR. JOPHLIN: ONE MOMENT, YOUR HONOR.

13 MS. OWINGS: FOUND IN THE SHOE OF RANDY ELDERS IN
14 THE LIVING ROOM OF CHRIS MCDONALD.

15 THE COURT: THAT ONE RIGHT HERE.

16 MS. SAMPSON: CORRECT, YOUR HONOR.

17 THE COURT: IS THIS WITNESS ABLE TO IDENTIFY ANY
18 PARTICULAR KNIFE, MR. JOPHLIN?

19 MR. JOPHLIN: SHE CAN IDENTIFY THAT CAME IN THE
20 SHOE.

21 THE COURT: THIS ONE, I'M NOT TALKING ABOUT THE
22 SHOE. I'M TALKING ABOUT AT THE TIME OF THE ALLEGED
23 INCIDENT.

24 MR. JOPHLIN: SHE DOESN'T KNOW WHICH KNIFE IT WAS.
25 ACTUALLY SHE DID TESTIFY SHE DOES NOT REMEMBER HAVING THAT

1 KNIFE.

2 MS. OWINGS: YOUR HONOR, TESTIMONY FROM SCOTT
3 MCDONALD CAME IN REGARDING FINDING THIS KNIFE IN THE
4 DEFENDANT'S SHOE.

5 THE COURT: RIGHT.

6 MR. JOPHLIN: UNOBJECTED TO.

7 MS. OWINGS: YOUR HONOR, I OBJECT TO ANY KNIVES
8 EVER COMING IN AS INTRODUCED IF NOT THE ACTUAL KNIFE.

9 THE COURT: DON'T INTERRUPT EACH OTHER. GO AHEAD.

10 MS. OWINGS: I DO REMEMBER SCOTT MCDONALD SAYING
11 HE FOUND -- I OBJECTED TO ANY KNIVES. I HAVE MADE A POINT.
12 I OBJECTED TO ANY KNIVES COMING IN THE CASE ANTICIPATING
13 THIS. I NEVER CONCEDED TO LET A KNIFE COME IN AS EVIDENCE.

14 THE COURT: ALL RIGHT. AND WHERE WERE THE OTHER
15 KNIVES FOUND? WHERE WERE THEY LOCATED?

16 MS. OWINGS: I THINK IN HIS BELONGINGS IN THE
17 SUITCASES, IN THE BAGS HE HAD, YOUR HONOR, AND ONE WAS OUT
18 ON THE BACK PORCH.

19 MS. OWINGS: APOLOGIZE. THOSE WITNESSES HAVEN'T
20 BEEN CALLED YET. THE OFFICERS THAT SEARCHED THE HOUSE AND
21 FOUND THE BAGS. THEY SEARCHED THE BAG. THEY WERE FOUND IN
22 THOSE BAGS. MS. HALL TESTIFIED THAT THE OFFICER DID GO
23 THROUGH THEIR STUFF AFTER SHE LEFT HER BAGS THERE AND THEY
24 HAD GONE THROUGH THEM. THE ACTUAL OFFICERS WHO SEARCHED THE
25 BAG HAVEN'T EVEN BEEN CALLED YET SO IN A SENSE IT'S

1 PREMATURE.

2 MR. JOPHLIN: AS TO THESE THREE KNIVES CONNECT AS
3 THE KNIFE THAT OFFICER HAS BEEN CALLED AND MS. HALL CAN
4 IDENTIFY THAT KNIFE AS BEING IN THE SHOE.

5 THE COURT: ALL RIGHT. I'LL GIVE IT SOME THOUGHT
6 DURING THE BREAK. YOU CAN PUT IT BACK DOWN.

7 MR. JOPHLIN: YES, SIR.

8 THE COURT: WE'LL TAKE ABOUT 10 MINUTES.

9 MR. JOPHLIN: THANK YOU, YOUR HONOR.

10 THE COURT: THE WITNESS CAN STEP DOWN DURING THE
11 BREAK BUT YOU CANNOT DISCUSS THE TESTIMONY DURING THE BREAK.

12 (THEREUPON, THERE WAS A BRIEF RECESS IN THE TRIAL OF
13 THIS CASE.)

14 THE COURT: ALL RIGHT. ANY FURTHER ARGUMENT
15 BEFORE I DECIDE WHAT I'M GOING TO DO WITH THESE?

16 MS. OWINGS: NO, SIR.

17 THE COURT: ALL RIGHT. ANYTHING FURTHER FROM THE
18 DEFENSE?

19 MS. OWINGS: NO, YOUR HONOR.

20 THE COURT: THE OBJECTION ON THIS PARTICULAR KNIFE
21 AT THIS TIME IS OVERRULED. I THINK IT'S RELEVANT. IT WAS
22 FOUND WHERE THIS WITNESS INDICATED IT WOULD BE IN THE SHOE,
23 BESIDE THE SHOE AT THE TIME OF THE ARREST; IS THAT RIGHT? I
24 WANT TO BE SURE I UNDERSTAND IT.

25 MS. OWINGS: CORRECT, YOUR HONOR.

1 THE COURT: AS TO THIS PARTICULAR KNIFE I HAVE
2 OVERRULED THE OBJECTION.

3 MS. OWINGS: THANK YOU, YOUR HONOR.

4 THE COURT: ALL RIGHT. LET'S GET THE JURY BACK
5 IN.

6 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
7 JURY.)

8 THE COURT: ALL RIGHT. WE WILL CONTINUE. I
9 BELIEVE WE WERE ON DIRECT EXAMINATION. YOU MAY CONTINUE.

10 MR. JOPHLIN: THANK YOUR HONOR.

11 BY MR. JOPHLIN:

12 Q MS. HALL, I BELIEVE WHERE WE LEFT OFF YOU TOLD OFFICERS
13 THAT THEY COULD FIND THE KNIFE IN RANDY ELDERS' SHOE?

14 A YES.

15 Q CAN YOU DESCRIBE WHAT THE KNIFE WAS IN THE SHOE LOOKED
16 LIKE?

17 A IT WAS A SWITCH BLADE TEDDY BEARS, NOT TEDDY BEARS; BUT
18 IT HAD BEARS ON THE FRONT OF THE OUTSIDE COVER PLATE, I MEAN
19 HANDLE.

20 Q AND IS THAT THE KNIFE?

21 A YES.

22 Q THAT WAS IN THERE?

23 A YES.

24 MR. JOPHLIN: THE STATE WOULD SEEK TO INTRODUCE
25 STATE'S EXHIBIT NO. 46 WHICH MATCHED THE DESCRIPTION THAT

1 THE WITNESS JUST GAVE. YES, YOUR HONOR.

2 THE COURT: OVERRULED. STATE'S 46 IS ADMITTED
3 OVER OBJECTION.

4 BY MR. JOPHLIN:

5 Q BRIEFLY, MS. HALL, YOU DO HAVE A PRIOR RECORD, DON'T
6 YOU?

7 A YES.

8 Q AND YOU HAVE A 2004 CONVICTION FOR BURGLARY THIRD
9 DEGREE AND 2005 POSSESSION OF CRACK?

10 A YES.

11 Q YOU ALSO HAVE SOME PENDING CHARGES INVOLVED WITH THIS
12 INCIDENT AND ANOTHER INCIDENT?

13 A YES.

14 Q AND WHAT ARE THOSE CHARGES YOU'RE LOOKING AT? THE
15 PENDING CHARGES, THE PENDING CHARGES OF BURGLARY FIRST
16 DEGREE, ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE,
17 KIDNAPPING, STRONG ARMED ROBBERY, TWO ASSAULT AND BATTERY
18 WITH INTENT TO KILL, TWO KIDNAPPINGS AND AN ARMED ROBBERY, A
19 CARJACKING?

20 A YES.

21 Q AND BASED ON ALL THESE CHARGES YOU'RE PROBABLY LOOKING
22 AT OVER 100. YOU'RE LOOKING AT A LOT OF TIME ON THOSE
23 CHARGES?

24 A YES, SIR.

25 Q THEN WHY ARE YOU TESTIFYING TODAY?

1 A RIGHT THING TO DO.

2 Q WERE YOU PROMISED ANYTHING?

3 A NO.

4 Q TO TESTIFY TODAY?

5 A NO.

6 Q COERCED ANY WAY TO TESTIFY TODAY?

7 A NO.

8 Q HAS ANY DEAL BEEN MADE --

9 A NO.

10 Q -- IN REGARD TO ANY OF YOUR PENDING CHARGES --

11 A NO.

12 Q -- I JUST READ OFF?

13 A NO.

14 Q AND CAN YOU POINT OUT THE MAN YOU KNOW AS RANDY ELDERS
15 WHO HELD A KNIFE TO MS. RIGGS' NECK AND WHO STABBED
16 MR. RIGGS IS HE IN THE COURTROOM TODAY?

17 A YES.

18 Q CAN YOU PLEASE POINT HIM OUT FOR THE JURY?

19 A (INDICATING.)

20 Q LET THE RECORD REFLECT THAT SHE HAS POINTED TO THE
21 DEFENDANT RANDY ELDERS?

22 THE COURT: IT DOES. GO AHEAD.

23 BY MR. JOPHLIN:

24 Q AND Y'ALL ACTUALLY STILL WRITE LETTERS BACK AND FORTH?

25 A YES.

CHRISTINA HALL-CROSS BY MS. OWINGS

1 Q AND YOU STILL LOVE HIM, DON'T YOU?

2 A YES.

3 MR. JOPHLIN: THANK YOU. ANSWER ANYTHING THE
4 DEFENSE HAS TO ASK.

5 THE COURT: ALL RIGHT. YOU MY CROSS-EXAMINE,
6 MS. OWINGS.

7 MS. OWINGS: THANK YOU, YOUR HONOR.

8 CROSS-EXAMINATION BY MS. OWINGS:

9 Q MS. HALL, YOU DON'T WANT TO BE HERE TODAY, DO YOU?

10 A NO.

11 Q AND YOU LOVE RANDY VERY MUCH, DON'T YOU?

12 A VERY MUCH SO.

13 Q AND PRIOR TO ALL THIS HAPPENING YOU PLANNED TO GET
14 MARRIED, HADN'T YOU?

15 A YES.

16 Q YOU HAVE TWO CHILDREN, DON'T YOU, MS. HALL?

17 A YES.

18 Q HOW MANY CHILDREN DO YOU HAVE?

19 A THREE.

20 Q THREE CHILDREN AND WHAT ARE THEIR AGES?

21 A SIX, FOUR, AND TWO.

22 Q SO THEY'RE YOUNG CHILDREN?

23 A YES.

24 Q AND YOU MISS YOUR CHILDREN, DON'T YOU?

25 A YES.

1 Q YOU ALSO HAVE A MOTHER WHO'S VERY ILL, DON'T YOU?

2 A YES.

3 Q AND YOU'RE VERY CONCERNED ABOUT HER HEALTH, AREN'T YOU?

4 A YES.

5 Q AND YOU'RE CONCERNED THAT SHE'S GRAVELY ILL?

6 A YES.

7 Q AND YOU WEREN'T MADE ANY PROMISES AS FAR AS THE TIME
8 YOU COULD GET IF YOU TESTIFIED?

9 A NO.

10 Q WHICH YOU WERE FACING 20 YEARS ON CAR JACKING?

11 A YES.

12 Q AND 15, 10 TO 30 ON THE ARMED ROBBERY?

13 A YES.

14 Q AND YOU'RE FACING UP TO 20 YEARS APIECE ON BOTH THE
15 ASSAULT AND BATTERY WITH INTENT TO KILL?

16 A YES.

17 Q AND UP TO 30 YEARS APIECE ON EACH OF THE KIDNAPPINGS?

18 A YES.

19 Q AS THE SOLICITOR STATED YOU'RE FACING A LOT OF TIME?

20 A YES.

21 Q AND YOU'RE ANXIOUS TO GET THEM THOSE CHILDREN?

22 A YES.

23 Q AND TO YOUR SICK MOTHER?

24 A YES.

25 Q AND IT'S YOUR UNDERSTANDING THAT BY TESTIFYING YOU'RE

1 GOING TO GET LESS TIME?

2 A NO.

3 Q YOU TESTIFIED TO THE SOLICITOR THAT YOU WRITE LETTERS
4 TO MR. ELDERS?

5 A YES.

6 Q DO YOU RECALL WRITING HIM A LETTER THIS PAST SATURDAY,
7 SUNDAY AT 2:00 A.M.?

8 A YES.

9 MS. OWINGS: BEG THE COURT'S INDULGENCE FOR ONE
10 MOMENT.

11 THE COURT: ALL RIGHT.

12 BY MS. OWINGS:

13 Q AND IN THIS LETTER YOU SENT HIM DIDN'T YOU TELL HIM I
14 NEED TO BE HOME?

15 A YES.

16 Q I MAY GET ABOUT THREE TO FIVE YEARS OUT OF THIS?

17 A YES.

18 Q THAT'S WHAT SHE'S GOING TO ASK FOR, I ASSUME YOUR
19 ATTORNEY?

20 A YES.

21 Q SO YOU ARE EXPECTING TO GET LESS TIME BY TESTIFYING
22 TODAY?

23 A THAT'S WHAT I SAID.

24 Q YOU'RE EXPECTING TO BENEFIT FROM THE TESTIFYING?

25 A I'M HOPING, YES.

1 Q MS. HALL, LET'S TURN TO THE EVENTS AT THE SMITH'S HOME
2 OUT IN IRMO?

3 A YES.

4 Q WHEN THE POLICE CAME INTO THE SMITH'S HOME YOU WERE
5 QUESTIONED BY ONE OF THE INVESTIGATORS?

6 A YES.

7 Q DO YOU REMEMBER HIS NAME?

8 A MCDONALD.

9 Q INVESTIGATOR MCDONALD?

10 A YES.

11 Q YOU GAVE A STATEMENT TO INVESTIGATOR MCDONALD; IS THAT
12 CORRECT?

13 A YES.

14 Q AND BEFORE YOU GAVE THE STATEMENT TO INVESTIGATOR
15 MCDONALD, HE WENT THROUGH YOUR RIGHTS WITH YOU; IS THAT
16 CORRECT?

17 A YES.

18 Q AND WHENEVER HE ASKED YOU THOSE RIGHTS HE ALSO HAD YOU,
19 BASICALLY YOU WERE GIVEN A SWORN STATEMENT; IS THAT CORRECT?

20 A YES.

21 Q AND WHEN YOU MADE THE STATEMENT I ASSUME THAT
22 INVESTIGATOR MCDONALD ADVISED YOU OF HOW IMPORTANT IT IS FOR
23 YOU TO TELL THE TRUTH?

24 A YES.

25 Q THAT ANYTHING YOU SAY COULD BE USED AGAINST YOU IN

1 COURT?

2 A YES, MA'AM.

3 Q AND YOU SIGNED THE STATEMENT?

4 A YES.

5 Q YOU GAVE THE STATEMENT TO INVESTIGATOR MCDONALD ON
6 APRIL THE 19TH; IS THAT CORRECT?

7 A YES.

8 Q AND THAT WAS JUST A FEW DAYS AFTER THIS ACTUALLY TOOK
9 PLACE?

10 A YES.

11 Q SO WOULD YOU AGREE THAT YOUR RECOLLECTION WAS BETTER
12 THAT DAY THAN IT WAS TODAY. WAS YOUR MEMORY OF THE EVENT
13 FRESH IN YOUR MIND?

14 A NO.

15 Q YOUR MEMORY OF THE EVENT THAT HAPPENED ONE DAY BEFORE
16 WASN'T FRESH IN YOUR MIND WHEN YOU TALKED TO INVESTIGATOR
17 MCDONALD?

18 A I WAS SCARED.

19 Q YOU WERE SCARED SO YOUR MEMORY WAS AFFECTED BY YOUR
20 FEAR?

21 A YES.

22 Q IN THE STATEMENT YOU GAVE HIM YOU TOLD HIM THAT YOU DID
23 NOT SEE RANDY WITH A KNIFE?

24 A YES.

25 Q YOU SAID YOU DID NOT SEE RANDY FLICK FROM THE OLD

1 LADY'S POCKETBOOK; IS THAT RIGHT?

2 A YES.

3 Q IS THAT RIGHT? THAT'S WHAT YOU SAID IN YOUR STATEMENT?

4 A YES.

5 Q YOU ALSO FURTHER SAID YOU DON'T KNOW WHERE THE KNIFE
6 WAS BECAUSE YOU DIDN'T SEE HIM WITH ONE; IS THAT CORRECT?

7 A YES.

8 Q NOW, BEFORE YOU TESTIFIED TODAY DID YOU MEET WITH THE
9 SOLICITOR'S OFFICE?

10 A YES.

11 Q YOU WERE BROUGHT OVER TO MEET WITH THE SOLICITOR?

12 A YES.

13 Q TO DISCUSS YOUR TESTIMONY?

14 A YES.

15 Q AND SO NOW YOUR STORY TODAY IS THAT YOU SAW HIM WITH A
16 KNIFE?

17 A YES.

18 Q AFTER PREPARING YOUR TESTIMONY?

19 A YES.

20 Q YOU ALSO TESTIFIED THAT WHENEVER CHRIS CAME TO PICK ALL
21 OF YOU UP IT WAS CHRIS AND TWO OTHER MALES IN THE CAR?

22 A UH-HUH.

23 Q YOU DIDN'T TESTIFY THAT THERE WAS ANY FEMALE NAMED
24 E. A. IN THE CAR EITHER; IS THAT TRUE?

25 A I FORGOT HER.

1 Q SO BUT THAT WASN'T YOUR TESTIMONY EARLIER?

2 A NO.

3 Q THAT IT WAS TWO MALES IN THE CAR?

4 A YES.

5 Q AND ISN'T IT ALSO TRUE, AND THE SOLICITOR HAS FINISHED,
6 YOUR HAVING A BAG PACKED YOU SAID THAT YOU WERE PLANNING TO
7 STAY IN COLUMBIA FOR A LITTLE WHILE?

8 A YES; THAT IS CORRECT, YES.

9 Q I THINK YOU TESTIFIED EARLIER THAT YOU AND MR. ELDERS
10 WERE IN LOVE?

11 A YES.

12 Q AND Y'ALL PLANNED TO GET MARRIED?

13 A YES.

14 Q HAD Y'ALL ALSO DISCUSSED POSSIBLY MOVING TO FLORIDA
15 BEFORE THIS INCIDENT EVER HAPPENED?

16 A NO.

17 Q SO Y'ALL HAD TALKED ABOUT LEAVING THE STATE OF SOUTH
18 CAROLINA?

19 A TO MOVE AND HAVE A NEW LIFE SOMEWHERE, YES.

20 Q I THINK YOU ALSO TESTIFIED THAT YOU TOLD INVESTIGATOR
21 MCDONALD THAT A KNIFE WOULD BE FOUND IN MR. ELDERS' SHOE?

22 A YES.

23 Q AND IN FACT YOU ALSO TESTIFIED THAT WAS NOT THE KNIFE
24 THAT YOU SAW USED IN THE BURGLARY, IN THE ROBBERY?

25 A YES.

1 Q YOU ALSO SAID THAT THIS KNIFE HAD BEARS ON THE FRONT OF
2 IT?

3 A YES.

4 Q ISN'T IT ALSO TRUE THAT THAT WASN'T MR. ELDERS' KNIFE?

5 A YES.

6 Q THAT WAS A KNIFE THAT WAS YOUR BROTHER'S?

7 A YES.

8 Q AND THAT Y'ALL FOUND IT EARLIER THAT DAY?

9 A YES.

10 Q IT WAS ALSO YOUR TESTIMONY THAT YOU BURNED THE CLOTHES?

11 A YES.

12 MS. OWINGS: CORRECT. BEG THE COURT'S INDULGENCE
13 ONE MOMENT.

14 THE COURT: ALL RIGHT.

15 (PAUSE)

16 BY MS. OWINGS:

17 Q I BELIEVE YOU ALSO TESTIFIED THAT Y'ALL SMOKE MARLBORO
18 CIGARETTES?

19 A YES.

20 Q Y'ALL WERE DRINKIG MOUNTAIN DEWS?

21 A YES.

22 Q AND THESE THINGS WERE YOURS?

23 A YES.

24 Q YOU AND RANDY WERE IN THE CAR?

25 A YES.

1 Q SO ALL THOSE ITEMS WERE YOURS THAT WERE IN THE CAR?

2 A YES.

3 Q AND I BELIEVE YOU ALSO DIDN'T TESTIFY ANYTHING ABOUT
4 SEEING MR. ELDERS ATTACK MRS. RIGGS?

5 A YES.

6 Q YOU DIDN'T SEE HIM PUSH HER DOWN?

7 A NO.

8 Q YOU DIDN'T SEE HIM TAKE HER POCKETBOOK?

9 A NO.

10 Q IN FACT YOU TESTIFIED THE FIRST TIME THAT YOU SAW THE
11 POCKETBOOK WAS IN THE CAR AFTER Y'ALL HAD ALREADY LEFT THE
12 SCENE; IS THAT CORRECT?

13 A YES.

14 MS. OWINGS: I BEG THE COURT'S INDULGENCE JUST ONE
15 MOMENT. AND ONE MORE QUESTION.

16 BY MS. OWINGS:

17 Q IT WAS YOUR, YOU TESTIFIED EARLIER THAT YOU, WHAT YOU
18 SAID WAS YOU SAW AFTER THE ALTERCATION BETWEEN MR. RIGGS AND
19 RANDY YOU SAW HIM RUN INTO THE CAR?

20 A YES.

21 Q WHERE YOU WERE ALREADY IN THE DRIVER'S SEAT?

22 A YES.

23 MS. OWINGS: THANK YOU. I HAVE NO FURTHER
24 QUESTIONS.

25 THE COURT: REDIRECT.

CHRISTINA HALL-REDIRECT BY MR. JOPHLIN

1 MR. JOPHLIN: THANK YOUR HONOR.

2 REDIRECT EXAMINATION BY MR. JOPHLIN:

3 Q THAT LETTER THAT YOU WROTE TO THE DEFENDANT JUST A
4 COUPLE DAYS AGO?

5 A YES.

6 Q DID THE SOLICITOR'S OFFICE PROMISE YOU --

7 A NO.

8 Q -- ANYTHING --

9 A NO.

10 Q -- TO TESTIFY. YOU SAID YOUR LAWYER IS GOING TO ASK
11 FOR THAT TIME. YOU SAID THAT'S WHAT SHE IS GOING TO ASK FOR
12 THREE TO FIVE YEARS?

13 A YES.

14 Q ISN'T THAT WHO YOU'RE TALKING ABOUT, YOUR LAWYER?
15 THAT'S WHAT SHE'S ASKING FOR AND SHE CAN ASK FOR WHATEVER
16 SHE WANTS?

17 A YES.

18 Q AND IS YOUR LAWYER SITTING IN HERE TODAY?

19 A YES.

20 Q CAN YOU POINT HER OUT?

21 A YES.

22 Q IS SHE HERE TODAY?

23 A YES.

24 Q SHE'S HERE WHILE YOU'RE TESTIFYING?

25 A YES.

1 Q AND GOING TO THE STATEMENT ON DIRECT WE WENT OVER YOUR
2 STATEMENT?

3 A YES.

4 Q AND YOU READILY ADMITTED, YES, I LIED ABOUT THAT. I
5 LIED ABOUT THAT?

6 A YES.

7 Q AND YOU WERE LYING TO PROTECT RANDY ELDERS, WEREN'T
8 YOU?

9 A YES.

10 Q BECAUSE YOU LOVE HIM?

11 A VERY MUCH.

12 Q AND FINALLY CHUCK, THAT WASN'T CHUCK'S KNIFE. IT WAS
13 YOUR BROTHER'S?

14 A YES.

15 Q BUT HE GOT THAT KNIFE BECAUSE HE'S KNOWN TO CARRY
16 KNIVES?

17 A YES.

18 MS. OWINGS: OBJECTION, YOUR HONOR.

19 THE COURT: WAIT JUST A MINUTE. I SUSTAIN THE
20 OBJECTION TO THE LAST QUESTION. I INSTRUCT THE JURY TO
21 DISREGARD THE LAST QUESTION AND THE ANSWER. IT WAS NOT
22 RESPONSIVE TO ANYTHING BROUGHT OUT ON CROSS-EXAMINATION.
23 ALL RIGHT. ANYTHING FURTHER, SOLICITOR?

24 MR. JOPHLIN: NOTHING FURTHER, YOUR HONOR.

25 THE COURT: ANYTHING FURTHER?

INVESTIGATOR FAUST-DIRECT BY MS. CAMPBELL

1 MS. OWINGS: JUST A FEW QUESTIONS, YOUR HONOR.

2 RECROSS EXAMINATION BY MS. OWINGS:

3 Q IN FACT, MS. HALL, YOU TESTIFIED THAT YOU HOPE YOUR
4 LAWYER'S GOING TO ASK FOR THREE TO FIVE YEARS; IS THAT
5 CORRECT?

6 A YES.

7 Q AND YOU'RE CHARGED WITH ARMED ROBBERY?

8 A YES.

9 Q AND YOU REALIZE THAT ON ARMED ROBBERY THERE IS A
10 MINIMUM OF 10 YEARS?

11 A YES.

12 Q SO TO ASK FOR THREE TO FIVE YEARS YOU WOULD HAVE TO NOT
13 BE PLEADING TO THE ARMED ROBBERY?

14 A YES.

15 Q IS THAT CORRECT? AND FURTHERMORE, MS. HALL, YOU'RE
16 TESTIFYING HERE TODAY HOPING THAT YOU'RE GOING TO GET A
17 BETTER SENTENCE?

18 A YES.

19 Q AND YOU'RE HOPING YOU'RE GOING TO GET TO GO HOME SOON
20 AND SEE YOUR THREE SMALL CHILDREN?

21 A YES.

22 Q AND YOU'RE HOPING YOU'RE GOING TO GET TO GO HOME AND
23 SEE YOUR VERY SICK MOTHER?

24 A YES.

25 THE COURT: ANYTHING FURTHER, SOLICITOR?

1 MR. JOPHLIN: NOTHING FURTHER, YOUR HONOR.

2 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

3 ALL RIGHT. CALL YOUR NEXT WITNESS.

4 MS. CAMPBELL: MAY IT PLEASE THE COURT, STATE
5 CALLS INVESTIGATOR FAUST.

6 INVESTIGATOR FAUST, BEING
7 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

8 DIRECT EXAMINATION BY MS. CAMPBELL:

9 Q WHERE ARE YOU EMPLOYED?

10 A RICHLAND COUNTY SHERIFF'S DEPARTMENT.

11 Q WHAT DO YOU DO THERE?

12 A I'M AN INVESTIGATOR WORKING FOR ARMED ROBBERY, MAJOR
13 CRIMES UNIT, SPECIFICALLY ARMED ROBBERIES.

14 Q TURNING YOUR ATTENTION TO BACK TO APRIL OF 2005 YOU
15 WORKED AS AN INVESTIGATOR BACK THEN?

16 A THAT'S CORRECT.

17 Q AS AN INVESTIGATE FOR, IN THE MAJOR CRIMES UNIT?

18 A MY RESPONSIBILITIES ARE I'M ASSIGNED CASES AND THE
19 CASES THAT I'M SPECIFICALLY ASSIGNED DEAL WITH ARMED
20 ROBBERY, ROBBERIES DEALING WITH WEAPONS OR USE OF FORCE SUCH
21 AS SOMEBODY TAKING SOMETHING BY FORCE. IN OTHER WORDS
22 WEAPONS MAY NOT BE USED BUT DUE TO LIKE THE SEX OR THE SIZE
23 OR GENDER MAY ALSO CONSTITUTE A ROBBERY WHICH IS COMMONLY
24 CALLED STRONG ARMED ROBBERY AND THOSE ARE THE CASES I
25 COMMONLY GET ASSIGNED TO WHEN I'M NOT ON CALL.

1 Q TURN YOUR ATTENTION BACK TO BEING INVOLVED AS AN
2 INVESTIGATOR IN THIS CASE?

3 A I DID.

4 Q WHAT INITIAL INVOLVEMENT DID YOU HAVE?

5 A ON THE 18TH WHICH WAS A MONDAY WHEN I CAME IN TO WORK,
6 I'M ASSIGNED CASES ON THAT PARTICULAR DAY. THIS IS ONE OF
7 THE CASES I WAS ASSIGNED.

8 Q OKAY. AND THAT DAY DID YOU RECEIVE SOME INFORMATION
9 ABOUT THE VEHICLE THAT HAD BEEN TAKEN DURING THE ROBBERY AND
10 THE CARJACKING?

11 A ON THE 18TH I DID RECEIVE INFORMATION THAT THE VEHICLE
12 WAS RECOVERED AFTER A CAR CHASE AND LATER THE VEHICLE WAS
13 FOUND BY THE DEPUTY PATROLLING THE AREA.

14 Q AND HAD THE VEHICLE BEEN SECURED AT THAT POINT AND
15 IMPOUNDED AT THE SHERIFF'S DEPARTMENT?

16 A I HAD BEEN INFORMED THE VEHICLE WAS SECURED AND THAT
17 WAS DUE TO SOME OTHER REASONS IT COULD NOT BE PROCESSED
18 UNTIL THE FOLLOWING DAY.

19 Q DID YOU MAKE ARRANGEMENTS FOR THE VEHICLE TO ACTUALLY
20 PROCESS?

21 A I DID PUT IN A REQUEST AND HAD DIFFICULTIES RECALLING
22 SOME OF THE SPECIFIC FACTS. I HAD THE CAR WITH THE VICTIMS
23 TO GO OVER WITH THE LAB UNITS TO INFORM THEM BETTER WHAT
24 THEY NEEDED TO LOOK FOR AND SOME OF THE VICTIMS' HABITS TO
25 ASSIST THE LAB UNIT ON THINGS TO COLLECT TO ASSIST OUR CASE.

1 THAT DAY DID YOU ALSO HAVE AN OPPORTUNITY TO MAKE CONTACT
2 WITH THE VICTIM IN THE CASE?

3 A I DID.

4 Q AND BASICALLY WHAT KIND OF INFORMATION WERE YOU TRYING
5 TO GET?

6 A TRYING TO GET SPECIFIC DETAILS TO START GETTING
7 SPECIFIC TO ELICIT DETAIL FROM THE VICTIMS AND IN THIS CASE
8 THE VICTIMS WERE PRETTY SHAKEN UP, ALSO INJURED AS YOU'VE
9 HEARD AND SOMETIMES GETTING SOME OF THIS INFORMATION OUT
10 TAKES TIME AND, YOU KNOW, DUE TO SOME MEDICATION, WHAT HAVE
11 YOU, IT JUST TAKES TIME TO GET ALL THE INFORMATION I NEED.
12 IT'S A PROCESS.

13 Q YOU'RE AWARE THAT THE RESPONDING OFFICERS HAD GOTTEN A
14 GENERAL DESCRIPTION OF WHAT HAD HAPPENED?

15 A RESPONDING OFFICERS TRY TO ASCERTAIN AS BEST THEY CAN.
16 A LOT OF TIMES WHEN THEY ARRIVE ON THE SCENE THAT THEY'RE
17 THERE TO DO NUMEROUS THINGS. ONE, TO MAKE SURE THE SUSPECTS
18 AREN'T THERE, ALSO TO MAKE SURE THAT THE VICTIMS ARE
19 PROPERLY ADMINISTERED CARE. IN THIS CASE THE DEPUTIES
20 ARRIVED ON THE SCENE, OBSERVED MR. ELDERS INJURED, EXCUSE
21 ME, MR. RIGGS AND MRS. RIGGS INJURED AND AT THAT TIME THEY,
22 YOU KNOW, ONE OF THEIR CONCERNS WAS GETTING THE HELP AS
23 QUICKLY AS POSSIBLE.

24 AND IN DOING SO IT'S NOT NECESSARY THAT THEY'RE
25 GOING TO BE ABLE TO GET ALL THE INFORMATION DUE TO SOME OF

1 THESE INJURIES ON THIS CASE WHEN YOU HAVE MR. RIGGS WITH HIS
2 INJURIES AT THAT TIME YOU KNOW THERE IS A GREAT DEAL OF
3 CONCERN. YOU KNOW INFORMATION IS NOT NECESSARILY ALL
4 OBTAINED AT THAT TIME DUE TO BASICALLY THE HYSTERIA, THE
5 COMMOTION GOING ON AT THE TIME.

6 Q AND OF COURSE IN EVERY CASE THE VICTIMS BEING THE
7 PRIMARY CONCERN?

8 A ABSOLUTELY, AS WELL AS LOCATING THE SUSPECTS AND MAKING
9 SURE THAT THEY'RE LOCATED. THAT IS ANOTHER PRIMARY GOAL IF
10 THEY'RE NOT THERE TRYING TO LOCATE THEM.

11 Q AND AT THAT POINT ON THE AFTERNOON OF APRIL 18TH, THE
12 CAR HAD BEEN RECOVERED, DID YOU KNOW THE NAMES OR HAVE ANY
13 IDENTITY OF THE SUSPECT IN THIS CASE?

14 A ON THAT PARTICULAR DAY, NO.

15 Q THE NEXT MORNING ON APRIL 19TH DID YOU ACTUALLY GO OUT
16 TO WHERE THE CAR WAS BEING PROCESSED?

17 A I DID MYSELF AND SERGEANT MCDONALD AFTER SPEAKING WITH
18 THE VICTIM HAD SOME INFORMATION TO SHARE WITH THE LAB TYPES.
19 THIS PARTICULAR TYPE DID NOT HAVE THE INFORMATION THEY WOULD
20 NEED TO SPECIFICALLY GO THROUGH THE CAR WITH ACCURACY. IN
21 OTHER WORDS ONE OF THE KEY THINGS WE LOOK FOR IS CIGARETTE
22 USE. CIGARETTES IN THE CAR OR DRINKS, YOU KNOW, THAT WOULD
23 HAVE BEEN THE VICTIMS' OR THAT WOULD HAVE BEEN SOMETHING
24 THAT WOULD HAVE BEEN IN THE VEHICLE AFTER THE CAR WAS TAKEN
25 AND IN THIS CASE ONE OF THE THINGS WE PASSED ON WHEN HE

1 RECEIVED FROM THE VICTIMS WERE THEY DID NOT SMOKE AND THERE
2 SHOULD NOT BE ANY CIGARETTES IN THAT VEHICLE. ALSO THAT THE
3 CAR WAS VERY, KEPT CLEAN.

4 IT'S VERY WELL MAINTAINED AS REFERENCE TO TRASH
5 BEING IN THE CAR AND AT THAT TIME WHEN WE GOT OUT OF THE
6 VEHICLE AND WERE ALLOWED IN WE EVENTUALLY SAW SOME OF THESE
7 ITEMS IN THERE AND WE INSTRUCTED THE LAB THOSE SHOULDN'T BE
8 IN THERE. THOSE WERE NOT THERE WHEN THE CAR WAS TAKEN.
9 THESE WERE ITEMS THAT WERE MORE THAN LIKELY LEFT IN THE
10 VEHICLE BY THE POCKETS. THAT WAS SOMETHING VERY IMPORTANT
11 THAT THEY NEEDED TO PROCESS.

12 Q IN ADDITION TO THAT DID YOU ALSO OBSERVE THAT
13 MRS. RIGGS' POCKETBOOK WAS ACTUALLY STILL IN THE VEHICLE?

14 A IT WAS OBSERVED ON THE FLOORBOARD AT THAT TIME.

15 Q THE PHOTOS?

16 A AS WELLS AS THE CIGARETTES.

17 Q AND YOU WERE LATER INFORMED WHETHER OR NOT THE MONEY
18 THAT HAD BEEN TAKEN WAS IN IT?

19 A AT THE TIME WHEN I WAS VISUALLY ABLE TO LOOK AT IT, I'M
20 NOT GOING IN THE VEHICLE. IT'S NOT SOMETHING I WOULD DO.
21 IT'S SOMETHING I INDIVIDUALLY OBSERVE AND LET THE LAB DO THE
22 PROCESSING. I LATER FOUND OUT THAT THE MONEY IN THE
23 POCKETBOOK WAS INDEED NOT IN THE POCKETBOOK.

24 Q DURING THAT MORNING ALSO DID YOU BECOME AWARE THAT A
25 CRIMESTOPPERS TIP HAD COME IN THE NIGHT BEFORE?

1 A THAT'S CORRECT.

2 Q AND ACTUALLY SERGEANT MCDONALD DID SOME FOLLOWUP AND
3 THAT CRIMESTOPPERS SOMETIMES, IS THIS ONE OF THE
4 CRIMESTOPPERS TIPS THAT CAME IN THAT DAY?

5 A THAT IS THE CRIMESTOPPERS TIP WE ACTED ON.

6 Q WITHOUT GOING INTO DETAIL SERGEANT MCDONALD'S ALREADY
7 TESTIFIED. WERE YOU ABLE TO GET A SEARCH WARRANT BASED ON
8 INFORMATION THAT YOU WERE TO CONFIRM THAT WAS PROVIDED?

9 A THAT'S CORRECT. I TYPED UP THAT INFORMATION BASED ON
10 SERGEANT MCDONALD'S INFORMATION AND THE INFORMATION I
11 RECEIVED AND I WENT TO A MAGISTRATE ALSO KNOWN AS A JUDGE
12 AND SECURED A SEARCH WARRANT.

13 Q A LAWFUL SEARCH?

14 A A LAWFUL SEARCH.

15 Q THE PURPOSE OF Y'ALL GOING TO THE HOUSE IN THE ASHFORD
16 SUBDIVISION THAT DAY WAS TO TRY AND FIND THE PEOPLE THAT
17 ACTUALLY COMMITTED THESE OFFENSES?

18 A THAT AND ANY EVIDENCE THAT WOULD ASSIST US.

19 Q ONCE YOU GOT TO THE LOCATION BEFORE YOU WERE ASSISTED
20 BY OTHER OFFICERS?

21 A THAT'S CORRECT.

22 Q ONCE YOU GOT THERE AND LIMITED IT JUST TO THIS CRIME,
23 DID Y'ALL MAKE ENTRY?

24 A WE DID.

25 Q AND HOW WAS ENTRY MADE?

1 A AFTER A DELAY AND BEFORE WE WERE GOING TO USE FORCED
2 ENTRY, THE DOOR WAS OPENED.

3 Q AND DID YOU KNOW, WERE YOU THERE AT THE FRONT DOOR WHEN
4 IT WAS OPENED?

5 A I DID.. I WAS THERE.

6 Q AND DO YOU KNOW WHO OPENED THE DOOR?

7 A CHRIS SMITH. HAVING SAID THAT IT WAS ALSO ONE OF THE
8 THINGS WHEN WE ENTER A HOUSE AND DUE TO THE DELAY WE WERE
9 VERY CONCERNED ABOUT WHAT WE WERE POTENTIALLY FACING,
10 IMMEDIATELY ENTERED AND QUICKLY ENTERED AND OBSERVED SEVERAL
11 PEOPLE IN THE ROOM AND QUICKLY AS POSSIBLE SECURED THE
12 MANNER AND CHRIS WAS ONE PERSON I BELIEVE BUT HE WAS ALSO
13 QUICKLY GRABBED, TOO AND MADE SURE THAT HE WAS ELIMINATED AS
14 A THREAT.

15 Q IN THIS CASE INVOLVED THE USE OR A DEADLY WEAPON; IS
16 THAT CORRECT?

17 A THAT'S CORRECT.

18 Q AND IN FACT THE VICTIM IN THE CASE HAD BEEN STABBED?

19 A THAT IS CORRECT.

20 Q ONCE YOU MADE ENTRY WERE YOU ABLE TO IDENTIFY CERTAIN
21 PEOPLE IN THE HOUSE?

22 A THAT IS CORRECT.

23 Q IN ADDITION TO CHRIS SMITH YOU ALREADY TESTIFIED WAS
24 THERE ANYONE ELSE IN THE HOUSE WHO WAS DETAINED OR ARRESTED
25 THAT DAY?

1 A YES.

2 Q JUST LIMITING IT TO THIS CASE WHO WAS THERE?

3 A THE DEFENDANT MR. ELDERS AND CHRISTINA HALL.

4 Q DO YOU REMEMBER WHERE THEY WERE IN THE HOUSE WHEN YOU
5 WERE THERE?

6 A WHEN WE ENTERED THE HOUSE IT WAS THE LIVING ROOM AREA.
7 THERE WAS A SOFA. IT WAS A L-SHAPED THERE WAS A SOFA ON THE
8 WALL AND A SOFA TO THE DOOR. THEY WERE LOCATED IN THAT AREA
9 AND WERE IMMEDIATELY DETAINED, SPECIFICALLY MS. HALL WAS
10 IMMEDIATELY GRABBED AND DETAINED.

11 Q WHAT ABOUT MS. HALL ALERTED THAT SHE COULD BE A
12 POSSIBLE EXPECT NOT CASE?

13 A ONE OF THE DETAILS I HAD BEEN SUPPLIED BY THE WITNESSES
14 WERE THE TEETH OF A FEMALE DEFENDANT WERE NOT ROTTEN BUT
15 CROOKED OR THERE WAS SOMETHING SPECIFIC. THEY WERE NOT YOUR
16 NORMAL STRAIGHT TEETH AND ONE OF THE THINGS I NOTICED ON
17 MS. HALL WERE HERS I BELIEVE WERE MISALIGNED BUT ALSO
18 CROOKED OR NOT YOUR NORMAL SMOOTH SHAPE I NOTICED ABOUT HER
19 AND SHE WAS IMMEDIATELY SECURED AND TAKEN OUTSIDE AWAY FROM
20 EVERYBODY AND THEN THERE WAS AN ATTEMPT TO START ASCERTAINING
21 SPECIFIC INFORMATION AND TO GATHER AND TO TRY TO FIND OUT
22 INFORMATION.

23 Q AND THE VICTIM IN THE CASE HAD GIVEN A PHYSICAL
24 DESCRIPTION THAT GENERAL MATCHED?

25 A THAT IS CORRECT.

1 Q AND AT THAT TIME WAS HER HAIR A LIGHTER COLOR?

2 A IT WAS. YES, YOU COULD SAY THAT IT WAS LIGHTER.

3 Q ALSO IN THAT ROOM I BELIEVE YOU INDICATED WAS RANDY OR
4 CHUCK ELDERS?

5 A THAT IS CORRECT.

6 Q JUST FOR THE RECORD DO YOU SEE HIM HERE IN THE
7 COURTROOM?

8 A I DO. HE'S SITTING BETWEEN THE TWO PUBLIC DEFENDERS.

9 Q AND HE'S BEEN REFERRED TO AS RANDY OR CHUCK OR CHARLES.
10 WHAT'S HIS FULL NAME?

11 A HIS FULL NAME IS RANDY CHARLES ELDERS.

12 Q AND HIS NICKNAME WOULD BE CHUCK?

13 A THAT'S CORRECT.

14 Q THAT'S THE SAME PERSON WE'RE REFERRING TO?

15 A THAT'S THE PERSON I LOCATED IN THE HOUSE.

16 Q WAS THERE ANYTHING ABOUT HIS PERSON, DID HE FIT THE
17 GENERAL PHYSICAL DESCRIPTION PROVIDED YOU?

18 A HE DID.

19 Q AND WAS THERE ANYTHING ELSE ABOUT HIS PERSON THAT
20 CAUGHT YOUR ATTENTION?

21 A YES. ONE OF THE THINGS I NOTICED IMMEDIATELY THAT
22 STUCK OUT HIM BEING A MALE IN THE HOUSE, A WHITE MALE IN
23 THAT HOUSE VERSUS OTHER WHITE MALES WERE. I OBSERVED SOME
24 SCRATCHINGS ABOUT HIS PERSON SPECIFICALLY ON HIS ARMS,
25 HANDS, FACE AND ALSO NOTICED A BANDAGE ON HIS WRIST FROM, ON

1 HIS LEFT WRIST.

2 Q AND THOSE WERE LATER PHOTOGRAPHED I BELIEVE BY
3 LIEUTENANT PAGE?

4 A THAT IS CORRECT.

5 Q WHO WAS ACTUALLY DEALING WITH MS. HALL ONCE SHE WAS
6 TAKEN OUTSIDE THE RESIDENCE?

7 A SERGEANT MCDONALD.

8 Q OKAY. AND DID YOU ACTUALLY DETAIN THE PERSON WHO WAS
9 RANDY ELDERS THAT DAY?

10 A I'M SPECIFICALLY THE PERSON THAT TOOK CUSTODY OF HIM
11 AND PLACED HIM IN HANDCUFFS.

12 Q AND AT THAT TIME DID LIEUTENANT SMITH START TALKING TO
13 THE DEFENDANT?

14 A I INITIALLY TOOK HIM OUT. I SEPARATED HIM FROM THE,
15 EVERYBODY ELSE TO START OUT TRYING TO GATHER INFORMATION AND
16 TO QUESTION HIM ABOUT THE CRIME. THE REASON WHY WE WERE
17 THERE AND WITHIN A SHORT TIME LATER LIEUTENANT SMITH AT THE
18 TIME, NOW CAPTAIN SMITH, JOINED ME AND ASSISTED ME IN THAT
19 INTERVIEW.

20 Q DURING THE TRIAL AND PRIOR TO THAT DID YOU ADVISE HIM
21 OF HIS RIGHTS?

22 A I DID VERBALLY AT THAT TIME.

23 Q ONCE LIEUTENANT SMITH HAD TAKEN THE DEFENDANT, DID YOU
24 HAVE AN OPPORTUNITY TO SEARCH FOR ANY FURTHER EVIDENCE THAT
25 MIGHT BE INVOLVED IN THIS CASE?

1 A I DID. I RECEIVED INFORMATION THAT THERE MIGHT BE A
2 KNIFE IN A SHOE. AT THAT TIME I LEFT TO GO ATTEMPT TO
3 COLLECT IT AND TO CONFIRM THE INFORMATION I RECEIVED BUT BY
4 THE TIME I GOT THERE SERGEANT MCDONALD HIMSELF HAD RECEIVED
5 THE SAME INFORMATION AND WAS A COUPLE MINUTES BEFORE ME, WAS
6 ABLE TO SECURE THAT KNIFE.

7 Q DID YOU ACTUALLY TAKE POSSESSION OF THAT KNIFE THAT
8 DAY?

9 A YES, I DID.

10 Q I'M SHOWING YOU STATE'S EXHIBIT NO. 46. IS THIS A
11 KNIFE THAT YOU FOUND?

12 A THIS IS A KNIFE AND IN THE BACK THAT IS THE KNIFE THAT
13 WAS COLLECTED.

14 Q DURING THE COURSE OF YOUR INVESTIGATION THAT DAY DID
15 YOU BECOME AWARE THAT THEY HAD SOME SUITCASES WITH THE
16 DEFENDANTS HALL AND ELDERS HAD SUITCASES LOCATED SOMEWHERE
17 IN THE HOUSE?

18 A THAT IS CORRECT.

19 Q WHERE WAS THOSE LOCATED?

20 A UP IN THE GARAGE.

21 Q AND DID YOU HAVE AN OPPORTUNITY TO LOOK IN THOSE
22 SUITCASES?

23 A I DID.

24 Q AND WHAT TYPE OF EVIDENCE WERE YOU LOOKING FOR IN THE
25 SUITCASES?

1 A SPECIFICALLY CLOTHING THAT MAY HAVE BEEN WORN BY THE
2 SUSPECTS, ALSO ANY TYPE OF WEAPON, SPECIFICALLY A KNIFE.

3 Q AND SPECIFICALLY WERE YOU ABLE TO DETERMINE WHICH
4 SUITCASE WAS ELDERS' OR WHICH WAS HALL'S?

5 A YES, ONE OF THEM HAD FEMALE CLOTHES VERSUS MALES
6 CLOTHES.

7 Q AND DURING THE COURSE OF YOUR SEARCHING OF THE MALE
8 CLOTHES, THOSE ITEMS, DID YOU COME ACROSS ANY ADDITIONAL
9 EVIDENCE IN THIS CASE?

10 A I DID.

11 MS. CAMPBELL: YOUR HONOR, MAY WE APPROACH?

12 THE COURT: SURE.

13 (THEREUPON, THERE WAS A BENCH CONFERENCE WITHIN THE
14 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY.)

15 THE COURT: ALL RIGHT. THE OBJECTION IS
16 OVERRULED.

17 BY MS. CAMPBELL:

18 Q SPECIFICALLY AROUND THE BAG I'M GOING TO HAND YOU 46.
19 YOU RECOGNIZE THAT?

20 A I DO.

21 Q AND WHERE DID YOU FIND THAT?

22 A I FOUND THAT IN A SUITCASE OUT IN THE GARAGE.

23 Q AND WHAT WERE THE ITEMS THAT YOU FOUND?

24 A THREE KNIVES.

25 MR. CAMPBELL: YOUR HONOR, AT THIS TIME I'D OFFER

1 IT INTO EVIDENCE.

2 THE COURT: SAME OBJECTION.

3 MS. OWINGS: YES, YOUR HONOR.

4 THE COURT: THE OBJECTION'S OVERRULED.

5 BY MS. CAMPBELL:

6 Q AND THOSE WERE THE KNIVES THAT YOU FOUND IN THIS?

7 A THAT IS CORRECT. THOSE ARE THE KNIVES THAT I
8 COLLECTED.

9 Q LET ME ASK YOU THIS: AT THIS POINT WERE YOU ALSO
10 CONVERTING?

11 A THAT'S CORRECT.

12 Q AND YOU HAD FOUND OR YOU HAD BEEN ADVISED THAT THIS
13 JACKET, STATE'S EXHIBIT NO. 35 HAD BEEN COLLECTED FROM THE
14 SCENE?

15 A THAT IS CORRECT.

16 Q THAT WAS WORN BY THE DEFENDANT AT LEAST DURING PART OF
17 THE ATTACK?

18 A THAT'S CORRECT. THAT WAS LEFT BEHIND AND COLLECTED BY
19 THE DEPUTY.

20 Q AND AT THIS POINT DID YOU KNOW ANYTHING ABOUT ANYBODY
21 BURNING THE CLOTHES THEY WORE?

22 A NO.

23 Q WERE YOU ABLE TO FIND ANY CLOTHES?

24 A NO. I BELIEVE WE COLLECTED SOME BUT IT WAS JUST HAD IT
25 AND NOT NEED IT OR NEED IT AND NOT HAVE IT SITUATION.

1 Q THAT SAME DAY DID YOU HAVE AN OPPORTUNITY TO SPEAK TO
2 CHRIS SMITH?

3 A I DID.

4 Q AND WHY WERE YOU TALKING TO HIM?

5 A IN THE TIP CAME IN INFORMATION HE WAS LISTED ON THIS
6 AND AS AS A MATTER OF FACT EVERYBODY IN THE HOUSE WAS ASKED
7 BUT SPECIFICALLY CHRIS I WENT AND SPOKE TO AND I WAS TRYING
8 TO GATHER INFORMATION OR ANYTHING, ANY KNOWLEDGE HE HAD ON
9 THIS PARTICULAR CRIME.

10 Q SO YOU ACTUALLY TOOK A WRITTEN STATEMENT?

11 MS. OWINGS: OBJECTION, YOUR HONOR.

12 THE COURT: WELL, AT THIS POINT THE ONLY QUESTION
13 IS WHETHER HE TOOK A STATEMENT.

14 MS. OWINGS: I OBJECT.

15 THE COURT: SUSTAIN TO THE FORM OF THE QUESTION.
16 REPHRASE YOUR QUESTION, SOLICITOR.

17 BY MS. CAMPBELL:

18 Q WHAT IF ANYTHING DID YOU TAKE WITH CHRIS SMITH THAT
19 DAY?

20 A I WOULD TAKE A WRITTEN STATEMENT, A WRITTEN SWORN
21 STATEMENT FROM CHRIS.

22 Q AT SOME POINT WERE BOTH OF THE DEFENDANTS TRANSPORTED
23 THAT AFTERNOON?

24 A THAT IS CORRECT. SOME OF US STAYED BEHIND TO CONTINUE
25 TRYING TO GATHER EVIDENCE AND CONTINUE INTERVIEWING PEOPLE

1 AT THE SCENE. ONCE WE GOT SOME INFORMATION WE DECIDED TO GO
2 ON AND TAKE CHRISTINA HALL AND MR. ELDERS INTO CUSTODY AND
3 THEY WERE AT SOME POINT IN TIME TRANSPORTED BACK TO THE
4 RICHLAND COUNTY SHERIFF'S DEPARTMENT HEADQUARTERS.

5 Q THAT WAS DONE BY PEOPLE OTHER THAN YOU?

6 A AND THAT WOULD BE CORRECT.

7 Q AND YOU WERE STILL IN THE HOUSE, SIR?

8 A FOR, FOR EVIDENCE.

9 MS. OWINGS: OBJECTION, YOUR HONOR.

10 BY MS. CAMPBELL:

11 Q WHAT WERE YOU DOING?

12 A I WAS STAYING AT THE HOUSE GATHERING THE EVIDENCE,
13 LOGGING IT IN ASSISTING THE SERGEANT. IT MAY HAVE BEEN
14 ASSISTING HIM AND CONTINUING TO CONDUCT INTERVIEWS AND
15 GATHER EVIDENCE.

16 Q AT SOME POINT THAT DAY DID YOU BECOME AWARE OF WHETHER
17 OR NOT THERE HAD BEEN A CONFRONTATION BETWEEN THE DEFENDANT
18 AND THE VICTIM?

19 A I DID SPECIFICALLY, YES.

20 Q THAT AFTERNOON DID YOU HAVE CONTACT WITH THE VICTIMS?

21 A I DID. I HAD THAT FOR SEVERAL REASONS. I CALLED THEM.

22 Q WHY WERE YOU CALLING THE VICTIMS THAT AFTERNOON?

23 A THAT AFTERNOON WE'RE REQUIRED TO NOTIFY THE VICTIM IN
24 THE CASE ONCE AN ARREST HAS BEEN MADE. ALSO, TOO AT THAT
25 TIME I WAS IN CHARGE OF COMING UP WITH THE CHARGES AND

1 GATHERING EVERYTHING I WANTED TO GATHER, SPECIFIC
2 INFORMATION. AT THAT POINT THERE WAS A NEED FOR REQUIRING
3 SPECIFIC INFORMATION SO I AT THAT TIME I SPOKE TO THE VICTIM
4 AND DECIDED TO MAKE APPROPRIATE CHARGES.

5 Q WHAT WERE THE APPROPRIATE CHARGES IN THIS CASE?

6 A IN THIS PARTICULAR CASE I CHARGED BOTH DEFENDANTS WITH
7 THE SAME CHARGES. THEY WERE BOTH INVOLVED EVEN THOUGH THERE
8 WERE DIFFERENT LEVELS. MY CHARGES WOULD APPLY TO BOTH
9 CHARGES, ARMED ROBBERY, CAR JACKING, ASSAULT AND BATTERY
10 WITH INTENT TO KILL ON MR. RIGGS AND ASSAULT AND BATTERY
11 WITH INTENT TO KILL FOR MRS. RIGGS, ALSO CHARGED KIDNAPPINGS
12 FOR MR. RIGGS AND MRS. RIGGS WITH BOTH CHRISTINA HALL AND
13 RANDY ELDERS AND THIS CALL WAS MADE AROUND 3:00 P.M. ON
14 APRIL 19TH TRANSPORTED AND I HAD LEFT THE LOCATION TO COME
15 BACK TO HEADQUARTERS TO START FOCUSING ON THE CONTINUING
16 INVESTIGATION.

17 Q THAT AFTER DID YOU ALSO MAKE CONTACT WITH MRS. RIGGS?

18 A I DID.

19 Q AND WHEN YOU SHOWED HER TELL THE JURY WHAT HAPPENED?

20 A FOR MRS. RIGGS.

21 Q FOR MRS. RIGGS?

22 A I SHOWED HER A PHOTO LINEUP AND THOUGH SHE WAS NOT ABLE
23 TO SPECIFICALLY IDENTIFY THE PERSON SHE WAS ABLE TO
24 ELIMINATE PEOPLE IN THE PHOTO LINEUPS AS BEING POTENTIAL
25 SUSPECTS BUT I COULD NOT GET WHAT I WAS CALLING A POSITIVE

1 IDENTIFICATION.

2 Q OKAY. AND I'LL SHOW YOU STATE'S EXHIBIT 37. ARE THOSE
3 THE LINEUPS YOU HAVE TO SHOW THEM?

4 A FOR MRS. RIGGS.

5 Q YES. AND WHEN HE SHOWED HER THOSE LINEUPS WAS
6 MR. RIGGS IN THE ROOM?

7 A NO. THEY WERE SPECIFICALLY KEPT SEPARATED FOR THE VERY
8 REASON TO PREVENT COMMUNICATION BETWEEN THE TWO TO PREVENT
9 ANY TYPE OF COMMUNICATION OR SHARING ANY INFORMATION. I
10 MADE SURE THAT THEY WERE IN THE SEPARATE ROOMS AND THERE WAS
11 NO WAY COMMUNICATION COULD BE MADE VIA CELL PHONE OR EYE
12 CONTACT.

13 Q WHEN YOU SHOWED HER THAT LINEUP DID YOU ANY WAY
14 INDICATE WHO TO CHOOSE OR ANYTHING OF THAT NATURE?

15 A ABSOLUTELY NOT.

16 Q AND MENTIONED THAT SHE WAS ABLE TO ELIMINATE SOME. WAS
17 SHE ABLE TO NARROW IT DOWN?

18 A SHE WAS ON THE PHOTO LINEUP IN WHICH CHRISTINA HALL WAS
19 IN. SHE INDICATED TO ME THAT THE FEMALE IN POSITION NUMBER
20 FOUR AND NUMBER SIX LOOKED LIKE CONCEIVABLY BE THE PERSON
21 THAT WAS INVOLVED. SHE MENTIONED TO DO WITH THE HAIR IN THE
22 PICTURE NUMBER FOUR STATING THAT SHE DIDN'T RECALL THE
23 SUSPECT'S HERE BEING LIKE THAT.

24 Q AND AS FAR AS WHEN YOU SHOWED HER THE SECOND LINEUP?

25 A IT'S THE SAME SITUATION. SHE WAS ABLE TO NARROW IT

1 DOWN TO TWO PEOPLE WITH NO SPECIFICS. SHE WAS ABLE TO RULE
2 OUT FOUR PEOPLE STATING THAT THEY WERE DEFINITELY NOT THE
3 PERSON BUT SHE WAS ABLE TO INDICATE THE POTENTIALLY TWO
4 PEOPLE IN HERE COULD HAVE BEEN THE GUY, SPECIFICALLY
5 MR. ELDERS WAS ONE OF THEM AND ANOTHER GENTLEMAN THAT'S IN
6 POSITION NUMBER SIX.

7 Q BOTH OF THESE SHE INDICATED?

8 A SHE DID. SHE ENDED UP MARKING ON THE LINEUP. SHE PUT
9 SOME CHECKS BY INDICATING THAT THESE WOULD BE THE TWO PEOPLE
10 AND HER MARKS AND SHE COULDN'T SAY SPECIFICALLY EITHER ONE
11 OF THOSE GUYS WERE THE GUYS WHO WERE INVOLVED IN THE ATTACK.

12 Q OKAY. AND YOU NOTED THAT AND THAT WAS A RESULT OF YOU
13 SHOWING HIM THE LINEUP?

14 A THAT IS CORRECT.

15 Q YOU ALSO SHOWED MR. RIGGS THE LINEUP?

16 A THAT IS CORRECT. AFTER THAT AND AFTER THEY HAD BEEN
17 SEPARATED AND NO COMMUNICATION BETWEEN THE TWO AND THEY WERE
18 ALSO TOLD, INSTRUCTED NOT TO ATTEMPT ANY COMMUNICATION TO
19 MAKE SURE THAT THE PROCESS WAS FAIR.

20 Q MR. RIGGS WAS HE ABLE TO TO IDENTIFY ANYONE?

21 A YES, HE DID. HE IMMEDIATELY AND POSITIVELY IDENTIFIED
22 BOTH MR. ELDERS AND MS. HALL. THEY WERE MADE WITHIN A
23 MATTER OF A SECOND OR TWO. THEY WERE VERY CONVINCING.
24 THERE WAS NO DOUBT IN HIS MIND WHEN HE, THE PHOTO LINEUP WAS
25 PUT IN FRONT OF HIM THERE WAS NO DOUBT.

1 Q ONCE HE WAS ABLE TO IDENTIFY THEM?

2 A THAT IS CORRECT. HE IDENTIFIED MR. ELDERS AND MS. HALL
3 AND CIRCLED THEM.

4 Q LATER THAT EVENING DID YOU ALSO BECOME AWARE THAT THE
5 FEMALE HAD BEEN CALLING THE RIGGS' HOUSE?

6 A WELL, I'D ALREADY KNOWN THAT. AS A MATTER OF FACT WHEN
7 I WAS OUT THERE I ADDRESSED THAT MATTER.

8 Q WERE YOU ABLE TO LATER ASCERTAIN WHO WAS THE FEMALE?

9 A I WAS LATER ABLE TO IDENTIFY MS. HALL AS BEING THE ONE
10 THAT MADE THOSE PHONE CALLS. FOR TWO ONCE RUN UPON THE
11 RECORDS ALSO HELPED US AND ALSO BY HER ADMISSION THAT SHE
12 HAD MADE THOSE CALLS.

13 Q DURING THE COURSE OF YOUR INVESTIGATION DID YOU MAKE
14 ANY FURTHER ATTEMPT TO LOCATE WITNESSES IN THIS CASE?

15 A THAT'S CORRECT. NUMEROUS WITNESSES TWO, YES, SIR,
16 NUMEROUS AND I'D OBVIOUSLY ACTUALLY GONE OUT AND SPOKE TO
17 SEVERAL OF THEM, SOME IN PERSON AND SOME BY PHONE.

18 Q AND IN FACT DID YOU ACTUALLY MAKE CONTACT WITH SHERRY
19 ABBOTT?

20 A I DID.

21 Q AND SHE WAS GOING TO GIVE YOU INFORMATION?

22 A SHE WAS ABLE TO SUPPLY SOME INFORMATION; THAT'S
23 CORRECT.

24 Q AND ACTUALLY A MAN WORKING IN THE MARKET WAS HE ABLE,
25 DID HE SAY WHETHER OR NOT HE GOT A GOOD LOOK AT WHAT WAS

1 GOING ON?

2 A HE WAS NOT ABLE TO SUPPLY ANY INFORMATION.

3 SPECIFICALLY ONE OF THE QUESTIONS I WANTED TO KNOW IF HE WAS
4 ABLE TO HELP I.D. IN OTHER WORDS WOULD IT BE FRUITFUL TO
5 SHOW A PHOTO LINEUP WITH MY COMMUNICATIONS SPEAKING WITH HIM
6 HE WAS, HE WOULD NOT HAVE BEEN ABLE TO IDENTIFY DUE TO THE
7 DISTANCE AND JUST NOT VIEWING THE WHOLE EVENT AND HE WOULD
8 INDICATE TO ME HE COULD NOT IDENTIFY ANYONE.

9 Q DID YOU ATTEMPT TO FIND ANY WITNESSES AT THE GOLF, THE
10 DRIVING RANGE?

11 A I DID. I DROVE OUT TO THE DRIVING RANGE, IDENTIFIED
12 WHO I WAS, WHO I WORK FOR AND LEFT MY CARD WITH AN
13 INDIVIDUAL THAT RAN THAT PARTICULAR LOCATION AND I HAD ASKED
14 FOR HIS ASSISTANCE WITH IDENTIFYING SOME PEOPLE,
15 SPECIFICALLY THE INDIVIDUALS THAT WALKED OVER THERE WITH THE
16 GOLF CLUB AND ANYBODY ELSE WHO HAD SEEN THAT AND WALKED OVER
17 IN THAT AREA. HE INSTRUCTED HOW IMPORTANT THIS WAS AND THAT
18 ANYBODY, ANY WITNESSES WOULD BE GREATLY APPRECIATED AND
19 CONTACT ME AND NO ONE WAS THERE WE LOCATED UNFORTUNATELY.

20 Q IS THAT UNUSUAL?

21 A NOT UNUSUAL. IT'S VERY COMMON.

22 Q SUCH AS?

23 A SUCH AS, ONE, BEING OUT OF FEAR, TWO, THEY MAY NOT HAVE
24 COME BACK. THEN HE DIDN'T KNOW THEM BY NAME. IF I HAD BEEN
25 ABLE TO GET A NAME OR ANY TYPE INFORMATION, A CAR TAG, IT

1 WOULD BE EASY FOR ME TO TRACK THEM DOWN BUT FOR WHATEVER
2 REASON WHETHER THEY JUST CHOSE NOT TO COME BACK OR WHETHER
3 DOES A COMMUNITY TIME EFFECT OR OUT OF FEAR, JUST OUT OF
4 FACT THAT MAY FELT NOT A GOOD AREA TO COME BACK TO. I'LL
5 NEVER KNOW BUT I'VE NEVER BEEN ABLE TO LOCATE THOSE
6 WITNESSES OTHER THAN THE WITNESSES THAT WERE TRACKED DOWN.

7 Q DURING THE COURSE OF YOUR INVESTIGATION DID YOU ALSO
8 BECOME AWARE OR DID YOU BECOME AWARE THAT THERE WERE ANY
9 OTHER PEOPLE THAT ACTUALLY TRANSPORTED ELDERS FROM THE BLUFF
10 ROAD AREA OVER TO THE POLICE?

11 A . BASED ON A TIP AFTER I SPOKE TO CHRIS SMITH I HAD
12 INFORMED THAT THERE WERE ADDITIONAL PEOPLE IN THE CAR AND
13 HAD ASKED THEM AGAIN, LEFT MY CARD TO HELP US TRACK THEM
14 DOWN AND NEVER ABLE TO DO THAT.

15 Q NOT ABLE TO LOCATE THOSE TWO?

16 A NO. AGAIN IF I COULD HAVE HAD THE TAG INFORMATION, IT
17 WOULD HAVE MADE MY JOB VERY EASY TO DO BUT AGAIN HAD LIMITED
18 INFORMATION. SOMETIMES IT'S JUST NOT GOING TO BE.

19 Q THERE IS THE OTHER BROTHER Minor , THE YOUNGER BROTHER.
20 DID HE HAVE ANY INFORMATION ABOUT THE ELDERS?

21 A NO.

22 MS. CAMPBELL: THAT'S ALL I HAVE.

23 THE COURT: ALL RIGHT. CROSS-EXAMINATION.

24 MS. OWINGS: THANK YOUR HONOR.

25 / / /

INVESTIGATOR FAUST-CROSS BY MS. OWINGS

1 CROSS-EXAMINATION BY MS. OWINGS:

2 Q INVESTIGATOR FAUST, YOU ARE THE LEAD INVESTIGATOR ON
3 THIS CASE; IS THAT CORRECT?

4 A I AM. I WAS ASSIGNED THE CASE, YES, MA'AM.

5 Q SO YOU'VE BEEN PRESENT IN THE COURTROOM PRETTY MUCH ALL
6 WEEK?

7 A I HAVE, YES.

8 Q AND YOU WERE ALSO PRESENT WHEN THE DEFENDANT PLED
9 GUILTY TO THE CAR JACKING?

10 A THAT IS CORRECT. I WAS IN THE COURTROOM.

11 Q AND YOU WERE ALSO PRESENT WHEN HE PLED GUILTY TO THE
12 ASSAULT ON MR. RIGGS?

13 A THAT IS CORRECT. I WAS IN HERE.

14 Q SO MR. ELDERS WAS PICKED OUT IN A LINEUP BY MR. RIGGS?

15 A THAT IS CORRECT.

16 Q BECAUSE OF THE CAR JACKING?

17 A THAT IS CORRECT. THAT IS ONE OF THE THINGS, YES,
18 MA'AM.

19 Q AND ALL THE ITEMS WERE FOUND IN THE CAR BOTTLES,
20 CIGARETTES, THOSE THINGS THAT WERE FOUND IN THE CAR THEY
21 WERE IN THE CAR BECAUSE RANDY WAS IN THE CAR?

22 A THAT IS CORRECT.

23 Q NOW, INVESTIGATOR FAUST AS THE LEAD INVESTIGATOR IN
24 THIS CASE IT WAS YOUR JOB TO GO OUT AND INTERVIEW ALL THESE
25 WITNESSES?

1 A IT IS MY JOB TO MAKE SURE IT'S DONE. I'M NOT
2 NECESSARILY RESPONSIBLE FOR DOING ALL OF IT. IT'S CRIMES
3 LIKE THIS YOU HAVE TO RELY ON HELP.

4 Q SO MULTIPLE INVESTIGATORS ASSISTED YOU?

5 A THAT'S CORRECT AND IT'S VERY COMMON IN A CASE LIKE
6 THIS.

7 Q BUT IN THIS PARTICULAR CASE YOU WERE THE INVESTIGATOR
8 WHO SEARCHED OUT OTHER WITNESS WHO MAY HAVE SEEN IT?

9 A THAT'S CORRECT. I AM AN INVESTIGATOR WHO DID THAT.

10 Q AND IN FACT YOU TOOK EXTENSIVE NOTES AS YOUR
11 INVESTIGATIVE REPORT OF EVERYTHING THAT YOU DID?

12 A I TRY TO.

13 Q AND THAT'S VERY COMMON?

14 A IT'S VERY COMMON.

15 Q IT'S VERY COMMON FOR YOU TO WRITE UP REPORTS OF
16 EVERYTHING YOU DO ON THESE CASES?

17 A TRY TO DO IT IN A TIMELY MANNER.

18 Q AND THESE REPORTS ARE OFTEN COMMON?

19 A THAT'S CORRECT.

20 Q TO USE AT TRIAL?

21 A THAT'S CORRECT.

22 Q AND YOU SUBMITTED A REPORT OF THE CASE?

23 A THAT WOULD BE CORRECT, YES, MA'AM.

24 Q BUT A FOUR PAGE REPORT?

25 A THAT IS CORRECT.

1 Q AND IN THIS REPORT YOU DO DETAIL THAT YOU SPOKE TO THE
2 RIGGS?

3 A THAT'S CORRECT. I SPOKE TO THEM SEVERAL TIMES.

4 Q BUT YOU DIDN'T TAKE A WRITTEN STATEMENT FROM THE RIGGS?

5 A I DID NOT. THEY WERE INSTRUCTED TO A SUPPLY A
6 STATEMENT.

7 Q THEY WERE INSTRUCTED TO?

8 A NO. THEY WERE INSTRUCTED TO SUPPLY, NOT BY ME BUT THEY
9 WERE INSTRUCTED TO DO SO.

10 Q BUT YOU DIDN'T TAKE A SWORN WRITTEN STATEMENT FROM THEM
11 CONTEMPORANEOUS WITH THE INCIDENT?

12 A FOR THE FIRST COUPLE OF DAYS, NO. I WOULD NOT HAVE
13 DONE THAT DUE TO THE FACT OF ONE OF INJURIES PAIN
14 MEDICATIONS HE MAY HAVE BEEN ON, ALSO THE SHOCK.

15 Q BUT A FEW DAYS LATER YOU DON'T ATTEMPT TO TAKE ONE?

16 A I'M SORRY.

17 Q A FEW DAYS LATER AFTER THE MEDICATION MAY HAVE WORN OFF
18 YOU DIDN'T ATTEMPT?

19 A NO. BUT ONE WAS DONE.

20 Q WHO DID THIS WRITTEN STATEMENT?

21 A MR. AND MR. RIGGS.

22 Q WITH WHAT POLICE OFFICER?

23 A I DON'T THINK THERE WAS A POLICE OFFICER PRESENT.

24 Q SO THERE WAS NO WRITTEN STATEMENT MADE TO A POLICE
25 OFFICER IN THIS CASE?

1 A NO ONE WAS. NO.

2 Q AND YOU ALSO SPOKE TO SHERRY ABBOTT; IS THAT CORRECT?

3 A THAT IS CORRECT.

4 Q AND YOU SPOKE TO HER ABOUT WHAT SHE OBSERVED IN THE
5 CASE?

6 A I SPOKE TO HER; THAT IS CORRECT.

7 Q AND SO YOU DIDN'T TAKE A WRITTEN STATEMENT FROM SHERRY
8 ABBOTT?

9 A NO.

10 Q SO YOU DIDN'T TAKE A STATEMENT FROM HER. THIS INCIDENT
11 OF WHAT SHE REMEMBERS RIGHT THEN?

12 A I WENT OUT AND SHOWED HER A PHOTO LINEUP AND SPOKE WITH
13 HER ABOUT THE OFFENSE. NO.

14 Q SO YOU DIDN'T ASK HER TO WRITE ANYTHING?

15 A NO, I DID NOT.

16 Q YOU ALSO SPOKE TO THOMAS CAMPBELL?

17 A I SPOKE TO HIM VIA THE PHONE.

18 Q YOU DIDN'T ASK HIM TO COME IN AND MAKE ANY TYPE OF
19 STATEMENT OF WHAT HE SAW?

20 A NO, AT THAT TIME, NO.

21 Q YOU ALSO TALKED TO A TOM ELLIOTT?

22 A THAT IS CORRECT. THAT WAS AN INDIVIDUAL THAT WORKS OUT
23 AT THE GOLF CLUB THAT I WENT AND SPOKE TO AND PERSONALLY
24 HANDED HIM MY CARD, A BUSINESS CARD, WITH MY INFORMATION AND
25 THAT HE WORKED AT THIS GOLF CLUB.

1 A THAT'S CORRECT.

2 Q YOU TOOK NO KIND OF STATEMENT FROM HIM?

3 A AGAIN THAT WAS NOT NECESSARY TO TAKE A STATEMENTS FROM
4 HIM. MY MAIN GOAL IN HIM WAS THE HELP SINCE HE'S AT THE
5 PARTICULAR LOCATION THAT SOME OF THE WITNESSES CAME TO TO
6 ASK HIM TO ASSIST US IN LOCATING POTENTIAL WITNESSES THAT
7 COULD SUPPLY SPECIFIC INFORMATION.

8 Q RIGHT. OF ALL THE WITNESSES TO THIS CRIME MR. AND
9 MS. RIGGS, SHERRY ABBOTT CAMPBELL, YOU DIDN'T TAKE WRITTEN
10 STATEMENTS FROM ANY OF THEM?

11 A NO. THAT IS SOMETHING COMMON. THAT IS COMMON, THAT'S
12 NOTHING UNUSUAL.

13 Q SO IT'S COMMON TO NOT TAKE WRITTEN STATEMENTS FROM ANY
14 WITNESSES?

15 A THAT COULD BE AN ACCURATE STATEMENT. IT IS NOT MY
16 PRACTICE TO NECESSARILY TAKE WITNESS STATEMENTS FROM EVERY
17 SINGLE WITNESS.

18 Q OR FROM ANY OF THEM?

19 A THAT IS CORRECT. I DO NOT SPECIFICALLY EVERY SINGLE
20 CASE TAKE WITNESS STATEMENTS FOR VARIOUS REASONS.

21 Q ALSO, INVESTIGATOR FAUST YOU, THE SOLICITOR ASKED YOU
22 IF YOU HAD ANY KNOWLEDGE OF A LATER CONFRONTATION BETWEEN
23 MR. RIGGS AND MR. ELDERS?

24 A THAT IS CORRECT.

25 Q IN FACT WAS THAT NOT A CONFRONTATION AS AN ARGUMENT OR

1 A FIGHT?

2 A A CONFRONTATION IN REFERENCE TO MR. ELDERS DEALINGS
3 WITH MS. RIGGS SPECIFICALLY IF THAT'S WHAT I BELIEVE YOU'RE
4 GETTING AT.

5 Q WAS THERE NOT AN INCIDENT WHERE MR. ELDERS WAS BROUGHT
6 TO THE SHERIFF'S DEPARTMENT AND MR. RIGGS WAS THERE?

7 A THAT'S WHAT YOU'RE REFERRING TO. YES, THAT IS CORRECT.
8 MR. RIGGS HAD A OPPORTUNITY TO SOMETHING THAT WAS UNPLANNED
9 AND SOMETHING THAT, YES, THAT IS CORRECT. YOU WANT ME
10 SPECIFICALLY TO GO INTO THAT.

11 Q NO, SIR. BUT IN FACT THAT WASN'T A CONFRONTATION.
12 MR. ELDERS WAS BROUGHT INTO THE SHERIFF'S DEPARTMENT AND
13 MR. RIGGS WAS LEAVING?

14 A THAT'S CORRECT.

15 Q AND MR. RIGGS SAW MR. ELDERS AND IDENTIFIED HIM?

16 A THAT IS CORRECT AND THAT WAS SOMETHING THAT WAS DONE.
17 IT WAS SOMETHING THAT NO ONE WOULD HAVE KNOWN COULD HAVE
18 HAPPENED EXCEPT ME AND WHEN I REALIZED THAT I WENT OUT OF MY
19 WAY AND STOPPED MY INTERVIEW WITH CHRIS SMITH. ONCE IT
20 DAWNED ON ME THAT THIS CHANCE MEETING COULD TAKE PLACE TO
21 MAKE IT HAPPEN BUT IT DID SO AS RECEIVED BY MR. RIGGS. IT
22 WAS ROUTINE AND MR. RIGGS LATER IDENTIFIED MR. ELDERS
23 ANYWAY?

24 Q THE ROUTINE. THAT WAS NOT SOMETHING THAT WOULD BE
25 ROUTINE, INVESTIGATOR. TRANSPORTING MR. RIGGS DID NOT KNOW

1 THAT, EXCUSE ME, THE INVESTIGATOR TRANSPORTING MR. ELDERS
2 DID NOT KNOW THAT MR. RIGGS WAS GOING TO BE AT THE SHERIFF'S
3 DEPARTMENT CHECKING HIS CAR AND DID NOT KNOW, HAD NEVER SEEN
4 HIM OR SPOKE TO HIM SO THEN A CHANCE MEETING DID OCCUR AND
5 IT WAS SOMETHING THAT OCCURRED AND I WAS AWARE OF THAT,
6 TRIED TO PREVENT IT FOR OBVIOUS REASONS?

7 Q BUT IT HAPPENED THERE WAS NO ARGUMENT?

8 A NO, THERE WAS NO CHANGE AFTER AN ARGUMENT DUE TO THE
9 FACT THAT ONCE IT WAS REALIZED LIEUTENANT PADGETT WHO WAS
10 WITH MR. RIGGS PRESENT ANYTHING BY SECURED OR SECURING HIM.
11 ALSO OUR INVESTIGATOR GOT MR. ELDERS SEPARATE AND QUIETLY IN
12 ORDER TO COME INTO OUR BACK DOOR AT THE HEADQUARTERS. I
13 HAVE THE PASS TO THE SHED AND SHED FACES OUT THE BACK
14 PARKING LOT SO THAT'S HOW THAT OCCURRED AND ONE THAT SAID
15 THERE WAS SOME PROBLEM WITH THE INVESTIGATORS WITH
16 MR. ELDERS NOT KNOWING THAT THAT WAS THE VICTIM IN CASE THEY
17 QUICKLY REALIZED THAT SOMETHING WAS NOT RIGHT QUICKLY GOT
18 MR. ELDERS ON INTO THE BUILDING.

19 Q NO CONFRONTATION?

20 A THERE WAS NO CHANCE NOT TO MENTION THERE WOULD HAVE
21 BEEN PREVENTIVE MEASURES IN REFERENCE TO HANDCUFFS.

22 Q THERE WAS NO CONFRONTATION?

23 A THERE WAS NO CHANCE OF CONFRONTATION.

24 Q AND BECAUSE THERE WAS NO CHANCE OF ONE?

25 A AND NONE TOOK PLACE.

1 A THAT IS CORRECT.

2 MS. OWINGS: I BEG THE COURT'S INDULGENCE ONE
3 MOMENT PLEASE.

4 (ATTORNEYS CONFER.)

5 MS. OWINGS: YOUR HONOR, I HAVE NO FURTHER
6 QUESTIONS AT THIS TIME

7 THE COURT: REDIRECT.

8 MS. CAMPBELL: BEG THE COURT'S INDULGENCE.

9 NO, SIR.

10 THE COURT: YOU MAY STEP DOWN.

11 THE COURT: ALL RIGHT. CALL YOUR NEXT WITNESS,
12 PLEASE.

13 MS. CAMPBELL: STATE WOULD CALL JOHN BARRON.

14 JOHN BARRON, BEING FIRST DULY
15 SWORN, TESTIFIED AS FOLLOWS:

16 DIRECT EXAMINATION BY MS. CAMPBELL:

17 Q INVESTIGATOR BARRON, WHERE ARE YOU EMPLOYED?

18 A RICHLAND COUNTY SHERIFF'S DEPARTMENT.

19 Q WHAT DO YOU DO THERE, SIR?

20 A I'M A FORENSIC D.N.A. ANALYST.

21 Q TELL US WHAT A FORENSIC D.N.A. ANALYST IS?

22 A THIS IS A FORENSIC SCIENTIST WHO SPECIALIZES IN. D.N.A.
23 ANALYSIS.

24 Q CAN YOU TELL US US A LITTLE BIT ABOUT YOUR BACKGROUND?

25 A YES, SIR. I HAVE A BACHELOR OF SCIENCE DEGREE IN

JOHN BARRON-DIRECT BY MS. CAMPBELL

1 MICROBIOLOGY FROM THE UNIVERSITY. I WAS ORIGINALLY EMPLOYED
2 BY S.L.E.D. AS A FORENSIC SCIENTIST IN MANY DIFFERENT
3 FIELDS. IN 1999 I RECEIVED TRAINING TO BE A D.N.A. ANALYST
4 THROUGH THE TRAINING PROGRAM AT S.L.E.D. AND IN 2004 I CAME
5 TO RICHLAND COUNTY TO HELP SET UP THE D.N.A. LAB HERE.

6 Q YOU'RE ACTUALLY ONE OF THE PEOPLE THAT SET UP THE
7 D.N.A. LABORATORY FOR RICHLAND COUNTY.

8 A THAT'S CORRECT.

9 Q AND HAVE YOU EVER TESTIFIED BEFORE AS AN EXPERTS IN
10 D.N.A.

11 A YES, 13 TIMES.

12 Q AND YOU'VE BEEN QUALIFIED AS AN EXPERT IN THOSE CASES?

13 A YES.

14 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER
15 AN EXPERT IN D.N.A. ANALYSIS.

16 THE COURT: ANY OBJECTION? CROSS-EXAMINATION OF
17 QUALIFICATION.

18 MS. OWINGS: NO, YOUR HONOR.

19 THE COURT: WITNESS IS FOUND TO BE AN EXPERT.

20 BY MS. CAMPBELL:

21 Q INVESTIGATOR BARRON, CAN YOU TELL US, THIS JURY
22 TYPICALLY HOW YOU RECEIVE EVIDENCE AND WHAT TYPE OF TESTING
23 YOU DO?

24 A AT RICHLAND COUNTY WE HAVE A STORAGE FACILITY THAT IS
25 RUN BY SEVERAL OFFICERS. I GO DOWN TO THE EVIDENCE STORAGE

1 FACILITY, SIGN OUT VARIOUS PIECES OF EVIDENCE, BRING IT BACK
2 TO THE LABORATORY. I TEST IT FOR BIOLOGICAL MATERIAL AND
3 THEN IT'S PREPPED. I WOULD PROCEED TO DO D.N.A. ANALYSIS,
4 EXTRACTION ANALYSIS.

5 Q WHAT KIND OF MATERIAL ARE YOU TESTING FOR WHEN YOU LOOK
6 FOR D.N.A.?

7 A D.N.A. IS PRESENT IN MOST BIOLOGICAL MATERIAL LIKE
8 BLOOD, SALIVA, TISSUE, SKIN CELLS, SEMEN IN CASE OF SEXUAL
9 ASSAULT. MOST OF THAT MATERIAL CAN BE SCREENED IF YOU WILL
10 WITH VARIOUS TYPES OF CHEMICAL TESTING. SOME OF IT CANNOT.
11 FOR INSTANCE, SKIN CELLS IT'S JUST BASICALLY THEY HAVE COME
12 IN CONTACT WITH IT AND POSSIBLY TRANSFER STRAIGHT UP. D.N.A.

13 Q AND ONCE YOU'RE ABLE TO EXTRACT D.N.A. FROM EVIDENCE
14 THEY COLLECT AT A SCENE SUCH AS A KNIFE OR FROM A CAR SEAT
15 OR WHATEVER, ARE YOU THEN ABLE TO PROVIDE WITH THE PROPER
16 D.N.A. SAMPLE DO A COMPARISON?

17 A CORRECT. IN THE LABORATORY THEN KNOWN SAMPLES FROM
18 INDIVIDUALS THAT POSSIBLY COULD CONTRIBUTE THAT BY LOGICAL
19 MATERIAL. ALSO A D.N.A. PROFILE IS ALSO DEVELOPED IN IT AND
20 YOU SIMPLY COMPARE THE TWO AND SEE IF THEY MATCH.

21 Q DID YOU RECEIVE CERTAIN ITEMS OF EVIDENCE IN THE CASE?

22 A YES, I DID.

23 Q I WANT TO GO THROUGH THOSE SPECIFICALLY BEFORE I GET TO
24 ANYTHING ELSE. DURING THE COURSE OF YOUR TESTING DID YOU
25 RECEIVE SOME KNOWN SAMPLES, D.N.A. SAMPLES FROM FOUR PEOPLE

1 IN THIS CASE?

2 A YES, I RECEIVED KNOWN SAMPLES FROM RANDY ELDERS,
3 CHRISTINA HALL, KATHRYN RIGGS AND DWIGHT RIGGS.

4 Q TELL THIS JURY HOW DO YOU GET A CERTAIN SAMPLE FROM
5 SOMEBODY, EITHER THE DEFENDANT OR WITNESS OR WHATEVER?

6 A WELL, THERE IS A COUPLE WAYS. WE NEED TO DRAW A BLOOD
7 SAMPLE. ANOTHER IS YOU CAN SWAB A STERILE SWAB INSIDE OF
8 THE MOUTH. THAT'S CALLED A HOW DO YOU PRONOUNCE -- BUCCAL
9 CHEEK SWAB, IN OTHER WORDS YOU REMOVE THE SKIN, BUCCAL SWAB,
10 RIGHT.

11 Q BUT IT'S NOT SPELLED B-U-Y-C-A-L. IN THIS CASE DID YOU
12 ALSO RECEIVE SOME ADDITIONAL EVIDENCE? I WANT TO TAKE YOU,
13 LET ME ASK YOU SPECIFICALLY ABOUT YOUR CERTAIN TIMES, OKAY?

14 A OKAY.

15 Q DID YOU RECEIVE WHAT WAS YOUR ITEM NUMBER ONE?

16 A BACK BEAR LOCK BLADE KNIFE.

17 Q AND THEN MOVING TO ITEM NUMBER 11?

18 A THREE POCKET KNIVES, ONE BROWN COLORED, SMALL BLACK AND
19 SILVER AND LARGE.

20 Q DID YOU RECEIVE CERTAIN SWABS TAKEN FROM A VEHICLE THAT
21 WAS RECOVERED?

22 A YES, I DID.

23 Q AND TELL THE JURY WHAT SWABS YOU RECEIVED?

24 A STEERING WHEEL SWAB, A SWAB FROM THE DRIVER'S DOOR
25 HANDLE, SWAB FROM THE FRONT PASSENGER DOOR HANDLE, SWAB FROM

1 THE REAR PASSENGER DOOR HANDLE AND ALSO, WELL, THERE ARE
2 OTHER ITEMS.

3 Q OKAY. AND THERE IS ALSO A CONTROL SWAB?

4 A YES.

5 Q WHAT'S THE PURPOSE OF HAVING A CONTROL SWAB?

6 A CONTROL IS NOT REALLY NEEDED MUCH ANYMORE IN. D.N.A.
7 ANALYSIS. IT USED TO BE USED FOR SEROLOGICAL TO SEE IF
8 THERE WAS ANY CROSS CONTAMINATION MATERIAL.

9 Q WERE YOU ALSO SUBMITTED AN ADDITIONAL THREE SWABS TAKEN
10 FROM ITEMS IN THE CAR?

11 A YES, I WAS.

12 Q WHAT WERE THOSE?

13 A A SPRINGTIME WATER BOTTLE, MOUNTAIN DEW BOTTLE AND
14 ANOTHER PLASTIC BOTTLE.

15 Q WERE THERE ANY ADDITIONAL ITEMS THAT WERE SUBMITTED TO
16 YOU FROM THE AUTOMOBILE ITSELF?

17 A I'M NOT REAL SURE EXACTLY WHERE THESE ITEMS CAME FROM.

18 Q JUST FOR THE JURY SO THEY CAN UNDERSTAND THESE ITEMS
19 ARE NOT COLLECTED BY YOU?

20 A NO.

21 Q THEY, THERE IS A CHAIN OF CUSTODY?

22 A YES.

23 Q IN THIS CASE DID YOU RECEIVE ADDITIONAL ITEMS TO BE
24 TESTED?

25 A YES, I DO.

1 Q AND SOMEONE ELSE IN THIS CASE WOULD HAVE LOCATED THOSE?

2 A RIGHT.

3 Q WHAT OTHER ITEMS DID YOU RECEIVE?

4 A I RECEIVED A TISSUE AND THREE CIGARETTE BUTTS, A
5 MARLBORO CIGARETTE PACK AND ALSO CLOTHING OF DWIGHT RIGGS.

6 Q THE CLOTHING OF DWIGHT RIGGS AND YOU'RE AWARE DWIGHT
7 RIGGS IS THE VICTIM IN THIS CASE?

8 A YES.

9 Q SPECIFICALLY I'M ASKING YOU TO REVIEW STATE'S EXHIBIT
10 NO. 54. DO YOU RECOGNIZE THIS CHART?

11 A YES, I HAVE.

12 Q THE ONES LIKE THAT YOU HELPED PREPARE THIS CHART?

13 A YES.

14 Q WOULD THAT AID YOU IN YOUR PRESENTATION OF THIS
15 TESTIMONY TO THE JURY?

16 A YES, IT WOULD.

17 MS. CAMPBELL: YOUR HONOR, AT THIS TIME I'D OFFER
18 STATE'S EXHIBIT NO. 54 INTO EVIDENCE.

19 MS. OWINGS: YOUR HONOR, WITHOUT OBJECTION.

20 THE COURT: AS FAR AS THE CHART IS CONCERNED; IS
21 THAT RIGHT?

22 MS. OWINGS: YES, SIR.

23 THE COURT: THAT OBJECTION IS OVERRULED AND IT
24 WILL BE ADMITTED STATE'S 54.

25 (THEREUPON, THE D.N.A. CHART WAS MARKED STATE'S EXHIBIT

1 NO. 54 AND ENTERED INTO EVIDENCE.)

2 MS. OWINGS: YOUR HONOR, MAY THE WITNESS STEP
3 DOWN?

4 THE COURT: KEEP YOUR VOICE UP PLEASE, SIR, SO
5 THAT EVERYONE IN THE COURTROOM IS ABLE TO HEAR.

6 THE WITNESS: YES, SIR.

7 BY MS. CAMPBELL:

8 Q YOU NEED TO COME ON THIS SIDE BASICALLY TAKING THE ITEM
9 IN WHATEVER ORDER YOU THINK IS APPROPRIATE. THE FIRST ITEM
10 LISTED ON THERE IS WHAT?

11 A BLACK BEAR LOCK BLADE KNIFE.

12 Q I'M GOING TO SHOW YOU ITEM NUMBER STATE'S EXHIBIT 36.
13 YOU RECOGNIZE THAT?

14 A YES.

15 Q AND WHEN YOU RECEIVED THIS, ALL THESE ITEMS ON THIS
16 CHART WERE THEY IN PROPER ORDER AND HAD YOU, DID YOU MAKE
17 SURE THE INTEGRITY OF THE ACTUAL EVIDENCE?

18 A WELL, THIS IS A GOOD EXAMPLE. THIS WAS SEALED BY THE
19 OFFICER WHO COLLECTED IT AND THEN I CUT OPEN THE BOTTOM OF
20 THE ENVELOPE OR EITHER SIDE IN SOME CASES AND RESEAL IT AND
21 INITIAL AND DATE IT.

22 Q AND --

23 A ALL THESE PIECES OF EVIDENCE WERE PROPERLY SEALED.

24 Q I'M GOING, IF YOU, JUST FOR EXAMPLE, ITEM NUMBER 49
25 WHICH IS A CIGARETTE BUTT, STATE'S 49. SHOW THEM WHAT

1 YOU'RE TALKING ABOUT HOW IT WAS WHEN YOU RECEIVED IT?

2 A WHEN I RECEIVED IT, IT WAS A COMPLETE MANILA ENVELOPE
3 WITH A SEAL AND D. B. BROWN HE HAD SEALED IT. THAT SEAL IS
4 STILL INTACT. I DIDN'T OPEN IT. IN ORDER TO GET THIS
5 PACKAGE I COULD OPEN THE BOTTOM, REMOVE MY ITEM AND EVIDENCE
6 AND THEN, YOU KNOW, TESTED PART OF IT, PUT IT BACK IN AND
7 RESEAL IT.

8 Q AND JUST FOR THE RECORD ALL THE ITEMS TESTIFIED ABOUT
9 THEY WERE EXPENDED PROPERLY?

10 A YES, THEY WERE.

11 Q THE FIRST ITEM WE'RE TALKING ABOUT IS WHAT?

12 A A BLACK BEAR LOCK BLADE KNIFE.

13 Q YOU ACTUALLY SEEN THE KNIFE; IS THAT CORRECT?

14 A THAT'S CORRECT.

15 Q AND WHAT FIRST, WHAT PRELIMINARY TEST DO YOU DO?

16 A I DO A SCREENING TEST FOR BLOOD THAT'S VERY SENSITIVE.
17 IF THERE IS ANY BLOOD PRESENT I WILL SWAB THE LOCK BLADE
18 KNIFE FOR ANY STAINS THAT THEY'RE OBVIOUS. IF THEY'RE NOT
19 THEN I WILL SWAB THE WHOLE THING. I WOULD DROP CHEMICALS ON
20 THERE THAT THERE IS BLOOD PRESENT AND THEN I WILL KNOW THAT
21 I HAVE BLOOD ON THE ITEM. IF IT DOES OCCUR THAT TESTS
22 POSITIVE THEN I WOULD EXTRACT THAT SWAB WITH THE BLOOD ON
23 IT.

24 Q IN THIS CASE HOWEVER WHAT WAS YOUR RESULT.

25 Q I DID NOT FIND ANY BLOOD ON THE KNIFE?

1 Q AND WHEN THERE WAS NO BLOOD ON THE KNIFE WAS THERE
2 ANYTHING FURTHER TO TEST?

3 A NO.

4 Q NOT IN THIS CASE?

5 A NOT IN THIS CASE.

6 Q DID YOU RECEIVE SOME THREE ADDITIONAL POCKETS KNIVES?

7 A YES, I DID.

8 Q AND YOU, AGAIN WHAT KIND OF TESTING DID YOU DO?

9 A I EXAMINED THESE KNIVES FOR THE PRESENCE OF BLOOD AND
10 DID NOT FIND ANY.

11 Q . SQ DID YOU DO ANY ADDITIONAL TESTING ON THAT?

12 A NO.

13 Q I WANT TO MOVE TO THE SWAB THAT WAS SUBMITTED TO YOU.
14 THE FIRST SWAB WAS ONE D.D.; IS THAT CORRECT?

15 A CORRECT, ONE D.D. IS THE SWAB FROM THE STEERING WHEEL.

16 Q JUST SO THE JURY CAN UNDERSTAND LIKE THE ITEMS ARE ON
17 HERE THE STATE'S EXHIBIT IS DIFFERENT?

18 A THAT WOULD BE CORRECT.

19 Q AND IN THIS CASE IT WOULD BE ITEM ONE D.B., A SWAB.

20 A RIGHT.

21 Q AND WERE YOU ABLE TO EXTRACT ANY D.N.A. FROM THE SWAB
22 THAT WAS TAKEN FROM THE STEERING WHEEL?

23 A YES, I WAS.

24 Q AND WOULD THAT HAVE BEEN BLOOD, THAT WOULD HAVE BEEN
25 PROBABLY SKIN CELLS FROM PERHAPS PERSPIRATION OR JUST USE OF

1 THE STEERING WHEEL, COUPLE LATENT SKIN CELLS THAT ARE
2 SLOUGHED OFF?

3 Q WHEN YOU DID YOUR TESTING IN THIS CASE, WHAT WAS THE
4 RESULT WHEN YOU DID YOUR FIRST SWAB?

5 A I FOUND D.N.A. PRESENT. I DEVELOPED A PROFILE FOR IT.
6 IT WAS A MIXTURE AND I FOUND THAT THE MIXTURE WAS CONSISTENT
7 WITH THE D.N.A. PROFILES OF ELDERS, HALL AND RIGGS. IN
8 OTHER WORDS THE ELDERS AND RIGGS WERE PROBABLY THE TWO
9 PEOPLE.

10 Q EXPLAIN TO THE JURY WHEN YOU DEVELOP A PROFILE IS
11 EVERYONE'S PROFILE ALIKE?

12 A EVERYONE'S PROFILE IS UNIQUE. D.N.A. IS UNIQUE TO THE
13 INDIVIDUALS. EACH WOULD HAVE OUR OWN PERSONAL PROFILES.

14 Q AND IN THIS CASE DID YOU PREPARE ALL OF THE PROFILES
15 WITH THE FOUR NAMES YOU HAVE?

16 A THAT'S CORRECT.

17 Q AND IN THAT CASE WHICH COMES AS A MIXTURE IS THAT
18 UNUSUAL TO FIND A MIXTURE OF D.N.A.?

19 A IT'S NOT UNUSUAL FOR A CERTAIN PIECE OF EVIDENCE
20 PARTICULARLY A STEERING WHEEL THAT'S MORE THAN ONE PERSON
21 HANDLES A STEERING WHEEL.

22 Q THE D.N.A. PROFILES BEING A MIXTURE OF WHO?

23 A ELDERS AND RIGGS AND THE OTHER TWO INDIVIDUALS
24 CHRISTINA HALL AND KATHRYN RIGGS, DWIGHT RIGGS.

25 Q THIS ELDERS, THE DEFENDANT, AND THE VICTIM WHITE?

1 A RIGHT. AND KATHRYN RIGGS AND CHRISTINA HALL WOULD BE
2 ELIMINATED.

3 Q THE NEXT SWAB THAT YOU DID TAKEN FROM THE DRIVER'S DOOR
4 HANDLE?

5 A THAT'S CORRECT.

6 Q AND WHAT DID YOU FIND THERE, SIR?

7 A AGAIN I FOUND A MIXTURE. I FOUND A MAN OR CONTRIBUTOR.
8 IN OTHER WORDS MOST OF THE D.N.A. MATCHES DWIGHT RIGGS.
9 THERE WAS A MINOR CONTRIBUTOR IN THIS MIXTURE BUT IT WAS
10 VERY, VERY WEAK AND COULD NOT MAKE ANY DETERMINATION.

11 Q HOWEVER YOU SAY THERE JUST WASN'T ENOUGH D.N.A.?

12 A THAT'S CORRECT. THERE IS NOT ENOUGH D.N.A. FROM THE
13 OTHER CONTRIBUTOR.

14 Q BUT YOU WERE ABLE TO SAY THAT THE MAJORITY WOULD HAVE
15 BEEN RIGGS?

16 A THAT'S CORRECT.

17 Q YOU SWABBED THE FRONT PASSENGER DOOR HANDLE. WERE YOU
18 ABLE TO DETERMINE WHETHER OR NOT THERE WAS ANY D.N.A.

19 A THERE WAS NO D.N.A. PRESENT ON THAT SAMPLE.

20 Q AS I WALKED AROUND THE DOOR AM I GOING TO NECESSARILY
21 LEAVE D.N.A.?

22 A NO, YOU'RE NOT. AS A MATTER OF FACT WE TESTED LOTS OF
23 DOOR HANDLES AND STEERING WHEELS. PROBABLY MOST OF THE TIME
24 THERE IS NOT EITHER ANY D.N.A. OR NO INTERPRETABLE D.N.A.
25 PRESENT.

1 Q WE'RE LOOKING AT THE --

2 A REAR PASSENGER DOOR HANDLE.

3 A AGAIN NOTHING RECOVERED.

4 Q THE NEXT?

5 A NO D.N.A. IS RECOVERED.

6 Q WE MENTIONED EARLIER HE SUBMITTED A CONTROL SWAB?

7 A THAT'S NOT IMPORTANT.

8 Q SO THERE IS NO --

9 A NO ANALYSIS.

10 Q THE NEXT SWABS WERE SWABS FROM THE SPRINGTIME BOTTLES.

11 WHERE ON THE SPRINGTIME WATER BOTTLES THESE SWABS WERE

12 TAKEN?

13 A I WOULD ASSUME, BECAUSE I WASN'T THERE TO SWAB THEM,

14 BUT TYPICALLY THESE BOTTLES ARE SWABBED ON THE MOUTH AREA

15 WHERE THE D.N.A. WOULD BE FOUND. WHEN SOMEONE DRINKS OUT OF

16 A BOTTLE THEY'RE LEAVING SALIVA AROUND THE RIM VERY, VERY

17 GOOD SOURCE OF D.N.A., HIGH PROBABILITY OF BEING D.N.A.

18 SAMPLE ON THAT.

19 Q AND FROM THE SWABS SPRINGTIME WATER BOTTLES WHOSE

20 D.N.A. PROFILE DID YOU FIND?

21 A CHRISTINA HALL.

22 Q DID YOU ELIMINATE OR INCLUDE THE OTHER THREE?

23 A THEY WERE INCLUDED. THERE WAS A SINGLE PROFILE THAT

24 MATCHED.

25 Q MOVING ON TO A SWAB FROM THE MOUNTAIN DEW BOTTLES, WERE

1 YOU ABLE TO SHOW WHETHER OR NOT THERE WAS ANY D.N.A. PRESENT
2 THERE?

3 A YES, AGAIN THERE WAS D.N.A., A MIXTURE. THE MAJOR
4 CONTRIBUTOR WAS CHRISTINA HALL AND MINOR CONTRIBUTOR OF
5 RANDY ELDERS.

6 Q MAIN CONTRIBUTOR WAS RANDY ELDERS SO YOU'RE FINDING ALL
7 THE MOUNTAIN DEW BOTTLE FROM HIM?

8 A THAT'S CORRECT.

9 Q ALSO A NUMBER CAN YOU TELL THE JURY IN CERTAIN CASES DO
10 YOU QUANTIFY, PUT A NUMBER TO IT, WHAT DOES IT MEAN?

11 A WELL, ONCE THE D.N.A. PROFILE IS MATCHED TYPICAL
12 ANALYSIS IS DONE AS TO THE FREQUENCY OF FINDING THAT PROFILE
13 AND STATISTICALLY SPEAKING THIS PROFILE WILL BE SEEN ONCE
14 EVERY 7.8 TRILLION TIMES. THERE IS ONLY SIX AND A HALF
15 BILLION ON PLANET.

16 Q AND IN CASE THAT WOULD BE THE MAJOR CONTRIBUTOR OF
17 SKIN?

18 A THAT'S CORRECT. AND SOME OF THESE, WE DON'T HAVE
19 NUMBERS NEXT TO THEM, GENERATE THE REPORT.

20 Q WHY IS THAT? EXPLAIN THAT TO THE JURY?

21 A DOESN'T MEAN THERE IS A MATCH. THERE IS ENOUGH THAT I
22 DO HAVE IN MY REPORT THAT ARE NOTED ON THE CHART.

23 Q BUT THE ONES WAY UP THERE THAT WE DON'T HAVE ARE THE
24 MATCH TO ELDERS AND RIGGS, MATCH WITH CHRISTINA HALL SAYS
25 THAT ANOTHER --

1 A WELL, THIS WOULD BE, THAT WOULD BE AND ALSO MATCHED
2 CHRISTINA HALL. OKAY. GIVING US A STATISTICAL RESULT FOR A
3 MATCH TO CHRISTINA HALL HERE THIS WOULD BE AN ADDITIONAL
4 THAT WAS MATCHED TO CHRISTINA HALL.

5 Q OKAY. BUT THAT WOULD BE GETTING DOWN TO SWAB IN THE
6 PLASTIC BOTTLE. DO THOSE MATCH?

7 A YES. MATCHES KATHRYN RIGGS ALONG WITH THE TISSUE
8 D.N.A. MATCHED KATHRYN RIGGS. OF THAT PROFILE IN THE
9 POPULATION IS ONE IN 493.

10 Q QUADRILLION?

11 A A TRILLION IS ONE FOLLOWED BY 10 ZEROS AND A
12 QUADRILLION IS ONE FOLLOWED BY 15 ZEROS SMALL A LARGER
13 NUMBER.

14 Q CIGARETTE BUTTS AND THERE WAS ITEM NUMBER 49 AND AGAIN
15 YOU SEE IT, RECEIVED IT?

16 A YES, I DID.

17 Q AND WHEN YOU EXAMINED THE CIGARETTE BUTTS, ITEM STATE'S
18 49 WHAT WERE YOUR FINDINGS?

19 A I FOUND THAT BUNCH. THEY WERE ALL THREE MARLBORO
20 CIGARETTES AND THE FIRST ONE I TESTED MATCHED CHRISTINA
21 HALL. THE SECOND ONE MATCHED RANDY ELDERS AND THE THIRD ONE
22 IS A MIXTURE WITH THE MAJOR CONTRIBUTOR BEING RANDY ELDERS.

23 Q AND THAT WOULD BE ONE IN 4.8 QUADRILLION?

24 A THAT'S CORRECT.

25 Q HOW WOULD YOU CHARACTERIZE THAT MUCH?

1 A AGAIN THAT'S 4.8 FOLLOWED BY 14 ZEROS VERY, VERY ONLY
2 SIX AND A HALF BILLION PEOPLE ON PLANET EARTH. IT'S
3 ABOUT 1,000 TIMES MORE THAN THAT.

4 Q ITEM NUMBER 27, CIGARETTES HAVE YOU GOT ANY D.N.A.?

5 A I DID RECOVER SOME D.N.A. AND GOT WHAT WE CALL A
6 PARTIAL PROFILE. IN OTHER WORDS THERE WAS SOME D.N.A.
7 PRESENT BUT IT IS TOO WEAK TO ACTUALLY CONTRIBUTE AND
8 FINALLY THE CLOTHING WAS TAKEN FROM THE VICTIM. DID YOU
9 TEST HER BLOOD IN THAT CASE?

10 A CORRECT. THESE ITEMS CONTAIN SEVERAL SPOTS OF BLOOD
11 PRESENT ON THESE ITEMS AND I RAN THEM, A SELECTED SAMPLE;
12 AND TESTED THEM. THEY ALL MATCHED DWIGHT RIGGS.

13 Q JUST FOR THE RECORD, INVESTIGATOR, THE TWO CIGARETTE
14 BUTTS YOU WERE ABLE TO GET TWO OUT OF THREE CIGARETTE BUTTS
15 MATCHED RANDY ELDERS AS THE ONLY CONTRIBUTOR?

16 A I'M SORRY. I'M LOOKING AT THE RECORD NOW I THINK THE
17 SUPPLEMENT OF CHARTS IS 1.3 WASN'T A MIXTURE. I'M SORRY.

18 A 11.2 WHICH IS A CIGARETTE BUTT; 11.3, ANOTHER CIGARETTE
19 BUTT MATCHED RANDY ELDERS.

20 Q AND THE SWAB ON ITEM A.B.B. SWAB FROM THE MOUNTAIN DEW
21 BOTTLE?

22 A MAJOR PROFILE MATCHED CHRISTINA HALL.

23 Q AND THE MINOR?

24 A RANDY ELDERS IS THE PROBABLE CONTRIBUTOR TO THE MIXTURE
25 ON THAT ITEM.

JOHN BARRON-CROSS BY MS. OWINGS

1 Q AND FINALLY THE SWAB ON THE STEERING WHEEL YOU AREN'T
2 ABLE TO SAY FOR SURE BUT IT IS A MIXTURE OF ELDERS AND
3 MR. RIGGS?

4 A YES, ELDERS AND RIGGS CANNOT BE INCLUDED. IT'S A
5 MIXTURE THE OTHER TWO FIT.

6 Q BUT ON THE CIGARETTE BUTT AND THE SWAB?

7 A THAT'S CORRECT.

8 MS. CAMPBELL: THANK YOU, SIR.

9 THE COURT: ALL RIGHT. CROSS-EXAMINE.

10 CROSS-EXAMINATION BY MS. OWINGS:

11 Q INVESTIGATOR BARRON, DOES D.N.A. PLACE RANDY ELDERS IN
12 THE CAR?

13 A YES, THESE ITEMS CAME FROM THE CAR.

14 Q BUT THESE ITEMS HAVE MR. ELDERS D.N.A. ON THEM?

15 A THE TWO CIGARETTE BUTTS AND THE MOUNTAIN DEW BOTTLE,
16 CORRECT.

17 Q ALL RIGHT. THEY DO?

18 MS. OWINGS: I HAVE NO OTHER QUESTIONS.

19 THE COURT: ALL RIGHT. ANY REDIRECT.

20 THE COURT: ALL RIGHT, SIR. YOU MAY STEP DOWN.

21 THE COURT: ALL RIGHT, SOLICITOR.

22 MR. JOPHLIN: STATE RECALLS KATHRYN RIGGS.

23 THE COURT: ALL RIGHT. COME BACK, MS. RIGGS. YOU
24 HAVE ALREADY BEEN PLACED UNDER OATH. WE WON'T SWEAR YOU
25 AGAIN. YOU WILL STILL BE UNDER OATH. IF YOU'LL HAVE A

KATHRYN RIGGS-DIRECT BY MR. JOPHLIN

1 SEAT, PLEASE.

2 KATHRYN RIGGS, HAVING
3 PREVIOUSLY BEEN SWORN CONTINUED TO TESTIFY AS FOLLOWS:

4 DIRECT EXAMINATION BY MR. JOPHLIN:

5 Q I JUST WANT TO SHOW YOU A COUPLE PICTURES OF THE CAR
6 THAT WAS TAKEN AT THE SHERIFF'S DEPARTMENT, EXHIBITS 19
7 AND 20 AND CAN YOU DESCRIBE FOR THE JURY WHAT THAT ITEM IS
8 RIGHT THERE SITTING ON THE FLOOR?

9 A THAT'S MY PURSE THAT RANDY ELDERS TOOK OFF MY ARM.

10 Q OKAY. AND STATE'S NO. 20 WHAT IS THAT ITEM SITTING ON
11 THE FLOOR.

12 A THAT'S MY PURSE HE TOOK.

13 Q HOW DO YOU KNOW IT'S YOUR PURSE?

14 A BECAUSE IT'S MINE. I TOOK IT WITH ME. IT WAS ON MY
15 SHOULDER WHEN I GOT OUT OF THE CAR AND WAS ON MY SHOULDER
16 UNTIL HE KNOCKED ME DOWN AND TOOK IT OFF OF ME.

17 Q SO WHEN YOU GOT UP WHEN YOUR HUSBAND WAS BEING ATTACKED
18 AND THROWN DOWN AND YOU GOT OUT OF THE CAR, YOU DID NOT
19 LEAVE YOUR PURSE SITTING RIGHT THERE ON THE FLOOR?

20 A I PUT IT ON MY SHOULDER BEFORE I EVER EVERYONE GOT OUT.

21 Q AND YOU RECOGNIZE THESE TWO BLACK ITEMS IN THE SEAT?

22 A ONE IS MY WALLET.

23 Q OKAY.

24 A THE OTHER ONE MAY BE MY MAKEUP PURSE.

25 Q OKAY.

1 A I NEED MY GLASSES ON TO SEE THAT.

2 Q I'M SORRY. GET PERMISSION TO PUBLISH THESE TO THE
3 JURY, WHAT SHE JUST DESCRIBED?

4 Q AND YOU SAY THAT WAS WHEN YOU WALKED OUT OF THE CAR
5 YOUR PURSE WAS NOT SITTING ON THE FLOOR LIKE IT WAS NOW?

6 A NO, I DIDN'T LEAVE MY PURSE IN THE CAR.

7 Q AND DID YOU, WAS THERE ANY CASH IN YOUR PURSE AT THE
8 TIME?

9 A YES, I HAD.

10 MS. SAMPSON: THESE WERE ASKED AND ANSWERED.

11 MR. JOPHLIN: ACTUALLY, NO, THEY HAVEN'T ON
12 DIRECT.

13 THE WITNESS: I HAD A \$100 BILL IN MY WALLET AND I
14 HAD 20 OR \$30 IN ANOTHER PLACE IN MY POCKETBOOK.

15 BY MR. JOPHLIN:

16 Q AND WAS THAT MONEY IN YOUR POCKETBOOK WHEN YOU
17 RETRIEVED IT BACK?

18 A NO, IT WAS NOT.

19 MR. JOPHLIN: THANK YOU. THAT'S ALL.

20 CROSS-EXAMINATION.

21 MS. SAMPSON: NO, SIR.

22 THE COURT: ALL RIGHT. ALL RIGHT. YOU MAY STEP
23 DOWN.

24 ALL RIGHT, SOLICITOR.

25 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN

1 BEFORE THIS NEXT WITNESS IS SWORN, WE'RE GOING TO TAKE YOU
2 OUT FOR LUNCH. PLEASE DON'T DISCUSS THE CASE WHILE WE TAKE
3 OUR LUNCH BREAK. IF YOU'LL BE BACK -- IT IS RIGHT AT ONE
4 O'CLOCK IF YOU'LL BE BACK AT 2:15 WE'LL CONTINUE AT THAT
5 TIME. DON'T DISCUSS THE CASE WITH ANYONE. EVERYONE STAY
6 SEATED WHILE THE JURY IS EXCUSED.

7 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
8 JURY.)

9 THE COURT: ALL RIGHT WE'LL BREAK UNTIL 2:15.

10 (THEREUPON, THE TRIAL OF THIS CASE WAS RECESSED
11 UNTIL 2:15 FEBRUARY 16, 2006.)

12 THE COURT: ALL RIGHT. IS THE STATE READY TO
13 PROCEED?

14 MS. CAMPBELL: YES, SIR.

15 THE COURT: IS THE DEFENSE READY?

16 MS. OWINGS: YES, SIR.

17 THE COURT: DO WE NEED TO DO ANYTHING ON THE
18 RECORD BEFORE THE JURY'S BROUGHT BACK?

19 MS. CAMPBELL: HE'S OUR LAST WITNESS HAPPENED JUST
20 FOR YOU AS FAR AS SCHEDULING PURPOSES THE JURY IN AND OUT.

21 THE COURT: ALL RIGHT.

22 MS. CAMPBELL: I DID CHECK WITH THE COURT REPORT
23 SHE INDICATES EVERYTHING'S IN EVIDENCE EXCEPT ETHAT ONE
24 STATE ON THE BACK BOARD.

25 THE COURT: ALL RIGHT. LET'S GET THE JURY IN,

1 PLEASE

2 MS. OWINGS: WE DID HAVE ONE OTHER THING. WE HAD
3 A LONGSTANDING OBJECTION TO THE CHAIN. EVIDENCE WAS
4 PRESENTED. MS. BROWN DIDN'T MAKE IT AVAILABLE. WE JUST
5 WANT TO PUT THAT ON THE RECORD.

6 THE COURT: ALL RIGHT. THAT'S FINE. I THINK YOU
7 HAVE OBJECTED TO EVERY CRITICAL TIME NOT, YOU MADE YOUR
8 INTENTION CLEAR. THANK YOU. ANYTHING FURTHER?

9 MS. OWINGS: NO, SIR.

10 THE COURT: ALL RIGHT. NOW LET'S GET THE JURY IN,
11 PLEASE.

12 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
13 JURY.)

14 THE COURT: ALL RIGHT. SOLICITOR, CALL YOUR NEXT
15 WITNESS.

16 MS. CAMPBELL: MAY IT PLEASE THE COURT.

17 THE COURT: ALL RIGHT.

18 JAMES S. SMITH, BEING FIRST
19 DULY SWORN, TESTIFIED AS FOLLOWS:

20 DIRECT EXAMINATION BY MS. CAMPBELL:

21 Q WHAT DO YOU DO, MR. SMITH?

22 A I'M IN THE CRIMINAL INVESTIGATIVE DIVISION. I'M A
23 CAPTAIN. I'M MAJOR CRIME UNIT, HANDLE HOMICIDES,
24 AGGGRVATED ASSAULTS, ARMED ROBBERY.

25 Q DO YOU KNOW INVESTIGATOR FAUST AND SERGEANT MCDONALD;

JAMES S. SMITH-DIRECT BY MS. CAMPBELL

1 DO YOU BOTH WORK AT THE SHERIFF'S DEPARTMENT?

2 A YES.

3 Q MAJOR?

4 A SERGEANT MCDONALD IS SPECIFICALLY OVER THE ARMED
5 ROBBERY SECTION AND INVESTIGATOR FAUST IS ONE OF THOSE
6 DETECTIVES THAT WORKS UNDER SERGEANT MCDONALD.

7 Q I WANT TO TURN YOUR ATTENTION TO BACK APRIL OF 2005.
8 DID YOU BECOME INVOLVED IN AN INVESTIGATION OF ARMED
9 ROBBERY, KIDNAPPING, ASSAULT. WAS THE CASE IN THE GARNER'S
10 FERRY ROAD AREA?

11 A I DID.

12 Q AND SPECIFICALLY WITH THE BI-LO?

13 A YES.

14 Q IN ADDITION TO THAT THERE IS ANOTHER MARKET PLACE
15 CALLED MIKE'S PRODUCE MARKET?

16 A THAT'S CORRECT.

17 Q ARE BOTH OF THESE IN RICHLAND COUNTY?

18 A THEY ARE.

19 Q TURNING YOUR ATTENTION TO THE MORNING OF APRIL 19TH
20 OF '05 IS THAT THE FIRST TIME YOU ACTIVELY BECAME INVOLVED
21 UNDER SUPERVISOR?

22 A YES.

23 Q CAN YOU TELL THE JURY WHAT YOU DID THAT MORNING?

24 A I WAS ACTUALLY INVOLVED ASSISTING SERVING OF A SEARCH
25 WARRANT IN THE IRMO AREA, HOPE STAND COURT SUBDIVISION.

1 Q AND WAS A SEARCH WARRANT ACTUALLY OBTAINED THAT MORNING
2 BEFORE ANY ENTRY WAS MADE INTO THAT RESIDENCE?

3 A IT HAD EITHER BEEN OBTAINED THAT MORNING OR THE
4 PREVIOUS AFTERNOON; THAT'S CORRECT.

5 Q AND THAT WOULD HAVE BEEN DONE BY SERGEANT MCDONALD OR
6 INVESTIGATOR FAUST?

7 A I DON'T REMEMBER WHICH ONE BUT, YES.

8 Q DID YOU PROCEED TO THE ASHFORD SUBDIVISION?

9 A I DID.

10 Q AND CAN YOU TELL THE JURY WHAT HAPPENED WHEN Y'ALL
11 FIRST GOT THERE?

12 A IT WAS ACTUALLY A SEARCH WARRANT. YOU HAVE A NUMBER OF
13 INDIVIDUALS INVOLVED THAT HAVE CERTAIN POINTS. ONE OF THE
14 FIRST THINGS YOU DO IS TRY TO SECURE PROPER OFFICER SAFETY
15 AND THAT KIND OF THING. I ACTUALLY WENT TO THE UPSTAIRS
16 AREA.

17 Q LET'S GO, DON'T GO INTO THE UPSTAIRS AREA. WHEN YOU
18 MAKE ENTRY INTO THE HOUSE WERE YOU ABLE TO APPREHEND OR
19 DETAIN A PERSON LATER?

20 A YES.

21 Q AND I BELIEVE IT'S CHUCK ELDERS?

22 A I BELIEVE THAT'S CORRECT, YES, MA'AM.

23 Q AND ONCE ENTRY HAD BEEN MADE DID YOU BECOME AWARE OF
24 WHETHER OR NOT MR. ELDERS HAD BEEN ADVISED OF THIS RIGHTS?

25 A YES, I LEARNED THAT INVESTIGATOR FAUST HAD VERBALLY

1 ADVISED HIM OF HIS RIGHT.

2 Q WHEN YOU FIRST CAME INTO CONTACT WITH MR. ELDERS, WERE
3 THERE ANY INJURIES THAT YOU NOTED?

4 A I DID NOTE SEVERAL INJURIES ON HIM, BEAR WITH ME ONE
5 SECOND, SCRATCHES ALL ON HIS BODY. I ALSO NOTICED THAT HIS
6 WRIST WAS BANDAGED, SCRATCHES ON HIS NOSE, HIS ARM AND HIS
7 CHEST AND HIS KNEES WERE SCRATCHED BADLY.

8 Q WHEN YOU LEFT THERE YOU HAD SECURED FROM THE SHOE A
9 KNIFE?

10 A YES, ACTUALLY AT THE TIME I MADE THE INITIAL
11 OBSERVATIONS HE ACTUALLY DIRECTED I BELIEVE FAUST HAD SOME
12 BOOTS AND RECOVERED THE KNIFE.

13 Q SERGEANT MCDONALD WAS HE HAVING, WAS HE INTERVIEWING
14 ANOTHER, A WOMAN THAT WAS INVOLVED IN THIS CASE, CHRISTINA
15 HALL?

16 A YES, AT THE SAME TIME ALL THAT WAS GOING ON SERGEANT
17 MCDONALD MAY HAVE HAD HER OUT IN THE FRONT AREA. THE FRONT
18 DOOR ACTUALLY TALKING TO HER ABOUT THE CASE.

19 Q AND INVESTIGATOR FAUST WAS HE ABLE TO MAKE CONTACT WITH
20 ONE OF THE RESIDENTS ACTUALLY THERE AT THE HOME?

21 A YES.

22 Q WHO WAS THAT?

23 A I BELIEVE IT WAS CHRIS SMITH.

24 Q DID YOU ACTUALLY TAKE CUSTODY OF RANDY ELDERS THERE AT
25 THE RESIDENCE?

1 A I DID.

2 Q AND WAS HE UNDER ARREST AT THAT POINT OR WAS HE BEING
3 DETAINED?

4 A HE WAS UNDER ARREST.

5 Q DID YOU MAKE ANY, AT THAT POINT YOU KNEW HE HAD BEEN
6 ADVISED OF HIS RIGHTS?

7 A THAT IS CORRECT.

8 Q DID YOU MAKE ANY ATTEMPT TO TALK TO HIM?

9 A YES, I TRANSPORTED HIM FROM THE LOCATION OF THE SEARCH
10 WARRANT TO THE HEADQUARTERS AND ATTEMPTED TO TALK TO HIM
11 ABOUT THIS CRIME.

12 Q SPECIFICALLY DID YOU MENTION THE CRIME AND WHAT HAD
13 OCCURRED?

14 A YES.

15 Q WHAT WAS HIS RESPONSE, HIS FIRST RESPONSE?

16 A HE JUST MAINTAINED THAT HE HAD NO KNOWLEDGE OF WHAT
17 WE'RE TALKING ABOUT AND EVEN CONFRONTED THE FACT HE'S BEING
18 IMPLICATED AT THAT POINT IN TIME.

19 Q WHEN YOU TRANSPORTED HIM TO HEADQUARTERS, CAN YOU TELL
20 THE JURY WHAT HAPPENED?

21 A ACTUALLY I PULLED IN THE BACK PARKING LOT AREA OF OUR
22 HEADQUARTERS AND UNBEKNOWNST TO ME LIEUTENANT PADGETT WHO'S
23 OVER OUR FORENSIC SCENE DIVISION WAS ACTUALLY TURNING THE
24 VICTIM'S AUTOMOBILE OVER TO HIM AT THAT TIME IN A REAR AREA.
25 WE HAVE A ROLL UP DOOR AREA WHERE WE PROCESS VEHICLES,

1 ACTUALLY PULL IN AND AS I PULLED IN I NOTED THAT LIEUTENANT
2 FAUST WAS IN THE REAR AREA AND JUST HAPPENED TO SEE THE CAR.
3 I DIDN'T REALIZE AT THE TIME WHAT HE WAS DOING AND I HAVE TO
4 PROCEED BY THAT AREA TO ACTUALLY GET IN THE BACK DOOR. I
5 WAS WATCHING MR. ELDERS WHERE THE BACK DOOR WAS. WE
6 EFFECTED AN ARREST AND IN A SHORT PERIOD OF TIME WE WERE
7 PROBABLY GOING TO NEED SOME FORENSIC PROCEDURES ON THE
8 DEFENDANT SUCHY AS SECURING FINGERPRINTS AND THINGS OF THAT
9 NATURE.

10 Q WAS THERE AN ACTUAL FACE, THE FACE EPISODE BETWEEN THE
11 VICTIM AND THE DEFENDANT?

12 A AGAIN I DIDN'T REALIZE IT AT THAT TIME. IT'S JUST ONE
13 OF THOSE THINGS THAT HAPPENS. IT QUICKLY DAWNED ON ME WHAT
14 WAS TAKING PLACE. I SAW A GENTLEMAN THAT I LATER LEARNED TO
15 BE THE VICTIM'S SON AND I HAD NOT SEEN HIM BEFORE AND I
16 ACTUALLY SEEN HIM AT THIS TIME. I REMEMBER THINKING HE'S
17 ONE OF THOSE. WE HAVE A PROGRAM TO SEND OFFICERS THROUGH
18 THE LINE AND HE HAD A LAW ENFORCEMENT APPEARANCE, A CLEAN
19 CUT YOUNG MAN.

20 I THOUGH HE WAS ONE OF THOSE OFFICERS. I DIDN'T
21 REALIZE THE VICTIM WAS ACTUALLY SEATED IN HIS CAR GETTING
22 READY TO PULL IT OUT OF THE BAY. AS I BACKED UP MR. ELDERS,
23 IT DAWNED ON ME WHAT WAS GOING ON. THAT WAS INSIDE, THE
24 VICTIM INSIDE THE CAR SO I QUICKLY TRIED TO REMOVE FROM THAT
25 AREA BUT I LATER LEARNED WHAT HAD TRANSPIRED THAT MORNING.

1 Q YOU MENTIONED THAT YOU NEEDED TO GET FINGERPRINTS FROM
2 THE DEFENDANT. DID YOU INFAC T FOLLOW UP AND DO THAT?

3 A YES.

4 Q AND WHILE YOU WERE DOING THAT QUESTION ABOUT THE
5 INCIDENT THA OCCURRED?

6 A YES. AS WE WENT BACK IN THE LAB AREA WE TRIED TO TALK
7 TO HIM ABOUT IT. ULTIMATELY HE INVOKED HIS ATTORNEY
8 PRIVILEGE WHICH MEANS HE DIDN'T WANT TO TALK ABOUT THIS CASE
9 ANYMORE.

10 Q AND THE FIRST TIME YOU TALKED TO HIM IN CUSTODY THAT
11 DAY DO YOU SEE HIM IN THE COURTROOM?

12 A YES, HE'S WEARING A WHITE SHIRT AND A TIE AT THE
13 DEFENSE TABLE.

14 MS. CAMPBELL: YOUR HONOR, LET THE RECORD REFLECT
15 HE'S IDENTIFIED THE DEFENDANT.

16 THE COURT: ALL RIGHT.

17 MS. CAMPBELL: THANK YOU, SIR. PLEASE ANSWER ANY
18 QUESTIONS.

19 THE COURT: ALL RIGHT. CROSS-EXAMINE.

20 CROSS-EXAMINATION BY MS. OWINGS:

21 Q FEW QUESTIONS, CAPTAIN SMITH, GOOD AFTERNOON I GUESS?

22 A GOOD AFTERNOON.

23 Q CAPTAIN SMITH, YOU ARE, ARE YOU BASICALLY THE
24 SUPERVISOR OF CRIMINAL INVESTIGATION DIVISION?

25 A I HAVE A MAJOR OVER ME AND A DEPARTMENT CHIEF OVER HIM.

JAMES S. SMITH-CROSS BY MS. OWINGS

1 Q OKAY.

2 A SO I AM SORT OF AN ACTIVE IN THE FIELD SUPERVISOR, YES,
3 SO TO SPEAK. I AM.

4 Q OKAY. SO YOU SUPERVISE SERGEANT MCDONALD?

5 A YES, MA'AM.

6 Q WHO IN TURN SUPERVISED INVESTIGATOR FAUST?

7 A YES.

8 Q IS IT YOUR UNDERSTANDING THAT THE INVESTIGATORS IN YOUR
9 DEPARTMENT HAVE A POLICY OF NOT TAKING STATEMENTS FROM
10 VICTIMS OR WITNESSES AFTER A MAJOR CRIME?

11 A WE DON'T HAVE A POLICY NECESSARILY EITHER WAS.

12 Q BUT IT'S NOT A RULE OF YOUR INVESTIGATORS?

13 A NO, MA'AM.

14 Q IT'S NOT SOMETHING YOU NORMALLY DO?

15 A EVERY CASE IS DIFFERENT. I'VE HAD CASES WHERE I'VE
16 DONE THAT. I'VE HAD CASES WHERE I HAVEN'T DONE THAT. YOU
17 CAN'T IMPOSE A POLICY LIKE THAT WITH CRIMINAL INVESTIGATIONS
18 BECAUSE THERE ARE SO MANY VARIABLES IN EACH CASE THEY ARE
19 GIVEN.

20 Q WOULD IT BE FROM THE VICTIM WITNESSES?

21 A I JUST HESITATE TO PUT IT IN THAT SORT OF GENERALITY.
22 IT'S DONE ONLY FOR INSTANCE TO FOLLOW UP THE INITIAL WRITING
23 THE INVESTIGATOR DID, HOW CUT AND DRIED THE CRIME IS IN
24 ITSELF. IF IT'S STRAIGHTFORWARD SOMETIMES THE VICTIMS
25 AREN'T IN A POSITION WHERE THEY CAN'T GIVE A STATEMENT.

JAMES S. SMITH-REDIRECT BY MS. CAMPBELL

1 THERE IS A NUMBER OF DIFFERENT FACTORS SO YOU CAN'T HAVE
2 THAT POLICY IN PLACE.

3 Q ARE YOU SUBSTANTIALLY THE SUPERVISOR OVER THIS CASE?

4 A I SUPERVISE ALL THE MAJOR CRIMES. I GUESS THE BUCK
5 STOPS WITH ME SO TO SPEAK. THE CASE OFFICER IS TECHNICALLY
6 THE SUPERVISOR OF THE CASE. IT'S HIS RESPONSIBILITY TO PUT
7 IT TOGETHER AND THAT WOULD BE INVESTIGATOR FAUST.

8 Q SO HAS SUPERVISING OFFICERS IN A SENSE YOU SAY THE BUCK
9 STOPS WITH YOU. ARE YOU AWARE THERE WERE NO STATEMENTS
10 TAKEN FROM THE VICTIMS OF ANY OF THE WITNESSES IN THIS CASE?

11 A I'M AWARE THAT THERE ARE STATEMENTS BECAUSE THEY WERE
12 NOT GIVEN TO LAW ENFORCEMENT.

13 Q AGAIN YOU MAY BE CORRECT I JUST KNOW THERE WERE
14 STATEMENTS.

15 MS. OWINGS: YOUR HONOR, I BEG THE COURT'S
16 INDULGENCE ONE MOMENT.

17 I HAVE NO FURTHER QUESTIONS. THANK YOU, CAPTAIN.

18 THE COURT: ANY REDIRECT?

19 REDIRECT EXAMINATION BY MS. CAMPBELL:

20 Q ARE YOU AWARE THAT THE STATEMENTS WERE GIVEN BY THE
21 VICTIMS?

22 A I'D HAVE TO STATE ON APRIL 20TH, 2005.

23 MS. CAMPBELL: THANK YOU, SIR. NO FURTHER
24 QUESTIONS.

25 THE COURT: ALL RIGHT. ANYTHING FURTHER,

STATE RESTS

1 MS. OWINGS?

2 MS. OWINGS: JUST ONE SECOND, PLEASE, YOUR HONOR.

3 NO FURTHER QUESTIONS, YOUR HONOR.

4 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

5 ALL RIGHT. SOLICITOR.

6 MS. CAMPBELL: WITH THAT THE STATE WOULD REST.

7 THE COURT: ALL RIGHT. MR. FOREMAN, LADIES AND
8 GENTLEMEN, THE STATE HAS RESTED IN THEIR CASE IN CHIEF. AT
9 THIS TIME THERE MAY BE SOME MATTERS OF LAW FOR ME TO TAKE
10 UP. I'M REQUIRED TO DO THAT OUTSIDE OF YOUR PRESENCE. IF
11 YOU'LL STEP BACK TO YOUR JURY ROOM, PLEASE DON'T DISCUSS THE
12 CASE AT THIS TIME. IF YOU'LL STEP BACK TO YOUR JURY ROOM.
13 EVERYONE ELSE STAY SEATED, PLEASE.

14 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
15 JURY.)

16 THE COURT: ANY MOTIONS FROM THE DEFENSE?

17 MS. OWINGS: YOUR HONOR, WE DO HAVE A DIRECTED
18 VERDICT MOTION.

19 THE COURT: ALL RIGHT.

20 MS. OWINGS: PLEASE INDULGE ME ONE SECOND, YOUR
21 HONOR. YOUR HONOR, I DO HAVE DIRECTED VERDICT MOTION ON A
22 FEW OF THE CHARGES.

23 THE COURT: ALL RIGHT.

24 MS. OWINGS: FIRST OF ALL, YOUR HONOR, MY FIRST
25 DIRECTED VERDICT MOTIONS GO TO THE KIDNAPPING CHARGES. AS

1 YOU'RE AWARE THE DEFENDANT HAS BOTH CAR JACKING AND HE HAS
2 ELECTED TO GO TO TRIAL ON KIDNAPPING, THE A.B.W.I.K. OF
3 MRS. RIGGS AND THE ARMED ROBBERY. YOUR HONOR, WE FEEL THAT
4 CHARGING CAR JACKING AND KIDNAPPING TOGETHER IS DOUBLE
5 JEOPARDY. UNDER DOUBLE JEOPARDY WHERE SOME ACT VIOLATED
6 REQUIRES PROOF OF A FACT.

7 THE OTHER DOES NOT AND THAT'S THE MOCKBERGER TEST,
8 YOUR HONOR. IN THIS CASE I DON'T KNOW THAT YOU CAN HAVE A
9 CAR JACKING WIHTOUT A KIDNAPPING. I DON'T THINK YOU CAN CAP
10 JACK WITHOUT KIDNAPPING AND THIS CASE MR. AND MRS. RIGGS,
11 MR. ELDERS' CHARGE OF KIDNAPPING. WHAT HE DID WAS HE CAR
12 JACKED THEM AND ALL THE EVENTS TOOK PLACE BECAUSE OF THE CAR
13 JACKING.

14 THE COURT: ALL RIGHT. LET ME HEAR THE STATE'S
15 RESPONSE TO THIS MOTION.

16 MS. CAMPBELL: YOUR HONOR, I THINK YOU COULDN'T
17 HAVE A CAR JACKING. SOMEONE COMES AND JUST PUSHES THE
18 PERSON OUT OF THE CAR SOMETHING SUCH AS CRIMINAL SEXUAL
19 CONDUCT CASES. I DON'T HAVE THOSE WITH ME, YOUR HONOR; BUT
20 I'M AWARE THEY ARE OUT THERE. THE ELEMETS ARE QUITE
21 DIFFERENT UNDER THE WHAT-A-BURGER TEST AND OUR POSITION IT
22 RESPECTFULLY THAT CHARGING WHEN SOMEONE OR CONVICTING
23 SOMEONE OF CAR JACKING IS NOT A KIDNAPPING CONVICTION.

24 THE COURT: DO YOU HAVE ANY CASES?

25 MS. OWINGS: YOUR HONOR, SOMEWHAT A NOVEL ISSUE,

1 THE CAR JACKING AND KIDNAPPING I COULD NOT FIND ANYTHING
2 DIRECTLY ON POINT BUT I WOULD ARGUE THAT ANYTIME THAT YOU'RE
3 CAR JACKING WHETHER YOU'R PUSHING SOMEONE OUT OF THE WAY,
4 WHATEVER YOU'RE DOING TO GET THE VEHICLE WITH OUT VERY BROAD
5 DEFINITION OF KIDNAPPING YOU CANNOT CAR JACK WITHOUT
6 KIDNAPPING.

7 THE COURT: IT'S PROBALBY NOT A WHOLE LOT OF CASES
8 ON CAR JACKING, ARE THERE?

9 MS. OWINGS: NO, YOUR HONOR. I DID FIND A LOT OF
10 CASES ON C.S.C. AS MS. CAMPBELL STATED AS FAR AS CAR
11 JACKING THERE IS NOT A LOT OF CASES FOR CAR JACKING PERIOD.

12 THE COURT: MOTION IS DENIED. THER CAR JACKING OF
13 COURSE FOCUSES ON A PERSON. A PERSON'S GUILTY OF THE FELONY
14 OF CAR JACKING WHO TAKES OR ATTEMPTS TO TAKE A MOTOR VEHICLE
15 FROM ANOTHER PERSON. THAT'S NOT AN ELEMENT OF KIDNAPPING
16 AND IT MAY BE THAT THE, I THINK THE C.S.C. ANALOGY IS
17 PROBABLY A GOOD ANALOGY WHERE THE SAME CONDUCT MAY IN FACT
18 VIOLATE TWO DIFFEENT STATUTES. NOW, IT MAY BE A DIFFERENT
19 ISSUE IF THE DEFENDNT IS CONVICTED ON BOTH AS TO WHAT THE
20 PENALTY COULD BE IMPOSED. WE'RE NOT TO THAT POINT YET.

21 MS. OWINGS: YOUR HONOR, FOR THE RECORD HAVE THAT
22 WE'RE GOING, OR I WOULD MOVE FOR A DIRECTED VERDICT IN THE
23 LIGHT MOST FAVORABLE TO THE STATE, IT'S NEVER BEEN ABLE TO
24 PROVE THAT WHENEVER RANDY ELDERS APPROACHED MRS. RIGGS AND
25 THT HE NEVER HAD INTENT. CHRISTINA HALL AND WHETHER OR NOT

1 HE ACUTALLY TOOK THE PURSE OFF HER ARM. FURTHERMORE I MOVE
2 FOR A DIRECTED VERDICT ON THE ASSALUT AND BATTERY WITH
3 INTENT TO KILL WITH MRS. RIGGS. THERE HASN'T BEEN ANY
4 TESTIMONY THAT HE ACTUALLY APPROACHED HER WITH THE KNIFE.
5 TESTIMONY SEEMS TO GO BETWEEN EITHER HE FALLS ON HER OR SHE
6 TRIPS. IT'S VARIED OR SHE'S TACKLED. IT DOESN'T SHOW THERE
7 IS ANY MALICE THERE OR ANY INTENT TO KILL MRS. RIGGS.

8 THE COURT: ALL RIGHT. SOLICITOR.

9 MS. CAMPBELL: YOUR HONOR, AS FAR AS THE ARMED
10 ROBBERY I THINK THE DISPUTED TESTIMONY IS THE DEFENDANT PUT
11 THE KNIFE TO THE THROAT AT THAT TIME, ASSAULTED HER,
12 INDICATED FEAR. YOUR HONOR, HE WAS GOING TO CUT HER THROAT.
13 THE CASES HE PLED GUILTY TO INCLUDE ASSAULT AND BATTER WITH
14 INTENT TO KILL. THE OTHER VICTIM WAS STABBED WITH A KNIFE
15 THAT HE THEN TESTIFIED THE DEFENDANT HAD CONTINUOUSLY AND HE
16 ALSO TESTIFIED THAT THE DEFENDANT HAVING AN ASSAULT ON HIS
17 WIFE, THREW HE DOWN TO THE GROUND AND BASICALLY HELD HER
18 DOWN TO GET HER POCKETBOOK, ACTUALLY SEE THE KNIFE AT THE
19 POINT HE HAD IT UNDER THE NECK.

20 YOU DON'T HAVE TO DISPLAY THE ENTIRE TIME IF YOU
21 ARE ARMED WITH IT OR EVEN A RECISSION IN THIS CASE. WE KNOW
22 THERE WAS A KNIFE INVOLVED. IN ADDITION TO THAT WE KNOW
23 THAT IMMEDIATELY UPON GETTING IN THE CAR HE AGAIN THEN
24 DISPLAYED THE KNIFE AND THAT WAS FOR, AND DID THAT FOR
25 GETTING HIM OUT OF THE CAR.

1 THE COURT: WHO WAS IT TESTIFIED TO THAT? DID
2 MRS. ABBOTT TESTIFY TO THAT?

3 MS. CAMPBELL: MRS. ABBOTT GOT, WHEN THE ONE MAN
4 FROM THE GOLF COURSE CAME OVER WITH THE GOLF CLUB AND RAISED
5 IT TOWARD HIM AND THE TESTIMONY SHOWED HER THIS WAS THE
6 FIRST TIME SHE SAID SHE REALIZED SHE HAD GOTTEN CUT.

7 MS. OWINGS: YOUR HONOR, THE STATE IS ARGUING WHEN
8 MR. ELDERS ALLEGEDLY PUT THE KNIFE AT HER. THAT'S NOT AN
9 A.B.W.I.K. THAT WOULD BE TEH ASSAULT WITH INTENT TO KILL,
10 YOUR HONOR, THAT WOULD BE A BATTERY.

11 MS. CAMPBELL: I WAS JUST ADDRESSING ON ROBBERY.

12 MS. OWINGS: ALL RIGHT. THERE WAS TESTIMONY BY
13 MR. RIGGS THAT THE DEFENDANT STILL HAD THE KNIFE WHEN HE
14 ATTACKED THE WIFE AND HELD HER DOWN AND PULLED THE PURSE OFF
15 AND WHILE MRS. RIGGS TESTIFIED SHE DID NOT ACTUALLY SEE THE
16 KNIFE AT THAT TIME, SHE HAD SEEN IT BEFORE BUT THAT
17 TESTIMONY IN CONJUNCTION WITH THE TESTIMONY THAT A KNIFE WAS
18 USED, SHOWN AFTER THE DEFENDANT WAS IN THE CAR AND THAT SHE
19 ASSUMED HE STILL HAD THE KNIFE IS BOTH DIRECGT AND
20 CIRCUMSTANTIAL EVIDENCE THAT HE DID HAVE A KNIFE IN HIS
21 POCKET ST THE TIME AND I'M NOT PERMITTED TO WEIGH THE
22 EVIDENCE BUT THERE IS SUFFICIENT EVIDENCE TO MAKE OUT THE
23 CHARGE. FOR THAT REASON THOSE MOTIONS FOR DIRECTED BOTH ON
24 A.B.W.I.K AS WELL AS THE ARMED ROBBERY ARE DENIED.

25 MS. OWINGS: YOUR HONOR, THAT WOULD BE ALL FROM

1 THE DEFENSE.

2 THE COURT: ALL RIGHT. ANYTHING FROM THE STATE AT
3 THIS TIME?

4 MS. CAMPBELL: NO, SIR.

5 THE COURT: I INDICATED TO YOU FOLKS EARLIER
6 ACTUALLY I THINK AT YOUR REQUEST IT'S TO THE POINT THAT THIS
7 CASE COULD NOT GET TO THE JURY PRIOR TO PROBABLY 4:30 OR
8 FIVE O'CLOCK AND THAT'S LATER THAN I LIKE PARTICULARLY A
9 CASE THAT HAS TAKEN TWO OR THREE DAYS WHEN THE JURY IS
10 TIRED. I THINK THE DEFENSE AND THE STATE WOULD HAVE A FRESH
11 JURY, MAKE A DECISION IN THE CASE. I'M GOING TO BRING THE
12 JURY IN, EXCUSE THEM FOR THE AFTERNOON AND THEN WE CAN TALK
13 ABOUT CHARGES IN CHAMBERS.

14 MS. CAMPBELL: AND, YOUR HONOR, I DIDN'T KNOW IF
15 YOU WANT TO INQUIRE OF THE DEFENDANT WHETHER OR NOT HE WANTS
16 TO TESTIFY.

17 THE COURT: WELL, I'M --

18 MS. CAMPBELL: I DON'T KNOW WHAT YOUR POLICY IS.

19 THE COURT: I'M NOT REQUIRED TO DO THAT UNLESS HE
20 WANTS TO GIVE THAT RIGHT UP IS MY UNDERSTANDING OF THE LAW
21 AND HAVING DONE ALL OF THAT I MAY HAVE JUMPED THE GUN.

22 WILL THERE BE TESTIMONY AND EVIDENCE PRESENTED BY
23 THE DEFENSE?

24 MS. OWINGS: NO, YOUR HONOR.

25 THE COURT: ALL RIGHT. NOW, WE'RE BACK WITH WHERE

1 WE WERE. THEN WE WILL RECESS FOR THE DAY. I'LL ADVISE THE
2 JURY WE WILL START AT NINE O'CLOCK IN THE MORNING. I'D LIKE
3 TO GET STARTED AS EARLY AS WE CAN. LET'S GET THE JURY BACK
4 IN HERE.

5 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
6 JURY.)

7 THE COURT: ALL RIGHT. MR. FOREMAN, LADIES AND
8 GENTLEMEN, BEFORE YOU WENT OUT YOU HEARD THAT THE STATE HAS
9 RESTED. THAT SIMPLY MEANS THAT ALL THE EVIDENCE THAT WILL
10 BE PRESENTED IN THE CASE HAS BEEN PRESENTED. IF YOU WILL
11 THINK BACK TO WHEN THE CASE BEGAN I TOLD YOU AFTER ALL THE
12 EVIDENCE HAD BEEN PRESENTED THEN THE ATTORNEYS COULD COME
13 BACK IN FRONT OF YOU AND MAKE THEIR CLOSING ARGUMENTS. THEN
14 I WILL INSTRUCT IN THE LAW. THAT'S WHAT WE'RE LEFT WITH IN
15 THE CASE. I'VE GOT A POLICY IN TALKING TO THE ATTORNEYS I
16 DON'T LIKE FOR CASES TO GO TO THE JURY AFTER ABOUT FOUR
17 OR 4:30 IN THE AFTERNOON SIMPLY BECAUSE EVERYBODY'S TIRED
18 AND I DON'T WANT FOLKS TO FELL PRESSURED TO MAKE A DECISION
19 AND SO WE'RE GOING TO BREAK AT THIS POINT.

20 I'M ALSO REQUIRED TO HAVE CONFERENCE WITH THE
21 ATTORNEYS AND GO OVER WITH THEM THE LAW THAT I'LL BE
22 CHARGING YOU. SO WE'LL DO THAT FOR THE REST OF THE
23 AFTERNOON AND I'M GOING TO EXCUSE YOU UNTIL TOMORROW
24 MORNING. WHEN YOU COME BACK YOU WILL HEAR THE CLOSING
25 ARGUMENTS AND I WILL INSTRUCT YOU IN THE LAW. THEN YOU WILL

1 BE SENT BACK TO DELIBERATE AND TO REACH A VERDICT IN THE
2 CASE. AGAIN LET ME CAUTION YOU NOT TO DISCUSS THE CASE WITH
3 ANYONE OR TO WATCH OR LISTEN OR READ ANYTHING ABOUT THE CASE.
4 SO WE WILL START AT NINE O'CLOCK IN THE MORNING.

5 YOU WILL FIRST HEAR FROM THE SOLICITOR AND THEN
6 THE DEFENSE WILL MAKE A FINAL ARGUMENT. THEN YOU'LL HEAR
7 THE INSTRUCTIONS FROM ME. SO AGAIN PLEASE DON'T DISCUSS THE
8 CASE WITH ANYONE. BE HERE AT NINE O'CLOCK IN THE MORNING
9 AND WE'LL CONCLUDE AT THAT TIME. YOU'RE EXCUSED FOR THE
10 AFTERNOON. THANK YOU VERY MUCH. EVERYONE ELSE STAY SEATED.

11 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
12 JURY.)

13 THE COURT: IF YOU FOLKS WILL GIVE ME ABOUT FIVE
14 MINUTES, WE CAN MEET IN CHAMBERS AND TALK ABOUT CHARGES.

15 (THEREUPON, THE TRIAL OF THIS CASE WAS RECESSED UNTIL
16 FRIDAY, FEBRUARY 17, 2006.)

17 MS. OWINGS: YOUR HONOR, THIS IS MELISSA ELDERS.

18 THE COURT: YOU'RE RELATED TO THE DEFENDANT.

19 MS. ELDERS: HE'S MY BROTHER.

20 THE COURT: IT HAS BEEN BROUGHT TO MY ATTENTION
21 ONCE YOU GOT TO THE COURTHOUSE THIS MORNING WHILE YOU WERE
22 OUT IN THE LOBBY HERE I BELIEVE ON THIRD THAT YOU OVERHEARD
23 ONE OF THE INVESTIGATORS MAKING SOME COMMENTS IN THE LOBBY
24 AREA ABOUT THE CASE OR HIS OPINION ABOUT THE CASE AND THAT
25 THERE WERE JURORS WHO WERE FILING THROUGH THAT AREA; IS THAT

1 RIGHT?

2 MS. ELDERS: YES, SIR. HE WAS TALKING TO THE
3 VICTIM. HE SAID, CONTINUOUSLY SAYING THAT IN THE ARGUMENT
4 THAT THEIR BIGGEST ARGUMENT WAS THAT HE NEVER TOOK A
5 STATEMENT. AS THE JURORS FILED BY HE ALSO SAID THAT HE
6 COULD NOT SAY THAT HE WAS NOT GUILTY OF THE CRIME THAT THEY
7 WERE TRYING TO BASICALLY SHOW THAT HE DIDN'T DO THE OTHER
8 CRIMES BECAUSE THEY DID NOT TAKE A STATEMENT AND AS JURORS
9 CONTINUED TO WALK THROUGH HE WOULD GET LOUDER AND LOUDER AND
10 LOUDER AND HE CONTINUED ON THE SAME POIN JUST IN A DIFFERENT
11 MANNER.

12 THE COURT: ALL RIGHT, MS. ELDERS, ANYTHING
13 FURTHER?

14 I HAVE INDICATED TO COUNSEL THAT I WANT TO HEAR
15 FROM THE LADY TO SEE WHAT SHE HAD OVERHEARD. I'M NOW GOING
16 TO INQUIRE OF THE JURY WHETHER ANYONE HAS OVERHEARD ANY
17 COMMENT OR STATEMENT FROM ANYONE CONCERNING THE CASE THIS
18 MORNING AND I WILL DIRECT THEM PARTICULARLY TO THE LOBBY AS
19 THEY WERE COMING INTO THE COURT AREA.

20 MS. OWINGS: YOUR HONOR, MS. SAMPSON IS GOING TO
21 TALK TO THE ATTORNEY WHO WAS IN THE ELEVATOR THIS MORNING I
22 TOLD YOU OUTSIDE OF THE CHAMBERS. IN THE ELEVATOR WAS ONE
23 OF HE PUBLIC DEFENDERS AND HE THOUGHT THE JURY WAS GOING TO
24 BE OUT FOR ABOUT TEN MINUTES.

25 THE COURT: THERE WERE NO JURORS ON THE ELEVATOR.

1 MS. OWINGS: SHE'S GOING TO GO TALK TO MS. NELSON.
2 SHE'S DOING PROBATION REVOCATIONS. SHE TOLD US FIRST THING
3 THIS MORING WHEN SHE GOT IN.

4 THE COURT: ALL RIGHT. OTHER THAN THIS MATTER
5 THAT I NEED TO DEAL WITH IS THERE ANYTHING ELSE BEFORE WE GO
6 INTO CLOSING? IF NONE INDICATE THAT THEY HAVE OVERHEARD
7 ANYTHING WE CAN GO INTO CLOSING. IF ANYONE INDICATES THAT
8 THEY HAVE OVERHEARD SOMETHING, THEN I'M GOING TO MAKE OTHER
9 INQUIRY OTHER THAN THIS MATTER.

10 MS. OWINGS: YES, SIR.

11 THE COURT: ALL RIGHT. THE STATE WILL BE MAKING
12 THE FIRST AND ONLY ARGUMENT FIRST AND THEN THE DEFENSE WILL
13 HAVE THE FINAL ARGUMENT. WE DO HAVE ALL THE JURORS HERE; IS
14 THAT RIGHT? LET'S BRING THEM INTO THE COURTROOM, PLEASE.

15 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
16 JURY.)

17 THE COURT: ALL RIGHT. MR. FOREMAN, LADIES AND
18 GENTLEMEN, BEFORE WE GET TO THE CLOSING ARGUMENTS THERE HAS
19 BEEN A MATTER BROUGHT TO THE COURT'S ATTENTION AND I NEED TO
20 ASK YOU FOLKS A QUESTION OR TWO AND OUR PROCEDURE DOESN'T
21 ALLOW FOR A WHOLE LOT OF MY QUESTIONS AND THERE HAS BDEEN
22 SOME CONCERN VOICED AND BROUGHT TO MY ATTENTION THAT PERHAPS
23 THIS MORNING AS YOU FOLKS WERE COMING INTO THE COURTHOUSE
24 AND COME EITHER THROUGH THE LOBBY AREA HERE ON THE THIRD.
25 FLOOR OR IN THE ELEVATOR THAT INDEIVIDUALS OR AN INDIVIDUAL

1 MAY HAVE BEEN MAKING COMMENTS ABOUT THE CASE OR COMMENTS
2 ABOUT THE FACTS OR COMMENTS ABOUT THE JURY'S DELIBERATIONS
3 AND CONCERNS HAD BEEN EXPRESSED TO THE COURT.

4 AND I JUST WANT TO ASK IF THERE IS ANY MEMBER OF
5 THIS JURY PANEL AS YOU CAME IN THIS MORNING EITHER IN THE
6 LOBBY AREA HERE AT THE COURTHOUSE OR DOWNSTAIRS OR HERE ON
7 THE THIRD FLOOR OR IN THE ELEVATOR IF ANYONE SID ANYTHING TO
8 YO OR IF YOU OVERHEARD ANY COMMENT OR ANY CONVERSATION ABOUT
9 THE CASE FROM ANYBODY. IF ANYONE HAS HEARD ANY COMMENTS OR
10 ANY KIND OF CONVERSATION OR ANY STATEMENT ABOUT THE CASE IF
11 YOU'LL JUST RAISE YOUR HAND AND THEN I'LL HAVE SOME
12 FOLLOW-UP QUESTIONS AND I MAY DEAL WITH THOSE DIFFERENTLY.
13 IF ANYONE DID HEAR ANYTHING IF SO Y'ALL HAVEN'T DONE
14 ANYTHING WRONG. I JUST NEED TO KNOW.

15 (NO RESPONSE.)

16 THE COURT: THE JURY HAS INDICATED THAT THEY'VE
17 NEVER OVERHEARD ANY COMMENT OR ANYTHING LIKE THAT. SO WE
18 WILL CONTINUE AT THIS TIME. I TOLD YOU YESTERDAY THAT WE
19 WERE TO THE POINT IN THE CASE WHERE YOU WILL HEAR THE
20 CLOSING ARGUMENTS. PROCEDURALLY YOU'RE FIRST GOING TO HEAR
21 FROM THE SOLICITOR'S OFFICE AND THEN THE DEFENSE WILL MAKE
22 THE FINAL ARGUMENT OT YOU. NOW, AS THE ATTORNEYS MAKE THEIR
23 ARGUMENT TO YOU AGAIN REMEMBER THAT THE ATTORNEYS ARE NOT
24 TESTIFYING BUT I'M SURE THAT'S THEY'RE GOING TO GO OVER AND
25 REVIEW WITH YOU THEIR MEMORY OF WHAT THE TESTIMONY HAS BEE

STATE CLOSES TO THE JURY

1 IN THIS CASE.

2 THEY HAVE A RIGHT TO DO THAT. I WOULD SIMPLY
3 POINT OUT TO YOU THAT IF YOUR MEMORY DIFFERS FROM THEIRS,
4 YOU RELY ON YOUR MEMORY. ONCE THE ATTORNEYS HAVE COMPLETED
5 THEIR ARGUMENTS TO YOU THEN I'M GOING TO INSTRUCT YOU OR
6 CHARGE YOU WITH THE LAW. THEN YOU WILL BE SENT BACK TO
7 DELIBERATE AND REACH A VERDICT IN THE CASE AND I WOULD ASK
8 YOU TO PLEASE GIVE BOTH ATTORNEYS YOUR FULL ATTENTION AS THEY
9 MAKE THEIR CLOSING ARGUMENTS TO YOU AND WE MAY OR MAY NOT
10 TAKE A SHORT BREAK BEFORE I INSTRUCT YOU IN THE LAW JUST SO
11 SORT OF CONTINUING ON WHERE WE ARE.

12 MS. CAMPBELL: MAY IT PLEASE THE COURT.

13 GOOD MORNING. LADIES AND GENTLEMEN, FIRST THING I
14 WANT TO DO IS TAKE THIS OPPORTUNITY TO THANK YOU FOR YOUR
15 SERVICE IN THIS CASE. I THINK IT HAS BECOME OBVIOUS OVER
16 THE LAST SEVERAL DAYS THAT THIS IS A VERY IMPORTANT CASE
17 BOTH TO THE STATE, THE CITIZENS OF RICHLAND COUNTY TO BE
18 REPRESENTED AND TO THE DEFENDANT IN THIS CASE. YOU'VE BEEN
19 FOCUSED. YOU'VE PAID ATTENTION AND I KNOW THERE ARE OTHER
20 PLACES YOU WOULD PROBABLY RATHER BE. HOWEVER, ON BEHALF OF
21 THE STATE OF SOUTH CAROLINA, THE CITIZENS OF RICHLAND
22 COUNTY, I WANT TO THANK YOU FOR SERVING AS JURORS IN THIS
23 CASE.

24 AND AS I JUST TOLD YOU THIS IS THE LAST TIME
25 YOU'RE GOING TO HEAR FROM THE STATE. I'M GOING TO TALK TO

1 YOU A LITTLE BIT FIRST ABOUT THE LAW AND THE LAW IN THIS
2 CASE AND THEN I'M GOING TO TALKD WITH YOU BRIEFLY ABOUT WHAT
3 THE FACTS HOW AND HOW THEY DO APPLY TO THE LAW AND THEN
4 YOU'RE GOING TO HEAR FROM THE DEFENSE ATTORNEYS AND I'M NOT
5 GOING TO HAVE AND OPPORTUNITY TO GET BACK UP AND REPLY TO
6 ANYTHING SHE SAYS. SO I'M PROBABLY GOING TO PHYSICALLY TALK
7 ABOUT THE LAW.

8 IF I'M MISQUOTING THE LAW AND THE JUDGE TELLS YOU
9 SOMETHING DIFFERENT, YOU TAKE THE LAW AS THE JUDGE GIVES IT
10 TO YOU BUT YOU TAKE THE LAW AS THE JUDGE GIVES IT TO YOU
11 BECAUSE HE IS THE SOLE, HE'S THE JUDGE OF THE LAW AND HE
12 WILL AND HE WILL TELL YOU WHAT THE LAW IS THAT YOU MUST FIND
13 THE FACTS AND ALSO AS WE ARE UP HERE TALKING BEFORE YOU,
14 EITHER SIDE GET THE FACTS. YOU REMEMBER THE FACTS BECAUSE
15 THE ROLES IN THIS COURTROOM ARE VERY WELL DEFINED. IT'S FOR
16 A REASON. WHOSE ALL WANTING THE DEFENDANT TO BE GUILTY IN
17 THIS CASE AND THE DEFENSE'S WHOLE CASE IS VERY WEAK.

18 THE JUDGE IS TO RULE ON THE ADMISSIBILITY OF
19 EVIDENCE WHICH HE WILL TELL YOU WHAT THE LAW IS BUT BE FAIR,
20 LADIES AND GENTLEMEN. NO ONE'S GOING TO DISPUE THE MOST
21 IMPORTANT ROLE IN THIS COURTROOM IS YOURS. EACH OF YOU
22 INDIVIDUALLY AND WHEN YOU GET BACK IN THAT JURY ROOM
23 COLLECTIVELY, YOU MUST DETERMINE WHAT HAPPENED BACK ON APRIL
24 THE 17TH OF LAST YEAR. YOU ARE THE SOLE FINDERS OF THE
25 FACTS. YOU MUST DETERMINE WHO IS CREDIBLE AND WHO IS NOT

1 AND NOW, LADIES AND GENTLEMEN, YOU'VE NOW HEARD ALL THE
2 EVIDENCE THAT YOU CAN CONSIDER IN THE CASE AND THE EVIDENCE,
3 NOT QUESTIONS BY THE LAWYER'S FISHING EXPEDITION.

4 THE EVIDENCE IS THE TESTIMONY, THE SWORN TESTIMONY
5 AND THE THE PHYSICAL EVIDENCE THA THE JUDGE ALLOWED IN.
6 IT'S NOT SPECULATION, CONJECTURE OR HUST SHEER WISFUL
7 THINKING, EVIDENCE, SWORN TESTIMONY. IF A LAWYER ASKS A
8 QUESTION AND THE ANSWER IS NO JUST BECAUSE THEY ASKED THE
9 QUESTION DOESN'T MEAN I WANT TO TAKE THE OPPORTUNITY TO
10 APOLOGIZE IF I HAVE DONE ANYTHING OVER THE LAST COUPLE OF
11 DAYS TO OFFEND YOU, IF WE HAVE SOMETIMES WE GOT CAUGHT UP IN
12 LEGAL WRANGLING, OBJECTIONS. EVIDENCE MAY BE ADMISSIBLE AT
13 ONE POINT, NOT ADMISSIBLE.

14 WE HAVE INTENDED TO QUESTION THE WITNESSES IN A
15 COHESIVE MANNER. AT TIMES I HAVE BEN IN ARTICULATE, SLOPPY
16 IN THE QUESTIONS SO DON'T HOLD IT AGAINST THE PROSECUTION I
17 KNOW, PLEASE DON'T HOLD IT AGAINST MR. AND MRS. RIGGS JUST
18 BECAUSE OF THAT INVESTIGATOR. THIS IS TRUE. THIS IS RANDY
19 CHARLES ELDERS DAY IN COURT BUT, LADIES AND GENTLEMEN, ALSO
20 DWIGHT RIGGS AND KATHRYN RIGGS DAY. CRIMINAL CASES SO
21 SOMEWHAT YOU SEEK THE TRUTH BECAUSE IN CRIMINAL CASES THE
22 DEFENDANT HAS THE ABSOLUTE RIGHT TO CONFRONT EACH AND EVERY
23 WITNESS SUCH AS THE D.N.A. REPORT, THE STATEMENTS THAT WERE
24 TAKEN.

25 THIS WS NOT ABOUT STATEMENTS THAT WERE TAKEN TO

1 DIFFERENT REPORTS BY POLICE AND AS YOU NOTICED NONE OF THOSE
2 HAVE BEEN INTRODUCED OTHER THAN THE REPORT FROM INVESTIGATOR
3 BROWN AND THE REASON FOR THAT THE DEFENDANT HAD A RIGHT TO
4 CROSS-EXAMINE. YOU HAVE A RIGHT TO JUDGE THE CREDIBILITY OF
5 EACH AND EVERY WITNESS. THEY MUST GET UP HERE BEFORE YOU.
6 THAT'S WHY YOU HAVEN'T HEARD ABOUT THE DEFINITIONS. THAT'S
7 WHY YOU HAVEN'T SEEN ANY VIDEO DEPOSITIONS IN CRIMINAL
8 CASES. THE STATE MUST BRING THE EVIDENCE BEFORE YOU. THE
9 STATE HAS NOW CALLED ALL THE WITNESSES WHO HAVE SOMETHING TO
10 ADD TO THIS CASE.

11 AS YOU HEARD IN CERTAIN SITUATIONS, THE SEARCH,
12 THERE WERE NUMEROUS OFFICERS. I BELIEVE THERE WERE THREE OF
13 THEM. THERE WERE MORE THERE. THE STATE DOES NOT JUST CALL
14 WITNESS AFTER WITNESS TO TESTIFY TO THE SAME THING OVER AND
15 OVER. IT'S CALLED CUMULATIVE EVIDENCE BUT YOU HAVE HEARD
16 EACH AND EVERY WITNESS AS FAR AS THE FACTS AND THE ISSUES
17 IN THIS CASE. YOU HAVE NOTHING TO CONTRIBUTE. YOU MAY
18 WONDER WHY YOU DIDN'T HEAR FROM THE DOCTOR IN THE CASE. THE
19 STATE'S NOT UP HERE JUST REFUTING THAT THESE WOUNDS FATAL
20 AND IN ANY EVENT THE DEFENDANT HAS PLED GUILTY TO THE
21 ASSAULT AND BATTERY WITH INTENT TO KILL IN THIS CASE.

22 HE'S SEEN THE PHOTOS AND YOU'VE HEARD THE
23 TESTIMONY AND THAT'S WHY. NOW, IN EVERY CRIMINAL CASE THE
24 BURDEN OF PROOF IS ON THE STATE OF SOUTH CAROLINA TO PROVE
25 THE DEFENDANT GUILTY BEYOND A REASONABLE DOUBT AND, LADIES

1 AND GENTLEMEN, LET ME TELL YOU RIGHT NOW IN THIS CASE WITH
2 THESE FACTS AND THAT IS THE BURDEN. WHAT IS PROOF BEYOND A
3 REASONABLE DOUBT? THE MEANING IS TRUE PROOF BEYOND A
4 REASONABLE DOUBT IS THE HIGHEST LEVEL OF PROOF WE HAVE.
5 HOWEVER THE COURTS ARE GOING TO TELL ME WAYS TO TRY TO
6 DEFINE IT.

7 IT IS SIMPLY THE BEST WAY WAY OF DEFINING GUILTY
8 BEYOND A REASONABLE DOUBT THE SIMPLEST WAY. THE JUDGE IS
9 GOING TO INSTRUCT YOU THAT KIND OF THAT WOULD, REASONABLE
10 DOUBT WOULD MAKE A MAN HESITATE TO ACT, A REASONABLE MAN
11 HESITAIT TO ACT. THAT'S THE SIMPLEST WAY TO PUT IT.
12 HOWEVER, THE COURTS HAVE GONE FURTHER IN THEIR DEFINITION.
13 OKAY. IN THE STATE VERSUS DARBY VERY SIMPLY, LADIES AND
14 GENTLEMEN, IT'S A LITTLE LONGER BUT PROOF BEYOND A
15 REASONABLE DOUBT IS PROOF THAT LEAVES YOU FIRMLY CONVINCED
16 OF THIS MAN'S GUILT.

17 I'M GOING TO REPEAT PROOF BEYOND A REASONABLE
18 DOUBT IS PROOF THAT LEAVES YOU FIRMLY CONVINCED OF THE
19 DEFENDANT'S GUILT. THERE ARE VERY FEW THINGS IN THIS WORLD
20 THAT WE KNOW WITH ABSOLUTE CERTAINTY AND IN CRIMINAL CASES
21 THE LAW DOES NOT REQUIRE PROOF THAT OVERCOMES EVERY POSSIBLE
22 DOUBT. IF BASED ON YOUR CONSIDERATION OF THE EVIDENCE,
23 EXCUSE ME, YOU ARE FIRMLY CONVINCED, FIRMLY CONVINCED THAT
24 THE DEFENDANT IS GUILTY OF THE CRIME CHARGED YOU MUST FINE
25 HIM GUILY WITH ALL THE OTHER EVIDENCE THERE IS A REAL

1 POSSIBILITY HE DIDN'T DO THIS THING, THEN YOU HAVE A DUTY TO
2 GIVE HIM THE BENEFIT OF THE DOUBT AND FIND HIM NOT GUILTY,
3 AGAIN FIRMLY CONVINCED. YOU DON'T HAVE TO OVERCOME EVERY
4 POSSIBLE DOUBT. BACK TO THE DEFINITION OF BEYOND A
5 REASONABLE DOUBT THE JUDGE CHARGES YOU.

6 NOW, IN THIS CASE WHEN WE CHOSE YOU AS A JUROR,
7 THERE WERE WORDS HEARD FROM THE JUDGE THE DEFENDANT HAS PLED
8 GUILTY TO TWO OF THOSE INDICTMENTS THAT THE GRAND JURY TRUE
9 BILLED. THEY ALSO TRUE BILLED AN ADDITIONAL FOUR
10 INDICTMENTS IN THIS CASE AND THOSE CHARGES AND THERE FOUR
11 SEPARATE INDICTMENTS ARE ARMED ROBBERY, ASSAULT AND BATTERY
12 WITH INTENT TO KILL AND TWO COUN6S OF KIDNAPPING, ONE FOR
13 MR. RIGGS AND ONE FOR MRS. RIGGS. THE OTHER CHARGES ARE
14 FOCUSED ON MRS. RIGGS. JUST TAKING THESE IN ORDER AND GOING
15 OVER THE ELEMENTS AND THE ELEMENTS OF THOSE OFFENSES ARE
16 IMPORTANT, VERY SIMPLE. WHAT IS ARMED ROBBERY?

17 AND THE EASIEST WAY TO THINK ABOUT ARMED ROBBERY,
18 THE LESSER INCLUDED SOMETIMES AND THE JUDGE MAY GIVE YOU
19 THIS AND I DON'T KNOW WHETHER HE WILL OR NOT IS TO THINK OF
20 IT BASICALLY OF A LARCENY WITH SOME FORCE OR IN THIS THE
21 JUSE OF A DEADLY WEAPON AND THE JUDGE WILL DEFINE FOR YOU
22 THAT A KNIFE SUCH AS THIS IS NOT A DEADLY WEAPON. THIS IS
23 CONSIDERED A DEADLY WEAPON OR ANY KNIFE SIMILAR TO IT. WHAT
24 IS ARMED ROBBERY? VERY SIMPLY THE ELEMENTS, ONE AT THAT
25 TIME THE FIRST YHOU CAN SEE IS A LARCENY WITH FORCE OR THE

1 USE OF A WEAPON.

2 WHAT IS LARCENY? SIMPLEST WAY THE DEFINITION IS
3 STEALING GOODS OF ANOTHER PERSON. VERY SIMPLY IT'S THE
4 TAKING OF PROPERTY FROM THE PERSON OF ANOTHER. IT DOESN'T
5 HAVE TO BE OUT OF THEIR POCKET AS THOUGH IN THIS CASE OFF
6 THE ARM. IT DOESN'T HAVE TO BE ANYTHING. IT HAS TO BE ON
7 THEIR PERSON OR CONTRO, AT LEAST A LARCENY. WHEN YOU TAKE
8 FROM THE OTHER THAT DOESN'T HAVE TO BE IN THEIR PRESENCE FOR
9 IT TO BE LARCENY ONCE IT BECOMES THEIR PROPERTY. IF YOU
10 USED ANY KIND OF FORCE OR THE USE OF A DEADLY WEAPON, THEN
11 IT BECOMES ROBBERY.

12 IN THIS CASE ARMED ROBBERY VERY SIMPLY, LADIES AND
13 GENTLEMEN, TAKING PROPERTY IN THE PRESENCE OF ANOTHER FROM
14 EITHER FORCE OR SIMILAR CASE OR THE LAW EVEN GOES SO FAR AND
15 RECOGNIZES THE DANGEROUS NATURE INHERENT IN PEOPLE EITHER
16 THREATENING THE USE OF A WEAPON OR USING A WEAPON, YOU DON'T
17 HAVE, EVEN HAVE TO HAVE A WEAPON AND IN THIS CASE THERE IS
18 NO DISPUTE. THEY AREN'T GOING TO GET UP HERE AND TELL YOU
19 THERE WAS A KNIFE. THEY'VE ALREADY PLED TO WHERE HE GOT
20 STABBED.

21 THERE WAS A KNIFE AND IN THAT SAME SPECIFIC ARMED
22 ROBBERY THE JUDGE WILL TELL YOU PART OF HIS CHARGE AND IT
23 WILL BE PART OF HIS CHARGE TO OFFENSE OF ARMED ROBBERY
24 OCCURREDD WHEN HE COMMITTED A ROBBERY WHILE ARMED WITH A
25 DEADLY WEAPON BUT THE DISPLAY OF A DEADLY WEAPON IS NOT AN

1 ESSENTIAL ELEMENT IF HE IS IN FACT ARMED WHETHER OR NOT HE
2 USES IT. IN ORDER FOR IT TO BE ARMED ROBBERY, YOU DON'T
3 HAVE TO STAB SOMEBODY FOR IT TO BE ARMED ROBBERY. YOU DON'T
4 HAVE TO SHOW THE WEAPON BUT DO YOU REMEMBER THE TESTIMONY IN
5 THE CASE? MRS. RIGGS AND SHE WAS ON THE STAND SHE DIDN'T
6 ACTUALLY SEE THE WEAPON BUT SHE STARTED TRYING TO GET AWAY.

7 SHE KNEW HE HAD THE WEAPON AND THE UNDISPUTED
8 TESTIMONY IN THIS CASE IS HE HAD THE WEAPON. THE REASON SHE
9 KNEW HE HAD IT HE HAD JUST TAKEN IT AWAY FROM HER THROAT
10 WHEN HE THREATENED TO CUT IT OPEN. YOU HAVE A KNIFE IN THE
11 ENTIRE ASSAULT. HE'S ALREADY PLED GUILTY TO THE ASSAULT
12 WITH THE WEAPON FOR STABBING HIM AND STABBING HER.
13 MRS. RIGGS TOLD YOU ONCE HE GOT HER KEYS SHE STILL HAD THE
14 WEAPON AND HOW DO YOU KNOW HE HAD THE WEAPON. THERE WAS NONE
15 LEFT AT THE SCENE. WE WOULD HAVE FOUND THAT AND MOST
16 IMPORTANT PART OF THE SHERRY ABBOTT, THE INDEPENDENT
17 WITNESS, WHAT DID SHE TELL YOU?

18 AS SOON AS HE GOT IN THE CAR A MAN COMES UP TRYING
19 TO HELP THESE PEOPLE WITH HIS GOLF CLUB BUT GETS THEM AWAY.
20 HE'S STILL GOT THE KNIFE AND THAT'S WHEN HE SHOWS IT AGAIN.
21 IT SUBMIT, LADIES AND GENTLEMEN, BASED ON THE EVIDENCE IN
22 THIS RECORD THERE IS ABSOLUTELY NO WAY TO SAY HE UNARMED. I
23 DON'T KNOW IF WE CAN KIND OF ARGUE THAT SHE LEFT IN THE CAR
24 BECAUSE NO ONE ELSE EVEN -- THEN THE TAKING OF THE PURSE
25 FROM HER PRESENCE IS IN HER DOMINION AND CONTROL, EVERYONE

1 THERE, PERIOD. IT'S STILL ARMED ROBBERY. IF HE'S STILL
2 ARMED HE'S STILL AFFECTING HIS ABILITY TO GET AWAY WITH THE
3 KNIFE. AND I'LL GET BACK TO THAT.

4 VERY SIMPLY LISTEN TO THE JUDGE'S CHARGE ON ARMED
5 ROBBERY. THE NEXT CHARGE, LADIES AND GENTLEMEN, WE'RE
6 TALKING ABOUT IS ASSAULT WITH INTENT TO KILL AND THE JUDGE
7 WILL TELL YOU SOMEONE IS A MISNOMER. THE EASIEST WAY FOR
8 SOME PEOPLE TO THINK ABOUT IT IF HE HAD STABBED KATHRYN
9 RIGGS THAT DAY AND KILLED HER WOULD IT BE MURDER? I SUBMIT,
10 LADIES AND GENTLEMEN, YES, IT WOULD. THAT'S THE SIMPLEST
11 WAY TO THINK OF IT BUT WE DON'T HAVE TO INFER THAT. HE
12 INTENDED SPECIFICALLY TO KILL HER. ALL WE HAVE TO PROVE THAT
13 HE ASSAULTED WITH AN UNLAWFUL ACT OF VIOLENCE, PHYSICAL
14 INJURY OR AN ABILITY TO GO THROUGH WITH IT TO THE PERSON OF
15 ANOTHER WITH MALICE AFORETHOUGHT.

16 I SUBMIT, LADIES AND GENTLEMEN, THEY MAY GET UP
17 HERE AND TRY TO ARGUE THIS IS NOT AN ASSAULT AND BATTERY WITH
18 INTENT TO KILL. IT IS JUST AN ASSAULT AND BATTERY OF A HIGH
19 AND AGGRAVATED NATURE AND IN THAT SAME, WHEREVER THERE IS A
20 GREATER OR LESSER CHARGE. THE JUDGE WILL ALSO CHARGE YOU
21 ALSO CERTAIN OFFENSES ON THE IN THIS CASE OR THE DEFENSE IN
22 THIS CASE OR THE JUDGE IN THIS CASE WILL SUBMIT TO YOU ON
23 ARMED ROBBERY CHARGES TO THE LEVELS OF ROBBERY. THE FIRST
24 IS ARMED ROBBERY AND THE SECOND IS STRONG ARMED ROBBERY
25 WHICH IS LESSER INCLUDED.

1 THE DEFENSE WILL GET UP HERE AND TELL YOU HE PLED
2 ON MRS. RIGGS THAT IT WAS ONLY A STRONG ARMED ROBBERY.
3 LADIES AND GENTLEMEN, THE FACTS OF THIS CASE THERE IS NO
4 DISPUTE THA HE EITHER HAD A WEAPON, PURPORTED TO HAVE A
5 WEAPON DURING THIS ENTIRE CHAIN OF EVENTS, THIS CONTINUING
6 CHAIN OF EVENTS IN THIS CASE. THE JUDGE WILL ALSO INSTRUCT
7 YOU ON THE MULTIPLE OFFENSES CAN COME OUT OF ONE SET OF
8 EVENTS AS IN THIS CASE. THE VICTIM CAN BE PROPERLY BEFORE
9 YOU BASED ON WHAT THE DEFENDANT DOES IN THIS CASE. IT'S A
10 CHAIN OF EVENTS THAT HAPPENED FOR 10, 15, 20 MINUTES, ARMED
11 ROBBERY.

12 HE ALSO IS CHARGED IN THE ASSAULT CHARGE. THE
13 ASSAULT AND BATTERY WITH INTENT TO KILL IS THE GREATER
14 CHARGE. HE'S ALSO GOING TO TALK TO YOU ABOUT A LESSER
15 CHARGE WHICH IS ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED
16 NATURE AND THE SIMPLEST WAY, THE DIFFERENCE BETWEEN THE TWO
17 IS TO GIVE ASSAULT OF A HIGH AND AGGRAVATED NATURE, SERIOUS
18 BODILY INJURY. THE DEFENSE IN THE A MAN ASSAULTING A WOMAN
19 AND I DON'T THINK ANYBODY'S CONVINCED TO SAY OKAY, HOW ELSE
20 DID SHE GET INJURED. THE SIMPLEST WAY TO SHOW IT IS ASSAULT
21 AND BATTERY WITH INTENT TO KILL DOESN'T HAVE TO SHOW BUT IT
22 DOES HAVE TO SHOW MALICE AFORETHOUGHT EXPRESSED OR IMPLIED
23 ADN WHAT IS THAT, LADIES AND GENTLEMEN?

24 THIS DEFENSE OF MALICE AFORETHOUGHT AND THE JUDGE
25 WILL GIVE YOU MORE BUT CLASICALLY IT'S AN UNLAWFUL ABILITY

1 WITHOUT JUST CAUSE OR EXCUSE. THE JUDGE WILL ALSO CHARGE
2 YOU THAT WHEN CONSIDERING WHETHER OR NOT MALICE IS PRESENT
3 AND THE ASSAULT ON MRS. RIGGS YOU CAN CONSIDER THIS
4 LANGUAGE, MALICE DOES NOT NECESSARILY IMPART ILL WILL TOWARD
5 THE INDIVIDUAL WHICH SIGNIFIES THAT A GENERAL MALICIOUSNESS
6 AND RECKLESSNESS OF THE LIFE AND SAFETY OF OTHERS OR A
7 CONDITION OF THE MIND WHICH SHOWS A HEART REGARDLESS OF
8 SOCIAL DUTY AND FATALLY BENT ON MISCHIEF AND I SUBMIT,
9 LADIES AND GENTLEMEN, THE FACTS IN THIS CASE, RANDY ELDERS'
10 ACTIONS BECAUSE HE WASN'T LIVING UNTIL HE GOT HIS CAR AND HE
11 GOT HIS MONEY.

12 I WOULD SUBMIT HE'S THE POSTER BOY FOR A CONDITION
13 OF THE MIND. HE SHOWS A HEART REGARDLESS OF SOCIAL DUTY AND
14 FATALLY BENT ON MISCHIEF, A GENERAL MALICIOUSNESS AND
15 RECKLESSNESS OF LIVES AND SAFETY OF OTHERS. I SUBMIT,
16 LADIES AND GENTLEMEN, THAT THE ASSAULT ON MRS. RIGGS RAISES
17 TO THE LEVEL WE DON'T HAVE TO PROVE THAT SHE ALMOST DIED.
18 WE DON'T HAVE TO PROVE THAT SHE WAS EVEN INJURED. FOR IT TO
19 BE ASSAULT AND BATTERY WITH INTENT TO KILL BECAUSE THE JUDGE
20 WOULD TELL YOU THE ELEMENTS. AN ASSAULT OCCURRS WHEN
21 SOMEONE WALKS UP TO ANOTHER PERSON.

22 I WALK UP TO ANOTHER PERSON AND I PULL MY FIST
23 BACK AND I GO TO HIT THEM BUT I MISS THEM. THAT'S WHAT WE
24 CALL A SIMPLE ASSAULT. ONCE THERE IS ANY TOUCHING HOWEVER
25 SLIGHT THEN IT BECOMES BATTERY, ASSAULT AND BATTERY. IF THE

1 ACT IS WITH MALICE IN HIS HEART AT THE TIME WE DON'T HAVE TO
2 PROVE HE SLMOST DIED JUST LIKE MR. RIGGS. HIS WOUNDS WERE
3 POTENTIALLY FATAL. ALL WE HAVE TO PROVE WAS THAT HE ACTED
4 WITH THAT SAME INTENT. THAT'S, LADIES AND GENTLEMEN, WHEN
5 YOU PUT A KNIFE TO SOMEONE'S THROAT AND THREATEN TO SLICE IT
6 OPEN.

7 WHEN SOMEONE INTERCEDES ON YOUR BEHALF AND THEY'RE
8 STILL TRYING TO STAB THEM, THIS INTENT IS PRETTY OBVIOUS.
9 THE DIFFERENCE BETWEEN ASSAULT AND BATTERY OF A HIGH AND
10 AGGRAVATED NATURE AN DASSAULT AND BATTERY WITH INTENT TO
11 KILL IS MALICE. YOU WILL HEAR THE AFORETHOUGHT THAT DOESN'T
12 HAVE TO BE HERE FOR A LONG AMOUT OF TIME. NOW, BUT IN THIS
13 CASE, LADIES AND GENTLEMEN, USUALLY MALICE, MOST PEOPLE
14 DON'T WALK UP TO A PERSON, WAIT A MINUTE, I'M GOING TO KILL
15 YOU. I'M GOING TO SHOOT YOU; I'M GOING TO STAB YOU. THE
16 LAW RECOGNIZES YOU CAN INFER IT FROM THE USE OF A DEADLY
17 WEAPON.

18 YOU CAN INFER MALICE FROM THE USE OF A DEADLY
19 WEAPON. IN THIS CASE WE KNOW BECAUSE HE ANSWERED WHAT HE'S
20 WILLING TO DO AND TO GET HIS HEART. SO HE, AND I SUBMIT,
21 LADIES AND GENTLEMEN, IN THIS CASE WITH THESE FACTS THE
22 STATE HAS PROVEN THAT MALICE DID EXIST. THE INITIAL
23 ASSAULT, THE INITIAL ONE WHEN HE GRABBED HOLD OF HER, WHEN
24 HE PUT THE KNIFE TO HER THROAT, AND THEN WHEN HE COMES NOT
25 LEAVING WITHOUT LISTENING TO THE JUDGE FOR THE FINE.

1 ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE,
2 GENERALLY THE LACK OF MALICE REDUCES IT TO ASSAULT AND
3 BATTERY OF A HIGH AND AGGRAVATED NATURE.

4 TO FIND TWO INDICTMENTS BEFORE YOU, LADIES AND
5 GENTLEMEN, AND YOU MUST CONSIDER EACH OF THESE SEPARATELY,
6 EACH ONE HAS A SEPARATE VERDICT. OKAY, KIDNAPPING. VERY
7 SIMPLY, LADIES AND GENTLEMEN, OUR KIDNAPPING STATUTE IS
8 THIS: IT IS VERY SIMPLE. IT IS UNLAWFUL TO SIEZE, CONFINE,
9 INVEIGLE, DECOY, KIDNAP , ABDUCT OR CARRY AWAY ANY OTHER
10 PERSON BY ANY MEANS WHATSOEVER WITHOUT THE AUTHORITY OF LAW
11 AND NO ONE IS GOING TO GET UP HERE AND TELL YOU THAT THIS
12 MAN HAD THE RIGHT TO KIDNAP THESE PEOPLE. HE HAD NO
13 AUTHORITY OF LAW.

14 SO THIS IS NOT A REAL ISSUE IN THE CASE BUT WHAT
15 ARE THESE DEFENSES? SEE ALL THESE WORDS OR THE JUDGE WILL
16 DEFINE EACH AND EVERY ONE OF THEM. LISTEN CAREFULLY BUT WE
17 ONLY HAVE TO PROVE ONE OF THEM, ONE OF THEM. THAT IS YOU
18 CAN CONSIDER THE FIRST TWO ARE INVEIGLE OR DECOY. THE LAW
19 RECOGNIZES THAT CERTAIN PEOPLE MAY TRY TO MANIPULATE OTHER
20 PEOPLE THROUGH DECIET TO LURE THEM INTO DOING SOMETHING
21 THROUGH TRICKERY AND I SUBMIT, LADIES AND GENTLEMEN, IN THIS
22 CASE WHE RANDY ELDERS GOT IN THAT CAR HIS PLAN WAS NOT TO
23 GET A RIDE TO THE MARKET.

24 HIS PLAN WAS GET TO THE MARKET SO HE COULD PULL
25 THE KNIFE SO HE COULD THEN FORCE THEM TO GO TO SOME SECLUDED

1 AREA SO HE COULD ROB THEM AND DO WHATEVER ELSE HE WANTED.
2 INVEIGLE MEANS LO LURE, SURPRISE OR LEAD ASTRAY BY FALSE
3 REPRESENTATIONS PROMISES OR OTHER DECEITFUL MEANS. DECOY
4 MEANS TO LURE BY A DECOY. A DECOY IS SOMETHING TO ENTICE A
5 PERSON INTO A TRAP AND THAT HAPPENED. THE DAY YOU'VE HEARD
6 FROM CHRISTINA HALL SHE WAS WELL ON THAT DAY. IT WAS
7 UNDISPUTED. SHE GOES UP AND ASKED FOR A RIDE. THEY NEEDED
8 A RIDE AND THEY DO ANYTHING IN OUR COMMUNITY.

9 YOU CAN'T HELP OUT SOMEBODY WITHOUT PROBABLY
10 LOSING YOUR LIFE. THEY DID DO THE RIGHT THING. THEY GAVE
11 THEM A RIDE BECAUSE THEY NEEDED IT. BUT, LADIES AND
12 GENTLEMEN, I SUBMIT THE EVIDENCE IN THIS CASE SHOWS THEY
13 WEREN'T PLANNING ON GETTING OUT AT MIKE'S PRODUCE MARKET,
14 WHATEVER YOU WANT TO CALL IT. AND HOW DO WE KNOW THE PLAN
15 HAS CHANGED AT THAT POINT. I SUBMIT FROM THE MOMENT THEY
16 GOT INTO THAT CAR THAT THE KIDNAP WAS IN EFFECT. THIS IS UP
17 TO YOU TO DECIDE. IN THIS CASE THERE ARE OTHER WAYS TO
18 PROVE BUT I SUBMIT AT THAT MOMENT THESE TWO PEOPLE COMING
19 HOME FROM CHURCH UNDER THEIR CONTROL BECAUSE THEY LURED
20 THEM, ENTICED THEM LEAD ASTRAY BY FALSE REPRESENTATION.

21 THEY DECOYED, ENTICED A PERSON INTO A TRP AND
22 THERE IS NO DISPUTE, LADIES AND GENTLEMEN, WHAT HIS INTENT
23 WAS. EVEN YOU DON'T THINK HE HAD TO PLAN AHEAD OF TIME,
24 LADIES AND GENTLEMEN. EVEN IF YOU DON'T AND THEY MAY GET UP
25 HERE AND ARGUE THIS IS ONLY AN ATTEMPTED KIDNAPPING AND

1 ATTEMPTED KIDNAPPING IS WHEN SOMEONE PLANS TO KIDNAP SOMEONE
2 BUT NEVER GETS TO FOLLOW THROUGH. IN THIS CASE, LADIES AND
3 GENTLEMEN, IF YOU DON'T THINK HE PLANNED IT THE MOMENT HE
4 PUT HIS KNIFE IN HIS HAND AND PUT IT AROUND HER THROAT AND
5 HELD HER, TOUCHED HER, GRABBED HER BY THE SHOULDER AND HELD
6 HER AT THAT MOMENT.

7 EVEN IF YOU PROVE THE OTHER HE HAD COMPLETED THE
8 KIDNAPPING. ONCE THERE WAS A TOUCHING, EVEN IF JUST FOR A
9 SECOND, AND LISTEN CAREFULLY TO THE JUDGE IN KIDNAPPING.
10 THERE IS NO TIME PERIOD. YOU KNOW, TRADITIONALLY IN YOUR
11 MIND YOU THINK OF KIDNAPPING YOU PUT SOMEBODY IN THE TRUNK
12 OF A CAR, DRIVE ACROSS THE STATE LINE. THAT'S NOT THE LAW
13 AND LISTEN TO THE JUDGE. ONCE A PERSON SEIZED OR CONFINED
14 REMEMBER WE DON'T HAVE TO PROVE ALL OF THOSE, JUST ONE. AT
15 THAT MOMENT THE KIDNAPPING WAS COMPLETE AND THAT'S WHY IT'S
16 BECAUSE IT'S NOT A PROPER CHARGE.

17 THE HOLDUP, SUDDEN OR FORCEFULLY AND I SUBMIT,
18 LADIES AND GENTLEMEN, AT THAT POINT THE KIDNAPPING WAS
19 COMPLETE AND THAT'S WHY NOW, THEY'RE GOING TO GET UP HERE
20 AND ARGUE THAT DOESN'T WORK. KIDNAPPING. I'LL GET
21 MR. RIGGS BECAUSE IT DIDN'T LAST LONG ENOUGH. THEY DIDN'T
22 STUFF HIM IN THE TRUNK. THEY DIDN'T EVEN KILL HIM. THEY
23 TRIED BUT THEY DIDN'T GET TO. THAT DOES NOT, IT'S ALMOST
24 LIKE THEY WANT TO REWARD HIM FOR THE FACT THEY THOUGHT BRAVE
25 ENOUGH TO FIGHT BACK. HETS A REWARD BECAUSE AS LONG AS HE

1 HAD INTENT TO KIDNAP AND, LADIES AND GENTLEMEN, I SUBMIT
2 THERE IS INTENT IN THIS CASE IS NOT DISPUTED.

3 HIS VERY WORDS ARE KEEP GOING STRAIGHT OR I'LL CUT
4 HER THROAT. HE WASN'T INVITING THEM OUT FOR A SUNDAY
5 AFTERNOON RIDE. HE WAS TAKING CONTROL AND HIS INTENT WAS TO
6 KIDNAP THEM AND ROB THEM AND MAYBE WHATEVER ELSE THAT WAS
7 HIS INTENT BUT THE INTENT ISSUE IS NOT A QUESTION. ONCE HE
8 TAKES HOLD OF HER EVEN FOR A SECOND AND I'LL GET BACK WHEN
9 WE COME BACK HERE. WHAT ABOUT MR. RIGGS? REMEMBER HE SAYS,
10 NO, I WILL NOT DO IT BECAUSE IF THEY WERE GOING TO DIE THEY
11 WERE GOING TO GO DOWN FIGHTING AND YOU REMEMBER HE GRABBED
12 HOLD OF HIM AND THE ONLY PERSON IN THAT CAR WITH A KNIFE WAS
13 RANDY ELDERS.

14 SO AT ANY POINT RANDY ELDERS WAS FREE TO LEAVE,
15 FREE TO RUN. THERE ARE NO OTHER THREATS TO RANDY ELDERS BUT
16 GUESS WHAT. IS THIS A KIDNAPPING? HE'S NOT LEAVING TILL HE
17 GETS WHAT HE CAME FOR. THEY GOT TO GET THAT NEXT SMOKE,
18 THAT CRACK. SO WHAT DOES HE DO? HE DOESN'T COME ON. LET'S
19 GO; GET OUT OF HERE. HE DIVES ACROSS THE FRONT SEAT ON TOP
20 OF HIM WITH THE KNIFE AND REMEMBER HE'S STABBING AT
21 MRS. RIGGS. HE'S STABBING AT THE VICTIM. THEY FIGHT AND
22 HOLD HIM DOWN. HE REMEMBERS TUSSLING. NO. I FINALLY GOT
23 AWAY FROM HIM AND THEN WHAT DID HE DO?

24 ALL RIGHT. HE'S NOT LEAVING TILL THEY ARE LEAVING
25 AND THEN HE, MR. RIGGS AND SHE'S STILL GOT THE POCKETBOOK

1 THAT WOULD HAVE MONEY IN IT AND THAT'S WHAT THEY NEED AS
2 MUCH AS THE CAR AND THE TACKLES HER AT THAT POINT. HE'S ON
3 TOP OF HER RIPPING IT OFF AGAIN AND WE DIDN'T STAY HERE AND
4 START CHARGING AND CHANGING EVERY SINGLE ACT. THIS IS ONE
5 CHAIN OF EVENTS BUT I SUBMIT, LADIES AND GENTLEMEN, FROM THE
6 VERY MOMENT THEY GOT IN THE CAR THE KIDNAPPING HAPPENED
7 BECAUSE HE WAS NOT LEAVING UNTIL HE GOT WHAT HE CAME FOR AND
8 IT DIDN'T MATTER WHAT IT TOOK TO GET IT.

9 ALSO CHARGES OF AND THOSE ARE THE CHARGES IN THE
10 CASE. ONE OTHER THING I WANT TO TELL YOU ABOUT, ARMED
11 ROBBERY. YOU'LL HEAR FROM THE JUDGE IN THIS CASE TOOK THE
12 PURSE WHICH IS DUMPED FROM THE CAR JACKING. THEY TOOK THE
13 CAR. THERE HAS TO BE NO SET DOLLAR AMOUNT IN THIS CASE, \$30
14 IN THE PURSE. IT DOESN'T HAE TO MEAN I WOULD ASK INTENT
15 WHICH HE DID BUT YOU'VE ALSO HEARD EVIDENCE THAT PERHAPS HE
16 HAD JUST INGESTED SOME DRUGS. HE JUDGE WILL TELL YOU
17 VOLUNTARY INTOXICATION IS NOT A DEFENSE TO CRIME. IF A
18 PERSON COMMITS AN OFFENSE, ANY CRIME SO LONG AS VOLUNTARILY
19 ALTERED SUCH AS TAKING DRUGS AND DRINKIN ALCOHOL THEY ARE AS
20 RESPONSIBLE.

21 VOLUNTARY INTOXICATION IS NEVER AN EXCUSE FOR A
22 PERSON VOLUNTARILY RENDERS HIMSELF INTOXICATED IS NOT LESS
23 RESPONSIBLE IF A PERSON VOLUNTARILY DRINKS INTOXICATING
24 LIQUORS OR TAKES DRUGS AND BECOMES INTOXICATED ANDE IF WHILE
25 IN THAT CONDITION COMMITS AN ACT WHICH COULD BE A CRIME IF

1 COMMITTED BY A SOBER PERSON. THE FACT OF DRUNKENNESS OR
2 INTOXICATION DOES NOT RELIEFE HIM FROM RESPONSIBILITY SO THE
3 FACT THAT HE CHOSE TO SMOKE CRACK DOESN'T MAKE HIM NOT
4 RESPONSIBLE. THERE ARE TWO KINDS OF EVIDENCE IN EVERY CASE.
5 YOU HEARD CIRCUMSTANTIAL AND DIRECT EVIDENCE.

6 DIRECT EVIDENCE IS A TYPE OF EVIDENCE YOU WITNESS
7 WHAT A PERSON SEES, HEARS, FEELS, TOUCHES, THINGS OF THAT
8 NATURE. THAT'S THE REST OF IT. SO YOU ALSO HAVE ANOTHER
9 TYPE OF EVIDENCE WHIHC IS CALLED CIRCUMSTANTIAL. THE TEST
10 OF THAT IN THIS CASE IS THE D.N.A. EVIDENCE. THAT'S PROOF
11 OF A CHAIN OF CIRCUMSTANCES THA POINT TO THE EXISTENCE OF A
12 FACT OR THE NONEXISTENCE OF A FACT. THE LAW MAKES
13 ABSOLUTELY NO DISTINCTION BETWEEN THE WEIGHT OR VALUE GIVEN
14 EITHER TO DIRECT OR CIRCUMSTANTIAL EVIDENCE NOR IS
15 CIRCUMSTANTIAL EVIDENCE LESS THAN DIRECT EVIDENCE.

16 YOU SHOULD WEIGH ALL THE EVIDENCE IN THE CASE AND
17 AFTER WEIGHING THE EVIDENCE IF YOU DO NOT FIND THE GUILT OF
18 THE DEFENDANT BELIEVABLE BEYOND A REASONABLE DOUBT, YOU MAY
19 FIND HIM NOT GUILTY. IF ON THE OTHER HAND YOU'RE CONVINCED
20 OF HIS GUILT YOU SHOULD FIND HIM GUILTY AND VERY SIMPLY,
21 LADIES AND GENTLEMEN, IN THIS CASE YOU HAVE BOTH DIRECT
22 EYEWITNESS TESTIMONY FROMTEH VICTIM AND CIRCUMSTANTIAL
23 EVIDENCE. ONE CORROBORATES THE OTHER. ONE'S NOT BETTER
24 THAN THE OTHER. THEY'RE JUST TWO ROADS TO THE CASE. YOU'RE
25 ALSO GOING TO JUDGE WITH EVERY CASE HOW CRIMINAL INTENT AND

1 HAS CRIMINAL INTENT.

2 THAT'S JUST A WAY TO DEFINE IS A CONSCIOUS
3 WRONGDOING. I DON'T THINK ANYBODY IN THIS CASE CAN GET UP
4 HERE AND ARGUE THAT HE WASN'T HAVING CRIMINAL INTENT. HE'S
5 ALREADY PLED TO TWO CHARGES. CRIMINAL INTENT CAN BE
6 INFERRED OR DETERMINED FROM THE FACTS AND THE CIRCUMSTANCES
7 SURROUNDING WHAT HE DID. HOW HIS ACTIONS WERE AND WHETHER
8 OR NOT HE HAD CRIMINAL INTENT. THE LAW RECOGNIZES WE CAN'T
9 OPEN UP A PERSON'S BRAIN TO DISECT IT AND DETERMINE EXACTLY.

10 THEN YOU MUST LOOK AT THE CIRCUMSTANCES
11 SURROUNDING BUT UNDER THE LAW TWO OR MORE CRIMINALS
12 OPERATING MAY AGREE OUT OF THE SAME COURSE OF ACTION JUST
13 LIKE I MENTIONED EARLIER AS WHERE ONE OFFENSE IS COMMITTED
14 THE ENTIRETY THEREAFTER TO COMMIT THE OTHER AND ACTUALLY
15 FOLLOW THE CHOICE SO IF A PERSON HAS CRIMINAL INTENT TO
16 START WITH AND THEY FOLLOW THROUGH A SERIES OF ACTS SUCH AS
17 THIS CASE IS ASSAULT AND BATTERY WITH INTENT TO KILL ON
18 MR. RIGGS.

19 IS ASSAULT AND BATTERY WITH INTENT TO KILL ON
20 MRS. RIGGS? ALL THOSE ARE FINE AS LONG AS HE HAD CRIMINAL
21 INTENT TO BEGIN AND I SUBMIT, LADIES AND GENTLEMEN, NO ONE'S
22 GOING TO ARGUE THAT HE DIDN'T. YOU ALSO HEARD FROM A SERIES
23 OF WITNESSES, EXPERT WITNESSES IN CERTAIN CASES. A CERTAIN
24 PERSON CERTAIN TRAINING OR THEY'RE ABLE TO GET UP HERE AND
25 GIVE YOU OPINIONS WHICH NORMALLY A LAY WITNESS SUCH AS

1 MYSELF WOULD NOT BE ABLE TO CONSIDER THEM THE SAME WAY YOU
2 DO. THE EXPERT CORROBORATED AND THAT'S VERY SIMPLE. YOU
3 ALSO HEARD PROBABLY HOW THERE WAS A CONFRONTATION WHERE THE
4 DEFENDANT WAS IDENTIFIED BY THE VICTIM IN THE CASE,
5 MR. RIGGS.

6 THEY HAD SHOWED A PHOTO LINEUP. YOU ALSO HEARD
7 ABOUT THE MIRANDA RIGHTS BEING GIVEN. THAT IS VERY SIMPLE,
8 LADIES AND GENTLEMEN, TO SHOW WHAT THE POLICE DID THEIR JOB.
9 THEY JUMPED THROUGH THE HOOPS AND THAT'S THE REASON YOU'RE
10 HERE ABOUT THOSE ITEMS EVEN THOUGH PERHAPS THE DEFENDANT'S
11 IDENTITY WAS NOT IN DISPUTE. THE LAST THING I WANT TO TALK
12 TO YOU ABOUT AS FAR AS THE LAW, I GUESS, IS CREDIBILITY AND
13 THE JUDGE WILL TELL YOU CONCERNING CREDIBILITY,
14 BELIEVABILITY. WHO DO YOU BELIEVE? ONE WITNESS AGAINST
15 MANY? MANY AGAINST ONE?

16 YOU CAN BELIEVE PART OF A WITNESS, ALL OR NONE.
17 IT IS TOTALLY UP TO YOU. THE JUDGE WILL TELL YOU THERE ARE
18 SEVERAL FACTORS YOU CAN LOOK AT. WERE THEY BIASED? DO
19 THEY HAVE SOMETHING TO GAIN OR LOSE BY THEIR TESTIMONY?
20 WERE THEY FORTHRIGHT? WERE THEY HESITANT? WAS THE
21 TESTIMONY CONSISTENT? DID THE WITNESS HAVE THE ABILITY TO
22 KNOW WHAT THEY WERE TESTIFYING ABOUT? AGAIN I MENTIONED
23 BIAS OR PREJUDICE. WAS THE WITNESS' TESTIMONY CORROBORATED
24 BY THE OTHER TESTIMONY AND EVIDENCE AND I SUBMIT, LADIES AND
25 GENTLEMEN, IN THIS CASE I'VE NEVER BEEN MORE -- MR. AND

1 MRS. RIGGS SAID HAPPENED IS CORROBORRATED.

2 THEY'RE GOING TO GO UP THERE AND SAY YOU CAN'T
3 BELIEVE MRS. RIGGS BECAUSE NOBODY ACTUALLY SAW HIM TALK.
4 THAT'S NOT TRUE. MR. RIGGS DID -- WOULD THEY MAKE THAT UP?
5 THEY GAVE A STATEMENT THREE DAYS LATER PUTTING ALL THOSE
6 FACTS IN. THEY HADN'T PUT IT IN THOSE STATEMENTS YOU WOULD
7 HAVE HEARD AND HOW DO THEY KNOW WHAT WHAT ELEMENT OF WHAT
8 CRIME THEY WERE SUPPOSED TO BE PROVING? THEY TESTIFIED TO
9 IT. THEY PUT IN THEIR STATEMENTS BECAUSE IT'S THE TRUTH
10 ABOUT WHAT HAPPENED. THEY'RE ALSO GOING TO TELL YOU CAN'T
11 JUST REALLY CONVICT THEM BECAUSE THE STATE WOULD BRING FORTH
12 SOME PEOPLE THAT WERE OVER IN THE DRIVING RANGE OR THE
13 PEOPLE THERE INSIDE AND, LADIES AND GENTLEMEN, THESE EVENTS
14 THERE AREN'T ANY MORE WITNESSES IN THE CASE.

15 THAT DOESN'T MEAN THESE PEOPLE JUST MADE UP THIS
16 THING. THEY ADMIT IT'S ASSAULT AND BATTERY WITH INTENT TO
17 KILL AND CAR JACKING. HE SAYS THAT'S WHAT HE CALLS IT.
18 THEY WANT IT TO BE ONE WAY AND SO THEN THEY DON'T WANT YOU
19 TO PLEAD. THIS PART OF WHAT SHE SAYS IF YOU CAN BELIEVE
20 THAT BUT JUST NOT THIS. YOU CAN'T BELIEVE HE CAR JACKED BUT
21 HE DIDN'T DO THIS ARMED ROBBERY, TAKING, PURCHASING. ALSO
22 IN THIS CASE YOU HEARD FROM TWO WITNESSES AND BY THE WAY WE
23 DON'T PICK THE WITNESSES IN THIS CASE. HE DID CHRIS SMITH,
24 CHRISTINA HALL, GIRLFRIEND. YOU HEARD THAT BOTH OF THEM HAD
25 PRIOR CONVICTIONS AND THE REASON, LADIES AND GENTLEMEN, NOT

1 TO IMPUNE THEIR CHARACTERS AS MUCH BUT IT IS A FACTOR YOU
2 CAN CONSIDER WHEN ANY WITNESS OR ANY PERSON TAKES THE STAND.

3 YOU ARE ALLOWED TO HEAR ABOUT THEIR PRIOR
4 CONVICTIONS IF THEY TAKE THE STAND AND THAT'S WHY YOU ARE
5 ABLE TO HEAR ABOUT THAT. THAT IS A FACT YOU CAN CONSIDER,
6 HOWEVER IN THE CASE, LADIES AND GENTLEMEN, ESPECIALLY WITH
7 MR. SMITH IS WHA HE SAID CORROBORATED TOTALLY. DID HE HAVE
8 THE ABILITY TO KNOW? WAS HE FORTHRIGHT? DID HE GIVE THE
9 POLICE A STATEMENT RIGHT ON TIME? JUDGE HIS CREDIBILITY.
10 THE DEFENDANT MAY GET UP HERE AND ARGUE. I LISTENED TO THE
11 OPEING ARGUMENT. YOU'LL FIND THE WITNESSES ARE NOT
12 CONSISTENT. I ADMIT CHRISTINA HALL'S NEVER BEEN.

13 EVERY OTHER WITNESS, LADIES AND GENTLEMEN, TOLD
14 THE POLICE, TOLD YOU THIS WEEK THE SAME STORY. THERE ARE NO
15 INCONSISTENCIES. MAYBE THE OLD CRAP ABOUT THE FACT THAT
16 MR. RIGGS SAID HE TURNED THE CAR AND MRS. RIGGS SAID HE DID
17 IT RIGHT AFTER. SO YOU CAN'T BELIEVE THEM, LADIES AND
18 GENTLEMEN. I SUBMIT THAT'S WHAT MAKES THEM CREDIBLE. IF
19 THEIR LITTLE MINOR DETAILS THAT VARY SOMEWHAT, THEN THERE IS
20 A SWITCH GOING ON. IT'S LIKE WHEN TWO PEOPLE SEE A CAR
21 WRECK. ONE PERSON SEES THE LIGHT WAS YELLOW. ONE PERSON
22 SAYS IT WAS RED.

23 THEY'RE STANDING OVER ON THE SIDE OF THE ROAD. NO
24 ONE'S LYING ABOUT WHAT HAPPENED. THE WRECK STILL HAPPENED.
25 THE PERCEPTION THE WE SAW ONE PERRSON EVEN DESCRIBED THE CAR

1 AS BROWN. ANOTHER ONE SAID IT WAS TAN. THAT'S REALISTIC.
2 THAT DOESN'T MEAN THEIR TESTIMONY WRONG. YOU JUST CAN'T
3 BELIEVE THEM IN THEIR OPENING STATEMENTS. MS. SAMPSON IN
4 RESPONSE TO MR. JACK TELLING YOU OF THE FACTS AND I WROTE
5 DOWN -- I MAY HAVE. THIS IS WHAT I RECALL HE SAID
6 EVERYTHING YOU HEARD REFERRING TO WHAT MR. JOHNS TOLD YOU
7 WHICH ARE THE FACTS OF THIS CASE WHICH IS WHAT -- IT'S ALL
8 TRUE.

9 YOU ARE NOT GOING TO HAVE A PERRY MASON MOMENT.
10 HE DID IT, NO SMOKE AND MIRRORS. LADIES AND GENTLEMEN, IF
11 THIS ISN'T SMOKE AND MIRRORS, WHAT IS IT? IT'S NOT AN
12 UNUSUAL OFFENSE. IT'S CALLED THE ART OF CONFESSING ERROR.
13 MAYBE THE JURY KNOWS. THEY'LL TAKE RESPONSIBILITY JUST ON A
14 COUPLE. THEY'LL FEEL SORRY FOR ME. I SUBMIT, LADIES AND
15 GENTLEMEN, WHEN HE WAS TRYING TO STAB AND KILL THAT MAN AND
16 HIS WIFE, HE WAS A MONSTER. THE ART OF -- I'LL ADMIT TO THE
17 COUPLE SO THE JURY WILL JUST FEEL SORRY FOR ME AND WON'T
18 TOTALLY RESPOND FOR ALL MY ACTIONS THAT DAY.

19 I SUBMIT, LADIES AND GENTLEMEN, THEY'RE GOING TO
20 GET UP HERE AND ARGUE THAT IT'S NOT AN ARMED ROBBERY. THAT
21 IT'S JUST A STRONG ARMED OR NOT ROBBERY AT ALL. THEY'RE
22 ARGUING BOTH. THEY'RE GOING TO GET UP HERE AND TELL YOU
23 THAT MRS. RIGGS WASN'T ASSAULTED. SHE JUST HAPPENED TO SLIP
24 DOWN, BLOODY HER KNEE AND BROKE HER TOE WITHOUT BEING
25 TACKLED. IF YOU THINK SHE WAS TACKLED HER PURSE WAS ALREADY

1 IN THE CAR BUT WASN'T TAKEN OFF HER PERSON BUT CAN'T BE
2 ARMED ROBBERY. I SUBMIT, LADIES AND GENTLEMEN, UNDER THAT
3 THEORY IT'S STILL ARMED ROBBERY.

4 HE'S STILL ARMED AND STILL GETTIN G AWAY AND IT'S
5 STILL HER PURSE BUT DOES THAT MAKE SENSE. WHY WOULD HE
6 BOTHER TO TACKLE HER IF HE'S TRYING TO GET AWAY AND THE
7 PURSE IS ALREADY IN THE CAR? IT DOESN'T ADD UP. NO SMOKE
8 AND MIRRORS. THEY GET UP HERE AFTER I SIT DOWN AND TALK
9 ABOUT WHAT WE TALKED ABOUT BECAUSE THEY DON'T WANT YOU TO
10 LOOK AT WHAT WE DISPROVE WHICH ARE THESE SIX INDICTMENTS.
11 THERE IS AN OLD JUDGE AND IT TALKS ABOUT A LAWYER AND A
12 PRIEST WALKING DOWN THE STREET. THERE IS MUD ON ONE SIDE.
13 THERE IS A PUDDLE OF WATER THERE AND IT'S GOT THIS MUCH
14 WATER AND THE PRIEST LOOKED DOWN AND SAID, LOOK THERE IS A
15 SILVER DOLLAR.

16 GET A STICK AND STIR IT UP AND THE SILT AND MUD
17 ROSE UP AND MIXED IN. YOU COULDN'T SEE IT ANYMORE. IT JUST
18 WENT MUDDY AND HE LOOKED AT THE PRIEST. LADIES AND
19 GENTLEMEN, I'M GOING TO TAKE JUST A FEW MORE MINUTES OF YOU
20 TIME TO TALK ABOUT THE FACTS IN THIS CASE, THE COLD HARD
21 FACTS THAT SUPPORT THE INDICTMENTS THAT ARE BEFORE YOU. YOU
22 HEARD FROM DWIGHT RIGGS AND HIS WIFE ABOUT THEIR BRAVERY AND
23 WHAT THEY DID THAT I SUBMIT, LADIES AND GENTLEMEN, SAVED
24 THEM BECAUSE THE FIRST THING THEY KNOW WHEN THEY PULL INTO
25 THAT MARKET AND THAT CAR STOPS IS THAT MAN, THIS MAN RIGHT

1 THERE, INFORMS THEM LIKE IN A SECOND:

2 LET ME TELL YOU THE PLAN HAS CHANGED AND HE PULLS
3 OUT HIS KNIFE AND HE GRABBED HER SHOULDER AND HE PUT IT TO
4 HER THROAT AND HE TELLS DWIGHT RIGGS TO KEEP GOING STRAIGHT
5 OR I'LL CUT HER THROAT, HIS WIFE OF 42 YEARS. YOU KEEP
6 GOING STRAIGHT OR I'M GOING TO CUT HER THROAT AND MADE A
7 DECISION. YOU ALL WONDER HOW THEY GET OUT. YOU HOPE; YOU
8 NEVER KNOW. HE MADE THE DECISION THAT IF THEY WERE GOING TO
9 DIE THEY WERE GOING TO DO IT RIGHT THERE AND HE SAID, NO, I
10 WILL NOT AND AT THAT POINT, LADIES AND GENTLEMEN, THE
11 KIDNAPPING WAS IN PLACE AND IT WAS ONGOING THE NEXT 10 OR 15
12 MINUTES.

13 I'M NOT GOING TO REHASH THE FACTS. IT'S
14 UNDISPUTED. THEY SAY EVERYTHING YOU HEARD IS ALL TRUE
15 EXCEPT THE PART THEY DON'T WANT TO BE TRUE. YOU HEARD FROM
16 SHERRY ABBOTT. SHE TOLD YOU WHAT SHE SAW. WHAT MAKES HER
17 CREDIBLE? SHE DIDN'T SAY SHE SAW MRS. RIGGS GET TACKLED.
18 SHE SAID SHE DIDN'T KNOW WHAT WAS GOING ON OVER THERE,
19 SOMETHING WAS THROWN BACK. SHE'S HONEST BUT WHAT SHE KNOWS
20 WHEN SHE SAW THE FIGHT SHE KNEW SHE NEEDED TO CALL THE
21 POLICE. SHE COULDN'T FIND HER CELL PHONE AND SHE KNEW THAT
22 WHEN THAT MAN APPROACHED THE RIGGS TO HELP THOSE FOUR POOR
23 PEOPLE, MR. RIGGS HAD BEEN STABBED.

24 SHE KNEW AT THAT POINT THAT HE PUT UP A KNIFE AND
25 YOU WONDER WHY NOBODY CAME TO HELP BECAUSE THIS MAN WAS ON A

1 MISSION AND HE WAS GOING TO HURT ANYBODY THAT INTERFERED AND
2 HE HAD THE MEANS, NOT AN ARMED ROBBERY, NOT A KIDNAPPING, NO
3 MALICE. YOU ALSO HEARD FROM A SERIES OF POLICE OFFICERS AND
4 I'M NOT GOING TO REHASH EVERYTHING THEY SAID. BASICALLY
5 THEY DID THEIR JOB, AND BY THE WAY, YOU AREN'T SUPPOSED TO
6 CONVICT HIM BECAUSE INVESTIGATOR FAUST DIDN'T TAKE
7 STATEMENTS. HE TOLD HIM TO TAKE A STATEMENT, BRING A
8 STATEMENT WHICH THEY DID THREE DAYS LATER.

9 THEY SAY THIS ISN'T A ROBBERY. HE TOLD MRS. SMITH
10 HE GOT \$130. WHERE WOULD CHRIS SMITH GET THAT INFORMATION?
11 HE TOLD CHRIS SMITH HE CAR JACKED AN ELDERLY COUPLE. IT
12 WASN'T A DRUG DEALER. HE TOLD CHRIS SMITH THE DETAILS.
13 THAT'S THE ONLY WAY CHRIS SMITH COULD KNOW THOSE. WHE THE
14 POLICE INTERVIEWED HIM ON THE 19TH WAS THAT HE HAD TOLD
15 THEY'RE HEADED OUT OF TOWN. THEY KNOW ENOUGH TO TRY TO
16 SEVER TIES WITH WHERE THEY'RE KNOWN TO BE. YES,
17 CRIMESTOPPERS CAME IN. HE LOOKED AT THE TIP. REMEMBER TWO
18 PEOPLE TRIED TO FIND US, COULDN'T, E.A. THEY HAD AN
19 ARGUMENT THAT NIGHT AND LEFT.

20 THERE WERE ONGOING CONVERSATIONS WHEN HE WAS
21 TALKING ABOUT WHAT HE DID. IT WAS ON THE NEWS. IT WAS HOT.
22 YOU HEARD FROM DAWN SMITH, CHRIS SMITH'S MOTHER. SHE CAME
23 IN HERE AND TOLD YOU WHAT SHE OVERHEARD; HOW HE WAS TALKING;
24 I GUESS BRAGGING THAT SATURDAY. YOU HEARD FROM CHRISTINA
25 HALL. SHE WAS THE MOTHER OF THREE. HER MOTHER IS ILL. SHE

1 WAS OBVIOUSLY NOT HAPPY TO BE HERE. SHE HAS A SLEW OF
2 CHARGES INCLUDING THE ONES IN THIS CASE AND OTHERS. SHE'S
3 FACING A TON OF TIME. SHE WROTE HIM A LETTER AND SAID SHE
4 THOUGHT SHE COULD GET THROUGH THE FIVE YEARS.

5 THEY WILL TELL YOU, YOU CAN'T BELIEVE HER BUT I'LL
6 BET YOU THEY GET UP HERE AND SAY, OH, BUT YOU CAN BELIEVE
7 HER. SHE SAYS SHE NEVER SAW HIM TACKLE MRS. RIGGS. THE
8 REASON THEY FOCUS ON THAT, THAT IS THE ARMED ROBBERY THAT
9 THEY'RE TRYING TO GET AWAY FROM. YOU CANNOT BELIEVE HER
10 AND, LADIES AND GENTLEMEN, WE SUBMIT YOU MAY NOT WANT TO
11 BELIEE HER. I SUBMIT SHE IS NOT BELIEVABLE BUT FOR THE FACT
12 SHE'S CORROBORATED BY OTHER PEOPLE. SHE STILL LOVES HIM.
13 SHE WRITES HIM LETTERS AND SHE'S STILL, IN HER STATEMENT TO
14 THE POLICE SHE WOULD ADMIT HE HAD THE KNIFE.

15 SHE KNEW THAT WOULD MAKE THINGS WORSE. THIS
16 DEFENDANT WAS -- HE KNEW HE STABBED THE MAN. HE KNEW WHAT
17 HE HAD DONE. DOES THAT IMPART GUILT? SMOKE AND MIRRORS,
18 STILL, DON'T REWARD THEM FOR THEY FOUGHT BACK. THEY
19 SHOULDN'T BE HELD RESPONSIBLE FOR WHAT HIS INTENTIONS WERE.
20 ON BEHALF OF THE RIGGS, NO TRICKS, SOME, NOT ALL A MONSTER.
21 HOLD HIM RESPONSIBLE AS YOU WOULD ANYONE ELSE WHO WILL BE
22 CHARGED WITH THESE CRIMES. LISTEN TO THE LAW AND HOLD HIM
23 RESPONSIBLE. HE CHOSE TO SMOKE CRACK COCAINE. HE CHOSE TO
24 PREY ON PEOPLE HE THOUGHT WOULD BE AN EASY MARK. HE WAS
25 WRONG. HOLD HIM RESPONSIBLE FOR ALL HIS ACTIONS AND FIND

DEFENSE CLOSES TO THE JURY

1 HIM GUILTY OF WHAT HE DID. THANK YOU.

2 THE COURT: ALL RIGHT. MS. OWINGS.

3 MS. OWINGS: THANK YOUR HONOR.

4 MY FRIENDS, I HAVE SOME GOOD NEWS AND SOME BAD
5 NEWS FOR YOU. THE BAD NEWS IS YOU STILL HAVE TO LOOK IN THE
6 MIRRORS BUT THE GOOD NEWS IS I'M GOING TO BE BRIEF. LADIES
7 AND GENTLEMEN, THIS IS MY FIRST OPPORTUNITY TO ADDRESS YOU
8 AS THE JURY. SEVERAL DAYS AGO YOU HEARD FROM MY COCOUNSEL,
9 MS. APRIL SAMPSON. TODAY YOU'RE GOING TO HEAR FROM ME. MY
10 NAME IS STACY OWINGS AND I'M THE ATTORNEY FOR CHUCK ELDERS.
11 I CAME THROUGH A LONG SEVERAL DAYS AND A LOT OF TESTIMONY.
12 IF I HAVE DONE ANYTHING TO OFFEND YOU OR ANNOY YOU THIS WEEK
13 OR IF MS. SAMPSON HAS DONE ANYTHING TO OFFEND OR ANNOY YOU
14 THIS WEEK, PLEASE DON'T HOLD THAT AGAINST CHUCK.

15 WE'RE HIS ATTORNEYS. WE REPRESENT HIM BUT WE
16 DON'T WANT YOU TO HOLD ANYTHING WE DO AGAINST HIM. IN THE
17 PAST SEVERAL DAYS WE'VE BEEN TOGETHER WE'VE HEARD A LOT OF
18 TESTIMONY AND YOU HEARD FROM MRS. CAMPBELL ON WEDNESDAY
19 MORNING THAT CHUCK IS GUILTY OF CAR JACKING AND THAT HE'S
20 GUILTY OF ASSAULT AND BATTERY WITH INTENT TO KILL ON
21 MR. RIGGS. YOU HEARD FROM SEVERAL WITNESSES: INVESTIGATOR
22 PADGETT, INVESTIGATOR RUSSELL, INVESTIGATOR COLLINS,
23 INVESTIGATOR JONES, INVESTIGATOR RICHARDS, AND INVESTIGATOR
24 BARRON TO TALK TO YOU ABOUT THE FORENSIC INVESTIGATION IN
25 THIS CASE.

1 ALL OF THEIR TESTIMONY CULMINATED IN MR. BARRON
2 TAKING THE STAND AND TELLING YOU THE BIG SURPRISE, CHUCK'S
3 D.N.A. WAS FOUND IN THE CAR. LADIES AND GENTLEMEN, WE TOLD
4 YOU ON WEDNESDAY HE WAS IN THE CAR. WE TOLD YOU ON
5 WEDNESDAY HE CAR JACKED THE RIGGS AS MS. CAMPBELL SAYS.
6 THAT WAS IN A PERRY MASON MOMENT. HE CAR JACKED THE RIGGS.
7 HIS D.N.A. WAS IN THE CAR. WE ALSO HAD SEVERAL PEOPLE OVER
8 THE PAST SEVERAL DAYS WHERE SEVERAL WITNESSES TO INCLUDE
9 INVESTIGATOR FAUST AND CAPTAIN SMITH AND THE RIGGS TALK
10 ABOUT THE ALTERCATION WITH RANDY ELDERS.

11 WE HAD SEVERAL MORE PEOPLE ON THE WITNESS STAND
12 AND TO POINT HIM OUT. WE HAD INVESTIGATOR FAUST AND
13 INVESTIGATOR SMITH TALKING ABOUT MR. ELDERS BEING BROUGHT IN
14 AFTER HE WAS ARREATED AND MR. RIGGS IS PICKING UP HIS CAR
15 AND THE CHANCE MEETING BETWEEN THEM. WE HEARD TESTIMONY
16 WHERE MR. RIGGS IDENTIFIED MR. ELDERS LATER IN THE PHOTO
17 I.D. AND HE IDENTIFIED HIM BEFORE. ONCE AGAIN, LADIES AND
18 GENTLEMEN, THAT MAKES FOR GREAT DRAMA BUT IT'S NO BIG DEAL.
19 HE TOLD YOU HE DID IT. YHES, WE'RE GOING TO I.D. HIM. THE
20 GOVERNMENT HAS PUT UP SEVERAL WITNESSES BECAUSE THEY WANT
21 YOU TO BELIEVE THEY'VE PUT UP SEVERAL POLICE OFFICERS.
22 THEY'VE PUT UP THE WITNESSES OF THE INCIDENT.

23 THEY'VE PUT UP THE VICTIMS IN THIS CSE AND THEY'VE
24 PUT UP A COUPLE OF CONVICTS. THE WITNESSES START OUT WITH
25 DEPUTY NIMMONS WHO TESTIFIED THAT HE ARRIVED ON THE SCENE.

1 HE ARRIVED TO HELP, OF COURSE, TO TAKE REPORTS DOWN, INITIAL
2 REPORTS; AND NOWHERE WHEN HE TALKS DOES HE MENTION THAT
3 MRS. RIGGS WAS ASSAULTED AND, YES, WE DO THINK THAT'S ODD.
4 ALSO WE ALSO HEARD FROM SHERRY ABBOTT WHO WAS A NEUTRAL
5 WITNESS IN THIS CASE. SHE DOESN'T KNOW THE RIGGS. SHE
6 DOESN'T KNOW MR. ELDERS. SHE ALSO DID NOT SEE MRS. RIGGS
7 GET TACKLED.

8 WE ALSO HEARD FROM INVESTIGATOR FAUST WHO IS THE
9 LEAD INVESTIGATOR IN THE CASE. HE NEVER TOOK ANY STAMENT.
10 HE NEVER TOOK ANY STATMENT. IN FACT I BELIEVE THE STATEMENT
11 THE PROSECUTION IS TALKING ABOUT THAT THE RIGGS GAVEWERE TO
12 THE PROSECUTORS. HE WAS NEVER TOLD ANY DETAILS ABOUT THE
13 TACKLE OF MRS. RIGGS AND STRUGGLE FOR THE PURSE AND THEN WE
14 COME TO OUR CONVICT, CHRISTINA HALL. LET'S TALK ABOUT
15 TALKING OUT OF BOTH SIDES OF YOUR MOUTH. MR. ELDERS DID NOT
16 PUT CHRISTINA HALL AND CHRIS SMITH ON THE WITNESS STAND.
17 THE GOVERNMENT DID.

18 THEY PUT THESE PEOPLE ON THE STAND TO TESIFY TO
19 YOU. THOSE ARE THEIR WITNESSES. IF THEY DON'T LIKE THE
20 TESTIMONY THEY GAVE, THOSE ARE THEIR WITNESSES. TALK ABOUT
21 TALKING OUT OF BOTH SIDES OF YOUR MOUTH THEY WANT YOU TO
22 BELIEVE CHRISTINA HALL. CHRISTINA HALL SAYS THE CAR JACKING
23 TOOK PLACE. CHRISTINA HALL ALSO SAYS THAT SHE NEVER SAW
24 MR. ELDERS TACKLE MRS. RIGGS. SHE SAW CHUCK RUN DIRECTLY
25 INTO THE CAR AND THE NEXT TIME THAT SHE NOTICED THE PURSE

1 THE PURSE WAS IN THE CAR. THE STATE PUT HER UP AND THEY
2 WANT YOU TO BELIEVE HER, BELIEVE HER.

3 SHE ALSO GAVE A STATEMENT AS SOON AS THIS HAPPENED
4 AND IN HER STATEMENT AS SOON AS THIS HAPPENED AND IN HER
5 STATEMENT SHE SID I DIDN'T SEE RANDY WITH THE KNIFE. I
6 DIDN'T SEE RANDY WITH THE KNIFE WHENEVER HE WENT TOWARDS
7 MRS. RIGGS. THEN WHEN SHE TAKES THE STAND AFTER SHE ADMITS
8 TO US THAT SHE'S BEEN BROUGHT OVER TO TALK TO THE
9 PROSECUTORS, PREPARE HER TESTIMONY AND THAT SHE'S HOPING TO
10 GET THREE TO FIVE YEARS AND THAT SHE WANTS TO GET TO SEE THE
11 THREE YOUNG CHILDREN AND HER DYING MOTHER BUT, YES, SHE WAS
12 AT THE SCENE OF THE CRIME AND SHE WASN'T EVEN FORTHCOMING ON
13 THAT.

14 AS FAR AS HER OFFERS GO SHE DIDN'T WANT TO ADMIT
15 THAT SHE WAS BUT SHE DID AND HER STORY CHANGED AND FINALLY,
16 LADIES AND GENTLEMEN, THE WITNESSES. WE COME TO THE VICTIMS
17 IN THIS CASE, MR. AND MRS. RIGGS. NOW MR. AND MRS. RIGGS
18 WENT THROUGH A VERY TRAUMATIC EVEENT, ONE I COULD NOT EVEN
19 IMAGINE AND MY CLIENT, MR. ELDERS, HAS ADMITTED THAT HE CAR
20 JACKED THE RIGGS AND THAT HE ASSAULTED MRS. RIGGS WITH A
21 KNIFE BUT, LADIES AND GENTLEMEN, THIS INCIDENT RESPECTFULLY
22 REMINDS ME OF THE FISH STORY. FISH STORIES ARE TRUE.
23 THEY'RE JUST A LITTLE ELABORATE.

24 WHENEVER MY BROTHER GOES ON A FISHING TRIP, GOES
25 OUT IN THE OCEAN AND GOES MARLIN FISHING AND SAYS HE CATCHES

1 THREE FISH AND THEN THE NEXT TIME HE COMES BACK AND TELLS
2 THE STORY TO MY DAD HE CUGHT SIX FISH AND THEN WHEN HE GETS
3 AROUND SOME OF HIS FRIENDS AFTER WORK HE CAUGHT EIGHT FISH
4 AND IT JUST KEEPS GETTING BIGGER AND BIGGER. IT'S NOT A
5 LIE. IT'S TRUE HE WENT FISHING. HE CAUGHT FISH BUT AS HE
6 TELLS THE STORY THE FISH STORY GROWS. THE CAR JACKING
7 HAPPENED. THE ASSAULT WITH INTENT TO KILL ON MR. RIGGS
8 HAPPENED. TRAGICALLY IT HAPPENED.

9 THAT'S WHY I'M HERE BUT IT DIDN'T HAPPEN QUITE
10 LIKE WE HEARD UP HERE AND THAT'S IMPORTANT. WHEN WE TALK
11 ABOUT CREDIBILITY WE'RE ASKED WHY WOULD THEY LIE. THEY'RE
12 NOT LYING. WHY WOULD THEIR STORY ELABORATE? WELL, LADIES
13 AND GENTLEMEN, THEY WENT THROUGH A TRAUMATIC EXPERIENCE AND
14 THEY WANT MR. ELDERS TO BE CONVICTED. LET'S GO BACK TO SOME
15 OF THE THINGS THAT THEY TESTIFIED TO. MR. RIGGS SID WHEN HE
16 TESTIFIED FIRST THAT MR. ELDERS RAN TOWARDS MRS. RIGGS AND
17 TRIED TO TAKE HER PURSE AND THEN HE SAID THAT MR. ELDERS
18 TACKLED MRS. RIGGS AND THEY STRUGGLED DOWN ON THE GROUND FOR
19 THE PURSE AND THEN MRS. RIGGS SAYS THAT HE CAME TOWARDS HER
20 WITH THE KNIFE AND TOOK THE PURSE OFF HER ARM.

21 BUT THEN SHE SAID THAT HE RAN TOWARD HER; HE
22 KNOCKED HER DOWN AND THEY WRESTLED ANOTHER MINUTE ON THE
23 GROUND AND THEN HE GOT HER PURSE AND THEN ON
24 CROSS-EXAMINATION WHEN MRS. SAMPSON IS CROSS-EXAMINING HER
25 SHE SAID SHE WASN'T SURE IF MR. ELDERS HAD THE KNIFE OR NOT

1 AND THEN HE EVEN GOT HER TO ADMIT THAT SHE DOESN'T KNOW IF
2 SHE FELL OR IF SHE WAS TACKLED OR IF SHE EVEN TRIPPED.
3 THESE ARE SIGNIFICANT FACTS FOR MR. ELDERS AND THEN AFTER
4 SOME OF THE STATE'S WITNESSES WHO THEY WANT YOU TO BELIEVE
5 THEY CALLED THEM; I DIDN'T.

6 THEY TOOK THE STAND AND CONTRADICTED WHAT
7 MRS. RIGGS SAID. THE FISH STORY CONTINUES AND MRS. RIGGS
8 TAKES THE STAND AGAIN AND WHEN ASKED A QUESTION ABOUT THE
9 MONEY TAKEN OUT OF THE PURSE SHE CONTINUES TO SAID, NO. HE
10 RIPPED IT OFF MY SHOULDER. SO THE FISH STORY CONTINUES. AS
11 TO TESTIMONY THAT SORT OF CONTRADICTS WHAT THEY WANT HEARD,
12 SHE TAKES THE STAND AGAIN. THE PICTURE THAT HER POINT GETS
13 ACROSS THAT SHE DIDN'T MAKE EARLIER WHEN IT WAS SO IMPORTANT
14 WHEN SHE TESTIFIED THE FIRST TIME. THE FISH STORY GROWS AND
15 THEN DURING THE SOLICITOR'S CLOSING STATEMENT, THE FISH
16 STORY CONTINUES TO GROW BECAUSE WE, VIEWING MY NOTES AND MY
17 RECOLLECTION, IF I'M WRONG YOU GO BACK TO THE FACTS THAT YOU
18 REMEMBER BECAUSE YOU ARE THE TRIER OF THE FACTS.

19 BOTH THE RIGGS TESTIFIED AND THIS IS ONE OF THE
20 PARTS OF THEIR STORY THAT ACTUALLY DID MATCH IS THAT
21 MR. RIGGS AND MR. ELDERS WERE STRUGGLING BETWEEN THE SEAT
22 AND MR. ELDERS PULLED MR. RIGGS INTO THE FRONT SEAT. WELL,
23 WHEN THE SOLICITOR GAVE HER CLOSING STATEMENT, SHE GAVE THE
24 VERSION OF THE STORY THAT MR. ELDERS LUNGED INTO THE FRONT
25 SEAT ON TOP OF MR. RIGGS. THE FISH STORY GROWS. LADIES AND

1 GENTLEMEN, ON THE TOPIC OF MUDDYING THE WATERS ALL OF THE
2 ATTORNEYS WHO HAVE BEEN IN HERE WITH YOU ARE LAWYERS. THIS
3 KNIFE THAT MS. CAMPBELL KEEPS SHOWING TO YOU AT THE POINT OF
4 THE CAR JACKING IF YOU WILL RECALL FROM THE TESTIMONY, THIS
5 WASN'T THE KNIFE THAT WAS USED IN THE CAR JACKING.

6 IT WAS A KNIFE THAT WAS FOUND. IF MR. ELDERS PUT
7 THAT PLAN TO THE DEAD BROTHER OF CHRISTINA HALL THEY FOUND
8 THAT DAY MUDDYING THE WATERS. THIS ISN'T THE KNIFE, LADIES
9 AND GENTLEMEN. YOUR HONOR, I MEAN, LADIES AND GENTLEMEN,
10 WHY WOULD THE FISH STORY GROW? IF THE RIGGS WERE CAR
11 JACKED, MR. RIGGS WAS VIOLENTLY ASSAULTED; MRS. RIGGS PURSE
12 WAS TAKEN AND HER MONEY WAS SPENT. THEY WERE TRAUMATIZED
13 AND THEY ARE VICTIMS AND THE FISH STORY GROWS. FINALLY I
14 WANT TO ADDRESS THE ISSUE OF KIDNAPPING AND THE JUDGE IS
15 GOING TO CHARGE YOU ON THIS, TOO.

16 MR. ELDERS WENT INTO THIS INCIDENT WITH CRIMINAL
17 INTENT. MR. ELDERS' INTENT WAS TO STEAL; MR. ELDERS INTENT
18 WAS NOT KIDNAPPING AND THE JUDGE IS GOING TO CHARGE YOU ON
19 THAT THAT YOU HAVE TO FIND THE INTENT TO KIDNAP BEFORE YOU
20 CAN CONVICT HIM OF KIDNAPPING. CHRISTINA HALL TESTIFIED AND
21 YOU WERE SUPPOSED TO BELIEVE CHRISTINA HALL. CHRISTINA HALL
22 TESTIFIED THAT SHE WANTED A HIT. SHE WAS OUT OF DRUGS, OUT
23 OF MONEY AND SHE WANTED A HIT OF CRACK. WHAT GOOD IS IT
24 KIDNAPPING THE RIGGS TO GET OUT HIT OF CRACK? THEY WANT THE
25 CAR AND THEY WANT SOME CASH; THEY WANT TO STEAL IT.

1 KIDNAPPING IS NOT PART OF THE PLAN.

2 FINALLY, LADIES AND GENTLEMEN, I JUST WANT TO
3 POINT OUT TO YOU YOUR BURDEN HERE, YOUR JOB. YOU ARE THE
4 TRIER OF THE FACTS. IT IS YOUR JOB. DO EVERYTHING YOU'RE
5 HERE TO DO THE PAST FEW DAYS TO WEIGH IT OUT AND TO GIVE THE
6 BENEFIT TO MR. ELDERS AND TO THE RIGGS TO GIVE IT YOUR FULL
7 ATTENTION. THE SOLICITOR GAVE HER INTERPRETATION OF
8 REASONABLE DOUBT AND I'M GOING TO GIVE MINE. REASONABLE
9 DOUBT MEANS THAT IF YOU ARE NOT SURE, LET ME REPHRASE THAT.
10 REASONABLE DOUBT MEANS IF THIS RANDY ELDERS ASSAULTED
11 MRS. RIGGS WITH THE INTENT TO KILL HER AND IF HE KIDNAPPED
12 THE RIGGS AND THAT HE COMMITTED AN ARMED ROBBERY ON THE
13 RIGGS. IF YOU THINK THAT YOU HAVE TO FIND HIM NOT GUILTY,
14 YOU HAVE TO BE SURE.

15 NOW, THE STATE ITSELF HAS PUT UP CONFLICTING
16 EVIDENCE OF WHETHER THE RIGGS WAS ROBBED, MRS. RIGGS WAS
17 ROBBED. ARMED ROBBERY, WHERE THERE IS AN ARMED ROBBERY THAT
18 TOOK PLACE, WHETHER SHE WAS ACTUALLY TACKLED OR HE FELL OR
19 THE PURSE WAS LEFT IN THE CAR, THERE WAS A LOT OF
20 CONFLICTING EVIDENCE ABOUT THAT INCIDENT. PUT ANY OF THOSE
21 WITNESSES UP, THE STATE OF SOUTH CAROLINA DID. THE STATE OF
22 SOUTH CAROLINA HAS PUT IN EVIDENCE AND IF YOU ARE NOT SURE
23 BEYOND A REASONABLE DOUBT HAT MR. ELDERS COMMITTRED THE
24 OTHER OFFENSES OTHER THAN THE CAR JACKING AND THE ASSAULT
25 WITH INTENT TO KILL DWIGHT RIGGS THAT HE HAS PLED GUILTY TO,

1 THEN YOU MUST FIND HIM NOT GUILTY. THANK YOU FOR YOUR TIME
2 AND YOUR PATIENCE. IT'S BEEN A PLEASURE TO BE BEFORE YOU
3 TODAY. THANK YOU.

4 THE COURT: LADIES AND GENTLEMEN, BEFORE I GIVE
5 YOU THE INSTRUCTIONS ON THE LAW, WE'VE BEEN GOING FOR A
6 LITTLE OVER AN HOUR. IF ANYONE NEEDS TO TAKE A SHORT BREAK
7 WE'LL TAKE ABOUT A FIVE-MINUTE RECESS. DON'T DISCUSS THE
8 CASE. STEP BACK TO YOUR JURY ROOM.

9 PLEASE, EVERYBODY ELSE STAY SEATED.

10 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
11 JURY.)

12 THE COURT: ALL RIGHT. WE'LL TAKE ABOUT FIVE
13 MINUTES.

14 (THEREUPON, THERE WAS A BRIEF RECESS IN THE TRIAL OF
15 THIS CASE.)

16 THE COURT: ANYTHING FURTHER FROM THE STATE AT
17 THIS TIME?

18 MS. CAMPBELL: NO, SIR.

19 THE COURT: FROM THE DEFENSE?

20 MS. OWINGS: NO, SIR.

21 THE COURT: ALL RIGHT. LET'S GET THE JURY IN,
22 PLEASE.

23 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
24 JURY.)

25 THE COURT: ALL RIGHT. MR. FOREMAN, LADIES AND

CHARGE OF THE COURT

1 GENTLEMEN, AT THIS TIME I WILL INSTRUCT YOU OR CHARGE YOU
2 WITH THE LAW THAT APPLIES IN THIS CASE. BEFORE I ACTUALLY
3 GET TO THE CHARGE LET ME SIMPLY STATE TO YOU IF DURING THE
4 ARGUMENTS MADE BY THE ATTORNEYS THEY HAVE EXPLAINED TO YOU
5 THEIR UNDERSTANDING OF WHAT THE LAW IS AND ITS APPLICABILITY
6 TO THE FACTS AND THE EVIDENCE, I WILL CHARGE YOU AT THIS
7 TIME THAT AN ATTORNEY DOES HAVE A RIGHT AND DUTY TO DO THAT
8 BUT I WILL SIMPLY POINT OUT TO YOU AS I'VE INDICATED TO YOU
9 BEFORE THAT THE COURT IS THE SOLE JUDGE OF THE LAW AND THAT
10 YOU MUST ACCEPT AND APPLY THE LAW ONLY AS I'M GOING TO
11 EXPLAIN IT TO YOU AT THIS TIME.

12 THAT IS NOT AN INDICATION THAT I DISAGREE WITH
13 ANYTHING THAT WAS SAID BY EITHER ATTORNEY BUT SIMPLY TO
14 EMPHASIZE TO YOU THAT YOU MUST TAKE THE LAW AS IT APPLIES
15 ACCORDING TO WHAT THE COURT INSTRUCTS YOU. LET ME ALSO TELL
16 YOU THAT IN SOME STATES ONCE THE JUDGE FINISHES CHARGING THE
17 JURY AND YOU GO BACK IN THE JURY ROOM THE JUDGE SENDS BACK A
18 COPY OF THE CHARGE TO THE JURY SO THAT THEY HAVE IT BACK IN
19 THE JURY ROOM WHICH WE DO NOT DO IN SOUTH CAROLINA. SO WHEN
20 WE GET DONE AND YOU GO BACK IN THE JURY ROOM, DON'T EXPECT
21 TO GET A COPY OF WHAT I'M ABOUT TO GO OVER WITH YOU.

22 ON TOP OF THE FACT THAT WE JUST DON'T DO IT IN
23 SOUTH CAROLINA, THE WAY THAT MY CHARGE, SEE ALL THESE NOTES
24 BACK UP HERE AND I'VE PULLED OUT PIECES OF PAPER FROM
25 DIFFERENT PARTS. ONE OF THEM MAY HAVE FIVE PARAGRAPHS. SO

1 I CAN'T JUST MAKE A COPY OF THAT PAGE. WHAT WE DO IN SOUTH
2 CAROLINA IS I'M GOING TO CHARGE YOU THE LAW AND YOU JUST SIT
3 AND LISTEN AND THEN LATER ON IF YOU HAVE A QUESTION YOU CAN
4 WRITE THESE QUESTIONS OUT AND I'LL RESPOND TO THEM. AGAIN
5 IT DOES NOT BECOME THE DUTY OF THE COURT UNDER THE
6 CONSTITUTION OF OUR STATE I CHARGE YOU AND THIS SIMPLY MEANS
7 TO INSTRUCT YOU IN THE LAW THAT APPLIES IN THIS CASE.

8 IT IS YOUR DUTY AS JURORS TO ACCEPT AND APPLY THE
9 LAW THE COURT IS NOW GOING TO STATE TO YOU. AS JURORS IT IS
10 YOUR EXCLUSIVE DUTY TO DECIE ALL THE ISSUES OR FACTS IN THIS
11 CASE AND FOR THAT YOU ARE TO DETEMINE THE EFFECT, THE VALUE,
12 THE WEIGHT, AND THE TRUTH OF THE EVIDENCE THAT HAS BEEN
13 PRESENTED DURING THE TRIAL FOR BOTH THE STATE OF SOUTH
14 CAROLINA AND THE DEFENDANT MR. ELDERS HAVE A RIGHT THAT THEY
15 WILL INDIVIUALLY AND COLLECTIVELY, CONSCIENTIOUSLY CONSIDER
16 AND EVALUATE THE EVIDENCE IN THE CASE AND APPLY THE LAW OF
17 THIS CASE TO THIS EVIDENCE TO THE END OF BOTH THE STATE OF
18 SOUTH CAROLINA AND THE DEFENDANT MR. ELDERS WILL RECEIVE AND
19 OBTAIN A FAIR AND IMPARTIAL TRIAL IN THIS CASE.

20 NOW, I'M GOING TO READ TO YOU IN PART THE
21 INDICTMENTS THAT ARE MADE IN THIS CASE. I WILL AGAIN
22 INSTRUCT YOU THAT THE INDICTMENT CONTAINS THE CHARGES OR THE
23 ALLEGATIONS. THEY ARE NOT EVIDENCE OF THE CHARGES OR THE
24 ALLEGATIONS THEY CONTAIN. IN THIS CASE AT THIS TIME THERE
25 ARE FOUR INDICTMENTS THAT I'LL BE GOING OVER WITH YOU. THE

1 FIRST ONE 05-GS-40-352, STATE VERSUS RANDY ELDERS, IT IS
2 ALLEGED IN THIS INDICTMENT THAT RANDY C. ELDERS DID IN
3 RICHLAND COUNTY ON OR ABOUT APRIL THE 17TH, 2005 COMMIT
4 ROBBERY BY FELONIOUSLY TAKING FROM THE PERSON OR PRESENCE OF
5 KATHRYN RIGGS BY MEANS OF FORCE OR INTIMIDATION GOODS OR
6 MONIES OF KATHRYN RIGGS, SUCH GOODS AND MONIES DESCRIBED AS
7 A PURSE WHICH CONTAINED U.S. CURRENCY WITH THE INTENT TO
8 DEPRIVE THE OWNER PERMANENTLY OF SUCH PROPERTY WHILE ARMED
9 WITH A PISTOL, DIRK, SLING SHOT, METAL KNUCKLES, RAZOR OR
10 OTHER DEADLY WEAPON OR WHILE ALLEGING EITHER BY ACTIONS OR
11 WORDS THAT HE WAS ARMED WHILE USING A REPRESENTATION OF A
12 DEADLY WEAPON OR ANY OBJECT WHICH A PERSON PRESENTS DURING
13 THE COMMISSION OF A ROBBERY, REASONABLY BELIEVED TO BE A
14 DEADLY WEAPON ALL IN VIOLATION OF SECTION 16-1-30(A) OF THE
15 CODE OF LAWS OF SOUTH CAROLINA.

16 THAT'S THE ALLEGATION MADE IN THIS INDICTMENT.
17 THE NEXT INDICTMENT 05-GS-40-3543, THE STATE VERSUS RANDY C.
18 ELDERS. IT IS ALLEGED IN THIS INDICTMENT THAT RANDY C.
19 ELDERS DID IN RICHLAND COUNTY O OR ABOUT APRIL 17TH OF 2005
20 UNLAWFULLY SEIZE, CONFINE, INVEIGLE, DECOY, ABDUCT OR CARRY
21 AWAY ANY PERSON TO WIT KATHRYN RIGGS BY ANY MEANS WHATSOEVER
22 WITHOUT THE AUTHORITY OF LAW ALL IN VIOLATION OF SECTION
23 16-3-910 OF THE SOUTH CAROLINA CODE OF LAWS AND THAT'S
24 INDICTMENT 05-GS-40-3546, STATE VERSUS RANDY C. ELDERS. THE
25 CHARGE IN THIS INDICTMENT IT IS ALLEGED THAT RANDY C. ELDERS

1 DID IN RICHLAND COUNTY ON ABOUT APRIL THE 17TH, 2005 WITH
2 MALICE AFORETHOUGHT COMMIT AN ASSAULT AND BATTERY UPON ONE
3 KATHRYN RIGGS WITH THE INTENT TO KILL THE SAID VICTIM ALL IN
4 VIOLATION OF CODE SECTIO 16-3-620 OF THE SOUTH CAROLINA CODE
5 OF LAWS AND THEN THE FINAL IDICTMENT 05-GS-40-3544, STATE
6 VERSUS RANDY C. ELDERS.

7 IT IS ALLEGED IN THIS INDICTMENT THAT RANDY C.
8 ELDERS DID IN RICHLAND COUNTY ON OR ABOUT APRIL THE 17TH,
9 2005 UNLAWFULLY SEIZE, COFINE, ENVEIGLE, DECOY, KIDNAP,
10 ABDUCT OR CARRY AWAY WITHOUT AUTHORITY OF LAW ALL IN
11 VIOLATION OF SECTION 16-3-910 OF THE SOUTH CAROLIA CODE OF
12 LAWS. THOSE ARE THE CHARGES AND ALLEGATIONS THAT ARE MADE
13 IN THESE INDICTMENTS. NOW, THROUGHOUT THESE INSTRUCTIONS
14 WHEN I USE THE DEFENDANT, OF COURSE I'M REFERRING TO
15 MR. ELDERS AND TO THE CHARGES IN THESE INDICTMENTS THE
16 DEFENDANT MR. ELDERS HAS ENTERED A PLEA OF NOT GUILTY.

17 THE PLEA OF NOT GUILTY BY THE DEFENDANT PLACES THE
18 BURDEN OF PROOF ON THE STATE TO PROVE THE GUILT OF THE
19 DEFENDANT BEYOND A REASONABLE DOUBT BEFORE YOU THE JURY CAN
20 FIND THE DEFENDANT GUILTY. THE DEFENDANT IS PRESUMED IN THE
21 LAW INNOCENT OF THE CHARGES THAT ARE MADE IN THESE
22 INDICTMENTS. IT IS A CARDINAL AND A FUNDAMENTAL RULE OF THE
23 LAW OF EVIDENCE IN THIS STATE THAT A DEFENDANT, REGARDLESS
24 OF THE CHARGE OR CHARGES AGAINST HIM WILL ALWAYS BE PRESUMED
25 INNOCENT OF THE OFFENSES FOR WHICH HE HAS BEEN INDICTED IN

1 THE, EXCUSE ME, AND UNTIL THE GUILT OF THE DEFENDANT HAS
2 BEEN PROVEN BY EVIDENCE THAT SATISFIES YOU THE JURY OF HIS
3 GUILT BEYOD A REASONABLE DOUBT.

4 THIS PRESUMPTION OF INNOCENCE IS NOT JUST A MERE
5 LEGAL THEORY. IT'S NOT JUST A LEGAL PHRASE BUT THE
6 PRESUMPTION OF INNOCENCE IS A SUBSTANTIAL RIGHT TO WHICH
7 EVERY DEFEDANT INCLUDING MR. ELDERS IS ENTITLED. THE
8 SUPREME COURT OF THIS STATE HAS DECLARED THAT THE
9 PRESUMPTION OF INNOCENCE IS LIKE A ROBE OF RIGHTEOUSNESS
10 PLACED ABOUT THE SHOULDERS OF THE DEFENDANT AND IT REMAINS
11 WITH THE DEFENDANT AND ASSIGNS THE DEFENDANT TO THAT CLASS,
12 THE INNOCENT, UNTIL THE PRESUMPTIVE ROBE OF RIGHTEOUSNESS
13 HAS BEEN STRIPPED FROM THE DEFENDANT'S PERSON BY EVIDENCE
14 THAT SATISFIES YOU THE JURY OF THE GUILT OF THE DEFENDANT
15 BEYOND A REASONABLE DOUBT.

16 THE PRESUMPTION OF INNOCENCE ACCOMPANIES THE
17 DEFENDANT FROM THE TIME OF HIS ARRAIGNMENT, FROM THE TIME OF
18 HIS APPEARANCE IN COURT AND THROUGHOUT EVERY STAGE OF THE
19 TRIAL AND CONTINUES WITH THE DEFENDANT EVEN AFTER YOU RETIRE
20 INTO THE JURY ROOM TO CONSIDER YOUR VERDICT IN THE CASE.
21 THE PRESUMPTION OF INNOCENCE CONTINUES TO EXIST TO THE
22 BENEFIT OF THIS DEFENDANT UNTIL YOU THE JURY REACH THE
23 CONCLUSION THAT THE STATE HAS PROVEN THE GUILT OF THIS
24 DEFENDANT BEYOND A REASONABLE DOUBT. I WOULD INSTRUCT YOU,
25 MR. FOREMAN AND LADIES AND GENTLEMEN, THAT THE FACT THAT A

1 DEFENDANT IN THE TRIAL OF A CRIMINAL CASE DOES NOT TESTIFY
2 IN HIS OWN BEHALF IS NOT A FACTOR TO BE CONSIDERED BY YOU IN
3 ANY WAY IN YOUR DELIBERATION AND YOUR CONSIDERATION OF THE
4 QUESTION OF THE GUILT OR THE INNOCENCE OF THE ACCUSED.

5 IT MUST NOT BE CONSIDERED BY YOU IN ANY MANNER
6 AGAINST THE DEFENDANT OR MITIGATE AGAINST HIM IN ANY RESPECT.
7 A DEFENDANT HAS A CONSTITUTIONAL RIGHT TO REMAIN SILENT AND
8 THE ASSERTION OF THAT CONSTITUTIONAL RIGHT CANNOT AND MUST
9 NOT BE CONSIDERED BY YOU IN YOUR DELIBERATIONS. UNDER YOUR
10 OATH YOU ARE TO REACH NO INFERENCE AND DRAW NO CONCLUSION
11 FROM THE FACT THAT THE DEFENDANT IN THE CASE DID NOT
12 TESTIFY. AGAIN THE FACT THAT THE DEFENDANT DOES NOT TESTIFY
13 SHOULD NOT EVEN BE DISCUSSED IN THE JURY ROOM. THE BURDEN
14 OF PROOF AS I HAVE STATED TO YOU IS UPON THE STATE.

15 IT IS NOT ENCUMBERT UPON AN ACCUSED TO PROVE HIS
16 INNOCENCE. THE BURDEN OF PROOF REMAINS UPON THE STATE TO
17 PROVE GUILT BEYOND A REASONABLE AND AGAIN THE FACT THAT A
18 DEFENDANT DOES NOT TESTIFY IS NOT A FACTOR TO BE CONSIDERED
19 BY YOU IN DETERMINING THE GUILT OF THE INNOCENCE OF THE
20 DEFENDANT. THE STATE IS NOT REQUIRED TO PROVE THE GUILT OF
21 THE DEFENDANT BEYOND ALL DOUBT OR BEYOND EVERY DOUBT BUT
22 BEYOND A REASONABLE DOUBT AND WHEN WE SAY THAT PROOF MUST BE
23 ESTABLISHED BEYOND A REASONABLE DOUBT THOSE WORDS SHOULD BE
24 GIVEN THEIR PLAIN AND ORDINARY MEANING.

25 A REASONABLE DOUBT IS A KIND OF DOUBT THAT WOULD

1 CAUSE A REASOABLE PERSON TO HESITATE TO ACT. A REASONABLE
2 DOUBT CAN ARISE FROM THE EVIDENCE PRESENTED IN THE CASE OR
3 THE LACK OF EVIDENCE IN THE CASE. TO THINK THAT A DEFENDANT
4 IS PROBABLY GUILTY OR THAT THE CIRCUMSTANCES ARE SUSPICIOUS
5 IS NOT ENOUGH. PROOF BEYOND A REASONABLE DOUBT IS PROOF
6 THAT LEAVES YOU FIRMLY CONVINCED OF THE DEFENDANT'S GUILT.
7 THERE ARE FEW THINGS IN THIS WORLD THAT WE KNOW WITH
8 ABSOLUTE CERTAINTY AND IN A CRIMINAL CASE THE LAW DOES NOT
9 REQUIRE PROOF TO OVERCOME EVERY POSSIBLE DOUBT.

10 IF BASED ON YOUR CONSIDERATION OF THE EVIDENCE YOU
11 ARE FIRMLY CONVINCED THAT THE DEFENDANT IS GUILTY OF THE
12 CRIME OR CRIMES CHARGED YOU MUST FIND HIM GUILTY. IF ON THE
13 OTHER HAND YOU THINK THERE IS A REAL POSSIBILITY THAT HE IS
14 NOT GUILTY YOU MUST GIVE HIM THE BENEFIT OF THE DOUBT AND
15 FIND HIM NOT GUILTY. YOU ALONE MUST MAKE THE DETERMINATION
16 OF WHETHER OR NOT REASONABLE DOUBT EXISTS AS TO THE GUILT OF
17 THIS DEFENDANT.

18 I WOULD INSTRUCT YOU THAT THIS DEFENDANT IS
19 ENTITLED TO EVERY REASONABLE DOUBT ARISING IN THE WHOLE CASE
20 SO IF UPON ANY ISSUE OF FACT THAT IS ESSENTIAL TO A
21 CONVICTION AND A VERDICT OF GUILTY IF YOU HAVE A REASONABLE
22 DOUBT AS TO HOW THAT ISSUE SHOULD BE RESOLVED IT WILL BE
23 YOUR DUTY TO RESOLVE THAT REASONABLE DOUBT IN FAVOR OF THE
24 DEFENDANT. A DEFENDANT, MR. FOREMAN AND LADIES AND
25 GENTLEMEN, IS NOT REQUIRED TO PROVE HIS INNOCENCE BUT THE

1 STATE IS REQUIRED UNDER THE LAW TO PROVE EVERY ESSENTIAL
2 ELEMENT OF THE OFFENSES CHARGED AGAINST HIM BY EVIDENCE
3 THAT SATISFIES YOU THE JURY OF THE GUILT OF THE DEFENDANT
4 BEYOND A REASONABLE DOUBT BEFORE YOU CAN CONVICT THE
5 DEFENDANT AND FIND HIM GUILTY.

6 IF THEN UPON THE WHOLE CASE YOU HAVE A REASONABLE
7 DOUBT AS TO THE GUILT OR THE INNOCENCE OF THIS DEFENDANT HE
8 IS ENTITLED TO THAT REASONABLE DOUBT AND WOULD BE ENTITLED
9 TO AN ACQUITTAL AND A VERDICT OF NOT GUILTY BUT ON THE OTHER
10 HAND IF UPON THE WHOLE CASE YOU FIND THAT THE STATE HAS
11 PROVEN BY EVIDENCE THAT SATISFIES YOU OF THE GUILT OF THIS
12 DEFENDANT BEYOND A REASONABLE DOUBT, THEN IN THAT
13 CIRCUMSTANCE IT WOULD EQUALLY BE YOUR DUTY TO CONVICT THE
14 DEFENDANT AND FIND HIM GUILTY. IF YOU FIND THE DEFENDANT
15 GUILTY BUT YOU HAVE A REASONABLE DOUBT AS TO WHETHER OR NOT
16 THE DEFENDANT IS GUILTY OF A GREATER CRIME CHARGED, THEN YOU
17 WOULD RESOLVE THAT REASONABLE IN FAVOR OF THE DEFENDANT AND
18 WRITE A VERDICT OF GUILTY AS TO THE LESSER CHARGE.

19 BUT OF COURSE YOU COULD NOT WRITE A VERDICT OF
20 GUILTY TO ANY CHARGE UNLESS AS TO THAT PARTICULAR CHARGE YOU
21 FIND THAT ALL THE ELEMENTS OF THE CHARGES HAVE BEEN PROVEN
22 BY THE STATE BEYOND A REASONABLE DOUBT. I WOULD INSTRUCT
23 YOU AGAIN THAT THE INDICTMENTS IN THIS CASE ARE NOT EVIDENCE
24 AND CANNOT BE CONSIDERED BY YOU AS EVIDENCE IN THE CASE.
25 AGAIN THE INDICTMENTS ARE SIMPLY THE FORMAL WRITTEN

1 INSTRUMENTS THAT CONTAIN THE CHARGE OR THE CHARGES MADE
2 AGAINST A DEFENDANT AND THE INDICTMENT SERVES AS A FORMAL
3 DOCUMENT BY WHICH THE CASE HAS BEE PROCESSED OUT, BROUGHT
4 INTO THIS COURT.

5 DURING THE TRIAL, LADIES AND GENTLEMEN, YOU AND I
6 HAVE CERTAIN DUTIES TO PERFORM. AS THE TRIAL JUDGE IT IS MY
7 RESPONSIBILITY TO PRESIDE OVER THE TRIAL OF THE CASE. I
8 ALSO HAVE THE DUTY TO RULE UPON OR PASS UPON THE
9 ADMISSIBILITY OF THE EVIDENCE THAT WAS OFFERED DURING THE
10 TRIAL. YOU ARE TO CONSIDER ONLY THE COMPETENT EVIDENCE
11 BEFORE YOU AND YOU ARE TO DISREGARD AND DISABUSE FROM YOUR
12 MIND ANY TESTIMONY THAT WAS ORDERED STRICKEN FROM THE RECORD
13 HERE WITH ANY EXHIBITS THAT HAVE BEEN ENTERED IN THIS CASE
14 DURING THE PROGRESS OF THE TRIAL IF THERE WAS ANY.

15 AND YOU ARE TO CONSIDER ONLY THE TESTIMONY THAT
16 HAS BEEN PRESENTED FROM THE WITNESS STAND TOGETHER WITH ANY
17 EXHIBITS THAT HAVE BEEN MADE A PART OF THE RECORD IN THE
18 CASE AND ANY STIPULATIONS OF COUNSEL THAT WERE PLACDED INTO
19 THE RECORD. I DO HAVE THE ADDITIONAL DUTY TO CHARGE YOU THE
20 LAW THA APPLIES IN THIS CASE. AS A PRESIDING JUDGE AS I'VE
21 INDICATED I'M THE SOLE JUDGE OF THE LAW OF THE CASE AND IT
22 IS YOUR DUTY AS JURORS TO ACCEPT AND TO APPLY THE LAW AS IT
23 IS NOW EXPLAINED TO YOU. IF YOU HAD A PRECONCEIVED IDEA AS
24 TO WHAT THE LAW IS OR WHAT YOU THOUGHT THE LAW SHOULD BE OR
25 IS IN A CASE AND IF THAT PRECONCEPTION DOES NOT AGREE WITH

1 WHAT I AM NOW EXPLAINING TO YOU, THEN YOU ARE OBLIGATED UNDER
2 YOUR OATH TO BECAUSE YOU ARE SWORN TO ACCEPT THE LAW AND
3 APPLY THE LAW PRECISELY AS THE COURT EXPLAINS IT TO YOU.

4 IN EVERY CASE THAT IS TRIED IN THIS COURT BEFORE A
5 JURY, THE JURY DOES BECOME THE SOLE AND EXCLUSIVE JUDGE OF
6 THE FACTS IN THE CASE. YOU ARE THE JURY. THE CONSTITUTION
7 OF OUR STATE HAS DECLARED THAT A TRIAL JUDGE SHALL NOT
8 INTIMATE, STATE, COMMENT UPON OR MAKE ANY STATEMENT TO A
9 TRIAL JURY ABOUT THE FACTS IN A CASE AND SINCE YOU THE JURY
10 ARE THE SOLE JUDGES OF THE FACTS OF THIS CASE, YOU ARE NOT
11 TO INFER FROM ANYTHING THAT I'VE SAID DURING THE PROGRESS OF
12 THE TRIAL IN RULING UPON THE ADMISSIBILITY OF EVIDENCE OR
13 OTHERWISE OR ANYTHING THAT I SAY. NOW, DURING THE COURSE OF
14 THESE INSTRUCTIONS TO THAT I HAVE ANY ANY OPINION ABOUT THE
15 FACTS OF THIS CASE AGAIN THE LAW DOES NOT PERMIT ME TO HAVE
16 AN OPINION ABOUT THE FACTS OF THE CASE. THAT IS A MATTER
17 SOLELY FOR YOU THE JURY TO DETERMINE.

18 AS JURORS THEN IT IS YOUR DUTY AS I'VE INSTRUCTED
19 TO DETERMINE THE EFFECT, THE VALUE, THE WEIGHT AND THE TRUTH
20 OF THE EVIDENCE THAT HAS BEEN PRESENTED DURING THE TRIAL.
21 BY NECESSITY YOU MUST ASSESS THE CREDIBILITY OF THE
22 WITNESSES WHO HAVE TESTIFIED IN THE CASE. CREDIBILITY IS
23 SIMPLY A LEGALISTIC TERM THAT MEANS BELIEVABILITY. IT
24 BECOMES YOUR DUTY AS JURORS TO ANALYZE AND TO EVALUATE THE
25 EVIDENCE AND TO DETERMINE THAT EVIDENCE WHICH CONVINCES YOU

1 OF ITS TRUTH. I WOULD INSTRUCT YOU THAT IN DETERMINING THE
2 QUESTION OF CREDIBILITY OR BELIEVABILITY OF THE WITNESSES
3 WHO HAVE TESTIFIED.

4 YOU MAY BELIEVE ONE WITNESS AS AGAINST SEVERAL
5 WITNESSES OR SEVERAL WITNESSES AS AGAINST ONE. YOU MY
6 BELIEVE A PART OF THE TESTIMONY OF A WITNESS AND REJECT THE
7 REMAINING PART OF THE TESTIMONY OF THAT SAME WITNESS. YOU
8 MAY BELIEVE THE TESTIMONY OF A WITNESS IN ITS ENTIRETY OR
9 REJECT THE TESTIMONY OF A WITNESS IN ITS ENTIRETY. YOU MAY
10 CONSIDER WHETHER ANY WITNESS HAS EXHIBITED TO YOU ANY
11 INTEREST, ANY MOTIVE, ANY BIAS OR ANY PREJUDICE IN THE CASE.
12 YOU MAY CONSIDER THE DEMEANOR OF A WITNESS THAT IS THE
13 APPEARANCE OF A WITNESS FROM THE WITNESS STAND AND OF COURSE
14 YOU MAY CONSIDER THE OPPORTUNITY FOR KNOWLEDGE CONCERNING
15 THOSE THINGS ABOUT WHY A WITNESS HAS TESTIFIED.

16 YOUR OBJECTIVE, MR. FOREMAN AND LADIES AND
17 GENTLEMEN, IS TO SEEK THE TRUTH REGARDLESS OF ITS SOURCE AND
18 IN DOING SO IN EXERCISING YOUR MENTAL PROCESSES AND
19 DETERMINING WHAT YOU CONSIDER TO BE TRUE. THE LAW SIMPLY
20 REQUIRES YOU TO EXERCISE YOUR GOOD JUDGMENT AND YOUR COMMON
21 SENSE, YOUR SENSE OF LOGIC AND REASON AND YOUR EXPERIENCES
22 IN LIFE. YOU IDENTIFY THESE ATTRIBUTES AND APPLY IT TO THE
23 EVIDENCE AND DETERMINE WHAT YOU THE JURY CONSIDERS TO BE THE
24 TRUTHFUL EVIDENCE AND TO THIS STATE OF FACTS AS YOU HAVE
25 DETERMINED AND YOU THEN TAKE AND APPLY THE LAW AS IT IS NOW

1 EXPLAINED TO YOU AND THUS ARRIVE AT A TRUE VERDICT IN THE
2 CASE.

3 I WILL CHARGE THAT THERE TWO TYPES OF EVIDENCE
4 THAT WILL GENERALLY BE PRESENTED DURING THE TRIAL, DIRECT
5 AND CIRCUMSTANTIAL EVIDENCE. DIRECT EVIDENCE IS THE
6 TESTIMONY OF A PERSON WHO ASSERTS OR CLAIMS TO HAVE ACTUAL
7 KNOWLEDGE OF A FACT SUCH AS AN EYEWITNESS. CIRCUMSTANTIAL
8 EVIDENCE IS PROOF OF A CHAIN OF FACTS AND CIRCUMSTANCES
9 INDICATING THE EXISTENCE OF A FACT. THE LAW MAKE STHAT
10 ABSOLUTELY NO DISTINCTION BETWEEN THE WEIGHT OR THE VALUE TO
11 BE GIVEN TO EITHER DIRECT OR CIRSUMSTANTIAL EVIDENCE NOR IS
12 A GREATER DEGREE OF CERTAINTY REQUIRED OF CIRCUMSTANTIAL
13 EVIDENCE THAN OF DIRECT EVIDENCE.

14 YOU SHOULD WEIGH ALL THE EVIDENCE IN THE CASE AND
15 AFTER VIEWING ALL THE EVIDENCE IF YOU'RE NOT CONVINCED OF
16 THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT THEN
17 YOU MUST FIND THE DEFENDANT NOT GUILTY. I WILL FURTHER
18 CHARGE YOU, MR. FOREMAN AND LADIES AND GENTLEMEN, DURING THE
19 TRIAL OF THIS MATTER WE'VE HAD WHAT WE CALL EXPERT
20 TESTIMONY. IN THIS CONNECTION I WILL TELL YOU THAT
21 ORDINARILY WITNESSES ARE NOT PERMITTED TO TESTIFY AS TO
22 THEIR OPINIONS ON A PARTICULAR MATTER AN EXCEPTION TO THIS
23 RULE IS WHERE A WITNESS HAS QUALIFIED AS AN EXPERT.

24 IN THAT EVENT SUCH A WITNESS MAY GIVE HIS OR HER
25 OPINION. NOW, AS FAR AS OPINION EVIDENCE IS CONCERNED HAT

1 IS TO SAY THE EFFECT OF ANY EXPERT WHICH IS A MATTER OF
2 OPINION YOU ARE NOT TO PLACE ANY OPINIONS AS ABOVE THE IDEA
3 OF YOUR OWN OPINIONS ON THE SUBJECT BUT YOU ARE TO CONSIDER
4 THESE OPINIONS ALONG WITH THE OTHER EVIDENCE IN THE CASE IN
5 FORMING YOUR OWN CONCLUSION. I WOULD FURTHER INSTRUCT YOU
6 THAT THERE WAS ADMITTED INTO THE RECORD OF THIS CASE
7 EVIDENCE OF AN ALLEGED PRIOR RECORD OF A WITNESS OR
8 WITNESSES.

9 THIS EVIDENCE WAS ADMITTED FOR A LIMITED PURPOSE.
10 THIS EVIDENCE WAS ADMITTED AND MAY BE CONSIDERED BY YOU THE
11 JURY IF YOU CONCLUDE IT TRUE ONLY FOR THE PURPOSE OF
12 EVALUATING THE CREDIBILITY OR THE BELIEVABILITY OF HIS
13 WITNESS. YOU MAY GIVE TO THIS EVIDENCE SUCH WEIGHT AND SUCH
14 VALUE IF ANY TO WHICH YOU FIND IT IS ENTITLED. ON THE ISSUE
15 OF THE CREDIBILITY OR THE BELIEVABILITY OF THE TESTIMONY
16 OFFERED BY THE WITNESS HIMSELF OR HERSELF.

17 I WOULD FURTHER CHARGE THAT VOLUNTARY INTOXICATION
18 BY DRUGS OR ALCOHOL IS NEVER AN EXCUSE OR A DEFENSE TO A
19 CRIME. A PERSON WHO VOLUNTARILY RENDERS HIMSELF OR HERSELF
20 INTOXICATED IS NO LESS RESPONSIBLE FOR HIS OR HER ACTS WHILE
21 IN THAT CONDITION. IF A PERSON BECOMES INTOXICATED AND IF
22 WHILE IN THAT CONDITION COMMITS AN ACT WHICH WOULD BE A
23 CRIME IF IT HAD BEEN COMMITTED BY A SOBER PERSON,
24 INTOXICATION WOULD NOT RELIEVE THE INTOXICATED PERSON FROM
25 RESPONSIBILITY. I HAVE EXPLAINED TO YOU, MR. FOREMAN AND

1 LADIES AND GENTLEMEN, THAT THERE ARE FOUR SEPARATE
2 INDICTMENTS, FOUR SEPARATE CHARGES IN THIS CASE.

3 EACH INDICTMENT CONTAINS A SEPARTE AND DISTINCT
4 OFFENSE. YOU MUST DECIDE EACH INDICTMENT SEPARATELY ON THE
5 EVIDENCE AND THE LAW THAT APPLIES TO IT UNINFLUENCED BY YOUR
6 DECISION AS TO ANY OTHER INDICTMENT. THE DEFENDANT MAY BE
7 CONVICTED OR ACQUITTED ON ANY OR ALL OF THE OFFENSES
8 CHARGED. YOU WILL BE ASKED TO WRITE A SEPARATE VERDICT OF
9 GUILT OR NOT GUILTY FOR EACH INDICTMENT. I WILL EXPLAIN
10 THAT TO YOU AT THE CONCLUSION OF THESE INSTRUCTIN S. I WILL
11 FURTHER INSTRUCT YOU THAT UNDER THE LAW TWO OR MORE CRIMINAL
12 OFFENSES MAY GROW OUT OF THE SAME COURSE OF ACTION AS WHERE
13 ONE OFFENSE IS COMMITTED WITH THE INTENT THEREAFTER TO
14 COMMIT THE OTHER AND IS ACTUALLY FOLLOWED BY THE COMMISSION
15 OF THE SECOND OFFENSE.

16 I WOULD CHARGE YOU THAT CRIMINAL INTENT IS A
17 NECESSARY ELEMENT OF EACH CRIME THAT MUST BE PROVEN BY THE
18 STATE BEYOND A REASONABLE DOUBT. CRIMINAL INTENT IS ALWAYS
19 A MATTER THAT MUST BE DETERMINED BY THE JURY FROM THE
20 CIRCUMSTANCES SURROUNDING THE SITUATION. THERE IS NO WAY TO
21 PROVE INTENT TO A MATHEMATICAL CERTAINTY. THERE IS NO WAY
22 THAT PHYSICAL SCIENCE CAN DISSECT A PERSON'S BRAIN AND
23 DETERMINE WHAT THAT PERSON HAD IN MIND. SO THE LAW SAYS
24 THAT CRIMINAL INTENT MAY BE INFERRED FROM THE CIRCUMSTANCES
25 THAT ARE SHOWN TO HAVE EXISTED.

1 THIS IS HOW THE JURY MAKES A DETERMINATION OF
2 WHETHER OR NOT THE ELEMENT REQUIRING INTENT WAS PRESENT.
3 CRIMINAL INTENT IS A STATE OF MIND WHICH OPERATES JOINTLY
4 AND ACTS IN THE COMMISSION OF CRIME. CRIMINAL INTENT IS A
5 MENTAL STATE, A CONSCIOUS WRONGDOING. SO IT IS UP TO YOU
6 THE JURY TO DETERMINE WHAT THE DEFENDANT INTENDED TO DO
7 BASED ON THE CIRCUMSTANCES THAT WERE SHOWN TO HAVE EXISTED.
8 AGAIN THE STATE MUST PROVE CRIMINAL INTENT BEYOND A
9 REASONABLE DOUBT JUST AS THE STATE MUST PROVE EVERY ELEMENT
10 OF THE OFFENSES BEYOND A REASONABLE DOUBT.

11 . . . AS I HAVE PREVIOUSLY EXPLAINED THAT TO YOU, LET ME
12 NOW GO OVER AND EXPLAIN TO YOU THE LAW THAT APPLIES TO THE
13 THREE CHARGES THAT ARE MADE. THERE ARE FOUR INDICTMENTS.
14 TWO OF THE INDICTMENTS ALLEGE A KIDNAPPING AND THEN THERE IS
15 ONE FOR ARMED ROBBERY AND ONE FOR ASSAULT AND BATTERY WITH
16 INTENT TO KILL. LET ME START WITH KIDNAPPING. THIS OFFENSE
17 IS FOUND IN SECTION 16-3-910 OF THE SOUTH CAROLINA CODE OF
18 LAWS. LET ME READ THAT STATUTE TO YOU IN PART. IT READS AS
19 FOLLOWS: WHOEVER SHALL UNLAWFULLY SEIZE, CONFINE, ENVEIGLE,
20 DECOY, KIDNAP, ABDUCT OR CARRY AWAY ANY OTHER PERSON BY ANY
21 MEANS WHATSOEVER WITHOUT AUTHORITY OF LAW IS GUILTY OF THIS
22 OFFENSE.

23 THE DEFENDANT AGAIN IS CHARGED IN THESE
24 INDICTMENTS WITH KIDNAPPING. THE STATE MUST PROVE BEYOND A
25 REASONABLE DOUBT THAT THE DEFENDANT KNOWINGLY AND UNLAWFULLY

1 SEIZED, CONFINED, ENVEIGLED, DECOYED OR KIDNAPPED, ABDUCTED
2 OR CARRIED AWAY ANOTHER PERSON WITHOUT AUTHORITY OF LAW. TO
3 DO A THING UNLAWFULLY IS TO DO IT WILLEFULLY AGAINST THE LAW,
4 KNOWINGLY MEANING WITH KNOWLEDGE, CONSCIOUSLY AND NOT
5 ACCIDENTALLY. SEIZE MEANS TO TAKE HOLD OF SUDDENLY OR
6 FORCIBLY. KIDNAP MEANS TO LIMIT, RESTRICT OR ENCLOSE WITHIN
7 BOUNDS OR IN PRISON OR SHUT OR KEEP IN.

8 INVEIGLE MEANS TO LURE, SURPRISE, OR LEAD ASTRAY
9 BY FALSE REPRESENTATIONS, PROMISES OR OTHER DECEITFUL MEANS.
10 DECOY MEANS TO LURE BY OR AS IF BY DECOY. A DECOY IS TO
11 ENTICE A PERSON INTO A TRAP. KIDNAPPING IS TO REMOVE A
12 PERSON AGAINST HIS OR HER WILL BY UNLAWFUL FORCE OR BY
13 FRAUD. ABDUCT MEANS TO CARRY OFF SECRETLY OR BY FORCE FOR
14 AN ILLEGAL PURPOSE. CARRY AWAY MEANS O REMOVE. THE STATE
15 DOES NOT HAVE TO PROVE THAT THE DEFENDANT DID ALL OF THESE
16 THINGS. INSTEAD IF YOU FIND BEYOND A REASONABLE DOUBT THE
17 DEFENDANT DID ANY OF THESE THINGS, THEN YOU MAY FIND THE
18 DEFENDANT GUILTY OF KIDNAPPING.

19 SOMETHING DONE WITHOUT THE AUTHORITY OF LAW IS
20 SOMETHING WHICH THE LAW DOES NOT SANCTION, PERMIT OR ALLOW,
21 CONDONE OR PROVIDE JUSTIFICATION FOR. THE KIDNAPPING DOES
22 NOT HAVE TO BE FOR ANY PERSONAL OR MONETARY GAIN OR ANY
23 ILLEGAL PURPOSE BUT MAY BE FOR ANY REASON WHATSOEVER. I
24 WOULD FURTHER CHARGE YOU THAT KIDNAPPING IS A CONTINUING
25 OFFENSE WHICH IS CONTINUING WHEN ONE IS DEPRIVED OF FREEDOM

1 AND CONTINUES UNTIL THAT FREEDOM HAS BEEN RETURNED.

2 THE NEXT CHARGE THAT I WILL EXPLAIN TO YOU IS THE
3 INDICTMENT WHERE THE DEFENDANT IS CHARGED WITH ASSAULT AND
4 BATTERY WITH INTENT TO KILL. NOW UNDER A PRINCIPLE OF OUR
5 LAW A PRIMARY OR GREATER OFFENSE AUTOMATICALLY INCLUDES OR
6 COMPRISES ANY LESSER OFFENSE. THERE IS INCLUDED AND
7 COMPRISED WITHIN THE CHARGE OF ASSAULT AND BATTERY WITH
8 INTENT TO KILL A LESSER CHARGE OF ASSAULT AND BATTERY OF A
9 HIGH AND AGGRAVATED NATURE. I'M FIRST GOING TO DEFINE FOR
10 YOU THE WORD ASSAULT AND THEN THE WORD BATTERY AND THEN THE
11 WORDS ASSAULT AND BATTERY WITH INTENT TO KILL AND THEN
12 ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE.

13 NOW, WHAT IS AN ASSAULT? AN ASSAULT IS THE
14 UNLAWFUL ATTEMPT OR OFFER WITH FORCE OR VIOLENCE TO DO
15 CORPORAL HURT OR INJURY TO THE PERSON OF ANOTHER WHERE THERE
16 IS A PRESENT ABILITY TO COMPLETE THE ATTEMPT OR OFFER BY A
17 BATTERY.

18 NOW, WHAT IS A BATTERY? A BATTERY IS THE UNLAWFUL
19 TOUCHING OF A PERSON BY ANOTHER BY THE PARTY COMMITTING THE
20 ASSAULT HIMSELF BY ANY OBJECT AS TO PUT IN MOTION THE THE
21 PARTY COMMITTING THE ASSAULT. A BATTERY MAY BE FURTHER
22 DEFINED AS A CARRYING INTO EFFECT AN ASSAULT BY USING OR
23 APPLYING FORCE TO THE PERSON OF ANOTHER HOWEVER SLIGHT IN A
24 RUDE, ANGRY OR RESENTFUL MANNER WITHOUT LEGAL JUSTIFICATION.
25 NOW, TO THE DEGREES OF ASSAULT AND BATTERY THAT WE WILL BE

1 DISCUSSING OR THAT I WILL BE DISCUSSING WITH YOU AT THIS
2 TIME ARE ASSAULT AND BATTERY OR A HIGH AND AGGRAVATED NATURE
3 AND ASSAULT AND BATTERY WITH THE INTENT TO KILL.

4 AS I HAVE STATED TO YOU THE OFFENSE OF ASSAULT AND
5 BATTERY WITH INTENT TO KILL IS DEFINED AS AN UNLAWFUL ACT OF
6 VIOLENT INJURY TO THE PERSON OF ANOTHER ACCOMPANIED WITH
7 MALICE AFORETHOUGHT.

8 ASSAULT AND BATTERY WITH INTENT TO KILL CONTAINS
9 ALL THE ELEMENTS OF MURDER EXCEPT THE ACTUAL DEATH OF THE
10 PERSON ASSAULTED. SO BEFORE A DEFENDANT CAN BE CONVICTED OF
11 AN ASSAULT AND BATTERY WITH INTENT OT KILL THE JURY MUST BE
12 SATISFIED BEYOND A REASONABLE DOUBT THAT IF THE VICTIM OR
13 THE PERSON ASSAULTED HAD DIED AS A RESULT OF THESE INJURIES
14 THAT THE DEFENDANT WOULD HAVE BEEN GUILTY OF MURDER. IN
15 ORDER FOR YOU TO FULLY UNDERSTAND THE ASSAULT AND BATTERY
16 WITH INTENT TO KILL, IT IS NECESSARY THEREFORE THAT I CHARGE
17 YOU TO A LIMITED EXTENT ON THE CHAQRGE OF MURDER.

18 NOW, MURDER IS THE KILLING OF A HUMAN BEING WITH
19 MALICE AFORETHOUGHT EITHER EXPRESSED OR INFERRED. MALICE IS
20 AN ESSENTIAL ELEMENT FOR MURDER. MURDER DOES NOT
21 NECESSARILY IMPORT ILL WILL TOWARD THE INDIVIDUAL INJURED
22 BUT SIGNIFIES RATHER A GENERAL MALIGNANT AND RECKLESSNESS OF
23 THE LIVES AND THE SAFETY OF OTHERS OR CONDITION OF THE MIND
24 WHICH SHOWS AHEART DEVOID OF SOCIAL DUTY AND FATALLY BENT ON
25 MISCHIEF. MALICE IS AN ESSENTIAL ELEMENT IN THE CRIME OF

1 MURDER AND MALICE IS AN ESSENTIAL ELEMENT IN THE CRIME OF
2 ASSAULT AND BATTERY WITH INTENT TO KILL.

3 AS I HAVE STATED MALICE IS A TERM OF ART, A
4 TECHNICAL TERM IMPARTING WICKEDNESS AND EXCLUDING JUST CAUSE
5 OR LEGAL EXCUSE. MALICE IS ANY FORM, DESIGNED FOR DOING
6 MISCHIEF WHETHER IT ARISES FROM HATRED, ILL WILL OR
7 OTHERWISE, IT IS STILL MALICE. MALICE SPRINGS FROM
8 DEPRAVITY. MALICE MUST BE AFORETHOUGHT. THE LAW DOES NOT
9 REQUIRE THAT MALICE SHOULD EXIST ANY PARTICULAR TIME BEFORE
10 THE COMMISSION OF THE ACT BUT MALICE MUST EXIST
11 AFORETHOUGHT. THAT IS MALICE MUST EXIST IN THE MIND OF THE
12 ACCUSED JUST BEFORE AND AT THE TIME OF THE COMMISSION OF THE
13 ACT.

14 THERE MAY BE A COMBINATION OF THE PREVIOUS EVIL
15 INTENT AND THE ACT PRODUCING THE FATAL RESULT. SO MALICE
16 AFORETHOUGHT MAY BE EXPRESSED OR INFERRED. THE WORDS MALICE
17 AFORETHOUGHT EXPRESSED OR INFERRED DO NOT MEAN DIFFERENT
18 KINDS OF MALICE BUT MERELY THE MANNER IN WHICH THE ONLY KIND
19 OF MALICE MEANS TO THE LAW MAY BE SHOWN TO EXIST. THAT IS
20 EITHER BY DIRECT EVIDENCE OR BY INDIRECT EVIDENCE GIVING
21 RISE TO AN INFERENCE FROM THE FACTS AND THE CIRCUMSTANCES
22 THAT PREVIOUSLY EXISTED.

23 MALICE IS SHOWN WHEN ONE BY WORD OF MOUTH
24 EXPRESSES HATRED OR ILL WILL FOR ANOTHER OR WHERE THE STATE
25 SHOWS THAT THAT PERSON MADE PREPARATION BEFOREHAND TO DO THE

1 DEED WHICH WAS LATER ACCOMPLISHED AND DONE. LYING IN WAIT
2 FOR A PERSON AND ANY ACT OF PREPARATION GOING TO SHOW THAT
3 THE DEED WAS WITHIN HIS MIND WOULD BE EXPRESSED MALICE.

4 NOW, INFERRED MALICE. INFERRED MALICE MAY ARISE
5 WHEN A DEED IS DONE WITH A DEADLY WEAPON SUCH AS A KNIFE OR
6 PISTOL OR SOME OTHER WEAPON BY ITS NATURE WHICH WHEN USED
7 WITH THE INTENT TO INJURE ANOTHER IS CALCULATED TO PRODUCE
8 DEATH OR SERIOUS BODILY HARM. IF FACTS ARE PROVEN BEYOND A
9 REASONABLE DOUBT SUFFICIENT TO RAISE AN INFERENCE OF MALICE
10 TO YOUR SATISFACTION THIS INFERENCE COULD SIMPLY BE AN
11 EVIDENTIARY FACT TO BE TAKEN INTO CONSIDERATION BY YOU THE
12 JURY ALONG WITH THE OTHER EVIDENCE IN THE CASE AND YOU MAY
13 GIVE IT SUCH WEIGHT AS YOU DETEREMINE IT SHOULD RECEIVE.

14 NOW, MR. FOREMAN, LADIES AND GENTLEMEN, BEFORE THE
15 DEFENDANT CAN BE CONVICTED OR FOUND GUILTY OF THE ASSAULT
16 AND BATTERY WITH INTENT TO KILL, THE JURY MUST BE SATISFIED
17 BEYOND A REASONABLE DOUBT THAT IF THE PARTY HAD DIED AS A
18 RESULT OF THE INJURIES INFLICTED UPON HIM OR HER THE
19 DEFENDANT WOULD HAVE BEEN GUILTY OF MURDER. THEREFORE YOU
20 MUST ASK YOURSELF THIS QUESTION: IF THE PERSON ASSAULTED
21 HAD DIED AS A RESULT OF THE INJURY, WOULD THE DEFENDANT HAVE
22 BEEN GUILTY OF MURDER? IF YOUR ANSWER TO THE QUESTION IS
23 YES, THE DEFENDANT IS GUILTY OF ASSAULT AND BATTERY WITH
24 INTENT TO KILL.

25 IF YOU SHOULD CONCLUDE THAT THE STATE HAS FAILED

1 TO SATISFY THE JURY BEYOND A REASONABLE DOUBT THAT THE
2 DEFENDANT WOULD HAVE BEEN GUILTY OF MURDER HAD THE PERSON
3 ASSAULTED DIED AS A RESULT OF THE INJURY THE DEFENDANT WOULD
4 NOT BE GUILTY OF ASSAULT AND BATTERY WITH INTENT TO KILL AND
5 YOU WOULD THEN CONSIDER THE LESSER INCLUDED OFFENSE OF
6 ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE.

7 ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED
8 NATURE IS DEFINED AS THE UNLAWFUL AND INTENTIONAL INFLECTION
9 OF A VIOLENT INJURY ON THE PERSON OF ANOTHER ACCOMPANIED BY
10 CIRCUMSTANCES OF AGGRAVATION SUCH AS THE USE OF A DEADLY
11 WEAPON, INFLECTION OF SERIOUS BODILY INJURY, THE INTENT TO
12 COMMIT A FELONY OR A GREAT DISPARITY BETWEEN THE AGES OR
13 PHYSICAL CONDITION OF THE PARTIES OR DIFFERENCE OF THE
14 SEXES. THIS IS AN ASSAULT ACCOMPANIED BY CIRCUMSTANCES OF
15 AGGRAVATION. NEITHER SERIOUS BODILY HARM NOR USE OF A
16 DEADLY WEAPON IS AN ESSENTIAL ELEMENT OF ASSAULT AND BATTERY
17 OF A HIGH AND AGGRAVATED NATURE BUT THEY ARE CIRCUMSTANCES
18 OF AGGRAVATION AND AGAIN CIRCUMSTANCES OF AGGRAVATION MUST
19 BE SHOWN BY THE STATE BEYOND A REASONABLE DOUBT.

20 NOW, IF THE JURY DETERMINES ON THIS CHARGE THAT
21 THE DEFENDANT IS GUILTY BUT HAS A REASONABLE DOUBT AS TO
22 WHETHER THE DEFENDANT IS GUILTY OF THE GREATER CRIME
23 CHARGED, THAT IS ASSAULT AND BATTERY WITH INTENT TO KILL OR
24 THE LESSER CRIME CHARGED, ASSAULT AND BATTERY OF A HIGH AND
25 AGGRAVATED NATURE, THE DEFENDANT WOULD BE INTITLED TO THAT

1 REASONABLE DOUBT AND YOU COULD CONVICT THE DEFENDANT ONLY OF
2 THE LESSER CHARGE OF ASSAULT AND BATTERY OF A HIGH AND
3 AGGRAVATED NATURE. HOWEVER EACH OF THE ESSENTIAL ELEMENTS
4 OF THAT OFFENSE MUST BE PROVEN BEYOND A REASONABLE DOUBT
5 BEFORE THE JURY COULD FIND THE DEFENDANT GUILTY. THE FINAL
6 CHARGE THAT IS MADE IN THE REMAINING INDICTMENT IS THE
7 CHARGE OF ARMED ROBBERY.

8 THIS IS FOUND IN SECTION 16-11-30 OF THE SOUTH
9 CAROLINA CODE OF LAWS. LET ME READ IN PART THAT STATUTE TO
10 YOU. A PERSON WHO COMMITS ROBBERY WHILE ARMED WITH A
11 PISTOL, DIRK, SLINGSHOT, METAL KNUCKLES, OR OTHER DEADLY
12 WEAPON OR EITHER BY ACTION OR WORDS HE WAS ARMED BY USING A
13 REPRESENTATION OF A DEADLY WEAPON OR ANY OBJECT WHICH A
14 PERSON PRESENTS DURING THE COMMISSION OF A ROBBERY
15 REASONABLY BELIEVES TO BE A DEADLY WEAPON IS GUILTY OF THIS
16 OFFENSE OF ARMED ROBBERY.

17 IN ORDER THAT YOU MAY UNDERSTAND WHAT IS MEANT BY
18 ARMED ROBBERY, I'M GOING TO FIRST DEFINE FOR YOU THE CRIME
19 OF LARCENY AND THEN ROBBERY AND THEN WHAT CONSTITUTES ARMED
20 ROBBERY BECAUSE LARCENY IS EMBRACED WITHIN ROBBERY AND THEN
21 ARMED ROBBERY IS THE AGGRAVATION OF THE CRIME OF ROBBERY.
22 NOW, WHAT IS LARCENY? LARCENY IS THE FELONIOUS TAKING AND
23 THE CARRYING AWAY BY ANY PERSON OF THE GOODS OR THE PERSONAL
24 PROPERTY OF ANOTHER WITH THE FELONIOUS INTENT TO PERMANENTLY
25 DEPRIVE THE OWNER OF HIS OR HER PROPERTY AND CONVERT IT TO

1 THE TAKER'S OWN USE.

2 SO THE ESSENTIAL ELEMENT OF THE CRIME OF LARCENY
3 WHICH IS ORDINARILY CALLED STEALING ARE ONE, THE FELONIOUS
4 TAKING INTO POSSESSION THE PERSONAL PROPERTY OF ANOTHER,
5 NEXT THE CARRYING A WAY AND REMOVAL OF OF PERSONAL PROPERTY,
6 NEXT THE FELONIOUS INTENT, THE INTENT TO STEAL ION THE PART
7 OF THE TAKER TO PERMANENTLY DEPRIVE THE OWNER OF THE
8 PERSONAL PROPERTY AND TO CONVERT THE PROPERTY TO THE TAKER'S
9 OWN USE.

10 NOW, ROBBERY IS THE FELONIOUS TAKING AND THE
11 CARRYING A WAY OF THE PERSONAL PROPERTY OF VALUE OF ANOTHER
12 FROM HIS OR HER PERSON OR IN HIS OR HER PRESENCY BY VIOLENCE
13 OR PUTTING HIM OR HER IN FEAR OF VIOLENCE. ROBBERY INCLUDES
14 LARCENY AND ALL THE ELEMENTS THAT ARE NECESSARY TO
15 CONSTITUTE LARCENY ARE ALSO NECESSARY TO CONSTITUTE ROBBERY.
16 SO THE ELEMENTS OF ROBBERY ARE FIRST, THAT THE PROPERTY
17 TAKEN MUST BE THE SUBJECT OF THE LARCENY THAT IS PERSONAL
18 PROPERTY. I WILL CHARGE YOU THAT LAWFUL CURENCY OF THE
19 UNITED STATES OF AMERICA IS PERSONAL PROPERTY.

20 NEXT THERE MUST BE A FELONIOUS TAKING AND THE
21 CARRYING AWAY OF PERSONAL PROPERTY. THERE MUST BE A
22 TRESPASS AND A TRANSPORTATION OF THE PERSONAL PROPERTY WITH
23 THE INTENT TO STEAL. COMPLETE POSSESSION OF THE PERSONAL
24 PROPERTY BY THE TAKER EVEN FOR AN INSTANT IS SUFFICIENT AND
25 THE CARRYING AWAY OR EVEN THE SLIGHTEST REMOVAL OF THE

1 PERSONAL PROPERTY IS SUCH UNDER THE LAW. NEXT THE TAKING
2 AND THE CARRYING AWAY OF PERSONAL PROPERTY MUST BE WITH A
3 FELONIOUS INTENT. THAT IS WITH THE INTENT TO STEAL ON THE
4 PART OF THE TAKER TO PERMANENTLY DEPRIVE THE OWNER OF THE
5 PERSONAL PROPERTY AND TO CONVERT THE PERSONAL PROPERTY TO
6 THE TAKER'S OWN USE.

7 AND NEXT THE AGGRAVATING CIRCUMSTANCES THAT ARE
8 NECESSARY TO CONSTITUTE ROBBERY AS DISTINGUISHED FROM
9 LARCENY ARE THOSE PROPERTIES TAKEN OR OR MUST BE TAKEN FROM
10 THE PERSON THEN IT IS TAKEN CONSTRUCTIVELY FROM HIS OR HER
11 PERSON AND NEXT THE TAKING MUST NOT ONLY BE WORTH HIS OR HER
12 CONTENTS BUT IT MUST BE ACCOMPLISHED WITH VIOLENCE OR BY
13 PUTTING HIM OR HER IN FEAR OF VIOLENCE. IN ORDER TO BE
14 GUILTY OF ROBBERY WITH A DEADLY WEAPON AS I'VE DEFINED THAT
15 TERM TO YOU BUT IT IS NOT NECESSARY THAT THE DEADLY WEAPON
16 BE DISPLAYED.

17 I WILL CHARGE YOU MR. FOREMAN AND LANDIES AND
18 GENTLEMEN, THAT THE STATE OF SOUTH CAROLINA IS REQUIRED TO
19 PROVE ALL OF THE MATERIAL AND ESSENTIAL ELEMENTS OF THE
20 CHARGES MADE IN THE INDICTMENTS BEYOND A REASONABLE DOUBT
21 BEFORE YOU COULD CONVICT THE DEFENDANT AND FIND HIM GUILTY.
22 NOW, I HAVE EXPLAINED TO YOU WHAT ROBBERY IS AND WHAT ARMED
23 ROBBERY IS. AGAIN ROBBERY WHILE NOT TECHNICALLY WRITTEN
24 INTO THE INDICTMENT IS A LESSER INCLUDED OFFENSE OF ARMED
25 ROBBERY. ON THE VERDICT FORM I HAVE CAPTIONED IT AS A

1 LESSER INCLUDED OFFENSE OF COMMON LAW ROBBERY.

2 AGAIN IF THE JURY DETERMINES THAT THE DEFENDANT IS
3 GUILTY BUT HAS A REASONABLE DOUBT AS TO WHETHER HE IS GUILTY
4 OF THE GREATER CRIME CHARGED, ARMED ROBBERY HE WILL BE
5 ENTITLED TO THAT REASONABLE DOUBT AND CAN BE CONVICTED ONLY
6 OF THE LESSER CRIME BUT OF COURSE THE DEFENDANT COULD NOT BE
7 CONVICTED OF ANY CRIME UNLTSS AS TO THAT PARTICULAR CRIME
8 THE JURY FOUND THAT THE STATE HAD PROVEN ALL OF THE
9 ESSENTIAL ELEMENTS BEYOND A REASONABLE DOUBT. I WOULD
10 FURTHER CHARGE YOU THAT THE PUNISHMENT PROVIDED BY LAW FOR
11 THE OFFENSE OR THE OFFENSES THA ARE CHARGED IN THESE
12 INDICTMENTS IS A MATTER EXCLUSIVELY WITHIN THE PROVINCE OF
13 THIS COURT AND SHOULD NEVERR BE CONSIDERED BY THE JURY
14 WHATSOEVER IN ARRIVING AT A FAIR AND IMPARTIAL VERDICT AS TO
15 THE GUILT OR THE INNOCENCE OF THE DEFENDANT.

16 MR. FOREMAN, LADIES AND GENTLEMEN, WHATEVER YOUR
17 VERDICT IS IN THIS CASE IT MUST BE UNANIMOUS. THAT SIMPLAY
18 MEANS ALL OF YOU MUST AGREE ON THE VERDICT, ALL 12 OF YOU.
19 IT CANNOT BE EIGHT TO FOUR, TEN TO TWO OR SEVEN TO FIVE OR
20 ANYTHING LESS THAN A UNANIMOUS VERDICT. YOU ARE GOING TO BE
21 ASKED TO WRITE A SEPARATE VERDICT AS TO EACH INDICTMENT OR
22 EACH CHARGE AND I'VE GOT THESE VERDICT FORMS FOR YOU I'M
23 GOING TO GO OVER. I DON'T EVEN KNOW WHAT ORDER THEY'VE GOT
24 THEM BUT I'M JUST GOING TO GO OVER THESE WITH YOU IN RANDOM
25 ORDER AND TELL YOU WHAT THE POSSIBLE VERDICTS ARE.

1 PLEASE DON'T ATTACH ANY SIGNIFICANCE TO THE ORDER
2 THAT I GO OVER THESE VERDICT FORMS WITH YOU. THE FIRST ONE
3 THAT I PICKED UP IS FOR INDICTMENT 05-3544. THE CHARGE IS
4 KIDNAPPING, TWO POSSIBLE VERDICTS ON THAT CHARGE. ONE IS
5 GUILTY OF KIDNAPPING, ONE IS NOT GUILTY. ON THE NEXT
6 VERDICT THE CHARGE IN INDICTMENT 05-3543 THE CHARGE OF
7 KIDNAPPING KATHRYN RIGGS, TWO POSSIBLE VERDICTS ON THAT
8 CHARGE, GUILTY OF KIDNAPPING OR NOT GUILTY. THE NEXT NEXT
9 INDICTMENT THAT I HAVE PICKED UP I A CHARGE OF ASSAULT AND
10 BETTTERY WITH INTENT TO KILL KATHRYN RIGGS.

11 THERE ARE THREE POSSIBLE VERDICTS ON THAT CHARGE,
12 GUILTY OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED
13 NATURE OR NOT GUILTY AND THEN ON THE FINAL INDICTMENT
14 05-3542 THE CHARGE OF ARMED ROBBERY. THERE ARE THREE
15 POSSIBLE VERDICTS ON THAT CHARGE, GUILTY OF ARMED ROBBERY,
16 GUILTY OF COMMON LAW ROBBERY OR NOT GUILTY. MR. FOREMAN,
17 AFTER THE JURY HAS DELIBERATED AND REACHED A UNANIMOUS
18 VERDICT WHAT YOU DO BELOW EACH POSSIBLE VERDICT THERE IS A
19 LINE FOR YOU TO SIGN YOUR NAME. THAT'S HOW YOU INDICATE
20 THAT THE VERDICT IS UNANIMOUS.

21 ONCE YOU HAVE REACHED A VERDICT ON THESE FOUR
22 INDICTMENTS AND HAVE COMPLETED THESE FORMS, YOU WILL SIMPLY
23 KNOCK ON THE DOOR AND TELL THE BAILIFF THAT YOU HAVE REACHED
24 A VERDICT AND WE'LL RING YOU BACK IN THE COURTROOM AT THAT
25 TIME. NOW, I KNOW IF YOU WATCH ANY OF THESE TELEVISION

1 SHOWS A LOT OF TIME THE JURY FOREMAN READS THE VERDICT. WE
2 DON'T DO THAT IN SOUTH CAROLINA. IT WILL BE ANNOUNCED
3 EITHER BY THE COURT OR THE CLERK OF COURT BUT THAT'S HOW YOU
4 ADVISE THE BAILIFF THAT YOU HAVE REACHED A VERDICT IN THE
5 CASE. YOU'LL SIMPLY NOTIFY THE BAILIFF.

6 NOW, FROM TIME TO TIME MANY, MANY TIMES JURIES
7 DON'T HAVE QUESTIONS. THIS IS HOW YOU HANDLE THE SITUATION
8 WRITE YOUR QUESTION OUT AND AND HAND IT TO THE BAILIFF. LET
9 ME AGAIN REMIND YOU THAT I CANNOT RESPOND TO ANY QUESTIONS
10 ABOUT THE FACTS. YOU HAVE TO MAKE THE DETERMINATION OF WHAT
11 THE FACTS ARE. IF YOU HAVE A QUESTION ABOUT THE LAW I MAY
12 OR MAY NOT BE ABLE TO RESPOND TO IT. THAT'S WHY YOU NEED TO
13 WRITE IT OUT. IF I CAN RESPOND, SOMETIMES I DO THAT IN
14 WRITING. SOMETIMES I BRING YOU BACK IN THE COURTROOM AND
15 EXPLAIN SOMETHING MORE TO YOU.

16 ONE OTHER THING THAT I NEED TO TELL YOU, WE WILL
17 ENSURE, WE WILL BE SURE ALL OF THE EXHIBITS IN THE CASE ARE
18 BROUGHT TO YOU BACK IN THE JURY ROOM. FROM TIME TO TIME AND
19 I HAD A TRIAL HERE LAST WEEK WHERE THE JURY AFTER AN HOUR OF
20 DELIBERATING ASKED FOR A PARTICULAR DOCUMENT AND THE
21 DOCUMENT ITSELF HAD NOT BEEN PUT INTO EVIDENCE ALTHOUGH IT
22 HAD BEEN TESTIFIED ABOUT AND WHAT WAS IN THE DOCUMENT WAS OF
23 COURSE PART OF THE RECORD. I COULD NOT SEND THAT DOCUMENT
24 BACK TO THE JURY BECAUSE THE DOCUMENT ITSELF WAS NOT IN
25 EVIDENCE.

1 SO WE WILL BE SURE THAT ALL OF THE EXHIBITS ARE
2 WITH YOU. SO YOU DON'T NEED TO ASK FOR ANYTHING FURTHER AS
3 FAR AS EXHIBITS ARE CONCERNED. WE WILL ENSURE THAT ALL
4 THOSE ARE BROUGHT TO YOU. NOW, I'M GETING READY TO SEND YOU
5 BACK TO YOUR JURY ROOM. YOU STILL CANNOT START
6 DELIBERATING. I HAVE TO GO OVER WITH THE ATTORNEYS THE
7 INSTRUCTIONS I HAVE GIVEN YOU. IF I HAVE OMITTED ANYTHING
8 OR IF I HAVE LEFT SOMETHING OUT OR NEED TO EXPLAIN SOMETHING
9 I'LL DO THAT IMMEDIATELY. IF THAT IS NOT NECESSARY THEN
10 WHEN THE BAILIFFS, THE CLERK BRING YOU THE EXHIBITS AND
11 THESE VERDICT FORMS THAT'S YOUR SIGN TO GO AHEAD AND BEGIN
12 DELIBERATING. IF YOU'LL PLEASE STEP BACK TO THE JURY ROOM
13 AT THIS TIME.

14 EVERYONE ELSE STAY SEATED, PLEASE.

15 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
16 JURY.)

17 **THE COURT:** AND I NEED MY ALTERNATE TO STAY HERE
18 IN THE COURTROOM.

19 ALL RIGHT. EXCEPTIONS OR ADDITIONS FROM THE
20 STATE?

21 ALL RIGHT. DEFENSE?

22 Y'ALL TAKE A LOOK AT THESE VERDICT FORMS, BE SURE
23 YOU DON'T HAVE A PROBLEM WITH THEM. WE'LL STAND IN RECESS
24 UNTIL WE HEAR FROM THE JURY.

25 (THEREUPON, THERE WAS A RECESS TO AWAIT THE VERDICT OF

1 THE JURY.)

2 THE COURT: AND I'M GOING TO LET YOU GO IN JUST A
3 MINUTE. I'LL EXCUSE THE ALTERNATE. WE'LL STAND IN RECESS
4 TILL WE HEAR FROM THE JURY.

5 (THEREUPON, THE JURY RETIRED TO DELIBERATE.)

6 MS. CAMPBELL: JUDGE, WE WERE JUST INFORMED THAT
7 WE MAY BE DOING TESTIMONY.

8 THE COURT: THEY'VE ASKED AFTER I'M TELLING THEM
9 EVERYTHING THEY'VE ASKED ME FOR A COPY OF THE CHARGE. SO
10 THEY'RE GOING TO HEAR THE LAW AGAIN ON THE CHARGE OF
11 KIDNAPPING.

12 MS. CAMPBELL: I'M SORRY. I JUST FOUND THAT. DO
13 YOU WANT THEM? THEY'RE JUST UPSTAIRS IN OUR VICTIM'S
14 OFFICE.

15 THE COURT: WAIT. LET ME, I DON'T KNOW THAT I PUT
16 THIS ON THE RECORD. THE NOTE FROM THE JURY SAYS CAN WE
17 OBTAIN A COPY OF THE ACTUAL LAW CONCERNING KIDNAPPING OR
18 HEAR THE LAW AGAIN SO I'M GOING TO RECHARGE THEM ON
19 KIDNAPPING.

20 BRING THE JURY IN, PLEASE.

21 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
22 JURY.)

23 THE COURT: THANK YOU, MR. FOREMAN, LADIES AND
24 GENTLEMEN, I'VE RECEIVED YOUR MESSAGE. AGAIN I CANNOT, I'M
25 NOT PERMITTED TO SEND YOU A COPY OF THE LAW BACK SO I WILL

COURT RECHARGES THE JURY

1 RECHARGE YOU. GO BACK OVER IN THE COURTROOM. YOU HAVE
2 ASKED TO HEAR AGAIN THE LAW THAT PERTAINS TO KIDNAPPING SO
3 I'LL RESPOND TO WHATEVER THE QUESTION IS. THAT'S ALL I'M
4 GOING TO TALK ABOUT IS THE LAW AS IT PERTAINS TO.
5 KIDNAPPING, 16-3-910 OF THE SOUTH CAROLINA CODE OF LAWS. IT
6 READS IN PART AS FOLLOWS: WHOEVER SHALL UNLAWFULLY SEIZE,
7 CONFINE, INVEIGLE, DECOY, KIDNAP, ABDUCT OR CARRY AWAY ANY
8 PERSON BY ANY MEANS WHATSOEVER WITHOUT THE AUTHORITY OF LAW
9 IS GUILTY OF THIS OFFENSE OF KIDNAPPING.

10 NOW, I'LL EXPLAIN IT IN MORE DETAIL AND GIVE YOU
11 SOME DEFINITIONS. THE STATE MUST PROVE BEYOND A REASONABLE
12 DOUBT THAT THE DEFENDANT KNOWINGLY AND UNLAWFULLY SEIZED OR
13 CONFINED OR INVEIGLE OR DECOY OR KIDNAPPED OR ABDUCTED OR
14 CARRIED AWAY ANOTHER PERSON WITHOUT THE AUTHORITY OF LAW.
15 TO DO A THING UNLAWFULLY IS TO DO IT WILLFULLY AGAINST THE
16 LAW. KNOWINGLY MEANS WITH KNOWLEDGE, CONSCIOUSLY, NOT
17 ACCIDENTALLY. TO SEIZE MEANS TO TAKE HOLD OF SUDDENLY OR
18 FORCEFULLY. CONFINE MEANS TO LIMIT, RESTRICT OR ENCLOSE
19 WITHIN BOUNDS IN PRISON OR SHUT OR KEEP.

20 INVEIGLE MEANS TO LURE, SURPRISE OR LEAD ASTRAY BY
21 FALSE REPRESENTATIONS, PROMISES OR OTHER DECEITFUL MEANS.
22 DECOY MEANS LURE BY, AS, OR IF. DECOY IS SOMETHING TO
23 ENTICE A PERSON INTO A TRAP. KIDNAP IS TO REMOVE A PERSON
24 AGAINST HIS OR HER WILL BY UNLAWFUL FORCE OR BY FRAUD.
25 ABDUCT MEANS TO CARRY OFF SECRETLY OR BY FORCE FOR AN

1 ILLEGAL PURPOSE. CARRY AWAY MEANS TO REMOVE AND THE STATE
2 DOES NOT HAVE TO PROVE THAT THE DEFENDANT DID ALL OF THESE
3 THINGS. INSTEAD IF YOU FIND BEYOND A REASONABLE DOUBT THAT
4 THE DEFENDANT DID ANY OF THESE THINGS, THEN YOU MAY FIND THE
5 DEFENDANT GUILTY OF KIDNAPPING.

6 SOMETHING THAT IS DONE WITHOUT THE AUTHORITY OR
7 LAW IS SOMETHING WHICH THE LAW DOES NOT SANCTION OR PERMIT,
8 ALLOW, CONDONE OR PROVIDE JUSTIFICATION FOR AND I WILL
9 FURTHER CHARGE YOU KIDNAPPING DOES NOT HAVE TO BE FOR ANY
10 PERSONAL OR MONETARY GAIN OR FOR ANY ILLEGAL PURPOSE BUT MAY
11 BE FOR ANY REASON WHAT SOEVER AND I WOULD FURTHER CHARGE YOU
12 THAT KIDNAPPING IS CONTINUOUS WHICH COMMENCES WHEN ONE IS
13 WRONGFULLY DEPRIVED OF HIS OR HER FREEDOM AND CONTINUES
14 UNTIL THEIR FREEDOM IS RESTORED.

15 SO AGAIN I'VE TRIED TO RESPOND TO YOUR QUESTION.
16 THE STATE MUST PROVE EACH OF THOSE ELEMENTS BEYOND A
17 REASONABLE DOUBT BEFORE THE DEFENDANT COULD BE CONVICTED OF
18 THIS OFFENSE. I'M GOING TO ASK YOU IF YOU'LL STEP BACK THE
19 YOUR JURY ROOM, PLEASE AND CONTINUE YOUR DELIBERATIONS.

20 EVERYONE ELSE STAY SEATED.

21 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
22 JURY.)

23 THE COURT: ALL RIGHT. EXCEPTIONS OR ADDITIONS
24 FROM THE STATE?

25 MS. CAMPBELL: NOTHING, YOUR HONOR.

DEFENSE EXCEPTIONS TO CHARGE

1 THE COURT: FROM THE DEFENSE?

2 MS. OWINGS: YOUR HONOR, THE ONLY THING IS WE
3 WOULD ASK, WE WOULD ALSO WANT A GENERAL CHARGE WE TALKED
4 ABOUT IN CHAMBERS YESTERDAY THAT THAT WAS SOMETHING THAT WE
5 WOULD, WHILE WE WOULD LIKE TO HAVE HAD THAT CHARGED AS TO
6 KIDNAPPING THE REST OF THE CHARGES, THE CRIMINAL INTENT
7 CHARGE.

8 THE COURT: NO QUESTION BUT IT IS AN ELEMENT.
9 SOLICITOR, YOU WANT TO BE HEARD ON THAT.

10 MS. CAMPBELL: YES, SIR. I THINK THAT IN YOUR
11 DEFINITION YOU SAID IT HAD TO BE KNOWINGLY DONE AND I THINK
12 YOU GAVE THE DEFENSE, AGAIN I DON'T REMEMBER EXACTLY THE
13 WORDS, YOUR HONOR. THEY ASKED SPECIFICALLY AS TO THE
14 ELEMENTS OF THE KIDNAPPING CHARGE AND I THINK YOU FULFILLED
15 WHAT THEY'VE ASKED FOR. I THINK TO THEN BRING THEM BACK IN
16 FURTHER ADMONITION WOULD JUST ALMOST REPRESENT TO THEM THAT
17 YOU WERE EMPHASIZING THE PART THAT YOU DIDN'T ASK FOR AND
18 THEREFORE WHY WOULD YOU BE CHARGING BASED ON WHAT THEY HAD
19 ASKED FOR.

20 THE COURT: I THINK I'VE RESPONDED TO THE QUESTION
21 THEY'VE ASKED AND I FEEL COMFORTABLE THAT THE ORIGINAL CHARGE
22 WAS ADEQUATE AND I DID INDICATE THAT KNOWINGLY MEANS TO DO
23 WITH KNOWLEDGE, CONSCIOUSLY, NOT ACCIDENTALLY. I THINK IT'S
24 BEEN COVERED. YOUR EXCEPTION IS NOTED.

25 MS. OWINGS: THANK YOU.

JURY QUESTION

1 THE COURT: ALL RIGHT. WE'LL STAND IN RECESS
2 UNTIL WE HEAR FROM THE JURY.

3 (THEREUPON, THERE WAS A RECESS IN THE TRIAL OF THIS
4 CASE.)

5 THE COURT: I HAVE RECEIVED ANOTHER MESSAGE FROM
6 THE JURY AND I'LL READ IT. COULD YOU PLEASE GO OVER ALL THE
7 DEFINITIONS OF THE LAWS AND CHARGES OF ARMED ROBBERY,
8 KIDNAPPING, COMMON LAW ROBBERY AND ASSAULT AND BATTERY WITH
9 AN INTENT TO KILL. THAT'S THE MESSAGE THAT I HAVE RECEIVED
10 FROM THE JURY. I'M GOING TO RECHARGE THEM ON VARIOUS
11 OFFENSES THAT ARE IN THE INDICTMENT. I'M NOT GOING TO GO
12 BACK OVER THE GENERAL CHARGE BECAUSE THEY HAVEN'T ASKED ABOUT
13 THAT.

14 BRING THE JURY IN, PLEASE, SIR.

15 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
16 JURY.)

17 THE COURT: ALL RIGHT. THANK YOU, MR. FOREMAN,
18 LADIES AND GENTLEMEN, I'VE RECEIVED YOUR MESSAGES. LET ME
19 READ IT INTO THE RECORD. COULD YOU PLEASE GO OVER ALL THE
20 DEFINITIONS OF THE LAWS AND CHARGE OF ARMED ROBBERY,
21 KIDNAPPING, COMMON LAW ROBBERY, ASSAULT AND BATTERY WITH AN
22 INTENT TO KILL. BEFORE I REVIEW WITH YOU THE CHARGES IN THE
23 INDICTMENT AND THE LESSER INCLUDED OFFENSES, ONE THING THAT
24 SORT OF JUMPS OUT AT ME THE LAST CHARGE THAT'S MENTIONED
25 YOU'VE GOT IT COUCHED WITH IF YOU'LL CHECK ON YOUR VERDICT

ADDITIONAL CHARGES

1 FORM THE CHARGE IS WITH INTENT TO KILL WITH AN ATTEMPT TO
2 KILL. IT'S WITH INTENT TO KILL.

3 LET ME GO BACK OVER WITH YOU THE ELEMENTS OF THE
4 VARIOUS OFFENSES THAT ARE CHARGED IN THIS CASE ND LET ME
5 BEGIN BY AGAIN TELLING YOU THAT CRIMINAL INTENT IS A
6 NECESSARY ELEMENT OF EACH CRIME THAT MUST BE PROVEN BY THE
7 STATE BEYOND A REASONABLE DOUBT. CRIMINAL INTENT IS ALWAYS
8 A MATTER THAT MUST BE DETERMINED BY THE JURY FROM THE
9 CIRCUMSTANCES SURROUNDING THE SITUATION. AGAIN THERE IS NO
10 WAY TO PROVE INTENT TO A MATHEMATICAL CERTAINTY OR THAT WE
11 CAN OPEN UP SOMEONE'S HEAD AND SEE WHAT THAT PERSON
12 INTENDED.

13 THE LAW SAYS THAT CRIMINAL INTENT MAY BE INFERRED
14 FROM THE CIRCUMSTANCES AS SHOWN TO HAVE EXISTED AT THE TIME
15 AND THIS IS HOW THE JURY MAKES A DETERMINATION OF WHETHER OR
16 NOT THE ELEMENT REQUIRING CRIMINAL INTENT WAS PRESENT.
17 CRIMINAL INTENT IS A STATE OF MIND WHICH OPERATES JOINTLY
18 WITH AN ACT IN THE COMMISSION OF A CRIME. CRIMINAL INTENT
19 IS A MENTAL STATE, A CONSCIOUS WRONGDOING AND SO IT IS UP TO
20 YOU THE JURY TO DETERMINE WHAT THE DEFENDANT INTENDED TO DO
21 BASED ON THE CIRCUMSTANCES THAT ARE SHOWN TO HAVE EXISTED.
22 AGAIN THE STATE MUST PROVE CRIMINAL INTENT BEYOND A
23 REASONABLE DOUBT JUST AS THE STATE MUST PROVE EVERY ELEMENT
24 BEYOND A REASONABLE DOUBT.

25 AS I HAVE PREVIOUSLY EXPLAINED THAT TO YOU AND I

1 WILL FURTHER CHARGE YOU THAT UNDER THE LAW TWO OR MORE
2 CRIMINAL OFFENSES MAY GROW OUT OF THE SAME COURSE OF ACTION
3 AS WHERE ONE OFFENSE IS COMMITTED WITH THE INTENT.
4 THEREFORE TO COMMIT THE OTHER AND IS ACTUALLY FOLLOWED BY
5 THE COMMISSION OF THE SECOND ACT AGAIN CRIMINAL INTENT IS AN
6 ELEMENT OF EACH OF THE OFFENSES THAT ARE CHARGED AND MUST BE
7 PROVEN BY THE STATE BEYOND A REASONABLE DOUBT. I WILL
8 REVIEW WITH YOU AGAIN AT THIS TIME THE LAW OF KIDNAPPING,
9 SECTION 16-3-910 OF THE CODE OF LAWS, IT READS IN PART AS
10 FOLLOWS:

11 WHOEVER SHALL UNLAWFULLY SEIZE CONFINED, INVEIGLE,
12 DECOY, KIDNAP, ABDUCT OR CARRY AWAY ANY OTHER PERSON BY ANY
13 MEANS WHATSOEVER WITHOUT AUTHORITY OF LAW IS GUILTY OF THIS
14 OFFENSE. THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT
15 THE DEFENDANT KNOWINGLY AND UNLAWFULLY SEIZED OR CONFINED
16 OR INVEIGLED OR DECOYED OR KIDNAPPED OR ABDUCTED OR CARRIED
17 AWAY ANOTHER PERSON WITHOUT THE AUTHORITY OF LAW. TO DO A
18 THING UNLAWFULLY MEANS TO DO IT WILLFULLY AGAINST THE LAW.
19 KNOWINGLY MEANS WITH KNOWLEDGE, CONSCIOUSLY, NOT
20 ACCIDENTALLY.

21 SEIZE MEANS TO TAKE HOLD OF SUDDENLY OR FORCIBLY.
22 CONFINED MEANS TO LIMIT OR RESTRICT OR ENCLOSE ONE, BOUND OR
23 IMPRISON, SHUT OR KEEP IN. INVEIGLE MEANS TO LURE, ENTICE
24 OR LEAD ASTRAY BY FALSE REPRESENTATIONS OR PROMISES OR OTHER
25 DECEITFUL MEANS. DECOY MEANS TO LURE BY OR AS IF BY A

1 DECOY. A DECOY IS SOMETHING TO SURPRISE A PERSON INTO A
2 TRAP. KIDNAP IS TO REMOVE A PERSON AGAINST HIS OR HER WILL
3 BY UNLAWFUL FORCE OR BY FRAUD. ABDUCT MEANS TO CARRY OFF
4 SECRETLY OR BY FORCE FOR ILLEGAL PURPOSE. CARRY AWAY MEANS
5 TO REMOVE.

6 AGAIN THE STATE DOES NOT HAVE TO PROVE THAT THE
7 DEFENDANT DID ALL OF THESE THINGS. INSTEAD IF YOU FIND
8 BEYOND A REASONABLE DOUBT THAT THE DEFENDANT DID ANY OF
9 THESE THINGS, THEN YOU MAY FIND THE DEFENDANT GUILTY OF
10 KIDNAPPING. SOMETHING DONE WITHOUT THE AUTHORITY OF LAW IS
11 SOMETHING WHICH THE LAW DOES NOT SANCTION OR PERMIT OR ALLOW
12 OR CONDONE OR PROVIDE JUST CAUSE FOR. THE KIDNAPPING DOES
13 NOT HAVE TO BE FOR ANY PERSONAL OR MONETARY GAIN OR ANY
14 ILLEGAL PURPOSE BUT IT MAY BE FOR ANY REASON WHATSOEVER AND
15 I WOULD CHARGE YOU THAT KIDNAPPING IS A CONTINUING OFFENSE
16 WHICH COMMENCES WHEN ONE IS WRONGFULLY DEPRIVED OF HIS OR
17 HER FREEDOM AND CONTINUES UNTIL THAT FREEDOM HAS BEEN
18 RESTORED.

19 NOW, THIS IS THE LAW THAT PERTAINS TO THE CHARGE
20 OF KIDNAPPING. THE NEXT CHARGE THAT I WILL REVIEW WITH YOU
21 IS THE CHARGE OF WITH INTENT TO KILL AND THIS CHARGE AS I'VE
22 INDICATED TO YOU PREVIOUSLY ALTHOUGH IT'S NOT ACTUALLY
23 WRITTEN INTO THE INDICTMENT CONTAINS A LESSER INCLUDED
24 OFFENSE OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED
25 NATURE AND I'LL EXPLAIN BOTH OF THOSE OFFENSES TO YOU. LET

1 ME DEFINE FIRST ASSAULT. AN ASSAULT IS THE UNLAWFUL ATTEMPT
2 OR OFFER WITH FORCE OR VIOLENCE TO DO CORPORAL HURT OR
3 INJURY TO THE PERSON OF ANOTHER WHERE THERE IS A PRESENT
4 ABILITY TO COMPLETE THE ATTEMPT TO OFFER A BATTERY.

5 AND WHAT IS A BATTERY? A BATTERY IS THE UNLAWFUL
6 TOUCHING OF A PERSON OF ANOTHER BY THE PARTY COMMITTING THE
7 ASSAULT OR ANY OBJECT THAT IS IN MOTION BY THE PARTY WHO IS
8 COMMITTING THE ASSAULT. A BATTERY MAY BE FURTHER DEFINED AS
9 A CARRYING INTO EFFECT AN ASSAULT BY USING OR APPLYING FORCE
10 TO THE PERSON OF ANOTHER, HOWEVER SLIGHT, IN A RUDE, ANGRY
11 OR RESENTFUL MANNER WITHOUT JUST LEGAL, EXCUSE ME, LEGAL
12 JUSTIFICATION. THE TWO DEGREES OF ASSAULT AND BATTERY THAT
13 I WILL BE EXPLAINING TO YOU ARE ASSAULT AND BATTERY WITH
14 INTENT TO KILL AND ASSAULT AND BATTERY OF A HIGH AND
15 AGGRAVATED NATURE.

16 THE MOST SERIOUS OF THESE OFFENSES IS ASSAULT AND
17 BATTERY WITH INTENT TO KILL WHICH IS DEFINED AS AN UNLAWFUL
18 ACT OF VIOLENT INJURY TO THE PERSON OF ANOTHER ACCOMPANIED
19 WITH MALICE AFORETHOUGHT. THIS OFFENSE CONTAINS ALL THE
20 EVIDENCE OF THE CRIME OF MURDER EXCEPT THE ACTUAL DEATH OF
21 THE PERSON WHO IS ASSAULTED. SO BEFORE A PERSON CAN BE
22 CONVICTED OF ASSAULT AND BATTERY WITH INTENT TO KILL THE
23 JURY MUST BE SATISFIED BEYOND A REASONABLE DOUBT THAT IF THE
24 VICTIM OR THE PERSON ASSAULTED HAD DIED AS A RESULT OF THE
25 INJURIES THAT THE DEFENDANT WOULD HAVE BEEN GUILTY OF

1 MURDER.

2 IN ORDER TO EXPLAIN THIS MORE FULLY THEN I WILL
3 CHARGE YOU TO A LIMITED DEGREE THE CHARGE OF MURDER AND THEN
4 I'LL PARALLEL THESE TWO OFFENSES. FOR ONE MURDER ON ONE
5 HAND AND ASSAULT AND BATTERY WITH INTENT TO KILL ON THE
6 OTHER. NOW, MURDER IS DEFINED AS KILLING ANOTHER HUMAN
7 BEING WITH MALICE AFORETHOUGHT EITHER EXPRESSED OR IMFERRED.
8 MALICE IS AN ESSENTIAL ELEMENT OF THE OFFENSE OF MURDER AND
9 MALICE IS AN ESSENTIAL ELEMENT OF THE OFFENSE OF ASSAULT AND
10 BATTERY WITH INTENT TO KILL. MALICE IS AN ESSENTIAL
11 INGREDIENT OR ELEMENT FOR MURDER AND FOR ASSAULT AND BATTERY
12 WITH INTENT TO KILL.

13 MS. CAMPBELL: JUDGE, I'M SORRY. I WAS JUST
14 REMINDED TO OBJECT ON THIS INSOFAR AS ARMED ROBBERY. YOU
15 DID MENTION U.S. CURRENCY IS PROPERTY.

16 THE COURT: ALL RIGHT. MR. FOREMAN, LADIES AND
17 GENTLEMEN, THIS WON'T TAKE BUT JUST A MINUTE. ONE OF THE
18 THINGS THAT I AM REQUIRED TO DO AND I FAILED TO DO IT. WHEN
19 IT IS A STATUTORY OFFENSE SUCH AS ARMED ROBBERY AND THERE IS
20 A STATUTE THAT PERTAINS TO IT, I NEED TO READ TO YOU THE
21 STATUTE. WHAT I'VE SHOWN TO YOU IS AN ACCURATE DESCRIPTION
22 OF WHAT THE STATE HAS TO PROVE BUT I'M ALSO REQUIRED TO READ
23 IN PART TO YOU THE STATUTE THAT'S INVOLVED IN THAT CHARGE
24 AND FAILED TO DO THAT. I'M GOING TO READ IN PART TO YOU
25 SECTION 16-11-330 OF THE SOUTH CAROLINA CODE OF LAWS THAT

1 DEALS WITH THE CHARGE OF ARMED ROBBERY.

2 I HAD READ IN PART AS FOLLOWS: A PERSON WHO
3 COMMITS WITH A PISTOL, DIRK, SLINGSHOT, METAL KNUCKLES,
4 RAZOR OR OTHER DEADLY WEAPON WHILE ALLEGING EITHER BY ACTION
5 OR WORD HE WAS ARMED BY USING A REPRESENTATION OF A DEADLY
6 WEAPON ON ANY OBJECT WHICH A PERSON PRESENTS DURING THE
7 COMMISSION OF THE ROBBERY REASONABLY BELIEVES TO BE A DEADLY
8 WEAPON IS GUILTY OF THE OFFENSE OF ARMED ROBBERY AND I WOULD
9 FURTHER CHARGE YOU THAT U.S. CURRENCY IS PERSONAL PEOPERTY
10 UNDER THE LAW OF THE STATE OF SOUTH CAROLINA. WITH THAT
11 ADDITION I'M GOING TO SEND YOU BACK AND ASK YOU TO PLEASE
12 CONTINUE YOUR DELIBERATIONS.

13 EVERYONE ELSE, STAY SEATED, PLEASE, WHILE THE JURY
14 IS EXCUSED.

15 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
16 JURY.)

17 THE COURT: EXCEPTIONS OR ADDITIONS FROM THE
18 STATE?

19 FROM THE DEFENSE?

20 MS. OWINGS: NO, SIR.

21 THE COURT: ALL RIGHT. WE'LL STAND IN RECESS TILL
22 WE HEAR FROM THE JURY.

23 (THEREUPON, THERE WAS A RECESS IN THE TRIAL OF THIS
24 CASE.)

25 THE COURT: FOR THE BENEFIT OF THOSE HERE IN THE

~~JURY'S VERDICT~~

1 COURTROOM, YOU NEED TO BE AWARE THAT I DO NOT ALLOW ANY KIND
2 OF EMOTIONAL OUTBURSTS. IF THERE IS ANYONE WHO HAS THESE
3 THEY WILL NOT BE ABLE TO CONTROL THEIR EMOTIONS, THEY'D NEED
4 TO REMOVE THEMSELVES FROM THE COURTROOM. IT'S NOT A
5 PLEASANT EXPERIENCE WHEN AFTER THE VERDICT THE COURT HAS TO
6 PUNISH SOMEONE SIMPLY BECAUSE THEY HAVE NOT BEEN ABLE TO
7 COMPLY WITH THOSE RESTRICTIONS FROM THE COURT. ALL RIGHT.
8 LET'S GET THE JURY IN.

9 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
10 JURY.)

11 THE COURT: MR. FOREMAN, I'VE BEEN ADVISED THE
12 JURY HAS REACHED A VERDICT IN THE CASE; IS THAT CORRECT?

13 THE FOREMAN: CORRECT, YOUR HONOR.

14 THE COURT: IS IT UNANIMOUS?

15 THE FOREMAN: YES, SIR.

16 THE COURT: WOULD YOU HAND THAT TO THE BAILIFF,
17 PLEASE, SIR?

18 ALL RIGHT. ON INDICTMENT 05-GS-40-3542 THE CHARGE
19 OF ARMED ROBBERY, THE VERDICT IS GUILTY OF ARMED ROBBERY,
20 SIGNED BY THE FOREMAN. ON INDICTMENT 05-GS-40-3544, THE
21 CHARGE OF KIDNAPPING DWIGHT RIGGS, THE VERDICT IS GUILTY OF
22 KIDNAPPING, SIGNED BY THE FOREMAN. ON INDICTMENT
23 05-GS-40-3543 THE CHARGE OF KIDNAPPING KATHRYN RIGGS, THE
24 VERDICT WE THE JURY FIND THE DEFENDANT GUILTY OF KIDNAPING,
25 SIGNED BY THE FOREMAN. ON INDICTMENT 05-GS-40-3544, THE

1 CHARGE OF ASSAULT AND BATTERY WITH INTENT TO KILL, THE
2 VERDICT IS GUILTY OF ASSAULT AND BATTERY OF A HIGH AND
3 AGGRAVATED NATURE, SIGNED BY THE FOREMAN.

4 MR. FOREMAN AND LADIES AND GENTLEMEN, IF THIS IS
5 YOUR VERDICT IN THE CASE WILL YOU PLEASE INDICATE BY RAISING
6 YOUR RIGHT HAND. ALL 12 JURORS HAVE RESPONDED.

7 YOU WANT THE JURY POLLED, COUNSEL?

8 MS. OWINGS: YES, SIR.

9 THE COURT: ALL RIGHT. MR. FOREMAN, LADIES AND
10 GENTLEMEN THE JURY WILL BE POLLED. THAT SIMPLY MEANS THAT
11 THE CLERK OF COURT IS GING TO ASK YOU TWO QUESTIONS. SHE
12 WILL ASK WHETHER THIS IS STILL YOUR VERDICT. IF YOU WOULD
13 RESPOND TO THAT QUESTION SHE WILL DO IT INDIVIDUALLY. ALL
14 RIGHT, MADAM CLERK, IF YOU'LL POLL THE JURY, PLEASE.

15 (THEREUPON, THE JURY WAS POLLED AND ALL ANSWERED IN THE
16 AFFIRMATIVE.)

17 THE COURT: THE JURY HAS BEEN POLLED AND HAS
18 RESPONDED.

19 ANYTHING FURTHER OF THE JURY?

20 MS. OWINGS: NO, YOUR HONOR.

21 THE COURT: ALL RIGHT. ANY MOTIONS AT THIS TIME?

22 MS. OWINGS: YOUR HONOR, AT THIS TIME WE WOULD
23 JUST MAKE A MOTION FOR A NEW TRIAL BASED ON ALL PREVIOUSLY
24 MADE OBJECTIONS.

25 THE COURT: ALL RIGHT. THAT MOTION IS DENIED I

~~SENTENCING~~

1 THINK THERE IS SUFFICIENT EVIDENCE IN THE RECORD TO SUPPORT
2 THE VERDICT THAT THE JURY HAS RETURNED.

3 ALL RIGHT. COUNSEL, ARE YOU PREPARED TO GO
4 FORWARD WITH SENTENCING AT THIS TIME?

5 MS. CAMPBELL: WE JUST NEED THE PAPERWORK.

6 THE COURT: ALL RIGHT. ALL RIGHT, SOLICITOR, I'LL
7 BE GLAD TO HEAR FROM YOU.

8 MS. CAMPBELL: MAY IT PLEASE THE COURT, YOUR
9 HONOR, AS YOU'RE AWARE HE DOES HAVE A PRIOR RECORD INCLUDING
10 A 1998 GRAND LARCENY OF A VEHICLE; 2002 USE OF VEHICLE
11 WITHOUT OWNER'S PERMISSION AND THEN IN 2004, EXCUSE ME, 2005
12 HE WAS CONVICTED OF TWO COUNTS OF POSSESSION, A STOLEN
13 VEHICLE. THOSE WERE HIS IMPEACHABLE OFFENSES. AS FAR AS
14 ANY OTHER RECORD I DO BELIEVE, I KNOW HE HAS AT LEAST ONE
15 CONVICTION FOR CRIMINAL DOMESTIC VIOLENCE. YOU'VE HEARD
16 EVERYTHING. I DID SPEAK WITH THE VICTIM IN THE CASE. I
17 THINK THE IMPACT ON THEM IS OBVIOUS AND DOES OBVIOUSLY HAVE
18 OTHER PENDING CHARGES, YOUR HONOR.

19 THE COURT: ALL RIGHT. MS. OWINGS.

20 MS. OWINGS: THANK YOUR HONOR. IF IT PLEASES THE
21 COURT, THE DEFENDANT DID WANT ME TO TELL FOR THE RECORD THAT
22 HE SAYS HE DIDN'T KNOW WHETHER THE CONVICTION ON THE MOTOR
23 VEHICLE COMES FROM. AT THIS TIME I CANNOT VERIFY THAT BUT
24 HE WANTS TO POINT THAT OUT TO YOU. HE HAS A GRAND LARCENY.
25 FURTHERMORE, YOUR HONOR, YOU'VE ALREADY ACCEPTED THE PLEA ON

1 THESE OTHER TWO CHARGES, THE CAR JACKING AND A.B.W.I.K. WITH
2 MR. RIGGS. THE DEFENDANT HAS ALWAYS THOUGHT HE WANTED TO
3 PLEAD IN THIS CASE. ON THE ADVICE OF HIS ATTORNEY HE PLED
4 ON CHARGES OF CAR JACKING AND THE ASSAULT AND BATTERY WITH
5 INTENT TO KILL OF MRS. RIGGS.

6 WE TOLD HIM THERE WERE SOME LEGAL ISSUES WE
7 PURSUED SO JUST SOME OF THE ISSUES WE'VE ARGUED THAT THERE
8 MAY BE A DOUBLE JEOPARDY ARGUMENT. WE DIDN'T THINK WHAT HE
9 DID NECESSARILY, THE JURY OBVIOUSLY AGREED. WE ALSO WEREN'T
10 SURE FROM SOME OF THE DISCOVERY THAT WE, THAT THIS IS
11 NECESSARILY ARMED ROBBERY. WE THOUGHT THEY MAY HAVE RATHER
12 THAN HIM HAVING ALL OF THESE MOST SERIOUS CHARGES ON OUR
13 ADVICE HE ASKED FOR A JURY TRIAL ON THESE CHARGES. I ASK
14 YOUR HONOR THAT HE NOT BE PENALIZED FOR ASKING FOR A TRIAL
15 ON THESE CHARGES.

16 FURTHERMORE, YOUR HONOR, MY CLIENT IS IN HIS
17 EARLY 30'S. HE'S 32 YEARS OLD. HE HAS FOUR CHILDREN. HE
18 DOES MOSTLY CARPENTER WORK IS WHAT HE'S ALWAYS DONE. HIS
19 FAMILY HAS BEEN IN THE COURTHOUSE. HIS MOTHER LEAVES FOR
20 SENTENCING. HIS SISTER IS HERE. SHE'S IN THE FRONT ROW. I
21 HAVE NEVER HAD FAMILY BE MORE SUPPORTIVE OF THEIR SON AND
22 WHAT'S GOING ON WITH HIM RIGHT NOW, YOUR HONOR. WE WOULD
23 ASK FOR YOU TO CONSIDER CONCURRENT SENTENCES ON THESE
24 CHARGES. THE DEFENDANT WILL BE FACING FIVE FOR CERTAIN. HE
25 WILL HAVE TO DO FIVE. WE ASK YOU PLEASE TO CONSIDER.

1 THE COURT: ALL RIGHT. ANYTHING FURTHER THAT,
2 MR. ELDERS, YOU'D LIKE TO SAY?

3 THE DEFENDANT: I'D JUST LIKE TO APOLOGIZE TO THE
4 FAMILY FOR WHAT I DID TO THEM.

5 THE COURT: MR. RIGGS, ANYTHING FURTHER?

6 MR. RIGGS: THE ONLY THING I WOULD LIKE TO ADD I
7 HAVE NOT BEEN INVOLVED BUT HE SAID SOMETHING YESTERDAY THAT
8 I THINK IS IMPORTANT TO WHAT HE IS GOING THROUGH. WHATEVER
9 SENTENCE YOU GIVE HIM IS GOING TO GIVE HIM, WE TALKED TO HIM
10 ABOUT GETTING CONSECUTIVE TIME THAT MAY END UP BEING A LIFE
11 SENTENCE FOR HIM AND BECAUSE OF THE LATENESS OF THE DAY HE
12 ENDED UP RIDING IN THE POLICE CAR AND THE THING THAT HE WAS
13 THANKFUL FOR WAS POSSIBLY TO BE ABLE TO SEE OUTSIDE AND HE
14 UNDERSTANDS THAT HE'S GOING TO GO TO PRISON FOR A LONG TIME.
15 HE'S NOT MADE ONE COMPLAINT ABOUT THIS. I THINK THAT THIS
16 WAS A BAD DECISION ON HIS PART USING DRUGS AND DOING THESE
17 CRIMES. IT DOES NOT INDICATE THAT HE IS AN AWFUL, AWFUL
18 PERSON.

19 MS. OWINGS: YOUR HONOR, I'D LIKE TO POINT OUT
20 THESE ARE THE FIRST VIOLENT CONVICTIONS ON HIS RECORD.

21 MS. CAMPBELL: YOUR HONOR, FOR THE RECORD MULTIPLE
22 ARRESTS FOR CRIMINAL DOMESTIC VIOLENCE. I'M NOT SURE THERE
23 WAS A CONVICTION.

24 THE COURT: ALL RIGHT. THAT'S FINE. ALL RIGHT.
25 I AM NOT GOING TO TALK VERY MUCH. IT'S TIME FOR SENTENCING.

1 ANY KIND OF PREACHING FROM THE BENCH I WILL MAKE A COMMENT
2 THAT THIS EVENT WAS AS VIOLENT, SERIOUS AS ANYTHING I'VE
3 HEARD IN A LONG TIME SHORT OF A MURDER CASE. HE HAD TWO OF
4 THE CHARGES AND HE CERTAINLY IS NOT IN ANY WAY PUNISHED FOR
5 EXERCISING HIS RIGHT TO A JURY TRIAL. ON THE OTHER CHARGE
6 TAKING EVERYTHING THAT THIS COURT HAS HEARD INTO
7 CONSIDERATION THE SENTENCE ON THE CHARGE OF CAR JACKING IS A
8 SENTENCE OF 20 YEARS.

9 THE SENTENCE ON THE CHARGE THAT HE PLED GUILTY TO
10 ASSAULT AND BATTERY WITH INTENT TO KILL OF THE VICTIM WAS
11 MR. RIGGS. THE SENTENCE OF THIS COURT IS 15 YEARS TO RUN
12 CONCURRENTLY ON THE TWO KIDNAPPING CHARGES. THE SENTENCE OF
13 THIS COURT IS THAT MR. ELDERS BE CONFINED FOR 30 YEARS ON
14 ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE. THE
15 SENTENCE IS TEN YEARS AND I GOT THE WRONG SENTENCING SHEETS.
16 THIS IS THE A.B.W.I.K. I NEED THE ARMED ROBBERY SENTENCING
17 SHEET. I'LL SIGN THE ORDER.

18 THE ARMED ROBBERY IS 30 YEARS. THE LAST FOUR WILL
19 RUN CONCURRENT, 35-YEAR SENTENCE. THE REST OF THEM RUN
20 CONCURRENT. HE WILL GET CREDIT FOR THE TIME THAT HE HAS
21 BEEN IN JAIL.

22 MS. CAMPBELL: THANK YOU, SIR.

23 THE COURT: ALL RIGHT. MAKE SURE YOU ADVISE YOUR
24 CLIENT OF HIS RIGHT TO APPEAL.

25 MS. OWINGS: FOR THE RECORD WE'VE GONE OVER THAT.

1 WE'LL GO OVER IT AGAIN.

2 THE COURT: ALL RIGHT.

3 (THEREUPON, THE JURY WAS DISCHARGED.)

4 - - -END OF REQUESTED TRANSCRIPT OF RECORD- - -

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STATE OF SOUTH CAROLINA

County of RichlandRandy C. Elders # 263032

Full name and prison number, if any, of applicant

v.

State of South Carolina

Name of Respondent

In the Court of Common Pleas

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly, handwritten, or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make it clear to which question any such continued answer refers.

Since every application must be sworn to under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicant should, therefore, exercise care to assure that all answers are true and correct.

If the applicant is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which applicant was convicted.

1. Place of detention 4460 Broad River Rd., Columbia S.C. 29210
(Broad River Coll. Inst.)
2. Name and location of Court which imposed sentence Richland County Court
OF General Sessions, P.O. Box 2746, Columbia S.C. 29202
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) 2005-BS-40-3540 (Carjacking)
 - (b) 2005-BS-40-3545 (Assault & Bat. w/ Intent to Kill)
 - (c) 2005-BS-40-3546 (Assault & Bat. w/ Intent to Kill)
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) Feb. 17, 2006
 - (b) 35 yrs.
 - (c) _____

5. Check whether a finding of guilty was made
- (a) after a plea of guilty ✓
 - (b) after a plea of not guilty ✓
 - (c) after a plea of nolo contendere
6. Did you appeal from the judgment of conviction or the imposition of sentence? I appeal
of judgment of conviction and imposition of sentence
7. If you answered "yes" to (6), list
- (a) the name of each Court to which you appealed:
 - i. S.C. Court of Appeal
 - ii. P.O. Box 11330
 - iii. Columbia S.C. 29201-1330
 - (b) the result in each such Court to which you appealed:
 - i. Appeal dismissed
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. n/a
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. n/a
 - ii. _____
 - iii. _____
8. If you answered "no" to (6), state your reasons for not so appealing:
- (a) n/a
 - (b) _____
 - (c) _____
9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Interference Assistance of Counsel
 - (b) Violation Due Process of Law
 - (c) Denial of Right to Appeal All Cases

10. State concisely and in the same order the facts which support each of the grounds set out in (9)

- (a) Counsel failed to conduct a thorough investigation of my case; failed to advise me of U.S. and State Rights, counsel
 (b) failed to contact witnesses; 2.) Defeated Process of Criminal Arrest Warrants / Indictments SCRC in Reg.
 (c) Rule 302, (b), (c).¹⁰ Petitioner advised counsel to appeal all cases, counsel failed to do so.

11. Prior to this application have you filed with respect to this conviction

(a) any petition in a State Court under South Carolina Law?

no

(b) any petitions in State or Federal Courts for habeas corpus or post-conviction relief?

no

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)

no

(d) any other petitions, motions or applications in this or any other Court?

no

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i.

N/A

ii.

iii.

iv.

(b) the name and location of the Court in which each was filed:

i.

ii.

iii.

iv.

(c) the disposition thereof:

i.

ii.

iii.

iv.

(d) the date of each such disposition:

- i. 11/1
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. 11/1
- ii. _____
- iii. _____
- iv. _____

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed? no

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

- i. 11/1
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. 11/1
- ii. _____
- iii. _____

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

- (a) Petitioner appellate review is hereby denied by
- (b) way of P.C.R. 917.22-10.1 Counsel failed to properly
- (c) perfect appeal

16. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? yes
- (b) your trial, if any? yes
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence?

(e) preparation, presentation or consideration of any petitions, motions, or application with respect to this conviction, which you filed?

17. If you answered "yes" to one or more parts of (16), list

(a) the name and address of each attorney who represented you:

- i. Stacy Owens & April Sampson, P.E. 30.
- ii. Richland County Public Defender's Office
- iii. Columbia, S.C. 29202

(b) the proceedings at which each such attorney represented you:

- i. (trial, plea, and sentencing)
- ii. _____
- iii. _____

18. State clearly the relief you seek in filing this application.

Scale of sentence and for modification of sentence
time reduction

19. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA

COUNTY OF Richland

VERIFICATION

I, Randy C. Elders, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Sworn to and subscribed before me

This 10th day of Aug, 2006

Elizabeth Wark L.S.

Notary Public for South Carolina

My Commission Expires July 27, 2007

APPLICATION TO PROCEED WITHOUT PREPAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, Randy C. Elders, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of proceeding or give security therefor.

Randy C. Elders
Applicant

Sworn to and subscribed before me

This 10th day of Aug, 2006

Elizabeth Wark L.S.

Notary Public for South Carolina

My Commission Expires July 27, 2007

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Randy C. Elders, 263032,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS

2006-CP-40-4859

RETURN AND MOTION TO DISMISS
WITHOUT PREJUDICE

In response to the post-conviction relief application filed August 23, 2006, the Respondent would show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. The Applicant was indicted at the June 2005 term of the Court of General Sessions for Richland County for two counts of assault and battery with intent to kill (05-GS-40-3545; 3546) and one count of carjacking (05-GS-40-3540). Applicant was represented by Stacy Owings, Esquire, and April Sampson, Esquire. On February 17, 2006, the Applicant pled guilty to carjacking, assault and battery with intent to kill and assault and battery of a high and aggravated nature. Applicant was sentenced by the Honorable Thomas Cooper to confinement for a period of twenty (20) years for carjacking, ten (10) years consecutive for assault and battery of a high and aggravated nature, and fifteen (15) years, consecutive, for assault and battery with intent to kill.

The Applicant filed a timely notice of intent to appeal which is currently pending before the South Carolina Court of Appeals.

II.

Respondent contends that this matter is currently on appeal before the Court of Appeals. Under Rule 227, SCACR, and S.C. Code Ann. § 17-27-20(b) (1985), Respondent submits that at the present time, PCR is not available to the Applicant because the direct appeal is pending in the appellate courts. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). Therefore, Respondent submits that this Application for PCR must be summarily dismissed without prejudice until such time as the direct appeal is resolved.

III.

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

WHEREFORE, Respondent moves to dismiss the application without prejudice because of Applicant's pending appeal which is directly connected to his conviction and sentence.

Respectfully submitted,

HENRY DARGAN MCMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY ELLIOTT
Assistant Deputy Attorney General

[signatures continued on next page]

ROBERT L. BROWN
Assistant Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By: 
Attorneys for the Respondents

Columbia, South Carolina
February 5, 2007

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

2006-CP-40-4859

Randy C. Elders, #263032

Applicant,

vs

AFFIDAVIT OF SERVICE BY MAIL

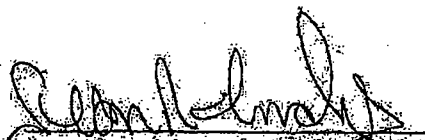
State of South Carolina,

Respondent.

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

Randy C. Elders, #263032
BROAD RIVER CORRECTIONAL INSTITUTION
4460 Broad River Road
Columbia, SC 29210

DATED this 8th day of February, 2007,


Jean R. Indriago, Legal Assistant
For Respondent

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Randy Charles Elders, Appellant.

Appeal from Richland County
James W. Johnson, Jr., Circuit Court Judge

Opinion No. 4648
Heard December 9, 2009 – Filed January 28, 2010

AFFIRMED

Robert William Mills, of Columbia, for
Appellant.

Attorney General Henry Dargan McMaster,
Chief Deputy Attorney General John W.
McIntosh, Assistant Deputy Attorney General
Salley W. Elliott, Assistant Attorney General
Deborah R.J. Shupe, and Solicitor Warren
Blair Giese, all of Columbia, for Respondent.

GEATHERS, J: Randy Elders appeals his convictions for armed robbery, assault and battery of a high and aggravated nature, and two counts of kidnapping, arguing that the trial court erred by admitting certain photographs and knives into evidence. Elders further contends that the trial court erred in failing to grant his motion for a directed verdict with respect to his kidnapping charges. Specifically, he claims that, because he had previously pled guilty to carjacking, the Double Jeopardy Clause barred the State from charging him with kidnapping for the same incident. We affirm.

FACTUAL/PROCEDURAL BACKGROUND

Elders and his girlfriend, Christina Hall, were arrested and indicted for crimes that occurred on the evening of April 17, 2005. At approximately 7:30 p.m. that evening, Dwight Riggs

and his wife Kathryn were returning home from church when they stopped at the Bi-Lo grocery store on Garners Ferry Road in Columbia, South Carolina. Mrs. Riggs went into the store, and Mr. Riggs remained in the car. As he waited for his wife, Mr. Riggs was approached by a woman he had never seen before. The woman asked Mr. Riggs to give her and her male companion a ride to Mike's Produce Market, which was located a short distance away on Garners Ferry Road. Mrs. Riggs returned to the car and sat down in the front passenger seat. The woman, along with her male friend, got into the back seat of the car, with the man sitting directly behind Mrs. Riggs. Mr. Riggs drove to Mike's Produce Market and pulled into the parking lot.

Upon their arrival, the male passenger placed a knife to Mrs. Riggs' neck and told Mr. Riggs to "keep going straight." According to Mrs. Riggs, the knife had a "little hump" on it and a blade that was about six to eight inches long. Instead of complying with the man's orders, Mr. Riggs grabbed both of the man's hands and pulled him out of the car. A struggle ensued on the pavement outside of the car, and Mr. Riggs was stabbed in the wrist and the chest. The man subsequently broke away from Mr. Riggs and ran over to Mrs. Riggs, who had exited the car. The man proceeded to tackle Mrs. Riggs and take her purse. In doing so, he broke Mrs. Riggs' toe and scraped her arm and knee. The man and the woman then left the scene in the Riggses' car.

The police later determined that the man and woman were Elders and Hall. In connection with the incident, Elders was indicted for one count of armed robbery, two counts of assault and battery with intent to kill (ABIK), one count of carjacking, and two counts of kidnapping. Prior to trial, Elders informed the trial court that he wanted to plead guilty to the carjacking charge and the ABIK charge involving Mr. Riggs. The State objected, arguing that the guilty pleas would hinder its ability to present a cogent case regarding the other four charges. After hearing arguments on both sides, the trial court allowed Elders to plead guilty to both the carjacking charge and the ABIK charge concerning Mr. Riggs.

At trial, the State offered into evidence a photograph of Mr. Riggs that showed the injuries he had sustained. Elders objected to the admission of the photograph, arguing that it was prejudicial and inflammatory because it showed Mr. Riggs in the hospital, attached to medical equipment. The trial court concluded that the photograph was no more prejudicial than other photographs of Mr. Riggs that were admitted without objection and consequently admitted the photograph into evidence.

Additionally, later in the trial, the State offered a photograph of Mrs. Riggs that showed the injuries to her knee. Because it depicted Mrs. Riggs in a wheelchair, Elders objected to the admission of the photograph, arguing that it, like the photograph of Mr. Riggs, was prejudicial and inflammatory. After reviewing the photograph, the trial court overruled Elders' objection.

Thereafter, the State offered four knives that were found by the police on April 19, 2005 (two days after the crimes occurred) in Elders' belongings at the home of Elders' friend, Chris Smith.^[1] Three of the knives were pocketknives that were found in Elders' suitcase. The fourth knife, which was found in Elders' shoe, was a switch blade with bears emblazoned on the handle. Elders objected to the admission of the knives, contending that they were irrelevant because none of them were used during the commission of the crimes. Over Elders' objection, the trial court admitted the knives into evidence.

At the conclusion of the State's case in chief, Elders moved for a directed verdict with respect to his kidnapping charges. Elders argued that charging him with kidnapping after he had pled guilty to carjacking constituted double jeopardy. The trial court denied Elders' motion.

The jury subsequently found Elders guilty of armed robbery and two counts of kidnapping. Additionally, with respect to the ABIK charge involving Mrs. Riggs, the jury found Elders guilty of the lesser included offense of assault and battery of a high and aggravated nature (ABHAN). The trial court sentenced Elders to twenty years' imprisonment for the carjacking conviction, fifteen years' imprisonment for the ABIK conviction,[2] thirty years' imprisonment for the armed robbery conviction, thirty years' imprisonment for each of the two kidnapping convictions, and ten years' imprisonment for the ABHAN conviction.[3] This appeal followed.

ISSUES ON APPEAL

1. Did the trial court err by failing to direct a verdict on Elders' kidnapping charges?
2. Did the trial court err by admitting the photographs of Mr. Riggs and Mrs. Riggs into evidence?
3. Did the trial court err by admitting the four knives into evidence?

STANDARD OF REVIEW

I. Directed Verdict

When reviewing the denial of a motion for a directed verdict, an appellate court must employ the same standard as the trial court by viewing the evidence and all reasonable inferences in the light most favorable to the nonmoving party. Elam v. S.C. Dep't of Transp., 361 S.C. 9, 27-28, 602 S.E.2d 772, 782 (2004). This court will reverse a trial court's ruling on a directed verdict motion if no evidence supports the trial court's decision or the ruling is controlled by an error of law. Howard v. Roberson, 376 S.C. 143, 148-49, 654 S.E.2d 877, 880 (Ct. App. 2007).

II. Admission of Evidence

"The admission or exclusion of evidence is a matter addressed to the sound discretion of the trial court and its ruling will not be disturbed in the absence of a manifest abuse of discretion accompanied by probable prejudice." State v. Douglas, 369 S.C. 424, 429, 632 S.E.2d 845, 847-48 (2006). An abuse of discretion occurs where the conclusions of the trial court either lack evidentiary support or are controlled by an error of law. Id. at 429-30, 632 S.E.2d at 848. Prejudice exists when there is "a reasonable probability that the jury's verdict was influenced by the challenged evidence or the lack thereof." State v. Martucci, 380 S.C. 232, 248, 669 S.E.2d 598, 606 (Ct. App. 2008).

Where a review of the whole record establishes that an error is harmless beyond a reasonable doubt, the conviction should not be reversed. State v. Thompson, 352 S.C. 552, 562, 575 S.E.2d 77, 83 (Ct. App. 2003). "Error is harmless beyond a reasonable doubt where it did not contribute to the verdict obtained." State v. Pagan, 369 S.C. 201,

212, 631 S.E.2d 262, 267 (2006). "[I]n order to conclude that the error did not contribute to the verdict, the Court must 'find that error unimportant in relation to everything else the jury considered on the issue in question, as revealed in the record.'" Lowry v. State, 376 S.C. 499, 508, 657 S.E.2d 760, 765 (2008) (quoting Yates v. Evatt, 500 U.S. 391, 403 (1991)).

LAW/ANALYSIS

I. Directed Verdict

Elders contends that the trial court erred by failing to grant his motion for a directed verdict with respect to his kidnapping charges. He argues that the Double Jeopardy Clause precluded his being convicted of both kidnapping and carjacking. We disagree.

The Double Jeopardy Clauses of the United States and South Carolina Constitutions protect citizens from being twice placed in jeopardy of life or liberty for the same offense. See U.S. Const. amend. V ("No person shall be . . . subject for the same offence to be twice put in jeopardy of life or limb . . ."); S.C. Const. art. I, § 12 ("No person shall be subject for the same offense to be twice put in jeopardy of life or liberty . . ."). More specifically, "[t]he Double Jeopardy Clause protects against a second prosecution for the same offense after acquittal or conviction, and protects against multiple punishments for the same offense." Stevenson v. State, 335 S.C. 193, 198, 516 S.E.2d 434, 436 (1999). In both multiple punishment and successive prosecution cases, double jeopardy claims are evaluated under the "same elements" test set forth in Blockburger v. United States, 284 U.S. 299 (1932). [4]

Pursuant to Blockburger, "where the same act or transaction constitutes a violation of two distinct statutory provisions, the test to be applied to determine whether there are two offenses or only one, is whether each provision requires proof of a fact which the other does not." Blockburger, 284 U.S. at 304; see also State v. Hall, 280 S.C. 74, 76 n.1, 310 S.E.2d 429, 430 n.1 (1983). Under the Blockburger test, a defendant may be convicted of two separate crimes arising from the same conduct without being placed in double jeopardy where his conduct "consists of two 'distinct' offenses." State v. Pace, 337 S.C. 407, 417, 523 S.E.2d 466, 471 (Ct. App. 1999) (quoting State v. Moyd, 321 S.C. 256, 258, 468 S.E.2d 7, 9 (Ct. App. 1996)); accord Hall, 280 S.C. at 77, 310 S.E.2d at 431; State v. Steadman, 216 S.C. 579, 589, 59 S.E.2d 168, 173 (1950); State v. Lewis, 321 S.C. 146, 148, 467 S.E.2d 265, 266 (Ct. App. 1996). [5]

Here, the kidnapping statute and the carjacking statute each require proof of a fact that the other one does not. In order to convict a defendant of kidnapping, the State is required to prove that the defendant: (i) unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted or carried away any other person by any means whatsoever; (ii) without authority of law. S.C. Code Ann. § 16-3-910 (2003). [6] In contrast, to convict a defendant of carjacking, the State must prove that the defendant: (i) took, or attempted to take, a motor vehicle from another person; (ii) by force and violence or by intimidation; (iii) while the person was operating the vehicle or while the person was in the vehicle. S.C. Code Ann. § 16-3-1075(B) (2003). Thus, whereas the kidnapping statute requires proof that the defendant "unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted or carried away any other person by any means whatsoever," the carjacking statute does not require such proof. Conversely, the carjacking statute requires the State to prove that the

defendant "took, or attempted to take, a motor vehicle from another person," which is not required to prove kidnapping. Therefore, because kidnapping and carjacking each contain an element that the other does not, we hold that the trial court did not err by denying Elders' motion for a directed verdict on his kidnapping charges.

II. Admission of Photographs

Next, Elders argues that the trial court erred by admitting into evidence the photograph of Mr. Riggs in the hospital, attached to medical equipment, and the photograph depicting Mrs. Riggs in a wheelchair. Specifically, Elders contends that the photographs were inflammatory and that they were introduced solely to arouse the passions and prejudices of the jury. We disagree.

"The relevance, materiality, and admissibility of photographs are matters within the sound discretion of the trial court and a ruling will be disturbed only upon a showing of an abuse of discretion." Martucci, 380 S.C. at 249, 669 S.E.2d at 607. Ordinarily, it is not an abuse of discretion to admit photographs that corroborate testimony. State v. Hambright, 310 S.C. 382, 388, 426 S.E.2d 806, 809 (Ct. App. 1992). However, "[p]hotographs calculated to arouse the sympathy or prejudice of the jury should be excluded if they are irrelevant or not necessary to substantiate material facts or conditions." State v. Brazell, 325 S.C. 65, 78, 480 S.E.2d 64, 72 (1997).

A. Photograph of Mr. Riggs

Here, we conclude that the trial court did not err by admitting the photograph of Mr. Riggs. The photograph showed the puncture wound to Mr. Riggs' chest, as well as abrasions to the outside of his hand, and therefore corroborated Mr. Riggs' testimony regarding his struggle with Elders and the injuries he sustained as a result. Additionally, because the photograph showed that Mr. Riggs had been stabbed, it was relevant to the armed robbery charge in that it tended to demonstrate that Elders was armed with a knife or similar weapon on the evening the crimes occurred.[7]

Thus, because the photograph had significant probative value, the present case is readily distinguishable from the two cases relied upon by Elders: State v. Langley, 334 S.C. 643, 515 S.E.2d 98 (1999) and State v. Livingston, 327 S.C. 17, 488 S.E.2d 313 (1997). In each of those two cases, the South Carolina Supreme Court ruled that the trial court erred by admitting a photograph of the crime victim because the photograph had no probative value. See Langley, 334 S.C. at 648, 515 S.E.2d at 100 (concluding that photograph of murder victim was "not relevant to proving the guilt of appellant" because it was introduced solely to distance victim from drug dealing occurring near murder scene and to neutralize testimony by the State's witnesses regarding victim's drug use); Livingston, 327 S.C. at 20, 488 S.E.2d at 314 (finding that photograph of felony DUI victim taken shortly before her death was "irrelevant to any matter in issue"). Here, the photograph of Mr. Riggs was relevant to establishing Elders' guilt and therefore Langley and Livingston are inapposite to the present case. See State v. Bennett, 369 S.C. 219, 228-29, 632 S.E.2d 281, 286-87 (2006) (finding that hospital photographs introduced to show the extent of the injuries suffered by ABHAN victims were "easily distinguishable" from the photographs in Langley and Livingston due to their highly probative nature).

Furthermore, while the photograph may have aroused some sympathy among the jury, we

conclude that the photograph was not unduly prejudicial. The photograph was similar to other photographs that depicted Mr. Riggs' injuries and that were admitted without objection. Additionally, while the photograph showed Mr. Riggs in the hospital, connected to medical equipment, Mr. Riggs testified without objection that he spent several hours in the hospital after the incident. Therefore, we hold that the trial court did not err by failing to exclude the photograph on the basis that it was too inflammatory.

Nonetheless, Elders appears to suggest that it was improper to admit the photograph given that Elders had, prior to trial, pled guilty to the ABIK charge relating to Mr. Riggs. However, during the pre-trial arguments about Elders' guilty pleas, Elders' counsel stated that the defense would not object to the State's presenting any of the evidence that the State would have introduced on the two charges to which Elders desired to plead guilty. Additionally, as noted above, the photograph was relevant to the armed robbery charge. Accordingly, we hold that the trial court properly admitted the photograph of Mr. Riggs.

B. Photograph of Mrs. Riggs

Similarly, we conclude that the trial court did not err by admitting the photograph of Mrs. Riggs. Like the photograph of Mr. Riggs, the photograph of Mrs. Riggs was probative without being overly prejudicial. It showed the injuries to Mrs. Riggs' knee and thus corroborated her testimony that her knee had been injured when Elders grabbed her purse from her. Additionally, the photograph was relevant to both the ABIK charge with respect to Mrs. Riggs and the armed robbery charge. Moreover, although the photograph showed Mrs. Riggs in a wheelchair, we do not find that the photograph was inflammatory. Other photographs of Mrs. Riggs' injuries were admitted without objection. Therefore, we hold that the photograph of Mrs. Riggs was properly admitted.

III. Admission of Knives

Finally, Elders argues that the trial court erred by admitting into evidence the four knives that were found in Elders' belongings at the time he was arrested. Specifically, Elders claims that the knives were calculated to arouse the sympathy or prejudice of the jury and that they were irrelevant given that none of them were used during the crimes in question.

"Evidence which is not relevant is not admissible." Rule 402, SCRE.[8] Additionally, even relevant evidence should be excluded "if its probative value is substantially outweighed by the danger of unfair prejudice." Rule 403, SCRE. "Unfair prejudice does not mean the damage to a defendant's case that results from the legitimate probative force of the evidence; rather it refers to evidence which tends to suggest decision on an improper basis." State v. Gilchrist, 329 S.C. 621, 630, 496 S.E.2d 424, 429 (Ct. App. 1998) (quoting United States v. Bonds, 12 F.3d 540, 567 (6th Cir.1993)).

Here, there is considerable evidence in the record demonstrating that the knives were not used in the commission of the crimes.[9] Additionally, none of the witnesses specifically testified that the knives were similar to the knife used to commit the crimes. Thus, evidence that the knives were found in Elders' belongings two days after the crimes occurred tended to prove not that Elders committed the crimes in question, but rather that he was the sort of person who might commit such crimes. Accordingly, in light of the negligible probative value of the knives, as well as the danger of unfair prejudice created by their admission, we hold that the knives should have been excluded pursuant to Rule

403, SCRE.

Nonetheless, although admitting the knives was error, we find that the error was harmless in light of the overwhelming evidence of Elders' guilt. Both Mr. Riggs and Mrs. Riggs identified Elders as the person who put the knife to Mrs. Riggs' neck, who fought with Mr. Riggs, and who stole the Riggses' car and Mrs. Riggs' purse. Additionally, testimony by Hall corroborated the Riggses' testimony regarding Elders' involvement in the crimes. Moreover, Chris Smith and his mother, Dawn Smith, both testified that Elders confessed to stealing a car. In addition, the officer who arrested Elders a couple of days after the crimes occurred testified that he observed scratch marks on Elders' arms, hands and face, as well as a bandage on Elders' wrist, thus buttressing the testimony by Hall and the Riggses regarding the struggle between Elders and Mr. Riggs. Furthermore, a cigarette butt containing DNA that matched Elders' DNA was found in the Riggses' car, as was Elders' jacket. Finally, because Elders' guilty pleas were made shortly before the trial commenced, the jury was aware of the fact that Elders had pled guilty to carjacking and ABIK with respect to Mr. Riggs. Based on the foregoing, we are convinced beyond a reasonable doubt that the admission of the knives did not contribute to the jury's verdict and that reversal of Elders' convictions is therefore not warranted. See *State v. Bailey*, 298 S.C. 1, 5, 377 S.E.2d 581, 584 (1989) ("When guilt has been conclusively proven by competent evidence such that no other rational conclusion can be reached, the Court should not set aside a conviction because of insubstantial errors not affecting the result.").

CONCLUSION

We hold that the trial court did not err by denying Elders' motion for a directed verdict with respect to his kidnapping charges. We also conclude that the trial court did not abuse its discretion by admitting the challenged photographs of Mr. and Mrs. Riggs. Although we find that the trial court erred by admitting the four knives, we deem the error harmless. Accordingly, Elders' convictions are

AFFIRMED.

HUFF, J., and GOOLSBY, A.J., concur.

[1] On the evening before the knives were discovered, Elders went over to Smith's house and spent the night there.

[2] As noted above, Elders is not appealing his carjacking conviction or his ABIK conviction.

[3] At sentencing, the trial court appeared to indicate that the last four of Elders' sentences were to run concurrently to the first two, thus effectively giving Elders a thirty-five year sentence. However, according to the State's brief, *all* of Elders' sentences were set to run concurrently. For the purposes of this appeal, it is unnecessary for us to resolve this apparent discrepancy.

[4] *Stevenson*, 335 S.C. at 198, 516 S.E.2d at 437; *State v. Easler*, 327 S.C. 121, 132, 489 S.E.2d 617, 623 (1997).

[5] Blockburger notwithstanding, a court may conclude that there is no double jeopardy violation even if the "same elements" test is met where the legislature clearly intends multiple punishments for a single act. Stevenson, 335 S.C. at 198 n.4, 516 S.E.2d at 437 n.4 (citing Missouri v. Hunter, 459 U.S. 359 (1983)). Importantly, the Double Jeopardy Clause does not limit the legislature's power to impose sentences for a given crime, but rather acts as a restraint on courts and prosecutors. Brown v. Ohio, 432 U.S. 161, 165 (1977); Hall, 280 S.C. at 77, 310 S.E.2d at 431.

[6] Under South Carolina law, a defendant may be convicted of kidnapping even when the kidnapping is merely incidental to another crime. See Hall, 280 S.C. at 77-78, 310 S.E.2d at 431-32 (1983); State v. East, 353 S.C. 634, 636-38, 578 S.E.2d 748, 750 (Ct. App. 2003). However, there is a caveat to this rule; where the defendant has been sentenced for murder, the kidnapping statute prohibits the trial court from separately sentencing the defendant for kidnapping. S.C. Code Ann. § 16-3-910 (2003); State v. Livingston, 282 S.C. 1, 8, 317 S.E.2d 129, 133 (1984).

[7] Although the armed robbery charge was brought in connection with the theft of Mrs. Riggs' purse, Elders' struggle with Mr. Riggs occurred shortly before Mrs. Riggs' purse was taken.

[8] "Relevant evidence" means "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Rule 401, SCRE.

[9] Mr. Riggs provided express testimony to that effect. Additionally, the State's expert in DNA analysis testified that he conducted a "very sensitive" screening test on the knives to determine the presence of blood and that he found no blood on the knives.

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Randy Elders #263032

Full name and prison number (if any) of Applicant.

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
 20 DEC 17 PM 3:18
 JEFFREY W. HARRIS
 CLERK OF COURT
 S.C.

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Broad River Correctional Institution
2. Name and location of Court which imposed sentence Richland County General Sessions Court, 1701 Main Street, Columbia SC 29201
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2005-GS-40-3542-Armed Robbery
 - (b) 2005-GS-40-3543-Kidnapping
 - (c) 2005-GS-40-3544-Kidnapping
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) February 17, 2006-30 years

- (b) February 17, 2006-30 years
- (c) February 17, 2006-30 years
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty X
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Convictions were Affirmed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. January 28, 2010
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Opinion No. 4648
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in

custody unlawfully:

(a) Ineffective Assistance of Council

(b) _____

(c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) Council failed to adequately inform the Applicant of the applicable law relating to all of his charges. Failure to investigate

(b) _____

(c) _____

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? No

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No

(d) any other petitions, motions or applications in this or any other Court? No

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

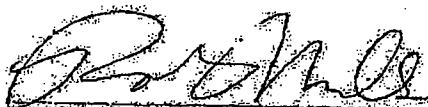
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) This is first opportunity

(b) _____

- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? _____
 - (b) your trial, if any? Yes
 - (c) your sentencing? Yes
 - (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
 - (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
 - i. April Sampson Esq. 1701 Main Street, Columbia SC 29201
 - ii. Stacy Owings. 1701 Main Street, Columbia SC 29201
 - iii. Robert W. Mills. 1728 Main Street, Columbia SC 29201
 - (b) the proceedings at which each such attorney represented you:
 - i. Trial
 - ii. Trial
 - iii. Appeal
19. State clearly the relief you seek in filing this application:
A new trial
20. Are you now under sentence from any other court that you have not challenged?
No

Respectfully Submitted,



Robert W. Mills
1728 Main Street
Columbia, SC 29201
803-252-9648
Attorney for the Applicant

December 17, 2010

488
STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Randy Elders -
00263032

2010CP4008822

Applicant

CERTIFICATE OF SERVICE

State of South Carolina,

Respondent.

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the a letter in the above-captioned matter on the following person(s) by routing the same to the United States mail, postage prepaid:

Randy Elders, 263032 - Broad River Correctional Institution, 4460 Broad
River Road, Columbia, SC 29210

DATED January 30, 2012.


Jean R. Indriago
Legal Assistant

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Randy Elders -
#00263032,

2010CP4008822

Applicant,

v.

State of South Carolina,

Respondent.

STATE'S RETURN TO PCR
APPLICATION AND MOTION TO
WITHDRAW PROPOSED
ORDER OF DISMISSAL WITHOUT
PREJUDICE

The Respondent, making its Return to the application for post conviction relief (PCR) filed December 17, 2010, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. The Applicant was represented by Stacy Owings, Esquire. On February 17, 2006, Applicant proceeded to jury trial on six (6) indictments, 2005-GS-40-3540 through -3546. Applicant subsequently entered a guilty plea to the trial judge to two (2) of the charges he was facing, indictment numbers 2005-GS-40-3540 (Carjacking) and -3545. Applicant proceeded with a jury trial on the remaining four (4) charges. On February 17, 2006, Applicant was found guilty of the four remaining charges and was sentenced to terms of imprisonment by The Honorable James W. Johnson, Jr.,

<http://www4.rtcgov.us/publicindex/PCCaseDetails.aspx?County=40&Casenum=2010CP4008822&CourtType=G&CaseType=Civil&CourtAgency=40002>

Randy Elders - State's Return - (2010CP4008822)

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as follow: fifteen (15) years for ABWIK, thirty (30) years for Armed Robbery, thirty (3) years for each count of kidnapping, and ten (10) years for the lesser included Assault and Battery of a High and Aggravated Nature (Indict # 3546) all to run concurrently to each other, but consecutive to a twenty (20) year term for Carjacking.²

STATEMENT OF FACTS

The charges arose from an incident in Richland County on April 17, 2005, in which Elders and a co-defendant, Christine Hall ("Hall"), attacked Dwight and Kathryn Riggs ("Mr. Riggs", "Mrs. Riggs," or "victims") at knifepoint, and ultimately stole their car and Mrs. Riggs' purse. The matter was called for a jury trial on February 13, 2006, before the Honorable James W. Johnson, Jr., Circuit Court Judge.

Prior to trial, over the State's objection, the circuit court allowed Elders to plead guilty to the carjacking charge and the ABWIK charge involving Mr. Riggs. (Trial Transcript [TT], pp. 48-77). Prior to accepting the pleas, the circuit court noted it was not a situation where entering the pleas would "impair the State's ability to prosecute on the remaining charges," to which Elders' counsel responded, "that's correct, Your Honor." (TT, pp. 48-51). The court further noted, and Elders' counsel agreed, Elders would not object to the State presenting evidence relating to the charges to which Elders was pleading guilty since "the offenses were so intertwined." (TT, p. 53).

² <https://sword.doc.state.sc.us/scdc-public/inmateDetails.do?i=-00263032>

Mr. Riggs testified he and Mrs. Riggs stopped at a grocery store after church on April 17, 2005, and he stayed in the car while Mrs. Riggs went into the store. Elders and Hall were sitting outside the store and Hall approached Mr. Riggs as he sat in the car. Mr. Riggs agreed to give them a ride to a market just down the road, and they got into the backseat of the car after Mrs. Riggs came out of the store. (TT, pp. 103-108).

Elders was sitting behind Mrs. Riggs, and as they pulled into the market parking lot, he said there had been a "change of plans," put a knife to Mrs. Riggs' throat, and told Mr. Riggs to keep driving. Mr. Riggs struggled with Elders, ultimately pulling him over the seat and out the driver's side door. They continued to struggle outside the car, and Elders cut Mr. Riggs' wrist and stabbed him in the chest. (TT, pp. 108-113).

Mr. Riggs was able to get away from Elders, and when Elders demanded the keys to his car, he threw the keys across the road. Elders ran across the road to recover the keys, and Mr. Riggs ran after him but was weak from the loss of blood. Elders knocked him over and ran back toward the car. Mrs. Riggs was standing outside the car and Elders, still holding the knife, pushed her down and ripped her purse off her arm. He and Hall then got into the car and drove off. (TT, pp. 113-117).

The Riggs' car was recovered the next day and Mr. Riggs went to the Richland County Sheriff's Department to pick it up. While he was at the

Department, Mr. Riggs saw Elders walking through the parking lot with a deputy and immediately recognized him as the man who attacked and robbed him. He subsequently identified Elders and Hall in photo line-ups. (TT, pp. 130-139).

Mrs. Riggs testified about the events of April 17, 2005, and identified Elders in court as the man who held a knife at her throat. After struggling with and stabbing Mr. Riggs, Elders knocked her down and ripped her purse off her arm, and she sustained a broken toe, severely scraped knee and a scraped arm. Mrs. Riggs described the knife Elders used during the attack as having a six to eight inch blade with a little hump. (TT, pp. 144-152).

Chris Smith testified Elders and Hall came to his home on April 18, 2005 and spent the night. During conversations that night and the next day, Elders told him he and Hall were in trouble because they stole a car and some money from an elderly couple. (TT, pp. 254-264).

Dawn Smith (Chris Smith's mother) testified she was in the house when Elders and Hall were there. She overheard conversations between her son and Elders, and heard Elders say something about an elderly couple and that he had stabbed the person and taken the car. She then called the Crimestoppers Hotline and reported it. (TT, pp. 267-271).

Hall testified she and Elders smoked crack on the morning of April 17, 2005, and then went up to the grocery store parking lot. They saw the victims drive into the parking lot and while Mrs. Riggs was in the store, Hall walked up to the car and

asked him for a ride to a local produce stand. Hall and Elders got into the backseat of the car after Mrs. Riggs came out of the store, and when they arrived at the produce stand, Elders put a knife to Mrs. Riggs' throat and told Mr. Riggs the plans had changed. Elders and Mr. Riggs struggled and they ended up outside the car. (TT, pp. 273-279).

When Hall tried to get out of the car, Mrs. Riggs pushed her back in and she crawled over into the driver's seat. Elders got back into the car, gave her the keys, and they drove off. They took \$100 out of Mrs. Riggs' pocketbook and bought more crack, then drove around in the Riggs' car and ultimately abandoned it that night after it got a flat tire. They initially went to Hall's mother's home, where Chris Smith picked them up the next day and took them to his house. (TT, pp. 279-287).

The police came to Chris Smith's house the following day. Hall told them there was a knife in Elders' shoe, and identified State's Exhibit 46 as the knife that was in Elders' shoe at that time. (TT, pp. 288-300).

An investigator with the Richland County Sheriff's Department testified that he and another deputy found the knife in Elders' shoe. He then found three other knives in Elders' suitcase. (TT, pp. 314-326, State's Exhibits 46 & 47).

A Richland County Sheriff's Department DNA analyst testified Elders' DNA was found on the steering wheel of the Riggs' car, as well as on items found inside the car when it was recovered. He stated the probability of finding another individual with the same DNA profile was one in 4.8 quadrillion, which is

approximately 1000 times the earth's entire population. (TT, pp. 342-357).

At the conclusion of the State's case, Elders moved for a directed verdict on the kidnapping charges on the ground that he had pled guilty to carjacking and the kidnapping charges constituted double jeopardy because all the events took place in connection with the carjacking. The circuit court denied the motion, noting that carjacking focuses on taking a motor vehicle from another person, which is not an element of kidnapping. (TT, pp. 370-373).

II.

Attached herewith and incorporated herein are the records of the Richland County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, and the trial transcript, and the Applicant's applicable direct appeal files. The Respondent reserves the right to amend this Return upon receipt of any relevant materials or submit an amended Return to reflect any amended allegations.

Direct Appeal and Collateral Review

According to the responses set forth in the PCR application, in conjunction with the South Carolina Court of Appeals opinion ultimately issued from Applicant's direct appeal, it appears an appeal was perfected on Applicant's behalf for review of four (4) of the six (6) charges Applicant was sentenced on. The appellate opinion reflects only the following indictment numbers were raised on direct appeal: 2005-GS-40-3542 (Armed Robbery), 3543 (Kidnapping), 3544 (Kidnapping) and 3546 (ABWIK). After the submission of briefs and subsequent oral argument, the Court of Appeals affirmed the convictions by order filed January 28, 2010.

During the pendency of the direct appeal, Applicant filed an application for post-conviction relief collaterally attacking the two convictions not raised on appeal, indictment numbers 2005-GS-40-3540 (Carjacking) and 2005-GS-40-3545 (ABWIK).

¹ The Respondent will utilize the Record on Appeal if the direct appeal was an Anders appeal.

The application was submitted August 23, 2006 (2006-CP-40-4859). Respondent, believing Applicant had raised all six (6) convictions in his direct appeal, filed a Motion to Dismiss on February 5, 2007, requesting the court summarily dismiss the application without prejudice as the matter was still pending on appeal. To date, an order dismissing the 2006 application has not been signed or entered dismissing the application without prejudice.

Applicant subsequently filed this second application for post-conviction relief on December 17, 2010 (2010-CP-40-8822). In it, Applicant challenges three (3) of the four (4) charges previously raised on direct appeal (Indictment numbers: 3542, 3543, 3544).²

MOTION TO WITHDRAW PROPOSED ORDER OF DISMISSAL

Respondent respectfully moves this Court to withdraw and strike from the record in this matter Respondent's previously submitted proposed Order of Dismissal Without Prejudice stemming from Applicant's first PCR application (2006-CP-40-4859). While no such order has been signed or entered by the Court at this time, for conservation of judicial resources Respondent intends to defend both the 2006 and 2010 PCR applications collectively at one evidentiary hearing, as there appears to be some genuine question as to the timeliness of each of the

² Based on a review of the file, Respondent submits there is some question as to the timely nature of the two applications submitted by Applicant under S.C. Code § 17-27-45(a). Whether Applicant properly filed the initial application to preserve collateral review on the three issues not raised on direct appeal, as well as the second application's timeliness based on the direct appeal remittitur date, will be raised and explored further by Respondent at an evidentiary hearing into the matter. Respondent reserves the right to move for summary dismissal on the grounds that either or both of the applications are untimely.

Randy Elders - State's Return - (2010CP4008822)

applications based on the piecemeal direct appeal issues raised and uncertain Remittitur date stemming there from. Respondent, therefore, requests this Court withdraw the proposed order to allow both applications to be brought before the Court for an evidentiary hearing at which time the Court may determine Applicant's ability to go proceed.

2006 APPLICATION (2006-CP-40-4859)

In the 2006 PCR Application, Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel

- a. Counsel failed to conduct a thorough investigation on my case, failed to advise me of U.S. Constitutional Rights and failed to contact witnesses

2. Violation Due Process of Law

- a. Defected process of criminal arrest warrants, Indictments, SCRCrim. Proc. Rule 3(a), (b), (c)

3. Denial of Right to Appeal All Cases

- a. Petitioner advised counsel to appeal all cases and counsel failed to do so.

2010 APPLICATION (2010-CP-40-8822)

In the 2010 PCR Application, Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel

Randy Elders - State's Return - (2010CP4008822)

Page 9 of 13

- a. Council (sic) failed to adequately inform the Applicant of the applicable law relating to all of his charges; and
- b. Failure to investigate;

RETURN TO PCR APPLICATIONS

For the purposes of this Return, the Respondent interprets each of the Applicant's allegations to be claims that he received ineffective assistance of counsel. The Respondent contends that the Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1965).

In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Id. Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 80

L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegations of ineffective assistance of counsel probably raise questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve these issues as well as the timeliness of the two applications. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied. The Respondent therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.