THE STATE OF SOUTH CAROLINA
In The Supreme Court

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S.C. SUPREME COURT

APPEAL FROM MARLBORO COUNTY
Court of Common Pleas

George M. McFaddin, Jr., Circuit Court Judge

Case No. 2025-000136

Weldon W. Stewart, Jr., #295095 Petitioner,

v.

State of South Carolina, Respondent.

APPENDIX

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A. No.
Q. Did he appear distraught?
A. No, he did not.
Q. Did he appear nervous?
A. No, he did not.
Q. Thank you.
THE COURT: Anything further of this the witness?
MR. STEWART: I move that the witness be excused.
MR. BLAKE: Without objection.
THE COURT: Witness is excused.
MR. STEWART: Defense would like to call Mr. James Ellerbe.

JAMES ELLERBE, first being duly sworn, testified as follows:

CLERK OF COURT: Come around here and state your full name.
THE COURT: You're going to have to speak up. The microphone's broken.
A. My name is James Ellerbe.

DIRECT EXAMINATION BY MR. STEWART

Q. Mr. Ellerbe, do you know me?
A. Yes.
Q. How long have you known me?
A. I've known you about all your life.
Q. Yes, sir. How do you know me?

A. I've been knowing you from the church or Pee Dee Baptist Church.

Q. Did you just spend time with me in church or did you spend time with me anywhere else?

A. Yeah, we have worked together. I know you then, and you have worked with me and I worked with you because I was deacon at Pee Dee Union Baptist Church.

Q. Yes, sir. What type of work would we be doing?

A. On the first -- mostly on the Sunday, we would serve communion at hospitals and homes. You asked to go with me and I told you you couldn't serve communion, but you wanted to do something, so I told you you can read the scripture. So you did just that every first Sunday out of the month.

Q. Did we go alone, just you and I go or was someone else with us?

A. Well, sometimes, your father went with us.

Q. Yes, sir. Could you -- the people that we were serving communion to, were they, well -- or?

A. Well, they were well, but they were mostly seniors. Some of them were not well.

Q. Yes, sir.

A. Most of them were senior citizens.

Q. Yes, sir. Do you remember the last time we were together serving communion?

A. I don't know the exact time or the month, but I

remember the last time that you went with me to serve communion. Because that's the time you were -- when we finished up you wanted something to eat, so then we stopped and got you a hamburger.

Q. Yes, sir. And the time that you've been around me serving communion and stuff, would you say that I had a good character for peacefulness?

A. Yes. It was nothing that you did out of the way that you know. If you had, then I wouldn't want you to go with me to serve communion.

Q. Yes, sir. And we all make mistakes in life; is that correct, Mr. Ellerbe?

A. Yes, sir, that's true.

Q. If I made some mistakes in my life, would you think I was a bad person?

A. No, sir, if you made a mistake, I wouldn't think you were a bad person.

MR. STEWART: No further questions.

CROSS-EXAMINATION BY MR. BLAKE

Q. Mr. Ellerbe, you're a deacon there at Pee Dee Baptist?

A. Yes, I am.

Q. Been there a long time I bet?

A. A long time, not all my life.

Q. And known a lot of children and a lot of people to

grow up there in the church?

A. Right.

Q. Would it change your opinion of Mr. Stewart to know that he knifed a boy at school in 1997 in [redacted]

A. I didn't get that.

Q. Would it change your opinion of Mr. Stewart's peaceableness if you knew that he had stabbed a boy at [redacted] High School?

MR. STEWART: Your Honor, sir, objection. The boy was not stabbed.

MR. BLAKE: Objection. This is not a place for argument. This is what he wants to do is argue something that is not even in evidence at this time. It will be in rebuttal.

MR. STEWART: If it's not in the evidence ---

MR. BLAKE: It's time ---

MR. STEWART: If I may just for the record, if it's not in evidence. It hasn't been proven. This would your opinion change if this, if that. He can sit around and make up a million if this and if that, and it's not even necessarily something that I did. Just rumors.

THE COURT: Overruled. Go ahead. Already been in the records.

Q. (BY MR. BLAKE): Let's go back at it again. Would it change your opinion?

A. No, it wouldn't change my opinion.

Q. Him knifing somebody wouldn't change your opinion?
A. If I know for sure, yes, I would.
Q. If you knew it for sure?
A. Yes.
Q. So if he had pled guilty to it in Juvenile Court, would that change your opinion?
A. If I agree to it?
Q. If he pled guilty to it in Juvenile Court?
A. No, because people do things and I mean, I want wouldn't change my opinion about him.
Q. And if someone were to tell you that he slapped his momma at church, would that change your opinion?
A. No, if somebody tell me that, it wouldn't. If I see it, it would.
Q. And if you knew that Weldon had behavior problems and was in and out of schools, four different schools in two or three years, would that change your opinion?
A. Yes, if I knew that for sure.
Q. No further questions.

RE-DIRECT EXAMINATION BY MR. STEWART

Q. Mr. Ellerbe, you said if you knew these things for sure, it would change your opinion, but if someone just told you ---
MR. BLAKE: Objection, Your Honor. I cross-examined by asking if it would change the opinion. The rule says that's

what you do. He doesn't get to come back and ask further questions.

THE COURT: I think he made himself perfectly clear. Answer his questions.

MR. STEWART: Yes, sir.

THE COURT: Any other questions of him?

MR. STEWART: No, sir. I move that this witness be excused.

MR. BLAKE: Without objection.

THE COURT: Thank you, sir. You may step down.

MR. STEWART: Defense would like to call Melody Stewart.

THE COURT: Yes, sir. We need to take a recess. Let's take ten minutes.

(JURY EXCUSED TO JURY ROOM AT 10:31 A.M.)

THE COURT: I don't see this witness's name on my witness list, and the jurors informed me, three of them know her.

MR. BLAKE: I was looking for her name myself.

MR. STEWART: Sir, I will just excuse her then.

(COURT IN RECESS AT 10:32 A.M. AND RECONVENES AT 10:45 A.M.)

(BENCH CONFERENCE HELD OFF THE RECORD, BUT OUT OF THE PRESENCE OF THE JURY).

THE COURT: All right. Bring the jury in.

(JURY ENTERS COURTROOM 10:46 A.M.)

THE COURT: All right. The witnesses that already testified would like to come back in the courtroom. Is there

any problem with that?

MR. BLAKE: No objection from the State unless those witnesses would be subject to recall.

MR. STEWART: No objection.

MR. BLAKE: Can I ask who they are then?

THE COURT: I'll have to defer to Mr. Clerk.

MR. BLAKE: Your Honor, as long as they're not going to testify again, that's fine.

THE COURT: Okay. You may proceed, Mr. Stewart.

MR. STEWART: Defense calls Detective Dallas Gurley.

DALLAS GURLEY, first being duly sworn, testified as follows:

CLERK OF COURT: Come around and state your full name.

A. Dallas Gurley.

DIRECT EXAMINATION BY MR. STEWART

Q. Detective Gurley, handing up to you State's Exhibit 76. Please identify that.

A. This is the SLED report, corrected report from the Question Documents Department.

Q. On yesterday, didn't you say that the reason for this corrected report was that the original report didn't include the corrected standards?

MR. BLAKE: Objection, leading.

MR. STEWART: Sir, she -- Detective Gurley is identified with the adverse party.

THE COURT: Rephrase your question. Remember a leading question is one that suggests an answer.

Q. What did you say was the reason for this corrected record?

A. Item 25 was left off the original report.

Q. Item 25. Will you please tell me what Item 25 is?

A. Item 25, 4 through 6, are the collected standards as known writings of Weldon Stewart, Jr.

Q. Four through six?

A. Four through six.

Q. Handing to you, now, Defendant's Exhibit 14. Will you please identify that?

A. This is the SLED laboratory evidence inventory sheet that is done in logging when you take evidence to SLED.

Q. Did you fill out this inventory sheet when you submitted the items to be examined for the original report?

A. No, I did not fill this out. This is not my handwriting.

Q. That's not your signature at the bottom of that report?

A. That's my signature, but not my handwriting for listing the items.

Q. Did you review this report?

A. Yes, I did review this report.

Q. And these were the items that were submitted to the

Question Documents Department for examination for the first report?

A. These items were -- let me make sure all of them -- yes, but Item 25, 4 through 6 aren't on here.

Q. Exactly. Would anything that wasn't on the inventory sheet be submitted with the original report?

A. Item 25, 4 through 6 is not on that inventory sheet is because later on, they contacted me. Ms. Gail Heath that was here from SLED the other day admits that she contacted me later on and told me she needed additional evidence, and that went when Item 25, 4 through 6 that inventory shows Items 1 through 3 and 4 through 6 were to follow.

Q. So the Items 4 through 6 weren't excluded from the first report simply because they were not submitted when the first report was done; is that correct?

A. Correct.

MR. BLAKE: Objection, leading.

THE COURT: Okay. Just be careful with leading sort of answer now.

Q. (BY MR. STEWART): Didn't you state earlier that the reason for the corrected report is that the Items 25, 4 through 6 weren't included on the original report?

A. They wasn't included on their original report. They made a mistake in time. They caught the typographical error when I was in their office on their computer.

Miss Pat Crook, who does the logging in the Question Department, she caught it. She got in touch with Miss Heath, and she told her where the mistake was made. At that time, they had to do a corrected report.

Q. There was a typographical error?

A. It was left off. She didn't type it in.

Q. You said that it was left off the original report?

A. It was left off the original report. That's why she did a corrected report.

Q. Was it left off or were the collected standards 4 through 6 never submitted? Which one is it?

A. You should know. You have a paper where it says 4 through 6 was submitted.

Q. I'm talking about the original report.

A. It could have been sent with the originals because she later sent me information she needed more information. So I brought it later on. It wouldn't have been part of the original. It was supplemental, additional.

Q. So the collected standards 4 through 6 were not just simply left off the original report. At the time the original report was done, the collected standards 4 through 6 had not been submitted to the Question Documents Department. Is that what you're telling us?

A. That's what I'm telling you. It was not submitted at the same time.

Q. So the corrected report wasn't just done simply because you omit to list the collected standards 4 through 6 on the original report?

A. Repeat that, please.

Q. Is the collect -- the corrected report not done simply because you forgot to list the corrected standards 4 through 6 on the original report; is that correct?

A. I do not have to do that. That was on SLED. That was Miss Pat Crook who did that. She left it off. I didn't leave it off. I have nothing to do with what SLED leaves off. I'm only responsible for getting it to them.

Q. How could they type in was not -- what -- something that was not submitted to them?

A. It was submitted to them. I have papers where it was submitted to them.

Q. You submitted some collected standards as being known writings of mine; is that correct?

A. Correct.

MR. STEWART: Have they already been marked as exhibits?

MR. BLAKE: Yes, they have.

Q. (BY MR. STEWART): You submitted writings to the Question Documents Department as being known to be my writings; is that correct?

A. Yes.

Q. State's Exhibit 67. How did you know that was my

writing?

A. You signed it in front of me.

Q. You saw me write it?

A. Yes, I did.

Q. State's Exhibit 68. How did you know that was my writing?

A. You wrote it in front of me.

Q. That's how you knew; is that correct?

A. Yes.

Q. State's Exhibit 69. How did you know that was my writing?

A. It's just -- it is second page to that first page there.

Q. So you submitted those three items as being known to be my writing?

A. Yes, I did.

Q. Because you saw me write them?

A. Yes.

Q. So you knew they were my writings?

A. Yes.

Q. Did you submit 4 through 6 also as being known to be my writing?

A. Yes.

Q. State's Exhibit 70. How do you know that I wrote that?

A. It looks like your handwriting. You didn't write this in front of me, but you wrote all of your motions and submitted them to the Clerk's Office and that's your signature. It looks like the rest of them.

Q. Are you a handwriting expert?

A. No, I'm not.

Q. So you don't actually know.

MR. BLAKE: Objection, authentication of handwriting does not require an expert, and I'm really -- been trying to be patient here but what's the point?

He's already admitted that he wrote the Calamity, which is what these known writings were submitted for, so ---

MR. STEWART: Sir, it is -- it is a point that I'm trying to prove here that goes to the reliability of Detective Gurley's testimony, and the things that she submitted. And there is some evidence of inconsistency as far as what the original collected standards actually are. I'm trying to establish that now.

THE COURT: Well, do I need to look and see if somebody has filed some forged pleadings in the Court files?

MR. STEWART: No, sir, there were some ---

THE COURT: Go ahead.

Q. (BY MR. STEWART): You deny actually seeing me write that?

A. No, I did not see you write it.

Q. You say that it looks like the rest of them; is that correct?

A. Yes.

Q. No one in the world has a handwriting similar to mine?

A. I don't know. That I don't know.

MR. BLAKE: Objection, Your Honor.

THE COURT: She is not qualified.

MR. BLAKE: She was not the handwriting expert. We simply got those from the Court files.

MR. STEWART: Sir, she submitted these as being known to be my writings to the Department.

Q. State's Exhibit 71. Did you see me write that?

A. No, I did not.

Q. Where did you get it from?

A. I stated earlier, I got it from the Clerk's Office.

Q. I have here the cover page that's supposedly for document 1 August 31. That's a stamp on it, State's Exhibit 61. Will you please read what that says, please.

A. "Copy of the handwritten letter from Weldon Stewart to Mr. Crow, two pages.

Q. How many pages?

A. Two pages.

Q. And what is that -- what is that document that you're reading that says, "two pages?"

A. Receipt for exhibits.
Q. So this says there is a two page exhibit; is that correct?
A. Um-hum. No, it says, "Two pages." It doesn't say it's a two page exhibit.
Q. Is this exhibit right here the exhibit for this receipt?
A. Yes.
Q. How many pages is that?
A. This is one page, and that cover sheet would be another page, two pages.
Q. State's Exhibit 72. Did you see me write that?
A. No, I did not.
Q. Submitted as being a known writing; is that correct?
A. Yes, it is.
Q. Going back to Defendant's Exhibit 14. Will you please read Item 21?
A. Item 21, envelope postmarked March 22, 2002, addressed to Miss Dallas Gurley.
Q. Will you please read Item 22?
A. 22, 1 through 1, two page handwritten letter. Beginning Page One, 02, No. 00000069, May 2002, 12:15 p.m. and ending Weldon W. Stewart, Jr., VOC.
Q. Did you submit Item 22 -- 21 to the Question Documents Department for examination?

A. Yes, I did.

Q. Was it determined that I wrote those items?

A. All the items that I sent was determined that you wrote them.

Q. Defendant's Exhibit 15. Is that a copy of Item 22?

MR. BLAKE: May I see it?

MR. STEWART: Yes, sir.

Q. (BY MR. STEWART): Please read the item.

MR. BLAKE: Objection. Hasn't been entered into evidence. I don't see what the relevance is. I don't see why the writing needs to be read to the jury. It was a letter supposedly from the defendant to Miss Gurley.

MR. STEWART: Sir.

MR. BLAKE: I'm going to object on relevance. I'm going to object just -- it's not in evidence. I don't understand even the reason for all of this, let alone her reading a letter that he wrote to her.

THE COURT: Any question of relevancy -- I hadn't seen it. How is it relevant?

MR. STEWART: Sir, it's just for identification purposes for the items and different documents that were submitted, and if I might add, that all of these letters that were read on the State's case that were allegedly written by me, was really no relevance.

MR. BLAKE: Your Honor, the State will stipulate that

that is in fact the document or copy of the document that was sent to Dallas Gurley from the defendant. Other than that, I don't see what relevance it has for anything, certainly not proving up a murder case. We've already let in the document that the standards were used for to compare to.

MR. STEWART: Sir, that was not the only document.

MR. BLAKE: Now he wants us to hear personal letters that he wrote two years ago.

THE COURT: Well, it is his side of the case. He is introducing anything that's proper as far as admissibility. Let me take a look at it. Tell me how the determination of this photograph is relevant to the case.

MR. STEWART: It would stipulate that -- that -- that is that document, sir.

THE COURT: I'm not following. You stipulate to what?

MR. STEWART: Mr. Blake requested a stipulation.

MR. BLAKE: He wants to -- he wanted to read it for some sort of authentication or identification purposes, and I said, "Yes, that's the letter that was sent to Miss Gurley way back when."

MR. STEWART: Item 23?

Q. (BY MR. STEWART): Item 23.

A. Item 23, 1 through 2, envelope postmarked November 29, 2001, addressed to Dallas Gurley and contain -- present on the back, begins "The horse will" and ends with "Fiscal

calamity."

Q. Twenty-four?

A. Twenty-four, 1 through 4, four pages of handwriting on white paper containing hand printing, begins "The Book of the" and ending "Then the outside."

MR. STEWART: Sir, may we approach?

(BENCH CONFERENCE HELD OFF THE RECORD IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING OF THE JURY.)

MR. BLAKE: May I see them?

Q. (BY MR. STEWART): Detective Gurley, in reference to your -- talking about coming to Wells Street and 701 Wells Street and finding some glasses, you were there when they were found?

A. Yes, I was there when they were found. I was called to the scene when they were found, and I was shone were they were located.

Q. And did you take pictures of the glasses?

A. Myself or Lieutenant Boston took two pictures.

Q. Defendant Exhibit 12. Is this the picture?

A. Yes.

Q. Is this the picture that you took of the location in which you found the glasses?

A. Either myself of Lieutenant Boston took the picture.

Q. Will you please come over here to the jury?

(WITNESS STEPS DOWN FROM WITNESS STAND.)

Q. And point out those glasses?

A. They are hard to see because of the color of the frame, and the leaves as well, but this one is pointing to those eyeglasses that we found.

You can see them right there. That's where the glasses were found. This ink pen was placed down to point out the glasses because of the leaves and color of the frame. Those glasses are right here.

(WITNESS RETURNS TO WITNESS STAND.)

Q. Detective Gurley, you said that the pen was there to point out the location of the glasses because they were hard to see?

A. That's not a very good Polaroid camera as you all can see and that picture is blurred. We marked it using an indicator, and at that time instead of using a stick which would have blended in with the other colors, he used his pen which is blue.

Q. Would you answer that question yes?

A. Yes.

Q. So the glasses even with a camera pointed directly at them ---

MR. BLAKE: Objection, leading.

THE COURT: Rephrase the question.

Q. (BY MR. STEWART): Was the camera pointed directly at the glasses?

A. If I didn't hold the camera, I don't know if it was pointed at it or not. Like I said earlier, myself or Lieutenant Boston took the pictures, but it had to be pointed at it to capture the glasses.

Q. And it's still very hard to see them, even in the pictures?

A. As I stated earlier, that camera -- those Polaroids do not take very good pictures as you can see. They're known to come out blurry. That's why the pen was used as an indicator.

Q. Did members of the Bennettsville Police thoroughly search the path on December 6, 2000?

A. I cannot speak for what the members of the Bennettsville Police Department did. I was there by the body. I did not even go to the path on December 6th, and I couldn't keep up with all the movements out there.

Q. So you can't say for certain that the path was thoroughly searched?

A. I can honestly say I did not search the path.

Q. On yesterday, when you were talking about finding the glasses, you said people did search the path all day?

A. They had been in the path, but how thoroughly they did it, I cannot say they thoroughly did it. They searched it.

Q. Therefore, you cannot say that they combed up and

down every inch of the path?

MR. BLAKE: Objection, leading and repetitive, of course.

THE COURT: She's already answered the question.

Q. (BY MR. STEWART): Therefore, is it in fact possible that ---

MR. BLAKE: Improper form of the question. This is direct examination.

THE COURT: Rephrase the question.

Q. (BY MR. STEWART): Is it possible that someone could have overlooked the glasses?

A. On December the 13th 2000, myself and Lieutenant Boston went -- was called back to the crime scene. Went back, the glasses were found in the path.

They were not covered up with leaves. They did not have any moisture on them as if -- December, it's too cold outside.

The glasses were clearly placed right there on top of the ground. Somebody would have -- you see if the path was covered, was gone through every day between December 6th and December 13th, somebody would have seen the glasses, apparently, stepped on them, broke them, or anything.

Q. From looking at this picture, can we tell -- can you tell that the glasses were covered with leaves or if it wasn't covered with leaves, if there were moisture on the glasses, can you tell by looking at that picture?

A. From looking at that picture, no.

Q. And if that was going to be an issue, why didn't you get a better camera so that we could see for sure that there were no leaves on the glasses or that there was no moisture on the glasses?

A. I have to work with what I have.

Q. Didn't feel the need to call SLED back to the scene?

A. To pick up some glasses?

Q. That's no. The glasses are in fact evidence, are they not?

A. Yes, but I didn't send those glasses to SLED.

Q. You said the 13th, you found those glasses or someone called you to the scene. What else did you get from the scene on the 13th?

A. I don't recall picking up anything else.

Q. Did you photograph anything else?

A. I don't recall.

Q. You recognize that?

A. Yes.

Q. What is it?

A. Actually, I don't know what it is. It appears to be some type of bone. It looked like a spine at the time.

Q. Who took that photograph?

A. Either myself or Lieutenant Boston.

Q. Either yourself or Lieutenant Boston. What's the

date on that photograph?

A. The 13th.

Q. Defendant's Exhibit 18. You recognize that?

A. Yes.

Q. What is it?

A. I don't know. It was some red gelatin looking stuff out there.

Q. Who took that photograph?

A. Either myself or the Lieutenant.

Q. What's the date on it?

A. December 13th.

Q. Now these bones they -- hand you back -- this is Defendant's Exhibit 17. These bones are very fragile type things. Well, would you say they're fragile type looking bones?

A. They haven't fallen apart yet.

Q. So if someone stepped on them, think they would break?

A. I don't know. I guess with a certain amount of force.

Q. Those bones were found on the premises or behind somewhere [redacted]

A. They were in that first path, the one that's directly behind your own house over in -- if I'm not mistaken, the one you go through, that path right behind your house. I

think it comes into a yard as well. And they were in that path, not the path where the incident happened.

Q. So the path where the incident happened was not the path directly behind my house?

A. No, not directly behind your house. It's to the right.

Q. While you were interviewing me at the Bennettsville Police Department, were you sitting closer to me or was Lieutenant Boston sitting closer to me?

A. I was sitting closer to you.

Q. You did not see any scratches on either side of my neck?

A. No, I did not.

MR. BLAKE: Objection, repetitious.

MR. STEWART: Sir, I'm lead -- I'm leading -- I'm leading into ---

THE COURT: Sustained. Ask you next question. Don't argue with me after I rule.

Q. (BY MR. STEWART): Detective Gurley, you were primary investigator on this case?

A. Yes.

Q. Did you conduct a thorough investigation of this case?

A. I think I did.

Q. In your investigation of this case, did you collect

evidence?

A. Did I collect evidence?

Q. Yes.

A. All the evidence that's up here in Court?

Q. Just evidence.

A. I think the only thing that I actually collected myself -- like I said, Lieutenant and I were together. Together we got the glasses, the items that you just showed me on the pictures. If I recall correctly, I think the burned log we got and another stick in question. I think that's probably all that I was in on collecting.

Q. State's Exhibit 60, this pocketbook, who collected that?

A. The pocketbook?

Q. Yes.

A. If I'm not mistaken, the pocketbook came from the Allen's.

Q. From your investigation of this case, did you conclude that a murder was committed?

MR. BLAKE: Your Honor, may we approach?

(BENCH CONFERENCE HELD OFF THE RECORD IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING OF THE JURY.)

Q. (BY MR. STEWART): Detective Gurley, I'm reading from the indictment for murder and presented upon myself. This is the amended indictment, the final one.

"At a Court of General Sessions, convened in October 2002, the Grand Jurors of Marlboro County present upon their oath that Weldon Stewart, Jr. in the County of Marlboro on or about December 6, 2000 did with malice aforethought kill one [redacted] Allen; to wit by striking her and that the said [redacted] Allen did die as a proximate result thereof on or about the 6th day of December 2000."

Will you please tell me what evidence you obtained through your investigation tending to show I struck my girlfriend.

MR. BLAKE: Your Honor, this is extremely repetitious, since we spent the last four days going over. This is a jury question. That's why we have the jury here. The State has been presenting facts.

Investigator Gurley has been the chief investigator in the case. We don't have to reprove our case all over again. If he doesn't think the proof is sufficient, let's just keep going. Let's let the jury talk about it.

MR. STEWART: Yes, sir. Excuse me ---

MR. BLAKE: We're wasting a bunch of time in here.

THE COURT: Withdrawn. Move on.

MR. STEWART: No further questions.

CROSS-EXAMINATION BY MR. BLAKE

Q. Let's see if I can just clear this up quickly. It's my understanding that you sent to SLED Question Documents

three standards plus some other papers you thought were written by Weldon, and they sent you back the first report?

A. Yes.

Q. At which time Gail Heath asked for more standards?

A. Yes, sir.

Q. And you sent them to her?

A. Yes.

Q. And you got them from the Clerk's file?

A. Yes.

Q. And they were pleadings by the defendant in the Clerk's file?

A. Yes.

Q. She sent you back another report and told you that, yes, definitively, the original documents you submitted that were questioned were written by Mr. Stewart?

A. Yes.

Q. And then later on you sent the Calamity to Mrs. Heath. She had the collected standards and she analyzed that, and said that Mr. Stewart wrote the Calamity?

A. Yes.

Q. The glasses were found one week later?

A. Yes.

Q. There were a lot of policemen there that day?

A. Yes.

Q. You were told or the police were told where the

incident supposedly occurred because, of course, you don't know exactly where it happened because the body was burned?

A. Yes.

Q. The crime scene was disturb, admittedly by Mr. Stewart?

A. Yes.

Q. But you looked or people looked. SLED took photographs and they looked and they didn't see the glasses?

A. Correct.

Q. In your opinion, what does it matter if the glasses were found on the 6th or the 13th?

A. In my opinion, if the glasses weren't found until the 13th, the glasses were placed there.

Q. But not by Mr. Stewart?

A. Not by Mr. Stewart.

Q. Because he was in jail?

A. Correct.

Q. So we're not here about that. Now, this photograph of the animal remains; that's what it was, right? It's a skeleton of animal remains?

A. Yes.

Q. Not at human skeleton?

A. No, sir.

Q. Now, in terms of finding those glasses, you keep talking about this path, and I guess there are several that

are behind the Stewart's house. When you finished talking, you said you found the glasses to the right. Do you mean down the block or do you mean the right side of their lot, what you said previously?

A. Correct. The right side of their lot.

Q. Thank you.

REDIRECT EXAMINATION BY MR. STEWART

Q. I have one question or two questions for you. Just now, when Mr. Blake was cross-examining you, you stated that -- he asked you -- you said you looked, police looked, SLED looked on the path, and you said that was true; is that correct?

A. Well, I stand corrected. That was what he asked.

MR. BLAKE: Your Honor, I would like to just state for the record, and the court reporter can read it back. I think I started to say that Ms. Gurley looked and then I changed what I was saying.

THE COURT: Let her go ahead.

A. I stand corrected if I stated that I went to the path because I did state that to you earlier, and in fact, I did not go in the path on December 6th.

Q. And also you stated that you're not -- you don't know who searched the path or how much they searched it, is that also correct?

A. I know officers were there from the Bennettsville

Police Department searched the path. I know SLED searched the path.

Q. But you don't know the extent of their search; is that correct?

A. No, I do not know the extent.

MR. STEWART: No further questions.

THE COURT: You may step down.

MR. STEWART: The defense calls Mrs. Virginia Stewart.

VIRGINIA S. STEWART, being first duly sworn, testified as follows:

CLERK OF COURT: Step around and state your full name.

A. My name is Virginia S. Stewart.

DIRECT EXAMINATION BY MR. STEWART

Q. Please tell us your relationship to me?

A. You're my son.

Q. And have I ever smacked you in church?

A. No, sir.

Q. What would happen if I had smacked you in church?

A. This hearing would be about me, not about you.

Q. Did you know [redacted] Allen?

A. I did.

Q. You know her family?

A. I do.

MR. BLAKE: I'm sorry, Your Honor, I do need to hear the questions, and Mr. Stewart has a way of keeping his voice nice

and low. If he could speak up, it would be easier for at least me to hear.

THE COURT: All right. Everybody speak up.

Q. (BY MR. STEWART): And did you know about my relationship with [redacted]

A. Yes. As much as a mother is involved in a child's relationship.

Q. And were you close to [redacted]?

A. I knew [redacted]. I've had several conversations with her on the phone, and I've had a lot of conversations with her at church. And I've known [redacted] for more than about three to five years or longer. I can't say the exact number of years.

Q. And how would you say, just from a mother's point of view, that I felt about [redacted]?

A. I felt like you loved her.

Q. Why do you say that?

A. Because no matter what happened, no matter what we said or what the Allens said or how we tried to drill -- I know from our perspective how we tried to drill you in your head that the relationship was something that didn't need to happen right then.

It didn't matter. You still were insistent on being with [redacted] and the behavior you displayed, telephone conversations, that some of which I overheard, and your

behavior with her, led me to believe, as best anyone could, that you had some strong feelings for her, possibly love.

Q. What type of behavior are you talking about?

A. I'm talking about you were always very protective of her. It didn't matter what. No one could really say anything about [redacted]. It was just one of those things that were -- and one day we sat down and had a talk.

And I said to you -- I say said -- and I call him Stewart. If I refer to Stewart, that who I'm talk about. And I said, "Stewart, this relationship is one that you both need to think about." And you said to me, you said, "Momma, I love her."

And I was doing everything I could to encourage you, but y'all didn't need to be involved. And you said, "Momma, I don't -- you don't understand. I love this girl." And then I questioned you, and I said, "Do you even know what love is?" And then you started to the give my some example, and you said, "But I love her. You don't understand. I love her."

Q. You know me to be protective over anyone else, other than [redacted]?

A. Melody and myself, Melody, being my daughter and myself.

Q. So only people you know me to be protective over like that was you, my sister, and [redacted]?

A. Those are the only three in terms of females, yes.

Q. And have you ever seen me and [redacted] interact with each other?

A. I have.

Q. What type of things have you seen?

A. Well, one thing, specifically, is that when we went -- I don't remember exactly when it was, but I know that [redacted] went with us to the bowling alley.

And you and [redacted] had an opportunity to interact while we were at the bowling alley. And then when we left the bowling alley and returned back to our house, and I had the opportunity to watch the two of you together.

Q. And from seeing us interact together, what observations did you make about how we felt about each other?

A. You all were playful, happy, interacting well together. There were some times when you were cutting up and arguing, but then in the final analysis, you usually ended back up talking and holding hands or something. But throughout that day, there were a lot of interchanges.

One time, I think I kind of caught you trying to give her a little kiss, and I scolded you about that.

Q. Did [redacted] ever call the house?

A. Yes.

Q. How often?

A. Specifically, I can't say. But there were a lot of time when I would come in from work and their number would be

on the caller ID. This was prior to the block and even after the block was on the phone, there would be times when I would come home and her number would be on the caller ID.

Q. Do you know anything about the blocks on the phone? How they work?

A. Yes.

Q. How do you know?

A. I can only speak to our phone because I had it put on ours. I called Bell South and inquired as to how to put a block on the phone. And the lady at Bell South told me -- I wanted her to do straight from their office. I told her, "We need a block on the phone and I want it done through the phone company."

She said to me, "Mrs. Stewart, we no longer do blocks through the phone company. You have to do it through your home, and she gave me information that was necessary for me to put the block on the phone.

So I went ahead and I put it on, and I asked her, I said, "If I put this block on the phone, will it be able to stay there and not be taken off?"

She said, "Anyone within the residence can take it off at will. All they have to do is enter the code to take it off."

Q. So the numbers could be taken on and off from inside the residence?

A. And I was explained to her that it was a situation

going, and I really needed the block to be put on from the phone company. She said to me, "Mrs. Stewart, I'm very sorry, we no longer do that."

Q. And why was that block put on the phone?

A. As the Allens and our family had met, and we had decided that we needed to come up with some kind of intervention to limit or basically keep you and [redacted] from communicating.

We had talked. There were two things discussed that day. We were at the Allen's house, my husband and myself and the children, but there were two thing discussed. One was getting a restraining order, and I suggested that they take a restraining order out on you, and we take one out on [redacted].

It wouldn't be anything harsh toward either family. We would just do that as a means of keeping the two of you apart. And Mr. Allen said, "No, nobody's going to take a restraining order out on [redacted]."

And so the next thing I suggested was if we can't do that, then just need to look at pursuing a block on the phone. So both husbands were sitting there, both men were sitting there.

And it was decided that Mrs. Allen would pursue the block from their house, and I would pursue the one from our end and that's what happened.

Q. Have you ever known me and [redacted] to run away?

A. Yes.

Q. When?

A. Well, it was March the 10th, I think. Let me back up. It was the second Sunday in March of '99, and I think that was the 10th. I think it was '99. I know it was the second Sunday in March, and we were at church, and we were in the middle of having a program. And I don't want to give too many details, but that's how I have to remember things by detail.

And so, my son came up and told me that you had my car. And when he did, I went to my daughter and asked her why did she give you my car, because at that time you were not allowed to drive my car.

And Melody still had the keys. But what I later found out is that you all had taken the car. Now, when you left, I had no clue of where you were, where you were heading or anything.

Q. Where did you find out that we had gone?

A. I found out that you all were in Danbury, Connecticut several hours later.

Q. And how did we get back home?

A. [redacted], we had flown back in. This was on a Sunday. I think I found out some time late that Sunday night, Monday or some time later that you all were in Connecticut. And arrangements were made with a lady down in Connecticut to

assist in that process, and [redacted] was flown back in on that Tuesday, I believe.

Q. Was these arrangements only made by you and the lady in Connecticut?

A. Basically, they were -- I spearheaded the conversation because the young lady who was assisting with that was one of your friends, so I spearheaded it. But everything that I did was communicated with and to Mrs. Allen.

Q. And how did I get back?

A. Well, when you decided you wanted to come back, about a week -- the end of that week, you drove my car back. As far as I know, you drove my car back.

Q. What happened when I got back?

A. We got my car. And then when we got my car, I think the next day or so, I went off to work and when I got back you had been arrested.

Q. For what?

A. From what the police told us, it was aiding and abetting a minor.

Q. How long did I stay locked up for that?

A. I'm not exactly sure, but I think it was from like March to July.

Q. And when I got out in the July -- this is July of 2000?

A. I think it was.

Q. When I got out in July, what did I do when I came back home?

A. Well, I think you started school, adult ed.

Q. Did I complete school?

A. You completed it, yes.

Q. Did I do anything else?

A. I know there were lots of things. I'm not sure exactly what you're inquiring of, but you probably worked for a while.

You misbehaved some, but the -- oh, and you did join the National Guard.

Q. From July 2000 until December 2000, was, to your knowledge, was I still in communication with [redacted]?

A. From what I could tell in terms of the phone conversations, yes.

Q. Up until December 6th?

A. Yes.

MR. STEWART: No further questions.

MR. BLAKE: I have no questions for this witness.

THE COURT: You may step down.

MR. STEWART: Defense calls Weldon W. Stewart Sr.

WELDON W. STEWART, SR., first being duly sworn, testified as follows:

CLERK OF COURT: Come around and state your full name.

A. I'm Weldon W. Stewart, Sr.

DIRECT EXAMINATION BY MR. STEWART

Q. What is your relationship to me?

A. I'm your father.

Q. Did you know [redacted] Allen?

A. Yes, I did.

Q. Did you know that we were involved in a relationship?

A. Yes, I did.

Q. Approve or disapprove?

A. Initially, I approved. I disapproved because of the age difference because it was more than three years difference, experience, personal liability at that age. At that age they shouldn't be with somebody that many years apart talking to each other. When you get older, three years don't make much difference. When you're young, you shouldn't be talking to each other.

Q. Did you take steps to prevent us from talking?

A. My wife and I have.

Q. Did we stop?

A. Y'all stopped momentarily, but y'all had a way of getting back together.

Q. Were you aware that she was sneaking over to the house?

A. No, I was not. I had no idea.

Q. How was that?

A. I just didn't know. I had no idea.

Q. Where is your room, the room that you sleep in relation to the room that I sleep in?

A. Well, our room is on the front of the house, and your room was at the back of the house.

Q. When you were in your room with the door closed, can you hear what's going on in my room with the door closed?

A. No, cause 99 percent of the time, mostly we have on the television. I look at a lot of sports.

Q. What about is -- is there any other way to get in to my room?

A. Yes, through the back door.

Q. And what was a way that, after the fact, that you usually suspected that someone had been sneaking in and out the house through the back door?

A. I would check to see whether it was locked because on most occasions, we had a stick put to the door.

Q. Was it locked on the morning of December 6th?

A. I don't recall.

Q. On that morning, did you see me that morning, early that morning?

A. Yes, I saw you before I went to work. Matter fact, I talked to you and asked you why you were out so early in the morning walking around.

Q. Where was I at?

A. You were in the back hallway.

Q. Was I responsive or ---

A. Yeah, you were responsive. You said that you -- now, I don't recall the exact words you said, but you did respond.

Q. And tell me about you finding the glasses. How did that happen?

A. Well, I have to go back a little bit further because on the night that this incident happened, we could not get back in the house.

So the next day, they allowed us back in and so at that time, my wife started seeing a black cat, and she was wanting us to go in the backyard.

I said, "No, we don't need to go back in the backyard." So she called the police department and asked was everything okay for us to go back and look around and you know just look in the backyard and stuff like that.

Initially, we still didn't do it. Then the next day, she saw the black cat again and she wanted me to go with her. I said, "No, I do not want to go in the backyard." So after a while, she said we needed to go back there and so once we started searching, initially, I did not know what everybody -- what was said about where the spot was.

So initially we went to the first path that was behind the house and we saw this red substance and we kept looking at

that. It looked like cranberry juice or something like that.

Then the cat started going around the side of the pathway and so we had to go from down through the woods and we looked and looked and looked, and still didn't see anything.

So when we saw the bench that somebody mentioned to us, well, then we might as well go down and take a look at the bench and see if I see anything.

We started back through the path again, and I'm still looking real carefully, and that's when I spotted something on the ground. That's when I called my wife over and she looked at me. I said, "We need to call Detective Gurley so they can come look at it.

Q. Did you call them, the police?

A. No, my wife made the call.

Q. And did they come?

A. He come after some time. I don't think Detective Gurley was there. I think they had to page her for her to come down.

Q. She came to the residence?

A. Yes. After he came to the residence, he looked around. They looked at the spot, and he had a purple pen. He told me to put the pen down there where we could see it. After that, we searched some more areas. That's when I saw the bones, and I asked Detective Boston to come look at that.

And then at that time, and I can't remember whether it

was before then or after then, he sent me in the house to get a paper bag.

Q. And what did you do with the paper bag?

A. I give it to Detective Gurley and Mr. Boston.

Q. Did they find anything else out there on that day other than the glasses and the bones?

A. The only thing -- the only thing that I know was found that day was the cranberry. I showed them where that was and the glasses and the bone. That might not be the only things they found that day.

Q. And were you there when they took picture of those things?

A. Yes.

Q. You there when they took the actual pictures?

A. Yes, I was.

Q. Do you remember who took them?

A. I don't recall which one took it.

MR. STEWART: No further questions.

MR. BLAKE: No questions.

THE COURT: You may step down, sir.

MR. STEWART: Sir, Defense rests.

THE COURT: Solicitor.

MR. BLAKE: May we approach, Your Honor?

(BENCH CONFERENCE HELD OFF THE RECORD IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING OF THE JURY.)

THE COURT: Ladies and gentlemen of the jury, let's take ten minutes, and we'll come back and handle any rebuttal or reply.

(JURY EXCUSED TO JURY ROOM AT 12:05 P.M.)

(COURT IN RECESS AT 12:05 P.M. AND RECONVENES AT 12:19 P.M.)

THE COURT: Solicitor.

MR. BLAKE: Yes, sir.

THE COURT: Check the tables. Check the files. We got some exhibits that have gotten gone over here, and I suspect it's probably been some jumping around. We've got to come up with them. Otherwise, I'm going to have a deputy come forward and go through everybody's files, and I don't want to do that.

MR. BLAKE: Yes, Your Honor. We went through them earlier today and found several exhibits that we gave to Ms. Hattie.

THE COURT: I know you're engrossed in what you're doing, just walk around your table, though.

MR. STEWART: Yes, sir.

MR. BLAKE: Do you understand what he's saying?

MR. STEWART: Yes. Is that them?

MR. BLAKE: No, no, those other ones.

MR. STEWART: Well, what's missing?

MR. BLAKE: He wants to know what's missing.

THE COURT: Bring in the jury. We need the jury.

(JURY ENTERS COURTROOM AT 12:28 P.M.)

THE COURT: All right. Solicitor, anything in rebuttal?

MR. BLAKE: Thank you, Your Honor. State calls Dallas Gurley.

THE COURT: You're still under oath.

REBUTTAL DIRECT EXAMINATION BY MR. BLAKE

Q. This is simply to talk about the letter I read yesterday. Handing up State's Exhibit 17, which was original and a copy that was already provided to Mr. Stewart.

THE COURT: And that was brought up during the Defense case; is that correct?

MR. BLAKE: Yes.

THE COURT: All right.

MR. BLAKE: The authenticity of it was questioned.

MR. STEWART: Your Honor, sir, objection. That particular document right there was not brought up in the Defense case.

MR. BLAKE: He's been questioning the authenticity of the documents, and that's why I'm ---

MR. STEWART: I'm questioning ---

MR. BLAKE: --- entering. There he ---

THE COURT: Is this the document you used yesterday in your cross-examination here?

MR. BLAKE: Yes.

THE COURT: Overruled. Go ahead.

Q. (BY MR. BLAKE): Handing up now State's Exhibit 64.

Do you recognize this document?

A. Yes.

Q. And State's Exhibit 72. Where does that document come from?

A. From the Clerk's office.

Q. Tell us how you received the letter to the Allens, which is marked State's Exhibit 77. That's my mistake.

A. I got a call from the Solicitor's Office in Cheraw and I came to pick it up.

Q. All right. How did you -- you came to pick it up. Did you know where it came from?

A. It came from the Allens.

Q. The Allens brought it to the Solicitor's Office?

A. Yes, they did.

Q. Have you seen that document before?

A. Yes.

Q. Was that document in your custody? Was that document in your custody?

A. Yes, it was.

Q. Since you received that document, you had it?

A. Yes.

Q. I would like you now to compare that hand writing to two known samples, that being State's Exhibit 72, which was used by SLED as a known example and State's Exhibit 64, entitled "Motive," which was handed directly to you by the

defendant. Would you please compare those two?

A. The handwriting appears to be the same.

Q. You're not a handwriting expert?

MR. STEWART: Objection, Your Honor. Detective Gurley is not a handwriting expert. She's not an authenticator of the document. In Rule 901, I don't see any ---

THE COURT: I'm going to sustain that objection. He can refer to it. You can't go any further with it. I mean you can use it to ask the question and she said what it appeared. She's not a qualified handwriting expert. So I sustain the objection.

MR. BLAKE: Your Honor, according to 901, there are a lot of different possible ways to authenticate a conversation or a document and Subsection B is by way of illustration.

It talks about distinctive characteristics in the light of appearance, contents, substance, internal patterns, or other distinctive characteristics taken in conjunction with circumstances.

We do not need expert opinion on handwriting a letter simply to have it be authenticated.

THE COURT: We're all right up in here, but if you try to go any further, and what I'm saying is she has not been qualified to do that.

MR. BLAKE: I understand that.

THE COURT: And you understand what I'm saying?

MR. BLAKE: Yes. At this time, the State would ask for a finding that this letter is what we claim it to be; that is a letter from the Defendant to the victim's family. Not enter -- - not trying to enter it into evidence at this point just authentication.

THE COURT: He's not trying to enter it into evidence. What say the Defense?

MR. STEWART: Sir, I would like to -- if he could hold that motion off until I cross-examine Detective Gurley, I would appreciate that, sir.

THE COURT: Okay. Go ahead.

Q. (BY MR. BLAKE): So you have received letters yourself from Mr. Stewart?

A. Yes, I have.

Q. You seen Mr. Stewart's file in the Clerk's office?

A. Yes.

Q. He has handed you documents including the Motive there?

A. Yes.

Q. What is that exhibit number?

A. Sixty-four.

Q. And when you compare Number 64 to 77, do they appear to be from the same person?

A. Yes, they appear to be.

Q. But you didn't see Mr. Stewart write the letters?

A. No, I did not.

MR. BLAKE: No further questions.

REBUTTAL CROSS-EXAMINATION BY MR. STEWART

Q. Can I see those exhibits? Detective Gurley, State's Exhibit 77, for the record will you please count how many pages that document is?

A. 24.

Q. And that letter was found in the Allen's mailbox. Is that what you said?

A. I got it from the Solicitor's Office. The Allens in turn brought it to the Solicitor's Office.

Q. Did they allege that it had been mailed to them?

A. Yes.

Q. What was the approximate date that you went and retrieved that letter?

A. I don't know the approximate date that I retrieved the letter.

Q. You don't have an idea of the general timeframe?

A. No.

Q. Was it shortly after the incident, a year, year and a half, two years?

A. I don't recall at this time.

Q. Detective Gurley, that is a how many page document?

A. 24.

Q. 24. I noticed with all of the other writings that

you have, except for the one you claim was hand delivered to you personally by me, all of the other writings you have included the envelope with the postage; is that correct? Where is the envelope with the postage for that document?

A. I'll check and see. I received it. It was one of the ones that were mailed directly to me.

Q. Excuse me. First I might need to ask you, did the Allens give you an envelope?

A. Did the Allens give me an envelope? The Allens didn't give me anything.

Q. Well, was it an envelope from the Solicitor's Office? Did you retrieve an envelope from the Solicitor's Office that that document came in?

A. As far as I know, it was.

Q. Please find it. Show it to us.

A. If I have it.

Q. If you have it.

A. I do not have the one that it was in and I know it's not the right one because I put the wrong envelope on it, on the envelope.

Q. Can I see that one please? So you did at one point have an envelope that that letter was supposedly mailed in?

A. I should have.

Q. But you don't have it today?

A. No, I do not.

MR. STEWART: No further questions.

THE COURT: All right. Y'all approach just a minute.

(BENCH CONFERENCE HELD OFF THE RECORD IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING OF THE JURY.)

MR. BLAKE: No further questions for Detective Gurley.

THE COURT: You may step down.

MR. BLAKE: The State calls Mrs. Soraya Allen.

THE COURT: Mrs. Allen, you're still under oath.

REBUTTAL DIRECT EXAMINATION BY MR. BLAKE

Q. Did you receive mail that appeared to be from Weldon Stewart while he was in jail at Lee Correctional?

A. Yes, I did.

Q. And about how many pieces of mail you think you may have received?

A. More than five.

Q. And did you contact anybody?

A. Yes, I did. I talked to the Solicitor and told him I wanted to stop receiving mail from Stewart, but he continued to write.

Q. So it happened more than once?

A. Yes.

Q. So you need to tell the Solicitor more than once?

A. Right. He told me he would look into it, and he was supposed to talk to someone to tell him to stop sending mail to me. And he sent a letter. That letter there came to my

house.

And it had someone else's name on that letter on the outside, but it was Weldon's writing. Cause there is a reason that he said, "As you know by now, this is Weldon whatever Stewart."

Q. Go ahead and read it, Exhibit 77.

A. "I know that I am the very, very last person that you want to hear from. But I am also the only person who knows what really happened to your daughter, and even I don't know every detail.

In case you haven't realized, Reggie Rivers is not the person writing this letter. The person writing this is Weldon Stewart, Jr."

MR. BLAKE: At this time, the State would move to enter into evidence Exhibit Number 77.

MR. STEWART: Your Honor, I object. All of these supposed letters, no envelopes, postage would clearly show a 24 page letter was mailed to the residence or not. I think it's something very ---

THE WITNESS: Boy, you know you wrote me those letters.

THE COURT: Just calm down. I'm going to overrule the objection. Those arguments will go to the weight, not to necessary admissibility of it. These were the same letters that you used yesterday in the cross, correct? They're in. Anything else of this witness?

(STATE'S EXHIBIT NO. 77 ADMITTED INTO EVIDENCE.)

MR. BLAKE: Not from the State.

THE COURT: Mr. Stewart?

MR. STEWART: No, sir. I'm not going to question this witness.

MR. BLAKE: Ebony Watson.

THE COURT: You're still under oath, Miss Watson.

MR. BLAKE: Your Honor, the Court apologizes for Miss Watson's dress. She lives in Columbia, has been staying up here, and ran out of clothes appropriate for Court.

THE COURT: I understand. Go ahead.

REBUTTAL DIRECT EXAMINATION BY MR. BLAKE

Q. As we were talking previously, you knew [redacted] quite well?

A. Yes.

Q. God sisters. You're going to have to speak up?

A. Yes.

Q. You communicated regularly?

A. Yes.

Q. And that last month of her life, did she communicate to you about wanting to create a baby with Weldon Stewart?

A. No, sir.

Q. Were you at [redacted] High School back in February 1997?

A. Yes, sir.

Q. Did you know Weldon Stewart at that time?

A. Yes, sir.

Q. Did you talk to Weldon Stewart earlier that day?

A. Yes, sir.

Q. And what did you talk about?

A. We were at school in the cafeteria before the bell rings at 8 o'clock so we could go to class. And he had spoken, saying, "Hey, what's up and all." And he was telling me he was upset and he was mad and everything, and that he was going to get the boy.

That's what he said. I said, "Who?" and he was like going -- going to get him because they're on me. And he said that they were trying to shit him or whatever and he said that they were sleeping on me.

Q. What does that mean? Sorry, I didn't mean to interrupt you. You said they were sleeping on him?

A. Yes.

Q. What does that mean?

A. Underestimate me or in terms like that, they sleeping on me.

Q. Take me for granted?

A. Yeah. And he said he was going to get him. And I was like who are you going to get, and he was like don't worry about it.

And he showed me like a little -- it looked like a

fingernail file, but smaller like a butter knife shape. And I said, "Don't do anything stupid, Stewart, you just got here."

And the bell rung for school, and we got by the showcase, next thing you now, all you saw was him and the boy fighting and blood was everywhere.

And coach wanted them to stop fighting. Nobody get in the middle of it because it was blood.

Q. Who ended up breaking it up?

A. Teachers, the coaches, I just remember Coach Down because it was by his class. One of the principals, whatever.

Q. Thank you.

THE COURT: Mr. Stewart.

REBUTTAL CROSS-EXAMINATION BY MR. STEWART

Q. The knife that I supposedly showed you, could you describe that knife for me again?

A. It looked to me like the small fingernail file that they have. The kinds of -- the silver ones, but it was kind of sharp or whatever and that was all I saw of it.

Q. It was small in size?

A. No, it was kind of long. It had a point to it. Not all that long, but not all that short.

Q. But it looked like -- you said it looked like a little fingernail file?

A. They have fingernail files out now. It's about that wide. Sort of like a steak knife and skinnier than that size.

MR. STEWART: Okay. No further questions.

MR. BLAKE: Nothing further.

THE COURT: You may step down.

MR. BLAKE: Andrenna Sutherland.

ANDRENNA SUTHERLAND, first being duly sworn, testified as follows:

CLERK OF COURT: Come around here and state your full name.

A. Andrenna Sutherland.

REBUTTAL DIRECT EXAMINATION BY MR. BLAKE

Q. Where do you live?

A. [redacted] South Carolina.

Q. Do you know Weldon Stewart?

A. Yes.

Q. Know him pretty well?

A. Yes.

Q. How well?

A. Very well. I mean we're best friends.

Q. Okay. You used to comfort him when he'd be upset?

A. Yes.

Q. Guys had a little rap duo together?

A. Yes.

Q. And would go out and do it?

A. Yes.

Q. Understand you said you won some contests?

A. Yes.

Q. Let's move quickly to the night of December 5th 2000. Did you speak with Weldon on that day?

A. Yes.

Q. You did. And what did he say?

A. He called me around 9 p.m., and he was like talking. He was like asking me to come up there to his house.

Q. Was he excited at all or just calm, cool, and collected?

A. He was calm when he said come, he was calm. He was just like he -- him and [redacted], you know what I'm saying, just got off the phone with her. She said she was coming down there and he didn't want her to be there.

Q. Nothing else was said?

A. Not to my recollection. Not that I can remember.

Q. That you can remember today?

A. No, I can remember today.

Q. Yeah, we talked a week ago and we talked ---

MR. STEWART: Objection, Your Honor. He's leading the witness for one. And for two, this is not a reply rebuttal to anything that was brought out in direct?

MR. BLAKE: Well, the whole point of this is that Mr. Stewart never gets angry, and Ms. Sutherland previously told me that very night ---

MR. STEWART: Objection, Your Honor, he's still trying to

bring the evidence out.

MR. BLAKE: That was in reply.

THE COURT: Go ahead and pose the question now. I'm not sure exactly where we stand about now. Object, if -- if you don't think it's proper. Go ahead.

Q. (BY MR. BLAKE): Did he talk about having an argument with [redacted]?

A. Yes.

Q. Was he upset?

A. Not as in -- everyone gets upset when they argue, so he wasn't like that.

Q. Wasn't very upset?

A. Naw.

Q. Naw. Didn't want you to come over?

A. Yeah, he wanted me to come over. I did that.

Q. And why?

A. Just be there with him as in usual, just wanted me to come over.

MR. STEWART: Objection, Your Honor. Once again, this is not a reply or rebuttal to anything that was brought out on direct examination. Mr. Blake had a chance to call this witness in his case-in-chief. He neglected to do so.

THE COURT: I'm going to sustain that.

MR. BLAKE: Your Honor, this is a rebuttal to his continual testimony about ---

THE COURT: I sustained it. Any further questions from the State?

Q. (BY MR. BLAKE): So he didn't say that [redacted] said that she slept with Anthony Watson, and Anthony Watson had AIDS?

A. That night? That's what you saying, when he called me?

Q. That's what I'm asking you. Looking at my notes.

A. When I talked to Stew about that rumor of Anthony or whatever, that was before then. That was a week or two before then, and Stewart always been the type when it came down to anybody, it was oh, well. He never ---

Q. It was oh, well?

A. It was oh, well.

Q. Okay. So that's your testimony today?

A. And for now on.

MR. BLAKE: Thank you.

THE COURT: Mr. Stewart.

REBUTTAL CROSS-EXAMINATION BY MR. STEWART

Q. When you say my usual reply was, "Oh, well," was that my usual attitude towards everything?

A. Yes.

Q. I didn't easily get upset about things or matters like that?

A. No.

MR. STEWART: No further questions.

THE COURT: You may step down. Any further witnesses from the State?

MR. BLAKE: No, Your Honor.

THE COURT: All right. Before we break for lunch, anything further? All right. We're going to break for lunch, so counsel, you need to use your time wisely because we'll move into closing arguments.

We'll take an hour and ten minutes. We will be back here at 2:10. All right. The jury, I think, we will be taking care of lunch today.

Mr. Funderburk has arranged that. He will explain to you what we need to do.

Now, just wait a minute. Will any bailiffs or deputies be with the jury at lunch or will they be totally on their own?

CLERK OF COURT: Three SLED and three sheriff's people.

THE COURT: All right. We have deputies and SLED agents that will be at the same place the jury will be eating for lunch. Do I need to put them under oath, or is counsel comfortable in that and waive any oath for them, law enforcement or bailiffs.

MR. BLAKE: State has no objection, Your Honor.

THE COURT: Mr. Stewart.

MR. STEWART: Sir, I ask that they be put under oath.

THE COURT: Mr. Clerk, would you bring all the ones that will accompany the jury around. We need to put them under oath that they will not talk, converse, discuss the case.

CLERK OF COURT: We need all the bailiffs. Could you get the bailiffs in the back, all the bailiffs, SLED. Ms Paige, we need all the bailiffs up here.

THE COURT: Got everybody?

TOM DAVIS, JOHN BROWN, BILLY CHEEK, MARLBORO TERRY, RICHARD BRYANT, WILLIAM SIMMON, FRED KNIGHT, MIKE ANDERSON, LYNN McLELLAN, JULIA PAGE, KATASHALA DOUGLAS, ANNA FRYE, LARRY SPEARS AND LUTHER BROWN, took the following oath:

CLERK OF COURT: Do you swear that you will keep the jury sworn of the jury during the time of this trial and while you escort to and from the courthouse, and while you escort them to and from meals that you will then return the jury to the jury room, that you will suffer no person to speak to them or any of them speak to them. Any of them, yourself, while you have them in your custody, so help you God?

(ALL SWORN ANSWERED IN THE AFFIRMATIVE.)

(JURY EXCUSED TO JURY ROOM AT 1:00 P.M.)

THE COURT: Go ahead with your motion, Mr. Stewart.

MR. STEWART: I, sir, would like to make a motion for directed verdict, acquittal on the ground the State has not established any of the elements of voluntary manslaughter nor

murder. The State does have the burden of proving guilt, providing some sort of evidence.

The State v. Martin, 533 SC 2B 572. It's a case that just cause of death is drowning. Statements were allegedly made that someone -- statements were allegedly made by one of the defendants that someone might have died that night. And it was a car scene, and things of that nature, but this is basically evidence the State is presented, evidence of alleged statements made by me, and that's it.

But the elements of the murder is do -- intentionally kill someone with malice aforethought and voluntary manslaughter is to intentionally kill someone in heat of passion.

The State is offering no evidence of circumstantial or otherwise. The evidence the State has provided merely raises a suspicion and is not proof. It does not amount to proof.

THE COURT: Based on the evidence and testimony that is before me in Court, I have to deny that motion. Thank you.

MR. STEWART: Yes, sir. Thank you.

THE COURT: All right. When we come back, you know I normally have my charge right here in my book, and I'm ready to go with that. But if there are specific charges, Mr. Crow, if you will assist him with that, I need to -- I don't have to have them in written form. I just need the basic charge that he decides may be requested.

MR. CROW: Your Honor, I'd like to put on the record at this particular time that several weeks ago I give him my copy of Judge Ervin's charge book. I also gave him my copy of Professor Hubbard's Defendant's Request for Charge.

He has not asked me to help him in any way in preparation with any suggestive charges. And I told him about a week ago, that this is something that we should address and that my office would be available to help him and I will help him any way I can during the lunch hour.

But I have no way to type them or do anything like that.

THE COURT: I don't need them. We had a bench conference up here earlier, and I got a pretty good idea of what he wants. In case he has any questions, if you would assist him.

MR. CROW: I'll help him any way I can.

THE COURT: And I do not need them in writing unless it's something unusual. I should have it in the charge book. I just need to know what it is.

MR. CROW: Well, he hasn't shared any of that with me, but if he will, I'll try to help him.

THE COURT: All right. We'll recess until 2:10.

CLERK OF COURT: Let me -- can I have y'all's attention a minute. When he comes back and he starts his charge, the courtroom will be locked down. I just want to tell you that. Be in here before we lock it down.

(COURT IN RECESS AT 1:05 P.M. AND RECONVENES AT 2:00 P.M.)

JURY CHARGE HEARING

MR. CROW: During the lunch recess, Mr. Stewart had to -- Judge Ervin's charge book and he also had the Professor's charge book, criminal defenses to request of charge, and he wants to address some specifics on what he would like Your Honor to consider to be made a part of your charge.

THE COURT: All right. Mr. Stewart, if you'll.

MR. STEWART: The charge for circumstantial evidence and charging that's in State v. Harry and the evidence charge on circumstantial evidence.

THE COURT: Okay.

MR. STEWART: Charge accidents.

THE COURT: Accidents. Okay.

MR. STEWART: Charge of burden of proof, reasonable doubt.

THE COURT: Okay.

MR. STEWART: And involuntary manslaughter. And under Rule 105, charge to limit evidence of the desecration to its proper scope.

THE COURT: Is there one in there?

MR. STEWART: No, sir.

MR. CROW: I'm not familiar with that one. He was telling me about, and time ran short and I said you need to write that out so you can submit it to His Honor. And he -- I don't think he had the time, but he was telling me, in

essence, what the rule said and what he wanted. So would you just quote that to the Judge so he will know what you think the rule might be?

MR. STEWART: Rule 105.

MR. CROW: Rules to what? Tell him what.

MR. STEWART: South Carolina Rules of Evidence. It's a limited admissibility rule for -- to limit evidence to it's proper scope. I'm asking for a charge to limit the desecration to say that it doesn't in and of itself automatically prove that I'm guilty of the murder.

THE COURT: Okay. What else?

MR. STEWART: That's it, sir.

THE COURT: Solicitor.

MR. BLAKE: Your Honor, I would like to see your standard charge on circumstantial evidence so I know what we're dealing with because we've had so many cases on that. Is it in Ervin's. You're just using Ervin's? May I look at that?

THE COURT: What was that number, Solicitor, 24?.

MR. BLAKE: 24.

THE COURT: However, now, under Supreme Court decision three or four years ago, on page 29 ---

MR. BLAKE: Exactly.

THE COURT: I got to grab the second full paragraph. The second full paragraph is deleted.

MR. BLAKE: Your Honor, you're referring to State v.

Grippon?

THE COURT: I think that's it. I got the case here.

MR. STEWART: State v. Needs, which is, I think that's a 1997 case. Needs was a 1998 case that found that to have any evidence charged was still proper.

THE COURT: What we're doing is -- 24 will take care of those decisions, just to remove that second paragraph.

MR. BLAKE: That's without objection from the State. I'm not -- are we through that one? All right. I'm not sure I understand the involuntary manslaughter charge.

I don't see that the defendant is in any way claimed criminal negligence. He says it was an accident. That would be a complete defense to the case. That would be a not guilty verdict.

Involuntary manslaughter would mean that the defendant had acted in a reckless manner causing the death, and there has been no evidence come forward about that.

THE COURT: Did you talk with Mr. Crow about that? I think he's familiar with the situation that puts us in. You pled accident.

MR. CROW: Yes, sir.

THE COURT: Mr. Stewart prefer accident? You prefer accident?

MR. STEWART: Yes, sir. May I ask you about this paragraph?

THE COURT: On threatening circumstantial.

MR. STEWART: May I go ahead. Sir, basically, this was the paragraph that I was trying to have the jury hear because it's dealing specifically with this case in that this is really the only thing that I want from circumstantial evidence charge that all it has been a number -- a great deal of evidence presented from the State that goes all around the world.

But I think that the jury just needs to know that if they're going to decide based on my guilt or innocence that.

THE COURT: I think you got a point.

MR. STEWART: I do have a page that you can read.

MR. BLAKE: Your Honor, I don't think this is where we're simply convicting on circumstantial evidence alone. DNA evidence of the blood on his clothing is direct evidence.

THE COURT: What he's referring to is what I didn't get to. There is a replacement paragraph in the supplement. Have you got the supplement?

MR. CROW: No, we do not have the supplement.

THE COURT: I think this takes care of what you're concerned about. That's the replacement. Cleaned up some of the terminology that the Supreme Court had a problem with.

MR. STEWART: Yes, sir. This is what I was talking about.

MR. BLAKE: May I look at it?

THE COURT: Take a look at it. I think that should straighten us out.

MR. STEWART: If I may ask that "hypothesis" be a substitute for "explanation?"

MR. BLAKE: Your Honor, Ervin's is certainly been well tested. I don't see any need to change the terms that have already gone through several revisions here.

THE COURT: You want to substitute a word, is that it?

MR. STEWART: Where it has "reasonable hypothesis," I would ask the Court to substitute for "hypothesis," "explanation" just because some of jurors may not know what hypothesis is.

THE COURT: That my response to you was keep in mind the jury, now, we've got 12 jurors, which most of them probably know what hypothesis is. This has got hypothesis in it.

MR. BLAKE: He wants explanation because that goes along with how he has been presenting his case.

MR. STEWART: I just -- I was just requesting that hypothesis ---

THE COURT: Making sure I use the word "hypothesis."

MR. STEWART: No, sir. The word "hypothesis" be substituted for "explanation" -- that "explanation" be substituted for "hypothesis" just in case some of the jurors don't know what hypothesis is.

THE COURT: You have any problem with that?

MR. BLAKE: I do, but it's not a problem. I just want to get clear on circumstantial evidence, the part Your Honor has in the revised part replaces that paragraph in the main text.

And how does that handle just the State's v. Grippon? Is that -- can I hand that up?

THE COURT: The problem in the replacement of the words "moral certainty."

MR. BLAKE: That's a '97 Supreme Court decision.

THE COURT: I can add this.

MR. BLAKE: I think the language is very helpful. It's a very clear, succinct statement.

THE COURT: You got something else?

MR. STEWART: No, sir.

MR. BLAKE: Your Honor, he read out a bunch of charges all at once. I just want to make sure that I'm not neglecting.

THE COURT: Circumstantial evidence you want covered. You want to cover accidents. He told me he wishes to cover that about that. Burden of proof, which is standard. I'm going to do it. He requested a lesser included involuntary which that's out. He agreed to go with accidents. So I guess it's back to you as to whether you have any other.

MR. CROW: Your Honor, may I as stand by counsel -- so that he will fully understand the possibilities of the verdict

that he's looking at would be guilty of murder, guilty of voluntary manslaughter, or not guilty; is that correct?

MR. BLAKE: I don't think we've even gotten to voluntary yet.

THE COURT: Nobody's requested voluntary.

MR. CROW: Oh, nobody's requesting voluntary?

MR. BLAKE: Your Honor, could I consult with my ---

MR. CROW: I mean, I'm just asking for clarification so that the defendant will know exactly what possible verdicts that he -- that the jury can be faced with.

THE COURT: We're going with accident and not involuntary.

MR. CROW: Yes, sir.

MR. STEWART: Sir, is the accident charge in Ervin?

THE COURT: Not in this. I got one in here.

MR. STEWART: May I view that, sir?

THE COURT: Well, he doesn't have one, does he?

MR. STEWART: 29 -- I think 29-1 has accident distinguished from involuntary.

THE COURT: Doesn't help us. Take just a minute to see if this book has one.

MR. BLAKE: Here it is.

THE COURT: Here's the accident charge. "Where the death of the a human being is the result of the accident or misadventure in the true meaning of the term, no criminal

responsibility attaches to the act of defendant.

Where it appears that the killing was unintentional; that the perpetrator acted with no wrongful purpose in doing the homicidal act; that it was done while he or she engaged in a lawful enterprise; that it was not the result of criminal negligence.

The homicide will be excused on the score of accidents or misadventure."

MR. BLAKE: Sounds good to the State. The State requests voluntary manslaughter. There is evidence of heat of passion. One of the witnesses gave testimony and a written statement that Mr. Stewart said that he got mad at his girlfriend and he flipped.

Furthermore, there is extensive evidence of relationship with the -- the victim's relationship with another boy. And Mr. Stewart's continued aggravation of that, both before he was in jail and after he committed the crime.

THE COURT: Mr. Stewart.

MR. STEWART: Sir, I just don't -- the State is trying to prove voluntary manslaughter. That only that be submitted to the jury. And the State is trying to prove murder and only that be submitted. I'd like to object to both of them being submitted.

THE COURT: On the basis of that, I'll charge accidental defense. Okay. Y'all ready to go? I got a question to pose

to Mr. Stewart before we begin arguments. Do you wish to waive requiring the State -- the Solicitor to open?

MR. STEWART: Do I wish to?

THE COURT: Do you wish to waive his opening? If you waive him opening, then that means that you go first and do your argument.

MR. STEWART: No, sir.

THE COURT: If you require him to open, then he gets to go first and you get to go last.

MR. CROW: Could I explain to him? What it means is that you waive the opening, the Solicitor only gets one argument.

THE COURT: Makes no difference to me. That's totally your call.

MR. STEWART: Waive the opening means he only goes once? I wish to waive the opening. Can I look at that circumstantial evidence charge again, that added paragraph.

THE COURT: His or the one we were looking at?

MR. STEWART: The one with the -- the one with the 24.

THE COURT: 24. Now, it's not all of this. It's just down where you say those case citations. It's that first paragraph.

MR. CROW: Your Honor, again, I'd just like to put on the record that while he's reading that as a result of being stand by counsel, I have met with Mr. and Mrs. Stewart. I met with the defendant numerous times.

I've done everything that they asked me to do. I've tried to research the law. I've tried to give him copies of everything, and I don't know of anything I haven't done that they asked me to do. I just wanted to put that on the record.

THE COURT: Thank you, sir.

MR. BLAKE: Thank you.

MR. STEWART: Can I ask you something off the record?

MR. CROW: Sure. Solicitor, approach.

(BENCH CONFERENCE HELD OFF THE RECORD, BUT OUT OF THE PRESENCE OF THE JURY.)

THE COURT: Okay. I believe we're ready. Oh, wait. Hold them up just a minute. Solicitor, let's see. Wait a minute. Mr. Stewart.

MR. STEWART: Yes, sir.

THE COURT: Since you're going to be going first, how much time do you want to reserve for argument.

MR. CROW: How long are you going to talk?

MR. STEWART: I have no idea, sir.

MR. CROW: You have to give the Court some idea.

THE COURT: Give me a liberal estimate. 20 minutes, 30 minutes, 45 minutes?

MR. STEWART: 45 minutes.

THE COURT: Solicitor, he's reserved 45 minutes.

MR. BLAKE: Do we want -- sir, I'll reserve 30 and probably take 15 or 20. I don't object to him wanting to use

his time.

THE COURT: What about the both you, and I'll reserve 45 minutes for both. Now, the way I do it, is once you give me a final answer as to what you're reserving, if you exhaust the 45 minutes, I will tell you that the 45 minutes is up and I will give you three minutes to go ahead and close out in case there is something else you want to say. Is that fair enough?

MR. BLAKE: Sounds fair enough.

THE COURT: All right. Both of you in agreement for 45 minutes?

MR. BLAKE: Yes, sir.

THE COURT: Mr. Stewart.

MR. STEWART: Yes, sir.

THE COURT: Bring them in. That doesn't mean you have to use all of it.

(JURY ENTERS COURTROOM AT 2:36 P.M.)

THE COURT: We will now move to the closing argument portion of the trial. I know all of you just had lunch. Once again, should you become drowsy or sleepy, let me know so we can got some coffee or Coca-Cola. Okay. Mr. Stewart.

CLOSING ARGUMENT BY MR. STEWART

Ladies and gentlemen of the jury, good afternoon. I would like to thank you for being patient throughout the trial. I know it's been some things that have been maybe upsetting or disturbing, but I'd just like to let you 12

individuals know your importance; that you are very important to this case, and very important to me and you're very important to the system of justice.

But also, I'd just like to make you individuals aware that you do have my life in your hands.

MR. BLAKE: Your Honor, I would like to approach. I'm sorry I didn't talk about this before. I'm sorry to interpret.

THE COURT: Come up, please.

MR. BLAKE: I don't want this to go on.

(BENCH CONFERENCE HELD IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING OF THE JURY.)

MR. STEWART: Excuse me. Now, in your voir dire examination questions, each of you did under oath say that no matter if evidence made you emotional or upset you, that you would put your emotions aside and weigh the facts.

Each of you did make this agreement with the Court before you were selected for the jury. Ladies and gentlemen, I know that there has been some evidence that has upset you, has caused you to become emotional, however, I ask that you put your emotions aside as you promised you would do and weigh the facts.

Now, there are two different types of evidence that has been presented to you in this case. First, there has been the facts and then there has been all this he said this, she said

that, he said, she said that, he said, she said that, evidence like that.

Ladies and gentlemen, these are not facts. These are just rumors, gossip, hearsay, but it's not facts. Now, the State has presented you a lot of hearsay, presented to you a writing, Calamity, as a fact.

It's clear that this writing confused a lot of you, which is what the State intended to do. It's clear that this writing made a lot of you emotional, which is what the State intended it do.

It's clear that these writing diverted your attention from the facts of the case. And the fact is, ladies and gentlemen, that that writing is no more than rumors, gossip, things people call me, lies they were spreading on me. That's all it was. It was not me saying this is what happened. But the State wants you to view it that way.

And as my opponent himself said in a hearing held June 14, 2002 in [redacted], South Carolina in front of the Honorable Judge Lockemy, about this same writing. He says in there, "Although he doesn't directly say I did it, he basically presents a myth. The letter is in the form of a myth." That's what my opponent calls the Calamity, a myth. Not facts. A myth.

Now, I'm charged with murder. This is just an accusation that has been brought against me by the State. The elements

of murder is that you intentionally kill someone with malice aforethought. You think about it before you do it. You mean to do it. You have ill will towards them, and you kill them on purpose. That's murder.

You were trying to do it. You planned to do it, and you carry out what you planned.

MR. BLAKE: Your Honor, I hate to be objecting, but, of course, Your Honor is the giver of the law. I don't think the law is being correctly stated, at least certainly not completely. And I would ask counsel to let the Judge deal with the law.

THE COURT: Counsel, I'm going to let you proceed. Ladies and gentlemen of the jury, I am the final say on what the law is. I'm going to let them argue, but when it comes to what the law is, the Court will instruct you on that. Go ahead, Mr. Stewart.

MR. STEWART: Thank you, sir. Now this indictment that was served upon me by the State says that "Weldon Stewart, Jr., in the County of Marlboro, on or about December 6, 2000, did with malice aforethought kill one [redacted] Allen to wit by striking her, and that the said [redacted] Allen did die as a proximate result therefore on or about the 6th day of December."

Now, ladies and gentlemen, I believe that all of you have common sense. I believe that all of you are intelligent, and

I believe that all of you can see from sitting through this whole trial, that the State has not presented to you with one shred of evidence to prove how -- how my girlfriend died.

The only thing the State has presented you with is evidence, 1997, I nicked a boy on the arm, and he had to get two stitches. A boy may come in here and say his phone doesn't accept collect calls, but I called him collect.

His mother said that the boy told her that I was on the phone, and she just accepted that. The State is taking you all around the world -- all around the world. Even with talking about the desecration. The State is focused on the desecration, something that happened eight hours after the time of death.

But one thing the State has not shown you in the least bit is the how. The State has not even offered you an explanation. Why? Why? Cause as the State tell you over and over and over again, I am the only person who was there.

I am the only person who knows the truth. I am the only person who has offered you did the truth. And not only me. What did I say? I said that we were walking through a path and that we both fell.

Now if you reflect on the testimony of the pathologist, the person who examined the body, found the cause of death, he said blunt force trauma to the head. Cause of death. that was how it happened.

When I asked the pathologist, Dr. Harley, "Could this blunt force trauma to the head have come from a fall?" What did he say? He said, "Yes." He said, "Yes, it could." Then I went even further than that. I said, "Dr. Harley, could my girlfriend have fallen by herself and fatally fractured her skull?" He said, "Yes. It's not likely, but, yes."

Then what did I say? "If it was both of us and she fell and I fell on top of her, could that have caused her death?" An what did he say? "It makes it a lot more possible. It makes it a lot more probable, yes."

And what did he describe as the possible things that could have caused that skull fracture? He described roots. He described wood. He described rocks. All of which were on the ground in this path.

There is the wood. There are the roots. All of the stuff that he described and said, "This is what could have caused the skull fracture." He kept pointing to the right side of his head. He kept doing this.

All of these things on the ground in that path. The same path that I told you in the beginning my girlfriend and I fell in. All of those things are on the ground in that path.

Now, the State presented evidence, a young man, Stanton Wright, whose my friend, still is my friend, State tried to make it like he was scared of me, but if you think about Stanton Wright's testimony, if you reflect on Stanton Wright's

testimony and you really think about it, you would notice that the whole time my opponent was questioning Mr. Wright, screaming at him, he is talk, Mr. Wright was talking real low.

He didn't really look up. He was just talking. When it came to question him, he held his head up. He talked louder. He spoke directly to me. Why was that? Who was he really scared of? He wasn't scared of me.

He's come to visit me at the jailhouse, locked in a room with me for hours, wasn't scared of me. He is scared of the charges that the Solicitor has on him, Mr. Blake. He was scared of the possible 15 year sentence that he could receive. Has never been in trouble before.

MR. BLAKE: Note the objection for the record, please.

THE COURT: Mr. Stewart.

MR. STEWART: Yes, sir.

THE COURT: Stay away from sentencing.

MR. STEWART: Yes, sir. He was scared of the charge. So what did he do? Just like he told you right there from the stand. "When I went to the police department, I was tired. I was ready to go. I told them whatever I had to tell them to get back home." He said that right from the stand himself.

And what else did he do? When he was on the stand, he would not -- he would not say from his mouth that I told him my girlfriend told me anything. He would not say it. The only time that he would say that is when the Solicitor handed

him the statement and had him to read from the statement. He read from statement, but he would not say that on his own.

Why? His conscience was eating him up. He couldn't come in this courtroom and look me in my face and say something about me that he knows I didn't say. He was also close to my girlfriend. He couldn't say something about her that he knows she wouldn't do. He just couldn't bring himself to do it.

So what did he do? He came up here. And when the Solicitor said, "Read this from your statement," he did what he had to do to please Mr. Blake so that he could get back home. That's all that he was worried about, ladies and gentlemen.

Now, let's look at the investigation conducted by the police. It brings you a letter today claiming that I mailed this letter from somewhere. 24 page letter here. Every other letter, they brought documentation of the envelope. But this letter, "Oh it doesn't have -- it doesn't have an envelope. I got it, though. I didn't bring it with me." That's what Detective Gurley said.

And think about the testimonies of the officers. Think about how inconsistent it was. One officer said, "I was in there taking note." The other officer said, "I didn't see him." Lieutenant Boston, Detective Gurley. Lieutenant Boston said, "I saw a scratch on his neck." Detective Gurley said, "I was sitting closer to you. I didn't see anything on your

neck." That's inconsistent.

And from all this investigation they've done on this case, this case has been going on for two and a half years. All the investigation they did on this case, the most they could bring in here today was a bunch of evidence they can't explain.

They brought two pieces of wood in here. What is said this, he said that. Used up Tuesday. Used up Wednesday, half of Thursday, some of today. But ask yourselves ladies and gentlemen, ask yourselves honestly as the law will tell you the only way to show how someone murdered someone is to show how they died. How they died.

That is what the term, if you would, murder, manslaughter, or accident. Now, the Solicitor is going to ask you to convict me of either murder or manslaughter, but he has come in the courtroom and used two -- two and a half, almost three days and he has not given you one shred of evidence to show you how my girlfriend died. Not one.

The only thing that he has tried to tell you, Mr. Stewart was there. He saw what happened. He knows what happened, but we're coming in here today and saying he doesn't, know we know. But we weren't there.

Ladies and gentlemen, are you going to convict someone for murder or manslaughter based on he said this, he said that? Anyone can place a rumor on you. Anyone can say he told

me something. Anyone can do that. That's not proof. That's not evidence. That's hearsay.

The proof, ladies and gentlemen, the facts come from me. The facts come from the pathologist who told you over and over and over again, even when my opponent tried to get him to say something hit the head. The pathologist always said, "No, something hit the head or the head hit something." Those are the only two ways -- possible ways that are in this case.

Either something hit the head or the head hit something. That's the decision that you have to make. And who has provided you with evidence of whether something hit the head or the head hit something? Who has given you an explanation? It's only one person. And I don't even have burden of proving anything to you. I'm innocent until proven guilty.

The State has to prove that I committed any crime that they charged me with. The State has to prove this beyond a reasonable doubt. That means that you can have no doubt in your mind, well, not a reasonable doubt.

If you can say I believe he didn't commit this crime because, say for example, there is no evidence that he committed it, that's a reasonable doubt, ladies and gentlemen.

And I feel the evidence shows that I did not commit this crime. I feel the evidence shows that beyond a reasonable doubt, the factual evidence, not this he said this and she said that, but the factual evidence.

Are you going to base your decision as to whether a person is guilty or not guilty on a myth? On a fairytale? Or are you going to base your decision on facts? I have taken you step by step by step through what happened on the morning of December 6th 2000, almost to the minute, to the second.

I've taken you step by step. I told you that after the fall, and I picked my girlfriend up, how I wiped her mouth with the tee shirt and wiped my mouth with the tee shirt after I tried to blow in her mouth to revive her.

This tee shirt right here. Now the DNA expert testified, and this is a fact, that on one of the spots on the shirt, it was all [redacted]llen. On another spot on the shirt, there was a mix, [redacted] Allen, Weldon Stewart.

MR. BLAKE: Objection. Fact not in evidence. DNA expert in fact testified that he could not say that.

MR. STEWART: He did say that the DNA strand columns were consistent with my DNA.

MR. BLAKE: Only two, not 13, so he couldn't make a conclusion.

THE COURT: Okay. The jury heard what was said. We'll sort it out.

MR. STEWART: He was -- it was a mixture, a weak mixture from the two columns of DNA strands that came from me and that my girlfriend was the stronger mixture. Think about it, ladies and gentlemen. You wiping your mouth.

He said that saliva or spit, one of the main sources is one of DNA. Think about it, ladies and gentlemen. You wiping your mouth. Some of the spit got on the shirt. That's a fact.

Now I've shown you facts throughout this entire case. Haven't denied anything I did wrong. I promised you that in my opening statement. If I made a mistake or I did something wrong, I admitted to it. That's one thing nobody can say about me. He doesn't own up to what he did. I do.

On the first day this tragedy occurred, though I panicked for some hour after it happened, I called the police. I called 911. I called them to the scene, and when they came, I told them what I had done wrong. I did this.

And you heard Officer Crossland's testimony from the stand that upon coming to the scene and looking at me, he noticed that I was in a confused state. And from his years of police experience, just knowing that people don't usually commit a serious crime and be trying to get away with it and stay there, he said that from coming to the scene, looking at me, seeing the confused state that I was in, led him to believe that I had done something, but did not mean to do it.

This is from his own mouth on the stand. This is from the observations he made just by coming to the scene and looking at me. And why did he make this observation? Ladies and gentlemen, when this man came to the scene, this man saw

me as I was. He saw me before he went and discovered the body.

He paid attention to me not before he became emotional from discovering the body as everyone else did. Once they saw the body or heard about what happened, how I panicked, they became emotional and all they automatically said, "He's a murderer."

But this man saw me. He saw the state that I was in. He observed me and before I even spoke a word to him, this man said by looking at him, it looked like he had done something but did not mean to do it. An accident. He could tell an accident had occurred simply by looking at me. This officer said that right on the stand.

Now, ladies and gentlemen, what other explanation is there other than an accident? Everything that I told you that happened on that night, you heard testimony that it happen many, many times before. Stanton Wright himself got on the stand and told you that he'd see my girlfriend swinging at me or us arguing and fussing and the most I would ever try to do is hold her down.

Never tried to harm her. You heard Deneka Harrington say she loved me. Testified that the most I ever did do to my girlfriend was hold her down. Never harmed her. Never hit her.

You heard the other witness, Ebony Watson, she came to

the stand, and she said my girlfriend emailed her and told her things. My girlfriend did not have -- hang around Ebony Watson. Ebony Watson said her and my girlfriend exchanged clothes.

You saw Ebony Watson. You can kind of figure out her size in relation to my girlfriend's size. My girlfriend was barely a hundred pounds. They couldn't exchange clothes. They didn't wear the same size.

You heard her say she was singing on the choir with me. Anastasia Love got on the stand just this morning and said Ebony Watson was never on our choir. Just this morning. And she wasn't. She was on another youth choir.

Then you heard Ebony Watson say that she wasn't close to me at all. That we didn't have any type of relationship; that she was biased towards me because of this incident. What do you think, ladies and gentlemen?

You think that she would have a problem coming in Court today lying on me? None. All of the witnesses that you saw me put on the stand that had seen my girlfriend and me interact together. But you heard from some others witnesses earlier in the trial from the State that were telling you, "Well, we never say her throw a temper tantrum. Never saw her get upset."

But, ladies and gentlemen, these people had not been around when my girlfriend would be with me. They always saw

her when we were apart. But everyone that saw us together, they told you about how we interacted with each other.

Yes, she would get upset sometimes, but I would never harm her. Her own father got on the stand and told you at the beginning of the trial in the time that he had known that I been with his daughter, he had never seen her come home with so much as a scratch. He told you that in the beginning of the trial. Don't you think he would know if she had been beat up by me at any point in time during our relationship. No. No.

Every witness that the State put on the stand that first day, Stanton Wright, Robert Moore, Monique Bright, people that had been around me for years and years and years on a regular basis, almost every day. All of those people told you -- now, they were State witnesses, but all of those people told you he is not a violent person. All of them.

Every State witness that got on the stand told you that they -- told you he was not a violent person. The only people who tried to tell you that I was violent, Ebony Watson, once again, "He tried to fight my brother one time." I tried to fight her brother. That makes me a violent person.

Think about that. She had something against me cause of her brother. She has something against me because she heard the rumors and the lies that were being spread about me in this case.

And these had her mad. Anastasia Love got on the stand this morning and said herself, after hearing the rumors and the gossip and all them things that were surrounding this case, she was mad at me.

But she said once she came to the county jail and listened to me, she wasn't mad any more. Why? Because she knows me. She knew [redacted]. She knows what's typical for us. She knows that my girlfriend didn't do things out of spite to me. She loved me too much.

She knows that I always protected and took care of my girlfriend. She knows this. And the State is here today telling you that I'm not telling the truth. And they want you to find me guilty, convict me of a crime simply because people who were not there and did not see what happened is going to tell you that I'm not telling the truth.

They don't want to do it. It's one person in here in this entire courtroom, besides myself and my parents, people who supported me, there is one other person that knows that I'm innocent. It's my opponent. He doesn't want that on his conscience.

MR. BLAKE: Your Honor, I think this is going way too far. I've been listening to personal attacks for however long this has been, and now the defendant is going to tell me what is in my mind.

MR. STEWART: Excuse me, sir.

THE COURT: You certainly had occasion to tell him what is in your mind. Go ahead, Mr. Stewart.

MR. STEWART: He doesn't want that on his conscience. He wants that on your conscience. He wants you to do it. He wants you to convict me of this charge without being given any evidence.

Just because he tried to confuse you with a writing. Tried to make you emotional with a writing and a few rumors. With a little bit of evidence that they brought in that they couldn't explain. None of this evidence that was brought in, they had no explanation for it until I got on the stand.

And I was sick yesterday, didn't feel good. Kind of rambled and said some things that I shouldn't have went into, but you were patient. Thank you for that.

But the last thing the State is going to say, he's going to tell you, "Well, it didn't make sense. It doesn't make sense for someone to try to hide an accident. It didn't make sense." Does it? I want you to think. If you're a child and your mother tells you to go in the kitchen and get her some water. And you go to the cabinet and you open it up, pull up your little chair, open it up.

And you reach to grab the glass and when you reach up to grab the glass, it falls and it breaks. Mother told you to go in there and get it. What are you going to do?

Most of you are going to get the little I'm sorry face

and go tell your mother. "You sent me in there to get the glass. I broke it." But if your mother tells you she says, "Listen, I'm going to sleep. You go in the room and play. You know not to mess with my glasses. If you want something to drink, use the plastic cups."

And as soon as your mother goes and goes to sleep, you sneak in the cabinet and you get one of her glasses. And when you reach up, it slips from your hand and accidentally breaks. What are you going to do?

She didn't give you permission to go in there. You were sneaking behind her back, and although it was an accident, though you didn't intend for the glass to break, though you didn't mean to do it, most of you are going to take that glass, sweep it up, and throw it in the trash and be real, real good for the rest of the day.

You see, ladies and gentlemen, it is not -- rather although something was an accident, that determines how you react to it. There were circumstances surrounding the situation. The circumstances surrounding this situation was that I snuck my girlfriend out of her house.

Her parents didn't approve of the relationship. They strongly disapproved of the relationship. My parents didn't approve of the relationship. Her parents -- I wasn't their favorite person. In a word, I panicked.

Stanton Wright panicked. The same circumstances applied

to him. He knew. He panicked. I panicked. But just because I panicked and made some poor choices after the accidental occurrence, it doesn't change the fact that the occurrence was accidental.

There is nothing that can happen after a person dies to change the way they died. This is a scientific fact.

Ladies and gentlemen, what I ask you to search for is proof of how -- how -- not rumors, not lies, not gossip, the facts and how. These letters from people that said I said that and said that I said this, ladies and gentlemen, those are not facts. Those are not facts. They're not.

No matter who said I told them something. No matter who said I wrote them something or showing you a writing that's clearly a myth, and trying to tell you this is a fact. It's not fact, ladies and gentlemen.

The facts are things like this picture -- these pictures. These exhibits I showed you. This path. Very easy to trip in. All those boards. Fact. Think about that, ladies and gentlemen.

My opponent has not even read to you this indictment. He is not even read to you the accusations he is bringing against me. Why? Because he does not want you to focus on the facts.

MR. BLAKE: I'm just going to object since it's a misstatement. I called the case and the indictment was read. I don't understand the point.

MR. STEWART: That's simply, ladies and gentlemen, because an indictment, it says, "Striking." Striking. Striking. In order for me to be guilty of murder or manslaughter, I would have had to have struck my girlfriend with something in the right side of the head to cause her death.

That is the only way that I can be convicted of murder or manslaughter. Now, the State is saying that I struck my girlfriend with something. With what? Not with a hand or a fist. The pathologist clearly said, "Wood, roots, rocks, something hard.

The State brought those two little sticks in here. One's little. One's not so little. Haven't seen these since the beginning of the trial. Want to know why? Haven't seen either one of these since the beginning of the trial.

Somebody just came in, said something about them and you haven't seen them since. Want to know why? Cause the pathologist testified himself that in order for something to put a skull fracture the size of skull fracture into my girlfriend's skull, it had to be something about six inches, six inches across.

He told you that. It had to be something about that big. There is only one thing.

THE COURT: Mr. Stewart, 45 minutes is up. You got just a few minutes to close out.

MR. STEWART: Yes, sir. This log -- this log no one every tested this log. Ever. No one ever searched this log for blood, ever. No one. Think about that.

In closing, ladies and gentlemen, I ask that you not put aside your emotions. Everyone has emotions, but I ask that you think long and hard before you make your final decision. Don't be pressured into making a decision. Think. Consider the facts.

The facts, ladies and gentlemen. The facts of this case is going to show you the truth. Challenge my opponent not to get up and talk about letters, talk about a Calamity, talk about things that happened eight hours after.

Challenge my opponent to get up and show you how. Show you something other than speculation, rumors, assumptions, gossip, and lies. Tell him to show you some proof. He can't do it.

And all you have, ladies and gentlemen, is my word. And as the Solicitor, himself, has told you, I am the only person who was there. I am the only person who knows what happened. I've already given you the truth over and over and over again.

I feel confident that most to all of you 12 individuals will accept the truth, will recognize the truth, and will return a verdict of not guilty of murder or manslaughter. Thank you.

MR. BLAKE: Judge, that was a long haul. Can the jury be

given a chance to at least stand up and stretch or do something?

THE COURT: The jurors want a brief recess? Step out for five minutes. We'll come back and go into the rest of closing argument.

MR. BLAKE: Thank you, Your Honor.

(JURY EXCUSED TO JURY ROOM AT 3:27 P.M.)

(COURT IN RECESS AT 3:27 P.M. AND RECONVENES AT 3:34 P.M.)

(BENCH CONFERENCE HELD OFF THE RECORD, BUT OUT OF THE PRESENCE OF THE JURY.)

(JURY ENTERS COURTROOM AT 3:35 P.M.)

THE COURT: Solicitor, you may proceed.

MR. BLAKE: Thank you, Your Honor.

CLOSING ARGUMENT BY MR. BLAKE

In the opening statement, I used this simple graphic. I said that the case was broken down into three part, the witnesses who have to do with the scene, what happened, the motive, why it happened, and then admissions by the defendant.

I think I've fulfilled exactly what I said I would do. I don't control the evidence. I don't make up the evidence. I don't invent facts. I simply present to you what has gone on in the investigation. I bring things in for you to look at because they were taken from the scene. I know you weren't there. I'm simply trying to give you information.

Let's just go over this because I think it's incredibly

important to the case. Mr. Stewart, who I would not ever call my opponent, stated that there were no facts. No facts. I think what he means is a camera. Well, that camera was in his head, and I'm going to show you all the accident stories he told about what did happen.

Malice and malice aforethought. Aforethought doesn't have to be planning as Mr. Stewart tried to tell you. It can happen in an instance. Malice does malignant heart, wickedness.

The Judge will define that for you. The Judge will tell you that an inference of malice happens trying to cover up a crime. That's where the burning may be important.

I'm not going to take 45 minutes. I'm going to take as little as I can, and I'm going to keep it simple and brief. So malice is in somebody's head, right. I don't know what you're thinking, and I'm not going to try to presume that I do.

I don't know what the Judge is thinking. I don't know what the Clerk of Court is thinking, but I'm supposed to prove malice aforethought. Well, how am I going to do that if I can't jump inside somebody's head? I got to infer from it the circumstances.

Those are facts just like any other facts. It's called indirect evidence, and here it says, "Proof of some other fact or facts from which the existence of a particular fact in

question may be inferred as a necessary or probable consequence."

An example. Let's imagine you go to sleep one night. The ground is clear. There is some clouds in the sky when you go to sleep. You wake up in the morning, and there is this white stuff all over the ground. It's in the trees. It's on the house. It's wonderful.

Now, you didn't see it snow. But you know it snowed. I mean, somebody didn't come by and drop an airplane and put a bunch of talcum powder in your yard. The local drug guy didn't miss a kilo, and it's all over the yard and the house. You know it snowed. Why? Because you had these facts that led you to that conclusion.

That's how we live our lives. I've got direct evidence. Direct evidence is the DNA. He explained it away like he explained everything away. The DNA, her DNA, was on his shirt. He wore this shirt at the time that this killing occurred, admitted by the Defendant. So what's the problem?

Now, let's enter into the realm of probability. That's real life. Rather than possibilities, like the good doctor was testifying from. Mr. Stewart is very good at putting words in people's mouths. And he asked very creative questions, but I don't think Dr. Harley was really being so definitive as Mr. Stewart wants you to believe.

What Dr. Harley said, "Blunt force trauma to the head.

Could have been by a blow to the head. It could have been by falling." By the way, have you ever fallen? Ever hit your head? I want you to imagine the reality of what Mr. Stewart is proposing.

His girlfriend, yes, she's just a hundred pounds. The first time she didn't have a knife. Next time, she did. We'll get to that later. He's got her wrapped like this. And he trips. And they both fall. And I wish I could really dramatize that for you, but I'd probably break my neck or whatever.

It wasn't to the side of the head. You know, he's trying to tell you. It was to the side of the head. Dr. Harley kept doing this. The pictures from the autopsy, but it's just too gross. They're not in evidence. But if you have to recall that Dr. Harley kept putting it up. He didn't put it down here.

Now think about it. She's being held. How is she going to hit her head up here? The only way I can see that happening is by her putting her head down. But then, Weldon's holding onto her.

It's not what's possibilities. You know he says there are no facts from the State, but then he wants to take something and make it ridiculous. Let's just see how ridiculous some of this is.

I'm bringing this closer so you can see it for sure. Is

it readable? This is a chart of facts in evidence. That means that the Judge has said that they pass the test of admissibility. I have here in the first column the notes from the Lieutenant Boston. Those were taken at 3:30 in the afternoon.

I didn't include John Valdaliso's statements if you remember. That would just create more variations. I did not include the letter to the Allens, which you heard most of yesterday afternoon.

The second column is his voluntary written statement given within a half an hour, an hour, something like that of Lieutenant Boston's statement because that was judged to be a recording of Mr. Stewart's statement.

And then, at the beginning of the trial, Mr. Stewart gave you an opening statement. That's it right there. So I'm not making it up by notes or anything. I got a copy of from the court reporter. Ms. Hattie Bright [sic] was kind enough to do this for me. She makes us pay for it, but she did it, because I wanted do see exactly what he said.

Because he described the incident in his opening statement. And in fact, that's an admission by him. The testimony which happened yesterday, that I do not have a transcript of, so that's the only one I do not have in written form. Every other time, I've literally quoted from the text.

Here I took what I remembered. If you remember

differently, then you guys can figure out what the facts are. That's why there are 12 of you. You know that old game about you say a word and then pass it to another person and then pass it to another person. That person says the word, and by the time it comes around, a chicken becomes a hawk.

All right. Now, over in this column, I simply broke it down into the different kinds of subjects, and I know this. I won't be long at it, but I want you to look at it, because this is not going back into the jury room. This is for demonstrative purposes while I'm talking to you.

So out of the various writings and statements from Mr. Stewart you heard about, I've restricted it to these four, and the first subject was how was he holding her, and the box notes it as he was holding her from behind. You've got that. You can look at that. Okay.

In the voluntary written statement, he says one of his arms wrapped around her arm to hold the blade still, and the other arm around her upper shoulder.

Opening statement from behind, he picked her up. This is two years later, and it's the first time he ever mentioned picking her up. And then in the testimony yesterday, he picked her up from behind, one arm holding her up and the other arm restraining her.

Now, I think this is interesting because these are -- this is your eyewitness. He is the truth. Who fell first?

In the Boston statement, he fell. "I fell on top of her." I remember that the first time actually giving a statement to Valdaliso and he just said he fell there. But let's just stick with this.

Voluntary written statement, he says I walked through the path. "As I walked through the path with her, I tripped and fell on top of her. She fell on her face." Face. Now, maybe that's just, you know, words. I don't think she hit her face. He tripped and fell with her in his arms. "We fell face first." That was in the opening statement on Tuesday. And then his testimony, said he tripped and fell on top of her.

In terms of the injury, in the Boston statement, heard some kind of sound. Voluntary written statement, sounded like a neck popping. Opening statement, no mention. Testimony, no mention.

And then, was she talking after the injury. Boston statement, not mentioned. Voluntary written statement, he writes that she was living after she fell. Then in his opening statement, he didn't make any mention of it. It's not there at all. However, yesterday, he gave us some new information or his story changed. I don't know how you want to look at it.

She looked fine. Sat up, said several times to the defendant, "Help me up. Help me up," but he was scared and he didn't do anything. What did he do after the injury? Boston

statement, no mention.

Voluntary written statement, on page one, he says he tried to revive her, and then on page two of that same statement, he says, "When she was in my arms, she was moving, but when we fell, and I tried to pick her back up, she wasn't moving." Opening statement, no mention. Testimony, went into the house.

I find it interesting because I never got it straight and I'm still confused about it. Maybe you can sort it out.

What was the route that they walked? Well, in the Boston statement, it says, "Went down the hill on [redacted], that's that side street to them. As we're coming through the path," this is just quoting from the statement, "As we're coming through the path from [redacted] to my backyard."

Well, okay, the path. We don't know where this is at, but what's the direction he's telling? He's not coming from his yard. I'm not twisting words. I'm not making something up. I'm not trying to get you to believe me. I'm simply saying take a look at this, and what does it say to you.

Voluntary written statement, "Left out of the house and start to walk through the backyard. Get to a path through which we could go to the other street." Opening statement, going through path. Direction not mentioned. Testimony, going through path. I was really unclear what he was saying.

I don't want to try to mislead you. I thought he talked

about two different directions, but I don't know. As for the gas can. Yes, he went to the BP Station. Remember Valdaliso saying he saw him in his police car. How would a policeman -- why would he admit on the stand that he saw this guy. He didn't do anything even though when he started thinking about it, it couldn't really be legal.

He's on his way to lunch. Why would he admit to you that he hadn't done anything because look at what happened as a result. So Mr. Stewart would have it be that he was simply lying.

The weapon, in the Boston statement, it was a knife. In the written statement, it is a razor blade. It was not mentioned in the opening statement. And the testimony, he gave yesterday, it was a neon box cutter. Now, I guess that's all the same thing, just different words.

Movements with the weapon, Boston statement, they struggled. Voluntary written statement, they -- he swung -- she swung twice. Opening statement, no mention. Testimony, swung twice. The letter says swung once.

[redacted] needing to go home. That became the entire crux of the matrimonial love between [redacted] and Weldon. She didn't want to go home. So they were fussing. Well, if it's that important, why don't you mention it right from the beginning?

In the Boston statement, no mention. Voluntary written

statement, same day, no mention. Opening statement, no mention. And then yesterday, he said he wanted to go home.

Now, this is probably the mystery of all. Place the path where the fall occurred. And why is it a mystery? Why can't I just tell you exactly where? Cause he moved the body. He messed up the crime scene. I'm being -- what the State is being -- said we didn't do an investigation or we didn't prove it. That's cause he did a very good job of destroying evidence.

Where is that stick that hit her? I don't know. There was a big bond fire. No, I don't have the DNA on it. How do we know in the path where that happened? Well, sometime later that day, he led some policemen and SLED people to the path, and then one week later, the police could have missed it. It's possible.

There are other things that weren't entered into evidence, but it was brought for you to look at, such things as the gas can, which you have a picture of. But I'm not supposed to talk about that because it's emotional and will even influence you.

But the Judge will tell you that you can infer the mental state required for the crime by that covering up. Those are the defendant's own statements. They are his own words. I didn't twist them. I didn't turn them.

I think there is enough inconsistency there to sink a

ship, and to tell you the truth, I didn't put up the two that are really more significant that way. I kept it to those four.

You have the documents. You take them back in your room. I didn't say anything about Calamity. He wants to say that a hearing back a year ago, where I was more or less talking off the cuff, he left out a few things, but I thought I'd add them for you.

What he stopped saying was, "Letter is in the form of a myth that talked exactly about these incidents. And, of course, there will be a hearing in front of a judge. I'm warning you." I didn't hide anything. I said, "Weldon, this is the hearing" where he said, "I want to represent myself." I said, "Well, then you better think about this, the Calamity."

I didn't make a big deal about that. I just wanted to present it to you. He wants to present his explanation. Take it. That's what you're here for. And then I go on to say, the Judge says, "So that's something he's telling you, Mr. Stewart, that he has some letters that he's going to make an effort to put into evidence against you in his case in chief."

Form of a myth. I think that's obvious. That's a literary style. It didn't mean it's not true. You have had a chance to judge the demeanor, the character, the attitude, the person of the defendant. He testified from the stand. A lot of times, he testified right here, but he also sat in this

chair, and when he did, you had a chance to observe him. Now, Weldon is a very persuasive person, but you have had a chance to observe him.

He calls Ebony Watson a liar. He was convicted of that. He stabbed somebody. But she's coming in here and lying. Because that doesn't fit his facts.

I don't think he presented any witnesses after Tuesday when he browbeat the witnesses and told them what he wanted to stay. I don't think he had any witnesses the today that said, "[redacted] had temper tantrums." He brought them in to say that, but they didn't. They said he fussed.

Now, I want you to remember black cat and the glasses. Just a funny little aside for you in the case. The whole case comes down to credibility. It's what it comes down to. There is nobody there except [redacted] Allen. She's dead, or Weldon said, "[redacted], Weldon and God."

Well, [redacted] was there. And that's what this trial is about. It is a trial about a young girl, 16 years old, whose life was taken because Weldon didn't like what she was doing. And if you want to say that Anthony Watson and his mother are liars, then I ask you to figure out why.

Why did they come in here, face the possibility of perjury, expose the fact that, yes, [redacted] Allen was involved with Anthony to some degree, and then tell you about these threats on the telephone?

Why would they make that up? Mr. Stewart wants to dismiss this with a wave of his hand or a glare in his eyes. Do not be intimidated. You heard the facts. I don't want to belabor things again and again.

I just want to point out one last thing. Mr. Stewart wants to say that after the killing, he panicked. All right. So he panicked, but he went to the store and was able to purchase the beer and the cigarettes.

And then he saw Bo Wright's mom near the block, driving the car with her husband, stopped to talk to him. Bo Wright's mom, I mean, lived across the street from Stewart. Don't you think she would have tried to help him? But what did she say? She was just honest. "Seemed normal to me, not panicked."

And then he talks to Robert Moore six hours after the killing. He goes to his house, and asked him for some weed. Robert Moore was on the stand on Tuesday. What did Robert Moore say? "He seemed fine to me. Seemed normal. Regular old Weldon."

The evidence that has been presented except for Mr. Stewart's mouth, has been that he panicked after the burning. And as for anger, you know what it is. You've all had it. He also tells you he'd been taking some different kinds of substances that night, might impair your judgment a little bit.

Now, he wants to say he's just a peaceable guy, no anger.

You observed him. But love conquers all, and if you're in love, you wouldn't do that.

Well, how many people have been killed in love and domestic relationship in marriages? Out of the passion for otherwise. Jealousy is about as strong an emotion as you can get.

The one last thing, the reason the glasses are important, and the reason I called Dr. Owens is if she didn't have her glasses on, how could she be voluntarily walking through there?

Maybe he was holding her hand. I don't know, don't know. He said he was carrying her. Maybe he was carrying all the way. I don't know. I wasn't there. Mr. Stewart was, but he can't get his story straight. Thank you.

CHARGE OF THE COURT

THE COURT: Mr. Foreman, ladies and gentlemen of the jury, if I can have your attention. I've observed you during this trial, and I know you patiently listened to the presentation of the evidence in this case, arguments by both side.

It now becomes the duty of the trial judge under the constitution of this State to charge and instruct you the law applicable to the case, and as your duty as jurors to accept the final law as the Court states it to you.

As jurors, it's your exclusive duty to decide all issues

of fact in this case and for that purpose to determine the effect, the value, the weight, and the truth of the evidence.

Both the State and the Defendant have a right to expect that you will conscientiously consider and evaluate the evidence and apply the law of the case thereto to the end so both the State of South Carolina and the Defendant will receive and obtain a fair and impartial trial in this case.

When I use the word, "defendant," it refers to Mr. Weldon Stewart, Jr. The State of South Carolina by the bill of indictment in this case charges the Defendant, Weldon Stewart, Jr., with the offense known in law as murder.

To this charge and to the indictment, the defendant has entered a plea of not guilty, and plea of not guilty by a defendant places the burden of proof on the State to prove by evidence the guilt of the defendant beyond a reasonable doubt before you the jury could find the defendant guilty.

The defendant is presumed in law innocent of the charges contained in an indictment. It's a cardinal and fundamental rule of the law of evidence that a defendant, irrespective of the enormity of the charge against him, will always be presumed innocent of the crime of which he has been indicted unless and until the guilt of this defendant has been proved by evidence that satisfies you the jury of his guilt beyond a reasonable doubt.

The presumption of innocence is not a mere legal theory,

and it's not just a legal phrase. Presumption of innocence is a substantial right which every accused is entitled. Our Supreme Court has declared that presumption of innocence is like a robe of righteousness placed about the shoulders of a defendant and remain with him and assigns him to that class, the innocent, until that presumptive robe of righteousness has been stripped from his person by evidence satisfying you the jury of the guilt of the defendant beyond a reasonable doubt.

The presumption of innocence accompanies a defendant from his time of arraignment and appearance in Court and continues with the defendant throughout every stage of the trial. It continues with the defendant after you retire to the jury room to deliberate your verdict.

The presumption of innocence continues in existence to the benefit of the defendant until you the jury reach the conclusion that the State has proved the guilt of the defendant beyond a reasonable doubt.

Ladies and gentlemen, the State is not required to prove the guilt of a defendant beyond all doubt or beyond every doubt, but beyond a reasonable doubt.

As I told you, the State has the burden of proving the defendant guilty beyond a reasonable doubt. Some of you may serve or have served as jurors in civil cases where you were told it is only necessary to prove that a fact is more likely true than not true.

In criminal cases, the Government's proof must be more powerful than. It must be beyond a reasonable doubt. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt.

There are very few things in this world that we know with absolute certainty, and in criminal cases, the law does not require proof that overcomes every possible doubt.

If based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you must find him guilty. If on the other hand, you think there is a real possibility that he is not guilty, you must give him the benefit of the doubt and find him not guilty.

I charge you the defendant is entitled to every reasonable doubt arising in the whole case. If upon any issue of fact essential to conviction, a verdict of guilty, you have a reasonable doubt as to how that issue should be resolved, it will be your duty to resolve that reasonable doubt in the favor of defendant.

Once again, a defendant is not required to prove his innocence, but the State is required in law to prove every essential element of the offense charged against the defendant by evidence which satisfies you the jury of the guilt of the defendant beyond a reasonable doubt before you could convict the defendant and find him guilty.

If then upon the whole case you have a reasonable doubt as to the guilt or innocence of the defendant, he is entitled to that reasonable doubt and would be entitled to an acquittal and a verdict of not guilty.

But on the other hand, if upon the whole case, you find that the State has proved by evidence which satisfies you the jury of the guilt of the defendant beyond a reasonable doubt, then such circumstances, it will equally be your duty to convict the defendant and find him guilty.

Now, let me speak with you about lesser included offenses. In other words, in the law, some charges have lesser included offenses that may not necessarily be mentioned in the indictment.

If you find the defendant guilty, but you have a reasonable doubt as to whether defendant be guilty of the greater crime charged or lesser crime charged, then you would resolve that reasonable doubt in favor of defendant and write a verdict of guilty only as to the lesser charge.

But, of course, you could not write a verdict of guilty to any charge unless as to that charge, you find all the elements of the charge have been proven by the State beyond a reasonable doubt.

Now, let me talk with you about the indictment. An indictment is not evidence and cannot be considered by the jury as evidence in the case. An indictment is simply the

formal written instrument which contains the charge against the defendant, and it serves as a formal document by which this case is processed into this Court.

During this trial, each of us, you and I, have certain duties to perform. As the trial judge, it is my responsibility to preside over the trial of this case and I also have the duty to rule upon and pass upon the admissibility of the evidence offered during the progress of this trial.

You are to consider only the competent evidence before you, and you are to disregard or disabuse from your mind any testimony ordered stricken from the record of this case during the progress of the trial, if there be any.

And you are to consider only the testimony which has been presented from this witness stand together with any exhibits admitted into the record of this case and any stipulations of counsel made into the record, if there be any.

Now, let me speak with you a little bit about opening statements, arguments, questions posed, any comments made, statements not made from the witness stand, arguments by counsel, are not to be considered evidence.

They may comment upon the evidence or repeat the evidence, but you find the evidence from the proper testimony and exhibits that have been admitted into the record, not from what somebody has said. I have the additional duty to charge

you the applicable law of the evidence -- of the case, and as presiding Judge, I am the sole judge of the law.

And it is your duty to accept and apply the law as I state it to you. If you have a preconceived idea as to what the law is or what the law ought to be in this case, and it should not agree with what I tell you the law is you, you are obligated under your oath to abandon this preconception on your part because you are sworn to accept the law precisely as I state it to you.

Now, as I told you, this case is to be decided on the evidence presented in Court. This case has nothing to do with what you may have seen or heard on television, at a theater, at a store, a play or radio, or anything that you heard somewhere else other than this courtroom.

You have to decide this case on what has been presented here. In other words, when you come up this courthouse steps, you don't leave your common sense at the bottom of it. This doesn't have anything to do with television, the movies, or make-believe words.

In regards to that, in every case tried in this court before a jury, you the jury become the sole and exclusive judge of the facts of the case. You the jury are the judge of the facts in this case. The Court is the judge of the law.

The constitution of this State has declared that the trial judge shall not intimate, state, comment upon or make

any statement to a trial jury about the facts in a case.

You are the sole judge of the facts. You are not to infer from anything that I have said during the progress of this trial, in ruling upon the admissibility of the evidence or otherwise or ruling on any objections or anything that I now say during the course of this charge to you, that I have an opinion about the facts of this case.

The law doesn't permit me to have an opinion about the facts. That is a matter solely for you the jury to determine. As jurors, it is your duty to determine, as I have told you, the effect, the value, the weight and the truth of the evidence presented during the course of this trial.

Necessarily, then you must assess the credibility of the witnesses who have testified in this case. Credibility is simply a legalistic term which means believability.

You can look and see who has the most reason to tell the truth or to tell a lie. It becomes your duty then to analyze and evaluate the evidence and to determine that evidence which convinces you of its truth.

I charge you that in determining the question of the credibility or believability of the witnesses, you may believe one witness as against several witnesses or several witnesses as against one witness.

You may believe a part of the testimony of a witness and reject the remaining part of the testimony of that same

witness. You may believe the testimony of a witness in its entirety or reject the testimony of that witness in its entirety.

You may consider whether any witness has exhibited any interest, any bias or any prejudice in the case. You may consider the demeanor of a witness, the appearance of a witness and the appearance of a witness and demeanor not on the witness stand.

And you may consider the opportunity for knowledge concerning those things about which a witness testified. And in doing so and exercising your mental process in determining what you consider to be true, the law simply requires that you exercise your good judgment, your common sense, your sense of logic and reason, and your experiences in life.

You then apply these attributes and abilities to the evidence and determine what you consider to be the truthful evidence. And to these true statements of fact as determined by you the jury, you take and apply the law as I state it to you and thus arrive at a true verdict in this case.

This time, I am going to charge you the law on the specific crime charged. The charge made in this indictment is murder. I'm going to first read to you Section 16-310 of the Code of Laws of South Carolina, which states, "Murder is the killing of any person with malice aforethought, either express or inferred."

Now, upon the principle and theory of our law, any greater offense includes a lesser offense or may include a lesser offense. The charge of murder also includes the lesser offense of voluntary manslaughter, even though the charge of voluntary manslaughter is not written into the body of the particular indictment.

Now, I'm going to first define for you the law of murder, and then I'll define for you the law of voluntary manslaughter.

Murder is the unlawful killing of any person with malice aforethought either express or inferred. Hence, in order to convict one of murder, the State must not only prove the killing of the deceased by the defendant, but that it was done with malice aforethought, and such proof must be beyond a reasonable doubt.

Malice aforethought is an essential element in the crime of murder. What is malice? Malice is defined in the law of homicide as a term of art. Malice does not necessarily mean an actual intent to kill. This is a technical term importing wickedness and excluding just cause or legal excuse.

It is something which springs from wickedness, from depravity, from a depraved spirit, from a heart devoid of social duty, and fatally intent on mischief. The words, "express" or "inferred" malice do not mean different kinds of malice, but merely the manner in which the only kind of malice

known to the law may be shown to exist.

That is to say either by direct evidence or by inference. Malice may be expressed as where previous threats of vengeance or lying in wait or other circumstances show directly of an attempt to kill was entertained.

Malice may be inferred where though no express intent to kill is proved by direct evidence. It may be inferred from the facts and circumstances which are proved. Malice may be inferred from the willful, deliberate, and intentional doing of an unlawful act without just cause or legal excuse. In other words, in its general signification, malice means the doing of a wrongful act intentionally without justification or legal excuse.

But even if facts proved are sufficient to raise an inference of malice, this inference would be simply an evidentiary fact to be taken into consideration by you the jury along with all the other evidence in the case. And you may give it such weight as you determine it should receive as to whether or not malice has been proved beyond a reasonable doubt.

While malice may be inferred from the use of a deadly weapon where the circumstances related to the homicide are brought out in the evidence, this inference vanishes and the burden is on the State to prove malice by evidence satisfying the jury beyond a reasonable doubt.

Again, or will be observed, ladies and gentlemen, there must be a malice aforethought. While the law does not require that malice shall exist for any particular length of time before the commission of the act, it must be aforethought.

There must be a combination of the previous evil intent and the act producing the fatal result. Now, the State is not required to a prove a motive for homicide.

I charge you that under the law an intent to cover up how someone died can be evidence or an inference of malice.

I charge you an attempt by a defendant to mislead police as to who committed the crime can also be evidence or inference of malice.

I'm now going to charge you the law on voluntary manslaughter. As I've already indicated to you, ladies and gentlemen, and instructed you, an indictment for murder includes the lesser crime of voluntary manslaughter even though the lesser crime of voluntary manslaughter is not physically written into the bill of indictment. In other words, a defendant indicted for murder may be convicted of voluntary manslaughter if the evidence warrants.

What is manslaughter? Manslaughter is the unlawful killing of a human being without malice, express or inferred. You will notice then, ladies and gentlemen, that the absence of malice is what distinguishes voluntary manslaughter from murder.

I have instructed you that malice is an essential element of the crime of murder. Malice is not an essential element of the crime of voluntary manslaughter. The presence of malice in murder and the absence of malice in voluntary manslaughter is what distinguishes these two offenses.

Now, manslaughter can be divided into two classes, but that's involuntary manslaughter and voluntary manslaughter. And in this case, you're not concerned with the offense of involuntary manslaughter.

Now, what is voluntary manslaughter? It is the felonious taking of a life of another human being in sudden heat and passion upon a sufficient legal provocation.

The law recognizes, ladies and gentlemen, the fact that sudden heat and passion may be for the time being affecting one's self-control, temporarily disturbs the sway of reason, and hence, reduces the crime of murder to voluntary manslaughter where the homicide was done in sudden heat and passion, provided there was a sufficient legal provocation. A sufficient legal provocation must be such as would be calculated to cause a person of ordinary reason and prudence, sometimes described as an average person, to become enraged.

That is to experience sudden heat and passion and, hence, to lose control of himself or herself temporarily and frequently it involves some physical aggression or assault.

Merely by way of illustration, an illustration alone, I

say that when an unjustifiable assault is made with violence or with circumstances of indignity upon a man's person, and the party so assaulted kills the aggressor, the crime will be reduced to voluntary manslaughter if it appears that the assault was presented immediately and the aggressor was killed in the heat of the blood, for it will be observed that this killing must be in sudden heat and passion.

And if in fact passion had cooled or if there was sufficient time between the provocation and the killing for the passion to cool, the killing would not be attributed to the heat of passion, but to malice.

The sufficiency of cooling time would depend upon whether there was time, all circumstances being considered, for a person of ordinary reason and prudence to cool.

Now, let me speak with you about evidence. There are two types of evidence which a jury may properly find the truth as to facts of a case. One is direct evidence such as testimony of a witness. The other is indirect or circumstantial evidence.

It is proof of a chain of circumstances pointing to the existence or non-existence of certain facts. By the term direct evidence, the law means the testimony of persons who have perceived the existence by means of their senses and in the instance where a person sees a crime committed and comes into Court and testifies as to what he or she saw.

Circumstantial evidence, on the other hand, means proof of some other fact or facts from which taken either singularly or collectively, the existence of the particular fact in question may be inferred as a necessary consequence.

Violation of the law may be proved by circumstantial evidence as well as by direct evidence of an eyewitness. On a contested factual issue, you may have some direct evidence and some circumstantial evidence; that is a combination of two types of evidence on that disputed fact.

Before you can convict a defendant on circumstantial evidence alone, the circumstantial evidence must measure up to requirements of the law. Where the State undertakes in a criminal case to prove the guilt of a defendant by circumstantial evidence, not only must circumstances be proved, they must point conclusively to the guilt of the accused.

They must be wholly, perfectly consistent with each other in every particular respect and must also be absolutely inconsistent with any other theory than that of the guilt of the accused.

Every circumstance relied upon by the State must be proven beyond a reasonable doubt. All of the circumstances so proven must be consistent with each other and taken together pointing conclusively to the guilt of the accused to the exclusion of every other reasonable hypothesis or explanation.

It is not sufficient that the circumstances create a probability though a strong one if assuming the fact to be true, they may be accounted for upon any reasonable explanation which does not include the guilt of the accused, the proof fails.

Direct evidence is the testimony of a person who asserts or claims to have actual knowledge of facts, such as an eyewitness. Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact.

The law makes absolutely no distinction between the weight or value to be given to either direct or circumstantial evidence. Nor is a greater degree of certainty required of circumstantial evidence than that of direct evidence.

You should weigh all the evidence in the case. After weighing all the evidence, if you are not convinced of the guilt of the defendant beyond a reasonable doubt, you must find the defendant not guilty.

I need to charge you. You have heard mentioned in this trial the charge of desecration of human remains. I charge you that particular offense in and of itself does not necessarily prove one guilty of murder or voluntary manslaughter.

In this case, the defense has raised the defense of accident. I charge you concerning that whether death of a human being is the result of accident, misadventure, in the

true meaning of the term, no criminal responsibility attaches to the act of the defendant.

Where it appears that a killing was unintentional, the perpetrator acted with no wrongful purpose in doing the homicidal act, that it was done while he was engaged in a lawful enterprise and that it was not the result of the criminal negligence, the homicide will be excused on the score of accident or misadventure.

Now, ladies and gentlemen, you are not partisans or advocates for the State of South Carolina or the defendant. You do no serve as jurors to reward friends or punish enemy. Obviously, such a perverted system of justice would be intolerable.

You have been selected by both the State and defendant to be fair and impartial jurors. It is your duty by your joint deliberations to determine the truth in this case, giving to the defendant the benefit of every reasonable doubt on each and every issue.

Then to the facts as you determine to be true, you then take apply the law which I've given to you, and thus arrive at a verdict which does speak the truth of the case, for the word "verdict," which has a Latin derivative means "a true saying." And when you have accomplished these responsibilities, you will have satisfied your oath as jurors and you will have discharged your duty to the Court.

I will now instruct you to the form of the verdict in this case. First of all, do not give any weight to the numerical order the possible verdicts are put in. This particular case, Mr. Clerk, if you will assist me because I do not have a pad up here. I need the verdict form handwritten out will be fine.

As I said, do not give any weight to the possible way the verdicts are listed. First, possible verdict, if you will just write possible verdicts out and put blank line to the left, will be guilty of murder. Second possible verdict, guilty of voluntary manslaughter. Third possible verdict, not guilty.

Whatever the verdict is, Mr. Foreman and ladies and gentlemen, it must be a unanimous verdict. All 12 jurors must agree on the verdict which you authorize. Of course, Mr. Foreman, you write on the verdict sheet. Mr. Foreman, ladies and gentlemen, I also -- let me remind you one more time about lesser included offenses, make sure we're clear on that.

We have that in the charge as to -- we have offense of a possible lesser included offense. If you have a reasonable doubt as to whether the defendant be guilty of a greater crime charged or a lesser crime charged, you would resolve that reasonable doubt in favor of the defendant and write a verdict only as to a lesser charge.

But remember, now, as I charged you before, could not

write a verdict with guilty to any charge unless it was that charge and you find all elements of the charge have been proven by the State beyond a reasonable doubt.

Now, Mr. Foreman and ladies and gentlemen, I believe I've covered everything that I intended to cover for you. Mr. Foreman, it would be your duty to check the appropriate verdict, sign your name to the verdict form, date it and knock on the door and let us know when you have reached a verdict.

Please to not begin your deliberations back there though until I send the verdict form along with the exhibits back to you. We got to check off exhibits, make sure we got everything before we turn you loose. Okay.

Bailiffs will be stationed back there in the bailiff station to handle any needs that you have. Let them know. Once again, now, I think I may have told you this, but I'm going to have to tell you again.

If y'all decide to take a smoke break, bathroom break or whatever, cease you deliberations. Do not begin your deliberations again until all 12 are back together. Okay.

All right. At this time, I need the 12 first jurors, the regular jurors, to go on back in the jury room and I need the alternate juror, just for a few minutes, to please step back into the law clerk's office until we get the first 12 deliberating. Okay. Mr. Bailiff, if you will escort the jury out.

(JURY EXCUSED TO JURY ROOM AT 4:37 P.M.)

THE COURT: Anything further from the State?

MR. BLAKE: No, Your Honor.

THE COURT: From the Defense.

MR. STEWART: Sir, I'd like to make an objection about to all of the large exhibits or all the -- just the small ones.

THE COURT: Good. Glad you mentioned that. What we got duplication of small -- Mr. Solicitor, Madam Court Reporter, only the original or the small ones will go back, and the large ones will not.

Now, Mr. Blake, Mr. Stewart, we got to make sure we got everything, so I need both of you to come up and check off and make sure we got everything that's to go back. Madam Court Reporter, is everything checked off, everything present that is actually in evidence?

COURT REPORTER: Yes.

THE COURT: Mr. Stewart, Mr. Blake, y'all were standing there. You watched everything that's into evidence. Anything else? I'm confused here. The only way I can allow it to go back at this time is for both of you to agree on it.

MR. BLAKE: I don't consent to anything that wasn't entered in during the trial.

THE COURT: Okay. That solves that. The Court will come to order. I need the jury to come in just a second. You may be seated.

(JURY ENTERS COURTROOM AT 4:53 P.M.)

JURY QUESTION NO. 1

THE COURT: Got everyone. Ladies and gentlemen of the jury, we now have checked off all the exhibits. Mr. Clerk, I am in receipt of the juror's inquiry as to the possibility of death penalty sentence in this case. The State has not sought the death penalty in this case, therefore, it is not an issue in this case.

Sentence is otherwise, I tell you, is a prerogative of the Court. It is not a concern to the jury.

With that said, Mr. Foreman, I have put the exhibits over here. The brown box has exhibits in it and also the large photographs or maps, whatever beside it also go back. Mr. Clerk.

CLERK OF COURT: Yes, sir.

THE COURT: If you will escort them back and give the verdict form to Mr. Foreman. They may begin their deliberations, and I need that alternate to remain in the courtroom with us.

(JURY BEGINS DELIBERATIONS AT 4:56 P.M.)

THE COURT: Madam Alternate, at this time, I want to thank you for your service on this case. On behalf of the court, I want to thank you for your patience with the Court.

It's been a long week, and I know you probably would like to go back and be with the jury while they deliberate.

Unfortunately, under the law, I cannot allow that cause if I did, we'd have to start all over again.

So at this time, your duties are over. I think Mr. Funderburk may already have some checks ready. You can leave us at this time or if you would like, you can stay in the courtroom and relax for a while and I'll leave that totally up to you.

But your duties at this time are now over. We thank you very much. Thank you. Madam Bailiff, you will escort Madam Juror.

Okay. Gentlemen, it's in the jury's hands. We will stand at ease until any further inquiry or verdict from the jury.

(COURT IN RECESS AT 4:56 P.M. AND RECONVENES AT 5:02 P.M.)

THE COURT: All right. We need to get back on the record. I need -- want to update something that I've done. My first impression was to dismiss the alternate, and as I stepped back, I realized as long as this trial has taken, it's, obviously, taken some -- taken an emotional toll on everybody involved. I thought maybe just for insurance policy, we better keep the alternate here.

So before she got down the back corridor, I had her stop and we put her back in the law clerk's room by herself, and I will keep her there until I'm comfortable that the jury is well under way.

Not saying I'm going to keep her here the whole time, but I just want to get it on the record that I'm keeping her here for insurance and effect purposes. I didn't want to do anything that y'all weren't aware of.

That particular juror is back in the law clerk room by herself. And that's all I need to put on the record.

(COURT IN RECESS AT 5:35 P.M. AND RECONVENES AT 5:41 P.M.)

(BENCH CONFERENCE HELD OFF THE RECORD, BUT OUT OF THE PRESENCE OF THE JURY.)

THE COURT: Jury is coming in.

(JURY ENTERS COURTROOM AT 5:55 P.M.)

JURY QUESTION NOS. 2, 3, AND 4

THE COURT: Mr. Foreman, ladies and gentlemen of the jury. Thank you very much for your patience. It takes us a little while to retrieve the information, of course, whenever y'all have an inquiry such as y'all have put forth here.

I'm going to take them in the following order. The first one you sent out, you would like for the court reporter to rewind the tape back to the brother, Anthony Allen, to see what time he got to the game.

We have reviewed that. There is no testimony as to when the game started. There is testimony as the game was over at quarter to 11.

Taking this out of order, the next question was that also what was the body found in? We have reviewed that. Both

sides are in agreement that that testimony was in effect big pool steps melted down in the fire.

The next issue is opening statement by the defendant. I need a little direction from you, Mr. Foreman. Would you like the entire statement read back to you or is it a portion of it?

MR. FOREMAN: The whole statement the defendant read to us when we first came in.

THE COURT: All right. You need the entire statement?

MR. FOREMAN: Yes, sir.

THE COURT: We're going to do that, but should we get to a point that you've gotten all the information you need, raise your hand and let me know, and I'm stop Madam Court Reporter. All right. We need quiet in the courtroom. Madam Court Reporter, we need you to publish that opening statement at this time.

"May it please the honorable Court. Good morning. My name is Weldon W. Stewart, Jr. I'm representing myself. Not because I want to be doing so, but because I feel like I have to fight for my life, and that's what I'm doing today.

"Please allow me to offer each of you my sincere apology for how long it took to select the jury yesterday. Most of that was my fault. I am inexperienced with this type of thing. I have never done this before, and I was just trying to take my time and do what I need to do.

"My defense is going to be based on the facts, and these facts that I am going to be presenting to you is going to be the truth. I am going to be telling the truth about myself, regardless if it makes me look bad or not.

"I am going to be telling you the truth about my life, regardless if it makes me look bad or not. I'm going to be telling you the truth about what happened on the morning of December the 6th 2000, regardless if it makes me look bad or not.

"I feel that you, as individuals, deserve to know the truth and to base your decision as to whether I should lose the rest of my life on the truth. And that's what I'm going to be giving you in my defense.

"My defense is not going to only be based on the one day of December 6, 2000. I'm going to take you back almost two years and show you a set pattern of behavior for myself and my girlfriend during those almost two years.

"I'm gong to show you the type of relationship we shared, and our habits, and that out of the times we have been together as girlfriend and boyfriend, no matter what happened, other boys, other girls, the good times, bad times, arguments, minor tragedies, we always stuck together. I never harmed her, never.

"The evidence is going to show you this. Witnesses are going to tell you this. I'm going to show you that on the

morning of December 6th 2000, my girlfriend's death was accidental. My opponent explained to you briefly about how my girlfriend came to see me that night.

"Ladies and gentlemen, she had to come from her room, tip toe past her parents' room, come out the front door of her house, come down the steps, get in the back seat of a car where I was sitting, was sitting right next to Monique Bright, ride with me over to [redacted]

"And when we dropped her off on the corner of [redacted] South Carolina, walk down one street with me, walk down another street, go to my backdoor, which is where everyone who's sneaking in my house. We had done this many, many times before, many, many times.

"This is where she always had to enter the house because my room is at the back of the house. My parents' room was at the front. Go into the back door, climb over all the junk that was back there. It was messy, and go into my room. She had to do all this just to see me that night, ladies and gentlemen. We had to go though all this just to be together that night.

"The evidence is going to show you this. It is going to show that, yes, we did get into a little argument that night. It was not because I was jealous or she was jealous. It was just that she -- we thinking about some things that had happened almost a year earlier. They were things that very

much upset her, a very traumatic experience for her.

"And it had her upset on that night because it was almost exactly a year after what had happened. I'll be providing you with evidence of that later on, and this led to some things -- arguments.

"She did not want to go back home when it was time for her to go back home. She never wanted to go back home when it was time for her to go back home. She wanted to stay with me, not to live with me, but she just sometimes forgot that she had to go back home when she was with me. And we just had an argument.

"We argued and fussed all the time. This was normal for us. This was our habit. This was our usual pattern of behavior. We were like a brother and sister. We would argue. We would fuss, make right back up, argue and fuss again. Nothing unusual for us.

"The evidence will show that I was just trying to convince my girlfriend that she needed to go back home. It was time for her to go back home, but she was upset. Things were bothering her, and she just wasn't ready to go back home yet.

"So I picked my girlfriend up to try to carry her where we were going. We were in my parents' backyard, and we were trying to go through a path where we could gain access to the next yard over so that we could meet Stanton Wright so that he

could take my girlfriend back.

"I did not have a car, so I had to rely on someone else to get us back and forth. And I was trying to carry my girlfriend in my arms through a path. If you look at these photographs, you will see the path that I was trying to carry her through. You will notice that at the bottom of this path, there are a lot of boards.

"And I was trying to carry my girlfriend through the path. I had her in my arms. And she was upset. Ladies and gentlemen, she is not just letting me hold her in my arms. Ladies and gentlemen, she was twisting and turning. She wasn't ready to go back home. She was a little upset. She wasn't a bad person. She wasn't a jealous person. She was just a little upset.

"And I carried her through the path and I tripped and fell with her in my arms over one of the sticks in the path. Ladies and gentlemen, on that morning, I was a good bit larger than I am now. My girlfriend was about this tall, barely a hundred pounds.

"I fell first. I fell with her in my arms. We fell face first. She fell. I fell on top of her. This was an accident, ladies and gentlemen. I was not trying to harm my girlfriend. I did not intentionally harm my girlfriend. I have never harmed my girlfriend for almost two years.

"All the times we argued and fussed, all the times people

would try to separate us, our parents included, we stuck together. You're going to hear testimony about that. I was not trying to harm her, ladies and gentlemen. I was just trying to get her home.

"I was never -- for one, our parents did not know that we were together, as my opponent told you. And we were sneaking around, and the longer we wasted, the closer it brought us to getting caught by her parents.

"And, ladies and gentlemen, that was the worst thing I imagined happening on that morning, the worst thing. Getting caught by our parents was the worst thing that I could imagine happening. That was a tragedy to me. That's what I thought a tragedy would be.

"What happened, ladies and gentlemen, was an accident occurred. Now, this was not an accident where my girlfriend fell, I fell on top of her and she broke her fingernail or sprained an ankle. Ladies and gentlemen, this is an accident where we fell, and she lost her life as a result of this accident.

"This was not a normal accident. This was not normal circumstances. It was not expected. I was not prepared for this. My mind couldn't handle it. I was scared. I was confused. I was shocked. I panicked. I panicked, ladies and gentlemen. I panicked.

"And in this panic state of mind, this scared, this

shocked and confused state of mind, I made some poor, poor choices after my girlfriend died, I made some poor choices, ladies and gentlemen.

"Yes, I should have called the police immediately. I can admit that, but I did not, ladies and gentlemen. I was scared. I was panicked. I was irrational. I was shocked. I just didn't know what to do. I made some poor choices after this tragedy occurred.

"As the hours, after this tragedy went on, I became more scared. I started panicking more. I became more and more irrational as the hours went on after this tragedy, and this led to the desecration, as my opponent described it, the burning of the body."

MR. FOREMAN: That's far enough.

THE COURT: Mr. Foreman, I think that we have covered everything that you requested, however, with that, I need to make a short additional statement to you now.

As you will remember, I explained in my opening statement to the jury that the opening statements by the parties were a brief outline.

MR. FOREMAN: Yes, sir.

THE COURT: Sworn testimony was later given in this case. So opening statements are not evidence. Opening statements can be used for limited purposes for type situations such as prior admissions, prior consistent or inconsistent statements,

things like that.

But I couldn't let you go back there without reminding you, now, as to what actually is in the evidence. An opening statement, technically, is not under oath and sworn statement.

MR. FOREMAN: I understand.

THE COURT: Any other inquiries at this time?

MR. FOREMAN: That's all.

THE COURT: Jury may step back.

(JURY RETURNS TO JURY ROOM TO CONTINUE DELIBERATIONS AT 6:06 P.M.)

THE COURT: Thank you, gentlemen, for your assistance with that. Anything else before we recess again?

MR. BLAKE: No, Your Honor.

(COURT IN RECESS AT 6:06 P.M. AND RECONVENES AT 7:10 P.M.)

JURY QUESTION NO. 5

(JURY ENTERS COURTROOM AT 7:12 P.M.)

THE COURT: I am in receipt of a request concerning the jury wanting to be recharged on malice. Can everybody hear me?

Malice aforethought is an essential element in the crime of murder. What is malice? Malice is defined in the law of homicide as a term of art.

Malice does not necessarily mean an actual intent to kill. This is a technical term importing wickedness and excluding just cause or legal excuse.

It is something which springs from wickedness, from depravity, from a depraved spirit, from a heart devoid of social duty fatally bent on mischief. The words "express" or "inferred" malice do not mean different kinds of malice, but merely the manner in which the only kind of malice known to the law may be shown to exist.

That is to say either by direct evidence or inference. Malice may be express, as where previous threats of vengeance or lying in wait or other circumstances show directly an intent to kill was entertained.

Malice may be inferred where though no express intent to kill was proved by direct evidence, it may be inferred from the facts and circumstances which are proved.

Malice may be inferred from the willful, deliberate, and intentional doing of an unlawful act without just cause or legal excuse.

In other words, in its general signification, malice means the doing of a wrongful act intentionally without justification or legal excuse.

But even if facts proved are sufficient to raise an inference of malice, this inference would be simply an evidentiary fact to be taken into consideration by you the jury along with all the other evidence in the case. And you may give it such weigh as you determine it should receive as whether or not malice has been proved beyond a reasonable

doubt.

While malice may be inferred from use of a deadly weapon, where the circumstances related to the homicide are brought out in the evidence, this inference vanishes and the burden is on the State to prove malice by evidence satisfying the jury beyond a reasonable doubt.

And it will be observed, ladies and gentlemen, that there must be malice aforethought. While the law does not require that malice shall exist for any particular length of time before the commission of the act, it must be aforethought.

There must be a combination of the previous evil intent and the act producing the fatal result. But the State is not required to prove a motive for homicide.

An attempt to cover up how someone died can be evidence or an inference of malice. Also I charge you an attempt by defendant to mislead police to who committed a crime can also be evidence or inference of malice.

Now, as for the inquiry considering malice and the manslaughter. As I charged you, manslaughter is the unlawful killing of a human being without malice, express or inferred.

You will notice then, ladies and gentlemen, that this absence of malice is what distinguishes voluntary manslaughter from murder. I have instructed you that malice is an essential element of the crime of murder.

Malice is not an essential element of the crime of

voluntary manslaughter. The presence of malice in murder and the absence of malice in -- let me start over.

The absence of malice in voluntary manslaughter is what distinguishes these two offenses. Okay. You may step back.

(JURY RETURNS TO CONTINUE DELIBERATIONS AT 7:17 P.M.)

THE COURT: Any objection?

MR. BLAKE: No objection.

THE COURT: All right. We'll stand at ease.

(COURT IN RECESS AT 7:18 P.M. AND RECONVENES AT 8:48 P.M.)

THE COURT: They say they got a verdict. We got everybody? Bring them in, Mr. Clerk, please.

(JURY ENTERS COURTROOM WITH VERDICT AT 8:53 P.M.)

VERDICT OF THE JURY

THE COURT: Everybody, control themselves. No matter what this verdict may be, if you feel like you can't control your emotions, you need to step outside.

CLERK OF COURT: Mr. Foreman, have you reached a verdict?

MR. FOREMAN: Yes, sir.

CLERK OF COURT: Please hand it up.

THE COURT: All right.

THE CLERK: Your Honor Case No. 2000-GS-34-1919, the State v. Weldon Stewart, Jr., indictment for murder. The verdict is guilty of voluntary manslaughter. Foreman, Barney Walters, Date 8/1/03.

THE COURT: All right. Ladies and gentlemen of the jury,

is this your verdict and still your verdict so say you all?
(ALL JURORS ANSWER IN THE AFFIRMATIVE.)
Anything further of the jury?
MR. BLAKE: Not from the State, Your Honor.
MR. STEWART: No, sir.
MR. CROW: He said, "No, sir."
THE COURT: Okay. All right. Mr. Clerk, if you will have Mr. Foreman conform the verdict form to the back of the indictment, please.
CLERK OF COURT: That completes it, Your Honor.
THE COURT: Mr. Foreman, ladies and gentlemen of the jury, at this time, I'm going to ask you to step back to the jury room and relax just a minute and let me take care of some paperwork, please. I'll bring you right back in. Please, don't discuss anything until I bring you back in.
(JURY EXCUSED TO JURY ROOM AT 8:57 P.M.)
THE COURT: Solicitor, if you will, while we're having a brief recess, go ahead and be preparing his sentencing sheet with the correct code.
MR. BLAKE: Just finishing them right now.
THE COURT: Court stand at ease just a second.
(COURT IN RECESS AT 8:57 P.M. AND RECONVENES AT 8:59 P.M.)
THE COURT: Got it ready?
MR. BLAKE: Yes, Your Honor.
MR. CROW: He asked me a question, Your Honor. He wants

to make sure that he has an opportunity to make his motions at some point.

THE COURT: Sure. Bring them in.

(JURY ENTERS COURTROOM AT 9:00 P.M.)

THE COURT: Ladies and gentlemen of the jury, thank you very much for your patience. At this time, I want to thank you for your service this week. Thank you so much for your patience with the Court. I know it's been a long week, late on Friday night.

All of you are ready to go home to your family and loved ones and get on about your business. And you do that at this time because all of the business of the Court that would require further jury services is complete.

However, I'm a little different from other judges. If you would desire to stay and watch the continuation of this case, which the next phase will be any motion to be made. And then also after that the sentencing phase, you're more than welcome to stay and observe.

If that's what you would like to do, just stay right where you are. If you would rather go ahead and leave, you may do so at this time. As far as expense checks, Mr. Clerk?

CLERK OF COURT: Whoever is going to leave, go back to the jury room. One of my clerks will give you excuses and your check or they will give them to you if you leave a little bit later.

THE COURT: Madam Alternate, once again, thank you for standing by. We appreciate your services once again. All right. All right. With that said, if y'all are comfortable where y'all are and would like to stay, you're welcome to do so. If you need to leave, whatever, just follow Mr. Clerk's instructions. Normally, these matters will not take that long. All right. Any motions from the Defense?

MR. STEWART: I would like to make a motion for a new trial, but I would request to be granted leave to reduce that motion to writing.

THE COURT: Okay. Well, I'm going to deny it now on a verbal motion, but you certainly may file whatever you would like to in writing. It needs to be done in ten days.

Let me go ahead and advise you also at this time while I'm speaking of ten day situation. Once we've had the sentencing and mitigation hearing, once you're sentenced, you certainly need to be aware that you have a right to appeal.

Any notice of appeal has to be filed within ten days. Okay.

MR. STEWART: Yes, sir.

SENTENCE OF THE COURT

THE COURT: All right. With that said, you may approach the bar of justice for mitigation and sentencing. Sheriff, will you go ahead and cuff the defendant. Solicitor.

MR. BLAKE: Do you want to start with the murder case,

Your Honor, or the desecration?

THE COURT: The manslaughter.

MR. BLAKE: Manslaughter. Do I need to read it in the record?

THE COURT: Whatever you like to tell me.

MR. BLAKE: Okay. I think the facts that have come out in this case, obviously, a very difficult case to hear and decide. The State certainly appreciates all the work that the jury did.

Mr. Stewart's background came out during the case. He did have problems as a juvenile, and they are relevant to sentencing. He has both an ABHAN which was the stabbing charge, and at the same time, he had a charge for weapon on school ground.

That was back in 1997 in [redacted] High School. That was as a juvenile, and he also had a second charge which was petit larceny. That case came out during the trial. That involved not paying for his meal at a restaurant.

Other than that, sentencing is certainly in the Court's hand. The Court has heard all the facts, sometimes laboriously. I think the Court is very familiar with the situation, and just ask the Judge to sentence appropriately.

Of course, we have both the voluntary manslaughter as well as an earlier plea to desecration of human remains, which Mr. Stewart pled guilty to back on October 17, 2002, and I

think that was in front of Your Honor, also. Sentencing was to be delayed upon completion of the murder case.

THE COURT: All right. So to be absolutely, crystal clear on the record, manslaughter -- voluntary manslaughter carries up to 30 years. We're all in agreement on that. If I read my penalty book correctly. Desecration of human remains will carry up to ten years.

MR. BLAKE: That's my understanding, Your Honor.

THE COURT: All right. I'll come back to family members in just a minute. Mr. Stewart, anything you'd like to say in mitigation?

MR. BLAKE: They did not.

THE COURT: She chose not to make any statement?

MR. BLAKE: Yes, sir.

MR. STEWART: I think I proved that I was not guilty of the charge. That's it.

MR. BLAKE: Your Honor, this is Soraya Allen, the mother of victim, and she has a statement she'd like to read?

THE COURT: Mrs. Allen.

MRS. ALLEN: My children are the love of my life. [redacted] was my only daughter. We did a lot of things together. On Wednesday night, I slept with [redacted] so we could talk about anything that was bothering her. We went to school games together, shopping together, and to the hair dresser together.

I miss doing all these things with my daughter. My family gave Weldon Stewart a second chance, and what did he do? He killed our baby girl. One thing I have learned, never to say what your child won't do, just pray and hope they won't do.

No one could have ever told me that December 5th 2000 would have been the last time I saw my baby, dead or alive.

That night, she kissed me goodnight and she said, "I love you." Every night, she did this, and in the morning, we also did this.

My family never had a chance to kiss her and tell her goodbye. I never said [redacted] was an angel, but she was my angel.

Sir, I ask that you give Weldon Stewart the maximum sentence that he can get. Thank you.

THE COURT: Thank you, Mrs. Allen.

Mr. Stewart, I've heard all of this, and out of the 12 years I've been on the bench, out of the homicide cases that I've tried, this is absolutely one of the worst. And just the circumstances are totally uncalled for.

And it wasn't too far into the case that I realized and now I especially realize, and you may not be clear to this yet, but there is ample evidence, if there had been an indictment presented for possible conviction for criminal sexual assault conduct with a minor; that I understand this

victim was less than 16.

But you don't stand convicted of that. You may be charged for that later, but that's none of my business, now. The point I'm trying to get to is it is a shame that all this came about on a relationship with a child that was less than 16.

The loss of a child is probably the worst possible scenario a parent can go through. More so than probably losing a spouse or parents.

The victim will not have a chance to experience any enjoyment of adult life. It gives me great problem too, this family on the desecration charge, was in a way denied the ability to have a complete burial tradition like most families will have.

And no matter what happens, you stand convicted of voluntary manslaughter and you're charged with murder. No matter what happens, death of that child is inexcusable. No medical help was sought, and then to burn that body like it was some kind of ritualistic offering on that platform that I saw, whatever it was.

And denial of that family a proper burial as many would say. I would have a hard time finding much sympathy in sentencing.

No matter what mistakes we make in life, whether it's criminal or innocent, it's not that hard to dial 911 and ask

somebody for help.

So on the voluntary manslaughter conviction, the sentence of the Court is you be confined to the maximum sentence of 30 years in the State Department of Corrections.

On the desecration of human remains, the sentence of the Court is you be confined to the State Department of Corrections for the period of nine years. That is consecutive.

Sheriff, you will immediately deliver this defendant to the custody of the Department of Corrections for service of this sentence. All right. Court is now adjourned.

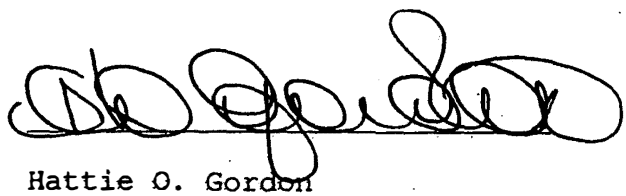
(COURT ADJOURNED AT 9:14 P.M.)

- - - END OF TRANSCRIPT OF RECORD - - -

CERTIFICATE

I, the undersigned Hattie O. Gordon, Official Court Reporter for the Fourth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Marlboro County, South Carolina, on the 1st day of August 2003.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.



Hattie O. Gordon

Circuit Court Reporter

September 18, 2003

Wallace, South Carolina

WITNESSES

Officer: Gurley, Dallas

Agency: Bennettsville Police Department

WARRANT NUMBERS

DIRECT

2003 JAN 13 P2:17
JAMES FLOWERS CLERK
CLERK OF COURT
MARLBORO COUNTY, S.C.

795

ACTION OF GRAND JURY

True Bill 10/10/02

Shelby J Bracken

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury Date

DOCKET NO. 2002-GS-34-1918

The State of South Carolina

County of Marlboro

COURT OF GENERAL SESSIONS

OCTOBER TERM 2002

THE STATE

vs.

Weldon Stewart Jr.

CDR CODE 471

Indictment for
§16-17-0600(A)

DESTRUCTION, DESECRATION OR REMOVAL OF HUMAN REMAINS

A CERTIFIED TRUE COPY
William B. Lunderdale
CLERK OF COURT
MARLBORO COUNTY

766

STATE OF SOUTH CAROLINA)
) INDICTMENT FOR
County of Marlboro)
) **§16-17-0600(A)**
) DESTRUCTION, DESECRATION OR REMOVAL OF HUMAN
) REMAINS
)

At a Court of General Sessions, convened in October 2002 the Grand Jurors of Marlboro County present upon their oath:

That Weldon Stewart, Jr. in the County of Marlboro on or about December 06, 2000, did wilfully and knowingly, and without proper legal authority, desecrate the human remains of one [redacted] Allen, to wit: by setting her body on fire. This is in violation of Section 16-17-0600 of the Code of Laws of South Carolina (1976), as amended.

'03 JAN 13 P2:17
WILLIAM D. FUNDERBURK
CLERK OF COURT
MARLBORO COUNTY, S.C.

A CERTIFIED
TRUE COPY
William B. Funderburk
CLERK OF COURT
MARLBORO COUNTY

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

DOCKET NO. 2002-GS-34-1918

Solicitor