

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Brian M. Gibbons, Circuit Court Judge

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Oct 15 2025

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

WILLIAM ARTHUR KELLY,

APPELLANT

APPELLATE CASE NO. 2024-001153

AMENDED RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA **TRANSCRIPT OF RECORD**
2 COUNTY OF LEXINGTON CASE NO.: 1996-GS-32-03226

3

4 ****Resentencing hearing**** **ORIGINAL**

5

6 May 20-22, 2024

7 **BEFORE:** The Honorable Brian M. Gibbons

8

9 THE STATE OF SOUTH CAROLINA,

10 Plaintiff,

11 vs.

12 WILLIAM A. KELLY,

13 Defendant.

14

15

16 APPEARANCES:

17

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20 Appearing for the Plaintiff/State.

21 Sarah Mauldin, Esq.
22 Appearing for the Defendant.

23 Official Stenographer Court Reporter
24 Natalie Dahl, RPR
25 National Registered Professional Reporter

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19 **COURT'S EXHIBITS**

20 (NONE)

21

22	Transcript Legend	
	Dash (--)	Indicates an interruption in speech
23	Ellipses (...)	Indicates trailing off in speech
	Phonetic (ph)	Indicates a phonetic word
24	(sic)	Indicates word(s) is as said

25

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P R O C E E D I N G S

THE COURT: Thank you. Be seated. Just give me a minute.

(A brief pause in the proceedings.)

THE COURT: Madam Court Reporter, this is the matter of William Kelly v. State of South Carolina, Docket 96-GS-32-03226.

This matter was assigned to me on -- by order of Chief Justice Costa Pleicones back in August of 2016. There have been several status conferences that the Court has conducted with various attorneys in the matter, and the case is finally in front of me for a hearing on this motion that was filed back in July of 11, 2016 for resentencing pursuant to the South Carolina Supreme Court case *Aiken v. Byars*. So I've called the hearing to order.

The State is present and represented by Solicitor Hubbard. The defense is present as well. Mr. Kelly is present. I will defer to the attorneys, if you will let me know how you wish to proceed.

MR. HUBBARD: If it please the Court, Your Honor, I'll state briefly why we are here. You've put on the record that it is a resentencing. I think it is important to know as we go into this,

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1 as you hear pieces of this case, kind of know just
2 the general story.

3 Mr. Kelly was almost 18 years old when this
4 incident occurred back on January 5, 1996. Five
5 months shy -- five months shy of being 18. This
6 occurred at a Kentucky Fried Chicken in
7 Batesburg-Leesville in Lexington County.

8 He worked at that Kentucky Fried Chicken and
9 either had quit or had been fired one month before.
10 It really doesn't matter to us which way it went,
11 but there was evidence of both.

12 The day of this incident, Your Honor will
13 hear that he comes back to that Kentucky Fried
14 Chicken ostensibly to see his colleagues, including
15 the manager, who is the victim in this case,
16 Shirley Shealy. She was all of 25 years old,
17 married to her husband, Neil, who is in the
18 courtroom. She had a young son, Alex, who is now a
19 grown man sitting in this courtroom, and she was
20 six months pregnant.

21 On this day, she goes to work like every
22 other day, and she's working second shift. You
23 will hear that she and one other person were
24 closing up that night. They usually stop around 10
25 o'clock. So they are done closing anywhere from

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1 10:20, 10, 30 somewhere in that range.

2 It is Barbara Adams who is working with her,
3 who will say it is the last night I saw her. We
4 went and got in our cars. Shirley left before I
5 did, turned right to go home, and never saw her
6 again.

7 Not long after that, probably closer to
8 almost 11 o'clock that night, an officer -- who is
9 in the courtroom -- Steve Clare, will say he's
10 driving by and sees this car that he knows belongs
11 to Shirley Shealy, the manager. Small community,
12 everybody knows everybody. It's out front, door
13 open, lights on, engine running, and the store
14 looks dark.

15 So when he pulls in, he sees a head bob
16 inside that store as he is pulling in. Doesn't
17 look good. Front door is opened. He steps in, and
18 he sees back in the kitchen what appears to be a
19 body on the floor, blood everywhere, money
20 everywhere. He backs out, calls his -- the
21 chief -- who is going to testify -- Chief Oswald,
22 who was there for 42 years, I believe.

23 They bring in SLED and do a full
24 investigation. Turned out, this young man went
25 through the drive-thru window, escaped with his

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1 car. We'll hear all of that evidence. He flees to
2 Massachusetts where he has a sister. He is
3 apprehended several days later, gives a statement
4 admitting what he did. And you'll hear about
5 different statements he made. They are all
6 different, and they are all important.

7 Anyway, this case went to trial in September
8 of '98 in front of the citizens in this community,
9 and they sentenced him to death. This young man
10 looked like a baby-face person. They heard the
11 heinous facts, because the facts were this:
12 Shirley Shealy was stabbed some 31 times in the
13 body, about three other stab wounds to the neck
14 area. Her throat was slashed, and she bled out,
15 and did not bleed out fast. This was a horrifying
16 death. The scene will show struggle, resistance,
17 and it's a bad scene.

18 So this jury convicted him and sentenced him
19 to death. Then January 8th of 2001, our supreme
20 court affirmed the case.

21 Later on, January 9 of 2002, the U.S. Supreme
22 Court reversed this case because of a jury charge
23 by the judge -- no mistake on the part of the
24 State -- and it had to do with parole eligibility.
25 Your Honor will remember that we went through that

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1 time where everyone was trying to read the tea
2 leaves. What is our U.S. Supreme Court going to
3 say, and a bunch of cases got reversed because of
4 that.

5 March 1 of 2005, *Roper v. Simmons* came down
6 and said you can't execute anybody who is under 18,
7 so he is ineligible for death.

8 July 14 of 2006, Mr. Kelly was brought to
9 this courtroom and pled in front of Judge Keesley
10 to life on murder. My understanding was there was
11 no agreement. He just pled straight-up, looking at
12 30 to life. He had a plea for the kidnapping, too,
13 because as Your Honor knows that subsumed into the
14 murder charge in South Carolina.

15 Judge Keesley heard it and said on the
16 record, basically, there is only one sentence that
17 is appropriate, and at that time he said life. We
18 all thought we were good to go, and then June 25,
19 2012 the U.S. Supreme Court came down with *Miller*
20 *v. Alabama* and said mandatory life imprisonment for
21 persons under 18 at the time of the crime is
22 unconstitutional. You need to consider various
23 aspects of their age.

24 Our state supreme court on November 12 of
25 2014 in *Aiken v. Byars* set out five criteria that

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1 the Court looks at that Your Honor can consider.
2 Not that life is off the table, but just these
3 factors have to be looked at, and that is where we
4 are, Your Honor.

5 What we propose to do today, we have evidence
6 from that trial in '98; that's all in. The defense
7 is not objecting. We've premarked other items that
8 we're putting in. We will have a few live
9 witnesses that we'll put up. Their transcripts
10 will be part of what Your Honor sees. We will have
11 truncated transcripts for certain people who are
12 not here. We have those marked with the consent of
13 the defense, and what I'm going to put on the
14 record is the actual transcript for that trial back
15 in 1998. Those are State's 300 and 301. 301 is
16 actually the trial. 300 is most of the jury
17 strikes. So it's really not a massive transcript.

18 And then we have the transcript from the
19 actual hearing in 2006. That is 302. Then, I
20 believe, we also have, just for Your Honor, State's
21 303, and it is when he pled before Judge Keesley to
22 both murder and kidnapping and was sentenced. That
23 is what we proposed to do, Your Honor. That was
24 just resentencing at that time in front of Judge
25 Keesley. I said "plea." It's probably more

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1 accurate to say "resentencing."

2 Anyway, Your Honor, that is what we've got.
3 Thank you for being here and letting us present our
4 part of the story.

5 THE COURT: Absolutely.

6 Ms. Mauldin, I'll hear from you.

7 MS. MAULDIN: I'll reserve just some
8 introductory remarks for right before I present my
9 case, but I don't have anything else on the
10 procedural part.

11 THE COURT: Absolutely. All right. Well,
12 you know, I kind of met with the attorneys for the
13 benefit of those who are in the courtroom prior to
14 the commencement of the hearing to talk about how
15 -- the outline of this proceeding and how it will
16 go forward.

17 Again, this is a case where, essentially, I'm
18 sitting in the chair or the shoes of a trial judge
19 who is tasked, after listening to evidence in a
20 trial -- although, you know, the jury determines
21 the ultimate guilt or -- conviction, but the trial
22 judge then has the duty of sentencing the
23 defendant.

24 So, you know, since nobody is contesting
25 there is a conviction, no one is contesting that

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1 he's currently serving a life sentence, the issue
2 is whether or not those five factors -- any of
3 those five factors, there just needs to be an
4 analysis of those five factors sent down by the
5 United States Supreme Court, and then this Court
6 will determine the appropriate sentence.

7 I spoke with the attorneys about how we will
8 proceed. There are going to be matters where
9 evidence -- and, again, this is not an evidentiary
10 hearing, but things will be handed up to the Court
11 to consider. I don't necessarily need to hear, you
12 know, people reading transcripts, because I can
13 read. But, you know, this is a sentencing hearing,
14 and both sides will be able to tell me whatever
15 they want to tell me as to what the sentence should
16 be, okay, whether it should remain the same,
17 whether it should be changed, and if it is going to
18 be changed, what it should be. I'll allow you to
19 all fully explore that. You know, we can go
20 however you all wish to proceed.

21 It is my understanding that the State -- Ms.
22 Mauldin, you are okay with the State going forward
23 first, and of course if you wish to cross examine
24 witnesses, you can. And, again, the Rules of
25 Evidence don't apply, as we've all agreed upon,

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1 since this is a sentencing hearing, and we can go
2 from there; is that correct?

3 MS. MAULDIN: Yes, sir.

4 THE COURT: All right.

5 MR. HUBBARD: Thank you, Your Honor.

6 MS. MAYES: Pursuant to *Aiken v. Byars*, 765
7 *S.E.2d* 572, 2014. I'm going to pass up to the
8 Court a summary of those five factors, and of
9 course the Court already has a copy of the *Aiken v.*
10 *Byars*, but just in summary, Your Honor, to keep the
11 record clear in that regard.

12 THE COURT: All right.

13 MS. MAYES: Your Honor, the State has
14 selected various excerpts from the transcript. As
15 Your Honor, pursuant to State's 300 and State's
16 301, this is an extremely voluminous record. Our
17 transcripts are sitting right up here on the table,
18 Your Honor, but it would take all parties about a
19 month to go through the transcript, if that is how
20 we were going to do it.

21 We selected excerpts, Your Honor, and our
22 understanding is there is no objection from the
23 defense.

24 THE COURT: Correct, Ms. Mauldin?

25 MS. MAULDIN: Yes.

1 THE COURT: I mean, the trial transcript has
2 been thoroughly reviewed by the appellant courts.
3 Was this a direct appeal through the South Carolina
4 Supreme Court? It didn't go through the court of
5 appeals?

6 MS. MAYES: Direct appeal.

7 THE COURT: So our supreme court has
8 thoroughly considered this appellant record -- or
9 that would be the record on appeal, which includes
10 the transcript, so that's the law of the case. All
11 right.

12 MS. MAYES: Your Honor, the first excerpt
13 will be State's 160, and this is a portion of the
14 testimony of Barbara Adams. Barbara Adams was a
15 co-worker at the Kentucky Fried Chicken in
16 Batesburg-Leesville with the victim in this case,
17 Shirley Shealy, in 1996.

18 For the record, the date of this offense is
19 January 5, 1996. It occurred during the nighttime
20 hours, and this was a Friday evening.

21 Pages 1257 through 1275 of the transcript
22 reflect the testimony of Barbara Adams.

23 Question: Ms. Adams, where do you work?

24 Answer: KFC.

25 Question: Now, were you working there in

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1 '95 and '96?

2 Answer: Yes.

3 Ms. Adams, were you working there at the
4 time that Shirley was killed?

5 Answer: Yes, I was.

6 Did someone named Billy Kelly also work at
7 KFC?

8 Answer: Yes, he did.

9 Question: At the time Shirley was killed,
10 was he still working there?

11 Answer: No.

12 Question: Okay. Now that -- now, in that
13 office, the time Shirley was killed, who was the
14 manager there at the office?

15 Answer: Shirley.

16 Question: Okay. Who was responsible for
17 counting up the money and making deposits and things
18 like that?

19 Shirley.

20 Who had the combination to the safe?

21 Shirley.

22 Now, did the employees, all of you, know
23 where the safe was?

24 Yes.

25 And did you stay that day from 4:00 until

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1 close, around 10:00, 10:30 or so?

2 Answer: I stayed there until we closed.

3 Now, let me ask you this: At any time
4 during that day, did you see Billy Kelly there at
5 the KFC?

6 Answer: Yes, I did.

7 Question: And was he there for just
8 minutes, or was he there for a long period of time?

9 A couple of hours, I guess.

10 So the money stays in the safe overnight?

11 Yes, it did.

12 That is the drive-thru window. Now when,
13 you close up at night, what do you all do about that
14 window, Ms. Adams?

15 Answer: We have to make sure it's locked.

16 And who made sure that that window was
17 locked that night that Shirley was killed?

18 I did.

19 Again, in reference to the drive-thru
20 window.

21 Now, cleaning up around there, Ms. Adams,
22 who were the last two people to walk out of the KFC
23 that night when the door was locked?

24 Shirley and I.

25 And what is that? Around 10:25 or 10:30.

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1 Somewhere between 10:20 and 10:25.

2 Somewhere in that area.

3 Which door do you all go out?

4 We go out that door on the left.

5 And who locks the door?

6 Shirley locked the door.

7 Were you there to see her lock them?

8 Yes.

9 Did you see Shirley get in her car?

10 Yes. I saw her go to the car and get in.

11 On redirect examination: Is this the same
12 statement that that lady just showed you?

13 May I publish it, Your Honor?

14 Yes. Me and Shirley were the only two
15 people inside the building at 10:24. Mary Coleman
16 left about 30 minutes before me and Shirley. I
17 finished cleaning up, and Shirley clocked me out. I
18 got my coat and walked out the front door with
19 Shirley. Shirley locked the front door. Me and
20 Shirley walked to our cars together in the back of
21 the store by the dumpster. Shirley drove off before
22 me, turning right out of the parking lot. I pulled
23 my car up next to the KFC sign to let it warm up. I
24 sat there for about five minutes before pulling out
25 and driving straight across the road.

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DIRECT EXAMINATION - STEVE CLARE

1 The Solicitor: Ms. Barbara, when Shirley
2 pulled out and left that night, did you ever see her
3 again?

4 Answer: No.

5 MS. MAYES: Your Honor, at this time the
6 State calls Steve Clare.

7 (STEVE CLARE, having been duly sworn,
8 testified as follows:)

9 THE WITNESS: My name is Steve Clare, last
10 name C-L-A-R-E.

11 DIRECT EXAMINATION

12 BY MS. MAYES:

13 Q Good morning, Mr. Clare. Where are you -- or
14 tell us where you were employed throughout most of
15 your career?

16 A Batesburg-Leesville Police Department.

17 Q What was your job description there
18 throughout the years?

19 A At that time, I was patrol supervisor.

20 Q Are you now currently retired from law
21 enforcement?

22 A Yes, ma'am.

23 Q Going back to the time frame of 1996,
24 specifically in January of 1996, what was your job
25 title or description back then with the

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DIRECT EXAMINATION - STEVE CLARE

1 Batesburg-Leesville Police Department?

2 **A** I was a corporal shift supervisor.

3 **Q** All right. Now, when you say "shift
4 supervisor," does that include routine patrol?

5 **A** Yes, ma'am.

6 **Q** Around the area of Batesburg-Leesville?

7 **A** Yes, ma'am.

8 **Q** I want to take you back to a Friday night,
9 January 5th of 1996. Were you working patrol
10 during that time frame?

11 **A** Yes, ma'am.

12 MS. MAYES: Your Honor, without objection, we
13 have aerial photographs. That is State's 151 and
14 150.

15 MS. MAULDIN: Without objection.

16 THE COURT: Without objection.

17 (State's Exhibits 150-152 prior stipulated.)

18 **Q (BY MS. MAYES)** I'll show you State's --

19 THE COURT: Were those introduced at the
20 trial?

21 MS. MAYES: Your Honor, these would be new
22 exhibits?

23 THE COURT: Okay. Just refer to anything
24 that is coming in for this hearing that wasn't
25 available 26 years ago, whenever this case was

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DIRECT EXAMINATION - STEVE CLARE

1 tried. Just make sure that the record references
2 that. Thank you.

3 MS. MAYES: This would be -- I will reference
4 them as "new" and "old." So this would be State's
5 New 150 and State's 151.

6 **Q** **(BY MS. MAYES)** Now, looking here at this
7 overhead, Mr. Clare, does this properly reflect
8 that area of Batesburg-Leesville that you are
9 familiar with?

10 **A** Yes, ma'am.

11 **Q** What is this highway that runs right here?

12 **A** That's U.S. No. 1.

13 **Q** And just as a point of reference, if you were
14 driving down this highway in this direction, would
15 that be towards or away from Aiken?

16 **A** Towards Aiken.

17 **Q** So this would be towards Aiken here?

18 **A** Yes, ma'am.

19 **Q** Now, Lexington, for examples, if you are
20 driving this way, are you going towards or away
21 from Lexington?

22 **A** Towards Lexington.

23 **Q** Now, what is this building that we see here
24 in the foreground of State's 150?

25 **A** Kentucky Fried Chicken.

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DIRECT EXAMINATION - STEVE CLARE

1 Q What is the name of this particular highway?

2 A Columbia Avenue.

3 Q Is it also known as No. 1?

4 A Yes, ma'am.

5 Q Now, what were these commercial locations
6 back in 1996? I'm looking at particularly the one
7 right here, and it has a sign.

8 A That's Burger King.

9 Q And this particular location? And, again, I
10 see a sign.

11 A That would be Hardee's.

12 Q Can you tell us whether or not there was a
13 convenience store located at that intersection or
14 at that corner?

15 A Yes, ma'am.

16 Q So you would have a Kentucky Fried Chicken,
17 Burger King, a Hardee's, and also a convenient
18 store?

19 A Yes, ma'am.

20 Q Back on a Friday night around 10:30 or so in
21 Batesburg-Leesville, how populated was this area in
22 Batesburg-Leesville as opposed to other areas?

23 A The area around the intersection?

24 Q Yes.

25 A Just a few stores and the Burger King.

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DIRECT EXAMINATION - STEVE CLARE

1 Q So going back to 1996, what was known as "the
2 strip," Mr. Clare?

3 A No. 1.

4 Q So this area right here would have been known
5 as "the strip"?

6 A Parts of the strip, yes, ma'am.

7 Q And would that have been populated back on a
8 Friday night in 1996?

9 A Yes, ma'am.

10 Q So what time were you familiar with the
11 Kentucky Fried Chicken normally closing?

12 A Around 10 o'clock.

13 Q All right. And other locations, such as the
14 Burger King up here in the intersection, did that
15 also close at 10:00, or was it opened a little
16 later?

17 A It was opened later.

18 Q Okay. So there would still be people out and
19 about in this area on a Friday night?

20 A Yes, ma'am.

21 Q What, if anything, unusual did you observe
22 while conducting patrol on this night in 1996?

23 A When I was traveling down No. 1 headed
24 towards Lexington, I observed the manager's car in
25 the parking lot with the door opened, and it

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DIRECT EXAMINATION - STEVE CLARE

1 appeared to be running.

2 Q And you say you saw the car and it appeared
3 to be running. I'm going to hand you this and ask
4 you if you can show us where on this diagram you
5 recall seeing that -- or on this photograph, excuse
6 me?

7 A In that area right there (indicates).

8 Q And was the car facing No. 1 or facing away
9 from No. 1?

10 A It was facing No. 1.

11 Q Facing No. 1. And were the lights on or off?

12 A The lights were on.

13 Q So it appeared to be running?

14 A Yes, ma'am.

15 Q And did you recognize that vehicle?

16 A Yes, ma'am.

17 Q How did you recognize it?

18 A I -- I knew the manager, Shirley Shealy, and
19 I knew the vehicle.

20 Q What else did you notice about that vehicle
21 as you rode past on No. 1 past Lexington?

22 A The driver's door was opened.

23 Q Did that seem usual or unusual?

24 A That was unusual.

25 Q And was this after closing time?

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DIRECT EXAMINATION - STEVE CLARE

1 **A** Yes, it was.

2 **Q** What action did you take after that?

3 **A** After I observed the vehicle in the parking
4 lot, I proceeded down No. 1, and I turned around in
5 Ervin's Auto Parts, which is the business next
6 door. Then I went back, and I turned into the
7 parking lot of Kentucky Fried Chicken.

8 **Q** So you pulled in, and then you turned around
9 in the parking lot. I want to take that a little
10 bit slower and ask you a few more questions. Hold
11 on to that, please.

12 As you turned into the parking lot, what, if
13 anything, did you observe, Mr. Clare?

14 **A** As I turned in the parking lot, the
15 drive-thru window is right in that area, right
16 there (indicates). As I was driving by the
17 drive-thru window, I thought I saw somebody duck
18 down.

19 **Q** All right. And from the -- from your point
20 of view, could you make out anything about that
21 person that you saw duck down? Did you make out
22 any particulars of their features?

23 **A** No, ma'am.

24 **Q** So you just saw what appeared to be an
25 individual ducking down?

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DIRECT EXAMINATION - STEVE CLARE

1 **A** Yes, ma'am.

2 **Q** And you knew that this was past closing time?

3 **A** Yes, ma'am.

4 **Q** Was that usual or unusual?

5 **A** That was unusual.

6 **Q** Now, when you turned in, tell us what you
7 were doing in terms of your vehicle for security
8 reasons?

9 **A** As I turned into the parking lot, I cut my
10 alley light on, which is a spotlight on your light
11 bar so you can see left or right, and I also turned
12 on my spotlight.

13 **Q** Okay. So those lights would be visible to
14 anyone looking at your vehicle?

15 **A** Yes, ma'am.

16 **Q** And are they -- can you tell us whether or
17 not that is a strong lighting source that would
18 allow you to see around the parking lot area?

19 **A** Yes, ma'am.

20 **Q** So that would be visible to anyone else?

21 **A** Yes, ma'am.

22 **Q** And as you see someone appear to duck down in
23 this area, what did you do next?

24 **A** I continued to drive around the back of
25 Kentucky Fried Chicken, and then I pulled forward

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DIRECT EXAMINATION - STEVE CLARE

1 and stopped my car next to -- on the opposite side
2 of the manager's car.

3 MS. MAYES: Also without objection, I
4 believe, we have new exhibits, and that is State's
5 171, 155, 154, 153, and 152.

6 MS. MAULDIN: Without objection.

7 THE COURT: Without objection, entered into
8 the record.

9 (State's Exhibits 152-155 and 171 prior
10 stipulated.)

11 Q (BY MS. MAYES) Looking here at State's 171,
12 about where in this photograph did you observe the
13 vehicle of Shirley Shealy?

14 A On the -- as you are looking at the Kentucky
15 Fried Chicken, on the left side.

16 Q At the point you first saw this vehicle, you
17 indicated that the headlights were on or off?

18 A They were on.

19 Q Did the car appear to be running?

20 A Yes, ma'am.

21 Q What else could you see from this area of
22 Highway 1 that was unusual about the vehicle?

23 A The driver's door was opened.

24 Q You say you were familiar with Shirley
25 Shealy?

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DIRECT EXAMINATION - STEVE CLARE

1 **A** Yes, ma'am.

2 **Q** You knew she was the manager?

3 **A** Yes, ma'am.

4 **Q** You also recognized her vehicle?

5 **A** Yes, ma'am.

6 **Q** And you said you understood that the store
7 would already be closed at this time?

8 **A** Yes, ma'am.

9 **Q** So as you come around, about where do you
10 park your car looking here on State's 171?

11 **A** I park on the opposite side of Ms. Shealy's
12 car.

13 **Q** All right. I'll show you State's 151 --
14 sorry, 154, also in evidence. It is a closer-up
15 view. Approximately, where are you parking your
16 car in relation to Ms. Shealy's car?

17 **A** This side of her car (indicates).

18 **Q** Now, looking here at State's 154, can you
19 tell us whether or not Ms. Shirley's vehicle is in
20 the same condition that you recall seeing it that
21 night? Is that the location you saw it that night?

22 **A** Yes, ma'am.

23 **Q** And looking here at the driver's side door
24 being opened, is that also how you recall it that
25 night?

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DIRECT EXAMINATION - STEVE CLARE

1 **A** Yes, ma'am.

2 **Q** Did you do or change anything regarding the
3 position of her vehicle or the condition of her
4 vehicle prior to this photograph being taken?

5 **A** No, ma'am.

6 **Q** Where did you go next once you got out of
7 your vehicle?

8 **A** After I got out of my vehicle, I went to the
9 front door. That would be on the left side if you
10 were looking towards Kentucky Fried Chicken.

11 **Q** Would that be this door here?

12 **A** Yes, ma'am.

13 **Q** What, if anything, did you observe about the
14 door that seemed unusual to you?

15 **A** When I pulled on the door, the door was
16 unlocked.

17 **Q** And, again, past closing time with an empty
18 car running, was this usual or unusual?

19 **A** It was unusual.

20 **Q** What happened next?

21 **A** I proceeded into the Kentucky Fried Chicken.
22 I walked to the counter, and I observed a body on
23 the floor in the back. There was blood on the
24 floor and money on the floor, and judging from what
25 I saw when I drove around the building, I figured

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DIRECT EXAMINATION - STEVE CLARE

1 the fellow who -- whoever did that was still in the
2 building, so I backed out and called for backup.

3 Q I'll ask you a few more questions about that.
4 I'm going to show you what is State's 153,
5 Mr. Clare. You indicated here, looking here, that
6 you came through the front entrance and you found
7 the door unlocked?

8 A Yes, ma'am.

9 Q Where did you go once you went inside the
10 building regarding the counter? Were you behind
11 the counter or over the counter?

12 A I was in front of the counter.

13 Q You were in front of the counter.

14 Looking here at State's 153, where would the
15 counter be, the approximate area of the counter in
16 this photograph?

17 A The counter would be more towards this end of
18 the photograph.

19 Q So if you were standing at the counter, but
20 not over the counter, looking into the kitchen
21 area, would this be an accurate view?

22 A Yes, ma'am.

23 Q Looking here at State's 153, Mr. Clare, tell
24 us what you observed that night?

25 A I observed, of course, the chair that was on

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DIRECT EXAMINATION - STEVE CLARE

1 the floor, the body on the floor, and blood on the
2 floor, money on the floor.

3 Q Okay. Was this staining here along the floor
4 visible to you?

5 A Yes, ma'am, I believe it was.

6 Q Did that appear to be consistent with blood?

7 A Yes, ma'am.

8 Q The chair that you noted, was it turned over
9 as we see here in State's 153?

10 A Yes, ma'am.

11 Q And the item or additions there to the chair
12 being Duct taped, would that have been visible to
13 you at that point in time?

14 A Yes, ma'am.

15 Q You mentioned money. Did you also see money
16 surrounding by what appeared to be blood?

17 A Yes, ma'am.

18 Q You mentioned seeing money at various
19 locations?

20 A Yes, ma'am.

21 Q And then looking further back, and I realize
22 that the lighting here is not adequate, but looking
23 here, what is the approximate area in which you saw
24 a body?

25 A It appeared to be back in this area

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DIRECT EXAMINATION - STEVE CLARE

1 (indicates).

2 Q Was the body face up or face down?

3 A I believe it was face down.

4 Q And at that point in time, can you make any
5 specifics or even determine whether this was male
6 or female?

7 A No, ma'am, I couldn't.

8 Q So upon seeing a body and having previously
9 seen what appeared to be someone ducking down
10 through the window, what were your concerns about
11 where the suspect or suspects may be?

12 A That the suspect may still be in the
13 building.

14 Q So what action did you take next?

15 A I backed out of the building, and I called
16 for officers to back me up.

17 Q Looking here at State's 154, once you called
18 for backup, Mr. Clare, where did you go next and
19 what actions were taken?

20 A After I called for backup, I was trying to
21 cover the whole building to make sure nobody got
22 out or nobody else went in, walking back and forth
23 just keeping a steady eye on the building.

24 Q Okay. Did you ever see anyone else exit the
25 building?

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DIRECT EXAMINATION - STEVE CLARE

1 **A** No, ma'am.

2 **Q** So I'm going to ask you a few more questions
3 about that. Back in the original trial in 1998,
4 there were State's Exhibit 1 and State's Exhibit 2.
5 State's Exhibit 1 depicts the exterior of the
6 Kentucky Fried Chicken being here and depicts U.S.
7 1. Do you remember that?

8 **A** Yes, ma'am.

9 **Q** And in looking here, what is located where we
10 see this vehicle (indicates)? What does that
11 reflect?

12 **A** That reflects the manager's vehicle.

13 **Q** Okay. So once you drive around to pull up
14 next to Ms. Shealy's car, would you have been able
15 to see anyone coming out of that drive-thru window?

16 **A** Yes, ma'am, as I passed it.

17 **Q** Okay. In other words, when you passed it,
18 you saw what appeared to be someone ducking down?

19 **A** Yes, ma'am.

20 **Q** But once you drove around and parked next to
21 Ms. Shealy, would have you been able to see what
22 was taking place on the opposite side of the
23 Kentucky Fried Chicken?

24 **A** No, ma'am.

25 **Q** Okay. So I want to talk about that a little

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DIRECT EXAMINATION - STEVE CLARE

1 bit further. Looking here at State's 171, you
2 indicated that the drive-thru window is where?

3 **A** Drive-thru window is on the right side in
4 that area right there.

5 **Q** All right. And is that also the area in
6 which you saw someone duck down as you drove
7 through with your lights on? Is that the side of
8 the building in which you saw someone duck down?

9 **A** Yes, ma'am.

10 **Q** And once you moved around, and then moved
11 over here and parked next to Ms. Shealy's car,
12 would you have been able to visualize anyone coming
13 out of that drive-thru window?

14 **A** No, ma'am.

15 **Q** And at that point in time, were you even
16 considering that the drive-thru window might be a
17 point of escape for the perpetrator?

18 **A** No, ma'am, I didn't.

19 **Q** So you held guard here once you came back
20 outside? You held guard here along the front of
21 the KFC?

22 **A** Yes, ma'am.

23 **Q** And as you were standing here along the front
24 of the KFC -- I'll show you what is State's 151.
25 As you are located here along this front area,

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DIRECT EXAMINATION - STEVE CLARE

1 would you have been able to visualize anyone
2 traveling away on foot back towards Hartley Street?

3 **A** No, ma'am.

4 **Q** So did you ever actually see the person leave
5 or flee that building?

6 **A** No, ma'am.

7 **Q** You remained here until backup arrived?

8 **A** In the front area, yes, ma'am.

9 **Q** In addition to backup arriving, could you
10 tell us whether or not agencies with the state law
11 enforcement also arrived?

12 **A** They arrived afterwards, yes, ma'am.

13 **Q** For purpose of the crime scene preservation?

14 **A** Yes, ma'am.

15 **Q** And evidence collection?

16 **A** Yes, ma'am.

17 **Q** Finally, I want to show you two more
18 photographs. This is going to be State's 155.
19 Looking at State's 155, does this properly reflect
20 Ms. Shealy's car as you remember finding it that
21 night?

22 **A** Yes, ma'am.

23 **Q** This vehicle we see here in State's 155, had
24 you already moved your vehicle outside of the way
25 by the time this vehicle was taken?

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DIRECT EXAMINATION - STEVE CLARE

1 **A** Yes, ma'am.

2 **Q** So once SLED arrived and crime scene efforts
3 were underway, and crime scene photographs were
4 being taken, you already moved your vehicle outside
5 of the way?

6 **A** Yes, ma'am.

7 **Q** So this is someone else's patrol vehicle?

8 **A** Yes, ma'am.

9 **Q** But Ms. Shirley's vehicle remained in place
10 exactly as you recalled it that night?

11 **A** Yes, ma'am.

12 **Q** And, finally, I'll show you State's 152.
13 State's 152 with the driver's side door open. Is
14 that how you recall it?

15 **A** Yes, ma'am.

16 **Q** In addition to the items located on the
17 ground, would this entire scene be as you recall it
18 that night?

19 **A** Yes, ma'am.

20 **Q** Did you do anything or change anything
21 regarding the condition of the scene, the vehicle,
22 or the items on the ground?

23 **A** No, ma'am.

24 **Q** So that's exactly how it was?

25 **A** Yes, ma'am.

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DIRECT EXAMINATION - STEVE CLARE

1 MS. MAYES: Beg the Court's indulgence.

2 Q (BY MS. MAYES) To your knowledge, you never
3 saw anyone actually flee out of the Kentucky Fried
4 Chicken that night; is that right?

5 A That's correct.

6 Q So were efforts underway from that point on
7 to potentially locate the suspect or suspects?

8 A Yes, ma'am.

9 Q Including bloodhounds?

10 A Yes, ma'am.

11 Q And a manhunt?

12 A Yes, ma'am.

13 Q You later went to the autopsy -- I believe it
14 was the following day -- for Shirley Shealy. Do
15 you recall that?

16 A Yes, ma'am.

17 Q Do you recall learning what the instrument or
18 mechanism of death was for Ms. Shealy?

19 A Yes, ma'am.

20 Q Had she been stabbed?

21 A Yes, ma'am.

22 Q Was that numerous times?

23 A Yes, ma'am.

24 Q And also at autopsy were there -- was there
25 money present, stuck to her body?

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CROSS EXAMINATION - STEVE CLARE

1 **A** Yes, ma'am.

2 **Q** Do you recall that being multiple
3 denominations of money?

4 **A** Yes, ma'am.

5 **Q** Stuck to her body?

6 **A** Yes, ma'am.

7 **Q** And bloodstained?

8 **A** Yes, ma'am.

9 MS. MAYES: Beg the Court's indulgence.

10 THE COURT: All right.

11 (A brief pause in the proceedings.)

12 MS. MAYES: Nothing further at this time,
13 Your Honor.

14 THE COURT: Ms. Mauldin.

15 MS. MAULDIN: Thank you, Your Honor.

16 **CROSS EXAMINATION**

17 **BY MS. MAULDIN:**

18 **Q** Good afternoon, Officer Clare -- afternoon
19 now.

20 **A** Good morning.

21 **Q** You wrote a report in this case?

22 **A** Yes, ma'am.

23 **Q** Do you remember your report?

24 **A** Yes, ma'am.

25 **Q** And the information that you had included

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REDIRECT EXAMINATION - STEVE CLARE

1 that after Ms. Adams and Ms. Shealy left the
2 building, that Ms. Adams saw Ms. Shealy leave the
3 KFC; is that correct?

4 **A** As far as I know, yes, ma'am.

5 **Q** Would it help to show you a copy of the
6 report just to refresh?

7 **A** Yes, ma'am. Yes, ma'am.

8 **Q** So Ms. Adams saw Ms. Shealy leave that night
9 in her car?

10 **A** Yes, ma'am.

11 MS. MAULDIN: Nothing further.

12 THE COURT: Redirect?

13 MS. MAYES: Yes, Your Honor.

14 **REDIRECT EXAMINATION**

15 **BY MS. MAYES:**

16 **Q** Just to clarify, going back here and looking
17 at State's 151 and State's 150, your understanding
18 is that both Ms. Adams, a worker at KFC, and
19 Shirley Shealy both left the parking lot together
20 in separate vehicles that night?

21 **A** They left in separate vehicles, yes, ma'am.

22 **Q** And you are familiar with this intersection
23 here on Highway 1, and if you take a right, can you
24 tell us whether or not that would have gone into
25 the direction of Ms. Shealy's residence?

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 **A** I believe so, yes, ma'am.

2 **Q** So something happened to bring Ms. Shealy
3 back to KFC?

4 **A** Yes, ma'am.

5 MS. MAYES: Thank you. Nothing further.

6 THE COURT: You may step down.

7 MR. HUBBARD: State calls Chief Wallace
8 Oswald.

9 (W. WALLACE OSWALD, having been duly sworn,
10 testified as follows:)

11 THE CLERK: State your name and spell your
12 last.

13 THE WITNESS: William Wallace Oswald,
14 O-S-W-A-L-D.

15 **DIRECT EXAMINATION**

16 **BY MR. HUBBARD:**

17 **Q** Chief, how long were you the chief of
18 Batesburg-Leesville?

19 **A** I was chief for 42 years.

20 **Q** You are refired now?

21 **A** Yes, sir.

22 **Q** And after 42 years, everyone still calls you
23 "Chief," and you are okay if I do that?

24 **A** Yes, sir.

25 **Q** And you and I have worked together for quite

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 a few years?

2 **A** Yes, sir.

3 **Q** This case back in 1995, you were obviously
4 the chief at that time?

5 **A** Yes, sir.

6 **Q** Do you recall getting a call from Steve Clare
7 or some other guys from your office about this
8 incident at Kentucky Fried Chicken that January
9 night?

10 **A** Yes, sir. Corporal Clare, and he called me,
11 yes.

12 **Q** And what did you do that night?

13 **A** I left immediately from my home. I had not
14 gone to bed yet. I went to the scene of Kentucky
15 Fried Chicken as it was then.

16 **Q** When you got there, was there any other
17 officers on the scene along with Steve Clare?

18 **A** Yes. Officer Walter Goss, and it was a
19 female officer, and I -- she did not stay long. I
20 can't remember her name -- Buick or something was
21 her name.

22 **Q** And had they made attempts to secure the
23 scene before you got there?

24 **A** Yes.

25 **Q** Now, when you got there, who did you talk to

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 to get a lay of the land of what was going on?

2 **A** Then, Corporal Clare.

3 **Q** Was there any concern at the time you showed
4 up that the suspect might still be inside that KFC?

5 **A** Yes. Because Corporal Clare was very adamant
6 that he saw someone move inside the place.

7 **Q** And you were also very much aware that you
8 had -- looked like a body down on the floor with
9 blood and money?

10 **A** That's correct.

11 **Q** Now, based on that, Chief, what did you all
12 do?

13 **A** Well, we researched the interior of the
14 building completely, you know, to make sure nothing
15 -- no one was in there. We realized the back door
16 was still bolted shut from the inside, so no one
17 could have gone out the back door. So we were
18 assuming then that -- they were looking in the
19 bathroom. There were tiles of the ceiling moved,
20 so we began to think that someone may be in the
21 ceiling above the ceiling tiles. So I called for
22 the fire department to bring us a ladder, and I
23 climbed into the ceiling and completely searched --
24 it was a drop ceiling roof, between the drop
25 ceiling and the actual roof of the building, and I

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 searched that entire area for someone.

2 Q Did you also actually search the actual roof
3 of the building?

4 A Yes, we did. We searched everything.

5 Q I'll show you what is referenced in the
6 original item, State's 1, with some photographs.
7 Chief, some pictures all the way around this KFC.
8 Do you see a ladder here? Is that where you were
9 going up on the roof?

10 A Yes. That's correct.

11 Q So you were still trying to clear the scene
12 and see if you had a bad guy there?

13 A That's correct.

14 Q Now, going in -- referencing State's No. 2,
15 have you seen this diagram back in 1998? Let me
16 see if I can get it to you, Chief.

17 A Yes.

18 Q Is this a layout of the Kentucky Fried
19 Chicken as it existed at that time?

20 A That's correct.

21 Q And these photos are around State's 2, Old
22 State's 2. Those were photos that were put in
23 evidence at the time?

24 A It appears so.

25 Q From the interior of Kentucky Fried Chicken?

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 **A** That's right.

2 **Q** Down at the bottom of State's 2, is this the
3 front door?

4 **A** That's correct.

5 **Q** And the portion here where you see two green
6 boxes that "cash" --

7 **A** Cash registers.

8 **Q** Those were registers. So that is the front?

9 **A** That's correct.

10 **Q** Off to the left side of this diagram, what is
11 that?

12 **A** The eating area. If anyone was eating inside
13 the establishment, that is where they would sit and
14 eat. And in the back of the area was a combination
15 of the restrooms and a door to the right that went
16 into the kitchen area.

17 **Q** Let's see. If you come to this counter, in
18 some ways, can you see back into this kitchen area?

19 **A** Yes, you can.

20 **Q** In going through the doorway, do you see a
21 figure where the body is?

22 **A** That's right.

23 **Q** Going into the kitchen into this little
24 alcove right off from the eating area, where are
25 the bathrooms located?

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 **A** The bathrooms was straight ahead and to the
2 left, two bathrooms.

3 **Q** Straight ahead would be the women's and to
4 the right here is the men's?

5 **A** That's correct.

6 **Q** And this is just an open area here?

7 **A** That's correct. And the men's one was the
8 one that had tiles lifted off the ceiling.

9 **Q** This one (indicates)?

10 **A** That's correct.

11 **Q** You mentioned a back door?

12 **A** Yes.

13 **Q** That back door was locked?

14 **A** Yes, from the inside.

15 **Q** So if somebody wants to get in from the
16 outside, they couldn't?

17 **A** No, they could not.

18 **Q** And no one could lock it back because it was
19 locked from the inside?

20 **A** That's correct.

21 **Q** The drive-thru window, do you see that over
22 on the left side of the building?

23 **A** Yes, I do.

24 **Q** Okay. Now, when you all went in and were
25 just trying to secure the scene, was the first

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 thought just we might have a suspect, we got to
2 catch him, we got to secure the scene?

3 **A** Correct.

4 **Q** Once you became fairly confident that there
5 was no suspect in that building, did you turn your
6 attention to the person lying on the ground?

7 **A** Yes.

8 **Q** Chief, you've been in Batesburg-Leesville for
9 forever. Did you know who that person was?

10 **A** Yes, I knew her, Shirley Shealy. I knew her
11 husband, Neil, Neil's parents. I knew all of them,
12 yes.

13 **Q** So this is not just a victim for you, this is
14 someone you know?

15 **A** Yes.

16 **Q** And, Chief, when you were able to
17 determine -- she obviously is deceased?

18 **A** Yes.

19 **Q** A lot of blood around there?

20 **A** Yes.

21 **Q** In fact, I'll show you -- you can't really
22 see it too well, but State's 153, because it is so
23 dark, I'll bring it up to you. Looking back from
24 that counter into that kitchen area, into this area
25 here, can you see Ms. Shealy back there, just a

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1 dark figure?

2 **A** That's correct.

3 **Q** And all of that blood, all of that was
4 visible?

5 **A** That was blood all the way from the office.
6 This is the office to the left right here with the
7 money, that was the little cubbyhole-type of
8 office, and there was blood and footprints all the
9 way from the chair from that office chair, all the
10 way back to her body, yes. And then there was also
11 blood from her body to that drain you have marked
12 in front of the bathroom. There was blood all the
13 way from her body to that drain.

14 **Q** Let's show the Judge on State's Exhibit 2,
15 the original diagram. The office was just right
16 off from where the counter was?

17 **A** That's correct.

18 **Q** And the safe is in that particular place.
19 Was it an aboveground safe or floor safe?

20 **A** Floor safe.

21 **Q** So just a little, round floor safe?

22 **A** Right.

23 **Q** And then the blood trail you saw was from,
24 basically, the office area all the way back to the
25 body, and then you said in this area where the

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1 bathrooms are. What is this figure drawn?

2 **A** That was a drain, and there was blood all the
3 way to the drain.

4 **Q** So there was a lot of blood at this scene?

5 **A** Yes, a lot.

6 **Q** Chief, having gone through and cleared
7 everything, who did you call out to assist you in
8 your law enforcement agency that night?

9 **A** I asked for a SLED forensic team processing
10 the scene, bloodhound team, and additional
11 investigators.

12 **Q** And did SLED respond and send their crew out?

13 **A** Yes, they did.

14 **Q** And the bloodhound team?

15 **A** Yes.

16 **Q** Do you remember who, in particular, was --
17 back then they called them ID, but today it is CSI.
18 Do you remember who was working then?

19 **A** Steve Derrick (ph), and we go way back.

20 **Q** I think we all do.

21 So Steve showed up and took over the scene?

22 **A** Yes.

23 **Q** So when we are looking at State's 2, when he
24 goes in, State's 2, that becomes his building?

25 **A** That's correct.

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 Q Everybody else steps out?

2 A Yes.

3 Q Meanwhile, you have bloodhounds?

4 A Yes.

5 Q SLED bloodhounds?

6 A That's correct.

7 Q Can you tell us -- let me start with this.

8 Before we get to the bloodhounds, when you come
9 back out, do you remember seeing Ms. Shirley
10 Shealy's vehicle?

11 A That's correct.

12 Q We showed some photographs there, State's 154
13 that we see up on the big screen right now. That's
14 where you remember seeing it?

15 A That's where her car was parked, yes.

16 Q As we see it on 154, has the engine been cut
17 off?

18 A Lights and engine cut off, but nothing else
19 changed.

20 Q Everything else was the same as you found it?

21 A Correct.

22 Q State's 152, was that door open?

23 A Yes.

24 Q What is -- did you notice this object right
25 here by the door?

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 **A** Yes, I did.

2 **Q** Where is it located? Is it by the driver's
3 door or back passenger's door?

4 **A** By the back passenger's door behind the
5 driver.

6 **Q** Did you take an opportunity to see what it
7 was?

8 **A** Yes. It appeared to be -- I referred to it
9 as a coloring page, like a child's coloring book
10 type of page, is what it was.

11 **Q** I'll show you what was put in evidence in
12 1998, State's Exhibit 50, and see if that looks
13 like what you are seeing lying on the ground in
14 State's 152?

15 **A** Yes. I remembered it being a coloring book
16 page, yes, like this.

17 **Q** And did you see other coloring book pages in
18 the vehicle?

19 **A** In the back seat, yes. They appeared to be
20 the same type as what was on the ground.

21 **Q** Okay. And when we talk about the back seat,
22 is there anything that struck you about -- about
23 when you looked into the back seat?

24 **A** Yes. All these items that were in the back
25 seat were not strewn just across the back seat. It

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1 appeared that everything had been pushed to the
2 other side, mostly behind the passenger's side of
3 the rear of the car, and then pushed over to that
4 area.

5 Q Okay. I'll show you the New State's 156.
6 Hard to see, but that is the driver's side?

7 A Back of the driver's seat, yes.

8 Q And back passenger's seat?

9 A Yes.

10 Q And you see boxes and things pushed over to
11 the other side?

12 A That's correct.

13 Q Some kind of blankets or something here on
14 the floor?

15 A That's correct.

16 Q And looks like maybe Christmas stockings?

17 A It was something to that effect, yes.

18 Q Chief, this was in January, not long after
19 Christmas?

20 A Not long after Christmas.

21 Q What do we see up here?

22 A Metal gas can.

23 Q A metal gas can?

24 A Yes.

25 Q I want to show you -- there was a picture

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1 that was put in the original trial, State's 28. Is
2 this a little bit photo showing that gas can?

3 **A** Yes.

4 **Q** But now when you talked about everything
5 seemed to be shoved over, do you remember how it
6 struck you at that time?

7 **A** Well, first, like I said, the fact that
8 things had been shoved over to the other side of
9 the car, it appeared -- I made reference back then,
10 and I remember that because I made reference to the
11 blanket and everything in the floorboard appeared
12 as if a dog -- the way a dog pats bedding down.
13 All of that was packed down as if someone was lying
14 on it.

15 **Q** So your impression when you looked in there
16 was that -- one of the things that struck you was
17 that it looked like somebody had moved stuff over
18 and was laying in the back seat?

19 **A** That's correct.

20 **Q** And the coloring book photos that we just
21 looked at, original State's 50, were there other
22 coloring book photos in that back seat?

23 **A** Yes, that matched the one on the ground.

24 **Q** Did you see any on the front seat?

25 **A** No.

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1 Q Just the back seat?

2 A Yes.

3 Q Now, you mentioned you know Ms. Shirley?

4 A Yes.

5 Q Looking back at State's 50 with this being
6 the Kentucky Fried Chicken, the road out in front
7 is?

8 A No. 1 Highway or Columbia Highway.

9 Q The intersection up here where the Hardee's
10 is and Burger King, what is that?

11 A That is 178, Highway 178. We called it Pine
12 Street in town.

13 Q Now, we heard Ms. Barbara Adams testify that
14 Shirley left outside of this parking lot and turned
15 right on Highway 1?

16 A Yes.

17 Q You knew Ms. Shirley?

18 A Yes.

19 Q Going home, would she turn right or left
20 coming out of the Kentucky Fried Chicken?

21 A Right.

22 Q So she made the proper turn if she's heading
23 home?

24 A Right.

25 Q This intersection with 178, would Ms. Shirley

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1 go straight or turn left or right?

2 **A** She would turn right.

3 **Q** Onto 178, and then go this way that I'm
4 showing on this exhibit, which is Picture 150?

5 **A** Yes.

6 **Q** And, Chief, did you know where she lived?

7 **A** Yes. They lived over at Old Golf Course Road
8 just outside of town.

9 **Q** So that road would take you to basically --

10 **A** Straight. Straight shot.

11 **Q** Straight shot.

12 And once you get outside of -- you cross over
13 23, does it become pretty rural pretty fast?

14 **A** Yes, it does.

15 **Q** And in January at 11 o'clock or some time
16 after 10:00, it's pretty dark?

17 **A** That's right.

18 **Q** Let's come back to the bloodhounds I
19 mentioned. SLED comes out, bloodhounds. You did a
20 search. You realize there is no one in that
21 building. Do you recall their dogs hitting
22 anything or picking up on a trail?

23 **A** Yes. Back then, I always went with the dogs,
24 one, to see where they were doing, and to give them
25 communications with the rest of our people. The

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1 dogs, they did -- the bloodhound team did what they
2 call "cutting" in that they check the building with
3 the dog, and then they began to get a trail that
4 they followed from the drive-thru window, which is
5 right there (indicates), that was the drive-thru
6 window, and the dogs trailed back towards the rear
7 of Kentucky Fried to this area here.

8 Q I'll show you what is entered as State's 151.
9 Looking at another angle, kind of looking with
10 Highway 1 being here, Chief, what area did those
11 bloodhounds go?

12 A They went into this -- it is not really
13 wooded, but a couple of trees and shrubbery right
14 there (indicates). At that time -- now, there was
15 a tall fence in back of Dosier Body Shop. But in
16 this area of the house, an empty lot. It was a
17 very short -- probably not even a -- maybe a 4-foot
18 fence there. It was a very short fence.

19 Q Chief, let me ask you: Up here in State's
20 151, you see another road up here?

21 A That is Hartley Street.

22 Q Hartley Street. What is this business next
23 to Kentucky Fried Chicken?

24 A NAPA Auto Parts.

25 Q This area that you are talking about, was

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 there like an open lot or part of a lot?

2 **A** Yes. There was part of an open lot here, in
3 this area right here.

4 **Q** That came to Hartley Street?

5 **A** That's correct.

6 **Q** Now, Chief, this is January. When you went
7 out there, do you recall seeing anything?

8 **A** In the area of that empty lot?

9 **Q** Yes, sir.

10 **A** The dogs trailed right to that empty lot and
11 right where it goes to Hartley Street. They
12 stopped. They did do cutting, as it is called,
13 where you check to see the large areas around, but
14 that was the only place where it stopped. And
15 where it stopped, we saw what appeared to be a
16 trail of a car, because the grass was mashed down,
17 freshly mashed down. It was at night. There was
18 some dew already on the ground and all of that. It
19 had the mashed-out area as if a car was pulled
20 there.

21 **Q** So it appeared that there was a car up here
22 near Hartley Street on that grass?

23 **A** That's correct.

24 **Q** In that lot?

25 **A** That's correct.

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 **Q** And that is where the trail ended for the
2 bloodhounds?

3 **A** That's correct.

4 **Q** Now, you have SLED working the crime scene.
5 You have bloodhounds outside. What does your
6 office folks on -- your investigators and your
7 officers --

8 **A** We began doing a backwards timeline with
9 everyone. With investigators and our own people,
10 we have them finding out -- contacting all of the
11 employees and backtracking with even customers that
12 we could find. Employees knew customers. We were
13 doing a backwards timeline from the time of them
14 leaving the store, Ms. Adams and Shirley leaving
15 the store, backwards, doing a backwards timeline.

16 **Q** Okay. And did you get any indication from
17 anybody that Shirley had left earlier in the day?

18 **A** She left earlier to make a deposit, yes.

19 **Q** But as far as closing for the night what was
20 the information you had of who closed the shop
21 down?

22 **A** She was the closer for that night.

23 **Q** And Barbara Adams was the only other person
24 with her?

25 **A** That's correct.

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1 **Q** Based on all of these interviews with
2 employees and maybe with other customers, did you
3 come up with another name of somebody who had been
4 there that day?

5 **A** Yes, we did. Billy Kelly or William Kelly.

6 **Q** Back in those days was he known as Billy
7 Kelly to everybody?

8 **A** Billy Kelly is what they called him, yes.

9 **Q** Everyone knew him as Billy.
10 Did you make an attempt to find Billy Kelly?

11 **A** Yes. We obtained his address, which was out
12 of town, out of county, Aiken County, and we spoke
13 with his mother.

14 **Q** Who made that call to his mother?

15 **A** I did.

16 **Q** And what, if any, information did you learn
17 about his whereabouts from his mother that night?

18 **A** She could not find him and did not know where
19 he was.

20 **Q** And this is pretty late at night, probably
21 early morning hours on the 6th?

22 **A** Yes. That's right.

23 **Q** What, if anything, did you ask Ms. Kelly to
24 do?

25 **A** I asked her to file a missing person's report

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1 with Aiken County on him. Yes.

2 Q Did she seem to be concerned he's not in?

3 A That's correct.

4 Q And did you give her any information that
5 there had been a killing or his manager was dead?

6 A Yes.

7 Q So did she seem concerned about his
8 whereabouts?

9 A Yes, she did.

10 Q Were you aware if she ended up making a
11 missing person's report?

12 A Yes, she did.

13 Q The following day, January 6th, '96, it is
14 daylight. Did you go back out to the KFC?

15 A We actually never left. We were there all
16 night.

17 Q That night when you were first there, could
18 anybody have gotten into the safe?

19 A No, we did not. We had to get management
20 from Kentucky Fried to open the safe.

21 Q So when you were there looking at State's
22 2 -- again, the safe -- you've got blood, a chair
23 over, Ms. Shirley down here. But that safe, was
24 that shut and locked when you were there securing
25 the building?

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1 **A** Yes, it was.

2 **Q** But you had money everywhere?

3 **A** Yes.

4 **Q** So when you all opened up the safe or had
5 someone come the next day and open the safe, what
6 did you find inside?

7 **A** Well, just inside the door there was a
8 plastic deposit bag. And the only reason I know it
9 was a deposit bag is that I was told that that is
10 what they used. It had been torn open and just
11 shoved down -- shoved into the top of the safe, and
12 it was in there, in the -- inside the safe empty,
13 except for the deposit slip.

14 **Q** And maybe some coins?

15 **A** Yes.

16 **Q** But no cash?

17 **A** No cash.

18 **Q** It was put back and locked?

19 **A** Yes.

20 **Q** And torn?

21 **A** Yes, it was torn.

22 **Q** On January 8th, we're talking a little bit
23 less than two days later, really, the 6th, do you
24 remember getting a phone call from Billy Kelly's
25 mother?

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1 **A** Yes.

2 **Q** What, if any, information did she give you?

3 **A** Well, we discussed the fact that they had
4 family in Lowell, Massachusetts, which is about
5 20 miles above Boston.

6 **Q** Did she indicate that her son may be up that
7 way?

8 **A** That he may be heading that way, correct.

9 **Q** What did you do with that information?

10 **A** I called police officers, police detectives
11 with the Lowell Police Department and spoke to them
12 about the case, gave them the address to where
13 family members stayed.

14 **Q** So you got the address information from
15 Mr. Kelly's mother and passed it on to the local
16 PD?

17 **A** Correct.

18 **Q** And did you give them an idea of what
19 happened down here in South Carolina?

20 **A** Yes, I gave them a summation of what had
21 happened.

22 **Q** You didn't mention Ms. Shirley's name. Did
23 you -- did you just -- it was just Billy Kelly or
24 William Kelly that you focused on?

25 **A** Correct.

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 Q At some point that same day, did you get a
2 call back from Lowell PD?

3 A Yes, I did.

4 Q What were they letting you know?

5 A That he was at the residence which I gave
6 them the address of, and they had talked -- that
7 they had spoken to him.

8 Q Did they let you know that they had gotten a
9 statement from him?

10 A Yes, they did. They faxed it to me.

11 Q A statement indicating his admission to
12 killing Ms. Shirley?

13 A That's right.

14 Q Admission from stealing money from the KFC?

15 A That's right. And he had some of the money
16 on him.

17 Q Still had money on him?

18 A With her blood on it.

19 Q Based on that, did you get some warrants?

20 A Yes.

21 Q One of those warrants was for murder?

22 A Yes.

23 Q And did you send those and transmit those to
24 Lowell, Massachusetts?

25 A That's correct.

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 **Q** January 10th, couple days after that, did
2 you have an opportunity to go to Lowell,
3 Massachusetts?

4 **A** Yes. Myself, Steve Derrick, who was the
5 forensic officer/agent on this case, and another
6 SLED agent flew to Lowell, Massachusetts.

7 **Q** Okay. Now, were you all able to determine
8 how he got to Lowell, Massachusetts?

9 **A** He drove.

10 **Q** So when Steve Derrick with SLED went up
11 there, was part of his job to process that vehicle?

12 **A** Yes. They had it in police impound.

13 **Q** Okay. And when you got up there, did you
14 take possession of Mr. Kelly?

15 **A** Yes, I did.

16 **Q** And all of his property?

17 **A** Yes.

18 **Q** And did Steve Derrick, on behalf of SLED and
19 your agency, do processing of that vehicle?

20 **A** He did the processing of the vehicle, and
21 anything that they removed off of Mr. Kelly, like
22 the money I spoke of, he took possession,
23 obviously. Anything with the chain of custody or
24 evidence, he took control of.

25 **Q** Okay. And with that evidence and with

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1 Mr. Kelly and Mr. Derrick, did you all come back to
2 South Carolina?

3 **A** Yes, we did.

4 MR. HUBBARD: Chief, I believe that is all I
5 have.

6 THE COURT: Ms. Mauldin, any questions?

7 MS. MAULDIN: Nothing for this witness.

8 THE COURT: Thank you. You can step down.

9 This is a good time. Let's break for a quick
10 lunch recess and reconvene at 2:15.

11 (A lunch recess was taken.)

12 THE COURT: Thank you. You may be seated.
13 All right.

14 MR. HUBBARD: The next witness is from a
15 transcript of Timothy Crawley, who was an officer
16 in Lowell, Massachusetts, back in 1998. I've got
17 transcript that is State's 161. I'll pass that up
18 to Your Honor. And I'll read this portion, if I
19 may?

20 THE COURT: All right. Yes, sir.

21 MR. HUBBARD: And just for the record, it
22 covers Pages 1351 through 1408. The question
23 begins:

24 "Officer Crawley, where are you employed?

25 Answer: For the city of Lowell,

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Massachusetts Police Department.

Question: Are you -- you are obviously
employed there in January of 1996?

Yes. I was a detective in the Criminal
Investigative Division. I started at 5:00 p.m. and
go to 1:00 a.m.

Question: What was happening when you came
to work that day?

As soon as we came into the office, I was
there. Sergeant Derkin (ph), Lieutenant Taylor took
a cell phone call from Chief Oswald from the
Batesburg-Leesville Police Department in South
Carolina. We were being asked to go over to 237
Brandt Street to check to see if a suspect in a
homicide, which had occurred in his town, was
present.

Question: What information did you receive
about the suspect

Answer: That he was a William Kelly. He
would be driving a silver/blue Mercury Lynx,
four-door sedan, with South Carolina plates JBD-810.

Question: Did you receive any information
about what he was a suspect in?

Answer: Yes. There was a stabbing of a
female at a Kentucky Fried Chicken down there, and

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1 there was a -- possibly also a robbery involved in
2 the same incident, and that the suspect's mother had
3 just called him to tell -- just called the chief and
4 told him that the suspect was at the address on
5 Grant Street.

6 Question: Can you describe for the jury
7 what the conditions were, the weather conditions
8 were that day?

9 Answer: We were having a snowstorm, and it
10 had snowed over the weekend. We had heavy snow, so
11 there was still 4 to 6 inches on the ground from the
12 previous snow. It was starting up again.

13 Question: You said how far away -- you said
14 how far away was Brandt Street from the police
15 station?

16 Answer: It was about five minutes. A five-
17 or six-minute ride.

18 Question: Who went over there?

19 Answer: Sergeant Derkin, Lieutenant Taylor,
20 and myself. The vehicle in question was parked in
21 the driveway. We get out and radioed for a uniform
22 patrol car to come to the scene, and then myself and
23 Sergeant Derkin approached the car on the left side
24 of the house, and Lieutenant Taylor stayed by the
25 front door.

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1 Question: What did you do when you
2 approached the vehicle?

3 Answer: I put my hand on the hood.

4 What did you find?

5 It was still warm. We walked a little
6 further to the driveway -- into the driveway and we
7 could -- we looked through a window, and we could
8 see several people seated at a kitchen table.

9 Question: Was anyone there that matched the
10 description given by Chief Oswald

11 Answer: Yes. As we started to approach the
12 stairs to the door, the residents from inside came
13 out. A male resident, Ernie LaCoy, and met us
14 outside. We asked him who the male was that was
15 seated at the table. He said it was wife, Maud.
16 His wife is Maud. And he said it was her brother
17 from South Carolina, William Kelly.

18 Question: Did you ask him anything further?

19 Yes.

20 And what was that?

21 If we could enter the house and speak to
22 him.

23 What was his response?

24 He said that was fine, and he took us into
25 the house.

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1 Question: Was the same person that you
2 described, that you saw through the window, sitting
3 at the table?

4 Answer: Yes.

5 Question: What happened once you saw him
6 sitting there?

7 Answer: We identified ourselves as police
8 officers from the city, and we asked him his name.

9 And what did he say?

10 He said, William Kelly.

11 Question: Do you see that same person that
12 you saw sitting at table in the courtroom here
13 today?

14 Answer: Yes.

15 Question: Once Mr. Kelly had indicated who
16 he was, what did you do?

17 Answer: We asked if we could speak to him
18 in an adjacent room.

19 Question: How were -- how were all of you
20 dressed; do you remember?

21 Answer: Street clothes, heavy jackets.

22 Question: So as investigators, you didn't
23 wear uniforms or patrol uniforms?

24 Answer: No.

25 Question: What happened when you got in the

DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 living room alone with the defendant?

2 Answer: Sergeant Derkin told Mr. Kelly that
3 we wanted to speak to him about an incident that
4 happened in South Carolina, but before we did that,
5 we were going to advise him of his rights.

6 Question: And when you say "advise him of
7 his rights," what do you mean?

8 Answer: We have an orange Miranda rights
9 card that we use. We read the card verbatim, ask
10 the questions at the end, and then check with the
11 person that we're giving the rights to, to see if
12 they understand the rights and what's involved with
13 it.

14 Question: Was that done in this case?

15 Answer: Yes.

16 Question: Who actually read those rights
17 from that card?

18 Answer: Sergeant Derkin.

19 Question: And were you present when that
20 took place?

21 Answer: Yes. We asked him if he understood
22 the rights, and he stated that he did. And then we
23 asked him having those rights in mind, if he's
24 willing to speak to us, and he said he would.

25 Did you have anything -- did you do anything

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1 further in relation to that orange card?

2 Answer: Yes.

3 What did he do?

4 He signed it indicating that he understood
5 what the rights were and that were given to him.

6 Question: Did you actually explain to him
7 why he would sign that and the effect that it would
8 have?

9 Answer: Yes.

10 And did he sign that in your presence?

11 Yes, he did.

12 Question: Did anybody else sign that card?

13 Answer: Sergeant Derkin, myself, and
14 Lieutenant Taylor, who was present.

15 Question: What is that?

16 This is the orange card that was read to
17 Mr. Kelly, and then signed in my presence.

18 Your Honor, at this point in time, I'll
19 point out that State's 8 from the original trial,
20 the orange card, is in evidence for Your Honor.

21 THE COURT: There was no issue -- well,
22 that's -- that's been dealt with as a matter of
23 law.

24 MR. HUBBARD: Right. Yes, Your Honor.

25 And then:

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 "Question: What's the date on that?

2 Answer: It is January 8, 1996 at 5:15 p.m.

3 That was introduced into evidence then.

4 Question: Now, at any time, either prior to
5 or during or after that card was read to Mr. Kelly
6 and his responses, did you ever have concern about
7 whether he was understanding what you were saying?

8 Answer: No.

9 Question: In fact, did he appear to be
10 coherent?

11 Answer: Yes.

12 Question: Once you had read those rights to
13 him and he had signed the card, what took place
14 then?

15 Answer: We told him that we wanted to speak
16 to him about a problem that he had in South
17 Carolina.

18 Question: Did he have a response?

19 Answer: He said he didn't have a problem in
20 South Carolina. Sergeant Derkin explained to him
21 that we knew what had occurred down there, and it
22 would be better if he told the truth.

23 Question: What did he say?

24 Answer: In a lower voice than he had been
25 answering us, and while he was glancing towards the

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 kitchen, he said, I stabbed Shirley and took the
2 money, but because of what she did to me.

3 Question: Once he told you that he had
4 stabbed Shirley, what did you do?

5 Answer: We asked him if he would accompany
6 us to the police station so that we could talk to
7 him more about the incident, and we could get his
8 side of the story.

9 Question: Now, was he under arrest at that
10 point?

11 Answer: No.

12 Question: Was he placed in handcuffs?

13 Answer: No.

14 Question: What was his response when you
15 asked him to go to the police station?

16 Answer: He said he would -- he said he was
17 -- would be more comfortable there because he didn't
18 want to talk in front of his sister or have her
19 involved in what was going on.

20 Question: Did he request that anybody go
21 down there with him?

22 Answer: No.

23 Question: When you got back to the police
24 station, where did you go?

25 Answer: We went to the criminal division,

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 the investigation division office and then into an
2 interview room.

3 Question: Who went in there?

4 Answer: Myself, Sergeant Derkin, and
5 Mr. Kelly.

6 Question: Did you explain why you were in
7 that interview room?

8 Answer: Yes. That we were going to take
9 his statement as to his version of the incident that
10 occurred in south Carolina.

11 Question: What information did you, in
12 fact, have at that point?

13 Answer: Just what I stated before, that
14 there was a stabbing and -- a stabbing murder at the
15 Kentucky Fried Chicken in Batesburg-Leesville. It
16 possibly involved a robbery. The victim was a
17 female.

18 Question: And at that point you knew her
19 name was Shirley?

20 Answer: From Mr. Kelly, correct.

21 Question: From Mr. Kelly? Had you received
22 any additional information from Chief Oswald or any
23 official from any agency down here in South
24 Carolina?

25 Answer: No.

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 Question: Once that background information
2 had been provided, did you go into a statement?

3 Answer: Yes. We had him go through the
4 oral summary of the events of his version, and then
5 we went back to the beginning and we typed it line
6 for line, had him repeat the story again.

7 Question: When you say "typed," it's
8 actually being typed into a computer?

9 Answer: Yes. Correct.

10 Question: And he was -- he was able to
11 actually watch you do that?

12 Answer: Yes. He can follow right along on
13 the screen.

14 Question: Was he given the opportunity to
15 make any changes in that statement?

16 Answer: Yes.

17 Question: Did he indicate that he wanted to
18 make any changes in that statement?

19 Answer: No.

20 Question: Once he had read over the
21 statement, and Sergeant Derkin had read it aloud to
22 him, what did you do?

23 Answer: We had him sign each page
24 indicating that the page was correct and that it was
25 a true statement.

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 Question: And that was his version of the
2 story?

3 Answer: Yes.

4 Question: And did he sign each and every
5 one of those pages?

6 Answer: Yes.

7 Question: And that was done in your
8 presence?

9 Answer: Correct.

10 Question: Now, at any point, either prior
11 to, during, or after the statement, did he ever say
12 I want an attorney present?

13 Answer: No. No.

14 Question: Did he ever say I want to
15 exercise his right to remain silent? Did he ever
16 say I want to exercise his right to remain silent?

17 Answer: No.

18 Question: Did you ever force him or coerce
19 him to get him to make that statement?

20 Answer: No.

21 Question: Did you ever promise him anything
22 in exchange for him giving that statement?

23 Answer: No.

24 And at that point it was admitted into
25 evidence. The officer was asked to read the

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 statement. And, Your Honor, that statement is
2 marked as Original State's Exhibit 39. And I'll
3 read the body of that statement into the record. It
4 is a four-page statement.

5 It says: "The statement I'm about to give
6 will be given of my own freewill. No one has
7 threatened me or promised me anything to give this
8 statement. I have been advised of my rights by
9 Sergeant Derkin who read the rights out loud to me
10 from an orange card. I understand the rights that
11 were read to me. I signed the card, which I know
12 means that I understand my rights.

13 "After I signed the card, the police asked
14 me if I was willing to talk to them about the reason
15 I drove from South Carolina to Massachusetts. My
16 sister lives in Lowell, and I plan to drive up here
17 the night of January 5, 1996 just after 10:00 p.m.
18 -- oh, excuse me. I planned to drive up here and
19 visit her, but I had a problem in South Carolina
20 that made me decide to come earlier than I had
21 planned.

22 "Last Friday night, January 5, 1996, just
23 after 10:00 p.m., I stabbed Shirley Shealy inside
24 the Kentucky Fried Chicken restaurant and took some
25 of the restaurant's money. After doing this, I was

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 scared and didn't know what to do. I knew that I
2 had to get out of South Carolina because I knew the
3 police would be looking for me. I decided to come
4 to Lowell, Massachusetts, and while I was driving up
5 here, think over what I had done and what I should
6 do. I intended to go back to South Carolina after a
7 while, but not right away.

8 "Tonight, when the detectives came to my
9 sister's house, I had a good idea why they were
10 there, but I didn't know what to say and didn't want
11 to get my sister, Elizabeth, involved in anything
12 she didn't know anything about. When the police
13 came into the house, they took me into a room so
14 that we could talk privately. I was glad that they
15 had done that, because I didn't want my sister to
16 know what we would be talking about. They read the
17 rights to me, and I signed it because I understood
18 the rights.

19 "At first, the police told me that they knew
20 the problem that I had at home in South Carolina,
21 and I lied and told them that I didn't have a
22 problem. I lied because I was afraid for my sister
23 and didn't want to say too much. I then realized
24 the police already knew what I had done, and I just
25 wanted to get it over with. The police told me I

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 could tell my side of the story, and they would type
2 it down, and let me read it and make sure that it
3 says what I said.

4 "I live in Batesburg, South Carolina with my
5 mom and dad. I work at a McDonald's restaurant in
6 Aiken, South Carolina, which is off of U.S. 1. I've
7 worked there for four to six months. Before I
8 worked at McDonald's, I worked at Kentucky Fried
9 Chicken and at Burger King. When I went to work at
10 Kentucky Fried Chicken, Shirley Shealy was the
11 manager. She was a friend of my sister. Shirley
12 seemed like she was about 25, 27 years old. She's
13 married to a guy named Neil Shealy. Neil doesn't
14 like me, though. He accused me of sleeping with
15 Shirley. I never got into an argument with him,
16 though. I used to just ignore him. He would either
17 say something to me or say it to Shirley.

18 "I worked at KFC for more than eight to ten
19 months and quit because of Shirley. While I worked
20 there, Shirley was always asking me to stay with
21 her, saying things like she wanted me to sleep with
22 her, and she's come up to me and fondled my whole
23 body saying that she wanted to have sex with me.
24 She actually would grab me by the balls and say that
25 she wanted me, but that she -- that she wanted me,

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 but because she was ugly and unattractive and seemed
2 dirty and smelled, I was never interested. I would
3 always tell her to leave me alone. Shirley would
4 get mad at me because I wouldn't sleep with her, and
5 because of this, she would make me do jobs that
6 ordinarily I wouldn't have to do, like clean the
7 lobby and other things.

8 "Every once in a while, I would play along
9 with her and act like I was interested, and then
10 turn her away just to make her mad. Because I was
11 sick of dealing with her, I quit the job. After I
12 quit, Shirley called me a few times and asked me how
13 I was doing. She would still come onto me sexually.
14 At no time did I ever have physical contact with
15 her. I have not worked at Kentucky Fried Chicken
16 for three or four months, but while I was there, I
17 did know that Shirley was pregnant. Her husband
18 accused me of being the father, but like I said, I
19 never had sex with her.

20 "I've been asked to describe in my own words
21 what happened inside of Kentucky Fried Chicken last
22 Friday night, and I have agreed to do this. Last
23 Thursday night, January the 4th, 1996, I was at home
24 and got a phone call from Patricia Dosier, who I
25 used to work with at KFC. She asked me to come by

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 and see her because I hadn't seen her there since I
2 quit KFC. I told Patricia I would stop by the next
3 day.

4 "On Friday, January 5, '96, at around
5 4:00 p.m., I stopped by KFC. I went inside and
6 visited with the girls who worked there, Shirley,
7 Mary Ann, Barbara and Mary. Patricia was late, so I
8 waited around for her to show up. While I was
9 waiting, Shirley asked me to ride to the bank. I
10 drove her to the bank, Newberry Federal, so she
11 could make a personal deposit, \$400, in the
12 drive-thru window, into Nation's Bank to make the
13 KFC deposit. We went to Nation's Bank with the KFC
14 deposit first with. We returned to KFC and hung
15 around inside with the girls until about 6:00 or
16 7:00 p.m. I then went home and stayed there until
17 9:00 p.m., 9:30 p.m. I took a shower and got
18 dressed and planned to go to The Zoo, which was a
19 teen club in Columbia, South Carolina.

20 "I left the house driving my Ford Mercury
21 Lynx, color, grayish silver. But when I left, I
22 decided to take a detour and stop by KFC to say hey
23 to the girls. When I got back to KFC, it was after
24 10:00 p.m., which is closing time. I could see the
25 lights were out like they were all -- like they were

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 closed. I could see Shirley's car parked outside in
2 the front of the lot to the left of the side of the
3 building facing U.S. 1. I knew it was her car
4 because it was red/brown/burgundy, four-door, big
5 car.

6 "The car was running and the driver's door
7 was open. I could see when I pulled up there, there
8 was no one inside the car. I parked near the
9 entrance and got out of the car. I could see into
10 the restaurant, but I couldn't see anyone inside.
11 The door near where Shirley's car was parked was
12 open. I opened the door and went inside. I went to
13 the employee door and saw Shirley in the office. I
14 said, Hey, Shirley, and she turned to me. She was
15 -- she was in the room that they call -- they called
16 the office where the safe was, and I saw the safe
17 was opened. She looked like she was getting ready
18 to leave.

19 "I asked Shirley if everyone else had left,
20 and she said, Yes, that Mary Ann had just left a few
21 minutes ago. I said, See you later, and then
22 Shirley asked me to stay there and talk to her for a
23 while. Shirley started coming onto me like
24 described before. She asked me to stay and have sex
25 with her and told me that since she was pregnant

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 already, if we had sex, I couldn't get her pregnant.
2 I didn't want to do it because I didn't like her. I
3 wanted to leave and go to The Zoo.

4 "I started to leave, but Shirley grabbed me
5 and asked me not to leave again. I pushed her away
6 and told her not to put her hands on me and told her
7 to sit in the chair and I would stay and talk to her
8 if she didn't touch me. Shirley sat in the chair,
9 and I saw some wide Duct tape, silver/gray, that was
10 on the floor next to a filing cabinet. I picked up
11 the tape and told her to put her hands behind her
12 back. Shirley let me do this. I taped her hands
13 behind her back as she sat in the chair. I said,
14 This way you won't be touching me. I told her that
15 if she didn't let me do this, I wouldn't stay and
16 let her talk to me.

17 "I left her tied up in the chair about five,
18 ten minutes while she was telling me how much she
19 wanted me and how much she wanted to be with me.
20 She told me that I made her life sparkle. I told
21 her I didn't like her because she was nasty, and she
22 got mad and started to pout.

23 "While all of this was going on, I had a
24 knife on me that had a yellow handle and said "Sea
25 Style" on the handle that was like a diving knife.

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 It had a cutting blade on one side and then a jagged
2 edge on the other side. I had been carrying this
3 knife off and on for protection during the past two
4 weeks after a black guy, who didn't like me,
5 threatened to shoot me.

6 "The knife was in my right pants pocket with
7 a piece of paper wrapped around the blade. As I was
8 going to leave because Shirley had pissed me off, I
9 was going to leave her tied up like that just to
10 make her mad. As I turned to leave, Shirley got up
11 and freed one hand and grabbed me and told me to
12 come back. I said, Get the hell away from me, you
13 sick bitch. I also said other things like calling
14 her a bitch and a slut. I kept walking, and she
15 kept trying to pull me back into the office and
16 started hitting me and asked me not to leave. Both
17 hands were free now, but one of them, the left,
18 still had tape on it.

19 "I took the knife out of my pants, took off
20 the paper off of the blade, and turned to my right
21 and slit her throat. Even after I cut her throat,
22 she grabbed at me, so I kept stabbing her wherever I
23 could until she let go of me. I couldn't stop
24 myself. I kept dragging her as she hung onto me and
25 kept stabbing her until we reached the employees

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 door.

2 "Shirley then let go and fell to the floor.
3 She was gasping for air. I don't remember what I
4 did with the knife. It's probably still there. I
5 didn't have it on me when I left KFC. While she was
6 gasping for air, like I described, I wanted to keep
7 her from getting up, so I taped her hands behind her
8 back again. All the time I was taping her hands,
9 she was gasping for air. I stabbed her as many
10 times as I had to. I don't know how many times, but
11 it seems like it's more than 20 times.

12 "Once Shirley was taken care of and
13 prevented from getting up, I was confused and going
14 in circles because I knew that if the police got
15 there, I wouldn't have a chance to tell my story
16 like I am now. They probably would just see Shirley
17 there all tied up and stabbed 20 times and get all
18 exited and take me away.

19 "I then went back to the safe because I knew
20 I need some money to get away, and took the money I
21 could see as I was leaving. I dropped some of the
22 money onto the floor. I then rinsed my hands off in
23 the sink because there was blood on them. I think
24 that -- I think that I left the knife there, too.
25 Because there was so much blood on the floor, I

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 couldn't go to the door. I climbed out the
2 drive-thru window and went to my car with the money
3 under my coat.

4 "I left the lot and headed towards
5 Lexington, South Carolina. It was during this ride
6 I decided to leave South Carolina and head to
7 Massachusetts to visit my sister. At around
8 midnight, I left Lexington and headed north. I was
9 still wearing the clothes that I was wearing when I
10 stabbed Shirley. I was wearing black jeans, brown
11 and black boots, black suede leather jacket with a
12 Camel cigarette logo, white T-shirt, plaid
13 yellow/brown boxer-type underwear.

14 "On the way north, I stopped and bought
15 clothes with money I had stole, but the clothes that
16 I was wearing when I stabbed Shirley are still in
17 the car inside a plastic bag. On the way north, I
18 spent about \$400 on clothes, gas, food, and things
19 that I needed, including a watch and sneakers. I
20 slept in the car and drove here and arrived in
21 Lowell at about 3:00 a.m."

22 Wait a minute.

23 "I slept in a car in a rest area and got to
24 my sister's house about 30 minutes before the
25 police came there.

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 "From the time of all of this, I have not
2 told anyone what I did. My sister thinks I just
3 came for a surprise visit. I now have \$141.55
4 left. I had about \$40 on me when I went to KFC.
5 Everything else that was in any pocket when the
6 police took me with them was from KFC.

7 "Sergeant Derkin had read the entire
8 statement, which he gave out loud to me, with
9 Inspector Crawley in the room, and I followed
10 along. What he read and what I read is what I
11 said, and it's the truth."

12 He has signed that. That is State's 39 from
13 the original trial.

14 Then there the questions begin with Officer
15 Crawley.

16 Question: Once that statement had been
17 taken and you had all of the information from him,
18 what did you do?

19 Answer: We relayed it back to Chief Oswald.
20 He was going to be seeking warrants on the charges
21 for Mr. Kelly. After we received the warrants from
22 South Carolina, the fax -- copied the warrants and
23 we placed Mr. Kelly under arrest as a fugitive from
24 justice.

25 Once he was under arrest, what did you do?

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 Answer: We contacted his sister and asked
2 her to bring some clothes down because we were going
3 to be taking the cloths he had on.

4 Question: Did he make any statements when
5 you attempted to take his clothes?

6 Answer: Yes.

7 Question: What were those statements?

8 Answer: He again told us that the clothes
9 he was wearing during the incident at KFC were in
10 his car, in a bag, and that some of them had blood
11 on them. When his sister arrived with the clothes,
12 we took all of the property that he had on him,
13 including his clothes.

14 Question: Did you actually inventory the
15 clothes and take those into your possession?

16 Answer: Yes. We took four white socks, a
17 pair of men's boxer shorts, gray hooded sweatshirt,
18 a pair of blue jeans with brown belt, blue and black
19 flannel insulated shirt, a maroon short sleeve
20 shirt, a pair of Nike sneakers and a Nike baseball
21 style cap.

22 From his right front trouser packet was a
23 wallet with \$47 in bills, and \$4.55 in change.

24 From his left front pocket it was \$90 in
25 bills: Two 20s, and 50 one-dollar bills that had

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 bloodstains on them, a Timex watch, ATM receipt,
2 checkbook, golden earring, three condoms, Radio
3 Shack beeper, gold tone pen, metal toothpick and a
4 plastic holder, a sterling silver neck chain, gold
5 tone neck chain, gold bracelet. We also included
6 swabs from a state police chemist.

7 Question: Did anyone else handle the
8 evidence, particularly the blood stained \$90 that
9 you described?

10 Answer: No.

11 Question: And that search warrant was for
12 what?

13 Answer: The vehicle (sic) for Mr. Kelly's
14 vehicle

15 Question: Now, on the 10th, who actually
16 did the processing?

17 Answer: Steve Derrick from SLED.

18 Question: Did you ever go into the vehicle
19 and move things around?

20 Answer: No.

21 Question: Were you just present?

22 Answer: That's correct.

23 Question: Once the vehicle had been
24 processed, what did you do?

25 Answer: I had taken the inventory of the

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DIRECT EXAMINATION - CHIEF WALLACE OSWALD

1 list that I took from him, when I arrested him,
2 transferred that to a card, and then I signed that
3 over to Chief Oswald, and he signed the property
4 card.

5 Question: And, in fact, did that list all
6 of the items that you were transferring over to him?

7 Answer: Yes

8 Question: Once the evidence had been
9 transferred back and the car had been processed,
10 what did you do?

11 Answer: We drove them all back -- Mr. Kelly
12 had been brought over from court after a hearing
13 attended by Chief Oswald. He was out at our
14 station. We drove them all back to Hanson Air Force
15 Base, back to their plane so they could fly.

16 And that's the end of Officer Crawley's
17 testimony.

18 THE COURT: All right.

19 MR. HUBBARD: Your Honor, at this time we
20 would call Agent Steve Derrick -- retired Agent
21 Steve Derrick to the stand.

22 THE COURT: All right.

23 (STEVEN DERRICK, having been duly sworn,
24 testified as follows:)

25 THE WITNESS: Steven Derrick, D-E-R-R-I-C-K.

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STEVEN DERRICK - DIRECT EXAMINATION

DIRECT EXAMINATION

BY MR. HUBBARD:

Q Steve, you are retired now?

A Yes, sir.

Q Retired from where?

A South Carolina State Law Enforcement
Division.

Q How long have you been retired from SLED?

A Approximately, 14 years.

Q And how many years do you have in law
enforcement?

A I have 34 years total time in law
enforcement, of which I spent 26 of those years in
crime scene and police forensic science.

Q Let me ask you about that, police forensic
science and crime scene. Have you ever had an
opportunity to testify as an expert in court?

A Yes, sir.

Q And during the trial in 1998 with Billy
Kelly, did you testify as an expert in that case?

A Yes, sir.

Q Were you stipulated as an expert in crime
processing footwear and blood spatter examination
and analysis?

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STEVEN DERRICK - DIRECT EXAMINATION

1 **A** To the best of my memory, yes, sir.

2 **Q** Steve, let me ask you this: How many capital
3 murder cases have you testified in?

4 **A** According to my records, 22.

5 **Q** How many times have you given testimony on
6 blood spatter?

7 **A** 68 occasions.

8 **Q** How about footwear impressions?

9 **A** Footwear impressions, approximately, 56
10 times.

11 **Q** So this is something you've been doing for
12 quite a while and a lot of experience?

13 **A** That's correct, sir.

14 **Q** And did both of those blood spatter and
15 footwear impression come into play in this case?

16 **A** Yes, sir, they did.

17 **Q** Have you testified all throughout South
18 Carolina?

19 **A** That's correct, and in U.S. District Court.

20 **Q** And do you still -- even though you are
21 retired -- belong to any organizations related to
22 your crime scene and the work you've done?

23 **A** Yes, sir. I'm a lifetime member of the
24 International Association for Identification where
25 I was a member full time when I was employed. I

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STEVEN DERRICK - DIRECT EXAMINATION

1 was also certified by them as a senior crime scene
2 analyst, which was the highest level that could be
3 achieved.

4 Q Do you recall getting a call to go to KFC in
5 Batesburg-Leesville back in January 5th or early
6 morning hours of the 6th, 1996?

7 A Yes, sir.

8 Q Do you remember about what time it was when
9 you got there?

10 A It was evening, maybe sometime around 11
11 o'clock.

12 Q When you get to a crime scene, what is your
13 typical approach? How you do approach it?

14 A My typical approach is first with the
15 officers, obtain the information that they know at
16 that particular time, identify the location of the
17 crime scene that is to be processed and examined.

18 After that, I do what I refer to as a
19 walk-thru to get a general idea of what the crime
20 scene looks like, and the evidence that may be
21 visibly present that would need to be documented
22 and collected, and plus get an idea of the type of
23 processing that will be needed to secure further
24 evidence that may or may not be in the scene.

25 Q Steve, when you go to a crime scene, and back

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STEVEN DERRICK - DIRECT EXAMINATION

1 in the day when you were called to do a crime
2 scene, was it your practice to kick everybody out
3 of the crime scene or out of the building?

4 **A** If they hadn't already been taken out of the
5 scene. Most scenes when I got there were pretty
6 well secured.

7 **Q** And this one that night, did it appear to be
8 secured?

9 **A** It was very well secured, even to the point
10 that the first officer that arrived there, he was
11 able to identify his footwear impressions in the
12 blood in the store so I could eliminate them before
13 I began processing the scene.

14 **Q** Let me ask you about that. Is that
15 something, particularly if there is a lot of blood
16 at the scene, you'll ask officers who went in to
17 secure the scene?

18 **A** That's correct.

19 **Q** Their initial focus is on security, not
20 saving an individual, correct?

21 **A** In this exact situation, preserving the
22 scene.

23 **Q** Right. And so you would want to know what
24 you need to eliminate out to see if you see any
25 other footwear impressions?

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STEVEN DERRICK - DIRECT EXAMINATION

1 **A** That's correct.

2 **Q** Now, you see up on the board State's 151.

3 Does this appear to be that Kentucky Fried Chicken?

4 **A** Yes.

5 **Q** Right off of Highway 1?

6 **A** That's correct.

7 **Q** And do you remember a vehicle being parked
8 right out front, if you are looking at KFC from the
9 front, right to the left side?

10 **A** Yes, sir.

11 **Q** Did you do an outside study, take
12 photographs, and also go inside and do that as
13 well?

14 **A** That's correct.

15 **Q** Let's begin with the interior of KFC. What I
16 would like to do, Steve, I have photos, but there
17 are original photos as well that may, at times, be
18 a little clearer. I may approach you with those so
19 His Honor can see a little bit clearer, too.

20 Your Honor, for the record, new photos
21 State's 172 through 230 have been admitted after
22 discussion with the defense.

23 THE COURT: Is that correct?

24 MS. MAULDIN: Yes, Your Honor.

25 THE COURT: So admitted.

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1 (State's Exhibits 172-230 prior stipulated.)

2 Q (BY MR. HUBBARD) Steve, going through the
3 front door, what are we looking at right here?

4 A That would be the front counter.

5 Q Basic typical KFC counter?

6 A That's correct.

7 Q In looking at State's 173, is that the other
8 side of that counter?

9 A Yes, sir.

10 Q Then, looking at State's 174, what do we see?

11 A The dining area, I believe, out to the left
12 from the counter.

13 Q Looking at State's Chart No. 2 from the
14 original trial, do you see both that counter and
15 that eating area depicted on State's 2?

16 A Yes.

17 Q At times, Steve, I may be referring to that.
18 I don't know if you have a laser up there -- yep,
19 there you go.

20 Looking back here in State's 174, what door
21 are we seeing there?

22 A That is a doorway that goes into the restroom
23 area.

24 Q So there is an opening here, and that is a
25 restroom door there?

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1 **A** That's correct.

2 **Q** State's 175, looking at that, do you see a
3 little bit close up of this?

4 **A** Yes, sir.

5 **Q** And the tile going into that little area
6 where the restrooms are, does it appear to be
7 different from the tile in the eating area?

8 **A** That's correct.

9 **Q** Was there anything you can't see on this
10 photo here? Do you see anything right here on the
11 tile in front of the bathroom doors?

12 **A** In the photographs I can't detect it, but
13 from my photographs and memory, there is partial
14 pooling of blood on the floor.

15 **Q** I'll approach you with 175 and see if you can
16 see just a little bit --

17 **A** Yes, sir. It is clearer looking at it up
18 close. You'll see a pooling of blood where there
19 is a drain in the center of the floor.

20 **Q** So, Steve, right here, what are we looking
21 at?

22 **A** There is the center drain, and to the right,
23 there is the pooling of the blood on top of the
24 tile.

25 **Q** Now, I'm going to take you behind itself

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STEVEN DERRICK - DIRECT EXAMINATION

1 counter and show you State's 176. This part that
2 we're seeing on the left side of State's 176 is
3 that the counter?

4 **A** Yes, sir.

5 **Q** That is just the back side?

6 **A** Yes, sir.

7 **Q** And you see a door and a little office area
8 here or opening, what is that?

9 **A** That's the office area where the floor safe
10 was at.

11 **Q** Okay. State's 177, is that one of the cash
12 registers?

13 **A** Yes, sir.

14 **Q** They were open when you came in there?

15 **A** That's correct.

16 **Q** Often when a place closes, they often leave
17 them open for the next day; is that correct?

18 **A** Some places do; some places don't. In this
19 case, they did.

20 **Q** The drive-thru register, was it also open and
21 empty?

22 **A** Yes, sir.

23 **Q** And the drive-thru window, there is a wall
24 right here on the right-hand side, is there a
25 window that goes out there?

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STEVEN DERRICK - DIRECT EXAMINATION

1 **A** Yes, sir.

2 **Q** That is State's 178.

3 I'll show you what is already marked in as
4 State's 153. Looking back from that counter area
5 deep into the kitchen, you see a chair?

6 **A** Yes, sir.

7 **Q** That -- what is this opening here on the
8 left-hand side?

9 **A** That's across from the office.

10 **Q** So that's the same office we were looking at,
11 and that's the proximity the chair is to that
12 office?

13 **A** Yes, sir.

14 **Q** Do you see stains on the floor?

15 **A** Yes, sir.

16 **Q** What is that?

17 **A** Blood.

18 **Q** Although it is dark back in the kitchen area,
19 what do we see?

20 **A** That is where the money and the victim's body
21 was found.

22 **Q** That is State's 153.

23 I want to now show you State's 179. Is this
24 another angle looking at that chair and the office
25 right here?

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1 **A** Yes, sir.

2 **Q** And as you approach that chair and turn, is
3 this the actual office?

4 **A** Yes, sir.

5 **Q** Can you see the chair in relation to that
6 office?

7 **A** Yes, sir.

8 **Q** Now, you see some money?

9 **A** Yes, sir.

10 **Q** Did you notice anything about that money in
11 relation to the blood?

12 **A** There was blood drops on top of it.

13 **Q** As you walk into that office, let me show you
14 the money here. Do you actually see blood?

15 **A** Blood on the floor and a drop of blood on the
16 second bill where you are pointing.

17 **Q** When you see that, Steve, this little bit
18 we're looking at here, what can you tell us about
19 that money and that blood?

20 **A** The second bill is, obviously, on the floor
21 before the bloodletting hit it.

22 **Q** This bill here?

23 **A** Yes. The other bill comes on the floor after
24 the blood already hits the floor.

25 **Q** Which is not a situation where there is a

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1 bloody scene, and then money is taken, and just
2 after a killing, all of the bleeding that is to be
3 done is done, and then somebody with clean hands
4 goes and takes money?

5 **A** Okay. In that case, I wouldn't expect to
6 find a drop of blood on the money.

7 **Q** So this scene indicates that the money was
8 being taken during this assault and during the
9 bloodletting?

10 **A** Very probable.

11 **Q** And we're going to look at a lot more. You
12 see Duct tape?

13 **A** Yes, sir.

14 **Q** What is that item there next to the Duct
15 tape?

16 **A** I believe that was the victim's name badge.

17 **Q** I'll show you State's 82.

18 **A** Yes, sir.

19 **Q** This object next to the trash can, what is
20 that?

21 **A** The floor safe.

22 **Q** I'll show you State's 183. Is that a
23 close-up?

24 **A** Yes, sir.

25 **Q** What is this in 183, at the base of the

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1 photo?

2 **A** Blood spatter.

3 **Q** This floor safe, this is a dial you turn and
4 lift up to get into it?

5 **A** I presume so. The safe was locked when I was
6 there.

7 **Q** I want to go back to the chair. I'll show
8 you photographs of that, State's 184.

9 **A** Yes, sir.

10 **Q** What part of the chair are we looking at?

11 **A** You are looking at the part of the chair that
12 an individual's back would be pressed against.

13 **Q** So that's the top rails of the chair, but on
14 the inside?

15 **A** Yes, sir.

16 **Q** And, obviously, we see blood. What, if
17 anything, can you tell us about the blood that you
18 see?

19 **A** There is a series of patterns on that chair.
20 Observing and analyzing those patterns, I was able
21 to make a conclusion that at least three stab
22 wounds took place at that chair. How I do that is
23 applying the principles that we learned in our
24 training that when a surface is covered with blood
25 and it is impacted, the blood will spatter out. It

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1 will leave teardrop formations, kind of like
2 arrows, pointing back from the direction they came
3 from.

4 In this particular chair, there was a lot of
5 criss-crossing spatter patterns, but I was able to
6 isolate enough of those patterns that went back to
7 one point, one central area, and that would have
8 been approximately the area of where, in this case,
9 the stabbing took place and the blood spattered
10 out.

11 There had to be at least one stabbing to
12 create bloodletting to create these other two
13 spatter patterns that were located on the chair.
14 Like I said, I isolated two, but based on the
15 quantity of the patterns on the chair, there is an
16 indication that there was more than three blows
17 that took place in that chair.

18 Q Again, you have to have one blow initially to
19 draw the blood because before you get any spatter?

20 A That's correct.

21 Q I want to show you also -- before I do, based
22 on this tube, this chair is laying on the ground?

23 A That's correct.

24 Q In looking at this crime scene, did you make
25 a determination as to whether that chair had been

STEVEN DERRICK - DIRECT EXAMINATION

1 upright prior or during the assault before it went
2 down?

3 **A** It was upright.

4 **Q** Is there anything --

5 **A** There is one indication right there, because
6 there is free-flowing blood on the top rail, and it
7 initially starts down. The blood being like any
8 other liquid, gravity will pull it down so it will
9 seek its lowest level. During the course of this,
10 the chair is knocked over on its side causing the
11 blood to run to the side of the chair. So by the
12 time the chair is in this position, there is no
13 indication of any other blood movements, so this
14 blood is most probably dry at this point.

15 **Q** Is it your opinion, based on your expertise,
16 that the victim was sitting in this chair at the
17 initial attack?

18 **A** That would be correct.

19 **Q** Let me show you State's 185, which is the
20 actual seat to the chair. It is kind of hard to
21 see, but you see tiny drops here all over?

22 **A** Okay. We have spatter patterns there, we
23 have some free-flowing blood up at the top.

24 **Q** Up here, is this the free-flowing liquid?

25 **A** Yeah.

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1 **Q** Okay.

2 **A** And that being in the seat of the chair,
3 there is another spatter pattern that hadn't shown
4 up in any part of the chair, and that is very tiny
5 drops of blood. This is associated with a high
6 impact force, normally associated with gunshot
7 wounds or machinery or coughing up of blood. Since
8 there was no gun involved, there was no high speed
9 machinery, these tiny, high speed spatter patterns
10 was probably caused by the victim coughing up
11 blood.

12 **Q** Would this chair have been down when that was
13 happening?

14 **A** Yeah, because the spots were coming straight
15 across. So the victim would have been straight
16 across from the seat indicating how the chair was
17 laying on its side before being placed.

18 **Q** So she's on the ground coughing towards the
19 chair?

20 **A** That's correct.

21 **Q** Is that an indication that she has blood in
22 her lungs or mouth when she's coughing like that?

23 **A** That's correct.

24 **Q** Would that be consistent with a blunt wound
25 from a stabbing to the lungs?

STEVEN DERRICK - DIRECT EXAMINATION

1 **A** Yes, sir.

2 **Q** I want to show you the backside railing of
3 that chair, 186. Now that it's been stood right
4 back up, what are we seeing?

5 **A** We have a number of patterns. There is
6 medium velocity impact spatter, blood drops,
7 free-flowing blood that has fallen on the chair,
8 blood drops, conglomerate patterns on the back of
9 the chair.

10 **Q** Steve, I'll show you what was originally put
11 in as 86. I don't know if this comes in any better
12 at all. Do you see all different types of
13 patterns?

14 **A** That's correct. Some of those impact
15 patterns was used on the back of the chair to
16 pinpoint one of the points of convergence.

17 **Q** What can you tell us about the spatter on the
18 backside of the chair? When did that happen? Was
19 the chair up, or was it down?

20 **A** The chair had to been in an upright position
21 for those medium velocity spatter patterns to occur
22 on the right side of the upper part of the leg and
23 back of the chair. So it was upright at that
24 point. Then, when you look at the bigger drops of
25 blood on the cross railing and that railing, too --

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1 Q These drops here?

2 A That's correct. That chair has been on its
3 side or down on the floor, because the drops of the
4 blood -- what occurs with these is -- let's say I
5 cut my hand. My hand fills up with blood. The
6 palm of my hand gets full. Eventually, it will run
7 over the side of my hand and drip down to the
8 lowest level, and that is what occurred here.
9 Maybe an open skin wound, I can't determine that,
10 but it most likely hit fabric at this point in
11 time, and the blood drops get on the chair, but
12 they are hitting at a slight angle. They are not
13 totally circular. They have angulation to them,
14 which means that the blood dripped down, and it was
15 at an angle because of the surface of the chair.

16 Q Following up on this chair, State's 186 seems
17 to focus on the right side of the chair, back
18 railing. Looking at 187, you see the other side,
19 it doesn't seem to have as much blood on there.
20 What can you tell us about this?

21 A The amount of attacking and bloodletting
22 occurs on the right side of the chair, while the
23 left side of the chair is either blocked, guarded,
24 or not involved in the primary attack.

25 Q Could it be someone standing there, or it is

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1 just blocked in some way?

2 **A** Could be.

3 **Q** If it's someone standing there, most probably
4 it wouldn't be the victim?

5 **A** Probably not.

6 **Q** State's 189, what are we looking at here,
7 Steve?

8 **A** That is a piece of Duct tape on the right,
9 back leg of the chair.

10 **Q** And that is the back, right leg?

11 **A** That's correct.

12 **Q** I'll flip it the other way. What can you
13 tell us about the Duct tape?

14 **A** The Duct tape, apparently, looking at the
15 photograph, had been wrapped around the leg of the
16 chair. The loose part would indicate -- based on
17 the totality of the evidence present -- it was to
18 be looped around something else along with the
19 chair, however that did not occur.

20 **Q** Let me ask you, Steve, would it be consistent
21 with someone being seated in a chair and they're
22 having their right leg taped to that back, right
23 leg, like someone attempted to do that?

24 **A** That, based on the totality of the evidence,
25 yes.

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STEVEN DERRICK - DIRECT EXAMINATION

1 Q And by looking at this tape, did it appear
2 that that was successful or not?

3 A No, sir, it was not successful.

4 Q Let me ask you about this tape. You found a
5 roll of Duct tape in the office close by. Was it
6 consistent with this same Duct tape?

7 A By appearance, yes, sir.

8 Q When you found the victim, was her hands tied
9 behind her back?

10 A That's correct.

11 Q With Duct tape?

12 A That's correct.

13 Q It was consistent with this same Duct tape?

14 A Yes, sir.

15 Q So if someone is sitting in a chair, hands
16 bound behind them, and someone was trying to tape
17 her right leg to the chair, bind her to the chair,
18 that just didn't work?

19 A No, sir.

20 Q Do you think -- is there anything you can
21 draw from that as far as maybe that is where the
22 assault started?

23 A Based on the bloodstains themselves, this is
24 where bloodletting first occurs is at the chair.

25 Q So would it be reasonable to conclude that if

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1 someone is being bound in a chair, they fight to
2 get free, and that is when the fight breaks out,
3 that is when the bloodletting starts?

4 A That's correct.

5 Q Looking at State's 190, another image of this
6 upright chair and that tape, what, if anything, did
7 you find attached to that tape?

8 A As represented by the photograph, there was a
9 tip of a rubber glove, the fingertip of a rubber
10 glove that was attached to the end of the tape.

11 Q That rubber glove, would you describe it as
12 clear and see-through, or did it look different?

13 A As best as I remember, I believe it was blue
14 in color.

15 Q Let me ask you this, Steve: At some point,
16 were you shown State's 33 from the original trial?

17 A Yes, sir.

18 Q And I think by the time trial rolled around,
19 these gloves had all of the black stuff from
20 your --

21 A That's correct.

22 Q So would this have been the color of the
23 actual glove you found originally?

24 A Yes. Yes.

25 Q It's been a long time.

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1 **A** It's been a long time.

2 **Q** And you've done a lot of scenes?

3 **A** I remember the tip of the glove. And the
4 color could have been after we dye stained that
5 area looking for invisible blood.

6 **Q** And we'll talk about that in a minute, going
7 from the chair.

8 The last thing about the chair I'll bring up
9 is this other -- this leg here, which is the front,
10 leg right leg. You see the tape in the back?

11 **A** Yeah.

12 **Q** What can you tell us about that blood?

13 **A** That blood, obviously, has been transferred
14 probably from the blood that was on the floor.

15 **Q** That is when the chair was on the floor?

16 **A** Right. And, of course, there is couple
17 free-falling down blood drops close to that railing
18 and right below it. If I may? Long story short,
19 this chair got caught in the middle of a fight.

20 **Q** Right.

21 Now, State's 192, looking back from the
22 kitchen area, you see the chair?

23 **A** Yes, sir.

24 **Q** And you see our victim, Ms. Shealy?

25 **A** Yes, sir.

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STEVEN DERRICK - DIRECT EXAMINATION

1 Q You see money?

2 A Yes.

3 Q And, of course, blood?

4 A Yes, sir.

5 Q Is that where it shows on State's No. 2 where
6 there's a sticky with a body?

7 A Yes, sir.

8 Q That is the relationship where it is on that
9 chart?

10 A Yes, sir.

11 Q Steve, just looking at this, the office would
12 be near where the blue chair is?

13 A That's correct.

14 Q And beyond that is the front of the store
15 where the counter is?

16 A That's correct.

17 Q And the door we see here next to Ms. Shirley,
18 what does it lead to right here?

19 A That would be the door that would separate
20 the kitchen from the hallway we saw earlier where
21 the bathrooms were.

22 Q Looking at State's 2, if we're telling His
23 Honor, we are looking down and we see the body
24 here, and that doorway leads to this area where the
25 bathrooms are?

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STEVEN DERRICK - DIRECT EXAMINATION

1 **A** That's correct.

2 **Q** I'll show you State's 193. Looking back that
3 same direction, we see now for the first time it
4 looks like a tripod. Is that yours, with the
5 camera?

6 **A** That's correct. That was to document the
7 footwear impressions.

8 **Q** We'll talk about those.

9 This dark color, almost blackish, stuff on
10 the floor, what are we looking at?

11 **A** A dye stain I used which reacts to blood,
12 both visible and invisible. What I mean by
13 invisible is there's blood present, but not visible
14 to the human eye. And the chemical that was used
15 reacts to certain ingredients in the blood and
16 makes the invisible blood visible.

17 **Q** What was that ingredient you used?

18 **A** Chemical called Amido Black.

19 **Q** Going back to the glove, would that discolor
20 the glove as well?

21 **A** Yes.

22 **Q** You see Ms. Shirley. I see three right here
23 little taped-off areas. What is that?

24 **A** That's where partial footwear impressions
25 that could be examined were noted, and the scale

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STEVEN DERRICK - DIRECT EXAMINATION

1 tape was put down next to them to be photographed
2 and documented.

3 Q When you were doing this, did you take the
4 time to exclude all officers who would come on the
5 scene to make sure that you were not scaling their
6 footwear?

7 A That's correct. As I testified earlier, the
8 first officer identified issues to bloody prints
9 and we eliminated them. The next set of footwear
10 impressions to be eliminated was the outsole
11 impression of the shoes worn by the victim.

12 Q So you actually looked at her shoes and
13 excluded her making those footprints?

14 A That's correct. And the footprints from law
15 enforcement and the victim, those were documented
16 in crime scene for later examination.

17 Q Let me ask you what else you can tell us.
18 You see, in some cases, it looks like big drops,
19 and then some different level of drops. What, as
20 an expert, were you looking at in documenting from
21 the chair to Ms. Shirley's body?

22 A If I could, let me back up a little bit and
23 explain. Blood spatter is entirely different than
24 a crime scene examination. In crime scene, you
25 start from the outside and work in to get all of

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1 the evidence present. In bloodstain pattern
2 analysis, you stop -- start your examination where
3 the victim is, of the last major source of
4 bloodletting occurs, and you work it back to the
5 initial bloodletting.

6 So, in this particular case, the massive
7 amount of bloodletting occurred where the victim
8 was located, and following the blood back, it
9 begins at the chair. So as the victim moves, as I
10 stated earlier, there is blood dripping on the
11 floor from saturated fabric, an open wound, or
12 whatever the cause. If you look in that
13 photograph, back towards the chair, you see all of
14 these little drops on the floor. The big
15 difference is back towards the chair, these drops
16 of blood are smaller in size and more limited in
17 numbers. And then as you come down right there at
18 the base of her feet -- her foot -- or shoe, excuse
19 me -- and over next to her leg, we find heavier
20 quantities of blood drops and bigger blood drops.

21 Q Would that be consistent with blood flowing
22 from her or maybe the attacker who has her blood on
23 him?

24 A That's correct.

25 Q Is there any indication that she was drug

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STEVEN DERRICK - DIRECT EXAMINATION

1 from the chair to this spot?

2 **A** No, sir. There is no transfer or drag marks.
3 And based on the blood, the blood comes from above
4 down to the floor.

5 **Q** So this blood would be consistent also with
6 her moving -- maybe with her attacker -- but she's
7 moving towards that bathroom area?

8 **A** That's correct.

9 **Q** Going back to the treadwear, you've got three
10 that we see here, and you've got one marked here as
11 No. 2, between her legs; is that correct?

12 **A** That's correct.

13 **Q** And then you did close-up documentation of
14 the treadwear, State's 195. Is that your first
15 one?

16 **A** Yes, sir.

17 **Q** State's 196, that's your second one we just
18 looked at?

19 **A** Yes, sir.

20 **Q** State's 197, which is the third one?

21 **A** Yes, sir.

22 **Q** Looks like a shoe there?

23 **A** That was the heal, I believe.

24 **Q** And State's 198, which is the fourth one?

25 **A** Yes, sir.

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STEVEN DERRICK - DIRECT EXAMINATION

1 **Q** During the course of the trial back in 1996,
2 was there a stipulation as to whose tracks those
3 were? Do you recall the --

4 **A** I don't know.

5 **Q** You don't recall when you were up? Okay.

6 But, again, going back to State's 192, this
7 is after you collected up the money to actually
8 work the floor with the Amido Black?

9 **A** That's correct.

10 **Q** But all of this that we talked about is from
11 the chair to the body?

12 **A** That's correct. And in this case, it went
13 beyond the body, but the body was drug back to
14 where it was located.

15 **Q** And we're going to come back to the body
16 being drug back. Did the blood droplets you see go
17 towards this open area to the bathroom area?

18 **A** Fewer were visible. There was a lot of
19 pooling of blood, plus a lot of spatter that
20 occurred right there, at that fire extinguisher in
21 that doorjamb.

22 **Q** Let's talk about that. You mentioned the
23 first bloodletting being at the chair. Before we
24 talk about the next bloodletting, I'll show you
25 State's 199. Did you recover this object here?

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STEVEN DERRICK - DIRECT EXAMINATION

1 **A** Yes, sir.

2 **Q** What is that?

3 **A** It's what I considered a diving knife.

4 **Q** Like for scuba diving?

5 **A** Yes, sir.

6 **Q** Did it look totally out of place for Kentucky
7 Fried Chicken?

8 **A** Yes, sir, it did.

9 **Q** Although it is very hard to see, State's 200
10 -- that is State's 199. In State's 200, do you see
11 that knife here in relation to the chair?

12 **A** Yes, sir. Right across from the sink area in
13 the diagram.

14 **Q** So looking at State's 2, you can see the sink
15 and where the knife was recovered?

16 **A** Yes, sir.

17 **Q** Now, let's go back to the victim and going
18 into the area where the bathroom is. State's 201,
19 you see our victim here?

20 **A** Yes, sir.

21 **Q** This is a different angle we're looking at.
22 We're looking straight into that door that goes
23 into the bathrooms?

24 **A** Yes, sir.

25 **Q** Beforehand, we were looking back down this

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1 hallway, correct?

2 A That's correct.

3 Q Now we're looking straight on. There is an
4 open door, fire extinguisher, open door, and you
5 walk in, and there is that room with two bathrooms?

6 A That's correct.

7 Q You mentioned a fire hydrant and a sink.
8 State's 202, see that same fire hydrant?

9 A Same fire extinguisher.

10 Q Fire extinguisher. I'm saying fire hydrant.
11 Down here is a cleaning bucket and some
12 money?

13 A Yes, sir.

14 Q Looking at State's 202, where the fire
15 extinguisher is, what are we looking at?

16 A In this photograph, next to the fire
17 extinguisher, around the door, there is
18 considerable medium velocity spatter associated
19 with medium velocity impact, in this case,
20 stabbing, since the victim was stabbed and the
21 knife was the weapon. There is also free-falling
22 blood that is somewhat consistent with an arterial
23 spurt. Those big, long streaks of blood is some
24 volume of blood from the artery, maybe not a major
25 one, but it is projected blood out both on the door

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STEVEN DERRICK - DIRECT EXAMINATION

1 and on that railing next to there.

2 Q Let me show you a close-up, 203. Do you see
3 the same extinguisher?

4 A Yes.

5 Q And the blood here?

6 A Yes, sir.

7 Q I see you have measured it up. Is it
8 consistent with the victim being on her feet or on
9 the floor in State's 203 for the blood to get here?

10 A Based on what I recollect, from her height,
11 she would have been in an upright position.

12 Q So she's alive, and at this scene, Steve, you
13 would say there is a second struggle?

14 A Yes, sir. Looking at the bloodstains between
15 the chair and this door frame, there are no medium
16 velocity impact spatters that I can locate in that
17 scene. It was just the footwear and blood drops.
18 We get to here and pick up the medium velocity
19 impact spatter associated with the stabbing.

20 Q So you have medium velocity at the chair, and
21 then you have blood drops, and then you get the
22 medium velocity impact spatter again?

23 A Yeah. So it is my opinion this was a second
24 area of attack.

25 Q Following this measuring rod and the door

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1 down to the floor, we look at 204. You see the
2 cleaning bucket? And what do we see here?

3 **A** You have a lot of blood drops on the floor.
4 None on the pictures (sic) to the right of the
5 picture. We have streaking towards the left of the
6 picture. What that is is that is blood on the
7 surface that something has been drug through it and
8 leaving those drag marks.

9 **Q** I'll show you -- and His Honor will be able
10 to see it more clearly -- State's 95 from the
11 original trial. Is that pretty much the same shot
12 that we are looking at?

13 **A** It appears to be the exact same photograph.

14 **Q** With the blood drops and then the streaking
15 you mentioned, is that what is seen on the left
16 side of that photo?

17 **A** Yes, sir.

18 **Q** Drag marks?

19 **A** Yes, sir.

20 **Q** So we're going to come back to this photo and
21 talk about the streak marks?

22 **A** Yes, sir.

23 **Q** State's 205, does that show more of the blood
24 and the money and blood on the money?

25 **A** That's correct. And that one piece of money

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STEVEN DERRICK - DIRECT EXAMINATION

1 that's closest to the bottom, to the right, there
2 was an impression evidence on that bill itself, as
3 opposed to just blood drops.

4 Q Did you find three separate bills that had
5 footwear impressions on them?

6 A That's correct.

7 Q Did all of the footwear impressions that you
8 did come back to the footwear that was recovered
9 from Billy Kelly?

10 A There were two impression that were
11 positively identified to the defendant's shoes, and
12 the remainder of them correlated in size, shape,
13 outsole design, somewhere, in some random
14 identifying characteristics. However, those other
15 impressions lacked sufficient identifying
16 characteristics to make a positive ID. But two
17 were ID'd was on a piece of money, and one was on
18 the floor, to the best of my memory.

19 Q Going back to 202, you had a fire
20 extinguisher, and then the door. I want to focus
21 on some of the photos you took of that door.

22 State's 206, is this the base of the door?

23 A That's correct.

24 Q We see our victim's hands here?

25 A Right.

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1 Q Now, we haven't talked about this, but her
2 hands are bound at this point?

3 A Yes.

4 Q Behind her back?

5 A Yes, sir.

6 Q With Duct tape?

7 A Yes, sir.

8 Q Face up or face down?

9 A Face down, I believe.

10 Q So we're looking at the base of the door.
11 What are we seeing here in the photograph you took
12 of 206?

13 A This is something where there was some
14 spurting of blood that is coming from the victim's
15 body with these long streaks, and the shorter
16 impacted streaks that is on that door. There is
17 other spatter associated with it; however, it was
18 criss-cross and I cannot make any definitive
19 determination.

20 Q Here up on that same door, you have Photo
21 207. I see A's on here. Who wrote that?

22 A Me.

23 Q When you go through, just so we know what we
24 are looking at, you mark it "A," "B," "C"?

25 A Yes. And I correlate that to the crime scene

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STEVEN DERRICK - DIRECT EXAMINATION

1 diagram, so when I get my photographs back, I can
2 see exactly what area I'm looking at.

3 Q What are we seeing up here around the door
4 handle and that area?

5 A On that door, probably more towards where
6 that ruler is as opposed to up around the door,
7 there were some other marks that showed up. These
8 were kind of medium velocity teardrops. Because
9 all of these teardrops weren't in the same
10 direction, it is a bloodstain that is referred to
11 as a "cast-off pattern." It is when an object has
12 blood on it, and when it goes in motion with wet
13 blood on it, that blood will projectile, and of
14 course when an object comes to a complete, sudden
15 stop, that blood is going to fly off.

16 Q Is that consistent if someone is stabbing
17 somebody and drawing blood, every time they throw
18 their arm up to make another swing, that blood goes
19 back behind them?

20 A That's correct.

21 Q So that motion is throwing blood over their
22 shoulder?

23 A That's correct. Since a majority of the
24 teardrops went to the ceiling and were all in the
25 same direction, it was conclusive that that would

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1 have been a cast-off pattern.

2 Q So it's not impact, it is cast-off being
3 thrown by a blade or whatever object is being used,
4 which obviously in this case is a blade?

5 A Yes, sir.

6 Q Now, going into that bathroom area and
7 looking back at State's 208, now that you are in
8 the room looking back out at the victim and the
9 money, did you document -- photograph blood you saw
10 in this area?

11 A Yes, sir. The cast-off patterns would have
12 been to the right of the door on that wall over
13 there. All of the other blood -- there were
14 numerous spatters and free-flowing and running
15 blood on the right side of that wall, inside that
16 little room there. And, of course, there were
17 blood drops and heavy pooling of blood on the
18 floor.

19 Q We'll talk a little more about this heavy
20 pooling and streaking you mentioned earlier. But
21 on this side, looking at 208, we'll be taking a
22 closer look, but you see more cast-off?

23 A That's correct.

24 Q On the left side of this photograph, in 208,
25 in this area, we're seeing more impact spatter?

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1 **A** That's correct.

2 **Q** So would that be consistent with someone
3 stabbing, throwing blood over their shoulder to the
4 right side of that photo, and then the impacts
5 going to the left side?

6 **A** That's correct. That would put the assailant
7 on the right side of that door in the doorway, and
8 the victim to the left.

9 **Q** Now, Steve, earlier you had measurements up
10 here that showed the victim was upright. When we
11 get into this room, do we still see the victim
12 being upright?

13 **A** There was one point of convergence of spatter
14 that would have put the victim at least
15 semi-upright.

16 **Q** I'll show you 209, which is -- shows that
17 left side. You've marked it "D," and then I see an
18 "F" on the inside wall?

19 **A** That spatter that is actually on the door
20 frame itself is associated with the one that is by
21 the fire extinguisher.

22 **Q** This spatter here?

23 **A** Yes.

24 **Q** Above the letter "D"?

25 **A** Yes.

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1 **Q** What do we see below the "D"?

2 **A** Blood drops, transfers from free-flowing
3 blood -- heavy free-flowing blood.

4 **Q** We see that "F" panel, which is part of the
5 wall, so we'll come back to that.

6 Going from 209 to 210, is this a close-up of
7 that blood we were talking about?

8 **A** That's correct, sir.

9 **Q** In 211, same thing, blood up above, and then
10 looks like smearing here?

11 **A** Yeah. It is a transfer pattern. Exactly
12 what caused it, I don't know.

13 **Q** Something or someone brushed against it?

14 **A** Something with blood on it that transferred
15 from that object to that door.

16 **Q** Steve, is all of this consistent with a
17 struggle going on in this door area?

18 **A** Yes, sir.

19 **Q** And, again, following the blood, do you have
20 the victim going from an upright position,
21 ultimately to a down-on-the-floor position?

22 **A** If we follow the other spatter patterns and
23 the convergence in the open hallway, we can see one
24 from a semi-upright position, to one that I would
25 probably say the victim was on her knees, and one

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1 closer to the floor.

2 Q State's 212, does it show the interior walls
3 in the bathroom area and the alcove leading inside
4 from that doorway?

5 A That's correct.

6 Q And, again, is this impact spatter in here?

7 A Yes, sir.

8 Q And, again, State's 21, we're looking at "G."
9 you can barely see it, but you see dots here?

10 A That's correct.

11 Q That is impact spatter?

12 A Yes, sir.

13 Q 214 also capturing that?

14 A That's correct.

15 Q This spatter here, Steve, is that where a
16 victim is up, or does she go down?

17 A She's lower than upright.

18 Q No longer on her feet?

19 A No, sir.

20 Q On the other side of the doorway, see where
21 the door is attached and the hinges? You mentioned
22 "cast-off," is that what we see over here?

23 A Yes, sir.

24 Q I'll show you State's 216, which you have
25 marked as "E." The drops we see, that is cast-off?

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1 **A** That's correct.

2 **Q** Again, I'll show you two more close-ups, 217.
3 That is cast-off?

4 **A** That's correct. And in that photo you can
5 see the teardrops going in the same direction.

6 **Q** They all have a sweeping motion?

7 **A** That's correct.

8 **Q** Just like an arm going in one direction
9 throwing blood in that same direction?

10 **A** Right. But because they are know uniformed
11 together, that indicates multiple times the way it
12 went back and blood was cast off.

13 **Q** 218, another depiction of this?

14 **A** Yes.

15 **Q** And then that doorpost where the door is
16 attached, down here at the bottom, 219, what are we
17 seeing here?

18 **A** Correlation of blood spattering.

19 **Q** And 220, which is also on that same doorpost?

20 **A** Yes, sir. There is blood drops, but I aimed
21 it to the right of the photograph, you see again
22 consistent teardrops and a sweeping motion
23 associated with the cast-off.

24 **Q** Going back to 216, looking at this, you have
25 a white door frame that we focused on, but there is

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1 an opening here. What does that go out to?

2 **A** To the dining area, represented in the
3 diagram over here on the left side.

4 **Q** So, basically, by going back where the victim
5 was in the office, it appears -- I think we said
6 trying to get away or there is movement towards
7 that door area?

8 **A** Yes, sir.

9 **Q** Then you see her where she's at, but you have
10 her actually inside of that alcove where there is
11 bathrooms?

12 **A** That's correct.

13 **Q** So if someone were trying to get away, there
14 is two bathrooms there with doors; is that correct?

15 **A** Yes, sir.

16 **Q** And then this open area here would allow
17 someone to come back out to the front?

18 **A** Yes, sir. That probably would be the easiest
19 way to escape.

20 **Q** Steve, you did some diagrams, too, that were
21 originally used in the trial: State's 105, 106,
22 107. See if you can identify those as yours before
23 I put them up there.

24 **A** Yes, I can. My initials haven't changed a
25 bit.

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1 Q Looking at 165, is this the opening into the
2 kitchen area?

3 A Yes, sir.

4 Q Over here on the right, is that the doorway
5 to the dining area?

6 A Yes, sir.

7 Q Is this where you then labeled the blood you
8 were seeing?

9 A That's correct.

10 Q And a pool of blood -- actually two?

11 A Correct.

12 Q And you have transfer, medium velocity, and
13 cast-off; is that correct?

14 A That's correct.

15 Q And then viewing it from the other side,
16 State's 106 from the original trial, and this is
17 that door we were talking about where you have the
18 spurts, fire extinguisher that I kept saying fire
19 hydrant, drops, the pooling, and the steak?

20 A That's correct.

21 Q State's 107, is this outside the office area?
22 This is the first area of bloodletting.

23 A At the chair, yes.

24 Q And you have blood going back towards that
25 kitchen into the bathroom area?

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1 **A** That's correct.

2 **Q** Going back to your diagram, 105, we're back
3 in that area where the bathrooms were. Was there a
4 drain on the floor there?

5 **A** Yes.

6 **Q** I'll show you State's 221. Is this the blood
7 going down that drain?

8 **A** Yes, sir.

9 **Q** I see two marks that says "police"; is that
10 where --

11 **A** Identified the first officer's footwear.

12 **Q** So you knew that footwear you wouldn't be
13 looking at; that was law enforcement?

14 **A** That's correct.

15 **Q** And State's 202, that is also in that little
16 area and all of that blood?

17 **A** Yes.

18 **Q** You mentioned streaking and the movement of
19 the body. What was put in evidence in 1998,
20 State's 95, seeing Ms. Shirley here at the bottom,
21 left-hand corner of this photo, do you see that
22 streaking out of the room?

23 **A** Yes.

24 **Q** And back into the room back through the
25 doorway into the kitchen area?

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STEVEN DERRICK - DIRECT EXAMINATION

1 **A** Yes, sir. The streaking comes from the pool
2 of blood that is in the hallway of the bathroom,
3 back to where the victim is located.

4 **Q** We'll look at that again on State's 208.
5 Where her body is, you see streaking here?

6 **A** Yes.

7 **Q** Let me ask you this: Do you have an opinion
8 as to where she actually died or most probably?

9 **A** The most probable place is at that large pool
10 of blood. Two things can be noted about that.
11 Number one, for pooling of blood to take place, the
12 individual has to be there for a period of time.
13 The amount of pooling of blood would indicate the
14 severity of the wounds and the source of the
15 bloodletting. Someone that was shot in the stomach
16 would probably pool a small pool of blood. Some
17 areas, such as the chest or main artery or vein
18 that had been cut or damaged, that would be richer
19 in blood; so, therefore, there would be more blood
20 that would be pooled in the area.

21 So looking at the volume of pooling,
22 something very severe that had been damaged and a
23 large volume of blood expelled from the victim, the
24 victim had been there for a period of time to
25 create that pool of blood.

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STEVEN DERRICK - DIRECT EXAMINATION

1 **Q** Steve, you mentioned two areas of conflict:
2 One around the chair, and obviously in this area.
3 Was this the more violent assault in this area?

4 **A** Yes.

5 **Q** And, again, looking back at 208 of where the
6 body of Shirley Shealy is ultimately found, she did
7 not actually drop there and most likely die there,
8 she's pulled back there?

9 **A** That's correct. She most probably is dead in
10 that little hallway area.

11 **Q** All right. I'll focus now and go back to
12 Ms. Shirley. State's 223, where we see her here,
13 you have all of this money around her. I noticed
14 that her leg is like there is one of these metal
15 table legs, table or something, and one leg is on
16 the other side underneath that table?

17 **A** Yes, sir.

18 **Q** I'll show you also State's 224. What did you
19 believe to be the most probable way that she's
20 pulled back in there?

21 **A** That the individual that drug the body had
22 grabbed the victim by the right leg and was pulling
23 back causing the left leg being caught between the
24 stand of the table, going under the table as
25 opposed going around it like the right leg went.

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STEVEN DERRICK - DIRECT EXAMINATION

1 **Q** Let me ask you this, Steve. Where she had
2 been out in that area where the big pool of blood
3 was, if you are out front, could she have been
4 visible?

5 **A** It is a great possibility that it would be
6 visible, yes, sir.

7 **Q** Pulling her back here, is this a harder spot
8 to see from up front?

9 **A** Yes, sir, most definitely.

10 **Q** I want to show you her hands. Did you see
11 any indication that her hands had blood on them?

12 **A** No, sir.

13 **Q** Any sign of injuries?

14 **A** No, sir.

15 **Q** State's 205, Ms. Shirley, she's wearing -- it
16 is Ms. Shealy, but people called her Shirley --
17 this was her white T-shirt? Did you see rips and
18 tears from stabbing?

19 **A** Yes, sir.

20 **Q** This jacket down around her hands, could that
21 also have helped her protect her hands?

22 **A** Yes, sir.

23 **Q** Let me ask you this. You heard, I think in
24 court, the statement where the defendant said
25 initially she's taped up with Duct tape and breaks

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STEVEN DERRICK - DIRECT EXAMINATION

1 free and is coming at the defendant. Is there any
2 kind of defensive wounds that would be consistent
3 with that?

4 **A** No, sir. Plus, there was no other Duct tape
5 that had been used that I saw at that scene.

6 **Q** So the Duct tape you saw around her hands was
7 the fresh Duct tape? It wasn't like old tape, new
8 tape around it?

9 **A** There was no other tape in the room like what
10 was around the chair leg to indicate it was wrapped
11 around something and then broke free.

12 **Q** So the evidence would be inconsistent with
13 the statement that said she broke free and he tied
14 her up again?

15 **A** In my opinion, yes, sir.

16 **Q** State's 226, again, clean hands?

17 **A** Yes, sir.

18 **Q** State's 227, showing, again, where she's
19 pulled around that table?

20 **A** Yes, sir.

21 **Q** You can see a stab wound on her buttocks?

22 **A** Yes, sir.

23 **Q** State's 228, her shoes. Do you see some
24 blood in the shoes?

25 **A** Yes, sir.

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1 **Q** You've ruled these shoes out when it came to
2 identify who the perpetrator was?

3 **A** Yes, sir. They were eliminated by the
4 outsole impression.

5 Can you go back to the other photograph?

6 **Q** Sure. 228?

7 **A** Yes, sir. If you look at that left shoe over
8 there, and you look on the floor right in front of
9 it, it is almost you see little streaks there,
10 semicircle.

11 **Q** Right here, Steve?

12 **A** Yeah. It is like blood has been on the shoe,
13 and as the shoe has been rocked back and forth, it
14 left that impression evidence on the floor.

15 **Q** Would that be consistent with her being moved
16 as opposed to her moving?

17 **A** That's correct. Just kind of reinforces that
18 the individual had the right leg -- dragging her
19 back, and once she gets caught on the leg of that
20 table, there was shifting of that leg possibly from
21 the continuing to try to drag or move the body.

22 **Q** And State's 229 shows all the money that had
23 fallen on the floor?

24 **A** Yes, sir.

25 **Q** About that money, you had mentioned that some

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1 of the money had bloody footprints on it?

2 A That's correct.

3 Q And some had drops on it?

4 A That's correct.

5 Q Some money fell on top of blood?

6 A That's correct. All three scenarios.

7 Q Would it be consistent in finding this money
8 here, that whenever it came out, it came out during
9 the struggle?

10 A In all probability.

11 Q So that would be totally inconsistent with
12 this defendant, Mr. Kelly, kills Shirley Shealy,
13 and then says, Oh, I got to get money, and then
14 gets money and leaves?

15 A That's correct.

16 Q It is more probable that he had the money,
17 drops it in the struggle?

18 A That's correct, in my opinion.

19 Q You also processed outside?

20 A Yes, sir.

21 Q And that includes her car?

22 A Yes, sir.

23 Q So you are the one that took State's 152?

24 A Yes, sir.

25 Q But for the engine and lights being cut off,

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STEVEN DERRICK - DIRECT EXAMINATION

1 it was in the same position and secured for you?

2 A Yes.

3 Q And showing the proximity to the front of the
4 establishment, 154, just right there real close to
5 Highway 1?

6 A Yes, sir.

7 Q Steve, if you are driving down and this store
8 is dark and these headlights are on and there is a
9 door open, is that visible to just anybody going
10 by?

11 A Yes, sir, it would.

12 Q Would it look unusual?

13 A Yes, sir, it would.

14 Q Looking into the back seat, there is stuff
15 here. We heard testimony -- it appeared it was
16 shoved over to one side. Is that consistent with
17 what you found?

18 A Yes, sir.

19 Q And also I note that there is like a towel
20 here, gas can here. Did you note that?

21 A Yes, sir, I did. At some point the can was
22 tipped over because there was an odor of gasoline
23 in the car, so some leaked out.

24 Q Some leaked out?

25 A Yes, sir.

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STEVEN DERRICK - DIRECT EXAMINATION

1 Q And viewing the back seat from the other
2 side, 230, is this where everything was pushed to?

3 A Yes, sir.

4 Q With the description that has been given that
5 this area was cleaned out like someone was back
6 there, is that consistent with what you saw?

7 A Yes, sir.

8 Q If that gas can was pushed over, whether it
9 was there before or it was brought there, there is
10 a smell of gas in the car when you were looking at
11 it?

12 A Yes, sir.

13 Q Steve, I didn't ask you this. All that money
14 that was found around the victim, did you have to
15 collect all of that money?

16 A Yes, sir.

17 Q Does it sound correct: \$1,025?

18 A Yes, sir.

19 Q All laying around the floor around the
20 victim?

21 A That's correct.

22 Q And going all the way back to that office,
23 but mainly around the victim?

24 A That's correct. I think there was some
25 additional money that was collected off of the body

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STEVEN DERRICK - DIRECT EXAMINATION

1 at autopsy that was stuck to her.

2 Q That is something I did not bring up. Did
3 you at some point have to roll Shirley over so she
4 could be prepared to be taken to the morgue and
5 then taken to autopsy?

6 A Yes.

7 Q The money that was stuck to her, did you all
8 retain that and make sure it stayed to her?

9 A We did not do anything to the body or
10 anything that was on it until after it was examined
11 by the forensic pathologist.

12 Q So when she's taken for an autopsy, she's
13 taken in the clothes she's found in?

14 A That's correct.

15 Q And the money that is stuck to her goes with
16 her?

17 A That's correct.

18 Q And the \$1,025 is what you found on the floor
19 off of her?

20 A At the scene.

21 Q Okay. At the scene.

22 Now, Steve, this was January 5th and into
23 the early morning hours of the 6th. Do you
24 remember on the 10th going up to Massachusetts
25 to -- let me ask you this. Before you go to the

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1 10th, going outside, do you recall other units
2 from -- your SLED colleagues coming out with a
3 bloodhound team?

4 **A** Yes.

5 **Q** Do you recall going out and seeing if there
6 is anything you could document as to what they saw?

7 **A** Yes, sir, I do.

8 **Q** And do you recall that looking at State's
9 151, with Highway 1 being right here, Kentucky
10 Fried Chicken in the middle of State's 151, and
11 this road, Hartley Street in the
12 back (indicates) --

13 **A** Yes, sir.

14 **Q** Do you recall going back to an empty lot with
15 officers to see if there is anything you can make
16 identification of?

17 **A** That's correct.

18 **Q** What, if anything, do you recall seeing in
19 this area right off of Hartley Street?

20 **A** I followed what appeared to be the trail that
21 SLED dog team had tracked. It appeared to be
22 running marks. There was no characteristics in the
23 sand to give an outsole impression, but they all
24 stopped next to the edge of the road where there
25 was spin marks consistent with the tires spinning.

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STEVEN DERRICK - DIRECT EXAMINATION

1 Q So you saw spin marks, but also running marks
2 like from shoes?

3 A Right.

4 Q But nothing you could do an impression of or
5 document?

6 A That's correct.

7 Q January 10th, do you recall going to
8 Lowell, Massachusetts?

9 A Yes, sir.

10 MR. HUBBARD: Beg the Court's indulgence.

11 Q (BY MR. HUBBARD) While going back, Steve, to
12 the crime scene, do you remember documenting the
13 drive-thru window?

14 A Yes.

15 Q Looking at Old State's 10, that bar, is that
16 the lock for the window?

17 A To the best of my memory, yes.

18 Q State's 9, is that bar upright here?

19 A Yes, sir.

20 Q So when you documented that, the window is
21 unlocked?

22 A That's correct.

23 Q That's one thing I neglected to ask you.

24 Now, going back to Lowell on the 10th. Do
25 you remember going up there with Chief Oswald?

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STEVEN DERRICK - DIRECT EXAMINATION

1 **A** Yes, sir.

2 **Q** Do you remember processing the defendant's
3 car, a Lynx, Mercury Lynx seen in 304?

4 **A** Yes, sir.

5 **Q** Do you remember the back seat of the car,
6 State's 305, a pair of boots or shoes that he has?

7 **A** Yes, sir.

8 **Q** Do you recall, based on the information that
9 was given by Lowell PD, they let you all know
10 whatever clothes he said he was wearing, he had
11 them in the back of the car -- or in the car? I
12 don't know if you remember that or not?

13 **A** I don't readily recall. My job was to
14 process the car. I went from the trunk to the
15 engine compartment.

16 **Q** Did you collect clothes as well?

17 **A** I collected clothes, shoes, sales receipts
18 that they were from another state other than South
19 Carolina. Everything that was in there clothing
20 wise, I took.

21 **Q** What we see in State's 305, are these the
22 boots you used to make impressions to then go back
23 and compare to the bloodstains on the floor in KFC
24 and the bloodstains on the money at KFC?

25 **A** That's correct.

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STEVEN DERRICK - CROSS EXAMINATION

1 Q You said you were not aware or didn't know
2 that at the trial in 1998 there was a stipulation
3 that the tread marks you found were Billy Kelly's?

4 A I don't remember the stipulation.

5 Q You remember your work and what you did?

6 A Yes, sir. I remember doing the chart, the
7 footwear charts for the Court.

8 Q State's 306, same back seat. When you lift
9 the shoes up, there is a map?

10 A Yes. And also a Nike box that was closed in
11 the original position I found it in. Whereas in
12 the previous photograph, I had opened the box to
13 photograph the outsole of the shoes.

14 MR. HUBBARD: Beg the Court's indulgence.

15 Steve, I believe that is all I have for you
16 right now. Thank you so much.

17 THE COURT: Ms. Mauldin.

18 MS. MAULDIN: Thank you, Your Honor.

19 CROSS EXAMINATION

20 BY MS. MAULDIN:

21 Q At the original trial, you testified there
22 was a shoe impression that you matched to the
23 outsole of Ms. Shealy's boot; is that correct?

24 A There were outsole impressions consistent
25 with hers, yes, ma'am.

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STEVEN DERRICK - CROSS EXAMINATION

1 Q Okay. And then as far as the droplets of
2 blood on the money, can you give an opinion -- let
3 me ask: Is it possible that drops of money can come
4 from another object that had blood on it?

5 A Could have.

6 Q Thank you.

7 MS. MAULDIN: Your Honor, no further
8 questions.

9 THE COURT: Redirect?

10 MR. HUBBARD: No, sir. Thank you.

11 THE COURT: You can step down.

12 Let me see the lawyers up here real quick.

13 (Whereupon, a bench conference was had.)

14 THE COURT: I was discussing the schedule.
15 We'll recess everything for the day considering the
16 time and the late start.

17 SCDC, if you can get the inmate here tomorrow
18 morning at 9:30. Let's start at 9:30 tomorrow
19 morning. We're in recess. Thank you.

20 (WHEREUPON, THE PROCEEDINGS FOR MAY 20, 2024
21 CONCLUDED.

22 (THE FOLLOWING WAS HAD ON MAY 21, 2024.)

23 THE COURT: State ready to proceed?

24 MR. HUBBARD: Yes, Your Honor.

25 THE COURT: Defense ready?

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STEVEN DERRICK - CROSS EXAMINATION

1 MS. MAULDIN: Yes, Your Honor.

2 THE COURT: Call your next witness.

3 MS. MAYES: May it please the Court. Your
4 Honor, at this time the State will proceed with
5 additional excerpts from the 1998 trial. This
6 concerns the testimony of Charles Davis. Charles
7 Davis was a former co-worker of Shirley Shealy at
8 the Batesburg Kentucky Fried Chicken. The
9 transcript contains his testimony between 1489 and
10 1497. This will be State's 162, Your Honor.

11 THE COURT: Who is the witness, I'm sorry?

12 MS. MAYES: Charles Davis. This is
13 transcript Pages 1489 through 1497.

14 THE COURT: Okay. Thanks.

15 MR. MEYERS: Yes.

16 Question: Did you ever work at the Kentucky
17 Fried Chicken when the Defendant William Kelly
18 worked there?

19 Answer: I believe my second day for a
20 matter of hours during the shift change. We were in
21 the store at the same time.

22 Question: So you only worked there a few
23 days that he worked there?

24 Answer: Yes.

25 Question: Were you still working there on

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STEVEN DERRICK - CROSS EXAMINATION

1 January the 5th of 1996?

2 Answer: Yes, sir, I was.

3 Question: Now working there at the KFC, who
4 was the manager during this time?

5 Answer: Shirley Shealy.

6 Question: Okay. And who would be
7 responsible for the accounting of the money or the
8 depositing of the money and the safekeeping of the
9 money?

10 Answer: She was.

11 Question: And do you know where the safe
12 was?

13 Answer: Yes, sir.

14 Question: Was that pretty well known by all
15 of the people that worked there?

16 Answer: Yes. It was in the office on the
17 floor.

18 MS. MAYES: At this time, Your Honor, I'm
19 going to refer to State's 183 already in evidence,
20 this depicting the floor safe.

21 Madam Clerk, I believe that the microphones
22 are not on.

23 THE CLERK: Sorry.

24 MS. MAYES: And was that pretty well known by
25 all of the people who worked there?

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STEVEN DERRICK - CROSS EXAMINATION

1 Answer: Yes. It was in the office, in the
2 floor.

3 Question: And who was the person that had
4 the combination for the safe?

5 Answer: Only management.

6 Okay. Was that pretty well-known knowledge?

7 Answer: Yeah.

8 Question: And monies taken in the afternoon
9 and at night, where would that money be placed?

10 Answer: The night money was put in the
11 floor safe until the following morning, and the
12 opening manager would make a morning deposit, and
13 then the first shift money would be summed and made
14 a deposit in the afternoon.

15 Question: Was that pretty well-known
16 knowledge of the employees that the money was late
17 evening or late afternoon and at night, it would be
18 put in the safe and deposited the next morning?

19 Answer: Yes, sir, it was.

20 Question: What time did you come on duty on
21 that Friday, January the 5th?

22 Answer: Between 3:30 and 4 o'clock.

23 Question: And while you were working there
24 on that Friday, did you ever see the defendant
25 around the KFC?

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STEVEN DERRICK - CROSS EXAMINATION

1 Answer: Yes, sir, I did.

2 Question: Was he inside the kitchen area,
3 or was he outside in the customer area while he was
4 there?

5 Answer: He was throughout the entire store,
6 the lobby, the kitchen.

7 Question: When he left that Friday, was it
8 daylight or was it dark?

9 Answer: It was already dark.

10 Question: Do you know, approximately, what
11 time?

12 Answer: Between 8:00 and 8:30.

13 Question: Before you left, before 9:30 and
14 a quarter of 10:00, did you carry out some duties as
15 to cleaning up or rearranging the kitchen area?

16 Answer: Yes, sir, I did.

17 Question: Are you familiar with that back
18 door?

19 Answer: Yes, sir, I am.

20 Question: Mr. Davis, that night, Friday the
21 5th, who locked that back door?

22 Answer: I did.

23 Question: By engaging this lock?

24 Answer: Yes, sir.

25 Question: Once you locked that back door,

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STEVEN DERRICK - CROSS EXAMINATION

1 can you get in from the outside?

2 Answer: No, sir.

3 Question: Now, when you left KFC that
4 night, was Shirley Shealy still there?

5 Answer: Yes, sir, she was.

6 Question: Was Ms. Barber Adams still there?

7 Answer: Yes, sir. Ms. Barber was wiping
8 the front counter when I left.

9 Question: And what type of knives do they
10 have or did they have on January 5th in the
11 kitchen area?

12 Answer: Just two, to my knowledge. We had
13 a wooden handled knife and a white handle knife.

14 Question: Was there any difference between
15 the two of them?

16 Answer: The wood handled knife was broke
17 off, so we didn't use it very much, and the white
18 knife, it wasn't very sharp. It was just used for
19 cutting cabbage or carrots, or what have you.

20 MS. MAYES: This is in reference to State's
21 43, Your Honor, the knife. This is State's 199,
22 the new exhibit already in evidence. Also,
23 referencing old exhibit, original Exhibit 43, being
24 the murder weapon.

25 Question: State's Exhibit No. 43, had you

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STEVEN DERRICK - CROSS EXAMINATION

1 ever seen in knife in the Kentucky Fried Chicken?

2 Answer: No, sir.

3 Question: State's Exhibit No. 40. Did you
4 all ever keep Duct tape in the KFC?

5 Your Honor, this is referencing the Duct
6 tape in State's 183.

7 Question: Did you all ever keep Duct tape
8 inside KFC?

9 Answer: No, sir, we did not.

10 Question: Now, working back there in the
11 kitchen area, do they have certain types of gloves
12 that they use?

13 Answer: Yes, sir. We had -- they were
14 basic plastic. They were elbow length. They came
15 in a cellophane roll, and you peeled off.

16 Question: Can you see through the gloves?

17 Answer: Yes, sir.

18 Question: Okay. And it is an elbow-length
19 plastic glove?

20 Answer: Yes, sir.

21 Question: January 5, 1996, on that Friday,
22 did the KFC ever have any gloves like No. 33, the
23 latex kind of tan or yellow that you couldn't see
24 through?

25 Answer: No, sir, we did not.

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STEVEN DERRICK - CROSS EXAMINATION

1 Your Honor, that last line of questioning,
2 distinguishing that State's 33, the original
3 exhibit, the opaque latex glove was not part of the
4 Kentucky Fried Chicken supplies, and this witness,
5 Charles David, did not recognize that.

6 Next is Barbara Anderson's testimony is
7 reflected in Pages 1498 through 1502 of the original
8 transcript.

9 THE COURT: Fellow co-worker?

10 MS. MAYES: Yes, Your Honor, also a worker at
11 KFC.

12 Clarification, Your Honor. She is actually
13 employed by Sylvan Food Systems, and it is a
14 family-owned franchise, and they owned the Kentucky
15 Fried Chicken, including the Batesburg Kentucky
16 Fried Chicken.

17 Question: And is one of those Kentucky
18 Fried Chicken operations the one in
19 Batesburg-Leesville?

20 Answer: Yes, sir.

21 Question: Did you have that under your
22 control in January of 1996?

23 Answer: Yes, sir.

24 Question: Did you ever authorize or pay for
25 Kentucky Fried Chicken in Batesburg Duct tape, such

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STEVEN DERRICK - CROSS EXAMINATION

1 as State's 40?

2 Again, that is referencing the Duct tape
3 depicting in State's 183, Your Honor, and collected
4 as evidence from the crime scene.

5 Answer: No, sir.

6 Question: Would the company have gloves for
7 the employees to use, gloves to use in preparing the
8 food?

9 Answer: Right. They were ordered at the
10 store level when they were needed.

11 Question: And who would do that paperwork?

12 Answer: Myself.

13 Question: These gloves in here, the long
14 elbow-type ones that you can see through?

15 Right.

16 Is that the only type of gloves that were
17 used at the KFC in Batesburg in January of '96?

18 Answer: Yes, sir.

19 This is a reference, Your Honor, to the
20 sample glove being Original State's Exhibit 32.
21 That is the see-thru and transparent elbow-length
22 glove consistent with of a Kentucky Fried Chicken
23 employee.

24 Question: Did you or the company ever
25 purchase or authorize the use of latex gloves,

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STEVEN DERRICK - CROSS EXAMINATION

1 opaque like this, that are kind of tan or yellow,
2 such as No. 33?

3 Again, referencing Original Exhibit 33 found
4 at the crime scene -- or consistent with a glove tip
5 found at the crime scene.

6 Answer: No, sir.

7 Question: These were not used at Kentucky
8 Fried Chicken?

9 Answer: No, sir.

10 Question: Did William Kelly ever work at
11 Batesburg KFC?

12 Answer: Yes, he did.

13 Question: Do you know about what times he
14 worked?

15 Answer: His hire date is February 22, and
16 he actually started on Monday, February the 27th.

17 Question: Of what year?

18 Answer: 1995.

19 Question: And what was his termination
20 date?

21 Answer: His termination date was
22 December 8, 1995.

23 So he worked there just about all of 1995?

24 Answer: That's correct.

25 Question: Who was the manager when he

STEVEN DERRICK - CROSS EXAMINATION

1 worked there.

2 Answer: Shirley Shealy.

3 Next is Patricia Robinson, who was the
4 McDonald's manager in Aiken, and the Defendant
5 William Kelly was working at that McDonald's during
6 the time frame of the crime. Patricia Robinson's
7 testimony is reflected on Pages 1502 through 1505.

8 I'm employed at McDonald's on Richland
9 Avenue in Aiken, South Carolina.

10 Question: And how long have you been with
11 McDonald's?

12 Answer: Five years.

13 Question: During those, what is your
14 position with McDonald's?

15 Answer: Assistant manager.

16 Question: Now, in the latter part of 1995
17 and 1996, William Kelly worked at McDonald's there?

18 Answer: Yes, he did.

19 Question: You worked there with him?

20 Answer: Yes.

21 Question: Okay. And in working at
22 McDonald's, did you all use these kinds of latex
23 gloves at McDonald's?

24 Answer: Yes, sir.

25 Question: Mr. Kelly would have had access

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STEVEN DERRICK - CROSS EXAMINATION

1 to these gloves and used these gloves to clean the
2 kitchen area at McDonald's?

3 Answer: Yes, he would.

4 Question: And that would have been up until
5 the first part of January 1996?

6 Answer: Yes, sir.

7 That line of questioning of Patricia
8 Robinson is in reference to the opaque gloves,
9 State's Original Exhibit 33, a tip of which was
10 consistent with that glove that was found at the
11 crime scene.

12 We have Jack Fritz (ph). He was an employee
13 of the Golden Steak Food Corporation, who supplied
14 materials to McDonald's. His testimony is located
15 on Pages 1505 through 1507 of the original
16 transcript. State's 165, Your Honor.

17 Question: Mr. Fritz, by who are you
18 employed?

19 Answer: Golden Steak Food Corporation.
20 We're an exclusive vendor to our supplier at
21 McDonald's.

22 Question: Now, as to getting supplies,
23 sending out supplies to the various stores, would
24 that come through you?

25 Answer: It would eventually come through

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STEVEN DERRICK - CROSS EXAMINATION

1 me. I'm responsible for all of the accounting, data
2 processing, and the purchasing in the facilities.

3 Question: Latex opaque gloves, such as No.
4 33, would that be for the employees at McDonald's to
5 use, again, referencing State's Original Exhibit 33,
6 the opaque latex glove?

7 Answer: Yes, sir. They are primarily used,
8 as the young lady testified, for cleaning and
9 certainly for first aid.

10 That is Jack Fritz, State's 165. In
11 addition to State's Exhibit 164, Patricia Robinson,
12 and State's 163, Barbara Anderson, and 162, Charles
13 Davis.

14 THE COURT: All right.

15 MR. HUBBARD: Next, very briefly, we have a
16 witness, Michael Deguglielmo, State's 166. His
17 testimony in a transcript on Pages 1550 through
18 1556. As Your Honor can tell, he is from Micro
19 Diagnostics from out of state, brought in to talk
20 about PCR DNA testing on clothing recovered from
21 the defendant. To even shorten what I provided
22 you, I'll start on the second page with a question.

23 Question: Let's see if we can summarize
24 then on the money that you received, particularly
25 the \$20 of the 90 from Lowell, Massachusetts; you

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STEVEN DERRICK - CROSS EXAMINATION

1 found Shirley Shealy's blood?

2 Answer: That's correct.

3 Question: The swab from the knife left at
4 the murder scene, you found Shirley Shealy's blood?

5 Answer: Well, the swab DNA, correct.

6 Okay.

7 Correct. Her DNA.

8 From the clothing; that is, the black pants,
9 the white shirt of the suspect in Lowell,
10 Massachusetts, you found Shirley Shealy's DNA?

11 Answer: Correct.

12 Question: And on the shoes, that is the
13 swab from the shoes of the suspect located in
14 Lowell, Massachusetts, you found Shirley Shealy's
15 DNA?

16 Answer: That's correct.

17 Your Honor, we have things that need to be
18 marked real quick. Sorry about that. That's my
19 fault.

20 THE COURT: Sure. No problem.

21 (A brief pause in the proceedings.)

22 MS. MAYES: Next, we have a summary regarding
23 Charles Jordan, Jackie Grainger, and Captain Felix
24 Williams, and Mark Wharton.

25 Charles Jordan, Your Honor, he is noted in

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STEVEN DERRICK - CROSS EXAMINATION

1 the transcript Pages 1661. He was an officer with
2 the Lexington County Detention Center for two
3 years. The defendant was originally an inmate
4 there, and he had written him up within the first
5 month. He reported on August 19, 1998 that the
6 defendant, William Kelly, and two other inmates had
7 been charged with attempted escape and destruction
8 of property regarding mortar that had been removed
9 from cinder blocks, and then replaced with tissue.

10 Jackie Grainger, Your Honor, he was a master
11 correctional office at the Lexington County
12 Detention Center for a period of four-and-a-half
13 years. His testimony is noted at 1692 of the
14 transcript. He notes that on August 19 of 1998,
15 there was a lockdown, then a shakedown of the
16 defendant's cell. Above the second bunk, he found
17 mortar removed from cinder block near the ceiling.
18 Colored tissue had been used to disguise the
19 removed mortar. A tool had been used to remove all
20 of the cinder block. Each inmate, including the
21 defendant, was stripped searched.

22 Next, Your Honor Captain Felix Williams. He
23 was jail administrator at Lexington County
24 Detention Center. His testimony is noted at Page
25 1711 of the transcript. The defendant was placed

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STEVEN DERRICK - CROSS EXAMINATION

1 into Cell 387 on April 28 of 1998. The
2 recreational yard is on the other side of the wall,
3 the outside building.

4 Mark Wharton, Your Honor, he is noted in the
5 transcript at Page 1760. He is a master
6 correctional officer at the Lexington County
7 Detention Center for a period of seven years.

8 On May 1, 1997, during a pat-down, after
9 leaving an attorney visit, he found that the
10 defendant possessed a package of cigarettes, and
11 inside the pack he found a toothbrush with a metal
12 object melted onto it. It was described, Your
13 Honor, a shank, which was contraband.

14 This is State's 167, Your Honor, offered at
15 this time, which notes these infractions, which
16 occurred while the defendant was being held prior
17 to his capital murder trial in 1998. So between
18 that period of 1996 and 1998, the defendant was
19 charged with attempted escape. Again, as noted
20 from the testimony of Officer Charles Jordan,
21 Master Correctional Officer Jackie Granger, and
22 Felix Williams. He was found in possession of a
23 shank as noted by Master Correctional Officer Mark
24 Wharton, and he was appropriately charged.

25 This is State's 167, a new exhibit, Your

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STEVEN DERRICK - CROSS EXAMINATION

1 Honor.

2 THE COURT: Okay.

3 (Published to the Court.)

4 MR. HUBBARD: Next, Your Honor, there is
5 Matthew Mackormic, M-A-C-K. In the transcript, he
6 is found on Pages 1733 through 1759. I'll pass up
7 what State's -- New State's 168, which is the
8 portion of the transcript.

9 THE COURT: No objection from the defense as
10 to the new evidence?

11 MS. MAULDIN: No, Your Honor.

12 MR. HUBBARD: Your Honor, Mr. Mackormic, at
13 the time of the trial, was a federal inmate in
14 Petersburg Virginia, but was housed in the
15 Lexington County Detention Center with Mr. Kelly at
16 -- prior to Mr. Kelly's trial. Starting:

17 Question: Mr. Mackormic, did you have an
18 occasion to be housed or celled with the defendant,
19 William Arthur Kelly, in the Lexington Detention
20 Center?

21 Answer: Yes, sir.

22 Question: And for a period of,
23 approximately, how long?

24 Answer: It was on two separate occasions,
25 approximately six months altogether.

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STEVEN DERRICK - CROSS EXAMINATION

1 Question: Did you and the Defendant Kelly
2 engage in conversation on a regular basis?

3 Answer: Yes.

4 Question: Did there come a time or a number
5 of times that the Defendant Kelly talked to you
6 about his pending charges or they were pending at
7 the time?

8 Answer: Yes.

9 Question: Mr. Mackormic, tell this jury
10 what William Arthur Kelly told you regarding the
11 incident on May 5 of 1996, that is the stabbing and
12 killing of Shirley Shealy.

13 Answer: I was saying me and Mr. Kelly told
14 me that he worked at Kentucky Fried Chicken for
15 quite some time with this lady, which was the
16 manager. And he told me that they had not had a
17 relationship, not a previous relationship, but
18 something to the extent where, I guess, she might
19 have liked him at one time, but it wasn't -- it
20 wasn't mutual on his side. And they -- he told
21 Mr. -- Mr. Kelly told me that he planned to stage a
22 robbery at Kentucky Fried Chicken.

23 Question: He and the manager?

24 Answer: Yes. He told me they planned this
25 robbery, so that he would come take the money, then

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STEVEN DERRICK - CROSS EXAMINATION

1 flee while this lady called the police and, you
2 know, told that there was a robbery. After that, he
3 told me that he went -- well, during this robbery,
4 he went and retrieved the money. And when he -- on
5 his way leaving, he went back for some reason, and I
6 guess he overheard this lady on the telephone, and
7 she was having a conversation to where he got the
8 point across that she was turning on him. She was,
9 you know, turning him in, you know, for taking the
10 money and, you know, not saying that she had
11 anything to do with it, you know.

12 So the best I can remember he told me then
13 that that's when he went and retrieved a knife that
14 belonged to him. He told me that he collected
15 certain types of knives. He told me that right then
16 and there, that when he overheard this conversation,
17 this is when he went and got the knife and came
18 back, and I guess the lady saw him coming in, and at
19 this point she had known that he had overheard the
20 conversation, I guess, because maybe she saw the
21 knife in his hand. But she remained seated in the
22 chair, and at that point, Mr. Kelly positioned
23 himself behind this lady, and cut her throat.

24 Question: Did he describe to you, in fact
25 -- did he show you the manager in which -- the

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STEVEN DERRICK - CROSS EXAMINATION

1 manner in which he cut her throat?

2 Answer: Yes, sir. He said that he cut her
3 throat one time, and that she -- it didn't kill her
4 automatically, so he sort of turned the knife around
5 to the saw part and made a sawing motion -- turned
6 the knife around to the saw part and made a sawing
7 motion, literally, you know, trying to decapitate
8 her, the woman.

9 To cut her head off?

10 Answer: Yes.

11 Question: What else did he tell you?

12 Answer: At that point, he said he turned to
13 leave out of, I guess, the office of this
14 establishment, and he recognized an officer, a
15 police officer, coming through the front door of
16 Kentucky Fried Chicken. When he sees this police
17 officer, he said the police officer didn't see him
18 and didn't know that he was present. And so
19 Mr. Kelly said that he jumped out the drive-thru
20 window of this establishment.

21 Question: Now, was this the only time you
22 and Mr. Kelly discussed this particular incident?

23 Answer: No.

24 Question: Did you ever talk about escape?

25 Answer: Yes, we did.

STEVEN DERRICK - CROSS EXAMINATION

1 Question: In fact, isn't it true that
2 sometimes both of you sort of put your heads
3 together to figure out what a good escape plan might
4 be?

5 Answer: Yes.

6 Question: Now, there is some talk about
7 escape. Tell this jury if Mr. William Arthur Kelly
8 ever put one of those plans into action?

9 Answer: Somewhat, yes.

10 Question: Tell the jury about it.

11 Answer: Mr. Kelly, he made a shank one day,
12 and this was -- this was a homemade knife that he
13 made out of a toothbrush that he sharpened up on one
14 end.

15 Okay.

16 And we had an officer working at the jail at
17 that time.

18 Question: Do you recall her name?

19 Her name was Ms. Price, Marcia Price.

20 Question: Was she a correctional officer?

21 Answer: Yes, sir. She was regarded by just
22 about every inmate, including myself, to be a
23 pushover in this jail because she was really easy to
24 get over on. If anyone would try to escape, she
25 would be the most likely person to try to it with,

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STEVEN DERRICK - CROSS EXAMINATION

1 to try to take hostage, the most likely person.

2 Question: Tell the jury about that evening.

3 Okay. Me and Mr. Kelly were in the room
4 this night, and he had got finished making the shank
5 out of his toothbrush, and we were talking about
6 different ways to escape. And Mr. Kelly was going
7 to go through with one of his -- one of his periods
8 of where -- one of his periods where he didn't want
9 to be in the cell, you know. So he made a plan to
10 call Ms. Price to the door and take Ms. Price
11 hostage with the shank. He called Ms. Price to the
12 door, and Ms. Price came to the door. She opened
13 the door, and Mr. Kelly stood next to the door with
14 the shank out of view so she wouldn't see it.

15 Question: Was it in his hand?

16 Yes. And he then proceeded to stall. He
17 asked her, I don't know, for maybe some regular
18 things we ask for, toilet paper, Tylenol, something
19 of that nature. I couldn't really hear. But she
20 ended up leaving, and he ended up backing out and
21 doing it -- backing out of doing it, and that was
22 pretty much the end of it.

23 Question: Mr. Mackormic, I have one other
24 thing. Defendant Kelly used to carry a cup around
25 with him in the detention center?

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STEVEN DERRICK - CROSS EXAMINATION

1 Yes, sir.

2 Tell that jury what was that on that cup?

3 This cup was a Styrofoam cup, approximately
4 this big -- he indicates -- and it is white. And
5 the Styrofoam cup had drawings on it that Mr. Kelly
6 made with a pen depicting, I think, what I remember,
7 is a man holding a knife, cutting off a chicken head
8 like a comic strip, something to that nature. And
9 there were, you know, words along with this comic
10 strip that I can't remember. But that's basically
11 it.

12 And that was his personal cup?

13 Yes.

14 That is Mr. Mackormic's testimony, Your
15 Honor.

16 THE COURT: All right.

17 MR. HUBBARD: Next is Inmate Edward Bryant.
18 Your Honor, that is State's 169. His testimony
19 begins at 1768 and goes to 1774. It begins with
20 questioning about him being currently on probation
21 for CSC, and that he has no pending charges.

22 The question now is: Prior to that time when
23 you were placed on probation, did you -- were you
24 housed over at the Lexington County Detention
25 Center?

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STEVEN DERRICK - CROSS EXAMINATION

1 Answer: Yes.

2 Question: While you were there, did you
3 ever come into contact with a guy by the name of
4 William Arthur Kelly?

5 Answer: Yes, sir. I was on the same wing
6 he was on.

7 Question: If you are on the same wing with
8 an inmate, do you have a lot of contact with them?

9 Answer: Yes. Every day.

10 Question: Did you ever hear William Kelly
11 talk about escaping?

12 Answer: Yes. At one time.

13 Question: What did he say?

14 Answer: Well, at that time he was talking
15 about taking a nurse hostage.

16 Question: Taking a nurse hostage?

17 Answer: Yes, sir.

18 Question: Did you ever see him get
19 confrontational with some of those inmates?

20 Answer: Yes, a few of them. Yes, sir

21 Question: What would he do?

22 Answer: Mostly be -- it's either words or
23 little shoving and stuff most of the time.

24 Question: During the time that you were on
25 the same wing with Mr. Kelly, did you ever hear him

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STEVEN DERRICK - CROSS EXAMINATION

1 talk about what he was charged with doing?

2 Answer: Yes, sir. Several times.

3 Question: What did you hear William Arthur
4 Kelly say about that crime?

5 Answer: Most of the time, when I was
6 around, he was mostly bragging about it.

7 Question: Do you remember anything
8 particular that he might have said about that?

9 Answer: Yes. A few times he would be
10 joking around saying the only reason he didn't cut
11 her head off because he couldn't get through her
12 neck bone.

13 Question: He said that more than once?

14 Answer: Yes, sir.

15 Question: Did he have a nickname on the
16 floor?

17 Answer: Yes, sir -- well, he requested to
18 be called KFC.

19 Question: KFC?

20 Answer: Yes, sir.

21 Question: Like for Kentucky Fried Chicken?

22 Answer: Yes, sir.

23 Question: Let me ask you this, Mr. Bryant.
24 Did you ever see Mr. Kelly with a cup while he was
25 on the floor?

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STEVEN DERRICK - CROSS EXAMINATION

1 Answer: Yes, sir, I did. It was a white
2 Styrofoam cup. They have like a program when you
3 get the best floor, you get popcorn and stuff at
4 night, and it was a popcorn cup. I would say about
5 a 20-ounce cup or something like that.

6 Question: Do you remember anything being on
7 that cup?

8 Answer: Yes. There was a chicken with its
9 head cut off with blood dripping out of it, and
10 there was a knife above it, and on the front side it
11 had "KFC" on it.

12 That is Mr. Bryant's testimony.

13 Next, put up on the penalty phase, Dr. Peter
14 Shea, State's 170, new exhibit.

15 THE COURT: Any objection?

16 MS. MAULDIN: No, Your Honor.

17 THE COURT: S-H-E-A. Pages 1909 through
18 1961. Your Honor, he declared as an expert in
19 clinical and forensic psychology.

20 Question: All right. Now, Mr. Shea, did I
21 retain you to do a psychological evaluation of Billy
22 Kelly?

23 Answer: Yes, you did.

24 Question: Dr. Shea, as a result of your
25 review of the records, and the testing you did on

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STEVEN DERRICK - CROSS EXAMINATION

1 Billy, and the time you went -- you did spend with
2 Billy, do you have an opinion as to whether or not
3 Billy is mentally ill?

4 Answer: Yes, I do. I don't believe he's
5 mentally ill. His intelligence was in the average
6 range. He didn't have a pattern of severe alcohol
7 abuse, but he was drinking. And before he got
8 arrested, he was drinking, and he was also underage.
9 My diagnosis would be alcohol abuse in remission.

10 Then on cross examination:

11 Question: No mental illness that could
12 cause his thinking to be abstract or different than
13 a normal person's?

14 Answer: There is no indication of that.

15 Question: And it certainly wasn't a mental
16 illness that caused him to tell the mental health
17 counselor that he obsesses at times with killing
18 people who pissed him off, and that he thinks about
19 how he can do it and not get caught?

20 Answer: Not that would be an indication of
21 mental illness, no.

22 Question: And the fact that Mr. Kelly has
23 violent fantasies, that is not caused by mental
24 illness?

25 Answer: No, it's not.

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STEVEN DERRICK - CROSS EXAMINATION

1 Question: You also discuss, Dr. Shea, that
2 Mr. Kelly isn't a violent person from your
3 assessment of his history?

4 Answer: I said he had no extensive pattern
5 of violence. I think that the incident that we're
6 talking about here proves he is a violent person.
7 We don't have a long pattern of violence.

8 Question: Did you take into consideration
9 his statement about torturing and killing small
10 animals as he was growing up?

11 Answer: I took that into account, yes.

12 Question: That wasn't a factor? That's not
13 violent behavior?

14 Answer: That was a factor, and I took it
15 into account.

16 Question: It certainly wasn't caused by any
17 mental illness?

18 Answer: No, it was not.

19 Question: Could be because you're mean,
20 right?

21 Answer: Could be.

22 Question: And we both agree that that was
23 about as violent an act as one could do?

24 Answer: Absolutely.

25 And that concluded his testimony. Again,

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STEVEN DERRICK - CROSS EXAMINATION

1 that was a defense witness, psychologist, Dr. Shea.

2 Next is the pathologist. I don't know if
3 you want to proceed into that, or if you want me to
4 take a moment with the family?

5 THE COURT: Let's take about a five-minute
6 recess, and we'll reconvene.

7 (A recess was taken.)

8 MR. HUBBARD: Most of the family cleared the
9 courtroom, and there is probably a better setting
10 than a courtroom to see it, so that is what I
11 advised them, Your Honor.

12 THE COURT: Okay.

13 MR. HUBBARD: The next witness is the
14 pathologist, who long since retired and
15 unavailable, Your Honor. It is Joel Sexton,
16 S-E-X-T-O-N. This is State's Exhibit 171 of the
17 transcript -- parts of the transcript. There is
18 two separate parts, both in the guilty and penalty
19 phase, that I have handed Your Honor.

20 The guilt phase is from 1557 to 1576. The
21 penalty phase is from 1823 to 1843 in the
22 transcript that Your Honor has.

23 Your Honor, it begins with the stipulation by
24 the defense as to Dr. Sexton's credentials in the
25 field of forensic pathology as an expert.

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STEVEN DERRICK - CROSS EXAMINATION

1 THE COURT: Is that correct, Ms. Mauldin?

2 MS. MAULDIN: Yes, Your Honor.

3 THE COURT: Thank you.

4 MR. HUBBARD: Mr. Humphries, who was the
5 deputy solicitor at the time, begins the
6 questioning:

7 "Doctor, what I'm going to ask you to do is
8 talk about your relevant findings related to the
9 autopsy, and you tell me, should we start from the
10 front, top, or back?

11 Answer: As you can see, this is a diagram
12 in front of the body and the back of the body."

13 Your Honor, we had those out yesterday, and
14 I don't see them at all right now, the drawings of
15 the poster boards of the body. I was going to
16 visually show Your Honor what we were talking about.

17 (A brief pause in the proceedings.)

18 MR. HUBBARD: These are exhibits, and I'll
19 read these into the record, Your Honor, what was
20 used in the guilt phase, drawings based off of what
21 a pathologist -- they usually have these drawings
22 and mark wounds. What you are looking at is the
23 front and back drawing. It's State's 62, original
24 62, from the original trial in 1998.

25 Then, the head drawings showing both sides of

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1 the head, front and back of the head. That is
2 State's 63. Those were originally presented to the
3 Court as well, and to the jury at the time. All of
4 these are based on Dr. Sexton's drawings that he
5 typically has where he can denote injuries.

6 Then State's 64 is a side view of the same
7 injuries. That was all admitted into evidence in
8 the guilt phase. No photographs were put in in the
9 guilt phase.

10 THE COURT: Okay.

11 MR. HUBBARD: What you will also see, Your
12 Honor, this other object here, it is pretty
13 fragile. In fact, some pieces have broken off, but
14 it is from the penalty phase, State's 117. Again,
15 I'll go over this in the penalty phase when we talk
16 about testimony that was used to demonstrate along
17 with photographs so Your Honor knows where we are
18 going.

19 Going back to the answer:

20 "As you can see, this is a diagram showing
21 the front of the body and the back of the body. One
22 stab wound from the lung, from the front, three in
23 the liver, and one in the abdominal cavity."

24 This is from the front, Your Honor, on
25 State's 62.

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STEVEN DERRICK - CROSS EXAMINATION

1 "If, you know, high on the neck -- I'll show
2 you a blow-up of that in a moment -- there are some
3 incise wounds, and the difference between incised
4 and stabbed, stabbed is when the point of the blade
5 enters the body and produces a wound that is deeper
6 than it is long on the surface of the body. An
7 incised wound is where the sharp edges are drawn
8 across the surface of the body producing a very
9 long wound that may be shallow. So there were five
10 stab wounds here on the front of the right chest.

11 Looking at the back of the body, there is a
12 chopping style wound, in my opinion; although, it
13 could also be an incised wound here on the back of
14 the head that is 3 inches long."

15 He's referring to now State's 63. There is a
16 wound on the back of the skull.

17 "It has a 1-inch cut in the bone, and that is
18 why I feel it is chopping. That 1-inch cut is in
19 the center of the wound, and it's more consistent
20 with a knife blade hitting it like an axe so as to
21 cause this linear hole in the bone. Whereas, an
22 incised wound would not normally expect to do that,
23 but it could depending on the force involved and
24 the sharpness of the blade.

25 There were three stab wounds here on the back

STEVEN DERRICK - CROSS EXAMINATION

1 of the neck, and then in this area."

2 Again, he's referring to 63.

3 "Including the top of the left shoulder. The
4 back of the left arm, there are 20 stab wounds, the
5 majority of which are going downward. Two of them
6 go up, and all of them go towards the front. There
7 are two on the lower back. One here in the
8 midline, and one on the right buttocks."

9 Now, we're referring back to State's 62.
10 Your Honor will see on the back there are numerous
11 stab wounds, including down lower on the buttocks
12 and low back. That is what he's referring to.

13 So there are a total -- including this one on
14 the back of the head -- of 31 stab or incise
15 wounds, not including the three that are here on
16 the neck.

17 Here on the front of the neck, you can see
18 there is an A-V shape incised wound.

19 Looking at 63, Your Honor. He's talking
20 about this wound on the front of the neck right
21 below to the chin.

22 This is consistent with a knife starting at
23 one point, and going across the neck, and then a
24 second cut starting, most probably, here to the
25 left and coming across. But it also could be from

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1 the center of this and going out. There is no
2 defining portion of the incised wound to tell me
3 which direction. Sometimes a knife, if it is dull
4 enough, will cause a little wave or a little
5 projection of skin where it cuts, and then slips,
6 and you have a little projection sticking out,
7 which tells you which way the knife is going. But
8 in this case, this was a nice, clean cut in both
9 directions. So it could be two in the same
10 direction. It could be one in each of the two
11 directions.

12 On the right side of the neck is an
13 additional incise wound. This one on the right
14 side is very shallow. The two in the front, one is
15 shallow, and the one that comes off of an angle
16 here. The other one is deep enough to completely
17 cut through the airway, which is your trachea. And
18 to cut through the superficial vessels in this
19 case, the jugulars veins in the neck on the left
20 side.

21 Question: Let me ask you in relation to the
22 direction of the wounds, Doctor, what does the
23 changing of the directions of the wounds indicate to
24 you regarding movement either by the victim, the
25 assailant or both?

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1 He's referring, again, back to these back
2 ones especially, the different angles.

3 Answer: We find multiple stab wounds. They
4 are all going -- if we find multiple stab wounds,
5 they are all going exactly the same parallel
6 direction, it gives the impression that the
7 person -- neither party moved during the time those
8 stab wound occurred; that either the individual was
9 incapacitated or in some way restrained, and the
10 person doing the stab did not move, but stabbed
11 repeatedly in the same area. That is not what --
12 that was not true in this case. Almost all of these
13 went in different directions, either left or right.

14 As I mentioned, the one on the back, almost
15 all of them went downward except for two, but some
16 would go to the right, some to the left, some
17 straight in. So most all of them went in roughly
18 different directions, with the exception to the ones
19 on the right side, all of which went from right to
20 left. But even in that case, those on the right
21 side did go -- one of them goes downward here in
22 front of the chest. The other two goes some -- one
23 to the back, one towards the front. So there was
24 indication that there was probable movement between
25 the two parties, either by the person doing the

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1 stabbing, or the person receiving the stab wounds,
2 or both.

3 And, Your Honor, when he's talking about the
4 stab wound in the front, there is one directly above
5 the breast high in the chest, three on the side on
6 the front, and on the back again, multiple angles.

7 Question: Well, let me ask it this way.
8 Did you receive or take from the body of
9 Ms. Shirley, and later transfer to Steve Clare from
10 Batesburg-Leesville Police Department, a sum of
11 money that was attached to the body of Ms. Shirley,
12 Shirley Shealy?

13 Answer: Yes, I did. The photographs do
14 show that there were dollar bills stuck to the front
15 of the body, because there was a great deal of blood
16 on the front of the body. In fact, normally, a
17 person stabbed once or twice will find --

18 This is now talking about the amount of
19 blood in her body.

20 In fact, normally, a person stabbed once or
21 twice will find about a quart-and-a-half of blood
22 internally, because it takes that much to bleed to
23 death. But in this case, because of the multiple
24 wounds, all of that had bled out except for about 50
25 cc's, which is about a fourth of a cup of blood. We

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1 did find a number of dollar bills: Three 20s; eight
2 5's; two 1's that were stuck to the front of the
3 body.

4 Doctor, tell the jury the damage caused by
5 these wounds; that is, which of these wounds could
6 have been fatal, and what damage was done to the
7 internal organs of Ms. Shealy as a result of these
8 wounds?

9 Answer: Five wounds in the front of the
10 chest.

11 Again, referring to the front. These low
12 ones here, Your Honor. Below the chest (indicates),
13 you can see four, and the fifth one on the top
14 chest.

15 Five wounds in the front chest. So these
16 five wounds, this one in the chest high in the
17 middle to the right, and these four all caused
18 bleeding to the right chest. Five of these stab
19 wounds in the back caused -- actually caused six
20 stab wounds in the back of the right lung, and
21 that's because one of the wounds, this large one,
22 the knife came in, came out part way, and went back
23 in again.

24 Your Honor will see that more clearly
25 looking at State's 62 when we talk about the penalty

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1 phase. There is a larger back wound. It looks like
2 one wound he refers to it as five wounds on the
3 back, but he says it's actually two stabs in that
4 one spot (indicates).

5 In addition to the stab wounds to the chest
6 that caused hemorrhage into the right chest cavity,
7 cut the neck -- particularly this one on the front
8 that went through the airway and the jugular vein --
9 contributed to death.

10 Again, that's the neck wound (indicates).

11 So her death, in my opinion, within a
12 reasonable medical certainty, was from the bleeding,
13 both from the neck, and into the right chest cavity
14 from the multiple stab wounds to the right side of
15 the chest and the back, as well as the cut in the
16 neck.

17 That was the guilt phase, Your Honor.
18 Penalty phase, there were photographs, and Your
19 Honor sees a foam cutout that will be referenced. I
20 will say on the other side of the front, some of
21 these pieces have fallen off since it's been in the
22 back for almost 28 years now, I guess.

23 Beginning at the top.

24 "Question: Now, you have testified
25 previously that there being movement during the

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1 stabbing of Ms. Shealy?

2 Answer: That's correct. Not only a
3 movement of the clothing, so that the holes in the
4 clothing do not always correspond to holes
5 underneath them, whereas the holes in the skin might
6 be closer together than the holes in the clothing
7 indicating that the clothing moved between the stab
8 wounds. Plus, the stab wounds are going in
9 different angles instead of a number of them going
10 in exactly the same parallel path, which would
11 suggest there was no movement.

12 Question: Dr. Sexton, have you helped
13 prepare an exhibit for us to show all of these
14 directions in which the wounds went in, and the
15 various places in the body

16 Answer: Yes, I have."

17 And, Your Honor, that is State's Exhibit
18 117. And once he did that, Your Honor can see
19 multiple angles. These are the stab angles all in
20 different directions. The three down here on the
21 bottom have fallen out. He'll refer to green tips.
22 Anything with green tips is fatal, so the three that
23 have fallen out on the front side of 117 were also
24 fatal, and you'll note there are five fatal wounds
25 on the back, but all different angles.

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1 This model where the diagram that I drew
2 earlier was blown up on a poster board and attached
3 to Styrofoam so that the probes could stay in place.
4 The probes that have green ends were the five fatal
5 stab wounds that entered the back of the body. The
6 ones that do not have green on it were superficial,
7 meaning they have penetrated the skin and soft
8 tissue, but had not gone internally to hit any major
9 vessels internally, although they could hit small
10 arteries and veins in the soft tissue, but had not
11 penetrated into the body cavity.

12 There is also here on the top of the head,
13 and mostly on the back of the head, but the top of
14 the head is a long gash, sharp clean edges. We
15 distinguish between blows that split the skin, and
16 knife wounds that split the skin, and that the blows
17 caused damage to the edge of the wound. We refer to
18 this as an abrasion along the edge, so that it
19 actually pinches the tissue between the hard object
20 and the bone underneath. That was not present here.
21 This was a sharp cut. There are three ways it could
22 be inflicted as I mentioned earlier in testimony.
23 The fact that it made a cut in the bone, that was in
24 the middle of that characterized by the black lines,
25 strongly suggests it was a chop because it had

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1 enough force to then penetrate the bone about an
2 eighth of an inch.

3 That is where he marked this black area on
4 117, Your Honor.

5 There's at least the possibility that it is
6 an incised wound where it is just cut straight down
7 with a lot of force so as to do the same. And,
8 lastly, it could be a stab where only the tip of the
9 blade went in going downward. I think it is much
10 less likely.

11 Your Honor, referring to photographs --
12 State's 112, an actual depiction of the wound. You
13 will see the doctor's number here for the autopsy
14 number, and this is the wound that split the scalp.
15 This is 113 showing Ms. Shealy -- the back of her
16 head. You will see those cuties referenced earlier,
17 the neck, and a deep cut there.

18 As you can see from the mannequin, the
19 wounds are at different angles, so they are most
20 likely movement by one of the parties, either the
21 person doing the stabbing, or the victim, or both.

22 115 is a photograph he refers to. I'll pull
23 that out, Your Honor. The photograph showing
24 primarily the right side of the chest and the neck.
25 There are three stab wounds just below -- 115 is a

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1 photograph showing primarily the right side of the
2 chest and the neck. As you can see on the lower
3 right chest, there's a stab wound on the edge of the
4 right breast. There are three wounds just below
5 that on the right chest. Notice they are much
6 closer together here than they were on the blouse
7 when we looked at the blouse. The blouse showed the
8 wounds further down, indicating movement between the
9 skin and/or the person's body and the clothing
10 between the stab wounds.

11 Your Honor, these are all fatal wounds that
12 he pointed out.

13 Question: Doctor, you said on the back you
14 have five of these stakes with green tips. You've
15 got five on the front with green tips; what does
16 that indicate?

17 That's correct. The green tips that are
18 present on all five of these mean they went into
19 the area of the body that would cause sufficiently
20 -- would bleed sufficiently to be enough to cause
21 death. All five of these penetrated the chest
22 cavity or the liver, which is the upper abdominal
23 cavity, or the abdominal cavity, and struck organs
24 that would bleed sufficiently to cause death. All
25 of these contributed to the loss of blood, and to

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1 the right chest, as well as internally.

2 Your Honor, if you will look at State's 110
3 and 111. This is 111 showing these stab wounds to
4 the back. You will see the base all the way down
5 to the buttocks. You have one at the low back.
6 And then as I mentioned earlier, you have a major
7 wound to the back.

8 And then 110, these are all from the original
9 trial and focuses a little more on that back and
10 those wounds, particularly that large wound. These
11 were -- as you see on the mannequin -- fatal
12 wounds.

13 Your Honor, he also mention as superficial
14 wound to the neck, did not cause death. That is
15 114 on the right side. You heard earlier testimony
16 of that. And now he's going to refer to State's
17 116: An illustration of the incised wounds across
18 the neck. There are actually two wounds. We have
19 tilted the head back a little ways so you that now
20 you can see how deep this wound is, because now it
21 gapes.

22 Your Honor, he's looking at State's 116.
23 This is the neck wound.

24 "Here you can see there is a sharp edge that
25 continues all the way over here to the left, and

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1 then there is a V-shaped island of tissue, and then
2 another incised wound that starts over here -- or I
3 shouldn't say "starts here," because it did not
4 have a characteristic-type of little scalping
5 showed in which direction these occurred. They
6 could have occurred in either direction, but there
7 are at least two cuts in the neck. One severed the
8 trachea, which you can see this is the round
9 structure, the upper part of the neck. You can
10 also see some vomitus inside the trachea and the
11 upper portion. You can't see the lower portion
12 because it is separated. But there is no vomitus
13 in the lower portion of the airway, only in the
14 upper portion.

15 When a person vomits and then aspirates, it
16 means that they allowed blood or gastric content,
17 which we're all familiar with, vomitus comes out of
18 their stomach. If they then aspirate it into their
19 airways, it generally goes all the way down into
20 their lungs, and it can actually cause pneumonia or
21 death, or it can cause acute death from occluding
22 the airway itself from the effects of the acid.

23 The fact that the vomitus did not get into
24 the lower airway indicates to me that the vomiting
25 occurred after the cut through the trachea, so it

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1 was able to come down to this point and spill out,
2 but it cannot communicate with the lower airway,
3 which is clean. As I mentioned, there are two cuts
4 across the front of the neck, one through the
5 trachea.

6 The esophagus is intact, which is behind the
7 trachea. There was a cut through the jugular vein
8 on this side. There is no cut through either of
9 the major vessels in the back of the neck, the
10 arteries, only the jugular vein.

11 Question: Now, Doctor, let me ask you a
12 question, and I'm going to turn this sideways.
13 These stab wounds -- and I think you said there were
14 31, not including the neck and the throat?"

15 That is these, Your Honor.

16 "That's correct.

17 Question: So that would be 32, 33, 34,
18 because there are two up here. Would these have
19 been painful?"

20 Your Honor, he's talking about the upper
21 part of the neck now, that was not included in the
22 31 stabs.

23 "Would these have been painful?

24 So, in my opinion, all of these would have
25 been painful. Some would have been more painful

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1 than others.

2 Would death have been instantaneous in this
3 situation, Doctor?

4 Answer: No, it would not, in my opinion,
5 within a reasonable medical certainty. So all of
6 these stab wounds and incised wounds occurred while
7 the heart was still beating. None of these were
8 rapidly fatal. Had it gone through the carotid
9 artery, it could have been rapidly fatal. So all of
10 these occurred during the time the heart was beat.
11 There is nothing that would be instantaneously
12 fatal, and nothing that would even be rapidly fatal.
13 All of them were inflicting wounds that would cause
14 bleeding, but only ten that went in and hit the
15 lung, which is a low pressure system in the body.
16 It's not where we have a lot of blood coursing
17 through there under pressure, so the blood would
18 have been coming out slowly. Some of the
19 superficial stab wounds may have hit some small
20 arteries that may would have spurt, but not enough
21 to cause rapid death.

22 As I mentioned, the one to the throat would
23 not -- did not penetrate any arteries of major size,
24 only superficial. It is near the surface. It did
25 cut through the airway, but the person could still

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STEVEN DERRICK - CROSS EXAMINATION

1 breathe through that airway.

2 Question: They would have been breathing
3 through that cut?

4 Answer: That's correct.

5 Question: You testified the other day there
6 were no defensive wounds?

7 Answer: That's correct.

8 Question: What did you mean by that?

9 Answer: The fact that there were no wounds
10 on the hands, arms, or legs which occur when a
11 person is trying to prevent an individual from
12 cutting them with some sharp object, they have
13 nothing to defend themselves but with their
14 extremities. So those areas of the body gets cut.
15 Oftentimes, the hands will grab the knife, and there
16 will be a cut in the hand, and there were none of
17 those present.

18 In my opinion, within a reasonable medical
19 certainty, her hands were bound at the time she was
20 stabbed, because there is no blood on them.
21 Granted, the clothing could have protected that, but
22 only if her hands stayed under that clothing. So,
23 in my opinion, since there are no defensive wounds,
24 there is no blood on the hands, her hands, in my
25 opinion, were most probably bound at the time she

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STEVEN DERRICK - CROSS EXAMINATION

1 was stabbed.

2 Your Honor, we're looking at State's 108.

3 This is Ms. Shirley Shealy when she comes into

4 autopsy, face down, and these are her hands. As you

5 can see, there is no blood on them. You see blood

6 all over her clothing and the rest of her body.

7 Your Honor, he also testified -- earlier, you heard

8 about the money. He testified in the guilt phase

9 about money being stuck to the body. A photograph

10 was put in the penalty phase. That's state's 109.

11 This is Ms. Shirley Shealy faced up. Your Honor can

12 see all of those bills that were literally saturated

13 with blood and stuck to her body. That's State's

14 109.

15 The testimony resumes: Doctor, I think you

16 testified the other day those ten wounds with the

17 green tip being the cause of death and how she died.

18 What was it inside?

19 Answer: By exsanguination or simply

20 bleeding to death, by blood bleeding out of those

21 vessels into the body cavity, as well as the outside

22 body.

23 Question: Was she pregnant?

24 Answer: That's correct. At the time of the

25 autopsy, when we examined the internal organs, we

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STEVEN DERRICK - CROSS EXAMINATION

1 found the decedent was pregnant with a fetus that
2 was a well-developed, normal appearing fetus that
3 was very pale, and the placenta attached to the
4 fetus was also pale indicating there was no blood
5 present either to the normal extent that you expect
6 it. There was no disease or any congenital defect
7 noted in the fetus. The fetus was estimated to be
8 about 23 weeks gestation, which is just short of
9 approximately six months.

10 In my opinion, based on the absence of any
11 congenital defect or disease or illness, and the
12 lack of blood in both the body of the mother and the
13 body of the child, the child died from loss of
14 blood, loss of nutrients because of the mother's
15 death.

16 Question: Boy or girl?

17 Answer: A little boy.

18 Question: Was there anything about that
19 little boy that you could detect? Was anything
20 abnormal? Any kind of deformity? Anything at all?

21 Answer: I saw nothing abnormal.

22 Question: From your examination of the
23 baby, do you have an opinion as -- if the mother had
24 lived a full-term, that the baby would have lived?

25 Answer: In my opinion, it would. In fact,

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KEN RUDY - DIRECT EXAMINATION

1 at the time of the mother's death, if the baby in
2 some way could have been gotten out of the uterus
3 and immediately cared for, there are infants much
4 smaller that are born in hospital settings that
5 survive.

6 Question: Doctor, let me ask you this. The
7 autopsy that you performed of Ms. Shealy, taking all
8 of this into account, is it your opinion that the
9 baby was a healthy baby?

10 Answer: Yes, that's correct.

11 All of that was submitted during the penalty
12 phase of the State's case. That is all I have with
13 this one.

14 Your Honor, my other witness just showed up,
15 my live witness. Can I take just a few minutes?

16 THE COURT: Sure. Let's take a recess.

17 (A recess was taken.)

18 MR. HUBBARD: State calls Ken Rudy.

19 (KEN RUDY, having been duly sworn, testified
20 as follows:)

21 MR HUBBARD: R-U-D-Y.

22 DIRECT EXAMINATION

23 BY MR. HUBBARD:

24 Q Are you currently working or retired?

25 A Been retired for a good while.

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KEN RUDY - DIRECT EXAMINATION

1 Q About how long?

2 A Since 1999.

3 Q Back in 1999 and before that, where did you
4 have a career?

5 A I worked at three centers. The first one I
6 worked at was down on Lincoln and Hampton Street
7 next to the City of Columbia Police Department. I
8 think at one time it used to be the old Richland
9 County jail, and then when they built Broad River
10 Institution, we moved out to Broad River because
11 the building where we were at on Lincoln Avenue was
12 condemned.

13 From there, we were at Broad River for a
14 while. Then we moved just across the street -- or
15 across the hill to Kirkland Correctional
16 Institution.

17 Q So you were employed with what we call SCDC,
18 South Carolina Department of Corrections?

19 A That is who I was employed by, yes, sir.

20 Q And in talking with you, was your job in the
21 intake for incoming inmates that you would get
22 information from them?

23 A Right. When they first came in, I reviewed
24 all of the commitment papers to make sure that
25 everything was in order, and then we would start

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KEN RUDY - DIRECT EXAMINATION

1 the process of -- talk to inmates and saying to
2 them, Had you ever served time before? Because it
3 was amazing how many could remember their old SCDC
4 numbers if they had been with us before.

5 And then there were all new people coming in,
6 and so then we would decide if -- some people were
7 parole revocators coming back under the previous
8 SCDC number, you know, to finish out their
9 sentences or probation violators.

10 If they were a new inmate, we gave them a new
11 six digit SCDC number.

12 Q In talking with my office, were you involved
13 with the intake of William Arthur Kelly back in
14 1998 when he was sentenced to death over here in
15 Lexington?

16 A Yeah. Yes, sir, I was.

17 Q I want to show you, if I can, what is marked
18 as State's Exhibit 157. Are these the intake
19 papers, and you have copies of these?

20 A Right. And this one here actually came up --

21 Q That's your name?

22 A Yeah, in '98. Because when Mr. Kelly first
23 came to the department, he came as a safekeeper.

24 Q I'll ask you about that in a second.

25 MR. HUBBARD: Your Honor, this is State's

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KEN RUDY - DIRECT EXAMINATION

1 157. We'll be referring to that.

2 THE COURT: Is this without objection?

3 MS. MAULDIN: May I see which document it is?

4 (A brief pause in the proceedings.)

5 MS. MAULDIN: No objection.

6 THE COURT: Without objection.

7 (State's Exhibit 157 prior stipulated.)

8 Q (BY MR. HUBBARD) On that front page, is there
9 something that denotes he is safekeeping, a number
10 at the top? The 5061?

11 A Yeah, that is the number I issued him. When
12 his information was put into the computer, and
13 everything like that, 888 would show that he was an
14 inmate under the sentence of death.

15 Q So the 888 would be on the same front page
16 down at the bottom, and that's an indication he is
17 sentenced to death; therefore, he's in safekeeping?

18 A That's correct.

19 Q Now, I believe these documents also showed
20 the one you're referring to that mentions your
21 name, the date you actually interacted with him.
22 Is that September 21?

23 A Of '98, yes, sir.

24 Q September 21 of 1998. So this is right after
25 he has been sentenced to death and sent to SCDC?

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KEN RUDY - DIRECT EXAMINATION

1 **A** That is correct.

2 **Q** Let me ask you this. When an inmate would
3 come in, were they given an opportunity to tell
4 about their situation, about their case, or about
5 what had happened?

6 **A** Yeah. And one part there of his record,
7 there was the inmate statement, and the inmate
8 statement was completely voluntary.

9 **Q** Okay. So we'll turn several pages back.
10 There is something that says "inmate statement,"
11 and then there is -- in this instance, there is a
12 typed dialogue. Who types this out?

13 **A** One of the people that work at the R and E
14 center after all of the information was going to be
15 -- this was a long statement, and so what they do
16 is they would kind of handwrite it out, and that
17 sort of stuff, and transpose it to the computer
18 machine.

19 **Q** Okay. And what is transposed, are these his
20 actual words? This is the summary of --
21 information-wise, does the content come from
22 Mr. Kelly?

23 **A** Yeah. Yeah.

24 **Q** When you talked to Mr. Kelly in '98, were you
25 even following the trial over here in Lexington, or

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KEN RUDY - DIRECT EXAMINATION

1 did you know about it?

2 **A** No, sir. To be honest with you, no, I did
3 not.

4 **Q** And so when he gave this statement, this is
5 the first time you heard anything about this case?

6 **A** Right.

7 MR. HUBBARD: Your Honor, I would like to
8 publish the statement, if I may?

9 THE COURT: All right.

10 MR. HUBBARD: "Subject was arrested on
11 January 8, 1996 by a Lexington County officer for
12 murder, kidnapping, armed robbery, possession or
13 display of a knife during the commission of a
14 violent crime.

15 "Subject pled not guilty and remained in
16 jail. There were no accomplices, and he was not
17 drinking or using drugs.

18 "Subject states that his crime occurred on
19 January 5, 1996 in Batesburg, South Carolina, at
20 the KFC on west Avenue. Subject states that he
21 went to the KFC to rob them. He hid in the back
22 seat of Shirley Shealy's, who was the manager, car.
23 He states he pulled a knife on her and made her go
24 back to KFC. He took her into the manager's office
25 where she opened the floor safe and gave him money,

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KEN RUDY - DIRECT EXAMINATION

1 which was approximately \$1,300.

2 "He states that Shirley agreed not to say
3 anything about what -- about who had done this
4 crime. He states that he was friends with Shirley.
5 She was 25 years old. When he got ready to leave
6 out of the store, he heard her on the telephone
7 trying to call someone. He does not know what she
8 said. He states he went back into her office
9 because he heard her talking to someone.

10 "Subject states that he tied her hands behind
11 her back with Duct tape, and she had not moved from
12 where he had left her. He states that she was
13 probably talking to herself. He states that he had
14 to kill her in order for her not to say anything
15 about this crime, so that he could not get into
16 trouble.

17 "At this time, he slit her throat and he
18 jumped -- and she jumped up and scared the blank
19 out of him. He then stabbed her 31 times.

20 "Subject states that she did not know that he
21 had come back into the office because he came up
22 behind her and cut her throat. He stabbed her 21
23 times in the back, five on the chest, two on the
24 neck, one on the scalp, and one in the right
25 buttocks.

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KEN RUDY - DIRECT EXAMINATION

1 "He states that he had the money, but during
2 the stabbing, it had fallen out of his jacket all
3 over the floor. He states that he had
4 approximately \$250 still left in his coat.

5 "After this happened, he states that he just
6 stood there because he just freaked out. He had
7 blood on his pants and shoes. While he was
8 standing there, the police did a routine check and
9 saw Shirley's car. The police shined the light
10 into the store. He went out through the drive-thru
11 window. He states that he went and got in his car,
12 which was approximately a hundred feet away. The
13 police did not see him get to his car.

14 "He states that he thought the police saw
15 him, and he knew -- he knew he (sic) would know who
16 he was.

17 "He states that he left and went to
18 Massachusetts, to his sister's home. He states
19 that the police did not know he did the crime, but
20 since he had worked at the store, had been at the
21 store earlier in the day, and had disappeared, he
22 was a prime suspect.

23 "Subject states that his mother was worried
24 about him, and when she found out where he was, she
25 told the police. His mother thought maybe the

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KEN RUDY - DIRECT EXAMINATION

1 killer had also taken her son.

2 "When the police questioned him in
3 Massachusetts, he confessed to the crime. He was
4 brought back to South Carolina.

5 "Subject states he does not know why he did
6 this. He did not need the money. Subject states
7 that he was not violent as a child and has never
8 been a violent person. He has no reason.

9 "Subject stated that Shirley was six months
10 pregnant and had a little three-year-old son. He
11 states he had a lot of anger built up inside of him
12 because of his father. He states that his father
13 was abusive when he was younger and had raped his
14 sister from the time she was 13 years old until she
15 turned 18. He states he just wanted to make it on
16 his own. He states in the past he used alcohol and
17 tried drugs, but he had quit so that he could get
18 his life back in order and go back to school."

19 Mr. Rudy, this statement made to you, this is
20 after the trial, correct?

21 **A** That is correct.

22 **Q** So, obviously, this is information that never
23 came out in the death penalty case when Mr. William
24 Kelly was tried; is that correct?

25 **A** That would be true.

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KEN RUDY - CROSS EXAMINATION

1 MR. HUBBARD: Your Honor, you will see there
2 is other questions that he's asked about, but the
3 statement is what we're offering.

4 Mr. Rudy, I believe that is all I have for
5 you. Thank you.

6 THE COURT: Ms. Mauldin, any questions of
7 this witness?

8 MS. MAULDIN: Yes, sir.

9 CROSS EXAMINATION

10 BY MS. MAULDIN:

11 Q Good morning, Mr. Rudy.

12 A Good morning.

13 Q You said that this was information that had
14 not come out in the death penalty trial?

15 MR. HUBBARD: That was not my question, Your
16 Honor. I object. There is a misunderstanding.
17 This statement did not come out during the trial,
18 that's what my question was.

19 THE COURT: So repeat your question, Ms.
20 Mauldin, so I can Rule on it.

21 Q (BY MS. MAULDIN) This information -- your
22 response is that this didn't come out in the death
23 penalty trial?

24 THE COURT: Objection overruled. I'll let
25 him attempt to answer the question.

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KEN RUDY - CROSS EXAMINATION

1 **A** No. We got him after trial, okay. And so
2 when he came to the Department of Corrections, he
3 is as a safekeeper, because he had a death penalty
4 sentence. At that time, this was his free and
5 voluntarily statement he made to us after trial,
6 after he was sentenced in Lexington. Then, we
7 received the inmate, and we were interviewing him
8 for our purposes.

9 **Q** **(BY MS. MAULDIN)** Okay. And when you first
10 met Mr. Kelly and you were giving him a SCDC
11 number, you learned that he had not been an inmate
12 in SCDC prior to this, right?

13 **A** That's correct.

14 **Q** And you mentioned something about you would
15 review commitment paperwork. What would that
16 include?

17 **A** That would include -- I believe it was Judge
18 Clarey sentenced him to death, and that would be
19 the commitment paper where we would be -- review
20 it.

21 **Q** Like sentencing sheets?

22 **A** Right. And for what offense and stuff like
23 that, yeah.

24 **Q** Would you have gotten a rap sheet?

25 **A** Sir (sic)?

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KEN RUDY - CROSS EXAMINATION

1 Q Would you have gotten a rap sheet?

2 A Sometimes we do with inmates, but a lot of
3 times we did not have rap sheets.

4 Q Do you remember if he had a rap sheet in with
5 his paperwork?

6 A That, I couldn't tell you.

7 Q Okay. And you answered the Solicitor's
8 question when he asked you whether inmates had an
9 opportunity to talk?

10 A Right.

11 Q And why would SCDC ask people what happened?

12 A Just for the purposes for an inmate
13 statement. A lot of times, inmates would come in
14 and say we don't want to talk any further about the
15 case, and we would just put down that they don't
16 wish to tell us anything about the crime or
17 anything like that. But in his case, he
18 voluntarily gave us this statement.

19 Q Why would SCDC even collect that in the first
20 place?

21 A Just for -- it was part of the inmate record.

22 Q Okay.

23 A As far as if the inmate wanted to voluntarily
24 make the statement, and that is what this is.

25 Q Okay. The -- when you talk about this being

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KEN RUDY - CROSS EXAMINATION

1 a voluntarily statement, how did you convey to
2 Mr. Kelly that it was completely voluntarily to
3 give this information?

4 **A** Told them that.

5 **Q** I'm sorry?

6 **A** I told him that.

7 **Q** Was there any sort of waiver or anything like
8 that?

9 **A** No. I don't remember him, you know, saying
10 anything that he didn't want to make a statement.
11 He gave all of this to us voluntarily.

12 **Q** And you are the person who typed this in,
13 right?

14 **A** Yeah.

15 **Q** And so there are --

16 **A** I mean, I was doing it by hand first, you
17 know, because my computer skills weren't that great
18 as far as putting it into the machine initially.
19 So I would transpose it from a written sheet of
20 paper so I could put it into the computer.

21 **Q** Okay. And so you used the word "accomplice,"
22 was that your word or his word? This is about four
23 lines down on the left.

24 **A** Accomplice and he was not drinking -- no, all
25 of this -- that's what he told us, that there were

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KEN RUDY - CROSS EXAMINATION

1 no other accomplices and he was not drinking or
2 using drugs. That was voluntarily.

3 Q My question is: Was the word "accomplices" a
4 word that he, a 20-year-old young man used, or that
5 you, as a correctional officer, would have used?

6 A That was his word.

7 Q He said the word accomplice?

8 A Yeah. I mean, he had an eighth grade of
9 level of education, so I feel sure that he had
10 heard that word before.

11 Q And I'll point out a couple of others, and
12 since they are in the middle, I'll show you what
13 I'm talking about.

14 THE COURT: Where are you at? Bottom of the
15 first page of the statement?

16 A Where it says --

17 Q (BY MS. MAULDIN) For example, he uses the
18 word "scalp" and "buttocks"?

19 A He knew buttocks. He probably maybe said
20 "leg" or something, and I may have corrected it to
21 say "buttocks."

22 Q And what do you mean you corrected it to say
23 "buttocks" rather than "leg"?

24 A Well, I thought it was more appropriate,
25 that's all. I mean, just in that particular area

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KEN RUDY - CROSS EXAMINATION

1 of the leg. I think he was pointing to it, and,
2 oh, it looks like the right buttocks, and he said.
3 Okay.

4 Q So you remember him relaying all of this to
5 you?

6 A It took me a while to figure it out, but
7 yeah. I didn't have that many inmates that would
8 give this length of statement and everything like
9 that.

10 Q This one stood out to you?

11 A Yeah.

12 Q And then let's go to the second page, then on
13 that first line.

14 MR. HUBBARD: What page?

15 MS. MAULDIN: Second page of the statement.

16 MR. HUBBARD: Okay.

17 Q (BY MS. MAULDIN) When you use the words
18 "prime suspect," were those the words he used or
19 words that you used?

20 A I don't remember this at all, as far as he
21 had disappeared and he was a prime suspect. I --
22 for some reason, I just don't remember that. I'll
23 be honest with you, I don't remember. This was 20
24 plus years ago.

25 Q Okay. And did you make any kind of recording

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KEN RUDY - REDIRECT EXAMINATION

1 of him telling you all of this stuff?

2 **A** No. There is no audio recording.

3 **Q** There is no account of this in his
4 handwriting?

5 **A** Pardon me?

6 **Q** There is not an account of this in his
7 handwriting?

8 **A** No.

9 MS. MAULDIN: No further questions.

10 THE COURT: Redirect?

11 **REDIRECT EXAMINATION**

12 **BY MR. HUBBARD:**

13 **Q** Mr. Rudy, typically, when someone made a
14 statement, they didn't give this much detail?

15 **A** Right.

16 **Q** So this one stands out to you?

17 **A** To a certain extent, yes. And probably due
18 to the notoriety of the crime.

19 **Q** And, secondly, the consent, whether the word
20 is "buttocks" or another word used for that same
21 part of the anatomy, the content and the message
22 that is there, did that come a hundred percent from
23 Mr. Kelly?

24 **A** Yeah. Other than the ones she pointed out,
25 buttocks. I may have said what you are describing

ORIGINAL FOR USE BY S.C. INDIGENT DEFENSE ONLY!!

DANIEL COTTER - DIRECT EXAMINATION

1 to me is the buttocks area.

2 Q But other than that, the content, the story,
3 the messages that he gives you, is that his, a
4 hundred percent his?

5 A Yes. Yes, it is.

6 MR. HUBBARD: Thank you, Mr. Rudy.

7 THE COURT: Anything else?

8 MS. MAULDIN: No, Your Honor.

9 THE COURT: Thank you, sir. You can step
10 down.

11 MR. HUBBARD: I ask that he be free to leave.

12 THE COURT: You're free to leave.

13 Next witness.

14 MS. MAYES: The State calls Daniel Cotter.

15 (DANIEL COTTER, having been duly sworn,
16 testified as follows:)

17 THE CLERK: Have a seat please, and state
18 your name for the record.

19 THE WITNESS: Daniel Cotter, C-O-T-T-E-R.

20 **DIRECT EXAMINATION**

21 **BY MS. MAYES:**

22 Q Good morning. Tell us a little bit about
23 yourself. Where are you currently employed?

24 A I currently work for the Office of Inspector
25 General for SCDC. I'm a Class 1 law enforcement

ORIGINAL FOR USE BY S.C. INDIGENT DEFENSE ONLY!!

DANIEL COTTER - DIRECT EXAMINATION

1 officer. And, if you don't mind, I'll explain my
2 history.

3 Q Sure. Please do.

4 A 2002, I started off as a corrections in New
5 Hampshire, moved to South Carolina in approximately
6 2006, and became a corrections officer. From
7 there, I moved up the ranks. I became a contraband
8 officer as a sergeant and pretty much did the
9 majority of my work as a contraband officer,
10 detection of contraband, and crimes within the
11 prison. From there, I went on to become a law
12 enforcement officer and been so for, approximately,
13 seven years.

14 Q You mentioned you are currently with the
15 Office of Inspector General. What is your rank or
16 title with them in that department?

17 A I'm an assistant chief.

18 Q All right. Now, does that also enable you to
19 be familiar with the various infractions that may
20 be noted regarding any inmate within the South
21 Carolina Department of Corrections?

22 A Yes, ma'am. And more so in my contraband in
23 my career, but, yes, ma'am.

24 Q And pursuant to your testimony today, did you
25 receive a request from the State for a full summary

ORIGINAL FOR USE BY S.C. INDIGENT DEFENSE ONLY!!

DANIEL COTTER - DIRECT EXAMINATION

1 and record report regarding the inmate William
2 Kelly?

3 **A** Yes, ma'am.

4 **Q** Do you have those items with you today?

5 **A** Yes, ma'am.

6 MS. MAYES: And also, Your Honor, the State
7 had previously filed a notice of evidence in this
8 case pursuant to South Carolina Code 19-5-520 for
9 admission of these records, as a business record.
10 This would be State's 158, as well as State's 326
11 regarding the records summary of the defendant.

12 THE COURT: Any objection from the defense?

13 MS. MAULDIN: No, Your Honor.

14 THE COURT: All right. Without objection,
15 admitted into evidence.

16 (State's Exhibits 158 and 326 prior
17 stipulated.)

18 MS. MAYES: If I may, I will pass State's
19 326, a new exhibit, directly to the Court.

20 THE COURT: All right.

21 **Q (BY MS. MAYES)** So I want to start Agent
22 Cotter, by asking some general questions about
23 contraband in and of itself. Why are certain
24 items, such as cell phones, designated as
25 contraband within the South Carolina Department of

ORIGINAL FOR USE BY S.C. INDIGENT DEFENSE ONLY!!

DANIEL COTTER - DIRECT EXAMINATION

1 Corrections?

2 **A** Okay. And contraband is anything that is not
3 authorized by the director of SCDC. At varying
4 levels, probably right now our most dangerous
5 contraband within SCDC is a cell phone.

6 **Q** Why is that?

7 **A** The reason being is there can be -- cell
8 phones can be used for almost anything. There's
9 schemes where they get money from civilians. They
10 obtain information on correctional staff or people
11 on the other side. There have been known hits.
12 Capital Johnson, notoriously, probably one of our
13 more famous ones where he was shot in his house due
14 to a hit that was made over a phone call, cell
15 phone call.

16 **Q** From within the South Carolina Department of
17 Corrections?

18 **A** Yes, ma'am. And there's been other
19 correctional staff that had their house shot at and
20 an arson attempt. So it is probably one of our
21 most dangerous contraband items within prison.

22 **Q** I want to ask you a few more questions about
23 that. When you talk about the use of cell phones
24 within the Department of Corrections, may they also
25 be used to plan other crimes with other inmates?

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DANIEL COTTER - DIRECT EXAMINATION

1 **A** Yes, ma'am.

2 **Q** Does that include insurrections and riots?

3 **A** Yes, ma'am.

4 **Q** And, specifically, as to the Lee County
5 Correctional Institute insurrection, were cell
6 phones known to be a part of that as well?

7 **A** Yes, they were.

8 **Q** In addition to cell phones being used for
9 those purposes, can they also be used to obtain
10 contraband, such as illegal substances?

11 **A** Yes.

12 **Q** That includes marijuana?

13 **A** Yes, ma'am.

14 **Q** Can you tell us within the Department of
15 Corrections, what measures are taken to monitor
16 drug use or the acquisition of illegal substances
17 by inmates?

18 **A** There is a lot of technology that SCDC is
19 employing now, and we have drone detection
20 equipment, cellular device detection equipment, but
21 it is usually the good ole fashioned correctional
22 work as far as searching the inmates' areas. And
23 as far as contraband that comes in maybe from
24 staff, the lobbies have x-ray devices and scanning
25 devices.

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DANIEL COTTER - DIRECT EXAMINATION

1 **Q** Now, despite all of those measures, is it
2 still possible for some inmates to inquire
3 narcotics or illegal substances?

4 **A** Yes, ma'am.

5 **Q** Despite all of those measures, is it still
6 possible for inmates to acquire or make or create
7 weapons?

8 **A** Yes, ma'am.

9 **Q** How do you go about determining what type of
10 weapons might be in the possession of an inmate,
11 and how do you control for that?

12 **A** Okay. Basically, during a search of an area,
13 might be a search of a cell, if there was a knife
14 found within a cell, that is your area of
15 responsibility. So let's say there was two inmates
16 residing in that cell, they basically could be
17 responsible for that weapon, unless they take
18 responsibility for the weapon itself.

19 **Q** You mentioned knife. So, for example, when
20 we are talking about a knife or shank, how may such
21 an instrument be created simply from the belongings
22 around an inmate or available to an inmate?

23 **A** In my years, I have seen some really crazy
24 weapons made, and the Lee County riot was probably
25 on some of the more extensive weapons I've ever

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1 seen. I've seen axes made out of lockers that were
2 made of steel. Anything that can be taken apart
3 can be fashioned into a weapon. And I've seen
4 plastic weapons, icepick weapons, weapons fashioned
5 out of steel, you name it.

6 Q All right. So I'll start by asking
7 specifically about infractions involving William
8 Arthur Kelly.

9 A Okay.

10 Q This particular inmate is currently housed at
11 which of your facilities?

12 A I believe Broad River, wasn't it?

13 Q All right. And you may refer directly to
14 your records.

15 A Yes, ma'am, Broad River.

16 Q So the current location is Broad River
17 Correctional Institute?

18 A Yes, ma'am.

19 Q And going back through the history, how do
20 you define what is classified as an assaultive
21 violation versus non-assaultive violation?

22 A Okay. There is actually 13 infractions that
23 are listed as assaultive. I can read them off, if
24 you would like?

25 Q Are you familiar with any to which the

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1 defendant, William Kelly, actually has an
2 assaultive violation?

3 **A** I see one as an assaultive that stands out:
4 Possession of a weapon.

5 **Q** All right I'll show you what is State's 158,
6 State's 158 in evidence. Now, looking at this
7 designation on State's 158, "assaultive
8 disciplinaries," what can you tell us in that
9 regard?

10 **A** Okay. Assaultive disciplinaries, it is
11 listing that one, possession of a weapon, which he
12 was convicted for.

13 **Q** All right. And what is the date of that
14 violation?

15 **A** 2/3 of 2003.

16 **Q** Now, looking at the other document that is
17 also been submitted as evidence in this case, do
18 you have specific details regarding that violation,
19 being the possession of a weapon, the assaultive
20 disciplinary?

21 **A** Yes, ma'am.

22 **Q** Again, you said that was 2003?

23 **A** Yes, ma'am.

24 **Q** Do you have a summary or narrative of that
25 violation?

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1 **A** I do. It might take me a second to find it.

2 **Q** I believe it is on the second page of your
3 document.

4 **A** I only have a single page that I printed out.

5 MS. MAYES: With the Court's permission, may
6 I provide him with a copy?

7 THE COURT: Sure.

8 MS. MAYES: This is a copy that is currently
9 in the Court's possession.

10 **A** Okay. So possession of a weapon he was -- he
11 went to a DHO hearing. It says, "On the above date
12 and time, M.L. Kelly had two shanks approximately
13 10 inches, one made from an inner door plate, which
14 is fairly common, and another made of a metal rod."

15 **Q** **(BY MS. MAYES)** So let me stop you there. So
16 this violation in 2003 involved not one, but two
17 shanks?

18 **A** Yes, ma'am.

19 **Q** Is a shank commonly known as a knife?

20 **A** Yes, ma'am.

21 **Q** And does the narrative describe the length of
22 the blade for these objects?

23 **A** Ten inches.

24 **Q** So both approximately 10 inches in length?

25 **A** Uh-huh.

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1 **Q** Does it describe what type of materials were
2 used to construct these knives or shanks?

3 **A** Inner door plate, which most likely would be
4 steel. I don't have any other material for an
5 inner door, and the other of a metal rod.

6 **Q** One is a metal rod, and the other is made
7 from the inner door plate, and you indicated that
8 that would be steel in nature?

9 **A** Yes, ma'am.

10 **Q** Is it fair to say, Agent, that these would be
11 dangerous instruments?

12 **A** Of course, yes.

13 **Q** And have you had scenarios in Department of
14 Corrections, in each of your facilities, in which
15 such shanks had been used to assault, injure, or
16 kill another inmate?

17 **A** Yes, and staff.

18 **Q** And also to potentially assault or injure a
19 correctional officer?

20 **A** Yes, ma'am.

21 **Q** Do you have female officers within your
22 Department of Corrections?

23 **A** Yes, ma'am.

24 **Q** Next, I want to ask you about some of the
25 additional disciplinaries. Looking here at the

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1 most recent, April 20 of 2022, involving use or
2 possession of narcotics?

3 **A** Yes, ma'am.

4 **Q** Can you tell us what information you have in
5 that regard?

6 **A** Okay. The narrative listed as Sergeant
7 Degraug (ph) conducted a drug testing and
8 visitation, Inmate M.L. Kelly refused to take the
9 drugs test. The case was heard by a DHO, and
10 Inmate Kelly pled guilty and was sentenced to a
11 variety of loss of privileges.

12 **Q** All right. So a drug test request, tell us
13 whether or not that is routine within the
14 Department of Corrections?

15 **A** Yes, ma'am. I believe it is 3 or 4 percent
16 of the population is required to be tested on a
17 monthly basis.

18 **Q** To potentially control for the use of illegal
19 narcotics?

20 **A** Yes, ma'am.

21 **Q** In this situation, Inmate Kelly refused the
22 drug test?

23 **A** Yes, ma'am.

24 **Q** Can you tell us whether or not that is
25 considered the equivalent of a positive?

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1 **A** A refusal is equivalent.

2 **Q** And, ultimately, he pled guilty to that
3 offense?

4 **A** Yes, ma'am.

5 **Q** Then in 2021, January 8 of 2021, there is an
6 additional violation. Can you tell us what that
7 entailed?

8 **A** That's a cell phone that he was attempting to
9 conceal.

10 **Q** Again, you covered the reasons that cell
11 phones are considered contraband, but he was
12 written and disciplined in regards to the
13 possession of that cell phone?

14 **A** He pled not guilty.

15 **Q** Ultimately, in January 8 of 2021, was he
16 convicted for that offense?

17 **A** I don't see the sanction on here.

18 **Q** All right. Let me refer you to State's 158
19 being the full records summary.

20 **A** Okay. The date on that was January 8.

21 **Q** Of 2021?

22 **A** Yep, convicted.

23 **Q** And following or preceding the conviction for
24 the possession of a cell phone, I would refer you
25 to January 31, 2013. Again, this is involving the

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1 use of narcotics or marijuana?

2 **A** Yes, ma'am.

3 **Q** Was he convicted of that offense?

4 **A** He was.

5 **Q** Then on April 11, 2012, there was three
6 separate charges all involving possession of cell
7 phones?

8 **A** Uh-huh.

9 **Q** So that would be three separate cell phones?

10 **A** Three cell phones and three charges.

11 **Q** And of those three charges, he was convicted
12 of two of those, April 11 of 2012?

13 **A** Yes, ma'am.

14 **Q** Now, looking at 2009, specifically March 4 of
15 2009, was there also a write-up for contraband on
16 that date?

17 **A** Yes. And that was for a Styrofoam cup that
18 had been altered.

19 **Q** All right. And convicted of that charge?

20 **A** Yes, ma'am.

21 **Q** Then 2008, can you tell us whether or not
22 there was a conviction for stealing?

23 **A** Yes.

24 **Q** What can you tell us in that regard? I
25 believe, according to the exhibit, this involves

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1 the use of a credit card.

2 **A** Actually, I was looking at the wrong sheet.

3 **Q** Take your time.

4 **A** Yeah. Stealing, convicted 3/19/08.

5 **Q** Can you tell us whether or not this involved
6 the use of a stolen credit card for items from a
7 bookstore?

8 **A** I'm trying to find that in these narratives.
9 I don't have it here -- oh, there it is. Okay. So
10 Captain Johnson confiscated several books from the
11 Darlington Unit. These items were purchased from
12 an Islamic bookstore using a stolen credit card
13 number. Inmate William Kelly is being charged.
14 Inmate Kelly refused an administrative hearing and
15 was found guilty.

16 **Q** Were there also write-ups for the refusal to
17 follow directives from staff?

18 **A** Yes, ma'am. Involving a door, to keep a
19 locker door closed, and he was charged and found
20 guilty.

21 **Q** Then, dating back to 2006 and 2007, can you
22 tell us whether there were additional convictions
23 for possession of contraband?

24 **A** In 2007, there was a -- a black and gray Sony
25 Ericson singular cell phone and Nokia cell phone

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1 battery and charger found in his possession, and he
2 was convicted and charged, yes.

3 Q All right. So each time he is caught with
4 the cell phones, he does receive disciplinary
5 measures?

6 A Yes, ma'am.

7 Q And despite those disciplinary measures, he
8 continues to possess or acquire those items?

9 A Yes, ma'am.

10 Q And so there was multiple and repeated
11 violations for possession of cell phones as
12 contraband?

13 A Yes, ma'am.

14 Q Do your records also reflect a violation
15 known as possession of hooking devices?

16 A What was the date on that one?

17 Q Let me ask you specifically. Do you have a
18 write-up for a possession of a broom?

19 A Yes.

20 Q Why may a broom be considered contraband?

21 A A broom can be used as a weapon or something
22 to evade a security device, as in like holding a
23 door closed.

24 Q So, specifically, December 11 of 2006, the
25 write-up for the possession of contraband, can you

DANIEL COTTER - DIRECT EXAMINATION

1 tell us whether or not that was consistent with the
2 wooden broom being confiscated from the cell of
3 Inmate Kelly?

4 **A** Yes, sir. Confiscated one wooden broom from
5 Inmate Kelly's cell, and he was found guilty and
6 received restrictions for that.

7 **Q** And, again, the concern would be that the
8 broom, including the wooden handle of the broom,
9 can be used as an object for injury?

10 **A** As a weapon, yep.

11 **Q** Now, in addition to these records that you
12 prepared, including State's 158 --

13 MS. MAYES: At this time, Your Honor, I'll
14 pass this up to the Court as well.

15 **Q** **(BY MS. MAYES)** I'm going to ask you if you
16 are familiar with State's 159, being the public
17 information available pursuant to the South
18 Carolina Department of Corrections' website,
19 defined as "Inmate Search Detail Report"?

20 **A** Yes, ma'am.

21 **Q** Is this information about an inmate available
22 to anyone who might access the South Carolina
23 Department of Corrections?

24 **A** Yes.

25 **Q** So it's all public in nature?

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1 **A** Yes, ma'am.

2 **Q** And it is supplied to the public for purposes
3 of transparency?

4 **A** Yes, ma'am.

5 **Q** Does it include some of the violations if
6 those violations have occurred within the last 10
7 years?

8 **A** Yes.

9 **Q** Okay.

10 MS. MAYES: State's 159 for evidence as well.

11 THE COURT: Any objection?

12 MS. MAULDIN: None, Your Honor.

13 THE COURT: Without objection, admitted 159.

14 (State's Exhibit 159 prior stipulated.)

15 **Q** **(BY MS. MAYES)** Now, looking here at State's
16 159, again, it is made available to the public what
17 the convictions are. In this case these are
18 convictions for kidnapping, murder, a weapon, and
19 armed robbery; is that correct?

20 **A** Yes, ma'am.

21 **Q** And then some of the disciplinary actions
22 that you have already spoken about are also made
23 available to the public?

24 **A** Uh-huh.

25 **Q** That includes the 2022 conviction for the

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1 refusal to take a drug test?

2 A Yes, ma'am.

3 Q Cell phone violation in 2021?

4 A Yep.

5 Q The 2013 drug violation?

6 A Yes, ma'am.

7 Q 2012 possession of cell phone violation?

8 A Yes, ma'am.

9 Q Another 2012 cell phone violation?

10 A Yes, ma'am.

11 Q And in addition to that, you spoke of
12 additional violations, which were older in nature,
13 beyond that ten years, and that included the
14 assaultive possession of weapon for the two shanks?

15 A Yes, ma'am.

16 Q Is there also a portion that relates to
17 earned work credits?

18 A I don't think I have that listed on mine.

19 Q But it is available on your website?

20 A Yep.

21 Q So looking here, each job a worker has had
22 throughout their status as an inmate may be
23 documented?

24 A Yes, ma'am.

25 Q And that includes jobs that were held and why

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1 they left that job; such as, inmate request, policy
2 change, or anything of that nature?

3 **A** Yes, ma'am.

4 **Q** And are you familiar with Rita Crapps?

5 **A** Yes, ma'am.

6 **Q** With the Department of Corrections?

7 **A** Yes.

8 **Q** What is her job description in regards to
9 programs or vocational opportunities available?

10 **A** She's very familiar. I go to her any time I
11 have any questions regarding inmate programming.
12 She is very familiar with all of the programs in
13 SCDC.

14 **Q** Okay. Looking here, regarding educational
15 credits, does it show that Mr. Kelly eventually
16 earned a GED while incarcerated?

17 **A** Yes.

18 **Q** And that would be January 10, 2005?

19 **A** Yes, ma'am.

20 **Q** Other than that, are there any earned
21 educational credits for the inmate William Kelly?

22 **A** Not that I'm aware of.

23 **Q** Are there any programs, developmental
24 programs, that are listed here regarding
25 participation by Inmate William Kelly?

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1 **A** No, ma'am.

2 MS. MAYES: State's 159, Your Honor, I'll
3 pass up at this time.

4 Nothing further of Agent Cotter at this time.

5 THE COURT: All right. Your witness, Ms.
6 Mauldin.

7 MS. MAULDIN: Thank you, Your Honor.

8 **CROSS EXAMINATION**

9 **BY MS. MAULDIN:**

10 **Q** Good morning, Agent Cotter.

11 **A** Good morning.

12 **Q** Let me ask you: If someone gets his GED,
13 what other educational credits would be available?

14 **A** I'm probably not the expert on that, but SCDC
15 does offer a wide variety of programs. I believe
16 there is one level after the GED as far as
17 education, and I believe it is where you can get a
18 high school diploma.

19 **Q** But a GED and diploma, that gets you to the
20 same spot essentially?

21 **A** I would say so.

22 **Q** All right. So let's talk about some of these
23 infractions at SCDC.

24 **A** Okay.

25 **Q** Now, first of all, right off the bat, when a

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1 cell phone is found, SCDC takes that cell phone and
2 they confiscate it?

3 **A** Yes, ma'am.

4 **Q** So then you have the opportunity to review
5 the phone and see if there was anything harmful in
6 the phone?

7 **A** Currently, we do that. In the past, we
8 didn't have the technology to extract a phone. So,
9 now, within, I would say, probably the last couple
10 of years, we have been able to get the phone and
11 extract it and get the information off of it.

12 **Q** And you are talking about through Cellebrite
13 or something like that, a full-on dump of the
14 phone?

15 **A** Yes, ma'am.

16 **Q** So earlier on, if someone was suspected in a
17 riot or planning some sort of an assault on a
18 guard, nothing would have stopped SCDC from looking
19 at the phone and checking call lists or placed
20 calls, or whatever, in the phone?

21 **A** Yes, ma'am.

22 **Q** And you have never found anything on William
23 Kelly to show that he has been involved in any kind
24 of insurrection, correct?

25 **A** No. No.

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1 **Q** And nothing that you found in any cell phone
2 from him to show that he's ever been involved in
3 planning of any sort of threat of harm or actual
4 harm on an inmate or other guard in SCDC?

5 **A** Not currently, no. The reason I state it in
6 that way is because, like I said, our use of
7 Cellebrite is in its fledgling stages, but it's --
8 we haven't been able to extract a good amount of
9 cell phones yet that have been confiscated.

10 Of course his older possession of cell phones
11 wouldn't have been extracted at all. That would
12 have been entered into evidence and eventually
13 destroyed.

14 **Q** And you wouldn't do a dump on a phone that
15 you took five years ago?

16 **A** No.

17 **Q** But if someone thought he was up to
18 something, they could have looked into the phone?

19 **A** Yes, ma'am. If they had a passcode to get
20 into it.

21 **Q** Okay. And when we're talking about phones
22 and the threats that they can cause in the
23 Department of Corrections, cell phones are pretty
24 commonly found, right?

25 **A** Yes, ma'am.

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1 Q And it's not unusual for an inmate to have a
2 cell phone?

3 A No, I wouldn't say so.

4 Q And there are perfectly normal reasons that a
5 person might use a phone to talk to someone or go
6 on the Internet, right?

7 A Potentially, yes.

8 Q And how long did you say you had been with
9 SCDC?

10 A Since 2006.

11 Q And you talked about Lee County. That's
12 traditionally been a pretty rough institution,
13 correct?

14 A Yes, ma'am.

15 Q Even when you got there it had that
16 reputation?

17 A Yes. And I've never worked at Lee County,
18 but, you know, I'm familiar with the facility.

19 Q It is something that people who work within
20 the Department of Corrections are aware of, that
21 that's a rough place?

22 A Yes, ma'am.

23 Q Then you talked about these different
24 infractions. Can you tell me the penalties that
25 Mr. Kelly received on the different infractions

DANIEL COTTER - CROSS EXAMINATION

1 that he's had?

2 **A** I could. I'll just start at the top of the
3 list and give you sampling, unless you want me to
4 go through each individual charge.

5 **Q** Maybe I should ask you more specifically. So
6 on that -- for example, that April 20 of '22, when
7 he refused the drug test, what was the penalty for
8 that?

9 **A** Okay. So he pled guilty, and there was a
10 canteen, visitation, and phone that was lost, I
11 believe it was for 90 days, 60 days of good time --
12 or good time loss was three days, sorry.
13 Disciplinary detention was 60 days.

14 **Q** Let's look at that. The one from, looks
15 like, March 4, the contraband, further down the
16 list there.

17 **A** You said that was 2021?

18 **Q** This is the one involving the Styrofoam?

19 **A** Yes.

20 **Q** What was the penalty for that?

21 **A** It was counseling. It was a reprimand.

22 **Q** So less serious.

23 Then, April 11, 2012?

24 **A** That one he was found guilty. Property,
25 canteen, phone, and visits suspended for 360 days,

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1 plus 360 days of disciplinary detention. So it was
2 720 days of each.

3 Q When he has property suspended, what does
4 that mean?

5 A Basically, that they will take his property,
6 put it into the property control and hold it for
7 that amount of days.

8 Q And then the loss of canteen?

9 A Canteen is just shut off for that period of
10 time. He can't purchase anything except basics,
11 hygiene items.

12 Q Let's go back to that one that is flagged as
13 "assaultive." Can you tell me the penalty that he
14 suffered on that one?

15 A 20 days of telephone restriction, seven days
16 credit for PHT time served, verbal reprimand given.

17 Q And that one -- and this is the one for
18 having the shanks -- let's be clear, first of all,
19 there is no allegations that he had used the shank
20 on anyone else, correct?

21 A No. I don't see anything in his history.

22 Q And it is dangerous enough to have that, but
23 no evidence that he was using them?

24 A No, ma'am.

25 Q And the shanks were actually found underneath

DANIEL COTTER - CROSS EXAMINATION

1 him. He was sleeping on the shanks, correct?

2 **A** I don't have that listed on my sheet.

3 **Q** Okay. I'll show you.

4 (A brief pause in the proceedings.)

5 **A** Yes, they were found underneath him.

6 **Q** (BY MS. MAULDIN) So they were found

7 underneath him while he was sleeping?

8 **A** On the mattress, yes, ma'am.

9 **Q** And then do you have his disciplinary report
10 and hearing record from the same incident?

11 **A** I don't have it here, no.

12 **Q** This is faint, but can you read this section
13 of the report?

14 **A** I see something about the shanks for his
15 safety at the end, but I can't read the rest.

16 MS. MAULDIN: Judge, I'll hand these both up
17 to Your Honor and show the Solicitor.

18 Your Honor, this is real hard to read on this
19 document, but it appears to say that he had
20 indicated that he was guilty, and it says "other,
21 explain in detail," and it appears to say based on
22 his -- and then something -- that he had the shanks
23 for his safety. So I'll pass those up.

24 THE COURT: Any objection from the State to
25 these coming in?

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1 MS. MAYES: No objection.

2 (Defendant's Exhibit 1 marked and prior
3 stipulated.)

4 Q (BY MS. MAULDIN) So receiving that, having an
5 actual item that could be used as a weapon, was
6 much less serious than that that he even received
7 for having the cell phone?

8 A There was a shift through SCDC, and I can't
9 tell you the year, but in the past, the
10 disciplinary charges were more severe. I believe
11 they had like a mental health lawsuit, and I think
12 that's about the time where they started changing
13 things. So the sentencing got much greater reduced
14 sentences for infractions. So that might account
15 to the disparaging between the two.

16 Q Thank you.

17 And so we're clear, that assaultive incident
18 came back from 2023 -- excuse me. Excuse me.
19 2003, right?

20 A Yes, ma'am.

21 Q And that lawsuit with the mental healthcare
22 was after that, right?

23 A Yes, ma'am.

24 Q And then the cell phone incident was more
25 recent, in 2012, right?

DANIEL COTTER - CROSS EXAMINATION

1 **A** Yes, ma'am.

2 **Q** So in this situation, the much less serious
3 punishment happened before the lawsuit even?

4 **A** Yes.

5 **Q** One of the infractions that he had was for
6 stealing, and with that one, he was caught with
7 these books in his cell, and it was treated as a
8 stealing incident. Was there any evidence that he
9 was the one that had used the stolen credit card
10 number or stolen the credit card?

11 **A** I don't know the incident reports connected
12 to it. Those were purchased from an Islamic
13 bookstore in Maryland using a stolen credit card
14 number. He was charged, and I don't know without
15 seeing the incident reports.

16 **Q** But the information you have doesn't reflect
17 his involvement in that, right?

18 **A** He had to have been in possession to be
19 charged with them, and he had to have had some sort
20 of history regarding the credit cards.

21 **Q** I should be more specific with that. You
22 don't have evidence of the theft of the card or
23 purchase of the books?

24 **A** No, I don't.

25 **Q** Do you have this document?

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DANIEL COTTER - CROSS EXAMINATION

1 **A** No. The following books were recovered --
2 (examines document).

3 The items were purchased from an Islamic
4 bookstore in Maryland using a stolen credit card
5 number. Please see attached document. I'm
6 charging Inmate Kelly with stealing. Was there an
7 attached document?

8 **Q** I don't think so. But the point with -- even
9 with this report, it doesn't give any information
10 that SCDC had evidence that he had taken the credit
11 card or that he had known it was stolen?

12 **A** I don't know, because I don't see what the
13 attachment is. They had some sort of an evidence.

14 **Q** All right. Just so I'm clear, I just want to
15 make this a hundred percent clear with the Court.
16 While he was in the Department of Corrections,
17 there was no incidents of William Kelly doing any
18 kind of threat on any other inmate or guard,
19 correct?

20 **A** There is none listed on the sheet, no.

21 **Q** And in all of the time he's been there,
22 there's been no infractions for anything involving
23 any sort of actual assault on a guard or another
24 inmate, correct?

25 **A** No.

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DANIEL COTTER - REDIRECT EXAMINATION

1 MS. MAULDIN: Thank you. No further
2 questions.

3 THE COURT: Thank you.

4 Redirect?

5 MS. MAYES: Yes, Your Honor.

6 **REDIRECT EXAMINATION**

7 **BY MS. MAYES:**

8 **Q** Now, Agent Cotter, I believe you just were
9 questioned by defense counsel regarding the fact
10 that at some point Mr. Kelly is caught with
11 weapons, and it gave the explanation that they are
12 for his safety?

13 **A** Yes, ma'am.

14 **Q** Is that correct?

15 **A** Yes, ma'am.

16 **Q** And you, yourself, are not familiar with the
17 specific facts of this case, in that you were not
18 involved in the original trial, correct?

19 **A** True.

20 **Q** Regarding the murder weapon itself, State's
21 43, you weren't aware that his explanation for
22 having that weapon was also that it was for his own
23 safety?

24 **A** Okay.

25 **Q** Then, regarding the possession of various

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DANIEL COTTER - REDIRECT EXAMINATION

1 instruments that would be considered weapons, were
2 you familiar with the fact that prior to arrival at
3 SCDC, he also had been in possession with a
4 toothbrush that had been crafted to obtain a blade
5 or a file?

6 **A** I did not know that.

7 **Q** And these specific violations that defense
8 counsel was asking you about, those, again, despite
9 the disciplinary actions were repeated violations;
10 is that correct?

11 **A** Yes, ma'am.

12 **Q** So he was disciplined in 2007 for having that
13 phone and charger?

14 **A** Yes, ma'am.

15 **Q** He was disciplined in 2012 for having
16 possession of three cell phones?

17 **A** Yes, ma'am.

18 **Q** And, yet, still, in 2021, continued to
19 possess a cell phone?

20 **A** Yes, ma'am.

21 **Q** He was disciplined in 2003 for the assaultive
22 violation, and just to clarify, is that still even
23 today considered to be an assaultive violation, the
24 possession of those two shanks?

25 **A** It is. It is one of the 13.

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DANIEL COTTER - REDIRECT EXAMINATION

1 **Q** So he was disciplined in 2003?

2 **A** Yes, ma'am.

3 **Q** And, again, in 2006, he was found in
4 possession of a broom, wooden broom, which was
5 considered to be contraband and was disciplined in
6 that regard?

7 **A** Yes, ma'am.

8 **Q** Then in 2008, I'll refer you directly to the
9 violation that occurred on January 30th -- sorry,
10 January 9th of 2008. All of those discipline
11 actions, he's still found in possession of
12 contraband or dangerous weapons?

13 **A** Yes.

14 **Q** I believe in this particular write-up he was
15 in possession of a homemade file?

16 **A** Now, can I add to that?

17 **Q** Yes. A homemade file, do you also see a
18 wrench?

19 **A** Yes, a wrench. Like I had mentioned earlier,
20 too, this is -- this one here is concerning to me
21 from my former contraband career in that there are
22 people that actually are paid to take things apart
23 and create weapons. So somebody in possession of
24 an Allen wrench would be a severe threat because
25 they are actually taking apart items that can be

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DANIEL COTTER - REDIRECT EXAMINATION

1 made into weapons.

2 Q All right. And I know the narrative refers
3 to that as a modified Allen wrench. What do you
4 mean or what is meant by that term?

5 A I don't know what the item was that they made
6 into a modified Allen wrench, but an Allen wrench
7 can be used to take apart a large majority of
8 items. SCDC typically uses more of an Allen
9 wrench-style instead of like a Phillips head,
10 because a Phillips head is easier to get ahold of.

11 Q In addition, on that same date, he was in
12 possession of a homemade file?

13 A Yes.

14 Q Again, that would be considered a dangerous
15 weapon?

16 A Yes. And with a file, you could cut through
17 -- cut through bars, sand down metal on a shank on
18 a homemade weapon.

19 Q Could you also harm someone with that file?

20 A Potentially, yes.

21 Q As well as with the wrench?

22 A Yes, ma'am.

23 MS. MAYES: Thank you. Nothing further.

24 THE COURT: Any recross?

25 **RE CROSS EXAMINATION**

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RITA CRAPPS - DIRECT EXAMINATION

1 **BY MS. MAULDIN:**

2 **Q** Was there any evidence regarding those items
3 you just described that Mr. Kelly used anything to
4 make any weapons?

5 **A** No. Nothing.

6 **Q** And was there anything that he had used the
7 file to make weapons?

8 **A** No.

9 MS. MAULDIN: Nothing further.

10 THE COURT: Thank you, sir. You may step
11 down, and you are free to leave.

12 MS. MAYES: State call Rita Crapps.

13 (MARGARITE RITA CRAPPS, having been duly
14 sworn, testified as follows:)

15 THE WITNESS: My name is Margarite Rita
16 Crapps, C-R-A-P-P-S.

17 MS. MAYES: Court's indulgence.

18 (A brief pause in the proceedings.)

19 **DIRECT EXAMINATION**

20 **BY MS. MAYES:**

21 **Q** Tell us about yourself. Where are you
22 employed?

23 **A** I'm employed with the South Carolina
24 Department of Corrections.

25 **Q** And what is your current job description

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RITA CRAPPS - DIRECT EXAMINATION

1 there?

2 **A** I'm the Assistant Deputy Director over
3 Programs and Reentry for the Department.

4 **Q** Does that include vocational type of
5 programs?

6 **A** Yes, it does. Unified School District is the
7 school district that is codified by state law that
8 is under our purview.

9 **Q** Does that also include other programs such as
10 educational opportunities, whether that be group
11 classes, live classes, or perhaps online classes?

12 **A** Absolutely.

13 **Q** And how long have you been with the
14 Department of Corrections, Ms. Crapps?

15 **A** 14 years.

16 **Q** And just for the sake of transparency, prior
17 to that, did you serve as mayor?

18 **A** Yes, I did.

19 **Q** In what town or municipality?

20 **A** In Batesburg-Leesville.

21 **Q** So you are familiar even with the facts of
22 this case?

23 **A** At a minimum, yes.

24 **Q** Now, moving forward to the information that
25 the state requested for you to bring with you

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RITA CRAPPS - DIRECT EXAMINATION

1 today, did you do so?

2 **A** Yes.

3 **Q** And do you have a copy of those documents
4 yourself?

5 **A** Yes, ma'am, I do.

6 **Q** And I believe you have supplied me with a
7 copy, as well as a copy made for defense counsel?

8 **A** That's correct.

9 **Q** Now, looking at what you noted to be programs
10 available in the Department of Corrections, I want
11 to refer you back to Inmate William Kelly.

12 MS. MAYES: Your Honor, if I could?

13 THE COURT: There they all are.

14 (A brief pause in the proceedings.)

15 **Q** **(BY MS. MAYES)** State's 159, which is already
16 in evidence, Ms. Crapps, it relates to the inmate
17 detail information, which is available on your
18 website regarding any particular inmate.

19 As to William Kelly, what we see is that he
20 did acquire a high school GED, and it looks like
21 that was received on or about January 10 of 2005?

22 **A** Correct, at Lee Institution.

23 **Q** But beyond that GED, what, if any,
24 educational credits has the defendant received?

25 **A** I find no documentation of any program

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RITA CRAPPS - DIRECT EXAMINATION

1 participation that is recorded in the offender
2 management system.

3 Q So let me ask you a little more about that.
4 The fact that he is currently serving a life
5 sentence for murder, does that in any way exclude
6 him from additional educational opportunities?

7 A No, ma'am.

8 Q What can you tell us about that?

9 A Education and programming is available to
10 everyone who is in the custody of the South
11 Carolina Department of Corrections. There is no
12 bias based on conviction, security level. No bias.
13 Everyone has the right to participate in programs.

14 He earned his GED, so that is equivalent of a
15 high school diploma. From there, he could have
16 participated in vocational training opportunities.
17 The GED would because he had obtained adult status
18 at that point, and there are many vocational
19 programs through the Palmetto Unified School
20 District available to the offenders. They earn
21 training credits that are credentials.

22 Should he be released, those credentials go
23 with him to prove proficiency in whatever trade he
24 has trained. And we treat everyone when they come
25 in as if they are going to be released. Cases are

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RITA CRAPPS - DIRECT EXAMINATION

1 overturned, convictions are changed every day, so
2 it doesn't matter whether the person is sitting on
3 death row or in a minimum security institution, we
4 look at everyone as if they have the potential to
5 go home.

6 Q All right. So the fact that Mr. Kelly is
7 currently serving a life sentence for murder in no
8 way prohibits him from participation in later
9 earned educational credits?

10 A No, ma'am.

11 Q Does that include even participation in live
12 programs or life educational --

13 A No, ma'am. I have a number of offenders that
14 I have personally trained who have life sentences,
15 that instead of sitting with nothing to do all day
16 long, they decided they wanted to be participants.
17 They are now teaching programs to their peers.

18 Q So he can participate in live educational
19 services?

20 A Absolutely.

21 Q As well as online educational opportunities?

22 A We have to be careful how we say "online."
23 The inmates -- every inmate is issued a tablet, and
24 those tablets have specific services available for
25 them. Edovo is one platform that provides 2,000

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RITA CRAPPS - DIRECT EXAMINATION

1 different courses that can be taken. They are free
2 of charge. The other is CypherWorx. It is more
3 professional development and geared towards
4 professional mindset and job skills.

5 I've given you a copy of the course catalog
6 for CypherWorx. Edovo was 169 pages, and that was
7 just a little more paper than we needed for this.

8 MS. MAYES: At this time the State would
9 offer these documents together as State's 334,
10 being educational opportunities and programs
11 available through the South Carolina Department of
12 Corrections.

13 THE COURT: Without objection, admitted.

14 (State's Exhibit 334 prior stipulated.)

15 Q (BY MS. MAYES) So looking at what you have
16 termed CypherWorx, is this one of the catalogue of
17 programs available?

18 A Yes. This is on the tablet, and one of the
19 platforms that provides opportunities to
20 individuals. The tablet provided to SCDC are
21 purchased by SCDC through a company Via Path.

22 Q Have you determined whether or not Mr. Kelly,
23 the defendant in this case, has possession of one
24 of these tablets that can be used for educational
25 opportunities?

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RITA CRAPPS - DIRECT EXAMINATION

1 **A** Yes, ma'am. There is a young man that works
2 for me that is over the tablets for the State, and
3 he sort of becomes the guru with all of the
4 programming. I asked him for a snapshot of
5 Mr. Kelly's activities on the tablet to confirm he
6 did have one and how he may be using it for
7 meaningful purposes. I have given you a copy of
8 the transcript of his activities. It was more than
9 what I asked for, but all of his activities on the
10 tablet, I think, for the past year.

11 **Q** What can you tell us in that regard based
12 upon your overview of those activities on the
13 tablet during the course of the last year?

14 **A** Just in looking through the printout we were
15 given, I see movies, entertainment, games. I see
16 almost no educational participation. There are a
17 couple that were highlighted by my young man as
18 educational, but it doesn't really tell me what
19 that opportunity was. It does say it is through
20 the Edovo platform. We have documentation of
21 courses that were completed.

22 **Q** Okay. So this Edovo?

23 **A** Yes.

24 **Q** And this is the official transcript for
25 William Kelly regarding his use of courses or

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RITA CRAPPS - DIRECT EXAMINATION

1 participation of courses through that program on
2 that tablet?

3 **A** Correct. There should be two transcripts.

4 **Q** Okay. So looking here at the four courses
5 that have been completed, the first is "equipment
6 identification in tools"?

7 **A** Yes. As in used, say, kitchens, in culinary
8 arts.

9 **Q** This was completed in 2023?

10 **A** Correct.

11 **Q** And it was 25 minutes in length?

12 **A** Correct.

13 **Q** You said this relates specifically to the
14 trade of cooking and chef skills?

15 **A** Yes. All four of those there on the screen
16 are related to cooking and culinary skills.

17 **Q** All completed in 2023?

18 **A** Yes.

19 **Q** So the first course was 25 minutes?

20 **A** Right.

21 **Q** You indicated that the second course was
22 equipment identification, also related to cooking
23 skills. What was the length or duration of that?

24 **A** 15 minutes.

25 **Q** And a course related to grinding and slicing

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RITA CRAPPS - DIRECT EXAMINATION

1 and pureeing of chef skills?

2 **A** Yes.

3 **Q** What is the length of this?

4 **A** 15 minutes.

5 **Q** And then, finally, "equipment
6 identification," again, related to kitchen
7 equipment. What was the length of this course?

8 **A** That was eight minutes in length.

9 **Q** So, altogether, less than an hour-and-a-half?

10 **A** Yes.

11 **Q** Now, it looks like you also have information
12 related to supplemental learning?

13 **A** Right.

14 **Q** And for the supplemental learning, the total
15 learning time has been 39 minutes?

16 **A** Correct.

17 **Q** And that relates to a course that was 22
18 minutes?

19 **A** Correct.

20 **Q** A restaurant-related series that was 12
21 minutes?

22 **A** That ECS01 and 02 on the bottom, both relate
23 to the courses on the previous page, Edwin's
24 Leadership and Restaurant Institute is a training
25 school in Cleveland that will freely take formerly

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RITA CRAPPS - DIRECT EXAMINATION

1 incarcerated and put them through culinary arts
2 school and even find gainful employment.

3 Part of the prerequisite to being accepted is
4 to complete their courses of study through Edova,
5 as well as work in the area within the
6 institutions.

7 Q And then we see a poetry course, three
8 minutes in duration?

9 A Correct.

10 Q And another equipment identification course,
11 which was three minutes in duration?

12 A Yes.

13 Q So the total being 39 minutes. And then the
14 first four courses, I believe, amounted to a little
15 over one hour?

16 A That's just about correct without sitting
17 here and adding all of that.

18 Q One hour and three minutes, roughly?

19 A Right.

20 Q Now, you indicated that he's had possession
21 of the tablet for some period of time?

22 A All inmates were issued a tablet. Now, don't
23 pick my brain and ask how long ago, but they've had
24 them in their possession for several years.

25 Q And, again, the printout that has included --

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RITA CRAPPS - DIRECT EXAMINATION

1 among these materials -- shows all detailed
2 involvement with the tablet, including recreational
3 activities, such as movies?

4 **A** Yes.

5 **Q** Games?

6 **A** Yes. The tablets may also be used for making
7 personal telephone calls instead of having to use
8 the wall phone within the housing unit. They have
9 ear buds equipped with microphones to make personal
10 phone calls from the tablets as well.

11 **Q** Is it fair to say that the vast majority of
12 the use of the tablet was designated to
13 entertainment purposes?

14 **A** Based on what I received, yes, it looks like
15 entertainment.

16 **Q** I want to talk about some of the vocational
17 skills beyond the educational opportunities.

18 **A** Sure.

19 **Q** Looking here at the information made public
20 regarding Mr. Kelly's SCDC history, State's 159, we
21 see that he has held various jobs throughout his
22 incarceration?

23 **A** Yes, ma'am.

24 **Q** However, when looking at the length of these
25 jobs -- I want to go back to 2003, when he was a

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RITA CRAPPS - DIRECT EXAMINATION

1 general worker -- actually, 2002 would be the first
2 work, and he was a general worker in 2002?

3 A All right.

4 Q And then, eventually, in 2003, we see a
5 change from that status. What was the reason for
6 that change from his general work requirements?

7 A Per his request.

8 Q So if an inmate requests a change in their
9 job or job skills, that may be granted?

10 A Yes, ma'am.

11 Q And then the next assignment is as a senior
12 custodian?

13 A Okay.

14 Q And that was from January of 2004 through
15 September of 2004?

16 A Right.

17 Q What was the reason for the change in his job
18 description as a senior custodian?

19 A That custody review can initiate changes. I
20 don't know exactly what drives that, because that
21 is done by central classification. There are
22 reasons for changing a job description. Many
23 times, it is at the inmate's request. They may be
24 removed from a job because of disciplinary
25 infractions. There are times -- general worker, to

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RITA CRAPPS - DIRECT EXAMINATION

1 me, that long ago, would indicate that that is the
2 ward keeper, which means that the individual is
3 working only within their housing unit keeping it
4 neat and tidy. You may have a hundred guys or gals
5 in a housing unit who are general workers or ward
6 keeper's assistant. It is not one which they earn
7 on-the-job training or vocational credits, because
8 it is just general housekeeping.

9 Q So not necessarily a job where those skills
10 and vocational habits can be applied back in the
11 community?

12 A Not transferable, no. Now, the custodial may
13 be a different job skill set where they are
14 actually performing greater duties and having
15 greater responsibility in an institution, but that
16 is an old job code. Things evolve over years, and
17 what we may call a widget winder now may have been
18 completely different in the past.

19 Q Looking at the job here, senior custodian,
20 beginning in January of 2004 and ending in
21 September 2004, that was due to inmate request?

22 A Yes.

23 Q And, again, as a general worker in September
24 of 2004 through March of 2005, again, that changed
25 due to inmate request?

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RITA CRAPPS - DIRECT EXAMINATION

1 **A** Yes, ma'am.

2 **Q** And we see a job as a painter. Is that
3 potentially if it's pursued for long enough and
4 with enough attention, is that something that would
5 potentially be transferable back into the general
6 population of a community?

7 **A** I would absolute say, yes, because they are
8 working with facility maintenance at that point
9 under supervision of staff that do this
10 professionally, and there is a lot of skills to be
11 earned there.

12 **Q** Okay. However, we see that his work as a
13 painter began March of 2005, but then ended one
14 month later in April of 2005?

15 **A** Yes, ma'am.

16 **Q** What was the reason for that switching job
17 from the one month?

18 **A** Per his request.

19 **Q** The next job is material handling, and it
20 looks like that is going to run from April of 2005
21 until March of 2007. What is the reason that his
22 job description handling material or equipment was
23 changed?

24 **A** Disciplinary sanctions.

25 **Q** Does that include potentially access to

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RITA CRAPPS - DIRECT EXAMINATION

1 weapon making materials?

2 **A** Depends upon where he was working, but I
3 would say, yes, that would have that potential.

4 **Q** Next, we see general worker, and that begins
5 July of 2010 and runs through April of 2012.
6 Ultimately, what was the reason for the change in
7 that job description?

8 **A** Change in custody. Looks like he was put
9 under protective custody for something or even
10 disciplinary custody.

11 **Q** And also, ultimately, an institutional
12 transfer?

13 **A** Yes, ma'am.

14 **Q** So in 2014 through 2020, that six-year period
15 of time, what was his job description?

16 **A** Ward keeper assistant.

17 **Q** Has that been his continued job description
18 up through 2023?

19 **A** Yes, ma'am.

20 **Q** And, again, tell us in the most general
21 context, what is a ward keeper's assistant?

22 **A** Ward worker. They, along with many of their
23 other peers, are charged with the cleanliness of
24 the ward.

25 **Q** Are those necessarily skills that one can

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RITA CRAPPS - DIRECT EXAMINATION

1 transfer back out into a community?

2 **A** No. Minimum skills are required for those
3 positions.

4 **Q** Now, does the facts that he's serving a life
5 sentence for murder in any way prohibit him from
6 requiring more advance vocational skills than what
7 he had acquired through being a ward keeper's
8 assistant?

9 **A** No, ma'am.

10 **Q** What can you tell us in that regard?

11 **A** His initial incarceration, he was maximum
12 security level.

13 **Q** He was death row initially?

14 **A** He was in death row, and when he came off of
15 death row and went into the major population,
16 because of the nature of death row being such a
17 guarded and secured facility, work outside of that
18 unit is impossible.

19 But when he came off of death row and went
20 into general population, he had many opportunities
21 available to him across numerous institutions. He
22 could have gone into vocational training across any
23 of the maximum security institutions. If I wanted
24 masonry and it wasn't here, I could request a
25 transfer to accommodate that because I had earned

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RITA CRAPPS - DIRECT EXAMINATION

1 my GED, so now I'm eligible to do the vocational
2 skills training, too.

3 Once he made medium custody, the door opened
4 much wider for him to participate in additional
5 vocational training and additional programming that
6 is personal in character development. Because,
7 again, he could have requested transfers to
8 different institutions where programs may have been
9 more prevalent.

10 Q So I want to ask you, you mentioned character
11 development, personal development. Looking here at
12 this record regarding such programs, how many
13 programs has Mr. Kelly actually participated and
14 completed?

15 A There are none documented within our
16 management system.

17 Q So if someone is serving a life sentence, how
18 may these programs benefit them even though they
19 are going to be incarcerated for the rest of their
20 life?

21 A I am a proponent -- hang with me here -- I'm
22 a proponent of Steven Cuddy's Seven Habits of
23 Highly Effective People. My program that I have
24 trained offenders in teaching their peers is Seven
25 Habits on the Inside. There's one of the

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RITA CRAPPS - DIRECT EXAMINATION

1 statements, first statements, in Cuddy's program
2 that I may be in prison, but prison does not have
3 to be in me. Through character development,
4 personal development, education attainment, all of
5 that improves the person's mind, it engages them,
6 it changes attitude, outlook, a lot of times
7 behavior.

8 The trust center has many, many analyses that
9 the more education a person obtains, the lower rate
10 of recidivism, the better the inmate is. You
11 either take advantage of opportunities for
12 self-improvement or you don't. It's voluntary. It
13 is not mandatory. I can't hold someone's nose and
14 pour it down their throat, but I encourage everyone
15 I come in contact with, I say, I'm assistant deputy
16 director, work me out of a job, participate in
17 these programs and make something out of yourself.

18 Q When you talk about personal development,
19 does that include development regarding
20 relationships with other inmates?

21 A Yes.

22 Q Relationships with staff?

23 A Yes.

24 Q Spiritual and emotional improvement?

25 A Absolutely. Communication skills. We can

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RITA CRAPPS - DIRECT EXAMINATION

1 just run from one end of the spectrum to the other.

2 Q All right. Can you tell us whether or not
3 all of those types of programs -- personal
4 development, character development -- would they be
5 available to Mr. Kelly even serving a life
6 sentence?

7 A Yes.

8 Q And have they been available to him?

9 A Yes. And at Lee, Broad River, both of those
10 institutions have character dorms.

11 Now, one of the caveats to get into a
12 character housing unit is being one-year
13 disciplinary free. Those could have been applied
14 for participation in either one of those units.

15 As a medium custody offender, there are
16 numerous institutions across the state that have
17 character dorms. Allendale Correctional
18 Institution is considered the character institution
19 in the state. Application could have been made to
20 transfer there to be engaged in the programs there.
21 There is limitless opportunities provided by staff,
22 volunteers, and by inmates.

23 Q So is it fair to say that despite serving a
24 life sentence, there is educational opportunities
25 available to Mr. Kelly?

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RITA CRAPPS - CROSS EXAMINATION

1 **A** Yes.

2 **Q** There are vocational opportunities available
3 to Mr. Kelly?

4 **A** Yes.

5 **Q** And there are character development
6 educational opportunities?

7 **A** Yes. We do not discriminate based upon
8 sentence or security level.

9 **Q** Or length of sentence?

10 **A** No.

11 MS. MAYES: Thank you, Ms. Crapps.

12 State's 334 in evidence, Your Honor.

13 THE COURT: All right. In evidence.

14 Ms. Mauldin?

15 **CROSS EXAMINATION**

16 **BY MS. MAULDIN:**

17 **Q** You mentioned the possibilities for character
18 development and personal growth?

19 **A** Yes.

20 **Q** And you talked about those things are
21 important to reduce recidivism and to improve a
22 person's life?

23 **A** Correct.

24 **Q** And so a person that has demonstrated
25 character development and personal growth has

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RITA CRAPPS - CROSS EXAMINATION

1 become a better person, right?

2 **A** Theoretically, yes.

3 **Q** And another important aspect of that is
4 spiritual and emotional development, right?

5 **A** Spiritual is left to the individual. You
6 know, that is not something that I'm going to drive
7 home with anybody, because to each his own. We
8 give them that opportunity across multiple faiths
9 and religious practices.

10 **Q** And that's fair. You are not requiring
11 people to participate in spiritual programs?

12 **A** Correct.

13 **Q** But a person can grow as a person and gain a
14 lot from being involved in spirituality and
15 practicing faith?

16 **A** If that is their appetite, they absolutely
17 can.

18 **Q** And there are opportunities for that within
19 the Department of Corrections, both programs that
20 you offer and growth that the person may seek on
21 her own or his own?

22 **A** Correct.

23 **Q** And you talked about the programs that are
24 available. You mentioned the character dorms.
25 With those, they require the inmate to move from

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RITA CRAPPS - CROSS EXAMINATION

1 one living area into another living area since they
2 are changing into that dorm?

3 A Yes.

4 Q And that might also require changing from one
5 facility into another?

6 A Most of the institutions have character dorms
7 now. It has been an evolution process in the past
8 ten years that I have been in the programs
9 division. Each institution -- it sort of caught
10 fire, and everyone said this is a good thing, we
11 want it, and they have developed them across almost
12 every institution in the state. I think the ones
13 that don't have it is the minimum security
14 institutions.

15 Q So even if there is one within many of the
16 facilities, it still requires, basically, moving,
17 the same way it would from a person to move from
18 one community to another?

19 A It does require living in that unit, because
20 the people who reside in these units adopted a
21 lifestyle of respect, congeniality, accountability.
22 Again, you have to voluntarily want to live in that
23 environment and want to participate in the courses.

24 Many of the courses are offender developed
25 and offender taught. A number of them we capture

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1 in catalog, and there are probably twice as many
2 more we don't know exists that they teach. When
3 they get materials from the outside, they have a
4 tremendous appetite for learning and sharing with
5 each other, and so they'll develop courses and
6 their own class material and start teaching
7 classes.

8 Q And you think that is an important quality,
9 too, when someone undertakes not to only improve
10 his life, but the people around him?

11 A It is their way of giving back.

12 Q And there are, certainly, inmates who are not
13 in a character dorm, who are not causing problems,
14 are not disobeying the rules, correct?

15 A Sure. The character dorms are just an
16 opportunity.

17 Q Right. Right.

18 MS. MAYES: Beg the Court's indulgence.

19 THE COURT: Sure.

20 (A brief pause in the proceedings.)

21 Q (BY MS. MAULDIN) What is the vocational
22 programs -- are all of those available to all
23 inmates all the time, or does some of that depend
24 on how close that person is to release, and that
25 person may be having, like, the first crack at

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1 getting into the programs?

2 **A** Over the years prior it's just been
3 established to those that are closer to release
4 getting into the program, but there are also many
5 opportunities for those who have the longer
6 sentence to be involved.

7 Like I said, there are vocational
8 opportunities across all 21 institutions. So if
9 you really want it, you'll go to it, or if you are
10 willing to wait until your opportunity arises. It
11 just depends how many instructors the school has,
12 how many programs in the institution as to how fast
13 the classes evolve and revolve. But there should
14 be opportunities available to everyone.

15 **Q** Is it a waiting list or, you know, if one
16 person can't get into a program at one point
17 because there is someone closer to release, and
18 then later on there is still someone closer to
19 release, with priority given to the new person?

20 **A** The thing about the vocational programs, they
21 train those that are getting out, so the skills are
22 fresh. But there are also individuals in these
23 programs with more protracted sentences that
24 becomes the TAs of the instructor. Even in public
25 schools, we have teaching assistants to help the

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1 students. For the longer-term offender, being a TA
2 gives them something meaningful to stay engaged,
3 keeps their skills fresh, so if a day ever comes
4 that they do get released, they are ready to go to
5 work when they get out. So we're training both
6 sets at the same time.

7 Q Do you have to be placed into the program
8 first and have your number, sort of, come up?

9 A Sure. You would have to go through all of
10 the training before you become an assistant.

11 Q So you have to get in first, okay.

12 And when we are talking about Mr. Kelly and
13 the positions, it appears that even though that
14 entry is listed several times, that it is
15 continuous over the years, so there are no -- as
16 the ward keeper's assistant, it doesn't appear that
17 there is any gaps working in that role?

18 A Every inmate is required to have a job. When
19 they come up for review of central
20 classification -- I'm not classification. That is
21 not my purview, but what I believe happens is they
22 go over their job history. If the inmate expresses
23 a desire to go, let's say, work on the farm
24 somewhere, if they are custody eligible, they need
25 to let the classification worker know, I would like

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RITA CRAPPS - CROSS EXAMINATION

1 to work on the farm or work in food service or
2 commissary. The classification worker is not going
3 to know that. Then they can look at the job board
4 to see what is available and place them
5 accordingly. I'm assuming if no one says anything,
6 they just do what they've always done.

7 Q And if there is a job of ward keeper's
8 assistant, then SCDC must see some value to it
9 because they require everyone to have a job, right?

10 A Well, keep your room clean, so that's your
11 job. I mean, there are not enough job
12 opportunities across the system for 16,000
13 offenders -- or whatever today's current count is.
14 But when someone has a specific job in mind,
15 whether it is culinary arts, canteen, horticulture,
16 if you say, I sure would like to work in
17 horticulture, or, I would really like to go work in
18 food service to gain some of those skills and get
19 some of those on-the-job training certificates and
20 credentials, they will work with you to get you
21 placed in one of those jobs.

22 Q And you don't have a description of the
23 normal tasks that Mr. Kelly performs personally in
24 his job as ward keeper's assistant?

25 A No.

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1 MS. MAULDIN: Thank you. Nothing further.

2 THE COURT: Redirect?

3 MS. MAYES: Nothing further of Ms. Crapps.

4 And we'll state that the additional testimony, Your
5 Honor, will be victim impact testimony from the
6 sisters of the victim Shirley Shealy, and her
7 husband Neil Shealy.

8 THE COURT: We'll do that after lunch.

9 Thank you, madam witness. You are free to
10 leave.

11 Let's take this opportunity and have a break
12 for lunch. It is 12:30 now. Reconvene at
13 2:00 p.m.

14 Have a good lunch. Court is in recess.

15 (A lunch recess was taken.)

16 THE COURT: You can be seated.

17 MR. HUBBARD: Your Honor, they're coming.

18 THE COURT: That's fine.

19 (A brief pause in the proceedings.)

20 MS. MAYES: Your Honor, the State calls Cindy
21 Bartolec.

22 (CINDY BARTOLEC, having been duly sworn,
23 testified as follows:)

24 THE WITNESS: My name is Cindy Bartolec,
25 B-A-R-T-O-L-E-C.

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CINDY BARTOLEC - DIRECT EXAMINATION

DIRECT EXAMINATION

BY MS. MAYES:

Q Good afternoon, Ms. Bartolec.

(A brief pause in the proceedings.)

MS. MAYES: Your Honor, I believe that the family photos that will be offered throughout the proceedings will be offered without objection.

THE COURT: Is that correct, Ms. Mauldin?

MS. MAULDIN: Yes, Your Honor.

THE COURT: Okay. Thank you.

Q (BY MS. MAYES) Ms. Bartolec, I want to ask you a few questions about yourself. Where are you currently employed?

A At a middle school.

Q What I'll ask you to do --

MS. MAYES: If I may approach?

THE COURT: Yes.

MS. MAYES: I'll move this microphone little closer to you. Speak directly into it.

A Batesburg-Leesville Middle School.

Q (BY MS. MAYES) What is your job description there?

A School counselor.

Q And what type of degree do you hold in order to become a school counselor?

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CINDY BARTOLEC - DIRECT EXAMINATION

1 **A** Master's in education with concentration in
2 school counseling.

3 **Q** Now, how is it that you know the victim in
4 this case, Shirley Shealy?

5 **A** She was my younger sister, my middle sister.

6 **Q** And what year were you born?

7 **A** 1967.

8 **Q** And how much younger was Shirley than you?

9 **A** About two-and-a-half years.

10 **Q** You are familiar with her date of birth being
11 July 13, 1970?

12 **A** Yes, ma'am.

13 **Q** So I'll ask you some questions about your
14 family and Shirley specifically as you guys were
15 growing up. What was she like growing up?

16 **A** Just fun. She was fun. She was laughing and
17 giggling. She loved animals. We both loved
18 animals. She was really good with animals. She
19 was a little bit of a Tomboy, so she would do some
20 things that I wouldn't really like to do. Like
21 when we were younger, Dad would have us drive his
22 old pickup tilling the field, because we had a
23 small farm, to pick up watermelons. It made me
24 nervous because it had like the stick shift, but
25 she would do it. She would just get in there and

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CINDY BARTOLEC - DIRECT EXAMINATION

1 drive. A little bit of a daredevil.

2 Q What can you tell us about your home life
3 growing up? Did you live in the city or country?

4 A In the country.

5 Q Specifically, what type of environment did
6 you grow up in?

7 A On a small farm outside of Batesburg.

8 Q The farm, tell us about the farm and some of
9 the responsibilities that you and Shirley had
10 growing up with the farm animals.

11 A So we had to feed them and make sure they had
12 water, take care of plants and help with harvesting
13 watermelon and corn and okra and things like that.

14 Q Did she seem to enjoy that?

15 A Yes.

16 Q You mentioned she was good with animals.
17 What do you recall about that?

18 A She didn't have a fear of any of the animals.
19 There were a few that scared me, that's why I
20 was -- we had a turkey at one time, and that thing
21 was crazy. But she didn't seem to be scared of
22 animals. We always had cats and dogs. We kind of
23 talked Mom and Dad into the cat and the dogs that
24 we would play with. You know, just have around as
25 a pet and hold. Just normal stuff.

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CINDY BARTOLEC - DIRECT EXAMINATION

1 **Q** And getting into your high school years,
2 where did you guys attend high school?

3 **A** Batesburg-Leesville High School.

4 **Q** At Batesburg-Leesville High School, were you
5 involved in activities?

6 **A** Yes. We were both in band.

7 **Q** Tell us a little more about that. What
8 instrument did you play, and what instrument did
9 Shirley play?

10 **A** I played the trombone, and she played the
11 trumpet, so both in the brass section. We were
12 relatively close. You know, like if you are at a
13 football game, the brass would be together. So she
14 was a little further up from me in the stands and
15 in practice.

16 **Q** Tell us about growing up there in
17 Batesburg-Leesville as high school students. I
18 believe you are familiar with State's 151, showing
19 that area right there along Highway 1. I'm going
20 to show you this photograph, State's 150. What can
21 you tell us about growing up and being high school
22 students in Batesburg-Leesville looking at 150?

23 **A** So the thing to do when there was no home
24 football game or if you have off Saturday night was
25 to ride the strip. Shirley and I were together.

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CINDY BARTOLEC - DIRECT EXAMINATION

1 Although, I'm like, You are my younger sister, so
2 we need separate sets of friends, which, you know,
3 we had separate friends, but we had friends in
4 common also.

5 Q And when you say "ride the strip," you're
6 referring to right here along Highway 1?

7 A Uh-huh. And the funny thing is in front of
8 the police station, we would turn around.

9 Q So if you go all the way down, you would go
10 to the police station, turn around and come back?

11 A Uh-huh.

12 Q So this area here was the Burger King, the
13 Hardee's. Is that an area where a lot of your high
14 school friends would hang out?

15 A Burger King was not there, but the Hardee's,
16 yes. The Kentucky Fried Chicken, a little bit.
17 But, usually, my friends, we turned around at the
18 Hardee's and went back up, and sometimes sit in
19 front of the police station, which I guess is a
20 pretty safe place to be.

21 Q So who was the first in your family to have a
22 job at Kentucky Fried Chicken?

23 A I was.

24 Q Tell us about that. How did Shirley get
25 onboard with working at Kentucky Fried Chicken?

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CINDY BARTOLEC - DIRECT EXAMINATION

1 **A** I had forgotten, but I was just talking to
2 somebody, and she worked at Piggly Wiggly first. I
3 had been at Kentucky Fried Chicken. At some point,
4 she came to Kentucky Fried Chicken. I don't really
5 remember a lot of that. I mean, you know, we were
6 just doing life. In 1988, I moved to Aiken to go
7 back to school and live on campus, so I left
8 Kentucky Fried Chicken.

9 **Q** Now, going back to those high school years,
10 was she in high school when she met Neil Shealy?

11 **A** Yes.

12 **Q** And I believe your maiden name is Slade?

13 **A** Yes.

14 **Q** So Shirley Slade met Neil Shealy during her
15 high school years?

16 **A** Yes.

17 **Q** And, eventually, as you are aware, they
18 became married?

19 **A** Yes.

20 **Q** And she had Alex?

21 **A** Yes.

22 **Q** Tell us about Shirley and how her life
23 changed when Alex was born.

24 **A** Well, they were excited. They came to USC
25 Aiken because Shirley's sister-in-law and I were

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CINDY BARTOLEC - DIRECT EXAMINATION

1 roommates, so they came and told us about the baby.
2 So she was excited from the get-go of having Alex.
3 She loved Alex. And she would bring him to visit
4 me. Once I moved to Aiken, I did not move home. I
5 stayed in Aiken. So she would bring him to play at
6 my house, and we would go hang out and go out to
7 eat or go to a park or whatever. When you hangout
8 as sisters, you get along better once you're not
9 living together. You get along better once you
10 aren't living with each other, so it was a lot of
11 fun to visit with her.

12 Q And based upon your observations, what kind
13 of mother was she to Alex?

14 A A wonderful mother. Alex was born early, so
15 he had a heart monitor and everything, so she would
16 carry that. I mean, she took really good care of
17 him, and he was always right there with her.

18 Q Is it fair to say that he was the center of
19 her life?

20 A Yes.

21 Q During this point in time when Alex was
22 growing up, was she still employed there at
23 Kentucky Fried Chicken?

24 A Yes.

25 Q How, if at all, did her job and job

CINDY BARTOLEC - DIRECT EXAMINATION

1 responsibilities change during this time?

2 **A** I don't know when she became manager. And
3 now looking at it, she's like 25 and a manager, I
4 mean, that is amazing to me. But she took it very
5 seriously. Our dad taught us when you do
6 something, do it well. If you work hard -- and she
7 worked hard. I mean, that was ingrained in us
8 living on that farm.

9 So she worked hard, and her and Neil figured
10 out how to have shifts so that the two of them
11 could raise Alex, which he has a great support
12 system with his family, but they made it work. I
13 mean, Alex was very important to both of them, and
14 they figured things out. I don't know if that is
15 why she was working that nighttime shift so Neil
16 could be home with Alex, but he was the center. He
17 was very, very important to her. She was a great
18 mom.

19 **Q** So at 25, she was working as a manager there
20 at Kentucky Fried Chicken and also balancing life
21 as not only as a full-time employee, but also as a
22 mother to Alex?

23 **A** Yes.

24 **Q** And a wife to Neil?

25 **A** Yes.

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CINDY BARTOLEC - DIRECT EXAMINATION

1 **Q** Now, how would you describe Shirley as a
2 friend to others?

3 **A** She was so -- she took care of people. I
4 mean, like when I came back, people stopped me to
5 tell me how I went to high school with your sister
6 and she welcomed me in, I was new to town and
7 didn't have friends. And, you know,
8 Batesburg-Leesville is kind of small and a lot of
9 us grew up there, and it is kind of hard when you
10 move into make friends, but she welcomed people.
11 She always had a smile that you know I think we're
12 going to see pictures she had a great smile and
13 everything what do you remember and it's always
14 that she had the biggest heart for people. She
15 wanted to help people.

16 **Q** Now, during that point in time when she was
17 working as a manager, were you aware of the
18 defendant, Bill Kelly, having been an employee
19 there at Kentucky Fried Chicken during that time
20 frame?

21 **A** Yes.

22 **Q** And was there ever any indication to you,
23 whatsoever, that there was anything sexual or
24 romantic regarding their relationship?

25 **A** No.

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CINDY BARTOLEC - DIRECT EXAMINATION

1 **Q** What were your observations about her
2 acquaintanceship with Billy Kelly?

3 **A** She told me she thought of him like a little
4 brother because she was friends with his sister.

5 **Q** Michelle Kelly?

6 **A** Yes, Michelle Kelly.

7 **Q** So you and Shirley both had known Michelle
8 Kelly growing up?

9 **A** Yes.

10 **Q** And he would be the younger brother of
11 Michelle Kelly?

12 **A** Yes.

13 **Q** And as a result, he was hired there at
14 Kentucky Fried Chicken while Shirley was manager;
15 is that correct?

16 **A** Yes.

17 **Q** Did there come a point in time where you
18 learned from Shirley that Billy was going to need
19 to be fired?

20 **A** Yes. She called me and told me she would
21 have to let him go, and she was feeling bad. And I
22 told her you have to do what you have to do. If he
23 is not living up to responsibilities or doing
24 things that causes someone to be fired, you have to
25 do that. I think when she went to talk to him,

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CINDY BARTOLEC - DIRECT EXAMINATION

1 because you talked to her later at Christmas, she
2 said he quit when she went to talk to him about the
3 fact that she would have to let him go.

4 Q So she went to advise him he was going to be
5 fired, and he quit or left voluntarily at that
6 time?

7 A That's my understanding, yes.

8 Q What do you recall being the underlying
9 reason or grounds?

10 A Drugs.

11 Q Drug use on his part?

12 A Yes.

13 Q Did you reassure her that that was the right
14 thing to do?

15 A Yes. I told her she had to do her job. If
16 he wasn't doing his, that she had to let him go
17 whether he was a friend or thought of him as a
18 little brother, it didn't matter, but she couldn't
19 keep him. You know, she couldn't jeopardize her
20 reputation and who she is to try to protect
21 someone.

22 Q Ms. Bartolec, how did you learn of your
23 sister's death?

24 A I got a phone call late at night, that night
25 January 5th. It woke me up. I called my best

CINDY BARTOLEC - DIRECT EXAMINATION

1 friend and told her that I needed her to come and
2 that I had to find a ride to Batesburg, that I
3 couldn't drive. I don't remember who drove me to
4 Batesburg, but I remember going that night and, you
5 know, being with family.

6 Q What has the impact been on you, not just
7 then at the time, but throughout these years having
8 lost your sister?

9 A It's not something you get over. It's
10 something that is always there. There is a fear
11 and anxiety walking to my car late at night. It's
12 hard, you know, even all these years later. My car
13 is always locked. I always check in my car. I
14 walk with people, you know. I think about all of
15 the things that we missed. I remember us laughing
16 because she was married and expecting her second
17 child, and I didn't even have anybody that serious,
18 and I was two-and-a-half years older and, she was
19 like, Okay, what are we going to do when you are an
20 old maid and you're 30, and I was like, I don't
21 think that will happen, you know. And then the
22 summer of '96 I met my husband. He is not here
23 today, but he has been with me through all of this.

24 Q And your parents, your father, who I believe
25 testified during the sentencing phase of the

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CINDY BARTOLEC - DIRECT EXAMINATION

1 original death penalty trial, he has passed. How
2 did Shirley's murder affect your parents?

3 **A** It is something he never got over. My mom is
4 in more poor health, and that is why she's not
5 here. She can barely get around. But it's just --
6 you know, Christmas is not the same. I mean, we
7 always got together for Thanksgiving and Christmas,
8 and none of that is the same. There is just a pain
9 in getting together and missing somebody, and not
10 just somebody, her and her baby.

11 **Q** Her baby was Sidney Bruce?

12 **A** Sidney Bruce.

13 **Q** She named her little boy?

14 **A** Yes.

15 **Q** Had she been making plans there at the house
16 for her second child?

17 **A** Yes.

18 **Q** Making a room for him?

19 **A** Yes.

20 **Q** A nursery?

21 **A** Uh-huh. And Alex was excited to be an older
22 brother.

23 **Q** What was it like seeing Alex at six lose his
24 mom and grow up without her?

25 **A** That was horrible. Because we are in our

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CINDY BARTOLEC - DIRECT EXAMINATION

1 20s, so a lot of people were getting married. I
2 remember going to -- pretty sure it was a wedding
3 with Alex and holding his hand, and he was walking
4 around and he was telling people that a bad man had
5 killed his mommy. He said it several times, and I
6 was like, Alex, can you please stop, you know,
7 because it hurt.

8 Q Did he seem to have difficulty obviously at
9 six even understanding or accepting what had
10 happened to his mother?

11 A Oh, yes. Yes.

12 Q And he said, A bad man killed my mommy?

13 A Yeah.

14 Q How did the family come together to help
15 raise Alex after his mother was murdered?

16 A We tried to still do those Christmas
17 gatherings, which at some point you just don't get
18 together like we used to. But for a long period of
19 time, you know, Neil would bring Alex over, and we
20 would all get together Thanksgiving and Christmas.
21 But, you know, to some extent, it kind of feels
22 like going through the motions. And I hate to say
23 that, but to some extent, that is what it felt
24 like.

25 MS. MAYES: Your Honor, this is State's 330,

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CINDY BARTOLEC - DIRECT EXAMINATION

1 a new exhibit, without objection.

2 (State's Exhibit 330 prior stipulated.)

3 **Q (BY MS. MAYES)** Who are we looking at in this
4 photograph?

5 **A** That's Shirley feeding Alex something. I
6 don't know. That might be my mom in the
7 background.

8 **Q** So Alex's date birth is August 24th, 1989.
9 He would have been six-year-old when she was killed
10 January 5 of 1996. Do you recall when this
11 photograph was taken, approximately?

12 **A** I don't. I don't know.

13 **Q** But does it appear to you to be more recent
14 in time -- closer to the time frame in which she
15 was killed?

16 **A** Uh-huh. He looks like he's maybe five.

17 **Q** And as we see here, Shirley with Alex, is
18 this typically how you remember her being with him?

19 **A** Yes.

20 **Q** Because she a doting mom?

21 **A** Yes.

22 **Q** I want to ask you about some of the childhood
23 memories you have.

24 MS. MAYES: This would be a group exhibit,
25 Your Honor, beginning with State's 328, a

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CINDY BARTOLEC - DIRECT EXAMINATION

1 collection of photographs.

2 Q This is an old photograph, but who is in this
3 picture?

4 A My mom on the left holding Lynn, I'm in the
5 middle, and then my dad and Shirley. She's kind of
6 got his hands. I don't know if she can tell, she
7 has a big ole grin on her face.

8 Q So Shirley here with your father. You are
9 the oldest, and then the third sister, the youngest
10 sister is Lynn?

11 A Yes. Lynn, uh-huh.

12 Q Now, the next photograph in this group, what
13 do you remember about this?

14 A This was my cousin Katherine's wedding, and
15 Shirley and I were flower girls, I think, so we had
16 the same dress. We were doing the rice-throwing
17 thing. She had a blast with that, so she had just
18 thrown the rice and she has a big, giant smile
19 there. We just got done throwing the rice.

20 Q And the Santa photo, all three girls in this
21 picture as well?

22 A Yes.

23 Q Who is here with the youngest?

24 A My dad holding Lynn. She did not want to see
25 Santa, so we were just trying to be good and grin

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CINDY BARTOLEC - DIRECT EXAMINATION

1 through it, because she had just -- that's it.

2 Q And this smiley face on Shirley, is that how
3 you best remember her?

4 A She usually had teeth showing like a big
5 smile, so the grin like that, I think we were just
6 trying to stay out of trouble.

7 Q Looking here again at a group family photo
8 with all three of you?

9 A I'm not in that one. So that is my cousin in
10 the red jacket, and her parents behind her, and her
11 grandmother. And then that is Lynn with the pink
12 jacket next to my mom, and then that's my dad, and
13 Shirley next to him. In the background is the
14 pickup she would drive.

15 Q Looking here, what can you tell us about this
16 photo?

17 A Shirley and one of our many cats. She loved
18 animals, so she was just, you know, loving on it.
19 That's in our house.

20 Q What do you remember about this?

21 A That is at Shirley's graduation. That is my
22 mom in the background and my cousin that we were at
23 her wedding, and her little boy. I think that is
24 her older daughter. You know, that is just --
25 that's the smile I remember with the teeth.

CINDY BARTOLEC - DIRECT EXAMINATION

1 Q And this photo?

2 A That's her graduating. That's her husband,
3 Neil -- who was her boyfriend at the time -- behind
4 her.

5 Q So this is graduation from
6 Batesburg-Leesville High School?

7 A Yes.

8 Q Here we see Shirley getting her high school
9 diploma, and you indicated that that is Neil, her
10 future husband, at the graduation behind her?

11 A Yes.

12 Q And then, finally, from this group?

13 A That's my graduation two years prior to that.
14 Shirley is on the opposite side, Lynn is in the
15 front, and that is our band director, Mr. Gilison.

16 Q I'll ask you a few questions. This is your
17 high school graduation and your band director. You
18 mentioned that Shirley was also in the band with
19 you?

20 A Yeah.

21 Q She played trumpet and you played trombone.
22 How often were you two together at the high school
23 football games?

24 A Every Friday night for two years.

25 Q This next group of photographs --

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CINDY BARTOLEC - DIRECT EXAMINATION

1 MS. MAYES: Your Honor, this is 327.

2 Q (BY MS. MAYES) Again, high school graduation
3 with Shirley?

4 A Yes.

5 Q What do you recall about this photo?

6 A This was another cousin's wedding, so that is
7 me on the left, our cousin Wesley in the middle,
8 and then Shirley. Sometimes she would do that
9 goofy little thing.

10 Q A family photo?

11 A Yes. I think I was in the ninth grade, so
12 she would have been in middle school. I have the
13 very long hair, and Shirley next to me in the red
14 plaid, Lynn is sitting on my mom's lap, and my dad
15 in front of me.

16 Then that is the same photo session with just
17 the picture of the girls, the three of us. That
18 was probably at church. We went to Mount Ingle
19 Baptist.

20 That is at our house. She was in high
21 school -- I'm pretty sure -- in that picture, just
22 heading out. I don't know why I snapped the
23 picture. We didn't do that a lot back then.

24 Q You think that was around the time of high
25 school?

CINDY BARTOLEC - DIRECT EXAMINATION

1 **A** I think so.

2 **Q** And another family photo?

3 **A** This would have been a Thanksgiving gathering
4 at my house in Aiken. That is her sitting in the
5 chair with my dog, Bea. Bea didn't like everyone,
6 so that tells you how much of an animal person she
7 was, because she's cozied up. And then Neil is on
8 the couch with Lynn.

9 **Q** So, eventually, she and Neil were married?

10 **A** Uh-huh. I think they are married in that
11 one. And then we did a photo session at Olan Mills
12 in Aiken, so that was 1990. So Alex might have
13 been about one. So Alex, Neil holding Alex, I'm
14 behind Neil, Shirley in the middle, and there's my
15 dad, and Lynn had her hand on dad's shoulder.

16 **Q** Who was it that taught Shirley to drive?

17 **A** My dad.

18 **Q** Were they close?

19 **A** Yes.

20 **Q** Do you remember your final Christmas with
21 Shirley?

22 **A** Yes.

23 **Q** What do you remember about it?

24 **A** A lot of happiness. She was pregnant and had
25 this really cute outfit on and showing quite a bit

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CINDY BARTOLEC - DIRECT EXAMINATION

1 and -- yeah. Dad got us a present -- I think it
2 was the same -- so we were opening it at the same
3 time. She has that big, giant smiling. This was
4 at her and Neil's house. So she had this big,
5 giant smile.

6 Q So this would be the final Christmas before
7 she was killed on December 5?

8 A Yeah, December of 1995.

9 Q So less than two weeks before her murder?

10 A Yeah.

11 Q And you indicated she's pregnant in this
12 photo with Sidney Bruce?

13 A Yes, with Sidney Bruce.

14 Q This was taken at her house with the
15 Christmas tree in the back?

16 A Yes.

17 Q And you are opening presents that your father
18 had given the both of you?

19 A Yes. There we are at a different angle, same
20 picture. We're both wearing jingle bells, so we
21 liked Christmas.

22 Q Is that how you remembered the holidays
23 before her murder?

24 A Yes. Fun.

25 Q I think you indicated it just hasn't been the

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CINDY BARTOLEC - DIRECT EXAMINATION

1 same since?

2 **A** No.

3 **Q** Then, also, from that same day, who do we see
4 here on Shirley's lap?

5 **A** That is Alex, and then Lynn is right there.
6 I think Alex had just opened something. And there
7 is my dog. She's that welcoming that she let me
8 bring my dog to her house.

9 **Q** Do you have a statement, a victim impact
10 statement, that you would also like to share with
11 the Court at this time?

12 **A** Yes. May I read it?

13 **Q** Please read slowly enough for the court
14 reporter to follow.

15 **A** Okay.

16 Your Honor, I'm here today to speak as a
17 victim. What I never knew before my sister was
18 murder is the effect that crime has on the entire
19 family. I would never wish this on anyone. I used
20 to be a very carefree person and loved being out
21 and about. Now, I really prefer to be at home, and
22 have a fear and anxiety when it comes to being out
23 alone at night. That may not seem like a big deal,
24 but for part of the year it gets dark pretty early.
25 So things like going to the grocery store or Yoga

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CINDY BARTOLEC - DIRECT EXAMINATION

1 class can be difficult if you fear there is someone
2 hiding in your back seat. I didn't realize that is
3 the way that my sister, Lynn, and Shirley's
4 sister-in-law, Kim, also felt until we all talked
5 recently.

6 William, or Billy as we knew him, was a
7 friend of Shirley and our family. Shirley thought
8 of him like a little brother. The day that he
9 chose to commit this horrible crime began a time
10 where I no longer trusted people the same way. I
11 usually question people's intentions now, including
12 the people my young, adult daughters choose to hang
13 out with or date. This has made for some difficult
14 times between my daughters and myself. I would
15 never wish this on anyone else. It is like part of
16 my freedom has been taken away.

17 Now to speak on the other part of this
18 horrible crime. The grief and longing to see my
19 sister. When she was murdered, I had not met my
20 husband yet, so she never got to know him. We just
21 celebrated our 25th anniversary. She missed all
22 of those years. We missed all of those years with
23 her. She missed meeting my two daughters and
24 celebrating their special events, our holidays and
25 daily lives have a shadow of grief on them and has

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CINDY BARTOLEC - DIRECT EXAMINATION

1 for the past 28 years. I have heard it said grief
2 is not something you get over, it is something you
3 learn to live with, and that is where I like -- I
4 feel like I am. I am just taking it one day at a
5 time and learning to live with it.

6 I do wish that no one would ever have to
7 experience this type of grief or loss again. The
8 grief or loss of someone -- sorry. The grief of
9 losing someone to homicide comes with anxiety and
10 fear. It is something that we, as victims, will
11 live with for the rest of our lives.

12 Judge, I ask that you give Mr. Kelly the
13 maximum sentence as our family has suffered the
14 maximum grief losing Shirley and her baby, Sidney,
15 who we never even got to meet or love on. I do not
16 say this merely as retribution, but also as a way
17 to help calm at least a little bit of fear and
18 anxiety that lives within us all as co-victims.
19 Thank you.

20 MS. MAYES: Thank you, Ms. Bartolec.

21 THE COURT: Anything further?

22 MS. MAYES: Nothing else at this time.

23 THE COURT: Thank you. You can step down.

24 MR. HUBBARD: I call Neil Shealy.

25 (NEIL SHEALY, having been duly sworn,

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BRUCE "NEIL" SHEALY - DIRECT EXAMINATION
1 testified as follows:)

2 THE WITNESS: Bruce O'Neil Shealy.

3 **DIRECT EXAMINATION**

4 **BY MR. HUBBARD:**

5 **Q** You go by Neil?

6 **A** Yes, sir.

7 **Q** Neil, I just want to begin by asking you a
8 few things. Obviously, you remember
9 January 5th of 1996?

10 **A** Yes, sir, I do.

11 **Q** How long had you and Shirley been married?
12 What year did you get married?

13 **A** 1989.

14 **Q** Do you remember the events of that day before
15 you got the call about the murder?

16 **A** Yes, sir.

17 **Q** Did you at some point even go by Kentucky
18 Fried Chicken that day?

19 **A** Yes, sir, I did.

20 **Q** What was your reason for going by there?

21 **A** To swap vehicles.

22 **Q** The red vehicle that we've seen in this case,
23 is that the vehicle you were taking to Shirley?

24 **A** Yes, sir.

25 **Q** And you were picking up what vehicle?

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BRUCE "NEIL" SHEALY - DIRECT EXAMINATION

1 **A** An Oldsmobile.

2 **Q** What was the condition of your particular
3 vehicle that you were driving around those days?

4 **A** It didn't run the best in the world, but it
5 would get us from Point A to Point B.

6 **Q** So you had the red vehicle that you saw in
7 this case, and then your father's?

8 **A** Yes. I had GMC pickup truck, but it was in
9 the shop at the time.

10 **Q** So you were all making do?

11 **A** Yes, sir.

12 **Q** And that day while Shirley was working, you
13 went by KFC to swap out cars?

14 **A** Yes, sir.

15 **Q** Let me ask you something. I'll show you what
16 was originally marked in evidence as State's 28, a
17 photograph of the back seat of that car?

18 **A** Yes, sir.

19 **Q** Do you notice a gas can right here?

20 **A** Yes, sir. I noticed something. I can't tell
21 exactly what it is, but it does look like a gas
22 can.

23 **Q** It says "can," and it is scraped up?

24 **A** Yeah.

25 **Q** You had that car that day, correct?

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BRUCE "NEIL" SHEALY - DIRECT EXAMINATION

1 **A** Yes, sir.

2 **Q** Did you put a gas can in the back of that
3 car?

4 **A** No, sir.

5 **Q** Did Shirley have a gas can?

6 **A** Not that I'm aware of, no.

7 **Q** That one in that photo looks like it is a
8 metal one. Did you have metal gas cans back at
9 your house?

10 **A** No, sir.

11 **Q** What kind did you have?

12 **A** Plastic.

13 **Q** Where did you keep them typically if you are
14 going to have them in a vehicle?

15 **A** In the back of my pickup.

16 **Q** Back of your pickup truck?

17 **A** Yes, sir.

18 **Q** Now, looking at that photo, if you were to
19 put a gas can in a car, would you have put it in
20 your back seat?

21 **A** No, sir. I'd put it in the trunk.

22 **Q** Who would drive in the back seat of the car
23 when your son was with you all?

24 **A** Nobody.

25 **Q** Would Alex ride in the back seat?

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BRUCE "NEIL" SHEALY - DIRECT EXAMINATION

1 **A** Oh, yes.

2 **Q** Looking at that photo, Photo 28, there's
3 boxes?

4 **A** Yes, sir.

5 **Q** What was going on with you and Shirley that
6 you needed boxes at that time?

7 **A** We were cleaning out our spare room getting
8 ready for our second child.

9 **Q** Cleaning out the spare room?

10 **A** Yes, sir. We had moved in our new house,
11 hadn't been in there a year, and found out she was
12 pregnant, and we were cleaning out the room.

13 **Q** Take your time. All right.

14 **A** Yes, sir. (witness crying).

15 **Q** We'll walk through this. The house that you
16 and Shirley were living in at that time hadn't even
17 been a year?

18 **A** No, sir.

19 **Q** Those boxes, where were you all going to move
20 stuff to?

21 **A** Back to the house we were living in before
22 there, my grandma's old house behind the primary
23 residence.

24 **Q** So you were going to move that stuff out into
25 the family property?

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BRUCE "NEIL" SHEALY - DIRECT EXAMINATION

1 **A** Yes, sir.

2 **Q** You all had Alex. Alex was about six years
3 old at this time?

4 **A** Yes, sir.

5 **Q** And your wife was expecting another child?

6 **A** Yes, sir.

7 **Q** Boy or girl?

8 **A** A boy.

9 **Q** Had you already come up with a name?

10 **A** Yes, sir, Sidney Bruce.

11 **Q** Who is Sidney -- where did that name come
12 from?

13 **A** From my grandfather on my dad's side, and my
14 dad, and me.

15 **Q** And going back to that Kentucky Fried
16 Chicken, had Shirley worked at that Kentucky Fried
17 Chicken for a while?

18 **A** Yes, sir.

19 **Q** Back in December -- not even a month before
20 Shirley was murdered -- do you remember her letting
21 Billy Kelly go?

22 **A** Yes, sir.

23 **Q** What, if anything, did she tell you about
24 issues with Billy Kelly?

25 **A** He just wouldn't listen, wouldn't do his job

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BRUCE "NEIL" SHEALY - DIRECT EXAMINATION

1 like he was supposed to, and that she was afraid
2 that she would have to fire him and jeopardize her
3 friendship with his sister.

4 Q Billy Kelly's sister, Michelle?

5 A Yes, sir.

6 Q So how long had Michelle Kelly and Shirley
7 Shealy been friends?

8 A As long as I can remember.

9 Q You have known Shirley a long time yourself,
10 right?

11 A Yes, sir.

12 Q So the Kellys and the Slades, those families
13 knew one another?

14 A Yes, sir.

15 Q And letting Billy Kelly go was not an easy
16 thing for her?

17 A No, sir.

18 Q What did you tell your wife to do?

19 A Sometimes you have to do what you have to do,
20 if you need to let him go.

21 Q Did she follow your advice?

22 A Yes, sir.

23 Q Now, you said you got married in 1989?

24 A Yes, sir.

25 Q How long did you date before you got married?

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BRUCE "NEIL" SHEALY - DIRECT EXAMINATION

1 **A** Approximately, three, four years maybe.

2 **Q** Where did you all meet?

3 **A** Piggly Wiggly where we both worked at the
4 time.

5 **Q** When you all started dating, she was a little
6 younger. About how many years? About five?

7 **A** Yes.

8 **Q** And did you end up going to some proms with
9 her?

10 **A** Yes, sir.

11 **Q** I'll show you some photos. All of these are
12 marked 329. Who do we see in this photograph?

13 **A** That is me and Shirley.

14 **Q** Back in 1987?

15 **A** Her junior prom.

16 **Q** And I'll show you another photograph.

17 **A** That is me and Shirley her senior prom.

18 **Q** You say you met at Piggly Wiggly?

19 **A** Yes, sir.

20 **Q** And I'll show you this photograph.

21 **A** That picture was taken at Piggly Wiggly not
22 long after we started dating.

23 **Q** When you all got married in '89, you ended up
24 having Alex?

25 **A** Yes.

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BRUCE "NEIL" SHEALY - DIRECT EXAMINATION

1 Q And I'll show you photographs here.

2 A Yes, sir. That picture was at our church.

3 Q What church?

4 A Faith Lutheran.

5 Q And the little one, is that Alex?

6 A That's Alex, yes, sir.

7 Q I'll show you another photo. Is that you,
8 Shirley, and Alex?

9 A Yes, sir.

10 Q And one more. All three of you together?

11 A Yes, sir.

12 Q When Shirley was pregnant with Alex, were you
13 all really excited?

14 A Yes, sir. A little nervous and excited.

15 Q You all were young?

16 A Yeah.

17 Q And when you all had Alex, he was born
18 premature?

19 A Yes, sir.

20 Q How long had she carried Alex before he was
21 born?

22 A I think they told us like six months and one
23 week.

24 Q Six months and one week?

25 A Yes, sir.

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BRUCE "NEIL" SHEALY - DIRECT EXAMINATION

1 Q So he was born, and you all had some health
2 issues with Alex?

3 A Yes, sir, he did. Came home with a heart
4 monitor, stayed in NICU for about five weeks.

5 Q But she carried him for six months before she
6 had him?

7 A Yes, sir.

8 Q Neil, do you remember getting a call
9 January 5th late at night, almost in the early
10 morning hours of the 6th?

11 A No. They came to the house.

12 Q They came to the house?

13 A Yes, sir.

14 Q Will you ever forget that night?

15 A No, sir.

16 Q Neil, that little child your wife was
17 carrying, what his name?

18 A Sidney Bruce.

19 Q At Shirley's funeral, was Sidney Bruce buried
20 as well?

21 A Yes, sir. In the coffin with her.

22 Q He was in the coffin with her?

23 A Yes, sir.

24 Q So mama and baby?

25 A Yes, sir.

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BRUCE "NEIL" SHEALY - DIRECT EXAMINATION

1 Q Neil, that house that you barely lived in for
2 a year, were you able to go back with Alex and live
3 in that house?

4 A No.

5 Q How long was it before you could even step
6 through the threshold of that house?

7 A Six, seven months.

8 Q Six or seven months?

9 A Yes, sir.

10 Q That car, red car we've seen in all of those
11 photographs, did you ever drive that car again?

12 A No, sir. Never did. It was taken to the
13 house on a wrecker, and I had it hauled off to the
14 junkyard.

15 Q Let me ask you this: Neil, Alex was six at
16 the time. Did you see an impact on Alex?

17 A Very much so.

18 Q Through the years as Alex has grown up, have
19 you seen an impact going directly back to
20 January 5, 1996 on him?

21 A Yes. Sure have.

22 Q Has his entire life been defined by the fact
23 that his mother was murdered so many ways?

24 A In a lot of ways, yes.

25 Q And the struggle had been to try to redefine

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BRUCE "NEIL" SHEALY - DIRECT EXAMINATION

1 his life?

2 A Yes, sir.

3 Q Shirley loved Alex?

4 A Very much so.

5 Q And you love Alex?

6 A Yes, sir. Very much. (Witness crying).

7 Q You okay, Neil? We're almost done.

8 Neil, did you or have you ever remarried?

9 A No, sir.

10 Q Since this time, you never remarried?

11 A No, sir.

12 Q Since that time in 1995 or '96, have you
13 found anybody even close to being --

14 A No.

15 Q -- that Shirley was to you?

16 A No, sir.

17 Q You still miss her?

18 A Sir?

19 Q You still miss her?

20 A Every day.

21 Q Did you sit down with Alex and write a letter
22 for the Judge that you would like to read to the
23 Court?

24 A Yes, sir.

25 Q Do you think you can do it or would you like

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VICTIM IMPACT STATEMENTS

1 to it?

2 **A** I would like you to do it.

3 **Q** I want to show it to you. You have it right
4 in front of you?

5 **A** I have a copy right in front of me.

6 MR. HUBBARD: Your Honor, I'm standing here
7 with a heavy heart reflecting on the tragic events
8 that have forever altered the course of my life and
9 that of my family.

10 My name is Neil, and 28 years ago my beloved
11 wife, who was pregnant with our son, was brutally
12 murdered, brutally taken from us by the hands of
13 her murderer. The pain of that loss has never
14 dulled with time; instead, it has been etched into
15 every fabric of my being, a constant reminder of
16 the gaping hole left in our lives by her absence.

17 Every day since her passing has been a
18 battle, a struggle to navigate a world that
19 suddenly seems so cruel and unforgiving. As a
20 husband, I lost not only my life partner, but also
21 my confidant, my best friend, and the cornerstone
22 of our family. Her absence has left a void that
23 can never be filled aching with memories of what
24 could have been, and dreams we once shared.

25 However, the true weight of this tragedy lies

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VICTIM IMPACT STATEMENTS

1 in its impact on our son Alex, to grow up without
2 the guiding hand of a mother, to face the
3 milestones of life without her presence has been a
4 burden he has carried with remarkable grace and
5 resilience, yet beneath the heroic exterior, I see
6 the cracks, the moments of longing for a mother's
7 love, the questions left unanswered, and the pain
8 of knowing that she will never been there to share
9 in his triumphs, and console him in his sorrows.

10 Despite the darkness that has shattered our
11 lives since that fateful day, we have persevered,
12 drawing strength from the memories we hold dear,
13 and the love that binds us together as a family.
14 But the wounds of loss do not heal easily, and the
15 scars left behind serve as a stark reminder of the
16 irreplaceable void left by her absence.

17 As I stand before you today, I implore you to
18 consider the full extent of the devastation brought
19 by the actions of my wife's murderer. The pain
20 inflicted upon us cannot be measured in mere words
21 or deeds. It is a lifelong sentence of grief,
22 heartache, and longing. In seeking justice for my
23 wife and son, I ask that.

24 Thank you, Your Honor.

25 THE COURT: All right. Thank you, sir. You

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1 can step down.

2 MS. MAYES: Your Honor, next is Lynn Roberts.
3 Lynn is the youngest sister of Shirley, and you saw
4 her in some of the family photographs that we saw
5 before. This is a photograph of Shirley and Alex
6 shortly before Shirley's murder meeting Lynn's
7 little boy, Christian, which would be Shirley's
8 nephew. It is her favorite photograph because it's
9 Shirley and Alex with her little boy.

10 MS. ROBERTS: Your Honor, my name is Jennifer
11 Lynn Slade Roberts.

12 I'm here to tell you of some of the ways my
13 life was affected by my sister and nephew's murder.
14 Christmas 1995, I got my first birthday present
15 early ever from my sister, Shirley, which I thought
16 at the time that it was different since my birthday
17 wasn't until January 10th. I believe it went
18 with a Christmas present, which is why she said she
19 gave it to me early. None of us realizing at the
20 time that she would only be -- that we would only
21 be blessed to have Shirley alive with us a short
22 time longer with her being so young.

23 I had left the KFC that I had worked at and
24 became a manager of a video store quickly. My car
25 ended up in the shop, and a friend from work took

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1 me home on January 5, 1996 where I was living with
2 my dad. I'll probably never forget this night as
3 it changed all of our lives.

4 We were sitting in his car talking and joking
5 around when my sister Shirley's father-in-law,
6 Bruce, pulled up. He asked me to go inside. So I
7 did. He told me and my daddy that my sister had
8 been murdered. Thankfully, my friend waited
9 outside, and I remember going outside and beating
10 on his chest screaming, No, over and over. He took
11 me to tell my mom that day, five days before my
12 21st birthday. We not only lost my sister, but her
13 youngest son, Sidney Bruce, that she was pregnant
14 with. We had become best friends as we were both
15 moms.

16 She was one of the more cordial, sweetest,
17 caring people you could of meet. We never thought
18 we would have a girl since our parents only had
19 three girls, and we already had three boys with the
20 one that she was expecting. We thought we were
21 cursed to have nothing but boys.

22 While they were laying in the casket, I
23 promised my sister and the baby that if I ever had
24 another baby, that I would name this baby after
25 them. Instead of celebrating my 21st birthday,

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VICTIM IMPACT STATEMENTS

1 which me and my sisters planned to celebrate
2 together since we were all close, we were still
3 mourning our loss. One year and one day later, my
4 beautiful little mini me was born, and she is named
5 for my sister, Shirley Marie, and her little boy
6 Sidney. She's Sidney Marie. (Witness crying)
7 Sorry.

8 I ended up leaving my job as manager after I
9 became pregnant due to fearing that I would meet
10 the same fate as my sister, being that I was a
11 young pregnant manager, too. I started back at
12 Tech to become a teacher, which I always dreamed
13 of, after I ended up stressing too much and lost my
14 financial aid to get my financial aid back. They
15 asked to see more information on her, the coroner's
16 report and other documents that I had already read,
17 and I felt that was too much to just let anybody
18 read. They should just accept an obituary, which I
19 offered, and news articles. They didn't, so I
20 ended up quitting.

21 I meant to add how I believe that I was
22 overprotective with my kids to try to keep them
23 safe and teach them to always lock their cars and
24 look in the back seat when they got in. They also
25 had to go to the bathroom or anywhere in public in

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VICTIM IMPACT STATEMENTS

1 pairs. They weren't allowed to go anywhere by
2 themselves. It really messed me up to lose my
3 sister and best friend the way we did. We told
4 each other everything. She told me about Billy
5 causing trouble at KFC, and her finding out that he
6 was on drugs, so she was going to let him go.

7 He had worked there, so he knew all of the
8 procedures at closing and knew that her car was
9 wrecked and one side didn't lock due to the wreck.
10 It has taken me a long time, and up until recently,
11 like in the last year, have I even been able to
12 talk about what had happened.

13 He destroyed our parents and our family.
14 None of us were the same after what we endured. My
15 sister should have been able to raise her boys with
16 her husband, Neil, who she loved very much. She
17 should have been able to meet her five nieces and
18 other nephews. She should have met all of our
19 husbands, my other kids, along with my six
20 grandkids. She should have been there to see Alex'
21 marriage, and especially meet her grandson,
22 Bradley, but she was robbed of all of these joys.

23 I'm here to ask you, Judge, that you please
24 keep Billy behind bars and give him the maximum
25 sentence for everyone's safety. I fear if he got

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VICTIM IMPACT STATEMENTS

1 let go, he would put another family through what
2 we've endured, and I would really hate to hear of
3 another family going through everything that we
4 have.

5 He knew she was pregnant, and he still killed
6 her, and I don't understand how someone can be so
7 cold. I don't see how anyone can murder someone
8 you know. He never showed any remorse to this day,
9 and 28 years later, I feel it would be him just
10 saying this just to give us that remorse that he's
11 never given. All he seems to care about is himself
12 and his freedom and not the crime he committed and
13 the lives he took and affected.

14 Thank you, sir.

15 THE COURT: Thank you, ma'am.

16 MR. HUBBARD: We have Alex Shealy.

17 THE COURT: Okay.

18 MR. HUBBARD: Alex would like to read this
19 letter that he had written for Your Honor.

20 THE COURT: Absolutely.

21 MR. ALEX SHEALY: Your Honor, I stand before
22 you today not just as a witness, but as a living
23 testament to the profound and lasting impact that
24 one person's actions can have on another's life.

25 My name is Alex, and 28 years ago my world

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VICTIM IMPACT STATEMENTS

1 was irrevocably changed by the loss of my mother
2 due to an act of violence that has since haunted my
3 waking moments and my dreams. I was only six years
4 old at the time of my mother's murder, at an age
5 when the biggest concern should be trivial, like
6 what game to play next. I was faced with the
7 reality that my mother would never come home again.
8 The safety and innocence of my childhood were
9 stolen from me, replaced with a void that no amount
10 of time, love, or therapy could ever fully heal.

11 Growing up without her has been a journey of
12 navigating a world that seems to be missing a
13 fundamental piece. Every milestone achieved and
14 every setback faced was a stark reminder of her
15 absence. My mother was not there to guide me,
16 comfort me, or share my joys or sorrows.

17 Her and my brother's murder has been a shadow
18 over my every achievement and every loss and every
19 ordinary moment in between. This tragedy has
20 shaped who I am in ways that is difficult to
21 articulate. The profound sense of loss -- give me
22 a second, Your Honor -- the profound sense of loss
23 and complexities of dealing with such trauma from a
24 young age have influenced my relationships, my
25 choices, and my perspective on life.

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VICTIM IMPACT STATEMENTS

1 The ripple effects of her murder have touched
2 every aspect of my being, leaving a scar that may
3 fade, but will never disappear. The process of
4 healing and finding a way to live with this loss
5 has been a long and often a lonely journey.

6 While I have sought to build a life that
7 honors the memory of my mother, the pain and
8 absence -- the pain of her absence remains a
9 constant companion. The knowledge that her life
10 was taken by the actions of another has instilled
11 in me a deep sense of injustice, and a longing for
12 some measure of peace that seems forever out of
13 reach.

14 As the Court considers the resentencing of my
15 mother's murderer, I implore you to take into
16 account not only the heinous nature of the crime
17 committed, but also the enduring suffering of those
18 left behind. The decision made here will not bring
19 my mother back, nor will it erase the pain and loss
20 that has defined much of my life. However, it can
21 serve as a testament to the value of her life and
22 the lives of all of those affected by such
23 senseless acts of violence.

24 I thank you for the opportunity to speak
25 today and for your consideration of the profound

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VICTIM IMPACT STATEMENTS

1 impact that this tragedy has had on my life. It is
2 my hope that justice will be served, not just as a
3 punitive measure, but also as a step towards
4 healing and closure for all of those who have
5 suffered in the wake of this devastating loss.

6 Thank you, Your Honor.

7 THE COURT: Thank you, sir.

8 MS. MAYES: And, Your Honor, this final
9 photograph was State's 337 for evidence.

10 Your Honor, I know that it's been stated
11 before, but I did want to reiterate for the Court
12 that Shirley Shealy was age 25 when she was
13 murdered.

14 MR. HUBBARD: Your Honor, I have one final
15 person that would like to say something that I
16 think has also seen the impact of this murder in
17 the community in which Shirley lived, and that is
18 Chief Wallace Oswald, who was chief for 42 years.
19 I asked him to briefly make a few comments.

20 THE COURT: Yes, sir, Chief. I would be glad
21 to hear from you.

22 CHIEF OSWALD: Your Honor, he says I was --
23 Hubbard said I was chief for 42, which is great,
24 but I worked there for 46 years when I got out of
25 the military. I started working there because this

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VICTIM IMPACT STATEMENTS

1 was my hometown. The old saying about born and
2 raised there, literally, I was. My kids could
3 never get over that I wasn't born in a hospital. I
4 was born in the doctor's office. Just, kind of,
5 strangely, a half block up from where this
6 happened, was the doctor's office where I was born
7 at there in town.

8 So I have lived there, and I know all of
9 these people. Some people may see that as a
10 disadvantage of policing where you grow up, but I
11 didn't. I probably worked in excess of 20
12 homicides in my career of 46 years. All of those
13 homicides, of course, had victims, and I understand
14 that, and they were just as important.

15 However, this was a traumatic experience for
16 the community in that the viciousness of the
17 attack, the way it happened, the fact that she was
18 pregnant -- in fact, this weekend I was at a
19 restaurant, my wife and I, in town. I just asked
20 someone, Do you remember the Kentucky Fried -- oh,
21 yes. No matter who you talk to, it affected them.
22 Even as late as yesterday I mentioned it and they
23 said, Oh, yeah, I remember that. This gentleman
24 said he was a senior in high school when it
25 happened. He definitely remembers.

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VICTIM IMPACT STATEMENTS

1 So it is still a part of the community.
2 Everyone still knows of it. It definitively
3 impacted everyone, and I want to be sure that I got
4 that across, not just from the family, of course.
5 There's two families here, as it was that night
6 when I had to go find Neil and his daddy and others
7 to break the news to them. I never did like phone
8 calls. I felt that had to be done in person. It
9 definitely has impacted me, and I want to make sure
10 you understand that.

11 And something else I was going to say. Those
12 20-some odd homicides I worked, and of course I've
13 worked rapes and things such as that, and there is
14 only very few suspects I remember dealing with that
15 I truly believe that old adage that the eyes are
16 the windows to the soul, that I could look in the
17 eyes and not see anything, and Billy Kelly was one
18 of those. When I looked in his eyes, I didn't see
19 anything, and I think that's dangerous, very
20 dangerous.

21 Thank you.

22 MR. HUBBARD: Thank you. That is all we
23 have.

24 THE COURT: Okay. Thank you. Before we
25 start with the defense, we'll take a brief recess.

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VICTIM IMPACT STATEMENTS

1 And I'll say it again at the conclusion of these
2 proceedings, but I want to acknowledge the grace of
3 the family and friends of the family who you all
4 are sitting through this proceeding. I thank you
5 for what you have exhibited. I certainly know it's
6 a very tough situation for you all to deal with.
7 The law can be very tough -- very tough --
8 sometimes, and I understand this. This is a
9 resentencing hearing. This has been going on for
10 some 28 years, and I'm not -- I obviously
11 understand that. I take it very seriously.

12 Of course the State's portion is over with
13 now, okay, and now we're going to move after the
14 brief recess to the defense portion, which our
15 United States Supreme Court has set out what the
16 Court must consider when sentencing a juvenile
17 offender.

18 So I'll ask you all to display the same grace
19 that you all have displayed up to this moment. So
20 let's take about a ten-minute recess.

21 You want to call your virtual witness first?

22 MS. MAULDIN: I will, Your Honor.

23 THE COURT: We'll reconvene in about ten
24 minutes. Thank you.

25 (A recess was taken at 3:06 p.m.)

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VICTIM IMPACT STATEMENTS

1 THE COURT: Thank you. Keep your seats.
2 Appreciate you. Thank you everyone.

3 MS. MAULDIN, are you ready to proceed?

4 MS. MAULDIN: Yes, Your Honor.

5 THE COURT: Have you checked to make sure it
6 is working?

7 MS. MAULDIN: It worked about 10 minutes ago,
8 Judge, so I hope it still will.

9 THE COURT: So the witness can hear me?

10 MS. MAULDIN: Your Honor, I don't know if he
11 can hear you yet. If I can make a brief
12 introduction?

13 THE COURT: Sure. You start when you are
14 ready.

15 MS. MAULDIN: I have him on mute, so he can't
16 hear right now.

17 Your Honor, just to begin, I want to make it
18 perfectly clear that we in no way deny that this
19 was a horribly violent death, and that in no way
20 Ms. Shealy deserved anything that happened to her.
21 It was horrific.

22 And I'll tell you, from the beginning, Will
23 denied initially when those officers came to see
24 him in Massachusetts. They asked him about having
25 a problem in South Carolina, and he said he didn't

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VICTIM IMPACT STATEMENTS

1 have a problem in South Carolina. Within the next
2 few sentences, he was spilling his guts and telling
3 that he stabbed Ms. Shealy. There has been no
4 denial of that. He has admitted that he stabbed
5 her, that he stabbed her many, many times, and that
6 he killed her unborn child. There has been, after
7 that, no denial of the horrible act that he
8 committed.

9 We're not trying to minimize the horror of
10 her death, the violence that he did upon her and
11 her body and her child. In no way are we trying to
12 do that. Certainly, the Court knows that any
13 murder is horrible, and that any family that has
14 gone through this feels horrible, horrible pain.
15 It's just not something we can quantify and say
16 that one death is worse or easier than another. It
17 is just not that way.

18 I do want Ms. Shealy's family to know that
19 I'm very sorry about what happened to Ms. Shealy.
20 This is probably not something they want to hear
21 from me, but I'm very sorry for the pain that it
22 has caused, and I'm sorry that they have had to
23 keep coming to court to talk about this. This is
24 clearly very hard and they clearly wear this pain
25 on them. I know Mr. Bartolec and Mr. Shealy

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VICTIM IMPACT STATEMENTS

1 himself have come to court -- even back in 2006 --
2 to speak on her behalf.

3 So we don't take this lightly. This is
4 certainly not a situation where we expect them to
5 ever understand why it happened or how it
6 happened -- if anybody can understand how it
7 happened. It is not a situation where we expect
8 them to feel sorry for Mr. Kelly, and not a
9 situation where we expect them to forgive. That is
10 beyond something that should ever be expected of
11 them after what they've gone through, and I just
12 wanted to make that very clear.

13 This all happened to them, and while I do
14 hope that they find more peace than the pain that
15 they've experienced, this is what happened to them.
16 Your Honor is looking at the case with the cool
17 reflection of the bench, and while the pain and the
18 horror is all they can consider, I'm asking you to
19 follow the law and consider more than only the
20 circumstances of Ms. Shealy's death. That's
21 according to the supreme court and our own state
22 supreme court that says that the circumstances of
23 the offense are only one factor.

24 So I'm asking you to consider the other
25 factors as well, and the main one that has not come

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MICHAEL KELLY - DIRECT EXAMINATION

1 out and not been addressed in the prior proceedings
2 is the abuse that Mr. Kelly endured as a young man.

3 So I would like to start -- and I would first
4 call -- Michael Kelly, Junior -- this is his
5 brother -- on Webex.

6 Mr. Kelly, can you hear me?

7 MR. KELLY: Yes, I can.

8 THE COURT: Mr. Kelly, can you hear me?

9 MR. KELLY: Yes, sir.

10 (MICHAEL KELLY, having been duly sworn,
11 testified as follows:)

12 THE COURT: I understand, even though you are
13 appearing virtually, it is still, nonetheless --
14 everything you are saying is being recorded. It is
15 still court.

16 MR. KELLY: Yes, sir.

17 THE COURT: All right. Thank you.

18 DIRECT EXAMINATION

19 BY MS. MAULDIN:

20 Q Mr. Kelly, how do you know William Kelly?

21 A He's my brother.

22 Q What do you call him?

23 A I call him Billy.

24 Q And that's what he always went by when you
25 were growing up?

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MICHAEL KELLY - DIRECT EXAMINATION

1 **A** Yes, ma'am.

2 **Q** What's the difference in your ages?

3 **A** About a year-and-a-half.

4 **Q** You are older than he is?

5 **A** Yes, ma'am.

6 **Q** And do you have any other siblings?

7 **A** I have two-and-a-half sisters. Michelle, who
8 currently lives in South Carolina, and Maude, or
9 Elizabeth, who lives in Boston.

10 **Q** And where did you and Billy grow up?

11 **A** South Carolina.

12 **Q** And Batesburg-Leesville?

13 **A** Yep.

14 **Q** Was your --

15 **A** As far as I can remember, at the same
16 property.

17 **Q** Was your home in the city or the country?

18 **A** Country. We had 20 acres in Aiken County.

19 **Q** Besides you and Billy, who else lived in your
20 home?

21 **A** Mom, Dad, and Michelle.

22 **Q** What kind of work does your father do?

23 **A** Electrician.

24 **Q** And what was his ordinary work schedule?

25 **A** He worked mostly from 11:00 in the afternoon

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MICHAEL KELLY - DIRECT EXAMINATION

1 until around 2:00 in the morning.

2 Q Does your mom work anywhere?

3 A She was a stay-at-home mom.

4 Q Was your home a happy home growing up?

5 A No.

6 Q And why wasn't it a happy home?

7 A My father was really abusive.

8 Q Can you tell us about the role that your
9 father played in your family?

10 A He made all of the money. He was the
11 disciplinarian.

12 Q And when -- if he was working late, what
13 hours would you typically see him?

14 A Usually during the weekends, sometimes during
15 the week when we get out of school, and whenever he
16 happened to wake me up.

17 Q Who enforced the rules at home?

18 A Mostly Dad.

19 Q How did he enforce his rules?

20 A Usually with a leather belt, sometimes with
21 hands, sometimes with feet.

22 Q Did this go beyond appropriate discipline of
23 a child?

24 A Yes.

25 Q Would you characterize this as abuse that

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MICHAEL KELLY - DIRECT EXAMINATION

1 your father committed against you and Billy?

2 **A** Yes.

3 **Q** When did it begin?

4 **A** All the way back.

5 **Q** Can you tell the Judge the earliest episode
6 that you remember?

7 **A** Billy and I were playing outside on one of
8 the sand hills, and we were being normal boys just
9 goofing off, playing around, pretending to be
10 ninjas. There were these small, metal, like maybe
11 6 inches long, maybe three-quarter-inch wide, kind
12 of wavy, and we would throw those at each other
13 like ninja stars. I accidentally hit him once
14 above his eye, and he was bleeding pretty bad.
15 Once my father found out, he kicked me so hard I
16 flipped over.

17 **Q** What do you mean you flipped over?

18 **A** As in my feet went over my head and then back
19 down and I landed on the ground.

20 **Q** Okay. And so that was one of the earliest
21 episodes you remember while you were at home? Did
22 the abuse ever stop?

23 **A** Not really.

24 **Q** Tell me about your dad's size compared to the
25 size of you growing up, and then Billy and your

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MICHAEL KELLY - DIRECT EXAMINATION

1 mom.

2 **A** He was a big guy, broad shoulders, fairly
3 muscular. I weighed 95 pounds when I started high
4 school, 135 when I graduated.

5 **Q** And Billy was, roughly, your size, or a
6 little bigger or smaller?

7 **A** Well, he was a little shorter than me,
8 heavier though. He could maintain weight; I
9 couldn't. I was a bean pole, so.

10 **Q** Was your dad abusive only to you?

11 **A** No.

12 **Q** And so how would you describe the
13 relationship you had with Billy back then?

14 **A** I would call it -- we would do a lot
15 together.

16 **Q** What kind of abuse did you see your father
17 committing against Billy?

18 **A** The same hitting, kicking, belt.

19 **Q** Can you describe a particular incident where
20 he hurt Billy?

21 **A** One was about -- the most thing I could think
22 about, most unusual, was when he forced him to
23 stand in the fire ant bed.

24 **Q** You said your father made Billy stand in a
25 fire ant bed?

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MICHAEL KELLY - DIRECT EXAMINATION

1 **A** Yep.

2 **Q** How long did he have to stay there?

3 **A** Seemed like forever.

4 **Q** And just to give the Judge an idea of how bad
5 this was, can you tell us some of the worse things
6 you saw your dad do to Billy?

7 **A** One was just like the next. I mean, it
8 didn't matter what we did or didn't do. Most of
9 the time it was a leather belt. When we did super,
10 super bad, we regretted it.

11 **Q** Were you all ever --

12 **A** I mean --

13 **Q** I'm sorry, I didn't mean to cut you off.

14 Go ahead.

15 **A** I mean, it all hurt. It didn't matter what
16 he was using, whether it was his feet or his belt.

17 **Q** Can you tell us what kinds of things would
18 set your dad off?

19 **A** Anything. We dropped a beer, we didn't get
20 him a tool fast enough, we didn't do something
21 exactly he told us to do it. I mean, it could be
22 anything.

23 **Q** What would happen in the evenings when he
24 came home if something had gone wrong during the
25 day?

MICHAEL KELLY - DIRECT EXAMINATION

1 **A** He would pull us out of bed or just hit us
2 while we are in bed.

3 **Q** Waking you up to do that?

4 **A** Yep. Until 2:00 in the morning.

5 **Q** Was that a single time or did that happen
6 more than once?

7 **A** More than once.

8 **Q** Did your dad ever use any weapons against
9 anyone in the family?

10 **A** I had a shotgun shot at me. My sister had
11 the same thing happen. Not sure if he ever did
12 that to Billy.

13 **Q** And when you were all growing up, was there
14 any difference in the way he treated you and the
15 way he treated Billy?

16 **A** Not really. We were both equal targets.

17 **Q** And you mentioned that you had bruises. Did
18 you -- was it frequent that you would have marks as
19 a result of what your dad had done to you?

20 **A** Not frequent where it can be seen. He was
21 pretty careful about that.

22 **Q** And did he leave any permanent marks on you?

23 **A** Yes.

24 **Q** Can you describe that?

25 **A** He was playing the ball so hard, he would

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MICHAEL KELLY - DIRECT EXAMINATION

1 grab me with his left arm, and I was running around
2 in circles trying to get away from him and swinging
3 the bat and swinging the bat, and sometimes he'd
4 catch us above, you know, the whole part of my back
5 and my butt, and it cut me.

6 Q And you have the scars from that even today?

7 A Yes. I remember my mom tried to put cold ice
8 on me trying to get the swelling to go down.

9 Q Did you ever see Billy do anything to any
10 animals when you were all growing up?

11 A One time we had a litter of kittens, and one
12 of them either broke its leg or malformed in some
13 way, and Dad told us to kill it, and I couldn't do
14 it, and Billy did it. (Witness crying).

15 Q And I'm sorry for sticking on this point, but
16 I want to be absolutely clear. Billy did that
17 because your father made him do it?

18 A Yes.

19 Q And you mentioned your sister, Michelle.
20 She's about nine years older than you are?

21 A Yes.

22 Q Was your father abusive with violence towards
23 her?

24 A Violence, I used to say, I'm glad I'm not a
25 girl, because of the things he would do to her.

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MICHAEL KELLY - DIRECT EXAMINATION

1 **Q** And that's what I was going to ask you about.
2 The abuse by your father on your sister was not
3 only physical, it was sexual abuse, right?

4 **A** Yes.

5 **Q** And how do you know that?

6 **A** I came out of the house, went around the
7 corner and saw her crying and kneeling in front of
8 him, and he told me to go away. It took me years
9 to realize what I had seen, but I figured it out.

10 **Q** Did you have the sense that was the only
11 episode with your sister?

12 **A** I didn't know it at the time, but I talked to
13 her about it years later, and she told me that it
14 wasn't. I told her I believed her because I saw
15 it.

16 **Q** And then what was your parents' relationship
17 to each other?

18 **A** Mom was stuck at home most of the time. Dad
19 was at work and did virtually what he wanted.

20 **Q** How did your dad treat your mom?

21 **A** He abused her, too.

22 **Q** And what kind of things would he do to your
23 mom?

24 **A** He would slap her, punch her, hit her.

25 **Q** And those things happened in front of you?

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MICHAEL KELLY - DIRECT EXAMINATION

1 **A** Yeah. She didn't want other people to see.

2 **Q** And he would do those things in front of you
3 and Billy?

4 **A** Yes.

5 **Q** Why do you think that your mom stayed in the
6 home with him instead of leaving and taking the two
7 of you with her?

8 **A** She had no money other than his. He said
9 things? Like, I made you, I can unmake you. We
10 were basically trapped. She was trying to protect
11 us, I guess. I don't know.

12 **Q** And was all of this bad enough that you were
13 ever in fear of your life or in fear for the lives
14 of your family members?

15 **A** He used us against each other.

16 **Q** And then, just to be clear, you said this was
17 going on your whole childhood growing up. How
18 frequently would there be an episode of physical
19 abuse?

20 **A** At least once a week.

21 **Q** And did you have any idea or know when it was
22 coming?

23 **A** You never knew unless we really messed up,
24 then, obviously, we would be in trouble. But it
25 could be something stupid, didn't bring his beer

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MICHAEL KELLY - DIRECT EXAMINATION

1 back. I don't know.

2 Q How did you deal with what was going on?

3 A I used to watch the TV shows called Star
4 Trek, and Spock had a way of expressing no emotions
5 and not feeling anything, and I tried to be like
6 that.

7 Q Did you ever make an attempt to report your
8 dad to anybody at school or to the police or
9 anybody else?

10 A No.

11 Q And why did you not do that?

12 A Because he would hurt us if we did.

13 Q And when did this finally end for you? When
14 did the abuse end?

15 A June the 7th of 1995.

16 Q We'll come back to that. How did Billy deal
17 with the abuse from your dad?

18 A I don't know if he did.

19 Q Did you ever see Billy lash out at everyone
20 or act in a violent manner?

21 A No.

22 Q And how was Billy around, like, other kids
23 his age? What was his personality like then?

24 A He was pretty gullible. He would give you
25 the shirt off his back and money out of his pocket

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MICHAEL KELLY - DIRECT EXAMINATION

1 if he had anything to give you.

2 Q Who was his closest friend back then?

3 A He and I were both close friends with Jessie
4 Johnson.

5 Q Did he have many friends beyond Jessie?

6 A Not that I'm aware of.

7 Q And so you were both close to Jessie? Jessie
8 was kind of close in age to the two of you, right?

9 A Yep.

10 Q And so you saw him pretty frequently?

11 A Yeah.

12 Q And he went to the same school you guys went
13 to?

14 A For the most part, until my senior year.

15 Q Okay. Did you go to each other's houses?

16 A Yeah.

17 Q So he --

18 A I called his mom, Mom.

19 Q All right. And he was close to your mom,
20 too, right?

21 A Yes.

22 Q Did -- how did your dad act when Jessie was
23 around your house?

24 A Any time anybody else was around, he tended
25 to behave himself.

MICHAEL KELLY - DIRECT EXAMINATION

1 **Q** Was it perfect behavior or just better than
2 when Jessie wasn't there?

3 **A** Better.

4 **Q** And as far as Billy's school functioning, how
5 did he do in school? What kind of student was he?

6 **A** He struggled a bit.

7 **Q** Was he always in the grade he was supposed to
8 be in?

9 **A** No. That kind of was a running joke with the
10 family. I was held back in kindergarten because my
11 parents wanted me and Billy to be closer in school,
12 so I attended kindergarten twice, and then Billy
13 went and failed first grade.

14 **Q** How did you do in school?

15 **A** I was pretty much a straight A student.

16 **Q** And you were taking advanced classes and
17 interested in computer science; is that right?

18 **A** Yes.

19 **Q** So did you and Billy end up in the same
20 school for each grade you were in?

21 **A** No. Around about summer of my 12th grade
22 year, the schools were asking where we lived
23 exactly. We had a Batesburg address, but we were
24 attending school in Lexington County, but we lived
25 in Aiken County and should have been going to there

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MICHAEL KELLY - DIRECT EXAMINATION

1 the entire time.

2 Q So did you end up staying at Batesburg or
3 have to go somewhere else?

4 A I went to Ridge Spring (ph) and gave them my
5 requirements for my senior year courses. They
6 didn't have any advanced placement math or English.
7 They didn't have any computer programming. They
8 didn't have computers. They didn't even have
9 Spanish 2. And I went to my mom and said, I can't
10 go here, it is a waste of my time. I needed a
11 school that had more, so we petitioned the school
12 board, and they took the amount of money that the
13 school got that year, divided by the number of
14 students taken, and was told I needed to pay \$1,266
15 to attend high school at Batesburg-Leesville.

16 Q So through the money that you paid, that you
17 earned, and the fact that you needed these advanced
18 classes, you were able to stay in Ridge Spring --
19 excuse me, in Batesburg?

20 A Yes. And Billy was sent to Ridge Spring.

21 Q Bill was sent to Ridge Spring. So he was
22 separated from the folks that he knew from
23 Batesburg and from you and Jessie?

24 A Yep.

25 Q Did Billy graduate from school?

MICHAEL KELLY - DIRECT EXAMINATION

1 **A** No.

2 **Q** And why did he not graduate?

3 **A** Because he was expelled for selling marijuana
4 from school, something he got from our parents.

5 **Q** He was expelled for your parents' marijuana?

6 **A** Yep.

7 **Q** And when you all were growing up outside of
8 school, were you involved in any other activities?

9 **A** We were in Cub Scouts, Boys Scouts for a
10 while, and Billy played soccer. He was shorter --
11 his legs were shorter, so twice the speed.

12 **Q** How long did Billy stay in Boy Scouts?

13 **A** It didn't last with him.

14 **Q** But it was -- he didn't just start, he was in
15 for a while, right?

16 **A** Yeah.

17 **Q** And when you say it didn't last for him,
18 that's because you went all the way and became an
19 Eagle Scout, right?

20 **A** Yes.

21 **Q** So Billy wasn't that high, but he was in Boy
22 Scouts for a while?

23 **A** A little while, yes.

24 **Q** And when did you end up leaving home?

25 **A** June 7, 1995.

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MICHAEL KELLY - DIRECT EXAMINATION

1 **Q** And you mentioned that date. What happened
2 on that date?

3 **A** Joined the Navy.

4 **Q** So you were a straight A student, you could
5 have gotten into college, and you ended up going
6 into the Navy. How did that happen?

7 **A** My uncle pulled me to the side one day and
8 gave me this idea. I hadn't applied for any
9 college yet, I had no idea what I was going to do
10 or where I was going to go, and he mentioned going
11 into the military. I was like, Okay, that will
12 give me the GI bill for college, that will give me
13 training, I get to see the world, and most
14 importantly, it gets me out of here.

15 **Q** You mean away from your dad?

16 **A** Yes.

17 **Q** And so you enlisted in the Navy, and after
18 that, you were out of your home?

19 **A** Yep.

20 **Q** And do you know what effect your leaving had
21 on Billy?

22 **A** Probably made him the target.

23 **Q** And so you left in June of 1995, and you know
24 that Billy killed Shirley back in January of 1996.
25 Did you have an occasion to see Billy between those

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MICHAEL KELLY - DIRECT EXAMINATION

1 two times?

2 **A** I was attending training school in California
3 at the time, and we were allowed to go home for
4 Christmas break. I had enough vacation to save up
5 for maybe a week at that point, and I flew home.

6 **Q** You were there at Christmastime. Were you
7 gone by the time New Year's rolled around?

8 **A** Yes.

9 **Q** And what were things like with Billy when you
10 were home?

11 **A** Well, I matured more and he and I were out of
12 the squabbling phase, so we were just hanging out
13 and doing brother things, you know. Neither one of
14 us were 21, so we drove up to Columbia and hung out
15 there for the evening, which was kind of cool
16 hanging out with your brother.

17 **Q** Was there anything unusual at the time, or
18 did it seem like just a normal pleasant time to
19 spend with your brother?

20 **A** He seemed to be more quiet.

21 **Q** And how were things with your father while
22 you were home on that break?

23 **A** Normal. Not a good kind of normal. He
24 hadn't hit me, but....

25 **Q** So as far as you could tell, nothing had

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MICHAEL KELLY - DIRECT EXAMINATION

1 changed with the way your dad acted?

2 **A** No.

3 **Q** Once you learned that Billy had killed
4 Shirley, was that something that came as a surprise
5 to you? What was your reaction to that?

6 **A** I didn't believe it. I called once a week
7 and talked to Mom. The first news I got was
8 something happened at KFC, Billy is missing,
9 Shirley's dead. I called more frequently to get
10 more updates to find out that he had gone up to
11 Boston to Maude's house, hanging out with my other
12 sister. And then come to find out, he admitted to
13 doing it, and I told them I didn't think he was
14 capable of that.

15 **Q** And so his original trial was back in 1998.
16 Did you attend the trial?

17 **A** No. I was stationed in Norfolk, Virginia at
18 the time, six-month cruise and three-month
19 Caribbean cruise, and we had, you know, small
20 week-long working up to it.

21 **Q** You talked to someone from the defense team
22 for Billy prior to the trial, right?

23 **A** Yes.

24 **Q** Did you tell any of those people about any of
25 the abuse that your dad committed against you or

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MICHAEL KELLY - DIRECT EXAMINATION

1 Billy or anyone else?

2 A No.

3 Q And why didn't you?

4 A At the time Billy lived seven hours away from
5 me, and my mom still lived with him. And before I
6 went to that meeting, he told me it was not a good
7 idea to tell them anything about that.

8 Q And just to be clear, when you say "he told
9 you," are you talking about your dad?

10 A Yes.

11 Q And when they asked you about any abuse, you
12 denied it, right?

13 A I denied it.

14 Q And you ended up staying in the Navy for
15 about four years, and then went to college after
16 that, right?

17 A Yes.

18 Q And what kind of work do you do now?

19 A I work at one of the leading discovery firms
20 in the United States and global.

21 Q You live in Washington?

22 A Yes.

23 Q State of Washington. So that is about as far
24 from South Carolina as you can get, right?

25 A Yes.

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MICHAEL KELLY - DIRECT EXAMINATION

1 Q Do you have a relationship with Billy now?

2 A Yes, we have a relationship.

3 Q And going back, your mom passed away back in
4 '21; isn't that right?

5 A Exactly two years ago today.

6 Q And when she passed, was she still married to
7 your dad?

8 A No.

9 Q And how did she end up getting away from him?

10 A I told her to leave him. I told her Billy is
11 incarcerated, Michelle is gone, I'm not home, why
12 are you still with him? You can come live with me,
13 you can stay with Judy, a women's shelter, but
14 leave him.

15 Q And so coming back to Billy, how often do
16 you -- are you able to talk to him now, did you
17 say?

18 A Yes. We talk maybe once every week, two
19 weeks.

20 Q And have you -- over the course of time that
21 he's been locked up, have you been able to talk to
22 him about Shirley Shealy and her family?

23 A Yes.

24 Q Do you feel like he understands the gravity
25 of what he did?

MICHAEL KELLY - DIRECT EXAMINATION

1 **A** Oh, yeah.

2 **Q** Do you think that he is sorry about what he
3 did?

4 **A** Yes.

5 **Q** Do you think that Billy has matured from the
6 young man that he was that did this?

7 **A** Definitely. We both are not the same people
8 we once was.

9 **Q** And if he were eventually to be released, do
10 you feel like he would present any threat to the
11 community at this point?

12 **A** None that I'm aware of.

13 **Q** Okay. And, today, are you asking Judge
14 Gibbons to impose any set sentence on Billy?

15 **A** I know what Billy did was wrong. He knows
16 what he did was wrong. I would love to have my
17 brother back today, and I can't stress how much I
18 love him. It would be awesome to have him go
19 through what I have gone through, to once again
20 have a relationship in life. I would love to have
21 my brother back, but what he did was wrong, and
22 whatever the Court and the Judge decides is fair,
23 it's fair.

24 MS. MAULDIN: No further questions, Your
25 Honor.

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MICHAEL KELLY - DIRECT EXAMINATION

1 THE COURT: Thank you.

2 Solicitor, do you have any questions?

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

4 THE COURT: All right. Thank you, sir. You
5 may log off Webex. Thank you for appearing.

6 THE WITNESS: Thank you for your time.

7 THE COURT: Yes, sir.

8 MS. MAULDIN: May we approach?

9 THE COURT: Yeah.

10 (Whereupon, a bench conference was had.)

11 THE COURT: Okay. We'll start the same time
12 in the morning. With timing of all of the other
13 witnesses and everything, we'll recess for the day,
14 and we will reconvene tomorrow morning at 9:30 a.m.

15 Thank you very much.

16 (WHEREUPON, THE PROCEEDINGS FOR MAY 21, 2024
17 CONCLUDED.

18 (THE FOLLOWING WAS HAD ON MAY 22, 2024.)

19 THE COURT: Good morning. You may be seated.

20 All right. Anything I need to know before we
21 get started? Scheduling issues?

22 MS. MAULDIN: No, Your Honor.

23 MR. HUBBARD: Your Honor, we've just been
24 handed documents that were internal filed documents
25 with the PDs from 28 years ago. Obviously, we have

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MICHAEL KELLY - DIRECT EXAMINATION

1 never seen them, and the defense wants to put some
2 of these in the record. I think some of them -- we
3 don't have any way to explore them, no way to
4 counter it because I don't -- it is stuff we didn't
5 know about.

6 For instance, what I have in my hand is a
7 short little letter from Dr. Morgan, who is a
8 psychiatrist, who purportedly met with this
9 defendant back in 1996. The purpose of this coming
10 in, apparently, would be to say that there was
11 documentation of physical abuse in '96. Well, I
12 would stipulate to that. That's fine, if he's
13 alleging abuse. But what it is this doctor
14 speculates -- and he speculates literally -- saying
15 he may have also had sexual abuse, and there is no
16 evidence of that.

17 And, then, building on that speculation,
18 maybe that might have been a trigger if there is
19 some sexual tension at work and that is what
20 triggers this. There is no exploration by anyone
21 else in this case, including Dr. Shea, who actually
22 testified for the defense. There is nothing there.
23 It is too out of the way, and it's not included in
24 Dr. Night's report. It leaves us just flat footed.

25 Dr. Morgan is alive and well in Atlanta or

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MICHAEL KELLY - DIRECT EXAMINATION

1 somewhere. You know, it would be something I would
2 want to cross. So if their purpose is simply to
3 show there is an abuse as early as '96, I'm good
4 with that, but this, I would have a problem with.

5 THE COURT: Yes, ma'am.

6 MS. MAULDIN: Under the Rule 1101, this is a
7 sentencing hearing. The Rules of Evidence don't
8 apply. And I can tell the Court that Your Honor
9 can give it the weight that you think is
10 appropriate. This is not even a report from
11 Dr. Morgan. This is a memo that was from one of
12 the investigators working for the original attorney
13 on the case who said she talked to Dr. Morgan, and
14 that is what it was.

15 So, you know, the point of this is just to
16 establish that the abuse was back then. There is a
17 comment in here about how the Doctor thought that
18 Billy could have been lured to the KFC and
19 something uncontrollable happened. He didn't seem
20 concerned with another episode that happened at the
21 school -- and we'll get into that -- and that he
22 would be given an MMPI, which is a psychological
23 test. And so the point with this is just to show
24 that the issue of abuse was something that they
25 were aware of. It was something that was being

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MICHAEL KELLY - DIRECT EXAMINATION

1 explored.

2 THE COURT: You say "they," who is "they"?

3 MS. MAULDIN: The attorneys for Mr. Kelly
4 back then.

5 THE COURT: Right. Okay.

6 MS. MAULDIN: And this is January 19th, so
7 just to put it in perspective, it is less than two
8 weeks or about two weeks after his arrest, so that
9 is when the first exploration is going to be.

10 I mean, Your Honor, all I have is that memo
11 from the investigator and a bill from the doctor.
12 He ended up not working on the case. They retained
13 Dr. Maddox at some point. There was a change in
14 lawyers and another change of lawyers.

15 Quite frankly, the file was in such a mess
16 when I got it, and it's changed hands twice now
17 that we have the resentencing, that I didn't know
18 that Dr. Knight didn't have this. So when I
19 mentioned it to her, she says, Well, I've never
20 seen that. That was a few days ago. So she will
21 address that. Give it the weight that you want,
22 but that is what the document says.

23 THE COURT: Anything, Solicitor?

24 MR. HUBBARD: Judge, I know you can give it
25 the weight and whatever, but you'll notice I'm not

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MICHAEL KELLY - DIRECT EXAMINATION

1 standing in the way of the purpose for what they
2 purportedly wanting you to see this for, that there
3 is alleged abuse documented in '96. I'm fine with
4 that. I'm putting that on the record. There is no
5 reason to put a hearsay document from an
6 investigator, who purportedly talked to a
7 psychiatrist or psychologist from way back when,
8 and we get to speculation of maybe sexual abuse,
9 which no one ever explored, and then that somehow
10 linked to this crime, linking Daddy to the crime,
11 basically.

12 That -- that -- they are not asking to even
13 do that with this letter. They are just saying
14 just to show there is abuse, and I'm fine with
15 that. To do anything more than that, it is really
16 showing that they want to -- they want you to
17 consider the substance. I know you are a judge and
18 you can give it whatever weight, but, to me, it
19 just seems utterly unfair at this point. Here it
20 is 28 years later, and it comes out of a defense
21 file, and we can't address it, because we surely
22 would have. I would have gotten Dr. Morgan on the
23 phone.

24 THE COURT: All right. I'll let it in.

25 You are protected for the record. Thank you,

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JESSIE JOHNSON - DIRECT EXAMINATION

1 Solicitor.

2 MS. MAULDIN: Thank you, Your Honor.

3 THE COURT: All right. Anything else that we
4 need to be aware of before we get rolling?

5 MR. HUBBARD: No, sir.

6 MS. MAULDIN: No, Your Honor.

7 THE COURT: All right. Call your next
8 witness or your information, I guess.

9 MS. MAULDIN: Thank you. I would call Jessie
10 Johnson to the witness stand.

11 THE COURT: Did you want to present that?

12 MS. MAULDIN: I will enter that through him.

13 THE COURT: Okay. I got you.

14 MS. MAULDIN: I call Jessie Johnson.

15 (JESSIE JOHNSON, having been duly sworn,
16 testified as follows:)

17 THE COURT: All right. State your name, sir.

18 THE WITNESS: Yes, sir. Jessie Johnson.

19 **DIRECT EXAMINATION**

20 **BY MS. MAULDIN:**

21 **Q** Good morning, Mr. Johnson.

22 **A** Morning.

23 **Q** How do you know William Kelly?

24 **A** We went to school together.

25 **Q** What do you know him by?

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JESSIE JOHNSON - DIRECT EXAMINATION

1 **A** He goes by "Billy."

2 **Q** And where do you work now?

3 **A** Right now I work at Packson Access. We are
4 an access control company in Greenville.

5 **Q** What field of work did you work in before
6 that job?

7 **A** Prior to that, I was doing tech support for
8 Verizon Wireless, and prior to that, taught school
9 for about ten years in Charlotte.

10 **Q** How old are you?

11 **A** 44.

12 **Q** So you are pretty close in age to Billy?

13 **A** Oh, yeah.

14 **Q** And not far away from his brother's age
15 either, Michael?

16 **A** Not at all.

17 **Q** And where do you live now?

18 **A** Simpsonville, South Carolina.

19 **Q** Where did you grow up?

20 **A** Batesburg-Leesville, South Carolina.

21 **Q** Can you tell us about the first time you
22 really got to know Billy?

23 **A** Oh, yeah. So I -- when I started school --
24 so we went to elementary school together and had
25 classes together, but I didn't really know him-know

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JESSIE JOHNSON - DIRECT EXAMINATION

1 him then. But to really get to know him -- I used
2 to ride the handicapped bus. The bus pulled up in
3 front of the school, let me off, and I was headed
4 to class. It was kind of a steep hill, so I had to
5 go up a hill, and he ran up out of nowhere. Where
6 are you going? I'm going to class. I think I'm
7 headed the same way, let me push you. So he pushed
8 me to class, and literally from that day forward we
9 was pretty much thick as thieves. He would always
10 come meet me to go to class, see if I needed
11 anything, carried my trumpet, carried my books.
12 Over time, he became a brother. That's my brother.

13 Q You mentioned riding a bus, and you use a
14 wheelchair. What is the nature of your disability?

15 A I have cerebral palsy.

16 Q Okay. And so did you see Billy only through
17 school growing up?

18 A So we met in school. Like I said, became
19 pretty close. And then kind of hung out, you know,
20 after school, during the summer. He would come to
21 my house. I would go to his house.

22 Q And you were friends with Billy and also
23 friends with his brother, Michael?

24 A Yeah. So I pretty much became close to the
25 family. So Billy and I were friends, became

JESSIE JOHNSON - DIRECT EXAMINATION

1 friends with Michael. I knew his sister Michelle,
2 I knew her daughters, knew his dad, knew his mom.

3 Q And so that friendship and the connection to
4 the family lasted well after Billy got in trouble?

5 A Well, beyond that. I mean, we still --
6 that's my brother, so we're friends to this day.

7 Q And were you involved in any kind of
8 activities outside of school?

9 A We did Boy Scouts, yeah.

10 Q And how did Billy do in school?

11 A When he applied himself, he did well. But if
12 you wanted me to put a grade on it, I would say B/C
13 kind of student. Billy was a clown, man. He just
14 liked to have a good time. But as far as doing
15 well in school, I mean, he did what an average
16 student would do.

17 Q And comparing him to Michael, which one of
18 the two had the more academic ability?

19 A That was definitely Michael. I think -- like
20 I said, Billy had academic ability, I mean, he just
21 didn't always apply himself. But between the two
22 of them, Michael is brilliant. To this day, I
23 think he is really brilliant, really smart, really
24 aggressive with learning.

25 Q And did the two of you all participate in any

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JESSIE JOHNSON - DIRECT EXAMINATION

1 sort of non-academic activities at school?

2 **A** Yeah. We were in band together. Billy was
3 in band with me. Michael was in band with me. So,
4 yeah, we're all in band.

5 **Q** And Billy was a talented musician?

6 **A** Yeah. Probably one of his best talents is a
7 saxophone. If you know music and band, you had
8 first chair, second chair, third chair. Anything
9 below third chair, you were just in the band. But
10 as far as Billy goes, he was either going to be
11 first or second chair.

12 **Q** So sounds like he applied himself to music
13 more than he did in the classroom?

14 **A** Oh, yeah. Definitely.

15 **Q** How long were you in the band together?

16 **A** Through, I want to say, maybe ninth,
17 tenth grade. High school.

18 **Q** What led to Billy getting out of the band?

19 **A** So there was an incident or rumor, I would
20 say, within band in that time where he was accused
21 of masturbating during band class.

22 **Q** First of all, do you know whether that is
23 true or not?

24 **A** I was in the class. I can tell you that
25 wasn't true. Like I said earlier, Billy was a

JESSIE JOHNSON - DIRECT EXAMINATION

1 clown, so he would make gestures and do things to
2 get attention, and that was just at a period where
3 I think we were actually doing -- practicing the
4 music for the stands for the football games, so
5 practicing that upbeat tempo. He was accused of
6 masturbating, and that wasn't the class.

7 Q And it wasn't a situation where he got in
8 trouble. It was just something that kids were
9 saying?

10 A It wasn't definitely something that he got in
11 trouble for. The students in the class were just
12 saying it.

13 Q Now, what kind of effect did that episode
14 have on the other kids and then on Billy?

15 A I mean, as far as other kids, I mean, typical
16 high school. Kids joke around, kids call names,
17 pick, poke, play around. From that, he developed
18 the name Billy Wack-Wack.

19 Q That was for his initials as well: William
20 Arthur Kelly?

21 A Yeah. They called him Billy Wack-Wack, and
22 once that got out and people spread that around,
23 that is what they knew him by, Billy Wack-Wack, and
24 that wasn't the case.

25 Q How bad was the teasing?

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JESSIE JOHNSON - DIRECT EXAMINATION

1 **A** It got bad. Like I said, high school kids.
2 Kids are going to tease. But it did get bad, and
3 no one -- everyone just called him Wack-Wack, or
4 Wacky Boy, or Mr. Masturbator, or something like
5 that, and he got to the point where he dropped out
6 of band.

7 **Q** And when that was going on, did you ever see
8 an episode where Billy tried to fight anybody that
9 teased him or anything like that?

10 **A** No. I mean, he wasn't an aggressive person.
11 He's not going to fight you. Billy was a
12 showboater. He was all about trying to prove
13 himself, you know. But when he was teased or, you
14 know, people came at him, it angered him and got
15 aggravated, but he would defend himself, say a few
16 words, you know, and use expletives and walk away.

17 **Q** So how do you think he dealt with that
18 internally?

19 **A** I think he internalized it. Like I said,
20 that is my brother, so he and I hung out all the
21 time. So when he and I would talk about stuff, I
22 won't put his business out there, but between he
23 and I, he didn't like it. It hurt his feelings,
24 but he dealt with it like he did with most things,
25 just dealt with them internally and kept them

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JESSIE JOHNSON - DIRECT EXAMINATION

1 pushed.

2 Q How did he get along with the other kids at
3 school outside of that incident?

4 A Billy didn't have a lot of friends, I'll be
5 honest with you. Most of Billy's friends were my
6 friends, or if he did have other friends, it was
7 acquaintances that maybe he met through work or
8 maybe, you know, passing through or something, but
9 he didn't have a lot of friends.

10 Q Was he -- and you mentioned him, sort of,
11 being a clown. Was he a clown all the time or only
12 with the other kids?

13 A Mostly just with other people, trying to
14 prove himself or getting attention or trying to fit
15 in.

16 Q Would he interact a lot in class or what?

17 A No. No. He didn't do a lot of class
18 interaction. But, I mean, if you asked him
19 questions, he'd answer questions. Like I said, he
20 wasn't an idiot. He wasn't dumb. It just wasn't
21 something that he -- one of those kids that school
22 wasn't his thing.

23 Q Okay. And you knew the Kelly family pretty
24 well. Were they well off financially?

25 A No, not at all.

JESSIE JOHNSON - DIRECT EXAMINATION

1 **Q** How did that affect Billy's interactions with
2 other people?

3 **A** So he got teased at school sometimes, you
4 know, because like I said, they weren't well off so
5 the clothes were hand-me-downs or thrift store, you
6 know, like usually lower-level type of jeans,
7 highwaters, button-down shirts. You know, it
8 wasn't name brand stuff, just clothes.

9 **Q** And how did you think that --

10 **A** Oh, that definitely -- as far as impacting
11 him, how he acted, I mean, he knew that the clothes
12 and stuff they wore were different from other
13 people. People would talk about his clothes,
14 having highwaters, his looking hair looking dirty,
15 greasy. It bothered him, but like I said, it was
16 high school kids.

17 **Q** Did he ever try to fight anybody over that?

18 **A** No. Like I said, he was not aggressive. He
19 would talk junk, use expletives, but he is not
20 going to put his hands on anybody.

21 **Q** And on that note, can you tell us about the
22 incident that happened with you all at the Chinese
23 restaurant in Batesburg?

24 **A** From what I remember, I mean, we was in there
25 chilling, eating. There was a gentleman that came

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1 through. He had some words. First started talking
2 junk to me, but that was me back in high school, I
3 ran my mouth like everyone else and didn't want to
4 be intimidated, so if you had something to say, I'd
5 say something back. We had some words -- the dude
6 came in the restaurant and was ready to go at it.
7 He made a comment about Billy being a punk or
8 pussy, something to that effect, and Billy stood up
9 and was, you know, We're not going to do this right
10 here.

11 And the dude tried to come at me, and he was
12 like, nah, you're not coming at my brother. If
13 we're going to do this, it will be me and him, not
14 you and him. We didn't start it, you know. The
15 dude came in talking junk to us. It settled down.
16 Billy backed away. He kind of, you know -- the
17 dude pushed the table, pushed our food, so the
18 restaurant gave us another tray without having to
19 pay for it. But that was pretty much that
20 incident.

21 Q Okay. And did you -- aside from those, did
22 you -- let me back up. Did you always go to the
23 same school with Billy?

24 A We went to high school up until, I guess -- I
25 would say until they moved, and he ended up going

JESSIE JOHNSON - DIRECT EXAMINATION

1 to high school in Ridge Spring Manetta, he and
2 Michael both.

3 Q And are you sure that they had moved or just
4 that they had changed schools?

5 A I know for a fact -- they didn't move houses,
6 but they changed schools, yes.

7 Q And that was Billy and Michael, or just Billy
8 that had to stay -- that had to go to the new
9 school?

10 A I know that -- from what I understand, I
11 thought they both went to the school, but I know
12 for a fact that Billy went to that school.

13 Q What effect do you feel that had on him?

14 A He didn't want to go there. He didn't. I
15 mean, that was Ridge Spring Manetta. If you know
16 that area, you know it is a small, no-good school
17 in a cow pasture. They didn't have much going on
18 compared to what we had in Batesburg. It was rags
19 to riches. But the biggest thing was, I mean, he
20 had friends there or I was there. That is my
21 brother. People say friends. People say -- no,
22 that was my brother. That is my brother. We were
23 close. So he had to go to that school, so he
24 wouldn't be there with me. And I'm pretty sure he
25 wasn't there with Michael. He had to go away from

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JESSIE JOHNSON - DIRECT EXAMINATION

1 us.

2 Q Okay. And let's talk about what was going on
3 at home with Billy and Michael. Was their home a
4 peaceful place?

5 A No, man. There was no peace in that house,
6 man. You literally lived or walked around on
7 eggshells. There was no -- you can't say this
8 house was a home or filled with love. There was no
9 emotion there. Just under a roof.

10 Q And what was the source of the tension that
11 caused you to feel like you were walking on
12 eggshells?

13 A I mean, I called him Papa Mike, but it was
14 his daddy. His daddy was a mean man, a tyrant.
15 His daddy was a mean man.

16 Q And can you describe his general physical
17 size?

18 A Mike is a pretty big dude, pretty nice size.
19 I would give him 6'4", 250, 275, that I remember.
20 He just -- he literally walked around with a scowl
21 on his face all the time. He came home late always
22 working. He was just a mean person.

23 Q Did he drink?

24 A Yeah, he drank.

25 Q And how did he communicate with Billy and

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1 Michael and their mom?

2 **A** Well, you said communicate, but they didn't
3 communicate. Everything was Mike's way. Mike was
4 either yell, scream, push, shove, hit, knock. Mike
5 was physical, that is how he communicated. He
6 didn't talk.

7 **Q** And if somebody got in trouble or didn't do
8 things his way, what would he do?

9 **A** You'll hear about it, and you'd feel it.

10 **Q** When you say you'll feel it, what do you
11 mean?

12 **A** He's going to knock you, jack you up, punch
13 you, pinch you, something, you'll feel it.

14 **Q** Did you see those things happen with your own
15 eyes?

16 **A** Yeah. I was at their house a lot. Like I
17 said, that was my family. You almost become numb
18 or accustomed because it happened so frequent.

19 I was there one time -- they had rules like
20 everybody else, but I came over and I was there and
21 I seen things happen. I was there visiting, might
22 have been a summer afternoon I think. I was --
23 they were watching TV, and at that time, still to
24 this day, I was big Young and Restless fan. So
25 12:30 hit, time for Young and Restless. So I went

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1 to turn the TV, and everybody was screaming at me,
2 No. I'm like I'm turning the TV. They are like,
3 No, you can't turn the TV. By that time, it was
4 too late. You can't touch or turn the TV because
5 Mike has it on a certain channel. You don't touch
6 the channel, because when he comes in, he watches
7 -- I think it was the news. He sits in his
8 recliner, waits on his food to be brought to him.

9 So by that time, I had already touched the
10 TV, so it was too late. It was night, and we were
11 kind of -- it was pretty much about 10:30, maybe
12 11:00. I know we were in the bed for sure, and the
13 door slams open. Mike comes in, grabs Billy out of
14 the bed, slams him up against the wall, knocks him
15 around. He was like, You all know the rules, don't
16 mess with things in my house. Why did you let this
17 happen? You don't touch my stuff, touch the TV.
18 So he jacked him up. Billy took it like always.
19 He didn't cry, no emotion, just took it, got back
20 in the bed. We went to sleep and went to school
21 the next day. That is how we rolled.

22 Q The timeline on this, you came in and -- what
23 time was it that you initially turned the channel,
24 what time of day?

25 A It was the afternoon. Like I said, it was

JESSIE JOHNSON - DIRECT EXAMINATION

1 12:30, Young and Restless time. Like I said, I
2 didn't miss that. To this day, I still don't miss
3 it, so I know what time it was.

4 Q I hear you. So when you mentioned it was too
5 late, what do you mean specifically about it?

6 A I had already changed the channel. Like, you
7 know, the show was already on, so because I already
8 changed the channel, they let me watch it.

9 Q Do you mean that Mike came in, and that is
10 why it was too late for you -- you couldn't change
11 the channel back?

12 A Oh, no. There wasn't no changing it back.

13 Q So the blow-up didn't happen until much later
14 that night?

15 A Correct.

16 Q And then can you describe an episode of how
17 Mike would have treated his wife, Julia?

18 A He was -- Mike was mean to everybody. He was
19 mean to her. Called her names. Her job was to
20 clean the house and cook. You didn't look at him,
21 say nothing to him. He would call her bitch, call
22 her names, push her around. These things I've
23 witnessed and seen with my own eyes.

24 Q And did you ever see any marks on Billy or
25 Michael?

JESSIE JOHNSON - DIRECT EXAMINATION

1 **A** Not initially. I can't say I saw marks, I
2 just saw the physical actions.

3 **Q** And how often would the violent episodes
4 occur, as far as you knew?

5 **A** It was frequent. I can't say every day or
6 every time I came over. I can't put a mark on it
7 to that effect, but I can say that it was frequent.
8 I can say that most of the time when he was there
9 something physical happened or there was going to
10 be some kind of yelling or screaming, something of
11 an abusive nature, if you want to call it.
12 Something was going to happen.

13 **Q** Okay. And then you got to know Billy around
14 that time that you described with the bus. Was
15 there ever a time that you knew him and Mike when
16 this was not going on in the home?

17 **A** Probably more so after -- I would say it
18 probably subsided somewhat once Michael went to the
19 Navy.

20 **Q** And was there any way for them to tell what
21 might set Mike off?

22 **A** No. Everything was Mike's -- you never knew
23 what was going to set Mike off. However Mike felt.
24 Usually, he'll find something. If something wasn't
25 done right or gone the way he wanted, something was

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1 going to set him off.

2 There was one incident that still sticks in
3 my mind to this day. We were there chilling. It
4 was nighttime. We were in the room listening to
5 music, watching TV, getting ready to go to bed for
6 sure. And Mike came in, got Billy, took him
7 outside, gave him scissors, and Billy had to go cut
8 grass with the scissors. I know that happened. I
9 saw that happened. How he saw in the dark, I don't
10 know. All I know is Mike said what he expected the
11 grass to look like wasn't right, so he gave Billy
12 scissors, and he had to go outside on his hands and
13 knees cutting grass.

14 **Q** Did you -- was there a time when Mike tried
15 to put his hands on you?

16 **A** No. Never that.

17 **Q** Why do you think that was?

18 **A** Because I wasn't his. I didn't belong to
19 Mike. Mike's family was his property. And as far
20 as I know -- I mean, I can speculate, but I can
21 tell you for a hundred percent sure that if he put
22 his hands on me, that would have been a problem.
23 More so I just know it because I didn't belong to
24 Mike. I wasn't his, so he couldn't control me.

25 **Q** And then you mentioned, sort of, the

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JESSIE JOHNSON - DIRECT EXAMINATION

1 relationship that they had. Was there any sort of
2 affection between Billy and Michael and their dad?

3 **A** No. There wasn't affection in the house. No
4 hugs. No "I love yous." No handshakes, at least
5 between the daddy. The boys loved their mama.
6 Julia was -- she was my mama, too, so it touched me
7 -- she was an angel. One of the most kindhearted,
8 best people in the world. I mean the abuse she
9 took, the name calling she took, I can see why
10 Billy internalized it, because she did the same
11 thing.

12 People on the outside wouldn't know the
13 things that went on in that house, and you wouldn't
14 know it on her face. She would talk and speak when
15 he let her go out. But she was an amazing woman.

16 **Q** Why do you think she never left?

17 **A** Left what?

18 **Q** Why do you think that while they were growing
19 up, she never took Billy and Michael and left Mike
20 to protect her and protect the two boys?

21 **A** That wasn't going to happen. If they tried
22 that, they would all have been dead.

23 **Q** So you said that Billy would kind of
24 internalize the abuse?

25 **A** Uh-huh.

JESSIE JOHNSON - DIRECT EXAMINATION

1 **Q** And did you all ever talk about how it
2 affected him?

3 **A** Yeah. I mean, we would ride around -- he
4 would come pick me up out of the blue, ride around,
5 go get food, something to eat. I mean, literally,
6 we -- so I lived on a dirt road when I was growing
7 up. I lived on a dirt roadway down at the end. He
8 would come and we would ride around. He didn't
9 want to stay in the house, so we just would go down
10 the dirt road, sit in the car, listening to music.

11 One afternoon, we were out there and had a
12 conversation. Like I said, Billy didn't cry. We
13 were just eating McDonald's, and he just broke down
14 crying. I was like, Bro, what's wrong with you?
15 Why are you crying? And he just looked at me, Man,
16 I go to your house and I see you all laugh and talk
17 and joking. Your parents, you know, they treat me
18 like I'm one of you all. I don't have that at my
19 house. He was like, I just want to ask you, man,
20 why my daddy don't like me? Why my daddy don't
21 love me? He literally said, Why my daddy don't
22 love me? I was like, Bro, I don't know. I wish I
23 knew. I can't answer that question for you.

24 But that was probably like the one time I saw
25 him cry, show emotion. He just wanted to know why

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JESSIE JOHNSON - DIRECT EXAMINATION

1 his daddy didn't love him.

2 Q And Michael ended up leaving home. Can you
3 tell how Michael got out?

4 A Yeah. Michael, like I said, he was smart.
5 He was brilliant. Michael escaped. Michael went
6 to the Navy. I don't know if anybody knew Michael,
7 but the military wasn't Michael. I don't know how
8 he got in the Navy, but he did, and he excelled and
9 he did well. But going to the Navy was his escape;
10 that is how he got out.

11 I can tell you there was a shift in Billy's
12 emotions and personality when Michael left because,
13 you know, his brother was gone. That was his
14 protector. He was like, you know, now I got -- now
15 I got to be there and, you know, make sure that
16 nothing happens to Mom. That was a conversation
17 that we all three had one night at his house. It
18 was me, Billy, and Michael. Michael was getting
19 ready to go to Chicago. So, you know, they
20 couldn't travel, couldn't go to his graduation, but
21 Mike said, Listen, I'm leaving. I'm going to the
22 Navy. It is going to be up to you all to protect
23 the house and protect Mom. Billy looked at him and
24 they hugged each other and he said, Okay. Billy
25 knew from that point on that he had to make sure

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JESSIE JOHNSON - DIRECT EXAMINATION

1 that Mike didn't do anything to Julia, and that is
2 why he stayed.

3 Q You mentioned earlier that you thought things
4 may have gotten better after Michael left, but was
5 that an end to the abuse, or did it -- do you know
6 whether it continued?

7 A I can't say whether or not it continued. I
8 can say it may have gotten a little better just
9 because Billy worked. Billy had two jobs,
10 McDonald's and KFC. Between the two, he made his
11 own money. He and I talked about moving in
12 together when I graduated and he graduated. So he
13 started working, saving money to live together.
14 That was our plan. It didn't work out. You know,
15 life happens, but I think a lot of it didn't happen
16 because once Mike found out -- Big Mike found out
17 that Billy was working consistently making money,
18 Billy had to pay bills and stuff at the house. So
19 the money he had saved up for moving in together,
20 that money went towards those things.

21 Q So his plan to escape like his brother didn't
22 work out?

23 A That didn't pan out.

24 Q And he was working at Burger King for a
25 little while, too?

JESSIE JOHNSON - DIRECT EXAMINATION

1 **A** Uh-huh.

2 **Q** And let's talk about Shirley Shealy. Did you
3 know her?

4 **A** I knew of her. I can't say I had a
5 relationship to know her-know her. I knew of her
6 through Billy and just seeing them together.

7 **Q** And can you describe the relationship that
8 the two of them appeared to have?

9 **A** If you want to describe it, it was like
10 boyfriend/girlfriend relationship.

11 **Q** Did you ever see any sort of affection
12 between the two of them?

13 **A** Yes.

14 **Q** What did you see?

15 **A** I saw them hold hands. I saw them kissing.

16 **Q** You saw that with your own eyes?

17 **A** Yes.

18 **Q** Aside from things you have seen, do you know
19 how physical the relationship got?

20 **A** I mean, they had sex.

21 **Q** Okay. And you know that from talking to
22 Billy, so that is his version?

23 **A** That's his version. Did I lay my eyes on it,
24 no, but....

25 **Q** Right. Right. And then did you know that

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JESSIE JOHNSON - DIRECT EXAMINATION

1 Billy ever had any sort of plan to hurt Shirley?

2 A No.

3 Q And after Billy killed her, you ended up
4 talking to the Batesburg Police?

5 A Correct.

6 Q So the first time was on January 8. This was
7 at are high school?

8 A To my knowledge, yes.

9 Q And at that time you told police that Billy
10 and Shirley did not go together or date?

11 A Correct.

12 Q But then you talked to him later that
13 afternoon?

14 A I did.

15 Q And that time you said that Billy had an
16 affair with her?

17 A Yes.

18 Q And that they had intercourse in the back
19 office?

20 A Yes.

21 Q And that he didn't want to have sex with her
22 anymore, and she fired him?

23 A Yes.

24 Q And he said that it was not his baby?

25 A Correct.

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JESSIE JOHNSON - DIRECT EXAMINATION

1 Q And that's what you told the police back
2 then, back in January on the 8th?

3 A Yes.

4 Q Now, were you able to -- did you go and visit
5 Billy at Lexington County Jail?

6 A Huh-huh -- I went once.

7 Q Did you talk to the defense team before the
8 trial?

9 A I did not.

10 Q You sure about that?

11 A I may have, but I don't remember.

12 Q I don't necessarily mean the lawyers. You
13 talked to an investigator?

14 A Oh, I talked to an investigator, yes.

15 Q But you didn't talk to the lawyers in the
16 case?

17 A No.

18 Q Okay. And did you tell them about the abuse
19 that was going on with Mike Kelly?

20 A Yes.

21 Q They ended up -- no one called you as a
22 witness in that?

23 A No.

24 Q And then did you attend any of the trial?

25 A I attended, yes.

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JESSIE JOHNSON - DIRECT EXAMINATION

1 **Q** And we're talking about something that
2 happened 28 years ago?

3 **A** Okay.

4 **Q** Right?

5 **A** Right.

6 **Q** So do you remember exactly what you would
7 have told that investigator back then?

8 **A** No, man. No.

9 **Q** Okay. Now, first of all, let me ask you
10 this: Was that after he was sentenced to death and
11 he was on death row?

12 **A** Yes.

13 **Q** Okay. And can you tell what his state of
14 mind was then? What effect that had on him?

15 **A** He was a kid in jail. So, I mean, he was
16 trying to figure out how to survive and how to
17 prove himself. He knew he was in jail and he was
18 facing serious charges, so he had to figure out,
19 okay, how do I adjust to this. I mean, like I
20 said, he was always out to prove himself. He was
21 scared.

22 **Q** And it sounds like you are thinking about the
23 time that he was in the jail before the trial?

24 **A** Yep.

25 **Q** So I'm kind of asking you after he went to

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JESSIE JOHNSON - DIRECT EXAMINATION

1 SCDC, after the trial and was found guilty, what do
2 you think being sentenced to death, what impact do
3 you think that had on him?

4 **A** At that point, I mean, give up. You are
5 demoralized, so.

6 **Q** And what is your relationship with Billy like
7 now?

8 **A** He's still my brother.

9 **Q** How often do you have a chance to talk?

10 **A** Maybe once, twice every few months.

11 **Q** Can you tell us about his mindset now?

12 **A** From the person that I knew then, to the
13 person I know now, he's a totally different person.
14 He is a lot -- I will say, for lack of better
15 terms, clearheaded. We talk a lot about his
16 day-to-day life, but we talk about his conversion
17 to Islam.

18 **Q** And talking about that, what region was
19 Billy's family growing up?

20 **A** Maybe Lutheran. But, to my knowledge,
21 nothing at all, really. I mean, they knew the
22 Bible, but as far as like church-going family,
23 nope.

24 **Q** And that was different from your family, your
25 family went to church?

JESSIE JOHNSON - DIRECT EXAMINATION

1 **A** Oh, yeah. We went to church all the time.
2 We're Baptist, so we have to go to church.

3 **Q** So once Billy converted and became Muslim,
4 what effect did that have on him?

5 **A** I think that helped him a lot in terms of the
6 person he is now. His mindset, his ability to just
7 adjust, and he literally has a calmer, more relaxed
8 mindset. He talks more about discipline, talks
9 more about doing things the right way and being a
10 better person.

11 **Q** Okay. Do you feel his faith is important to
12 him?

13 **A** Absolutely. Like his faith is who he has
14 become. I say that from the standpoint of knowing
15 him and to hear him talk about how much -- like, I
16 even believe that he feels he's changed in his role
17 within -- or title -- I guess I'll say "title "--
18 in terms of the Islamic community and helping the
19 guys in there with him spreading those things. He
20 talks a lot about the values, the core values of
21 the Islam faith. So we talked a lot about that. I
22 can hear the energy and excitement in his voice
23 when he talks about those.

24 **Q** When you mention the core values, what values
25 does he hold dear?

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JESSIE JOHNSON - DIRECT EXAMINATION

1 **A** Definitely he talks a lot about discipline,
2 respect. And we have a lot of good conversations
3 about mindset and shifting your mindset.

4 **Q** Going back to the incident with Shirley, do
5 you feel like Billy really understands how bad this
6 was?

7 **A** I think he understood that at the time that
8 it occurred. Does he realize that he did a
9 horrible thing? Absolutely. Was it a tragic
10 event? For sure. It's heartbreaking we have to be
11 here for this, you know. Heartbreaking that the
12 situation occurred. Is he remorseful? Yeah, I
13 believe that he's remorseful.

14 **Q** Has he ever blamed anyone else?

15 **A** No.

16 **Q** So when we talk about his dad, has he ever
17 said someone made him do this or it was someone
18 else's fault?

19 **A** No. He takes 100 percent ownership of the
20 situation he has put himself in. The situation and
21 what he did to Shirley isn't -- that doesn't define
22 him and who he is. That is an incident that
23 occurred, that shouldn't have occurred, that he
24 caused, but it doesn't define who he is.

25 **Q** And if he were given a chance of release, do

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JESSIE JOHNSON - CROSS EXAMINATION

1 you feel like he could be a productive person?

2 **A** There is no doubt about it. A hundred
3 percent. And I'm not saying that from the
4 standpoint because that's my brother. Just based
5 on the person that I know, the person that I
6 believe he is now and having conversations with
7 him, yeah, I think he can be protective.

8 **Q** Okay. Are you asking Judge Gibbons to take
9 any particular possession on the -- like, are you
10 asking for a certain sentence here today?

11 **A** I'm asking that based on the evidence, based
12 on where we are -- do I feel like he has served his
13 time? Yes. Is he remorseful? Yes. Can he get
14 out and be productive? Yes. Do I feel like he
15 deserves a chance? Sure.

16 MS. MAULDIN: Thank you. If you will, answer
17 any questions that the prosecutor has for you.

18 THE COURT: All right.

19 **CROSS EXAMINATION**

20 **BY MS. MAYES:**

21 **Q** So, Mr. Johnson, to be clear, you have
22 described him as your brother?

23 **A** Yes, ma'am.

24 **Q** And I believe even going back to 1997 in your
25 interview with the defense investigator, Vivian

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JESSIE JOHNSON - CROSS EXAMINATION

1 Massey, back on June 19, 1997, even then you said
2 you wanted to do everything you could to help him?

3 A Absolutely.

4 Q Okay. So it's your position that the crime
5 is what it is, and you said based on the evidence,
6 he served his time; that's your position in all of
7 this?

8 A Yes, ma'am.

9 Q Okay. And you said based on all of the
10 evidence, are you familiar with all of the evidence
11 in this case?

12 A From what I know of it, all of the
13 evidence -- I can't say yay or nay to that, so I'll
14 say, no.

15 Q Okay. So just to be clear, I don't think you
16 were in here yesterday regarding the autopsy
17 evidence, correct?

18 A No, ma'am, I wasn't.

19 Q And you did not attend the original trial
20 back in 1998?

21 A No, ma'am.

22 Q So let's talk a little bit about some of your
23 prior statements.

24 A Sure.

25 Q You said today, your testimony just a few

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JESSIE JOHNSON - CROSS EXAMINATION

1 minutes ago, is that you saw Billy and Shirley
2 holding hands?

3 **A** Yes, ma'am.

4 **Q** And you said you saw them kissing?

5 **A** I've seen them kissing before, yes, ma'am.

6 **Q** Mr. Johnson, you previously stated to the
7 defense investigator that Billy told you something
8 happened, and you never reported to that defense
9 investigator that you saw anything, correct?

10 **A** Okay. That's correct.

11 **Q** Okay. Now, moving along to some of the other
12 information that you previously gave this defense
13 investigator back in 1997, you had very firm belief
14 that Billy didn't commit this crime at all correct?

15 **A** At that time, I would say, yes, ma'am.

16 **Q** And you were looking for a witness that you
17 said you would talk to that saw someone else, that
18 was not Billy's description, coming out of the KFC
19 around 10 o'clock. Do you remember that?

20 **A** I can't say I remember that, no, ma'am.

21 **Q** Do you remember telling that defense
22 investigator that you would talk to this witness,
23 and you were going to find this witness, and that
24 that witness would help prove that Billy didn't do
25 it at all?

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JESSIE JOHNSON - CROSS EXAMINATION

1 **A** Don't remember that at all.

2 **Q** You don't remember?

3 **A** I don't.

4 **Q** And when you were talking about the crime,
5 you had a very elaborate explanation for what
6 really happened, so I want to talk to you a little
7 bit about that and maybe understand a little bit
8 more about those statements you made.

9 It was that someone else had killed Shirley,
10 and Billy came into the Kentucky Fried Chicken and
11 found Shirley bleeding, and maybe knelt down beside
12 her in shock, and got blood on him, and then just
13 took the money because it was there and left town.
14 Do you remember making that statement to the
15 defense investigator?

16 **A** I do not.

17 **Q** Well, you talked about Billy having written a
18 lot of letters to you during that time?

19 **A** Okay.

20 **Q** Do you remember getting the letters from him
21 when he was in the detention center prior to his
22 trial?

23 **A** I do remember getting some of the letters.

24 **Q** And so Billy was denying this crime to you at
25 that time, wasn't he? He was telling you that he

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JESSIE JOHNSON - CROSS EXAMINATION

1 didn't do it, and you were trying to help him prove
2 that he did not do it?

3 **A** You are asking me that?

4 **Q** Yes.

5 **A** I can't say that I remember that, but I do
6 remember him writing me letters, yes, ma'am.

7 **Q** Okay. And one of the things that you talked
8 about is that Billy -- and I'm going to use the
9 word "amnesia" -- I think your words were Billy
10 doesn't remember anything about what happened. Do
11 you remember that?

12 **A** I don't.

13 **Q** So when is the first time that Billy told you
14 he killed Shirley -- that he killed Shirley, he put
15 a knife into Shirley many, many times? When is the
16 first time he told you that?

17 **A** I don't remember the first time he told me
18 that.

19 **Q** Okay. But just going back in time, it
20 wouldn't have been any time around 1997 when you
21 were working with the defense team, because at that
22 time you firmly believed that he didn't do it at
23 all, right?

24 **A** I can't say that I remember that, but, okay.

25 **Q** You don't remember saying that Billy was just

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JESSIE JOHNSON - CROSS EXAMINATION

1 covering up for someone?

2 **A** I don't.

3 **Q** And that Billy had knelt down beside her in
4 shock and got blood on him and just ran away? You
5 don't remember saying that?

6 **A** I don't remember saying any of that.

7 **Q** So let's talk about some of your present
8 statements, Mr. Johnson, and those statements would
9 have been in reference to this sentencing hearing
10 that's going on today in 2024. It looks like you
11 were subject to some interviews or agreed to
12 participate in some interviews maybe with this lady
13 back here, Susan Knight. Did you meet with her?

14 **A** I did.

15 **Q** And in that interview, one of the things you
16 said is that Billy was always talking about leaving
17 home. Now, you know that Billy had money from
18 working at, first, the KFC, and then McDonald's?

19 **A** Yes, ma'am.

20 **Q** And he had a car?

21 **A** He did.

22 **Q** So he was earning money. He had a driver's
23 license to drive that car, didn't he?

24 **A** Yes, ma'am.

25 **Q** Okay. And one of the things you said is that

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JESSIE JOHNSON - CROSS EXAMINATION

1 the day before the incident, the day before Shirley
2 was killed, Mr. Kelly said that he wanted to quit
3 his job at KFC. Well, that couldn't be right
4 because he actually been gone from KFC from
5 December of 1995. So that wouldn't have been
6 accurate information would it?

7 **A** Based on the timeline, no, ma'am.

8 **Q** So you agree that some of the information you
9 would have given this lady right here, Dr. Knight,
10 wouldn't be accurate then? It couldn't have been
11 the day before the murder that he said that,
12 correct?

13 **A** Based on the timeline, I would say, correct.

14 **Q** In fact, it wouldn't have even been 1996,
15 because he left KFC back in 1995, correct?

16 **A** If I can remember -- yes, ma'am, that sounds
17 right.

18 **Q** Okay. Now, one of the things that you said
19 to Dr. Knight, I want to talk about a little more.
20 You said that Billy mentioned robbing a store to
21 get money and leaving town. So he had talked about
22 committing a robbery before he ever even did it,
23 hadn't he?

24 **A** I do remember having that conversation, yeah.

25 **Q** You remember having that conversation with

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RECESS TAKEN

1 Billy?

2 **A** Uh-huh.

3 **Q** And you remember reporting that to Dr.
4 Knight?

5 **A** I do.

6 **Q** So when did he first start talking about
7 wanting to rob a store to get money?

8 **A** As far as a time, I can't tell you exactly
9 what that time frame it was, but I do remember
10 having that conversation.

11 **Q** Okay. Prior to the murder of Shirley
12 Shealy -- well, it would have to be.

13 **A** Yes, ma'am.

14 **Q** Okay. And you are aware that Shirley Shealy
15 was killed during a robbery?

16 **A** I am, yes, ma'am.

17 MS. MAYES: Thank you, Mr. Johnson.

18 THE COURT: Any redirect?

19 MS. MAULDIN: No, Your Honor.

20 THE COURT: Thank you, sir.

21 And he's free to leave?

22 MS. MAULDIN: Yes. May we approach?

23 THE COURT: Yes.

24 (Whereupon, a bench conference was had and a
25 recess was taken.)

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DR. SUSAN KNIGHT - DIRECT EXAMINATION

1 THE COURT: Thank you. You may be seated.

2 Ms. Mauldin, call your next witness.

3 MS. MAULDIN: Thank you, Your Honor, I would
4 call Dr. Susan Knight to the stand.

5 (SUSAN KNIGHT, having been duly sworn,
6 testified as follows:)

7 THE WITNESS: Susan Knight, K-N-I-G-H-T.

8 **DIRECT EXAMINATION**

9 **BY MS. MAULDIN:**

10 **Q** Good morning, Dr. Knight. What is your
11 occupation?

12 **A** I'm a clinical forensic psychologist.

13 **Q** Can you tell us about your educational
14 background?

15 **A** I have a bachelor's degree in psychology from
16 Trinity University in San Antonio, Texas; a
17 master's degree in clinical psychology; and a Ph.D.
18 in clinical psychology from the University of
19 Louisville.

20 MR. HUBBARD: I'll stipulate to her
21 credentials.

22 THE COURT: What are you seeking to have her
23 qualified as an expert in? Forensic psychology?

24 MS. MAULDIN: Yes, sir.

25 THE COURT: So qualified. You are an expert,

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1 that means you can give an opinion.

2 Q (BY MS. MAULDIN) Going beyond qualifying you,
3 can you tell us about your experience in the area
4 of juvenile forensic issues?

5 A Sure. So since 2014, I've taught in the
6 juvenile justice clinic at Cornell Law School as
7 adjunct faculty. I also teach in the capital case
8 clinic there. But in the juvenile justice clinic,
9 we've been focusing a lot on juvenile life without
10 parole issues because of all of the opinions that
11 have come down from the courts in recent years. So
12 I've been supervising and teaching the law students
13 about juvenile forensic issues.

14 I was also involved in the ground work of the
15 Aiken Byars evaluations in South Carolina. I've
16 seen a number of those defendants over my career.
17 I have also started doing initial sentencings now
18 with teenagers now that are facing life without
19 parole so the initial Aiken Byars sentencing. I've
20 testified about in about 10 cases, both in and out
21 of South Carolina.

22 I'm involved in a parole project through
23 Cornell where we are evaluating juveniles with
24 parole sentences, so life with parole, so
25 evaluating them for release when they come up

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1 before the parole board. Then I conduct juvenile
2 waiver evaluations. So these are kids charged with
3 homicide now as teenagers and going through the
4 waiver process in family court.

5 Q Okay. And have you lectured on specifically
6 the Miller issues as well?

7 A Yes. In 2017, I gave a workshop at a
8 national conference for American Psychology and Law
9 Society. I developed that workshop for
10 psychologists learning how to do Miller issues,
11 Miller evaluations -- we call them *Aiken Byars*
12 here -- and teaching other psychologists how to do
13 those evaluation. I have also lectured and
14 provided training to attorney groups.

15 Q And how did you first get involved with
16 William Kelly's case?

17 A Years ago now. Rob Mattison from your office
18 contacted me to conduct an *Aiken Byars* evaluation,
19 given his age of 17 at the homicide, and his later
20 life without parole sentence.

21 Q Okay. And on which specific -- you are
22 evaluating him for resentencing under *Aiken v.*
23 *Byars*, correct?

24 A Correct.

25 Q So what specific factors did you consult for

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DR. SUSAN KNIGHT - DIRECT EXAMINATION

1 Mr. Kelly?

2 **A** All five factors. So chronical age, hallmark
3 features, family and home environment,
4 circumstances of the homicide, the incompetencies
5 associated with youth, and the rehabilitation
6 piece.

7 **Q** And you wrote a report?

8 **A** Correct.

9 MS. MAULDIN: I've given you a copy of the
10 report, and I have another copy for the record, if
11 you would allow me to admit that?

12 THE COURT: Admitted without objection,
13 Solicitor?

14 MR. HUBBARD: Yes, sir.

15 THE COURT: Admitted without objection,
16 Defendant's 2.

17 (Defendant's Exhibit 2 prior stipulated.)

18 **Q (BY MS. MAULDIN)** What general methods and
19 procedures do you use as a part of the
20 consultation?

21 **A** Same with any evaluation, really. So
22 clinical interviews, collateral interviews, record
23 review, consultation of the relevant literature and
24 case law.

25 **Q** Is that the kind of information that is

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1 normally and reasonably relied on by other experts?

2 **A** Yes.

3 **Q** And did that information form the basis of
4 your findings in this case?

5 **A** Yes.

6 **Q** And so let's go through the procedures and
7 detail starting with the records review. What
8 specific records did you review in Mr. Kelly's
9 case?

10 **A** In Mr. Kelly's case, I reviewed all of the
11 provided discovery documents and data that was
12 available. I reviewed his record on appeals, so
13 his trial transcript. I had portions of the
14 capital defense files, so the investigative file
15 both from the defense investigator and from the
16 mitigation investigator.

17 I had Mr. Kelly's family psychosocial
18 records. Some of those, for example, was his
19 mother's school records, mother's medical records
20 for pregnancy with Mr. Kelly, his brother's
21 military records. And then I had psychosocial
22 records for Mr. Kelly, so his birth records, school
23 records, some of his employment records. I also
24 had the Lexington County Detention Center pretrial
25 records, and then his entire SCDC file for the past

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1 25 years, and everything I've reviewed is listed in
2 the report.

3 Q Okay. And were there any records that you
4 asked for that you did not get?

5 A Yeah, I didn't have any childhood medical
6 records for Mr. Kelly. His pediatrician long since
7 had closed his office, Dr. Counts. I requested
8 records from the Lexington Medical Center, and they
9 responded they had no records of Mr. Kelly based on
10 retention policies.

11 Q You did your own collateral interviews in the
12 case as well?

13 A Correct.

14 Q And for those, who all did you interview?

15 A I interviewed his mother -- attempted to
16 interview his mother. Her husband was present for
17 that interview. I interviewed his father. His
18 father's wife was present for that interview. I
19 interviewed his brother, two maternal aunts,
20 paternal half-sister, and a former brother-in-law,
21 a former neighbor. I interviewed the pretrial
22 mitigation investigator, Ms. Massey, and then three
23 former trial attorneys that represented Mr. Kelly
24 at his capital trial.

25 Q And were there other people that you tried to

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1 interview that you were unable to interview?

2 **A** The sister, Michelle Kelly, would have been
3 important, but the mitigation investigator I worked
4 with on the Aiken case attempted multiple times to
5 get in touch with Michelle, and she was not
6 responsive to those efforts.

7 In speaking with Mr. Kelly and his brother,
8 Michael, she's still having a hard time processing
9 and dealing with the childhood trauma, and she
10 doesn't want to talk about that, doesn't want to
11 answer questions about that, which is completely
12 understandable and probably why she avoided
13 contact.

14 **Q** As part of your evaluation, you also talked
15 with Mr. Kelly?

16 **A** Yes.

17 **Q** How many interviews have you done with him?

18 **A** I had six interviews with Mr. Kelly, and this
19 was an original case in that I had a lot of time,
20 as far as this case spanned years. Usually, they
21 don't span this many years. But I first evaluated
22 Mr. Kelly in 2018, and last saw him in April of
23 '24. So I had six years of data with Mr. Kelly. I
24 interviewed him for about 18 hours or so.

25 **Q** Okay. And what data did you obtain during

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1 those interviews?

2 **A** All of the interview data was gathered to
3 form the *Aiken Byars* factors.

4 **Q** Okay. And so when we go back to the factors,
5 let's start with the first one: Chronical age and
6 hallmark features of youth. What did you do in
7 regard to that?

8 **A** Chronical age, he was 17 at the time of the
9 homicide offense; that places him in the
10 mid-adolescence. That is staged from early
11 adolescence, 10 to age 13; mid-adolescence, 14 to
12 17; and late adolescence is 18 for 21. So he fell
13 within that mid-adolescence point.

14 With the hallmark features, adolescence is
15 characterized by certain hallmark features. These
16 predominate during adolescence. They are
17 disproportionate in adolescence as compared to
18 adults. They include things like increased
19 impulsivity, increased risk taking, increased
20 recklessness, not a very sophisticated ability to
21 consider risk and consequence of decisions.
22 Adolescents usually focus right on the immediate
23 situation or reward of the situation, and they act
24 on that versus thinking, If I do this today, how is
25 this going to impact me a year down the road or

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1 five years or ten years. They have what we would
2 call poor future orientation. They lack a strong
3 ability to project themselves to understand how
4 their actions today are going to affect them. They
5 also have more difficulty regulating their affect;
6 for example, a more difficulty considering
7 alternative actions. So if they are in the moment,
8 particularly if it is an emotional moment, they
9 have difficulty sorting out, Is there something
10 else I can do at this moment versus what they do.

11 So all of those features increase an
12 adolescent's chance of perpetuating behavior that
13 is harmful to themselves or other people. That is
14 why we see all kinds of risky behaviors spike in
15 adolescence. We see accidents and suicide spike.
16 We see unplanned pregnancy and overdoses, and even
17 homicide and violent crime. All of that spikes
18 during adolescence, and a lot of that has to do
19 with these hallmark features that are, sort of,
20 defining their behavior at the time.

21 Q And that has something to do with their
22 brains?

23 A Right. So the brain develops from the back
24 to the front. The prefrontal cortex is the last to
25 develop. That doesn't develop until one is in

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1 their once mid-20s. The prefrontal cortex is the
2 part of the brain that is responsible for
3 reasoning, rationale, judgment, for planning, for
4 organization, for taking a step back and saying,
5 Wait a minute, do we have other choices here. How
6 else can we proceed? Maybe we shouldn't do this.
7 It is really the cognitive control center of the
8 brain. It is the part that inhibits our impulses
9 and reasons through situations. That part of the
10 brain is not fully online during adolescence. It
11 doesn't develop fully until one's mid-20s.

12 At the same time, there is a different part
13 of the brain that is more developed during the
14 adolescence. That is an older part of the brain.
15 It is in the limbic system. This is the part of
16 the brain that makes decisions on emotion and makes
17 decisions based on the reward available. In
18 adolescence, this part of the brain runs on a lot
19 of dopamine. There is a lot of dopamine
20 circulating in this part of the brain, which is why
21 things feel so good in adolescence, which is why
22 they take risks. They are thinking with this part
23 of the brain. It is more online during
24 adolescence.

25 Q And does that part of the development, is

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1 that also when they are identifying who they are?

2 **A** Sure. Adolescence is an identity
3 exploration. Kids are trying to figure it out. Who
4 are they? What are their place in the world?
5 Where do they fit in? Sometimes they make stupid
6 decisions trying to figure that out. They take
7 risks, try drugs. They do things that they are
8 trying to figure out who they and where they fit
9 in.

10 Mid-adolescence is a peak for that identity
11 exploration, especially for male adolescents.

12 **Q** That period that Mr. Kelly was in?

13 **A** Correct.

14 **Q** And do you feel like he would have been
15 subject to these hallmark features that you've
16 discussed?

17 **A** Sure. So by virtue of his age, he's 17, so
18 he fits within that class of adolescence. Now, all
19 adolescents are not the same. So we have variation
20 in how teenagers act and behave, but as a class, he
21 would be subject to the hallmark features.

22 **Q** Do you have information on his individual
23 adolescent functioning?

24 **A** Yes. Best I can gather, when I do these
25 evaluations, I also ask the defendant, Well, what

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DR. SUSAN KNIGHT - DIRECT EXAMINATION

1 were you like as a teenager? What were you like at
2 16 and 17 versus now at age 45? Mr. Kelly stated
3 that he just could not project himself into the
4 future. Those were his words. He could not -- he
5 did not consider risks and consequence so much. He
6 had poor self-esteem and self-worth at that time
7 that defined his identity as an adolescence.

8 I had information from other sources. I had
9 over a hundred memos from the mitigation
10 investigator. These were all developmental
11 sources -- so teachers, Boy Scout leaders, friends
12 of the family, acquaintances -- that gave me a
13 picture of Mr. Kelly as an adolescent. What
14 emerged from that picture was a kid who was slower
15 socially and cognitively than his peers, so
16 functioning lower than his chronological age.

17 Q So let's go back to the *Aiken Byars* factors.
18 So the second one is the family and the home
19 environment. Before we get into that, can you talk
20 first just about his more general family and social
21 development and what you found in regards to just
22 his general development?

23 A Sure. So, I mean, generally, Mr. Kelly was
24 raised with his married parents in a very rural
25 area of Batesburg-Leesville area. He was raised

DR. SUSAN KNIGHT - DIRECT EXAMINATION

1 with his older brother, who we saw yesterday, and
2 his sister, Michelle, who was his mother's child
3 from another marriage. She was about 11 years
4 older than Mr. Kelly.

5 His father worked outside of the home. His
6 mother did not work. They grew up in a house that
7 his father built from scratch. They didn't have
8 electricity or running water in his very early
9 years, but that changed as he was still a young
10 person. He was a Boy Scout for many years, and
11 that is sort of generally his development.

12 Q And what about his schooling?

13 A He failed the first grade, so he took
14 standardized testing, which indicated he was behind
15 his peers. He did not pass the standardized
16 testing. This is a test you have to pass to go on
17 to the next grade. So he's cognitive ability
18 during that time was lagging behind his peers. So
19 he repeated the first grade.

20 And then after that, his grades are average
21 to low average. They get lower as he goes through
22 school. He does not do well in standardized
23 testing. They show deficits in verbal
24 comprehension, language and verbal skills.

25 And then in the ninth grade, he starts to be

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1 bullied pretty severely, as Mr. Johnson talked
2 about, and so he started to withdraw from school,
3 not go to class, or sit in the back of the class
4 where he wouldn't be noticed and failed the
5 ninth grade. So then he repeated the ninth grade
6 at a different school, because they were enforcing
7 geographical restrictions at that time. So he went
8 to Ridge Spring Manetta.

9 In October of that year, at age 16, he was
10 expelled for bringing marijuana joints -- I think
11 he had three marijuana joints -- that he brought to
12 school. His father -- when I asked his father
13 about the joints, he confirmed that those were his
14 mother's marijuana, but he was expelled for that
15 incident. He never returned to school, and he
16 started working in fast food establishments.

17 Q Do you have any information about his
18 teacher's perception of him as a child and as an
19 adolescent?

20 A From the interview memos, so I had over 23
21 teacher interview memos that were conducted between
22 '96 and 1998. These would be very close in time to
23 when they had taught Mr. Kelly. So I had teacher
24 interviews from the first grade all the way up to
25 the ninth grade, from all of the different schools.

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1 What they described is overwhelming consistent with
2 what they described. He was a very quiet child.
3 He was not a behavior problem. No disciplinaries.
4 He was respectful, quiet. But then has as he gets
5 older, the teacher memos start to talk about a
6 child that is withdrawn, really, and not socially
7 adept, socially awkward, not interacting socially
8 with his peers.

9 One teacher wrote or reported that he was a
10 person looking for a friend, and another teacher
11 wrote that he would walk the hallways in a certain
12 way to avoid bullying. So he was experiencing
13 bullying at that time that some of the teachers
14 picked up on.

15 **Q** Do you have any information about his sexual
16 functioning?

17 **A** Well, just from talking to his family and the
18 interviews that I conducted and some of those other
19 interview memos from his Boy Scout leaders and
20 people that knew him from his developmental phase,
21 just a socially awkward child trying to fit in,
22 trying to find friends, but not really able to
23 navigate those relationships very well, and a
24 little slower than his peers. He had trouble
25 grasping things at times as compared to his same

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1 age peers.

2 Q Are you aware if he was in any legal trouble
3 growing up?

4 A No, he was not arrested as a juvenile. He
5 had no interaction with law enforcement, that I
6 know of. So the homicide arrest was the first
7 arrest that we know of.

8 Q You are aware that Dr. Shea evaluated him and
9 testified in the first trial?

10 A Yes.

11 Q And he made reference to hurting animals, and
12 then you heard yesterday about his brother,
13 Michael, hurting the kitten in the incident with
14 their father. Beyond that, did you find any
15 evidence of any hurting animals in any of your
16 research into this case?

17 A So no one reported that to me, and I asked
18 his father about that specifically, and none of
19 those developmental memos ever mentioned anything,
20 any incident about hurting an animal.

21 There was one memo from the lady who worked
22 at the animal shelter -- Mr. Kelly volunteered at
23 the animal shelter as part of the Boy Scouts, and
24 she noted how good he was with the animals. So I
25 didn't have any information on him harming animals.

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DR. SUSAN KNIGHT - DIRECT EXAMINATION

1 **Q** And going back to the Byars factors, if we
2 turn to the home environmental and family factor,
3 what did you find there?

4 **A** The most prominent dynamics was the abuse,
5 and we heard about some of that during this
6 hearing. His father was, by all accounts, a very
7 angry, explosive, brutal kind of guy. He
8 physically abused Mr. Kelly with a belt -- like his
9 brother, Michael, reported -- or with objects. He
10 left cuts and bruises and welts on Mr. Kelly's skin
11 frequently. Their mother would hold ice on those
12 wounds and not going to the doctor for that.

13 His father worked second shift and would come
14 home at 12:00 a.m. Around that time, he would wake
15 Mr. Kelly up out of sleep if something wasn't done
16 correctly or to his satisfaction, and he would wake
17 him up in a rather violent assaultive manner. So
18 over time, Mr. Kelly told me he just learned to
19 stay awake because he didn't want to be woken up.
20 It was too difficult and jarring to deal with.

21 Mr. Kelly reported that he felt like he lived
22 on edge. There was never any sort of peace, like
23 Mr. Johnson testified. Never any calm in the home.
24 And his father was very cruel with names that he
25 would call Mr. Kelly, and that really damaged his

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1 self-worth over time.

2 Q Did you find that there was abuse of other
3 family members as well?

4 A Certainly domestic violence in the home that
5 other people witnessed. Mr. Kelly's father would
6 hit and kick and punch his mother. She was very
7 subservient to him. He sexually degraded her. He
8 would have her tell Mr. Kelly why she didn't have
9 sex with him. He would treat her like the family
10 dog, make her kneel on the floor, pet her in front
11 of the children, lots of degrading and humiliation
12 and violence towards his mother.

13 She was described by sources, to me, as
14 submissive, a battered woman. Those are the
15 descriptors that came out about her.

16 And then in the pretrial memos, his sister,
17 Michelle, reported that their father, Mike Kelly,
18 molested her up until the age of 11, and then
19 started raping her through her teenage years. She
20 reported that it last occurred on the day that she
21 graduated high school. Michael testified yesterday
22 to likely observing an incident of that sexual
23 abuse. But that is well documented in his pretrial
24 information that his sister reported that kind of
25 sexual abuse going on in the home.

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1 **Q** And did Mr. Kelly -- was he the first one
2 that reported the abuse against him to you?

3 **A** No. He reported this in Ms. Massey's
4 interview memos from the very beginning. He
5 reported it to certain experts in the case. He has
6 reported it to, I believe, his attorneys, to
7 Ms. Massey. So all of this was well documented
8 before I became involved in the case.

9 **Q** And were you relying on only things he said
10 or things that other people said as well?

11 **A** No. So in forensic evaluations, I try not to
12 rely, you know -- if there is corroborative
13 evidence, I try to seek that out. In this case,
14 there was a lot of collateral evidence about the
15 abuse. I mean, just talking to his brother who
16 went through that kind of abuse and talking to Mr.
17 Johnson. But I had an additional, you know, 16
18 different sources that I could rely on to describe
19 the abuse to me, and they were all pretty
20 consistent, which increases the reliability of that
21 information.

22 **Q** And do you have a copy of your report?

23 **A** I do.

24 **Q** Would you mind reading from Page 31 about
25 what the sources said about the abuse, just as a

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DR. SUSAN KNIGHT - DIRECT EXAMINATION

1 summary for the Court?

2 THE COURT: 31?

3 MS. MAULDIN: Yes, sir.

4 **A** So on the top of Page 31, pretrial sources
5 and present collateral sources described
6 Mr. Kelly's father very similar to the way that
7 Mr. Kelly described him. But in this paragraph,
8 these are only the collateral source reports.

9 They described Mr. Kelly's father as
10 intimidating, scary when angry, a yeller, very
11 quick with his temper, full of venom and anger,
12 physical abuser, very abusive and mean, definitely
13 intimidating, psycho angry, has a mean side, bad
14 temper, could snap in a minute, half damn crazy, a
15 whacko, a terrible man, get mad for no reason and
16 scream, maniac, out of control, dominating, very
17 abusive, an abusive man, stern, hard, mean,
18 authoritarian, explosive, scary range, had so much
19 control, very mean man, did not tolerate emotion,
20 so much hatred, venomous, abuse, very hard-nosed,
21 rough around the edges, aggravated a lot,
22 irritable, angry, suddenly explodes for no reason,
23 and a violent man.

24 **Q (BY MS. MAULDIN)** And when was the last time
25 that Mr. Kelly says he was abused by his father?

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DR. SUSAN KNIGHT - DIRECT EXAMINATION

1 **A** At age 17, and the descriptors of the abuse
2 are also included from those collateral sources.
3 They are very consistent with how Mr. Kelly
4 describes the abuse. But his last incident of
5 abuse was at age 17.

6 **Q** Did you find any contributory factors to that
7 abuse that he suffered?

8 **A** Yes. In looking at the case in the pretrial
9 memos, Mr. Kelly's father's brothers were
10 interviewed, so the paternal uncles were
11 interviewed. And they described a lot of
12 dysfunction in their home growing up. They
13 described Mr. Kelly's paternal grandparents were
14 very abusive, a lot of infidelity and alcoholism
15 and neglect in the family. Both parents were
16 physically abusive.

17 When I met with Mr. Kelly's father, he told
18 me that his father beat him in the head. So we
19 have this generationally abuse dynamic that is
20 being played out. The literature is pretty clear
21 that individuals who have been abused by their
22 parents have a greater likelihood of abusing their
23 own children, parental violation perpetration.
24 That is clearly what was going on with Mr. Kelly's
25 father in abusing Mr. Kelly. That was the first

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1 factor.

2 Q What is the second factor?

3 A The second factor is Mr. Kelly's father
4 served three tours in Vietnam. He was in the Navy.
5 When I met with Mr. Kelly's father and his wife in
6 2019, she had noticed some concerning symptoms from
7 his father. She recommended that he go to the VA
8 for an assessment, and he since was diagnosed with
9 combat-related PTSD from Vietnam. That is
10 significant to me because hallmark features of
11 PTSD -- particularly combat related PTSD -- is
12 unprovoked aggression, irritability, becoming angry
13 for no apparent reason, lashing out.

14 So I think that is part of his father's anger
15 when he was growing up, and his father was not
16 treated for PTSD during Mr. Kelly's upbringing.

17 Q If that is the second factor, what then is
18 the third?

19 A The third factor I think -- you know, the
20 isolation of Mr. Kelly's family home and property.
21 They were on a large piece of property. They
22 didn't have a lot of contact with other people who
23 lived around them. I think that isolation served
24 as a barrier from other people getting involved,
25 maybe helping the children, helping the family. It

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1 served, in my opinion, to perpetuate the abuse.

2 Q And what effect did all of the bad treatment
3 from his father have on Mr. Kelly?

4 A Well, just to back up, Mr. Kelly, we would
5 clarify the abuse that he experienced as complexed
6 trauma. Complexed trauma is experienced during the
7 developmental stage, usually by a caregiver, and it
8 is the most damaging kind of trauma because the
9 person who is supposed to be nurturing the child
10 and protecting them, providing them safety, that is
11 the abuser. So it can be very confusing for the
12 child and results in a child who has a lot of
13 mistrust and anger in them.

14 The other piece about the abuse is that
15 Mr. Kelly's father exerted what we would call
16 coercive control. That is somebody who was very
17 manipulative and humiliating, threatening in his
18 conduct. He certainly had complete control over
19 the family, and that was documented in a number of
20 sources that knew the family dynamics. So that
21 kind of trauma has a greater impact on a child.

22 There is lots of impact of trauma, but if we
23 look at Mr. Kelly and try to pick out the most
24 salient impact for him, he had very damaged
25 self-esteem, very low self-worth as a child. He

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1 did not think about himself because he had been
2 defined by his father's degradation and name
3 calling and abuse over the years. So I think that
4 was a very important impact.

5 The other thing with Mr. Kelly we see is a
6 child with very poor social skills. He's
7 withdrawn. He is sort of a shutdown, beat down
8 kind of a kid, and that really prevented him from
9 being able to form close bonds with other adults or
10 other children. I think if he had been able to do
11 that, he may have been able to get help or
12 assistance in getting out of the abusive situation,
13 but he didn't have that in him as a child, and I
14 think that is probably from the abuse.

15 Q Were there any other notable impacts?

16 A Yes. Specifically relevant to the case, we
17 know children who are -- who undergo maltreatment,
18 especially physical abuse, this breeds anger in
19 children. They become angry about this,
20 particularly if it is prolonged abuse and no one is
21 helping them and it is happening all the time.
22 There is no way to remove themselves from the
23 circumstances. It breeds this sort of anger. The
24 literature would term that "anger rumination." So
25 it's anger that is suppressed over many years.

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1 It's not expressed.

2 So we heard yesterday when his brother,
3 Michael, talked about emulating Spock from Star
4 Trek because Spock didn't have any emotion, and
5 that is how you have to be in the family, and that
6 is how Mr. Kelly was. He repressed his emotion,
7 but particularly his anger.

8 So sometimes with kids who are being abused,
9 we might see them act out. They may become in a
10 bad fight on the playground with a kid that never
11 did anything to them or lash out in other ways to
12 discharge that anger. But we don't see that with
13 Mr. Kelly. He suppressed all of that. All of that
14 anger was suppressed over many years as a youth.

15 Q Moving from that second larger *Aiken v. Byars*
16 factor into the third factor, the circumstances of
17 a homicide, were there some considerations under
18 this factor that you would like the Court to
19 consider?

20 A Yes. The Court dictates to me what to
21 consider, so the *Aiken Byars* factors, the Miller
22 factors, it is the extent of the offender's
23 participation. And then, second, were there any
24 contributory, familial, or peer pressures. So
25 those are the two factors I consider under

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1 circumstances of a homicide.

2 Q Looking at that first factor, what did you
3 find with that one, the participation?

4 A Extent of the offender's participation. So
5 Mr. Kelly was the sole participant in the homicide.

6 Q Second factor, the familial and peer
7 pressures?

8 A I don't find peer pressure, but I found
9 significant, in my opinion, contributory familial
10 pressures. So Mr. Kelly -- we talked about all of
11 the anger for many years, anger rumination,
12 increasing anger, and other people saw him as an
13 angry kid sometimes, but never saw him express it.
14 This was just building for many years. He was
15 becoming desperate to leave his home. His brother
16 just left for the military months ago. This leaves
17 him as the only child in the home. He had been --
18 the abuse was not stopping.

19 He reported his last abusive incident was at
20 age 17, about two weeks before the homicide. He
21 had brought home an auto insurance bill he was not
22 able to pay. His father got very mad, hit him with
23 like a wooden tool within the house, and so this --
24 I think his desperation was increasing to get out
25 of those circumstances. He wasn't really able to

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1 think through a plan that would really work very
2 well for him, and so I think this is where the
3 motivation for the armed robbery came from, that he
4 planned an armed robbery to get money to leave his
5 abusive home, and of course the homicide occurred
6 during that robbery, probably due to some sort --
7 something that went wrong and triggered Mr. Kelly's
8 anger and rage that came out during the homicide.

9 Q Are there others who have evaluated
10 Mr. Kelly -- other people that knew him -- about
11 the familial abuse going on that have commented on
12 these dynamics?

13 A Sure. So his brother, Michael, certainly
14 talked to me about the anger and the rage he
15 experienced as a child that he could never really
16 release. The anger resonated with him. He felt
17 the same way.

18 His sister in her pretrial memos connected
19 the anger they all had for their father to
20 Mr. Kelly's incident. Other people described that
21 he possibly snapped, that he had all of this anger,
22 quote, bottled up. His maternal aunt said he could
23 never express his anger, he would get clobbered at
24 home. So there was no outlet. So other people
25 throughout the life of the case has seen these

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1 dynamics with Mr. Kelly.

2 Q Okay. And are you aware of any other
3 psychiatric professionals that have found the same
4 dynamics?

5 A So I did have information from Dr. Donna
6 Swartz, now Dr. Maddox, a forensic psychiatrist.
7 This was included in the pretrial defense file.
8 She found that -- I would have to go back to -- she
9 found that something happened, and Mr. Kelly just
10 blacked out as far as the anger.

11 And then Monday I was provided a document
12 where it looks like Dr. Harold Morgan, a forensic
13 psychiatrist, had seen Mr. Kelly about two weeks
14 after this happened. In the memo, it is this
15 uncontrollable event that is happening. So we sort
16 of now have three forensic psych opinions hovering
17 around the same sort of dynamics. We're all seeing
18 the same or similar set of circumstances. And the
19 abuse is noted in Dr. Maddox' information and
20 Dr. Morgan's information.

21 MS. MAULDIN: Your Honor, I would like to
22 pass up the document that we had the objection on
23 before. This is the one from the investigator who
24 is writing down her conversation with Dr. Morgan.

25 THE COURT: Thank you.

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1 MS. MAULDIN: For the Court's information,
2 this was the document that was in the file of the
3 original attorney who had the case at the very
4 beginning and, to my knowledge, there is no report
5 from Dr. Morgan. It appears that later attorneys
6 consulted other experts, but that was the other
7 document that Dr. Knight is referring to.

8 MR. HUBBARD: I would like the record to
9 reflect there is no report from Dr. Morgan, and
10 apparently no one has reached out to Dr. Morgan,
11 and the document you are holding was from an
12 investigator who has not been called into court.
13 That is a hearsay statement.

14 THE COURT: It's hearsay on hearsay, no
15 question about it. But, you know, this is a
16 sentencing hearing, and I'm going to let the
17 defense say whatever they want to say.

18 MR. HUBBARD: I appreciate it. I was just
19 putting it on the record.

20 Q (BY MS. MAULDIN) Although the homicide itself
21 was a very violent act, is there any evidence that
22 Mr. Kelly has ever been violent before or after
23 that?

24 A So I have no information that he was ever
25 violent as a child. So from birth to 17, I have no

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1 information that he was violent. After this
2 incident, until age 45, I have no indication that
3 he's ever been violent. So this appeared to be a
4 spike of violence over his development that has not
5 been -- it did not happen before, and hasn't
6 happened since.

7 Q What do you make of that finding?

8 A Well, it tells me that he was not a violent
9 child. We are particularly concerned when we see
10 violence from children before age ten, for example.
11 I have no information that he was a violent child,
12 that he was using violence early in his life. As
13 an adult, there doesn't seem to be information to
14 support that he uses violence to solve problems or
15 in his daily life. It's just not there.

16 So what it tells me is that the spike -- when
17 we see this spike of violence and there is no other
18 violence in the person's life, it's usually due to
19 a highly charged emotionally situation. It is due
20 to situational factors, because it hadn't been
21 replicated anywhere else in their life.

22 Q Moving back to the *Aiken v. Byars* factors,
23 number four talks about the incompetencies
24 associated with youth. What did you find there?

25 A To be clear, this -- there has never been a

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1 finding that Mr. Kelly was incompetent at the time
2 of his capital proceedings. There is no finding of
3 legal incompetence, but the courts in Miller and
4 Aiken expanded more expansive to strict legal
5 competency. So coming at it from that perspective,
6 what I found with Mr. Kelly's case is likely a
7 diminished appreciation of Miranda, had difficulty
8 working with his attorneys, and problems with his
9 statements that I felt were all due to his
10 adolescence.

11 Q And what difficulties did he have in working
12 with his attorneys back then?

13 A Speaking with three trial attorneys, they all
14 reported the same thing: Mr. Kelly was disengaged,
15 he was non-participatory, withdrawn. They couldn't
16 really get him involved or motivated in his case.

17 One of the attorneys, Beth Fullwood, said he
18 was not well socialized. Another attorney,
19 Mr. Kirkland, told me that he was just immature and
20 naive, and they really could not engage him the way
21 that they might have been able to engage an adult
22 client. They could not obtain a coherent
23 consistent account of the offense, which is very
24 frustrating to them because they are going into a
25 capital trial without a consistent account. So

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1 that was their perception of working with him as a
2 defendant.

3 Then, Mr. Kelly sort of verified that
4 information and said he was not very participatory
5 in his defense, kind of hung back. He didn't
6 really trust his attorneys, that they were working
7 in his best interest.

8 Q And, in your opinion, why did he have those
9 struggles?

10 A Well, in general, especially adolescents who
11 have no experience in the legal system, and now
12 their first experience is a capital trial, they
13 have no real-world experience with that. So they
14 don't know how to act as a defendant, and they
15 generally take a back seat to the attorneys and let
16 the attorneys do a lot of what, you know, an adult
17 defendant might get involved in. They just
18 acquiesce to their attorneys. So that is not
19 uncommon in adolescent defendants.

20 In Mr. Kelly's case, it was a little more
21 extreme, and I think probably because his father
22 had been his authority figure his entire life, and
23 his father was very abusive, as we know. Mr. Kelly
24 was submissive to his father. He was very scared
25 and intimidated by his father. He did not speak up

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1 with his father. So now that his attorneys are
2 coming in as authority figures, the same dynamics
3 are playing out. He's submissive, not speaking up,
4 intimidated by the process.

5 The other thing going on with Mr. Kelly is he
6 told me during those pretrial proceedings that he
7 felt like he deserved to die. He felt he deserved
8 the death penalty, and so he that apathetic and
9 depressed, and that made interacting with his
10 attorneys harder.

11 Q Did you find that that all had an impact on
12 this case?

13 A Well, it's hard -- it's hard to describe the
14 impact because we don't know, if anything, would
15 have been different if he was more participatory.
16 But in speaking with his attorneys, they were
17 clearly of the mind if he had participated more and
18 engaged more, they could have better represented
19 him. The outcome, I don't know.

20 Q You also found difficulties with the Miranda
21 warnings?

22 A Right. He's 17, never heard Miranda before,
23 no experience with the legal system, he's in an
24 familiar place in Massachusetts, he doesn't have an
25 adult present with him as support or for guidance.

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1 We have his school records that shows he failed two
2 grades. He has an eighth grade education. He has
3 low verbal comprehension skills at that time. I
4 think all of that diminishes appreciation. So in
5 the moment actually utilizing and applying Miranda
6 would have been difficult for him, not necessarily
7 the factual understanding, but utilizing the rights
8 in the moment.

9 We know now, which we didn't know in 1996,
10 more about the juvenile brain. They are really not
11 able to think about, If I waive Miranda now and
12 provide this question, how is that going to impact
13 me at trial or how is that going to impact me at
14 sentencing. They are not able to think through
15 those issues very well. So a lot will waive their
16 rights to get out of the immediate situation, if I
17 talk to the police, we can leave and get on with
18 things.

19 So I think all of that contributed to a
20 diminished appreciation of the situation he found
21 with Miranda and with the questioning.

22 Q Did you find any incompetencies with the
23 nature of the statements themselves?

24 A Mr. Kelly provided inconsistent statements
25 throughout his case, so he lied. This did not help

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1 him. This did not help his case or his attorneys
2 or help him. In my own personal work, I see this
3 more with juveniles than adults. They lie to get
4 out of situations more than adults. They lack
5 insight that this is going to work or hurt their
6 case. So I think that's part of what was going on
7 with Mr. Kelly.

8 The other piece, though, specific to
9 Mr. Kelly is that he grew up lying to his father in
10 order to avoid some of the abuse. So if his father
11 asked if something was done or done this way, he
12 would say, yes, absolutely, because if he didn't
13 say what his father wanted to hear, there would be
14 an abusive incident. So lying served as a coping
15 mechanism to avoid pain and hurt, and sometimes it
16 worked. So it was reinforced in a way.

17 So when he is placed in a legal situation
18 with the authority figures around him, law
19 enforcement, attorneys, it is predictable that that
20 coping mechanism would continue, so that could
21 account for some of his inconsistent statements.

22 Q Moving on to the last factor -- well, at the
23 outset, is it possible for anybody to perform any
24 kind of psychological exam based on looking into
25 someone's eyes?

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1 **A** No. That's not how we conduct psychological
2 evaluations.

3 **Q** And, certainly, not the way a person can
4 evaluate someone who is 45 now when the person was
5 first seen or last seen when he was 17 or 20?

6 **A** No.

7 **Q** And so going to the fifth and final factor,
8 the possibility of rehabilitation. What did you
9 find there?

10 **A** Talking with Mr. Kelly for over six years,
11 reviewing the SCDC file, talking with people that
12 know him, like Mr. Johnson, his brother, people
13 that know him, it appears that he has been on a
14 path of successful rehabilitation.

15 **Q** And what specifically supports that
16 conclusion, and start with the security level. Is
17 that significant?

18 **A** He's in a medium security level. He is at
19 the lowest level you can be with a life sentence.
20 SCDC changed their security classification a few
21 years ago. It used to be based on the offense
22 itself. They changed it based on an inmate's
23 disciplinary history, and his is good, so his
24 security level dropped to a lesser level. This
25 qualifies him for a Level 2 institution where there

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1 is more programming. This just happened a couple
2 years ago. It was during Covid when all of these
3 changes were taking place. So this is a recent
4 change for him that he's now at a lower
5 classification. So, yes, that's significant.

6 Q And then does his daily functioning in the
7 prison support the conclusion, too?

8 A Sure. Records don't indicate that this is an
9 individual with conflict with other people,
10 conflict with other inmates, conflict with other
11 officers. You know, his disciplinary history is
12 good. He forms close bonds with inmates. They
13 talk to him as brothers and friends. They are very
14 important to him. He earned his GED, like we saw
15 yesterday. He's been involved in a deeply held
16 faith for many years in SCDC. So I think that has
17 contributed to his rehabilitation.

18 Q And let's talk about his faith. Can you tell
19 us how that has contributed?

20 A Right. So many years ago Mr. Kelly stated he
21 was looking for structure in his life. He had not
22 had structure in his home environment. He was lost
23 at that point. After he gets released from death
24 row, he's looking for some sort of structure. He
25 is celled next to an older individual who practices

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1 Islam, and this older inmate was telling about the
2 religion and what it is all about. Mr. Kelly felt
3 like it was a cultural rich religion and he was
4 interested. He researched it and was pulling out
5 some of the guiding tenants from this religion,
6 that he started to internalize, started to live by.
7 These were things such as, you know, be a better
8 man, turn the other cheek, forgive a debt. It gave
9 him a sense of right and wrong, being service to
10 other people, over the sick inmates.

11 So these are things he learned about and read
12 about and started to internalize and put into
13 practice in his daily life. So like what Mr.
14 Johnson testified, and they apparently talk about
15 it as well, it really contributes to this
16 rehabilitation course.

17 Q And when we're talking about rehabilitation,
18 you heard yesterday from the administrator at SCDC
19 about programs that are available. You have worked
20 with a lot of people who are housed in the
21 Department of Corrections. Do your experiences
22 bear out the things that she was saying about the
23 availability of programs within SCDC?

24 A So, certainly, over the recent years they've
25 increased their programming. When Mr. Kelly came

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1 in, it was not like that. There wasn't a lot of
2 programs. Certainly over the recent decade or so,
3 they've increased their programs. But a lot of
4 programs -- and I'm talking about the reentry
5 vocational programs -- they are not available to
6 lifers. They start when someone has 24 months left
7 on their sentence, and that is a SCDC policy. This
8 is where a lot of Director Sterling's efforts have
9 gone over the years. These reentry centers, guys
10 about to be in the community, that is where their
11 resources are going, and that makes sense because
12 they are going to be in the community. Mr. Kelly
13 would not be eligible for any of those. He doesn't
14 have 24 months left on his sentence, right.

15 The other thing is in SCDC policy, in the
16 vocational policy, it states that priority is given
17 to inmates with reasonable expectation of release.
18 Ms. Crapps testified to that yesterday, that there
19 is a waiting list for people that are not getting
20 out in a reasonable amount of time. So there were
21 some issues yesterday that don't match with my
22 understanding of the policy and understanding of
23 the programs.

24 MS. MAULDIN: Your Honor, I beg the Court's
25 indulgence for a moment?

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1 THE COURT: Yeah.

2 (A brief pause in the proceedings.)

3 (Defendant's Exhibit 3 marked.)

4 MS. MAULDIN: The relevant part of this is
5 that the policies -- this is from 2020, but it says
6 that priority will be given to inmates who have a
7 reasonable expectation of release, parole, or work
8 release within 24 months of enrollment, and who
9 have enough time left on his or her sentence to
10 complete the program.

11 A If I could add something to that? There is
12 no question that there are programs that Mr. Kelly
13 could be involved in. I don't want to minimize
14 that. But to say that all programs are available
15 to all inmates with all sentences is not accurate.

16 Q (BY MS. MAULDIN) Does his disciplinary
17 history also support the idea of a successful
18 rehabilitation?

19 A Yes. He's had 12 disciplinaries in 25 years.
20 That is a very good record in SCDC. Some had been
21 very minor: Not closing his locker, having
22 styrofoam. More have been more serious: Having a
23 cell phone, having the shanks.

24 In my report, I've detailed on Page 63 the
25 infractions over the years based on age ranging, so

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1 every three years the number of infractions.

2 Q What has been the most serious infraction?

3 A Having the shanks. This occurred when he was
4 24 in 2003, so 21 years ago. That has been his
5 most serious infraction.

6 Q Did you talk to him about that incident?

7 A Yes.

8 Q What did he tell you about that?

9 A He had just been transferred from death row
10 in 2002. So death row is a controlled environment,
11 very much so. The guys are single celled. It is
12 heavily monitored, and most of the guys get along
13 with each other on death row, for whatever reason.
14 It is not a violent place compared to the open
15 population.

16 So in 2002, he gets off of death row, placed
17 in Lee County Institution, which is pretty violent.
18 He had no experience in the general population. He
19 was -- he's young. He's 24, and he looks young.
20 He is assaulted by a group of other inmates, and he
21 stated that he received a gash on his head, but he
22 did not go to medical because he knew he would have
23 to report that, and that makes things worse.

24 So, instead, he procured the weapon and slept
25 on them in case he needed them, but he never needed

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1 them. It didn't happen again. He sort of proved
2 himself at that point.

3 For me, I'm looking for any evidence that he
4 used his weapons on anybody or threatened somebody
5 with these weapons. There is nothing in his SCDC
6 file to indicate that he ever used these weapons in
7 any way.

8 Q Also on the factors of rehabilitation, does
9 he keep in contact with his family?

10 A He kept in very close contact with his
11 mother, and she would come to visit, but then she
12 had a stroke in 2017. She passed in 2021. He does
13 keep in frequent contact with his brother, Michael.
14 He chooses not to call his father because that is
15 such a toxic, unhealthy relationship. He has
16 essentially -- his father is still alive, but he,
17 essentially, parted ways with that relationship.

18 Q Besides his police record, what other things
19 do you consider when you are evaluating
20 rehabilitation?

21 A There is a couple research concepts that are
22 important in a case like this. One, we've touched
23 on earlier, the age the crime occurred. So this is
24 a very robust finding in the field of criminology,
25 that there is a spike of crime in violence around

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1 age 17, 18, in that mid to late adolescent period.
2 There is a sharp decline and gradual decline over
3 the life course. His violent episode occurred at
4 the height of that age crime. At 45, he's now on
5 the other side of that curve, the more flattened
6 side.

7 Q And so you included the diagram in your
8 report, but, essentially, his -- if you look at his
9 history of violent behavior, it is a line, and then
10 the one spike, and then a line, you know, for his
11 current functioning; is that right?

12 A Correct.

13 Q And what did you find regarding desistance?

14 A So research in the literature in this area is
15 clear that most adolescents desist from crime.
16 That is the trend. That is where the data takes
17 us. It is only about 5 percent of adolescents that
18 continue with serious offending, violent offending
19 over the life course. Studies have determined that
20 it's not the type of crime that predicts
21 desistence, so you can't use an armed robbery or
22 homicide or stalking case.

23 The type of crime is not in itself indicative
24 of what adolescent desists in criminal activity.
25 What is predictive is the normality of strides and

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1 developmental maturity. So that's kind of common
2 sense, in a way. As we age, we become better at
3 thinking through things. Our brains are fully
4 formed at that point. We are better at controlling
5 our impulses and any sort of use of aggression.
6 We're better at looking at the future and thinking
7 about decisions.

8 So adolescents who develop along that
9 normative course generally tend to desist from
10 crime as they age.

11 Q And has Mr. Kelly demonstrated those, as you
12 called them, normative strides?

13 A I think so. Just looking at his record, his
14 prison record, he is not using aggression to solve
15 problems or to interact with people. He's
16 reflective. He has self-reflection on his life
17 now. He has much better insight into who he is.
18 He is able to view himself in the future, think
19 about the future, and think about how actions now
20 will affect his future.

21 So I think the records, sort of, speak for
22 themselves in that regard. Also in speaking with
23 Mr. Kelly, his level of insight is much greater
24 than it was as a kid.

25 Q And is this different from what his pretrial

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1 detention records would show?

2 **A** Right. His pretrial detention records show
3 when he is 17 he gets into the Lexington County
4 Jail. He's the youngest inmate there. He is
5 involved in a capital trial. There is a lot of
6 immaturity in those records, vulnerability to older
7 inmates. He is housed with Matthew Mackormic, who
8 has a lengthy criminal history. He's in federal
9 custody at that point. He is vulnerable to those
10 types of guys. This is not a kid that has been in
11 trouble or in any sort of custody before. So there
12 is a lot of immaturity, and his ratio of
13 disciplinary incidents are much greater in jail.

14 So what I'm looking for as I evaluate the
15 case is we have these records, is any of that
16 replicated in the 25 years of records that I have
17 from SCDC? And it's not. I don't see it in there
18 as far as that level of immaturity, in solving
19 problems the way he was and in interacting with
20 other people the way he was. He has aged out of
21 that, it appears, from his SCDC records.

22 **Q** And, finally, what did you find with regard
23 to character formation and youth?

24 **A** You know, youth character is not well formed,
25 and we all know that from being 16 and 17. We are

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1 not the same person we are as an adult. So that is
2 that identity exploration. They are still trying
3 to figure it out. So it's difficult to tell at the
4 time the behaviors of the youth if that is
5 reflective of who they are, or reflective more of
6 this time period in their youth and that their
7 character will mature past that.

8 It's much more difficult to tell that in the
9 initial *Aiken Byars* evaluations because we still
10 have the kid in front of us. In the recent things,
11 we now have 25 years of data to tell us what kind
12 of person that the defendant has matured into.
13 What now is his character? Is it settled? Is it
14 formed? So with Mr. Kelly, he's now 45. He's
15 now -- his character is now well formed.

16 Q So tell us more about what you found about
17 his character?

18 A He has developed the ability for insight, for
19 reasoning, for -- you know, he talked a lot about
20 his abusive circumstances, and he said he used to
21 be angry that his sister wasn't helping him, his
22 brother wasn't helping him, his mother, and he
23 carried that anger. But he realized that everyone
24 was just trying to survive his father, so he
25 developed a lot of insight around that. He

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1 developed a lot of insight around victim impact
2 with regard to the homicide, how the homicide has
3 impacted the Shealys. He said I destroyed their
4 lives. Those are his words. He came to a place
5 where he can reason through that and understand
6 that in a way that he couldn't do as a younger
7 person.

8 Q And just to wrap up, when you are considering
9 his settled character and his rehabilitation, you
10 also considered a letter he had written to the
11 mitigation specialist in the case?

12 A Yes. Yes.

13 Q What did you find significant about the
14 letter?

15 A So this was written in 2020 to Droosie (ph)
16 Glass. She was the mitigation investigator in his
17 *Aiken Byars* case. In the letter, he talks about
18 how prison saved him. He said prison saved me. He
19 felt like prison gave him an opportunity to get
20 away from his father. He felt like if he remained
21 in the community, he would have become his father,
22 who he termed "the worst of the worst." So he felt
23 like he got out. He got away. Of course, his
24 brother got away by the military and moving all the
25 way to Washington state, and his sister is just

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1 withdrawn, noncommutative. But Mr. Kelly escaped
2 by prison, and he recognizes that and is grateful
3 for that, in a sense.

4 And the letter also talks about how he wasn't
5 operating like a normal teenager at the time, you
6 know, because of all of the abuse he experienced
7 and the social deficits he had at the time. He
8 wasn't operating like a normal teenager. And the
9 letter talks a lot about the victims, and the
10 impact on the victims, and that they do not owe him
11 forgiveness. He does not expect that because of
12 all of the damage he has done in their lives.

13 So that's why it was significant for me. And
14 then he signs the letter "Billy, slash, Will." He
15 prefers to be called Will now, because Billy was
16 the kid that was abused. Billy was the one that
17 committed this violent, terrible act, and he no
18 longer -- he's matured past that, so he signs the
19 letter "Will," which I think illustrates maturity.

20 Q So you think that is maturity and growth and
21 evolvment?

22 A Yes.

23 Q In your opinion, that all points towards
24 rehabilitation?

25 A Correct.

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1 MS. MAULDIN: No further questions.

2 THE COURT: All right.

3 Solicitor?

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

5 **CROSS EXAMINATION**

6 **BY MR. HUBBARD:**

7 **Q** Doctor, in this case you didn't interview a
8 17 year old. You interviewed a man who was
9 initially 39, all the way up to his 45th year?

10 **A** Correct.

11 **Q** You interviewed a man who was not only much
12 older but in SCDC?

13 **A** Right.

14 **Q** And just when you go to interview any inmate
15 like that, particularly those charged with violent
16 crimes, you are very much aware that there is a
17 culture of lying, deception, playing on emotions,
18 manipulation; are you not?

19 **A** Sure. That can happen in any forensic
20 evaluation.

21 **Q** It can happen in any evaluation, but prisons
22 seem to be known for that. People who are there,
23 many of them manipulate, they lie, they are violent
24 people. Even those who are not violent manipulate,
25 lie. There is a culture there at SCDC -- not

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1 everyone -- but you have to be aware of it, right?

2 A Of course.

3 Q There are some people in SCDC that should
4 never, ever be released in public?

5 A Yes.

6 Q So Billy Kelly committed this murder in 1996,
7 and you would agree with me this was an absolutely
8 heinous murder?

9 A Yes, of course.

10 Q Would you agree with me that it absolutely
11 shocks the conscious because it is so brutal?

12 A Sure.

13 Q And with all of the people that you talked to
14 in doing your evaluation, the most important person
15 you talked to was Billy Kelly?

16 A He's an important person, yes. Talking to
17 the collateral sources is also very important for
18 my purposes to validate things that he is telling
19 me to try to corroborate things.

20 Q Validation, corroboration, I understand that.
21 But you are trying to validate and corroborate
22 things he says, correct?

23 A Or things that are in the records that I have
24 information from in the records.

25 Q Okay. But it's very important to corroborate

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1 and validate what he says as well?

2 **A** Or things that I have in the records. So I'm
3 asking people about what is in the records. I'm
4 asking Mr. Kelly about what is in the records.
5 Certainly, I'm asking about what he's telling me.

6 **Q** Doctor, I get that. I'm not challenging that
7 you have to corroborate other things, but it is
8 very important when it comes to the words of Billy
9 Kelly, a man who has spent most of his life locked
10 up in SCDC, it is extremely important to try to
11 validate and corroborate what he says?

12 **A** Sure, if I can.

13 **Q** Now, he gives you a statement about what
14 happened. I think you have it?

15 MR. HUBBARD: Your Honor, it is Page 43.

16 THE COURT: Okay.

17 **Q (BY MR. HUBBARD)** On Page 45, you said, If
18 what he told me is true, then as an adult seven
19 years his senior, I guess Ms. Shirley would have
20 been influential in his participation given his
21 adolescence, correct?

22 **A** Correct.

23 THE COURT: Where are you?

24 MR. HUBBARD: Page 45. I'll jump back to 43
25 in just a moment.

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1 THE COURT: What part?

2 MR. HUBBARD: Right in the middle,

3 "Analysis."

4 THE COURT: Got it.

5 MR. HUBBARD: Second to the last sentence,

6 "If true."

7 THE COURT: There you go.

8 Q (BY MR. HUBBARD) If inaccurate or not
9 accurate, then he was the sole participant.
10 Regardless of the account, he was the sole
11 participant in the homicide.

12 Let's look at what he says. Beginning Page
13 43, he says a number of things we know. He knew
14 Shirley because she was friends with his sister?

15 A Yes, sir.

16 Q While working at KFC -- now he jumps right
17 into the story -- we start sleeping with each other
18 pretty quickly. She was 23 or 24. I was 16. She
19 was married and had a kid. He talks about having
20 sex at KFC -- actually, at the restaurant. He
21 talks about having sex in his car, and in her car.
22 And he says, quote, She really liked me, and I
23 liked her, but she was married.

24 And then he says, Everyone knew we were
25 fooling around at work.

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1 Now, let me ask you this: This is the first
2 statement he has given that has come out where he's
3 got an ongoing affair with Shirley Shealy; isn't
4 that true?

5 **A** I believe that's true.

6 **Q** So at 39 to 45, Billy Kelly now says -- after
7 giving multiple statements to law enforcement,
8 SCDC, other people, this is the first time that
9 adult Billy Kelly, who has been housed and
10 imprisoned, says, We've had an ongoing
11 relationship, an affair? First time?

12 **A** Uh-huh.

13 **Q** Did you at any point in time confront him
14 with prior statements saying, Now, Mr. Kelly, you
15 didn't say that back in 1996? You didn't say it in
16 1998. Did you confront him?

17 **A** I did, but I will tell you that the account
18 of a relationship is not terribly important to my
19 analysis. He planned the robbery. He committed
20 the robbery. He killed Ms. Shealy. Whether they
21 were having a relationship didn't factor in -- it
22 wasn't as if he were denying the robbery or denying
23 the homicide.

24 **Q** I want to pursue that, because I'm going to
25 show that it would be extremely important in

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1 analyzing what happened and actually who he is
2 today.

3 This is a new statement, and he never made
4 these claims before, but he made them to you
5 knowing he's got this hearing coming up? That's
6 why he's talking to you, correct?

7 A Yes, sir.

8 Q Because when we go back to saying if this is
9 true or if this is not true, it's much more than
10 what you say on Page 45. If this statement is true
11 that he's got this ongoing relationship with
12 Shirley Shealy, then what is true is he murdered
13 his lover and his co-conspirator, correct?

14 A Sure.

15 Q If it's not true, if all of this is not true,
16 then it's not simply saying he's the sole
17 participant. We all know he killed Shirley back in
18 1996.

19 A Of course.

20 Q But, now, he's looking at a family saying,
21 Neil, I slept with your wife. She chose me over
22 you, Neil, and I murdered her. He is saying, Alex,
23 your mama wasn't coming home. She chose me over
24 you. That speaks volumes about who he is now
25 because he made the statement now, correct?

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1 **A** He is making the statement now. Now, part of
2 this is I had to ask him about what was in the
3 record about the relationship. So I did have
4 information from co-workers who had seen the
5 physical contact. I had information from Jessie
6 Johnson. So I have to ask Mr. Kelly about these
7 dynamics.

8 But, again, with the circumstances of the
9 homicide and the purpose of Miller and Aiken, he
10 committed the armed robbery. He planned the armed
11 robbery. He killed Ms. Shealy, a very violent act.
12 Whether they were having a sexual relationship,
13 from my analysis, and I understand what you are
14 saying, that it may be important for other
15 purposes, but from my analysis, it wasn't as
16 important as some of the other issues. The fact
17 that he committed these crimes, takes
18 responsibility for the murder, I mean, the
19 circumstances of the homicide, he was a sole
20 participant in that.

21 **Q** Doctor, we're talking about whether a man's
22 sentence should be cut and put back out on the
23 street, and if this is not true, he didn't just
24 murder Shirley Shealy, he is absolutely murdering
25 her reputation and good name today. He is saying

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1 that as an adult. That would reflect who he is
2 now. Who is he now? We talk about rehabilitation.
3 That would show who Billy Kelly is more than
4 anything. These are his words. It is absolutely
5 going to those five factors. It shows who he is.
6 If it's a lie, if this story is a lie, right?

7 **A** I don't think any of us can say it is a lie
8 or the truth, and that's why I can't do much with
9 it.

10 **Q** Doctor, how can you not? It is a question
11 like I'm questioning you. Did you sit down and
12 say, Mr. Kelly, in your first statement you didn't
13 say that? Did you question him? Where is it in
14 your report?

15 **A** We would have talked about all of that.

16 **Q** You talked about it. You got him to blow off
17 what he said the first time.

18 Let's look at where you talk about his first
19 statement.

20 **A** The law enforcement?

21 **Q** Right. Page 40.

22 MR. HUBBARD: Page 40, Your Honor.

23 THE COURT: All right.

24 **Q** **(BY MR. HUBBARD)** You have been talking, and
25 you give some of the narrative of what he gives law

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1 enforcement. But what I noticed you leave out --
2 first of all, let's see the stark differences.
3 There is no conspiracy mentioned in that first
4 statement, correct?

5 **A** Correct.

6 **Q** No sexual relationship. He's repulsed by
7 her, correct?

8 **A** That's what he is stating, yes.

9 **Q** He doesn't indicate a motive. Taking the
10 money is just because he knew he had to get away
11 after the murder, right?

12 **A** Correct.

13 **Q** There is zero mention of father, daddy, or
14 pops?

15 **A** Correct.

16 **Q** There is clear indication in his first
17 statement of anger at Shirley. But look at what
18 you keep out, you don't mention anything in your
19 narrative where he's called her ugly, thinks she is
20 unattractive, she seemed dirty or smelled. You are
21 not mentioning that, are you?

22 **A** Correct. This is a summary.

23 **Q** Right. And you have conveniently excised
24 out --

25 THE COURT: One at a time.

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1 **Q** **(BY MR. HUBBARD)** -- his anger at the victim,
2 who he brutally murdered. Look at other things he
3 said. Told her I didn't like her because she was
4 nasty. Shirley had pissed me off. He was going to
5 leave her tied up to make her mad. As he was
6 killing her, he called her a sick bitch, bitch, and
7 slut.

8 You leave all of that out. You leave out the
9 anger directed at Shirley Shealy.

10 **A** I don't deny the statement. This
11 statement -- there are factual inaccuracies in this
12 statement. So he's saying that her hands were
13 free. They were not. There is no blood on her
14 hands, no defensive wounds. So it couldn't happen
15 the way he is describing.

16 **Q** I'm agreeing on that. We agree he lied
17 multiple times in that statement, but not about
18 everything. The question is: You have to probe,
19 and you write this down, and all we really get from
20 you is a short narrative and that he was young, 17,
21 didn't understand or appreciate Miranda. We get no
22 anger. There is a victim lying on the floor.
23 Doctor, evidence of anger.

24 **A** I do believe I talk about anger in the
25 report, Mr. Hubbard. That is the thrust of the

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1 argument as far as the factors go. But with this
2 particular statement, it is factually inaccurate.
3 There is lies in this statement. So when I'm
4 presented with a statement like that, I don't know
5 what is the truth and what is the lie except for
6 what doesn't match the forensic evidence.

7 Q How can you say there are lies and
8 inaccuracies in the first one, but in the fourth
9 one he give you, you have no way to evaluate it?

10 A I don't know if that's the truth or a lie.
11 From my analysis, the most important thing for
12 Miller and Aiken is that he committed an armed
13 robbery, he planned it, committed this homicide,
14 and then I'm looking at other factors within the
15 case, rehabilitation, that sort of thing.

16 But these statements -- and I believe I do
17 have this in the report, that he lied during these
18 statements.

19 Q Sure. And we'll all agree he's lied. Lied
20 repeatedly, probably a little bit in every
21 statement he's given. The question is the
22 statement he gave you that is contemporaneous with
23 now. Mr. Kelly, who now wants to walk our streets,
24 we need to look to see if he's credible, his
25 credibility, because it says a lot about who he is.

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1 Is he really reformed, right?

2 **A** We also don't know if the statement he gave
3 me is the truth, which is why the relationship
4 factors don't factor into my analysis so much. I
5 don't know if that is true. I have reports from
6 people --

7 **Q** Well, let's walk through the statement a
8 little more.

9 MR. HUBBARD: Statement 4, Page 43.

10 **Q** **(BY MR. HUBBARD)** He mentions sleeping with
11 Shirley, and then he gives a new reason for leaving
12 KFC. It is not that he was fired. It is not that
13 he quit because Shirley was making him do things he
14 didn't want to do. It is Shirley was jealous
15 because he was seeing other girls, and he left
16 because we got too close, and it was like we were
17 in a real relationship. That is a brand new reason
18 why he left KFC, correct?

19 **A** Correct.

20 **Q** He never said that before, correct?

21 **A** Correct.

22 **Q** You don't confront him with anything he has
23 said in the past about quitting or being fired.
24 You take this statement, and then you put it in
25 your report, and I can't evaluate to see if it is

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1 true or not.

2 **A** I put all of the statements in the report
3 that I had, not just this statement. And I don't
4 take these statements at face value or truth. Some
5 of this we'll never know the truth and what is not.
6 Some we know is not consistent with the evidence.

7 So, again, the purposes of Miller and Aiken,
8 I'm concerned about the fact that he committed this
9 homicide.

10 **Q** Correct, Doctor, 28 years ago. But he's
11 making statements now that reveal -- the Judge
12 isn't letting out a 17 year old. He's talking
13 about a 45-year-old man. Who is he now?

14 So let's jump back into the statement. He
15 sayings he leaves because of this relationship, but
16 that he would still visit KFC, and we would meet up
17 for sex. We were always sneaking around. That is
18 what he says?

19 **A** Correct.

20 **Q** The robbery, the idea came up initially it
21 was a joking matter. They were joking, brought up
22 stealing money and running away, and then he says
23 to you -- because he's never said this before --
24 they had a big, long emotional conversation, and
25 there was crying on both parts, and then Shirley

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1 says quote, if I help you get the money, will we
2 still be in a relationship? And she goes on to
3 say, If we get this money, I can co-sign on an
4 apartment and we can meet up there.

5 All of that is new, correct?

6 **A** Correct.

7 **Q** So you are telling us there is no way to
8 evaluate whether a woman, who is six months
9 pregnant, has a child at home and husband is going
10 to run off with a 17-year-old boy, steal money, and
11 not be a suspect in a case?

12 **A** I couldn't evaluate it because I can't
13 obviously talk to Ms. Shealy and ask these
14 questions.

15 **Q** Common sense?

16 **A** I don't know what Mr. Kelly is telling me is
17 true or not.

18 **Q** I'm asking you -- whether you have a degree
19 or not -- common sense, does that sound like
20 something a 25-year-old, pregnant woman would do?
21 I'll set up a robbery for you, set this up, put my
22 own life in jeopardy, my future in jeopardy, to
23 help you out because I'm that deep in love with
24 you; does that make sense?

25 **A** I think what I do have to consider is the

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1 statements from the co-workers and from Mr.
2 Johnson, who do describe a relationship between
3 Mr. Kelly and Ms. Shealy.

4 Q Let's stop there.

5 A I don't know if those are accurate, but they
6 are in the file, and I have to consider them.

7 Q And no co-workers have come here and have
8 subjected themselves to a cross from me, have they?

9 A I have not seen any.

10 Q No. None.

11 Going back to the statement, the plan was
12 initially to leave the back door open, but Shirley,
13 quote, didn't want to get in trouble because she's
14 supposed to lock the back door. So the plan was
15 she was going to stay after work, and he would come
16 to the store, tie her up, and that she was okay
17 with it.

18 That is what adult Billy Kelly tells you,
19 right?

20 A Correct.

21 Q Shirley was supposed to say someone
22 threatened her for the combination, but there was
23 real no plan after the robbery, what was going to
24 go on. And then he hoped to just move out of his
25 parents' house.

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1 So that's what these two, according to
2 45-year-old Billy Kelly is saying, correct?

3 **A** Correct.

4 **Q** That day, he picks up Shirley, takes her to
5 the bank, and they fool around. That's new. He
6 didn't mention that in his first statement, did he?

7 **A** No.

8 **Q** And that day, they both agreed this is the
9 day we're going to commit this robbery, right?

10 **A** Correct.

11 **Q** And that after he leaves KFC, he goes home,
12 he tells his mom he's going to the Zoo, which is a
13 club in Columbia, right?

14 **A** Correct.

15 **Q** He took good jeans and a shirt for the club
16 in order to say I was there. So he's built in an
17 alibi, planning this?

18 **A** Sure. Planning a robbery.

19 **Q** He's planned it. He says, Shirley -- and we
20 know this, he told law enforcement that is what he
21 was going to do, right, in the initial statement?
22 He talks about what his initial plan was, but he
23 took a detour by KFC? Remember that?

24 **A** Sure. There is no question he planned a
25 robbery.

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1 **Q** In fact, he says he got Duct tape and
2 surgical gloves from home; the gloves so he
3 wouldn't leave fingerprints in the robbery, right?

4 **A** Correct.

5 **Q** And then he mentions a knife and said the
6 knife just fit in with everything to make it look
7 like a robbery.

8 Doctor, does that even begin to make sense?
9 If it is just going to be Shirley and Billy Kelly
10 and a dark KFC, they've planned together, he's
11 going to tape her hands and leave her, she'll say
12 she was robbed, why does he need a knife?

13 **A** Again, I can't presume to know, but possibly
14 leave it at the scene. There were a lot of
15 criminal defendants that I've evaluated that bring
16 weapons to the crime without knowing if and how
17 they are going to use them.

18 **Q** And perhaps another thing is that when he
19 brought that knife to the scene, he planned to
20 murder Shirley Shealy?

21 **A** That is a possibility.

22 **Q** And we certainly know he did?

23 **A** Sure.

24 **Q** So I've got a knife at a scene, even though
25 no one else will be there, or I'm taking a knife

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1 because she'll know I did this, and I have to kill
2 her?

3 **A** Again, it is a possibility. We don't really
4 know where the truth lies with all of these
5 statements.

6 **Q** And you didn't ask and dig and probe, did
7 you?

8 **A** That's not accurate.

9 **Q** It's not in your report.

10 **A** Well, my report would be probably about 550
11 pages if I put all of my notes into the report.

12 **Q** And I would have read every one of them. But
13 it is not there for the Judge, who has to make a
14 big decision, right? He has to read a huge
15 transcript. It's not there, fair?

16 **A** Fair.

17 **Q** That evening, he says he parks his car behind
18 the auto shop around 9:30, and then he gets in the
19 back of Shirley's car.

20 Now, is there a red flag where you would stop
21 and go, Why do you have to get in the back of her
22 car? If this is a planned robbery between two
23 people, he could wait in his own car until everyone
24 goes home, and then Shirley lets him in, and they
25 do their thing. Did you ask him why did you get in

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1 the back of her car?

2 **A** Yes, I did. We talked about this. And,
3 again, I don't know if this is true. What is
4 important for me is that he planned this robbery --
5 with her or not -- he planned the robbery, and he
6 committed the homicide.

7 **Q** And, Doctor, something else you know, though.
8 You know that he, at this point, has been
9 convicted. He's seen evidence where people
10 testified that it appeared someone was in the back
11 of the car. There was evidence of a knife found at
12 the scene, and it also could be he's accounting for
13 things he knows he has to deal with because those
14 are factors of the crime?

15 **A** Sure.

16 **Q** So it's as ridiculous as it might sound when
17 he's talking to you as a 45-year-old man. If he's
18 lying, he has to account for it, right?

19 **A** Sure.

20 **Q** So what he tells you may just be a bald-faced
21 lie?

22 **A** Of course.

23 **Q** Then Shirley comes back. He says, Barbara,
24 apparently, doesn't leave before them. So they
25 come back. Shirley had a key. Shirley sits in a

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1 chair. I had Duct tape from home for this reason.
2 Tapes her up, and at that point Shirley starts
3 having second thoughts. At this point, she's
4 having second thoughts and says, We can't do this.
5 Billy Kelly says, We can't stop. And then she
6 says -- she opened the safe up for him, and then
7 again she says, I can't let you do it. I have to
8 call the police.

9 Stop there for a minute. If she's a
10 co-conspirator, calling the police would mean she
11 gets arrested because Billy Kelly will say, I'm not
12 the only one doing this, right?

13 A Correct.

14 Q So the account he's giving you as an adult,
15 who spent most of his life in prison, is that this
16 woman is saying, I'm going to call the cops on you,
17 even though I know I'm getting arrested and lose
18 everything I have? That is what he's telling you?

19 A Sure.

20 Q Then they start screaming at one other. It
21 gets emotional. He says a knife comes out, but he
22 never says he pulled a knife, right? But a knife
23 comes out, correct?

24 A Correct.

25 Q And I killed her in a state of panic. Panic.

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 He doesn't say anything about rage. Very
2 different. Panic versus what we see in the first
3 statement where he calls her bitch, slut, she
4 stinks, she smells, she's ugly. Now it's a state
5 of panic, and I stabbed her all of these times.

6 But in this statement, when it comes to the
7 stabbing, he has amnesia about the incident, right?

8 **A** Right. He made conflicting statements
9 throughout the life of the case. I mean, there's
10 no question that that happened. So I can't take
11 one account and say that it's true.

12 **Q** That's why I'm looking at all four.

13 **A** I know that he robbed the KFC and committed
14 the homicide.

15 **Q** We all do.

16 **A** And that is the most important thing for my
17 analysis.

18 **Q** But, Doctor, I'll keep bringing you back. If
19 this man is lying today in this courtroom, it tells
20 us a lot more when you start looking at those five
21 factors about who he is and where he is in his
22 eligibility of whether he should be released.

23 If he's lying, how can a man be remorseful if
24 he's making up having an affair with somebody?

25 **A** We don't know if he's lying. He could be

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 lying. May not be lying. We do have evidence of
2 an affair from other individuals.

3 Q Who aren't in court, except his best friend
4 who said he's my brother about a hundred times on
5 the stand. There were more "brothers" than pauses
6 in his words. That's it. That's all that is here.

7 A But I wouldn't say that Mr. Johnson was lying
8 on the stand.

9 Q Because you can't evaluate where anybody is
10 lying. They may or may not be. Everything is just
11 out there?

12 A Correct.

13 Q We both screamed at one another, the knife
14 comes out, I killed her in a state of panic, I
15 don't remember the details; although, we know he
16 gives implicit details -- particularly in SCDC --
17 but even the night he's arrested, right?

18 A Correct.

19 Q The police came by because her lights -- her
20 car lights were on and door was open.

21 Let's stop right there. He says the cops
22 come there because of her car. If they were
23 planning this armed robbery, why in God's name
24 would they leave a car right up there on Highway 1,
25 lights on, engine running, door opened, after

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 hours, in a dark store? They are screaming for law
2 enforcement presence, right?

3 **A** Sure.

4 **Q** But he's saying that was part of their plan.
5 45-year-old Billy Kelly can't put that car in the
6 back of KFC today. It's there, so now it has to be
7 part of the plan, correct?

8 **A** Sure.

9 **Q** Cops come in, and he goes out through the
10 drive-thru window. He said, I took my bloody
11 clothes off, didn't throw them away. Quote, I was
12 not a mastermind criminal, right? Right?

13 **A** Sure.

14 **Q** Drives to Massachusetts, police come, he said
15 now I had a shot of liquor that day, but I was
16 sober, no drugs, no medicine. I talked to them.

17 And you have in here, After talking to law
18 enforcement and meeting with them, he felt real
19 distraught?

20 **A** Yes.

21 **Q** Real distraught not at the fact that he just
22 murdered Shirley Shealy, but real distraught given
23 his abusive home life, right?

24 **A** I think that is interpreted to mean at the
25 time that -- you know, before this happened. I

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 think that was in response to me saying, Why did
2 you do this? He had been feeling real distraught.
3 Not after the incident.

4 Q This is talking about -- I'll read this
5 paragraph: "He kept driving and panicking and
6 drove to Massachusetts."

7 That first paragraph. You go on down:
8 "However, the police came and got me the same day."

9 When asked about any intoxication on the day
10 of the offense, he had a shot of liquor during the
11 day much earlier and was not inebriated or buzzed
12 from the alcohol. He had not used any drugs, and
13 was not on any medication. He just felt distraught
14 given his abusive home life.

15 When asked why he did it, he said, I was just
16 so scared of my pops, I wanted out of the
17 situation.

18 That is what you got for this statement on
19 why he killed Shirley Shealy. Because he's scared
20 of Daddy, right? That's what you've got in your
21 report?

22 A Correct. We were talking about the whole
23 incident, though, the armed robbery, planning that.

24 Q I'm just reading what you wrote here in your
25 report, and that is what you wrote?

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 **A** Correct.

2 **Q** Now, these other statements -- again, we
3 touched on the first statement, the things that
4 were left out of your narrative on Page 40, the
5 horrible names, the anger directed at the victim,
6 Shirley Shealy.

7 It is clear that he's speaking to her in the
8 most demeaning terms, correct?

9 **A** Again, this statement is factually
10 inaccurate. We know her hands were not free, so
11 because that does not match the forensic evidence,
12 then that meaning means we don't know what is true
13 in the statement and what is not.

14 **Q** Doctor, you could say the same thing again
15 and again and again. My question is: You -- you
16 excised out those statements by Billy Kelly?

17 **A** I didn't copy the statement verbatim, if that
18 is what you mean.

19 **Q** Of your accounting, you never, ever had
20 anything on Page 40 of the abusive language he
21 directs specifically at the victim, correct?

22 **A** Correct.

23 **Q** Second statement. You don't mention what he
24 says to Matthew Mackormic in LCDC. We all know you
25 asked him questions -- I think Page 55 -- where

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 he's feeling bad about the boastfulness and the
2 bragging; but, in fact, that is exactly what he did
3 when he's talking to Matthew Mackormic in LCDC,
4 correct?

5 **A** So Mr. Mackormic also gave an account that is
6 inconsistent with the forensic evidence.

7 **Q** Well, the fourth statement he gave you was
8 also inconsistent?

9 **A** Exactly. That is the point. We don't know
10 which one is true and which one is not.

11 **Q** And, Doctor, if you lay each statement down
12 and don't ask questions, you'll never know. I'm
13 asking you questions because you didn't ask him
14 questions.

15 **A** Well, Solicitor, I asked Mr. Kelly a lot of
16 questions. Unfortunately, the questions I asked
17 Mr. Kelly, I'm not able to get at the truth of the
18 statement. I wasn't there. So I don't know that
19 we can ever know exactly what happened.

20 I do know that his first statement is
21 inconsistent with the forensic evidence.
22 Mr. Mackormic's statement is inconsistent with the
23 forensic evidence, as well as the SCDC statement.

24 **Q** So I guess we can admit in four statements he
25 told a pack of lies?

DR. SUSAN KNIGHT - CROSS EXAMINATION

1 **A** Could be. Sure.

2 **Q** Second statement, Mathews Mackormic -- one
3 thing we can say is whether it is true or not, that
4 is the first time he brings up a co-conspirator,
5 mentioning Shirley Shealy as a co-conspirator?
6 That idea comes about while he is housed over at
7 the Lexington County Detention Center, correct?

8 **A** Correct.

9 **Q** And he is boasting, bragging, talking about
10 couldn't cut her head off because he couldn't get
11 the knife through her neck bone, all of those
12 statements to Matthew Mackormic and another inmate?

13 **A** That is what Mr. Mackormic testified to. He
14 is in federal detention, and he is there for a time
15 reduction.

16 **Q** And I agree. Matthew Mackormic is a
17 criminal. I absolutely agree. He was subjected to
18 cross examination?

19 **A** Sure.

20 **Q** It's what Billy Keesley --

21 MR. HUBBARD: Oh, God, I'm stuck in a
22 courtroom with Judge Keesley. It's stuck in my
23 head now.

24 THE COURT: I won't let Judge Keesley know.

25 MR. HUBBARD: I hope you don't. I was his

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 first clerk.

2 **Q** (BY MR. HUBBARD) Billy Kelly was sitting in
3 that cell and said things. It is clear he was
4 talking. These inmates knew things, whether it is
5 true or not.

6 But the question is: I'm asking you, you
7 didn't confront Mr. Kelly, correct?

8 **A** I asked Mr. Kelly -- yes, I asked him about
9 this. Sure.

10 **Q** The content of the statement by Matthew
11 Mackormic is nowhere in your report. Page 55 just
12 has about the cop. It does not have about him
13 trying to cut her head off and bragging about that,
14 does it?

15 **A** It's listed in my sources. I don't copy
16 verbatim all of my sources and put it in the
17 report. I read the trial transcript and read his
18 statement.

19 **Q** But if the judge doesn't see it in your
20 report, it's just not there. He doesn't have your
21 notes, right?

22 **A** He does not have my notes, but I imagine he
23 would have access to the record on appeal and the
24 trial transcript and testimony should he choose to
25 read it.

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 **Q** And what he says also is there was no sexual
2 relationship. He was adamant. No sexual
3 relationship with Shirley Shealy, that is what he
4 tells his other inmates?

5 **A** That is what Mr. Mackormic testified to.

6 **Q** All right. Well, let's look at the
7 hypothetical you have on Page 41 where Mr. Kelly
8 tells his then attorney about this plan. Just a
9 hypothetical, throwing it out there, testing a new
10 story. I got a co-conspirator, but there is no
11 sexual relationship, right?

12 **A** Correct.

13 **Q** The first we have about a sexual relationship
14 is in the statement now, right?

15 **A** To the extent that he reported that, yes.

16 **Q** Yes. And then you have him -- he's arrested,
17 makes statements, I killed Shirley. I took money.
18 I did it because of what she did to me. Makes
19 these horrible statements, and then boasts about it
20 in jail, then he's convicted and put on the death
21 row and goes to SCDC, and then we have the SCDC
22 statement, correct?

23 **A** Sure.

24 **Q** This one is so much different than all of the
25 statements, but it comports a lot to the evidence

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 that had just come out in the trial, right?

2 **A** It does. But it is also inconsistent with
3 the forensic evidence.

4 **Q** Which part?

5 **A** He states that he came up behind her and cut
6 her throat.

7 **Q** No one testified when that happened.

8 **A** Agent Derrick testified that a cutting of
9 throat.

10 **Q** At trial?

11 **A** Yesterday, also.

12 **Q** I didn't bring up the slit throat with him.
13 I did not. No, ma'am.

14 **A** He testified that there was an arterial
15 spurting and spattering in the hallway, which is
16 where the neck was cut.

17 **Q** He also talked about multiple injuries. I
18 never brought up when. That did not happen in this
19 courtroom. Did not happen.

20 **A** Well, he testified to it in the guilt and the
21 trial phase -- sorry, the guilt and the penalty
22 phase. So this -- this statement indicates she was
23 sitting down when he slit her throat, and that is
24 not consistent with his testimony, and he is the
25 blood spatter expert.

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 **Q** So you do give a lot of credence to Steve
2 Derrick. I think we all do.

3 **A** Sure.

4 **Q** Other than that -- other than that, what else
5 is inconsistent?

6 **A** Again, now that one thing is factually
7 inaccurate, I don't know what is accurate or not in
8 the statement. Just like with all of the other
9 statements, I don't know if this is a true
10 statement besides that factual accuracy.

11 **Q** You are talking about as to the forensic
12 evidence. Where else is it inaccurate as to the
13 forensic evidence that came out in trial?

14 **A** That's the primary issue, that she was not
15 sitting down when he slit her throat.

16 **Q** So that's it? So we set that aside,
17 everything else seems to be accurate forensically
18 as to what was testified to?

19 **A** Well, I wouldn't set that aside. That is a
20 pretty big factual inaccuracy.

21 **Q** So is saying, I was sleeping with her, and I
22 wasn't.

23 **A** Again, we don't know if it is true or not.

24 **Q** Let's go through the statement real quick.
25 In this statement, he's just entering death row.

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1 He talks about he comes there, hides his car,
2 right?

3 A Yes.

4 Q He gets in the back seat of Shirley Shealy's
5 car, right?

6 A Yes.

7 Q He's armed with a knife, so when she's
8 leaving and going home, he pops up, holds the knife
9 on her, and makes her come back, right?

10 A Yes.

11 Q He forces her to go into the KFC, correct?

12 A Correct.

13 Q And if we talk about forensic evidence, it
14 looked like there was a struggle in the car. You
15 were here when we saw the photos?

16 A Sure.

17 Q Front door was open. All of that appears to
18 be consistent. They go inside. There was a chair.
19 At some point, she did sit on it, right?

20 A Yes.

21 Q And I believe if you were here for Steve
22 Derrick, he talked about that's where the fight
23 started, when he was trying to tape her legs,
24 correct?

25 A Correct.

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 **Q** And we don't know about this phone call
2 business. At one point he says she may have been
3 talking or whatever. We don't know anything about
4 that. We weren't there, but we know he starts
5 stabbing her, right?

6 **A** Correct.

7 **Q** And he says he had to kill her in order for
8 her not to say anything about the crime, so that he
9 would not get in trouble.

10 So he's there clearly to rob the place. He's
11 there clearly to kill her. He knows no matter what
12 he does, I have to murder Shirley Shealy, right?

13 **A** He kills Ms. Shealy.

14 **Q** He murdered Ms. Shealy.

15 **A** Murder, yes.

16 **Q** He didn't bump her and knocked her down some
17 steps. He murdered her.

18 **A** Correct.

19 **Q** And unlike the statement he gives you, he
20 gives a very explicit, detailed accounting on what
21 he did. No blackout here. I slit her float,
22 stabbed her 31 times. And then he breaks it down:
23 21 times in the back, five on the chest, two on the
24 neck, one on the scalp, and one on the right
25 buttocks. And we heard "buttocks" may not be his

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 word, but set that aside. He's very descriptive,
2 right?

3 **A** Correct.

4 **Q** And he takes money and he flees, but he also
5 says something Steve Derrick said, it appeared
6 whoever had that money, dropped it on the floor
7 during the struggle, and whoever fled, didn't take
8 a whole lot. They left most of it on the floor,
9 right?

10 **A** Sure. Yes.

11 **Q** So this is probably the most accurate
12 statement compared to the forensic evidence that we
13 all know. If we trust Steve Derrick, this is the
14 closest thing that Steve Derrick presented, right?

15 **A** The inaccuracy about -- that she was seated
16 when he slit her throat, that is factually
17 inaccurate.

18 **Q** Let's agree. You know when I think it
19 happened? When she's lying on the ground. But
20 that's fine. That's fine. Everything else
21 comports to the facts that were presented
22 forensically, correct?

23 **A** Sure.

24 **Q** This is the most close to the forensic
25 evidence, correct?

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 **A** I don't know if I would say "most." It still
2 has inaccuracies.

3 **Q** Point them out, please.

4 **A** The details here are from the trial. They
5 are accurate from the trial.

6 **Q** Doctor, he gave the statement. Nobody from
7 the trial came and sat down with Mr. Rudy.

8 **A** Correct.

9 **Q** It was that man over there?

10 **A** Sure.

11 **Q** So these details came directly from the mouth
12 of the defendant, and he knew all of the details,
13 right?

14 **A** Yes. He had just sat through the capital
15 trial at the time that this was given.

16 **Q** And he had the benefit of actually being
17 there when the incident occurred?

18 **A** Of course.

19 **Q** Now, you never -- based on these
20 statements -- really explored his anger issues with
21 Shirley Shealy either, did you?

22 **A** It didn't come up that way in my evaluation,
23 that he was angry with her.

24 **Q** Right. That's why I'm asking you, because I
25 sure didn't see it.

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 **A** He did not tell me he was angry with her.

2 **Q** 45-year-old Billy Kelly didn't mention that?

3 **A** Correct.

4 **Q** But 17-year-old Billy Kelly sure told law
5 enforcement?

6 **A** Of course. Yes.

7 **Q** All right. And then we have issues that you
8 brought out about anger at his father?

9 **A** Yes.

10 **Q** And nowhere is there anybody connecting dots
11 of Daddy to Shirley Shealy in your report?
12 Nowhere?

13 **A** Well, I would disagree with that.

14 **Q** Okay. We'll disagree and let the Judge read
15 the report and see if he can see where you said
16 that crime speaks of Daddy, not Shirley. Daddy.
17 We'll let the Judge make that decision.

18 **A** I think I fleshed that out in the report.

19 **Q** Okay. If you are satisfied with how you
20 fleshed that out, I know the Judge can read.

21 You mentioned a bad childhood. Let's concede
22 that he had a horrible one. Daddy, multiple tours
23 in Nam, needed help, abusive, but he's clearly gone
24 most of the day working, right?

25 **A** Working second shift, yes.

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 **Q** And we know this: Both Billy and Michael
2 were participants in Cub Scouts, Boy Scouts. I
3 think he went to camp Barstow (ph)?

4 **A** Correct.

5 **Q** He got "Order of the Arrow"?

6 **A** Yes.

7 **Q** That's some achievement.

8 And he took karate. When he got older, he
9 was able to go to social hangouts and had his own
10 car?

11 **A** Sure.

12 **Q** He had freedom that a lot of kids don't have,
13 correct?

14 **A** Correct.

15 **Q** So unlike a lot of abusive homes, he had
16 activities? He wasn't just tied up in a country
17 home not interacting with other kids. He had Cub
18 Scouts, Boy Scouts, social activities, a car to go
19 and see who he wanted to see, correct?

20 **A** He was not tied up in his home, correct.

21 **Q** In talking about his youth, we heard --
22 Michael tells us a horrible story about how Dad
23 tells him to kill a kitten?

24 **A** Correct.

25 **Q** But when we look at Dr. Shea said -- who was

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 brought in for the defense for this trial in '98 --
2 he reports that Billy Kelly actually tortured
3 animals. Not just killing a kitten. It wasn't one
4 incident. He tortured animals while he was growing
5 up, right?

6 A Right. That's documented in his detention
7 center records.

8 Q And Dr. Shea never attributes that to Daddy,
9 correct?

10 A I don't know Dr. Shea had the information on
11 the abuse.

12 Q Dr. Shea spent a lot of time evaluating Billy
13 Kelly, correct?

14 A I think he just spent a couple of hours.

15 Q He had to determine if he had any mental
16 illnesses, and he said this were none, right?

17 A That's correct.

18 Q And he also found that Billy Kelly has
19 violent fantasies, that he obsesses at times about
20 killing people who piss him off, and thinks about
21 how he can do it and not get caught?

22 A That is not Dr. Shea's language. That is
23 from Mr. Guess, the mental health counselor at the
24 Lexington County Detention Center.

25 Q Who, obviously, Dr. Shea is relying on. A

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 credible source for Dr. Shea to rely on, correct?

2 **A** Right. But I want to make it clear that is a
3 quote from the records, not Dr. Shea's findings.

4 **Q** That's quite alright.

5 So then we get to how has Billy Kelly done
6 since he's been in prison. We had a host of
7 infractions, right?

8 **A** We have 12 infractions over 25 years.

9 **Q** The first one back in '03, 24 years old. He
10 has two shanks, and I believe you said he had just
11 come off of death row. Why did he need that knife?

12 **A** He told me that he felt threatened, and he
13 had been the subject of an assault by other
14 inmates.

15 **Q** And he needed it for self-defense?

16 **A** Correct.

17 **Q** Doctor, were you aware looking at State's 43,
18 the knife that he took to KFC, the knife he used to
19 literally butcher Shirley Shealy, his explanation
20 to authorities for why he had this knife was for
21 self-protection?

22 **A** Yes, I'm aware of that. Correct.

23 **Q** The exact same explanation he gives you about
24 his shanks, right?

25 **A** Well, in this case he had been -- he said he

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 had been assaulted, not just threatened.

2 Q And you don't have a verification on whether
3 he was assaulted?

4 A Correct.

5 Q We have to believe Billy Kelly, who I think
6 you made it clear we don't know if we can believe
7 Billy Kelly?

8 A Correct. I will say it fits the
9 circumstances of his life at that time, being a
10 very young inmate, coming from a very controlled
11 environment.

12 Q Let's not make excuses. He has shanks in
13 prison.

14 A Of course. He had shanks under his mattress.
15 No indication he ever used those.

16 Q There is no excuse for that. We can't say,
17 oh, this is where he was in life. He can't have
18 shanks in prison, period, right?

19 A Of course. Correct.

20 Q Now we have other things like cell phones,
21 all the way up through 2021, right?

22 A Correct.

23 Q These infractions come all the way up to
24 2022, but a cell phone as late as 2021. What is
25 significant is he knows this hearing that we're

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 here on today is pending and, yet, he still just
2 can't seem to follow the rules, even if they are
3 simple. He can't follow them, right?

4 **A** Correct.

5 **Q** So even though they may seem insignificant on
6 the surface, this man, knowing he's coming into
7 this courtroom and going to face someone like me
8 and face a judge, he can't follow rules, easy ones,
9 right?

10 **A** Correct, he did have a cell phone in 2021.

11 **Q** And then he has drugs in prison, right?

12 **A** He tested positive for drugs back in 2013.

13 **Q** How do you test positive for drugs if you
14 don't use them? It's not breathing it in.

15 **A** Yes, of course, Solicitor. He was using
16 them, but they didn't find drugs on his person. He
17 failed a drug test.

18 **Q** Right, which is indicative of you had drugs,
19 you shouldn't have had drugs, right?

20 **A** Of course.

21 **Q** So he violated those rules. It may be
22 insignificant, but if he can't mind the little
23 things where he knows he will under a spotlight,
24 how will he be when no one is watching him?

25 **A** I think most significant is I'm looking for

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 any kind of violence or aggression.

2 Q I know what you are looking for.

3 A And there is not any.

4 Q I'm not asking about is he going to kill
5 somebody again. He -- knowing he is watched, he is
6 still committing stupid violations, right?

7 A Correct.

8 Q And, yet, we're talking about putting him out
9 in the world where nobody is watching him, right?

10 A Correct.

11 Q And getting back to opportunities, you heard
12 Rita Crapps. Did you ever reach out to call her or
13 anyone from SCDC to say what classes are available
14 to a person with a life sentence?

15 A No. I looked at some SCDC policies in that
16 regard and am generally familiar with SCDC and just
17 talking to a lot of guys over the years. But, no,
18 I did not reach out to Ms. Crapps.

19 Q Your report indicates that most of it is
20 self-reported from Billy Kelly about what he could
21 and couldn't do, right? Your report?

22 A Correct.

23 Q So you don't have in your report SCDC
24 guidelines or a reference for the Judge to see,
25 right?

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 **A** I don't have the SCDC policy listed in my
2 report.

3 **Q** Rita Crapps is the assistant -- deputy
4 director over programs and also over reentry,
5 right?

6 **A** Right.

7 **Q** Great source, correct?

8 **A** That's right.

9 **Q** She ends up talking about three separate
10 areas. One is education opportunities?

11 **A** Right.

12 **Q** She talks about vocational opportunities?

13 **A** Correct.

14 **Q** And then about character development,
15 correct?

16 **A** Right.

17 **Q** With education, she said, obviously, he got
18 his GED, but he had everything else opened to him.
19 Every other opportunity is there given. He can
20 still pursue additional education, correct?

21 **A** She mentioned being a TA, and you have to
22 score a certain -- you have to take tests and score
23 a certain high enough score on these tests to be a
24 TA.

25 **Q** He never took the test?

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 **A** He never took the test. I'm not sure that he
2 could score that high to be a TA. He certainly
3 earned his GED.

4 **Q** We'll never know because he never tried.
5 That's the point, he never tried?

6 **A** Right.

7 **Q** He got done with his GED, education stopped,
8 I'm done? No more school, right?

9 **A** Right.

10 **Q** Vocational enhancement and training,
11 Ms. Crapps did say that people who are going to be
12 getting out shortly, we want them to have a
13 vocational trade. But she did say it is open to
14 all, and that does not exclude you that you not out
15 in the next 24 months. It is not an exclusionary
16 thing?

17 **A** That's at odds with the policy. The reentry
18 services start when someone has 24 months left on
19 their sentence. That does not apply to lifers.

20 **Q** She didn't say anything at odds with that.
21 She said that is not exclusionary, right? That is
22 what she said in court.

23 **A** But that would be exclusionary. If you have
24 life sentence, you will never have 24 months left
25 on your sentence.

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 **Q** We'll let the Judge's memory hold. But she
2 said 24 months, yes, for those coming up on
3 reentry. But all the opportunities were there,
4 because they want to treat everybody as they might,
5 and so no one is excluded. People might get
6 priority, but no one is excluded. She made a
7 point.

8 **A** The policy states that at 24 months left on a
9 sentence, that's when the reentry services start,
10 that is when the vocational services start.

11 **Q** So Rita Crapps doesn't know her own policies?

12 **A** And she didn't testify to the 24 months.
13 That did not come up in her testimony.

14 **Q** She was crossed about it, about priority?

15 **A** Sure.

16 **Q** So let's talk about character development
17 programs. Mr. Kelly has none, right? None?

18 **A** No, I don't think he's been in a character
19 dorm for any length of time.

20 **Q** And those are so important because they talk
21 about respect and accountability, right?

22 **A** Character dorms are great institutions within
23 SCDC.

24 **Q** And he has not taken advantage of that?

25 **A** Correct.

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 **Q** And with his jobs what is he? He's a general
2 worker?

3 **A** Correct.

4 **Q** He has not made any attempt to do anything
5 above being responsible for cleaning his own cell,
6 right?

7 **A** Well, general workers clean the unit as well.
8 They clean bathrooms and --

9 **Q** Their living areas?

10 **A** Sure.

11 **Q** But he's not aspired to do anything else, to
12 have anything else, do anything else that if he
13 were to get out, he would know a trade, I know how
14 to do things, I'll be able to get a job, right?

15 **A** The trades in SCDC are heavily prioritized to
16 guys who are getting out. That is just how it
17 works.

18 **Q** You and I can disagree on that. We'll let
19 the Judge do that. I'm talking about character
20 development.

21 **A** Right. We established he's never been
22 involved in a character dorm.

23 **Q** And the dorm he's in is the dorm he cleans as
24 a worker? That is the only job he's gotten at SCDC
25 that he's aspired to? When he's been bumped up, he

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 has asked to go back, I just want to be a general,
2 keep-my-area-clean guy?

3 A Sure.

4 Q No motivation, right?

5 A I wouldn't say that he has no motivation.

6 Q 28 years in prison, and that's the best he
7 got?

8 A He has other jobs in his job history, but
9 that is what he does now.

10 Q Every time there was something involving more
11 skill, a little more prestige, he asked to get out.
12 There was one time -- I think there was an
13 investigation or something where he was sent back,
14 right?

15 A Yes.

16 Q But he's never aspired to anything, right?

17 A Again, to say he's never aspired to anything,
18 I don't think that is accurate. He's been at the
19 same job for years.

20 Q Cleaning.

21 All right, Doctor, based on all of that, that
22 stellar prison record, based on all of the four
23 statements where we can't tell if he's telling the
24 truth or not, we can at least agree he's lying on
25 most of them, you think he's somebody who merits

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DR. SUSAN KNIGHT - CROSS EXAMINATION

1 having a sentence reduction?

2 **A** So I don't give an opinion on sentence. That
3 is squarely within the jurisdiction of the Court.

4 **Q** I didn't give a number, but the Judge is
5 looking to you. Does this guy merit having a
6 reduction? You understand that?

7 **A** Again, that is outside of my purview. That
8 is within the jurisdiction of the Judge and the
9 court. I don't comment on a sentence.

10 **Q** So you would be perfectly fine if the Judge
11 said, You know what, I've heard everything, life?
12 And you will go about your way and are fine with
13 that?

14 **A** Of course. I'm here to provide information
15 on the factors.

16 **Q** All right. Good.

17 MR. HUBBARD: Thank you.

18 THE COURT: We need to take a comfort recess
19 before you do cross (sic). I want to finish this
20 witness before we end or lunch, whatever the case
21 will be.

22 Do you have anything else after this witness?

23 MS. MAULDIN: Couple exhibits, but that's it.

24 THE COURT: Let's push through instead of
25 taking a lunch recess, but take five minutes.

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DR. SUSAN KNIGHT - REDIRECT EXAMINATION

1 (A recess was taken.)

2 (Defendant's Exhibit 5-11 marked.)

3 MS. MAYES: We can proceed?

4 THE COURT: You good?

5 MS. MAYES: Yeah.

6 **REDIRECT EXAMINATION**

7 **BY MS. MAYES:**

8 **Q** He addressed sexual advances that Ms. Shealy
9 had made on him?

10 **A** Correct.

11 **Q** And later on the version became that there
12 was a relationship?

13 **A** Correct.

14 **Q** Okay. Now, the information about there being
15 some sort of sexual encounter or relationship was
16 not based on his opinion alone, right?

17 **A** The information came from different sources.

18 **Q** Okay. And we reviewed the materials in the
19 case that his mother -- when the police first began
20 investigating this and they were looking for him,
21 his mother filled out a missing person's report
22 looking for Billy, right?

23 **A** Yes.

24 **Q** And in that report, dated January 5th, the
25 very same day, this is the first information that

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DR. SUSAN KNIGHT - REDIRECT EXAMINATION

1 anyone had about anything happening, she refers to
2 Ms. Shealy as his girlfriend, correct?

3 **A** Correct.

4 MS. MAULDIN: Judge, that is marked as
5 Defendant's Exhibit 6.

6 THE COURT: Okay.

7 MS. MAULDIN: I'll pass all of these up at
8 once.

9 **Q (BY MS. MAULDIN)** And, then, also in the
10 police reports there was an interview of an
11 employee Mary Coleman; is that right?

12 **A** Yes.

13 **Q** And she talked about how they had words, that
14 Billy had been in the store, that Mr. Neil had come
15 in around 8:00 or 8:30, he had given her a look,
16 she said she wasn't worried about that. She was
17 asked if there was any relationship. She said that
18 Shirley flirted with him. Whether they liked each
19 other, I don't know. That there was a problem with
20 Neil, and that he didn't like her being around or
21 talking to an employee, David Davis. Why was he
22 jealous of David, and they could have had a
23 relationship before for Neil to be jealous, and did
24 Neil appear or jealous to yourself, and she said
25 Shirley always said he was.

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DR. SUSAN KNIGHT - REDIRECT EXAMINATION

1 Your understanding is that that is the
2 statement from Ms. Coleman in the investigation of
3 this case?

4 **A** Yes.

5 **Q** And that also she was asked about any
6 disgruntled employees or customers and said that he
7 had not, but she had only been there for three
8 months, and that would have been within the time
9 that Billy was working there, because he left in
10 December, which would have been, at most, a month
11 before this happened, right?

12 **A** Yes.

13 **Q** So that was Ms. Coleman offering information
14 about the relationship.

15 Then, also an employee named Kevin or Kelvin
16 Harris, and you are aware that he was asked about
17 Ms. Shirley having marital problems, and he
18 responded that he didn't know anything -- she
19 didn't say anything, but that he knew that her
20 husband, Neil Shealy, accused her of the cook, and
21 David Davis also said that her husband, Neil, was
22 jealous; is that right?

23 **A** Correct.

24 **Q** And then you are aware that he gave a
25 statement to Ms. Massey, the mitigation expert on

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DR. SUSAN KNIGHT - REDIRECT EXAMINATION

1 the death penalty trial; is that right?

2 **A** Yes.

3 **Q** And, in that, he reported having seen them
4 all over each other in the back room on the table.
5 He said they were always messing around, and that
6 she had gone with different men at varying times,
7 and the last one had been at Irvin's Auto, and that
8 is the report she gave to Ms. Massey, correct?

9 **A** Yes.

10 **Q** And then going back to Jessie Johnson, of
11 course he testified today about the existence of a
12 relationship that he testified that he had seen,
13 and also that he had talked to the police, that he
14 lied the first time he talked to them, but the
15 second time he talked the same day, the 8th, and he
16 said that they would have intercourse in the back
17 office, and Billy said he had an affair with the
18 woman and that it was not his child, right?

19 **A** Correct.

20 **Q** And then also Ms. Anderson, who gave a report
21 to Investigator MacDougall for the Public
22 Defender's Office, and in this report she
23 described -- among other things -- an episode where
24 Shirley had come up and stood in front of Billy and
25 had asked if he wanted to see her breasts; is that

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DR. SUSAN KNIGHT - REDIRECT EXAMINATION

1 right?

2 **A** Correct.

3 **Q** And he said, No. He talked about another
4 woman there, and then she asked if he wanted to
5 kiss her; is that right?

6 **A** Yes.

7 **Q** And that this person also reported to the
8 investigator that -- that Shirley had told her that
9 they had sex in the breakroom, and then recanted
10 and said she was just kidding about that?

11 **A** That is what I recall, yes.

12 **Q** And also this witness talked about Billy --
13 Shirley sometimes pinching Billy in the crotch and
14 on the butt?

15 **A** Yes.

16 **Q** So there was evidence even then of a sexual
17 relationship between the two of them?

18 **A** From those reports, yes.

19 **Q** From the reports, not that we know for sure?

20 **A** Right.

21 **Q** And the Solicitor asked and asked and asked
22 again this question, but did Billy lie about
23 different things over the course of the
24 investigation of his case?

25 **A** Yes.

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DR. SUSAN KNIGHT - REDIRECT EXAMINATION

1 **Q** And you have no way of knowing whether he's
2 telling the truth now about what happened?

3 **A** Correct.

4 **Q** For your analysis, does it matter whether
5 he's telling the truth or lying now?

6 **A** You know, I go back to what happened, and he
7 committed an armed robbery and a homicide. The
8 circumstances of that homicide, he was the sole
9 participant in the homicide. He planned the
10 robbery. In my opinion, family pressures were the
11 crux of that. None of that depends on his account
12 of what he is telling me now as far as the
13 truthfulness of it. It doesn't change the fact
14 that -- whatever he is telling me now doesn't
15 change the fact that he committed these crimes in
16 looking at the pressures around that, as directed
17 by the court.

18 **Q** And when we're considering his case and the
19 factors, if we're looking at the circumstances of
20 the crime, the crime itself was horrible?

21 **A** Yes.

22 **Q** And there is no question that he stabbed her
23 31 times, and that she was pregnant at the time?

24 **A** Correct.

25 **Q** And aside from that brief denial to the

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DR. SUSAN KNIGHT - REDIRECT EXAMINATION

1 police in Lowell, Massachusetts, he has never
2 denied that?

3 **A** Correct.

4 **Q** His attorneys at trial, essentially, conceded
5 that, that he had killed her, he was guilty?

6 **A** Yes.

7 **Q** And nothing that he has told you ever since,
8 has he ever said anything to say that he did not do
9 that terrible act to Ms. Shealy?

10 **A** No, he's never denied that to me.

11 **Q** Okay. And so when we're talking about the
12 factors for the circumstances of the crime, this
13 was a horrible situation. Do you have an opinion
14 on how significant any lies about that situation
15 are in comparison with the horror of the act
16 itself?

17 **A** Well, I'm taking into account the violence of
18 the act, the planning of the robbery. I'm taking
19 all of that into account. That's the most
20 important piece of it for me, and that he's
21 acknowledging these actions.

22 Then, for me, as the psychologist looking at
23 what the Court directs me to look at,
24 participation, familial and peer pressures, for me,
25 the most significant part of this is the family

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DR. SUSAN KNIGHT - REDIRECT EXAMINATION

1 pressures, and so that's what I'm using to analyze
2 the case. I don't know if they are having a
3 relationship. I can't verify that one way or the
4 other. It's not terribly important in my analysis
5 of the factors of the course that the Court is
6 asking me to look at.

7 Q Exactly. Right.

8 Now, when you have made your report about
9 Mr. Kelly, are you taking his word for it on
10 whether or not he was abused by his father? Do you
11 have independent evidence that he was abused by his
12 father? You are not just relying on his testimony?

13 A Correct.

14 Q And when you are considering the fact that he
15 had no record of violence before this, are you
16 relying on his word for it?

17 A No.

18 Q And when you are considering whether or not
19 he has committed any violent crimes since then,
20 over the past 28 years, you are not taking his word
21 for it?

22 A No. I'm looking at SCDC records.

23 Q And when you're looking at SCDC records,
24 you're not just taking his word for it, that there
25 is only one assaultive incident, and that does not

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DR. SUSAN KNIGHT - REDIRECT EXAMINATION

1 include any actual violence?

2 **A** Correct.

3 **Q** And you're not taking his word for it when
4 you are considering brain development of juveniles
5 at his age?

6 **A** Correct.

7 **Q** Let's go back. When you were questioned
8 about Mr. Mackormic, first of all, not only was he
9 trying to get a sentence reduction, he admitted
10 that, right?

11 **A** Yes.

12 **Q** Also admitted that he had a prior record that
13 the Solicitor described as being as long as his
14 tattooed arms?

15 **A** Correct.

16 **Q** And when Billy was incarcerated with him, can
17 you describe the relationship as you believe it to
18 be between Billy and Mr. Mackormic and the other
19 older individual that he was housed with?

20 **A** I believe Mr. Mackormic was maybe six years
21 older. He was an -- he had a lot of charges,
22 apparently, according to the testimony, a lengthy
23 criminal history. He was in for a firearms charge,
24 things that came out during his testimony that gave
25 me a little sense about him. He told the Court

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DR. SUSAN KNIGHT - REDIRECT EXAMINATION

1 that he loves guns in the course of his firearms
2 charges. He told the Court he's not a good boy.
3 These are things coming out in open court.

4 So the sense of Mr. Mackormic is that he has
5 -- he's placed in a room with Mr. Kelly, who has no
6 criminal experience. He is 17. Mr. Mackormic is
7 an adult and has a lengthy criminal experience. So
8 that dynamic tells me that one person is going to
9 be more vulnerable than the other, and probably
10 Mr. Kelly is going to be more vulnerable than
11 Mr. Mackormic if they are in a room together at the
12 detention center.

13 Q Do you have any information that
14 Mr. Mackormic or any other inmates tried to teach
15 Billy how to act in jail?

16 A You know, when I talked to Mr. Kelly about
17 the Lexington County conduct, he stated he was very
18 scared at that time. You know, Donnie Myers was
19 sort of a legend in the death penalty world, and
20 they talk about having his own electric chair in
21 the courtroom. Things like that that would scare a
22 17 year old. They, according to Mr. Kelly, told
23 him to play crazy and to say things to make him
24 look crazy to avoid the death penalty. He said he
25 wasn't given instructions on how to do that, so he

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DR. SUSAN KNIGHT - REDIRECT EXAMINATION

1 started saying crazy things because he was scared
2 of Donnie Myers and, of course, the electric chair,
3 all of the things upcoming in his case. So that
4 was his explanation of what was going on in the
5 detention center, and that is plausible given his
6 age and youth and newness to the whole correctional
7 situation versus older, more experienced criminals
8 he was in there with.

9 Q And that would explain the comment like the
10 one from Dr. Shea about animal abuse when there was
11 no evidence of that in any of the thousands and
12 thousands of records that you evaluated on
13 everything else?

14 A Correct.

15 Q And just in case it was not clear enough, can
16 you connect the dots between the anger against his
17 father and the way that that rumination with the
18 anger transferred onto Shirley Shealy?

19 A Well, the dots would be the severe physical
20 abuse for -- over years, and we just know as
21 psychologists and consistent with the literature,
22 that that kind of abuse breeds anger in children.
23 They don't have an outlet for it. It wasn't safe
24 to express it to his father, so it developed into
25 this rumination.

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DR. SUSAN KNIGHT - REDIRECT EXAMINATION

1 This is an established phenomenon with abused
2 children, and that anger rumination usually ends up
3 coming out in some explosive event, a rage type of
4 event, as the child gets older, particularly during
5 the child's adolescence when they have more
6 difficulty regulating.

7 In my opinion, something happened during the
8 homicide that triggered that rage and anger. It is
9 a high degree of emotion, and we have never seen
10 any violence from him since. So all of that makes
11 sense to me when I look at the case as a
12 psychologist.

13 **Q** And the shanks that you were asked about,
14 there is no evidence that he ever used any shanks
15 on anyone else, right?

16 **A** No, not that I have.

17 **Q** And while we don't have a lot of
18 documentation about that incident, we do have a
19 letter from the Department of Corrections to a
20 lawyer for Mr. Kelly; is that right?

21 **A** Yes.

22 **Q** And in that letter they direct her -- the
23 director for the institutional division refers to
24 this attorney writing to him about Mr. Kelly being
25 the subject of serious threats at Lee Correctional

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DR. SUSAN KNIGHT - REDIRECT EXAMINATION

1 Institution; is that right?

2 **A** I saw that in the records, yes.

3 **Q** So that letter was dated from September of
4 2002, correct? So that would have been a period of
5 months before he was found with those shanks in
6 February of 2003?

7 **A** Yes.

8 MS. MAULDIN: Your Honor, I would hand this
9 up to the Court as well.

10 THE COURT: Okay.

11 **Q** We heard a lot about Ms. Crapps for the
12 programs that are available. In your opinion, can
13 a person be rehabilitated without taking part in
14 the set programs that SCDC offers?

15 **A** Well, I think there is external
16 rehabilitation and internal rehabilitation.
17 Mr. Kelly seems to have chosen the latter path as
18 far as working on himself and his reflection and
19 insight. It is more of an internally motivated
20 rehabilitation that I think has been guided by
21 religious principles over many years.

22 So I think that is another way -- that's
23 another path towards rehabilitation. Programs are
24 great, and I don't want to say anything about the
25 programs. They are great, but it is not the only

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DR. SUSAN KNIGHT - REDIRECT EXAMINATION

1 path to rehabilitation.

2 Q He earned his GED, as we heard?

3 A Yes.

4 Q And the SCDC policy itself discusses people
5 eligible for an upcoming reentry into society being
6 given preference for vocational programs, correct?

7 A Yes.

8 Q Regardless of what Ms. Crapps testified to on
9 the stand?

10 A Correct.

11 Q And when you are discussing this, you have
12 experience with SCDC and the programs available, in
13 part, just because you meet with so many people who
14 are inmates in SCDC?

15 A Correct.

16 Q And sometimes there can be a difference
17 between what is theoretically possible and what is
18 practically possible?

19 A Sure.

20 Q Lastly, is there anything inherently wrong
21 with being someone who is a ward keeper assistant?

22 A No, not in my opinion.

23 Q It is a job, and he has maintained the job?

24 A Yes.

25 MS. MAULDIN: Thank you, Your Honor. And

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DR. SUSAN KNIGHT - RECROSS EXAMINATION

1 I'll pass up the --

2 THE COURT: Leave them all there because I'll
3 have to put it altogether to take it with me.

4 Anything else?

5 MR. HUBBARD: Real quick, and I will be
6 quick.

7 **RECROSS EXAMINATION**

8 **BY MR. HUBBARD:**

9 Q Doctor, you conceded that looking at the
10 crime scene, that car there, there was a struggle
11 at that car, correct?

12 A There is a piece of paper on the ground.

13 Q The door is open, car is running, consistent
14 with a struggle? Can you at least answer that?

15 A I didn't see anything in the trial record
16 that indicated -- nobody testified there was a
17 struggle outside of the car. It could have been a
18 piece of paper that fell out of the car, I don't
19 know. The struggle that I heard about was around
20 the chair.

21 Q Mr. Kelly, in one statement, admits that he
22 had a knife and forced her inside, so it would be
23 consistent with a struggle at the car, correct?

24 A There could have been a struggle at the car,
25 I just don't know.

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DR. SUSAN KNIGHT - BY THE COURT

1 Q Bottom line is this: With all of the
2 statements he's given, you basically say even now,
3 45 years of age, you don't know if this man is
4 telling you the truth or not?

5 A Correct.

6 Q And so when he self-reports, you don't know
7 whether it is true or not, that is why you ask
8 other folks, but there is a lot you can't
9 corroborate, right?

10 A That's right.

11 Q When he says I'm sorry for what I've done,
12 you don't know if he is or not, do you?

13 A That's right.

14 Q So you have no idea if he really has remorse,
15 correct?

16 A Correct.

17 MR. HUBBARD: Thank you.

18 THE COURT: Kind of following up on that
19 question.

20 EXAMINATION

21 BY THE COURT:

22 Q Let me ask you this: Considering the Miller
23 factors under *Aiken versus Byars*, under our case
24 law, is the premise -- the premise that Mr. Kelly
25 is trying to minimize his behavior by denigrating

ORIGINAL FOR USE BY S.C. INDIGENT DEFENSE ONLY!!

DR. SUSAN KNIGHT - BY THE COURT

1 the character of the victim, via his most recent
2 statement given to you in the last year or so, at
3 age 45 or 44, versus 17, is that significant to you
4 in your analysis under the Miller factors? And if
5 so, or if not, why?

6 **A** Well, I don't know if it's the truth or not.
7 So if it's the truth, it's the truth. That
8 wouldn't be a denigration of sorts, it would be the
9 truth. So because I can't weigh the accuracy and
10 the veracity of it, I can't do much with it. You
11 know, it doesn't really fall into --

12 **Q** Your analysis?

13 **A** Or the Miller factors, you know. That is not
14 a real data point on rehabilitation. What I'm
15 looking at for rehabilitation is violence and has
16 this person matured over the years in looking at
17 the research concepts of desistence, that sort of
18 thing. Because I can't weigh the veracity of it, I
19 can't do much it.

20 THE COURT: Okay. Thank you. You can step
21 down.

22 Any further presentation from the defense?

23 She's free to leave?

24 MS. MAULDIN: I ask that she stick around.

25 THE COURT: Okay. Stick around.

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STATEMENT BY MR. HUBBARD

1 THE WITNESS: Okay.

2 MS. MAULDIN: I have a few documents also,
3 but I can integrate those in my presentation. I
4 have shown them to the prosecution.

5 THE COURT: Okay. They are coming in. It is
6 a sentencing hearing. But no other witnesses?

7 MS. MAULDIN: No, Your Honor.

8 THE COURT: Any witnesses from the State in
9 reply?

10 MR. HUBBARD: No, sir, Your Honor.

11 THE COURT: I know what time it is. Then
12 again, I know everybody wants this to be over with,
13 and I think both sides had a fair opportunity to
14 present everything to me, but I will give you a
15 brief opportunity to kind of, you know, tell me
16 your positions. Are you ready to do that?

17 MS. MAULDIN: May we approach?

18 THE COURT: Yeah.

19 (Whereupon, a bench conference was had.)

20 THE COURT: We will break for lunch and take
21 a quick hour break. So I'll start right back at
22 2:20. Don't go far.

23 (A lunch recess was taken.)

24 (Defendant's 12-23 marked.)

25 THE COURT: All right, Solicitor.

ORIGINAL FOR USE BY S.C. INDIGENT DEFENSE ONLY!!

STATEMENT BY MR. HUBBARD

1 MR. HUBBARD: Your Honor, I will be very
2 brief, but focusing on the five factors you have to
3 consider, I would like to take them one at a time.

4 Hallmark features of youth. Let's start with
5 a very obvious thing, if he had been five months
6 older, you and I wouldn't be here. He either would
7 have a life sentence or would have been retried for
8 death. There is no question Solicitor Myers would
9 have retried him because of the heinous nature of
10 this case.

11 As far as immaturity, yeah, he's young, but
12 he was holding down several jobs. One time it's
13 Burger King and McDonald's, and then KFC and
14 McDonald's. He had a driver's license. He had a
15 car he could drive around. There is a lot of
16 people that can't. We're not talking about a 14
17 year old or 15 year old.

18 Impetuous nature. Your Honor, this case
19 shows planning. Even in his last statement he
20 talked about all of the planning. It was not an
21 impulsive act. Your Honor sees defendants coming
22 in every day into court with the stupid ideas, and
23 they might be in their 30s. It was a bad plan, but
24 it was a plan.

25 When you look to the appreciation of

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STATEMENT BY MR. HUBBARD

1 consequences, that plan is important as well. Why
2 would he be hiding? He knew he had to hide in the
3 victim's car. I mean, if that's what he was going
4 to do, he needed to hide from her. He had Duct
5 tape so he could make sure there was no
6 fingerprints. He had gloves -- I mean gloves for
7 no fingerprints and Duct tape so he could tie her
8 up, so she couldn't fight back. He had a knife.
9 He was not leaving anyone behind. No witnesses,
10 Judge. He thought this through. A gas can.

11 Judge, the circumstantial evidence before
12 this Court is that that family that owned the car,
13 the Shealys, had never seen that gas can before.
14 How did it get there? Probably from the last
15 person who was in the back seat, Billy Kelly. And
16 why didn't he use it? He tells his own scheme gets
17 interrupted by law enforcement.

18 He's got a planned alibi. Even in his talks
19 with Dr. Knight he talks about how he made a point
20 to tell his mom, Here is where I'm going to go,
21 he's going to show up so if anything happened, he
22 would have people to say, yeah, we saw Billy Kelly
23 over in Columbia, couldn't have been Billy. And if
24 there had been a fire, no one would really know
25 exactly when it happened.

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STATEMENT BY MR. HUBBARD

1 Looking at the family and home environment,
2 Your Honor. Let's concede that Dad is a bad
3 person. I don't know. I mean, he is a man that no
4 one has laid eyes on or heard from, but there was
5 no link between the defendant's anger at his dad
6 and planned robbery and brutal murder of Shirley
7 Shealy. None. The closest you have is that
8 document from the investigator, who supposedly
9 talked to Mr. Morgan, who speculated about sexual
10 abuse that no one has said took place with Billy
11 Kelly. That's it. Otherwise, it is just this
12 repressed anger hidden in there that comes out, and
13 a complete lack of appreciation for his anger at
14 Shirley Shealy.

15 The evidence before you is that he quit -- or
16 this family said he was fired. He was fired. It's
17 mere speculation to say there is a link between his
18 dad and what happened.

19 The circumstances of the homicide. The
20 evidence is that he did this by himself. This
21 wasn't staged. That car wouldn't have been left
22 out front if there was a plan, if he had a
23 co-conspirator. That is the most absurd story that
24 you can tell. The very thing that gets him caught
25 he's going to leave there to make it look real?

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STATEMENT BY MR. HUBBARD

1 That's absurd.

2 The crime is extremely aggravated. Shirley
3 was the sole focus, Your Honor, the sole focus of
4 his rage. The premeditation and planning are
5 obvious. There is extreme malice in this case: 31
6 stab wounds. I don't need to walk all the way
7 through and show you pictures. Her throat was cut.
8 She was six months pregnant. Her hands tied behind
9 her back with Duct tape. No defensive wounds. She
10 was totally immobilized, and then brutalized, and
11 that was the plan.

12 If she's not part of this, he owns all of
13 this. I mean, there is no evidence that she's
14 planning this. This crime just speaks of one man
15 who is extremely angry. And, yes, he robs KFC,
16 but, Your Honor, he could have gone down to a
17 McDonald's and robbed a McDonald's. He could have
18 robbed or stolen money from anywhere if he just
19 wanted to get away, if that is his excuse, but he
20 chose KFC. He chose to be there when Shirley
21 Shealy was going to be alone. That is why he hid
22 in her car. A nightmare.

23 Thinking about the crime, I can't imagine
24 what was going through her mind. She's driving
25 down the road and, Your Honor, you're from small

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STATEMENT BY MR. HUBBARD

1 areas, too. Batesburg-Leesville is just like any
2 other area, once you get outside of Batesburg, it's
3 dark. For somebody to pop up in your back seat and
4 have a knife, force you back, you struggle at the
5 car, stuff in the back seat falls out, and you
6 realize who it is. It's Billy. Billy, I know you.

7 You also realize there is no way that Billy
8 is going to let me live because he knows me, and
9 she has a six month old baby. Judge, that is why
10 this was a death penalty case. This is horrifying.
11 This is everyone's nightmare. If this happened
12 today at 18 19, we would be right back here going
13 for the long hall on a death penalty case. This
14 case after 30 years still cries out for it.

15 The incompetencies associated with youth.
16 Your Honor, there is no evidence that he was
17 overpowered when he gave his Miranda rights and
18 chose to speak. When he spoke, he said, basically,
19 I just want to get this over with. I don't want my
20 sister getting in trouble. I don't want her there.
21 He wanted to be alone with law enforcement and to
22 simply imply, oh, because he's 17, he just doesn't
23 know what he's doing. Your Honor, what facts are
24 those? Again, that's speculation. He has a road
25 map. Judge, we brought out there was a blizzard,

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