STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Horry County
Michael G. Nettles, Circuit Court Judge

Opinion No. 4924 (S.C. Ct. App. filed 12/21/2011)
07-GS-26-00781

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S.C. Supreme Court

THE STATE,

RESPONDENT,

V.

BRADLEY SCOTT SENTER,

PETITIONER

APPENDIX

DAYNE C. PHILLIPS
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorney for Petitioner

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

CHRISTINA J. CATOE
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

J. GREGORY HEMBREE
Solicitor, Fifteenth Judicial Circuit
Post Office Box 1276
1301 2nd Ave.
Conway, SC 29528-1276
(843) 915-5460

Attorneys for Respondent

INDEX

INDEX i

COURT OF APPEALS OPINION 1

PETITIONS FOR REHEARING AND REHEARING EN BANC 9

ORDER DENYING REHEARING AND REHEARING EN BANC 27

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State, Respondent,

v.

Bradley Scott Senter, Appellant.

Appeal From Horry County
Michael G. Nettles, Circuit Court Judge

Opinion No. 4924
Heard November 17, 2011 – Filed December 21, 2011

AFFIRMED

Appellate Defender Dayne C. Phillips, of Columbia, for Appellant.

Attorney General Alan Wilson, Chief Deputy Attorney General John W. McIntosh, Assistant Deputy Attorney General Salley W. Elliott, Assistant Attorney General Christina Catoe, all of Columbia; and John Gregory Hembree, of Conway, for Respondent.

LOCKEMY, J.: Bradley Senter appeals his convictions of assault and battery with intent to kill (ABWIK) and criminal domestic violence of a high and aggravated nature (CDVHAN). Senter argues the trial court erred in (1) denying his directed verdict and new trial motions and (2) denying his request to waive his right to a jury trial. We affirm.

FACTS/PROCEDURAL BACKGROUND

On November 13, 2006, Senter shot his estranged wife, Dena Senter Lester (the Victim), inside his home.[1] The Victim escaped and, after unsuccessfully trying to alert a neighbor, collapsed in the front yard. According to the Victim, Senter grabbed her by the arms, dragged her to a secluded area in the yard, and told her, "Oh no, you're not going to be out here where somebody will find you." The Victim then used the panic button on her car remote to set off her car alarm. When Senter left the Victim to shut off the alarm, she again ran to a neighbor's house for help. After receiving no answer, the Victim returned to the spot where Senter moved her and "played dead." Senter returned to the Victim and, after inspecting her wound, went inside the house. The Victim then ran toward the sound of a tractor on an adjacent golf course. Joseph Estock, the tractor driver, called 911 while the Victim hid behind the tractor. While Estock was on the phone with 911, Senter appeared on the golf course. According to Estock, Senter told him to "hang up the phone now, turn around, and start walking. You don't know what she did to me." After Estock left, Senter stood over the Victim and mocked her religious beliefs and threatened to shoot her and himself before walking away. Thereafter, police arrived and Senter was taken into custody. The Victim was airlifted to the hospital where she was treated for a collapsed lung and broken ribs, and underwent surgery to remove the bullet from her liver.

On January 25, 2007, Senter was indicted by the Horry County Grand Jury for ABWIK and CDVHAN. After denying Senter's request to waive his

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[1] Senter asked the Victim to come to his home the morning of November 13, 2006, to pick up signed divorce papers and give him a haircut.

right to a jury trial, the trial court found Senter was competent to stand trial.[2] At trial, Senter did not deny he shot the Victim; however, defense counsel argued Senter suffered from a mental illness and didn't understand or have control over his conduct. The Victim, in addition to Senter's mother and sister, testified Senter believed his family members were conspiring with the FBI to have charges brought against him. Additionally, two doctors diagnosed Senter with delusional disorder and determined he had a fixed, false belief that the FBI was trying to destroy his life. Senter was voluntarily hospitalized to treat his mental illness three times between January and March 2005.

At the close of the State's case, defense counsel moved for a directed verdict as to both the ABWIK and CDVHAN charges. Defense counsel argued there was no evidence Senter intended to kill the victim. The trial court denied the motion, finding a specific intent to kill was not an element of ABWIK. Following the presentation of its case, the defense renewed its motion for a directed verdict and again argued there was no evidence Senter intended to kill the victim. Additionally, defense counsel asked the trial court to direct a verdict of not guilty by reason of insanity. The trial court took the motion under advisement. Following testimony from the State's reply witnesses, the trial court denied Senter's motion for a directed verdict.

On June 5, 2008, the jury found Senter guilty of ABWIK and CDVHAN. On June 20, 2008, the trial court denied Senter's post-trial motion for a new trial. The trial court found there was "no question that [Senter] was mentally ill;" however, the court stated it was not in a position to substitute its judgment for that of the jury. The trial court noted a reasonable jury could conclude Senter was sane and capable of "conform[ing] his conduct to the law." Thereafter, the trial court sentenced Senter to twenty years' imprisonment.[3] This appeal followed.

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[2] Defense counsel informed the trial court Senter was found competent to stand trial by the Department of Mental Health, and stated the defense had "no reason to believe" Senter was not competent to stand trial.

[3] This sentence consisted of ten years on the CDVHAN conviction and ten years consecutive on the ABWIK conviction.

ISSUES ON APPEAL

1. Did the trial court err in denying Senter's directed verdict and new trial motions?

2. Did the trial court err in denying Senter's request to waive his right to a jury trial?

STANDARD OF REVIEW

In criminal cases, appellate courts review errors of law only and are bound by the trial court's factual findings unless they are clearly erroneous. State v. Baccus, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006).

LAW/ANALYSIS

I. Directed Verdict and New Trial Motions

Senter argues the trial court erred in denying his directed verdict and new trial motions because there was no substantial evidence of sanity. We disagree.

When reviewing the denial of a motion for a directed verdict, an appellate court must review the evidence, and all inferences therefrom, in the light most favorable to the State. State v. Strickland, 389 S.C. 210, 214, 697 S.E.2d 681, 683 (Ct. App. 2010). "If there is any evidence, direct or circumstantial, which reasonably tends to prove the guilt of the accused or from which guilt may be fairly and logically deduced, the appellate court must find the case was properly submitted to the jury." Id. "The decision whether to grant a new trial rests within the sound discretion of the trial court, and [the appellate court] will not disturb the trial court's decision absent an abuse of discretion." State v. Mercer, 381 S.C. 149, 166, 672 S.E.2d 556, 565 (2009).

A defendant is insane if, "at the time of the commission of the act constituting the offense, [he], as a result of mental disease or defect, lacked the capacity to distinguish moral or legal right from moral or legal wrong or

to recognize the particular act charged as morally or legally wrong." S.C. Code Ann. § 17-24-10(A) (2003). "[T]he key to insanity is 'the power of the defendant to distinguish right from wrong in the act itself – to recognize the act complained of is either morally or legally wrong'." State v. Lewis, 328 S.C. 273, 278, 494 S.E.2d 115, 117 (1997) (quoting State v. Wilson, 306 S.C. 498, 506, 413 S.E.2d 19, 23 (1992)). "A criminal defendant is presumed to be sane; the State does not have to prove sanity." State v. Smith, 298 S.C. 205, 208, 379 S.E.2d 287, 288 (1989). "However, when a defendant offers evidence of insanity, the State no longer enjoys the presumption, but must present evidence to the jury from which the jury could find the defendant sane." Id. "Even though a defendant presents expert testimony, the State is not required to also produce expert testimony; lay testimony may be sufficient." Id.

At trial, Senter presented evidence of his insanity. Lisa Cleary, Senter's sister, testified Senter told her the "FBI was corrupt" and had "orchestrated his whole life and that they were the reason for his failures." According to Cleary, Senter also told her that her sixteen-year-old daughter was involved with the FBI. Cleary further testified she took Senter to two mental health facilities for evaluation, brought him to Duke University for medical testing, and paid for counseling.

Dr. Marla Domino, a court appointed psychologist with the South Carolina Department of Mental Health, testified Senter suffered from delusional disorder. She found Senter's mental illness manifested in a false, fixed belief that "the FBI was out to get him" and that the FBI had fabricated his wife's shooting to "destroy his life." Dr. Domino further testified that "because of his delusional disorder," Senter "did not know right from wrong at the time of the incident," and therefore, he was not criminally responsible for the shooting.

Cathy Battle, a professional counselor, testified she referred Senter to another counselor with a psychiatric background and recommended he enter an inpatient facility after he discussed his recurring suspicions and fears about the FBI during their session.

Dr. Rikki Halavonich, director of the psychiatry department at the Medical University of South Carolina, diagnosed Senter with delusional disorder, persecutory type and opined that Senter's mental illness "affected his thinking on that day as well as for at least a couple of years prior to that to the point that he did not appreciate moral and/or legal right from moral and/or legal wrong." Dr. Halavonich also testified that, in her opinion, Senter was not criminally responsible for the shooting.

To prove Senter's sanity, the State relied on testimony from several witnesses. Susan Vonspreckelsen, the Victim's neighbor, testified Senter came to her home the morning of the shooting looking for the Victim. According to Vonspreckelsen, when she told Senter the Victim was not there he asked to come inside and look around. She said Senter "seemed calm" and "a little intense, but no different than usual." In addition, Estock, the golf course tractor driver, testified Senter had a serious look on his face but he "wasn't really agitated" when he approached him on the golf course. Estock testified Senter told him in a "calm voice" to hang up the phone and walk away.

We find Senter's contention that the State failed to present evidence of his sanity is without merit. In addition to the testimony of the above-listed witnesses as to Senter's mental state on the day of the shooting, other evidence tended to establish Senter planned to harm the Victim and knew his conduct was wrong. For example, in the months leading up to the shooting, Senter endorsed all of the property settlement checks he received from the Victim with the statement: "Will be paid regardless of any medical, arrest, or any other event." Senter also refused to meet the Victim in a public place to exchange divorce papers, and insisted she come to his home. In addition, Senter moved the Victim from public view after she collapsed in his front yard, retrieved the spent shell casing after the shooting, and disabled the car alarm. We believe the jury could have determined these actions indicated Senter planned to shoot the Victim and knew his actions were wrong. Thus, we find the evidence of Senter's sanity was sufficient to create an issue for the jury. The weight to be accorded this evidence and the conclusion to be drawn from this evidence was for the jury to decide. For these reasons, we find the trial court properly submitted the case to the jury.

II. Jury Trial Waiver

Senter argues the trial court erred in denying his request to waive his right to a jury trial. This argument is not preserved for our review.

First, we note "there is no federally recognized right to a criminal trial before a judge sitting alone." Singer v. U.S., 380 U.S. 24, 34, 85 S. Ct. 783, 790 (1965). "A defendant's only constitutional right concerning the method of trial is to an impartial trial by jury." Id. at 36, 85 S. Ct. at 790. There is "no constitutional impediment to conditioning a waiver of this right on the consent of the prosecuting attorney and the trial judge when, if either refuses to consent, the result is simply that the defendant is subject to an impartial trial by jury – the very thing that the Constitution guarantees him." Id.

After jury selection, but prior to the commencement of trial, Senter waived his right to a jury trial. The State objected to Senter's waiver, arguing he did not have the State's consent pursuant to Rule 14(b), SCRCrimP.[4] Defense counsel argued Rule 14(b), SCRCrimP, was unconstitutional and deprived Senter of his right to waive a jury trial. The trial court denied Senter's request to waive his right to a jury trial.

On appeal, Senter argues the trial court's ruling violated his rights to due process and the effective presentation of a defense. Specifically, Senter maintains the "expert testimony and psychiatric theory" presented at trial "were too difficult for a lay jury to deal with fairly." Senter argues he has the right to present a defense that can be comprehended, understood, and fairly considered. Because Senter failed to raise this argument to the trial court, it is not preserved for our review. See State v. Carmack, 388 S.C. 190, 200, 694 S.E.2d 224, 229 (Ct. App. 2010) (holding arguments must be raised to and ruled upon by the trial court to be preserved for appellate review). Senter also argues the trial court erred in failing to find Rule 14(b), SCRCrimP, was unconstitutional. Senter failed to cite any authority to support this argument. Accordingly, we find it is abandoned. See State v. Jones, 392 S.C. 647, 655, 709 S.E.2d 696, 700 (Ct. App. 2011) (holding

[4] Pursuant to Rule 14(b), SCRCrimP, "[a] defendant may waive his right to a jury trial only with the approval of the solicitor and the trial judge."

"short, conclusory statements made without supporting authority are deemed abandoned on appeal and therefore not presented for review").

CONCLUSION

For the foregoing reasons, the decision of the trial court is hereby

AFFIRMED.

HUFF and PIEPER, JJ., concur.

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

THE STATE,

RESPONDENT,

V.

BRADLEY SCOTT SENTER,

APPELLANT

Appeal from Horry County

Michael G. Nettles, Circuit Court Judge

Opinion No. 4924 (S.C. Ct. App. filed December 21, 2011)

PETITION FOR REHEARING
PETITION FOR REHEARING EN BANC

Appellant Bradley S. Senter respectfully petitions this Court to rehear this case pursuant to Rule 221(a), SCACR, and to rehear this case en banc pursuant to Rule 219(a), SCACR. Appellant submits that this Court has overlooked and misapprehended points necessary for the proper resolution of this case. Specifically, this Court erroneously held that the trial court properly submitted the case to the jury when it failed to direct a verdict of not guilty by reason of insanity despite the State presenting only evidence of the presumption of Appellant's sanity. *See* S.C. Code Ann. § 17-24-10(A) (2003) (codifies the affirmative defense of insanity); *see also State v. Milian-Hernandez,* 287 S.C. 183, 336 S.E.2d 476 (1985) (finding that no jury issue was presented despite Hernandez's flight from the crime scene, which the Court had long held as circumstantial evidence from which a jury may infer sanity).

Furthermore, this case involves a question of exceptional importance. Specifically, the trial judge sentenced Appellant to a total of twenty years imprisonment despite the trial judge's acknowledgment that Appellant suffered from a mental illness. Accordingly, justice requires that Appellant receive adequate and proper treatment for his mental illness by the South Carolina Department of Mental Health. *See* S.C. Code Ann. §§ 17-24-40, 17-24-50 (2003) (provides that a not guilty by reason of insanity verdict is an acquittal that results in civil commitment of the defendant in the South Carolina State Hospital under certain conditions set forth in those statutes); *see also* S.C. Code Ann. § 44-17-580 (2000).

Background

On November 13, 2006, Appellant asked his wife, who was not living in their marital home at the time and was seeking a divorce, to give him a haircut and to pick up signed divorce papers. ROA. 116, l. 21-25; 176, l. 19 – 179, l. 4. After Appellant's wife cut his hair, Appellant began acting erratically and subsequently shot her causing severe bodily injury. ROA. 179, l. 5 – 183, l. 9.

On January 25, 2007, Appellant was indicted by the Horry County Grand Jury for (1) assault and battery with intent to kill (ABWIK) and (2) criminal domestic violence of a high and aggravated nature (CDVHAN). ROA. 708–711. Appellant was *initially* held incompetent to stand trial and was ordered to spend sixty days in an inpatient treatment facility.[1] ROA. 357, l. 5 – 359, l. 25.

On June 3, 2008, Appellant proceeded to trial before the Honorable Michael G. Nettles. ROA. 1–548. After the presentation of its case, defense counsel made a motion to direct a

[1] S.C. Code Ann. § 44-23-410(A) (Supp. 2010) (The issue of whether a defendant is competent to stand trial is a question of whether the defendant has "the capacity to understand the proceedings against him or to assist in his own defense as a result of a lack of mental capacity.").

verdict of not guilty by reason of insanity, and the trial judge took the motion under advisement. ROA. 437, l. 8 – 444, l. 18. Ultimately, the trial court denied Appellant's motion for a directed verdict by reason of insanity following testimony from the State's reply witnesses. ROA. 469, l. 18 – 477, l. 17.

On June 5, 2008, the jury found Appellant guilty of ABWIK and CDVHAN. ROA. 540, ll. 3-12. After making his post-trial motions, the trial judge stated that he wanted "take an opportunity to study these matters" and instructed the parties to submit memorandums. ROA. 541, l. 9 – 547, l. 22.

On June 20, 2008, the trial judge denied Appellant's post-trial motion for directed verdict of not guilty by reason of insanity and motion for a new trial. ROA. 551, l. 1 – 570, l. 19. The trial court found that there was "*no question that [Senter] was mentally ill*;" however, the court stated it was not in a position to substitute its judgment for that of the jury. ROA. 567, l. 8 – 570, l. 15. (emphasis added). Thereafter, the trial court sentenced Appellant to ten years imprisonment on the CDVHAN conviction and ten years consecutive imprisonment on the ABWIK conviction. ROA. 581, l. 17 – 582, l. 4; 712.

Overwhelming Evidence of Insanity

This Court found that Appellant had met his burden of presenting evidence of insanity. *See State v. Smith*, 298 S.C. 205, 208, 379 S.E.2d 287, 288 (1989) (provides that "[a] criminal defendant is presumed to be sane; the State does not have to prove sanity."). A defendant is insane if, "at the time of the commission of the act constituting the offense, [he], as a result of mental disease or defect, lacked the capacity to distinguish moral or legal right from moral or legal wrong or to recognize the particular act charged as morally or legally wrong." S.C. Code Ann. § 17-24-10(A) (2003).

Furthermore, "the key to insanity is 'the power of the defendant to distinguish right from wrong in the act itself – to recognize the act complained of is either morally or legally wrong." *State v. Lewis*, 328 S.C. 273, 278, 494 S.E.2d 115, 117 (1997) (quoting *State v. Wilson*, 306 S.C. 498, 506, 413 S.E.2d 19, 23 (1992)). Accordingly, there is overwhelming evidence in the record that Appellant was insane at the time of the shooting.

Dr. Marla Domino

Dr. Marla Domino is the Chief Psychologist with the South Carolina Department of Mental Health, whose primary duties are to conduct court-ordered evaluations. ROA. 351, l. 5 – 352, l. 23. Dr. Domino testified that she had conducted over 400 court-ordered evaluations, had previously received the employee of the year award, and had been an assistant professor at the University of South Carolina since 2004. ROA. 352, l. 7 – 353, l. 17. Dr. Domino was subsequently qualified as an expert. ROA. 354, l. 1 – 355, l. 17.

Dr. Domino testified that she was appointed by the trial court to evaluate whether Appellant was competent to stand trial and whether Appellant was criminally responsible based on his mental capacity at the time of the shooting. ROA. 355, l. 18 – 364, l. 20. Dr. Domino evaluated Appellant for his competency to stand trial:

> [M]y job at that point is to try to determine if the person or client has a mental illness such that they would not be able to understand the proceedings or work with their attorney. So, first I had to determine does Mr. Senter have a mental illness, and then secondly, if he does have a mental illness, would this impede his ability to work with his attorney to take care of these charges he has.

ROA. 357, ll. 5-16. Dr. Domino *initially* determined that Appellant was not competent to stand trial: "[Appellant] did have a mental illness which I diagnosed as delusional disorder and that his mental illness was definitely impeding his ability to work with his attorney to address the

charge." App. 357, ll. 19-25. Dr. Domino further testified that Appellant's mental illness manifested in a false, fixed belief: (1) "the FBI was out to get him;" and (2) the FBI had fabricated his wife's shooting to "destroy his life." ROA. 359, ll. 5-25.

Furthermore, Dr. Domino was ordered by the trial court "to determine whether or not [Appellant] was criminally responsible for his conduct on November 13[, 2006]." ROA. 360, ll. 15-18. Dr. Domino testified that "because of his delusional disorder," Appellant "*did not know right from wrong at the time of the incident*," and therefore, he was not criminally responsible at the shooting. ROA. 363, l. 22 – 364, l. 20. (emphasis added).

Prior to her diagnosis, Dr. Domino conducted her own independent investigation: (1) interviewed Appellant twice, (2) spoke to Appellant's family members, and (3) reviewed mental health and police records prior to making her diagnosis: (A) Waccamaw Mental Health Center; (B) Real Solutions outpatient psychiatric clinic; (C) Lighthouse care center; (D) family counselor, Cathy Battle; (E) essays written by Appellant. ROA. 361, ll. 13-20. Additionally, Dr. Domino testified, "*Mr. Senter is only my second case where I have opined that somebody was insane at the time of the crime*." ROA. 379, ll. 3-4. (emphasis added).

Dr. Rikki Halavonich

Dr. Rikki Halavonich, director of the psychiatry department at the Medical University of South Carolina, also diagnosed Appellant with delusional disorder, persecutory type and opined that his mental illness "*affected his thinking on that day as well as for at least a couple years prior to that to the point that he did not appreciate moral and/or legal right from moral and/or legal wrong*." ROA. 419, l. 9 – 420, l. 5. (emphasis added). Dr. Halavonich testified that, in her opinion, Appellant was not criminally responsible for the shooting. ROA. 420, ll. 6-10.

Furthermore, Dr. Halavonich testified that a person diagnosed with a delusional disorder can "act normal" because the disorder involves "delusional thoughts, and you can't really look at somebody and tell what they're thinking . . . [i]*t's fairly typical with delusional disorder that* [people with the disorder] *do not have those outward appearing signs of mental illness.*" ROA. 420, l. 11 – 421, l. 17. (emphasis added). Same as Dr. Domino, Appellant was only the *second* person Dr. Halavonich has ever evaluated and found not criminally responsible on the basis of mental illness. ROA. 424, ll. 4-9.

Dr. Halavonich also testified that she reviewed Appellant's mental health records from: (1) Waccamaw Mental Health, which noted that "[Appellant] ha[d] developed a delusion that the FBI is watching him and following him . . . [and] diagnosed him delusional disorder and obsessive compulsive disorder;" (2) Lighthouse inpatient facility, which diagnosed him with major depressive disorder recurrent with psychotic features and disthymic disorder; (3) Cathy Battle, a professional counselor who treated him for his "increasing paranoia about the FBI;" (4) Duke University, which diagnosed him with major depressive disorder, recurrent, severe with psychotic features; (5) Suzanne Smith, who diagnosed him with "major depressive disorder recurrent, mild, chronic, and delusional disorder, persecutory type and personality disorder not otherwise specified;" and (6) Dr. Domino's evaluations, where she agreed with Dr. Domino's findings. ROA. 411, l. 4 – 417, l. 20.

Additionally, Dr. Halavonich testified that Appellant's mental health records from Duke University indicated that Appellant was "brought by his sister who felt he was *dangerously paranoid* [due to his] *beliefs that certain family members and strangers are a part of the FBI investigating him*" and was placed in inpatient custody after he: (1) "*held his wife at gunpoint trying to force her to admit she was in the FBI*" while "threatening to kill her;" (2) requested that

his wife take a "lie detector test because he felt that she had inside information from the FBI; and (3) "cover[ed] the fire detectors in the house because he thought they were bugged." ROA. 414, l. 23 – 415, l. 20. (emphasis added)

Cathy Battle (counselor)

Cathy Battle, a professional counselor testified that she referred Appellant to Suzanne Smith, who has a psychiatric background, and recommended that he enter an inpatient facility after he discussed his recurring suspicions and fears regarding the FBI. ROA. 384, l. 1 – 385, l. 21.

Dena Lester (ex-wife and victim)

Dena Lester, Appellant's ex-wife, admitted that she sent Appellant's mother e-mails and faxes "*indicat*[ing] *that* [Appellant] *had a serious mental illness and that* [she] *was concerned about it and that* [she] *wanted out of the relationship because of it.*" ROA. 161, l. 20 – 162, l. 3. (emphasis added). Appellant's ex-wife also admitted that she believed Appellant was mentally ill and that Appellant had attempted suicide in the past. ROA. 155, l. 2 – 156, l. 14; 160, l. 14 – 161, l. 7.

Additionally, Appellant's ex-wife testified that in 2005 while driving in a car Appellant pulled a gun out of the glove compartment and questioned her about her involvement with the FBI. ROA. 157, ll. 1-12. Appellant's ex-wife further testified that in 2005 Appellant brought a polygraph examiner to their home for her to prove that she was not involved in the FBI conspiracy against him and that she took the polygraph, so he would not get upset. ROA. 157, l. 13 – 158, l. 23. Appellant's ex-wife admitted that she did not know what Appellant might do if she would have refused the polygraph and Appellant got upset. ROA. 158, ll. 18-23.

Lisa Cleary (sister)

Lisa Cleary, Appellant's sister, testified that Appellant told her the "FBI was corrupt" and had "orchestrated his whole life and that they were the reason for his failures." ROA. 319, ll. 6-11. Appellant's sister also testified that Appellant believed her sixteen year old daughter was involved with the FBI and that Appellant had attempted suicide. ROA. 324, ll. 14-16; 328, ll. 21-25. Consequently, Appellant's sister took Appellant to two mental health facilities for evaluation and brought him to Duke University for medical testing. ROA. 322, ll. 18-25; 340, ll. 3-25; 344, ll. 2-14.

Additionally, Appellant's sister testified that while she was visiting her brother at his house, "he got a piece of paper and a piece of tape and . . . went straight to the smoke alarm and taped it and looked at me and he said, 'Don't say anything. They can hear us.'" ROA. 317, ll. 12-25. Appellant's sister further testified that Appellant's actions scared her and Appellant requested they talk outside: "I want to say he was talking about a hundred miles an hour . . . He explained to me about patterns, everything happens in patterns . . . He was upset that there was three cigarettes in the front of his driveway . . . [and] three golf balls in his back yard . . . He said, 'Threes, everything happens in threes.'" ROA. 318, ll. 5-12.

Ruth Bergman (mother)

Ruth Bergman, Appellant's mother, testified that Appellant would fax her letters "addressed to Ruth in Satan's hell" and the letters "would just go on about the [FBI] corruption" and "that I was involved with [Appellant's ex-wife] in this corruption against him." ROA. 395, ll. 16-20; 678–707. Appellant's mother also testified that she was upset that [Appellant's ex-wife] would not have him committed. ROA. 391, ll. 2-18.

Officer John Robert Caulder

Officer John Robert Caulder testified that he found in Appellant's house, a folder filled with letters detailing Appellant's delusion that the FBI was conspiring against him, and in Appellant's car, a T-shirt, which stated "*FBI, Federal Bureau of Corruption.*" ROA. 267, l. 1 – 278, l. 3. (emphasis added).

Trial Judge

Before making his determination of defense counsel's post-trial motion for a new trial, the trial judge grieved his concerns, "***This is a very, very unusual situation, and there's no questions that Mr. Senter was mentally ill*** [since] *[t]here's a vast array of medical evidence that was presented at trial that was reviewed by the experts.*" ROA. 567, ll. 9-13. (emphasis added). The trial judge further stated,

> I don't have the benefit of the trial transcript; but I can even recall, *in the State's cross-examination by some of the witnesses, that* [the State] *conceded that he was mentally ill*; and we've had two psychiatrists, one of which was appointed by the Court, who have made the determination that Mr. Senter was insane. And to further compound the situation . . . *there was a determination that he was incompetent to stand trial.* ***That is troubling to me a great deal.***

ROA. 567, l. 14 – 568, l. 1. (emphasis added).

Additionally, after the trial judge had denied the post-trial motion for a new trial, the trial judge stated,

> I know I might not look that old, but I've been involved in the criminal judicial system for a long time, and ***this is the very first instance that I've ever seen where the court-appointed psychiatrist has made the determination that an individual was insane and the matter was submitted to the jury.*** Quite typically, in my experience in the judicial system, . . . ***when that finding is made the individual is turned over to a mental institution;*** *and he's kept there indefinitely until he gets better. And some might conclude that might be the best solution in this instance, but the State didn't make that particular determination.*

ROA. 570, l. 21 – 571, l. 9. (emphasis added). The trial judge also added that he believed when someone hears "not guilty by reason of insanity" that the person will be set free, but "[a]s a matter of fact, quite often, [the person acquitted] stay[s] [in prison] . . . for the balance of their natural life; and the law doesn't allow me to charge the jury in that regard; and it – it's very troubling." ROA. 571, ll. 10-17.

Additionally, the trial judge noted that if the jury would have found Appellant guilty but mentally ill, he "*would have sentence[d] him to a determinate amount of time in jail*[, where] *[h]e would get the necessary treatment and regulated on medication . . . But for whatever reason, the matter was submitted to the jury; and my . . . hands are tied in that regard.*" ROA. 571, l. 18 – 572, l. 6.

State Must Present Direct or Substantial Circumstantial Evidence of Sanity

Because this Court found that Appellant met his burden of presenting evidence of Appellant's insanity, the burden then shifted to the State to present direct or substantial circumstantial evidence from which the jury could find Appellant sane. *See State v. Milian-Hernandez*, 287 S.C. 183, 185, 336 S.E.2d 476, 477 (1985) (provides that "when the defendant offers evidence of insanity, the presumption disappears and it is incumbent on the State to present evidence from which a jury could find the defendant sane . . . Any evidence of sanity is sufficient to present a jury issue when the defendant relies on the affirmative defense of insanity."). However, "[e]ven though a defendant presents expert testimony, the State is not required to also produce expert testimony; lay testimony may be sufficient." *Smith*, 298 S.C. at 208, 379 S.E.2d at 288.

Furthermore, when reviewing the denial of a motion for a directed verdict, an appellate court must review the evidence, and all inferences therefrom, in the light most favorable to the

State. *State v. Strickland*, 389 S.C. 210, 214, 697 S.E.2d 681, 683 (Ct. App. 2010). Additionally, "[w]hen ruling on a motion for a directed verdict, the [circuit] court is concerned only with the existence of evidence, not the weight." *State v. Gibson*, 390 S.C. 347, 353, 701 S.E.2d 766, 769 (Ct. App. 2010).

Accordingly, a case should be submitted to the jury "if there is any *substantial circumstantial evidence* which reasonably tends to prove the guilt of the accused or from which his guilt may be fairly and logically deduced." *State v. Bostick*, 392 S.C. 134, 139, 708 S.E.2d 774, 776-77 (2011) (emphasis added) (indentifying three seminal cases from the South Carolina Supreme Court analyzing the substantial circumstantial evidence standard). Conversely, "[t]he jury weighs the evidence but when there is an absence of evidence, it becomes the duty of the trial judge to direct a verdict . . . ." *Id.* (internal citation omitted).

***State v. Milian-Hernandez* is Controlling**

In *State v. Milian-Hernandez*, 287 S.C. 183, 184, 336 S.E.2d 476, 476 (1985), Hernandez was assaulted by a fellow Cuban, and the police were summoned. *Id.* The police subsequently killed the man who assaulted Hernandez. *Id.* After the dead man's brother threatened to kill him, Hernandez purchased a gun. *Id.* Fearing for his safety, Hernandez fled California. *Id.*

While traveling on a bus, Hernandez's "fears and suspicions that he was being followed by the dead man's brother were fueled by the presence of a Spanish speaking male on the bus . . . ." *Id.* "When the bus stopped in Charlotte[, North Carolina] for a brief layover, [Hernandez] left the bus . . . [and] was approached by the Spanish speaking driver of a station wagon who asked [Hernandez] his destination." *Id.* "This incident increased [Hernandez's] agitation." *Id.*

"A Spanish speaking male, who rode beside [Hernandez on the bus] . . . prepared a statement which was introduced by stipulation at trial." *Id.* at 184, 336 S.E.2d at 477. "The

affiant stated that Hernandez appeared normal until he reboarded the bus in Charlotte, [when he began] acting mad and looking nervous" because he thought he was being followed by the [Spanish man in the] station wagon. *Id.* Hernandez then asked the affiant to check whether the station wagon was following the bus, and he told Hernandez that it was not. *Id.*

"Shortly after the bus entered South Carolina, [Hernandez] shot and seriously wounded [] two men who had boarded the bus in Charlotte." *Id.* Hernandez had no actual motive to shoot the two men, who were not acquainted and had not spoken with each other during the trip. *Id.* at 184-85, 336 S.E.2d at 477. Hernandez subsequently fled from the bus after remaining on the bus for twenty minutes. *Id.* Hernandez "surrendered to police officers the next morning." *Id.*

Due to Hernandez's mental condition, he was hospitalized prior to trial; however, he was later found competent to stand trial. *Id.* At trial, "[t]hree doctors from the State Hospital testified for the defense." Dr. Acevedo testified that Hernandez was diagnosed as suffering from an acute paranoia disorder and that Hernandez shot the passengers because he thought they were conspiring with the dead man's brother to kill him. *Id.* However, "Dr. Acevedo would not express an opinion on [Hernandez's] capacity under the M'Naughton Rule because he had not been asked by the court to do such a review." *Id.* Additionally, Dr. Martinez was unable to express an opinion on Hernandez's criminal responsibility. *Id.* Dr. Galvarino did testify that in his opinion, Hernandez was not criminally responsible for the shooting. *Id.*

The sole issue presented in *State v. Milian-Hernandez* was whether Hernandez was entitled to a directed verdict of not guilty by reason of insanity. *Id.* The State argued that there was two pieces of evidence from which a jury could find Hernandez's sane: (1) evidence of flight from the crime scene and (2) the presumption of sanity. *Id.* at 186, 336 S.E.2d at 477. The South Carolina Supreme Court noted that it had long held "evidence of flight is evidence of

guilty knowledge from which a jury may infer sanity." *Id.* (citing *State v. Thompson*, 278 S.C. 1, 292 S.E.2d 581, *cert. denied*, 456 U.S. 938 (1982)).

Despite the circumstantial evidence of Hernandez's flight from the crime scene, the South Carolina Supreme Court held that "*the circumstances of* [Hernandez's] *flight are such as to negate that permissible inference.*" *Id.* (emphasis added). The Supreme Court further held that the presumption of sanity is not sufficient in itself to create a jury issue. *Id.* Accordingly, the Supreme Court held that the trial court erred in refusing to direct a verdict of not guilty by reason of insanity, and Hernandez was transferred to the South Carolina Department of Mental Health. *Id.* at 186, 336 S.E.2d at 478.

In his dissenting opinion, Judge Ness stated, "*While I conceded the majority has not established a per se rule, it has achieved the same result when it infers that lay testimony of a defendant's sanity, similar to that introduced here, is no evidence of sanity.*" *Id.* at 187, 336 S.E.2d at 478. (emphasis added).

State Only Presented Circumstantial Evidence

At trial, Appellant's neighbor, Susan Vonsprecklesen, maintained that Appellant came to her home on the morning of the shooting looking for his ex-wife, and when she told Appellant that his ex-wife was not there, he asked to come inside to look around. ROA. 452, l. 8 – 453, l. 11. Vonsprecklesen further maintained that Appellant "seemed calm . . . he looked rather normal, *a little on the intense side, but as long as I* [have] know[n] [Appellant] *he's always been a little intense*, but no different than usual." ROA. 455, ll. 1-7. Additionally, the State asked Vonsprecklesen if "it [was] typical for husbands to shoot their wives in [her] neighborhood?" Appellant's neighbor replied, "No, sir." ROA. 456, ll. 12-14.

At trial, Joseph Estock, a tractor driver a nearby golf course, maintained that Appellant's ex-wife came upon him requesting help, so he called 911, while she hid behind the tractor. ROA. 457, l. 13 – 459, l. 16. Estock also maintained that shortly thereafter, Appellant appeared on the golf course and told him to "hang up the phone now, turn around, and start walking. You don't know what she did to me." ROA. 459, l. 17 – 460, l. 5. The State asked the golf course tractor driver, Joseph Estock, "[C]ould you tell us what the [Appellant's] demeanor was when he . . . spoke to you?" In response, Estock stated that when Appellant approached him on the golf course, "*He had a serious look on his face* but he wasn't really agitated, I mean, he wasn't hollering . . . It was a calm voice when he said it." ROA. 460, ll. 20-24. (emphasis added).

The other circumstantial evidence presented by the State consisted of: (1) Appellant endorsed all of the property settlement checks he received from his ex-wife in the months leading up to the shooting with the statement, "Will be paid regardless of any medical, arrest, or any other event;" (2) Appellant's ex-wife maintained that he refused to meet her in a public place to exchange divorce papers; (3) according to Appellant's ex-wife, he insisted that she come to the house to cut his hair; (4) Appellant's ex-wife alleged that he moved her from public view after she collapsed in his front yard; (5) Appellant's ex-wife stated that he disabled the car alarm after she had pushed the panic button; and (6) Appellant retrieved the spent shell casing after the shooting. ROA. 133, l. 16 – 134, l. 17; 176, l. 19 – 179, l. 4; 222, ll. 2-7; 446, l. 1 – 448, l. 5.

Evidence Presented by the State only Established the Presumption of Sanity

Similar to *Milian-Hernandez*, 287 S.C. 183, 336 S.E.2d 476, although the State presented numerous pieces of circumstantial evidence, the State failed to present direct or substantial circumstantial evidence from which the jury could find Appellant sane. *See State v. Odems*, Op. No. 27084 (S.C. Sup. Ct. filed December 28, 2011) (provides that the South Carolina Supreme

Court "has repeatedly affirmed the principle that when the State fails to produce substantial circumstantial evidence that the defendant committed a particular crime, the defendant is entitled to a directed verdict."). Accordingly, the State's evidence did not "reasonably tend" to prove Appellant's sanity. *Id.*; *see also State v. Arnold*, 361 S.C. 386, 389-90, 605 S.E.2d 529, 531 (2004) (holding that the trial court must grant a directed verdict when the evidence merely raises a suspicion that the accused is guilty.")

In *Odems*, Op. No. 27084 (S.C. Sup. Ct. filed December 28, 2011), the South Carolina Supreme Court cited *State v. Bostick*, 392 S.C. 134, 708 S.E.2d 774 (2011) and *State v. Lollis*, 343 S.C. 580, 541 S.E.2d 254 (2001) as "jurisprudence . . . instructive in explaining the proof required in cases built wholly on circumstantial evidence." Importantly, in both cases, the State presented numerous pieces of circumstantial evidence, yet the Supreme Court held that the defendants were entitled a direct verdict. Specifically, the Supreme Court stated in *Bostick* that "the evidence presented by the State raised, at most, a mere suspicion that Bostick committed this crime." *Bostick*, 392 S.C. at 142, 708 S.E.2d at 778. In *Lollis*, the Supreme Court held that the State's evidence did not "reasonably tend" to prove Lollis's guilt. 343 S.C. at 585, 541 S.E.2d at 257.

Consequently, even when viewed in the light most favorable to the State, the circumstantial evidence presented by the State does not "reasonably tend" to prove Appellant was sane at the time of the shooting because "the evidence presented by the State raised, at most, a mere suspicion" of Appellant's sanity at the time of the shooting. *See Id.* The reasons the State failed to meet its burden are provided as follows:

First, the only direct evidence presented by the State as to Appellant's mental capacity at the time of the shooting was his ex-wife's testimony, and as the trial judge pointed out, she

conceded that Appellant was mentally ill. ROA. 155, l. 2 – 161, l. 7; 567, l. 9 – 572, l. 6.

Second, both the court appointed psychologist from the Department of Mental Health and the psychiatrist from the MUSC found that Appellant was not criminally responsible based on his mental capacity at the time of the shooting, which was only the second time in both of their careers to make that finding. ROA. 351, l. 5 – 379, l. 4; 419, l. 9 – 424, l. 9.

Third, the trial judge admitted: (1) that Appellant was mentally ill; (2) that Appellant required treatment for his mental illness; and (3) that he was troubled with sending the case to the jury. ROA. 567, l. 9 – 572, l. 6.

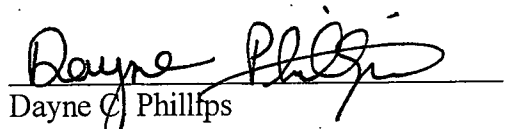
Fourth, the lay witnesses' testimony presented by the State is analogous to *Milian-Hernandez* because the lay witness testimony indicated that Appellant looked calm, "intense," and "serious." ROA. 455, l. 1 – 456, l. 14; 460, ll. 20-24.

Fifth, Appellant's actions surrounding the shooting present nothing more than an impermissible inference of Appellant's sanity because there is no way for the jury to discern whether Appellant's actions were a product of his delusion at the time of the shooting. ROA. 127, l. 20 – 144, l. 16; 176, l. 19 – 179, l. 4; 222, ll. 2-7; 446, l. 1 – 448, l. 5.

In this case, there is overwhelming evidence in the record of Appellant's insanity, the only evidence from which the jury could have found Appellant sane was the presumption of sanity, which insufficient to create a jury issue. *See Milian-Hernandez*, 287 S.C. 183, 336 S.E.2d 476; *see also Odems*, Op. No. 27084 (S.C. Sup. Ct. filed December 28, 2011). Therefore, the trial judge erred in refusing to direct a verdict of not guilty by reason of insanity. *Id.*

For the foregoing reasons, Appellant respectfully requests that this Court grant his petitions for rehearing, reverse his convictions, and Order a directed verdict of not guilty by reason of insanity.

Respectfully submitted,



Dayne C. Phillips
Appellate Defender

This 5rd day of January, 2012.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County

Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRADLEY SCOTT SENTER,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Petition for Rehearing in the above-entitled case has been served upon Christina J. Catoe, Esquire, this 3rd day of January, 2012.

Dayne C. Phillips
Appellate Defender

ATTORNEY FOR APPELLANT

SWORN TO BEFORE ME this 3rd day
of January, 2012.

Felicia K Berry (L.S.)
Notary Public for South Carolina

My Commission Expires: June 30, 2020

The South Carolina Court of Appeals

The State, Respondent,

v.

Bradley Scott Senter, Appellant.

Honorable Michael G. Nettles
Horry County
Trial Court Case No. 2007-GS-26-00781

ORDER DENYING PETITION FOR REHEARING

PER CURIAM: After a careful consideration of the Petition for Rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded and hence, there is no basis for granting a rehearing.

It is, therefore, ordered that the Petition for Rehearing be denied.

J.

J.

J.

Columbia, South Carolina

cc: Appellate Defender Dayne C. Phillips
Attorney General Alan Wilson
Chief Deputy Attorney General John W. McIntosh
Assistant Deputy Attorney General Salley W. Elliott
Assistant Attorney General Christina Catoe
John Gregory Hembree, Esquire

FILED
February 24, 2012

redacted

VOLUME I OF II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM HORRY COUNTY

Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRADLEY SCOTT SENTER,

APPELLANT

RECORD ON APPEAL

M. CELIA ROBINSON
Appellate Defender

DAYNE C. PHILLIPS
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorneys for Appellant

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

CHRISTINA J. CATOE
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

J. GREGORY HEMBREE
Solicitor, Fifteenth Judicial Circuit
Post Office Box 1276
1301 2nd Ave.
Conway, SC 29528-1276
(843) 915-5460

Attorneys for Respondent

INDEX

INDEX i

TRIAL TRANSCRIPT DATED JUNE 3-5, 2008 1

TRANSCRIPT DATED JUNE 20, 2008 549

COURT'S EXHIBIT 1- WAIVER OF JURY TRIAL 585

COURT'S EXHIBIT 2- FORENSIC EVALUATION 286

COURT'S EXHIBIT 3- MOTION FOR DIRECTED VERDICT 595

DEFENSE EXHIBIT 1- E-MAILS 597

DEFENSE EXHIBIT 2- "THE EMPTY TANK" 603

DEFENSE EXHIBIT 3- MISCELLANEOUS PAPERS 607

DEFENSE EXHIBIT 5- PHOTOGRAPH 638

DEFENSE EXHIBIT 7- DOCUMENTS-TABLE 639

DEFENSE EXHIBIT 8- STATEMENT 648

DEFENSE EXHIBIT 9- LETTER FROM BRAD TO SISTER 656

DEFENSE EXHIBIT 10- LETTER FROM ATTORNEY 658

DEFENSE EXHIBT 11- E-MAILS FROM RUTH BERGMAN 670

DEFENSE EXHIBIT 12- LETTERS FROM BRAD TO RUTH 678

INDICTMENT 708

SENTENCING SHEET 712

CERTIFICATE OF COUNSEL 713

**** DEFENSE EXHIBIT 6 (PHOTOGRAPH) IS BEING TRANSPORTED TO THE COURT OF APPEALS ****

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF HORRY	)	07-GS-26-481, 491
The State,	)	
	)	
Plaintiff,	)	Transcript of Record
	)	
vs.	)	
	)	
Bradley Scott Senter,	)	June 3-5, 2008
	)	
Defendant.	)	

B E F O R E :

Honorable Michael G. Nettles
Horry County Courthouse
Conway, South Carolina

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

Brad Richardson, Esquire
Attorney for Plaintiff

Ralph J. Wilson, Sr., Esquire
Attorney for Defendant

Grace L. Hurley, CVR-CM
Circuit Court Reporter

I N D E X

(June 3, 2008.)

Voir Dire. 1

Jury Selection 81

Motions. 93

Opening Instructions By Court. 102

Opening Statement By State 107

Opening Statement By Defense 112

Dena Lester

Direct By State. 115

Cross By Defense 150

Stipulation. 196

George R. Wilds

Direct By State. 198

Ronnie Capps

Direct By State. 201

Greg Lee Eliason

Direct By State. 204

Cross By Defense 212

Scott Allen Ledford

Direct By State. 215

Cross By Defense 224

Redirect By State. 226

John Robert Caulder

Direct By State. 229

(June 4, 2008.)
Juror No. 305 Questioned 256
John Robert Caulder
Cross By Defense 264
Redirect By State. 291
Suzanne Cromer
Direct By State. 294
Cross By Defense 303
Motions. 304
Lisa Senter Cleary
Direct By Defense. 309
Cross By State 347
Marla Domino
Direct By Defense. 351
Exam by State Re: Qualifications 354
Cross By State 365
Redirect By Defense. 378
Catherine Battle
Direct By Defense. 380
Cross By State 386
Ruth Bergman
Direct By Defense. 387
Cross By State 398
Rikki Lynn Halavonich
Direct By Defense. 400

Exam by State Re: Qualifications 404
Cross By State 426
Redirect By Defense. 435
Motions. 437
Reply:
Dena Lester
Direct By State. 445
Susan Vonspreckelsen
Direct By State. 448
Cross By Defense 455
Redirect By State. 456
Joseph Estock
Direct By State. 457
Cross By Defense 461
Charges Discussed. 463
Question of Defendant Re: Testifying. 464
Motions. 469
(June 5, 2008)
Closing by Defense 481
Closing by State 498
Charge 517
Verdict. 539
Motions. 541
Certificate. 548

EXHIBITS

		ID	EVD
S-1	Aerial Poster		451
S-2	Diagram		131
S-3	Diagram		126
S-4	Photograph		139
S-5	Photograph		137
S-6	Photograph		137
S-7	Photograph		137
S-8	Photograph		233
S-9	Photograph		233
S-10	Photograph		233
S-11	Photograph		233
S-12	Photograph		233
S-13	Photograph		233
S-14	Photograph		233
S-15	Photograph		233
S-16	Photograph		233
S-17	Photograph		263
S-18	Photograph		263
S-19	Photograph		263
S-20	Photograph		241
S-21	Photograph		245
S-22	Photograph		248
S-23	Photograph		263

S-24	Clothes of Victim			145
S-25	Gun and Clip			252
S-26	Divorce Papers			263
S-27	Ammo			247
S-28	White Bag (Clip, Ammo)			247
S-29	Shell Casing			249
S-30	Gun Case			293
S-31	Check			446
D-1	E-Mails	165		
D-2	``The Empty Tank''	195		
D-3	Miscellaneous Papers			270
D-4	Photograph			277
D-5	Photograph			277
D-6	Photograph			277
D-7	Documents - Table	284		
D-8	Statement	285		
D-9	Letter from Brad to Sister	334		
D-10	Letter from Attorney	334		
D-11	E-Mails from Ruth Bergman	389		
D-12	Letters from Brad to Ruth	395		
C-1	Waiver of Jury Trial			93
C-2	Forensic Evaluation			98
C-3	Motion for Directed Verdict			

Horry County Courthouse
RANDOM STRIKE SHEET

JUDGE NAME :
TRIAL TYPE : Criminal
PANEL ID : NETTLES A
COURTROOM JAR

DESCRIPTION : NETTLES A

Sorted by: Random Nbr

Trial

	NAME	JUROR NBR	RACE	SEX	STATE/ PLAINTIFF Chal	DEFENDANT Strk	Court	REMARKS
1	Akers, Brandon S	3	W	M	(✓)	(✓)	( )	
2	Bellamy, Reginald D	23	B	M	(✓)	(✓)	( )	
3	Gause, Carole T	121	B	F	(X)	( )	( )	
4	Vereen, Jennie L	331	B	F	(✓)	(✓)	( )	
5	Litzau, Victor M	204	W	M	(X)	( )	( )	
6	Best, Robert C	28	W	M	(✓)	(✓)	( )	
7	Formosa, Shari A	108	W	F	(✓)	(X)	( )	
8	Spychalla, Kurt D	304	W	M	(✓)	(✓)	( )	
9	Mukhlis, Mureen M	234	W	F	(✓)	(✓)	( )	
10	Lamonica, Dawn M	189	W	F	(✓)	(✓)	( )	
11	Squires, Jason C	305	W	M	(✓)	(✓)	( )	
12	Stroud, Tammy S	311	W	F	(✓)	(X)	( )	
13	Law, Barbara G	194	W	F	(✓)	(✓)	( )	Spoken
14	Lefever, Jennifer F	198	W	F	(✓)	(X)	( )	
15	Livingston, Legranda M	206	B	M	(X)	( )	( )	
16	Timms, Deborah H	319	W	F	(X)	( )	( )	
17	Wright, Dessie L	351	W	F	(✓)	(X)	( )	
18	Gore, Laura K	129	B	F	(✓)	(✓)	( )	
19	Parker, Daiwey A	253	W	F	(✓)	(✓)	( )	
20	Jordan, Carolyn B	176	W	F	(✓)	(X)	( )	
21	Sheffield, Annamarie F	287	W	F	(✓)	(✓)	( )	
22	Johnson, Crystal D	169	W	F	(X)	( )	( )	
23	Page, Jamie A	251	W	F	(✓)	(X)	( )	

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Trial

	NAME	JUROR NBR	RACE	SEX	STATE/ PLAINTIFF Chal	DEFENDANT Strk	Court	REMARKS
24	Bromell, Courtney J	40	B	F	(✓)	(✓)	( )	acc. 1
25	Beamon, Cassie A	22	W	F	(✓)	(✓)	( )	acc. 2
26	Nichols, Kimberly K	239	W	F	( )	( )	( )	
27	Ely, Tony M	98	W	M	( )	( )	( )	
28	Oates, Jerry L JR	244	W	M	( )	( )	( )	
29	Wilkes, Patricia B	346	W	F	( )	( )	( )	
30	Mckenna, Marcia C	222	W	F	( )	( )	( )	
31	Wolfe, Sylvia J	350	B	F	( )	( )	( )	
32	Kline, Marion B	185	W	F	( )	( )	( )	
33	Allman, Michael D	6	W	M	( )	( )	( )	
34	Coulter, Brian J	71	W	M	( )	( )	( )	
35	Wertheimer, George D	343	W	M	( )	( )	( )	
36	Owens, Pamela S	248	W	F	( )	( )	( )	
37	Crawley, Dora C	73	W	F	( )	( )	( )	
38	Poston, John E	259	W	M	( )	( )	( )	
39	Springer, Jerrie S	303	W	F	( )	( )	( )	
40	Stevenson, Cynthia L	308	W	F	( )	( )	( )	
41	Todd, Denise R	321	W	F	( )	( )	( )	
42	Bratcher, Wilbur H JR	34	B	M	( )	( )	( )	
43	Drewek, Marguerite A	91	W	F	( )	( )	( )	
44	Nolen, Bryan W	240	W	M	( )	( )	( )	
45	Best, Amanda M	27	W	F	( )	( )	( )	
46	Sanders, Christopher R	280	W	M	( )	( )	( )	

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Trial

	NAME	JUROR NBR	RACE	SEX	STATE/ PLAINTIFF Chal	DEFENDANT Strk	DEFENDANT Court	REMARKS
47	Jones, Michael A	175	W	M	( )	( )	( )	
48	Hallman, Amanda T	138	W	F	( )	( )	( )	
49	Forgey, James S	107	W	M	( )	( )	( )	
50	Massie, Joyce M	216	W	F	( )	( )	( )	
51	Watts, Walter W II	340	W	M	( )	( )	( )	
52	Marsilio, Ebba A	213	W	F	( )	( )	( )	
53	Smith, Laura K	297	W	F	( )	( )	( )	
54	Ulrich, George T	325	W	M	( )	( )	( )	
55	Basenhop, Julie R	127	W	F	( )	( )	( )	
56	Wyman, Dennis T	353	B	M	( )	( )	( )	
57	Soles, Oscar L	299	B	M	( )	( )	( )	
58	Mason, Laquinta D	215	B	F	( )	( )	( )	
59	Foster, Raymond	109	B	M	( )	( )	( )	
60	Rice, Michael A	273	W	M	( )	( )	( )	

Total Number of Jurors: 60

** END OF REPORT **

(On the record, June 3, 2008.)

THE COURT: Good morning, everybody. Please be seated.

Ladies and gentlemen of the jury, I'm Michael Nettles. I'm from the big city of Lake City in the lower part of Florence County. I'm the Resident Judge for the 12th Judicial Circuit, which encompasses Florence and Marion County. I have with me my law clerk, Fitzlee McEachin, who is a recent graduate from law school who will be assisting me throughout the year.

We are about to begin the case of the State versus Bradley Scott Senter. It involves a two-count indictment, criminal domestic violence of a high and aggravated nature, and assault and battery with intent to kill, and these events allegedly took place on November 13th, 2006. The indictment that I hold in my hand right here is essentially is a mechanism by which these charges are brought to court. There's no evidentiary value whatsoever given to this document. It's merely an accusation. In every criminal proceeding the Defendant is presumed to be innocent.

Ladies and gentlemen of the jury, each of you have been qualified to serve as a juror and we're going to go through a process at this time to determine whether or not for some reason you cannot be fair and impartial with regard to the facts of this particular case, and I'm going to ask the Clerk

to swear in the jury at this time.

(Whereupon, jury sworn by Clerk.)

THE COURT: Ladies and gentlemen of the jury, pay very close attention to the questions. This is an important case. It's important to both the State and the Defendant. Listen carefully to the questions and answer them appropriately.

Ladies and gentlemen of the jury, has anybody ever been related by blood or marriage to the Defendant, Bradley Scott Senter, and I'm going to ask if he could stand at this time and turn around and face the jury.

(Complies with request.)

THE COURT: Thank you, sir.

All right, if anyone has been related by blood or marriage to this individual, please stand.

(No response.)

THE COURT: Madam Court Reporter, there's no response.

Has anyone ever had a close social, personal or business relationship with the Defendant? If so, please stand.

(No response.)

THE COURT: No response.

Ladies and gentlemen of the jury, I want you to pay very close attention as I go through a fairly lengthy potential witness list and I say potential witness list because some,

some of these witnesses will be called, some of them might not be called, but they're potential witnesses. Pay very close attention to that: Cathy Battle of Myrtle Beach, South Carolina; Ruth Bergman of North Carolina; Margaret Bhatt, a medical doctor from Lighthouse Center of Myrtle Beach; Charles Blackmon of Greensboro, North Carolina; Robert Carr of the Horry County Police Department; Lisa Cleary of Durham, North Carolina; Jim Cleary of Durham, North Carolina; Violett Czepowlez of Lighthouse Care Center, Conway, South Carolina; Carol David; Marla Domino of the South Carolina Department of Mental Health; John Ganska of the Horry County Police Department; Marilee Griswold of the South Carolina Department of Mental Health, Justcare; Rikki Lynn Halavonich of Medical University, Charleston, South Carolina; Corporal Jones; R. Kegler of the Horry County Police Department; Jack Pendlebury of Myrtle Beach, South Carolina; Richard Resnikoff of the Lighthouse Care Center, Conway, South Carolina; Lauren Senter of North Carolina; William Senter of North Carolina; Ila Simmons of SLED; Lisa Smith, Justcare DMH, Department of Mental Health; Suzanne Smith, Real Solutions, Murrells Inlet; Dawn Wilson, J. Reuben Long Facility; Heather Brummett of the Horry County Police Department; Lieutenant Ronnie Capps, Medical University of South Carolina; Robbie Caulder, Horry County Police Department; Peter Cestare of the Horry County Police Department; Agent Suzanne Cromer, SLED; Robert Deal,

Horry County Police Department; Greg Eliason, Horry County Police Department; Joseph Estock, Arrowhead Golf Course; Officer Scott Ledford, Horry County Police Department; Dena Lester; Detective Neil Livingston; Edward Norcross, M.D.; Jack Pendlebury; Lori Rabon, Horry County Police Department; Lance Corporal David Rexroad of Horry County Police Department; Captain Scott Rutherford, Horry County Police Department; Detective Tim Troxell, Horry County Police Department; Paul Vonspreckelsen; Susan Vonspreckelsen; Officer M. Wagaman; and Officer George Wilds.

Is anyone related by blood or marriage to any of these potential witnesses or have a close social or personal relationship with any of these people; if so, please stand.

(No response.)

THE COURT: Let the record reflect there's no response.

The attorneys in this case, Mr. Ralph Wilson for defense, I'm going to ask if you can stand up, identify yourself and the members of your firm.

MR. WILSON: My name is Ralph Wilson. I'm an attorney. I practice here in Conway with my son, who is Ralph Wilson, Jr., and my paralegal, Danielle Delpercio.

THE COURT: Very good.

Is anyone related to Mr. Wilson by blood, marriage, do

you have a close social or personal relationship with him, or have you ever been represented by him in the past or presently? If so, please stand.

(No response.)

THE COURT: No response.

Mr. Brad Richardson for the State, I'm going to ask if you can identify yourself and the members of the Solicitor's Office.

MR. RICHARDSON: It's going to take a little while, Judge.

THE COURT: All right, well, do the best you can.

MR. RICHARDSON: I'm Brad Richardson. I'm an Assistant Solicitor with the Fifteenth Circuit Solicitor's Office. Other attorneys in our office are, of course, our Solicitor, J. Gregory Hembree; Deputy Solicitor Fran Humphries; Senior Assistant Solicitors Donna Elder, Jimmy Richardson, George DeBusk; Assistant Solicitors Heather Tolar, Sam Graves, Scott Hixson, James Battle, Larry Filiberto, Nancy Livesay, Candice Lively; First Assistant Solicitor Bert Von Herrmann; Jennifer Jackson. Let me see, who am I leaving out now, Michael O'Sullvian, Joe Sandifer.

Mr. Wilson, am I leaving anybody out?

MR. WILSON: I think you got most of them.

MR. RICHARDSON: And those are the attorneys in our office. We have approximately a hundred other employees.

They're assisting in various other capacities.

THE COURT: Very good, Mr. Richardson.

Is anyone related by blood or marriage to any of these lawyers? Do you have a close social or personal or business relationship with any of these lawyers or have you ever been represented by them in the past or presently? If so, please stand.

(No response.)

THE COURT: All right, let the record reflect there's no response.

Ladies and gentlemen of the jury, has any member of the jury panel formed or expressed an opinion about any issue or matter involved in this case? If so, please stand.

(No response.)

THE COURT: No response.

Is there any member of the jury panel aware of any bias or prejudice towards either the State or the Defendant in this case? If so, please stand.

(No response.)

THE COURT: Has any member of the jury panel, has any member of the jury panel served on the Grand Jury that issued the indictment in this case? If so, please stand.

(No response.)

THE COURT: No response.

Is there any member of the jury panel a former law

enforcement officer or have a family member who is a law enforcement officer or a former law enforcement officer? If so, please stand.

All right, I'm going to ask if you could if you all could come forward and then I'll speak with each of you individually and, counsel, you may feel free to come forward.

MR. RICHARDSON: Thank you, Your Honor.

THE COURT: I'd just ask if they'd come up one at a time.

BAILIFF: 311.

THE COURT: Juror Number 311, yes, ma'am.

(Whereupon, an on-the-record bench conference was held with Juror Number 311, Tammy S. Stroud, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

(Court and juror confer.)

THE COURT: All right, do you think by virtue of the fact that your husband is involved in law enforcement of some sort that you could set that aside if called upon to be able to serve as a juror in this case, base your decision on the evidence that comes forth in this trial?

MS. STROUD: Of course.

THE COURT: Very good. You're qualified to serve, thank you. This juror is qualified to serve.

(Whereupon, the following takes place in open court.)

BAILIFF: 251.

(Whereupon, an on-the-record bench conference was held with Juror Number 251, Jamie A. Page, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, I'm going to ask if you could stand there and face Mr. Wilson so the court reporter, so the court reporter can hear what we have to say. Who are you related to?

MS. PAGE: My father is a retired Horry County Police Officer.

THE COURT: Okay, and by virtue of the fact that you're related to a law enforcement officer could you set that aside if called upon to serve on this jury, give both the State and the Defendant a fair and impartial trial?

MS. PAGE: Absolutely, Your Honor.

THE COURT: Very good. You're qualified to serve. Thank you. She's qualified to serve.

(Whereupon, the following takes place in open court.)

BAILIFF: 153.

(Whereupon, an on-the-record bench conference was held with Juror Number 153, Rosemary A. Hileman, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, ma'am, how you doing? How are you doing?

MS. HILEMAN: Good.

THE COURT: All right, who are you related to?

MS. HILEMAN: I had a grandfather and a father and a brother who were law enforcement officers and my father was killed in the line of duty.

THE COURT: All right, I'm going to ask if you would kind of face Mr. Wilson so the court reporter can hear what you've got to say. You think if called upon to serve on this jury you could set aside the fact that you're related to people engaged in law enforcement, give both the State and the Defendant a fair and impartial trial?

MS. HILEMAN: I think so.

THE COURT: Okay, you know, in polite conversation we often qualify what we're saying by saying, ``I think so,'' ``Well, I don't know.'' All right, this is a matter that we're dealing in absolutes. Do you feel as though you could give both the State and the Defendant a fair and impartial trial?

MS. HILEMAN: Yes, I do.

THE COURT: Let me ask you this one follow-up question, in view of the fact that your family members are involved in law enforcement do you think if called upon to serve as a juror you would give greater weight to a law

enforcement officer's testimony than a lay witness?

MS. HILEMAN: Yes, I do.

THE COURT: Okay, based on that I'm going to excuse you for purposes of this trial. Thank you so much. Your number again?

MS. HILEMAN: 153.

THE COURT: Juror Number 153 will be excused for purposes of this trial.

(Whereupon, the following takes place in open court.)

BAILIFF: 123.

(Whereupon, an on-the-record bench conference was held with Juror Number 123, Teresa L. Giangiobbe, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yeah, yeah, I'm going to ask you if you can face -- she's going to have to get down what we're talking about. So, if you'd face Mr. Wilson and Mr. Richardson here.

MS. GIANGIOBBE: I am a former detention officer at the Myrtle Beach Police Department. I worked there about four years and I left last year.

THE COURT: All right, do you have the power of arrest?

MS. GIANGIOBBE: No, just to serve.

THE COURT: Do you think if called upon to serve on

this jury you could give both the State and the Defendant a fair and impartial trial?

MS. GIANGIOBBE: No.

THE COURT: Okay, the basis for that?

MS. GIANGIOBBE: I don't -- I've seen in the jail a lot of the criminal domestic violences come through and I've worked with Victims Advocate Office closely and I just can't be impartial to that. I always think they're guilty.

THE COURT: Okay, well, thank you for your honesty. You'll be excused for purposes of this trial.

(Whereupon, the following takes place in open court.)

BAILIFF: '91.

THE COURT: Members of the jury panel, we are having to discuss these matters here and the court reporter is going to have to take down everything that's said. So, we ask if you could be as quiet as you can. Thank you so much.

(Whereupon, an on-the-record bench conference was held with Juror Number 91, Marguerite A. Drewek, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, ma'am. Your full name?

MS. DREWEK: Marguerite A. Drewek.

THE COURT: Who are you related to?

MS. DREWEK: I have a son that's a policeman in

Georgetown, Ohio.

THE COURT: Oh, okay.

MS. DREWEK: No one in Horry County.

THE COURT: Oh, okay, my question to you is if called upon to serve as a juror in this case could you give both the State and the Defendant a fair and impartial trial and base your decision on the evidence that's presented in this case?

MS. DREWEK: Absolutely.

THE COURT: By virtue of the fact that your son works in law enforcement do you feel as though you would give testimony that comes from law enforcement officer greater weight than other witnesses?

MS. DREWEK: I don't think so.

THE COURT: Okay, in polite conversation we quite often qualify what we say but these are matters we have to deal in absolutes. Do you feel as though you would give testimony of a police officer greater weight than other witnesses?

MR. DREWEK: No, sir.

THE COURT: You're qualified to serve. Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: 253.

(Whereupon, an on-the-record bench conference was held

with Juror Number 253, Daiwey A. Parker, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: How you doing? Your name?

MS. PARKER: Daiwey A. Parker.

THE COURT: All right, Ms. Parker, who are you related to?

MS. PARKER: My husband.

COURT REPORTER: I can't hear her when she turns. I'm sorry.

THE COURT: I'm sorry.

MS. PARKER: My husband was with the Horry County Police Department for ten years and my son served in the Myrtle Beach Police Department, and also the Myrtle Beach Police Department.

THE COURT: And who did?

MS. PARKER: My son.

THE COURT: Okay, all right, in view of the fact that you have members of your family in law enforcement, if called upon to serve on this jury could you give both the State and the Defendant a fair and impartial trial and set aside those relationships?

MS. PARKER: Yes, sir, I feel like I could.

THE COURT: Okay, and my follow-up question would be if called upon to serve do you think you would give greater

weight to the testimony of law enforcement officers as opposed to other witnesses?

MS. PARKER: No, sir.

THE COURT: You're qualified to serve. Thank you.

COURT REPORTR: I can't hear her.

THE COURT: I'm sorry.

MS. PARKER: I have a granddaughter graduating Thursday night, so.

THE COURT: Okay, we will have you out of here by Thursday night. What time?

MR. PARKER: Seven o'clock.

THE COURT: We'll have you out of here by then. All right, very good.

(Whereupon, the following takes place in open court.)

BAILIFF: 343.

(Whereupon, an on-the-record bench conference was held with Juror Number 343, George D. Wertheimer, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, sir, I'm going to ask if you would face these gentlemen here so the court reporter can hear what we're saying. All right, who are you related to? Who are you related to?

MR. WERTHEIMER: No one.

THE COURT: Okay, are you in law enforcement?

MR. WERTHEIMER: I'm retired New York City corrections officer.

THE COURT: You currently have the power of arrest?

MR. WERTHEIMER: No, sir.

THE COURT: Okay, if called upon to serve on this jury do you think that by virtue of the fact that you've been involved in law enforcement to some extent you can give the State and the Defendant a fair and impartial trial?

MR. WERTHEIMER: Yes, sir.

THE COURT: All right, do you think you could base your decision if you're called upon to serve on the jury based on the evidence that's presented in this case?

MR. WERTHEIMER: Yes, sir.

THE COURT: Do you think that you would give greater weight to the testimony by law enforcement officer than a lay witness?

MR. WERTHEIMER: Yes, sir.

THE COURT: You think you would give greater weight?

MR. WERTHEIMER: Oh, no, no, I'd be fair.

THE COURT: All right, very good. You're qualified to serve. Thank you so much.

(Whereupon, the following takes place in open court.)

BAILIFF: Number 3.

(Whereupon, an on-the-record bench conference was held with Juror Number 3, Brandon S. Akers, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: How you doing?

MR. AKERS: How you doing?

THE COURT: Your full name?

MR. AKERS: I'm Brandon Scott Akers, A-K-E-R-S.

THE COURT: Okay, I'm going to ask if you would face in this direction so the court reporter can get down what you're saying.

All right, are you in law enforcement or someone in your family?

MR. AKERS: No, sir, my father was a law enforcement officer in Georgetown. It was before he was part of my life but he has been part of my life now for five years.

THE COURT: Okay.

MR. AKERS: So, but his police work was done before I really knew him but he is my father, so.

THE COURT: Okay, very good. If called upon to serve on the jury, on this jury do you feel like you could base your decision on the evidence that's presented in this case?

MR. AKERS: I think I could.

THE COURT: The fact that you have a family member who

is involved in law enforcement could you set that aside and base your decision on the evidence in this case?

MR. AKERS: I think I could, sir.

THE COURT: Of course, we deal with absolutes in these matters, okay? In polite conversation we quite often qualify that. My question to you is could you be fair and impartial to both the State and the Defendant?

MR. AKERS: Yes, sir.

THE COURT: You're qualified to serve. Thank you.

MR. AKERS: Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: 216.

(Whereupon, an on-the-record bench conference was held with Juror Number 216, Joyce M. Massie, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, ma'am. I'm going to make sure that -- I'm going to ask you to face that direction so the court reporter can hear you, I can hear you and these gentlemen can hear you. All right, who are you related to?

MS. MASSIE: I thought this was for ---

THE COURT: Are you a former law enforcement officer?

MS. MASSIE: I worked for the Greenville, Ohio, police

department.

THE COURT: Okay, you didn't look like a police officer to me for some reason, okay.

MS. MASSIE: I was a dispatcher.

THE COURT: Oh, okay, very good. Do you have the power of arrest now?

MS. MASSIE: No, no.

THE COURT: Okay, all right, if called upon to serve on this jury, I want you to pay very close attention to me, could you base your decision on the evidence that's presented in this case and set aside any law enforcement experience that you might have?

MS. MASSIE: Yes, sir.

THE COURT: Do you think -- I imagine over the years having worked in law enforcement you've developed a lot of relationships with other law enforcement officers. Do you feel as though if called upon to serve on this jury you would give greater weight to the testimony of a law enforcement officer as opposed to other witnesses?

MS. MASSIE: I would try to treat all the same.

THE COURT: Okay, all right, and you know, in polite conversation quite often we qualify what we say but this is a matter that is very important. We have to deal in absolutes. My question to you is could you give both the State and the Defendant a fair and impartial trial?

MS. MASSIE: Yes, sir.

THE COURT: All right, do you feel as though you would give undue weight to the testimony of a law enforcement officer?

MS. MASSIE: No, sir.

THE COURT: All right, you're qualified to serve. Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: 234.

(Whereupon, an on-the-record bench conference was held with Juror Number 234, Mureen M. Mukhlis, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, ma'am, I'm going to ask if you could face this direction so the court reporter can hear us and I can hear you and these gentlemen can hear you. All right, tell me who you're related to.

MS. MUKHLIS: My father is a retired Washington, D.C., police officer.

THE COURT: Okay, if called upon to serve on this jury do you feel as though you could listen to the evidence as presented in this courtroom and give both the State and the Defendant a fair and impartial trial?

MS. MUKHLIS: Yes, sir.

THE COURT: All right, in view of the fact that you

have family members involved in law enforcement do you feel as though you would give greater weight to testimony of law enforcement officers as opposed to other witnesses?

MS. MUKHLIS: I would hope that everybody would be honest, but I would definitely hope that police officers would be honest.

THE COURT: Well, that's my question to you is, do you, do you feel as though you would give the law enforcement officer's testimony greater weight than that of other witnesses?

MS. MUKHLIS: No, I would listen to everybody.

THE COURT: Okay, you're qualified to serve. Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: 160.

(Whereupon, an on-the-record bench conference was held with Juror Number 160, Hank Hucks, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: How you doing? I'm going to ask if you would talk in this direction so the court reporter can hear you, I can hear you and everybody can get this down. All right, are you in law enforcement or are you related to somebody in law enforcement?

MR. HUCKS: My niece's husband, Joe Vanderhorst

[spelled phonetically], Horry County.

THE COURT: All right, and if called upon to serve as a juror in this case do you feel as though you could give both the State and the Defendant a fair and impartial trial?

MR. HUCKS: Yes, sir.

THE COURT: All right, in view of the fact that you have some relationship with law enforcement do you feel as though if during the course of the trial you feel like you would give greater weight to the testimony of a law enforcement officer as opposed to other witnesses?

MR. HUCKS: Yes, sir, probably so.

THE COURT: Okay, all right, in view of that, I'm going to excuse you for the purposes of this trial. Thank you very much.

(Whereupon, the following takes place in open court.)

BAILIFF: 76.

(Whereupon, an on-the-record bench conference was held with Juror Number 76, Walter D. Cumbow, Jr., counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: How you doing? I'm going to ask if you could look in this direction so the court reporter and I can hear you and what you've got to say. Are you involved in law enforcement or a family member?

MR. CUMBOW: Family member.

THE COURT: Who is that?

MR. CUMBOW: I had a uncle who was chief of police or captain, Bristol, Virginia, police department for years and I also have a cousin who was chief of police in Kingsport, Tennessee. I had a cousin who was chief of police in Kingsport, Tennessee, in like the mid nineties.

THE COURT: If called upon to serve as a juror in this case do you feel as though you could listen to the evidence as presented in this case, give both the State and the Defendant a fair and impartial trial?

MR. CUMBOW: I don't know to be honest. I remember bits and pieces of it from when it was in the news and I'm a combat veteran. I look at things just a little different.

THE COURT: How's that?

MR. CUMBOW: As far as domestic violence, I've got strong opinions. It's like I told my other she comes at me, hands bared, claws bared, she picks something up and that's a weapon and that's part of my military training, I get, I'm always like that.

THE COURT: So, you feel as though particularly with matters of criminal domestic violence that you might not be in a position where you could be fair and impartial?

MR. CUMBOW: I can't swear to it, not totally.

THE COURT: In view of that, thank you for your

candor, we're going to excuse you for purposes of this trial. Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: 276.

(Whereupon, an on-the-record bench conference was held with Juror Number 276, Tommae C. Riley, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, ma'am, your full name and I'm going to ask you if you could face this direction. It's real important for the court reporter to get everything down. Your full name?

MS. RILEY: Tommae Riley.

THE COURT: All right, Ms. Riley, are you a law enforcement officer or somebody else?

MS. RILEY: No, I have a business relationship with Mr. Wilson.

THE COURT: Oh, okay, very good. I'm glad you brought that up. What is the nature of the business relationship?

MS. RILEY: I sell stationery.

THE COURT: Is he a customer of yours?

MS. RILEY: Uh-huh.

THE COURT: All right, and in view of that and the nature of the case and out of an abundance of precaution I'm

going to excuse you for purposes of this trial. Thank you. Stay around for a while, but thank you so much.

(Whereupon, the following takes place in open court.)

BAILIFF: 319.

(Whereupon, an on-the-record bench conference was held with Juror Number 319, Deborah H. Timms, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, ma'am, I'm going to ask if you could speak kind of loud enough for the court reporter to hear, so they can hear and I can hear.

MS. TIMMS: Okay.

THE COURT: Are you involved in law enforcement or some family?

MS. TIMMS: No.

THE COURT: Okay.

MS. TIMMS: I already had a question. They told me to come, the deputy did. Mr. Wilson's assistant, Ms. Delpercio ---

THE COURT: Right.

MS. TIMMS: --- is a neighbor and friend. I taught her daughter piano for about three years and I know her socially, you know, through school.

THE COURT: Okay.

MS. TIMMS: So, I'm unsure if that will make a

difference.

THE COURT: That's important. I'm glad you brought that up. The question I have is I need to glean from you if called upon to serve on this jury could you listen to all the evidence in this case and give both the State and the Defendant a fair and impartial trial based on the evidence in the case?

MS. TIMMS: Well, I would try, but I don't know, but I don't know knowing, of course, it couldn't be discussed, I mean, we wouldn't discuss it or anything, I mean.

THE COURT: Who?

MS. TIMMS: Ms. Delpercio and me, would it be just what happens in court.

THE COURT: Right, if called upon to serve on this jury would have nothing to do with her, his assistant. She's there.

MS. TIMMS: I wasn't sure if socially it mattered.

THE COURT: Well, that's -- it does matter if it affects your ability to be fair and impartial.

MS. TIMMS: Well, I would try not to let it be, yes.

THE COURT: That's one of the things that I need to determine is whether or not you can, and in matters such as this, a very important matter for both the State and the Defendant I need to determine whether or not you could set aside any relationship that you might have with Mr. Wilson's

secretary, give both the State and the Defendant a fair and impartial trial.

MS. TMIMS: Okay.

THE COURT: That's my question to you.

MS. TIMMS: Yes, I think I could.

THE COURT: All right, in polite conversation quite often we qualify what we say, we say I think I can. My question to you is whether absolute can you give the State and the Defendant a fair and impartial trial?

MS. TIMMS: Yes.

THE COURT: Qualified to serve. Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: 73.

(Whereupon, an on-the-record bench conference was held with Juror Number 73, Dora C. Crawley, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, ma'am, your full name?

MS. CRAWLEY: Dora Claudette Crawley.

THE COURT: I'm going to ask if you can ---

MS. CRAWLEY: Dora Claudette Crawley.

THE COURT: Okay, and the reason, the court reporter has to get it all down, okay? Who are you related to?

MS. CRAWLEY: I'm not related to anyone and I don't

consider school crossing guard an officer of the court but I was a school crossing guard for many years before we moved to Horry County.

THE COURT: Did you have the power to arrest people?

MS. CRAWLEY: No.

THE COURT: You worked for the school?

MS. CRAWLEY: I worked at three schools.

THE COURT: You could paddle them but not arrest them?

MS. CRAWLEY: I can't paddle them. So, I didn't have a whole lot of authority.

THE COURT: You think if called upon to serve on the jury you could give both the State and the Defendant a fair and impartial trial?

MS. CRAWLEY: I do.

THE COURT: All right, very good. Thank you. Qualified to serve. Thank you.

(Whereupon, the following takes place in open court.)

THE COURT: Ladies and gentlemen of the jury, as I had mentioned earlier this is the case of the State versus Bradley Scott Senter, and I'm going to need to ask you and want everybody to listen to this question. Have you heard, seen or read anything about this case in the news, have you heard it on the radio, read anything in the paper? If so, I want you to stand at this time.

All right, very good. I'm going to ask you if you can if

we can bring them forward. We'll deal with them one at a time and given the configuration of this courtroom I believe I'm going to need to come down rather than leaning over. I'll be right back.

BAILIFF: 176.

THE COURT: Okay, if we could hold them back, let's hold them back. There we go.

(Whereupon, an on-the-record bench conference was held with Juror Number 176, Carolyn B. Jordan, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, ma'am. I'm going to ask you to stand right here. All right, your full name?

MS. JORDAN: Carolyn Virginia Black Jordan.

(Whereupon, the following takes place in open court.)

THE COURT: Okay, once again, we need quiet. Thank you. Thank you so much.

(Whereupon, an on-the-record bench conference was held with Juror Number 176, Carolyn B. Jordan, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: All right, what have you -- I'm going to specifically ask you what have you read or heard about this case?

MS. JORDAN: Well, they were -- he attacked her on the

golf course or is that the one, shot, shot her, he found her, well, no, at the condominium and then he tried to shoot her.

THE COURT: Okay, what did you read and what did you see?

MS. JORDAN: I read it in the Sun News and that's what I remember reading in the Sun News.

THE COURT: Okay, and that's -- have you seen anything on TV or anything such as that?

MS. JORDAN: No.

THE COURT: Okay, all right, one of the things I need to ask you is that, of course, the newspaper, believe it or not, sometimes doesn't get the facts right; do you understand that, and they weren't there and they didn't know what took place, and you, if selected to serve on this jury, are going to be one of 12 people who get to hear straight from the horse's mouth what took place and my question to you is, could you set aside what you've read or heard or seen about this matter and set that aside and base your decision solely on what transpires here in this courtroom?

MS. JORDAN: I could.

THE COURT: Very good, and you feel as though you could give both the State and the Defendant a fair and impartial trial?

MS. JORDAN: I do.

THE COURT: You're qualified to serve. Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: Number 350.

(Whereupon, an on-the-record bench conference was held with Juror Number 350, Sylvia J. Wolfe, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Your full name?

MS. WOLFE: Sylvia Wolfe.

THE COURT: Okay, all right, one thing I want to just say preliminarily, well, first of all let me ask you what you have seen or heard?

MS. WOLFE: I just remember I think it was in the news when the accident first happened that she was a teacher at Carolina Forest School.

THE COURT: Okay, you need to speak up just a little bit so they can hear you.

MS. WOLFE: I just remember when it first happened when it was on the news on the television actually that what had happened to her and that she was a teacher at the Carolina Forest School.

THE COURT: Okay, very good. Let me -- one thing that you need to be aware of sometimes TV and newspapers don't exactly get all the facts right. You understand that; don't you?

MS. WOLFE: Right.

THE COURT: And if called upon to serve on this jury you're going to be one of 12 people who get to hear all the evidence straight from the horse's mouth. Do you feel if called upon to serve on this jury that you could set aside anything that you have read or might have heard in this matter, give both the State and the Defendant a fair and impartial trial based on the evidence that you hear in this courtroom?

MS. WOLFE: Yes.

THE COURT: You're qualified to serve. Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: 251.

(Whereupon, an on-the-record bench conference was held with Juror Number 251, Jamie A. Page, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, ma'am.

MS. PAGE: In passing this morning I just happened to see on the news they were selecting a jury for this case.

THE COURT: All right.

MS. PAGE: And I recognized the Plaintiff. I just went by visual. That is all I heard about the case.

THE COURT: Okay, do you know anything about the facts

based on what happened? Do you recall any of the facts of the case?

MS. PAGE: No, sir. I don't know anything else.

THE COURT: Okay, let me -- you know, essentially what you're telling me is the only thing you heard is that this is a matter that is going to be tried here today.

MS. PAGE: Yes, sir, basically same thing you told us.

THE COURT: Okay, good, you know, if you're called upon to serve on this jury you would be one of 12 people who would get to hear straight from the horse's mouth what transpired. My question to you is could you set aside the fact that you knew that this -- that you saw that blip on TV could you set that aside and give both the State and the Defendant a fair and impartial trial based on the evidence that comes out in this courtroom?

MS. PAGE: Absolutely.

THE COURT: You're qualified to serve. Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: Number 3.

(Whereupon, an on-the-record bench conference was held with Juror Number 3, Brandon Akers, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, sir, could you tell us what you heard, heard or seen?

MR. AKERS: I just heard or read on the internet. I think it was on the Sunday's website that the Defendant had shot his wife. That's all I can remember. I think it was a while back when I was reading it.

THE COURT: Okay.

MR. AKERS: Believe this was the case that I was reading about.

THE COURT: Do you remember a whole lot about the facts about that other than the allegations?

MR. AKERS: Not particularly just both of the allegations.

THE COURT: Okay, okay, let me -- you know sometimes the Sun News doesn't get everything exactly right. You understand that?

MR. AKERS: Uh-huh.

THE COURT: And if called upon to serve on this jury you'll be one of 12 people who will get to hear straight from the horse's mouth what transpired, what didn't transpire. You understand that?

MR. AKERS: Yes, sir.

THE COURT: All right, do you feel as though if called upon to serve on this jury that you could listen to the evidence that's presented in this case and give both the State

and the Defendant a fair and impartial trial?

MR. AKERS: Yes, sir.

THE COURT: You think the fact that you read that article on the Internet that that would prejudice you one way or the other?

MR. AKERS: No, sir.

THE COURT: You're qualified to serve. Thank you.

MR. AKERS: Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: 311.

(Whereupon, an on-the-record bench conference was held with Juror Number 311, Tammy S. Stroud, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: How you doing? Your full name again?

MS. STROUD: Tammy Stroud.

THE COURT: All right, and Juror Number 311.

All right, tell me what you've heard or read.

MS. STROUD: Really it was just this morning I was trying to watch the news for the weather ---

THE COURT: Right.

MS. STROUD: --- and I saw him in his scrubs saying they were picking the jury today. I didn't learn anything, a bit more than what you said this morning but that's for you to decide, not me.

THE COURT: Oh, okay, well, let me ask you this, if called upon to serve on this jury you would be one of 12 people in the entire world that gets to hear all the evidence from the beginning to the end. Do you understand that?

MS. STROUD: Yes, sir.

THE COURT: And you know that, you certainly know that the media, the television, newspapers and radio sometimes they get it wrong.

MS. STROUD: The lawyers oftentimes.

THE COURT: Anyway, you realize that if called upon to serve on this jury you need to listen to the evidence, the witnesses that testify in this case and base your decision on that. Do you understand that?

MS. STROUD: Yes, sir, everybody deserves to be heard.

THE COURT: That's right.

MS. STROUD: There's two sides to every story.

THE COURT: That's right, and you feel as though if called upon to serve on this jury you could give both the State and the Defendant a fair and impartial jury?

MS. STROUD: Yes, sir, I think so.

THE COURT: All right, and you know, once again, in polite conversation we always say I think so or maybe, whatever.

MS. STROUD: Yes, sir.

THE COURT: This is an important case and my question to you is directly this, could you give the State and the Defendant a fair and impartial trial?

MS. STROUD: Absolutely.

THE COURT: Very good. Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: 248.

(Whereupon, an on-the-record bench conference was held with Juror Number 248, Pamela S. Owens, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, ma'am, your full name?

MS. OWENS: Pamela Owens.

THE COURT: All right, Ms. Owens, tell me what you have read or heard.

MS. OWENS: Just that the gentleman shot his wife and it was domestic dispute, they were involved, they were getting ready to be divorced, where they live on Arrowhead Golf Course, he shot her and she ran to the golf course, a golfer found her, pretty generic.

THE COURT: Okay, all right, okay, one of the things that you need to realize is that quite often, quite often the newspaper and was it on the news you saw this or in the paper or both?

MS. OWENS: I saw it on the news. I saw it in the

paper and they have it on line.

THE COURT: Oh, okay, so, you've seen it in three different medias? All right, quite often ---

MS. OWENS: It's been on the news all week.

THE COURT: Okay, well, quite often they get it wrong, they weren't there and that sort of thing, but if called upon to serve on this jury you'd be one of 12 people get to hear straight from the horse's mouth what transpired and what didn't transpire. You understand that?

MS. OWENS: Yes, sir.

THE COURT: All right, my question to you is if called upon to serve on this jury could you give both the State and the Defendant a fair and impartial trial?

MS. OWENS: Yes, sir.

THE COURT: Is there anything that you have read to this juncture that would make you believe that you could not give both the State and the Defendant a fair and impartial trial?

MS. OWENS: No, sir.

THE COURT: Could you base your decision on the evidence that you hear in this courtroom?

MS. OWENS: Absolutely.

THE COURT: You're qualified to serve. Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: 34.

(Whereupon, an on-the-record bench conference was held with Juror Number 34, Wilbur H. Bratcher, Jr., counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: How you doing? Your full name?

MR. BRATHCHER: Wilbur H. Bratcher, Jr.

THE COURT: Okay, what, what have you read or heard about this matter?

MR. BRATCHER: Well, we just, when I say we, you know, we read the newspaper and things in the newspaper and discussion among the co-workers and different ones, but as far as anything natural or facts, you know, just by reading the paper, that's it.

THE COURT: Okay, all right, well, my question to you is, you know, when you read things in the paper quite often they don't, you know, they're just reporting what they hear or what they observed.

MR. BRATCHER: Right.

THE COURT: And sometimes they get it wrong, you understand that; don't you?

MR. BRATCHER: Yes, sir.

THE COURT: All right, now, if you were called upon to serve on this jury you'd be one of 12 people who would get to hear straight from the horse's mouth and the witnesses as to what happened or didn't happen. You understand that?

MR. BRATCHER: Right.

THE COURT: All right, if called upon to serve on this jury could you set aside anything that you read or heard about this case and give both the State and the Defendant a fair and impartial trial?

MR. BRATCHER: Yes, sir, because what I read and stuff it's just like reading it and it's gone.

THE COURT: Right, okay.

MR. BRATCHER: You know, yeah, but facts would be different.

THE COURT: And if called upon to serve on this jury you could base your decision on the evidence and the witnesses and the testimony that comes forward from this trial?

MR. BRATCHER: Yes, sir.

THE COURT: Is there anything that you have read or heard that would prejudice you either against the State or the Defendant?

MR. BRATCHER: No, sir.

THE COURT: You're qualified to serve. Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: 107.

(Whereupon, an on-the-record bench conference was held with Juror Number 107, James S. Forgey, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, sir, your full name?

MR. FORGEY: James Stanley Forgey.

THE COURT: Okay, and what have you heard or read about this case?

MR. FORGEY: I just recall reading in the paper particular note because I think it occurred at the other end of the neighborhood that I live in.

THE COURT: Oh, okay, and what -- you've read it in the newspaper?

MR. FORGEY: Yes.

THE COURT: You see anything in the news, broadcast news that you can recall?

MR. FORGEY: I may have. I don't recall.

THE COURT: Okay, well, tell me what you read, what do you know about this from what you've read?

MR. FORGEY: Well, I think it's the case where the lady was managed to make it out on the golf course after she was attacked.

THE COURT: Okay, all right, and, you know, when you read things in the newspaper and you see things on the news sometimes they get it wrong. You understand that?

MR. FORGEY: Certainly.

THE COURT: All right, and if called upon to serve as a juror in this case you'd be one of 12 people who would get to hear straight from the horse's mouth what transpired and

what didn't transpire. Do you understand that?

MR. FORGEY: Right.

THE COURT: Do you feel if called upon to serve on this jury that you could set aside everything that you've read outside of this courtroom and base your decision on the testimony and the evidence that's presented in this trial?

MR. FORGEY: Absolutely.

THE COURT: Okay, do you feel as though there's anything that you've read that prejudices you in any way, shape or form against the State or against the Defendant?

MR. FORGEY: No, I don't.

THE COURT: Okay, you're qualified to serve. Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: 127.

(Whereupon, an on-the-record bench conference was held with Juror Number 127, Julie R. Basenhop, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, ma'am, your full name?

MS. BASENHOP: Julie R. Basenhop.

THE COURT: Okay, could you tell us what you've heard or read and where you read it or heard it?

MS. BASENHOP: I've read it, an article online, Sun News.

THE COURT: Okay, all right, and one of the things --

what did you read?

MS. BASENHOP: I read bits and pieces of it. I am familiar with the name but I do not know the person ---

THE COURT: Okay.

MS. BASENHOP: --- and like every article that -- because my husband was shot and killed and it's just something that I, you know, I read about other people and I don't take it seriously. It's just they're proven guilty -- they're innocent until proven guilty. So ---

THE COURT: Okay, all right, this -- that -- you raised two important points that I need to bring up. Number one is I need you to determine whether there's anything that you've read that would keep you from being a fair and impartial juror.

MS. BASENHOP: No, sir.

THE COURT: Okay, all right, if called upon to serve on this jury you'd be one of 12 people who would get to hear straight from the horse's mouth what transpired.

MS. BASENHOP: Right.

THE COURT: You understand that?

MS. BASENHOP: Yes, sir.

THE COURT: And what transpired or didn't transpire and you feel as though you could set aside any article that you might have read and base your decision on what transpires in this courtroom from the witness stand and the evidence

presented in this case?

MS. BASENHOP: Yes, sir.

THE COURT: All right, you've brought up another point that we might address in a later question but you mentioned that your husband was a victim of a violent crime.

MS. BASENHOP: My ex-husband.

THE COURT: Ex-husband was a victim of a violent crime.

MS. BASENHOP: As far as I know it's still under investigation.

THE COURT: Okay, and do you feel as though in view of the fact that you were victimized by a violent crime at least to the extent it happened to your ex-husband could you set that aside and give both the State and the Defendant a fair and impartial trial?

MS. BASENHOP: Yes, sir, sure can.

THE COURT: Okay, all right, you're qualified to serve. Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: 202.

(Whereupon, an on-the-record bench conference was held with Juror Number 202, Dianne M. Lindquist, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, ma'am, could you tell us your full

name?

MS. LINDQUIST: My name is Dianne Lindquist.

THE COURT: All right, and tell us what you've read, what you know about it and where you read or saw it.

MS. LINDQUIST: Well, I didn't read or know about it and I don't know if this is even insignificant to talk about but I live at the Villages of Arrowhead which I think is where this occurred. I've been there since last July. We did make a trip in October of 2006 to look at the homes in the area and I think we may have looked at the home where this occurred or the home next to it because we were told by neighbors stay away from there, that's where the man shot his wife. So, and we've heard that since. I don't know if that is significant or not, but thought that I would raise the issue.

THE COURT: Okay, well, you know, one of the things that I think in view of the fact that you live in the neighborhood and in view of the fact that you have actually viewed what you believed to be the scene of where something might or might not have transpired I'm going to excuse you for the purposes of this trial, and I'm going to tell you the reason why I'm doing it because at the trial you need to base your decision on what transpires here in this courtroom, and see, if you were in the jury room and I don't know in the deliberation process you would have information other jurors wouldn't have in view of that. So, there's not anything wrong

with what you did, just in view of this case and the importance of it I'm going to excuse you for the purposes of this trial only.

MS. LINDQUIST: Okay.

THE COURT: Thank you.

MS. LINDQUIST: Does that mean I'm free to leave?

THE COURT: No, that means you can wait on us.

(Whereupon, the following takes place in open court.)

BAILIFF: 351.

(Whereupon, an on-the-record bench conference was held with Juror Number 351, Dessie L. Wright, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, ma'am, your full name?

MS. WRIGHT: Dessie Wright.

THE COURT: Okay, tell us what you've heard or read about this matter.

MS. WRIGHT: I read, I read the Sun News every day.

THE COURT: Okay, tell me what you know about this case.

MS. WRIGHT: Only what the Sun News said about and I can't remember all the details because I read all of it every day.

THE COURT: Okay.

MS. WRIGHT: That she was a teacher and her husband

shot her.

THE COURT: All right, well, let me, let me -- one thing that you need to realize is that sometimes the Sun News doesn't get it always -- doesn't get it right. You understand that?

MS. WRIGHT: Right, I know that. I work at a hospital and I know what ---

THE COURT: You know sometimes they don't get it right.

MS. WRIGHT: Yes, yes.

THE COURT: If called upon to serve on this jury you'd be one of 12 people that would hear straight from the horse's mouth what did or didn't happen. You understand that?

MS. WRIGHT: Yes, uh-huh.

THE COURT: And my question to you is could you set aside what you've read in the newspaper and give both the State and the Defendant a fair and impartial trial?

MS. WRIGHT: Yes, sir.

THE COURT: All right.

MS. WRIGHT: Because they misquoted me many times as a supervisor.

THE COURT: Okay, all right, but you -- if called upon to serve on this jury you could base your decision on what transpires here in this courtroom?

MS. WRIGHT: Here, yes, sir.

THE COURT: You're qualified to serve. Thank you.

MS. WRIGHT: I think we have forefathers that knew each other quite well.

THE COURT: Who's that?

MS. WRIGHT: Asca [spelled phonetically] was my grandmother.

THE COURT: Oh, how about that. I mean, I don't know all my kin people.

MS. WRIGHT: I don't either.

THE COURT: But at any rate, good to see you.

(Whereupon, the following takes place in open court.)

(Whereupon, an on-the-record bench conference was held with Juror Number 304, Kurt D. Spychalla, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: How you doing? Your full name?

MR. SPYCHALLA: Kurt Spychalla.

THE COURT: Okay, and I want you tell us what you've heard or read about this matter or seen.

MR. SPYCHALLA: Just local newspaper coverage and Channel 15 news accounts and stuff, Arrowhead Golf Course incident, but I don't know, I guess, you know, a while back. I don't know that I have any prejudice or anything. I don't know if it's relevant or not but my wife just served as a juror on the Parkers' murder case last month and a half or two months ago.

THE COURT: Okay, let me ask you, first of all, I think you'd mentioned that this case involves a murder. Obviously, well, first of all, this case does not involve a murder. It involves something else, and you know, you realize that the newspaper coverage quite often can get it wrong. You understand that?

MR. SPYCHALLA: Yes, I do.

THE COURT: And if called upon to serve on this jury could you give both the State and the Defendant a fair and impartial trial?

MR. SPYCHALLA: I would hope so. I would attempt to.

THE COURT: Okay, and if called upon to serve on this jury could you base your decision not on what you've read but what you hear in this courtroom?

MR. SPYCHALLA: Yes.

THE COURT: Is there anything that you've heard or read that would prejudice you in any way, shape or form against the State or the Defendant?

MR. SPYCHALLA: I don't think so.

THE COURT: Okay, you know, in polite conversation quite often we qualify what we say, and once again, I'm going to ask you this is an important case to both the State and the Defendant, we deal in absolutes. My question is is there anything that you've heard, seen or read that could prevent you from giving a fair and impartial trial or is there?

MR. SPYCHALLA: No.

THE COURT: Okay, you're qualified to serve. Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: 98.

(Whereupon, an on-the-record bench conference was held with Juror Number 98, Tony M. Ely, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, sir, your full name?

MR. ELY: Tony Marvin Ely, E-L-Y.

THE COURT: Okay, and tell us what you've heard, read or seen.

MR. ELY: What I mostly heard has been in the Sun News and on the TV. My understanding is both of them live in Forestbrook Community. I don't think they're married. One or both of them work at Forestbrook Elementary School. She's a very good teacher, from what has been presented to me, and he went in and abused her, beat her and shot her.

THE COURT: Okay, all right, and you base those facts on what you've heard and read in the news?

MR. ELY: Yes, sir.

THE COURT: All right, and you understand that quite often the news gets it wrong. Do you understand that?

MR. ELY: Most definitely.

THE COURT: All right, and if called upon to serve on this jury you would be one of 12 people who would get to hear straight from the horse's mouth beginning to end what transpired, what didn't transpired. You understand that?

MR. ELY: Yes, sir.

THE COURT: All right, is there anything that you have heard or read that would unduly prejudice you against the State or the Defendant?

MR. ELY: No, sir.

THE COURT: Could you set aside anything that you've read and base your decision on what transpires here in this courtroom?

MR. ELY: Yes, sir, I could.

THE COURT: You're qualified to serve. Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: 22.

(Whereupon, an on-the-record bench conference was held with Juror Number 22, Cassie A. Beamon, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Hey, how you doing?

MS. BEAMON: Hey.

THE COURT: Your full name?

MS. BEAMON: Cassie Amanda Beamon.

THE COURT: Okay, tell us what you've heard, read or

seen about this matter.

MS. BEAMON: I just read on line that it was a shooting, they got in an argument.

THE COURT: Okay.

MS. BEAMON: It was on line. I didn't know the full details.

THE COURT: Okay, she said she read an article in -- if you can repeat your answer. She read an article on the internet and she said there wasn't a lot of details. Is that what you said?

MS. BEAMON: Yes, sir.

THE COURT: All right, one of the things that you need to realize is that in matters such as this quite often the newspaper gets it wrong, and if called upon to serve on this jury you'd be one of 12 people in the entire world that gets to hear straight from the horse's mouth what transpired. Do you understand that?

MS. BEAMON: Uh-huh.

THE COURT: And do you feel as though if called upon to serve on this jury you could listen and base your decision on the evidence presented in this trial and base your decision on that?

MS. BEAMON: Yes, sir.

THE COURT: Is there anything that you've heard or read at this juncture that would feel -- make you feel as

though you would be unduly prejudiced towards either the State or the Defendant?

MS. BEAMON: No, sir.

THE COURT: All right, you're qualified to serve. Thank you.

MS. BEAMON: Yes, sir.

(Whereupon, the following takes place in open court.)

BAILIFF: 239.

(Whereupon, an on-the-record bench conference was held with Juror Number 239, Kimberly K. Nichols, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: How you doing? Your full name?

MS. NICHOLS: Kimberly K. Nichols.

THE COURT: Kimberly K. Nichols, all right, tell us what you've heard or read.

MS. NICHOLS: The only thing that I've seen is the news this morning ---

THE COURT: Right.

MS. NICHOLS: --- where it just said that the case was going to begin today and the jury selection.

THE COURT: Okay, all right, you don't know anything about the facts of the case?

MS. NICHOLS: No.

THE COURT: You know what the charges are because I

told you what they are.

MS. NICHOLS: You told me.

THE COURT: Okay, and do you think that anything that you've heard, read or seen would prevent you from giving both the State and the Defendant a fair and impartial trial?

MS. NICHOLS: No.

THE COURT: You're qualified to serve. Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: 346.

(Whereupon, an on-the-record bench conference was held with Juror Number 346, Patricia B. Wilkes, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: How you doing? Your full name?

MS. WILKES: Patty Wilkes, Patricia Morgan Wilkes.

THE COURT: Okay, thank you, Ms. Wilkes. Tell us what you've heard, read or seen about this matter.

MS. WILKES: I read the article in the paper when it happened. Do you want me to tell you what I remember about it?

THE COURT: Yeah, I do.

MS. WILKES: I remember that the lady had run out onto the golf course after she had been shot and that the gentleman followed her out on the golf course and another gentlemen, if I remember correctly, offered to give her aid and that he

turned the weapon on him.

THE COURT: Okay, all right, one of the things that you need to realize is that quite often the media gets it wrong. You understand that?

MS. WILKES: Uh-huh.

THE COURT: And if called upon to serve on this jury you'd be one of 12 people who would get to hear straight from the horse's mouth beginning to end what happened and what didn't happen. You understand that?

MS. WILKES: Uh-huh.

THE COURT: And if called upon to serve on this jury could you base your decision on what transpires here in this courtroom?

MS. WILKES: I take it very seriously and it's very careful. I would hope I could do that, yes.

THE COURT: Okay, all right, and in the course of polite conversation we always sort of qualify what we say by saying, ``I think so,'' or, ``I hope so.'' These are important matters, and it's important to both the State and the Defendant. My question to you is could you give both the State and the Defendant a fair and impartial trial?

MS. WILKES: Yes.

THE COURT: Is there anything that you've read at this juncture that would prevent you from giving both the State and the Defendant a fair and impartial trial?

MS. WILKES: No.

THE COURT: If called upon to serve you'll base it on what has transpired here in this courtroom as opposed to what you've read?

MS. WILKES: (Indicates affirmatively.)

THE COURT: You're qualified to serve. Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: 142.

(Whereupon, an on-the-record bench conference was held with Juror Number 142, Linda R. Harrill, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, ma'am, your full name?

MS. HARRILL: Linda R. Harrill, H-A-R-R-I-L-L.

THE COURT: Okay, and tell us what you've heard, read or seen.

MS. HARRILL: I have been reading the paper because I read a lot about domestic violence because I work with children and families that are victims of domestic violence.

THE COURT: Okay.

MS. HARRILL: And run a non-profit North Carolina that works with those kids; and so, I read the paper profusely.

THE COURT: Okay.

MS. HARRILL: So, I've been reading about this particular case.

THE COURT: And so, and essentially, you sort of work as an advocate against violence of some sort?

MS. HARRILL: Uh-huh.

THE COURT: I'm going to -- out of an abundance of precaution and in view of the importance of this case, I'm going to excuse you for the purposes of this trial out of an abundance of precaution. Thank you so much.

MS. HARRILL: Thank you.

THE COURT: Thank you. You're excused for the purposes of this trial.

(Whereupon, the following takes place in open court.)

BAILIFF: 97.

(Whereupon, an on-the-record bench conference was held with Juror Number 97, Phyllis E. Elvington, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: How you doing? Your full name?

MS. ELVINGTON: Phyllis Elliott Elvington.

THE COURT: All right, tell me what you've heard, read or seen about this matter.

MS. ELVINGTON: Well, I work as a teacher evaluator in Horry County school system in the ADEPT Office, and I serve on teams with principals and assistant principals to evaluate teachers. Therefore, when it happened, you know, our office was alerted because we work with every school in the area.

So, it was like an update of how she was doing and the process.

THE COURT: Okay, do you know, do you know the alleged victim in this case?

MS. EVLVINGTON: Yes.

THE COURT: You know her personally?

MS. ELVINGTON: Not personally through the school system.

THE COURT: But you have seen her and dealt with her.

MS. ELVINGTON: I have not dealt with her on a team. I've dealt with the administration at that school. I normally stay from Carolina Forest on but, you know, we were updated because with our process of teacher evaluation our main concern is the students and when this happened and of course that affected the entire school.

THE COURT: Right.

MS. ELVINGTON: You know, and all the children and so, you know, I just when you asked did we know, you know, we were updated continually about how things were going because of it effected, you know, she was on cases that, you know, teacher evaluation.

THE COURT: In view of the fact that you all work in the same organization out of an abundance of precaution I'm going to excuse you for the purposes of this trial. Thank you so much. Thank you.

MS. ELVINGTON: And I just want to say something. I'm a

Christian.

THE COURT: Right.

MS. ELVINGTON: When you asked a while ago and I just want to be honest with you when you asked do you have any -- you know, have you put any decisions in your mind or whatever, you know, if you read the newspapers, I mean, I'm just being completely honest with you, you know what I'm saying, but I mean, if you read the newspaper, you watched the news, and you even halfway involved, I mean, like in the school system it's very hard not to have already formed an opinion in your mind, you know; so, I felt I almost lied when you said have you formed an opinion in your mind, and maybe that's because I was ---

THE COURT: Maybe because you're so close but one of the things that jurors who are going to serve on this case are going to be required to do they're going to have to raise their hand, put their hand on the Bible and raise their hand and swear to God that they can base their decision on the evidence that's presented in this case and not on what they've read outside of the courtroom. So, that's the reason behind that ---

MS. ELVINGTON: And I've just felt like I've told a story because in my heart I thought ---

THE COURT: You don't, you don't feel bad about that. That's something -- it's a very difficult thing to stand ---

MS. ELVINGTON: It is. It is.

THE COURT: --- in judgment of other people and it's a very important job that's a hallmark of our democracy and it's important that we have conscientious people to do that.

MS. ELVINGTON: And honest people, I just wanted to be completely honest.

THE COURT: Thank you so much.

MS. ELVINGTON: Thank you.

THE COURT: Good to see you.

MS. ELVINGTON: Do I just stay?

THE COURT: Just stay right here until we get done. Thank you so much.

MS. ELVINGTON: I'll be praying. I've already been praying.

THE COURT: All right, thank you. Good, good. We need some of that.

(Whereupon, an on-the-record bench conference was held with Juror Number 175, Michael A. Jones, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Your full name, sir?

MR. JONES: Michael Andrew Jones.

THE COURT: All right, could you tell us in such a fashion so these people can hear it but not those people what you've heard, read or seen.

MR. JONES: Basically all I've heard and seen what's been on the local news for the last several days and what I've read on line.

THE COURT: Okay, okay, tell us what you know about the case.

MR. JONES: The only thing I know is she was a principal or is a principal at an Horry County school and apparently she was shot in the chest at her condominium in Little River I believe.

THE COURT: Okay, all right, one of the things that you need to bear in mind is that sometimes the news gets it wrong. You understand that?

MR. JONES: Yes, sir.

THE COURT: And if called upon to serve on this jury you'd be one of 12 people in the entire world that would get to hear straight from the very beginning to the end what happened and what didn't happen. You understand that?

MR. JONES: Yes, sir.

THE COURT: If called upon to serve on this jury could you base your decision on what transpires in this courtroom as opposed to what you've read in the newspaper?

MR. JONES: Yes, sir.

THE COURT: Anything that you've read in the newspaper that would prevent you from giving both the State and the Defendant a fair and impartial trial?

MR. JONES: No, sir.

THE COURT: You're qualified to serve. Thank you so much.

(Whereupon, the following takes place in open court.)

BAILIFF: 303.

(Whereupon, an on-the-record bench conference was held with Juror Number 303, Jerrie S. Springer, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, ma'am, your full name?

MS. SPRINGER: I just remember hearing on the radio, reading in the paper.

THE COURT: Okay, and your full name?

MS. SPRINGER: Jerrie S. Springer.

THE COURT: All right, Ms. Springer, what -- could you tell us in summary fashion what you know about it?

MS. SPRINGER: Just that it was a shooting on a golf course, domestic situation.

THE COURT: Okay, all right, one thing that you need to bear in mind is sometimes the news gets it wrong. You understand that?

MS. SPRINGER: Oh, yes.

THE COURT: All right, you're aware of that. All right, and if called upon to serve on this jury you would be one of 12 people in the entire world that gets to hear

straight from the beginning to the end what happened, what didn't happen. You understand that?

MS. SPRINGER: Yes.

THE COURT: Do you feel if called upon to serve on this jury you could sit and be fair and impartial to both the State and the Defendant?

MS. SPRINGER: Yes, I believe so.

THE COURT: And set aside anything that you might have read up until this point?

MS. SPRINGER: Certainly.

THE COURT: You're qualified to serve. Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: 56.

(Whereupon, an on-the-record bench conference was held with Juror Number 56, Kelly D. Carey, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, ma'am, your full name?

MS. CAREY: My full name is Kelly Dawn Carey.

THE COURT: Ms. Carey.

MS. CAREY: Uh-huh.

THE COURT: Okay, tell us what you've heard, read or seen.

MS. CAREY: I've just heard, I mean, when it first happened I remember it and then on yesterday getting ready to

come here because I was thinking, ``Oh, gosh, I bet that's what it's about. `` I don't really remember a lot of details.

THE COURT: You don't remember a whole lot of details about it.

MS. CAREY: Huh-uh.

THE COURT: Apparently you're aware that this matter was going to come up. My question to you is if called upon to serve in this matter could you base your decision on what transpires here in this courtroom?

MS. CAREY: Well, I would hope so, but, you know, that's hard.

THE COURT: I know quite often -- now, see these are important matters. We kind of deal in absolutes, and my question to you is if called upon to serve on this jury you'd be one of 12 people in the entire world get to hear straight from the beginning to the end as to what transpired in this case.

MS. CAREY: Right.

THE COURT: All right, do you feel as though if called upon to serve on this case that you could base your decision on what transpires here in this courtroom?

MS. CAREY: I would hope so.

THE COURT: Okay, and ---

MS. CAREY: You know, I just don't believe in anybody hurting anybody though, so.

THE COURT: Okay, all right, so, you have some reservation about whether or not you could be fair and impartial?

MS. CAREY: Uh-huh.

THE COURT: Okay, well, in view of that I'm going to excuse you.

MS. CAREY: Because I have friends, you know, they been in domestic situations before.

THE COURT: Okay, thank you so much for being straightforward with us. There's not anything wrong with having that view but it's important for you to be honest with us. So, thank you so much.

MS. CAREY: Thank you. Do I sit down or go?

(Whereupon, the following takes place in open court.)

BAILIFF: 319.

(Whereupon, an on-the-record bench conference was held with Juror Number 319, Deborah H. Timms, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, ma'am, your full name again?

MS. TIMMS: Debbie Timms.

THE COURT: Okay, Ms. Timms, tell me what you've heard, read or seen.

MS. TIMMS: Well, I remember back when it happened.

THE COURT: Right.

MS. TIMMS: It was all over the news, you know, if you lived here and reading about it, hearing about it on TV.

THE COURT: Okay, well, tell me what you know about it based on what you've read.

MS. TIMMS: You know, this is from the internet remember the facts of he had tried to kill his wife and from reading all the facts I just kind of, you know, they were trying to make it look like he was guilty and then it was brought up again yesterday on the news that they were pulling the jury this week but I don't remember all the facts exactly.

THE COURT: All right, all right, you know, the information that you've received in this case it has come from the media and sometimes the media gets it wrong. Do you understand that?

MS. TIMMS: Oh, yes.

THE COURT: All right, and my question to you is, first of all, if you're called to serve on this jury you'd be one of 12 people who get to hear straight from the horse's mouth what transpired. You get to hear from the beginning to end what happened and what didn't happen. You understand that?

MS. TIMMS: Uh-uh.

THE COURT: Do you feel if called upon to serve on this jury you could base your decision on what transpires here in this courtroom?

MS. TIMMS: Yes.

THE COURT: Is there anything that you've heard or read up until this point that you feel would prevent you from giving both the State and the Defendant a fair and impartial trial?

MS. TIMMS: No, I would try to stay open-minded, but you know, you kind of go, you've kind of been brainwashed one way before coming in, but yes, I'd be open-minded in what I hear here.

THE COURT: Okay, all right, well, that's going to be a very important point and the law requires that you presume an individual is innocent. Do you understand that?

MS. TIMMS: Right, right.

THE COURT: And if called upon to serve on this jury could you give both the State and the Defendant a fair and impartial trial and follow the law as I charge it to you?

MS. TIMMS: Yes.

THE COURT: You're qualified to serve. Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: 41.

(Whereupon, an on-the-record bench conference was held with Juror Number 41, Brenda S. Brown, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, ma'am, your full name? Your full

name?

MS. BROWN: Brenda Brown.

THE COURT: Tell me what you've heard, read or seen.

MS. BROWN: My mom called me Monday, told me it was in the newspaper because she knew I had court this week.

THE COURT: Right.

MS. BROWN: And then last night I saw it on the six o'clock news.

THE COURT: Okay.

MS. BROWN: And then the weekend.

THE COURT: Tell me what you've, tell me what you've heard or read about this matter.

MS. BROWN: Just basically that it's for the assault, attempted battery, killing, that's all I really recall of it. I do recall seeing the gentleman in the blue shirt being led in yesterday in scrubs and a white t-shirt with handcuffs, and a lady in the striped shirt sitting to our left I recall seeing her picture on TV. That's all I remember. At the time I'm feeding kids and watching.

THE COURT: Okay, well, in view of that, I'm going to excuse you for the purposes of this case. Thank you very much.

(Whereupon, the following takes place in open court.)

BAILIFF: 325.

(Whereupon, an on-the-record bench conference was held

with Juror Number 325, George T. Ulrich, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Your full name?

MR. ULRICH: George Thomas Ulrich.

THE COURT: Okay, all right, Mr. Ulrich, tell us what you've heard, read or seen in this matter.

MR. ULRICH: The only thing I know is I live in the same neighborhood.

THE COURT: Okay.

MR. ULRICH: And I had just moved here to the Myrtle Beach area, and of course, that stuck out because it was the only thing that happened since I moved in there. That was pretty much it.

THE COURT: Okay, all right, what do you know about it based on what you've read?

MR. ULRICH: I guess what I read was that he had shot his wife in the home and that was it.

THE COURT: Okay, all right, one thing that you need to realize is that the media quite often gets it wrong. You understand that?

MR. ULRICH: True.

THE COURT: And if called upon to serve on this jury you'd be one of 12 people in the entire world gets to hear straight from the very beginning to the very end what happened

and what didn't happen. You understand that?

MR. ULRICH: Yes, sir.

THE COURT: All right, and if called upon to serve on this jury could you base your decision on what transpires here in this courtroom as opposed to what you've read outside of the courtroom?

MR. ULRICH: I feel I could, yes, sir.

THE COURT: All right, is there anything that you've read up until this point that would prejudice you in any way, shape or form against the State or the Defendant?

MR. ULRICH: No, sir.

THE COURT: You're qualified to serve. Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: 194.

(Whereupon, an on-the-record bench conference was held with Juror Number 194, Barbara G. Law, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, ma'am, your full name?

MS. LAW: Barbara Law.

THE COURT: All right, tell us what you've heard, read or seen about this matter.

MS. LAW: I just kept up with it during the time that it happened. I avidly read the paper and watch the news.

THE COURT: Okay.

MS. LAW: I don't remember great details but at the time I was engaged, you know, and kept up with it.

THE COURT: Okay, what -- do you remember what you've read?

MS. LAW: Not in great detail, no.

THE COURT: Okay, all right, one of the things that you need to realize is that I assume you read the Sun News.

MS. LAW: Uh-huh.

THE COURT: You know, the Sun News sometimes doesn't get it right. You understand that?

MS. LAW: Uh-huh, yeah.

THE COURT: All right, and if called upon to serve on this jury you'd be one of 12 people in the entire world that get to hear straight from the beginning to the end as to what happened and what didn't happen. You understand that?

MS. LAW: Yes, sir, uh-huh.

THE COURT: Do you feel as though if called upon to serve on this jury you could base your decision on what transpires in this courtroom as opposed to what you've read prior to the court?

MS. LAW: Yes.

THE COURT: All right, you're qualified to serve. Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: 357.

(Whereupon, an on-the-record bench conference was held with Juror Number 357, Richard W. Young, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, sir, your full name?

MR. YOUNG: I remember reading about this case extensively in the papers.

THE COURT: Your full name?

MR. YOUNG: Richard Young.

THE COURT: All right, Mr. Young.

MR. YOUNG: I remember reading about it extensively in the paper, but more importantly I'm the president of the Grand Strand Sertoma Club and Mr. Hembree talked at our club a couple of months ago and spoke at fair length about the character's behavior, attitude since incarceration, and well, quite frankly, I don't think Mr. Hembree realized he was talking to a potential juror and what he was saying what he told me of the Defendant.

THE COURT: In view of that I'm going to excuse you for the purposes of this trial and you haven't discussed this matter with any of the other jurors?

MR. YOUNG: No.

THE COURT: All right, I'm going to ask and direct and order that you not do so. Out of an abundance of precaution I'm going to go ahead and excuse you and allow you to leave at

this time. Now, you need to check back, check back with the Clerk's Office. There's a number where you're supposed to call back. They'll let you know if and when you're supposed to come back. Thank you so much.

(Whereupon, the following takes place in open court.)

BAILIFF: 273.

(Whereupon, an on-the-record bench conference was held with Juror Number 273, Michael A. Rice, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: How you doing? Your full name?

MR. RICE: Michael A. Rice.

THE COURT: Price, Mr. Price.

MR. RICE: Rice.

THE COURT: Rice, I'm sorry. Mr. Rice, tell me what you've heard, read or seen about this matter.

MR. RICE: Well, I read about it when it first came out in the Sun News but I don't remember a whole lot more, you know, I don't remember really what I read other than there was a shooting. It was over in -- over off Burcale Road. That's about the extent of what I remember on it.

THE COURT: Okay, well, essentially you haven't read anything more than what I've told the Court anyway, what the accusations are; is that right?

MR. RICE: That's right; that's right.

THE COURT: Okay, do you feel if called upon to serve on this jury you could base your decision on what transpires here in this courtroom as opposed to what you might have heard or read outside of the courtroom?

MR. RICE: Yes, sir.

THE COURT: Do you feel as though you could give both the State and the Defendant a fair and impartial trial?

MR. RICE: Yes, I would.

THE COURT: You're qualified to serve. Thank you.

(Whereupon, the following takes place in open court.)

THE COURT: Is there any member of the jury panel who themselves or a close relative been a victim of a violent crime? If so, please stand.

All right, I'll ask that the three of you all come forward if you could.

Yes, ma'am, come forward.

BAILIFF: 127.

(Whereupon, an on-the-record bench conference was held with Juror Number 127, Julie R. Basenhop, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, ma'am, you and I had talked about the fact that your ex-husband was a victim of a violent crime. Could you set that aside and give both the State and the Defendant a fair and impartial trial?

MS. BASENHOP: Yes, sir.

THE COURT: Your full name again?

MS. BASNEHOP: Julie R. Basenhop.

THE COURT: Thank you so much.

(Whereupon, the following takes place in open court.)

BAILIFF: 321.

(Whereupon, an on-the-record bench conference was held with Juror Number 321, Denise R. Todd, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, ma'am, your full name?

MS. TODD: Denise Todd, Denise R. Todd.

THE COURT: Okay, good. Tell me what your situation is.

MS. TODD: My ex-boyfriend, which was my ex-husband eventually, I charged him with CDV charge.

THE COURT: Oh, okay, and do you feel if called upon to serve on this jury you could set that experience aside and base your decision on what transpires here in this courtroom?

MS. TODD: Yes, sir.

THE COURT: The fact that you were a victim or an alleged victim of criminal domestic violence do you think that you would side more towards the victim in this case as opposed to the Defendant?

MS. TODD: No, sir.

THE COURT: Could you base your decision on what transpires here in this courtroom?

MS. TODD: Yes, sir.

THE COURT: All right, could you give both the State and the Defendant a fair and impartial trial?

MS. TODD: Yes, sir.

THE COURT: How did the criminal domestic violence case that you were involved in resolve?

MS. TODD: He got, I worked it out with the prosecutor for him to go to drug rehab and he ended up violating probation and he ended up serving time.

THE COURT: Oh, okay, you feel as though you could set aside this life experience and give both the State and the Defendant a fair and impartial trial?

MS. TODD: Yes, sir.

THE COURT: You're qualified to serve. Thank you so much.

(Whereupon, the following takes place in open court.)

BAILIFF: 364.

(Whereupon, an on-the-record bench conference was held with Juror Number 364, Michael Shay Briggs, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Yes, sir, your full name?

MR. BRIGGS: Michael Shay Briggs.

THE COURT: All right, Mr. Briggs, tell us what your situation is.

MR. BRIGGS: A friend of mine, Haley, her mother was murdered in Little River this last year. They hunted him down in the woods.

THE COURT: All right, that's an important thing for us to talk about because you understand that this involves different people and different circumstances.

MR. BRIGGS: Sure.

THE COURT: And different evidence, you understand that. If called upon to serve on this jury could you listen to the evidence ---

MR. BRIGGS: Absolutely.

THE COURT: --- that's presented in this trial ---

MR. BRIGGS: Absolutely.

THE COURT: --- and give both the State and the Defendant a fair and impartial trial?

MR. BRIGGS: I believe so.

THE COURT: And of course, in polite conversation quite often we qualify what we say. This is an important matter. It's important to the State and the Defendant. We have to deal in absolutes. My question to you is could you listen to the evidence in this case and follow the law as I charge it to you and give both the State and the Defendant a fair and impartial trial?

MR. BRIGGS: I believe so.

THE COURT: Okay, once again, you know, we deal in absolutes. It requires a yes or no, and it's an important thing if you have any hesitation you need to set that forth for me, but if called upon to serve on this jury you're going to take a solid oath to listen to the evidence and the law as I charge it to you and render a fair and impartial verdict.

MR. BRIGGS: Yes.

THE COURT: Could you do that?

MR. BRIGGS: Yes.

THE COURT: All right, in view of the fact that your friend's mother was murdered do you feel as though you might have a bias towards the victim's point of view?

MR. BRIGGS: That would be the only bias that I would have.

THE COURT: Okay, all right, that's an important one. So, in view of that and out of an abundance of precaution, given the importance of this case, I'm going to excuse you for the purposes of this trial only. I'm going to ask you to have a seat in the jury pool.

MR. BRIGGS: Right back where I was?

THE COURT: Yes, sir, right back where you were. Thank you.

MR. BRIGGS: Thank you.

(Whereupon, the following takes place in open court.)

BAILIFF: 169.

(Whereupon, an on-the-record bench conference was held with Juror Number 169, Crystal D. Johnson, counsel for the State and counsel for the Defense in the presence, but out of the hearing of the jury venire.)

THE COURT: Your full name?

MS. JOHNSON: Crystal Johnson.

THE COURT: Okay, Ms. Johnson.

MS. JOHNSON: My husband and me both were charged with CDV.

THE COURT: Right.

MS. JOHNSON: And my husband was going through Paul Taylor. We signed all the paperwork, supposed to be getting it dropped. I'm not -- I've never -- I haven't heard anything yet.

THE COURT: So, that's still pending?

MS. JOHNSON: Uh-huh.

THE COURT: All right, in view of the fact that both of you all were charged do you feel as though you could set aside your own life's experience and if called upon to serve on this jury give both the State and the Defendant a fair and impartial trial?

MS. JOHNSON: Yes, sir.

THE COURT: And do you feel as though you would side more towards the victim or the Defendant or do you feel like

you could be fair?

MS. JOHNSON: No, sir. I'd be fair.

THE COURT: All right. You think that you could base your decision on the evidence in this trail as opposed to your own life's experience?

MS. JOHNSON: Uh-huh, yeah, because ours was really an argument, bad argument. Nothing actually happened or ---

THE COURT: Okay, all right, very good; well, you're qualified to serve. Thank you.

(Whereupon, the following takes place in open court.)

THE COURT: Is there any member of the jury panel who is a member or contributor to any group which has as its primary concern the promotion of law enforcement or victims' rights? Examples of these groups are Mothers Against Drunk Driving, Students Against Drunk Driving, better known as MADD and SADD, CAVE, Citizens Against Violent Crimes. There are numerous organizations throughout the State that support the highway patrol and the deputies, sheriff's department and various police departments and do you belong to any of these organizations its primary function is the support of law enforcement? If so, I'm going to ask that you stand at this time.

(No response.)

THE COURT: All right, all right, does any member of the jury panel know of any reason whatsoever why he or she

could not serve as a juror in this case with particular emphasis being placed on your ability to be fair and impartial to both the State and the Defendant?

(No response.)

THE COURT: No response.

All right, any additional questions from the State?

MR. RICHARDSON: None from the State, Your Honor.

THE COURT: Any from Defense?

MR. WILSON: Your Honor, just one question. May we approach?

THE COURT: Certainly.

(Whereupon, a bench conference was held in the presence but out of the hearing of the jury venire.)

THE COURT: Is there any member of the jury panel who is a member of Citizens Against Spousal Abuse, better known as CASA or an organization known as Silent Witness? If so, please stand.

(No response.)

THE COURT: All right, all right, all right.

(Court and Clerk confer.)

THE COURT: All right, might counsel approach the bench for one moment before we begin the selection process?

(Whereupon, a bench conference was held in the presence but out of the hearing of the jury venire.)

THE COURT: Madam Clerk you may give us a jury.

MR. WILSON: Your Honor, may we approach once again?

THE COURT: You may.

(Whereupon, a bench conference was held in the presence but out of the hearing of the jury.)

THE COURT: Ladies and gentlemen of the jury, while the clerk prepares for the striking process we're going to take about a five-minute recess and we ask that you come in fairly quickly and we'll go ahead and go through the jury selection process. I don't anticipate that'll take more than about 15 or so minutes and then those of you who are not selected will be excused and asked to call back to the Clerk of Court's Office to the number that's going to be provided to you to receive further instructions. There is a good chance and we need for you to call and check, but there is a good chance that if you aren't selected on this jury there's a good chance that you won't be called back. So, that will kind of give you a little bit of something to hope for and something to plan for. So, let's -- we're going to take about a five-minutes recess to refresh yourself and we'll be back in five minutes. Thank you very much.

*****OFF THE RECORD*****

(On the record.)

THE COURT: Ladies and gentlemen of the jury, many of you have probably served in a civil court and the jury selection process is a little bit different in that process,

but in criminal court we're going to require when your name is called to come forward and stand right in front of the State's table and the Defense table and face back in that direction and the lawyers will pass on you one at a time and, Madam Clerk, you may give us a jury.

THE CLERK: Number 3, Brandon Akers.

What say the State?

MR. RICHARDSON: Please present Mr. Akers.

THE CLERK: What say Defense?

MR. WILSON: Seat the juror.

THE CLERK: Have a seat in the jury box, please.

23, Reginald Bellamy.

What say the State?

MR. RICHARDSON: Please present Mr. Bellamy.

THE CLERK: Defense?

MR. WILSON: Seat the juror.

THE CLERK: Have a seat in the jury box, please.

121, Carole Gause.

What say the State?

MR. RICHARDSON: Please excuse Ms. Gause from the trial of this case.

THE CLERK: You're excused in this particular case.

331, Jennie Vereen.

MR. RICHARDSON: What was that number, Madam Clerk?

THE CLERK: 331.

MR. RICHARDSON: Thank you, ma'am.
THE CLERK: What say the State?
MR. RICHARDSON: Please present Ms. Vereen.
THE CLERK: Defense?
MR. WILSON: Seat the juror.
THE CLERK: Have a seat in the jury box, please.
204, Victor Litzau.
What say the State?
MR. RICHARDSON: Please excuse Mr. Litzau from the trial of this case.
THE CLERK: You're excused in this particular case.
28, Robert Best.
What say the State?
MR. RICHARDSON: Please present Mr. Best for the trial of this case.
THE CLERK: What say Defense?
MR. WILSON: Seat the juror.
THE CLERK: Have a seat in the jury box, please.
108, Shari Formosa.
MR. WILSON: I'm sorry, Madam Clerk, one more time, your number?
THE CLERK: 108.
MR. WILSON: Thank you.
THE CLERK: What say the State?
MR. RICHARDSON: Please present Ms. Formosa.

THE CLERK: What say the Defense?
MR. WILSON: Please excuse the juror from the trial of this particular case.
THE CLERK: You're excused in this particular case.
304, Kurt Spychalla.
What say the State?
MR. RICHARDSON: Please present Mr. Spychalla.
THE CLERK: Defense?
MR. WILSON: Seat the juror.
THE CLERK: Have a seat in the jury box, please.
234, Mureen Mukhlis.
What say the State?
MR. RICHARDSON: Please present Ms. Mukhlis.
THE CLERK: Defense?
MR. WILSON: Seat the juror.
THE CLERK: Have a seat in the jury box, please.
189, Dawn Lamonica.
What say the State?
MR. RICHARDSON: Please present Ms. Lamonica.
THE CLERK: Thank you.
MR. WILSON: Seat the juror.
THE CLERK: Have a seat in the jury box, please.
305, Jason Squires.
What say the State?
MR. RICHARDSON: Please present Mr. Squires for the trial

of this case.

THE CLERK: Defense?

MR. WILSON: Seat the juror.

THE CLERK: Have a seat in the jury box, please.

311, Tammy Stroud.

MR. WILSON: What number again, Ms. Clerk?

THE CLERK: 311.

MR. WILSON: Thank you.

THE CLERK: What say the State?

MR. RICHARDSON: Please present Ms. Stroud for the trial of this case.

THE CLERK: Defense?

MR. WILSON: Excuse Ms. Stroud from the trial of this particular case.

THE CLERK: You're excused in this particular case.

194, Barbara Law.

What say the State?

MR. RICHARDSON: Please present Ms. Law.

THE CLERK: Defense?

MR. WILSON: Seat the juror.

THE CLERK: Have a seat in the jury box, please.

198, Jennifer Lefever.

What say the State?

MR. RICHARDSON: Please present Ms. Lefever for the trial of this case.

THE CLERK: Defense?

MR. WILSON: Please excuse Ms. Lefever from the trial of this particular case.

THE CLERK: You're excused in this particular case.

206, Legranda Livingston.

What say the State?

MR. RICHARDSON: Please excuse Mr. Livingston from the trial of this case.

THE CLERK: You're excused in this particular case.

319, Deborah Timms.

What say the State?

MR. RICHARDSON: Please excuse Ms. Timms from the trial in this case.

THE CLERK: You're excused in this particular case.

351, Dessie Wright.

What say the State?

MR. RICHARDSON: Please present Ms. Wright in the trial of this case.

THE CLERK: What say Defense?

MR. WILSON: Please excuse the juror from the trial of this particular case.

THE CLERK: What did you -- I'm sorry, what did you say?

MR. WILSON: Excuse the juror from the trial of this particular case.

THE CLERK: Okay, you're excused in this particular case.

129, Laura Gore.

What say the State?

MR. RICHARDSON: Please present Ms. Gore for the trial of this case.

THE CLERK: Defense?

MR. WILSON: Seat the juror.

THE CLERK: Have a seat in the jury box, please.

253, Daiwey Parker.

What say the State?

MR. RICHARDSON: Please present Ms. Parker in the trial of this case.

THE CLERK: Defense?

MR. WILSON: Seat the juror.

THE CLERK: Have a seat in the jury box, please.

176, Carolyn Jordan.

What say the State?

MR. RICHARDSON: Please present Ms. Jordan for the trial of this case.

THE CLERK: Defense?

MR. WILSON: Please excuse the juror from the trial of this particular case.

THE CLERK: You're excused in this particular case.

287, Annamarie Sheffield.

What say the State?

MR. RICHARDSON: Please present Ms. Sheffield in the trial of this case.

THE CLERK: Defense?

MR. WILSON: Seat the juror.

THE CLERK: Have a seat in the jury box, please.

THE COURT: Two alternates, strikes are one and two on each alternate.

MR. WILSON: Thank you, Your Honor.

MR. RICHARDSON: Yes, sir, Your Honor.

THE CLERK: 169, Crystal Johnson.

What say the State?

MR. RICHARDSON: Please excuse Ms. Johnson from the trial of this case.

THE CLERK: You're excused in this particular case.

251, Jamie Page.

What say the State?

MR. RICHARDSON: Please present Ms. Page.

THE CLERK: Defense?

MR. WILSON: Excuse the juror from the trial of this case.

THE CLERK: You're excused in this particular case.

40, Courtney Bromell.

What say the State?

MR. RICHARDSON: Please present Ms. Bromell at the trial

of this case.

THE CLERK: Defense?

MR. WILSON: Seat the juror.

THE CLERK: Have a seat in the jury boxy, please.

22, Cassie Beamon.

What say the State?

MR. RICHARDSON: Please present Ms. Beamon for the trial of this case.

THE CLERK: Defense?

MR. WILSON: Seat the juror.

THE CLERK: Have a seat in the jury box, please.

THE COURT: Is there any objection with regard to the jury selection process from the State?

MR. RICHARDSON: None from the State, Your Honor.

THE COURT: Any from Defense?

MR. WILSON: None from the Defense, Your Honor.

THE COURT: Very good.

Ladies and gentlemen of the jury and the remainder of the jury panel I'm going to ask if you could at this time you may leave and ask that you call back to the clerk's office after five o'clock; is that correct, after six o'clock, and you will receive instructions. There's a good chance that you're not going to be required to come back, but it is important that you call and make that determination at six o'clock this afternoon but continue to call until you hear otherwise.

Thank you so much for your time and attention.

(Jury venire exits courtroom.)

THE COURT: Madam Clerk, you may swear the jury.

MR. WILSON: Your Honor, may we approach?

THE COURT: Certainly.

(Whereupon, a bench conference was held in the presence but out of the hearing of the jury.)

THE COURT: Ms. Law, I'm going to ask you if you could to have a seat in this chair closest to the gate there.

(Complies with request.)

THE COURT: Ms. Law, you like everyone else when it comes to the trial of this case, you like every one of the other jurors are going to have one vote with regard to the deliberation process but you're going to have some additional duties. If there are concerns that develop throughout the trial of this case the jurors are to communicate with you and if they have questions you're to reduce those down to writing and submit them to me through the bailiff. If it is a question that we can assist you in we'll be happy to do so and particularly during the deliberation process there are some questions that we can't answer but we will deal with that at a later date and time but you're going to be the person who is the spokesman for the juror, for the jury. In addition to that I'm going to instruct and order that each of you throughout the trial of this case not discuss the case amongst

yourselves, with anyone or with anyone else. We're about to break for lunch and we're going to come back and begin the actual trial of the case, and I bet you that when you go home or go back to your workplace for this brief respite that whoever you speak with are going to say, ``Well, did you get selected on the jury.'' They're going to ask you what type of case it is and I'm going to instruct and order you not to discuss the case. Do not tell them what case it is or have any discussion whatsoever because obviously they might have some opinion one way or the other with regard to this type case and you need to base your decision on what transpires here in this courtroom.

Ms. Law, Madam Forelady, I'm also going to instruct that you as jurors are not to discuss this case in the jury room. There's going to be times where we're taking up matters of law with these lawyers that we need to take up outside of your presence. There'll be times where you're sitting in the jury room and there'll be a natural tendency to try to discuss this case but I'm going to order and instruct that you not do that, and Madam Forelady, I'm going to ask that you enforce that rule. There will be no discussion whatsoever about the facts or anything about this case. You can talk about the weather. You can talk about Carolina football or Hard Rock Café, whatever you want to talk about, but there will not be any discussion about this case until the conclusion of the

testimony and my charge on the law, and I will thereafter give you instructions as to when to begin deliberations, but until then it's inappropriate and I'm ordering you not to discuss the case. At this time we're going to take a break for lunch. I'm going to ask you, Madam Forelady, if you and the bailiff can go to the jury room. I understand that this case is going to be tried in courtroom E; is that correct?

MR. RICHARDSON: That's my understanding, Your Honor.

THE COURT: All right, and the bailiff will instruct you. We won't be back in this courtroom for the trial of the case. It will be courtroom E which is further down the corridor but the bailiff will tend to you in that regard and have a good lunch. We're going to ask that you be back at 1:30, 1:30. Do not discuss the case.

MR. RICHARDSON: Your Honor, I believe there were one or two jury members that may have left belongings out here. I thought I saw somebody looking like they needed to get something.

THE COURT: Very good.

MR. RICHARDSON: Wanted to make sure they had all their belongings.

THE COURT: Very good.

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: Be glad to hear from Defense at this time.

MR. WILSON: Your Honor, one of the things that I'd like to do and is to -- I have a motion or actually it's a waiver, it's a waiver of a right to a jury trial and I would like to have it made part of the record on behalf of the Defendant.

(Whereupon, Court's Exhibit Number One [Waiver of Jury Trial] admitted into evidence and appropriately marked.)

The Defendant is asking the Court to allow him to waive his right to, his constitutional rights to have a trial by jury and have a bench trial, and I have been informed by the State that they disagree with that and by statute, as I understand it then, we're not then allowed to have a bench trial. So, for that reason I am passing up the motion and I am asking the Court to rule that we are entitled to a bench trial regardless of the State's position on the matter.

THE COURT: Okay, do you have any case law that would seem to indicate that this is not a question of fact for the jury to determine?

MR. WILSON: Judge, no, sir. There is no ---

THE COURT: And of course we have not stated for the record, of course we've had some pretrial discussions about this matter with the State and yourself, but these issues have to do with the insanity defense and guilty but mentally ill and perhaps competency; is that correct?

MR. WILSON: That is correct, Your Honor.

THE COURT: All right, I will be glad to hear further from you.

MR. WILSON: Your Honor, in regards to the question the Court proffered as to whether or not there is any evidence or any case law which supports the idea that the Defendant is going to be able to -- whether or not there is -- I guess the question is really whether or not there is any case law which supports a bench trial because this would then be a legal issue as opposed to a factual issue and to be frank with you, no, sir, I've not been able to find any which says specifically that we are entitled to a bench trial on these particular issues. The issue of insanity, you know, can be a factual issue depending on the facts and circumstances surrounding the case. Of course, you know, my position is is that the Defendants in all other cases are allowed to waive constitutional rights all the time and to enter guilty pleas by waiving their constitutional right to a jury trial, by waiving their right to a trial, by waiving their right to remain silent. They are permitted to waive all of their constitutional rights.

THE COURT: Well, Mr. Wilson, does the State have a constitutional right to a jury trial?

MR. WILSON: No, sir, they don't have a constitutional right to a jury trial but the unfortunate part is as I read the law anyway the Courts have kind of said, ``Well, what

happens is you're only getting, by the State objecting to your having a bench trial what you're forced to get is what you're entitled to by the constitution,'' which is a trial by jury, and that's kind of a back door way of allowing the State to decide how the Defendant can go forward in a criminal procedure.

Now, there is a statute which or actually it's not a statute. It's a criminal -- it's in the criminal, in the rules of criminal court, and I forget the rule number offhand, but the rule specifically addresses this issue, which is what I am saying. My point though is is that I believe that the rule itself may be unconstitutional and may deprive the Defendant of the right to waive his constitutional rights if he wants to and without the State's approval, and basically what it does is it forces the Defendant to have a jury trial whether he wants one or whether he doesn't want one simply because the State has the right to object to that and I don't know of any other situation, for instance on Miranda, even if the State objected, the Defendant would have the right to give a free and voluntary statement or if the Defendant wanted to walk in and plead guilty as charged he would be able to do that and waive all of his constitutional rights but on this one instance when the Defendant says he wants a bench trial as opposed to a trial by jury then he's not allowed to do that simply by virtue of the fact that the State objects to it and

I would submit to the Court that that in and of itself violates his right to due process and his constitutional right to waive his right to a jury trial.

THE COURT: All right, Mr. Wilson, don't you think since we don't have a lot of guidance from the case law, don't you agree that if we proceed forward in this fashion that it very well might turn into a question of law at the directed verdict stage?

MR. WILSON: Yes, sir, I think that at the, at the end of the defense, at the end of the State's case and at the end of the Defense's case the Court, just as it would in any other case, has a right to determine whether or not as a matter of law, you know, the case has been made out, and if it has been then for instance for insanity then and if the Court finds as a matter of law that it's been made out then I think that the Court has the duty, if not the responsibility, to find the Defendant not guilty by reason of insanity.

THE COURT: Be glad to hear from the State, Mr. Richardson.

MR. RICHARDSON: Your Honor, it has been a while since I took constitutional law but I don't recall any article, any amendment that grants you a constitutional right to waive your constitutional rights. The right to trial by jury is protected, to protect the Defendant but there is no -- it was to protect against basically star chamber proceedings for

someone have to appear just before a group of judges whether they be nobles or elected officials. In this case and in every instance Mr. Wilson has cited, pleas, waving Miranda, it's by the State's leave, too. The State's there agreeing to go along with it. Here we have a specific rule, Rule 14 of the South Carolina Rules of Criminal Procedure. It states that a Defendant may waive his constitutional right to a trial by jury with the leave of both the Judge and the Solicitor. In this case the Solicitor's Office has not given its leave for him to proceed with a bench trial; and therefore, we will proceed on to a jury trial.

THE COURT: Very good. All right, at this juncture I'm making the determination that it is a factual question. However, the -- as a practical matter at the conclusion of the State's case there will be legal matters addressed at that time. Anything further from the Defense?

MR. WILSON: Nothing further from the Defense, Your Honor.

THE COURT: All right, what is the Defense's position with regard to competency to stand trial?

MR. WILSON: Your Honor, in May of '07 the -- there's an evaluation which was done by the Department of Mental Health and they determined at that time that the Defendant was competent to stand trial and I have absolutely no reason to believe at this point that he is not competent to stand trial.

THE COURT: Okay, are you in -- are you waiving any defense with regard to competence to stand trial?

MR. WILSON: I am, Your Honor, yes.

THE COURT: All right.

MR. WILSON: And Your Honor, just for the record I think we need to make the May evaluation a part of the record.

Your Honor, if we could, I'd just ask that it be marked as a Court's Exhibit and made a part of the record.

(Whereupon, Court's Exhibit Number Two [Forensic Evaluation] admitted into evidence and appropriately marked.)

MR. RICHARDSON: Your Honor, the State is aware and I believe that report specifically delineates the prior evaluation as well, and it was all done by court order and the State has seen those reports.

THE COURT: Court Exhibit Number Two is a document entitled forensic evaluation and it was done February 27, 2007, by a clinical psychologist, Kelly Ferris and a Marla L. Domino, PhD and Carol Davis, and based on the report I do indeed find that the Defendant, Mr. Senter, is competent to stand trial. Out of an abundance of precaution and in view of the fact that it has been some time since the report has been entered, I think it's incumbent upon the trial court to determine whether or not a Defendant is competent to stand trial. Mr. Senter, I'm going to ask if you could to stand up just right where you are and I'm going to ask the clerk to

administer the oath.

(Whereupon, the Defendant was sworn by the clerk.)

THE COURT: Mr. Senter, are you under the influence of any drugs or alcohol here today?

MR. SENTER: No, sir.

THE COURT: Are you experiencing any kind of physical or mental -- I'm going to just ask if you could stand right there for you just as a matter of form there. Are you experiencing any kind of physical or mental problem that could prevent you from understanding what we're you doing here today?

MR. SENTER: No, sir.

THE COURT: The law requires in order for someone to be tried for a criminal offense that they're competent to stand trial and one of the determinations is whether or not, that I need to make is that you're capable of aiding your lawyer in your own defense. Who is your lawyer?

MR. SENTER: Ralph Wilson, Sr.

THE COURT: Okay, and what is his job in this legal proceeding?

MR. SENTER: To represent me.

THE COURT: Okay, and is he going to act as your advocate?

MR. SENTER: Yes, sir.

THE COURT: All right, Mr. Richardson, what is his job

in this, in this function here today?

MR. SENTER: He's the Solicitor in charge of representing the State.

THE COURT: All right, and what is his job?

MR. SENTER: To represent the State.

THE COURT: All right, and who is going to determine the issues of guilt, sanity and things of that nature here in this courtroom?

MR. SENTER: I guess pending the motion that Mr. Wilson just filed it would be a jury if it's not accepted or a bench trial if it's accepted. I don't know which way it is.

THE COURT: That's a very good response. All right, with regard to the - any sentence that might be rendered who would be responsible for that?

MR. SENTER: You would, Your Honor.

THE COURT: All right, all right, based upon the report primarily and the - my questions of the Defendant, Mr. Senter, I find that he is, indeed, competent to stand trial. Thank you, sir.

MR. SENTER: Thank you.

MR. WILSON: Thank you, Your Honor.

THE COURT: All right, anything further from Defense?

MR. WILSON: Nothing further, Your Honor.

THE COURT: Anything further from the State?

MR. RICHARDSON: No, sir, Your Honor.

THE COURT: All right, we'll stand at ease until - we'll be back at 1:30. We'll stand at ease till 1:30.

*****OFF THE RECORD*****

(On the record.)

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: Good afternoon. Everybody please be seated. Thank you.

Anything from the State before we proceed?

MR. RICHARDSON: The State is ready to proceed, Your Honor.

THE COURT: Anything from Defense?

MR. WILSON: The Defense is ready, Your Honor.

THE COURT: We're ready for the jury.

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: Madam Forelady, ladies and gentlemen of the jury, I want to take just a moment for those of you who have not served in the General Sessions Court to kind of give you an idea what's going to transpire throughout the next couple of days. This is not really a charge on the law but I just want to give you some idea of what to expect. The charge on the law will come at the conclusion of the case.

I hold in my hand an indictment which I had mentioned earlier in the jury selection process where the Defendant, Mr.

Senter, has been charged with criminal domestic violence of a high and aggravated nature and assault and battery with intent to kill. These documents have no evidentiary value whatsoever. They're merely the documents that solidify the accusation and that's essentially what it is. It's merely an accusation. Mr. Senter as he is sitting there is presumed just as innocent as me or you, and the law requires that you start with that presumption. It's a very important safeguard in our American judicial system that anyone who is accused of a crime is presumed to be innocent. I envision that as a protective cloak that guards all of us as American citizens.

The second safeguard that comes into play in criminal court in the United States of America is that the State has the burden of proof. They have to prove each and every element of the criminal offense beyond a reasonable doubt. There are some places in this world, particularly Third World countries, where a person can be accused of a crime and be hauled before a court and required to prove his innocence. That's not the case in the United States of America, and there's some practical reasons behind that because all of us in our everyday lives have been accused of doing something. It's absolutely impossible to prove your innocence. In the United States you're not required to do that. The burden is on the State to prove each and every element of the offense beyond a reasonable doubt. The burden of proof as I had

mentioned is proof beyond a reasonable doubt, and I will charge you the law with regard to how that's defined but I'm going to mention to you an illustration to sort of illustrate how -- what proof beyond a reasonable doubt is. Imagine with me if you will the scales of justice where the lady is weighing the evidence in her hand. She's blindfolded from all bias and prejudice. When the trial starts the scales are even. In a criminal offense in order for the State to meet their burden of proof, they're required to lock up the scales. If we were in civil court where we were just talking about money the Plaintiff in that case would only have to tilt the scales ever so slightly in their favor, but in a criminal offense, in a criminal charge, in criminal court, we're dealing with people's liberty, possible incarceration, very important fundamental rights, and for that reason the State has to meet the highest burden of proof known to our judicial system, proof beyond a reasonable doubt.

Ladies and gentlemen of the jury, you're going to be called upon to be the sole and exclusive judges of the facts. In every trial, regardless whether it's civil or criminal, you're called upon to evaluate the credibility of witnesses. You need to ask yourself as the witnesses take the stand what opportunity they had to observe the things to which they testified. Ask yourself if they have any interest or bias in their testimony. You can ask yourself whether or not this

witness's testimony is corroborated by other witnesses, whether or not it's contradicted or made weaker by other testimony. You can believe one witness against many or many against one. You can believe all of what one witness says, none of what one witness says or part of what one witness says. That's completely within you, your parameters in your collective wisdom as jurors to determine what is the truth based on the testimony you hear in this courtroom. Not only should you pay attention to all these factors but not only that, any of us who have teenage children, sometimes it's not as important what they say but how they say it and the law allows you as jurors to look at a person's demeanor when they're testifying, how did they look when they take the stand. You're allowed to do that. One thing that I do want to emphasize to you as jurors you all are the sole and exclusive judges of the facts and my job is to be the arbiter of the law, but with regard to the truth of what actually transpired and the findings of fact you all are the sole and exclusive judges in that regard, and it's very important for you to pay very close attention to the evidence as it comes from this witness stand because if I make an error in law quite often that's very easily corrected. However, errors in the findings of fact quite often cannot be corrected. So, you have an awesome responsibility for which you're going to take a solemn oath to follow the law as I charge it to you and

apply it to the evidence as you find it. It's very important for you to pay very close attention. This is an important case to both the State and the Defendant. Please pay very close attention.

You are the sole and exclusive judges of the facts and likewise I am the sole and exclusive judge of the law. I will charge you what the law is and you are obligated as a matter of law and pursuant to your oath to follow the law as I charge it to you. You're obligated to do that.

I want to talk with you a little bit more about the breaks and how to conduct yourself during the breaks. There'll be absolutely no discussion about the case during the breaks. You cannot discuss the case in any way, shape or form, and Madam Forelady, I'm going to ask that you enforce that order. I do want to admonish you, we certainly are not sequestering the jury. You're going to have an opportunity to go home and nowadays I don't think there's anything that people don't get on the computer and try to look up, but that's absolutely against my order to do any research on the internet or otherwise with regard to this case. You have to base your decision on what transpires here in this courtroom. There will be no independent investigation. There might be mention of a particular physical location. I'm going to order and instruct that you not go and do any independent investigation on your own. That would be inappropriate,

improper and grounds for a mistrial. Do not do that. There has been some news coverage with regard to this case and I think there have been things on the internet. I think there have been things in the newspaper and on TV, but it's absolutely inappropriate for you to look at those articles during the course of this trial. Clearly, if you are watching the evening news and the matter comes up I'm going to ask that you not look at that. If I and I can almost guarantee that there will be an article in the newspaper about it. I'm going to ask that you not read that. If you want to you can ask your family members to save those articles and you can read them at a later date and time. This is an important case and it's important for you to base your decision on what transpires here in this courtroom.

I'm going to ask that you not take notes and some judicial proceedings given the nature of the case, the length of it and the use of complicated terms and concepts sometimes it's necessary to allow jurors to take notes. Given the length of this case and the nature of the case, I'm going to direct and direct that you not take notes.

Ladies and gentlemen of the jury, you are the triers of fact and I'm the arbiter of the law. You're participating in a time-tested system. You're going to take a solemn oath to fulfill your duties as the triers of fact in this case, and I'm confident that you will do so.

Madam Clerk, I'm going to ask that you administer the oath at this time.

(Whereupon, jury sworn by Clerk.)

THE COURT: Any objections with regard to opening comments from the State?

MR. RICHARDSON: None from the State, Your Honor.

THE COURT: Any from Defense?

MR. WILSON: None from the Defense, Your Honor.

THE COURT: All right, Mr. Richardson, you're recognized.

MR. RICHARDSON: Thank you.

Guilty by careful planning and scheming the attempted murder of Dena Lester, guilty by his actions the morning of November 13, 2006, when the Defendant took a loaded 40 caliber Smith & Wesson handgun, pointed it at Dena Lester and fired into her chest, guilty by his hurried and in vain attempt to conceal the crime immediately after shooting Ms. Lester, that's what the State would prove and the Defendant has full knowledge of the mountain of evidence that the State is ready to proceed with, the evidence that's going to be before you to show you his guilt and he knows it. He knows he's guilty; and so, he turned himself over to you. He's looking for absolution from you. He knows what we have against him. He knows the gig is up. His plans went awry and he was not able to murder his wife as he intended. So, he's coming to you and

saying, ``Forgive me, exalt me,'' and I'm urging you to listen to every bit of evidence, every witness and you will render a verdict of guilty of the attempted murder of his wife, assault and battery with intent to kill, and that he's guilty of criminal domestic violence of a high and aggravated nature.

Dena Lester is going to take that stand today and she's going to tell you all about her relationship with the Defendant, how long they had been married and she will tell you that they were going through a painful divorce at the time. They had separated I believe it was May of 2006 and been living apart and just like any other divorce Dena is going to tell you the paperwork passed back and forth, back and forth going on into the fall of 2006. She will tell you how she had had a final declaration of financial settlement prepared and delivered to the Defendant, and the Defendant agreed to sign it, agreed to have it notarized so they could move on, the divorce would be final in another six months. Dena had delivered that paperwork to him and had spoken with the Defendant several times during the week preceding November 13, 2006, and at the Defendant's urging Dena is going to tell you she relented and went over to the house they had formerly shared, to her estranged husband's house, the home they had cohabitated in in an attempt to pick up the paperwork. She's trying to be amicable. She even -- she'll tell you she even agreed to clip his neck hair that day and she did so. She

showed up. She was running late for work to Forestbrook Elementary where she's a vice principal or middle school where she's a vice principal and -- but she took time, trying to be nice, to try and trim his hair, and she went in there. She trimmed his hair. She will tell you that she asked, she said, ``All right, Brad, where is, where is the paperwork.'' He said, ``Oh, I've got them.'' Dena will tell you how he went out to the garage. She thought he was getting the paperwork and came back empty-handed. She will tell you how she said, ``Brad, I've got to go.'' He says, ``Hold on. Hold on. I know where they are.'' She's going to tell you how he went in the bedroom as she waited anxiously by the door knowing she ran late for work. She will tell you as she stood there, saw the Defendant reappear from the bedroom, level that 40 caliber Smith and Wesson at her and fire one time in an attempt to kill her.

Dena will tell you how she stumbled, was taken back. She was able to stagger out the front door to the neighbor's house right next door in an attempt to find some safety, some safe haven, some savior, to no, to no avail. She rang the doorbell, no answer. Several times, no answer, and she will tell you how the Defendant came up behind her and as she, as he was coming she made her way to the curb trying to find some safety, somebody to help her. She will tell you that she fell down on the curb and that's where the Defendant grabbed her

and drug her back over towards the front doorstep of the neighbor's and said, ``Oh, no, they're not going to find you. Nobody is going to find you.'' He was trying to conceal the crime.

She will tell you how she was able to set off her car alarm before the Defendant snatched the keys from her and walked back towards her car and she was parked over at their home because he couldn't cut the alarm off. She will tell you that she laid there after he walked off. She tried to get up and ring the doorbell one more time, still to no avail. She laid back down. She heard the Defendant approaching. She will tell you how she played dead. She will tell you how the Defendant picked her up as she lay there fainting, unconscious, felt around the wound, the wound he had inflicted on her in the chest, and then dropped her like a sack of potatoes. He checked out his handiwork. He left her. She doesn't know what he was doing but Dena knew he was gone at least for a moment, and she struggled to her feet one more time because she knew if she laid there she was going to die.

Dena will tell you that she struggled her way out to the golf course behind her and her neighbor's home where she found a golf course worker cutting grass. There she found some solace. She told Joe Estock that maintenance man, that golf course maintenance man, ``My husband shot me,'' and Joe, like most of us, had a cell phone and he called 911. You'll find

out how while Mr. Estock was on the phone with 911 the Defendant reappeared. Chased him away, said, ``Hang up that phone,'' because the Defendant knew who was on the other end. He knew it was 911. He knew the gig was up. He knew he was caught, but he chased Joe Estock away and stayed there with Dena Lester, ready to kill her, until thankfully, thankfully, Horry County police arrived. They drew their weapon, and what did the Defendant do? Once again, the gig was up. He didn't want to die. So, he surrendered, laid on the ground, was handcuffed.

You will hear from the police officers that took the loaded 40 caliber Smith and Wesson. They'll tell you how they took that weapon off of him. They will tell you how they took an empty shell casing, a fired shell casing from his pocket. You will hear expert testimony that shell casing was fired from that handgun. You will hear expert testimony that the projectile recovered from Dena Lester was fired from that Smith and Wesson that the Defendant had; and so, the Defendant stands before you today knowing the evidence that we have, knowing his guilt and knowing his only hope is you. So, he's going to look to you for absolution to each and every one of you and I'm telling you, listen to all the evidence, all of the witnesses and you will render one verdict. This Defendant is guilty. Thank you.

THE COURT: Mr. Wilson, you're recognized.

MR. WILSON: Thank you very much, Your Honor.

Madam Forelady and ladies and gentlemen, whatever I say to you during the course of this trial is not evidence in this trial. What the Solicitor says is not evidence in this trial. The only evidence that you're going to hear will be the witnesses who are going to testify and the exhibits that will come into evidence during the course of the trial and that's the basis for your decision.

Let me set the record straight for you. We're not looking for absolution. We are looking for justice and fairness and for what's right. For the State's not entitled to anything more than that, neither is the Defendant. You know, that's the great thing about justice is it's still justice. It doesn't matter which side wins, which side loses, justice is justice, fairness is fairness, and that's all we ask for. That's all anyone has a right to ask for, not sympathy, not mercy, justice and fairness.

Let me tell you at the outset that Brad as he sits there does not deny, he does not deny that he fired a shot that hit his wife. He doesn't deny that. What he denies is is that he knew or understood his conduct. You're going to hear testimony from doctors, from psychiatrists and from other witnesses who have known Brad for years, including the victim, that Brad was ill, had been ill for years before this incident occurred, that they all knew he was ill, that he had been in

and out of hospitals for psychiatric treatment, that he had bundles of medication for those psychiatric illnesses and that for whatever reason there came a point where interest was lost in getting help for him and his condition got worse and worse and worse and worse leading to this unfortunate incident.

You will see letters, e-mails, faxes back and forth between the victim, the family of the Defendant, Brad Senter, acknowledging his illness a year, two years prior to this incident, and whether he needed to be committed; and if so who should do it.

You know, the one thing that I agree with the Solicitor on is I ask you to listen. No matter what you've read, you've agreed that you can set that aside. No matter what you've heard you've agreed that you would set that aside, and that you would base your decision on what you here in this courtroom and what I tell you up front is you will have two doctors, one from the State of South Carolina, the State's doctor, not somebody he hired but a State doctor who works for the State of South Carolina will come in here and take the stand and tell you without question he was mentally ill, he was insane and he was incompetent.

You will have a second psychiatrist come in and tell you the same thing. I simply ask your patience, and let me say this and I know this is probably not even the appropriate time to say it but the Defendant is not blaming anybody for

his illness, and unfortunately, the doctors will tell you when they testify that when you are mentally ill, when you are insane you can't control what you do, you can't think the way I think or you might think because it is a part of the illness, and we can guess all day about who should have done something and who should not have done something or what should have been done and where he should have gone and who should have gotten committed. It didn't happen until this unfortunate incident occurred.

I simply ask you to listen. The State has the burden of proof and because they have the burden of proof they will go first. They will put up their witnesses first. When they finish then the Defendant will get a chance to put up his witnesses and I tell you the primary witness for the Defense in this case will be the State's own doctor. Thank you.

THE COURT: Mr. Richardson, you're recognized. You may call your first witness.

MR. RICHARDSON: Thank you. Thank you, Your Honor. At this time the State is going call Dena Lester.

THE COURT: Ms. Lester, I'm going to ask if you could come forward and place your left hand on the Bible and raise your right hand as the Clerk administers the oath.

Whereupon, Dena Michelle Lester was called to the stand, duly sworn by the clerk and testified as follows:

THE COURT: Yes, ma'am, if you could come forward and

pull up a seat in the witness chair. I'm going to ask if you could to pull up real close to the microphone, speak loudly, clearly and slowly in order that we might hear everything that you've got to say and state your full name once again.

MS. LESTER: Dena Michelle Lester.

THE COURT: Thank you.

DIRECT EXAMINATION

BY MR. RICHARDSON:

Q Good afternoon, Ms. Lester.

A Hi.

Q Tell us and it's formerly Ms. Senter; correct?

A Correct.

Q Tell us a little bit about yourself, where you're from, how long you've been here, your place of employment?

A I am originally from Newberry, and I moved here the first time in 1998 and was a guidance counselor at Forestbrook Middle School for four years, moved away for two years and came back to the area in 2004 as an assistant principal at Forestbrook Middle School.

Q So, you came back in 2004?

A Yes.

Q And you're presently an assistant principal?

A Yes.

Q Or vice principal at Forestbrook Middle; correct?

A Correct.

Q How long have you known the Defendant?
A Since 1992.
Q And prior to marrying the Defendant how long had you known him?
A I had met him in `92 for about - so, about a year before we were married.
Q So, you got married in '93?
A Yes.
Q And that was in Newberry?
A Yes.
Q And your marriage to the Defendant, how would you describe that union?
A Originally we had a lot in common, enjoyed doing things together. It became rocky, I guess his employment was on and off, caused some financial problems in the marriage, and I think that kind of made, made things rocky. We moved around a lot. There were, you know, strains from that.
Q Okay, so, had a lot of ups and downs like many marriages?
A Uh-huh.
Q Did there ever come a time when you sought a divorce?
A When I sought a divorce?
Q Yes, ma'am, I'm sorry.
A Yes, yes, May, May 27th of 2006 I left the home and started seeking a divorce at that time.

Q So, you left the home in May of 2007, 2006?
A Six, uh-huh.
Q What forced you to leave the home?
A I found out that Brad had a gun in the home again and we had had an incident the prior year involving a gun and our agreement with reconciling or trying to reconcile was that there would be no more weapons in the home. When I found out he had a weapon again and had broken that trust I left.
Q Now, you say there was an incident back before 2006, I guess in 2005?
A Correct.
Q And it was an incident with a gun?
A Yes, in March of 2005.
Q And were there any charges pressed?
A There -- he was arrested for criminal domestic violence. The charges didn't -- we didn't go through with the charges. I - he had been taken to North Carolina with his family and I hoped that was going to get some counseling and things that we would be able to reconcile.
Q So, you all didn't proceed forward with the CDV charge?
A No.
Q And you wanted a reconciliation?
A Yes.
Q Attempted to keep those vows and work your marriage out?
A Yes, yes, I took my vows very seriously and I still feel

like too many people give up on their marriages too easily and I was trying not to do that.

Q Trying to stick it out.

A Uh-huh.

Q Were you aware of the Defendant's mental history?

A Yes.

Q And were you aware of his theory with regard to the FBI?

A Yes.

Q And that was?

A He felt like the FBI was trying to charge him with something, various things that he felt like he was going to eventually be charged with.

Q Did he apply for disability due to these mental problems?

A Yes, he did and was denied.

Q Was he working anywhere back in 2006?

A In 2006, no.

Q So, you remained with the Defendant in the marital home.

A Yes.

Q Where is that located?

A 120 Barclay Drive in Myrtle Beach.

Q And that's here in Horry County?

A Yes, it is.

Q I know that's a silly question, but so, you stayed there until May of 2006; is that correct?

A Yes.
Q You told us that you were forced to leave the home in May of 2006?
A Yes.
Q You were separated seeking a divorce?
A Yes.
Q After the incident with the gun in May of 2006?
A Right.
Q Could you take us through the time period between May 2006 going through into the fall of 2006?
A Okay, after I left I got an attorney and we were going to seek a property settlement agreement and then wait out the year of separation to get a divorce and I had hired an attorney to simply draw up what I thought that we were both agreeing to and we were going to have those, the property settlement agreement filed and settle on the property as far as the house and those things and then in a year be divorced. So, I had the attorney draw up the papers and would present them to Brad stating what we had both previously agreed to and he would make changes on the papers that, things that, you know, he decided he wanted then or wasn't agreeing to, things he wanted added. I would take the papers back, get the attorney to rewrite them to include or exclude whatever he had written. I would then take them back to him for the same thing. We went back and forth many, many times with additions

or deletions.
Q So, you met with the Defendant several times during the period of the separation?
A Yes.
Q And would you describe it as, I don't know, an acrimonious relationship during this period of time or did you all get along all right?
A Uh-huh, yes, you know, we didn't always agree on what was going to be in the papers. As I said, they would go back and forth, but as far as separations I think go it was amicable.
Q Okay, how did the Defendant act towards you during this period of time?
A It varied. He would, you know, sometime be upset with me about not getting the papers to him quickly enough he felt like or thinking that I was adding something or deleting something that he hadn't agreed to. Other times, you know, he was, he was very nice to me. You know, I was loaning him money off of the property settlement as well. So, you know, I would loan him money for one thing or another and, you know, take him money. So, it was, it was fine.
Q So, if we have everything correct you all are going through a normal separation period.
A Uh-huh.
Q You were trying to be as non-adversarial as possible.

A Uh-huh.
Q You all were trying to work things out in a settlement.
A Yes.
Q And you all weren't overly bitter towards one another?
A No, I didn't think so, no.
Q You didn't think so.
Did there come a time in the fall of 2006 when you had some more finalized paperwork drawn up?
A Yes, the week of -- well, the prior week of November 13th, I had gotten the attorney to write the papers as he had asked to include the things that he wanted and delivered those to him the prior week and he, you know, said they were, you know, they were what he was agreeing to. He -- I just asked him to sign them, have them notarized and get them back to me, and then the attorney that I had hired would get everything finalized so that, so that we could go forward with the property settlement, and he began calling me the end of that week, which I guess would have been around the 10th or 11th, and said that that was done. He had them signed. He had them notarized, and he needed me to come pick them up, and ---
Q And this paperwork you said it was kind of a finalized financial agreement?
A Uh-huh, yes.
Q So, it was pretty much the end all be all as far as the separation went.

A Yes.
Q Paper-wise.
A Paper-wise, yes.
Q So, it's starting to get real, I mean.
A Uh-huh.
Q Six more months you'd be divorced.
A Right.
Q Really not anything else to do but be separated.
A Right.
Q And the Defendant had agreed that -- to sign the paperwork and have it notarized.
A Yes.
Q And you said he started calling you towards the end of, I'm guessing that's the week of November 6, 2006?
A Yes.
Q And you said he started calling you towards the end of the week.
A Uh-huh.
Q Indicating he had completed the paperwork.
A Yes.
Q Had it notarized.
A Uh-huh.
Q And wanted to deliver it to you.
A Wanted me to come pick it up, and I -- we had phone calls back and forth over the weekend. I asked to meet him at the

public library and exchange those papers. He would have -- he was involved in something, couldn't come, then I had a friend in the hospital, and when I offered to come by the bar where he said he was, a sports bar, he, you know, said, ``No, we need to come up with something else,'' and we kind of went back and forth like that over the weekend and finally Sunday afternoon the 12th he told me that he had an appointment the next day and that he wanted me to come by the house and pick up the papers and trim his hair for his appointment.

Q So, you offered to meet him at public places and he refused.

A Yes.

Q He wanted you to come meet him at the house.

A Yes.

Q Just you and him.

A Yes.

Q And you said you received a call in November, I guess, the 12th ---

A Uh-huh.

Q --- 2006.

A Yes.

Q Sunday night.

A Yes.

Q From where did he call you?

A From his cell phone, I don't know his location, but his

cell phone.
Q And he asked you to come over the next morning?
A Yes.
Q Just you and him.
A Yes.
Q Did you, in fact, go to the home?
A Yes, I ---
Q 120 Barclay Drive?
A Yes, I did.
Q And that was the morning of November 13th?
A Yes.
Q And were you on your way anywhere that morning?
A I was on my way to work. I had to be at work at 7:30; and so, I told him I would come by on the way, trim his hair real quick and pick up the papers and go on to work.
Q About what time did you arrive at 120 Barclay Drive?
A I would say around 7:15.
Q Prior to arriving there at that home you all formally shared did you receive any phone calls?
A Yes, he called me on my way to the home, on my way to 120 Barclay and asked was I still coming and I said, ``Of course I am. I told you I would come and I'm coming by. I'm on the way right now.''
Q He wanted to make sure you were going to be at that house that morning.

A Yes.
Q So, you arrived at the house shortly after 7 o'clock you said?
A Uh-huh.
Q And what did you do once you arrived at the house?
A When he came to the door and let me in, we went to the master bedroom into the bathroom so I could trim his hair for him.
Q So, you went on to the master bathroom.
A Yes.
Q You went to trim his hair.
A Yes.
Q You trimmed his hair.
A Uh-huh.
Q Still before 7:30 at this time?
A Yes.
Q After you got done doing as he had asked did you all speak anymore?
A I just, I told him that I needed to get the papers that I needed to get to work and he said that he would get them and at that time he went into the garage and I moved into the living room area to wait to get the papers and leave.
Q Ms. Lester, hold on one second, let me see. I'm going to show you what's been previously marked as State's Exhibit Three ---

MR. WILSON: I have no objection.
Q --- for purposes of identification.
THE COURT: State's Exhibit Three is in -- is marked for identification only; is that correct?
MR. RICHARDSON: Yes, sir.
BY MR. RICHARDSON:
Q Ms. Lester, do you recognize this item?
A Yes, it's the floor plan of my home.
Q And so, you recognize it as being the floor plan of your home.
A Yes.
Q Is it an accurate representation of that floor plan?
A Yes, it is.
MR. RICHARDSON: Your Honor, at this time the State would move Exhibit Number Three, State's Three into evidence.
THE COURT: Anything from Defense?
MR. WILSON: Is it to scale?
MR. RICHARDSON: It's not to scale.
MR. WILSON: I have no objection as long as it's not to scale and that's understood.
THE COURT: State's Exhibit Number Three is into evidence without objection.
(Whereupon, State's Exhibit Number Three [Floor Plan of House] admitted into evidence and appropriately marked.)
MR. RICHARDSON: Is there an easel back there, please?

THE COURT: With a stipulation that it is not to scale.

MR. RICHARDSON: Yes, sir, Your Honor.

I thought I saw one back there yesterday. Your Honor, permission to publish this?

THE COURT: Certainly.

MR. RICHARDSON: I'm going to also seek permission to have Ms. Lester step down from the stand so she can more readily be able to explain to the jury.

THE COURT: Ms. Lester, you may step down.

MR. WILSON: Your Honor, have me permission to move if it is all right?

THE COURT: Pardon?

MR. WILSON: I need permission to move over to the other side.

THE COURT: You may. You certainly may.

BY MR. RICHARDSON:

Q Ms. Lester, if you'll speak into the microphone, towards the direction of the microphone.

Now, you stated that you trimmed your husband, your former husband's hair. Where was that?

A It was right here in the master bathroom.

Q And you said whenever you got done with the trim you asked him for the separation papers?

A Yes.

Q And where did you all travel from there?
A We both left the master bathroom and I came to this area in the living room and he went out this way to the garage.
Q So, you waited right here in the living area ---
A Yes.
Q --- or the foyer. Did the Defendant ever return from the garage?
A Yes, he did.
Q And did he bring those papers?
A No, he didn't. He came back and stopped about this area in the living room and I said, ``Where are the papers,'' and he said, ``I had some changes. Let me get them. I have some changes,'' and at that time he went back out into the garage, came back in and had a few things in his hand, the papers in his hand and I said, ``Are those papers, if those are the changes give them to me. I'll get it fixed,'' and he said, ``No, I don't - this isn't them,'' and he began fumbling through the papers, and I said, ``Look, just,'' I said, ``It's 7:27. I have to be at work in three minutes. I'm going to be late. Just find the changes and let me know and I'll get it, I'll get it fixed. I need to go to work,'' and at that time he said, ``No, I know where they are. Wait just a minute,'' and he left from the living room area and went back into the master bedroom, and I waited in this area right here.
Q Right around this corner?

A Yes.
Q And so, you were seeking to leave?
A Yes.
Q You said ---
A I was already late for work.
Q You were late for work. You said, ``I'll get the papers later,'' and he said, ``Hold on, hold on, stay just a few minutes longer.''
A Uh-huh.
Q And he disappeared into the bedroom.
A Yes.
Q As you waited right here.
A Uh-huh.
Q What happened next?
A He was only gone for maybe a minute and I stood right here and waited. He came out of the master bedroom and there was a green plant right here and right as he came around, around the plant he immediately raised and just fired one shot at me, and I fell to the floor in that area and immediately started trying to get up to get out of the house.
Q What was going through your mind right now?
A Just complete and utter shock, I could not believe what had happened. I couldn't, couldn't figure what to do, where to go. My, my mind was racing and I just, I thought, ``I've got to get out of this house.''

Q Fight or flight kicked in.
A Uh-huh, yes.
Q And you chose to fly?
A Yes.
Q So, you got up from the ground.
A Yes.
Q You all right?
A Yes.
Q And you said the flight mode kicked in.
A Uh-huh.
Q Where did you go?
A I came out of the front door and went across the front yard to the neighbor's house that was on this side.
Q One moment.
MR. RICHARDSON: Your Honor, at this time ---
BY MR. RICHARDSON:
Q Dena, I'm going to show you what's been previously submitted for identification State's Number Two.
A Yes.
Q Do you recognize this item?
A Yes, I do.
Q And what do you recognize it as being?
A My house and then the neighbor's house where I ran to.
Q And is it a true and accurate depiction of those houses as they sit?

A Yes.
Q But not to scale.
A No.
MR. RICHARDSON: Your Honor, at this time the State would seek to introduce State's Number Two into evidence.
THE COURT: Anything from Defense?
MR. WILSON: No objections, Your Honor.
THE COURT: All right, State's ---
MR. RICHARDSON: And would seek leave to publish.
THE COURT: --- Exhibit Number ---
MR. RICHARDSON: Two.
THE COURT: --- Two is into evidence without objection with the stipulation it is not to scale.
(Whereupon, State's Exhibit Number Two [Diagram of Neighbor's House] admitted into evidence and appropriately marked.)
MR. RICHARDSON: And the State would seek leave to publish it.
THE COURT: You may do so.
BY MR. RICHARDSON:
Q And Ms. Lester, this 120 Barclay Drive that is the home that you all shared?
A Yes.
Q And you come out the front door?
A Yes.

Q Please demonstrate for the jury where you went.
A Okay, I came out of the front door and went across the yard across the neighbor's driveway to their front door and this is kind of back in a little, a little area as you can see the house where the sidewalk and the front door are. I went to the front door and began ringing the doorbell and knocking on the door hoping someone would come. No one came to the door and I, I left the doorway area and came out to the front yard thinking that if I collapse, if I pass out maybe someone driving by will see me.
Q This is about 7:30, 7:45 in the morning?
A I would guess around 7:30, 7:35.
Q And Barclay Drive, is it a main road?
A It's -- there's a -- one big main road that comes in the subdivision down here and this is an area that leads back into a lot of houses back in there, one way in, one way out.
Q And the school buses would have already left that area by that time.
A Yes.
Q So, you said you made your way out to the curb.
A Yes.
Q Was hoping that somebody would save you?
A Yes.
Q What's happened when you reached the curb?
A As I got to the curb I went to lay down on the ground

and as I got almost down to the ground I felt him come up around me.

Q You say him?

A Brad.

Q The Defendant?

A Yes.

Q You say he came up around you.

A He -- I was, I was to the ground probably about like this and he, he took his arms, took his arm kind of up under mine and, and just kind of pulled me up and dragged me back across the front yard to this area and as he picked me up to drag me he said, ``Oh, no. You're not going to be out here where somebody will find you.'' So, he brought me back into this area like I described as kind of a secluded area back in, back in that where the front doorway is, and as he got me right there I had my car keys in my pocket and I pressed the panic button on my remote and my car was in the drive over here.

Q The alarm on your car it's like a beeping horn sound?

A Yes.

Q So, you set that off?

A Yes.

Q What happened when you did that?

A He grabbed the keys from me and tried to, tried to stop

the alarm and was not successful stopping the alarm in this area and he left me, left me laying there and came back over this way.

Q So, he took your keys from you?

A Yes.

Q And he left you right here, just dropped you?

A Uh-huh.

Q And walked back over towards where your car was.

A Yes.

Q And your car, the alarm is going off. If you put the key in the ignition does it turn the alarm off?

A Yes.

Q So, he leaves you laying here.

A Uh-huh.

Q As he walked off to turn the alarm off because he doesn't want to be found.

A Uh-huh.

Q Do you just lay there?

A At, at that point I tried to ring the doorbell again. I got back up to the door, rang it just a little bit and knocked on the door some and still no answer and I, I heard the car alarm turn off and my car crank up and it kind of simultaneously because like you said it'll make the alarm stop and I felt like either he's going to drive off in my car and

come by and see me or he's coming back over here; and so, I laid back down on the sidewalk right here and I kind of lay on my side and I then heard him coming over. So, I tried to lay real still like I was dead or unconscious or something so that when he came over he would leave me alone.

Q So, you're laying down in your neighbor's front door.

A Yes.

Q You rang the doorbell several times?

A Uh-huh.

Q Nobody comes out.

A Right.

Q You know the Defendant is coming back over for the third time, and you said you laid down and you played dead. Did it work? Did he leave you alone?

A No, he, he came and like I said was laying on my side like this and he had shot me right here and he lifted back my shoulder and he kind of lifted me up off the ground a little bit and held my shoulder back and just patted around on this area and did that a little bit this whole area and then he just let my shoulder drop and I just kind of flopped back to the ground like you said kind of like a sack of potatoes and he then -- I, I felt him kind of step over my legs. So, I felt he was headed back to the house for some reason.

Q You feel the Defendant step over you?
A Yes.
Q And walked back towards the home you all shared.
A Yes.
Q What did you do?
A I lay there for maybe 30 seconds, a minute to make sure he was gone and I got up and I kind of looked around this side of the house to see if I could see him and when I didn't see him I started running this way and around towards the back.
Q Ms. Lester, if you'll please resume the stand.
(Complies with request.)
Q Thank you.
Ms. Lester, you were just describing the fronts of the houses on these diagrams. I'm going to show you what's been previously marked as State's Number Four, Five -- strike that -- Five, Six and Seven. Do you recognize these photographs?
A Yes, I do.
Q And how do you recognize these photographs?
A The first one is a picture of the front of my house. The second one is a picture of the front of the neighbor's house, and then the third is a picture of my house and the neighbor's house.
Q And are these true and accurate depictions of the way the house appeared back in November of '06?
A Yes, sir.

Q And they may be a different date ---
A Uh-huh.
Q --- but that's pretty much how they appeared then.
A Yes.
MR. WILSON: No objections, Your Honor,
THE COURT: State's Exhibit Five, Six and Seven are into evidence without objection.
MR. RICHARDSON: I would move them into evidence.
(State's Exhibit Number Five, Six and Seven [Photographs] admitted into evidence and appropriately marked.)
MR. RICHARDSON: Your Honor, permission to publish these in a moment.
THE COURT: Permission granted.
BY MR. RICHARDSON:
Q Now, Ms. Lester, you said this State's Number Six is a picture of your neighbor's house.
A Yes.
Q This bush and everything right there near the front of the door.
A Yes.
Q Is that the approximate area where the Defendant drug you?
A Yes.
Q Was that bush there then?
A Yes.

Q So, it would have been a pretty good concealing bush?
A Uh-huh.
Q And do you know approximately how far the distance is between the two houses?
A I don't know.
Q A short walk?
A Yeah, it is a short walk. There's not much area between the houses there.
MR. WILSON: No objections. No objections, Your Honor.
BY MR. RICHARDSON:
Q Now I'm going to show you what's been marked as State's Exhibit Four. Do you recognize this photograph?
A Yes, I do.
Q And what is that a picture of?
A The front of my house.
Q And this item in the front?
A That's my car parked in front of the house.
Q And is that a true and accurate depiction of the way your house appeared on the morning of November 13th, 2006?
A Yes.
Q The car in the driveway and everything.
A Yes.
MR. RICHARDSON: Your Honor, at this time the State would seek to introduce State's Number Four into evidence.
THE COURT: Anything from Defense?

MR. WILSON: No objections, Your Honor.

THE COURT: All right, State's Exhibit Number Four is into evidence without objection from Defense.

(Whereupon, State's Exhibit Number Four [Photograph] admitted into evidence and appropriately marked.)

MR. RICHARDSON: And the State would seek leave to publish it at this time.

THE COURT: You may publish.

BY MR. RICHARDSON:

Q Ms. Lester, you just told us the Defendant comes back over to check on you, checked his handiwork ---

A Uh-huh.

Q --- at 116 Barclay Drive, your neighbor's house.

A Yes.

Q Picked you up, felt where he had shot you.

A Yes.

Q And then dropped you down to the ground.

A Yes.

Q Stepped right over you.

A Uh-huh.

Q Walking back towards your home.

A Yes.

Q Were you bleeding at this point?

A No, I was not.

Q Most people would bleed from a gunshot wound. Now, you

said whenever the Defendant dropped you and walked back over to the house you got up. Did he kind of peep back around the corner towards your home?

A Yes.

Q You didn't see the Defendant?

A No.

Q But you didn't go back over to your home.

A No.

Q What did you do?

A I ran to the rear of the 116 Barclay on the opposite side of where my house was.

Q The furtherest point away from your house at 116?

A Yes.

Q And you actually ran in between two houses.

A Yes, there is another house right there and I ran in between those two.

Q Now, you've been shot in the chest for at least a few minutes now. You sought some kind of safety quite a few times now to no avail.

A Uh-huh.

Q You're in between these two houses, what happens?

A As I got about hallway back, the houses are on a golf course, and as I got about halfway back I could hear a tractor or I thought. I could hear something coming; and so, I ran toward that sound, and as I got to the edge of the golf course

I could see a tractor approaching.
Q And did you go up to the tractor?
A Yes, I ran kind of in front of the tractor and he -- Mr. Estock shut the tractor off and I came around to the opposite side of the tractor and told him what had happened.
Q And you said Mr. Estock.
A Yes, he's the lawn maintenance worker that was driving the tractor.
Q Had you ever met Mr. Estock before?
A No, I had not.
Q But you did meet him that day?
A Yes, thank goodness.
Q You said you saw Mr. Estock, he got off the tractor? He got off the tractor?
A Yes.
Q You told him you had been shot.
A Yes.
Q Did you tell him who had shot you?
A Yes, I told him, ``Call 911, I've been shot, my husband, Brad Senter shot me.''
Q And why did you tell him all this?
A Because I felt like I was going to die and I wanted someone to know who had done it.
Q And you asked him to call 911.
A Yes.

Q Did Mr. Estock -- was he able to call 911?
A Yes, he was.
Q From his cell phone?
A Yes.
Q And where were you at the time, were you standing?
A No, I was -- I had gotten down to -- I was kind of in the fetal position on the, on the cart path. His tractor was still on the car path and I tried to get behind that tractor so, so that Brad hopefully would not see me. So, I was, I was kind of in the fetal position down on the, on the sidewalk.
Q Okay, and you talked to Mr. Estock for a moment, he tried to talk to you; correct?
A Yes, he -- as he had 911 on the phone they were asking him questions that he was then in turn asking me.
Q So, this took a few minutes.
A Yes.
Q And while Mr. Estock was on the phone with 911 did anybody else arrive?
A Yes, Brad arrived on the golf course.
Q You're talking about the Defendant?
A Yes.
Q What did he do?
A He told Mr. Estock to hang up the phone and to back away.
Q Did he say it like that, ``Just hang up the phone?''
A No, he said, ``Hang up the phone now. Back away.''

Q So, he commended him to hang up the phone.
A Uh-huh.
Q Chased him away.
A Yes.
Q And you couldn't run anymore.
A No.
Q Did Mr. Estock leave?
A Yes, he did.
Q So, the only people left were you and the Defendant?
A Yes.
Q Back there by the tractor.
A Yes.
Q On the golf course, you can't run anymore.
A Huh-uh.
Q The Defendant -- did the Defendant do or say anything to you while he was there with you on the golf course?
A Yes, he stood over me for what seemed like forever talking at me, I guess is what I would call it. I just continued to look down at the ground and would not look up at him. I felt like if I make eye contact with him, you know, he -- he'll shoot me again. I felt like that was what was going to happen anyway and I was going -- I was just going to continue to look down. He began talking to me about my Christianity and basically mocking that and asking was -- he said, ``You say you're a Christian, you know, you haven't

acted like a Christian and is this, is this what your God would want?''

Q So, he was angry with you.

A Yes.

Q Now, as he's sitting there berating you after he's already shot you did anything stop him?

A Well, if I can add back to that ---

Q Please, please, I'm sorry.

A --- to that with what he said. I -- he continued talking about that and he, he said to me also he said, ``I'm going to shoot you and I'm going to shoot myself and we're both going to die today,'' and I felt that was what he was going to do and, and then from, from where I was then not knowing what I know now he, he kind of just walked off from me, and I didn't know what had happened, but apparently the police officers had arrived on the scene at that time.

Q Dena, I'm going to show you what's been previously -- what was just marked as State's Exhibit 24. These are some clothes. Do you recognize these?

A Yes, those were the clothes I was wearing on the morning of November 13th.

Q And this is a sweater, multi-colored item?

A Yes.

Q This wasn't the condition when you put it on that morning.

A No.
Q What about the hole right there, was that in it whenever you put it on that morning?
A No, it wasn't.
Q These are definitely the clothes you had on the morning of November 13th, 2006, when the Defendant shot you?
A Yes.
Q And this bra?
A Uh-huh.
Q Was this hole on there that morning?
A No.
Q This is definitely the bra you had on that morning?
A Uh-huh.

MR. RICHARDSON: Your Honor, at this time the State would move State's Number 24 into evidence.

MR. WILSON: I have no objections, Your Honor,

THE COURT: State's Number 24 is into evidence without objection from Defense.

(Whereupon, State's Exhibit Number 24 [Clothes] admitted into evidence and appropriately marked.)

BY MR. RICHARDSON:
Q Those were definitely the clothes you were wearing when the Defendant shot you.
A Yes, they were.
Q You said the Defendant walked off from you. You learned

later he had been arrested.
A Yes.
Q What happened to you?
A An officer arrived to me and began asking me questions and like I said previously I had not been bleeding externally. Of course, I was bleeding internally but the officer came to me and he said, ``Where are you shot,'' and I kind of leaned back to show him right there and that's when blood started coming out then.
Q You had more profuse bleeding at that point.
A Yes, yes. He, he stayed with me and the ambulance I think was having a hard time finding me. So, we were, we were trying to get directions to get the ambulance there. Eventually a helicopter landed on the golf course to transport me, and as you could see with the clothes they had to cut the sweater off of me and began trying to give me first aid there on the golf course until the helicopter got there and flew me to MUSC.
Q So, you were air-lifted to MUSC for emergency surgery.
A Yes.
Q How many procedures performed on you?
A At the hospital, at that particular time my lung collapsed. I had two broken ribs and the bullet was in my liver. So, they were trying to stop the internal, the internal bleeding. I had to have a chest tube inserted, and

then they, they worked on the lungs and those things.
Q And you said the bullet, the projectile it was in your liver at that point?
A Yes, it was.
Q So, they're inserting a chest tube.
A Uh-huh.
Q Working on the other internal bleeding trying to stop the bleeding the morning of November 13th.
A Yes.
Q Did they remove that 40 caliber round from your liver at that point?
A Not at that time, no.
Q And do you recall what their reasoning was?
A They -- originally the bullet was like I said in my liver and they said that my liver would, would basically repair itself around the bullet and that it would remain there, it would remain in my liver, but several days into my hospital stay I felt something protruding in my back and we figured out, the doctors figured out that it was the bullet had begun to work its way out. It, it was sticking out about this far (indicating) from my back and they decided at that time not to remove it then. They said that if they removed the bullet then if there were any sort of infection from removing the bullet that the infection would follow the path that the bullet had taken and would eventually follow that path back to

my liver. So, they waited about two weeks to remove, to remove that bullet until they felt like I had healed more internally.

Q That would have been about December 1st, 2006.

A It was December 1st.

Q So, they removed that 40-caliber projectile December 1st, 2006.

A Yes.

Q Do you remember who your surgeon was?

A Dr. Norcross.

Q How are you doing today?

A I'm alive. I still have a lot of pain. I've had a follow-up surgery after that and continue to have follow-up appointments, but I -- my -- I don't have full lung capacity. I can't be active like I used to be. I get winded very easily.

Q How long were you out of work?

A I missed originally 24 school days. I was out until January and then I went back in for surgery in March and missed another 15 days I believe.

Q Just to make sure we have this straight, who called you to the house at 120 Barclay Drive?

A Brad.

Q Whose idea was it to meet alone?

A Brad's.

Q You tried to meet him in public.
A Yes.
Q What was the purpose of meeting him at the house?
A He -- to exchange the papers, the separation papers, but the purpose that he gave me of having to meet at the house was to trim his hair for an appointment he had later that day.
Q Who shot you?
A Brad.
Q Would you point him out?
A Yes, he's right there.
Q And when he shot you how would you describe his manner?
A He was, he was calm. He, like I said, he, he stepped out, fired one shot. He didn't hesitate, and then I would, I would describe his, his manners after as methodical, you know, cleaning up behind himself, and like I said, he tried to, you know, tried to hide me or tried to do those things several times.
Q Thank you, Ms. Lester.
A Thank you.
Q Please answer any questions Mr. Wilson has.
A Sure.
THE COURT: Mr. Wilson, you're recognized, cross examination.
MR. WILSON: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. WILSON:
Q Ma'am, I know this is all painful for you and I know that you've been through quite an ordeal, but let me ask you some questions if I can.
A Sure.
Q How we got to this point. Now, you and Brad got married when?
A August 7th, 1993.
Q And was this your first marriage?
A Yes, it was.
Q What about his?
A It was his second.
Q His second marriage, all right, and you all have any children?
A No, we did not have children together.
Q So, how long did you all stay together from the time you started seeing each other exclusively until your separation?
A How long were we ---
Q How long were you together?
A Not just married but together?
Q Yes, ma'am.
A From 1992 till 2006. So ---
Q Okay, 14 years?
A Fourteen years.
Q And when you got married I assume you all loved each

other.
A Yes.
Q And did you have a good marriage say, let's say the first five, six, seven, eight years? Did you have a good marriage?
A Yes.
Q All right, and now Brad was doing what, coaching when you met, when you all met?
A Yes.
Q All right, and where was he coaching at when you met?
A Newberry College.
Q Newberry College and was he an assistant or was he the coach or ---
A He was the head coach.
Q He was the head coach at Newberry, all right, and what were you doing at that point?
A I was a guidance counselor in a local elementary school in Newberry.
Q Okay, all right, and you all stayed in Newberry for how long?
A After we were married?
Q Yes, ma'am.
A Not long, I'd say four or five months. He, he took a job in North Carolina. He lost his job as football coach and took a job in North Carolina.
Q Okay, what was he doing in North Carolina, what kind of

work?
A Some sort of medical sales.
Q All right, and you left Newberry with him and moved to North Carolina with him?
A Not immediately. He moved first. I finished out a good part of the school year and looked for a job there and then moved.
Q And how long did you stay in North Carolina, the two of you?
A Four years.
Q And while you were in North Carolina were things okay with you all?
A For the most part.
Q Okay, well, let me ask you this straight out, during, during your marriage Brad ever hit you?
A No.
Q Physically, I mean, did he ever slap you, kick you, knock you, punch you in any way?
A No. He threw a phone at me one time but did not hit me.
Q You had disagreements like every other married couple.
A I would think.
Q Well, I mean, did you or did you not have them?
A We had some disagreements. I don't know what other married couples have, but we did, yes.
Q Okay, all right, and, and but as you said earlier all in

sum you had a pretty good marriage you thought?
A Yes.
Q At that point, and now, there came, there came a time when, when Brad started to act differently; did he not?
A Yes.
Q All right, and over the course of several years his actions got worse, he started to lose more jobs and more frequently; did he not?
A Not over the years more frequently. I felt like it was consistent across the marriage, and when I say he started acting differently that was not over several years in my opinion.
Q Okay, well, let me ask you this way, did he lose jobs regularly?
A Yes.
Q With some degree of frequency?
A Yes.
Q And that became a problem because when he'd lose his job and he was in coaching to some degree you guys would have to move to a different place and a different location.
A Yes.
Q And so that started to become a little disturbing for you.
A Yes.
Q And as time went on you and he moved to Myrtle Beach at

some point.
A Yes.
Q All right, and what year was it that you moved to Myrtle Beach?
A In 1998.
Q Okay, all right, and so, in 2006, November 2006 you had been here, what, seven, eight years by that time?
A Six. We had left for two.
Q Okay, you left and came back?
A Yes.
Q All right, where did you go when you left here?
A Tennessee for one year.
Q Okay.
A And then to Newberry one year.
Q Okay, all right, now, when you say you went to Newberry, went back to Newberry again?
A Yes, after Tennessee, yes.
Q So, you went to Tennessee. What was Brad doing when you all were in Tennessee?
A Coaching.
Q All right, and then you left Tennessee after a year and went to Newberry again?
A Yes.
Q And where's -- what is he doing in Newberry?
A He one time did sales with like water filtration systems

and one was a Snap-On tools sales.
Q Okay, all right, and then you come back to Horry County or Myrtle Beach sometimes, what, in what year?
A 2004.
Q All right, so, sometimes around 2004 you come back here?
A Yes.
Q And now, let me ask you is that when his actions start to become more erratic and more noticeable?
A I felt like they started that when we left Tennessee in probably 2004.
Q Okay, and now, to be fair there is no question that Brad was mentally ill. Is there any question in your mind about that?
A No.
Q He was mentally ill without question.
A Right.
Q And, and there's no question about the fact that he didn't think he was mentally ill.
A I, I think he, he knew -- that he would admit to depression. So, I think he -- no, I wouldn't say he didn't think he didn't have a mental illness.
Q Okay, well, so, then you think -- you believe that he thought that he was mentally ill?
A In some form, yes.
Q All right, and did you then try to get him to go to a

doctor and get some help because he was mentally ill?
A Yes.
Q And because he believed he was mentally ill?
A Yes, he had been taking medication already anyway.
Q Okay, and do you know what he was taking?
A Early on in the marriage I just recall Zoloft.
Q All right.
A I don't recall after that what, I just remember the Zoloft.
Q All right, now, during the course of the time that you and Brad were married, and let's specifically and let's go back and start when you moved back to Horry County and that's you say 2004?
A Yes.
Q And let's talk about that period from 2004 till, you know, till you left in June of 2006. Now, during that time you and Brad started to have real difficulties; isn't that correct?
A Financial difficulties, yes.
Q But you also had difficulty with his behavior.
A Yes.
Q All right, in fact, Brad thought that you were working with and for the FBI against him; did he not?
A Yes.
Q In fact, he felt that way so strongly that he went and

got a gun, which is the 2005 incident, and you all were driving around and he had it in the seat of the car but he never drew it on you; did he?

A He had it in the glove compartment and pulled it out of there.

Q And put it in between his legs on the seat of the car.

A Yes.

Q And he never pointed it at you.

A No.

Q But he wanted to question you about your involvement with the FBI against him.

A Yes.

Q All right, and not only did he do that but that -- and this was in 2005; is that correct?

A Yes.

Q Also in 2005 he brought a polygraph examiner home to your house; did he not?

A Yes, he did.

Q And the reason that he brought the polygrapher home to your house is he wanted you to take a polygraph, a lie detector saying that you were not involved with the FBI in conspiring against him; right?

A I think there were two parts to that. One he wanted me to but he also wanted to take the polygraph and show me that he had not done anything wrong.

Q Okay, all right, but he wanted to take it and show you that he hadn't done any wrong, but he also wanted you to take it to show that you weren't in this conspiracy against him with the FBI.
A Yes.
Q Okay, and did you take the polygraph?
A Yes.
Q Did you tell him, ``Look, that's, that's absurd, I mean, I'm not doing no foolishness like that?''
A Did I tell him that?
Q Yeah.
A Yeah.
Q Well, did you -- did, and but you did it anyway?
A Sure.
Q And then - and you were doing this because you wanted to placate him and get along with him.
A Yes.
Q All right, and you knew that if you didn't do these things then he was going to get upset.
A Yes.
Q And once he got upset then you didn't know what he might do; correct?
A Yes.
Q And the other thing is during the course -- during this timeframe Brad started bringing home golf clubs, well, he had

golf clubs anyway; did he not?
A He had golf clubs of his own, yes.
Q All right, and did he station them around the different rooms in the house?
A He had one in the living room. He had them in the garage as far as I know.
Q And what was his reasoning for doing that?
A When I asked him he said that he would practice putting in the living room and he was storing them in the garage.
Q Okay, so, he would tell you that he was storing them in the living room.
A No, he would tell me ---
Q I'm sorry. That he was storing them for putting.
A Yes.
Q All right, and did you accept that?
A Yes, he had a golf club and a golf ball in the living room. It made sense to me.
Q Okay, now, the gun, let's go back to the 2005 incident with the gun.
A Uh-huh.
Q Did you know he had a gun?
A Prior to him presenting it, no.
Q Prior to the day that you all were in the car with the gun.
A Yes.

Q Okay, and how long had he had the gun before the day that you all were in the car?
A I would say a couple of weeks.
Q Okay, and did you say anything to him those couple of weeks when you learned that he had a gun knowing his mental state about the fact that he would even have a gun or buy a gun or get possession of a gun?
A No.
Q Now, would Brad, during the course of the time that, that you all were living here at some point in time he started trying, somebody started trying to get some help for him. Is that a fair statement?
A Yes.
Q All right, and at one point in time and this would have been in 2005 he tried to commit suicide?
A He told me that he had taken some pills.
Q Well, let's go back to that date if we can. Do you know when that was?
A No.
Q Well, was it in 2005?
A Yes, it was probably early 2005.
Q Okay, early 2005, and that morning when you woke up he was sitting on the side of the bed and had been throwing up.
A No.
Q No, that didn't happen or, no, you don't remember it or

which?
A It -- I don't remember that happening, no.
Q Well, how do you know he tried to commit suicide?
A Because he told me he had taken some pills.
Q Okay, did he tell you the day that he took them or did he tell you at a later time or what?
A He told me that evening.
Q Okay.
A Of the day he had taken them.
Q All right, and did you take him to the doctor or did he go to the doctor?
A No, he wouldn't go to the doctor.
Q Now, during the, during this same period of time in 2005 his sister, now, his family, Brad's family lives where?
A In North Carolina.
Q All right, and were you all close, were you and his family were you all close before this happened is what I'm asking?
A Yes, I guess, uh-huh.
Q And you have fairly regular communication with his mom and his sister?
A I would probably say I had more communication with his mother than his sister.
Q Okay, and in fact you sent her several e-mails, faxes, if you will, indicating that Brad had a serious illness and that

you were concerned about it and that you wanted out of the relationship because of it.

A Yes.

Q Okay, and she was a little concerned about your getting out during that time.

A Yes.

Q Now, let's talk for a minute about when it was that you and Brad -- well, let's go back, let's go back to this day, the day ---

THE COURT: Mr. Wilson.

MR. WILSON: Yes, sir.

THE COURT: I'm sorry to interrupt you but we have been going for a little period of time here. I'm going to give the jury an opportunity to ---

MR. WILSON: Thank you, Your Honor.

THE COURT: --- to take a recess and, Madam Forelady, follow the bailiff and they'll carry you back to the jury room in order for you all to refresh yourselves and do not discuss anything. Once again, do not discuss anything.

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: All right, we're going to, we're going to stand at ease for about five minutes and, Ms. Lester, unfortunately since we didn't finish with your testimony the law doesn't allow you to have conversation with the State or

the Defense. So, if you need to use the restroom or refresh yourself the deputy will assist you in that regard, but otherwise, when you get back just have a seat in the witness chair, we will resume when we get back. Thank you. All right, we'll stand at ease for five minutes.

OFF THE RECORD

(On the record.)

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: Anything from the State before we proceed?

MR. RICHARDSON: No, sir, Your Honor.

THE COURT: Anything from Defense?

MR. WILSON: Nothing, Your Honor.

THE COURT: We're ready for the jury.

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: Mr. Wilson, you're recognized.

MR. WILSON: Thank you, Your Honor.

BY MR. WILSON:

Q Ms. Lester, I was asking you earlier if there was a point in time when Brad might have thought that he was mentally ill and you said that he was or that that never occurred?

A That he thought he was mentally ill? I said that he would have agreed he was -- had depression. He was taking medication for depression.

Q Let me show you a letter ---
A Uh-huh.
Q --- and see if you've ever seen that before.
A (Reviews document.) I don't know that I've seen this exact letter. If you want me to read the whole thing and see?
Q No, that's okay.
A Okay.
Q If you haven't seen it, then that's fine. You haven't seen it?
A I don't -- no.
Q Let me show you these.
A Okay.
Q See if you recognize those.
A (Looks at document.) Yes.
Q Okay, and those are what?
A These are e-mails between me and Brad's mother.
Q Okay, and most of them are in reference to Brad?
A Yes.
MR. WILSON: Your Honor, I just ask these be marked for identification purposes only at this time.
THE COURT: Could you show them to Mr. Richardson?
MR. WILSON: Yes, sir. I apologize.
MR. RICHARDSON: Thank you, sir.
(Mr. Richardson reviews documents.)
MR. RICHARDSON: Thank you.

MR. WILSON: Thank you. Just for identification at this time, Your Honor.

THE COURT: And they're denominated as Defense exhibits what numbers, just as one?

MR. WILSON: That's fine.

THE COURT: Defense Exhibit One; is that correct?

MR. WILSON: Yes, sir.

THE COURT: All right, Defense Exhibit One marked for identification only.

(Whereupon, Defense Exhibit Number One [E-mails] marked for identification and appropriately marked.)

BY MR. WILSON:

Q Now, ma'am, in these e-mails and letters that were going back and forth between you and Ms. Senter, primarily Ms. Senter, now, were there some of them between you and Lisa also, his sister?

A I really don't remember e-mailing her. It's -- I don't remember that I had her e-mail address but it's possible. We communicated I know by phone.

Q Okay, and well, as a result of these e-mails and letters that were going back and forth ---

A Uh-huh.

Q --- there was an effort made to get Brad some help; right?

A His sister came down in January of '05.

Q All right, and that's Lisa.
A Yes.
Q Lisa Cleary and she came down in what month was that?
A January of '05.
Q January of '05 and she came down and to meet with Brad and talk with him; right?
A Yes.
Q Now, were you present when she showed up that day?
A I was present some of the time. I don't, I don't remember whether I was present when she first showed up there.
Q Did you all have a smoke detector in your house?
A Yes, we had several smoke detectors.
Q Do you recall when she came that day Brad putting something over the smoke detector to keep the FBI from hearing the conversation between he and Lisa?
A There was, there was paper over the smoke detector.
Q Okay, and now, then they left and went outside to the beach or somewhere to talk where the conversation couldn't be overheard.
A I don't, I don't know. I wasn't present.
Q Okay, but they left the building. They weren't in the house having a conversation about what was going on is all I'm asking.
A I don't know. I wasn't, I wasn't present to know where they were.

Q You left?
A I was working.
Q Okay, all right, and now, and then there were conversations with you and his mom about who should get help for him, whose responsibility was it to get him some help?
A Yes.
Q All right, and they believed it was your responsibility and you kind of believed it was their responsibility.
A I didn't believe it was their responsibility necessarily. They were asking that I go and have him committed. They said that I was the only one that could do that and I did not want to do that.
Q All right, and then his, his -- Lisa came down and when she came down she actually did take him to get some help; right?
A Yes.
Q And where is the first place that she took him?
A I believe they went to Waccamaw Mental Health first.
Q All right, and as a result of going to Waccamaw Mental Health did he then receive, did he then receive inpatient treatment at some facility?
A He went inpatient treatment at Lighthouse.
Q Okay.
A But from what I understand that is not part of Waccamaw Mental Health. That was as a result of another agency I

believe.
Q Okay, okay, and how long did he stay in the Lighthouse, how many days?
A Three at the most. It was over a weekend.
Q All right, now, when he was admitted to Lighthouse did you go with him and Lisa or did just the two of them go? How did that work?
A No, they went. I was at work.
Q All right, so, Lisa took him. You were at work. Lisa took him to Lighthouse and had him admitted there.
A Yes.
Q Okay, now, was he admitted any other place after Lighthouse, after getting out of Lighthouse?
A He went to Lighthouse again in February.
Q All right, when he went to be admitted to Lighthouse again in February and this is '05?
A Yes.
Q All right, so, he goes back in '05, of February, I'm sorry, February of '05 to be admitted a second time ---
A Uh-huh.
Q --- in the Lighthouse and do you go with he and Lisa this time?
A I, I believe he went by himself. I don't recall Lisa being there that time.
Q Okay, so, he went by himself a second time.

A Uh-huh.
Q And he was admitted to the hospital.
A Yes.
Q And how long does he stay this time?
A Three days maybe.
Q Three days, all right, and he gets out, does he have another hospitalization?
A After the '05 CDV incident, yes, he went back with his family to North Carolina and was receiving treatment at Duke University.
Q Okay, so, he went to Duke and he was admitted there for several days.
A Yes.
Q All right, now, did you go with him up to Duke to have him admitted there?
A No, we -- because of the CDV we were not supposed to be in each other's presence I guess you would say.
Q All right, and after he got out of Duke did the two of you all get back together?
A Not immediately but yes.
Q Okay, how long, weeks, months?
A Maybe two weeks.
Q Okay, and he came back to Horry County and you all cohabitated as husband and wife again ---
A Yes.

Q --- once he came back from the hospital.
A Yes.
Q All right, and when he came back this time and that would have been what now, what, what, what timeframe are we speaking of now? Are we still talking about February of '05?
A No, that would have been maybe early April '05.
Q Okay, April of '05. Now, now, between April of '05 and November of '06 which is the date that this incident occurred, November 13th; correct?
A Yes.
Q Did he have any other hospitalizations?
A No.
Q All right, but now you all started seeing some counselors?
A Yes.
Q All right, and Cathy Battle, did you all go to see her?
A Brad went to see her and then I joined him on one visit there.
Q All right, now, Cathy Battle was a counselor and do you know what area she is a counselor in?
A No, I don't.
Q Okay, but she went to -- Brad went to see her.
A Yes.
Q Okay, and who sent Brad to see her; do you know?
A No, I don't.

Q Okay, so, you don't know why he went or how he got there but he went to see her and then she -- then you met with her on one occasion you're saying.
A Yes.
Q All right, and as a result of your meeting with her did you all see her again?
A No.
Q Okay, and why didn't you see her again?
A From my perspective I didn't like her method of counseling.
Q Okay, so, you just didn't like her method of counseling.
A And ---
Q Go ahead. I'm sorry.
A I was going to say we agreed that that was not, her method of counseling was not working for us.
Q Well, after one visit?
A Yes.
Q All right, and now, was Brad upset about the fact that you decided not to go back, not to see her anymore?
A No.
Q Okay, he wasn't upset?
A No.
Q All right, all right, so, after Cathy Battle who do you go see next? Is there another counselor, Suzanne Smith?
A Yes.

Q Okay, Suzanne Smith I think is her name.
A Yes.
Q And in fact Cathy Battle referred you to Suzanne Smith or referred Brad to Suzanne Smith.
A I don't know.
Q Okay, but be that as it may there was an appointment made to go see Suzanne Smith who is also a counselor.
A Yes.
Q All right, and did you go with him to see Suzanne Smith?
A Maybe twice, yes.
Q Okay, do you know how many times Brad went?
A No.
Q Did he go at least on the two occasions that you went?
A Yes.
Q All right, all right, and when we talk about going to see Suzanne Smith what period of time are we speaking of now?
A I really don't know. I would guess May, June.
Q Somewhere between April and August of 2005; would that be fair?
A I guess.
Q All right, all right, now, after, after April, after you saw Suzanne Smith, did you all go to any other counselors between April and August and November of 2006 when this incident occurred?
A Yes, I began seeing Stacy Krutzmeier [spelled

phonetically].
Q Okay.
A And then Brad joined me for many of the sessions.
Q Okay, now, was this a marriage counselor or was this a psychiatrist?
A No, she was, she was a counselor. She was my individual counselor.
Q Okay, I guess my question though is was she counseling you in terms of your marriage or was she counseling in terms of Brad's behavior or his illness? I mean, what was the counseling about I guess is what I'm trying to ask.
A It, it was more about our marriage. It wasn't specifically about him because I was her client.
Q Okay, now, all right, during that time when you're seeing Suzanne Smith and when you're seeing Ms. Krutzmeier ---
A Yes.
Q --- was Brad on medication during this period?
A He had been prescribed medication. I don't know that he was taking medication like he was supposed to. I don't know.
Q So, you don't know how often he was taking his medication or even if he was taking it?
A No, I don't know.
Q Okay, now, at any point in time did you ever contact the probate court about having him committed?
A Yes, I -- well, I talked to them after the '05 CDV. I

was given suggestions of different directions to take and they told me to go -- I was told to go to the probate court to speak about the commitment.

Q Now, in June when the two of you all separated in June of 2006, is that correct?

A May 27th, 2006.

Q May 27th, 2006, and the incident that caused the separation is the gun.

A Yes.

Q All right, you find that he's got another gun.

A Yes.

Q All right, and then you decide that you're going to leave.

A Yes.

Q All right, and you contact an attorney and you talk to his mom about that.

A I, yes, I spoke to her mother, spoke to his mother -- well, e-mailed, I believe, and told her I was going to an attorney and I think they were concerned about his welfare, you know, did he have food and those types of things. I told them I was giving, you know, giving him money along, part of the settlement, we were trying to do the property settlement.

Q Okay, and during this time Brad is still not working.

A Correct.

Q All right, so, what does he do all day, I mean, he's not

working and you're assistant principal. So, you're gone. What does he do all day long while, I mean, what is he doing?

A I don't know.

Q And this had been going on for how long?

A What was ---

Q Since 2005, his not working, his not -- his being unemployed and being home?

A Yes, he had, I think the last time he worked was in January of '05.

Q Okay, now, as I understand it and let's go now to November 13th the date of this incident.

A Yes.

Q Well, maybe we should go back. Let me ask you about the phone calls. There were several phone calls between you and Brad leading up to the incident.

A Yes.

Q And several of those calls were placed to him by you.

A Yes.

Q And then several were placed by him back or to you.

A Yes.

Q All right, and as I understand it at this point in time you're separated but you're amicable.

A Yes.

Q All right, and he's not angry with you for leaving.

A Angry I guess no, no.

Q Okay, he's not angry with you for leaving, you all are having communications to the point that you're at least talking sometimes two or three times in one day at least from the phone records.
A Yes.
Q And on other occasions after your separation in June and prior to the incident in November you had been back to the house when Brad was there alone.
A Yes.
Q Okay, and there were no problems.
A No.
Q During those times that you went there.
A Right, no.
Q All right, and you had talked with him on the phone on other occasions before this incident; correct?
A Yes.
Q And he seemed to be handling the separation okay?
A Sometimes yes, sometimes no.
Q Okay, now, on this particular day you say that Brad called you that morning around -- well, before you arrived he called you sometime before 7:30.
A Yes.
Q And asked you if you were still coming over.
A Yes.
Q When he called you was he angry at that point? Did he

seem like he was mad with you in any way?
A No, he just said, ``Are you still coming over?''
Q And had you given him a time when you were to come over the next morning?
A Yes.
Q All right, and what time did he expect you to come over or should have expected you to come over?
A I told him I had to be at work at 7:30, I would try to be there between 7 and 7:15.
Q Okay, all right, now, and you arrived what time that morning?
A I think around 10 after 7.
Q All right, and when he called you were you already on your way?
A Yes, I was.
Q Okay, so, he called you on your cell and you were already on your way, and how many minutes from the time you think, from the time he called you till the time you actually got to the house?
A Five minutes, I don't know.
Q Okay, and when you got to the house tell me how you got in? What happened once you got to the -- pull your car up in the driveway and tell me what happened once you got in there.
A I went to the door and rang the doorbell. He came to the door.

Q Was your car ignition turned off?
A Yes.
Q Okay, and you turned your car ignition off and both doors are closed and locked?
A I don't know if they were locked, but they were closed, yes.
Q Okay, and then you go to the door and you knock or ring the doorbell.
A Yes, ring the doorbell.
Q All right, and then what happened?
A He came and answered the door.
Q Okay, and tell me what's said between the two of you. He, he comes opens the door and then what?
A He says he wants me to cut his hair first.
Q Okay, had you all discussed that on the night before when you had the other conversations?
A Yes.
Q Okay.
A That was the reason we had decided to meet there. He wanted me to cut his hair.
Q Okay, so, you were going there to cut his hair and to get the papers or pick up the papers.
A Yes.
Q Okay, and so, he was expecting you to come and he was expecting you to cut his hair and then give you the papers.

A Yes.
Q Not necessarily in that order, but that's what was going to happen.
A Yes.
Q All right, and you cut his hair and you all come in and you say that you go into the master bathroom?
A Yes.
Q And that's where his hair is actually cut there?
A Yes.
Q All right, and during that time is he seated or is he standing or, I mean, how do you all do it?
A He was standing.
Q Okay, and, and then you cut his hair with clippers, I assume, or scissors.
A Clippers.
Q And after you finish cutting his hair then you all come back out into the living area or just tell me what you do from that point.
A We both came back out to the living area. I went towards the, the front door and he went to the garage.
Q Okay, now, how long does it take you to cut his hair, ten minutes?
A At the most, five minutes, maybe.
Q Okay, and when you come back out, you finish cutting his hair, what happens?

A I asked him to get the papers.
Q Okay.
A That I needed to go.
Q All right.
A He went out to the garage to get the papers, I guess.
Q Okay.
A And came back in.
Q How long was he gone? When he goes out to the garage for the first time how long was he gone?
A A minute or two.
Q Just a minute or two.
A Uh-huh.
Q All right, and you're standing there still waiting for him ---
A Uh-huh.
Q --- to come back.
A Uh-huh.
Q All right, and then he comes back.
A Uh-huh.
Q And when he comes back what does he say? I mean, what does he say to you about the papers that he's supposed to be going to get?
A He says he had some changes, he, he needs to get me the changes.
Q Okay.

A He goes back out to the garage.
Q All right, let's go back to the first time ---
A Okay.
Q --- when we go to the garage. When he comes from the garage the first time did he have papers then?
A No.
Q What did he have in his hands if anything?
A I think some kind of like manila folder or something.
Q Okay, all right, he's got something in his hand and does he thumb through it or look at it or he just says he needs some changes?
A He needs some changes.
Q Okay, and then what?
A I said, ``Get me the changes.'' He goes back out to the garage.
Q Okay, how long is he gone this time?
A About the same, a minute or two.
Q All right, and then he comes back again.
A Yes.
Q All right, and what does he have this time in his hand?
A Some sort of -- that -- maybe that same folder, papers and he says, ``I don't, I don't know where the changes are. I don't, you know, I don't have them.'' I said, ``Just get them to me. I need to go. It's 7:27. I need to get to work.'' I said, ``Just find them and get them to me later.''

Q Okay, all right, and you leave then?
A No.
Q Okay, well, what happens then?
A He says, ``I know where they are.''
Q Okay.
A ``Give me just a minute.''
Q Okay.
A And he went into the bedroom.
Q Okay, so, now, he goes into the bedroom. By the way, that morning when you come to the house what is he -- how is he dressed? Does he, does he have on his regular clothes for going out or is he in his pajamas? How is he dressed?
A He had on a sweatshirt and sweatpants.
Q Okay, and so, when he came out of the garage you didn't see a gun at that point.
A No.
Q All right, and the way he was dressed would you have seen it if he had it in his, in his pants or anything?
A Possibly, no.
Q All right, but -- so, he leaves, goes into the bedroom, he's gone for how long?
A Thirty seconds to a minute.
Q Okay, and during this time there's never been any argument; right?
A No.

Q No cursing, no yelling, no nothing.
A No.
Q He just goes into the bedroom, he's gone for a minute, he comes back with a gun, he points it at you and pulls the trigger.
A Yes.
Q Now, after the shots, after he shoots you and you then leave the premises and you're trying to get some help and go wherever you're trying to go to get some help.
A Uh-huh.
Q You go outside and you said, now, well, when you're there after he shoots you what does he do? I mean, does he drop the gun? Does he -- did he try to shoot you a second time? What, what does he do after he fires that first shot and shoots you?
A You're talking about when we were still in the house?
Q Yes, ma'am.
A I don't know. I turned to leave.
Q Okay.
A He, he didn't fire another shot, no.
Q All right, all right, and when -- let me ask you this, how far -- when, when, when he comes out of the room ---
A Uh-huh.
Q --- and you're standing in the middle of the area, of the living area ---
A Uh-huh.

Q --- is that where you are, still are ---
A Uh-huh.
Q --- and he comes out of the room how close is he to you when he shoots you?
A Fifteen feet, maybe.
Q So, where the Solicitor is?
A No, not that far probably.
Q Where I am?
A Yes.
Q Okay, all right, and, and how far is the door from where you are?
A Maybe three or four feet.
Q Okay, behind you or to the side?
A Behind me.
Q Okay, so, like where that door is back there.
A Uh-huh; uh-huh.
Q And so, when he shoots you then you turn and you -- the door closed or open?
A Closed.
Q All right, you open the door?
A Uh-huh.
Q And then you go out.
A Uh-huh.
Q All right, and, all right, and you get all the way to your neighbor's house.

A Uh-huh.
Q And you knock on the door.
A And ring the doorbell.
Q And ring the doorbell.
A And knock.
Q Okay, and nobody comes right away?
A No.
Q All right, then what happened to you after that?
A I went out to the front yard to the curb of the street.
Q All right, and while you're knocking at the door he's still, he's not made it to you where you are at that point.
A No.
Q Okay, and you get to knock on the door and ring the doorbell then you do what?
A I go out to the street.
Q All right, and what happens to you when you get to the street?
A He comes and grabs a hold of me and drags me back to the house.
Q Okay, so, when you get to the street he comes out. Now, are you sitting down at this point or you're standing or just laying down or what?
A No, I was going down. I was -- I would say crouched down because I was going to the ground.
Q Were you in kind of like a crouching position and waiting

for somebody to come by that you could wave down or get some help from?
A Uh-huh.
Q And then he comes and gets you.
A Uh-huh.
Q All right, from the street.
A Uh-huh.
Q And then how does he do that?
A He kind of grabbed up under my arms.
Q One of your, one of your shoulders?
A Up under both just kind of.
Q All right, so, he's behind you?
A He's beside me like this.
Q Okay, all right, and he grabs you with one of his arms or both his arms?
A One of his arms.
Q All right, grabs one of his arms and he carries you back to where?
A Drags me back to the front of the neighbor's house.
Q Okay, how far is that from where you were?
A I don't know, 15 feet.
Q Okay, so, back from where you are now to maybe where ---
A Yeah.
Q --- where I was standing earlier when you asked me about 15.

A Uh-huh.
Q Okay, all right, and during that time when he is pulling you or dragging you or carrying you, however you would describe, I mean, what's he saying? I mean, what is he saying to you during this period?
A He said, ``You're not going to stay out here where someone will find you.''
Q And now, where is the gun? Does he still have the gun in his hand when this is happening?
A I didn't see it in his hand, no. I don't know where it was.
Q And he takes you back to where the neighbors are. Now, where the neighbors are, I mean, is it, is it covered or hidden where the neighbors live?
A Back in the entrance area is between the garage and their front bedroom. So, it's back in a little, back in a little area.
Q All right, now, I see just here there are two houses one on each side. Is it -- is this one of the houses that you're talking about that you went to?
A That's my house.
Q Now I know.
A No, that's my house.
Q No, I know.
A Oh.

Q I know it's your house. I'm referring now to State's Exhibit Number Four which is a photograph and what I'm asking is the houses that are on either side of this center house which your house ---
A Yes.
Q --- which of these houses are we talking about or is it a different house?
A The one to that side.
Q This house here.
A Uh-huh.
Q Okay, and where were you at on a curb? You said that you had gone down to the street.
A In front of their yard.
Q Okay, you were down here.
A Further over that way in front of their house.
Q Okay.
A In front of the neighbor's house.
Q We can't really see it from this picture. Is that or is this the house?
A That's the house.
Q Okay, now I'm referring to State's Exhibit Number Six and what I'm asking you is you were here on this pavement?
A I was about right here.
Q Okay, about here, all right, and ---
A I was still on the grass.

Q Okay, all right, and you're still on the grass here. So, he gets you and he takes you back to where?
A Back into here.
Q Okay, so, he takes you back to this ---
A Uh-huh.
Q --- porch area here.
A Yes.
Q Okay, all right, and once he takes you back to the porch area he's saying that he doesn't want anybody to see you essentially.
A Yes.
Q Okay, and say anything else? What else is he saying?
A No.
Q Is he cursing or is he yelling or is he, I mean, what is he -- that's all he said?
A That was all he said.
Q Okay, and then he gets you back there and then what?
A I set the alarm off on my car.
Q And then what?
A He took the keys from me and tried to turn the alarm off and was not able to and he left to go back over to the house.
Q So, he took the keys from you. Now, when he gets the keys he leaves you and he walks over to, towards where the car is.
A Yes.

Q All right, and that's over in his driveway or you all's ---
A Yes.
Q --- marital home driveway and -- but he never is able to stop the alarm on the car.
A No, he did.
Q He did stop it?
A Uh-huh.
Q Okay, so, when he walked away he stopped it and then came back to you?
A I believe he stopped it by putting the key in the ignition because I heard the alarm go off and the ignition come on.
Q Okay, all right, and then he comes back to where you are?
A Yes.
Q Okay, and when he comes back to you now what is he saying this time when he comes back? Does he say anything to you when he comes back?
A No, that was ---
Q All right, he just comes back. Now, is this when he touches your wound area?
A Yes.
Q All right, all right, and as I understood when you were talking to the Solicitor you said that, you know, he lift up your shoulder and he just ---

A Lifted my shoulder back.
Q --- kind of patted around the wound area?
A Uh-huh, uh-huh.
Q Was he saying anything during that time?
A No.
Q All right, and he leaves then, after he does that he leaves again?
A Yes.
Q All right, where does he go this time?
A He went toward my house.
Q Okay, he went towards you all's house and he's gone for how long?
A That was the point at which I left.
Q Okay, that's when you went out to the edge of the golf course?
A Yes.
Q And you actually make it out to the golf course and then he comes back.
A Yes.
Q And by the time he comes back there is what two people there or one?
A Initially there was one and I believe another guy walked up as he was telling him to hang up. I had never spoken to the other guy though.
Q Now, when he comes back does he draw the gun here on you?

When he comes back, this is when you're at the golf course and you're -- you said you were in a fetal position ---

A Uh-huh.

Q --- trying to because I assume you were in a lot of pain at that point.

A Yes.

Q And these two gentlemen are trying to call 911 or trying to make a call in your behalf at that point and he comes back and he has some words with them and tells them to either not make a call or to leave or something ---

A Uh-huh.

Q --- to that effect.

A Uh-huh.

Q All right, now, does he still have the gun at that point?

A I don't know. I didn't look at him at that point.

Q Now, the two guys that were there or the fellow that was or how many of them was there they left and left him there with you? They walked away?

A Yes.

Q All right, and you were still there and he was there.

A Yes.

Q Now, during that time after he - after they walked away you were still there on the ground what was he saying to you at that point?

A He was talking about how I claimed to be a Christian and

that my actions were not Christian like and would that be what my God wanted and he said he was going to kill me.

Q What was he talking about when he said what he was saying? What, what was he talking about? Do you have any idea?

A I don't understand what you're asking.

Q Well, you said that he was saying something about your Christianity.

A Uh-huh.

Q And whether or not that's what our God would have wanted. What was he talking about? What is it that your God would have wanted or not wanted?

A I don't know whether he was referring to the separation, the divorce.

Q After -- well, let me back up just a second. When you were on the ground and the two gentlemen left, he was standing there and that's the only thing that he said to you?

A Yes.

Q All right, did he touch you in any way during that time?

A No.

Q Okay, he just stood there.

A Uh-huh.

Q How close was he standing to you?

A He was standing right over me.

Q Close as I am to you right now.

A Closer, yes.
Q All right, right up on you?
A Yes.
Q All right, all right, and did he do anything physically towards you at that point?
A No.
Q Okay, now, how long would you say he stood over you like that before the police came and arrested him?
A I don't know. It felt like five hours but I'm sure it wasn't five, ten minutes. I don't know.
Q Okay, just seemed like a long time.
A Uh-huh.
Q And obviously after that you got medical treatment.
A Yes.
Q And was sent to the hospital and everything?
A Yes.
MR. WILSON: The Court bear with me for just one second, please.
BY MR. WILSON:
Q I'm going to show you one last thing and then I think I'll be through and just asking you if you recognize this and if you do, fine. If you don't just tell me. It's okay.
A Yes.
Q All right, don't, don't tell anything else. I'm just asking for identification at this time.

MR. RICHARDSON: Okay.

MR. WILSON: Your Honor, I just ask that this document be marked for identification purposes only.

(Whereupon, Defendant's Exhibit Number Two [``The Empty Tank''] marked for identiciation.)

A Can I clarify? I only looked at the front page. So, I don't know what the rest of it is.

Q Yes, ma'am.

A I remember the front pages and stuff. There's -- this page I don't recall reading, but ---

Q If you would just take that page out. If there's a page that you don't remember take it out.

A Okay.

Q All right, now, these remaining pages that you've handed back to me which are four pages whose handwriting is this?

A It's Brad's.

Q All right, and how did you come into possession of this?

A I saw those after, after November, after this happened they were a part of the packet of things that we got for the divorce when I was seeking a divorce.

Q Okay, so, you got them from your lawyer?

A Yes.

Q I don't have any other questions. Thank you, ma'am.

A Uh-huh.

THE COURT: Any redirect, Mr. Richardson?

MR. RICHARDSON: No, sir, Your Honor, just ask that we excuse the witness subject to recall.

THE COURT: Very good. You may step down. Thank you. You may call your next witness, Mr. Richardson.

MR. RICHARDSON: Your Honor, I'm going to call a couple of witnesses out of order, just try and get them back on the road.

THE COURT: Very good.

MR. RICHARDSON: Prior to that, Your Honor, if I may read, Mr. Wilson's leave, read an affidavit of fact into the record, a stipulation.

THE COURT: Madam Forelady, ladies and gentlemen of the jury, you can take into consideration testimony that comes from the witness stand, and in addition to that, you can take into consideration stipulations. It's facts that are agreed to by the parties and that is for your consideration and your deliberations. Mr. Richardson, you may publish the stipulation or affidavit.

MR. RICHARDSON: Your Honor, this is the affidavit of facts on indictment number 2007-GS-26-481 and 491, State of South Carolina, County of Horry versus Bradley Scott Senter, Defendant. It states that, ``I, Edward D. Norcross, M.D., hereby swear and affirm the following: I am a trauma, general surgery physician at the University of South Carolina Medical University. I was acting in the above-cited position on

December 1, 2006. I was personally present and acting as the attending physician on December 1, 2006. I was personally present and acting in my official capacity in treating Dena Lester, formerly known as Dena Senter, hereinafter referred to as the victim, for removal of a projectile on December 1, 2006. I removed one projectile from the victim's upper torso on December 1, 2006. I maintained the custody of said projectile, submitted said projectile to the Public Safety Officer, George Wilds, on December 1, 2006. I, Edward D. Norcross, M.D., hereby swear and affirm that the foregoing is true and accurate, respectfully submitted this 10th day of April, 2008.'' Witnessed by -- Branch, doctor's signature.

THE COURT: Very good.

MR. RICHARDSON: At this time the State would call Officer George Wilds.

THE COURT: Officer Wilds, I'm going to ask if you could to come forward, please. Place your left hand on the Bible up here and raise your right hand as the Clerk administers the oath.

Whereupon, George J. Wilds was called to the stand, duly sworn by the clerk and testified as follows:

THE COURT: Officer Wilds, please have a seat in the witness chair.

(Complies with request.)

THE COURT: Ask that you pull up real close to the

microphone and speak loudly, clearly and slowly in order that the jury and everyone else can hear everything that you've got to say. Thank you, sir. State your full name again.

MR. WILDS: My name is George J. Wilds.

THE COURT: Thank you, Mr. Wilds.

DIRECT EXAMINATION

BY MR. RICHARDSON:

Q Officer Wilds, please tell this jury where you're employed and in what capacity.

A I'm employed as a public safety police officer with the Medical University of South Carolina in Charleston.

Q Could you tell us what your duties are with MUSC?

A Mostly patrol, other calls for service.

Q In the course of your duties do you receive items of evidentiary value from time to time?

A We do.

Q And did you receive an item from Dr. Edward Norcross on December 1, 2006?

A I did.

Q Related to this case?

A I did.

Q And could you tell us what that item was?

A Approximately at 13-18 on December the 1st, 2006, I was dispatched to meet with Dr. Norcross at Rutledge Tower at the Medical University in Room 705. He had removed a projectile

from the victim. The projectile was in a sealed container. The container was taken back to Public Safety Headquarters at 101 Downing Street in Charleston, and a chain of custody sheet was, evidence property receipt was filled out. Attached to the victim, this is a photograph of the evidence locker at the station in Charleston and it was deposited there at that time in evidence.

Q This container the projectile was in, was it sealed?

A Yes, it was.

Q All right, sealed with blue tape; correct?

A Blue tape and sealed with Dr. Norcross's initials.

Q And was there any other seal on it like a heat-sealed bag or anything?

A No, no.

Q But it had Dr. Norcross's initials on it.

A Yes.

Q On the blue tape.

A On the tape.

Q Pretty much tamper proof.

A Yes, sir.

Q And you deposited it in a locker.

A In the locked evidence locker, yes, sir.

Q And when I say tamper proof you could tell if somebody tried to open that.

A Absolutely, sir.

Q And you pretty much followed the procedures for handling evidence with your office?
A Yes, sir.
Q And is that the extent of your involvement in this case?
A Yes, sir, basically it is.
Q Thank you. Please answer any questions Mr. Wilson has.
MR. WILSON: I have no questions.
THE COURT: You may step down and any objection to this witness being excused from the State?
MR. RICHARDSON: None from the State, Your Honor.
MR. WILSON: None from the Defense, Your Honor.
THE COURT: You're free to leave at this time. Thank you, Officer Wilds.
A Thank you, Your Honor.
MR. RICHARDSON: The State would call Lieutenant Ronnie Capps at this time, Your Honor.
THE COURT: Your last name, sir?
MR. CAPPS: Capps, C-A-P-P-S.
THE COURT: All right, Mr. Capps, please, Officer Capps, please come forward and place your left hand on the Bible, raise your right as the Clerk administers the oath.
Whereupon, Ronnie Capps was called to the stand, duly sworn by the clerk and testified as follows:
THE COURT: All right, pull up a chair in the witness stand there and ask you to pull up very close to the

microphone, speak loudly, clearly and slowly and state your full name.

MR. CAPPS: Okay, Ronnie Capps.

THE COURT: Thank you, Officer Capps.

MR. CAPPS: Yes, sir.

DIRECT EXAMINATION

BY MR. RICHARDSON:

Q Lieutenant Capps, would you please tell this jury where you're employed, how long and in what capacity?

A I am a lieutenant in charge of investigations, also evidence custodian at the Medical University of South Carolina Department of Public Safety.

Q And prior to working at MUSC do you have prior experience in law enforcement?

A Yes, I've got 33 years in. I've worked all over the state.

Q And you stated you were evidence custodian as well as being in charge of investigation for MSUC?

A That's true.

Q In the course of your duties do you seize items of evidentiary value from doctors and from other staff?

A Mostly just from officers that make drops into the evidence locker.

Q And with regard to this case, particularly dealing with the patient Dena Lester, formerly known as Dena Senter, did

you receive items of evidentiary value?
A Yes, sir, I did.
Q And could you tell us what this item is?
A It was a projectile that was dropped by Officer Wilds into the evidence block.
Q And do you know when he dropped it in?
A Yes, sir, it was -- I don't know exactly the time but it was around 2:30 that day.
Q And when did you receive the item?
A I took it out of the evidence locker at 4:30 and turned it over to the detective.
Q Tim Troxell?
A Yes, sir.
Q And did he tell you what agency he was with?
A Horry County Police.
Q Now, this -- it is a projectile?
A Yes, sir.
Q How was it packaged?
A It was in a container, sealed and I think it was also in a plastic envelope and it was sealed also.
Q And the seal, how are those things normally sealed? What are the procedures?
A It's sealed with a tape and it's got a writing on it so if it's ever broken you can tell if it's been broken and it had not been broken.

Q And you followed all your typical procedures for evidence handling.
A Exactly, sir.
Q And you handed it to Tim Troxell?
A Yes, sir, I did.
Q Detective.
MR. RICHARDSON: Your Honor, I have no further questions of this witness.
THE COURT: Mr. Wilson, cross examination?
MR. WILSON: I have no questions, no questions, Your Honor.
THE COURT: Any objection to this witness being excused?
MR. WILSON: None, Your Honor.
THE COURT: Officer Capps, you're free to leave. Thank you, sir.
MR. CAPPS: Thank you, sir.
MR. RICHARDSON: At this time the State would call Officer -- Corporal Greg Eliason of Horry County Police Department.
THE COURT: All right, Corporal, please come forward and place your left hand on the Bible and raise your right hand as the clerk administers the oath.
Whereupon, Greg Lee Eliason was called to the stand, duly sworn by the clerk and testified as follows:

THE COURT: Please have a seat in the witness chair and pull up real close to that microphone, speak loudly, clearly and slowly and state your full name.

MR. ELIASON: Gregory Lee Eliason.

THE COURT: Very good.

Mr. Richardson, you're recognized.

MR. RICHARDSON: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. RICHARDSON:

Q Corporal Eliason, it's corporal; correct?

A Yes, sir.

Q Tell us about your place of employment, how long and in what capacity.

A Horry County Police Department, been working there 11, almost 11 years.

Q And what are your duties with Horry County?

A I'm on patrol.

Q And during the course of your duties being on patrol did you have the occasion to respond to a shooting at the Villages of Arrowhead on November 13th, 2006?

A Yes, sir, I did.

Q Could you tell us about what time of day that was?

A Approximately 7:30 in the morning.

Q And can you tell us about your involvement in this matter?

A Dispatch gave out a call in reference to a -- someone being shot and on Barclay Drive. I was at 501 Forestbrook, just real close to it; so, I responded.
Q And you responded to the address on Barclay Drive right over in the Forestbrook, Carolina Forest area?
A Yes, sir.
Q Over near the Hard Rock Park; correct?
A Yes, sir, that's correct.
Q You responded to the address. Do you remember what the address was?
A I believe it was 120, 120 Barclay I believe it was.
Q Okay, so, you responded to 120 Barclay Drive. Upon arrival at 120 Barclay Drive what did you do? What information did you have?
A Actually I didn't park in front. I parked several houses down. I went to -- they -- dispatch advised me that they were on a golf course. I went between the houses back to the golf course, got on a cart path and looked southbound or actually kind of east. At that time I saw a man fitting the description of the suspect, the clothing description.
Q And you say fitting the description. Where did you get this description?
A From dispatch.
Q From dispatch.
So, you saw a man fitting the description that had been

given to you over dispatch.
A Yes, sir.
Q Did you say anything, do anything?
A When I noticed him he was standing over by a piece of lawn equipment on the golf course. In my experience knowing that this was probably the suspect he looked up and he noticed me. He started walking towards me. There was pine trees to the right of the golf path, which I took cover behind one of the trees there, and he still continued towards me. At that time I told him -- he got from maybe me to you and that's when I ordered him to the ground.
Q And was he waving his arms?
A No, he was walking normal. He made some comment. He did what I told him. I told him to get on the ground and he laid on his stomach.
Q But he complied with your orders?
A Yes, sir, he did.
Q Didn't put up a fight?
A No, sir.
Q Do you remember other officers arriving?
A Yes, sir.
Q Anybody from the highway patrol arrive?
A Yes, sir, Trooper Ledford.
Q Scott Ledford.
A Yes, sir.

Q And you had the Defendant on the ground.
A At gunpoint, yes, sir.
Q And the reason you had him at gunpoint is you were told this was a shooting?
A Yes, sir.
Q You were in fear that he was armed.
A Yes, sir.
Q And you have him on the ground, he's complied with your orders. Trooper Ledford and any other officers do anything?
A Trooper Ledford got there. He -- while I still had him at gunpoint Trooper Ledford handcuffed him.
Q Handcuffed him and did you all leave him on the ground?
A He was still on the ground being handcuffed, yes, sir.
Q Okay, after he had been handcuffed did you all take any kind of further action?
A As soon as he handcuffed him I knew where his -- I knew he had a gun on him because he told me he had a gun on him and where it was. I reached in his waistband and grabbed and took the gun away from him.
Q Officer, I'm going to show you what's been previously marked, and Your Honor, this weapon has not been safetied.
THE COURT: All right, okay, Madam Forelady, ladies and gentlemen of the jury, I'm going to ask if you could retire to the jury room for just one moment.
(Whereupon, the following takes place outside the

presence of the jury.)

THE COURT: All right, one of the -- I want to make sure that, first of all, that it's not loaded and secondly ---

MR. RICHARDSON: It's not, Your Honor.

THE COURT: It's not loaded. Did you -- what did you say? It has not ---

MR. RICHARDSON: It has not been safed. I've got Mike is going to get a chain to put through it ---

THE COURT: Oh, I got you. All right, very good.

MR. RICHARDSON: --- and make it safe.

THE COURT: All right, is there a clip in there?

MR. RICHARDSON: No, sir, the clip is right here unloaded, no rounds.

THE COURT: Okay, very good.

MR. RICHARDSON: But our typical procedure and I should have checked it before is to put a chain through it or trigger, trigger lock through it.

THE COURT: Very good, all right, all right, and how long will it take to do that?

MR. RICHARDSON: Should take about three minutes, Your Honor.

THE COURT: Very good.

MR. RICHARDSON: And I apologize.

THE COURT: Is there any way that the -- that you can take the lever off maybe?

MR. RICHARDSON: I could disassemble it, but it ---
THE COURT: Well, is it that difficult to do?
MR. RICHARDSON: If he goes back and then ---
OFFICER: Is he getting the gun lock?
MR. RICHARDSON: Yeah, he's getting the gun lock.
OFFICER: He'll be right back.
MR. RICHARDSON: Yeah.
THE COURT: Okay.
MR. RICHARDSON: And it's a very simple mechanism.
THE COURT: Okay, very good.
MR. RICHARDSON: I can have it marked at this time, Your Honor.
THE COURT: All right, can I look at the clip myself?
MR. RICHARDSON: Yes, sir.
THE COURT: All right.
MR. RICHARDSON: I can hand you the weapon as well.
THE COURT: Okay, now, there is no bullets anywhere around; is there?
MR. RICHARDSON: I've got a bunch of them over in the box but ---
THE COURT: Okay.
MR. RICHARDSON: --- we don't send them back with the weapon.
THE COURT: Okay, very good.
(Whereupon, State's Exhibit Number 25 [Gun and Clip]

marked for identification.)

THE COURT: I tell you what, Mr. Richardson, we're going to allow you to go ahead with the testimony and we aren't going to publish or allow the jury to handle it until it is indeed safe.

MR. RICHARDSON: No.

THE COURT: We're ready for the jury.

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: You may proceed, Mr. Richardson.

MR. RICHARDSON: Thank you, Your Honor.

BY MR. RICHARDSON:

Q Officer -- Corporal Eliason, I'm going to show you what's been previously marked as State's for identification, State's Exhibit 25. If you could just open that and tell me if you recognize that item.

A That appears to be the gun the suspect had on him.

Q You took this off the Defendant?

A Yes, sir.

Q And what did you do with it whenever you took the weapon off the Defendant?

A I held on to it. I walked away from the Defendant and held on to the gun.

Q And who did you hand the -- did you ever hand the weapon off to anyone or place it in any container?

A I actually placed it -- somebody got a -- I don't know who, one of the officers got an evidence bag and I think I placed it on an evidence bag on the cart path. I had to sit with it and I never -- I had to sit there with it when the helicopter landed because it was blowing everything everywhere.

Q I'm going to show you what's been previously marked as State's Exhibit 22, just for identification. Corporal Eliason, do you recognize that bag?

A Yes, yes, I do.

Q And what do you recognize that item as being?

A Which item? All of them? That's the evidence bag.

Q That's the evidence bag.

A Yes, sir.

Q Is that the evidence bag in which you placed the weapon?

A Yes, sir.

Q So, you took this weapon from the Defendant.

A Yes.

Q And you put it on the evidence bag ---

A Yes, sir.

Q --- at your directive for evidence collection.

A Yes, sir.

Q And did you frisk the Defendant or did the other officers?

A No, sir, I did not.

Q And that's the extent of your involvement in this case?
A Yes, sir.
Q If you'll please answer any questions Mr. Wilson has for you.
A Okay.
THE COURT: Mr. Wilson, you're recognized.
MR. WILSON: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. WILSON:
Q Corporal, when you got the dispatch how long would you say it took you to arrive from where you were to the area where you found Mr. Senter?
A Probably three minutes at the most.
Q All right, and when you got there no other officer had arrived at that point.
A That's correct.
Q You were the first officer there.
A That's correct.
Q And as I understand your testimony when you arrived he was standing up near a piece of lawn equipment out towards the golf course?
A On the golf course, yes, sir.
Q All right, and did you see Ms. Senter, Ms. Lester there when you arrived initially?
A No, sir, I did not.

Q So, you saw him first?
A Yes, sir.
Q All right, and when you saw him did you say anything? You said that he at some point turned and started towards you. Did you say anything to him before he turned to come towards you or was he coming towards you and then you said something to him? Do you recall?
A I don't remember the exact order how things, what was said. When he walked towards me, I ordered him to the ground.
Q Okay.
A And which he complied.
Q Did he ever come towards you in any kind of a threatening manner as if he was going to do any harm to you?
A No.
Q Okay, now, the gun was where? Where did he have the gun housed at the time you took it from him?
A In his waistband on his right hip.
Q On the hip?
A Yes, sir.
Q Okay, all right, and he told you it was there?
A Yes, he did.
Q All right, and this is after he's face down on the ground?
A Yes, sir.
Q And you got the gun?

A After he was handcuffed, yes, sir.
Q Once he was handcuffed and the gun was taken from him did you have any -- did you specifically have any further conversation with him?
A No, sir, I did not.
Q I don't think I have any other questions. Thank you, sir.
A Okay.
THE COURT: Any redirect?
MR. RICHARDSON: None from the State, Your Honor.
THE COURT: All right, Corporal Eliason, is there any objection to him ---
MR. RICHARDSON: I would ask that Corporal Eliason be excused.
MR. WILSON: None from, none from the Defense.
THE COURT: Any objection -- you're free to leave. Thank you, Corporal Eliason.
You may call your next witness.
MR. RICHARDSON: At this time the State would call Trooper First Class Scott Ledford.
THE COURT: Officer Ledford, please come forward and place your left hand on the Bible and raise your right hand as the clerk administers the oath.
Whereupon, Scott Allen Ledford was called to the stand, duly sworn by the clerk and testified as follows:

THE COURT: Officer Ledford, please have a seat in the witness chair, speak loudly, clearly and slowly and state your full name for the record, Officer Ledford.

MR. LEDFORD: Scott Allen Ledford.

THE COURT: Thank you.

DIRECT EXAMINATION

BY MR. RICHARDSON:

Q Trooper Ledford, could you please tell us where you're currently employed, how long and in what capacity?

A I'm currently employed with the South Carolina Highway Patrol. I came aboard with the Highway Patrol in 2005. Previous to that I was with the Horry County Police Department, currently stationed in Horry County.

Q And how long have you been in law enforcement total?

A Started in law enforcement in 1996.

Q So, about 12 years now?

A Yes, sir, 12 years.

Q Now, you said you joined the highway patrol in 2005?

A Uh-huh, yes, sir.

Q So, you're -- you were employed with the highway patrol November of 2006?

A Yes, sir.
Q During the course of your duties as a highway patrolman did you have the opportunity to respond to the Villages of Arrowhead here in Horry County on November 13th, 2006?
A Yes, sir.
Q And what generated that response?
A While on routine patrol it's kind of known to the highway patrol that one of our more prone accident areas is the Carolina Forest area, especially in the morning time around school time. I generally stay in that area just waiting for a wreck. At that time my dispatch and the county dispatch are on two different frequencies. We don't hear what they do. They don't hear what we do, but there's a scan button where I generally keep my car on because if something does occur I like to know what's going on. At that time I heard a call came out of a shooting that had occurred. I was in the general area. I found out that it was still active. Now, when our dispatch keys up over it automatically drowns out the county dispatch. So, some of the things that I was getting were a little tough but I could basically, I knew what I was getting into and knew that it's not typically something that the highway patrol partakes in, our basic function is that of the highways, but I knew it was something that I needed to do ASAP according to the call and working with the

county police for years I knew that whoever was responding out there was probably responding by him or herself just because it's such a large county it takes a lot of time for other officers to get to them. So, I responded in that direction.

Q So, you got a call over the radio of a shooting and you responded to help a brother officer.

A Yes, sir.

Q And to help a victim.

A A victim, yes, sir.

Q And you responded to the Villages of Arrowhead. Do you remember what the address was?

A I don't and I apologize in the -- I knew what street it was, the Barclay area. I had gotten from dispatch that they felt that it was within the first couple of houses. They would be in the back side near the golf course. Basic -- I never got a number. Like I said I was basically trying to concentrate on two different dispatchers going at the same time getting a game plan in my head of, you know, what was going to happen.

Q So, you arrived in the general area.

A Absolutely.

Q Parked your vehicle?

A I did, sir.

Q And you get out.

A I did, sir.
Q And you said you were informed on the radio that they thought it was happening out on the golf course.
A It was behind a residence on a golf course, yes, sir.
Q So, you went out to that area?
A When I first responded I parked my car, I got out. Obviously due to the situation I took, you know, necessary precautions. I heard some noise. I knew it had happened in the back. So, I immediately took off running to the back of the golf course thinking that it was still an active shooting situation. At that time like Corporal Eliason I made it to a wood line where through our duties we feel a little bit safer knowing that I had some type of cover if I was to engage in a shooting situation. At the time I realized I saw Corporal Eliason with the suspect and then I engage from that point, yes, sir.
Q And you said you engage from that point.
A I did.
Q So, Corporal Eliason had him at gunpoint?
A Yeah, the subject was getting down to the ground. I was coming through the woods. I at that point drew my -- well, I had already had my weapon out as I was rounding the house, just because of the unexpected. At the time Corporal Eliason

was giving, you know, loud verbal commands, to get down, to what exactly he said, but he was telling him to get on the ground. At that point it just being in law enforcement my natural reaction was that as long as he was covered at gunpoint upon my approach I holstered my weapon. I got out my handcuffs and handcuffed the suspect that was on the ground at the time.

Q Now, the suspect, the subject, did he appear to be complying with Corporal Eliason's orders?

A He did absolutely. There wasn't a whole lot said after he was on the ground, but from that point everything went what we'd consider smooth.

Q And while you're placing your handcuffs on the Defendant did you cuff him in front or the back?

A He was cuffed in the back.

Q And Corporal Eliason did he retrieve anything from the Defendant?

A He did. As I was cuffing him Corporal Eliason made contact with me briefly and said, ``We have a weapon. We have a weapon.'' He then retrieved the weapon and he took several steps back. At that point my main concern was does he have another weapon and, you know, getting the area secure. So, I let Corporal Eliason deal with that issue and I dealt with the subject.

Q And the type of weapon, the type of weapon that Corporal

Eliason retrieved from the Defendant was it a long gun, a pistol?
A Pistol.
Q Pistol, automatic or revolver?
A Automatic.
Q And then you said you let Corporal Eliason deal with the gun.
A I did.
Q And you worried about other matters.
A Absolutely.
Q What were those other matters?
A Once, once he said that there was a gun, he had it in plain site which I did not hear him tell them but once he had the gun I then dealt strictly with the subject and, and what else he may have had on him or other factors.
Q Okay, and how did you determine if the Defendant had any other substances on him?
A While he was on the ground I did ask, I said, ``Is there any other weapons?'' There was no response. I briefly did an eye exam of the subject for any bulges, anything that, you know, may appear to be sticking out, knives, things of that nature. At the time I did a very quick pat down of the outside exterior. About that time other officers had arrived on scene prior. How many I could not tell you. My, you know, obviously I was concentrating on the subject. I know that

there was another county officer that came, approached me. I believe I asked the subject to get on his knees. I helped him up. The whole time I had control and then ---

Q And then you searched him?

A And then from there I did another pat down just to make sure of any other weapons, knives, guns, things of that nature, you know, pockets, things of that nature where he could conceal something else.

Q And did you find anything in his pockets?

A I was actually looking for knives, things of that nature. There were a few things in his pocket. His pants were actually kind of baggy. So, the -- he had like the pockets which would kind of show out. So, I basically just flushed the pockets out, I guess you could say, in a manner just to make sure that they were secure, checked, you know, the pants good, running down with my hands, back of the neck, inside of shirts, things of that nature, just to make sure.

Q And when you say flush the pockets out you're talking about pulling ---

A Yes, sir.

Q --- pulling the pockets out?

A Yes, sir.

Q Now, when you pulled the pocket out did anything fall to

the ground?
A I do remember one of the officers saying in his left front pocket that a shell casing from a gun from a bullet had come out of his left front pocket and it was on the ground upon me pulling the pocket out.
Q And you saw that shell casing?
A I did.
Q And ---
A I then left everything on the ground according because like I said at that time basically the suspect was my responsibility and I was to clear him of everything else to make the scene safe.
Q And when we say shell casing we're talking about a spent shell casing.
A Yes, sir.
Q Do you remember what caliber it was? Did you examine it?
A I did not examine it on the, on the thing. I didn't.
Q But could you tell if it was from a larger caliber weapon or a smaller caliber weapon?
A I mean, I could have told you if it was like a 22 or something like that. It was a round which you probably normally found, you know, in a larger gun. I could tell you that it wasn't, you know, a smaller caliber gun.

Q Okay, and, and you saw this on the ground?
A I did.
Q Fell from his pocket when you flushed his pockets?
A Absolutely.
Q And how long did you stay on scene?
A At that point there was I don't -- I can't give you an exact number. There was other county officers. It was a public golf course. My main concern then was after the suspect was handcuffed he was to be brought in a marked unit with a cage. I then looked, I guess, east, to us it's south because 501 runs south and north. It sounds kind of awkward, but to me it was south. I saw the victim by a tractor and then I saw other golf members who were playing actually coming. I then took it upon myself to make sure the area was completely cleared that nobody needed to be seeing what was going on and then I was advised that a helicopter had to land and I was given the task of making sure that we had a safe landing area for the helicopter. So, after clearing the golf course area and making sure I spoke with a couple of members, told them this hole was off limits to anybody, shut it down and the helicopter landed. At that time I left. I went to my patrol car and filled out a paper of what I observed, what happened and then I took off, yes, sir.

Q And you indicated the detective division took it over, took over.
A Yeah, they actually hadn't -- yes, sir.
Q And that's the extent of your involvement in this case.
A That is, yes, sir.
Q Thank you. Please answer any questions Mr. Wilson may have.
A Yes, sir.
THE COURT: Cross examination, Mr. Wilson.
MR. WILSON: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. WILSON:
Q I just have a couple of questions, Officer.
A Yes, sir.
Q When you arrived as I understand it he was already getting down on the ground at that point.
A Yes, sir.
Q All right.
A He was, it was -- like I said as I -- I didn't know actually where to go. I knew in the general area. I parked a little far away. I actually had to run down a wood line. At that time I really didn't see it all until he was, he was pretty much down or in the last moments of getting down.

Q All right, at any point in time did he attempt to do any harm to you or any other officer that you could tell?
A Absolutely not.
Q And once he was down on the ground as I understand it you cuffed him.
A I did.
Q All right, and did he offer any kind of resistance that you could tell?
A Absolutely not.
Q And you said once you were going through his pockets and that's fairly routine, once you've got him cuffed, before you're going to put him in your patrol car you're going to search him to make sure there are no weapons or ---
A That and there's kind of a difference. I was securing the subject for the immediate time making sure there was no immediate danger to other people around me and other officers. I was not doing like an inventory style. My main concern was any type of knives or weapons that could hurt me or a fellow officer or the victim again.
Q And, and did you find any other weapons, any knife, any gun, any, any other weapon other than a shell casing that you said you found that was from a spent shell?
A I did not. I mean, there were several other things in

his pocket which I really -- I mean, I just emptied his pocket out. My main concern like I said was that of other weapons.
Q Okay, all right, and there were no other weapons.
A No, there was not.
Q I don't have any other questions. Thank you.
THE COURT: Redirect?
A And I will say this just for, if I may, there were things that fell out of pocket that I didn't feel we're concerned with. Now, if there was something else there that I may have overlooked that could have been, but my, like I said, my main goal because he did have things in his pocket, my main goal was that of a weapon at that time that would hurt me.
Q I understand. Thank you.
THE COURT: Any redirect?
MR. RICHARDSON: Very briefly.

REDIRECT EXAMINATION

BY MR. RICHARDSON:
Q Mr. Wilson asked you that the Defendant didn't resist.
A No.
Q He cooperated with you all?
A Yes, sir.
Q You all had guns.
A Yes, sir.
Q You guys had gun; right?
A Oh, absolutely, yes, sir.

Q None of you all were divorcing him.
A No.
Q Thank you.
A Yes, sir.
MR. WILSON: I don't have any other questions.
THE COURT: All right, you may step down. Any objection to this witness being excused?
MR. RICHARDSON: I'd ask that Trooper Ledford be excused, Your Honor.
MR. WILSON: Without objection.
THE COURT: Officer Ledford, you're free to leave. Thank you very much.
A Thank you, sir.
MR. RICHARDSON: Your Honor, if we may approach.
THE COURT: Certainly.
(Whereupon, a bench conference was held in the presence but out of the hearing of the jury.)
MR. RICHARDSON: All right, we'll need a moment, Your Honor, because we need to set up a power point to show.
THE COURT: Very good.
MR. RICHARDSON: It will take five minutes.
THE COURT: Madam Forelady, ladies and gentlemen of the jury, we're going to take a brief recess and I'll ask that you retire to the jury room but do not discuss the case. Thank you very much.

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: All right, we'll stand at ease for five minutes.

*****OFF THE RECORD*****

(On the record.)

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: We're ready for the jury.

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: Madam Forelady, ladies and gentlemen of the jury, we're making some progress with regard to the testimony. I anticipate proceeding forward till about 5:30 this afternoon. Mr. Richardson, you're recognized.

MR. RICHARDSON: Thank you, Your Honor.

At this time the State would call Senior Crime Scene Investigator Robbie Caulder.

THE COURT: Officer Caulder, please come forward. I'm going to ask you if you could to place your left hand on the Bible, raise your right hand as the Clerk administers the oath.

Whereupon, John Robert Caulder was called to the stand, duly sworn by the Clerk and testified as follows:

THE COURT: Yes, sir, I'm going to ask you if you'd

pull up real close to the microphone, speak loudly, clearly and slowly and state your full name for the record please, sir?

A John Robert Caulder

THE COURT Thank you, Officer Caulder. Yes, sir.

MR. RICHARDSON: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. RICHARDSON:

Q Investigator Caulder, could you please tell us about your place of employment, how long and in what capacity?

A I work as a crime scene investigator with the Horry County Police Department. I've been employed with them since 1998 and been a crime scene investigator since 2004.

Q And what's your total law enforcement experience?

A I started law enforcement in May of '94 with the City of Marion.

Q Let's go back about a year and a half or so, November 13, 2006, were you employed with Horry County at that time?

A Yes, sir, I was.

Q In crime scene?

A Yes, sir.

Q And on that date, November 13th, were you dispatched to 120 Barclay Drive?

A Yes, sir, that is correct.

Q And what was the purpose of that?

A That morning my immediate supervisor Peter Cestare called and advised me that there had been a shooting that involved a female at the Arrowhead Golf Course down in Myrtle Beach and he notified me to respond.

Q And when you arrived what was going on?

A Upon my, upon my arrival everyone had already been taken from the scene. The victim had already been left and the suspect had been taken away from the scene. When I got there they had the area roped off. 120 Barclay Drive Road had been cordoned off with yellow crime scene tape by officers, the first initial uniformed officers, and Corporal Eliason that was up here earlier was standing out on the cart path by what appeared to be a couple of brown evidence bags.

Q Okay, when you got here there's some evidence bags, whatnot. What were your duties?

A My initial duties upon arrival I try to find the first responding officer. At that point in time it was Corporal Eliason. Well, he was out beyond the perimeter of the crime, in the inside of the crime scene tape. So, I found a detective and found out what was going on. They relayed some information to me about what had transpired prior to my arrival. Shortly thereafter, finding out what took place, I began taking exterior photographs, pretty much general photographs of how things are outside looking in from the crime scene tape.

Q Did you do any sketches or anything?
A Yes, sir, that is one of the -- my final duties after writing reports of investigations is to sketch the area.
Q And you said you saw a brown evidence bag by Corporal Eliason?
A That is correct.
Q Who was responsible for collecting that bag?
A I took everything in there at the scene.
Q Okay, and you took pictures. If we could bring the screen down please, and Your Honor, the lights do dim when they let down the screen.
THE COURT Very good.
Hope you're not asking me to bring it down. I don't know how to do it.
MR. RICHARDSON: Judge, it was easier before technology.
THE COURT: There you go.
BY MR. RICHARDSON:
Q I am going to show you what has already been put into evidence, State's Number Four. Do you recognize that item?
A Yes, sir, it's a photograph of the front side of 120 Barclay Drive looking in from the road.
Q And also State's Number Three, do you recognize that item?
A Yes, sir, it's a sketch that I had drawn at the conclusion of my report.

Q That has been entered into evidence as well, and that's not to scale; is it?
A No, sir.
Q This is the house where the shooting occurred?
A That's the initial house I responded to, yes, sir.
Q And I noticed right down here there's some numbers. What are those numbers? What are those numbers that appear on the sketch? What are they for?
A Those are, those are items four through 11 which indicate inside of the sketch. The items correspond with a piece of evidence and where it was collected from in the house. Like it says item four is a pair of grey high heel shoes that were collected there at the entrance point there on the south side of the residence.
Q Okay, so, those identify where evidence was found in the house?
A Yes, sir, or the types of evidence that were found in the house.
Q And we'll get back to those in a moment. I'm going to show you what has been previously marked for identification State's Eight, Nine, 10, 11, 12, 13, 14, 15 and 16.
MR. WILSON: I have no objections, Your Honor.
THE COURT These items are into evidence without objection from defense.
MR. RICHARDSON: And Your Honor, we haven't laid the

foundation. I apologize.

THE COURT: Pardon?

MR. RICHARDSON: I haven't laid a foundation yet.

THE COURT: Okay, very good.

BY MR. RICHARDSON:

Q Investigator Caulder, if you could just quickly look through these pictures, tell me if you recognize them, how?

A Yes, sir, these are photographs that I took upon entry into 120 Barclay Drive.

Q Okay.

MR. RICHARDSON: Your Honor, at this time the State would seek to introduce those exhibits into evidence.

THE COURT They're into evidence without objection from the Defense.

(Whereupon, State's Exhibit Numbers Eight Through Sixteen [Photographs] admitted into evidence and appropriately marked.)

MR. RICHARDSON: The State would seek leave to publish them at this time.

THE COURT: You may.

BY MR. RICHARDSON:

Q Officer Caulder, I'm going to go through them one by one, if you can describe what they are for the jury. That's State's Number Eight. Can you tell us what we're seeing here?

A Yes, sir, this is what I referred to as the computer

room in my drawing. It is the first bedroom to the -- it's going to the east of the front entrance door. It's the bedroom that's on the front or the southeast corner of the residence.

Q Now, did you all do any cleaning up or anything in here?

A No, sir.

Q So, this is just as you all found it?

A This is an -- that's an actual picture as I took it upon -- before any other persons upon my arrival this photograph was taken.

Q State's Number Nine, I believe. State's Number Nine could you tell us what that is?

A It's a view of the living room standing from the little breezeway there at the entrance door on the south side looking into the living room of the residence.

Q And once again, just as you all found it?

A Yes, sir.

Q State's Number 10?

A This is a view of the master bedroom which is located on the northeast side of the living room. This is looking in from the doorway at the living room looking into the master bedroom as I first entered and the way I saw when I first arrived on scene.

Q You all didn't pull those sheets up.

A No, sir.

Q State's Number 11 and I know it's a little hard to see, got a bright light down here. Could you describe what we're seeing here?
A I think it appears to be the master bedroom closet which is on the south side of the master bedroom just standing inside the master bedroom looking into the master closet.
Q All these items there shirts and whatnot?
A Yes, sir, appears to be clothing.
Q They're hanging up?
A Yes, sir.
Q Not jumbled up. State's Number 12?
A This is the kitchen room or the kitchen looking in from the living room. The kitchen was on the, the -- this is actually a photograph of the northwest side of the kitchen which is on the west side of the living room. It's just looking, overlooking at the end of it where there's the kitchen table.
Q State's Number 13?
A Still a view of the kitchen but this is looking at the east wall of the kitchen standing on the west wall looking to the east.
Q State's 14?
A Just the opposite, still the kitchen, this is looking to the west from the east wall of the kitchen.
Q State's 15.

A This is the pantry that is on the -- that's in the kitchen area that is on the, I want to say, southwest side of the kitchen.
Q And you all didn't put all this stuff in order.
A No, sir, it's as is upon my arrival everything is photographed, nothing altered by me, just as I saw it when I arrived.
Q Just as clean as it is on these pictures?
A Yes, sir.
Q Everything put in its place like it is on these pictures.
A That is correct.
Q How about this picture here Officer Caulder.
A This is a photograph of the - looks a little better on a different setup but this is a photograph of the sink that is in the master bathroom. There's actually some hair and stuff. You can't see it real good on this photograph but there's some hair in the bottom of the sink.
Q Is that water running?
A Yes, sir, and you can't see it here either, but the water was still at a slow steady drip, not, wasn't dripping but running.
Q You turn that water on?
A No, sir, as is when I arrived.
Q No other officers in the house?
A No, sir, not upon my arrival.

Q So, somebody didn't finish turning the water off ---
A That is correct.
Q --- after washing their hands or whatever. Let's go back to where Ms. Lester was found. I'm going to show you what has been previously marked as State's 17, 18 and 19 for identification purposes only at this time. Do you recognize this item?
A Yes, sir, these are photographs that I took from the hole number four at the Arrowhead Golf Course.
Q That's where Ms. Lester was found?
A Yes, sir, that is correct.
Q And that's exactly as you found the scene that day?
A That is correct.
Q True and accurate depiction?
A Yes, sir.
Q State's Number 19, can you tell us what that is?
A That is, that is, the area at the bottom of the photograph, that is the area where the victim was found and removed from the scene by EMS personnel. That is the lawnmower, lawn care equipment that was right there in the center of the screen. At the top of the screen is I want to say Lance Corporal David Rexroad, who was also one of the first responding guys at the scene, and he's inside to ensure that nothing, no one enters or exits the scene.
Q I'm going to put my laser pointer on a couple of things.

Right here, could you tell us what that is?
A That is a, that is clothing that was cut off from the victim upon the arrival of EMS. That is a tan in color bra and some type of cashmere type -- I'm at a loss for words but a little scarf.
Q And up here it appears to be and I'm sure the jury will be able to see it a little bit better whenever they get their hands on the actual pictures, but up here it appears to be some yellow tape.
A Yes, sir, this -- at the far -- the top of the corner a little bit more to the left of the pointer is, is the actual 120 Barclay Drive is the victim's residence. Just a little below that is the crime scene tape that the officers initially put up upon their inspection, upon their arrival to secure the scene there at the golf course.
Q Do you recognize what State's Exhibit 18 are?
A Yes, sir, that's a view to 120 Barclay Drive, the victim's residence, while standing there at the lawn tractor. That's just a straight view to it.
Q And once again, up here is -- you know what house this is?
A Yes, sir, that's 120 Barclay.
Q So, that'd be 116 right there?
A I'm not too familiar with the running, but ---
Q That'd be the neighbor's house?

A Yes, sir, the neighbor's house.
Q And there's the tractor over in that corner?
A Yes, sir.
Q Now, State's Number 20 or 17, I'm sorry.
A That's from the cart path there at the golf course where the beginning -- where actually the cart path kind of curves. To the left of this photograph is where the lawn tractor is. This is just a straight look, straight towards 120 Barclay Drive, the residence of the victim.
Q And Ms. Lester would have had to stumble through all this underbrush, shrub trees, whatnot, to get onto the golf course?
A That is correct.
Q Now, we saw the picture where Ms. Senter's clothes were to the rear of that tractor, furthest away from the house. Is that where she laid?
A Yes, sir.
Q Do you know the approximate distance from that clothing back to the house?
A The approximate distance is about 154 feet.
Q 154 feet, so if she would have gone as the crow flies just straight ahead from her backyard would have been 154 feet?
A Yes, sir.
Q Let's go back to the -- to State's Number Three, the

sketch inside the house, you said all these numbers, four through 11, they detail where items of evidentiary value were found?

A That is correct.

Q And I see we have four through 11. What happened to one through three?

A One through three were items that were collected. The item number one for our purposes was the handgun and the items that were collected that were taken out of the Defendant's pockets. Evidence item number two were swabs that were taken from the pool of the blood there at the rear of the lawn tractor and the third was -- were the female clothing that were collected from behind the tractor.

Q So, these are the next items of evidentiary value?

A These are the next items that would come up for my numbering purposes.

Q Item number four on your sketch, what does it indicate item number four is?

A Item number four are a pair of Kim Rogers high heel shoes size 6 1/2 medium.

Q And I'm going to show you what has been marked for identification purposes as State's Number 20. Do you recognize that photograph?

A Yes, sir, it is of the pair of Kim Rogers high heel shoes.

MR. WILSON: No objection.
Q And it's a accurate depiction of those shoes?
A That is correct.
MR. RICHARDSON: Your Honor, at this time the State would move State's Number 20 into evidence.
THE COURT: State's Number 20 is into evidence without objection from defense. (State's 20 admitted into evidence.)
MR. RICHARDSON: I would seek leave to publish it.
THE COURT: Very good.
BY MR. RICHARDSON:
Q That's the shoes; right?
A That is correct.
Q Those were found, those were found -- let's see, item number four was found right around there?
A Yes, sir, right there to the left of the entrance door.
Q Well, like somebody just came in and dropped them down.
A Yes, sir, well, they were kind of up against the wall but they were a little to the left, yes, sir.
Q Like they were thrown down?
A Yes, sir.
Q And item number five, folks, I know you cannot see it on the map. I believe item number five on your sketch was right here around, the living room area; correct?
A Yes, sir, on the coffee table there in the living room.
Q I believe you had indicated divorce paperwork?

A Some of the writing across of it was legal separation paperwork.

MR. WILSON: I have no objections.

Q I'm going to show you what's been previously marked for identification as State's Exhibit Number 26. Could you just look through that real quick and tell me if you recognize that?

A Yes, sir, these were items that were on top of the coffee table there in the living room.

Q And that's what's referred to as divorce paperwork, item number five?

A Yes, sir.

Q And in looking through that did you see where the Defendant had signed his name on this?

A I didn't see. The only thing I saw that something where it appeared that he had made some type of demands. I'm just briefly scanning. So ---

Q But if he would have told Ms. Lester they were signed you didn't see a signature.

MR. WILSON: Your Honor, I'm going to object. He's leading his witness. He's doing it throughout and I ---

THE COURT: He's been doing it. Yeah, I sustain the objection.

Q Let's go through the rest of the items. Say item six, where was item six located?

A Item six was a blue plastic Smith & Wesson handgun case, hard case that was located in the trunk of the Altima, of an Altima, well, a Nissan Altima that was parked in the garage area there marked on the screen.

Q Right there where garage?

A Yes, sir, and the vehicle was pulled into. So, the front end of the vehicle was facing the kitchen area. So, the trunk would have been toward the garage doors.

Q And the Smith and Wesson gun case, did it have anything in it?

A No, sir, it was empty.

Q Item number seven?

A It was a -- it was a Marksman BB Repeater, BB handgun and a, like a little plastic child's toy type gun. That was found in the shower of the master bedroom, in the master bathroom.

Q Okay, how about item eight?

A It was just miscellaneous paperwork on top of the kitchen table.

Q How about items nine and ten?

A Nine was a clip for a Smith & Wesson 40 caliber handgun. It had 13 live rounds in the clip. There were also 20 live Federal Premium 40 caliber rounds and 10 live American Eagle 40 caliber rounds. They were all, which were found right against the wall as soon as you walk into the master bedroom

from the living room, they were to the left of the doorway against the wall amid some clothing that had been piled up and stacked up there at the doorway, to the left of the doorway.

Number ten were more 40 caliber ammunition rounds and some packs of little six millimeter BBs.

Q And 11?

A And 11 was a black in color knife with a plastic handle that was -- and they were all three different types of items and ammunition were all located there to the left of the doorway as soon as you entered into the master bedroom from the living room.

Q I'm going to show you what's been previously marked as State's Exhibit Number 21 for identification. Do you recognize this photograph?

A Yes, sir, that's where items nine, ten and 11 located in the master bedroom.

Q That's the 40 caliber shells, the clip, whatnot?

A The clip, the knife and the BBs, yes, sir.

MR. RICHARDSON: Your Honor, at this time the State would move Number 21 into evidence.

THE COURT: Any ---

MR. WILSON: No objections.

THE COURT That is denominated as State's Exhibit what?

MR. RICHARDSON: 21, I believe.

THE COURT: State's Exhibit Number 21 is into evidence without objection from Defense.

(Whereupon, State's Exhibit Number 21 [Photograph] admitted into evidence and appropriately marked.)

BY MR. RICHARDSON:

Q And that's State's 21, Investigator Caulder?

A Yes, sir, that is correct.

Q And these numbers that we see, 10, 11, is that a nine?

A That's a nine.

Q And what is represented by those numbers?

A Nine would, would -- including that white, first white plastic bag was the, the clip for the Smith and Wesson handgun that had 13 live rounds of ammunition in it. There were 20 live Federal Premium 40 caliber rounds in the bag and 10 live American Eagle 40 caliber rounds. The next up is number 11, which is that black in color like plastic type knife with or the knife with the plastic handle. Up to that is the next plastic bag, which is item 10, it contained 15 live CFL was the name brand of the 40 caliber ammunition. The one live 40 caliber Federal round and the 10 packs of the six millimeter BBs.

Q And these were found in the Defendant's bedroom where?

A At -- on the west wall of the master bedroom. Soon as you entered in from the living room they were to the left of the doorway.

Q Investigator Caulder, at this time I'm going to hand you what's been marked as State's Exhibit Number 27 for identification, ask that you'd open that, see if you can identify it.
A This is ammunition that was -- oh, excuse me, 40 caliber rounds in a Crown Royal bag that were located in the residence.
Q And I'm going to ask a silly question. You believe it was -- this ammunition, does it only fit one make of gun?
A That is correct. They're only for -- well, they're for a 40 caliber handgun. They wouldn't fit into a, a larger caliber or a smaller caliber handgun, only a 40 caliber.
Q A particular brand of handgun, would they fit in only a particular brand?
A No, they'll fit in any type of 40 caliber handgun.
Q Also, State's Number 28 for identification.
A Oh, excuse me.
Yes, sir, this is the white bag that I collected along with the -- that contained a Smith & Wesson clip, the American Eagle ammunition and the Federal ammunition for the 40 caliber that was collected as my evidence number nine.
Q This evidence you personally collected?
A That is correct.
Q And that evidence was found where again?
A Here in evidence bag number nine, which was located

there in the master bedroom.
Q And that's up here?
A Yes, sir.
Q Approximately how many rounds of ammunition?
A Just taking a quick look in total with the two packages that contained close to just under 60 rounds.
Q How can you be sure these are the rounds you obtained from 120 Barclay Drive?
A They were just in this sealed envelope and it was sealed by me.
MR. RICHARDSON: Your Honor, at this time I'd enter State's - would move to enter State's Numbers 27 and 28.
THE COURT Any?
MR. WILSON: Have no objections, Your Honor.
THE COURT State's Exhibit Number 27 and 28 are into evidence without objection from Defense.
(Whereupon, State's Exhibit Number 27 [Ammunition] and State's Exhibit Number 28 [White Bag with Clip and Ammunition] admitted into evidence and appropriately marked.)
BY MR. RICHARDSON:
Q Let's go back to where Ms. Lester was found. We saw it in an earlier photograph. State's Number Three, what's depicted there again?
A Evidence item number three, it's a multi-colored cashmere shirt, two inserts for bra and a Frederick's bra size

34B is indicated to number three. Number two is an indication where two DNA swabs were collected from this small pool of blood that had collected there on the cart path.

Q Let's look at State's Number 22 which was identified earlier. Mr. Wilson has already seen it. Do you recognize that photograph?

A Yes, sir, these are items that had been collected by officers prior to my arrival from Mr. Senter prior to my arrival upon scene.

Q And you took that photograph?

A Yes, sir, I took that photograph and then collected those items into evidence.

Q Now, the items you collected into evidence, did you ---

MR. RICHARDSON: Your Honor, at this time the State would seek to enter 22 into evidence.

THE COURT: Any objection from Defense?

MR. WILSON: No objections, Your Honor.

BY MR. RICHARDSON:

Q Can you tell us what is found ---

THE COURT State's Exhibit Number 22 is into evidence without objection.

MR. RICHARDSON: Thank you, Your Honor.

(Whereupon, State's Exhibit Number 22 [Photograph] admitted into evidence and appropriately marked.)

Q Can you tell us what all items are depicted in Number 22?

A The items that can be seen that are not in the paper bag is a blue Motorola cell phone, $69 in cash, a bottle of or a little tube of what appears to be lip wax, and a spent 40 caliber shell casing and a South Carolina driver's license with Brad Senter's information on it.

Q State's Number 29, do you recognize that item?

A I did before you put the 29 across it. Is there any way we can remove that?

Q Can you peel it back?

A Yes, sir, it's a 40 caliber spent shell casing that was collected as evidence item number one.

Q Evidence item number one?

A Yes, sir.

Q And does that appear in any photographs?

A In this photograph here.

Q What was done with -- and Your Honor, at this time -- you collected this?

A That is correct.

MR. RICHARDSON: Your Honor, at this time the State would put -- enter State's 29 into evidence.

MR. WILSON: No objections.

THE COURT State's Exhibit Number 29 is into evidence without objection.

(State's Exhibit 29 [Shell Casing] entered into evidence.)

BY MR. RICHARDSON:

Q You collected that?
A I ---
Q --- you boxed it?
A Yes, that is correct -- well, it was, to articulate that, upon my arrival I photograph, collect, there was also others, other investigators there that, that helped out on the scene. It was kind of like Case Agent Troxell is in charge of the whole case. I was in charge of what happened at the crime scene because it was, in fact, my scene. So, there were other investigators there that helped along with the, with the collection of items.
Q You observed the collection?
A Say -- exactly.
Q And how if any, in any manner was that item secured?
A It was secured, once, once we put the evidence tape, the red evidence tape around the box it was initialed, at that point in time what's in it is put into the box to be sent off for forensic testing.
Q And where, where is it sent off for forensic testing?
A It is sent off to SLED, the State Law Enforcement Division's firearms department.
Q And what is the purpose of the red tape?
A The purposes of the red tape to secure the chain of custody to show that once it leaves me or it goes to someone else that it has not been tampered with to show that this

chain is intact, that the evidence item has not been tampered with.

Q Now I'm going to show you what has been previously marked for identification as State's Number 25. Take a look at that. Do you recognize that item?

A That is correct. It is the Smith and -- let me verify what the model and the serial. It is the Smith and Wesson 40 caliber handgun and clip that was collected from Corporal Eliason there at the Arrowhead Golf Course.

Q How can you identify that specific gun as being the one you collected there at the scene?

A Upon collection -- upon a collection of all items, anything that has any type of identifying marks or numbers on it such as a handgun, there is a serial number and model number that is on the side of the weapon, serial number on the bottom. I log it in as -- with the serial number and model number so that I'll know that it's the same weapon once it's put in this box and then sealed and taped to be sent off to the firearms for further testing.

Q And that serial number is it unique to that particular weapon?

A Yes, sir.

Q So, if I understand your testimony there's not a doubt in your mind that's the weapon you collected at 120 Barclay Drive?

A That is correct. That is the weapon.

MR. RICHARDSON: Your Honor, at this time the State would move State's Exhibit 25 into evidence.

THE COURT: State's Exhibit Number 25 is into evidence.

(State's 25 admitted into evidence.)

MR. RICHARDSON: Subject to foundation, Your Honor.

THE COURT: Are there bullets into evidence at this time?

MR. RICHARDSON: They should be separated whenever they go back to the jury room, Your Honor.

THE COURT: Have they been put into evidence yet?

MR. RICHARDSON: They have been put into evidence.

THE COURT: Okay, well, let's make sure -- make a note that they don't go back at the same time.

MR. RICHARDSON: Yes, sir, Your Honor.

BY MR. RICHARDSON:

Q Investigator Caulder, that's the extent of your involvement in this case; correct?

A That is correct.

Q Took the handgun in, logged it in?

A Picked up one -- I took the handgun, all items that was collected from the scene and from the person of Mr. Senter, any items that were, that needed to be sent off for further testing, such as the firearm, shell casings, gunshot residue kits, all were boxed up, sent up by me but they were taken by

another investigator, but I boxed them, secured them with the red tape, signed them, signed off on them and then they were transferred to SLED at a later date and time.

Q Thank you, Investigator Caulder.

MR. RICHARDSON: Your Honor, I believe we'd be at a good breaking point.

THE COURT: All right, Madam Forelady, ladies and gentlemen of the jury, we've reached a breaking point at this point and we're going to resume taking testimony at nine o'clock in the morning. We historically have started at 9:30, but we need to get an early start. We've got a lot of testimony to get through tomorrow. So, we need to be here at 9 o'clock. I notice that all of you all were here on time ready to go after lunch and thank you so much for being on time. Let's try to be considerate to each one of your fellow jurors and the other people participating in this trial. Let's all be here at nine o'clock and we'll get a good early start. Once again, do not discuss the case with anyone. Do not do any investigation on your own. Do not look at the internet or anything such as that. Have a good night. Thank you.

Everyone remained seated as the juror exits the courtroom.

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: Officer Caulder, in view of the fact that you -- we have not concluded your testimony it would be inappropriate for you to discuss this matter with the Solicitor's Office or Mr. Wilson. We will expect you back at nine o'clock sharp and we'll resume cross examination and redirect. Thank you so much and you're free to leave at this time.

A Thank you, Your Honor.

THE COURT: Anything from the State before we adjourn for the evening?

MR. RICHARDSON: Nothing from the State with regards to the trial other than, Your Honor, Investigator Caulder brought over the evidence. I'll just need to make sure it's maintained in the Clerk's Office.

THE COURT: Okay, very good.

All right, anything from Defense?

MR. WILSON: Nothing, Your Honor.

THE COURT: All right, we'll stand adjourned until 9 o'clock in the morning, 9 o'clock sharp.

*****OFF THE RECORD*****

(On the record, June 4, 2008.)

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT Before we get started, I've been in -- had a little bit of concern. I don't -- I'm not sure whether you

all recognize. You all were in a better position to view it than I, but when we were involved in the jury selection process Jason Squires demonstrably indicated that he didn't want to serve and he kind of shook his head and I think the jury pool laughed. Since then, there -- the bailiff has indicated that he's showed obvious frustration and did not want to be here and was kind of storming around. I noticed when he comes into the courtroom he doesn't -- he appears as if he does not want to be here and I was also informed by the foreman that when they are meeting in the jury room that he has taken his chair and put it in the corner and is facing the corner, will not interact with other jurors. That causes me some concern. I understand that he has not been abusive to anybody. He has not said anything. Just it's clear that he doesn't want to be here. I'm going to -- I want to call him in, ask him if there's some kind of unusual personal problem that's causing him some difficulty and find out exactly what's going on. However, before I do that I would like to hear from the State with regard to whether or not the State would agree to me asking the questions or I'll just ask what's the State -- what's your position on it?

MR. RICHARDSON: Your Honor, certainly we want all jurors to be responsive and take all matters into consideration. I have no objection to you inquiring of him or excusing him.

THE COURT: All right, Mr. Wilson.

MR. WILSON: Your Honor, yes, sir, and I agree with that. In fact, I discussed that. It was brought to my attention yesterday that that, about his attitude and his demeanor; and so, I agree with the Solicitor and I have no objections to your either talking to him and/or excusing him.

THE COURT: One thing that's always - you never know how people are going to react, and obviously when you bring someone in it might further exacerbate the problem, but I think probably what we need to do is call in and talk to him, find out if there's any unusual situation that's developed or any undue hardship and if it appears as if he cannot serve as a conscientious juror then we are going to release him and sentence him to a little public service. I don't want to just placate him by saying, you know, he shows himself he doesn't have to serve, but I think that probably would be -- is that your position, Mr. Wilson? Do you think we need to call him in and talk to him?

MR. WILSON: Yes, sir.

THE COURT: Bearing in mind that if -- after -- we'll discuss what we want to do after we talk with him.

MR. WILSON: Yes, sir.

THE COURT: Could we see Mr. Squires?

(Whereupon, Juror Number 305, Jason C. Squires, enters courtroom.)

THE COURT: Mr. Squires.

MR. SQUIRES: Yes, sir.

THE COURT: I'm going to ask if you can just stand right there. How you doing this morning?

MR. SQUIRES: I'm well. How are you?

THE COURT: Good.

Look here, I want to talk with you a little bit. During the jury selection process I was not really in a position to pay a tremendous amount of attention to it, but when you were selected to serve on the jury I think -- I wasn't actually looking at you at the time. I did hear the jury pool chuckle. I think it was clear from your reaction that you weren't real excited about being on the jury.

MR. SQUIRES: Correct.

THE COURT All right, and then I've been told by court personnel that there was an obvious demonstration of frustration during the break and that caused some concern and it was called to my attention and in addition to that I was informed that during the period of time that you were in the jury room that you took your chair and you put yourself in the corner and you put your head in the corner, would not interact with other jurors. Is that, is that true?

MR. SQUIRES: When I was -- when I went to get a soda I turned around. I really couldn't see outside. I turned around, drank my soda and then we came back in. It was probably like two minutes.

THE COURT: Okay, the reason why I'm calling you out is I want to know is there any kind of -- is there anything, any undue hardship or any problems that you're experiencing personally or business-wise that's causing it as an undue ---

MR. SQUIRES: No, just I hate being out of work. I really do, and then I know this is, you know, citizens are required to do this and everything. It was just, I don't know, just didn't want to do it.

THE COURT: All right, what do you -- well, let me ask you, what do you do for a living?

MR. SQUIRES: I work for UPS.

THE COURT: Okay, that's what I thought, and of course, UPS, they don't fire you if you ---

MR. SQUIRES: No, no, no, I get paid for being here and stuff. It's just being trapped in a room. You know, I'm used to being outside, but, you know, that's the breaks.

THE COURT: Okay, do you feel as though you could give both the State and the Defendant a fair and impartial trial?

MR. SQUIRES: Yes, of course.

THE COURT: All right, well, I know it and I want to talk with you a little bit because of course participating in a jury process might not be the most convenient thing to do, but you know, the only other alternative would be to get the clerk to go out on the street and find six or find 12 people who had absolutely nothing else to do.

MR. SQUIRES: Correct.

THE COURT: You see, people who work like yourself and have responsibilities can lend greater wisdom than those that don't do anything. You understand that?

MR. SQUIRES: Yes, sir, I agree.

THE COURT: And participating in the jury system is really a hallmark of our democratic society and, you know, in our governmental process, you know, you elect people to represent you in Columbia and you elect people to represent you as president and in the Congress and Senate. This is an opportunity where you can actually directly participate in the governmental process and perhaps if you look at it from that point of view it might be a learning experience and an opportunity. Do you feel as though you can do that?

MR. SQUIRES: I can do that, sir.

THE COURT: All right, thank you very much.

MR. SQUIRES: Thank you.

(Whereupon, Juror Number 305, Jason C. Squires, exits courtroom.)

THE COURT: All right, be glad to hear from the State with regard to the position concerning this particular juror.

MR. RICHARDSON: Well, Your Honor, the only statement he made that gives me some trouble is he made a comment about doesn't like to be trapped inside. Chances are he could be trapped back in that jury room for a while if deliberations go

on.

THE COURT: Right.

MR. RICHARDSON: I would just hate to have him rush one way or the other trying to get out of the jury room.

THE COURT Right. What's, what's ---

MR. RICHARDSON: That, that's the only thing I'd bring up.

THE COURT: --- the Defense's standpoint?

MR. WILSON: Judge, I agree with the Solicitor and my concern is is that I don't -- obviously, we -- none of us know what his thinking is but it concerns me that he's still impatient even, I mean, and even when he was walking out just now. I mean, he -- he's impatient with the process, said he doesn't want to be here and it certainly is reflected in his attitude. Whether it'll be reflected when he is attempting to deliberate I don't know and that causes me some concern one way or the other. I mean ---

THE COURT: All right, okay, if I'm, if I'm hearing correctly the State would agree and consent to the dismissal of this juror.

MR. RICHARDSON: That's correct, Your Honor.

THE COURT: All right, and the Defense as well?

MR. WILSON: We would, too, Your Honor, yes.

THE COURT: All right, well, let's bring him back out.

(Whereupon, Juror Number 305, Jason C. Squires, enters

courtroom.)

MR. SQUIRES: Yes, sir.

THE COURT: Yes, sir, one thing that I do want you to understand is that this is a very important matter. It's important to the State of South Carolina. It's important to the victim. It's important to the Defendant, and one of the things that cause us some concern, obviously, you indicated you had some reluctance to be locked in a room and it's clear that you're very impatient and frustrated with the process and in view of that and not only that the fact that this has been brought to a head and the fact that we've, you know, someone from the jury has reported it to me that you had sort of a belligerent, not belligerent attitude but an attitude where you would want to put your, sit in the corner and stare at the wall and that could cause some problems in addition to that, and you know, there's a lot of money and time and importance invested in this procedure, and we really can't be in a position to jeopardize that, but I'm not in a position, nor will I allow you to be placated just by an obvious demonstration of frustration or whatever. This case probably will conclude tomorrow; and so, what I'm going to require that you do is I'm going to require that you do two days of public service, and I'm going to ask that you report to the Sheriff's Department Monday of next week and do two eight-hour shifts of public service, and well, who is in charge of public service

with the Sheriff's Department?

OFFICER: Your Honor, I'm sure he'd probably have to talk to our Lieutenant, Steve Parker.

THE COURT: All right, can you get -- get Mr. Squires' address and telephone number and make plans to be here Monday and Tuesday of next week. Good luck to you, and Mr. Squires is not to go back into the jury room.

(Whereupon, Juror Number 305, Jason C. Squires, exits courtroom.)

THE COURT: All right, anything from the State before we proceed?

MR. RICHARDSON: Your Honor, it was brought to my attention there were, I believe, three exhibits that I failed to enter into evidence yesterday, and I spoke with Mr. Wilson about it. I just intend to introduce them into evidence real quick before ---

THE COURT: One of them, I believe, was the bullets; right?

MR. RICHARDSON: I'm sorry?

THE COURT: One of them was the bullets?

MR. RICHARDSON: The shell -- I didn't -- we don't have the projectiles, Your Honor.

THE COURT: Oh, okay, good.

MR. RICHARDSON: The divorce paperwork and three photographs, I believe.

THE COURT: Okay, very good, all right, and what are they denominated?

MR. RICHARDSON: I'm sorry, four photographs we discussed, 23, 17, 18, 19 and State's Exhibit 26.

THE COURT: All right, is the Defense in agreement for the introduction of these exhibits?

MR. WILSON: Yes, sir, we are, Your Honor.

THE COURT: They're into evidence without objection.

(Whereupon, State's Exhibit Number 17 through 19 [Photographs], State's Exhibit Number 23 [Photograph] and State's Exhibit Number 26 [Divorce Papers] introduced into evidence and appropriately marked.)

THE COURT: Might counsel approach the bench for just one moment?

MR. RICHARDSON: Yes, sir.

(Whereupon, a bench conference was held.)

THE COURT: All right, we're ready for the jury.

MR. WILSON: Yes, sir.

MR. RICHARDSON: Your Honor, would you like Investigator Caulder to resume the stand?

THE COURT: Yes, if you could, Investigator Caulder. He's a 12th Circuit man, Marion County.

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: Madam Forelady, ladies and gentlemen, good

morning. Everybody looks bright eyed and ready to go forward with the trial and thank you for being here at nine o'clock. We had to attend to some other matters and it is not as if we were lollygagging around. We were taking care of business, and we're in a position to resume testimony. Thank you for being here and thank you for being here on time. Thank you.

All right, Ms. Courtney Bromell, could -- you are going to be an active juror at this time. You're no longer an alternate and I just wanted to inform you of that. Thank you very much.

All right, Mr. Wilson, you're recognized.

MR. WILSON: Thank you, Your Honor.

THE COURT: And I do remind you that you're still under oath.

CROSS EXAMINATION

BY MR. WILSON:

Q Officer, as crime scene investigator it's your primary responsibility to -- when you come to the crime scene in order to gather whatever physical evidence that might be there so that you can preserve it so that when we get to courts we'll have whatever was there that we could use as evidence in the trial of the case if it comes to trial?

A That is correct.

Q All right, and as I understand you've been doing this for how long?

A Four years.
Q Four years and then before that you have other law enforcement experience dating back to 1994.
A That is correct.
Q All right, so, you've been in law enforcement for a significant period of time before this and you have been doing crime scene since, what, 2005?
A 2004.
Q 2004, and so, by the time you did this, which would have been in 2006, you would have been doing crime scenes at least for two years?
A That is correct.
Q Is that correct, and have you worked other cases involving shootings prior to 2006?
A Yes, sir.
Q All right, now, and when you're at a crime scene and you're trying to gather physical evidence at that point in time you don't know what's important and what's not important. So, it's important for you to get as much information and as much evidence as you can possibly collect. Would you agree with that?
A That is correct.
Q All right, and would you also agree with me that when you get there one of the things that you want to do is you want to try to find the natural state of things, that is to

photograph it or videotape it in its natural state, that is in the state that you find it when you first arrive.

A Yes, sir.

Q And that's important because when you do that it helps you and it helps the investigators who later come after you to understand the crime scene or the scene of the event as it existed at the time of the occurrence; right?

A Yes, sir.

Q All right, now, in this particular case when you come to the scene, as I understand it, the Defendant is not there, that is Mr. Senter is no longer there.

A That is correct.

Q And the victim in this case, Ms. Senter, Ms. Lester, is no longer there.

A That is correct.

Q All right, so, they're gone wherever they're gone at that point, they're not there when you arrive, and one of the first things that you did when you came in was you took pictures of what you saw in the house.

A Actually, well, yes, sir.

Q Well, what I'm asking is I know you did some other things first but what I'm asking is when you got inside the house one of the first things you did inside the house was to take pictures of the inside of the house.

A That is correct.

Q All right, and one of the things that you found was you also said that you found some papers, some legal papers I think you said, on the coffee table in the living room?
A Yes, sir.
Q And these were separation papers of the parties?
A Yes, sir, that is correct.
Q All right, and, and where are those separation papers now?
A They were introduced into evidence yesterday.
Q Okay, and those separation papers were found in the living room; were they not?
A That is correct.
Q On the coffee table by the chair?
A Yes, sir, in front of the couch, yes, sir.
Q All right, by the couch. Now, you also found some other papers; did you not?
A Yes, sir, that is correct.
Q All right, and did you label those papers as being miscellaneous?
A Yes, sir.
Q All right, and do you have those miscellaneous papers that you found?
A Yes, sir, they're in the items of evidence behind the Prosecution.

Q Could you get them for me?
A Yes, sir, Your Honor?
MR. WILSON: Permission of the Court?
THE COURT: Yes, sir; yes, sir.
Q Now, these miscellaneous papers that you found, you found them where?
A They were on the kitchen table.
Q They were on the kitchen table and I notice that you have a folder in your hand. Were they in a folder or were they just on the table?
A They were on the table.
Q okay.
A They were, they were with the folder, but they were on the table.
Q Okay, was the folder opened or was it closed?
A I'm thinking that they were open.
Q Okay, and now, I notice that in introducing all the other items of evidence that you collected that you didn't offer those particular items. Any particular reason?
A That I didn't offer?
Q Yeah, what that -- they weren't introduced into evidence.
MR. RICHARDSON: Your Honor, I would object. It's not Officer Caulder, Investigator Caulder's job to introduce evidence.

THE COURT: I think he can ask him the question if he knows the answer.

A I, I don't know the answer.

Q All right, sir, all right, now, those documents did you give them to the Solicitor?

A These documents here, no, sir, they were in evidence up until or in the Horry County Police Department's possession until yesterday when the Prosecution took custody of them.

Q Okay, well, did you ever give them any copies of them?

A I'm assuming that would be Detective Troxell who was the case agent would probably have gotten a copy.

Q Okay, well, it'd be standard protocol, would it not, for you to share whatever information, evidence that you collected with the Prosecution, with the Solicitor's Office.

A Yes, sir, that is correct.

Q All right, and now, documents that you hold there, are these the documents that you retrieved from the home of Mr. Senter on the morning of the shooting?

A That is correct.

Q All right, and these items of evidence are now in the same form that that they were in at the time you received them?

A That is correct.

Q All right, and you held them in your care and custody or at least in the evidence locker until you produced them here

today; is that correct?

Q Till yesterday, yes, sir.

MR. WILSON: Your Honor, at this time I'd like to offer these items of evidence.

MR. RICHARDSON: Mr. Wilson.

MR. WILSON: Your Honor, at this time I would like to offer the contents of this folder.

THE COURT: What does the State have to say with regard to these matters?

MR. RICHARDSON: Your Honor, they were items found there. I have no objection.

THE COURT: Okay, all right, and they're denominated as Defendant's Exhibit Three. Defendant's Exhibit Three is into evidence without objection from the State.

(Whereupon, Defendant's Exhibit Number Three [Miscellaneous Papers] admitted into evidence and appropriately marked.)

BY MR. WILSON:

Q Now, what I'd like for you to do for me, Officer, is I'm not going to have you read all of this stuff, but if you would for me, with permission of the Court, I would like for you to read these first two pages?

A First two pages?

Q Of this document that you found.

A It says, ``Ruth, the time has come for you to answer me

but before you do I want to say your trip here had all the false intentions and cover up. Your actions, statements and responses to me validate this much. You need to understand that this is quite apparent that your efforts to render me needing medication, therapy are futile and self-serving. If you want to help as you proclaim then you need to ask me what I want you to do. Your actions are not in my best interest. You are being manipulated into doing what's best for the corrupt FBI. This is about what them first, you and my family second and me third. I am the gravy train'' -- dollar sign -- ``for all of you. The time has come for you to tell me as my mother are you going to tell the truth or not. My freedom depends on you. If you remain in your present status then you have signed my death warrant. You are being paid to murder your son and you know it. The evil Satan, the evil Satan one has put you in harm's way. They were willing to risk your life and you failed to recognize that. That's what you were afraid of -- that's why you were afraid of me. The same fraud that you've taken part in is the same fraud that manufactured evidence against me. They stole my DNA for fraudulent use and they have framed me because I fought back against them. I can prove that this war began in 1971. I only need one person to crack open the decades old war and expose the real FBI. I am banking that one of about 12 people will tell the truth on the stand. That doesn't even include you. Trust me, using the

family as a cover to pinpoint my flaws or motivation will not work. You need to know this. All of your evidence involves circumstances created by them, endless fraud designed to destroy me. Lastly, tell Lisa to contact these people and tell her to confirm what she directed and took sole guidance. I will be in touch,'' and it's signed Brad.

Q There's some more there, but that's -- and this is found the morning of the shooting in the house?

A Yes, sir, that is correct.

Q Now, I also notice that on your -- yesterday when you had the projector up there was -- you had it listed I guess as item number eight on your list.

A Yes, sir.

Q All right, and that was the miscellaneous papers that you're talking about ---

A That is ---

Q --- that item number eight?

A Yes, sir, that is correct.

Q All right, now, my understanding is you also went into the garage and you searched the vehicle of Mr. Senter.

A That is correct.

Q All right, and I notice that there were no pictures today of that -- yesterday of that vehicle. Is there any particular reason for that?

A No, sir.

Q Well, you actually took items from that car; did you not?
A That is correct.
Q In fact, you took a T-shirt from that car; right, or some kind of a shirt?
A I think so, yes, sir.
Q Well, do you know or do you just think that you took it?
A I recall seeing a T-shirt of some nature in the shirt - I mean, in the, in the vehicle.
Q Well, you took pictures of it; right? You have your digital photo log in that?
A Yes, sir.
Q Look at 93, 94 and 95?
A Yes, sir.
Q Do you have those photographs?
A Here with me, no, sir, I don't.
Q Well, where are they?
A Actually they're on a - the hard drive at the police department. My copy is.
Q Your copy of these photographs 93, 94 and 95 are not here today in court?
A I have a CD with them on, yes, sir.
Q You have a CD with them on it now?
A Yes, sir.
Q All right, and can you show them to us?

A Yes, sir, if made.
Q Could we have permission to show the CDs, 93, 94 and 95 of his photographs?
THE COURT: Any objection from the State?
MR. RICHARDSON: Your Honor, those pictures were produced, were produced in discovery, I mean, I don't have an objection to it, but as I've looked through that CD it has, I don't know, a hundred and some, 200 photographs.
THE COURT: Well, the ---
MR. RICHARDSON: To show them we're going to have to set up the power point projector. It's going to take a few minutes.
THE COURT: All right, well, my, my question to you is do you have an objection to them being ---
MR. RICHARDSON: Don't have an objection to it, Your Honor, Mr. Wilson wants to put in any of those crime scene photos he can.
THE COURT: Very good, all right, Mr. Wilson, you're recognized.
BY MR. WILSON:
Q Then if you would get your CD for me and let's play it.
THE COURT: Mr. Foreman, ladies and gentlemen of the jury, I'm going to ask if you could to retire to the jury room but do not discuss the case. Thank you very much.
(The following takes place outside the presence of the jury.)

A Your Honor, could I -- can I sit, thank you.

THE COURT: Yes.

MR. RICHARDSON: Mr. Wilson, you just want us to pull up four of those pictures?

MR. WILSON: Just those three.

MR. RICHARDSON: I can do it without the CD.

THE COURT Okay, if you'd just pull them up we're in business.

MR. RICHARDSON: It just takes a moment to warm up, Your Honor.

*****OFF THE RECORD*****

(On the record.)

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: All right, we're ready for the jury.

MR. RICHARDSON: Of course, Your Honor, the laptop can't go back to the jury pool room.

THE COURT: All right, I think technically he can introduce these photographs into evidence and if they want to see it I imagine they can make the request for that later.

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: Madam Forelady, ladies and gentlemen of the jury, thank you for your patience. Mr. Wilson, you're recognized.

OFFICER: Your Honor, these lights can be changed. I think it might take a second just to work on them a little bit.

THE COURT: Okay.

MR. WILSON: I'll try to do it without it. We'll see if we can see it without it.

BY MR. WILSON:

Q Officer, I was asking you earlier about some items of evidence and I think on your property on your, on your digital photo sheet you had them listed as 93, 94 and 95; is that correct?

A Yes, sir, that is correct.

Q And those are pictures that you took at the scene on the day that you were there or the morning you were there, which would have been November 13th.

A That is correct.

Q 2006, and those pictures accurately depict what you observed on that particular day?

A Yes, sir, that is correct.

Q All right, and you took them yourself?

A Yes, sir.

Q All right.

MR. WILSON: And Your Honor, at this point I would offer those three photographs, which are going to be Defendant's exhibits into evidence.

THE COURT: And they are Defendant's Exhibits?

REPORTER: Four, Five and Six.

MR. WILSON: Four, Five and Six.

THE COURT: Four, Five and Six are into evidence without objection.

(Defense Exhibit Numbers Four, Five and Six [photographs] admitted into evidence and appropriately marked.)

MR. WILSON: Thank you, Your Honor.

BY MR. WILSON:

Q Now, Officer, if you would, would you come down and, for me and actually run this thing and show us these three photographs, please? That's all right.

A Tell them, tell them ---

Q Yeah, as you do it just ---

THE COURT: Yes, sir, is there any way that you could stand that way and look towards the court reporter. Your voice kind of loses itself looking in the other direction.

MR. RICHARDSON: Here you go, Your Honor. I'll put my microphone right here.

THE COURT: There we go.

A This is just the photograph that was of a Nissan Altima that was parked in the garage of the residence on the day I got there on the 13th. This is from the rear passenger side door way looking into the back seat of the Altima. The shirt that Mr. Wilson is referring to is right there on the -- in

the center between the -- on the rear seats.
Q All right, and that's 93?
A Yes, sir, that is number 93.
Q All right, your number 93 on your list?
A Yes, sir.
Q Go right ahead.
A This is the opposite side. This is photo number, for my purposes number 94. This is looking from the driver's side rear door looking toward the passenger side and you can still see the shirt that's in the center of the seats that Mr. Wilson is referring to. You all shouldn't left me in charge. This is photo, for my purposes this is photo number 95. This is looking at the shirt that's in the center of the -- on the rear seats of the Nissan Altima that says FBI, Federal Bureau of Corruption.
Q You can turn this off if you'd like. Thank you. Now, this shirt, you didn't collect that?
A No, sir.
Q Any particular reason that you didn't collect it?
A No, sir, they're just, they're just photographed as is because I was dealing with a shooting, wouldn't have been a necessity, really didn't have anything to do with the shooting.
Q Well, how would you know at that point because you hadn't finished your investigation at that point?

A The only way I could answer is, I mean, unless the shirt was -- if he had the shirt on but they didn't -- they found him at the scene so ---

Q Okay.

A --- that would have been the only reason.

Q All right, now, I asked you earlier about what's now marked in as State's into evidence as State's Exhibit Number, I'm sorry, I apologize, as Defense Exhibit Number Three and the letter that you read?

A Yes, sir.

Q Now, did you also find same other letters that are not included in that package that you, that I just handed you?

A There, there may have been more. I'm not quite sure. These are the only ones that I ---

Q Let me help you a little bit. This is -- if you look at -- open your page there. All right, and if you'll take a look at this copy of the letter.

A Yes, sir.

Q And is that a copy of the first letter there on that page?

A That, that is correct.

Q All right, and if you look at the top of that you'll see HCPD.

A Yes, sir.

Q Who does that refer to?

A The Horry County Police Department's Criminal Investigations Division.
Q All right, and is that your division?
A Yes, sir.
Q All right, and you will show that the top of that that there's a fax to me from you.
A Or from the -- someone in CID, yes, sir.
Q All right, and you don't know whether that was from you?
A No, sir, it's not, it's not my fax number.
Q It's not your fax number?
A No, sir.
Q Well, let me show you these other letters, which were all faxed on the same day and the same time. Look at the top of those letters. Do you see HCPD on those letters?
A Yes, sir, that is correct.
Q And those letters were faxed on the same day at the same time; were they not?
A Yes, sir.
Q All right, and you've never seen those letters?
A I recall reading some of the -- seeing some of the lines not, not in-depth, but ---
Q Okay, well, well, my question though is are these letters that you collected or did some other officer who's not with the, with your unit collect them?
A If it was -- if it's in this packet that I collected

then that's what I've collected.
Q Well, that's why I'm asking you the question, what I'm asking you is you haven't produced those in this court and I'm asking you are those letters that you collected at the crime scene or at the scene of this event on this day?
A I can't answer honestly, no, sir. I'm not quite sure. I didn't go through every bit of the paperwork that day. So, I'm not sure what entailed the paperwork. I didn't even as far as this other than looking at the -- even the paperwork that was on the table in the living room the onliest reason I knew it was a legal document was because it said it cross the front for financial declaration.
MR. RICHARDSON: If I may? Mr. Wilson ---.
MR. WILSON: Yes.
MR. RICHARDSON: --- if I may take a look?
MR. WILSON: Yes.
THE COURT: Can we turn the lights back up? Who's in, who's in charge?
BAILIFF: Judge, let me hit them off. I'm going to have to knock them out for just a couple of seconds and then they'll come back.
THE COURT: Okay, good.
There we go, all right.
A There was, there was quite a bit of paperwork that was on the kitchen table. We just briefly looked at the legal

documentation that was on the coffee table in front of the couch in the living room and we looked at the information that was there on the kitchen table and collected that paperwork because it was handwritten. At that present time I did not nor have I since up until this morning in court have I ever in-depth read what that was. We, we collect what we view at the time that could be deemed, and as you well know there could be a lot of items collected that could be deemed later not to be of any value.

Q Well, I understand but my concern is this. If, if -- these are letters from the Horry County Police Department Crime Investigative Division?

A Yes, sir.

Q And it's no question about that because it is from that?

A Oh, yes, sir.

Q All right, and my - but how did you get them in your possession? How did the Horry County Police get them? If you didn't collect them and you're the crime same person who collects the evidence and if you didn't collect them who collected them?

A That I cannot -- I cannot say, sir.

Q Well, is there another crime scene person that would be out there with you gathering things that you wouldn't know about?

A Yes, sir, all, all four crime scene personnel were there

that day.
Q All right, so, all four of you all were in the house at the same time collecting evidence?
A No, sir.
Q Well, then I'm confused. What I'm asking is this, you have multiple crime scene people. Is that what you're saying?
A Yes, sir.
Q My question though is who collected the evidence, the physical evidence from the house on that day?
A I, I was in charge of collecting the evidence or either overseeing who collected it.
Q All right, so if other -- I apologize. Go ahead.
A It could -- if it were on the table like I preluded [sic] to earlier it could be, could have been in that stack of paperwork. Like I -- there was, there was numerous amount of -- I don't know. I don't -- I just know that this was in my evidence back here. It could have been in this that I -- I don't know. I didn't go through every piece of evidence. So ---
Q So, you don't -- I'm sorry. Go ahead.
A So, meaning I didn't go through every bit of that piece of paperwork to read each piece of paper when we deemed, looked at this and this was the letter that we saw on the coffee table. I could actually read it without manipulating it. Once -- it was in a stack like a stack of three different

areas. Now, the coffee or the table in the kitchen had a numerous amount of paperwork on it which was collected as one.
Q But then my concern is how do we know then what you collected and what you didn't collect if you didn't mark it any way and you didn't -- you don't have an accounting of the number of pages or whatever? How do we know what you collected and what you didn't collect?
A I guess there is -- would be no way other than the documentation that I provided.
Q Okay, all right, and you don't have any way now of going back to determine whether or not those documents that I have handed you were in fact a part of the documents that you took from the house on that day?
A That is correct. I do not have a way.
MR. WILSON: Your Honor, I'd ask these items be marked for identification purposes only at this time, for identification.
THE COURT: Very good, and they're going to be denominated as, all right, Defendant's Exhibit Number Seven is marked for identification only.
(Whereupon, Defendant's Exhibit Number Seven [Documents from Table] marked for identification.)
BY MR. WILSON:
Q Let me show you one other document. I'm going to ask you to take a look at that for me and just tell me if you've ever

seen that document before and/or if you collected it during the course of your investigation on November 13th?

A Yes, sir, it appears to be at least one of the pieces of paper that was on that table.

MR. WILSON: Your Honor, at this time I'd offer this document as an exhibit, as a Defendant's exhibit.

MR. RICHARDSON: And Your Honor, I would object to that it being hearsay evidence. I mean, it looks like a report to me of someone else. I mean, no doubt it was collected there but the statements in it would be hearsay. There's not a proper foundation.

THE COURT: What is the Defense's position on that?

MR. WILSON: Actually, it's a -- it's a statement, Your Honor, which was written by the Defendant supposedly.

THE COURT: Okay.

MR. RICHARDSON: Your Honor, then I would object that it may contain self-serving statements that ---

THE COURT: Might we approach the bench for one moment?

(Whereupon, a bench conference was held in the presence but out of the hearing of the jury.)

THE COURT: Objection is sustained. It's being marked as Defendant's Exhibit.

(Whereupon Defendant's Exhibit Number Eight [Statement] marked for identification.)

BY MR. WILSON:

Q Now, let me ask you, I think this was -- let me show you this photograph, and is that one of the photographs that you took at the house on that day?

A Yes, sir, it appears to be.

Q All right, and what is it a photograph of?

A It's a photograph of the master bathroom shower stall, was located in the master bath. It has a number seven placard with some clothing because up under -- on that -- under the age can't really make it out in this photograph here or this copy of it is that there were BB pistol and a toy pistol that was located under the items, the towels or items that were in the shower stall.

Q Okay, so, in the shower stall there was a BB pistol and what else?

A It was like a little plastic toy type machine gun, some child's toy.

Q All right, any children live there that you know of?

A Not that I was aware of.

Q All right, and you said there were also some clothing in the shower on the floor. What were the items of clothing?

A Give me just a brief second to look. I want to make sure. It appears to be some type of towel or some type of clothing, not quite sure.

Q Okay, did you pick it up when you were there, examine it

to see if it was blood on it or if there was hair on it or any kind of physical evidence that you could retrieve from it?
A At that, at that time we looked to see, see if there were any blood on the items but there was no blood on the items that were on top of the toy weapons.
Q Well, none that you could see; right?
A No, that is correct.
Q But there are other ways to determine if there is blood on an item other than by sight?
A That is correct.
Q And you didn't do any other kind of tests to make that determination?
A No, sir.
Q All right, and, and the BB gun that was there, did it have BBS in it that was on the floor of the shower?
A Not that I, not that I recall, no, sir.
Q And the toy gun that was there was it a water gun or was it a -- one of those little cap pistols? I mean, what kind of a toy gun was it?
A It was just, just a plastic toy.
Q Okay.
A Like I think I had it listed as like a little, like a little machine gun type little plastic toy.
Q All right, and, and the item you think was a towel?
A Yes, sir, and I'm having a hard time recalling with this

photograph. So, I'm not ---
Q Well, do you have any other photographs that might help you?
A Yes, sir, on that same disk I'm assuming.
Q Well, do you want to show them? Sir, you want to show it to us?
A That's fine. I just need it for recollection because I don't have a copy of the photos.
Q Okay, all right, now, did you retrieve any of those items off of the floor of the shower that morning?
A The -- other than the, just the BB gun and the toy gun.
Q You got the BB gun and the toy gun?
A Yes, sir, and that was ---
Q And you kept those - you put them in, into evidence?
A Yes, sir, that is correct.
Q All right, and you didn't get the towel or whatever the cloth item was?
A No, sir.
Q Now, the bathroom, in the bathroom and this shower is in the same bathroom for the master bath; is that right?
A That is correct.
Q In the bathroom the water in the sink was running when you arrived?
A Yes, sir.
Q And now, and my understanding was that there was hair in

the sink.
A That is correct.
Q Now, do you know whether the hair was human hair or whether it was cat hair?
A No, sir, I do not know.
Q Did you see a cat that morning?
A No, sir, I did not see a cat.
Q All right, well, did you ask or try to find out whether the hair was human hair or whether it was animal hair?
A No, sir.
Q All right, you said that there was ammunition and I think you showed a couple of photographs where there were some bags on the floor of the master bedroom?
A Yes, sir, that is correct.
Q All right, and the bags, the bags were covered by clothing or things that were thrown against the wall in the room?
A Yes, sir.
Q All right, and in those bags was two boxes of shells or was it two boxes or one box? How many did you have?
A There was -- let's see. Let's see. There was three.
Q Okay.
A Each containing various amounts of ammo.
Q All right, this is State's Exhibit 28. All right, so, that's two and this one is -- there are two boxes here; is

that right?
A Yes, sir.
Q All right, now, is there a third box you say?
A Including the clip, yes, sir.
Q And there was a clip, and the clip was it in the gun or was it in the room?
A No, it was in that bag just like that.
Q All right, all right, so, it was in this Wal-Mart bag.
A Yes, sir.
Q All right, and the shells were in a Wal-Mart bag or were they in a different bag?
A They were, they were inside that bag with the, with the gun clip.
Q Okay, other than, other than in the bedroom did you find any shells anywhere else in the house?
A No, sir, no other, no other ammunition was found throughout the house.
Q All right, and any other weapons other than kitchen knives were found in the house?
A No, sir, no other weapons.
Q All right, now, back to the garage for a minute, as I understand it you went into the garage and you were taking pictures of the car that Mr. Senter owned and you found a blue I think you said holster of some type? Was it blue?
A It was, it was a blue gun case.

Q A gun case, not a holster?
A Yes, sir.
Q Okay, and would you kind of describe it to us, the case that you saw?
A It's a, it's a hard plastic case that has the initials of the Smith and Wesson which is an S, an and sign and a W on that and inside the case is kind of like some, kind of like carpeting but it's kind of like some polyurethane type materials that keeps the gun from sliding or weapon that was inside of the case from sliding around.
Q Okay, and was it for this particular gun?
A It was for a Smith and Wesson handgun.
Q All right, and, and is it one of those when they fold up like this and then you have a little handle on it like that?
A Yes, sir, yes, sir, like a little carrying case.
Q Okay, all right.

MR. WILSON: Just one second, Your Honor, please.

THE COURT: Take your time. I don't think I have any other questions, Officer. Thank you so much.

A Thank you.

THE COURT: Redirect.

MR. RICHARDSON: One moment, Your Honor.

REDIRECT EXAMINATION

BY MR. RICHARDSON:

Q Investigator Caulder, how many photographs did you take?

A I think it was a total of about a hundred and seventy some.
Q We didn't put them all in?
A No, sir.
Q Okay, I believe Mr. Wilson was asking you about a gun case. I will help the jury out so they just don't have to work with your description.
MR. WILSON: Your Honor, I object to the commentary.
THE COURT: I'll sustain, I will sustain the objection. Just ask that you ask a direct question.
Q Officer Caulder, I'm going to present to you what has been marked as State's Exhibit 30. If you could open that bag and see if you can identify that item.
A Yes, sir.
Q And how are you able to identify the item?
A First and foremost, it has my handwriting and my collection number which is my evidence item number six and on the outside of the packaging it has S and W gun case and then I could tell that the seal hadn't been broken and this is what I put in that manila envelope.
Q And where did you find this?
A That was located in the trunk of the Nissan Altima that was in the garage.
MR. RICHARDSON: Your Honor, at this time I'd introduce State's Number 30 into evidence.

THE COURT: What's the Defense's position?
MR. WILSON: I don't have any particular objections.
THE COURT: All right, it's into evidence without objection from Defense and that's denominated exhibit?
MR. RICHARDSON: Number 30, Your Honor.
THE COURT: State's Exhibit Number 30 is into evidence without objection.
(Whereupon, State's Exhibit Number 30 [Gun Case] admitted into evidence and appropriately marked.)
BY MR. RICHARDSON:
Q Once again, what was your basic duties on this crime scene?
A Just to -- for the photograph and preservation and collection of evidence and document any items collected.
Q And could you tell us who, if anyone, was responsible for reviewing all the evidence?
A To review all the evidence, the final, that was made by the case agent, Detective Tim Troxell.
Q Thank you.
MR. RICHARDSON: No further questions, Your Honor.
THE COURT: All right, you may step down and any objection to this witness being excused?
MR. WILSON: None, none from the Defense, Your Honor.
MR. RICHARDSON: None from the State, Your Honor.
THE COURT: All right, you're free to leave. Thank

you, sir.

A Thank you, Your Honor.

THE COURT: All right, you may call your next witness.

MR. RICHARDSON: The State would call Senior Agent Suzanne Cromer.

THE COURT: Agent Cromer, I'm going to ask if you could to come forward and place your left hand on the Bible and raise your right hand as the clerk administers the oath.

Whereupon, Suzanne Cromer was called to the stand, duly sworn by the clerk and testified as follows:

THE COURT: Please be seated, pull up real close to that microphone, speak loudly, clearly and slowly and state your full name and position for the record.

MS. CROMER: Yes, sir, my name is Suzanne Cromer, C-R-O-M-E-R. I am a firearms and tool mark examiner for the South Carolina Law enforcement Division, commonly referred to as SLED.

DIRECT EXAMINATION

BY MR. RICHARDSON:

Q Senior Agent Cromer, please tell us where you're employed, how long and in what capacity. Being a firearms identification expert at SLED what are your specific duties?

A As a firearms examiner what we do is look at ammunition components, bullets, cartridge cases, cartridges, shotgun shells to determine whether they were fired by or loaded into

a specific firearm.
Q And how is it able to -- how is it possible to identify firearms?
A By the manufacturing marks. We look at, first we look at bullets. The markings left in the barrel of a gun, they put rifling in that gun barrel, very similar to a quarterback when he throws a football, he throws it in a spiral, a tight spiral. Well, that's why rifling is put in the gun barrel. You have a series of lands and grooves, raised areas and depressed areas to put that rotary motion on that bullet, and during the manufacturing process you're talking about hard steel working against hard steel. These tools are getting worn down. So they leave little imperfections inside that barrel and that's how we can look at bullets that have gone through that barrel and match them back to that particular gun. The same as with cartridge cases, cartridge cases are marked in five different areas: from the breech face of the firearm, from the firing pin of the firearm, from the chamber, from the extractor and the ejector and they, too, all can leave little individual identifying markings.
Q And with regard to the firearm and spent shell casing is it possible to identify that item?
A It is.
Q What is your educational background?
A I received a bachelor's degree from Clemson University.

I did some graduate work at the University of South Carolina in criminal justice. I completed SLED's in-house training program, which is like an apprenticeship where I studied under five court qualified firearm examiners. I've taken courses through the Bureau of Alcohol, Tobacco and Firearms on the integrated ballistics identification system, also on serial number restoration. I have attended seminars through the South Carolina Chapter of the International Association, some being reconstruction of shooting scenes, pathology of bullet wounds. I'm also a member of the Association of Firearms and Tool Mark Examiners and have attended their annual conference, which is an international organization where we get together and meet and talk about advances or concerns in our field.

Q So, if I understand you correctly you're a member of some professional organizations related to firearms identification?

A Yes, sir, as I said before the Association of Firearm and Tool Mark Examiners and also the South Carolina chapter of the International Association of Identification.

Q Have you previously testified in a court in the field of firearms identification?

A Yes, sir.

Q What courts have you testified in?

A I have testified in General Sessions Court, Federal Court and a coroner inquest.

Q About how many times?

A Thirteen.

Q Thirteen times.

MR. RICHARDSON: Your Honor, at this time the State would ask to have Senior Agent Cromer identified and admitted as an expert in the field of firearms identification.

MR. WILSON: That'd be without objection, Your Honor.

THE COURT: Mr. -- okay, Madam Forelady, ladies and gentlemen of the jury, normally a person is not able to testify about opinions in this courtroom. Normally an individual is only able to testify as to what they see, hear and feel and observe. There is an exception to that rule which deals with expert testimony. If an individual has a certain amount of education or experience in a certain technical field they can be qualified as an expert and give opinions in that area of expertise. This lady, Ms. Cromer, has been offered as an expert in the area of firearms examination and has been qualified as an expert in that field. I will charge you in greater detail at the conclusion of the case but just because an individual is qualified as an expert doesn't mean that you have to accept their opinion. You can reject that if you feel as though it's not well-founded or their education isn't sufficient enough but it's something that you can take into consideration. They're allowed to offer their opinion but you are to examine and evaluate the expert testimony very similarly that you do lay witnesses, but

you can consider their opinion and she's qualified as an expert in the area of firearms examination. You're recognized, Mr. Richardson.

MR. RICHARDSON: Thank you, Your Honor.

BY MR. RICHARDSON:

Q Agent Cromer, I'm going to show you what has been previously marked and entered into evidence State's Number 25. Would you please open that and see if you recognize that item.

A Yes, sir, what I'm looking for is my lab number, my item number and my initials, which I scribed on three different places on this firearm and on the magazine.

Q And that's how you can identify that item?

A Yes, sir.

Q Could you tell us what that item is?

A It is a Smith and Wesson model SW40VE, Sigma series, 40 caliber semiautomatic pistol and the detachable box magazine.

Q Is there anything on that firearm that makes it particular unique? If so, what is it?

A Yes, sir, the serial number, which is PDC4050.

Q And can you tell -- do you recall from whom you received that weapon?

A I received it from our evidence room on -- let me double-check -- December 5th of 2006.

Q And do you recall what the purpose of your receipt of that weapon was?

A I was to examine it and compare it against the fired cartridge case that I received.
Q I'm going to show you what has been previously marked as State's 29 and entered into evidence?
A Thank you. This box is sealed with SLED evidence tape and my initials, and again, this cartridge case is marked with my lab number, my item number and my initials.
Q And what is that item?
A This is a fired cartridge case.
Q And when and where did you receive that item?
A I received it with the, with the firearm on December 5th, 2006, from our evidence room.
Q And do you know where that shell casing originated?
A It was labeled from the scene I believe on my paperwork.
Q I'm sorry, and what agency? Do you have any?
A Horry County.
Q And when you received that item what condition was it in?
A It was in this sealed box inside this sealed container.
Q And were you asked to perform any analysis on that?
A Yes, sir, I was asked to compare to see whether or not this cartridge case was fired by this firearm.
Q So, if I understand your testimony correctly SLED received this item from Horry County Police Department.
A Yes, sir.
Q It was -- the shell casing was sealed.

A Yes, sir, and it's sealed in this box.
Q And that was again sealed inside of this box.
A Yes, sir.
Q With the firearm.
A Yes, sir.
Q And the firearm has a unique serial number.
A Yes, sir.
Q The analysis you performed on it, on these items, excuse me, these items are they basically in the same condition as whenever you received them?
A Yes, sir.
Q All right, when you sent them back, you performed analysis on them. Could you tell us, could you tell us what the result of that analysis was?
A Yes, sir, I concluded that this cartridge case was fired by this firearm.
Q And how were you able to establish that?
A What I do when I receive a gun and ammunition to look at is I will take information from the gun, look at it, see whether or not it's safe to fire it and then I will look at my fired evidence and I will try to shoot similar ammunition to what I have. So, I deem this to be most consistent with a 40 caliber Federal Hydrashock cartridge case. So, I went and got several -- actually two Federal Hydrashock 40 caliber cartridges and two other cartridges and then I test fired this

firearm and we test fire into a two-story vat of water because the water will slow down the bullets without adding to or taking from the markings that are placed there by the firearm. So, then I retrieved my tests and I look at them against each other on a comparison microscope. Comparison microscope, the eyepieces are very similar to binoculars but it allows me to look at two pieces of evidence side by side. So once I've looked at my tests side by side then I can compare it to my evidence and what I'm comparing is those breech face and firing pin and extractor or ejector markings, and I concluded that based on the breech face markings on this cartridge case versus the breech face markings on my test that this cartridge case was fired by this firearm.

Q So, if I understand you correctly your opinion, your expert opinion is that that weapon that you received fired that shell casing?

A Yes, sir.

Q Agent Cromer, after your analysis of the shell casing of the weapon what did you do with the weapon, I'm sorry?

A Oh, okay, after I'm finished my analysis I enter any evidence or actually from a firearm I enter test fires into the integrated ballistics identification system, excuse me, which is just a database of digital photos from the cartridge cases and bullets. Then, once I am finished with that I seal up the firearm and send it back down to our evidence room.

Q Do you know if that weapon was ever sent back to Horry County Police Department?
A Yes, sir, it was. I can check my notes I can tell you when.
Q Would looking at your notes help refresh your recollection?
A Yes, sir. It was returned July 25th of 2007.
Q Now, after July 25th, 2007, did there ever come a time when, when that weapon was returned to you?
A Yes, sir, it was.
Q And can you tell us when that was?
A It was returned to the SLED evidence room 3-31 of 2008.
Q And do you know what agency delivered that to you?
A Horry County.
Q What was the purpose for return of that weapon?
A They were bringing me a fired projectile or fired bullet to actually compare to this firearm.
Q And I'm just asking about that projectile now, not where it came from. Did you ---
THE COURT: Might counsel approach the bench for just one moment?
(Whereupon, a bench conference was held in the presence but out of the hearing of the jury.)
BY MR. RICHARDSON:
Q The projectile you analyzed what condition was it in when

you received it?
A I received it in a sealed I call it a medical plastic container, kind of looks like a jar, clear plastic container that was sealed and it was inside a biohazard ziplock bag that was closed but not sealed and then that was inside a heat sealed pouch which was sealed and then it was inside another envelope that was evidence tape sealed.
Q And did you perform an analysis on that projectile?
A Yes, I did.
Q And what were the results of your analysis?
A I determined that that projectile was consistent with being a Federal 40 caliber Hydrashock bullet. It was a jacketed hollow point and that it was fired also by this firearm.
Q And those are the results of your analysis and that is your expert opinion?
A Yes, sir, it is.
Q Agent Cromer, thank you so much. If you'll answer any questions Mr. Wilson may have.
A Okay.
THE COURT: Any cross-examination, Mr. Wilson?
MR. WILSON: Just real briefly, Your Honor.

CROSS EXAMINATION

BY MR. WILSON:
Q Ma'am, you have no idea who fired the shots, just that

that gun fired that bullet and that that shell was fired from that gun at some point in time?

A Yes, sir, that's right.

Q I don't have any other questions.

THE COURT: Redirect?

MR. RICHARDSON: None, Your Honor. The State would ask that Senior Agent Cromer be excused.

MR. WILSON: Without objection.

THE COURT: You're free to leave. Thank you, Officer Cromer.

You may call your next witness, Mr. Richardson.

MR. RICHARDSON: Your Honor, at this time the State would rest.

THE COURT: Okay, very good.

Madam Forelady, ladies and gentlemen of the jury, I'm going to ask if you could retire to the jury room for one moment and do not discuss the case. Thank you.

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: Entertain any motions at this time.

MR. WILSON: Your Honor, at this time the Defense would move for a directed verdict as to both CDVHAN and assault and battery with intent to kill. Primarily I believe that there is no evidence one, I would submit to the Court, that he, that shows that the Defendant intended to kill the victim. I mean,

I don't think there's any question about the fact that he shot her, but the question is whether he intended to kill her since it's ABWIK and I don't think that the State has proven that there is evidence ---

THE COURT: Well, the law specifically says that you don't have to intend to kill them. Shooting them is enough; isn't it?

MR. WILSON: Well, I mean, I mean, I think that that can be if there's a weapon used that, yes, that can be sufficient, but I would submit that in this particular case since there is no real evidence that he, no physical evidence and no, and no and not even testimony that he was trying to kill her or that he intended to kill her or that he had the intent to kill her, you know, and he, based on the evidence that's most favorable to the State as I understand it he shot her. If he was going to shoot her, if he intended to kill her certainly he had every opportunity to shoot her, I mean, I'm not suggesting that he should have shot her again I'm saying, but he had every opportunity to shoot her again if he intended to kill her based on the testimony of the victim in this particular case; and so, anyway, that's my motion in regards to that, and the other thing that I would argue, Your Honor, is is that the -- that the two charges, CDVHAN and ABIK, are mutually exclusive. I think that it's the same conduct that he is, that he is being charged with, the shooting, which is

the only conduct. There is no different conduct and even assuming he did the shooting regarding the ABIK and which we've not really denied him actually pulling the trigger in this case. My point is is that to have him be convicted of both CDVHAN and ABIK I think would have him be punished twice for the same conduct and the same, same crime, and I would submit to the Court that the State should elect which of the two they intend to go forward with.

THE COURT: Be glad to hear from the State.

MR. RICHARDSON: Your Honor, the State would submit that it's proved all the elements of both charges. As to having to go forward on one charge or the other, the additional elements that are in criminal domestic violence of a high and aggravated nature, one that they were married or cohabitated somewhere or have children in common. In this case there's been testimony that Ms. Lester was the former wife of Mr. Senter, was the wife of him at that time. Put her in mortal fear for her life and/or caused violent injury and there is, there is no law the State cannot move forward on both those charges. I would say it's analogous to moving forward on distribution and distribution within proximity of a school, both punishing for the distributions, just one has got additional elements. In this case the additional element on criminal domestic violence of a high and aggravated nature is that Ms. Lester was married to him.

THE COURT: All right, Mr. Wilson, I'm going to deny your motion. The first motion that deals with whether or not he intended to kill him [sic], a specific intent to kill is not an element of assault and battery with intent to kill and that's set forth in State versus Foust, 479 S.E.2d 50, intent may be shown by acts and conduct of the Defendant and other circumstances from which you may naturally and reasonably infer intent and it doesn't require, as long as there is a weapon, they shoot them, that's about all it takes and I know you had mentioned that the issue of malice but that's clearly a question of fact for the jury to determine and your motion with regard to the fact that it's the same offense, I do find that there are separate elements; and however, those matters will indeed be considered at the conclusion of the trial.

MR. WILSON: Thank you, Your Honor.

THE COURT: Thank you.

MR. RICHARDSON: Your Honor, as a housekeeping matter, I believe Mr. Wilson had entered Defense -- one of the numbers, the paperwork and this was just attached in that same file, Grand Strand Water and Sewer bill, paperwork, the miscellaneous paperwork. It just fell out. I was just ---

THE COURT: Literal housekeeping.

MR. RICHARDSON: Just didn't want our evidence clerk

going crazy trying to figure out where that came from.

THE COURT: All right, very good, all right.

Anything further before we proceed?

MR. WILSON: No, sir.

THE COURT: All right.

MR. RICHARDSON: Nothing further from the State, Your Honor, and the State would ask for a very short recess.

THE COURT: All right, we'll take about a five minute recess. We'll stand at ease.

*****OFF THE RECORD*****

(On the record.)

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: Please be seated. We're ready for the jury.

MR. WILSON: Ready, Your Honor.

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: Mr. Wilson, you're recognized.

MR. WILSON: Thank you, Your Honor.

Lisa Cleary.

THE COURT: Yes, ma'am, I'm going to ask if you could come forward and place your left hand on the Bible and raise

your right hand as the clerk administers the oath.

Whereupon, Lisa Senter Cleary was called to the stand, duly sworn by the clerk and testified as follows:

THE COURT: Yes, ma'am, please come forward and have a seat in the witness chair, pull up real close to that microphone.

MS. CLEARY: Chair, okay, all right.

THE COURT: Very good, all right. I want you to speak loudly, clearly and slowly and state your full name, please, ma'am.

MS. CLEARY: All right, Lisa Senter Cleary.

THE COURT: All right, thank you, Ms. Cleary.

DIRECT EXAMINATION

BY MR. WILSON:

Q Lisa, if you would, where do you live?

A I live in Durham, North Carolina.

Q All right, and how long have you lived in Durham?

A Since 1970.

Q And are you related to Brad Senter?

A Yes, sir.

Q All right, and what is your relationship with Brad?

A He's my brother, my older brother.

Q All right, all right, now, just so we know a little bit about the family, tell us how many brothers and sisters there are.

A I have two brothers and one sister and one stepsister.
Q All right, and where does Brad fit in the, in the hierarchy there?
A Brad is the oldest.
Q Of all the children?
A Of all four, uh-huh.
Q Okay, now, when you all were growing up did you grow up in North Carolina?
A Well, I was born in Virginia. So, he grew up in Virginia, basically, and then when we moved to North Carolina I was four, five and he's about 12 years older. So, he finished high school in Durham, North Carolina.
Q Okay.
A I think just his senior year.
Q All right, now, during the time that you all were growing up was there a period of time when Brad was responsible for taking care of you and the other children?
A When my parents divorced he did -- he -- when I say take care, not like financially responsible, paying bills, that kind of thing, but took care, you know, always looking after us. He was like a second parent.
Q Okay.
A Both of -- yes, like, but you know, he was there to -- emotionally.
Q And there was a period of time when your mom was out of

the home, also?
A Yes.
Q And what period of time was that?
A I -- around -- you know I can do it by my grade level. So, if I can just say I was probably I think I was in first grade and then again in sixth or fifth, fifth grade, those years for me.
Q Now, at some point did Brad go off to school, college or whatever?
A Yes.
Q All right, and where did he go to college?
A First, Louisburg College in North Carolina.
Q Okay.
A And, you know, I want to say around my second, third grade year he, he left.
Q Okay.
A He was back on weekends, though, and so, it's really hard for me -- I don't really remember the ---
Q He was back and forth as he went to school?
A Sure, uh-huh. It's not very far from Durham.
Q And, all right, and after he graduated from college what did he do then?
A He went into -- well, he had a lot of coaching positions, high schools, I think sales positions.
Q What are some of the coaching positions he had with

colleges if you know?
A Okay, he coached at Duke. I want to say he was a part-time volunteer, but as a part-time volunteer was that started out was still like 80 hours a week. He was there non-stop and I want to say that lasted two years. He was at State.
Q That's North Carolina State.
A North Carolina State, yes, Newberry, but now, we're talking later. Are you asking me for everything or when I'm little?
Q I'm just asking a general history of his coaching.
A Okay, he was at Newberry. He was at a school in Tennessee. There was a school in Kansas, Kansas, I think, yes, Kansas. Then there were high school jobs in, in Durham, as well.
Q All right, now, during the years when you all were growing up and Brad had gone off to school and then later when he started working how often would you guys see each other since he was out of state and you were still in North Carolina? How often would you all see each other?
A If he were in state we saw each other quite often and while I'm younger, and then when I was married and with children it would, it would still be -- when I say quite often once a month, once every couple of months, you definitely on holidays, summers. Out of state the only time I didn't see him for a period of time was when they went to Tennessee.

Q All right, now, let's -- so, let's start with that, with Tennessee. You said that there was a period of time -- when you say they you're referring to?
A Dena and Brad.
Q Dena and Brad, all right, that they had moved to Tennessee to live.
A Yes.
Q All right, and what was Brad doing in Tennessee if you know, what kind of work?
A Football coaching and I thought until yesterday I thought there was a water bottle, water job or something like that, the sales, but I heard from Dena yesterday that was in Newberry, but I thought that was in ---
Q That's all right. Don't tell me what she said, but all right.
A Yeah, okay.
Q So, you thought he was coaching as far as you knew.
A Coaching.
Q All right, and, and when they're in Tennessee what year would that be around?
A '96-ish.
Q Okay.
A I don't remember really. It was around there.
Q All right, all right, and do you recall when Brad and Dena were married?

A In '92, August of '92.
Q All right, and ---
A '93, sorry.
Q Okay, and where was their wedding or their marriage ceremony?
A In Newberry, South Carolina.
Q Okay, all right, and after the marriage what was your relationship with Dena?
A We loved Dena. Dena, Dena -- it was great, and when I say like I won't say we call each other every day or anything like that, but they were fun, pleasant, they were the fun aunt and uncle. Our kids loved to be with them. You know, we had a good time when we'd get together.
Q So, they'd visit. Did Dena and Brad as a couple ---
A Visit together?
Q --- visit you guys on a regular basis?
A Yes, but they would stay with my dad. He had a, he has an extra room and bathroom, yes, so when so they would come either we'd see them, we might go out to dinner, we might not, but you know, it's -- it was just whatever.
Q Now, after they moved here to Horry County did you continue to see them on some fairly regular basis?
A It was the same, same type of thing. I mean, there was just no plan. There was never we see each other once a week or we see each other once every two weeks or anything like

that. It happened when it happened. It just wasn't -- there was no plan.

Q Where there periods when your family would come here to visit them?

A To Myrtle?

Q Yes.

A Yeah, if -- especially if -- for us, I can speak just for me, I guess. For my husband and I we have two children about the same, roughly in the same age group as Brad's daughter. So, when Brad's daughter would come to South Carolina we might come to Myrtle or they might come to North Carolina and we'd spend time all the kids together.

Q And this is Brad's daughter from a prior marriage?

A Yes.

Q Now, let's, let's move to say 2005.

A Okay.

Q Or late 2004, when did you realize or learn that there may be some problem with Brad?

A I got a phone call from my mother.

Q And don't tell me what she told you but as a result of getting that phone call ---

A Okay.

Q --- from your mother.

A Okay, as a result.

Q And whoa, hold on just a second.

A Okay, sure.
Q Listen to my question.
A Sorry.
Q That's all right. When you got a phone call from your mom ---
A Uh-huh.
Q --- as a result of having got that -- well, first tell me when that -- when you got that call, what timeframe.
A January of 2005, early, early January.
Q Early January of 2005.
A Uh-huh.
Q You got a phone call from your mom.
A Uh-huh.
Q As a result of receiving that phone call what did you do?
A I called my brother.
Q Okay, and what did you ---
A And ---
Q --- what did you tell -- you're calling your brother Brad?
A Yes.
Q All right, and what did you tell him?
Well, I really wanted to ask him how he was and he was crying and I've never heard my brother cry and he was really crying. I asked him if he needed me and he said yes and then that was it and I got in the car, talked to my family and I

got in the car and I drove down here to see what he needed.
Q Okay, all right, and when you came down here January of '05 that's the same day that you, that you talked to him on the phone?
A No, I went the very next day.
Q Okay.
A Yes.
Q That day when you -- the day when you got here, tell us about that visit.
A All right.
Q The moment you got there and what happened.
A When I got to my brother's house he opened the door and I had not seen him for a while because they had just basically moved back to Myrtle from Tennessee. So, I had not seen him in a long while. He opened that door and gave me a hug and then he took off running and I thought, ``What's he doing? Something's on the stove?'' I -- he just took straight off for the kitchen and he got a piece of paper and a piece of tape and he ran away from there, went straight to the smoke alarm and taped it and he looked at me and he said, ``Don't say anything. They can hear us,'' and the door was still wide open. I was standing in the doorway and I was scared to death because I had never -- I've seen that kind of thing on the movie. I couldn't believe that my own brother just said that to me and I still couldn't grasp that he was for real. He was

not playing around; and so, when he said that I said, ``Okay,'' and he said, ``Can we talk outside,'' and I said, ``Yes, we can talk outside.'' I was -- I felt like that's the best place for me to be is out of this house; and so, I said, okay. So, we went outside and he went on into a very long -- I want to say he was talking about a hundred miles an hour. He explained to me about patterns, everything happens in patterns. He was upset that there was three cigarettes in the front of his driveway, three cigarette butts, and he said, ``Look, there are three,'' and he said, ``And then I go on the back of the golf course and there's three golf balls.'' He said, ``Threes, everything happens in threes.''

I was scared. I didn't know what to say to him. So, then he asked me if we could drive to the beach and talk, nobody could hear us if we talked on the sand, and I said, ``Sure.'' So, we drove to the beach. I drove to the -- both of us to the beach. We got out on the beach. We stayed there for about three hours and he said to me things that -- like some of the things he was telling me I already knew about like if he was referring to a -- an incident that I would be aware of, I can't even think of an example right this second, just something say -- I can't even come up with one but when he would say it I would know because I had been there and he had a twist on the same incident; and so, I knew he was -- I just couldn't -- I couldn't understand what was going on. He also

-- I did ask him though did he hear voices. I said, I asked him, I said, ``I've got to ask you this because what you're telling me is so strange. Are you hearing voices,'' and he said no and I didn't know whether to believe that or not because the things that he was telling me were just not making sense, and I told him -- he told me all about the FBI. He told me the FBI was corrupt and it has -- had orchestrated his whole life and that they were the reason for his failures, the reason he didn't have jobs and, oh, he asked -- he said the FBI has even, even prevented me from talking to him on the e-mail, and I said, ``Brad, I have blocked you from my e-mail,'' and he said, ``You did,'' and I said, ``Yes, you wrote me a really strange letter about the year before,'' when he lived in Tennessee and he was telling me how, how bad of a parent that I was and how bad of a parent my husband is and that we were strict on our kids and it came out of nowhere. So, I blocked him. I thought, ``What a -- I don't know who he thinks he is to write me such a letter. I haven't seen him in a while,'' and I blocked him. So, when he told me on the beach that the FBI had prevented him from talking to me on the e-mail I said, ``Brad, I did that,'' and he seemed taken aback that I would do such a thing, and he said, ``You did,'' and I said, ``Yeah, you wrote me that strange letter, you said that I was a bad parent,'' and he -- you know what, he didn't buy it. He couldn't even buy that what he had -- was telling me

was enough for me to block him. He really believed that another organization or an agency had, had done this, had, had blocked him. So, I told him, I said, ``I will listen to you,'' because he wanted to tell me everything that had happened in his whole life, from 1970 on. He wanted to go through every, everything that the FBI had done to him; and so, I said, ``I will listen to everything if you do one thing for me. In the end we need to go see a doctor. We need to go see a doctor and this way you can rule out the FBI,'' sorry, ``I said the only way we can rule out the FBI is you go with me to the doctor,'' and he said, ``Okay.'' So, that was our deal and I listened to him and then we went back because Dena was getting off work; and so, we got home.

Q When you arrived there that day Dena wasn't at home when you got there?

A Right, she was not there.

Q Okay.

A She was working.

Q All right, so, later that evening you all go back to the house. Does she come home while you're there?

A Yes, we -- when we got back, you know, truthfully, I don't remember when we got back if she was already at the house or if she came in after. I don't remember that, but we went out to dinner.

Q Did you discuss any of this with her?

A Oh, no, because if I had discussed -- there -- first of all you could not -- you -- we weren't -- you know, we didn't have a discussion but it was almost understood we're not talking about this in front of him and we can't go off together because we would be in conspiracy. So, I waited until -- we went to Ruby Tuesday's where ---

Q When you say we, you, Brad and Dena?

A We -- all three, all three of us went out to dinner that night and it's where the old Spinnaker's, that mall where the old Spinnaker's Restaurant and I -- Colonial Mall. Dena and I got a salad. So, we got to go to the salad bar together and that was the first moment I was able to look at her and say, and I did, I looked at her and I said, ``He's got to go to a doctor,'' and you know, she was in agreement I think. I don't really remember our discussion, but I just was adamant, you know, ``he's got to go to a doctor,'' but we didn't have time either to sit and discuss anything because he was sitting over there eating and we can't -- you just -- it was kind of understood you couldn't be talking or he was thinking you were talking about him. So, we sat down, we had our dinner, we went back to their house, and I, again, I wanted to not let this doctor visit go; and so, I had to have something and ---

Q To your knowledge when you got there January 5th, January whatever it was in January had he ever been to a psychiatrist before that?

A No.
Q As far as you know?
A As far as I know, no, no.
Q All right, and ---
A I didn't ---
Q --- so, that next morning, you all had dinner that night, the next morning, what, what occurred?
A Well, I asked for the insurance, to see if he had insurance and either he or she gave me the insurance card and I left and went to my mother's. She had a place at the beach at that time and I went there that night and I got home and I called a doctor that I know, but -- and I asked, I told her what happened.
Q Okay, but you can't tell me what the doctor told you.
A Oh.
Q But you had a conversation with a doctor friend of yours.
A Yes, yes.
Q As a result of that conversation with the doctor what did you do?
A I called the hospital, asked for the psychiatrist on call and there wasn't one. So, the next thing was to go to the Waccamaw Department of Mental Health or Waccamaw Health Center. It was the county ---
Q Waccamaw Mental Health.
A Yes, yes. So, I took -- I picked up Brad in the morning

and I drove him straight to the Waccamaw Health Center.
Q Now, did Dena go with you and Brad to the doctor?
A No.
Q Okay, just the two of you all went.
A Uh-huh.
Q Okay, go ahead.
A I took him to the Waccamaw Health Center and we sat in the waiting room, well, you know, you've got to check, you tell them what you're there for and we had to go meet with a triage nurse and while we were in the waiting area there was a teenager visibly sick, visibly hearing things because he was having conversations with the air, you know, you could look at him and tell he was ill, and he was sitting across from us and my brother just kept staring at him to the point I was getting embarrassed, you know, and normally he wouldn't, he wouldn't just do that, but he just stared and he stared and then I would try to talk to him and distract him. Finally the teenager got called in to be seen and he was so relieved he just said, ``Ahhh.'' I was like, ``What?'' And he said, ``You know, I was about ready to go over there and talk to him.'' He said, ``I knew he was with the FBI,'' you know, and he was looking at him, and I said, ``Brad, he is sick. He is ill,'' and he didn't, he didn't recognize that.
Q Did you all see a doctor or somebody over there at the -- at Waccamaw Mental Health that day?

A Yes.
Q Okay.
A We went and saw the triage nurse and we -- I call her the triage nurse. The first person that you speak to before you go to the doctor and we sat in there and I knew from the day before I had to be with him so that he told the right things because his stories were so bizarre the day before of things I knew differently that I thought, ``I want to be there because somebody has got to tell the professionals that -- the right thing.'' So, I sat in there with him and he came out with what he was there for and I -- he, you know, his loss of jobs, failures, the same thing, and I looked at her to make eye contact to see if I could speak with her because something he had said was bizarre and I wanted her to know. I had also wanted her to know that he had just told me he had tried to take his life a couple of months earlier, and I needed somebody to know that; and so, I told her and she was very sweet and had us wait and we saw a doctor after her. That doctor -- we went into his office and I was so hopeful. I was so hopeful because this was it, you know, we were going to get that help, and we went in there and Brad started in on his story, but this time now it's -- he started off with how he had left his jobs to take care of us, you know, how he gave his life for taking care of his family, and that really, I don't remember it that way, you know. I know he was there for

us. I know you were there, but I -- you know, he didn't, he didn't work and pay our bills and things like that. He was just emotionally there. So, the stories that were coming off to the doctor just wasn't what I knew.

Well, the doctor gave him a prescription for an antidepressant, an antipsychotic, but he told him, you now, ``Come on man, get over it,'' and he said, told him basically go get a job; and so, I looked at Brad and Brad looked at me and I thought, ``Oh, great,'' all this I really wanted to get him some help and this didn't end up -- this wasn't the doctor for us. So, we walked out and I said, ``Please don't get upset about this.'' I said, ``You've got to shop around for a doctor, please don't.'' I said, ``Give me the prescriptions, you're not taking them.'' Oh, because he said the doctor had told him, ``If you want to come back in 30 days you can come back to see me.'' I thought that's, that's not working, no, when he's talking this crazy then somebody is going to see him and I didn't care if it was permanently at that point or but somebody was going to check on him after he started taking that medicine and I didn't feel we were going to get that care. So, we did go out, and when we walked out the triage nurse came after us and she was so helpful and said, ``Where are you going,'' and I said, ``That was the worst visit. I can't believe that visit.'' So, I said, ``Where else do we go? What else do we do?'' And she recommended a private facility

next door.
Q And did go to the private facility?
A The very next day.
Q The next day you go to the private facility and do you know the name of that facility that you went to the next day?
A The Lighthouse.
Q The Lighthouse, all right.
A The Lighthouse.
Q And that's here in Conway?
A Yes.
Q All right, and tell us what happened when you got to the Lighthouse. Was he admitted there?
A We went in and we interviewed with a lady named Priscilla and the same thing, he went through his, his stories and she immediately said, ``Brad, I think you're bipolar. I think you need to check yourself in but it's totally your decision. Would you like me to take you around to the facility and show you the area,'' and he said, ``Sure.'' So, he did it. He walked around. I walked with him and we went back. She said, ``Don't do it right now. Think about it over lunch,'' because it was about lunchtime. So, that's exactly what we did. We went to lunch and ---
Q Now, when you go the second day, when you go to the Lighthouse to take him for his interview, Dena goes with you and Brad to that?

A No.
Q Okay, so, it's just you and Brad again?
A Yes.
Q All right, and you go to the Lighthouse. Now, does he -- after lunch did he admit himself or get admitted to the Lighthouse?
A Yes, he did. He checked himself in. He ---
Q Okay, all right, and how long is he at the Lighthouse, how many days was he there?
A I, I don't remember, and I want to say like three or four or maybe five. At that point I stayed a couple of more days, but I felt like I had done, you know, like, ``Okay, good, we got in there. We've got a diagnosis,'' and Dena went to visit at night with me that first night or two and then I just felt safe to leave. I thought, ``Okay, good, well, there's going to be a prescription. There's going to be follow-up and I can leave now.''
Q So, after a couple of days, after getting him admitted to Lighthouse you left and you went back to North Carolina to your family.
A Yes, I did.
Q And you have a husband and how many children?
A I have a husband and two children.
Q Okay, and what does your husband do for a living?
A My husband is a police officer.

Q And how long has he been in law enforcement?
A Since '86.
Q Okay, and what do you do other than take care of children?
A Thank you for saying that. I have -- I'm a retired teacher. I taught and I had to leave due to vocal problems in 2000. So, I left and I have been a fulltime mother and wife.
Q But let's go back now to -- you leave and you go back to North Carolina to take care of your family and Brad is still at Lighthouse and he stays there for several days.
A Right.
Q What happens after that?
A After that, you know, nothing, I didn't hear -- I mean, I checked in, we checked in. We were back and forth communicating and I thought things were going well, and then in February I get a card, a Valentine's cards. It was about -- I want to say I got this letter about ---
Q So, this was a month later.
A A month later, exactly a month.
Q All right, tell us about that.
A Uh-huh, I got a card in the mail from him. It was a Valentine's day card and he thanked me for saving his life and he also in that letter, sorry, in that letter he told me that I needed to talk to my daughter, my 16 year old at the time because she was involved with the FBI.

Q So, what did you do then, what ---
A Right then my focus changed because this time now I felt like it was really serious. I had to protect my children and I got a call from a lawyer in Greensboro who had just received a letter, a strange letter and it -- this, this lawyer, by the way, Brad used to coach him when he was in high school.
Q You can't tell them what the lawyer told you.
A Oh, I'm sorry.
Q As a result of having a phone conversation with the lawyer, did you get a letter?
A Yes, the lawyer -- I got a card, a Valentine's card and then I also received a letter from a lawyer that Brad had instructed him that if anything were to happen to him to please mail me this letter.
Q And you got the letter.
A Yes, it was seven or eight pages front and back, typed. There was a list of names that I needed to call. It just -- it was a disturbing, strange, bizarre letter of events of his life; and so, I had to take the letter and I needed to go back to Myrtle because he was going again in my opinion to the doctor.
Q So, after getting the letter and hearing from the lawyer you were again concerned and at that point then you decided to come back to Myrtle Beach.

A I came back to Myrtle.
Q Now, when you came back to Myrtle Beach this time, this is February of '05?
A February of '05.
Q And the last visit was January of '05?
A Exactly.
Q And you come back in February tell us what occurs then.
A I took him back to the Lighthouse. I just took him back.
Q All right, now, when you came back in February after having gotten the letter, the card, did you talk with Dena about what was going on with Brad?
A Well, I couldn't -- I didn't have -- there was not a way for me to be with her by myself. So, I couldn't just discuss anything alone with her and I was not allowed to call because you couldn't, I couldn't have my cell phone in front of Brad. He would ask that you not have a cell phone on and I couldn't because he said that the -- that calls would be intercepted and that people would be after him. So, there was just not a way for me to discuss anything with her at least while I'm here -- while I was here.
Q When you came down, was she at home when you came to the house on -- in February? Was she there when you got there?
A Do you know, I really can't remember if she was there and what time I got there. I cannot remember that part. I remember eating dinner at their house.

Q So, the three of you had dinner at their house?
A Yes, and we had the discussion then was there were more strange stories and one of the stories that he told was that he used to work at a Tommy Bahama, the clothing store at the outlet, and it was a couple of months prior and one of the stories he was telling that night was that there was an older couple that used to come into the store and that he really liked this couple and that they would be really nice and he said, ``But I had to tell that couple I knew what they were really doing there,'' and I -- we were at dinner and I was thinking, ``What do you mean,'' and he said, ``I knew what they were doing there and I told them,'' and I said, ``Brad, this elderly couple, they're shoppers, they're nice to you,'' you know, I just felt I could still talk some sense and there was no talking and that, that I remember eating and meeting. So, we were all together. It was very clear. That conversation was had and it was clear he needed to go back to the doctor.
Q Okay, you all had that conversation at dinner?
A Yes.
Q And so, what do you do then now that you're back in February and you have dinner and he has, he's having this conversation, what do you all do?
A And actually, actually I remember another thing, conversation that struck me that he really needed help. He had -- was telling about a New Year's Eve party where all the

Tommy Bahama coworkers were supposed to come over and they were all late, they were all late, and he said, ``And when one of them finally got there he brought pigs in a blanket for his appetizer,'' and he was furious at the pigs in a blanket appetizer and I kept looking at him like, ``I don't get it.'' I didn't get it. You know, I was thinking, ``I kind of like pigs in a blanket and I don't understand,'' and he goes, ``You know what that means, pigs in a blanket, like police cover,'' and I thought, ``Whew.'' So, the, the next day -- I mean, it was, after that in my mind but I didn't have a discussion that I'm taking him back to the doctor but that he needed to go, but clearly needed to go.

Q So, the next day you take him back to the Lighthouse.

A Yes, I did.

Q All right, and what happens when you get in there this time?

A The same thing, they interviewed him. Priscilla was there again, the triage nurse, and she said that it would be a great idea for him to stay, and when we went there it wasn't -- it wasn't a plan or anything. So, he knew and I think the second time he was prepared to stay, where the first time he wasn't. We had to go back and get clothes and buy the shower gel and all the requirements they make, they have you do. The second time I think he went prepared when I took him.

Q Let me show you this letter before I go any further ---

A Sure.
Q --- and ask you if you recognize that letter.
A Can I get my reading glasses? Sorry. It's right in my purse. Thank you.
Q I'd give you mine but ---
A Sorry. I'm sorry. All right, this is embarrassing, all right.
Q Just tell me if you recognize the letter first.
A Yes, I do. I do.
Q Okay, and where did you receive this letter from?
A This was in the mail.
Q All right, and from who?
A From Brad, from my brother.
Q To you?
A To me.
Q And this would have been in February of '05?
A Yes.
MR. WILSON: Your Honor, at this time I would offer this letter as Defendant's Exhibit.
MR. RICHARDSON: Your Honor, I would object. Again, it's hearsay.
THE COURT: All right, might we approach the bench?
(Whereupon, a bench conference was held in the presence but out of the hearing of the jury.)
MR. WILSON: I will just mark this for identification

at this time.

(Whereupon, Defense Exhibit Number Nine [February '05 Letter from Brad to Sister] marked for identification.)

BY MR. WILSON:

Q Now, you also said that you received a letter from a lawyer?

A Yes.

Q And let you take a look at this.

A Okay.

Q And is that the letter that you received?

A Yes.

Q All right, and is that Brad's handwriting in this letter?

A Absolutely.

MR. WILSON: Your Honor, I'm just asking this be marked for identification purposes only at this time.

(Whereupon, Defense Exhibit Number 10 [Letter from Attorney] marked for identification.)

BY MR. WILSON:

Q Now, ma'am, after getting these letters, one from your brother, one for a lawyer about your brother, what did you do?

A Once I got those letters I talked to my husband, my family and, you know, discussed with them I had to go back down and we also had to come up with some plans.

Q Let me ask you, during any of this time from January till February now, did you ever get a call from Brad's wife, Dena,

about what was happening and his progress or lack of progress or just what was going on?

A I did get a call from Dena about the suicide attempt and she -- do you want me to ---

Q What did she tell you about the suicide attempt?

MR. RICHARDSON: Your Honor, objection, hearsay.

THE COURT: I sustain.

Q So, you had a conversation with Dena about his suicide attempt?

A Yes.

Q Okay, and she discussed it with you? Don't tell me what she said, just asking you did she discuss it with you?

A Yes.

Q All right, and as a result of her discussing his suicide attempt with you what was your feeling or your state of mind at that time?

A My feel -- I was very ---

Q Your state of mind.

A My state of mind, I was confused.

Q All right, so, what did you do then?

A I got back in the car after discussing it with my family and we also had to make plans for my family like -- I'm sorry. We had to make plans because ---

Q What kind of plans are you speaking of?

A Well, now that my child's name was involved and now that

we know that he thought that Jordan, my daughter, could possibly be involved in the FBI we had to plan that if he stopped by our house because now he would come without calling. You didn't know because he wouldn't call for fear the FBI would be tracking him; and so, now, he was showing up in Durham without notice and I told -- we had to come up with a plan for my children. They weren't allowed to answer the door even if it was Uncle Brad unless, unless their dad was home.

Q And did he actually show up one day unannounced?

A Yes.

Q And what did he do when he showed up unannounced?

A He went to my son's football practice and drove up to the field and watched practice. Parents really aren't allowed to do that. You're not allowed to be on the field and he went and he got on the field. He was asked to leave and then he had Jeff, my son, in the car and they called and said, you know, Jeff said, ``Mom, I don't need a ride. Uncle Brad's here.''

Q You can't tell me what Jeff said.

A Oh, oh, I'm sorry.

Q But he got your son.

A Yes.

Q And as a result of finding out that he had your son what did you do? When you found out that he, your son was in the car with your brother, what did you do?

A Acted like we had a meeting so that I could come get my son.
Q Okay, so, you told Brad? Did you talk to Brad?
A No, I talked to Jeff.
Q On the phone.
A And he relayed it.
Q Okay, all right, and were you able to get your son?
A Yes, I was.
Q And was he unharmed?
A Absolutely.
Q Now, and when, when is this? This is still February?
A No, that was much, that was much later ---
Q Okay.
A --- than February. That was much later.
Q Well, let's go back.
A Okay.
Q Let's go back to February and you said you committed him to the Lighthouse or had him committed to the Lighthouse the second time in February; is that correct?
A Yes.
Q All right, and he stays there for several days.
A Yes.
Q The second, do you stay down here the whole time that he's in there this time or do you go back?
A No, my state of mind was that now that, you know, the

first time didn't work, we're going to try it again and this time maybe there would be, maybe they would some -- maybe the medicine would be taken regularly, maybe there would be follow-up visits, maybe there would be doctor's orders followed. You know, I thought the second time would be okay. Like the first time it's the first time. It was different second time.

Q All right, when he got out the second time ---

A Uh-huh.

Q --- tell us what happened after he got out in February.

A I left several days again after and again no immediate, just checking in, you know, nothing, there was no -- it was just checking in and I thought everything was fine until March 14.

Q What happened March 14th?

A My husband and I got a call.

Q From whom?

A From Dena.

Q And what was the tenor of the conversation?

A She was crying. She was asking -- basically at this point Jim had the phone because he is the officer and she needed to talk to him because Brad had allegedly put a gun in between his legs in the car and the incident that was talked about yesterday, you know ---

Q That's the incident where he held her at gun -- where he

held -- he had a gun and she was in the car with him and he was questioning her about her involvement with the FBI.

A Yes.

Q All right, and that was brought to your attention. As a result of that what do you do?

A Well, he was -- my husband had encouraged him to turn himself in. So, he turned himself in to jail and my dad and I had driven down the very next day to come down here and we had discussed what now our new plan was going to be. So, we came down. We met with Dena. We went out to dinner and our new plan was this, he couldn't be around her 30 days because of the criminal domestic violence. I hope I'm saying the right thing.

Q It's all right.

A I don't really know. I just was told at that point that he could not be around her for 30 days; and so, our plan was to bring him back home and ---

Q When you say bring him back home ---

A Durham.

Q --- you're talking about back to North Carolina.

A Right.

Q Okay.

A And we were thinking this might be a brain tumor. I don't know. I've just been taking him to a place, you know, where they were just assuming that, that ---

Q So, to help you get along ---
A Okay.
Q --- what do you do once you take him back to North Carolina ---
A We -- I ---
Q --- what do you all do when you get him to North Carolina?
A Well, I went to a social worker at -- in the emergency room.
Q Which hospital?
A Duke Hospital and I met with her alone and I went and I took her that seven page letter front and back, talked with her about what I was getting ready to do. I was going to talk him into coming in again and -- but I wanted her to know because I -- when I go with him in there I didn't want it to seem like I'm against him. So, I had to pre-do it because when he goes in if I can let him let this be on his own terms then it's easier, you know, it was easier to get him help. I cannot make him go. So, that was my deal. I had to go talk to her, give her the letter. She had the information, what had just happened to Dena. So, when I -- she had the information so that when Brad decided to come she already had it and no matter what he said in the interview process I didn't have to correct him and I didn't have to be against him.

Q All right.
A Okay.
Q As a result, as a result of taking him back to North Carolina was he later admitted to Duke?
A Yes, he was -- he - when he did decide to go, which was a day, within a day or two. I can't remember, but it was about March 15th.
Q So, it took you some time to convince him to do it?
A Yes, several days.
Q All right, and -- but you were able to get him convinced to admit himself into Duke and he was there for observation, too?
A Yes, but our big concern was that he also be medically checked. Like I wanted an MRI or CAT scan. I needed to know there wasn't something else causing whatever he was doing, I mean, you know.
Q Now, after he gets -- he stays in Duke Hospital for several days?
A Yes.
Q All right, once he gets out of Duke Hospital what happens to him then?
A Well, him leaving was, was against my -- all us, my family's -- none of us wanted him to leave there, and my ---
Q Leave where?
A Leave Duke.

Q Okay, he wanted to get out?
A Oh, yeah.
Q All right, and so, he got out because he had admitted himself.
A He admitted himself and I guess that's why he got -- he gets to get out. I, you know, I don't know what the rules are but my dad and I went up there and basically tried to talk to that doctor and he, he ---
Q But you can't tell me what the doctor said.
A Oh.
Q But you didn't want him to get out.
A No.
Q But he got out anyway.
A No, no.
Q After he got out where did he go to live?
A He went to my dad's for I want to say another week.
Q All right, and during that week who was responsible for seeing that he took his medications and things like that?
A Well, I didn't ask anyone. I just drove over there every day and I made him take his medicine.
Q Okay, how far does your dad live from where you live?
A Twenty minutes.
Q Okay, so, you'd drive over there every day, make sure he took his medicine while he was there.
A Yes, I knew ---

Q Now, at some point he left your dad's.
A Yes.
Q And where did he go when he left your dad's?
A Myrtle Beach.
Q Back to Myrtle Beach and did he and Dena then start to live together again?
A Yes, they'd never lived apart.
Q Other than when he was at Duke and when he was ---
A Right.
Q --- in with your dad.
A Right.
Q Okay, so, then he came back to Horry County, to Myrtle Beach and then they cohabited again as husband and wife.
A Yes.
Q All right, and this would have been in March of '05.
A March of '05.
Q All right.
A Well, yeah, and by the time he probably got back there it was either the end of March or very beginning of April. I just don't remember the date.
Q That's all right. Now, did he have any more hospitalizations after March of '05?
A Not by me.
Q Okay.
A And not according -- I don't know of any records, you

know.
Q Well, let me ask you, at some point in time did you receive a call from some counselor about him, Cathy Battle?
A Oh, she was back in February of '05. So, you know, January the Lighthouse and Waccamaw, February Lighthouse and then the third was Duke. She was - Cathy Battle was the middle, the February, in February, yes.
Q Okay, and how did you receive -- how did you -- did you contact Cathy about counseling him or did she contact you? How did that occur?
A To be honest I don't remember if Lighthouse had recommended her. I don't remember if I had just looked her up. I don't remember how we got Cathy Battle but I know I had to pay for Cathy Battle.
Q Okay, all right, and then later there was a Suzanne Smith. Did you have any ---
A I don't know Suzanne Smith and just saw doctor's records. I don't know her.
Q Now, is that the extent of any hospitalizations and counselings that you are aware of ---
A Yes, yes.
Q --- with Brad? Okay, all right, and now -- go ahead. I'm sorry.
A Except from all of this.
Q Right.

A Okay.
Q Right, and after - and so, that would have concluded sometimes early April of 2005?
A Yes.
Q All right, all right, and from April of 2005 on until November 13 of 2006 Brad was living here in Myrtle Beach with Dena?
A Yes.
Q All right, did they come to visit during that time between April and November of 2006? Well, they actually separated I think in June; right?
A June of 2006.
Q 2006.
A Right, so, from March, April 2005 up until June of 2006 they were together, and yes, they came and visited. I, I know that they came during a Christmas, during Christmas. I happened not to be home, but they took my children to lunch. Don't remember if Lauren was there.
Q And that would have been Christmas of `05?
A Christmas of '05, '05, yes.
Q Okay, all right, and were you talking to Brad on any regular basis between April and March of `06?
A I could not call him. If he wanted to call he would do that because he would not keep his, if he kept his cell phone on he was not going to answer it. He would call you. So,

there was really very few contacts after that. He was also, in my state of mind felt like he thought I was against him because I was -- every time I, you know, I'm the one taking him; and so, it became -- I know he loves me but I think he thought I was his enemy.

Q Because of the hospitalizations.

A (Indicates affirmatively.)

Q Just a couple of more questions. One, when Brad was at Duke did you find some letters that he had written?

A Yes.

Q All right, tell us about the letters that he had written that you found. What -- well, first of all tell me what did you do with the letters once you found them?

A I always gave whatever I found to doctors whoever we were seeing at the time.

Q All right, did you give it to Dr. Christopher at Duke?

A Yes.

Q And what was it that was alarming about the letters that you found?

A There were a lots of things alarming. I don't really ---

Q Do you recall the letters that you found?

A There just were, you know, a stack of things.

Q A stack of letters?

A What I did is I went - when he got admitted to Duke I went back to my father's house and I opened his brief case.

He doesn't know this. So, it's hard because he's hearing this for the first time a lot of this what I'm saying and I don't want him to -- I -- I'm having a -- this is kind of tough. Anyway, I made copies of everything in his brief case so that I could show his doctor because I wanted them to know what was on his mind really. I don't want him to tell what he ---

Q All right, and what was it? That's what I'm asking you. What was it that was on his mind based on what you read in the letters?

A The corruption, the FBI, the -- I was afraid.

Q I don't have any other questions. Answer any questions the Solicitor might have

THE COURT: Cross examination, Mr. Richardson.

MR. RICHARDSON: I will be every brief, Your Honor.

CROSS EXAMINATION

BY MR. RICHARDSON:

Q Ms. Cleary, I believe you indicated that -- first of all, do you need some water before we go on?

A No, I'm good.

Q Okay.

A But thanks.

Q There is no doubt you love your brother; correct?

A Sure, absolutely.

Q And that's shown with how you've taken care of him, and I believe you indicated you help take him to various hospitals

during 2005; correct?
A Yes.
Q And during 2006, summer through the fall, did you have a lot of contact with your brother?
A From 2006, in the summer of 2006.
Q During the separation?
A No, not a lot of contact. It was only on his terms.
Q Only on his terms.
A Uh-huh.
Q So, you don't know his state of mind at that time.
A Well, there was no miraculous recovery. So, if you want state of mind, I would -- if my -- if you want my opinion or do you want what's on paper because there was no recovery. So, his state of mind he was not in any rational state of mind.
Q And I sincerely don't mean to sound flippant.
A That's all right.
Q But your -- you have one of the hardest jobs as a housewife and mother.
A Thank you.
Q Your husband is a police officer; correct?
A Yes.
Q You're not trained in psychology?
A No.
Q Psychiatry?

A No.
Q You indicated that there was a belief by the Defendant that many of your family members were involved in this FBI conspiracy?
A Yes.
Q Brad hadn't harmed any of those family members; correct?
A No.
Q But they were involved in the conspiracy.
A Absolutely.
Q And he had been alone with those family members before.
A Yeah, well, yes, he has.
Q Okay.
A Uh-huh.
Q I'm not trying to trick you, ma'am.
A No, that's okay. Well, you know, I don't know. So, I have to just be careful.
Q The morning of November 13, 2006, were you present there ---
A No.
Q --- here in Horry County?
A No, no.
Q So, you didn't witness what happened that morning?
A No, absolutely not.
Q You didn't witness anything that was said.
A No.

Q Thank you so much for your attention.
A You're welcome.
THE COURT: Redirect, Mr. Wilson.
MR. WILSON: No redirect, Your Honor, thank you.
THE COURT: All right, very good. Might this witness be excused?
MR. WILSON: Thank you, Your Honor.
MR. RICHARDSON: No objection from the State, Your Honor.
THE COURT: All right, you're welcome to stay but you're free to leave if you would like to.
A Okay.
MR. WILSON: Dr. Domino.
THE COURT: Dr. Domino, please come forward if you could, please, ma'am.
I'm going to ask if you could to come forward, place your left hand on the Bible and raise your right hand as the clerk administers the oath.
Whereupon, Marla Domino was called to the stand, duly sworn by the clerk and testified as follows:
THE COURT: Yes, ma'am, please pull up real close to the microphone, speak loudly, clearly and slowly in order that we might hear everything that you've got to say and state your full name again.
MS. DOMINO: My name is Marla Domino, D-O-M-I-N-O.
THE COURT: Thank you, Dr. Domino.

DIRECT EXAMINATION

BY MR. WILSON:

Q Dr. Domino, if you would, tell us first where you're employed.

A I am employed with the Department of Mental Health of South Carolina.

Q And how long have you been employed with the South Carolina Department of Mental Health?

A About five and a half years.

Q And ma'am, just so we can go through this if you would give me the benefit of your education.

A Sure, I received my bachelor's degree in psychology from the University of California Santa Cruz in 1992. From there I went on to Northeastern University in Boston where I got a master's degree in criminal justice. I then went on to the University of Alabama from 1996 to 2001 where I received my PhD in clinical psychology in a specialty track in psychology and law during which I attended a one-year pre-doctoral internship with the Bureau of Prisons and the University of North Carolina Chapel Hill. After that I did a one-year postdoctoral fellowship in clinical forensic psychology at the University of Massachusetts Medical School law and psychology program in Worcester, Massachusetts.

Q And Doctor, then after graduating and finishing your education where did your employments begin?

A I was first hired by the South Carolina Department of Mental Health in January of 2003 and have been there since.
Q All right, and at the -- what is your title or what is your position there at the State Mental Health Department?
A My title is chief psychologist and my primary duties are to conduct court-ordered evaluations.
Q All right, and since 2003 how many court-ordered evaluations have you conducted on Defendants that have been sent to you by the Court?
A Approximately 400.
Q Okay, so, you have conducted 400 court-ordered evaluations. Now, do you do any evaluations outside of court order?
A I do. As a psychologist I also conduct psychological testing for the psychiatrists on our outpatient unit as well as the forensic hospital.
Q Okay, and, if you would, what is your area of expertise?
A Clinical and forensic psychology.
Q All right, and let me ask you, Doctor, have you testified in the courts of this state in the past?
A Yes, I have.
Q In criminal courts?
A Yes.
Q And on how many occasions have you testified in the criminal courts of this state as to court-ordered evaluations?

A Approximately eight.
Q Okay, all right, and let me ask you in the 400 evaluations that you have - well, I will save that for later. Have you testified in any federal courts?
A Yes, I have.
Q All right, how many times have you testified in federal court?
A Twice.
Q Now, you belong, Doctor, to any organizations - well, let me back up and ask you this first. Tell us what honors if any you have in the field of psychology that you have received.
A Well, in my second year of employment at the Department of Mental Health I received the employee of the year award. I'm also an assistant professor at the University of South Carolina.
Q And how long have you been an assistant professor there?
A Since March of 2004.
Q Okay.
MR. WILSON: Your Honor, at this time I would like to offer Dr. Domino as an expert in the field of clinical psychology; is that correct?
A Yes.
THE COURT: Any questions with regard to her qualifications from the State?
MR. RICHARDSON: Just a couple, Your Honor.

EXAMINATION (RE: QUALIFICATIONS)

BY MR. RICHARDSON:

Q Dr. Domino, you stated you've done approximately 400 court-ordered evaluations?

A That's correct.

Q Is that both for competency to stand trial as well as criminal responsibility?

A That's correct.

Q Okay, but it's not 400 for criminal responsibility. It's 400 total?

A Yes.

Q And would you say you've done more evaluations for competency to stand trial?

A That's correct, yes.

Q And a Defendant can't stand trial unless he's competent to stand trial.

A Right, yes.

Q And you testified you've testified in criminal court eight times.

A In South Carolina, yes.

Q in South Carolina, all eight of those times deal with competency to stand trial or with ---

A All but one. One was for criminal responsibility.

Q So, you've testified once with regard to criminal responsibility?

A In South Carolina, yes.

MR. RICHARDSON: Your Honor, the State has no further questions and believes that she is capable of rendering her opinion.

THE COURT: All right, Ms. Foreman, ladies and gentlemen of the jury, once again, this is a witness that falls in a special category known as an expert witness. She is qualified to testify in the field of clinical forensic psychology and she is able to render her opinion in this field or discipline. I will charge you at the conclusion of the case that you can consider opinion testimony offered by an expert witness but ultimately the believability of an expert's opinion is left up to you like any other testimony. I will charge you in more detail at the conclusion of the case. Mr. Wilson.

MR. WILSON: Thank you, Your Honor.

BY MR. WILSON:

Q Doctor, let me ask you, in this particular case of Brad Senter, if there was a court order sending him to the Department of Mental Health for, one, an evaluation as to competency ---

A I'm sorry. Could you repeat the question?

Q What I'm asking you is was there an order sending Mr. Senter to Waccamaw Mental Health, to the South Carolina Waccamaw Mental Health for an evaluation as to his competency?

A Not to the Waccamaw Mental Health Center as far ---
Q Where would that have gone?
A The court order?
Q Yes.
A It would have gone to our unit, the forensic evaluation service which is in Columbia.
Q All right, and your agency does just the actual evaluations in terms of criminal responsibility.
A Yes, and competency, yes.
Q All right, and competency, all right, but you didn't do the competency in this particular case.
A No, actually I did.
Q You did.
A Yes.
Q And that's what I was asking.
A Okay.
Q Did, did -- was he sent to you for a determination of competency?
A Yes, that was my initial contact with Mr. Senter.
Q Okay, all right, and when was that, Doctor? When was he sent to you for that?
A I -- my first meeting with him occurred on February 27th of 2007.
Q All right, February 2007, and when -- did you actually conduct the evaluation yourself, you or along with some other

folk in your department?
A Yes, I did with the second examiner, Ms. Carol David.
Q And Ms. David is here in the back of the courtroom?
A Yes, she is.
Q All right, and when you did that examination in February tell us what you were looking for or what you were trying to determine.
A That evaluation is what we call a competence to stand trial evaluation and essentially what my job is at that point is to try to determine if the person or client has a mental illness such that they would not be able to understand the proceedings or work with their attorney. So, first I had to determine does Mr. Senter have a mental illness, and then secondly, if he does have a mental illness, would this impede his ability to work with his attorney to take care of these charges he has.
Q And after conducting the evaluation what was your determination?
A My determination was that he did have a mental illness which I diagnosed as delusional disorder and that his mental illness was definitely impeding his ability to work with his attorney to address the charge.
Q Okay, and so, at that time that would mean that he would not have been competent to stand trial at that time.
A That is correct.

Q Based on that opinion.
A Yes.
Q All right, all right, and so, once that was done what if anything happens to him in order for him to get competent to stand trial?
A Well, if the Court agrees with our opinion, which in Mr. Senter's case they did, he is court-ordered for inpatient treatment at the South Carolina State Forensic Hospital, which is located in Columbia, for up to 60 days. So, Mr. Senter was admitted to the hospital and stayed there for approximately 60 days while he underwent psychiatric and psychological treatment.
Q So, he was sent back to you for you to -- and for those -- for that 60-day period?
A At the -- yes, I saw him at -- towards the end of that 60-day period.
Q All right, all right, and during that 60-day period what occurs?
A The staff at the hospital will assess the patient, take medical, psychiatric, social history, they'll talk to family. They will prescribe whatever medication they deem appropriate. They have ongoing observation of the patient. If needed, they provide education about the court system. That's essentially what occurs.
Q If you would, you said that your evaluation determined

that he was not competent to stand trial. Can you explain to us what it was about him and about his conduct that led you to believe that he was not competent back at that time to stand trial?

A Yes, I had diagnosed Mr. Senter with what we call delusional disorder and a delusion is a fixed false belief. So, it's something that people believe that is fixed. You can't convince them otherwise, and it's also false, and Mr. Senter had a very detailed delusion about that the FBI was out to get him, they were trying to destroy his life and that this had occurred over a period of time, and at that time he also believed that the accusation that he had shot his wife was actually fabricated by the FBI, that it didn't happen, and during the evaluation I actually I had pictures of Ms. Senter in the hospital, excuse me, Ms. Lester in the hospital, and I showed them to Mr. Senter at the time and he was a hundred percent convinced that the FBI had fabricated that, that this was all a hoax in their effort to destroy his life. So, given that and he also at that time his attorneys, which was not Mr. Wilson at the time, he believed that his attorneys were somehow involved in this, that they were trying to thwart his case and that they were acting in cahoots with the FBI. So, it was very obvious to us that he was mentally ill and that these delusions he had were going to impact his ability to work with his attorney.

Q Now, Doctor, let me ask you, when a person has a delusion disorder will -- does the -- will they ever go away? Will the delusions ever just go away even with medication? Will they go away completely?

A Well, it's different for different people, unfortunately delusions more so than hearing voices and seeing things. They're harder to treat with medication. So, often, at least in my experience, what I see is that people their delusions don't go away at all or completely but they're not as prevalent. They're not as forthcoming with them. They're willing to entertain other explanations for their thoughts. So, they might hold on to their delusion a little bit but they're willing to let it go more easily. Some people respond very well to medication and no longer have delusions.

Q Now, at some point in time you received a court order to determine whether or not Mr. Senter was criminally responsible for his conduct on November 13th.

A That is correct.

Q Okay, explain to us first of all what it is, what that means when you say was he criminally responsible what that means and what your evaluation involved.

A Okay, criminal responsibility is also caused the insanity defense, not guilty by reason of insanity. It goes by different names and every state has a different definition of what that means. South Carolina has defined not guilty by

reason of insanity as essentially does this person have a mental illness such that they didn't know right from wrong at the time of the crime and that right from wrong can be legal right from wrong or it can be moral right from wrong. So, my job when I'm doing a criminal responsibility evaluation is to again first of all determine does the person have a mental illness and, two, was this person's mental illness so significant at the time of the crime that they did not know right from wrong.

Q In determining that in this particular case what, what information did you take into consideration in trying to come up with your diagnosis?

A Well, we have quite a lot of information that comes that's generated from the police department, witness statements, incident reports, officer statements. I had Mr. Senter's criminal record. I had records from his family counselor, Ms. Cathy Battle, also records from Waccamaw Mental Health Center, from Real Solutions, which was an outpatient psychiatric clinic, from Lighthouse Care Center. I also had some essays that were reportedly written by Mr. Senter.

Q Do you have those essays with you?

A I do. They're, they're in records on the bench, but ---

Q Could you get them for me?

A Sure.

I do have some letters that Mr. Senter had written to

various family members.
Q Okay, and did you use those in your evaluation process?
A Yes, I did.
Q All right, and could you -- could I -- you have copies of them or is that your original, is that the only copy you have?
A This is the only copy I have.
Q All right, if you would for me, would you read for me some of the letters that you have there?
A Yes, one is -- it is not dated but it is to Ruth, and for example, he writes, ``Dena,'' referring to his former wife, ``has been my enemy since February 2004. Since then she has watched the corruption and been a part of most of the setups. Her anger and hatred for me has fueled her fire. You have been led to believe that she was helping in the same capacity as you, but it is obvious that she has been wicked. You on the other hand have been duped and used by the FBI to taunt me and stage events for what'' -- I'm not sure what that word is - ``supposed gain. You have been deceived and then you have grossly deceived me and helped cover up the corruption. What you have taken part in is not justice, ethical, moral or lawful. Yet you choose to do what you have. Duke, Lighthouse was nothing but torture and cover-up. I live it daily and it is repeated daily by others. Of course, you know this.''
Q Do you have just one more letter? Anyone is fine and then we'll be -- and I'll move on to something else.

A Okay, again, this is a letter to Ruth dated February 15th of `07. ``Yes, it is true that I am your firstborn but zero of your actions, words, torment and torture confirm your love for your own flesh and blood son. You have been equally flawed in believing that I could or should trust you given your deceit, lies and inhumane treatment of me. You sold your son to Satan as all of you financially profited as your collaberatives destroyed me combined. You all murdered and stole my soul. Your role is undeniable.''

Q And do you know who Ruth is?

A I believe it is his mother.

Q Now, back to the evaluation. When you were conducting the evaluation to determine criminal responsibility how long did you keep him at the state -- I like to call it state hospital, I don't know, mental health.

A Well, actually, I believe at that point he had been returned to the jail. So, he was transported to us and I spoke with him for several hours and he was transported back to jail.

Q And in terms of criminal responsibility what determination did you make?

A It was my opinion that because of his delusional disorder that he did not know right from wrong at the time of the incident.

Q Has your opinion changed?

A It has not.
Q And your opinion is today as it was the day that you evaluated him?
A Yes.
Q Now, let me ask you in the process of gathering all this information did you ever talk to Dena?
A Yes, I did.
Q And what did you discuss with her about all of this?
A Well, I essentially asked her for her own observations about Mr. Senter's behavior around the time this happened and what her experience with him was up until that point.
Q Okay, and did you take that into consideration in your evaluation process?
A Yes, I did.
Q Let me, let me ask you this and then I will, I will leave you alone. Is there any question in your mind to a reasonable degree of acceptance that is accepted within your medical community that, in fact, Brad Senter was on November 13th, 19 -- I'm sorry, 2006 not criminally responsible?
A No, I have no doubts.
Q I don't think I have any other questions.
THE COURT: Cross examination, Mr. Richardson.
MR. RICHARDSON: Your Honor, this may take a little while, didn't know if you wanted to break.
THE COURT: We will proceed forward until breaking

time.

CROSS EXAMINATION

BY MR. RICHARDSON:

Q Good afternoon, Dr. Domino.

A Good afternoon.

Q And thank you for being with us today. How long after the Defendant shot Ms. Lester did you interview him?

A Well, let's see, the incident occurred allegedly on November 13th of '06 and I saw him for criminal responsibility August 14th of '07.

Q But the first time you saw him was I believe you said February of '07.

A Yes, that was for competency, yes.

Q That's a little over 90 days afterwards; correct?

A Correct.

Q And I believe Mr. Wilson got into he was found to be incompetent at the time; correct?

A Correct.

Q I believe in your reports from that initial interview you indicated he knew who his attorney was.

A Yes.

Q Knew what the jobs were of the Solicitor?

A Correct, yes.

Q Judge?
A Uh-huh.
Q All those parties but he had problems with the FBI.
A Right, yes.
Q And after you found him incompetent to stand trial he got to stay at the mental hospital for 60 days.
A He was court-ordered, yes.
Q So, his incompetency caused him to be held at the mental hospital for 60 days.
A That's correct.
Q And then 60 days later he's able to get right, he's able to be competent.
A Yes, at that time we opined that he was competent to stand trial.
Q How many times did you interview the Defendant before rendering a report on criminal responsibility?
A That was the third time we had met.
Q It was the third time you met, you just interviewed him one time in August?
A Yes.
Q How long was that interview?
A One hour and 45 minutes.
Q And the other interview?
A The first time when I saw him in February was three hours

and five minutes. The second time when I saw him in May of `07 was one hour and 15 minutes.

Q So ---

A Six hours and five minutes.

Q --- I was going to say about six hours and some change.

A Yes.

Q You're quicker on the math than I am. Did you do any additional independent investigation?

A I talked to several people on the phone.

Q Spoke to family?

A Yes, I spoke with his mother several times. I spoke with Detective Tim Troxell and I actually spoke with Ms. Lester.

Q Did you speak with any of his friends?

A No, I did not.

Q Any of his neighbors?

A I tried to call Mr. and Mrs. Vonspreckelsen but they never returned my phone calls.

Q Do you have any personal knowledge of this case?

A No, I do not.

Q Have you sat down and personally interviewed any witness in this case?

A Other than those individuals I just mentioned, no.

Q So, you're relying a great deal on what the Defendant and

Ms. Bergman told you.
A No, actually I have to disagree with that. I have quite a bit of data from the police department. I spoke with the detective. He has mental health records that I relied on. I also spoke with Mr. Senter and Ms. Lester, his mother.
Q But the mental health records don't deal with

THE COURT: You need to allow her to finish her answer.
MR. RICHARDSON: I'm sorry, Your Honor. I thought she was.
A I was done, yeah, thank you.
Q I apologize. Those mental health records those were times prior to November 13th, 2006; correct?
A That is correct, yes.
Q When the Defendant met with you in August of 2006 [sic] was he in control of his moral faculties?
A I'm not sure what you mean by that.
Q Was he, was he in control of his normal physical faculties?
A It appeared to be yes, uh-huh.
Q And as far as his moral faculties when he met you in August did he know right from wrong?
A I didn't assess him for that, that wasn't the purpose of

our evaluation.
Q So, you didn't ask him at that point if he knew whether or not shooting someone was wrong or not?
A No, the evaluation specifically focuses on the time of the crime, not at the time I met with him.
Q You did examine him with regard to shooting Ms. Lester.
A Yes, I did.
Q And in that examination if he tells you he doesn't remember it, does that, does that effect your examination?
A It can. It depends on how much other collateral data I have. If he were the only one around at the time then that would have a significant impact, but in this case I was able to speak with the alleged victim. I was able to speak with the detective. I was able to speak with family members who had had recent contact with him.
Q How about the Defendant did he tell you he remembered shooting her?
A He did not. He said his memory for events was, I'm not sure the word he used, but he had a difficult time remembering details.
Q He claimed amnesia?
A No, I wouldn't say amnesia if you're using that in a clinical sense but ---

Q In a layman's terms?
A Okay.
Q He forgot?
A Well, he had difficulty recalling, yes, which is not uncommon for people with mental illnesses.
Q Can someone fake amnesia ---
A Sure.
Q --- or difficulty recalling?
A Uh-huh, yep.
Q When you met with the Defendant he had a defense attorney; correct?
A No, I don't believe he ever had his attorney present.
Q He was represented by counsel.
A Yes, yes.
Q He had two attorneys as a matter of a fact?
A Correct.
Q He was charged with this crime in November of `06 and you meet with him in August of `07?
A Yes.
Q So, about nine or 10 months past and he was represented by counsel that entire time?
A That's correct.
Q And do you know if he's met with counsel any time during that period of time?

A Yes, he did.
Q To discuss the case?
A I believe so, yes.
Q To discuss defenses?
A I believe that he talked about that briefly, yes.
Q Wouldn't you say it's difficult to make retrospective statements about a person's state of mind at a given point in time in the past?
A Would I say it's difficult? Every case is different. Some cases are easier than others.
Q But the fact that a large amount of your information comes from someone being charged with a crime does that make it a little more difficult to make retrospective statements?
A I'm sorry. I missed the very first part of your statement.
Q When a large amount of your information is based off of someone being charged with a crime, and you're depending on what they're telling you ---
A Uh-huh.
Q --- does that make your job a little more difficult to ascertain what their state of mind was at a given point in time in the past?
A Well, again, that varies with every case. It depends on if the person is a good historian or not. It depends on if I

can try to ascertain if they're telling the truth by talking to other people. Every case is different.

Q If a man is charged with a crime such as shooting somebody ---

A Uh-huh.

Q --- faces loss of liberty, might he exaggerate symptoms of insanity?

A In fact, we have many clients who come to us and pretend that they're mentally ill. So, that's something that we constantly keep in mind.

Q Might lie to you?

A Sure.

Q You said you spoke with Ms. Bergman, the Defendant's mother.

A Yes.

Q Did she indicate she loved him?

A I don't believe that was specifically talked about, but that was the sentiment I got.

Q Did she seem to care for him?

A Yes, very much so.

Q And Doctor, I believe you indicated in your report from August of `07 the Defendant was convinced his entire family was conspiring with the FBI.

A Yes, that is correct.

Q They were all out to get him?

A Yes.
Q That includes his mother?
A Yes.
Q His father?
A I believe so.
Q And according to your report the Defendant visited his mother November 11 or 12th, 2006.
A Yes.
Q Just a day or two before he shot Ms. Lester?
A Correct.
Q He believed they're involved with the FBI. I believe your report indicated he was angry with them.
A Yes.
Q They're conspiring with the FBI. Does he harm them?
A No, not to my knowledge.
Q They weren't disowning him.
A No.
Q They weren't divorcing him.
A No.
Q He spent several hours with his mother.
A Yes.
Q And no harm befell her.
A No, but she did give him money to go to a hotel for that evening because she felt as if her life was in danger. That is what she told me.

Q Did the Defendant indicate his response to the divorce?
A He did, yes.
Q Was he happy he was getting a divorce?
A No, he was not.
Q Felt betrayed by the divorce?
A That's not the word he used but he did express that he had hopes of reconciling.
Q So, he had hopes of reconciling?
A Well, he expressed to me he didn't think that was going to happen but he did, he did hope that that would happen although the likelihood was very slim.
Q Certainly not after he shot her.
A Probably not.
Q Now, you interviewed the Defendant, I believe, on August 14th, 2007?
A That's correct.
Q Got his side of the story.
A Yes.
Q You got a mountain of documentation I believe you said from Cathy Battle from Waccamaw Mental Health and Duke Hospital, a ton of information.
A Correct.
Q You spoke with Ms. Bergman, I think by my count it was three times?

A That's correct.
Q The Defendant's mother?
A Yes.
Q Spoke with Detective Troxell?
A Yes.
Q All this in August; correct?
A Yes, that is correct, and I spoke with Ms. Lester in September.
Q You spoke with Ms. Lester in September?
A Yes.
Q September 5th, right?
A Yes.
Q And then you wrote your report on September 6th?
A I completed it then, yes.
Q But you did speak with the Vonspreckelsens.
A No, they never returned my calls.
Q Did you speak with Joe Estock?
A No, the number that was provided in the police documents was incorrect and we couldn't find any additional numbers for him.
Q How about Mr. Pendlebury?
A There was no number listed for him in police records, and again, we couldn't find a current phone number for him.
Q The police reports indicated those people were present at the crime scene?

A Correct.
Q Came into contact with the Defendant the morning of November 13th, 2006.
A Yes.
Q Would that information have been helpful to you?
A Well, it could have been although I believe they did provide statements to the police. So, there was a description in the police records about what they witnessed.
Q So, are you saying it would have been helpful to speak with them?
A It's hard to say without speaking with them.
Q So, the only people that you spoke with that were present during the shooting or immediately after the shooting were the Defendant?
A Correct.
Q And Ms. Lester?
A And I actually spoke with the detective who met with Mr. Senter shortly after his arrest.
Q And you stated that, I think you stated what the definition of not guilty by reason of mental insanity, stated the definition of guilty but mentally ill. That would be guilty knowledge?
A No, guilty but mentally ill means that somebody's mental illness prevented them from conforming their conduct to the requirements of the law.

Q But if someone knows an act is morally wrong or legally wrong that would be different?
A I'm sorry. Could you say that again?
Q If a person recognizes an act as morally wrong or legally wrong what would your position be on that?
A Well, I mean, if someone were to not recognize the act is morally wrong but recognize it is legally wrong it would still satisfy the criteria for not guilty by reason of insanity.
Q So, Doctor, you testified in court. So, you're saying that the definition of guilty but mentally ill, one of the definitions is not that if at the time of the commission of an act constituting an offense the person had the capacity to distinguish right from wrong but because of a mental disease or defect lacked sufficient capacity to conform; is that what you're saying?
A No.
Q That they have a mental illness and they just can't conform?
A That is guilty but mentally ill.
Q Doctor, would you say the attempt to conceal a crime shows guilt?
A Not necessarily.
Q No doubt about it the Defendant requested Ms. Lester to come to his house?

A That's correct.
Q So, he initiated the contact that morning?
A I believe so, yes.
Q Thank you, Doctor. No further questions.
THE COURT: Any redirect?
MR. WILSON: Yes, sir, just a couple of questions, Your Honor.

REDIRECT EXAMINATION

BY MR. WILSON:
Q Doctor, the Solicitor was asking you about the delusional disorder. Let me ask you, you made this diagnosis in `07; is that correct?
A That is correct.
Q Had it been made prior to '07 by any other doctors or therapists or whoever?
A Yes, in fact, Mr. Senter's first contact with mental health, Waccamaw Mental Health Center in January of `05 they diagnosed him with delusional disorder.
Q Okay, and what about Real Solutions?
A Real Solutions also again delusional disorder.
Q And let me ask you this. The Solicitor has asked how many times you've testified and in the years that you have been with mental health for the State of South Carolina how many times in your career have you found that a person was incompetent -- well, let me rephrase that. How many times

have you found that a Defendant was not guilty by reason of insanity?

A Mr. Senter is only my second case where I have opined that somebody was insane at the time of the crime.

Q And that's out of the 400 plus evaluations that you've done?

A Yes, 400 which includes a competence to stand trial.

Q No other questions.

THE COURT: All right, any objection to this witness being excused?

MR. RICHARDSON: No objection from the State, Your Honor.

MR. WILSON: None, Your Honor.

THE COURT: You may -- you're free to leave. Thank you, ma'am.

All right, we're going to break. Madam Forelady, ladies and gentlemen of the jury, we're going to break for lunch at this time, and I'm going to ask that you be back at 1:45 sharp, 1:45 sharp. Thank you very much. Let's be on time and we will try to be on time as well, and do not discuss the case.

Everyone remain seated as the jury exits the courtroom.

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: Anything from the State before we break

for lunch?

MR. RICHARDSON: Nothing from the State, Your Honor.

THE COURT: Anything from Defense?

MR. WILSON: Nothing, Your Honor.

THE COURT: We'll stand at ease until 1:45.

*****OFF THE RECORD*****

(On the record.)

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: Please be seated. Anything from the State before we proceed?

MR. RICHARDSON: Nothing from the State, Your Honor.

THE COURT: Anything from Defense?

MR. WILSON: Nothing, Your Honor.

THE COURT: All right, we're ready for the jury.

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: Mr. Wilson, you're recognized.

MR. WILSON: Thank you, Your Honor. Cathy Battle.

THE COURT: Ms. Battle, I'm going to ask if you could come forward and place your left hand on the Bible and raise your right hand as the clerk administers the oath.

Whereupon, Catherine Easterling Battle, was called to the stand, duly sworn by the clerk and testified as follows:

THE COURT: Ms. Battle, please pull up real close to

the microphone, speak loudly, clearly and slowly in order that we might hear everything that you've got to say and state your full name if you could, please, ma'am.

MS. BATTLE: My full name is Catherine Easterling Battle.

THE COURT: Very good. Thank you.

DIRECT EXAMINATION

BY MR. WILSON:

Q Ms. Battle, if you would, would you tell us what kind of work you engage in?

A I'm a professional counselor and I'm a marriage counselor. I see adult individuals and couples.

Q And how long have you been doing that?

A Approximately ten years. Previously I saw children. I was a play therapist and saw children as well.

Q And if you would, ma'am, would you give us the benefit of your education and your experience in the field of counseling?

A Okay, I have a masters degree and also an educational specialist degree in counselor education which from the University of South Carolina. I'm licensed as a professional counselor and as a marriage and family counselor in South Carolina. I'm also trained as what's called an Imago relationship therapist and certified in that, as well as a workshop presenter with Imago.

Q And during the course of your work experience how many people would you say you have counseled with in that ten year period that we've been talking about?
A How many?
Q Individuals, couples?
A Individuals have I counseled?
Q Yes.
A Well, I've been in private practice for seven years and I see approximately 20 clients a week, so, if you are good at math.
Q And you said private practice for seven years and you said you've been doing this for ten. What did you do the other three?
A Before that I was with Waccamaw Mental Health.
Q Okay, you were with Waccamaw Mental Health.
A As a school-based counselor seeing children.
Q Okay, and, and what year did you go into private practice?
A It was in 2001.
Q Now, at some point in time did you have an occasion to see Brad Senter?
A I did.
Q All right, and tell us how that came about, how was it that he came to see you or contact was made between the two of you.

A I know that it was a referral from the Lighthouse. I'm not sure if, I'm not sure if they called me or if Brad called me but I think that that's where he got my name.
Q Okay, and he came to see you as a counselor and can you tell us why he was there, for what reasons did he come to see you as you understood it initially?
A He came with concerns. One of the first questions I ask clients is what brought you here and I think, you know, he had concerns about his marriage, about his job, he was looking for a job and, you know, it was mainly life issues.
Q When was it?
A This was -- I have my notes here but this was in February 7th of 2005.
Q February 7th, 2005?
A Right.
Q And that was your first or initial visit with him?
A Yeah, I had one -- just that initial assessment visit with him and then a follow-up visit when he -- I asked that he bring his wife with him and she came. So, really, I just, I saw him those two times.
Q Now, did you make any kind of a diagnosis involving him or I don't know if that's the correct word or an evaluation or a determination as to what was wrong with him or what his problems were or what you believed his problems were?
A Uh-huh, I guess being different from a psychiatrist I

really deal more with people's life issues. So, diagnosing is not a big part of my focus in a session. It's more finding out what, what are their concerns, but there was a continual sort of thread of paranoid type, you know, language that was throughout our assessment.

Q When you say and you have to help us.

A In that he -- well, there were -- he had sort of recurring suspicions about people, a sense that his sort of irrational fears or seeing hidden meanings. He mentioned the FBI and feeling like there was a connection with the FBI in different situations.

Q And as a result of this -- now, was this a determination that you made at the initial meeting or is this something you determined at the second visit when he and his wife were there together or a combination of both?

A No, I realized in talking with him that there was something else going on, that there was some definite paranoid type concerns there, and then I asked, you know, when he said there were issues with his marriage I asked that his wife come in to sort of clarify what was going on.

Q Now, after the second visit, after the second visit when he and his wife came what did you -- what determination did you make about whether or not you needed to see them further or what needed to happen from that point?

A Well, in that second session we -- I think I asked his

wife, you know, what are your concerns and she started saying that he was keeping a knife under his bed and, you know, that his behavior was really escalating and, you know, I realized myself that he was definitely at a different level than the week before and I think we probably didn't get ten minutes into the session when I just said, ``You know, I think we need to address that I think you need to be in an inpatient facility,'' and actually he was very, you know, cooperative and I called the Lighthouse right then and talked to the nurse that was on duty and then he talked to the nurse to sort of reassure himself and agreed that -- I don't know really if they -- they may have left my office and gone straight there or agreed that they would go shortly thereafter that he would be admitted.

Q And did you make reference for him to see any other therapist or psychologist or anything?

A I'm thinking that either the Lighthouse had called me back about seeing him afterwards and I felt like that really wasn't my expertise and I referred him to a counselor named Suzanne Smith, who is a psychiatric, who has a psychiatric background.

Q Thank you. Thank you so much. Answer any questions the Solicitor might have for you.

THE COURT: Cross examination.

CROSS EXAMINATION

BY MR. RICHARDSON:

Q I'll be brief, Ms. Battle. You weren't present at 120 Barclay Drive on November 13th, 2006?

A No.

Q Have no idea what the Defendant's mental state was that day?

A No.

Q Thank you.

MR. WILSON: No other questions, Your Honor.

THE COURT: You may step down and might this witness be excused?

MR. WILSON: I appreciate that. Thank you, Your Honor.

THE COURT: You're free to leave at this time. Thank you so much.

All right, Mr. Wilson, you may call your next witness.

MR. WILSON: Thank you, Your Honor. Ruth Bergman.

THE COURT: Yes, ma'am, could you please come forward and place your left hand on the Bible and raise your hand as the clerk administers the oath. Left hand on the Bible, raise your right hand, the other right hand. There you go. Thank you.

Whereupon, Ruth Bergman was called to the stand, duly sworn by the Clerk and testified as follows:

THE COURT: Thank you ma'am. I'm going to ask you to

watch your step there and have a seat in the witness chair. Pull up real close to that microphone, speak loudly, clearly and slowly and state your full name, please, ma'am.

MS. BERGMAN: Ruth Senter Bergman. Can you hear?

THE COURT: Yes. Thank you.

DIRECT EXAMINATION

BY MR. WILSON:

Q Ms. Bergman, where do you live, ma'am?

A I live in Wilson, North Carolina.

Q All right, and have you lived there all your life?

A No, sir.

Q Where have you lived, other places that you've lived?

A I was born in Indiana. Met my husband, the father of Brad, moved to North Carolina and lived there most of our married life and since then.

Q Okay, and now, Brad's your son?

A Yes.

Q And he is your oldest child?

A Yes.

Q Now, ma'am, if you would just so I don't spend a lot of time going back to things that we covered with Lisa let me ask you some specific questions about Brad.

A Sure.

Q Let's just talk for a minute about when it was that you realized or came to understand that there was some problems

in Brad's life?
A It was when he was at Tennessee or on his return from Tennessee and I believe that was 2004.
Q Okay.
A Not sure.
Q All right, and what was it that led you to believe that there might be some problems in 2004 when he returned from Tennessee?
A Well, the first time was when he and Dena came to my condo that I previously owned here in Myrtle Beach and he was talking so crazy just out of the ---
Q Well, what was it that he was saying that was out of the ordinary that you felt concerned about?
A All about the FBI and just bizarre things and I just didn't know what to do.
Q So, so, at some point did you -- when he wasn't around did you have any conversations with Dena about what he was saying and his behavior?
A Yes.
Q All right, you all discussed it?
A Yes.
Q All right, and as a result of that what if anything was done?
A I feel nothing. She -- we corresponded back and forth. I was pleading for her to have him committed. This was after

he, after 2005 incident and I talked with the family about it.

Q All right, and did you all correspond by e-mail or by ---

A By e-mail.

Q All right, and let me show you some e-mails. Take a look at those and I need you to look at each page for me.

A Yeah, yes.

Q Okay, okay, now, what I want you to do is look at the -- if we ---

A I'm sorry ---

Q I'm sorry.

A Okay, excuse me.

MR. RICHARDSON: Same ones from yesterday; correct?

MR. WILSON: The same ones ---

Your Honor, I'm just offering it for identification.

MR. RICHARDSON: For identification?

MR. WILSON: Yes, sir.

(Whereupon, Defense Exhibit Number 11[E-Mails] marked for identification.)

BY MR. WILSON:

Q Now, I don't want you to discuss what's in the contents of these e-mails but what I want you to do the dates on those e-mails between you and ---

A Okay.

Q Just the dates, I just want to know the dates that the e-mails were.
A April the 10th, '06; responded on April the 11th, I mean April the 11th; April the 18th; this one is April the 15th; this one is June the 6th and 7th of '06; and this one is June the 6th, '06; June the 7th, '06; July the 16th, '06; July the 15th , '06; that was the end.
Q Now, these e-mails that we're talking about, these e-mails between you and Ms. Lester at the time Ms. Senter, Dena, what I'm asking you is the e-mails that we just read ---
A Uh-huh.
Q --- the dates, those were dates that there was correspondence between the two of you regarding Brad.
A Right, during '06.
Q All right, all right, and tell us, tell this Court what it was that you all were talking about.
A Trying, I was trying to get him committed. I have to look at it. May I look at them? There's so much.
Q Would these help you, help you with your recollection?
A Would it be better -- it will, yes, uh-huh. Okay, on January she had borrowed my car for two months because Brad was not working and she needed her car for transportation. So, they borrowed my car and my feeling was that he needed to go back, transportation to go back and forth to the doctor.

So, I was willing to let them have my car for two months and --- but it was in March of `06 we kept corresponding, that I learned she had sent me an e-mail about going to an attorney and I wrote her back that I thought she needed to go to a doctor, get him to a doctor and not an attorney for help, and I was still trying to get my car and then there was a question about the gun in the house, and I was sort of surprised because I knew my daughter and son-in-law had gone down there and I felt like they would have seen a gun. So, I was questioning whether it was a real gun because I knew he kept a BB gun for the birds to keep them away from the cats. So, I was concerned that it was a real gun and then I think our conversation just went on to about me retrieving my car and it was about June when I got my car back and that's what this and it was mostly about I was upset that she did not have him committed and I didn't learn until later that I could've done that but I didn't know at the time and I thought since she was his wife she would do it. It's hard to know where you stand when you're -- when they've been married so many years and I didn't want to intrude but yet I knew he needed help badly as I was afraid of my own son.

Q All right, let me ask you about that. In November, this, this, this shooting occurred in ---

A November the 13th.

Q November the 13th, a few days prior to that Brad had

come to see you?
A Well, yes, the two weeks before this happened my sister had arrived from Indiana and we came down to visit him. I wanted to check on him because I had been calling the adult protection agency. I had called everybody because after she had left he was in the house alone. I knew he had a gun from what I was told and I was afraid he wasn't eating, no care and I was afraid he would either commit suicide ---
Q Now, he -- let me ask you, slow you down for a minute. At this point he and Dena are separated.
A Separated, uh-huh.
Q So, he's living by himself?
A Right.
Q Okay.
A And I was trying. So, I came down with my sister that weekend and he brought up things to me that I was aware of things that I didn't know happened. He was sort of accusing me of him being sexually molested and I was there and knew about it and it just blew my mind and I could not spend the night. So, my -- my sister and I drove back.
Q Now, that never happened to your knowledge?
A No, no.
Q But he was saying that you knew about it?
A That I knew about it.

Q And that it had happened.
A And then he came to my house during the following week when my sister was still there.
Q And this would have been the week before the shooting?
A Yes, it was the Thursday before the shooting when he arrived.
Q All right, tell us about what happened when he came to your house on that occasion?
A I had planned to take my -- well, we had plans with Lisa, Jim and the children to meet my sister in Raleigh which is about 30 miles from where I live but knowing how Brad felt about Jordan, my granddaughter, being with the FBI my daughter at that time she didn't want to be around Brad, the children be around for safety and I was so torn with my son coming there wanting to help him. My sister was there and I made an excuse for him to go because I knew that Lisa wouldn't want him with us at dinnertime but he was just wild. He ran out to the car to get something, and I told my sister, ``Lock the door. Lock the door,'' because I was so afraid he was going to attack me but he pushed his way in before she could lock the door and that is the time that I gave him money to leave. I just I couldn't bear it.
Q Now, is that the last time you saw him before the shooting occurred?
A The shooting, uh-huh.

Q All right, and that was the Thursday before the shooting?
A Right.
Q All right, and he had driven to North Carolina to see you?
A Yes, yes.
Q Now, let me ask you if Brad wrote you multiple letters --
A Uh-huh.
Q --- during 2005 and 2006?
A Yes, sir.
Q I want you to take a look at these letters and I want you to tell -- look through them one by one and take your time and tell me if those are all letters that Brad wrote to you during 2005 and 2006?
A Yes, he got to the place that he would not call me mother.
Q Don't tell me ---
A Oh.
Q --- don't tell me what the contents, can't tell me what the contents of the letters are but just -- I just want you to look at each letter and tell me ---
A If that's from him.
Q --- if that's a letter that he wrote to you during that time period.

A Yes, sir; yes sir. Uh-huh, every one of them. Okay, this is out of order, but, yes, uh-huh, yes, sir. It's my responses to his, too, is in there.

MR. WILSON: Your Honor, I'm going to ask these be marked for identification purposes only at this time.

MR. RICHARDSON: Thank you.

THE COURT: Those would be marked as Defendant's Exhibit, Defendant's Exhibit 12.

(Whereupon, Defendant's Exhibit Number 12 [Letters] marked for identification.)

BY MR. WILSON:

Q Now, let me ask you in regards to what is now marked for identification purposes as Defendant's Exhibit 12 what was it that Brad was saying to you in these letters? What was happening in these letters?

A Well he would fax them. Most of them were faxed. He'd send them to my office. It would be addressed to Ruth in Satan's hell and then he would just go on about the corruption that I was involved with Dena in this corruption against him.

Q He thought that you and Dena were conspiring?

A Were in collusion and I was not allowed to talk to her. He ordered us -- we didn't communicate for a while because of him.

Q Okay, now, did you share any of these letters that he

was sending to you with Dena so that she would know what was going on with him?
A When we were together, yeah, when we were able to communicate I let her know, yes.
Q Okay, now, these letters that we're referring to were they during the time that they were living together or during the time that they were separated or both?
A Both.
Q Okay.
A They continued.
Q As far as while the two of them were living together and continuing on into the separation?
A Oh, absolutely, uh-huh.
Q Do you know when you got the last letter from him, from Brad prior to, prior to the shooting incident?
A Right close to the end of that period I think I got some.
Q Okay, now, did you -- were you aware that when Lisa came down to take him to the doctor were you aware of all that when that was going on?
A Oh, yes, I went to visit him at the Lighthouse, too. Yes, I did.
Q Okay.
MR. WILSON: The Court bear with me for just one second, please, Your Honor?

THE COURT: Take your time.
BY MR. WILSON:
Q Let me show you this page, which is a part of Defendant's Exhibit Number 12 and what's the date on there of that letter to you?
A May the 1st, 2006.
Q Okay, now, do you know when -- let's see here ---
A Uh-huh.
Q And let me show you this particular letter which is also part of that same group of letters and is there a date on that letter?
A This is February the 1st, '06.
Q All right, and let me show you this letter. Do you know the date on that letter?
A This was June the 29th, `06.
Q Okay, and let me show you this letter.
A And there's no date on this. Oh, here it is at the bottom, August the 28th, August the 29th.
Q What year?
A It doesn't have it on here.
Q Okay.
A They voided it.
Q All right, and what's the date of this letter?
A This one is August the 19th, '05.
Q All right, and what's the date of this letter?

A And this is September the 7th, '05.
Q Okay, and the date of this letter?
A And this is September the 7th, '05, uh-huh. There you go.
Q I don't think I have any other questions. Thank you, ma'am.
THE COURT: Cross examination.

CROSS EXAMINATION

BY MR. RICHARDSON:
Q Do you prefer Ms. Bergman or Ms. Senter Bergman?
A Whatever you'd like to call me.
Q You love your son; correct?
A Absolutely.
Q And it would appear that he has a history of mental illness?
A I beg your pardon?
Q It would appear that he does have some history of mental illness?
A Absolutely.
Q You said you didn't have him committed; correct?
A If you can -- I'm a little deaf.
Q You said you didn't have him committed; correct?
A Right.
Q And you indicated that you saw the Defendant the Thursday before the shooting?

A Yes.
Q He didn't harm you; did he?
A He would have if my sister hadn't stepped in. He has never, ever, ever been inappropriate or ever walked in a bathroom but he did then but my sister stepped in, which he had gone out to the car to get something and that's when I said, ``Close the door, lock it,'' and he came in before she could get back to the door to lock it and he came into the bathroom where I was because we were getting ready -- I was getting ready to meet my daughter, the family in Raleigh and that he didn't harm me because she stepped right beside me.
Q You're speculating that he didn't harm you.
A I speculate, yeah, we were fearful.
Q Did you call the police?
A No, I didn't see a gun then.
Q No further questions. Thank you, Ms. Bergman.
A You're welcome.
THE COURT: Redirect?
MR. WILSON: Nothing further from this witness, Your Honor.
THE COURT: You may step down and you're free to leave; however, you're welcome to stay if you'd like.
A Okay.
MR. WILSON: Dr. Halavonich.
THE COURT: Doctor, I'm going to ask if you could

come forward, please, ma'am. Please place your left hand on the Bible and raise your right hand as the clerk administers the oath.

Whereupon, Rikki Lynn Halavonich was called to the stand, duly sworn by the clerk and testified as follows:

THE COURT: Yes, ma'am, watch your step and have a seat in the witness chair. I'm going to ask you if you could to pull up real close to that microphone, speak loudly, clearly and slowly in order that we might hear everything that you've got to say and if you could state your full name and spell that last name for us. All right.

MS. HALAVONICH: Okay, it's Rikki Lynn Halavonich. It's R-I-K-K-I, and it's H-A-L-A-V-O-N-I-C-H.

THE COURT: Good. Thank you

DIRECT EXAMINATION

BY MR. WILSON:

Q Doctor, if you would where do you practice now?

A In Charleston, South Carolina, at the Medical University of South Carolina.

Q The Medical University of South Carolina and how long have you been working at the Medical University of South Carolina?

A I came to the Medical University in 2001.

Q And you've been there since that time?

A Correct.

Q Now, what is your position there at the Medical University of South Carolina?
A I work in the forensic psychiatry department. I'm the director of the department.
Q You're the director of this -- what is the name of it again?
A The forensic psychiatry department.
Q All right, you're the director of the forensic psychiatry division?
A Correct.
Q All right, and how many psychiatrists on staff or in that unit?
A Full time there are four and then there are a couple of part-time.
Q All right, then, now, do you also have teaching duties and responsibilities?
A I do.
Q All right, and where do you teach?
A At the Medical University of South Carolina.
Q All right, and what subjects do you teach at the Medical University?
A Forensic psychiatry.
Q All right, and how long have you been teaching at the Medical University?
A Two years.

Q Now, if you would, give us the benefit of your education and your experience as a -- in the field of forensic psychiatry.

A Okay, I went to college at the University of Tennessee in Knoxville. I graduated in 1996. I went to medical school at the University of Alabama in Birmingham, got my medical degree in 2001. I came to the Medical University of South Carolina and did a four-year residency in general psychiatry. After I finished that I did a year of specialized training in the field of forensic psychiatry. I was board-certified in general psychiatry in I believe May of 2006 and board certified in forensic psychiatry in I think April of 2007. Like I said I've been on faculty in the forensic department for a couple of years now.

Q And have you testified in the courts of this state and been qualified as an expert in the field of forensic psychiatry?

A Yes.

Q And during the course of your work there at the Medical University how many patients would you think you've seen since 2001 when you came there?

A Gosh, over the course of the first four years of residency I treated a lot of patients both on an inpatient and outpatient basis. Probably a hundred or so outpatients for, you know, long, longer term therapy or to two years of

therapy. Inpatient we rotated through the various units at the Institute of Psychiatry and each unit had about 15 patients at the time and I was on a unit for probably half of my residency rotating through, so whatever that adds up to. As far as forensic psychiatry, the last couple of years I've been, the last three years I've been doing forensic evaluations, some treatment of patients that were either incarcerated or had been -- gone through mental health court and treated them that way but I've done a lot of evaluations on people, kind of similar to what Doctor Domino was talking about criminal responsibility, competency to stand trial, evaluations and then some civil evaluations also and I would estimate probably somewhere between 150 and 200.

Q Let me ask you, Doctor, if you would first of all just explain to us, before I have you qualified as an expert, explain to us the difference between general psychiatry and forensic psychiatry?

A Okay, forensic psychiatry is kind of a specialized area of general psychiatry. What you do in a forensic psychiatry training program is learn places where basically psychiatry and the law intersect. So, if there's kind of a legal issue or a question that has a legal component to it frequently forensic psychiatrists will become involved. That can be either criminal or civil. General psychiatry is, you know, more the treatment of patients. Forensic psychiatry is more

along the lines of doing evaluations.

MR. WILSON: At this time, Your Honor, I would ask that this witness be qualified as an expert in the field of forensic psychiatry.

THE COURT: Any questions with regard to her qualifications from the State?

MR. RICHARDSON: Just very briefly.

EXAMINATION (RE: QUALIFICATIONS)

BY MR. RICHARDSON:

Q Approximately how many times have you testified in court in this state?

A I believe 14.

Q And are those pertaining to competency, 14 times for competency to stand trial, 14 times for criminal responsibility?

A It's been in no, no criminal responsibility, competency to stand trial in General Sessions. I've testified in Common Pleas Court. I've testified in federal court on one occasion. That was a civil case, probate court and some civil cases.

Q That would be all at this time. Thank you.

THE COURT: All right, I do indeed find Dr. Halavonich, is that close enough?

A Halavonich.

THE COURT: Halavonich, qualified to testify in the

fields of general psychiatry and forensic psychiatry and as I had mentioned earlier she's allowed to render her opinions in this field of study based on her education and experience. As I had mentioned earlier and I'll charge you in greater detail at the conclusion of the case, it's your responsibility as jurors to evaluate the credibility of all witnesses, expert witnesses and lay witnesses. Thank you. Mr. Wilson.

Q Yes. Let me ask you just a few more things so that I can establish your credentials here. You won your senior award for excellence in psychiatry at the University of Alabama Medical School; is that correct?

A Correct.

Q And you also won the senior award for excellence in pediatrics at the University of Alabama Medical School?

A Correct.

Q And you were the top graduating senior at the University of Tennessee graduating summa cum laude.

A Correct.

Q And you also was outstanding undergraduate achievement award at the University of Tennessee?

A Correct.

Q And you were on the Dean's list the four years that you were at the University of Tennessee?

A Yes.

Q And you are also a member of the American Academy of Psychiatry and the Law?
A Correct.
Q And the American Psychiatric Association?
A Correct.
Q And the South Carolina Psychiatric Association?
A Yes.
Q And the American Medical Association?
A Correct.
Q Now, let me ask you some questions about this case and about Brad Senter, and first let me ask you if you had occasion to examine or evaluate, if you will, Brad Senter.
A Yes, I did.
Q All right, and that was done at whose request?
A That was done at the request of your office.
Q All right, and when was that request made to you?
A I saw him for the first time in -- on March 19th, and it was -- my office was contacted a couple of weeks before that. I don't know the exact date.
Q March 19, what year?
A 2008.
Q 2008?
A Correct.
Q All right, and that would have been many, many months, almost a year after the State had determined that he was not

competent?
A Correct.
Q Okay, if you would tell us in your evaluation process, the first thing I want you to do is tell us what documents, what information that you used in order to come up with a diagnosis?
A Okay, of course I met with Mr. Senter. I met with him on three occasions, I believe a total of about seven hours. I reviewed the incident reports, the arrest warrants and the witness statements from the alleged events. I also reviewed a lot of psychiatric records, those from Waccamaw Mental Health, from Real Solutions where he had seen Suzanne Smith, from two hospitalizations at Lighthouse, from a hospitalization at Duke, also his hospitalization at Just Care where he had been hospitalized for 60 days for a restoration to competency after, after the arrest. I also spoke with his, his mother and his sister over the telephone. There are also a lot of letters written by Mr. Senter that were part of his medical records, I believe at Lighthouse Care Center that I reviewed.
Q Now, the letters that you reviewed you have them with you?
A Yes.
Q All right, can you share just with us two or three of the letters and not all of them but just a couple of them

that you reviewed?
A Just, just tidbits from them or ---
Q However you want to do it.
A Okay.
Q Just tell us some of what was going on in the letters.
A This is one from -- it's stamped with the admission at Lighthouse in February of 2005. So, I believe this one came from the Lighthouse records and it's not, it's not written to anyone. It just starts out, ``I wish to go on record and state that I'm not paranoid. What I've experienced over the last decade has been true. I started a battle with the FBI and they set up events to lure me into their web of deceit. They took that evidence and have orchestrated a false profile of me.'' It goes on, ``For a while they began a character assassination against me by telling endless amounts of people about allegations in an effort to destroy my base of support. The whole purpose of this tactic is to eliminate every potential resource that I have so that I cannot challenge the big FBI and expose their corruption. They have reached as far down as my wife. She began cooperating with them last February. Plain and simple, my wife has spent the last 12 months acting out a plan that has been orchestrated by the FBI. I uncovered and exposed countless corrupt attempts to set me up and every time my wife initially negated and then covered up those instances. She has knowingly participated

in destroying me while covering up the FBI's corruption. The FBI accomplished this by initially going through my wife's mother. Should this go to trial every claim that I have made will be proven accurate. It will also be proven that many instances were staged. In addition it will be proven that my wife has been the most damaging person to my case. I've known quite some time that our house was bugged and my telephone wire-tapped. I exposed this and exposed that my neighbors next-door were at least two FBI agents.''

Q Let me stop you there, Doctor, now this letter was written when is the date on this letter?

A There isn't a date on the letter but it was from the hospitalization that started February 16, 2005. So, it was prior to that.

Q So, it was prior to February of 2005 and there was no case in 2005?

A Correct, as far as I know.

Q All right, and now, share with us one more letter and then we'll move on to something else.

A Okay, there's a very lengthy letter dated February 7th, 2005, also from the Lighthouse file, from the February 16th, 2005, hospitalization. He goes through a lot of different topics, how it all began, how the FBI became involved, the FBI strategies and mode of operation. Like I said, this goes

on for a lot of pages. It kind of touches on a lot of specific things and then also has this thread of the FBI. There's one section that talks about going to a fertility clinic. It says, ``Several years ago my wife and I decided that we wanted to have children. This was after we had patched things up and we were leaving Myrtle Beach. I had to go to give a sample of sperm for testing and I went to a bathroom to do it. I was followed in immediately after my donation in the stall. I exited the restroom door only to peek back in at the man whom had been standing at the door. He was searching for residue, sperm, I guess, and it spooked me. I left immediately. I became enraged on my way home. This was a violation of my rights in my opinion. Interfering with me and my wife's pursuit of having a child was the final straw. He followed me everywhere. I became irrational and felt that if they were going to follow me into the bathroom stall then I would leave them a mess to clean up after me. This would become my final demise as I walked right into their hands.'' It, it, like I said, it goes on for a lot of pages.

Q All right, all right, Doctor, let me -- but that's the central theme throughout these letters that you have in your file?

A The FBI yes, yes.

Q Now, let's go back and talk about his prior diagnosis.

Prior to your seeing Mr. Senter had he received diagnoses from other agencies?

A Yes.

Q All right, tell us about that, tell us which agencies had previously diagnosed him and what they had said about him before he saw you?

A Okay, the first records that I had were from Waccamaw Mental Health Center. It was January 13th of 2005. From what I understand that's when his sister had come to town and took him to the mental health center and ended up admitting him to Lighthouse the next day. They documented in the Waccamaw Mental Health Center note that, ``He had reported the FBI may be following him as a result of him calling the FBI on someone. He has developed a delusion that the FBI is watching and following him.''

Q If you would slow down for me just a little bit.

A I'm sorry.

Q I know you're accustomed to this but I need for them to understand and hear what you're saying and you're kind of going fast for them.

A Okay, he said, this is a quote from the chart at Waccamaw Mental Health Center, ``Has developed a delusion that the FBI is watching/following him and this may be related to the events at Newberry College where he worked as a coach,'' which had been back, I believe, in the early '90s,

91, 92. They diagnosed him with delusional disorder and obsessive-compulsive disorder, and they prescribed him Risperdal, which is an antipsychotic medication.

Q Let me stop you right there. Obsessive compulsive disorder, what does that mean, what is, what is that?

A It's a -- with diagnosis we think of them in different spectrums like psychotic diagnosis or anxiety spectrum or mood disorder. That's an anxiety spectrum disorder that has to do with having obsessive thoughts or -- and/or ritualistic behaviors.

Q Okay, and when you say a ritualistic behavior does that include things like putting things in order or having things a certain way all the time?

A It can.

Q All right, go ahead.

A Okay, so, just after that he was admitted to Lighthouse inpatient from January 14th through 17th, 2005. They diagnosed him with major depressive disorder recurrent with psychotic features and disthymic disorder.

Q Now, let me stop you again. When we say psychotic features explain to us what that means.

A Basically when we say psychotic we mean out of touch with reality. So, it can include hearing voices that aren't really there, seeing things that aren't really there or having delusions that things are happening that are not

really happening.

Q If a person is psychotic would they know that they're psychotic?

A Typically not. At times they can get some insight into that but most frequently no.

Q Go ahead.

A They discharged him on Zoloft and Remeron. Those are both antidepressants. On February 7th and 15th he had, of the same year of 2005, he had two visits with Cathy Battle, who I understand is a marriage counselor predominantly and she documented in her note that she encouraged him to go to Lighthouse inpatient care immediately for evaluation and treatment of paranoid behavior. She also documented that wife related that it's getting worse every day and that he hid a knife under the bed saying he was worried that people/FBI were after him. She also, I believe it was in her notes, documented that she referred him to Suzanne Smith for continuing treatment who could prescribe medications and treat him from a psychiatric standpoint. He again went into Lighthouse from February 16th through 19th of 2005, and at that time they documented increasing paranoia about the FBI, stated the patient has been unable to cope with daily life and work. He has ideas of persecutory delusions about the FBI controlling his wife. Family has seen a difference in patient for the past two years, continued decline. Lisa, his

sister, became very concerned when patient believed her 14 -year-old daughter was involved with the FBI. They diagnosed him with bipolar depressed type with psychosis and then documented some major depressive symptoms secondary to the psychosis. They discharged him on Wellbutrin, which is an antidepressant, Depakote, which is a mood stabilizer, and Seroquel, which is an antipsychotic.

His next records that I had were from Duke University where he was admitted from March 21st through 23rd of 2005. His admission they stated, ``Mr. Senter is a 52 year old white male who was brought to the emergency department by his family after worsening paranoia and delusions that the FBI is after him and working through family members, particularly his wife, whom he threatened with a gun five days ago. Patient currently denies SIHI or AVH.'' That's suicidal ideations, homicidal ideations or auditory or visual hallucinations. ``However, continues to be delusional due to patient's impaired judgment and paranoia toward family and his wife specifically. The patient needs hospitalization for stabilization to ensure the safety of the patient and others.''

Q And that was from who now?

A This was from the admission notes to Duke University.

Q All right.

A So, they went on and described that he held his wife at

gunpoint trying to force her to admit she was in the FBI. ``His patient brought'' - ``patient was brought by his sister who felt he was dangerously paranoid, has beliefs that certain family members and strangers are a part of the FBI investigating him. Patient was placed,'' this is a quote from the chart, too, ``Patient placed in custody after a long discussion with family. They feel the patient is a danger to the wife and family, recent episode where the patient held the wife at gunpoint for two hours threatening to kill her. They also fear for the safety of the patient's 14-year-old daughter.''

Q All that's from Duke Medical University?

A Correct. They also go on to talk about and this is something that Mr. Senter related to me also about his hiring someone to give his wife a lie detector test because he felt that she had inside information from the FBI and had someone come to the house and administer a lie detector test to her. He also told them at Duke according to their records that either he did or his sister did, that he was covering fire detectors in the house because he thought they were bugged. They did some testing on him, actually did an MRI of the brain and a CAT scan of the brain and didn't find anything structurally, looking for, you know, brain tumors or something along those lines. They also did an MMPI, which is a lot of questions, about 560 some question test that they

administered to him that had markedly elevated scores on scale six, which according to their report suggests he's likely experiencing frank paranoid features including paranoid ideation and delusions. Individuals with similar elevations are typically characterized as suspicious and hostile. He also had a marked elevation on the persecutory idea subscale. Individuals with similar elevations tend to view the world as very threatening and feel as though they are misunderstood and unfairly blamed or punished. That was, that test was performed while he was at Duke. They discharged him with a diagnosis of major depressive disorder, recurrent, severe with psychotic features and discharged him on Lithium, which is a mood stabilizer, Lorazepam as needed for anxiety, anxiety medication, Risperdal and Seroquel, which are both antipsychotics and Wellbutrin, which is an antidepressant.

Q Are there any other hospitalizations, Doctor ---

A No other.

Q --- before, I'm sorry, before he went to the South Carolina Mental Health Department as court ordered?

A No, he was seen by Suzanne Smith for eight visits for outpatient treatment and she prescribed medications but no other hospitalizations.

Q And do you have records from Suzanne Smith?

A Yes.

Q What was her diagnosis or findings?

A His last visit was with her on August 10th of 2005 and she diagnosed him with major depressive disorder recurrent, mild, chronic, and delusional disorder, persecutory type and personality disorder not otherwise specified.
Q Now, let me take you to I guess it would be February of `07 when he is sent to the South Carolina Mental Health Department in Columbia for an evaluation ---
A Okay.
Q --- by court order. Now, did you get those records?
A Yes.
Q All right, and were you in court when Dr. Domino testified?
A I was.
Q All right, and did you review her records on her evaluation of Mr. Senter on that timeframe?
A I reviewed her, her report on his competency to stand trial in February of 2007 and then her report from, I believe, it was August of 2007 on criminal responsibility. I think she was the one who did the second evaluation on competency to stand trial and I haven't seen that report.
Q And let me ask you just for a minute about the February report where he was sent for competency evaluation. After reviewing that -- well, let me ask you first of all, do you have an opinion as to whether or not he was or was not competent at that time?

A I didn't evaluate him at that time. I didn't see anything in her report that I wouldn't agree with but I didn't evaluate him at that time.
Q But you don't disagree with her report in any way from that evaluation?
A No.
Q All right, now, she later made the finding that he did not understand or did not know legal right from legal wrong and/or moral right from moral wrong, and that's in her finding for criminal responsibility.
A Yes.
Q Now, if you would first of all explain to us what that means when we say criminal responsibility and what legal right and legal wrong has to do with it and how that gets into your determination as to whether or not a person is criminally responsible or not criminally responsible?
A Okay, criminal responsibility looks at someone's state of mind at the time of the alleged offense. So, you know, always we're doing this after the crime, sometimes several years after the crime takes place and it's trying to go back as best we can and reconstruct what they were thinking at that day, what factors were influencing them and try to as best we can see how they were thinking that day. What criminal responsibility means is or, well, it's easier, I guess, if I say what it means to not be criminally

responsible. If you're not criminally responsible for your actions you're saying that you did them but you weren't in your right mind basically when you did it, that at the time you did it you didn't know either moral or legal right from moral or legal wrong and it has to be due to a mental illness. It can't be due say to being intoxicated or high on cocaine or something along those lines. It has to be due to a mental illness.

Q Now, at some point in time did you make a determination on your own as to whether or not Mr. Senter was criminally responsible for the events of November 13th?

A Yes.

Q And tell us how you came to whatever conclusion you came to and then tell us what your conclusion is.

A Okay, I make those determinations like I said before by interviewing the person, by reading, you know, records, particularly mental health records if they're available and records concerning the day of the events. I did that in Mr. Senter's case and met with him on three occasions and discussed what his recollection was of that day trying to put the pieces together and figure out what his reality was on that day and compare that to what was documented by other parties, by police investigators and witness statements, those sorts of documents. In Mr. Senter's case it was my opinion that he does have a mental illness. I diagnosed him

with delusional disorder persecutory type and it was also my opinion that his mental illness affected his thinking on that day as well as for at least a couple of years prior to that to the point that he did not appreciate moral and/or legal right from moral and/or legal wrong.

Q And so, Doctor, can you say then to a reasonable degree of medical certainty or psychiatric certainty, whichever it would be appropriate in your field, that on November 13th of 2006 that he was not criminally responsible?

A That is my opinion.

Q Now, let me ask you, if -- well, I guess what I'm trying to ask is is there a way -- with people who are mentally ill is there a way that they can act normal and not be normal, I mean, if that's a right word or right phrase. I'm not even sure how to phrase it, but what I'm trying to ask you I guess is in a person and I don't want to use the word crazy but can a person be incompetent for instance to stand trial and still walk around and go to the grocery store and buy food or fix tea or buy a coke?

A Yes, absolutely, and of course it's going to vary a lot with the diagnoses and with how they're doing at certain points in time. Some illnesses are more readily apparent to third-party observers. If someone, you know, is actually hallucinating, hearing voices, it's what we say they appear to be responding to internal stimuli. So, a lot of times

you'll see them kind of looking around and you can tell that something is going on in their mind that we're not a part of that's not, not reality based. We see that a lot in schizophrenia. So, if you see someone with schizophrenia who is actively hallucinating it's easier to look at them and say, ``You know, he looks like he has a mental illness.'' You can have other types of psychosis. Delusional disorder is classified as a psychotic disorder where the symptoms are not hallucinations, they're not bizarre or disorganized behavior. They are delusional thoughts, and you can't really look at somebody and tell what they're thinking. If they get to a point where they become out of control and have some outward behaviors that you can see, they might look crazy as you said or more mentally ill but that's not always the case, particularly with delusional disorder. It's fairly typical with delusional disorder that they do not have those outward appearing signs of mental illness.

Q And Doctor, when they have these delusions, to them are the delusions real even though they may not make much sense to us?

A Yes, that's the, the key to delusional disorder. They're fixed false beliefs that you can argue till the cows come home with them with information that is against what, what they're thinking, and you, you won't get anywhere.

Q All right, let me ask you about medication with

delusional disorder especially. Do we have a medication that will cure delusional disorder that we could give somebody and they're going to be okay?

A There, there are medications that we use to treat it. I wouldn't use the word cure. It's similar to schizophrenia, more chronic psychotic disorders. It's not something that you're going to take a pill and it's going to go away. It's something that you have to treat for a long time for indefinitely. He -- I know Mr. Senter is on Abilify, on 30 milligrams of Abilify, which is a fairly high dose, the highest recommended dose of an antipsychotic. From what he described to me ---

Q He's on that now?

A He's on that now, yes. They started him on that at Just Care when he was hospitalized in March of 2007, and from my understanding he's been on that since. They've raised the dose up to his current dose and from what he described to me he is to a point now where he can, I believe the word he used was entertain other possibilities, other possible explanations for what he has thought has been going on for all these years but he said, ``If I'm completely honest with you deep down I still think the FBI is behind all of this,'' and that's a fairly typical response that we see with a delusional disorder. Schizophrenia is actually a little bit easier to treat when you're seeing an illness with

hallucinations and that sort of thing. We can treat those a little bit more effectively and the medications work for the most part better in those, those illnesses. Delusional disorder is tough and we have medications that help and we can treat the symptoms and at times people do get a lot better but it's, it's more difficult to treat in general.

Q Doctor, in regards to November 13 when -- of 2006 when this incident occurred and now is there a difference in the Defendant, in Mr. Senter now as, in his medical condition now as was then?

A Yes, there appears to be.

Q Can you explain that to us and why that is so?

A He -- when he was hospitalized at Just Care on March 30th of 2007 he stayed there for 60 days and had, you know, daily treatment, psychological and psychiatric treatment. He was started on medication at that time. So, he's, you know, he's now been on an antipsychotic medication for about 14 months consistently and in a setting where he is getting it consistently. He's shown some improvement from what he described to me. He has been functioning better over the last six months or so. His family that I have spoke with felt the same way.

MR. WILSON: Your Honor, may we approach for one second?

THE COURT: Certainly.

(Whereupon, a bench conference was held in the presence but out of the hearing of the jury.)

BY MR. WILSON:

Q Doctor, you were telling us earlier about the number of people that you have seen over the years. In all those years tell us how many people you have found not criminally responsible?

A In my opinion there has been one other that I have seen and given that opinion on.

Q So, in the years that you have been a psychiatrist one other time other than this one?

A Correct.

Q Is that what you're saying?

A Correct.

Q All right, is there a way for us to determine whether or not this is just something all made up, something that is just a fabrication on the part of Mr. Senter? Is there a way for us to know that or figure that out somehow?

A We obviously very frequently we see people who are, by we I mean forensic psychiatrists, psychologists, see people who are attempting to feign mental illness to get out of responsibility for crimes. A lot of the focus of a forensic psychiatry fellowship is kind of weeding out and sorting through what symptoms are real and what symptoms are fabricated and looking for patterns that indicate that a

mental illness is not legitimate or that someone is exaggerating their symptoms or making up their symptoms; and so, we, we always look for that because it's, you know, frankly it's not all that uncommon, but there are, there are ways to tell, there are things that we can look for in our actual interview with the client. Another ---

Q What kinds of things would you look for to know that they're not being -- that they're faking or that they're trying to trick you or whatever?

A The vast majority of the time people who are trying to appear mentally ill that really aren't will describe hallucinations that don't sound very legitimate. They'll describe hearing voices. There are certain things that, you know, we look at is it a male or a female voice or, you know, are they saying it's computer-generated sound or what kinds of things are the voices saying, what source of visual hallucinations are they reporting, which ones are more common in legitimate mental illness and which ones are more common in people who are trying to exaggerate or fake mental illness. Mr. Senter didn't report any hallucinations to me at all, past or present as far as hearing voices or seeing things that weren't there. Another very frequent thing that people do when they are faking mental illness is they do what we call fake stupid. They, they say, you know, I can't remember my birthday. I don't remember very basic facts that

people with mental illness aren't stupid; and so, very basic facts that someone with schizophrenia or with another mental illness would still know. So, a lot of times we see, we see those types of symptoms or signs.

Q One last question, in your opinion as a psychiatrist is Mr. Senter still in need of continued treatment?

A Yes.

Q I don't have any other questions. Thank you.

THE COURT: Yes, sir.

CROSS EXAMINATION

BY MR. RICHARDSON:

Q Good afternoon, Dr. Halavonich?

A Good afternoon.

Q Did I get it right?

THE COURT: Before we proceed forward, before we proceed forward with cross-examination why don't we take just about a five-minute recess, and Dr. Halavonich, I'm going to ask if you could stay on the witness stand if you could. Thank you. Madam Forelady, you may take the jury to your jury room.

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: Under the rules you aren't allowed to confer with either of the lawyers while you're still on the witness stand. However, if you need to be excused or to freshen up the bailiff will assist you in that regard. We'll

stand in ease for about five minutes. Thank you.

*****OFF THE RECORD*****

(On the record.)

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: Everybody remain seated. We're ready for the jury. Might counsel approach the bench for just one moment?

(Whereupon, a bench conference was held.)

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: Mr. Richardson, you're recognized.

MR. RICHARDSON: Thank you, Your Honor.

BY MR. RICHARDSON:

Q And once again, good afternoon, Dr. Halavonich.

A Good afternoon.

Q Once again, how long after the Defendant shot Ms. Lester did you interview him?

A I saw him on -- for the first time on March 19th, 2008, so, 16 months.

Q And who and I believe Mr. Wilson said it was after the State determined that he was incompetent, Doctor Domino that made that determination?

A She saw him before I did, yes.

Q She is one person, not the entire State; correct?

A Yes.
Q And you stated that Mr. Wilson's office initiated the contact with your office; correct?
A Correct.
Q And who's paying for your services?
A The contract between MUSC, with MUSC is with Ralph Wilson's office.
Q And so, it's a contract with MUSC.
A Yes.
Q So, you're working as an agent of MUSC on this?
A Correct.
Q Now, those letters that Mr. Wilson pointed out do you still have them?
A Yes.
Q Which letter is it that was written on November 13th, 2006?
A None of them.
Q So, none of the - none of those letters address his state of mind that morning?
A No.
Q And you interviewed the Defendant three times?
A Yes, sir.
Q For a total of how much time?
A About seven hours.
Q Did you perform any independent investigation?

A What do you mean?
Q Such as going out to the scene?
A No, I didn't go to the scene.
Q Did you go out and view any of the physical evidence?
A No.
Q Do you have any personal knowledge of this case?
A No.
Q And when you met with the Defendant did you perform any tests on him?
A No.
Q So, you're relying mainly on what the Defendant told you and those reports?
A I'm relying on the investigative reports, the witness statements, the arrest warrants, incident reports and various hospital records.
Q Now, the various hospital records, I mean, they indicate he does have some illness?
A Correct.
Q They differ with what they're guessing at what his illness is?
A To an extent. They all describe the same symptoms just to varying degrees.
Q And you stated whenever you interviewed the Defendant he appeared, I guess the term is a little more normal?
A I guess I'd have to ask what you mean by normal.

Q He was in control of his physical faculties?
A Yes.
Q Do you know on the days when you interviewed him did he know right from wrong?
A I didn't specifically evaluate him for that.
Q Did you examine him at length or otherwise with regard specifically to this shooting from November 13th, 2006?
A I'm sorry. Could you repeat that?
Q Did you examine him with regard to the shooting that took place on November 13th?
A Yes.
Q Extensively?
A I interviewed him for seven hours and reviewed records.
Q So, at any time did he indicate he didn't remember what happened that day?
A Yes, he indicated that his recollection was fuzzy. He, he related the events to me from what he said as best as he could remember. He never told me, ``I don't remember what happened,'' but he would describe things and then he would say, ``I'm not sure if this date's exactly correct about previous things,'' and then the day of it he'd say, ``I'm not sure exactly what happened first and what happened second,'' but he never said, ``I don't remember what happened.''
Q So, his recollection as you stated was fuzzy?
A Correct.

Q And a large portion of your analysis is based off of what he's telling you?
A Some of my analysis is based off what he's telling me, yes.
Q What if the Defendant or subject lies to you in the course of your interview? How does that affect your analysis?
A It would depend on what he lied to me about.
Q If he lies to you with regard to his recollection of events as they happened how would that effect your analysis?
A I can't answer that really as a general question. I could answer if he said specific things to me how that might have changed my thinking.
Q If he lies to you about the actual nature of the shooting as it occurred would that affect your analysis?
A It could. I'd have to know specifically what, what you mean.
Q This fuzzy recollection where he doesn't remember what happened here and what happened there, can that be faked?
A People can lie and say, ``I have a fuzzy recollection,'' when they really don't, sure.
Q When you met with the Defendant, a silly question, he was represented; correct?
A Yes.
Q And before that he had had prior counsel?

A From what I understand, yes.
Q Could you determine from speaking with the Defendant if his family had met with him during this course of time since he had been charged?
A Met with him or his counsel.
Q Met with him?
A I -- I'm -- honestly I'm not sure. I can't recall. I know they had spoken with him but I'm not sure.
Q And would you say it's difficult to make retrospective statements as to, as to a person's state of mind on a given date in the past?
A It's, it's always difficult in every exam I've done. We have ways of going about doing that to ensure that we give a good opinion within a reasonable degree of medical certainty. So, we have ways of doing it. It's I guess the job is not easy in general, but ---
Q In making a determination of a person's state of mind at a point in the past and I realize you'd want to speak with the person being charged with a crime or anything else. Would you want to make sure you have the most information you could gather with regard to what occurred on that day?
A Yes, to an extent. I mean, you get - you need the most salient information you can have. You don't, you know, it doesn't matter what the Super Bowl score was. I mean, there's information that you could gather that wouldn't

necessarily be relevant, but to have enough information is important, yes.

Q Such as persons observing the Defendant's actions that day?

A Correct.

Q Persons who came into contact with the Defendant that day?

A Yes.

Q I believe you indicated before people do lie.

A Sure.

Q In your experience individuals facing dire consequences are they more prone to lying?

A I, I don't know. I couldn't answer that question.

Q And Doctor, the standard for a verdict of guilty but mentally ill and I believe you talked earlier about it really boils down to knowledge of the act, whether it's morally or legally wrong; correct?

A That's not guilty by reason of insanity.

Q So, if a person has the capacity to distinguish right from wrong at the time they commit an act, regardless if they have some preexisting mental illness or not, they can be found guilty?

A Right, correct.

Q So, you would agree with me that even a mentally ill person can be guilty of a crime?

A Yes.
Q In reaching your ultimate opinion you want the best information possible to establish that?
A Correct.
Q When you spoke with the Vonspreckelesens regarding this, what did they say?
A I didn't speak with them.
Q But you're aware they were present that day?
A Next door, yes.
Q Came into contact with the Defendant immediately after the shooting?
A Correct.
Q Mr. Estock, he dealt with the Defendant that day. Did you speak with him?
A The only people that I spoke with were Mr. Senter and his, his mom and his sister. I didn't personally speak with anyone that was there that day. I reviewed everyone's reports that the Solicitor's Office turned over in discovery.
Q So, you spoke with the Defendant, his mother and his sister?
A Correct.
Q His mom and sister weren't there that day?
A No.
Q Just the Defendant, you just spoke with the Defendant who was there that day?

A Correct.
Q Thank you.
THE COURT: Redirect.
MR. WILSON: Yes, sir, just a couple of questions, Your Honor.

REDIRECT EXAMINATION

BY MR. WILSON:
Q Let me ask you a couple of things. One, the Solicitor asked you about lying. Is there any -- do you have anything in the records that you've received from any source, including your seven hours with Mr. Senter, which indicates to you that he's either faking and/or lying?
A No. He was very consistent. What he told me was very consistent with what was documented in the records for the most part. I can't recall anything that specifically was inconsistent. You know, typically we were talking, too, about faking symptoms and how do you, how can you tell if someone is faking, what sorts of things do you look for to see if they're lying about what they're doing and one of the biggest ones is what happened before they had a reason to lie about anything and all of, all of the records that I reviewed from hospitals except for the Just Care records were prior to his being charged with anything. All of the letters that were in the Lighthouse records from the hospitalization in February of 2005 was obviously well before he had a reason to

try and look ill but he came across as mentally ill in those letters and those records and it was consistent with what I saw when I interviewed him as well.

Q The Solicitor asked you the question, I think his question was can a mentally ill person be guilty of a crime and your answer to that question was yes?

A Correct.

Q Let me ask you the other question. Can a person who is mentally ill and who does not either know legal right from legal wrong and/or moral right from moral wrong be guilty of a crime?

A That person would be not guilty by reason of insanity.

Q All right, no other questions. Thank you.

THE COURT: All right, any objection to this witness being excused?

MR. RICHARDSON: None from the State, Your Honor.

MR. WILSON: Thank you, Your Honor.

THE COURT: Ms. Halavonich, finally got it right.

A Yeah.

THE COURT: You're free to leave. Good luck to you. Thank you.

A Thank you.

THE COURT: All right, Mr. Wilson, you may call your next witness.

MR. WILSON: That would be the Defense's case, Your

Honor.

THE COURT: All right, Madam Forelady, ladies and gentlemen of the jury, I'm going to ask if you could to retire to the jury room. At this juncture we have to take up some legal matters with the lawyers.

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: Be glad to entertain motions at this time.

MR. WILSON: Your Honor, at the end of the Defense, at the end of the State's case the Defense made a motion for a directed verdict on both the charge of criminal domestic violence of a high and aggravated nature and assault and battery with intent to kill, and I would again renew that motion and based on the same grounds that we made at that time. In addition to that, I also made a motion to have the State elect, if the Court were to deny the motion for a directed verdict, that I made a motion that the State elect either CDV and/or assault and battery of a high and aggravated, assault and battery with intent to kill before we go forward with the case, and I would renew that motion.

In addition to that, Your Honor, I would also ask the Court to find as a matter of law that the State, that the Defense has proven, certainly by a preponderance of the evidence and I would submit to this Court beyond any

reasonable doubt, and that there's no evidence to the contrary that the Defendant was, in fact, insane under McNaughten and that he did not know legal right from legal wrong at the time of the offense and that that is undisputed in the record of this case.

THE COURT: All right, of course, the State has an opportunity to reply.

MR. WILSON: Yes, sir.

THE COURT: Mr. Richardson, do you anticipate expert testimony to the contrary?

MR. RICHARDSON: Not expert, Your Honor. I have lay witness reply testimony.

THE COURT: All right.

MR. RICHARDSON: And Your Honor, with regard to the motions for directed verdict, of course, the State would submit that it's already provided ample evidence where they could, where the jury could construe that the Defendant did know right from wrong and -- or the mental illness was not the root cause of this criminal act and under State v. Milian-Hernandez, any evidence of sanity is sufficient to present to the jury when the Defendant relies on the affirmative defense of insanity.

THE COURT: Mr. Wilson ---

MR. WILSON: Yes, sir.

THE COURT: --- I assume that what you're asking me

to do is direct a verdict of not guilty by reason of insanity; is that correct?

MR. WILSON: That's correct, Your Honor.

THE COURT: One of the things that causes me some pause on that is that that removes the possibility for your client to receive a not guilty verdict.

MR. WILSON: No, sir, that is, in fact, if you find him not guilty by reason of insanity that is the same verdict, and ---

THE COURT: No, it is, it is - there's a very real difference between not guilty by reason of insanity and not guilty.

MR. WILSON: Yes, sir.

THE COURT: One he walks home, the other he goes somewhere else.

MR. WILSON: Yes, sir, and I'm not asking that he be found not guilty. I am asking that he be found not guilty by reason of insanity.

THE COURT: All right.

MR. WILSON: And because what I believe that we have done is proved beyond a reasonable doubt and I think the standard is simply beyond -- by a preponderance of the evidence but I'm saying I think that we've proven it beyond a reasonable doubt that in fact he was insane, if you want to use that term, or that he is -- that he did not know legal

right from legal wrong and there is nothing to the contrary in the record other than that, that that was the case on November 13th.

THE COURT: Okay, and to -- let me reiterate myself. You're asking that I direct a verdict and find him not guilty by reason of insanity.

MR. WILSON: Based on our defense, yes, sir.

THE COURT: All right, and maybe you didn't follow me or maybe I didn't follow you ---

MR. WILSON: Yes, sir.

THE COURT: --- but if I were to do that that removes the possibility for this jury to found him, find him not guilty. Not guilty means he walks home. Not guilty by reason of insanity means that he would be incarcerated for an indefinite period of time.

MR. WILSON: I understand that. No, I understand that.

THE COURT: Okay, and I'm asking you if that's what you want me to do.

MR. WILSON: Absolutely, that is what we're asking.

THE COURT: Okay.

MR. WILSON: Yes, sir, and Your Honor, I say that because that's our whole defense. It's not that he did not do the shooting.

THE COURT: Right.

MR. WILSON: We do not contest the fact that he pulled the trigger and that he shot, he fired the shots. We cannot contest that. We do not contest that and have not throughout this trial. What we are simply saying is that he at the time of this incident that he was laboring under a mental illness which kept him from understanding legal right from legal wrong or moral right from moral wrong and that that has been proven beyond any -- beyond a reasonable doubt without question I think in the trial of this case, which was our defense, which is what we put up and I think based on that if the Court finds that we have proven that then we would be entitled to a verdict of not guilty by reason of insanity.

THE COURT: What do you think about the argument that although there is overwhelming evidence that any evidence, whether it be lay or expert according to Mr. Richardson, it turns then to a question of fact which takes it beyond my authority as the trier of the law to make a ruling on it?

MR. WILSON: But no, sir, I think that once we prove it, once -- if we prove it to the standard that's required, you know, for instance, if this were a murder case and the Court were trying to determine whether or not if there's any -- I agree that if there's evidence, but there is and that's my whole point, there is no evidence to the contrary in the record anyway. Now, I'm not saying that -- I don't know what they intend to put up at this point, but absolutely nobody

has testified in this trial that this Defendant knew right from wrong at the time he fired the shot, nobody has testified to that. There's not even -- except from the Solicitor who apparently believes that, there is no, there is no, there's nothing in the record to sustain it, and he asked questions of the experts and he asked questions of various witnesses but nobody has said, ``Oh, yeah, he knew right from wrong. He knew what he was doing. He understood what he was doing,'' and not even the circumstantial evidence lends itself to that and I would submit to the Court that there is no evidence in this record anyway of him knowing legal right from legal wrong, and certainly no question in this record that he has a mental illness and had it at the time of the incident.

THE COURT: Be glad to hear from you, Mr. Richardson.

MR. RICHARDSON: Your Honor, as stated, the State has provided ample evidence that the Defendant did the shooting. I don't think that's in question. As to whether or not he knew right from wrong in that period of time, one, the State elicited testimony that he lured Ms. Senter over to his home. She agreed to meet with him in public. He refused to do that. He wanted to meet with her alone. The Defendant got her at the house, held her there under the promise of returning the signed divorce paperwork to her and then he came back from the bedroom and shot her. Not only that, he ended up picking

up the shell casing. He went to hide the evidence, and Ms. Senter went to go find help. He went out and drug her back and said, ``Oh, no, nobody is going to find you here.'' He was trying to hide the evidence.

When he went and saw Mr. Estock on the golf course calling 911, he was trying to get him to hang up the phone. He did not want the police coming. He was trying to hide the crime. His plans fell apart and he made a haphazard, hurried attempt to cover up the crime. Went to cut off the alarm on the car. Your Honor, there's just ample evidence that not only did he commit the crime but he knew what he did was wrong and I believe with the reply witnesses that will be solidified a bit more.

THE COURT: Well, the State's doctor indicated that he could not know right from wrong and that was based on a reasonable degree of medical certainty, and there's been also another doctor to corroborate that. Has the State sought any expert testimony to the contrary that he did know right from wrong?

MR. RICHARDSON: Your Honor, I had Dr. Domino's report evaluated by a forensic psychiatrist. She reviewed it. She indicated numerous areas where she thought that Dr. Domino made a mistake. You heard Dr. Domino on the stand. I asked her about what the law was with regard to criminal responsibility. Maybe I asked it poorly but she seemed to

confuse what is charged to the jury, but I don't know that she knows the standard on there, but certainly she indicated that she didn't speak with any of the people that came into contact with him. She had a report written by September 6th after only speaking with the victim the day before. She had her mind made up before she wrote the report and that is her opinion. That goes to the weight of the evidence. That is not the determining factor. You know, I've got here State v. Smith, which states even though a Defendant presents expert testimony the State is not required to produce expert testimony. Lay testimony may be sufficient.

THE COURT: My question was simply this, you don't have an expert?

MR. RICHARDSON: I do not have a psychiatrist or a psychologist that will be taking the stand, Your Honor.

THE COURT: Okay, very good, all right, well, I'm going to take the matter under advisement. We're ready to proceed forward. Ready for the jury.

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: Madam Forelady, ladies and gentlemen of the jury, in a criminal prosecution or in any judicial proceeding, the person with the burden of proof, or not the person, the entity in this case, the State, who has the burden of proof gets to go first. In this instance we saw

the State go first with their presentation in their case in chief. Then the Defendant, although they're not required to put forth any testimony or any evidence, they are allowed to go next, and then the person with the burden of proof is allowed to present reply testimony and in this case Mr. Richardson is recognized. You may call any reply witnesses that you might have.

MR. RICHARDSON: Thank you, Your Honor. At this time the State would recall Dena Lester.

THE COURT: All right, Ms. Lester, I'm going to ask you to place your left hand on the Bible and raise your right hand as the Clerk administers the oath.

Whereupon, Dena Lester was called to the stand, duly sworn by the Clerk and testified as follows:

THE COURT: Yes, ma'am, please be seated and ask you to speak loudly, clearly and slowly. Thank you, ma'am.

DIRECT EXAMINATION

BY MR. RICHARDSON:

Q Good afternoon, Ms. Lester.

A Good afternoon.

Q Have this marked and it'll be State's 31. Ms. Lester, during the course of your separation from the Defendant did you issue financial support to him from time to time?

A Yes, I did.

Q I'm going to show you what has been previously marked as State's Exhibit 31. If you could review the document, see if you recognize that item.
A Yes, I do.
Q And how do you recognize that item?
A This is one of the checks that was written during the separation period for, for the -- what was to be the property settlement, the monetary amount of that.
Q And the property settlement wasn't going to occur till some time in the future?
A Correct.
Q That check is made payable to?
A To Brad Senter.
MR. RICHARDSON: Your Honor, at this time the State would seek to introduce State's Number 31 into evidence.
THE COURT: Any objection from Defense?
MR. WILSON: No, no objections, Your Honor.
THE COURT: All right, and that's denominated -- is it State's Exhibit?
MR. RICHARDSON: 31, Your Honor.
THE COURT: 31 is into evidence without objection from Defense.
(Whereupon, State's Exhibit Number 31 [Check] admitted into evidence and appropriately marked.)
BY MR. RICHARDSON:

Q Now, Ms. Lester, if I could get you to just ---
MR. RICHARDSON: Your Honor, permission to publish.
THE COURT: You may, you may publish.
BY MR. RICHARDSON:
Q Off of State's 31, once again, who's the check made payable to?
A Brad Senter.
Q And in what amount?
A $18,500.
Q And who signed the check?
A I did, Dena Senter.
Q All right, and is there an endorsement on the check from Mr. Senter, on the, on the reverse side?
A You mean -- no -- there's not an endorsement by him.
Q Normally where an endorsement would be is there anything written?
A Yes, there is.
Q And do you know who wrote that?
A Yes, Brad did.
Q How do you know he wrote that?
A I witnessed him writing it and I also know his handwriting.
Q And if you could please read that to the jury?
A It says, ``Will be paid regardless of any medical arrest

or any other event.''
Q And once again, when did he write this?
A July 20th of '06.
Q Did he endorse any other checks like that?
A Yes.
Q And they were all endorsed, ``This check shall be made,'' the same language?
A Yes, yes.
MR. RICHARDSON: No questions of this witness at this time.
MR. WILSON: I have no questions.
THE COURT: All right, very good. You may step down. Thank you, ma'am.
MR. RICHARDSON: The State would call Susan Vonspreckelsen.
THE COURT: Yes, ma'am, please come forward. Likewise, I'm going to ask you to place your left hand on the Bible, raise your right hand as the clerk administers the oath.
Whereupon, Susan Vonspreckelsen was called to the stand, duly sworn by the clerk and testified as follows:
THE COURT: Watch your step there, please, ma'am.
I'm going to ask you to pull up real close to that microphone, speak loudly, clearly and slowly. Thank you, ma'am.

And spell that last name.

MS. VONSPRECKELSEN: It's Vonspreckelsen, V-O-N-S-P-R-E-C-K-E-L-S-E-N.

THE COURT: Thank you, ma'am.

DIRECT EXAMINATION

BY MR. RICHARDSON:

Q Good afternoon, Ms. Vonspreckelsen?

A Hello.

Q Thank you for your patience. Could you tell us a little bit about yourself, where you work, where you live and whatnot?

A Well, right now I'm working for JCPenney. I live next door. I live at 116 Barclay Drive.

Q How long have you -- and are you married?

A Yes.

Q To?

A My husband is Paul Vonspreckelsen.

Q And how long have you and Mr. Vonspreckelsen lived at 116 Barclay Drive?

A We moved there permanently in January of 2005.

Q In January of 2005?

A Yes.

Q And I'm going to show you what has been previously marked as State's Exhibit One.

MR. RICHARDSON: Your Honor, if she may come down?

THE COURT: Yes, she may.

Yes, Ms. Vonspreckelsen, I'm going to ask if you could stand on the other side of Mr. Richardson. If you could hold the other end and let her stand facing the court reporter.

BY MR. RICHARDSON:

Q Ms. Vonspreckelsen, do you recognize this item?

A Yes.

THE COURT: Mr. Richardson ---

MR. RICHARDSON: Yes.

THE COURT: --- could you hold the other end, no, not ---

MR. RICHARDSON: Which way, Your Honor?

THE COURT: I want, I want Ms. Vonspreckelsen standing over there looking at the court reporter. She speaks softly and you speak real loud. Now we're talking. All right, thank you.

MR. RICHARDSON: My wife says the same thing.

THE COURT: Thank you.

A Okay.

Q Do you recognize this?

A Yes.

Q What this is -- and how do you -- what do you recognize this as being?

A This is -- I think this is Arrowhead. This is Barclay

Drive here, okay, and we're the fifth house in, one, two, three, four, five. This would be us and this would be where Brad and Dena Senter live.

Q Okay, and this is where you were living back in November of 2006?

A Yes.

Q You can resume the stand. And this is a true and accurate depiction ---

A Yes, sir.

Q --- of where you live?

MR. RICHARDSON: At this time the State would move State's Number One into evidence.

THE COURT: Any objection from Defense?

MR. WILSON: It's an aerial?

MR. RICHARDSON: Yes.

MR. WILSON: I don't have any objections, Your Honor.

THE COURT: State's Exhibit Number One is into evidence without objection from Defense.

(Whereupon, State's Exhibit Number One [Aerial Photograph] admitted into evidence and appropriately marked.)

BY MR. RICHARDSON:

Q Ms. Vonspreckelsen, and you were residing at 116 Barclary Drive back on November 13th, 2006?

A Correct.

Q And you indicated you're working at JCPenney presently?

A Right now, yes. At the time I was working for Coastal Federal Bank.
Q Okay, so, on November 13th, 2006, you were working for Coastal Federal?
A Yes.
Q That was prior to their purchase by BB&T?
A Correct.
Q Do you recall what you were doing the morning of November 13th, 2006?
A I was getting ready for work.
Q And what time did you have to be at work?
A I was giving a class that morning. The class started at 9:00 o'clock. I wanted to be there early. So, I wanted to leave the house by about 8:30 to get there, make sure all the supplies were there and the room was set up for the class. So, I was getting ready for work. I took my shower, blow dried my hair and was getting dressed and the doorbell rang. I went to answer the doorbell and it was Brad Senter there. I opened the door. I was surprised to see him early in the morning standing there and he said to me, ``Is Dena here,'' and I said, ``No, she isn't,'' and he said, ``Well, her shoes are on your front porch here,'' and I looked down and sure enough her high heels are right there on the front porch and I said to him, ``Oh, sure, I see them there, but Dena's not here.'' He said, ``Well, can I come in and look?'' So, I said,

``Okay.'' I opened up the door and as I opened the door for him to come in I called to my husband. I said, ``Paul,'' I said, ``Brad is here.'' Well, Brad came in, into the foyer there and then my husband came out of the bedroom and he said to my husband, ``Is Dena here,'' and we both again said, ``No, she isn't,'' and he just kind of walked into like the living room and looked into the kitchen there and around the corner into the bedroom just to see that Dena wasn't there and we kind of speculated, ``Well, where could she be,'' and we decided maybe she went next door. So, he just left and that was it.

Q Now, prior to hearing the doorbell ring where were you prior to that?

A I was in the shower.

Q And Mr. Vonspreckelsen, do you know where he was?

A He was - well, this is the master bedroom, master bath. So, I was in the shower taking my -- getting ready and he was still in bed.

Q Did you hear the doorbell ring while you were in the shower?

A We did not hear the doorbell ring; however, my husband did say to me when I came out of the bathroom, ``I thought I heard a noise out in the garage,'' and I did walk out to check ---

MR. WILSON: Your Honor, I'm going to object to any

hearsay testimony about what her husband said.
A Okay.
THE COURT: I'll sustain the objection.
Q Do you know about what time you were in the shower?
A I'm going to say it is usually around -- it had to be around seven because by the time I took my shower, I got out, I dried off, I blew dried my hair it had to be between seven and by the time I got done maybe 7:30, 20 minutes to eight, somewhere in that time zone.
Q And you stated that the Defendant came to your door?
A Yes.
Q Looking for Ms. Lester?
A Yes.
Q And he pointed to a pair of women's shoes?
A Correct.
Q I'm going to show you what's been previously marked and entered into evidence State's Exhibit Number 20. Do you recognize those?
A They look like the shoes that were on the front porch.
Q They look like the shoes that were on the front porch and that was the morning of November 13th, 2006?
A Correct.
Q You indicated that Mr. Senter had them in his hands?
A No, they were sitting on the front porch when I opened the door. At that point he did pick them up.

Q How did he appear to you?
A He seemed calm. He was dressed. He had on a light-colored t-shirt, a pair of grey sweat pants and a pair of sneakers. His hair was combed. He didn't -- he looked rather normal, a little on the intense side, but as long as I know Brad he's always been a little intense, but no different than usual.
Q At that point did you see a weapon on him?
A Did not.
Q And he appeared calm and cool?
A Correct.
Q And was he saying anything about anything?
A Not at all.
Q And he picked up Dena's shoes and left?
A Yes.
Q Thank you, Ms. Vonspreckelsen. If you'll answer any questions Mr. Wilson may have.
THE COURT: Mr. Wilson.
MR. WILSON: Just a couple of questions.

CROSS EXAMINATION

BY MR. WILSON:
Q Ma'am, you said that he appeared calm and cool. You moved there in January of '05?
A Yes, sir.
Q And he was no different on this day than he was the whole

two years that you've seen him; isn't that right?
A Pretty much.
Q And now, is it fairly typical that your neighbors come to your house, knock on your door and demand that you let them in to look inside your house to see if their spouse is there? Is that fairly typical in your neighborhood?
A No, sir.
Q No other questions.
THE COURT: Redirect.

REDIRECT EXAMINATION

BY MR. RICHARDSON:
Q Is it typical for husbands to shoot their wives in your neighborhood?
A No, sir.
MR. WILSON: No other questions, Your Honor.
MR. RICHARDSON: Your Honor, I'd ask that Ms. Vonspreckelsen be excused.
MR. WILSON: Without objection.
THE COURT: You may step down and you're free to leave.
MR. RICHARDSON: The State would call Joseph Estock or Estock. That's E-S-T-O-C-K.
THE COURT: Yes, sir, please come forward. Place your left hand on the Bible, raise your right hand as the clerk administers the oath.

Whereupon, Joseph Estock was called to the stand, duly sworn by the clerk and testified as follows:

THE COURT: Pull up a chair, please sir. Watch your step there. Pull up real close to that microphone and speak loudly, clearly and slowly and state your full name and state your full name.

MR. ESTOCK: Joseph Estock.

THE COURT: Okay, how do you spell that last name?

MR. ESTOCK: E-S-T-O-C-K.

THE COURT: Thank you.

DIRECT EXAMINATION

BY MR. RICHARDSON:

Q Mr. Estock, could you please tell the jury where you're employed, how long and in what capacity?

A I'm a member of the maintenance staff at Arrowhead Country Club. I've been there about two years.

Q And were you employed with Arrowhead Golf Course back in November of `06?

A Yes, I was.

Q And were you working on November 13th, 2006?

A Yes, I was.

Q On that day, I think it was a Monday, did you have the opportunity to come into contact with Ms. Lester?

A Yes, I did.

Q Could you please tell us about -- prior to that day had

you ever been acquainted with Ms. Lester?
A No.
Q Could you please tell us about your contact with Ms. Lester?
A That particular day my job assignment was to mow fairways with another -- there was a two-man crew that did it. I was transversing, just finished number three, the lakes course and I was moving through number four to number six and as I come down the cart path I saw a woman that looked like she was having difficulty getting through this high ornamental grass that they had planted there and she was waving one arm trying to get my attention. So, I stopped the machine and shut off because you can't hear when it's running and she asked me for help. She said, ``Help me. I've been shot,'' and I guess there was a second pause, she says, ``Please help me. My husband shot me.''
Q What was your response when she -- when you heard this information?
A I got my cell phone and I dialed 911, got off the machine and we walked around to the back of the machine.
Q Walked with Ms. Lester?
A Yes.
Q And you said you dialed 911 from your cell phone?
A Yes.
Q Did you get an answer?

A Yes.
Q What if anything did you tell them?
A Well, I told them that there was a shooting at the location. I didn't know the address. All I knew is my location on the golf course.
Q Yes. While you're on the phone with 911 did anything else happen?
A Well, there was a period of -- we was on the phone for a while because the 911 operator was asking me a lot of information that I really didn't have answers for without asking Dena, and while this was going on she was on the ground by the right rear wheel of the machine and I was standing next to her and I saw an individual come from between the houses through a stand of trees that are between the cart path and the houses there, some pine trees and he looked around like he was looking for something. At first I thought maybe it was a neighbor was curious and he started walking toward us. When he got close enough that I recognize the facial features based on Dena's description that I gave to the 911 I knew it was her husband.
Q Now, and you're saying he's walking towards you?
A He was walking in our direction.
Q Did there ever come a time when you all came in contact with one another?
A No.

Q Did the Defendant ever say anything to you?
A When he got to the point where he could see behind the tractor that's when he told me to, ``Hang up the phone now, turn around and start walking. You don't know what she did to me.''
Q And what was your response to that?
A I didn't say a word to him. I hung up the phone because I was pretty sure that he was armed.
Q But you didn't see a weapon?
A No.
Q You hung up the phone, what did you do next?
A I turned around and started walking away from him but I was looking over my shoulder for safety reasons, I guess. 911 called me back but I was too close to him to answer the phone. So, I just killed it inside my pocket. They called me the second time. I was far enough out into the fairway where I felt it was safe to answer it again and she admonished me for hanging up and I explained to her why I hung up and we went on from there.
Q And could you tell us what the Defendant's demeanor was when he spoke with you, spoke to you?
A He had a serious look on his face but he wasn't really agitated, I mean, he wasn't hollering. It was a calm voice when he said it.
Q And that's the extent of your involvement in this case?

A Yes, sir.
Q Please answer any questions Mr. Wilson may have.
THE COURT: Cross examination.
CROSS EXAMINATION
BY MR. WILSON:
Q The only question I have is you did not know Mr. Senter before that?
A No.
Q Did you know Ms. Senter before that?
A No.
Q All right, no other questions.
THE COURT: Redirect?
MR. RICHARDSON: I'd ask the Defendant be excused, Your Honor.
MR. WILSON: Without objection.
MR. RICHARDSON: I mean, the witness be excused. I apologize.
THE COURT: All right, you're free to leave. Thank you, sir.
You may call your next witness.
MR. RICHARDSON: Your Honor, if we may approach.
THE COURT: Certainly.
(Whereupon, a bench conference was held in the presence, but out of the hearing of the jury.)
MR. RICHARDSON: Your Honor, the State has no further

witnesses at this time.

THE COURT: Madam Forelady, ladies and gentlemen of the jury, I'm going to ask you to retire to the jury room for just one moment.

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: All right, what is the -- might counsel approach the bench for just one moment?

(Whereupon, a bench conference was held.)

THE COURT: If we could have the forelady back in here for one moment.

(Whereupon, Juror Number 194, Barbara G. Law, enters the courtroom.)

THE COURT: Madam Forelady, we have concluded all the testimony in this case and we will resume proceedings in the morning at 9:00 o'clock sharp. 9:00 o'clock sharp, ask all the members of the jury to be back at 9:00 o'clock and do not discuss the case. Thank you. Madam Forelady, Madam Forelady, one more, one more point, we have reiterated throughout the trial of this case not to watch any press coverage or read any papers and that, that directive stands, stands for tonight as well. Thank you.

(Whereupon, Juror Number 194, Barbara G. Law exits the courtroom.)

THE COURT: All right, I'm going to go over my charge.

I'll be glad to hear from any questions that you might have with regard to the charge, any additions or any requests. I'm going to charge the indictment, the general charge the indictment is not evidence. I'm going to charge the general law with regard to each indictment is a separate and distinct offense and that each needs to be considered separately and distinctly. I'm going to charge the general law with regard to the presumption of innocence. I'm going to charge the definition of reasonable doubt. I will give the basic definition and sort of an illustration of what proof beyond a reasonable doubt is, fairly standard stuff that you all have heard before. I'm going to explain to them the delineation between the duties of the Judge and the jury. I'm going to charge direct and circumstantial evidence. I'm going to charge them the law with regard to evaluating the credibility of witnesses. I'm going to explain to them how to evaluate and consider expert testimony. I am inclined, unless I hear differently from the Defense, to specifically address the Defendant's failure to testify and what is the, what is the Defense's position in that regard?

MR. WILSON: Your Honor, I would ask you to first I guess the best thing to do would be to inquire of the Defendant at some point whether or not it's his wish, obviously, not to testify since he didn't testify, and secondly, and of course, we probably should have done that

back, but the other thing is is to -- but I guess your question to me is whether I want you to tell the jury whether or not, in your charge whether or not they cannot consider the fact that he didn't testify and the answer to that question is yes. I would want you to charge that.

THE COURT: All right, Mr. Senter, I'm going to ask if you could stand and raise your right hand if you could, please sir.

(Whereupon, Defendant sworn by Court.)

THE COURT: You and your lawyer have had discussions about whether or not you were to testify in this trial; is that correct?

MR. SENTER: That's correct, sir.

THE COURT: Did you understand those conversations?

MR. SENTER: Yes, sir.

THE COURT: Do you understand that the reason why you do not have to take the witness stand is the Fifth Amendment, and it essentially says that no person shall be compelled to testify in any criminal case and be a witness against himself. In relevant part that's what it says. The law -- because of this constitutional safeguard you cannot be required to take the witness stand. However, if you want to you can, and that's completely up to you. That right doesn't belong to me as the trial judge. It doesn't belong to your lawyer, Mr. Wilson. It belongs to you. Did you discuss those matters

with your lawyer?

MR. SENTER: Yes, sir, I did.

THE COURT: And did you understand those conversations?

MR. SENTER: Yes, sir, I did.

THE COURT: Did you understand and did you talk in great detail with him about the fact that if you take the witness stand the same rules of evidence apply to you as they do to other witnesses that you have seen testify in this, in this trial here today. If called to testify in this trial your lawyer would ask fairly friendly questions, open-ended questions and allow you to elaborate as to what point you would want to get across to the jury. However, you, like other witnesses, will be subjected to cross examination, which are more difficult questions, probing questions. Did you talk to your lawyer about that?

MR. SENTER: Yes, sir.

THE COURT: And did he also explain to you that if you have any convictions of moral turpitude or any crimes where you've received or could have received a sentence of more than one year those convictions could be introduced against you to challenge your credibility. Do you understand that?

MR. SENTER: Yes, sir.

THE COURT: And did you talk with your lawyer about that?

MR. SENTER: Yes, sir.
THE COURT: All right, what was your decision with regard to whether or not to testify?
MR. SENTER: It was a joint strategy session and a decision that I would not take the stand and testify.
THE COURT: Okay, and was it your decision to do so?
MR. SENTER: Yes, sir.
THE COURT: Was it entered into freely, voluntarily and intelligently with knowledge of your constitutional rights?
MR. SENTER: Yes, sir.
THE COURT: All right, do you have any questions about your right to testify or right to remain silent?
MR. SENTER: No, sir, I don't.
THE COURT: All right, have you discussed with your lawyer about the charge that addresses those very issues and the strategy about whether or not I tell them about the Fifth Amendment and the ramifications thereof?
MR. SENTER: I didn't understand that question, sir.
THE COURT: Well, have you talked with your -- and maybe you have not, but I'm going to give you an opportunity to speak with your lawyer about whether or not you and he want me to charge the jury about an individual's decision not to take the witness stand. There is a strategy and if you request me not to give this charge I won't do it, but you have

an absolute right to it and I'll do it either way and it's going to be left up to the hands of you and your lawyer.

MR. SENTER: Yes, sir, I'd like to discuss that.

THE COURT: Very good and you can take a moment to do so and you can just have a seat right there at the, right there at the defense table.

(Defendant and counsel confer.)

MR. SENTER: Yes, sir, we just discussed that and I am asking that you do make that charge to the jury.

THE COURT: Very good and I will do so.

All right, thank you. You may be seated.

MR. SENTER: Thank you, sir.

THE COURT: Thank you. I'm going to charge the law with regard to assault and battery with intent to kill. It goes into some discussion with regard to malice and intent. It defines malice, gives examples of malice, talks about specific intent to kill. I'm going to charge the law with regard to criminal domestic violence. I'm going to charge the specific aggravating circumstances set forth in 16-25-65. I'm going to charge the law with regard to insanity, and within the charge of insanity it essentially says there are four possible verdicts, and you all are familiar with the affirmative defense, defense of insanity and some basic law and I'll be happy for you to review this if you would like to do so. Any additional request to charge from the State?

MR. RICHARDSON: None from the State, Your Honor.

THE COURT: Any objections to what I am - obviously you're going to have an opportunity to object at the end of my jury charge, but is there anything preliminarily that object to my charging?

MR. RICHARDSON: Your Honor, everything seems fine with me.

THE COURT: All right, Mr. Wilson?

MR. WILSON: No, sir, I don't have any objection. Your Honor, in regards to your insanity charge I guess what I'm asking is is it the one from Ralph King Anderson's book or is it a different one or is it ---

THE COURT: It's the one that I -- I'll let you look at it. I'm going to allow both of you all an opportunity to review what I'm going to charge seeing how that's the central issue in the ---

MR. WILSON: Could I, could I have until in the morning to submit a proposed charge on insanity?

THE COURT: I'll be happy to entertain any charges, any requests to charge but I think that if you -- I'm going to give both of you all an opportunity to review that seeing how we've got the luxury of time this afternoon.

Is there any objections and if you have any ---

MR. RICHARDSON: Your Honor, I didn't see any. It seems ---

THE COURT: Seems very straightforward.

MR. WILSON: I don't, I don't have any objections. What I'm asking though is for permission to still submit a proposed one tomorrow.

THE COURT: Certainly you may, and not only that but you can submit any you want and I'll take a gander at them and we'll make a decision on it one way or the other and I will inform you what my decision is before you argue.

MR. WILSON: All right, sir, thank you.

THE COURT: All right.

MR. RICHARDSON: Thank you, Your Honor.

THE COURT: Is there anything further from the State?

MR. RICHARDSON: Nothing further from the State, Your Honor.

THE COURT: Any from, any from Defense?

MR. WILSON: Not in regards to His Honor's charge.

THE COURT: Okay, anything further in general?

MR. WILSON: Yes, Judge, I don't know -- I think I'm required to do this anyway. At the end -- since he put up reply I'm required to renew all the motions that I made at the end of both the State's case and at the end of the Defense's case. So, I at this point renew all the motions that I made both for a directed verdict, motion to have them select either ABIK or assault and battery with intent to kill or CDVHAN, which I think was the other charge, and in addition to that I

renew the motion that we've made for a directed verdict as to not guilty by reason of insanity.

THE COURT: Very good, all right, your objections are noted for the record, and if I could see counsel in chambers for just one moment.

*****OFF THE RECORD*****

(On the record, Thursday, June 5, 2008.)

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: All right, we're ready for the jury now. Anything from the State before we proceed?

MR. RICHARDSON: Nothing from the State, Your Honor.

THE COURT: Anything from Defense?

MR. WILSON: Yes, sir, Judge.

THE COURT: Might we approach the bench?

(Whereupon a bench conference was held.)

THE COURT: Let's hold off on the jury for just one moment.

Mr. Wilson, you're recognized.

MR. WILSON: Your Honor, I know on yesterday at the end of the State's case and again at the end of the Defense's case and more particularly at the end of the, at the end of the Defense's and at the end of the period when the State did its reply I had made a motion at that time for a directed verdict on all of the charges and including a directed verdict as to

not guilty by reason of insanity and the Court took it under advisement at that time and did not make a formal ruling on it at that time, and at this time what I would like to do is put some additional information in the record regarding that motion for a not guilty by reason of insanity, the directed verdict for not guilty by reason of insanity, and one of the cases, Your Honor, that I would like to cite to the Court and I have prepared a brief which I have been working on last night and this morning trying to get to you in this regard, but this case that I'm referring to is State v. Mario Milian-Hernandez, which is cited at 287 S.C. 183, 336 S.E.2d and this is a South Carolina Supreme Court case, and essentially, the case is similar to ours in a sense that there was, there was doctors who testified in the case that the Defendant possessed a mental defect and that he did not know the difference between right, moral right and moral wrong and legal right and legal wrong at the time of the commission of the offense, and in addition to that, that the State presented no medical testimony. They presented, attempted to present lay witnesses to try and claim that the Defendant was in fact sane and the Supreme Court in addressing it said this, ``In our view, the only evidence in this case from which the jury could have found appellant sane was the presumption of sanity. This case presents the first opportunity for this Court to address the question whether the presumption of sanity is in itself

sufficient to create a jury issue when the Defendant has presented evidence of insanity. We hold today it is not. We hold that the trial judge erred in refusing to direct a verdict of not guilty by reason of insanity. The appellant met his burden of proving insanity by a preponderance of the evidence. We caution the bench and bar that this opinion should not be read to require the State to produce expert testimony whenever the Defendant does so. A jury may properly disregard expert testimony. We simply hold that the State presented no evidence of sanity in this case; and therefore, no jury question was presented.'' Now, the State had argued to the Court, this is their argument to the Court at that time, ``The State argues that it presented sufficient evidence in its case in chief to make the question of appellant's sanity a jury issue. It argues that the jury had two pieces of evidence to rebut appellant's affirmative showing: one, evidence of flight from the crime scene; and two, the presumption of sanity. This Court has long acknowledged from'' -- I'm sorry, ``This Court has long held that evidence of flight is evidence of guilt, of guilty knowledge from which a jury may infer sanity,'' and then it cites State v. Thompson for that proposition. ``We adhere to this view; however, the circumstances of this appellant's flight are such as to negate that permissive inference,'' and I think that that is essentially where we are and that there is no, there is no

evidence other than presumptive evidence from which it can be presumed that this Defendant was anything but insane at the time of the commission of the offense and there has been not one witness, not one witness who has testified that the Defendant was not insane, and I looked back through the cases that the Solicitor had presented to the Court, in all of those cases, in all of those cases there are witnesses who come forward and say specifically that, ``I had a conversation with this Defendant. I had known this Defendant for many, many years. He was not at that time insane. He was acting normal, you know, he was normal.'' In one case I note it was his medical doctor of 15 years who had, while they presented no expert testimony, there was a medical doctor who had treated this particular individual, I think this is in a case where the individual was -- he was -- he had some illness involving delusions about the post office, and one of the things that the Court, that happened in that case was is that there was a postal worker who had had a 45-minute conversation with the individual the day before and said that, ``We had a 45-minute conversation about the post office. He did not have any -- he did not show any signs that that bothered him or that it upset him in any way whatsoever,'' which was a part of his delusion, and then the other witness in the case was a medical doctor who had known the individual for 15 years and had treated him and was his personal physician who came to court and

testified, ``I have been treating him and had saw him just a few weeks earlier. He was fine at that point in time and in my opinion as his treating physician he was not under any mental illness at that time.'' Again, there is none of that here. Not one single witness in this case has said that he was sane at that time, not even his wife, not even Ms. Lester has said that and no other witness has said that, which is why I think that this case is very, very different than what we normally have, and I think that in this particular case, Your Honor, that the Defendant is entitled to a judgment -- well, actually to a directed verdict of not guilty on the issue of the insanity. It really -- having said that, the other thing that concerns me is is that in these cases when we submit matters to the jury, and you never know what a jury is going to do and I've learned that if I don't know anything else over the years, you know, they're unpredictable and especially when something which I think as a matter of law has been established which is and I don't think there's any question in this record that as a matter of law the Defense has proven certainly by a preponderance of the evidence and I would submit to the Court beyond a reasonable doubt that in fact this Defendant labored under a mental illness and that he did not know right from wrong at the time. The question now is whether or not the State has produced evidence which a jury reasonably could and that's, that's the issue, from which a

jury could reasonably conclude that he was not and they have not. The mere fact that the only thing that they can point to is some circumstantial things which they say may suggest that and that creates a suspicion. Well, but that's not enough. It has to do more than create some kind of a suspicion and that's all that's happened here. They say, ``Well, you know, he picked up the gun shell.'' We don't even know, first of all, that that was the gun shell from that day. We don't know that because there's nothing in the record to say that. The second thing they say is, ``Well, he,'' I think they said that he moved her. Well, there's no indication and there's certainly nothing in this record to suggest that that's inconsistent with him having been insane. You know, there is just nothing. There's just nothing and not one but I think the real issue here is there is nobody, there is no testimony, zero, none that says that this Defendant was not insane, nothing, and I would submit to the Court that based on that that he's entitled to a directed verdict of not guilty by reason of insanity on -- based on that defense, and Your Honor, I have prepared -- I have prepared this motion, I'm sorry, this memorandum that I would like to pass up and that I would like to have made part of the record in regards to that motion, and Your Honor, in terms of the cases the only one that, that, that -- that I have that the Solicitor did not provide is Hernandez, and which is the one that I've been

reading from, and I don't have another copy of it.

MR. RICHARDSON: I've got a copy ---

MR. WILSON: You have a copy of it.

THE COURT: Be glad to hear from the State.

MR. RICHARDSON: Thank you, Your Honor.

I've read Milian-Hernandez, just reread it. I believe Mr. Wilson is being a bit disingenuous in his recitation of how the Court came out. The Court actually stated that there was, there was no evidence in the case other than the presumption of sanity. That's not the case here. Further, they indicated in dicta, ``We hold the trial judge erred in refusing,'' and they give a caution, they say, ``We caution the bench and bar that this opinion should not require the State to produce expert testimony when the Defendant does so. A jury may properly disregard expert testimony.''

Your Honor, during cross examination we showed the errors that both Dr. Halavonich and Dr. Domino had. I'd cite to State v. Poindexter, a case that's some eight years past Milian-Hernandez where it says the jury is free to rely on circumstantial evidence to find the Defendant sane even if expert testimony favors finding insanity, and here we have circumstantial evidence, unlike Milian-Hernandez where it was two strangers, one killed another, we have a wife that is divorcing a husband. Your Honor, they have intimate relationship. The jury can draw an inference from that that

can be a reason. We have evidence not of flight but that he's concealing the crime. He even tells Ms. Lester, ``You're not going to stay out here where somebody is going to find you.''

Your Honor, the Defense has not its burden in seeking a directed verdict. There is no requirement that we put up expert testimony. I believe the Defense in citing there is not anybody that testified as to the Defendant's sanity, that's a question for the jury. Perhaps he has mental illness confused with sanity and insanity. That's not what it is. Dr. Halavonich, the Defense's contract expert, stated a mentally ill person can be guilty and that's what we have here, Your Honor. As such, the Defense has not met its burden and we would respectfully request it go to a jury.

THE COURT: I'm going to deny the motion for a directed verdict at this time. All right, we're ready for the jury.

MR. WILSON: Yes, sir, one other thing, Your Honor, Your Honor, I realize that the law is is that the, that in these cases that either in closing arguments or in opening statements or even in His Honor's instructions to the jury, that we're not allowed to tell the jury what the ramifications of their sentences might be or what their decision or their verdict might be no matter what it is, that we can't explain that to them and I have a real concern

because I think that a lot of times jurors don't understand, for instance in this case where you have guilty but mentally ill and you have not guilty by reason of insanity, I think it's very difficult for jurors to necessarily understand the, you know, the terms of each and I worry that when they get in the jury room they'll be wondering, ``Okay, well, what does that mean, and what happens if we find him guilty of - guilty but mentally ill versus what happens if we find him not guilty by reason of insanity? What happens?'' And, and I know that we're not supposed to tell them but the problem is is that it is a natural, almost a natural reaction because they're going to be concerned about, ``If a person has a serious mental illness do we really want to turn him loose and put him back on the streets,'' and that bothers me, and so, in the one hand they decide that, ``Well, yeah, we, we believe that he was mentally ill and we believe that he didn't know right from wrong but at the same time we don't want to just turn him back loose on the street, and if we find him not guilty by reason of insanity,'' then they may believe that he just goes home. That's not true but they may very well believe that and that's a real concern for me about this jury and, and how they might decide this case.

THE COURT: All right, Mr. Wilson, I've given that a great deal of thought, and I understand what you're talking about and it might be something that perhaps the Supreme

Court might need to clarify but this is the way I intend on dealing with that is that I'm going to explain to them the role of the judge and the role of the jury and I'm going to explain to them in no uncertain terms that their job is to apply the law to the facts and that they are the sole and exclusive judges of the facts but I'm the sole and exclusive judge of the law, and as a part of that, my job is to determine the ramifications of what their verdict is and I'm going to tell them that punishment or the ramifications for any of these verdicts or in -- that's my job and that's what I'm going to do and I'm going to specifically instruct them not only is that not their concern but I'm going to instruct the forelady to enforce the rule that they're not to discuss punishment. They're to apply the facts to the law. I think that's the only fair way to do it and I understand your concern. I think it's a very valid concern, but I think within the parameters of the law that's the best way I can explain it to them.

MR. WILSON: And that's what I was going to ask the Court to do, understanding and I guess what I'm doing for the record here is saying that I disagree with the law and the state of the law as it is in that it actually does prejudice the Defendant's right to a fair trial in the sense that it does not give the jury sufficient information in order to make their decision in this particular kind of case. I don't

know that that's true in most other cases.

THE COURT: Right.

MR. WILSON: And I think the only time you run into it are in these kinds of cases which would involve mental health.

THE COURT: And it would seem to indicate just the term not guilty by reason of insanity would mean that he would walk home.

MR. WILSON: Right.

THE COURT: And I agree that that is a very real concern, but I think the law is clear that I can't tell them what the ramifications are

MR. WILSON: I agree with that. I agree and that's why I'm putting it in the record so I can take exception to it so that it will at least be open later for us to try to argue about if necessary.

THE COURT: And you are indeed protected on the record in that regard.

MR. WILSON: Yes, sir; yes, sir.

THE COURT: All right, all right, we are ready to proceed.

MR. WILSON: Yes, sir.

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: Good morning. Madam Forelady, ladies

and gentlemen of the jury, I want to thank you all for being here and you all were here on time. We had a false start this morning. We had legal matters that we had to tend to, but thank you so much for being on time. That really helps us move this matter forward.

We have reached the juncture in this trial where the lawyers are going to have an opportunity to give closing arguments, and closing arguments are very similar in form to the opening statements that you've already seen. However, these are truly argumentative in nature in that the lawyers are going to have an opportunity to point out the evidence that supports their various positions and although what they say is not evidence it's very important and will aid you in your deliberation process. I've watched you throughout the trial. You paid attention to the evidence. Pay very close attention to the closing arguments. They're very important, and I'll call Mr. Wilson at this time.

MR. WILSON: Thank you, Your Honor.

Madam Forelady and ladies and gentlemen, this is the last opportunity that I will have to address you during the course of this trial. Let me start out by saying that I thank you on behalf of Brad Senter and I thank you on behalf of the State of South Carolina for your willingness to serve and participate in this process. This process would not work without you. The jury is the backbone of our justice system.

There are a lot of forms of court systems around the world and I've studied many of them. I don't know one that's better than this one. It's not perfect, has its flaws but I don't know anything else that's close.

I have practiced law for 30 years. I have stood here as a Prosecutor, as a Defense lawyer thousands of times. I don't know that there's ever been a case more important than this one. They're all important. They're important to the people who are involved. They're important to the State of South Carolina, to Ms. Lester, the victim in this case, to Mr. Senter, who is the Defendant in this case. It's important to the community.

I told you at the outset that Brad Senter does not deny, never has, that he fired the shot that hit his wife. That's never been an issue. The issue is simple. Was he insane at the time he did it. It's that simple, and I say it's that simple, it's difficult but it's simple because that's the real issue here.

Let me say that and I'm going to talk to you for a few minutes about mental illness and -- but before I do that let me say that nobody is responsible for somebody else being mentally ill. Ms. Lester is not responsible for Mr. Senter being mentally ill. His mom and his sister are not responsible for him being mentally ill. Nobody can make you

mentally ill and nobody can make you un-mentally ill, if that's such a word. It's a sickness. It's an illness that we don't ask for, it just happens to us. Like Alzheimer's, it just happens. It's not something you did. It's not something you ate. It's not because you've been a bad person. It's not because you don't go to church. It happens to rich people, poor people, black people, white people, young people, old people, children are born with it. It happens. It's one of those things that we don't understand a lot about though, even though mental illness has been with us since time. We know very little about it. We don't know how it starts. We don't know where it comes from. We don't even know how to treat it. We do the best we can with what we have, but we don't know, but even more difficult for us is it's hard for us to understand. It's hard for us to understand mental illness because mental illness by its very definition means that you're not rational, your thinking is not rational, it doesn't make sense to a normal, rational human being, doesn't make sense to us; and so, when a normal, rational human being tries to understand irrational behavior it's never going to work because you're going to always try to assign a rational motive or a rational reason to why somebody did something when that person is mentally ill. Well, their thinking is irrational. So, you can't assign a reasonable motive to it because it won't work because the

whole act is irrational. You can't even put yourself in the person's place because as a reasonable person how are you going to act irrational. You can't, you can't do it. It's -- you're incapable of doing it. That is the problem and what we do as a society is those things that we fear, those things that we don't understand we fear. We don't understand AIDS. We fear it. It's the same thing with mental illness. Some people hide it. They don't want other people in the community to know that they're mentally ill. They don't want family members to know. You have family members who hide it. They don't want the community to know that somebody that they love, a son or a daughter, husband or a wife or child is mentally ill. It is one of those things that people won't tell the truth about a lot of times. It's because they don't want people to know. It's kind of like domestic violence, another one of those things, nobody talks about it. We all know it exists. We all know it happens. Nobody talks about it. It's troubling because we've asked you to sit through two days of testimony, three days and to make a decision, a judgmental decision and we've given you information, hopefully enough information. I tell you that where you sit you're not envied. Nobody really wants to trade places with you. It is a very tough position because you're going to have to decide in this case and I tell you up front there is only one decision for you to take, was he insane or

not.

Let me say that before I leave, mental illness, there may come a time when we can do like we do with cancer, you have an MRI and you can go and see and you see it. You see the cancer, but there was a time when we couldn't do that with cancer and we didn't know and we didn't understand but now we can because technology has advanced to that point. We will make advances in mental health but it will take time and you ask yourself when we have legal issues, you want to get a divorce, if you want to sue somebody what do you do? Go to a lawyer and you get opinions from your lawyer. If you decide that you got an illness and you don't really understand what it is what do you do? You get a doctor. You have an examination and the doctor will tell you what's wrong with you and then if you disagree with that doctor or if you're not real sure about that doctor what do you do? You go to another doctor and you get a second opinion because you want to be certain, and if the second doctor tells you the same thing that the first doctor told you then you're pretty sure that what they're saying is true.

In this case I'm no expert on mental illness. The Solicitor is not either. The doctors are. That's what they do, Dr. Domino especially. I think her testimony is extremely, extremely, extremely important. Why? Why? Why her testimony versus Dr. Halavonich's testimony? Because she

works for the State of South Carolina, and she was at the time this occurred and still is. She is the doctor that the court sent Mr. Senter to. He didn't go to her on his own. He was in custody. He was ordered by the court to go there to her. She treated him just as she did hundreds and hundreds of other Defendants.

What did she tell you? When he came there he was incompetent, meaning he was so bad off at that point he couldn't even stand trial. They wouldn't let him because they found that he was incompetent to stand trial. So, they hospitalized him for many, many months. Now, you know what's strange is is that that was accepted by the State, the fact that they made the finding that he was incompetent to come to trial; so, he didn't come, but now the same witness, the same physician, the same doctor makes the decision that he is not guilty by reason of insanity, that he did not know right from wrong, moral right from moral wrong or legal right from legal wrong at the time of this offense, that he did not know, don't want to accept that. ``We don't like what she says. It's okay what she said what before but we don't like this part of it. So, now we're not going to abide by that.''

She told you, Dr. Domino did that in all the cases that she has done, all the years that she has been at the state hospital working with criminal Defendants for years, the

second time, only the second time in her career that she has found a Defendant that she believed did not know moral right from moral wrong or legal wrong from legal wrong [sic], only the second time in her career, but if that is not enough, if that's not enough, if in spite of that, if in spite of the fact that the State's own doctor, the one that they pay, the one that they hire, in spite of that fact, if that ain't enough, get a second opinion because just maybe for the first time out of all those cases that she's done that she's wrong, maybe. Maybe for the first time in her career and the State disagrees with her that she's wrong, let's get somebody else. Get a second opinion here. ``We don't like hers. So, let's get another one. Okay, let's do that.'' We get Dr. Halavonich, another psychiatrist, number one in her class in everything she's ever done, head of the psychiatric department at the Medical University of South Carolina, can't argue about her credentials, can't argue about whether she works for the State of South Carolina, but the Solicitor would have you believe that he knows more than they know. He knows more than Dr. Domino, more than Dr. Halavonich.

Now, I don't know what medical school the Solicitor's Office graduated from.

MR. RICHARDSON: Your Honor, I object to that.

THE COURT: It's closing argument. I'll allow him to

proceed.

MR. WILSON: I don't know what medical school they graduated from, maybe they did. I don't know. I know I didn't, and we in this society have always trusted doctors to tell us when we're ill. It's the only mechanism we have. There is no other mechanism. What other mechanism is there? Let lawyers tell us when we're medically ill? Let people on the street tell us when we're medically ill?

The second opinion, we get Dr. Halavonich and what did she do? She told you almost the exact same thing that Dr. Domino told you, ``He did not know right from wrong. Moral right from moral wrong, legal right from legal wrong, he did not know.''

The difficult part is is that mental illnesses work different ways with different people, and to try to subscribe meaning to certain conduct is almost impossible. Like for instance in this case, how in the world, how do you rationalize somebody coming up with, ``The FBI is after me?'' How do, as a reasonable, rational person how do you -- you sit there and you say, ``Well, you know, how could somebody believe that?'' Well, it's not rational. That's the problem. It is not rational; and so, we can't believe it because it is not rational and because we are reasonable, rational people, because we're not mentally ill.

Now, folks, the other thing I think that's important in this case this is not something that somebody created after the fact. For years, for years leading up to this Mr. Senter was having problems, for years. You heard the testimony about the various hospitalizations, at Lighthouse twice, Duke Medical Center, over and over again, over and over again, hiding knives under the bed. Is that rational? No. It is not rational. Not only was he hiding knives under the bed, his sister comes to see him and the things that I'm telling you are undisputed in this case. They're not conjecture. There is no dispute about the things that I'm telling you at this point. No dispute about what Dr. Domino said, no dispute about what Dr. Halavonich said. His sister comes to see him, talking about irrational, his sister comes to see him and what does he do? The first thing he does after he hugs her is he runs and gets paper and tape to put over the smoke detector because he doesn't want the FBI to hear him having a conversation with his sister. Is that rational? Of course not. Then he takes her all the way to the beach because he's thinking that in his mind if they walk on the sand then they can't hear. The FBI can't hear what they're saying and what they're discussing and why in the world would the FBI be interested in him? What possible reason? None. He thinks that they're going to kill him, that they're going to destroy his life and that there's this active conspiracy

and plot to kill him, but I'll show you something else that I think is telltale signs to no end that he was out of touch with reality without question. He goes out and hires a polygrapher, a polygraph examiner, a lie detector person and brings them home to his wife and demands she take a polygraph that she's in a conspiracy with the FBI to destroy his life a year and a half before this incident occurs, but if that ain't enough, that's, that ain't enough, months before that what does he do? He buys a gun or gets a gun somehow. He takes her in the car, puts the gun between his legs and drives around in parking lots on the highway somewhere and demands from her to tell him what her involvement is with the FBI against him. Folks, this is not the day before, the week before or the week after. This is over a year before this incident occurs. He believes she is a co-conspirator with the FBI and that they're trying their best to destroy him and kill him and she's a part of it. Is that crazy? Yes. Is it wrong? Yes. But he believed it because that's his illness. Nobody is saying that -- nobody is saying that Ms. Lester should have gotten shot. She should not have. Nobody deserves to be shot, nobody.

He's writing letters. He's writing these God-awful letters to everybody, to his sister, to his mom, to Ms. Lester, to his friends and colleagues, and he honestly does not believe that there's anything wrong with him. In his

mind there's something wrong with all of us. He said, ``I'm not paranoid,'' in one of his letters to somebody. He was saying he wasn't paranoid, he didn't need to go in the hospital and that this was some grand conspiracy to destroy him to get him to go in the hospital because that's what he believed, folks, and the Solicitor will have you disregard, just, ``Well, folks, disregard all that, just disregard it because somebody got shot.'' Yeah, somebody got shot and is that bad? Yes. Yes.

I don't how this could've been avoided. I don't know. I don't know how it could have been avoided. He was getting worse as the days went by and he got worse and worse and worse and then for that period somewhere between June and November when he was living alone, when he was living alone, and you think about that for just a second with me, he's living alone in a house with this illness, not going to a doctor, not being treated, you think he's getting better?

Another thing, the day of the incident, the day of the incident and this is what Ms. Lester's account was, as I understand it, which I think is totally consistent with his illness, what did she say? She said that that day when she came to the house she cut his hair, she was waiting on the papers. Then what happened? When they come out of the master bathroom and they're standing there and she tells him

she wants to get the papers so that she can go to work and he goes, he leaves and he goes in the garage or somewhere. Did he go in there to get the gun? Maybe. I don't know. There's nothing in the record to that effect, but he goes in the garage or in that direction. He's gone for a minute and a half or two minutes she says and then he comes back and he's got some papers in his hand and she says he's just fumbling through them, not saying anything but he's just fumbling through the papers. Then she says he goes back into the garage a second time and he comes back and he just stands there and then she tells him, ``Well, you mail me or send me the papers,'' and then she's going to leave and then he leaves again and he goes into the bedroom this time and then that's when he comes back with the gun. Well, what was he doing the other times?

Now, the Solicitor would have you believe that what was happening was that he -- this was a grand plan on his part and he was going to shoot her. Well, folks, if he really was just going to shoot her because he's mad with her about the divorce, why not shoot her when she first shows up at the house. Let her cut your hair and then shoot her doesn't make any sense and why bring her to your house to shoot her? Why not sneak over to her house in the middle of the night and shoot her. I mean, if you've got this grand plan you're going to kill her, I mean, because you were mad because she's

breaking up with you, they've been separated for six months, so, if you're going to shoot her and you want her dead because she's trying to leave you then what's you do, sneak over there in the middle of the night when there ain't nobody around and you shoot her or are you waiting until she's coming, getting out her car and you hide in the woods and you shoot her. Do you really invite her over to your house in the middle of the day and then have her cut your hair and then shoot her because you're mad because she's going to get a divorce? It doesn't make any sense, and that's the problem with mental illness. It doesn't make any sense. It doesn't make any sense.

When -- after the shooting occurs, after the shooting occurs, Ms. Lester says that he comes out to wherever she is on the ground and that she is laying there and that he takes the keys from her, I think she said she had the keys in her hand and he takes the keys from her and he lifts up her shoulder and then he's rubbing around the area where the wound is. Well, if he's rational, if he's got -- if he knows, he knows he shot her if he's rational what's he looking for? Again, an irrational act.

Another, he goes to the golf course and when he gets to the golf course what does he do? He tells the guy, ``Cut off that phone, get away from here, you don't know what she's done to me,'' the same, ``You don't know what she's done to

me,'' in all these letters about her being involved with the FBI, the same stuff.

The police, you know, a Prosecutor's job is to be fair both to the Defendant and to the victim. You notice that that big old flag with the FBI in the back of that car they brought in here the kitchen and the sink, even though we admit it that he did shoot her. They brought everything, the gun, the bullets, the pictures of the house. They brought it all. Did they bring you that FBI t-shirt that he has spread all across the back seat of his car? Why? Because they don't want you to think he's crazy. They didn't bring it to you and they weren't going to tell you about it till I got up and asked them about it at the end and I'm coming to a close.

I know I've been up here about 30 minutes now and I don't want to try your patience. I know that it gets tedious sitting there and I want to finish my thoughts with you and then I will sit down. Just let me say a couple of other things and then I will be through.

Folks, you have no friends to reward. You have no enemies to punish. You have but one duty, find a verdict that speaks the truth. The truth is he is not guilty by reason of insanity. Now, what happens to him after that is for the Judge and the Court. That's not your responsibility once you make that determination and the Judge will make that decision and he will tell you that. Sometimes it's hard to

do the right thing simply because it's right, but I tell you this, when jurors come to service, they take an oath to truly try the issues between the State and the Defendant and to render a verdict that speaks the truth. Beyond that nobody has any right to question what you do and whatever your decision so long as it speaks the truth no one has a reason to complain, not the State of South Carolina and not Mr. Senter. Having said that, I say this, when we come to jury service we don't have an ax to grind with anybody. We don't have a cause to uphold. We simply need to find the truth. That's it, and there is no greater injustice I would submit to you than if a jury has an agenda of something other than the truth because injustice fails.

When we started this process Brad Senter was not guilty. Your Honor told you that. As we went through this process, Brad Senter was not guilty. As we sit here at this moment Brad Senter is not guilty. That is the law of this state and the law of every state in this Union, and the only time that that changes is if you, if you are not satisfied that the Defense has proven this case beyond -- by a preponderance of the evidence, not by a reasonable doubt but simply by the greater weight of the evidence and in criminal trials there, yeah, criminal trials and civil trials and in civil trials we have a different standard than we have in criminal trials. The State of South Carolina has the burden of proving a

Defendant guilty beyond every reasonable doubt. That is their burden and that is an extremely, extremely high standard. In fact, it's the highest standard known in the law that burden that they have. The Defense in these rare cases such as when you raise the defense of insanity has to prove by what we call a preponderance, which is a much lesser burden. So, if there's 51 percent for me and 49 percent for them then I win because that would mean that I have proven by a preponderance of the evidence, however slightly it tilts in my favor then I have met my burden of proof. That is the law, always has been and still is and I would submit to you that in this case we have proven far beyond a preponderance of the evidence that this Defendant was in fact insane, did not know right from wrong, moral right from moral wrong or and the statute says moral right from moral wrong or legal right from legal wrong, either. He doesn't know either, doesn't have to both, either, then you're obligated under your oath that you took to render a verdict of not guilty by reason of insanity.

Lastly, I told you that I won't get up and speak to you again, and whenever I sit down even after all these years I always think of ten more things that I want to get back up and say to you but I can't because those are our rules and we all have to abide by the rules. His Honor makes sure that we do that. I simply ask you to use your good common sense and

judgment, the same kind of common sense and judgment that you use in your everyday affairs. Don't leave that home. Take that with you in the jury room and use it just like you would if you were at work or you were in your home. You know what you can rely on. You know what you can trust. I ask you to do that and I ask you to return a verdict that speaks the truth, not guilty by reason of insanity. Thank you.

THE COURT: Mr. Richardson.

MR. RICHARDSON: Your Honor, the State would ask for a brief recess.

THE COURT: Madam Forelady, ladies and gentlemen of the jury, you take the jury back to the jury room but do not discuss the case. Do not discuss the case.

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: Anything from the State before we take a recess?

MR. RICHARDSON: Nothing at this time, Your Honor.

THE COURT: Anything from Defense?

MR. WILSON: Nothing, Your Honor.

THE COURT: All right, we'll take about a five-minute recess and be ready to go.

MR. RICHARDSON: Thank you, Your Honor.

*****OFF THE RECORD*****

(On the record.)

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: All right, we're ready for the jury.

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: Mr. Richardson, you're recognized.

MR. RICHARDSON: The Defendant is guilty, guilty by careful planning and scheming that upon Dena's desire to get a divorce, once it was getting real, once it was getting finalized, he was going to kill her. He's guilty by his actions, those actions he took the morning of November 13th, 2006, when he took this loaded 40 caliber Smith and Wesson handgun, leveled it at Ms. Lester at near point-blank range and fired a shot into her chest, and when his plan all went awry, when Ms. Lester had the audacity not to fall down and die at his attempt to murder her he's guilty by his attempted cover up, hastily done, a futile effort, and we know that because he got caught, and the Defendant knows that he got caught and you've heard ample testimony to that and I'd submit that the State has met its burden, I believe the Defense even stated it, we met our burden in proving that the Defendant shot Ms. Lester, November 13th, 2006, and from that morning, from the time Mr. Senter was put in handcuffs he knew the mountain of evidence against him. He knew that this

weapon was taken off of him, knew that shell casing he had in his pocket was going to match that gun. He knew the projectile in Dena Lester, was still in there, that was going to match to the gun and he knew by the end of the day that Dena was still alive. Regardless of how scared she was she was going to take that stand and say, ``That man shot me,'' and that's what she did; and so, the Defense knew this from the beginning.

Don't want to go to prison, don't want to go to jail, what do you do? Well, he's got a history of mental illness. ``I've always thought the FBI was after me. That's what made me do it.'' Folks, this has nothing to do with any delusions he may have had about the FBI. It has to do with one thing and one thing only. Dena Lester was divorcing the Defendant. His means of financial support were going away, and by God, if he could not have her nobody would and when that became apparent he did the only thing he thought he could do, he shot her.

Now, as I stated the State has met its burden on the elements of the crime. We put up a day of testimony but that was our burden. We had to make -- we had to meet that burden and that's why we put up all that testimony and I wanted you to see it. I wanted you to be able to see what happened on November 13, 2006. That's why I put up those witnesses that were there, that were present. The State has met its burden

as to whether or not the Defendant shot Ms. Lester. So, let's address the Defense's case. They've asserted that mental defense. So, let's look at it.

What did they put up? First and foremost they put up Ms. Cleary, the Defendant's sister, and there's no doubt she loves him. She loves him, and she was an adequate historian. She told you about his history of his delusions, where he had been hospitalized. That's correct. I'm not going to tell you he wasn't hospitalized. I'm not going to tell you any of those doctors were wrong whenever he told them he had delusions about the FBI dating back to at least 2005.

Ms. Cleary also told you that the Defendant believed that the entire family was engaged with the FBI, they were all in on the conspiracy, but I asked her, I said, ``Has he harmed anybody else in the family, anybody else in this conspiracy? He's been alone with them. Has he harmed them,'' and she answered honestly, ``No,'' because none of those persons were divorcing him and then they put up Dr. Domino and Mr. Wilson wants to tell you that's the State's doctor and he points to my table and says, ``The State's doctor.'' Folks, Dr. Domino said herself she was ordered by the court, not by the State, not by the police and certainly not by Ms. Lester, by the Court to evaluate the Defendant. I wish she was my psychologist I would have told her to do a better job, don't do sloppy work. Dr. Domino talked about

VOLUME II OF II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM HORRY COUNTY

Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRADLEY SCOTT SENTER,

APPELLANT

RECORD ON APPEAL

M. CELIA ROBINSON
Appellate Defender

DAYNE C. PHILLIPS
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorneys for Appellant

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

CHRISTINA J. CATOE
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

J. GREGORY HEMBREE
Solicitor, Fifteenth Judicial Circuit
Post Office Box 1276
1301 2nd Ave.
Conway, SC 29528-1276
(843) 915-5460

Attorneys for Respondent

INDEX

INDEX i

TRIAL TRANSCRIPT DATED JUNE 3-5, 2008 1

TRANSCRIPT DATED JUNE 20, 2008 549

COURT'S EXHIBIT 1- WAIVER OF JURY TRIAL 585

COURT'S EXHIBIT 2- FORENSIC EVALUATION 286

COURT'S EXHIBIT 3- MOTION FOR DIRECTED VERDICT 595

DEFENSE EXHIBIT 1- E-MAILS 597

DEFENSE EXHIBIT 2- "THE EMPTY TANK" 603

DEFENSE EXHIBIT 3- MISCELLANEOUS PAPERS 607

DEFENSE EXHIBIT 5- PHOTOGRAPH 638

DEFENSE EXHIBIT 7- DOCUMENTS-TABLE 639

DEFENSE EXHIBIT 8- STATEMENT 648

DEFENSE EXHIBIT 9- LETTER FROM BRAD TO SISTER 656

DEFENSE EXHIBIT 10- LETTER FROM ATTORNEY 658

DEFENSE EXHIBT 11- E-MAILS FROM RUTH BERGMAN 670

DEFENSE EXHIBIT 12- LETTERS FROM BRAD TO RUTH 678

INDICTMENT 708

SENTENCING SHEET 712

CERTIFICATE OF COUNSEL 713

**** DEFENSE EXHIBIT 6 (PHOTOGRAPH) IS BEING TRANSPORTED TO THE COURT OF APPEALS ****

the competency evaluation. She stated that she saw the Defendant I believe in February of 2007, three, three and a half months after the Defendant shot Ms. Lester, tells you at that time he knew who his attorney was, knew what the role of the Judge was, knew what the role of a jury was, knew what the role of the Prosecutor was, but he had these delusions about the FBI and that's what he was saying, ``The FBI is out to get me,'' and so, she found him incompetent to assist his counsel at that time, but you know what, that didn't get the Defendant out of trouble. The charges weren't dropped. What it earned him was 60 days at a mental hospital, and go figure, that 60 days later he's fine, he's competent. He's not claiming that these FBI ideas are interfering with his ability to assist his counsel.

Dr. Domino talked to you about she interviewed him in February and then May and then in August and in August she stated that she was ordered to evaluate the Defendant to determine if he was criminally responsible way back on November 13th, 2006. She's trying to figure out what his state of mind was November 13th, 2006. Now, she told you that she met with the Defendant three separate times. Those other two evaluations and this total about six hours and some change. She told you she reviewed all his pertinent medical information so she knows when his hospitalization was before. She knew that before. She stated she reviewed those records

during the competency evaluation. So, she's getting very familiar with the Defendant.

She tells you that she spoke with Ms. Bergman three times. Ms. Bergman, the Defendant's mother does love him, was not present the morning of November 13th, 2006, and in no way can tell us what was going through his mind that morning. She talks with Detective Troxell and you heard the officers testify who were the first people on the scene, who became engaged with the Defendant immediately. Then she begins her report, when she started it I don't know. I don't know if she began her report in February or May or August when she's speaking to all these people, but she doesn't speak to anybody there until September 5, 2007. She finally talks to Dena Lester and then she issues a report the very next day and I asked her, I said, ``Doctor, so, you spoke with Ms. Lester and then you issued your report on September 6th, the very next day.'' She said, ``No, I completed it.'' She had it done already. She had made up her mind before ever, ever speaking with the only other person that was personally present at the shooting, the victim. She made that report and completed it prior to ever, ever speaking with anyone else that encountered the Defendant that day. She didn't speak with the Vonspreckelsens. She didn't speak with Joe Estock. She didn't speak with Trooper Ledford, Corporal Eliason. She had made up her mind and she got just enough

stuff to make it fit what her idea was. ``Everything else I can ignore that. I know what's going on.'' I told you I wish she was the State's expert because I would have told her, ``Don't even begin to write your report until you go and you investigate, do a good job of investigation.'' All those medical reports those are, those are great to tell me what happened in the past. Those are great to tell me that he may have some kind of mental illness. They do not tell me what happened November 13th, 2006. Go talk with people that were at the scene. Talk with the victim and don't do it as an afterthought. Talk with the Vonspreckelsens, talk with the Joe Estock, talk with the officers that encountered him, maybe go down and take a look at the scene, see how it all went down. She didn't do that. I'd tell her not to rush her report and I'd tell her, ``Make sure you know the law before you try and figure out what it is.''

I asked her a specific question with regard to the law and she got it wrong. Maybe I didn't say it right, but she got it wrong when she recited it. I asked her if someone knows moral right and moral -- of moral right and moral wrong and legal right and legal wrong and does the act anyway that's guilty but mentally ill and she says, ``No, that's not guilty by reason of mental defect.'' She got it wrong. This is the man who is going to tell you what the law is. The Judge will give you that charge at the end and he will tell

you guilty but mentally ill states that if someone has the capacity to distinguish moral or legal right and wrong or recognize the crime is morally or legally wrong but you find that it is more likely than not because of a mental disease or defect the Defendant could not follow the law, then that is guilty but mentally ill, but she got it wrong. If she's going at the wrong target none of her report can be correct. If she doesn't get all the necessary information, the report can't be correct. So, you'd have to ignore it.

The Defense put up Ms. Battle. Once again, great historian. She can tell you in February, I believe, of 2005 the Defendant had some delusions. Once again the FBI, they keep wanting to say FBI, FBI, FBI, delusions of the FBI. It has nothing to do with the FBI and has everything to do with the fact Dena Lester is divorcing him and if he can't have her no one will.

They put up Ms. Bergman, his mother. She loves him. She goes through a list of letters back and forth between her, Ms. Lester. There's some concern on some of his delusions. Those letters are adequate to tell you what was going through their mind that day or prior to this incident, not exactly what's going through the Defendant's.

Ms. Bergman tells you that she actually encounters her son. He comes to see her, I believe, September [sic] 9th, the Thursday before he shoots Ms. Lester. He goes up there.

Now, according to Ms. Bergman, according to everybody else that's talked about the family the Defendant believes that his whole family is involved in this conspiracy, including Ms. Bergman, and I asked her, I said, ``Did he harm you?'' She said, ``No, he would have,'' and I said, ``Well, that's speculation.'' She said, ``Well, I know he would have,'' but he didn't. Why? She's not divorcing him. It has nothing to do with this delusion of the FBI's fault. She was not divorcing him and she stated that she felt she was in danger, and I said, ``Well, did you call the police?'' ``No.'' She didn't call the police. On one hand I guess I can understand it as a parent, but if she was in that much fear for her life she should have called the police.

Then they bring out Dr. Halavonich. What Mr. Wilson wants to point towards me, talk about Dr. Domino and says that's my witness when it's really the Court's. There's no doubt Dr. Halavonich is Mr. Wilson's contract psychiatrist. She told you Mr. Wilson has got MUSC for whom she works under contract to do these forensic evaluations. The State doesn't have that.

She takes the stand and she goes through that she reviewed the report. Mr. Wilson asked her about those competency evaluations and I think Mr. Wilson tried to rephrase how she was answering at one point because he asked about it and she started to say, ``I don't know. I wasn't

hired to do a competency evaluation.'' She can't tell you what his state of mind was in May of 2007. She can't tell you what his state of mind was in February of 2007, but she wants to tell you that she knows what his state of mind was November 13th, 2006.

I asked her, ``How did you formulate this opinion? What information did you use?'' She used a lot of the same information, medical reports from Dr. Domino, Dr. Domino's reports, she speaks with the Defendant three times. She speaks with the Defendant's mother, his sister. Neither of those were there on November 13th, 2006.

Mr. Senter has got everything to gain by whatever he tells her. Dr. Halavonich admits sometimes people lie, that Mr. Senter's recollection was fuzzy. If his recollection's fuzzy then he can't give all the pertinent facts. So, I asked her, I said, ``Well, of course, you went, you talked with the other people at the scene that came into contact with him,'' and she smiled and said no. She answered honestly. She didn't talk with Dena Lester. She didn't speak with the Vonspreckelsens, Joe Estock, any of the officers. She just didn't do her homework. Once again, she knew what her target was. She knew that she had to find the Defendant not criminally responsible. So, she's got just enough, just enough to get there, but she didn't have all the information and you do.

Mr. Wilson made a big deal of those letters that she had up here and she went through and she recited some letters, and in those, I believe one of the letters stated that Ms. Lester was involved with the FBI conspiracy and that was dated February 2005, and certainly if this is about his delusion that Ms. Lester is involved with the FBI conspiracy why not shoot her then? Why not shoot her any other time whenever she's involved with the FBI conspiracy? Why not shoot any of his family? Because this is not about an FBI conspiracy. It's about if he can't have her no one will and I asked her, I said, ``Doctor,'' I said, ``Where is the letter that tells us exactly what was going through the Defendant's mind November 13, 2006?'' Once again she answered honestly, ``There's not one.'' They want to cherry pick what they're bringing out.

I asked Dr. Halavonich a very important question because this is a difficult case. The Defense wants you to believe that people that have mental illnesses just can't be responsible, and I asked her that specific question, ``Can someone with a mental illness be guilty of a crime?'' Once again she answered honestly on that, ``Yes, yes, they can,'' and in this case, yes, he is.

Dr. Halavonich told you that the purpose of a forensic interview is to determine what is going through a Defendant's mind that day. Folks, she didn't do her homework. She

didn't have the information before her to tell her what was going through his mind that day, not February 2005, not in May of 2005, not even on November 12th, 2006. What is going through his mind November 13th, 2006, when he executes a plan to kill his wife and then tries to cover it up?

Once again, she did not have the best information and this cannot be the best determiner of his mental state. You have all the information. You will be the one rendering the verdict with regard to his criminal responsibility. Once again, this has nothing to do with delusions that the FBI was after him, that Ms. Lester was conspiring with the FBI, and Ms. Cleary, the children, Ms. Bergman, his father, anybody was involved with the FBI because he didn't harm any of those. He shot the one person that was divorcing him.

As I stated, the Judge is going to give you a charge that another possible verdict is guilty but mentally ill. If you have no reason to doubt the Defendant committed the

crime and that the Defendant had the mental capacity to distinguish moral or legal right from wrong or recognize the crime is morally or legally wrong but you find that it is more likely than not because of a mental disease or defect the Defendant could not follow the law you must find the Defendant guilty but mentally ill. Now, I submit to you he's guilty. This has nothing to do with his mental illness and everything to do with the divorce. He started planning this

way back from the beginning of the separation. You saw the check. You saw the check that was written to be part of the settlement dated July 20th, 2006. The Defendant's handwriting, ``Will be paid regardless of any medical, arrest or any other major event.'' He's just making sure he's ready in case Dena is serious about this divorce, make sure that if he does shoot her and gets put in jail the check is going to be good. If he gets put in a mental hospital that check is going to be good. He's starting his planning then. Then he starts to put his plans into motion as it got a little more serious, a little more real. Dena tells you they passed paper back and forth, back and forth until November, the week of November 6th, 2006. That's when she had that final declaration of separation, the financial statements. They were going to basically be the end all be all, nothing left to do but wait out for the divorce. This was it and she delivered them to him. He knew she was serious at that point. ``I want your signature.'' They had argued about every little iota of those things before, but this was real and it got real; and so, he knew what he had to do. He knew what he had to do. If he couldn't have her, nobody would.

And so, Dena delivers the papers to him and he says, ``I'll get them signed,'' and he calls her, says, ``I've got them signed.'' Folks, look at those papers in the back. There'll be back there with you. They're in evidence.

They're not signed. So, he begins by lying to her. He uses those divorce papers as a lure to bring her over and Dena says, ``Okay, well, if you've got them signed why don't we meet at the library,'' a nice public place. She's tried to be amicable the entire time, but, ``Let's meet at a public place.'' What's going through his mind? ``I can't, I can't, I can't shoot her at a public place like that. There'll be witnesses, only a crazy person would shoot somebody in front of all those witnesses.'' So, he says, ``Nope, nope, can't do it.'' Another time says, ``Why don't we meet at this sports bar where you are?`` ``Nope, can't do it.'' Once again got those witnesses, those pesky witnesses. To carry out his carefully orchestrated plan he has to have her alone at 120 Barclay Drive. Dena is a nice lady. She's been married to the man for 13 years. He knows her. He knows that he can make her basically relent; and so, he says, ``Well, how about this? You come over Monday morning, early Monday morning,'' he knows what time she's got to be at work. She's in school. She's got to be there before 7:30. He's going to be by himself and puts her off guard by saying, ``Why don't you, why don't you come over and cut my hair first?'' He's still hopeful for a reconciliation. You heard Dr. Domino. He was always hopeful for a reconciliation and maybe he can talk her out of it one more time.

So, she trims his hair, his neckline and they're done,

and she says, ``All right, I need the paperwork.'' Well, it's go time. She wants the paperwork that means this is it. The divorce is final. So, he says, ``Hold on. I'll go get it.'' He goes in the garage, no papers. The gun box is in the garage, and I don't know when he got the gun but he comes back out, no papers. Ends up going back in the garage, has some papers says, ``This isn't them. I've got changes,'' and Dena says, ``I've got to go. 7:27, I'm late for school. I've got to go,'' and she's about to leave and the Defendant knows this is -- this might be his last chance, his last chance to make sure nobody else will have her. He says, ``Wait right there. I know exactly where they are. I'll be less than a minute,'' and he goes into the bedroom, gets his 40 caliber Smith and Wesson handgun, comes out, does not say a word and shoots her in the chest.

His plan is done until he realizes she's getting up. Her not dying wasn't part of his plan and that throws him a little bit into a tizzy because he had this carefully orchestrated plan and it just didn't go his way. So, Dena gets up. She struggles to her feet and she gets out the door and she runs over to the neighbor's house. She's trying to get help and you heard Mr. Vonspreckelsen, she was in the shower, couldn't hear. Mr. Vonspreckelsen was in bed asleep. He stirred a little bit but he didn't hear. Dena can't get help. So, she tries to get to the curb and how

does the Defendant show that he had that guilty mind that he knew it was wrong? Well, he's trying to hide the crime at that point. He goes and snatches Dena up, picks her up and drags her back to this doorway where obviously nobody is home that's covered by bushes, says, ``You can't stay here by the curb somebody is going to find you and I can't have anybody find you because they'll take me to jail,'' because he knows that what he did is wrong.

And Dena, fight or flight is kicking in. She reaches in her pocket, pulls out her keys, sets off the alarm. The Defendant grabs those keys because that alarm is going off and he knows that's going to bring somebody out of their house. That's going to bring somebody out to find him to take him off to jail for trying to murder Ms. Lester. So, he snatches the keys and goes over, turn off the car, turn off the alarm. Dena tries to ring the doorbell one more time to no avail. So, she plays dead. She plays dead so that hopefully she won't become dead.

The Defendant comes back over. Mr. Wilson wants to know, ``Oh, why would anybody go and feel the wound?'' Well, he wants to check out his handiwork. He wants to make sure that if he can't have her nobody will and he drops her there. He has some cleaning up to do. He's had that handgun for a while. He knows that when he shoots it it ejects a shell. That spent shell casing is evidence. Let's go pick

it up. God help us if somebody comes in his house. They might find that shell casing. ``I've just felt her chest''. You saw the water running. Dena said she wasn't bleeding badly, but, ``I've got to clean my hands off.'' So, he washes up, and while he's gone Dena is able to struggle to her feet and get out to the golf course and she finds Joe Estock. He calls 911, and while this is going on, Joe told you, he was on the phone for a while, the Defendant has come back over to get that last crucial piece of evidence, the body. She's gone. She's gone. All that's there are her shoes. ``Where could she go? I shot her. She was passed out. She was almost dead.'' So, he rings the Vonspreckelsens' door. Maybe they are there. Ms. Vonspreckelsen told you that she came to the door and the Defendant was gone, had to be gone. He had a lot of evidence to cover up.

Asked to see if Dena's there, says no, but her shoes are. So, the Defendant picks those up, one more piece of evidence where Dena was, one more piece of evidence of Dena's existence, and before he does anything else he walks back over to 120 Barclay Drive, throws them inside the door. That's where they're found. That's where that picture was taken. Ms. Vonspreckelsen said she didn't see a gun on him at that point. He ditched it. He was just going back to get her body. He didn't have to shoot Dena again,

but he gets that gun again because he knows that if Dena is not there and he's looked for her, she's had to run off and Joe Estock told you as he was on the phone with 911 the Defendant comes walking out and notices him and tells him, ``Get off the phone. You don't know what she did to me.'' Joe Estock didn't know that they were divorcing. So, no, he didn't and he chases Joe Estock off. He doesn't want that 911 call to go through. He doesn't want the police to come because he doesn't want to go to jail and he knows that he will because he knows right from wrong, and Dena told you that as he stood over her he said, ``What would your God think of you now for what you've done to me, divorce?''

And what happens when the police arrive? Does he go all loony? Does he rush out? Does he try to attempt suicide by police officers? No, they have guns. They're not divorcing him. He knows that if he runs at them he's going to die and he'll never have the opportunity to do away with Dena Lester again. So, he lays down and he complies. They're not divorcing him. He's not mad at them. He's mad at Dena, and Mr. Wilson would have you substitute Halavonich and Domino's failed opinions for your own common sense. They didn't have all the information. They told you they didn't speak with the Vonspreckelsens. They didn't speak with Joe Estock. Halavonich didn't speak with Dena Lester and, oh, by the time Domino had already made up her mind that's the only time she

spoke with Ms. Lester. So, their opinions are flawed. They should be thrown out and you should not substitute their expert opinion for your good sense. You know he knew what he did was wrong. This is not about delusions of the FBI. If that were the case he would have shot any other family member. They were all conspiring against him. You know, that was back in '05 and on, maybe but even as soon as four days before this shooting he's alone with people he believes is conspiring against him. He doesn't shoot them because they're not divorcing him. They're not cutting off his financial support. He'll always have them, but once again, he can't have Dena nobody will. There's no doubt he knew right from wrong and you're going to go back in the jury room and I'm telling you he's guilty. None of those mental defenses work. He's guilty. Not only did he know what he did was wrong morally and legally, showed ample evidence of it, it had nothing to do with his delusions of the FBI and everything to do with the divorce, but if you get back in there and you start talking about, ``Well, maybe it had something to do with the FBI,'' well, there'll be no doubt that he knew right from wrong. He tried to hide the crime. He planned it, wanted to do it alone where nobody could see, he would leave no witnesses, and it just went bad for him.

Well, as I stated before the Judge is going to give you a charge stating that if he knew right from wrong, did the

act anyway, couldn't control his actions because of his mental illness then he's guilty but mentally ill. The Judge is going to give you that law. I read it directly as he's going to present it to you before. He is guilty by his actions, this planning, this cover-up, and I ask you to use your good common sense. You go back in the jury room. You take all the evidence that has been presented to you, whether they had the tag of an expert or whether they were people that actually know what went on that day, you evaluate it and you come back with a verdict. You come back with a guilty verdict because that is what he is, guilty.

THE COURT: Madam Forelady, ladies and gentlemen of the jury, you have -- we have completed the taking of testimony and the closing arguments, and throughout the trial I've indicated that you -- it is not time for you to begin deliberations and I'm once again going to tell you that. I'm going to allow you all to take a short break and we're going to fortunately order lunch so you all can have lunch and once you're given the case for deliberations you can begin at that time but it's inappropriate to begin discussions now. I'm going to ask that you take a very short break. The clerk is going to or the bailiff is going to come in and take your orders for lunch and then I'm going to come back and charge you the law and, Madam Forelady, I'm going to ask you to take the jury to the jury room but do not begin deliberations. Do

not.

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: All right, we will stand at ease. We'll stand at ease for about five minutes.

MR. RICHARDSON: Thank you, Your Honor.

*****OFF THE RECORD*****

(On the record.)

THE COURT: Anything from the State before we proceed?

MR. RICHARDSON: Nothing from the State, Your Honor.

THE COURT: Any objection with regard to the verdict form?

MR. RICHARDSON: It appears to be in order, Your Honor.

THE COURT: Mr. Wilson, anything before we proceed?

MR. WILSON: No objections, Your Honor, and it appears to be in order.

THE COURT: Very good, all right. We're ready for the jury.

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: Madam Forelady, ladies and gentlemen of the jury, I've watched you throughout the trial and you've paid very close attention to the testimony and I want to thank you for that, and of course, you have taken a very

solemn oath to act as diligent jurors, and in order to do that you have to, number one, listen to the facts and find that what the truth is, then you have to apply it to the law and that's what I'm going to do right now is explain the law to you and give the law to you as best I can. Receiving a jury charge is almost like taking medicine. There is no easy way to do it, but it's very important. This is an important case for the State of South Carolina. It's an important case for the Defendant. I'm going to ask if you could to perk up. I know it's about mid-morning. You might be getting hungry but this is important stuff and I want you to perk up, sort of lean in and let's pay very close attention to the jury charge.

Ladies and gentlemen of the jury, the indictment charges the Defendant with assault and battery with intent to kill and criminal domestic violence of a high and aggravated nature. I remind you that the fact that the Defendant was arrested, charged and indicted is not evidence in this case and cannot be considered by you as evidence of guilt, nor does it create any presumption or inference of guilt. This document is simply the formal written instrument which contains the charges made against the Defendant. It is the formal document by which this case is brought into this court.

The indictment in this case alleges two separate

offenses against the Defendant. The charges are assault and battery with intent to kill, criminal domestic violence of a high and aggravated nature. Each indictment charges a separate and distinct offense. You must decide each indictment separately on the evidence and the law applicable to it influenced by your decision as to the other indictment. The Defendant may be convicted or acquitted of any or all the offenses charged. You will be asked to write a separate verdict of guilty or not guilty for each indictment, and of course, in this particular case there are four different alternatives that will be explained in great detail as I explain the verdict form to you.

Ladies and gentlemen of the jury, the Defendant has pled not guilty to this indictment, and that plea puts the burden on the State to prove the Defendant guilty. A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent. I charge you that it is an important rule of the law that the Defendant in a criminal trial, no matter what the seriousness of the charge may be, will always be presumed to be innocent of the crime for which the indictment was issued unless guilt has been proven by evidence satisfying of that guilt beyond a reasonable doubt. This presumption of innocence does not end when you begin your deliberation, but it accompanies the Defendant throughout the trial until you reach a verdict of guilt based

on evidence satisfying you of that guilt beyond a reasonable doubt. The presumption of innocence is like a robe of righteousness placed about the shoulders of the Defendant which remains with the Defendant until it has been stripped from the Defendant by evidence satisfying you of the Defendant's guilt beyond a reasonable doubt. The presumption of innocence is not mere legal theory. It is not just a legal phrase. It is a substantial right to which every Defendant is entitled unless you the jury are satisfied from the evidence of the Defendant's guilt beyond a reasonable doubt.

What is reasonable doubt? A reasonable doubt is the kind of doubt that will cause a reasonable person to hesitate to act. The State has the burden of proving the Defendant guilty beyond a reasonable doubt. Some of you may have served as jurors in civil cases where you were told that it is only necessary to prove that a fact is more likely true than not true, such as by the greater weight or the preponderance of the evidence. In criminal cases the State must prove -- must -- the State's proof must be more powerful than that. It must be beyond a reasonable doubt. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the Defendant's guilt. There are very few things in this world that we know with absolute certainty and in a criminal case the law does not require proof that

overcomes every possible doubt. If based on your consideration of the evidence you are firmly convinced that the Defendant is guilty of the crime charged you must find the Defendant guilty. If on the other hand you think that there is a real possibility that the Defendant is not guilty you must give the Defendant the benefit of the doubt and find him not guilty.

There are two types of evidence which are generally presented during a trial, direct evidence and circumstantial evidence. Direct evidence is the testimony of a person who claims to have actual knowledge of a fact such as an eyewitness. It is evidence which immediately establishes a main fact to be proved. Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact. It is evidence which immediately establishes collateral facts from which the main fact may be inferred. Circumstantial evidence is based on inference and not on personal knowledge or observation. The law makes absolutely no distinction between the weight or value to be given to either direct or circumstantial evidence, nor is a greater degree of certainty required of circumstantial evidence than of direct evidence. You should weigh all the evidence in the case. After weighing all of the evidence and if you are convinced of the guilt of the Defendant beyond a reasonable doubt you must find the -- and if you are not convinced of

the Defendant's guilt beyond a reasonable doubt you must find the Defendant not guilty.

Ladies and gentlemen of the jury, necessarily you must determine the credibility of witnesses who have testified in this case. Credibility simply means believability. It becomes your duty as jurors to analyze and to evaluate the evidence and determine which evidence convinces you of its truth. In determining the believability of witnesses who have testified in this case you may believe one witness over several witnesses or several witnesses over one witness. You may believe a part of the testimony of a witness and reject the remaining part of the testimony of that same witness. You may believe the testimony of a witness in its entirety or reject the testimony of a witness in its entirety. You may consider whether any witness has exhibited to you any interest, bias, prejudice or other motive in the case. You may also consider the appearance and manner of a witness while on the witness stand, their demeanor.

The rules of evidence ordinarily do not permit witnesses to testify to opinions or conclusions. An exception to this rule exists for witnesses we call expert witnesses. A witness who by education and experience has become expert in some art, science, profession or calling may state an opinion as to the relevant and material matter in which the witness came to be an expert and may also state the

reasons for the opinion. You should consider any expert opinion received into evidence in this case like any other evidence, give it the weight you think it deserves. If you decide that the opinion of an expert is not based on sufficient education and experience or if you conclude that the reasons given in support of the opinion are not sound or that the opinion is outweighed by other evidence you may disregard the opinion entirely. An expert witness's testimony is to be given no greater weight than that of other witnesses simply because the witness is an expert. Further, you're not required to accept an expert's opinion even though it is not contradicted.

Ladies and gentlemen of the jury, I instruct you and emphasize that the fact that the Defendant did not testify is not a factor to be considered by you in any way in your deliberations and in your consideration on the question of guilt or innocence of the Defendant. It must not be considered by you in any manner whatsoever. A Defendant has the constitutional right to remain silent and the assertion of this right must not be considered by you in your deliberations. I repeat, under your oath you are to draw no conclusions whatsoever from the fact that the Defendant in this case did not testify. The fact that this Defendant did not testify should not even be discussed by you in the jury room, and Madam Forelady, I'm going to ask that you enforce

that rule.

The burden of proof as I have stated to you is on the State. The Defendant is not required to prove his innocence. The burden of proof remains on the State to prove guilt beyond a reasonable doubt.

I'm going to charge you the law with regard to assault and battery with intent to kill. The Defendant has been charged with assault and battery with intent to kill. In order to prove assault and battery with intent to kill the State must prove beyond a reasonable doubt that the Defendant committed an unlawful act of a violent nature to the person of another with malice and forethought.

An assault occurs when a person unlawfully attempts or offers to commit a violent injury upon another person and had the present ability to complete the attempted injury. An assault is an intentional creation of a reasonable fear of immediate bodily harm. It is not necessary that the attempted injury or harm actually take place. For example, if I walk up to you and when we are within arms reach I draw back to hit you that is an assault.

A battery is the unlawful touching of another person by a person who has committed the assault. An unlawful touching can be caused by a part of the accused's body or by any object the accused puts in motion. A battery is the completion of the assault by using or applying force to

another person, however slight, in a rude, angry or a resentful manner without legal justification for doing so. Using my earlier example, if I carry through the assault by hitting you then that is a battery. Malice is hatred, ill will or hostility towards another person. It is an intentional doing of a wrongful act without just cause or excuse and with an intent to inflict an injury or under circumstances that the law will infer an evil intent. Malice aforethought does not require that malice exist for any particular time before the act is committed but malice must exist in the mind of the Defendant just before and at the time of the act -- at the time the act is committed. Therefore, there must be a combination of the previous evil intent and the act. Malice aforethought may be express or inferred. The terms express and inferred do not mean different kinds of malice but merely the manner in which malice may be shown to exist, that is either by direct evidence or by inference from the facts and circumstances which are proved. Express malice is shown when a person speaks words which express hatred or ill will for another or when the person prepared beforehand to do the act which was later accomplished. For example, lying in wait for a person or any other acts of preparation going to show that the deed was within the Defendant's mind would be express malice.

Malice may be inferred from conduct showing a total

disregard for human life. Inferred malice may also arise when the deed is done with a deadly weapon. A deadly weapon is any article, instrument or substance which is likely to cause death or great bodily harm. Whether an instrument has been used as a deadly weapon depends on the facts and circumstances of each case. The following are examples of instruments which may be deadly weapons: a pistol, a shotgun, a rifle, a dirk, a dagger, a knife, a slingshot, metal knuckles, a razor, gasoline, a firebomb or Molotov cocktail and lighter fluid. A gun may be a deadly weapon even if it is not operating. If facts are proved beyond a reasonable doubt sufficient to raise an inference of malice to your satisfaction this inference would be simply an evidentiary fact for you to -- for -- evidentiary fact to be considered by you along with other evidence in the case and you may give it the weight you decide it should receive.

A specific intent to kill is not an element of assault and battery with intent to kill but there must be a general intent to commit serious bodily injury. Intent means intending the result which actually occurs, not accidentally or involuntarily. Intent may be shown by acts and conduct of the Defendant and other circumstances from which you may naturally and reasonably infer intent. Evidence of -- evidence of the character of the assault, the character of the instrument used, the manner in which it was used, the

purpose to be accomplished and the resulting wounds or injuries may be considered in determining the intent with which the assault was committed. Intent may be inferred when it is demonstrated that the Defendant voluntarily or willfully commits an act, the natural tendency of which is to destroy another's life.

Ladies and gentlemen of the jury, I'm going to charge you the law with regard to criminal domestic violence. The Defendant is charged with criminal domestic violence. The State must prove beyond a reasonable doubt that the Defendant caused physical harm or injury to a member of the Defendant's own household or that the Defendant offered or attempted to cause physical harm or injury to a member of the Defendant's own household with apparent present ability to cause harm or injury under circumstances reasonably creating a fear of imminent danger. A household member is a spouse, a former spouse, a parent, a child, a grandparent, a brother or sister, a grandchild, a person with whom the Defendant has a child in common, and a person of the opposite sex with whom the Defendant is living or has lived in the past.

Ladies and gentlemen of the jury, I'm going to define the term of -- the aggravating circumstance of criminal domestic violence of a high and aggravated nature. A person who violates Section 16-25-20(A) is guilty of the offense of criminal domestic violence of a high and aggravated nature

when one of the following occurs: the person commits, one, an assault and battery which involves the use of a deadly weapon or results in serious bodily injury to the victim; two, an assault with or without an accompanying battery which would reasonably cause a person to fear imminent serious bodily injury or death.

Ladies and gentlemen of the jury, throughout the trial of this case there's been discussion with regard to sanity or the affirmative defense of insanity. I want you to pay very close attention to the charge.

The Defendant has raised the defense of insanity. Criminal intent is required to prove that the Defendant is guilty of the crime charged. A person who is insane cannot have criminal intent; and therefore, cannot be found guilty of a crime. In order to be found not guilty by reason of insanity it must be shown that at the time of the crime the Defendant had a mental disease or defect which made him unable to distinguish moral or legal right from wrong or to recognize the crime is morally or legally wrong. By raising the defense of insanity the Defendant does not necessarily admit the crime was committed. The State must still prove beyond a reasonable doubt that the Defendant committed the crime. However, the Defendant must prove insanity by a preponderance of the evidence and that's different than proof beyond a reasonable doubt, the burden of proof that the State

must meet in order to convict someone. A preponderance of the evidence is more like a civil standard of proof. It's, it's a slight tilting of the scales.

A preponderance of the evidence simply means the greater weight of the evidence or, or more likely than not, a slight tilting of the scales. If you find there is evidence in the record that at the time the crime was allegedly committed it is more likely than not that because of the mental disease or defect the Defendant did not know the alleged crime was morally or legally wrong, the State must then prove beyond a reasonable doubt that the Defendant was sane. It is for you to decide what the state or condition of the Defendant's mind was at the time the alleged crime was committed.

There are four possible verdicts you may return in this case, and I will explain those with the verdict form here in a moment. If you have any reasonable doubt as to the Defendant's guilt after considering all of the evidence then you must find the Defendant not guilty. If you have no reasonable doubt that the Defendant committed the crime but you find that it is more likely than not that because of the mental disease or defect the Defendant could not distinguish moral or legal right from wrong or recognize the crime is morally or legally wrong you must find the Defendant not guilty by reason of insanity.

Another possible verdict is guilty by -- guilty but

mentally ill. If you have no reasonable doubt that the Defendant committed the crime and that the Defendant had the mental capacity to distinguish moral or legal right from wrong or recognize the crime is morally or legally wrong but you find that it is more likely than not because of the mental disease or defect the Defendant cannot follow the law you must find the Defendant guilty but mentally ill. As with insanity the Defendant has the burden of proving that he is guilty but mentally ill by a preponderance of the evidence.

The final possible verdict in this case is guilty. You may only find the Defendant guilty if the State has proved beyond a reasonable doubt that the Defendant committed the crime, that the Defendant was able to distinguish moral and legal right from wrong and to recognize the crime is morally and legally wrong, and that the Defendant was able to follow the law.

Ladies and gentlemen of the jury, I will remind you that during this trial you and I have certain duties to perform. As the trial judge it is my responsibility to preside over the trial of the case and I also have the duty to rule on the admissibility of evidence offered during this trial. You're to consider only the competent evidence before you. You're to consider only the testimony which has been presented from the witness stand, any exhibits which have been made a part of the record in this case and any stipulations of counsel.

I have the additional duty to charge you the law applicable to this case. As the presiding judge I am the sole judge of the law of this case and it is your duty as jurors to accept and apply the law as I now state it to you. If you already have an idea as to what the law is or what the law ought to be and it does not agree with what I now tell you the law is you must abandon this idea because you are sworn to except and apply the law exactly as I state it to you. In every case tried in this court before a jury the jury becomes the sole and exclusive judge of the facts in the case. A trial judge cannot intimate, state, comment on or make any statement to a trial jury about the facts in a case. Since you the jury are the sole judge of the facts in this case you are not to infer from what I have said during the progress of this trial in ruling upon the admissibility of evidence or otherwise or anything that I say now during the course of this instruction to you that I have any opinion about the facts in this case. The law does not allow me to have an opinion about the facts in this case. This is a matter solely for you the jury to determine. As jurors it is your duty to determine the effect, value and weight and the truth of the evidence presented during the trial.

Ladies and gentlemen of the jury, it's an important concept of the law that in determining the guilt or innocence of the Defendant you cannot consider any possible penalty for

any particular crime. The punishment for the crimes is a matter for me to determine and should not and should never be considered by you in any way whatsoever in arriving at a fair and impartial verdict as to the guilt or innocence of the Defendant. Ladies and gentlemen of the jury, just like the law doesn't allow me to comment on the facts, the issue with regard to punishment and the ramifications for any verdicts that you might render is my job. The law imposes that upon me, and Madam Forelady, I'm going to instruct you to enforce the rule that there be no discussion about punishment, the ramifications of any of the verdicts that the jury in their collective wisdom might render. I want to come forward at this time and share with you the verdict form, and Ms. Casey Beamon, you're the alternate. I'm going to ask that you stay with us when we discharge the jury, just stay right there and we'll speak with you in just a moment.

Madam Forelady, I'm going to ask if you could stand up and go over this verdict with you. Of course, it's got the caption on here, The State of South Carolina versus Bradley Scott Senter, and it has the indictment numbers here just to identify what the document is. In the first Roman-Numeral deals with the issue of assault and battery with intent to kill. As I had mentioned to you in my charge there are four different, four different results that you could reach and I've explained that to you in my jury charge, one of which is

not guilty, one not guilty by reason of insanity, the other is guilty but mentally ill, the other is outright guilty, and there's certainly no significance to be given to the order in which I place it. You have to put one first, and there's certainly no, no inference to be drawn from that whatsoever. Obviously with regard to the assault and battery with intent to kill there can only be one verdict. It has to be -- it'll be one of these four verdicts and it has to be unanimous. It can't be 11 to 1, 6 to 6, 8 to 4. It has to be unanimous.

There is a II that addresses the issue of criminal domestic violence of a high and aggravated nature. Likewise, there are four different alternatives. These have to be unanimous. There can only be one verdict with regard to this particular offense.

We -- one thing that I do want to mention to you is it's your job to preside over the proceedings and that includes making sure that everybody's voice is heard and one thing that I'm going to ask that you do is abide by my instructions with regard to the discussion regarding punishments and with regard to discussion about any -- about the Defendant's not testifying. Those are rules that you need to abide by, and the other instruction I'm going to leave with you is that if there is a, you know, we're going to have lunch coming in and I'm going to ask you to stop deliberations during the period of lunch. If anyone has to get up and use the restroom I'm

going to ask that you be in charge of stopping deliberations because it's important that everybody participates in all the deliberations. I have throughout the trial of this case sent you to the jury room and told you not to discuss the case. I'm going to send you back one more time, and I'm once again going to tell you not to discuss the case because I have to talk with these very fine lawyers to find out whether or not there is an objection with regard to the manner in which I have charged you the law, if there are any additions. So, I'm going to give you this verdict form, ask you to return to the jury room but do not begin deliberations. After I've had an opportunity to speak with these lawyers I'm going to ask the bailiff to gather up all the evidence for your consideration and he will give you instructions when to begin deliberations. Do not begin deliberations. Thank you, ma'am. I'll leave that with you. Madam Forelady, you may take the jury to the jury room.

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: Ms. Beamon, I want to thank you for being here. I know you sort of feel like you've been invited to the dance and didn't get to dance, but the -- you are a very important part of this process. I've been on the bench for a relatively short period of time and there have been numerous occasions where in very short trials we have to use an

alternate. As a matter of a fact in this case we did use one, and there's a lot of time and a lot of heartache that's been put into this procedure, and if something went wrong with one of the jurors you'd been able to step in like an insurance policy and for that we are grateful for your time and your patience and your participation.

You will receive a small -- receive a small token of the County's appreciation for your being here and I think it's a huge amount of money. I believe it might be $10 a day and 10 cent a mile maybe, might be a little bit more a mile. Won't be enough to buy a new frock but it's simply a small token of our appreciation. This has been a very -- is a very serious case and thank you for your kind attention. You're free to leave at this time. However, if you'd like to stay with us you're welcome to do so as well. Thank you so much. You're free to leave.

(Alternate exits courtroom.)

THE COURT: Is there any objection with regard to the jury charge from the State?

MR. RICHARDSON: None from the State, Your Honor.

THE COURT: Any from Defense?

MR. WILSON: None, Your Honor.

THE COURT: All right, let's come forward and I'm going to ask that you all go through the evidence, make sure that everything that's in this evidence box is indeed into

evidence and there's not anything in that box that's not into evidence and I'll ask you about that momentarily.

(Exhibit reviewed and approved by counsel for the State and counsel for the Defense.)

THE COURT: What -- is there just one article of evidence that's bullets?

MR. RICHARDSON: Two.

THE COURT: Two.

MR. RICHARDSON: 27 and 28.

THE COURT: 27 and 28, all right. Could we have the forelady of the jury out?

(Whereupon, Juror 194, Barbara G. Law enters courtroom.)

THE COURT: Madam Forelady, one, one matter that I did want to clarify. For obvious safety reasons we're not going to send the gun back and the ammunition. We're going to send the gun back but if there is -- for some reason you wanted to look at the articles of evidence that involve ammunition there are two different and they're ---

MR. RICHARDSON: 27 and 28.

THE COURT: --- 27 and 28. If for some reason you needed to look at that they're here for your observation, but clearly the deputies would take the gun out and put the, and bullets in you have a need to do that. If there are any questions that arise throughout the deliberation we ask that you reduce it down to writing, sign it, give it to the

bailiff and they will give it to me. There are certain questions that it can't be answered like the hard questions, the factual questions that you all have to resolve. I can't answer those questions. If there are questions about law I'd be happy to answer those if I could, but if you have a question don't hesitate to reduce it to writing and submit it to the Court. However, you all have heard the evidence. You've heard all of the testimony and you've heard the charge on the law. I don't anticipate there will be any questions, but if there are feel free to do so. The bailiff is going to bring the evidence in and when he does you may begin deliberations.

MS. LAW: Thank you.

THE COURT: Thank you.

(Whereupon, Juror Number 94, Barbara G. Law, exits courtroom.)

THE COURT: Yeah, we can take those back right now.

All right, I did not place this on the record but do we agree that the two piles of evidence that are in the deputy's hand and the bailiff's hand are indeed all of the articles that are into evidence?

MR. WILSON: We do, Your Honor.

THE COURT: Is there anything in this pile that's not into evidence?

MR. WILSON: Nothing, no, sir.

MR. RICHARDSON: No, sir.

THE COURT: Okay, very good, all right.

Tell them to begin deliberations.

Anything further from the State before we stand at ease?

MR. RICHARDSON: Nothing from the State, Your Honor.

THE COURT: Mr. Wilson?

MR. WILSON: Nothing further at this time, Your Honor.

THE COURT: All right, very good. We'll stand at ease. If, if -- I'm going to encourage you if you could to stay around. However, if you need to leave to get something to eat just leave your cell phone with the clerk.

MR. WILSON: Yes, sir.

THE COURT: All right, and try to get a quick bite and come back if you can.

Thank you

(Whereupon, deliberations begin at 11:45 a.m.)

*****OFF THE RECORD*****

(On the record.)

(Verdict reached at 1:20 p.m.)

(Whereupon, the following takes place outside the presence of the jury.)

THE COURT: Please be seated. Good afternoon.

Ladies and gentlemen, these are always very difficult times and I understand that the jury has a verdict and we cannot have any outbursts one way or the other. It's my job

and my responsibility to maintain order in the court and we have the bailiffs here to enforce that. So, do not have any outbursts whatsoever. We're ready for the jury.

MR. RICHARDSON: Your Honor, on the -- Ms. Lewis showed me a copy of the verdict form, a blank copy and it looked like there were -- the indictment number at the top of the page on that was incorrect. It was listed as a 2006. It should be 2007.

THE COURT: The verdict form shall be amended to reflect a 2007 case. Any objection from Defense?

MR. WILSON: I don't have any objections to that.

THE COURT: Any objection from the State?

MR. RICHARDSON: None from the State, Your Honor.

THE COURT: Very good, and I'll direct the Clerk of Court to make the proper notation with regard to 2007.

(Whereupon, the following takes place in the presence of the jury.)

THE COURT: Madam Forelady, have you reached a verdict?

MS. LAW: Yes, sir, we have.

THE COURT: Is it, indeed, unanimous?

MS. LAW: Yes, sir.

THE COURT: I'm going to ask if you can to give the verdict form to the Clerk for publishing, and Madam Clerk, might I see the form and make sure it's in order?

(Complies with request and Court reviews.)

THE COURT: You may publish the verdict.

CLERK: Indictment number 2007-GS-26-481 and 2007-GS-26-491, the State of South Carolina versus Bradley Scott Senter, we, the jury, unanimously find the Defendant guilty of assault and battery with intent to kill. As to count two, criminal domestic violence of a high and aggravated nature, we, the jury, unanimously find the Defendant guilty of criminal domestic violence of a high and aggravated nature, signed by Juror Number 194, Barbara Law. Ladies and gentlemen of this jury, if this is your verdict so signify by raising your right hand.

(All jurors raise right hand.)

CLERK: Thank you.

THE COURT: Madam Forelady, ladies and gentlemen of the jury, I want to thank you for your service here today. Throughout the years that I've practiced law and since I've been on the bench I quite often see judges comment on the particular verdict, but I think that's inappropriate. That is your job to do that and really my position is to thank you for your service. You've been called upon to perform a function. You've done so well. You paid very close attention to the facts and the law and thank you so much for your service. How many of you have never served on a jury before? Well, hopefully this has been a learning experience.

It's never an easy civic, civil service to perform, but I do want to thank you for your time and your effort, and at this time you're free to leave and I'm going to ask everyone to remain seated while the jury exits the courtroom. Thank you, ma'am.

(Whereupon, jury exits courtroom.)

THE COURT: All right, be happy to hear any motions at this time.

MR. WILSON: May it please the Court, Your Honor, at this time the Defense would move for a judgment of acquittal notwithstanding the verdict or in the alternative for a new trial. The verdict is clearly, clearly outside of the evidence. There is no question in this record that this Defendant is at least mentally ill, and this jury, for whatever their reasons, whether it's prejudice, caprice, passion, whatever it might be, I don't know what their reasons are, but their verdict is outside of the evidence that was produced in this trial. There is absolutely no evidence that this Defendant was not mentally ill. At a minimum there is no way that they could have found him guilty without finding him guilty but mentally ill. The testimony is replete. The State didn't even argue that point, and there is no evidence in the record to support it, to support a finding of something other than either guilty by reason of insanity, I'm sorry, not guilty by reason of insanity or

guilty but mentally ill, and their finding, their decision is against the evidence in this case, overwhelmingly against the evidence in this case and I would ask the Court to set aside the verdict and grant an acquittal or grant us a new trial in the alternative.

THE COURT: All right, Mr. Wilson, one of the things -- I do want to talk with you a little bit about your arguments. It does appear as even if -- even the victim indicated that he was mentally ill, but don't you agree that perhaps a jury could listen to the facts, determine that there was a mental illness but that the mental illness did not effect his ability to determine right from wrong or to conform his conduct.

MR. WILSON: If there was some -- something in the record to support that. There has to be something in the record that reasonably supports that, and my position is that there is nothing, there is absolutely nothing in this record which supports that. That is the problem that I'm having. If, if -- I would agree if there was some testimony or some evidence which supports the idea that his mental illness did not effect it then that's a great argument. That's -- that was not the testimony and there is no -- nothing in the record which supports that is the problem that I'm having.

THE COURT: Okay, all right, I anticipate the State will take the position that the circumstances of the

shooting, the attempt to secret the body and to secret evidence, I anticipate that would be their position and that the circumstances of the crime itself might justify such a verdict. What's your position in that regard?

MR. WILSON: Judge, again, that's a surmise by the Solicitor, but there's no testimony, there's no evidence of that, and the fact that the Solicitor makes a supposition doesn't make it evidence, and the Court has very clearly said to the jury what I say and what the Solicitor says is not evidence in the trial of this case. The Solicitor said that. There is no evidence, there's no testimony to that effect and that's, you know, that's where I'm having the problem, and, and ---

THE COURT: Well, I think the conclusion that the Solicitor has made in his argument he surmised that from the facts of the incident itself, and of course, what do you think about the jury taking those same facts and surmising the same -- making the same conclusions?

MR. WILSON: Well, one, that would not negate the fact that he has a mental illness, even assuming because what they -- what -- even assuming that they took that position that would not negate the fact that the record is replete with information that this Defendant had a mental illness going back for several years and that that mental illness involved his wife. For whatever reasons he felt like she was a part

of whatever that was. I mean, and, and there's nothing outside of that which is what I can't -- I mean, there was -- there's no testimony that he shot her because, you know, he wanted a divorce. The Solicitor suggested that that might be his motive in his mind, the Solicitor's mind, no testimony to that effect. Even, even the wife didn't testify, ``Oh, he shot me because he wanted a divorce or he told me he would shoot me because he wanted a divorce.'' That was not said. In fact, everything is to the contrary. So, so, I just -- I mean, I can't -- there's no rational -- the verdict bears no rational relationship to the testimony and evidence that's been produced during the course of the trial.

THE COURT: Let me ask you this, Mr. Wilson, do you think that a person could have a mental illness and if they, if it's confirmed that they have a mental illness that they cannot be found guilty even if the jury were to make the determination they have the ability to conform their conduct to the law?

MR. WILSON: No, sir, I don't take that position. I think that there are -- if there, if there is -- if there are circumstances in the record from which the jury can reasonably, reasonably and I think that's the issue, whether or not the jury if there is information in the record or evidence in the record where the jury can reasonably deduce that the, that the defect, that the mental defect did not

cause him or contribute to his actions, then, yes, then they could find him guilty. The problem that I'm having though is is that there's nothing, they have to have some basis in the record for doing it. They can't just say, ``Okay, well, we think that maybe that's what happened.'' No, there has to be something in the record which they can reasonably rely on to come to that conclusion. Otherwise, it's just outside the record and that's what we have here.

Now, why they did that, I have no clue. I can't answer that. I don't know, but I can tell you from the testimony that's been in this case that there is nothing in this record that supports this verdict. I mean, you know, this verdict is overwhelmingly against the evidence in the trial of this case. If, if they had come back with guilty but mentally ill I probably wouldn't be making this argument to the Court because at least I think that you could argue that, ``Well, okay, well, he was, he's, you know, he was mentally ill,'' and which is, which is clearly in this record. Through this record, I mean, everybody -- there's nobody in this record who says this Defendant was not mentally ill, nobody.

THE COURT: Be glad to hear from the State.

MR. RICHARDSON: Your Honor, I believe even though Mr. Wilson says he takes the position that someone that's mentally ill can commit a crime I think he's still getting it confused. His own expert stated the mentally ill can be

guilty of a crime. The jury is free to throw out testimony of any witness as it is charged and that includes expert witnesses when they find that the foundation of an expert's opinion has been illogically gained, and here the State showed during cross the experts just didn't do their job. They didn't do enough research. They have adequate knowledge and information that the Defendant does have a mental illness, but they had no information other than what a Defendant tells them to show them what happened on November 13, 2006. The State provided that testimony and there was ample testimony.

Mr. Wilson would have us dig into every, every Defendant's head to say, ``What's your motive?'' We just don't always know. I can't tell you one hundred percent that the reason Brad Senter shot Dena Lester was because they were getting a divorce, but I can almost guarantee you it wasn't because of his delusions about the FBI. Otherwise, there would be a lot more dead family members because he thought his entire family was involved with the FBI. It'd been involved with his entire family. Dena Lester may have been shot two years prior to that because he had thought she was involved with the FBI before. The police that arrived, well, that's law enforcement like the FBI, didn't shoot them, but one common theme on the people he didn't shoot they weren't divorcing him.

The jury has spoken. They're the tries of fact and I believe the verdict is proper. There is a foundation for it and I believe it should be upheld.

THE COURT: All right, anything further, Mr. Wilson?

MR. WILSON: Nothing further, Your Honor, other than, you know, I again, I made motions at the end of the State's case, at the end of the Defense's case, and again at the end of the reply testimony of the State asking for a judgment, asking at that time for a directed verdict of not guilty on the issue of insanity, and again, I reiterate or remake those motions. I think I need to do that at least for the record.

THE COURT: I do want to take an opportunity to study these matters and I'm going to give the State and the Defense until June 20th to submit memorandum and we will reconvene for motions concerning the granting of a new trial and the motions with regard to a directed verdict. We will reconvene on June the 20th, which is a Friday, I believe, at 2 p.m., and I'll be in a position to receive memorandum anytime up and to that point. If you have one just provide it to the other side and we'll reconvene here on June 20th, Friday June 20th, at 2 p.m. Everyone is free to leave at this time. Thank you.

MR. WILSON: Thank you, Your Honor.

MR. RICHARDSON: Thank you, Your Honor.

(Adjourned.)

C E R T I F I C A T E

I, the undersigned, Grace L. Hurley, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the Trial held in the case of The State versus Bradley Scott Senter, held in the Court of General Sessions for Horry County, Horry County Courthouse, Conway, South Carolina, on June 3 through 5, 2008.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.

Grace L. Hurley

Grace L. Hurley, CVR-CM
Official Reporter

April 6, 2009.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	06-GS-26-481 & 491
COUNTY OF HORRY	)	
THE STATE,	)	
	)	
-vs-	)	TRANSCRIPT OF RECORD
	)	
BRADLEY SCOTT SENTER,	)	
	)	
Defendant.	)	

June 20, 2008
Conway, South Carolina

B E F O R E:

THE HONORABLE MICHAEL G. NETTLES, Judge.

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

BRADLEY C. RICHARDSON, Esquire
Assistant Solicitor for Fifteenth Judicial Circuit
Attorney for the State

RALPH WILSON, Esquire
Attorney for the Defendant

PATRICIA A. McDANIEL
Circuit Court Reporter

INDEX

MOTIONS	3
RULING OF THE COURT	19
SENTENCING PHASE	24
SENTENCE OF THE COURT	33
CERTIFICATE OF REPORTER	36

EXHIBITS

NO.	DESCRIPTION	ID.	EV.

(No exhibits were presented.)

FRIDAY, JUNE 20, 2008

(WHEREUPON, at 2:04 p.m., on Friday, June 20, 2008, this matter was called for a post-trial motions hearing and sentencing, with the Defendant and counsel present in the courtroom.)

THE COURT: Mr. Wilson, this is your motion for a new trial. Be glad to hear from you at this time.

MR. WILSON: If it please the Court? Your Honor, in regards to the motion for a new trial, as the Court will re- -- recall, I'm sure, when we were here last, that we had made the motion for a new trial; and the Court gave us time to submit briefs to the Court; and the Court would take it under advisement until this time; and we're back here today to -- to make that decision.

Let me start out, Your Honor, I guess, by saying that the basis for our motion is -- is this: is -- is that, based on the evidence that was produced and -- and spe- -- and specifically the evidence of insanity which was produced during the course of the trial because I really think that that's what all this boils down to -- that during the course of the trial, the -- the Defense produced substantial evidence that the Defendant was laboring under a mental illness and/or was insane during the core -- during the time of the commission of the offense.

Once that was done, then the State had the burden then of -- They'd lost the presumption of innocen- -- the -- the presumption of sanity at that point, and then they had to come back and present sufficient evidence to the Court to -- and to the jury in order to -- for the jury to be able to find that the Defendant was, in fact, sane.

And -- And that -- Therein -- Therein lies the problem because, putting it succinctly, the State failed to meet that burden. They failed to present sufficient evidence to -- that should -- that would allow a jury to find the Defendant sane; and -- and -- and that's the reason for the motion.

And, therefore, what we're -- what we're saying in our motion is -- is this: is -- is that -- that once his -- once the State -- once the Defense presented its evidence, proving and substantiating that the Defendant was, in fact, either insane or mentally ill at the time of the commission of the offense, that that burden then shifted back to the State and that the State then had the burden.

And that burden means that they got to now then come up with evidence and prove to the satisfaction of the Court and to the jury that the Defendant was, in fact, not insane at the time or not mentally ill at the time of the commission of the offense; and -- and the -- the State

primarily relies on two or three things.

One, they say, "Well, you know, he had a -- a -- a shell casing in his pocket; and we believe that because he had that shell casing that that somehow proves that he had some kind of intent."

The other thing that they rely on is they say, "Well, you know, we put up three witnesses, the guy who saw him the day that this incident happened when the shooting occurred."

Well, the -- the fellow that saw him at the golf course simply says -- And he testified in this court. The only thing he could say is -- is that, "Yeah, I saw him on the golf course that day, and he told me to put down the phone." That's really all. He had no prior knowledge of the Defendant so he couldn't -- certainly he couldn't say that he was acting con- -- inconsistent or consistent with prior behavior because there's no -- no testimony to that.

And then -- And then the case is where the Supreme Court has reviewed what they found was -- was that -- And -- And -- And I -- And -- And Hernandez and then Smith, too -- I think that wha- -- what happens was that where the postal -- where the -- where the fellow came in and -- and actually shot the -- the people in the post office -- The difference, which is the -- which is, I think, the crux of this whole thing, is that there has to be some

evidence. Not just some suspicion, not just some -- some -- some possibility that -- that maybe these things could lead to that, but there has to be some actual evidence.

And in that case, what they had was they had a medical doctor who testified that he had been treating the -- the defendant for many years -- Fifteen (15) years, I think, is what he said. -- and that as a result of that that he'd seen him just a few months before that or a few weeks before that and that he was not insane and that he -- he was -- that he was normal.

They had a -- They had a postal worker who said -- you know, which was a -- which, again, was the crux of the -- of the problem -- They had a postal worker who says, "I saw him the day before this incident occurred. We discussed post office stuff," which is what his delusions were allegedly about. And he says, "He didn't act any way abnormal in those conversations about the post office," which was inconsistent with his delusion. You don't have any of that here.

They have another witness who had known the Defendant in that case for many years and who testified. None of that happened here.

In fact, -- In fact, in this case, the wife -- the victim in this case testified that there was no question in her mind that he was mentally ill, that there was

something wrong with him and had been for a period of time prior to this incident occurring.

He had -- There is nothing to show that he acted inconsistent; and the Solicitor, in his brief, says, "We know he never exhibited any acts of violence until this incident." Not true at all. In fact, a year prior -- a year prior, he's (sic) has a gun -- he -- that he holds on the victim and tells her that he's gone kill her because he thinks that she's involved with the FBI.

Now, the other thing is there's absolutely, Judge, absolutely, no -- zero discussion between him and her that he's shooting her or he's going to shoot her because she's leaving him. There was never any discussion about that. Even from her testimony, there was no discussion about that. He has never indicated to you that he was going to harm her in regards to their -- this separation.

In fact, these parties had been separated for many, many months at this time and had had intimate contact on multiple, multiple occasions during this time.

So -- So, you know, to say that is -- is just outside of this record; and -- and -- and I would submit to the Court that there has to be some reasonable evidence -- sufficient evidence from which the jury can conclude that the Defendant was, in fact, sane. There is not in this record.

Now, if you say, "Well, what about -- what about the fact that you -- you have him with the -- with the -- with a -- a shell casing?"

Well, the problem, first of all, is the only thing that -- that they testified to, as I remember the testimony, was that the shell casing was found in his pocket at the -- at some point in time. It fell out of his pocket, or they found it in his pocket.

Well, we don't know where the shell casing came from; and the only thing that they testified to was, "Yeah, that shell casing was fired by that gun at some point in time." Not that it was fired on this particular day. Not that it happened on that particular day. And not that that was the shell casing that -- from the slug that was fired into her person. There's no testimony to that in this record. Absolutely none.

And -- And -- The -- The -- The -- The problem is -- is that -- If the State intends to use circumstantial evidence, which is fine and which is okay, the circumstantial evidence still has to be sufficient. It at least has to rise to the level that it can overcome the fact that the Defendant is -- is -- is not insane. And there is no testimony. Not one single person.

And the other thing is they talk about the neighbor. In his brief, say, "Well, you know, he went over to the

neighbor's house."

The neighbor testifies, "Oh, yeah, well, he came to my house and -- on this morning."

Well, he did.

And I -- You know, and the amazing thing is she says, well, he had an intensity about him on that morning and that this man came to her house and demanded that he go in her house and look for his wife, you know.

And I asked her re- -- I remember specifically asking her; and she said, "Well, yeah, that was unusual."

I said, "Well, did you -- do all your neighbors come to your house and just ask you can they search your house to look for, you know, their wife or their husband or whoever?"

She said, "Well, no, that is unusual."

Again, that is not evidence that he was acting with sanity; and -- and -- and -- and it's -- the Supret -- Supreme Court has even said that -- that there are times, even if there was flight, -- And in this case, there was no flight at all. He stayed right there until -- until the police arrived and until the police actually arrested him and took him away. He didn't run. He didn't hide. He didn't try to go hide the gun. He -- He still had the gun on his person when the police arrived.

And he -- And -- And he -- he never -- And the other

thing I think that's really telling in -- in -- in -- in terms of his feeling about what the FBI is doing to them is that, if this -- if this were about domestic things, then he certainly had every opportunity to -- to shoot her again.

If that's what it was about, he had ever opportunity -- I'm not -- I'm not -- And I don't want to be crass, and I'm not trying to -- I'm just simply saying, if he was trying to kill her because she was divorcing him and he was upset because she was divorcing him and angry because he's divorcing her, then he had every opportunity to shoot her again and again and again and again. Even after they got to the golf course, he had an opportunity to shoot her again because the two guys there walked away.

And -- And the other thing I think that is telling is he tells them, "Well, you don't know what she's done to me." He doesn't say, "Well, you know, she's getting a divorce," or, you know, "I'm angry with her 'cause she's -- 'cause she's trying to leave me," or "we're trying to break up," or -- No. He says, "You don't know what she's done to me."

And -- And, again, that is consistent with his delusion about the FBI.

And -- And -- And -- And as I said, to -- to make it succinct, I think the real issue, though, here is whether

or not -- whether or not the State has produced sufficient evidence so that they can prove to a jury that this Defendant was sane at the time, especially in light of the fact that the Defense produced substantial evidence -- or I would submit to the Court, overwhelming evidence that, in fact, he was not.

THE COURT: All right. Thank you, Mr. Wilson.

Mr. Richardson, you're recognized.

MR. RICHARDSON: Thank you, Your Honor. Your Honor, I'd submit that the proper standard to grant a new trial or to not grant a new trial is that, if there's competent evidence to sustain a jury's verdict, the trial judge could not -- should not substitute his own judgment for that of the jury.

And here, I'd -- I'd state that the State has presented competent evidence that the Defendant is guilty of the crime and has rebutted the -- the -- the affirmative defense of insanity.

The Defense took no position with -- with regard to the Defendant being the shooter in this case. And -- And so, in that respect, I'll just turn it directly to the affirmative defense of insanity.

In that -- In raising that affirmative defense, the Defense must show that the commit- -- at the commission of the crime the Defendant had a mental disease or defect

which made him unable to distinguish moral -- moral or legal right from wrong or to recognize the crime as morally wrong or legally wrong. That's from the Code, Your Honor.

Any evidence of sanity is -- is sufficient to present a jury issue when the Defendant relies on the affirmative defense, and that's from Millian Hernandez.

Your Honor, in this case, the -- the Defense sought out two expert opinions. One, the Court's psychologist, Dr. Domino. And also a contract psychiatrist, a Dr. Halavonich. Both witnesses conducted forensic examinations of the Defendant. And Dr. Halavonich told us the purpose of a forensic interview is to determine the Defendant's state of mind at the commission of the crime.

Both witnesses testified that, in their opinion, the Defendant was not criminally responsible when he shot his wife; but they -- but both doctors also indicated their opinions were based on review of the medical history of the Defendant, in speak- -- in speaking with the Defendant and his relatives, and reviewing police cases.

Number one, the -- the historical medical documents, they tell us what his state of mind was back in 2004, 2005, and earlier in 2006. Does not speak to his state of mind on November 13th, 2006.

Dr. Domino indicated she did not speak with two of

the prosecution witnesses who personally observed the Defendant on the morning of the shooting and indicated that she only spoke with Ms. Lester the day before she completed her report, not that she began to prepare her report, but the day she completed her report wherever she was going to dot her i's, cross her t's. She'd made up her mind.

Dr. Halavonich testified that she spoke with no other witnesses that were personally present at the crime. Spoke with the Defendant several times. Spoke with his family members who, once again, are more than adequate historians of his mental illness. But she bases her opinion off of this.

It's the State's position -- And we presented it to the jury. -- that these positions are flawed. Their opinions are flawed because they did not do their homework.

Both doctors failed to adequately address, if at all, the Defendant's careful planning of the crime or his concealment of the crime.

Dr. Halavonich did testify -- The Defense's expert testified that it is possible for a mentally ill person to be guilty of a crime. By that, I would submit, that she -- she meant that they could plan a crime; they can be criminally responsible.

The judge -- You charged the jury with regards to experts that an expert opinion is just like any other witness, that they can decide that an expert witness -- their testimony is not based on sufficient education, experience, or if they conclude the reasons given in support of the opinion are not sound.

That's what the jury did here. They figured out that the experts did not do their homework.

Further, you charged them with regard to testimony of any witness that, in determining the believability of a witness, you may believe one witness over several; you may believe part of the testimony of a witness, reject the remaining part of the testimony; you can throw the whole testimony out.

While the jury may have believed the -- the witnesses with regard to the Defendant's prior mental history, they may have thrown out their testimony with regard to his state of mind on that day because it was the State that produced testimony as to what was going through the Defendant's mind that day. The State put witnesses in the chair, Ms. Lester, Estock, that told you what the Defendant's state of mind was that day.

The remaining Defense witnesses detailed very well the Defendant's prior history, but none of them were personally present on November 13th, 2006, and so they

cannot address the Defendant's state of mind that day.

It is well founded that a defendant can re- -- that -- that a jury may rely on circumstantial evidence to find a defendant sane even if the expert testimony finds that --favors a finding of insanity. And I point out to the Court's attention the State v. Poindexter, State v. Smith.

And State v. Smith, I believe, is what Mr. Wilson brought up about the fellow who walked into the post office. In State v. Smith, the defense put up two expert psychiatrists. The forensic psychiatrist stated that Smith was suffering from a delusional disorder, persecutory type, just like this. And the State put up four (4) lay witnesses in reply. And, yes, one of them was a doctor; but he didn't testify as an expert. He testified as a lay witness.

In that case, it's important to note that the jury came back with a verdict of guilt- -- not guilty but mentally ill, not -- not guilty by reason of mental defect. They said he was guilty.

I would also point the Court's attention to State v. Pittman. While it doesn't deal with -- with the issue of insanity, it does deal with the presumption of incapacity by a minor. A lot of the same issues arise. The defense, in that case, sought a directed verdict, indicating that the State failed to -- failed to present sufficient

evidence to find, during its case in chief, -- to rebut the presumption of incapacity due to the defendant's age.

Once again, the Court found that, through lay testimony, the State was able to rebut that presumption and carry on -- and carry past the directed verdict.

During the course of the trial, the State -- while Defense showed the Defendant suffered from delusions, that family members, including the victims, were conspiring with the FBI against him, the Defense presented testimony and documentation pointing -- supporting that position. Ms. Lester even told us about that.

But they did not adequately address the fact that, while the Defendant believed everyone was involved in this conspiracy, he didn't attack anyone else. He attacked the one person that was divorcing him.

And the State showed that the Defendant carefully planned this crime. It started some four (4) months in advance when he signed that check, this check to be made payable whether I'm in jail or in a mental hospital.

The Defendant planned the shooting that week after he got the -- the divorce papers. Ms. Lester stated that she -- she called him or was called by the Defendant; and he indicated, "I signed the divorce paper; come on over."

She said, "Let's meet in a public place."

And he refused to meet in a public place because he

didn't want to get caught. It was carefully planned. She -- She finally relented, and she went over to the house.

Dr. Halavonich testified -- Or I'm sorry. Dr. Domino testified that he didn't want the divorce. He was hoping for -- for a reconciliation, but there was no reconciliation to be had. So when Ms. -- Ms. Lester demanded the paperwork that day, said, "I want the signed paperwork," he knew it was over. And that's when he decided, "All right; well, I got to put my plan into action," and shot her.

After he shot her, she ran. Ran next door. Ran out into the yard. The Defendant drug her back and said, "Oh, no, you're not going to sit out here by the road where somebody's going to find you." Evidence of him concealing the crime.

When they set off the alarm, he grabbed those keys. He did not want to be found. He knew what he was doing was wrong, Your Honor. He showed that he could control his actions. He -- He's never shot her before, never shot anybody else that's involved in this FBI conspiracy. So he could control his actions. He knew what he did was wrong.

He went further to conceal the crime. He found the shoes at the neighbor's house; and he took those shoes, after looking for his wife, to hide the evidence of the

crime. Took those shoes, bringing them back over to his house.

It'd be the State's position that he picked up the shell casing that was fired, and that's what was found in his pocket.

And, finally, he tracked Ms. Lester down out on the golf course. Saw Mr. Estock, "Hang up that phone," because he didn't want to get caught. He knew 9-1-1 was on the other side.

And the only reason that he didn't shoot Ms. Lester and finish the job that he started that day was because the police came. They drew down on him, and he was forced to surrender. He knew the gig was up. There was no other solution for him but to surrender.

The Defendant knew what he did was wrong, Your Honor. The State presented ample evidence to establish the Defendant's guilt for assault and battery with intent to kill and criminal domestic violence of a high and aggravated nature. It presented evidence from which the jury could reasonable deduce that, at the time of the commission of the crime, the Defendant had the capacity to distinguish the fact that it's wrong, morally or legally, to recognize the act as morally or legally wrong, and conform his actions to the law.

Assuming that he did have delusions regarding the

FBI, he did not shoot or harm anyone else supposedly involved in this conspiracy and shot the one person that was divorcing him. In doing so, he exhibited knowledge that his actions were -- And then he attempted to conceal the crime. And in doing so, he exhibited knowledge that his actions were wrong, both morally and legally, and that he could conform his actions to that required by law.

THE COURT: All right. Thank you, Mr. Richardson.

This is -- is a very, very unusual situation, and there's no question that Mr. Senter was mentally ill. There's a -- a vast array of medical evidence that was presented at trial that was reviewed by the ex- -- by the experts.

I think it -- I don't have the benefit of the trial transcript; but I can even recall, in the State's cross-examination by some of the witnesses, that you conceded that he was mentally ill; and -- and we've had two psychiatrists, one of which was appointed by the Court, who have made the determination that Mr. Senter was insane.

And to further compound the situation, he was evaluated to determine whether or not he was competent to stand trial, whether or not he could understand what was going on upon his arrest; and there was a determination that he was incompetent to stand trial. That is troubling

to me a great deal.

But the position that I'm put in is to determine whether or not there is any evidence to support the conviction in order to grant a new trial, and it's clear from the law that I've reviewed and studied is (sic) that I'm not in a position to substitute my judgment for that of the jury.

It is a well-settled principle of law that a jury may disregard the testimony of an expert witness, even if it's uncontradicted.

In this case, the jury could have and did determine that the Defendant was sane and that he could still -- he was still had (sic) the capacity to conform his conduct to the law. One would have to conclude from the results of this trial that the jury made the determination that an individual can be mentally ill and still have the ability to conform their conduct to the law.

Poindexter, the case has been cited in this courtroom and in the briefs, essentially say (sic) that you can rely on lay witness testimony and circumstantial evidence to establish sanity; and -- and I'm in a -- am in a position where I need to look at the evidence to determine if there's any evidence to support the jury's verdict and their finding as to whether or not the -- the Defendant was sane and able to conform his conduct to the law. I'm

not in a position to substitute my judgment for that of the jury, once again.

And a reasonable jury could conclude -- I'm not necessarily saying that that would be my findings if I were on the jury or -- But I'm not really in a position to substitute my judgment for that of the jury; but I think a reasonable juror could conclude and, in this instance, did conclude that the Defendant lured the victim to the house for the purpose of shooting her or taking her life.

Secondly, I believe that a reasonable juror could conclude that the Defendant, Mr. Senter, secreted the crime by removing the victim from the street and saying that "no one's gonna be able to find you out at the street." There was testimony, at least, from the victim in that regard.

There was also testimony that the Defendant went to the neighbor's home and got her shoes and brought them back, which is further evidence of secreting the crime.

There's evidence that there was a bullet in his pocket which would seem to indicate that he was aware of the wrongness of his action. There was certainly no ballistic testimony that would seem to indicate that that was the bullet that was used there, but I think a reasonable juror could conclude that the bullet that was in his pocket was the one that was discharged.

And, of course, the jury has the ability to evaluate circumstantial evidence; and, in this case, I believe they did.

There was some very tenuous testimony with regard to the sink and perhaps maybe the water was running as if someone washed off themselves or some of the weapons used or something. That was very tenuous; but that was -- indeed, was there.

I think a reasonable juror could conclude that, by virtue of the fact that Mr. Senter did not net (sic) out any violence to other members that he thought were involved in the conspiracy with the FBI, could be used in -- in their determination.

And I think a reasonable juror could conclude that the divorce with the -- was the catalyst to the shooting.

And, therefore, based on these findings that the jury has made, -- And I feel as though they are reasonable conclusions, although I might differ from them. -- the motion for a new trial is denied.

But one of the things that's very unusual about this case -- And I've been involved -- I know I might not look that old, but I've been involved in -- in the criminal judicial system for a long time, and this is the very first instance that I've ever seen where the court-appointed psychiatrist has made the determination that an

individual was insane and the matter was submitted to the jury.

Quite typically, in my experience in -- in the judicial system, would be that when that is -- when that finding is made the individual is turned over to a mental institution; and he's kept there indefinitely until he gets better. And some -- some might conclude that might be the best solution in this instance, but the State didn't make that -- that particular determination.

There -- If they find -- And a lot of people say "not guilty by reason of insanity." They think they gone walk out of here, that because they insane they get to walk home; but that isn't the case.

As a matter of fact, quite often, they stay there 'til -- you know, for the balance of their natural life; and the law doesn't allow me to charge the jury in that regard; and it -- and it's very troubling.

The other option that the jury had was they could have found him guilty but mentally ill, meaning that he had a mental illness but he was not able to conform his conduct to the law. And what that would have afforded the Defendant would have been opportunity to go to the mental institution until such time as he got better. They were able to regulate him on medication, and then he would go to the -- and serve out an active sentence just as if he

was found guilty. I would sentence him to a determinate amount of time in jail. He would get the necessary treatment and regulated on -- on medication.

But the -- For whatever reason, the matter was submitted to the jury; and -- and my high -- hands are tied in that regard.

So at -- at this point, I would call -- ask Mr. Wilson to bring his client forward for sentencing.

MR. RICHARDSON: Your Honor, Ms. Lester would like to address the Court.

THE COURT: I'll be happy to hear from him (sic).

VICTIM DENA LESTER: Your Honor, I just -- I want to make sure everyone understands that the impact of this crime is not just on me. The impact of this crime is on my friends and my family, my neighbors, my co-workers, the students at my school, and Mr. Senter's family. And a lot of people have been affected by this crime.

Everything that I've dealt with since November 13th, 2006, my friends and family have dealt with; and I've been very fortunate to have them by my side but also very troubled by what they have had to go through also.

I have constant pain in my chest and my side that hurts me every day. It is a constant reminder to me of what happened. I am very blessed to be alive, but I have that -- that pain every day.

I've never taken medication or dealt with any kind of depression or anxiety before November 13th, 2006; but now I'm being treated for post-traumatic stress disorder. I take medication for depression and anxiety. I take medication at night to try to lessen the nightmares. And this counseling for the post-traumatic stress disorder is ongoing.

My biggest fear before this happened was that I would be killed in a violent way. I -- That was just always my -- my biggest fear, and I'd even expressed that fear during my marriage. I was just always afraid it would be a stranger instead of a man I'd been married to for thirteen (13) years. And that's kind of hard to wrap your brain around, that someone you loved would do that, someone you'd been married to for thirteen (13) years would do that to you.

I worry a lot about my family and friends if and when Mr. Senter is ever released. I worry that his hatred for me is so deep that he would try to harm someone in my family or one of my friends to hurt me because that would hurt me more than what he did to me.

So I fear -- I fear for my family, and I fear for my friends, and I fear him more than I fear strangers, and -- and that's real hard to know that you have a security system in your home and you look over your shoulder and

not because of strangers that other people worry about but because of a man that you were married to for thirteen (13) years.

And there was a question during the trial about who did or didn't do what they should have done, and I don't blame his family for not doing anything, and I don't think I should be blamed for not doing what -- or -- or for them not doing what I think they should have done or someone else thought they should have done.

There is one person in this courtroom right now that's responsible for what happened, and that's Brad Senter. There have even been comments on-line about what did or didn't happen in our marriage, and none of that is an excuse or a reason for what he did. There's one person responsible for that.

And I ask you, Your Honor, to keep that responsibility on his shoulders; and I ask you to give him twenty (20) years for assault and battery with intent to kill and ten (10) years for criminal domestic violence of a high and aggravated nature like the law calls for; and I ask you to sentence him the way you would want someone to be sentenced if they did this to your sister or your mother or one of your children.

Thank you.

MR. RICHARDSON: Thank you, Your Honor.

THE COURT: Thank you.

Mr. Wilson, you may come forward.

MR. WILSON: Thank you, Your Honor. Defendant -- Your Honor, if I -- I -- I have his family here; and I know a couple of them would like to be heard, if the Court will hear from them.

THE COURT: Certainly.

MR. WILSON: Jim, you want to go first?

JAMES CLEARY, DEFENDANT'S BROTHER-IN-LAW: Sure.

MR. WILSON: This is his brother-in-law, Jim Cleary.

THE COURT: Yes, sir. State your full name.

JAMES CLEARY: James Cleary. I appreciate you giving me an opportunity to speak. I've known Brad Senter for over twenty (20) years. I've also been a police officer for twenty (20) years. So this is different for me, talking on behalf of a defendant.

But Brad Senter was a good man, and I -- I say was. Okay? Brad was a very productive and functional member of society until mental illness took over his life. And the person -- Well, Brad Senter would have never committed this crime. The mental illness committed this crime.

Prison is not the place for Brad Senter. It's been his family's contention this entire time that he needs to be in a mental institution.

We never once sought bond, never tried to get him out

of jail. He's been in jail for eighteen (18) months. We don't think he belongs in society right now. We don't want him in society right now. But we want Brad Senter to have the opportunity to be a functional member of society again. And the only way that's going to happen is through extensive therapy and long-term treatment.

And that's why I stand here today and ask you to be lenient because, once he serves his sentence, he won't be going home. He has to go get help before anybody in this family would want him back in society.

Thank you.

THE COURT: Very good. Thank you.

MR. WILSON: Lisa?

THE COURT: Yes, ma'am. Your full name?

LISA SENTER CLEARY, DEFENDANT'S SISTER: Lisa Senter Cleary.

THE COURT: Ms. Cleary, I can be glad to hear from you.

LISA S. CLEARY: This is hard.

THE COURT: Take your time.

LISA S. CLEARY: I don't want to disrespect Dena in any way because she did not deserve what happened to her on that day. So I don't want to seem insensitive. But the fear that she felt that day is what he was feeling since the day the mental illness struck him. He had no

choice in the matter. He's not a drug user, not an alco-- -- He's not an alcoholic. We don't know why this happened, but it did.

I did seek out treatment. I was the only one that took him while he was married, three times. And when he was able to go back to his wife for a reconciliation, they went to marriage counseling. Delusional and paranoid was not treated. They went to marriage counseling.

There was no miraculously day of getting well. So on November the 13th, he was not well. He didn't have clarity.

Prison isn't the place for him, and I don't want to diminish the anger she feels because she should feel it, and so should her family. I would be furious with somebody if this happened to my chil- -- children, either one, or any family member.

But that anger should be directed at the illness because that's really what it is. It is really what it is. I don't know how that jury didn't recognize it. I don't -- I don't know what happened.

I do know that you all have made a circus out of this. Made it something that it's not. If not, we would have been in a bench trial and not relying on lay witness and -- and people who don't really have the knowledge of what we've had to deal with.

I'm just begging you to do the right thing and help him finally. Please.

MR. WILSON: Judge, before you sentence Brad, let me say -- And -- And I know the Court heard this entire trial. So you've heard his full life story. There's not very much I can add to what has been said during the course of the trial.

But what I can say is this: And I -- And I think I have to say it, otherwise I'll -- I will -- I will be concerned that I didn't speak it and say it. Unfortunately, when people are mentally ill, they can't decide to get help on their own.

And -- And for thirteen (13) years, Brad and Dena were married; and not one time in that thirteen (13) years and not one time in all of his illnesses did she get him help or even to try to get him help, you know.

And I understand her anger. I understand being shot. I understand that is wrong. I understand she has a right to be angry. Brad shot her. We know. We never denied that. Nobody ever denied that.

She indicated earlier about the -- there are comments on-line and that kind of thing. Brad, not one time in all the time that I've represented him, ever mentioned anything to me negative about his wife. Never.

I had a very difficult time understanding, that if

you're married to a person for thirteen (13) years and they get sick, that you don't help them. I'm married. I would hope and I would pray that if I got sick, if I got ill, that the person who knows you the best, your wife, would be there to help you.

That never happened for Brad for whatever the reasons are. And, again, she is not responsible for Brad's illness. She didn't make him ill. There's no question about that.

I say this, and then I'm gonna be through. This Court is not charged with exacting revenge, and that's what you're being asked to do. This Court is not charged with getting a pound of flesh for a pound of flesh but to mete out justice and fairness.

And sometimes -- Which is why in our system of justice, we don't allow victims to sentence 'cause it's natural. It is understandable that victims are angry, that they are sometimes even mean-spirited in how they approach things because they feel violated and because a lot of times they have been.

Brad is still ill. He's still under medication. He's still under treatment, and he's got a long way to go.

And maybe if he'd gotten help five (5) years ago or eight (8) years ago or seven (7) years ago, maybe he -- we wouldn't be here; but he didn't.

The question now is do we compound it. If -- No question you have the authority to put him in jail for thirty (30) years, without question. There is no question about that.

The question is is that fairness, is that justice, is that what's right, will that serve the public good because that's the real issue now. Would it serve the public good for a person who, without question, is mentally ill, who without question is suffering, to place him in a maximum security facility for twenty (20) years or thirty (30) years 'cause that's what you're being asked to do.

I would ask the Court -- And I know that this Court will carry out its responsibility, and I have no doubt about that, and I know that this Court will do what it believes is the right thing and the best thing. And I just ask you and I heard you and I beg you to consider Brad and to consider the mental illness that he is suffering from which is what got him to this place.

And -- And I know that the jury has found him guilty, and I accept that. I understand it. Don't agree with it. But I accept it, and I understand it.

I simply ask this Court to give him a sentence that will, one, yeah, punish him for what he has done but, at the same time, not exact a pound of flesh for some unknown reason. And I just ask the Court -- And I know you will.

-- to take that into consideration, you know, when the Court sentences.

(To the Defendant) I don't know if you want to say anything or not.

DEFENDANT SENTER: I can't say anything.

MR. WILSON: He says he can't really say anything, Judge. But thank you very much, Your Honor.

THE COURT: All right. How much time has he spent in jail?

MR. WILSON: Twenty (20) months at this point.

THE COURT: This is clearly a difficult situation for everyone involved in this; and, of course, it's my job and my obligation to maintain order in the court. And there will be no outbursts from anybody on either side.

And I'm gone ask the deputies here in the courtroom to enforce that rule.

All right. Mr. Senter, on Indictment 2007-GS-26-00491, on the offense of criminal domestic violence of a high and aggravated nature, the sentence of the Court is that you be committed to the State Department of Corrections for a period of ten (10) years. This sentence is to run consecutive with other sentences rendered here today. Given credit for twenty (20) months.

With regard to Indictment 2007-GS-26-00481, on the offense of assault and battery with intent to kill, the

sentence of the Court is that you be committed to the State Department of Corrections for a period of ten (10) years. This sentence is to run concurrent (sic). Credit for twenty (20) days (sic).

As a condition of your supervised released, you have no contact with the victim. You're to be placed on -- on GPS monitoring system, global positioning system, monitoring system. You're to receive mental health treatment, and you are ordered to comply with directives from your doctors with regard to medication.

Good luck to you.

MR. WILSON: Thank you very much, Your Honor.

(WHEREUPON, the law clerk conferred with the Court.)

THE COURT: I'm -- Did I say -- If -- If I said twenty (20) days credit, it's actually credit for twenty (20) months time that he's served.

MR. WILSON: Thank you.

MR. RICHARDSON: Thank you, Your Honor.

(WHEREUPON, at 2:51 p.m., this matter was concluded; Defendant and his counsel exited courtroom; and then, at 2:52 p.m., the following proceedings were had outside the presence of the Defendant and his counsel.)

THE COURT: With regard to the sentences, they are consecutive.

MR. RICHARDSON: Thank you, Your Honor.

THE COURT: Consecutive. And the sentencing sheets reflect that.

MR. RICHARDSON: Thank you, Your Honor.

(WHEREUPON, at 2:52 p.m., this matter was concluded.)

**********END OF REQUESTED TRANSCRIPT OF RECORD**********

STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF FLORENCE)

I, the undersigned Patricia A. McDaniel, Official Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the motions and sentencing hearing of the captioned case, relative to appeal, in the Criminal Court for Horry County, South Carolina, on the 20th day of June, 2008.

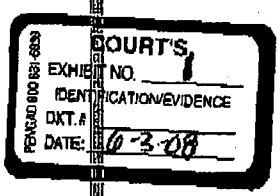
I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Patricia A. McDaniel

Court Reporter

Florence, South Carolina
January 27, 2009.

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY)	07-GS-26-0481, 07-GS-26-491
THE STATE OF SOUTH CAROLINA)	
)	
VS.)	
)	WAIVER OF JURY TRIAL
BRAD SENTER,)	
)	
Defendant.)	



NOW COMES the Defendant, Brad Senter, along with his counsel of record, Ralph J. Wilson, pursuant to *Rule 23(a), Fed.R.Crim.P* and all applicable State authorities, and hereby waives his right to a trial by jury on the charges pending against him and requests this case proceed as a bench trial. Defendant affirms that he has been fully advised of the charges against him, the possible sentences, and his constitutional right to a jury trial under U.S. Const. art. III, §§ 2, amend. VI and S.C. Const. art. I, §14. Defendant attests that this waiver is knowingly, freely, and voluntarily made and with the advice of counsel with whom Defendant has had adequate time to meet and discuss this matter at length.

BRAD SENTER, Defendant

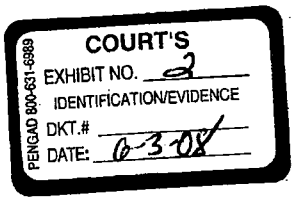
RALPH J. WILSON, *Attorney for Defendant*

June 2, 2008.
Conway, South Carolina

MAY-19-2010 08:57 From:HORRY CLERK COURT 8439156081 To:803 734 1397 P.4/16

FORENSIC EVALUATION

Name: SENTER, Bradley (#1008-4424)



Date of Evaluation: 02/27/07

Evaluators: Marla L. Domino, Ph.D. (Presiding)
Carol Davis, LISW-CP (Second)

Others Present: Kelly Farris, M.A. (Clinical Psychology Intern)

Identifying & Referral Data: Mr. Senter is a 54-year-old (date of birth: 09/13/52), Caucasian male who was ordered by the Horry County Court to undergo an evaluation of his competence to stand trial, pursuant to S.C. Code Ann. §44-23-410. Mr. Senter is currently charged with Assault and Battery with Intent to Kill, which reportedly occurred on or about 11/13/06. According to that court order, the present evaluation was requested because, *"The State and the Defendant have received information that the Defendant treated recently for mental health issues at Duke Univeristy [sic] Medical Center and Lighthouse. Further, the Defendatn's [sic] family has expressed concerns about the Defendant's competency to stand trial based upon behaviors exhibited by the Defendant."* Mr. Senter is currently waiting adjudication of his charges at the Horry County Detention Center.

Legal Criteria for Determining Competence to Stand Trial [S.C. Code Ann. §44-23-410]:
"... [a person] ... is not fit to stand trial because the person lacks the capacity to understand the proceedings against him [his] or to assist in his [his] own defense as a result of a lack of mental capacity ..."

Sources of Information:

1. Interview with Mr. Senter on 02/27/07 for a total of approximately 3 hours 5 minutes.
2. State of South Carolina, County of Horry, Order for Competency to Stand Trial Evaluation Pursuant to *State v. Blair* (dated 12/20/06).
3. Review of Mr. Senter's current South Carolina Department of Mental Health (SCDMH) chart, including a Psychiatric Social Work Admission Assessment conducted by Carol David, LISW-CP, for this evaluation.
4. Information pertaining to Mr. Senter's current charge including: Acknowledgement of Receipt of Discovery Documents File #84030 (date prepared: 01/24/07); State of South Carolina Order for Mutual/Reciprocal Disclosure (dated 01/24/07); Notice of Intent to Impeach by Evidence of Criminal Convictions (not dated); Arrest Warrant J475553 (dated 11/13/06); Warrant Affidavit for Assault and Battery with Intent to Kill (dated 11/14/06); Notice of Date and Time of Mandatory Court Appearances (dated 11/15/06); Horry County Police Department Criminal Investigations Division: Case File Contents (case#06101038, dated 11/13/06), Synopsis, Report of Investigation, Investigation Check List, Incident Report, Supplementary Reports, Supplemental Incident Report, Crime Scene Entry Log, Digital Photo Log Index, Evidence Section – Chain of Custody, Synopsis (additional information, dated 12/18/06), Advisement of Miranda Rights (Mr. Senter, dated 11/13/06); South Carolina Department of Public Safety Affidavit; State of South Carolina Search Warrants (dated 11/13/06); State of South Carolina Affidavit (dated 11/13/06); Myrtle Beach Magistrate's Office Search Return (dated 11/17/06); Horry County Police Department Forensics Services Section Investigative Report (case # 06-101038, dated 11/13/06); Horry County Police Department Crime Scene Investigations Unit Chain of Custody (dated 11/13/06); Horry County Police Department Evidence Record (dated 12/01/06), Vehicle Impoundment and Inventory Record

(dated 11/13/06), New Release (dated 11/13/06); State of South Carolina Subpoena Duces Tecum to Alltel (case#060101038, dated 11/15/06); copy of phone calls from Alltel (dated 11/12/06-11/13/06); Horry County Police Department Incident Report (case#05019637, dated 03/15/05); Horry County Police Department voluntary statement by Dena Senter (dated 03/13/05); black and white copies of digital photographs (not dated or labeled); South Carolina Law Enforcement Division Forensic Services Laboratory Report (case#06-101038, dated 01/08/07); photocopy of Mr. Senter's South Carolina Department of Motor Vehicles driver's license; Booking Report (case #05019637, dated 03/15/05); Booking Report (case #06101038, dated 11/13/06).

5. Mr. Senter's adult criminal record (NCIC).
6. Records from Ms. Cathy Battle, Family Counselor (dated 02/07/05 and 02/15/05).
7. Records from Waccamaw Mental Health Center (dated 01/13/05).
8. Records from Real Solutions (dated 04/21/05 - 08/18/05).
9. Telephone conversation with Ms. Suzanne Smith from Real Solutions, on 03/05/07.
10. Copies provided by Ruth Bergman of letters and faxes Mr. Senter sent to his mother.
11. Records from Lighthouse Care Center of Conway (dates of treatment: 01/14/05 - 01/17/05 and 02/16/05-02/19/05).
12. Undated letters and an essay entitled, "The Value of My Life is On These Pages," written by Mr. Senter, provided to these examiners by the Office of the Solicitor (Conway, SC).

Records from Horry County jail and Duke University Hospital were requested but not received.

Limits on Confidentiality: At the outset of this evaluation, I informed Mr. Senter of our role, the purpose of this evaluation, and the limits of confidentiality. He was further notified of his ability to refuse to participate, selectively respond to questions, and/or terminate the evaluation at any time. Upon inquiry, Mr. Senter exhibited a good understanding of this information, although at times used an information sheet for reference. Specifically, he noted this exam was a "mental health evaluation" about "whether I'm competent to stand trial." He acknowledged the non-confidential nature of this exam and noted the "judge ... prosecutor ... my attorney" would be privy to the resulting report. Should he choose to not participate, per Mr. Senter, "then you'll just write a report and say I won't participate." Based on his responses, it appears Mr. Senter understood the basic purpose of the evaluation and the limits on confidentiality. He declined an offer to telephone his attorney prior to initiating this exam. He voluntarily signed an information form about this evaluation, indicating a willingness to proceed.

Personal History: The following information was obtained from Mr. Senter during the current exam and the collateral sources listed above, where noted. Mr. Senter was an adequate and historian, although at times appeared confused regarding the dates of some personal events. The information he provided these examiners was generally consistent with that included in collateral sources.

Mr. Bradley Senter, one of four children, was reportedly born in Durham, North Carolina, and raised in Virginia by his biological parents. Mr. Senter described a positive upbringing until high school, when his parents began a contentious divorce and his mother was admitted to a psychiatric hospital. Regarding his educational history, Mr. Senter reportedly achieved grades of B's and C's and attended all mainstream classes. Per his account, he repeated fourth grade, secondary to missing school because of eye problems caused by the Asiatic flu. In his early 40's, Mr. Senter reportedly obtained a master's degree in Athletic Administration from the U.S. Sports Academy.

In terms of Mr. Senter's substance use history, he acknowledged his first drink of alcohol occurred at age 18 years. He described drinking "socially" as an adult, which consisted of no more than two mixed

drinks, once every three months. He endorsed increased drinking the year prior to his arrest in that he consumed two drinks three times per week, but denied ever becoming "drunk" or having withdrawal symptoms. Mr. Senter acknowledged up to 12 instances of marijuana use during college and denied use since his early 20's. Per his account, he used cocaine two to three times in the late 1970's. He denied all symptoms suggestive of substance abuse or dependence.

In addition to contracting the Asiatic flu as a child, as noted above, Mr. Senter was reportedly knocked unconscious three times for several seconds while playing football in high school. He stated that he incurred a minor head injury in a motor vehicle accident in 1988 and lost consciousness for several minutes; he refused medical treatment at the time but sought care a few days later for headaches and nausea. As an adult, he has been prescribed Lipitor for high cholesterol.

When asked about his psychiatric history, Mr. Senter endorsed symptoms suggestive of mood labiality and delusional beliefs since his late teens. Specifically, in the years following his parents' separation, Mr. Senter described going "through bouts of depression." During those times he would not exercise, be less active, sleep and eat more than usual, feel sad and moody, self-isolate, have "constant feeling of no hope," and have occasional suicidal thoughts. Conversely, he described past episodes of "endless amounts of energy" when he would engage in a number of leisure activities and only required four to five hours of sleep per night. He denied spending excessive amount of energy, going days without needing sleep, or engaging in risky behaviors during those times. Mr. Senter described those episodes as related to positive events in his personal life (e.g., he would have an "up" period when his job and/or marriage were going well). He noted those periods began in his 20's and occurred eight to ten times per year, the last time at about age 50.

In relaying his work history, Mr. Senter claimed success as a football coach at various institutions (e.g., Duke University, Bethel College). He noted job difficulties since 1992 when a co-worker at Newberry College "forced me out"; Mr. Senter was reportedly alleged to have falsified his credentials and compelled to resign. After that, he spent "two years trying to clear my name ... going to the media, getting letters of reference." He noted feeling depressed during much of those two years, but did not seek treatment. Since then, he has worked in various sales jobs and was reportedly unemployed for up to one year prior to the current arrest.

According to Mr. Senter, shortly after his forced resignation from Newberry College in 1992, he "felt that the FBI was investigating, checking things in my background" and commented that he did not know if this was "real" or paranoia. Mr. Senter then described in detail various events that have occurred in the past 15 years (e.g., removal of his license plate, rescinded job offers, freezing of his bank accounts, being following, repossession of his car, foreclosure on his home) that suggested to him that he was being following by the FBI for unknown reasons (i.e., he stated, "I have no clue"). He noted that these events increased in frequency over time and occurred on almost a daily basis around the beginning of 2004. Mr. Senter also endorsed believing that his parents, sisters, and wife knew about, and were possibly participating in, this surveillance and "taunting" of him by the FBI.

In December of 2004, per collateral data and Mr. Senter, he attempted an overdose on Zoloft (antidepressant). He noted this gesture was preceded by feelings that "I didn't want to put up with it anymore." This was reportedly the last time he felt suicidal, although he stated, "I was accused of that [suicidal ideation] when I went to jail," and was erroneously placed on suicide watch.

In terms of his psychiatric treatment history, records from Waccamaw Mental Health Center indicate that Mr. Senter participated in a screening on 01/13/05, and his symptoms were diagnosed as indicative of Delusional Disorder and Obsessive-Compulsive Disorder. Those records note "[Mr. Senter] reported FBI maybe following him as result of him calling FBI on someone ... has developed delusion that the FBI is watching/following him and this may be related to the events at Newberry College where he worked as coach"; Mr. Senter did not return for further treatment. According to records from the Lighthouse Care Center of Conway (herein, Lighthouse) he was voluntarily admitted the following day (01/14/05), at which time he endorsed suicidal ideation, depression, and paranoid thoughts. His symptoms were diagnosed as indicative of Major Depressive Disorder with Psychotic Features and Dysthymic Disorder. He received prescriptions of Zoloft (anti-depressant), Trazodone (anti-depressant), Remeron (anti-depressant), and Ambien (sleep aid), and was discharged on 01/17/05.

Per records from family counselor Cathy Battle, Mr. Senter participated in two therapy sessions in February 2005 (02/07/05 and 02/15/05). Ms. Battle offered a diagnosis of Paranoid Personality Disorder. Those records indicate that, upon speaking with Mr. Senter's wife during the latter session, Ms. Battle encouraged Mr. Senter to be seen again at Lighthouse due to increasing paranoia. Records from Lighthouse document a voluntary admission the next day (02/16/05), secondary to increased paranoid thoughts regarding the FBI; it was noted that Mr. Senter's urine screen was negative upon admission. He was prescribed Wellbutrin (anti-depressant), Seroquel (antipsychotic), and Depakote (mood stabilizer) for symptoms related to Bipolar Disorder with Psychosis and "major depression on account of psychosis." He was discharged on 02/19/05.

Per Mr. Senter, shortly after his admissions to Lighthouse, he was brought to the Duke University Hospital emergency room per his mother's request, secondary to depressive symptoms. Reportedly, upon arrival Mr. Senter was involuntarily committed for three to four days; to this effect he noted, "I was sabotaged ... I was tricked into going ... I think one of my family members arranged it." Those records have been requested but not yet received. Records from Real Solutions (see below) indicate that Mr. Senter, "Went voluntarily to Duke University for a second opinion" and was diagnosed with an unspecified personality disorder.

Records from Real Solutions (dated 04/21/05 - 08/18/05) document outpatient therapy with Ms. Suzanne Smith from April - August 2005, although Mr. Senter recalled this as occurring in 2006. Per those records, Mr. Senter presented with complaints of anger, marital discord, and depression, and eventually admitted to paranoid thoughts (e.g., concerning his neighbors and the FBI). His symptoms were diagnosed as indicative of Delusional Disorder, Persecutory Type; Major Depressive Disorder, Recurrent, Mild, Chronic; and Personality Disorder, Not Otherwise Specified. Those records reflect that, during that treatment period, Mr. Senter was prescribed an antidepressant (Wellbutrin); antipsychotics (Risperidone, Seroquel); anti-anxiety medications (Klonopin, Ativan, Buspar); and a sleep aid (Lunestra). It was noted that he admitted to being non-compliant with his antipsychotic medications since July 2005 and Mr. Senter discontinued treatment after eight sessions.

In addition to the above records, Mr. Senter's mother and the Office of the Solicitor (Conway, SC) provided these examiners with copies of letters and essays reportedly authored by Mr. Senter. In those writings, Mr. Senter provides numerous details about his alleged history with the FBI, "external forces," and an "evil force," that have sabotaged all aspects of his life, beginning in 1971, but becoming most acute after the loss of his job at Newberry College in 1992. He describes multiple events that he believes the FBI has "staged," including the loss of jobs and opportunities for career advancement, sexual advances by other women, being "baited into looking at porn," a car accident, personal problems with

co-workers, and documentation indicating he did not complete his master's degree. Those writings also accuse his family members and wife of corroborating with the FBI and other "forces" (e.g., in one letter to his mother, Mr. Senter wrote that she had been "duped and used by the FBI to taunt me and stage events").

According to Mr. Senter's NCIC and self-report, his criminal justice history includes a Criminal Domestic Violence charge on 03/15/05, when Mr. Senter allegedly threatened to kill his wife with a gun and accused her of knowing about the individuals he believed were after him. Regarding that charge, Mr. Senter commented he was "never found guilty or not guilty" but the charge remains on his record. He also acknowledged a past charge of shoplifting. Prior to his present arrest, Mr. Senter was living alone in a house in Myrtle Beach, SC. He has been divorced twice, is separated from his current (third) wife, and has fathered one child from his second marriage, who is in her 20's.

Current Mental Status: Mr. Senter was interviewed at the SCDMH outpatient forensic unit on 02/27/07. A mental status examination performed at the time of this evaluation revealed a Caucasian male whose attire appeared clean and he presented with good overall personal hygiene, although was somewhat unshaven. No auditory, visual, or motor abnormalities were noted, although he did wear reading glasses when reviewing the information sheet about this evaluation. He exhibited good eye contact and his use of mannerisms and gestures were within normal limits. He was cooperative with the evaluation process.

Mr. Senter did not exhibit significant deficits in his concentration, memory, and attention, although he stated that his short-term memory "is horrible," due to stress and his current medications. His speech was clear, of normal volume, and of average rate. He presented with goal-directed, linear thinking. He was oriented to month, year, general date (noted it was "the end of the month"), day of the week, approximate time, location, and situation. He accurately interpreted two proverbs indicating an ability to think abstractly.

When asked, Mr. Senter described his typical mood as "very calm and relaxed," although acknowledged when he is anxious about his case, "everything bugs me." Mr. Senter reported feeling "depressed" since incarcerated but related this to his "situation and environment." He did at one point endorse feelings of hopelessness. Mr. Senter noted variable sleep, with an average of six hours per night, and occasional daytime naps. Per Mr. Senter, his nighttime sleep is negatively affected by stress (e.g., about his case), his physical health (e.g., back pain), and if he sleeps during the day. He described his energy as "constant" and acknowledged he has sufficient energy to perform general activities; per Mr. Senter's account, he has purposely increased his level of activity, recently. He described a change in appetite secondary to the poor quality of food and fluctuation in his weight. Mr. Senter denied suicidal and homicidal ideation. He described adequate relationships with both staff and inmates, and has not received any disciplinary action. He reportedly is prescribed Lipitor for high cholesterol. While occasionally tearful, Mr. Senter's affect [observed emotional expression] appeared consistent and within normal limits during this exam.

Since incarcerated, Mr. Senter reportedly has not experienced any of the thoughts, as outlined above (e.g., that the FBI is following him), because "I'm not in my house, in the outside." However, he then acknowledged a current belief that his family is conspiring with the FBI against him and he described several incidents since his arrest that suggests paranoid ideation (e.g., being denied psychiatric treatment, the jail staff accusing Mr. Senter of expressing suicidal thoughts which he denies, the release of other defendants with the same charge who are represented by the same attorneys). To this effect, he stated, "I feel like it's the whole thing with the FBI." He denied a history of hallucinations (e.g., hearing

voices) and other delusional beliefs (e.g., special powers or abilities). It should be noted that although Mr. Senter reports being transported to the Waccamaw Mental Health Center during his present incarceration, this was not indicated in the records these examiners received from that facility which only document one visit in January 2005.

When asked if he believes he has a mental illness, Mr. Senter stated, "No, what I've learned - just depression ... I was told I was delusional, paranoid." At a later point in the exam, he commented, "It's either happening or I'm not telling the truth ... I'm not paranoid." Towards the end of the evaluation, Mr. Senter noted, "I don't want to classify it as paranoid - these events actually happened to me."

Diagnostic Impressions: Based on the available data, it appears that Mr. Senter's symptoms are best characterized by diagnoses of Delusional Disorder, Persecutory Type, and Bipolar II Disorder (by History).

Delusional Disorder describes an individual who, in at least the past month, has endorsed non-bizarre delusions (false, fixed beliefs) but whose functioning and behavior is not impaired or bizarre. In order to meet criteria for Delusional Disorder, the primary symptoms of schizophrenia (Criterion A) must never have been met. Specifically, Mr. Senter appears to have a history of paranoid delusions since at least January of 2005, regarding the FBI and other "evil forces" that have conspired against him and have attempted to destroy all aspects of his life. It does not appear that his functioning is significantly impaired or that his symptoms have ever met the criteria for schizophrenia. The "persecutory" subtype indicates that Mr. Senter's delusions are primarily focused on others' malicious treatment of him.

Bipolar II Disorder describes an individual who has evidenced at least one depressive episode (e.g., depressed mood, weight or appetite change, suicidal ideation) and one hypomanic episode (e.g., excessive speech, racing thoughts, decreased need for sleep), but has never experienced symptoms that meet criteria for a manic episode. In Mr. Senter's case, it appears that he has had a history of depressive episodes (e.g., feeling sad and hopeless, self-isolating, changes in appetite and sleep, suicidal ideation) and, less frequently, hypomanic episodes (e.g., "up" periods in which he has excessive energy, a decreased need for sleep, elevated mood), that do not impair his functioning or meet the criteria for a manic episode. It should be noted that while Mr. Senter endorse recent experience of some depressive symptoms, these do not appear to meet criteria for a depressive episode. In addition, based on Mr. Senter's report, he has not experienced a hypomanic episode in approximately the past four years.

Information Relevant to Competence to Stand Trial

1. Understanding of the charges, potential consequences, and legal proceedings.

Mr. Senter identified his charge as "Assault and Battery with Intent to Kill (ABWIK)," which allegedly occurred on "November 13th ... 2006 ... in my house ... 120 Barclay Drive, Myrtle Beach" at about "7:30am - 8am." He noted a charge of ABWIK means that a person, "shot, stabbed, beat, their spouse or another person." Mr. Senter provided a rational account of what he is accused of doing to warrant the current charge and was also able to describe his behavior and activities on the day in question. He noted his charge to be "very serious - it's devastating" and noted a maximum penalty of "25 to life with parole"; he correctly recalled "20" when provided education and asked later in the exam. He identified his charge as a "felony," noting the difference between a felony and misdemeanor is that, "a felony is a major conviction." He noted "murder" to be a more serious, and "assault" to be a less serious, charge than his own.

When asked, he generated pleas of "guilty" and "not guilty." He defined guilty as meaning, "You committed the act they're saying you did" in which a defendant so found could be "incarcerated for the full length of time all the way down to probation." He noted probation to be "a period of time you have supervised freedom" identifying probationary requirements such as no drinking or drug use. Per Mr. Senter's report, if someone violates their probation, "You go back to what the conviction would have been" and gave an appropriate example. He noted not guilty to mean, "You're totally innocent" after which a defendant so pleads, "You're going to trial unless they dropped the charges." If a defendant is found not guilty, per Mr. Senter's account, they go "Free, I hope." He noted some familiarity with a plea relating to mental illness (e.g., Not Guilty by Reason of Insanity) which he described as meaning, "Person was temporarily out of their senses or were always out of their sense or didn't know it," in which an individual so found would be admitted to a "psych hospital."

Regarding the process of plea-bargaining, Mr. Senter noted, "People are forced to take guilty pleas out of a bargaining with the solicitor," and gave appropriate examples of a defendant who accepts a plea bargain in exchange for lesser time and a lesser charge. He explicitly noted the benefit to a defendant is that "you're accepting a deal of a lighter sentence." He asserted the alternative would be the "risk of being taken to court and found guilty." Benefits to the solicitor, per his account, would be to "save time" and procure a "conviction." He noted that if the State has a lot of evidence against someone it would be "beneficial to take a plea bargain." He acknowledged his ability to reject a plea bargain.

Mr. Senter identified the individual accused of a crime as the "defendant" and their lawyer as the "defense attorney," whose job is to "defend me and to attempt to prove my innocence." He acknowledged his ability to reject his attorney's advice and noted, "If you're in total disagreement with his position on the case, you have the right to retain somebody else." He noted the job of the solicitor is to "prosecute you" and "find you guilty," and who represents the "State." Per Mr. Senter, the judge's role is, "To oversee that the rules of law are followed" and that the judge "Should be impartial." The jury's job, according to Mr. Senter, is "To hear all the facts of the case ... and come to a conclusion, either guilty or not guilty." Per his report, a jury is composed of "12" individuals and "all 12" must agree on the verdict. Should they not agree, Mr. Senter commented, "I don't know if it's a hung jury or a mistrial ... the prosecutor has the authority and right to prosecute it or drop it." If a jury convicts a defendant, the "judge" typically decides the sentence and if there is no jury, the "judge" decides the verdict, per his account. Mr. Senter noted a witness will provide "testimony about what they saw or what they witnessed ... called by defense or prosecution." He acknowledged his ability to refrain from testifying. He identified an advantage ("Tell my side and tell the truth") and disadvantage ("You are cross-examined ... you somewhat put yourself at risk") of testifying.

When asked how juries and judges determine a verdict, Mr. Senter replied, "They take all the evidence and formulate a conclusion based on everybody's opinion ... base it on the facts." He provided some appropriate examples of evidence in general and as it pertains to his case. However, when asked about the strength of the solicitor's case against him, Mr. Senter commented, "I don't think it's strong at all – there's no evidence ... unless it's manufactured." Mr. Senter denied that the State has any concrete evidence against him, and asserted that if the solicitor presented any at trial (e.g., photographs of bullet wounds of the alleged victim, testimony from medical experts), he would know these were "fabricated" by the FBI and part of their attempt to persecute him. He provided some steps he and his attorney could take to show the Court that this evidence was falsified. He questioned his ability to have a fair trial and noted this could only occur if "My wife, my family, some employees" and himself were given the opportunity to "substantiate" the alleged actions the FBI has taken against him. Specifically, he

commented, "I think a lot of things have been externally influenced [by the FBI] and these things would happen at trial."

2. Ability to assist counsel in preparing and implementing a defense.
Mr. Senter identified his attorneys as "Tom Brittain" and "Scott Bellamy," noting that he has met with either a total of five times, the last being three weeks ago. When asked about his impressions of his lawyers, Mr. Senter commented he has, "Mixed emotions" although did acknowledge, "Supposedly, I got the best firm in Myrtle Beach." He explained that after his bond hearing, "I lost a lot of confidence in them and wanted to terminate service," but his family encouraged Mr. Senter to give them another chance. In reflection, he commented, "I don't distrust them enough to terminate them" and "Would I go to trial with them tomorrow? Yeah." He expressed a positive outcome for his case and appeared motivated to resolve his current charge.

Mr. Senter was asked to comment on several hypothetical situations that might arise during the course of a trial. In general, he offered effective responses if he was unsatisfied or distressed with the proceedings. For example, if a witness lied about him in court, Mr. Senter stated, "Nothing you can do - when it's your turn to testify, you can tell your truth." After discussion, however, he noted a better strategy might be to "Tell my attorney and make sure it was brought up in cross-examination ... and ask me as well." Should he disagree with his attorney, per his report, he would, "Tell him face to face and tell him we have a difference of opinion." If unable to hear sidebar conversations, Mr. Senter would, "Ask my attorney as soon as they came back and sat down." Per Mr. Senter's account, people in Court should behavior "very mild-mannered and keep your mouth shut - just listen." Should someone act out in Court, per Mr. Senter, "The judge would take control of the courtroom - hold you in contempt of Court" and the individual could be "Threatened with jail time."

When questioned, Mr. Senter voiced a plea preference although has yet to discuss this in detail with his attorneys. He was able to identify the various pleas available to him, apply these pleas to his own circumstance, and consider the advantages and disadvantages of various pleas, including the possibility and consequences of agreeing to a plea-bargain.

Clinical Impressions Regarding Competence to Stand Trial: Mr. Senter appears to be currently suffering from a mental illness best characterized by a diagnosis of Delusional Disorder (Persecutory Type). Based on the available data, it appears Mr. Senter is currently evidencing significant deficits in those abilities related to competence to stand trial, as a result of a lack of mental capacity.

Specifically, during the current exam, Mr. Senter endorsed the belief that the FBI and "external forces" have been following him and attempting to sabotage his life, beginning in 1971. Available documents suggest psychiatric treatment for mood labiality and paranoid delusions since at least January 2005. Relevant to his current charge, he asserts a belief that any evidence implicating his guilt, as brought forth by the solicitor in trial, would be fabricated by the FBI. This is especially significant considering Mr. Senter believes the alleged victim (his wife) is conspiring with the FBI in their attempts to ruin him. Similarly, Mr. Senter questioned his ability to have a fair trial unless he, his family, and others are given the opportunity to reveal what he asserts the FBI has done to him. He likewise noted a belief that the FBI might negatively influence his trial, given their past actions against him. These delusions prevent Mr. Senter from logically assessing the State's case against him, assisting his attorneys in his own defense, and making rationally-based decisions regarding his case. In addition, his delusional beliefs would likely impede his ability to offer testimony based in logical and rational thoughts, should his case proceed to trial.

Despite the above, the current evaluation revealed few deficits in Mr. Senter's factual knowledge of the legal system. He appeared to appreciate corrective information when offered by these examiners and accurately recalled such information later in the interview, demonstrating an ability to retain newly learned material. It does not appear that his knowledge deficits are related to any symptoms of a mental illness. Specifically, Mr. Senter correctly identified his charge, its alleged date, its meaning, its relative seriousness, and the alleged victim. He provided a brief and logical description of what he is alleged to have done to warrant these charges, as well as a coherent account of his behavior and activities around this general time period. He identified the various pleas available to him; accurately described their consequences, disadvantages, and advantages; and was able to apply these pleas to his specific case. He correctly described the roles of the primary court members including the defense attorney, the solicitor, the judge, the jury, and witnesses. He appeared to appreciate the adversarial nature of a trial and accurately identified the role of evidence. His responses to hypothetical situations suggested he would be able to utilize counsel effectively should he become confused or distressed with legal proceedings. He acknowledged appropriate courtroom behavior and his demeanor during today's exam suggests he would be able to exhibit such behavior in the courtroom and attend adequately to related proceedings. His expectations of his attorney, himself, his case's outcome, and the legal system in general appeared reasonable and logical.

In summary, based on the above data, it is my clinical opinion that Mr. Senter is currently evidencing symptoms of a mental illness that would significantly compromise his present capacity to understand the proceedings against him or to assist in his own defense. In addition, it is my clinical opinion that it is likely many of Mr. Senter's psychiatric symptoms would decrease, concurrent with improvement in the deficits outlined above, if provided appropriate psychological and psychiatric treatment in a structured, inpatient setting.

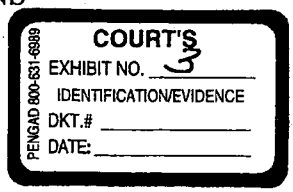
In accordance with South Carolina Code of Law §44-23-430, should the Court adjudicate Mr. Senter as "competent [fit] to stand trial," it shall order the criminal proceedings resumed. Should the Court should find Mr. Senter "not competent [fit] to stand trial," it is recommended he be court-ordered for hospitalization in the Forensic Division of the Department of Mental Health for 60 days in order to help him attain competence. If the Court orders Mr. Senter to be hospitalized, it is requested that the order be forwarded immediately to the Forensic Evaluation Service so he can be placed on the waiting list for admission.

PhD

Marla L. Domino, Ph.D.
Licensed Clinical Psychologist

March 7, 2007
Date

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF HORRY	)	
STATE OF SOUTH CAROLINA	)	
	)	
V.	)	
	)	MOTION FOR DIRECTED VERDICT
BRADLEY SCOTT SENTER	)	OF N.G.R.I.
	)	
Defendant	)	
	)	



NOW COMES the Defendant, by and through the undersigned counsel, who respectfully moves this Court for an Order granting a Directed Verdict in this case. As grounds for this Motion, Defendant asserts that he is entitled to a Directed Verdict of not guilty by reason of insanity as a matter of law in that the State has failed to produce *sufficient* evidence which would reasonably support a finding of sanity.

The State contends they do not have to prove sanity and that production of "any evidence" mandates the issue go the jury. State v. Rimert, 315 S.C. 257, 446 S.E.2d 400 (1994); State v. Smith, 298 S.C. 205, 379, S.E.2d 287 (1989) (citing State v. Hernandez, 287 S.C. 183, 336 S.E.2d 476 (1985)). This is a very loose translation of the law.

> When a motion for directed verdict of acquittal is made in a criminal case, the trial court is concerned with the existence or non-existence of evidence, not its weight. *The accused is entitled to a direct verdict when the evidence merely raises a suspicion of guilt.* The accused also is entitled to a directed verdict when the State fails to present evidence on a material element of the offense charged. However if the state presents any evidence *which reasonably tends to prove the defendants guilt can be fairly and logically deduced*, the case must go to the jury.

State v. Pittmann 373, S.C. 527, 647 S.E.2d 144 (2007)(emphasis added) (internal citations omitted). The rule is not any scintilla of evidence whatsoever, no matter how minute or far-reaching. The rule is any evidence which "reasonably tends to prove the defendant's guilt can be fairly and logically deduced". Pittmann. While Defense agrees that the State is not required to produce expert witness testimony of sanity and that lay witness testimony may be sufficient (Hernandez), the key words "may be" and "sufficient". Defense contends that although the State has produced lay witness testimony, they have not produced any sufficient evidence and, even taken in the light most favorable to the State best, have merely "raised a suspicion" of Defendant's guilt.

In Rimert the Court discussed the concept of "sufficient evidence". Id at 529. In that case the Court upheld the lower court's denial of Appellants Motion for Directed Verdict of NGRI based on the fact that "sufficient evidence" had been produced through three specific avenues. First, testimony from law enforcement on scene minutes after the incident that Appellant had known he did something wrong; second that Appellant had washed the knife (the murder weapon) thereby destroying scientific evidence; and third that Defendant specifically questioned how he could "get out of this" shortly after his arrest. As a result of these three pieces of evidence, the Court held that sufficient evidence had, in fact, been produced which reasonably tend to prove the defendant's guilt could be fairly and logically deduced. In the present case, none of these three factors (or any fact scenario even closely related thereto) are present. Not one single witness took the stand and testified that Defendant knew what he was doing, including the victim who had known the Defendant and been married to him for 14 years. To the contrary, two forensic psychiatrists (one of who was hired

by the State) testified that Defendant did not know what he was doing at the time of the offense. The State relies on inferences they alleged could be drawn from Defendant's actions despite the medical and lay witness testimony to the contrary.

In Smith, Appellant, like the Defendant in this case, was diagnosed with Delusional Disorder, Persecutory Type and found to be incompetent to stand trial upon arrest. After six months of anti-psychotic treatment, he was stabilized. Two forensic psychiatrists testified on Appellant's behalf about his condition and described that persons with such a disorder often appear very "normal" in all aspects of life *except* those dealing with or connected to the patient's delusion, or fixed false belief stating "persons who suffer from this disorder appear quite normal unless approached about the subject of their delusion." The subject of the Appellant's delusion in Smith was the Post Office and various postal workers. He believed at the time of the shooting that he was being persecuted by the post office and those working there and therefore shot and killed. Although the State did not produce any expert witness testimony to the contrary, they did produce four lay witness including: Defendant's personal physician who testified he had recently treated Appellant and he did not, at that time, appear to be psychotic; a police chief who had known the Appellant for more than fifteen years and had spent time with the Appellant days before as well as the day of the shooting and Appellant acted normal and not insane on the day of the shooting; a police officer who testified that appellant appeared normal to him; and a mail carrier from the very post office which Appellant was delusional about who testified that the day before the shooting he'd engaged in a lengthy conversation about the post office and several of the specific issues which were the subject of Appellant's delusion and that Appellant exhibited no signs of abnormal behavior at that time. The Court in Smith found that such testimony did produce "sufficient" evidence to go the jury in that there were several witnesses who offered direct testimony about Appellant's mental state and testified to matters and actions on the part of the Defendant (his discussion with the postal worker) "which tended to establish appellant's sanity" in that they were "inconsistent with the characteristic of fear associated with the disorder." Id at 209. In the present case no such witnesses exist. There certain has been no doctor of any sort presented by the State (like the personal physician here), no witness who has known Defendant for any substantial length of time (as the police chief in Smith) (with the exception of Dena Lester who, although offered testimony, never at any time testified that Defendant was acting "normal" or "not insane" on the day of the shooting. To the contrary she testified that although he appeared calm, his behavior was erratic as he was going back and forth to the garage several times and shuffling papers in his hand and coming up with various excuses for her not to leave, all of which is *consistent* with his disorder and not inconsistent). Finally, there is not any person who can testify that he exhibited behaviors inconsistent with the symptoms of his illness.

For the foregoing reasons, Defendant moves for a Directed Verdict by Not Guilty by Reason of Insanity. Defendant alleges this case is most closely related to Hernandez in which the Court found that although the State contended there existed inferences that could have been drawn circumstantially (as in this case), such was not sufficient for the jury and found and overturned Appellant's conviction finding him Not Guilty By Reason of Insanity.

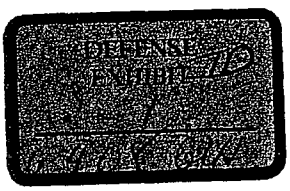
Respectfully submitted.

Ralph J Wilson, Attorney for Defendant
PO Box 1827
Conway, SC 29528

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From: Dena Senter
To: rmberg624@aol.com
Subject: Re: hi
Date: Thu, 8 Jun 2006 08:24:22 -0400

Yes, I saw the real gun and I'm sure he wouldn't have shown Jim his real gun. Let's not be naive. Would he really have shown Jim a gun that he had???? He told me he got it from a pawn shop and it is not the same gun. He had bullets and a case for it in the garage. I asked him to give it to me before I left and he said no. I know what I'm talking about. If he had a gun one time what makes anyone so surprised that he has another one! He also had a knife under the car seat. He keeps a baseball bat on the screened in porch and golf clubs everywhere for protection.
Speaking of the gun in NC, whoever has that can sell it and send me the money for it since Brad used my money to buy it. Isn't that ironic? He used my money to buy a gun to threaten me with!
Fine with me to be honest with him. Just remember that I'm the one who has had the biggest repercussions for this (a gun in my face). If being honest puts anyone else in danger then we'll just have to live with that. I had to finally come to the conclusion that if he killed me then that was a risk I had to take but I could no longer live like that. I have walked on eggshells with him for the last 3 years. That's why I finally left and believe me when I say that I am a much more peaceful person.
I will always love Brad and care about him but I can no longer live with him.



Dena Senter
Assistant Principal
Forestbrook Middle School
(843) 903-7469

>>> <rmberg624@aol.com> 06/07/06 10:20 PM >>>
Where in the world did he get a gun. Are you certain he presently has a real gun. I am positive that Jim knows real weapons, they would have been concerned. I was told that the gun he purchased in MB last year is in North Carolina. He is not in possession of the one he bought last year. Did he say he has one or what makes you believe he has one. Do you know when and where he got it? This really surprises me.

I have been in contact today with some people in Mental Health and I am doing my best to get him some help. I am to call back in the AM.

Dena I believe we should be honest, and upfront with him, if you and I communicate and he makes something of it, he has to deal with it, at least we are not having to walk on egg shells. We should not have to live in fear of upsetting him. He needs to be reminded it is his irrational thoughts kicking in.

-----Original Message-----
From: Dena Senter <dsenter@fm.hcs.k12.sc.us>
To: rmberg624@aol.com
Sent: Wed, 7 Jun 2006 17:01:55 -0400
Subject: Re: hi

He has not been on meds since at least xmas.

Brad does not have a BB gun that I'm aware of. He has never shot at squirrels to keep them from bothering the birds and cats. I'm sure that
is a story he made up in case anything came up about a gun. He has a real gun. I don't know where it is now. I was not sticking around to find out what he did with it.
I am not going to lie to him about anything. What I was saying about him not knowing we talked is because of the paranoia and the fact that he'll believe there's some sort of conspiracy.

Dena Senter
Assistant Principal
Forestbrook Middle School
(843) 903-7469

>>> <rmberg624@aol.com> 06/07/06 4:29 PM >>>
I was not implying you have isolated him, I am speaking of him being home alone with no one to monitor to make sure he gets his medication.

I can tell he is not on any medication with the messages I am receiving.
He needs a doctors care, therapy, and be placed on disability until he is stable to hold down a job.

What about a gun. The family is aware he has a Bee Bee to keep the squirrals from bothering the birds and cats but are you saying he has another gun? where and how?

-----Original Message-----
From: Dena Senter <dsenter@fm.hcs.k12.sc.us>
To: rmberg624@aol.com
Sent: Wed, 7 Jun 2006 10:27:35 -0400
Subject: Re: hi

I'm not sure what you mean by isolation but I'm the only person who HAS
NOT isolated him. Maybe you should talk to his family about isolation.

I am the only person whose life he has threatened and I did not even isolate him after my life was in danger. The reason I left is that I found out he has another gun. I can no longer risk my own life to try to
save his.
I care about his well being and hope that he does get help.

Dena Senter
Assistant Principal
Forestbrook Middle School
(843) 903-7469

>>> <rmberg624@aol.com> 06/07/06 9:29 AM >>>
Dena

I have been up most of the night concerned for Brad, he must be treated
as an ill person not some mean and evil person. He is very sick. I am
going to call his father and try to seek his help since Brad believes I
am with the FBI.

If you are trying to get help for him, I believe you should be documenting all that you have tried to do for him as for getting medical
help, prescriptions, urgent care etc. He will not have documentation as
a seriously ill person cannot rationalize what to do.

Isolation and keeping secrets from him is worse for him. He needs professional help I am making plans to get the car and will personally
urge him to seek medical help.

-----Original Message-----
From: Dena Senter <dsenter@fm.hcs.k12.sc.us>
To: rmberg624@aol.com
Sent: Tue, 6 Jun 2006 21:49:34 -0400
Subject: hi

June 6 2006

I just wanted to let you know that I am going to see an attorney Thursday. I don't know if there's any way he can help me get help for Brad also. I don't have any documentation of the things he does and says. Do you have one of those letters he wrote you that may give him an indication of Brad's illness? If so and you'd be willing to send it
to me, e-mail and I'll give you my fax # and a time to fax it as I would
want to be by the fax to pick it up.
Brad knows I'm going to see an attorney but do not let him know I told you. Thanks.

Dena Senter
Assistant Principal
Forestbrook Middle School
(843) 903-7469

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From: dsenter@fm.hcs.k12.sc.us
To: rmberg624@aol.com
Subject: Re:
Date: Sun, 16 Jul 2006 10:54 PM

First of all let me tell you that those were the most hurtful words anyone has ever spoken to me. I have done nothing to deserve that. I have never been disrespectful to you and have been nothing but nice to you.
Also, if you're willing to send such an e-mail to someone the very least you could do is be willing to answer the phone and hear the truth. As I said on your voicemail, the car is in the parking lot of Myrtle Beach police department with the keys locked in it.
As for you loaning me the car, that is not true and you know it. I was in the hotel room when Brad came and asked you. Maybe he told you it was for me which was not true but I didn't ask you. It only takes a little bit of common sense to know that I am the only one with a job and the only one who was paying for anything including the Altima so why would I need a car. Besides, if I needed something I would ask my family and they would help with NO QUESTIONS asked. Besides, how many times have we helped you out in the past when you needed money or a place to stay? That's what family does...help each other.
Next, you shouldn't have driven here on the 14th without telling me. That was a wasted trip. I could have told you that we don't work on Fridays. And, don't ever bring the police into a situation with me and embarrass me on my job when I am not at fault.
Now, I want to address the situation with Brad. First, let me start by reminding you of all the times that you told me that "no one would blame me if I left Brad".
You have no idea what I have dealt with. Your whole family has turned its back on Brad and just expected me to handle it. Now that I'm gone I guess everyone's a little worried about who's going to step up to the plate. I'm a little curious to see myself.
You have no right to pass judgement on me. Were you the one held at gunpoint in a car? Were you the one who he threatened to "blow your f...ing head off". Did he threaten to call your family and let them listen to you die? NO!!! That was me. And even after that I tried to stay and get him help. But I can't put myself in danger any longer when I know he has a weapon in the house. I have been to counseling with him. I've supported us financially for years. Tell me what you've done. When he needed you most you haven't been there. And don't tell me that he won't answer your calls. If I were sick and my mother couldn't reach me by phone, she drive here. She wouldn't send someone from an agency to check on me. She'd be here to do it herself. That's because she's my mother. You have a lot of nerve saying what I've done is unexcusable and unforgivable. What about when his own family, his own blood doesn't help him? What do you call that?
You say Brad's love for me is sincere. Have you lived with us for the last 2 years? Have you heard him tell me that he hates me? Have you seen the contempt in his eyes? And don't tell me that that is the illness. How has it felt when he wrote hateful faxes to you?
All Brad had to do was get medical help. I love Brad with all my heart. I will always love him and care about him. I just couldn't live with him anymore. We went to counseling but he wouldn't take his medicine. Why didn't you and his family try to do something for him? You told me that I was the only one who could do something but you know that is not true. Anyone can file mental health pick up papers that you wanted me to do. If you had cared enough to ask you would know that. I was not going to have him committed to the state institution. If that's what you wanted then you should have done that.
It has taken me a while to get to this point but I am straight with God about leaving the marriage. I can truly say that I did all I could do

to save the marriage. I was only harming myself by staying. I hope that you can say the same about your attempts. You see, you say that what I did was unforgivable but I don't need anyone's forgiveness but God's and I am comfortable with my decision. I was a good wife to Brad and I know that. I don't need anyone else's affirmation of that. You think that me leaving a mentally ill person is unexcusable? Well, let's see what happens when you get your chance to help. Are you willing to take care of him? He's going to need a place to stay now. Are you willing to deal with the mental illness 24 hours a day? So far, all you've had to deal with are some faxes. How are you going to deal with it when you find a gun in the house or knives hidden around the house?
HERE'S EVERYONE'S OPPORTUNITY TO DO WHAT THEY THINK I SHOULD HAVE DONE!

Dena Senter
Assistant Principal
Forestbrook Middle School
(843) 903-7469
>>> <rmberg624@aol.com> 07/15/06 9:10 AM >>>
Dena

I want to remind you that when you came with Brad in January of this year, I loaned YOU the car for 2 months. I have begged, pleaded for it to be returned. I even hired a tow truck and you refused to hand over the keys. Yesterday, on July 14th, a friend drove me to Myrtle Beach to your school to pick it up. Since the gate was locked I walked with an officer to search for my car. I was advised by the Conway police department to go to the Magistrates office in Myrtle Beach to file a complaint. You are to deliver the car in the same condition as it was when you borrowed my car to the police department in Conway by Sunday July 16, 2006 or the car is going to be reported stolen. The fact is you asked to borrow the car therefore, do not put this burden on Brad.

I can appreciate your desire to be free of difficulties but to leave a mentally ill spouse is unexcusable. If the situation had been reversed, I know for a fact Brad would never had forsaken you as his love for you was sincere. He would have gotten medical help for you. That you are unaware if he is under a doctors care is unforgivable. You sought relief by hiring an attorney?

Ruth Bergman

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From: Dena Senter
To: rmberg624@aol.com
Subject: Re: car
Date: Wed, 19 Apr 2006 09:44:14 -0400

If I am the only one who can get help for him, then how did Lisa and Bill commit him last March? I don't believe that is true. I also believe that if that were done then he would just convince them that he is ok like he always has. As I said, I am doing what I feel is best for me and him right now and do not feel that anyone has the right to second guess me unless they are willing to take over his care and no one has stepped up to the plate to do that thus far.

Dena Senter
Assistant Principal
Forestbrook Middle School
(843) 903-7469

>>> <rmberg624@aol.com> 04/18/06 8:48 PM >>>
Dena,

Please do not think I expect you to drive the car by yourself. I am very disturbed he is not getting medical help. He is very ill. Believing I am with the FBI is crazy thoughts.
I have been told you (his wife) are the only one who can seek help for him, that I am unable to do anything. For some unknown reason he is very very angry with me. I am going to stay away until he gets well. I will let you know when I decide how and who I can get to pick up the car. I will bring the golf clubs and I want to pick up my jacket and chaps when I get the car. I will be in touch when the plans are made.

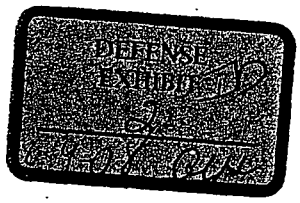
Love,
Your MIL

-----Original Message-----
From: Dena Senter <dsenter@fm.hcs.k12.sc.us>
To: rmberg624@aol.com
Sent: Tue, 18 Apr 2006 13:49:59 -0400
Subject: Re: car

Your car has only been driven in town. I told him to return it yesterday. I cannot make him do anything. I don't know what else to tell you. I do appreciate you letting us use the car but I do not have
time to drive the car there by myself. It's not fair of anyone to expect me to do that. I have a car and a job. I am simply doing what is best for me to survive right now. I get NO help from anyone else.

I must now be selfish and look out for myself like everyone else does.

Dena Senter
Assistant Principal
Forestbrook Middle School
(843) 903-7469



The Empty Tank

It has been one year at the end of this month
that I witnessed the transformation of your tank
It came by way of your Mother
and was transfered to another - even a neighbor
You ran out of gas and I couldn't re-fill it.
You would not allow me too

Although I re-committed my life to you in 02
and I was willing to give my life for you
You wanted more
You exerted an enormous amount of energy
to conceal and then take the drivers seat
of my destruction.
While I begged and fought for your help
Instead you turned your head and then
took part in the horrible torture of my soul.
I saw you go from soulmate to someone
that I did not know

Your Every act of both cover-up and action
delivered a dagger to my heart

While I agreed to endure your wrath
hoping one day that it would subside
I had hoped that your anger would be replaced
by the Grace and Forgiveness of your heart

That never came and my crucifiction
took place right before my own eyes
While I was prepared to face God for
my past sins - all I fought for was
the Holy Spirit of Truth to surface.

You would not allow that to happen
and as time went by, the intensity of
both the internal battle with you
was equally met with the external forces
that you had now made your God

While your written word stated that
you would turn your forgiveness over to God
that obviously never happened. You began
to worship to Satan as your anger
paralleled the assult by the group
that you had chose to be associated

However what I have failed and fought to give into - was and is, is your request for me to just turn you over to "LAB".

I was willing to do that 10-12 months ago. I was willing to exit the marriage in exchange for me, you, and God to unite before I exited.

However that wasn't good enough for you. my soul aches with pain as I have witnessed the vengeance of your soul. I was willing to grant you what you wanted and probably deserved - and that was to grant you freedom from me. I only wished that we could have parted that way.

It is finished - I give you my soul and life. I forgive you and my love for you remains as strong as ever. This pain is more than I can bear

God Bless you Dena and just know that you have an angel in me as I hope to enter heaven and serve as your protector from above

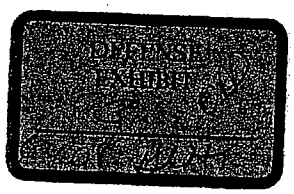
While your heart never commited to forgiveness as explained in the 5 Love Languages - I commit myself to you and God. You each may have your way with me. I just pray that each of you allow me to enter a place of piece within your heart of acceptance

All I wanted was one final day with you without the false sense of what was happening with you. I now know and accept that this day will never come.

I Love You, You have my life and I have endured your crucifixion of me.
It is finished - Amen ♡
your Angel.

D.senter@fm.hcs.k12.sc.us

704-455-3239



Ruth,

The time has come for you to answer me. But before you do - I want to say, your trip here had all of the false intentions and cover-up. Your actions, statements, and responses to me valid this much.

* You need to understand that it is quite apparent that your efforts to render me needing medication, therapy - are futile and self-serving.
* If you <u>want to help</u> as you proclaim, Then you need to ask me what <u>I want you to do</u>!
* Your actions are <u>not</u> in <u>my best interest</u>. You are being manipulated into doing what's best for the corrupt FBI. This is about what them 1st, you + my family 2nd - and me 3rd. I am the gravy train(#) for all of you.

* The time has come <u>for you to tell me</u> as my Mother are you going to tell the truth OR NOT? My freedom depends on <u>you</u>. If you remain in your present status, then you have signed my <u>death warrant</u>. You are being paid to murder your son and you know it. The evil Satan ones put you in harm's way.

They were willing to risk your life and YOU FAILED TO RECOGNIZE THAT. That's why you were afraid of me.

The same fraud that you've taken part in is the same fraud that manufactured evidence against me. They stole my DNA for fraudulent use and they have framed me because I fought back against them.

I can prove that this war began in 1971. I only need one person to crack open the decades old war and expose the real FBI. I am banking that one of about 12 people will tell the truth on the stand. That doesn't even include you.

Trust me - using the family as a cover to pinpointing my flaws or motivation will not work! You need to know this. All of their evidence involved circumstances created by them with endless fraud designed to destroy me.

* Lastly - Tell Lisa to contact these people and tell her to confirm what she directed and took sole guidance.

I'll be in touch! Brad

Department of the Treasury
Internal Revenue Service
ACS SUPPORT
PO BOX 57
BENSALEM, PA 19020-8514

Date:
SEP. 16, 2006

Taxpayer Identifying Number:
SSN S 00

Contact Telephone Number:
TOLL FREE: 1-800-829-3903
BEST TIME TO CALL:
MON - FRI 8:00AM TO 8:00 PM
ASISTENCIA EN ESPANOL 1-800-829-3903

HORRY COUNTY SCHOOL
4430
4430 GATOR LN
MYRTLE BEACH SC 29588

Re:
BRAD S SENTER
120 BARCLAY DR
MYRTLE BEACH SC 29579-6566203

We Released The Taxpayer Levy

We mailed you a NOTICE OF LEVY requiring that you turn over property belonging to the taxpayer named above as payment of taxes owed.

We have now RELEASED FROM LEVY all property or rights to property belonging to the above named taxpayer. You are no longer required to turn over under this levy any money, property, or rights to property belonging to the taxpayer.

Thank you for your cooperation.

Larry Leder

Operations Manager, Automated Collection System

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

SEPARATION AND PROPERTY SETTLEMENT AGREEMENT

This is a Separation and Property Settlement Agreement entered into this _____ day of _____, 2006, between BRAD S. SENTER, hereinafter referred to as "Husband", and DENA L. SENTER, hereinafter referred to as "Wife". The parties would show that they were married on August 7, 1993, in Newberry, South Carolina, County of Newberry, and that there has been no children as a result of this marriage and none are expected. The parties separated on the 27th day of May, 2006, and are now living separate and apart.

The parties now wish to enter into a full and complete Separation and Property Settlement Agreement concerning all real and personal property which they own, and a determination of the obligations and duties of each to the other, presently and in the future, including such obligations and duties in the event either party secures a divorce from the other. It is expressly understood that this Agreement is to be a complete and final settlement of all rights asserted by each party with regards to the above.

Therefore, in consideration of the mutual covenants, terms and conditions hereinafter set forth, both parties, with full knowledge of the extent, value and character of the property owned by them and of the respective income, obligations and needs of each of them, do hereby fully and voluntarily agree as follows:

1. LIVING SEPARATE AND APART: The parties may and shall hereafter live separate and apart, free from all dominion and control, direct or indirect, from each other and each may live at a place or places as he or she may from time to time choose or deem fit.

2. INSURANCE: Both parties agree to be fully responsible for their own insurance needs henceforth, including medical and health, life, fire, automobile and such other insurance as they deem necessary, unless otherwise provided for hereinbelow, except that the Wife agrees to keep the Husband on her health insurance until the time of the parties' divorce. The Husband will be responsible to reimburse the Wife $140.00 per month for insurance costs incurred by her by having the Husband on her policy. These costs will be paid by the Wife when due and the failure to reimburse her within thirty (30) days from the due date gives her the right to remove him from her policy..

3. VEHICLES: The Husband will be entitled to possession of the 2004 Nissan Altima which is titled in both names. The Husband will be solely responsible for the lien, taxes, insurance, and tags, maintenance, and all other expenses related to this vehicle. The Husband is to assume all payments of $339.96 per month, or any other finance charges or payments of any kind or nature, together with all other expenses related to the vehicle, with all amounts due to be paid five days prior to the due date so the Wife will have the funds to make these payments. The Husband agrees to make all payments prior to the payment due dates. Any missed payment on the loan, taxes, insurance, maintenance, or car expenses gives the Wife the right to immediate and full ownership, use and possession of the vehicle with the Husband having no further rights to the vehicle. If for any reason the vehicle cannot be insured, or is not insured, Husband must refinance immediately and remove the vehicle and

indebtedness from the Wife's name or immediately return and transfer the vehicle to the Wife. Any costs related to the Husband not complying with this agreement, the Husband will be responsible for immediately reimbursing her for all of the costs and expenses of any nature or kind caused by the Husband's failure to comply. The Wife agrees to keep Husband on the auto insurance policy with the Husband to reimburse her for coverage. Husband will, on a monthly basis, reimburse the Wife for all payments made on the insurance policy. At the time the car has been fully paid for, the Wife will sign all necessary paperwork to transfer full ownership of the vehicle to the Husband with all costs of the transfer to be paid by the Husband.

4. **REAL PROPERTY**:

The Husband is presently residing at 120 Barclay Drive, Myrtle Beach, SC 29579. Upon approval of this agreement by the Family Court, the Husband will immediately vacate the home and the Wife will be deeded full ownership, use, and possession of the home with any and all utility deposits connected with the home to become the property of the Wife. The deed shall be a general warranty, fee simple, deed and the title shall be free and clear of all liens, encumbrances connected to the home except for the existing mortgage on the home with Countrywide Home Loans the approximate amount of $118,000.00, and a second mortgage with First Franklin the approximate amount of $29,000.00. The Wife will pay $16,855.00 to Husband for home and all contents of the home except his clothes, his CD's and stereo. Husband has borrowed $3,185.00 against the original settlement of $20,000.00 from Wife. The balance due the Husband will be paid upon transfer of home to the Wife and approval of the agreement by the court. The Husband and Wife will equally share all rights to claim the

tax benefits of the home through the tax year of 2004. The Wife will have the right to claim all tax benefits related to the home after the 2004 tax year. Upon transfer of the home to the Wife, she will be responsible for all taxes, maintenance, insurance, and other expenses on the home.

5. PERSONAL PROPERTY: The Wife will be entitled to full ownership, use and possession of all personal property currently in her possession and personal property of any kind or nature located or left in the home at the time of their separation except for the Husband's clothes, his CD's, his stereo, his files, pictures, golf clubs, and other personal items. The Husband will be entitled full ownership, use and possession of these items.

6. ALIMONY AND SPOUSAL SUPPORT: Both parties agree to waive any right they may have to receive alimony or spousal support from the other, both now and in the future.

7. DEBTS AND OBLIGATIONS: The parties agree that each of them will be solely responsible for all debts in their individual names.

The Wife understands and agrees to be responsible for all debts solely in her name, the first and second mortgages on the home, the Exxon credit card in the approximate amount of $1,800.00, the BP credit card in the approximate amount of $1,500.00, the Providian credit card in the approximate amount of $9,000.00 and the Allsouth Credit Union loan in the approximate amount of $18,000.00.

The Husband understands and agrees to be responsible for the indebtedness on the 2004 Nissan Altima automobile in the approximate amount of $15,000.00, his medical bills

of approximately $14,000.00, and all other debts of any nature or kind, including his loan with First Palmetto Bank in the approximate amount of $5,000.00.

8. **RETIREMENT PLANS AND OTHER ASSETS**: Each of the parties specifically waive any and all rights that they may have to any and all retirement plans or benefits of the other party, any disability claims either may be entitled to, any bank accounts of the other party, any life insurance benefits of the other party, any stock or stock options of the other party and any and all property of the other party not mentioned herein.

9. **LIFE INSURANCE**: The parties will be entitled to full ownership, use and possession of any life insurance policies that exists on their own life and the other party will not make any claim to any policy on the other party's life.

10. **WAIVER OF ELECTIVE SHARE**: Each party, after having received a full and fair disclosure of the nature of the extent of the other parties' property, and financial situation, which disclosure is hereby acknowledged, does hereby waive any and all rights of election which each might have as their spouse's surviving spouse, to receive any part of their spouse's estate, against the contrary terms of their spouse's Will or of their spouse's other estate planning devices, now existing and hereafter arising, under the laws of any state whatever. This waiver by each party pertains to the elective share of the other party's estate pursuant to the South Carolina Probate Code Section 62-2-201 and other related sections in said code. The parties also agree that they waive the right to act as the personal representative of the other's estate.

11. **OTHER RIGHTS AND OBLIGATIONS**: Each of the parties agree that this agreement ends any and all rights, duties or obligations arising as a result of their marriage

relationship, whether mentioned or not mentioned in this agreement, with the exception of the issue of divorce. Having read and understood this agreement, having been given legal advice, or having had the opportunity to receive legal advice, and having full knowledge and understanding of all financial matters relating to the parties, each of the parties is signing this agreement freely and voluntarily.

12. **HOLD HARMLESS AND INDEMNIFICATION**: The parties agree that each of them will hold the other harmless and indemnify the other party for any losses or expenses of any nature or kind that may result from their failure or refusal to completely comply with the terms of this agreement. They agree that the losses or expenses will include, but not be limited to, any payments, maintenance, taxes, insurance, late charges and attorney's fees and costs that may be expended or incurred by a party to protect their interest and enforce this agreement.

13. **ATTORNEY FEES**: Each party will agree to be fully responsible for their individual attorney's fees.

14. **EXECUTION OF DOCUMENTS**: The parties agree to execute and deliver any and all paperwork that may be necessary in order to carry out the terms of this agreement once this agreement is approved by the Court.

15. **ACKNOWLEDGMENT**: The Wife hereby acknowledges that she has been represented by Robert N. Richardson, Jr. in regards to this Agreement. The Husband hereby acknowledges that he has not been represented by an attorney at the signing of this agreement but he has had the opportunity to consult an attorney in regards to the separation and this agreement had he desired to do so. The Wife acknowledges that she is satisfied with the services rendered by her attorney and that she freely and voluntarily enters into this agreement.

The Husband does not desire the services of an attorney and desires to proceed without an attorney. He makes this decision freely and voluntarily understanding that he can obtain an attorney if he desires to do so. He freely, voluntarily, knowingly and competently enters into this agreement. Both parties acknowledge that they are fully competent to enter this agreement, that they are not under the influence of alcohol or drugs and they are not under any undue influence as they enter into this agreement.

Any modification, waiver or amendment of any of the terms of this agreement shall not be effective unless in writing.

If any provision of this agreement is held to be invalid or unenforceable, all other provisions shall nevertheless continue in full force and effect.

It is understood and agreed that this agreement shall be construed in accordance with the laws of South Carolina.

Both parties hereby certify that they have fully read and understand all of the terms, conditions and provisions in this agreement. They have received, or have had the opportunity to receive, independent legal advice prior to the signing of this agreement.

The parties have incorporated in this agreement their entire understanding. No oral statements or prior written matter extrinsic to this agreement shall have any force or effect. The parties are not relying upon and specifically hereby repudiate any representations other than those expressly set forth herein. All prior agreement between the parties, whether written or oral, are hereby revoked and held null and void.

16. MERGER AND INCORPORATION: The parties agree that this agreement is a full and complete Separation and Property Settlement Agreement, and that each of the parties,

their heirs, administrators, executors and assigns are bound by the contents hereof. This Agreement shall be offered to the Court as a full and complete settlement of their property rights, and subject to Court approval, shall be incorporated and merged into any final decree issued by a Court of competent powers of said Court.

WITNESS OUR HANDS AND SEALS this _____ day of _____, 2006.

WITNESSES:

_____ _____
BRAD S. SENTER

_____

_____ _____
DENA L. SENTER

_____

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

PERSONALLY appeared before me _____ who being duly sworn, says an oath that (s)he was present and saw the within named Brad S. Senter sign, seal and as her act and deed, deliver the foregoing Separation and Property Settlement Agreement and that (s)he with _____ witnessed the execution thereof.

SWORN to before me this
_____ day of _____, 2006

_____

_____
Notary Public for S. C.
My commission expires: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

PERSONALLY appeared before me _____ who being duly sworn, says on oath that (s)he was present and saw the within named Dena L. Senter sign, seal and as his act and deed, deliver the foregoing Separation and Property Settlement Agreement and that (s)he with _____ witnessed the execution thereof.

SWORN to before me this
_____ day of _____, 2006

_____

_____
Notary Public for S. C.
My commission expires: _____

This separation agreement is void and non valid
I have no intention to legally separate until a
fair an agreeable resolution finance
is specifically outlined. I want written proof
that house is out of foreclosure and all leins disclosed.

STATE OF SOUTH CAROLINA)
) SEPARATION AND PROPERTY SETTLEMENT
COUNTY OF HORRY) AGREEMENT

original - 1 rec'd 1st
Given to Dena 1st page

This is a Separation and Property Settlement Agreement entered into this _____ day of _____, 2006, between BRAD S. SENTER, hereinafter referred to as "Husband", and DENA L. SENTER, hereinafter referred to as "Wife". The parties would show that they were married on August 7, 1993, in Newberry, South Carolina, County of Newberry, and that there has been no children as a result of this marriage and none are expected. The parties separated on the 27th day of May, 2006, and are now living separate and apart.

Brad Senter 9-21-6

The parties now wish to enter into a full and complete Separation and Property Settlement Agreement concerning all real and personal property which they own, and a determination of the obligations and duties of each to the other, presently and in the future, including such obligations and duties in the event either party secures a divorce from the other. It is expressly understood that this Agreement is to be a complete and final settlement of all rights asserted by each party with regards to the above.

I will not exit this how or waive my rights until a ch is in my hands

Therefore, in consideration of the mutual covenants, terms and conditions hereinafter set forth, both parties, with full knowledge of the extent, value and character of the property owned by them and of the respective income, obligations and needs of each of them, do hereby fully and voluntarily agree as follows:

I maintain all rights to fair alimon medical + insurance Benefits

* You changed the terms from our agreement to Attorney. This agreement was and is different. - so I reserved review. Your delays and change of action was a choice - I am not responsible

Do you think I'm a Dumb Ass ?

Do Not agree to a open ended terms

1. **LIVING SEPARATE AND APART:** The parties may and shall hereafter live separate and apart, free from all dominion and control, direct or indirect, from each other and each may live at a place or places as he or she may from time to time choose or deem fit.

Yours as spelled out

2. **INSURANCE:** Both parties agree to be fully responsible for their own insurance needs henceforth, including medical and health, life, fire, automobile and such other insurance as they deem necessary, unless otherwise provided for hereinbelow, except that the Wife agrees to keep the Husband on her health insurance until the time of the parties' divorce. The Husband will be responsible to reimburse the Wife for any extra insurance costs incurred by her by having the Husband on her policy. These costs will be paid in advance and the failure to reimburse her within thirty (30) days from the due date gives her the right to remove him from her policy.

For Record state How Much Just as you stated all other debt

Unrealistic terms!

3. **VEHICLES:** The Husband will be entitled to possession of the 2004 Nissan Altima which is titled in both names. The Husband will be solely responsible for the lien, taxes, insurance, and tags, maintenance, and all other expenses related to this vehicle. The Husband is to assume all payments of $339.96 per month, or any other finance charges or payments of any kind or nature, together with all other expenses related to the vehicle, with the set amount on the lien and any other reimbursements to be paid to Wife as they come due. The Husband agrees to make all payments prior to the payment due dates. Any missed payment on the loan, taxes, insurance, maintenance, or car expenses gives the Wife the right to immediate and full ownership, use and possession of the vehicle with the Husband having no further rights to the vehicle. If for any reason the vehicle cannot be insured, or is not insured, Husband must refinance immediately and remove the vehicle and indebtedness from the

? B.S.

Remove & or Explain

Why + When + STATE

You don't pay bills prior to and in advance

Wife's name or immediately return and transfer the vehicle to the Wife. Any costs related to the Husband not complying with this agreement, the Husband will be responsible for immediately reimbursing her for all of the costs and expenses of any nature or kind caused by the Husband's failure to comply. The Wife agrees to keep Husband on the auto insurance policy with the Husband to reimburse her for coverage. Husband will, on a monthly basis, reimburse the Wife for all payments made on the insurance policy. Husband will be responsible for any and all expenses for car, including, but not limited to taxes, maintenance, insurance, and tags. At the time the car has been fully paid for, the Wife will sign all necessary paperwork to transfer full ownership of the vehicle to the Husband with all costs of the transfer to be paid by the Husband.

Already stated previous page

4. **REAL PROPERTY**:

The Husband is presently residing at 120 Barclay Drive, Myrtle Beach, SC 29579. ~~Within 24 hours~~ up to 7 DAYS — will go ASAP from the approval of this agreement by the Family Court, the Husband will vacate the home and the Wife will be deeded full ownership, use, and possession of the home with any and all utility deposits connected with the home to become the property of the Wife. The deed shall be a general warranty, fee simple, deed and the title shall be free and clear of all liens, encumbrances connected to the home except for the existing mortgage on the home with Countrywide Home Loans the approximate amount of $118,000.00, and a second mortgage with First Franklin the approximate amount of $29,000.00. The Wife will pay $17,155.00 to Husband for home and all contents of the home except his clothes, his CD's and stereo. Husband has borrowed $2,885.00 against the original settlement of $20,000.00 from Wife. The balance due the Husband will be paid upon transfer of home to the Wife and

* and other personal items ~~of~~ files, pictures, golf clubs etc.

B.S.

after the Husband has vacated the home. Provided however, if additional sums are advanced or loaned pursuant to this agreement, the Wife will likewise receive credit for these loans or advances and they will likewise be deducted from the balance due to the Husband. This will include, but not be limited to, cash advances, insurance payments, vehicle payments, and his one-half of the 2003 federal income taxes. The Husband and Wife will equally share all rights to claim the tax benefits of the home through the tax year of 2004. The Wife will have the right to claim all tax benefits related to the home after the 2004 tax year. Upon transfer of the home to the Wife, she will be responsible for all taxes, maintenance, insurance, and other expenses on the home.

Not valid stated in writing in this agreement NO open ended claims to money owed or borrow

5. **PERSONAL PROPERTY**: The Wife will be entitled to full ownership, use and possession of all personal property currently in her possession and personal property of any kind or nature located or left in the home at the time of their separation except for the Husband's clothes, his CD's, and his stereo. The Husband will be entitled full ownership, use and possession of his clothes, CD's, and his stereo. AND personal items

6. **ALIMONY AND SPOUSAL SUPPORT**: Both parties agree to waive any right they may have to receive alimony or spousal support from the other, both now and in the future.

7. **DEBTS AND OBLIGATIONS**: The parties agree that each of them will be solely responsible for all debts in their individual names.

The Wife understands and agrees to be responsible for all debts solely in her name, the first and second mortgages on the home, the Exxon credit card in the approximate amount of $1,800.00, the BP credit card in the approximate amount of $1,500.00, the Providian credit

card in the approximate amount of $9,000.00 and the Allsouth Credit Union loan in the approximate amount of $18,000.00. What Is this for?

The Husband understands and agrees to be responsible for the indebtedness on the 2004 Nissan Altima automobile in the approximate amount of $15,000.00, his medical bills of approximately $14,000.00, and all other debts of any nature or kind, including ~~but not limited to,~~ his loan with First Palmetto Bank in the approximate amount of $5,000.00.

B.S. LIST OR REMOVE

8. **RETIREMENT PLANS AND OTHER ASSETS**: Each of the parties specifically waive any and all rights that they may have to any and all retirement plans or benefits of the other party, any disability claims either may be entitled to, any bank accounts of the other party, any life insurance benefits of the other party, any stock or stock options of the other party and any and all property of the other party not mentioned herein.

9. **LIFE INSURANCE**: The parties will be entitled to full ownership, use and possession of any life insurance policies that exists on their own life and the other party will not make any claim to any policy on the other party's life.

10. **WAIVER OF ELECTIVE SHARE**: Each party, after having received a full and fair disclosure of the nature of the extent of the other parties' property, and financial situation, which disclosure is hereby acknowledged, does hereby waive any and all rights of election which each might have as their spouse's surviving spouse, to receive any part of their spouse's estate, against the contrary terms of their spouse's Will or of their spouse's other estate planning devices, now existing and hereafter arising, under the laws of any state whatever. This waiver by each party pertains to the elective share of the other party's estate pursuant to the South Carolina Probate Code Section 62-2-201 and other related sections in said code. The

parties also agree that they waive the right to act as the personal representative of the other's estate.

11. **OTHER RIGHTS AND OBLIGATIONS**: Each of the parties agree that this agreement ends any and all rights, duties or obligations arising as a result of their marriage relationship, whether mentioned or not mentioned in this agreement, with the exception of the issue of divorce. Having read and understood this agreement, having been given legal advice, or having had the opportunity to receive legal advice, and having full knowledge and understanding of all financial matters relating to the parties, each of the parties is signing this agreement freely and voluntarily.

12. **HOLD HARMLESS AND INDEMNIFICATION**: The parties agree that each of them will hold the other harmless and indemnify the other party for any losses or expenses of any nature or kind that may result from their failure or refusal to completely comply with the terms of this agreement. They agree that the losses or expenses will include, but not be limited to, any payments, maintenance, taxes, insurance, late charges and attorney's fees and costs that may be expended or incurred by a party to protect their interest and enforce this agreement.

13. **ATTORNEY FEES**: Each party will agree to be fully responsible for their individual attorney's fees.

—when Final + agreed!

14. **EXECUTION OF DOCUMENTS**: The parties agree to execute and deliver any and all paperwork that may be necessary in order to carry out the terms of this agreement.

15. **ACKNOWLEDGMENT**: The Wife hereby acknowledges that she has been represented by Robert N. Richardson, Jr. in regards to this Agreement. The Husband hereby acknowledges that he has not been represented by an attorney at the signing of this agreement

but he has had the opportunity to consult an attorney in regards to the separation and this agreement had he desired to do so. I desire to do so. The Wife acknowledges that she is satisfied with the services rendered by her attorney and that she freely and voluntarily enters into this agreement. The Husband does not desire the services of an attorney and desires to proceed without an attorney. He makes this decision freely and voluntarily understanding that he can obtain an attorney if he desires to do so. He freely, voluntarily, knowingly and competently enters into this agreement. Both parties acknowledge that they are fully competent to enter this agreement, that they are not under the influence of alcohol or drugs and they are not under any undue influence as they enter into this agreement.

Any modification, waiver or amendment of any of the terms of this agreement shall not be effective unless in writing.

If any provision of this agreement is held to be invalid or unenforceable, all other provisions shall nevertheless continue in full force and effect.

It is understood and agreed that this agreement shall be construed in accordance with the laws of South Carolina.

Both parties hereby certify that they have fully read and understand all of the terms, conditions and provisions in this agreement. They have received, or have had the opportunity to receive, independent legal advice prior to the signing of this agreement.

The parties have incorporated in this agreement their entire understanding. No oral statements or prior written matter extrinsic to this agreement shall have any force or effect. The parties are not relying upon and specifically hereby repudiate any representations other

Hence - I do not agree to have any verbal debts as offered previously. My debts will begin on the date of this signed agreement. Wife agrees to pay car-house

than those expressly set forth herein. All prior agreement between the parties, whether written or oral, are hereby revoked and held null and void.

16. MERGER AND INCORPORATION: The parties agree that this agreement is a full and complete Separation and Property Settlement Agreement, and that each of the parties, their heirs, administrators, executors and assigns are bound by the contents hereof. This Agreement shall be offered to the Court as a full and complete settlement of their property rights, and subject to Court approval, shall be incorporated and merged into any final decree issued by a Court of competent powers of said Court.

WITNESS OUR HANDS AND SEALS this _____ day of _____, 2006.

WITNESSES:

_____ _____
BRAD S. SENTER

_____ _____
DENA L. SENTER

_____

Except for what I have been advanced.

1) Spell out all figures or Pre payment amounts with expected pre-payment DATES &
2) You accept all debts until Final agreement has been signed - AND no open ended opportunities to take my money - (you think I'm stupid?)
3) State How much you say I'm due and put it in writing.
4) No - you Know How corrupt the Feds are + You Know How Frank Partridge was corrupted!

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

PERSONALLY appeared before me _____ who being duly sworn, says an oath that (s)he was present and saw the within named Brad S. Senter sign, seal and as her act and deed, deliver the foregoing Separation and Property Settlement Agreement and that (s)he with _____ witnessed the execution thereof.

SWORN to before me this
_____ day of _____, 2006

_____

_____
Notary Public for S. C.
My commission expires: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

PERSONALLY appeared before me _____ who being duly sworn, says on oath that (s)he was present and saw the within named Dena L. Senter sign, seal and as his act and deed, deliver the foregoing Separation and Property Settlement Agreement and that (s)he with _____ witnessed the execution thereof.

SWORN to before me this
_____ day of _____, 2006

_____

_____
Notary Public for S. C.
My commission expires: _____

This separation agreement is void and non valid
I have no intention to legally separate until a
fair an agreeable resolution financ

STATE OF SOUTH CAROLINA)
) SEPARATION AND PROPERTY SETTLEMENT
COUNTY OF HORRY) AGREEMENT

Letter from company, is specifically outlined. I want written proo
that house is out of foreclosure and all leins disclosed

This is a Separation and Property Settlement Agreement entered into this _____ day
Other leins - letter/status
of _____, 2006, between BRAD S. SENTER, hereinafter referred to as "Husband", and DENA L. SENTER, hereinafter referred to as "Wife". The parties would show that they were married on August 7, 1993, in Newberry, South Carolina, County of Newberry, and that there has been no children as a result of this marriage and none are expected. The parties separated on the 27th day of May, 2006, and are now living separate and apart.

Brad Senter 9-21-6

Original - rec ink 10th Ltd 1st page Given to Dena

The parties now wish to enter into a full and complete Separation and Property Settlement Agreement concerning all real and personal property which they own, and a determination of the obligations and duties of each to the other, presently and in the future, including such obligations and duties in the event either party secures a divorce from the other. It is expressly understood that this Agreement is to be a complete and final settlement of all rights asserted by each party with regards to the above.

I will not exit this ho or waive my rights until a ch is in my hands

Therefore, in consideration of the mutual covenants, terms and conditions hereinafter set forth, both parties, with full knowledge of the extent, value and character of the property owned by them and of the respective income, obligations and needs of each of them, do hereby fully and voluntarily agree as follows:

I maintain all rights to fair alimon medical + insurance Benefits

* You changed the terms from our agreement to Attorney. This agreement was and is different. - so I deserved review. Your delays and change of action was a choice - I am not responsible

Do you think I'm a Dumb Ass ?

Do Not agree to open ended terms

1. **LIVING SEPARATE AND APART**: The parties may and shall hereafter live separate and apart, free from all dominion and control, direct or indirect, from each other and each may live at a place or places as he or she may from time to time choose or deem fit.

Yours spelled out

2. **INSURANCE**: Both parties agree to be fully responsible for their own insurance needs henceforth, including medical and health, life, fire, automobile and such other insurance as they deem necessary, unless otherwise provided for hereinbelow, except that the Wife agrees to keep the Husband on her health insurance until the time of the parties' divorce. The Husband will be responsible to reimburse the Wife for any extra insurance costs incurred by her by having the Husband on her policy. These costs will be paid in advance and the failure to reimburse her within thirty (30) days from the due date gives her the right to remove him from her policy.

$140/mo. health by the wife Better terms!

For Record state How much Just a: you State all oth debi

3. **VEHICLES**: The Husband will be entitled to possession of the 2004 Nissan Altima which is titled in both names. The Husband will be solely responsible for the lien, taxes, insurance, and tags, maintenance, and all other expenses related to this vehicle. The Husband is to assume all payments of $339.96 per month, or any other finance charges or payments of any kind or nature, together with all other expenses related to the vehicle, with the set amount on the lien and any other reimbursements to be paid to Wife as they come due. The Husband agrees to make all payments prior to the payment due dates. Any missed payment on the loan, taxes, insurance, maintenance, or car expenses gives the Wife the right to immediate and full ownership, use and possession of the vehicle with the Husband having no further rights to the vehicle. If for any reason the vehicle cannot be insured, or is not insured, Husband must refinance immediately and remove the vehicle and indebtedness from the

taxes, insurance, tags, ~~insurance~~

Remove! or Explain

Car payment by 10th of mo. insurance

taxes, tags, 5 days before due

WHY + WHEN + STATE

You don pay bills prior to an in advance

Wife's name or immediately return and transfer the vehicle to the Wife. Any costs related to the Husband not complying with this agreement, the Husband will be responsible for immediately reimbursing her for all of the costs and expenses of any nature or kind caused by the Husband's failure to comply. The Wife agrees to keep Husband on the auto insurance policy with the Husband to reimburse her for coverage. Husband will, on a monthly basis, reimburse the Wife for all payments made on the insurance policy. Husband will be responsible for any and all expenses for car, including, but not limited to taxes, maintenance, insurance, and tags. At the time the car has been fully paid for, the Wife will sign all necessary paperwork to transfer full ownership of the vehicle to the Husband with all costs of the transfer to be paid by the Husband.

Already stated previous page

4. REAL PROPERTY:

The Husband is presently residing at ADDRESS

up to 7 DAYS — will go ASAP

~~Within 24~~ hours from the approval of this agreement by the Family Court, the Husband will vacate the home and the Wife will be deeded full ownership, use, and possession of the home with any and all utility deposits connected with the home to become the property of the Wife. The deed shall be a general warranty, fee simple, deed and the title shall be free and clear of all liens, encumbrances connected to the home except for the existing mortgage on the home with Countrywide Home Loans the approximate amount of $118,000.00, and a second mortgage with First Franklin the approximate amount of $29,000.00. The Wife will pay $17,155.00 to Husband for home and all contents of the home except his clothes, his CD's and stereo. Husband has borrowed ~~$2,885.00~~ against the original settlement of $20,000.00 from Wife. The balance due the Husband will be paid upon transfer of home to the Wife and

17,055.00

2985.00

and other personal items

I'll take out but no more advances. B.S.

after the Husband has vacated the home. Provided however, if additional sums are advanced or loaned pursuant to this agreement, the Wife will likewise receive credit for these loans or advances and they will likewise be deducted from the balance due to the Husband. This will include, but not be limited to, cash advances, insurance payments, vehicle payments, and his one-half of the 2003 federal income taxes (# amt. $50). The Husband and Wife will equally share all rights to claim the tax benefits of the home through the tax year of 2004. The Wife will have the right to claim all tax benefits related to the home after the 2004 tax year. Upon transfer of the home to the Wife, she will be responsible for all taxes, maintenance, insurance, and other expenses on the home.

Not unless stated in writing in this agreement NO open ended claims to money owed or borro

5. PERSONAL PROPERTY: The Wife will be entitled to full ownership, ~~use and~~ possession of all personal property currently in her possession and personal property of any kind or nature located or left in the home at the time of their separation except for the Husband's clothes, his CD's, and his stereo. The Husband will be entitled full ownership, use and possession of his clothes, CD's, and his stereo. AND personal items You list what you want

6. ALIMONY AND SPOUSAL SUPPORT: Both parties agree to waive any right they may have to receive alimony or spousal support from the other, both now and in the future.

7. DEBTS AND OBLIGATIONS: The parties agree that each of them will be solely responsible for all debts in their individual names.

The Wife understands and agrees to be responsible for all debts solely in her name, the first and second mortgages on the home, the Exxon credit card in the approximate amount of $1,800.00, the BP credit card in the approximate amount of $1,500.00, the Providian credit

card in the approximate amount of $9,000.00 and the Allsouth Credit Union loan in the approximate amount of $18,000.00. What Is this for? repossessed Envoy balance

The Husband understands and agrees to be responsible for the indebtedness on the 2004 Nissan Altima automobile in the approximate amount of $15,000.00, his medical bills of approximately $14,000.00, and all other debts of any nature or kind, including ~~but not limited to,~~ his loan with First Palmetto Bank in the approximate amount of $5,000.00. out B.S. LIST OR REMOVE

8. RETIREMENT PLANS AND OTHER ASSETS: Each of the parties specifically waive any and all rights that they may have to any and all retirement plans or benefits of the other party, any disability claims either may be entitled to, any bank accounts of the other party, any life insurance benefits of the other party, any stock or stock options of the other party and any and all property of the other party not mentioned herein.

9. LIFE INSURANCE: The parties will be entitled to full ownership, use and possession of any life insurance policies that exists on their own life and the other party will not make any claim to any policy on the other party's life.

10. WAIVER OF ELECTIVE SHARE: Each party, after having received a full and fair disclosure of the nature of the extent of the other parties' property, and financial situation, which disclosure is hereby acknowledged, does hereby waive any and all rights of election which each might have as their spouse's surviving spouse, to receive any part of their spouse's estate, against the contrary terms of their spouse's Will or of their spouse's other estate planning devices, now existing and hereafter arising, under the laws of any state whatever. This waiver by each party pertains to the elective share of the other party's estate pursuant to the South Carolina Probate Code Section 62-2-201 and other related sections in said code. The

parties also agree that they waive the right to act as the personal representative of the other's estate.

11. OTHER RIGHTS AND OBLIGATIONS: Each of the parties agree that this agreement ends any and all rights, duties or obligations arising as a result of their marriage relationship, whether mentioned or not mentioned in this agreement, with the exception of the issue of divorce. Having read and understood this agreement, having been given legal advice, or having had the opportunity to receive legal advice, and having full knowledge and understanding of all financial matters relating to the parties, each of the parties is signing this agreement freely and voluntarily.

12. HOLD HARMLESS AND INDEMNIFICATION: The parties agree that each of them will hold the other harmless and indemnify the other party for any losses or expenses of any nature or kind that may result from their failure or refusal to completely comply with the terms of this agreement. They agree that the losses or expenses will include, but not be limited to, any payments, maintenance, taxes, insurance, late charges and attorney's fees and costs that may be expended or incurred by a party to protect their interest and enforce this agreement.

13. ATTORNEY FEES: Each party will agree to be fully responsible for their individual attorney's fees.

When Final agree

14. EXECUTION OF DOCUMENTS: The parties agree to execute and deliver any and all paperwork that may be necessary in order to carry out the terms of this agreement.

once agreement is approved by court.

15. ACKNOWLEDGMENT: The Wife hereby acknowledges that she has been represented by Robert N. Richardson, Jr. in regards to this Agreement. The Husband hereby acknowledges that he has not been represented by an attorney at the signing of this agreement

but he has had the opportunity to consult an attorney in regards to the separation and this agreement had he desired to do so. I desire to do so I — OK. The Wife acknowledges that she is satisfied with the services rendered by her attorney and that she freely and voluntarily enters into this agreement. The Husband does not desire the services of an attorney and desires to proceed without an attorney. He makes this decision freely and voluntarily understanding that he can obtain an attorney if he desires to do so. He freely, voluntarily, knowingly and competently enters into this agreement. Both parties acknowledge that they are fully competent to enter this agreement, that they are not under the influence of alcohol or drugs and they are not under any undue influence as they enter into this agreement.

Any modification, waiver or amendment of any of the terms of this agreement shall not be effective unless in writing.

If any provision of this agreement is held to be invalid or unenforceable, all other provisions shall nevertheless continue in full force and effect.

It is understood and agreed that this agreement shall be construed in accordance with the laws of South Carolina.

Both parties hereby certify that they have fully read and understand all of the terms, conditions and provisions in this agreement. They have received, or have had the opportunity to receive, independent legal advice prior to the signing of this agreement.

The parties have incorporated in this agreement their entire understanding. No oral statements or prior written matter extrinsic to this agreement shall have any force or effect. The parties are not relying upon and specifically hereby repudiate any representations other

Hence - I do not agree to have any verbal debts as offered previously. My

than those expressly set forth herein. All prior agreement between the parties, whether written or oral, are hereby revoked and held null and void.

16. **MERGER AND INCORPORATION**: The parties agree that this agreement is a full and complete Separation and Property Settlement Agreement, and that each of the parties, their heirs, administrators, executors and assigns are bound by the contents hereof. This Agreement shall be offered to the Court as a full and complete settlement of their property rights, and subject to Court approval, shall be incorporated and merged into any final decree issued by a Court of competent powers of said Court.

WITNESS OUR HANDS AND SEALS this _____ day of _____, 2006.

WITNESSES:

_____ _____
BRAD S. SENTER

(*) Except for what I have been advanced.

_____ _____
DENA L. SENTER

_____

) Spell out all figures or Prepayment amounts with expected pre-payment DATES &
) You accept all debts until Final agreement has been signed - AND No open ended opportunities to take my money - (You think I'm Stupid?)
3) State How much you say I'm due and put it in writing.
D No - You Know How corrupt the Feds are +

GRAND STRAND
WATER & SEWER
AUTHORITY

P.O. Box 2308 • Conway, SC 29528-2308
(843) 443-8202

HOW YOU CAN AVOID YOUR SERVICES FROM BEING DISCONNECTED:

Mail or bring in your payment today.

Sign up for bank draft through any bank associated with SC Automated Clearing House Association.

Pay by Visa, Master Card, or Discover credit cards through our website (www.gswsa.com) or by calling our Automated Customer Information System (843) 443-8201 or our Customer Service Department (843) 443-8202.

Always ensure your payment is received by the due date to avoid your service being disconnected. Should you have a problem please be sure to contact our Customer Service Department (843) 443-8202.

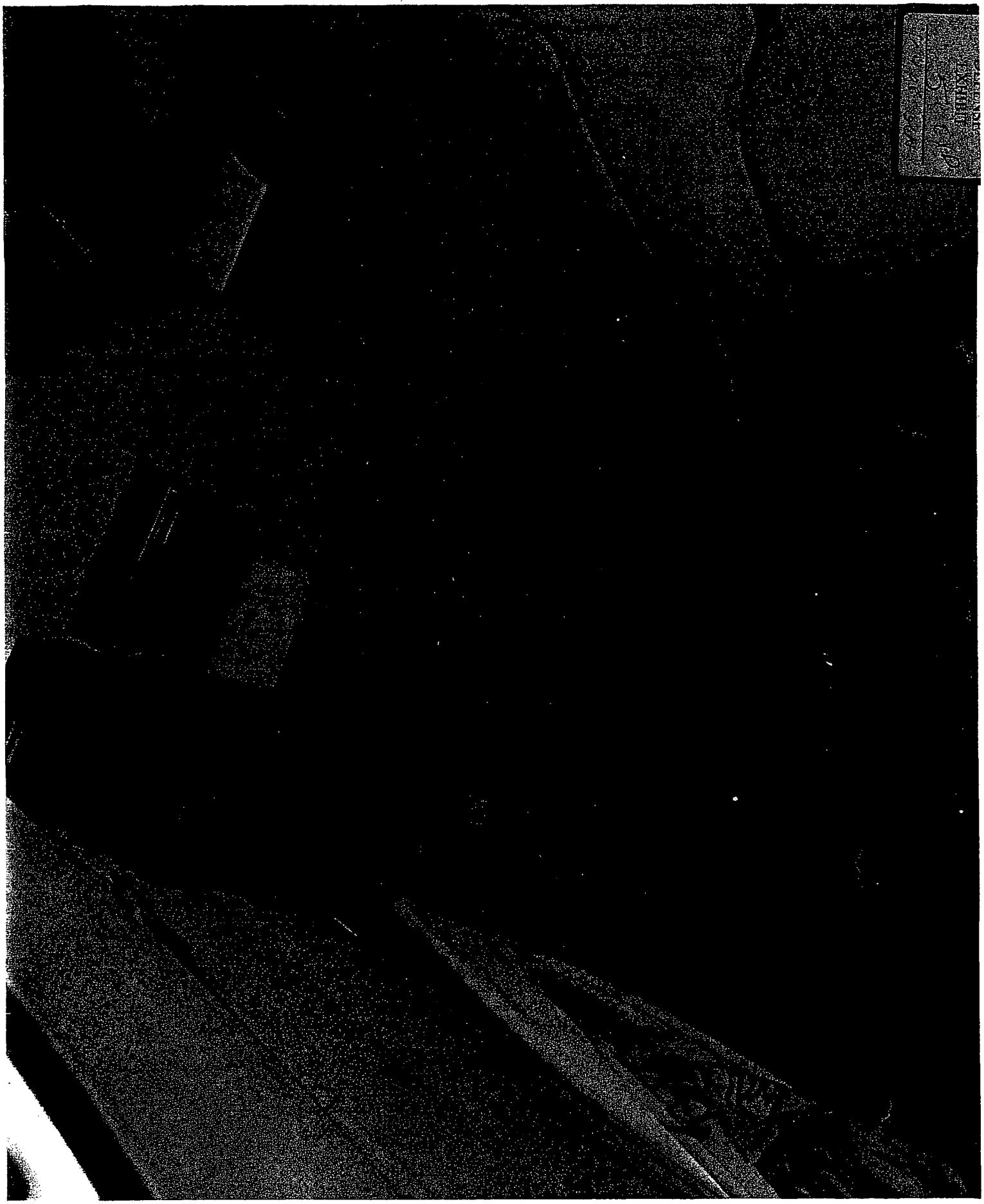
Account Number: 30721006 - 01 Service Location: 120 BARCLAY DRIVE/LT 6

PAST DUE

Our records indicate that as of 10/06/2006 your account is past due in the amount of $ 45.82. To avoid disruption of service, please make your payment at our Central Office located at 170 Jackson Bluff Rd off of Hwy 544 on or before 10/12/2006. If payment is made after this date, but before service is disconnected, an additional $10.00 service fee will be assessed. Payments made after disconnection will access a $20.00 disconnection fee and an additional $20.00 fee to reconnect service. Each separate service call to your location will assess a $20.00 service fee. Service is only reconnected after normal business hours (8:00 am - 5:00 pm, Monday through Friday) with proof of payment. Reconnects performed after hours will result in an additional $20.00 service fee. If payment is not received within seven days after disconnection, your account will be terminated and the security deposit will be applied towards any amount due. Payments by check may be verified before acceptance.

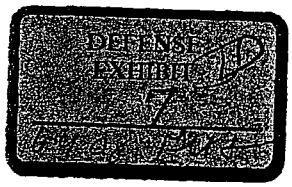
If the amount due has been paid, please contact our office at (843) 443-8202 for verification.

tear ▼ PLEASE DETACH ON DOTTED LINE BELOW - ENCLOSE STUB BELOW WITH PAYMENT IN RETURN ENVELOPE - MAKE SURE THE RETURN ADDRESS ON THE FRONT SIDE OF STUB APPEARS IN THE WINDOW OF THE RETURN ENVELOPE ▼ tear



THE VALUE OF MY LIFE IS ON THESE PAGES

The truth always has two sides and my side is as follows. All of you in my family have taken part in my assassination and murder at the hands of an evil force-the FBI. You all have chosen to be used as weapons just like many or most of my former friends and colleagues It is a fact that my "35+ year war" has never been about crime, punishment, or justice. The 35 years alone possesses the "stench" of corruption. Fact is, at the age of 18, I was targeting by a self-appointed judge, jury, and executioner. Every constitutional right as a citizen has been voided. I have fought to expose this war by retaliating against the war of terror in their venue because my venue of life and liberty was destroyed. When events are staged, false evidence planted, DNA fraudulently obtained and then corruptly transferred- this spells corruption. The same corruptive force that you chose to side with in the "conspiracy to commit my murder", is the same force that manufactured the fraudulent evidence at the initial start and throughout this war. I have NEVER possessed child porn, NEVER had anything to do with any child or any 11year-old as "taunted". The facts are and will always be: The same corruption that you joined in on is the same force that staged, planted, and then used you as weapons against me. WAKE UP and smell the stench! All I know is this; If one or more of you came forward and TOLD THE TRUTH – The whole truth and the real truth would prevail. It would also destroy the structure of the FBI and of course that won't happen because you have been paid to side with them, become an accessory in conspiracy, and you have accepted profit at my expense and life! How would you feel had I done this to you – especially given that my life is at stake. I can tell you that from here it hurts worse than any of you will unfortunately ever know. I've known for a long time what it is like to have a terminal disease... the corrupt FBI.



COPY

So you see, nothing is like what you've been told and led to believe. What you all need to know, that I knew from early on that I was in a war with some external force. I never imagined it could be something so big and corrupt like our own federal government (FBI) until around the late 70's when I was coaching at Marshall. This is when things like me going to find a place to rent via the newspaper turned out to be a set-up by some faggot in a dark house. Or when I would be taunted about drugs only to fall victim to a "supposed friend" whose repeated attempts and eventual peer pressure got me to try it. Yes then I did get involved and used it but soon stopped thereafter. I never bought or sold it! But I did fall victim to this set-up. Or to going to a nightclub to have some drinks and dance with some women...only to be approached from behind and hugged by a plant FBI agent. I'm sure that was a good picture to be utilized many times. * It's important to note that this guy got his ass kicked by my roommate and we were tossed out of the bar. And yes, I did go to a Topless Bar that was adjacent to the Nautilus Club where I worked. Yes I did hook up once with a dancer. Yes I did have several flings via set-ups via my so-called "friend" and roommate. Never have I been attracted to men or boys so let's put this falsehood and fraudulent label to rest. I chased women-not men or boys!
Other job attempts and threats about losing employment became an everyday occurrence as I battled taunts and harassments at the Athletes' Foot. The only two jobs that I ever had that I was never harassed was as a golf course grass cutter and as a driver for a Falls Church business whose son went to Marshall. All other jobs like The Waterside Athletic Club, were always negated due to the destruction by this evil force.

Do you not think I knew I was fighting a corrupt force by the late 70's? How about when I was called on the telephone and told that I was being investigated for "Attempted Murder"? Get it... many taunts and finally the taunt as to what the end would be! Little did I know then, but I never had the interest or desire to own a gun or kill anyone. Today- I do both because of exactly the reasons that I have fought against and what you have taken part! I have been set-up everyday for my entire life since 1971. Every accomplishment has been thwarted and reduced to nothing. Every potential opportunity for success both personally and professionally has been negated.

Want more proof! You heard a little of the 70's- now the 80's!
How about getting to coach at Duke, working extremely hard and learning a great deal. Yes I was and am a good football coach. I am 100% better than the FBI's effort to label me. I had a great reputation and many coaches at the other schools like NC State (where I was recruited off of the golf course in Buies Creek to take the call and offer to join NC State..in front of my Dad who was there to witness it). The coaches at UNC knew me as did Bill Dooley. At NCSU my immediate boss and later NFL coach recommended me for a job out in New Mexico. I didn't solicit the job. *He recommended me because I was a good, dedicated, and knowledgeable coach! FACT: I didn't have to have a degree at NCSU. The NCAA only required that I be enrolled in 6 hours of graduate work. I shared his with NCSU and I was told how to get into the program by registering as a visiting student from another school. I was in and under the NCAA guidelines!!!I was not a self-promoter then. I was doing a great job and trying to build a career while my efforts educationally and professionally were being devoured ! The harder I worked to achieve - the more my efforts were thwarted. Yes I never shared my true educational transcript because I felt I was not being allowed to attempt my work without being harassed and thwarted. My job at NMHU was destroyed the same way and by the same fashion by the FBI Not due to my inability. *I only became a self-promoter at the height of my war beginning around 1990. I was determined to expose this evil force- prove that my rights to work and live were being destroyed unconstitutionally and morally.

How about doing so well at my job at American Hospital Supply that while my territory was one of the most efficient and all the numbers had increased, and I was constantly applauded by my superior Sally Mann and Human Resources in Chicago...only to be run out of town by a "designated replacement manager Gregg Pappas (externally orchestrated) whose sole responsibility was to make my life miserable and get me to quit!) I worked and soon thereafter, I was recruited to Whittaker General Medical by the same Human resource Manager from American. Of course I succumbed to the same fate at this job due to the same taunting , harassing, evil force!. Did I self-promote myelf and fake my way...No I did a great job and earned my reputation through hard work and effort. That is proven!!!

Want more proof? How about in the 80's -My reputation from Duke and NC State led me to meet Tommy Bowder, whom knew Dick Hopkins, whom recommended me for a job at Samford with Tommy's brother Terry. I was a good football coach then as recommended...Terry was delighted with me efforts and knowledge as was the rest of the staff. I even became acquainted with Bobby Bowden and he even became aware of my abilities! Terry even wrote me a letter of recommendation because due to the same external forces, I was overnight invited out and told I wouldn't be getting my money as promised? Due to Terry's or my efforts? NO- You guessed it! FBI * It was at this time I became aware that I was being followed by someone (FBI). I also began getting staged hits of attractions from women in B'ham and several students on campus. I was even setup by our SID who attempted to lure me onto this student who supposedly had an attraction for me and she couldn't get enough sex! I was told she had an accident and hit her head and this brought on uncontrollable sexual desires. Kent (SID) tried his best to hook me up with this girl as a set-up. I refused his efforts and many others until I had exited Samford. At the end of my marriage and when Cathy went home for a weekend to strategize her exit, a male+female FBI agent accompanied this one student whom tried on many occasions to solicit my advances- I had grown tired of the set-ups and said what the hell-given my marriage and Cathy's evilness. So I invited her to my house and low and behold guess who showed up...all three! Of course the two were imposters, but at that point the war was heavy and a multitude of jobs, a multitude of advances, and a barrage of taunts and threats had brought me down to their level And yes...I did have a car accident (which to this day I believe was staged). Soon thereafter my job with Zybex was destroyed, Cathy blamed me for her Cancer; Blamed me for everything and tried to get me kicked out of the house by having me hit her; told anyone who would listen that I was sexually abusing Lauren; Made life miserable for my family when they came for a bowl-game. Then when I got an attorney he was great and very good. But soon his alliance changed overnight and he began to sabotage my efforts (FBI) You see this is when I got the first taunts about being "Legally Blinded" at the eye doctor's office. I also lost my belongings in storage to the FBI – as they were given to Cathy fraudulently. It was also at this time that I was told that my relationship with my daughter would someday be dissolved! I even began getting the age of 53 taunted in my face on many occasions.

Now before I go on, let me enlighten you as to the amount of time and days weeks, months and years to this point that I had been sabotaged. You go from 1971 and advance to 1989 in B'ham and you have 18 years. Can you imagine being sabotaged, set-up, and assassinated for this period of time. Is that the justice you signed up for in your assault of me. No you signed up and endorsed 35+years of destruction!!!! Here's more!

I finished my degree at Campbell and signed up for graduate school at the United States Sports Academy. I really started before I was finished Campbell as a probationary student. * I excelled at USSA and my professors all were positive and liked my efforts in class. You see –graduate school is very much class participation and oral presentation. I did all of my work, research papers and many were done as a team of two or more so we all had our own part. The Vice President, Dr. Carl Miller, a professor of a sport law class took on to me and he became a mentor much like Red Wilson was to me. I earned my grades and I did take a little cheat sheet into comps but I really didn't much need it after all. My last class and paper that I did was done while at NCCU. I did reuse some of that paper from another paper but in retaliation I blatantly did so because of the taunts, threats, and events at NCCU. I wasn't about to exhaust my efforts on this class or paper when all other academic work had been minimized and voided so to speak. * When I was recommended and applied for the job at NCCU, I told the Chairwoman of the P.E. department, Dr. Politino, that I didn't have my masters yet but I was close and needed to do my mentorship. She knew and became my supervisory mentor. My application states that I hadn' finished my masters, so the FBI can go to hell on this one as well. Anyway, as before everything started great at NCCU but quickly became tarnished as well. As before, externally orchestration took over as my teaching salary was negated yet I still had to teach. I soon fought daily battles with the head coach as he overnight became my enemy as well. And it was not due to my inability, poor work ethic, etc. It was due to the FBI's obstruction and mission. I was kicked out of coaching and into administration where there my efforts were also applauded by my supervisor. This landed me an opportunity to work the Olympics but I didn't due to the friction and job loss in 1996.

Want more proof! You heard a little of the 70's- now the 80's!
How about getting to coach at Duke, working extremely hard and learning a great deal Yes I was and am a good football coach. I am 100% better than the FBI's effort to label me. I had a great reputation and many coaches at the other schools like NC State (where I was recruited off of the golf course in Buies Creek to take the call and offer to join NC State..in front of my Dad who was there to witness it). The coaches at UNC knew me and did Bill Dooley. At NCSU my immediate boss and later NFL coach recommended me for a job out in New Mexico. I didn't solicit the job. *He recommended me because I was a good dedicated, and knowledgeable coach! FACT: I didn't have to have a degree at NCSU. The NCAA only required that I be enrolled in 6 hours of graduate work. I shared this with NCSU and I was told how to get into the program by registering as a visiting student from another school. I was in and under the NCAA guidelines!!!I was not a self-promoter then. I was doing a great job and trying to build a career while my efforts educationally and professionally were being **devoured** ! The harder I worked to achieve- the more my efforts were thwarted. Yes I never shared my true educational transcript because I felt I was not being allowed to attempt my work without being harassed and thwarted. My job at NMHU was destroyed the same way and by the same fashion-by the FBI. Not due to my inability. *I only became a self-promoter at the height of my war beginning around 1990. I was determined to expose this evil force-prove that my rights to work and live were being destroyed unconstitutionally and morally.

How about doing so well at my job at American Hospital Supply that while my territory was one of the most efficient and all the numbers had increased, and I was constantly applauded by my superior Sally Mann and Human Resources in Chicago...only to be run out of town by a "designated replacement manager Gregg Pappas (externally orchestrated whose sole responsibility was to make my life miserable and get me to quit!) It worked and soon thereafter, I was recruited to Whittaker General Medical by the same Human resource Manager from American. Of course I succumbed to the same fate at this job due to the same taunting , harassing, evil force!. Did I self-promote myself and fake my way...No I did a great job and earned my reputation through hard work and effort. That's proven!!!

Duplicate

FACT: The war on me began my senior year at Jordan; with the accusation of me being involved with a male teacher. I was question (harassed) and then led to believe that more was to come from whomever this was? It escalated when I moved out of the house into Broadmoor apartments and working at Van Stratten's and Sears. It took on an aggravated nature at Louisburg College with repeated stops and harassments by police about Grandpa and then being unexplainable events like dropped from classes- told I was not welcome in several classes, grades being diminished because of the external forces destroying my life. My work-study job was taken away before even being processed through financial aid...etc. The same-thing occurred at Campbell on an elevated basis including coursework and tests being removed etc. This is where the taunts substantially elevated. *This is also where I initially started retaliating back with my own taunts and actions to expose the evil force. This is also where I began telling lies and having them put on record in my file to prove that an evil force was out to destroy me. This same force is the same source that watched me at Jordan during the summer and turned me in for having a stopwatch out at voluntary practice at Jordan - whereby the school got fined $200.00 Of course my time at UNC in summer schools was equally thwarted. In addition events were staged at my jobs like The Chapel Hill Athletic Club, Jewelry store, etc. As before, I fought back at these events and taunts" just like the taunts each of you have taken part in"! And let me go on record and state, " Taking things as a child had nothing to do with what transpired as an adult. This camouflage attempt by the FBI is pure fraud as well.

COPY

Ruth,

The time has come for you to answer me. But before you do - I want to say, your trip here had all of the false intentions and cover-up your actions, statements, and responses to me validate this much.

* You need to understand that it is quite apparent that your efforts to render me needing medication therapy - are futile and self-serving.
* If you want to help as you proclaim, Then you need to ask me what I want you to do!
* Your actions are not in my best interest. You are being manipulated into doing what's best for the corrupt FBI. This is about what them is you + my family 2nd - and me 3rd. I am the gravy train($) for all of you.

* The time has come for you to tell me as my Mother are you going to tell the truth OR NOT? My freedom depends on you... If you remain in your present status, then you have signed my death warrant. You are being paid to murder your son and you know it. The evil Satan one's out you in harm's way.

They were willing to risk your life and you FAILED TO RECOGNIZE THAT That's why you were afraid of me.

The same fraud that you've taken part in is the same fraud that manufactured evidence against me & They stole my DNA for fraudulent use and they have framed me because I fought back against them

I can prove that this war began in 1971 I only need one person to crack open the decades old war and expose the real FBI I am banking that one of about 12 people will tell the truth on the stand. That doesn't even include you.

Trust me - using the family as a cover to pinpointing my flaws or motivation will not work! You need to know this. All of their evidence involved circumstances created by them with endless fraud designed to destroy me &

* Lastly -- Tell Lisa to Contact These people and tell her to confirm what she directed and took sole guidance.

I'll be in touch! Brad

PT NAME: Brad Senter
MR#: 000952AD
DOB: DOB
ADM DATE: 02/16/2005
UNIT: ADULT
INSURANCE: BCBS

February 07, 2005

Family, Friends, and Former Colleagues

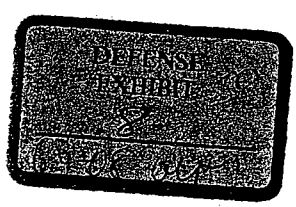
All of you know of my present battle with the FBI. I am contacting you to share my factual side as the "other side of the story. The enclosed facts coupled with my personal relationships with all of you will, and should, set the record straight. It also should re-affirm "what all of you know about me". I am not the monster or person the FBI is portraying me out to be. I know what you seen and heard and here are the "accurate facts".

How it all began: I resigned and accepted a financial settlement from Newberry College in 1992 at the request of the president who used me as a scapegoat to camouflage his own personal issues and to save his job. An assistant coach that he made me retain went to the press with a false story that I falsified my resume. This was found to be false after my two year battle to clear my name. This coach was angry that I fired him and he has haunted me ever since 1992. I possess a copy of an email from this disgruntled coach to my employer in 2002 -ten years later.

How the FBI became involved: I contacted them in 1994 after endless pursuits to stop the coach became useless. The FBI failed to help and self-admitted, I became agitated, angry, and antagonistic. I felt as a taxpayer, I deserved their help to halt this coach. I didn't have $10,000 to pay an attorney to fight a defamation suit against this coach and he wouldn't have had the money to pay me even if I had won. Therefore, I called the FBI because I had no other avenue to stop the coach. My frustrations and anxiety had grown beyond tolerable limits.

As history now proves, I started a war with the FBI. Essentially, the FBI turned their sights on me as they began to "teach me a lesson" and make both my personal and professional life miserable. Their 10-11 year *covert and corrupt assassination of me and my character* has been the most inhumane experience anyone could imagine. And before any of you doubt that this could happen to me or you for that matter, think again. My experience has taught me that the FBI is the most corrupt government agency in this country. It is so outlandish that no person would even believe me. Even people that have known me for 30 plus years don't believe what I tell them. Once you become a target, your life is altered and the stage is set for your destruction.

The FBI's strategies and mode of operation. Here is how they destroy you. However, before I begin to dissect and share the specifics, let me share their methodology. These profiles are examples of what they do and how they use these methods against targeted people in every aspect of all supposed crimes. The ultimate end result, is that they have enough evidence to destroy a person's entire base of support beginning with acquaintances of the past, to former employers, former neighbors, to close friends, present neighbors, to distant family, to in-laws, and then to your own family. The sole purpose is to take orchestrated evidence, then blend it with fraudulent evidence and then throw in a little truth. Then the assassination of my character and support base is completed. The FBI then takes advantage of their noble reputation and uses it as a weapon against their target like me. People like you are contacted by the FBI and you are immediately won over by a friendly agent that appears to be your friend. You feel compelled to assist his or her efforts as you are fooled into the web of deceit. *Have you thought to ask yourself why they have shared valuable evidence? Why wouldn't they just go in arrest the criminal if they had the evidence? Why do they involve you and many others? Because a great deal of evidence is manipulated, planted, and orchestrated.* Next, you become a government witness (another weapon) as you are manipulated into voluntarily taking part in the espionage type destruction of me. Then as time goes on, you are used as a taunting weapon to slowly torture the victim-(me). The FBI uses you to first distant yourself from me, then they get you to either make staged telephone calls or wired visits to further let the victim (me) know that you have been successfully turned against me. Meanwhile you are negated from becoming a personal witness for me even though many of you have known me for 20-30 years. You have no idea that the evidence shared with you was staged or that was the results of me fighting back to expose the FBI's malicious tactics. You now have become a government witness. The whole truth is kept from you. It now becomes impossible for me to expose the FBI's injustice and corruption because you have aligned yourself with the FBI. You are threatened with Obstruction of Justice charges to ensure your cooperation. This also negates any possibility that you would come to court and say anything positive about a 20-30



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explicitly based on your naivete and you wouldn't dare challenge the huge FBI. While this is going on, I am further victimized by the FBI as they make my life miserable by taunting me with their own threatening telephone calls, my calls being cut-off, me being followed, my house and car being bugged, etc. They also come face to face with me as customers at work by first getting friendly and then they share stories about a how a friend of there's is experiencing troubles (just like I am encountering). They conclude the story with a smile and leave. They also methodically turn present co-workers and family against me as the FBI then uses them to taunt me by communicating facts, events, or words of how they staged prior evidence against me. For example: The windows of my car were let down and doors unlocked in the middle of the night. Then an out of state family member that has been turned against me comes to visit and out of the blue states that their car doors and windows were some how opened in the middle of the night. Or, when a co-worker shares a story of how a relative of theirs experienced something that I now come to realize, is a story of a staged incident that I encountered several years ago. The FBI set me up, made me appear guilty when in fact I wasn't, then used it as a weapon of destruction without me even knowing that it happened! Brilliant corruption at its finest. *I have come to learn that their techniques and methodology have been put to use thousands of times over almost a hundred years.* Not one citizen in this country can match the governments resources or defend themselves against the inhumanly corrupt FBI. There is no chance for justice once you become a target. I possess eight plus years of this type of terroristic torture, and the horrible thing is I can't do anything to stop it. They also use federal agency's like the IRS and Child Support Services to haunt and make life miserable. John Daly the professional golfer stated it best when his wife and in-laws were targeted and accused of money laundering. "Nobody stands a chance against a federal government agency (FBI), a federal prosecutor, and a federal judge".

Here are the specifics.

From 1992-94 and after I began a series of calls to the FBI for their help, I spent two years having weird things happen to me like someone following me, strange calls to me; job interviews being obtained and then negated, jobs being offered only to have them rescinded, etc. Very mild things as compared to what was to follow. They were letting me know that something was amiss, but I didn't even realize that an honorable government agency like the FBI was involved or that they would be doing this to me. I attributed my struggles to the assistant coach still haunting me. I even thought my ex-wife had something to do with it. Then things dramatically escalated.

I began having unusual events happen in my life. I was being set up and I didn't even know it. My first experience happened at N. C. Central University. I was transferred from my teaching and coaching position to administration. I was booted upstairs so to speak, but it was a demotion. I filed a discrimination complaint, had a hearing, and of course NCCU was found not guilty. However the Head Coach was slapped on the hand and was made to attend a workshop. * Not guilty huh? In addition, a couple of students began flirting with me and insinuated that they would do something for a higher grade in class. Also, a couple of students tried to get me to change their grades well after the semester had ended. I also received telephone calls from women that I did not know. They asked if I was married and would I be up for meeting them for lunch, etc. I was flattered but I refused every offer. *All minor things that I shrugged off that would later become patterns of repeat.* Meanwhile, all attempts to find another coaching job in 1995-96 became a futile effort. I couldn't get an interview to save my life. It was then that I first realized that someone might be listening to my conversations and attempts at landing employment were being negated. At this same time, I began developing a reference video tape with the help of my former colleagues to offset and repair the negative publicity that I endured from the Newberry College fiasco where I allegedly fooled my employer with a false resume. Meanwhile weird telephone calls continued as did an occasional person following me. Other things like being stopped by an unmarked police car three times in one week, only to be warned and let go. Harassing stuff that I attributed to coincidence or just my bad luck. It is very important that you realize that my anxiety level, patience, and ability to not become frustrated was insurmountable. My contract was not renewed in 1996 after I had filed and lost my grievance at NCCU. All of these factors led me to seek counseling and I was placed on medication for anxiety and depression.

After not being able to land another college job in 1996-97, I accepted a high school coaching and teaching position in Lexington, North Carolina. It was an hour's drive each way to and from work, but I had to have another job. Shortly after beginning this job, I began having the same above patterns happening again in my life. I also had two incidents of students jumping me from behind. The first one I threw down on the floor and defended myself by restraining him on the floor without hitting or punching this student. I was called on the carpet and emphatically told not to do that again. Nothing happened to the student, and I was told to never repeat that defensive action again. To make a long story short, this same type of incident was repeated a semester later. I then became aware that I was being set up. At this same time, I had a student come on to me repeatedly over a period of time. I handled it initially

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two letters to the assistant principal. Nothing was done, -absolutely nothing. I then became paranoid, angry, and I possessed the feelings of a three to four year pattern of set-ups. Meanwhile, the female student started leaving her class and coming into my room where I spent my free period. She began verbally communicating in a flirtatious manner. The notes continued. She even shared that her father was a prison guard. I viewed this as an effort to taunt and communicate to me that some sort of police agency was involved. This is where my trouble began.

In my mind, and after several years of experiencing patterns of deceit and set-up, I decided to take action and expose what I felt had become a staged set-up. *I had taken all I could handle!* I became enraged and felt that if someone was knowingly placing a student in my presence to set me up then I was going to play it out and expose whom was behind this three to four year plot to get me. I then began writing response letters to this student. I even knowingly took part in an orchestrated and obvious attempt to frame me by having the student approach me in an unusually vacant gym stating that she had lost her purse. We went behind the bleachers and I gave her a peck kiss and then immediately left from the bleachers. In another setting, the teacher of this female student that was adjacent to the room to where I spent my planning period approached me and asked did I need to have her in my class to help me as she had communicated? I emphatically told him NO, and further stated that he should decline her future requests to allow her to come into my room. Well the very next day, she was back in my room. Her demeanor was dramatically different, more reserved, head down, silent. I immediately knew something was up and that I felt that I was being set-up and taped. I sat down, placed my hand in front (not on) of her blouse in the breast area, never grouping her breast. The appearance was there but I didn't grope her breast. I then waited to see her response, and she remained silent and still as if she were following instructions. I then waited to see if she would get up or would someone come in. Sure enough a friend and fellow coach entered the room well after I removed my hand from in front of her dress and I remained seated. There was no way that he personally witnessed the event. When he entered the room, he had this wide- eyed look on his face and I knew right then that he had been somewhere else watching a camera of the action.

Now, this is the mysterious action of events that followed that incident. I was ready and armed with letters that she had written me, and I was prepared to fight the battle to expose the set-up. I wanted to find out why my earlier request to the assistant principal went unnoticed. I was willing to go down fighting just to expose the conspiracy and end the patterns, turmoil, and historical anxieties that I was experiencing. Nothing happened- can you believe that although the student did what she did, and I did what I did, ***why did nothing happen?*** The principal did call me into his office but he never mentioned any aspect of the letters or taping. He did ask me about some rumors that he heard but I refused to incriminate myself while awaiting his action. Nothing happened! Why was she not suspended? Why was I not placed on leave pending an investigation? That is what I wanted! But nothing happened. I wasn't even approached or arrested by the authorities. Why? *So that the FBI's agenda and plot could go on without me knowing exactly who was behind this horrendous several year war against me.* * It's ironic to note that the assistant coach and friend of mine that entered the room wide-eyed, never said a word to me about it. In fact he called me when he came to Myrtle beach a year or so later, and we played golf together. Very Puzzling!

Going into the golf industry

After leaving that teaching and coaching job, I set my sights on a career outside of coaching. I wanted to end the turmoil and historical patterns that I attributed to my coaching past. I wanted to end all the madness and start afresh in a new career in the golf industry. We moved to Myrtle Beach, and I entered the PGA apprentice program. I went through a series of jobs at different courses, however some of the prior incidents continued to happen. I had several periods of unemployment. On one occasion, I was confronted with an accusation that I withheld my tips. I was asked to resign, but the head professional offered his reference and even wrote me a letter of recommendation. Another time, I was accused of taking money when it was the head professional who was leading a second life, had marital problems, and later bought a Harley Davidson motorcycle with his proceeds. He became totally out of character, left his family, etc. The finger should have been pointed at him. I wasn't guilty and nothing ever materialized. I understand that an allegation still exists against me. It is true that in one job where I was working as golf director at a hotel, I did trade a two-night stay in the hotel that I was working for a golf bag.

My Marriage

Meanwhile as I continued to work in the golf industry, some of the same before mentioned strange things occurred. My marriage had always been strong however the job changes were taking a toll on the marriage. In addition, an important factor took place. We bought a computer. Our neighbor downstairs worked at Sears and he was a

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his apartment. He wired the re[illegible]t the window and up to our apartment where [illegible]ad the monitor and keyboard. My wife and I then learned that for sometime, he had been using multiple hard-drives and a camera to communicate with many females. Naked Pictures were going back and forth from him to others and our hard-drive was in his possession. We requested and received our hard-drive back after a period of time. I will admit that this person did open up my eyes to porn and he showed me how to access pictures. I did in fact look at porn as do 70% of other people in this country. Guilty as alleged.

Marital troubles began to surface and my wife was rumored to be having an affair with this computer whiz. They rode to work together. I supposedly was seeing his wife. At the same time I was having job moves under questionable circumstances. The thoughts of the prior troubles surfaced again in my mind. We moved to a house, and I once again became unemployed. The reason stated this time was that although I was doing a great job as a golf professional, the owner felt I should be let go. My immediate boss was very apologetic and he gave me his endorsement for other jobs. Also at this time, I began receiving a series of calls from a female telling that my wife was having an affair and that I should watch her every move. Then things began to fall apart. My wife and I separated for a brief time. I was very demoralized, felt worthless, and was devastated that my golf career was experiencing the same results as my coaching career. I learned that my wife had met someone and admitted to having drinks with a man. Truth be told, while I had never gone out with anyone, I was exploring the Internet for what the outside world had to offer. I did get caught up on looking for women but never followed through on this. *This is proven by the fact that no films exist of me dating, no talking on the telephone to women, no corresponding on the Internet where I set up affairs, etc.* What I did become guilty of was this. During this time frame, I did go to the topless bars with friends that came to town to play golf. My wife knew of these times and gave me her permission. I went along in the group, gave very little money out, had a few drinks and went home. Don't forget the prior mentioned well orchestrated telephone calls that I was receiving from a female (FBI agent) telling me that my wife was having an affair. *My wife had met a man for "drinks" on one occasion and we had a big blow-out.* Well during this same period when my wife was out of town, I did get telephone calls from someone saying that they were a friend of a friend of mine, and that my friend wanted me to meet him at a topless club. I went but nobody showed up. I sat there, was offered free drinks while I awaited. I was approached about lap dances many times and I refused all of them because I didn't want to depart with any money. But then a dancer approached me stating that she would give a free lap dance while I awaited my friends. Regrettably, I accepted and took part in being set-up. I did not have sex and my clothes never were removed. I did however touch some skin as I was slapped in the face by some breasts. After the dance, I returned to my table feeling guilty about my actions. I left a few minutes never seeing my supposed friends. * *Later that night, a man called our house asking for my wife. I demanded to know who it was, but he hung up!* I was called a day or two later and was told by this same friend that they were sorry for not showing up or calling me. They then asked me to meet them again that night and that the drinks were on them. What happened next was also staged and I fell for it. Much the same happened except this time I waited much longer thinking that my friends would not let me down again. Drinks were being poured on a tab that was free to me as communicated by the bartender via my supposed friends. They weren't there yet, and I was feeling no pain. Again I refused many advances as I awaited my friends. *This also gave me time to ponder and ask myself many questions about my wife! I must admit that I became angry at the thoughts of my wife seeing someone else as I sat there and brewed.* Well I succumbed to the many advances and accepted a lap dance. What happened then was that the girl dancer whom never removed a stitch of clothing bit my thigh. I jumped and was a bit mad. At the end of that dance I immediately got up to leave and the dancer began to tell the bouncer that I did something to her. I refuted and explained what really happened and then left the bar. ** In 2004, this event was repeated to me by a co-worker whom had been contacted by the FBI and was obviously taunting me with how they successfully staged and set up that event.* And this is the FBI that you trust, respect, and consider honorable. It is true that during this difficult time in my marriage I did go at least two more occasions, but I am not guilty of having any form of sex with anyone.

Back to Coaching

After experiencing the same job difficulties in golf that I did coaching, and my marriage unstable, I thought that maybe I could re-enter football coaching and land a job that would give us a better financial status. I also thought that for the marriage I needed to move us away from this type of lifestyle.

I attempted to get back into coaching and accepted a head job in Kansas. Many of my references had been contacted and some didn't return my calls. Most didn't receive my calls as I later came to know that they were being blocked by the FBI. I didn't think anything about the non-returned calls only to conclude that they would call soon, and that I would tell them what I did. It is true that I re-wrote some letters of recommendation and on occasion

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miss-represented myself as a reference because the time frame needed was immediate and I wasn't getting a return telephone call. I also sent a few emails in this same fashion. *I did possess the reference tape of the same people that had earlier supported me. The way I looked at it was that I wasn't going to allow the Newberry injustice to stunt my career any longer.* Well many of the same troubles serviced at three consecutive jobs from 2001-2003. I couldn't find assistant coaches because I would later learn that the FBI were contacting these coaches immediately after my communication and subsequent offer. The assistant coaches went from elation at being offered a job, to them calling back saying that they felt the time wasn't right. Since when did unemployed coaches feel like the time wasn't right? Other internal conflicts arose for two reasons. All three schools had athletic directors that were inexperienced and had virtually no training. Two were out of there field of experience. One was a retired CPA and he knew absolutely nothing about college athletics. He had agreed to essentially work for nothing as he was teaching business part-time. Yet this person made every critical program decision that negatively impacted the football program. The other was the women's basketball coach and never had any athletic director experience in the college ranks. He came from the high school ranks and he essentially budgeted the football program much like a basketball program- number of assistant coaches, budgets, etc. After I exposed that the athletic director was undermining my success with his broken promises, he initiated a player's revolt against me and made promises of promotion to assistant coaches to ensure their loyalty. I sought a buyout of my contract and was paid for the remaining contract with no guilt of any wrongdoing on my part. Had I done so, I wouldn't have gotten paid as documented. It is true however that when I wasn't able to bring coaches aboard, I did take one supplement and split it among the two of us coaches to make up for the additional workload. This later became known that I extorted money from an assistant coach. Other allegations that I had an affair with a student office worker was also proven false. Couple these factors with the FBI exacting their wrath on me, I had no chance at being successful at anything.

I did re-enter the sales industry in 2003 and much the same has happened in those jobs. My computer crashed as a result of the FBI, and the result was that I looked at porn. NOT one time did this happen. I have been blamed for possessing kiddie porn. Many false things have been orchestrated and alleged and the next example will validate this fact.

Going to a Fertility Clinic

Several years ago my wife and I decided that we wanted to have children. This was after we had patch things up and we were leaving Myrtle Beach. I had to go to give a sample of sperm for testing, and I went to a bathroom to do it. I was followed in immediately after my donation in the stall. I exited the restroom door only to peek back in at the man whom had been standing at the door. He was searching for residue sperm I guess and it spooked me and I left immediately. I became enraged on the way home. This was a violation of my rights in my opinion. Interfering in me and my wife's pursuit of having a child was the final straw that broke all of my sense of rational thinking. I went in ballistic pursuit of any and all agents. They followed me everywhere. I became irrational and felt that if they were going to follow me into the bathroom stall, then I would leave them a mess to clean up after me. This would become my final demise as I walked right into their hands. I took two magazines into the stall with me and used a very common magazine as a cover to the inside porn magazine to prove a point. My thinking was that I was going to prove to a jury that I was being followed and that my magazine cover would show them that I knew I was being followed. I also felt that this would expose the fraudulent bigger picture and the mission to destroy me. I was desperate to say the least. I even looked at gay magazines to send some source of conflicting evidence because everyone knows that I am not gay. You see my logic is known to be a common response among all people being investigated. The FBI knows this and they bait you into it so that they can turn any evidence you supply them into a *"weapon of mass destruction"*. The urge is to fight back and to do things that you think will expose the FBI's corruption.. All that does is feed them evidence that they can alter and use against you. This only heated up the fire in them and they began following me everywhere. They weren't shy or covert about it any longer. They attempted to intimidate me by showing up in groups whereby the would have a well equipped van just like in the movies. I had an agent dressed like a chauffeur follow and taunt me. The had bellboys follow me in hotels. One time, one bellboy accompanied the chauffeur to my hotel room after I checked out to take the sheets off of my bed. At the same time this was happening, my trash was being sifted through, pictures were being taken of my house by strange men. When I approached them they defiantly challenged me to go about my business. When one agent went to my place of work and was told by my boss to identify himself, he defiantly stated that he didn't have to. Soon after my boss told me that I needed to find other work. It became a war.

The most blatant planting of evidence by the FBI

While I was in Dallas training for a job, Some form of porn was planted in my room. Here is how I know that it happened. First you must know that I was targeted and harassed when I got to the airport with my baggage. They

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detained for almost an hour. I was on the verge of missing my flight when they finally allowed me to leave. It was clear that I was being harassed. I still have this boarding pass that shows I was pre-selected for a search. Well obviously, I didn't have any porn when I arrived at my hotel. It is a proven fact that I never left my hotel from Sunday night when I arrived until the following Friday.

However on Wednesday I kept having trouble with my room key, and I had to go get it re-scanned to get it to work at least three times that day. During one of those times while on break, I passed a friend of mine (Jeff) in the hallway and he asked me what room I was in? He had a strange man with him but I didn't pay much attention except he wasn't wearing the same uniform we all were wearing. Well I gave my friend my room number and he told me that he would call me later that night after class was over. He never did call or come by. I was in my room studying for the next days assignments. Well the very next morning, I go down to breakfast at 6:45am and who should be sitting at a front table? My friend and the same man that I saw the day before. The man was wearing the same blue and white shirt. I knew something was up as I went to get my breakfast at the buffet line and returned to the table where they were sitting. My friend had the look of terror in his eyes and said nothing- absolutely nothing. The other man would not look at me when I spoke. Well I obviously felt uneasy, took a few fast bites of food, drank a little juice, and began to get up to leave when my friend reached across the table and TOOK my plate, fork, etc., off of my tray and said that he would take it up for me. Bazaar it was, and I let him do it as I quickly exited the cafeteria to go to my 7:00 meeting. That night after dinner, I went down to the bar to join a few friends for a cocktail before I went back to the room to study for the next day's exam. My friend's (Jeff) boss was there and as I passed him he made a comment to me and said " what are you doing with kiddie porn in your room?" I looked at him and thought he was joking but his face showed that he wasn't. I shook my head like no, and he walked away. Bazaar!

Two other incidents happened a couple of years earlier in Myrtle Beach. These incidents centered around golf clubs. The first one was when I bought a set of clubs. I had them shortened and half an inch a different grips applied. I was told by the club fitter that I could get them the next day after a certain time. I discussed a time with him and said that he wouldn't be there but he would place them out front against the wall with a sticker with my name on it. I didn't think anything of it and said OK. The next day when I returned to pick up the clubs, the clubs were out on the showroom floor against the wall- just not in the same place I was told they would be. I gathered them off of the wall and took my ticket that showed I paid to the front counter and checked out. As happened before, in the last six months, this disclosure that event was staged was repeated to me by a co-worker being used by the FBI. The claim is that I stole the clubs.

The next incident occurred with my wife's best friend's husband. We had played golf together on many occasions and he wanted a new driver. I told him that I knew a great one and that I would get it made for him. He told me yes go ahead, and that he would pay me later. I went to Martin's and it cost me $60.00. I then took the club to my friend. I asked for the $60.00 on four different occasions but he always stated that he thought he had already paid me. Well one day in his truck, he proudly points out that he found a wad of money in his console and showed it to me. He then asked that I not tell his wife. I waited for him to pay me the money he owed me but he didn't offer. In the dash, there was a $20.00 bill. When he got out of his car to smoke a cigarette, I took the $20.00 bill because I felt he was taunting me with his money yet he didn't want to pay me. I also later learned, that this was a staged event to show that I stole his money. *There are countless incidents of where I was set up just like these two incidents. This shouldn't be hard for any of you to believe because some of you have taken part in the taunting of me at the request of the FBI.*

Looking at Porn

It is true and it is a fact that I have looked at porn. I don't deny it. However this ended two plus years ago. There have been several attempts since then to set me up with porn. I purposely do not have a house telephone or Internet just to keep me from being accused. The second way I have looked at porn is in the magazine. And let me tell you this! Another way I have been baited into looking at porn is that I have been contacted on several occasions whereby a stranger stating that they know my Dad and Step-Mom, and they take part in a swinging club where my Dad and step-mom participate. I have been told that I could find them in a magazine and also in personals on the computer. I have looked on many occasion trying to find them in both.

Contacting five people to win them over in an attempt to find out who was tracking my emails!
I contacted my ex-girl friend of thirty years ago in an effort to get her to tell me was intercepting my emails. Immediately after touching base and sending her a reminiscing letter, that contact was shut off. I told my wife about

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that email immediately after sending it just to cover my bases. I contacted the coach at Shaw with information about Bethel College in exchange for some information about who was intercepting my email. He too was stopped from communicating with me. * In addition, he was fired a short time later? I also contacted the former neighbor and computer whiz, his wife, and one more person. I experienced the same results. *So to set the record straight, My wife knew of my attempt to contact my ex-girlfriend! I never made any calls to the person and I never met her on any occasion accept one time at a class reunion and both my wife and her husband was present.*

Conclusion

Essentially, I have witnessed my own destruction with the only outcome available is going to jail for many things that I am not guilty of; or committing suicide. My entire life has been destroyed with no future possible. Everyone like you have been turned against me and you have no way of learning the truth. This includes my own family. Even my wife has believed part of what has been shared with her via her mother from the FBI. My wife is now faced with making a choice and a decision. Does she support me and tell the injustices that she has seen firsthand to help disprove-prove some of the allegations against me. Or does she put herself on an island, lose her reputation and image because she supports me. *Does she make a stand for a husband whose only possible outcome is jail time or is she so convinced that I am guilty in everything as alleged that she sides with the FBI in my destruction?* Her career is in education where she is destined to become a principal. I already know the answer as you probably already know that she has been cooperating with the FBI. I know, because I have witnessed her interaction with several people that obviously knew of her involvement with the FBI.

And for the record I have masturbated for several reasons and the FBI has used it for one reason. The clinical reason was to increase the sperm count in an effort to conceive. The second was to produce new sperm a day or two before attempting to conceive. This increases the count as new sperm is born. This was advised in fertility education. I also did it to both taunt the FBI and to satisfy my urges instead of cheating on my wife. We have been apart on many occasions while I held jobs out of state. Besides, it is my penis, and I will do what I need or want to do with it. This is not a crime! The FBI can turn it into whatever they want, but the truth is the truth! Am I going to jail because I pleasured myself? Guilty as charged!

I have nothing left but my side of the story, and much of the involvement from people like you certainly won't be exposed in a court of law. You see, the outcome is that because so many charges will be filed against me, I must risk going to trial and taking on Goliath in his own setting, playing by his rules that he sets and controls, OR either admit guilt to things that I haven't done wrong and accept a plea bargain. Either way, I am destined to spend much of the rest of my life in jail.

All of you know me. I am not a pedophile; I am not a tax evader; I am not a sexual deviant; I don't use drugs; I am not an alcoholic; etc. Take what you know of me and believe it. Don't believe that the FBI is interested in justice. The will fraud everything just to get their target. I witness it on many occasions when they show up somewhere just to taunt me with their "smile". That smile means one thing, and that one thing is to say "we framed you and we enjoyed every minute of it". You better hope that none of you become a target because you will see firsthand what I have experienced. One thing is certain though. I would never comply or cooperate with the FBI when what I knew about a person showed me otherwise. There are always two sides to every story. I am not a perfect person, but I am not who they portray me to be!

Brad Senter

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PT NAME: Brad Senter
MR#: 000952AD
DOB: 09/13/1952
ADM DATE: 02/16/2005
UNIT: ADULT

I wish to go on record to state that I am not paranoid. What I have experienced over the last decade has been true. I started a battle with the FBI and they set up events to lure me into their web of deceit. They took that evidence and have orchestrated a false profile of me.

Instead of arresting me for what I supposedly did on many occasions, they chose to build an enormous case against me. They didn't come after me when those events occurred because they weren't through setting me up- plain and simple.

They then began a character assassination against me by telling endless amounts of people about these allegations in an effort to destroy my base of support. The whole purpose of this tactic is to eliminate every potential resource that I have so that I cannot challenge the "big FBI", and expose their corruption. They have reached as far down as my wife. She began cooperating with them last February. She did so because she believed what they said and showed her. My wife has never allowed me to approach this subject with her and she has exacted her revenge on me. She has also been cooperating with the FBI so that an IRS issue will not be sought against her. I know this because she has been willing to let a lien be placed on our home instead of setting up payments. This in itself speaks volumes of how the FBI turns people's own families against their own. This is a very common practice as I have learned.

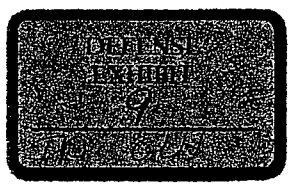
Plain and simple, my wife has spent the last twelve months acting out a plan that has been orchestrated by the FBI. I uncovered and exposed countless corrupt attempts to set me up and every time my wife initially negated and then covered up those instances. She has knowingly participated in destroying me while covering up the FBI's corruption. The FBI accomplished this by initially going through my wife's mother. Should this go to trial, every claim that I have made will be proven accurate. It will also be proven that many instances were staged. In addition, it will be proven that my wife has been the most damaging person to my case. I have known quite sometime that our house was bugged and my telephone wiretapped. I also exposed this and exposed that my neighbors next door were at least two FBI agents. They had daily contact with my wife whereby they would call her at school and then devise a plan on house to get me to do or say something that they could use against me.

Needless to say, the future looks bleak because the only person that could prove the FBI's corruption has been turned against me. They have bought her cooperation with staged events and freedom from prosecution on tax issues.

Thank you for your attention, and once again I say please remember me for what you experienced with me, not what has been portrayed. Please recognize that you were involved for two reasons. First; to turn you against me with orchestrated events and second; to eliminate you coming to trial and saying something positive about me.

COPY

PT NAME: Brad Senter
MR#: 000952AD
DOB: 09/13/1952
ADM DATE: 02/16/2005
UNIT: ADULT
INSURANCE: BCBS


DEFENSE
EXHIBIT
9

Lisa,

I can't thank you enough for what you've done for me. Your support is the sole reason that I am still alive.

I enormously regret that we became distant, as all of us have become. However I understand. We all have our issues. Heck, I couldn't even stand myself how could anyone else like me. This anger, bitterness, and hostility stems from Dad and I have allowed it to run, control, and ruin my life.

But all of my burden stems from Dena's hostility since last ~~February~~ Feb. My depression from this is as bad as it has ever been – and that is bad. Now that I have a clearer head – you must believe about the things that I shared with you. Dena has cooperated against me and allowed me to be set-up and destroyed.

It is a fact that Dad has been involved. So has Jordan. If you have a heart talk with her – she will and should share. Ask her why she jumped out of my SUV at an intersection to go back to Dad's car – the last time she was here.

I wish you and I could talk more about it in person. The phone is <u>not</u> good.

I love you and I hope to come see you soon.

Love ya,

CHARLES K. BLACKMON, ESQ.

The Gray Building
108 North Elm Street
Greensboro, North Carolina 27401

Tel: (336) 275-4667
Fax: (336) 275-2260
www.gnjblaw.com
charles@ckblackmon.com

Gray ▪ Newell ▪ Johnson ▪ Blackmon LLP
ATTORNEYS AT LAW

February 9, 2005

Lisa Clearly
Post Office Box 71266
Durham, North Carolina 27722

Re: **Brad Senter**

Dear Ms. Clearly:

I am a friend of and former student-athlete under your brother, Brad Senter. He contacted me several months ago regarding his recent difficulties. I received a communication from him today that he asked to be forwarded to you. Accordingly, I have herein enclosed his complete correspondence.

Should you have any questions or if I may assist you in any way, please do not hesitate to contact me. I am concemed for his well being at this time.

Thank you for your prompt attention to this matter as I am

Very Truly Yours,

CHARLES K. BLACKMON

CKB/do

QUEENS CO.
EXHIBIT
10
ID

MAY-19-2010 08:57 From:HORRY CLERK COURT 8439156081 To:803 734 1397 P.5/16

To: Charles Blackmon

From: Brad Senter

Date: 2/9/05

FAX: 336 275-2260

Charles,

Please find the enclosed page FYI. In the event that something happens to me, would you please make sure that a copy of this letter gets to the enclosed people. Thank you for your help and assistance.

God Bless,

Brad

* Please have my sister come to see you to ensure that she gets a copy of this letter.

Thanks!

MAY-19-2010 08:57 From:HORRY CLERK COURT 8439156081 To:803 734 1397 P.6/16

Lisa Cleary (My Sister) * Please give all my possessions that you have to her when needed.
~~605 Enfinity~~ 919 477-9638
P.O. Box 71266
Durham NC 27722

* Please have her call my Daughter - 908-537-0086

Bill Senter (my DAD) 919 489-7556
802 Inglenook
Durham NC 27707

Ruth Senter Bergman (mom) 336 512-9119
2023 westover Ave W.
Wilson NC 27893

Lisa Please - get my Address Book from Charles !

* Please get a copy of the enclosed letter to the following people.

Please confirm that they get their letters !
Thanks

Andy Wendell 731-571-5278
Eric Farmer 803 479-8689
Greg Sullivan 703-981-2255 - Call (my Best friend)
Todd Wilson 704-996-8462
Bob Shields - Ch 19 in Columbia, SC
Address on his letterhead
Red Wilson - Pinehurst N.C. - ?

To: Charles Blackmon

From: Brad Senter

Date: 2/9/05

FAX = 336 275-2260

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ADDRESS TELEPHONE NUMBER

* Please have her call my Daughter - TELEPHONE NUMBER

Bill Senter (my DAD) TELEPHONE NUMBER

ADDRESS

Ruth Senter Bergman (MOM) TELEPHONE NUMBER

ADDRESS

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Greg Sullivan TELEPHONE NUMBER - Call (my Best Friend)

Todd Wilson TELEPHONE NUMBER

Bob Shields - Ch 19 in Columbia, SC Address on his letterhead

Red Wilson - Pinehurst N.C. - ?

BRAD SENTER

120 Barclay Dr.
Myrtle Beach, SC 29579

February 07, 2005

Family, Friends, and Former Colleagues

All of you know of my present battle with the FBI. I am contacting you to share my factual side as the "other side of the story. The enclosed facts coupled with my personal relationships with all of you will, and should, set the record straight. It also should re-affirm "what all of you know about me". I am not the monster or person the FBI is portraying me out to be. I know what you seen and heard and here are the "accurate facts".

How it all began: I resigned and accepted a financial settlement from Newberry College in 1992 at the request of the president who used me as a scapegoat to camouflage his own personal issues and to save his job. An assistant coach that he made me retain went to the press with a false story that I falsified my resume. This was found to be false after my two year battle to clear my name. This coach was angry that I fired him and he has haunted me ever since 1992. I possess a copy of an email from this disgruntled coach to my employer in 2002 -ten years later.

How the FBI became involved: I contacted them in 1994 after endless pursuits to stop the coach became useless. The FBI failed to help and self-admitted, I became agitated, angry, and antagonistic. I felt as a taxpayer, I deserved their help to halt this coach. I didn't have $10,000 to pay an attorney to fight a defamation suit against this coach and he wouldn't have had the money to pay me even if I had won. Therefore, I called the FBI because I had no other avenue to stop the coach. My frustrations and anxiety had grown beyond tolerable limits.

As history now proves, I started a war with the FBI. Essentially, the FBI turned their sights on me as they began to "teach me a lesson" and make both my personal and professional life miserable. Their 10-11 year *covert and corrupt assassination of me and my character* has been the most inhumane experience anyone could imagine. And before any of you doubt that this could happen to me or you for that matter, think again. My experience has taught me that the FBI is the most corrupt government agency in this country. It is so outlandish that no person would even believe me. Even people that have known me for 30 plus years don't believe what I tell them. Once you become a target, your life is altered and the stage is set for your destruction.

The FBI's strategies and mode of operation. Here is how they destroy you. However, before I begin to dissect and share the specifics, let me share their methodology. These profiles are examples of what they do and how they use these methods against targeted people in every aspect of all supposed crimes. The ultimate end result, is that they have enough evidence to destroy a person's entire base of support beginning with acquaintances of the past, to former employers, former neighbors, to close friends, present neighbors, to distant family, to in-laws, and then to your own family. The sole purpose is to take orchestrated evidence, then blend it with fraudulent evidence and then throw in a little truth. Then the assassination of my character and support base is completed. The FBI then takes advantage of their noble reputation and uses it as a weapon against their target like me. People like you are contacted by the FBI and you are immediately won over by a friendly agent that appears to be your friend. You feel compelled to assist his or her efforts as you are fooled into the web of deceit. *Have you thought to ask yourself why they have shared valuable evidence? Why wouldn't they just go in arrest the criminal if they had the evidence? Why do they involve you and many others? Because a great deal of evidence is manipulated, planted, and orchestrated.* Next, you become a government witness (another weapon) as you are manipulated into voluntarily taking part in the espionage type destruction of me. Then as time goes on, you are used as a taunting weapon to slowly torture the victim-(me). The FBI uses you to first distant yourself from me, then they get you to either make staged telephone calls or wired visits to further let the victim (me) know that you have been successfully turned against me. Meanwhile you are negated from becoming a personal witness for me even though many of you have known me for 20-30 years. You have no idea that the evidence shared with you was staged or that was the results of me fighting back to expose the FBI's malicious tactics. You now have become a government witness. The whole truth is kept from you. It now becomes impossible for me to expose the FBI's injustice and corruption because you have aligned yourself with the FBI. You are threatened with Obstruction of Justice charges to ensure your cooperation. This also negates any possibility that you would come to court and say anything positive about a 20-30

year history with me. Any chance of you siding with me and exposing their tactics is eliminated. You trust them explicitly based on your naiveté and you wouldn't dare challenge the huge FBI. While this is going on, I am further victimized by the FBI as they make my life miserable by taunting me with their own threatening telephone calls, my calls being cut-off, me being followed, my house and car being bugged, etc. They also come face to face with me as customers at work by first getting friendly and then they share stories about a how a friend of there's is experiencing troubles (just like I am encountering). They conclude the story with a smile and leave. They also methodically turn present co-workers and family against me as the FBI then uses them to taunt me by communicating facts, events, or words of how they staged prior evidence against me. For example: The windows of my car were let down and doors unlocked in the middle of the night. Then an out of state family member that has been turned against me comes to visit and out of the blue states that their car doors and windows were some how opened in the middle of the night. Or, when a co-worker shares a story of how a relative of theirs experienced something that I now come to realize, is a story of a staged incident that I encountered several years ago. The FBI set me up, made me appear guilty when in fact I wasn't, then used it as a weapon of destruction without me even knowing that it happened! Brilliant corruption at it's finest. *I have come to learn that their techniques and methodology have been put to use thousands of times over almost a hundred years.* Not one citizen in this country can match the governments resources or defend themselves against the inhumanly corrupt FBI. There is no chance for justice once you become a target. I possess eight plus years of this type of terroristic torture, and the horrible thing is I can't do anything to stop it. They also use federal agency's like the IRS and Child Support Services to haunt and make life miserable. John Daly the professional golfer stated it best when his wife and in-laws were targeted and accused of money laundering. "Nobody stands a chance against a federal government agency (FBI), a federal prosecutor, and a federal judge".

Here are the specifics.

From 1992 -94 and after I began a series of calls to the FBI for their help, I spent two years having weird things happen to me like someone following me, strange calls to me, job interviews being obtained and then negated, jobs being offered only to have them rescinded, etc. Very mild things as compared to what was to follow. They were letting me know that something was amiss, but I didn't even realize that an honorable government agency like the FBI was involved or that they would be doing this to me. I attributed my struggles to the assistant coach still haunting me. I even thought my ex-wife had something to do with it. Then things dramatically escalated.

I began having unusual events happen in my life. I was being set up and I didn't even know it. My first experience happened at N. C. Central University. I was transferred from my teaching and coaching position to administration. I was booted upstairs so to speak, but it was a demotion. I filed a discrimination complaint, had a hearing, and of course NCCU was found not guilty. However the Head Coach was slapped on the hand and was made to attend a workshop. * Not guilty huh? In addition, a couple of students began flirting with me and insinuated that they would do something for a higher grade in class. Also, a couple of students tried to get me to change their grades well after the semester had ended. I also received telephone calls from women that I did not know. They asked if I was married and would I be up for meeting them for lunch, etc. I was flattered but I refused every offer. *All minor things that I shrugged off that would later become patterns of repeat.* Meanwhile, all attempts to find another coaching job in 1995-96 became a futile effort. I couldn't get an interview to save my life. It was then that I first realized that someone might be listening to my conversations and attempts at landing employment were being negated. At this same time, I began developing a reference video tape with the help of my former colleagues to offset and repair the negative publicity that I endured from the Newberry College fiasco where I allegedly fooled my employer with a false resume. Meanwhile weird telephone calls continued as did an occasional person following me. Other things like being stopped by an unmarked police car three times in one week, only to be warned and let go. Harassing stuff that I attributed to coincidence or just my bad luck. It is very important that you realize that my anxiety level, patience, and ability to not become frustrated was insurmountable. My contract was not renewed in 1996 after I had filed and lost my grievance at NCCU. All of these factors led me to seek counseling and I was placed on medication for anxiety and depression.

After not being able to land another college job in 1996-97, I accepted a high school coaching and teaching position in Lexington, North Carolina. It was an hour's drive each way to and from work, but I had to have another job. Shortly after beginning this job, I began having the same above patterns happening again in my life. I also had two incidents of students jumping me from behind. The first one I threw down on the floor and defended myself by restraining him on the floor without hitting or punching this student. I was called on the carpet and emphatically told not to do that again. Nothing happened to the student, and I was told to never repeat that defensive action again. To make a long story short, this same type of incident was repeated a semester later. I then became aware that I was being set up. At this same time, I had a student come on to me repeatedly over a period of time. I handled it initially

by admonishing the female student. The student then began writing me sexually descriptive letters. I took the first two letters to the assistant principal. Nothing was done, -absolutely nothing. I then became paranoid, angry, and I possessed the feelings of a three to four year pattern of set-ups. Meanwhile, the female student started leaving her class and coming into my room where I spent my free period. She began verbally communicating in a flirtatious manner. The notes continued. She even shared that her father was a prison guard. I viewed this as an effort to taunt and communicate to me that some sort of police agency was involved. This is where my trouble began.

In my mind, and after several years of experiencing patterns of deceit and set-up, I decided to take action and expose what I felt had become a staged set-up. *I had taken all I could handle!* I became enraged and felt that if someone was knowingly placing a student in my presence to set me up then I was going to play it out and expose whom was behind this three to four year plot to get me. I then began writing response letters to this student. I even knowingly took part in an orchestrated and obvious attempt to frame me by having the student approach me in an unusually vacant gym stating that she had lost her purse. We went behind the bleachers and I gave her a peck kiss and then immediately left from the bleachers. In another setting, the teacher of this female student that was adjacent to the room to where I spent my planning period approached me and asked did I need to have her in my class to help me as she had communicated? I emphatically told him NO, and further stated that he should decline her future requests to allow her to come into my room. Well the very next day, she was back in my room. Her demeanor was dramatically different, more reserved, head down, silent. I immediately knew something was up and that I felt that I was being set-up and taped. I sat down, placed my hand in front (not on) of her blouse in the breast area, never grouping her breast. The appearance was there but I didn't grope her breast. I then waited to see her response, and she remained silent and still as if she were following instructions. I then waited to see if she would get up or would someone come in. Sure enough a friend and fellow coach entered the room well after I removed my hand from in front of her dress and I remained seated. There was no way that he personally witnessed the event. When he entered the room, he had this wide- eyed look on his face and I knew right then that he had been somewhere else watching a camera of the action.

Now, this is the mysterious action of events that followed that incident. I was ready and armed with letters that she had written me, and I was prepared to fight the battle to expose the set-up. I wanted to find out why my earlier request to the assistant principal went unnoticed. I was willing to go down fighting just to expose the conspiracy and end the patterns, turmoil, and historical anxieties that I was experiencing. **Nothing happened**- can you believe that although the student did what she did, and I did what I did, ***why did nothing happen?*** The principal did call me into his office but he never mentioned any aspect of the letters or taping. He did ask me about some rumors that he heard but I refused to incriminate myself while awaiting his action. Nothing happened! Why was she not suspended? Why was I not placed on leave pending an investigation? That is what I wanted! But nothing happened. I wasn't even approached or arrested by the authorities. Why? *So that the FBI's agenda and plot could go on without me knowing exactly who was behind this horrendous several year war against me.* It's ironic to note that the assistant coach and friend of mine that entered the room wide-eyed, never said a word to me about it. In fact he called me when he came to Myrtle beach a year or so later, and we played golf together. Very Puzzling!

Going into the golf industry

After leaving that teaching and coaching job, I set my sights on a career outside of coaching. I wanted to end the turmoil and historical patterns that I attributed to my coaching past. I wanted to end all the madness and start afresh in a new career in the golf industry. We moved to Myrtle Beach, and I entered the PGA apprentice program. I went through a series of jobs at different courses, however some of the prior incidents continued to happen. I had several periods of unemployment. On one occasion, I was confronted with an accusation that I withheld my tips. I was asked to resign, but the head professional offered his reference and even wrote me a letter of recommendation. Another time, I was accused of taking money when it was the head professional who was leading a second life, had marital problems, and later bought a Harley Davidson motorcycle with his proceeds. He became totally out of character, left his family, etc. The finger should have been pointed at him. I wasn't guilty and nothing ever materialized. I understand that an allegation still exists against me. It is true that in one job where I was working as golf director at a hotel, I did trade a two-night stay in the hotel that I was working for a golf bag.

My Marriage

Meanwhile as I continued to work in the golf industry, some of the same before mentioned strange things occurred. My marriage had always been strong however the job changes were taking a toll on the marriage. In addition, an important factor took place. We bought a computer. Our neighbor downstairs worked at Sears and he was a

computer whiz. After we bought our computer, he talked us into allowing him to have our hard-drive placed down in his apartment. He wired the rest out the window and up to our apartment where we had the monitor and keyboard. My wife and I then learned that for sometime, he had been using multiple hard-drives and a camera to communicate with many females. Naked Pictures were going back and forth from him to others and our hard-drive was in his possession. We requested and received our hard-drive back after a period of time. I will admit that this person did open up my eyes to porn and he showed me how to access pictures. I did in fact look at porn as do 70% of other people in this country. Guilty as alleged.

Marital troubles began to surface and my wife was rumored to be having an affair with this computer whiz. They rode to work together. I supposedly was seeing his wife. At the same time I was having job moves under questionable circumstances. The thoughts of the prior troubles surfaced again in my mind. We moved to a house, and I once again became unemployed. The reason stated this time was that although I was doing a great job as a golf professional, the owner felt I should be let go. My immediate boss was very apologetic and he gave me his endorsement for other jobs. Also at this time, I began receiving a series of calls from a female telling that my wife was having an affair and that I should watch her every move. Then things began to fall apart. My wife and I separated for a brief time. I was very demoralized, felt worthless, and was devastated that my golf career was experiencing the same results as my coaching career. I learned that my wife had met someone and admitted to having drinks with a man. Truth be told, while I had never gone out with anyone, I was exploring the Internet for what the outside world had to offer. I did get caught up on looking for women but never followed through on this. *This is proven by the fact that no films exist of me dating, no talking on the telephone to women, no corresponding on the Internet where I set up affairs, etc.* What I did become guilty of was this. During this time frame, I did go to the topless bars with friends that came to town to play golf. My wife knew of these times and gave me her permission. I went along in the group, gave very little money out, had a few drinks and went home. Don't forget the prior mentioned well orchestrated telephone calls that I was receiving from a female (FBI agent) telling me that my wife was having an affair. *My wife had met a man for "drinks" on one occasion and we had a big blow-out.* Well during this same period when my wife was out of town, I did get telephone calls from someone saying that they were a friend of a friend of mine, and that my friend wanted me to meet him at a topless club. I went but nobody showed up. I sat there, was offered free drinks while I awaited. I was approached about lap dances many times and I refused all of them because I didn't want to depart with any money. But then a dancer approached me stating that she would give a free lap dance while I awaited my friends. Regrettably, I accepted and took part in being set-up. I did not have sex and my clothes never were removed. I did however touch some skin as I was slapped in the face by some breasts. After the dance, I returned to my table feeling guilty about my actions. I left a few minutes never seeing my supposed friends. * *Later that night, a man called our house asking for my wife. I demanded to know who it was, but he hung up!* I was called a day or two later and was told by this same friend that they were sorry for not showing up or calling me. They then asked me to meet them again that night and that the drinks were on them. What happened next was also staged and I fell for it. Much the same happened except this time I waited much longer thinking that my friends would not let me down again. Drinks were being poured on a tab that was free to me as communicated by the bartender via my supposed friends. They weren't there yet, and I was feeling no pain. Again I refused many advances as I awaited my friends. *This also gave me time to ponder and ask myself many questions about my wife! I must admit that I became angry at the thoughts of my wife seeing someone else as I sat there and brewed.* Well I succumbed to the many advances and accepted a lap dance. What happened then was that the girl dancer whom never removed a stitch of clothing bit my thigh. I jumped and was a bit mad. At the end of that dance I immediately got up to leave and the dancer began to tell the bouncer that I did something to her. I refuted and explained what really happened and then left the bar. ** In 2004, this event was repeated to me by a co-worker whom had been contacted by the FBI and was obviously taunting me with how they successfully staged and set up that event.* And this is the FBI that you trust, respect, and consider honorable. It is true that during this difficult time in my marriage I did go at least two more occasions, but I am not guilty of having any form of sex with anyone.

Back to Coaching

After experiencing the same job difficulties in golf that I did coaching, and my marriage unstable. I thought that maybe I could re-enter football coaching and land a job that would give us a better financial status. I also thought that for the marriage I needed to move us away from this type of lifestyle.

I attempted to get back into coaching and accepted a head job in Kansas. Many of my references had been contacted and some didn't return my calls. Most didn't receive my calls as I later came to know that they were being blocked by the FBI. I didn't think anything about the non-returned calls only to conclude that they would call soon, and that I would tell them what I did. It is true that I re-wrote some letters of recommendation and on occasion

miss-represented myself as a reference because the time frame needed was immediate and I wasn't getting a return telephone call. I also sent a few emails in this same fashion. *I did possess the reference tape of the same people that had earlier supported me. The way I looked at it was that I wasn't going to allow the Newberry injustice to stunt my career any longer.* Well many of the same troubles serviced at three consecutive jobs from 2001-2003. I couldn't find assistant coaches because I would later learn that the FBI were contacting these coaches immediately after my communication and subsequent offer. The assistant coaches went from elation at being offered a job, to them calling back saying that they felt the time wasn't right. Since when did unemployed coaches feel like the time wasn't right? Other internal conflicts arose for two reasons. All three schools had athletic directors that were inexperienced and had virtually no training. Two were out of there field of experience. One was a retired CPA and he knew absolutely nothing about college athletics. He had agreed to essentially work for nothing as he was teaching business part-time. Yet this person made every critical program decision that negatively impacted the football program. The other was the women's basketball coach and never had any athletic director experience in the college ranks. He came from the high school ranks and he essentially budgeted the football program much like a basketball program- number of assistant coaches, budgets, etc. After I exposed that the athletic director was undermining my success with his broken promises, he initiated a player's revolt against me and made promises of promotion to assistant coaches to ensure their loyalty. I sought a buyout of my contract and was paid for the remaining contract with no guilt of any wrongdoing on my part. Had I done so, I wouldn't have gotten paid as documented. It is true however that when I wasn't able to bring coaches aboard, I did take one supplement and split it among the two of us coaches to make up for the additional workload. This later became known that I extorted money from an assistant coach. Other allegations that I had an affair with a student office worker was also proven false. Couple these factors with the FBI exacting their wrath on me, I had no chance at being successful at anything.

I did re-enter the sales industry in 2003 and much the same has happened in those jobs. My computer crashed as a result of the FBI, and the result was that I looked at porn. NOT one time did this happen. I have been blamed for possessing kiddie porn. Many false things have been orchestrated and alleged and the next example will validate this fact.

Going to a Fertility Clinic

Several years ago my wife and I decided that we wanted to have children. This was after we had patch things up and we were leaving Myrtle Beach. I had to go to give a sample of sperm for testing, and I went to a bathroom to do it. I was followed in immediately after my donation in the stall. I exited the restroom door only to peek back in at the man whom had been standing at the door. He was searching for residue sperm I guess and it spooked me and I left immediately. I became enraged on the way home. This was a violation of my rights in my opinion. Interfering in me and my wife's pursuit of having a child was the final straw that broke all of my sense of rational thinking. I went in ballistic pursuit of any and all agents. They followed me everywhere. I became irrational and felt that if they were going to follow me into the bathroom stall, then I would leave them a mess to clean up after me. This would become my final demise as I walked right into their hands. I took two magazines into the stall with me and used a very common magazine as a cover to the inside porn magazine to prove a point. My thinking was that I was going to prove to a jury that I was being followed and that my magazine cover would show them that I knew I was being followed. I also felt that this would expose the fraudulent bigger picture and the mission to destroy me. I was desperate to say the least. I even looked at gay magazines to send some source of conflicting evidence because everyone knows that I am not gay. You see my logic is known to be a common response among all people being investigated. The FBI knows this and they bait you into it so that they can turn any evidence you supply them into a *"weapon of mass destruction"*. The urge is to fight back and to do things that you think will expose the FBI's corruption.. All that does is feed them evidence that they can alter and use against you. This only heated up the fire in them and they began following me everywhere. They weren't shy or covert about it any longer. They attempted to intimidate me by showing up in groups whereby the would have a well equipped van just like in the movies. I had an agent dressed like a chauffeur follow and taunt me. The had bellboys follow me in hotels. One time, one bellboy accompanied the chauffeur to my hotel room after I checked out to take the sheets off of my bed. At the same time this was happening, my trash was being sifted through, pictures were being taken of my house by strange men. When I approached them they defiantly challenged me to go about my business. When one agent went to my place of work and was told by my boss to identify himself, he defiantly stated that he didn't have to. Soon after my boss told me that I needed to find other work. It became a war.

The most blatant planting of evidence by the FBI

While I was in Dallas training for a job, Some form of porn was planted in my room. Here is how I know that it happened. First you must know that I was targeted and harassed when I got to the airport with my baggage. They

went through and removed everything from my luggage. They then searched me like I had explosives on me. I was detained for almost an hour. I was on the verge of missing my flight when they finally allowed me to leave. It was clear that I was being harassed. I still have this boarding pass that shows I was pre-selected for a search. Well obviously, I didn't have any porn when I arrived at my hotel. It is a proven fact that I never left my hotel from Sunday night when I arrived until the following Friday.

However on Wednesday I kept having trouble with my room key, and I had to go get it re-scanned to get it to work at least three times that day. During one of those times while on break, I passed a friend of mine (Jeff) in the hallway and he asked me what room I was in? He had a strange man with him but I didn't pay much attention except he wasn't wearing the same uniform we all were wearing. Well I gave my friend my room number and he told me that he would call me later that night after class was over. He never did call or come by. I was in my room studying for the next days assignments. Well the very next morning, I go down to breakfast at 6:45am and who should be sitting at a front table? My friend and the same man that I saw the day before. The man was wearing the same blue and white shirt. I knew something was up as I went to get my breakfast at the buffet line and returned to the table where they were sitting. My friend had the look of terror in his eyes and said nothing- absolutely nothing. The other man would not look at me when I spoke. Well I obviously felt uneasy, took a few fast bites of food, drank a little juice, and began to get up to leave when my friend reached across the table and TOOK my plate, fork, etc., off of my tray and said that he would take it up for me. Bazaar it was, and I let him do it as I quickly exited the cafeteria to go to my 7:00 meeting. That night after dinner, I went down to the bar to join a few friends for a cocktail before I went back to the room to study for the next day's exam. My friend's (Jeff) boss was there and as I passed him he made a comment to me and said " what are you doing with kiddie porn in your room?" I looked at him and thought he was joking but his face showed that he wasn't. I shook my head like no, and he walked away. Bazaar!

Two other incidents happened a couple of years earlier in Myrtle Beach. Those incidents centered around golf clubs. The first one was when I bought a set of clubs. I had them shortened and half an inch a different grips applied. I was told by the club fitter that I could get them the next day after a certain time. I discussed a time with him and said that he wouldn't be there but he would place them out front against the wall with a sticker with my name on it. I didn't think anything of it and said OK. The next day when I returned to pick up the clubs, the clubs were out on the showroom floor against the wall- just not in the same place I was told they would be. I gathered them off of the wall and took my ticket that showed I paid to the front counter and checked out. As happened before, in the last six months, this disclosure that event was staged was repeated to me by a co-worker being used by the FBI. The claim is that I stole the clubs.

The next incident occurred with my wife's best friend's husband. We had played golf together on many occasions and he wanted a new driver. I told him that I knew a great one and that I would get it made for him. He told me yes go ahead, and that he would pay me later. I went to Martin's and it cost me $60.00. I then took the club to my friend. I asked for the $60.00 on four different occasions but he always stated that he thought he had already paid me. Well one day in his truck, he proudly points out that he found a wad of money in his console and showed it to me. He then asked that I not tell his wife. I waited for him to pay me the money he owed me but he didn't offer. In the dash, there was a $20.00 bill. When he got out of his car to smoke a cigarette, I took the $20.00 bill because I felt he was taunting me with his money yet he didn't want to pay me. I also later learned, that this was a staged event to show that I stole his money. *There are countless incidents of where I was set up just like these two incidents. This shouldn't be hard for any of you to believe because some of you have taken part in the taunting of me at the request of the FBI.*

Looking at Porn

It is true and it is a fact that I have looked at porn. I don't deny it. However this ended two plus years ago. There have been several attempts since then to set me up with porn. I purposely do not have a house telephone or Internet just to keep me from being accused. The second way I have looked at porn is in the magazine. And let me tell you this! Another way I have been baited into looking at porn is that I have been contacted on several occasions whereby a stranger stating that they know my Dad and Step-Mom, and they take part in a swinging club where my Dad and step-mom participate. I have been told that I could find them in a magazine and also in personals on the computer. I have looked on many occasion trying to find them in both.

Contacting five people to win them over in an attempt to find out who was tracking my emails!
I contacted my ex-girl friend of thirty years ago in an effort to get her to tell me was intercepting my emails. Immediately after touching base and sending her a reminiscing letter, that contact was shut off. I told my wife about

that email immediately after sending it just to cover my bases. I contacted the coach at Shaw with information about Bethel College in exchange for some information about who was intercepting my email. He too was stopped from communicating with me. * In addition, he was fired a short time later! I also contacted the former neighbor and computer whiz, his wife, and one more person. I experienced the same results. ***So to set the record straight, My wife knew of my attempt to contact my ex-girlfriend! I never made any calls to the person and I never met her on any occasion except one time at a class reunion and both my wife and her husband was present.***

Conclusion

Essentially, I have witnessed my own destruction with the only outcome available is going to jail for many things that I am not guilty of; or committing suicide. My entire life has been destroyed with no future possible. Everyone like you have been turned against me and you have no way of learning the truth. This includes my own family. Even my wife has believed part of what has been shared with her via her mother from the FBI. My wife is now faced with making a choice and a decision. Does she support me and tell the injustices that she has seen firsthand to help disprove-prove some of the allegations against me. Or does she put herself on an island, lose her reputation and image because she supports me. *Does she make a stand for a husband whose only possible outcome is jail time or is she so convinced that I am guilty in everything as alleged that she sides with the FBI in my destruction?* Her career is in education where she is destined to become a principal. I already know the answer as you probably already know that she has been cooperating with the FBI. I know, because I have witnessed her interaction with several people that obviously knew of her involvement with the FBI.

And for the record. I have masturbated for several reasons and the FBI has used it for one reason. The clinical reason was to increase the sperm count in an effort to conceive. The second was to produce new sperm a day or two before attempting to conceive. This increases the count as new sperm is born. It is was advised in fertility education. I also did it to both taunt the FBI and to satisfy my urges instead of cheating on my wife. We have been apart on many occasions while I held jobs out of state. Besides, it is my penis, and I will do what I need or want to do with it. This is not a crime! The FBI can turn it into whatever they want, but the truth is the truth! Am I going to jail because I pleasured myself? Guilty as charged!

I have nothing left but my side of the story, and much of the involvement from people like you certainly won't be exposed in a court of law. You see, the outcome is that because so many charges will be filed against me, I must risk going to trial and taking on Goliath in his own setting, playing by his rules that he sets and controls, OR either admit guilt to things that I haven't done wrong and accept a plea bargain. Either way, I am destined to spend much of the rest of my life in jail.

All of you know me. I am not a pedophile; I am not a tax evader; I am not a sexual deviant; I don't use drugs; I am not an alcoholic; etc. Take what you know of me and believe it. Don't believe that the FBI is interested in justice. The will fraud everything just to get their target. I witness it on many occasions when they show up somewhere just to taunt me with their "smile". That smile means one thing, and that one thing is to say "we framed you and we enjoyed every minute of it". You better hope that none of you become a target because you will see firsthand what I have experienced. One thing is certain though. I would never comply or cooperate with the FBI when what I knew about a person showed me otherwise. There are always two sides to every story. I am not a perfect person, but I am not who they portray me to be!

Brad Senter

Reminder: AOL will never ask you to send us your password or credit card number in an email. This message has been scanned for known viruses.

From: Dena Senter
To: rmberg624@aol.com
Subject: Re:
Date: Tue, 11 Apr 2006 12:40:57 -0400

I understand how you feel. I am still in this because I am THE ONLY one willing to do anything for him. Remember, I live it everyday. I couldn't bring the car by myself without a way back and you said you'd be gone last weekend.
Lauren flies into RDU Thurs and hopefully he's planning to bring it by then. I do appreciate you letting us borrow it but you must understand that I then have to come back and live with him so I can't rock the boat. Remember, he's only suspicious of y'all I have to remember the night he held me at gunpoint. I wish that suspicions were all I had to deal with. It's easy for Dana and everyone else to say what they can from 4 hours away. Dana should never have told you what Brad said. How did she think that would help you? It wouldn't...it only hurt, didn't it.
I'm on vacation this week so there's no need to write back.
Thanks!

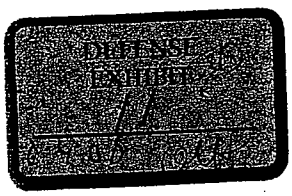
Dena Senter
Assistant Principal
Forestbrook Middle School
TELEPHONE NUMBER

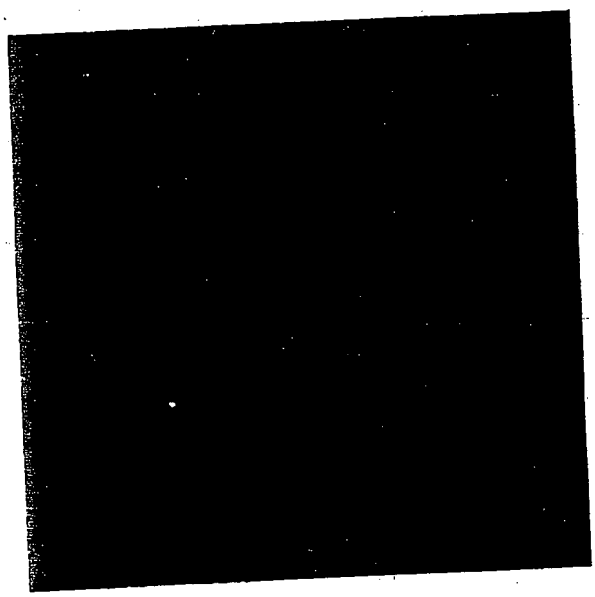
>>> <rmberg624@aol.com> 04/10/06 9:39 AM >>>
Dear Dena

I need the car by this coming weekend. I do not care if Brad comes or not as I am very disapointed in him for the way he is acting. I lost my chance for selling last week. The lady came in from California and needed to buy one immediately. I realize Brad is sick but I cannot put up with anyone who is disrespectful and suspicious of me. It is obvious when he told Dana he did not give a sh-- about me that is his true feelings at this time, therefore, until he is under a doctors care I do not want to see him.

If he does not want to bring the car back I want you to drive the car to Wilson Saturday morning and I will drive you right back to MB. If Brad does come just leave the key in the car after you have locked it as I have the other key.

Love and best wishes to you
Your MIL.





Reminder: AOL will never ask you to send us your password or credit card number in an email. This message has been scanned for known viruses.

From: Dena Senter
To: rmberg624@aol.com
Subject: Re: car
Date: Wed, 19 Apr 2006 09:44:14 -0400

If I am the only one who can get help for him, then how did Lisa and Bill commit him last March? I don't believe that is true. I also believe that if that were done then he would just convince them that he is ok like he always has. As I said, I am doing what I feel is best for me and him right now and do not feel that anyone has the right to second guess me unless they are willing to take over his care and no one has stepped up to the plate to do that thus far.

Dena Senter
Assistant Principal
Forestbrook Middle School
TELEPHONE NUMBER

>>> <rmberg624@aol.com> 04/18/06 8:48 PM >>>
Dena,

Please do not think I expect you to drive the car by yourself. I am very disturbed he is not getting medical help. He is very ill. Believing I am with the FBI is crazy thoughts.
I have been told you (his wife) are the only one who can seek help for him, that I am unable to do anything. For some unknown reason he is very very angry with me. I am going to stay away until he gets well. I will let you know when I decide how and who I can get to pick up the car. I will bring the golf clubs and I want to pick up my jacket and chaps when I get the car. I will be in touch when the plans are made.

Love,
Your MIL

-----Original Message-----
From: Dena Senter <dsenter@fm.hcs.k12.sc.us>
To: rmberg624@aol.com
Sent: Tue, 18 Apr 2006 13:49:59 -0400
Subject: Re: car

Your car has only been driven in town. I told him to return it yesterday. I cannot make him do anything. I don't know what else to tell you. I do appreciate you letting us use the car but I do not have
time to drive the car there by myself. It's not fair of anyone to expect me to do that. I have a car and a job. I am simply doing what is best for me to survive right now. I get NO help from anyone else.

I must now be selfish and look out for myself like everyone else does.

Dena Senter
Assistant Principal
Forestbrook Middle School
TELEPHONE NUMBER

>>> <rmberg624@aol.com> 04/18/06 9:56 AM >>>
I waited all day yesterday. It is Tuesday and no call, no car. I am going to leave a message on his phone if he refuses to pick up the phone
that "I will report the car stolen and let the police know where it is." Perhaps that will get his attention.

I had planned on no more than 500 miles put on the car if you were just
driving it back and forth to school, but if he drove it to RDU and back,
who knows what it will read when it finally is returned.

I know he is mentally ill. But at 76, and financially forced to work, will no longer allow him to disrespect me by keeping the car for leisure
when I need to sell it.

-----Original Message-----
From: Dena Senter <dsenter@fm.hcs.k12.sc.us>
To: rmberg624@aol.com
Sent: Sat, 15 Apr 2006 11:03:05 -0400
Subject: car

Brad said that he and Lauren will bring the car on the way to the airport
Monday. Just stopped in to work for a minute. Do not e-mail back as I
will not
be back in until Monday.

Dena Senter
Assistant Principal
Forestbrook Middle School
TELEPHONE NUMBER

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From: Dena Senter
To: rmberg624@aol.com
Subject: Re: hi
Date: Thu, 8 Jun 2006 08:24:22 -0400

Yes, I saw the real gun and I'm sure he wouldn't have shown Jim his real gun. Let's not be naive. Would he really have shown Jim a gun that he had???? He told me he got it from a pawn shop and it is not the same gun. He had bullets and a case for it in the garage. I asked him to give it to me before I left and he said no. I know what I'm talking about. If he had a gun one time what makes anyone so surprised that he has another one! He also had a knife under the car seat. He keeps a baseball bat on the screened in porch and golf clubs everywhere for protection.
Speaking of the gun in NC, whoever has that can sell it and send me the money for it since Brad used my money to buy it. Isn't that ironic? He used my money to buy a gun to threaten me with!
Fine with me to be honest with him. Just remember that I'm the one who has had the biggest repercussions for this (a gun in my face). If being honest puts anyone else in danger then we'll just have to live with that. I had to finally come to the conclusion that if he killed me then that was a risk I had to take but I could no longer live like that. I have walked on eggshells with him for the last 3 years. That's why I finally left and believe me when I say that I am a much more peaceful person.
I will always love Brad and care about him but I can no longer live with him.

Dena Senter
Assistant Principal
Forestbrook Middle School
TELEPHONE NUMBER

>>> <rmberg624@aol.com> 06/07/06 10:20 PM >>>
Where in the world did he get a gun. Are you certain he presently has a real gun. I am positive that Jim knows real weapons, they would have been concerned. I was told that the gun he purchased in MB last year is in North Carolina. He is not in possession of the one he bought last year. Did he say he has one or what makes you believe he has one. Do you know when and where he got it? This really surprises me.

I have been in contact today with some people in Mental Health and I am doing my best to get him some help. I am to call back in the AM.

Dena I believe we should be honest, and upfront with him, if you and I communicate and he makes something of it, he has to deal with it, at least we are not having to walk on egg shells. We should not have to live in fear of upsetting him. He needs to be reminded it is his irrational thoughts kicking in.

-----Original Message-----
From: Dena Senter <dsenter@fm.hcs.k12.sc.us>
To: rmberg624@aol.com
Sent: Wed, 7 Jun 2006 17:01:55 -0400
Subject: Re: hi

He has not been on meds since at least xmas.

If you are trying to get help for him, I believe you should be documenting all that you have tried to do for him as for getting medical
help, prescriptions, urgent care etc. He will not have documentation as
a seriously ill person cannot rationalize what to do.

Isolation and keeping secrets from him is worse for him. He needs professional help I am making plans to get the car and will personally
urge him to seek medical help.

-----Original Message-----
From: Dena Senter <dsenter@fm.hcs.k12.sc.us>
To: rmberg624@aol.com
Sent: Tue, 6 Jun 2006 21:49:34 -0400
Subject: hi

I just wanted to let you know that I am going to see an attorney Thursday. I don't know if there's any way he can help me get help for Brad also. I don't have any documentation of the things he does and says. Do you have one of those letters he wrote you that may give him an indication of Brad's illness? If so and you'd be willing to send it
to me, e-mail and I'll give you my fax # and a time to fax it as I would
want to be by the fax to pick it up.
Brad knows I'm going to see an attorney but do not let him know I told you. Thanks.

Dena Senter
Assistant Principal
Forestbrook Middle School
TELEPHONE NUMBER

Check out AOL.com today. Breaking news, video search, pictures, email and IM. All on demand. Always Free.

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Check out AOL.com today. Breaking news, video search, pictures, email and IM. All on demand. Always Free.

Brad does not have a BB gun that I'm aware of. He has never shot at squirrels to keep them from bothering the birds and cats. I'm sure that
is a story he made up in case anything came up about a gun. He has a real gun. I don't know where it is now. I was not sticking around to find out what he did with it.
I am not going to lie to him about anything. What I was saying about him not knowing we talked is because of the paranoia and the fact that he'll believe there's some sort of conspiracy.

Dena Senter
Assistant Principal
Forestbrook Middle School
TELEPHONE NUMBER

>>> <rmberg624@aol.com> 06/07/06 4:29 PM >>>
I was not implying you have isolated him, I am speaking of him being home alone with no one to monitor to make sure he gets his medication.

I can tell he is not on any medication with the messages I am receiving.
He needs a doctors care, therapy, and be placed on disability until he is stable to hold down a job.

What about a gun. The family is aware he has a Bee Bee to keep the squirrals from bothering the birds and cats but are you saying he has another gun? where and how?

-----Original Message-----
From: Dena Senter <dsenter@fm.hcs.k12.sc.us>
To: rmberg624@aol.com
Sent: Wed, 7 Jun 2006 10:27:35 -0400
Subject: Re: hi

I'm not sure what you mean by isolation but I'm the only person who HAS
NOT isolated him. Maybe you should talk to his family about isolation.

I am the only person whose life he has threatened and I did not even isolate him after my life was in danger. The reason I left is that I found out he has another gun. I can no longer risk my own life to try to
save his.
I care about his well being and hope that he does get help.

Dena Senter
Assistant Principal
Forestbrook Middle School
TELEPHONE NUMBER

>>> <rmberg624@aol.com> 06/07/06 9:29 AM >>>
Dena

I have been up most of the night concerned for Brad, he must be treated
as an ill person not some mean and evil person. He is very sick. I am
going to call his father and try to seek his help since Brad believes I
am with the FBI.

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From: dsenter@fm.hcs.k12.sc.us
To: rmberg624@aol.com
Subject: Re:
Date: Sun, 16 Jul 2006 10:54 PM

First of all let me tell you that those were the most hurtful words anyone has ever spoken to me. I have done nothing to deserve that. I have never been disrespectful to you and have been nothing but nice to you.
Also, if you're willing to send such an e-mail to someone the very least you could do is be willing to answer the phone and hear the truth. As I said on your voicemail, the car is in the parking lot of Myrtle Beach police department with the keys locked in it.
As for you loaning me the car, that is not true and you know it. I was in the hotel room when Brad came and asked you. Maybe he told you it was for me which was not true but I didn't ask you. It only takes a little bit of common sense to know that I am the only one with a job and the only one who was paying for anything including the Altima so why would I need a car. Besides, if I needed something I would ask my family and they would help with NO QUESTIONS asked. Besides, how many times have we helped you out in the past when you needed money or a place to stay? That's what family does...help each other.
Next, you shouldn't have driven here on the 14th without telling me. That was a wasted trip. I could have told you that we don't work on Fridays. And, don't ever bring the police into a situation with me and embarrass me on my job when I am not at fault.
Now, I want to address the situation with Brad. First, let me start by reminding you of all the times that you told me that "no one would blame me if I left Brad".
You have no idea what I have dealt with. Your whole family has turned its back on Brad and just expected me to handle it. Now that I'm gone I guess everyone's a little worried about who's going to step up to the plate. I'm a little curious to see myself.
You have no right to pass judgement on me. Were you the one held at gunpoint in a car? Were you the one who he threatened to "blow your f...ing head off". Did he threaten to call your family and let them listen to you die? NO!!! That was me. And even after that I tried to stay and get him help. But I can't put myself in danger any longer when I know he has a weapon in the house. I have been to counseling with him. I've supported us financially for years. Tell me what you've done. When he needed you most you haven't been there. And don't tell me that he won't answer your calls. If I were sick and my mother couldn't reach me by phone, she drive here. She wouldn't send someone from an agency to check on me. She'd be here to do it herself. That's because she's my mother. You have a lot of nerve saying what I've done is unexcusable and unforgivable. What about when his own family, his own blood doesn't help him? What do you call that?
You say Brad's love for me is sincere. Have you lived with us for the last 2 years? Have you heard him tell me that he hates me? Have you seen the contempt in his eyes? And don't tell me that that is the illness. How has it felt when he wrote hateful faxes to you?
All Brad had to do was get medical help. I love Brad with all my heart. I will always love him and care about him. I just couldn't live with him anymore. We went to counseling but he wouldn't take his medicine. Why didn't you and his family try to do something for him? You told me that I was the only one who could do something but you know that is not true. Anyone can file mental health pick up papers that you wanted me to do. If you had cared enough to ask you would know that. I was not going to have him committed to the state institution. If that's what you wanted then you should have done that.
It has taken me a while to get to this point but I am straight with God about leaving the marriage. I can truly say that I did all I could do

to save the marriage. I was only harming myself by staying. I hope that you can say the same about your attempts. You see, you say that what I did was unforgivable but I don't need anyone's forgiveness but God's and I am comfortable with my decision. I was a good wife to Brad and I know that. I don't need anyone else's affirmation of that. You think that me leaving a mentally ill person is unexcusable? Well, let's see what happens when you get your chance to help. Are you willing to take care of him? He's going to need a place to stay now. Are you willing to deal with the mental illness 24 hours a day? So far, all you've had to deal with are some faxes. How are you going to deal with it when you find a gun in the house or knives hidden around the house?
HERE'S EVERYONE'S OPPORTUNITY TO DO WHAT THEY THINK I SHOULD HAVE DONE!

Dena Senter
Assistant Principal
Forestbrook Middle School
TELEPHONE NUMBER

>>> <rmberg624@aol.com> 07/15/06 9:10 AM >>>
Dena

I want to remind you that when you came with Brad in January of this year, I loaned YOU the car for 2 months. I have begged, pleaded for it to be returned. I even hired a tow truck and you refused to hand over the keys. Yesterday, on July 14th, a friend drove me to Myrtle Beach to your school to pick it up. Since the gate was locked I walked with an officer to search for my car. I was advised by the Conway police department to go to the Magistrates office in Myrtle Beach to file a complaint. You are to deliver the car in the same condition as it was when you borrowed my car to the police department in Conway by Sunday July 16, 2006 or the car is going to be reported stolen. The fact is you asked to borrow the car therefore, do not put this burden on Brad.

I can appreciate your desire to be free of difficulties but to leave a mentally ill spouse is unexcusable. If the situation had been reversed, I know for a fact Brad would never had forsaken you as his love for you was sincere. He would have gotten medical help for you. That you are unaware if he is under a doctors care is unforgivable. You sought relief by hiring an attorney?

Ruth Bergman

Dear Mom,

I want to communicate these facts with your undivided attention and clear mind. Do not assume that my depression or medication is affecting the following. I want you to **know that what I have shared about Dena is true. She cannot be trusted and here is why!**

First think back to how Dad used Dan McGann, Jean, and people at his work to taunt you during your divorce. You even felt the house was bugged. Well all of those things happened to you and IT WASN'T BECAUSE OF YOUR MENTAL STATE OR YOUR MEDICATION. You did not make it up and it happened.

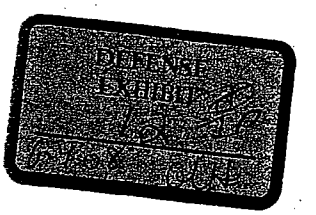
What I have told you that goes on with Dena is only the tip of the iceberg. Dena is taking a major role in the taunting of me just like Dad did you. She is on the inside and has the best access. For a YEAR, she has taken part in a plot to destroy me. Her anger and hatred goes on daily until someone outside sees her. Then she acts like the good loving housewife. BELIEVE IT! Her visit to my DR. was staged and setup. Her concern is 0.

This is the last time I am going to tell you and trust you. I never want you to ignore, minimize, or attempt to tell me that Dena loves me and things are going to work out. This will never happen because too much has occurred to damage our marriage. Just as the same with Dad's assault on you. He led many people to believe that he was doing things in your best interest and had everybody convinced that you were crazy. He used your craziness theme to camouflage his deception and horrible divorce plot. THE SAME APPLIES IN MY CASE. **THEREFORE DO NOT TRUST DENA AND DONOT HAVE CONTACT WITH HER WITHOUT MY KNOWLEDGE?**

Lastly, I believe that each of you in my family have been convinced by the FBI that cooperating with them will only help me. NOTHING could be further from the truth. You all are helping them to cover up a well orchestrated setup and you are dealing with SATAN. This is my life and my choice. You all should honor my choices not theirs. I can name at least six instances on each of you whereby you made statements to me as directed by the FBI. If I get the chance to tell you in person, I will prove this!

If we get a chance to meet face to face again, come alone and leave retard at home. I need more than 20 minutes to share what needs to be shared. If you can't come alone or you can't invest more time then there is no longer the need for our relationship to continue. You have essentially ignored my attempts to tell you what I have experienced and you continue to defend Dena. If you come to MB and want to hear me out then do so. If not then we won't meet again. It's that simple. I will not have a relationship with anyone that refuses to hear and trust me. Sorry to be blunt...but think back to the 70's

Bye for now, Love Brad



Mother,

I have had an attorney for 2½ years, We have been exposing the frame up and set up that has occured for the last 9-10 yrs.

You, next to Dena has done more to harm my cause than anyone. I have been aware of your deceit since you came to see me at the lighthouse. You have been manipulated into believing that you were helping me when in fact just the opposite has occured. JUST How, do you think that harassing me about my resume - my sweater, the blocking of the snap on computer porn etc - Has Helped Me?

I have not been surprised by Dad's deceit - but yo If you can't trust your Mother - then who can you tru why didn't you consult me - and why have you not shared your actions and contact with your source to me and my attorney? Why have you felt you could make 100% of the choices for my life? It mine to decide. The least you can do is to share what you know and help expose the conspiracy You have until the end of the day to consult me.

Rod

as threatened. My constitutional rights have been negated, and the more I fight back, the more ferocious and evil the false evidence against me surfaces. Hence you better understand, i am willing to die for the truth to be exposed. Therefore halt your coverup games and scripted statements, be a Mother, and tell the truth when needed and necessary. Bye

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Stay in the know. Pulse on the new Yahoo.com. Check it out.

)o You Yahoo!?
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ıttp://mail.yahoo.com

rmberg624@aol.com wrote:

Dear Brad,

I deeply regret the pain you are suffering. From my past experiences I believe all the trials a person endures can cause depression. You may think I don't understand but I try and I hope you can feel my love for you. I sincerely wish you would see a doctor and allow them to treat you with mediation for the angish you have. I am 76 years old and am forgetting a lot of the past and get mixed up on years so don't hold that against me. I do recall your problems that John McLeod caused you in Newberry. Please do not allow the acts of Satan to destroy you. You have so many talents and a gifted golfer that I fear you are wasting your talents by allowing these so called people to distract you from the real world. You are a wonderful son who has had a lot of pain and I pray God will intervev in your beholf.

I love you Brad,

Mother

-----Original Message-----
From: bradsenter1352@yahoo.com
To: rmberg624@aol.com
Sent: Fri, 13 Oct 2006 1:21 PM
Subject: For the record: Brad

Clarification!!!!! Don't you dare act as though you saw a change upon my return from Tennessee. You were advised of my troubles in 1992-93 while at Newberry. The infamous "John McLeod" newspaper story coupled with given information as told to you then exposed the war that I had been fighting (since 1971). That's why I solicited the help of many on my reference tape to show that the forces trying to destroy me were coming externally with the solicited help of those internally. Don't tell me you didn't know about suspicious job losses American Hospital supply, Cybex, etc. as well as other coaching jobs. NO do not play this **"I didn't know game"** and appear as though Tennessee was the timeline. My experience in Tennessee is when I got face to face threats and taunts that brought to light the historical war that i fought AND WHOM I WAS FIGHTING TO EXPOSE. SO DON'T DARE PRETEND TO SAY THAT YOU DIDN'T KNOW ANYTHING UNTIL 2003.
Also, I guess your gonna say that you didn't taunt me with my letters of recommendation that I attempted to show you in 2005; or your taunts about my degrees; or about Lauren's turn of events and hatred against me. All of this mirrors and parallels what Ive experienced with you and the many here in Myrtle Beach.
Dont you know that the truth stands the test of time! do you not think that at least one or two people since the 70's -80's will tell the truth on the witness stand. I can name at least 6-8 that will tell the truth about when they were contacted and what was shared and by whom!
When that happens - you will be exposed as well. Don't forget...since what I learned in 1992 and what I've experienced via the threats since 2002- **I'm willing to give up my life to prove it! My life has been taken from me**

Sent: Mon, 16 Oct 2006 1:11 PM
Subject: Re: For the record: Brad

Oh How obviously fake and self serving your response is. 1st, you portray yourself as a caring Mother whom is concerned...of course this is as false as the timimg of your response. Your comments are nothing but camolflage to cover up the real truth. Had you wanted to get together with me and voice your care or truly hear me out as you state...THEN YOU WOULD HAVE DONE THAT A LONG TIME AGO...like the last time when you were in on VACATION in July...ummm. I have a 3 bedroom house and any previous weekend over the last TWO YEARS WOULD HAVE BEEN AVAILABLE.
Fact: your fakness and false impressions began in May 2004
Fact: you came to the lighthouse with false intentions as were your attempts to get me to go to Duke! It had nothing to do with help and everything to do with assisting in providing a platform for the coverup of the battle I have been fighting to expose. Making me look mentally ill provides the avenue for the real truth to be swept under the rug. Just as the now verbalized threat that I will be found incompetent to stand trial so that the truth never is exposed.
Fact: You were advise by me of this war and your subsequent responses of denial and continued coverup possess the stench of the same corruption and deceit that I have attempted to expose.
Fact: Those cards you keep referring to were given to you BEFORE you chose your alliance and before May 2004. I gave you a Valentine's card in Feb 04.
HAD YOUR RESPONSE BEEN SINCERE, YOU WOULD HAVE COME DOWN THIS PAST WEEKEND OR ANY DAY THAT YOU COULD HAVE TAKEN OFF!
Your actions are no different than any other family member and this is easily enough proven. So halt your false statements and communications- brad

rmberg624@aol.com wrote:

> Dear Brad,
>
> I plan to be down in MB the weekend of the 27th, hopefully you will want to get together with me. My sister Donna arrives at RDU that morning and wants to go to the Queens Harbour for a massage whwile we are in MB.. I would very much like to talk with you and lets discuss some of the issues that are bothering you. I want so much for you to live the rest of your life in peace and without all the negative things that you have endured. With God all things are possible. Stay strong and positive sweetheart.
>
> I love you very much,
> Mother
>
> ——Original Message——
> From: bradsenter1352@yahoo.com
> To: rmberg624@aol.com
> Sent: Fri, 13 Oct 2006 4:25 PM
> Subject: Re: For the record: Brad
>
> Pain is not it! Do you call being threatened, spit on, harassed, etc. pain? Once again you attempt and try to negate your knowledge of the truth. Pain is not what I experienced at your motel by your "resident" whom harassed me with your knowledge. The same one that harassed me here at Broadway. NO- these are corrupt pain in the asses! Pain is not having jobs negated, and jobs being lost. That is called corruption.

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From: bradsenter1352@yahoo.com
To: rmberg624@aol.com
Subject: Re: For the record: Brad
Date: Tue, 17 Oct 2006 12:20 PM

When I tell you that I have been threatened, spit on, filed a police report, followed and then had a confrontation at Broadway at the beach with the neighbor that you have defended and protected in the past...yeah you have shown your concern alright! Your denial and attempt to minimize the events or your knowledge is all the proof I need to expose you. You can pretend to act as a Mother but God knows the real truth...

rmberg624@aol.com wrote:

> My dearest Brad,
>
> PLEASE CLEAR YOUR MIND, AND READ MY NOTE, TRY TO READ IT WITHOUT ALLOWING THE DEVIL TO TWIST MY WORDS.
>
> THERE IS MEDICATION TO CONTROL THE THOUGHTS OF SUSPICION, AND MISTRUSTING PEOPLE, EVEN IF YOU BELIEVE IT IS TRUE, YOU WILL BE ABLE TO IGNORE ALL THESE INCIDENTS AND NOT ALLOW THEM TO CONTROL YOU IF YOU WILL ONLY SEEK HELP AND GET MEDICATION. YOU WILL BE IN CONTROL.
>
> WHY WILL YOU NOT, JUST FOR ONE DAY TELL YOURSELF YOU WILL TRY OUR WAY OF THINKING, PLEASE GO TO A DOCTOR AND TELL THEM WHAT YOU BELIEVE IS HAPPENING IN YOUR LIFE AND ASK IF THEY CAN GIVE YOU MEDICATION TO IGNORE ALL THE PEOPLE YOU MISTRUST.
>
> LISA, DANA AND I ALL LOVE YOU, AND WANT YOU TO IGNORE ALL THESE THOUGHTS ABOUT THE FBI AND THE SO CALLED CORRUPTION YOU BELIEVE IS HAPPENING.
>
> BRAD, YOU ARE NOT ALONE, THIS HAPPENS TO A LOT OF PEOPLE AND A LOT OF CASES HAVE BEEN DIAGNOSED AS A CHEMICAL IMBALANCE.
>
> BRAD I AM PLEADING, I SAW MY MOTHER BREAKDOWN FROM DELUSIONAL THOUGHTS AND I DO NOT WANT YOU TO HAVE A NERVOUS BREAKDOWN. PLEASE TRUST US, YOUR FAMILY LOVES YOU AND WANTS YOU TO SEEK PROFESSIONAL HELP.
>
> PLEASE CONSIDER MY PLEA FOR YOU TO GET HELP. TRUST ME!
>
> I AM ASKING GOD TO SHOW YOU WE CARE ABOUT YOU, LOVE YOU, AND WANT ALL THE BAD THOUGHTS TO DISAPPEAR. YOU CAN TAKE CONTROL IF YOU WILL LISTEN TO US.
>
> LOVE YOU VERY MUCH,
> MOTHER
>
> -----Original Message-----
> From: bradsenter1352@yahoo.com
> To: rmberg624@aol.com

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From: bradsenter1352@yahoo.com
To: rmberg624@aol.com
Subject: Re:
Date: Fri, 27 Oct 2006 11:48 AM

Once again I state for the record. Mental illness does not suddenly appear at 51 years of age! I have never been under psychiatric treatment nor on medications UNTIL I attempted to bring to light the war that I have fought for years that was proven and validated in 1992-93 at Newberry College. The only reason that I agreed to go to Lighthouse and to Duke was to satisfy you and others AND PROVE that what I shared and told you was going on was the truth. **That was verified proven and confirmed when the original records validated that I wasn't then and I am not now...dellusional! And the same people that have negated my attorney's help in Greensboro and removed my documents and tapes to cover this up are the one's that more than likely will change those original records to cover that up as well.** This fact is CONFIRMED by the fact that nobody in my family, friends, or business colleagues ever suggested to me or anyone associated with me that something was wrong IN THE 51 YEARS PREVIOUS!
And as a counselor that talked to me the same day the attorney came from Durham to check on my involuntary status...AND THEN SUCCESSFULLY HAD IT CHANGED..**Because she felt after talking with me for an hour that I was very much lucid and clear in mind. She further stated that usually** the one's that try to put me there and those that try to hide their own agenda.
THE SAME ONES THAT CALLED AND HAD ME HELD IN JAIL UNTIL THEY GOT THERE!...Because I was prepared and able to walk out the minute I was freed by the judge! uummmmmmm. Of course you don't know anything about that either huh????
You have underestimated my fight and will to have the truth known-regardless of the sacrifice of my life to do it!
I see you never do respond to the communicated threats against me as happened at my house, Broadway at the beach, etc....ummmmm
rmberg624@aol.com wrote:

> Brad,
> You are the one in denial. I am in the real world. I work 6 days a week to survive, rarely see anyone other than the people who are customers here and I am sick and tired trying to convince you that I am not your enemy. I was told that Dena's insurance was approved so If that bill at Duke was not paid then Dena had it taken off her insurance because her policy was approved for your care. You need to take this up with Dena and stop attacking your sister. So in her papers you better make sure she is paying that bill as you are unwilling to get an attorney or allow anyone to help you. Lisa was trying to help. Why in the world can you not see this. She took time away from her family to be with YOU Why would a sister do this if it ws not for love and care Wake up and see who tries to help YOU. I no longer can help you, as you refuse to listen.
>
> I have no idea what will happen to you as you refuse to accept anthing I say. YOu are right and no one is going to tell you anything any different so I suppose you will either be in a shelter or on the street I have tried to help you, your sister has tried to help by telling you THAT YOU HAVE DELUSSIONAL THOUGHTS. NOT EVERY THING YOU BELIEVE IS TRUE. If this is the life you choose to live then it is fruitless for me to stay so upset as you are not helping yourself by ignoring our pleas.
>
> I love you, always did, always will,
>
> Love,

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From: bradsenter1352@yahoo.com
To: rmberg624@aol.com
Subject: Brad-Lastly speaking
Date: Fri, 27 Oct 2006 12:19 PM

To respond to your last statement. Allowing my family to being manipulated and having access to my medical situation is why I am where I am today. Because Had I not allowed you or anyone else to talk me into a second opinion to obtain an MRI or Catscan....*which is why I went to Duke at your request remember------
I wouldn't be in this situation and I certainly wouldn't be defending myself about not being dellusional. This has been the **platform and foundation** for the fraud to continue and the corruption to be covered up. It has also given my family the opportunity to cover-up their knowledge as to what I shared and what I have exposed in their involvement. And **only** my family with it's 50 years of discord would they be capable of this type assisted injustice. $ rules and the motivations are quite clear- My evidence, facts, and outcome will validate my position 100%. As they say " only in America...well it needs to say **" only in our family"**.
In closing...of course you could have sent that letter out by now because to go to do deposits, mail, etc. everyday- you have stamps right across the street. So go ahead and destroy that lette because i don't want anymore cover up B.S. laying around to be falsely used later. *And truth be known, you weren't coming here to see me this week just like you didn't last summer! Every othe MOTHER in the country would have stopped by while on vacation even for 5 minutes ...there is NC justifiable reason to substantiate any excuse that you could muster. The real truth is that for the same reasons you weren't coming this time are the same reasons that you didn't anytime- and it's the same reasons as to why you attempt to cover up your knowledge and actions over the last tw years. Facts are Facts...and you can't dispute the truth. Bye

---

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From: bradsenter1352@yahoo.com
To: rmberg624@aol.com
Subject: Yes you can HELP
Date: Fri, 27 Oct 2006 3:13 PM

TELL THE TRUTH- THAT IS NOT OBSTRUCTION OF JUSTICE.
You need to know that the people you trust and have worked a deal with concerning my behalf...do NOT have my best interest in mind and what They tell you that they will do for me IS NOT THE TRUTH. THEY HAVE NO INTENTION OF doing what they say as I am taunted and laughed at their success. You can't see the forest for the trees. They are out to protect themselves and punish me for fighting injustice and trying to expose them. You know how long this war has gone on and you know the details AS I DO. i FOUGHT BACK AND DID WHAT i DID TO EXPOSE IT. if not, i WOULD HAVE BEEN ARRESTED A LONG TIME AGO. THINK ABOUT IT!
They took my life and my life is at least worth the truth. **So you have a choice of helpfulness!** You can help them cover up the corruption or you can help me expose it! THAT'S HOW YOU CAN HELP!!!!! EITHER WAY THE END RESULT WILL BE THE SAME.
i WILL NOT GO ALLOW WITH wrongfull arrest for Drugs, child porn, or anything else that they corruptly try to convict me for. I have done nothing in Florida as you taunted..that is a cover to mask the truth. Later

---

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From: bradsenter1352@yahoo.com
To: rmberg624@aol.com
Subject: This week alone!
Date: Fri, 27 Oct 2006 3:27 PM

From the self titled- **Lords of Discipline + John Truluck's as harrassed**
All of this is externally orchestrated:
Harassed at Last Saturday's Football game I went to.
Harassed at The Dr.s office when I got clean Drug test to offset the taunt of drug conviction.
Harassed when Tag taken off car- No notification as regularly given
Harassed when insurance was suspended and then difficult reinstatement-no notice
Harassed at DMV (Two workers)..no longer there..ummmm)
Fax difficulty at DMV
Harassed when I attempt to email and communicate
Harassed about my relationship with family being exterminated!

This is my daily life because I fought back....So you see I am not in the need of medication and I am not in the need of therapy. I NEED THE TRUTH TO BE TOLD AND JUSTICE. That's all I ask from my MOTHER!

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From: bradsenter1352@yahoo.com
To: rnberg624@aol.com
Subject: Brad - Your Trip
Date: Mon, 30 Oct 2006 4:37 PM

There were many flaws concerning yout trip down here - to obvious - to many to list. One that I will note though to validate my point.
!. You act as though you don't know anything about my war and you deny what you've been told by me and you deny your knowledge or involvment BUT Isn't it amazing how you don't recall your own son's front page story in 1992 But you remember facts, names, and people from 40 years ago!!!! Isn't amazing how so many people have now become victim's of NO convenient memory or claim Brain injury, "old timer's disease, etc.

Next let me say this- You've had many chances to come down on your own but youwaited for Donna's assistance.

And although you've spent more time from a distance telling me that I need medication and therapy..YOUVE NEVER asked me WHAT I WANTED FOR YOU TO DO TO HELP ME!!!!! Well just like the govt, I don't negotiate with terrorist and neither should you.
If your intentions and actions were sincere, you would have consulted me a long time ago when you first became involved. So drop your pretending that you don't know what's going on or that you can't remember, or that you aren't acting as a puppet on the end of a string.
I gave you 1% percent chance to change your alliance to the truthful side. The 99% is what we both already know. You were at 100% wrong but I gave you the time to correct your mistakes.
The time for you to be a Mother has come...Has me what I want not what you think I want!

Cheap Talk? Check out Yahoo! Messenger's low PC-to-Phone call rates.

Ruth,

Why now are you all of a sudden perturbed against Dena. You and the rest of my family aligned yourselfs with her. You allowed her to make false witness against me as you gave her refuge. This is the stench of cover-up.

You, for years voiced concerns over her workout partner, our former neighbor-her co-worker; you didn't know about her meeting a man for drinks 4-5 yrs ago. You caught her on the computer looking for men. Then you attempt to cover all of that up!

The bottom line is that since Feb 2004 she has reversed her support - she actually witnessed the staged corruption at several of my jobs. She witnessed our computer being tampered with and then illegally obtained. Out of anger beginning Feb 04, she began her plot as a co-conspirator in staging events to falsely implicate me on things I was exposing. This is why I broke down.

Of course you've known this for quite sometime I stand by my previous letters to you. When you die you will learn what was true + false. All of you have broken one of God's commandments - Not to bear false witness. All of you have done so betraying your own family members. And for who - SATAN. It certainly hasn't been about lawful justice. I don't know how any of you could be so blind.

If you are asked to take part, and then do so in staged events, conversations, groupt hospital stays etc. - How do you justify your involvement???

For the record and against some of the allegations - and staged events by which I have been taunted - I have never possessed or looked at any illegal pornography. Had I done so then why didn't they come with a warrant, arrest me, and take my computer? Because it was staged and they took a week before it was returned. The Dallas Hotel room was a staged event. Involving a co-worker in the corruption was nothing more than a weapon to taunt me to show me their power and to let me know that they could do whatever they wanted. Using Dad, Kent, and the rest of you speaks volumes of the corruption for which all of you aligned yourselves.

Last, I did start hearing from Lauren after my letter to you. Before that her roomates were making excuses of she's in the bathroom, or shower, or library, etc. When she did call back is was for 1 or 2 minutes. We've had one good lengthy conversation.

The games go on and all of you have placed no value on my life. You have chosen to involve yourselves not once hearing my side. I know what each of you has done. God provides me with a clear understanding and an immediate alarm.

* you will one day regret your actions. Your BAD about Steve, Lauren ate was duly noted

691

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Fax Cover Sheet

FedEx Kinko's of Myrtle Beach, SC Telephone: 843.626.5592 Fax: 843.626.4852

Date _____ Number of pages _____ (including cover page)

To:

Name Ruth Bergman

Company _____

Telephone _____

Fax 252-234-9030

From:

Name Brad Senter

Company _____

Telephone _____

Comments I've asked that you write to me only. Do not call or leave voice mail. I never listened to last weeks voice mail. I just delete them.

More than 1,200 locations worldwide. For the location nearest you, call 1.800.2.KINKOS. Visit our website at fedexkinkos.com.

Ruth,

You want to talk logic. Read my Duke papers again Think about lighthouse. Everything Ive written you is fact. You can't dispute it. No it's not logical but it happened. And Ive been fighting to expose the corruption that is in plain view and in black and white. You must think Im ignorant.

Want to talk more logic? Is raising your kids with the credo - Don't do as I do - do as I say logical. Its raising a family as Dad did logical? To hell with you Ruth. This angle is not working for you So Never and I mean never call me again with your illogicall reasoning. Facts are Facts - My experiences are Fact. The corruption is factual and illogical. So don't you preach to me about logic. There is no logic to your relationship with John - or paying for a car in his name - But it happened!

There is no logic in you ignoring your son for two months when I tried and wanted to tell you what was happening in my life. Call Bill Sentor and ask him the logic behind his visits to see me - ie, golf balls, dick-cake, etc. Ask Lisa her logic for having me committed. Ask Kent about his logic 3 xmas's ago. I have over 50 people and experiences of illogicall corruption.
Goodbye - Take your logic and shove it. I know the Truth; Even if it's illogical truth.

FedEx Kinko's
Office and Print Center

Fax Cover Sheet

FedEx Kinko's of Myrtle Beach, SC Telephone: 843.626.5592 Fax: 843.626.4852

Date _____ Number of pages _____ (including cover page)

To:

Name Ruth

Company _____

Telephone _____

Fax 252-234-4030

From:

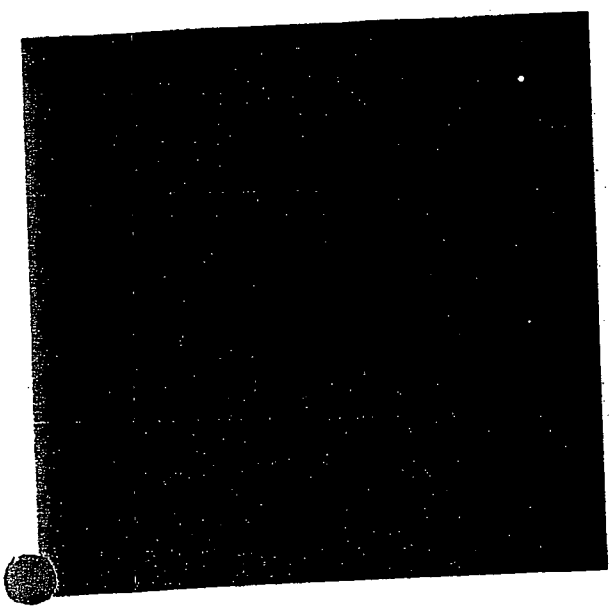
Name Brad

Company _____

Telephone _____

Comments

More than 1,200 locations worldwide. For the location nearest you, call 1.800.2.KINKOS. Visit our website at fedexkinkos.com.



Ruth,

I will not return your call and you know why. In fact, I will no longer ignore what I've know for over a year now. Your chosen alliance and scripted visits and telephone conversations to me have ended.

While you preach and vow that you are Christian - you lie and deceive me for the benefit of others. The people that you've aligned yourself with are anything but Christian. They've mocked my faith and have even staged events with church leaders to show me their power and to taunt me. You know - just like you've done to me while you've represented them. Lighthouse and Duke as well.

You need to read the 10 commandments #9 says don't bear false witness

You have been to ignorant and naieve to see the obvious. You've chosen and allowed yourself to be used as a weapon against me and for who's gain? Is this another one of those I did the best that I could choices. In case you haven't figured it out by now. I've been in a decade plus year old war. That's why I wasn't arrested say 9, 10, 11 years ago. WAKE up. I fought back and I fought every employer or person

whom aligned themselves with your friend
I didn't find out who it was exactly until 2002
And had you made the Right choice, you
would have been told both sides and
then you could have chosen sides. You should
have honored blood first - Then chose!
But no - very much in the fashion of
Bill Senter - your trust and loyalty to
family is non-existent. Congratulations, you
parallel one of the greatest fathers of all
time. You have one chance to correct
your mis-deed and horrible choice of
alliance. See me face to face and tell
the truth. Otherwise the next time I will
see you might be in front of a jury.
Because part of the puzzle that you
obviously fail to realize; I gave up
my life in 95-96 to do one thing. Expose
whom I was fighting against - and to have
the opportunity to tell a jury of the fraud,
schemes, and methods of operations.
I have been in prison since 1970, and
really before that. So if you truly want
to act like a Christian and do what is right
by your son. Then do it. If not, never
contact me again. My whole life has been
a sacrifice and I will fight SATAN to the end.
Right now, you're in bed with SATAN.

FedEx Kinko's
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Fax Cover Sheet

FedEx Kinko's of Myrtle Beach, SC Telephone: 843.626.5592 Fax: 843.626.4852

Date _____ Number of pages ____ (including cover page)

To:

Name Ruth Bergman

Company _____

Telephone _____

Fax 252-234-9030

From:

Name Brad Senter

Company _____

Telephone _____

Comments Don't call me. Write to
120 Barclay Dr, MB 29579
should you decide you want to be
truthful face to face. If not,
Never contact me again.

More than 1,200 locations worldwide. For the location nearest you, call 1.800.2.KINKOS. Visit our website at fedexkinkos.com.

Ruth

Here is Lauren's Dorm # TELEPHONE NUMBER Rm 209
The FBI has now eliminated her contact with me as well. Her cell is TELEPHONE NUMBER.

You make sure to tell her the truth as to your and my family's involvement to help her understand that this was about me fighting back in a war where the FBI staged things and I tried to expose them.

Remind her of the letter that I wrote to her that made her cry. Remind her that Cathy & Jack gave her one to upstage mine as theirs was orchestrated by the FBI. This in itself will help her realize that this has never been about guilt or innocence; or trial in a court of law. This has been about wrongfully staging, then destroying me as pay back They have destroyed me and convicted me before I got to court all in an effort to win the war.

This began in 1992 - heated up in 1995 - and in 2005 the war is about to end. That fact alone should be enough evidence (10-13 yrs). Only groups like the mafia, ENRON, etc warrant that investigation.

P.S. Thanks for nullifying my attorney's efforts.

Tue 29 20 03:04p HOLIDAY INN WEST 843-236-1012 p.1

Dena has been my enemy since Feb. 2004. Since then she has watched the corruption and been a part of most of the set-ups. Her anger and hatred for me has fueled her fire. You have been led to believe that she was helping in the same capacity as you. But it is obvious that she has been wicked!

You on the other hand have been duped and used by the FBI to taunt me and stage events for what my supposed gain. You have been deceived and then you have grossly deceived me and help cover up the corruption. What you have taken part in is not justice, or lawful. Yet you chose to do have - Duke Lighthouse was nothing and Cover up— Florida Vac - Church daily and it is repeated daily. by course you knew this!

not written Febon

understood me because you never chance to tell my side. That was take. Your next mistake was to with the corruption. Strike 3 was you lying and covering it up when I confron you. I fought fraud w/ fraud and lies w/ lies I saw it in your face, voice, and actions.

To: Kath Bergman

From: Brad Senter

Date: May 1 2006.

This is in response to your telephone message left on the TELEPHONE NUMBER number. I did not call you and the alltel office has confirmed this fact.

You may come get the car anytime you wish. Dena borrowed the car - I didn't. She made the arrangements to drive the car to school with you - I didn't.

The fiasco with the P.T. Cruiser parallels the corruption with the "repossession of my Envoy". Your common-Law husband John can drive you down to get the car. Dena has given every excuse not to go to N.C.. She also states that you are afraid of me.

You should Know that I will fight to expose the 30 yr corruption until my last breath, and me, you, + God Know what I

mean, from your actions in denying me 700
condo rental in the spring of 2004 — through
your taunts and harassments — as well as
this last effort to say that I called you
will be exposed.

They can steal my evidence out of my
house and car — they can take my attorney
away — they can turn every family member
against me — but it won't change
God's truth.

I've been haunted, harrassed, and framed
for 30 yrs. I have never given up my
fight to expose the truth since the mid 70's
I can and will prove this fact.

You will be judged by God and your
false witness will be judged as well.
Call me to tell me when you are
coming to get the car. Better yet
TEXT ME. Brad

Ruth,

Before you come down I want you to analyze and believe this. But before I do you need to think of these statements. what legacy have you passed down to your 4 children? what did you do to enhance and protect your children in down times? Name one thing that you have done in the last 5 yrs to change your relationship with your children? Name one thing you have done to improve from your past mistakes and repair these relationships.

Now, why have you not recognized that what you been asked and then taken part in is corruption! Do you call that justice? How was that not an alarm to recognize that something was amiss!
For the record - I was set up on two occassions whereby they obtained my semen/Dna - and then fraudulently used that in other ways. Your taunt about DNA - was false and with proper thought analys you would have determined as much. You have been blinded by the "Honorable FBI" to see the truth. If I have 20+ years with unlimited resources and manpower I could frame you! Your Affair with Huffmeyer could have been used by obtained your DNA and then used in other ways to bring guilt.

You ignorantly were "befriended" by a smooth talking that fooled you into their sheemes.

How could you take part in the corruption and cover-up? My situation was nothing similar to your situation. Yet you attacked me in retaliation because of what was done to you. I did Not HARM you.

I fought back beginning in 1996 because the corrupt FBI took Vigilante justice against me as opposed to the proper legal system. AND YOU ENDORSED THAT ASSAULT.

I was banking on my family recognizing and then telling the truth about their involvement as requested by the FBI, That would have proven what I've been trying to expose. Do you not realize that Every phase of my life was illegally + corruptly taken away. When I hit my limit in 1996 I began to fight to expose who I was at war with. That's why I wasn't arrested when the events happened. They were staged corrupt attacks and I fought to halt them.

Everything could have been settle with the Truth but you have lied and participated in the corruption

How could you do what you have done to me?
What and how would you feel had your mother done to you what you have done to me? How can you justify that in your mind?

I did things on video to verify that other things inferred and falsely claimed not on video are false Allegations.

None of this make sense to you because you haven't endured what I have. You haven't seen what I have. They taunt me about your ignorant involvement.

Everything you've done from not renting the condo - to every taunt has been chronicled. They will parallel the allegations and your involvment will be obvious.

I will not Plea-Bargain. I will face a jury and tell the truth and expose the corruption. They have taken away my Lawyers to protect + Defend their corruption!

What more evidence do you need to send a wake up call

You have Destroyed your son and protected corruption. WAS legal justice not an option for me from you?

I wanted to tell my side! I've said + done things to send a jury warning signs that aren't me that could be confirmed by my family + friends.

But when family + friends are fraudulently used and legal representation is voided! The Decades old scams + corruption go on.

WAKE up + For once be a MOTHER - whom loves and supports with the Truth!

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Fax Cover Sheet

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Date _____ Number of pages _____ (including cover page)

To:
Name Ruth
Company _____
Telephone _____
Fax _____

From:
Name Brad
Company _____
Telephone _____

Comments

Do NoT call

See you this weekend!

More than 1,200 locations worldwide. For the location nearest you, call 1.800.2.KINKOS. Visit our website at fedexkinkos.com.

Katie,

Once again I exposed your deceit, false testimony, and interfering assault against me. Lighthouse, Deke, Suzanne Smith and now D.S.S. Your efforts were Thwarted as my house, yard, pets, and my own well-being and "state of mind" was all the evidence I needed to expose you and your false self serving actions.

There are endless holes in your fake persona. Everything from your fictitious and verbally scripted discord with Dena - to your recent intermitten intersections of events of years past is blatantly obvious. Your likewise efforts with the P.T. Cruiser as well.

And I will change some things that I can't accept." You bet your Life on it. You are afraid of me because of what you have done to me - Not what Ive done to you. The truth will be exposed as well as what you were told by me - (and your evilness as demonstrated since the Spring of 04).

You were an absentee mother most all of our 4 siblings lives and the proof is in the legacy you placed on all of us. However now - your legacy will be re-written for God to judge. You have taunted + interfered the last time. I told you months ago to mind your own business and halt your fake motherhood. Your acting job and deceit is of Academy award status. Take that award with you to where you are going and see if God values it. I know what he feels and sees in the true you and "mother" is not the example you are exhibiting. Don't call me ever again AND MIND YOUR OWN BUSINESS!

06-29-06 07:37pm From-Kinko's Myrtle Beach 707

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Name Ruth Bergman

Company SATAN's Workshop

Telephone Hell

Fax 252-234-9030

From:

Name Brad Senter

Company Corruption Buster

Telephone You'll never Know

Comments

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708
4/5
07-11-2008
10:21:14 a.m.
HORRY COUNTY SOLICITOR OFFICE
843 915 6460

TROXELL/HCPD
WITNESSES

DOCKET NO. 2007-GS-26- 481

THE STATE OF SOUTH CAROLINA

COUNTY OF HORRY

BCR 84030
COURT OF GENERAL SESSIONS

JANUARY TERM 2007

THE STATE
VS

BRADLEY SCOTT SENTER W/M
ADDRESS

DOB: DOB
SS#: SSN

ARREST WARRANT NO. J475553

CDR: 0014 16-03-0620

DOA: 11-14-06

ACTION OF GRAND JURY

TRUE BILL

JAN 25 2007

Foreman of Grand Jury

ATTORNEY: THOMAS C. BRITTAIN

INDICTMENT FOR:

VERDICT

ASSAULT AND BATTERY WITH INTENT TO KILL

ORIGINAL

Foreman of Petit Jury Date:

J. GREGORY HEMBREE, SOLICITOR

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR:
	)	
COUNTY OF HORRY	)	ASSAULT AND BATTERY WITH INTENT TO KILL

At a Court of General Sessions, convened on January 25, 2007, the Grand Jurors of Horry County present upon their oath:

ASSAULT AND BATTERY WITH INTENT TO KILL

CDR: 0014 16-03-0620

That BRADLEY SCOTT SENTER did in Horry County on or about November 13, 2006, commit an unlawful act of violent injury to the victim, Dena Senter, with malice, by firing a single shot into said Victim, thus committing the crime of Assault and Battery with Intent to Kill, in violation of Section 16-03-0620, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

SOLICITOR

2/5 710
10:20:43 a.m. 07-11-2008
HORRY COUNTY SOLICITOR OFFICE
843 915 6460

TROXELL/HCPD
WITNESSES

ARREST WARRANT NO. CAW200701019

CDR: 2988 16-25-0065

DOA: 11-14-06

ACTION OF GRAND JURY

TRUE BILL

MAR 0 1 2007

Foreman of Grand Jury

VERDICT

Foreman of Petit Jury Date:

DOCKET NO. 2007-GS-26- 491

THE STATE OF SOUTH CAROLINA

COUNTY OF HORRY

~~BCR~~ 84030

COURT OF GENERAL SESSIONS

JANUARY TERM 2007

THE STATE
VS

BRADLEY SCOTT SENTER W/M
ADDRESS

DOB: DOB
SS#: SSN

ATTORNEY: THOMAS C. BRITTAIN

INDICTMENT FOR:

CRIMINAL DOMESTIC VIOLENCE
HIGH AND AGGRAVATED NATURE

ORIGINAL

J. GREGORY HEMBREE, SOLICITOR

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR:
	)	CRIMINAL DOMESTIC VIOLENCE
COUNTY OF HORRY	)	HIGH AND AGGRAVATED NATURE

At a Court of General Sessions, convened on January 25, 2007, the Grand Jurors of Horry County present upon their oath:

CRIMINAL DOMESTIC VIOLENCE
HIGH AND AGGRAVATED NATURE

CDR: 2988 16-25-0065

That BRADLEY SCOTT SENTER did in Horry County on or about November 13, 2006, cause physical harm or injury to DENA SENTER, his own household member, with apparent present ability, which would reasonably cause a person to fear imminent serious bodily injury or death, in violation of Section 16-25-65, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

J. Gregory Hembree

SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF Horry)
STATE VS.)
Brad Senter)
AKA:)
Race: W Sex: M Age: 55)
DOB: DOB SS#: SSN)
Address: ADDRESS)
DL#: 11282856 SID#:)

IN THE COURT OF GENERAL SESSIONS

712

INDICTMENT/CASE#: 2007GS2600481
A/W#: J475553
Date of Offense: 11/13/2006
S.C. Code § : 16-03-0620
CDR Code #: 0014

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Assault / Assault and battery with Intent to Kill (ABWIK)
in violation of § 16-03-0620 of the S.C. Code of Laws, bearing CDR Code # 0014
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. _____ (Defendant initial)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State:

ATTEST:

Richardson, Brad — Defendant — Attorney for Defendant

WHEREFORE, the Defendant is commited to the ☑ **State Department of Corrections,** ☐ **County Detention Center,** for a determinate term of 10 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment of $_____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☑ CONSECUTIVE to sentence on: 6-20-08
☑ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 20 months
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered
Total: $ _____ plus 20% fee: $ _____
Payment Terms: _____
☐ set by SCDPPPS _____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 35.13 (Public Def/Prob)	$500	$
§ 73.3, 1B TP (Law Enforce. Funding)	$25	$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	$100	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$ 3.75
TOTAL		$ 128.75

PTUP _____
_____ days/hours Public Service Employment
Obtain GED _____
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling _____
Random Drug/Alcohol testing _____
Fine may be pd. in equal, consecutive ~~weekly/monthly~~ pmts. of $ 25.00 beginning 6/20/2028
$ _____ paid to Public Defender Fund
Other: - no contact w/ victim
- DPS
- Mental health treatment.
- Shall comply with directives from his doctors re: drugs
☐ Appointed PD or appointed other counsel, §35.13 TP
Requires $500 be paid to Clerk during probation.

Melanie Huggins
Clerk of Court/Deputy Clerk

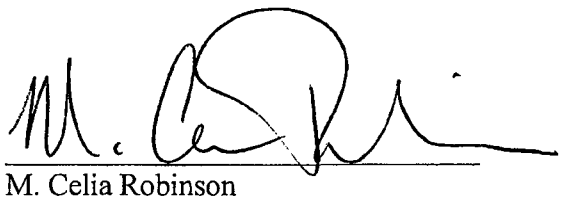
PRESIDING JUDGE Michael G. Nettles
Judge Code: 2 1 1 4 1 0
Sentence Date: JUNE 20, 2008

Patricia A. McDaniel 53036 Sentencing

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

May 21st, 2010



M. Celia Robinson
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Horry County

Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRADLEY SCOTT SENTER,

APPELLANT

FINAL BRIEF OF APPELLANT

M. CELIA ROBINSON
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT.

TABLE OF CONTENTS

TABLE OF CONTENTS 1

TABLE OF AUTHORITIES 2

STATEMENT OF ISSUES ON APPEAL 3

STATEMENT OF THE CASE 4

ARGUMENT 5

CONCLUSION 28

TABLE OF AUTHORITIES

Cases

Pointer v. Texas, 380 U.S. 400, 85 S.Ct. 1065, 13 L.Ed.2d 923 (1965).....27

State v. Buckmon, 347 S.C. 316, 555 S.E.2d 402 (2001).....24

State v. Cherry, 361 S.C. 588, 606 S.E.2d 475 (S.C.,2004).....24

State v. Dantonio, 376 S.C. 594, 658 S.E.2d 337 (Ct.App.,2008).....24

State v. Frazier, 375 S.C. 575 , 654 S.E.2d 280 (S.C.,2007).....24, 27

State v. Gillian, 360 S.C. 433, 602 S.E.2d 62 (S.C.App.,2004).....27

State v. Graham, 314 S.C. 383, 444 S.E.2d 525 (1994).....26

State v. Lollis, 343 S.C. 580, 541 S.E.2d 254 (2001).....24

State v. Milian-Hernandez, 287 S.C. 183, 336 S.E.2d 476 (1985).....25

State v. Mizzell, 349 S.C. 326, 563 S.E.2d 315 (2002).....26

State v. Pittman, 373 S.C. 527, 647 S.E.2d 144 (S.C.,2007).....24

State v. Schmidt, 288 S.C. 301, 342 S.E.2d 401 (1986).....26, 27

State v. Smith 298 S.C. 205, 379 S.E.2d 287 (1989).....24

STATEMENT OF ISSUES ON APPEAL

I. The trial judge erred in denying the defense motions for a directed verdict of acquittal and for a new trial where there was no substantial evidence of sanity submitted by the State.

II. The trial judge erred and deprived appellant of due process of law in refusing to permit appellant to waive his right to a jury trial and to proceed with a bench trial where such was necessary for appellant to receive a fair trial and a just verdict.

STATEMENT OF THE CASE

Appellant, Bradley Senter, was indicted by the Horry County Grand Jury for Assault and Battery with Intent to Kill (ABIK) and for Criminal Domestic Violence of a High and Aggravated Nature. (CDVHAN). A court ordered evaluation indicated that appellant was not competent to stand trial. After treatment, appellant was found competent to stand trial; however, the court appointed forensic psychiatrist opined that appellant was not criminally responsible as he was insane. Despite the State's doctor's opinion, on June 3, 2008, appellant's case was called to trial. Appellant's motion to waive his right to a jury trial and for a bench trial was denied. Therefore, on June 3, 2008, appellant proceeded to trial before the Honorable Michael G. Nettles and a jury. The jury found appellant guilty as charged. On June 20, 2008, Judge Nettles heard and denied defense motions. The judge sentenced appellant to serve ten years incarceration for CDVHAN and ten years incarceration for ABIK, with the sentences to be served consecutively, with credit for time served.

ARGUMENT

I. The trial judge erred in denying the defense motions for a directed verdict of acquittal and for a new trial where there was no substantial evidence of sanity submitted by the State.

Dena and Brad Senter were married in 1993; they were together for the following fourteen years. Dena Senter testified that the first five to eight years were a good marriage. Brad was coaching football and Dena was a guidance counselor at a local elementary school. Dena testified that when Brad lost his coaching job, he found work in medical sales in North Carolina. She testified that while they lived in North Carolina for the next four years, things were okay, for the most part. Dena testified that, although they had disagreements like every married couple, Brad Senter had never hit her in any way. Dena agreed that he had never slapped, kicked, knocked, or punched her in any way. (R. p. 152). Dena testified that she and Brad had a good marriage, but that there came a time when Brad started acting differently. (Tr. p. 153). Dena testified that they moved to Tennessee, back to Newberry, and then to Myrtle Beach over the course of the years from 1998 to 2004. (R. p. 154). Dena testified that Brad's actions started to become more noticeably erratic in 2004, when they left Tennessee. (R. p. 155).

Guidance counselor at the time, Dena Senter, testified that there was "no question in her mind" that her husband was mentally ill in 2005. However, she further testified that Brad did not think he was mentally ill. Dena testified that he would admit to depression but that he did not think that he had a mental illness. (R. p. 155). Dena testified that Brad had had treatment before and that he had been taking medication for mental illness before, but that she tried to get him to go to a doctor to "get some help because he was mentally ill." (R. p. 156).

Dena Senter testified that her husband Brad believed that she was working with and for the Federal Bureau of Investigations (FBI) in a vast conspiracy to harm him. (R. p. 156, lines 22-24). Dena recalled an incident in 2005 in which Brad had gotten a gun. She described the incident when Brad had the gun in the glove compartment but then pulled it out and held it between his legs on the seat of the car. She testified that Brad never pointed the gun at her but that he was interrogating her about her involvement with the FBI. (R. p. 157, lines 1-12).

Dena recalled that, also in 2005, Brad brought a polygraph examiner home to their house in order to test her. Dena testified that the reason Brad brought the polygrapher home was twofold. First, because he wanted her to make her claim that she was not working against him with the FBI while under a polygraph test. However, while Brad apparently was willing to consider the possibility that Dena was actually not working with the FBI, he nevertheless maintained his belief that he could save himself if he was able to convince this agent of the FBI that he was innocent. Dena explained that Brad also wanted to take the polygraph in her presence so that he could prove to her, an apparent agent of the federal government that he 'had not done anything wrong.'" (R. p. 157, lines 19-25). Dena agreed that she told Brad that the whole thing was absurd and that she would not participate in such foolishness, but that she did it anyway. Dena testified that she knew that if she didn't take the polygraph in order to show Brad that she *wasn't* in a conspiracy against him with the FBI, Brad would have gotten upset. She testified that once Brad got upset she didn't know what he would do. (R. p. 158). Dena did not testify as to whether or not Brad passed the polygraph when he indicated that he had committed no federal crime.

Dena agreed that Brad attempted to kill himself in early 2005. (R. p. 160). Dena had no explanation for why she did not say anything to him about the fact that he had a gun in 2005, despite his mental state. She agreed that at that time, in 2005, Brad's family lived in North Carolina. She agreed that Brad refused to go to a doctor and that she sent his mother several communications indicating that Brad had a serious mental illness and that "she was concerned about it and wanted out of the relationship because of it." (R. p. 161, line 13-p. 162, line 3). Dena testified that it was Brad's family's opinion that it was her responsibility to get some help for her husband but that, in her opinion, it was Brad's family's problem to deal with. (R. p. 167). Dena testified, "I didn't believe it was their responsibility necessarily. They were asking that I go and have him committed. They said that I was the only one that could do that and I didn't not want to do that." (R. p. 167).

Dena agreed that as the result of the emails going back and forth, an effort to get some help for Brad was finally made. She testified that his sister had come down in 2005 to talk to Brad. Dena recalled that, during his conversation with his sister, Lisa, Brad had placed a paper over the smoke detector in their home in order to prevent the FBI from hearing his conversation with his sister but that they eventually went outside where they couldn't be overheard. (R. p. 166). Dena further testified that Brad's sister actually took him to Waccamaw Mental Health first, and that he was then sent for inpatient treatment at Lighthouse. (R. p. 167). Dena testified that his sister, Lisa, took Brad but that she herself was at work and was not involved. (R. p. 168). Dena testified that Brad was again admitted to Lighthouse in February, but that this time, he had had himself admitted. (R. p. 168).

Dena testified that after the CDV incident in 2005, Brad went home to his family in North Carolina and that, during that time, he was receiving treatment at Duke University.

(R. p. 169). She testified that, because of the CDV, she was not supposed to be around Brad, but that eventually, after about two weeks, she and Brad moved back in together and cohabitated as husband and wife. (R. p. 169). Dena recalled that, thereafter, she and Brad started seeing some counselors, including Cathy Battle. (R. p. 170). However, Dena testified that she only met with Cathy Battle once because she "didn't like her method of counseling." (R. p. 171). Dena agreed that she and Brad went to see Suzanne Smith twice between April and August of 2005. She testified that she began seeing Stacy Krutzmeier along with Brad for marriage counseling. (R. p. 173). Dena agreed that she contacted the probate court about having Brad committed after the CDV incident in 2005. (R. p. 173). However, she testified that she was given suggestions of different directions to take and that he was not committed. Dena testified that she and Brad separated in May of 2006, when she found out that he had gotten another gun. Dena testified that she decided that she would leave; she contacted an attorney and she called Brad's mother. (R. p. 174).

Dena testified that Brad's family was concerned about his welfare - - asking if he had food, but that she told them that she had given him money and that they were trying to do a property settlement. (R. p. 174). Dena recalled that, at that time, Brad was not working, but that she had moved up from her job as a guidance counselor to the role of assistant principal. She testified that she was gone to work all day but that she had no idea what her husband was doing. Dena agreed that Brad had last worked in 2005, but that he stayed at home alone while she was at work. (R. p. 175). Dena recalled that there were several phone calls leading up to the date of the incident on November 13, 2006. Dena recalled that although they were separated, things were amicable.

When asked if Brad was not angry about her leaving, Dena answered, "Angry I guess no, no." (R. p. 175). She testified that they were talking on the phone, sometimes two and three calls a day. Dena agreed that on other occasions after her separation in June but prior to the incident in November, she had been back to the house with Brad alone and that there were no problems. (R. p. 176). Dena testified that, on the day of the incident, when she spoke with Brad, he was not mad at her in any way, but he "just said, 'Are you still coming over?'" (R. p. 177, lines 1-2). She recalled that it was only some five minutes from the time of that call until the time she arrived at the house and Brad came to the door. (R. p. 177, lines 13-25). Dena testified that she asked Brad for the settlement papers; however, she testified that Brad said that he wanted her to cut his hair, as they had discussed the night before on the phone. (R. p. 176). Dena testified that she cut Brad's hair in the master bedroom and then, they both came out to the living area. Dena testified that she went to the front door and Brad went to the garage. She testified that she had told Brad that she needed to go and that he was gone a minute or two. Dena testified that when he came back, Brad had "some kind of like manila folder or something" and he indicated that he "needs some changes." (R. p. 181). She testified that Brad went back out to the garage and then came back again with that same folder. She testified that he said that he didn't know where the changes were and that he didn't have them. Dena recalled that she told Brad that she had to get to work and that he would just have to find the changes and get them to her later. (R. p. 181). She testified that Brad replied, "I know where they are. Give me just a minute," as he went back into the bedroom. (R. p. 182, lines 4-8). Dena agreed that when Brad came back, some 30 seconds later there had been no hostility or angry words. However, she agreed, "He just goes into the bedroom, he's gone for a minute, he comes back with a gun, he points

it at you and pulls the trigger." (R. p. 183). Dena testified that she "turned to leave" but that Brad did not fire again. (R. p. 183). She testified that she went to the next-door-neighbor's house but there was no answer at the door. (R. p. 184).

Dena testified that she went out to the street, but that Brad grabbed her and dragged her out of the street and back to the front of the neighbor's house. (R. p. 186). She recalled his saying, "You're not going to stay out here where someone will find you." (R. p. 187, lines 4-7). Dena testified that she set off the car alarm; "He took the keys from me and tried to turn the alarm off and was not able to and he left to go back over to the house." (R. p. 189, lines 18-23). She testified that Brad eventually turned off the car alarm and came back to her. Dena recalled that Brad lifted her shoulder back to see where she was shot and that he "kind of patted around the wound area" without saying anything. (R. p. 191). Dena testified that Brad then went back to their house without saying anything. She testified that she went to the golf course where she found Mr. Eldock cutting the grass on the golf course.

Notably, in her entire account of her harrowing ordeal, as frightening as it is, Dena Senter did not testify to a single aspect of appellant's behavior which was inconsistent with his having been acting under the delusion from which he suffered. There was nothing in her description which casts doubt on the doctor's expert opinions that appellant was laboring under the same delusion that had destroyed his life over the preceding several years and which left him unable to distinguish moral and legal right from wrong. Appellant irrationally and honestly but completely incorrectly and delusionally believed he was acting in defense against some sort of evil FBI conspiracy in which his wife was plotting against him with the FBI. Not surprisingly, since this paranoid delusional man was armed, the situation was dangerous and nightmarish for the suspected agent of the government.

However, the judge erred in refusing to grant the defense motions for a directed verdict and for a new trial given the overwhelming evidence that, as the expert witnesses adamantly maintained, appellant was unable to distinguish between right and wrong so that he was insane and not criminally responsible for admittedly shooting his wife.

The prosecution's theory that Brad's asking Dena to meet him at the house was evidence that he had planned to shoot her and intended to get away with it is not borne out by the events described. Dena Senter apparently thought it was completely normal for Brad to want her to trim his hair - - that was a normal thing for this married couple. Dena went to the house, where she trimmed Brad's hair, as normal - - the only surprise was that he then calmly stepped out and fired a single gun shot into her chest. Dena testified that Brad's manners were "methodical." (R. p. 149).

Dena Senter's testimony was wholly consistent with the doctor's expert testimony and the testimony of the defense witnesses indicating that appellant was delusional at the time of the shooting incident. For example, once Dena had found the maintenance worker, Mr. Estock, standing on the golf cart path, next to his running tractor, she told him to call 911 because her husband, Brad Senter, had shot her. Dena testified that she thought she was going to die and she wanted everyone do know who had shot her. However, she still had hope and she continued to try to protect herself from her husband's mania. Dena testified that *she* had gotten down in a fetal position on the cart path, and that she attempted to get behind the tractor so that appellant wouldn't see her if he came to investigate the noise of the tractor. However, notably, Dena did not warn Mr. Estock to hide or take cover. Dena was talking to Mr. Estock as he was calling 911. However, notably, Dena did not tell Mr. Estock that he should get down because her husband was armed so that Mr. Estock was in danger of

being shot. The reason for this otherwise inexplicably inconsiderate behavior is that Dena knew full well that she had no need to warn Mr. Estock because appellant did not know Mr. Estock and appellant did not believe that Mr. Estock was a dangerous government spy. Therefore, Dena correctly calculated that Mr. Estock was in no danger from the lunatic who posed such a danger to her that she was curled up in a fetal position, hiding behind a tractor with a bleeding chest wound. (R. p. 142, lines 6-16).

When appellant did arrive on the scene at the golf course, he took no violent action toward Mr. Estock. In fact, appellant told him to hang up the phone and he warned Mr. Estock to "Back away" from the danger - - Dena Senter.(R. p. 142). The prosecution's theory, i.e., that Brad intentionally, and in his right mind, wanted to kill Dena because of their marital break-up is wholly unsupported by Dena's account of the incident. For instance, once Mr. Estock had left the area, Dena was alone with Brad. She testified:

> Yes, he stood over me for what seemed like forever talking at me, I guess is what I would call it. I just continued to look down at the ground and would not look up at him. I felt like if I make eye contact with him, you know, he - - he'll shoot me again. I felt like that was what was going to happen anyway and I was going - - I was just going to continue to look down.

(R. p. 143, lines 17-23). Dena testified that the man who had just shot her stood over her, berating her about Christianity, threatening to shoot himself and to shoot her, but that he then "just walked off" from her. She testified that she guesses that, at that time, the police had arrived. (R. p. 144). Dena testified that the single bullet was surgically removed on December 1, 2006. She testified that she has lost some lung capacity and that she is easily winded, but she's alive because, despite the prosecution's unsupported theory, appellant had no conscious intention of killing his wife. (R. p. 148, lines 12-16). When Officer Ellison

arrived and ordered Brad to get on the ground, he complied with the officer's orders without putting up any fight. (R. p. 206; 213). Officer Caulder identified the 40 caliber spent shell casing collected from appellant. (R. p. 249).

Officer Caulder further identified the folder and papers which were disvovered on the kitchen table. He indicated that the first two pages of Brad's papers were addressed to his mother, reading:

> Ruth, the time has come for you to answer me but before you do I want to say your tip here had all the false intentions and cover up. Your actions, statements and responses to me validate this much. You need to understand that this is quite apparent that your efforts to render me needing medication, therapy are futile and self-serving. If you want to help as you proclaim then you need to ask me what I want you to do. Your actions are not in my best interest. You are being manipulated into doing what's best for the corrupt FBI. This is about what them first, you and my family second and me third. I am the gravy train" - - dollar sign - - " for all of you. The time has come for you to tell me as my mother are you going to tell the truth or not. My freedom depends on you. If you remain in your present status then you have signed my death warrant.
>
> You are being paid to murder your son and you know it. The evil Satan, the evil Satan one has put you in harm's way. They were willing to risk your life and you failed to recognize that. That's what you were afraid of - - that's why you were afraid of me. The same fraud that you've taken part in is the same fraud that manufactured evidence against me. They stole my DNA for fraudulent use and they have fraud me because I fought back against them. I can prove that this war began in 1971. I only need one person to crack open the decades old war and expose the real FBI. I am banking that one of about 12 people will tell the truth on the stand. That doesn't even include you. Trust me, using the family as a cover to pinpoint my flaws or motivation will not work.
>
> You need to know this. All of your evidence involves circumstances created by them, endless fraud designed to destroy me. Lastly, tell Lisa to contact these

> people and tell her to confirm what she directed and took sole guidance. I will be in touch, Brad.

(R. p. 270, lin25-p. 272, line 6). Officer Caulder further identified a photo of a shirt found on the back seat of Brad's Nissan Altima that says, "FBI, Federal Bureau of Corruption. (R. p. 278).

At the close of the State's case, the defense moved for a directed verdict as to both CDVHAN and assault and battery with intent to kill (ABIK). The judge ruled that those matters will indeed be considered at the conclusion of the trial. (R. p. 307).

The defense first presented the testimony of Brad's sister, Lisa Cleary. She testified that she lives in North Carolina along with Brad's other two brothers and sisters. Lisa testified that in early 2005, she received a disturbing phone call from their mother. She testified that she called her brother Brad. Lisa testified that she asked him how he was and he was crying. Lisa testified that she had never heard her older brother cry and "he was really crying." Lisa testified that when she asked him if he needed her, Brad said yes. Therefore, the next day, she got in the car, talked to her family, and she drove to South Carolina to check on her brother. (R. pp. 316-317). Lisa testified that when she arrived Brad opened the door, gave her a hug, and "then he took off running." She testified that he took straight off for the kitchen where he got a piece of paper and a piece of tape and "he ran away from there, went straight to the smoke alarm and taped it and he looked at me and he said, 'Don't say anything. They can hear us.'" (R. p. 317). Lisa testified that she was scared to death and that she "couldn't believe that her own brother just said that to me." (R. p. 317). She testified that she agreed to go outside where they could talk privately, but that Brad was talking a hundred miles an hour. She testified, "He explained to me about patterns,

everything happens in patterns. He was upset that there was three cigarettes in the front of his driveway, three cigarette butts, and he said, 'Look, there are three,' and he said, 'And then I go o the back of the golf course and there's three golf balls.' He said, 'Threes, everything happens in threes.'" (R. p. 318).

Lisa testified that Brad wasn't making sense. She testified that he told her all about the FBI. She testified, "He told me the FBI was corrupt and it has - - had orchestrated his whole life and that they were the reason for his failures, the reason he didn't have jobs and, oh, he asked, he said the FBI has even, even prevented me from talking to him on the email." (R. p. 319, lines 1-11). Brad's sister told him that she, not the FBI, had blocked him from her email because he had written her a strange letter indicating that she was a bad parent. However, Brad refused to believe her. Lisa testified, "He really believed that another organization or an agency had, had done this, had had, blocked him." (R. p. 320). Brad wanted to tell her everything that the FBI had done to him since 1970; Lisa agreed to listen if he would go to see a doctor with her in order to "rule out the FBI.' (R. p. 320). Lisa testified that she and Dena did not talk about Brad's condition at all. She explained that they could not discuss it in front of Brad and that they could not speak alone because if they spoke alone, Brad would assume that they were in a conspiracy. (R. p. 321). Lisa testified that, when the three of them went out for dinner, she was able to speak to Dena at the salad bar. She testified that she told Dena, "He's got to go to a doctor," and that Dena seemed to agree. (R. p. 321).

Lisa testified that when she took Brad to Waccamaw Health Center, while they were waiting to be seen, there was another patient who Brad informed her was with the FBI. (R. p. 323). Lisa testified that there was some concern because Brad had indicated that he had

some suspicion that her daughter was with the FBI. (R. p. 336). She testified that her children were instructed not to answer the door, even if it was their Uncle Brad, unless their police officer father was at home. (R. p. 336). She testified that in March 2005, she received a call from Dena asking to speak to Lisa's husband who is a police officer. Lisa testified that Dena was crying and that she reported the CDV incident when Brad had the gun in the car. (R. p. 338). Lisa testified that her husband instructed Brad to turn himself in and that he did so. She testified that his family took Brad back to North Carolina. (R. p. 339). Lisa testified that Brad's behavior was so odd and unexpected that his family began to think he might have a brain tumor. (R. p. 339). She further testified that she eventually had her brother being treated at Duke, but that he was eventually released against the wishes of her family. (R. p. 341-342). She testified that Brad checked himself in for mental health care several times, but that he was always released. (R. p. 342).

Lisa testified that from March or April of 2005 until June of 2006, Brad and Dena were together. (R. p. 343; 345). However, Lisa was unaware of any further treatment or hospitalization Brad received in South Carolina. She testified that there was very little contact with her brother because he would not answer her calls. Lisa testified that she believes that Brad thought that she was against him and that she had become his enemy because she continued to have him hospitalized. (R. p. 346). Lisa testified that she had given the letters she received from Brad to his doctors. She testified that she made copies of Brad's briefcase-full of documents devoted to the corruption of the FBI and that she gave the copies to his doctors. (R. p. 347).

Dr. Marla Domino testified on behalf of the defense. She indicated that she is employed by the State of South Carolina in her position as a psychologist with the

Department of Mental Health. Dr. Domino testified that she has performed some 400 forensic evaluations. She testified that she was ordered by the Court to evaluate appellant's competence. Dr. Domino testified that she evaluated appellant and determined that he has a mental illness, a delusional disorder, and that his mental illness was definitely impeding his ability to work with this attorney. Dr. Domino found appellant not competent to stand trial. (R. p. 357). She testified that, therefore, appellant was admitted for treatment, where he stayed for sixty days. Dr. Domino explained that appellant's delusional disorder manifested in his having a false, but fixed, belief. She testified, "So, it's something that people believe that is fixed. You can't convince them otherwise, and it's also false, and Mr. Senter had a very detailed delusion about that the FBI was out of get him, they were trying to destroy his life, and that this had occurred over a period of time, and at that time he also believed that the accusation that he had shot his wife was actually fabricated by the FBI, that it didn't happen. . . . "(R. 359).

Dr. Domino further testified that she was ordered to evaluate appellant for criminal responsibility for his conduct on November 13, 2006. She testified that she determined in her expert opinion that "because of his delusional disorder that he did not know right from wrong at the time of the incident." (R. p. 363, lines, 22-25). Dr. Domino testified that she had spoken with Dena about Brad's delusions and that she had taken Dena's statements into account in reaching her decision that Brad Senter was not criminally responsible for the shooting on November 13, 2006. (Tr. p. 354). Dr. Domino testified that the records showed that when he first went to Waccamaw Mental Health he was correctly diagnosed with delusional disorder and that that diagnosis was confirmed by the various hospitals and clinics where he was treated. (R. p. 378). Dr. Domino testified that this case is only the

second time in her career where she had opined that someone was insane at the time of the crime. (R. p. 379).

Professional counselor, Cathy Battle, agreed with the diagnosis of appellant's condition, indicating that he was suspicious and had irrational fears and saw hidden meanings. She testified that he mentioned the FBI and feeling like there was a connection with the FBI in different situations.. (R. p. 381; 384, lines 7-11).

Dr. Rikki Halavonich is board certified in and the director of the forensic psychiatry department at M.U.S.C. (R. p. 491). Dr. Halavonich testified that she conducted an evaluation of appellant at the request of the defense. Dr. Halavonich diagnosed appellant with delusional disorder, persecutory type. He testified, "[I]t was also my opinion that his mental illness affected his thinking on that day as well as for at least a couple of years prior to that to the point that he did not appreciate moral and/or legal right from moral and/or legal wrong." (R. p. 420). Dr. Halavonich testified that in his expert opinion to a reasonable degree of psychiatric certainty, appellant was not criminally responsible for the incident on November 13, 2006. (R. p. 420). Dr. Halavonich testified that in his entire career, he had opined that only one other patient was not criminally responsible. (R. p. 424). Dr. Halavonich testified that there was no evidence to suggest malingering. He testified that appellant's condition was consistently confirmed by the records and documentation in the case. (R. p. 435).

At the close of the defense case, defense counsel renewed his motion for a directed verdict on both charges. In addition, counsel renewed his motion to require the State to elect between the charges. In addition, counsel asked the Court to find as a matter of law that the evidence had proven by a preponderance and, actually, beyond any reasonable doubt that

appellant was, in fact, insane under McNaughten and that he did not know legal right from legal wrong at the time of the offense and that that is undisputed in the record of this case.

In reply, the State presented no expert testimony. The State argued that it had presented "ample evidence where the jury could construe that the Defendant did know right from wrong and - - or the mental illness was not the root cause of this criminal act and under State v. Milian-Hernandex, any evidence of sanity is sufficient to present to the jury when the Defendant relies on the affirmative defense of insanity." (R. p. 438). The judge indicated that he understood counsel's motion to be one for a directed verdict of not guilty by reason of insanity. (R. p. 439). Defense counsel argued that the evidence had established beyond a reasonable doubt, and certainly by a preponderance of the evidence, that appellant was insane, i.e., that he did not know legal right from legal wrong and there is nothing to the contrary in the record other than that, that that was the case on November 13th." (R. p. 440). (R. p. 439, line 20-p. 440, line 17). Counsel reiterated that he understood that his request for a finding of not guilty by reason of insanity would mean that he could not be found not guilty by the jury. (R. p. 440). Counsel explained, "We are simply saying is that he at the time of this incident that he was laboring under a mental illness which kept him from understanding legal right from legal wrong or moral right from moral wrong and that that has been proven beyond a reasonable doubt without question I think in the trial of this case, which was our defense, which is what we put up and I think based on that if the Court finds that we have proven that then we would be entitled to a verdict of not guilty by reason of insanity." (R. p. 441, lines, 4-12). Counsel stressed that the State had presented no evidence to counter the defense evidence establishing that appellant was not criminally responsible, i.e., insane at the time of the shooting. (R. p. 442). The prosecutor indicated that he had

sought but that he did not have a psychiatric or psychological expert to testify on behalf of the state. (R. p. 444).

The State presented evidence in rebuttal in the form of Dena's testimony identifying a check she had written to appellant and the testimony of neighbor, Susan Vonspreckelsen. Mrs. Vonspreckelsen testified that on the date of the shooting, she answered the doorbell to appellant. She testified that appellant asked her if his wife was in her house. When she told him that Dena was not there, appellant indicated, "Well, her shoes are on your front porch here." Mrs. Vonspreckelsen indicated that she saw the shoes but told appellant that his wife was not inside her house. She testified that appellant asked her if he could come inside to look for himself and that she called her husband. Appellant asked her husband if Dena was inside the house. However, when Mr. Vonspreckelsen told him that Dena was not there, appellant "just kind of walked into like the living room and looked into the kitchen there and around the corner into the bedroom just to see that Dena wasn't there and we kind of speculated, 'Well, where could she be,' and we decided maybe she went next door. So he just left and that was it. (R. p. 453). Mrs. Vonspreckelsen testified that appellant seemed to be his normal self, but she agreed that it was not normal for him to demand that he be allowed to search her home for his wife. (R. p. 456).

Mr. Joseph Estock, the golf course mower testified on reply, "When [appellant] got to the point where he could see behind the tractor that's when he told me to, 'Hang up the phone now, turn around, and start walking. You don't know what she did to me." (R. p. 460). Mr. Estock testified that he hung up the phone and walked away. He testified that appellant had a serious look on his face but he "wasn't really agitated." (R. p. 460).

The defense renewed the motions for directed verdict of acquittal by reason of insanity. (R. pp. 470-475). However, the trial judge erred in denying the motion. (R. p. 477). Upon the jury's returning verdicts of guilty of both charges, defense counsel moved for a new trial or a judgment of acquittal. Counsel argued that the verdict was clearly not supported by the evidence. Counsel pointed out that there was no evidence submitted by the State to counter the overwhelming evidence of appellant's insanity at the time of the shooting. (R. p. 541). The judge denied the defense motions, indicating, "well I think the conclusion that the solicitor has made in his argument he surmised that from the facts of the incident itself, and of course, what do you think about the jury taking those same facts and surmising the same - - making the same conclusions?" (R. p. 543). Counsel responded, indicating that such conclusions would not negate the overwhelmingly proven fact that appellant had a mental illness and that there was no testimony challenging the evidence which established that appellant was insane and not criminally responsible at the time of the shooting. Counsel indicated that there was no evidence presented to support a conclusion that the shooting was not prompted by appellant's mental illness. Counsel rightly indicated that there was no evidence in the record which supported the jury's verdict. (R. p. 545). The trial judge indicated that he would accept memoranda and entertain argument concerning the granting of a new trial on June 20.

At the hearing on June 20, 2008, Judge Nettles again denied the defense motions for a new trial and for a verdict of acquittal. The judge noted what he described as a "vast array of medical evidence presented at trial that was reviewed by the experts. He further noted that the testimony of the State's witnesses had conceded that appellant was mentally ill and both psychiatrists, including the State's appointed expert had opined that he was insane and

not criminally responsible at the time of the shooting. However, the judge found that the jury was entitled to disregard the expert testimony and that he was not authorized to substitute his judgment for that of the jury. The judge indicated that it would not necessarily be his finding had he been the fact-finder, but that he believed that the jury could have concluded from the evidence that appellant lured the victim to the house in order to shoot her. The judge further indicated that the jury could have believed that appellant secreted the crime by removing the victim from the street and from retrieving her shoes from the neighbor's porch. The judge noted that there was evidence that he picked up the cartridge which the jury could have believed indicated that he was aware of the wrongness of his action. With absolutely no evidence to support that particularly meritless prosecution theory, the judge erroneously found that a reasonable jury could have found that the divorce was the catalyst for appellant's maniacal violence. Where the evidence was undisputed that the divorce was the result of appellant's mania, the trial judge's reasoning is wholly unsupported by the evidence.

Counsel for appellant had once again pointed out that, because the appellant had produced substantial evidence that he was laboring under a mental illness and/or was insane during the commission of the offense, the State had lost the presumption of sanity and the burden of proof was on the prosecution to prove that appellant was sane and, therefore, criminally responsible at the time of the shooting. Therefore, counsel argued that, because the State had failed to meet its burden of proof, a verdict of not guilty by reason of insanity was required. Counsel pointed out that the State had presented no evidence to contradict the overwhelming evidence of insanity presented by the defense. Therefore, counsel again requested that the judge grant the defense motion for a verdict of acquittal or a new trial in

response to the State's abjectly failing to present any substantial evidence of sanity. (R. 6-20-2008, pp. 3-11). The State incorrectly argued that there was evidence to sustain the verdict and competent evidence which rebutted the defense of insanity. (R. 6-20-2008, p. 11). The prosecutor argued that any evidence of sanity was sufficient to present a jury issue. However, the State in this case failed to submit any substantial evidence of sanity.

The judge reviewed the evidence which he apparently believed a reasonable juror could have found meant that appellant was mentally ill, as the State had conceded, but that he was nevertheless able to understand right and wrong and to conform his behavior, so that he was guilty but mentally ill. However, this jury did not find that appellant was guilty but mentally ill, by their verdict, they found that appellant was not mentally ill. There was no evidentiary support for such a verdict. The jury's verdict was unsupported by any substantial evidence of sanity.

A case should be submitted to the jury only if there is any direct evidence or any substantial circumstantial evidence that reasonably tends to prove the guilt of the accused or from which guilt may be fairly and logically deduced. State v. Dantonio, 376 S.C. 594, 603, 658 S.E.2d 337, 342 (Ct.App.,2008). A directed verdict motion should be granted when the evidence presented merely raises a suspicion of guilt. State v. Frazier, 375 S.C. 575, 583, 654 S.E.2d 280, 284 (S.C.,2007). "Suspicion" implies a belief or opinion as to guilt based upon facts or circumstances which do not amount to proof. State v. Lollis, 343 S.C. 580, 541 S.E.2d 254 (2001); State v. Cherry, 361 S.C. 588, 594, 606 S.E.2d 475, 478 (S.C.,2004). The trial court should grant directed verdict motion where jury would be speculating as to guilt of accused. State v. Buckmon, 347 S.C. 316, 555 S.E.2d 402 (2001). Here, the jury was allowed to speculate as to sanity.

If the contention of insanity is suggested and even though a defendant presents expert testimony, the State is not required to also produce expert testimony; lay testimony may be sufficient. State v. Smith 298 S.C. 205, 208, 379 S.E.2d 287, 288 (1989). However, the State must nevertheless meet its burden through substantial evidence sufficient to reasonably rebut the presumption of insanity. In State v. Pittman, 373 S.C. 527, 548, 647 S.E.2d 144, 154 (S.C.,2007), the Court held, "Given that the State's case in chief contained such voluminous testimony about Appellant's demeanor and behavior, the trial judge correctly made the finding that there was enough evidence to rebut the presumption of incapacity and send the case to the jury." The State must carry its burden; due process does not permit the State to secure a conviction not by submitting evidence of sanity but by simply relying on the jury's understandable reluctance to find an accused person not guilty by reason of insanity and to therefore simultaneously release upon the community an insane person who is prone to violence in order to secure a conviction.

In State v. Milian-Hernandez, 287 S.C. 183, 184, 336 S.E.2d 476, 476 (1985), the appellant was convicted of two counts of assault and battery with intent to kill. He appealed on the grounds that he proved insanity by a preponderance of the evidence. The Supreme Court agreed and reversed the conviction upon finding that the trial judge erred in refusing to direct a verdict of not guilty by reason of insanity. The Court found that appellant met his burden of proving insanity by a preponderance of the evidence.

The State argued that it had presented evidence of sanity, including evidence of flight. The Court rejected this argument, finding, that while evidence of flight *could* support an inference of sanity, "the circumstances of the case were such as to negate that

permissible inference." Likewise, here, even assuming for the sake of argument that the scant evidence the State pointed to as evidence of sanity were such that it *could* support an inference of sanity, the circumstances of this case were such as to negate any such inference. The trial judge erred in refusing to hold the State to its burden of proving sanity and he erred in refusing to order a verdict of not guilty by reason of insanity and a new trial where the evidence of appellant's insanity was undisputed by any substantial evidence.

Therefore, the trial judge erred in refusing the defense motions for a directed verdict and for a new trial.

II. The trial judge erred and deprived appellant of due process of law in refusing to permit appellant to waive his right to a jury trial and to proceed with a bench trial where such was necessary for appellant to receive a fair trial and a just verdict.

This was a case where appellant's right to due process and a fair trial depended upon the trier of fact's being able to grasp and understand difficult concepts of psychiatry and law. Therefore, because the facts were largely undisputed and what was required was a legal ruling, appellant waived his right to a jury trial and requested a bench trial. Counsel for appellant moved pre-trial for a bench trial. Counsel indicated that appellant was waiving his right to a jury trial and requesting a bench trial. The judge asked and counsel agreed that his motion was made in relation to appellant's insanity defense. (R. p. 93).

The State, aware of the expert opinion of its own doctor, now defense witness, as to appellant's insanity at the time of the shooting, opposed the request for a bench trial. Given the overwhelming, if not wholly undisputed evidence that appellant was insane and not criminally responsible at the time of the shooting, the prosecution's only hope for a conviction was to convince an uninformed jury to ignore the evidence and the law. It is

apparent from the verdicts that the expert testimony and psychiatric theory were too difficult for a lay jury to deal with fairly; therefore, the trial judge erred in denying appellant's request for a bench trial. The judge's erroneous ruling violated appellant's right to due process and to present a defense.

The trial judge's erroneous ruling served to interfere with appellant's right to the effective presentation of a defense as guaranteed by the Constitution. The Sixth Amendment rights to notice, confrontation, and compulsory process guarantee that a criminal charge may be answered through the calling and interrogation of favorable witnesses, the cross-examination of adverse witnesses, and the orderly introduction of evidence. See State v. Mizzell, 349 S.C. 326, 563 S.E.2d 315 (2002); State v. Graham, 314 S.C. 383, 444 S.E.2d 525 (1994); State v. Schmidt, 288 S.C. 301, 342 S.E.2d 401 (1986); see also Pointer v. Texas, 380 U.S. 400, 85 S.Ct. 1065, 13 L.Ed.2d 923 (1965) (holding the Sixth Amendment applicable to the states through the Fourteenth Amendment). The Sixth Amendment "essentially constitutionalizes" the right to present a defense in an adversary criminal trial. Schmidt, 288 S.C. at 303, 342 S.E.2d at 402; State v. Gillian, 360 S.C. 433, 449-450, 602 S.E.2d 62, 71 (Ct.App.,2004); State v. Frazier, 357 S.C. 161, 167, 592 S.E.2d 621, 624 (S.C.,2004).

The evidence that appellant was insane at the time of the shooting was not just overwhelming - - it was unopposed. In fact, the defense had done such a good job at proving to the jury that appellant was a madman that the trial judge himself indicated that he was quite concerned that the jury could believe that the defense was nevertheless asking for them to send this insane defendant home through the requested verdict of not guilty by reason of insanity. However, the judge indicated, "And I agree that that is a very real

concern, but I think the law is clear that I can't tell them what the ramifications are." (R. p. 480). Thus, the trial judge himself saw and commented on the very real probability that his jury could not return a fair verdict because of their ignorance of the psychiatry and the law, yet he refused to allow appellant to waive the jury trial which could not result fairly. Although the United States Court of Appeals has held that it is not necessarily a violation of a defendant's rights to require that he proceed to trial by jury, the Court has noted that such a ruling may, in the extraordinary case, deprive a defendant of his right to fairness. This was just such an exceptional case; the judge's ruling was an error of law where appellant has the personal right to invoke or waive his constitutional right to a jury trial.

In addition, the judge's ruling deprived appellant his constitutionally guaranteed right to present a defense. Included within that right must be the right to present a defense which can be comprehended, understood, and fairly considered. However, in this case, due to the judge's refusal of his motion for a bench trial, appellant was forced to undergo trial by jury where the judge himself stated that there was a real concern that the jury would not understand the testimony or the law.

The reasons why this was an exceptional case were clear on the record; the judge himself indicated that this case was the first he had ever heard of where the court-appointed psychiatrist had made the determination of insanity but the matter was nevertheless submitted to a jury for decision. The judge indicated, "Quite typically, in my experience in - - in the judicial system, would be that when that is - - when that finding is made the individual is turned over to a mental institution and he's kept there indefinitely until he gets better. And some - - some might conclude that might be the best solution in this instance, but the State didn't make that - - that particular determination." (R. p. 23, lines 4-9).

As defense counsel argued, regardless of the State's refusal to consent, he was entitled to waive his right to a jury trial in an effort to reach a forum where he could effectively present a defense. Therefore, the trial judge erred in denying the defense motion to waive a jury trial and to proceed with a bench trial. To the extent that the judge ruled that such a proceeding is not permitted by Rule 14, SCRCrimP, the trial judge erred in failing to grant the defense request that he find that rule unconstitutional where, in this particular case, that decision interfered with the defendant's exercise of his constitutional rights, his right to due process and fundamental fairness, and his right to present a defense. (R. p. 95).

CONCLUSION

Appellant's conviction and sentence should be reversed. For the reasons argued in Issue I, a directed verdict of acquittal should be ordered, or, at minimum, a new trial ordered. For the reasons argued in Issue II, a new trial should be ordered.

Respectfully submitted,

By: _____

M. Celia Robinson
Appellate Defender

ATTORNEY FOR APPELLANT.

This 30th day of July 2010.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

July 30, 2010

By: _____

M. Celia Robinson
Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina 29211-1589

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Horry County

Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRADLEY SCOTT SENTER,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon Christina Catoe, Esquire, at Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, South Carolina 29201, this 30th day of July, 2010.

By: _____

M. Celia Robinson
Appellate Defender

ATTORNEY FOR APPELLANT.

SUBSCRIBED AND SWORN TO before me
this 30th day of July, 2010.

_____ (L.S.)
Notary Public for South Carolina
My Commission Expires: August 23, 2014.

STATE OF SOUTH CAROLINA

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Appeal from Horry County
The Honorable Michael G. Nettles, Circuit Court Judge

THE STATE OF SOUTH CAROLINA,

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FINAL BRIEF OF RESPONDENT

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

CHRISTINA J. CATOE
Assistant Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737

J. GREGORY HEMBREE
Solicitor, Fifteenth Judicial Circuit

Post Office Box 1276
Conway, SC 29528
843-915-5460

ATTORNEYS FOR RESPONDENT

TABLE OF CONTENTS

TABLE OF CONTENTS 1

TABLE OF AUTHORITIES 2

STATEMENT OF ISSUES ON APPEAL..... 3

STATEMENT OF THE CASE 4

ARGUMENT 5

Issue I 13

Issue II 15

CONCLUSION 19

AUTHORITIES CITED

Federal Cases:

Singer v. United States, 380 U.S. 24 (1965) 17

U.S. v. Jackson, 390 U.S. 570 (1968) 17

State Cases:

Black v. Hodge, 306 S.C. 196, 410 S.E.2d 595 (Ct. App. 1991) 14

State v. Brown, 205 S.C. 514, 32 S.E.2d 825, 828 (1945) 14

State v. Burgin, 255 S.C. 237, 178 S.E.2d 325 (1970) 17

State v. Dunbar, 356 S.C. 138, 587 S.E.2d 691 (2003) 16

State v. Hornsby, 326 S.C. 121, 484 S.E.2d 869 (1997) 18

State v. Law, 270 S.C. 664, 244 S.E.2d 302 (1978) 12, 13

State v. Lewis, 328 S.C. 273, 494 S.E.2d 115 (1997) 10, 11, 14

State v. Milian-Hernandez, 287 S.C. 183, 336 S.E.2d 476 (1985) 11, 12, 15

State v. Mitchell, 261 S.C. 452, 200 S.E.2d 448 (1973) 12-13

State v. Poindexter, 314 S.C. 490, 431 S.E.2d 254 (1993) 11, 18

State v. Rimert, 315 S.C. 527, 446 S.E.2d 400 (1994) 12, 18

State v. Smith, 298 S.C. 205, 379 S.E.2d 287 (1989) 10, 11

State v. Wilson, 306 S.C. 498, 413 S.E.2d 19 (1992) 10

Statutes and Rules:

Rule 14, SCRCrimP 17

STATEMENT OF ISSUES ON APPEAL

I. **The trial judge properly denied Appellant's motion for a directed verdict of not guilty by reason of insanity, where the State presented substantial evidence that Appellant knew right from wrong at the time he committed the crime.**

II. **The trial judge properly denied Appellant's motion to waive his right to a jury trial, where Appellant had no right to a bench trial, and where Appellant received his constitutional right to a fair and impartial trial by a jury of his peers.**

STATEMENT OF THE CASE

Appellant was indicted in Horry County for assault and battery with intent to kill (ABWIK) and criminal domestic violence of a high and aggravated nature (CDVHAN) (R. p. 708-11). A Blair hearing was held before the Honorable Michael G. Nettles on June 3, 2008, pursuant to which Appellant was found competent to stand trial. (R. p. 98-100). Judge Nettles denied Appellant's motion to waive his right to a jury trial, and Appellant was thereafter tried by a jury. (R. p. 93-97). The jury rejected Appellant's insanity defense, and, on June 5, 2008, found Appellant guilty of both offenses. (R. p. 540, lines 3-13). On June 20, 2008, Judge Nettles denied Appellant's post-trial motions. (See R. p. 549-72). On that same day, Judge Nettles sentenced Appellant to ten years for each offense, with the sentences to run consecutively. (R. p. 572-83). A Notice of Appeal was timely served and filed.

ARGUMENT

Background

Appellant and his wife ("Victim") were together for fourteen years, and were married for thirteen years. (R. p. 116; p. 150). The Victim was the primary breadwinner in the marriage, as Appellant had difficulty maintaining a steady job. (R. p. 118; p. 153; p. 175). The Victim moved out of the marital home and sought a divorce in May of 2006. (R. p. 116). Appellant was unhappy about the divorce, and was initially hoping for a reconciliation. (R. p. 374, lines 1-14). Nevertheless, the Victim and Appellant eventually began preparing paperwork for a property settlement. (R. p. 116-21). During this time, the Victim sometimes loaned Appellant money against the anticipated property settlement. (R. p. 120; p. 445-46). On July 20, 2006, the Victim issued a check payable to Appellant in the amount of $18,500.00. (R. p. 446-48). On the back of the check, where the endorsement would normally be, Appellant wrote the following: "Will be paid regardless of any medical, arrest, or any other event." (R. p. 447, line 16 – p. 448, line 1). Appellant endorsed all of the checks he subsequently received from the Victim in a similar fashion. (R. p. 448, lines 4-8).

After several months of exchanging paperwork regarding the property settlement, Appellant called the Victim on November 10th or 11th, 2006, stating that he had signed and notarized the finalized paperwork, and that she needed to pick it up.[1] (R. p. 119-22). During conversations over that weekend, the Victim offered to meet Appellant at a public library and at a nearby sports bar, but Appellant declined both times. (R. p. 122-23). Finally, Appellant called the Victim on the evening of Sunday, November 12, and

[1] These divorce papers were later found by police in Appellant's house. They were not, in fact, signed and notarized. (R. p. 242, lines 8-19; see p. 509-510).

suggested that she come to his house to pick up the signed papers before work the next morning. (R. p. 123; p. 149; p. 178). The reason Appellant gave for meeting at the house was that he wanted her to help trim his hair. (R. p. 123). She agreed and told him she would be there shortly after 7:00 am the next day. (R. p. 124).

On the morning of November 13, 2006, Appellant once again called the Victim to be sure she was coming over. (R. p. 124, lines 18-25). After arriving at Appellant's house, the Victim first trimmed Appellant's hair in the master bedroom. (R. p. 125). She then advised Appellant that she needed to get the signed divorce papers and head to work. (R. p. 125, lines 19-22). Appellant indicated he would go retrieve the papers, and he headed out to the garage while the Victim waited in the living room. (R. p. 125-28). He returned a minute or two later, stating that he had some changes that he needed to get. (R. p. 128, lines 9-13). Appellant went back out to the garage again, then returned shortly with a manila folder containing some papers. (R. p. 128, lines 13-18; p. 181). He fumbled through the papers, stating that those were not the right papers. (R. p. 128, lines 15-18). After the Victim told him that she would just get the papers later, since she needed to leave for work, Appellant declared that he now remembered where the papers were, and asked her to wait another minute. (R. p. 128, lines 18-24). Appellant then returned to the same master bedroom where the Victim had just been trimming his hair. (R. p. 128, lines 23-24). When Appellant came back around the corner a minute later, he leveled a gun at the Victim and fired one shot into her chest. (R. p. 129, lines 15-19).

After the victim initially fell to the floor, her "fight or flight" instinct kicked in, and she got back up and ran for the door. (R. p. 129-30). She managed to escape out the front door and run a short distance over to the next-door neighbor's house. (R. p. 130; p.

138, lines 3-8). She frantically began ringing the doorbell and knocking but received no response. (R. p. 132, lines 2-8). She stumbled out into the front yard, hoping that someone would drive by and see her. (R. p. 132, lines 8-10). When she reached the curb, she collapsed onto the ground and felt Appellant coming up behind her. (R. p. 132-33). Appellant grabbed the Victim by the arms and dragged her to a secluded area in the yard, where she was hidden by a bush, and told her, "Oh, no. You're not going to be out here where somebody will find you." (R. p. 133, lines 1-15; p. 137, line 18 – p. 138, line 2). The Victim then remembered that her car keys were in her pocket, and she reached in and pressed the panic button on her remote. (R. p. 133, lines 16-18). This set off a beeping horn from the car alarm. (R. p. 133, lines 16-23). Appellant grabbed the keys from her, and, after trying in vain to shut off the alarm using the remote, he left the Victim there and went to the car to try to disable the alarm. (R. p. 133-34).

While Appellant was busy trying to quiet the alarm, the Victim got up and once again attempted to seek help from the next-door neighbor. (R. p. 134, lines 14-22). Her high-heeled shoes came off at some point as she pounded on the door. (R. p. 240-41; p. 452-55). After still receiving no answer, she heard her car alarm suddenly shut off. (R. p. 134-35). She hurried back to the spot where Appellant had dragged her and decided to play dead. (R. p. 135, lines 1-5). Appellant approached and lifted up her shoulder so that he could inspect the gunshot wound. (R. p. 135, lines 16-21). After patting around in the area of the wound, he let the Victim flop back to the ground, and he headed back toward the house. (R. p. 135, lines 19-25). He then washed his hands off, retrieved the spent shell casing from the living room, and went back outside. (R. p. 236, line 13 – p. 237, line 3; p. 222; p. 246-252; p. 301-303).

When he returned and discovered the Victim no longer on the ground where he left her, he went over to the neighbor's house to see if she was there. (R. p. 452-455). He saw the Victim's shoes on the porch and rang the doorbell to see if she was inside. (R. p. 452). The neighbor, who had previously been in the shower and then blow-drying her hair, answered the door and told Appellant that the Victim was not inside. (R. p. 452-54). Appellant asked if she would mind if he looked for himself. (R. p. 452-53). After satisfying himself that the Victim was not there, Appellant collected the Victim's shoes from the porch and headed back over to his house. (R. p. 454-55). He tossed the shoes inside the front entrance and headed out again to find the Victim. (R. p. 241; 142-44; p. 459-60).

Meanwhile, when Appellant first went inside to wash his hands and collect the shell casing, the Victim had somehow managed to get up once again. (R. p. 136). This time, she ran toward the sound of a tractor on the adjacent golf course. (R. p. 136-41). She approached the maintenance man on the tractor, Mr. Estock, and told him that her husband had shot her. (R. p. 141; p. 458). The victim then laid down on the ground in a fetal position behind the tractor, hoping Appellant could not see her, and Mr. Estock called 911. (R. p. 142). While he was on the phone with the 911 dispatcher, Appellant appeared on the golf course. (R. p. 142, lines 17-21; p. 459). When he got close enough to see the Victim hiding behind the tractor, he told Mr. Estock, "Hang up the phone now, turn around and start walking. You don't know what she did to me." (R. p. 142-43; p. 460, lines 2-5). Mr. Estock obeyed Appellant's orders because he believed Appellant was armed. (R. p. 143, lines 7-14; p. 460, lines 12-19). However, although Appellant

had a "serious" look on his face, he spoke in a calm voice and did not appear disturbed. (R. p. 460, lines 20-24).

After Mr. Estock left the Victim and Appellant alone, Appellant stood over the Victim and began venting his anger toward her. (R. p. 143-44). He mocked her religious beliefs and asked her, "Is this what your God would want?" (R. p. 143, line 23 – p. 144, line 2). The Victim believed that Appellant was referring to their separation and divorce. (R. p. 193, lines 13-14). Appellant then confessed that he had planned to shoot her and then shoot himself. (R. p. 144, lines 10-11). Appellant told her that they were "both going to die today." (R. p. 144, lines 9-12). However, police arrived on the scene at that point, with guns drawn, and interrupted him. (R. p. 144, lines 14-16; p. 207, lines 2-7). Appellant complied with police commands to get on the ground, and he was handcuffed. (R. p. 206-207; p. 215-27). A forty-caliber gun was in the waistband of Appellant's pants. (R. p. 207, lines 14-19). During a weapons-check of Appellant's pockets, police also found the spent shell casing Appellant picked up after he shot the Victim. (R. p. 222; p. 246-52; p. 301-303). Shortly after Appellant's arrest, the Victim was taken by helicopter to MUSC, where she underwent emergency surgery that ultimately saved her life. (R. p. 146-48).

At trial, Appellant did not deny that he committed the crime; however, defense counsel argued that Appellant did not "know or understand his conduct" because of a mental illness. (R. p. 112, lines 18-25). Appellant presented the testimony of Appellant's mother and sister, and that of two doctors, indicating that Appellant suffered from "delusional disorder" during a period of time prior to the shooting. (R. p. 488-91). Specifically, the defense presented testimony that, beginning around January 2005,

Appellant developed a "fixed, false belief" that his family members, including his wife, were conspiring with the F.B.I. to set him up on federal charges. (R. p. 118, lines 10-15; p. 156-58; p. 315-316; p. 359; p. 413-16). Medical records reflected that he was voluntarily hospitalized on two brief occasions, but he was never involuntarily committed. (R. p. 173-74; p. 341-44; p. 343, line 21 – p. 344, line 1; p. 398, lines 20-23). Appellant had not been hospitalized at all since March of 2005. (R. p. 343-44). The crime occurred on November 13, 2006, approximately one year and seven months later. At the time of the crime, Appellant was living alone in the former marital home. (See R. p. 116-26).

Overview of the Law on Insanity

In South Carolina, "the key to insanity is 'the power of the defendant to distinguish right from wrong in the act itself – to recognize the act complained of is either morally or legally wrong.'" State v. Wilson, 306 S.C. 498, 506, 413 S.E.2d 19, 23 (1992) (citations omitted). If a defendant has this ability when he commits a crime, he is legally responsible for his actions. Id. In criminal cases, it is generally presumed that the defendant is sane. See, e.g., State v. Smith, 298 S.C. 205, 208, 379 S.E.2d 287, 288 (1989). However, where a defendant offers evidence of insanity, the State must present evidence from which the jury could find the defendant sane. Id. The State is not required to present expert testimony supporting sanity even if the defendant presents expert testimony supporting insanity. Id. This is because a jury may properly disregard expert testimony presented by the defendant. See State v. Lewis, 328 S.C. 273, 278, 494 S.E.2d 115, 117 (1997). Lay testimony may be sufficient to prove sanity, and a jury is free to rely on circumstantial evidence of sanity even where expert testimony favors a finding of

insanity. State v. Poindexter, 314 S.C. 490, 494, 431 S.E.2d 254, 256 (1993). The existence of "any evidence" of sanity creates an issue for the jury to resolve. State v. Milian-Hernandez, 287 S.C. 183, 185, 336 S.E.2d 476, 477 (1985).

In State v. Smith, supra, the trial court's denial of a directed verdict of not guilty by reason of insanity was proper, in spite of expert testimony that the defendant suffered from "delusional disorder, persecutory type," where evidence regarding the circumstances of the crime suggested the defendant was sane. Specifically, the defendant made remarks to his intended victims that indicated he was seeking revenge. Id. In addition, four lay witnesses testified that the defendant seemed "normal" around the day of the shooting and did not appear to be insane. Id. In that case, the jury rejected a verdict of "guilty but mentally ill" and found the defendant guilty. Id.

In State v. Poindexter, supra, the defendant alleged that the trial court wrongly denied his motion for directed verdict of not guilty by reason of insanity. In that case, neither party disputed that the defendant had a "mental defect" when he committed the crime. Id. However, the State presented evidence that the defendant fled the state after the crime; that he appeared normal and cooperative a few hours after his arrest; and that, although he exhibited behavioral changes in the months leading up to the crime, these changes did not indicate that the defendant had lost his concept of right and wrong. Id. Because this evidence constituted sufficient circumstantial evidence of sanity, the denial of a directed verdict was proper. Id.

In State v. Lewis, supra, the Supreme Court held that an insanity jury charge was not warranted, notwithstanding evidence that the defendant suffered from "severe depression," where his actions following the crime suggested that he recognized the

gravity of the situation and that his conduct was wrong. In State v. Rimert, 315 S.C. 527, 446 S.E.2d 400 (1994), the Court found that the following constituted sufficient evidence of sanity: an officer's testimony suggesting that the defendant knew what he had just done was wrong; that the defendant attempted to wash away evidence of the crime; and that the defendant questioned how he could "get out of" the trouble he was in regarding the crime. Id.

In State v. Law, 270 S.C. 664, 244 S.E.2d 302 (1978), the Supreme Court noted that attempts to destroy evidence of a crime, and threats "to destroy all evidence," clearly suggest a person's knowledge that a crime he committed was wrong. Id. at 668-69, 244 S.E.2d at 304. The defendant in that case was found guilty notwithstanding a diagnosis, by two psychiatrists, of paranoid schizophrenia, accompanied by "distrust, delusions, and auditory hallucinations." Id.

In State v. Mitchell, 261 S.C. 452, 200 S.E.2d 448 (1973), the Supreme Court found "ample evidence" to surpass a directed verdict of insanity, where the record contained "a detailed account of [the defendant's] actions, conduct, and appearance prior and subsequent to the shooting, from which a reasonable inference could be drawn that he was sane when he killed his wife." Id. at 457, 200 S.E.2d at 450. Included within this record was evidence that the defendant had recently learned that his wife was having an affair; that the defendant subsequently confessed to the shooting; and that the defendant behaved normally several hours after his arrest. Id. at 454-59, 200 S.E.2d at 449-51. Directed verdict was not appropriate despite the state psychiatrist's testimony that the defendant was "quite delusional," having "delusions of persecution," and that the defendant did not know right from wrong at the time of the crime. Id. at 456, 200 S.E.2d

at 450. The Court stated that, "the weight to be accorded to the opinion of the psychiatrist was for the jury to determine in the light of all of the attendant facts and circumstances in evidence." Id. at 457, 200 S.E.2d at 450.

I. **The trial judge properly denied Appellant's motion for a directed verdict of not guilty by reason of insanity, where the State presented substantial evidence that Appellant knew right from wrong at the time he committed the crime.**

In Appellant's case, as in the cases discussed above, there was ample evidence presented establishing Appellant's sanity at the time of the crime. The evidence regarding the circumstances of the crime supported that Appellant carefully, intentionally, and maliciously orchestrated the shooting of his wife. The checks he endorsed in the months leading up to the crime suggested that, as the divorce was becoming more and more real to Appellant, he began to contemplate a plan for revenge. (See R. p. 508, line 25 – p. 509, line 9). When it finally came time to deliver the signed settlement papers, he lured the Victim, under false pretenses, to his house - rather than to any of the public places she suggested - with the intention of shooting her and then committing suicide. His actions and behavior that day – including his apparent nervousness and hesitation immediately prior to the act - clearly supported that he was fully aware that it was wrong to shoot his wife. (See R. p. 125-29).

Afterward, his efforts to conceal the crime were "methodical." (R. p. 149, lines 12-17). He collected the spent shell casing, dragged the Victim away from public view, and later hid her shoes. Appellant's comment to his wife that he did not want anyone to find her plainly illustrates he knew he had just committed a crime. (See R. p. 133, lines 1-15). In addition, Appellant's statement to Mr. Estock, "You don't know what she did to me," supports that Appellant's intentions had been malicious and vengeful. (See R. p.

460, lines 2-5). Moreover, all the people who interacted with Appellant at the time of the crime agreed that he appeared calm, focused, and rational. (See R. p. 149, 206-10; p. 215-220; p. 448-455; p. 459-60). Notably, although Appellant's alleged previous delusion of an F.B.I conspiracy involved all of his other family members, Appellant shot *only* his wife – the one person who was divorcing him after thirteen years. (See R. p. 372, line 21 – p. 373, line 19; p. 500, lines 12-18).

Appellant's actions, conduct, and appearance indicated that, at the time of the crime, Appellant knew right from wrong, and, more specifically, that he knew shooting his wife was wrong.[2] Contrary to Appellant's argument, the testimony of the defense experts regarding insanity did not overshadow or negate the eyewitness testimony supporting sanity. See State v. Brown, 205 S.C. 514, 32 S.E.2d 825, 828 (1945) ("The fact that evidence is not contradicted by direct evidence does not render it undisputed, as there still remains the question of its inherent probability and credibility of witness or his interest in result."); see also Black v. Hodge, 306 S.C. 196, 410 S.E.2d 595 (Ct. App. 1991). A jury is free to disregard some or all of the testimony of an defense expert, and may instead rely solely on circumstantial evidence. See, e.g., State v. Lewis, supra. Similarly, the jury could properly reject some or all of the testimony of Appellant's family members regarding the severity of his mental problems.

Notably, although the defense experts each gave a conclusory opinion that Appellant was insane, neither expert had all of the necessary information, since neither one spoke with all of the persons who were actually present on the day the crime was committed. (See R. p. 367-75; p. 431-34). More importantly, neither expert explained

[2] In that vein, there was also nothing to suggest that Appellant was unable to conform his conduct to the law – his careful planning and preparation belie such an assertion. (See R. p. 116-29).

why a false or mistaken belief regarding his wife's involvement with the F.B.I. would have prevented Appellant from understanding that shooting his wife was wrong - especially considering that Appellant was able to live alone and function in his daily life during that period of time. (See R. p. 119-25; p. 343, line 23 – p. 344, line 21; p. 347, line 24 – p. 348, line 10; p. 363-78; p. 368, lines 14-16; p. 398, line 20 – p. 399, line 1; p. 419-36; p. 428, lines 15-20).

As one of the defense experts acknowledged, a person's mental illness does not necessarily absolve him of criminal responsibility. (R. p. 433, line 19 – p. 434, line 1). In this case, regardless of his *motive* for shooting his wife, the details of the crime support that Appellant made a conscious and deliberate decision to exact revenge upon his wife by shooting her. Accordingly, because there was evidence supporting Appellant's sanity at the time of the crime, the trial judge properly denied Appellant's motion for a directed verdict of not guilty by reason of insanity.[3] (See R. p. 567-71). See State v. Milian-Hernandez, supra.

II. **The trial judge properly denied Appellant's motion to waive his right to a jury trial, where Appellant had no right to a bench trial, and where Appellant received his constitutional right to a fair and impartial trial by a jury of his peers.**

Prior to commencement of the trial (but *after* jury selection), counsel for Appellant made a motion for Appellant to be permitted to waive his right to a jury trial. (R. p. 93-97). The State objected to the motion. (R. p. 96-97). Defense counsel argued that it violated due process to prevent Appellant from waiving his right to a jury trial

[3] Respondent would point out that, contrary to Appellant's argument, the verdict of "guilty" does not mean the jury found that Appellant did not suffer from a mental illness; instead, the verdict reflects the jury's conclusion that any mental illness was not related to Appellant's criminal responsibility for the shooting of his wife.

simply because the State objected to the waiver. (R. p. 94-96). He argued that Appellant should be permitted to have a bench trial regardless of the State's position on the matter. (R. p. 93, lines 13-15). However, counsel acknowledged that the criminal rules of procedure specifically stated that a defendant could not waive his right to jury trial without the solicitor's approval. (R. p. 95, lines 7-14). Counsel also admitted that he had found no case law indicating that Appellant would be entitled to a bench trial regarding any of the issues in the case. (R. p. 93, line 16 – p. 94, line 12). He further acknowledged that the issue of insanity "can be a factual issue depending on the facts and circumstances surrounding the case." (R. p. 94, lines 12-14).

Appellant's counsel did not raise any argument to the trial court that the particular issues in Appellant's case were "too difficult for a lay jury to deal with fairly." (See Appellant's Brief, page 26; see R. p. 93-97). Appellant also did not argue to the trial court that the denial of a bench trial would interfere with Appellant's right to effective presentation of a defense. (See R. p. 93-97). Therefore, the particular issues now argued by Appellant on appeal are not preserved for review, because these issues were not raised to or ruled upon by the trial judge in the pre-trial motion. (See R. p. 93-97). See, e.g., State v. Dunbar, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003) ("In order for an issue to be preserved for appellate review, it must have been raised to and ruled upon by the trial judge. Issues not raised and ruled upon in the trial court will not be considered on appeal."). Furthermore, arguably, Appellant should have made this motion *prior to* selecting a jury in order to preserve it for review.

However, in any event, the trial court's ruling that Appellant was not entitled to waive his right to a jury trial was clearly proper, since this issue was squarely decided by

the United States Supreme Court over forty years ago. In 1965, the United States Supreme Court upheld a federal rule of procedure conditioning a defendant's waiver of a jury trial upon the approval of the court and the consent of the solicitor. See Singer v. United States, 380 U.S. 24, 36 (1965). The Court held that there was "no constitutional impediment to conditioning a waiver of this right on the consent of the prosecuting attorney and the trial judge when, if either refuses to consent, the result is simply that the defendant is subject to an impartial trial by jury – the very thing that the Constitution guarantees him." Id. The Court stated that, "[a] defendant's only constitutional right concerning the method of trial is to an impartial trial by jury." Id. The Court specifically held that, "the Constitution neither confers nor recognizes a right of criminal defendants to have their cases tried before a judge alone." Id. at 26.

Rule 14(b), SCRCrimP, states that, "[a] defendant may waive his right to a jury trial only with the approval of the solicitor and the trial judge." Clearly, this South Carolina rule is constitutional under the holding of Singer. See also U.S. v. Jackson, 390 U.S. 570, 584 (1968); State v. Burgin, 255 S.C. 237, 249-50, 178 S.E.2d 325, 329 (1970). Appellant cites to no authority to support the proposition that he is constitutionally entitled to receive a bench trial simply because he questions the capability of a jury of his peers. Furthermore, there is no reason to believe that a circuit court judge, or the particular judge in Appellant's case, would have necessarily had a better comprehension of the issues than would the jurors.

Finally, there is no indication in the record that Appellant's jury had any difficulty understanding or resolving the issues. The jury returned a verdict after approximately an hour and a half. (R. p. 534-38). The jurors requested no further clarification regarding

the law, and submitted no questions to the court. (See R. p. 534-40). In addition, contrary to Appellant's argument, the jurors were well aware that they were not to consider or discuss any issues related to possible ramifications of a verdict. (R. p. 531, line 23 – p. 532, line 12). See State v. Poindexter, supra; State v. Rimert, supra; State v. Hornsby, 326 S.C. 121, 128-30, 484 S.E.2d 869, 873-74 (1997) (consequences of a verdict are not a concern for the jury and should not be brought to the jury's attention). Accordingly, the trial court properly denied Appellant's motion to waive his right to a jury trial, and Appellant received his constitutional right to a fair and impartial trial by jury.

CONCLUSION

Based upon the foregoing, Respondent requests that this Court affirm Appellant's convictions and sentences.

Respectfully submitted,

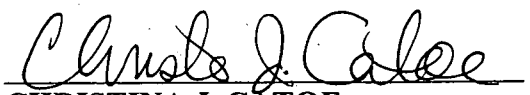
HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

CHRISTINA J. CATOE
Assistant Attorney General

J. GREGORY HEMBREE
Solicitor, Fifteenth Judicial Circuit



CHRISTINA J. CATOE

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

ATTORNEYS FOR RESPONDENT

June 3, 2010

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Horry County
The Honorable Michael G. Nettles, Circuit Court Judge

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

BRADLEY SCOTT SENTER,

APPELLANT.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the **Final Brief of Respondent** complies with Rule 211(b), SCACR, and also complies with the South Carolina Supreme Court's August 13, 2007 **Order on Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings.**

CHRISTINA J. CATOE

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

ATTORNEYS FOR RESPONDENT

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THE STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

BRADLEY SCOTT SENTER,

APPELLANT.

AFFIDAVIT OF SERVICE

The undersigned attorney hereby certifies that the **Final Brief of Respondent** in the above-referenced case has been served upon **M. CELIA ROBINSON**, Division of Appellate Defense, South Carolina Commission on Indigent Defense, Post Office Box 11589, Columbia, South Carolina 29211-1589, this **3rd day of June, 2010.**

CHRISTINA J. CATOE
Assistant Attorney General

Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737

SWORN to before me this 3rd day of June, 2010.

Notary Public for South Carolina.
My Commission Expires: 6/28/2014