

VOLUME TWO OF EIGHT VOLUMES

15698

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from York County  
Honorable John C. Hayes, III, Circuit Court Judge

Case No 2004-GS-46-2614  
2004-GS-46-3232,200,3233,3234,196-199,

The State,

Respondent,

versus

~~Billy Wayne Cope~~

James Edward Sanders

Appellant

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1 UNDER THE FIFTH AND SIXTH AMENDMENTS OF THE  
2 CONSTITUTION AND THE CONSTITUTIONAL SAFEGUARDS  
3 REQUIRED BY MIRANDA VERSUS ARIZONA I FURTHER FIND  
4 THAT THE ALLEGED INCRIMINATING STATEMENTS OR  
5 CONFESSIONS IN THEIR TOTALITY AND ENTIRETY WERE  
6 OBTAINED FROM MR COPE FREELY AND VOLUNTARILY THEY  
7 WERE GIVEN BY HIM WITHOUT DURESS, WITHOUT COERCION,  
8 WITHOUT UNDUE INFLUENCE, WITHOUT REWARD, WITHOUT  
9 PROMISE OR HOPE OF REWARD, WITHOUT PROMISE OF  
10 LENIENCY, WITHOUT THREAT OF INJURY, WITHOUT  
11 COMPULSION OR INDUCEMENT OF ANY KIND, AND AT THE TIME  
12 OF GIVING THEM THERE IS NO MENTAL IMPAIRMENT TO HIM  
13 GIVING SUCH AND THAT THAT WOULD INCLUDED THAT THERE  
14 WAS NO EVIDENCE OF ANY INTOXICATION EITHER THROUGH  
15 DRUGS OR ALCOHOL PRESCRIBED OR NOT PRESCRIBED AND I  
16 FIND THAT THE ALLEGED INCRIMINATING STATEMENTS OR  
17 CONFESSIONS WERE THE VOLUNTARY PRODUCT OF THE FREE  
18 AND UNCONSTRAINED WILL OF MR COPE AGAIN I FIND  
19 THAT BEYOND, BY THE PREPONDERANCE OF THE EVIDENCE  
20 THIS OF COURSE WILL ALSO BE A QUESTION FOR THE JURY  
21 TO DETERMINE HIS VOLUNTARINESS

22 FINALLY AS TO THE QUESTION OF THE RIGHT TO  
23 COUNSEL AND HOW IT TIES INTO THE STATEMENTS AND HOW  
24 IT TIES INTO THE GETTING IN OF THE FORM BEFORE JUDGE  
25 LONG, WHEN AN ATTORNEY DID ARRIVE AND MR COPE WAS

1 NOTIFIED OF THE PRESENCE OF THE ATTORNEY AND THE  
2 ATTORNEY'S AVAILABILITY, THERE WAS AN AFFIRMATIVE  
3 ACTION TAKEN BY MR COPE INDICATING THAT HE DID NOT  
4 WISH TO HAVE COUNSEL INTRODUCED INTO THE PROCESS AT  
5 THAT TIME AND NOT HAVE HIM PRESENT AT THAT TIME IN  
6 FACT, HE SIGNED SUCH A STATEMENT AT 3 10 P M ON THE,  
7 THIS IS NOT DATED, BUT TESTIMONY WAS THAT IT WAS ON  
8 THE THIRD OF DECEMBER, AND IN FACT THERE HAS BEEN NO  
9 TESTIMONY FROM MR BARROWCLOUGH BUT IT WAS INDICATED  
10 IN THE TESTIMONY THAT THE, THIS WAS CONFIRMED TO MR  
11 BARROWCLOUGH BY PRESENTATION TO HIM OF THIS SIGNED  
12 DOCUMENT, EXHIBIT 8, STATE'S EXHIBIT 8, AND BY ORAL  
13 CONFIRMATION BY MR COPE WHEN HE WAS INTRODUCED TO  
14 MR BARROWCLOUGH NOW THAT DISPOSES OF THOSE  
15 MOTIONS

16 NOW WHAT ELSE CAN WE DO TODAY? I  
17 UNDERSTAND THERE ARE MOTIONS TO SEVERE I AM NOT  
18 PREPARED TO RULE ON THOSE TODAY BECAUSE I HAVEN'T  
19 HEARD ANYTHING ON THEM OTHER THAN MOTIONS EXIST, BUT  
20 I'LL BE GLAD TO HEAR THEM AND TAKE THEM UNDER  
21 ADVISEMENT OR I KNOW -- YES, SIR

22 MR SMITH YES, SIR, I'M PREPARED TO GO  
23 FORWARD ON MOTIONS TO SEVERANCE JUDGE, AS THE COURT  
24 IS AWARE MR COPE IS CHARGED WITH ONE COUNT OF  
25 MURDER, TWO COUNTS OF CRIMINAL SEXUAL CONDUCT, AND



1 ONE COUNT OF CRIMINAL CONSPIRACY WITH JAMES SANDERS  
2 TO COMMIT CRIMINAL SEXUAL CONDUCT AS THEY RELATE TO  
3 AMANDA COPE HE'S ALSO BEEN CHARGED WITH TWO COUNTS  
4 OF CRIMINAL SEXUAL CONDUCT WITH A MINOR FOR EACH OF  
5 HIS YOUNGER DAUGHTERS JESSICA AND KYLA AS WELL AS  
6 THREE COUNTS OF UNLAWFUL NEGLECT IN REGARD TO ALL  
7 THREE CHILDREN TODAY WE ASK THE COURT TO SEVER THE  
8 CRIMINAL SEXUAL CONDUCT WITH A MINOR CHARGES AND THE  
9 UNLAWFUL NEGLECT CHARGES FROM THE CHARGES ASSOCIATED  
10 WITH THE RAPE AND MURDER OF AMANDA COPE I'VE HANDED  
11 UP A LEGAL MEMORANDUM TO THE COURT AS WELL AS TO  
12 OPPOSING COUNSELS WITH ATTACHED CASES

13 IN THE CASE OF STATE VERSUS SIMMONS THE  
14 COURT OF APPEALS SETS FORTH A GUIDELINE OR A SET OF  
15 REQUIREMENTS FOR THE COURT TO PROPERLY JOIN CHARGES  
16 TO TRY THOSE IN THE SAME TRIAL THE FIRST IS THAT  
17 THE CHARGES MUST BE OF THE SAME GENERAL NATURE AND  
18 THEY MUST ARISE OUT OF THE SAME SERIES OF  
19 TRANSACTIONS THE OFFENDER MUST BE THE SAME IN BOTH  
20 SETS OF CHARGES WHICH IS OBVIOUS AND THE PROOF OR  
21 EVIDENCE FOR BOTH CHARGES MUST BE THE SAME THE  
22 CHARGES MUST BE PROVABLE BY THE SAME EVIDENCE THERE  
23 IS ALSO A REQUIREMENT THAT IF THE DEFENDANT'S  
24 SUBSTANTIVE RIGHTS WOULD BE PREJUDICED BY THE JOINDER  
25 OF THOSE CHARGES THAT JOINDER WOULD BE IMPROPER

1                   NOW THE CRIMINAL SEXUAL CONDUCT CHARGES AS  
2       RELATED TO ALL THREE GIRLS ARE SEXUAL MISCONDUCT  
3       CHARGES     HOWEVER THEY ARE NOT OF THE SAME GENERAL  
4       NATURE     MR COPE HAS BEEN CHARGED WITH CONSPIRING  
5       WITH JAMES SANDERS THROUGH AGGRAVATED FORCE AND  
6       FORCIBLE CONFINEMENT TO SEXUALLY BATTER AMANDA COPE  
7       AND SHE WAS RAPED BOTH VAGINALLY AND ANALLY     THIS  
8       EVENT ULTIMATELY RESULTED IN AMANDA COPE'S DEATH  
9       MR COPE HAS BEEN CHARGED ON THE OTHER HAND SEXUALLY  
10      BATTERING JESSICA AND KYLA COPE WITHOUT THE USE OF  
11      ANY AGGRAVATED FORCE     MR COPE ALLEGEDLY CONFESSED  
12      TO DIGITALLY PENETRATING JESSICA AND KYLA COPE  
13      THESE SEPARATE EVENTS ARE NOT SIMILAR IN METHOD OR IN  
14      RESULT     THERE IS NO INTERCONNECTION BETWEEN BOTH  
15      SETS OF OFFENSES     THE SECOND PRONG OF THIS FIRST  
16      REQUIREMENT IS THAT THE CHARGES MUST ARISE FROM THE  
17      SAME SERIES OF TRANSACTIONS     THE COURT HAS DEFINED A  
18      SINGLE CHAIN OF CIRCUMSTANCES AS A SINGLE COURSE OF  
19      CONDUCT OR TRANSACTIONS     NOW I'VE ATTACHED A CASE  
20      STATE VERSUS TATE WHERE THE COURT SAID THAT JOINDER  
21      WAS IMPROPER FOR TWO IDENTICAL FORGERIES THAT  
22      OCCURRED ONLY THREE MONTHS APART     I ALSO ATTACHED  
23      TWO CASES WHERE THE COURT FOUND THAT JOINDER WAS  
24      PROPER BECAUSE THE OFFENSES OCCURRED OUT OF THE SAME  
25      CHAIN OF CIRCUMSTANCES     ONE BEING SIMMONS WHERE TWO

1 BURGLARIES WERE COMMITTED WITHIN MINUTES OF EACH  
2 OTHER AND FROM THE LANGUAGE IN THE CASE IT APPEARS  
3 THAT THEY WERE IN CLOSE PROXIMITY, IT SOUNDS LIKE  
4 SEVERAL BLOCKS, WITHIN EACH OTHER, FROM EACH OTHER  
5 AND ALSO IN ANDERSON WHERE THREE OFFENSES STEMMED  
6 FROM THE SAME TRAFFIC STOP AND AGAIN THE COURT FOUND  
7 THAT JOINDER IN BOTH OF THOSE CASES WAS PROPER  
8 BECAUSE THE EVENTS AROSE OUT OF THE SAME CHAIN OF  
9 CIRCUMSTANCES

10 HERE WE HAVE ONE SET OF CHARGES INVOLVING  
11 AMANDA COPE WHICH AROSE FROM ONE NIGHT NOVEMBER 29,  
12 2001 THE INDICTMENTS IN REGARD TO JESSICA AND  
13 KYLA'S ALLEGED SEXUAL BATTERY OCCURRED FROM OCTOBER  
14 FIRST 2001 THROUGH THE END OF NOVEMBER 30, 2001 THE  
15 UNLAWFUL NEGLECT CHARGES ALSO DID NOT OCCUR ON ONE  
16 SPECIFIC DATE THEY DID NOT OCCUR ON NOVEMBER 29  
17 SOMETHING THAT WOULD HAVE BUILT UP OVER THE PRIOR  
18 MONTHS NOW WHAT I BELIEVE THE STATE WILL ARGUE IN  
19 RESPONSE IS, AND WE'VE HEARD TESTIMONY TODAY OR OVER  
20 THE COURSE OF THIS WEEK, THAT THERE WAS POSSIBLE  
21 CHRONIC SEXUAL ABUSE TO AMANDA COPE AND I BELIEVE THE  
22 PURPOSE OF THAT TESTIMONY IS TO TRY TO SHOW THAT  
23 AMANDA COPE WAS BEING SEXUALLY ABUSED AND NOW  
24 MR COPE WAS STARTING THE ABUSE ON HIS YOUNGER  
25 DAUGHTERS THAT TESTIMONY I BELIEVE IS, HAS BEEN

1 MISSTATED THERE HAS BEEN NO EVIDENCE, NO  
2 PRESENTATION OF EVIDENCE FROM DR MAYNARD WHO  
3 CONDUCTED THE AUTOPSY IN THE CASE, HOWEVER, I DO HAVE  
4 HIS REPORT HERE AND IN HIS REPORT HE STATES IN REGARD  
5 TO AMANDA'S VAGINA THERE WERE CHANGES SUGGESTIVE OF  
6 CHRONIC ABUSE OR IRRITATION IN REGARD TO HER RECTUM  
7 THERE WERE CHANGES SUGGESTIVE OF CHRONIC IRRITATION,  
8 POSSIBLE ABUSE, OR DISEASE PROCESS WE'RE TWO STEPS  
9 AWAY FROM BEING A DEFINITE FINDING OF CHRONIC SEXUAL  
10 ABUSE THERE WERE SUGGESTIONS OF POSSIBLE  
11 IRRITATION THEN THE IRRITATION COULD HAVE BEEN  
12 CAUSED BY A NUMBER OF DIFFERENT FACTORS, ABUSE BEING  
13 ONE POSSIBILITY

14 DR MAYNARD ALSO TESTIFIED IN A FAMILY  
15 COURT PROCEEDING IN REGARD TO THIS MATTER AND IN THAT  
16 TESTIMONY STATED THAT HE COULD NOT SAY WITHIN A  
17 REASONABLE DEGREE OF MEDICAL CERTAINTY WHETHER A  
18 FOREIGN OBJECT WAS INSERTED INTO AMANDA COPE'S  
19 VAGINAL CANAL OR RECTUM PRIOR TO HER DEATH I ASK  
20 THE COURT NOT TO CONSIDER THE STATEMENTS OR TESTIMONY  
21 OF THE STATE'S WITNESSES THAT THERE WAS CHRONIC  
22 SEXUAL ABUSE TO AMANDA COPE PRIOR TO HER DEATH  
23 AGAIN WE ONLY HAVE ONE CHARGE OF CRIMINAL SEXUAL  
24 CONDUCT WHICH RESULTED FROM ONE NIGHT'S ACTIVITY SO  
25 AGAIN, THESE CHARGES DO NOT ARISE OUT OF THE SAME

1       SERIES OF TRANSACTIONS AND THEY ARE NOT  
2       INTERCONNECTED    THE CHARGES ARE NOT PROVABLE BY THE  
3       SAME EVIDENCE EITHER    JESSICA AND KYLA COPE WERE  
4       EXAMINED BY DR   RAYMOND REYNOLDS FROM THE LEXINGTON  
5       COUNTY CHILDREN'S CENTER ON DECEMBER 3, 2001    THE  
6       CHILDREN HAVE BEEN COUNSELED BY A THERAPIST BY KIM  
7       STEWART SINCE 2001 AS WELL    ON FEBRUARY 18, 2004, A  
8       PSYCHOLOGIST DR   PATRICK GOLDSMITH PREFORMED A  
9       PSYCHOLOGICAL EXAMINATION ON BOTH GIRLS IN REGARD TO  
10      THE ALLEGATIONS OF POSSIBLE SEXUAL ABUSE    THESE  
11      THREE EXAMINERS CAN TESTIFY AS TO THE ALLEGED SEXUAL  
12      ABUSE OF JESSICA AND KYLA, HOWEVER, TO MY KNOWLEDGE,  
13      AND I'M NOT AWARE OF ANY INSTANCE IN WHICH THEY HAVE  
14      EXAMINED AMANDA COPE OR MADE OPINIONS IN REGARD TO  
15      AMANDA COPE    FURTHER AGAIN DR   MAYNARD PERFORMED THE  
16      AUTOPSY ON AMANDA COPE AND AGAIN TO MY KNOWLEDGE THAT  
17      THERE HAVE BEEN NO ASSERTIONS THAT HE'S COME TO  
18      CONCLUSIONS REGARDING JESSICA OR KYLA COPE, SO WE  
19      WOULD HAVE DIFFERENT WITNESSES PRESENTING TESTIMONY  
20      AND EVIDENCE FOR THE SEPARATE SETS OF CHARGES

21                IN REGARD TO THE UNLAWFUL NEGLECT CHARGE  
22      THERE WAS AN OPEN CASE FILE AT THE TIME OF AMANDA'S  
23      MURDER    DSS HAD INVESTIGATED THE COPE HOME FOR  
24      SEVERAL MONTHS BEFOREHAND REGARDING THE LIVING  
25      CONDITIONS THERE IN THE HOME    THERE HAVE BEEN HOME

1 VISITS, THERE HAD BEEN INTERVIEWS WITH THE COPE  
2 FAMILY, HOWEVER, THE CHILDREN HAD BEEN ALLOWED TO  
3 REMAIN IN THE HOME THESE DSS CASE WORKERS WOULD  
4 HAVE FAR MORE RELEVANT KNOWLEDGE AS TO THE CONDITION  
5 OF THE HOME WHETHER THEY WERE UNSANITARY, WHETHER  
6 THEY WERE, WHETHER THEY WERE, WHETHER THE CHILDREN  
7 WERE BEING NEGLECTED THAN THE OFFICERS AND RESPONDERS  
8 WHO CAME TO THE HOUSE ON NOVEMBER 29 THOSE  
9 WITNESSES ONLY HAD ONE PICTURE OF THE COPE HOME  
10 THEY ONLY HAVE, THEY DON'T HAVE THE COMPLETE PICTURE  
11 AND CANNOT FULLY TESTIFY AS TO THE CONDITIONS OF THE  
12 COPE HOME IN REGARD TO UNLAWFUL NEGLECT

13 THE FINAL ISSUE OR REQUIREMENT SETFORTH IN  
14 SIMMONS IS THAT A DEFENDANT'S SUBSTANTIVE RIGHTS  
15 WOULD BE PREJUDICED OR THAT JOINDER WOULD NOT BE  
16 PROPER IF THE DEFENDANT'S RIGHTS WOULD BE PREJUDICED  
17 THE TATE CASE SAYS THAT IF JOINDER OCCURS THE JURY  
18 WOULD LIKELY INFER A CRIMINAL DISPOSITION BECAUSE, ON  
19 EACH OF THE CHARGES FROM THE EVIDENCE PRODUCED BY  
20 EACH CHARGE, AND IN MIDDLETON, WHICH I'VE ALSO  
21 PROVIDED THE COURT, THE COURT SAYS THAT THAT  
22 PREJUDICE IS APPARENT IT DOES NOT GO INTO AN  
23 EXPLANATION IT SAYS THAT THE PREJUDICE IS APPARENT  
24 ON ITS FACE FROM JOINDER

25 JUDGE, THE JOINDER OF MR COPE'S CHARGES

1 CANNOT BE OUT OF THE CONCERN FOR JUDICIAL ECONOMY  
2 MR SANDERS WHO IS A CO-DEFENDANT IN THIS CASE HAS  
3 BEEN CHARGED WITH A NUMBER OF OTHER SIMILAR EVENTS  
4 THAT OCCURRED FROM LATE OCTOBER UNTIL EARLY JANUARY  
5 THOSE CHARGES HAVE NOT BEEN JOINED IN THIS CASE WE  
6 BELIEVE BECAUSE IT DOESN'T FIT THE STATE'S THEORY OF  
7 THEIR CASE THAT MR COPE AND MR SANDERS ACTED  
8 TOGETHER WHEREAS WE ASSERT THAT MR SANDERS ACTED  
9 ALONE AGAIN THE EVIDENCE CONCERNING THE CRIMINAL  
10 SEXUAL CONDUCT OF JESSICA COPE AND KYLA COPE IS  
11 SUPPORTED BY WEAK EVIDENCE AND CONSIDERING THE NATURE  
12 OR THE NATURE OF THE RESULTS OF THOSE CHARGES WHEN  
13 COMBINED WITH THE CHARGES ASSOCIATED WITH AMANDA,  
14 MR COPE WOULD BE SEVERELY PREJUDICED THE GIRLS  
15 HAVE CONSISTENCY DENIED BEING SEXUALLY ABUSED BY  
16 THEIR FATHER UNTIL SUCH A FEW SHORT DAYS AGO ON THE  
17 EVE OF THE TRIAL THERE HAS BEEN SWORN TESTIMONY BY  
18 THE GIRLS THAT THEY HAVE NOT BEEN SEXUALLY ABUSED BY  
19 THEIR FATHER DR REYNOLDS HAS ONLY MADE SUSPICIOUS  
20 AND NON-SPECIFIC FINDINGS OF SEXUAL ABUSE

21 IN REGARD TO THE UNLAWFUL NEGLECT CASE,  
22 THERE WAS AN OPEN CASE AND THE CHILDREN WERE NOT  
23 TAKEN FROM THE HOME THE PRESENTATION OF THESE  
24 CHARGES COMBINED WITH THE MURDER AND RAPE CHARGES  
25 WOULD ONLY PREJUDICE MR COPE AND THEY SHOULD BE

1 SEVERED ONE THING THAT WE HAVE ALSO MENTIONED IS  
2 THE CONFLICT CREATED BY THE SOLICITOR'S OFFICE BY  
3 THEIR EXAMINING JESSICA AND KYLA AND THESE GIRLS  
4 GIVING EXCULPATORY STATEMENTS TO THE SOLICITORS  
5 ESPECIALLY BECAUSE OF THEIR RECENT REVELATIONS WE  
6 BELIEVE THAT THE SOLICITOR'S TESTIMONY WILL BE  
7 IMPORTANT IN ESTABLISHING THAT THE GIRLS HAVE  
8 CONSISTENTLY DENIED SEXUAL ABUSE OVER THE YEARS IF  
9 THE COURT SEVERS THESE CHARGES FROM THE CHARGES  
10 ASSOCIATED WITH AMANDA COPE THAT CONFLICT IS TAKEN  
11 CARE OF FOR THE TIME BEING THE COURT WILL NOT HAVE  
12 TO CONCERN ITSELF WITH THIS CONFLICT FOR THOSE  
13 REASONS, JUDGE, WE WOULD ASK THAT THESE CHARGES BE  
14 SEPARATED THANK YOU, YOUR HONOR

15 THE COURT COUNSEL FOR THE STATE  
16 MR THOMPSON YES, YOUR HONOR THE  
17 FIRST THING I'D LIKE TO POINT THE COURT TOWARD IS  
18 THAT IF THE CLERK WOULD HAND UP THE INDICTMENTS ON  
19 MR COPE, YES, ON MR COPE TO JUDGE HAYES, AND IF THE  
20 COURT WOULD LOOK SPECIFICALLY AT THE UNLAWFUL CONDUCT  
21 TOWARDS A CHILD INDICTMENTS ALL OF THEM ARE WORDED  
22 BASICALLY THE SAME AND WOULD SAY THAT ON NOVEMBER 21  
23 2001 BILLY COPE WILLFULLY AND UNLAWFULLY PLACED HIS  
24 NATURAL CHILD, AND IT LISTS THE NAME OF THE CHILD,  
25 THE OF THAT AGE CHILD RESPECTFULLY, AT UNREASONABLE



1 RISK OF HARM AFFECTING THE CHILD'S LIFE, PHYSICAL OR  
2 MENTAL HEALTH OR SAFETY BY FAILING TO MAINTAIN A  
3 SANITARY LIVING CONDITIONS IN THE HOUSE AND/OR BY  
4 ALLOWING OR CAUSING PHYSICAL OR MENTAL ABUSE BE  
5 INFLECTED UPON THE CHILD THUS PLACING THE CHILD AT  
6 UNREASONABLE RISK OF HARM AFFECTING THE CHILD'S LIFE,  
7 PHYSICAL AND MENTAL HEALTH AND SAFETY THIS  
8 OCCURRING IN ROCK HILL, SOUTH CAROLINA

9 YOUR HONOR, I POINT THAT OUT SIMPLY  
10 BECAUSE IN THE ALLEGATION ITSELF FOR UNLAWFUL CONDUCT  
11 TOWARDS A CHILD IT INCLUDES THE ABILITY FOR THE STATE  
12 TO PROVE AS IT RELATES TO AMANDA COPE NOT JUST THE  
13 CONDITIONS OF THE HOME BUT PHYSICAL OR MENTAL ABUSE  
14 OF COURSE, PART OF PHYSICAL ABUSE IS SEXUAL ABUSE  
15 EVERYONE COULD AGREE THAT SEXUAL ABUSE IS A PHYSICAL  
16 THING DONE TO A CHILD AS WELL I THINK THE COURT IS  
17 WELL AWARE THAT THERE IS MENTAL ABUSE INVOLVED IN  
18 SEXUAL ABUSE, SO THE STATE BASICALLY WITH THESE  
19 CHARGES AS IT APPLIES TO AMANDA COPE AND AS IT  
20 APPLIES TO JESSICA AND KYLA IS BASICALLY STATING THAT  
21 THERE ARE OTHER REASONS OTHER THAN A MESSY HOUSE IN  
22 WHICH THESE INDICTMENTS CAN STAND

23 SO IN CONSIDERING THAT I WOULD THEN POINT  
24 OUT THE FIRST PRONG OF JOINDER BASICALLY ARISING OUT  
25 OF A SINGLE CHAIN OF CIRCUMSTANCES, OBVIOUSLY THESE

1        WOULD HAVE        WHEN YOU COME TO THE HOUSE AS YOU SAW  
2        WITH THE DETECTIVES WAS THEY INTERVIEWED THE  
3        DEFENDANT IN A LONG INTERVIEW, WE LISTENED TO THE  
4        AUDIO TAPE, ONE OF THE THINGS THAT WAS MENTIONED  
5        SPECIFICALLY, EVERYTHING WAS SECURED, NO ONE ELSE  
6        WOULD HAVE COME IN, OR FORCED THEIR WAY IN        THE  
7        DEFENDANT OFFERED SUGGESTIONS SOMEONE HID IN THE  
8        RESIDENCE FOR A LONG PERIOD OF TIME, SNUCK IN THERE  
9        AND HID IN THERE FOR A LONG PERIOD OF TIME AND CAME  
10       OUT AND RAPED AND ABUSED AMANDA AND THAT HE WAS NOT  
11       INVOLVED       PURE LOGIC AND OF COURSE THE STATE'S  
12       REASONING IN THIS AND OUR POSITION IN THE CASE IS  
13       THAT THE DEFENDANT MR   COPE LET SANDERS IN       THAT'S  
14       WHY THERE IS NO SIGNS OF PHYSICAL ENTRY IN THE HOUSE  
15       THAT IT IS CERTAINLY UNREASONABLE TO THINK THAT THERE  
16       IS SOMEONE HIDING IN THE CLOSET FOR HOURS AT A TIME  
17       BEING UNHEARD       ONE OF THE THINGS THE DETECTIVE  
18       MENTIONED WAS HOW MESSY THE HOUSE WAS AND SOMEONE  
19       JUST COMING INTO THAT HOUSE WOULDN'T BE ABLE TO JUST  
20       SIMPLY GET AROUND       THEY WOULD BE TRIPPING OVER  
21       THINGS, THEY WOULD BE STEPPING ON, AS SOME OF THE  
22       OTHER TESTIMONY, THERE WERE LIVE ROACHES AND THINGS  
23       LIKE THAT       THERE WAS A MESS EVERYWHERE AND AS YOU  
24       SAW FROM THE VIDEO TAPE OF THE DEFENDANT'S CONFESSION  
25       THERE, BASICALLY THERE IS ONE LITTLE HALLWAY THAT

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1 STANDS THERE AND ALL THE BEDROOM DOORS STAND THERE  
2 SO IF HE IS NOW RAPING SOMEONE IN ONE OF THESE  
3 BEDROOMS AND BRUTALLY BEATING THEM, IT BECOMES NEXT  
4 TO IMPOSSIBLE FOR SOMEONE NOT TO KNOW THAT SOMETHING  
5 IS GOING ON, SO I THINK THOSE THINGS ARE VERY  
6 IMPORTANT AS WE CONSIDER THIS ARISING OUT OF A CHAIN  
7 OF CIRCUMSTANCES THE PROOF THAT'S GOING TO BE  
8 OFFERED FOR THE UNLAWFUL CONDUCT TOWARD THE CHILD  
9 INDICTMENTS SPECIFICALLY IS GOING TO COME FORWARD IN  
10 THE MAIN CASES AS TO AMANDA, IT'S GOING TO COME  
11 FORWARD IN HERS IT IS ALSO GOING TO COME FORWARD IN  
12 THE CONDITION OF THE HOUSE BECAUSE THAT'S ONE OF THE  
13 WHOLE THEORIES OF THE CASE ITSELF TO SEPARATE THOSE  
14 THINGS THAT ARE INEXTRICABLY LINKED WOULD BASICALLY  
15 BE CHOPPING THE STATE'S CASE UP AND I WOULD POINT  
16 OUT, AS WE ALWAYS SAY TO THE JURY AT THE BEGINNING,  
17 YOU UNDERSTAND THE DEFENDANT HAS A RIGHT TO A FAIR  
18 TRIAL AND THE STATE HAS A RIGHT TO A FAIR TRIAL

19 IN LOOKING AT THAT, IN ADDITION YOUR  
20 HONOR, I WOULD PUT THAT THE, IN THAT THE SAME  
21 WITNESSES WILL BE USED FOR EACH OF THESE THE GIRLS  
22 WHETHER OR NOT THEY ARE ALLOWED TO TESTIFY ABOUT  
23 CRIMINAL SEXUAL CONDUCT TO THEMSELVES WILL STILL BE  
24 TESTIFYING AS TO OTHER PARTS OF THE HOUSE THEY WILL  
25 STILL BE TESTIFYING AS TO THINGS THAT HAPPENED THAT

1 MORNING THAT THEY SAW, THAT THEY SAW BILLY COPE DO,  
2 THINGS THAT CONFLICT WITH WHAT HE SAID HAPPEN, AND  
3 THOSE GIRLS WILL PROVIDE A LOT OF EVIDENCE IN THAT  
4 FORM AND IN THAT FASHION AND IN THE STATE PROVING  
5 UNLAWFUL NEGLECT BOTH BY THE HOUSE CONDITIONS AND BY  
6 THE ASSAULT, BOTH SEXUAL AND PHYSICAL ON AMANDA, WE  
7 HAVE TO LOOK AT THE OTHER TWO GIRLS, THEIR ASSAULTS  
8 WERE ALSO SEXUAL AND ONE OF THE THINGS THE DEFENSE  
9 NEGLECTED TO MENTION TO YOU AS WITH KYLA, THERE WAS  
10 SUSPECTED PHYSICAL ABUSE AS WELL THEY FOUND BRUISES  
11 THAT HAD UNKNOWN ORIGINS THAT THE DOCTOR FOUND TO BE  
12 VERY SUSPICIOUS ON HER AND RELATING TO THE OTHER  
13 EVIDENCE, ONE OF THE THINGS THEY DIDN'T MENTION THE  
14 DEFENDANT DOES CONFESS IN ONE OF HIS CONFESSIONS THAT  
15 HE DID IT, DIGITALLY PENETRATE BOTH OF THESE YOUNG  
16 GIRLS, AND THAT HE DID DO THE THINGS WITH THEM THAT  
17 HE HAD STARTED AS WELL WITH AMANDA, IN THAT SAME PART  
18 OF THAT CONFESSION HE TALKS ABOUT HOW HE STARTED WITH  
19 AMANDA DOING THAT, THEN HE TALKS ABOUT HOW EARLIER IN  
20 SEPTEMBER OR SO HE STARTED WITH THESE TWO GIRLS DOING  
21 THAT SAME THING, AND SO I THINK WE HAVE TO CONSIDER  
22 THERE IS A LOT OF EVIDENCE THAT WOULD POINT TO THE  
23 DEFENDANT AS THE ONE DOING THESE THINGS AND NOT ONLY  
24 IS THERE A LOT OF EVIDENCE HE'S INDICTED ON, SO THERE  
25 IS AT LEAST PROBABLE CAUSE FOR THOSE TO EXIST AT THIS

1 POINT IN TIME

2 I WOULD POINT OUT, I WOULD POINT OUT THAT  
3 THE REPORTS THAT THEY REFER TO AS FAR AS JESSICA AND  
4 KYLA COPE AS NON-SPECIFIC FINDINGS AS TO JESSICA AND  
5 KYLA, SUSPICIOUS FINDINGS AS TO KYLA, I THINK ARE  
6 VERY UNUSUAL AND THE COURT KNOWS JUST FROM ITS  
7 EXPERIENCE AND HAVING HEARD A LOT OF CRIMINAL SEXUAL  
8 CONDUCT CASES, THE VAST MAJORITY THAT DEAL WITH  
9 DIGITAL PENETRATION WILL HAVE NO EVIDENCE WHATSOEVER  
10 AND THE EXAM WILL COME BACK AS COMPLETELY NORMAL, SO  
11 FOR THESE TO HAVE MORE THAN NORMAL FINDINGS ON THEIR  
12 EXAMS IS SOMEWHAT INCREDIBLE, AND I THINK ONE OF THE  
13 THINGS THAT THEY DID NOT POINT OUT AS WELL AS IN  
14 KYLA'S PARTICULAR, IN BOTH KYLA AND JESSICA, THE  
15 DOCTOR POINTS IN HIS REPORTS THAT BOTH OF THEM HAVE  
16 NO ANAL TONE, HAVE GREAT LACK OF ANAL TONE WHICH IS  
17 SUGGESTIVE OF PENETRATION, REPEATED PENETRATION OF  
18 THE ANUS, ONE OF THE THINGS THAT, OF COURSE, WE WOULD  
19 SEEK TO INTRODUCE NOW DR REYNOLDS HAS MET WITH DR  
20 MAYNARD JUST LAST WEEK AS A MATTER OF FACT AND HAS  
21 GONE OVER A NUMBER OF THINGS AS TO AMANDA'S CASE AND  
22 KYLA AND JESSICA'S CASE SO THERE WILL BE TESTIMONY  
23 PROVIDED BY BOTH OF THEM ON VARIOUS SUBJECTS AROUND  
24 THAT IN ADDITION, DR REYNOLDS POINTS OUT IN HIS  
25 REPORT THAT ONE OF THE THINGS THAT STUCK OUT TO HIM

1 IS WITH KYLA, THE ONE WHO ENDED UP WITH THE  
2 SUSPICIOUS REPORT, ONE OF THE THINGS THAT WAS MOST  
3 TELLING TO HIM WAS THAT HE HAD TO TAKE SAMPLES TO  
4 TEST FOR VENEREAL DISEASES OR SEXUALLY TRANSMITTED  
5 DISEASES, IN DOING THAT HE TAKES A VERY LONG Q-TIP ON  
6 THE END OF A PIECE OF WOOD THAT HE HAS TO INSERT ALL  
7 THE WAY UP IN THE VAGINA AND ALL THE WAY UP INTO THE  
8 ANUS, OF COURSE, SEPARATE Q-TIPS, BUT HE RELAYS OR  
9 WILL RELAY IN TESTIMONY THAT THIS IS OFTEN EXTREMELY  
10 HARD TO DO WITH YOUNG CHILDREN AND ADULTS THAT  
11 ESPECIALLY THOUGH WITH YOUNG CHILDREN IT'S PAINFUL  
12 AND UNCOMFORTABLE, THAT AT LEAST HALF THE TIME THEY  
13 DON'T ALLOW HIM TO DO IT, AND THAT WHEN THEY DO THEY  
14 ARE VERY UNCOMFORTABLE AND THEY COMPLAIN LOUDLY ABOUT  
15 IT SHE'S THE ONLY PERSON THAT HE'S EVER DONE THIS  
16 TO WHO ACTED MATTER OF FACT AND DIDN'T MIND HAVING  
17 THAT PUT UP ALL THE WAY INTO HER VAGINA ALL THE WAY  
18 INTO HER ANUS, SO I THINK THOSE ARE TELLING BECAUSE  
19 TO HIM HE WOULD SAY THAT'S A TELLING SIGN AND THAT'S  
20 CERTAINLY CONSISTENT WITH SEXUAL ABUSE AND OF  
21 COURSE, AS WE STATED TO THE COURT EARLIER, THE GIRLS  
22 ARE AT THIS TIME SAYING THAT THEY DID EXPERIENCE  
23 SEXUAL ABUSE OF THAT NATURE AND THEY AT THIS POINT  
24 WOULD BE TESTIFYING TO THAT AND I UNDERSTAND THAT  
25 THEY CLAIM THAT SOME SORT OF CONFLICT HAS ARISEN I

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1 WILL PUT IT TO THE COURT THAT IF THE SOLICITOR'S  
2 OFFICE DIDN'T INTERVIEW WITNESSES, ESPECIALLY CHILD  
3 WITNESSES WHO WOULD HAVE TO TESTIFY IN COURT, THEN WE  
4 WOULD BE LAX IN OUR DUTIES AS SOLICITORS TO PREPARE A  
5 CASE AND IT WOULD BE UNFAIR TO A CHILD TO COME IN AND  
6 SIT IN THIS COURTROOM AND NEVER HAVING BEEN TALKED TO  
7 BY THE PERSON WHO WAS DIRECTING OR CROSS EXAMINING  
8 THEM OR DIRECTING THEIR EXAMINATION AT THAT TIME  
9 AND OBVIOUSLY, ADDITIONALLY THEY DID DENY AND WE'VE  
10 NEVER SAID OTHERWISE AS A MATTER OF FACT, THEY HAVE  
11 EVIDENCE, PLAINER EVIDENCE FROM OTHER AREAS, WHETHER  
12 IT WAS THE PEOPLE WHO WERE WITH DSS INTERVIEWED THEM,  
13 PEOPLE WHO WERE WITH THE SHERIFF'S DEPARTMENT, NOT  
14 THE SHERIFF'S DEPARTMENT, BUT THE ROCK HILL POLICE  
15 DEPARTMENT, ALL THOSE THINGS THEY HAVE AND OBVIOUSLY  
16 THEY, IT'S CALLED CROSS EXAMINATION, THAT'S WHAT THEY  
17 GET TO DO WHEN THEY HIT THE STAND OBVIOUSLY THEY  
18 ARE VERY GOOD AT IT

19 I WOULD ALSO SAY THAT THEY MENTION THE DSS  
20 AGENCY AS BEING A BETTER EVALUATOR OF THE HOME, WELL,  
21 JUDGE, I WOULD POINT OUT IT HAD BEEN SOMETIME BEFORE,  
22 SINCE DSS HAD BEEN ABLE TO BE IN THAT HOME AS A  
23 MATTER, IT WAS JUST BEFORE THE MURDER OR SHORTLY  
24 BEFORE IT, A FEW DAYS, IN WHICH DSS FINALLY WAS ABLE  
25 TO CONTACT BILLY COPE AND TOLD HIM HE HAD TO GET

1 TOGETHER WITH THEM NOW HE HAD PUT IT OFF FOR A  
2 WHILE WITH THEM AND IT WAS AT THAT TIME THAT, IT WAS  
3 JUST A FEW DAYS AFTER THAT THAT THIS OCCURS, SO NO,  
4 THE BEST EVIDENCE OF WHAT HAPPENED AND WHAT THE  
5 CONDITIONS OF THAT HOUSE WERE LIKE COME AT THE TIME  
6 THE OFFICERS GO TO THAT HOUSE AND DR MAYNARD EVEN  
7 TESTIFIED ABOUT THAT HOUSE AS BEING UNLIVABLE, AS  
8 BEING A PLACE THAT WAS NOT SUITED FOR HUMANS TO LIVE,  
9 AND SO I WOULD SAY THAT THE STATE WOULD HAVE PLENTY  
10 OF EVIDENCE ALONG THOSE LINES FOR PEOPLE WHO ARE VERY  
11 WELL QUALIFIED TO GIVE THOSE, GIVE THAT TESTIMONY  
12 THEN WE ALSO LOOK, THAT THE OFFENSES MUST BE OF THE  
13 SAME GENERAL NATURE AND I WOULD POINT OUT IN THE  
14 CASES THAT EVEN THE DEFENSE HANDED UP, IN THE ONE OF  
15 THE STATE VERSUS JONES I BELIEVE THAT THEY HANDED UP,  
16 IT SAYS THAT ALL OFFENSES ARE CONSIDERED OF THE SAME  
17 GENERAL NATURE WHERE THEY ARE INTERCONNECTED IT  
18 DOESN'T HAVE TO BE THE SAME CRIME IT'S JUST WHEN  
19 THEY ARE INTERCONNECTED THESE ARE INTERCONNECTED  
20 THESE ARE ALL THE SAME DEFENDANT IN THE SAME  
21 HOUSEHOLD WITH THE SAME GROUP OF MINOR CHILDREN, ALL  
22 FEMALES, ALL HIS CHILDREN, HIS DAUGHTERS, ALL OF THE  
23 INCIDENTS OCCURRING WITHIN THE HOUSEHOLD, ALL OF THE  
24 INCIDENCES REQUIRING THE SAME, ALMOST COMPLETELY THE  
25 SAME TESTIMONY ALTHOUGH THAT'S NOT THE REQUIREMENT

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1        COMPLETELY    AS LONG AS, I BELIEVE, THAT IT REQUIRES  
2        SOME OF THE OTHER TESTIMONY THAT'S ALL THAT'S  
3        NECESSARY, BUT THEY WOULD HAVE BASICALLY THE SAME  
4        PEOPLE TESTIFYING, THE SAME, THE SAME, ABOUT THE SAME  
5        CONDITION, AND THE SAME EVERYTHING    THERE IS NOT  
6        ANYTHING THAT IS REALLY ANY DIFFERENT IN BRINGING  
7        THESE CASES FORWARD

8                    I ALSO POINT OUT, YOUR HONOR, IN THE  
9        SIMMONS CASE THAT THEY HANDED UP TO THE COURT, ONE OF  
10       THE IMPORTANT THINGS THAT THEY POINTED OUT IN THAT  
11       CASE IS ALSO THE EXISTENCE OF RES GESTAE AND SAYING  
12       THAT IT'S NECESSARY FOR THE FULL PRESENTATION OF THE  
13       CASE SOMETIMES THAT THESE THINGS COME IN    THAT  
14       FURNISHING PARTS OF THE, THAT IT DOESN'T HELP TO JUST  
15       FURNISH PARTS OF THE CONTEXT OF THE CRIME OR TO HOLD  
16       THOSE THINGS OUT, AND THAT THESE THINGS ARE OFTEN  
17       INEXTRICABLY---, BUT OFTEN SO ENTWINED THAT THEY  
18       CAN'T BE, THAT IT IS RIDICULOUS TO CUT THOSE THINGS  
19       OUT AND THAT'S THE SITUATION THAT WE FIND OURSELVES  
20       IN AT THIS POINT    WE HAVE A NUMBER OF CASES THAT ARE  
21       INEXTRICABLY LINKED INTO THIS    IF WE ARE PROVING THE  
22       UNLAWFUL NEGLECT TOWARDS THE CHILD AS TO AMANDA THEN  
23       WE HAVE THE EXACT SAME TESTIMONY COMING IN AS IT  
24       DEALS WITH KYLA AND JESSICA AT LEAST AS TO THE HOUSE  
25       ITSELF AND THE FILTHINESS OF THE HOUSE AND ALSO TO

1 THE SEXUAL ACTS THAT THEY WOULD HAVE HAD TO ENDURE,  
2 NOT TO MENTION IF WE PUT FORWARD THE EVIDENCE OF WHAT  
3 HAPPENED TO AMANDA HERSELF, AND WE WERE ABLE TO PROVE  
4 THAT THE DEFENDANT WAS ONE OF THE PEOPLE WHO  
5 CONDUCTED THOSE ACTS, THAT PUTS KYLA AND JESSICA IN  
6 THE DEFINITION OF UNLAWFUL CONDUCT TOWARDS A CHILD  
7 THEN WE'VE PROVEN UNLAWFUL CONDUCT TOWARD A CHILD  
8 BECAUSE THEY ARE LIVING IN THE HOUSE AT THE NIGHT  
9 THIS HAPPENED WHEN IT HAPPENS, SO ALL OF THESE THINGS  
10 BECOME JUST SO ENTWINED AND THE PROOF IS SO SIMILAR  
11 AND SO MUCH THE SAME THAT THERE IS NO WAY TO DIVIDE  
12 IT UP IT'S JUST REASONABLE TO PUT IT FORTH IN THAT  
13 FORM OR FASHION

14 ONE OF THE THINGS THAT THEY MENTION WAS  
15 THAT WE'RE NOT CALLING ALL OF MR SANDERS CASES I  
16 WOULD HAVE TO SAY BY LAW WE CANNOT IF WE COULD, I'D  
17 BE HAPPY TO DO IT BUT TO LET THE COURT KNOW, MR  
18 SANDERS, WE HAVE HIM CHARGED WITH THE RAPE AND MURDER  
19 OF AMANDA COPE ON NOVEMBER 29 DECEMBER 12, 2001  
20 HE'S CHARGED WITH BURGLARY, TWO COUNTS OF CSC,  
21 KIDNAPPING, STRONG ARMED ROBBERY, THIS IS A DIFFERENT  
22 HOME, THIS IS A WOMAN WHO IS 60 YEARS OLD, WHO WAS  
23 DISABLED, WHO HAD TO HAVE, WAS WEARING DEPENDS AT THE  
24 TIME, SO NOTHING IS SIMILAR IN THAT THAT RELATES TO  
25 THIS ALSO DECEMBER 16 A BURGLARY FIRST, KIDNAPPING,

1 ABHAN, THIS IS A WHITE FEMALE, SARAH PHILLIPS, AND  
2 SHE ACTUALLY WAS ABLE TO FIGHT THE DEFENDANT OFF AND  
3 MUCH OF WHAT HE WAS DOING, SO THERE IS NO DNA IN THIS  
4 CASE HE WAS NOT ABLE TO PERFORM ANY ACT ON HER  
5 THEY SIMPLY FOUGHT AND WRESTLED AND SHE, AS I SAID, A  
6 WHITE FEMALE WHO IS 31 THEN DECEMBER 19 THERE IS  
7 ANOTHER BURGLARY CONNECTING WITH AN ATTEMPTED CSC,  
8 ONCE AGAIN ATTEMPTED THIS IS WITH A MS LOWERY WHO  
9 IS 20 YEARS OLD, A BLACK FEMALE ONCE AGAIN THESE  
10 THINGS HAPPENED WITH HIM KNOCKING ON THE DOOR, THIS  
11 PARTICULAR ONE HAPPENED WITH HIM KNOCKING ON THE DOOR  
12 OF THE RESIDENCE AND TRYING TO AND PUSHING HIS WAY  
13 IN THE ONE WITH MRS DAVIS THAT I MENTIONED  
14 EARLIER, THE 60 YEAR OLD DISABLED WHITE FEMALE, HE  
15 CAME TO THE DOOR AND KNOCKED AND SAID HE WAS, HAD  
16 BROKEN DOWN AND NEEDED TO USE THE PHONE WHEN SHE  
17 WENT TO HAND HIM THE PHONE HE PUSHED HIS WAY IN  
18 NONE OF THOSE SORTS OF THINGS ARE PRESENT IN THIS  
19 THERE IS NO WAY THAT THE STATE IN MY OPINION CAN TRY  
20 THEM AT THE SAME TIME AND IT GOES ALONG THAT LINE  
21 WITH ALL THE OTHER CASES HE'S CHARGED WITH AS WELL  
22 ONE CHARGE EVEN IS EVEN AGAINST A MALE, SO I WOULD  
23 SAY THAT OBVIOUSLY WITH THESE BEING SO DIFFERENT AND  
24 SO VARIED AND SO FAR APART THERE IS NO REALLY NO WAY  
25 TO COMBINE THEM BECAUSE EVEN THE COURT IN, AS THEY

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1 MENTIONED IN MIDDLETON, TALK ABOUT TWO MURDERS THAT  
2 HAPPEN ON SEPARATE DATES AND SEPARATE LOCATIONS JUST  
3 IN A FAIRLY CLOSE PROXIMITY, BUT THE SAME WEAPON HAD  
4 BEEN INVOLVED AND THAT WAS NOT ALLOWED TO BE JOINED  
5 TOGETHER AND TRIED AT THE SAME TIME SO IF THAT'S NOT,  
6 CERTAINLY MR SANDERS' CHARGES WILL NOT BE ALLOWED TO  
7 BE JOINED TOGETHER BUT WE SEE MANY OTHER CASES  
8 WHERE THINGS ARE ALLOWED TO BE JOINED TOGETHER FOR  
9 INSTANCE IN THE SIMMONS CASE ITSELF, THE TWO  
10 BURGLARIES THAT ARE THEN JOINED TOGETHER IN THAT  
11 PARTICULAR CASE

12 AND STATE VERSUS BRACE, WHICH I HAVE A  
13 COPY OF, I DON'T BELIEVE THE DEFENSE GAVE THAT TO THE  
14 COURT I'LL PASS THOSE UP THESE WERE SEVERAL  
15 CRIMINAL SEXUAL CONDUCTS WITH A LEWD ACT, WITH THE  
16 LEWD ACT OCCURRING SEPARATE DATES FROM THE CRIMINAL  
17 SEXUAL CONDUCTS THE CRIMINAL SEXUAL CONDUCT DATES  
18 OVERLAPPED THE LEWD ACT DID NOT IT WAS THE SAME  
19 VICTIM BUT THE COURT SAID THAT THOSE SHOULD BE JOINED  
20 TOGETHER, SAID THAT WAS PROPER, SO I THINK WE'RE MORE  
21 ALONG THE LINES OF THAT PARTICULAR CASE AS IT COMES  
22 TO HERE UNFORTUNATELY THERE'S GOING TO BE NO CASE  
23 THAT GIVES THE SCENARIO THAT IS IN THIS CASE I  
24 DON'T KNOW THAT I'VE EVEN SEEN A SCENARIO LIKE THIS  
25 CASE, SO I WOULD HAVE TO SAY THAT THE, SIMPLY THE

1 ARGUMENT OF WHAT WE HAVE WITH THE INDICTMENTS  
2 THEMSELVES AND WHAT THEY ARE CHARGED WITH BASICALLY  
3 ENCOMPASSES ALL OF THE EVIDENCE THAT WILL BE  
4 PRESENTED AND THAT, AS I SAID, THAT WE WOULD HAVE TO  
5 USE THE SAME WITNESSES FOR EACH AND INTERTWINED WITH  
6 EACH OTHER, MANY OF THE SAME ELEMENTS AS TO PROVE  
7 EACH ONE, AND IN ADDITION, I WOULD MENTION THAT NO  
8 REAL RIGHT OF THE DEFENDANT HAS BEEN PREJUDICED IF WE  
9 BRING THIS ALL TOGETHER BECAUSE WE'RE SIMPLY BRINGING  
10 TOGETHER WHAT HAPPENED AT THAT PERIOD IN TIME IT'S  
11 NOT LIKE WE'RE SEARCHING FOR OTHER THINGS FAR AWAY  
12 IT'S NOT LIKE WE'RE GOING YEARS AWAY TO FIND ANOTHER  
13 CHARGE THAT CONVICTED SIMILAR OR ANYTHING OF THAT  
14 NATURE WE'RE BRINGING TOGETHER WHAT WAS DISCOVERED  
15 RIGHT THEN AS I SAID EACH ONE OF THE THINGS IS  
16 INEXTRICABLY LINKED AND SO I WOULD ASK THE COURT TO  
17 FIND THAT WE CAN TRY EACH OF THESE WARRANTS, EACH OF  
18 THESE INDICTMENTS AT THE SAME TIME, THE UNLAWFUL  
19 NEGLECT AS TO ALL THREE, AS TO ALL THREE CHILDREN,  
20 AND AS TO THE CRIMINAL SEXUAL CONDUCT AS IT DEALS  
21 WITH ALL THREE CHILDREN BECAUSE ONCE AGAIN THE  
22 UNLAWFUL NEGLECT AS TO AMANDA AND AS TO THE OTHER  
23 CHILDREN HAVE THE SAME SETS OF FACTS THAT WE HAVE TO  
24 INTRODUCE, AND THE CSCS ARE SIMPLY ANOTHER SET OF  
25 FACTS THAT ARE SIMILAR WITH ALL THREE OF THE CHILDREN

1 JUST AS THE DEFENDANT ADMITTED, HE HAD DONE THAT  
2 FINGERING INTO EACH ONE OF THEM AND THEN USING, GOING  
3 ONE STEP FURTHER TO USE THE DILDO ON AMANDA SO  
4 THOSE ARE THE REASONS FOR THE STATE'S ARGUMENT, YOUR  
5 HONOR, TO KEEP THEM TOGETHER AND I WOULD ASK THE  
6 COURT RESPECTFULLY TO DO SO THANK YOU

7 MR MORTON MAY I RESPOND BRIEFLY, YOUR  
8 HONOR?

9 THE COURT YOU BETTER ASK YOUR LEAD  
10 COUNSEL

11 MR SMITH BE GLAD TO, YOUR HONOR

12 MR MORTON YOUR HONOR, THE SIMPLE FACT  
13 IS, IF IT WEREN'T FOR SEXUAL PREDATOR MR JAMES  
14 SANDERS BREAKING IN THE COPE HOME ON THE NIGHT OF  
15 NOVEMBER 29 LIKE HE DID IN SO MANY OTHER HOMES IN HIS  
16 CAREER, MR BILLY COPE WOULDN'T BE HERE TODAY THERE  
17 WOULDN'T BE ANY OF THESE CHARGES, THERE WOULDN'T BE  
18 ANY OF THESE CONFESSIONS, THERE WOULDN'T BE ANYTHING  
19 BECAUSE THE FACT OF THE MATTER IS HE HAS NOT DONE  
20 ANYTHING THE FACT OF THE MATTER IS THAT THE STATE  
21 IS ALLEGING THAT HE WENT IN ON THE INDICTMENT AGAINST  
22 KYLA AND JESSICA COPE BETWEEN SOME PERIOD BETWEEN  
23 OCTOBER FIRST AND NOVEMBER 30 WELL, WE KNOW NOTHING  
24 COULD HAVE HAPPENED ON THE 30 BECAUSE HE WAS IN JAIL  
25 THERE IS NO EVIDENCE AT ALL THAT NOTHING EVEN

1       HAPPENED ON THE 29       THERE IS A POSITY OF EVIDENCE  
2       THAT BILLY COPE HAD ANYTHING TO DO WITH ANY KIND OF  
3       SEXUAL MOLESTATION OF KYLA OR JESSICA COPE       FOR  
4       THREE YEARS, WITNESSES WILL COME INTO THIS COURTROOM  
5       AND TESTIFY AS TO PSYCHOLOGISTS, THERAPISTS, POLICE  
6       OFFICERS, DOCTORS, SOCIAL WORKERS, HER MOTHER, THEIR  
7       MOTHER, IF SHE HADN'T DIED OF A BROKEN HEART ON  
8       FEBRUARY 2, 2002 WOULD HAVE COME IN AND TESTIFIED  
9       THAT SHE WAS TAPE RECORDED, TAPE RECORDED THE GIRLS,  
10      AND THEY ADAMANTLY DENIED, SO THERE WILL BE THOSE  
11      WITNESSES WHO COME IN THIS COURT AND TESTIFY THAT  
12      THESE GIRLS HAVE ALWAYS SAID THEIR FATHER HAS NEVER  
13      SEXUALLY ABUSED THEM       THE PHYSICAL EVIDENCE THAT  
14      THEY HAVE, WE HAVE AN EXPERT, OKAY, WHO WILL COME IN  
15      AND TESTIFY THAT THESE EXAMS WERE COMPLETELY NORMAL  
16      ON THE GIRLS       THE Q-TIP, THE ANAL TONE, THE SEXUAL  
17      IRRITATION AND EVERYTHING, AND SHE'S AVAILABLE AND  
18      SHE'S AVAILABLE VERY QUICKLY, SO BEFORE THE COURT  
19      DECIDES ON THIS, OKAY, THE PHYSICAL EXAM THAT THEY  
20      WILL QUOTE, WHICH IS THE ONLY EVIDENCE THAT THEY  
21      HAVE, OKAY, IS SUSPICIOUS AT BEST       THE ONLY THING  
22      THAT THEY ARE TRYING TO DO IS PREJUDICE THIS MAN WITH  
23      PREJUDICIAL EVIDENCE THAT FAR OUTWEIGHS ANY PROBATIVE  
24      VALUE TO TRY AND LINK THESE CRIMES TOGETHER, TO TRY  
25      AND PROVE THAT HE SOMEHOW CONSPIRED WITH MR   SANDERS,

1 HOW WE DON'T KNOW YET, I 'ASSUME WE'RE GOING TO FIND  
2 SOMETHING OUT, TO MURDER AND RAPE HIS OWN DAUGHTER  
3 THE PREJUDICIAL EFFECT OF THAT, OF THAT TESTIMONY,  
4 INCLUDING THE UNLAWFUL NEGLECT, AS MR SMITH SAID,  
5 THERE WAS AN ONGOING DSS INVESTIGATION AT THAT TIME  
6 THE PICTURES AND THE PHOTOGRAPHS THAT YOU SAW OF THE  
7 POLICE GOING IN HER HOUSE IN THE RICH STREET HOME WAS  
8 ONLY AFTER THE POLICE HAD SPENT SEVERAL DAYS IN  
9 THERE OKAY DSS WILL COME INTO THIS COURTROOM AND  
10 TELL YOU THAT THEY HAD AN ONGOING INVESTIGATION, THAT  
11 THEY FOUND NOTHING TO INDICATE THAT THERE WAS ANY  
12 TYPE OF UNLAWFUL NEGLECT THAT WOULD PUT THEM IN ANY  
13 KIND OF PHYSICAL OR ABUSIVE HARM, THAT THEY HAD  
14 INTERVIEWED THE CHILDREN, THAT THEY HAD GONE TO THEIR  
15 SCHOOLS, THAT THEY HAD TALKED TO THEIR NEIGHBORS,  
16 THAT THEY HAD TALKED TO THEIR CHURCH MEMBERS, THE  
17 ONLY REASON THAT THEY ARE TRYING TO INTRODUCE  
18 EVIDENCE OF ANY UNLAWFUL NEGLECT IS TO PREJUDICE  
19 MR COPE IN THIS MURDER CHARGE, WHICH I MIGHT SUBMIT,  
20 THERE IS NO EVIDENCE OF EITHER EXCEPT HIS CONFESSION  
21 THERE IS NONE AND WE WILL BE ABLE TO PROVE THAT  
22 AS FAR AS TO MR SANDERS, I FIND IT FRANKLY  
23 REPREHENSIBLE THAT THE STATE OF SOUTH CAROLINA,  
24 THROUGH THIS SOLICITOR'S OFFICE, IS NOT GOING TO TRY  
25 AND INTRODUCE SIX OTHER CRIMES OF MURDER, I MEAN, NOT



1 OF MURDER -- THE ONLY REASON AMANDA COPE DIED IS  
2 BECAUSE SHE WAS 12 YEARS OLD AND SHE COULDN'T FIGHT  
3 HIM OFF LIKE THESE OTHER ONES THIS IS NOT A CAT  
4 BURGLAR THIS IS NOT SOMEBODY WHO SNEAKS UP TO YOUR  
5 HOUSE WHILE SOMEBODY IS AWAY AND THE LIGHTS ARE OUT  
6 AND THE NEWSPAPERS ARE IN THE DRIVEWAY THIS MAN IS  
7 A SEXUAL PREDATOR HE WAITS UNTIL SOMEBODY IS HOME  
8 IT'S ALWAYS A FEMALE EXCEPT IN ONE CASE IT ALL  
9 HAPPENED WITHIN THREE QUARTERS OF A MILE OF WHERE HE  
10 LIVED AND WHERE AMANDA COPE LIVED WITHIN SIX WEEKS OF  
11 EACH OTHER HE WAITS UNTIL THE LIGHTS ARE ON, HE  
12 NEVER USES A MASK, HE GOES IN AND CONFRONTS WOMEN AND  
13 ATTACKS THEM AND TRIES TO RAPE THEM EVEN THEIR OWN  
14 STATEMENTS SAY IN THE POLICE REPORTS THAT THIS IS  
15 CONDUCT THAT IS, THE MOTIVE IS THE SAME AS IN THESE  
16 OTHER CASES I SUBMIT TO YOU THAT IT'S VERY STRONG  
17 BAD ACT EVIDENCE AND I SUBMIT THAT WHEN THE TIME  
18 COMES WE WILL PRESENT THE VICTIMS THAT WILL TELL YOU  
19 THAT HE CAME IN THEIR HOUSE JUST LIKE HE CAME IN  
20 AMANDA COPE'S HOUSE, THAT THERE DOESN'T HAVE TO BE  
21 ANY SIGNS OF FORCED ENTRY THAT HE OFTEN COMES IN  
22 THROUGH AN UNLOCKED DOOR OR USING WHATEVER DEVICES HE  
23 USES TO SEXUALLY ATTACK THEM AND I THINK IT'S VERY  
24 STRONG EVIDENCE AGAINST MR COPE THAT HAS NOTHING TO  
25 DO WITH THE STATE TRYING TO LINK ALL THESE CHARGES

1 TOGETHER BECAUSE THERE IS A POSITY OF EVIDENCE  
2 AGAINST KYLA AND JESSICA COPE THIS IS JUST, IT'S  
3 JUST NOT THERE AND AS FAR AS ANY PHYSICAL EVIDENCE  
4 AGAINST THIS MAN, IT'S JUST NOT THERE NOW IF THE  
5 JURY BELIEVES THAT THIS MAN CONSPIRED WITH THIS MAN  
6 AND THAT THIS MAN IS GUILTY OF AMANDA COPE, THEY ARE  
7 GOING TO HAVE TO DO THAT BUT TO TRY AND THROW ALL  
8 THESE THINGS TOGETHER, IT'S JUST PREJUDICIAL TO HIM  
9 WHEN THERE IS, ESPECIALLY SINCE THERE IS LACK OF THAT  
10 EVIDENCE AND WE WOULD ARGUE THAT BEFORE THE COURT  
11 DECIDES, AND WE'RE GOING TO ARGUE THE PRIOR BAD ACT  
12 EVIDENCE, WE'LL ARGUE THAT AT THE PROPER TIME WITH  
13 THE PROPER VICTIMS, BUT BEFORE COURT ARGUES ABOUT THE  
14 SEVERANCE AND ABOUT THE JOINDER OF THESE CASES, TO  
15 HEAR FROM NOT ONLY, THEY HAVE COME IN AND TALKED  
16 ABOUT DR REYNOLDS SUSPICIOUS FINDINGS, WELL, WE'RE  
17 IN CRIMINAL COURT, WE'RE IN CRIMINAL COURT, AND  
18 THAT'S THE BEST THEY CAN COME UP WITH? IS A FINDING  
19 NOT CONSISTENT, NOT THAT CHILDREN ALWAYS REACT WE  
20 HAVE AN EXPERT AVAILABLE WHO WILL TESTIFY THAT THESE  
21 FINDINGS, AND HER CREDENTIALS ARE IMPECCABLE, THESE  
22 FINDINGS AGAINST THESE GIRLS ARE NORMAL, COMPLETELY  
23 NORMAL AND SO FOR THEM TO COME IN WITH THIS  
24 PREJUDICIAL EVIDENCE WITH THESE OTHER GIRLS AND WITH  
25 THE DIRTY HOUSE, THAT DSS WAS CURRENTLY INVESTIGATING

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1       THIS FOR ONE REASON ONLY, THEY ARE STACKING THE  
2       CHARGES AGAINST MR COPE AND IF THEY WANT A FAIR,  
3       CLEAN CASE, TRY MR COPE ON THE MURDER AND THE  
4       CONSPIRACY WITH THIS MAN AND THE CRIMINAL SEXUAL  
5       CONDUCT ON HIS DAUGHTER AND WE'RE PREPARED TO DEFEND  
6       THOSE CASES AND WE'LL DEFEND THEM IN THIS COURTROOM  
7       BUT TO PILE ALL THIS OTHER STUFF ON IS JUST  
8       PREJUDICIAL    AND THE WITNESSES ARE NOT GOING TO BE  
9       THE SAME, THERE IS GOING TO BE A LOT OF WITNESSES  
10      THAT COME IN HERE AND TESTIFY ABOUT CALLING JESSICA  
11      THAT HAD NOTHING TO DO WITH AMANDA COPE   WE'LL ALSO  
12      HAVE AN EXPERT TO TALK, AS MR SMITH SAID, ABOUT THE  
13      CHRONIC SEXUAL ABUSE WHICH, AS HE POINTED OUT, WAS  
14      TWO STEPS REMOVED FROM EVEN EVER FINDING CHRONIC  
15      SEXUAL ABUSE SO TRYING TO LINK WHAT HAPPENED TO  
16      AMANDA   BRUTAL RAPE, BITTEN, BEATEN, AND MURDERED BY  
17      THAT MAN, TO THESE OTHER THINGS IS VERY PREJUDICIAL,  
18      AND WE BELIEVE SHOULD NOT BE CONSIDERED BY A JURY ON  
19      SEPTEMBER SEVEN

20               THE COURT    WELL, I'M GOING TO TAKE THE  
21      SEVERANCE MOTIONS UNDER ADVISEMENT    NOW ANYTHING  
22      ELSE WE NEED TO DO OR CAN DO TO GET READY FOR  
23      SEPTEMBER SEVEN

24               MR MORTON    WE HAVE SOME ---I'M SORRY

25               THE COURT    MR GREELEY, YOU'VE BEEN VERY

1 NICE AND QUIET WE'LL BE GLAD TO HEAR FROM YOU  
2 MR GREELEY YOUR HONOR, I WOULD ASK FOR  
3 THE COURT TO CONSIDER ALLOWING THE TRIAL OF THIS CASE  
4 TO MOVE TO A DIFFERENT COURTROOM, POSSIBLY TO THE ONE  
5 DOWNTOWN IN DOWNTOWN YORK AND THE REASON IS I'VE BEEN  
6 OVER HERE FOR THREE DAYS SITTING IN THE JURY BOX  
7 HERE I'VE BEEN LOOKING OVER AT MR COPE'S TABLE  
8 WHICH IS VERY INTIMIDATING AND OMINOUS WITH PEOPLE  
9 OVER THERE THEY HAVE GOT SITTING AT THEIR TABLE  
10 RIGHT NOW THEY'VE GOT SIX AND MR BAITY IS NOT HERE  
11 WHICH IS GOING TO MAKE SEVEN I IMAGINE THAT THE  
12 PEOPLE WITH ME WE'LL HAVE PROBABLY AT THE MOST THREE  
13 WITH ME, BUT ALSO WHAT IT DOES IS THE STATE IS  
14 ALLEGING A CONSPIRACY BETWEEN THESE TWO DEFENDANTS  
15 WHICH BOTH OF THEM HAVE ENTERED A PLEA OF NOT GUILTY  
16 TO, IT'S VERY POWERFUL VISUAL FOR THE JURY TO SIT  
17 WHERE I'M SITTING HERE FOR PROBABLY TWO WEEKS THAT  
18 THIS CASE IS GOING TO GO AND FOR THE TWO DEFENDANTS  
19 TO HAVE TO BE, REALLY PUT ON TOP OF EACH OTHER IN THE  
20 CORNER OF THAT COURTROOM WITH VERY LITTLE ROOM TO  
21 OPERATE I BELIEVE THAT DOWN, THE COURTROOM IN  
22 DOWNTOWN YORK WHICH IS MUCH BIGGER, WOULD ACCOMMODATE  
23 THE PEOPLE THAT ARE GOING TO BE NEEDED FOR THIS CASE  
24 MORE THERE IS ALSO GOING TO BE, EVIDENTALLY THERE  
25 IS GOING TO BE MEDIA COVERAGE TO THE EXTENT, I DON'T

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1 KNOW WHAT THAT'S GOING TO BE I DO REALIZE THAT THE  
2 JURY PANEL IS SUMMONED FOR HERE, AND WE COULD DO THE  
3 JURY STRIKE HERE, BUT I WOULD ASK THE COURT TO  
4 CONSIDER GIVING ALL OF THE TECHNICAL EQUIPMENT ONCE  
5 IT GETS INTO THIS COURTROOM, ALL THE PEOPLE, WE'RE  
6 GOING TO BE ON TOP OF EACH OTHER FOR ABOUT TWO WEEKS

7 THE COURT ALL RIGHT ANYTHING FURTHER

8 MR MORTON YOUR HONOR, WE HAVE A COUPLE  
9 OF DISCOVERY MATTERS THAT WE HAVE ASKED THE  
10 SOLICITOR'S OFFICE FOR ONE THING I WANT, I WOULD  
11 LIKE TO ASK FOR THAT MRS COLLINS, AND AS I ALWAYS  
12 SAY, MR POPE HAS ALWAYS BEEN VERY ACCOMMODATING IN  
13 TRYING TO PROVIDE US EVIDENCE, WE DO NOT HAVE THE ALL  
14 EVIDENCE, WE DON'T THINK, REGARDING THE PRIOR BAD  
15 ACTS OF MR SANDERS THAT WE WOULD NEED I THINK WE  
16 HAVE A LOT OF IT AND I DON'T KNOW IF IT'S, IF THE  
17 POLICE HAVE NOT PROVIDED IT TO THEM, BUT I WOULD LIKE  
18 TO MAKE A MOTION ON THE RECORD THAT I THINK -- I  
19 DON'T THINK THEY ARE HOLDING BACK ANYTHING I JUST  
20 THINK THAT THERE IS MORE FROM THE POLICE REGARDING  
21 MR SANDERS AND HIS PRIOR BAD ACTS IS ONE THING WE  
22 WOULD LIKE TO MAKE A MOTION FOR AT THIS TIME

23 THE COURT ALL RIGHT MR SOLICITOR, YOU  
24 KNOW ANYTHING ABOUT THAT?

25 MR POPE MAY IT PLEASE THE COURT, I DO

1 NOT, BUT I WILL HAVE AS WE CLEARLY INDICATED AND HE  
2 ACKNOWLEDGED, I WILL HAVE MRS COLLINS CHECK TO THE  
3 BEST OF OUR ABILITY WE TRY TO MAKE SURE BOTH SIDES  
4 HAVE HAD ALL COPIES OF EVERYTHING IF THERE IS  
5 SOMETHING IN EXISTENCE OR OF THERE IS SOMETHING  
6 PARTICULAR THAT THEY KNOW THEY BELIEF IS IN EXISTENCE  
7 I'LL BE GLAD TO HAVE MRS COLLINS WORK WITH ONE OF  
8 THEIR FOLKS TO TRY TO FIND AGAIN, WE'VE TRIED TO  
9 PROVIDE BOTH SIDES WITH EACH FULL VOLUME OF  
10 MATERIALS

11 THE COURT ALL RIGHT MR MORTON,  
12 ANYTHING ELSE?

13 MR MORTON NO, SIR IF MRS COLLINS  
14 WOULD DO THAT, I APPRECIATE THAT I JUST WANTED TO  
15 PUT THAT ON THE RECORD WE HAVE ALSO HAD, I BELIEVE  
16 WE'RE MISSING ONE TAPE, ONE AUDIO TAPE THERE WERE  
17 SEVERAL TAPES IN THIS CASE, JUDGE, THAT THE ROCK HILL  
18 POLICE DEPARTMENT DID INVOLVING JESSICA AND KYLA AND  
19 THEIR DAD, AND JESSICA AND KYLA AND THEIR MOTHER, AND  
20 I BELIEVE THAT WE ARE MISSING -- WELL, WE'LL COME GET  
21 IT AGAIN WE CANNOT PUT OUR HANDS ON IT NOT TO SAY  
22 THAT MRS COLLINS HAS NOT PROVIDED US THAT IF WE  
23 DON'T HAVE THAT IT IS PROBABLY OUR FAULT, THAT BEING  
24 A TAPE OF KYLA, JESSICA, AND HER MOTHER AND WE WILL  
25 GET WITH HER AND I'M SURE SHE HAS NO PROBLEM DOING

1        THAT

2                THERE HAVE BEEN HANDWRITING SAMPLES DONE  
3 BY STATE LAW ENFORCEMENT DIVISION IN REGARDS TO  
4 LETTERS ALLEGEDLY WRITTEN BY MY CLIENT THAT WE DO NOT  
5 HAVE RESULTS OF AS OF TODAY, WEDNESDAY    THESE  
6 EXEMPLARS WERE TAKEN SEVERAL WEEKS AGO AND IN THAT  
7 REGARD I HAVE ASKED MR THOMPSON, I BELIEVE, THE  
8 OTHER DAY    WE HAD REQUESTED OF SLED THAT THEY  
9 FINGERPRINT THESE LETTERS, THAT THEY PERFORM A TEST  
10 THAT SLED AS THE CAPABILITY OF DOING CALLED THE ESDA  
11 TEST, WE DO NOT HAVE THE RESULTS OF ANY OF THOSE  
12 IF MR THOMPSON, CAN ENLIGHTEN ME    I DON'T KNOW

13                MR POPE    I HAVE SOME KNOWLEDGE    I THINK  
14 MR WORSHAM FROM SLED, AND I'M GETTING THIS SECOND  
15 HAND FROM HIM, MR NEAL WAS ACTUALLY COORDINATING  
16 BECAUSE HE WAS PRESENT THE DAY THAT I THINK THAT  
17 Y'ALL BROUGHT, THERE WAS A SECOND LETTER OR SOMETHING  
18 THAT YOU BROUGHT, YOUR HONOR, MR NEAL HAS BEEN  
19 WORKING WITH MR WORSHAM, I KNOW FOR A FACT ACTUALLY  
20 CALLED TODAY I THINK TO REPORT BACK TO MR NEAL  
21 PROBABLY BEST ANSWER I CAN GIVE NOW IS WE'LL  
22 ASCERTAIN WHAT THEY HAVE    THERE IS SOME REQUEST OF A  
23 CERTAIN TYPE TEST WHICH I THINK IS THE ELECTROSTATIC  
24 IMPRINT TEST OR SOMETHING OF THAT NATURE AND THE LAST  
25 TIME MR NEAL HAD TALKED TO ME ABOUT IT THE QUESTION

1 WAS I THINK MR MORTON WAS ASKING WOULD SLED DO THAT  
2 OR NOT DO THAT AND THE INQUIRY WE PUT TO SLED IS WHAT  
3 IS YOUR POSITION AGAIN MUCH LIKE WE DO WITH DNA,  
4 WOULD YOU TEST THIS OR NOT, WHY, WHAT THE ANSWER, SO  
5 I THINK THE BEST ANSWER I CAN GIVE AT THIS POINT IS  
6 HOPEFULLY BY IN THE MORNING I THINK MR NEAL IS OUT  
7 OF THE OFFICE NOW, HOPEFULLY IN THE MORNING I CAN,  
8 AND AGAIN IF YOU CAN ENUMERATE THE QUESTION AND MAKE  
9 SURE I'M ANSWERING EACH ONE INFORMALLY WILL BE FINE,  
10 BUT I'LL BE GLAD TO MAKE SURE WE ADDRESS IT AGAIN TO  
11 PROVIDE MR GREELEY WITH A COPY OF WHATEVER WE HAVE  
12 IN THAT SAME LIGHT AND I DISCUSSED WITH BOTH MR  
13 MORTON AND MR GREELEY, AS I INDICATED THERE WAS A  
14 SUBSEQUENT SCHUMBER MOTION THAT WAS HEARD BY JUDGE  
15 ALFORD CONCERNING MR SANDERS, I HAVE ORAL RESULTS OF  
16 CONFIRMATION OF THAT AND I TOLD MR GREELEY THAT I'M  
17 GOING TO SLED MONDAY AND TOLD MR MORTON THE SAME  
18 THING AND I AGAIN I WILL OBTAIN WHATEVER THEY HAVE  
19 AND PROVIDE IT TO BOTH COUNSEL I'M GOING PHYSICALLY  
20 DOWN THERE AND TRY TO GET THOSE THINGS

21 THE COURT ALL RIGHT

22 MR MORTON I DON'T THINK THERE IS  
23 ANYTHING ELSE INVOLVING MR SANDERS THERE WAS A  
24 LETTER OR SOMETHING THAT WAS REFERRED TO EARLIER IN  
25 THE CASE THAT MR SANDERS HAD WRITTEN TO



1 MR THOMPSON, I DON'T THINK THERE IS ANY DISPUTE  
2 ABOUT THAT

3 THE COURT WELL, THAT'S ALREADY IN THE  
4 RECORD

5 MR MORTON THAT'S IN THE RECORD AS  
6 HAVING BEEN AUTHORED BY MR SANDERS, IS THAT RIGHT?

7 THE COURT I DON'T THINK, I DON'T KNOW  
8 ABOUT THAT

9 MR MORTON CAN WE CLEAR THAT UP AT THIS  
10 TIME? IS THERE ANY DISPUTE AS TO THAT

11 THE COURT MR GREELEY

12 MR GREELEY ALL I KNOW IS THAT I  
13 RECEIVED WHAT WAS SUPPOSEDLY A LETTER FROM MY CLIENT  
14 THAT WENT TO THE SOLICITOR'S OFFICE NOW, WHAT I DID  
15 WAS I ADDRESSED IT WITH THE SOLICITOR'S OFFICE AND I  
16 ASKED MY CLIENT AND ADDRESSED, DID NOT ADDRESS THE  
17 LETTER WITH HIM, I WANTED TO MAKE SURE, I SAID THAT  
18 THERE APPEARED THAT HE MAY HAVE HAD SOME COMPLAINTS  
19 ABOUT MY REPRESENTATION AND HE INDICATED TO ME THAT  
20 THOSE WERE DONE AND THAT HE WAS HAPPY WITH MY  
21 REPRESENTATION AND WE WANTED TO GET THAT IN THE  
22 RECORD

23 THE COURT HE WANTS TO SEE WHETHER IT IS  
24 AUTHENTIC BECAUSE IF IT'S NOT HE PROBABLY WANTS IT I  
25 WOULD --

1 MR GREELEY I RESPECT HIS REQUEST I'M  
2 NOT GOING TO HAVE MY CLIENT AUTHENTICATE ANYTHING

3 THE COURT OKAY ALL RIGHT

4 MR MORTON WE'LL NEED TO HAVE THAT  
5 AUTHENTICATED THEN

6 THE COURT WELL, YOU'LL JUST HAVE TO MAKE  
7 A MOTION TO

8 MR MORTON WE MAKE THAT MOTION NOW

9 THE COURT ALL RIGHT SO YOU ARE MAKING  
10 A SCHMUBER MOTION?

11 MR MORTON NO, SIR, JUST A MOTION FOR  
12 EITHER THE COURT TO AUTHENTICATE IT OR FOR

13 THE COURT I CAN'T AUTHENTICATE IT I'M  
14 NOT A HANDWRITING EXPERT

15 MR MORTON ASK FOR SCHUMBER

16 THE COURT TO GET AN EXEMPLAR MR  
17 GREELEY, DO YOU OPPOSE THAT?

18 MR GREELEY I DO, YOUR HONOR, BECAUSE I  
19 DON'T UNDERSTAND WHAT THE BASIS WOULD BE

20 THE COURT ALL RIGHT

21 MR GREELEY I DON'T KNOW WHAT IT'S --

22 THE COURT HE'S MAKING A MOTION, I'M  
23 GOING TO LET YOU BOTH, SINCE THIS HAS HIT HIM COLD,  
24 GIVE HIM A CHANCE TO TALK TO HIS CLIENT IF YOU NEED  
25 TO HAVE IT RE-ARGUED BEFORE ME, WE'LL SET IT, I'LL BE

1        HERE NEXT WEEK, I'LL BE HERE THE REST OF THIS WEEK OR  
2        IF YOU WANT TO DO IT BY BRIEFS BECAUSE THERE ARE  
3        CERTAIN CRITERIA    I HAVE NEVER HAD A SCHUMBER ER  
4        MOTION PRESENTED BY A DEFENDANT AGAINST ANOTHER  
5        DEFENDANT, SO ANYWAY, YOU SEE WHERE WE GOT TO GO  
6        BECAUSE THERE ARE CERTAIN HURDLES THEY HAVE TO GET  
7        ABOUT INTRUSIVENESS AND THEY HAVE ALREADY DISCUSSED  
8        IT MONDAY TALKING ABOUT IT, THAT'S IT'S SOME EVIDENCE  
9        OF A CRIME AND THAT, IN ANY EVENT I'LL TAKE THAT  
10       UNDER ADVISEMENT SUBJECT TO BEING HEARD, IF WE NEED  
11       TO, SUBJECT TO BE WORKED OUT IF WE CAN, OR SUBJECT TO  
12       AT LEAST BRIEFS FAIRLY QUICKLY

13                MR POPE    WE HAVE ONE MORE ISSUE  
14                THE COURT    I HAVE A COUPLE THINGS  
15       HOUSEKEEPING, BUT GO AHEAD

16                MR POPE    THIS MAY BE SOMEWHAT REGARD, I  
17       HAVEN'T SPOKEN RECENTLY WITH MR MORTON ABOUT IT, BUT  
18       I WAS THINKING ABOUT IT AGAIN WHEN WE WERE WATCHING  
19       THE VIDEO TAPE    WE MADE A MOTION TO REQUEST ANY  
20       MENTAL DEFENSE AND I KNOW WE DEALT WITH MR SANDERS  
21       AS FAR AS BLAIR ISSUES    MY UNDERSTANDING IS THE  
22       DEFENSE IS MAINTAINED, OF COURSE MR COPE PRESENT NOW  
23       TOO, THAT THERE IS NO MENTAL, I UNDERSTAND THE ISSUE  
24       ABOUT THE STATEMENTS AND THE VOLUNTARINESS OF THE  
25       STATEMENTS, BUT AS FAR AS ANY MENTAL DEFENSE BECAUSE

1       OBVIOUSLY FROM THE VIDEO THERE IS SOME WISP OF VOICES  
2       AND THINGS OF THAT NATURE   MY UNDERSTANDING IS AGAIN  
3       FROM MR MORTON IN RESPONDING TO OUR REQUEST FOR  
4       WOULD THERE BE A GBMI OR ANYTHING OF THAT NATURE, IT  
5       MADE CLEAR THERE WAS NO MENTAL DEFENSE   I GUESS WHAT  
6       WE NEED TO CONFIRM IS CONFIRM THAT FOR THE RECORD AND  
7       THAT'S BEEN RESPONSE AND I THINK IT'S PROBABLY A  
8       WRITTEN RESPONSE IN THAT REGARD AND CONFIRMED WITH  
9       MR COPE   I JUST DON'T WANT A PCR ISSUE THAT THE  
10      COURT LATER, IF IT WOULD GO UP, AND WOULD ONLY SEE  
11      THAT VIDEO AND SAY THE ATTORNEYS NEVER EVEN  
12      CONSIDERED IT, I THINK THAT HAS BEEN ADDRESSED AND  
13      CONSIDERED AND RESPONDED TO BUT I JUST WANTED TO PUT  
14      THAT ON THE RECORD

15               THE COURT   YOU READY TO RESPOND TO THAT  
16               MR MORTON   THAT'S CORRECT, YOUR HONOR  
17      THERE IS NOT GOING TO A MENTAL DEFENSE

18               MR POPE   AND I THINK MR COPE, YOU  
19      DISCUSSED THAT WITH YOUR CLIENT AND HE UNDERSTANDS  
20      THAT

21               MR MORTON   YES   AGAIN I'M NOT SURE  
22      SPECIFICALLY WHAT YOU ARE TALKING ABOUT BUT, ARE YOU  
23      TALKING ABOUT CAPACITY OR YOU TALKING ABOUT?

24               MR POPE   CAPACITY OR INSANITY

25               THE COURT   MCNAUGHTON OR GUILTY BUT

1 MENTALLY ILL

2 MR MORTON NO, SIR

3 THE COURT YOU HAVE GIVEN NOTICE,  
4 AFFIRMATIVE

5 MR MORTON WILL NOT BE, YOUR HONOR

6 MR POPE AND AGAIN THE ISSUE OF  
7 CONFIRMING BECAUSE OBVIOUSLY IT WOULD LEND ITSELF TO  
8 PCR ISSUE IF IT GOT TO THAT POINT

9 MR MORTON THANK YOU

10 THE COURT HE'S CONFIRMING IT

11 MR POPE I'M JUST SAYING HAS HIS CLIENT  
12 CONFIRMED IT WITH HIM

13 MR MORTON YES, YOUR HONOR

14 MR POPE THANK YOU, YOUR HONOR

15 MR MORTON YOUR HONOR, WE HAVE ALSO  
16 ASKED THE SOLICITOR'S OFFICE TO PROVIDE US AND I  
17 DON'T KNOW THAT THEY HAVE ACCESS TO THIS YET, BUT AT  
18 SOME POINT NEXT WEEK IF NOT SOONER, RAP SHEETS THAT  
19 THEY TYPICALLY HAVE ON THE JURY COMING WE THINK WE  
20 ARE ENTITLED TO THAT JUST AS THEY ARE AND WE WOULD  
21 ASK THE COURT

22 THE COURT I'LL TAKE THAT UNDER  
23 CONSIDERATION BUT I DON'T KNOW ABOUT THAT YOU ARE  
24 GOING TO HAVE TO SHOW ME SOME AUTHORITY ON THAT

25 MR MORTON WELL, YOUR HONOR, I DON'T

1 KNOW THAT I HAVE AUTHORITY I HAVE AN ARGUMENT  
2 THEY HAVE A RAP SHEET MACHINE THAT'S PAID FOR BY THE  
3 TAXPAYERS, OKAY WE CAN'T GET A RAP SHEET MACHINE  
4 THE COURT WELL, I UNDERSTAND THAT  
5 THERE IS ALSO, AS I UNDERSTAND IT, BECAUSE I HAVE  
6 REQUESTED RAP SHEETS ON CERTAIN OCCASIONS ON CERTAIN  
7 THINGS AND THEY VERY GUARDED BECAUSE THEY HAVE SOME  
8 SORT OF CONTRACTUAL ARRANGEMENT OR SOME SORT OF  
9 STATUTORY PROVISIONS THAT THEY HAVE TO BE VERY, VERY  
10 CAUTIOUS AS TO WHOM THEY GIVE RAP SHEETS I KNOW  
11 THEY GET THEM FOR WITNESSES AND THAT USUALLY IS NO  
12 PROBLEM BOTH YOU AND MR WOOD HAVE WORKED FOR  
13 PROSECUTORS SO YOU MAY KNOW MORE ABOUT IT THAN I DO  
14 WHAT'S YOUR RESPONSE TO THAT FIRST

15 MR POPE I THINK YOU HAVE ACCURATELY  
16 ADDRESSED IT, YOUR HONOR, BUT AGAIN, I'M WILLING TO  
17 HEAR I WAS TRYING TO THINK IF, I KNOW WE'VE HAD THE  
18 MOTION BEFORE, BUT I CAN'T RECALL THAT WE PROVIDED  
19 THEM BEFORE

20 THE COURT WELL, OF COURSE, RAP SHEETS ON  
21 THE JURORS THEMSELVES, THE ONLY TIME THAT THEY WOULD  
22 BE REALLY OF ANY IMPORTANCE, I WOULD THINK, NOW I  
23 DON'T KNOW, NOW I CAN'T GUESS FOR YOU, IF THEY HAVE A  
24 RECORD IN EXCESS OF ONE YEAR THAT RAP SHEET IS GOING  
25 BE CALLED TO EVERYBODY'S ATTENTION BASICALLY WHEN WE

1 QUALIFY THEM BECAUSE I'M GOING TO HAVE TO EXCLUDE  
2 THEM SO WE'LL GET RID OF ALL THOSE ONE THAT DUIS  
3 --FIRST AND SIMPLE ASSAULTS AND PROSTITUTION AND  
4 SHOPLIFTING AND THOSE SORTS OF THINGS WE PROBABLY  
5 WOULDN'T KNOW

6 MR POPE AND IT SEEMS --  
7 THE COURT AND I WOULDN'T BECAUSE I HAVE  
8 NO REASON TO KNOW

9 MR POPE AND I KNOW THAT MRS COLLINS  
10 TRADITIONALLY A SUMMARY FOR YOU TO USE DOWNSTAIRS IN  
11 JURY QUALIFICATION AND AS LONG AS IT COMPORTS AND MR  
12 THOMPSON WAS SAYING THE SAME THING YOU WERE ABOUT THE  
13 SLED RULES, AS LONG AS IT COMPORTS WITH THOSE RULES I  
14 CAN'T SEE ANY REASON AT A MINIMUM THAT I CAN'T  
15 PROVIDE THEM THE SAME SUMMARY THAT MRS COLLINS  
16 IT'S A TWO PAGE SHEET BUT IT IS WHAT WE USE IN THE  
17 BEGINNING THAT SAYS THIS ONE IS QUALIFIED OR THIS ONE  
18 HAS A RECORD OR NOT

19 THE COURT THEY USUALLY GIVE ME A SUMMARY  
20 THAT IS ATTACHED TO THE RAP SHEETS AND THEY CAN  
21 PROVIDE YOU PERHAPS AT LEAST WITH THE SUMMARY IF NOT  
22 THE SUMMARY AND THE RAP SHEETS

23 MR MORTON OF EACH JURORS  
24 THE COURT JURORS WE ARE TALKING ABOUT  
25 STILL

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1 MR MORTON ON EACH JURORS

2 THE COURT YES

3 MR MORTON YES, SIR

4 THE COURT I DON'T KNOW WHAT ELSE

5 MR MORTON I'M TALKING ABOUT NOT, NOT

6 JUST THOSE THAT MAYBE --

7 THE COURT NO, EACH JUROR THEY USUALLY  
8 HAVE IT, NOW USUALLY I GET EVERYTHING, IF MY MEMORY  
9 IS CORRECT, BECAUSE IT SAYS IF THEY GOT ANY RECORD  
10 AND THEN THERE IS A LITTLE PLACE ON THERE EXCESS OF  
11 ONE YEAR OR THEY'VE GOT YES OR NO OR SOMETHING I  
12 CAN'T REMEMBER IT'S BEEN AWHILE THEY HADN'T LET  
13 ME QUALIFY THE JURY FOR AWHILE AND I DON'T KNOW WHY  
14 THAT IS, BUT MAYBE I DON'T DO IT WELL ENOUGH I'M  
15 NOT BEGGING TO DO IT BUT THERE IS A SHEET AND IT'S  
16 GOT EVERYTHING INCLUDING THOSE WHO HAVE SOME TYPE  
17 RECORD GENERALLY EVEN IF IT DOESN'T DISQUALIFY THEM

18 MR POPE I THINK WHEN HE SAYS EVERY  
19 JUROR, BY THEIR ABSENCE, THE ONES WITH NO RECORD  
20 OBVIOUSLY AREN'T LISTED ON IT

21 THE COURT OF COURSE NOT THIS WOULD  
22 JUST BE THOSE THAT HAVE A RECORD

23 MR MORTON YES, SIR IF SHE GOES TO  
24 THAT TROUBLE AND IT'S ACCURATE THEN THAT'S FINE,  
25 JUDGE



1 THE COURT WELL, I CAN VERIFY THAT IT'S  
2 TROUBLE I CAN'T VERIFY THAT IT'S ACCURATE BUT I  
3 WOULD PRESUME THAT IT IS

4 MR GREELEY WE WOULD JUST REQUEST THE  
5 SAME THING

6 MR POPE AND QUITE CANDIDLY, NOT  
7 CANIDLY, THAT MAY HAVE BEEN OPEN AND MY INTENTION IS  
8 TO TREAT BOTH SIDES EQUALLY

9 THE COURT ALL RIGHT WHAT ELSE

10 MR MORTON JUDGE, BACK TO THE  
11 HANDWRITING SAMPLE THAT THE STATE HAS PERFORMED ON MY  
12 CLIENT THERE WAS A FOUR PAGE TO THE QUESTION  
13 DOCUMENT THAT THERE WAS NOT A REPORT ON WE WOULD  
14 SPECIFICALLY INCLUDE IN OUR REQUEST THAT MR WORSHAM  
15 REPORT ON THE FOURTH PAGE THAT WAS IN THE QUESTION  
16 DOCUMENT AS FAR AS I KNOW IT

17 MR POPE AGAIN, YOUR HONOR, IN  
18 CONJUNCTION WITH THE WHOLE HANDWRITING ISSUE IF THEY  
19 CAN REDUCE IT, IT DOESN'T HAVE TO BE MUCH, BUT REDUCE  
20 SOMETHING TO WRITING, I'VE GOT MRS COLLINS TAKING  
21 NOTES TOO, I WILL TRY TO GET WITH MR NEAL AND SLED  
22 TOMORROW, ASCERTAIN THOSE ANSWERS AND PROVIDE THEM TO  
23 BOTH SIDES AS TO WHAT HAS BEEN DONE AND WHAT NEEDS TO  
24 BE DONE IF THERE IS SOME REASON, THEY SAID THE  
25 REASON WE NEVER DID THE FOURTH PAGE IS BECAUSE

1       PROTOCOL 427 AND I'LL BRING IT TO THEIR ATTENTION IF  
2       WE NEED TO COME BACK BEFORE     BUT WHATEVER HADN'T  
3       BEEN DONE IF THEY CAN JUST GIVE IT TO ME I'LL BE GLAD  
4       TO SEE THAT IT GETS DONE

5                   THE COURT     WHAT ELSE

6                   MR   MORTON     JUDGE, WE WOULD LIKE TO  
7       REQUEST THAT WE BE ALLOWED AT LEAST TO TAKE A STILL  
8       PHOTOGRAPH OF THE HOLDING CELLS DOWN IN THE JAIL    I  
9       DON'T THINK IT'S GOING TO CAUSE ANY REAL BIG SECURITY  
10      PROBLEM FOR THEM IF WE DO THAT AND THE REASON THAT WE  
11      DO THAT I THINK IT GOES TO THE VOLUNTARINESS OF MY  
12      CLIENT'S STATEMENT ON NOVEMBER 30 AND LATER ON  
13      DECEMBER THIRD    HE WAS HELD IN THE HOLDING CELLS  
14      DOWN THERE FOR SEVERAL DAYS    THEY ARE PRETTY SPARSE  
15      AND I THINK IT CONTRIBUTED TO HIS ACTIONS ON THE 30  
16      AND POSSIBLY ON, WELL CERTAINLY ON DECEMBER THIRD  
17      WE'RE CERTAINLY NOT GOING TO TRY TO DISSEMINATE THEM  
18      TO ANYBODY    I THINK IT'S PRETTY, IT LACKS OF  
19      INTRUSIVENSNESS AND WE THINK IT'S AN ISSUE WE NEED TO  
20      PRESERVE AND PROVIDE

21                   THE COURT     ANY PROBLEM WITH THAT

22                   MR   POPE     I THINK THE ANSWER TO THAT MOST  
23      LIKELY, MR   MORTON WANTS TO CONTACT MR   MISLE OR  
24      CAPTAIN CABANISS

25                   THE COURT     SEE IF THAT PRESENTS A

1 PROBLEM IT MIGHT BE SOMETHING UNDER THE NEW  
2 ANTI-TERROR ACT

3 MR POPE BUT AGAIN I DON'T HAVE ANY  
4 OPPOSITION AS LONG AS IT IS SUBSTANTIATED

5 THE COURT WHY DON'T YOU CHECK AND IF  
6 IT'S A PROBLEM GET BACK WITH US, THE SOLICITOR AND  
7 MYSELF

8 MR MORTON OUR LAST MOTION, WE WOULD  
9 LIKE TO BE PROVIDED WITH ALL AND ALL NOTES THAT THE  
10 OFFICERS HAVE TAKEN REGARDING THEIR INTERROGATION OF  
11 MR COPE AND OTHER WITNESSES INVOLVED IN THIS CASE  
12 WE THINK WE'RE, THEY OBLIGATE THEMSELVES WHEN THEY  
13 ARE TAKING NOTES REGARDING THE STATEMENTS THAT  
14 MR COPE HAS STATED TO THEM WHETHER THEY RECORD THEM  
15 AT A LATER DATE, WHETHER THEY MEMORIZED THEM IN A  
16 TYPEWRITTEN FORM, IF THEY ARE TAKING NOTES  
17 CONTEMPORANEOUS TO HIS STATEMENTS WE THINK WE ARE  
18 ENTITLED TO THEM UNDER BRADY AND UNDER KYLES VERSUS  
19 WHITLEY AS INCULPATORY, EXCULPATORY IF THERE ARE  
20 STATEMENTS CERTAINLY MADE BY THE DEFENDANT

21 THE COURT WELL, THE RULE PROVIDES WITH  
22 WHAT TO DO WITH WITNESSES STATEMENTS AFTER THEY'VE  
23 TESTIFIED YOU ARE CERTAINLY ENTITLED TO IT THEN

24 MR MORTON YES, SIR

25 THE COURT AND BRADY AND KYLE SPEAK FOR

1       THEMSELVES     THE STATE IS TELLING ME THAT THEY ARE  
2       PROVIDING THAT     IT'S HARD FOR ME TO GO BEHIND THAT  
3       UNLESS I HAVE AN IN CHAMBERS IN CAMERA REVIEW OF ANY  
4       AND ALL NOTES

5               MR POPE     THE IMPRESSION I HAVE AGAIN AND  
6       I WILL CONFIRM THIS, I SOUND LIKE A BROKEN RECORD AT  
7       THIS JUNCTURE, BUT I THINK THE DEFENSE HAS BEEN  
8       PROVIDED WITH EVERYTHING THAT'S IN EXISTENCE     I WILL  
9       SEND OUT THAT MRS COLLINS IS TAKING NOTES AS I  
10      SPEAK, WILL CALL IF THERE IS SOMETHING SPECIFIC THAT  
11      MR MORTON OR THE DEFENSE EITHER DEFENSE MAY BE AWARE  
12      OF IN EXISTANCE OR FEEL THAT IS IN EXISTENCE THAT  
13      WE'RE NOT AWARE     AGAIN IF YOU WILL GIVE IT TO ME IN  
14      WRITING AND WE WILL ASK SPECIFICALLY ABOUT THAT

15             THE COURT     MRS COLLINS' NOTES ARE  
16      PROBABLY PROTECTED UNDER ATTORNEY-CLIENT

17             MR POPE     THOSE WERE NOT THE NOTES I WAS  
18      REFERRING TO

19             MR MORTON     THEY'VE BEEN VERY FORTHCOMING  
20      AS ALWAYS AND WE DO APPRECIATE THAT, YOUR HONOR     I  
21      THINK THAT'S ALL I HAVE

22             MR POPE     THERE IS ONE MR MORTON HAD,  
23      NOW I'M DOING MR MORTON'S STUFF FOR HIM, BUT THERE  
24      WAS ONE CONCERNING THE COMPUTER HARD DRIVE     I THINK  
25      ROCK HILL CITY PERHAPS, MY UNDERSTANDING IS MAYBE

1 MR COPE SAID I DON'T HAVE ALL THE INFORMATION BEFORE  
2 ME, BUT MR COPE COMPUTERS ARE IN EVIDENCE AND HAD  
3 GONE TO STATE LAW ENFORCEMENT DIVISION AT SOME POINT  
4 AND I THINK THERE IS A QUESTION ABOUT THE POSSIBLY AN  
5 EXPERT LOOKING AT THE HARD DRIVES I DON'T HAVE  
6 ENOUGH INFORMATION YET I'M TRYING TO WORK WITH ROCK  
7 HILL TO GIVE WHAT THEY NEED TO GIVE THEM ACCESS  
8 THERE IS SOME CONCERN OBVIOUSLY IF IT'S GOING TO  
9 LEAVE LAW ENFORCEMENT CUSTODY, THERE MAY BE SOME  
10 MECHANICS WE NEED TO ADDRESS MAYBE IF YOU KNOW MORE  
11 ABOUT THAT OR COULD TELL ME MORE SO I CAN ADDRESS  
12 THAT APPROPRIATELY

13 MR SMITH JUDGE, WE'VE JUST BEEN TRYING  
14 TO HAVE OUR EXPERT EXAMINE THE COMPUTER ROCK HILL  
15 HAS TOLD US THAT WE HAVE TO GET A LETTER FROM THE  
16 SOLICITOR'S OFFICE, THAT A PHONE CALL WOULDN'T DO IT  
17 IT HAS TO BE A WRITTEN LETTER IT'S MY UNDERSTANDING  
18 THAT WAS SENT OVER EARLIER TODAY I'M NOT POSITIVE

19 MR POPE AND THE REASON IT WAS BROUGHT  
20 TO MY ATTENTION I THINK THE LETTER WAS E-MAILED TO ME  
21 TO APPROVE OR TO SEND AND I'M TRYING TO MAKE SURE  
22 THAT I UNDERSTAND WHAT'S BEING REQUESTED IS IT  
23 BEING REQUESTED TO BE REMOVED BECAUSE OBVIOUSLY THERE  
24 IS DIFFERENT CONCERNS IF IT IS GOING TO BE REMOVED  
25 FROM

1 THE COURT APPEAR TO ME THAT YOUR EXPERT  
2 COULD GO THERE AND DO IT ON THE PREMISES

3 MR SMITH YES, SIR I DON'T THINK  
4 THAT'S A PROBLEM

5 MR POPE I MEAN I GOT NO REASON TO  
6 BELIEVE THEIR EXPERT WOULD BE ERASING DATA OR  
7 ANYTHING OF THAT NATURE, BUT WE PROBABLY WOULD  
8 REQUEST SOMEBODY SITTING WITH HIM

9 MR SMITH ABSOLUTELY  
10 THE COURT PRESENCE OF DESIGNATED PERSON  
11 FROM THE POLICE DEPARTMENT OR SOLICITOR'S OFFICE

12 MR POPE I WILL COORDINATE THAT WITH THE  
13 THEM ALSO, YOUR HONOR

14 MR MORTON LAST BUT NOT LEAST, OF  
15 COURSE, IT'S IN THE COURT'S DISCRETION I WILL  
16 PROBABLY MOVE FOR THE JURY TO BE SEQUESTERED IN THIS  
17 CASE DUE TO THE NATURE OF THE PUBLICITY I DON'T  
18 KNOW WHETHER, I JUST THOUGHT I WOULD BRING THAT UP  
19 NOW

20 THE COURT WELL, I'LL CERTAINLY CONSIDER  
21 THAT AT THE TIME I WILL TELL YOU, WELL, I'LL  
22 CONSIDER IT AT THE TIME BUT RIGHT NOW I HAVE NOT MADE  
23 A DECISION TO SO DO

24 MR MORTON YES, SIR AS I STATED TO THE  
25 COURT EARLIER, I DON'T THINK NOW IS THE PROPER TIME

1 TO MAKE A VENUE MOTION BUT I THINK I'LL PROVIDE THE  
2 STATE WITH A CHANGE OF VENUE AFFIDAVIT NEXT WEEK AND  
3 THEN MAKE THAT MOTION ACCORDINGLY IF IT'S PROPER

4 THE COURT OKAY

5 MR POPE I THINK, YOU KNOW, I ALWAYS  
6 SITE THE STATE VERSUS SMITH BUT I THINK THE CASE IS  
7 PRETTY CLEAR THAT UNTIL WE TRY IT WE WOULDN'T BE IN A  
8 POSITION TO KNOW ON THAT

9 THE COURT ALL RIGHT BEFORE EVERYONE  
10 LEAVES I THINK THIS SHOULD BE THE STATE'S STACK IT  
11 HAS THEIR TRANSCRIPT, THEIR INDICTMENTS, THE VIDEO,  
12 AND THE TAPES I THINK AS FAR AS THE DEFENSE, ALL I  
13 HAVE IS THE, WAIT JUST A MINUTE BECAUSE I GOT ONE  
14 OTHER THINK I WANT YOU TO DO THEN I WANT IN MY  
15 HANDS, I WANT BOTH SIDES TO GET WITH THE COURT  
16 REPORTER TO MAKE SURE ALL EXHIBITS ARE ACCOUNTED FOR  
17 BEFORE WE LEAVE INCLUDING BEFORE I LEAVE IN CASE I  
18 HAVE SOMETHING UP HERE

19 THEN THE NEXT LAST THING THAT'S POPPED IN  
20 MY MIND, AND I'M NOT THROWING COLD WATER ON YOUR  
21 REQUEST YET AS TO THE CHANGE OF NOT VENUE BUT COURT  
22 HOUSE, IT IS POSSIBLE THAT WE COULD AND I WANT  
23 EVERYONE TO THINK ABOUT THIS BECAUSE I DON'T WANT  
24 EITHER SIDE TO FEEL LIKE THEY ARE GETTING THE SHORT  
25 END OF THE STICK, IS THAT WE COULD MAYBE NOT HAVE AS

1       MANY PEOPLE IN FRONT OF THE RAIL AND HAVE SOME OF  
2       THESE SUPPORT PEOPLE BEHIND THE RAIL    THAT IS WITHIN  
3       EASY FETCHING DISTANCE, WITHIN COMMUNICABLE DISTANCE,  
4       AND THAT MIGHT HELP SOME    I DON'T THINK THOSE DESKS  
5       MOVE

6                   MR POPE    I WAS TRYING TO, WE HAD A TRIAL  
7       IN '93 RALPH KING ANDERSON, JR CAME AND I KNOW THEY  
8       ACTUALLY DETACHED IT AND LIFTED IT UP, SO THE NEXT  
9       QUESTION OF COULD IT BE TURNED    I KNOW, THERE IS AN  
10      ELECTRICAL OUTLET UNDERNEATH    I KNOW THERE IS ONE  
11      HERE

12                   THE COURT    WE'LL TAKE A LOOK AT THAT  
13                   MR POPE    THERE IS AT LEAST THE POTENTIAL  
14      OF TURNING IT SOMEHOW

15                   THE COURT    THE ONLY TIME I TRIED  
16      MULTIPLES WAS THE GRAND JURY CASE AND IT HAD ABOUT  
17      FIVE OR SIX DEFENDANTS AND WE WERE ABLE TO DO IT BUT  
18      IT WAS ALL CRAMPED, YOU ARE RIGHT, AND I THINK WE  
19      LOOKED INTO MOVING DESKS AT THAT TIME, BUT WE'LL  
20      CHECK ALL THOSE PROSPECTS    ALL RIGHT    ANYTHING  
21      ELSE    WELL, I APPRECIATE EVERYBODY'S COURTESIES AND  
22      PATIENCE THIS WEEK AND WE'LL MOVE FORWARD, BUT DO  
23      CHECK THESE EXHIBITS SO WE CAN MAKE BE SURE THEY ARE  
24      ALL TOGETHER

25                   (COURT'S IN RECESS AT 5 25 )



1  
2  
3 I, JANET RICH, OFFICIAL COURT REPORTER FOR THE  
4 SIXTEENTH CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY  
5 CERTIFY THAT THE FORGOING IS A TRUE, ACCURATE, AND COMPLETE  
6 TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE  
7 INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO  
8 APPEAL, IN THE CIRCUIT COURT FOR YORK COUNTY, SOUTH CAROLINA,  
9 ON THE 25TH DAY OF august 2004

10 I DO FURTHER CERTIFY THAT I AM NEITHER KIN, COUNSEL,  
11 NOR INTEREST TO ANY PARTY HERETO  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

  
JANET M RICH

000551

1 IN THE CIRCUIT COURT OF YORK COUNTY, SOUTH CAROLINA

2 STATE OF SOUTH CAROLINA

3 VERSUS

4 BILLY WAYNE COPE &  
5 JAMES EDWARD SANDERS

6 INDICTMENT NUMBERS

2003-GS-46-1843-1844

2004-GS-46-2614-2618

2004-GS-46-196-199

8 HEARD AT THE MOSS JUSTICE CENTER,  
9 1675 YORK HIGHWAY, YORK, SOUTH CAROLINA, ON  
10 TUESDAY, SEPTEMBER 7, 2004, BEFORE THE HONORABLE  
JOHN C HAYES, III AND A JURY

APPEARANCES

11 TOMMY POPE  
12 KEVIN BRACKETT  
13 WILLY THOMPSON  
14 16TH CIRCUIT SOLICITOR'S OFFICE  
15 1675 YORK HIGHWAY  
16 YORK, SC 29745  
17 REPRESENTING THE STATE

18 JAMES MORTON  
19 DAVID WOOD  
20 MICHAEL SMITH  
21 MORTON & GETTYS  
22 1051 OAKLAND AVENUE  
23 ROCK HILL, SC 29732

24 A PHILIP BAITY  
25 POST OFFICE BOX 275  
FORT MILL, SC 29715  
REPRESENTING BILLY WAYNE COPE

LELAND GREELEY  
128 E MAIN STREET SUITE 102  
ROCK HILL, SC 29732  
REPRESENTING JAMES EDWARD SANDERS

REPORTED BY JANET M RICH  
CIRCUIT COURT REPORTER  
1992 DOWNEY STREET  
ROCK HILL, SC 29732

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## I N D E X

JURY DRAWN AND SEATED 114

MOTIONS 118

000553

1 (COURT RESUMES AT 12 20 )

2 THE COURT I'M GOING TO ASK THE SOLICITOR  
3 TO CALL OUR CASES

4 MR BRACKETT MAY IT PLEASE THE COURT  
5 YOUR HONOR, THIS IS CASE NUMBER 2002-GS-46-2323 THE  
6 STATE VERSUS BILLY WAYNE COPE TRUE BILLED INDICTMENT  
7 FOR MURDER 2002-GS-46-3233 THE STATE VERSUS BILLY  
8 WAYNE COPE A TRUE BILLED INDICTMENT FOR CRIMINAL  
9 SEXUAL CONDUCT IN THE FIRST DEGREE 2002-GS-46-3234  
10 THE STATE VERSUS BILLY WAYNE COPE A TRUE BILLED  
11 INDICTMENT FOR CRIMINAL SEXUAL CONDUCT IN THE FIRST  
12 DEGREE 2004-GS-46-200 THE STATE VERSUS BILLY WAYNE  
13 COPE A TRUE BILLED INDICTMENT FOR CRIMINAL  
14 CONSPIRACY 2004-GS-46-2614 THE STATE VERSUS BILLY  
15 WAYNE COPE A TRUE BILLED INDICTMENT FOR UNLAWFUL  
16 CONDUCT TOWARDS A CHILD

17 AND 2004-GS-46-196 THE STATE VERSUS JAMES  
18 EDWARD SANDERS TRUE BILLED INDICTMENT FOR MURDER  
19 2004-GS-46-1097 THE STATE VERSUS JAMES EDWARD SANDERS  
20 A TRUE BILLED INDICTMENT FOR CRIMINAL SEXUAL CONDUCT  
21 IN THE FIRST DEGREE 2004-GS-46-0198 THE STATE  
22 VERSUS JAMES EDWARD SANDERS TRUE BILLED INDICTMENT  
23 FOR CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE AND  
24 2004-GS-46-199 THE STATE VERSUS JAMES EDWARD SANDERS  
25 THIS BEING A TRUE BILLED INDICTMENT FOR CRIMINAL

000554

1 CONSPIRACY

2 YOUR HONOR, THE DEFENDANTS ARE PRESENT  
3 WITH COUNSEL, HAVE ENTERED PLEAS OF NOT GUILTY, AND  
4 THE STATE IS PREPARED TO DRAW A JURY IN THIS MATTER

5 THE COURT ALL RIGHT MEMBERS OF THE  
6 JURY PANEL, YOU'VE HEARD THE CHARGES AND THE  
7 DEFENDANTS ARE MR BILLY WAYNE COPE AND MR JAMES  
8 EDWARD SANDERS

9 FIRST I WILL ASK THE SOLICITOR TO  
10 INTRODUCE WHOEVER IS GOING TO BE BASICALLY CALLED THE  
11 LEAD SOLICITOR, ONE OF THE SOLICITOR'S INTRODUCE  
12 THEMSELVES, AND THE OTHER PEOPLE WHO WILL BE INVOLVED  
13 WITH THEM, THAT IS SOLICITORS AND PEOPLE PRESENT IN  
14 THE COURTROOM, NOT WITNESSES

15 MR BRACKETT MAY IT PLEASE THE COURT  
16 MY NAME IS KEVIN BRACKETT I'M DEPUTY SOLICITOR FOR  
17 THE SIXTEENTH CIRCUIT TRYING THIS CASE TODAY WITH  
18 ME WILL BE THE SOLICITOR TOMMY POPE, ASSISTANT DEPUTY  
19 SOLICITOR WILLY THOMPSON, LEAD INVESTIGATOR CHARLENE  
20 BLACKWELDER WITH THE ROCK HILL POLICE DEPARTMENT, AND  
21 OUR INVESTIGATOR ASSISTANT MRS MERRY COLLINS

22 THE COURT ALL RIGHT MR MORTON, WOULD  
23 YOU INTRODUCE MR BILLY WAYNE COPE AND THOSE  
24 INDIVIDUALS WITH WHOM YOU WILL BE ASSOCIATED WITH

25 MR MORTON YES MY NAME IS JIM MORTON

000555

1 AND I'LL BE REPRESENTING MR BILLY COPE WITH ME ARE  
2 MR PHILLIP BAITY WHO IS AN ATTORNEY, MR MICHAEL  
3 SMITH AN ATTORNEY, AND MR DAVID WOOD RIXIE DUNN  
4 WHO WORKS IN MY OFFICE AND ELIZABETH WHO ALSO WORKS  
5 IN MY OFFICE

6 THE COURT ALL RIGHT THANK YOU THEN  
7 MR LELAND GREELEY REPRESENTS MR SANDERS I'M GOING  
8 TO ASK HIM TO INTRODUCE HIMSELF AND MR SANDERS

9 MR GREELEY THIS IS MR JAMES SANDERS  
10 I AM LELAND GREELEY I AM HIS ATTORNEY  
11 PERIODICALLY THERE MAY BE ONE OTHER PERSON WITH US IN  
12 COURTROOM THAT IS ANDREA THOMAS WHO IS MY LEGAL  
13 ASSISTANT AND WHO IS NOT HERE TODAY

14 THE COURT THANK YOU FIRST ARE ANY OF  
15 YOU RELATED BY BLOOD OR MARRIAGE OR A CLOSE PERSONAL  
16 FRIEND OR ACQUAINTANCE TO ANY OF THE INDIVIDUALS TO  
17 WHOM YOU HAVE JUST BEEN INTRODUCED, THE ATTORNEYS OR  
18 THE DEFENDANTS? IF YOU ARE A CLOSE PERSONAL FRIEND  
19 OR ANY BLOOD RELATION PLEASE STAND UP ALL RIGHT  
20 YOUR NAME AND NUMBER

21 THE JUROR MIKE ELDER, NUMBER 86 I KNOW  
22 RIXIE

23 THE COURT ALL RIGHT WOULD THE FACT  
24 THAT YOU KNOW HER, JUST REMAIN SANDING, WOULD THE  
25 FACT THAT YOU KNOW HER, WOULD THAT AFFECT YOUR

1 ABILITY TO BE FAIR AND IMPARTIAL IN THE TRIAL OF THIS  
2 CASE?

3 THE JUROR NO, I DON'T THINK SO

4 THE COURT WOULD YOU BE ABLE TO BASE YOUR  
5 VERDICT SOLELY ON THE LAW AND THE EVIDENCE AS  
6 DEVELOPED IN THE TRIAL?

7 THE JUROR YEAH

8 THE COURT OKAY THANK YOU NO ONE ELSE  
9 STANDS HAVE ANY OF YOU BEEN REPRESENTED BY OUR  
10 SOLICITOR'S OFFICE, BEEN INVOLVED WITH THEM BY  
11 REPRESENTATION AS A VICTIM OR IN ANY OTHER CAPACITY,  
12 OR HAVE YOU WORKED WITH THE SOLICITOR'S OFFICE IN ANY  
13 CAPACITY SUCH AS VICTIM WITNESS ASSISTANCE OR  
14 ANYTHING LIKE THAT? IF SO PLEASE STAND YES, MA'AM

15 THE JUROR FORMERLY A BAIL BONDSMAN I  
16 KNOW SEVERAL OF THE SOLICITOR

17 THE COURT WHENEVER YOU STAND MAKE SURE  
18 FIRST YOU GIVE ME YOUR NAME AND NUMBER BECAUSE THE  
19 LAWYERS WANT TO FIND IT AND WE ALSO HAVE TO MAKE A  
20 RECORD OF IT

21 THE JUROR IT'S DEBRA KING, JUROR 288  
22 AND I HAVE BEEN FORMERLY A BAIL BONDSMAN, NO LONGER,  
23 AND I'VE WORKED WITH SEVERAL OF THEM

24 THE COURT WOULD THAT AFFECT YOUR ABILITY  
25 TO BE FAIR AND IMPARTIAL?

000557

1 THE JUROR NO, SIR

2 THE COURT WOULD YOU BE ABLE TO BASE YOUR  
3 VERDICT ON THE LAW AND THE EVIDENCE IN THIS TRIAL?

4 THE JUROR YES

5 THE COURT ALL RIGHT YES, MA'AM, YOUR  
6 NAME AND NUMBER

7 THE JUROR MY NUMBER IS 183, KAREN MOYE,  
8 AND I WAS REPRESENTED BY THE PROSECUTION, VICTIM

9 THE COURT WOULD THAT AFFECT YOUR ABILITY  
10 TO BE FAIR AND IMPARTIAL IN THE TRIAL OF THIS CASE?

11 THE JUROR NO, SIR

12 THE COURT WOULD YOU BE ABLE TO BASE YOUR  
13 VERDICT SOLELY ON THE LAW AND THE EVIDENCE IN THE  
14 TRIAL?

15 THE JUROR YES, SIR

16 THE COURT I SAW ANOTHER HAND BUT STAND  
17 WHEN YOU NEED TO TALK TO ME STAND BECAUSE I REALLY  
18 CAN'T, YOU REALLY KIND OF GET LOST IN THE SHUFFLE OUT  
19 THERE YOUR NAME AND NUMBER

20 THE JUROR ROBERT GIBSON, 101 MY  
21 DAUGHTER WAS, THE FATHER OF MY DAUGHTER WAS CHILD  
22 MOLESTED

23 THE COURT WOULD THAT AFFECT YOUR ABILITY  
24 TO BE FAIR AND IMPARTIAL IN THE TRIAL OF THIS CASE?

25 THE JUROR YES, SIR



1 THE COURT IT WOULD?

2 THE JUROR YES, SIR

3 THE COURT ALL RIGHT WELL, JUST DON'T  
4 LEAVE BUT HAVE A SEAT BUT YOU'LL BE EXCUSED FROM THIS  
5 TRIAL ALL RIGHT HAVE ANY OF YOU OR A MEMBER OF  
6 YOUR

7 MR MORTON MAY I APPROACH THE BENCH ONE  
8 SECOND

9 THE COURT YES, COME ON HAVE ANY OF YOU  
10 BEEN, I ALREADY ASKED ABOUT REPRESENTATION ARE ANY  
11 OF YOU OR A MEMBER OF YOUR IMMEDIATE FAMILY INVOLVED  
12 IN LAW ENFORCEMENT AT ANY LEVEL, ANYTHING FROM  
13 MILITARY POLICE TO U S ATTORNEY'S OFFICE, OR ARE ANY  
14 OF YOU OR A MEMBER OF YOUR FAMILY OR HAVE THEY IN THE  
15 PAST BEEN INVOLVED AS A PROSECUTOR, THAT IS, INVOLVED  
16 IN SOME KIND OF PROSECUTING AGENCY, JUDGE ADVOCATE  
17 GENERAL CORPS, JUST ANYTHING YOU CAN THINK OF,  
18 SOLICITOR OR ANY TYPE PROSECUTORS? ALL RIGHT I  
19 ALWAYS TRY TO START AND WORK MY WAY FROM THE BACK TO  
20 FRONT AND THEN ACROSS, IT'S JUST A PATTERN I  
21 DEVELOPED, SO WE'LL START YOUR NAME AND NUMBER

22 THE JUROR WILLIAM RAMSEY, 205 I HAVE A  
23 COUSIN WHO IS A DEPUTY FOR YORK COUNTY I'M ALSO  
24 GOOD FRIENDS WITH THE CORONER DOUG MCKOWAN

25 THE COURT JUST REMAIN STANDING YES,

000559

1 MA'AM, YOUR NAME AND NUMBER

2 THE JUROR I HAVE A BROTHER-IN-LAW,  
3 CARRIE NALLEY I'M NOT SURE OF MY NUMBER I HAVE A  
4 BROTHER-IN-LAW IN LAW ENFORCEMENT IN YORK COUNTY

5 THE COURT ALL RIGHT

6 THE CLERK 184

7 THE COURT YES, MA'AM

8 THE JUROR CHERYL BLACK, NUMBER 22 I  
9 HAVE A STEP-BROTHER THAT IS AN ATTORNEY FOR THE U S  
10 ARMY

11 THE COURT ALL RIGHT YES, MA'AM

12 THE JUROR SHANNON WHISENANT, NUMBER 266  
13 I'M NOT SURE IF THIS IS THE CORRECT TIME, BUT A  
14 MEMBER OF THE DEFENSE REPRESENTED ME IN A DIVORCE  
15 CASE

16 THE COURT ARE THEY REPRESENTING YOU  
17 CURRENTLY?

18 THE JUROR NO, THIS WAS SEVERAL YEARS  
19 AGO

20 THE COURT JUST REMAIN STANDING THEN IF  
21 YOU WILL YES, MA'AM, IN THE ORANGE

22 THE JUROR NANCY QUINN, NUMBER 204 MY  
23 BROTHER IS A POLICE OFFICER WITH THE CITY OF  
24 GASTONIA

25 THE COURT ALL RIGHT JUST REMAIN

1       STANDING PLEASE

2               THE JUROR   MY NAME IS DAVID MARK, 157    I  
3       WAS A FORMER CORRECTIONS OFFICER FOR CONNECTICUT   MY  
4       DAD IS ALSO A DEPUTY SHERIFF OR WAS FOR BRUNSWICK  
5       COUNTY IN NORTH CAROLINA AND CANADA

6               THE COURT    YES, MA'AM

7               THE JUROR    YES, YOUR HONOR    I THINK MY  
8       NUMBER IS 290   MY NAME IS ELIZABETH MARTINEAU    I'M  
9       NOT ASSOCIATED IN ANY PRESENTLY BUT IN THE PAST I WAS  
10      A SPECIAL U S   ASSISTANT ATTORNEY FOR THE EASTERN  
11      DISTRICT OF NORTH CAROLINA    I HELP PROSECUTED CASES  
12      I AM ALSO A LAWYER FOR THE MARINE CORPS

13              THE COURT    ALL RIGHT    YES, SIR

14              THE JUROR    MY NAME IS THOMAS MCCLOUD  
15      I'M A RETIRED POLICE OFFICER FROM NEW YORK CITY  
16      POLICE DEPARTMENT

17              THE COURT    ALL RIGHT    YES, MA'AM

18              THE JUROR    DONNA BLANKENSHIP, JUROR 26  
19      MY SON IS A POLICE OFFICER WITH THE CITY OF TEGA CAY

20              THE COURT    ALL RIGHT    ANY OF YOU  
21      STANDING IF THE FACT THAT YOU HAVE STOOD IN REGARD TO  
22      THIS QUESTION, THAT IS, BECAUSE YOU HAVE THIS TYPE  
23      RELATIONSHIP, IF THAT WOULD PREVENT YOU FROM BEING  
24      FAIR AND IMPARTIAL PLEASE RAISE YOUR RIGHT HAND    NO  
25      ONE STANDS    IF IT WOULD PREVENT YOU FROM BASING YOUR

1 VERDICT ON THE LAW AND THE EVIDENCE IN THE TRIAL  
2 PLEASE RAISE YOUR RIGHT HAND NO ONE DOES THANK  
3 YOU I APPRECIATE YOU PROVIDING US WITH THAT  
4 INFORMATION

5 WERE ANY OF YOU MEMBERS OF THE GRAND JURY  
6 WHICH PASSED ON THIS INDICTMENT AT AN EARLIER TIME,  
7 IF SO PLEASE STAND NO ONE STANDS

8 HAVE ANY OF YOU EVER BEEN EMPLOYED, YOU OR  
9 A MEMBER OF YOUR IMMEDIATE FAMILY, BEEN EMPLOYED AS  
10 GUIDANCE COUNSELOR OR A COURT APPOINTED GUARDIAN AD  
11 LITEM, IF SO PLEASE STAND ALL RIGHT AGAIN I KNOW  
12 YOU STOOD A MINUTE AGO BUT WE HAVE TO MAKE A RECORD  
13 SO EACH TIME YOU STAND, IF YOU STAND TEN TIMES, WE  
14 HAVE TO GET YOUR NAME AND NUMBER

15 THE JUROR MIKE ELDER, NUMBER 86 BY DAD  
16 WAS GUARDIAN AD LITEM, COUNSELOR, WHATEVER

17 THE COURT WOULD THAT AFFECT YOUR ABILITY  
18 TO BE FAIR AND IMPARTIAL?

19 THE JUROR NO, SIR

20 THE COURT YOU WOULD BE ABLE TO BASE YOUR  
21 VERDICT ON THE LAW AND THE EVIDENCE?

22 THE JUROR YES, SIR

23 THE COURT YOUR NAME AND NUMBER

24 THE JUROR THOMAS BENNETT I BELIEVE IT  
25 IS 278 MY WIFE HAS BEEN A GUARDIAN AD LITEM

1 THE COURT WOULD THAT AFFECT YOUR ABILITY  
2 TO BE FAIR AND IMPARTIAL IN THE TRIAL OF THIS CASE?

3 THE JUROR NO, SIR

4 THE COURT WOULD YOU BE ABLE TO BASE YOUR  
5 VERDICT SOLELY ON THE LAW AND THE EVIDENCE?

6 THE JUROR YES, SIR

7 THE COURT YES, SIR

8 THE JUROR KEN POTTS I THINK I'M JUROR  
9 294 I'M A FOSTER PARENT, NOT A GUARDIAN AD LITEM

10 THE COURT WOULD THAT AFFECT YOUR ABILITY  
11 TO BE FAIR AND IMPARTIAL IN THE TRIAL OF THIS CASE?

12 THE JUROR I REALLY, I DON'T KNOW I  
13 REALLY DON'T KNOW

14 THE COURT I'LL EXCUSE YOU THEN IF YOU  
15 HAVE SOME CONCERNS, DON'T LEAVE, BUT HAVE A SEAT  
16 YOU'LL BE EXCUSED WE'LL EXCUSE YOU FROM SERVING ON  
17 THIS PARTICULAR PANEL YES, MA'AM

18 THE JUROR ELIZABETH MARTINEAU I'M  
19 JUROR 290 I BELIEVE AND I DO GUARDIAN AD LITEM WORK  
20 PRO BONO IT'S DOMESTIC NOT CRIMINAL

21 THE COURT ALL RIGHT

22 THE JUROR IN MECKLANBURG COUNTY

23 THE COURT WOULD THAT AFFECT YOUR ABILITY  
24 TO BE FAIR AND IMPARTIAL?

25 THE JUROR NO, SIR

000563

1 THE COURT WOULD YOU BE ABLE TO BASE YOUR  
2 VERDICT ON THE LAW AND THE EVIDENCE?

3 THE JUROR YES, YOUR HONOR

4 THE COURT YES

5 THE JUROR TAMRA MCCOY I'M JUROR 164  
6 I HAD A COUSIN THAT WORKED AS A COUNSELOR

7 THE COURT WOULD THAT AFFECT YOUR ABILITY  
8 TO BE FAIR AND IMPARTIAL IN THE TRIAL OF THIS CASE?

9 THE JUROR NO, SIR

10 THE COURT WOULD YOU BE ABLE TO BASE YOUR  
11 VERDICT ON THE LAW AND THE EVIDENCE?

12 THE JUROR YES, SIR

13 THE COURT ALL RIGHT THANK YOU NOW  
14 WE'RE GOING TO GET INTO SOME SORT OF SENSITIVE AREAS  
15 AND I'M NOT GOING TO ASK YOU, WE'VE ALREADY HAD ONE  
16 RESPONSE ALONG THESE LINES, AND YOU DON'T HAVE TO  
17 STAND AGAIN, THAT I'M NOT GOING TO ASK YOU TO BARE  
18 YOUR SOUL IN FRONT OF ALL OF US I SIMPLY WANT TO  
19 KNOW IF IN FACT THIS HAS, IF YOU FALL INTO THIS  
20 CATEGORY AND THEN IF YOU DO I WILL FOLLOW UP, NOT  
21 WITH QUESTIONS ABOUT WHAT HAPPENED, BUT QUESTIONS  
22 I'VE BEEN ASKING ABOUT YOUR ABILITY TO BE FAIR HAVE  
23 ANY OF YOU OR A FAMILY MEMBER EITHER BEEN ACCUSED OF  
24 ABUSING A CHILD OR CHILDREN, OR HAD A, YOURSELF OR A  
25 CHILD OF YOURS, BEEN A VICTIM OF ABUSE? IF SO PLEASE

000564

1 STAND ALL RIGHT YES, MA'AM, YOUR NAME AND NUMBER  
2 AGAIN

3 THE JUROR DEBRA KING AND IT'S 288 AND I  
4 WAS A VICTIM

5 THE COURT WOULD THAT AFFECT YOUR ABILITY  
6 TO BE FAIR AND IMPARTIAL?

7 THE JUROR I DON'T KNOW, YOUR HONOR I'M  
8 NOT CERTAIN BUT I WOULD FEEL LIKE IT WOULDN'T

9 THE COURT YOU FEEL LIKE YOU --

10 THE JUROR I FEEL AS A PERSON I AM AN  
11 ADULT NOW, THAT WAS A LONG TIME AGO, I FEEL LIKE I  
12 COULD BE IMPARTIAL IN THIS SITUATION, BUT I MEAN, YOU  
13 KNOW, JUST AS BEING A VICTIM MYSELF IT IS A CONCERN

14 THE COURT WELL, I'LL EXCUSE YOU THEN  
15 DON'T LEAVE YES, MA'AM, YOUR NAME

16 THE JUROR ELIZABETH KIRKSEY MY NUMBER  
17 IS 139

18 THE COURT YOU DON'T HAVE TO TELL ME WHY  
19 YOU ARE STANDING BUT JUST BECAUSE YOU ARE STANDING  
20 WOULD IN SPITE OF THAT WOULD YOU BE ABLE TO BE FAIR  
21 AND IMPARTIAL IN THE TRIAL OF THIS CASE?

22 THE JUROR I'M NOT SURE

23 THE COURT WELL, I'LL EXCUSE YOU TOO WE  
24 HAVE TO HAVE A FAIR AND IMPARTIAL JURY PANEL HAVE  
25 ANY OF YOU OR A MEMBER OF YOUR FAMILY EITHER BEEN

1 CHARGED WITH OR BEEN THE VICTIM OF WHAT WOULD BE  
2 CALLED A VIOLENT CRIME IF SO PLEASE STAND AND A  
3 VIOLENT CRIME IS ANY KIND OF CRIME, AN ASSAULT OF ANY  
4 TYPE, SHOOTING, KNIFING, STABBING, BEATING, ANYTHING  
5 LIKE THAT IF SO PLEASE STAND ALL RIGHT WE'LL  
6 START, AND AGAIN YOU DON'T HAVE TO BARE YOUR SOUL AND  
7 TELL ME EVERYTHING, JUST BECAUSE YOU ARE STANDING WE  
8 KNOW AND I HAVE ALREADY EXCUSED YOU, SIR, SO YOU CAN  
9 JUST REMAIN SEATED THROUGHOUT THE REST ALL RIGHT  
10 YES, MA'AM, YOUR NAME AND NUMBER

11 THE JUROR I'M ROBIN DOVER NUMBER 80

12 THE COURT ALL RIGHT

13 THE JUROR BILL LEFLER, 146 I THINK

14 THE COURT YES, MA'AM

15 THE JUROR KAREN MOYE, 183

16 THE COURT THE FACT THAT YOU ARE STANDING  
17 IN RESPONSE TO THIS QUESTION, WOULD THAT AFFECT YOUR  
18 ABILITY TO BE FAIR AND IMPARTIAL IN THE TRIAL OF THIS  
19 CASE, IF SO PLEASE RAISE YOUR RIGHT HAND NO ONE  
20 DOES IF YOU COULD NOT BASE YOUR VERDICT ON THE LAW  
21 AND THE EVIDENCE PLEASE RAISE YOUR RIGHT HAND NO  
22 ONE DOES THANK YOU

23 NOW HAVE ANY OF YOU OR A MEMBER OF YOUR  
24 FAMILY BEEN A VICTIM OF ANY TYPE OF SEXUAL ABUSE OR  
25 HAVE ANY OF YOU BEEN CHARGED OR A MEMBER OF YOUR



1 FAMILY BEEN CHARGED WITH SUCH IF SO PLEASE STAND NO  
2 ONE STANDS

3 AGAIN THESE ARE VERY TOUCHY AND I HATE  
4 TO ASK THEM BUT I MUST BECAUSE WE DO NEED TO HAVE A  
5 FAIR AND IMPARTIAL JURY HAVE ANY OF YOU OR A MEMBER  
6 OF YOUR FAMILY LOST A CHILD TO DEATH WHEN THAT CHILD  
7 WAS UNDER THE AGE OF 21 IF SO PLEASE STAND ALL  
8 RIGHT YES, MA'AM, YOUR NAME AND NUMBER

9 THE JUROR ROBIN DOVER NUMBER 80

10 THE COURT YES, SIR

11 THE JUROR BILL LEFLER I BELIEVE 146

12 THE COURT YOUR NAME AND NUMBER

13 THE JUROR CHRISTOPHER MACK I'M NOT  
14 SURE OF MY NUMBER

15 THE COURT YOUR NAME AND NUMBER

16 THE JUROR JUROR 164, TAMRA MCCOY

17 THE COURT WOULD THE FACT THAT YOU HAVE  
18 STOOD, THE FOUR OF YOU HAVE STOOD, THE FACT THAT YOU  
19 HAVE STOOD IN RESPONSE TO THIS QUESTION WOULD THAT  
20 AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THE  
21 TRIAL OF THIS CASE IF SO PLEASE RAISE YOUR RIGHT  
22 HAND NO ONE DOES IF THAT WOULD PREVENT YOU FROM  
23 BEING OR BASING YOUR VERDICT ON THE LAW AND THE  
24 EVIDENCE PLEASE RAISE YOUR RIGHT HAND NO ONE DOES  
25 THANK YOU YOU MAY BE SEATED

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1 HAVE ANY OF YOU, AGAIN I'M NOT GOING TO  
2 ASK YOU TO BARE YOUR SOUL, HAVE ANY OF YOU BEEN  
3 ACCUSED OF, YOU OR A MEMBER OF YOUR FAMILY, WITH  
4 EITHER ABUSE OR NEGLECT OF A CHILD IF SO PLEASE  
5 STAND NO ONE STANDS

6 HAVE ANY OF YOU HAVE BEEN INVOLVED IN THE  
7 MEDICAL FIELD, MEDICAL PROFESSION, WHICH WAS RELATED  
8 TO SEXUAL EVENTS, THAT IS, WERE YOU A NURSE OR  
9 SOMEHOW CONNECTED WITH ANY KIND OF AGENCY OR MEDICAL  
10 PROFESSIONAL WHO TREATED AND WAS PRESENTED WITH  
11 ALLEGED SEXUAL ABUSE VICTIMS IF SO PLEASE SAND NO  
12 ONE STANDS

13 NOW HAVE ANY OF YOU BEEN A MEMBER OF OR  
14 CONTRIBUTORS TO, NOW OR IN THE PAST, SUCH  
15 ORGANIZATIONS AS MOTHER AGAINST DRUNK DRIVERS,  
16 STUDENTS AGAINST DRUNK DRIVERS, CAVE, CITIZENS  
17 AGAINST VIOLENCE, THE SHERIFF'S ASSOCIATION,  
18 TROOPER'S ASSOCIATION, FRATERNAL ORDER OF POLICE, ANY  
19 OF YOU BEEN A MEMBER OF OR CONTRIBUTOR TO ANY OF  
20 THOSE TYPE ORGANIZATIONS IF SO PLEASE STAND ALL  
21 RIGHT WHAT I WILL DO IS I'M GOING TO ASK EACH OF  
22 YOU, WE'LL START HERE, AND JUST WORK YOUR WAY BACK,  
23 GIVE ME YOUR NAME AND YOUR NUMBER AND THE  
24 ORGANIZATION THAT CAUSED YOU TO RISE AND THEN I'LL GO  
25 BACK WITH THAT GENERAL QUESTION ABOUT FAIR AND

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1 IMPARTIALITY SO LET'S START AND JUST WORK OUR WAY  
2 BACK

3 THE JUROR PAM GLOBOKAR, 104 MAGAZINE  
4 SALES I THINK FOR MOTHERS AGAINST DRUNK DRIVERS  
5 THEY CALL ALL THE TIME

6 THE JUROR HERMAN BARRENTINE, NUMBER 12  
7 TROOPER'S ASSOCIATION DONATION

8 THE COURT ALL RIGHT

9 THE JUROR RITA SUTTON, 299 MOTHER  
10 AGAINST DRUNK DRIVING AND POLICE, TROOPER, WHATEVER

11 THE COURT ALL RIGHT

12 THE JUROR MARSHA CABE, JUROR 47  
13 TROOPERS AND MOTHERS AGAINST DRUNK DRIVING

14 THE COURT YES, MA'AM

15 THE JUROR ROBIN DOVER, 80 MOTHERS AND  
16 STUDENTS AGAINST DRUNK DRIVING

17 THE JUROR KENNETH CLONTZ, JUROR 59  
18 TROOPER'S ASSOCIATION AND YORK COUNTY SHERIFF'S  
19 ASSOCIATION

20 THE JUROR BILL LEFLER, 146 SOUTH  
21 CAROLINA STATE TROOPER'S, YORK COUNTY SHERIFF'S  
22 ASSOCIATION

23 THE JUROR DAN WATSON, 280 TROOPER'S  
24 ASSOCIATION

25 THE JUROR RICH WOODBURN, 300 MOTHERS

1 AGAINST DRUNK DRIVING AND TROOPER'S ASSOCIATION

2 THE COURT ALL RIGHT

3 THE JUROR RICHARD EDWARDS, 85

4 TROOPER'S ASSOCIATION AND SHERIFF'S ASSOCIATION

5 THE COURT YES, MA'AM

6 THE JUROR FRED BEACHUM, NUMBER 15

7 STATE TROOPER'S ASSOCIATION AND SHERIFF'S

8 ASSOCIATION

9 THE JUROR NICHOLAS FULCHER, 95

10 TROOPER'S ASSOCIATION

11 THE COURT YES, MA'AM

12 THE JUROR SANDRA WARDEAN, JUROR 258

13 MOTHERS AGAINST DRUNK DRIVING

14 THE COURT YES, MA'AM

15 THE JUROR MELANIE FORRESTER I BELIEVE

16 I'M 285 MOTHERS AGAINST DRUNK DRIVING, TROOPER'S,

17 AND CHICKS

18 THE COURT THE FACT THAT YOU ARE

19 STANDING, IF THAT FACT WOULD PREVENT YOU, SINCE YOU

20 HAVE CONTRIBUTED TO THESE ORGANIZATIONS, IF THAT

21 WOULD PREVENT YOU FROM BEING FAIR AND IMPARTIAL IN

22 THE TRIAL OF THIS CASE PLEASE RAISE YOUR RIGHT HAND

23 YES, MA'AM, YOU BELIEVE IT WOULD

24 THE JUROR YES

25 THE COURT YOUR NAME AND NUMBER AGAIN

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1 THE JUROR MARSHA CABE, 47

2 THE COURT YOU CAN BE EXCUSED DON'T  
3 LEAVE, JUST HAVE A SEAT NO ONE ELSE RAISES THEIR  
4 HAND THE REST OF YOU CAN BE SEATED THANK YOU  
5 ARE ANY OF YOU AWARE OF ANY BIAS OR PREJUDICE YOU  
6 MIGHT HAVE TOWARD THE STATE, MR COPE AND  
7 MR SANDERS, OR ANY BIAS OR PREJUDICE AGAINST THE  
8 CHARGES PENDING AGAINST THEM, IF SO PLEASE STAND  
9 YES, SIR

10 THE JUROR YOUR HONOR --

11 MR MORTON IF WE MIGHT

12 THE COURT WAIT I'M NOT GOING TO ASK  
13 YOU TO TELL ME WHAT BIAS OR ANYTHING YOU MIGHT HAVE,  
14 JUST YOU STANDING YOU ARE TELLING ME THAT YOU HAVE  
15 SOME TYPE OF, DON'T TELL ME WHAT IS, JUST YOUR NAME  
16 AND NUMBER

17 THE JUROR JOHN DAVIS, JUROR 77

18 THE COURT WOULD THAT AFFECT YOUR ABILITY  
19 TO BE FAIR AND IMPARTIAL IN THE TRIAL OF THIS CASE?

20 THE JUROR YES

21 THE COURT YOU CAN BE SEATED YOU CAN BE  
22 EXCUSED ALL RIGHT THE FOLLOWING ARE POTENTIAL  
23 WITNESSES IN THIS CASE, AND I AM GOING TO ASK THAT IF  
24 YOU HEAR A NAME CALLED OF ANYBODY WHO IS A FRIEND OF  
25 YOURS, IT'S A LONG LIST, I DON'T THINK ALL THESE

1 PEOPLE WOULD TESTIFY, BUT BOTH SIDES, EVERYONE WHO  
2 HAS A POTENTIAL WITNESS HAS TO LIST THEM, SO WE CAN  
3 GO OVER AND MAKE SURE NONE OF YOU ARE RELATED BY  
4 BLOOD OR MARRIAGE OR A CLOSE PERSONAL FRIEND OR  
5 ACQUAINTANCE OF ANY OF THESE INDIVIDUALS IF YOU  
6 ARE, PLEASE STAND WHEN YOU HEAR THEIR NAME, AND WE  
7 WILL COME BACK AND I WILL ASK YOU THAT GENERAL TYPE  
8 QUESTION LISA ALLEN  
9 SUSAN ARCHIE  
10 MIKE ARFLIN  
11 MIKE BAKER  
12 TONYA BARBER  
13 TIFFANY BARNETT  
14 PAT BENFIELD  
15 CHARLENE BLACKWELDER  
16 RICHIE BLACKWELL  
17 ALLEN BRANDON  
18 JANICE BRYSON  
19 WILLIE BURRIS  
20 CHARLES CABANISS  
21 ALLEN CANTEY  
22 J M CAPE  
23 JESSICA COPE  
24 KYLA COPE  
25 MIKE COPE

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|    |                           |
|----|---------------------------|
| 1  | SHIRLEY COPE              |
| 2  | JEFF CROOKS               |
| 3  | DAVID CURLEE              |
| 4  | ROBIN DAVIS               |
| 5  | WILLIAM CHRISTOPHER DAVIS |
| 6  | JASON DILLON              |
| 7  | CAROL DIXON               |
| 8  | ASHLEY DOSTER             |
| 9  | KEITH DUGAN               |
| 10 | ANNNETTE DYE              |
| 11 | CHARLES DYE               |
| 12 | DR RICHARD FRIERSON       |
| 13 | TODD GARDNER              |
| 14 | PATRICK GOLDSMITH         |
| 15 | ROD GREEN                 |
| 16 | CHUCK GUYTON              |
| 17 | DAVID HANOKA              |
| 18 | VERNON HARMON             |
| 19 | IVA HERNANDEZ             |
| 20 | LES HERRING               |
| 21 | REBECCA HERRON            |
| 22 | JOHN HEWITT               |
| 23 | JEFFREY HOOVER            |
| 24 | THOMAS HUTCHINSON         |
| 25 | ANGELA INGRAM             |

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|    |                                     |
|----|-------------------------------------|
| 1  | IRA INGRAM                          |
| 2  | JOE JOHNSON                         |
| 3  | AMY YANDELL JONES                   |
| 4  | KEVIN JONES                         |
| 5  | WAYNE JORDAN                        |
| 6  | MARK KITTS                          |
| 7  | STEPHEN LAMBERT                     |
| 8  | COLLETTE LEMAY                      |
| 9  | RAY LONG                            |
| 10 | DR JAMES MAYNARD                    |
| 11 | DAVID MCCLURE                       |
| 12 | TRAVIS MCDANIEL                     |
| 13 | FRAN MCGEE ALSO KNOWN AS HUDDLESTON |
| 14 | RALPH MERCHANT                      |
| 15 | JEFF MILLER                         |
| 16 | CHUCK NEIL                          |
| 17 | GLENDA OLIVER                       |
| 18 | JILL COLLINS PEEK                   |
| 19 | LEILA PHIFER                        |
| 20 | TROY POUND                          |
| 21 | JOE POWELL                          |
| 22 | JOHN POWELL                         |
| 23 | C PUCKHABER                         |
| 24 | KYLE QUINN                          |
| 25 | DART RAYMES                         |

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|    |                    |
|----|--------------------|
| 1  | DR DWIGHT REYNOLDS |
| 2  | EMILY RHINEHART    |
| 3  | ADRIENNE RILEY     |
| 4  | DEREK ROLAND       |
| 5  | DEBRA ROOF         |
| 6  | TERRI SCOTT        |
| 7  | AMANDA SIMMONS     |
| 8  | AMY SIMMONS        |
| 9  | MARK SIMMONS       |
| 10 | ROB SMARZIK        |
| 11 | BRIAN SMITH        |
| 12 | ZANNIE SMITH       |
| 13 | MIKE SMOTHERS      |
| 14 | KYMRA STEWART      |
| 15 | SEAN SULLIVAN      |
| 16 | ROBERT TAYLOR      |
| 17 | LISA THOMPSON      |
| 18 | KENYATTA TRIPP     |
| 19 | PHILIP TRIPP       |
| 20 | PAULA VALLEJO      |
| 21 | JAMES WALDEN       |
| 22 | JERRY WALDROP      |
| 23 | MIKE WILLIAMS      |
| 24 | SCOTT WORSHAM      |
| 25 | ERNIE WRIGHT       |

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|    |                           |
|----|---------------------------|
| 1  | LOUANN WRIGHT             |
| 2  | DELCIA CRAWFORD           |
| 3  | SHARON GOODMAN            |
| 4  | RONALD OSTROWSKI          |
| 5  | SCOTT BERNARD             |
| 6  | TAMMY COPE                |
| 7  | LELA PHIFER               |
| 8  | AMY SIMMONS               |
| 9  | JOHN POWELL               |
| 10 | TERRY BOAN                |
| 11 | GEORGIA POPE              |
| 12 | JOSEPH AVANPADO           |
| 13 | TAMMY CRISP               |
| 14 | WILLIAM CHRISTOPHER DAVIS |
| 15 | KATHERINE DAVIS           |
| 16 | ALICIA LOWERY             |
| 17 | SARAH PHILLIPS            |
| 18 | SARAH HAGMAN LEE          |
| 19 | LATOYA FEASTER            |
| 20 | JAMES HILL                |
| 21 | CREE STOUT                |
| 22 | ZAN CHASE                 |
| 23 | ALLISON CHASE             |
| 24 | LOWANDA JAMISON           |
| 25 | LESLIE MANN               |

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1 B J BARROWCLAUGH  
2 JANICE BRYSON  
3 STEVE LAMBERT  
4 JOE POWELL  
5 AMANDA SIMMONS  
6 JEFFREY CROOKS  
7 WILLIE BURRIS  
8 LES HERRING  
9 JERRY WALDROP  
10 CHUCK NEIL  
11 KEVEN TOLSEN  
12 MARK KITTS  
13 WILLIE THOMPSON  
14 CHARLES HONTTS  
15 SAUL KASSIN  
16 STEPHEN COX  
17 DONNA SWARTZ WATTS  
18 CLAY NICHOLS  
19 BETSY BAKER GIBBS  
20 MICKEY DAWSON  
21 HAYWOOD STARLING  
22 ALLSION DEFELICE  
23 AND RON GUERRETTE  
24 ALL RIGHT YOUR NAME AND NUMBER PLEASE  
25 MA'AM

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1 THE JUROR ZEDA FULTZ I BELIEVE IT'S

2 96 I'M NOT SURE

3 THE COURT WHO IS YOUR RELATION WITH AND  
4 WHAT IS IT?

5 THE JUROR OKAY A CLOSE FRIEND OF MINE  
6 WORKS WITH SUSAN ARCHIE AND I MET HER THROUGH  
7 DIFFERENT WORK-RELATED OCCASIONS

8 THE COURT WOULD THAT AFFECT YOUR ABILITY  
9 TO BE FAIR AND IMPARTIAL IN THE TRIAL OF THIS CASE?

10 THE JUROR NO

11 THE COURT WOULD YOU BE ABLE TO BASE YOUR  
12 VERDICT ON THE LAW AND THE EVIDENCE IN THE TRIAL?

13 THE JUROR YES, SIR

14 THE COURT THANK YOU YOU MAY BE SEATED  
15 YOUR NAME AND NUMBER

16 THE JUROR TODD HERSHBERGER I'M NOT  
17 SURE ABOUT MY NUMBER TODD GARDNER IS THE STEPFATHER  
18 OF SOME STUDENTS THAT ARE IN MY YOUTH GROUP

19 THE COURT WOULD THAT AFFECT YOUR ABILITY  
20 TO BE FAIR AND IMPARTIAL?

21 THE JUROR NO, SIR

22 THE COURT WOULD YOU BE ABLE TO BASE YOUR  
23 VERDICT ON THE LAW AND THE EVIDENCE?

24 THE JUROR YES

25 THE COURT YES, MA'AM, YOUR NAME AND

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1 NUMBER

2 THE JUROR RITA SUTTON, NUMBER 299

3 ALLEN BRANDON

4 THE COURT WOULD THAT AFFECT YOUR ABILITY  
5 TO BE FAIR AND IMPARTIAL?

6 THE JUROR NO

7 THE COURT WOULD YOU BE ABLE TO BASE YOUR  
8 VERDICT SOLELY ON THE LAW AND THE EVIDENCE?

9 THE JUROR YES, SIR

10 THE COURT YES, SIR, YOUR NAME AND  
11 NUMBER

12 THE JUROR STEWART SMITH, NUMBER 232  
13 ALLEN BRANDON IS A MEMBER OF MY CONGREGATION

14 THE COURT WOULD THAT AFFECT --

15 THE JUROR ALSO A CLOSE FRIEND

16 THE COURT WOULD THAT AFFECT YOUR ABILITY  
17 TO BE FAIR AND IMPARTIAL IN THE TRIAL OF THIS CASE?

18 THE JUROR NO, I DON'T BELIEVE SO

19 THE COURT WOULD YOU BE ABLE TO BASE YOUR  
20 VERDICT ON THE LAW AND THE EVIDENCE?

21 THE JUROR IN REGARD TO THAT  
22 RELATIONSHIP, YES

23 THE COURT YES THANK YOU ALL RIGHT

24 NOW THE NEXT QUESTION WE'RE GOING TO TREAT A LITTLE

25 DIFFERENTLY BECAUSE I'M GOING TO HAVE TO MAYBE, WELL

1 NOT MAYBE, I'M GOING TO HAVE TO CREATE A SITUATION  
2 WHERE I AM GOING TO ASK YOU MORE PERTINENT QUESTIONS  
3 ON AN INDIVIDUAL BASIS WHAT I WILL DO, IN JUST A  
4 MINUTE, DON'T STAND YET, IS ASK IF ANY OF YOU HAVE  
5 HEARD ANYTHING ABOUT THIS CASE THOSE OF YOU WHO  
6 HAVE I'M GOING TO HAVE TO DO SOME FOLLOW UP QUESTIONS  
7 AND RATHER THAN ASK YOU THOSE HERE, ANYBODY WHO  
8 STANDS IN RESPONSE TO THIS QUESTION I'M GOING TO HAVE  
9 THE SHERIFF'S DEPUTY TAKE ALL OF YOU, NOT ONE AT A  
10 TIME, ALL OF YOU OVER TO THE GRAND JURY ROOM MY  
11 INSTRUCTIONS WILL BE THAT YOU ARE NOT TO DISCUSS  
12 ANYTHING WHILE YOU ARE IN THERE, NOT EVEN THE  
13 WEATHER, ALTHOUGH THERE IS A LOT OF WEATHER GOING ON  
14 TODAY, WHEN YOU ARE IN THERE JUST KEEP TO YOURSELF  
15 I WILL THEN BRING YOU BACK IN ONE BY ONE AND I'M NOT  
16 GOING TO INTERROGATE YOU, BUT I'M GOING TO HAVE A FEW  
17 QUESTIONS TO ASK YOU BUT I WANT TO DO THIS IN A MORE  
18 PRIVATE MANNER THOSE OF YOU WHO DO NOT STAND I WILL  
19 EXCUSE YOU OUT INTO THE HALL THAT IS, I'M NOT GOING  
20 TO LET YOU LEAVE THE BUILDING, I'M GOING TO ASK YOU  
21 TO GO OUT AND ONE OF THE BAILIFFS WILL ACCOMPANY YOU  
22 AND LET YOU REMAIN IN A GROUP SO THAT WE DON'T LOSE  
23 YOU OR ACTUALLY, NO, I THINK THAT'S BEST WE'LL DO  
24 IT THAT WAY

25 SO MY QUESTION NOW IS THAT IF ANY OF YOU

1 HAVE HEARD ABOUT THIS CASE FROM ANY SOURCE  
2 WHATSOEVER, NEWSPAPER, RADIO, TELEVISION, MAN ON THE  
3 STREET, MAN OR WOMEN ON THE STREET, MAN OR WOMAN AT  
4 WORK, SPOUSE, FRIENDS, NEIGHBORS, IF HAVE YOU HEARD  
5 ANYTHING ABOUT THIS CASE, ANYTHING WHATSOEVER, PLEASE  
6 STAND ALL RIGHT I'M GOING TO ASK IF MR CARTER  
7 WILL ESCORT YOU, IF YOU'LL FOLLOW HIM, HE'LL TAKE YOU  
8 INTO THE GRAND JURY ROOM, FOLLOW MR CARTER TO THE  
9 GRAND JURY ROOM

10 (THE JURORS EXIT THE COURTROOM WITH  
11 THE DEPUTY MR CARTER )

12 THE COURT ALL RIGHT THOSE OF YOU WHO  
13 DID NOT STAND, ACTUALLY THOSE OF YOU WHO HAVE BEEN  
14 EXCUSED PLEASE STAND I ALREADY EXCUSED A FEW OF  
15 YOU ALL RIGHT, IF THE SIX OF YOU WOULD SIMPLY GO  
16 BACK DOWN TO THE JURY ASSEMBLY ROOM, JUST GO BACK TO  
17 THE JURY ASSEMBLY ROOM BECAUSE YOU WILL NOT BE  
18 PARTICIPATING IN THIS TRIAL, SO WE MIGHT AS WELL GO  
19 AHEAD AND RELEASE YOU

20 (THOSE JURORS EXIT THE COURTROOM )

21 THE COURT THOSE WHO STILL REMAIN, I'M  
22 GOING TO ASK YOU TO STEP OUT IN THE HALL, IT WILL BE  
23 FOR A LITTLE WHILE, BUT DON'T DISCUSS THIS CASE  
24 AGAIN DON'T DISCUSS ANYTHING JUST WATCH THE WEATHER  
25 OR WHATEVER, BUT I CAN'T, I'M NOT GOING TO ALLOW YOU

1 TO DISCUSS THE CASE OR ANYTHING THE BAILIFF WILL  
2 ASSIST YOU LET'S DO THIS, LET'S GET, WE'RE KIND OF  
3 RUNNING SHORT OF PEOPLE HERE MR IVEY, WOULD YOU --  
4 MR BURRIS, WOULD YOU JUST STAY OUTSIDE WITH THEM AND  
5 KEEP THEM IN A GROUP IF ALL OF YOU WOULD JUST  
6 FOLLOW MR BURRIS

7 (THE JURORS EXIT WITH THE BAILIFF MR  
8 BURRIS )

9 THE COURT MR IVEY, WHAT I WILL ASK YOU  
10 TO DO IS JUST WALK DOWN THE HALL AND BRING US BACK A  
11 JUROR IT DOESN'T HAVE TO BE ANYBODY IN PARTICULAR,  
12 WE'LL HAVE TO GET THEM ALL, JUST BRING THEM BACK ONE  
13 AT A TIME WHEN WE GET THROUGH WITH THAT JUROR,  
14 WE'LL MOVE ON TO THE NEXT

15 (THE JUROR ENTERS THE COURTROOM )

16 THE COURT YOUR NAME AND NUMBER

17 THE JUROR DUANE FARMER, NUMBER 87

18 THE COURT MR FARMER, I'M NOT GOING TO  
19 ASK YOU TO TELL ME EXACTLY WHAT YOU HAVE HEARD  
20 BECAUSE THAT'S NOT WHAT I'M INTERESTED IN I'M  
21 INTERESTED IN WHETHER OR NOT IN SPITE OF WHAT YOU  
22 HEARD ABOUT THIS CASE COULD YOU STILL BE FAIR AND  
23 IMPARTIAL AND BASE YOUR VERDICT IN THIS CASE SOLELY  
24 ON THE LAW AND THE EVIDENCE AND I NOTICE YOU ARE  
25 LOOKING A LITTLE, YOU ARE THINKING BUT WE --



1                   THE JUROR   NO, SIR, I DON'T BELIEVE I  
2   CAN

3                   THE COURT   ALL RIGHT   I'M GOING TO  
4   EXCUSE YOU AND LET YOU GO BACK DOWN TO THE JURY  
5   ASSEMBLY ROOM

6                   THE JUROR   OKAY

7                   THE COURT   THANK YOU

8                   MR MORTON   FOR THE RECORD, I'M SORRY   I  
9   WOULD LIKE FOR THERE TO BE LITTLE MORE INQUIRY BY THE  
10  COURT ABOUT --

11                  THE COURT   LET MR FARMER GO

12                  MR MORTON   YES, SIR   I'M SORRY   I  
13  APOLOGIZE

14                  (THE JUROR EXITS THE COURTROOM )

15                  THE COURT   WELL, IF THEY CAN'T BE FAIR  
16  AND IMPARTIAL WHY SHOULD I ASK IF THEY ---

17                  MR MORTON   I AGREE WITH THAT   BUT THEN  
18  IF THEY COME IN AND SAY WELL, YEAH, I CAN BE FAIR AND  
19  IMPARTIAL, I WOULD LIKE FOR THE COURT TO INQUIRE A  
20  LITTLE FURTHER ABOUT

21                  THE COURT   DO THEY REALLY MEAN IT?

22                  MR MORTON   NO, NO, ABOUT WHAT THEY HAVE  
23  HEARD ABOUT ---

24                  THE COURT   NO   NO   NO   YOU ARE ON  
25  RECORD   YOU WANT ME TO HAVE THEM EXPLAIN WHAT THEY

1 HEARD AND I --

2 MR MORTON WHETHER IT IS FROM THE MEDIA  
3 OR FROM A NEIGHBOR I MEAN, I DON'T KNOW JUST SAYING  
4 THAT THEY'VE HEARD ANYTHING, IF THEY COME AND JUST  
5 SAY WELL, YEAH, I HEARD OF SOMETHING, YOU SAY WELL  
6 CAN YOU BE FAIR AND IMPARTIAL, THAT DOESN'T ALLOW THE  
7 COURT TO INQUIRE ABOUT ANY PRECONCEIVED NOTION OR  
8 IDEA OR ANYTHING THAT THESE PEOPLE MAY HAVE FORMED IN  
9 THEIR MIND

10 THE COURT WELL, I MIGHT ASK A LITTLE  
11 MORE BUT I'M NOT GOING TO GO INTO INQUIREY

12 MR GREELEY JUST FOR THE RECORD I WOULD  
13 JUST JOIN IN THAT MOTION

14 THE COURT ALL RIGHT BRING IN THE NEXT  
15 ONE

16 (JUROR ENTERS THE COURTROOM )

17 THE COURT YOUR NAME AND NUMBER

18 THE JUROR KEN KNOX, JUROR 59

19 THE COURT YOU'VE HEARD SOMETHING ABOUT  
20 THIS CASE?

21 THE JUROR I READ ABOUT IT IN THE PAPER,  
22 YES, SIR

23 THE COURT WOULD THAT AFFECT YOUR ABILITY  
24 TO BE FAIR AND IMPARTIAL IN THE TRIAL OF THIS CASE?

25 THE JUROR NO, SIR

1                   THE COURT    WOULD YOU BE ABLE TO BASE YOUR  
2 VERDICT ON THE LAW AND THE EVIDENCE?

3                   THE JUROR    YES, SIR

4                   THE COURT    ALL RIGHT    THANK YOU    IF  
5 YOU'LL JUST JOIN THAT CROWD OUT IN THE HALL AND JUST  
6 DON'T DISCUSS ANYTHING

7                   (THE JUROR EXITS AND THE NEXT JUROR  
8 ENTERS )

9                   THE COURT    YES, SIR    YOUR NAME AND  
10 NUMBER

11                  THE JUROR    DONALD G   MCGINNIS    I'M NOT  
12 SURE OF MY NUMBER

13                  THE COURT    ALL RIGHT    YOU'VE HEARD  
14 SOMETHING ABOUT THIS CASE

15                  THE JUROR    THAT'S CORRECT

16                  THE COURT    HAVE YOU READ ANYTHING ABOUT  
17 IT OR JUST HEARD ABOUT IT?

18                  THE JUROR    READ IT IN THE PAPER

19                  THE COURT    WOULD THAT AFFECT YOUR ABILITY  
20 TO BE FAIR AND IMPARTIAL IN THE TRIAL OF THIS CASE?

21                  THE JUROR    NO, IT WOULD NOT

22                  THE COURT    WOULD YOU BE ABLE TO BASE YOUR  
23 VERDICT SOLELY ON THE LAW AND THE EVIDENCE?

24                  THE JUROR    YES, I WOULD

25                  THE COURT    I'M GOING TO ASK YOU, YOU'LL

1       REMAIN WITH US, IF YOU'LL JUST JOIN THE GROUP OUT IN  
2       THE HALL AND NOT DISCUSS ANYTHING    THANK YOU

3               -- (THE JUROR EXITS AND THE NEXT JUROR  
4       ENTERS )

5               THE COURT    YOUR NAME AND NUMBER

6               THE JUROR    I'M CHARLES D   NEELEY, NUMBER  
7       186

8               THE COURT    ALL RIGHT    YOU HEARD ABOUT  
9       THIS CASE

10              THE JUROR    READ ABOUT IT IN THE  
11       NEWSPAPER

12              THE COURT    WOULD THAT AFFECT YOUR ABILITY  
13       TO BE FAIR AND IMPARTIAL IN THE TRIAL OF THIS CASE?

14              THE JUROR    NO, SIR

15              THE COURT    WOULD YOU BE ABLE TO BASE YOUR  
16       VERDICT ON THE LAW AND THE EVIDENCE?

17              THE JUROR    YES, SIR

18              THE COURT    JUST JOIN THAT GROUP, THERE IS  
19       A GROUP OUT IN THE HALL, IF YOU'LL JOIN THEM AND NOT  
20       DISCUSS ANYTHING    THANK YOU

21              (THE JUROR EXITS AND THE NEXT JUROR  
22       ENTERS )

23              THE COURT    YOUR NAME AND NUMBER

24              THE JUROR    WILLIAM RAMSEY, 205

25              THE COURT    YOU'VE HEARD ABOUT THIS CASE

1 THE JUROR YES

2 THE COURT HOW?

3 THE JUROR JUST FROM THE NEWSPAPER AND  
4 COMMON TALK

5 THE COURT WOULD THAT AFFECT YOUR ABILITY  
6 TO BE FAIR AND IMPARTIAL IN THE TRIAL OF THE CASE?

7 THE JUROR NO, SIR

8 THE COURT WOULD YOU BE ABLE TO BASE YOUR  
9 VERDICT ON THE LAW AND THE EVIDENCE?

10 THE JUROR YES, SIR

11 THE COURT JOIN THE PEOPLE OUT IN THE  
12 HALL, JUST DON'T DISCUSS THE CASE THANK YOU

13 (THE JUROR EXITS AND THE NEXT JUROR  
14 ENTERS )

15 THE COURT YOUR NAME AND NUMBER

16 THE JUROR I'M REALLY NOT SURE WHAT MY  
17 NUMBER IS, BUT MY NAME IS OCTAVIA S BEATY

18 THE COURT ALL RIGHT YOU'VE HEARD ABOUT  
19 THIS CASE

20 THE JUROR BITS AND PIECES OF IT, NOT  
21 MUCH

22 THE COURT WOULD THAT AFFECT YOUR ABILITY  
23 TO BE FAIR AND IMPARTIAL?

24 THE JUROR NO, SIR

25 THE COURT WOULD YOU BE ABLE TO BASE YOUR

1 VERDICT ON THE LAW AND THE EVIDENCE?

2 THE JUROR YES

3 THE COURT IF YOU'LL JUST STEP OUT IN THE  
4 HALL, IF YOU'LL GO OUT THIS WAY

5 MR MORTON YOUR HONOR, BEFORE THE NEXT  
6 JUROR COMES IN, SHE CAN LEAVE

7 THE COURT WAIT, WAIT DON'T DISCUSS  
8 ANYTHING ABOUT THE CASE WITH ANYBODY OUT THERE

9 THE JUROR I WON'T

10 (THE JUROR EXITS THE COURTROOM )

11 MR MORTON YOUR HONOR, JUST FOR THE  
12 RECORD, THIS CASE I BELIEVE AN ARTICLE IN THE PAPER  
13 SAID 75 ARTICLES WRITTEN ABOUT IT BEFORE THIS  
14 WEEKEND, THERE IS NO TELLING HOW MANY NEWSPAPER  
15 ARTICLES ABOUT IT, AND I DON'T BELIEVE THAT THE  
16 INQUIRY BY THE COURT IS SUBSTANTIAL ENOUGH FOR US TO  
17 BE ABLE TO DETERMINE -- MY POSITION IS THAT WHEN A  
18 JUROR COMES IN, HAVE YOU HEARD ABOUT THE CASE, YEAH I  
19 READ ABOUT IT IN THE PAPER, CAN YOU BE FAIR AND  
20 IMPARTIAL, WELL, WHO IS NOT GOING TO SAY THEY CAN BE  
21 FAIR AND IMPARTIAL

22 THE COURT WELL, ONE PERSON ALREADY HAS

23 MR MORTON I KNOW THEY HAVE BUT I THINK  
24 THE TENDENCY IS FOR MOST PEOPLE TO OBVIOUSLY SAY, OF  
25 COURSE I CAN BE FAIR AND IMPARTIAL BUT THAT'S NOT

1 GETTING TO THE BOTTOM OF WHAT THEY KNOW ABOUT THIS  
2 CASE AND WHETHER THEY FORMED ANY KIND OF OPINION  
3 ABOUT IT

4 THE COURT I'LL FOLLOW UP ABOUT AN  
5 OPINION THEN ALL RIGHT NEXT

6 MR BRACKETT PLEASE THE COURT IF I  
7 COULD JUST BE HEARD ON THAT JUST BRIEFLY I THINK AS  
8 LONG AS YOUR HONOR ASKS CAN YOU PUT THAT ASIDE, AND I  
9 BELIEVE YOU ARE DOING THAT, I THINK THAT THAT  
10 SUBSTANTIALLY COMPORTS WITH WHAT'S REQUIRED FOR AN  
11 UNBIASED JURY

12 (THE JUROR ENTERS THE COURTROOM )

13 THE COURT YOUR NAME AND NUMBER

14 THE JUROR NANCY QUINN, 204

15 THE COURT ALL RIGHT YOU'VE HEARD ABOUT  
16 THIS CASE

17 THE JUROR JUST ON THE MEDIA, NEWS

18 THE COURT ALL RIGHT

19 THE JUROR IT'S BEEN AWHILE, SO I CAN'T  
20 REMEMBER MUCH

21 THE COURT HAVE YOU FORMED ANY OPINION  
22 ABOUT THE CASE?

23 THE JUROR NO

24 THE COURT WOULD YOU BE ABLE TO PUT WHAT  
25 YOU HAVE HEARD ASIDE AND BASE YOUR DECISION SOLELY ON

1 THE LAW AND THE EVIDENCE IN THE TRIAL?

2 THE JUROR YES, SIR

3 THE COURT WOULD YOU BE ABLE TO BE FAIR  
4 AND IMPARTIAL?

5 THE JUROR YES, SIR

6 THE COURT THANK YOU IF YOU'LL JUST  
7 JOIN THE PEOPLE OUT IN THE HALL AND DON'T DISCUSS THE  
8 CASE

9 THE JUROR OKAY

10 (THE JUROR EXITS AND THE NEXT JUROR  
11 ENTERS )

12 THE COURT YOUR NAME AND NUMBER

13 THE JUROR THOMAS BENNETT, 278

14 THE COURT ALL RIGHT YOU'VE HEARD ABOUT  
15 THIS CASE

16 THE JUROR YES, SIR

17 THE COURT HAVE YOU FORMED ANY OPINION  
18 ABOUT THE CASE?

19 THE JUROR PROBABLY SO, YES, SIR

20 THE COURT ALL RIGHT WOULD YOU THINK  
21 YOU WOULD BE ABLE TO BE FAIR AND IMPARTIAL IN THE  
22 TRIAL OF THE CASE?

23 THE JUROR I BELIEVE I WOULD

24 THE COURT BUT IF YOU HAVE AN OPINION  
25 WOULD YOU BE ABLE TO SET IT ASIDE AND LISTEN TO THE



1 EVIDENCE AND BASE YOUR VERDICT SOLELY ON THE LAW AND  
2 THE EVIDENCE IN THE TRIAL?

3 THE JUROR YES

4 THE COURT YOU COULD BE FAIR AND  
5 IMPARTIAL?

6 THE JUROR YES, SIR

7 THE COURT I'LL ASK YOU TO JOIN THE GROUP  
8 OUT IN THE HALLWAY THEN, JUST DON'T DISCUSS THE CASE  
9 (THE JUROR EXITS THE COURTROOM )

10 MR MORTON YOUR HONOR, BEFORE THE NEXT  
11 JUROR COMES IN

12 THE COURT ALL RIGHT YES, SIR

13 MR MORTON YOUR HONOR, OBVIOUSLY I THINK  
14 IF SOMEBODY HAS FORMED AN OPINION AND I'M NOT TRYING  
15 TO BE DISRUPTIVE AT ALL BUT WHEN SOMEBODY COMES IN  
16 AND SAYS THEY FORMED AN OPINION, IT PROBABLY ISN'T A  
17 GOOD ONE AND, YOU KNOW, AGAIN ANYBODY WHO COMES IN  
18 THE COURT AND SAID I FORMED AN OPINION BUT I CAN PUT  
19 IT ASIDE, I THINK THAT'S PROBLEMATIC FOR EITHER SIDE,  
20 I MEAN, WHETHER IT'S STATE OR DEFENSE

21 THE COURT HE SAID HE COULD BE FAIR AND  
22 IMPARTIAL AND I THINK THAT'S WHY WE HAVE STRIKES SO  
23 THAT IF YOU FEEL LIKE SOMEBODY MAY HAVE SOME OPINION  
24 THAT'S ADVERSE, BUT WHEN THEY TELL ME THAT THEY CAN  
25 SET IT ASIDE AND BE FAIR AND IMPARTIAL WHAT'S THE

1 NEXT QUESTION? I MEAN

2 MR MORTON I JUST THINK THERE SHOULD BE  
3 SOME MORE INQUIRY ABOUT IT I THINK THERE SHOULD BE  
4 DELVING INTO THESE PEOPLE'S OPINION AND THEIR  
5 ATTITUDES IF THEY ALREADY COME IN AND SAY I HAVE  
6 FORMED AN OPINION ABOUT THIS CASE

7 THE COURT WELL, THE NEXT QUESTION WOULD  
8 BE WHAT IS THAT OPINION I THINK ONE IS GUILTY AS  
9 SIN AND THE OTHER IS INNOCENT I THINK THE SOLICITOR  
10 IS THE WORST IN THE STATE AND I WOULDN'T FIND ANYBODY  
11 GUILTY JUST BECAUSE HE'S IN THE CASE I MEAN, I'M  
12 NOT GOING ANY FURTHER, MR MORTON YOU ARE ON THE  
13 RECORD FOR ASKING THAT SAME QUESTIONS FOR ALL JURORS

14 MR MORTON THANK YOU

15 THE COURT YOU HAVE A NEW ONE?

16 MR MORTON NO, SIR

17 THE COURT IF YOU HAVE A NEW ONE LET ME  
18 KNOW AS TO THAT LINE OF QUESTIONING YOU ARE ON  
19 RECORD AS TO ASKING THAT AS TO EVERY JUROR BRING IN  
20 THE NEXT ONE

21 (THE JUROR ENTERS THE COURTROOM )

22 THE COURT WHAT IS YOUR NAME AND NUMBER

23 THE JUROR JAMES M SMITH, 229

24 THE COURT AND HAVE YOU HEARD, YOU HEARD  
25 ABOUT THIS CASE

1                   THE JUROR     JUST A LITTLE BIT IN THE  
2 PAPER     DIDN'T READ MUCH OF IT

3                   THE COURT     HAVE YOU FORMED AN OPINION  
4 ABOUT THIS CASE?

5                   THE JUROR     NO, SIR

6                   THE COURT     WOULD YOU BE ABLE TO BE FAIR  
7 AND IMPARTIAL IN THE TRIAL OF THE CASE?

8                   THE JUROR     YES

9                   THE COURT     WOULD YOU BE ABLE TO BASE YOUR  
10 VERDICT ON THE LAW AND THE EVIDENCE?

11                  THE JUROR     YES, SIR

12                  THE COURT     THANK YOU

13                  THE JUROR     OKAY

14                  THE COURT     IF YOU'LL JUST GO OUT FRONT,  
15 YOU'LL SEE A CROWD OF PEOPLE, IF YOU'LL JUST JOIN  
16 THEM AND NOT DISCUSS ANYTHING     THANK YOU

17                         (THE JUROR EXITS AND THE NEXT JUROR  
18 ENTERS )

19                  THE COURT     YOUR NUMBER

20                  THE JUROR     20

21                  THE COURT     AND YOUR NAME

22                  THE JUROR     ANNE BERKY

23                  THE COURT     YOU'VE HEARD ABOUT THIS CASE

24                  THE JUROR     I CALLED MY NEIGHBOR YESTERDAY  
25 BECAUSE SHE WAS ON A JUROR DUTY IN DECEMBER AND ASKED

1 HER FOR DIRECTIONS AND I HADN'T READ THE PAPER  
2 BECAUSE I CANCELLED IT BECAUSE WE WERE ON VACATION  
3 SEVERAL WEEKS AGO AND SHE DIDN'T SAY A WHOLE LOT  
4 ABOUT IT, BUT I WAS SURPRISED

5 THE COURT OKAY HAVE YOU FORMED AN  
6 OPINION ABOUT THE CASE?

7 THE JUROR NO

8 THE COURT WOULD YOU BE ABLE TO BASE YOUR  
9 VERDICT SOLELY ON THE LAW AND THE EVIDENCE IN THE  
10 TRIAL?

11 THE JUROR YES, SIR

12 THE COURT WOULD YOU BE FAIR AND  
13 IMPARTIAL?

14 THE JUROR YES, SIR

15 THE COURT IF YOU'LL JOIN THE PEOPLE OUT  
16 IN THE HALL AND DON'T DISCUSS ANYTHING THANK YOU  
17 NEXT

18 (THE JUROR EXITS AND THE NEXT JUROR  
19 ENTERS )

20 THE COURT YOUR NUMBER

21 THE JUROR 97

22 THE COURT YOUR NAME

23 THE JUROR JONELLE GARDNER

24 THE COURT YOU'VE HEARD ABOUT THIS CASE

25 THE JUROR YES, I HAVE

1 THE COURT HOW HAVE YOU HEARD ABOUT IT?  
2 THE JUROR JUST SNIPPETS IN THE NEWS AND  
3 FRIENDS

4 THE COURT HAVE YOU FORMED AN OPINION  
5 ABOUT THE CASE?

6 THE JUROR NOT YET

7 THE COURT WOULD YOU BE ABLE TO PUT ASIDE  
8 WHAT YOU HAVE HEARD AND BASE YOUR VERDICT SOLELY ON  
9 THE LAW AND THE EVIDENCE IN THE TRIAL?

10 THE JUROR I BELIEVE I CAN

11 THE COURT WOULD YOU BE ABLE TO BE FAIR  
12 AND IMPARTIAL?

13 THE JUROR I THINK SO

14 THE COURT IF YOU'LL JOIN THE CROWD OUT  
15 FRONT AND JUST DON'T DISCUSS ANYTHING MR IVEY,  
16 NEXT

17 (THE JUROR EXITS AND THE NEXT JUROR  
18 ENTERS )

19 THE COURT YOUR NUMBER AND YOUR NAME

20 THE JUROR 246, HEATHER THREATT

21 THE COURT AND YOU HEARD ABOUT THIS CASE

22 THE JUROR YES, SIR

23 THE COURT HOW HAVE YOU HEARD ABOUT IT?

24 THE JUROR NEWSPAPER

25 THE COURT HAVE YOU FORMED AN OPINION

1 ABOUT THE CASE?

2 THE JUROR NO

3 - - - THE COURT WOULD YOU BE ABLE TO PUT ASIDE  
4 WHAT YOU HAVE HEARD AND BASE YOUR VERDICT SOLELY ON  
5 THE LAW AND THE EVIDENCE IN THE TRIAL?

6 THE JUROR YES

7 THE COURT WOULD YOU BE ABLE TO BE FAIR  
8 AND IMPARTIAL?

9 THE JUROR YES, SIR

10 THE COURT ALL RIGHT THANK YOU IF  
11 YOU'LL STEP OUT FRONT AND JOIN THE GROUP THAT'S  
12 STANDING OUT THERE NEXT

13 (THE JUROR EXITS AND THE NEXT JUROR  
14 ENTERS )

15 THE COURT YOUR NUMBER AND NAME

16 THE JUROR JULIAN FULCHER I'M NOT SURE  
17 WHAT MY NUMBER IS

18 THE COURT FULCHER

19 THE JUROR YES, SIR

20 THE COURT HAVE YOU HEARD ANYTHING ABOUT  
21 THIS CASE?

22 THE JUROR YES

23 THE COURT HOW HAVE YOU HEARD IT?

24 THE JUROR MY MOTHER SHE ACTUALLY JUST  
25 TOLD ME THAT A YOUNG GIRL WAS KILLED

000596

1                   THE COURT     HAVE YOU FORMED ANY OPINION  
2     ABOUT THE CASE?

3                   THE JUROR     NO, SIR

4                   THE COURT     WOULD YOU BE ABLE TO BASE YOUR  
5     VERDICT SOLELY ON THE LAW AND THE EVIDENCE IN THE  
6     TRIAL?

7                   THE JUROR     YES, SIR

8                   THE COURT     WOULD YOU BE FAIR AND  
9     IMPARTIAL?

10                  THE JUROR     YES, SIR

11                  THE COURT     ALL RIGHT     IF YOU'LL STEP OUT  
12     AND JOIN THE CROWD OUT FRONT     DON'T DISCUSS  
13     ANYTHING     THANK YOU

14                  (THE JUROR EXITS AND THE NEXT JUROR  
15     ENTERS )

16                  THE COURT     YOUR NUMBER AND NAME

17                  THE JUROR     BRIAN SIMMONS, 223

18                  THE COURT     AND YOU HEARD ABOUT THE CASE

19                  THE JUROR     I JUST, MY WIFE MENTIONED  
20     SOMETHING ABOUT A CASE GOING ON HERE, WASN'T SPECIFIC  
21     ABOUT WHAT IT WAS ABOUT

22                  THE JUROR     HAVE YOU FORMED AN OPINION OR  
23     EXPRESSED AN OPINION ABOUT THE CASE?

24                  THE JUROR     NO, SIR

25                  THE COURT     WOULD YOU BE ABLE TO BASE YOUR

1 VERDICT SOLELY ON THE LAW AND THE EVIDENCE?

2 THE JUROR OH, YES, MOST DEFINITELY

3 THE COURT WOULD YOU BE ABLE TO BE FAIR  
4 AND IMPARTIAL?

5 THE JUROR YES, SIR

6 THE COURT IF YOU'LL JOIN THE GROUP OUT  
7 FRONT AND NOT DISCUSS ANYTHING THANK YOU

8 (THE JUROR EXITS AND THE NEXT JUROR  
9 ENTERS )

10 THE COURT YOUR NUMBER AND NAME

11 THE JUROR WILLIAM GARDNER, 98

12 THE COURT HAVE YOU HEARD ANYTHING ABOUT  
13 THIS CASE?

14 THE JUROR YES

15 THE COURT AND I'M GOING TO ASK YOU TO  
16 STEP BACK, BUT SHE'S GOT TO HEAR YOU AND ALL THESE  
17 PEOPLE OUT HERE WILL HAVE TO HEAR YOU HOW HAVE YOU  
18 HEARD ABOUT IT?

19 THE JUROR NEWSPAPER, TV

20 THE COURT ALL RIGHT HAVE YOU FORMED AN  
21 OPINION ABOUT THE CASE? !

22 THE JUROR YES, I HAVE

23 THE COURT COULD YOU SET THAT OPINION  
24 ASIDE AND BE FAIR AND IMPARTIAL?

25 THE JUROR PROBABLY NOT



1                   THE COURT    ALL RIGHT    WELL, I'LL EXCUSE  
2   YOU THEN    IF YOU'LL JUST GO DOWN TO THE JURY  
3   ASSEMBLY ROOM DOWN THERE ON THE FIRST FLOOR    YOU CAN  
4   GO OUT THIS WAY

5                   (THE JUROR EXITS AND THE NEXT JUROR  
6   ENTERS )

7                   THE COURT    YES, MA'AM, YOUR NAME AND  
8   NUMBER

9                   THE JUROR    TAMRA MCCOY    MY NUMBER IS  
10   164

11                  THE COURT    YOU'VE HEARD ABOUT THIS CASE

12                  THE JUROR    YES, SIR

13                  THE COURT    HOW?

14                  THE JUROR    THE NEWS

15                  THE COURT    HAVE YOU FORMED AN OPINION  
16   ABOUT THE CASE?

17                  THE JUROR    NO, SIR

18                  THE COURT    WOULD YOU BE ABLE TO BASE YOUR  
19   VERDICT ON THE LAW AND THE EVIDENCE IN THE TRIAL?

20                  THE JUROR    YES, SIR

21                  THE COURT    WOULD YOU BE ABLE TO PUT ASIDE  
22   WHAT YOU ALREADY HEARD AND JUST LISTEN AND BASE YOUR  
23   VERDICT ON THE TRIAL EVIDENCE?

24                  THE JUROR    YES, SIR

25                  THE COURT    WOULD YOU BE ABLE TO BE FAIR

1 AND IMPARTIAL?

2 THE JUROR YES, SIR

3 THE COURT ALL RIGHT YOU'LL REMAIN WITH  
4 US IF YOU'LL JUST STEP OUTSIDE AND JUST DON'T  
5 DISCUSS ANYTHING WITH ANYBODY

6 (THE JUROR EXITS AND THE NEXT JUROR  
7 ENTERS )

8 THE COURT YOUR NAME

9 THE JUROR FRED DUNN, JUROR 283

10 THE COURT YOU'VE HEARD ABOUT THIS CASE

11 THE JUROR EXTENSIVELY, YES, SIR

12 THE COURT ALL RIGHT WOULD YOU BE ABLE  
13 TO, HAVE YOU FORMED AN OPINION ABOUT THE CASE?

14 THE JUROR YES, SIR MY, CAN I  
15 ELABORATE?

16 THE COURT WELL, YOU CAN

17 THE JUROR MY NIECE WAS FRIENDS WITH THE  
18 GIRL THAT WAS KILLED

19 THE COURT ALL RIGHT WOULD YOU BE ABLE  
20 TO PUT ALL THAT ASIDE AND BASE YOUR VERDICT ON THE  
21 LAW AND THE EVIDENCE AND BE FAIR AND IMPARTIAL?

22 THE JUROR I'M NOT 100 PERCENT SURE

23 THE COURT WELL, I'LL EXCUSE YOU THEN  
24 IF YOU'LL JUST GO BACK DOWN TO THE JURY ASSEMBLY  
25 ROOM

000600

1 (THE JUROR EXITS AND THE NEXT JUROR  
2 ENTERS )

3 THE COURT YOUR NAME AND NUMBER

4 THE JUROR CINDY ROSE CYNTHIA ROSE I  
5 DO NOT KNOW MY NUMBER

6 THE COURT YOU'VE HEARD ABOUT THIS CASE

7 THE JUROR UH-HUH

8 THE COURT HOW?

9 THE JUROR JUST IN THE PAPER

10 THE COURT HAVE YOU FORMED AN OPINION  
11 ABOUT THE CASE?

12 THE JUROR I MEAN I HAVE AN IDEA BUT I  
13 DON'T KNOW ALL THE DETAILS SO I CAN'T

14 THE COURT WOULD YOU BE ABLE TO PUT ASIDE  
15 WHAT YOU HAVE HEARD AND LISTEN TO THE EVIDENCE AND  
16 BASE YOUR VERDICT SOLELY ON THE LAW AND THE EVIDENCE  
17 IN THE TRIAL?

18 THE JUROR YES

19 THE COURT WOULD YOU BE ABLE TO BE FAIR  
20 AND IMPARTIAL?

21 THE JUROR YES

22 THE COURT IF YOU'LL JUST JOIN THE PEOPLE  
23 STANDING OUT FRONT I APPRECIATE IT DON'T DISCUSS  
24 ANYTHING NEXT

25 (THE JUROR EXITS )

000601

1 MR MORTON YOUR HONOR  
2 THE COURT MR IVEY, HOLD ON JUST A  
3 MINUTE  
4 MR MORTON AGAIN I HOPE I'M, BUT FOR  
5 PEOPLE WHO HAD AN IDEA OR AN OPINION I THINK MORE  
6 INQUIRY NEEDS TO BE DONE  
7 THE COURT OKAY YOU ARE ON RECORD ALL  
8 RIGHT BRING IN THE NEXT ONE  
9 (THE NEXT JUROR ENTERS )  
10 THE COURT YOUR NAME AND NUMBER  
11 THE JUROR RICHARD K EDWARDS, JR ,  
12 NUMBER 85  
13 THE COURT YOU'VE HEARD ABOUT THIS CASE  
14 THE JUROR YES, SIR  
15 THE COURT HOW?  
16 THE JUROR JUDGE MALPHRUS WORKS FOR ME  
17 THE COURT HAVE YOU FORMED AN OPINION  
18 ABOUT THE CASE?  
19 THE JUROR YES, SIR  
20 THE COURT DO YOU BELIEVE YOU COULD SET  
21 THAT OPINION ASIDE?  
22 THE JUROR NO, SIR  
23 THE COURT ALL RIGHT I'M GOING TO  
24 EXCUSE YOU IF YOU'LL JUST GO DOWNSTAIRS AND JOIN  
25 THE, BACK DOWN TO THE JURY ASSEMBLY ROOM GO THIS

000602

1 WAY  
2 THE JUROR OKAY  
3 (THE JUROR EXITS AND THE NEXT JUROR  
4 ENTERS )  
5 THE COURT YOUR NAME AND NUMBER  
6 THE JUROR 296 LOUELLA J RUPERT  
7 THE COURT YOU'VE HEARD ABOUT THE CASE  
8 THE JUROR YES, I KEPT TRACK THROUGH THE  
9 HERALD  
10 THE COURT HAVE YOU FORMED AN OPINION  
11 ABOUT THE CASE?  
12 THE JUROR YES, I HAVE  
13 THE COURT IS IT AN OPINION YOU COULD SET  
14 ASIDE AND BE FAIR AND IMPARTIAL?  
15 THE JUROR NO  
16 THE COURT YOU CANNOT I'LL EXCUSE YOU  
17 IF YOU'LL GO DOWN TO THE JURY ASSEMBLY ROOM DOWN  
18 STAIRS YOU CAN GO THIS WAY ALL RIGHT THE NEXT  
19 ONE  
20 (THE JUROR EXITS AND THE NEXT JUROR  
21 ENTERS )  
22 THE COURT YOUR NUMBER  
23 THE JUROR 183  
24 THE COURT YOUR NAME  
25 THE JUROR KAREN MOYE

000603

1                   THE COURT    ALL RIGHT    HAVE YOU HEARD  
2    ABOUT THIS CASE  
3                   THE JUROR    YES  
4                   THE COURT    HOW?  
5                   THE JUROR    THE NEWSPAPER  
6                   THE COURT    HAVE YOU FORMED AN OPINION  
7    ABOUT THE CASE?  
8                   THE JUROR    WELL, SEEING THAT I HAVE BEEN  
9    THROUGH A MURDER TRIAL MYSELF, MY OPINIONS ARE  
10   STRONG  
11                   THE COURT    DO YOU FEEL YOU COULD SET  
12   THOSE ASIDE AND BE FAIR AND IMPARTIAL?  
13                   THE JUROR    NOT WITH IT SO FRESH IN MY  
14   MIND, NO, SIR  
15                   THE COURT    I'LL EXCUSE YOU    IF YOU'LL GO  
16   DOWN STAIRS TO THE JURY ASSEMBLY ROOM    THANK YOU  
17                   (THE JUROR EXITS AND THE NEXT JUROR  
18   ENTERS )  
19                   THE COURT    YOUR NUMBER AND NAME  
20                   THE JUROR    I'M DARRYL KELLOUGH, NUMBER  
21   135  
22                   THE COURT    ALL RIGHT    YOU'VE HEARD ABOUT  
23   THIS CASE  
24                   THE JUROR    I SAW THE, GLANCED AT THE  
25   ARTICLE THIS MORNING IN THE JURY ROOM

1                   THE COURT    OKAY    HAVE YOU FORMED AN  
2                   OPINION ABOUT THE CASE?

3                   THE JUROR    NO, SIR

4                   THE COURT    WOULD YOU BE ABLE TO BASE YOUR  
5                   VERDICT IN THIS CASE SOLELY ON THE LAW AND THE  
6                   EVIDENCE IN THE TRIAL AND SET ASIDE ANYTHING YOU  
7                   HEARD OR READ?

8                   THE JUROR    YES, SIR

9                   THE COURT    WOULD YOU BE ABLE TO BE FAIR  
10                  AND IMPARTIAL?

11                  THE JUROR    YES, SIR

12                  THE COURT    ALL RIGHT    IF YOU'LL JUST  
13                  JOIN THE GROUP OUT FRONT AND NOT DISCUSS ANYTHING  
14                  THANK YOU

15                  (THE JUROR EXITS )

16                  MR   MORTON    OBVIOUSLY IF THERE WERE  
17                  NEWSPAPER ARTICLES FLOATING AROUND THE JURY ROOM

18                  THE COURT    I'M CONCERNED ABOUT THAT BUT  
19                  WE DIDN'T TELL THEM

20                  (THE JUROR EXITS AND THE NEXT JUROR  
21                  ENTERS )

22                  THE COURT    YOUR NAME AND NUMBER

23                  THE JUROR    15

24                  THE COURT    YOUR NAME

25                  THE JUROR    FRED BEACHAM

1 THE COURT AND YOU'VE HEARD ABOUT THE  
2 CASE

3 THE JUROR I READ ABOUT IT, HEARD ABOUT  
4 IT

5 THE COURT DO YOU HAVE AN OPINION ABOUT  
6 THE CASE, HAVE YOU FORMED --

7 THE JUROR UNFORTUNATELY I HAVE

8 THE COURT YOU HAVE AN OPINION

9 THE JUROR YES

10 THE COURT WOULD YOU BE ABLE TO SET THAT  
11 OPINION ASIDE AND BE FAIR AND IMPARTIAL?

12 THE JUROR I DON'T KNOW WE'VE CONVICTED  
13 HIM AS SOON AS I'M CONCERNED WITH OUR GROUP

14 THE COURT WELL, I'LL EXCUSE YOU THEN IF  
15 YOU'LL JUST GO BACK DOWN TO THE JURY ASSEMBLY ROOM  
16 AND GO OUT THE FRONT

17 (THE JUROR EXITS )

18 THE COURT ALL RIGHT

19 MR MORTON YOUR HONOR, BEFORE WE BRING  
20 THE NEXT ONE IN

21 THE COURT YES, SIR

22 MR MORTON I DON'T KNOW WHAT GROUP HE'S  
23 TALKING ABOUT AND I DON'T KNOW IF IT'S A GROUP OF  
24 JURORS OR IF PEOPLE ARE BACK THERE TALKING NOW THAT  
25 THEY KNOW ABOUT THE CASE OR NOT, BUT OBVIOUSLY

000606



1 CONCERNS ME

2 THE COURT ALL RIGHT BRING HIM BACK IN  
3 LET'S SEE WHAT KIND OF GROUP HE'S TALKING ABOUT I  
4 GOT THE IDEA HE'S TALKING ABOUT THE COFFEE CROWD HE  
5 DRINKS COFFEE WITH, BUT LET'S BRING HIM BACK IN AND  
6 FIND OUT

7 (THE JUROR RETURNS TO THE COURTROOM )

8 THE COURT YOU CAN JUST STAND RIGHT  
9 THERE, MR BEACHUM WHEN YOU SAID YOUR GROUP, WHAT  
10 GROUP IS THIS

11 THE JUROR WELL, A BUNCH OF US MEET OVER  
12 AT THE LOCAL TAVERN WE TALK ABOUT IT

13 THE COURT BUT IT'S NOT A GROUP OF  
14 JURORS

15 THE JUROR NO

16 THE COURT JUST THE GUYS

17 THE JUROR A GROUP PEOPLE I KNOW THAT WE  
18 DISCUSSED IT, WE TALKED ABOUT IT BETWEEN US, AND ALL  
19 OF US PRETTY MUCH FIGURED THAT WE HAD A CASE

20 THE COURT THAT'S WHAT WE WANTED TO KNOW  
21 WE WANTED TO WHAT THE GROUP WAS WE'RE NOT GOING --

22 THE JUROR JUST FRIENDS OF MINE THAT I  
23 MEET UP WITH EVERY DAY OR TWO

24 THE COURT ANYTHING ELSE FROM EITHER SIDE  
25 WHILE WE GOT HIM THERE?

000607

1 MR MORTON NO

2 MR GREELEY NO, YOUR HONOR

3 THE COURT ALL RIGHT THANK YOU YOU  
4 CAN GO BACK DOWN TO THE JURY ASSEMBLY ROOM

5 (THE JUROR EXITS AND THE NEXT JUROR  
6 ENTERS )

7 THE COURT YOUR NAME AND NUMBER

8 THE JUROR 44, BAMARCA BURRIS

9 THE COURT YOU'VE HEARD ABOUT THIS CASE

10 THE JUROR YES, I READ ABOUT IT IN  
11 NEWSPAPER

12 THE COURT ALL RIGHT HAVE YOU FORMED AN  
13 OPINION ABOUT THIS CASE?

14 THE JUROR SOMEWHAT, YEAH JUST FROM  
15 READING THE NEWSPAPER

16 THE COURT IS IT AN OPINION THAT YOU CAN  
17 SET ASIDE AND LISTEN TO THE EVIDENCE AND BASE YOUR  
18 VERDICT SOLELY ON THE LAW AND THE EVIDENCE OR IS IT  
19 AN OPINION THAT YOU THINK WOULD AFFECT YOUR ABILITY  
20 TO BE FAIR AND IMPARTIAL?

21 THE JUROR I DON'T THINK I'LL BE FAIR  
22 PROBABLY

23 THE COURT I'M GOING TO EXCUSE YOU IF  
24 YOU'LL GO BACK DOWN TO THE JURY ASSEMBLY ROOM YOU  
25 CAN GO OUT THE FRONT

000608

1 (THE JUROR EXITS AND THE NEXT JUROR  
2 ENTERS )

3 THE COURT YOUR NAME AND NUMBER

4 THE JUROR MY NAME IS HARVEY BARNETTE AND  
5 I AM NUMBER 12

6 THE COURT ALL RIGHT YOU'VE HEARD ABOUT  
7 THIS CASE?

8 THE JUROR YES, SIR

9 THE COURT HOW?

10 THE JUROR NEWSPAPER

11 THE COURT HAVE YOU FORMED AN OPINION  
12 ABOUT THIS CASE?

13 THE JUROR NOT REALLY

14 THE COURT COULD YOU PUT ASIDE WHAT YOU  
15 HAVE HEARD AND BE FAIR AND IMPARTIAL AND BASED YOUR  
16 VERDICT SOLELY ON THE LAW AND THE EVIDENCE IN THE  
17 TRIAL?

18 THE JUROR YES, SIR

19 THE COURT THANK YOU IF YOU'LL JOIN THE  
20 GROUP OUT FRONT AND DON'T DISCUSS ANYTHING

21 (THE JUROR EXITS AND THE NEXT JUROR  
22 ENTERS )

23 THE COURT YOUR NUMBER AND NAME

24 THE JUROR 22, SHERYL BLACK

25 THE COURT ALL RIGHT AND YOU'VE HEARD

1 ABOUT THIS CASE?

2 THE JUROR YEAH, I READ A COUPLE ARTICLES  
3 IN CHARLOTTE DOT COM

4 THE COURT WOULD THAT, HAVE YOU FORMED AN  
5 OPINION ABOUT THIS CASE?

6 THE JUROR I WOULD LIKE TO BE DISMISSED  
7 I DON'T THINK I COULD HANDLE A TRIAL THAT HAS  
8 CHILDREN ABUSED

9 THE COURT YOU DON'T THINK YOU COULD BE  
10 FAIR AND IMPARTIAL?

11 THE JUROR NO, I COULDN'T BE FAIR

12 THE COURT I'M GOING TO LET YOU GO BACK  
13 DOWN TO THE JURY ASSEMBLY ROOM DOWNSTAIRS AND JUST  
14 DON'T DISCUSS THE CASE, GO BACK DOWN AND YOU CAN GO  
15 OUT THE FRONT

16 (THE JUROR EXITS AND THE NEXT JUROR  
17 ENTERS )

18 THE COURT ALL RIGHT YOUR NUMBER AND  
19 YOUR NAME

20 THE JUROR I FORGET MY NUMBER MY NAME  
21 IS ARTHUR BARNETTE I THINK I'M 211

22 THE COURT YOU'VE HEARD ABOUT THIS CASE?

23 THE JUROR YEAH

24 THE COURT HOW?

25 THE JUROR THROUGH MY WIFE AND MY SISTER

1 THE COURT ALL RIGHT HAVE YOU FORMED AN  
2 OPINION ABOUT HOW THIS CASE OUGHT TO COME OUT?

3 THE JUROR NA

4 THE COURT WOULD YOU BE ABLE TO BASE YOUR  
5 VERDICT IN THE CASE ON THE LAW AND THE EVIDENCE  
6 THAT'S DEVELOPED DURING THE TRIAL?

7 THE JUROR I BELIEVE I COULD

8 THE COURT WOULD YOU BE FAIR AND  
9 IMPARTIAL?

10 THE JUROR I BELIEVE I COULD

11 THE COURT ALL RIGHT IF YOU'LL JUST  
12 STEP OUT AND JOIN THE CROWD OUT IN THE HALL JUST  
13 DON'T DISCUSS ANYTHING

14 (THE JUROR EXITS AND THE NEXT JUROR  
15 ENTERS )

16 THE COURT YOUR NUMBER AND NAME

17 THE JUROR DAN BLOXOM, 280

18 THE COURT YOU HEARD ABOUT THE CASE?

19 THE JUROR I HEARD IT ON THE NEWS LAST  
20 NIGHT BASICALLY BECAUSE WE MADE A COMMENT THAT BEING  
21 ON JURY DUTY THAT I MIGHT HAVE A TWO WEEK STINT OR BE  
22 LONGER

23 THE COURT HAVE YOU FORMED AN OPINION  
24 ABOUT THE CASE?

25 THE JUROR NO, SIR

000611

1                   THE COURT     WOULD YOU BE ABLE TO BASE YOUR  
2 VERDICT SOLELY ON THE LAW AND THE EVIDENCE IN THE  
3 TRIAL?

4                   THE JUROR     YES, SIR

5                   THE COURT     WOULD YOU BE ABLE TO BE FAIR  
6 AND IMPARTIAL IN THIS CASE?

7                   THE JUROR     YES, SIR

8                   THE COURT     ALL RIGHT     IF YOU'LL JOIN THE  
9 GROUP STANDING OUT IN THE LOBBY OUT IN THE HALLWAY  
10 AND DON'T DISCUSS ANYTHING     THANK YOU

11                                 (THE JUROR EXITS AND THE NEXT JUROR  
12 ENTERS )

13                   THE COURT     YOUR NUMBER AND NAME

14                   THE JUROR     258, SANDY WARDEAN

15                   THE COURT     AND YOU'VE HEARD ABOUT THE  
16 CASE

17                   THE JUROR     THROUGH THE MEDIA, NEWSPAPERS,  
18 TELEVISION

19                   THE COURT     HAVE YOU FORMED AN OPINION  
20 ABOUT THE CASE?

21                   THE JUROR     YES, I HAVE

22                   THE COURT     IS IT AN OPINION THAT CAN BE  
23 SET ASIDE OR DO YOU THINK IT WILL AFFECT YOUR  
24 ABILITY --

25                   THE JUROR     NO

000612

1                   THE COURT    COULD YOU OR YOU COULD NOT BE  
2 FAIR AND IMPARTIAL?

3                   THE JUROR    I COULDN'T BE FAIR AND  
4 IMPARTIAL

5                   THE COURT    ALL RIGHT    I'LL EXCUSE YOU  
6 IF YOU'LL GO BACK DOWN TO THE JURY ROOM DOWNSTAIRS  
7 THANK YOU

8                                (THE JUROR EXITS AND THE NEXT JUROR  
9 ENTERS )

10                   THE COURT    YOUR NUMBER AND NAME

11                   THE JUROR    STEWART SMITH, 232

12                   THE COURT    AND YOU'VE HEARD ABOUT THE  
13 CASE?

14                   THE JUROR    YES, SIR

15                   THE COURT    HOW HAVE YOU HEARD ABOUT IT?

16                   THE JUROR    I'M AN AVID NEWSPAPER READER,  
17 SO I THINK WHEN THE CASE INITIALLY BROKE IN THE NEWS  
18 I READ ABOUT IT    IN FACT, READ ABOUT IT IN THE YORK  
19 OBSERVER, A LONG ARTICLE, WITHIN THE LAST WEEK

20                   THE COURT    HAVE YOU FORMED AN OPINION  
21 ABOUT THE CASE?

22                   THE JUROR    I'M HORRIFIED BY ALL I READ  
23 ABOUT THE CASE    I'M NOT SURE IF THAT CONSTITUTES AN  
24 OPINION ABOUT IT

25                   THE COURT    CAN YOU SET ASIDE WHAT YOU

1 HAVE READ AND BASE YOUR VERDICT IN THE CASE SOLELY ON  
2 THE LAW AND THE EVIDENCE IN THE TRIAL OR WHAT YOU  
3 HEARD ABOUT IT AFFECT YOUR ABILITY TO BE FAIR AND  
4 IMPARTIAL?

5 THE JUROR I'M NOT SURE THAT ALL I HEARD  
6 ABOUT IT WOULD AFFECT MY ABILITY TO BE FAIR AND  
7 IMPARTIAL

8 THE COURT COULD YOU BE FAIR AND  
9 IMPARTIAL?

10 THE JUROR IN RELATION TO ALL I'VE HEARD  
11 ABOUT IT AND READ ABOUT IT I COULD BE FAIR AND  
12 IMPARTIAL HOWEVER, AS A CHRISTIAN MINISTER I COULD  
13 NOT VOTE TO CONVICT IN A CAPITAL OR POTENTIAL CAPITAL  
14 CASE

15 THE COURT THIS ISN'T A CAPITAL CASE

16 THE JUROR OKAY THERE IS NO POTENTIAL  
17 OF THAT IN OTHER WORDS?

18 THE COURT IT'S NOT A CAPITAL CASE

19 THE JUROR OKAY I WASN'T AWARE OF THAT  
20 PART

21 THE COURT COULD YOU BE FAIR AND  
22 IMPARTIAL OR COULD YOU NOT? I GOT TO KNOW

23 THE JUROR I KNOW I KNOW I COULD BE  
24 I WOULD NOT HAVE BEEN UNDULY INFLUENCED BY WHAT I  
25 READ ABOUT THE CASE

000614



1                   THE COURT    IF YOU'LL JUST JOIN THE GROUP  
2   OUT FRONT    JUST DON'T DISCUSS ANYTHING  
3                    (THE JUROR EXITS AND THE NEXT JUROR  
4   ENTERS )  
5                   THE COURT    YOUR NAME AND NUMBER  
6                   THE JUROR    NUMBER 281, DIANE CANNIZZARO  
7                   THE COURT    AND YOU'VE HEARD ABOUT THE  
8   CASE?  
9                   THE JUROR    YES, I HAVE  
10                  THE COURT    HOW?  
11                  THE JUROR    THROUGH THE HERALD NEWSPAPER  
12                  THE COURT    AND HAVE YOU FORMED AN OPINION  
13   ABOUT THE CASE?  
14                  THE JUROR    NO, I REALLY HAVEN'T  
15                  THE COURT    WOULD YOU BE ABLE TO BASE YOUR  
16   VERDICT SOLELY ON THE LAW AND THE EVIDENCE IN THE  
17   TRIAL?  
18                  THE JUROR    YES  
19                  THE COURT    WOULD YOU BE ABLE TO SET ASIDE  
20   WHAT YOU HAVE HEARD?  
21                  THE JUROR    YES, SIR  
22                  THE COURT    WOULD YOU BE ABLE TO BE FAIR  
23   AND IMPARTIAL?  
24                  THE JUROR    YES  
25                  THE COURT    ALL RIGHT    IF YOU'LL JUST

000615

1 JOIN THE GROUP OUT IN THE HALL THERE  
2 (THE JUROR EXITS AND THE NEXT JUROR  
3 ENTERS )  
4 THE COURT YOUR NUMBER AND NAME  
5 THE JUROR I THINK IT'S 96 MY NAME IS  
6 EDITH FOUNTAIN I'M NOT SURE  
7 THE COURT YOU HEARD ABOUT THIS CASE?  
8 THE JUROR YES  
9 THE COURT HOW?  
10 THE JUROR BASICALLY THROUGH THE  
11 NEWSPAPER AND THROUGH MY FRIEND WHO WORKS WITH THE  
12 DEFENDANT'S BROTHER  
13 THE COURT HAVE YOU FORMED, HAVE YOU  
14 FORMED AN OPINION ABOUT THE CASE?  
15 THE JUROR NO  
16 THE COURT WOULD YOU BE ABLE TO BASE YOUR  
17 VERDICT SOLELY ON THE LAW AND THE EVIDENCE IN THE  
18 TRIAL?  
19 THE JUROR YES  
20 THE COURT WOULD YOU BE ABLE TO BE FAIR  
21 AND IMPARTIAL? COULD YOU BE FAIR AND IMPARTIAL?  
22 THE JUROR YES  
23 THE COURT ALL RIGHT IF YOU'LL JUST  
24 JOIN THE GROUP OUT FRONT AND DON'T DISCUSS THE CASE  
25 (THE JUROR EXITS AND THE NEXT JUROR

000616

1        ENTERS )

2                    THE COURT    ALL RIGHT    YOUR NAME AND  
3        NUMBER

4                    THE JUROR    CYNTHIA HOWELL, NUMBER 126

5                    THE COURT    ALL RIGHT    YOU'VE HEARD ABOUT  
6        THE CASE?

7                    THE JUROR    YES, SIR

8                    THE COURT    AND HAVE YOU FORMED AN OPINION  
9        ABOUT THE CASE?

10                   THE JUROR    NO, SIR, NOT REALLY

11                   THE COURT    COULD YOU SET ASIDE WHAT YOU  
12        HAVE HEARD AND BASE YOUR VERDICT SOLELY ON THE LAW  
13        AND THE EVIDENCE IN THE TRIAL?

14                   THE JUROR    YES, SIR

15                   THE COURT    COULD YOU BE FAIR AND  
16        IMPARTIAL?

17                   THE JUROR    YES, SIR

18                   THE COURT    ALL RIGHT    IF YOU'LL JOIN THE  
19        PEOPLE OUT FRONT    DON'T DISCUSS THE CASE

20                                (THE JUROR EXITS AND THE NEXT JUROR  
21        ENTERS )

22                   THE COURT    DO YOU REMEMBER YOUR NUMBER?

23                   THE JUROR    NO, SIR

24                   THE COURT    WHAT'S YOUR NAME?

25                   THE JUROR    LAMAR MCSWAIN

1                   THE COURT    ALL RIGHT    YOU'VE HEARD ABOUT  
2   THIS CASE?  
3                   THE JUROR    YES  
4                   THE COURT    HOW?  
5                   THE JUROR    IN THE HERALD FROM ROCK HILL  
6                   THE COURT    HAVE YOU FORMED AN OPINION  
7   ABOUT THIS CASE?  
8                   THE JUROR    YES, SIR  
9                   THE COURT    COULD YOU SET THAT OPINION  
10  ASIDE AND BE FAIR AND IMPARTIAL?  
11                   THE JUROR    I'M NOT REALLY SURE, YOUR  
12  HONOR  
13                   THE COURT    YOU THINK, DO YOU THINK THAT  
14  YOUR VERDICT WOULD BE AFFECTED BY WHAT YOU HAVE HEARD  
15  BEFORE TODAY?  
16                   THE JUROR    YES, SIR, I THINK PROBABLY  
17                   THE COURT    I'LL EXCUSE YOU    IF YOU WILL  
18  JUST GO BACK DOWNSTAIRS    GO OUT THE FRONT  
19                   ( THE JUROR EXITS AND THE NEXT JUROR  
20  ENTERS )  
21                   THE COURT    YOUR NAME AND NUMBER  
22                   THE JUROR    KAY KILPATRICK, 138  
23                   THE COURT    AND YOU'VE HEARD ABOUT THE  
24  CASE?  
25                   THE JUROR    IN THE CHARLOTTE OBSERVER,

000618

1 READ IT IN THE PAPER

2 THE COURT HAVE YOU FORMED AN OPINION  
3 ABOUT THE CASE?

4 THE JUROR NO, SIR

5 THE COURT WOULD YOU BE ABLE TO BASE YOUR  
6 VERDICT SOLELY ON THE LAW AND THE EVIDENCE IN THE  
7 TRIAL?

8 THE JUROR YES, SIR

9 THE COURT WOULD YOU BE ABLE TO SET ASIDE  
10 WHAT YOU HAVE HEARD?

11 THE JUROR YES, SIR

12 THE COURT COULD YOU BE FAIR AND  
13 IMPARTIAL?

14 THE JUROR YES, SIR

15 THE COURT IF YOU'LL JOIN THE GROUP OUT  
16 FRONT AND JUST NOT DISCUSS ANYTHING

17 (THE JUROR EXITS AND THE NEXT JUROR  
18 ENTERS )

19 THE COURT DO YOU KNOW YOUR NUMBER?

20 THE JUROR IT'S 184

21 THE COURT AND YOUR NAME

22 THE JUROR CARRIE NALLEY

23 THE COURT YOU'VE HEARD ABOUT THIS CASE?

24 THE JUROR YES, JUST THAT THE FATHER HAD  
25 MOLESTED THE DAUGHTER AND SOMEBODY ELSE HAD KILLED

1 THE GIRL

2 THE COURT ALL RIGHT HOW DID YOU HEAR  
3 THAT, THROUGH THE NEWSPAPER OR?

4 THE JUROR MY MOTHER, YES

5 THE COURT ALL RIGHT WOULD YOU BE ABLE  
6 TO PUT, HAVE YOU FORMED AN OPINION ABOUT THE CASE?

7 THE JUROR NO, SIR

8 THE COURT WOULD YOU BE ABLE TO SET ASIDE  
9 WHAT YOU HAVE HEARD AND BASE YOUR VERDICT SOLELY ON  
10 THE LAW AND THE EVIDENCE IN THE TRIAL?

11 THE JUROR YES, SIR

12 THE COURT WOULD YOU BE ABLE TO BE FAIR  
13 AND IMPARTIAL?

14 THE JUROR YES, SIR

15 THE COURT ALL RIGHT THANK YOU YOU  
16 CAN GO OUT FRONT AND JOIN THE GROUP STANDING OUT  
17 THERE, JUST DON'T DISCUSS ANYTHING ALL RIGHT

18 (THE JUROR EXITS )

19 MR MORTON YOUR HONOR, I DON'T KNOW THE  
20 PROPER TIME TO OBJECT TO THE QUALIFICATIONS, BUT YOU  
21 KNOW IF SHE'S, AGAIN I WOULD OBJECT TO HER BEING  
22 QUALIFIED BASED UPON WHAT SHE RELATED TO THE COURT  
23 THAT SHE HAD HEARD THAT THE FATHER HAD MOLESTED THE  
24 DAUGHTER AND I JUST DON'T THINK SHE NEEDS TO BE  
25 QUALIFIED FOR THIS JURY

000620

1 THE COURT WELL, I OVERRULE -- IS IT AN  
2 OBJECTION?

3 MR MORTON YES, SIR

4 THE COURT I OVERRULE THE OBJECTION  
5 BRING IN THE NEXT ONE

6 (THE JUROR ENTERS )

7 THE COURT DO YOU KNOW YOUR NUMBER

8 THE JUROR I THINK IT'S 100

9 THE COURT YOUR NAME

10 THE JUROR MEREDITH GIBSON

11 THE COURT HAVE YOU HEARD ABOUT THIS  
12 CASE?

13 THE JUROR YES, SIR

14 THE COURT HOW HAVE YOU HEARD ABOUT IT?

15 THE JUROR JUST NEWSPAPER AND T V

16 THE COURT HAVE YOU FORMED AN OPINION  
17 ABOUT THE CASE?

18 THE JUROR NO

19 THE JUROR WOULD YOU BE ABLE TO SET ASIDE  
20 WHAT YOU HEARD AND BASE YOUR VERDICT SOLELY ON THE  
21 LAW AND THE EVIDENCE IN THE TRIAL?

22 THE JUROR I BELIEVE I COULD

23 THE COURT WOULD YOU BE ABLE TO BE FAIR  
24 AND IMPARTIAL?

25 THE JUROR I BELIEVE I COULD

1                   THE COURT    IF YOU'LL JUST JOIN THE PEOPLE  
2   STANDING OUT IN THE HALL AND DON'T DISCUSS THE CASE  
3                   (THE JUROR EXITS AND THE NEXT JUROR  
4   ENTERS )  
5                   THE COURT    DO YOU REMEMBER YOUR NUMBER  
6                   THE JUROR    284  
7                   THE COURT    AND YOUR NAME  
8                   THE JUROR    BRENDA FORD  
9                   THE COURT    AND YOU'VE HEARD ABOUT THE  
10   CASE  
11                   THE JUROR    YEAH, WHEN IT FIRST HAPPENED  
12                   THE COURT    HOW?  
13                   THE JUROR    A COUPLE YEARS AGO    YEAH, I  
14   READ ABOUT IT IN THE PAPER BUT I DIDN'T, I DIDN'T  
15   READ NOTHING ELSE ABOUT IT  
16                   THE COURT    HAVE YOU FORMED AN OPINION  
17   ABOUT THE CASE?  
18                   THE JUROR    NO, SIR  
19                   THE COURT    WOULD YOU BE ABLE TO PUT ASIDE  
20   WHAT YOU HEARD AND BASE YOUR VERDICT SOLELY ON THE  
21   LAW AND THE EVIDENCE --  
22                   THE JUROR    YES, SIR  
23                   THE COURT    ---IN THE TRIAL?    COULD YOU BE  
24   FAIR AND IMPARTIAL?  
25                   THE JUROR    YES, SIR

000622



1 THE COURT IF YOU'LL JUST JOIN THE GROUP  
2 STANDING OUT FRONT DON'T DISCUSS ANYTHING

3 (THE JUROR EXITS AND THE NEXT JUROR  
4 ENTERS )

5 THE COURT DO YOU REMEMBER YOUR NUMBER?

6 THE JUROR 24

7 THE COURT YOUR NAME

8 THE JUROR MARY BLACKWELL

9 THE COURT AND YOU'VE HEARD ABOUT THIS  
10 CASE HOW?

11 THE JUROR ON THE TELEPHONE

12 THE COURT ALL RIGHT HAVE YOU FORMED AN  
13 OPINION ABOUT THE CASE?

14 THE JUROR NO

15 THE COURT WOULD YOU BE ABLE TO PUT ASIDE  
16 WHAT YOU HEARD AND BASE YOUR VERDICT SOLELY ON THE  
17 LAW AND THE EVIDENCE IN THE TRIAL?

18 THE JUROR I DO

19 THE COURT WOULD YOU BE ABLE TO BE FAIR  
20 AND IMPARTIAL?

21 THE JUROR YEAH

22 THE COURT IF YOU'LL STEP OUT IN THE HALL  
23 AND JOIN THAT CROWD OUT THERE AND DON'T DISCUSS  
24 ANYTHING

25 (THE JUROR EXITS AND THE NEXT JUROR

000623

1        ENTERS )

2                THE COURT        DO YOU REMEMBER YOUR NUMBER?

3                THE JUROR        66 I BELIEVE, YOUR HONOR

4                THE COURT        YOUR NAME

5                THE JUROR        CLATEN CORBITT

6                THE COURT        YOU HEARD ABOUT THE CASE HOW?

7                THE JUROR        JUST FROM READING THE

8        NEWSPAPER

9                THE COURT        HAVE YOU FORMED AN OPINION

10        ABOUT THE CASE?

11                THE JUROR        NO

12                THE COURT        WOULD YOU BE ABLE TO SET ASIDE

13        WHAT YOU HEARD AND BASE YOUR VERDICT SOLELY ON THE

14        LAW AND THE EVIDENCE IN THE TRIAL?

15                THE JUROR        YES, SIR

16                THE COURT        COULD YOU BE FAIR AND

17        IMPARTIAL?

18                THE JUROR        YES, SIR

19                THE COURT        IF YOU'LL JUST JOIN THE GROUP

20        STANDING IN THE HALL, AND DON'T DISCUSS ANYTHING

21                        (THE JUROR EXITS AND THE NEXT JUROR

22        ENTERS )

23                THE COURT        DO YOU REMEMBER YOUR NUMBER?

24                THE JUROR        I THINK IT IS 155

25                THE COURT        AND YOUR NAME

1                   THE JUROR     JASON MAREE  
2                   THE COURT     AND HOW HAVE YOU HEARD ABOUT  
3     THIS CASE?  
4                   THE JUROR     THE PAPER AND ON THE NEWS  
5                   THE COURT     HAVE YOU FORMED AN OPINION  
6     ABOUT THE CASE?  
7                   THE JUROR     IN A WAY I HAVE  
8                   THE COURT     WOULD YOU BE ABLE TO SET THAT  
9     OPINION AND WHAT YOU HAVE HEARD ASIDE AND BASE A  
10    VERDICT SOLELY ON WHAT YOU HEAR IN THE TRIAL?  
11                  THE JUROR     NO  
12                  THE COURT     ALL RIGHT     I'LL EXCUSE YOU  
13    IF YOU'LL GO DOWNSTAIRS TO THE JURY ASSEMBLY ROOM  
14                                 (THE JUROR EXITS AND THE NEXT JUROR  
15    ENTERS )  
16                  THE COURT     DO YOU REMEMBER YOUR NUMBER?  
17                  THE JUROR     70  
18                  THE COURT     YOUR NAME?  
19                  THE JUROR     PATRICIA CRIBB  
20                  THE COURT     HOW HAVE YOU HEARD ABOUT CASE?  
21                  THE JUROR     JUST I REMEMBER IN THE PAPER  
22                  THE COURT     HAVE YOU FORMED AN OPINION  
23    ABOUT THE CASE?  
24                  THE JUROR     I REALLY HADN'T  
25                  THE COURT     COULD YOU SET ASIDE WHAT YOU

000625

1 HEARD AND BASE YOUR VERDICT ON THE LAW AND THE  
2 EVIDENCE IN THE TRIAL?

3 THE JUROR YES

4 THE COURT COULD YOU BE FAIR AND  
5 IMPARTIAL?

6 THE JUROR YES, SIR

7 THE COURT IF YOU'LL JOIN THE GROUP  
8 STANDING IN THE HALL AND 'DON'T DISCUSS ANYTHING

9 THE COURT DO YOU REMEMBER YOUR NUMBER?

10 THE JUROR 143

11 THE COURT YOUR NAME

12 THE JUROR BILLY LEFLER

13 THE COURT AND HOW HAVE YOU HEARD ABOUT  
14 THIS CASE?

15 THE JUROR I READ THE ARTICLE IN THE  
16 PAPER AND I'VE HEARD SOME DISCUSSION ABOUT IT WHERE I  
17 WORK

18 THE COURT WHERE DO YOU WORK?

19 THE JUROR U S 21 TRUCK OUT OF CAMDEN

20 THE COURT HAVE YOU FORMED AN OPINION  
21 ABOUT THIS CASE?

22 THE JUROR NO, SIR

23 THE COURT WOULD YOU BE ABLE TO SET ASIDE  
24 WHAT YOU HAVE HEARD AND BASE YOUR VERDICT SOLELY ON  
25 THE LAW AND THE EVIDENCE IN THE TRIAL?

000626

1 THE JUROR YES

2 THE COURT WOULD YOU BE ABLE TO BE FAIR  
3 AND IMPARTIAL?

4 THE JUROR YES, SIR

5 THE COURT IF YOU'LL JOIN THE GROUP  
6 STANDING OUT IN THE HALL AND DON'T DISCUSS ANYTHING  
7 (THE JUROR EXITS AND THE NEXT JUROR  
8 ENTERS )

9 THE COURT DO YOU REMEMBER YOUR NUMBER?

10 THE JUROR 171

11 THE COURT YOUR NAME

12 THE JUROR DEBRA MCWATERS

13 THE COURT AND HOW HAVE YOU HEARD ABOUT  
14 THIS CASE?

15 THE JUROR WELL, I READ THROUGH IT  
16 THROUGH THE PAPERS OF COURSE AND MY DEALINGS WITH DSS  
17 IN MY PROFESSION JUST

18 THE COURT HAVE YOU FORMED AN OPINION  
19 ABOUT THE CASE?

20 THE JUROR I -- YES, SIR

21 THE COURT ALL RIGHT DO YOU THINK YOU  
22 COULD NOT BE FAIR?

23 THE JUROR NO, SIR

24 THE COURT WELL, I'M GOING TO EXCUSE YOU  
25 IF YOU'LL GO BACK TO THE JURY ASSEMBLY ROOM IN THE

1 FRONT  
2 (THE JUROR EXITS AND THE NEXT JUROR  
3 ENTERS )  
4 THE COURT DO YOU REMEMBER YOUR NUMBER  
5 THE JUROR 26 I BELIEVE  
6 THE COURT YOUR NAME  
7 THE JUROR DONNA BLANKENSHIP  
8 THE COURT AND HOW HAVE YOU HEARD ABOUT  
9 THIS CASE?  
10 THE JUROR I VAGUELY REMEMBER WHEN THEY  
11 FIRST FOUND HER BODY AND THEN LAST NIGHT ON THE NEWS  
12 I HEARD THEM SAY THAT THE JURY WAS GOING TO BE PULLED  
13 TODAY  
14 THE COURT HAVE YOU FORMED AN OPINION  
15 ABOUT THE CASE?  
16 THE JUROR NO  
17 THE COURT COULD YOU SET ASIDE WHAT YOU  
18 HAVE HEARD AND BE FAIR AND IMPARTIAL AND BASE YOUR  
19 VERDICT ON THE LAW AND THE EVIDENCE IN THE CASE?  
20 THE JUROR YES, SIR  
21 THE COURT IF YOU'LL JUST JOIN THE GROUP  
22 OUT FRONT AND DON'T DISCUSS ANYTHING  
23 (THE JUROR EXITS AND THE NEXT JUROR  
24 ENTERS )  
25 THE COURT YOUR NUMBER AND NAME

000628

1                   THE JUROR    ROBIN DOVER, NUMBER 80  
2                   THE COURT    ALL RIGHT    HOW HAVE YOU HEARD  
3   ABOUT THIS CASE?  
4                   THE JUROR    ABOUT ALL OF THE ABOVE  
5                   THE COURT    HAVE YOU FORMED AN OPINION  
6   ABOUT THE CASE?  
7                   THE JUROR    NO  
8                   THE COURT    WOULD YOU BE ABLE TO SET ASIDE  
9   WHAT YOU HAVE HEARD AND BASE YOUR VERDICT SOLELY ON  
10   THE LAW AND THE EVIDENCE IN THE TRIAL?  
11                  THE JUROR    YES, SIR  
12                  THE COURT    WOULD YOU BE ABLE TO BE FAIR  
13   AND IMPARTIAL?  
14                  THE JUROR    I BELIEVE SO, YES, SIR  
15                  THE COURT    IF YOU WILL JUST JOIN THE  
16   GROUP OUT IN THE HALLWAY AND NOT DISCUSS THE CASE  
17                                (THE JUROR EXITS AND THE NEXT JUROR  
18   ENTERS )  
19                  THE COURT    YOUR NUMBER  
20                  THE JUROR    72  
21                  THE COURT    YOUR NAME  
22                  THE JUROR    CHERESE CULP  
23                  THE COURT    HOW HAVE YOU HEARD ABOUT THIS  
24   CASE?  
25                  THE JUROR    I HEARD PEOPLE TALKING ABOUT

1 IT  
2 THE COURT HAVE YOU FORMED AN OPINION  
3 ABOUT THE CASE?  
4 THE JUROR NO, SIR  
5 THE COURT WOULD YOU BE ABLE TO SET ASIDE  
6 WHAT YOU HAVE HEARD AND BASE YOUR VERDICT SOLELY ON  
7 THE LAW AND THE EVIDENCE IN THE TRIAL?  
8 THE JUROR YES YES, SIR  
9 THE COURT WOULD YOU BE ABLE TO BE FAIR  
10 AND IMPARTIAL?  
11 THE JUROR YES, SIR  
12 THE COURT IF YOU'LL JOIN THE GROUP  
13 STANDING OUT IN THE HALLWAY RIGHT THERE AND DON'T  
14 DISCUSS ANYTHING  
15 (THE JUROR EXITS AND THE NEXT JUROR  
16 ENTERS )  
17 THE COURT DO YOU REMEMBER YOUR NUMBER?  
18 THE JUROR 32  
19 THE COURT YOUR NAME  
20 THE JUROR VIOLET BRATTON  
21 THE COURT HOW HAVE YOU HEARD ABOUT THIS  
22 CASE?  
23 THE JUROR YES, SIR  
24 THE COURT HOW?  
25 THE JUROR HOW OH, TELEVISION,



1 NEWSPAPER

2 THE COURT HAVE YOU FORMED AN OPINION  
3 ABOUT THE CASE?

4 THE JUROR NOT AS OF YET

5 THE COURT COULD YOU SET ASIDE WHAT YOU  
6 HEARD AND BASE YOUR VERDICT SOLELY ON THE LAW AND THE  
7 EVIDENCE IN THE TRIAL?

8 THE JUROR YES, SIR

9 THE COURT WOULD YOU BE FAIR AND  
10 IMPARTIAL?

11 THE JUROR YES, SIR

12 THE COURT IF YOU'LL JOIN THE CROWD  
13 STANDING OUT IN THE HALLWAY AND DON'T DISCUSS  
14 ANYTHING

15 (THE JUROR EXITS AND THE NEXT JUROR  
16 ENTERS )

17 THE COURT YOUR NUMBER AND NAME

18 THE JUROR RITA SUTTON, 299

19 THE COURT HOW HAVE YOU HEARD ABOUT THIS  
20 CASE?

21 THE JUROR THE NEWSPAPER MOSTLY

22 THE COURT HAVE YOU FORMED AN OPINION  
23 ABOUT THE CASE?

24 THE JUROR I HAVE

25 THE COURT WOULD YOU BE ABLE TO SET THAT

1 OPINION ASIDE AND BE FAIR AND IMPARTIAL?

2 THE JUROR I'M NOT SURE

3 THE COURT WELL, THAT'S BASICALLY TO ME  
4 SAYING YOU DON'T THINK YOU CAN

5 THE JUROR WELL, I DON'T THINK SO

6 THE COURT WELL, I'LL EXCUSE YOU IF  
7 YOU'LL RETURN DOWNSTAIRS TO THE JURY ASSEMBLY ROOM  
8 GO OUT THE FRONT AND GO DOWN TO THE JURY ASSEMBLY  
9 ROOM

10 (THE JUROR EXITS AND THE NEXT JUROR  
11 ENTERS )

12 THE COURT YOUR NUMBER

13 THE JUROR 277

14 THE COURT YOUR NAME

15 THE JUROR WILLIAM R YOUNG

16 THE COURT AND HOW HAVE YOU HEARD ABOUT  
17 THIS CASE?

18 THE JUROR JUST MY WIFE MENTIONED IT THE  
19 REASON BEING I WAS COMING DOWN HERE

20 THE COURT HAVE YOU FORMED AN OPINION  
21 ABOUT THE CASE?

22 THE JUROR NOT YET BECAUSE I HADN'T HEARD  
23 ENOUGH ABOUT IT

24 THE COURT WOULD YOU BE ABLE TO PUT ASIDE  
25 WHAT YOU HAVE HEARD AND BASE YOUR VERDICT SOLELY ON

000632

1 THE LAW AND THE EVIDENCE IN THE TRIAL?

2 THE JUROR YES, SIR

3 THE COURT COULD YOU BE FAIR AND  
4 IMPARTIAL?

5 THE JUROR I THINK SO, JUDGE

6 THE COURT ALL RIGHT IF YOU'LL STEP OUT  
7 IN THE HALLWAY AND JOIN THOSE OTHER PEOPLE AND JUST  
8 DON'T DISCUSS ANYTHING

9 THE JUROR THANK YOU, SIR

10 (THE JUROR EXITS AND THE NEXT JUROR  
11 ENTERS )

12 THE COURT DO YOU REMEMBER YOUR NUMBER?

13 THE JUROR I THINK I'M 285

14 THE COURT YOUR NAME

15 THE JUROR MELANIE FORRESTER

16 THE COURT HOW HAVE YOU HEARD ABOUT THE  
17 CASE?

18 THE JUROR I BELIEVE I READ ABOUT IT IN  
19 THE PAPER I HAVE JUST A VAGUE RECOLLECTION IS ALL

20 THE COURT HAVE YOU FORMED AN OPINION  
21 ABOUT THE CASE?

22 THE JUROR NO

23 THE COURT WOULD YOU SET ASIDE WHAT YOU  
24 HAVE HEARD AND BASE YOUR VERDICT SOLELY ON THE LAW  
25 AND THE EVIDENCE IN THE TRIAL?

1 THE JUROR YES, SIR  
2 THE COURT COULD YOU BE FAIR AND  
3 IMPARTIAL?  
4 THE JUROR YES, SIR  
5 THE COURT IF YOU'LL STEP OUTSIDE AND  
6 JOIN THE GROUP STANDING OUT FRONT AND DON'T DISCUSS  
7 ANYTHING  
8 THE JUROR YES, SIR  
9 (THE JUROR EXITS AND THE NEXT JUROR  
10 ENTERS )  
11 THE COURT YOUR NUMBER AND NAME  
12 THE JUROR 119, TODD HERSHBERGER  
13 THE COURT AND HOW HAVE YOU HEARD ABOUT  
14 THIS CASE?  
15 THE JUROR I HEARD IT VIA THE NEWSPAPER  
16 AND TELEVISION, JUST NOT A LOT OF DETAILS, JUST I  
17 HAVE HEARD OF IT, KNOW OF IT  
18 THE COURT HAVE YOU FORMED AN OPINION  
19 ABOUT THE CASE?  
20 THE JUROR I WOULDN'T SAY I HAVE, NO  
21 THE COURT COULD YOU SET ASIDE WHAT YOU  
22 HEARD AND BASE YOUR VERDICT SOLELY ON THE LAW AND THE  
23 EVIDENCE IN THE TRIAL?  
24 THE JUROR YES, SIR  
25 THE COURT COULD YOU BE FAIR AND

1 IMPARTIAL?

2 THE JUROR YES, SIR

3 THE COURT IF YOU'LL JUST JOIN THE GROUP  
4 STANDING OUT FRONT AND NOT DISCUSS ANYTHING

5 (THE JUROR EXITS AND THE NEXT JUROR  
6 ENTERS )

7 THE COURT YOU REMEMBER YOUR NUMBER?

8 THE JUROR 275

9 THE COURT YOUR NAME

10 THE JUROR CHARLEY WOOD

11 THE COURT AND HOW HAVE YOU HEARD ABOUT  
12 THIS CASE?

13 THE JUROR I READ SEVERAL NEWSPAPERS  
14 ARTICLES, SEEN SOME T V REPORTS, AND JUST THROUGH  
15 OFFICE CHATTER

16 THE COURT HAVE YOU FORMED AN OPINION  
17 ABOUT THE CASE?

18 THE JUROR NO, NOT PARTICULARLY

19 THE COURT COULD YOU SET ASIDE WHAT YOU  
20 HAVE HEARD AND BASE YOUR VERDICT SOLELY ON THE LAW  
21 AND THE EVIDENCE IN THE TRIAL?

22 THE JUROR YES, SIR

23 THE COURT COULD YOU BE FAIR AND  
24 IMPARTIAL?

25 THE JUROR YES, SIR

000675

1 THE COURT ALL RIGHT IF YOU'LL JUST  
2 JOIN THE GROUP STANDING OUT FRONT AND DON'T DISCUSS  
3 ANYTHING

4 (THE JUROR EXITS AND THE NEXT JUROR  
5 ENTERS )

6 THE COURT YOUR NAME AND NUMBER FOR US

7 THE JUROR TOM WEBB, 264

8 THE COURT AND HOW HAVE YOU HEARD ABOUT  
9 THIS CASE?

10 THE JUROR THROUGH THE MEDIA

11 THE COURT HAVE YOU FORMED AN OPINION  
12 ABOUT THE CASE?

13 THE JUROR NO, I HAVEN'T

14 THE COURT COULD YOU SET ASIDE WHAT YOU  
15 HAVE HEARD AND BASE YOUR VERDICT SOLELY ON THE LAW  
16 AND EVIDENCE IN THE TRIAL?

17 THE JUROR YES

18 THE COURT COULD YOU BE FAIR AND  
19 IMPARTIAL?

20 THE JUROR YES, SIR

21 THE COURT ALL RIGHT IF YOU'LL JUST  
22 JOIN THE GROUP STANDING OUT IN THE HALL AND DON'T  
23 DISCUSS THE CASE

24 (THE JUROR EXITS AND THE NEXT JUROR  
25 ENTERS )

000636

1                   THE COURT    YOU REMEMER YOUR NUMBER?  
2                   THE JUROR    NO, SIR  
3                   THE COURT    YOUR NAME  
4                   THE JUROR    CHRISTOPHER BONEPARTE  
5                   THE COURT    OKAY    HOW HAVE YOU HEARD  
6 ABOUT THIS CASE?  
7                   THE JUROR    THE PAPERS  
8                   THE COURT    HAVE YOU FORMED AN OPINION  
9 ABOUT THE CASE?  
10                  THE JUROR    I HAVE  
11                  THE COURT    YOU HAVE  
12                  THE JUROR    I HAVE  
13                  THE COURT    COULD YOU SET IT ASIDE OR DO  
14 YOU THINK IT WOULD AFFECT YOUR ABILITY TO BE FAIR AND  
15 IMPARTIAL?  
16                  THE JUROR    IT WOULD DEFINITELY AFFECT ME  
17                  THE COURT    I'M GOING TO EXCUSE YOU AND  
18 LET YOU RETURN DOWNSTAIRS TO THE JURY ROOM  
19                                (THE JUROR EXITS AND THE NEXT JUROR  
20 ENTERS )  
21                  THE COURT    DO YOU REMEMBER YOUR NUMBER?  
22                  THE JUROR    300  
23                  THE COURT    YOUR NAME  
24                  THE JUROR    RICHARD WOODBURN  
25                  THE COURT    HOW HAVE YOU HEARD ABOUT THIS

000037

1 CASE?

2 THE JUROR THROUGH THE HERALD, SIR  
3 THE COURT AND HAVE YOU FORMED AN OPINION  
4 ABOUT THE CASE?

5 THE JUROR PROBABLY SOMEWHAT  
6 THE COURT WELL, WOULD IT BE AN OPINION  
7 THAT WOULD AFFECT YOU IN A TRIAL?

8 THE JUROR I WOULDN'T THINK SO

9 THE COURT WELL, I'M GOING TO TRY TO ASK  
10 YOU TO BE A LITTLE MORE SPECIFIC COULD YOU SET  
11 ASIDE WHAT YOU'VE HEARD AND BASE YOUR VERDICT SOLELY  
12 ON WHAT YOU HEAR IN THIS COURTROOM?

13 THE JUROR I FEEL I COULD DO THAT  
14 THE COURT COULD YOU BE FAIR AND  
15 IMPARTIAL?

16 THE JUROR YES, SIR

17 THE COURT ALL RIGHT IF YOU'LL JOIN THE  
18 GROUP STANDING OUT IN THE HALLWAY AND JUST DON'T  
19 DISCUSS ANYTHING

20 (THE JUROR EXITS )

21 MR MORTON JUST AS TO THAT JUROR I  
22 WANTED TO OBJECT AS TO HIS QUALIFICATION

23 THE COURT I'M GOING TO GIVE YOU A CHANCE  
24 IN JUST A SECOND I COME OUT WITH 64 WHICH IS  
25 ENOUGH NOW BEFORE WE DO THAT I'M GOING TO GIVE

000638



1 EACH, WELL, THE THREE SIDES, GIVE EVERYBODY AN  
2 OPPORTUNITY TO GO THROUGH THE LIST AND TELL ME WITH  
3 SPECIFICITY ANY OF THOSE WHO I DID NOT EXCUSE WHY  
4 THEY SHOULD BE EXCUSED THAT IS, THE STATE OBJECTED  
5 TO ANYBODY THAT I FOUND QUALIFIED, IF SO TELL ME  
6 WHICH ONE AND WHY BECAUSE NOW IS THE TIME IF WE NEED  
7 TO CALL THEM BACK IN FOR ANYTHING

8 MR BRACKETT PLEASE THE COURT, YOUR  
9 HONOR THERE IS ONLY ONE INDIVIDUAL, I'M NOT SURE,  
10 IT'S NUMBER 232 I'M NOT SURE IF I MISHEARD HIM OR  
11 NOT, HE'S THE MEMBER OF THE CLERGY WHO INDICATED HE  
12 MIGHT HAVE TROUBLE RENDERING A VERDICT, IT SOUNDED  
13 LIKE JUST IN A CAPITAL CASE, BUT SOME PEOPLE HAVE  
14 TROUBLE RENDERING VERDICT IN ANY CASE AND I JUST WANT  
15 TO MAKE SURE

16 THE COURT I THOUGHT HE WAS VERY CLEAR  
17 THAT CAPITAL HE COULDN'T REACH A VERDICT BUT  
18 OTHERWISE HE COULD AND THIS WAS NOT A CAPITAL CASE

19 MR BRACKETT THAT'S THE ONLY INDIVIDUAL  
20 THE STATE HAS ANY CONCERN ABOUT QUALIFICATIONS

21 THE COURT MR MORTON

22 MR MORTON YES, YOUR HONOR YOU WANT TO  
23 BE SPECIFIC OR

24 THE COURT THEY ARE STILL HERE, I CAN  
25 BRING THEM BACK IN, AND MAKE ANY CORRECTIONS IF WE

1        NEED TO    YOU OBJECTED ON THE RECORD TO SOME, BUT I  
2        WANT TO GO BACK OVER THEM BECAUSE IF I HAVE CHANGED  
3        AND FEEL LIKE THERE IS SOME MERIT IN YOUR OBJECTION  
4        I'D LIKE TO GET THEM BACK IN NOW RATHER THAN HAVE  
5        THIS CASE RE-TRIED ON THOSE

6                    MR   MORTON    CAN I PREFACE MY  
7        OBJECTION AROUND A 30 SECOND COMMENT?

8                    THE COURT    SURE

9                    MR   MORTON    YOUR HONOR, THIS CASE HAS NOT  
10       ONLY GOTTEN A LOT OF PUBLICITY, IT'S GOTTEN A LOT OF  
11       PUBLICITY FOR THREE YEARS, NOT ONLY HAS IT GOTTEN  
12       PUBLICITY AND GOT A LOT OF PUBLICITY FOR THREE YEARS,  
13       IT'S A VERY VOLATILE CASE    IT'S NOT SOMEBODY  
14       SHOOTING SOMEBODY ON THE STREET, YOU KNOW    IT'S A  
15       VERY EMOTIONALLY PACKED CASE    MY CONCERN IS PEOPLE  
16       THAT HAVE HEARD ABOUT THIS CASE AND HAVE HEARD ABOUT  
17       IT FOR SO LONG THAT IN ORDER TO GIVE THESE TWO MEN,  
18       BOTH OF THEM, A FAIR TRIAL THAT THE FAIR THING TO DO  
19       WOULD BE BECAUSE OF THE AMOUNT OF PEOPLE THAT HAVE  
20       STOOD UP, JUST THE SHEER VOLUME OF THEM, 90 PERCENT  
21       OF THE PANEL STOOD UP, YOU KNOW, THAT THE SAFE THING  
22       TO DO WOULD BE TO MOVE THIS PANEL SOMEWHERE ELSE  
23       PERSONALLY I DON'T WANT TO DO THAT    IT'S A LOT OF  
24       TROUBLE    DON'T WANT TO DO IT    BUT IF WE'RE TRYING  
25       TO ENSURE THAT MR   COPE AND MR   SANDERS HAVE A FAIR

1 TRIAL IN THIS COUNTY WITH THE AMOUNT OF PUBLICITY  
2 THAT'S BEEN RENDERED IN THIS CASE ON THESE VERY  
3 EMOTIONAL ISSUES, YOU KNOW, THE SAFE THING TO DO IS  
4 TO GET IT FROM SOMEWHERE WHERE 90 PERCENT OF THE  
5 PANEL DOESN'T STAND UP AND SAY THEY READ ABOUT THIS  
6 CASE, SOME OF THEM EXTENSIVELY, IN THE NEWSPAPER AND  
7 SO FORTH I JUST I THINK IT'S PROBLEMATIC I THINK  
8 IT'S PROBLEMATIC FOR THE STATE I WOULD BE WILLING  
9 TO BET THAT THE PEOPLE THAT CAME IN THIS COURTROOM  
10 THAT HAVE HEARD SOMETHING ABOUT IT OR MAYBE FORMED AN  
11 OPINION BUT SAID THAT THEY COULD PUT IT ASIDE OR  
12 FORMED AN OPINION AGAINST EITHER MR SANDERS OR  
13 AGAINST MR COPE, AND I JUST THINK THAT ATMOSPHERE IS  
14 IF YOU ARE TRYING TO ENSURE AN ABSOLUTE FAIR TRIAL  
15 FOR SOMEBODY IF THEY ARE CONVICTED PROBABLY GOING TO  
16 JAIL FOR THE REST OF THEIR LIFE WITHOUT PAROLE, IT'S  
17 A HUGE UNDERTAKING AND SO HAVING SAID THAT, YES, I  
18 OBJECT TO, YOU KNOW, I DO HAVE A CHANGE OF VENUE  
19 MOTION, IF THE COURT, I HAVE IT IN A NICE LITTLE  
20 BINDER WITH ALL THE NEWSPAPER ARTICLES AND SO FORTH,  
21 BUT JUDGE HAVING SAID THAT WHEN 90 PERCENT OF THE  
22 PANEL STANDS UP AND SAID THEY COME IN AND READ ABOUT  
23 THIS CASE IN THE PAPER AND A LOT OF THEM, MAJORITY OF  
24 THEM, WELL, I WOULDN'T SAY A MAJORITY BUT A LOT OF  
25 THEM HAVE FORMED AN OPINION, DESPITE THE FACT THAT

000641

1       THEY SAY THEY COULD BE FAIR OR THEY COULD SET IT  
2       ASIDE, I JUST THINK IT CREATES A PROBLEM AND I DON'T  
3       - THINK ANYBODY IN THIS COURTROOM WOULD WANT TO BE ON  
4       TRIAL FOR THEIR LIFE IN THIS CASE IN THIS COUNTY AND  
5       I THINK THAT IS THE BURDEN THAT WE HAVE TO MEET

6               THE COURT     SO YOU ARE MOVING FOR A CHANGE  
7       OF VENUE

8               MR MORTON     YES, SIR

9               THE COURT     MOTION IS DENIED

10              MR MORTON     YOUR HONOR, I'LL GO AHEAD AND  
11       TAKE CARE OF THIS IF I CAN JUST INTRODUCE THESE  
12       NEWSPAPER ARTICLES AS PART OF THE RECORD AT THIS  
13       TIME

14                           (COURT'S EXHIBIT NUMBER 3 ARTICLES  
15       RECEIVED )

16              THE COURT     CERTAINLY

17              MR GREELEY    YOUR HONOR, FOR THE RECORD  
18       MR SANDERS WOULD JOIN IN THAT MOTION

19              THE COURT     MOTION IS DENIED AS TO BOTH  
20       DEFENDANTS

21              MR MORTON     SPECIFICALLY NOW, YOUR HONOR  
22       JUROR 278 I BELIEVE IT WAS     YOUR HONOR, BASICALLY  
23       I'M GOING TO OBJECT TO 278 I BELIEVE HAD SAID FORMED  
24       AN OPINION BUT WAS NOT EXCUSED    I BELIEVE IT WAS  
25       MS ROSE, CYNTHIA ROSE, SAID SHE HAD AN IDEA BUT SHE

1       COULD BE FAIR

2                   MRS MOYE, NUMBER 183, KEPT UP WITH IT

3       IN THE PAPER, STRONG OPINION I BELIEVE SHE SAID

4                   THE COURT    I THINK I EXCUSED HER

5                   MR MORTON    I'M SORRY    LET'S SEE

6       NUMBER 15 HAD AN OPINION I BELIEVE YOU SAID

7       UNFORTUNATELY

8                   THE COURT    I EXCUSE HIM TOO    HE WAS THE

9       ONE HANGING AROUND TAVERNS AND TALKED ABOUT STUFF

10                  MR MORTON    I'M SORRY    I DIDN'T MARK HIM

11       AFTER THAT

12                  MR MORTON    I BELIEVE 44 WAS EXCUSED,

13       MS BURRIS

14                  THE COURT    YES

15                  MR MORTON    NUMBER 11 MS BARNETTE HAD

16       TALKED TO PEOPLE IN HER FAMILY ABOUT IT, ASKED ABOUT

17       AN OPINION, SHE WAS LIKE NAH    COULD YOU BE FAIR AND

18       IMPARTIAL, SHE SAID I BELIEVE I COULD    I WOULD

19       OBJECT TO HER

20                  NUMBER 232 I BELIEVE SMITH SAID SHE

21       WAS HORRIFIED    SHE STUMBLED    IS THAT THE PREACHER

22       THAT WAS THE PREACHER    I'M SORRY

23                  NUMBER 126, I DIDN'T GET HER NAME,

24       WHEN ASKED IF SHE HAD FORMED AN OPINION SHE SAID NO,

25       SIR, NOT REALLY    I WOULD OBJECT TO HER BEING

1 QUALIFIED

2 THE COURT WHO IS THAT? HOWELL

3 --- MR MORTON I THINK I OBJECTED TO NALLEY  
4 I DON'T KNOW HER NUMBER 184 BEG THE COURT'S  
5 INDULGENCE, YOUR HONOR NUMBER 119 MR HERSHBERGER,  
6 I THINK HIS COMMENT WAS HE WOULDN'T SAY HE HAD FORMED  
7 AN OPINION, I WOULD OBJECT TO HIM IF I CAN HAVE  
8 JUST A MINUTE, YOUR HONOR YOUR HONOR, NUMBER 20  
9 MS BERKY SHE HAD HEARD SOME NEWS FROM A NEIGHBOR,  
10 I BELIEVE I WOULD OBJECT TO HER AND WAS THERE A  
11 119?

12 THE COURT YOU ALREADY MENTIONED

13 MR MORTON OKAY SUBJECT TO MY EARLIER  
14 GENERAL OBJECTION THOSE ARE THE ONLY SPECIFIC  
15 OBJECTIONS

16 THE COURT MR GREELEY

17 MR GREELEY YOUR HONOR, ON BEHALF OF MR  
18 SANDERS WE WOULD HAVE SPECIFIC OBJECTIONS TO 184,  
19 232

20 THE COURT GO SLOW 184

21 MR GREELEY 184

22 THE COURT TELL ME THE NAME NALLEY

23 OKAY

24 MR GREELEY 232 WHICH IS MR SMITH,  
25 PASTOR 119

000644

1 THE COURT HERSHBERGER

2 MR GREELEY AND 300

3 -- -- THE COURT AND THAT WAS THE LAST ONE,  
4 WOODBURN

5 MR GREELEY YES, YOUR HONOR

6 THE COURT OKAY ALL RIGHT

7 MR HAMILTON, WOULD YOU ASK, WE GOT THREE B'S TO CALL  
8 BACK, BUT I WANT THEM TO COME ONE AT A TIME

9 MR BENNETT 278, MR BARNETTE WHICH IS NUMBER 11, AND  
10 I BELIEVE IT'S MS BERKY WHICH IS 20 IF YOU WOULD  
11 JUST GET THREE OUT IN THE HOLDING AREA AND BRING THEM  
12 IN ONE AT A TIME

13 MR POPE YOUR HONOR, THE ONLY THING I  
14 WOULD SAY ABOUT THE HOLDING AREA, THEY HAVE THE  
15 CONTROL ROOM, I NOTICED WHEN I WAS COMING THROUGH I  
16 COULD HEAR I'LL CHECK ON THAT

17 THE COURT OKAY

18 (THE JUROR ENTERS )

19 THE CLERK 278, MR BARNETTE

20 THE COURT IF YOU'LL STAND UP HERE, THERE  
21 IS A PODIUM UP HERE, IF YOU'LL JUST I JUST GOING TO  
22 ASK YOU AGAIN, YOU HAD, OF COURSE, READ OR HEARD  
23 ABOUT THE CASE AND THAT'S CORRECT

24 THE JUROR READ ABOUT IT, YES, SIR

25 THE COURT AND HAVE YOU FORMED AN OPINION

000645

1 ABOUT IT?

2 THE JUROR NOT AS TO

3 THE COURT GUILT OR INNOCENCE

4 THE JUROR CORRECT

5 THE COURT HAVE YOU FORMED ANY KIND OF

6 OPINION ABOUT IT?

7 THE JUROR YES

8 THE COURT AND WHAT IS THAT?

9 THE JUROR AS TO HOW THAT SITUATION COULD  
10 HAVE PROGRESSED THAT FAR WITHOUT SOME SORT OF, SOME  
11 SORT OF AUTHORITIES INTERVENING IN THERE

12 THE COURT WOULD THAT AFFECT YOUR ABILITY  
13 TO BE FAIR AND IMPARTIAL IN THE TRIAL OF THIS CASE?

14 THE JUROR I DON'T THINK SO

15 THE COURT WELL, I THINK BASED ON MY  
16 FOLLOW UP I'M GOING TO EXCUSE YOU I CAN CERTAINLY  
17 UNDERSTAND YOUR FEELING, BUT I WILL LET YOU GO DOWN  
18 TO THE JURY ASSEMBLY ROOM

19 THE JUROR THANK YOU

20 (THE JUROR EXITS AND THE NEXT ONE  
21 ENTERS )

22 THE CLERK JUROR NUMBER 11

23 THE COURT IF YOU'LL JUST COME UP TO THE  
24 PODIUM UP HERE AGAIN YOU TOLD ME, HOW DID YOU HEAR  
25 ABOUT THE CASE?

000646



1 THE JUROR MY WIFE AND MY SISTER

2 THE COURT ALL RIGHT HAVE YOU FORMED  
3 ANY OPINION, I MEAN, ABOUT HOW THIS CASE OUGHT TO  
4 COME OUT?

5 THE JUROR WELL, NOT REALLY I HAVEN'T BUT  
6 JUST WHAT I HEARD YOU KNOW

7 THE COURT DO YOU THINK THAT YOU COULD  
8 PUT THAT ASIDE AND BASE YOUR VERDICT ON THE LAW AND  
9 THE EVIDENCE IN THE TRIAL OR DO YOU THINK THAT WOULD  
10 AFFECT YOU?

11 THE JUROR IT MIGHT AFFECT ME

12 THE COURT WELL, I'LL EXCUSE YOU THEN  
13 IF YOU'LL GO DOWNSTAIRS TO THE JURY ASSEMBLY ROOM  
14 THANK YOU

15 (THE JUROR EXITS AND THE NEXT JUROR  
16 ENTERS )

17 THE COURT MRS BERKY, I HATE TO SINGLE  
18 YOU OUT, BUT YOU SAID YOU HEARD ABOUT THIS CASE  
19 THROUGH SOME

20 THE JUROR HEARSAY

21 THE COURT AND HAD YOU FORMED AN OPINION?

22 THE JUROR NO, SIR

23 THE COURT AND YOU THINK YOU COULD BE  
24 FAIR AND IMPARTIAL?

25 THE JUROR YES, SIR

000647

1 THE COURT WHAT HAVE YOU HEARD OR JUST?

2 THE JUROR I TALKED TO MY NEIGHBOR  
3 YESTERDAY AND SHE SAID WELL, YOU KNOW, THEY ARE  
4 SELECTING A JURY FOR A MURDER CASE, AND LAST WEEK AT  
5 SCHOOL SOMEONE MENTIONED IT COMING UP, BUT THEY  
6 DIDN'T SAY WHEN

7 THE COURT SO YOU, COULD YOU BE FAIR AND  
8 IMPARTIAL IN THIS CASE?

9 THE JUROR YES, SIR

10 THE COURT COULD YOU PUT ASIDE ANYTHING  
11 YOU HEARD AND BASE YOUR VERDICT ON THE LAW AND THE  
12 EVIDENCE?

13 THE JUROR YES, SIR

14 THE COURT IF YOU WILL JUST JOIN THE  
15 GROUP YOU JUST LEFT THANK YOU

16 (THE JUROR EXITS )

17 THE COURT ALL RIGHT I'M NOT GOING TO  
18 CALL THE OTHERS BACK I SPECIFICALLY, I DON'T KNOW  
19 IF I CAN REALLY REMEMBER THEM ALL, BUT WELL I'LL TELL  
20 YOU, LET'S HAVE 126 MS OR MRS HOWELL

21 MR MORTON YES, SIR

22 THE COURT IF WE CAN GET MS HOWELL AND  
23 THE OTHER ONES NALLEY AND HERSHBERGER, I SPECIFICALLY  
24 REMEMBER THEIR, MY DIALOG WITH THEM, AND I'M NOT  
25 GOING TO CALL THEM BACK IN I'M NOT AS COMFORTABLE

000648

1 WITH THE ONE I AM CALLING BACK

2 (THE JUROR ENTERS )

3 THE COURT JUST WANT TO FOLLOW UP YOU  
4 SAID YOU HAD HEARD ABOUT THE CASE, IS THAT CORRECT?

5 THE JUROR YES, SIR

6 THE COURT AND YOU SAID, I THINK I TOLD  
7 ME YOU HAD NOT FORMED AN OPINION OR HAD YOU FORMED AN  
8 OPINION

9 THE JUROR I HAD NOT, THAT'S CORRECT

10 THE COURT AND COULD YOU PUT ASIDE WHAT  
11 YOU HAVE HEARD AND BASE YOUR VERDICT SOLELY ON THE  
12 LAW AND THE EVIDENCE IN THE TRIAL?

13 THE JUROR YES, SIR

14 THE COURT AND BE FAIR AND IMPARTIAL?

15 THE JUROR YES, SIR

16 THE COURT I'LL LET YOU GO BACK OUTSIDE  
17 AND JOIN THAT GROUP

18 (THE JUROR EXITS )

19 THE COURT ANYTHING FURTHER FROM THE  
20 STATE?

21 MR BRACKETT NO, SIR

22 THE COURT ANYTHING FROM THE DEFENSE?

23 MR MORTON YES, YOUR HONOR AS TO I  
24 BELIEVE IT WAS MRS NALLEY THAT THE COURT INDICATED  
25 YOU DIDN'T WANT TO, THIS IS THE LADY --

000649

1 THE COURT LET'S BRING HER BACK IN THAT  
2 IS THE QUICKEST THING BRING MS NALLEY IN NALLEY  
3 AND HERSHBERGER, LET'S DO THEM ALL ONE AT A TIME  
4 BASED ON MY NOTES THAT'S EVERYONE OTHER THAN  
5 WOODBURN AND I FEEL COMFORTABLE WITH HIM

6 (THE JUROR ENTERS )

7 THE COURT ALL RIGHT YOU CAN STEP UP TO  
8 THIS PODIUM, MR HERSHBERGER, AND JUST FOLLOWING UP,  
9 YOU SAID THAT YOU HAD FORMED AN OPINION OR NOT FORMED  
10 AN OPINION?

11 THE JUROR NO, SIR

12 THE COURT AND YOU COULD PUT ASIDE, COULD  
13 YOU PUT ASIDE WHAT YOU HEARD AND BASE YOUR VERDICT  
14 SOLELY ON THE LAW AND THE EVIDENCE IN THE TRIAL?

15 THE JUROR YES, SIR

16 THE COURT AND COULD YOU IN FACT BE FAIR  
17 AND IMPARTIAL?

18 THE JUROR YES

19 THE COURT I'LL LET YOU JOIN THE GROUP  
20 BACK OUT FRONT

21 (THE JUROR EXITS AND THE NEXT JUROR  
22 ENTERS )

23 THE COURT MS NALLEY, IF YOU'LL JUST  
24 STEP UP, THERE IS A PODIUM HERE, IF YOU'LL JUST COME  
25 TO IT YOU TOLD ME YOU HAD HEARD ABOUT THE CASE AND

000650

1 DID YOU TELL ME OR DID YOU NOT THAT YOU HAD FORMED AN  
2 OPINION

3 THE JUROR NO, SIR, I HAD NOT

4 THE COURT AND COULD YOU PUT ASIDE WHAT  
5 YOU HAVE HEARD AND BASE YOUR VERDICT ON THE LAW AND  
6 THE EVIDENCE IN THE TRIAL?

7 THE JUROR YES, SIR

8 THE COURT AND COULD YOU BE FAIR AND  
9 IMPARTIAL?

10 THE JUROR YES, SIR

11 THE COURT THANK YOU I'LL LET YOU STEP  
12 BACK OUTSIDE

13 (THE JUROR EXITS AND THE NEXT JUROR  
14 ENTERS )

15 THE COURT ANYTHING FURTHER FROM THE  
16 STATE?

17 MR BRACKETT NO, SIR

18 THE COURT THE DEFENSE

19 MR MORTON YES, SIR AS TO MRS NALLEY  
20 SHE STATED THAT SHE HAD HEARD THAT HER FATHER HAD  
21 MOLESTED THEIR DAUGHTER AND THAT SOMEONE ELSE HAD  
22 MURDERED HER I MEAN OBVIOUSLY THAT'S A PRETTY  
23 STRONG POSSIBLE OPINION COMING FROM SOMEBODY THAT  
24 DESPITE WHAT SHE SAYS HE'S ABLE TO SET THAT ASIDE AND  
25 I HAVE CONCERNS ABOUT THAT, YOUR HONOR I WOULD

1 OBJECT TO HER BEING QUALIFIED OUT OF AN ABUNDANCE OF  
2 CAUTION AND ALSO MRS ROSE WHO THE COURT I DON'T  
3 BELIEVE HAS CALLED BACK IN WHO WHEN ASKED ABOUT  
4 WHETHER SHE HAD FORMED AN OPINION SHE KIND OF SAID  
5 SHE HAD AN IDEA

6 THE COURT I OVERRULE YOUR OBJECTION ON  
7 MS NALLEY LET'S CALL MRS ROSE IN TOO WHAT  
8 NUMBER? 213 MS ROSE

9 (THE JUROR ENTERS )

10 THE COURT YOU TOLD ME HOW HAD YOU HEARD  
11 ABOUT THE CASE?

12 THE JUROR JUST THE NEWSPAPER

13 THE COURT OKAY HAVE YOU FORMED ANY  
14 OPINION ABOUT THE CASE?

15 THE JUROR I PROBABLY HAVE AN OPINION  
16 ABOUT ANY CASE LIKE THIS, BUT I DON'T KNOW THE  
17 DETAILS SO I CAN'T, I COULD NOT SAY FOR SURE

18 THE COURT COULD YOU PUT IT ASIDE?

19 THE JUROR YES

20 THE COURT IT IS VERY IMPORTANT FOR US TO  
21 KNOW AND I'M NOT, I MEAN

22 THE JUROR I COULD I MEAN, WHEN YOU  
23 HEAR ABOUT ANY CASE LIKE THIS YOU HAVE A FEELING  
24 ABOUT IT, BUT I DON'T KNOW THE DETAILS SO I COULD NOT  
25 SAY UNTIL I HEARD THAT

000652

1 THE COURT WELL, COULD YOU LIMIT YOUR  
2 DECISION ON WHAT YOU DO HEAR DURING THE TRIAL AND  
3 EXCLUDE WHAT YOU ALREADY HEARD?

4 THE JUROR YES, I COULD

5 THE COURT AND COULD YOU BE FAIR AND  
6 IMPARTIAL?

7 THE JUROR YES

8 THE COURT IF YOU'LL JUST JOIN THE GROUP  
9 BACK OUT FRONT THANK YOU

10 (THE JUROR EXITS )

11 THE COURT WOODBURN

12 (THE JUROR ENTERS )

13 THE COURT YOU OF COURSE HEARD ABOUT THE  
14 CASE DID YOU OR DID YOU NOT SAY YOU HAD FORMED AN  
15 OPINION?

16 THE JUROR JUST WHAT I READ IN THE PAPER  
17 WAS ALL

18 THE COURT HAVE YOU FORMED AN OPINION  
19 THOUGH ABOUT HOW THIS CASE OUGHT TO TURN OUT?

20 THE JUROR THE TOTAL CASE?

21 THE COURT YES

22 THE JUROR NO, SIR, I HADN'T

23 THE COURT COULD YOU PUT ASIDE WHAT YOU  
24 HAVE HEARD, LISTEN TO THE EVIDENCE AND THE LAW AND  
25 BASE YOUR VERDICT SOLELY ON WHAT YOU HEAR IN THIS

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1 COURTROOM

2 THE JUROR I CAN DO THAT, YES, SIR

3 THE COURT AND YOU COULD PUT ASIDE WHAT  
4 YOU HEARD PRIOR TO COMING HERE OR COULD YOU?

5 THE JUROR THAT'S CORRECT, SIR

6 THE COURT COULD YOU BE FAIR AND  
7 IMPARTIAL?

8 THE JUROR YES, SIR

9 THE COURT THANK YOU JOIN THE GROUP OUT  
10 THERE

11 (THE JUROR EXITS )

12 THE COURT ALL RIGHT ANYTHING FURTHER  
13 FROM THE STATE?

14 MR BRACKETT FOR THE RECORD THAT WAS  
15 JUROR 300 MR WOODBURN

16 THE COURT YES, SIR

17 MR MORTON YOUR HONOR, AS TO MRS ROSE,  
18 I PROMISE YOU HER FEELING IS NOT THAT THESE TWO MEN  
19 SHOULD GO FREE SHE'S GOT A FEELING ABOUT THIS CASE  
20 IT'S JUST, I MEAN, THEY ARE NOT OBJECTING, THEY ARE  
21 NOT OBJECTING FOR A REASON BECAUSE SHE HAS ALREADY  
22 FORMED A FEELING ABOUT THE GUILT OR INNOCENCE OF  
23 THESE MEN AND THAT'S DANGEROUS

24 THE COURT I DON'T GET THE SAME VIBES  
25 OF COURSE, I'M NOT DEFENDING MR COPE AND

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1 MR SANDERS, BUT I DON'T GET THAT FEELING AND SHE'S  
2 ANSWERED THE QUESTIONS TO MY SATISFACTION I FIND  
3 HER QUALIFIED ANYTHING ELSE, MR GREELEY

4 MR GREELEY NO, YOUR HONOR

5 THE COURT ALL RIGHT I'M GOING TO BRING  
6 THEM BACK IN AND ASK THE LAST GENERAL QUESTION ABOUT  
7 ANYTHING, FIRST ANY OTHER VOIR

8 MR BRACKETT MAY WE APPROACH

9 THE COURT EVERYBODY SORT OF GOT UP AND,  
10 LET'S KEEP ORDER IN THE COURTROOM

11 (BENCH CONFERENCE )

12 THE COURT BRING IN THE JURY AFTER I GO  
13 OVER THESE QUESTIONS WE'LL BREAK FOR LUNCH AND GIVE  
14 YOU SOME TIME TO GO OVER THE JURY

15 (THE JURY PANEL RETURNS TO THE  
16 COURTROOM )

17 THE COURT MEMBERS OF THE JURY PANEL, I  
18 APPRECIATE YOUR PATIENCE IT'S KIND OF AWKWARD TO DO  
19 THIS, BUT WE DON'T DO LIKE THIS IN A LOT OF TRIALS SO  
20 WE DON'T HAVE THE LOGISTICS SO I'M SORRY IF IT WAS  
21 NOT MORE COMFORTABLE I HAVE A COUPLE MORE  
22 QUESTIONS DO ANY OF YOU HAVE A DAUGHTER UNDER THE  
23 AGE OF 18 IF SO PLEASE STAND ALL RIGHT I'M GOING  
24 TO ASK YOU TO GO THROUGH AND GIVE US YOUR NAME AND  
25 NUMBER THEN I'LL ASK THAT GENERAL QUESTION THAT I

1 HAVE ASKED BEFORE START HERE AND WORK ACROSS AND  
2 JUST KEEP WORKING BACK AND I'LL JUST LET YOU TAKE IT  
3 ON YOUR OWN

4 THE JUROR TAMRA MCCORY, JUROR 164

5 THE JUROR HEATHER THREATT, 246

6 THE JUROR JAMES SMITH, 229

7 THE JUROR DARRYL KELLOUGH, 135

8 THE JUROR TERESA CARICO, NUMBER 50

9 THE JUROR WILLIAM RAMSEY, 205

10 THE JUROR ELIZABETH MARTINEAU, 290

11 THE JUROR HERMAN BARRENTINE, 12

12 THE COURT ALL RIGHT MR HERSHBERGER

13 THE JUROR TODD HERSHBERGER, 119

14 THE JUROR CLATEN CORBETT, 66

15 THE JUROR LORI BOULWARE, 31

16 THE JUROR BRIAN SIMMONS, 223

17 THE COURT ALL RIGHT

18 THE JUROR CHARLEY WOOD, 275

19 THE JUROR CYNTHIA ROSE I DON'T KNOW

20 THE JUROR STEWART SMITH, 232

21 THE COURT ALL RIGHT

22 THE JUROR BETSY COAN, 60

23 THE JUROR PATRICIA CRIBB, 70

24 THE JUROR SHANNON WHISENANT, 266

25 THE JUROR TERRY NALLEY, 184

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1 THE COURT Y'ALL GOT 266, DON'T YOU  
2 WOULD THE FACT THAT YOU HAVE THAT CHILD UNDER THAT  
3 AGE WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND  
4 IMPARTIAL IN THE TRIAL OF THIS CASE? IF SO PLEASE  
5 RAISE YOUR RIGHT HAND NO ONE DOES ALL RIGHT YOU  
6 CAN BE SEATED

7 ANYONE KNOW OF ANY REASON WHATSOEVER  
8 WHY THEY COULD OR SHOULD NOT SERVE AS A FAIR AND  
9 IMPARTIAL JUROR IN THE TRIAL OF THIS PARTICULAR CASE  
10 IF SO PLEASE STAND AT THIS TIME ALL RIGHT

11 THE JUROR STEWART SMITH, 232 JUDGE  
12 HAYES, I HAVE RE-CONSIDERED AN EARLIER STATEMENT

13 THE COURT I AM NOT GOING TO ASK YOU IF  
14 YOU STANDING YOU ARE TELLING ME YOU THINK YOU NEED TO  
15 BE EXCUSED, IS THAT CORRECT? YOU ARE TELLING ME BY  
16 STANDING THAT YOU NEED TO BE EXCUSED

17 THE JUROR YES, SIR

18 THE COURT OKAY WELL, I'LL HONOR THAT  
19 DON'T LEAVE BUT MR SMITH WILL BE EXCUSED ANYTHING  
20 FURTHER FROM THE STATE?

21 MR BRACKETT NO, SIR, YOUR HONOR

22 THE COURT THE DEFENSE

23 MR MORTON NO, SIR

24 MR GREELEY NO, SIR, YOUR HONOR

25 THE COURT ALL RIGHT IN JUST A MOMENT

1 WE'RE GOING TO BREAK FOR LUNCH I PROBABLY STARVED  
2 YOU IT'S 2 20 WE'LL BREAK FOR LUNCH UNTIL 3 30  
3 WE'LL DRAW THE JURY AT THAT TIME NOW THE LAST THING  
4 I WANT TO DO BEFORE I ADMINISTER AN OATH I HAVE JUST  
5 BEEN TOLD THAT Y'ALL WERE NOT SWORN IN DOWNSTAIRS SO  
6 I'LL ASK YOU TO SWEAR OR AFFIRM IN JUST A MOMENT  
7 THIS CASE WILL TAKE INTO NEXT WEEK WE GOT  
8 WEDNESDAY, THURSDAY, FRIDAY OF THIS WEEK AND I DON'T  
9 KNOW THAT IT WILL TAKE ALL OF NEXT WEEK, BUT IT WILL  
10 GO INTO NEXT WEEK

11 MR MORTON YOUR HONOR, MAY WE APPROACH

12 (DISCUSSION OFF THE RECORD )

13 THE COURT I'M TOLD IT MAY TAKE INTO THE  
14 FOLLOWING WEEK WE DON'T KNOW FOR SURE BUT WE'RE  
15 NOT LIKE SOME JURISDICTIONS WHERE CASES GO ON FOR  
16 MONTHS, BUT THIS CASE MAY TAKE NEXT WEEK AND MAY EVEN  
17 GO INTO THE NEXT WEEK NOW IF THAT PRESENTS ANY, I  
18 KNOW IT PRESENTS A PROBLEM FOR EVERYONE, BUT IF THAT  
19 PREVENTS A PROBLEM THAT IS SORT OF IRRECONCILABLE  
20 PROBLEM PLEASE STAND AND LET ME KNOW AT THIS TIME  
21 THAT IS, IF YOU HAVE SOME SORT OF URGENT THING THAT  
22 YOU CAN'T PUT OFF IN THAT TIMEFRAME ALL RIGHT  
23 WHAT I'M GOING TO DO WITH THOSE WHO ARE STANDING IS  
24 ASK YOU TO REMAIN AFTER I LET EVERYONE ELSE GO SO WE  
25 CAN TALK TO YOU A LITTLE BIT MORE ABOUT YOUR

1 SITUATION, SO IF THE SEVEN OF YOU STANDING, IF YOU  
2 WILL STAY WHEN I LET THE REST GO TO LUNCH EVERYONE  
3 STAND AND RAISE YOUR RIGHT HAND

4 DO YOU SWEAR OR AFFIRM THAT THE TESTIMONY  
5 AND ANSWERS YOU'VE GIVEN SINCE YOU ARRIVED HERE THIS  
6 MORNING FOR JURY DUTY HAVE IN FACT BEEN TRUE, THE  
7 WHOLE TRUTH, NOTHING BUT THE TRUTH, SO HELP YOU GOD  
8 PLEASE SAY I DO (I DO) EVERYBODY BUT THOSE SEVEN  
9 PLEASE BE BACK HERE AT 3 30 DON'T DISCUSS THE CASE  
10 NOW I'M GOING TO ASK THE CLERK IF HE HAS ANYTHING  
11 BEFORE YOU LEAVE

12 THE CLERK YES, I DO WANT TO CLARIFY,  
13 YOU WANT THEM TO REPORT DOWNSTAIRS OR BRING THEM UP  
14 AS A GROUP AND WHAT DO I DO WITH THE REST OF THE  
15 GROUP DOWNSTAIRS

16 THE COURT Y'ALL REPORT HERE REPORT  
17 BACK IN THIS JURY ROOM AND BE SEATED AND READY TO GO  
18 BY 3 30 I KNOW THAT'S NOT A LOT OF TIME BUT THAT'S  
19 A LITTLE OVER AN HOUR BUT THAT WILL GIVE YOU ENOUGH  
20 TIME TO GET SOMETHING TO EAT AND THEN 3 30 Y'ALL BE  
21 BACK AT 3 30 HERE READY TO GO AND BASICALLY WHAT I  
22 WAS GOING TO SAY, DON'T BE DISCUSSING THE CASE NOW  
23 BECAUSE SOME OF YOU ARE GOING TO BE SERVING ON THIS  
24 JURY PANEL YOU CAN'T DISCUSS THE CASE UNTIL YOU  
25 REACH THE POINT IN THE TRIAL WHERE I INSTRUCT YOU TO

1 JOINTLY DELIBERATE AND RETURN A UNANIMOUS VERDICT  
2 SO IF ANYBODY TRIES TO TALK TO YOU ABOUT THIS CASE  
3 TELL THEM YOU CANNOT AND REPORT BACK TO ME IF ANYBODY  
4 TRIES TO TALK TO YOU ABOUT THIS CASE BECAUSE THEY  
5 WOULD BE IN TROUBLE, THEY WOULD BE IN CONTEMPT OF  
6 COURT FOR TRYING TO TALK TO A JUROR EVEN THOUGH YOU  
7 HAVEN'T BEEN SWORN AND YOU EVEN THOUGH YOU HADN'T  
8 ACTUALLY BEEN DRAWN, YOU ARE A POTENTIAL JUROR ON  
9 THIS CASE, SO DON'T DISCUSS THE CASE AMONG YOURSELVES  
10 AND DON'T EVEN TRY TO MAKE UP YOUR OWN MIND AND  
11 CERTAINLY DON'T LET ANYONE DISCUSS THE CASE OUTSIDE  
12 THE COURTROOM DON'T LET YOURSELF BE EXPOSED TO ANY  
13 NEWS COVERAGE DON'T PICK UP THE PAPER OR TURN ON A  
14 RADIO OR T V OR ANYTHING YOU CAN LISTEN TO THE  
15 RADIO AND YOU CAN WATCH T V BUT IF ANYTHING CATCHES  
16 YOUR EYE OR EAR THAT REMOTELY DEALS WITH THIS TRIAL,  
17 DON'T LET YOURSELF BE EXPOSED TO IT WE'LL SEE YOU  
18 BACK AT 3 30 IF THOSE SEVEN WILL STAY, WE WILL CHAT  
19 WITH THEM

20 (THE JURY EXITS THE COURTROOM FOR  
21 LUNCH )

22 THE COURT THOSE WHO HAVE A PROBLEM  
23 IF YOU'LL JUST KIND OF COME UP I HATE FOR YOU KEEP  
24 FEELING LIKE CATTLE IF YOU'LL FORM A LINE I'LL TALK  
25 TO YOU ONE AT A TIME STATE FIRST YOUR NAME AND

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1 NUMBER

2 THE JUROR I AM KAY KILPATRICK, 138 I  
3 WOULD HAVE A PROBLEM A WEEK FROM FRIDAY IF IT DOES  
4 THAT FAR I HAVE A FLIGHT FOR MY DADDY'S 80 BIRTHDAY  
5 PARTY ALL READY RESERVED I COULD GO UP UNTIL THAT  
6 FRIDAY

7 THE COURT WHAT TIME IS YOUR FLIGHT?

8 THE JUROR 8 10 A M

9 THE COURT ALL RIGHT I'M GOING TO, JUST  
10 HAVE SEAT OVER HERE YES, MA'AM

11 THE JUROR PAM GLOBOKAR, 104 I'M  
12 AVAILABLE UNTIL THE 23 I'M LEAVING TOWN THE 23 FOR  
13 FIVE DAYS

14 THE COURT ALL RIGHT WE'LL LET YOU STAY  
15 WITH US YOU CAN GO ON TO LUNCH

16 THE COURT ALL RIGHT

17 THE JUROR YES, YOUR HONOR MY NAME IS  
18 ELIZABETH MARTINEAU AND I'M JUROR NUMBER 290 AND I'M  
19 AN ATTORNEY IN NORTH CAROLINA AND I JUST CALLED MY  
20 OFFICE TO CANCEL SOMETHING THIS AFTERNOON I DO HAVE  
21 COURT DATES NEXT WEEK I HAVE ALREADY GOTTEN ONE  
22 DEFERMENT IF I STAY I'M SURE I COULD, I WOULD JUST  
23 HAVE TO GET SOMETHING, I DON'T KNOW HOW THE CONFLICT  
24 WOULD WORK OUT BETWEEN JURY DUTY AND COURT

25 THE COURT I FEEL CONFIDENT THE COURT

1 WOULD EXCUSE YOU FOR JUROR DUTY SO IF YOU NEED A  
2 LETTER OR ANYTHING I'LL BE GLAD TO CALL OR WRITE  
3 WHOEVER BUT I'M GOING TO ASK YOU TO STAY

4 THE JUROR SURE

5 THE JUROR DAVID MARTENS, 157 AND I  
6 HAVE SCHOOL TUESDAYS AND THURSDAYS FROM THREE TO  
7 EIGHT AND JUST THE NUMBER OF CLASSES THAT I WOULD  
8 MISS IS A CONCERN

9 THE COURT TUESDAY AND THURSDAY THREE TO  
10 EIGHT WELL, I'M GOING TO ASK YOU TO STAY WITH US  
11 THEN I HOPE YOU WON'T MISS THAT MANY, BUT YOU  
12 HADN'T BEEN DRAWN YET, BUT I'M GOING TO ASK YOU TO  
13 STAY WITH US

14 THE JUROR WILLIAM RAMSEY, 205 I'M THE  
15 PRIMARY INCOME FOR MY FAMILY I WON'T BE PAID THE  
16 WHOLE TIME I'M OUT FOR A TRIAL OF THIS SIZE

17 THE COURT WELL, UNFORTUNATELY THERE ARE  
18 OTHERS IN THAT SAME SITUATION, SO I'M GOING TO ASK  
19 YOU TO STAY WITH US

20 THE JUROR ALL RIGHT

21 THE JUROR KEN CLONTZ, JUROR 59 I'VE  
22 GOT A COUPLE BUSINESS TRIPS SCHEDULED ONE IS AN  
23 ANNUAL CONFERENCE I HAVE TO GO TO DOWN IN FLORIDA  
24 I'M TRYING TO AVOID HAVING THE COMPANY CANCEL SEVERAL  
25 AIRLINE TICKETS, IF I CAN



1 THE COURT WHAT COMPANY?

2 THE JUROR KEYSTONE ANIL OUT OF CHICAGO  
3 I'M A SALES REP WITH THEM NEXT WEEK IS NOT A BIG  
4 PROBLEM BUT THE WEEK AFTER IS THE CONFERENCE IT'S  
5 BEEN BOOKED FOR ABOUT SIX MONTHS

6 THE COURT IF YOU'LL JUST HAVE A SEAT  
7 OVER THERE

8 THE JUROR YOUR HONOR, MY NAME IS BILL  
9 LEFLER, JUROR NUMBER 143 A POTENTIAL THREE WEEK  
10 LOSS OF INCOME WOULD BE EXTREMELY DETRIMENTAL TO MY  
11 WELL BEING

12 THE COURT WELL, I CAN'T, I CAN'T EXCUSE  
13 YOU FOR THAT

14 THE JUROR THANK YOU, SIR

15 THE JUROR I'M MIKE ELDER I PROBABLY  
16 SHOULD HAVE TOLD YOU THIS THIS MORNING BUT I GOT TO  
17 LEAVE FOR FRANCE NEXT TUESDAY FOR TWO WEEKS I  
18 PROBABLY SHOULD HAVE TOLD YOU THAT THIS MORNING BUT I  
19 DIDN'T THINK IT WAS GOING TO GO THIS LONG OR

20 THE COURT WELL, I'LL EXCUSE YOU THEN  
21 SINCE YOU ALREADY HAVE AIRLINE I KNOW I MAY SOUND  
22 INCONSISTENT TO LET PEOPLE LOSE MONEY ON AN AIRLINE  
23 AND NOT LET PEOPLE WHO WOULD LOSE MONEY FOR NOT  
24 WORKING, BUT THESE HAVE BEEN LONG STANDING PLANS, SO  
25 YOU WILL NOT LEAVE, YOU'LL GO DOWNSTAIRS AND JOIN THE

1 PANEL, BUT WILL NOT BE AVAILABLE FOR THIS PARTICULAR  
2 CASE

3 - THE JUROR THANK YOU

4 (JURY EXITS THE COURTROOM )

5 THE COURT NOW HOW MANY DOES THAT LEAVE  
6 US? ALL RIGHT HELP ME WITH COUNTS NOW WE HAVE 58  
7 LEFT THERE ARE 30 STRIKES ON A REGULAR PANEL THEN  
8 THERE IS FOR THE ALTERNATES ONE FOR EACH, WE HAVE TWO  
9 ALTERNATES, WE HAVE TWO, FOUR, SIX, EIGHT, TEN, SO  
10 THAT'S 40 STRIKES, IS THAT RIGHT

11 MR GREELEY I BELIEVE SO

12 THE COURT WELL, DOUBLE CHECK ME BECAUSE  
13 THAT'S JUST LEAVES, IF EVERYBODY EXERCISES STRIKES,  
14 THEN WE GET 18 WHICH WILL GIVE US 14 CHECK YOUR  
15 MATH OVER LUNCH AND SEE IF I MADE A MISTAKE BECAUSE  
16 IF NOT MR HAMILTON IS GOING TO HAVE SOME OTHERS  
17 DOWNSTAIRS AND WE CAN QUALIFY SOME MORE, BUT I THINK  
18 THIS IS ENOUGH I THOUGHT WE COULD DO IT WITH 55  
19 THIS LOOKS LIKE 58 SO THIS LOOKS LIKE ENOUGH BUT  
20 CHECK THE MATH, HELP ME OUT I DON'T DO MATH OR  
21 SMELLING IN PUBLIC I NEVER GET IT RIGHT ALL  
22 RIGHT LET'S BE AT EASE UNTIL 3 30 AND WE'LL SEE  
23 WHERE WE ARE AT THAT TIME

24 (COURT'S IN RECESS AT 2 30 )

25 THE COURT BOTH SIDES CONSENT TO THE

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1 CLERK DRAWING THE JURY

2 MR GREELEY YES, SIR

3 MR BRACKETT WE CONSENT

4 MR MORTON YES, SIR

5 THE COURT MEMBERS OF THE JURY PANEL,

6 WE'RE NOW GOING TO DRAW THE JURY WE'LL DRAW 12

7 JURORS AND TWO ALTERNATES THE WAY THIS IS DONE IS

8 YOUR NAMES ARE, SOME NAMES, NOT ALL OF YOUR NAMES, OF

9 COURSE, WILL BE DRAWN AT RANDOM BY THE CLERK IF YOU

10 HEAR YOUR NAME CALLED, PLEASE COME FORWARD AND STAND

11 BY THE BAILIFF MR IVEY, TURN AROUND, AND YOU'LL FACE

12 THE TABLES WHERE THE ATTORNEYS ARE SEATED YOU'LL

13 FACE FIRST THE TABLE WHERE THE SOLICITORS ARE SEATED

14 ONE OF THEM WILL SAY EITHER EXCUSE THE JUROR OR

15 PRESENT THE JUROR IF THEY SAY EXCUSE THE JUROR THEN

16 SIMPLY RETURN TO YOUR SEAT IF THEY SAY PRESENT THE

17 JUROR THEN YOU WILL TURN TO THE TABLE WHERE MR COPE

18 AND HIS COUNSEL ARE SEATED AND ONE OF THOSE

19 ATTORNEY'S WILL SAY EITHER PRESENT THE JUROR OR

20 EXCUSE THE JUROR AGAIN IF YOU HEAR EXCUSE THE JUROR

21 RETURN TO YOUR SEAT IF THEY SAY PRESENT THE JUROR,

22 THEN YOU WILL TURN AND FACE THE TABLE WHERE

23 MR SANDERS AND HIS COUNSEL ARE SEATED MR GREELEY

24 WILL EITHER SAY EXCUSE THE JUROR WHICH AGAIN MEANS

25 YOU MAY RETURN TO YOUR SEAT OR SWEAR THE JURY IF



1       NUMBER 17 OCTAVIA BEATY FEMALE BLACK STRUCK BY COPE  
2       NUMBER 6 KAREN AUTEN FEMALE WHITE STRUCK BY COPE  
3       NUMBER 134 CURTIS KELEMEN MALE WHITE STRUCK BY THE  
4       STATE  
5       NUMBER 164 TAMRA MCCORY FEMALE BLACK STRUCK BY COPE  
6       NUMBER 100 MEREDITH GIBSON FEMALE WHITE STRUCK BY  
7       SANDERS  
8       NUMBER 94 JULIAN FULCHER MALE WHITE ACCEPTED  
9       NUMBER 290 ELIZATH MARTINEAU FEMALE WHITE STRUCK BY  
10      COPE  
11      NUMBER 95 NICHOLAS FULCHER MALE WHITE ACCEPTED  
12      NUMBER 3 EDWARD ANDERSON MALE WHITE ACCEPTED  
13      NUMBER 264 THOMAS WEBB MALE WHITE STRUCK BY THE  
14      STATE  
15      NUMBER 72 CHERESE CULP FEMALE BLACK ACCEPTED  
16      NUMBER 61 CHAD COCKERILL MALE WHITE STRUCK BY  
17      SANDERS  
18      NUMBER 281 DIANE CANNIZZARO FEMALE WHITE ACCEPTED  
19      NUMBER 205 WILLIAM RAMSEY MALE WHITE STRUCK BY COPE  
20      NUMBER 274 DAVID WISE MALE WHITE STRUCK BY SANDERS  
21      NUMBER 261 CHARLES WATSON MALE WHITE STRUCK BY  
22      SANDERS  
23      NUMBER 24 MARY BLACKWELL FEMALE WHITE STRUCK BY THE  
24      STATE  
25      NUMBER 32 VIOLET BRATTON FEMALE BLACK ACCEPTED

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1       NUMBER 80 ROBIN DOVER FEMALE WHITE STRUCK BY SANDERS  
2       NUMBER 284 BRENDA FORD FEMALE WHITE STRUCK BY THE  
3       STATE- - - - -  
4       NUMBER 246 HEATHER THREATT FEMALE WHITE ACCEPTED  
5       NUMBER 31 LORI BOULWARE FEMALE WHITE STRUCK BY COPE  
6       NUMBER 104 PAM GLOBOKAR FEMALE WHITE STRUCK BY  
7       SANDER?  
8       NUMBER 143 BILLY LEFLER MALE WHITE ACCEPTED  
9       NUMBER 167 DONALD MCGINNIS MALE WHITE STRUCK BY THE  
10       STATE  
11       NUMBER 66 CLAYTON CORBETT MALE WHITE STRUCK BY  
12       SANDERS  
13       NUMBER 143 BILLY LEFLER MALE WHITE ACCEPTED  
14                 THE COURT     WE'LL DRAW ONE AT A TIME  
15       STRIKES WILL BE ONE TWO AND TWO  
16       NUMBER 186 CHARLES NEELEY MALE WHITE ACCEPTED  
17       NUMBER 49 MIRANDA CAMPBELL FEMALE WHITE STRUCK BY  
18       SANDERS  
19       NUMBER 213 CYNTHIA ROSE FEMALE WHITE STRUCK BY COPE  
20       NUMBER 12 HERMAN BARRENTINE MALE WHITE STRUCK BY  
21       SANDERS  
22       NUMBER 241 SAMANTHA THOMAS FEMALE WHITE ACCEPTED  
23                 THE COURT     ANYTHING FROM THE STATE  
24       INVOLVING STRIKING OF THE PANEL?  
25                 MR BRACKETT   NO, SIR, YOUR HONOR,

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1       NOTHING FROM THE STATE

2                   THE COURT    ANYTHING FROM THE DEFENDANSE?

3       -----       MR   BAITY    NOTHING FROM MR   COPE, YOUR  
4       HONOR

5                   MR   GREELEY    NOTHING FROM MR   SANDERS

6                   THE COURT    THOSE WHO WERE NOT CHOSEN

7       PLEASE RETURN DOWNSTAIRS TO THE JURY ASSEMBLY ROOM

8       AND YOU WILL RECEIVE INSTRUCTIONS    I WILL ASK YOU TO

9       LEAVE QUIETLY BECAUSE I'M GOING TO START TALKING TO

10      THIS JURY PANEL    THANK YOU FOR YOUR HELP    THOSE WHO

11      WERE CHOSEN, I'M GOING TO LET YOU GO INTO THE JURY

12      ROOM FOR A FEW MINUTES BEFORE WE ADMINISTER THE OATH

13      MR   ANDERSON, YOU PICKED A GOOD SEAT, YOU'LL BE THE

14      FOREMAN, YOU'LL SIT RIGHT THERE    THE TWO ALTERNATES

15      WILL SIT ON THE BACK SEATS WHERE THEY ARE SEATED,

16      THAT'S MR   NEELEY AND MS   THOMAS    SO YOU TWO WILL

17      SIT IN THOSE TWO SEATS    EVERYONE ELSE IS NO ASSIGNED

18      SEATING    DON'T DISCUSS THE CASE, DON'T TRY TO MAKE

19      UP YOUR MIND    YOU WON'T BE IN A POSITION TO DO THAT

20      UNTIL WE REACH THE END OF THE TRIAL WHEN I INSTRUCT

21      YOU TO JOINTLY DELIBERATE AND RETURN A UNANIMOUS

22      VERDICT    AND I ALREADY TOLD YOU WHAT TO DO REGARDING

23      NOT LETTING YOURSELF BE EXPOSED TO ANY MEDIA COVERAGE

24      AND ALSO WHAT TO DO REGARDING ANYONE TRYING TO

25      DISCUSS THE CASE WITH YOU, SO IF YOU'LL GO TO THE

1 JURY ROOM WE'LL SEND FOR YOU SHORTLY

2 (THE JURY EXITS THE COURTROOM AT  
3 4 14 )

4 THE COURT I UNDERSTOOD THERE TO BE SOME  
5 MATTERS TO BE TAKEN UP BEFORE THE JURY IS SWORN IN  
6 ANYTHING FROM THE STATE?

7 MR BRACKETT NO, SIR I THINK THE  
8 MATTERS ARE WITH THE DEFENSE

9 MR BAITY IF IT PLEASE THE COURT, YOUR  
10 HONOR, WE DO HAVE A COUPLE OF MOTIONS THE FIRST  
11 MOTION WE WOULD, LET ME FIND MY NOTES THE FIRST  
12 MOTION WE'D LIKE TO MAKE, YOUR HONOR, IS A MOTION FOR  
13 CONTINUANCE LET ME JUST PREFACE MY REMARKS BY  
14 SAYING WE ARE REQUESTING A CONTINUANCE NOT BEYOND  
15 THIS TERM OR FOR ANY LENGTHY PERIOD OF TIME, HOWEVER,  
16 YOUR HONOR, SEVERAL MATTERS HAVE COME TO LIGHT THAT  
17 WE BELIEVE WE NEED A SHORT RECESS OR SHORT  
18 CONTINUANCE AT LEAST FOR A DAY OR TWO THIS  
19 MORNING, YOUR HONOR, WE WERE HANDED 180 PAGES OF  
20 DISCOVERY FROM THE SOLICITOR CONCERNING THE COMPUTER  
21 THAT WAS DISCOVERED IN MR COPE'S HOUSE THIS  
22 COMPUTER HAS BEEN IN THE POSSESSION OF THE STATE FOR  
23 TWO AND A HALF YEARS THE APPROPRIATE DISCOVERY  
24 MOTIONS WERE MADE WE HAVE RECEIVED VIRTUALLY  
25 NOTHING FROM THEM EXCEPT A REPORT THAT INDICATED THAT



1       THERE WAS NOTHING OF ANY SIGNIFICANCE ON THE COMPUTER  
2       AND THEN TODAY WE RECEIVE 180 PAGES OF MATERIAL WHICH  
3       WE CERTAINLY HAD NOT HAD TIME TO LOOK AT, DIGEST, OR  
4       GIVE TO OUR COMPUTER EXPERT OR OTHERWISE DISCUSS  
5       AMONG YOURSELVES OR EVEN WITH OUR CLIENT     WE THINK  
6       THAT INFORMATION OFF A COMPUTER IS POTENTIALLY  
7       EXCULPATORY     I WON'T GO INTO ALL OF THAT UNLESS THE  
8       COURT REQUIRES IT     BUT WE DO BELIEVE THAT THERE IS  
9       SOME VERY POTENTIAL EXCULPATORY EVIDENCE, NONE OF  
10      WHICH WE HAVE SEEN UP UNTIL NOW     YOUR HONOR, WE DID  
11      HIRE AN EXPERT AND THAT EXPERT WAS GIVEN ACCESS TO  
12      THAT COMPUTER LAST WEEK     ALL RIGHT     WE WERE GIVEN  
13      DISKS OFF THE COMPUTER BUT UNFORTUNATELY OUR EXPERT  
14      REPORTED BACK TO US THAT HE COULD NOT ACCESS ANYTHING  
15      OF ANY IMPORTANCE ON THOSE DISKS BECAUSE THERE SOME  
16      TYPE OF SECURITY LOCK OF WHICH SLED PUTS ON EVIDENCE  
17      OF THIS TYPE, AND I BELIEVE THE REPORT WHICH WE  
18      RECEIVED YESTERDAY MORE OR LESS ACKNOWLEDGED THAT THE  
19      ONLY WAY THAT WE WOULD BE ABLE TO VIEW WHAT'S ON THE  
20      DISKS IS TO TAKE A LOOK AT THE 180 PAGES WE WERE  
21      GIVEN TODAY     SO, YOUR HONOR, WE HAVE AN EXPERT, WE  
22      WANT TO HAVE AN OPPORTUNITY TO LOOK AT THIS, AND  
23      DIGEST IT     WE'RE NOT ASKING FOR A LONG TIME BUT WE  
24      NEED SOMETIME BEFORE WE START THE TRIAL  
25                             YOUR HONOR, SECONDLY CONCERNS THE

1       ISSUE OF BROOMS     BROOMS, BROOMS AND MOPS ARE GOING  
2       TO BE A VERY IMPORTANT ISSUE IN THIS CASE     THESE  
3       WERE ITEMS THAT WERE TAKEN FROM THE HOME     WE  
4       RECEIVED A REPORT YESTERDAY I BELIEVE THAT WAS A  
5       REPORT OF JAN BRYSON WHO IS A SLED PERSON WHO HANDLED  
6       THESE ITEMS AND SHE IDENTIFIED CERTAIN SWABS OR  
7       SAMPLES THAT WERE TAKEN FROM THE VARIOUS BROOMS     WE  
8       HAD OUR EXPERT LOOK AT THESE ITEMS AND THIS REPORT  
9       THAT MRS BRYSON SUBMITTED AND HE'S TOLD US THAT HE  
10      CAN DECIPHER SOME BUT NOT ALL OF THEIR NOTATIONS SO  
11      WE DON'T KNOW EXACTLY WHAT TESTS WERE PERFORMED AND  
12      WHAT THE RESULTS WERE     ALL RIGHT     IN FAIRNESS  
13      COUNSEL IS TELLING ME THAT WE'VE BEEN TOLD RECENTLY  
14      TODAY WHAT SOME OF THE SYMBOLS STAND FOR THAT WE WERE  
15      UNAWARE OF WHAT THEY MEANT YESTERDAY, BUT WE HAVE NOT  
16      HAD AN OPPORTUNITY TO EXPLAIN THAT TO OUR EXPERT AND  
17      GO INTO ALL OF THAT

18                   APPARENTLY YOUR HONOR, THERE HAS BEEN  
19      A DNA REPORT GIVEN TO US THAT WAS RUN ON SOME OF  
20      THESE SWABS AND SAMPLES BUT THERE WERE OTHER TESTS,  
21      NOT JUST DNA BUT OTHER TESTS SUCH AS FECAL TEST AND  
22      ACID PHOSPHATE TEST WHICH WE'VE NOT GOTTEN RESULTS  
23      OF     YOUR HONOR, THIS COULD BE EXTREMELY IMPORTANT  
24      AND THIS COULD BE EXCULPATORY THAT BEAR DIRECT  
25      RELATION ON MISTER, ON THE EVIDENCE IN THIS CASE

1 AND ESSENTIALLY WHAT WE NEED TO DO IS HAVE AN  
2 OPPORTUNITY TO PROVIDE ALL OF THIS TO OUR EXPERT AND  
3 TO TALK TO HIM ABOUT IT AGAIN THIS IS BELATED  
4 INFORMATION PROVIDED TO US

5 FINALLY, YOUR HONOR, THERE IS A LETTER  
6 THAT IS ALLEGED TO BE AUTHORED BY MY CLIENT AND WE  
7 DISCUSSED THIS IN CHAMBERS, IT HAS BEEN MADE THE  
8 SUBJECT OF HANDWRITING ANALYSIS, AND IT HAS BEEN MADE  
9 THE SUBJECT OF A FINGERPRINTS ANALYSIS THE  
10 HANDWRITING ANALYSIS WAS COMPLETED AND REPORT  
11 SUBMITTED ON AUGUST SIX OR SEVENTH AND IT WAS OUR  
12 UNDERSTANDING THE VERY NEXT STEP WOULD BE THESE ITEMS  
13 WOULD BE SUBMITTED FOR FINGERPRINT ANALYSIS,  
14 NINHYDROSES OR SOME KIND OF PROCESS, WHICH COULD  
15 ACTUALLY ALTER THE DOCUMENT, IS DONE AFTER ALL THE  
16 EXPERTS HAVE LOOKED AT IT FOR HANDWRITING PURPOSES  
17 THIS WAS DONE ABOUT A MONTH AGO AND I UNDERSTAND THAT  
18 THE PROCESS LASTS ABOUT 30 MINUTES TO AN HOUR WE  
19 ONLY HEARD THIS MORNING AND THAT IS VERBALLY FROM THE  
20 SOLICITOR THAT IT DOESN'T APPEAR THAT MY CLIENT'S  
21 FINGERPRINTS HAVE BEEN DETECTED BUT AN UNIDENTIFIED  
22 PALM PRINT IS ON THE LETTER AND THEY INTEND TO MAKE A  
23 MOTION FROM OUR CLIENT TO SUBMIT TO A PALM PRINT WE  
24 HAVEN'T SEEN THAT MOTION WE DON'T KNOW WHAT OUR  
25 POSITION IS GOING TO BE ON IT, BUT CERTAINLY, YOUR

1 HONOR, THAT IS EVIDENCE AND TESTS THAT HAVEN'T EVEN  
2 BEEN COMPLETED WE SIMPLY DON'T WANT A TRIAL BY  
3 AMBUSH WE WANT TO BE ABLE TO HAVE AMPLE TIME TO  
4 PREPARE OUR DEFENSE, AND ALSO, YOUR HONOR, TO PREPARE  
5 OUR OPENING STATEMENT AND TO TALK TO OUR CLIENT AND  
6 TALK TO OUR EXPERTS, AND ON THESE PARTICULAR ITEMS WE  
7 JUST DON'T THINK WE'VE BEEN GIVEN ENOUGH TIME

8 YOUR HONOR, WE WANT TO TRY THIS CASE  
9 WE WANT TO GO FORWARD WITH IT WE'RE NOT SEEKING  
10 THIS FOR ANY LONG TERM DELAY, BUT WE FEEL LIKE THAT  
11 WE'VE BEEN SLIGHTLY PREJUDICED BY THIS LAST MINUTE  
12 DISCOVERY, FOR THAT PURPOSE WE WOULD ASK THAT YOU  
13 EXCLUDE THESE ITEMS FROM THE CASE ALL TOGETHER, OR  
14 GIVE US A SHORT PERIOD OF TIME, A FEW DAYS OR A DAY,  
15 TO CONSULT WITH OUR EXPERTS AND DECIPHER THE MEANING  
16 OF ALL THIS, DISCUSS IT WITH OUR CLIENT, AND THEN  
17 COME BACK TO COURT READY TO GO FORWARD

18 THE COURT MR BRACKETT OR MR POPE  
19 MR BRACKETT ON THE ISSUE OF THE  
20 COMPUTERS, YOUR HONOR, THEY'VE BEEN IN EVIDENCE AND I  
21 DON'T THINK THE DEFENSE WILL DISPUTE, WE'VE GIVEN  
22 THEM ACCESS TO THE PHYSICAL EVIDENCE ON AT LEAST TWO  
23 OCCASIONS THAT I CAN REMEMBER AND MAYBE MORE  
24 THEY'VE HAD ACCESS TO THAT COMPUTER FOR QUITE  
25 SOMETIME AND THEY COULD HAVE, IT'S BEEN TWO AND A

1 HALF YEARS IT HAS BEEN SITTING THERE

2 THE COURT THEY SAID THEY COULDN'T GET IN  
3 IT BECAUSE OF SOME KIND OF SECURITY LOCK

4 MR BRACKETT NO NO THE COMPUTER  
5 ITSELF, THE SECURITY ISSUE IS THAT WHEN IT WAS TAKEN  
6 TO SLED, THE SLED PEOPLE MIRROR THE HARD DRIVES THAT  
7 ARE IN THE COMPUTERS, THEY MAKE A COMPLETE DUPLICATE  
8 OF IT AND THEY PUT THAT ON A DVD, AND THEY ANALYZE IT  
9 USING A PIECE OF FORENSIC SOFTWARE CALLED ENCASE AND  
10 IT'S BASICALLY BURNED ONTO THE DVD USING THIS  
11 SOFTWARE WHAT THEIR PROBLEM IS IS THAT THEY CAN'T  
12 OPEN THAT ON THE DVD BECAUSE THEY DON'T HAVE THE  
13 ENCASE SOFTWARE, IT'S A FORENSIC TYPE SOFTWARE, BUT  
14 THE COMPUTERS THEMSELVES WITH THE HARD DRIVES WHICH  
15 ARE EQUALLY, WHICH ARE ACCESSIBLE TO THEM, ALL THEY  
16 HAD TO DO WAS ASK, HAVE BEEN SITTING THERE FOR TWO  
17 AND A HALF YEARS NOW I UNDERSTAND WHAT THEIR  
18 CONTENTIONS ARE THEY ARE SAYING THAT THEY JUST NOW  
19 GET THIS 180 PIECES OF, PAGES OF DISCOVERY, AND I CAN  
20 APPRECIATE THAT WE'VE BEEN MOVING ALONG AS QUICKLY  
21 AS WE CAN TO GET THEM THINGS THERE IS NO  
22 REQUIREMENT THAT WE EVEN HAD TO HAVE A REPORT  
23 GENERATED, BUT WE ALWAYS HAVE A REPORT GENERATED I  
24 UNDERSTAND WHAT THEY ARE SAYING THEY NEED TIME TO  
25 PREPARE TO MEET WHAT OUR EXPERT HAS TO SAY THEY

1 HAVE HIRED A NUMBER OF EXPERTS WE'VE GOTTEN NO  
2 REPORTS AT ALL FROM ANY EXPERT THAT THEY'VE RETAINED,  
3 --SO WE ARE IN THE SAME KIND OF BOX, THE SAME KIND OF  
4 BOAT, BUT WE'LL BE READY TO DEAL WITH THE EXPERTS  
5 THAT THEY PUT UP BUT AS FAR AS THE COMPUTERS ARE  
6 CONCERNED, THAT'S BEEN SITTING THERE FOR TWO AND A  
7 HALF YEARS AND WE'VE BEEN WORKING WITH THE EXPERT AT  
8 SLED TO GET SOME UNDERSTANDING ON SOME OF THESE  
9 ISSUES JUST RECENTLY AND SHE JUST RECENTLY COMPLETED  
10 HER REPORT AND SENT IT TO US AND WE FORWARDED IT  
11 ALONG TO THEM AND I GAVE THEM THE SUPPORTING, I SENT  
12 THE REPORT BY E-MAIL OVER THE WEEKEND I COULDN'T  
13 SEND THE SUPPORTING DOCUMENTATION, THE ATTACHMENTS TO  
14 THE REPORT, IT WAS OVER 15 MEGABYTES, THE FILE IT  
15 WOULDN'T E-MAIL IT WAS TOO MUCH, SO I BURNED IT ON A  
16 DISK AND GAVE IT TO THEM THE FIRST THING THIS MORNING  
17 WHEN I SAW THEM, SO THEY JUST NOW DID GET THAT, BUT  
18 THAT INFORMATION HAS BEEN RESIDING ON THAT HARD DRIVE  
19 OVER TWO AND A HALF YEARS AT THE ROCK HILL POLICE  
20 DEPARTMENT

21 THE COURT WHAT ABOUT THE BROOMS  
22 SITUATION?

23 MR BRACKETT SOLICITOR POPE

24 MR POPE I CAN ADD A LITTLE BIT TO THE  
25 COMPUTER ISSUE TOO MR MORTON AND I WERE TALKING

1       AND I ASSUME WHEN WE STARTED TALKING ABOUT THE  
2       MIRRORED HARD DRIVE ISSUE LAST WEEK OR BEGINNING LAST  
3       WEEK WHEN I WAS IN COLUMBIA AND WE TALKED ON THE  
4       PHONE, MY UNDERSTANDING IS THAT THEY BASICALLY TOOK A  
5       PICTURE, JUST TO GO BACK ON THE COMPUTER ISSUE, TOOK  
6       A PICTURE OF EACH HARD DRIVE AND PUT IT ON THE DVD  
7       THAT I ASSUME THE DEFENSE NOW HAS IN THEIR POSSESSION  
8       AND WHEN WE DISCUSSED ON THE PHONE, MR MORTON AND I,  
9       NEITHER ONE ARE COMPUTER EXPERTS, WE INDICATED THAT  
10      THEY WOULD HAVE THE DRIVE AND WHATEVER SOFTWARE  
11      MR BRACKETT IS TALKING ABOUT, THAT THEY WOULD HAVE  
12      IT, SO THE BRIEF CONVERSATION I HAD WITH MR MORTON  
13      IN THAT REGARD WAS AS SOON AS HE MADE THE REQUEST I  
14      TRIED TO PURSUE IT I WENT TO SLED AND BECAUSE THERE  
15      WAS THE ISSUE OF WHETHER OR NOT YOU GOING TO COME SEE  
16      THE HARD DRIVE OR WHETHER YOU WOULD GET COPIES OF IT  
17      AND ULTIMATELY THEY MIRRORED THE HARD DRIVES ON THE  
18      DVD DISK AND PROVIDED IT

19                   YOUR HONOR, CONCERNING THE BROOMS IN  
20      THIS TRIAL BY AMBUSH ISSUE, THE MATERIALS THAT I  
21      BELIEVE ARE THE SAME THAT WE DISCUSSED IN CHAMBERS,  
22      THOSE MATERIALS ARE ACTUALLY THE BENCH NOTES FROM THE  
23      EVIDENCE PROCESSING TECHNICIAN THE EVIDENCE  
24      PROCESSING TECHNICIAN, ONE THOSE WEREN'T REQUESTED  
25      WHEN I WAS AWARE OF BUT WHEN I WAS AT SLED I BELIEVE

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1        THEY HAD SOME DNA BENCH NOTE REQUESTS SO I REQUESTED  
2        THE SAME NOTES FROM THE EVIDENCE PROCESSING  
3        TECHNICIAN WHICH IS UNRELATED    ANY ITEM THEY GET  
4        THEY PROCESS    BASICALLY IT'S A FOUR OR FIVE STEP  
5        PROCESS    THEY PUT ANY ITEM OF QUESTION UNDER LIGHTS  
6        ONCE THEY, ANYTHING FLUORESCES THEN THEY HAVE A  
7        COUPLE OF PRESUMPTIVE TESTS    THE TESTS ARE THEN  
8        DOCUMENTED AND IF IT'S SEMEN, IF IT'S BLOOD, IT'S  
9        THEN SENT ON SEROLOGY AND SEROLOGY AND DNA ARE  
10       TOGETHER    THEY'VE HAD THE REPORTS FROM ALL OF THESE  
11       FOR WHATEVER PERIOD OF TIME THEY'VE HAD THE DNA  
12       REPORTS    THE DOCUMENTS THAT I DISCUSSED WITH THEIR  
13       CO-COUNSEL, I CALLED AS THEY REQUESTED DURING THE  
14       BREAK TO FIND OUT, I ASSUME THAT THEY HAVE AN EXPERT  
15       THAT THAT EXPERT WOULD KNOW BUT WHAT THE DESIGNATIONS  
16       OF HF, HF MEANT HAIR AND FIBERS, PHENOLPHTHALEIN WAS  
17       A TEST FOR BLOOD    APS A TEST FOR SEMEN.    LL WAS A  
18       QUESTION MR    WOOD HAD POSED TO ME AND I CHECKED IT AN  
19       ALTERNATIVE LIGHT SOURCE WHICH IS EXACTLY WHAT WE  
20       TALKED ABOUT, SO FROM AN AMBUSH STANDPOINT    ONE,  
21       THEY HAVE AN EXPERT ARGUABLY TO SEE THAT    TWO, THIS  
22       IS THE PROCESSING THAT YIELDED THE DNA RESULTS, AND  
23       SO THEY ARE NOT, WE'RE NOT WAITING ON ANY FURTHER  
24       TESTS    WHATEVER SHE FOUND SHE FORWARDED TO SLED AND  
25       THAT'S BEEN REFLECTED IN THE DNA MATERIALS AND THEIR

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1       REPORTS THROUGHOUT THAT HAVE BEEN CONTINUOUSLY  
2       PROVIDED TO THE DEFENSE, YOUR HONOR

3       ---     MR BRACKETT     ONE CORRECTION ON DISCOVERY  
4       MAY HAVE, MERRY COLLINS HAS CORRECTED ME ON ONE  
5       POINT     THERE WAS SOME DISCUSSION BACK AND FORTH  
6       ABOUT BEING ABLE TO ACCESS THE COMPUTERS AT THE ROCK  
7       HILL POLICE DEPARTMENT, THE PROBLEM WAS IS THAT THEY  
8       WANTED THEIR EXPERT TO BE ABLE TO TURN THE COMPUTERS  
9       ON AND HOOK THE COMPUTER UP TO A NETWORK AND ACCESS  
10      SOMETHING     THERE WAS SOME ISSUE ABOUT WHETHER OR NOT  
11      ANYTHING ON THE COMPUTERS, THE HARD DRIVES, WOULD BE  
12      ALTERED, SO ULTIMATELY THE DISCUSSION WAS WE WOULD  
13      PROVIDE THEM WITH MIRRORED DVDS BUT THEY COULDN'T  
14      ACCESS THE COMPUTERS THERE BECAUSE THERE WAS SOME  
15      CONCERN ABOUT IT BEING ALTERED, SO THE COMPROMISE WE  
16      REACHED WAS THE DVDS WOULD BE PROVIDED THAT SHOWED  
17      THE MIRRORED IMAGE     SO THAT'S ULTIMATELY WHAT  
18      HAPPENED     WE PROVIDED THEM THAT LAST WEEK I BELIEVE,  
19      IS THAT CORRECT?

20               MR BAITY     WELL, BUT WE COULDN'T OPEN  
21      THEM     THAT'S THE PROBLEM     WE DIDN'T GET THEM OPEN  
22      UNTIL TODAY     THAT'S THE PROBLEM     WE DID HAVE SOME  
23      DISCUSSION, WE HAD AN EXPERT READY TO GO IN AND LOOK  
24      AT THE COMPUTER     THEY SAID WE'RE NOT GOING TO LET  
25      YOU DO THAT, THEN THE COMPROMISES IS, OKAY, TELL YOU

1       WHAT, WE'LL DO THIS MIRROR THING AND THEN YOUR GUY  
2       CAN LOOK AT THAT     OKAY     THAT'S FINE     IT FINALLY  
3       ROLLS IN LAST WEEK OR WHATEVER AND WE CAN'T ACCESS  
4       IT     WE COMPLAIN ABOUT THAT AND TODAY WE FINALLY GET  
5       IT DISGORGED TO US AND WE DON'T HAVE ANY KIND OF TIME  
6       TO REACT TO IT AND FRANKLY, YOUR HONOR, IT'S NOT THE  
7       BIGGEST ISSUE IN THIS CASE BUT IT COULD BE  
8       POTENTIALLY A BIG ISSUE AND THERE COULD BE A VERY  
9       IMPORTANT DETAIL ON THAT, A VERY IMPORTANT DETAIL ON  
10      THAT THAT IS VERY CRUCIAL TO OUR DEFENSE IN THIS CASE  
11      AND AGAIN WE'RE NOT ASKING THAT THIS BE PUT OFF FOR  
12      SIX MONTHS     WE JUST WANT TIME, A REASONABLE AMOUNT  
13      OF TIME TO DO, AND YOUR HONOR, WE'VE MADE A  
14      REASONABLE EFFORT TO WORK WITH THE SOLICITOR'S OFFICE  
15      AND I'M NOT TRYING TO SAY THESE GENTLEMEN ARE  
16      AMBUSHING ME     I'M JUST SAYING THAT IT'S LAST MINUTE  
17      STUFF     THAT'S THE POINT I'M TRYING TO MAKE     WE JUST  
18      NEED A LITTLE BIT MORE TIME TO LOOK AT THIS KIND OF  
19      STUFF

20                   IF I CAN REBUT THE BUSINESS ABOUT THE  
21      BROOMS, YOUR HONOR, THERE IS NO QUESTION THEY'VE  
22      GIVEN US THE DNA RESULTS ON THE SWABS TAKEN FROM THE  
23      BROOMS AND, BUT THAT'S ALL WE GOT AND THERE ARE TESTS  
24      ON OTHER FLUIDS OR STAINS OR WHATEVER THAT ARE ON THE  
25      BROOMS AND WE DON'T KNOW EXACTLY WHAT KIND OF FLUID

1 IT IS WE DON'T HAVE ANY IDEA WHETHER IT'S VAGINAL  
2 FLUID OR BLOOD OR SEMEN OR SALIVA OR WHAT AND OUR  
3 EXPERT NEEDS TO BE ABLE TO UNDERSTAND THEIR  
4 TERMINOLOGY, THEIR ABBREVIATIONS, AND IT WON'T TAKE  
5 LONG FOR THEM TO DO THAT BUT WE'D JUST LIKE TO SEE  
6 THOSE TESTS RESULTS WE DIDN'T REALIZE THAT THEY HAD  
7 TAKEN THESE SAMPLES AND HAD RUN THESE OTHER TESTS  
8 WHICH WE'VE NOT BEEN GIVEN RESULTS OF UNTIL WE SAW  
9 THE DIAGRAMS MR POPE IS REFERRING TO TODAY THERE  
10 IS NO QUESTION HE GAVE US THE DNA TEST RESULTS OF  
11 AWHILE BACK AND THEN UPDATED IT ABOUT TWO WEEKS AGO,  
12 BUT IT'S THESE OTHER TESTS WE'D LIKE TO KNOW THAT AND  
13 WHAT THEY ARE AND OUR EXPERT IS GOOD, THERE IS SOME  
14 TESTS THAT WE ARE NOT EVEN SURE WHAT THEY ARE, AND  
15 OUR EXPERT IS A GOOD EXPERT, BUT HE COULDN'T FIGURE  
16 OUT THE TERMINOLOGY

17 MR POPE YOUR HONOR, I AM NOT AN EXPERT  
18 AND I THINK HOP UNDERSTANDS IT, I THINK MR GREELEY  
19 UNDERSTANDS IT, I PRESENTED IT AND I THINK HALF OF  
20 THE CO-COUNSEL OVER THERE UNDERSTANDS IT I  
21 PRESENTED, THE TESTING WAS DONE, IT'S A PRESUMPTIVE  
22 TEST TO DECIDE IF IT WOULD BE SENT ON FOR THERE  
23 SOME ITEMS, THE BRA, THERE IS NOTHING ON IT IT  
24 DOESN'T GO ANY FURTHER IF THEY HAVE A PRESUMPTIVE  
25 TEST AND IS IT DESIGNATED ON THOSE VERY DOCUMENTS, IT

1 IS A POSITIVE, IT'S PRESUMPTIVE IF IT'S A MINUS OR  
2 AN EQUAL, IF IT IS AN EQUAL SHE PUTS TWO SLASHES SO  
3 YOU CAN'T CHANGED IT TO A POSITIVE IF IT IS A MINUS  
4 THAT IS THE END OF IT, SO THAT'S REFLECTED ON THOSE  
5 DOCUMENTS TOO, THAT'S REFLECTED IN HER REPORT SHE  
6 DID ISSUE A REPORT THAT ANYTHING THAT WAS FOUND  
7 PRESUMPTIVE WENT ON UP TO DNA AND THOSE REPORTS ARE  
8 AVAILABLE TOO AGAIN I THOUGHT I HAD ADDRESSED THAT  
9 WITH DEFENSE COUNSEL DURING THE BREAK BUT I'LL BE  
10 GLAD TO SIT DOWN AGAIN I FEEL LIKE THERE IS A  
11 MISUNDERSTANDING BETWEEN MR BAITY AND MAYBE HIS  
12 COUNSEL AND HIS EXPERT, BUT I DON'T WANT GOING ON THE  
13 RECORD THAT THIS HADN'T BEEN PROVIDED BECAUSE IT HAS  
14 BEEN PROVIDED THEY HAVE IT, YOUR HONOR

15 THE COURT ALL RIGHT

16 MR BAITY THE TESTS WERE RUN IN 2002 AND  
17 WE DEFINITELY GOT THE DNA RESULTS BUT WE DIDN'T GET  
18 THE OTHER ONES AND THAT IS THE MAIN THING AND WE  
19 BELIEVE THAT THIS IS VERY POTENTIALLLY EXCULPATORY  
20 EVIDENCE IF WE KNEW WHAT KIND OF FLUIDS WE ARE  
21 TALKING ABOUT

22 THE COURT WELL, I'M GOING TO DENY THE  
23 MOTION TO CONTINUE HOWEVER, AS TO THE COMPUTER, THE  
24 180 PAGES, I DON'T KNOW WHO IS GOING TO REVIEW THAT  
25 I KNOW WE'RE IN THE MIDDLE OF A TRIAL BUT YOU GOT

1       FOUR ATTORNEYS AND TWO STAFF MEMBERS AND IT'S GOING  
2       TO TAKE AT LEAST TWO WEEKS TO TRY THIS CASE I AM TOLD  
3       AND THAT TAKES US OVER AT LEAST ONE WEEKEND, I KNOW  
4       Y'ALL GOT PLENTY TO DO, BUT I'M NOT GOING TO GRANT A  
5       CONTINUANCE AT THIS TIME       THAT DOES NOT PRECLUDE  
6       COUNSEL FOR MR COPE TO, DURING THE TRIAL, TO ASK FOR  
7       A CONTINUANCE FOR A DAY OR A HALF A DAY, IF  
8       NECESSARY, IF SOMETHING IS DETERMINED THAT WOULD  
9       WARRANT IT, THAT IS, AFTER SOMEONE REVIEWS THESE 180  
10      PAGES OF DISCOVERY       I KNOW THAT SOUNDS LIKE A LOT  
11      BUT I DON'T, I HAVE NO IDEA WHAT IT IS       I HAVEN'T  
12      SEEN IT       I'M NOT ASKING TO SEE THEM IN CAMERA       OR I  
13      COULD AND IF THAT'S WHAT YOU WANT ME TO DO I WILL  
14      LOOK AT IT       BUT AT THIS TIME I'M GOING TO DENY THE  
15      MOTION FOR A CONTINUANCE ON THAT GROUND WITH THE  
16      UNDERSTANDING THAT IF A BREAK OR A RECESS TYPE  
17      CONTINUANCE IS NEEDED DURING THE TRIAL, WE'LL LOOK AT  
18      IT THEN

19                       AS TO THE BROOMS THIS IS ONE OF THOSE  
20      DISPUTES THAT THE COURT HATES       ONE SIDE SAYS HE GOT  
21      EVERYTHING, THE OTHER SIDE SAYS THEY DON'T HAVE IT,  
22      I'M NOT GOING TO GRANT A CONTINUANCE BASED ON THAT  
23      IF THE STATE IS SAYING THAT THE DEFENSE HAS WHAT IT'S  
24      SUPPOSED TO HAVE, THE DEFENSE EXPERT CAN'T DECIPHER  
25      THE NOTATIONS, I'LL REQUIRE THE STATE'S EXPERT TO

1 ACCEPT A TELEPHONIC COMMUNICATION FROM THE DEFENSE  
2 EXPERT AND TELL OVER-THE-PHONE OR BY FAX OR E-MAIL  
3 WHAT THOSE NOTATIONS MEANS THAT'S SEEMS TO BE THE  
4 ONLY PROBLEM THERE

5 THE RESULTS OF THE ADDITIONAL TESTS,  
6 WHAT OTHER TESTS? I KEEP GETTING AGAIN THE  
7 IMPRESSION THAT THE STATE FEELS LIKE IT'S GIVEN THE  
8 DEFENSE ALL OF THIS AND THE DEFENSE IS SAYING NO IT  
9 HASN'T THE COURT CAN'T RESOLVE THOSE I'LL JUST BE  
10 HONEST WITH YOU I DON'T KNOW WHAT TESTS HAVE BEEN  
11 RUN AND WHICH HAVE NOT BUT THE STATE, AS I  
12 UNDERSTAND IT, IS SAYING THE DEFENSE HAS IT ALL AM  
13 NOT I RIGHT? AM I MISUNDERSTANDING IT?

14 MR POPE I THINK THE ONLY ISSUE I HEARD  
15 THAT I WOULD AGREE WITH IS A WRITTEN REPORT, I GAVE  
16 AN ORAL REPORT ON THE FINGERPRINT ON THE --

17 THE COURT I HADN'T GOTTEN TO THAT  
18 YET I'LL GET TO THE FINGERPRINT NEXT THIS IS JUST  
19 UNDER MY CAPTION OF, I THOUGHT HAVING TO DO WITH THE  
20 BROOMS, ADDITIONAL TESTS I'M GOING TO GET TO THE  
21 LETTER IN JUST A MINUTE

22 MR BAITY AS I UNDERSTAND IT, THERE WERE  
23 DNA TESTS PERFORMED AND WE'RE NOT COMPLAINING ABOUT  
24 DNA TESTS, BUT THERE WERE CERTAIN TESTS THAT WERE PUT  
25 ON STAINS OR SPOTS ON THE BROOMS AND A MOP OR

1       WHATEVER THAT WERE APPARENTLY IDENTIFIED SOME TYPE OF  
2       BODILY FLUID OR SOME KIND OF FLUID THAT CAUSED THAT  
3       STAIN OR THAT TEST   WE WANT TO KNOW WHAT THAT FLUID  
4       IS

5               THE COURT   HAS THAT BEEN PROVIDED? IF  
6       THOSE TESTS WERE RUN, HAS THAT BEEN PROVIDED?

7               MR POPE   YES, SIR   AND AGAIN I'LL  
8       EXPLAIN HOW, THE EVIDENCE PROCESSING DOES THE  
9       PRESUMPTIVE TEST   IF THEY HAVE ANYTHING THAT  
10      FLUORESCES OR THAT GIVES ANY INDICATION OF SEMEN OR  
11      BLOOD, THE TWO PARTICULAR SUBSTANCES IN QUESTION  
12      HERE, THEY FORWARD IT ON TO SEROLOGY SLASH DNA  
13      BEFORE THEY DO DNA THEY DO SEROLOGY   IF YOU NOTICE  
14      IN THE DNA REPORT IT HAS A SEROLOGY SECTION IN WHICH  
15      IT SAYS, IS THIS SEMEN, IS THIS BLOOD, IS HUMAN BLOOD  
16      IDENTIFY IT, THEN THEY GO ON AND DO DNA   THERE MAY  
17      BE TIMES THAT IT DOES A PRESUMPTIVE TEST FOR PROTEINS  
18      THAT LOOK LIKE BLOOD, IT MAY GET UP THERE AND NOT BE  
19      BLOOD, BUT EACH STEP YOU HAVE THE REPORTS AND HAVE  
20      ALL THE DOCUMENTATION THAT FOLLOWS THAT   IF IT  
21      TESTED POSITIVE FOR SOMETHING THEY SEND IT ON TO  
22      SEROLOGY DNA AND THERE IS A SEROLOGY DNA REPORT THAT  
23      REFLECTS THAT   AGAIN I DISCUSSED THAT WITH MR WOOD,  
24      BUT I WILL BE GLAD TO NOT WASTE ANY MORE TIME AND  
25      DISCUSS IT WITH THEM AGAIN AND MAKE SURE WE'RE ON THE

1 SAME SHEET OF MUSIC

2 THE COURT DISCUSS IT WITH THEM AGAIN  
3 BECAUSE THE COURT CAN NEVER RESOLVE THESE KINDS OF  
4 DISPUTES THERE IS JUST NO WAY FOR ME TO DECIDE AND  
5 DETERMINE WHETHER THE STATE HAS GIVEN ALL THE TESTS,  
6 IT TELLS ME IT HAS, AND THE DEFENSE IS SAYING IT  
7 HASN'T SO I'M NOT GOING TO GRANT A CONTINUANCE  
8 ON---

9 MR BAITY JUDGE, IF I MIGHT I BELIEVE  
10 IF WE'RE ABLE TO TALK TO THEIR EXPERT OR THEIR  
11 TESTING PERSON OR WHATEVER, IT MIGHT BE CLEARED UP  
12 RIGHT QUICK

13 THE COURT I'D LIKE THAT TO OCCUR

14 MR BAITY AND I PROMISE WE'LL DO  
15 EVERYTHING THAT WE CAN

16 THE COURT ALL RIGHT THE LAST THING I  
17 HAVE IS A LETTER OF MR COPE I UNDERSTAND THERE IS  
18 NO FINGERPRINTS FOUND AND YOU ARE ASKING FOR A  
19 CONTINUANCE BECAUSE THE STATE MAY ASK FOR A PALM  
20 PRINT WELL, THE STATE HASN'T AT THIS POINT SO I AM  
21 NOT GOING TO GRANT A MOTION ON MIGHT HAPPEN IT MAY  
22 BE THAT THE COURT WOULD DENY THAT AT THIS LATE STAGE  
23 OR IT MAYBE, I DON'T KNOW I DON'T WANT TO  
24 ANTICIPATE THAT, BUT I CERTAINLY CAN'T GRANT A MOTION  
25 FOR A CONTINUANCE ON THE BASIS OF SOMETHING MAY



1       HAPPEN     SO I DENY THE MOTION FOR CONTINUANCE

2               MR BAITY     THE ONLY THING, AND IF I MAY,  
3     YOUR HONOR, AND I TRY NOT TO TRY YOUR PATIENCE, BUT  
4     IF WE COULD JUST HAVE THIS EVENING TO HAVE OUR  
5     EXPERTS TALK TO EACH OTHER AND JUST NOT MAKE THIS  
6     OPENING TO THE JURY TONIGHT

7               THE COURT     IT'S ALREADY TWENTY TO FIVE  
8     MY PLAN IS FOR ME TO TALK TO THE JURY AND QUIT UNTIL  
9     NINE IN THE MORNING AND THAT WILL GIVE Y'ALL TIME TO  
10    DO THESE THINGS

11              MR BAITY     IF YOU GIVE US THE EXHORTATION  
12    TO COOPERATE WITH EACH OTHER I THINK THAT VERY WELL  
13    MAY CLEAR UP MOST OF IT, YOUR HONOR

14              THE COURT     I THOUGHT THE RULES KIND OF  
15    DID THAT     IF IT IS WITHIN MY ABILITY I WILL EXHORT  
16    YOU TO DO THAT     WHAT ELSE?    ANYTHING OTHER MOTIONS?

17              MR MORTON     YOUR HONOR, I WOULD REQUEST  
18    YOU NOT SWEAR THE JURY UNTIL IN THE MORNING     WE HAVE  
19    MATTERS THAT I THINK NEED TO BE TAKEN UP BEFORE THE  
20    JURY IS SWORN

21              THE COURT     LET'S TAKE THEM UP NOW  
22    THAT'S WHY I GOT THE JURY OUT NOW

23              MR MORTON     I KNOW, BUT I NEED A FEW  
24    MINUTES TO TALK TO MY CLIENT ABOUT IT BEFORE

25              THE COURT     WE'LL TAKE A SHORT BREAK

1 LET'S GO AHEAD, I WANT TO GET THIS ON TRACK THANK  
2 YOU

3 (COURT'S IN RECESS AT 4 37 )

4 (COURT RESUMES AT 4 50 )

5 THE COURT WHAT ELSE DO WE NEED TO DO  
6 BEFORE WE GET THE JURY IN ANYTHING FROM THE STATE?

7 MR BRACKETT WELL, WE DID A LAUNDRY LIST  
8 OF THINGS THAT ARE KIND OF OUTSTANDING I DON'T KNOW  
9 WHETHER OR NOT THE DNA MOTION THAT WAS FILED BY  
10 MR GREELEY I DON'T KNOW WHETHER --

11 THE COURT WE DO NEED TO TAKE CARE OF  
12 THAT LET ME GET THE JURY AND LET THEM GO FOR THE  
13 DAY AND I WILL PUT OFF SWEARING THEM UNTIL IN THE  
14 MORNING I OVERLOOKED THE FACT THAT WE ARE GETTING  
15 BOGGED DOWN WITH OTHER THINGS THAT WE DO HAVE THAT  
16 MOTION, AND THEN GO OVER THE LAUNDRY LIST

17 MR BRACKETT WELL, FOR PURPOSES OF  
18 TELLING THEM WHAT TIME TO BE HERE SO WE DON'T HAVE  
19 PRESS OF THEM BEING IN THE JURY ROOM, WE ALSO HAVE  
20 THE LYLE MOTION WHICH THEY SAID THEY WANTED TO TAKE  
21 TESTIMONY ON, SO JUST FROM A STANDPOINT OF IF THAT'S  
22 GOING TO TAKE THREE OR FOUR HOURS YOU WANT TO BRING  
23 THEM HERE AT 9 30 AND HAVE THEM SIT WHILE WE DO THAT

24 THE COURT WELL, CERTAINLY WANT TO DO IT  
25 BY THE BOOK BUT I CAN TELL YOU THIS AFTER TELLING THE

1 JURY THAT THEY ARE GOING TO HAVE TO SIT HERE FOR  
2 THREE WEEKS AND THEN TELL THEM TO NOT COME IN UNTIL  
3 12 TOMORROW,-- THEY ARE LIABLE TO LYNCH ME I WOULD IF  
4 IT WERE ME SO WE'RE GOING TO HAVE TO JUST WORK OUT  
5 SOMETHING ABOUT THAT I WANT TO GET THIS CASE  
6 STARTED LYLE QUESTIONS DON'T COME UP IN THE CASE,  
7 IN THE STATE'S CASE, DO THEY?

8 MR BRACKETT NO, SIR

9 THE COURT WE MAY END UP DOING IT  
10 SATURDAY MORNING OR SOMETHING

11 MR MORTON YOUR HONOR, I'VE GOT  
12 WITNESSES THAT ARE COMING HERE FROM WILSON, NORTH  
13 CAROLINA AND WASHINGTON, DC, AND SUMTER THAT I'M  
14 HAVING COME IN HERE TONIGHT AND I DON'T THINK THEIR  
15 TESTIMONY WILL TAKE THAT LONG A PERIOD OF TIME IT'S  
16 SOMETHING THAT WE NEED TO KNOW KIND OF A RULING FROM  
17 THE COURT BEFORE WE, BEFORE WE START THIS CASE SO  
18 WE'LL KNOW WHERE WE'RE GOING TOO

19 THE COURT ALL RIGHT THEY ARE GOING TO  
20 BE HERE TONIGHT, WE'LL START AT 8 IN THE MORNING AND  
21 I'LL HAVE THE JURY COME IN AT TEN THAT'S TWO HOURS  
22 IF WE HAVE TO DO SOME MORE DURING LUNCH, WE'LL DO  
23 THEM AT LUNCH IF WE HAVE TO DO SOME MORE TOMORROW  
24 NIGHT, WE WILL DO THEM TOMORROW NIGHT, BUT I WANT TO  
25 UTILIZE THE JURY

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1                   MR MORTON    I UNDERSTAND, JUDGE, BUT WE  
2                   HAVE TO TRY, I MEAN

3                   THE COURT    I UNDERSTAND THAT    ALL RIGHT  
4                   LET ME JUST LET THE JURY GO FOR THE DAY    BRING IN  
5                   THE JURY    WHILE HE'S OUT, HOW MANY WITNESS DO YOU  
6                   HAVE ON LYLE?

7                   MR MORTON    FIVE

8                   THE COURT    ONLY THREE FROM OUT OF TOWN

9                   MR MORTON    THREE FROM OUT OF TOWN

10                                (THE JURY ENTERS THE COURTROOM )

11                   THE COURT    MEMBERS OF THE JURY PANEL,  
12                   IT'S RIGHT AT FIVE O'CLOCK, SO WHAT I'M GOING TO DO  
13                   IS WE HAVEN'T SWORN YOU IN YET AND WE'RE NOT GOING TO  
14                   DO THAT UNTIL IN THE MORNING    THERE ARE SOME MATTERS  
15                   OUTSIDE OF YOUR PRESENCE AND I WILL GO AHEAD AND TELL  
16                   YOU IN ADVANCE THAT IN A TRIAL THERE ARE CERTAIN  
17                   THINGS THAT WE DO HAVE TO TAKE UP OUTSIDE YOUR  
18                   PRESENCE    I KNOW SOMETIME YOU THINK, WELL, WHY  
19                   DIDN'T THEY DO THIS BEFORE THEY INVITED US TO COME  
20                   WELL, WE CAN'T BECAUSE LIKE SPORTS EVENTS THERE ARE  
21                   CERTAIN THINGS THAT HAVE TO HAPPEN BEFORE SOMETHING  
22                   ELSE HAPPENS, SO WE'VE DONE EVERYTHING WE CAN THAT WE  
23                   COULD BEFORE TODAY    BUT ONCE WE GET INTO A TRIAL  
24                   THINGS ARISE THAT WE HAVE TO TAKE UP AT THAT TIME AND  
25                   THEY CAN'T BE TAKEN YESTERDAY AND SOME OF IT CAN'T BE

1       TAKEN UP THREE DAYS FROM NOW, THEY HAVE TO BE TAKEN  
2       UP AT A CERTAIN POINT IN THE TRIAL, SO I'M GOING TO  
3       LET YOU LEAVE AND COME BACK AT 10 IN THE MORNING DO  
4       NOT DISCUSS THE CASE AMONG YOURSELVES, DO NOT TRY TO  
5       MAKE UP YOUR OWN MIND, DO NOT LET ANYONE DISCUSS THE  
6       CASE WITH YOU IF ANYONE TRIES TO DO THAT, TELL THEM  
7       YOU CANNOT AS YOU ARE A JUROR AND REPORT BACK TO ME  
8       IF ANYONE TRIES TO TALK TO YOU, TELL ME WHO THAT IS  
9       IF YOU KNOW DON'T LET YOURSELF BE EXPOSED TO ANY  
10      NEWS COVERAGE DON'T READ ABOUT IT, LISTEN TO IT, OR  
11      WATCH ANYTHING IF ANYTHING CATCHES YOUR EAR OR EYE  
12      THAT COULD REMOTELY DEAL WITH THIS TRIAL OR  
13      ANYTHING OF THIS NATURE, THEN DON'T LET YOURSELF BE  
14      EXPOSED TO IT

15                    ANYTHING ELSE FROM THE STATE BEFORE WE  
16      DISMISS THE JURY FOR THE EVENING?

17                   MR BRACKETT NO, SIR, YOUR HONOR

18                   THE COURT THE DEFENSE?

19                   MR BAITY NOTHING, YOUR HONOR

20                   MR GREELEY NOTHING ON BEHALF OF

21      MR SANDERS

22                   THE COURT ALL RIGHT BE BACK AT TEN IN  
23      THE MORNING AND I HOPE TO RUN MORE NINE IN THE  
24      MORNING TO SIX IN THE EVENING KIND OF SCHEDULE I  
25      HOPE TO RUN MORE ON THAT KIND OF SCHEDULE, BUT WE

1 GOT SOME THINGS TO DO TONIGHT AND I THINK SOME THINGS  
2 THAT MAY TAKE US, WE'LL COME IN AND START WORKING  
3 FIRST THING IN THE MORNING TO GET OUT OF THE WAY  
4 BEFORE YOU COME, BUT KIND OF ANTICIPATE 9 TO 5 30-6  
5 SCHEDULE THAT'S WHAT I WOULD LIKE TO TRY TO  
6 ACCOMPLISH WE'LL SEE YOU BACK AT TEN TOMORROW AND  
7 AGAIN NOT DOWNSTAIRS, NOT IN THE COURTROOM, BUT IN  
8 THAT JURY ROOM THE BAILIFF WILL TELL YOU HOW TO GET  
9 IN AND OUT OF THE JURY THANK YOU HAVE A PLEASANT  
10 EVENING

11 (THE JURY EXITS THE COURTROOM AT FIVE  
12 O'CLOCK )

13 THE COURT ALL RIGHT WE'RE GOING TO DO  
14 THE DNA MOTION BUT AS FAR AS THE LYLE MATTERS,  
15 ANYBODY CAN'T BE HERE IF WE START AT 8 IN THE  
16 MORNING ANYBODY CRUCIAL IN THE MORNING

17 MR BRACKETT THE STATE WILL BE HERE

18 THE COURT WE'LL START AT 8 IN MORNING,  
19 BUT LET'S GO AHEAD MR GREELEY HAS FILED A MOTION  
20 CONCERNING THE GRANTING, WELL, LET HIM ARTICULATE IT  
21 BASICALLY HAS TO DO WITH THE ADMISSION OR MOTION TO  
22 SUPPRESS THE ADMISSION OF THE SECOND BLOOD TEST  
23 PURSUANT TO A SCHMERBER MOTION AND PURSUANT TO AN  
24 ORDER OF JUDGE ALFORD

25 MR GREELEY MAY IT PLEASE THE COURT

1 YOUR HONOR, I HAD PREVIOUSLY FILED A MOTION TO  
2 SUPPRESS IN THIS CASE THERE WAS A HEARING THAT WAS  
3 HELD APPROXIMATELY AUGUST FOURTH OF THIS YEAR WHEREBY  
4 THE STATE WAS SEEKING TO HAVE MORE BLOOD DRAWN FROM  
5 MY CLIENT HE HAD PREVIOUSLY HAD BLOOD DRAWN ON  
6 JANUARY 13 OF 2002 AND THEY HAD DONE SOME TESTS AND  
7 IN SEPTEMBER OF 2002 SLED RAN AN ANALYSIS IN REGARDS  
8 TO ALLEGED BODY FLUIDS THAT WERE INVOLVED IN THIS  
9 CASE AND RECEIVED A MATCH, AN ALLEGED MATCH, IN THE  
10 CASE WITH MY CLIENT JAMES SANDERS AND THAT WAS IN  
11 SEPTEMBER OF 2002 MY CLIENT WAS INDICTED ABOUT 14  
12 MONTHS LATER ON THE CHARGES FOR WHICH HE IS STANDING  
13 TRIAL NOW

14 JUDGE ALFORD ORDERED A FEW WEEKS AGO  
15 ON AUGUST FOURTH THAT MY CLIENT'S BLOOD SHOULD BE  
16 DRAWN AGAIN THE HEARING THAT WAS HELD WAS IN  
17 ANOTHER MATTER, STATE VERSUS SANDERS, THE HAGMAN  
18 MATTER THEY WERE SEEKING TO OBTAIN HIS BLOOD IN  
19 THAT CASE HOWEVER, DURING THE HEARING AND AT THE  
20 BEGINNING OF THE HEARING THE SOLICITOR, AND I  
21 PROVIDED THE COURT WITH A TRANSCRIPT OF THE HEARING,  
22 THE SOLICITOR MADE IT CLEAR THAT THE TIMING OF THE  
23 REQUEST AND THE REASON THAT WE WERE THERE WAS FOR  
24 THIS CASE THIS CASE WAS SCHEDULED TO GO TO TRIAL IN  
25 THREE WEEKS AND THEY DID NOT KNOW AT THAT TIME AND

1 WOULD NOT CONCEDE AT THAT TIME THAT THE BLOOD DRAWN  
2 ON JANUARY 13 HAD BEEN UNCONSTITUTIONALLY DRAWN WE  
3 WENT THROUGH THE PROBABLE CAUSE HEARING SO THAT THEY  
4 COULD GET THE BLOOD AT THAT TIME FOR THIS CASE

5 YOUR HONOR, TODAY I WANT TO  
6 CONCENTRATE BY MY DISCUSSIONS ON MY MOTION TO  
7 SUPPRESS TO THE SECOND REASON THAT I GIVE IN MY  
8 MEMORANDUM OF LAW WHICH HAS TO DO WITH THIS SECOND  
9 DRAW BEING THE FRUIT OF THE POISONOUS TREE OF THE  
10 FIRST DRAW WE DIDN'T HAVE A SCHMERBER HEARING IN  
11 AUGUST IN THIS CASE, YOUR HONOR THE REASON BEING, I  
12 WOULD SUBMIT TO THE COURT, IS THE STATE IS WELL AWARE  
13 THAT THEY WOULD HAVE TO PROVE PROBATIVE CAUSE OUTSIDE  
14 THE EXISTENCE OF THE BLOOD FOR MY CLIENT TO HAVE HIS  
15 BLOOD DRAWN THERE WOULD HAVE TO BE OTHER INDICES OF  
16 EVIDENCE THAT WOULD BRING ABOUT THE DRAWING OF HIS  
17 BLOOD AS RELEVANT IN THE MATTER THEY COULDN'T DO  
18 THAT IN THIS CASE BECAUSE I WOULD SUBMIT TO THE COURT  
19 THERE IS NO OTHER EVIDENCE IN THIS CASE OF MY  
20 CLIENT'S INVOLVEMENT OTHER THAN THE DNA REPORT THAT  
21 WE HAVE FROM SLED SO THEY WENT AND DID IT ON  
22 ANOTHER CASE SO THAT THEY COULD GET IT FOR THIS TRIAL  
23 AND TO USE IT GIVEN THE FACT THAT THEY DIDN'T DO A  
24 SCHMERBER HEARING IN THIS CASE SHOWS THAT THERE IS NO  
25 OTHER EVIDENCE, THERE IS NO OTHER PROBABLE CAUSE, SO



1       WHAT WAS THE REASON THAT THEY CAME BEFORE JUDGE  
2       ALFORD ON OTHER CASE SO THAT THEY COULD GET THE BLOOD  
3       FROM MY CLIENT AND HAVE IT PREPARED FOR THIS CASE  
4       THINKING OF THE RESULT THAT THE PREVIOUS DRAW WOULD  
5       BE FOUND UNCONSTITUTIONAL AND TRYING AS THE SOLICITOR  
6       SAID TO QUASH THAT PROBLEM IN THE HEARING     WHAT  
7       BROUGHT THEM THERE WAS THE RESULTS THAT WERE OBTAINED  
8       FROM THE FIRST UNCONSTITUTIONAL DRAW

9                       THEY GOT THE KNOWLEDGE OF ALLEGEDLY  
10       MR SANDERS' DNA ON THIS EVIDENCE FROM THE  
11       UNCONSTITUTIONAL DRAW, AND SO BUT FOR THE  
12       UNCONSTITUTIONAL DRAW AND THE ANALYSIS WHICH HAS BEEN  
13       SUPPRESSED IN THIS CASE FROM JANUARY 13, THEY WOULD  
14       HAVE NEVER MADE THE SECOND REQUEST IN THE HAGMAN CASE  
15       SO THAT THEY QUASH THE POSSIBILITY OF THE  
16       UNCONSTITUTIONAL DRAW, AND SO THE DRAW THAT TOOK  
17       PLACE ON AUGUST FIFTH WAS A DIRECT RESULT OF THE  
18       UNCONSTITUTIONAL DRAW THAT TOOK PLACE JANUARY 13,  
19       2001     IT'S THE ONLY INFORMATION THAT THEY HAVE IN  
20       REGARDS TO MY CLIENT     THERE IS NO OTHER PROBABLE  
21       CAUSE IN THIS CASE ABSENT THAT BLOOD FOR BLOOD TO BE  
22       DRAWN AND USED IN THIS CASE, AND SO THIS SECOND DRAW  
23       THAT THE STATE INTENDS TO USE IS DEFINITELY THE FRUIT  
24       OF THE POISONOUS TREE OF THE FIRST DRAW BECAUSE IT'S  
25       THE ONLY BASIS THAT THEY CAME INTO COURT TO GET HIS

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1 BLOOD SO FOR THAT REASON, YOUR HONOR, I WOULD  
2 SUBMIT THE PREVIOUS BLOOD HAS BEEN ORDERED BY THIS  
3 COURT SUPPRESSED AND ANY AND ALL EVIDENCE ARISING  
4 THEREFROM OR ANALYSIS FROM THAT BLOOD IS TO BE  
5 SUPPRESSED IN THE AUGUST FIFTH DRAW AND UTILIZATION  
6 OF THAT BLOOD IN THIS CASE WAS DONE WITH THE  
7 KNOWLEDGE THAT CAME FROM THE UNCONSTITUTIONAL DRAW  
8 AND THEREFORE IT SHOULD BE SUPPRESSED AS WELL

9 THE COURT THANK YOU

10 MR POPE PLEASE THE COURT, YOUR HONOR  
11 IN REFERENCE JUST BRIEFLY TO SOUTH CAROLINA CASE,  
12 IT'S THE COURT OF APPEALS STATE VERSUS TOMONGO JAMES  
13 WILLIAM MCCORD AND I WILL PROVIDE THE COURT REPORTER  
14 A COPY OF THIS IT IS OPINION NUMBER 3482 FILED  
15 APRIL 22, 2002, AND IT HAS A DISCUSSION CONCERNING  
16 DNA TESTING PARTICULARLY WHEN YOU CAN USE DNA TESTING  
17 THAT'S ACQUIRED FROM ONE CASE TO USE IN ANOTHER CASE  
18 AND I KNOW THAT IT IS KIND OF A COMPANION ISSUE OF  
19 WHAT MR GREELEY IS ADDRESSING AND OF COURSE OUR  
20 SOUTH CAROLINA COURT OF APPEALS HAD RULED THAT THIS  
21 IS IN FACT PROPER IN THAT IF YOU HAVE IT IN ANY  
22 LEGITIMATE MEANS, IF YOU GOT IT THE STATE VERSUS  
23 TOMMY POPE AND YOU'VE GOT MY BLOOD NOW THAT IN ANY  
24 OTHER TIMES OR ANY OTHER CASE YOU CAN USE THAT BLOOD  
25 MUCH LIKE WE ADDRESS FINGERPRINT

1                   IN THE CONCURRING OPINION, YOUR HONOR,  
2       THEY REFERENCED NIX VERSUS WILLIAMS 467 U S 431 1984  
3       CASE AND NIX V WILLIAMS TALKS ABOUT WHAT THE PURPOSE  
4       OF THE EXCLUSIONARY RULE IS AND WHY WE HAVE AN  
5       EXCLUSIONARY RULE AND IN THIS PARTICULAR CASE WE TALK  
6       ABOUT INEVITABLE DISCOVERY AND I KNOW MR GREELEY  
7       TALKED TO SOME POINT BUT FOR THE FRUIT OF THE  
8       POISONOUS TREE WE WOULD NOT HAVE HAD THIS PARTICULAR  
9       EVIDENCE CALLING YOUR ATTENTION TO NIX, IT SAID WE  
10      NEED NOT HOLD THAT ALL EVIDENCE IS EVIDENCE FROM THE  
11      FRUIT OF THE POISONOUS TREE SIMPLY BECAUSE IT WOULD  
12      HAVE COME TO LIGHT BUT FOR THE ILLEGAL ACTIONS OF THE  
13      POLICE RATHER THE MORE APT QUESTION OF SUCH CASE IS  
14      WHETHER GRANTING ESTABLISHMENT OF THE PRIMARY  
15      LEGALITY THE EVIDENCE TO WHICH INSTANT OBJECTION IS  
16      MADE HAS BEEN COME AT BY EXPLOITATION OF THAT  
17      ILLEGALITY OR INSTEAD BY MEANS SUFFICIENTLY  
18      DISTINGUISHABLE TO BE PURGED FROM THE PRIMARY TAIN  
19      IN THIS PARTICULAR SITUATION WHAT JUDGE ALFORD HEARD  
20      WERE FACTS TOTALLY INDEPENDENT OF THIS CASE AS A  
21      MATTER OF FACT, TOTALLY INDEPENDENT OF THE INITIAL  
22      SEARCH WARRANT CASE HE HEARD FACTS THAT STOOD ON  
23      THEIR OWN THAT INCLUDED AND I KNOW THE COURT HAS READ  
24      THE RECORD THAT INCLUDED BLOOD THAT WAS LEFT AT THE  
25      SCENE, THAT THIS DEFENDANT WAS FOUND BLEEDING, ALL

1 THE FACTORS THAT WERE REQUIRED IN SCHMERBER IN THIS  
2 PARTICULAR CASE WE PROCEEDED ON THE CASE NOT EVEN THE  
3 ONE FROM THE ILLEGAL SEARCH WARRANT WHICH I SUBMIT  
4 UNDER REGISTER WE COULD HAVE GONE EVEN UNDER THAT,  
5 BUT A TOTALLY INDEPENDENT CASE INEVITABLY AT  
6 WHATEVER POINT THAT WOULD HAVE BEEN DISCOVERED  
7 WHETHER WE HAD PROSECUTED THAT ONE BEFORE OR WHETHER  
8 THEY HAD PROSECUTED AFTER THE FACT THAT IT WOULD HAVE  
9 BEEN DISCOVERED KEEPS IT OUT THE SUPPRESSIONARY OF  
10 THE FRUIT OF THE POISONOUS TREE

11 YOUR HONOR, MR GREELEY HAD INDICATED  
12 IN HIS BRIEF THAT THE CONCERN THAT OTHERWISE LAW  
13 ENFORCEMENT WOULD JUST DO ILLEGAL SEARCHES AND THEN  
14 ONCE THEY DO ILLEGAL SEARCHES SEE IF IT MATCHED AND  
15 IF IT DID MATCH THEN THEY WOULD TRY TO SURE IT UP  
16 IN NIX THEY SAY ON THE OTHER HAND WHEN THE OFFICER IS  
17 AWARE THE EVIDENCE WILL INEVITABLY BE DISCOVERED HE  
18 WILL TRY TO AVOID ENGAGING IN THESE QUESTIONABLE  
19 PRACTICES THAT MR GREELEY HAD INDICATED IN HIS  
20 BRIEF IN THAT SITUATION THERE WOULD BE LITTLE TO  
21 GAIN FROM TALKING ANY DUBIOUS SHORT CUTS TO OBTAIN  
22 THE EVIDENCE SIGNIFICANT DISINCENTIVE,  
23 DISINCENTIVES TO OBTAIN AN ILLEGAL EVIDENCE INCLUDE  
24 THE POSSIBILITY OF DEPARTMENTAL DISCIPLINE AND CIVIL  
25 LIABILITY ALSO LESSEN THE LIKELIHOOD THAT THE

1 ULTIMATE OR THE INEVITABLE DISCOVERY EXCEPTION WILL  
2 PROMOTE MISCONDUCT

3 THE POSITION IN THIS PARTICULAR CASE  
4 IS THAT WE HAD A NUMBER OF CASES, ANY OF WHICH WOULD  
5 STAND ON THEIR OWN, AND PROVIDE PROBABLE CAUSE TO GET  
6 SCHMERBER MOTION IN THIS PARTICULAR CASE JUDGE  
7 ALFORD HEARD THE FACTS FROM HAGMAN CASE THAT OCCURRED  
8 JANUARY 12, 2002, AND THOSE FACTS FROM THAT CASE  
9 SUPPORTED A PROBABLE CAUSE TO RETRIEVE THIS MAN'S  
10 BLOOD ONCE IT IS IN THE SYSTEM BY ANY LEGITIMATE  
11 MEANS OR FROM ANY OTHER CASE THEN IT IS AVAILABLE  
12 BASED ON MCCORD FOR ALL OF THESE CASES

13 I WOULD NOTE CALLING THE COURT'S  
14 ATTENTION TO THE STATE VERSUS REGISTER, TO IN  
15 PARTICULAR THEY HAD AN IN RE JANE DOE MUCH LIKE WE  
16 HAVE THE IN RE SCHNEIDER SITUATION IN THAT  
17 PARTICULAR CASE IT WENT UP TO THE COURT AND THE COURT  
18 DECIDED THERE WAS AN ORDER BUT THE JUDGE DIDN'T  
19 REALLY TAKE INTO CONSIDERATION ALL THE SCHNEIDER  
20 FACTORS THAT WERE REQUIRED TO TAKE AND I THINK  
21 MR GREELEY IS NOT ARGUING THAT WE DID NOT OR JUDGE  
22 ALFORD DID NOT TAKE THOSE INTO ACCOUNT WHAT I THINK  
23 OF INTEREST IN REGISTER TO NOTE, YOUR HONOR, IT WENT  
24 UP TO THE COURT AND THEY SAID ALL THESE FACTORS HAVE  
25 NOT BEEN TAKEN INTO ACCOUNT SO THEY SENT IT BACK DOWN

1 AND SAID TAKE THEM INTO ACCOUNT MY POINT BEING THE  
2 FACT THAT WE HAD AT SOME POINT A SEARCH WARRANT THAT  
3 MAY OR MAY NOT HAVE BEEN INVALID AND IN FACT WE CAME  
4 IN THIS COURTROOM AND CONCEDED THAT WE HAD CONCERNS  
5 ABOUT ITS VALIDITY THAT THAT WOULD NOT PREVENT FOR  
6 THE TAKING OF A PROPER BLOOD SAMPLE I WOULD SUBMIT  
7 THAT THE SAMPLE YOU HAVE, THE SCHMERBER MOTION BEFORE  
8 JUDGE ALFORD IS A PROPER SAMPLE IT IS NOT THE  
9 FRUIT, IT IS INDEPENDENT OF ANY OTHER CONDUCT AND  
10 WOULD HAVE BEEN DISCOVERED WHATEVER ORDER WE PROCEED  
11 IN, AND THEREFORE SHOULD BE ADMITTED THANK YOU,  
12 SIR

13 THE COURT OKAY

14 MR GREELEY IF I MAY, YOUR HONOR, I'LL  
15 JUST STAND HERE

16 THE COURT THAT'S FINE

17 MR GREELEY YOUR HONOR, IN REGARDS TO  
18 THE STATE'S POSITION ON INEVITABLE DISCOVERY I WOULD  
19 URGE THE COURT THAT'S NOT APPLICABLE IN THIS CASE  
20 IT'S NOT INEVITABLE DISCOVERY A PERSON'S BLOOD IS  
21 NOT INEVITABLE DISCOVERY A BODY IN SNOW COVERED  
22 WOODS TO WHERE THE SNOW EVENTUALLY MELTS AND THE BODY  
23 THEN BECOME VISIBLE, THAT CAN BE COMPARED WITH  
24 INEVITABLE DISCOVERY IT'S COVERED UP BY SOMETHING  
25 THAT'S EVENTUALLY GOING TO GO AWAY AND IT WOULD THEN

1 BE DISCOVERED BUT EVERYBODY'S, THAT WOULD BE LIKE  
2 ARGUING THAT EVERYBODY'S BLOOD HERE IN THIS ROOM IS  
3 GOING TO BE INEVITABLY DISCOVERED AT SOME POINT IN  
4 TIME IN REGARDS TO A POSSIBLE CRIMINAL CASE AND  
5 THAT'S NOT THE CASE, SO WE DON'T HAVE THE INEVITABLY  
6 DISCOVERY DOCTRINE IT'S A VERY UNUSUAL CASE IN  
7 THIS PARTICULAR CASE, IN THIS MR SANDERS' CASE, IN  
8 THE COPE MATTER, THERE IS NO INDEPENDENT EVIDENCE  
9 THAT CAN SUPPORT PROBATIVE CAUSE FOR HIS GIVING OF  
10 BLOOD THE ONLY THING THAT THE STATE HAD TO GO AND  
11 TO GET HIS BLOOD ON AUGUST FIFTH FOR THIS CASE EVEN  
12 THOUGH IT WAS DONE IN THE HAGMAN CASE IT'S CLEAR FROM  
13 THE RECORD AS TO WHY IT WAS DONE AT THAT TIME AND  
14 THAT PLACE AND IT WAS FOR THIS CASE SO THIS CASE  
15 COULD NOT BE CONTINUED AND THEY COULD GET IT RUN  
16 THE ONLY INFORMATION, KNOWLEDGE THAT THEY HAD, COMES  
17 DIRECTLY FROM THE PREVIOUS UNCONSTITUTIONAL DRAW  
18 WHICH WAS THAT THERE WAS AN ALLEGED MATCH AND  
19 THAT'S WHY THEY WERE HAVING TO GO BACK AND SEEK HIS  
20 BLOOD AGAIN AND SO THEY WERE USING THE PREVIOUS  
21 UNCONSTITUTIONAL DRAW AS THEIR MOTIVATION FOR MOVING  
22 IN THIS PARTICULAR CASE AT THAT TIME FOR HIS BLOOD TO  
23 BE USED IN THIS CASE AND THAT'S THE BASIS OF MY  
24 ARGUMENT

25 THE COURT ALL RIGHT THIS IS A LITTLE

1 DIFFERENT FROM A LOT OF OTHER EVIDENTIARY ISSUES  
2 BECAUSE I THINK THE ANALOGY OF FINGERPRINTS BY THE  
3 STATE IS PRETTY APT BECAUSE NOW WE'RE REQUIRED IN  
4 MANY INSTANCES TO HAVE A DEFENDANT WHO PLEADS OR IS  
5 FOUND GUILTY OF CERTAIN OFFENSES SUBMIT GIVING A DNA  
6 SAMPLE SO WE'LL HAVE A DNA BANK IN ESSENCE, AND  
7 THROUGH ANEDOTELY I UNDERSTAND THERE HAVE BEEN SOME  
8 CASES SOLVED AND SOME INDIVIDUALS PERHAPS, SOLVED ONE  
9 WAY OR THE OTHER, SOMEBODY FOUND NOT GUILTY OR  
10 SOMEBODY GUILTY, BASED ON THE DNA BANK, SO I THINK  
11 WE'RE MOVING INTO A DIFFERENT AREA WHEN WE GET INTO  
12 DNA JUST AS WE DO WITH FINGERPRINTS

13 IN THIS CASE I READ JUDGE ALFORD'S  
14 ORDER -- WELL, NOT HIS ORDER BUT TRANSCRIPT OF HIS  
15 ORAL ORDER, AND IN THAT ARGUMENT THE FRUIT OF THE  
16 POISONOUS TREE ISSUE WAS RAISED I THINK JUDGE  
17 ALFORD GAVE A VERY GOOD ANALYSIS AS TO WHY IN SPITE  
18 OF THAT BEING RAISED THAT THERE WAS PROBABLE CAUSE  
19 BASED ON THE INFORMATION AVAILABLE THE HAGMAN OR  
20 HAGMAN, WHATEVER IT IS, CASE TO DRAW BLOOD AND, EVEN  
21 THOUGH IT WAS IN THIS PARTICULAR CASE THIS IS NOT A  
22 BRIGHT LINE SITUATION IT'S HARD TO KIND OF DRAW A  
23 LINE AS TO WHERE THE FRUIT OF THE POISONOUS TREE  
24 DOCTRINE SORT OF DISAPPEARS, BUT JUDGE ALFORD, FACED  
25 WITH BASICALLY THIS SAME ISSUE, ALTHOUGH IT WASN'T A



1 SUPPRESSION, IT WAS THE RIGHT TO DRAW IT, MADE A  
2 DETERMINATION THAT THERE WAS PROBABLE CAUSE, ALLOWED  
3 THE BLOOD TO BE TAKEN, THIS IN SPITE OF THE EXTENSIVE  
4 DISCUSSION ABOUT THE FACT THAT WHY THE STATE DIDN'T  
5 CONCEDE IT AT THAT TIME, THE STATE CONCEDED THAT IT  
6 MIGHT END UP CONCEDING THAT THE INITIAL TAKING OF THE  
7 BLOOD WAS IN FACT CONSTITUTIONALLY FLAWED SO I'M  
8 GOING TO DENY THE MOTION TO SUPPRESS ALL RIGHT  
9 ANYTHING ELSE, WE CAN TAKE UP?

10 MR BRACKETT YES, SIR

11 THE COURT YOU GOT A LONG LIST?

12 MR BRACKETT NO, IT IS NOT --- SOME OF  
13 THESE ARE PRETTY SHORT

14 THE COURT LET'S TAKE CARE OF EVERYTHING  
15 WE CAN

16 MR BRACKETT YES, SIR THE FIRST ISSUE,  
17 AND THIS WAS MENTIONED EARLIER WAS THE PALM PRINT  
18 THE STATE WAS ADVISED OF FRIDAY OF LAST WEEK I  
19 BELIEVE IT WAS THAT THERE WAS A PALM PRINT FOUND ON A  
20 LETTER THAT HAD BEEN SENT BY, PURPORTEDLY BY MR COPE  
21 TO ANOTHER INDIVIDUAL, THAT INDIVIDUAL PROVIDED US  
22 WITH THE LETTER WE SENT THE LETTER ALONG FOR  
23 HANDWRITING ANALYSIS AFTER THE HANDWRITING ANALYSIS  
24 I BELIEVE A PROCESS KNOWN AS ESDA WHICH BASICALLY YOU  
25 TAKE, YOU SUBMIT IT TO SOME SORT OF TEST TO SEE IF

1       SOMEBODY HAD WRITTEN SOMETHING ON ANOTHER PIECE OF  
2       PAPER THAT WAS DIRECTLY ON TOP AND THEN PRINTED IT ON  
3       THERE TO SEE IF THERE WAS SOME EVIDENTARY VALUE  
4       THERE     THEN FROM THERE IT WENT TO THE FINGERPRINT  
5       LAB     ON FRIDAY WE WERE INFORMED BY SLED THAT THERE  
6       WAS A PALM PRINT FOUND ON THE PAPER FOR WHICH THEY  
7       NEEDED SOMETHING TO COMPARE IT TO     THEY NEEDED A  
8       SAMPLE TO COME BACK     THE SAME LETTER WAS SENT IN AN  
9       ENVELOPE, THE ENVELOPE WAS TESTED, THE PORTION THAT  
10      SEALED WAS TESTED TO SEE IF IT HAD BEEN CLOSED WITH  
11      SALIVA, AND IF SO, IF THAT REVEALED DNA AND IT DID IN  
12      FACT YIELD DNA THAT MATCHED MR   COPE, SO THE STATE  
13      BELIEVES WE HAVE A GOOD FAITH BASIS FOR SUPPOSING  
14      THAT THAT PALM PRINT IS ALSO GOING TO MATCH MR   COPE  
15      AND WE WOULD MOVE THAT MAJOR CASE PALM PRINT BE  
16      SUBMITTED OR THAT THE DEFENDANT BE REQUIRED TO SUBMIT  
17      TO TAKING OF MAJOR CASE PALM PRINTS IN THIS MATTER  
18      WE BROUGHT THIS BEFORE THE COURT IN AS TIMELY FASHION  
19      AS WE COULD KNOWING AS SOON AS WE REALIZED IT     I  
20      KNOW WE'RE ON THE EVE OF TRIAL, BUT I SUBMIT THAT THE  
21      TAKING OF THE PALM PRINTS AND THE COMPARISON OF THE  
22      PALM PRINTS OF MR   COPE TO THE SUSPECTED PALM PRINT  
23      WILL NOT TAKE VERY LONG AT ALL, AND I UNDERSTAND THAT  
24      THE DEFENSE HAS RETAINED THE SERVICES OF AN EXPERT  
25      ALREADY IN FINGERPRINTS AND FINGERPRINT

1 IDENTIFICATION, SO THEY SHOULD BE UP TO SPEED AS FAR  
2 AS BEING ABLE TO GET SOMEBODY TO TAKE A LOOK AT THIS  
3 MATTER AS WELL FROM THEIR PROSPECTIVE

4 THE COURT ALL RIGHT

5 MR MORTON YOUR HONOR, YOU KNOW, IF YOU  
6 ORDER IT TO BE DONE, OF COURSE, WE'LL DO IT OUR  
7 PROBLEM IS THAT WE'RE SITTING HERE IN TRIAL AND THEY  
8 HAVE HAD THE ABILITY TO DO THIS NOW FOR QUITE  
9 SOMETIME IT HAMPERS OUR ABILITY TO PRESENT OUR CASE  
10 NOT KNOWING WHAT THE EVIDENCE IS GOING TO BE YOU  
11 KNOW, THAT'S OUR ONLY OBJECTION TO IT

12 THE COURT ANYBODY HAVE A COPY OF  
13 SCHMERBER NEAR BY

14 MR BRACKETT ONE THING I'D LIKE TO POINT  
15 OUT MR THOMPSON JUST APPRISED ME OF, THIS LETTER WAS  
16 IN THE FAMILY COURT THERE WAS A FAMILY COURT MATTER  
17 THAT WAS PENDING IN THIS AND I BELIEVE THIS LETTER  
18 WAS TIED UP IN SOME RESPECTS DOWN IN FAMILY COURT FOR  
19 SOME PERIOD OF TIME

20 THE COURT BUT IN ANY EVENT I UNDERSTAND  
21 THAT YOU WERE ONLY NOTIFIED FRIDAY THAT THE PALM  
22 PRINT EXISTED

23 MR BRACKETT YES, SIR WE MOVED AS  
24 EXPEDITIOUSLY AS POSSIBLE ON THIS MATTER

25 THE COURT WELL, I'M GOING TO ALLOW THE

1 PALM PRINT TO BE TAKEN I FIND IT'S NON-INTRUSIVE TO  
2 THE BODY ACTUALLY AND THAT PROBABLE CAUSE EXISTS FOR  
3 BOTH THE DETERMINATION THAT THE LETTER HAS  
4 INCRIMINATING EVIDENCE ON IT IN THE NATURE OF THE  
5 PALM PRINT, AND ALSO THERE IS PROBABLE CAUSE TO  
6 BELIEVE THAT, AT LEAST AGAIN, THERE IS PROBABLE CAUSE  
7 TO CONNECT THE DEFENDANT MR COPE TO THE OFFENSES FOR  
8 WHICH HE'S ON TRIAL, SO I'M GOING TO REQUIRE GIVING  
9 OF THE PALM PRINT

10 MR MORTON YOUR HONOR, MY ONLY CONCERN  
11 IS, LIKE I SAY, I KNOW THAT THE SOLICITOR'S OFFICE  
12 THEMSELVES ONLY GOT THIS FRIDAY, BUT THEIR KNOWLEDGE  
13 OF THIS AND THEIR ABILITY TO GET THESE RESULTS BACK  
14 IS IMPUTED TO SLED AND NOW WHILE IN TRIAL THEY  
15 POSSIBLY ARE COMING UP WITH MORE EVIDENCE AGAINST MY  
16 CLIENT THAT'S HIGHLY PREJUDICIAL IF IT TURNS OUT TO  
17 BE HIS PALM PRINT, I DON'T KNOW IF IT WILL OR NOT, I  
18 DON'T KNOW HOW TO ADDRESS THAT I MEAN, I KNOW HOW  
19 TO ADDRESS IT, BUT SOMETIMES THAT TAKES TIME FOR  
20 SOMETHING THAT PROBABLY SHOULD HAVE BEEN PROVIDED TO  
21 US A LONG TIME AGO, BUT I'M NOT FAULTING THEM BUT, WE  
22 CAN'T MAKE SLED DO THAT AND SO IF IT TURNS OUT TO  
23 BE HIS PALM PRINT OR THEY SAY, THEIR EXPERT SAYS IT'S  
24 HIS PALM PRINT, THEN WE'RE GOING TO HAVE TO HAVE  
25 SOMEBODY LOOK AT IT AND THAT KIND OF THING IT JUST

1       KIND OF PUTS US IN A BAD POSITION AT THIS LATE DATE  
2       I KNOW IT'S NOT THEIR FAULT

3               THE COURT     WELL, THAT'S ANOTHER ONE OF  
4       THE THINGS THAT ANY COURT HATES TO WRESTLE WITH  
5       SITUATIONS SUCH AS WE HAVE BEEN SPENDING MOST OF OUR  
6       TIME ON TODAY, NOT DRAWING THE JURY, BUT OTHER THAN  
7       THAT     THE RESULTS, HOW LONG, HOW QUICKLY LET ME SAY  
8       THAT, HOW QUICKLY CAN YOU HAVE THE PALM PRINT  
9       ANALIZED IF IT'S PROVIDED TONIGHT?

10              MR BRACKETT   MY UNDERSTANDING IS WE  
11       SHOULD BE ABLE TO GET IT DONE TOMORROW

12              THE COURT     ALL RIGHT

13              MR MORTON     MY QUESTION THEN BECOMES,  
14       WHEN WILL WE BE ABLE TO GET IT LOOKED AT?

15              THE COURT     IF YOU DON'T HAVE IT WITHIN  
16       HALF AN HOUR AFTER THEY HAVE IT, THEN MAKE A MOTION  
17       FOR A MISTRIAL

18              MR MORTON     YES, SIR, BUT MY POINT IS  
19       THEN WE NEED TO HAVE SOMEBODY LOOK AT IT TOO

20              THE COURT     I UNDERSTAND     AND IF  
21       SOMETHING HAPPENS THAT WE HAVE TO, I ALREADY  
22       EXPRESSED MY CONCERN ABOUT HAVING THE JURY WORK  
23       DURING WORKING HOURS, BUT IF IT IS SOMETHING OF THE  
24       MAGNITUDE REQUIRES US TO SKIP A DAY AND LET SOME WORK  
25       BE DONE, WE'LL JUST HAVE TO DO IT     I DON'T WANT TO

1 DO THAT I'M NOT ENCOURAGING THAT EXPERTS, AS WE  
2 ALL KNOW, AND THIS IS NOT ANY KIND OF DIATRIBE ON  
3 EXPERTS, THERE IS A GOOD COTTAGE INDUSTRY OF EXPERTS  
4 OUT THERE, THEY MAKE THEIR MONEY DOING THIS IF YOU  
5 TELL HIM YOU WANT THIS ON WEDNESDAY, I DOUBT VERY  
6 SERIOUSLY THAT HE WILL NOT FIND IT ON WEDNESDAY IF  
7 INDEED BY THURSDAY OR WEDNESDAY NIGHT I THINK THESE  
8 EXPERTS CAN MAKE ACCOMMODATIONS THAT'S ON BOTH  
9 SIDES OF THE COIN I'M NOT JUST FINDING THAT ON ONE  
10 SIDE AS OPPOSED TO THE OTHER, BUT I THINK THE  
11 ANALYSIS, IF THEIR PEOPLE CAN DO IT IN AN HOUR, THEN  
12 I DON'T SEE WHY YOUR EXPERT CAN'T I KNOW YOU GOT TO  
13 GET IT TO HIM, I DON'T KNOW WHERE HE IS OR SHE IS,  
14 BUT I'LL GIVE YOU SOME LEEWAY WITH THAT, BUT I THINK  
15 IT CAN BE DONE

16 MR MORTON WE APPRECIATE IT, JUDGE WE  
17 DON'T HAVE A FINGERPRINT EXPERT BUT WE WILL CERTAINLY  
18 DO EVERYTHING WE CAN TO TRY AND FIND OUT IF WE NEED  
19 TO WITH THAT BEING SAID I KNOW YOU WILL UNDERSTAND  
20 IT'S NOT SOMETHING WE PREPARED FOR

21 THE COURT AT THIS POINT I'M RULING TO  
22 TAKE THE TEST, I'M NOT RULING THE RESULTS OF THE TEST  
23 WOULD BE ADMISSIBLE, THAT MIGHT HAVE TO BE ANOTHER  
24 THING WE HAVE TO WRESTLE WITH AND WHETHER OR NOT THEY  
25 HAD APPROPRIATE TIME TO ANALYZE IT MAY COME INTO PLAY

1       THERE

2                   MR BRACKETT   WE'LL GET IT DONE AS  
3       EXPEDITIOUSLY AS POSSIBLE    I UNDERSTAND WHAT YOUR  
4       CONCERNS AND MINE AND WE WILL LIGHT THE FIRE AND TURN  
5       IT UP AS HIGH WE CAN AND GET IT BACK AS QUICKLY AS  
6       POSSIBLE AND AS SOON AS WE HAVE THE RESULTS IT WILL  
7       BE IMMEDIATELY AVAILABLE TO HIM, NOT IN THE FORM OF A  
8       WRITTEN REPORT BECAUSE, I'LL TELL THEM ORALLY WHAT IT  
9       IS AND IT WILL BE EXAMINED LOCALLY SO THE MATERIALS  
10      WILL BE RIGHT HERE IN YORK COUNTY, THEY WILL BE MADE  
11      AVAILABLE AS SOON AS THEIR EXPERT CAN ARRIVE TO LOOK  
12      AT THEM OR MAKE ARRANGEMENTS TO GET IT TO HIM IF NEED  
13      BE   WE WILL DO EVERYTHING WE CAN TO MAKE SURE THEY  
14      GET THIS IN A TIMELY FASHION

15                   THE COURT    WHAT ELSE?

16                   MR BRACKETT   AS FAR AS RECIPROCAL  
17      DISCOVERY, YOUR HONOR, I DON'T BELIEVE THE STATE HAS  
18      RECEIVED ANYTHING FROM EITHER DEFENDANT    I DON'T  
19      KNOW WHETHER OR NOT WE, TYPICALLY HAVE THE MOTION  
20      WHERE THE STATE IS ASKED IF WE PROVIDED EVERYTHING  
21      AND I BELIEVE WE HAVE GIVEN THEM EVERYTHING WE COULD  
22      THINK OF WHETHER THEY ARE ENTITLED TO IT UNDER THE  
23      RULES OR NOT JUST OUT OF AN ABUNDANCE OF CAUTION, BUT  
24      WE RECEIVED NOTHING FROM MR COPE OR MR SANDERS AND  
25      WE RECEIVED NO EXPERT REPORTS FROM ANY EXPERT

1 WITNESSES THAT THEY MAY HAVE RETAINED WE PROVIDED  
2 THEM OURS AS QUICKLY AS WE COULD, BUT AGAIN THAT  
3 SAVES TIME DOWN THE ROAD IF WE'RE NOT HAVING TO SIT  
4 BACK AND DECIPHER THESE THINGS AFTER THE FELLOW  
5 TESTIFIES

6 THE COURT YOU JUST HATE TO STUCK WITH  
7 THE LAST MINUTE

8 MR BRACKETT YES, SIR, IT'S A PROBLEM

9 MR POPE LIKE TO HAVE ANYTHING

10 MR BRACKETT ANYTHING BUT THAT'S ONE  
11 ISSUE AND RELATED TO THAT, WELL, WE'LL DEAL WITH THAT  
12 FIRST BUT

13 THE COURT ANY DISCOVERY, MR MORTON

14 MR MORTON NOT ANY REPORTS THAT WE PLAN  
15 ON INTRODUCING IN OUR CASE IN CHIEF RIGHT NOW IF WE  
16 CHANGE OUR MIND WE'LL THINK ABOUT IT OVERNIGHT AND

17 MR BRACKETT REPORTS OR EVIDENCE, IF  
18 THEY INTEND TO HAVE, IF THEY HAVE ANY EVIDENCE THAT  
19 THEY INTEND TO, THAT'S

20 MR MORTON YOU TALKING ABOUT  
21 EXPERT-WISE?

22 THE COURT ANY EXPERT

23 MR MORTON I UNDERSTAND

24 MR BRACKETT ANY EVIDENCE

25 THE COURT ANY EVIDENCE



1                   MR BRACKETT    THAT WE INTEND TO  
2    INTRODUCE

3                   --       --   THE COURT    I THINK THAT IS WHAT HE'S  
4    ASKING

5                   MR MORTON    WELL, I DON'T KNOW THAT WE  
6    HAVE TO DISCLOSE THAT

7                   THE COURT    WELL, I DON'T THINK YOU DO  
8    EITHER UNDER RULE ---

9                   MR MORTON    I'M NOT SURE WHAT HE IS  
10   TALKING ABOUT

11                   MR BRACKETT   RULES OF DISCOVERY

12                   MR MORTON    ARE YOU TALKING ABOUT EXPERTS  
13   OR ARE YOU TALKING ABOUT EVIDENCE?

14                   MR BRACKETT   IF THE DEFENDANT REQUESTS  
15   DISCLOSURE UNDER SUBDIVISION A ONE C OR D WHICH IS  
16   DISCOVERY, GENERAL DISCOVERY OBLIGATION UNDER RULE  
17   FIVE, UPON COMPLIANCE WITH SUCH REQUEST BY THE  
18   PROSECUTION THE DEFENDANT ON THE REQUEST OF THE  
19   PROSECUTION SHALL PERMIT THE PROSECUTION TO INSPECT  
20   AND COPY BOOKS, PAPERS, DOCUMENTS, PHOTOGRAPHS,  
21   TANGIBLE OBJECTS, OR COPIES OR PORTIONS THEREOF WHICH  
22   ARE WITHIN THE POSSESSION, CUSTODY, OR CONTROL OF THE  
23   DEFENDANT AND WHICH THE DEFENDANT INTENDS TO  
24   INTRODUCE IN EVIDENCE IN CHIEF AT THE TRIAL

25                   MR MORTON    I DON'T THINK WE HAVE

1 ANYTHING, YOUR HONOR, BUT WE'LL TRY TO MAKE SURE

2 THE COURT ALL RIGHT, MR GREELEY

3 MR GREELEY THEY HAVE RECEIVED NOTHING  
4 FROM ME TO DATE AND I DON'T ANTICIPATE ANYTHING AT  
5 THIS POINT

6 THE COURT ALL RIGHT

7 MR BRACKETT AND LIKEWISE THERE HAS BEEN  
8 NO NOTICE OF ANY ALIBI OR MENTAL, WE MADE THE  
9 APPROPRIATE MOTIONS UNDER RULE FIVE AND THERE'S BEEN  
10 NO NOTICE OF ALIBI FROM EITHER PARTY OR GUILTY BUT  
11 MENTALLY ILL OR INSANITY THE OTHER ISSUE WE  
12 PROBABLY NEED TO TAKE UP IS THE BLAIR HEARING AT  
13 SOME POINT WE PROBABLY NEED TO HAVE THAT ISSUE  
14 RESOLVED I DON'T BELIEVE THAT THERE IS ANY, THAT  
15 ANYBODY IS CONTESTING IT IN STATE VERSUS FRANKLIN  
16 WE WOULD SUBMIT THE REPORT WHICH I BELIEVE WE TURNED  
17 IT IN

18 MR GREELEY PRETRIAL

19 MR BRACKETT SO THAT'S BEEN TAKEN CARE  
20 OF RELATED TO THE MENTAL ISSUES THOUGH, YOUR HONOR,  
21 MR COPE'S ATTORNEYS AND THE STATE MET WITH JUDGE  
22 ALFORD SOME MONTHS AGO ON THE ISSUE OF AN EXPERT THAT  
23 THEY INTENDED TO RETAIN ON FALSE CONFESSIONS WHO IS A  
24 PSYCHOLOGIST WE NOW KNOW THE NAME OF THE INDIVIDUAL  
25 AND THERE WERE DISCUSSIONS HAD IN JUDGE ALFORD'S

1 CHAMBERS REGARDING THE STATE'S RIGHT TO ACCESS THE  
2 DEFENDANT FOR OUR OWN EXAMINATION OF THE DEFENDANT  
3 SHOULD THEIR EXPERT RELY ON INTERVIEWS, DIRECT  
4 INTERVIEWS WITH MR COPE OR SECONDARY INFORMATION, IN  
5 OTHER WORDS, YOU CAN'T TURN AROUND AND GET THE  
6 INFORMATION FROM MR MORTON AND MR BAITY AND THEN  
7 RENDER HIS OPINION ON IT BASED ON THAT INFORMATION  
8 IF THEY INTENDED TO DO THAT WE TOLD JUDGE ALFORD WE  
9 INTEND TO MAKE A MOTION FOR AN INDEPENDENT  
10 EVALUATION I THINK THE CASE LAW IS FIRING UP ON  
11 THAT THAT YOU CAN'T PUT A PSYCHOLOGIST UP TO  
12 BASICALLY TESTIFY FOR THE DEFENDANT AND GET IN  
13 EVERYTHING HE WOULD SAY THROUGH AN EXPERT WITNESS  
14 WITHOUT GIVING THE STATE ACCESS TO THE SAME  
15 INDIVIDUAL JUDGE ALFORD BASICALLY INDICATED TO HIM  
16 THAT THAT WAS WHAT HE WOULD REQUIRE THEM TO DO IF  
17 THEY INTENDED TO FOLLOW THAT TRACK THERE WAS SOME  
18 DISCUSSIONS FOR ABOUT A MONTH OR TWO WAS GIVEN, THEY  
19 WERE ABLE TO CONFER WITH THEIR EXPERT, AND IT WAS OUR  
20 UNDERSTANDING AT THAT TIME THAT THEIR EXPERT WOULD  
21 NOT RELY ON DIRECTLY OR INDIRECTLY ON ANYTHING THE  
22 DEFENDANT SAID HE WOULD NOT INTERVIEW HIM  
23 PERSONALLY OR RELY ON SECONDARY INFORMATION OTHER  
24 THAN THOSE ITEMS WHICH ARE IN THE POLICE FILE THAT  
25 WERE TURNED OVER IN DISCOVERY I JUST WANT TO

1 CONFIRM BECAUSE YOU WERE NOT PARTY TO THAT, BUT I  
2 WANT TO CONFIRM THAT THAT WAS THE POSITION WE WERE IN  
3 AS FAR AS THE EXPERT AND NOTHING HAS CHANGED IN THAT

4 MR BAITY NOTHING HAS CHANGED JUDGE  
5 ALFORD WANTED TO KNOW IF WE WERE GOING TO PRESENT A  
6 MENTAL STATUS DEFENSE AND WE SAID ABSOLUTELY NOT, NOT  
7 GOING TO BE PLED GUILTY OF REASON OF INSANITY OR NOT  
8 GUILTY BY REASON OF INSANITY, AND OUR PSYCHOLOGIST IS  
9 NOT GOING TO SIT ON THE STAND AND TESTIFY WHAT  
10 MR COPE WAS THINKING AND THAT SORT OF THING  
11 NOTHING HAS CHANGED ABOUT THAT WHATSOEVER

12 MR BRACKETT I JUST WANTED TO, LIKE I  
13 SAID, THE COURT WAS NOT A PARTY TO THAT AND I JUST  
14 WANTED TO BRING THAT TO THE COURT'S ATTENTION

15 MR BAITY CERTAINLY OUR EXPERT WOULD BE  
16 CAPABLE OF TAKING THE EVIDENCE FROM THE POLICE FILE  
17 AND COMMENTING ON THAT, PROCEDURES AND TECHNIQUE AND  
18 THAT SORT OF THING, BUT NOT TESTIFY INSTEAD OF MR  
19 COPE ESSENTIALLY AND NOTHING HAS CHANGED ABOUT THAT

20 MR BRACKETT BASICALLY NO PART OF HIS  
21 OPINION IS GOING TO BE, IS GOING TO REST UPON EITHER  
22 DIRECT CONVERSATIONS WITH MR COPE OR INFORMATION  
23 FROM MR COPE THAT HE'S PROVIDED TO HIS COUNSEL THAT  
24 THE STATE IS NOT PRIVY TO

25 MR BAITY WE'RE GETTING A LITTLE FAR A

1 FIELD HERE, AND I THINK THAT THE APPROPRIATE  
2 OBJECTION NEEDS TO BE MADE WHEN WE ARE PROFFERING  
3 ANYTHING THAT IS OUTSIDE THE RULES, BUT I MEAN IN  
4 TERMS OF OUR MEETING WITH JUDGE ALFORD IT'S PRIMARILY  
5 ARE WE GOING TO PRESENT A MENTAL STATUS DEFENSE AND  
6 WE ARE CERTAINLY ARE NOT, ARE NOT GOING TO DO THAT  
7 AND WE'RE NOT GOING TO PUT SOME TYPE OF A  
8 PSYCHOLOGIST UP THERE TO TESTIFY IN HIS STEAD AND TRY  
9 TO TELL THE LADIES AND GENTLEMEN OF THE JURY WHAT  
10 THIS MAN, YOU KNOW, WOULD SAY, YOU KNOW, IF HE WAS ON  
11 THE STAND THAT'S NOT WHAT'S GOING TO HAPPEN AT ALL  
12 BUT I DON'T WANT TO, I DON'T THINK WE AGREED TO  
13 ANYTHING, YOU KNOW, ANY FURTHER THAN THAT

14 THE COURT THIS IS ONE OF THOSE ISSUES I  
15 MIGHT HAVE TO TAKE UP WHEN IT ARISES IF I  
16 UNDERSTAND WHAT MR BRACKETT IS SAYING IS THAT YOUR  
17 EXPERT CAN RELY ON THE RECORD AND I PRESUME THAT  
18 WOULD EVEN INCLUDE IF HE'S HEARD TESTIMONY, IF THEY  
19 TESTIMONY TRANSCRIBED, I DON'T KNOW IF HE HAD GOTTEN  
20 ANY OF THAT, BUT CANNOT, TO THE EXTENT THAT HE IS  
21 GOING TO RELY ON OTHER INFORMATION, THAT IS, IF, JUST  
22 AS AN EXAMPLE WE SEE IN DEATH PENALTY CASES IN THE  
23 PENALTY PHASE, IF YOU HAVE SOME SORT OF, IF YOU'VE  
24 GIVEN MR COPE'S SCHOOL RECORDS, IF YOU'VE GIVEN THEM  
25 HIS MILITARY RECORDS, IF YOU HAVE GIVEN THEM ALL OF

1       THESE SORT OF THINGS, AND HE'S TAKING THAT INTO  
2       CONSIDERATION, THEY WANT TO KNOW IT

3               MR - BAITY     YES, SIR, AND THEY ARE  
4       CERTAINLY ENTITLED TO KNOW AND I BELIEVE YOU SAID  
5       THAT THE LAST TIME WE TALKED ABOUT IT     THEY ARE  
6       ENTITLED TO KNOW WHAT HE RELIED ON AND CERTAINLY  
7       REQUIRE HIM TO DIVULGE THAT AND AT THE APPROPRIATE  
8       TIME WE CERTAINLY WILL AND NOTHING THAT HE SAID TODAY  
9       FALLS OUTSIDE OF THAT WE'VE ALREADY TOLD HIM

10              MR BRACKETT    AND THIS IS MORE OF NUANCE  
11       BUT SUPPOSED THEY HIRED A SOCIAL WORKER WHO DID 25  
12       HOURS OF INTERVIEWS WITH MR COPE AND THEN WROTE UP A  
13       REPORT AND DETAILED CONVERSATIONS AND THEN PROVIDED  
14       THAT TO THE PSYCHOLOGIST, WE COULDN'T, HOW DO WE OR  
15       DIDN'T WRITE ANYTHING UP BUT TALKED TO THE  
16       PSYCHOLOGIST AND SAID HERE IS WHAT HE SAID, AND THE  
17       PSYCHOLOGIST BECAUSE AN EXPERT CAN RELY ON HEARSAY

18              THE COURT     I CAN'T ANTICIPATE EVERYTHING

19              MR BRACKETT    I UNDERSTAND

20              THE COURT     AND IF THAT HAPPENS WE'LL JUST  
21       HAVE TO DEAL WITH IT WHEN IT HAPPENS

22              MR BRACKETT    WELL, THE ISSUE IS IS THAT  
23       WE REACHED AN UNDERSTANDING ON THIS POINT BEFORE WHEN  
24       THE ISSUE WAS IN JUDGE ALFORD'S COURT AND I  
25       UNDERSTAND WHAT THEY ARE SAYING BUT, WE HAD AN

1 UNDERSTANDING ON THIS AND WE DID NOT SEEK AND WE DID  
2 OBTAIN AN INDEPENDENT EVALUATION BECAUSE,  
3 -SPECIFICALLY WE WERE TOLD THAT WOULD NOT HAPPEN, SO I  
4 DON'T WANT IT TO HAPPEN ALL OF A SUDDEN MID-TRIAL AND  
5 THEN I'M TRYING TO EXPLAIN TO YOU WHAT JUDGE ALFORD,  
6 KIND OF THE AGREEMENT THAT HE BROKERED, AND YOU KNOW,  
7 I MEAN, IF THERE IS A QUESTION ABOUT IT, JUDGE ALFORD  
8 CERTAINLY IS IN THE BUILDING, THERE IS NO, THERE WAS  
9 NO MYSTERY ABOUT IT THEY CAN RELY ON ANYTHING THAT  
10 WE CURRENTLY HAVE BUT IF THEY ARE GENERATING SOME  
11 INFORMATION TO FEED TO THE PSYCHOLOGIST AND HE SAYS  
12 WELL BASED ON THE TYPE OF PERSON BILLY IS, HE'S THE  
13 KIND OF GUY WHO GIVES FALSE CONFESSIONS BECAUSE THIS  
14 IS THE INFORMATION THAT I HAVE FROM THE SOCIAL WORKER  
15 OR ANOTHER PSYCHOLOGIST WHO TALKED TO HIM THEN WE  
16 WANTED AN INDEPENDENT EVALUATION THEY SAID THAT  
17 WOULDN'T HAPPEN AND I DON'T WANT IT TO HAPPEN  
18 MID-TRIAL WHEN WE GOT THIS HUGE ISSUE ON OUR HANDS  
19 AND IT'S TOO LATE FOR US TO GET THE INDEPENDENT  
20 EVALUATION REALLY I WAS CALLING THIS TO THE COURT'S  
21 ATTENTION, KNOW I AM A LITTLE CONCERNED BECAUSE IT  
22 SOUNDS LIKE MAYBE THEY ARE HEDGING ON THIS ISSUE AND  
23 THEY DO INTEND TO TRY TO DO SOMETHING LIKE THAT AND  
24 WE SPECIFICALLY AGREED THAT THAT WOULDN'T HAPPEN  
25 THE COURT WELL, I WOULD JUST HAVE TO SEE

1 IF THAT HAPPENS AND WE'LL DEAL WITH IT

2 MR BRACKETT THEN THE ONLY OTHER ISSUE  
3 AS FAR AS OPENING STATEMENTS CONCERNED IS THE ISSUE  
4 REGARDING POLYGRAPH WHICH IS LINGERING OUT THERE AND  
5 WHETHER OR NOT WE MENTION THAT IN THE RECITATION OF  
6 OUR CASE OR THEY MENTION IT AND OBVIOUSLY WE'RE IN  
7 THIS SPOT WHERE WE NEED TO BE ABLE TO FIGURE OUT  
8 EXACTLY WHAT SORT OF DIRECT EXAMINATION I'M GOING TO  
9 PREPARE FOR MR MIKE BAKER WHO IS THE POLYGRAPH  
10 EXAMINER

11 THE COURT I THINK YOU CAN BE CLEAR ON  
12 DIRECT EXAMINATION YOU STARTED OFF TALKING ABOUT  
13 OPENING STATEMENTS I DON'T KNOW WHY YOU WANT TO GO  
14 INTO THAT AND I'M NOT TRYING TO TELL YOU YOUR CASE  
15 I CERTAINLY HADN'T RULED BECAUSE THERE HADN'T BEEN  
16 ANYTHING ON RECORD BUT DISCUSSIONS HAVE INDICATED  
17 THAT I THINK THAT SINCE IT'S AN INTEGRAL PART OF THE  
18 STATEMENTS OR A STATEMENT ANYWAY, THAT MR COPE  
19 HIMSELF REFERRED TO IT NUMEROUS TIMES ON THAT THREE  
20 HOUR, FOUR HOUR INTERVIEW THAT NIGHT, THAT I'M GOING  
21 TO ALLOW TO THE EXTENT IT WAS PART OF THAT SET OF  
22 EVENTS, ALLOW IT TO BE ALLUDED TO BUT I AM GOING TO  
23 TELL THE JURY THAT THEY CANNOT CONSIDER THE RESULTS  
24 IN DETERMINING THE ISSUE OF GUILT CONCERNING  
25 MR COPE THAT IS, THAT THEY CANNOT RELY ON THE



1 POLYGRAPH TO MAKE A DETERMINATION AS TO HIS GUILT  
2 BUT THAT'S AN EVIDENTIARY MATTER THAT I DON'T KNOW  
3 WHY I HAVE TO MAKE AT THIS POINT I BASICALLY MADE  
4 IT BUT WHY IT HAS TO BE BROUGHT UP IN OPENING  
5 STATEMENTS

6 MR BRACKETT IT DOESN'T NECESSARILY  
7 I'M JUST TRYING TO RESOLVE IT BECAUSE WE'RE GOING TO  
8 NEED A RESOLUTION AND CLARITY AT SOME POINT IN TIME  
9 THE COURT I THINK I HAVE BEEN ABOUT AS  
10 CLEAR AS I CAN THAT I'M GOING TO LET IT IN I HADN'T  
11 REALLY HEARD AN OBJECTION, I KNOW THERE IS AN  
12 OBJECTION, WE DISCUSSED IT BASED ON THE GENERAL  
13 PRINCIPLES PERTAINING THERETO REGARDING POLYGRAPH USE  
14 AND IT'S LACK OF ACCEPTABILITY BY THE COURTS, BUT I'M  
15 NOT LETTING IT IN FOR, AS AN ANALOGY AS TO HEARSAY,  
16 THE TRUTH OF THE MATTER, BUT I'M LETTING IT IN AS  
17 PART OF THE EVENTS THAT OCCURRED I DON'T SEE HOW WE  
18 CAN GO THROUGH MR COPE'S STATEMENT WITHOUT IT, WE  
19 CAN'T GO THROUGH IT, WHAT'S THE WORD I WANT, CAN'T GO  
20 THROUGH IT SMOOTHLY, THAT'S STILL NOT THE WORD I WANT  
21 BUT THAT'S AS CLOSE AS I CAN COME, WITHOUT  
22 REFERENCING IT SO I DON'T KNOW THAT I AM ANSWERING  
23 YOUR QUESTION OR NOT I FEEL LIKE I AM TALKING IN A  
24 CIRCLE BUT I'VE BEEN TALKING ABOUT IT FOR A COUPLE  
25 WEEKS NOW I'M NOT GOING TO EXCLUDE REFERENCE TO THE

1 POLYGRAPH REGARDING THE STATEMENTS I AM GOING TO  
2 TELL THE JURY THAT THEY CANNOT CONSIDER IT AS  
3 SUBSTANTIVE EVIDENCE I DON'T KNOW WHAT ELSE I CAN  
4 SAY ABOUT IT

5 MR BRACKETT THE RESULTS CAN COME IN OF  
6 THE POLYGRAPH

7 THE COURT I DON'T KNOW THAT YOU HAVE --  
8 I'M NOT SURE THAT I---AS I UNDERSTAND IT THE MAN THAT  
9 GAVE THE POLYGRAPH TOLD MR COPE THAT HE HAD NOT  
10 PASSED

11 MR BRACKETT THAT'S CORRECT

12 THE COURT AND THEREAFTER MR COPE MADE A  
13 DIFFERENT STATEMENT

14 MR BRACKETT YES, SIR

15 THE COURT I DON'T KNOW IF THAT'S REALLY  
16 LETTING THE RESULTS IN OR NOT THAT'S LETTING MR  
17 BAKER'S STATEMENT IN THAT HE FAILED

18 MR BRACKETT MY PROBLEM, YOUR HONOR -- I  
19 UNDERSTAND WHAT YOU ARE SAYING I DO MY, THE THING  
20 I'M WRESTLING WITH IS I UNDERSTAND WHAT THEIR EXPERT  
21 IS GOING TO SAY AND THAT'S PERHAPS THAT IS THE  
22 MYSTERY THAT YOU DON'T

23 THE COURT I DON'T

24 MR BRACKETT AND I APPRECIATE THAT

25 THE COURT I FISHED FOR IT SEVERAL TIMES

1       AND NOBODY HAS TAKEN MY BAIT

2                   MR BRACKETT   YES, SIR   I, JUST  
3       ANALYZING IT FROM AN APPALLATE AND LEGALLY, I DON'T  
4       THINK IT WOULD COME IN IF THEY WEREN'T GOING TO  
5       CHALLENGE THE VOLUNTARINESS OF THE STATEMENT   IF  
6       THEY WEREN'T GOING TO PRESENT THE DEFENSE THAT I  
7       ANTICIPATE THEN I WOULD NOT PUT IT IN BECAUSE I DON'T  
8       THINK IT WOULD BE APPROPRIATE   SO TO THE EXTENT THAT  
9       THEY ARE GOING TO PRESENT THAT DEFENSE, IT IS  
10      APPROPRIATE AND IT DOESN'T NEED TO BE, I DON'T THINK  
11      IT NEEDS TO BE PUT IN IN RELY   I THINK IT NEEDS TO  
12      BE PUT IN IN THE CASE AND CHIEF AND I UNDERSTAND WHAT  
13      YOU ARE SAYING THAT WE CAN REFERENCE IT, BUT I THINK  
14      FROM AN APPELLATE PROSPECTIVE AND FROM KEEPING THE  
15      RECORD CLEAN PROSPECTIVE, I THINK IF THEY WILL  
16      ACKNOWLEDGE THAT THEY INTEND TO CHALLENGE THE  
17      VOLUNTARINESS OF IT, THEN, OF ALL OF HIS STATEMENTS,  
18      AND THAT'S THE DEFENSE THEY INTEND TO USE AND THEY DO  
19      INTEND TO CALL SAUL KASSIN THEN IT WOULD BE ENTIRELY  
20      APPROPRIATE FOR IT TO COME IN IN THE CASE IN CHIEF  
21      I JUST DON'T WANT TO HAVE IT COME IN AND THEN GIVE  
22      THEM --

23                   THE COURT   WELL, THEN DON'T BRING IT UP

24                   MR BRACKETT   WELL, I HAVE TO

25                   THE COURT   YOU GOT THE KEYS TO THAT,

1 KEVIN

2 MR BRACKETT I UNDERSTAND

3 THE COURT IF YOU WANT TO OPEN THE DOOR,  
4 BUT IF YOU THINK THERE IS SOME, YOU KNOW, APPELLATE  
5 ISSUE AND I THINK I'M GOING TO GET REVERSED, I  
6 CERTAINLY DON'T WANT YOU TO BRING IT UP IF YOU THINK  
7 I'LL GET REVERSED BUT WHY ARE YOU ASKING ME WHAT  
8 YOU OUGHT TO DO I CAN'T TELL YOU

9 MR BRACKETT NO, SIR, I'M NOT ASKING  
10 YOU

11 THE COURT IF YOU THINK, IF YOU WANT TO  
12 BRING IT UP, WE'LL TAKE A BREAK -- IF YOU ARE  
13 CONCERNED ABOUT IT, BEFORE YOU BRING IT UP, LET ME  
14 KNOW AND WE'LL TAKE A BREAK AND WE'LL ARGUE IT AT  
15 THAT TIME

16 MR BRACKETT FAIR ENOUGH

17 THE COURT WHAT'S NEXT ON THE LAUNDRY  
18 LIST?

19 MR BRACKETT THAT'S THE END OF MY  
20 LAUNDRY LIST, JUDGE

21 THE COURT LAUNDRY LIST, MR MORTON

22 MR BAITY WE GOT ONE MORE, YOUR HONOR

23 THE COURT MR BAITY

24 MR BAITY YOUR HONOR, A FEW WEEKS AGO  
25 YOU GRANTED THE MOTION TO SEVER THE CRIMINAL SEXUAL

1 CONDUCT AGAINST THE TWO SURVIVING SISTERS AND THERE  
2 IS SOME REFERENCE IN ONE OF MR COPE'S STATEMENTS IN  
3 WHICH HE CONFESSES TO THOSE, SO WE WOULD MOVE TO  
4 REDACT THOSE FROM THE CONFESSION

5 MR BRACKETT CERTAINLY, THAT WOULD  
6 COMPORT WITH YOUR RULING

7 THE COURT ALL RIGHT MR GREELEY

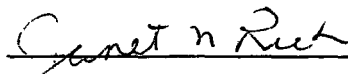
8 MR GREELEY I BELIEVE THAT DOES COMPORT  
9 WITH YOUR RULING AND I HAVE NO LAUNDRY LIST

10 THE COURT OKAY WELL, WE'LL START BACK  
11 AT 8 IN MORNING I KNOW THAT'S A SHORT NIGHT THAT  
12 YOU HAVE ALL RIGHT SEE YOU AT 8 IN THE MORNING

13 (COURT'S IN RECESS AT 5 41)  
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2  
3 I, JANET RICH, OFFICIAL COURT REPORTER FOR THE  
4 SIXTEENTH CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO  
5 HEREBY CERTIFY THAT THE FORGOING IS A TRUE, ACCURATE,  
6 AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE  
7 PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL  
8 OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE  
9 CIRCUIT COURT FOR YORK COUNTY, SOUTH CAROLINA, ON THE  
10 9TH DAY OF SEPTEMBER 2004

11 I DO FURTHER CERTIFY THAT I AM NEITHER KIN,  
12 COUNSEL, NOR INTEREST TO ANY PARTY HERETO

13  
14  
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25  


JANET M RICH

1 IN THE CIRCUIT COURT OF YORK COUNTY, SOUTH CAROLINA

2 STATE OF SOUTH CAROLINA

3 VERSUS

4 BILLY WAYNE COPE &  
5 JAMES EDWARD SANDERS

6 INDICTMENT NUMBERS

2003-GS-46-1843-1844

2004-GS-46-2614-2618

2004-GS-46-196-199

8 HEARD AT THE MOSS JUSTICE CENTER,  
9 1675 YORK HIGHWAY, YORK, SOUTH CAROLINA, ON  
10 WEDNESDAY, SEPTEMBER 8, 2004, BEFORE THE  
HONORABLE JOHN C HAYES, III AND A JURY

APPEARANCES

11 TOMMY POPE  
12 KEVIN BRACKETT  
13 WILLY THOMPSON  
14 16TH CIRCUIT SOLICITOR'S OFFICE  
1675 YORK HIGHWAY  
YORK, SC 29745  
REPRESENTING THE STATE

15 JAMES MORTON  
16 DAVID WOOD  
17 MICHAEL SMITH  
18 MORTON & GETTYS  
1051 OAKLAND AVENUE  
ROCK HILL, SC 29732

19 A PHILIP BAITY  
20 POST OFFICE BOX 275  
FORT MILL, SC 29715  
REPRESENTING BILLY WAYNE COPE

21 LELAND GREELEY  
22 128 E MAIN STREET SUITE 102  
ROCK HILL, SC 29732  
REPRESENTING JAMES EDWARD SANDERS

23 REPORTED BY JANET M RICH  
24 CIRCUIT COURT REPORTER  
1992 DOWNEY STREET  
25 ROCK HILL, SC 29732

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000728

1 (COURT RESUMES AT 8 15 )

2 THE COURT THE STATE READY

3 MR BRACKETT YES, SIR

4 THE COURT IS THE DEFENSE READY?

5 MR GREELEY MR SANDERS IS

6 MR MORTON YES, SIR

7 THE COURT ALL RIGHT GOOD MORNING,

8 EVERYONE FIRST SOME SORT OF HOUSEKEEPING MATTERS

9 I DON'T KNOW THAT I EVER AFFIRMATIVELY DENIED THE  
10 DEFENSE, MR COPE'S DEFENSE MOTION FOR A CHANGE OF  
11 VENUE, BUT HAVING EMPANELLED A JURY, IT HADN'T BEEN  
12 SWORN YET, BUT I DENY THAT MOTION, PERHAPS ON SEVERAL  
13 GROUNDS, BUT OF COURSE, INITIALLY I FIND WHILE THERE  
14 WAS AN ABUNDANCE OF PRE-TRIAL PUBLICITY, AND WHILE I  
15 BELIEVE THERE WAS SOME 60 PEOPLE OUT OF 85 INDICATED  
16 THEY HAD HEARD OR READ SOMETHING ABOUT THE CASE, WE  
17 WERE ABLE TO GET A PANEL CONSISTING OF AROUND 55 TO  
18 58, I CAN'T REMEMBER THE EXACT NUMBER WHO DID  
19 INDICATE THEY COULD BE FAIR AND IMPARTIAL, SO I DO  
20 NOT FIND THAT THE PRE-TRIAL PUBLICITY WAS SUCH THAT  
21 IT WOULD TAINT THE JURY PANEL VENIRE ALSO, I  
22 HAVEN'T SEEN ANY CASES ON THIS, BUT BECAUSE OF THE  
23 DEVELOPMENT OF THE LAW ON JURORS UNDER THE BATSON  
24 THEORY INDIVIDUALS HAVE A RIGHT TO SERVE AS A JUROR  
25 UNLESS FOR SOME REASON THEY CAN'T SERVE AS A JUROR OR

1       PREEMPTORY STRIKES, THAT IS, I THINK THE COURTS ARE  
2       LOOKING MORE AT JURY PARTICIPATION FROM THE JURY  
3       STANDPOINT AND I THINK THE COURTS ALSO HAVE TO NOW  
4       LOOK AS TO WHETHER OR NOT ON A MOTION SUCH AS THIS,  
5       AND AGAIN I DON'T HAVE A CASE ON THIS, THIS IS SORT  
6       OF ANTICIPATORY, WHICH NONE OF US SHOULD DO, THAT A  
7       THEORY VERY WELL COULD DEVELOP THAT THIS PANEL OF  
8       YORK COUNTY JURORS ABSENT SOME OVERRIDING REASON  
9       OTHERWISE HAS AN ABSOLUTE RIGHT TO JUDGE WHAT HAPPENS  
10      TO THEIR CITIZENS, IN THIS CASE THAT WOULD BE WHAT  
11      HAPPENED TO AMANDA COPE, SO INITIALLY I FIND JUST ON  
12      THE OLD STANDARD THAT THE PRE-TRIAL PUBLICITY WAS NOT  
13      SUCH THAT WE COULD NOT, THAT THE JURY PANEL WAS NOT  
14      TAINTED BY PRE-TRIAL PUBLICITY TO THE EXTENT THAT WE  
15      COULD NOT GET A FAIR AND IMPARTIAL JURY AND THAT WE  
16      HAVE EMPANELLED A JURY WHICH HAS INDICATED TO ME THAT  
17      THEY COULD BE FAIR AND IMPARTIAL AND DISASSOCIATE  
18      ANYTHING THEY HEARD ABOUT THE CASE AND BE FAIR AND  
19      IMPARTIAL     SO I WANT TO MAKE SURE I HAD THAT ON THE  
20      RECORD

21                   I BELIEVE I ARTICULATED MY RULING ON  
22      PALM PRINT SCHMERBER MOTION, BUT JUST TO MAKE SURE I  
23      DID FIND PROBABLE CAUSE TO BELIEVE THAT MR COPE  
24      COMMITTED THE OFFENSE FOR WHICH HE'S ON TRIAL FOR  
25      IN THAT REGARD, I HEARD THE CONFESSIONS, I'VE HEARD

1 AN AWFUL LOT, BUT THERE IS NO QUESTION IN MY MIND  
2 THAT THERE IS PROBABLE CAUSE TO BELIEVE AND OF COURSE  
3 I'M NOT MAKING A FINDING OF GUILT, OBVIOUSLY WE ALL  
4 KNOW THAT, BUT FOR THE SCHMERBER PURPOSES THAT THERE  
5 IS PROBABLE CAUSE TO BELIEVE HE'S COMMITTED THE CRIME  
6 BASED ON THE PRESENTATION OF THE STATE INVOLVING THE  
7 LETTER, THE DNA ON THE SEALING OF THE ENVELOPE, AND  
8 THE OTHER EVIDENCE THAT WAS PRESENTED INVOLVING THE  
9 CONNECTION OF THE PARTICULAR LETTER AND ANY MATERIAL  
10 THEREON TO MR COPE, I FIND THAT THERE IS CLEAR  
11 INDICATION THAT RELEVANT MATERIAL EVIDENCE WILL BE  
12 FOUND AND WHEN I SAY RELEVANT MATERIAL EVIDENCE I  
13 CAN'T SAY WITHOUT A SHADOW OF A DOUBT OR EVEN WITH  
14 PROBABILITY THAT IT COULD BE MR COPE'S PALM PRINT,  
15 BUT IF IT ISN'T, IT'S STILL RELEVANT MATERIAL  
16 EVIDENCE, SO I FIND THAT IT'S CLEAR INDICATION THAT  
17 RELEVANT MATERIAL EVIDENCE WILL BE FOUND AND AS I  
18 STATED YESTERDAY, THE METHOD USED TO SECURE THIS IS  
19 SAFE AND RELIABLE THAT IS, IT'S NOT INTRUSIVE AND  
20 FINGERPRINTS AND PALM PRINTS ARE PRETTY INNOCUOUS  
21 THINGS TO GIVE I KNOW THAT SOUNDS A LITTLE CAVALIER  
22 BUT FOR THE PERSON GIVING IT WHEN IT MIGHT  
23 INCRIMINATE THEM FOR AN OFFENSE BUT IT'S CERTAINLY  
24 NOT A BENIGN OPERATION OR ENDEAVOR, BUT I FIND THAT  
25 IN THE SCHEME OF THINGS THAT EVEN LESS INTRUSIVE

1 OBVIOUSLY THAN TAKING BLOOD, SO I FIND UNDER  
2 SCHMERBER THAT THE TAKING OF THE PALM PRINT WAS  
3 APPROPRIATE

4 FINALLY, MR MORTON, I SAY IT  
5 PARTICULARLY TO YOU, BUT TO EVERYONE, I HOPE I DIDN'T  
6 APPEAR TO GET SHORT LATE IN THE AFTERNOON YESTERDAY,  
7 IF I DID, I APOLOGIZE, BUT WE WERE ALL TIRED AND WE  
8 HAD A LOT GOING ON I AM CERTAINLY NOT GOING TO  
9 RESTRICT YOU ON THE PRESENTATION OF EVIDENCE I WANT  
10 THIS CASE TO BE FULLY VENTED AND I DO WANT TO UTILIZE  
11 THE JURY WHEN WE HAVE THEM AND THAT MEANS WE MIGHT  
12 HAVE TO WORK SOME ODD HOURS, BUT PARTICULARLY WHEN  
13 I'M TOLD A CASE WILL TAKE THE LENGTH IT WILL TAKE,  
14 I'M INTERESTED IN JURORS, ACCOMMODATING JURORS, BUT  
15 I'M MORE INTERESTED IN SEEING THAT JUSTICE IS DONE  
16 AND EACH AND EVERY ISSUE IS BY EACH AND EVERY PARTY  
17 FULLY AIRED AND COVERED, SO I APOLOGIZE THE LATENESS  
18 OF THE DAY AND ALL THE ACTIVITY MADE ME A LITTLE  
19 SHORT, I TRY NOT TO GET THAT WAY, BUT I APOLOGIZE  
20 ALL RIGHT YOU READY TO GO FORWARD

21 MR MORTON I APPRECIATE IT, JUDGE I  
22 COMMENTED YESTERDAY, I SAID ALL SIDES HAVE GOT THE  
23 JUDGE MAD AT US AND WE HADN'T EVEN MADE OPENING  
24 STATEMENT YET

25 THE COURT WELL, IT'S USUALLY ABOUT THE

1       THIRD OR FOURTH DAY WHEN I GET LIKE THAT SO     BUT  
2       ACTUALLY WHEN I THOUGHT ABOUT IT THIS IS ABOUT THE  
3       THIRD OR FOURTH DAY BECAUSE WE HAD THREE DAYS TWO  
4       WEEKS AGO     SO I WAS LIKE, WHY DID I GET LIKE THAT SO  
5       SOON, BUT I APOLOGIZE AND I'M NOT MAD AT ANYBODY  
6       I'M JUST TYPICAL FRUSTRATION OF WHERE WE WERE AT THIS  
7       POINT

8                     MR POPE     WE ARE  
9                     THE COURT    ALL RIGHT    YOU WANT TO TELL  
10       ME WHAT THE ISSUE WE'RE GOING TO BE DEALING WITH AND  
11       CALL YOUR FIRST WITNESS

12                    MR MORTON   WE'RE GOING TO BE DEALING  
13       WITH OTHER BAD ACT EVIDENCE, YOUR HONOR, AND IN THAT  
14       REGARD I WOULD CALL ALICIA LOWERY TO THE STAND

15                    MR GREELEY   BEFORE SHE COMES IN CAN I  
16       ASK FOR A CLARIFICATION

17                    THE COURT    I'LL LET YOU GO FIRST EVEN  
18       THOUGH MR BRACKETT WAS JUST ABOUT AS QUICK AS YOU TO  
19       GET UP

20                    MR GREELEY   AS YOUR HONOR KNOWS I DO  
21       HAVE, AND I UNDERSTAND THE WAY WE'RE DOING THIS, IT'S  
22       MY UNDERSTANDING THAT MR MORTON NOW WILL BE  
23       BEGINNING TO MAKE HIS PROFFER AS TO WHAT HE WISHES TO  
24       SUBMIT TO THE JURY FOR THE EVIDENCE    OF COURSE, I DO  
25       HAVE MY MOTION IN REGARDS TO THIRD PARTY GUILT AND I



1 UNDERSTAND THE JUDGE AND YOUR HONOR NOT RULING ON  
2 THAT AT THIS TIME AND HOLDING THAT UNTIL THE PROFFER  
3 HAS BEEN MADE AND I BELIEVE THAT'S CORRECT PROCEDURE  
4 IN THAT CASE

5 I WOULD ASK MR MORTON SINCE HE IS  
6 GOING INTO 404 (B) EVIDENCE IF HE COULD BE MORE  
7 SPECIFIC AS TO WHAT TYPE OF 404 (B) EVIDENCE HE  
8 WISHES THIS TO FALL UNDER

9 THE COURT ARE YOU ASKING WHETHER  
10 MOTIVES, COMMON SCHEME, WHICH ARE THE LITTLE  
11 CATEGORY --

12 MR GREELEY WHICH OF THOSE ARE WE GOING  
13 TO BE LOOKING AT BECAUSE THAT MAY HELP ME IN REGARDS  
14 TO MY CROSS EXAMINATION DIRECTION SO THAT I WON'T  
15 HAVE TO DO THINGS THAT I WOULD NOT NECESSARILY NEED  
16 TO DO

17 THE COURT MR BRACKETT, YOU HAVE SOME  
18 INTEREST IN IT?

19 MR BRACKETT YES, SIR WE HAD MENTIONED  
20 IN CHAMBERS AND I THINK ALL PARTIES HAVE AGREED THAT  
21 THE VICTIMS IN THESE CASES WOULD NOT BE VIDEO TAPED  
22 THAT THE CAMERAS WOULD BE TURNED OFF

23 THE COURT I AM GOING TO ASK, I'M NOT  
24 MUCH FOR GAG RULES AND THIS IS NOT TO BE TAKEN AS A  
25 GAG RULE, BUT I'M GOING TO ASK THAT OUT OF

1 SENSITIVITY TO THESE WITNESSES THAT THE FILMING OF  
2 THIS, THAT THERE NOT BE ANY FILMING OF THIS OF  
3 COURSE, THE PRESS IS HERE, THEY CAN REPORT ON IT,  
4 WE'RE NOT TRYING TO HIDE, BUT WE'RE IN A SENSITIVE  
5 AREA BECAUSE THESE INDIVIDUALS ARE VICTIMS OF I  
6 BELIEVE WHAT WE'RE GOING TO BE HEARING IS VICTIMS OF  
7 OTHER ALLEGED SEXUAL BATTERIES OR ATTEMPTED SEXUAL  
8 BATTERY BY MR SANDERS AND MY CONCERN IS THAT THESE  
9 INDIVIDUALS ARE, THEIR CASES ARE NOT BEFORE US PER  
10 SE, AND JUST OUT OF AN ABUNDANCE OF MAYBE SOUTHERN  
11 CORDIALITY, IF NOTHING ELSE, I WOULD ASK THAT THESE  
12 NOT BE, THESE PARTICULAR WITNESSES NOT BE FILMED  
13 ALTHOUGH I SEE THE PRESS IS HERE, I'M CERTAINLY NOT  
14 INDICATING THAT THIS, THIS IS NO GAG ORDER MAYBE  
15 IT'S A VEIL THAT'S GOOD A VEIL YES, SIR

16 CAMERA MAN CAN I ASK A QUESTION WOULD  
17 IT BE PERMISSIBLE TO SHOOT THEM AND NOT SHOW THEIR  
18 FACES, JUST TO SHOOT HANDS OR BELOW THE NECK DOWN,  
19 WOULD THAT BE PERMISSIBLE?

20 MR BRACKETT I THINK I WAS JUST LOOKING  
21 UNDER TITLE 16, I THINK THERE IS A STATE LAW  
22 PROHIBITING IDENTIFICATION OF SEXUAL ASSAULT VICTIMS  
23 BY THE PRESS

24 THE COURT I THINK WE'VE BEEN GOING  
25 THROUGH THIS WITH THE COBY BRYANT, SO I SAY LET'S

1 NOT, JUST STAY AWAY

2 CAMERA MAN OKAY

3 THE COURT I'LL LET YOU SHOOT MY HANDS

4 LATER AND YOU CAN USE THOSE, KIND OF GENERIC HANDS IF

5 YOU NEED THOSE (LAUGHTER ) ALL RIGHT MR

6 MORTON

7 MR MORTON YOUR HONOR, AS FAR AS

8 MR LELAND, MR GREELEY'S QUERY, I'M NOT TELLING BUT,

9 I'M GOING TO PROCEED UNDER MOTIVE, IDENTITY, AND

10 COMMON SCHEME AND PLAN THIS IS A CHANGE OF VENUE

11 MOTION THAT I JUST WANTED TO, I HAD ALREADY CLOCKED

12 IN, I JUST WANTED TO MAKE IT PART OF THE RECORD

13 THE COURT AND ALONG THAT LINE, HAVE I

14 ADDRESSED EVERYTHING WE HAD ON THE LAUNDRY LIST AND

15 MADE DEFINITIVE RULINGS ON EVERYTHING BECAUSE I DON'T

16 WANT THERE TO BE, THERE HAS BEEN SO MUCH, I THINK I

17 HAD MADE A DEFINITIVE RULING ON ALL ISSUES INCLUDING

18 THE DNA OF MR SANDERS, I THINK I DEFINITELY RULED

19 THAT IT WOULD BE ADMISSIBLE IT'S NOT FRUIT OF THE

20 POISONOUS TREE AND ELABORATED ON MY RULING ON THAT

21 I THINK I RULED ON ALL MR MORTON PRESENTED, SO I

22 JUST WANT TO MAKE SURE WE DON'T GET, PARTICULARLY

23 SINCE WE STILL HADN'T SWORN THE JURY, THAT WE GET

24 INTO THE TRIAL AND ALL OF A SUDDEN REALIZE THAT JUDGE

25 HAYES HADN'T DEFINITELY RULED ON SOMETHING, BUT I

1 FEEL LIKE I HAVE HAVE I LEFT ANYTHING OUT?

2 MR GREELEY I JUST HAVE THOSE TWO AND  
3 YOU DEFINITELY RULED ON ONE AND TAKEN UNDER  
4 ADVISEMENT ---

5 THE COURT THIRD PARTY GUILT

6 MR GREELEY WAITING FOR THE PROFFER

7 MR BRACKETT I BELIEVE SO ACTUALLY  
8 OVER THE EVENING HOURS CAME TO A RESOLUTION OF THE  
9 LAST ISSUE ON THE POLYGRAPH THAT WE WERE TALKING  
10 ABOUT WE ARE, AND I'LL TENDER THAT NOW JUST IN CASE  
11 THERE IS AN OBJECTION AND WE HAVE TO TAKE THAT UP, WE  
12 WILL EXPLAIN THAT HE WAS TAKEN, GIVEN A POLYGRAPH  
13 EXAMINATION, INTERVIEWED BY MR BAKER, BUT IN OUR  
14 CASE IN CHIEF WE'RE NOT GOING TO DIVULGE THE RESULTS  
15 OF THOSE WHEN THEIR EXPERT OR IF THEIR EXPERT  
16 TESTIFIES, WE'LL CROSS EXAMINE IF IT BECOMES  
17 RELEVANT, BUT WE WILL JUST EXPLAIN THAT HE REQUESTED  
18 ONE, HE WAS GIVEN ONE, AND IN THE COURSE OF THE  
19 INTERVIEW THAT FOLLOWED HE CONFESSED SO I THINK  
20 THAT'S THE CLEANEST WAY TO, FOR EVERYBODY CONCERNED

21 THE COURT SEE IF ANY PRODUCED SOME  
22 RESULTS

23 MR BRACKETT SOME FRUIT FROM A  
24 NON-POISONOUS TREE

25 THE COURT THANK YOU

1 MR MORTON WE CALL MRS ALICIA LOWERY TO  
2 THE STAND

3 ALICIA LOWERY, BEING FIRST DULY  
4 SWORN TESTIFIES AS FOLLOWS

5 THE COURT MS LOWERY, JUST FOR YOUR  
6 COMFORT LEVEL, YOU MAY NOTICE THERE IS A CAMERA HERE,  
7 IT'S FORBIDDEN TO FILM YOU, SO YOU ARE NOT, I JUST  
8 DIDN'T WANT YOU TO FEEL UNCOMFORTABLE  
9 DIRECT EXAMINATION BY MR MORTON

10 Q MY NAME IS JIM MORTON I KNOW WE'VE SPOKEN OVER  
11 THE PHONE I KNOW WE JUST MET BRIEFLY JUST FIVE  
12 MINUTES AGO I'M REPRESENTING MR BILLY COPE THIS  
13 IS MEMBERS OF THE SOLICITOR'S OFFICE THIS IS  
14 MR GREELEY I WANT TO ASK YOU A COUPLE OF QUESTIONS  
15 AND I'LL JUST START WITH, FIRST OF ALL STATE YOUR  
16 NAME FOR US FOR THE RECORD?

17 A ALICIA PATRICIA LOWERY

18 Q AND WHERE DO YOU CURRENTLY RESIDE, MS LOWERY?

19 A SUMTER, SOUTH CAROLINA

20 Q OKAY AND ARE YOU FORMALLY A RESIDENT OF ROCK  
21 HILL, SOUTH CAROLINA?

22 A YES, SIR

23 Q AND WHERE, WHEN YOU LIVED IN ROCK HILL DID YOU  
24 PREVIOUSLY LIVE I BELIEVE ON WHITGREEN STREET?

25 A YES, 229 WHITGREEN

1 Q OKAY AND WHITGREEN STREET IS LOCATED  
2 APPROXIMATELY WHERE?

3 A MEANING-HOW?

4 Q THAT'S A TOUGH QUESTION

5 THE COURT I KNOW WHERE WHITGREEN STREET  
6 IS IT IS OVER NEAR SALUDA

7 Q I WANT TO SHOW YOU, IT'S CALLED A, CAN YOU SEE  
8 WHITGREEN STREET ON THAT KIND OF FUNNY MAP?

9 A YES, IT'S RIGHT HERE

10 Q AND DO YOU KNOW WHERE JEFFERSON STREET IS?

11 A NO, SIR, I DON'T

12 Q OKAY WHITGREEN STREET I HAVE MARKED HERE WITH  
13 A FOUR THIS IS SALUDA STREET

14 A UH-HUH

15 Q THIS IS BLACK STREET THIS IS WHITGREEN STREET  
16 AND DO YOU REMEMBER YOUR ADDRESS ON WHITGREEN STREET?

17 A YES, 229

18 Q 229 ON WHITGREEN STREET AND MRS LOWERY, DO  
19 YOU REMEMBER SOMETHING THAT HAPPENED TO YOU ON  
20 DECEMBER 19?

21 A YES, SIR

22 Q OF 2001?

23 A YES, I DO

24 Q YOU'RE TRYING TO SPEAK UP AS LOUDLY AS YOU CAN  
25 AND TELL THE JUDGE AND THOSE WHO ARE HERE WHAT

1       HAPPENED TO YOU ON DECEMBER 19?

2       A       OKAY     WELL, THE DAY PREVIOUSLY BEFORE THAT MY  
3       SISTER GAVE BIRTH TO HER-BABY-AND AFTER SHE GAVE  
4       BIRTH I LEFT AND I WENT SHOPPING FOR MY NIECE BECAUSE  
5       I JUST HAD A NIECE AND I DROPPED MY STUFF BACK AT MY  
6       MOTHER'S HOUSE AND I CAME BACK HOME AFTER LEAVING  
7       SHOPPING OR WHATEVER

8       Q       THIS WAS ON DECEMBER 19?

9       A       UH-HUH     AFTER THAT I CAME HOME TO MY APARTMENT  
10      AND I WALKED INSIDE MY APARTMENT     I WENT TO THE  
11      BATHROOM FIRST BECAUSE I HAD BEEN RIDING ALL DAY OR  
12      WHATEVER, SO I WENT TO THE BATHROOM, CAME OUT OF THE  
13      BATHROOM, AND I LOOKED AT MY FRONT ENTRANCE OF MY  
14      DOOR WHICH I NEVER USED AND IT WAS CRACKED AND I WAS  
15      WONDERING IF MY BROTHER OR SOMEBODY CAME BY AND JUST  
16      LEFT MY DOOR OPEN, SO I WENT WALKING TOWARD THE DOOR  
17      AND AS I WAS WALKING TO CLOSE THE DOOR SOMEONE WAS  
18      COMING IN ON ME AND AS I, I WAS IN SHOCK     AND AS THE  
19      PERSON WAS COMING IN ON ME, WE STARTED, I GUESS WE  
20      STARTED TUSSLING TO THE GROUND AND HE PUSHED ME TO  
21      THE GROUND     I GOT UP AND WAS LIKE CRAWLING TOWARD MY  
22      BEDROOM     AFTER I CRAWLED TOWARD MY BEDROOM, I WAS  
23      THINKING, I WAS LIKE, I DON'T NEED TO BE IN A CLOSED  
24      AREA, SO I TRIED TO GET BACK OUT OF MY BEDROOM AND  
25      THEN THAT'S WHEN HE GOT A PLASTIC BAG AND TRIED TO

1 PUT IT OVER MY HEAD AFTER I CLAWED THE PLASTIC BAG  
2 OFF OF MY HEAD --

3 Q LET ME BACK UP FOR A MINUTE WHEN YOU GOT HOME,  
4 DID YOU TURN THE LIGHTS ON?

5 A YEAH, I TURNED THE---

6 Q WERE THE LIGHTS ON WHEN YOU GOT HOME?

7 A NO, THERE WEREN'T ANY LIGHTS ON I CUT MY  
8 BEDROOM LIGHT ON AND THEN I WENT INTO THE BATHROOM

9 Q THIS PERSON THAT ATTACKED YOU, WHERE WAS HE WHEN  
10 YOU FIRST SAW HIM?

11 A HE WAS COMING IN THE DOOR AS I WAS GOING TO PUSH  
12 THE DOOR CLOSED

13 Q OKAY GO AHEAD I'M SORRY

14 A OKAY AFTER I CLAWED THE PLASTIC BAG OFF MY  
15 HEAD, THAT'S WHEN HE HAD TURNED, I HAD A THROW RUG  
16 THAT I HAD ON THE FLOOR AND INSTEAD TRIED TO WRAP  
17 THAT OVER MY HEAD AFTER I GOT THAT OFF, I WAS LIKE  
18 FACE DOWN ON MY STOMACH, AND HE WAS LIKE, HE WAS ON  
19 TOP OF ME, AND HE TRIED, WHEN I ROLLED OVER HE TRIED  
20 TO UNBUCKLE MY PANTS AND THEN THAT'S WHEN I  
21 REMEMBERED I HAD AN INK PEN THAT I GOT FROM THE  
22 HOSPITAL AND THAT'S WHEN I TURNED AND STABBED HIM IN  
23 ONE OF HIS LEGS I WAS STABBING HIM A COUPLE OF  
24 TIMES I DON'T KNOW HOW MANY I HIT HIM WITH THE  
25 INK PEN, BUT AFTER THAT HE SHOVED ME IN ONE OF THE



1       BEDROOMS     I CAN'T REMEMBER IF IT WAS THE BEDROOM OR  
2       THE BATHROOM THEN HELD THE DOOR AND AFTER I WAS  
3       TRYING TO GET THE DOOR OPEN, HE IN TURN, I GUESS HE  
4       LEFT, AND THEN I HEARD, WHEN I HEARD MY SCREEN DOOR  
5       SLAM THAT'S WHEN I LEFT OUT OF THAT APARTMENT AND RAN  
6       TO THE CORNER STORE ACROSS THE STREET AND CALLED THE  
7       POLICE

8       Q       OKAY     AT SOME LATER POINT I BELIEVE SEVERAL  
9       MONTHS LATER YOU WERE SHOWN A PHOTOGRAPHIC LINEUP I  
10      BELIEVE BY DETECTIVE BLACKWELDER, IS THAT CORRECT?

11     A       YES, UH-HUH

12     Q       WERE YOU ABLE TO IDENTIFY THE MAN WHO ATTACKED  
13     YOU?

14     A       YES, SIR

15     Q       DO YOU SEE HIM IN THE COURTROOM?

16     A       YES, SIR, I DO

17     Q       AND WOULD YOU POINT HIM OUT TO THE COURT?

18     A       HE'S RIGHT THERE

19     Q       OKAY     LET THE RECORD REFLECT THAT SHE'S CHOSEN  
20     MR JAMES SANDERS   ALICIA, IS THERE ANY DOUBT IN  
21     YOUR MIND WHAT HE WAS TRYING TO DO TO YOU THAT DAY?

22     A       HE WAS FROM

23               MR GREELEY   OBJECTION, SPECULATION

24               THE COURT   WELL, I SUSTAIN THE OBJECTION  
25     SINCE IT'S A PROFFER I'M GOING TO ALLOW IT IN FOR

1       WHATEVER VALUE IT MAY HAVE, BUT I SUSTAIN THE  
2       OBJECTION, BUT I'M GOING TO ALLOW YOU TO PUT IT ON  
3       THE RECORD

4       Q       OKAY     IN YOUR MIND, WHAT WAS HE TRYING, WHAT  
5       DID HE DO TO YOU WHEN YOU GOT IN THAT BEDROOM?

6       A       WELL, WE WAS IN THERE ON THE FLOOR AND THE  
7       PLASTIC BAG ALONE AND I WAS THINKING, I WAS THINKING  
8       HE WAS PUTTING THE PLASTIC BAG OVER MY HEAD HE WAS  
9       TRYING TO KILL ME

10      Q       WHAT ELSE DID HE DO IF ANYTHING TO YOUR  
11      CLOTHING?

12      A       WELL, HE WAS TRYING TO PULL MY SHIRT UP AND HE  
13      GOT MY, I HAD LIKE A BIG BELT BUCKLE THAT WAS  
14      ENGRAVED, HAD RHINESTONES OR WHATEVER, AND HE WAS, HE  
15      GOT THAT A LOOSE, BUT AFTER THAT WHEN I FIGURED OUT I  
16      HAD THE INK PEN, I USED MY INK PEN THAT I HAD IN MY  
17      BACK POCKET

18      Q       AND I BELIEVE YOU STATED HE PUT A PLASTIC BAG  
19      OVER YOUR HEAD?

20      A       UH-HUH

21      Q       AND ALSO A RUG?

22      A       YES, A THROW RUG

23      Q       OKAY     AND HOW OLD ARE YOU, MS   LOWERY?

24      A       HOW OLD AM I NOW?

25      Q       HOW OLD WERE YOU THEN?

1 A I WAS 20, 20 YEARS OLD

2 Q OKAY MS LOWERY, PLEASE ANSWER ANY QUESTIONS  
3 THAT MR GREELEY MAY HAVE OR THE SOLICITOR MAY HAVE  
4 THE COURT MR GREELEY, WE'LL GO IN THE  
5 SAME CIRCLE WE AGREED ON EARLIER

6 MR GREELEY SO I'LL BE NEXT?

7 THE COURT YES, SIR

8 CROSS EXAMINATION BY MR GREELEY

9 Q MS LOWERY, GOOD MORNING

10 A GOOD MORNING

11 Q WHAT TIME OF DAY WAS THIS?

12 A IT WAS AROUND 7 30-8 O'CLOCK

13 Q IN THE EVENING?

14 A UH-HUH IT WAS DARK

15 Q IT WAS DARK OUTSIDE AT THAT TIME OF YEAR, IS  
16 THAT CORRECT?

17 A UH-HUH

18 Q AND WERE YOUR LIGHTS ON IN YOUR APARTMENT?

19 A NO, NOT WHEN I INITIALLY WALKED IN THE APARTMENT  
20 THEY WEREN'T

21 Q DID YOU TURN THEM ON?

22 A I TURNED THEM ON WHEN I FIRST GOT THERE

23 Q YOU SAY THIS PERSON CAME IN ON YOU YOU NOTICED  
24 THAT YOUR FRONT DOOR WAS AJAR AND THIS PERSON CAME IN  
25 ON YOU?

1 A UH-HUH

2 Q SO WAS THE PERSON ON THE OUTSIDE OF YOUR  
3 APARTMENT AS YOU WERE WALKING TOWARDS THE FRONT DOOR  
4 AND THAT'S WHEN THEY CAME IN ON YOU?

5 A AS I WAS WALKING TOWARDS THE DOOR TO CLOSE IT  
6 SHUT, THEY WERE, I GUESS THEY SAW MY SHADOW AND SAW  
7 MY HANDS AND PUSHED IT IN AS I WAS GOING TO THE DOOR

8 Q OKAY SO THE PERSON WAS OUTSIDE OF?

9 A UH-HUH

10 Q OF YOUR APARTMENT?

11 A YES, SIR

12 Q AND PUSHED THE DOOR OPEN?

13 A UH-HUH

14 Q AS YOU WERE APPROACHING THE DOOR, IS THAT  
15 CORRECT?

16 A THAT'S CORRECT

17 Q WHAT WAS THIS PERSON WEARING?

18 A WEARING A HOODED WHITE SWEATSHIRT WITH, I CAN'T  
19 REMEMBER WHAT SCHOOL LOGO IT WAS, AND HE HAD SOME  
20 GREEN WINDBREAKER PANTS ON WITH WHITE ADIDAS STRIPE  
21 RUNNING UP THE SIDES IT HAD BRAIDS AT THE TIME

22 Q YOU MENTIONED THAT AT SOME POINT IN TIME THE  
23 DETECTIVE BROUGHT YOU A PHOTO LINEUP, IS THAT  
24 CORRECT?

25 A UH-HUH

1 Q DO YOU REMEMBER WHEN THAT WAS?

2 A IT WAS A COUPLE OF, I SAY A COUPLE WEEKS AFTER  
3 IT HAPPENED, IT INITIALLY HAPPENED IT WASN'T TOO  
4 FAR AFTER IT HAPPENED BECAUSE I WAS IN THE PROCESS OF  
5 MOVING OUT OF THAT APARTMENT AND INTO ANOTHER  
6 APARTMENT, SO IT COULDN'T HAVE BEEN THAT LONG AFTER

7 Q SO YOU ALLEGEDLY IDENTIFIED THIS PERSON A COUPLE  
8 WEEKS AFTER THIS HAPPENED?

9 A UH-HUH

10 Q THAT WOULD HAVE BEEN APPROXIMATELY IN JANUARY OF  
11 2002?

12 A YES, ABOUT RIGHT

13 Q DO YOU KNOW WHY THE WARRANTS, THE CHARGES  
14 AGAINST MR SANDERS IN THIS CASE, WEREN'T MADE  
15 AGAINST HIM AND SIGNED BY A JUDGE AGAINST HIM UNTIL  
16 OCTOBER OF 2002?

17 A NO, I DON'T

18 Q WHERE WAS THE LINEUP SHOWN? WHERE WERE YOU  
19 SHOWN THE LINEUP?

20 A IN FRONT OF THE APARTMENT WHERE IT TOOK PLACE  
21 AT

22 Q SO THE DETECTIVE BROUGHT THESE PHOTOS TO YOU?

23 A YES, HE DID

24 Q AND IT WAS A "HE" THAT DID THIS?

25 A YES, IT WAS

1 Q YOU DON'T REMEMBER THE NAME, DO YOU?

2 A NO, I DON'T

3 Q \_ DO YOU KNOW WHETHER OR NOT YOUR APARTMENT WAS

4 FINGERPRINTED?

5 A IT WAS

6 Q DUSTED FOR FINGERPRINTS?

7 A IT WAS

8 Q YOU SAY A PLASTIC BAG WAS USED BY THIS PERSON,

9 WHAT TYPE OF PLASTIC WAS IT?

10 A A BLACK HEFTY TRASH BAG

11 Q A BLACK HEFTY TRASH BAG?

12 A YES, IT WAS

13 Q AND WAS THAT OBTAINED FROM YOUR APARTMENT?

14 A IT WAS IN MY APARTMENT BECAUSE MY MOTHER HAD

15 BOUGHT ME SOME TOWELS FROM HER HOUSE AND MOST OF THE

16 STUFF THAT SHE BROUGHT ME WERE IN BLACK TRASH BAGS

17 AND THEY WERE SITTING IN THE LIVING ROOM I NEVER

18 GOT A CHANCE TO PUT THEM AWAY

19 Q SO IT WAS JUST SITTING IN THE LIVING ROOM AND

20 WAS IMMEDIATELY AVAILABLE?

21 A YEAH, PRETTY MUCH

22 Q DID THE POLICE TAKE THAT TRASH BAG INTO

23 EVIDENCE?

24 A YES, THEY DID

25 Q NOW HOW LARGE IS YOUR APARTMENT?

1 A IT WASN'T ALL THAT BIG IT WAS A NICE, IT WAS A  
2 TWO BEDROOM APARTMENT

3 Q OKAY AND THE STRUGGLE BEGAN IN THE DEN OR THE  
4 LIVING ROOM WHERE THE FRONT DOOR IS?

5 A UH-HUH

6 Q IMMEDIATELY UPON THIS PERSON COMING IN?

7 A YES

8 Q AND HAD YOU EVER SEEN THIS PERSON BEFORE?

9 A NO

10 Q AND IT WENT FROM THE LIVING ROOM, YOU STARTED TO  
11 CRAWL TOWARD YOUR BEDROOM, IS THAT CORRECT?

12 A YES, SIR

13 Q AND, BUT YOU CHANGED YOUR MIND?

14 A YEAH

15 Q OKAY AND WAS IT AT THAT POINT IN TIME, SO IT  
16 WAS AFTER, WHAT HAPPENED TO THE BAG AND WHEN DID THIS  
17 PERSON START WITH THE RUG?

18 A LIKE IN BETWEEN THE TWO BEDROOMS, WHERE THE TWO  
19 BEDROOMS MEET, THAT'S WHERE THE RUG WAS BEFORE YOU GO  
20 INTO THE BATHROOM

21 Q A LITTLE THROW RUG?

22 A UH-HUH

23 Q OKAY AND WHEN THIS PERSON DID THIS, DID THEY  
24 STOP USING THE PLASTIC BAG AND THEN USE THE RUG?

25 A YES

1 Q OKAY

2 A BECAUSE I TORE A HOLE IN THE PLASTIC BAG

3 Q OKAY AND YOU BEGAN TO THEN STAB THE PERSON?

4 A YES

5 Q IT WAS AT THAT POINT THEN THAT THIS PERSON  
6 RETREATED, PUSHED YOU INTO A ROOM?

7 A PUSHED ME INTO THE ROOM AND HELD THE DOOR WHEN  
8 I PULLED FROM THE DOOR AT LEAST TWICE AND THEN I  
9 THOUGHT, I JUST NEED TO STOP PULLING FOR THE DOOR  
10 BECAUSE HE MIGHT LEAVE AFTER I STOP, SO INITIALLY  
11 THAT'S WHAT I DID, I BACKED AWAY FROM THE DOOR, AND  
12 THAT'S WHEN I HEARD MY SCREEN DOOR SLAM AND THAT'S  
13 WHEN I INITIALLY KNEW HE WAS GONE

14 Q SO YOU WERE TRYING TO INITIALLY RE-OPEN THE DOOR  
15 THAT HE HAD PUT YOU IN THE BEDROOM?

16 A YEAH, THAT'S HOW I DONE BUT THE SITUATION LIKE  
17 THAT YOU DON'T THINK

18 Q RIGHT YOU WERE GOING TO GO BACK AFTER HIM?  
19 YOU WERE ANGRY, WEREN'T YOU?

20 A IN A SENSE, YES

21 Q DESERVEDLY SO

22 A YEAH

23 Q BUT THEN YOU BACKED OFF?

24 A UH-HUH

25 Q DID THE POLICE TAKE ANY OF YOUR CLOTHES INTO



1 EVIDENCE?

2 A THEY TOOK MY BELT

3 Q OKAY YOUR BELT?

4 A UH-HUH

5 Q AND HOW DID YOU USE YOUR BELT OR HOW WAS, WHAT  
6 WAS?

7 A HE TRIED TO UNBUCKLE MY BELT, MY PANTS

8 Q DID YOU RECEIVE ANY MEDICAL ATTENTION?

9 A NO

10 Q THAT'S ALL I HAVE THANK YOU

11 THE COURT THE STATE MR THOMPSON

12 CROSS EXAMINATION BY MR THOMPSON

13 Q I JUST HAVE A COUPLE QUESTIONS FOR YOU

14 A ALL RIGHT

15 Q WHEN HE WAS IN THE APARTMENT AT ANY TIME DID HE  
16 CHOKE YOU WITH HIS HANDS?

17 A NO, HE DIDN'T

18 Q AND WAS THERE ANYONE ELSE IN THE APARTMENT WHEN  
19 THIS OCCURRED?

20 A NO, THERE WASN'T

21 Q DID YOU LIVE THERE ALONE?

22 A WELL, MY COUSIN SHE WAS LIVING THERE, BUT SHE  
23 WASN'T THERE AT THE TIME

24 Q BUT SHE WASN'T THERE?

25 A UH-HUH

1 Q AND I THINK YOU HAD SAID THIS ENDED UP GOING  
2 THROUGH SEVERAL ROOMS OF THE HOUSE?

3 A SEVERAL IT WAS ONLY THREE ROOMS IN THE HOUSE

4 Q HOW MANY ROOMS DID HE GO THROUGH WHILE YOU  
5 STRUGGLED WITH HIM?

6 A TWO

7 Q TWO?

8 A UH-HUH

9 Q OKAY AND WAS IT LOUD DURING THE TIME THAT  
10 Y'ALL WERE STRUGGLING? WERE THINGS GETTING KNOCKED  
11 OVER AND THINGS LIKE THAT?

12 A WELL, NOT REALLY BECAUSE I REALLY DIDN'T HAVE  
13 TOO MUCH THINGS IN THE APARTMENT BECAUSE I HAD JUST  
14 MOVED IN THERE SO THERE REALLY WASN'T THAT MUCH IN  
15 THERE EXCEPT FOR THE PLASTIC BAGS AND STUFF THAT MY  
16 MOTHER HAD BOUGHT ME

17 MR THOMPSON THANK YOU NO FURTHER  
18 QUESTIONS

19 MR MORTON JUST A COUPLE QUICK FOLLOW UP  
20 QUESTIONS

21 REDIRECT EXAMINATION BY MR MORTON

22 Q MR GREELEY ASKED YOU, YOU DIDN'T KNOW THIS  
23 PERSON, HE WAS A STRANGER TO YOU, IS THAT RIGHT?

24 A THAT'S RIGHT

25 Q HE WAS ASKING YOU ABOUT THE CLOTHING THAT HE

1 WORE, HOW DID HE -- DID HE HAVE ANY GLOVES ON?

2 A NO, HE DIDN'T

3 Q WAS HE WEARING A MASK?

4 A NO, HE WASN'T

5 Q DID HE HAVE A WEAPON?

6 A NO, HE DIDN'T

7 Q DID HE ASK YOU FOR MONEY?

8 A YEAH

9 Q HE DID?

10 A UH-HUH

11 Q OKAY AND YOU SAY YOUR COUSIN ALSO LIVED THERE?

12 A YES

13 Q AND YOUR COUSIN WAS A FEMALE?

14 A YES, SHE WAS

15 Q THAT'S ALL I HAVE THANK YOU VERY MUCH, MS

16 LOWERY

17 THE COURT MR GREELEY

18 MR GREELEY NOTHING ELSE

19 MR THOMPSON NOTHING, YOUR HONOR

20 THE COURT THIS WITNESS BE EXCUSED?

21 MR MORTON YES, SIR, SHE CAN BE EXCUSED

22 THE COURT MS LOWERY, WE CERTAINLY

23 APPRECIATE YOUR TIME, AND I KNOW IT'S INCONVENIENT

24 FOR YOU, BUT YOU HAVE BEEN VERY HELPFUL AND FEEL FREE

25 TO LEAVE ALL RIGHT

1 (WITNESS EXITS THE WITNESS STAND )

2 THE COURT CALL YOUR NEXT WITNESS

3 MR MORTON CALL SARAH HAGMAN LEE

4 SARAH HAGMAN LEE, BEING FIRST  
5 DULY SWORN, TESTIFIED AS FOLLOWS

6 THE COURT SO YOU'LL KNOW THERE IS A  
7 CAMERA HERE BUT IT IS NOT PERMITTED TO FILM YOU, SO  
8 YOU ARE NOT BEING FILMED, SO I WANT TO HELP YOU WITH  
9 THAT COMFORT LEVEL

10 A OKAY

11 DIRECT EXAMINATION BY MR SMITH

12 Q MRS LEE, THE MICROPHONE THERE DOESN'T MOVE OVER  
13 AND THE CHAIR DOESN'T MOVE SO YOU MAY NEED TO LEAN  
14 FORWARD AND SPEAK INTO THE MICROPHONE IF YOU WOULD  
15 PLEASE STATE YOUR FULL NAME FOR THE COURT?

16 A SARAH LEE

17 Q AND WHERE DO YOU CURRENTLY LIVE?

18 A ROCK HILL

19 Q YOU DON'T HAVE TO GIVE YOUR STREET ADDRESS IF  
20 YOU ARE NOT COMFORTABLE DOING THAT

21 A ROCK HILL

22 Q HOW OLD ARE YOU, MRS LEE?

23 A 23

24 Q AND ARE YOU CURRENTLY EMPLOYED?

25 A I AM

1 Q WHAT DO YOU DO?

2 A I RECOVER TISSUE AND BONE FOR DONATION, LIFE  
3 SHARE OF THE CAROLINAS

4 Q OKAY I WANT YOU TO THINK BACK TO JANUARY 12,  
5 2002, YOU REMEMBER SPECIFICALLY WHAT NIGHT OF THE  
6 WEEK THAT WAS?

7 A I BELIEVE IT'S A SATURDAY

8 Q AND YOUR NAME BACK THEN WAS SARAH HAGMAN, IS  
9 THAT CORRECT?

10 A THAT'S CORRECT

11 Q AND YOU'VE SINCE BEEN MARRIED, IS THAT WHY YOUR  
12 NAME HAS CHANGED?

13 A THAT'S RIGHT

14 Q WHERE WERE YOU LIVING BACK THEN?

15 A 131 REID STREET, ROCK HILL

16 Q AND WHAT PART OF TOWN IS THAT IN?

17 A DOWNTOWN ON THE OTHER SIDE OF THE TRACKS

18 Q ARE YOU FAMILIAR WITH SALUDA AND REID STREET?

19 A UH-HUH

20 Q AND JEFFERSON AVENUE?

21 A YES

22 Q ARE THEY IN CLOSE PROXIMITY TO REID STREET?

23 A I BELIEVE THEY WERE

24 Q HOW WOULD YOU DESCRIBE THAT DISTANCE?

25 A A FEW BLOCKS AWAY

1 Q NOW 131 REID STREET, WAS THAT A HOUSE OR AN  
2 APARTMENT?

3 A IT WAS A HOUSE

4 Q AND WERE YOU RENTING THAT OR DID YOU OWN IT?

5 A I WAS RENTING A ROOM

6 Q AND DID YOU HAVE ROOMMATES OR DID YOU LIVE  
7 ALONE?

8 A THERE WAS A COUPLE OTHER GIRLS THAT LIVED THERE  
9 AS WELL

10 Q NOW ON THAT PARTICULAR NIGHT DID OR WAS ANYONE  
11 ELSE BESIDE YOURSELF AT HOME?

12 A THERE WAS

13 Q AND WHERE WAS SHE IN PROXIMITY TO YOU IN THE  
14 HOUSE?

15 A SHE WAS RIGHT ACROSS THE HALLWAY SHE RENTED A  
16 ROOM ACROSS THE HALL

17 Q SHE HAD A ROOM AND SHE WAS IN HER ROOM?

18 A THAT'S CORRECT

19 Q YOU RENTED A ROOM AND YOU WERE IN YOUR ROOM?

20 A YES

21 Q CAN YOU DESCRIBE FOR THE COURT A LAYOUT OF THE  
22 HOUSE?

23 A THE BACK DOOR OPENED TO A SUN ROOM TYPE AREA  
24 WHERE WE HAD OUR LAUNDRY TO THE RIGHT OF THAT WAS  
25 THE KITCHEN ADJOINING THE KITCHEN WAS A BATHROOM

1 WHICH ALSO CONNECTED TO MY ROOM

2 Q SO BETWEEN THE KITCHEN AND YOUR ROOM THERE WAS A  
3 BATHROOM AND THERE WAS A DOOR THAT OPENED FROM THE  
4 BATHROOM TO THE KITCHEN AND A DOOR THAT OPENED FROM  
5 THE BATHROOM TO YOUR BEDROOM, IS THAT RIGHT?

6 A THAT'S CORRECT

7 Q NOW EXPLAIN TO THE COURT WHAT HAPPENED THAT  
8 NIGHT?

9 A I GUESS IT WAS ABOUT 12 O'CLOCK THAT NIGHT I  
10 WAS IN MY BED WATCHING A MOVIE AND I HEARD A KNOCK AT  
11 MY BATHROOM DOOR I YELLED OUT WHO IS THERE THERE  
12 WAS NO ANSWER SO I STAYED IN MY BED AND THEN I  
13 HEARD AGAIN ANOTHER KNOCK, I ASKED WHO IS THERE, AND  
14 I GOT UP AND WENT TO THE DOOR THERE WAS STILL NO  
15 ANSWER I ASSUMED THAT IT WAS ONE OF MY ROOMMATES  
16 AND THEY DIDN'T HEAR ME RESPONDING SO THEY WENT BACK  
17 TO BED SO I WENT TO MY DOOR TO SEE WHO IT WAS AND  
18 SANDERS PUSHED THE DOOR IN ON ME PUSHING ME BACK,  
19 HITTING ME IN THE HEAD WITH THE DOOR WE STAGGERED,  
20 KIND OF LIKE PUSHED ME BACK INTO THE SHOWER DOORS  
21 THAT WERE THERE, GLASS SHOWER DOORS, WE STRUGGLED  
22 THE DOORS CAME DOWN AT SOME POINT WE ENDED UP IN  
23 KITCHEN WHICH WAS RIGHT THERE NEXT TO THE BATHROOM  
24 HE KICKED ME AND STOMPED ON ME, PUSHED ME DOWN ON THE  
25 GROUND, KICKED ME IN MY BACK AND LOWER BACK

1 Q DID HE EVER TRY TO CHOKE YOU OR STRUGGLE YOU?

2 A HE HAD ME IN A CHOKE HOLD YOU KNOW, I TRIED TO  
3 GET UP, HE PULLED ME UP, PUT HIS RIGHT ARM AROUND MY  
4 NECK INTO A CHOKE HOLD, HOLDING IT WITH HIS LEFT ARM  
5 I THINK I TRIED TO PUNCH HIM IN THE HEAD, KICK HIM,  
6 AND SOMEHOW HE LET GO, THREW ME DOWN ON THE GROUND  
7 AGAIN PROCEEDED TO KICK ME ONCE I WAS DOWN ON THE  
8 GROUND HE RAN BACK INTO MY ROOM, GRABBED MY PURSE OFF  
9 OF MY SOFA, AT THAT POINT IN TIME, YOU KNOW, I, YOU  
10 KNOW, I STOOD UP, TRIED TO GET MY BOUNDS, AND THEN AS  
11 HE WAS LEAVING MY BEDROOM WITH MY PURSE I GRABBED A  
12 STAINLESS STEEL BAKING PAN OFF THE STOVE THAT WAS  
13 THERE AND SWUNG AT HIM THREE TIMES I KNOW HITTING  
14 HIM ONCE AT THAT TIME HE DROPPED MY PURSE THE  
15 CONTENTS OF WHICH I HAD SOME MACE IN THE FRONT POCKET  
16 OF IT IT FELL OUT ON THE FLOOR HE GOT ON TOP OF  
17 ME ON MY BACK WITH MY HANDS PINNED IN FRONT OF ME I  
18 WAS ABLE TO REACH MY MACE ON THE FLOOR AND TRIED TO  
19 PUSH THAT, YOU KNOW, THE BUTTON ON THE MACE, OVER  
20 SPRAYED IT MY HANDS WERE STILL PINNED SO I THINK I  
21 GOT MOST OF THE MACE BUT I SPRAYED IT NONETHELESS  
22 AT THAT POINT IN TIME HE TRIED TO GET OFF OF ME I  
23 SAW A SMALL SCREWDRIVER ON THE FLOOR OF THE KITCHEN  
24 Q DID YOU RECOGNIZE THAT SCREWDRIVER AS BEING ONE  
25 THAT WAS TYPICALLY IN THE HOUSE?



1 A NO, I DID NOT I ASSUMED THAT IT WAS HIS

2 Q YOU ASSUMED IT WAS --

3 -A- - SANDERS

4 Q YOUR ATTACKER?

5 A YES HE KICKED AT ME AGAIN MAKING FOR THE BACK  
6 DOOR I ASSUMED TO GET, YOU KNOW, TO LEAVE I REACHED  
7 FOR THE SCREWDRIVER WITH MY LEFT HAND, GRABBED HIS  
8 LEFT FOOT WITH MY RIGHT HAND, AND SWUNG AT HIM THREE  
9 TIMES I KNOW STABBING HIM IN THE LEFT SHOULDER BLADE  
10 AT LEAST ONCE

11 Q NOW YOU HAVE TESTIFIED THAT YOU HIT HIM IN THE  
12 HEAD WITH A PAN AND THEN YOU STABBED HIM OR HIT HIM  
13 WITH A SCREWDRIVER, DID YOU NOTICE ANY BLOOD?

14 A I DID WHEN HE WAS LEAVING TO REACH FOR THE  
15 DOOR KNOB I SAW SOME BLOOD DRIPPING DOWN THE BACK OF  
16 HIS LEFT EAR

17 Q DID ANY OF HIS BLOOD GET ONTO YOUR PERSON?

18 A IT DID I HAD ON LIKE A WHITE TANK TOP I'D  
19 GUESS YOU'D SAY, AND I DIDN'T NOTICE THAT IT WENT,  
20 BUT WHEN THE POLICE OFFICER CAME TO MAKE THE REPORT,  
21 WHEN THE FIRST POLICE OFFICER ARRIVED, HE NOTICED IT  
22 AND ASKED FOR MY SHIRT

23 Q DID HE TAKE THAT INTO EVIDENCE?

24 A HE DID

25 Q DO YOU KNOW WHO THAT WAS, DO YOU REMEMBER?

1       A       HE'S NO LONGER WITH THE ROCK HILL POLICE  
2       DEPARTMENT    I WANT TO SAY HIS NAME WAS STRIKER,  
3       SOMETHING LIKE THAT

4       Q       OKAY    SO AT THIS POINT WHAT DID SANDERS DO?

5       A       HE RAN TO THE WOODED AREA BEHIND OUR HOUSE AND I  
6       SCREAMED AT HIM PROFANITIES THAT I WAS GOING TO KILL  
7       HIM AND THAT KIND OF THING

8       Q       AND DID HE TAKE YOUR PURSE WITH HIM?

9       A       HE DID

10      Q       NOW THE, WERE THE LIGHTS ON IN THE HOUSE DURING  
11      THIS STRUGGLE?

12      A       THE LIGHT WAS ON IN THE BATHROOM AND DURING THE  
13      COURSE OF THE STRUGGLE OBVIOUSLY THAT DOOR IS OPENED  
14      AND CONTINUED TO STAY OPEN AND THAT BATHROOM LIGHT  
15      SHOWN THROUGH THE KITCHEN

16      Q       WERE YOU ABLE TO SEE YOUR ATTACKER'S FACE AND  
17      IDENTIFY HIS FEATURES?

18      A       I WAS    I WAS PRESENTED A PICTURE I WAS ABLE TO  
19      SAY YES THAT IS THE MAN

20      Q       WHO SHOWED YOU THESE PICTURES?

21      A       I THINK HIS NAME WAS DETECTIVE JETER AND A  
22      COUPLE OF HIS ASSOCIATES I GUESS THERE AT THE ROCK  
23      HILL POLICE DEPARTMENT    THEY WERE ALSO DETECTIVES

24      Q       AND YOU IDENTIFIED MR   SANDERS AS BEING THE MAN  
25      THAT ATTACKED YOU?

1 A I DID

2 Q DO YOU RECOGNIZE YOUR ATTACKER IN THIS COURTROOM  
3 TODAY?

4 A YES, I DO

5 Q AND WOULD YOU POINT HIM OUT TO THE COURT?

6 A THAT GENTLEMAN THERE WELL, NO, THE GENTLEMAN  
7 RIGHT THERE THAT GUY

8 Q AND LET THE RECORD REFLECT THAT MRS LEE POINTED  
9 TO JAMES SANDERS MRS LEE, DID MR SANDERS HAVE  
10 GLOVES OR A MASK ON THAT NIGHT?

11 A NO HE HAD ON A TOBOGGAN WHETHER THIS WAS  
12 PULLED OVER HIS FACE WHEN HE PUSHED INTO MY ROOM I  
13 DON'T KNOW I PULLED IT OFF HIS HEAD IN THE STRUGGLE  
14 AND I DID NOT NOTICE ANY GLOVES HE POSSIBLY HAD  
15 LONG FINGERNAILS THAT'S ALL I REMEMBER

16 Q DID YOU MR SANDERS BEFORE THAT PARTICULAR  
17 NIGHT?

18 A NO, I DID NOT

19 Q HE WAS A STRANGER TO YOU?

20 A HE WAS

21 Q DID HE USE ANY TYPE OF WEAPON AGAINST YOU OTHER  
22 THAN HIS HANDS OR HIS FISTS AND HIS FEET?

23 A NO, HE DIDN'T

24 Q DID MR SANDERS ATTEMPT TO SEXUALLY ASSAULT --

25 A I BELIEVE THAT WAS HIS INTENTION YOU KNOW, IN

1 THE COURSE OF THE STRUGGLE HE WAS ON TOP OF ME AND  
2 ATTEMPTED TO TURN ME OVER I CAN ONLY ASSUME FOR  
3 THAT PURPOSE, WHAT OTHER PURPOSE WOULD HE HAVE FOR  
4 BREAKING INTO MY HOUSE I DIDN'T KNOW HIM

5 Q DID, DID, WERE YOU ABLE TO DETERMINE HOW  
6 MR SANDERS ENTERED YOUR HOME?

7 A NO, I WAS NOT

8 Q DID YOU LOOK FOR SIGNS OF HOW HE ENTERED YOUR  
9 HOME?

10 A THE POLICE FINGERPRINTED THE DOORS THERE AND THE  
11 BACK WINDOWS AND THE SUN ROOM AREA AND THEY COULDN'T  
12 FIND ANY SIGNS OF FORCED ENTRY, SO I DON'T KNOW

13 Q COULD YOU YOURSELF FIND SIGNS OF FORCED ENTRY?

14 A NO, I COULD NOT

15 Q THANK YOU, MRS LEE I HAVE NO FURTHER  
16 QUESTIONS FOR YOU AT THIS TIME PLEASE ANSWER ANY  
17 QUESTIONS MR GREELEY MAY HAVE FOR YOU OR THE  
18 SOLICITOR'S OFFICE

19 THE COURT MR GREELEY

20 MR GREELEY MAY IT PLEASE THE COURT  
21 CROSS EXAMINATION BY MR GREELEY

22 Q MRS HAGMAN, IN REGARDS TO THE --

23 THE COURT MRS LEE NOW

24 Q MRS LEE, I APOLOGIZE MRS LEE, IN REGARDS TO  
25 THE PICTURE THAT YOU WERE SHOWN BY THE POLICE?

1 A YES

2 Q WHEN WAS THAT DONE?

3 A THE SAME NIGHT

4 Q THE SAME NIGHT AND ABOUT WHAT TIME, DO YOU  
5 KNOW?

6 A I GUESS IT WOULD BE AROUND 12 30 - 12 45  
7 SOMETHING LIKE THAT

8 Q AND DID THEY BRING IT TO YOUR APARTMENT?

9 A NO I LEFT MY APARTMENT WITH THE POLICE AND  
10 WENT TO THE LAW CENTER IMMEDIATELY TO GIVE MY  
11 STATEMENT AND AT THAT POINT IN TIME WHEN THEY TOOK  
12 PICTURES OF THE BRUISING ALONG MY BACK AND THE  
13 BRUISING ON MY FACE OR, YOU KNOW, ABRASIONS TO MY  
14 FACE, THEY THEN SHOWED ME THE PICTURE

15 Q WAS IT ONE PICTURE THEY SHOWED YOU?

16 A THEY SHOWED ME SEVERAL PICTURES AND THEN POINTED  
17 OUT THAT THAT WAS THE MAN AND I WAS ABLE TO SAY YES  
18 IT WAS

19 Q SO THEY SHOWED YOU SEVERAL PICTURE WERE THEY  
20 PICTURES OF DIFFERENT PEOPLE?

21 A YES, THEY WERE

22 Q AND THEN THEY POINTED OUT MR SANDERS?

23 A THEY SHOWED A PICTURE OF MR SANDERS, A BLACK  
24 MALE WHO HAD A GASH TO HIS FOREHEAD, PICTURES I  
25 ASSUMED THAT WERE TAKEN WHEN THEY CHECKED HIM INTO

1 THE JAIL, AND I WAS ABLE TO RECOGNIZE HIM FROM THOSE  
2 PICTURES

3 Q AND THOSE WERE DONE AT 12 30 THE SAME EVENING?

4 A AROUND THAT TIME I CAN'T SAY FOR CERTAIN  
5 THEY TOOK HIM INTO CUSTODY IMMEDIATELY AFTER HE  
6 LEFT MY HOUSE THE POLICE CAUGHT HIM AND HE WAS TAKEN  
7 INTO THE LAW CENTER AND I ASSUMED IMMEDIATELY CHECK  
8 INTO THE JAIL

9 Q WERE YOU TOLD THAT HE WAS TAKEN INTO CUSTODY AND  
10 ARRESTED THAT MORNING AT ABOUT 3 40 A M

11 A NO, I WAS NOT

12 Q SO YOU HEARD A KNOCK ON YOUR BATHROOM DOOR AND  
13 THE PERSON DIDN'T RESPOND WHEN ASKED, IS THAT  
14 CORRECT?

15 A THAT'S CORRECT

16 Q AND THEN YOU HEARD ANOTHER KNOCK WHEN YOU DID  
17 NOT RESPOND, IS THAT CORRECT? SO THIS TIME YOU WENT  
18 AND CHECKED TO SEE WHO IT WAS?

19 A YES

20 Q AND UPON OPENING THE DOOR THAT IS WHEN THIS  
21 PERSON CAME IN ON YOU, IS THAT CORRECT?

22 A PUSHED THE DOOR IN ON ME, PUSHING ME BACK,  
23 HITTING ME IN THE HEAD, AND YES, COMING IN ON ME

24 Q AND HE DID GO INTO YOUR POCKETBOOK, FIND YOUR  
25 POCKETBOOK?

1       A       HE WENT INTO MY BEDROOM AFTER HE KICKED ME AND  
2       PUSHED ME ON THE FLOOR, WENT INTO MY BEDROOM AND  
3       GRABBED MY PURSE THAT WAS ON MY SOFA

4       Q       SO HE LEFT YOU IN THE KITCHEN?

5       A       YES

6       Q       WENT INTO YOUR BEDROOM    WAS HE ABLE TO SEE YOUR  
7       POCKETBOOK FROM THE KITCHEN?

8       A       HE MAY HAVE BEEN ABLE TO, YES

9       Q       AND SO HE LEFT YOU IN THE KITCHEN AND WENT IN  
10      AND GOT YOUR POCKETBOOK?

11      A       YES

12      Q       AND THEN DID HE COME BACK INTO THE KITCHEN?

13      A       HE DID

14      Q       THAT'S WHEN YOU STRUCK HIM WITH THE PANS?

15      A       COMING THROUGH THE KITCHEN WOULD HAVE BEEN THE  
16      ONLY WAY HE COULD HAVE EXITED THE HOUSE, SO YES, HE  
17      CAME THROUGH THE KITCHEN WITH THE INTENTION OF  
18      WHATEVER

19      Q       AT THAT POINT IN TIME YOU ARE REALLY NOT SURE OF  
20      HIS INTENTION, IS THAT A FAIR STATEMENT?

21      A       THAT'S CORRECT, YES

22      Q       WHERE WAS THE SCREWDRIVER AGAIN?

23      A       IT WAS IN THE KITCHEN FLOOR

24      Q       IS THAT KITCHEN USED BY THE OTHER MEMBERS OF WHO  
25      HAVE APARTMENTS THERE?

1 A YES

2 Q SO IT'S A COMMUNAL KITCHEN?

3 A -IT IS --I ASKED THE, MY OTHER ROOMMATES THE  
4 FOLLOWING DAY WHEN THE SCREWDRIVER WAS SPOTTED  
5 BECAUSE IT WAS NOT INITIALLY SPOTTED BY THE POLICE  
6 THAT NIGHT IT WAS FOUND IN THE SUN ROOM AREA THE  
7 NEXT DAY I ASKED THE ROOMMATES IF IT BELONGED TO  
8 THEM, THEY SAID NO, THEN AT THAT POINT IN TIME I PUT  
9 THE SCREWDRIVER INTO A BROWN PAPER BAG AND BROUGHT IT  
10 TO THE POLICE DEPARTMENT

11 Q DO YOU KNOW HOW THE SCREWDRIVER GOT INTO THE SUN  
12 ROOM AREA? IS THAT ALSO A COMMUNAL AREA?

13 A IT IS

14 Q DO YOU KNOW HOW IT GOT THERE?

15 A YES ONCE I PICKED IT UP FROM THE KITCHEN FLOOR  
16 AND I PROCEEDED TO STAB SANDERS WITH THE SCREWDRIVER  
17 IT FLEW OUT OF MY HAND WHICH WAS IN THE SUN ROOM  
18 AREA

19 Q OKAY NOW WERE YOU IN THE KITCHEN WHEN YOU WERE  
20 STABBING HIM?

21 A IT WAS IN THE DOORWAY AREA I WOULD SAY MY BODY  
22 WAS IN THE KITCHEN, MY HANDS AND ARM AND HIS FOOT  
23 WERE IN THE SUN ROOM

24 Q OKAY

25 A THERE IS A DOORWAY THERE THAT SEPARATES THE TWO



1 Q OKAY

2 A NOT A DOOR BUT A DOORWAY

3 Q OKAY THE BATHROOM IS ON THE OTHER END OF THE  
4 KITCHEN?

5 A THAT'S CORRECT

6 Q DO YOU HAVE TO GO THROUGH THE SUN ROOM TO GET TO  
7 THE KITCHEN?

8 A YOU DO

9 Q OKAY

10 MR GREELEY I DON'T HAVE ANYTHING  
11 FURTHER

12 THE COURT MR THOMPSON OR BRACKETT OR  
13 BOTH

14 MR THOMPSON ONE QUESTION  
15 CROSS EXAMINATION BY MR THOMPSON

16 Q WAS ANYONE ELSE IN THE ROOMS, WHILE YOU WERE  
17 FIGHTING WAS ANYONE ELSE THERE WITHIN THE ROOMS THAT  
18 COULD SEE WHAT WAS HAPPENING?

19 A THAT COULD SEE WHAT WAS HAPPENING?

20 Q YES

21 A NO, NOT TO MY KNOWLEDGE

22 Q THANK YOU NO FURTHER QUESTIONS

23 MR SMITH I HAVE NOTHING FURTHER, YOUR  
24 HONOR

25 THE COURT YOU CAN STEP DOWN AND BE

1 EXCUSED WE APPRECIATE IT YOUR TIME WE KNOW IT WAS  
2 NOT THE MOST PLEASANT EXPERIENCE FOR YOU IT APPEARS

3 MR SMITH JUDGE, I'D JUST LIKE TO STATE  
4 THAT THESE WITNESSES, MS LOWERY, THE PREVIOUS  
5 WITNESS INCLUDED ARE STILL UNDER SUBPOENA AND WE'LL  
6 CONTACT THEM IF NEEDED DURING THE COURSE

7 THE COURT YOU ARE EXCUSED FOR THE DAY  
8 BUT YOU ARE STILL SUBJECT TO BEING RECALLED BASED ON  
9 THAT SUBPOENA

10 A OKAY

11 THE COURT THANK YOU ALL RIGHT CALL  
12 YOUR NEXT WITNESS

13 MR MORTON WE WOULD CALL MRS KATHY  
14 DAVIS

15 KATHY DAVIS, BEING FIRST DULY  
16 SWORN, TESTIFIED AS FOLLOWS

17 THE COURT MS DAVIS, I'M JOHN HAYES AND  
18 I'M THE JUDGE I JUST WANT TO YOU KNOW THAT YOU'LL  
19 SEE A CAMERA IN HERE BUT IT CANNOT FILM YOU, SO DON'T  
20 FEEL UNCOMFORTABLE BECAUSE THE CAMERAS ARE HERE FOR  
21 OTHER PURPOSES AND THEY ARE NOT TO FILM YOU

22 A OKAY

23 THE COURT THANK YOU  
24 DIRECT EXAMINATION BY MR MORTON

25 Q MS DAVIS, MY NAME IS JIM MORTON WE APPRECIATE

1       YOU COMING    WE KNOW YOU ARE NOT FEELING WELL    WE  
2       APPRECIATE YOU COMING

3       A       YES                   -

4       Q       MS   DAVIS, I WANTED TO TALK TO YOU ABOUT WHAT  
5       HAPPENED TO YOU I BELIEVE IT WAS DECEMBER OF 2001,  
6       DECEMBER 12, 2001   MS   DAVIS, WHERE WERE YOU LIVING  
7       AT THAT TIME?

8       A       ON CONFEDERATE AVENUE

9       Q       OKAY    CAN YOU BE, WHEREABOUTS ON CONFEDERATE  
10      AND WHAT?

11      A       IN AN APARTMENT ON CONFEDERATE

12      Q       NOW IS THAT CONFEDERATE NEAR PENDLETON STREET?

13      A       UH-HUH

14      Q       IS THAT RIGHT?

15      A       YES

16      Q       CONFEDERATE AND PENDLETON    AND MS   DAVIS, YOU  
17      WERE LIVING ALONE AT THE TIME?

18      A       YES

19      Q       OKAY    MS   DAVIS, I'M GOING TO, I KNOW THIS  
20      MAYBE DIFFICULT FOR YOU, AND I'M GOING TO ASK YOU  
21      WHAT HAPPENED TO YOU THAT NIGHT IF YOU'LL JUST TELL  
22      THE JUDGE AND TELL US IN YOUR OWN WORDS WHAT  
23      HAPPENED?

24      A       I GOT RAPED    THE GUY KNOCKED AT THE DOOR AND  
25      HAD TO USE THE PHONE AND HE PUSHED THE DOOR OPEN AND

1 CAME IN AND RAPED ME

2 Q SO YOU WERE AT HOME ABOUT WHAT TIME WAS THIS?

3 A ABOUT 11 O'CLOCK, 11 30

4 Q 11 30 AT NIGHT?

5 A YEAH

6 Q WERE YOU UP?

7 A YEAH, I WAS WATCHING TELEVISION

8 Q YOU WERE UP WATCHING TELEVISION DID YOU HAVE

9 LIGHTS ON?

10 A YES, I DID

11 Q OKAY AND YOU HEARD A KNOCK AT THE DOOR?

12 A YEAH AND I OPENED THE DOOR, YES

13 Q AND WHAT DID YOU THAT PERSON SAY?

14 A HE SAID HE HAD CAR TROUBLE AND WANTED TO USE THE

15 PHONE AND HE PUSHED THE DOOR OPEN AND CAME ON IN,

16 KNOCKED ME DOWN AND CAME IN

17 Q KNOCKED YOU DOWN?

18 A UH-HUH

19 Q DID HE SAY ANYTHING WHEN HE KNOCKED YOU DOWN?

20 A NO, HE JUST CAME ON IN AND TRIED TO RAPE ME

21 Q OKAY AFTER HE KNOCKED YOU DOWN WHAT DID HE DO?

22 A HE GOT ON TOP OF ME ON THE FLOOR AND TRIED TO

23 HAVE SEX

24 Q OKAY AND HOW DID HE TRY, DID HE?

25 A HE TRIED TO KISS ME AND TOUCH ME

1 Q I'M SORRY

2 A KISS ME

3 Q HE KISSED YOU?

4 A YEAH

5 Q HE KISSED YOU WHERE DID HE KISS YOU?

6 A ON MY LIPS

7 Q DID HE KISS YOU ANYWHERE ELSE?

8 A HE TRIED TO KISS ME ON THE BOOBS

9 Q ON THE BREAST?

10 A YES

11 Q DID HE PICK YOU UP AND CARRY YOU ANYWHERE?

12 A TO BEDROOM, YES, ON THE BED PUT ME INTO A BED

13 Q DID HE TAKE YOUR CLOTHES OFF?

14 A YES

15 Q AND DID HE, AFTER HE KISSED YOU ON YOUR MOUTH

16 AND ON YOUR BREAST, DID HE INSERT HIMSELF IN YOU?

17 A YES, HE DID YES

18 Q DID HE?

19 A YES

20 Q AND DO YOU KNOW WHETHER OR NOT, I DON'T WANT TO

21 GO INTO THIS TOO MUCH, BUT DID HE EJACULATE?

22 A I DON'T KNOW I DON'T KNOW I DON'T KNOW

23 Q ABOUT HOW LONG DID THIS ATTACK LAST, MS DAVIS?

24 A ABOUT AN HOUR I GUESS I DON'T KNOW

25 Q ABOUT AN HOUR?

1 A YEAH

2 Q DID HE ASK YOU FOR MONEY TOO?

3 A YES, HE DID YES, HE WANTED MONEY, LOOKED  
4 EVERYWHERE FOR MONEY AND I TOLD HIM I HAD MONEY IN MY  
5 POCKETBOOK \$20 THAT'S ALL I HAD MY MONEY IS IN  
6 THE BANK

7 Q OKAY

8 A SO HE GOT THAT AND LEFT

9 Q WERE YOU ABLE TO IDENTIFY THIS MAN THROUGH ANY  
10 KIND OF LINEUP OR ANYTHING?

11 A NO, THEY DIDN'T ASK ME TO

12 Q THEY DIDN'T ASK YOU TO?

13 A NO

14 Q CAN YOU IDENTIFY ANYBODY IN THIS COURTROOM  
15 TODAY?

16 A I CAN'T SEE TOO GOOD RIGHT NOW

17 Q OKAY WAS THIS MAN THAT CAME IN A BLACK MAN OR  
18 A WHITE MAN?

19 A BLACK MAN

20 Q DID HE HAVE A MASK ON?

21 A (SHAKES HEAD )

22 Q DID YOU NOTICE A WEAPON OF ANY KIND THAT HE HAD?  
23 THE COURT I DIDN'T HEAR AN ANSWER TO A  
24 MASK

25 MR MORTON SHE HOOK HER HEAD NO

1       A     NO, HE DIDN'T

2       Q     WAS HE WEARING ANY TYPE OF GLOVES OR ANYTHING?

3       A     NO

4       Q     OKAY     WERE YOU TAKEN, YOU CALLED, YOU WERE ABLE

5       TO CALL, AFTER HE DID WHAT WAS GOING TO DO, HE LEFT?

6       A     YEAH, HE LEFT     TORE THE PHONE UP     TORE THE

7       PHONE UP SO I COULDN'T CALL NOBODY     I HAD TOLD THE

8       NEXT DOOR NEIGHBOR TO CALL SOMEBODY

9       Q     AND YOU CALLED THE POLICE?

10      A     UH-HUH

11      Q     AND THEY RESPONDED?

12      A     YES, THEY DID

13      Q     DID THEY TAKE YOU TO THE HOSPITAL?

14      A     YES, THEY DID

15      Q     AND DID THEY EXAMINE YOU AT THE HOSPITAL?

16      A     YES     THEY DID, YES

17      Q     OKAY     AND WHILE AT THE HOSPITAL DID THEY DO

18      WHAT WE CALL IS A RAPE COLLECTION KIT?

19      A     YES     YES

20      Q     THEY TOOK SOME SWABS?

21      A     YES, THEY --

22      Q     THEY TOOK A Q-TIP AND TOOK SOME SAMPLES FROM

23      VARIOUS PLACES ON YOUR BODY?

24      A     THAT'S RIGHT

25      Q     IS THAT CORRECT?

1 A YES

2 Q OKAY MS DAVIS, DID YOU, HAD YOU EVER SEEN  
3 THIS PERSON BEFORE?

4 A NO, I HAVEN'T NO

5 Q HE WAS A STRANGER TO YOU?

6 A YES

7 Q DID HE TRY AND MAKE YOU PERFORM ANY OTHER KIND  
8 OF SEXUAL ACTS?

9 A NO

10 Q MS DAVIS, THANK YOU PLEASE ANSWER ANY  
11 QUESTIONS MR GREELEY MAY HAVE OR MR THOMPSON?

12 A OKAY

13 THE COURT MR. GREELEY

14 CROSS EXAMINATION BY MR GREELEY

15 Q GOOD MORNING, MS DAVIS?

16 A HI

17 Q AND SO THIS PERSON WHO DID THIS KNOCKED ON YOUR  
18 DOOR?

19 A YES

20 Q AND YOU WERE ALONE IN THE HOUSE?

21 A YES, I WAS YES

22 Q AND YOU WENT TO THE DOOR?

23 A YES, I DID

24 Q AND WHEN YOU OPENED THE DOOR YOU WERE TOLD THAT  
25 THEY NEEDED TO USE THE PHONE?



1       A     YES

2       Q     OKAY     AND SO THIS PERSON WAS ABLE TO HAVE

3       CONTACT WITH YOU AT THE FRONT DOOR AND THEN GET HIS

4       WAY INTO YOUR HOME?

5       A     YEAH, THAT'S RIGHT

6       Q     THAT WAY?

7       A     YES

8       Q     OKAY     AND THIS PERSON DID PERFORM ACTUAL

9       VAGINAL INTERCOURSE WITH YOU?

10      A     YES, THEY DID     YES

11      Q     AND HE WAS INTERESTED IN MONEY?

12      A     YES, HE WAS     HE WANTED MONEY

13      Q     HE REALLY WANTED MONEY, DIDN'T HE

14      A     HE LOOKED EVERYWHERE FOR MONEY, UNDER THE BED,

15      UNDER THE MATTRESS, EVERYWHERE FOR MONEY

16      Q     AND DID HE GET THE MONEY FROM YOUR POCKETBOOK?

17      A     YES, I TOLD HIM TO     YES

18      Q     DID YOU HAVE MONEY SOMEWHERE ELSE?

19      A     NO     THAT'S ALL I HAD

20      Q     OKAY     ALL RIGHT     AND AFTER THIS PERSON HAD

21      ASSAULTED YOU SEXUALLY?

22      A     UH-HUH

23      Q     AND AFTER THIS PERSON WAS ABLE TO GET THE MONEY

24      THAT THEY KEPT ASKING ABOUT?

25      A     YES

1 Q HE LEFT

2 A THAT'S RIGHT, YES

3 Q TOOK THE PHONE AWAY, OUT OF THE WALL, BECAUSE?

4 A YEAH, HE TORE THE PHONE UP

5 Q HE WANTED A HEAD START, RIGHT?

6 A THAT'S RIGHT, YES

7 Q BUT HE LEFT?

8 A THAT'S RIGHT YES

9 Q AND DO YOU RECALL TELLING THE POLICE THAT HE WAS  
10 ABOUT SIX FEET TALL AND IN HIS EARLY 20'S?

11 A YES

12 Q THAT'S ALL FOR NOW THANK YOU, MA'AM?

13 A OKAY THANK YOU

14 MR THOMPSON I HAVE NO QUESTIONS FOR MS  
15 DAVIS THANK YOU

16 MR MORTON YOUR HONOR, WE HAVE NO  
17 FURTHER QUESTIONS FOR MS DAVIS WE WOULD LIKE TO  
18 REMIND HER THAT SHE'S STILL UNDER SUBPOENA

19 THE COURT MS DAVIS, YOU CAN BE EXCUSED  
20 WE CERTAINLY APPRECIATE YOUR TIME AND YOU MAY GET  
21 RECALLED BUT THANK YOU

22 A ALL RIGHT

23 SARAH PHILLIPS, BEING FIRST DULY  
24 SWORN, TESTIFIED AS FOLLOWS

25 THE COURT MRS PHILLIPS, I'M JOHN HAYES

1 I'M THE JUDGE HERE TODAY AND I JUST WANT YOU TO KNOW  
2 THAT THERE IS A CAMERA HERE BUT THEY CANNOT FILM YOU  
3 SO I DON'T WANT YOU TO BE WORRIED ABOUT IT I WANT  
4 YOU TO BE COMFORTABLE THAT THE CAMERA CANNOT FILM  
5 YOU

6 A OKAY

7 DIRECT EXAMINATION BY MR MORTON

8 Q MRS PHILLIPS, MY NAME IS JIM MORTON I THINK  
9 WE'VE SPOKEN ON THE PHONE BUT WE NEVER HAVE MET?

10 A YES, SIR

11 Q AND I THINK YOUR NICKNAME IS MAXIE?

12 A YES, THAT'S CORRECT

13 Q OKAY AND MRS PHILLIPS, WE'RE JUST GOING TO  
14 ASK YOU SOME QUESTIONS ABOUT WHAT HAPPENED TO YOU IN  
15 DECEMBER OF 2001 I BELIEVE IT WAS DECEMBER 16 OF  
16 2001

17 A YES, SIR

18 Q WHERE DO YOU CURRENTLY RESIDE, MRS PHILLIPS?

19 A I LIVE IN NASHVILLE, NORTH CAROLINA

20 Q NASHVILLE, NORTH CAROLINA?

21 A YES, SIR

22 Q WHAT'S THAT NEAR?

23 A THAT'S ON HIGHWAY 64 BASICALLY BETWEEN RALEIGH  
24 AND ROCKY MOUNT IT'S ABOUT A FOUR HOUR DRIVE

25 Q OKAY WE APPRECIATE YOU COMING ON DECEMBER 16

1 2001 WHERE WERE YOU RESIDING?

2 A I WAS LIVING AT DEERFIELD RUN APARTMENTS OFF OF  
3 EBINPORT DRIVE -

4 Q OFF OF EBINPORT AND I BELIEVE THAT ADDRESS IS ON  
5 MCGEE STREET?

6 A THAT IS CORRECT, MCGEE ROAD

7 Q MCGEE ROAD IS THAT RIGHT ACROSS FROM EBINPORT  
8 SCHOOLS?

9 A IT'S RIGHT ACROSS FROM EBINPORT SCHOOLS

10 Q OKAY

11 A THAT'S WHERE THE COMPLEX STARTS IS RIGHT ACROSS  
12 EBINPORT, BUT IT ALSO, HAS AN EXTENSION LIKE ON THE  
13 BACK PART OF IT DOWN EBINPORT ROAD ITSELF, RIGHT  
14 ACROSS FROM YORKTOWN APARTMENT

15 Q AND WHO WAS LIVING, IS THAT AN APARTMENT?

16 A YES, IT'S AN APARTMENT

17 Q AND WHO WAS LIVING WITH YOU AT THAT APARTMENT AT  
18 THE TIME?

19 A AT THE TIME MY THREE DAUGHTERS AND MY HUSBAND

20 Q OKAY AND ON THIS PARTICULAR NIGHT WHO WAS,  
21 SOMEONE CAME INTO YOUR HOME THAT NIGHT, CORRECT?

22 A YES, SIR, THAT'S CORRECT

23 Q WERE YOU ABLE TO IDENTIFY LATER THROUGH SOME  
24 TYPE OF LINEUP PROCEDURE?

25 A YES, THROUGH PHOTOGRAPHS

1 Q AND YOU WERE ABLE TO PICK OUT THE PERSON WHO  
2 CAME INTO YOUR HOUSE THAT NIGHT?

3 A YES, SIR

4 Q AND DO YOU SEE THAT PERSON IN THE COURTROOM  
5 TODAY?

6 A YES, SIR

7 Q WHERE IS HE?

8 A RIGHT OVER THERE

9 Q LET THE RECORD REFLECT SHE POINTED TO MR JAMES  
10 SANDERS SO YOU WERE HOME THAT NIGHT, WAS YOUR  
11 HUSBAND HOME?

12 A NO, HE WAS NOT

13 Q OKAY

14 A HE WAS WITH HIS COUSIN

15 Q WHO WAS AT HOME?

16 A IT WAS JUST ME AND MY THREE DAUGHTERS

17 Q OKAY AND ABOUT WHAT TIME, YOU TELL US, YOU CAN  
18 TALK YOU TELL US WHAT HAPPENED THAT NIGHT?

19 A WELL, MY HUSBAND, WELL NOW IT'S MY EX-HUSBAND,  
20 BUT MY HUSBAND AT THE TIME HAD GONE TO WALMART WITH  
21 HIS COUSIN TO DO SOME CHRISTMAS SHOPPING AND THEY HAD  
22 LEFT ABOUT TEN SO I AM FIGURING THIS SOMETIME MAYBE  
23 AROUND ONE IN THE MORNING, SOMETIME LIKE THAT, AND I  
24 HAD FELL ASLEEP ON THE SOFA IN MY DEN THE DINING  
25 ROOM LIGHT WAS ON, THE CHRISTMAS TREE LIGHTS WERE ON,

1 THE TELEVISION WAS ON, AND I FELL ASLEEP ON THE SOFA  
2 AND MY DOG WAS THERE WITH ME TOO AND, YOU KNOW, HOW  
3 YOU JUST KIND OF WAKE UP SOMETIMES YOU JUST OPEN UP  
4 YOUR EYES AND I OPENED UP MY EYES AND THERE WAS A MAN  
5 THERE LEANING OVER ME THIS FAR FROM MY FACE AND OF  
6 COURSE I STARTED TO SCREAM I HEARD NO NOISE OF  
7 ANYONE COMING IN, MY DOG DID NOT BARK OR ANYTHING,  
8 AND I JUST LOOKED UP AND I SAW HIM LEANING OVER ME  
9 HE MADE NO SOUND HE DIDN'T SPEAK HE WASN'T OUT OF  
10 BREATH IN FACT, I LIVE IN A SECOND STORY APARTMENT,  
11 I LIVE ON THE SECOND FLOOR, AND HE CAME IN THROUGH MY  
12 PATIO DOOR HE MUST HAVE CLIMBED THE LATTICE AND A  
13 FRIEND OF MINE CLIMBED THE LATTICE HIMSELF WHO WAS  
14 PROBABLY LIKE 23 YEARS OLD AND WAS SO OUT OF BREATH  
15 BY THE TIME HE GOT TO INSIDE MY APARTMENT, THE MAN  
16 WHO BROKE IN MUST HAVE ACTUALLY SAT ON MY PATIO  
17 FURNITURE TO COMPOSE HIMSELF BEFORE HE ACTUALLY CAME  
18 IN MY APARTMENT SO, OF COURSE, AS SOON AS YOU SEE  
19 SOMEONE THAT YOU DON'T KNOW, YOU AUTOMATICALLY  
20 SCREAM, SO I STARTED TO SCREAM AND THE PERSON PUT HIS  
21 HAND OVER MY MOUTH WAS PUSHING ME DOWN INTO SOFA AND  
22 I WAS STILL CONTINUING TO SCREAM AND WIGGLE AND KICK  
23 AND DO EVERYTHING I POSSIBLY COULD AT THAT TIME MY  
24 DOG STARTED BARKING AND I'M STILL I KICKING AND  
25 SCREAMING AND I HAVE A ROCKING CHAIR, LIKE AN OLD

1 BOSTON ROCKER THAT HAS ARMS ON THE SIDE, AND TOOK THE  
2 CHAIR THREW IT OVER ME WHERE I WAS TRAPPED UNDER MY  
3 OWN ROCKING CHAIR AND WAS CONTINUING TO TRY AND HOLD  
4 MY MOUTH DOWN AND THEN HE RUNS OUT BUT MY DAUGHTER  
5 STARTS COMING DOWN THE HALL GOING MOMMA, MOMMA,  
6 MOMMA, WHAT'S WRONG, WHAT'S WRONG, AND THEN THE MAN  
7 OPENED UP MY PATIO DOOR AND JUMPED OFF OF MY BALCONY

8 Q DID HE TAKE ANYTHING FROM YOU?

9 A NO NOTHING WAS MISSING AND THE CHRISTMAS TREE  
10 WAS BESIDE THE PATIO DOOR WITH PRESENT UNDER THE  
11 TREE

12 Q YOUR OTHER TWO CHILDREN, DID THEY AWAKEN?

13 A NO THEY SLEPT THROUGH THE ENTIRE THING

14 WHEN HE ATTACKED YOU AND PUT HIS HAND OVER  
15 YOUR MOUTH AND THE ROCKING CHAIR OVER YOUR BODY, WHAT  
16 DID YOU FEEL LIKE IN YOUR MIND WAS HIS INTENTION AT  
17 THAT TIME?

18 MR GREELEY OBJECTION, SPECULATION

19 THE COURT I SUSTAIN THE OBJECTION

20 HOWEVER, I WILL HEAR IT SINCE IT'S A PROFFER GO  
21 AHEAD YOU CAN ANSWER THAT PLEASE, MA'AM

22 A I THOUGHT HE WAS GOING TO TRY AND HURT ME  
23 THAT, I MEAN, IT JUST HAPPENS IN SUCH A BRIEF SECOND  
24 YOU DON'T AUTOMATICALLY THINK THAT HE IS GOING TO DO  
25 EXACTLY THIS TO ME OR HE IS GOING TO DO EXACTLY THAT

1 TO ME, BUT I DEFINITELY FELT THREATENED I FELT  
2 BECAUSE I'M A YOUNG WOMAN THAT HE MAY POSSIBLE INJURE  
3 ME OR RAPE ME OR INJURE MY CHILDREN OR HURT MY  
4 CHILDREN

5 Q NOW YOU SAY THAT WHEN THIS HAPPENED YOU WERE AT  
6 HOME, LIGHTS WERE ON, TV WAS ON?

7 A YES

8 Q THE CHRISTMAS TREE WAS ON?

9 A YES

10 Q AND HE CAME IN THROUGH THE PATIO DOOR?

11 A YES, THROUGH THE SLIDING GLASS DOOR

12 Q AND HE LEFT THAT WAY TOO?

13 A YES

14 Q AND DID YOU KNOW THIS PERSON?

15 A NO NEVER SEEN HIM BEFORE

16 Q STRANGER TO YOU?

17 A YES

18 Q AND THIS WAS AGAIN ABOUT, I BELIEVE YOU SAID  
19 ABOUT ONE O'CLOCK IN THE MORNING?

20 A YES, SOMEWHERE ALONG IN THAT TIME FRAME

21 Q OKAY AND YOU CALLED THE POLICE?

22 A YES, I IMMEDIATELY CALLED THE POLICE WHAT I  
23 DID WAS, AS SOON AS HE BASICALLY LET GO OF THE  
24 ROCKING CHAIR AND OPEN THE SLIDING GLASS DOOR AND  
25 JUMPED OFF THE BALCONY, I IMMEDIATELY GOT UP, CLOSED



1 THE DOOR BEHIND HIM, AND LOCKED IT TO MAKE SURE NO  
2 ONE COULD COME BACK IN, AND THEN I WENT STRAIGHT TO  
3 THE PHONE AND CALL THE POLICE

4 Q DID THIS PERSON HAVE ANY MASK ON?

5 A NO, NO MASK

6 Q WAS HE WEARING ANY GLOVES?

7 A NO, NOT THAT I COULD TELL

8 Q DID YOU SEE ANY WEAPON?

9 A NO, NO WEAPON

10 Q MRS PHILLIPS, THANK YOU PLEASE ANSWER ANY  
11 QUESTIONS, MR GREELEY MAY HAVE SOME QUESTIONS AND  
12 MR THOMPSON MAY HAVE SOME QUESTIONS?

13 A OKAY

14 THE COURT MR GREELEY

15 MR GREELEY MAY IT PLEASE THE COURT  
16 CROSS EXAMINATION BY MR GREELEY

17 Q GOOD MORNING, MRS PHILLIPS

18 A GOOD MORNING

19 Q NOW YOU WERE ASLEEP?

20 A YES

21 Q IS THAT CORRECT OKAY AND YOU SAY THE  
22 CHRISTMAS TREE LIGHTS WERE ON?

23 A YES, SIR

24 Q AND THE TV WAS ON?

25 A YES, SIR

1 Q YOU HAD FALLEN ASLEEP WERE THERE OTHER LIGHTS  
2 ON?

3 A YES, THERE WAS IF YOU GO INTO, IT'S LIKE A  
4 DINING ROOM LIGHT, IF YOU GO FROM THE PATIO YOU HAVE,  
5 BASICALLY THE DEN AND THE DINING ROOM IS ONE LARGE  
6 ROOM, AND THE DINING LIGHTS WERE ON

7 Q OKAY AND YOU WOKE UP AND THIS PERSON WAS  
8 THERE?

9 A YES

10 Q AND YOU IMMEDIATELY SCREAMED?

11 A YES

12 Q OKAY AND THE PERSON PUT THEIR HAND OVER YOUR  
13 MOUTH?

14 A YES, SIR

15 Q OKAY AND YOU WERE STRUGGLING, KICKING,  
16 HITTING, DEFENDING YOURSELF?

17 A YES, SIR

18 Q AND THEN THE PERSON PICKED UP A ROCKING CHAIR TO  
19 HOLD YOU DOWN?

20 A YES, THAT'S CORRECT

21 Q DID THE PERSON LET GO OF YOUR MOUTH TO DO THAT?

22 A YES, FOR A BRIEF MOMENT LET GO OF MY MOUTH THE  
23 ROCKING CHAIR HAS WOODEN PIECES LIKE, IT'S LIKE POSTS  
24 ON IT, TO WHERE YOU CAN ACTUALLY TAKE YOUR HAND AND  
25 PUT BETWEEN THE BACK OF THE ROCKING CHAIR

1 Q SO IT'S GOT LITTLE POSTS IN THE BACK?

2 A YES, SIR IT'S NOT SOLID WOOD

3 Q OKAY AND HE PUT THE ROCKING CHAIR ON YOU?

4 A YES

5 Q AND THEN HE TRIED TO QUIET YOU AGAIN?

6 A YES

7 Q OKAY AND AT SOME POINT IN TIME YOU BELIEVE  
8 THAT YOUR DAUGHTER BEGAN COMING DOWN THE HALLWAY?

9 A YES, SIR

10 Q SO THIS HAD AWAKENED HER?

11 A YES, MY SCREAMING HAD AWAKENED HER

12 Q AND IT WAS AT THAT POINT IN TIME THAT HE LEFT?

13 A YES

14 Q OKAY HOW LONG ARE WE TALKING ABOUT HERE?

15 A TWO MINUTES MAYBE IT'S REALLY HARD TO TELL  
16 WHEN ALL THIS WAS GOING ON TO ME IT SEEMED LIKE AN  
17 ETERNITY, BUT IT MAY HAVE BEEN TWO OR THREE MINUTES,  
18 SOMETHING LIKE THAT

19 Q IN REAL TIME IT WAS PROBABLY A SHORT PERIOD OF  
20 TIME?

21 A YEAH, PROBABLY SHORT PERIOD OF TIME

22 Q OKAY WHAT WAS HE WEARING, DO YOU RECALL?

23 A HE WAS WEARING GRAY IT WAS LIKE A SWEAT SHIRT  
24 IT WAS LIKE A GRAY SWEAT SHIRT AND GRAY TOBOGGAN ON

25 Q AND THIS WAS ON DECEMBER 19?

1 A I'M NOT SURE OF THE EXACT DATE IT WAS  
2 SOMEWHERE ALONG --

3 Q APPROXIMATELY

4 MR MORTON 16

5 A THE 16

6 Q DECEMBER 16 DO YOU RECALL WHEN YOU WERE SHOWED  
7 A PHOTO BY THE ROCK HILL POLICE DEPARTMENT?

8 A WELL, SEVERAL DAYS AFTER THE ATTACK I ACTUALLY  
9 HAD TO GO TO THE POLICE DEPARTMENT WHERE THEY SHOWED  
10 ME DIFFERENT PHOTOGRAPHS THEN I WENT BACK SEVERAL  
11 MONTHS LATER AND LOOKED AT ADDITIONAL PHOTOGRAPHS

12 Q OKAY SO YOU LOOKED AT PHOTOGRAPHS TWICE?

13 A TWO TO THREE TIMES, YES

14 Q IS THAT CORRECT AND THEN SEVERAL MONTHS LATER  
15 YOU WENT BACK AND LOOKED AT PHOTOGRAPHS?

16 A YES, THAT'S CORRECT

17 Q BOTH OF THOSE TIMES WAS AT THE ROCK HILL POLICE  
18 DEPARTMENT?

19 A THAT IS CORRECT

20 Q DO YOU REMEMBER WHO YOU SPOKE WITH, WHAT  
21 DETECTIVE?

22 A IT WAS AN UNUSUAL NAME

23 Q WAS IT A GENTLEMAN OR A LADY?

24 A IT WAS A GENTLEMAN GRAY COLOR HAIR, MITTS,  
25 SOMETHING LIKE THAT I CAN'T REMEMBER HIS LAST NAME

1 I KNOW HE HAD A MOTORCYCLE THAT'S ALL I REMEMBER

2 Q ALL RIGHT

3 A IT WAS AN OLDER GENTLEMAN, MAYBE IN HIS 40'S,  
4 SOMEWHERE ALONG THERE

5 THE COURT WAIT A MINUTE

6 A NOW THAT COULD BE THE WHOLE POLICE DEPARTMENT,  
7 COULDN'T IT

8 Q DID YOU RECEIVE ANY MEDICAL TREATMENT?

9 A NO, I DID NOT

10 Q THIS PERSON TO YOUR KNOWLEDGE DIDN'T TAKE  
11 ANYTHING FROM THE APARTMENT?

12 A NO

13 Q DID THE POLICE DUST FOR FINGERPRINTS?

14 A YES, THEY DID

15 Q AND AFTER HE LEFT YOU SHUT THE SLIDING GLASS  
16 DOOR AND YOU LOCKED IT?

17 A YES

18 Q TO MAKE SURE THAT IT WOULD THEN BE SECURE?

19 A YEAH

20 Q IS IT POSSIBLE THAT THE SLIDING GLASS DOOR THAT  
21 EVENING PRIOR TO THIS WAS NOT LOCKED?

22 A YES, IT IS POSSIBLE

23 Q OKAY

24 A I HAD SMALL CHILDREN THAT LIKED TO GO IN AND  
25 OUT

1 Q RIGHT YOU ARE ON THE SECOND FLOOR?

2 A RIGHT, I'M ON THE SECOND FLOOR AFTER THEN IT  
3 WASN'T UNLOCKED ANYMORE

4 Q I'M SURE THANK YOU?

5 A UH-HUH

6 MR THOMPSON I HAVE NO QUESTIONS, YOUR  
7 HONOR

8 THE COURT REDIRECT

9 MR MORTON NO, SIR, YOUR HONOR

10 THE COURT ALL RIGHT MRS PHILLIPS, I  
11 WAS GOING TO ASK YOU THIS EVEN BEFORE YOU CALLED ME  
12 OLD NOBODY ELSE ASKED YOU, YOUR AGE?

13 A I'M 34

14 THE COURT OKAY ALL RIGHT YOU ARE  
15 FREE TO GO WE APPRECIATE YOUR TIME, BUT YOU ARE  
16 SUBJECT TO BEING RECALLED IF WE NEED YOU LATER

17 A OKAY SINCE I'M OUT OF STATE, WHAT DO I NEED

18 THE COURT I DON'T---

19 A MY QUESTION IS I DO NEED TO STAY ANOTHER DAY?

20 THE COURT NO, I WOULD NOT THINK YOU NEED  
21 TO STAY TODAY

22 MR MORTON WE'LL BE IN TOUCH WITH YOU  
23 THANK YOU, MAXIE

24 THE COURT ALL RIGHT ANYTHING FURTHER

25 MR MORTON YOUR HONOR, WE DO HAVE ONE

1 MORE WITNESS BUT I DO NOT BELIEVE HE'S PRESENT AT THE  
2 TIME

3 THE COURT ALL RIGHT

4 MR MORTON COULD WE, I DON'T KNOW IF YOU  
5 WANT TO HEAR MOTIONS ON OTHER MATTERS?

6 THE COURT WELL, WHAT IS THIS WITNESS  
7 GOING TO TESTIFY TO? I PRESUME HE'S AN EXPERT OR  
8 SOMETHING

9 MR MORTON YES, SIR

10 MR GREELEY YOUR HONOR, IF I MAY ON  
11 BEHALF OF MR SANDERS NORMALLY IT'S THE STATE WHO IS  
12 DOING THESE TYPES OF PROFFERS AND WE WOULD HAVE BEEN  
13 ALLOWED TO HAVE WHATEVER OPINION THAT AN EXPERT WAS  
14 GOING TO OFFER I DON'T KNOW WHO THE EXPERT IS, I  
15 DON'T KNOW WHAT HE'S GOING TO BE OFFERING, AND I  
16 CERTAINLY HAVEN'T RECEIVED ANY REPORT I WOULD BE  
17 ASK TO BE PROVIDED THAT PRIOR TO HIS TESTIMONY

18 MR SMITH JUDGE, HE HASN'T ISSUED AN  
19 REPORT HE'S CREATED A CHART WHICH HAS BEEN PROVIDED  
20 TO MR GREELEY AND THE SOLICITOR'S OFFICE WE  
21 RECEIVED THIS LAST NIGHT AFTER COURT OF COURSE AND WE  
22 PROVIDED IT TO BOTH PARTIES THIS MORNING

23 THE COURT ALL RIGHT WELL, THE JURY IS  
24 NOT GOING TO BE HERE UNTIL TEN ARE THERE ANY OTHER  
25 MOTIONS UNTIL I HEAR HIS TESTIMONY, I'M NOT SURE

1 MR MORTON YES, SIR NO, SIR I WOULD,  
2 AS FAR AS THIS IS CONCERNED, I WOULD RATHER NOT AND  
3 HE SHOULD, WE DO HAVE OTHER THINGS THAT WE CAN DO  
4 BEFORE THE JURY GETS BACK

5 THE COURT ALL RIGHT LET'S WORK ON  
6 THOSE THEN

7 MR MORTON ALL RIGHT, SIR I BEG THE  
8 COURT'S INDULGENCE

9 THE COURT WHY DON'T WE TAKE A REAL SHORT  
10 BREAK AND LET EVERYONE REGROUP I WILL TELL YOU  
11 THIS, IF YOUR WITNESS IS RUNNING A LITTLE LATE, I  
12 MIGHT BRING THE JURY IN AROUND TEN AND GIVE THEM MY  
13 INITIAL REMARKS, THEY DON'T TAKE THAT LONG, AT LEAST  
14 SO THEY WILL KNOW THEY ARE APPRECIATED, AND WHEN YOUR  
15 WITNESS MAY TAKE A BREAK AND FINISH UP WITH THIS  
16 BEFORE YOU THREE MAKE YOUR OPENING STATEMENTS I  
17 THINK THAT WOULD BE A GOOD WAY TO UTILIZE OUR TIME  
18 LET ME KNOW AS SOON AS YOU ARE READY AND WE WILL TAKE  
19 UP WHATEVER ELSE I DON'T KNOW WHAT ELSE IS HANGING  
20 OUT THERE THAT WE DEALT WITH AT THIS TIME, BUT I'M  
21 SURE Y'ALL WILL LET ME KNOW THANK YOU

22 MR MORTON THANK YOU, JUDGE

23 (COURT'S IN RECESS AT 9 34 )

24 (COURT RESUMES AT 9 50 )

25 MR SMITH YOUR HONOR, WE HAVE THREE



1       MOTIONS I'D LIKE TO MAKE AT THIS TIME       THE FIRST  
2       DEALS WITH THE COMPUTER DISCOVERY EVIDENCE AGAIN       I  
3       DON'T WANT TO BELABOR THIS POINT       I DON'T WANT TO  
4       TRY THE COURT'S PATIENCE BUT I FEEL LIKE WE HAVE TO  
5       LET THE COURT KNOW WHAT HAS HAPPENED IN THIS CASE  
6       DURING THE NORMAL DISCOVERY PROCESS, JUDGE, WE  
7       RECEIVED A SCREEN CAPTURE WHICH IS A PRINTOUT OF THE  
8       SCREEN OF MR COPE'S COMPUTER THROUGH THE SOLICITOR'S  
9       OFFICE AND A STATEMENT THAT THERE WAS NOTHING THERE  
10      WE ALSO RECEIVED A STATEMENT FROM THE INTERNET  
11      SERVICE PROVIDER WHICH INDICATED SPECIFIC LOG ON TIME  
12      OF 12 15 TO 12 18 THAT MORNING       WE HAD OUR  
13      INVESTIGATOR OR AN INVESTIGATOR SPEAK WITH AMANDA  
14      SIMMONS WHO IS THE SLED AGENT THAT WAS EXAMINING  
15      MR COPE'S COMPUTER, SHE TALKED WITH HIM ON JUNE  
16      FOURTH 2004 AND SAID THERE WAS NO SIGNIFICANT  
17      INFORMATION FOUND

18                       JUDGE, PRIOR TO OUR MOTION HEARINGS  
19      THAT WE HAD I THINK TWO WEEKS AGO WE ATTEMPTED TO  
20      GAIN ACCESS TO THE COMPUTER THROUGH OUR COMPUTER  
21      TECHNICIAN       ALL WE WANTED TO DO WAS EXAMINE THE  
22      COMPUTER       WE WERE WILLING TO GO TO THE POLICE  
23      DEPARTMENT       ALL WE NEEDED WAS INTERNET ACCESS WHICH  
24      THEY HAVE THERE AT THE POLICE DEPARTMENT TO PERFORM  
25      THE SEARCH THAT WE WERE TRYING TO DO       WE NEVER COULD

1 GET A STRAIGHT ANSWER ON WHETHER WE COULD GET ACCESS  
2 TO THAT THE SOLICITOR'S OFFICE THEN SUGGESTED THAT  
3 THEY MAKE A COPY OF THESE HARD DRIVES THAT I BELIEVE  
4 WERE FIVE IN TOTAL, MAKE AN IMAGE ON CDS, GIVE US A  
5 COPY OF THOSE IMAGES, WE RECEIVED THOSE CDS ON  
6 SEPTEMBER THIRD OUR COMPUTER TECHNICIAN ATTEMPTED  
7 TO OPEN THESE PROGRAMS HE COULD NOT BECAUSE THE  
8 PROGRAM THAT SAVED THE HARD DRIVES IS A PROGRAM THAT  
9 SLED HAS IT'S APPARENTLY A LAW ENFORCEMENT TYPE OF  
10 PROGRAM THAT'S NOT COMMON TO THE EVERYDAY COMPUTER  
11 TECHNICIAN, SO WE WERE NOT ABLE TO ACCESS THE HARD  
12 DRIVES THROUGH THOSE CDS ON SEPTEMBER SIX WE  
13 RECEIVED AN E-MAIL CONTAINING AMANDA SIMMONS'S, THE  
14 SLED AGENT, REPORT AND IN THIS REPORT IT STATES ON  
15 JANUARY 29, 2002 SHE COMPLETED HER REVIEW OF THE  
16 DIGITAL EVIDENCE ON HARD DRIVES THERE SHE RETURNED  
17 THE COMPUTERS AT THAT TIME TO THE ROCK HILL POLICE  
18 DEPARTMENT ON AUGUST 23, 2002, SHE MET WITH  
19 CHARLENE BLACKWELDER AND CHUCK NEAL OF THE  
20 SOLICITOR'S OFFICE AND REVIEWED THE DIGITAL EVIDENCE  
21 ON HARDWARE THEY AGAIN REVIEWED THE DIGITAL  
22 EVIDENCE ON SEPTEMBER THIRD WITH THE SOLICITOR'S  
23 OFFICE IN FEBRUARY OF THIS YEAR SLED GAVE A COPY OF  
24 THE DIGITAL EVIDENCE THAT WAS PULLED FROM THE HARD  
25 DRIVE TO ANOTHER INVESTIGATOR, SO THIS INFORMATION

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1 HAS BEEN OUT THERE APPARENTLY SINCE AS EARLY AS  
2 AUGUST 23 OF 2002 WHEN SLED DISCUSSED THIS  
3 INFORMATION WITH THE SOLICITOR'S OFFICE THE FIRST  
4 TIME THAT WE WERE GIVEN ANY INDICATION THAT THERE WAS  
5 ANY SORT OF PORNOGRAPHIC IMAGES ON THE HARD DRIVE WAS  
6 IN A TELEPHONE CONVERSATION BETWEEN OUR OFFICE AND  
7 MR POPE ON AUGUST 30, 2004 AT THAT TIME WE WERE  
8 INFORMED THERE WAS NO CHILD PORNOGRAPHY, THERE WAS  
9 ADULT PORNOGRAPHY AND, AND THAT THE INTERNAL CLOCK OF  
10 THE HARD DRIVE MAY HAVE BEEN OFF WHICH WOULD EXPLAIN  
11 THEIR CONCLUSION NOW THAT THE COMPUTER WAS ACCESSED  
12 AT A DIFFERENT TIME THAN WHAT WAS ORIGINALLY GIVEN TO  
13 US THROUGH THE INTERNET SERVICE PROVIDER THROUGH THE  
14 SOLICITOR'S OFFICE AS WE STATED YESTERDAY, JUDGE,  
15 WE WERE GIVEN A DISK, A FOLLOW UP DISK, TO AMANDA  
16 SIMMONS' REPORT YESTERDAY, WHICH CONTAINED  
17 APPROXIMATELY 180 DOCUMENTS THE COURT MENTIONED  
18 YESTERDAY THAT YOUR HONOR MAY BE INTERESTED OR MAY  
19 TAKE A LOOK AT THESE DOCUMENTS JUST FOR THE COURT'S  
20 INFORMATION, THIS IS NOT, THIS IS VERY COMPLEX  
21 INFORMATION IT'S NOT, I CONSIDER MYSELF COMPUTER  
22 ILLITERATE, BUT IT'S LIKE READING CHINESE TO ME  
23 WHAT WE NEED, JUDGE, WE PRESENTED THIS INFORMATION TO  
24 OUR COMPUTER TECHNICIAN AND HE SAID, EVEN THOUGH IT'S  
25 180 PAGES OF INFORMATION, IT'S STILL NOT EVERYTHING

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1        THAT WE NEED        WHAT HE NEEDS TO DO IS HAVE ACCESS TO  
2        THAT COMPUTER        HE NEEDS TO BE ABLE TO HOOK UP TO THE  
3        COMPUTER, RUN A SEARCH ON THE COMPUTER TO DETERMINE  
4        WHAT TYPE OF FILES WERE ACCESSED AND WHEN THEY WERE  
5        ACCESSED        AND AGAIN SO AT THIS POINT I GUESS I WOULD  
6        RENEW OUR MOTION FOR JUST A BRIEF CONTINUANCE, JUDGE  
7        WE'RE NOT ASKING FOR MUCH TIME        ALL WE'RE ASKING FOR  
8        IS TIME ENOUGH FOR OUR COMPUTER TECHNICIAN TO TAKE  
9        LOOK AT, TO EXAMINE THE HARD DRIVE ITSELF AND GIVE US  
10       A REPORT BACK AND THAT'S GOING TO HAVE A SUBSTANTIAL  
11       EFFECT ON HOW WE PRESENT OUR OPENING STATEMENT AND  
12       THE COURSE OF THE CASE HERE        WE'RE ASKING FOR JUST A  
13       SHORT DELAY JUST TIME ENOUGH TO ALLOW OUR EXPERT TO  
14       EXAMINE THE COMPUTER

15                        THE COURT        WHICH, WHEN CAN THEIR EXPERT  
16       EXAMINE THE COMPUTER?

17                        MR POPE        PLEASE THE COURT, YOUR HONOR  
18       THE CONVERSATIONS I HAVE AND I HAVE NOT SEEN THE 150  
19       PAGE DOCUMENT        MY UNDERSTANDING IS CATALOGING A  
20       SERIES OF DISKS THAT WERE RECOVERED FROM THE HOUSE  
21       MY UNDERSTANDING FROM THE EXPERT WHEN I TALKED TO MR  
22       MORTON AND HAD TALKED TO THE EXPERT LAST MONDAY, IS  
23       THAT THESE DISKS DO, IN FACT, I'M NOW TALKING ABOUT  
24       WAS IT SEVEN DISKS THAT THEY RECEIVED, DVDS DO IN  
25       FACT MIRROR EVERYTHING THAT IS ON THE HARD DRIVE       MY

1 SUGGESTION WOULD BE THAT THEIR EXPERT PUT THEM IN  
2 CONTACT WITH THE SLED EXPERT IF THERE IS SOME  
3 REASON THAT THEIR EXPERT CAN'T ACCESS WHAT THE SLED  
4 EXPERT SAYS IS THERE, THEY CAN WORK THAT OUT IF NOT  
5 THE ALTERNATIVE IS WE WILL BRING THEM AND THEY CAN  
6 ACCESS THE HARD DRIVE SOME OF THE HARD DRIVES WERE  
7 RECOVERED NOT EVEN IN THE COMPUTER, WERE SITTING IN A  
8 CLOSET AT THE HOUSE, SO THEY HAVE TO BE HOOKED INTO A  
9 COMPUTER TO BE ACCESSED AGAIN THERE WAS A COPY OF  
10 EVERYTHING MADE AGAIN IT'S ALMOST LIKE THE ISSUE  
11 WITH THE EVIDENCE PROCESSING, MAYBE THERE IS SOME  
12 UNDERSTANDING, MISUNDERSTANDING THAT COULD BE  
13 ADDRESSED IF THEIR EXPERT WOULD JUST TALK TO THE SLED  
14 EXPERT AGAIN I DON'T CLAIM TO BE PARTICULARLY  
15 COMPUTER LITERATE BUT I DO UNDERSTAND WHEN THEY SAY  
16 THEY MIRRORED THE ENTIRE HARD DRIVE NOW FOR SOME  
17 REASON THEIR PERSON CAN'T ACCESS IT THEN MAYBE  
18 BETWEEN THE TWO EXPERTS MAYBE THEY CAN UNDERSTAND IT  
19 WE HAVE ALREADY DONE THAT WITH THE DNA EXPERT AS FAR  
20 AS HOOKING THEM UP I'LL BE MORE THAN GLAD TO DO  
21 THAT BUT AS OF LAST WEEK THE DVD DISK THAT WERE  
22 DELIVERED SUPPOSEDLY THE WAY IT'S BEEN REPRESENTED TO  
23 ME WERE EXACTLY THE SAME AS HAVING A COPY OF THE HARD  
24 DRIVE ON THE MACHINE, CONCERNED WITH HAVING A HARD  
25 DRIVE ON THE MACHINE IS THAT IT CAN BE ALTERED

1                   MR SMITH     JUDGE, THERE IS NO QUESTION  
2     ABOUT THAT     IT'S A MIRROR IMAGE OF IT     WE CAN'T  
3     ACCESS IT BECAUSE IT'S BEEN SAVED --

4                   THE COURT     WELL, WE ARE GOING TO GET YOU  
5     ACCESS TO IT     I'M ORDERING NOW THAT THEY BE ALLOWED  
6     ACCESS TO THE COMPUTER     IF IT REQUIRES SOMEBODY FROM  
7     SLED GETTING IN THEIR MOTOR VEHICLE AND DRIVING HERE  
8     THAT IT BE DONE, IT WILL BE DONE TODAY     I'M NOT  
9     GOING TO CONTINUE THE CASE FOR THAT REASON     BUT I AM  
10    GOING TO REQUIRE THAT THEY BE ALLOWED THE ACCESS THEY  
11    BELIEVE THEY NEED TO THAT COMPUTER

12                  MR POPE     YOUR HONOR, TO FACILITATE THAT  
13    I CAN TRY TO WORK BEHIND THE SCENE WHILE THE CASE IS  
14    GOING FORWARD, HOWEVER THEY WANT TO, YOU KNOW, WE  
15    ALWAYS DO THIS MYSTERY OF WHO THE EXPERT IS, HOWEVER  
16    I CAN CONTACT THEIR EXPERT WITH THE SLED PERSON  
17    WHAT I DON'T WANT TO DO IS SLED HAPPEN TO COME AND  
18    SAY,   WELL, WE DIDN'T REALIZE YOU, THAT IT'S IN A BAG  
19    OR, WHATEVER THEY NEED TO DO TO FACILITATE

20                  THE COURT     FOR SOME REASON I DON'T  
21    ANTICIPATE THIS IS GOING TO BE THE END OF THIS  
22    INQUIRY BUT I'M GOING TO TAKE MAYBE A LEAST A STEP AT  
23    A TIME AND GET YOUR PERSON AVAILABLE, SLED'S PERSON  
24    AVAILABLE, THE COMPUTER AVAILABLE, AND WHATEVER THEY  
25    FIGHT OVER, BRING IT BACK IN HERE

1 MR SMITH YES, SIR

2 MR POPE IF YOU'LL JUST TELL ME WHO IT  
3 IS AND I'LL CALL SLED AND SAY BILL JONES IS GOING TO  
4 CALL YOU, WORK IT OUT, MAKE SURE HE HAS EVERYTHING

5 THE COURT WELL, THEY GOT TO DO THAT  
6 THEY GOT TO PLAY SOME OF THEIR CARDS IF THEY WANT TO  
7 PLAY THE GAME I MEAN THAT CARD, I MEAN, THEY ARE  
8 NOT PLANNING TO BRING A GUY IN THERE WITH A BAG OVER  
9 HIS HEAD AND EYE HOLES CUT OUT SO YOU WON'T KNOW HIM  
10 I PRESUME, BUT YOU GOT TO BE ABLE

11 MR POPE WE'VE BEEN PRETTY CLOSE

12 THE COURT WELL, I KNOW EVERYONE IS  
13 HOLDING THEIR CARDS CLOSE TO THE VEST AND I DON'T  
14 BLAME THEM, BUT IT'S TIME TO PLAY THE CARDS

15 MR SMITH JUDGE, THERE IS NO PROBLEM  
16 WITH THAT WE JUST WANT ACCESS TO THE COMPUTER

17 MR POPE GIVE ME HIS NAME AND NUMBER AND  
18 I'LL GO CALL SLED AND TELL THEM

19 MR SMITH WE'LL DO THAT

20 THE COURT I'M NOT GOING TO HOLD UP THIS  
21 CASE, I AM NOT GOING TO CONTINUE THE CASE AND PUT OFF  
22 OPENING STATEMENTS ALL RIGHT WHAT'S THE NEXT  
23 MOTION?

24 MR SMITH JUDGE, THERE WERE SEVERAL  
25 ADULT MAGAZINES AND ONE CABLE VERSION OF AN ADULT VHS

1 VIDEO TAPE RECOVERED FROM THE MASTER BEDROOM OF THE  
2 COPE RESIDENCE IT WAS ON THE TOP SHELF OF THE  
3 BEDROOM CLOSET NO INDICATION OF WHO OWNED THAT  
4 WHOSE IT WAS THERE IS ALSO, BASED ON THE 180 PAGES  
5 OF COMPUTER INFORMATION THAT WE RECEIVED YESTERDAY,  
6 APPROXIMATELY 12 IMAGESS, I DON'T KNOW IF THOSE ARE  
7 THE ONLY IMAGES THAT HAVE BEEN RECOVERED FROM THE  
8 COMPUTER OR IF THERE ARE MORE, BUT THERE APPEAR TO BE  
9 12 IMAGESS, THEY ARE ENTITLED DELETED PORNOGRAPH  
10 IMAGES ALL BUT ONE OF THOSE IMAGES INDICATED THAT  
11 THEY WERE LAST ACCESSED ON NOVEMBER 12, 2001, WHICH  
12 WAS SEVERAL WEEKS BEFORE NOVEMBER 29 THE DATE OF THE  
13 INSTANCE THERE IS ALSO ONE BANNER, COMPUTER BANNER,  
14 JUST HAD STATEMENTS, THERE ARE NO PICTURES, IT SAYS  
15 IT WAS LAST ACCESSED ON NOVEMBER 17 JUDGE, WE WOULD  
16 ASK THE COURT TO EXCLUDE ANY REFERENCE TO THE ADULT  
17 MAGAZINES, TO THE VHS TAPE, AND TO THESE PORNOGRAPHIC  
18 IMAGES THAT ARE SUPPOSEDLY ON THE COMPUTER THAT WAS  
19 IN THE HOUSE WE'VE GOT A CASE STATE VERSUS NELSON  
20 THAT WE'D LIKE TO HAND UP TO THE COURT WHICH  
21 INDICATES IN A CRIMINAL SEXUAL CONDUCT TRIAL THERE  
22 WAS A LAUNDRY LIST OF EVIDENCE THAT WAS EXCLUDED,  
23 INCLUDING CHILDREN'S TOYS, VIDEOS, PHOTOGRAPHS OF  
24 YOUNG GIRLS IN UNDERWEAR

25 THE COURT THE PUNKY BREWSTER CASE



1                   MR SMITH    YES, SIR, THAT'S CORRECT  
2           JUDGE, WE DON'T BELIEVE THAT THE EVIDENCE, THE  
3           MAGAZINES, VIDEO TAPE, OR PORNOGRAPHIC IMAGES ON THE  
4           COMPUTER ARE EVEN RELEVANT TO THE CHARGES OF RAPE AND  
5           MURDER THAT MR COPE IS FACING    EVEN IF THE COURT  
6           FINDS THAT THEY ARE RELEVANT, THEY ARE HIGHLY  
7           PREJUDICIAL, YOUR HONOR    THE JURY WOULD BE  
8           PREJUDICED TO THE POINT THAT IT WOULD INFER CRIMINAL  
9           DISPOSITION IN REGARDS TO AMANDA COPE AND WE WOULD  
10          ASK THE COURT TO EXCLUDE ALL OF THIS EVIDENCE

11                   THE COURT    LET ME HEAR FROM MR BRACKETT  
12          THIS DOES SOUND LIKE CHARACTER EVIDENCE TO ME

13                   MR BRACKETT   WELL, AT FIRST BLUSH EXCEPT  
14          THAT IT IS TIED IN WITH THE CASE    WHEN THE DEFENDANT  
15          GAVE HIS FIRST CONFESSION HE INDICATED THAT HE HAD  
16          SOME PORNOGRAPHIC MATERIAL IN THE HOUSE THAT HE TOOK  
17          OUT OF THE HOUSE AND ATTEMPTED TO DISPOSE OF BECAUSE  
18          HE WAS AFRAID THAT IT WOULD MAKE HIM LOOK GUILTY

19                   THE COURT    I ALWAYS HATE TO STOP BUT  
20          SOMETIMES YOU GO IN A DIFFERENT TANGENT    I HADN'T  
21          HEARD THE ANSWER TO THIS QUESTION, I HADN'T ASKED IT,  
22          HE SAYS HE THREW STUFF OUT THE BACK DOOR, WAS IT  
23          FOUND OUT THE BACK DOOR?

24                   MR BRACKETT   NO, SIR, IT WAS FOUND IN  
25          THE HOUSE    IT WAS FOUND IN THE HOUSE AND

1 THE COURT WELL, HOW DOES THAT THEN TIE  
2 INTO, HE SAID HE THREW STUFF OUT THE DOOR, I THINK  
3 THAT WOULD BE ADMISSIBLE EVIDENCE, IF INDICATING SOME  
4 ACTION HE TOOK THAT NIGHT, THAT'S WHY I WANTED TO  
5 KNOW THE ANSWER TO THAT GO AHEAD YOU WERE TRYING  
6 TO TIE IN HIM SAYING HE THREW SOMETHING OUT THE DOOR  
7 WITH THERE BEING PORNOGRAPHIC INFORMATION IN THE  
8 HOUSE

9 MR BRACKETT WELL, HE ALSO SAID THAT HE  
10 THREW A, THERE WAS A DILDO FROM THE HOUSE WHICH HE  
11 SAID HE THREW OUT THE BACK DOOR WHICH WAS FOUND IN  
12 THE HOUSE AS WELL YOUR HONOR, I SUBMIT AND THE  
13 STATE'S THEORY IS THAT HE MAY HAVE THROWN IT OUT THE  
14 BACK DOOR INITIALLY AND THEN CONCLUDED IT'S EVEN MORE  
15 OBVIOUS LAYING OUT IN THE BACKYARD THAN IT IS OR IN  
16 THE GARAGE CAN THAN IT IS, YOU KNOW, HIDDEN UP IN THE  
17 CLOSET WHERE IT WAS ULTIMATELY RECOVERED THE  
18 DEFENDANT ON THE VIDEO, AS YOUR HONOR RECALLS, WENT  
19 AND POINTS OUT THE LOCATION OF IT IT'S PART OF THE  
20 VIDEO TAPED CONFESSION HE GAVE AS WELL IT DEPICTS  
21 TO SOME EXTENT THE EFFORTS THAT HE UNDERTOOK TO CLEAN  
22 UP THE HOUSE, THE CRIME SCENE, AFTER THE CRIME HAS  
23 BEEN COMMITTED WHICH IS AN IMPORTANT PART OF THE  
24 CASE, THE STATE'S CASE AND THE STATE'S THEORY IS THAT  
25 AFTER THIS CRIME WAS COMMITTED THERE WAS AN EXTENSIVE

1 CLEAN UP PERIOD THAT TOOK PLACE AND IT INVOLVED THIS  
2 PORNOGRAPHY

3 THE OTHER ISSUE IS IS THAT THE  
4 DEFENDANT DENIED ON A COUPLE OF OCCASIONS THAT THERE  
5 WAS ANY PORNOGRAPHY ON HIS HARD DRIVE AND THE FOUR  
6 HOUR AUDIO TAPE

7 THE COURT THE DENIAL OF THAT, I MEAN,  
8 WHAT IF HE DENIED HE HAD NATIONAL FOOTBALL GAMES ON  
9 THERE WITHOUT CONSENT OF THE NATIONAL FOOTBALL  
10 LEAGUE IF HE'S GOT STUFF ON THERE THAT HE MAYBE  
11 SHOULDN'T HAVE, HOW DOES THAT TIE INTO HIM --

12 MR BRACKETT THAT WASN'T WHERE I WAS  
13 GOING WITH THAT

14 THE COURT OH, I'M SORRY

15 MR BRACKETT THE POINT OF THAT WAS IF WE  
16 ARE GOING TO EXCLUDE THIS AND WE HAVE THESE DENIALS  
17 IN THERE THEN THOSE NEED TO BE TAKEN OUT AS WELL  
18 BECAUSE I DON'T WANT THE JURY TO BE SITTING THERE  
19 HEARING THAT HE'S DENYING THAT AND THEN WE DON'T  
20 PRESENT OF ANY IT AND THEN THEY THINK THAT WELL THAT  
21 MUST BE TRUE, HE WAS TELLING THE TRUTH ABOUT THAT,  
22 AND IT ISN'T IN FACT TRUE

23 MR SMITH THAT'S FINE, YOUR HONOR

24 THE COURT WELL, I'M GOING TO GRANT THE  
25 MOTION I FIND THIS IS CHARACTER EVIDENCE IF IT

1       ACTUALLY HAD BEEN FOUND SOME OUTSIDE I THINK THAT  
2       WOULD HAVE BEEN ADMISSIBLE BECAUSE THAT WOULD TIE IN  
3       WITH HIS STATEMENT AND SHOW CULPABILITY    THAT IS, IN  
4       AN ATTEMPT TO DISPOSE OF EVIDENCE SORT OF ALONG THE  
5       SAME ANALOGY TO A FLIGHT    BUT JUST SIMPLY HAVING  
6       THIS MATERIAL, UNLESS THERE IS SOMETHING ELSE TO  
7       CONNECT IT TO THIS OFFENSE, I HADN'T HEARD, WE USE  
8       THE WORD PORNOGRAPHY, BUT I HAVEN'T HEARD ANY  
9       TESTIMONY THAT ANY OF IT WAS ILLEGAL, THAT ANY OF IT  
10      WAS CONNECTED TO THE OFFENSE OTHER THAN TO SHOW JUST  
11      LIKE WITH THE PUNKY BREWSTER CASE THAT THIS MAN MIGHT  
12      ENJOY SOME PORNOGRAPHY    HE'S NOT ACCUSED OF WATCHING  
13      PORNOGRAPHY    HE'S ACCUSED OF COMMITTING CRIMINAL  
14      SEXUAL CONDUCT AND MURDER

15               MR BRACKETT    THAT'S FINE    I JUST WANT  
16      TO MAKE SURE, IT WILL BE REDACTED FROM THE INITIAL  
17      CONFESSION THROUGH MR BAKER AND REDACTED FROM THE  
18      VIDEO CONFESSION AND ANY OTHER PLACE, ANY REFERENCE  
19      WHATSOEVER TO PORNOGRAPHY, ANY QUESTIONING BY THE  
20      DETECTIVES IN THE FOUR HOUR VIDEO TAPE, WE'LL HAVE TO  
21      REDACT THAT OUT    IT WILL JUST BE A BLANK SPACE,  
22      THERE ARE SEVERAL OF THEM IN THERE, SO IT SHOULDN'T  
23      APPEAR TOO UNUSUAL    I JUST MAKE TO MAKE SURE THAT  
24      WE'RE NOT GOING TO REFERENCE IT AND THEY ARE NOT  
25      GOING TO REFERENCE IT

1                   THE COURT    NOW IF THEY REFERENCE IT, I  
2   DON'T KNOW WHY THEY WANT TO REFERENCE IT, BUT IF THEY  
3   OPEN THE DOOR, SO YOU, AND THEY ARE NOT ASKING THAT  
4   THEY NOT, THEY ARE NOT ASKING TO TELL THEM NOT TO PUT  
5   IT IN, DO YOU WANT TO MOVE THAT THEY BE EXCLUDED FROM  
6   PUTTING IT IN?

7                   MR BRACKETT   NO, SIR   I JUST WANT TO  
8   POINT OUT THAT IF THEY DO, THEY ARE OPENING THE DOOR  
9   AND WE WON'T HAVE THAT PROBLEM LATER ON

10                  THE COURT    THEY KNOW ABOUT THAT DOOR   WE  
11   HAVE TALKED ABOUT THAT DOOR A FEW TIMES ALREADY   I'M  
12   GOING TO GRANT THEIR MOTION   I THINK WE UNDERSTAND  
13   EACH OTHER

14                  MR SMITH    YOUR HONOR, I HAVE ONE MORE  
15   MOTION THEN SOME OTHER CO-COUNSEL HAVE MOTIONS AS  
16   WELL   MY FINAL MOTION REGARDS THE TESTIMONY OF THE  
17   YOUNGER GIRLS JESSICA COPE AND KYLA COPE   YOUR  
18   HONOR, THESE GIRLS, AS THE COURT HAS BEEN MADE AWARE,  
19   HAVE MADE STATEMENTS OVER THE PAST TWO AND THREE  
20   QUARTERS YEARS TO THE POLICE, TO THE SOLICITOR, TO  
21   DSS CASE WORKERS ---

22                  THE COURT    AGAIN I ALWAYS HATE TO STOP  
23   YOU BUT WHY DO WE NEED TO TAKE THAT UP RIGHT NOW?  
24   CAN'T WE GET STARTED ON THIS CASE AND JUST TO STAY  
25   AWAY FROM ALL THAT WHEN THE SOLICITOR'S MAKE THEIR

1 OPENING STATEMENT WE GOT A JURY SITTING OUT THERE  
2 AND I WANT TO UTILIZE THE JURY WE CAN DO THESE,  
3 COME IN TOMORROW MORNING AT AN HOUR BEFORE THE JURY,  
4 AND HASH OUT THESE THINGS THAT AREN'T HOT FOR RIGHT  
5 NOW

6 MR SMITH YES, YOUR HONOR THE MOTION  
7 ITSELF IS TO HAVE THESE GIRLS PSYCHOLOGICALLY  
8 EVALUATED BECAUSE WE BELIEVE THAT THEIR CHANGED  
9 TESTIMONY IS THE RESULT OF A, IT'S A PSYCHOLOGICAL  
10 PHENOMENA THAT THEY HAVE NOW, THE SOLICITOR'S OFFICE  
11 HAS ALLOWED TO THIS THAT THESE WERE REPRESSED  
12 MEMORIES THAT ARE NOW COMING FORWARD WE BELIEVE  
13 THAT PURSUANT TO, IN THE INTEREST OF MICHAEL WADE, A  
14 RECENT CASE THAT WAS ISSUED BY THE SUPREME COURT, IN  
15 WHICH A CHILD VICTIM ALLUDED TO HEARING VOICES, THERE  
16 WAS OR CONCERNS ABOUT THIS CHILD'S MENTAL HEALTH, THE  
17 COURT DENIED A PSYCHOLOGICAL EVALUATION OF THIS  
18 WITNESS, THE SUPREME COURT OVERTURNED THAT WE  
19 BELIEVE THAT IT WOULD BE APPROPRIATE TO HAVE OUR  
20 EXPERT, SHE IS READY, WILLING, AND ABLE TO CONDUCT AN  
21 EXAMINATION OF THESE GIRLS REGARDING REPRESSED  
22 MEMORIES THIS CASE, YOUR HONOR, AND IF I MAY HAND  
23 IT UP, SETS FORTH THE ELEMENTS THAT WOULD BE  
24 NECESSARY FOR THE COURT TO MAKE A FINDING THAT AN  
25 EXAMINATION IS APPROPRIATE

1 THE COURT ALL RIGHT

2 MR SMITH AND JUDGE, I BELIEVE THAT WE  
3 CAN MEET THAT STANDARD THE NATURE OF THE EXAM  
4 REQUESTED

5 THE COURT WHY DON'T YOU LET ME READ THIS  
6 CASE AND THEN WE WILL CHAT ABOUT IT LATER I WILL  
7 ASK AT THIS TIME, DO YOU HAVE ANYTHING, AND I HAVEN'T  
8 READ THE ELEMENTS, DO YOU HAVE ANYTHING TO LAY A  
9 FOUNDATION REGARDING THE NEED FOR THIS? YOU ARE  
10 SPECULATING NOW DO YOU HAVE ANY KIND OF FOUNDATION  
11 THAT SAYS THAT THERE IS ANY REASON TO SUGGEST THAT  
12 THIS IS IN FACT REPRESSED MEMORY OTHER THAN --

13 MR SMITH ONLY THE SOLICITOR'S COMMENTS,  
14 YOUR HONOR

15 THE COURT OKAY ALL RIGHT I'M GOING  
16 TO TAKE THIS UNDER ADVISEMENT I'LL BE GLAD TO HEAR  
17 FROM YOU BRIEFLY BUT I WOULD LIKE TO READ THE CASE

18 MR BRACKETT WE NEVER SAID THIS WAS A  
19 REPRESSED MEMORY THAT'S NOT WHAT THE STATE'S  
20 CONTENTION WAS

21 MR MORTON WE DON'T WANT TO GET INTO  
22 THAT BUT THAT'S EXACTLY WHAT THEY SAID, THEY WOULD BE  
23 FREED NOW FROM THIS BURDEN THAT THEY HAVE SINCE THE  
24 FAMILY COURT ACTION, EXACTLY WHAT THEY SAID

25 THE COURT WELL, IF YOU DON'T MIND I'LL

1 READ THIS CASE AND THEN WE'LL TALK ABOUT IT MORE  
2 WHAT ELSE? WHAT'S NEXT?

3 MR SMITH I BELIEVE MR BAITY HAS A  
4 MOTION AT THIS TIME

5 MR BAITY MAY IT PLEASE THE COURT, YOUR  
6 HONOR I'LL TRY TO BE AS BRIEF AS POSSIBLE AS A  
7 MATTER OF FACT, I REDUCED MY ARGUMENT TO A MEMORANDUM  
8 WHICH WAS AUTHORED IN THE WEE HOURS LAST NIGHT AND  
9 I'LL HAND IT UP WITH YOUR PERMISSION

10 THE COURT ALL RIGHT

11 MR BAITY I THINK THIS IS THE ORIGINAL

12 THE COURT IT DOESN'T MATTER

13 MR BAITY YOUR HONOR, AT THE RISK OF  
14 IRRITATING YOU

15 THE COURT NO, YOU WEREN'T HERE WHEN I  
16 GAVE MY EARLIER REMARKS YOU CAME IN LATE I  
17 ALREADY APOLOGIZED

18 MR BAITY I WASN'T SEEKING THAT EITHER,  
19 BUT I'LL CERTAINLY TAKE IT

20 THE COURT ALL RIGHT

21 MR BAITY BUT JUST AS TO MR SMITH'S  
22 MOTION, WE'RE TRYING TO SAVE A DELAY FURTHER DOWN  
23 WHEN THE TESTIMONY OF THE GIRLS MIGHT BE OFFERED, WE  
24 MIGHT HAVE TO ASK THE COURT TO STOP AND ALLOW US TO  
25 EXAMINE THEM AND THAT'S WHY WE'RE BRINGING IT UP NOW



1 BUT MOVING ON, YOUR HONOR THE MOTION IN LIMINE THAT  
2 I HANDED UP INVOLVES REFERENCES TO THE AUTOPSY REPORT  
3 WHICH I, OF COURSE, IS NOT IN EVIDENCE YET, BUT  
4 ESSENTIALLY, YOUR HONOR, DR MAYNARD WHO IS THE  
5 PATHOLOGIST THAT EXAMINED BODY THE AND PERFORMED THE  
6 AUTOPSY MADE TWO REFERENCES IN HIS SUMMARY AND IN  
7 OTHER PLACES IN THE AUTOPSY REPORT IN WHICH HE STATED  
8 THAT HE FOUND CERTAIN INTERNAL CHANGES THAT WERE  
9 SUGGESTIVE OF CERTAIN THINGS IT WAS INFLAMED  
10 MATERIAL, INFLAMED TISSUE ON THE INSIDE OF THE VAGINA  
11 AND INFLAMED MATERIAL ON THE INSIDE OF THE ANUS HE  
12 STATED IN HIS REPORT THAT IT WAS SUGGESTIVE OF  
13 CHRONIC ABUSE OR IRRITATION AND THEN HE ALSO SAID  
14 PERHAPS SEXUAL ABUSE

15 YOUR HONOR, HE TESTIFIED IN THE FAMILY  
16 COURT CASE AND IN MY CROSS EXAMINATION I ASKED HIM  
17 DID HE, WAS HE SAYING TO A REASONABLE DEGREE OF  
18 MEDICAL CERTAINTY THAT AMANDA COPE HAD BEEN SEXUALLY  
19 ABUSED PRIOR TO HER RAPE AND MURDER HE SAID, "NO  
20 I'M NOT SAYING THAT," AND THAT IS VERY CLEARLY SET  
21 FORTH IN THE TRANSCRIPT HE SAID TO A REASONABLE  
22 DEGREE OF MEDICAL CERTAINTY I HAVE NOT MADE THAT  
23 DIAGNOSIS MR D'AGOSTINO ATTEMPTED TO REHABILITATE  
24 HIM AND HE SAID WITH REGARD TO THE EVIDENCE OF  
25 CHRONIC INFLAMMATORY CELLS YOU WERE ASKED ABOUT ON

1 CROSS EXAMINATION, DO YOU HAVE AN OPINION WITHIN A  
2 REASONABLE DEGREE OF MEDICAL CERTAINTY AS TO WHETHER  
3 A FOREIGN OBJECT WAS INSERTED INTO AMANDA COPE'S  
4 VAGINAL CANAL ON OCCASIONS PRIOR TO HER DEATH AND  
5 HE SAID TO A REASONABLE DEGREE OF MEDICAL CERTAINTY  
6 NO, I DON'T HE SAID HOW ABOUT AS TO HER RECTUM AND  
7 HE SAID NO, TO A REASONABLE DEGREE OF MEDICAL  
8 CERTAINTY I DON'T HAVE THAT OPINION HE SAID THERE  
9 ARE MERE, THERE ARE SUGGESTIONS TO THAT

10 YOUR HONOR, MY CLIENT HAS BEEN CHARGED  
11 WITH CRIMINAL SEXUAL CONDUCT TWO COUNTS AGAINST  
12 AMANDA COPE AND IN THE INDICTMENT IT STATES THAT THAT  
13 OCCURRED ON 11/29/01 IT DOES NOT MAKE ANY REFERENCE  
14 TO ANY PRIOR SEXUAL ABUSE IT DOESN'T MENTION  
15 ANYTHING HAPPENING IN OCTOBER OR NOVEMBER OR ANYTIME  
16 PRIOR TO 11-29-01, SO IN LIGHT OF THE FACT THAT DR  
17 MAYNARD'S REPORT REFERS TO SEXUAL ABUSE THAT'S NOT  
18 INCLUDED IN THE INDICTMENT AND IS NOT EVEN, DOESN'T  
19 EVEN RISE TO THE LEVEL OF AN OPINION OF MEDICAL  
20 CERTAINTY, I WOULD ASK THAT THE COURT RESTRAIN THE  
21 SOLICITOR FROM MAKING ANY REFERENCE TO PRIOR SEXUAL  
22 ABUSE OF AMANDA IN HIS OPENING REMARKS OR AT ANY  
23 OTHER TIME IN THE TRIAL NOW AGAIN THAT MIGHT EVEN  
24 BE A PRIOR BAD ACT, THEY MAY TRY TO BRING IN UNDER  
25 LYLE OR SOMETHING OF THAT NATURE, BUT CERTAINLY

1 HADN'T LAID THAT FOUNDATION, SO WE WERE WORRIED ABOUT  
2 TODAY SAYING THIS HAS BEEN GOING ON FOR A LONG TIME,  
3 WHEN HE HAVE NO MEDICAL OPINION THAT IT HAS, AND EVEN  
4 IT'S NOT EVEN PART OF OUR CASE TODAY THAT IS ALL I  
5 HAVE THANK YOU

6 THE COURT SOMEBODY FROM THE SOLICITOR'S  
7 OFFICE

8 MR THOMPSON YES, YOUR HONOR I WOULD  
9 POINT OUT THE DEFENDANT IN HIS STATEMENTS ADMITTED  
10 WHEN HE HAD MOLESTED THE VICTIM THAT NIGHT, THAT HE  
11 HAD ALSO STARTED A COUPLE MONTHS BEFORE IN INSERTING  
12 A DILDO INTO HER, INSERTING HIS FINGERS INTO HER BOTH  
13 VAGINALLY AND ANALLY, AND THAT HE DID THAT ON SEVERAL  
14 OCCASIONS HE ALSO TALKED ABOUT USING THE KY JELLY  
15 AND USING IT AS A LUBRICANT WHEN HE WAS DOING THOSE  
16 THINGS TO AMANDA I WOULD POINT OUT AS WELL DR  
17 MAYNARD, HIS TESTIMONY ISN'T CLEARLY REFLECTED HERE,  
18 HE HAS SINCE LOOKED AT OTHER THINGS AND HIS TESTIMONY  
19 I BELIEVE WILL BE A LITTLE BIT DIFFERENT THAN IN THE  
20 FAMILY COURT HIS OPINION WILL BE THAT THERE IS NO  
21 OTHER EXPLANATION BUT THAT SOMETHING WAS INSERTED  
22 INSIDE HER, HER ANUS ON SEVERAL OCCASIONS, THAT  
23 CAUSED THE TYPE OF CHRONIC INFLAMMATION THAT WAS IN  
24 HER ANUS FOUR OR MORE INCHES HIGH INTO THE ANUS, THAT  
25 WOULD NOT BE SOMETHING LIKE AN ENEMA, THAT WOULD NOT

1 BE SOMETHING LIKE HER FINGER, IT WOULD NOT BE THINGS  
2 OF THAT NATURE, THOSE THINGS WOULD BE UNCOMFORTABLE  
3 TO A CHILD AS WELL HE WOULD SAY THAT THERE IS SIGNS  
4 OF CHRONIC INFLAMMATION WITHIN THE VAGINA THAT WOULD  
5 BE SOMETHING THAT AS THEY, THEY ARE QUESTIONING I  
6 BELIEVE THEY TALK ABOUT COULD BE CONSISTENT WITH  
7 MASTURBATING WITH A DILDO AND THE DOCTOR'S ANSWER WAS  
8 YES SO OBVIOUSLY WHAT THE DEFENDANT SAYS IS THAT  
9 HAS HAPPENED

10 NOW WHAT MAKES THAT CERTAINLY RELEVANT  
11 AND CERTAINLY ADMISSIBLE IN THIS CASE IS THAT HERE WE  
12 HAVE THE DEFENDANT WHO HAS MADE NO QUALMS ABOUT WHAT  
13 HIS DEFENSE IS, IT'S A FALSE CONFESSION, HE DIDN'T DO  
14 IT, AND HE DIDN'T HAVE ANYTHING TO DO WITH MOLESTING  
15 HER, AND NEVER HAS THEN THEY TURN POINT NOW AS THEY  
16 ARE DOING WITH MR SANDERS TO SAY MR SANDERS IS THE  
17 ONE WHO CAME IN AND DID THIS AND DID IT ON HIS OWN  
18 OBVIOUSLY SIGNS OF CHRONIC ABUSE TO THE VICTIM AND  
19 THE DEFENDANT ADMITTING TO THAT CHRONIC ABUSE SHOW  
20 IDENTITY OF ONE OF THE PERPETRATORS AND THE IDENTITY  
21 IS BILLY WAYNE COPE

22 THE COURT ALL RIGHT I'M GOING TO DENY  
23 THE MOTION BASED ON THE REPRESENTATION THAT THERE  
24 WILL BE STRONGER EVIDENCE BASED ON WHAT I LOOKED AT  
25 HERE IS PRETTY IFFY, BUT BASED ON THE FACT THAT IT'S

1       REFERENCED IN THE CONFESSIONS, I FIND THAT IT IS  
2       RELEVANT   WHILE IT IS PREJUDICIAL, I FIND THAT  
3       PROBATIVE VALUE OUTWEIGHS PREJUDICE

4               MR   BAITY    IF I CAN MAKE ONE FURTHER  
5       SUGGESTION, YOUR HONOR   WE HAVE OF COURSE A COPY OF  
6       DR   MAYNARD'S TESTIMONY AND WHAT MR   THOMPSON JUST  
7       SAID IS PRECISELY WHAT HE SAID DURING THE FAMILY  
8       COURT CASE UNDER BOTH DIRECT AND CROSS EXAMINATION,  
9       SO HE HADN'T CHANGED HIS TESTIMONY AT ALL, BUT HIS  
10      CONCLUSION WAS THAT HE DID NOT HAVE AN OPINION WITH  
11      RESPECT TO REASONABLE DEGREE OF MEDICAL CERTAINTY  
12      WE WOULD LIKE TO HAND MAYBE THAT TRANSCRIPT UP

13             THE COURT    I'LL BE GLAD TO LOOK AT IT  
14      USUALLY AS TO CAUSATION YOU HAVE TO HAVE REASONABLE  
15      DEGREE OF MEDICAL CERTAINTY   THIS ISN'T A CAUSATION  
16      ISSUE    THIS IS AN ISSUE INVOLVING WHETHER THIS  
17      PARTICULAR INDIVIDUAL HAS COMMITTED THIS OFFENSE AND  
18      I THINK IT IS RELEVANT THAT HE HAS ADMITTED, I KNOW  
19      HIS CONFESSION IS UNDER ATTACK, BUT HE HAS ADMITTED  
20      THAT THIS IN FACT OCCURRED PREVIOUSLY AND I THINK  
21      THAT IS RELEVANT AS TO THE ISSUE OF WHETHER OR NOT IT  
22      OCCURRED THAT NIGHT   IT'S DIFFERENT FROM A CAUSATION  
23      ISSUE

24             MR   BAITY    HE'S NOT CHARGED WITH CRIMINAL  
25      SEXUAL CONDUCT PRIOR TO THAT NIGHT IN QUESTION AND

1        THAT'S WHY WE'RE CONCERNED ABOUT IT AND THERE IS THIS  
2        PROMISE OF MORE EVIDENCE, WE JUST DIDN'T WANT THEM TO  
3        GO INTO IT ON OPENING ARGUMENT UNTIL THIS EVIDENCE OR  
4        SOME SORT OF PROFFER OR FOUNDATION HAS BEEN LAID

5                THE COURT    DO YOU HAVE ANY PROBLEM WITH  
6        HOLDING OFF UNTIL THE COURT HAS HAD A CHANCE TO RULE  
7        BASED ON MORE CLEAR PRESENTATION OF EVIDENCE?

8                MR THOMPSON    NO, YOUR HONOR

9                MR BAITY    THANK YOU, YOUR HONOR

10               THE COURT    ALL RIGHT    WHAT NEXT

11               MR MORTON    MR COPE WISHES TO PLEAD TO  
12        UNLAWFUL NEGLIGENCE AT THIS TIME

13               MR THOMPSON    YOUR HONOR, THE STATE WOULD  
14        NOT ACCEPT HIS PLEA AT THIS TIME    I BELIEVE I HAVE  
15        CASE LAW AND THEY HADN'T TOLD ME --

16               THE COURT    LET'S TAKE A LOOK AT THAT    I  
17        HAVE ALWAYS THOUGHT THAT ANYBODY COULD PLEAD AT ANY  
18        TIME BUT I THINK THERE IS SOME CASE LAW THAT SAYS  
19        OTHERWISE SO LET'S LOOK AT THE CASE    IF YOU'LL HAND  
20        IT TO ME WE'LL TAKE A SHORT BREAK

21               (COURT'S IN RECESS AT 10 22)

22               (COURT RESUMES AT 10 40 )

23               THE COURT    I'VE BEEN HANDED THE CASE OF  
24        STATE VERSUS CAN CERR, C-E-R-R, AND LET ME ASK FIRST,  
25        IS THIS A STRAIGHT UP PLEA?

1 MR MORTON YES, SIR

2 THE COURT THIS CASE DOESN'T APPLY

3 MR THOMPSON YOUR HONOR, I BELIEVE IT  
4 DOES IN THAT IT PUTS OUT THE RIGHT THE DEFENDANT HAS

5 THE COURT CERTAINLY DOES

6 MR THOMPSON HIS CONSTITUTIONAL RIGHT IS  
7 THAT TO A JURY TRIAL

8 THE COURT NO

9 MR THOMPSON THAT'S EXACTLY WHAT IT  
10 SAYS, YOUR HONOR IT SAYS HE'S GUARANTEED THE RIGHT  
11 TO A JURY TRIAL AND IF I COULD JUST BE HEARD ON IT  
12 BEFORE THE COURT RULES THE DEFENSE IN THIS CASE,  
13 YOUR HONOR, I BELIEVE IS DOING THIS THEY WISH TO  
14 ENTER A PLEA TO THIS CHARGE AND THEN I'M SURE THE  
15 NEXT MOTION THAT WILL COME DOWN THE LINE IS GOING TO  
16 BE THAT NOW THEY ARE GOING TO SAY SINCE HE'S PLEAD TO  
17 THAT WE CAN NO LONGER PRESENT ANY EVIDENCE REGARDING  
18 THAT CASE AND THAT TAKES A HUNK OUT OF THE EVIDENCE  
19 THAT WE INTEND TO PRESENT IN THE CRIME AS A WHOLE

20 THE COURT I UNDERSTAND WHAT THEY ARE  
21 DOING, BUT THE QUESTION IS DO THEY HAVE A RIGHT TO DO  
22 IT, NOT WHY THEY ARE DOING IT I MEAN, HE'S GOT A  
23 RIGHT TO DO IT AND IF IT UPSETS THE STATE'S APPLE  
24 CART THAT'S JUST UNFORTUNATE THE STATE HAS GOT HIM  
25 CHARGED AND THIS CASE SAID IT IS THE PREROGATIVE OF

1 ANY PERSON TO WAIVE HIS RIGHTS AND CONFESS AND PLEAD  
2 GUILTY UNDER JUDICIALLY DEFINED SAFEGUARDS ARE  
3 ADEQUATELY ENFORCED IN THIS CASE THEY HELD HE WAS  
4 ENTITLED TO A TRIAL ON THE CHARGE ON WHICH HE WAS  
5 CHARGED WHAT HAPPENED HERE IS THE COURT WOULD NOT  
6 ACCEPT A NEGOTIATED PLEA THE STATE SAID HE WOULD  
7 ACCEPT A STRAIGHT UP PLEA BUT WOULD NOT ACCEPT A PLEA  
8 FROM A SECOND OFFENSE DOWN TO A FIRST SO WHAT THEY  
9 ARE SAYING IS, YES, HE'S GOT A CONSTITUTIONAL  
10 GUARANTEE TO BE TRIED ON FIRST OFFENSE THE STATE  
11 WOULD NOT, THE COURT WOULD NOT ACCEPT A LESSER  
12 CHARGE

13 MR THOMPSON BUT THE COURT SPECIFICALLY  
14 SAID HOWEVER AN APPELLANT HAS NO CONSTITUTIONAL RIGHT  
15 TO PLEA IF YOU GO DOWN RIGHT UNDERNEATH THE CITE ON  
16 PAGE FIVE OF THE CASE THAT YOU HAVE IN FRONT OF YOU,  
17 THE LAST PARAGRAPH IT GOES ON DOWN UNDER WHERE IT  
18 QUOTES EASLER, THEN THE NEXT SENTENCE SAYS, HOWEVER,  
19 APPELLANT HAS NO CONSTITUTIONAL RIGHT TO PLEA AN  
20 ACCUSED HAS A RIGHT TO TRIAL BY AN IMPARTIAL JURY

21 THE COURT HAVE YOU GOT THAT, THE EASLER  
22 CASE?

23 MR THOMPSON YES, YOUR HONOR, I DO  
24 THE COURT BECAUSE THIS CASE DOESN'T SAY,  
25 THIS CASE DOESN'T HELP LET'S SEE WHAT EASLER SAYS



1                   THIS IS ANOTHER, DURING THE PRESENTATION  
2                   OF STATE'S CASE THE APPELLANT OFFERED TO PLEAD GUILTY  
3                   TO LEAVING THE SCENE OF ACCIDENT, DRIVING UNDER  
4                   SUSPENSION, FELONY DUI, AND CAUSING GREAT BODILY  
5                   INJURY AND FELONY DUI CAUSING DEATH     THE STATE  
6                   ARGUED APPELLANT WAS MERELY TRYING TO PLEAD TO THE  
7                   LESSER CHARGES IN AN ATTEMPT TO PRECLUDE THE STATE  
8                   THE TRIAL JUDGE REFUSED TO ACCEPT APPELLANT'S PLEA  
9                   OUT OF CONCERN THAT DOUBLE JEOPARDY MIGHT PRECLUDE  
10                  THE STATE FROM PROCEEDING ON THEIR OTHER CHARGES

11                  MR THOMPSON     WHICH IS EXACTLY WHAT I  
12                  THINK THEY ARE ATTEMPTING TO DO HERE TO PREVENT US  
13                  FROM BEING ABLE TO PROCEED THE WAY THE STATE SHOULD  
14                  IN SHOWING THE JURY THE ENTIRE PICTURE OF WHAT HAS  
15                  HAPPENED IN THIS HOUSE

16                  THE COURT     LET'S SEE     LOOK DOWN HERE,  
17                  THIS IS STATE VERSUS WILLIAMS     WHEN AN ACCUSED IS  
18                  INDICTED ON SEVERAL COUNTS ONE OF WHICH MAY BAR  
19                  PROSECUTION OF THE OTHERS -- WELL, THIS ISN'T GOING  
20                  TO BAR PROSECUTION OF THE OTHERS, IS IT?

21                  MR THOMPSON     NO, BUT IT COULD IMPAIR THE  
22                  PROSECUTION

23                  THE COURT     I KNOW     I UNDERSTAND THAT  
24                  BUT THAT'S NOT WHAT THIS SAYS     IT SAYS BAR     IT SAYS  
25                  SOLICITOR NOT REQUIRED TO PLEA BARGAIN     WAIT A

1       MINUTE     FURTHER WHEN AN ACCUSED IS INDICTED ON  
2       SEVERAL COUNTS ONE OF WHICH MIGHT BAR PROSECUTION OF  
3       THE OTHERS SHOULD THE ACCUSED PLEAD GUILTY TO THAT  
4       ACCOUNT THE TRIAL JUDGE IS NOT REQUIRED TO ACCEPT THE  
5       PLEA     SO FAR WE GOT THE STATE DOES NOT, THE STATE  
6       DOES NOT HAVE TO ACCEPT THE PLEA, THE COURT DOES NOT  
7       HAVE TO ACCEPT THE PLEA TO A LESSER INCLUDED OR TO A  
8       COUNT THAT WOULD BAR AND CREATE A DOUBLE JEOPARDY  
9       PROBLEM WITH THE OTHER COUNTS     THAT STILL ISN'T THIS  
10      CASE

11               MR THOMPSON     YOUR HONOR, IN CERR,  
12      HOWEVER, AN APPELLANT HAS NO CONSTITUTIONAL RIGHT TO  
13      PLEA     THAT IS PLAIN AND SIMPLE     HE HAS NO  
14      CONSTITUTIONAL RIGHT TO DO THAT     THE REMEDY IS THE  
15      CONSTITUTIONAL RIGHT WHICH IS A JURY TRIAL WHICH IS  
16      WHAT THE STATE INTENDS TO DO

17               THE COURT     WELL, I WANT YOU TO SHOW ME A  
18      CASE THOUGH THAT APPLIES THAT IN A STRAIGHT UP PLEA  
19      THAT DOESN'T HAVE THE OTHER ELEMENTS, THAT IS, IN  
20      THIS ONE YOU GOT THAT REGARDING THE LESSER INCLUDED,  
21      NOW WE'VE GOT THIS WHERE IT WOULD BAR PROSECUTION OF  
22      THE OTHERS     I GUESS STATE VERSUS WILLIAMS IS WHAT I  
23      NEED TO LOOK AT NEXT     LET ME SEE THAT ONE

24               MR THOMPSON     I'LL HAVE TO GET A COPY OF  
25      IT, YOUR HONOR

1                   THE COURT     AND THE STATE VERSUS  
2     TRUESDALE     LET'S GET THEM ALL     STATE VERSUS  
3     TRUESDDALE IS THE CITE THAT SAYS THAT, THE  
4     PARENTHETICAL SAYS, THEIR PLEAS OF GUILTY ARE  
5     UNCONDITIONAL AND IF AN ACCUSED ATTEMPTS TO ATTACH  
6     ANY CONDITION OR QUALIFICATION, THE TRIAL JUDGE  
7     SHOULD DIRECT A PLEA OF NOT GUILTY     SO EVERYTHING SO  
8     FAR HAS SOME KIND OF OTHER ATTACHMENT TO IT NOT JUST  
9     A STRAIGHT UP PLEA     AND I NEED STATE VERSUS  
10    ARMSTRONG

11                   MR BRACKETT     I JUST HAVE THE BOOK     I  
12    DON'T HAVE COPIES FOR COUNSEL

13                   THE COURT     MR MORTON, YOU WANT TO CHIME  
14    IN ANY TIME     I FEEL LIKE I'M ARGUING THE CASE FOR  
15    YOU

16                   MR MORTON     YES, SIR     YOU ARE DOING A  
17    GREAT JOB     I APPRECIATE IT

18                   MR BRACKETT     ONE POINT THAT I WOULD  
19    **MAKE**, YOUR HONOR, IS THAT WE GIVE A FACT PATTERN WHEN  
20    **WE TAKE** A PLEA AND PART OF OUR, PART OF THE FACTS FOR  
21    **THE BASIS** OF THIS UNLAWFUL NEGLECT IS THAT HE ALLOWED  
22    ANOTHER MAN TO ABUSE HIS DAUGHTER AND IF HE DOESN'T  
23    WANT TO ACCEPT THAT, IF HE WANTS TO ADMIT TO THAT AS  
24    PART OF HIS GUILTY PLEA, THEN WE MIGHT BE ABLE TO  
25    COME TO SOME AGREEMENT

1                   THE COURT    LET'S SEE WHAT THE INDICTMENT  
2       SAYS    WELL, I KNOW I HAD THEM    HERE IT IS    IT WAS  
3       ON THE VERY BOTTOM    ALL RIGHT    SO YOUR CLIENT IS  
4       WILLING THEN, LET'S GET THIS ONE AND MAYBE WE CAN CUT  
5       TO THE CHASE, YOUR CLIENT IS WILLING TO PLEAD THAT HE  
6       IN YORK COUNTY ON OR ABOUT NOVEMBER 29, 2001,  
7       WILLFULLY AND UNLAWFULLY PLACED HIS NATURAL CHILD  
8       AMANDA COPE AGE 12 AT REASONABLE RISK OF HARM  
9       AFFECTING THE CHILD'S LIFE, PHYSICAL OR MENTAL HEALTH  
10      OR SAFETY BY FAILING TO MAINTAIN SANITARY LIVING  
11      CONDITIONS IN THE HOUSE, AND/OR BY ALLOWING OR  
12      CAUSING PHYSICAL OR MENTAL ABUS TO BE INFLICTED UPON  
13      THE CHILD THUS PLACING THE CHILD AT UNREASONABLE RISK  
14      OF HARM AFFECTING THE CHILD'S LIFE, PHYSICAL OR  
15      MENTAL HEALTHY AND SAFETY    THIS OCCURRING IN THE  
16      CITY OF ROCK HILL

17                   MR MORTON    YOUR HONOR, IT IS OUR  
18      POSITION AND I'LL BE GLAD --

19                   THE COURT    WELL, MY QUESTION IS --

20                   MR MORTON    THE ANSWER TO THAT IS NO

21                   THE COURT    HE'S NOT WILLING TO PLEAD TO  
22      THAT?

23                   MR MORTON    HE'S WILLING TO PLEAD TO THE  
24      FIRST HALF OF THAT

25                   THE COURT    HE CAN'T    GO AHEAD    I'LL

1 HEAR FROM YOU, BUT HERE WE GO ALREADY NOW WE GOT  
2 CONDITIONS

3 MR MORTON THE CONDITIONS ARE  
4 CONSTITUTIONAL CONDITIONS BECAUSE, YOUR HONOR, IF I  
5 COULD HAND UP THE STATUTE, OKAY, THEY ARE TRYING TO  
6 PIGGY BACK CHARGES ONTO THIS MAN THAT AREN'T PROVIDED  
7 FOR IN THE STATUTE IT'S AN UNCONSTITUTIONAL VAGUE  
8 STATUTE THAT IS OVERLY BROAD, IT ALLEGES THINGS THAT  
9 AREN'T IN THE STATUTE AND IF

10 THE COURT THE INDICTMENT IS OVER BROAD  
11 OR THE STATUTE IS OVER BROAD?

12 MR MORTON THE INDICTMENT IS OVER BROAD  
13 I'LL GIVE THE COURT A MINUTE IF YOU WANT TO LOOK

14 THE COURT NO, I'M LISTENING

15 MR MORTON OKAY YOUR HONOR, THE  
16 STATUTE SAYS THAT HE PLACED THE CHILD AMANDA AT  
17 UNREASONABLE RISK OF HARM AFFECTING THE CHILD'S LIFE,  
18 PHYSICAL OR MENTAL OR SAFETY BY FAILING TO MAINTAIN  
19 SANITARY LIVING CONDITIONS, WE HAVE NO PROBLEM WITH  
20 THAT THEN WHAT THEY ARE ASKING THE JURY IS AND/OR  
21 ALLOWING OR CAUSING PHYSICAL OR MENTAL ABUSE TO BE  
22 INFLECTED UPON THE CHILD NOW I CAN'T FOR THE LIFE  
23 OF ME DETERMINE WHAT THAT MEANS I MEAN WHAT'S THE  
24 JURY SUPPOSED TO DO? ARE THEY SUPPOSED TO PICK ONE?  
25 ARE THEY SUPPOSED TO PICK TWO? ARE THEY SUPPOSED TO

1       ADD THEM UP? TAKE THEIR PICK? THE STATUTE, IF THEY  
2       HAD, IF THEY HAD, AND THEY DREW THE INDICTMENT, THEY  
3       ARE SUPPOSED TO DRAW THE INDICTMENT SO THAT WE'LL,  
4       THE COURT CAN KNOW, THE JURY CAN KNOW, WHAT THEY ARE  
5       SUPPOSED TO CONSIDER AND

6               THE COURT     BUT THERE HAS NOT BEEN AN  
7       ATTACK ON THE INDICTMENT

8               MR MORTON     I'M SORRY?

9               THE COURT     THERE HAS BEEN NO ATTACK ON  
10       THE INDICTMENT THAT I'M AWARE OF

11              MR MORTON     I'M ATTACKING THE INDICTMENT  
12       NOW

13              THE COURT     ALL RIGHT

14              MR MORTON     OKAY

15              THE COURT     WELL, YOU CAN'T DO THAT AS  
16       PART OF A GUILTY PLEA

17              MR MORTON     WELL, I'M ATTACKING THE  
18       INDICTMENT AS BEING UNCONSTITUTIONALLY VAGUE BEFORE  
19       THIS JURY THIS MORNING

20              THE COURT     SO YOU WANT ME TO THROW THE  
21       INDICTMENT OUT? I CAN'T CONFORM THE INDICTMENT I  
22       THINK --

23              MR MORTON     THIS INDICTMENT BASICALLY HAS  
24       TWO PARTS TO IT

25              THE COURT     I UNDERSTAND THAT

1                   MR MORTON    OKAY    MY CLIENT IS WILLING  
2                   TO PLEAD ONE OF THOSE PARTS

3                   THE COURT    OKAY    NO    I'M NOT GOING TO  
4                   ACCEPT THAT    THAT'S A CONDITIONAL PLEA    THE  
5                   CORRECT, IT WOULD APPEAR TO ME THAT THE CORRECT  
6                   POSTURE WOULD BE TO ATTACK THE INDICTMENT    IF THE  
7                   COURT FINDS THE INDICTMENT DOES NOT PUT HIM ON NOTICE  
8                   AND DOES NOT REFLECT THE CHARGE AND DOES NOT MEET  
9                   THOSE STANDARDS THEN THE INDICTMENT WOULD BE QUASHED  
10                  PERHAPS, BUT THAT MOTION IS NOT BEFORE ME

11                  MR MORTON    ALL RIGHT    I MAKE A MOTION  
12                  TO QUASH THE INDICTMENT

13                  THE COURT    WHAT DOES THE STATE SAY ABOUT  
14                  THAT?

15                  MR THOMPSON   THE INDICTMENT CONFORMS TO  
16                  THE STATUTE, THE STATUTE'S CONSTITUTIONAL, THE  
17                  INDICTMENT IS CONSTITUTIONAL, AND PUTS THE DEFENDANT  
18                  ON NOTICE AS HE'S SUPPOSED TO BE, AND IT COMPILES  
19                  WITH ALL OF THOSE THINGS

20                  THE COURT    I AGREE    I'M GOING TO DENY  
21                  THE MOTION    AN INDICTMENT IS SUFFICIENT IF IT PUTS  
22                  HIM ON NOTICE OF THE CHARGE, WHETHER HE CAN BE  
23                  SENTENCED TO, AND THE PROBLEM, WHAT YOU ARE ASKING ME  
24                  TO DO IS, WELL, I BACK OFF OF THAT    I'M NOT GOING TO  
25                  MAKE THAT STATEMENT    BUT GO AHEAD    I DENY THE

1 MOTION

2 MR MORTON YOUR HONOR, THE INDICTMENT  
3 SAYS THAT HE UNLAWFULLY NEGLECTED HIS CHILD BY  
4 FAILING TO MAINTAIN SANITARY LIVING CONDITIONS AND/OR  
5 BY CAUSING PHYSICAL OR MENTAL ABUSE NOW BY, FIRST  
6 OF ALL, ALLOWING TO BE DONE IS NOT IN THE STATUTE  
7 PHYSICAL OR MENTAL ABUSE, AND I HANDED, IS NOT IN THE  
8 STATUTE, AND WHEN THEY PUT IN THE INDICTMENT AND/OR  
9 IT'S CONFUSING TO THE JURY, IT'S VAGUE  
10 UNCONSTITUTIONALLY WHAT IF A JURY FINDS ONE BUT NOT  
11 THE OTHER? THEY CAN'T, THEY ARE ATTEMPTING TO PIGGY  
12 BACK ALL OF THIS STUFF ON HERE AGAINST THIS PERSON  
13 AND IT'S UNCONSTITUTIONALLY VAGUE I DON'T KNOW IF  
14 I WAS ON THE JURY AND I FELT AND I SAID WELL MAYBE HE  
15 FAILED TO MAINTAIN SANITARY LIVING CONDITIONS BUT NOT  
16 THE OTHER PART, THERE IS AN AND/OR IN THERE OR DO  
17 THEY GET THE CHOICE, THE OR PART, AND THEN THEY ADD  
18 LANGUAGE IN THERE THAT'S NOT EVEN IN THE STATUTE

19 THE COURT WELL

20 MR MORTON SO I DON'T UNDERSTAND WHAT  
21 THE CHARGE IS

22 THE COURT WELL, THEN THE DILEMMA IS  
23 WHETHER YOU, WHETHER HE PLEADS TO THE INDICTMENT AS  
24 SET FORTH, THAT'S WHAT HE'S CHARGED WITH, OR WHETHER  
25 I QUASH THE INDICTMENT BECAUSE IT'S NOT STATUTORILY



1 SUFFICIENT YOU WANT THE MIDDLE GROUND

2 MR MORTON WELL, I'LL BE GLAD, I'LL BE  
3 GLAD TO TAKE ANY GROUND IF THEY HAD INDICTED HIM  
4 TWICE, THEN WE WOULD HAVE TO LIVE WITH THAT IF THEY  
5 INDICTED HIM FOR MAINTAINING SANITARY LIVING  
6 CONDITIONS AND THEY INDICTED HIM FOR PHYSICAL AND  
7 MENTAL ABUSE TO HIS DAUGHTER, THEN WE WOULD HAVE TO  
8 DO ONE OF THOSE TWO THINGS, BUT THEY HAVE COMBINED  
9 THEM BOTH AND SO WHAT'S THE JURY TO DETERMINE

10 THE COURT IT'S NOT FOR THE JURY YET  
11 WE'LL WORRY ABOUT THAT WHEN WE GET TO THE JURY  
12 RIGHT NOW HE WANTS TO PLEA HE EITHER CAN PLEAD TO  
13 THIS INDICTMENT OR IT CAN BE QUASHED

14 MR MORTON SO

15 THE COURT IF IT'S QUASHED THEN IT'S GONE  
16 AND WHERE THAT PUTS US AS FAR AS PRESENTATION OF  
17 EVIDENCE INVOLVING WHAT HAPPENED IN THAT HOUSE, I  
18 DON'T KNOW, BUT YOU NEED TO MAKE A MOTION TO QUASH  
19 WHICH YOU MADE AND I DENIED, I DENIED THAT, SO THE  
20 OPTIONS NOW ARE TO PLEAD AS CHARGED

21 MR MORTON YES, SIR HE'S NOT PLEADING  
22 AS CHARGED

23 THE COURT ALL RIGHT LET'S GO FORWARD

24 MR MORTON CAN I MAKE A, I GUESS THE  
25 INDICTMENT IS ALL READY PART OF THE RECORD I MOVE

1 TO MAKE THE STATUTE AS PART OF THE RECORD

2 THE COURT THE STATUTE IS PART OF OUR LAW

3 BUT WE'RE CERTAINLY MAKE IT PART OF THE RECORD

4 MR MORTON THANK YOU, YOUR HONOR

5 THE COURT ALL RIGHT ANYTHING ELSE

6 BEFORE WE -- I DO HAVE ONE THING COUNSEL HAVE

7 ANYTHING BEFORE WE DO THE NEXT STEP?

8 MR SMITH YES, SIR, YOUR HONOR, OUR

9 WITNESS THAT WAS NOT HERE EARLIER IS HERE

10 THE COURT IF THEY ARE HERE, LET'S DO

11 THAT THEN WE CAN JUST SAIL AWAY SMOOTHLY

12 MR SMITH BILLY COPE CALLS GREGG

13 MCCRARY

14 GREGG MCCRARY, BEING FIRST DULY SWORN,

15 TESTIFIED AS FOLLOWS

16 DIRECT EXAMINATION BY MR SMITH

17 Q THE SEAT DOES NOT ADJUST SO YOU MAY HAVE TO LEAN

18 FORWARD TO SPEAK INTO THE MICROPHONE

19 A I'LL SPEAK UP

20 Q ACTUALLY THE COURT MICROPHONE IS THAT ONE?

21 A THIS IS IT?

22 Q YES, SIR?

23 A FINE NO PROBLEM

24 Q AGAIN IF YOU WOULD STATE YOUR FULL NAME FOR THE

25 COURT?

1                   YES    MY NAME IS GREGG, G-R-E-G-G    MIDDLE  
2   INITIAL O    LAST NAME MCCRARY    M-C-C-R-A-R-Y

3   Q    WHERE DO YOU CURRENTLY LIVE?

4   A    IN FREDERICKSBURG, VIRGINIA

5   Q    WHAT'S YOUR OCCUPATION?

6   A    I'M SELF-EMPLOYED AT THE MOMENT

7   Q    IN WHAT SORT OF OCCUPATION?

8   A    I RUN A CONSULTING BUSINESS CALLED BEHAVIOR  
9   CRIMINALOLOGY INTERNATIONAL AND I DO WORK IN VIOLENT  
10   CRIME, VIOLENT CRIME ANALYSIS, THREAT ASSESSMENTS,  
11   RISK OF VIOLENCE PREDICTIONS, AND I DO WORK PLACE  
12   VIOLENCE

13   Q    BEFORE WE GET INTO THAT I WANT TO GO THROUGH A  
14   COUPLE OF OTHER THINGS    IF YOU COULD EXPLAIN YOUR  
15   EDUCATIONAL BACKGROUND TO THE COURT?

16   A    YES    MY FORMAL EDUCATION I HAVE A BACHELOR'S  
17   DEGREE IN LIBERAL ARTS DEGREE, FINE ARTS DEGREE, FROM  
18   ITHACA COLLEGE IN ITHACA, NEW YORK    DONE ADDITIONAL  
19   GRADUATE STUDIES IN CRIMINAL JUSTICE AT LONG ISLAND  
20   UNIVERSITY    ALSO DONE CRIMINAL OR GRADUATE STUDIES  
21   AT THE UNIVERSITY OF VIRGINIA    I HAVE A MASTER  
22   DEGREE IN PSYCHOLOGY IN MARYMOUNT COLLEGE IN  
23   ARLINGTON, VIRGINIA

24   Q    NOW IF WOULD YOU BRIEFLY GO THROUGH YOUR  
25   EMPLOYMENT HISTORY AS WELL    I DON'T THINK THAT'S

1 VERY LENGTHY

2 A NO, IT ISN'T I WAS, STARTING IN 1969 I ENTERED  
3 ON DUTY AS A SPECIAL AGENT WITH THE FBI, AND I HAVE A  
4 25 YEAR CAREER WITH THE FBI

5 Q DOING WHAT SORT OF WORK? WHAT POSITIONS OR WHAT  
6 FIELD?

7 A I BREAK IT DOWN INTO TWO GENERAL AREAS THE  
8 FIRST 15 YEARS I WAS A FIELD AGENT DOING  
9 INVESTIGATIONS IN THE FIELD AROUND THE COUNTRY AND  
10 PRACTICALLY THE LAST TEN YEARS I GOT INVOLVED WITH  
11 WORKING THE BEHAVIORAL SCIENCE AREA AND SPECIALIZED  
12 IN THAT AND FINISHED MY CAREER AT THE FBI ACADEMY IN  
13 THE BEHAVIORAL SCIENCE UNIT WHERE WE DID A LOT OF  
14 WORK IN VIOLENT CRIME

15 Q CAN YOU EXPLAIN WHAT THE BEHAVIORAL SCIENCE UNIT  
16 IS TO THE COURT?

17 A YES IT'S A SPECIALIZED UNIT WHERE WE DO  
18 RESEARCH INTO AND OPERATIONAL SUPPORT INTO CASES OF  
19 VIOLENT CRIME IT WAS ACTUALLY FORMED, IT'S UNDER  
20 THE UMBRELLA OF THE NATIONAL CENTER FOR ANALYSIS OF  
21 VIOLENT CRIME WHICH WAS FORMED IN 1985 AT THE  
22 DIRECTIVE OF PRESIDENT REAGAN HE WANTED A NATIONAL  
23 CENTER FOUNDED TO STUDY VIOLENT CRIME, BUT THE  
24 DIFFERENCE IS FROM A LAW ENFORCEMENT OR AN  
25 INVESTIGATIVE PROSPECTIVE THERE HAS BEEN A LOT OF

1 WORK IN VIOLENT CRIME DONE IN CLINICAL RESEARCH AND  
2 SO FORTH, BUT IT'S NOT BEEN VERY HELPFUL TO  
3 INVESTIGATORS SO THE FBI WAS TASKED WITH FORMING THIS  
4 CENTER AND THE BEHAVIORAL SCIENCE UNIT WAS REALLY THE  
5 ANCHOR POINT FOR THE CENTER WHAT THAT INVOLVED IS  
6 DURING RESEARCH, GOING INTO PRISONS, INTERVIEWING  
7 RAPISTS AND MURDER AND CHILD MOLESTERS AND OTHER  
8 VIOLENT OFFENDERS, STUDYING THEIR CRIMES, THEIR  
9 METHOD AND MANNER OF THEIR CRIMES, SO WE COULD LEARN  
10 HOW THEY DID IT SO WE COULD IMPROVE OUR ABILITY AS  
11 INVESTIGATORS TO IDENTIFY THESE CRIMES AND HOPEFULLY  
12 CUT SHORT THEIR CRIMINAL CAREER

13 Q AND ARE YOU ALSO FAMILIAR WITH STATISTICAL DATA  
14 REGARDING THE COMMISSION OF VIOLENT CRIMES?

15 A SURE THAT'S SORT OF A FOUNDATION THAT  
16 EVERYTHING COMES FROM YOU HAVE TO UNDERSTAND THE  
17 STATISTICAL DATA REGARDING CRIME AND THE FREQUENCY OF  
18 CRIME AND HOW CRIME IS DISTRIBUTED AND SO FORTH, YES

19 Q NOW CAN YOU EXPLAIN YOUR CURRENT POSITION MORE  
20 FULLY TO THE COURT?

21 A YES I RETIRED FROM THE BUREAU IN 1995 THE  
22 NEXT TWO YEARS I WORKED FULL TIME WITH THE THREAT  
23 ASSESSMENT GROUP WHICH WAS BASED IN NEWPORT BEACH,  
24 CALIFORNIA THAT'S RUN BY A FORENSIC PSYCHIATRIST  
25 DR PARK DIETZ THERE I DID A LOT OF RISK OF

1 VIOLENCE ASSESSMENTS, THREAT ASSESSMENTS, THE WORK  
2 PLACE VIOLENCE PREVENTION TYPE OF WORK I ALSO  
3 CONTINUED TO WORK SOME CRIMINAL CASES PROVIDING  
4 EXPERT TESTIMONY IN CRIMINAL CASES AND IN SOME CIVIL  
5 CASES THAT INVOLVE VIOLENT CRIME AS WELL

6 THEN IN '97 I FORMED OR STARTED MY OWN  
7 BUSINESS BEHAVIORAL CRIMINOLOGY AND I STILL WORK AS  
8 AN INDEPENDENT CONTRACTOR THROUGH THE THREAT  
9 ASSESSMENT GROUP I ALSO WORK AS AN INDEPENDENT  
10 CONTRACTOR FOR A COUPLE OTHER FIRMS, CONTROL RISKS  
11 OUT OF LONDON, ENGLAND, AND SO FORTH SO THAT'S

12 Q PROVIDING CRIME ANALYSIS?

13 A YES

14 Q OKAY OTHER THAN WHAT YOU'VE ALREADY INFORMED  
15 THE COURT REGARDING YOUR TRAINING IN THE FBI, DO YOU  
16 HAVE ANY OTHER SPECIALIZED TRAINING REGARDING CRIME  
17 ANALYSIS?

18 A YES I DID A FAIR AMOUNT, A FAIR AMOUNT OF THE  
19 TRAINING AT THE FBI ACADEMY WHERE WE WENT THROUGH A  
20 LOT OF OUR OWN IN HOUSE TRAINING AS WELL IN THIS WHAT  
21 WE CALL NATIONAL CENTER TRAINING, NATIONAL CENTER FOR  
22 VIOLENT CRIME TRAINING I HAD TRAINING IN ADVANCED  
23 CRIMINAL SEXUALITY, ADVANCED SEX CRIME, AND ACTUALLY  
24 TAUGHT SOME OF THOSE CLASSES AND SEMINARS TOWARD THE  
25 END OF THE CAREER AND WE DID ALL SORTS OF OUTSIDE

1        TRAINING AS WELL     FOR EXAMPLE, I WAS SENT TO THE  
2        ARMED FORCES INSTITUTE OF PATHOLOGY TO TAKE COURSES  
3        IN FORENSIC PATHOLOGY, INTERVIEW AND INTERROGATION  
4        TECHNIQUES, ALL SORTS OF THINGS THAT COULD IMPACT ON  
5        AN INVESTIGATION

6        Q        DO YOU HOLD ANY CURRENT FACULTY POSITIONS?

7        A        YES     I HAVE TWO ADJUNCT FACULTY POSITIONS NOW  
8        AT DIFFERENT UNIVERSITIES     BOTH UNIVERSITIES THAT I  
9        TEACH FORENSIC PSYCHOLOGY AND CRIMINAL JUSTICE AT THE  
10       GRADUATE LEVEL AND ONE IS WITH MARYMOUNT UNIVERSITY  
11       IN ARLINGTON, VIRGINIA AND THE SECOND IS WITH NOVA  
12       UNIVERSITY IN FORT LAUDERDALE, FLORIDA

13       Q        ARE YOU ASSOCIATED WITH ANY PROFESSIONAL  
14       AFFILIATIONS THAT RELATE TO CRIME ANALYSIS?

15       A        YES     I'M A MEMBER OF THE ICIF THE INTERNATIONAL  
16       CRIMINAL INVESTIGATOR ANALYSIS FELLOWSHIP WHICH IS AN  
17       ORGANIZATION PRIMARILY OF LAW ENFORCEMENT OFFICERS  
18       FROM REALLY AROUND THE WORLD THAT DO THIS, THAT DO  
19       THIS SORT OF WORK AS WELL

20                        ALSO ON A MORE CLINICAL OR ACADEMIC  
21       SIDE I AM ON THE EDITORIAL REVIEW BOARD OF A COUPLE  
22       OF DIFFERENT PROFESSIONAL JOURNALS, AGGRESSION AND  
23       VIOLENCE AND JOURNAL OF FAMILY VIOLENCE     BELONG TO  
24       AS IS AMERICAN SOCIETY INDUSTRIAL SECURITY THAT DEALS  
25       MORE WITH SECURITY AND WORK PLACE VIOLENCE SORT OF

1 THE WORK THAT I DO

2 Q HAVE YOU PUBLISHED ANY WORKS CONCERNING CRIME  
3 ANALYSIS?

4 A I'VE DONE ONE JOURNAL ARTICLE IT WAS, PRIMARILY  
5 DEALT WITH STALKING, STALKING BEHAVIOR, AND LOOKING  
6 FOR ELEMENTS OF VIOLENCE THAT WE MAY BE ABLE TO  
7 PREDICT WHO AMONG STALKERS MAY ESCALATE IN THE LEVEL  
8 OF VIOLENCE I HAVE WRITTEN OR WAS CONTRIBUTING  
9 AUTHOR TO THE CRIME CLASSIFICATION MANUAL WHICH WAS  
10 THE RESULT OF ABOUT A TEN YEAR STUDY AT THE BUREAU  
11 ABOUT CRIMES AND MOTIVES OF CRIMES AND CLASSIFYING  
12 THEM BY MOTIVE WE DID HOMICIDE, RAPE, AND CHILD  
13 MOLESTATION AND ARSON IN THAT WORK AND THEN I  
14 PUBLISHED A BOOK LAST YEAR CALLED THE UNKNOWN  
15 DARKNESS PROFILING THE PREDATORS AMONG US

16 Q AND YOU STATED EARLIER THAT YOU HAVE QUALIFIED  
17 AS AN EXPERT WITNESS IN CRIME ANALYSIS?

18 A YES

19 Q HAVE YOU HAVE EVER, IN WHAT COURTS?

20 A OH, GEE I TESTIFIED IN OHIO, CALIFORNIA,  
21 TEXAS, FLORIDA, GEORGIA, NEW YORK, ARIZONA, STATE OF  
22 WASHINGTON, ALASKA I'M SURE THERE ARE OTHERS

23 Q IN STATE LEVEL COURTS, FEDERAL LEVEL COURTS,  
24 BOTH?

25 A THEY'VE BEEN IN BOTH STATE AND FEDERAL COURTS,



1 YES

2 Q AND WHO HAVE YOU TESTIFIED FOR, THE DEFENSE, THE  
3 STATE, MIXTURE?

4 A A MIXTURE, RIGHT IN CRIMINAL CASES BEEN BOTH  
5 DEFENSE AND PROSECUTION I'VE TESTIFIED FOR, YES

6 Q OKAY

7 MR SMITH JUDGE, AT THIS TIME I'D MOVE  
8 THAT MR MCCRARY BE QUALIFIED AS AN EXPERT WITNESS IN  
9 CRIME ANALYSIS

10 THE COURT ANY VOIR DIRE

11 MR THOMPSON NO, YOUR HONOR

12 THE COURT ALL RIGHT

13 MR GREELEY NONE FROM MR SANDERS

14 THE COURT OKAY I FIND HE IS QUALIFIED  
15 AS AN EXPERT IN CRIME ANALYSIS I'M NOT SURE I  
16 UNDERSTAND EXACTLY WHAT ALL THAT FIELD ENTAILS BUT

17 MR SMITH WE'LL TRY TO MAKE THAT CLEAR,  
18 YOUR HONOR

19 Q MR MCCRARY, HAVE YOU HAD AN OPPORTUNITY TO  
20 REVIEW INFORMATION REGARDING THE ATTACKS, RAPES,  
21 ATTEMPTED RAPES OF CATHERINE DAVIS, SARAH PHILLIPS,  
22 ALICIA LOWERY, AND SARAH HAGMAN?

23 A YES, I HAVE

24 Q HAVE YOU ALSO REVIEWED INFORMATION REGARDING THE  
25 MURDER AND RAPE OF AMANDA COPE?

1 A YES

2 Q CAN YOU TELL THE COURT SPECIFICALLY WHAT  
3 DOCUMENTS YOU'VE REVIEWED OR WHAT OTHER INFORMATION  
4 YOU CONSIDERED?

5 A YES I REVIEWED THE POLICE REPORTS, THE VICTIM  
6 STATEMENTS, AFFIDAVITS FROM THE VICTIMS, ALSO SORT OF  
7 COURT SUMMARIES PREPARED BY THE POLICE AS WELL SO I  
8 THINK I REVIEWED THOSE UNDERLYING DOCUMENTS THAT DEAL  
9 WITH EACH OF THESE SPECIFIC CASES

10 Q ARE YOU COMFORTABLE THAT YOU HAVE ENOUGH  
11 INFORMATION REGARDING THESE CASES?

12 A YES

13 Q OKAY HAVE YOU PREPARED A CHART REGARDING THESE  
14 CASES THAT WOULD HELP YOU BETTER EXPLAIN YOUR  
15 TESTIMONY HERE TODAY?

16 A YES

17 Q AND IS THIS A COPY OF THAT CHART?

18 A YES, IT IS

19 Q OKAY

20 MR SMITH JUDGE, I'VE ALREADY PROVIDED  
21 THE STATE AND MR GREELEY WITH A COPY OF THIS CHART  
22 WE WOULD MOVE TO HAVE THIS CHART INTRODUCED

23 THE COURT GET IT MARKED THEN HAND IT  
24 BACK TO ME ANY OBJECTION?

25 MR THOMPSON NO OBJECTION, YOUR HONOR

1 (DEFENSE EXHIBIT 5 CHART MARKED FOR  
2 IDENTIFICATION )

3 MR GREELEY YOUR HONOR, I WOULD HAVE AN  
4 OBJECTION UNTIL, I DON'T BELIEVE THAT A FOUNDATION  
5 HAS BEEN ESTABLISHED FOR THE CONTENT OF THE CHART AT  
6 THIS TIME, AND SO I WOULD ASK THAT TO BE ESTABLISHED  
7 FIRST

8 THE COURT ALL RIGHT WELL, LET'S GET  
9 IT

10 MR GREELEY YOU CAN START

11 THE COURT MARKED FOR I D SO I CAN  
12 DETERMINE WHETHER IT IS ADMITTED INTO EVIDENCE OR THE  
13 COURT

14 Q NOW MR MCCRARY, I JUST WANT TO TALK ABOUT THE  
15 DAVIS, HAGMAN, PHILLIPS, AND LOWERY CASES ALSO THE  
16 GEORGE WHITE CASE, HAVE YOU REVIEWED DOCUMENTS  
17 REGARDING THAT CASE AS WELL?

18 A YES, I DID

19 Q WHAT HAVE YOU DISCOVERED DURING YOUR REVIEW OF  
20 THESE DOCUMENTS CONCERNING A PATTERN OR ANY LINKAGE  
21 BETWEEN THESE CASES?

22 A YES, I THINK THERE IS A CONSISTENT PATTERN HERE  
23 AMONG THESE CASES BASED ON A CONSTELLATION OF  
24 FACTORS, MOST OF WHICH I LAID OUT IN THIS CHART

25 Q LET'S TALK ABOUT THAT YOU HAVE A NUMBER OF

1 DIFFERENT COLUMNS ON THIS CHART DATE, LOCATION, IN  
2 DOOR CRIME, SUSPECT KNOWN OR STRANGER, FORCED ENTRY,  
3 DUAL MOTIVES, SEX AND ROBBERY, CHOKING OR ASPHYXIA  
4 ELEMENT, AND EVIDENCE CAN YOU EXPLAIN TO THE COURT  
5 WHAT THESE COLUMNS REPRESENT AND THE IMPORTANCE OF  
6 EACH COLUMN?

7 A YES THE DATE IS, DEALS WITH, WE'RE LOOKING FOR  
8 TEMPORAL PATTERNS HERE IN OTHER WORDS, ARE THESE  
9 CRIMES RELATED IN TIME, ARE THEY CLOSE TOGETHER,  
10 WHAT'S THE SEQUENCE OF THESE CRIMES OCCURRING IN  
11 TIME, AND TO ME THE SIGNIFICANCE IS THERE IS A VERY  
12 TIGHT TIME PATTERN HERE, A VERY TIGHT TEMPORAL  
13 PATTERN CATHERINE DAVIS WE HAVE ON DECEMBER 12,  
14 MRS PHILLIPS ON, FOUR DAYS LATER, ON THE 16, THREE  
15 DAYS AFTER THAT MS LOWERY IS ATTACKED THEN THERE  
16 SEEMS TO BE A BREAK OVER THE HOLIDAYS, OVER CHRISTMAS  
17 AND NEW YEAR'S AND THEN WE HAVE ON JANUARY 12  
18 APPROXIMATELY THREE WEEKS AFTER THE ATTACK ON MS  
19 LOWERY WE HAVE THE TWO EVENTS DEALING WITH MR WHITE,  
20 GEORGE WHITE, AND THEN SARAH HAGMAN, SO IT'S A VERY  
21 TIGHT, VERY CLOSE TIME PATTERN THERE

22 LOCATION DEALS, I JUST LISTED PHYSICAL  
23 ADDRESSES, BUT BASICALLY THEY ARE ALL IN ROCK HILL  
24 AND MY UNDERSTANDING WITHIN A FEW MILES OF ONE  
25 ANOTHER, SO THIS IS A FAIRLY CLOSE GEOGRAPHIC PATTERN

1 AS WELL AS A TIME PATTERN

2 Q WHAT'S THE SIGNIFICANCE OF THE IN DOOR CRIME?

3 A NEXT IS IN DOOR CRIME, YES IN OTHER WORDS,  
4 SOME OFFENDERS COMMIT THEIR CRIMES OUT DOORS THEY  
5 DO STREET ROBBERIES OR MUGGINGS OR ASSAULT ON THE  
6 STREET OTHER CHOOSE INDOOR SOMETIMES IT'S A MIX  
7 THESE WERE ALL IN DOOR, IN DOOR CRIMES IN OTHER  
8 WORDS, THE OFFENDER CHOSE, THE CONSISTENT PATTERN  
9 HERE WAS CHOSING TO GO INTO A RESIDENCE TO COMMIT A  
10 CRIME, NOT A COMMERCIAL INSTITUTION, BUT A PRIVATE  
11 RESIDENCE TO COMMIT THESE CRIMES

12 Q AND IS THERE A BIG, A SIGNIFICANT, IS THAT A  
13 SIGNIFICANT FACTOR TO CONSIDER GOING INTO A PRIVATE  
14 RESIDENCE VERSUS DOING, COMMITTING A CRIME IN PUBLIC?

15 A YES, TO A DEGREE CERTAINLY IT ALLOWS THE  
16 OFFENDER, IF HE CAN GAIN CONTROL INSIDE, TO HAVE  
17 CONTROL OVER THAT AS OPPOSED TO A COMMERCIAL  
18 INSTITUTION, A STORE OR SOMETHING LIKE THAT, WHERE  
19 YOU MIGHT HAVE OTHER, PUBLIC PLACE, WHERE PEOPLE  
20 COULD COME AND GO AND A BETTER CHANCE OF BEING  
21 INTERRUPTED IN A COMMERCIAL BUILDING OR A PUBLIC  
22 PLACE, SO A PRIVATE RESIDENCE WOULD ALLOW HIM MORE  
23 CONTROL IF HE COULD ESTABLISH CONTROL, HE COULD  
24 CONTROL THAT PREMISES AS WELL

25 Q OKAY THE NEXT COLUMN IS WHETHER THE SUSPECT IS

1 KNOWN OR IS A STRANGER WHAT'S THE SIGNIFICANCE OF  
2 THAT?

3 A THE SIGNIFICANCE OF THAT IS THAT STRANGER BASED  
4 CRIMES, ESPECIALLY RAPES, ARE AND SEXUAL ASSAULTS ARE  
5 UNCOMMON IT'S FAR MORE COMMON IN SEXUAL ASSAULT  
6 CASES FOR THERE TO BE A KNOWN RELATIONSHIP BETWEEN  
7 THE VICTIM AND OFFENDER APPROXIMATELY 75 PERCENT

8 Q LET'S GET INTO STATISTICS LATER BUT

9 A OKAY

10 Q BUT JUST IN THE GENERAL SENSE

11 A IN A GENERAL SENSE IT'S IMPORTANT TO KNOW THAT  
12 RELATIONSHIP OR NOT, AND I'LL LEAVE IT AT STRANGER  
13 BASED CRIMES ARE RARE, MORE UNUSUAL, SO THAT'S  
14 ANOTHER FACTOR THAT GOES INTO THIS CONSTELLATION OF  
15 FACTORS THAT BEGINS TO SHOW US A PATTERN HERE

16 Q OKAY THE NEXT COLUMN IS FORCED ENTRY WERE  
17 THERE SIGNS OF ANY FORCED ENTRY IN ANY OF THESE  
18 CASES?

19 A NO, THERE WEREN'T TWO OF THE CASES THAT, THERE  
20 WAS IN THE RECORDS THAT I REVIEWED THE POINT OF ENTRY  
21 WAS NOT NOTED, SO TO ME IT WASN'T CLEAR ONE WAY OR  
22 ANOTHER BUT IN THE ONES WHERE THEY WERE NOTED,  
23 THERE WAS NO FORCED ENTRY INVOLVED APPARENTLY THE  
24 OFFENDER CAME IN EVEN THROUGH OPEN DOORS OR WINDOWS  
25 OR IN SOME WAY HE HAD EASY ACCESS TO THE RESIDENCE

1 AND WITHOUT HAVING FORCED ENTRY

2 Q WHY IS THAT SIGNIFICANT?

3 A AGAIN IT'S ANOTHER PATTERN THAT SHOWS AN  
4 OFFENDER WHO SEEMS TO BE UNWILLING OR A CRIME WHERE  
5 THERE IS NO FORCED ENTRY SEEMS TO BE A PREREQUISITE  
6 OF BEING ABLE TO GET IN WITH LITTLE, MAKING LITTLE  
7 NOISE OR WITHOUT USING FORCE

8 Q OKAY THE NEXT COLUMN IS DUAL MOTIVES, SEX AND  
9 ROBBERY, EXPLAIN THAT TO THE COURT?

10 A LOOKING AT THE CRIMES AND THE REPORT OF THE  
11 VICTIMS WE'RE ALWAYS LOOKING FOR MOTIVES IN THESE  
12 CRIMES TO TRY AND DETERMINE WHAT MIGHT BE DRIVING THE  
13 OFFENDER HERE THERE WAS A CONSISTENT PATTERN OF TWO  
14 MOTIVES THAT SEEMED TO BE PAIRED, SEX AND INTEREST IN  
15 FORCED SEX, SEXUAL ASSAULT, AND ROBBERY AND MONEY AND  
16 THAT SEEMED TO BE PAIRED CONSISTENCY THROUGHOUT THESE  
17 CASES

18 Q NOW ONE QUESTION ABOUT THAT, YOU HAVE YES MARKED  
19 FOR SARAH PHILLIPS, CAN YOU EXPLAIN YOUR, THAT  
20 RESPONSE?

21 A YES CERTAINLY SHE REPORTED AS ATTEMPTED SEXUAL  
22 ASSAULT SHE DID NOT REPORT A ROBBERY AND INTEREST  
23 IN MONEY IN THE DOCUMENTS THAT I SAW WHAT I SAW  
24 THAT MADE ME SAY YES WAS THE, IN THE COURT SUMMARY  
25 PREPARED BY THE POLICE, THEY SAID THAT THE MOTIVES IN

1 THIS CASE WERE IDENTICAL TO THE OTHER CASES THEREFORE  
2 I ASSUMED THAT BEING THE INVESTIGATOR AND ON THE  
3 FRONT LINE THEY HAD REASON TO BELIEVE THAT THESE WERE  
4 IDENTICAL MOTIVES WHICH WOULD INCLUDE SEX AND ROBBERY  
5 IN THE REST OF THESE, SO I HAD NO REASON TO DISPUTE  
6 THE POLICE IN THEIR FINDING THAT THE MOTIVES WERE  
7 IDENTICAL

8 THE COURT LET ME MAKE SURE I UNDERSTAND  
9 THAT THE VICTIM SAYS NO ROBBERY, THE POLICE SAY  
10 ROBBERY, AND YOU BUY THE POLICE STORY

11 A THE VICTIM DOESN'T SAY ROBBERY OR NOT THERE IS  
12 NO COMMENT

13 THE COURT WELL, SHE TESTIFIED EARLIER  
14 TODAY AND HAD A CHANCE TO TESTIFY TO THAT

15 A WELL, I DIDN'T HEAR THE TESTIMONY TODAY

16 THE COURT DID SHE TESTIFY TODAY THAT  
17 THERE WAS A ROBBERY?

18 MR SMITH YES, SIR, SHE DID AND I JUST  
19 WANTED MR MCCRARY TO BE ABLE TO EXPLAIN HIS ANSWER  
20 ON THIS CHART HERE THE REASON WHY HE INDICATED THAT  
21 THERE WAS A DUAL MOTIVE AND

22 THE COURT JUST A MINUTE LET'S SEE  
23 SARAH PHILLIPS, I DON'T HAVE ANYTHING ABOUT A  
24 ROBBERY THAT'S THE ONE THAT WAS INTERRUPTED BY A  
25 CHILD



1                   MR SMITH    THAT'S CORRECT, YOUR HONOR,  
2   AND I THOUGHT I SAID THAT SHE DID NOT TESTIFY TO  
3   THAT    I'M SORRY

4                   THE COURT    I UNDERSTOOD YOU TO SAY  
5   OTHERWISE BECAUSE MY NOTES INDICATE SHE DIDN'T, SO  
6   I'M JUST, YOU KNOW, I'M GOING TO GET TO THE BOTTOM OF  
7   ALL OF THIS LATER, BUT I HAVE TO START OFF BY SAYING  
8   AT THIS JUNCTURE, WELL, GO AHEAD    I'VE ALREADY SAID  
9   MORE THAN I NEED TO BUT

10   A    LET ME CLARIFY THIS FROM MY POINT OF VIEW, IF I  
11   CAN

12                  THE COURT    WELL, YOU CAN    I'M GOING TO  
13   LET YOU SAY EVERYTHING YOU WANT TO    I JUST FIND IT  
14   INTERESTING THAT A VICTIM IN AN OFFENSE DOES NOT  
15   RELATE A ROBBERY AND THAT YOU FACTOR INTO YOUR  
16   DETERMINATION THAT A ROBBERY WAS THE MOTIVE OF THE  
17   PERSON THAT ENTERED    I THINK THAT'S PRETTY GOOD  
18   STRETCH, BUT YOU'RE THE EXPERT

19   A    NO, SIR    NO, SIR    I DON'T WANT TO OVERSTATE  
20   THIS    SHE SIMPLY REPORTED A SEXUAL ASSAULT    THERE  
21   WAS NO REPORT OF A ROBBERY, SO LESS CLEAR    THE ONLY  
22   THING ---

23                  THE COURT    WELL AGAIN, I'M NOT GOING TO  
24   DO THE CROSS EXAMINATION, BUT HOW IS IT LESS CLEAR?

25   A    SHE DIDN'T REPORT IT ONE WAY OR THE OTHER

1 THE COURT THAT MAKES IT ABSOLUTELY  
2 CLEAR

3 A OKAY

4 THE COURT I THINK BUT GO AHEAD

5 A WELL, WHAT MAKES IT LESS CLEAR IS THE POLICE  
6 SAID THE MOTIVES WERE IDENTICAL, SO IF THEY ARE  
7 REPORTING IT'S IDENTICAL AND SHE ISN'T REPORTING IT  
8 ONE WAY OR THE OTHER, I'M NOT SURE WHICH WAY IT IS  
9 I WOULD CERTAINLY NOT SAY THE ROBBERY IS A STRONG  
10 MOTIVE IF IT EVEN EXISTED I AM JUST SAYING --

11 THE COURT AGAIN, I'M NOT GOING TO CROSS  
12 EXAMINE HIM, BUT IF YOU ARE NOT SURE WHAT IT IS WHY  
13 DID YOU PUT YES ON IT?

14 A I PUT YES WITH AN ASTERISK I PROBABLY SHOULD  
15 HAVE CLARIFIED THAT

16 THE COURT GO AHEAD THAT'S ALL -- I'LL  
17 HUSH

18 Q LET'S MOVE ON TO THE NEXT COLUMN, CHOKING OR  
19 ASPHYXIAL ELEMENT WHAT SIGNIFICANCE DOES THAT HAVE?

20 A AGAIN, IT'S ANOTHER PART OF THE CONSTELLATION OF  
21 BEHAVIORS THAT WAS PRESENT IN SOME, NOT ALL, BUT SOME  
22 OF THESE CASES SOME HAD NO REPORTS, FOR EXAMPLE,  
23 MS DAVIS, DIDN'T REPORT THAT THERE WAS ANY ATTEMPT  
24 I THINK SHE WAS OVERPOWERED PRETTY QUICKLY SHE  
25 DIDN'T REPORT FIGHTING WITH THE OFFENDER OR HER

1 ABILITY TO FIGHT SHE REPORTED, THE REPORT THAT I  
2 HAD SHE'S DISABLED I'M NOT SURE OF THE EXTENT OF  
3 HER DISABILITIES AND SO FORTH, BUT THERE IS NO REPORT  
4 THERE OF ANY CHOKING OR ASPHYXIAL ELEMENT THERE WAS  
5 WITH MS PHILLIPS AND MS LOWERY AND MS HAGMAN ALL  
6 REPORTED THAT TYPE OF BEHAVIOR

7 Q OKAY AND FINALLY THE EVIDENCE COLUMN EXPLAIN  
8 THAT TO THE COURT PLEASE?

9 A IT GOES TO THE EVIDENCE CONSCIOUSNESS OR THE  
10 EVIDENCE AT THE SCENE, AT THE CRIME SCENE IN THIS  
11 CASE THERE IS DNA AND/OR FINGERPRINT EVIDENCE LEFT AT  
12 A NUMBER OF THESE SCENES ALSO THE OFFENDER  
13 APPARENTLY DIDN'T TAKE A LOT OF PRECAUTIONS TO KEEP  
14 FROM BEING IDENTIFIED AS TWO OF THE VICTIMS WERE ABLE  
15 TO MAKE AN IDENTIFICATION THROUGH A PHOTO LINEUP

16 Q OKAY SO AFTER CONSIDERING THESE DIFFERENT  
17 CASES HOW DO THEY COMPARE TO THE CASE WITH AMANDA  
18 COPE?

19 A I THINK THERE ARE A NUMBER OF STRONG  
20 SIMILARITIES THAT FIT THIS PATTERN, AND IF WE GO DOWN  
21 THROUGH THE, THROUGH THE LIST WE CAN SEE THAT AS FAR  
22 AS THE TIME FRAME, THAT IT WAS WITHIN THAT, WITHIN  
23 THE PROBABLY THE FIRST OF THE SERIES OF ASSAULTS THAT  
24 OCCURRED ABOUT 17 DAYS BEFORE THE ASSAULT ON MS  
25 DAVIS WHICH CHRONOLOGICALLY WOULD BE THE NEXT

1       ASSAULT     LOCATION AGAIN WITHIN THIS SAME GEOGRAPHIC  
2       AREA     IT WAS AN IN DOOR CRIME     WE DON'T KNOW  
3       BECAUSE SHE WAS A HOMICIDE VICTIM, WE DON'T KNOW, SHE  
4       OBVIOUSLY COULDN'T REPORT ANYTHING ABOUT WHETHER SHE  
5       KNEW OR DID NOT KNOW THE OFFENDER     NO FORCED ENTRY  
6       SEEMED TO BE CONSISTENT     THE MOTIVES OF SEX AND  
7       ROBBERY APPEAR TO BE THERE     CERTAINLY SHE WAS  
8       SEXUALLY ASSAULTED     MY UNDERSTANDING THERE WAS A  
9       PURSE OR A POCKET BOOK ON THE BED THAT DIDN'T BELONG  
10      THERE THAT WOULD SUGGEST A FINANCIAL INTEREST OR A  
11      FINANCIAL POTENTIAL FINANCIAL MOTIVE IN THE CRIME  
12      CERTAINLY THERE IS AN AMOUNT OF A ASPHYXIA OR CHOKING  
13      WITH THE VICTIM, AND OF COURSE, WE HAVE A DNA MATCH  
14      AS WELL

15     Q       OKAY     NOW STATISTICALLY SPEAKING AND YOU  
16     STARTED TO MENTION THIS EARLIER, HOW COMMON ARE RAPES  
17     WHEN WE ARE TALKING ABOUT THE OVERALL PICTURE OF  
18     VIOLENT CRIME?

19     A       RAPES IN GENERAL TYPICALLY ACCOUNT FOR LESS THAN  
20     ONE PERCENT OF ALL CRIMES, ABOUT 8 TENTHS OF ONE  
21     PERCENT OF ALL CRIMES

22     Q       AND IS THERE A BREAKDOWN IN THAT PERCENTAGE OR A  
23     DISTINCTION MADE IN TYPES OF RAPES?

24     A       YES     AGAIN BETWEEN KNOWN OFFENDERS OR  
25     ACQUAINTANCE RAPES AND STRANGER BASED RAPES, THE VAST

1 MAJORITY OF RAPES INVOLVE PEOPLE WHO ARE ACQUAINTED  
2 PROBABLY, ABOUT 75 PERCENT OR SO OF RAPES IN GENERAL  
3 HAVE A KNOWN RELATIONSHIP BETWEEN THE VICTIM AND THE  
4 OFFENDER AND SOMEWHAT LESS THAN THAT, 20 PERCENT,  
5 SOMETIME LESS THAN THAT 15-20 PERCENT OF RAPES ARE  
6 STRANGERS THE REST ARE TYPICALLY CATEGORIZED AS  
7 UNKNOWN WE'RE NOT SURE WHAT THE RELATIONSHIP IS

8 Q SO WHEN YOU LOOK AT THESE, ALL THE CASES THAT  
9 YOU HAVE LISTED ON YOUR CHART, WHAT DOES THAT SAY?

10 A WELL, WITH THE MAJORITY OF THESE CASES INVOLVING  
11 A SEXUAL ASSAULT BY A STRANGER WE'RE TALKING ABOUT  
12 SOMETHING THAT OCCURS I'LL SAY 20 PERCENT OF 8 TENTHS  
13 OF ONE PERCENT OF ALL CRIMES, SO IT'S VERY RARE, AND  
14 UNUSUAL TYPE OF CRIME TO HAVE A STRANGER BASED RAPE  
15 IT'S WHAT EVERYBODY FEARS THE MOST I THINK AND GETS  
16 EVERYONE'S ATTENTION, BUT STATISTICALLY IT'S A RARE  
17 AND UNCOMMON SORT OF CRIME

18 Q BUT MR COPE'S CHARGED WITH RAPING HIS OWN  
19 DAUGHTER?

20 A YES

21 Q IN THIS CASE HOW DOES THE COPE CASE COME INTO  
22 PLAY WITH THESE OTHER CASES?

23 A WELL, THE DNA MATCH WAS NOT, MY UNDERSTANDING  
24 WAS NOT FROM MR COPE, SO THE ACTUAL SEXUAL ASSAULT  
25 WAS NOT DONE BY MR COPE

1 Q NOW AS FAR AS INVESTIGATING A CRIME, IF YOU SEE  
2 A SPIKE IN STRANGER BASED RAPES WHAT WOULD BE THE  
3 APPROPRIATE REACTION AS FAR AS FROM POLICE LAW  
4 ENFORCEMENT?

5 A AGAIN THAT'S SUCH A RARE OCCURRENCE ESPECIALLY  
6 IF YOU HAVE THEM IN A TIME FRAME AND GEOGRAPHIC AREA  
7 TOGETHER, YOU GOT TO START THINKING ABOUT A SERIAL  
8 RAPIST OR SINGLE OFFENDER OUT THERE DOING IT THE  
9 CHANCE OF HAVING MORE THAN ONE OFFENDER COMMITTING  
10 SIMILAR TYPE CRIMES IN A SIMILAR AREA AT A SIMILAR  
11 TIME WOULD BE VERY, VERY UNUSUAL BECAUSE OF THE  
12 RARITY OF THIS TYPE OF CRIME

13 Q SO SHOULD THE POLICE BE ON THE OR SHOULD THEY  
14 HAVE BEEN CONSCIOUS IN TRYING TO SOLVE THESE VARIOUS  
15 CRIMES OF THIS, OF THIS SAME OR THE SIMILARITIES  
16 BETWEEN THE CRIMES, SHOULD THEY HAVE BEEN  
17 CONSCIOUS --

18 MR GREELEY OBJECTION, RELEVANCE

19 THE COURT WELL, I'M GOING TO ALLOW IT  
20 SINCE IT'S A PROFFER GO AHEAD AND ANSWER THAT

21 A YES I THINK WE MIGHT TEACH THIS TO LAW  
22 ENFORCEMENT WHEN WE TALK ABOUT LINKAGE BLINDNESS AND  
23 THAT BECOMES AN ISSUE IN INVESTIGATIONS AND WE  
24 ENCOURAGE POLICE, ESPECIALLY WHEN THEY SEE A PATTERN  
25 LIKE THIS THAT'S RARE AND UNUSUAL AND OCCURRING IN A

1 TIME FRAME IN A PARTICULAR AREA, TO NOT GET LINKAGE  
2 BLINDNESS AND BEGIN TO LOOK AND EXPLORE THE  
3 POSSIBILITY THAT THEY MAY HAVE ONE OFFENDER, A SERIAL  
4 VIOLENT OFFENDER COMMITTING A SERIES OF CRIMES

5 Q OKAY IF, NOW THE COPE CASE OCCURRED IT APPEARS  
6 TO BE THE FIRST OF THESE DIFFERENT OFFENSES THAT  
7 OCCURRED, RIGHT?

8 A CORRECT

9 Q AND YOU STATED THAT MOST RAPES ARE OCCURRED BY  
10 ACQUAINTANCES?

11 A YES

12 Q OKAY WHEN THESE OTHER CASES STARTED TO OCCUR  
13 WHAT WOULD HAVE BEEN THE APPROPRIATE RESPONSE BY LAW  
14 ENFORCEMENT?

15 A TO CONSIDER THE POSSIBILITY THAT THIS COULD BE  
16 PART OF THE PATTERN, THE BEGINNING OF THE PATTERN,  
17 AND IF FOR NO OTHER REASON TO INVESTIGATE IT TO  
18 ELIMINATE THAT FROM CONSIDERATION AS BEING PART OF  
19 THE PATTERN, BUT BASED ON THE SIMILARITIES WITH THE  
20 SUBSEQUENT CRIMES TO THIS CRIME I THINK IT WOULD HAVE  
21 BEEN REASONABLE TO TAKE A LOOK AT THAT AND CONSIDER  
22 THAT POSSIBLY PART OF THIS PATTERN

23 MR SMITH BEG THE COURT'S INDULGENCE ONE  
24 MOMENT YOUR HONOR, I'D JUST LIKE AND AGAIN BEG THE  
25 COURT'S PATIENCE ON THIS

1 Q I'D LIKE TO JUST FOR MR MCCRARY TO TALK MORE  
2 ABOUT HIS QUALIFICATION WITH AS FAR AS CRIME ANALYSIS  
3 GOES AS FAR AS TESTIFYING AND YOUR EXPERIENCE IN  
4 CRIME ANALYSIS AND WHAT SORT OF PROJECT OR CASES YOU  
5 WORKED ON?

6 A WELL, I MEAN, YOU TALKING ABOUT JUST TESTIMONY  
7 OR CASE THAT I'VE BEEN INVOLVED IN

8 Q I THINK BOTH?

9 A OKAY I'VE BEEN INVOLVED IN REALLY CASES  
10 THROUGHOUT THE WORLD I WORKED THE LAST TWO YEARS  
11 WITH THE BUREAU I WORKED A LOT IN EUROPE ON VIOLENT  
12 CRIMES, HOMICIDES AND SEX CRIMES, IN LISBON,  
13 PORTUGAL, MADRID, FRENCH NATIONAL POLICE IN PARIS  
14 AMSTERDAM, BUDAPEST HOMICIDE, ITALY, VIENNA, A NUMBER  
15 OF CASES IN AUSTRIA SO I WORKED IN SOUTH AND  
16 CENTRAL AMERICA, SOME IN ASIA SO I WORKED A GOOD  
17 NUMBER OF CASES AND WORKED A LOT WITH THE CANADIANS  
18 AS WELL

19 Q PROVIDING WHAT TYPE OF SERVICES?

20 A CRIME ANALYSIS, INVESTIGATOR SUPPORT IN ONGOING  
21 CASES, SOME EXPERT TESTIMONY IN CASES I TESTIFIED  
22 IN VIENNA, IN A CASE IN AUSTRIA, PROVIDED EXPERT  
23 TESTIMONY THERE TESTIFIED ABOUT A YEAR AGO IN  
24 ALASKA IN ANOTHER CASE SIMILAR TO THIS WHERE THERE IS  
25 A SERIES OF CRIMES AND TALKED ABOUT LINKING THE



1 CRIMES TOGETHER AND THE SERIAL RAPISTS

2 Q JUST SO THE COURT IS CLEAR, WHAT, EXPLAIN AGAIN  
3 EXACTLY WHAT YOU MEAN BY CRIME ANALYSIS, WHAT EXACTLY  
4 ARE YOU DOING, WHAT SERVICE SPECIFICALLY ARE YOU  
5 PROVIDING?

6 A RIGHT IT MAY VARY FROM CASE TO CASE DEPENDING  
7 ON WHETHER WE ARE THE INVESTIGATIVE STAGE WORKING  
8 WITH THE POLICE OR WHERE WE WERE TRYING TO DEVELOP  
9 LEADS OR INVESTIGATIVE STRATEGY OR IN COURTROOM  
10 TESTIMONY SUCH AS DOING CRIME ANALYSIS TESTIFIED,  
11 FOR EXAMPLE, IN THE CIVIL CASE REALLY IT WAS A  
12 HOMICIDE TRIAL IN THE CONTEXT OF CIVIL LITIGATION IN  
13 OHIO IN THE OLD SAM SHEPHERD HOMICIDE CASE BASED UPON  
14 THE ANALYSIS OF CRIME AND THE CRIME SCENE THAT IT WAS  
15 STAGED CRIME, NOT SEXUALLY MOTIVATED, SO FORTH SO  
16 EACH CASE CAN BE A LITTLE BIT DIFFERENT BUT WE'RE  
17 LOOKING AT THE METHOD AND MANNER IN WHICH CRIMES WERE  
18 COMMITTED TO TRY, AND IN CASES LIKE THIS, TO SHOW A  
19 COMMON PATTERN OR A SCHEME THAT THEY MIGHT BE  
20 RELATED

21 Q SO WE'RE NOT TALKING ABOUT CHARACTER EVIDENCE,  
22 WE'RE TALKING ABOUT MO?

23 A RIGHT, LOOKING STRICTLY AT CRIME SCENE, NOT  
24 PROFILING WE'RE NOT TALKING ABOUT INDIVIDUALS  
25 WE'RE TALKING ABOUT THE CRIME AND THE CRIME SCENE AND

1       WHETHER WE COULD LINK CRIME OR CRIME SCENES TOGETHER  
2       STRICTLY BASED ON THE EVIDENCE THAT WE GET FROM THE  
3       CRIME OR CRIME SCENE WHICH MAY INCLUDE VICTIM  
4       STATEMENTS AS WELL AS EVIDENCE AT THE SCENE ITSELF

5       Q       OKAY

6                   MR   SMITH     YOUR HONOR, AT THIS TIME I  
7       WOULD MOVE TO HAVE MR   MCCRARY'S CHART ADMITTED AS  
8       DEFENSE

9                   MR   GREELEY    NO OBJECTION NOW  
10          THE COURT    ALL RIGHT

11                               (DEFENSE EXHIBIT 5 CHART RECEIVED INTO  
12       EVIDENCE )

13       Q       MR   MCCRARY, IN YOUR EXPERT OPINION CAN YOU SAY  
14       THAT WAS COMMON SCHEME OR PLAN OR THAT THERE WAS  
15       LINKAGE BETWEEN THE OFFENSE OR THE SEPARATE ATTACKS  
16       THAT YOU HAVE LISTED ON YOUR CHART?

17       A       YES    MY OPINION THAT THERE IS    THAT BASED ON  
18       THE TOTALITY OF THIS CONSTELLATION OF CIRCUMSTANCES  
19       AND THE CRIME SCENE SIMILARITIES THAT THERE IS A SORT  
20       OF COMMON SCHEME AND A PATTERN HERE THAT EXISTS AMONG  
21       THESE CRIMES

22       Q       THANK YOU    I HAVE NO FURTHER QUESTIONS FOR YOU  
23       AT THIS TIME, BUT PLEASE ANSWER ANY QUESTIONS THAT  
24       MR   GREELEY MAY HAVE FOR YOU OR THE STATE

25                   THE COURT    MR   GREELEY

1 MR GREELEY MAY IT PLEASE THE COURT  
2 CROSS EXAMINATION BY MR GREELEY

3 Q MR MCCRARY, GOOD MORNING

4 A GOOD MORNING, MR GREELEY

5 Q YOU FLEW IN FROM VIRGINIA THIS MORNING, IS THAT  
6 CORRECT?

7 A YES, SIR, I DID

8 Q I RECEIVED YOUR CHART THIS MORNING SO I HAVE  
9 LOOKED AT IT HOW MUCH ARE YOU CHARGING FOR YOUR  
10 TESTIMONY IN THIS CASE?

11 A I HAVEN'T EVEN DISCUSSED THAT WITH THEM AT THIS  
12 POINT

13 Q HOW MUCH WILL YOU CHARGE FOR YOUR TESTIMONY?

14 A I HAVEN'T DISCUSSED IT I HAVEN'T FIGURED THAT  
15 OUT PROBABLY AROUND 200 AN HOUR OR SOMETHING LIKE  
16 THAT

17 Q OKAY SO YOU ARE NOT GOING TO TESTIFY FOR FREE  
18 HERE?

19 A NO

20 Q OKAY NOW THE INFORMATION THAT YOU RECEIVED ON  
21 THIS CASE YOU RECEIVED INITIALLY FROM MR COPE'S  
22 ATTORNEYS, IS THAT CORRECT?

23 A YES, MR MORTON YES

24 Q OKAY AND DID MR MORTON MAKE THE INITIAL  
25 CONTACT WITH YOU?

1 A YES, HE DID

2 Q OKAY DO YOU RECALL WHEN THAT WAS?

3 A NOT TOO LONG AGO A COUPLE WEEKS AGO I DON'T  
4 HAVE THE EXACT DATE

5 Q OKAY SO YOU BEGAN WORKING ON THIS CASE A  
6 COUPLE OF WEEKS AGO?

7 A YES, SIR

8 Q AND HE PROVIDED YOU WITH DOCUMENTATION IN  
9 REGARDS TO THESE OTHER ALLEGATIONS REGARDING MR  
10 SANDERS, IS THAT CORRECT?

11 A REGARDING THESE OTHER CRIMES, THESE SERIES OF  
12 CRIMES I INDICATED I GOT THE POLICE REPORTS AND SO  
13 FORTH ON THESE CRIMES THESE CRIME REPORTS IS WHAT I  
14 HAVE

15 Q YOU UNDERSTAND HE HASN'T BEEN CONVICTED OF ANY  
16 OF THOSE AS OF THIS TIME?

17 A I UNDERSTAND

18 Q NOW SO YOU GOT THE CRIME REPORTS AND YOU GOT THE  
19 INCIDENT REPORTS?

20 A YES

21 Q OKAY WHAT DID HE PROVIDE YOU IN REGARDS TO THE  
22 COPE CASE?

23 A HE PROVIDED ME SOME OF MR COPE'S STATEMENTS I  
24 BELIEVE I HAVE, I THINK I HAVE THE MATERIAL HERE

25 Q OKAY

1 A THAT SORT OF DATA ABOUT THE INCIDENT ITSELF

2 Q OKAY AND NOW AFTER YOU RECEIVED THIS  
3 INFORMATION WHO DID YOU CONTACT TO THE DISCUSS THIS  
4 INFORMATION WITH?

5 A MR MORTON PRIMARILY

6 Q ANYBODY ELSE?

7 A NO I TALKED TO MY WIFE ABOUT IT, BUT I THINK  
8 THAT WAS ABOUT IT

9 Q OKAY BUT SHE'S NOT HERE TODAY?

10 A NO

11 Q AND DID YOU TALK TO ANY OF THE DETECTIVES AT THE  
12 ROCK HILL POLICE DEPARTMENT?

13 A NO, SIR

14 Q DID YOU CALL AND TALK WITH CATHERINE DAVIS?

15 A NO, SIR

16 Q DID YOU CALL AND TALK WITH SARAH PHILLIPS?

17 A NO, SIR

18 Q DID YOU CALL AND TALK WITH ALICIA LOWERY?

19 A NO, SIR

20 Q DID YOU CALL AND TALK TO DR GEORGE WHITE?

21 A NO

22 Q DID YOU CALL AND TALK WITH SARAH HAGMAN LEE NOW?

23 A NO NO, SIR

24 Q BETWEEN A FEW WEEKS AGO AND NOW, NOW YOU'VE  
25 TESTIFIED YOU'VE BEEN ALL OVER THE WORLD WORKING ON

1 CASES, IS THAT CORRECT?

2 A YES, SIR

3 Q YOU'VE DONE EXTENSIVE TRAVEL, IS THAT CORRECT?

4 A A FAIR AMOUNT

5 Q OKAY WHEN DID YOU TRAVEL DOWN TO 322 A NORTH  
6 CONFEDERATE AVENUE, ROCK HILL, TO LOOK AT THE SCENE?

7 A I HAVE NOT BEEN TO, PHYSICALLY, I'VE NOT BEEN TO  
8 ANY OF THE SCENES

9 Q SO YOU HAVE NOT TRAVELLED TO ROCK HILL TO SEE  
10 ANY OF THESE SCENES EITHER MCGEE ROAD, WHITGREEN  
11 STREET, 238 EAST WHITE STREET, OR 131 REID STREET, IS  
12 THAT CORRECT?

13 A CORRECT

14 Q YOU HAVEN'T TALKED WITH ANYBODY ELSE IN THESE  
15 CASES EXCEPT FOR MR MORTON AND MAYBE ONE OF HIS  
16 OTHER ASSISTANTS?

17 A YES

18 Q AND SO YOUR CHART THAT YOU HAVE GIVEN IN COURT  
19 TODAY IN REGARDS TO YOUR CONCLUSION IS BASED UPON  
20 WHAT YOU WERE TOLD BY MR MORTON AND BY THE  
21 INFORMATION THAT WAS PROVIDED TO YOU?

22 A IT WAS BASED ON THE INFORMATION PROVIDED TO ME

23 Q OKAY NOW IN YOUR LOCATION CATEGORY, DO YOU  
24 HAVE YOUR CHART AVAILABLE?

25 A YES, SIR

1 Q THE ONE THAT'S BEEN PUT INTO EVIDENCE?

2 A I'VE GOT A COPY OF IT HERE

3 Q OKAY LET'S BE OFFICIAL AND LOOK AT THE ONE  
4 THAT'S MARKED AS EXHIBIT NUMBER FIVE?

5 A YES, SIR

6 Q YOU WENT THROUGH AND YOU DID A LOCATION AND YOU  
7 DID THAT BASED ON A ROCK HILL MAP, IS THAT CORRECT?

8 A BASED ON THE POLICE REPORTS AS TO THE PLACE OF  
9 OCCURRENCE

10 Q DID YOU HAVE A ROCK HILL MAP WITH YOU?

11 A I DID NOT HAVE A ROCK HILL MAP WITH ME I  
12 PULLED ONE UP ON THE SCREEN, COMPUTER SCREEN, AND  
13 LOCKED AT IT THAT WAY

14 Q OKAY WERE YOU ABLE TO IDENTIFY THESE PIECES OF  
15 PROPERTY ON THE MAP THAT YOU LOOKED AT?

16 A TO A DEGREE I DIDN'T PUT A LOT OF WEIGHT ON  
17 IT IT WAS A YAHOO MAP WHICH I PULLED UP WHICH I  
18 FIND TO BE GENERALLY ACCURATE BUT NOT ALWAYS  
19 SPECIFICALLY ACCURATE, SO I DIDN'T INCLUDE IT IN MY  
20 MATERIALS THAT I BROUGHT WITH ME

21 Q IN ESTABLISHING A PATTERN FOR LOCATION IT'S  
22 NECESSARY TO BE ABLE TO LOOK AT THAT LOCATION AND  
23 POSSIBLY ALL THE CRIMES THAT ARE BEING COMMITTED  
24 WITHIN A PERIOD OF TIME IN THAT AREA, ISN'T THAT  
25 TRUE?

1 A I'M NOT SURE I UNDERSTAND YOU MEAN, ARE YOU  
2 ASKING ME THAT I HAVE TO PHYSICALLY LOOK AT A  
3 LOCATION

4 Q DO YOU NOT WANT TO KNOW WHAT CRIMES HAVE  
5 OCCURRED THAT WOULD BE SIGNIFICANT OR LIKE CRIMES  
6 WITHIN A GEOGRAPHICAL AREA WITHIN A PERIOD OF TIME?

7 A POSSIBLY DEPENDS ON WHAT THE ASSIGNMENT IS AND  
8 WHAT I'M DOING

9 Q OKAY WHAT OTHER CRIMES OF BURGLARY DID YOU  
10 LOOK AT THAT OCCURRED IN THE CITY OF ROCK HILL IN  
11 DECEMBER AND THE FIRST PART OF JANUARY 2001-2002

12 A I REVIEWED NO OTHER BURGLARY, NO OTHER CRIMES OF  
13 BURGLARY

14 Q SO THE ONLY CASES THAT YOU HAVE REVIEWED ARE THE  
15 ONES THAT MR MORTON PROVIDED YOU THAT MR SANDERS IS  
16 ALLEGEDLY ACCUSED OF, IS THAT CORRECT?

17 A YES

18 Q SO YOU DON'T KNOW HOW MANY OTHER BURGLARIES MAY  
19 HAVE OCCURRED IN THIS LOCATION IN THIS PART OF TOWN  
20 DURING THE PERIOD OF TIME IN QUESTION, IS THAT  
21 CORRECT?

22 A THAT'S CORRECT

23 Q OKAY NOW YOU ALSO HAVE ON HERE IN DOOR  
24 CRIME/OUT DOOR CRIME THERE IS ONLY TWO CATEGORIES  
25 OF THAT, IS THAT CORRECT, IN DOOR/OUT DOOR?



1 A CORRECT

2 Q OKAY YOU DIDN'T PUT ON YOUR CHART IN DOOR  
3 RESIDENCE, DID YOU?

4 A I DIDN'T PUT THE WORD RESIDENCE

5 Q OKAY SO YOUR CHART AND THE STATISTICS THAT YOU  
6 ARE LOOKING FOR DEAL WITH WHETHER A CRIME IS  
7 COMMITTED IN DOORS OR A CRIME IS COMMITTED OUT DOORS,  
8 IS THAT CORRECT?

9 A NO, NOT SPECIFICALLY LOOKING AT RAPES AND  
10 ROBBERY, LOOKING AT, I ALSO PROVIDED I BELIEVE, WE  
11 HAVEN'T PUT IT IN EVIDENCE, BUT DIFFERENT LOCATIONS  
12 OF WHERE DIFFERENT CRIMES OCCUR FOR EXAMPLE, I  
13 PULLED SOUTH CAROLINA CRIMES STATISTICS, ABOUT 20  
14 PERCENT OF BURGLARIES OCCUR IN RESIDENCES THAT'S  
15 BROKEN DOWN BY COMMERCIAL INSTITUTIONS, STREET  
16 ROBBERIES, AND SO FORTH, SO I'VE LOOKED AT THAT DATA

17 Q BUT YOU HAVEN'T, IN YOUR CHART THAT YOU HAVE  
18 PROVIDED IN EVIDENCE, YOU ONLY HAVE ONE OF TWO  
19 GENERAL CATEGORIES, IN DOOR AND THEN OUT DOOR, IS  
20 THAT RIGHT?

21 A I JUST PUT, RIGHT, IN DOOR AND HOPEFULLY THIS IS  
22 WHAT WE CAN CLARIFY THIS MORNING IS I TESTIFIED WE  
23 WERE TALKING ABOUT IN DOOR AND IN PRIVATE RESIDENCES

24 Q OTHER THAN IN DOOR AND OUT DOOR, CAN YOU TELL ME  
25 ANY OTHER CATEGORY WHERE A CRIME MIGHT OCCUR?

1 A WELL, YOU BREAK IT DOWN WITHIN THE  
2 SUB-CATEGORIES THERE

3 Q I UNDERSTAND THAT I'M TALKING ABOUT YOUR CHART  
4 THAT YOU'VE USED?

5 A I JUST USED THE TERM IN DOOR, BUT I TRIED TO  
6 CLARIFY THIS MORNING TO INDICATE I'M LOOKING AT ALL  
7 OF THESE CRIMES WERE IN RESIDENCES

8 Q RIGHT BUT ALL CRIMES ARE EITHER COMMITTED IN  
9 DOORS OR OUT DOORS, ISN'T THAT CORRECT?

10 A FAIR ENOUGH

11 Q OKAY EVERY CRIME COMMITTED IS COMMITTED IN  
12 DOORS OR OUT DOORS, CORRECT?

13 A YES, SIR

14 Q OKAY NOW SUSPECT KNOWN OR A STRANGER I  
15 NOTICED DOWN UNDER THE AMANDA COPE CASE YOU DON'T  
16 HAVE AN ANSWER FOR THAT?

17 A CORRECT

18 Q SO YOU DON'T SAY WHETHER IT WAS A STRANGER OR  
19 WHETHER IT WAS KNOWN, IS THAT CORRECT?

20 A THAT'S CORRECT

21 Q NOW DID MR MORTON PROVIDE YOU WITH THE VIDEO  
22 TAPE OF HIS CLIENT EXPLAINING IN DETAIL TO THE POLICE  
23 THREE DAYS AFTER THIS INCIDENT HOW HE SEXUALLY  
24 MUTILATED AND KILLED HIS DAUGHTER AT THE HOUSE?

25 A I DIDN'T SEE THAT VIDEO TAPE, NO, SIR

1 Q OKAY NOW IF YOU WOULD HAVE CONSIDERED THAT  
2 VIDEO TAPE, THEN THE SUSPECT WOULD HAVE BEEN KNOWN,  
3 ISN'T THAT CORRECT?

4 A THAT'S CERTAINLY A POSSIBILITY, YES

5 Q I MEAN, SHE WOULD KNOW HER FATHER?

6 A YES

7 Q AND SO LET'S JUST HYPOTHETICALLY PRESUME THAT IF  
8 MR COPE IS THE SUSPECT THEN THAT CATEGORY WOULD BE  
9 KNOWN SUSPECT, CORRECT?

10 A YES

11 Q AS OPPOSED TO ALL OF THESE OTHERS WHICH ARE  
12 STRANGER, IS THAT CORRECT?

13 A CORRECT

14 Q NOW, ALSO ACCORDING TO YOUR TESTIMONY MR COPE  
15 FALLING INTO THAT KNOWN CATEGORY WOULD BE THE  
16 MAJORITY OF THESE OF SEXUAL OFFENSES IN THE 75  
17 PERCENT RANGE THAT YOU SAID?

18 A YES, SIR

19 Q OKAY NOW --

20 A WITH, THAT BREAKS DOWN TOO BY FAMILY MEMBER AND  
21 FAMILY MEMBERS ARE LEAST FREQUENT WITHIN THE KNOWN  
22 CATEGORY, BUT IT WOULD BE IN THAT GENERAL UMBRELLA

23 Q THE NEXT CATEGORY YOU HAVE IS FORCED ENTRY,  
24 CORRECT?

25 A YES, SIR

1 Q NOW ARE YOU TALKING ABOUT, IS YOUR DEFINITION OF  
2 FORCED ENTRY IN THAT THERE IS A BREAKING AND ENTERING  
3 OF A RESIDENCE?

4 A YES

5 Q OKAY

6 A PHYSICALLY, USING PHYSICAL FORCE TO ENTER THE  
7 RESIDENCE

8 Q OKAY USING PHYSICAL FORCE TO ENTER THE  
9 RESIDENCE NOW IF A PERSON TESTIFIED THAT HER DOOR  
10 WAS AJAR AND SHE WAS GOING TO CLOSE IT AND AS SHE  
11 WENT TO CLOSE IT, A STRANGER THEN FORCED HIS WAY INTO  
12 THE HOUSE BY PUSHING THE DOOR OPEN AND PUSHING HER  
13 BACK, THAT'S A FORCED ENTRY, ISN'T IT?

14 A WHAT I WAS THINKING ABOUT FORCED ENTRY I AM  
15 THINKING ABOUT DEFEATING A LOCK, BREAKING A LOCK,  
16 DOOR JAMB, COMING THROUGH THIS WAY IN THAT  
17 PARTICULAR CASE, MY UNDERSTANDING THAT THE VICTIM WAS  
18 SURE THAT SHE LOCKED HER DOOR, CAME HOME TO THE BACK  
19 DOOR, WAS SURE SHE LOCKED THE FRONT DOOR, SAW IT  
20 AJAR, WENT TO CLOSE IT, AND THEN WAS ATTACKED THERE  
21 WAS NO REPORT OF WHETHER THAT LOCK WAS BROKEN OR  
22 FORCED ENTRY OR WHETHER SHE HAD SIMPLY THOUGHT SHE  
23 LOCKED THE DOOR AND HADN'T AND IT WAS OPEN

24 Q NOW DO I UNDERSTAND CORRECTLY THAT THE PURPOSE  
25 OF YOUR DEFINITION OF FORCED ENTRY IS THE PERSON IS

1 ESSENTIALLY TRYING TO GET INTO THE HOUSE BY STEALTH?

2 A WELL, FORCED ENTRY WOULD BE OVERCOMING A LOCK OR  
3 SOME MECHANISM, A LOCKED WINDOW, A LOCKED DOOR  
4 PHYSICALLY FORCING ENTRY, WHEN I AM TALKING ABOUT

5 Q SOMEBODY STANDING IN THE WAY OF THE DOOR, THAT  
6 WOULD BE LIKE A LOCK, WOULDN'T IT?

7 A WELL, POSSIBLY MY DEFINITION DEALT MORE WITH  
8 OVERCOMING LOCKS AND THAT SORT OF ACCESS CONTROL

9 Q OKAY NOW WOULD YOU AGREE WITH ME THAT IN  
10 REGARDS TO THE CATHERINE DAVIS CASE AND SARAH  
11 PHILLIPS CASE, NO, THE CATHERINE DAVIS CASE, ALICIA  
12 LOWERY CASE, AND THE SARA HAGMAN CASE, THAT THE  
13 PERSON WHO ASSAULTED THOSE LADIES CAME IN IN THE SAME  
14 MANNER BY PUSHING, KNOCKING ON THE DOOR AND ONCE THE  
15 DOOR WAS JUST SLIGHTLY OPENED, FORCING THEMSELVES  
16 INTO THE DOOR OR IF THE DOOR WAS FOUND OPEN, FORCING  
17 THEMSELVES INTO THE DOOR WILL YOU AGREE WITH ME ON  
18 THAT?

19 A YES YES, SIR USING, WE CALL THAT AS ROUSE OR  
20 A CON, KNOCKING ON THE DOOR TO GET THEM TO OPEN THE  
21 DOOR AND THEN ENTERING

22 Q OKAY AND IN THE COPE MATERIAL THAT YOU WERE  
23 SENT FROM THE POLICE, THERE IS NO EVIDENCE WHATSOEVER  
24 THAT THAT METHOD WAS USED, IS THERE?

25 A CORRECT

1 Q NOW IN REGARDS TO YOUR SEX AND ROBBERY,  
2 CATHERINE DAVIS, THAT'S A GUESS?

3 A YES, SIR

4 Q SHE EVEN TESTIFIED IN COURT TODAY?

5 A OKAY

6 Q IN FACT, SHE SAID HE KEPT LOOKING FOR MONEY  
7 ALTHOUGH MS DAVIS DID NOT IDENTIFY MY CLIENT AS THE  
8 SUSPECT NOW SARAH PHILLIPS YOU HAVE YES, BUT YOU  
9 ARE ASSUMING THE INTENT OF THE INTRUDER, AREN'T YOU?

10 A IF SHE TESTIFIED THERE WAS NO ROBBERY AND NO  
11 ATTEMPTED ROBBERY, I'LL GO WITH HER I'M NOT SURE  
12 WHAT SHE TESTIFIED TO IF THAT IS WHAT SHE TESTIFIED  
13 TO THEN I WOULD SAY THERE WAS NO ROBBERY SHE SAID  
14 AS I RECALL THAT THIS WAS OVER VERY QUICKLY, THAT HE  
15 DIDN'T HAVE A CHANCE TO DO REALLY MUCH OF ANYTHING,  
16 THAT SHE RESISTED AND THAT

17 Q PUT HIS HAND OVER HER MOUTH?

18 A RIGHT

19 Q BECAUSE SHE WAS SCREAMING OKAY ALICIA  
20 LOWERY, OKAY GEORGE WHITE, IN THAT PARTICULAR CASE  
21 YOU HAVE AN INDIVIDUAL WHO IS SPOTTED IN THE HOUSE  
22 AND WHO FLED?

23 A CORRECT

24 Q MS HAGMAN, SHE TALKED ABOUT THE POCKETBOOK?

25 A YES, SIR

1 Q OKAY DID YOU SEE ANYTHING IN THE REPORTS TO  
2 WHERE IT INDICATED THAT THE PERSON WAS ATTEMPTING A  
3 SEXUAL ASSAULT ON HER OTHER THAN A FIGHT AND A  
4 ROBBERY?

5 A I'D HAVE TO LOOK AT THAT MATERIAL TO TELL YOU  
6 RIGHT OFF HAND I COULDN'T POINT YOU TO A PAGE OR  
7 ANYTHING

8 Q OKAY AMANDA COPE, YOU SAID THE EVIDENCE OF  
9 ROBBERY WAS THE POCKETBOOK ON HER BED?

10 A SUGGESTED THAT WHICH IS I BELIEVE MY  
11 UNDERSTANDING IS THAT IT WAS OUT OF PLACE AND THAT IT  
12 DIDN'T BELONG THERE

13 Q AND WHO TOLD YOU IT WAS OUT OF PLACE AND DIDN'T  
14 BELONG THERE, MR MORTON?

15 A YEAH, I BELIEVE SO

16 Q OKAY YOU KNOW THIS WAS A 12 YEAR OLD GIRL?

17 A YES, SIR

18 Q MS DAVIS, MS PHILLIPS, MS LOWERY, MRS HAGMAN  
19 ARE ALL GROWN WOMEN, ISN'T THAT CORRECT?

20 A YES, SIR

21 Q OKAY NONE OF THEM ARE 12 YEARS OLD, IS THAT  
22 CORRECT?

23 A THAT'S MY UNDERSTANDING

24 Q OKAY NOW I WANT TO GO BACK TO THE DATE ON YOUR  
25 CHART

1 A YES, SIR

2 Q YOU HAVE DOWN THERE AMANDA COPE 11/29/01?

3 A YES, SIR

4 Q IS THAT CORRECT? AND YOU SAID THAT IT WAS THE  
5 FIRST IN A SERIES, IS THAT CORRECT?

6 A POSSIBLY, YES

7 Q POSSIBLY BUT YOU COULD ALSO FROM THE DATE  
8 STANDPOINT SAY IT DOESN'T EVEN BELONG IN THE DATE  
9 CATEGORY, DOES IT?

10 A WHY WOULD I SAY THAT?

11 Q WELL, YOU SAY IT'S THE FIRST OF A SERIES THE  
12 REST OF THE SERIES DOESN'T HAPPEN UNTIL TWO WEEKS  
13 LATER?

14 A THAT'S JUST ONE ELEMENT, WE'RE TALKING ABOUT THE  
15 CONSTELLATION OF ALL THOSE CIRCUMSTANCES, TO ME PUT  
16 IT IN THAT REALM OF POSSIBLY BEING RELATED

17 Q BUT ISN'T IT EASY JUST TO FIT IT ON THE FRONT  
18 END I MEAN, WOULDN'T YOU THINK IT WOULD BE MORE,  
19 WOULDN'T YOU THINK YOUR OPINION WOULD BE ABLE TO BE  
20 MORE SUBSTANTIATED IF THIS OFFENSE FELL WITHIN THE  
21 TIME FRAME OF THE OTHER OFFENSES?

22 A NO, NOT NECESSARILY I THINK IT DOES FALL INTO  
23 THAT TIME FRAME WE GOT ALL THIS OCCURRING WITHIN  
24 JUST A MATTER OF WEEKS THE END OF NOVEMBER THROUGH  
25 DECEMBER 19, WE GOT LESS THAN A MONTH THAT THE

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1 MAJORITY OF THESE CRIMES OCCURRED IN, AND THEN WE GOT  
2 A BREAK THERE, ANOTHER BREAK OVER THE HOLIDAYS, OVER  
3 CHRISTMAS AND NEW YEAR'S, BEFORE WE HAVE THE ASSAULT  
4 ON MS HAGMAN, SO THIS IS A PATTERN THAT EXISTS  
5 SOMETIMES, THERE IS A FEW THAT OCCURS IN A FEW DAYS  
6 AND SOMETIMES THERE IS A COUPLE WEEKS BETWEEN THEM,  
7 SO IT'S NOT INCONSISTENT

8 Q OKAY IN REGARDS TO CHOKING AND ASPHYXIATION

9 A YES, SIR

10 Q MS DAVIS NEVER SAID ANYTHING ABOUT THAT, DID  
11 SHE?

12 A YEAH, THAT'S WHY I PUT NO REPORT THERE, YES

13 Q SARAH PHILLIPS NEVER SAID ANYTHING ABOUT THAT,  
14 DID SHE?

15 A LET'S SEE WHAT SHE SAID

16 Q SHE SAID HE PUT HIS HAND OVER HER MOUTH WHEN SHE  
17 STARTED TO SCREAM, WAS HOLDING HER DOWN?

18 A RIGHT HE DID THAT TWICE

19 Q RIGHT NOW ISN'T IT TRUE ALICIA LOWERY DOES  
20 TALK ABOUT A PLASTIC BAG PUT OVER HER FACE?

21 A YES

22 Q SHE DOESN'T SAY ANYTHING ABOUT HER THROAT, DOES  
23 SHE?

24 A NO SHE SAID I COULD NOT BREATHE AND I STARTED  
25 CLAWING AT THE PLASTIC BAG

1 Q OKAY GEORGE WHITE, THERE IS NOTHING IN THAT  
2 CASE, I MEAN, ABOUT ASPHYXIATION THIS IS JUST A  
3 PERSON IN THE HOUSE AND RUNNING OUTSIDE?

4 A HE FLED

5 Q SARAH HAGMAN TALKS ABOUT THE HEAD LOCK DURING A  
6 WRESTLING MATCH, ISN'T THAT CORRECT?

7 A YES, GOT ME IN A CHOKE HOLD IS THE WAY SHE PUT  
8 IT, YES

9 Q OKAY BUT SHE NEVER TALKED ABOUT BEING HELD  
10 DOWN AND SOMEBODY BEING ON TOP OF HER TRYING TO CHOKE  
11 HER, DID SHE?

12 A NOT SPECIFICALLY THAT WAY SHE MENTIONED BEING  
13 IN A CHOKE HOLD

14 Q OKAY EVIDENCE, I WANT TO GO DOWN TO AMANDA  
15 COPE YOU TALK ABOUT THE DNA MATCH WERE YOU GIVEN  
16 THE AUTOPSY REPORT TO READ?

17 A I DON'T RECALL IF I WAS OR NOT

18 Q I SUBMIT YOU WOULD PROBABLY RECALL IF YOU READ  
19 IT, SO YOU DON'T RECALL?

20 A NO, I DON'T THINK SO

21 Q THE AUTOPSY REPORT ARE YOU FAMILIAR WITH THE  
22 FACT THAT THE AUTOPSY REPORT SHOWS PRETTY MUCH NOT  
23 ONLY SEXUAL ASSAULT AGAINST AMANDA COPE BUT SEXUAL  
24 MUTILATION?

25 A I UNDERSTAND, YES, THERE IS SOME VAGINA TRAUMA I

1 THINK

2 Q AND SOME RECTUM TRAUMA?

3 A RIGHT --

4 Q OKAY AND DO YOU UNDERSTAND THAT THE FORENSICS  
5 SHOW THAT THERE WAS NO SEMEN FOUND IN ANY ORIFICE  
6 WITH AMANDA COPE?

7 A I BELIEVE THAT'S CORRECT

8 Q OKAY AND WERE YOU TOLD THAT MR COPE STATED TO  
9 THE POLICE THAT HE HAD STUCK A BROOM STICK IN HIS  
10 DAUGHTER'S ANUS AND ALSO STUCK IT IN HER VAGINA?

11 A IT'S AMONG A NUMBER OF THINGS HE TOLD POLICE,  
12 YES

13 Q OKAY IN CATHERINE DAVIS CASE, SARAH PHILLIPS  
14 CASE, ALICIA LOWERY CASE, GEORGE WHITE, SARAH HAGMAN,  
15 THERE IS NO EVIDENCE OF ANY SEXUAL MUTILATION IN  
16 THOSE CASES, IS THERE?

17 A THERE WAS JUST SOME VAGINAL TRAUMA, AND I DON'T  
18 MEAN TO MINIMIZE IT, BUT SOME VAGINAL TRAUMA TO MS  
19 DAVIS, BUT OBVIOUSLY THE OTHERS WERE ATTEMPTED SEXUAL  
20 ASSAULTS WHICH WERE NOT COMPLETED

21 Q MS PHILLIPS NEVER SAID THAT THERE IS NO  
22 EVIDENCE MS PHILLIPS THAT THERE WAS A SEXUAL  
23 ASSAULT

24 A RIGHT

25 Q I DON'T KNOW THAT MS HAGMAN SAYS THAT THERE

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1 IS NO EVIDENCE OF MS HAGMAN THAT IT WAS A SEXUAL  
2 ASSAULT OR THAT IT HAD GOTTEN TO THAT EXTENT?

3 A IT MAY NOT HAVE GOTTEN TO THAT EXTENT I THINK  
4 THAT SOME OF THESE VICTIMS RESISTED PRETTY FIERCELY  
5 AND IT DIDN'T GET TO THAT POINT I THINK THE POINT  
6 HERE THAT WE HAVE TO LOOK AT IS THE TWO VICTIMS THAT  
7 WERE SEXUALLY ASSAULTED, THE COMMONALITY IS THE  
8 VULNERABILITY OF THESE VICTIMS WE HAVE A 12 YEAR  
9 OLD GIRL AND WE HAVE A 60 YEAR OLD WOMAN WHO IS  
10 DISABLED AND NOT ABLE OR NO REPORT OF FIERCE  
11 RESISTANCE SO I THINK THAT'S THE COMMONALITY THAT WE  
12 HAVE

13 Q OKAY LET'S GO BACK TO SARAH PHILLIPS THEN  
14 SARAH PHILLIPS, ALICIA LOWERY, AND SARAH HAGMAN, ALL  
15 THREE, FOUGHT OFF THE INTRUDER, ISN'T THAT CORRECT?

16 A YES

17 Q SO THERE WAS NO COMMONALITY THERE OF BEING  
18 SUSCEPTIBLE TO HIM AS BEING EITHER OLD OR YOUNG OR  
19 BEING ANYTHING LIKE THAT, ISN'T THAT CORRECT?

20 A WELL, THEY WERE NOT AS VULNERABLE A VICTIM  
21 THEY WERE --

22 Q THEY WERE NOT VULNERABLE AT ALL, WERE THEY?

23 A NOT VERY THEY ARE PRETTY STAND UP WOMEN

24 Q SO THAT WAS, THAT'S INCONSISTENT WITH AMANDA  
25 COPE AND CATHERINE DAVIS IF YOU ARE GOING TO TALK

1 ABOUT VULNERABILITY OF VICTIMS, ISN'T THAT CORRECT?

2 A YES CATHERINE DAVIS AND AMANDA COPE WERE  
3 CERTAINLY THE TWO MOST VULNERABLE OF THE VICTIMS AND  
4 THOSE WERE THE TWO FOR WHOM THIS OFFENDER WAS ABLE TO  
5 COMPLETE A SEXUAL ASSAULT

6 Q OKAY LASTLY, MR MCCRARY, YOU'VE HEARD OR I  
7 DON'T KNOW IF YOU KNOW MS DAVIS TESTIFIED THIS  
8 MORNING?

9 A YEAH, I'M NOT AWARE OF WHO ALL TESTIFIED

10 Q MS PHILLIPS TESTIFIED AND MS LOWERY TESTIFIED,  
11 AND MS HAGMAN LEE TESTIFIED THIS MORNING HERE IN  
12 THIS COURTROOM

13 A YES, SIR

14 Q DR WHITE DIDN'T TESTIFY, BUT I BELIEVE THAT HE  
15 IS PROBABLY WORKING HE'S A PHYSICIAN IN TOWN  
16 THERE IS A GLARING DIFFERENCE BETWEEN AMANDA COPE'S  
17 CASE AND THE REST OF THEM, ISN'T THERE?

18 A IN WHAT WAY

19 Q SHE'S DEAD?

20 A YES, SIR

21 Q THEY ARE NOT?

22 A YES, SIR

23 THE COURT ANYTHING FROM THE STATE?

24 MR THOMPSON NO QUESTIONS, YOUR HONOR

25 THE COURT ANY REDIRECT

1 MR SMITH JUST A COUPLE, YOUR HONOR

2 REDIRECT EXAMINATION BY MR SMITH

3 Q MR MCCRARY, YOU TESTIFIED THAT YOU DID NOT  
4 PERSONALLY SPEAK WITH ANY OF THE VICTIMS YOURSELF

5 A THAT'S CORRECT

6 Q YOU DID HAVE SWORN STATEMENTS BY THEM THAT WERE  
7 IN THE POLICE FILE, CORRECT?

8 A YES, SIR

9 Q SO YOU HEARD THEIR TESTIMONY?

10 A THAT'S WHAT I RELIED ON

11 Q AND DO YOU FEEL THAT YOU HAD SUFFICIENT  
12 INFORMATION TO REACH THE CONCLUSION THAT ALL OF THESE  
13 CRIMES WERE LINKED, THAT THERE WAS COMMONALITY  
14 BETWEEN THESE CRIMES?

15 A YES

16 Q NOW REGARDING THE FACT THAT ON YOUR CHART YOU  
17 PUT IN DOOR CRIME VERSUS OUT DOOR CRIME, YOU COULD  
18 HAVE JUST AS EASILY SAID RESIDENT, INSIDE A  
19 RESIDENCE?

20 A THAT WOULD HAVE BEEN MORE PRECISE, YES

21 Q AND YOU HAVE NO PROBLEM MAKING THAT CHANGE?

22 A NO THESE ARE INSIDE, I MEAN, IN DOOR BUT  
23 INSIDE RESIDENCES

24 Q SO THERE WAS A MORE SPECIFIC COMMONALITY BETWEEN  
25 ALL OF THESE OFFENSES?

1 A CORRECT

2 Q YOU TESTIFIED THAT YOU DID NOT REVIEW THE VIDEO  
3 CONFESSION OF MR COPE?

4 A THAT'S CORRECT

5 Q YOU DID REVIEW HIS OTHER CONFESSIONS?

6 A YES

7 Q AND YOU ALSO STATED THAT THERE WAS NO EVIDENCE  
8 THAT MR SANDERS DID NOT KNOCK ON THE DOOR AT AMANDA  
9 COPE'S HOUSE, THE SAME AS HE HAD DONE WITH CATHERINE  
10 DAVIS AND SARAH HAGMAN, IS THAT RIGHT?

11 A YEAH, THERE IS NO WAY TO, NO INDICATION OF THAT

12 Q BUT THERE IS NO INDICATION THAT HE DID NOT DO  
13 THAT, IS THAT RIGHT?

14 A ONE WAY OR THE OTHER, RIGHT

15 Q THERE WERE JUST NO SIGNS OF FORCED ENTRY?

16 A CORRECT

17 Q NOW IN CRIME ANALYSIS YOU ARE INVOLVED WITH  
18 FALSE CONFESSIONS IN ANY WAY?

19 A YES

20 Q IN WHAT MANNER?

21 A WELL, YOU HAVE TO ALWAYS BE ALERT TO THOSE  
22 IT'S THE MIRROR IMAGE OF FALSE ALLEGATIONS OF CRIME  
23 THERE IS NO INVESTIGATOR WHO HAS BEEN AN INVESTIGATOR  
24 FOR A LENGTH OF TIME THAT HASN'T ENCOUNTERED A FALSE  
25 ALLEGATION OF CRIME FALSE CONFESSION CRIMES ARE

1 JUST SORT OF THE FLIP SIDE OF THAT COIN AND THERE  
2 ISN'T ANYBODY INVOLVED IN INVESTIGATIONS THAT WOULD  
3 NOT ENCOUNTER A FALSE CONFESSION TO A CRIME AT SOME  
4 POINT

5 Q NOW WHEN --

6 A I'VE BEEN INVOLVED IN A NUMBER OF CRIMES THAT  
7 HAVE INVOLVED FALSE CONFESSIONS

8 Q NOW AS AN INVESTIGATOR WHEN YOU RECEIVE A  
9 CONFESSION WHAT DO YOU TRY TO DO IF ANYTHING TO  
10 DETERMINE THE RELIABILITY OF THAT CONFESSION?

11 MR GREELEY OBJECTION, YOUR HONOR I  
12 DON'T KNOW HOW THIS IS REDIRECT

13 THE COURT I SUSTAIN THE OBJECTION  
14 THAT'S NOT IN REPLY TO ANYTHING THAT WAS BROUGHT UP  
15 ON CROSS

16 MR SMITH JUDGE, MR GREELEY BROUGHT UP  
17 THE ISSUE OF FALSE CONFESSIONS OR OF CONFESSIONS THAT  
18 MR COPE HAD CONFESSED

19 THE COURT I'LL LET YOU GO INTO IT IT'S  
20 A PROFFER ANYWAY

21 MR SMITH YES THANK YOU

22 Q SO AGAIN THE QUESTION, WHAT DO YOU TRY TO DO  
23 WHEN YOU RECEIVE A CONFESSION TO VERIFY ITS TRUTH AND  
24 VERACITY?

25 THE COURT I TAKE IT THAT'S NOT, IT IS A



1 PROFFER IN A WAY, BUT NOT JUST A PROFFER BECAUSE THE  
2 COURT HAS GOT TO MAKE A DETERMINATION

3 MR BRACKETT I WOULD ALSO LODGE AN  
4 OBJECTION AS TO HIS EXPERTISE AND THIS BEING OUTSIDE  
5 THE AREA OF HIS EXPERTISE

6 THE COURT WELL, I DON'T THINK HE'S GOING  
7 TO TESTIFY THAT THIS WAS A COERCED CONFESSION

8 MR SMITH NO, SIR

9 THE COURT I THINK HE'S JUST TRYING TO  
10 SHOW, GO AHEAD AND ASK THE QUESTION I DON'T THINK  
11 HE'S GOING AS FAR AS YOU THINK HE'S GOING

12 Q YOU NEED ME TO REPEAT THE QUESTION, MR MCCRARY?

13 A I THINK YOU MIGHT BE ASKING ABOUT WHAT DO YOU DO  
14 TO VALIDATE A CONFESSION? WHAT WOULD AN INVESTIGATOR  
15 DO --

16 Q YES, SIR?

17 A THERE ARE A COUPLE OF INDICIA OF TRUE VERSUS  
18 FALSE CONFESSIONS ONE IS THE CONFESSION, A TRUE  
19 CONFESSION, WILL OFTEN CONTAIN INFORMATION THAT ONLY  
20 THE OFFENDER WOULD KNOW ABOUT THE NATURE OF THE  
21 CRIME, THE CRIME SCENE, SOMETHING VERY, VERY SPECIFIC  
22 MANY TIMES BEYOND WHAT THE POLICE WOULD KNOW OR IT  
23 MAY LEAD TO THE RECOVERY OF ADDITIONAL EVIDENCE THAT  
24 HAS NOT BEEN RECOVERED AT THAT POINT IF I CAN GIVE  
25 YOU AN EXAMPLE WHERE THE SERIAL MURDER CASE WHERE WE

1 GOT A CONFESSION THAT OFFENDER WAS ABLE TO LEAD US TO  
2 THE BODIES OF A COUPLE OF VICTIMS THAT WE HAD NOT  
3 RECOVERED AT THAT POINT THAT'S A PRETTY GOOD  
4 INDICATION THAT THIS IS A GOOD CONFESSION SO YOU  
5 LOOK AT THOSE THINGS AND DO A POST CONFESSION  
6 INVESTIGATION TO VALIDATE WHAT'S IN THE CONFESSION  
7 AND IF YOU CAN DO THAT THEN YOU CAN PUT SOME WEIGHT  
8 AND RELIABILITY TO THE DEGREE THAT IT'S INCONSISTENT  
9 THEN YOU HAVE TO BEGIN TO CONSIDER THE POSSIBILITY  
10 THAT IT MAYBE A FALSE CONFESSION

11 Q SO DESPITE THE FACT THAT MR COPE GAVE DETAILED  
12 CONFESSIONS OF HOW HE RAPED AND MURDERED AMANDA, THE  
13 POLICE SHOULD HAVE INVESTIGATED ALTERNATIVE CAUSES OR  
14 OTHER SUSPECTS ESPECIALLY CONSIDERING THIS SPIKE IN  
15 STRANGER BASED SEXUAL ASSAULTS OR ATTEMPTED SEXUAL  
16 ASSAULTS AND BREAK INS AND BURGLARIES?

17 A YES YES I COULD GIVE YOU ANOTHER EXAMPLE IF  
18 YOU WANT I WORKED THE MULTIPLE HOMICIDE IN PHOENIX,  
19 ARIZONA WE HAD NINE PEOPLE MURDERED IN A BUDDHIST  
20 TEMPLE WE HAD FOUR PEOPLE CONFESS TO THAT CRIME  
21 THAT DID NOT DO IT AND THAT WAS THROUGH SUBSEQUENT  
22 INVESTIGATION PROVED THEY WERE IN TUCSON RATHER THAN  
23 PHOENIX WHEN THE CRIME OCCURRED AND SO FORTH SO  
24 POST CONFESSION INVESTIGATIONS ARE IMPORTANT TO  
25 VALIDATE THAT CONFESSION AND TO RULE OUT FALSE

1 CONFESSION

2 Q SO FALSE CONFESSIONS ARE REAL AND TRUE AND THEY  
3 DO ACTUALLY EXIST?

4 A OVER 200 PEOPLE CONFESSED TO THE OLD LINDBERGH  
5 KIDNAPPING THAT HAD NOTHING TO DO WITH IT SO THEY ARE  
6 CERTAINLY A PART OF EVERY INVESTIGATOR'S EXPERIENCE  
7 AND INVESTIGATORS NEEDS TO BE SENSITIVE TO THAT FACT  
8 AND THAT THEY MIGHT BE DEALING WITH JUST THAT, JUST  
9 THAT ISSUE

10 Q NOW YOU TALK ABOUT STATISTICS, DO YOU HAVE ANY  
11 STATISTICS ON FATHERS ALLOWING OTHER INDIVIDUALS IN  
12 AND CONSPIRING WITH THEM TO RAPE AND MURDER THE  
13 FATHER'S DAUGHTER, HOW COMMON IS THAT?

14 A I DON'T HAVE ANY STATISTICS MY OWN EXPERIENCE,  
15 I'VE NOT, I'VE NOT EVER EXPERIENCED THAT MYSELF I  
16 COULDN'T THINK OF A CASE LIKE THAT

17 Q THANK YOU

18 MR GREELEY NO

19 THE COURT YOU CAN STEP DOWN AND BE  
20 EXCUSED WE APPRECIATE YOUR TIME

21 A THANK YOU, SIR

22 THE COURT THANK YOU ANYTHING ELSE ON  
23 THIS ISSUE? WHAT I THINK I WILL DO IS GET THE JURY  
24 IN AND LET THEM GO TO LUNCH THEY'VE BEEN THERE FOR  
25 A COUPLE OF HOURS THEN I'M GOING TO RULE ON THIS

1       MATTER AND THEN WE CAN HAVE OURS     BRING IN THE JURY  
2                                (THE JURY RETURNS TO THE COURTROOM AT  
3       12 02 )

4                       THE COURT     MR   FOREMAN, LADIES AND  
5       GENTLEMEN OF THE JURY, I KNOW WHEN YOU LOOK AT THE  
6       CLOCK YOU THINK I MISSED THAT CLASS IN KINDERGARTEN  
7       WHEN THEY TAUGHT YOU HOW TO TELL TIME     I REALLY  
8       DIDN'T     WE HAVE BEEN WORKING SINCE 8 O'CLOCK THIS  
9       MORNING     WE'VE GOT A LITTLE BIT MORE TO DO BEFORE WE  
10      ACTUALLY CAN UTILIZE YOUR, TALK TO YOU MORE     SO I  
11      KNOW YOU HADN'T BEEN SWORN BUT I'M GOING TO LET YOU  
12      GO TO LUNCH BECAUSE WE STILL HAVE A LITTLE BIT MORE  
13      TO DO, BUT I FEEL WE CAN HOPEFULLY START AND UTILIZE  
14      YOUR SERVICES, AND I DO APPRECIATE YOUR PATIENCE, AT  
15      AROUND 1 30     SO I'M GOING TO ASK YOU TO KEEP IN MIND  
16      WHAT I TOLD YOU ABOUT NOT DISCUSSING THE CASE, NOT  
17      TRYING TO MAKE UP YOUR OWN MIND, ALL THE ADMONITIONS  
18      RUN THROUGHOUT THE TRIAL, BUT I AM GOING TO ALLOW YOU  
19      TO GO TO LUNCH AND BE BACK IN THE JURY ROOM AT 1 30  
20      AND HOPEFULLY WE'LL BE ABLE TO START FAIRLY CLOSE TO  
21      THAT TIME BECAUSE WE HAVE A LITTLE BIT MORE TO DO AND  
22      THEN I'LL LET ALL THESE PEOPLE HAVE A LITTLE BIT OF  
23      TIME FOR LUNCH, BUT HOPEFULLY WE'LL BE ABLE TO START  
24      PRETTY QUICK AROUND 1 30     AGAIN I APPRECIATE YOUR  
25      PATIENCE

1 (THE JURY EXITS THE COURTROOM )

2 THE COURT ALL RIGHT I'M READY TO RULE  
3 I DON'T NEED ANY ARGUMENTS UNLESS SOMEONE WANTS TO  
4 GIVE ME ABOUT A ONE MINUTE

5 MR MORTON YOUR HONOR, I COULD ARGUE FOR  
6 AN HOUR

7 THE COURT I KNOW YOU COULD

8 MR MORTON BUT I WOULD LIKE TO BE HEARD

9 THE COURT ALL RIGHT WELL, I'LL GIVE  
10 YOU AN OPPORTUNITY, BUT I'M NOT GOING TO LISTEN TO AN  
11 HOUR I HAVE HEARD TESTIMONY, I'M NOT THE JURY, I'M  
12 THE JUDGE, AND I KNOW THE RULES I HAVE GOT LYLE UP  
13 HERE I'VE HAD, I PROBABLY HEARD ABOUT AS MANY  
14 EXPERTS -- WELL, I'VE HEARD A LOT OF EXPERTS IN ANY  
15 EVENT, I DON'T NEED A LOT OF ARGUMENT, MR MORTON I  
16 AM NOT GOING TO CUT YOU SHORT BUT I WILL GIVE YOU AN  
17 OPPORTUNITY TO

18 MR MORTON YES, SIR I'LL TRY TO BE AS  
19 SHORT AS I CAN DO

20 THE COURT IF YOU BEGIN TO REHASH  
21 EVERYTHING I TELL YOU IN ADVANCE I'VE HEARD IT

22 MR MORTON ALL RIGHT, SIR THE ONLY,  
23 THE CASE THAT IF THE COURT WILL ALLOW ME TO HAND UP  
24 WOULD BE STATE VERSUS KENNEDY I KNOW THE COURT  
25 KNOWS THE LAW I DIDN'T PREPARE A BRIEF I

1 APOLOGIZE MY WRITING IS ON THE CASE IT'S A CASE  
2 THAT THE COURT OF APPEALS ALLOWED THIS TYPE, NOT A  
3 MURDER CASE, BUT A BURGLARY CASES THAT HAD NO LINKAGE  
4 IN IT AT ALL OF COURSE, THE COURT KNOWS COMMON  
5 SCHEME AND PLAN, MOTIVE, AND IDENTITY I THINK THE  
6 BEST ANALYSIS WAS RECENTLY FROM JUDGE, HONORABLE  
7 CHIEF JUSTICE HERN WHEN SAYS THAT WHEN SUCH A PLAN  
8 EXISTS, IN THIS CASE WE OBVIOUSLY HAVE CLEAR AND  
9 CONVINCING EVIDENCE THAT THE DEFENDANT---  
10 THE COURT I'M LISTENING  
11 MR MORTON YOUR HONOR, IN THIS CASE THE  
12 SIMILARITIES OF THESE TWO CRIMES ARE OVERWHELMING  
13 BETWEEN WHAT HAPPENED TO THESE OTHER VICTIMS AND WHAT  
14 HAPPENED TO AMANDA COPE ONE DIFFERENCE, MAJOR  
15 DIFFERENCE, OBVIOUSLY IS THAT AMANDA COPE IS DEAD AND  
16 SHE'S NOT HERE TO TESTIFY SO WE DON'T HAVE THE  
17 BENEFIT OF HER TESTIMONY MR MCCRARY DID REFER TO A  
18 ROBBERY IN HER CASE WE'LL BE ABLE TO LINK THAT UP  
19 LATER I HAVE A PHOTOGRAPH THAT WAS TAKEN FROM HER  
20 ROOM THAT AND WE'LL HAVE TESTIMONY FROM, WAS A  
21 PHOTOGRAPH OF HER MOTHER'S POCKETBOOK THAT WAS ON HER  
22 BED, SO WE DO HAVE THAT THING, SO ESSENTIALLY, YOUR  
23 HONOR, ALL THESE CASES ARE THE SAME WE DON'T HAVE  
24 A, WE DON'T HAVE A CAT BURGLAR HERE AS I SAID, I  
25 DON'T KNOW IF I SAID BEFORE, WAITING FOR THE PAPERS

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1 TO PILE UP IN THE DRIVEWAY AND FOR NOBODY TO BE HOME  
2 SO THEY CAN GO BUST A WINDOW OUT IN SOME RICH  
3 NEIGHBORHOOD AND ROB PEOPLE WE HAVE A SEXUAL  
4 PREDATOR HERE WHO GOES INTO PEOPLE'S HOMES ONLY AFTER  
5 THE LIGHTS ARE TURNED ON, ONLY WHEN HE KNOWS THAT  
6 THERE IS SOMEONE THERE WITH A PURPOSE OF RAPING AND  
7 ASSAULTING THEM WHICH IS SOMETHING THAT HAPPENED IN  
8 EVERY ONE OF THESE CASES SARAH PHILLIPS' CASE WHO  
9 TESTIFIED SHE WAS CHARGED, ALL THESE CASES HAVE BEEN  
10 INDICTED THE STATE, THE POLICE OFFICER HAS SAID  
11 THAT THE MOTIVES WERE SIMILAR IN ALL OF THESE CASES,  
12 SO WE DON'T HAVE ANY PROBLEM WITH THERE BEING CLEAR  
13 AND CONVINCING EVIDENCE, THAT HURDLE HAS BEEN  
14 OVERCOME SIMPLY BY THE INDICTMENTS IN THESE CASES IS  
15 THE WAY I READ THE CASES THIS IS, THIS IS NOT SOME  
16 KID BREAKING INTO SOMEBODY'S HOUSE OR STEALING  
17 JEWELRY OR TVS OR PHONE OR MONEY OR ANYTHING ELSE  
18 THIS IS A MAN WHO WAITS UNTIL THE VICTIM IS HOME, WHO  
19 LIGHTS HER HOME, WHO DOESN'T WEAR A MASK, WHO DOESN'T  
20 HAVE GLOVES, WHO GOES IN AT NIGHT, AND WHO GOES IN  
21 AND SEXUALLY ASSAULTS OR TRIES TO SEXUALLY ASSAULT  
22 THE VICTIMS AS DR MCCRARY, AS MR MCCRARY SAID,  
23 THE ONLY DIFFERENCE IN AMANDA COPE WAS AND CATHERINE  
24 DAVIS WAS IS THEIR VULNERABILITY YOU KNOW, THE  
25 SIMILARITIES WHICH WE MUST PROVE ARE SIGNIFICANT AS

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1 I STARTED TO QUOTE CHIEF JUSTICE HERN AS SHE STATED  
2 IN TOODEN, WHEN SUCH A PLAN EXISTS THE CHARGED AND  
3 UNCHARGED CONDUCT REPRESENT INDIVIDUAL ACHIEVEMENTS  
4 OF THE PURPOSES FOR WHICH THE PLAN WAS ESTABLISHED  
5 ACCORDINGLY WHEN SEPARATE OFFENSES ARE SUFFICIENTLY  
6 SIMILAR THERE IS AN INFERENCE THAT THERE ARE  
7 MANIFESTATIONS OF A COMMON SCHEME OR PLAN THIS IS A  
8 2003 CASE ACCORDINGLY THE EVIDENCE SPEAKS TO THE  
9 EXISTENCE OF THE DEFENDANT'S PLAN NOT TO THE  
10 DEFENDANT'S CHARACTER THE LOGICAL RELEVANCE IS  
11 SHOWN THROUGH THE SIMILARITIES BETWEEN THE CHARGED  
12 AND UNCHARGED ACTS RATHER THAN ON THE DEFENDANT'S  
13 CHARACTER AS SHOWN BY THE UNCHARGED ACT THE ADDED  
14 ELEMENT THEN MUST NOT BE MERELY A SIMILARITY IN  
15 RESULTS BUT SUCH CONCURRENCE OF COMMON FEATURES THAT  
16 THE VARIOUS ACTS ARE NORMALLY TO BE EXPLAINED AS  
17 CAUSED BY A GENERAL PLAN TO WHICH THERE ARE  
18 INDIVIDUAL MANIFESTATIONS

19 THERE IS NO QUESTION OBVIOUSLY THAT  
20 THERE IS CLEAR AND CONVINCING EVIDENCE THESE CASES,  
21 YOUR HONOR, I THINK I SHOWED THE COURT A MAP OR A  
22 DIAGRAM

23 THE COURT YES

24 MR MORTON AND IF I COULD MR SANDERS  
25 RESIDED AT JEFFERSON STREET MISS COPE WAS



1        ASSAULTED APPROXIMATELY TWO TENTHS OF A MILE FROM HIS  
2        HOUSE    MS   LOWERY ON WHITGREEN APPROXIMATELY FOUR  
3        TENTHS OF A MILE

4                THE COURT    MS   PHILLIPS 4 8 MILES

5                MR   MORTON    4 8 MILES    MS   HAGMAN AND  
6        MS   DAVIS THOUGH WERE ALL WITHIN 9 TENTHS OF A MILE  
7        OF WHERE, NOT ONLY WHERE AMANDA COPE LIVED BUT WHERE  
8        MR   SANDERS LIVES    YOU KNOW, THIS, AS I SAID, HE  
9        TRIED TO ASSAULT, ASPHYXIAE MOST OF THEM    HE BROKE  
10       IN WHILE THERE, WE'RE NOT TALKING ABOUT JUST ONE  
11       INCIDENT HERE ON 11/29, WE'RE TALKING ABOUT THIS MAN,  
12       THERE IS NO QUESTION, IN THE SAME AREA, IN THE SAME  
13       TIME, WITH THE SAME FEATURES, STRIKINGLY SIMILAR  
14       OCCURRENCES

15               THE COURT    WHAT CONNECTS HIM TO THIS  
16       LADY, OLDER LADY?

17               MR   MORTON    THERE IS DNA AND IF THE COURT  
18       WILL ALLOW ME TO ARGUE THAT

19               MR   GREELEY    I OBJECT AS TO ANYTHING NOT  
20       IN THE PROFFER THAT IS --

21               THE COURT    I HADN'T HEARD ANY EVIDENCE  
22       ABOUT DNA CONNECTION

23               MR   MORTON    YOUR HONOR, AS I UNDERSTOOD  
24       IT AND WHAT I ELECTED TO HAVE THESE VICTIMS COME IN  
25       AND TESTIFY AND I CAN CALL MRS   BLACKWELDER TO THE

1 STAND RIGHT, IF THE COURT WANTS TO HEAR FROM AN  
2 INVESTIGATOR, THAT THE EVIDENCE IN SARAH HAGMAN'S  
3 CASE. - - - -

4 THE COURT NO NO I'M GOING TO LET YOU  
5 GO AHEAD AND ARGUE IT ALL I WANTED TO KNOW, I  
6 HADN'T HEARD ANYTHING ABOUT ANYBODY ELSE CONNECTING  
7 MR SANDERS TO DAVIS BECAUSE SHE SPECIFICALLY SAID  
8 SHE COULD NOT RECOGNIZE HIM

9 MR MORTON THEY IDENTIFIED THE SEMEN  
10 FOUND AT MS DAVIS' HOUSE

11 THE COURT WELL, THAT'S NOT PART OF THE  
12 RECORD

13 MR MORTON YOUR HONOR, WELL I'M STATING  
14 THAT AS PART OF THE RECORD AS PART OF MY PROFFER I  
15 COULD CALL MRS BLACKWELDER TO THE STAND

16 THE COURT ANYBODY DISPUTE THAT'S WHAT  
17 MRS BLACKWELDER WOULD TESTIFY TO

18 MR THOMPSON THE STATE DOESN'T DISPUTE  
19 THAT, YOUR HONOR

20 MR GREELEY YOUR HONOR, WE ONLY GET INTO  
21 THE OTHER, IF HE'S STEPPING INTO THE SHOES OF THE  
22 STATE IN THE PROSECUTION OF THIS CASE I DON'T KNOW  
23 HOW YOUR RULING MAKING THAT DNA SUPPRESSED WHICH HAS  
24 BEEN SUPPRESSED BY THIS COURT APPLICABLE IN THIS  
25 CASE

1           MR MORTON    I WILL BE GLAD TO TIE IT UP  
2   AT SOME LATER POINT   I DIDN'T WANT TO GO THROUGH THE  
3   CHAIN AND THROUGH ALL THE DNA TESTIMONY BECAUSE, YOU  
4   KNOW, I CAN DO THAT

5           THE COURT    WELL, FOR THE PURPOSES I'LL,  
6   WELL, I CAN'T    JUST GO AHEAD    I'LL THINK ABOUT  
7   THAT

8           MR MORTON    YOUR HONOR, AS THE STATE HAS  
9   STIPULATED, THERE IS DNA EVIDENCE FROM MR SANDERS

10          THE COURT    BUT YOU ARE NOT USING IT  
11   AGAINST THE STATE, YOU ARE USING IT AGAINST  
12   MR SANDERS, AND I KNOW YOU DON'T HAVE THE BURDEN OF  
13   PROOF IN ANYTHING

14          MR MORTON    YES, SIR, BUT IF THE COURT  
15   WANTS ME TO TRY AND --

16          THE COURT    WELL, I TOLD YOU I'M GOING TO  
17   THINK ABOUT IT, BUT IF YOU WANT ME TO ACCEPT FROM THE  
18   STATE THE STATE'S POSITION ON EVERYTHING THEY SAY  
19   THEN WE MINE AS WELL STOP THIS TRIAL RIGHT NOW  
20   BECAUSE THEY SAY YOUR MAN IS GUILTY, SO YOU DON'T  
21   WANT ME TO START ACCEPTING WHAT THE STATE SAYS JUST  
22   BECAUSE THEY SAY IT

23          MR MORTON    WE'RE GOING TO HAVE SOME  
24   STRANGE ALLIANCES IN THIS COURTROOM    THERE IS NO  
25   QUESTION ABOUT THAT

1 THE COURT I UNDERSTAND THAT TOO  
2 MR MORTON BUT, YES, SIR, I DO WANT YOU  
3 TO ACCEPT --

4 THE COURT CERTAIN THINGS

5 MR MORTON ---AS PART OF THIS RECORD  
6 THAT THERE WAS DNA LINKAGE FOUND FROM THE BODY OF  
7 MS CATHERINE DAVIS THAT HAS BEEN DETERMINED TO BE  
8 THAT OF MR JAMES SANDERS

9 THE COURT I'LL GIVE THAT SOME  
10 CONSIDERATION

11 MR MORTON SO WE HAVE DNA FROM HIM ON  
12 MS DAVIS, ON MISS COPE, ON MS HAGMAN WE HAVE  
13 POSITIVE IDENTIFICATIONS FROM HIM FROM ALICIA LOWERY  
14 AND FROM SARAH PHILLIPS THERE ARE SEXUAL ASSAULT  
15 ALLEGATIONS IN ALL OF THESE CASES EXCEPT POSSIBLY  
16 WITH SARAH HAGMAN WHO TESTIFIED THAT HE CAME IN AND  
17 KNOCKED HER DOWN AND PUSHED HER DOWN AND IN HER MIND  
18 THAT'S WHAT HE WAS TRYING TO DO IN EACH OF THESE  
19 CASES HE'S BEEN INDICTED FOR CRIMINAL SEXUAL CONDUCT,  
20 FOR ATTEMPTED CRIMINAL SEXUAL CONDUCT, OR TAKING  
21 INDECENT LIBERTIES WITH A FEMALE THERE IS NO  
22 QUESTION AS TO THE CLEAR AND CONVINCING EVIDENCE THAT  
23 THIS MAN HAS NOT ONLY BROKEN IN THEIR HOUSES BUT  
24 BROKE INTO AMANDA COPE'S HOUSE THEY ARE TRYING TO  
25 SAY WITHOUT ANY EVIDENCE, THERE IS NO EVIDENCE, NOT A

1 LITTLE BIT, NOT SOME, THAT THERE WAS ANYBODY FROM  
2 MR COPE'S CONFESSION OR ANYTHING ELSE THAT ALLOWED  
3 THIS MAN TO ENTER THE COPE RESIDENCE ZERO SO  
4 OBVIOUSLY HE CAME IN AND RAPED AMANDA COPE OR HE LEFT  
5 SEMEN ON HER BODY AND A BITE MARK SALIVA ON HER  
6 BREAST WELL, HOW DID HE GET IN? HE CAME IN  
7 UNINVITED NOBODY ALLOWED HIM IN THERE THEY HAVE  
8 NOT ONE SINGLE PIECE OF EVIDENCE IN THIS CASE

9 THE COURT WELL, WAIT I WANT YOU TO---  
10 MR MORTON I UNDERSTAND  
11 THE COURT LET'S STICK WITH WHERE YOU  
12 ARE

13 MR MORTON SO THE SIMILARITIES ARE THAT  
14 HE WENT INTO WOMEN'S HOUSES, HE GAINED ENTRY NOT BY  
15 KNOCKING OUT WINDOWS OR DOORS WHEN NOBODY WAS HOME  
16 WHEN THE LIGHTS WERE OFF TO GO IN AND STEAL A TV OR  
17 SOMEBODY'S JEWELRY OR SILVER HE WAITS UNTIL PEOPLE  
18 ARE HOME, WOMEN, LIGHTS ARE ON, HE ENTERS WITH NO  
19 SIGNS OF FORCED ENTRY, AND HE RAPES THEM AND THE  
20 ONLY DIFFERENCE BETWEEN AMANDA COPE IS SHE'S DEAD AND  
21 SHE'S NOT HERE TO TESTIFY AND THE SIMILARITIES IN ALL  
22 OF THESE CASES ARE VERY, VERY SIGNIFICANT AND  
23 THAT'S WHAT COMMON SCHEME AND PLAN, YOUR HONOR, IN MY  
24 OPINION WAS SET OUT TO DO COMMON SCHEME AND PLAN AS  
25 JUDGE HERN SO ARTICULATEDLY POINTED OUT, WE'RE NOT

1 TALKING ABOUT CHARACTER, WE'RE TALKING ABOUT COMMON  
2 SCHEME AND PLAN THAT THE COURT HAS ALLOWED FOR TIME  
3 AFTER TIME AFTER TIME IF THIS ISN'T COMMON SCHEME  
4 AND PLAN WITH CLEAR AND CONVINCING EVIDENCE THAT THE  
5 PERPETRATOR IS THE SAME WITH A COMMON SCHEME AND PLAN  
6 I HAVEN'T SEEN IT AND I DON'T HAVE AS MUCH EXPERIENCE  
7 AS THE COURT DOES, BUT TO ME IT'S OVERWHELMING

8 THE COURT ALL RIGHT WHAT ABOUT MOTIVE  
9 AND IDENTITY?

10 MR MORTON WELL, I THINK MOTIVE IS THE  
11 SAME WE HAVE TO PROVE MOTIVE IN OTHER WORDS, AS  
12 FAR AS THE DEFENSE IS CONCERNED, WE ARE LEFT WITH THE  
13 BURDEN OF IN ORDER TO DEFEND OUR CLIENT TO PROVE THE  
14 MOTIVE OF MR SANDERS, SO IN ORDER TO PROVE MOTIVE WE  
15 CAN SHOW THE MOTIVE THAT HE HAD IN OUR CASE TO COME  
16 IN AND TAKE MONEY OUT OF MARY SUE COPE'S POCKETBOOK,  
17 WHO UNFORTUNATELY IS DEAD, AND RAPE AMANDA COPE

18 NOW THE MOTIVE IN OUR CASE THAT WE  
19 HAVE TO PROVE BECAUSE THE STATE IS NOT GOING TO PROVE  
20 THAT, THAT WE HAVE TO PROVE, IS THE SAME AS IT WAS IN  
21 THESE OTHER HOUSES THE SAME WITH IDENTITY THE  
22 IDENTITY, YOU KNOW, WE HAVE TO PROVE THE IDENTITY IS  
23 THE SAME I THINK WE CAN DO THAT, BUT WE HAVE TO  
24 PROVE MOTIVE THAT HE CAME IN AMANDA COPE'S HOUSE NOT  
25 INVITED BY MR COPE, BUT THAT HIS MOTIVE WAS TO COME

1 SURREPTITIOUSLY, UNBEKNOWNST TO MR COPE, WITH OTHER  
2 CHILDREN SLEEPING IN THE HOUSE, JUST LIKE SARAH  
3 PHILLIPS' WAS, JUST LIKE SARAH HAGMAN, SHE HAD  
4 ROOMMATES IN THE HOUSE, LIGHTS ON, LATE AT NIGHT, TV  
5 GOING, AND IN THE COPE HOUSE THERE WILL BE TESTIMONY  
6 FROM INVESTIGATORS, FROM KYLA AND JESSICA COPE, THAT  
7 THEY SLEEP WITH THEIR LIGHTS ON THERE WERE LIGHTS  
8 ON IN THE HOUSE SO WE HAVE TO PROVE THAT THIS MAN  
9 HAD A MOTIVE AND A COMMON SCHEME AND PLAN AND HIS  
10 MOTIVE WAS TO GO IN THERE AND NOT STEAL A TV OR THE  
11 JEWELRY WHEN NOBODY IS HOME HIS MOTIVE IS TO GO IN  
12 THERE AND TO CONFRONT A FEMALE AND VIOLENTLY RAPE  
13 HER THAT'S HIS MOTIVE THEY HAVE NO OTHER MOTIVE  
14 AT ALL THERE IS NO, THERE IS NO CONNECTION BETWEEN  
15 MR SANDERS AND MR COPE, SO WE HAVE TO PROVE WHAT  
16 HIS MOTIVE WAS AND IN ORDER TO DO THAT WE SHOULD BE  
17 ALLOWED TO, ALLOWED TO ESTABLISH A COMMON SCHEME AND  
18 PLAN THIS IS JUST ONE MANIFESTATION OF THIS MAN'S  
19 PLAN IN THAT SIX WEEK PERIOD

20 THE COURT ALL RIGHT MR GREELEY, YOU  
21 HAVE A BRIEF RESPONSE?

22 MR GREELEY BRIEFLY, YOUR HONOR  
23 MR MORTON DOES A GOOD JOB OF PASSIONATELY ARGUING  
24 FOR HIS CLIENT I WOULD SUBMIT TO THE COURT THOUGH  
25 THAT IT IS THE SUBSTANCE OF THE MATTER THAT IS

1 MISSING IN THIS CASE THESE, LYLE IS VERY SIMILAR  
2 AND I'M GOING TO USE THIS ANALOGY AND I HOPE THE  
3 COURT WILL WELCOME IT, LYLE CASES ARE VERY SIMILAR TO  
4 A DNA ANALYSIS BECAUSE THE COURT TALKS ABOUT HOW YOU  
5 HAVE TO HAVE COMMON FEATURE, COMMON RESULTS, THERE  
6 HAS TO BE SUBSTANTIAL CONNECTION BETWEEN THE CRIMES  
7 BEFORE THEY ARE EVEN GOING TO CONSIDER IT BECAUSE THE  
8 PREJUDICIAL VALUE IS SO HIGH, AND SO WHAT YOU DO IS  
9 YOU TAKE A STANDARD, YOU TAKE YOUR STANDARD CASE AND  
10 THAT'S THE CASE FOR WHICH THE PERSON IS BEING TRIED  
11 AND THEN THEY HAVE TO BRING IN OTHER CASES AND THOSE  
12 CASES HAVE TO BE ABLE TO MATCH UP TO THE STANDARD  
13 CASE UNFORTUNATELY, I WOULD SUBMIT FOR MR COPE'S  
14 DEFENSE IS THAT THEY DON'T HAVE A STANDARD NORMALLY  
15 YOU HAVE THE STATE BUT THERE IS NO EVIDENCE THAT HAS  
16 BEEN PUT IN IN THIS PROFFER OR THAT EXISTS IN REGARDS  
17 TO THE DEFENSE'S THEORY AS TO WHAT IT IS AND TO WHAT  
18 HAPPENED THERE IS NO EVIDENCE TO SUPPORT IT IT'S  
19 CONJECTURE, IT'S SUSPICION, BUT THEY DON'T HAVE A  
20 STANDARD TO EVEN GET TO THE LYLE IF THEY DO HAVE A  
21 STANDARD, THESE CASES DON'T MATCH UP THAT WAS CLEAR  
22 FROM THE CROSS EXAMINATION OF THE EXPERT THESE  
23 CASES DO NOT MATCH UP THEY CERTAINLY DON'T MATCH UP  
24 IN A SUFFICIENT WAY THAT WOULD ALLOW THEM TO BE  
25 BROUGHT INTO EVIDENCE UNDER LYLE AND SO, JUDGE, I

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1        WOULD ASK AND I WOULD STILL SUBMIT TO THE COURT THAT  
2        BEFORE THE LYLE CAN BE ADMISSIBLE, THE COURT WOULD  
3        STILL HAVE TO CONSIDER THE ASPECT OF THIRD PARTY  
4        GUILT    BUT I KNOW THAT THE COURT IS LOOKING AT THESE  
5        ISSUES ON LYLE AND SO I JUST ASK THAT THE COURT RULE  
6        IN MY FAVOR AND MAKE A MOTION THAT, GRANT MY MOTION  
7        IN LIMINE TO WHERE THESE MATTERS WOULD NOT BE ABLE TO  
8        BE BROUGHT OUT IN THE TRIAL OF THIS CASE

9                        THE COURT    THE STATE HAVE ANY BRIEF?

10                      MR THOMPSON    YES, YOUR HONOR, BRIEFLY  
11        OF COURSE, THE STATE WOULD LOVE TO TRY THE CASES OF  
12        MR SANDERS AND MR COPE, ALL OF THEIR CASES, AT THE  
13        SAME TIME    HOWEVER, THE LAW OBVIOUSLY PREVENTS US  
14        FROM DOING THAT AND I ACCEPT THAT    THAT IS OUR  
15        JUDICIAL SYSTEM    AND I THINK AT THIS POINT IN TIME  
16        WHILE THE STATE WOULD LIKE TO DO THAT IT CANNOT AND  
17        HONESTLY WOULD HAVE TO SAY IN OUR OPINION THAT AS TO  
18        MR SANDERS AND THESE ACTS THAT THE DEFENSE IS TRYING  
19        TO GET IN UNDER LYLE, THEY DON'T FIT    WHAT'S GOING  
20        TO END UP HAPPENING IS IT WILL BE REVERSED, IT WILL  
21        COME BACK, AND WE'LL HAVE TO TRY IT ALL OVER AGAIN  
22        AND THE STATE HAS NO INTEREST IN DOING THAT    I THINK  
23        IT'S OBVIOUS FROM THE FACTS, AS YOU SAID, VERY  
24        DIFFERENT    THE TESTIMONY THAT THE EXPERT GAVE VERY  
25        DIFFERENT THAN MUCH OF WHAT THE VICTIMS TESTIFIED TO

1       THERE IS DIFFERENT RACES, DIFFERENT SEXES, DIFFERENT  
2       PLACES, IT JUST, THERE IS SO MANY DIFFERENT THINGS  
3       AND SUCH A WIDE VARIETY, MANY OF THE CASES IN THE  
4       CASE LAW TALK ABOUT FORGERIES AND THE FORGERY THAT  
5       HAPPENED THE YEAR BEFORE WAS NOT ADMISSIBLE BECAUSE  
6       THAT WAS TOO PREJUDICIAL IN A NEW FORGERY CASE AND I  
7       BELIEVE THAT'S STATE VERSUS BROOKS     UNFORTUNATELY, I  
8       DON'T HAVE A COPY OF THAT CASE WITH ME BUT THERE ARE  
9       SO MANY CASES THAT REALLY ARE DEAD SET AGAINST WHAT  
10      THEY ARE TRYING TO DO IN THIS PARTICULAR SITUATION  
11      EVEN MR   COPE IF HE THINKS THAT ALL OF THIS SHOULD BE  
12      BROUGHT IN FOR MR   SANDERS THEN HE WOULD THEN ADMIT  
13      ALL THE CASES WE HAVE AGAINST HIM SHOULD BE TRIED AT  
14      THE SAME TIME AS WELL OR BE BROUGHT IN AGAINST HIM AT  
15      THAT TIME AND I THINK HE WOULD NOT AGREE TO THAT  
16      EITHER     AND SO I WOULD HAVE TO PUT FORWARD TO THE  
17      COURT, I DON'T WANT TO HAVE TO TRY THIS CASE TWICE,  
18      I THINK THE LAW IS PRETTY CLEAR ON WHAT WE CAN AND  
19      CAN'T BRING IN UNDER LYLE

20                   THE COURT     LET ME LOOK AT MY NOTES OVER  
21      LUNCH     IT'S ABOUT 12 30     WE'LL GET BACK TOGETHER AT  
22      1 30     I KNOW THAT'S NOT A LONG LUNCH BUT I WANT TO  
23      LOOK AT MY NOTES AND I'LL RULE AT THAT TIME THEN  
24      WE'LL BE READY FOR MY OPENING REMARK AND OPENING  
25      STATEMENTS     I KNOW THERE IS A LOT OF PASSION

1 INVOLVED, BUT HOPEFULLY OUR OPENING STATEMENTS WON'T  
2 BE TOO LENGTHY HOW LONG IS THE STATE GOING TO TAKE  
3 IN OPENING STATEMENT

4 MR THOMPSON I WOULD THINK ABOUT 20  
5 MINUTES

6 THE COURT MR MORTON

7 MR BAITY A LITTLE BIT LONGER THAN THAT

8 THE COURT ABOUT AN HOUR?

9 MR BAITY PROBABLY THAT

10 MR GREELEY SHOULDN'T BE ANY LONGER THAN  
11 THAT

12 THE COURT OKAY THE STATE READY AS SOON  
13 AS WE ARE THROUGH TO GO FORWARD WITH THE WITNESSES

14 MR THOMPSON YES, YOUR HONOR, WE WILL  
15 BE

16 THE COURT ALL RIGHT WE'LL TAKE A BREAK  
17 UNTIL 1 30

18 (COURT'S IN RECESS AT 12 25 )

19 (COURT RESUMES AT 1 31 )

20 THE COURT I HAVE THE TRANSPARENCY OF THE  
21 MAP WOULD YOU LIKE IT PART OF THE RECORD

22 MR MORTON YES, SIR YOUR HONOR, THE  
23 ONLY THING AND I WOULD ASK THE STATE TO ALLOW ME TO,  
24 THE ONLY THING THAT'S NOT CIRCLED IS RICH STREET, 407  
25 RICH STREET, WOULD Y'ALL ALLOW ME TO JUST, THE

1 COMPUTER WAS SO CLOSE TO JEFFERSON STREET, THE  
2 COMPUTER WOULDN'T PUT THE -- THANK YOU, YOUR HONOR  
3 (DEFENSE EXHIBIT 6 MAP RECEIVED INTO  
4 EVIDENCE )

5 THE COURT HAS TO THE 404 (B) EVIDENCE  
6 FIRST AS TO THE WITNESS MR MCCRARY, I AM GIVING NO  
7 WEIGHT TO HIS TESTIMONY I FIND THAT IT'S FLAWED I  
8 DID FIND HIM QUALIFIED IN THE AREA OF CRIME ANALYSIS  
9 I'M NOT SURE EXACTLY WHAT A MEANS YET OTHER THAN  
10 SOMEONE WHO CAN ANALYZE ANYTHING RELATED TO CRIMES  
11 HE DID NOT IN MY OPINION DO A THOROUGH AND EXHAUSTIVE  
12 INVESTIGATION HE DID NOT LOOK TO SEE WHETHER THERE  
13 WERE OTHER SIMILAR CRIMES WITHIN THE ROCK HILL AREA  
14 DURING THE SAME PERIOD OF TIME, THAT IS, I DON'T  
15 BELIEVE HIS UNDERLYING INQUIRY WENT FAR ENOUGH AS  
16 TO, AND THIS KIND OF LAPS OVER TO WHERE I MAY BE  
17 GOING IN A MOMENT TOO THAT I DON'T REALLY FIND, EVEN  
18 THOUGH HE IS AN EXPERT AND I KNOW OUR SUPREME COURT,  
19 PARTICULARLY IN THE SPANN CASE, SEEMS TO LIKE WHAT  
20 EXPERTS SAY, BUT I FIND NO REAL SIGNIFICANCE AS FAR  
21 AS THE INHERENT SIMILARITIES OF THESE CRIMES, AND I  
22 USE THE WORD INHERENT ADVISEDLY, THESE CRIMINAL  
23 SEXUAL CONDUCTS ARE IN THEIR VERY NATURE SIMILAR, ALL  
24 OF THEM, 100 PERCENT OF THEM SOMEWHAT SIMILAR SAME  
25 THING WITH BURGLARIES SAME THING WITH ASSAULTS

1       THERE ARE INHERENT SIMILARITIES IN THOSE THINGS    I  
2       MEAN AN ASSAULT IS AN ASSAULT IS AN ASSAULT LIKE A  
3       ROSE IS OF ANY OTHER COLOR

4               AS FAR AS HIS CONCERN, HIS TESTIMONY  
5       WAS THAT THEY WERE ALL IN A GENERALIZED AREA    WELL,  
6       HIS GENERALIZED AREA WAS ROCK HILL    THE CLOSEST  
7       OTHER EVENT WAS 3 4 MILES FROM THE MCGEE ADDRESS AND  
8       THE COPE WAS 4 8 MILES    LET ME SEE THAT EXHIBIT, THE  
9       CHART    THE FACT THAT THESE HAPPENED IN DOORS, THAT  
10      ALL OF THEM HAPPENED IN DOORS I FIND IS OF NO REAL  
11      SIGNIFICANCE    THE FACT THAT THEY HAPPENED BY  
12      STRANGERS I FIND TO BE NO REAL SIGNIFICANCE    THE  
13      FORCED ENTRY, THAT'S ARGUABLE    WHETHER OR NOT USING  
14      STEALTH, A CAR BROKEN DOWN, I NEED TO USE YOUR PHONE,  
15      CLIMBING A LATTICE, IF THAT IN FACT IS WHAT HAPPENED,  
16      AND SITTING OUTSIDE AND A DOOR HAPPENING TO BE OPEN  
17      IN THAT EVENT, MAYBE BEEN ANOTHER ONE THAT HADN'T  
18      BEEN OPENED, BUT ANYWAY, I DON'T FIND THAT OF ANY  
19      SIGNIFICANCE

20              THE DUAL MOTIVES, WELL, OF COURSE HE  
21      JUST RELIED ON THE ASSUMPTION ON ONE OF THOSE AND I  
22      CAN'T REMEMBER WHICH ONE IT IS RIGHT NOW, PHILLIPS,  
23      AND EXPERTS, THEY GIVE OPINIONS, BUT WHEN THEY START  
24      BASING THEM ON ASSUMPTIONS AND THEY PICK AND CHOOSE  
25      AND THEY DON'T LIKE WHAT'S MISSING SO THEY GO TO

1       SOMEBODY THAT CAN ADD IT, I FIND THAT THROWS THEIR  
2       OPINION IN SOME SUSPECT

3                   AS TO THE DNA MATCH, NOW THERE IS NO  
4       QUESTION, AT LEAST FOR THE PURPOSES HERE, THAT THERE  
5       IS SOME OVERLAP WITH THE DNA MATCH BUT I'LL COMMENT  
6       MORE ON THAT IN JUST A MOMENT     YES, SIR

7                   MR MORTON    I DIDN'T WANT TO INTERRUPT  
8       I WANTED TO MAKE SURE THE COURT UNDERSTOOD THAT THE  
9       DNA MATCHES IN SARAH HAGMAN AND CATHERINE DAVIS

10                  THE COURT    THREE, YES, I UNDERSTAND THAT

11                  MR MORTON    YES, SIR

12                  THE COURT    ALL RIGHT    GOING BACK TO THE  
13       PARTICULAR INSTANCES OF LOWERY, HAGMAN, LEE, DAVIS,  
14       AND MAXIE PHILLIPS, I THINK THE STATE, THE COUNSEL  
15       FOR MR COPE HAS PROVED BY CLEAR AND CONVINCING  
16       EVIDENCE THAT MR SANDERS WAS INVOLVED IN THESE  
17       EVENTS    HOWEVER, I DO NOT FIND THAT THEY RISE TO THE  
18       LEVEL NECESSARY FOR ADMISSION UNDER 404 TO SHOW  
19       MOTIVE, IDENTITY, OR COMMON SCHEME OR PLAN    THERE  
20       HAS BEEN POINTED OUT BY SEVERAL PEOPLE A VARIETY OF  
21       DISSIMILARITIES AND WHEN YOU TRY TO MATCH THINGS UP,  
22       I KNOW YOU CAN'T MATCH THEM UP EXACTLY, BUT THERE ARE  
23       AN AWFUL LOT OF DISSIMILARITIES, THERE ARE SOME  
24       SIMILARITIES, AND SO I FIND THAT THEY DO NOT SHOW A  
25       COMMON SCHEME OR PLAN OR MOTIVE    AGAIN MOTIVE FOR

1 CRIMINAL SEXUAL CONDUCTS IS CRIMINAL SEXUAL CONDUCT,  
2 MOTIVE FOR ROBBERY IS ROBBERY, SO I REALLY THINK YOU  
3 ARE DOWN TALKING BASICALLY ABOUT COMMON SCHEME OR  
4 PLAN AND I SKIPPED OVER IDENTITY AND THE REASON FOR  
5 THAT IS, THE IDENTITY, THERE IS A CONNECTION ON  
6 IDENTITY, THAT IS, THROUGH DNA, BUT THE ADMISSION OF  
7 PRIOR BAD ACTS TO PROVE ONE THE IDENTITY OF A  
8 PERPETRATOR ISN'T NECESSARY AND IS OF NO VALUE WHEN  
9 YOU ARE TALKING ABOUT DNA OR FINGERPRINTS THEY  
10 SPEAK FOR THEMSELVES YOU DON'T NEED TO PROVE THAT  
11 DNA WAS FOUND AT THREE OTHER CRIMES TO PROVE THAT  
12 DNA, AT THIS PLACE, AT THE COPE HOUSE, WAS  
13 MR SANDERS, THAT'S A MATTER OF SCIENCE, NOT A MATTER  
14 OF WHETHER OR NOT IT HAPPENED AT SOME OTHER PLACE  
15 COMMON SCHEME OR PLAN, I JUST DON'T FIND THAT THERE  
16 IS ANY, AGAIN THERE ARE SOME SIMILARITIES BUT I FIND  
17 THIS TO BE VERY DISSIMILAR THE AGES OF THE VICTIMS  
18 THE LOCALES ARE SOMEWHAT SIMILAR BUT THEY HAPPENED  
19 UNDER, IF YOU LOOK, AS WAS POINTED OUT EARLIER, YOU  
20 CAN FIND SOME SIMILARITIES AND THEN YOU CAN FIND A  
21 LOT OF DISSIMILARITIES, SO I'M NOT GOING TO TRY TO  
22 CATALOG THEM BOTH, BUT I FIND THAT THEY ARE  
23 DISSIMILAR TO THE EXTENT THAT I'M NOT GOING TO ALLOW  
24 THEM IN UNDER 404 ALL RIGHT READY TO GO FORWARD

25 MR MORTON NO, SIR, YOUR HONOR

1 THE COURT YOU ARE NOT READY

2 MR MORTON I WOULD LIKE TO ADMIT AS PART  
3 OF THIS PROFFER THEN THE, AT LEAST THE INDICTMENTS  
4 AGAINST MR COPE FOR THESE OTHER CRIMES AS PART FOR  
5 THE RECORD, SPECIFICALLY

6 THE COURT YOU UNDERSTAND I AM FINDING BY  
7 CLEAR AND CONVINCING EVIDENCE THAT I'M WILLING TO  
8 LET THE INDICTMENTS IN

9 MR MORTON I WANTED TO, I DON'T HAVE TO  
10 ADMIT THEM, I WANTED TO MAKE SURE THAT THE INDECENT  
11 LIBERTIES WITH A FEMALE, AGGRAVATED ASSAULT WAS THE  
12 AGGRAVATING FACTOR FOR SARAH PHILLIPS, SO THAT WAS  
13 ALSO A SEXUAL ATTACK ON HER AS INDICTED BY THE GRAND  
14 JURY HERE AS FAR AS THE RECORD, ALSO JUST THAT  
15 POLICE THEMSELVES INDICATED THAT THERE WAS, THE  
16 MOTIVE WAS THE SAME IN THESE CRIMES IN THEIR REPORTS  
17 I DON'T THINK THERE IS ANY DISPUTE ABOUT THAT AND  
18 I'M JUST, AND AT THIS TIME, YOUR HONOR, I WOULD MOVE  
19 FOR, TO SEVER THESE CASES

20 THE COURT I'M GOING TO DENY THE MOTION  
21 I THINK IT'S, THE JURY HAS NOT BEEN SWORN BUT I THINK  
22 IT'S AN ILL TIME, AND I KNOW FOR STRATEGY REASONS YOU  
23 PROBABLY, I'M NOT FINDING FAULT, BUT WE'RE IN THE  
24 TRIAL, THEY'VE BEEN JOINED, THEY CAN BE PROVED THEY  
25 ARISE, IF IN FACT THEY DID OCCUR AS THE STATE MUST



1 PROVE, THAT THEY AROSE INVOLVING THE SAME VICTIM,  
2 THEY AROSE IN THE SAME HOUSE, THEY AROSE IN THE SAME  
3 NIGHT THEY ARE, THE EVIDENCE TO PROVE THEM IS  
4 SOMEWHAT DIFFERENT THERE IS AT LEAST TO THIS STAGE  
5 AS I UNDERSTAND IT AND I HAVEN'T HEARD ALL THE  
6 EVIDENCE, BUT I'M GOING TO DENY THAT MOTION TO SEVER

7 MR MORTON THANK YOU, YOUR HONOR  
8 THE COURT ALL RIGHT YOU WANT TO, I CUT  
9 YOU SHORT

10 MR MORTON NO, SIR  
11 THE COURT WELL, DO YOU WANT TO, I BETTER  
12 LET YOU GO AHEAD AND PUT YOUR --

13 MR MORTON WELL, THE REASON I WANTED TO  
14 SEVER WAS, IS IF THE COURT IS CONSIDERING IN ITS  
15 ANALYSIS THE PREJUDICIAL EFFECT TO MR SANDERS OF  
16 THESE OTHER BAD ACT EVIDENCE, YOU KNOW, UNDER SOME  
17 OTHER ANALYSIS SUCH AS THIRD PARTY GUILT, IN WHICH HE  
18 IS NOT A DEFENDANT IN THIS TRIAL, NOT CHARGED, NOT  
19 SITTING IN THE SAME COURTROOM, THEN COMBINED WITH THE  
20 FACT THAT HE HAS, HIS DNA FOUND ON AMANDA COPE,  
21 EVIDENCE COULD POSSIBLY BE USED AGAINST HIM IN SOME  
22 THIRD PARTY GUILT, COMMON SCHEME THING, WHERE HE IS  
23 NOT A DEFENDANT, OBVIOUSLY WOULDN'T BE ANY PREJUDICE  
24 TO HIM AT THAT POINT IT MIGHT BE A WHOLE DIFFERENT  
25 ANALYSIS IF WE WEREN'T BEING TRIED TOGETHER

1 THE COURT WELL, I UNDERSTAND THAT  
2 HOWEVER, I NEVER REACHED THE BALANCING BETWEEN THE  
3 PREJUDICIAL AND PROBATIVE VALUE BECAUSE I FIND THEY  
4 DON'T RISE TO THE LEVEL OF COMMON SCHEME, MOTIVE, OR  
5 IDENTITY, SO I STOPPED MY ANALYSIS THERE I DID NOT  
6 GO FURTHER TO WEIGH THAT ISSUE

7 MR MORTON ALL RIGHT, SIR THAT'S ALL I  
8 HAVE

9 THE COURT ALL RIGHT LET'S BRING IN THE  
10 JURY AND WE'LL SWEAR THEM IN BRING IN THE JURY

11 (THE JURY RETURNS TO THE COURTROOM AT  
12 1 44 )

13 THE COURT NOW THAT YOU ARE ALL  
14 COMFORTABLY SEATED, IF YOU'LL STAND THE CLERK  
15 WILL ADMINISTER THE OATH

16 (THE JURY IS SWORN )

17 THE COURT FIRST, LET ME TELL YOU THAT  
18 THE FACT THAT THERE ARE TWO INDIVIDUALS WHO ARE  
19 CHARGED AND THE FACT THAT THERE ARE SEVERAL  
20 INDICTMENTS AGAINST EACH IS OF NO REAL IMPORTANCE  
21 I'LL TELL YOU THIS AGAIN WHEN I CHARGE YOU THE LAW  
22 WHAT I WILL TELL YOU AT THAT TIME IS THAT YOU ARE TO  
23 EXAMINE THE EVIDENCE CONCERNING EACH INDIVIDUAL  
24 SEPARATELY THE FACT THAT THEY ARE BEING TRIED  
25 TOGETHER, EACH IS ENTITLED TO BE, THEIR CASE WEIGHED

1 ON THE EVIDENCE INDEPENDENTLY OF THE OTHER THE SAME  
2 IS BASICALLY TRUE FOR THE INDICTMENTS THE FACT THAT  
3 THERE ARE SEVERAL, EACH HAS DIFFERENT ELEMENTS THAT I  
4 WILL CHARGE TO YOU, AND THE FACT THAT THERE ARE  
5 SEVERAL DOES NOT MEAN ANYTHING OTHER THAN THAT THEY  
6 HAVE BEEN CHARGED WITH SEVERAL OFFENSES AND THAT  
7 WOULD BE SEVERAL OFFENSES TO CONSIDER

8 MR COPE IS CHARGED WITH UNLAWFUL  
9 CONDUCT TOWARD A CHILD AND THE REASON I'M GOING IN  
10 THIS ORDER AND WE WILL THROUGHOUT THE TRIAL GO IN THE  
11 ORDER AS THEY ARE SEATED, IS THAT I MADE A  
12 DETERMINATION AS THE JUDGE AS TO WHEN WE GOT TWO  
13 DEFENDANTS WHO SHOULD GO FIRST OF THE DEFENDANTS AND  
14 THAT'S THE DECISION I MADE BUT MR COPE IS CHARGED  
15 WITH UNLAWFUL CONDUCT TOWARDS A CHILD, CRIMINAL  
16 CONSPIRACY, CRIMINAL SEXUAL CONDUCT IN THE FIRST  
17 DEGREE, AND MURDER

18 MR SANDERS IS CHARGED WITH CRIMINAL  
19 CONSPIRACY, CRIMINAL SEXUAL CONDUCT IN THE FIRST  
20 DEGREE, AND MURDER

21 NOW TO THESE CHARGES EACH OF THESE  
22 DEFENDANTS HAVE ENTERED PLEAS OF NOT GUILTY THESE  
23 PLEAS OF NOT GUILTY PLACE ON THE STATE THE BURDEN OF  
24 PROOF, THAT IS, THE BURDEN OF PROVING THEIR GUILT  
25 BEYOND A REASONABLE DOUBT THEY DON'T HAVE TO PROVE

1        THEIR INNOCENCE    THE STATE, AS I SAID, MUST PROVE  
2        THEIR GUILT BEYOND A REASONABLE DOUBT

3                        THE ATTORNEYS WILL HAVE IN JUST A  
4        MOMENT AN OPPORTUNITY TO COME BEFORE YOU AND MAKE  
5        WHAT ARE CALLED OPENING STATEMENTS    THESE WILL RUN  
6        PROBABLY 20 MINUTES TO A HALF AN HOUR EACH    THEY ARE  
7        NOT ARGUING THEIR CLIENTS' CASES AT THIS TIME    THEY  
8        WILL HAVE AN OPPORTUNITY TO DO THAT LATER IN THE  
9        TRIAL AFTER YOU'VE HEARD THE EVIDENCE    THEY WILL  
10       HAVE AN OPPORTUNITY TO COME BEFORE YOU AND SUM UP THE  
11       EVIDENCE AND TELL YOU WHY YOUR VERDICT SHOULD BE A  
12       CERTAIN VERDICT    THAT'S NOT WHAT THEY ARE DOING NOW  
13       THEY ARE GIVING YOU AN OUTLINE OR A BLUEPRINT OF THE  
14       TRIAL    THEY ARE NOT WITNESSES    IF THEY WERE  
15       WITNESSES THEY COULDN'T BE REPRESENTING SOMEBODY IN  
16       THIS CASE, SO THEY ARE NOT TESTIFYING    THEY ARE  
17       SIMPLY AGAIN GIVING YOU AN OVERVIEW OF THE TRIAL

18                      I AM THE SOLE JUDGE OF THE LAW IN THIS  
19       CASE    I HAVE THREE PRIMARY JOBS    ONE IS THE  
20       LOGISTICS PERSON, SOMETIMES I CALL IT THE WAGON  
21       MASTER    THAT IS, I KEEP UP, MAKE SURE ONE PERSON IS  
22       SPEAKING AT A TIME, MAKE SURE WE TAKE BREAKS ON TIME,  
23       THE LOGISTICS PARTS, MAKE SURE THINGS SHOULD GO AS  
24       THEY SHOULD GO

25                      I ALSO HAVE THE ASSIGNMENT BY LAW OF

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1       RULING ON QUESTIONS OF ADMISSIBILITY OF EVIDENCE    IF  
2       ONE SIDE BELIEVES THAT CERTAIN EVIDENCE SHOULD COME  
3       IN AND SOMEONE ELSE, ONE OF THE OTHER ATTORNEYS OR  
4       CLIENTS, BELIEVE THAT EVIDENCE SHOULD NOT BE ADMITTED  
5       IT IS UP TO ME TO MAKE A DETERMINATION AS TO WHETHER  
6       OR NOT THAT EVIDENCE IS ADMITTED OR NOT   MY RULING  
7       ON EVIDENCE IS BINDING   IT'S BINDING ON THE WITNESS,  
8       IT'S BINDING ON THE ATTORNEYS, AND IT'S BINDING ON  
9       YOU   IF AN ATTORNEY STANDS AND OBJECTS AND I SAY  
10      WE'LL HAVE TO TAKE UP A MATTER OUTSIDE YOUR PRESENCE,  
11      DON'T HOLD THAT AGAINST THE ATTORNEY   THERE ARE  
12      CERTAIN THINGS WE HAVE TO TAKE UP AND CONSIDER  
13      OUTSIDE YOUR PRESENCE FOR ME TO RULE ON   AGAIN ONCE  
14      I HAVE RULED THAT RULE IS BINDING AND I TELL YOU THAT  
15      PARTICULARLY BECAUSE IN THE EVENT THAT IT HAPPENS,  
16      AND IT SOMETIMES DOES, THAT A WITNESS MAKES A  
17      STATEMENT, SOMEONE OBJECTS IT TO, AND I TELL YOU  
18      DISREGARD IT, THEN IT'S BINDING ON YOU, YOU MUST  
19      DISREGARD THAT STATEMENT

20                   MY THIRD JOB IS THAT I AM, AS I  
21      MENTIONED A MOMENT AGO, THE SOLE JUDGE OF THE LAW IN  
22      THIS CASE   IT IS SOLELY UP TO ME TO GIVE YOU THE LAW  
23      WHICH YOU ARE APPLY TO THE FACTS IN THIS CASE   I'M  
24      GIVING YOU SOME LEGAL PRINCIPLES NOW, THROUGHOUT THE  
25      TRIAL I MAY GIVE YOU SOME LEGAL PRINCIPLES, AND AT

1 THE END OF THE TRIAL I WILL GIVE YOU A CONCISE AND  
2 COMPREHENSIVE CHARGE ON THE LAW WHICH YOU ARE TO  
3 APPLY TO THE FACTS

4 YOU ARE THE SOLE JUDGES OF THE FACTS  
5 IN THIS CASE YOU ARE NOT TO INFER FROM ANYTHING I  
6 SAY OR DO AT ANY TIME DURING THIS TRIAL AS BEING AN  
7 INDICATION OF AN OPINION OF MINE ON THE FACTS OUR  
8 LAW DOES NOT ALLOW A TRIAL JUDGE TO EXPRESS OR EVEN  
9 FORMULATE AN OPINION ON THE FACTS THAT IS YOUR JOB  
10 SO IF YOU WERE TO INFER FROM ANYTHING I SAY OR DO AS  
11 IT BEING AN INDICATION OF AN OPINION OF MINE ON THE  
12 FACTS YOU WOULD BE WRONG IN MAKING SUCH INFERENCE  
13 IT IS SOLELY UP TO YOU AS THE JURY IN THIS CASE AS  
14 THE TRIERS OF FACT TO EXAMINE THE EVIDENCE AND GIVE  
15 TO THE EVIDENCE THE EFFECT, THE VALUE, THE WEIGHT,  
16 AND THE TRUTH YOU BELIEVE THAT EVIDENCE SHOULD HAVE  
17 IN DOING THIS YOU MAY BELIEVE ONE WITNESS AS OPPOSED  
18 TO SEVERAL, SEVERAL WITNESSES OPPOSED TO ONE YOU  
19 MAY BELIEVE ALL, PART, OR NONE OF A WITNESS'  
20 TESTIMONY USE YOUR COMMON SENSE, YOUR SENSE OF  
21 LOGIC, USE YOUR EXPERIENCES IN LIFE, YOUR SENSE OF  
22 REASON, IN EXAMINING THE EVIDENCE AS JUDGES OF THE  
23 FACTS, YOU OF NECESSITY MUST JUDGE THE CREDIBILITY,  
24 THAT IS, THE BELIEVABILITY OF THE WITNESSES WHO  
25 TESTIFY IN THIS TRIAL IN ASSESSING BELIEVABILITY OR

1 CREDIBILITY USE THE THINGS THAT I HAVE JUST  
2 MENTIONED, USE THOSE THINGS THAT YOU IN TO YOUR DAY  
3 TO DAY LIFE FIND AS BEING INDICATIVE OF TRUTHFULNESS  
4 AND YOU CAN USE CERTAIN, I'LL CALL THEM EVALUATORS,  
5 THINGS, THE WITNESS' DEMEANOR OR HOW THEY ACT ON THE  
6 STAND ARE THEY HESITANT OR STRAIGHT FORWARD IN  
7 ANSWERING QUESTIONS IS THEIR TESTIMONY INCONSISTENT  
8 OR INCONSISTENT WITHIN ITSELF OR AS COMPARED TO OTHER  
9 EVIDENCE IN THE RECORD DO THEY HAVE ANY BIAS OR  
10 PREJUDICE, THAT IS, WHETHER THEY WOULD WISH TO HELP  
11 OR HURT ONE SIDE OR THE OTHER AND YOU CAN CONSIDER  
12 THE OPPORTUNITY A WITNESS HAD TO ACTUALLY KNOW THOSE  
13 THINGS TO WHICH THEY TESTIFIED ALL THESE THINGS YOU  
14 CAN CONSIDER, DETERMINE THE TRUE FACTS, APPLY THE  
15 LAW, AND YOU WILL BE IN A POSITION TO RETURN A  
16 VERDICT THAT SPEAKS THE TRUTH

17 I WILL NOT KEEP REPEATING MY MANTRA  
18 ABOUT NOT DISCUSSING THE CASE I'LL SAY IT THIS  
19 TIME, I MAY REMIND YOU SOME MORE, BUT I THINK TOLD  
20 YOU ENOUGH THAT IT WILL STICK NOT TO HAVE TO, BUT  
21 THAT YOU ARE NOT TO MAKE UP YOUR MIND UNTIL WE REACH  
22 THAT POINT IN THE TRIAL WHERE I INSTRUCT YOU TO  
23 JOINTLY DELIBERATE AND RETURN A UNANIMOUS VERDICT  
24 PRIOR TO THAT TIME YOU ARE NOT EQUIPPED WITH ALL THE  
25 TOOLS YOU NEED TO MAKE A FAIR AND REASONABLE

1 DECISION, SO DON'T DISCUSS THE CASE AMONG YOURSELVES  
2 UNTIL WE REACH THAT TIME, THAT WOULD BE PREMATURE  
3 DELIBERATION AND DON'T TRY TO MAKE UP YOUR OWN MIND  
4 BECAUSE IT'S JUST NOT FAIR UNTIL YOU'VE HEARD ALL THE  
5 EVIDENCE AND HEARD THE LAW THAT YOU APPLY TO THE  
6 EVIDENCE

7 KEEP IN MIND WHAT I TOLD YOU ABOUT NOT  
8 LETTING ANYONE DISCUSS THE CASE WITH YOU OUTSIDE THE  
9 COURTROOM KEEP IN MIND WHAT I TOLD YOU ABOUT NOT  
10 LETTING YOURSELF BE EXPOSED TO ANY MEDIA COVERAGE AND  
11 AVOIDING ANYTHING THAT COULD EVEN REMOTELY DEAL WITH  
12 THIS TRIAL YOU MUST MAKE YOUR VERDICT DETERMINATION  
13 ON WHAT YOU HEAR AND SEE HERE IN THE COURTROOM

14 WE TAKE BREAKS ABOUT EVERY HOUR AND A  
15 HALF I THINK THAT'S A GOOD, SEEMS TO BE A PRETTY  
16 GOOD BREAK TIME, BUT IF ANYBODY NEEDS A BREAK AT ANY  
17 TIME WE WILL HONOR THAT AND TAKE A BREAK I ASSURE  
18 YOU IF I FEEL LIKE I NEED TO TAKE A BREAK, I'M GOING  
19 TO TAKE ONE AND I'M GOING TO GIVE YOU THE SAME  
20 PREROGATIVE IF YOU NEED A BREAK FOR ANY REASON  
21 SIMPLY RAISE YOUR RIGHT HAND AND NO QUESTIONS ASKED  
22 AND WE WILL TAKE A BREAK AND I EXTEND THAT TO COUNSEL  
23 AND MR COPE AND MR SANDERS WE DO WANT TO MOVE THE  
24 CASE ALONG, BUT IF YOU NEED A BREAK, WE'LL TAKE IT  
25 WE USUALLY TAKE AN HOUR, AN HOUR AND A HALF FOR



1 LUNCH I'M GOING TO TRY TO RUN COURT FROM AROUND 9  
2 TO 5 30 MAYBE SIX DEENDING ON WHERE WE ARE WITH  
3 WITNESSES WE MAY STOP A LITTLE EARLIER I THINK  
4 THAT'S A PRETTY GOOD SCHEDULE TO STICK TO AT LEAST AT  
5 THIS JUNCTURE OF THE TRIAL

6 IF YOU CAN'T SEE OR YOU CAN'T HEAR LET  
7 ME KNOW, CUP YOUR EAR OR GIVE ME A VOICE RAISING  
8 GESTURE IF SOMEONE, AND I WILL, INCLUDING MYSELF, I  
9 WILL REQUIRE WHOEVER YOU CAN'T HEAR TO SPEAK LOUDER  
10 IF SOMEONE OR SOMETHING IS IN YOUR WAY, GIVE ME A  
11 NUDGING GESTURE AND I WILL REQUIRE IT TO BE MOVED OR  
12 WHOEVER IS IN YOUR WAY TO MOVE

13 I'M GOING TO ASK YOU TO LISTEN  
14 ATTENTIVELY, YOU DON'T NEED TO TAKE NOTES, AND AT  
15 THIS TIME I WILL TURN IT OVER TO THE ATTORNEYS TO  
16 MAKE FOR YOU THEIR OPENING STATEMENTS  
17 OPENING STATEMENT BY MR THOMPSON

18 GOOD AFTERNOON JUST BRIEFLY TAKE YOU  
19 BACK TO A TIME IN YOUR LIFE WHEN WE'RE ALL VERY  
20 YOUNG YOU MAY REMEMBER SOMETHING LIKE THIS WHEN YOU  
21 WERE IN SCHOOL -- LONG DIVISION YOU KNOW, IT WAS  
22 NEVER FUN TO DO THIS MAYBE ONE OR TWO PEOPLE  
23 THOUGHT IT WAS, BUT FOR MOST PEOPLE IT WASN'T FUN TO  
24 DO THIS BUT EVERYONE HAD TO DO IT AND WHEN IT CAME  
25 DOWN TO IT, WHEN YOU DID THE WORK, EVERY ONE OF US

1 WAS ABLE TO DO IT I PUT THIS OUT RIGHT NOW TO TELL  
2 YOU THIS IS PROBABLY ONE OF THE LAST NORMAL THINGS  
3 THAT AMANDA COPE EVER DID THE NIGHT OF NOVEMBER 29,  
4 2001, AMANDA COPE WHO WAS 12, HELPED HER SISTER  
5 JESSICA ON HER HOMEWORK, LONG DIVISION IT'S PAINFUL  
6 THING AS WE KNOW ALL BUT SHE IS HELPING JESSICA GET  
7 THROUGH IT THE LAST NORMAL THING, ONE OF THE LAST  
8 NORMAL THINGS THAT WE CAN SAY THAT WE KNOW THAT  
9 AMANDA DID, BECAUSE ON THAT NIGHT, AS THE EVIDENCE  
10 WILL SHOW YOU, AMANDA WAS BRUTALLY BEATEN, BRUTALLY  
11 RAPED WITH A FOREIGN OBJECT BOTH IN HER VAGINA AND  
12 HER ANUS AND SHE WAS STRANGLED AND MURDERED SUCH A  
13 HORRIBLE THING FOR SUCH A YOUNG GIRL AND A DIFFICULT  
14 THING TO HAVE TO DEAL WITH  
15 MANY PEOPLE WITHIN OUR COUNTY AND  
16 THROUGHOUT THE UNITED STATES REALIZE THAT THIS SORT  
17 OF THING HAPPENS, PEOPLE ARE MURDERED, PEOPLE ARE  
18 RAPED, CHILDREN ARE MURDERED CHILDREN ARE RAPED  
19 NO ONE REALLY LIKES TO THINK IT HAPPENS IN THEIR  
20 COMMUNITY NO ONE REALLY LIKES TO THINK THIS IS  
21 SOMETHING THEY WILL HAVE TO DEAL WITH ON A PERSONAL  
22 LEVEL BUT THAT IS YOUR DIFFICULT CHORE NOW AND YOUR  
23 DUTY AS JURORS AT THIS POINT IS TO COME NOW AND SEE  
24 THE EVIDENCE THAT SHOWS WHAT HAS HAPPENED TO AMANDA  
25 COPE I WANT YOU TO REALIZE THE EVIDENCE THAT IS

1 PRESENTED IS NOT NICE, THE EVIDENCE THAT WILL BE  
2 PRESENTED IS NOT FUN TO SEE, IT'S HORRIFYING, IT'S  
3 SHOCKING, IT'S NOT PLEASANT IN ANY WAY, BUT IT IS NOW  
4 YOUR DUTY AND OBLIGATION TO VIEW THAT EVIDENCE

5 THE FIRST THING I'D LIKE TO GO OVER  
6 WITH YOU ARE THE CHARGES THAT ARE BEFORE US TODAY TO  
7 GIVE YOU SOME SORT OF IDEA WHAT YOU ARE DEALING WITH  
8 AS JURORS SO THAT YOU CAN KEEP THIS IN YOUR MIND AS  
9 YOU LOOK TO THE ELEMENTS OF THE CRIMES AS WE GO  
10 THROUGH THE EVIDENCE BOTH DEFENDANTS, JAMES SANDERS  
11 AND BILLY WAYNE COPE, ARE CHARGED WITH A NUMBER OF  
12 THESE CRIMES TOGETHER THE ONES THAT THEY ARE  
13 CHARGED TOGETHER ON ARE MURDER WHAT IS MURDER?  
14 IT'S THE UNLAWFUL KILLING OF ANOTHER WITH WHAT'S  
15 CALLED MALICE AFORETHOUGHT, SOME SORT OF EVIL WICKED  
16 HEART MALICE IS OFTEN HARD TO DEFINE BUT I THINK  
17 YOU WILL SEE BY THE EVIDENCE THAT'S PRESENTED TO THE  
18 BRUTAL BEATING AND KILLING OF AMANDA COPE CAN BE DONE  
19 WITH NOTHING LESS THAN MALICE

20 THE SECOND CHARGE, CRIMINAL SEXUAL  
21 CONDUCT FIRST DEGREE CRIMINAL SEXUAL CONDUCT AND  
22 THE LEGAL DEFINITION KIND OF GOES THIS WAY THAT  
23 THEY COMITTED SEXUAL BATTERY UPON AMANDA COPE WITH  
24 ONE OR MORE OF THE FOLLOWING AGGRAVATING  
25 CIRCUMSTANCES NOW SEXUAL BATTERY IS SIMPLY SOME

1        SORT OF PENETRATION, NOT NECESSARILY INTERCOURSE THAT  
2        YOU WOULD NORMALLY THINK OF IN A RAPE, BUT SOME SORT  
3        OF PENETRATION HOWEVER SLIGHT INTO A BODY ORIFACE AND  
4        IN THIS CASE THE VAGINA AND THE ANUS        THAT THEY USED  
5        AGGRAVATED FORCE TO ACCOMPLISH THAT SEXUAL BATTERY  
6        WHICH IS A SEVERE BEATING, STRANGULATION, THINGS OF  
7        THOSE NATURE, THOSE ARE THE THINGS THAT WE INTEND TO  
8        PROVE HERE AS WELL        OR ANOTHER AGGRAVATING  
9        CIRCUMSTANCE WOULD BE THAT SHE WAS FORCIBLY CONFINED  
10       DURING THE TIME OF THE SEXUAL BATTERY WHICH IS  
11       SOMETHING WE ALSO INTEND TO SHOW YOU AND PROVE THAT  
12       THERE IS NO WAY SHE COULD HAVE GOTTEN UP AND ESCAPED  
13       THIS AT THE TIME THAT IT OCCURRED TO HER       NOW THERE  
14       ARE TWO COUNTS BECAUSE THERE ARE TWO PLACES THAT HAVE  
15       BEEN PENETRATED, ONE IS THE VAGINA AND ONE IN THE  
16       ANUS, SO THERE ARE TWO COUNTS OF CRIMINAL SEXUAL  
17       CONDUCT FIRST DEGREE

18                        THE FINAL INDICTMENT THAT BOTH OF THE  
19       DEFENDANTS ARE CHARGED WITH IS CRIMINAL CONSPIRACY  
20       CRIMINAL CONSPIRACY, THE LEGAL DEFINITION SAYS,  
21       WILLFULLY AND UNLAWFULLY WHEN SOMEONE UNITES  
22       COMBINES, CONSPIRES, CONFEDERATES, AGREES, OR HAS  
23       TACIT UNDERSTANDING WITH ANOTHER TO COMMIT A CRIME  
24       NOW THAT'S A LOT TO STUFF TO BASICALLY SAY TWO PEOPLE  
25       WORKING TOGETHER TO DO THE SAME CRIME IN SOME FORM OR

1 FASHION IT DOESN'T HAVE TO BE SPOKEN, IT DOESN'T  
2 HAVE TO BE WRITTEN DOWN, NO ONE HAS TO BE ASSIGNED A  
3 CERTAIN JOB IT CAN BE A TACIT UNDERSTANDING ONE  
4 THAT IT IS JUST OBVIOUS WHAT WE'RE DOING AND WE'RE  
5 DOING IT TOGETHER THERE CAN BE ONE THAT THEY, THEIR  
6 ACTIONS SHOW WHAT WE ARE DOING AND OBVIOUSLY WORKING  
7 IN CONCERT, AND WE INTEND TO PROVE THAT

8 THE FINAL INDICTMENT IS ONE IN WHICH  
9 ONLY MR COPE FACES AND THAT IS UNLAWFUL CONDUCT  
10 TOWARD A CHILD HE FACES THAT BECAUSE HE'S THE  
11 FATHER OF AMANDA COPE IT ALLEGES THAT HE HAS PLACED  
12 HER AT UNREASONABLE RISK OF HARM AFFECTING HER LIFE,  
13 PHYSICAL OR MENTAL HEALTH OR SAFETY WHILE DOING ONE  
14 OF TWO THINGS ONE, FAILING TO MAINTAIN A SANITARY  
15 ENVIRONMENT OR LIVING CONDITIONS IN THE HOUSE WHICH  
16 WE INTEND TO SHOW YOU OR ALLOWING OR CAUSING  
17 PHYSICAL OR MENTAL ABUSE TO BE INFLICTED UPON THIS  
18 CHILD WE INTEND TO SHOW YOU THAT AS WELL

19 SO AS YOU CONSIDER THE EVIDENCE THAT'S  
20 PRESENTED, I WANT YOU TO CONSIDER THOSE ELEMENTS OF  
21 THOSE CRIMES AND THINGS WILL KIND OF START TO COME  
22 TOGETHER FOR YOU AT THAT POINT IN TIME

23 NOW LET'S LOOK A LITTLE BIT ABOUT A  
24 BLUEPRINT OF WHAT'S GOING TO HAPPEN, WHAT YOU ARE  
25 GOING TO SEE IN THIS TRIAL, THE TYPE OF EVIDENCE THAT

1 WILL BE PRESENTED OF COURSE, THERE ARE GENERALLY  
2 TWO KINDS OF EVIDENCE PRESENTED ONE IS DIRECT  
3 EVIDENCE- AND ONE IS CIRCUMSTANTIAL EVIDENCE AND YOU  
4 PROBABLY ALL HEARD OF THAT SOMEWHERE ALONG THE LINE  
5 WHETHER TV OR SOMEWHERE ELSE, BUT WHAT ARE THEY?  
6 WELL, DIRECT EVIDENCE IS SOMETHING YOU HEAR FROM THE  
7 STAND, YOU HEAR A WITNESS TALK, THAT'S DIRECT  
8 EVIDENCE A CONFESSION, WHICH YOU WILL HEAR A NUMBER  
9 OF CONFESSIONS IN THIS CASE, THAT IS DIRECT EVIDENCE  
10 FORENSIC EVIDENCE, SUCH AS DNA RESULTS OR OTHER  
11 THINGS OF THAT NATURE, THAT IS DIRECT EVIDENCE  
12 YOU'LL SEE THAT AS WELL

13 CIRCUMSTANTIAL EVIDENCE, A LOT OF WHAT  
14 YOU MIGHT THINK IT WOULD BE, WHAT ARE THE  
15 CIRCUMSTANCES OF THE CRIME? ALWAYS VERY IMPORTANT,  
16 ALWAYS VERY TELLING AS TO WHAT MOTIVE COMES OUT AND  
17 WHY PEOPLE DO THINGS AND WHAT PEOPLE ARE DOING AND  
18 IT'S GOING TO BE NO LESS IMPORTANT IN THIS CASE

19 THAT MORNING AFTER AMANDA IS MURDERED  
20 AND RAPED AND LAYS IN HER BED, THE FIRST THING THAT  
21 LAW ENFORCEMENT HEARS IS A 911 CALL AND IT'S FROM  
22 BILLY COPE A FEW MINUTES AFTER SIX O'CLOCK IN THE  
23 MORNING, AND HE'S CALLING TO SAY THAT HIS DAUGHTER IS  
24 DEAD BUT THERE IS SOMETHING VERY SUSPICIOUS AS YOU  
25 WILL SEE WHEN YOU HEAR THAT CALL IT'S ALMOST DEVOID

1 OF EMOTION AS A MATTER OF FACT, HE USES WORDS LIKE  
2 SHE'S COLD AS CUCUMBER OH, SHE'S DEAD WHEN ASKED  
3 QUESTIONS BY THE 911 OPERATOR, WHEN WAS THE LAST TIME  
4 YOU SAW HER ALIVE? OH, IT WAS TWO O'CLOCK I MEAN,  
5 I THINK IT WAS ONE O'CLOCK THIS IS THE FIRST PLACE  
6 WHERE YOU START GETTING THE STORY FROM BILLY COPE  
7 AND, BOY, IT CHANGES DRAMATICALLY AS THE EVIDENCE  
8 COMES OUT BECAUSE THEN HE CONTINUES TO SAY THINGS  
9 TO THE 911 OPERATOR I'LL HAVE THE LIGHT ON HE  
10 OBVIOUSLY HAS TO LEAVE AT SOME POINT DURING THE  
11 CONVERSATION WITH THE 911 OPERATOR, SAYING HE HAS TO  
12 GO, HANGS UP, AND GOES ON

13 NOW THE OTHER TWO GIRLS IN THE HOUSE  
14 THAT NIGHT, THE EVIDENCE, THE TWO YOUNGER SISTERS,  
15 JESSICA WHO WAS 11 AND KYLA WHO WAS SEVEN, ASLEEP IN  
16 THEIR ROOM AWAY FROM AMANDA THE DEFENDANT BILLY  
17 COPE, THE ONLY OTHER PERSON SLEEPING IN THAT HOUSE  
18 THAT NIGHT, WHEN OFFICERS ARRIVE HE SHOWS THEM WHERE  
19 HIS DAUGHTER IS, AND OF COURSE ON THE 911 TAPE HE  
20 SAID THIS AS WELL AS, HE SAID THERE IS A BLANKET A  
21 BLANKET WRAPPED AROUND HER NECK THE EDGING OFF A  
22 BLANKET HAD COME OFF AND IT WAS WRAPPED AROUND HER  
23 NECK FOUR OR FIVE TIMES AND SHE MUST HAVE CHOKED ON  
24 IT I WANT YOU TO CONSIDER THAT CONSIDER THESE  
25 THINGS THAT HE'S TELLING THE POLICE WHEN THEY FIRST

1 ARRIVE THINK OF A 12 YEAR OLD GIRL, THIS YOUNG  
2 LADY, WHO WAS ABOUT 160 POUNDS, 12 YEARS OLD, HOW  
3 REASONABLE IS IT THAT SHE CHOKED ON A BLANKET IN HER  
4 OWN BED AND HE ADDS TO THE STORY OH, SHE ROLLS A  
5 LOT IN HER SLEEP SHE'S KNOWN FOR ROLLING A LOT IN  
6 HER SLEEP I TOLD HER A NUMBER OF TIMES NOT TO HAVE  
7 THAT BLANKET IN BED WITH HER AS A MATTER OF FACT,  
8 KEEP IT OUT ON THE SOFA AND SHE'S GOING TO CHOKE ON  
9 IT AND YOU CAN THINK HOW MANY TIMES IT WOULD  
10 LOGICALLY BE TOLD BY AN ADULT TO A CHILD WHO IS 12,  
11 YOU ARE GOING TO CHOKE ON THAT BLANKET WHILE YOU ARE  
12 SLEEPING THE THINGS CONTINUE TO PROGRESS HE KEEPS  
13 TELLING THINGS AS THE POLICE ARRIVE HE TELLS THEM  
14 THINGS OH, SHE WAS NAKED WHEN I FIRST FOUND HER  
15 ONE OFFICERS HE TELLS, HE WALKED IN, HE CHECKED HER,  
16 SHE WAS COLD HE WALKED IN TO WAKE HER UP, TO CHECK  
17 HER, BUT SHE WAS COLD BUT THEN THAT STORY CHANGES  
18 TO AS THE DAY GOES ON, WELL, HER DOOR WAS SHUT AND I  
19 HAD TO KICK IT THEN AND THEN I WENT IN AND THERE SHE  
20 WAS WITH THIS WRAPPED AROUND HER NECK AND HER CLOTHES  
21 WERE ON AS A MATTER OF FACT, I TRIED TO PULL DOWN  
22 THE SHIRT BECAUSE IT WAS PULLED UP OVER HER BREAST  
23 AND I PULLED IT DOWN A LITTLE BIT AND I STRAIGHTENED  
24 HER CLOTHES OUT AND YOU'LL SEE, YOU'LL SEE FROM THE  
25 PHOTOGRAPHS AND FROM THE DESCRIPTION OF THE OFFICERS

000307



1        WHEN THEY FIND HER CLOTHING IS ON, HOWEVER, THERE IS  
2        AN INTERESTING FACT THAT THE PATHOLOGIST WILL POINT  
3        OUT, THAT THESE CLOTHES WERE PUT ON BY SOMEONE ELSE  
4        IT'S OBVIOUS THE WAY PANTS ARE PULLED UP THAT THE  
5        ROLLING IN THE INSIDE AS WELL AS THE UNDERWEAR IT'S  
6        NOT COMPLETELY PULLED UP, IT'S CERTAINLY NOT  
7        STRAIGHT, IT'S CERTAINLY NOT HOW YOU WOULD PULL UP  
8        YOUR OWN PANTS     THE CLOTHING, THE BRA, IT'S NOT  
9        ATTACHED AT ALL, AND IT'S LAYING FLIMSILY AROUND HER  
10       THE SHIRT PULLED OVER ONE BREAST AND PULLED UP HIGH  
11       SHE'S NOT COMPLETELY DRESSED AND THE PATHOLOGIST WILL  
12       TELL YOU IN HIS OPINION THAT SOMEONE ELSE DRESSED  
13       HER     SHE DID NOT DRESS HERSELF INTO THOSE CLOTHES  
14       AS THE OFFICERS STAND, THEY TALK TO THE DEFENDANT,  
15       AND HE TELLS THEM, BILLY COPE TELLS THEM, THAT HOUSE  
16       WAS SECURED     THAT THE WINDOWS WERE CLOSED     NO ONE  
17       BROKE IN     THERE WAS NO SIGNS OF ANYONE BREAKING IN  
18       AND THE OFFICERS, AS A RESULT OF THAT TOO, GO AROUND  
19       AND THEY WILL TESTIFY THAT THEY CHECKED EACH WINDOW  
20       AND EACH DOOR TO DETERMINE THAT THE HOUSE HAD NOT  
21       BEEN BROKEN INTO BY SOMEONE ELSE

22                        SO NOW THE POLICE HAVE THIS MAN WHO  
23       HAS GIVEN THIS UNBELIEVABLE STORY, WHO HAS A HOUSE  
24       THAT ONLY HE, WITH HIS CHILDREN, ARE IN     HIS WIFE  
25       WORKS THIRD SHIFT, AND SHE'S GONE ALL NIGHT     THEY

1 HAD TO CALL HER TO COME BACK AND IT'S NOT MAKING  
2 SENSE AS THE PATHOLOGIST COMES, HE VIEWS THE BODY  
3 AT THE SCENE TO HELP DETERMINE SOME OF THE THINGS  
4 RIGHT AWAY THAT THEY CAN DETERMINE AT THAT POINT  
5 HE'S ABLE TO TELL THAT THERE IS POSSIBLY SOME SORT OF  
6 SEXUAL ASSAULT THAT'S OCCURRED EVEN WITHOUT HAVING  
7 REMOVED ALL HER CLOTHING AT THAT POINT IN TIME THE  
8 PATHOLOGIST, THEY THEN TAKE HER, TAKE HER TO THE  
9 MORGUE, AND THEY BEGIN AN AUTOPSY LATER THAT MORNING  
10 OR THAT AFTERNOON

11 DURING THAT TIME THE DEFENDANT GOES  
12 WITH THE POLICE, TALKS WITH THE POLICE, GIVES SOME  
13 MORE THINGS THAT JUST SEEM TO CHANGE AS TIME GOES ON  
14 THEY VIEW THE AUTOPSY WHAT THE PATHOLOGIST FINDS  
15 OUT IS SHOCKING HE FINDS THAT SHE HAS BEEN BRUTALLY  
16 RAPED, NOT BY A MAN JUST HAVING INTERCOURSE WITH THIS  
17 YOUNG GIRL, BUT BY A FOREIGN OBJECT BEING JAMMED SO  
18 BRUTALLY INTO HER VAGINA AND HER ANUS THAT BASICALLY  
19 IT BRUISES ALMOST EVERY SQUARE INCH, THAT BASICALLY  
20 IT HAD NO WHERE ELSE TO GO, IT WENT TO THE TOP OF THE  
21 BODY CAVITIES AND SOMEONE CONTINUALLY JAMMED IT IN  
22 SO NOW THE POLICE HAVE THIS, AND ALSO TELLING HOW  
23 BRUTALLY BEATEN SHE IS, HEAD INJURIES WITHIN HER  
24 HEAD, SWELLING AROUND, OR BLEEDING AROUND THE BRAIN,  
25 THINGS OF THAT NATURE HE'LL TALK ABOUT HOW THERE

000909

1 WAS A LIGHT BITE MARK ON ONE OF HER BREASTS HOW  
2 THAT THEY TOOK A SWABS FROM THE BITE MARK THEY TOOK  
3 OTHER SWABS THAT THEY SUSPECT TO BE TESTED THEY  
4 EXAMINED HER CLOTHING AND THINGS OF THAT NATURE AND  
5 TOOK THINGS FROM THOSE THAT THEY THOUGHT COULD BE  
6 TESTED, ALL OF THIS IS DONE, IT'S DONE AT THIS POINT  
7 NOW OF COURSE TESTING DOESN'T OCCUR IMMEDIATELY IN  
8 REAL LIFE, UNLIKE TV WHERE YOU SEE THAT WITHIN THE  
9 HOUR PROGRAM THAT THEY HAVE THAT DNA TEST BACK, SO IT  
10 TAKES AWHILE THESE THINGS HAVE TO BE PROCESSED  
11 IT'S SENT TO SOUTH CAROLINA LAW ENFORCEMENT DIVISION,  
12 LOOKED AT, AND COMPARED WITH OTHER THINGS BUT AT  
13 THIS POINT THE POLICE KNOW THE ONLY LOGICAL PERSON AT  
14 THIS TIME IS THE DEFENDANT, SO THEY BEGIN TO TALK TO  
15 HIM THEY TALK TO HIM THAT AFTERNOON AND THEY END UP  
16 TALKING TO HIM FOR ABOUT THREE HOURS THAT EVENING  
17 BEFORE THEY ULTIMATELY SERVE A WARRANT FOR HIS  
18 ARREST AND THAT EVENING ONCE AGAIN AS HE CARRIES ON  
19 A CONVERSATION WITH THE OFFICERS THAT HE HERE, IT'S  
20 ALL ON AUDIO TAPE, HE DOES NOT CONFESS TO ANYTHING AT  
21 THAT POINT, BUT HE DOES CHANGE HIS STORY MANY MORE  
22 TIMES ADDING LITTLE THINGS IN HERE AND THERE FROM  
23 WE WENT TO BED AT ONE, THAT'S WHEN THE GIRLS FINISHED  
24 THEIR HOMEWORK THAT'S WHEN WE ALL WENT TO BED I  
25 WEAR THIS IS CPAP MACHINE BECAUSE I HAVE SLEEP APNEA,

000910

1 I CAN'T HEAR ANYTHING OVER IT HOW HE SLEPT STRAIGHT  
2 THROUGH TO SIX O'CLOCK WHEN THE ALARM WENT OFF AND  
3 THAT'S WHEN HE CALLED AMANDA, IT'S UNUSUAL FOR HER  
4 NOT TO ANSWER RIGHT AWAY, SO HE RAN IN, KICKED OPEN  
5 THE DOOR, AND FOUND HER THERE AND OH, NO IT'S NOT  
6 LOGICAL IN WHAT HE DESCRIBES YOU'LL SEE FROM THE  
7 FACTS, THIS IS A VERY SMALL HOUSE AS YOU STAND IN  
8 THE HALLWAY, WHICH IS BASICALLY ONE SMALL OPEN AREA,  
9 THERE IS A BATHROOM, THERE IS THE DEFENDANT'S ROOM,  
10 THERE IS AMANDA'S ROOM, AND THERE IS JESSICA AND  
11 KYLA'S ROOM, AND THEN INTO THE LIVING ROOM IT'S  
12 ONLY MAYBE 10 OR 15 FEET FROM WHERE JESSICA'S DOLLY  
13 SITS AT THE EDGE OF HER BED TO WHERE THE DEFENDANT'S  
14 BED IS THAT HE SAID HE WAS ASLEEP IN DURING THE TIME  
15 THAT THIS HAPPENS YOU CAN LOOK OUT THE DOOR AND SEE  
16 FROM ONE ROOM INTO THE OTHER THE GIRLS ROOM BEING  
17 RIGHT NEXT DOOR OVER HERE THIS BRUTAL BEATING  
18 OCCURS AND HE SAYS I HEARD NOTHING AND I NEVER GOT  
19 UP BUT THEN, YOU KNOW, AS THAT INTERVIEW GOES ON,  
20 HE ENDS UP SAYING, WELL, AT THREE O'CLOCK I GOT UP TO  
21 GO TO THE BATHROOM WELL, NOW OUT OF NOWHERE  
22 SUDDENLY HE'S AWAKE AT SOME TIME IN THE MIDDLE OF THE  
23 NIGHT AND HE GETS UP TO GO TO THE BATHROOM AND AT  
24 THAT POINT HE CHECKS ON THE GIRLS ACCORDING HIS  
25 STATEMENT YOU'LL HEAR FROM THE PATHOLOGIST THAT

000911

1       THIS GIRL HAD DIED IN THE MIDDLE OF THE NIGHT  
2       SOMETIME BETWEEN ABOUT TWO AND FOUR AND IT WASN'T A  
3       QUICK, EASY DEATH   IT TOOK SOME TIME TO BRUTALLY  
4       BEAT HER IN THE WAY THAT SHE WAS BEATEN TO ASSAULT  
5       HER

6                       NOW THE NEXT DAY OR ONE OTHER THING IN  
7       THAT TAPE INTERVIEW, YOU'LL HEAR HIM ASK A NUMBER OF  
8       TIMES   I WANT TO TAKE THE POLYGRAPH TEST   I WANT TO  
9       TAKE THE POLYGRAPH TEST   WELL, THEY DID   THEY LET  
10      HIM SLEEP THAT NIGHT, FEED HIM   THE NEXT DAY THEY GO  
11      IN AND TAKE HIM TO MIKE BAKER THE MAN WHO PERFORMS  
12      THE POLYGRAPH TEST   AFTER INTERVIEWING WITH MIKE  
13      BAKER HE ADMITS AT THIS POINT THAT HE KILLED AMANDA  
14      AND HE TELLS HOW HE DID IT   HE TELLS HOW HE USED THE  
15      HANDLE OF A BROOM TO JAM THAT UP INSIDE OF HER ANUS  
16      AND UP INSIDE OF HER VAGINA AND HOW HE DID IT VERY  
17      HARD   HE TELLS HOW HE GETS UP IN THE MIDDLE OF THE  
18      NIGHT TO GO TO THE BATHROOM, HOW HE HAD A HARD ON,  
19      AND AT THAT POINT HE MASTURBATED OVER AMANDA AND THAT  
20      SHE WOKE UP AND SAW HIM DOING IT   NOW HE BECAME  
21      ENRAGED AND AT SOME POINT BEGAN TO BEAT HER AND THEN  
22      SEXUALLY ASSAULT HER   IT GOES ON FROM THERE

23                    THE DEFENDANT THEN GOING BACK INTO THE  
24      DETENTION CENTER SENDS A MESSAGE THAT HE WANTS TO  
25      SPEAK TO DETECTIVES AGAIN AND AFTER NOW HAVING HAD

000912

1 THE WEEKEND, THIS OCCURRED ON THURSDAY NIGHT GOING,  
2 HIS FIRST STATEMENT OCCURRED ON FRIDAY, AFTER HAVING  
3 THE WEEKEND HE SENDS MESSAGE I NEED TO TALK TO THE  
4 DETECTIVE AGAIN I WANT TO TALK HE GOES IN MONDAY  
5 AND HE TALKS TO SOME MORE DETECTIVES AT THIS POINT  
6 HE'S TELLING THE STORY AGAIN NOW HE'S CHANGED IT A  
7 LITTLE BIT AND YOU'LL SEE AS HE'S NOW HAD TIME TO  
8 THINK, NOW HE ADDS IN, OH, IT WAS HIS GIRLFRIEND THAT  
9 I WAS THINKING FROM BACK A LONG TIME AGO, WE HAD  
10 DATED, SHE HAD AN ABORTION, AND SHE WAS JUST, SHE WAS  
11 TORMENTING ME, SO I HEARD VOICES, AND THAT'S WHAT  
12 MADE ME DO IT I HEARD THESE VOICES, I HEARD THIS  
13 CACKLING AND I KEPT HEARING IT AND I JUST PICTURED IT  
14 WAS HER IN THAT ROOM AND NOT AMANDA, AND THAT'S WHY I  
15 DID IT THAT'S WHY I WENT IN AND BRUTALLY KILLED HER  
16 AND THAT'S WHAT I DID THE OFFICERS AFTER HEARING  
17 THIS ASKED HIM, GOT GOING OUT TO THE RESIDENCE AND  
18 SHOWING THEM HOW HE DID IT YOU'LL SEE A VIDEO TAPE,  
19 A RE-ENACTMENT OF MR COPE, WHO AT THAT TIME IS ABOUT  
20 330 POUNDS, MUCH BIGGER MAN THAN HE IS AT THIS POINT  
21 IN TIME, HE TAKES THEM OUT TO THE SCENE AND HE  
22 RE-ENACTS WHAT HE DID TO HIS DAUGHTER, AND YOU WILL  
23 SEE THAT AND YOU WILL HEAR HIS WORDS AND YOU WILL  
24 HEAR FROM HIS OWN MOUTH AND SEE IT AS HE SAID IT  
25 HIMSELF

1                   OF COURSE, THE DETECTIVES DON'T  
2 BELIEVE THIS CACKLING AND STUFF LIKE THAT THAT HE'S  
3 TALKING ABOUT THERE, SO THEY TALK TO HIM AGAIN WHEN  
4 THEY LEAVE THE HOUSE AND ONCE AGAIN HE GIVES ANOTHER  
5 STATEMENT TO THEM, HE GIVES EVEN MORE INFORMATION AND  
6 THIS TIME TELLING INFORMATION ABOUT WHERE THEY WILL  
7 FIND A RAG WHERE HE WHEN HE MASTURBATED INTO THAT RAG  
8 AND WHERE HE PUT IT   AND THEY WILL GO BACK AND THEY  
9 WILL FIND THAT RAG

10                   THEN WE WAIT FOR THE DNA EVIDENCE AND  
11 IT COMES BACK -- THAT RAG HAS BILLY COPE'S SEMEN ON  
12 IT JUST LIKE HE SAID IT WOULD   BUT THEN THERE IS  
13 SEMEN ON THE OUTSIDE OF AMANDA'S PANTS AND THERE IS  
14 SOME SALIVA ON HER BRA--- ONE OF HER BREAST'S, THE  
15 RIGHT BREAST   AT THAT POINT THAT COMES BACK NOT  
16 BEING MR   COPE   SO NOW THE OFFICERS LOOK AT A  
17 POSSIBILITY THAT NO ONE COULD HAVE FATHOMED AT THE  
18 IMMEDIATE TIME, THAT THESE TWO HAD TO ACT TOGETHER TO  
19 COMMIT THIS CRIME, THAT HIM AND SOMEONE ELSE RAPED  
20 HIS DAUGHTER AND MURDERED HER   SO THEN THE SEARCH  
21 BEGINS   ULTIMATELY THEY MATCH THAT DNA TO JAMES  
22 SANDERS WHO LIVES ABOUT A BLOCK, BLOCK AND A HALF  
23 AWAY   SO WE KNOW FROM THE PATHOLOGIST WILL TESTIFY  
24 THAT THESE INJURIES, THE BRUISING OF THE BREAST, THE  
25 INJURIES SHE SUSTAINED AT DEATH, ALL OF THEM ARE

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1        CONTEMPORANEOUS WITH EACH OTHER, IN OTHER WORDS, THEY  
2        ALL OCCURRED ABOUT THE SAME TIME AND THEY ARE ALL  
3        - CONTEMPORANEOUS WITH HER DEATH    IN OTHER WORDS, ALL  
4        OF THIS HAPPENED AT THE SAME TIME IN THE BEATING AND  
5        IN HER BED    SO NOW WE HAVE DNA, DIRECT EVIDENCE,  
6        AGAINST BOTH DEFENDANTS LINKING THEM TO THE DEATH OF  
7        AMANDA COPE FOR RAPE, FOR BRUTAL BEATING, HER  
8        STRANGULATION, HER MURDER  
9                        AND SOMETHING YOU HAVE TO REALIZE AT  
10       THIS POINT BECAUSE THERE IS DIRECT EVIDENCE THAT  
11       SHOWS THAT JAMES SANDERS DID IT IN NO WAY SHOWS THAT  
12       BILLY WAYNE COPE DID NOT DO IT BECAUSE THERE IS ALSO  
13       DIRECT EVIDENCE THAT SHOWS THAT BILLY WAYNE COPE DID  
14       IT AND THAT IN NO WAY EXCLUDES JAMES SANDERS    HERE'S  
15       WHERE IT COMES MORE HORRIFYING THAN YOU COULD  
16       ORIGINALLY IMAGINE BECAUSE NOT ONLY, NOT ONLY DID  
17       THIS HAPPEN TO AMANDA, BUT YOU'LL SEE BY THE  
18       EVIDENCE, BY THE FACTS OF WHAT WE HAVE WITH THE  
19       HOUSE, THE FACTS OF ALL THE CIRCUMSTANTIAL EVIDENCE  
20       THAT WILL THEN SURROUND THIS, THE ONLY LOGICAL  
21       EXPLANATION IS THAT BILLY COPE SERVED UP HIS DAUGHTER  
22       FOR HIS AND JAMES SANDERS' OWN PERVERSE PLEASURES AND  
23       TOOK HER LIFE    THEY DID IT TOGETHER    THERE IS NO  
24       OTHER REASONABLE EXPLANATION    THERE IS DIRECT  
25       EVIDENCE AS TO EACH OF THEM    CONFESSION, DNA, DNA,



1 CIRCUMSTANTIAL EVIDENCE AS TO THE HOUSE ITSELF  
2 OBVIOUSLY NO ONE BROKE IN, SOMEONE HAD TO BE LET IN,  
3 ~~AND THIS IS~~ A HOUSE THAT AS YOU'LL SEE IS NOT ONE  
4 THAT YOU GO INTO AND WANT TO STAY NECESSARILY IT'S  
5 FILTHY IT STINKS IT HAS ROACHES LITERALLY  
6 CRAWLING OVER THE COUNTERS AND THE FLOORS AND THE  
7 BEDS EACH ONE OF THE CHILDREN HAVE LICE THE FLOOR  
8 ITSELF JUST COVERED WITH CLOTHING AND DIRT, FILTHY  
9 YOU'LL SEE THE BLANKETS SOME OF THEM THAT THEY  
10 COLLECTED OFF HER BED AND HOW TRULY FILTHY THEY ARE  
11 ALL THE WAY THROUGH TO SUSPECT THAT JAMES SANDERS  
12 WOULD GO IN THAT HOUSE ALONE THAT NIGHT, AN UNKNOWN  
13 HOUSE WITH UNKNOWN PEOPLE, GET PAST THAT STENCH, THE  
14 BUGS, AND THE TRAFFIC OF ALL THE JUNK ON THE FLOOR,  
15 MAKE IT BACK TO THE BACK BEDROOM WHERE AMANDA COPE IS  
16 LYING ASLEEP, BRUTALLY RAPE AND MURDER HER AT THAT  
17 POINT ALL BY HIMSELF, AND THEN STAGE A CRIME SCENE?  
18 WRAP SOMETHING AROUND HER NECK? DRESS HER UP? GO  
19 AND COVER UP HOWEVER HE WAS ALLEGEDLY BROKE IN? IT'S  
20 NOT REASONABLE IT'S NOT REASONABLE IT HAD TO  
21 HAPPEN TOGETHER AND THAT'S WHAT THE EVIDENCE POINTS  
22 TO THE DIRECT EVIDENCE THAT WE HAVE POINTS TO THE  
23 FACT THAT THESE MEN WORKED TOGETHER TO PERFORM THIS  
24 HEINOUS ACT ON THIS YOUNG GIRL

25 NOW I'M SURE YOU'LL HEAR MANY OTHER

1 THINGS FROM THE DEFENSE, BUT WHAT I'M ASKING YOU TO  
2 DO TODAY IS JUST LIKE WHEN YOU WERE A KID, LIKE THE  
3 LONG DIVISION, IT'S NOT FUN TO GO THROUGH EACH PIECE  
4 OF EVIDENCE, CARRY THINGS DOWN, LOOK AT EACH THING,  
5 HEAR EVERYTHING THAT HAPPENS, TAKE THE TIME TO SIT  
6 THERE AND LISTEN AND LISTEN AND LISTEN AND SORT  
7 THROUGH EVERYTHING TO GET THE RIGHT ANSWER, BUT  
8 THAT'S WHAT YOU HAVE TO DO AND I'M ASKING YOU TO  
9 TAKE THAT TIME NOW BECAUSE THE ONE THING ABOUT THE  
10 LONG DIVISION WHEN WE WERE KIDS, WE ALL COULD DO IT  
11 EVENTUALLY YOU WILL COME TO A VERDICT IN THIS CASE  
12 AND IT WILL BE A LOGICAL VERDICT JUST LIKE YOUR  
13 ANSWER IN LONG DIVISION ALWAYS COMES TO A CORRECT  
14 ANSWER WHEN IT'S DONE RIGHT YOU WILL USE IT, YOU  
15 WILL GO IN, AND YOU WILL DO THE UNPLEASANT TASK OF  
16 SEEING THESE ITEMS THAT ARE PRESENTED, HEARING THIS  
17 UNPLEASANT TESTIMONY, PUTTING IT ALL TOGETHER, AND  
18 DOING THE PROBLEM AND WORKING IT THROUGH AND THAT'S  
19 ALL I CAN ASK YOU TO DO THAT'S ALL THAT ANYONE CAN  
20 ASK OF YOU IS TO RETURN A TRUE VERDICT, ONE THAT  
21 SPEAKS THE TRUTH, ONE THAT IS THE ONLY ANSWER THAT  
22 THERE CAN BE, THAT IS CORRECT THANK YOU FOR YOUR  
23 TIME, THANK YOU FOR YOUR UNDERSTANDING, AND I ASK  
24 THAT YOU BEAR WITH US THROUGH THESE NEXT SEVERAL  
25 DAYS, WEEK OR MORE, IT'S IMPORTANT AND WE NEED YOUR

1       HELP     AT THIS POINT YOU'VE NOW BECOME LIKE THE BIG  
2       SISTER    YOU ARE HAVING TO HELP AMANDA NOW     AS  
3     -AMANDA HELPED JESSICA WITH HER HOMEWORK, YOU'RE  
4       HAVING TO HELP AMANDA NOW TO DETERMINE WHAT HAPPENED  
5       TO HER, TO DETERMINE WHAT THE JUST VERDICT SHOULD BE  
6       I'M CONFIDENT THAT WHEN YOU'VE HEARD ALL THE  
7       TESTIMONY AND SEEN ALL THE EVIDENCE YOUR VERDICT WILL  
8       BE GUILTY AS TO BOTH JAMES SANDERS AND BILLY WAYNE  
9       COPE ON ALL ACCOUNTS AS THEY ARE CHARGED     THANK YOU

10                   MR   BAITY     MAY IT PLEASE THE COURT,  
11       YOUR HONOR

12       OPENING STATEMENT BY MR   BAITY

13                   GOOD AFTERNOON, LADIES AND GENTLEMEN  
14       BEFORE I DO ANYTHING I WANT TO SAY THAT I SINCERELY  
15       APPRECIATE YOU BEING HERE AND I APPRECIATE THE  
16       SACRIFICES THAT YOU ARE GOING TO MAKE TODAY AND THE  
17       REST OF THIS WEEK AND PROBABLY THE NEXT ONE, THE NEXT  
18       WEEK AND MAYBE EVEN THE WEEK AFTER THAT     I KNOW IT  
19       REPRESENTS A SACRIFICE, A GREAT INCONVENIENCE    YOU  
20       ARE GOING TO SUBJECTED TO THINGS IN THIS COURTROOM  
21       THAT YOU ARE NOT GOING TO ENJOY, THAT YOU JUST SOON  
22       WALK AWAY FROM, YOU WOULD WALK AWAY IF YOU HAD THAT  
23       CHANCE, AND I CAN APPRECIATE WHAT YOU ARE GOING TO  
24       HAVE TO GO THROUGH, AND I THANK YOU FOR YOUR SERVICE  
25       YOU ARE OFFICIALS OF YORK COUNTY, SOUTH CAROLINA

1 YOU ARE THE OFFICIAL TRIERS OF THE FACTS IN THIS  
2 CASE YOU, AND YOU ALONE, WILL DETERMINE IN YOUR  
3 DELIBERATIONS WHAT'S TRUE AND WHAT'S NOT AND IT'S A  
4 SERVICE THAT IS IN THIS CASE GOING TO BE ARDUOUS AND  
5 DIFFICULT AND UNPLEASANT AND FOR YOU THAT ARE ABOUT  
6 TO DO IT, I SALUTE YOU, AND I THANK YOU FOR YOUR  
7 SERVICE

8 MY NAME IS PHILLIP BAITY I'M AN  
9 ATTORNEY I PRACTICE LAW IN FORT MILL I'M ASSISTED  
10 IN THIS CASE BY A NUMBER OF GENTLEMEN, BUT THE FIRST  
11 PERSON AT THE TABLE I WANT TO INTRODUCE YOU TO IS OUR  
12 CLIENT AND THAT'S MR BILLY WAYNE COPE BILLY COPE  
13 IT'S THE GENTLEMAN I'VE KNOWN FOR ALMOST THREE YEARS  
14 NOW DAVID WOOD IS SITTING BACK THERE NEXT TO THE  
15 COLUMN, MICHAEL SMITH IS SITTING BESIDE HIM, AND JIM  
16 MORTON IS SEATED AT THE TABLE WITH MR COPE WE'RE  
17 ALL HIS LAWYERS WE'VE ALL BEEN APPOINTED HERE TO  
18 REPRESENT MR COPE AND WE'RE PROUD TO BE HIS LAWYERS

19 THE FIRST THING I AM GOING TO TELL  
20 YOU, EACH AND EVERY ONE OF YOU, IS THAT THIS IS NOT A  
21 SIMPLE CASE MR THOMPSON SAID THE ONLY LOGICAL  
22 CHOICE OR THE ONLY REASONABLE VERDICT THAT YOU CAN  
23 REACH IS THAT BOTH OF THESE GENTLEMEN ACTED TOGETHER  
24 AND DID THIS HORRIBLE CRIME TOGETHER, AND I SUBMIT TO  
25 YOU, LADIES AND GENTLEMEN, THAT IT'S JUST NOT THAT

1       SIMPLE AND THAT ALSO HAPPENS TO BE NOT TRUE     THE  
2       SIMPLEST SOLUTION TO THIS CASE IS THE ONE THAT IS THE  
3       —TRUTH AND THE TRUTH IS THAT BILLY COPE DID NOT RAPE,  
4       DID NOT MURDER, DID NOT ASSAULT HIS POOR DAUGHTER  
5       HE DID NOT     HE'S INNOCENT     AND THIS MAN DID     THIS  
6       MAN WAS ASLEEP AT HOME WITH A CPAP MACHINE ON HIS  
7       HEAD, WHICH IS A LOUD SLEEP AID, WITH A FAN GOING,  
8       AND THIS MAN SLIPPED INTO THAT HOUSE AND YOU'RE GOING  
9       TO SEE HOW HE GOT IN, WE'RE GOING TO SHOW YOU, A  
10      NUMBER OF DIFFERENT WAYS HE COULD HAVE GOTTEN IN, AND  
11      HE STIFLED AMANDA     IT'S HORRIBLE TO THINK OF     HE  
12      STIFLED HER IN HER BED     HE CLAMPED HIS HAND OVER HER  
13      MOUTH     HE STRUCK HER IN THE HEAD, IN THE FACE,  
14      STUNNED HER, AND THEN DID HIS DIRTY BUSINESS AND  
15      LEFT, STRANGLING HER SO THERE WOULD BE NO WITNESSES  
16      THAT IS WHAT HAPPENED IN THIS CASE     THAT'S THE  
17      SIMPLE MATTER     THAT IS A REASONABLE CONCLUSION IN  
18      THIS CASE

19                       NOW WHY ARE WE HERE?     HOW DID WE GET  
20      HERE?     WHY DO WE HAVE THIS, THIS TWO DEFENDANT THING  
21      THAT'S GOING LAST ALL THIS TIME?     WHY IS THIS GOING  
22      TO HAPPEN?     WELL, I SUBMIT, LADIES AND GENTLEMEN,  
23      IT'S GOING TO HAPPEN AND WE'RE GOING TO BE SITTING  
24      HERE FOR THE NEXT TWO WEEKS SIMPLY BECAUSE THE ROCK  
25      HILL POLICE DEPARTMENT MADE A MISTAKE     THEY MADE A

1 MISTAKE THAT IS A PERFECTLY UNDERSTANDABLE, PERFECTLY  
2 HUMAN MISTAKE THEY WALKED INTO A FILTHY HOUSE AND  
3 THEY SAW A HORRIBLE SCENE AND THEY WERE HUMAN AND  
4 THEY REACTED AS ANYONE IN THIS ROOM WOULD THEY  
5 RUSHED TO JUDGMENT THEY FIGURED IT OUT THEY  
6 THOUGHT THEY MADE UP THEIR MINDS AND THEY ACTED ON  
7 THAT INSTINCT AND FOLKS, WHAT I'M TRYING TO TELL  
8 YOU TODAY IS I CAN UNDERSTAND WHY THE MISTAKE WAS  
9 MADE, BUT THAT DOESN'T EXCUSE IT THESE ARE  
10 PROFESSIONALS THESE ARE PROFESSIONALS, THESE ARE  
11 PEOPLE THAT HAVE BEEN TRAINED TO PUT THEIR EMOTIONS  
12 ASIDE, PUT THEIR FEELINGS ASIDE, TO NOT RUSH TO  
13 JUDGMENT WHEN THEY SEE SOMETHING YOU DON'T JUST  
14 ASSUME, BUT THAT'S NOT WHAT HAPPENED IN THIS CASE  
15 IN THIS CASE, LADIES AND GENTLEMEN, THE POLICE  
16 OFFICERS THAT RESPONDED TO THIS CALL, THEY RUSHED TO  
17 JUDGMENT AND WHAT HAPPENED IN THIS CASE IS THAT FOR  
18 THE REST OF THE TIME THAT THEY WERE INVOLVED IN THIS  
19 INVESTIGATION, THEY'VE BEEN SCRAMBLING TO MAKE THE  
20 PIECES FIT TO THAT RUSH TO JUDGMENT WHAT IS IT THAT  
21 RONALD REAGAN SAID, TRUST THAT VERIFIED POLICE  
22 OFFICER HAS EVERY RIGHT TO TRUST HIS INITIAL  
23 INSTINCTS AND CERTAINLY WALKING INTO THAT SCENE  
24 ANYBODY WOULD HAVE JUST -- WHO DID THIS HE LOOKED  
25 SUSPICIOUS BUT YOU ARE SUPPOSED TO GO FURTHER AND

1       YOU ARE SUPPOSED TO VERIFY IT    AND THE VERIFICATION  
2       PROCESS JUST DIDN'T HAPPEN IN THIS CASE

3               I'M GOING TO TELL YOU SOMETHING AND  
4       IT'S BECOME REALLY OBVIOUS TO EVERYONE IN THIS  
5       COURTROOM AND CERTAINLY YOU, THE POLICE BY THE TIME  
6       THAT DAY WAS OVER THOUGHT THAT THEY HAD THEIR MAN  
7       AS A MATTER OF FACT, THEY THOUGHT SO MUCH THAT THEY  
8       SWORE OUT A WARRANT AND SERVED IT ON MR   BILLY COPE  
9       AND CHARGED HIM WITH THE MURDER AND RAPE OF HIS  
10      DAUGHTER    CASE CLOSED    DIRTY HOUSE, GOOFY LOOKING  
11      GUY, SITTING THERE, NOT SHOWING MUCH EMOTION, THAT'S  
12      IT, HE'S DONE    THEY DIDN'T BOTHER TO FINGERPRINT THE  
13      HOUSE    THEY DIDN'T BOTHER TO SEE IF THERE WAS ANY  
14      POSSIBLE WAY THAT SOMEBODY COULD HAVE COME IN AND  
15      DONE THIS BESIDES HIM    NO, HE DID IT    HE DID IT  
16      WHOEVER HEARD OF A CRIME SCENE WHERE YOU DON'T DUST  
17      FOR FINGERPRINTS?   WHOEVER HEARD OF THAT?   IT DIDN'T  
18      HAPPEN IN THIS CASE    HE DID IT    AND BEFORE THE --  
19      WELL, JUST AS THE SUN WENT DOWN OR THE SUN WAS GOING  
20      DOWN, THEY MADE THEIR DECISION AND THEY SERVED THE  
21      WARRANT ON MR   COPE BECAUSE THEY THOUGHT THAT THEY  
22      HAD THEIR MAN    AND GUESS WHAT?   SOMEBODY ELSE WAS  
23      INVOLVED    THEY DIDN'T KNOW THAT    WHEN YOU RUSH TO  
24      JUDGMENT AND YOU DON'T VERIFY AND YOU DON'T GATHER  
25      ALL THE INFORMATION YOU NEED, YOU MIGHT OVERLOOK

1       SOMETHING AS BIG AS THIS MAN SITTING RIGHT HERE WHO  
2       LEFT HIS SEMEN AND HIS SALIVA AT THE SCENE OF HIS  
3       CRIME - AND THEY DIDN'T CHARGE THIS MAN FOR MORE THAN  
4       A YEAR WHILE THIS MAN SAT IN THE JAIL     THIS MAN IS  
5       WALKING AROUND

6                       FOLKS, PLEASE, PLEASE, WAIT, PAUSE,  
7       CONSIDER, TRUST YOUR INSTINCTS, TRUST YOUR GOOD  
8       COMMON SENSE BECAUSE YOU HAVE IT     BUT VERIFY IT  
9       WAIT UNTIL ALL OF THE EVIDENCE IS IN BEFORE YOU MAKE  
10      YOUR DECISION     PLEASE DON'T MAKE THE MISTAKE THAT  
11      THE ROCK HILL POLICE DEPARTMENT DID     DON'T ASSUME  
12      WHEN YOU HEAR THE FIRST PIECE OF EVIDENCE OR THE  
13      SECOND OR THE THIRD, OKAY, CASE CLOSED     SURE, MAN  
14      THAT'S HIM     PLEASE DON'T DO THAT     WAIT

15                    I'M GOING TO MAKE SOME PREDICTIONS  
16      HERE     I ALREADY TOLD YOU, SO HAS MR   THOMPSON, YOU  
17      ARE GOING TO SEE AND HEAR SOME THINGS THAT IS JUST  
18      HIDEOUS     THERE IS JUST NO OTHER WORD FOR IT     I'M  
19      SORRY     I WISH YOU DIDN'T HAVE TO GO THROUGH IT  
20      IT'S GOING TO MAKE YOU CRINGE     IT'S GOING TO MAKE  
21      YOU CRY     SOME OF THIS STUFF, THIS EVIDENCE YOU ARE  
22      GOING TO SEE, MIGHT MAKE YOU SUSPECT MR   BILLY WAYNE  
23      COPE BUT WAIT     WAIT     I'M HERE TO TELL YOU THAT  
24      THINGS IN THIS CASE ARE NOT THE WAY THEY ALWAYS SEEM  
25      CERTAINLY WEREN'T THAT WAY TO THE ROCK HILL POLICE



1 DEPARTMENT WHO HAD A CASE CLOSED BY THREE O'CLOCK ON  
2 THE NIGHT THEY DISCOVERED THAT BODY PUT THAT ONE IN  
3 THE FILE IT'S OVER A YEAR LATER, WHOA, WAIT  
4 SOMEBODY ELSE WAS THERE

5 NOW IN THIS TRIAL YOU ARE GOING TO  
6 LOOK INTO BILLY COPE'S WORLD YOU ARE GOING TO GET A  
7 GOOD CLOSE LOOK AT IT AND, YOU KNOW, IT AIN'T PRETTY  
8 BILLY IS POOR, COMES FROM A POOR FAMILY HIS HOUSE  
9 WAS AN UNMITIGATED MESS, HAD ROACHES IN IT, SMELLS,  
10 PACK RATS, NO DOUBT ABOUT IT, NOT TRYING TO HIDE  
11 THAT IT'S TRUE THE CHILDREN HAD HEAD LICE YES,  
12 THEY DID YOU ARE GOING TO HEAR THAT WE'RE NOT  
13 GOING TO TRY TO DENY IT THEY LIVED IN A POOR, POOR  
14 NEIGHBORHOOD, CRACKER BOX HOUSES BILLY DELIVERED  
15 HOT FOOD FOR A LIVING, HE DROVE AROUND AND DELIVERED  
16 SANDWICHES TO PEOPLE AND HIS WIFE MARY SUE CLEANED  
17 MOTEL ROOMS FOR A LIVING THEY DIDN'T MAKE MUCH  
18 MONEY, DIDN'T HAVE MUCH MONEY THEY HAD THREE GIRLS  
19 THEY WERE ALL GOING TO SCHOOL THEY HAD A LOT OF  
20 OBLIGATIONS AND THEY JUST DIDN'T HAVE MUCH MONEY  
21 YOU ARE GOING TO SEE THAT WORLD AND IT'S NOT  
22 ATTRACTIVE YOU ARE GOING TO SEE THAT BILLY WAYNE  
23 COPE IS A HUMAN WHO HAS ALL THE HUMAN FOIBLES THAT WE  
24 ALL HAVE YOU'LL SEE THAT HE HAD SOME GOOD POINTS  
25 AND HE HAD SOME BAD POINTS, YES, SIR AND HE DIDN'T

1       LIVE AN ATTRACTIVE LIFESTYLE   HE DIDN'T LIVE IN A  
2       NICE HOUSE   IF YOU WERE INVITED OVER, YOU'D GONE  
3       HUH   BUT, FOLKS, THAT DOESN'T MEAN THAT HE RAPED AND  
4       BIT AND MURDERED HIS BABY DAUGHTER   THAT DOESN'T  
5       MEAN THAT   IT'S NOT CONNECTED   THE STATE IS GOING  
6       TO PARADE THAT ALL AROUND BECAUSE YOU KNOW WHAT THEY  
7       ARE TRYING TO DO?   THEY ARE TRYING TO MAKE YOU REACT  
8       VISCERALLY JUST LIKE THE POLICE DID WHEN THEY WALKED  
9       INTO THAT HOUSE   HUH, THIS IS HORRIBLE   WHO DID  
10      THIS?   THAT'S WHAT THEY WANT YOU TO DO   THEY ARE  
11      GOING TO TRY TO DISTRACT YOU WITH ROACHES AND WITH  
12      DIRTY CLOTHES AND HEAD LICE, BUT THERE IS NO  
13      CONNECTION BETWEEN THE DIRTY HOUSE AND THIS BRUTAL  
14      MURDER   PLEASE DON'T RUSH TO THAT JUDGMENT   PLEASE  
15      DON'T MAKE THAT MISTAKE   BECAUSE IT WAS MADE IN THIS  
16      CASE ONCE   LET'S, HERE AT THE END, LET'S DO IT  
17      RIGHT   LET'S WAIT

18                   ON THE DAY THAT POOR AMANDA'S BODY WAS  
19      FOUND BILLY COPE WAS STONED   DIFFERENT PEOPLE REACT  
20      DIFFERENT WAYS   DIFFERENT WAYS   AND TO SAY, WELL,  
21      YOU KNOW WHEN YOU FIND YOUR DAUGHTER DEAD YOU GOT TO  
22      FALL DOWN ON THE FLOOR AND BEAT YOUR HANDS AND PUNCH  
23      A HOLE IN THE WALL AND SCREAM AND YELL   WHERE IS  
24      THAT WRITTEN DOWN?   SOME PEOPLE SHUT DOWN   IT'S JUST  
25      TOO HORRIBLE TO CONSIDER   I'M NOT EVEN GOING TO

1        THINK ABOUT IT        SOME PEOPLE REACT IN DIFFERENT WAYS  
2        AND IF YOU THINK THAT'S EVIDENCE OF A RAPE AND  
3        MURDER, YOU ARE JUST NOT ASKING ENOUGH QUESTIONS  
4        YOU ARE RUSHING TO JUDGMENT IS WHAT YOU ARE DOING  
5        PLEASE DON'T DO THAT        BILLY COPE INVITED THE POLICE  
6        INTO HIS HOME        HE COOPERATED WITH THEM        HE SPOKE TO  
7        THEM, GAVE THEM INFORMATION        HE SPOKE TO DETECTIVE  
8        BURRIS FIRST THING        WENT DOWN TO THE STATION, TALKED  
9        TO LIEUTENANT HERRING, VOLUNTARILY WENT TO THE  
10       HOSPITAL, GAVE A DNA SAMPLE, BLOOD SAMPLE, HAIR  
11       SAMPLE, ALL THAT STUFF       HE WASN'T LIKE, OH, I NEED  
12       TO TALK TO MY LAWYER       OR, YOU KNOW, I'M NOT SAYING  
13       ANYTHING       OR HE DIDN'T LEAVE       HE COOPERATED       BUT  
14       BY THE END OF THE DAY, LADIES AND GENTLEMEN, AFTER  
15       TALKING TO THE POLICE AND SAYING, YOU CAN GO, AFTER  
16       FINDING WHAT HE DID AT SIX O'CLOCK, TAKING THE  
17       SEDATIVE THAT THE DOCTOR PRESCRIBED FOR HIM, TRIED TO  
18       EAT, COULDN'T       WENT OVER TO HIS MOTHER'S HOUSE THAT  
19       NIGHT GOING TO TRY TO SLEEP       DIDN'T THINK HE WAS  
20       GOING TO BE ABLE TO       AND THAT'S WHEN THE PEOPLE WHO  
21       HAD RUSHED TO JUDGMENT DECIDED TO POUNCE       NOT IN THE  
22       AFTERNOON, NOT THE NEXT DAY, BUT WHEN HE'S ABOUT TO  
23       GO DOWN, WHEN HE'S TOTALLY PHYSICALLY, MENTALLY AND  
24       EMOTIONALLY EXHAUSTED THAT'S THE TIME THEY SAY, COME  
25       ON, BILLY       LET'S GO TALK       THEY TAKE HIM AWAY FROM

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1 HIS MOTHER'S HOUSE AND PUT HIM IN A LITTLE  
2 INTERROGATION ROOM DOWN AT THE POLICE DEPARTMENT AND  
3 THEN TWO OFFICERS WORK HIM OVER AND, FOLKS, THAT  
4 INTERVIEW STARTED AT 10 45 P M AND WENT TO 11 AND  
5 WENT TO 11 30 AND IT WENT TO 12 AND IT 12 30 AND 1  
6 O'CLOCK AND TWO O'CLOCK AT 2 30 AND ALMOST THREE, IN  
7 THE MIDDLE OF THE NIGHT, AND FOR FOUR HOURS BILLY  
8 COPE SAID I DON'T KNOW WHAT HAPPENED I DIDN'T DO  
9 IT AND THESE OFFICERS RELENTLESSLY POUNDED AWAY, WE  
10 KNOW YOU DID IT, BILLY YOU'LL FEEL BETTER IF YOU  
11 JUST ADMIT IT WE KNOW IT HAPPENED JUST TELL US  
12 JUST ADMIT IT NOW, FOLKS, I SUBMIT THEY ARE  
13 SUPPOSED TO BE BACK AT THE CRIME SCENE TAKING  
14 FINGERPRINTS AND LOOKING FOR MARKS AROUND THE DOORS  
15 AND MAYBE FOOTPRINTS THAT ARE GOING TO BE GONE THE  
16 NEXT TIME IT RAINS, AND THERE IN THE WEE HOURS IN THE  
17 MORNING THEY ARE POUNDING AWAY AT THIS MAN THIS MAN  
18 WHO IS EXHAUSTED, WHO IS MEDICATED, SLEEPLESS, AND  
19 JUST GOT THE SHOCK OF HIS ENTIRE LIFE, AND THEY  
20 FINALLY GIVE UP AND YOU ARE GOING, HOPEFULLY, HEAR  
21 THAT TAPE, THAT FOUR HOUR CONVERSATION THAT MR COPE  
22 TRIED TO HAVE WITH THESE POLICE OFFICERS WOULDN'T  
23 LET HIM FINISH HIS SENTENCE WOULDN'T LET HIM SAY  
24 WHAT HE WANTED TO SAY KEPT COMING AT HIM ALL THE  
25 TECHNIQUES GOOD COP/BAD COP, YELL AT HIM, TALK

1 ABOUT RELIGION, TALK ABOUT THIS, TALK ABOUT THAT,  
2 CONSTANTLY STEADFASTLY BILLY COPE SAID, I DIDN'T DO  
3 —IT. I DIDN'T DO IT LOOK, THESE ARE THE CLOTHES I  
4 HAD ON PLEASE TEST THEM HERE'S MY HANDS I  
5 HADN'T WASHED THEM ALL DAY, TEST MY HANDS I'LL TAKE  
6 A POLYGRAPH I DIDN'T DO IT MORE INVESTIGATIVE  
7 MATERIALS THAT THEY JUST DECIDED NOT TO BECAUSE HE  
8 DID IT HE'S GUILTY THEY RUSHED TO JUDGMENT WE  
9 DIDN'T NEED ANY MORE INVESTIGATION WE'RE NOT GOING  
10 TO, WE'RE NOT GOING TO TEST YOUR HANDS OR YOUR  
11 CLOTHES WE'RE NOT GOING TO TAKE THE POLYGRAPH NO,  
12 YOU DID IT HE WOULDN'T ADMIT IT THREE O'CLOCK  
13 MURDER WARRANT BOOK HIM

14 NOW AT 4 20 THEY TOOK HIM DOWN STAIRS  
15 OR UPSTAIRS OR WHEREVER THEY TAKE HIM AND THEY BOOK  
16 HIM FOR MURDER ONE AND THEN THEY GIVE HIM  
17 POLYGRAPH YEAH, THEN THEY GIVE HIM THE POLYGRAPH  
18 WELL, THE STATE IS GOING TO TELL YOU, LADIES AND  
19 GENTLEMEN, THAT HE DIDN'T DO SO WELL ON THAT  
20 POLYGRAPH WAIT WAIT WAIT UNTIL ALL THE EVIDENCE  
21 IS IN WE'LL HAVE A THING OR TWO TO TELL YOU ABOUT  
22 THAT POLYGRAPH YOU'RE GOING TO HEAR IT FROM THE  
23 STATE THEY GET TO GO FIRST WAIT

24 BUT THAT MORNING AFTER HE'S, AT 4 21  
25 HE'S BEEN ARRAIGNED FOR MURDER, THEY PUT HIM IN A

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1       HOLDING CELL   OH, YOU CAN'T SLEEP IN THERE   THEY  
2       TAKE HIM OUT THE NEXT MORNING ABOUT THREE OR FOUR  
3       HOURS LATER, COME ON, COPE, AND THEY TAKE HIM DOWN  
4       AND GIVE HIM POLYGRAPH   IF HE HAD DOSED OFF IT AIN'T  
5       SLEEP, VERY LITTLE TO EAT   HE DIDN'T HAVE ANY  
6       GLASSES   HE LOST HIS GLASSES IN THE PROCESS   HE HAD  
7       A SEDATIVE, COMPLETELY EXHAUSTED   YEAH, WE ARE GOING  
8       TO GIVE YOU THE POLYGRAPH   AND WHEN HE FOUND OUT  
9       THAT HE DIDN'T DO SO WELL ON THE POLYGRAPH HE STARTED  
10      TO LOSE FAITH IN HIMSELF   HE STARTED TO DOUBT  
11      HIMSELF   AND YOU ARE GOING TO HEAR DETECTIVE BAKER  
12      TELL YOU WHAT HE SAID AFTER THEY TOLD HIM THAT YOU  
13      DIDN'T DO GOOD ON THE POLYGRAPH   WE GOT WITNESSES,  
14      BILLY   WE GOT OTHER EVIDENCE, BILLY   YOU DID IT AND  
15      NOTHING OF THE SORT, STARTED TO DOUBT HIMSELF AND HIS  
16      QUESTION TO DETECTIVE BAKER IS   GOD, COULD I HAVE  
17      DONE THIS AND NOT REMEMBER IT BECAUSE I DON'T  
18      REMEMBER IT   AND FROM THERE THINGS STARTED GOING  
19      DOWNHILL   AND HE GAVE A STATEMENT IMPLICATING  
20      HIMSELF   YES, HE DID   AND HE GAVE HIM ANOTHER  
21      STATEMENT IMPLICATING HIMSELF AND HE DID IT FOUR  
22      TIMES DID THIS VIDEO RE-ENACTMENT   YOU ARE GOING TO  
23      SEE ALL THAT   AND YOU ARE GOING TO BE TEMPTED,  
24      LADIES AND GENTLEMEN, TO SAY -- WELL, THAT'S IT  
25      THAT'S IT   GAME OVER   HE'S ADMITTED IT   HORRIBLE

1 CRIME GUILTY BUT THANK GOD THE POLICE DID MANAGE  
2 TO GET A DNA SAMPLE AND IT WASN'T BILLY'S IT WAS  
3 THAT MAN'S

4 BILLY GAVE FOUR STATEMENTS AND ONE  
5 VIDEO RE-ENACTMENT EVERY SINGLE ONE OF THESE  
6 STATEMENTS DIFFERED FROM THE LAST ONE EVERY SINGLE  
7 ONE OF THESE STATEMENTS DISPUTED OR CONTRADICTED  
8 THINGS THAT WERE SAID IN OTHER STATEMENTS THE  
9 POLICE OFFICER TOOK THE STATEMENTS, DIDN'T BELIEVE  
10 WHAT HE WAS TELLING THEM, THAT'S WHY THEY KEPT GOING  
11 BACK AND ASKING HIM AGAIN ARE YOU SURE LET'S TALK  
12 ABOUT THIS AGAIN THE STATEMENTS ARE FILLED WITH  
13 REFERENCES TO DREAMS AND THE RAPTURE AND HEARING  
14 VOICES AND SEEING THE MOON INSIDE THE HOUSE AND SLEEP  
15 WALKING THAT'S WHAT THOSE STATEMENTS ARE THAT'S  
16 WHAT YOU HEAR FROM, THAT'S HIS CONFESSION FROM BILLY  
17 WAYNE COPE MOST IMPORTANTLY YOU ARE NOT GOING TO  
18 RUSH TO JUDGMENT IF YOU ARE NOT GOING TO LET THAT BE  
19 IT ALL COMPARE THOSE STATEMENTS, NOT ONLY TO EACH  
20 OTHER, BUT WHAT DO YOU COMPARE IT TO? THE SCIENTIFIC  
21 EVIDENCE COLLECTED AT THE CRIME SCENE

22 NOW, LADIES AND GENTLEMEN, I ALREADY  
23 TOLD YOU THE POLICE DID NOT COLLECT NEARLY ENOUGH  
24 EVIDENCE AS THEY SHOULD IN A MURDER CASE THERE IS  
25 NO QUESTION YOU ARE GOING TO HEAR PEOPLE TALK ABOUT

1 HOW BAD THE INVESTIGATION WAS, BUT THANK GOODNESS  
2 THEY GOT SOME, THEY COULDN'T HELP BUT GET SOME  
3 SCIENTIFIC EVIDENCE AND, LADIES AND GENTLEMEN, LET  
4 ME TELL YOU THE CONFESSIONS, PICK ONE, CONTRADICT THE  
5 SCIENTIFIC EVIDENCE THEY CONTRADICT IT I MEAN  
6 JUST FOR EXAMPLE, HE CLAIMED THAT HE JUMPED ON HIS  
7 DAUGHTER'S BACK, KEPT HER FACE DOWN IN THE BED, AND  
8 STRANGLED HER WITH TWO HANDS HE SAID THAT'S WHAT HE  
9 SAID WELL, THE EVIDENCE FROM THE STATE'S OWN  
10 WITNESS IS GOING TO BE, THIS WAS NOT A TWO HANDED  
11 STRANGLE FROM THE BACK IT WAS ONE HANDED STRANGLE  
12 FROM THE FRONT NOW THAT'S AN IMPORTANT DETAIL HE  
13 SAID THAT HE CHOKED HER WITH A STRIP OF CLOTH OFF  
14 THAT BLANKET YOU HEARD MR THOMPSON TALK ABOUT BUT  
15 THE EVIDENCE SAYS, NO LIGATURE MARKS ON HER THROAT  
16 IF SHE HAD BEEN STRANGLED WITH A STRIP OF BLANKET IT  
17 WOULD HAVE LEFT LIGATURES IT DIDN'T NONE WASN'T  
18 THERE HE SAID THAT HE HIT HER FACE DOWN, HIT HER ON  
19 THE BACK AND SIDES THAT'S WHAT HE SAID IN HIS  
20 CONFESSION THERE IS NOT ONE BRUISE ON HER BACK OR  
21 ON ALL HER SIDES ALL OF HER BRUISING, ALL OF THE  
22 HORRIBLE THINGS THAT HAPPENED TO THAT POOR GIRL,  
23 HAPPENED TO HER FROM THE FRONT  
24 MR THOMPSON MENTIONED THE  
25 MASTURBATION YUP BILLY SAID, YEAH, I MASTURBATED



1 AT THE END OF THE BED I DIDN'T HAVE ANYTHING, JUST  
2 MY HAND, AND I DON'T KNOW WHERE IT WENT IT WENT  
3 SOMEWHERE THERE IS NOT A DROP OF BILLY COPE'S SEMEN  
4 IN THAT ROOM NOT ON THE BED NOT ANYWHERE HE  
5 DIDN'T MASTURBATE IN THERE HE SAID IN HIS  
6 CONFESSION THAT HE HAD MASTURBATED AND HAD A CLIMAX  
7 I HATE TO TALK ABOUT THIS TO Y'ALL, BUT THERE IS JUST  
8 NO EVIDENCE THAT THAT HAPPENED

9 MOST IMPORTANTLY, IF I SAY ANYTHING  
10 THAT YOU REMEMBER, HE DIDN'T SAY ONE, HE SAID HE DID  
11 IT HE SAID HE DID IT ALL HE DIDN'T SAY ONE WORD  
12 ABOUT THIS MAN HERE WHO LEFT HIS SEMEN AND SALIVA AT  
13 THE SCENE DID NOT MENTION JAMES SANDERS NOW,  
14 FOLKS, DOESN'T COVER UP THE CRIME, COPE CONFESSES AND  
15 SAYS, I DID IT IT'S ALL ME IT'S ALL ME DIDN'T  
16 MENTION THE ONE MAN THAT WE KNOW THAT WAS THERE FOR A  
17 SEXUAL PURPOSE

18 WHY DOES NONE OF THE SCIENTIFIC  
19 EVIDENCE MATCH THE CONFESSION? WHY WERE THE  
20 CONFESSIONS CONTRADICTORY AND WRONG? I GOT AN ANSWER  
21 FOR YOU I WOULD SUGGEST THAT YOU CONSIDER BECAUSE  
22 IT'S A FALSE CONFESSION IT'S A CONFESSION THAT WAS  
23 NOT VOLUNTARY IT WAS A CONFESSION THAT WAS  
24 NEGOTIATED AND WHEELED AND FORCED AND COERCED OUT OF  
25 MR COPE WHAT IS A CONFESSION? IT'S A VOLUNTARY

1       ACCEPTANCE OF GUILT     VOLUNTARY     WELL, FOLKS, IF  
2       IT'S COERCED OR FORCED OR TRICKED OUT OF YOU, THAT'S  
3       NOT A REAL CONFESSION     ARE THERE THINGS, IS THERE  
4       SUCH A THING AS A FALSE CONFESSION?     WELL OF COURSE  
5       THERE ARE     PEOPLE DO IT ALL THE TIME     THEY DON'T IT  
6       A LOT, IT'S PRETTY RARE, BUT I'M SURE YOU HEARD OF  
7       IT     SOME PEOPLE LIE TO PROTECT OTHER PEOPLE     SOME  
8       PEOPLE LIE BECAUSE IT IS BEATEN OUT OF THEM     SOME  
9       PEOPLE LIE AND CONFESS TO GET POLICE OFF OF THEIR  
10      BACK     SOME PEOPLE, YOU KNOW, GET CONFUSED AND BEATEN  
11      DOWN AND JUST SORT JUST LOSE IT     DOES IT HAPPEN?  
12      YES, IT DOES     DOES IT HAPPEN VERY OFTEN?     NO, IT  
13      DOES NOT     BUT IT DOES HAPPEN AND I SUBMIT IT  
14      HAPPENED IN THIS CASE     IN FACT, LADIES AND  
15      GENTLEMEN, THERE IS AN ENTIRE SCIENCE THAT'S GROWN UP  
16      AROUND THIS PHENOMENA OF FALSE CONFESSIONS     AND  
17      THERE ARE RESPECTED AND ACCOMPLISHED DOCTORS,  
18      PSYCHIATRISTS, PSYCHOLOGISTS, THAT ARE GOING TO COME  
19      AND TELL YOU ABOUT FALSE CONFESSIONS     THEY ARE GOING  
20      TO EXPLAIN IT     THEY ARE GOING TO SHOW YOU  
21      SIMILARITIES WITH OTHER CASES, AND THEY ARE GOING TO  
22      CONFIRM TO YOU THAT THIS TYPE OF BEHAVIOR OCCURS  
23      I'M SURE YOU READ ABOUT IT AND THEY ARE GOING TO TELL  
24      YOU ABOUT IT  
25                                WAS THIS A FALSE CONFESSION?     WELL,

1        YOU KNOW WHAT I THINK    BUT IT'S WHAT YOU THINK  
2        THAT'S IMPORTANT AND THAT WILL BE YOUR DECISION TO  
3        MAKE    I THINK THAT THIS CONFESSION WHICH CAME AFTER  
4        THE MURDER WARRANT, WHICH CAME -- YEAH, AFTER HE HAD  
5        BEEN ARRESTED AND THE MURDER WARRANT, BUT BEFORE THEY  
6        FOUND OUT WHO REALLY DID IT, THAT'S WHEN THIS  
7        CONFESSION OCCURRED    I THINK IT'S AT LEAST SUSPECT  
8        YOU ARE GOING TO SEE AND ALL I CAN ASK YOU TO DO WHEN  
9        YOU ARE MAKING THE DECISION IS THIS A FALSE  
10       CONFESSION OR NOT, WAIT FOR THE EVIDENCE    WHAT  
11       EVIDENCE?    I AM GOING TO MAKE SOME PREDICTIONS AND  
12       HOLD ME TO THEM    NOT ONE PIECE OF SCIENTIFIC  
13       EVIDENCE IS GOING TO BE PRESENTED FROM THAT STAND  
14       THAT IS GOING TO IMPLICATE BILLY WAYNE COPE, NOT ONE  
15       YOU ARE GOING TO SEE SOME THAT LOOK LIKE IT    WAIT  
16       WAIT    WAIT TO SEE WHAT WE HAVE TO SAY ABOUT IT  
17                                NO FINGERPRINTS    NO BLOOD SPLATTER  
18       NO DNA    WELL, THEY ARE GOING TO FIND SOME DNA AND IT  
19       WASN'T IN AMANDA'S ROOM    AND YOU KNOW WHAT, BILLY  
20       WAYNE COPE IS HUMAN AND HE'S A MAN AND HE MASTURBATED  
21       SOMETIMES AND SOMETIMES MASTURBATED IN A WASH RAG  
22       OKAY    I HATE TO TALK TO YOU ABOUT IT    IT'S IN THE  
23       HALLWAY    IT'S HIDDEN UP UNDERNEATH A TABLE OR A  
24       BOOKCASE    THAT'S NOT EVIDENCE THAT HE RAPED HIS  
25       DAUGHTER    THEY ARE GOING TO BRING IT UP, IT'S GOING

1 TO MAKE YOU DISGUSTED IT'S GOING TO DISTRACT YOU  
2 IT'S GOING TO MAKE YOU RUSH TO JUDGMENT THAT'S NOT  
3 SCIENTIFIC EVIDENCE OF ANY RAPE OR MURDER THE  
4 SCIENTIFIC EVIDENCE IN THIS CASE IS GOING TO SAY THAT  
5 THAT MAN RAPED AND MURDERED AMANDA COPE THAT MAN'S  
6 SEMEN IS ON HER THIGH AND IS ON HER CLOTHES AND THAT  
7 MAN'S SEMEN -- EXCUSE ME, HIS SALIVA IS ON THE BITE  
8 MARK ON HER RIGHT BREAST WHEN HE BIT HER  
9 NO HAIR FIBERS NO BLOOD SPLATTER ON  
10 HIS CLOTHES NOT ONE PIECE OF SCIENTIFIC EVIDENCE IS  
11 GOING TO IMPLICATE BILLY COPE IT'S ALL GOING TO  
12 THIS MAN HERE THIS FALSE EVIDENCE THAT'S GOING TO  
13 BE PRESENTED IN THIS COURTROOM AGAINST MY CLIENT  
14 WAIT PLEASE FOLKS, I GET, I'M PASSIONATE ABOUT  
15 THIS CASE AND I DON'T MEAN TO, I TOLD MYSELF, DON'T  
16 YELL AT THEM, AND I'M SORRY I DON'T MEAN TO BE  
17 SPEAKING, I'M SPEAKING FROM MY HEART, AND I DON'T  
18 MEAN TO HOLLER AT YOU, BUT PLEASE WAIT I'VE ASKED  
19 YOU A HUNDRED TIMES TO WAIT YOU HEARD JUDGE HAYES  
20 TO SAY IT SAY IT AGAIN BECAUSE THAT'S WHAT YOU NEED  
21 TO DO AS HE SAID, IF YOU ARE GOING TO BE FAIR,  
22 WAIT, WAIT UNTIL IT'S ALL IN AND ADD IT ALL UP AND  
23 YOU ARE GOING TO SEE THAT THIS RIDICULOUS CONSPIRACY  
24 THEORY, THEY'VE GOT NO EVIDENCE PUTTING BILLY COPE  
25 AND JAMES SANDERS TOGETHER THEY DON'T HAVE ONE

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1 PERSON THAT'S GOING TO COME IN THIS ROOM AND THAT'S  
2 GOING TO SAY THAT THEY STOOD IN ONE PLACE OR SAW THEM  
3 TOGETHER OR ANY TELEPHONE CALLS OR ANYTHING YOU ARE  
4 GOING TO SEE THAT THIS MAN JUST MOVED IN THE  
5 NEIGHBORHOOD CONSPIRACY? YOU GOT TO KNOW EACH  
6 OTHER YOU GOT TO ACT TOGETHER THEY DON'T HAVE ANY  
7 OF THAT THEY MADE A RUSH TO JUDGMENT THEY  
8 WHEELED A CONFESSION OUT OF THIS POOR MAN THEY  
9 BROKE HIM DOWN HE GOES ALONG WITH WHATEVER THEY  
10 WANT AND THEN THEY FIND OUT WHO REALLY DID IT AND  
11 THEY DON'T HAVE THE COURAGE TO ADMIT TO YOU THEY MADE  
12 A MISTAKE AND THAT'S WHY WE'RE HERE FOR TWO WEEKS,  
13 FOLKS JUST WAIT LET IT ALL COME IN

14 WE GOT TO GO LAST I'M SORRY GIVES US A  
15 CHANCE I THINK IF YOU GIVE US A CHANCE AND YOU  
16 JUDGE THE EVIDENCE FAIRLY, YOU ARE GOING TO SEE THAT  
17 THE CASE AGAINST BILLY COPE IS ONE THING AND THAT'S  
18 THOSE RIDICULOUS CONFESSIONS OF A BROKEN MAN SINCE  
19 RETRACTED AND NO SCIENTIFIC EVIDENCE AT ALL AND  
20 THAT THE CONFESSIONS ARE WRONG YOU'LL FIND OUT THAT  
21 THE EVIDENCE CLEARLY POINTS TO THE PERPETRATOR IN  
22 THIS CASE AND THAT'S THE SIMPLEST THEORY OF WHAT  
23 HAPPENED IN THIS CASE THANK YOU FOR YOUR ATTENTION  
24 THE COURT LET'S TAKE A BREAK WE'VE  
25 BEEN AT IT FOR A LITTLE WHILE BEFORE WE HEAR FROM

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1 MR SANDERS' COUNSEL, WE'LL TAKE A BREAK THANK YOU

2 (COURT'S IN RECESS AT 3 O'CLOCK )

3 (COURT RESUMES AT 3 10 )

4 THE COURT BRING IN THE JURY

5 (THE JURY RETURNS TO THE COURTROOM AT

6 3 10)

7 THE COURT ALL RIGHT, MR GREELEY

8 MR GREELEY MAY IT PLEASE THE COURT,

9 YOUR HONOR

10 OPENING STATEMENT BY MR GREELEY

11 MR FOREMAN, LADIES AND GENTLEMEN OF  
12 THE JURY, I'M LELAND GREELEY NOW THE OTHER DAY WHEN  
13 WE STARTED DRAWING A JURY YOU MET MY CLIENT JAMES  
14 SANDERS WHO IS SEATED OVER THERE BESIDE ME WITH ME  
15 YOU'VE HEARD THE OTHER ATTORNEY SAY THANK YOU FOR  
16 BEING HERE THOSE TYPES OF THINGS JURY DUTY IS AN  
17 IMPORTANT DUTY IN OUR COUNTRY WE HAVE TO HAVE  
18 CITIZENS WHO WILL COME IN AND WILL ESSENTIALLY STAND  
19 BETWEEN THE STATE AND AN INDIVIDUAL WHO IS ACCUSED OF  
20 A CRIME AND THAT'S WHAT YOU ARE TO DO YOUR JOB HERE  
21 IS VERY, VERY IMPORTANT AS ONE OF THE OTHER  
22 ATTORNEYS SAID, YOU ARE THE FINDERS OF THE FACT IN  
23 THIS CASE NOW I'M GOING TO TALK ABOUT THAT JUST A  
24 LITTLE BIT MORE IN A MINUTE I'M NOT GOING TO GO  
25 BACK THROUGH ALL THE ALLEGED FACTS AND EVIDENCE THAT

1        YOU ARE GOING TO HEAR IN THIS CASE    YOU'VE GOT A  
2        GOOD TWO WEEKS OF INFORMATION THAT'S GOING TO BE  
3        COMING OUT THAT YOU ARE GOING TO HAVE TO DIGEST    BUT  
4        THE IMPORTANCE OF A JURY IS TO HAVE 12 PEOPLE, AND IN  
5        THIS PARTICULAR SITUATION WE HAVE TWO WHO ARE ALSO  
6        ALTERNATES WHO COULD VERY WELL END UP BEING ONE OF  
7        THE 12, SO YOU ALL ARE AS IMPORTANT AS A GROUP EACH  
8        TO THE OTHER    BUT YOUR ROLE, YOUR JOB, IS TO SIT AS  
9        THE OBJECTIVE PERSON    THE OBJECTIVE PERSON    AND  
10       SOMETIMES WHEN YOU DO THAT YOU HAVE TO REMOVE  
11       YOURSELF FROM THE SITUATION BECAUSE IT'S VERY, VERY  
12       EASY FOR DECISIONS TO BE MADE BASED UPON EMOTION, TO  
13       BE MADE BASED UPON ANGER    BUT YOU AS A JUROR WHEN  
14       YOU TOOK YOUR OATH YOU ESSENTIALLY SAID THAT YOU ARE  
15       GOING TO DO THIS    YOU'RE GOING TO REMOVE YOURSELF  
16       YOU ARE GOING TO BE OBJECTIVE    AND ONE OF MY JOBS IS  
17       TO TRY AND MAKE SURE THAT YOU ARE ABLE TO DO THAT  
18       SOME OF THE OTHER ATTORNEYS HAVE TALKED TO YOU ABOUT  
19       HOW SOME OF THESE THINGS THAT YOU ARE GOING TO SEE  
20       ARE NOT FUN    HOW IT'S GOING TO BE DIFFICULT  
21       MR    FOREMAN AND LADIES AND GENTLEMEN OF THE JURY, YOU  
22       ARE ABOUT TO WITNESS ONE OF THE MOST HORRIBLE THINGS  
23       THAT CAN OCCUR    NOT ONLY ARE YOU GOING TO WITNESS  
24       IT, BUT YOU ARE GOING TO SEE THINGS, AND I TELL YOU  
25       THIS SO THAT YOU CAN BEGIN TO PREPARE YOURSELF AS AN

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1 OBJECTIVE JUROR, ONE WHO THROUGH STRENGTH AND  
2 CONVICTION CAN REMOVE YOURSELF AND TRY AND NOT LET  
3 EMOTION MAKE YOUR DECISION

4 I SUBMIT TO YOU THAT I EXPECT THAT YOU  
5 ARE GOING TO SEE A VIDEO TAPE OF A HOME THAT IS  
6 SQUALID SQUALID THE VIDEO TAPE HAS ROACHES IN THE  
7 REFRIGERATOR SCAMPERING AROUND, ON THE FLOORS OLD  
8 FOOD IN TRASH BAGS, HANGING OUT ON THE FLOOR WITH  
9 ROACHES ON THEM IT'S VERY UPSETTING YOU HAVE TO  
10 REMOVE YOURSELF FROM THIS I SUBMIT TO YOU YOU ARE  
11 ALSO GOING TO SEE A VIDEO OF A FATHER WHO TAKES THE  
12 POLICE TO THE SCENE OF THE CRIME ON A SUNNY DAY  
13 APPROXIMATELY THREE OR FOUR DAYS AFTER THIS INCIDENT  
14 AND YOU ARE GOING TO SEE THIS FATHER EXPLAIN IN  
15 DETAIL TO THE POLICE EXACTLY HOW HE BEAT, STRANGLED,  
16 AND I SUBMIT TO YOU SEXUALLY MUTILATE HIS 12 YEAR OLD  
17 LITTLE GIRL AND HE'S GOING TO RE-ENACT IT ON THE  
18 VIDEO AND YOU ARE GOING TO HAVE TO WATCH IT AND  
19 YOU'VE GOT TO SET THAT ASIDE YOU'VE GOT TO SET  
20 ASIDE THAT EMOTION YOU ARE GOING TO, I SUBMIT TO  
21 YOU, SEE PHOTOGRAPHS OF A DEAD 12-YEAR-OLD LITTLE  
22 GIRL ACTUALLY SHE WAS A MATURE GIRL AT THE AGE OF  
23 12, SHE MATURED EARLY, BUT YOU ARE GOING TO SEE  
24 PHOTOGRAPHS OF A DEAD 12-YEAR-OLD GIRL ON HER BED  
25 YOU ARE GOING TO SEE CLOSE UP PHOTOGRAPHS OF A DEAD



1 12-YEAR-OLD LITTLE GIRL AND WHEN YOU THINK YOU'VE  
2 HAD ENOUGH AND YOU CAN'T TAKE ANYMORE YOU ARE GOING  
3 TO HAVE TO, BECAUSE I SUBMIT TO YOU, YOU ARE GOING  
4 PROBABLY GOING TO SEE POST MORTEM EXAMINATION  
5 PHOTOGRAPHS OF THIS GIRL I TELL YOU THIS BECAUSE  
6 YOUR MOST DIFFICULT JOB IN THIS CASE IS GOING TO BE  
7 AN OBJECTIVE JUROR AND IF YOU CAN DO THAT AND IT  
8 WILL BE DIFFICULT AND THERE WILL BE TIMES WHEN YOU  
9 MAY FALL DOWN AND NOT BE ABLE TO DO THAT, BUT IF YOU  
10 RECOVER AND DO THAT, THEN WE MAY BE ABLE TO HAVE  
11 JUSTICE RENDERED IN THIS CASE AND THAT'S WHAT IS  
12 SOUGHT, JUSTICE BEING RENDERED IN THIS CASE

13 I'M GOING TO GO TO ANOTHER TOPIC NOW  
14 WHO IS ON TRIAL HERE? YOU'VE ALWAYS HEARD SINCE  
15 YOU'VE BEEN HERE MR COPE AND MR SANDERS, THEY ARE  
16 ON TRIAL FOR THESE CHARGES, BUT IN OUR COUNTRY, SINCE  
17 THE BIRTH OF OUR COUNTRY, ONE OF THE GREAT LAWS OF  
18 OUR COUNTRY IS THIS OUR LAW SAYS, AND THIS IS A  
19 SYNOPSIS AND A SUMMARY, OUR LAW SAYS THAT IF THE  
20 GOVERNMENT IS GOING TO TAKE IT'S VERY, VERY LARGE  
21 FINGER WHICH IT HAS A VERY LARGE FINGER AND POINT IT  
22 AND ACCUSE AN INDIVIDUAL OF A CRIME, THAT BEFORE THAT  
23 PERSON CAN BE FOUND TO HAVE COMMITTED THAT CRIME, TO  
24 HAVE BEEN FOUND GUILTY, THE STATE HAS TO PROVE THE  
25 GUILT BEYOND A REASONABLE DOUBT AND SEE THIS IS

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1 ANOTHER ONE OF THE PRECEPTS THAT YOU ARE GOING TO  
2 HAVE TO ADOPT IN THIS AWFUL, HORRIBLE CASE, THAT THE  
3 STATE HAS TO PROVE THE INDIVIDUALS GUILTY BEYOND A  
4 REASONABLE DOUBT IT IS REQUIRED TO PROVE MR COPE  
5 GUILTY BEYOND A REASONABLE DOUBT IT IS REQUIRED TO  
6 PROVE MR SANDERS GUILTY BEYOND A REASONABLE DOUBT  
7 AND AT THE END OF THIS TRIAL HIS HONOR IS GOING TO  
8 GIVE YOU AN INSTRUCTION AS TO WHAT THE DEFINITIONS OF  
9 THOSE ARE BUT THROUGH ALL THE HORRIBLENESS OF THIS  
10 MATTER I ASK YOU THAT YOU REMEMBER THAT BECAUSE  
11 YOUR REMEMBRANCE OF THAT IS KEY TO THE JUDICIAL  
12 SYSTEM WORKING THE WAY IT IS OUR SYSTEM NEVER EVER  
13 REQUIRES SOMEONE ACCUSED OF HAVING TO PROVE THAT THEY  
14 ARE NOT GUILTY AND THAT IS WHY NO ONE WHO COMES  
15 ACCUSED IN THE CRIMINAL COURT HAS TO PRESENT ANY  
16 EVIDENCE, HAS TO DO ANYTHING, AND THE REASON IS  
17 BECAUSE IN MANY CIRCUMSTANCES IT'S DIFFICULT FOR  
18 PEOPLE TO PROVE A NEGATIVE HOW DOES ONE PROVE THAT  
19 THEY DIDN'T DO SOMETHING? THAT THEY DIDN'T DO AN  
20 AFFIRMATIVE ACT? SO THE LAW DOESN'T REQUIRE IT OF  
21 THEM IT REQUIRES THE GOVERNMENT TO PROVE IT SO  
22 WHOSE ON TRIAL? IN REALITY, IN THIS COURTROOM, THE  
23 STATE AND THEIR ALLEGATIONS AND THEIR ALLEGATIONS IN  
24 THIS CASE ARE AND THE THEORY, MIND YOU, THE THEORY OF  
25 THE STATE, IS THAT MR COPE AND MR SANDERS MUST HAVE

1        DONE THIS TOGETHER        THAT'S THEIR THEORY        THAT'S  
2        WHAT THEY SAY THAT THEY ARE GOING TO PROVE TO YOU  
3        THAT THEY DID THIS TOGETHER        SEE, THEY'VE GOT TO  
4        PROVE THAT BEYOND A REASONABLE DOUBT TO YOUR  
5        SATISFACTION        MR SANDERS IS CHARGED WITH MURDER  
6        HE'S CHARGED WITH TWO COUNTS OF CRIMINAL SEXUAL  
7        CONDUCT AND THE REASON FOR THAT IS YOU HEARD THE  
8        ALLEGATION ABOUT THE DUAL PENETRATION        HE'S ALSO  
9        CHARGED WITH CONSPIRACY TO COMMIT A CRIME AND AS YOU  
10       HEARD A CONSPIRACY IS AN AGREEMENT BETWEEN TWO PEOPLE  
11       TO COMMIT A CRIME       IT CAN EITHER BE EXPRESS OR IT  
12       CAN BE IMPLIED THROUGH THE ACTIONS, BUT THAT'S WHAT  
13       THEY HAVE TO PROVE       THAT'S WHAT THEY HAVE TO PROVE  
14       IN THIS CASE

15                        YOU SEE THIS EVENT HAPPENED I BELIEVE  
16       ON NOVEMBER 29, 2001, AND BASED UPON THE  
17       INVESTIGATION THERE WAS SOME ALLEGED BODY FLUIDS THAT  
18       THEY WERE TRYING TO IDENTIFY       AND I SUBMIT TO YOU  
19       YOU'RE GOING TO HEAR TESTIMONY ABOUT AT LEAST 8 OR 9  
20       OTHER PEOPLE WHOSE BODY FLUIDS WERE SUBMITTED FOR  
21       ANALYZATIONS TO SEE IF IT WAS THEM IN REGARDS TO  
22       AMANDA       IN SEPTEMBER 2002, APPROXIMATELY TEN MONTHS  
23       AFTER THIS INCIDENT, THE SOUTH CAROLINA LAW  
24       ENFORCEMENT DIVISION NOTIFIED THE SOLICITOR'S OFFICE  
25       THAT THEY BELIEVED THAT THEY HAD MADE AN ALLEGED

1 MATCH IN REGARDS TO THESE BODY FLUIDS AND MY CLIENT  
2 MR SANDERS THAT WAS IN SEPTEMBER 2002 MY CLIENT  
3 WAS NOT CHARGED WITH THIS CRIME AND CHARGED WITH THIS  
4 ALLEGED CONSPIRACY UNTIL 13 MONTHS LATER IN OCTOBER  
5 OF 2003 OKAY

6 ONE OF THE CENTRAL PEOPLE IN THIS CASE  
7 OF COURSE IS AMANDA AND I THINK THAT THROUGH THE  
8 TRIAL AND THROUGH THE TESTIMONY YOU ARE GOING TO SEE  
9 THAT AMANDA HAD DIFFERENT ROLES IN THE HOUSEHOLD  
10 YOU'VE ALREADY HEARD THE SOLICITOR TALKING ABOUT HOW  
11 AMANDA WAS HELPING JESSICA WITH HER HOMEWORK, OKAY  
12 DAD WAS THERE, BUT AMANDA WAS HELPING JESSICA WITH  
13 HER HOMEWORK BECAUSE MOM WORKED AT NIGHTS EVERY  
14 NIGHT AND YOU'VE HEARD HOW THEY WERE UP UNTIL ONE  
15 O'CLOCK, A SCHOOL NIGHT AMANDA WAS THE OLDEST  
16 DAUGHTER IN THIS SQUALID HOUSEHOLD AND SHE HAD LIVED  
17 IN THIS SQUALID HOUSEHOLD MOST OF HER LIFE SO WHEN  
18 THEY TALKED TO YOU ABOUT LISTENING TO THE EVIDENCE,  
19 COMMON SENSE, AND THINGS SUCH AS THIS, THIS IS A VERY  
20 INTERESTING COMPLICATED MATTER IT'S TOO BAD IT'S  
21 JUST SO HORRIBLE BUT AMANDA WAS DOING THINGS THAT A  
22 12 YEAR ORDER OLD SHOULD BE DOING AND LIKE MAKING HER  
23 HAVING TO HELP HER SISTER AND TO DO CHORES AND THINGS  
24 LIKE THAT I THINK THAT THERE WAS ANOTHER AREA THAT  
25 AMANDA SHOULDN'T HAVE BEEN DOING SINCE SHE WAS 12

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1 YEARS OLD IN THE HOUSEHOLD SHE WAS REQUIRED TO, SHE  
2 HAD TO FULFILL DUTIES I MENTIONED I'M NOT GOING TO  
3 TALK ABOUT THE FACTS AND I'M NOT YOU ARE GOING TO  
4 LISTEN TO ALL THE EVIDENCE

5 AND I'M GOING TO CLOSE NOW I'M NOT  
6 TALKING LONG BUT IN CLOSING I'M GOING TO RECITE A  
7 QUESTION FOR YOU AND I'M GOING TO RECITE IT THREE  
8 TIMES AND THE REASON THAT I'M GOING TO RECITE IT  
9 THREE TIMES IS BECAUSE I SUBMIT TO YOU IT IS A  
10 QUESTION I WOULD LIKE FOR YOU TO HAVE IN YOUR MIND  
11 ALL THE WAY THROUGH THIS CASE AND HERE IS THE  
12 QUESTION WHAT REASON WERE THE ACTIONS AGAINST THIS  
13 GIRL SO EXTREME? WHAT REASON WERE THE ACTIONS  
14 AGAINST THIS GIRL SO EXTREME? AND FINALLY, WHAT  
15 REASON WERE THE ACTIONS AGAINST THIS GIRL SO EXTREME?

16 THE COURT CALL YOUR FIRST WITNESS

17 MR BRACKETT THE STATE WOULD CALL LISA  
18 THOMPSON

19 LISA THOMPSON, BEING FIRST DULY  
20 SWORN, TESTIFIED AS FOLLOWS

21 DIRECT EXAMINATION BY MR BRACKETT

22 Q GOOD AFTERNOON, MA'AM WOULD YOU PLEASE STATE  
23 YOUR FULL NAME AND SPELL YOUR LAST FOR THE COURT  
24 REPORTER?

25 A YES IT'S LISA THOMPSON T-H-O-M-P-S-O-N

1 Q ALL RIGHT MA'AM, AND YOU ARE GOING TO NEED TO  
2 SPEAK UP BECAUSE YOU'VE GOT A SOFT VOICE THAT CHAIR  
3 DOESN'T MOVE AND THAT MICROPHONE DOESN'T EITHER IT  
4 IS KIND OF AN ODD SITUATION BUT KIND OF LEAN IN AS  
5 BEST YOU CAN SO EVERYONE CAN HEAR YOU CAN YOU TELL  
6 US WHERE YOU WORK?

7 A RIGHT NOW I WORK AT THE ROCK HILL POLICE  
8 DEPARTMENT

9 Q AND WHERE DID YOU WORK BACK IN NOVEMBER OF 2001?

10 A I WORKED FOR YORK COUNTY 911

11 Q OKAY WHERE IS THAT PHYSICALLY LOCATED?

12 A IT'S IN THE BASEMENT OF CITY HALL IN ROCK HILL

13 Q RIGHT THERE ON BLACK STREET?

14 A YES, SIR, BY EAST BLACK

15 Q HOW LONG HAD YOU WORKED THERE?

16 A AT THE TIME OF NOVEMBER, ABOUT SIX MONTHS

17 Q ALL RIGHT NOW CAN YOU TELL THE JURY JUST  
18 BRIEFLY SOME OF WHAT, BASICALLY WHAT YOUR DUTIES WERE  
19 WORKING THERE AT 911?

20 A I ANSWERED EMERGENCY 911 CALLS LIKE WHENEVER YOU  
21 CALLED 911 AND YOU NEEDED AN AMBULANCE OR THE FIRE  
22 DEPARTMENT, I ANSWERED THOSE CALLS AND DISPATCHED

23 Q NOW WHEN SOMEBODY CALLS IN TO 911, IS THERE SOME  
24 METHOD OF KEEPING TRACK OF WHO CALLED AND WHAT WAS  
25 SAID?

1       A     YES, SIR     WHenever you call 911 it  
2       AUTOMATICALLY POPS UP WITH YOUR NAME AND ADDRESS ON  
3       THE SCREEN AND WE AUTOMATICALLY PUT IT INTO THE  
4       COMPUTER AND TYPE IN WHATEVER THE CALL IS IF IT'S  
5       MEDICAL, FIRE, YOU KNOW, IF IT'S POLICE WE  
6       AUTOMATICALLY SWITCH IT OVER TO THE POLICE  
7       DEPARTMENT, BUT IF IT HAS TO DEAL WITH MEDICAL OR  
8       FIRE, WE PUT IT IN, AND IF WE'RE CALLED TAKING THEN  
9       OUR PARTNER DISPATCHED IT

10      Q     ALL RIGHT     AND ARE THESE CALLS RECORDED?

11      A     YES, SIR

12      Q     OKAY     NOW TURNING YOUR ATTENTION TO NOVEMBER 29  
13      OF 2001 SHORTLY AFTER SIX IN THE MORNING, WERE YOU  
14      WORKING AT THAT TIME?

15      A     YES, SIR

16      Q     ALL RIGHT     DID YOU HAVE OCCASION TO RECEIVE A  
17      REQUEST FOR ASSISTANCE BY A 911 CALL?

18      A     YES, SIR

19      Q     CAN YOU TELL THE JURY FROM WHAT LOCATION DID  
20      YOUR 911 OPERATOR EQUIPMENT INDICATE THAT THE CALL  
21      WAS COMING FROM?

22      A     IT SHOWED IT WAS COMING FROM 407 RICH STREET IN  
23      ROCK HILL

24      Q     AND WHAT COUNTY IS THAT IN?

25      A     IT'S IN YORK COUNTY

1 Q ALL RIGHT I'M SHOWING YOU WHAT'S BEEN MARKED  
2 STATE'S EXHIBIT 15 FOR IDENTIFICATION AND I'LL ASK  
3 YOU DO YOU RECOGNIZE THIS AUDIO CASSETTE TAPE THAT'S  
4 IN THIS?

5 A YES, SIR

6 Q AND HAVE YOU HAD AN OPPORTUNITY TO HEAR THAT  
7 RECORDING TODAY?

8 A YES, SIR

9 Q AND DOES THIS RECORDING CONTAINED IN STATE'S  
10 EXHIBIT 15, DOES THAT ---

11 MR MORTON WE HAVE NO OBJECTION TO THE  
12 AUTHENTICITY OF THE RECORDING, YOUR HONOR

13 MR GREELEY NO OBJECTION

14 THE COURT ALL RIGHT

15 MR BRACKETT I MOVE STATE'S EXHIBIT 15  
16 INTO EVIDENCE

17 THE COURT IT WILL BE ACCEPTED INTO  
18 EVIDENCE WITHOUT OBJECTION

19 (STATE'S EXHIBIT 15 911 TAPE RECEIVED INTO  
20 EVIDENCE )

21 Q DOES THAT TAPE RECORDING CONTAIN THE ENTIRETY OF  
22 YOUR CONVERSATION WITH THE CALLER THAT MORNING?

23 A YES, SIR

24 Q AND DID YOU HAVE ANYTHING ELSE TO DO WITH THAT  
25 CALLER AFTER THIS CONVERSATION ENDED?



1 A NO, SIR

2 Q SO THAT'S, THIS IS THE EXTENT OF YOUR KNOWLEDGE  
3 OF THIS CASE?

4 A YES, SIR

5 MR BRACKETT YOUR HONOR, I MOVE TO  
6 PUBLISH STATE'S EXHIBIT 15 AT THIS TIME?

7 THE COURT ALL RIGHT

8 MR BRACKETT WE JUST DUBBED THIS TAPE,  
9 YOUR HONOR LET ME JUST CHECK AND MAKE SURE THAT  
10 (TRYING TO PLAY THE 911 TAPE )

11 MR BRACKETT ARE YOU GOING TO GET THE  
12 OTHER COPY THANK YOU WE JUST DUBBED THIS TO MAKE  
13 IT AT THE BEGINNING OF THE TAPE BECAUSE THE OTHER ONE  
14 WAS IN THE MIDDLE OF THE TAPE, BUT APPARENTLY WE  
15 COMPLICATED MATTERS BY TRYING TO BE MR GREELEY,  
16 ANY OBJECTION?

17 MR GREELEY NO OBJECTION TO  
18 SUBSTITUTING

19 MR BRACKETT A COPY WE PROVIDED TO THE  
20 DEFENSE EARLIER WILL BE PLAYED HOPEFULLY, THIS ONE  
21 WORKS

22 (TAPE THE PLAYED FOR THE JURY )

23 Q THANK YOU, MA'AM PLEASE ANSWER ANY QUESTIONS  
24 COUNSEL FOR DEFENSE MAY HAVE  
25 CROSS EXAMINATION BY MR MORTON

1 Q MRS THOMPSON  
2 A YES  
3 Q HOW ARE YOU I'M JIM MORTON  
4 A UH-HUH  
5 Q I REPRESENT MR COPE  
6 A UH-HUH  
7 Q I'M GOING TO ASK YOU SOME QUESTIONS ABOUT THAT  
8 TAPE, NOT MANY ON THE TAPE MR COPE INITIALLY  
9 STATED THAT HE HAD LAST SEEN HER ABOUT TWO O'CLOCK  
10 AND THEN HE IMMEDIATELY CORRECTS HIMSELF TO ONE  
11 O'CLOCK, IS THAT CORRECT?  
12 A YES, SIR  
13 Q OKAY HE ALSO SAYS THAT HE NEEDS TO CALL HIS  
14 WIFE, RIGHT?  
15 A YES, SIR  
16 Q HE ALSO SAID THAT HIS DAUGHTER AMANDA HAD GONE  
17 TO LIVE WITH THE LORD, SHE WAS A CHRISTIAN?  
18 A YES, SIR  
19 Q RIGHT YOU ARE AWARE THAT BILLY COPE IS CHARGED  
20 WITH MURDER AND RAPE, YOU ARE AWARE OF THAT?  
21 A YES, SIR  
22 Q YOU ARE AWARE THAT THE ALLEGATIONS BROUGHT BY  
23 THE ROCK HILL POLICE DEPARTMENT AND THE SOLICITOR'S  
24 OFFICE ARE THAT BILLY COPE RAPED, MURDERED HIS  
25 DAUGHTER, WENT TO BED, WOKE UP, AND CALLED YOU, YOU

1 AWARE THAT'S WHAT THE ALLEGATIONS ARE?

2 A I WASN'T AWARE OF THE ALLEGATIONS I JUST KNEW  
3 IT WAS A MURDER TRIAL I DIDN'T KNOW THE WHOLE  
4 DETAILS OF IT

5 Q OKAY HE CALLED YOU FROM HIS HOME?

6 A YES, SIR

7 Q YOU SENT PEOPLE TO RESPOND?

8 A YES, SIR

9 Q THEY FOUND HIS DAUGHTER IN THE BED? IN HIS  
10 HOUSE?

11 A AS FAR AS I KNOW, YES, SIR

12 Q OKAY THANK YOU, MRS THOMPSON?

13 A THANK YOU

14 THE COURT MR GREELEY

15 MR GREELEY NO QUESTIONS, YOUR HONOR

16 THE COURT ANY REDIRECT

17 MR BRACKETT NO, SIR

18 THE COURT YOU CAN STEP DOWN AND BE

19 EXCUSED WE APPRECIATE YOUR TIME THANK YOU NEXT  
20 WITNESS

21 MR BRACKETT THE STATE CALLS JASON  
22 DILLON

23 JASON DILLON, BEING FIRST DULY  
24 SWORN, TESTIFIED AS FOLLOWS?

25 DIRECT EXAMINATION BY MR BRACKETT

1 Q SIR, WOULD YOU STATE YOUR FULL NAME AND SPELL  
2 YOUR LAST FOR THE COURT REPORTER?

3 A JASON CHARLES DILLON D-I-L-L-O-N

4 Q ALL RIGHT, SIR WHERE DO YOU WORK?

5 A FOR THE CITY OF ROCK HILL FIRE DEPARTMENT

6 Q AND HOW LONG HAVE YOU BEEN WITH THE FIRE  
7 DEPARTMENT?

8 A STARTING MY SEVENTH YEAR

9 Q SO YOU WERE EMPLOYED WITH THEM BACK IN NOVEMBER  
10 OF 2001?

11 A YES, SIR

12 Q AND WHAT DID YOU DO FOR THE FIRE DEFENDANT BACK  
13 IN NOVEMBER OF 2001?

14 A I WAS A FIREFIGHTER TWO EMT INTERMEDIATE ROCK  
15 HILL ENGINE ONE

16 Q WHERE ARE YOU STATIONED OUT OF?

17 A I WAS STATIONED ON ELIZABETH LANE IN DOWNTOWN  
18 ROCK HILL

19 Q THAT'S CLOSE TO THE DOWNTOWN AREA?

20 A YES, SIR

21 Q WOULD YOUR RESPONSIBILITY BE FOR, WOULD THAT  
22 STATION BE RESPONSIBLE FOR EMERGENCY CALLS OUT TO  
23 RICH STREET?

24 A YES, SIR

25 Q OKAY AND ON THE EARLY MORNING HOURS OF

1 NOVEMBER 29, 2001, WERE YOU IN FACT WORKING THAT  
2 SHIFT?

3 A YES, SIR

4 Q AND DID YOU RECEIVE AN EMERGENCY CALL TO 407  
5 RICH STREET?

6 A YES, SIR

7 Q NOW DESCRIBE BRIEFLY FOR THE JURY WHAT SOME OF  
8 YOUR DUTIES ARE?

9 A MY DUTIES AS A FIREMEN TWO WERE TO DRIVE AS  
10 NEEDED PER THE CAPTAIN'S ORDER AND I WAS ALSO ONE OF  
11 THE LEAD EMTS FOR THE TRUCK BASED ON LENGTH OF  
12 CERTIFICATION WITHIN THE COMPANY

13 Q FOR THOSE PEOPLE WHO DON'T KNOW WHAT AN EMT IS?

14 A I WAS AN EMERGENCY MEDICAL TECHNICIAN AT THE  
15 INTERMEDIATE LEVEL

16 Q SO YOU NOT ONLY FIGHT FIRES, YOU RESPOND TO  
17 MEDICAL EMERGENCIES AS WELL?

18 A YES, SIR

19 Q DID YOU GET A CALL OUT THERE TO 407 RICH STREET?

20 A YES, SIR

21 Q WHAT WAS THE NATURE OF THAT CALL THAT MORNING?

22 A THAT CALL WAS DISPATCHED TO US AS AN UNCONSCIOUS  
23 NOT BREATHING

24 Q AND BASED ON THAT CALL WHO FROM YOUR DEPARTMENT  
25 RESPONDED?

1 A WE RESPONDED, OUR ENGINE ONE, AND BASED ON A  
2 ROTATION BETWEEN TWO TRUCKS IT WAS ENGINE ONE'S TIME  
3 FRAME TO RESPOND TO THOSE CALLS

4 Q AND WHO WENT WITH YOU?

5 A THERE WERE FOUR OF US ON THAT APPARATUS AT  
6 THAT TIME IT WAS CAPTAIN SIMMONS ENGINEER BLACKWELL,  
7 MYSELF, AND FIREFIGHTER BARNETT

8 Q ABOUT HOW LONG DID IT TAKE YOU TO GET FROM WHERE  
9 THE STATION WAS TO 407 RICH STREET?

10 A I BELIEVE IT WAS ROUGHLY THREE OR FOUR MINUTES

11 Q AND TELL US, DESCRIBE TO THE JURY IF YOU WOULD,  
12 WHAT HAPPENED AS YOU PULLED UP TO 407 RICH STREET  
13 THAT MORNING?

14 A WE PULLED UP I WAS RIDING BEHIND THE OFFICER  
15 IN THE BACK AND THE HOUSE WAS ON MY SIDE OF THE  
16 APPARATUS, SO I MY RESPONSIBILITY WAS TO GO STRAIGHT  
17 TO THE HOUSE WHILE OTHER CREW MEMBERS RECEIVED THE  
18 MEDICAL EQUIPMENT

19 Q WHEN YOU SAY APPARATUS YOU MEAN THE TRUCK?

20 A YES, SIR, MEANING THE FIRE ENGINE

21 Q SO YOU WERE ON THE SIDE CLOSEST TO THE HOUSE SO  
22 YOU WENT FIRST TO THE HOUSE?

23 A YES, SIR

24 Q WHAT DID YOU SEE? WHAT WAS THE LIGHTING  
25 CONDITION, WAS IT?

1       A     THE LIGHTING WAS POOR     IT WAS A FOGGY DAY     I  
2       BELIEVE WE EVEN HAD A SPOTLIGHT THE FRONT PORCH BUT  
3       THERE WAS SOMEBODY AT THE HOUSE STANDING OUT FOR US

4       Q     OKAY     AND WHO WAS THAT?

5       A     THAT WAS MR   COPE

6       Q     BILLY WAYNE COPE THE DEFENDANT SEATED HERE?

7       A     YES, SIR

8       Q     OKAY     NOW WHAT HAPPENED?   DESCRIBE TO THE JURY  
9       WHAT TOOK PLACE AS YOU WALKED UP TO THE HOUSE AND  
10      WHAT DID YOU DO?

11      A     I WALKED UP TO THE HOUSE AND WAS MET AT THE  
12      FRONT DOOR    I ASKED OUR TYPICAL QUESTION OF WHAT'S  
13      GOING ON OR WHAT'S HAPPENING AND HE INFORMED ME THAT  
14      HIS DAUGHTER WAS DEAD

15      Q     OKAY     AND DID YOU SEE ANYBODY ELSE AT THE  
16      HOUSE?

17      A     NOT AT THAT TIME, NO

18      Q     DID YOU ENTER THE HOUSE?

19      A     YES, SIR    I THEN FOLLOWED MR   COPE INTO THE  
20      HOUSE STRAIGHT TO THE BACK BEDROOM

21      Q     OKAY     DID YOU SEE ANYBODY IN THE HOUSE AFTER  
22      YOU WALKED IN?

23      A     NO, SIR

24      Q     NOW WHERE DID YOU GO IN THE HOUSE?

25      A     I WENT BACK INTO THE BEDROOM AND WAS ON THE

1 RIGHT SIDE OF THE BEDROOM, LEFT SIDE OF THE BED

2 Q OKAY AND WHAT DID YOU SEE IN THE BACK BEDROOM?

3 A I FOUND A PATIENT LYING SUPINE ON THE BED

4 Q SUPINE?

5 A BEING ON HER BACK

6 Q OKAY AND WHAT WAS HER CONDITION?

7 A I KNOW SHE WAS LYING ON THE BED ON TOP OF THE  
8 COVERS AND SKIN COLOR WAS BLUISH, BLUISH PURPLE  
9 SHADE SHE, HER CLOTHES WERE BROUGHT UP AROUND HER  
10 CHEST AND LIVIDITY HAD SET IN ON THE SIDES WHICH IS A  
11 INITIAL POOLING OF BLOOD TOWARD THE CENTER OF THE  
12 BODY

13 Q IS THAT BLOOD THAT WAS EXPOSED OR BLOOD THAT WAS  
14 INSIDE?

15 A NO, THAT WAS BLOOD THAT WAS INTERNAL THAT HAD  
16 ALREADY STARTED TO MOVE

17 Q SO BASICALLY SETTling?

18 A YES, SIR

19 Q GRAVITY IS DRAWING THE BLOOD DOWN?

20 A YES, SIR

21 Q OKAY HAD YOU TALKED TO THE FATHER AT THIS  
22 POINT? WERE YOU TALKING TO THE FATHER?

23 A I HAD SPOKEN TO THE FATHER AT THE DOOR AND THEN  
24 FOLLOWING WITH HIM HE PROCEEDED TO ANSWER SOME OF MY  
25 QUESTIONS AS WE WERE WORKING OUR WAY TO THE BACK



1 Q WHAT QUESTIONS DID YOU HAVE FOR HIM?

2 A I HAD ASKED HIM, YOU KNOW, WHAT WAS GOING ON AND  
3 HE REFERRED THAT SHE WAS DEAD I ASKED HOW LONG SHE  
4 HAD BEEN THAT WAY AND HE RESPONDED FOUR HOURS

5 Q FOUR, THE NUMBER FOUR?

6 A THAT'S HOW I INTERPRETED IT, SIR

7 Q FOUR HOURS?

8 A YES, SIR, AS IN THE NUMBER

9 Q OKAY DID HE, DID YOU ASK HIM WHAT HAD HAPPENED  
10 OR WHAT HAD CAUSED HER DEATH?

11 A YES I ASKED HIM WHAT HAPPENED AND HE INFORMED  
12 ME THAT SHE CHOKED ON HER BLANKET AND THAT SHE HAD A  
13 HISTORY OF ROLLING IN HER SLEEP

14 Q OKAY THAT SHE HAD A HISTORY OF ROLLING IN HER  
15 SLEEP?

16 A YES, SIR

17 Q OKAY NOW WHAT MEASURES DID YOU TAKE TO TREAT  
18 HER?

19 A OKAY MY FIRST STEP WAS TO CHECK FOR BREATHING,  
20 BREATHING OF THE PATIENT, AND SHE WAS NOT I THEN  
21 CHECKED FOR A PULSE AND I OPTED TO CHOOSE THE REGULAR  
22 PULSE WHICH IS IN THE WRIST AND IT WAS AT THAT POINT  
23 HE INFORMED ME THAT THERE HAD BEEN A BLANKET WRAPPED  
24 AROUND HER NECK FOUR OR FIVE TIMES AND BASED ON THE  
25 NOT BREATHING, NO PULSE, SKIN COLOR, AND CONDITION,

1 AND I MADE THE DECISION FOR HER NOT TO BE TOUCHED  
2 ANYMORE THAT I THEN TURNED TO CHIEF SIMMONS WHO IS  
3 CURRENTLY CHIEF SIMMONS, THEN CAPTAIN SIMMONS, AND  
4 INFORMED HIM THAT I NEEDED ROCK HILL POLICE  
5 DEPARTMENT ON THE SCENE

6 Q AND IN FACT WERE THEY ARRIVING AT ABOUT THAT  
7 TIME?

8 A YES, SIR WHEN I TOLD CHIEF SIMMONS THAT, HE  
9 TURNED AROUND TO EXIT THE HOUSE AND THEY WERE  
10 PROCEEDING TO COME THROUGH THE FRONT DOOR

11 Q NOW WHEN YOU WALK INTO A SCENE LIKE THIS  
12 DESCRIBE WHAT'S GOING ON IN YOUR MIND WHAT ARE YOU  
13 DOING, WHAT ARE YOU THINKING, WHAT IS HAPPENING?

14 A ALWAYS MY FIRST PRIORITY IS MY SAFETY THEN THE  
15 SAFETY OF MY CREW AND THEN OBVIOUSLY TO TREAT THE  
16 PATIENT, SO THAT'S, THAT'S WHAT WE TRY TO DO ON THAT

17 Q OKAY SO YOU HAVE TO PAY ATTENTION TO SEVERAL  
18 THINGS AT ONCE?

19 A YES, SIR WE HAVE TO TRY TO BALANCE THE  
20 CONDITION WE'RE GOING INTO AND THEN THE INFORMATION  
21 BEING RECEIVED ABOUT THE PATIENT

22 Q NOW WHEN YOU GO AND RESPOND TO A DEATH OF THIS  
23 NATURE, A SUSPICIOUS DEATH OF THIS NATURE, DO YOU  
24 TYPICALLY WRITE A REPORT?

25 A THERE IS ALWAYS A DHEC REPORT THAT IS WRITTEN

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1 FOR DHEC ON ANY MEDICAL CALL, AND ISSUES THAT WE FELT  
2 WERE OUTSIDE THE NORMAL RANGE WE THEN USUALLY ARE  
3 ASKED BY OUR OFFICERS TO WRITE A DEPOSITION

4 Q OKAY AND DID YOU IN FACT WRITE A DEPOSITION OR  
5 A TWO PAGE SUMMARY OF WHAT YOU?

6 A YES, SIR, I DID

7 Q OKAY NOW WHILE YOU WERE GOING INTO THE ROOM  
8 AND, WAS MR COPE WITH YOU THROUGHOUT THAT ENTIRE  
9 TIME?

10 A HE WAS BESIDE ME OR SLIGHTLY BEHIND ME AS WE  
11 ENTERED THE BEDROOM, YES

12 Q WAS HE TALKING THE WHOLE TIME OR WAS HE QUIET OR  
13 WAS HE JUST RESPONDING?

14 A HE WAS RESPONDING TO SOME OF THE QUESTIONS THAT  
15 I WAS ASKING HIM LIKE THE ONES OF HOW LONG HAD SHE  
16 BEEN LIKE THIS AND WHAT HAPPENED

17 Q DID HE TELL YOU ANYTHING ELSE ABOUT WHEN THE  
18 TIME, AT THE TIME HE DISCOVERED HIS DAUGHTER WHAT HER  
19 SITUATION WAS? DID HE GIVE YOU ANY OTHER INFORMATION  
20 PARTICULARLY AS REGARDING THE CLOTHING?

21 A AT SOME POINT IN THERE HE MADE REFERENCE TO HER  
22 BEING FOUND WITHOUT ANY CLOTHES ON AND I VERIFIED  
23 WITH FIGHT FIGHTER BARNETTE ONCE WE HAD STEPPED OUT  
24 OF THE ROOM AND WE KNEW THAT OR I KNEW THAT THIS WAS  
25 GOING TO BE MORE THAN OUR STANDARD CALL I KNEW FROM

1 PAST EXPERIENCES THAT WE WOULD BE ASKED TO WRITE A  
2 DEPOSITION SO I STARTED TO GATHER ALL THE INFORMATION  
3 MORE IN A, AT A MOMENT WHERE THERE WASN'T VERY MUCH  
4 GOING ON WHERE I COULD DO THAT, AND THAT'S WHEN I WAS  
5 UNDER THE IMPRESSION THAT I HAD HEARD HIM MAKE THAT  
6 STATEMENT SO I WENT TO FIRE FIGHTER BARNETTE AND  
7 VERIFIED THAT STATEMENT AND ASKED HER IF I WAS  
8 CORRECT IN HEARING HIM STATE THAT HE FOUND HER  
9 WITHOUT ANY CLOTHES ON AND SHE TOLD ME THAT SHE HAD  
10 IN FACT HEARD THE SAME THING

11 Q AND AS YOU SIT THERE RIGHT NOW ARE YOU CERTAIN  
12 THAT MR COPE SAID THAT?

13 A YES, SIR

14 Q NO QUESTION ABOUT THAT?

15 A NO, SIR

16 Q THAT SHE WAS NAKED WHEN HE WENT IN THAT ROOM?

17 A YES, SIR

18 Q AND WHAT DID YOU OBSERVE HER CLOTHING SITUATION  
19 TO BE?

20 A HAD A SHIRT THAT WAS PROBABLY MID-CHEST LINE AND  
21 I BELIEVE SHE WAS WEARING A PAIR OF SWEATPANTS AS  
22 WELL, MAYBE WITH ONE LEG OR SO KIND OF PULLED UP TO  
23 THE KNEE

24 Q WHAT WAS MR COPE'S DEemeanor THROUGHOUT THIS  
25 ENTIRE?

1       A       I HAVE, I REFER TO IT BEING FLUSTERED OR WAS  
2       CONFUSED AS TO, NOT EXACTLY SURE WHAT TO DO ALMOST IN  
3       A WAY THAT THINGS WEREN'T LIKE THEY WERE SUPPOSED TO  
4       BE

5                       MR BRACKETT   COURT'S INDULGENCE ONE  
6       MINUTE

7       Q       APPROXIMATELY HOW LONG WOULD YOU SAY, SIR, THAT  
8       YOU WERE IN THE HOUSE FROM THE TIME YOU WALKED IN THE  
9       DOOR UNTIL THE TIME YOU WALKED OUT?

10      A       LESS THAN TEN MINUTES   I DID HAVE TO RE-ENTER  
11      THE HOUSE ONE MORE TIME TO GIVE OUR NAMES TO ROCK  
12      HILL POLICE DEPARTMENT UPON THEIR REQUEST, SO I WAS  
13      ASSIGNED TO RE-ENTER THE HOUSE WITH THOSE NAMES

14      Q       DID YOU HAVE ANY OTHER INVOLVEMENT IN THIS CASE  
15      OTHER THAN THAT?

16      A       NO, SIR

17      Q       THANK YOU VERY MUCH, SIR   PLEASE ANSWER ANY  
18      QUESTIONS THAT COUNSEL FOR DEFENSE MAY HAVE FOR YOU

19                       MR WOOD   MAY IT PLEASE THE COURT  
20      CROSS EXAMINATION BY MR WOOD

21      Q       GOOD AFTERNOON, OFFICER DILLON   I'M DAVID WOOD  
22      I REPRESENT BILLY COPE   EXCUSE ME FOR JUST A MINUTE  
23      OFFICER DILLON, YOU WROTE A STATEMENT   YOU CALL IT A  
24      DEPOSITION, IS THAT CORRECT?

25      A       YES, SIR

1 Q AND WHO ASKED YOU TO WRITE THAT STATEMENT?

2 A AT THE TIME IT WAS CAPTAIN SIMMONS HE IS NOW  
3 CHIEF SIMMONS - - - -

4 Q WERE YOU INTERVIEWED BY THE DETECTIVES FROM THE  
5 ROCK HILL POLICE DEPARTMENT?

6 A NO, SIR

7 Q YOU WEREN'T?

8 A NO, SIR

9 Q SO THEY DIDN'T TAKE THE TIME TO INTERVIEW, THEY  
10 JUST HAD YOU WRITE A SYNOPSIS, IS THAT CORRECT?

11 A I WROTE A STATEMENT THAT MORNING OR SHORTLY  
12 AFTER THAT CASE MY FOLLOWING SHIFT ON DUTY THROUGH  
13 CAPTAIN DRIGGERS WHICH WAS SOMETIMES USED AS LIAISON  
14 TO THE POLICE DEPARTMENT, THEY HAD ASKED THAT WE  
15 WRITE ONE AND WE ALREADY HAD THOSE TAKEN CARE OF

16 Q AND ABOUT WHAT TIME DID YOU WRITE THAT  
17 STATEMENT?

18 A SHORTLY AFTER COMING BACK FROM THAT SCENE

19 Q AND YOU DIDN'T TAKE ANY NOTES THERE AT THE  
20 SCENE, DID YOU?

21 A I USED ONE OF THE DHEC REPORT, PART OF THAT WAS  
22 FILLED OUT ON SCENE, AND THE REST FILLED BACK AT THE  
23 STATION

24 Q NOW YOU INDICATED THAT MR COPE TOLD YOU THAT HE  
25 FOUND AMANDA'S BODY WITHOUT ANY CLOTHES ON, IS THAT

1 CORRECT?

2 A CORRECT

3 Q AND NOW DID YOU SEE AMANDA'S BODY THAT DAY?

4 A YES, SIR

5 Q AND IT WAS PRETTY BLOODY, WASN'T IT?

6 A BLOODY AS FAR AS YOU COULD TELL THE LIVIDITY HAD  
7 SET IN AS FAR AS OTHER BLOOD, I CANNOT RECALL

8 Q THERE WAS BLOOD ON HER FACE, WASN'T THERE?

9 A BASED ON THE FACE BEING A SHADE OF BLUE AND  
10 PURPLE AND SWELLING OF THE LIPS, I COULDN'T

11 Q YOU COULDN'T TELL IF THERE WAS BLOOD THERE OR  
12 NOT?

13 A CORRECT

14 Q YOU HAD THE OPPORTUNITY TO EXAMINE OR SEE  
15 MR COPE UP CLOSE THAT DAY, CORRECT?

16 A IN PASSING AT THE FRONT DOOR, YES

17 Q NOW DID YOU SEE HIS ARMS?

18 A NO, SIR

19 Q YOU DIDN'T SEE HIS ARMS?

20 A NO, SIR MY CONCERN AT THAT POINT WAS NOT  
21 MR COPE AT THAT TIME HE WAS NOT THE PATIENT

22 Q OKAY SO YOU CAN'T TESTIFY AS TO WHETHER THERE  
23 WAS ANY BLOOD ON HIS ARMS, HANDS?

24 A NO, SIR

25 Q NOW YOU ASKED MR COPE HOW LONG THE BODY HAD

1 BEEN LIKE THIS, MEANING LIKE IN THE BED, CORRECT?

2 A IN THE BED, HER CONDITION, YES, SIR

3 Q AND YOU WROTE DOWN FOUR HOURS F-O-U-R?

4 A NO, SIR I'M SORRY YES, F-O-U-R, FOUR AS IN  
5 THE NUMBER

6 Q OKAY BECAUSE HE SAID FOUR HOURS?

7 A HE SAID FOUR HOURS

8 Q NOW DID YOU ASK HIM IF HE MEANT FOURS HOURS  
9 F-O-U-R AS IN THE NUMBER OR IF HE MEANT FOR HOURS  
10 F-O-R?

11 A I TOOK IT AS FOUR HOURS

12 Q YOU DIDN'T ASK HIM WHICH ONE OF THOSE TWO IT  
13 MEANT, DID YOU?

14 A NO, SIR

15 Q OKAY SO THAT'S BASED ON YOUR OPINION OF WHAT  
16 HE WAS SAYING?

17 A BASED ON MY INTERPRETATION OF WHAT HE SAID, YES

18 Q NOW AS TO MR COPE'S DEMEANOR, YOU DESCRIBED IT  
19 AS SHOCKED?

20 A I BELIEVE I SAID FLUSTERED

21 Q UPSET?

22 A CONFUSED

23 Q YOU SAID AS IF THINGS WEREN'T LIKE THEY WERE  
24 SUPPOSED TO BE?

25 A CORRECT



1 Q AND THAT'S PROBABLY THE FIRST, IT WAS THE FIRST  
2 MORNING EVER WOKEN UP AND FOUND HIS 12 YEAR OLD  
3 DAUGHTER MURDERED?

4 A I WOULD ASSUME SO, YES

5 Q AND YOU WOULD EXPECT SOMEONE THAT FOUND THEIR 12  
6 YEAR OLD DAUGHTER MURDERED TO BE UPSET?

7 A NOT IN THAT WAY, SIR

8 Q YOU'RE NOT A PSYCHIATRIST, ARE YOU?

9 A NO, SIR, BUT I'VE BEEN TO MULTIPLE CALLS IN THAT  
10 SAME SITUATION

11 Q AND EVERYONE REACTS DIFFERENTLY, DON'T THEY?

12 A YES, SIR

13 Q PLEASE ANSWER ANY QUESTIONS MR GREELEY HAS  
14 I'M SORRY

15 CROSS EXAMINATION BY MR GREELEY

16 Q SO OF COURSE MR COPE DIDN'T TELL YOU HE FOUND  
17 HIS 12 YEARS DAUGHTER MURDERED, DID HE? HE FOUND HER  
18 DEAD?

19 A YES, SIR

20 Q HE NEVER MENTIONED MURDERED, DID HE?

21 A NO, SIR

22 Q HE MENTIONED SOME BLANKET, IS THAT CORRECT?

23 A HE MENTIONED SHE CHOKED ON THE BLANKET, YES

24 Q RIGHT?

25 A YES

1 Q NOW WHEN YOU WENT IN THE HOUSE HOW DID THE HOUSE  
2 APPEAR?

3 A (NO RESPONSE )

4 Q WAS IT CLEAN?

5 A NO NO, SIR

6 Q WAS IT DIRTY?

7 A YES, SIR

8 Q WAS IT VERY DIRTY?

9 A TO ME, YES, SIR

10 Q AND YOU NEVER SAW ANYBODY ELSE IN THE HOUSE THAT  
11 MORNING OTHER THAN MR COPE AND AMANDA'S BODY, IS  
12 THAT CORRECT?

13 A NO, SIR UPON LEAVING THE BEDROOM THE TWO OTHER  
14 DAUGHTERS WERE SEATED ON THE COUCH AND BY THAT TIME  
15 MORE POLICE OFFICERS AND EMS PERSONNEL HAD ARRIVED

16 Q OKAY

17 MR GREELEY THAT'S ALL I HAVE

18 THE COURT REDIRECT

19 MR BRACKETT NO, SIR

20 THE COURT WE APPRECIATE YOUR TIME YOU  
21 CAN FEEL FREE TO LEAVE THANK YOU VERY MUCH CALL  
22 YOUR NEXT WITNESS

23 MR BRACKETT THE STATE CALLS OFFICER  
24 TAYLOR

25 ROBERT TAYLOR, BEING FIRST DULY

1 SWORN, TESTIFIED AS FOLLOWS

2 MR BRACKETT ANY OBJECTION TO EITHER  
3 OF THOSE TWO WITNESSES BEING EXCUSED?

4 THE COURT I THOUGHT THEY WERE EXCUSED  
5 DO YOU OBJECT?

6 MR GREELEY NO OBJECTION

7 MR WOOD NO, SIR

8 DIRECT EXAMINATION BY MR BRACKETT

9 Q SIR, WOULD YOU PLEASE STATE YOUR FULL NAME FOR  
10 THE RECORD?

11 A MY FULL NAME IS ROBERT JEFFREY TAYLOR

12 Q WHERE ARE YOU EMPLOYED, SIR?

13 A ROCK HILL POLICE DEPARTMENT

14 Q HOW LONG HAVE YOU BEEN AT THE ROCK HILL POLICE  
15 DEPARTMENT?

16 A SEVEN YEARS NOW

17 Q WHAT DO YOU DO THERE?

18 A I'M A PATROL OFFICER

19 Q OKAY AND HAVE YOU BEEN ASSIGNED TO PATROL A  
20 FEW YEARS NOW?

21 A THE WHOLE TIME I'VE BEEN THERE

22 Q AND WHAT ARE THE DUTIES OF PATROL OFFICER  
23 BRIEFLY?

24 A NORMAL PATROL, TAKE CALLS FOR SERVICE, CHECK  
25 PROPERTY, TRAFFIC ENFORCEMENT, THINGS LIKE THAT

000966

1 Q AND WERE YOU, AND WAS THAT BASICALLY WHAT YOU  
2 WERE DOING ON NOVEMBER 29, 2001?

3 A YES, SIR

4 Q DID YOU GET A CALL TO RESPOND TO A SITUATION AT  
5 407 RICH STREET JUST AFTER SIX A M ON NOVEMBER 29 OF  
6 2001?

7 A YES, SIR

8 Q AND DO YOU RECALL APPROXIMATELY WHAT TIME YOU  
9 ARRIVED?

10 A APPROXIMATELY FOUR OR FIVE MINUTES AFTER SIX

11 Q OKAY AND WHEN YOU ARRIVED WAS THE FIRE ENGINE  
12 ALREADY THERE?

13 A YES, SIR

14 Q FIREMEN WERE INSIDE THE HOUSE?

15 A YES, SIR

16 Q DOING WHAT THEY WERE DOING WHAT DID YOU DO  
17 WHEN YOU ARRIVED AT 407 RICH STREET?

18 A ENTERED THE RESIDENCE AND AS SOON AS I WALKED IN  
19 NOTICED A MALE ON MY RIGHT SIDE AND A COUPLE OF YOUNG  
20 FEMALES ON A COUCH AND

21 Q YOUNG GIRLS?

22 A YES, SIR

23 Q OKAY

24 A TWO YOUNG GIRLS SITTING ON THE COUCH AND I COULD  
25 SEE SOME PEOPLE IN THE BACK I KNEW THE FIRST

000967

1 RESPONDERS WERE THERE AND AT THAT TIME MR COPE  
2 TURNED AROUND AND SPOKE WITH ME

3 Q OKAY A MAN, WHERE WAS HE? WHAT HE WAS HE  
4 DOING WHEN YOU WALKED IN THE HOUSE?

5 A HE WAS SITTING AT HIS, A DESK AND APPEARED TO BE  
6 TYPING ON A COMPUTER WHEN I WALKED IN

7 Q APPEARED TO BE OR?

8 A HE WAS

9 Q WAS HE DOING SOMETHING THAT RESEMBLED KIND OF  
10 WHAT SHE'S DOING RIGHT THERE, THE COURT REPORTER?

11 A YES

12 Q OKAY ANY POSSIBILITY OF CONFUSION ON THAT  
13 POINT?

14 A NO, SIR

15 Q ALL RIGHT

16 MR MORTON YOUR HONOR, I OBJECT TO THE  
17 LEADING

18 THE COURT I SUSTAIN THE OBJECTION  
19 DISREGARD THAT QUESTION AND ANSWER REPHRASE YOUR  
20 QUESTION

21 Q ARE YOU CERTAIN OF THAT?

22 A YES, SIR

23 Q DID YOU TALK TO THE GENTLEMAN AT ALL?

24 A HE SPOKE WITH ME AND ADVISED ME THAT HIS LITTLE  
25 GIRL WAS DEAD AND HE POINTED TOWARDS THE BACK OF THE

1 ROOM AND I WALKED BACK THAT WAY TO SEE WHAT WAS GOING  
2 ON

3 Q WHAT DID YOU OBSERVE WHEN YOU WENT TO THE BACK  
4 ROOM?

5 A WHEN I WENT TO THE BACK ROOM I STEPPED INSIDE  
6 THE DOOR AT THE END OF THE ROOM AT THE END OF THE BED  
7 AND OBSERVED THE FIRST RESPONDERS STANDING AROUND THE  
8 BED AND OBSERVED THE BODY LAYING ON THE BED AND I  
9 BELIEVE MR COPE FOLLOWED ME IN AND WAS TALKING TO  
10 ME

11 Q OKAY WHAT DID HE TELL YOU AT THAT POINT?

12 A WELL, AT THE TIME I WAS, I JUST OBSERVED THE  
13 BODY MR COPE WAS FOLLOWING ME AND HE POINTED  
14 TOWARDS THE ROOM AND HE SAID, MY LITTLE GIRL IS DEAD  
15 WE WALKED, I WALKED AND HE FOLLOWED BEHIND ME THEN  
16 I WAS IN A ROOM WITH THE FIRST RESPONDERS I LOOKED  
17 AT THE BODY FOR JUST A COUPLE SECONDS AND MR COPE  
18 HAD ALREADY EXITED THE ROOM AND I STARTED GETTING MY  
19 PAPER WORK OUT, MY PAD AND ALL, AND JUST SO I COULD  
20 WRITING NAMES AND THINGS LIKE THAT DOWN TURNED  
21 AROUND AND WALKED INTO THE LIVING ROOM WHERE MR COPE  
22 WAS, HE WAS BACK AT HIS DESK AT THAT TIME

23 Q ALL RIGHT AND DID YOU GO AND TALK TO HIM?

24 A YES I WENT TO SPEAK WITH HIM ABOUT, I WANTED  
25 TO GET NAMES, I WANTED TO GET HIS FULL NAME, THINGS

000969

1       LIKE THAT FOR THE REPORT, FOR THE DATE OF BIRTH,  
2       HEIGHT, WEIGHT, THINGS LIKE THAT

3       Q       AND WHAT OTHER INFORMATION IF ANY DID YOU GET  
4       FROM HIM REGARDING THE CAUSE OF HIS DAUGHTER'S DEATH?

5       A       WHILE I WAS SPEAKING TO HIM I ASKED HIM HOW THIS  
6       COULD HAVE HAPPENED AND HE WAS TELLING ME THAT SHE  
7       WAS A HARD SLEEPER AND THAT SHE ALWAYS HAS BEEN AND  
8       THAT THE SHEETS OR THE BEDDING HAD WRAPPED AROUND HER  
9       NECK EVIDENTLY DURING THE NIGHT, AND HE TOLD ME THAT  
10      HE HAD TOLD HER AWHILE BACK THAT SHE WAS, YOU KNOW,  
11      SHE SHOULD CUT THE FRAYED ENDS AND THAT THE TEAR, THE  
12      TEARS ON THE BEDDING AND ALL BECAUSE IT COULD CHOKE  
13      HER DURING THE NIGHT BECAUSE SHE WAS A HARD SLEEPER

14      Q       OKAY     DID HE, WHAT DID HE DESCRIBE TO YOU OR  
15      TELL YOU ABOUT HIS DISCOVERY OF HIS DAUGHTER?

16      A       WHEN I ASKED HIM WHEN HE HAD FOUND HER OR WHEN  
17      HE HAD NOTICED THAT SHE WAS DECEASED HE SAID HE GOT  
18      UP AT ABOUT SIX THAT MORNING AND HE GOT UP, WALKED  
19      THROUGH THE HALLWAY, CALLED OUT HER NAME LIKE HE  
20      USUALLY DOES TO GET THE KIDS UP IN THE HOUSE FOR  
21      SCHOOL, AND WHEN SHE DIDN'T RESPOND HE STEPPED BACK  
22      INTO THE ROOM AND TURNED THE LIGHT ON AND THAT'S HOW  
23      HE FOUND HER

24      Q       WHAT, AFTER, AT SOME POINT DID INVESTIGATORS  
25      ARRIVE?

1 A YES, SIR

2 Q OKAY AND WHAT WERE YOUR RESPONSIBILITIES AFTER  
3 THE INVESTIGATORS ARRIVED?

4 A AT THAT POINT AFTER THAT SMALL CONVERSATION THEN  
5 I STARTED GETTING NAMES BECAUSE WE NEEDED NAMES OF,  
6 YOU KNOW, EVERYBODY WHO HAD COME IN THE HOUSE FIRST,  
7 SO THAT WAS MY RESPONSIBILITY THEN TO START JUST  
8 LISTING THE NAMES AND IT WAS RIGHT AT SHIFT CHANGE SO  
9 I KNEW THE OTHER SHIFT WAS GOING TO COME ON SO I  
10 STARTED GETTING IT ON PIECE OF PAPER I WAS GOING TO  
11 GO OUT TO MY CAR AND GET A CRIME SCENE LOG, BUT ONCE  
12 I GOT TO OUT TO THE YARD THEY ALREADY STARTED THE  
13 TAPE AND ANOTHER OFFICER TOOK THE INFORMATION FROM ME  
14 AND ACTUALLY PUT IT ON THE CRIME SCENE LOG

15 Q WHEN YOU SAY THEY ALREADY STARTED TO TAPE, WHAT  
16 TAPE?

17 A THE CRIME SCENE TAPE

18 Q WHAT WAS HIS, THE DEFENDANT'S, Demeanor DURING  
19 THE TIME TALKING TO HIM?

20 A HE WAS REAL CALM HE WAS, ONE THING I NOTICED  
21 HE WAS, WHEN I WAS TRYING TO GET, WHEN I FIRST WALKED  
22 BACK IN THE LIVING ROOM AND STARTED TALKING TO HIM  
23 TRYING TO GET HIS FULL NAME AND THE DECEASED HER FULL  
24 NAME AND HE WAS, AT THAT TIME I JUST NOTICED THAT HE  
25 WAS MORE CONCERNED WITH WHAT HE WAS DOING WITH HIS

000971



1       COMPUTER, AND I KEPT HAVING TO ASK HIM, MR COPE, YOU  
2       KNOW, WHAT ABOUT THIS     YOU KNOW, HOW MUCH DOES SHE  
3       WEIGH, DATE OF BIRTH, THINGS LIKE THAT

4       Q     AND DID YOU PREPARE A SUMMARY IN THIS MATTER?

5       A     YES, SIR

6       Q     AND WHAT TIME DID YOU TURN THAT SUMMARY IF YOU  
7       RECALL IN TO THE DETECTIVES?

8       A     WE HAD TO, WE WERE BACK ON SHIFT THAT NIGHT AT  
9       SIX O'CLOCK    WHEN I CAME IN AFTER ROLL CALL, THAT'S  
10      WHEN I TYPED IT UP

11      Q     THAT SAME DAY NOVEMBER 29?

12      A     IT WAS THE SAME DAY

13      Q     AND APPROXIMATELY HOW LONG WERE YOU IN THE ROOM  
14      OBSERVING THE, AMANDA?

15      A     I WOULDN'T EVEN SAY MORE THAN 15 OR 20 SECONDS  
16      THERE WAS ALREADY A FEW PEOPLE IN THERE AND

17      Q     ALL RIGHT, SIR    THANK YOU VERY MUCH    PLEASE  
18      ANSWER ANY QUESTIONS THAT COUNSEL FOR THE DEFENSE MAY  
19      HAVE FOR YOU

20      CROSS EXAMINATION BY   MR MORTON

21      Q     I HAVE JUST A COUPLE QUESTIONS FOR YOU, OFFICER  
22      JONES    MY NAME IS JIM MORTON AND I REPRESENT  
23      MR COPE   MR COPE TOLD YOU THAT HIS LITTLE GIRL WAS  
24      DEAD?

25      A     YES, SIR

1 Q THOSE WERE HIS WORDS?

2 A YES, SIR

3 Q AND HE ALSO TOLD YOU THAT SHE'S IN A BETTER  
4 PLACE NOW SHE'S WITH JESUS?

5 A HE ACTUALLY, HE ACTUALLY SAID THAT TO THE TWO  
6 GIRLS THAT WERE SITTING ON THE COUCH WHILE I WAS  
7 SPEAKING TO HIM THEY WERE CRYING AND PRETTY UPSET, SO  
8 HE TOLD THEM THAT

9 Q DID YOU TALK TO THEM ANY ABOUT WHAT THEY HAD  
10 HEARD OR DID YOU MAKE ANY NOTES ABOUT ANYTHING?

11 A THE ONLY THING I SAID TO THE TWO GIRLS, I JUST  
12 ASKED THEM IF THEY WERE OKAY, AND I DIDN'T REALLY DO  
13 ANYTHING AS FAR AS INTERVIEWS OR ANYTHING WITH THEM  
14 I DIDN'T EVEN GET THAT FAR

15 Q YOU DON'T KNOW MR COPE?

16 A NO, SIR

17 Q YOU NEVER TALKED TO HIM BEFORE?

18 A NO, SIR

19 Q YOU HAD NEVER SEEN HIM BEFORE?

20 A ACTUALLY I HAVE SEEN HIM BEFORE

21 Q OKAY BUT YOU NEVER, YOU DIDN'T KNOW HIM?

22 A NO, SIR

23 Q YOU DON'T KNOW, YOU HAD NEVER BEEN AROUND HIM  
24 WHEN HIS LITTLE GIRL HAD DIED?

25 A RIGHT

1 Q HOW MANY PEOPLE WERE THERE IN THE SCENE?

2 A WHEN I WALKED INTO THE ROOM I BELIEVE I REMEMBER  
3 AT LEAST THREE PLUS MYSELF WHEN I WALKED IN THE ROOM

4 Q AND THOSE WOULD HAVE BEEN WHO?

5 A THE FIRST RESPONDERS

6 Q IT WAS ABOUT SIX O'CLOCK IN THE MORNING, RIGHT?

7 A RIGHT

8 Q SO IN OTHER WORDS, THE CALL GOES OUT TO 911 FROM  
9 MR COPE AND Y'ALL RESPOND?

10 A RIGHT

11 Q YOU FIND HIM THERE HE TAKES YOU BACK, SHOWS  
12 YOU HIS DAUGHTER, RIGHT?

13 A WELL, HE POINTED THAT WAY I WALKED THAT WAY  
14 AND HE CAME IN BEHIND ME

15 Q YOU NEVER HEARD HIM SAY ANYTHING ABOUT HER BEING  
16 NAKED WHEN HE FOUND HER, DID YOU?

17 A NO, SIR

18 Q YOU SURE ABOUT THAT?

19 A I'M PRETTY POSITIVE

20 Q ALL RIGHT NOW I'M GOING TO SHOW YOU A  
21 PHOTOGRAPH AND DO YOU RECOGNIZE THAT? CAN YOU TELL  
22 IF THAT'S HIS DESK THAT HE WAS SITTING AT?

23 A IT LOOKS LIKE IT COULD BE, YES

24 MR MORTON YOUR HONOR, IF THEY DON'T  
25 HAVE OBJECTION I MOVE TO INTRODUCE THIS

1 MR BRACKETT NO OBJECTION

2 MR GREELEY NO OBJECTION

3 THE COURT BE RECEIVED WITHOUT OBJECTION

4 (DEFENSE EXHIBIT SEVEN PHOTOGRAPH IN  
5 EVIDENCE )

6 Q NOW OFFICER TAYLOR, THIS IS A PHOTOGRAPH OF THE  
7 DESK THAT MR COPE WAS SITTING AT THAT MORNING,  
8 CORRECT?

9 A IT COULD BE, YES, SIR

10 Q OKAY AND THIS IS A PHOTOGRAPH, DO YOU KNOW WHO  
11 THIS PHOTOGRAPH WAS TAKEN BY?

12 A NO, SIR

13 Q WOULD YOU DENY THAT IT WAS TAKEN BY THE POLICE  
14 DEPARTMENT?

15 A NO, SIR

16 Q OKAY AND IN THAT PHOTOGRAPH YOU SEE A  
17 CLUTTERED DESK, CORRECT?

18 A YES, SIR

19 Q WITH A TELEPHONE IN FRONT OF IT?

20 A UH-HUH

21 Q CORRECT?

22 A YES, SIR

23 Q OKAY

24 (PHOTOGRAPH HANDED TO THE JURY )

25 Q NOW AT SIX O'CLOCK IN THE MORNING I BELIEVE IS

1 SHIFT CHANGE, IS THAT RIGHT?

2 A YES, SIR

3 Q SO THERE WAS A SHIFT OF POLICE OFFICERS COMING  
4 ON AND THERE WAS POLICE OFFICERS A SHIFT OFFICERS  
5 GOING OFF?

6 A RIGHT

7 Q AND YOU WERE THERE FOR ABOUT HOW LONG?

8 A ALL TOGETHER I WAS PROBABLY THERE ABOUT 30-35  
9 MINUTES

10 Q AND DURING THAT 35 MINUTES HOW MANY PEOPLE WOULD  
11 YOU ESTIMATE CAME IN AND OUT OF THERE?

12 A WHILE I WAS THERE I KNOW THE FIRST RESPONDERS  
13 ARE THERE WHEN I GOT THERE, MYSELF OFFICER JONES  
14 CAME IN BEHIND ME, AND WHEN I WALKED OUTSIDE I SPOKE  
15 TO OFFICER JORDON ON THE PORCH AND THEN HE WENT IN  
16 AND AFTER THAT I STAYED OUTSIDE IN THE YARD I  
17 HELPED WITH THE TAPE AND MADE SURE THE CRIME SCENE  
18 LOG, THE NAMES WERE PUT IT, SO THAT THE OTHER  
19 OFFICERS COULD NOTE

20 Q WERE PEOPLE THERE FROM BOTH SHIFTS?

21 A YEAH THEY HAD SENT A COUPLE, THEY HAD SENT  
22 OFFICER QUINN I BELIEVE IT WAS AND A COUPLE OTHER  
23 OFFICERS COME OUT THERE AND RELIEVED US

24 Q OKAY DETECTIVES THERE?

25 A DETECTIVES SHOWED UP AS I WAS LEAVING I

1 REMEMBER THE SUPERVISOR FOR THE SHIFT SHOWED UP AND  
2 HE WAS CALLING FOR DETECTIVES AND I HAD LEFT IT WAS  
3 PROBABLY ABOUT 15 MINUTES TO SEVEN WHEN I LEFT

4 Q THANK YOU VERY MUCH

5 MR GREELEY NO QUESTIONS

6 THE COURT MR BRACKETT

7 MR BRACKETT NOTHING FURTHER

8 THE COURT ANY OBJECTION TO HIM BEING

9 EXCUSED

10 MR MORTON NO, SIR

11 MR GREELEY NO, YOUR HONOR

12 THE COURT WE APPRECIATE YOUR TIME

13 THANK YOU YOU CAN BE EXCUSED

14 MR BRACKETT THE STATE WOULD CALL

15 OFFICER KEVIN JONES

16 KEVIN JONES, BEING FIRST DULY

17 SWORN, TESTIFIED AS FOLLOWS

18 DIRECT EXAMINATION BY MR BRACKETT

19 Q SIR, GOOD AFTERNOON HOW ARE YOU?

20 A NOT TOO BAD

21 Q WHAT'S YOUR FULL NAME?

22 A KEVIN JONES

23 Q ALL RIGHT WHERE DO YOU WORK, MR JONES?

24 A I'M EMPLOYED WITH THE YORK COUNTY SHERIFF'S  
25 OFFICE

1 Q HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S  
2 OFFICE?

3 A IT WILL BE TWO YEARS IN DECEMBER

4 Q BEFORE THE SHERIFF'S OFFICE WHERE DID YOU WORK?

5 A THE ROCK HILL POLICE DEPARTMENT

6 Q WHAT DID YOU DO FOR THE ROCK HILL POLICE  
7 DEPARTMENT?

8 A I WAS A PATROL OFFICER

9 Q AND WERE YOU A COLLEAGUE OF OFFICER TAYLOR WHO  
10 JUST LEFT?

11 A YES, SIR, WE WORKED TOGETHER HE WORKED SIX AND  
12 I WORKED SEVEN SO

13 Q SO THOSE ARE LOCATIONS WITHIN THE CITY?

14 A YES, SIR, IT'S CERTAIN ZONES

15 Q I GOT YOU BUT YOU WORKED THE SAME SHIFT?

16 A YES, SIR

17 Q SO YOU WOULD HAVE BEEN WORKING ON NOVEMBER 29 OF  
18 2001?

19 A YES, SIR

20 Q OKAY AND DID YOU HAVE OCCASION TO RESPOND TO  
21 THE CALL OUT OF 407 RICH STREET INVOLVING MR COPE?

22 A SURE DID

23 Q AND APPROXIMATELY WHAT TIME DID YOU ARRIVE?

24 A IT WAS IN THE NEIGHBORHOOD SHORTLY AFTER SIX  
25 O'CLOCK IN THE MORNING

1 Q OKAY AND WERE YOU, DID YOU ARRIVE BEFORE OR  
2 AFTER OFFICER TAYLOR, DO YOU RECALL?

3 A WE ARRIVED BASICALLY AT THE SAME TIME HE WENT  
4 INSIDE BEFORE I DID SO IT WAS BASICALLY AROUND THE  
5 SAME TIME

6 Q NOW WHEN YOU ARRIVED WHAT WAS THE FIRST THING  
7 YOU SAW UPON ENTERING THE HOUSE?

8 A THE FIRST THING I SAW WAS THERE WAS TWO LITTLE  
9 GIRLS SITTING ON A COUCH RIGHT AFTER THE DOOR  
10 ENTRANCE ON THE LEFT SIDE THEN I WENT INTO THE  
11 HOUSE, I LOOKED TO THE RIGHT, AND MR COPE WAS  
12 SITTING AT A COMPUTER CHAIR ON TO THE RIGHT FAR SIDE

13 Q AND WHAT, WHAT WAS THE CONDITION OF THE GIRLS?  
14 WHAT WERE THEY DOING?

15 A BASICALLY THEY WERE SCARED THEY WERE CRYING  
16 AND I REMEMBER TELLING THEM SOMETHING LIKE, IT WAS  
17 GOING TO BE OKAY, AND BUT THEY WERE REALLY SHAKEN UP

18 Q AND WHAT WAS THE FATHER DOING, MR COPE?

19 A HE APPEARED TO BE WORKING AT A COMPUTER WHEN  
20 HE SAW ME, HE TURNED AROUND I ASKED HIM WHAT WAS  
21 GOING ON AND HE TOLD ME AND I THEN WENT, FROM TALKING  
22 TO HIM I WALKED IN THE BACK TO THE HALLWAY BEFORE THE  
23 BEDROOM

24 Q WAS MR COPE TALKING ON THE TELEPHONE WHEN YOU  
25 CAME IN?



1 A NOT THAT I RECALL

2 Q WAS HE DIALING THE TELEPHONE WHEN YOU CAME IN?

3 A NOT THAT I RECALL

4 Q WHAT IS YOUR LEVEL OF CERTAINTY THAT HE WAS  
5 ACTUALLY TYPING ON THE COMPUTER?

6 A A HUNDRED PERCENT

7 Q OKAY WHAT DID HE STATE TO YOU IF ANYTHING WHEN  
8 YOU CAME IN?

9 A I ASKED HIM WHAT WAS GOING ON AND HE TOLD ME HIS  
10 DAUGHTER WAS DEAD AND I SAID WELL, HOW DID IT  
11 HAPPEN AND HE SAID SHE STRANGLED HERSELF IN HER BED  
12 LINENS

13 Q AND HOW LONG DID YOU TALK WITH HIM AT THIS POINT  
14 IN TIME?

15 A THE FIRST TIME IT WASN'T MORE THAN 30 SECONDS

16 Q WHAT DID YOU DO AFTER THAT BRIEF CONVERSATION?

17 A I WENT FROM THE MAIN LIVING ROOM AND WALKED TO  
18 THE HALLWAY AND SAW THE BEDROOM AND I DIDN'T ENTER  
19 THE BEDROOM I SAW A LOT OF MEDICAL PERSONNEL AND  
20 OFFICER TAYLOR HAD THEN ALREADY WALKED INTO THE  
21 BEDROOM

22 Q HOW LONG WERE YOU BACK THERE?

23 A ROUGHLY MAYBE A MINUTE, TWO MINUTES

24 Q ALL RIGHT AND WHERE DID YOU GO WHEN YOU LEFT  
25 FROM THERE?

1 A OFFICER TAYLOR TURNED AROUND AND TOLD ME HE  
2 NEEDED TO SEE ME OUTSIDE WE WALKED BACK OUT THE  
3 LIVING ROOM OUT THE FRONT DOOR AND BACK OUTSIDE

4 Q WHEN YOU WERE BACK IN THE HALLWAY DID YOU HAVE A  
5 CLEAR VIEW OF AMANDA AS SHE LAY ON HER BED?

6 A NOT REAL CLEAR I MEAN I COULDN'T SEE HER  
7 PERFECTLY, BUT JUST ROUGHLY

8 Q DID YOU SPEAK TO MR COPE AT ALL AGAIN BEFORE,  
9 WHILE YOU WERE THERE?

10 A YES, SIR I WENT BACK INSIDE AND AT THIS TIME  
11 SEVERAL PEOPLE WERE COMING I REMEMBER THE  
12 GRANDFATHER COMING TO PICK THE KIDS UP AND AT ONE  
13 POINT MR COPE FLAGGED ME DOWN AND HE SAID CAN I ASK  
14 YOU A QUESTION AND I SAID YES, SIR AND HE ASKED  
15 ME IF ANYTHING BAD WAS GOING TO HAPPEN TO HIM WITH  
16 HIS DAUGHTER BEING DEAD IN THE HOUSE AND I  
17 RESPONDED THAT I COULDN'T ANSWER THAT I DIDN'T  
18 KNOW

19 Q UP TO THIS POINT WAS THERE ANY INDICATION BY YOU  
20 TO HIM THAT SOMETHING WAS AMISS?

21 A NO, SIR

22 Q WHAT WAS HIS Demeanor DURING THIS TIME PERIOD?  
23 DESCRIBE IT AS BEST AS YOU CAN RECALL WHAT HIS  
24 Demeanor WAS WHEN YOU WERE DEALING WITH HIM?

25 A I WANT TO SAY CALM BUT IT WAS MORE CALM THAN

1 DISORIENTED TO MY VIEWPOINT WHEN I WAS TALKING TO  
2 HIM REAL, NOT REALLY LAID BACK, BUT JUST KIND OF  
3 PERPLEXED A LITTLE BIT

4 Q DID INVESTIGATORS AND DETECTIVES ULTIMATELY  
5 ARRIVE ON THE SCENE?

6 A YES, SIR INVESTIGATIVE JORDAN ARRIVED SHORTLY  
7 AFTER WE DID, THEN WE RADIOED INTO DISPATCH THAT WE  
8 NEEDED A SUPERVISOR AND SOME DETECTIVES AND THEY  
9 INITIALLY CAME

10 Q AND WHAT WERE YOUR RESPONSIBILITIES AFTER THAT?

11 A BASICALLY TRYING TO START A CRIME SCENE AND  
12 SECURING THE CRIME SCENE WITH CRIME SCENE TAPE

13 Q WHEN AN INVESTIGATOR ARRIVES ON THE SCENE WHO IS  
14 THE RANKING PERSON AT THAT POINT?

15 A THE INVESTIGATOR

16 Q OKAY ALL RIGHT THANK YOU VERY MUCH, SIR  
17 PLEASE ANSWER ANY QUESTIONS COUNSEL FOR THE DEFENSE  
18 MAY HAVE

19 CROSS EXAMINATION BY MR WOOD

20 Q GOOD AFTERNOON, DEPUTY JONES?

21 A HOW YOU DOING, SIR

22 Q HOW YOU DOING?

23 A NOT TOO BAD

24 Q YOU WROTE A STATEMENT ABOUT NOVEMBER 29, 2001,  
25 IS THAT CORRECT?

1       A       I'M SORRY

2       Q       YOU WROTE A STATEMENT ABOUT NOVEMBER 29?

3       A       YES, SIR

4       Q       AND YOU DIDN'T TAKE ANY NOTES WHEN YOU WERE AT

5       THE COPE HOUSEHOLD, DID YOU?

6       A       NO, SIR

7       Q       DO YOU REMEMBER ABOUT WHAT TIME YOU ARRIVED AT

8       RICH STREET?

9       A       SHORTLY AFTER SIX O'CLOCK   IT WASN'T ANY LATER

10      THAN TEN AFTER SIX

11      Q       AND YOU WROTE THIS SUMMARY APPROXIMATELY 10 30

12      A M    THAT MORNING, IS THAT CORRECT?

13      A       YES, SIR   THEY PAGED ME, ACTUALLY PAGED ME AT

14      HOME AND OF COURSE I HAD TO GO UP THERE AND TYPE IT

15      OUT

16      Q       AND YOU'D BEEN WORKING THE CHARLIE SHIFT THE

17      NIGHT BEFORE, IS THAT CORRECT?

18      A       YES, SIR

19      Q       AND THAT'S SIX P M   FROM THE 28 TO SIX A M   ON

20      THE 29?

21      A       YES, SIR

22      Q       OKAY    SO THE TIME YOU WROTE THIS STATEMENT

23      YOU'D BEEN UP FOR PROBABLY ALMOST 20 HOURS, IS THAT

24      CORRECT?

25      A       I LEFT THERE I WOULD SAY QUARTER OF 8 AND I

1 DON'T THINK I GOT HOME UNTIL ABOUT 8 30 OF COURSE I  
2 WENT TO BED AND I GOT A PAGE I WOULD SAY AROUND TEN  
3 O'CLOCK

4 Q YOU'D BEEN WORKING ALL NIGHT?

5 A YES, SIR

6 Q AND YOU WERE TIRED?

7 A I WAS TIRED

8 Q NOW YOU TESTIFIED THAT WHEN YOU WALKED IN THE  
9 HOUSE BILLY WAS SITTING AT HIS COMPUTER DESK, IS THAT  
10 CORRECT?

11 A YES, SIR

12 Q AND YOU TESTIFIED THAT YOU WERE 100 PERCENT  
13 CERTAIN THAT HE WAS WORKING ON THE COMPUTER?

14 A YES, SIR

15 Q OKAY NOW DO YOU REMEMBER TESTIFYING IN THE  
16 FAMILY COURT CASE?

17 A YES, SIR

18 Q AND IN RESPONSE TO MR MORTON QUESTIONING YOU,  
19 DO YOU REMEMBER SAYING THAT HE WAS NOT WORKING ON THE  
20 COMPUTER?

21 A I DON'T REMEMBER SAYING HE WASN'T WORKING I  
22 REMEMBER SAYING THE COMPUTER WAS ON AND HE WAS  
23 SITTING AT THE COMPUTER DESK

24 Q OKAY BUT NOW YOU ARE SAYING YOU ARE A HUNDRED  
25 PERCENT CERTAIN HE WAS WORKING ON THE COMPUTER?

1 A WHEN YOU SAY WORKING DO YOU MEAN ACTIVELY  
2 TYPING?

3 Q LET'S SAY FOR EXAMPLE THE COURT REPORTER OR THE  
4 CLERK OF CLERK, THERE IS A COMPUTER THERE AND THEY  
5 ARE SITTING AT A DESK WITH A COMPUTER, BUT SHE'S NOT  
6 WORKING ON THAT COMPUTER, IS SHE?

7 A SHE'S NOT ACTIVELY WORKING ON IT BUT IT'S ON,  
8 SHE'S GOING TO BE WORKING ON IT SHE'S NOT WORKING  
9 ON IT RIGHT NOW

10 Q OKAY AND YOU WALKED IN THE HOME MR COPE  
11 WASN'T WORKING ON THE COMPUTER, WAS HE?

12 A HE WAS SITTING AT THE COMPUTER, THE COMPUTER WAS  
13 ON, HE WAS FACED TOWARD THE COMPUTER AND WHEN HE SAW  
14 ME HE TURNED AROUND

15 Q AND THERE WAS ALSO A PHONE SITTING THERE, WASN'T  
16 THERE?

17 A I BELIEVE THERE WAS A PHONE I DIDN'T SEE HIM  
18 ON THE PHONE

19 Q NOW YOU DIDN'T SEE HIM TYPING?

20 A NO, SIR

21 Q YOU DIDN'T SEE HIM USING A MOUSE?

22 A NO, SIR

23 Q NOW YOU HAD A CHANCE TO OBSERVE MR COPE THAT  
24 DAY, DIDN'T YOU?

25 A YES, SIR

1 Q DID YOU SEE ANY BLOOD ON HIS HANDS?

2 A NO, SIR

3 Q AND YOU DIDN'T SEE ANY BLOOD ON HIS ARMS?

4 A NO, SIR

5 Q NO BLOOD ON HIS CLOTHES?

6 A NO, SIR

7 Q NO SCRATCHES, BRUISES, NOTHING?

8 A I DIDN'T LOOK FOR WOUNDS I DIDN'T LOOK FOR  
9 SCRATCHES BLOOD WOULD BE APPARENT

10 Q NOW THIS WAS, YOU WERE CALLED OUT FOR A SIGNAL  
11 27, IS THAT CORRECT?

12 A YES, SIR

13 Q AND A SIGNAL 27 IS A DEATH INVESTIGATION?

14 A YES, SIR

15 Q AND SO WHEN YOU ENTER A CRIME SCENE WHEN THERE  
16 IS BEEN A DEATH, YOU ARE LOOKING FOR STUFF LIKE  
17 BLOOD?

18 A YES, SIR

19 Q YOU DIDN'T SEE ANY ON MR COPE?

20 A NO, SIR

21 Q NOW WOULD YOU AGREE THAT ONE OF THE MOST  
22 IMPORTANT, CRUCIAL THINGS TO DO WHEN YOU ARRIVE AT  
23 CRIME SCENE IS TO SECURE THAT CRIME SCENE?

24 A YES, SIR

25 Q IT'S IMPORTANT TO PROTECT THE EVIDENCE THERE?

1 A YES, SIR

2 Q BECAUSE IF THERE ARE TOO MANY PEOPLE TRAIPSING  
3 IN AND OUT, EVIDENCE CAN GET DESTROYED?

4 A YES, SIR

5 Q CAN GET OVERLOOKED?

6 A YES, SIR

7 Q AND YOU TESTIFIED THAT YOU AND OFFICER TAYLOR  
8 YOU BOTH SECURED THE CRIME SCENE, CORRECT?

9 A ALONG WITH A COUPLE OTHER OFFICERS WHO ARRIVED  
10 AFTERWARDS

11 Q WOULD IT SURPRISE YOU TO KNOW THAT BETWEEN 6 04  
12 AND 6 15 14 PEOPLE WERE TRAIPSING IN AND OUT OF 407  
13 RICH STREET?

14 A WOULD IT SURPRISE ME, YES, SIR

15 Q SO BASICALLY THE CRIME SCENE WASN'T SECURED?

16 A IT WAS SECURED

17 Q I MEAN, IF YOU HAD A BADGE YOU GOT IN?

18 A YES, SIR BECAUSE WE HAD TO INVESTIGATE IT

19 Q AND ONE OF THE MOST IMPORTANT THINGS ABOUT  
20 SECURING A CRIME SCENE IS TO ENSURE THAT NONESSENTIAL  
21 PERSONNEL AREN'T IN THE CRIME SCENE?

22 A YES, SIR

23 Q SO ALL 14 PEOPLE OF THOSE PEOPLE WERE ESSENTIAL  
24 PERSONNEL? THEY WERE ALL INVESTIGATING THE CASE?

25 A I HAVEN'T SEEN THE CRIME SCENE LOG I DON'T



1 KNOW HOW MANY PEOPLE CAME IN AND OUT OF THE HOUSE,  
2 BUT THEY WERE EITHER MEDICAL, FIRE, OR POLICE

3 Q NOW YOU DIDN'T SEE ANY SIGNS OF FORCED ENTRY?

4 A NO, SIR

5 Q ON YOUR STATEMENT YOU PUT DOWN IN YOUR STATEMENT  
6 THAT THERE WAS A BLANKET WRAPPED AROUND AMANDA'S  
7 NECK, IS THAT CORRECT?

8 A I BELIEVE SO

9 Q SO WHEN YOU WENT INTO THE ROOM YOU SAW A BLANKET  
10 WRAPPED SEVERAL TIMES AROUND AMANDA COPE'S NECK?

11 A I DIDN'T GO INTO THE ROOM I VIEWED IT FROM THE  
12 HALLWAY BECAUSE THERE WERE SO MANY PEOPLE IN THE ROOM  
13 ALREADY

14 Q BUT FROM WHERE YOU WERE STANDING, LOOKED AT THE  
15 BODY, YOU COULD SEE A BLANKET WRAPPED AROUND HER  
16 NECK?

17 A I THOUGHT IT WAS A BLANKET

18 Q OKAY THANK YOU

19 THE COURT MR GREELEY

20 MR GREELEY MAY IT PLEASE THE COURT  
21 CROSS EXAMINATION BY MR GREELEY

22 Q OFFICER JONES, YOU SAID YOU SAW NO SIGNS OF  
23 FORCED ENTRY DID YOU LOOK?

24 A YES, SIR

25 Q HOW DID YOU LOOK? WHAT DID YOU DO?

1 A WE VISUALLY WALKED AROUND THE HOUSE

2 Q WHO IS WE?

3 A ME, OFFICER TAYLOR, AND I BELIEVE OFFICER QUINN  
4 AND OFFICER CANTY WE WERE ALL TRYING TO STRING UP  
5 CRIME SCENE TAPE OF COURSE, THERE WAS A LOT OF  
6 POLICE PERSONNEL OUT THERE, SO IT MIGHT HAVE BEEN  
7 MORE THAN US FOUR TYING UP TAPE

8 Q BUT YOU KNOW THAT AT LEAST FOUR OF YOU WENT  
9 AROUND THE HOUSE?

10 A YES, SIR

11 Q AND HAD YOU BEEN TRAINED ON WHAT TO LOOK FOR?

12 A ROUGHLY I DON'T HAVE IN-DEPTH TRAINING

13 Q OKAY WHAT WERE YOU LOOKING FOR THAT DATE?

14 A BUSTED WINDOWS, OPEN WINDOWS

15 Q OKAY DID YOU SEE PERSONALLY ANY SIGNS OF A  
16 FORCED ENTRY ON THAT HOUSE THAT DAY?

17 A NO, SIR

18 Q AND AS WELL AS YOU THERE WERE AT LEAST THREE  
19 OTHER OFFICERS THAT YOU WERE AWARE OF WHO WERE  
20 LOOKING FOR THE SAME THING?

21 A RIGHT, YES, SIR

22 Q AND YOU MENTION THAT MR COPE AT ONE POINT  
23 PULLED YOU ASIDE AND ASKED YOU THE QUESTION AS TO  
24 WHETHER OR NOT HE MIGHT GET IN TROUBLE SINCE HIS  
25 DAUGHTER WAS FOUND DEAD IN HIS HOUSE, IS THAT RIGHT?

1 A THAT WASN'T HIS WORDS

2 Q WHAT WERE HIS WORDS?

3 A IS THERE ANYTHING BAD GOING TO HAPPEN TO ME WITH  
4 MY DAUGHTER BEING DEAD IN MY HOUSE

5 Q SO IS IT A FAIR STATEMENT THAT JUST NOT TOO LONG  
6 AFTER HE CALLED THE POLICE HE'S ALREADY THINKING  
7 ABOUT HIMSELF?

8 A SIR, I DON'T KNOW I DON'T KNOW WHAT HE WAS  
9 THINKING

10 MR GREELEY THANKS

11 REDIRECT EXAMINATION BY MR BRACKETT

12 Q MR WOOD ASKED YOU ABOUT THE BLANKET AROUND THE  
13 NECK

14 A YES, SIR

15 Q TURNING YOUR ATTENTION TO THAT DID MR COPE  
16 TELL YOU ANYTHING ABOUT FINDING THAT BLANKET AROUND  
17 HIS NECK?

18 A HE REFERRED TO IT AS BED LINENS

19 Q OKAY WHAT DID HE TELL YOU ABOUT THAT?

20 A HE SAID THE BED LINENS HAD BEEN WRAPPED AROUND  
21 HER NECK

22 Q DID HE TELL YOU HOW MANY TIMES?

23 A I THINK HE MIGHT HAVE SAID FOUR, FOUR TO FIVE

24 Q AND WHAT IN FACT DOES YOUR REPORT SAY THAT YOU  
25 OBSERVED?

1 A YES, SIR

2 (HANDED HIM THE REPORT )

3 Q IN YOUR REPORT YOU SAID I OBSERVED WHAT?

4 A THE LINENS OF HER AND THE STATEMENT IS CUT OFF  
5 HAD BEEN WRAPPED AROUND HER NECK WHAT I WOULD  
6 ESTIMATE FOUR OR FIVE TIMES

7 Q OKAY WHEN DID YOU WRITE THIS REPORT?

8 A IT WAS ABOUT 11 O'CLOCK, 10 30-11 O'CLOCK THAT  
9 SAME MORNING

10 Q AND HOW LONG DID YOU ACTUALLY GET TO SEE HER IN  
11 THE BED?

12 A MAYBE HALF, THE MAXIMUM WOULD HAVE BEEN A HALF A  
13 MINUTE

14 Q ALL RIGHT AND HOW MANY PEOPLE WERE IN THAT  
15 ROOM BETWEEN YOU AND HER?

16 A THERE WERE QUITE A BIT OFFICER TAYLOR WAS IN  
17 THERE AND I CAN REMEMBER A COUPLE FIRE FIGHTERS AND A  
18 COUPLE EMS PEOPLE, BUT I CAN'T SAY THAT THERE WAS TEN  
19 PEOPLE

20 Q OKAY SO IS IT SAFE TO SAY YOUR VIEW IS  
21 OBSCURED?

22 A YES, SIR

23 Q ALL RIGHT I'M SHOWING YOU THE CRIME SCENE LOG  
24 ARE YOU FAMILIAR WITH THAT? DOES YOUR NAME APPEAR ON  
25 THAT?

1 A YES, SIR

2 Q OKAY MR WOOD ASKED YOU SOMETHING ABOUT 14  
3 PEOPLE BETWEEN 6 04 AND 6 15 WOULD YOU COUNT AND  
4 SEE HOW MANY PEOPLE BETWEEN 6 04 AND 6 15?

5 A ARE WE COUNTING MR COPE AND HIS DAUGHTERS

6 Q ARE THEY LISTED THERE?

7 A UH-HUH

8 Q GO AHEAD AND COUNT THEM IN TOO

9 (COMPLIES )

10 A 14

11 Q ALL RIGHT NOW HOW MANY OF THOSE ARE PEOPLE  
12 THAT WERE IN THE HOUSE ALREADY? THE COPES'?

13 A YES, SIR, JUST THE COPES'

14 Q AND HOW MANY IS THAT?

15 A FOUR

16 Q OKAY HOW MANY FIREMEN?

17 A FOUR

18 Q HOW MANY EMS?

19 A TWO

20 Q AND HOW MANY POLICE OFFICERS?

21 A FIVE

22 Q OKAY HOW LONG WERE THE EMS AND THE FIRE  
23 FIGHTERS IN THE HOUSE FOR, SIR?

24 A BEFORE I GOT THERE I'M NOT SURE

25 Q OKAY AFTER YOU GOT THERE?

1 A MAYBE 15 MINUTES AT THE MAXIMUM

2 Q THANK YOU, SIR NO FURTHER QUESTIONS

3 - MR WOOD NOTHING FURTHER, YOUR HONOR

4 THE COURT ANY OBJECTION TO THIS WITNESS  
5 BEING EXCUSED?

6 MR BRACKETT I WOULD REQUEST THAT HE BE  
7 EXCUSED

8 MR WOOD NONE FROM THE DEFENSE, YOUR  
9 HONOR

10 MR GREELEY NO OBJECTION

11 THE COURT WE APPRECIATE YOUR HELP  
12 THANK YOU FEEL FREE TO LEAVE

13 MR THOMPSON THE STATE WOULD CALL  
14 INVESTIGATOR WAYNE JORDAN, YOUR HONOR

15 WAYNE JORDAN, BEING FIRST DULY SWORN,  
16 TESTIFIED AS FOLLOWS

17 DIRECT EXAMINATION BY MR THOMPSON

18 Q STATE YOUR WHOLE NAME FOR THE COURT PLEASE?

19 A ANTHONY WAYNE JORDAN

20 Q AND WHERE DO YOU WORK?

21 A I CURRENTLY WORK AT THE CHESTERFIELD COUNTY  
22 SHERIFF'S OFFICE

23 Q HOW LONG HAVE YOU BEEN THERE?

24 A I'VE BEEN THERE FOR TWO YEARS

25 Q WHERE WERE YOU WORKING BEFORE THAT?

1 A I WORKED FOUR YEARS FOR ROCK HILL CITY POLICE  
2 DEPARTMENT

3 Q WERE YOU WORKING THE EARLY MORNING HOURS OF  
4 NOVEMBER 29, 2001?

5 A YES, SIR, I WAS

6 Q CAN YOU TELL ME WERE YOU CALLED OUT TO 407 RICH  
7 STREET AT THAT TIME?

8 A YES, SIR, I WAS

9 Q AND WHEN YOU ARRIVED AT THAT SCENE DO YOU RECALL  
10 ABOUT WHAT TIME IT WAS THAT YOU ARRIVED?

11 A WHEN I ARRIVED ON THE SCENE IT WAS AROUND  
12 6 05-6 10 SOMEWHERE THAT NEIGHBORHOOD

13 Q AND WHAT DID YOU DO WHEN YOU ARRIVED ON THE  
14 SCENE?

15 A I WAS MET IN THE YARD THE YARD BY JEFF TAYLOR,  
16 OFFICER TAYLOR, AND HE ADVISED ME OF WHAT WE HAD AND  
17 THEN I WENT INSIDE THE RESIDENCE

18 Q ALL RIGHT WHEN YOU WENT IN THE RESIDENCE, DID  
19 YOU SEE THE DEFENDANT BILLY WAYNE COPE IN THE  
20 RESIDENCE?

21 A YES, I DID

22 Q WHAT HE WAS DOING WHEN YOU ARRIVED AT THE  
23 RESIDENCE?

24 A HE WAS SITTING AT HIS COMPUTER WHICH WOULD HAVE  
25 BEEN TO MY RIGHT WHEN I WALKED IN THE DOOR

1 Q WAS THE COMPUTER ON AT THAT TIME?

2 A YES, IT WAS

3 Q ALL RIGHT DID YOU SEE HIS DAUGHTERS IN THE  
4 RESIDENCE?

5 A I SEEN TWO YOUNG GIRLS SITTING ON THE COUCH TO  
6 MY LEFT

7 Q AND AFTER, WHAT WERE THEY DOING AT THE TIME THE  
8 DAY?

9 A THEY WERE TRYING THEY WERE REAL UPSET, CRYING

10 Q ALL RIGHT WHAT DID YOU DO AT THAT POINT?

11 A AT THAT TIME I WAS SHOWN TO THE BACK BEDROOM  
12 WHERE I FOUND A 12 YEAR OLD FEMALE LAYING ON THE BED

13 Q ALL RIGHT AND WAS SHE DECEASED AT THE TIME?

14 A YES, SIR, SHE WAS

15 Q AND CAN YOU TELL ME DID YOU TAKE ANY PHOTOGRAPHS  
16 OF HER AT THAT POINT?

17 A YES I WENT BACK TO MY CAR AND RETRIEVED MY  
18 DIGITAL CAMERA AND DID TAKE THREE PICTURES OF HER

19 Q I SHOW YOU STATE'S EXHIBIT NUMBER 16, 17, AND  
20 18 IF YOU CAN TELL ME WHAT THOSE ARE PLEASE?

21 A THESE ARE THE DIGITAL CAMERA PICTURES I TOOK OF  
22 AMANDA COPE

23 Q ALL RIGHT AND DO THEY FAIRLY AND ACCURATELY  
24 DEPICT HOW SHE LOOKED AT THE TIME WHEN YOU ARRIVED?

25 A THAT'S EXACTLY HOW I FOUND HER, YES



1 Q ALL RIGHT

2 MR THOMPSON YOUR HONOR, I WOULD ASK TO  
3 ENTER THESE INTO EVIDENCE AT THIS TIME

4 THE COURT ANY OBJECTION

5 MR WOOD WITHOUT OBJECTION

6 MR GREELEY NO OBJECTION

7 THE COURT ALL RIGHT BE RECEIVED  
8 WITHOUT OBJECTION ALL THREE

9 (STATE'S EXHIBIT 16 THROUGH 18  
10 PHOTOGRAPHS IN EVIDENCE )

11 Q I AM GOING TO PUT THEM UP ON THE SCREEN IF YOU  
12 COULD STEP DOWN

13 A YES, SIR

14 Q CAN WE GET IT A LITTLE BETTER IN FOCUS HERE IF  
15 YOU CAN TELL ME, IS THAT BASICALLY THE VIEW OF HER  
16 FROM WHEN YOU LOOK IN THE DOOR TO HER ROOM?

17 A YES, IT IS

18 Q THE BAG THAT IS SITTING ON THE FRONT OF THE BED  
19 AT THAT TIME, CAN YOU TELL ME WHAT THAT IS?

20 A THE BLACK BAG RIGHT HERE IS MY CAMERA BAG FOR MY  
21 CAMERA

22 Q OKAY NOW THE BLANKET ITSELF AT THAT TIME I SEE  
23 THERE IS SOMETHING OF A GREEN BLANKET ON THE RIGHT,  
24 IS THAT CORRECT?

25 A YES TO THE RIGHT THERE WOULD BE THE BLANKET

1 Q AND WHAT IS THAT THAT COMES UP TO HER ARM?

2 A IT'S THE SILK EDGING OF THE BLANKET THAT IS  
3 STITCHED INTO THE BLANKET OR WAS STITCHED INTO THE  
4 BLANKET

5 Q WAS THAT ACTUALLY AROUND HER ARM LIKE THAT WHEN  
6 YOU FIRST SAW HER?

7 A WHEN I FOUND HER THAT'S EXACTLY HOW IT WAS  
8 AROUND HER ARM

9 Q ALL RIGHT AND THIS IS STATE'S EXHIBIT NUMBER  
10 16 IF YOU LOOK AT NUMBER 17 AS WELL IF YOU CAN  
11 TELL ME IN THIS PARTICULAR PHOTOGRAPH THERE IS  
12 SOMETHING WHITE ON HER HAND, CAN YOU TELL ME WHAT  
13 THAT IS? YOU MAY NEED TO ACTUALLY SEE THE ACTUAL  
14 PHOTOGRAPH

15 A THAT'S WHAT THE EMS CALLED A LEAD OF THE HEART  
16 MONITOR

17 Q IS THAT SOMETHING EMS PUT ON HER AT THAT POINT?

18 A YES, SIR, EMS PUT THAT ON HER

19 Q THANK YOU YOU CAN GO AHEAD AND HAVE A SEAT

20 (THE WITNESS RESUMES THE WITNESS STAND )

21 Q NOW THE OTHER PICTURE, INVESTIGATOR JORDAN, THE  
22 OTHER PICTURE I BELIEVE IS THAT ONE A LITTLE CLOSER  
23 OF HER, IF YOU NEED TO LOOK AT IT AGAIN

24 A YES, SIR WHICH PICTURE

25 Q THE LAST ONE?

1 A YES, IT'S AN UP CLOSE

2 Q STATE'S EXHIBIT 18

3 A THIS IS AN UP CLOSE PICTURE OF HER

4 Q OKAY WOULD YOU TOUCH HER AND MOVE HER BODY IN  
5 ANY WAY AFTER YOU ARRIVED?

6 A NO, I DIDN'T

7 Q NOW DID YOU HAVE AN OPPORTUNITY TO SPEAK TO  
8 MR COPE AT THE SCENE?

9 A AFTER I TOOK MY PICTURES I WENT AND SPOKE TO HIM  
10 TO ASK HIM WHAT WAS GOING ON

11 Q AND WHAT DID HE SAY?

12 A WHAT DID HE SAY TO ME?

13 Q YES

14 A HE JUST SAID HE FOUND HIS DAUGHTER AND SHE WAS  
15 APPARENTLY DEAD AND THAT HE HAD TO UNWRAP THE, THE  
16 GREEN SILKY MATERIAL AROUND HER THROAT FOUR OR FIVE  
17 TIMES

18 Q ALL RIGHT

19 A AND HE FOUND IT AROUND HER THROAT

20 Q ALL RIGHT DID HE DESCRIBE TO YOU IN ANY DETAIL  
21 HOW IT WAS THAT HE FOUND HIS DAUGHTER?

22 A JUST LAYING FACE UP

23 Q OKAY AND DID HE SAY WHEN HE HAD GONE, WHEN  
24 THEY HAD GONE TO BED THE NIGHT BEFORE?

25 A HE ADVISED HIM THAT HE TOLD THEM, HER AND HER

1 SISTERS, TO GO AHEAD AND GO TO BED BECAUSE IT WAS  
2 AROUND 12-12 30

3 Q DID HE TELL YOU ABOUT THE CIRCUMSTANCE OR THE  
4 TIME IN WHICH HE FOUND HIS DAUGHTER AT THAT POINT?

5 A I'M SORRY

6 Q DID HE TELL YOU ABOUT THE TIME THAT HE FOUND HIS  
7 DAUGHTER, DID HE GIVE YOU A TIME AS FAR AS WHEN HE  
8 ACTUALLY DISCOVERED HER?

9 A HE HAD WOKEN UP AROUND QUARTER TO SIX TO WAKE  
10 THEM UP FOR SCHOOL

11 Q OKAY AND DID YOU AS PART OF YOUR DUTIES HAVE  
12 MR COPE -- SHOW YOU STATE'S EXHIBIT NUMBER 19 AS  
13 PART OF YOUR DUTIES, DID YOU HAVE MR COPE OR TALK TO  
14 MR COPE OR WATCH HIM FILL OUT THAT FORM?

15 A YES, SIR, I DID

16 Q CAN YOU TELL US WHAT THAT IS?

17 A THIS IS A ROCK HILL CITY POLICE DEPARTMENT  
18 CONSENT TO SEARCH FORM WHERE WE HAVE THEM FILL THEIR  
19 NAME AND ADDRESS OUT FOR WHAT WE INTEND ON SEARCHING  
20 AND HAVE THEM READ IT OUT ENTIRETY AND THEN HAVE HIM  
21 SIGN IT

22 Q THEN DID HE SIGN THAT FORM?

23 A YES, SIR, HE DID

24 Q AND WHAT DOES THAT FORM GIVE CONSENT TO DO?

25 A SEARCH HIS RESIDENCE AT 407 RICH STREET

1 Q DID, WAS THAT FORM DATE AND TIMED AT THE TIME  
2 THAT HE SIGNED IT?

3 A YES, SIR, 11/29/01 AND AT 7 10 A M

4 Q ALL RIGHT

5 MR THOMPSON YOUR HONOR, I ASK TO ENTER  
6 THAT INTO EVIDENCE AT THIS POINT IN TIME

7 MR WOOD WITHOUT OBJECTION

8 MR GREELEY NO OBJECTION

9 THE COURT BE RECEIVED

10 (STATE'S EXHIBIT 19 CONSENT FORM IN  
11 EVIDENCE )

12 Q AFTER YOU HAD SPOKEN WITH MR COPE WHAT ACTION  
13 DID YOU TAKE THEN?

14 A AT THAT TIME I CONSIDERED IT TO BE A CRIME  
15 SCENE, I WENT AHEAD AND CALLED FOR AN ON-CALL  
16 DETECTIVE TO COME TO THE SCENE ALONG WITH A  
17 SUPERVISOR

18 Q OKAY AND CAN YOU TELL ME DID YOU WRITE A  
19 REPORT AFTER OR A SUMMARY OF WHAT HAD HAPPENED AFTER  
20 THE INCIDENT ITSELF?

21 A YES, I DID BUT IT WAS LATER ON THE NEXT  
22 NIGHT -- WELL, THE NEXT EVENING WHEN I CAME IN I  
23 WROTE A STATEMENT ON IT

24 Q ALL RIGHT CAN YOU TELL ME WHEN YOU WENT INTO  
25 THE RESIDENCE WHAT THE CONDITION OF THE RESIDENCE WAS