

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Spartanburg County

Honorable Daniel D. Hall, Circuit Court Judge

Appellate Case Number: 2025-001377

RECEIVED

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S.C. SUPREME COURT

RICKY LEE BLACKWELL, SR.,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPENDIX
VOLUME 8 OF 18

ROSALIND S.D. MAJOR

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TRANSCRIPT DATED OCTOBER 19, 2022	8735

What are your hobbies, recreations or pastimes? going to watch my son play
baseball

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

I feel there are many things wrong with the justice system,
people are doing bad things, and the next thing you know
they are back still do what they did to start with. Police
officer do not get paid enough for what they do. And as far
as the attorneys goes, they both have a job to do and
that is to inform the jury the best they can, so that
a good judgment can be made.

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details. _____

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☐ Yes ☒ No

If yes, please explain: _____

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☒ Yes ☐ No

If yes, please give the following details:

Type of case

Verdict

Punishment

1. peeping tom guilty I don't remember that was in
2. the 90's or late 80's in Union
3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Balsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? no

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 2-4, 2014

Donna P. Champion
(Signature)

Printed Name: Donna P. Champion

#45

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror. The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Cheeks Cory Jamail
Last First Middle Maiden (If applicable)

Sex: M

Age: 26

Race: AM

Birthdate: 0 0 0
Month Day Year

Birthplace: Spartanburg S.C.
City/Town State

Driver's License No. [REDACTED]

Home Address: [REDACTED] Spartanburg 29306
Number Street City/Town Zip

How long have you lived in Spartanburg County? 26 Years

Where else have you lived, and how many years did you live in each location?

Do you own a home? ☐ Yes ☒ No

If yes, how long: _____

Employer: Lear

Job title and duties (please be specific about your duties): Seat builder. I build
Seats for BMW

How long employed there? 1 Year

What other jobs have you held? Hops (Cafe) BMW (ZAM)

Marital Status: (Check one) ☐ Widowed ☐ Married ☐ Separated ☐ Divorced ☒ Never Married

RECEIVED

Spouse's name: _____
Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): _____

Spouse's occupational duties: _____

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Cory Jamar Cheeks Jr	7	Woodland Heights
2.	Conner Jamar Cheeks	11 months	
3.			
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	Emma Cheeks	48	Exo park
2.	Benny Downs	50	

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Derrick Lamar Cheeks	32	
2.	Shammonaka Cheeks	24	
3.			
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school Cleveland

Junior High Fair Forest

High school Dorman

College/Vocational/Trade school _____

Professional school _____

Graduate school _____

Degrees/diplomas you hold GED

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: _____

Spouse: _____

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

Sigsbys Church of Christ

How often do you attend? Twice a month

Other than attendance, what other activities are you involved in at your church?

Were you raised in some other faith or denomination? ☐ Yes ☒ No

If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

What is/are your primary source(s) of news?

Radio _____ TV _____ Newspaper ☒ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes _____ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes? play basketball and spend time
with my kids when I'm off.

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

Some fair Some not

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details. _____

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☒ Yes ☐ No

If yes, please explain: CDV

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☐ Yes ☒ No

If yes, please explain: _____

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☐ Yes ☒ No If yes, please give the following details:

Type of case

Verdict

Punishment

1. _____
2. _____
3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details: _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? NO

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 2/7/8, 2014

Cory Check
(Signature)

Printed Name: Cory Check

#79

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. **You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror.** The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. **Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.**

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Fuller Stacy Antonio A
Last First Middle Maiden (If applicable)

Sex: M
Age: 27
Race: B

Birthdate:
Month Day Year

Birthplace: Spartanburg SC
City/Town State

Driver's License No. [REDACTED]

Home Address: [REDACTED] Douglas Springs SC 29316
Number Street City/Town Zip

How long have you lived in Spartanburg County? 27

Where else have you lived, and how many years did you live in each location?

Do you own a home? ☐ Yes ☒ No If yes, how long: _____

Employer: Top Quality Detail

Job title and duties (please be specific about your duties): Car details

How long employed there? 3 years

What other jobs have you held? _____

Marital Status: (Check one) ☐ Widowed ☐ Married ☐ Separated ☐ Divorced ☒ Never Married

Spouse's name: _____

Last
First
Middle
Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): _____

Spouse's occupational duties: _____

CHILDREN

	Full Name	Age	School or Occupation
1.	Kymarah Fellenwinder Smith	5	preschool
2.	Kayshira Fellenwinder Smith	4	preschool
3.			
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	Harry Anderson	57	technician
2.	Cornie Anderson	50	

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Larry Fullinwider	32	
2.	Stephanie Fullinwider	30	
3.			
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school _____

Junior High _____

High school: Balling Springs High School Grade 11th

College/Vocational/Trade school _____

Professional school _____

Graduate school _____

Degrees/diplomas you hold _____

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: _____

Spouse: _____

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

Halden Chapel

How often do you attend? Once every couple months

Other than attendance, what other activities are you involved in at your church?

Were you raised in some other faith or denomination? ☐ Yes ☒ No

If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

What is/are your primary source(s) of news?

Radio _____ TV ☒ Newspaper _____ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

News Channel 7

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes _____ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes? Sports

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

① They do there job

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details. _____

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime **ABOVE** the level of a traffic ticket?

☒ Yes ☐ No

If yes, please explain: possession of a firearm

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☐ Yes ☒ No

If yes, please explain: _____

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☐ Yes ☒ No If yes, please give the following details:

Type of case

Verdict

Punishment

1. _____
2. _____
3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☐ Yes ☒ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

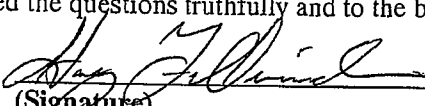
If yes, please explain: _____

Are you currently under the active care of a physician for any condition? _____

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: March 3, 2014


(Signature)

Printed Name: Stacy Fullenwider

#188

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror. The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Partridge Stephanie Michelle
Last First Middle Maiden (If applicable)

Sex: F
 Age: 46
 Race: W

Birthdate: [REDACTED] [REDACTED] [REDACTED]
Month Day Year

Birthplace: Dearborn MI
City/Town State

Driver's License No. [REDACTED]

Home Address: [REDACTED] Woodcroft 29388
City/Town Zip

How long have you lived in Spartanburg County? 17 yrs

Where else have you lived, and how many years did you live in each location?
Greenville County 1.5 yrs
Asheville / Maggie Valley, NC - 3.5 yrs
Michigan - 1967 to 1990

Do you own a home? ☒ Yes ☐ No If yes, how long: 12 yrs

Employer: SOPAP-Tunkers, LLC

Job title and duties (please be specific about your duties): Customer Service Rep - Sales
And service for German manufacturer in the Automotive Industry

How long employed there? 14 yrs

What other jobs have you held? Office/clerical; Manual waitress; labor; bartender; Accountant; own business

Marital Status: (Check one) ☐ Widowed ☒ Married ☐ Separated ☐ Divorced ☐ Never Married

SCANNED

Spouse's name: Partridge Jonathan D
Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): [REDACTED]

Spouse's occupational duties: Service technician for medical industry - repairs/
services/installs surgical equip.

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	David Rerington	11	Berry Shoals Intermediate
2.	Tripp Alexander	7	Reidville Elementary School
3.			
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	Paul Robert Rodish	83	~~Systems Analyst~~ Systems Analyst
2.	Joyce Elaine Rodish	80	Housewife

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Robin Elaine Bulley	54	Painter
2.	Wendy Joyce Smith	52	Self-Employed
3.	Laurianne Vivian Lathrop	51	truck driver
4.	Robert Paul Rodish	50	Self-Employed
	Mary Beth Lopez	48	Paralegal

EDUCATION

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school Baldwin Elementary Rochester MI

Junior High Van Housen Jr. High " "

High school Adams High " "

College/Vocational/Trade school Greenville Tech

Professional school _____

Graduate school _____

Degrees/diplomas you hold High School Diploma

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: n/a

Spouse: n/a

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

no affiliation

How often do you attend? sporadic - no specific

Other than attendance, what other activities are you involved in at your church?

n/a

Were you raised in some other faith or denomination? ☒ Yes ☐ No

If so, which one? One of Jehovah's Witnesses

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☒ Yes ☐ No

If yes, please give details. Sister and her husband are paralegals. Niece studied psychology @ Greenville Tech (I borrowed + read her book)

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

n/a

What is/are your primary source(s) of news?

Radio ☒ TV ☐ Newspaper ☐ Magazine ☐ Other ☒

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

NPR And news updates on country stations

WYFF email updates on local/national news flashes

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes ☐ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes? Reading; playing with my boys;
Cleaning; working

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

#2: - They do not get paid enough for what they do. They deserve respect + dignity for their position/title. #3 + #4: These are legal professionals doing their jobs - And ought to be respected as such.
 #1: There was a need for this institution to be put in place. It tries its best to do what is good + right but in an unjust society... sometimes is not able to fulfill its initial commission.

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☒ Yes ☐ No

If yes, please give details. My brother was robbed at gun point in NYC twice.

I suffered a \$2K loss in Jan of 2014 of check fraud.

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details. _____

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☒ Yes ☐ No

If yes, please explain: Open case: Breach of Trust

Used FTD Debit Card for personal purchases - paid back all monies, but need to prove none of monies were kept or absconded with.

↳ hired Attny Mr. Richard Warden
864-271-9955

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☒ Yes ☐ No

If yes, please explain: ② Sisters: Divorce

Sister: Paralegal for Attny in GA for DOT

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details.

Have you or your spouse ever been a juror in a civil or criminal case?

☐ Yes ☒ No

If yes, please give the following details:

Type of case

Verdict

Punishment

1. _____

2. _____

3. _____

If no verdict was reached, please explain why. N/A

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Balsa or any of their staff?

☐ Yes ☒ No

If yes, please give details.

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge? ^{yes}

☒ Yes ☐ No

— *if that is illegal or by law needs to be disclosed. If that is not a consideration or illegal... no Yes.*

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☒ Yes ☐ No

If yes, please explain: Saw Mr. Mike Smith @ Piedmont Psychology in Greenville for counseling on marital issues.

Are you currently under the active care of a physician for any condition? No

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 2/4, 2014

Stephanie M. Partridge
(Signature)

Printed Name: Stephanie M. Partridge

#266

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. **You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror.** The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. **Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.**

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: VAN DER PLAAT WILLEM WOUTER -
Last First Middle Maiden (If applicable)

Sex: MALE

Birthdate: [REDACTED] [REDACTED] [REDACTED]
Month Day Year

Age: 42

Race: CAUCASIAN

Birthplace: GUATEMALA CITY GUATEMALA
City/Town State

Driver's License No. [REDACTED]

Home Address: [REDACTED] DUNCAN 29334
Number Street City/Town Zip

How long have you lived in Spartanburg County? 3 years, 2 months

Where else have you lived, and how many years did you live in each location?

EVENGREEN, CO (1 YR); SAN ANTONIO, TX (7 YRS); SHELBY TWP, MI (4 1/2 YRS).

Do you own a home? ☐ Yes ☒ No If yes, how long: -

Employer: BMW MC, LLC

Job title and duties (please be specific about your duties): LAUNCH COORDINATOR - ARRANGE
& COORDINATE NEW CONTENT RELEASES AT PLANT.

How long employed there? 2 YEARS, 5 MONTHS

What other jobs have you held?

Marital Status: (Check one) ☐ Widowed ☐ Married ☒ Separated ☐ Divorced ☐ Never Married

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: N/A

Spouse: N/A

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

N/A

How often do you attend? N/A

Other than attendance, what other activities are you involved in at your church?

N/A

Were you raised in some other faith or denomination? ☐ Yes ☒ No

If so, which one? NONE

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☒ Yes ☐ No

If yes, please give details. SISTER IN LAW STUDIED PSYCHOLOGY IN COLLEGE

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

SOCIETY OF AUTOMOTIVE ENGINEERS

What is/are your primary source(s) of news?

Radio _____ TV ☒ Newspaper ☒ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

CNN, FOX AMERICA, TIME MAGAZINE, DUTCH NEWSPAPER ONLINE

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes _____ No ☒

If yes, please list each bumper sticker: N/A

What are your hobbies, recreations or pastimes? SCI-FI MOVIES, COMICS, BIKING, TRAVELLING,
CAR RACING, MODEL KITS

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

(1) NECESSARY INSTITUTION IN A CIVILIZED SOCIETY, BUT OVERLY
COMPLEX.

(2) I RESPECT THEM.

(3) & (4) UNLESS A LAWYER IS DEFENDING ME, I DO NOT TRUST THEM.

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. —

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☒ Yes ☐ No

If yes, please give details. BOME BURGLARIZED IN JUNE 2008

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details. —

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☒ Yes ☐ No

If yes, please explain: USING AN ATTORNEY TO OVERSEE PENNSYLVANIA DIVORCE

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☐ Yes ☒ No If yes, please give the following details:

Type of case

Verdict

Punishment

1. _____

2. _____

3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☒ Yes ☐ No

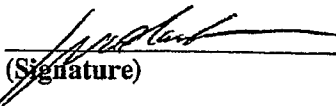
If yes, please explain: ANXIETY, ATTENTION DEFICIT HYPERACTIVITY DISORDER & DEPRESSION

Are you currently under the active care of a physician for any condition? YES

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: FEB 26, 2014


(Signature)

Printed Name: LUTLEEN VAN DER PLAAT

#134

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror. The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Kimmons Martin Kenneth
Last First Middle Maiden (If applicable)

Sex: M
 Age: 43
 Race: W

Birthdate: [REDACTED] [REDACTED] [REDACTED]
Month Day Year

Birthplace: Greenville South Carolina
City/Town State

Driver's License No. [REDACTED]

Home Address: [REDACTED] Irman St. 29349
Number Street City/Town Zip

How long have you lived in Spartanburg County? 43 years

Where else have you lived, and how many years did you live in each location?

Do you own a home? ☒ Yes ☐ No If yes, how long: 9 Years

Employer: Kirschbaum's Auto Body

Job title and duties (please be specific about your duties): Body & Paint Tech

How long employed there? ON and OFF 17 Years

What other jobs have you held? Henson Collisions, Image Collisions

Marital Status: (Check one) ☐ Widowed ☐ Married ☐ Separated ☒ Divorced ☐ Never Married

Spouse's name: _____
 Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): _____

Spouse's occupational duties: _____

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Martin Ethan Kimmons	23	Signature Cabinets
2.	Tommi Lee Kimmons	22	McAraak Trailers
3.	Mya Zenzon [REDACTED]	9 mo.	
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	Martow R. Kimmons	67	Law Enforcement / Court Reporter
2.	Sheela Kimmons	66	OFFICE WORK

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Kimberly Ann Williams	45	Heather admin.
2.			
3.			
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school 6

Junior High 8

High school 10

College/Vocational/Trade school

Professional school _____

Graduate school _____

Degrees/diplomas you hold _____

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: None

Spouse: _____

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

None At Present

How often do you attend? _____

Other than attendance, what other activities are you involved in at your church?

Were you raised in some other faith or denomination? ☐ Yes ☐ No
If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

What is/are your primary source(s) of news?

Radio ☒ TV _____ Newspaper _____ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

HISTORY Channel

Facebook, Political-the blaze

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes _____ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes? Motor Sports

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

I Am Good with all

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☒ Yes ☐ No

If yes, please give details. Father - Law Enforcement SPT. County
and County Jail

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details.

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☒ Yes ☐ No

If yes, please give details. Father

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☐ Yes ☒ No

If yes, please explain: _____

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☐ Yes ☒ No

If yes, please give the following details:

Type of case

Verdict

Punishment

1. _____
2. _____
3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? NO

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: March 3, 2014

Martin Kenneth Kimrey
(Signature)

Printed Name: Martin Kenneth Kimrey

#237

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror. The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: SMITH LONNY LEE
Last First Middle Maiden (If applicable)

Sex: M

Age: 23

Race: W

Birthdate: 4 1 1994
Month Day Year

Birthplace: FORT COLLINS COLO.
City/Town State

Driver's License No. [REDACTED]

Home Address: [REDACTED] CREEK 29651
Number Street City/Town Zip

How long have you lived in Spartanburg County? 14 YEARS

Where else have you lived, and how many years did you live in each location?

Do you own a home? ☒ Yes ☐ No If yes, how long: 14 YEARS

Employer: STRANGE BROS. GRADING

Job title and duties (please be specific about your duties): DRIVER - DRIVING

How long employed there? 19 YEARS

What other jobs have you held?

Marital Status: (Check one) ☐ Widowed ☒ Married ☐ Separated ☐ Divorced ☐ Never Married

237

Spouse's name: SMITH Becky ANN REYNOLDS
Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): _____

Spouse's occupational duties: HOME MAKER

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	TAMMY	41	
2.	TIFANY	36	
3.	TABATHA	34	
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	JOHN SMITH	96	farmer
2.	ALICE SMITH	91	wife

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	LARRY	21	RETIRED
2.	LYNN	68	" "
3.	LOWELL	66	" "
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school ST Johns

Junior High LOVELAND JUNIOR HIGH

High school LOVELAND H.S. 3

College/Vocational/Trade school _____

Professional school _____

Graduate school _____

Degrees/diplomas you hold High school

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: _____

Spouse: _____

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

500 WEST LEE RD. GREENVILLE FAITH BAPTIST

How often do you attend? TWICE WEEKLY

Other than attendance, what other activities are you involved in at your church?

BUS DRIVING

Were you raised in some other faith or denomination? ☒ Yes ☐ No

If so, which one? CATHOLIC

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

What is/are your primary source(s) of news?

Radio ☒ TV ☒ Newspaper ☒ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

4-7-NEWS RIFELMAN GREENVILLE NEWS

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes _____ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes? HUNTING, YARDWORK,
SLEEPING

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

WOULD NOT LIVE WITH OUT THEM

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details. _____

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☐ Yes ☒ No

If yes, please explain: _____

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☐ Yes ☒ No

If yes, please give the following details:

Type of case

Verdict

Punishment

1. _____
2. _____
3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Balsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? NO

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 2-02, 2014

Lonny L Smith
(Signature)

Printed Name: LONNY LEE SMITH

#70

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. **You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror.** The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. **Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.**

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Estes Michael John Jr
Last First Middle Maiden (If applicable)

Sex: M
 Age: 48
 Race: W

Birthdate: [REDACTED] [REDACTED] [REDACTED]
Month Day Year

Birthplace: Boston Mass
City/Town State

Driver's License No. [REDACTED]

Home Address: [REDACTED] Moore 29369
Number Street City/Town Zip

How long have you lived in Spartanburg County? 7 1/2 years

Where else have you lived, and how many years did you live in each location?

[REDACTED] Wake Forest N.C. 3 years

Do you own a home? ☒ Yes ☐ No If yes, how long: 7 years

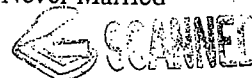
Employer: Endeavor Telecom

Job title and duties (please be specific about your duties): Install and repair telephone lines.
Install and repair dsl, T-1 lines, and data and phone systems.

How long employed there? 1 year

What other jobs have you held? Att 14 yrs

Marital Status: (Check one) ☐ Widowed ☒ Married ☐ Separated ☐ Divorced ☐ Never Married



Spouse's name: Estes Michelle Helman
Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): [REDACTED]

Spouse's occupational duties: Cost Accounting

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Andrew Michael Estes	22	Asst Mgr Valvoline
2.	Stephen Anthony Estes	18	N/A
3.	Rexford Adam [REDACTED]	16	Dorman Highschool
4.	Dave Alexander [REDACTED]	15	Dorman Highschool
5.	Michael John [REDACTED]	10	Anderson Mill Elementary
	<u>PARENTS</u>		

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	Ethel Mills Eason	70	State Worker
2.	Jerry Eason	68	Mint Super Intendant Dep Corrections N.C.

BROTHERS AND SISTERS

<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1. Wendy ^{Lee} Estes	50	
2. Lynne Robin Estes	49	
3. Nicholas Paul Estes	45	
4. Steven Joseph Mollomo	49	
Karen Chiero	47	
<u>EDUCATION</u> April Sylvia	410	

Please name the schools you have attended and the grade or level completed:

Grade school Knightdale Elementary 5th

Junior High Varden Whitely Middle School 8th

High school East Wake High School 12th

College/Vocational/Trade school ITT, Bob Jones Univ, Southeastern Free Will Baptist Co

Professional school SCC

Graduate school N/A

Degrees/diplomas you hold N/A

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: Navy no combat service other the honorable

Spouse: N/A

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

Anderson Mill Baptist Church

How often do you attend? Once a week

Other than attendance, what other activities are you involved in at your church?

Choir

Were you raised in some other faith or denomination? ☐ Yes ☒ No

If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

N/A

What is/are your primary source(s) of news?

Radio ☒ TV _____ Newspaper _____ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

NCIS + ESPN News

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes _____ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes?

Weight lifting, softball + basketball

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

I believe most people in criminal justice system are just trying to do their job. Sometimes their opinions get in their way of seeing things clearly but for the most of the time I think the system works.

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☒ Yes ☐ No

If yes, please give details.

Dep of Corrections State of S.C.

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☒ Yes ☐ No

If yes, please give details.

Had property stolen

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☒ Yes ☐ No

If yes, please give details.

Dep of Corrections State of S.C.

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☒ Yes ☐ No

If yes, please explain: CDV 1st wife Did counseling required
record was expunged.

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☒ Yes ☐ No

If yes, please explain: Divorce + custody battle

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details.

Have you or your spouse ever been a juror in a civil or criminal case?

☐ Yes ☒ No If yes, please give the following details:

Type of case

Verdict

Punishment

1. _____

2. _____

3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☒ Yes ☒ No

If yes, please explain: _____

Anger Management

Are you currently under the active care of a physician for any condition? yes Dr. Melba for
diabetes

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 15 FEB, 2014

Michael J. Estes Jr
(Signature)

Printed Name: Michael John Estes Jr

#264

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror. The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: UNGER RONALD EDWIN
Last First Middle Maiden (If applicable)

Sex: M Birthdate: [REDACTED] [REDACTED] [REDACTED]
Age: 59 Month Day Year

Race: white Birthplace: HAGERSTOWN MD
City/Town State

Driver's License No. [REDACTED]

Home Address: [REDACTED] MOORE SC
City/Town Zip

How long have you lived in Spartanburg County? 12+ years

Where else have you lived, and how many years did you live in each location?
Memphis TN 2 years HAZLETON PA. 8 years
Willow Grove, PA. 5 years Philadelphia Pa. 5 years

Do you own a home? ☒ Yes ☐ No If yes, how long: 12+ years

Employer: Exopack LLC

Job title and duties (please be specific about your duties): DIRECTOR OF SAFETY + HEALTH
SAFETY Director for MANUFACTURING COMPANY (18 LOCATIONS).

How long employed there? 22 years

What other jobs have you held? HR Manager

Marital Status: (Check one) ☐ Widowed ☒ Married ☐ Separated ☐ Divorced ☐ Never Married

SCANNED

Spouse's name: LINGER MARY M.
Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): _____

Spouse's occupational duties: NONE

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	NONE		
2.			
3.			
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	RAY UNGER	DECEASED	
2.	BETTY UNGER	DECEASED	

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	ROBERT UNGER	53	Computer Tech.
2.	DONNA UNGER	56	LEGAL LAW CLERK
3.	BONNIE UNGER	54	NONE (disabled).
4.	BILL UNGER	51	SALES

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school WAYNESBORO, PA graduated

Junior High WAYNESBORO, PA graduated

High school WAYNESBORO H.S., PA graduated

College/Vocational/Trade school PENN STATE UNIVERSITY BS grad.

Professional school _____

Graduate school _____

Degrees/diplomas you hold Business and Insurance BS degree

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: NONE

Spouse: NONE

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

NONE

How often do you attend? N/A

Other than attendance, what other activities are you involved in at your church?

N/A

Were you raised in some other faith or denomination? ☐ Yes ☐ No

If so, which one? N/A

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☒ Yes ☐ No

If yes, please give details. STUDIED LAW IN PENN STATE (CLASSES ONLY).

STUDIED PSYCHOLOGY AT PENN STATE

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

FLEXIBLE PACKAGING ASSOCIATION

SAFETY PROFESSION ASSOCIATION.

What is/are your primary source(s) of news?

Radio ☒ TV ☒ Newspaper ☒ Magazine ☐ Other WEB.

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

NIGHTLY NEWS, CNN HEADLINE NEWS, USA Today

CNN website, MSN NEWS.

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes ☒ No ☐

If yes, please list each bumper sticker: PENN STATE

What are your hobbies, recreations or pastimes? Guitar, web surfing,
READING

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

- (1) Criminal Justice System is needed but does NOT ALWAYS ACHIEVE THE CORRECT END.
- (2). POLICE OFFICERS ARE HEROS. SERVE THE PUBLIC INTEREST.
- (3) PROSECUTING ATTORNEYS HAVE A DIFFICULT JOB. TO OFTEN ALLOW SETTLEMENT AGREEMENTS.
- (4) CRIMINAL DEFENSE ATTORNEYS - SOME ARE VERY DEDICATED AND SOME ARE OF VERY LOW ESTEEM.

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☒ Yes ☐ No

If yes, please give details. Used to be part of a Neighborhood Watch Group in Memphis TN.

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details. _____

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☒ Yes ☐ No

If yes, please explain: My brother's son is currently serving jail time for drug conviction.

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☒ Yes ☐ No

If yes, please explain: I work closely with attorneys on Worker's Compensation cases and OSHA citation cases. My sister is a law clerk in PA.

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details.

Have you or your spouse ever been a juror in a civil or criminal case?

☒ Yes ☐ No If yes, please give the following details:

Type of case

Verdict

Punishment

1. Child abuse plead BARGAINED

2. _____

3. _____

If no verdict was reached, please explain why.

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details.

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? NO

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 02/04, 2014

Ronald E. Unger
(Signature)

Printed Name: RONALD E. UNGER

#162

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. **You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror.** The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. **Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.**

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Martin Robert Gene
Last First Middle Maiden (If applicable)

Sex: M

Age: 58

Race: W

Birthdate:
Month Day Year

Birthplace: Spartanburg S.C.
City/Town State

Driver's License No. _____

Home Address: Campobello S.C. 29322
Number Street City/Town Zip

How long have you lived in Spartanburg County? 45 yrs

Where else have you lived, and how many years did you live in each location?
Augusta Ga.

Do you own a home? ☒ Yes ☐ No If yes, how long: _____

Employer: Adidas

Job title and duties (please be specific about your duties): Warehouse Worker

How long employed there? 3 yrs

What other jobs have you held? _____

Marital Status: (Check one) ☐ Widowed ☐ Married ☐ Separated ☒ Divorced ☐ Never Married

Spouse's name: _____
 Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): _____

Spouse's occupational duties: _____

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Robert Adam Martin	30	Bmw
2.	Michael Gene Martin	24	UPS
3.	James Perry Martin	21	student
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	Arthur Gere Martin	83	retired
2.	Marlene F Martin	82	retired

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Janice L. Gussner	60	retired
2.	Gayle V. Stone	59	retired
3.	Donna K. Brown	52	Belts
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school ~~Seth~~ ~~high~~ E.P. Todd (Cooperative)

Junior High Evans

High school Sydney High

College/Vocational/Trade school _____

Professional school: USC

Graduate school _____

Degrees/diplomas you hold none / High School

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: Na

Spouse: Na

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

1st Baptist Spthg

How often do you attend? 1 mt.

Other than attendance, what other activities are you involved in at your church?

Were you raised in some other faith or denomination? ☐ Yes ☒ No

If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

Na

What is/are your primary source(s) of news?

Radio ☒ TV _____ Newspaper _____ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

101.1, WSPA, Dirt bike, Facebook

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes ☒ No _____

If yes, please list each bumper sticker: NSC, CCA

What are your hobbies, recreations or pastimes? dirt bike, scuba, football,

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

The Criminal Justice has Judges, Lawyers, and
witnesses to Prove guilt or not.

Police Officers are to protect the public & enforce
the law.

Prosecuting attorney prosecutes the person or persons
on trial.

defense att. try to show not guilty of persons
or person

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☒ Yes ☐ No

If yes, please give details. police & deputy Sheriff

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☐ Yes ☒ No

If yes, please explain: _____

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☐ Yes ☐ No If yes, please give the following details:

Type of case

Verdict

Punishment

1. N/A

2. _____

3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☒ Yes ☐ No

If yes, please give details. Derrick Bulsa

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☒ Yes ☐ No

If yes, please explain: Divorce counseling

Are you currently under the active care of a physician for any condition? Bad back (yes)

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 3-3, 2014

(Signature)

Robert Gene Martin

Printed Name: Robert Gene Martin

#165

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror. The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: McCraw Last Eric First Jay Middle Maiden (If applicable)

Sex: MAge: 43Race: WBirthdate: [REDACTED] [REDACTED] [REDACTED]

Month

Day

Year

Birthplace: Spartanburg

City/Town

SC

State

Driver's License No. [REDACTED]Home Address: [REDACTED]Boiling Springs SC 29316

City/Town

Zip

How long have you lived in Spartanburg County? 43 yrs.

Where else have you lived, and how many years did you live in each location?

Do you own a home? ☒ Yes ☐ NoIf yes, how long: 20 yrs.Employer: United Parcel ServiceJob title and duties (please be specific about your duties): Feeder Driver - Drive tractor trailerHow long employed there? 25 yrs.What other jobs have you held? MechanicMarital Status: (Check one) ☐ Widowed ☒ Married ☐ Separated ☐ Divorced ☐ Never Married

Spouse's name: McCraw Tammy Dill
Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): [REDACTED]

Spouse's occupational duties: book keeper

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Abby Leigh	16	Boiling Springs High School
2.	Tyler Jay	13	Boiling Springs Middle School
3.			
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	Barbara Gayle Berry McCraw	66	Tax Preparer
2.	Ray Dean McCraw	65	Plant Foreman

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	David Ray McCraw	46	Restaurant Owner
2.			
3.			
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school Carlisle Elementary 1st - 6th

Junior High Boiling Springs Junior High 7th-9th

High school Boiling Springs High School 10th-12th

College/Vocational/Trade school _____

Professional school _____

Graduate school _____

Degrees/diplomas you hold High School Diploma

MILITARY SERVICE

N/A

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: _____

Spouse: _____

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

Buck Creek Baptist Church Chesnee, SC

How often do you attend? Weekly

Other than attendance, what other activities are you involved in at your church?

Were you raised in some other faith or denomination? ☒ Yes ☐ No

If so, which one? Wesleyan

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

Teamsters Union

What is/are your primary source(s) of news?

Radio _____ TV ☒ Newspaper _____ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

Spartanburg Herald, Jayski

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes _____ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes? _____

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

(1) It is needed to keep control of citizens.

(2) Underpaid.

(3) They are doing their job.

(4) They are doing their job.

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☒ Yes ☐ No

If yes, please give details. Brothers home broken into.

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☒ Yes ☐ No

If yes, please give details. Matt Hutchins - 2nd cousin

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☒ Yes ☐ No

If yes, please explain: House closing

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☐ Yes ☒ No

If yes, please give the following details:

Type of case

Verdict

Punishment

1. _____

2. _____

3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? No

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 2-4, 2014

(Signature)

Printed Name: Eric Jay McCraw

#290

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror. The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Williams Tommy LEE SR.
Last First Middle Maiden (If applicable)

Sex: M
 Age: 56
 Race: B

Birthdate: Month Day Year

Birthplace: Spartanburg SC
City/Town State

Driver's License No. [REDACTED]

Home Address: [REDACTED] Inman SC 29349
Number Street City/Town Zip

How long have you lived in Spartanburg County? 56 year

Where else have you lived, and how many years did you live in each location?

Do you own a home? ☒ Yes ☐ No If yes, how long: _____

Employer: MICHELIA TIRES

Job title and duties (please be specific about your duties): Robo OPER

How long employed there? 24 years

What other jobs have you held? _____

Marital Status: (Check one) ☐ Widowed ☒ Married ☐ Separated ☐ Divorced ☐ Never Married

SCANNED

Spouse's name: Williams Sylvia Ann Bookard
Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): [REDACTED]

Spouse's occupational duties: _____

CHILDREN

<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1. <u>TOMMY LEE Williams JR</u>	<u>38</u>	
2. <u>NICHOLAS D. Williams</u>	<u>34</u>	<u>MICHELIN TIRES</u>
3. <u>STEFAN A. Williams</u>	<u>33</u>	<u>addias</u>
4. <u>JENNIFER V Williams</u>	<u>29</u>	

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	ALBERT LEWIS Williams	88	RETIREMENT
2.	JESSIE MAE Williams		DECEASE

BROTHERS AND SISTERS

Full Name	Age	School or Occupation
1. ~~HEATH~~ HEIER L Williams	68	RETIRED
2. FRANKIE L Williams	63	RETIRED
3. ARTHUR n Williams	60	RETIRED
4. WILHE L Williams	59	SHERIFF

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school _____

Junior High _____

High school Belling Springs HS 12 grade

College/Vocational/Trade school _____

Professional school _____

Graduate school _____

Degrees/diplomas you hold _____

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

— Yourself: X

Spouse: X

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

Holden Chapel Baptist Church

How often do you attend? Often as I can

Other than attendance, what other activities are you involved in at your church?

Were you raised in some other faith or denomination? ☐ Yes ☒ No

If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☒ Yes ☐ No

If yes, please give details. BROTHER A SHERIFF

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

X

What is/are your primary source(s) of news?

Radio _____ TV ☒ Newspaper _____ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

NEWS CHANNEL 7

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

— Yes _____ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes?

WORKING IN YARD

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

NO GENERAL FEELINGS ABOUT THEM

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☒ Yes ☐ No

If yes, please give details. BROTHER A DEPUTY SHERIFF

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☐ Yes ☒ No

If yes, please explain: _____

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☒ Yes ☐ No If yes, please give the following details:

Type of case

Verdict

Punishment

1. civil not guilty

2. _____

3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☐ Yes ☒ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? no

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 2-5, 2014

Tommy Lee Williams SR
(Signature)

Printed Name: Tommy LEE Williams SR

#154

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror. The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: LOWE Donald WAYNE
Last First Middle Maiden (If applicable)

Sex: M

Age: 45

Race: W

Birthdate: [REDACTED] [REDACTED] [REDACTED]
Month Day Year

Birthplace: Union SC
City/Town State

Driver's License No. [REDACTED]

Home Address: [REDACTED] Pauline 29374
Number Street City/Town Zip

How long have you lived in Spartanburg County? 39 yrs total

Where else have you lived, and how many years did you live in each location?

Germany 4 yrs (military)

Texas 2 yrs (military)

Do you own a home? ☒ Yes ☐ No If yes, how long: 21

Employer: Michelin us 1

Job title and duties (please be specific about your duties): TVA classpector. I check
and class tires for any defects (quality)

How long employed there? 14 yrs

What other jobs have you held? machine operator, not military

Marital Status: (Check one) ☐ Widowed ☒ Married ☐ Separated ☐ Divorced ☐ Never Married

Spouse's name: LOWE Silvia Erika Leippbrand
Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): [REDACTED]

Spouse's occupational duties: cake decorator

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Michaela Stefanie McElrath	29	Vet tech.
2.	Donald Joey Lowe	23	tree services
3.	Julia Donna [REDACTED]	17	Woodruff High School
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	Barbara Ann Bitner	67	Industrial worker
2.	Donald Wilburn Lowe	66	miliken

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Donna Faye Boatwright	41	Nurse Ass.
2.			
3.			
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school Pauline Elementary

Junior High Gable middle school

High school Paul M. Dorman High School

College/Vocational/Trade school _____

Professional school _____

Graduate school _____

Degrees/diplomas you hold _____

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: us Army 6yrs specialist E4 m1 tank gunner Honorable

Desert
shield
star

Spouse: none

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

Friendship Baptist church Pauline SC

How often do you attend? monthly

Other than attendance, what other activities are you involved in at your church?

none

Were you raised in some other faith or denomination? ☐ Yes ☒ No

If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

none

What is/are your primary source(s) of news?

Radio ☒ TV ☒ Newspaper _____ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

cnn News 4 & 7 Fox News

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes ☒ No _____

If yes, please list each bumper sticker: softball stickers

What are your hobbies, recreations or pastimes? Hunting, fishing, golf

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

① criminal justice system is very much needed to keep law and order for our way of life. ② Police officers are need to help enforce our laws. ③ Prosecuting attorneys charge people with crimes & law breakers, have respect for them. ④ Criminal defense attorneys are respected as long as they help someone who is wrongfully charged.

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details. _____

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☒ Yes ☐ No

If yes, please explain: DNA for fathering a child that was
not mine. can not remember

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☐ Yes ☒ No If yes, please give the following details:

Type of case

Verdict

Punishment

1. _____

2. _____

3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? yes, diabetes and
blood pressure

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: Feb 2, 2014

Donald W. Lowe
(Signature)

Printed Name: Donald W. Lowe

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. **You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror.** The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. **Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.**

Thank you for your prompt attention and cooperation.

Name: Pettersen Donald Gary
Last First Middle Maiden (If applicable)

Sex: M Birthdate:
Age: 58 Month Day Year
Race: W

Birthplace: Spartanburg S.C.
City/Town State

Driver's License No.

Home Address:

Number	Street

City/Town

Zid

How long have you lived in Spartanburg County? 58 years

Where else have you lived, and how many years did you live in each location?

Do you own a home? ☒ Yes ☐ No

If yes, how long: 40 years

Employer:

First Baptist Spartanburg

Job title and duties (please be specific about your duties): Facilities Manager

Oversee - maintenance, Transportation, Janitorial, Scheduling

How long employed there? 6 years

What other jobs have you held? 18 years - Supervisor Cryovac.

Marital Status: (Check one) ☐ Widowed ☒ Married ☐ Separated ☐ Divorced ☐ Never Married

Spouse's name: Patterson Trudy Brown
Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): [REDACTED]

Spouse's occupational duties: Medical Technician.

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Ann Marie Roberts	40	Administrator DCI (Medical)
2.	Melissa Margaret Patterson	36	Greenville County School Administ
3.			
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	Willard E. Patterson		Deceased
2.	Margaret W. Patterson		Deceased

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Jerry Patterson	62	Retired.
2.	Larry Patterson	60	Laurens Electric.
3.			
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school _____

Junior High

High school Woodruff High 12

College/Vocational/Trade school Spartanburg Tech. 2 years

Professional school _____

Graduate school _____

Degrees/diplomas you hold _____

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: _____

Spouse: _____

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

First Baptist Spartanburg

How often do you attend? Weekly

Other than attendance, what other activities are you involved in at your church?

Facilities Manager

Were you raised in some other faith or denomination? ☐ Yes ☒ No
If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

Three Pines County Club

What is/are your primary source(s) of news?

Radio _____ TV ☒ Newspaper _____ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

ESPN, History Channel,

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes _____ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes? Golf, Fishing, Wood Working
Carpentry

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

1. It works but moves slowly.
2. Lot of Responsibility for ^{Few} rewards.
3. Needed to protect victims and convict the criminals.
4. Needed to make the justice system work.

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☒ Yes ☐ No

If yes, please give details. my son in law is Employed by Spartanburg
County Sheriffs Dept. (SRO At Dorman High)

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☒ Yes ☒ No

If yes, please explain: Daughter & Son-in-law is in the
adoption Process

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☒ Yes ☐ No If yes, please give the following details:

	Type of case	Verdict	Punishment
1.	<u>Drug Conviction</u>	<u>Guilty</u>	<u>?</u>
2.			
3.			

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

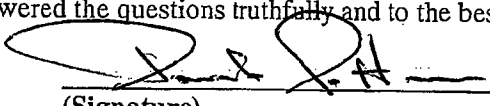
If yes, please explain: _____

Are you currently under the active care of a physician for any condition? yes

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 2-5, 2014


(Signature)

Printed Name: Donald Patterson

#160

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror. The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Marcotte Diane Margaret Preston
Last First Middle Maiden (If applicable)

Sex: F

Age: 72

Race: W

Birthdate: 11 1 1940
Month Day Year

Birthplace: Guelph, Ontario, Canada
City/Town State

Driver's License No. _____

Home Address: _____
Number Street City/Town Zip

How long have you lived in Spartanburg County? 7 years

Where else have you lived, and how many years did you live in each location?

Canada 11 years

Michigan 54 years

Do you own a home? ☐ Yes ☒ No If yes, how long: _____

Employer: Retired

Job title and duties (please be specific about your duties): Was secretary to Assistant
Warden in Michigan State Prison

How long employed there? 15 years

What other jobs have you held? Raised 6 children before returning to secretarial

Marital Status: (Check one) ☐ Widowed ☒ Married ☐ Separated ☐ Divorced ☐ Never Married

Spouse's name: Marcotte Diane M Preston
Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): [REDACTED]

Spouse's occupational duties: Retired salesman

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Bonnie Magee	52	Housewife
2.	Brian Marcotte	50	Director work first, Michigan
3.	Teanne Young	48	Manufacturing Mgr
4.	Brenda Marcotte	46	Engineer (over)

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	Jamuel Preston	Deceased	Home repair
2.	Emily Preston	Deceased	Housewife

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	E. Joan Holst	78	Housewife
2.	Bruce Preston	74	retired
3.	David Preston	72	deceased
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school Hutchinson - Detroit 6th

Junior High Fish JHS - Detroit 8th

High school Southeastern HS - Detroit 12th

College/Vocational/Trade school Baker College 3 years

Professional school _____

Graduate school _____

Degrees/diplomas you hold Executive Secretarial

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: NA

Spouse: NA

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

None

How often do you attend? Don't

Other than attendance, what other activities are you involved in at your church?

None

Were you raised in some other faith or denomination? ☐ Yes ☒ No

If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. Worked for Dept of Corrections

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

None

What is/are your primary source(s) of news?

Radio ☐ TV ☒ Newspaper ☐ Magazine ☐ Other ☐

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

channel 4

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes ☐ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes?

Reading, sewing

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

- (1) I worked for cjs. It could be rewarding work. I worked with school, religious + recreational personnel
- (2) They are ordinary people doing a difficult job trying to protect citizens
- (3) No feelings - depends on person
- (4) No feelings - depends on person.

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☒ Yes ☐ No

If yes, please give details. daughter was corrections officer 6 years

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☐ Yes ☒ No

If yes, please explain: _____

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☒ Yes ☐ No If yes, please give the following details:

Type of case

Verdict

Punishment

1. Counterfeit Not guilty

2. _____

3. _____

If no verdict was reached, please explain why.

wasn't proven beyond reasonable doubt

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? High blood pressure

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 2-5, 2014

Diane Marcotte
(Signature)

Printed Name: Diane Marcotte

#140

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. **You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror.** The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. **Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.**

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Lamb George M
Last First Middle Maiden (If applicable)

Sex: M
 Age: 79
 Race: W

Birthdate: [REDACTED]
Month Day Year

Birthplace: McKeesport Pa.
City/Town State

Driver's License No. [REDACTED]

Home Address: [REDACTED] Inman 29349
Number Street City/Town Zip

How long have you lived in Spartanburg County? 15 yrs

Where else have you lived, and how many years did you live in each location?

Marianna Pa 20 Wierdon N.V. 1 1/2
McKeesport Pa 40

Do you own a home? ☒ Yes ☐ No If yes, how long: 15

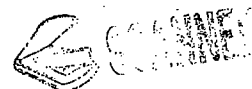
Employer: Retired

Job title and duties (please be specific about your duties): N/A

How long employed there? N/A

What other jobs have you held?

Marital Status: (Check one) ☒ Widowed ☐ Married ☐ Separated ☐ Divorced ☐ Never Married



Spouse's name: Dead
 Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): N/A

Spouse's occupational duties: N/A

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Kurt Lemb	52	Maint.
2.	Laura Sayre	51	Tad
3.	Fredy Bailey	46	Asst Mg.
4.	Tina Siege	42	Office Mg

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	Died		
2.	u		

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	None		
2.			
3.			
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school George Washington Ele. 8

Junior High N/A

High school Makeesport High School 4

College/Vocational/Trade school Pittsburgh Univ. 2

Professional school —

Graduate school —

Degrees/diplomas you hold —

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any court-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: Army - 2 yrs. - Sp4 - Honorable - No

Spouse: N/A

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

Church of Jesus Christ of Latter Day Saints Boiling Springs

How often do you attend? Every Sunday

Other than attendance, what other activities are you involved in at your church?

Were you raised in some other faith or denomination? ☒ Yes ☐ No

If so, which one? Baptist

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

N/A

What is/are your primary source(s) of news?

Radio _____ TV ☒ Newspaper _____ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

Channel 7

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes _____ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes?

Wood working & fly fishing

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

1. It is the greatest system in the world

2. Generally very good

3. Sometimes Law

4. Needed

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details. _____

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☒ Yes ☐ No

If yes, please explain: Auto accident &

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☒ Yes ☐ No

If yes, please give the following details:

Type of case

Verdict

Punishment

1. Auto court.

2. _____

3. _____

If no verdict was reached, please explain why. Mistake made by a witness

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition?

Yes high blood pressure & 24 rail Fib

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 2-3, 2014

(Signature)

Printed Name:

George M Lamb

#29

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror. The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Bradley Angela Nelling
Last First Middle Maiden (If applicable)

Sex: F
 Age: 41
 Race: _____

Birthdate:
Month Day Year

Birthplace: Heidelberg Germany
City/Town State

Driver's License No.

Home Address: Boiling Springs 29314
Number Street City/Town Zip

How long have you lived in Spartanburg County? 23 years

Where else have you lived, and how many years did you live in each location?
150 Woodcreek Drive Sptbg SC - 10+ yrs

Do you own a home? ☐ Yes ☒ No If yes, how long: _____

Employer: Spartanburg County

Job title and duties (please be specific about your duties): Solid Waste Coordinator (Wellford Landfill)
Handle/Process all 3 divisions administrative, oversee Scale house operations

How long employed there? 6 yrs @ Wellford Landfill - 18 yrs with Sptbg County

What other jobs have you held? Spartanburg County Assessors Office

Marital Status: (Check one) ☐ Widowed ☐ Married ☐ Separated ☒ Divorced ☐ Never Married

SCANNED

Spouse's name: _____
 Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): _____

Spouse's occupational duties: _____

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Joseph Alexander Bradley	20	Newberry College
2.			
3.			
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	Francis A. Nelling	64	US Army
2.	Josefina G. Nelling	61	NA

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Jennifer Ann DeFrancisco	37	Nurse
2.			
3.			
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school Irwin Elementary, Fayetteville NC

Junior High Springlake Jr. High, Fayetteville NC

High school Interboro Sr. High School, Prospect Park, PA

College/Vocational/Trade school Bloomsburg University

Professional school _____

Graduate school _____

Degrees/diplomas you hold _____

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: _____

Spouse: _____

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

New Spring Church

How often do you attend? Weekly

Other than attendance, what other activities are you involved in at your church?

Were you raised in some other faith or denomination? ☒ Yes ☐ No
If so, which one? Catholic

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

League of Women Voters, PTA/PTO

What is/are your primary source(s) of news?

Radio _____ TV ☒ Newspaper ☒ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

WSPA Newschannel 7, Fox News, Spthg Herald Journal

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes _____ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes? Reading, Sports, Working out

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

#1 - Innocent until proven guilty. Everyone is entitled to a fair trial. #2 - Like everything in life there are good + bad police officers. #3 + #4 - feelings are neutral they have a job to do.

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☒ Yes ☐ No

If yes, please give details. Ex husband - Police officer

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☐ Yes ☒ No

If yes, please explain: _____

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☐ Yes ☒ No

If yes, please give the following details:

Type of case

Verdict

Punishment

1. _____
2. _____
3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☒ Yes ☐ No

If yes, please give details.

Barry Barnette's son played baseball with mine
over 10+ plus years ago.

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? High blood pressure

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: Feb. 4, 2014

Angela N. Bradley
(Signature)

Printed Name: Angela N. Bradley

#61

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror. The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Dendy Andrea Bence
Last First Middle Maiden (If applicable)

Sex: F

Age: 23

Race: B

Birthdate: [REDACTED] [REDACTED] [REDACTED]
Month Day Year

Birthplace: Spartanburg SC
City/Town State

Driver's License No. [REDACTED]

Home Address: [REDACTED] Spartanburg 29303
Number Street City/Town Zip

How long have you lived in Spartanburg County? 23 years

Where else have you lived, and how many years did you live in each location?
NO where

Do you own a home? ☐ Yes ☒ No If yes, how long: _____

Employer: MACK Molding

Job title and duties (please be specific about your duties): Inspector; look at motor-cycle parts.

How long employed there? 1 year

What other jobs have you held? Adidas, Dollar General, Amazon

Marital Status: (Check one) ☐ Widowed ☐ Married ☐ Separated ☐ Divorced ☒ Never Married

Spouse's name: _____
 Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): _____

Spouse's occupational duties: _____

CHILDREN

	Full Name	Age	School or Occupation
1.	Mariah [REDACTED]	14 years old	Campobello Gramling Elementary
2.			
3.			
4.			

PARENTS

	Full Name	Age	Occupation (Before Retirement)
1.	Elaine Dendy	51	Contec
2.	Luther Dendy	50 (SSZ)	unemployed

BROTHERS AND SISTERS

	Full Name	Age	School or Occupation
1.	Adrian Gory	36	unemployed
2.			
3.			
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school Jonesville Elementary 1st-6th grade
 Junior High Jonesville ^{High} Middle 7th-~~10~~⁹th grade
 High school Chapman high School 10th-12th
 College/Vocational/Trade school N/A
 Professional school N/A
 Graduate school _____
 Degrees/diplomas you hold High school

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: N/A

Spouse: _____

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

Mabry's Temple Campobello, SC

How often do you attend? every Sunday

Other than attendance, what other activities are you involved in at your church?

N/A

Were you raised in some other faith or denomination? ☐ Yes ☒ No

If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

NA

What is/are your primary source(s) of news?

Radio _____ TV ☒ Newspaper _____ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

News Channel 7

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes _____ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes?

working

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

I feel that the criminal justice system should be more towards justice and not so much bias. Police officers need to take more charge. I feel that both types of attorneys do what they can to help those who need the help.

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details.

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details.

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details.

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☐ Yes ☒ No

If yes, please explain: _____

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☐ Yes ☒ No If yes, please give the following details:

Type of case

Verdict

Punishment

1. _____

2. _____

3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? NO

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 02 Oct, 2014

Andrea Dendy
(Signature)

Printed Name: Andrea Dendy

#78

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. **You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror.** The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. **Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.**

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Fritch Caroline Dee
Last First Middle Maiden (If applicable)

Sex: F

Sex: F
Age: 33
Race: W

Birthdate: _____

 Month Day Year

Birthplace: Christfield MD
City/Town State

Driver's License No.

Home Address: _____
 _____ Street _____
 _____ City/Town _____ Zip _____

How long have you lived in Spartanburg County? 8 years

Where else have you lived, and how many years did you live in each location?
NC - 4 years

MD - 18 years

Do you own a home? ☒ Yes ☐ No If yes, how long: 6 years

Employer: self

Job title and duties (please be specific about your duties): Instructor

How long employed there? 8

What other jobs have you held? NONE

Marital Status: (Check one) ☐ Widowed ☐ Married ☐ Separated ☒ Divorced ☐ Never Married.

Spouse's name: N/A
 Last First Middle Maiden (If Applicable)

Spouse's date of birth (DD-MM-YY): _____

Spouse's date of birth (Day/Month/Year): _____

Spouse's occupational duties: _____

CHILDREN

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	N/A		
2.			
3.			
4.			

PARENTS

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	Allen S Fritch	73	Radio Announcer
2.			

BROTHERS AND SISTERS

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	N/A		
2.			
3.			
4.			

EDUCATION:

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school Beaver Run Elementary

Junior High Wilcomico Middle

High school Wiltonico High

College/Vocational/Trade school _____

Professional school

Graduate school

Degrees/diplomas you hold _____

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: N/A

Spouse: _____

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

N/A

How often do you attend? _____

Other than attendance, what other activities are you involved in at your church?

Were you raised in some other faith or denomination? ☐ Yes ☐ No

If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

N/A

What is/are your primary source(s) of news?

Radio _____ TV _____ Newspaper _____ Magazine _____ Other ☒

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

NBC

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes ☒ No ☐

If yes, please list each bumper sticker: CrossFit

What are your hobbies, recreations or pastimes? Athletics, Horses

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

I have great respect for all the above

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details. _____

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☐ Yes ☒ No

If yes, please explain: _____

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☐ Yes ☒ No

If yes, please give the following details:

Type of case

Verdict

Punishment

1. _____
2. _____
3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☒ Yes ☐ No

If yes, please explain: While I was divorcing

Are you currently under the active care of a physician for any condition? NO

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 2/23, 2014

Caroline Fitch
(Signature)

Printed Name: Caroline Fitch

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror. The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: ANDERSON RICHARD ALLEN
Last First Middle Maiden (If applicable)

Sex: MALE

Age: 39

Race: WHITE

Birthdate: [REDACTED]
Month Day Year

Birthplace: EASLEY SC
City/Town State

Driver's License No. [REDACTED]

Home Address: [REDACTED] INMAN 29349
Number Street City/Town Zip

How long have you lived in Spartanburg County? 15 YEARS

Where else have you lived, and how many years did you live in each location?

PICKENS COUNTY - 24 YEARS ; CHEROKEE COUNTY 6 MONTHS ;

SPARTANBURG COUNTY - 14 YEARS

Do you own a home? ☒ Yes ☐ No If yes, how long: 15 YEARS

Employer: SUMMIT ENGINEERING GROUP, INC.

Job title and duties (please be specific about your duties): PROJECT MANAGER - CIVIL DESIGN,
PERMITTING, PLANNING, PROJECT/CONSTRUCTION MANAGEMENT, MARKETING

How long employed there? 4 YEARS

What other jobs have you held? FOOD SERVICE, DAY CARE, MASONRY

Marital Status: (Check one) ☐ Widowed ☒ Married ☐ Separated ☐ Divorced ☐ Never Married

 **SCANNED**

Spouse's name: ANDERSON SUSAN FREEMAN A
Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): _____

Spouse's occupational duties: CHEMICAL ENGINEER

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	RICHARD A. [REDACTED]	10	NEW PROSPECT ELEMENTARY
2.	ANDREW W. [REDACTED]	6	NEW PROSPECT ELEMENTARY
3.			
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	TRACY A. ANDERSON	70	MACHINIST
2.	NANCY A. ANDERSON	63	SECRETARY

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	MICHAEL N. ANDERSON	35	HIGH SCHOOL MATH TEACHER
2.	STACY D. SIMMONS	32	COSMETOLOGY TEACHER
3.			
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school AMBLER ELEMENTARY

Junior High PICKENS JUNIOR HIGH SCHOOL

High school PICKENS HIGH SCHOOL

College/Vocational/Trade school GREENVILLE TECH / CLEMSON UNIVERSITY

Professional school _____

Graduate school _____

Degrees/diplomas you hold AA / AS / BS

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: _____

Spouse: _____

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

NEW PROSPECT BAPTIST CHURCH, JUMAN, SC

How often do you attend? WEEKLY

Other than attendance, what other activities are you involved in at your church?

TEACHER, AWANA LEADER, DEACON

Were you raised in some other faith or denomination? ☐ Yes ☒ No

If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☒ Yes ☐ No

If yes, please give details. I TOOK PSYCHOLOGY & SOCIOLOGY IN COLLEGE

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

WATER ENVIRONMENT ASSOCIATION OF SC / AMERICAN WATER WORKS ASSOCIATION

What is/are your primary source(s) of news?

Radio _____ TV _____ Newspaper _____ Magazine _____ Other INTERNET

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

SUNDAY NIGHT FOOTBALL, NCIS LA, BIG BANG THEORY, SB & B BIG SHOW, SALTWATER

SPORTSMAN, GREENVILLE NEWS COMICS, FOXNEWS.COM, WYFF4.COM, SI.COM, CNN.COM, WEATHER.COM

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes ☒ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes? FISHING, BOATING, HUNTING, SKIING, CAMPING

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

(1) THERE'S ROOM FOR IMPROVEMENT

(2) THERE'S GOOD ONES AND BAD ONES

(3) + (4) I HOPE THEY ARE ALL SEEKING THE TRUTH - BUT ITS OBVIOUS THEY ARE MANIPULATING THE LAWS TO WIN. THE DUI ATTORNEY ADS ARE SHAMEFUL

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☒ Yes ☐ No

If yes, please give details. I WAS A POLICE CADET FOR A SHORT TIME IN HIGH SCHOOL

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☒ Yes ☐ No

If yes, please give details. PARENTS HOUSE WAS ROBBED A COUPLE OF YEARS AGO

MY TRUCK WAS BROKEN INTO WHILE BEING SERVICED @ VIC BAILY FORD

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details. _____

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☒ Yes ☐ No

If yes, please explain: MOTHER ACCUSED OF TAKING MONEY FROM SCHOOL SHE WORKED AT,
PAID RESTITUTION

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☒ Yes ☐ No

If yes, please explain: FRIENDS OF TIM F. WILLIAMS (PATENT ATT.) + VALERIE P. WILLIAMS
(CORPORATE ATT)

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details.

Have you or your spouse ever been a juror in a civil or criminal case?

☐ Yes ☒ No If yes, please give the following details:

Type of case

Verdict

Punishment

1. _____
2. _____
3. _____

If no verdict was reached, please explain why.

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details.

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

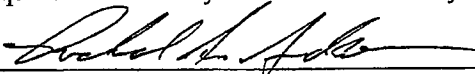
If yes, please explain: _____

Are you currently under the active care of a physician for any condition? No

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: FEB. 4th, 2014


(Signature)

Printed Name: RICHARD A. ANDERSON

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JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. **You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror.** The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. **Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.**

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Erickson F Wesley
Last First Middle Maiden (If applicable)

Sex: m
 Age: 49
 Race: w

Birthdate: 04 19 1959
Month Day Year

Birthplace: Shreveport La.
City/Town State

Driver's License No. _____

Home Address: _____ Boiling Springs 29316
Number Street City/Town Zip

How long have you lived in Spartanburg County? 5 yrs.

Where else have you lived, and how many years did you live in each location?

Edgemoor, SC. 10 yrs. Rock Hill SC. 30

Do you own a home? ☒ Yes ☐ No If yes, how long: 5 yrs.

Employer: Consept Packaging Group

Job title and duties (please be specific about your duties): _____

How long employed there? 2 yrs.

What other jobs have you held? Press Operator

Marital Status: (Check one) ☐ Widowed ☒ Married ☐ Separated ☐ Divorced ☐ Never Married

Spouse's name: Erickson Dena C
Last First Middle Maiden (If Applicable)

• Spouse's date of birth (Day/Month/Year): _____

Spouse's occupational duties: Ins sales

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Aleisha N [REDACTED]	~~16~~	school
2.	Ariel M [REDACTED]	15	School
3.	Scotly D Oden	28	Machine Operator
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	Dalton LeDean Erickson	73	Pastor
2.	Betty Earle Erickson	70	(Passed away) Homemaker

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Tymbra LeDean Stegall	51	Homemaker
2.			
3.			
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school Ebipord Elm 6th

Junior High Rawlins Road Junior High 9th

High school Northwestern High 12th

College/Vocational/Trade school York Tech (some)

Professional school _____

Graduate school _____

Degrees/diplomas you hold _____

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: X

Spouse: X

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

Pentecostals of Spartanburg

How often do you attend? 3 Times a week

Other than attendance, what other activities are you involved in at your church?

Were you raised in some other faith or denomination? ☐ Yes ☒ No

If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

X

What is/are your primary source(s) of news?

Radio ☒ TV ☒ Newspaper ☒ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

any

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes _____ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes?

sports, family, work

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

I always hope Justice Prevails

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details.

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details.

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details.

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☐ Yes ☒ No

If yes, please explain: _____

Have you or your spouse ever served on a grand jury? ☒ Yes ☐ No

If yes, please give details. Me York County grand 1990

Have you or your spouse ever been a juror in a civil or criminal case?

☒ Yes ☐ No If yes, please give the following details:

Type of case	Verdict	Punishment
1. <u>child hurt</u>	<u>Not Guilty</u>	<u>None</u>
2. _____	_____	_____
3. _____	_____	_____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☐ Yes ☒ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? _____

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 2, 8, 2014

F. Wesley Erickson
(Signature)

Printed Name: F. Wesley Erickson

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JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror. The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Stephens Robert Bryan
Last First Middle Maiden (If applicable)

Sex: M Birthdate: [REDACTED] [REDACTED] [REDACTED]
Age: 38 Month Day Year

Race: W Birthplace: Spartanburg SC
City/Town State

Driver's License No. [REDACTED]

Home Address: [REDACTED] Wellford 29385
Number Street City/Town Zip

How long have you lived in Spartanburg County? 31 yrs

Where else have you lived, and how many years did you live in each location?

Greer, SC 7 yrs

Do you own a home? ☒ Yes ☐ No If yes, how long: 5 yrs

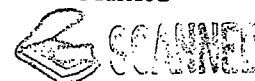
Employer: World Acceptance Corp.

Job title and duties (please be specific about your duties): mail room. Insert mail
into envelopes using an inserter.

How long employed there? less than a year

What other jobs have you held? electrical Assembler at Hardness International

Marital Status: (Check one) ☐ Widowed ☒ Married ☐ Separated ☐ Divorced ☐ Never Married



Spouse's name: Stephen S Laura Ann Bright
Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): [REDACTED]

Spouse's occupational duties: Registered Nurse.

CHILDREN

	Full Name	Age	School or Occupation
1.	Amy Madison	11	School Beech Springs
2.	Megan Lynn	11	School Beech Springs
3.			
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	Robert Earle Stephens	63	Assembler
2.	Annie Carrell Stephens	63	Waitress

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	N/A		
2.			
3.			
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school Starkey elementary

Junior High ~~Forest Street Middle~~ Greer middle

High school Greer High

College/Vocational/Trade school Greenville Tech

Professional school _____

Graduate school _____

Degrees/diplomas you hold 1

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: N/A

Spouse: N/A

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

Duncan Church of Christ Duncan, SC

How often do you attend? 3 times a week

Other than attendance, what other activities are you involved in at your church?

Teaching

Were you raised in some other faith or denomination? ☐ Yes ☒ No

If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

What is/are your primary source(s) of news?

Radio ☒ TV ☒ Newspaper ☐ Magazine ☐ Other ☐

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

Channel 7 & 4 (TV) 106.3 & 90.1 (Radio)

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes ☐ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes? Carpentry, family time

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

1. When working correctly is Great. my opinion is it is too easy on repeat offenders.

2. I have no problems with them, there just doing there job.

3. N/A

4. N/A

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details. _____

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☒ Yes ☐ No

If yes, please explain: Father used an Attorney for a claim

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☒ Yes ☒ No

If yes, please give the following details:

Type of case

Verdict

Punishment

1. Accused

2. _____

3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? No

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 2/4 / _____, 2014

R. Bryan Stephens
(Signature)

Printed Name: Robert Bryan Stephens

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror. The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: McIntyre Michael Lee
Last First Middle Maiden (If applicable)

Sex: M Birthdate: [REDACTED] [REDACTED] [REDACTED]
Age: 47 Month Day Year

Race: B Birthplace: Spartanburg South Carolina
City/Town State

Driver's License No. [REDACTED]

Home Address: [REDACTED] Spartan 29307
Number Street City/Town Zip

How long have you lived in Spartanburg County? 20 yrs

Where else have you lived, and how many years did you live in each location?

167 Countyside Circle Moore SC 1 year, Spruce Pine Apt
Spartbg 1 year, 125 East Crescent 3 years.

Do you own a home? ☐ Yes ☒ No If yes, how long: _____

Employer: Exel

Job title and duties (please be specific about your duties): I work in shipping department
A load trailers and ship them out

How long employed there? 4 years

What other jobs have you held? forklift driver, Buck mason

Marital Status: (Check one) ☐ Widowed ☐ Married ☐ Separated ☒ Divorced ☐ Never Married

Spouse's name: _____
 Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): _____

Spouse's occupational duties: _____

CHILDREN

	Full Name	Age	School or Occupation
1.	Christopher A. McIntyre	20	Sptbg Comm. College
2.	Khabeb [REDACTED]	2	home
3.	Kaden [REDACTED]	1	home
4.			

PARENTS

	Full Name	Age	Occupation (Before Retirement)
1.	JAMES McAntye		Deceased
2.	~~Carolyn~~ Carolyn McAntye	62	Hone maker

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Jannie Michelde McAnty	48	Truck driver
2.	Stevie Lewis McAnty	46	Truck driver
3.	John Paul McAnty	40	School Teacher
4.	Bobby Joe McAnty	39	Air Force

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school Green Creek Elem. 6th grade

Junior High _____

High school Polk Central High School 12th

College/Vocational/Trade school _____

Professional school

Graduate school

Degrees/diplomas you hold _____

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: Navy medical honorable discharge

Spouse: _____

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

Cornerstone Baptist Church, Converse St Aptly 3C

How often do you attend? every week

Other than attendance, what other activities are you involved in at your church?

Were you raised in some other faith or denomination? ☐ Yes ☒ No

If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

What is/are your primary source(s) of news?

Radio _____ TV ☒ Newspaper _____ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

News channel 7, Big Bang Theory, NCIS, Mike and Molly

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes _____ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes? _____

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

I don't like our criminal justice system because they are unfair when it comes to races.

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details. _____

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☐ Yes ☒ No

If yes, please explain: _____

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☒ Yes ☐ No

If yes, please give the following details:

Type of case

Verdict

Punishment

1. Rape case

not guilty

2. _____

3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? No

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 2/5/, 2014

Michael L McIntyre
(Signature)

Printed Name: Michael L McIntyre

#50

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. **You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror.** The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. **Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.**

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Collins Barbara JOAN
Last First Middle Maiden (If applicable)

Sex: F
 Age: 69
 Race: W

Birthdate: [REDACTED] [REDACTED] [REDACTED]
Month Day Year

Birthplace: MANHATTEN, N.Y.
City/Town State

Driver's License No. [REDACTED]

Home Address: [REDACTED] INMAN, S.C. 29349
City/Town Zip

How long have you lived in Spartanburg County? 30 years

Where else have you lived, and how many years did you live in each location?

Connecticut 39 years

Do you own a home? ☒ Yes ☐ No

If yes, how long: 30 years

Employer: RETIRED

Job title and duties (please be specific about your duties): _____

How long employed there? _____

What other jobs have you held? _____

Marital Status: (Check one) ☐ Widowed ☒ Married ☐ Separated ☐ Divorced ☐ Never Married

Spouse's name: COLLINS FRED ANDREW
Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): [REDACTED]

Spouse's occupational duties: Retired

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Stephanie HAMILTON	40	Housewife
2.	BRENT TAYLOR	43	PAINTER
3.			
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	Olga Baronick		Deceased
2.	WALTER Baronick		Deceased

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	None		
2.			
3.			
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school SAYLES Elementary BALTIc, Conn.
Junior High _____

Junior High _____

High school NORWICH FREE ACADEMY NORWICH, Conn.

College/Vocational/Trade school Butera School of Art Boston, MASS.

Professional school _____

Graduate school _____

Degrees/diplomas you hold _____

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: NONE

Spouse: ARMY - Honorabe Discharge

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

NONE AT THIS TIME

How often do you attend? _____

Other than attendance, what other activities are you involved in at your church?

Were you raised in some other faith or denomination? ☒ Yes ☐ No

If so, which one? RUSSIAN ORTHODOX - CATHOLIC

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

NONE

What is/are your primary source(s) of news?

Radio ☒ TV ☒ Newspaper ☒ Magazine ☒ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

CNN, FOX NEWS Net, 60 minutes, EDUCATIONAL

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes _____ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes? _____

GARDEN, PAINTING, READING

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

ALL OF ABOVE IS ALL FAIR AS FAR
AS MY OPINION GOES

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details. _____

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☐ Yes ☒ No

If yes, please explain: _____

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☐ Yes ☒ No

If yes, please give the following details:

Type of case

Verdict

Punishment

1. _____

2. _____

3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? _____

NO

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: FEB 3, 2014

Barbara J. Collins
(Signature)

Printed Name: Barbara J. Collins

#215

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. **You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror.** The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. **Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.**

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Richardson Terrence Jessell
Last First Middle Maiden (If applicable)

Sex: M
 Age: 26
 Race: B

Birthdate: [redacted] [redacted] [redacted]
Month Day Year

Birthplace: Spartanburg S.C.
City/Town State

Driver's License No. [redacted]

Home Address: 116 [redacted] Spartanburg SC 29301
Number Street City/Town Zip

How long have you lived in Spartanburg County? 26 yrs

Where else have you lived, and how many years did you live in each location?

Do you own a home? ☐ Yes ☒ No If yes, how long: _____

Employer: MAU/BMW

Job title and duties (please be specific about your duties): Production Associate

help assemble cars on an assembly line

How long employed there? 2 yrs

What other jobs have you held? Leas, Adidas,

Marital Status: (Check one) ☐ Widowed ☐ Married ☐ Separated ☐ Divorced ☒ Never Married

SCANNED

'Spouse's name: _____
Last First Middle Maiden (If Applicable)

Last

First

Middle

Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year):

Spouse's occupational duties:

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Riley [REDACTED]	3	
2.			
3.			
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	Cathy Richardson	56	
2.			

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Stanley Richardson	28	
2.			
3.			
4.			

EDUCATION

EDUCATION
Please name the schools you have attended and the grade or level completed:

Grade school Chapman Elementary

Junior High Whitlock Junior High

High school Spartanburg High School

College/Vocational/Trade school

Professional school

Graduate school.

Degrees/diplomas you hold.

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: _____

Spouse: _____

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

Camerstonie Baptist Church

How often do you attend? Once a month

Other than attendance, what other activities are you involved in at your church?

Were you raised in some other faith or denomination? ☐ Yes ☒ No

If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

What is/are your primary source(s) of news?

Radio _____ TV ☒ Newspaper _____ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

Cartoon Network, Nickelodeon,

Facebook

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes _____ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes? _____

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

Neutral towards all above

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details. _____

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☐ Yes ☒ No

If yes, please explain: _____

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☐ Yes ☒ No

If yes, please give the following details:

Type of case.

Verdict

Punishment

1. _____

2. _____

3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No If yes, please give details. _____

RACE & ETHNICITY

If you overheard another juror make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? NO

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 2/15, 2014

Terrance Richardson
(Signature)

Printed Name: Terrance Richardson

#88

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror. The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Matherley Laura Anne Gilbert
Last First Middle Maiden (If applicable)

Sex: F
 Age: 51
 Race: C

Birthdate: ██ ██ ██
Month Day Year

Birthplace: Spartanburg SC
City/Town State

Driver's License No. ██████████

Home Address: ██████████ Spartanburg SC 29303
Number Street City/Town Zip

How long have you lived in Spartanburg County? 51 yrs.

Where else have you lived, and how many years did you live in each location?

Senolia Georgia 3 yrs

Had 2 homes → traveled back & forth between SC & Georgia

Do you own a home? ☒ Yes ☐ No If yes, how long: have been a homeowner since 1993

Employer: Ambulatory Surgery Center

Job title and duties (please be specific about your duties): RN

How long employed there? 3 years

What other jobs have you held? RN - Piedmont Fayette Hosp. RN - SRMC

Marital Status: (Check one) ☐ Widowed ☒ Married ☐ Separated ☐ Divorced ☐ Never Married

Spouse's name: Matherly David Lee
Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year):

Spouse's occupational duties: Engineer - Product Manager Specialist

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Jessica Seay Law	31	
2.			
3.			
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	Joye Gilbert Alexander	73	none
2.			

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Bill Gilbert	47	Boiling Springs High - Pool Installation
2.	Dale Gilbert	45	Boiling Springs High - Maintenance
3.			
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school ⁽²⁻⁶⁾ Hendrix Elem., John Dodd (1st)

Junior High Holdens Chapel, Boiling Springs

High school Boiling Springs

College/Vocational/Trade school USC - Mary Black School of Nursing

Professional school _____

Graduate school _____

Degrees/diplomas you hold Associate Degree Nursing

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: none

Spouse: none

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

1st Baptist N. Spthg

How often do you attend? not sure

Other than attendance, what other activities are you involved in at your church?

Were you raised in some other faith or denomination? ☐ Yes ☒ No

If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☒ Yes ☐ No

If yes, please give details. daughter - psychology, sociology
Michael Rudasill - relative - Retired criminal lawyer

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

What is/are your primary source(s) of news?

Radio _____ TV ☒ Newspaper _____ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

Fox News, HGTV, InStyle magazine,
WBPA
websites - Facebook, eBay, Realtor.com

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes _____ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes? _____

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

no opinion other than I feel police officers
are underpaid for what they do

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☒ Yes ☐ No

If yes, please give details. Husband witness for prosecution in murder

trial 30 years ago in Virginia

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details. _____

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☒ Yes ☐ No

If yes, please explain: Relative - Mike Rudasill

used Ruth Cate as divorce atty

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☐ Yes ☒ No

If yes, please give the following details:

Type of case

Verdict

Punishment

1. _____

2. _____

3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. el graduated highschool with

5 Daniel Brent Bulsa
in 1980

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☒ No

If no, please explain.

if I take an oath about this I
would notify the judge otherwise I probably
wouldn't

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☒ Yes ☐ No

If yes, please explain:

counseling after death of (father and sister)
and marriage/divorce counseling

Are you currently under the active care of a physician for any condition? no

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 2-11-, 2014

Laura G. Matherly
(Signature)

Printed Name: Laura G. Matherly

#60

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. **You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror.** The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. **Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.**

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Danielson Todd David
Last First Middle Maiden (If applicable)

Sex: M

Birthdate: [REDACTED] [REDACTED] [REDACTED]
Month Day Year

Age: 52

Race: Cauc.

Birthplace: Cincinnati OH
City/Town State

Driver's License No. [REDACTED]

Home Address: [REDACTED] Moore SC 29369
Number Street City/Town Zip

How long have you lived in Spartanburg County? 30 yrs.

Where else have you lived, and how many years did you live in each location?

Atlanta, GA 5 yrs; Raleigh, NC 2 yrs; Glen Ellyn, IL 8 yrs;
Charleston, WV 2 yrs; Cincinnati, OH 5 yrs

Do you own a home? ☒ Yes ☐ No If yes, how long: 21 yrs

Employer: Milliken Co.

Job title and duties (please be specific about your duties): Research & Development Manager,
Manage group of engineers & chemists.

How long employed there? 32 yrs.

What other jobs have you held? None

Marital Status: (Check one) ☐ Widowed ☒ Married ☐ Separated ☐ Divorced ☐ Never Married

6011111111

Spouse's name: Danielson Rae Fuller Fuller
Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): [REDACTED]

Spouse's occupational duties: Teach in business department of Dorman HS.

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Victoria Rae Danielson	23	Graphic designer
2.	Andrew Maurice Danielson	21	Clemson University
3.	Audrey Marie Danielson	21	USC@Aiken
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	David Oscar Danielson	79	Computer engineer
2.	Roberta Ann Danielson	78	Bank teller

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Paula Jean Wolsted	56	Office manager
2.	Wendy Jane Goldston	54	Insurance agent
3.			
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school Hawthorne Elem. School, Glen Ellyn, IL

Junior High Hadley Jr. High School, Glen Ellyn, IL

High school Millbrook High School, Raleigh NC

College/Vocational/Trade school Georgia Institute of Technology, Atlanta GA

Professional school n/a

Graduate school Clemson University

Degrees/diplomas you hold Bachelors Chemical Engineering, Masters Business Administration

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: n/a

Spouse: n/a

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

Newspring Church, Spartanburg SC

How often do you attend? Weekly

Other than attendance, what other activities are you involved in at your church?

Finance team, prayer team

Were you raised in some other faith or denomination? ☒ Yes ☐ No

If so, which one? Lutheran

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

n/a

What is/are your primary source(s) of news?

Radio ☒ TV ☒ Newspaper ☐ Magazine ☐ Other ☐

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

WORD radio, WSPA TV-CBS, Yahoo.com, ESPN

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes ☐ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes? Gardening, golf, spectator sports,

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

I really don't have any strong feelings of these. Our criminal justice system serves a necessary + vital role to the community. I have a very high level of respect for our community's police officers. They are public servants who also provide a critical role in our society. Prosecuting + defense attorneys each present their side of the case, in order for truth to direct justice.

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☒ Yes ☐ No

If yes, please give details. Garage was broken into, power tools + golf clubs were stolen.

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details. _____

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☒ Yes ☐ No

If yes, please explain: DUI, Jan. 2, 1981

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☐ Yes ☒ No

If yes, please explain: _____

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☒ Yes ☐ No

If yes, please give the following details:

Type of case	Verdict	Punishment
1. <u>Civil</u>	<u>Dismissed</u>	<u>None</u>
2. _____	_____	_____
3. _____	_____	_____

If no verdict was reached, please explain why. Judge told us the case was dismissed
+ we were free to go. Don't know any more.

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? No.

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: Feb. 1, 2014

Todd Danielson
(Signature)

Printed Name: Todd Danielson

#219

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror. The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Rothenburg Ray Lesley
Last First Middle Maiden (If applicable)

Sex: M
 Age: 53
 Race: W

Birthdate: [REDACTED] [REDACTED] [REDACTED]
Month Day Year

Birthplace: Baltimore MD
City/Town State

Driver's License No. [REDACTED]

Home Address: [REDACTED] Pauline 29374
Number Street City/Town Zip

How long have you lived in Spartanburg County? 34 years

Where else have you lived, and how many years did you live in each location?
Baltimore, MD 19 years

Do you own a home? ☒ Yes ☐ No If yes, how long: 30

Employer: Spartanburg Water

Job title and duties (please be specific about your duties): Auto Mechanic - repair all vehicles and equipment owned by Sptbg. Water

How long employed there? 11 years

What other jobs have you held? always been an auto mechanic

Marital Status: (Check one) ☐ Widowed ☒ Married ☐ Separated ☐ Divorced ☐ Never Married

Spouse's name: Rothenburg Sylvia Denise LAWS
Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): [REDACTED]

Spouse's occupational duties: N/A

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Megan Denise Rothenburg	25	Interim Health-CNA
2.			
3.			
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	Ruby Jo Ann Seaman Rothenburg	73	Truck Driver
2.	Albert William Rothenburg, Sr.	74	Deceased Truck Driver

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Albert William Rothenburg, Jr.	54	Landscaper
2.	Say Wesley Rothenburg, Sr.	53	Metall Cutter
3.	Teresa Lynn Smith	52	Unemployed
4.	Donna Jean Stankovic	51	Self Employed

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school Baltimore, MD

Junior High Edgewood - MD (8)

High school Paul M. Dorman High (12) Edgewood High MD

College/Vocational/Trade school R.D. Anderson Voc. School

Professional school N/A

Graduate school N/A

Degrees/diplomas you hold High School Diploma / Auto Mechanic degree

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: N/A

Spouse: N/A

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

How often do you attend? never

Other than attendance, what other activities are you involved in at your church?

Were you raised in some other faith or denomination? ☐ Yes ☒ No
If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

What is/are your primary source(s) of news?

Radio _____ TV ☒ Newspaper _____ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

WYFF, FOX 21

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes _____ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes?

Hunting, fishing

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

Criminal Justice System - Too Lenient
 Police Officers - Could do a better job
 Prosecuting Attorneys - Could do a better job
 Criminal Defense Attorneys - Get too many of
 their clients off on technicalities or a reduced
 sentence.

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details.

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☒ Yes ☐ No

If yes, please give details.

House was broken into in 1999.

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☒ Yes ☐ No

If yes, please give details.

Wife worked for Tyger River Correctional Inst.

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☒ Yes ☐ No

If yes, please explain: _____

Used attorney in real estate closings.
Wife worked at the late Law firm and for Patricia Anderson.

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☐ Yes ☒ No

If yes, please give the following details:

Type of case

Verdict

Punishment

1. _____
2. _____
3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☒ Yes ☐ No

If yes, please give details. _____

Rick Gregory - friend over 30 years

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? NO

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 5/6, 2014

Ray Rothenburg
(Signature)

Printed Name: Ray Lesley Rothenburg

#261

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. **You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror.** The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. **Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.**

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Trejo Karen Lynne Gibson
Last First Middle Maiden (If applicable)

Sex: F
 Age: 49
 Race: W

Birthdate: [REDACTED] [REDACTED] [REDACTED]
Month Day Year

Birthplace: Gaffney SC
City/Town State

Driver's License No. _____

Home Address: [REDACTED] Chesnee SC 29323
Number Street City/Town Zip

How long have you lived in Spartanburg County? 28 yrs.

Where else have you lived, and how many years did you live in each location?

Goucher / Green Bethel Rd.
Gaffney, SC 19 yrs.

Do you own a home? ☒ Yes ☐ No If yes, how long: 23 yrs.

Employer: NONE

Job title and duties (please be specific about your duties): _____

How long employed there? _____

What other jobs have you held? John H Montgomery Mill 10 yrs.

Marital Status: (Check one) ☐ Widowed ☐ Married ☐ Separated ☒ Divorced ☐ Never Married

SCANNED

Spouse's name: Trejo Javier Trejo
Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): [REDACTED]

Spouse's occupational duties: Machine operator

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Anna Marie Trejo	29	Disabled
2.	Javier Adam Trejo	25	Unemployed
3.	Jose Antonio Trejo	23	Security Guard
4.	Rosia Felisa Trejo	22	After School Center

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	Olin Ray Gibson		Machine operator
2.	Elaine Kirby Gibson		Inspection

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Michael Ray Gibson	41	Deceased
2.	Randall Scott Gibson		Deceased
3.	Pamela Jean Gibson		Deceased
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school Goucher Elementary School 6th
 Junior High East Jr. High School 9th
 High school Gaffney Senior High School 12th
 College/Vocational/Trade school Cherokee Vocational Textiles
 Professional school _____
 Graduate school _____
 Degrees/diplomas you hold _____

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: NONE

Spouse: NONE

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

Chesnee First baptst.

How often do you attend? Sunday's

Other than attendance, what other activities are you involved in at your church?

NONE

Were you raised in some other faith or denomination? ☐ Yes ☒ No

If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☒ Yes ☐ No

If yes, please give details. my son Jose is a graduate of

ITT Tech. Criminal Justice.

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

NONE

What is/are your primary source(s) of news?

Radio ☒ TV ☒ Newspaper ☐ Magazine ☐ Other ☐

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

WSPA TV - WSSI fm - NCis - NCis - LA - Criminal

Minds - Facebook - Yahoo - Msn.

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes ☐ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes? Riding bikes. Playing B-Ball
Playing With Grandkids-

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

I believe in the justice system, People who
need to be in jail need to pay for the crime
Police officers are helpful, and I believe
they should stand by the oath they take
Prosecuting attorneys have to show the
evidents to put the Person who committed the
Crime, should be in Prison. The Criminal defence
has to prove their client is not guilty of the charges.

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☒ Yes ☐ No

If yes, please give details. My son Jose is a Security guard for BMW.

Abm Security Services Inc

Greer, SC

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☐ Yes ☒ No

If yes, please explain: _____

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☐ Yes ☒ No

If yes, please give the following details:

Type of case

Verdict

Punishment

1. _____

2. _____

3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Balsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? Dr. Robert Kaemmerlin

Diabetes, High blood pressure

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 2-1, 2014

Karen G Trejo
(Signature)

Printed Name: Karen G Trejo

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JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror. The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Grabarkiewicz Edward Albert
Last First Middle Maiden (If applicable)

Sex: m
 Age: 47
 Race: w

Birthdate: 02 05 00
Month Day Year

Birthplace: Washington D.C.
City/Town State

Driver's License No. [REDACTED]

Home Address: [REDACTED] Boiling Springs, S.C. 29316
Number Street City/Town Zip

How long have you lived in Spartanburg County? 41 years

Where else have you lived, and how many years did you live in each location?

Potuxent river Maryland 3 years

Sacramento California 3 years

Do you own a home? ☒ Yes ☐ No

If yes, how long: 17 years

Employer: Bmw mc

Job title and duties (please be specific about your duties): Production Associate
in paint shop

How long employed there? 15 years

What other jobs have you held? Curtis Mathes TV's

Marital Status: (Check one) ☐ Widowed ☒ Married ☐ Separated ☐ Divorced ☐ Never Married

Spouse's name: Grabarkiewicz Amanda Hope
Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year):

Spouse's occupational duties: Book-keeper

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Chelsea B. [REDACTED]	16	Boiling Springs, Highschool
2.	Allie E. [REDACTED]	12	BSms
3.	Abbey n. [REDACTED]	10	BSIS
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	Doris F. Grabarkiewicz	79	Book- Keeper
2.			

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Deborah L. Grabarkiewicz	47	Accounting
2.			
3.			
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school Boiling Springs

Junior High Boiling Springs

High school Boiling Springs

College/Vocational/Trade school Spartanburg Tech

Professional school _____

Graduate school _____

Degrees/diplomas you hold Associate Degree

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

yourself: N/A

Spouse: N/A

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

N/A

How often do you attend? N/A

Other than attendance, what other activities are you involved in at your church?

N/A

Were you raised in some other faith or denomination? ☒ Yes ☐ No

If so, which one? Catholic

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

N/A

What is/are your primary source(s) of news?

Radio _____ TV ☒ Newspaper _____ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

Radio - WSSL and WESC newspaper - Herald - Journal

TV - WSPA website - CNN

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes _____ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes?

Working in my yard
going to football games and NASCAR races.

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

- (1) A very effective and busy system.
- (2) A must have in order to uphold peace and tranquility.
- (3) A must have in order to keep an effective justice system.
- (4) Also a must have in order to keep an effective Justice System.

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details.

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details.

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details.

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☒ Yes ☐ No

If yes, please explain: ex-wife arrested, contributing to
the delinquency of a minor.

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☒ Yes ☐ No

If yes, please explain: used attorney in a divorce

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details.

Have you or your spouse ever been a juror in a civil or criminal case?

☐ Yes ☒ No

If yes, please give the following details:

Type of case

Verdict

Punishment

1. _____

2. _____

3. _____

If no verdict was reached, please explain why.

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details.

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? N/A

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 2/6, 2014

Edward A. Grabarkiewicz
(Signature)

Printed Name: Edward A. Grabarkiewicz

#147

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. **You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror.** The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. **Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.**

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Lin Dsey John Curtis
Last First Middle Maiden (If applicable)

Sex: M
 Age: 50
 Race: Black
 Birthdate:
Month Day Year

Birthplace: GREENVILLE S.C.
City/Town State

Driver's License No.

Home Address: Boling Springs, S.C. 29316
Number Street City/Town Zip

How long have you lived in Spartanburg County? 50 years

Where else have you lived, and how many years did you live in each location?

Do you own a home? ☐ Yes ☒ No If yes, how long:

Employer: R R Donnelley

Job title and duties (please be specific about your duties): Center Coordinator

How long employed there? 28 years

What other jobs have you held?

Marital Status: (Check one) ☐ Widowed ☒ Married ☐ Separated ☐ Divorced ☐ Never Married

SCANNED

Spouse's name: Lindsey Dorothy Ann Goode
Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): [REDACTED]

Spouse's occupational duties: Disable

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Kershawn Nichelle Lyles	29	Unemployed
2.			
3.			
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	John Thomas Lindsey	72	Insurance Mgr
2.	Colleen Gage Lindsey	69	Tico

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Michael Thomas Lindsey	51	Disables
2.	Charlene Checks	49	work for Big Brother & Big Sister
3.	McLinda Briggs	48	QSI
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school Jesse Robb

Junior High Fairforest Junior

High school Dorman High 12 grade

College/Vocational/Trade school _____

Professional school _____

Graduate school _____

Degrees/diplomas you hold _____

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: _____

Spouse: _____

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

*Chapel
Foster Chapel BAPTIST*

How often do you attend? *Every Sunday if not working*

Other than attendance, what other activities are you involved in at your church?

Were you raised in some other faith or denomination? ☐ Yes ☒ No

If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

None

What is/are your primary source(s) of news?

Radio _____ TV ☒ Newspaper _____ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

The News and the Spartanburg newspaper

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes _____ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes? working out, walking and running

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

- ① I think some thing about the criminal justice is not fair.
- ② They are here to service the people
- ③ not much to say about the prosecuting attorney
- ④ and the same about the criminal defense attorneys

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details. _____

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☐ Yes ☒ No

If yes, please explain: _____

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☐ Yes ☒ No

If yes, please give the following details:

Type of case

Verdict

Punishment

1. _____

2. _____

3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? _____

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 2-8-14, 2014

John Curtis Lindsay
(Signature)

Printed Name: John Curtis Lindsay

#98

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. **You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror.** The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. **Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.**

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: GUENTHER CHRISTOPHER WAYNE
Last First Middle Maiden (If applicable)

Sex: M
 Age: 33
 Race: W

Birthdate:
Month Day Year

Birthplace: SPRINGFIELD MO
City/Town State

Driver's License No.

Home Address: BOILING SPRINGS 29316
Number Street City/Town Zip

How long have you lived in Spartanburg County? 3 years

Where else have you lived, and how many years did you live in each location?

FLORENCE, SC - 3 years AUGUSTA, GA - 2 years ROCKY MOUNT, NC - 1 year

Do you own a home? ☒ Yes ☐ No If yes, how long: 3 years

Employer: CSX TRANSPORTATION

Job title and duties (please be specific about your duties): MANAGER OF MANAGEMENT DEVELOPMENT-
 TRAIN MANAGEMENT TRAINEES IN CLASSROOM AND FIELD TRAINING

How long employed there? 11 years

What other jobs have you held? FIREFIGHTER

Marital Status: (Check one) ☐ Widowed ☒ Married ☐ Separated ☐ Divorced ☐ Never Married

 **SCANNED**

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Forself: _____

Spouse: _____

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

NEWSRING CHURCH - BOILING SPRINGS

How often do you attend? WEEKLY

Other than attendance, what other activities are you involved in at your church?

SERVICE COORDINATOR - LEAD VOLUNTEER TEAMS

Were you raised in some other faith or denomination? ☐ Yes ☒ No

If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☒ Yes ☐ No

If yes, please give details. SPOUSE - GRADUATES WESTERN GOVERNORS - 2014

B.S. IN PSYCHOLOGY

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

What is/are your primary source(s) of news?

Radio ☒ TV ☒ Newspaper ☐ Magazine ☐ Other ☐

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

FOX NEWS

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes ☐ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes? HUNTING

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

I FEEL ALL OF THE INDIVIDUALS HAVE VERY IMPORTANT ROLES IN
OUR JUDICIAL SYSTEM. OUR CRIMINAL JUSTICE SYSTEM IS IN PLACE TO
ENSURE LAWS ARE UPHOLD AND EVERYONE TREATED EQUALLY. POLICE OFFICER
HELP ENSURE A SAFE ENVIRONMENT AND TO PREVENT CRIMINAL ACTIVITY.
PROSECUTING AND DEFENSE ATTORNEYS PLAY A CRITICAL ROLE IN ENSURING
EVERYONE IS TREATED EQUAL; THEY FIGHT TO ENSURE THE GUILTY ARE HELD
ACCOUNTABLE WHILE THE INNOCENT ARE NOT HELD ACCOUNTABLE

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☒ Yes ☐ No

If yes, please give details. PROPERTY STOLEN FROM HOME

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details. _____

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☐ Yes ☒ No

If yes, please explain: _____

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☒ Yes ☐ No If yes, please give the following details:

Type of case

Verdict

Punishment

1. CIVIL CASE- CAR SOLD WITHOUT WORKING EQUIPMENT - GUILTY- REQUIRED TO MAKE REPAIRS

2. _____

3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

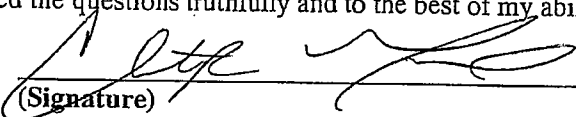
If yes, please explain: _____

Are you currently under the active care of a physician for any condition? no

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: Feb 1, 2014


(Signature)

Printed Name: CHRISTOPHER GUENTHER

JUROR QUESTIONNAIRE

#208

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror. The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: PRAITT Pamela ELAINE RAY
Last First Middle Maiden (If applicable)

Sex: F
 Age: 61
 Race: W

Birthdate: [REDACTED]
Month Day Year

Birthplace: SPTbg SC
City/Town State

Driver's License No. [REDACTED]

Home Address: [REDACTED] Boiling Springs SC 29316
Number Street City/Town Zip

How long have you lived in Spartanburg County? 61 yrs

Where else have you lived, and how many years did you live in each location?
NONE

Do you own a home? ☒ Yes ☐ No If yes, how long: 38 yrs

Employer: DISABLED

Job title and duties (please be specific about your duties):

How long employed there?

What other jobs have you held?

Marital Status: (Check one) ☐ Widowed ☒ Married ☐ Separated ☐ Divorced ☐ Never Married



Spouse's name: PRUITT DEAD BERNARD
Last First Middle Maiden (if applicable)

Spouse's date of birth (Day/Month/Year): [REDACTED]

Spouse's occupational duties: RETIRED

CHILDREN

Full Name	Age	School or Occupation
1. SCOTT BERNARD PRUITT	44	ACCOUNTANT
2. MARCUS BRENT PRUITT	36	MECHANIC
3. _____		
4. _____		

PARENTS

Full Name	Age	Occupation (Before Retirement)
1. TALMADGE ROBERT RAY	DEAD	
2. VIRGINIA LOUISE RAY	DEAD	

BROTHERS AND SISTERS

Full Name	Age	School or Occupation
1. MARGIE LANCASTER		
2. BETTY LEE FOWLER		DEAD
3. JIMMY D. RAY		
4. JANE BECKER		

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school HOUSTON

Junior High EVANS JR. HIGH

High school COOPER'S / BARKING SPRINGS

College/Vocational/Trade school SPRING TECH

Professional school —

Graduate school —

Degrees/diplomas you hold —

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: _____

Spouse: _____

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

Calvary Baptist - Barris Bridge Rd

How often do you attend? each wk

Other than attendance, what other activities are you involved in at your church?

none

Were you raised in some other faith or denomination? ☐ Yes ☒ No

If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

none

What is/are your primary source(s) of news?

Radio _____ TV ☒ Newspaper _____ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

WSPA / CBS news

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes _____ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes?

Reading, Fishing, Lake

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

① Suppose to work

② got to have them, respect

③ needed

④ needed

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details.

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details.

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☒ Yes ☐ No

If yes, please give details. Hoechst Celanese 20 yrs

BMW - 640S

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☒ Yes ☐ No

If yes, please explain: INJURED ON JOB

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☒ Yes ☐ No

If yes, please give the following details:

Type of case

Verdict

Punishment

1. CIVIL

NOT guilty

2. _____

3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Balsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? yes

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 2/18, 2014

Pamela R. Pruitt
(Signature)

Printed Name: Pamela R. Pruitt

* Sorry THIS IS LATE, I had THE FLU when IT arrived & did not realize CP WAS TO MAIL BACK IN.

Pamela Pruitt

#19

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror. The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Blackstone David Ralph
Last First Middle Maiden (If applicable)

Sex: M
 Age: 53
 Race: W

Birthdate: [REDACTED] [REDACTED] [REDACTED]
Month Day Year

Birthplace: NEWARK OHIO
City/Town State

Driver's License No. [REDACTED]

Home Address: [REDACTED] Inman 29349
Number Street City/Town Zip

How long have you lived in Spartanburg County? 1 YEAR

Where else have you lived, and how many years did you live in each location?

506 Howell Dr Newark, Ohio 43056 25 yrs

Do you own a home? ☒ Yes ☐ No If yes, how long: 1

Employer: Advance Auto Parts

Job title and duties (please be specific about your duties): RETAIL PARTS PRO, MANAGER WITH
A RESPONSIBILITY OF CUSTOMER SERVICE + SALES

How long employed there? 1 yr

What other jobs have you held? TRANSPORTATION Manager

Marital Status: (Check one) ☐ Widowed ☒ Married ☐ Separated ☐ Divorced ☐ Never Married

Spouse's name: Blacksone Kimberly Anne McCrady
Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): _____

Spouse's occupational duties: Assistant Store manager

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	N/A		
2.			
3.			
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	LARRY Blackstone	Deceased	
2.	Judy Blackstone	74	receptionist

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	William Blackstone	51	Repair Tech
2.	Chris Blackstone	39	Equipment Manager
3.			
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school Grofield

Junior High Granville Middle

High school Granville High

College/Vocational/Trade school Licking Co. Vocational

Professional school _____

Graduate school _____

Degrees/diplomas you hold _____

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: N/A

Spouse: N/A

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

Jesus Our Risen Savior

How often do you attend? MONTHLY

Other than attendance, what other activities are you involved in at your church?

N/A

Were you raised in some other faith or denomination? ☐ Yes ☒ No

If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☒ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

Easley Bassmasters

What is/are your primary source(s) of news?

Radio _____ TV ☒ Newspaper _____ Magazine _____ Other _____

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

FACE BOOK BASSMASTERS

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes _____ No ☒

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes? Fishing

CRIMINAL JUSTICE SYSTEM

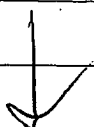
Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

① I believe it work

② Not Appreciated

③

④



Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details. _____

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☐ Yes ☒ No

If yes, please explain: _____

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☒ Yes ☐ No

If yes, please explain: Wife WAS involved in a car accident

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☐ Yes ☒ No If yes, please give the following details:

Type of case

Verdict

Punishment

1. _____

2. _____

3. _____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

If yes, please explain: _____

Are you currently under the active care of a physician for any condition? _____

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: 2-6, 2014


(Signature)

Printed Name: David Blackstone

#224

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. **You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror.** The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. **Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.**

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Sanders Keith H
Last First Middle Maiden (If applicable)

Sex: M Birthdate: 1 1 1954
Age: 54 Month Day Year

Race: W Birthplace: St Louis MO
City/Town State

Driver's License No. _____

Home Address: [REDACTED] Moore SC 29369
Number Street City/Town Zip

How long have you lived in Spartanburg County? 7 YEARS

Where else have you lived, and how many years did you live in each location?

Greenville, SC 1 Year

Houston TX area 20 Years

Do you own a home? ☒ Yes ☐ No If yes, how long: _____

Employer: FLUOR

Job title and duties (please be specific about your duties): IT technical specialist working with network and enterprise application management

How long employed there? 28 Years

What other jobs have you held? Architectural Draftsmen, Land survey draftsman

Marital Status: (Check one) ☐ Widowed ☒ Married ☐ Separated ☐ Divorced ☐ Never Married

 **SCANNED**

Spouse's name: SANDERS BEVERLY A
Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): [REDACTED]

Spouse's occupational duties: Homemaker

CHILDREN

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Christopher Mills	35	US Army
2.	Stacy Sanders	32	Homemaker
3.	David Hilburn	28	Handicapped - at home
4.			

PARENTS

	<u>Full Name</u>	<u>Age</u>	<u>Occupation (Before Retirement)</u>
1.	Meyer Sanders	81	Pastor
2.	Roberta Sanders	72	Legal Secretary

BROTHERS AND SISTERS

	<u>Full Name</u>	<u>Age</u>	<u>School or Occupation</u>
1.	Robin Waldman	50	
2.	Sharon Sanders	~~40~~ 42	Cable Tech
3.	Alicia Sanders	~~40~~ 44	
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school Mudd Elementary, O'Fallon Mo

Junior High Ft. Zumwalt Jr HS, O'Fallon MO

High school Ft. Zumwalt HS, O'Fallon MO

College/Vocational/Trade school: Houston Community College

Professional school _____

Graduate school

Degrees/diplomas you hold AAS mathematics

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: None

Spouse: None

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

Pentecostals of Spartanburg, Spartanburg SC

How often do you attend? weekly

Other than attendance, what other activities are you involved in at your church?

Musician, Asst teacher in Spanish class

Were you raised in some other faith or denomination? ☐ Yes ☒ No

If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☒ Yes ☐ No

If yes, please give details. Mother works for Ausmus & Gatty Law Firm
in Mobile, AL

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

What is/are your primary source(s) of news?

Radio _____ TV _____ Newspaper _____ Magazine _____ Other X

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to?

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes _____ No X

If yes, please list each bumper sticker: _____

What are your hobbies, recreations or pastimes? computing, play sax, reading,
home improvement projects

CRIMINAL JUSTICE SYSTEM

Please describe your general feelings about (1) the criminal justice system, (2) police officers, (3) prosecuting attorneys and (4) criminal defense attorneys.

The judicial system is primarily run by dedicated
professionals working to the best of their abilities.
Police officers that I have known have been professionals as
have attorneys that I have seen.

Have you, your spouse or any close family member ever been associated with, or worked with any state, local or national citizen law enforcement group such as a crime commission, group dedicated to victims' rights, neighborhood crime watch, Mothers Against Drunk Driving or police or sheriff's auxiliary?

☐ Yes ☒ No

If yes, please give details. _____

Have you, your spouse, any family members or close personal friends ever been the victim of a crime, a witness to a crime or been called upon to testify in a criminal trial?

☒ Yes ☐ No

If yes, please give details. Had a break in at my house.

Have you, your spouse, any family members or close personal friends ever had any training in law enforcement, applied for employment in law enforcement or been employed in law enforcement (police officer, constable, deputy sheriff, crime scene investigator, security guard, prison or detention officer, parole officer, probation officer, secretary in a police department, etc)?

☐ Yes ☒ No

If yes, please give details. _____

Have you, a family member, or a person close to you ever been accused, arrested, or convicted of a crime ABOVE the level of a traffic ticket?

☒ Yes ☐ No

If yes, please explain: brother and sister both had legal encounters.
Am not sure of the details

Have you, a family member, or a person close to you ever used the services of an attorney, been involved in litigation, or had a friend or associated (professionally or socially) who are attorneys?

☐ Yes ☒ No

If yes, please explain: _____

Have you or your spouse ever served on a grand jury? ☐ Yes ☒ No

If yes, please give details. _____

Have you or your spouse ever been a juror in a civil or criminal case?

☒ Yes ☐ No If yes, please give the following details:

Type of case	Verdict	Punishment
1. Civil Suit over bank vault door crush	Bank held liable	Medical reimbursement + Damages
2. Perjury trial	Not guilty	None
3. _____	_____	_____

If no verdict was reached, please explain why. _____

THIS CASE

Do you know any of the prosecuting attorneys, Solicitor Barry J. Barnette, Assistant Solicitor Derrick Bulsa or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

Do you know any of the defense attorneys, William S. McGuire, Clay T. Allen, or any of their staff?

☐ Yes ☒ No

If yes, please give details. _____

RACE & ETHNICITY

If you overheard another jury member make a comment that suggested he/she was relying on race or ethnicity in evaluating the case or making a decision about punishment, would you be willing to alert the Court of this fact by immediately notifying the judge?

☒ Yes ☐ No

If no, please explain. _____

HARDSHIPS

Have you ever sought counseling or medical treatment for any emotional or psychological problems?

☐ Yes ☒ No

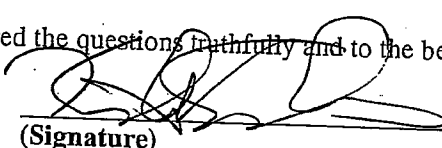
If yes, please explain: _____

Are you currently under the active care of a physician for any condition? No

CERTIFICATION

I have read the Juror Questionnaire and answered the questions truthfully and to the best of my ability.

Date: Feb 3, 2014


(Signature)

Printed Name: KEITH N SANDERS

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
The State,	)	
	)	STATE'S RETURN TO DEFENDANT'S MOTION
v.	)	TO PRESERVE VOIR DIRE ANALYSIS FOR
	)	DEFENDANT'S USE IN FUTURE PROCEEDINGS
Ricky (Rickey) Lee Blackwell, Sr.,	)	Indictment No(s): 2009-GS-42-3609-10
	)	Warrant No(s): M088424 and 434
Defendant.	)	
_____	)	

The Defendant apparently seeks preservation of the State's information comparing jurors for selection in this case. The defense relies upon the *Anti-terrorism and Effective Death Penalty Act of 1996, (AEDPA)* and a U.S. Supreme Court decision from 2005, *Miller-El v. Drake, 545 U.S. 231, 125 S.Ct. 2317 (2005)*.

Drake is a decision under *Batson v. Kentucky, 476 U.S. 79, 106 S. Ct. 1712 (1986)*. The Court in *Drake* reversed a District Court's rejection of a petitioner's Habeas Corpus appeal claiming the Dallas County District Attorney's Office in Dallas, Texas used its peremptory challenges in a capital murder case to intentionally remove prospective jurors based upon race.

The Dallas County prosecutors "took their cues from a 20-year old manual of tips on jury selection, as shown by their notes of the race of each potential juror. By the time a jury was chosen, the State had peremptorily challenged 12% of qualified non-black members, but eliminated 91% of the black ones." *Drake, 125 S. Ct. at p. 2340*.

Under *Batson*, both the defense and the state are subject to challenges based upon strikes which raise the issue of exclusion based on the matter of race or gender, regardless of the race or gender of a defendant.

The State has no manual of tips on jury selection. To the extent that written materials as set forth by the defense could exist in any Solicitor's Office in this State, especially after *Batson*, it would either constitute work product or a publication by prosecution litigation associations, or which the defense would be aware and to which they would have access.

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3708

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SPARTANBURG COUNTY
2019 FEB 19 AM 11:21

The defense attorneys, through the various capital litigation defense groups which assist in this and every other capital litigation case in South Carolina and elsewhere, no doubt have access to and use a variety of manuals and materials for jury selection.

Again, the Seventh Circuit has no such manual and does not pursue jury selection based upon race or gender. Therefore, as a matter of fairness, the defense should offer into the record their manual, notes and information after trial to the same extent they ask the same of the State. Or both the State and defense could agree to the following.

Both sets of materials from each party as to *voir dire* could be put into manila envelopes immediately after peremptory exclusion of any juror by either side, under seal, to be reviewed by the trial judge at the conclusion of selection to assure *Batson* compliance. If the court determines one side or the other has presumptively violated *Batson*, then they should have the burden of justifying the peremptory challenges in question. If they cannot do so, then selection should begin again, and continue in this fashion until a jury can be seated.

As the defense has argued, sauce for the goose, sauce for the gander.

Otherwise, the State asks that the motion be denied.


 Barry J. Barnette, Solicitor
 Seventh Judicial Circuit

Spartanburg, SC
 October 23, 2013

M. HOPE BLACKLEY
 2014 FEB 19 AM 11:21

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 SPARTANBURG COUNTY

Barry J. Barnette, Solicitor
 Seventh Judicial Circuit

FILED
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 SPARTANBURG COUNTY
 2014 FEB 18 AM 10:11
 M. HOPE BLACKLEY

Spartanburg, SC
 February __, 2014

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSIONS
FOR THE SEVENTH JUDICIAL CIRCUIT

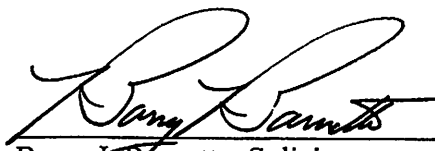
The State,)
v.)
Ricky (Rickey) Lee Blackwell, Sr.,)
Defendant.)

**STATE'S RETURN
TO DEFENDANT'S
MOTION TO PRESERVE NOTES, ET AL.**

Indictment No(s): 2009-GS-42-3609-10
Warrant No(s): M088424 and 434

The State will follow standard procedural steps with respect to internal archiving of cases. The State will seek to assure proper testing of any and all evidence. However, it is submitted that by his past and continuing efforts to improperly evade participation in mutual discovery, the Defendant has waived claims to matters beyond the case file, which has been provided to him. The State will retain and does expressly reserve any and all claims to work product and under the South Carolina rules of privilege, evidence and discovery.

The motion should be denied.


Barry J. Barnette, Solicitor
Seventh Judicial Circuit

Spartanburg, SC
October 23, 2013

Spartanburg, SC
February 17, 2014

M. HOPE BLACKLEY
2014 FEB 19 AM 11:20

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SPARTANBURG COUNTY

Barry J. Barnette, Solicitor
Seventh Judicial Circuit

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SPARTANBURG COUNTY
2014 FEB 18 AM 10:12
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG

SEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

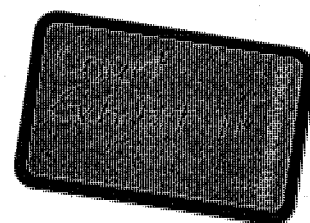
Plaintiff,

v.

RICKY LEE BLACKWELL,

Defendant.

Indictment No.s: 2009-GS-42-3609; 3610



DEFENDANT'S PROPOSED JURY INSTRUCTIONS

DEFENDANT'S PROPOSED INSTRUCTION #1

Death Penalty Eligibility

Your first decision as you begin your deliberations must be to determine whether the defendant, Ricky Lee Blackwell, is eligible for the death penalty. A person with mental retardation may not be sentenced to death. In this case Ricky Lee Blackwell has offered evidence that he is mentally retarded. Therefore, before you may consider the sentence to be imposed in this case you must unanimously find, beyond a reasonable doubt, that he is not mentally retarded. In determining if Ricky Lee Blackwell is mentally retarded consider the following definition: Mental retardation means significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period. If, after considering all the evidence in this case, there remains in your mind a reasonable doubt as to whether or not Ricky Lee Blackwell is mentally retarded, you must stop your deliberations and report this to the

court. The court will then sentence Ricky Lee Blackwell. If you find unanimously and beyond a reasonable doubt that Ricky Lee Blackwell is not mentally retarded, you may then proceed with your deliberations in an attempt to decide whether Rickey Lee Blackwell shall be sentenced to life imprisonment without the possibility of parole or death. Notwithstanding a finding as a jury that Rickey Lee Blackwell is not mentally retarded, you, as individuals, must consider his intellectual level as a mitigating circumstance in your further deliberations. As with all mitigating circumstances you, as individual jurors, may consider evidence to be mitigating and give it the weight you individually believe it deserves even if one or all other eleven jurors disagree with you. If you believe Ricky Lee Blackwell is mentally retarded or while not meeting the definition has low intellectual function, you must find that as a mitigating circumstance and weigh it in your further deliberations.

DEFENDANT'S PROPOSED INSTRUCTION #2

Death Penalty Eligibility

Your second decision as you begin your deliberations must be to determine whether the defendant, Ricky Lee Blackwell, is eligible for the death penalty. A defendant is only eligible to be sentenced to death if you as a jury unanimously decide that the State has proven beyond a reasonable doubt that an aggravating circumstance exists. In fact, before you may even consider what sentence you think is most appropriate for the defendant, the law requires that you, the jury, must find that there is an aggravating circumstance beyond a reasonable doubt.

Before you may consider the most appropriate punishment, you must first determine whether or not there is a statutory aggravating circumstance in this case. A statutory aggravating circumstance is a fact, an incident, a detail, or an occurrence that our state legislature has declared to be a circumstance which makes worse, or aggravates the offense of murder. It is something that increases the enormity of the crime, makes worse, or adds to the injurious consequences of the offense of murder.

A defendant may not be sentenced to death unless you the jury unanimously decide that the State has proven beyond a reasonable doubt that an aggravating circumstance exists. If you unanimously decide that the State has proven that at least one of the statutory aggravating circumstances exist beyond a reasonable doubt, then you may consider whether the death sentence is the most appropriate punishment for the defendant.

If you decide that there is an aggravating circumstance in this case, however, you are not required to sentence the defendant to death. The law does not require you to impose the death penalty, no matter how many aggravating circumstances you may find exist. Your decision that there is an aggravating circumstance means only that you may consider whether the death penalty is the most appropriate punishment for the defendant. The death penalty is never mandatory in any circumstance.

If you find the existence of at least one statutory aggravating circumstance then you are to consider the two possible sentences in this case: the death penalty and life

imprisonment without the possibility of parole. If you do not unanimously find that the State has proven beyond a reasonable doubt the existence of one or more of the statutory aggravating circumstances then your deliberations would end. You cannot consider the death penalty if you do not find that at least one statutory aggravating circumstance exists beyond a reasonable doubt.

In other words, in order to consider whether or not to sentence the defendant to death you must first decide unanimously that the State proved the existence of a statutory aggravating circumstance. You must find that the State proved the aggravating circumstance beyond a reasonable doubt, and your finding must be unanimous. In the event that you do find a statutory aggravating circumstance beyond a reasonable doubt, you may, but need not impose the death penalty. The death penalty is never mandatory, no matter how many aggravating circumstances you may find exist.

You may consider the following statutory aggravating circumstances in your deliberations: The murder of a child eleven years of age or under.

Authority: S.C. Code Ann. § 16-3-20 (Law. Co-op. Supp. 1992).

DEFENDANT'S PROPOSED INSTRUCTION #3

Effect of Finding of Statutory Aggravating Circumstance

If you unanimously find that the State has proven the existence of one or more of the statutory aggravating circumstances beyond a reasonable doubt then you may consider

two possible sentences. One possible sentence is life imprisonment without the possibility of parole; the other possible sentence is the death penalty. If you find that the State proved the existence of a statutory aggravating circumstance beyond a reasonable doubt—and your finding must be unanimous--then you are permitted, but not required, to impose a sentence of death.

In other words, you may not even consider imposing a sentence unless you find the existence of at least one statutory aggravating circumstance beyond a reasonable doubt. If you find that the State has proven the existence of a statutory aggravating circumstance, or even multiple statutory aggravating circumstances, however, you are not required to impose a sentence of death. You are never, under any circumstances, required to sentence a defendant to death. You are permitted to recommend a sentence of death only after you have found one or more statutory aggravating circumstances and you have considered any mitigating circumstances that may be present in this particular case.

Authority: S.C. Code Ann. § 16-3-20 (Law. Co-op. 1992); 23 S.C. Jur. Homicide § 27 (2005); W. S. McAninch & W. G. Faurey, *The Criminal Law of South Carolina* 107 (2d ed. 1989); State v. Smith, 298 S.C. 482 (1989), cert. denied, 494 U.S. 1060 (1990); State v. Bellamy, 293 S.C. 103 (1987).

DEFENDANT'S PROPOSED INSTRUCTION #4

Victim Impact Evidence

“The prosecution has introduced what is known as victim impact evidence. This evidence has been introduced to show the financial, emotional, psychological, or physical

effects of the victim's death on the members of the victim's immediate family. It is intended to remind you as the sentencer that just as the defendant should be considered as an individual, so too the victim is an individual whose death may represent a unique loss to society and the family.” *Cargle v. State*, 909 P.2d 806, 828-829 (Okla. Crim. App. 1995).

While you may consider this evidence along with all the other evidence that has been admitted, I want to caution you concerning victim impact evidence.

First, the evidence about the victim and the impact of his death upon his family is not “aggravation.” That is, it is not offered as a separate reason to impose the death penalty, rather than life imprisonment without possibility of parole. It is simply evidence that you may consider along with the aggravating and mitigating evidence in the case. *State v. Humphries*, 325 S.C. 28, 479 S.E.2d 52, 56 (“victim impact is neither an aggravating nor a mitigating circumstance, but simply relevant evidence that the jury may consider in determining an appropriate penalty”).

Second, you must be careful not permit this evidence to cause you to sentence the defendant simply out of sympathy with the victim or with her family members. Such sympathy may be natural, but it cannot be the basis for your sentencing decision. Your decision must be a reasoned moral response to the evidence before you concerning the defendant’s crime, background, character and record. It cannot be, and it must not be, an emotional response to the victim impact evidence, or a way to express sympathy with the victim’s family. *California v. Brown*, 479 U.S. 538, 544 (1987) (O’Connor, J., concurring) (“the sentence imposed . . . should reflect a reasoned moral response to the defendant’s background, character and crime rather than mere sympathy or emotion.”).

Finally, you are not to be influenced by speculation concerning what sentence you think the victim's family might wish to see imposed on the defendant. There is no evidence before you concerning what opinions the members of the victim's family might have on what sentence should be imposed. Indeed, there is no evidence that the family members of the victim have any opinions on this issue at all. Even if they did, you as jurors must not be influenced by the opinions of family members of a murder victim either for or against the death penalty. The whole reason you have been selected to decide this case is that you are impartial. It is thus for you alone, as fair-minded jurors who have no friends to reward and no enemies to punish, to decide the proper punishment in this case.

Payne v. Tennessee, 501 U.S. 808, 830, 835 n. 1 (1991) (noting that Payne did not implicate or overrule Booth v. Maryland's prohibition of opinions of murder victim's relatives concerning the defendant and the sentence he should receive); and see, Hain v. Gibson, 287 F.3d 1224, 1238-1239 (10th Cir. 2002); State v. Bjorklund 604 N.W.2d 169, 214 (Neb. 2000); State v. Bernard, 608 So.2d 966, 971-972 (La. 1992); State v. Muhammad, 678 A.2d 164, 176-77 (N.J. 1996) (all re-stating rule that victim opinion evidence remains improper after Payne).

DEFENDANT'S PROPOSED INSTRUCTION #5

Mitigating Circumstances

The law requires that you give meaningful consideration to any mitigating circumstance which the evidence supports. A mitigating circumstance is any fact, detail, incident, or

occurrence that mitigates, or reduces the penalty for the offense of murder. In other words, a mitigating factor is anything at all which, in your individual opinion indicates that the defendant should be sentenced to life without the possibility of parole rather than to death.

The law requires you to make an individualized assessment of the appropriateness of the death penalty in this defendant's case. In order to do so, you must consider evidence regarding the defendant's background and character, as well as evidence about this particular offense. You should also consider any positive attributes of the defendant's character which you think indicate that the defendant should be sentenced to life without the possibility of parole rather than sentenced to death.

The law of this state recognizes the "belief, long held by this society, that defendants who commit criminal acts that are attributable to a disadvantaged background, or to emotional and mental problems, are less culpable than defendants who have no such excuse."

California v. Brown, 479 U.S. 538, 545 (1987) (O'Connor, J. concurring). As you decide what the most appropriate punishment should be, you should "consider any compassionate or mitigating factors stemming from the diverse frailties of humankind."

Woodson v. North Carolina, 428 U.S. 280 (1976). It is also important that you take into account the defendant's positive character traits as mitigation factors.

A mitigating circumstance is neither a justification nor an excuse for the crime of murder. It is simply a fact or a circumstance which, in your opinion, may make the defendant less

blameworthy or morally culpable, or may lessen the degree of the defendant's punishment.

There are certain mitigating circumstances which our state legislature has set out in statute. These mitigating circumstances are called statutory mitigating circumstances. There are many mitigating circumstances, however, which the General Assembly did not include in the statute, or contemplate in advance. The legislature simply could not set forth in a statute all of the possible mitigating circumstances, because each case is so unique. The mitigating circumstances that are not set out in the statute are non-statutory mitigating circumstances.

Statutory and non-statutory mitigating circumstances serve exactly the same purpose. You must consider both statutory and non-statutory mitigating circumstances in your deliberation. They are equally important in your individualized assessment of the appropriate punishment for the defendant.

You are required to consider several mitigating circumstances, which the law recognizes as reducing or lessening the degree of the defendant's moral culpability. In this case you must consider the following statutory mitigating circumstances:

1. The Defendant has no significant history of prior criminal conviction involving the use of violence against another person. Section 16-3-20 (C)(b)(1), *Code of Laws of South Carolina*, (1976)(Suppl.).
2. The murder was committed while the Defendant was under the influence of mental or emotional disturbance. Section 16-3-20 (C)(b)(2), *Code of Laws of South Carolina*, (1976)(Suppl.).

3. The capacity of the Defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired. Section 16-3-20 (C)(b)(6), *Code of Laws of South Carolina*, (1976)(Suppl.).
4. The age or mentality of the defendant at the time of the crime. Section 16-3-20 (C)(b)(7), *Code of Laws of South Carolina*, (1976)(Suppl.).
5. The Defendant had mental retardation at the time of the crime. "Mental retardation" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period. Section 16-3-20 (C)(b)(10), *Code of Laws of South Carolina*, (1976)(Suppl.). **[To be charge in the event Request to Charge Number 1 is not given.]**

You are also to consider any other mitigating circumstances which you find may reduce the defendant's culpability of the crime of murder.

1. The Defendant is remorseful.
2. The Defendant has a relationship with God.
3. The Defendant has no significant history of prior criminal convictions.
4. The Defendant is loved by his family, and his life is important to them.
5. The Defendant has a history of continual employment.
6. The Defendant has sub-average intellectual functioning.
7. The Defendant does not pose a threat of future danger to others or to the community.

Authority: Hitchcock v. Dugger, 481 U.S. 393 (1987) (holding that the sentencer in a capital case may not refuse to consider, or be precluded from considering any relevant mitigating evidence); Skipper v. South Carolina, 476 U.S. 1 (1986) (holding that the sentencer in a capital case not be precluded from, or refuse to consider any mitigating factors that the defendant proffers as a basis of a sentence less than death); See also

Eddigns v. Oklahoma, 455 U.S. 104 (1982); Lockett v. Ohio, 438 U.S. 586 (1978);
Woodson v. North Carolina, 428 U.S. 280 (1976).

DEFENDANT'S PROPOSED INSTRUCTION #6

No Requirement of Unanimity in Finding Mitigating Circumstances

I have already instructed you that if you find that a statutory aggravating circumstance has been proven, the entire jury must be unanimous in this finding, and the State has the burden of proving the existence of an aggravating circumstance beyond a reasonable doubt. Unlike aggravating circumstances, however, mitigating circumstances need not be proven beyond a reasonable doubt. The defendant does not bear the burden of proving the existence of mitigating circumstances. Rather, each of you must decide how to weigh the existence a mitigating circumstance. In other words, if you decide there is reason, or multiple reasons that decrease the defendant's culpability for the offense, you may decide how much weight to give that condition in deciding the most appropriate punishment for the defendant.

In deciding the appropriate punishment for the defendant, you must consider whether you personally believe there are any mitigating circumstances. It is not necessary that the jury unanimously agree upon the existence of any of the mitigating circumstances. Instead, each of you must decide for yourself whether you think that any mitigating circumstances exist, and the weight to be accorded to the mitigating circumstance. You do not all need to agree about the existence of any mitigating circumstance. You must

each come to your own personal decision about any factors you think decrease the defendant's culpability in this offense.

It is your duty as a juror to determine what you personally think is the most appropriate punishment for this particular defendant. You may consider any evidence which you think lessens the defendant's culpability such that he should be sentenced to life imprisonment without the possibility of parole rather than death. You need not all agree on whether or not there are mitigating circumstances. You should each individually consider all of the evidence and make a personal decision as to the most appropriate sentence for the defendant. If, after your deliberation, any one of you finds that sentencing the defendant to life imprisonment without the possibility of parole is the appropriate punishment, then you as a jury must sentence the defendant to life without the possibility of parole rather than death.

Authority: McKoy v. North Carolina, 494 U.S. 433 (1990) (holding the state capital sentencing scheme's unanimity requirement as to mitigating circumstances violates the Federal Constitution's Eight Amendment by preventing the sentencer from considering all mitigating evidence as it prevents jurors from giving effect to evidence that they believe calls for a sentence less than death); Mills v. Maryland, 486 U.S. 367 (1988) (holding that the imposition of the death penalty was arbitrary and improper where the statute which provides that a sentencing jury which does not unanimously agree on the existence of any particular mitigating circumstances may not give mitigating evidence any effect whatsoever and must impose the sentence of death) ; Eddings v. Oklahoma,

455 U.S. 104 (1982) (holding that the sentencer in a capital case may determine the weight to be given relevant mitigating circumstances, but may not give it no weight by excluding such evidence from their consideration); Hitchcock v. Dugger, 481 U.S. 393 (1987) (holding that the sentencer in capital cases may not refuse to consider, or be precluded from considering, any relevant mitigating evidence); Skipper v. South Carolina, 476 U.S. 1 (1986); Theodore Eisenberg & Martin T. Wells, Deadly Confusion: Juror Instructions in Capital Cases, 79 Cornell L. Rev. 1, 11 (1993); John H. Blume, Sheri Lynn Johnson, & A. Brian Threlkeld, Probing "Life Qualification" Through Expanded Voir Dire, 29 Hofstra L. Rev. 1209 (2001).

DEFENDANT'S PROPOSED INSTRUCTION #7

Effect of Failure to Arrive at Unanimous Decision as to Sentence

In order for you the jury to sentence the defendant, Ricky Lee Blackwell, to death, you must unanimously agree that that is the most appropriate punishment. You do not have to be unanimous to sentence the defendant to life imprisonment without the possibility of parole. In other words, all twelve of you must agree to sentence the defendant to death. If, however, any one of you thinks a sentence of life imprisonment without the possibility of parole is most appropriate, then you as a jury must sentence the defendant to life imprisonment without parole. You do not all need to agree for a life sentence to be recommended.

The law will be equally satisfied by either a sentence of life imprisonment without the possibility of parole or by the death penalty. You are never required to sentence a defendant to death.

Authority: Gardner v. Florida, 430 U.S. 349 (1977); Eddings v. Oklahoma, 455 U.S. 104 (1982); Caldwell v. Mississippi, 472 U.S. 320 (1985); Simmons v. South Carolina, 114 S. Ct. 2187 (1994); S.C. Code Ann. § 16-3-20 (C) (Law Co-op. 1976).

DEFENDANT'S PROPOSED INSTRUCTION #8

Sentence of Mercy

Finally, even if you decide that a statutory aggravating circumstance exists and no mitigating circumstances exist you may consider whether the defendant should be sentenced to life imprisonment for any reason, or for no reason at all. In other words, you may decide to sentence the defendant to life imprisonment without the possibility of parole even if you find the existence of one or more statutory aggravating circumstances and you do not find the existence of any mitigating circumstances. In other words, mercy alone may be enough for a juror to find that a life in prison without the possibility of parole is the appropriate sentence and they are entitled to make that finding.

DEFENDANT'S PROPOSED INSTRUCTION #9

Meaning of Recommendation

I have used the word "recommendation" to refer to your decision about what sentence the defendant will receive. I have used this word because it is the word which the statute uses. The word "recommendation," however, has a different meaning in this legal context than it does in normal day to day speech. Your sentencing recommendation is more than a suggestion to this court. It is binding; I have no power to change or modify your recommendation.

I tell you this because it is important that you understand that I must accept whatever sentence you decide is most appropriate. Therefore, whatever sentence you recommend will in fact be the sentence which will be imposed upon the defendant.

According to the law of this state, I must accept as the appropriate punishment for the defendant the sentence that you recommend. In other words, whatever punishment you decide is appropriate and recommend will be carried out by the State of South Carolina. The law does not give me the power or the authority to change the sentence which you decide upon.

Authority: State v. Bellamy, 293 S.C. 103 (1987); State v. Plemmons, 296 S.C. 76 (1988); State v. Shaw, 273 S.C. 194, cert. denied, 444 U.S. 957, reh. denied, 444 U.S. 1027 (1979); Caldwell v. Mississippi, 472 U.S. 320 (1985).

DEFENDANT'S PROPOSED INSTRUCTION #10

Effect of Sentencing

In deciding whether to sentence the defendant to life imprisonment without the possibility of parole or to death, you are to understand each of these sentences in their plain and ordinary meaning. That is to say that if you recommend that the defendant be sentenced to death, he will actually be executed. If you recommend that the defendant be sentenced to life imprisonment, he will actually be sentenced to imprisonment in the South Carolina Department of Corrections for the rest of his natural life without any chance of release. Whatever sentence you decide to impose on the defendant is the exact sentence that the defendant will receive.

Authority: State v. Davis, 306 S.C. 246 (1991); State v. Atkins, 293 S.C. 294 (1987); Caldwell v. Mississippi, 472 U.S. 320 (1985).

DEFENDANT'S PROPOSED INSTRUCTION #11

Duty to Disregard Speculation About Alleged Deterrent Effect of Death Penalty

In your decision whether to sentence the defendant to life without the possibility of parole or to death, you are not to speculate on which, if either of these punishments is more likely to deter other people from committing similar crimes in the future. You have not heard evidence as to whether the death penalty is likely to deter the occurrence of similar crimes more effectively than will a punishment of life imprisonment.

As such, you must disregard anything you may have heard about deterrence, and you are to set aside any preconceived opinions or ideas you may have as to whether death or life imprisonment is a more effective deterrent to murder. This is a question which is not to be resolved in this trial. Such opinions and ideas, therefore, have no place in your deliberation and they should play no role whatsoever in your sentencing recommendation. You are not to discuss deterrence in your deliberations.

Your sentencing recommendation must be based only upon the evidence which has been presented to you in this trial. The evidence you are to consider pertains only to the particular circumstances of this crime and the character and background of this particular defendant.

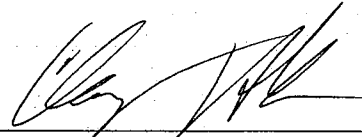
Authority: State v. Truesdale, 301 S.C. 546 (1990) (Finney, A.J. dissenting) (“Since evidence of the deterrent effect of capital punishment may not be introduced at trial, jury arguments which open the door for consideration of this issue are inappropriate...”); State v. Jones, 298 S.C. 118 (1989), cert. denied, 110 S.Ct. 1534 (1990) (Finney, A.J., dissenting) (dissent holding that it was improper for solicitor to argue deterrent effect of death penalty); State v. Woomer, 278 S.C. 468 (1982), cert. denied, 463 U.S. 1229 (1983) (admonishing used of evidence showing lack of deterrent); See Skipper v. South Carolina, 476 U.S. 1 (1986) (death sentence violates due process when it is imposed in part on the basis of considerations or evidence which the defendant was not permitted to rebut); Simmons v. South Carolina, 114 S. Ct. 2187 (1994) (holding that the Due Process

Clause does not allow the execution of a person on the basis of information which he had no opportunity to deny or explain).

Respectfully submitted,

William Sean McGuire
State Bar No. 9722
Attorney, Capital Trial Division
PO Box 11433
Columbia, SC 29211

BY:



COUNSEL FOR RICKY LEE BLACKWELL

DATE: March 16, 2014

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG

SEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

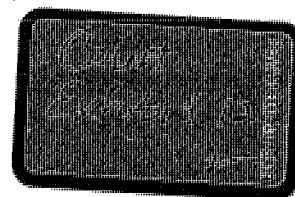
Plaintiff,

v.

RICKY LEE BLACKWELL,

Defendant.

Indictment No.s: 2009-GS-42-3609; 3610

**DEFENDANT'S PROPOSED MITIGATING CIRCUMSTANCES FINDINGS**

For mitigating factors, indicate the number of jurors, if any, who find that the Defendant has proved by a preponderance of the evidence that the factor exists. Any juror who finds a mitigating factor so proved must consider it and decide how much weight it should be given in his or her individual sentencing decision.

Statutory Mitigating Circumstances

1. The Defendant has no significant history of prior criminal conviction involving the use of violence against another person. Section 16-3-20 (C)(b)(1), *Code of Laws of South Carolina*, (1976)(Suppl.).

Number of Jurors who find Number 1: _____

2. The murder was committed while the Defendant was under the influence of mental or emotional disturbance. Section 16-3-20 (C)(b)(2), *Code of Laws of South Carolina*, (1976)(Suppl.).

Number of Jurors who find Number 2: _____

3. The capacity of the Defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired. Section 16-3-20 (C)(b)(6), *Code of Laws of South Carolina*, (1976)(Suppl.).

Number of Jurors who find Number 3: _____

4. The age or mentality of the defendant at the time of the crime. Section 16-3-

20 (C)(b)(7), *Code of Laws of South Carolina*, (1976)(Suppl.).

Number of Jurors who find Number 4: _____

5. The Defendant had mental retardation at the time of the crime. Section 16-3-20 (C)(b)(10), *Code of Laws of South Carolina*, (1976)(Suppl.).

Number of Jurors who find Number 5: _____

Non- Statutory Mitigating Circumstances

6. If not sentenced to death, Rickey Lee Blackwell will spend the rest of his life in prison without the possibility of parole.

Number of Jurors who find Number 6: _____

7. Rickey Lee Blackwell is remorseful for the life he took and the pain and suffering he has caused.

Number of Jurors who find Number 7: _____

8. Rickey Lee Blackwell has no significant history of prior criminal convictions.

Number of Jurors who find Number 8: _____

9. Rickey Lee Blackwell has a relationship with God.

Number of Jurors who find Number 9: _____

10. Rickey Lee Blackwell's parents, Cletus and Mildred Blackwell, love Rickey Lee Blackwell and his life is important to them.

Number of Jurors who find Number 10: _____

11. Heather Bryant loves her father, Rickey Lee Blackwell, and his life is important to her.

Number of Jurors who find Number 11: _____

12. Rickey Lee Blackwell has a relationship with his grandchildren, Kaleb Bryant, Allen Bryant, and Mackenzie Bryant, and his life is important to them.

Number of Jurors who find Number 12: _____

13. Rickey Lee Blackwell has suffered several medical conditions during his life, including Hodgkins lymphoma, chronic pulmonary disease, hernia, and small bowel obstruction.

Number of Jurors who find Number 13: _____

14. Rickey Lee Blackwell was suffering from a major depression at the time of the offense.

Number of Jurors who find Number 14: _____

15. Rickey Lee Blackwell has nightmares and is very sad about the life that he has taken.

Number of Jurors who find Number 15: _____

16. Rickey Lee Blackwell has a history of continual employment.

Number of Jurors who find Number 16: _____

17. Rickey Lee Blackwell was a good father and a good grandfather.

Number of Jurors who find Number 17: _____

18. Rickey Lee Blackwell's life is important to his family and friends.

Number of Jurors who find Number 18: _____

19. Rickey Lee Blackwell's life has value.

Number of Jurors who find Number 19: _____

20. Heather Bryant loves Rickey Lee Blackwell, and a death sentence will have an impact on her.

Number of Jurors who find Number 20: _____

21. Cletus Blackwell loves Rickey Lee Blackwell, and a death sentence will have an impact on him.

Number of Jurors who find Number 21: _____

22. Mildred Blackwell loves Rickey Lee Blackwell, and a death sentence will have an impact on her.

Number of Jurors who find Number 22: _____

23. Rickey Lee Blackwell is a kind and caring person.

Number of Jurors who find Number 23: _____

24. Rickey Lee Blackwell has sub-average intellectual functioning.

Number of Jurors who find Number 24: _____

25. Rickey Lee Blackwell was suffering from major depression at the time of the offense.

Number of Jurors who find Number 25: _____

26. Rickey Lee Blackwell sought help for his mental health problems.

Number of Jurors who find Number 26: _____

27. Rickey Lee Blackwell has battled problems with depression and anxiety for many years.

Number of Jurors who find Number 27: _____

28. Rickey Lee Blackwell was not medicated correctly at the time of the offense.

Number of Jurors who find Number 28: _____

29. Rickey Lee Blackwell's behavior and actions on July 9, 2009 were out of character for him.

Number of Jurors who find Number 29: _____

30. Since his arrest on July 8, 2009, Rickey Lee Blackwell has committed only two infractions while in the Spartanburg County Detention Facility.

Number of Jurors who find Number 30: _____

31. Rickey Lee Blackwell has shown respect to the authorities at the Spartanburg County Detention Facility.

Number of Jurors who find Number 31: _____

32. Rickey Lee Blackwell can be safely contained within prison for the rest of his life without causing a risk of harm to the staff, inmates, and community.

Number of Jurors who find Number 32: _____

33. Rickey Lee Blackwell has the ability to live a life in prison and does not pose any risk of danger to others while in prison.

Number of Jurors who find Number 33: _____

34. Without the taunting and provocation from Angela Davis, this crime would never have happened.

Number of Jurors who find Number 34: _____

35. Life without the possibility of parole is a severe sentence.

Number of Jurors who find Number 35: _____

36. Rickey will have to live with the consequences of his actions.

Number of Jurors who find Number 36: _____

37. Any other circumstance arising from the evidence which the jury deems to have mitigating value.

Number of Jurors who find Number 37: _____

Respectfully submitted,

William Sean McGuire
State Bar No. 9722
Attorney, Capital Trial Division
PO Box 11433
Columbia, SC 29211

BY: _____

COUNSEL FOR RICKY LEE BLACKWELL

DATE: March 16, 2014

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSIONS
2009-GS-42-3610

The State of South Carolina)

vs.)

Rickey Lee Blackwell,
Defendant.)FINDING OF MENTAL
RETARDATION

(If the jury unanimously finds the Defendant had mental retardation at the time of the crime, the foreperson shall sign and date the following verdict.)

WE THE JURY UNANIMOUSLY FINDS THAT THE DEFENDANT, RICKEY LEE BLACKWELL, HAD MENTAL RETARDATION AT THE TIME OF THE CRIME.

Foreperson

March ____, 2014

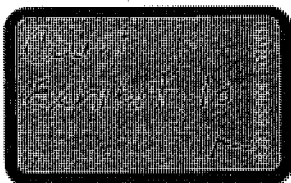
(If some of the jurors find the Defendant had mental retardation at the time of the crime, the foreperson shall enter on the blank below the number of those jurors who find that he had mental retardation at the time of the crime and sign and date the following verdict.)

____ JUROR(S) FIND(S) THAT THE DEFENDANT, RICKEY LEE BLACKWELL, HAD MENTAL RETARDATION AT THE TIME OF THE CRIME.

Foreperson

March ____, 2014

(If either finding is made, the foreperson shall inform the bailiff that they need to report a finding to the court and return to the court for further instructions.)



FIRST VERDICT FORM TO BE CONSIDERED

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
 COUNTY OF SPARTANBURG) FOR THE SEVENTH JUDICIAL CIRCUIT
)
)
 STATE OF SOUTH CAROLINA) INDICTMENT NOS.:
) 2009-GS-42-3609, 2009-GS-42-3610
)
) JURY FINDING AS TO MENTAL
) RETARDATION
)
 vs.)
)
)
 RICKY LEE BLACKWELL, SR.)
 _____)

We, the jury unanimously find by the preponderance of the evidence that the Defendant was mentally retarded as defined as, significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period at the time of the commission of the crime of murder in this case.

_____ Yes

☒ No

_____ We the jury are unable to make a unanimous finding on the question of mental retardation

Should the finding be yes, stop your deliberations and return that verdict. Should the finding be no, or should you be unable to make a finding, you should proceed with your further deliberations as to the appropriate verdict.

 FOREPERSON
 MARCH 17, 2014

As of 3/16/2014

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSIONS
 FOR THE SEVENTH JUDICIAL CIRCUIT

The State,)

v.)

Ricky (Rickey) Lee Blackwell, Sr.,)

Defendant.)

**MOTION TO EXCLUDE TESTIMONY
 OF DR. GINGER CALLOWAY**

Indictment No(s): 2009-GS-42-3609-10

Warrant No(s): M088424 and 434

TO: RICKY LEE BLACKWELL AND HIS ATTORNEYS, WILLIAM MCGUIRE, ESQ., AND CLAY ALLEN, ESQ. OFFICE OF THE PUBLIC DEFENDER FOR SPARTANBURG

YOU WILL PLEASE TAKE NOTICE, that the State gives Notice and hereby moves that the testimony of Dr. Ginger Calloway be excluded in its entirety at the *Atkins* hearing now scheduled for Wednesday, February 19, 2014. The basis for the motion is the failure of the Defendant's attorneys to provide "all" documents pertaining to the *Atkins* motion, in line with the agreement reached in exchange for the State's agreement to a continuance of the case requested by the attorneys for the State, the agreement and consent order signed by attorneys for both the Defendant and the State, and signed by the presiding judge in this case.

After the agreement was reached, the State was provided a box of documents purporting to be all of those responsive to the agreement and consent order. The Defendant's attorneys have now been provided with orders of both the Court's witnesses, Dr. Brown as to the issue of mental retardation/mental disability disorder, and Dr. Harrison as to competency to stand trial. Defendant's attorneys asked for the notes and documents of Dr. Brown from his testing and evaluation of the Defendant, and Dr. Brown agreed and did provide them to Dr. Calloway. This procedure was followed to avoid issues about confidential trade secrets pertaining to standardized tests administered by Dr. Brown.

The State has now requested the same procedure be followed by Dr. Calloway with respect to her notes and testing. On the afternoon of Sunday, February 16, 2014, two working days before the matter is set for the *Atkins* hearing, Dr. Calloway sent email to Dr. Brown, copies to Defense Counsel and the Court and the State, advising all as follows:

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 SPARTANBURG COUNTY
 2014 FEB 17 PM 3:15
 M. H. COLLEY

"[To Dr. Brown] As I previously stated to you I typically turn over my notes to state's experts in NC and have no problem doing so in in this case. However, as you can see, the request to turn over my notes came on Friday afternoon. I am preparing all weekend on a matter set for Monday morning at which I will testify. Tuesday has been committed fully for many weeks. Wednesday morning I will leave for SC as it is my understanding that Judge Couch has set that day to begin a Hearing in this matter. I will bring those various notes with me on Wednesday Feb 19. Please be advised that for each of the 8 individuals to whom I administered the ABAS, there were additional interviews given. Each of those interviews is roughly 10-15 pages of handwritten notes, on notebook paper. There were 2 other individuals interviewed for whom interview notes of 2-4 pages exist. Then there are the extensive interview notes of Mr. Blackwell over several days of interview and testing. I am more than happy to provide all this information to you. (Emails attached hereto as Exhibit 1).

The State hereby incorporates and includes by reference all previous motions, returns and memoranda of the parties and submits they show a history of essentially unilateral compliance by the State in discovery, pre-trial motions, returns and memoranda by the State with respect to discovery and other issues raised by the Defendant's attorneys, and honoring agreements reached between the parties and making all efforts to assure the Defendant a fair trial. The Defendant's attorneys agreed to provide the State with all documents pertaining to Dr. Calloway, and this was incorporated into an order of this Court, in return for which the Defendant received a delay of trial of this case from January until March. The State has previously argued as a basis for relief, the agreement, the Court's order, and the decision of the United States Supreme Court, *Kansas v. Cheever*, handed down in December, 2013.

The Defendant's key expert witness is a professional whose practice is almost entirely, if not completely, comprised of consulting with attorneys, conducting forensic evaluations, and giving testimony in courts. She also regularly gives seminars. As such, she no doubt has access to "state of the art means" for recording, storing, organizing and providing documents and records used in the many cases for which she appears to testify.

It is simply not acceptable that copies of her notes, tests, and results are not stored in manner so that she could simply send them by email to Dr. Brown, in turn for them to be provided to Mr. Blackwell's attorneys and the State. *Cheever* has now guaranteed the State

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M. NOBLE CLARKE

fundamental interest in a level playing field in questioning expert witnesses, even in cases such as this one.

The State therefore moves that the materials previously agreed upon be given to the State on or before noon on Tuesday, February 18, 2014, to include at the least the following:

1. Any and all documents pertaining or relating in any fashion to contacts with, interviews of, and tests administered to the Defendant, Ricky Lee Blackwell, by Dr. Calloway in this case, including the WAIS-IV (the Wide Range Achievement Test—4th edition), the WRAT-IV (Wide Range Achievement Test—4th edition), the CAST-MR (Competence Assessment to Stand Trial for Mentally Retarded Defendants), and TOMM (Test of Memory Malinger), and any other tests administered to the Defendant and scoring results of testing performed by Dr. Calloway in this case;
2. Any and all documents pertaining or relating in any fashion to contacts with, interviews of, tests and scoring of tests administered to the witnesses identified in Dr. Calloway's report(s) and thereafter scored by Dr. Calloway, tests to include but not limited to the ABAS 2 (Adaptive Behavior Assessment System—II), and any other tests administered and scoring results of testing performed by Dr. Calloway in this case;
3. The "Appendices" referenced by Dr. Calloway at page 5 of 8 pages in her Supplemental Report, generated and sent within 3 days of a motion hearing on discovery issues held on January 21, 2014 (Appendices were not forwarded to the State with the copy of the Supplemental Report);

Dr. Calloway obviously maintains a very active forensic practice, one which would of necessity require support personnel to assist her in document preparation and production, all located at 855 Washington Street, Suite 200, Raleigh, NC 27605. In short, there is no acceptable reason why the State cannot be provided needed documents to cross-examine this professional witness in her areas of expertise.

Dr. Calloway is a Ph. D in Psychology who has practiced for years, no doubt devoted an entire course in her first year of graduate studies to learning how to understand and use such documents, and has conducted scores and more of forensic investigations using the testing and

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J. MICHAEL CULLEY

scoring manuals and materials that she used in this very case. To allow the State a review of the testing and interview notes and documents in question only on the morning of the *Atkins* hearing is tantamount to allowing no opportunity at meaningful cross-examination at all.

In the alternative to providing the documents as the State requests herein under #'s 1-3, the testimony of Dr. Calloway should be excluded under the tenets of fundamental fairness accorded the State in *Kansas v. Cheever*, and in light of the failure by Defendant's attorneys to comply with the agreement regarding discovery as to the *Atkins* hearing, and the Court's order as to same.


Barry J. Barnette, Solicitor
Seventh Judicial Circuit

Spartanburg, SC
February 17, 2014

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J. HOPE BLACKLEY

Ghent, Russell

EXHIBIT 1 (6 pages)

From: Ginger Calloway <gcallowayphd@gmail.com>
Sent: Sunday, February 16, 2014 2:16 PM
To: geb29@scdmh.org
Cc: Ghent, Russell; Bill S. McGuire; rcouchlc@sccourts.org; Allen, Clay
Subject: Re: Turning over Dr. Calloway's notes

Dear Dr. Brown,

As I previously stated to you I typically turn over my notes to state's experts in NC and have no problem doing so in this case.

However, as you can see, the request to turn over my notes came on Friday afternoon. I am preparing all weekend on a matter set for Monday morning at which I will testify. Tuesday has been committed fully for many weeks. Wednesday morning I will leave for SC as it is my understanding that Judge Couch has set that day to begin a Hearing in this matter.

I will bring those various notes with me on Wednesday Feb 19. Please be advised that for each of the 8 individuals to whom I administered the ABAS, there were additional interviews given. Each of those interviews is roughly 10-15 pages of handwritten notes, on notebook paper. There were 2 other individuals interviewed for whom interview notes of 2-4 pages exist. Then there are the extensive interview notes of Mr. Blackwell over several days of interview and testing. I am more than happy to provide all this information to you.

Sincerely,

Dr. Calloway

On Feb 14, 2014, at 2:36 PM, Allen, Clay <callen@spartanburgcounty.org> wrote:

Dr. Brown has asked the judge for a copy of your interview notes. Could you send those to Dr. Brown today?

Clay T. Allen
 Circuit Public Defender
 Seventh Judicial Circuit
 864-596-2561

From: Couch, Roger L. Law Clerk (AnneMarie Haynsworth) [mailto:rcouchlc@sccourts.org]
Sent: Friday, February 14, 2014 2:31 PM
To: Bill S. McGuire; Allen, Clay
Cc: Barnette, Barry; Bulsa, Derrick; Ghent, Russell
Subject: RE: Turning over Dr. Calloway's notes

Thank you Mr. McGuire. Will you get in touch with Dr. Calloway to let her know?

From: Bill S. McGuire [mailto:bmcguire@sccid.sc.gov]
Sent: Friday, February 14, 2014 2:11 PM
To: Couch, Roger L. Law Clerk (AnneMarie Haynsworth); PD 7th Circuit

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 SPARTANBURG COUNTY
 2014 FEB 17 PM 3:15
 M. NOEL BLACKLEY

Cc: Barnette, Barry; Bulsa, Derrick; Ghent, Russell (rghent@spartanburgcounty.org)
Subject: RE: Turning over Dr. Calloway's notes

No objection here

From: Couch, Roger L. Law Clerk (AnneMarie Haynsworth) (<mailto:rcouchlc@sccourts.org>)
Sent: Friday, February 14, 2014 1:56 PM
To: Bill S. McGuire; Clay T. Allen
Cc: Barnette, Barry; Bulsa, Derrick; Ghent, Russell (rghent@spartanburgcounty.org)
Subject: Turning over Dr. Calloway's notes

Mr. McGuire and Mr. Allen,

I hope you both are doing well and were able to enjoy the snow a bit these past few days. Dr. Brown has emailed me today requesting that Dr. Calloway's interview notes be turned over to him. I am passing that request along to you both via this email. Please let me know immediately if you have an objection to this request.

All the best,

AnneMarie Haynsworth
Law Clerk to the Honorable Roger L. Couch
Seventh Judicial Circuit
180 Magnolia Street
Spartanburg, SC 29306
Office: (864) 596-2285
Fax: (864) 562-4234

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M. ROSE BLACKLEY

Ghent, Russell

From: Allen, Clay
Sent: Tuesday, February 11, 2014 2:23 PM
To: rcouchlc@sccourts.org; bmcguire@sccid.sc.gov
Cc: Barnette, Barry; Balsa, Derrick; Ghent, Russell
Subject: RE: Atkins hearing and request from defense counsel

AnneMarie:

After receiving input from Dr. Calloway, we are requesting Dr. Brown's notes as well as the raw test data. I understand that another psychologist will not be able to fully address the work of another without the notes. I understand that Mr. Blackwell has signed a release and we will also be subpoenaing these records (including the notes) for the hearing as well. We would like for Dr. Brown to forward the notes to Dr. Calloway.

Thank you.

Clay T. Allen
Circuit Public Defender
Seventh Judicial Circuit
864-596-2561

From: Couch, Roger L. Law Clerk (AnneMarie Haynsworth) [mailto:rcouchlc@sccourts.org]
Sent: Tuesday, February 11, 2014 10:29 AM
To: bmcguire@sccid.sc.gov; Allen, Clay
Cc: Barnette, Barry; Balsa, Derrick; Ghent, Russell
Subject: FW: Atkins hearing and request from defense counsel

Dear All,

Please see my below correspondence with Dr. Brown. Mr. Allen, will this suffice as far as your request for information for Dr. Calloway goes?

All the best,

AnneMarie Haynsworth
Law Clerk to the Honorable Roger L. Couch
Seventh Judicial Circuit
180 Magnolia Street
Spartanburg, SC 29306
Office: (864) 596-2285
Fax: (864) 562-4234

From: Ed Brown [mailto:drgebrown@yahoo.com]
Sent: Monday, February 10, 2014 10:10 PM
To: Couch, Roger L. Law Clerk (AnneMarie Haynsworth); tvanderbilt@ddsn.sc.gov; geb29@scdmh.org
Subject: Re: Atkins hearing and request from defense counsel

Ms Haynsworth,

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J. NORTON BLACKLEY

Ghent, Russell

From: Bill S. McGuire <bmcguire@sccid.sc.gov>
Sent: Tuesday, February 11, 2014 2:35 PM
To: Allen, Clay; rcouchlc@sccourts.org
Cc: Barnette, Barry; Bulsa, Derrick; Ghent, Russell; gcallowayphd@gmail.com
Subject: RE: Atkins hearing and request from defense counsel

Barry, Dr. Brown has indeed turned over his notes. They come, however, with a request that we not turn them over to other parties. I share this with you in case it could be perceived that this sort of information obtained by us would fall under the umbrella of what is considered part of our Atkins investigation. In short, it sounds like you need to make a request to Dr. Brown to produce a copy of those notes for you. Bill

From: Allen, Clay [mailto:callen@spartanburgcounty.org]
Sent: Tuesday, February 11, 2014 2:25 PM
To: rcouchlc@sccourts.org; Bill S. McGuire
Cc: Barnette, Barry; Bulsa, Derrick; Ghent, Russell
Subject: RE: Atkins hearing and request from defense counsel

Just as I hit the send button on my last email, I received word from Dr. Calloway that Dr. Brown sent her his notes.

Clay T. Allen
 Circuit Public Defender
 Seventh Judicial Circuit
 864-596-2561

From: Couch, Roger L. Law Clerk (AnneMarie Haynsworth) [mailto:rcouchlc@sccourts.org]
Sent: Tuesday, February 11, 2014 10:29 AM
To: bmcguire@sccid.sc.gov; Allen, Clay
Cc: Barnette, Barry; Bulsa, Derrick; Ghent, Russell
Subject: FW: Atkins hearing and request from defense counsel

Dear All,

Please see my below correspondence with Dr. Brown. Mr. Allen, will this suffice as far as your request for information for Dr. Calloway goes?

All the best,

AnneMarie Haynsworth
 Law Clerk to the Honorable Roger L. Couch
 Seventh Judicial Circuit
 180 Magnolia Street
 Spartanburg, SC 29306
 Office: (864) 596-2285
 Fax: (864) 562-4234

From: Ed Brown [mailto:drgebrown@yahoo.com]
Sent: Monday, February 10, 2014 10:10 PM

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To: Couch, Roger L. Law Clerk (AnneMarie Haynsworth); tvanderbilt@ddsn.sc.gov; geb29@scdmh.org
Subject: Re: Atkins hearing and request from defense counsel

Ms Haynsworth,

Thanks for the update. My new official e-mail is geb29@scdmh.org, and my office phone is 803-935-5676. Fax is 803-935-5680.

I was thinking the weather might cause another postponement. I can definitely do next Wednesday.

I definitely need a subpoena in order to justify being away from my DMH job on official business.

Regarding the request for the other materials, I'm copying Tana Vanderbilt, DDSN attorney, so she can add her thoughts here if necessary. I can send the raw test data to Dr. Calloway--I think the subpoena that I already have will suffice for that. There are of course no audio tapes or video tapes. There is also no substantive "correspondence" regarding the eval--the file includes letters advising the attorneys of the appointment dates for the evaluation and a few internal e-mails about that process. There were a few other e-mails from the attorneys involved, but they should have those; I did not print those out and I no longer have access to my DDSN e-mail.

I do have an objection to providing a copy of my notes, as those are usually not provided. The report should suffice as the final product. I will of course provide them if ordered to do so or if Ms. Vanderbilt agrees that they should be available.

I should be able to get the test data to Dr. Calloway tomorrow (Tuesday).

I will try to respond to any messages as promptly as I can; the DMH e-mail address or my cell phone (803-351-4004) will probably be the most reliable ways to contact me. My new job will require me to spend some time at the Broad River Corrections campus, so when I am there I will not have access to a computer or to my cell phone.

Thanks!

Ed Brown

On Monday, February 10, 2014 2:13 PM, "Couch, Roger L. Law Clerk (AnneMarie Haynsworth)" <rcouchlc@sccourts.org> wrote:
Dr. Brown,

I hope you had a wonderful weekend and the transition to DMH is going well so far. Due to the chance of fairly heavy snow and ice this week in the Upstate, Judge Couch and counsel have agreed to move the Atkins hearing to next Wednesday, February 19. Would you be available to testify that day? Judge Couch has been made aware that defense counsel is requesting that you provide all raw

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All the best,

AnneMarie Haynsworth

Law Clerk to the Honorable Roger L. Couch

Seventh Judicial Circuit

180 Magnolia Street

Spartanburg, SC 29306

Office: (864) 596-2285

Fax: (864) 562-4234

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
The State,	)	
	)	STATE'S RETURN TO DEFENDANT'S DISCOVERY
v.	)	MOTION TO DENY MEANINGFUL ACCESS
	)	TO ATKINS SENTENCING INFORMATION
Ricky (Rickey) Lee Blackwell, Sr.,	)	Indictment No(s): 2009-GS-42-3609-10
	)	Warrant No(s): M088424 and 434
Defendant.	)	

I.

Factual History

On July 8, 2009, Brooke [REDACTED] a nine year old child, was shot to death by the Defendant. Brooke was the daughter of Kelly and Bobby Center. Kelly and Bobby were estranged. Bobby was seeing Angela Blackwell, the estranged wife of the defendant, Ricky Lee Blackwell.

Brooke died at the scene after suffering four gunshot wounds: 1) a through and through gunshot to the head; 2) a grazing gunshot to the neck which lodged in her bicep; 3) a through and through gunshot from the mid back through the cheek of her face; and 4) a through and through gunshot to the left leg.

The Defendant had grabbed Brooke as she left a car she had ridden in to 244 Ridings Road, driven by Angela Blackwell. This was the home of Angela and Ricky Lee Blackwell's daughter; the deceased child was coming to swim with other children in an above-ground pool at the residence.

The Defendant grabbed Brooke [REDACTED] as she left the car and went to join her friends, and held her at gunpoint in front of Angela Blackwell and their grandchildren. As he did so, he taunted Angela about what her boyfriend, Bobby Center, would think about this. He then shot the child four times while she struggled to get free.

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The Defendant immediately fled the scene into woods behind the home. The police were called to the scene and searched for the Defendant. He emerged from the woods a short time later with the murder weapon. While being ordered to put the pistol down, he shot himself once in the stomach. He was taken to the hospital for treatment and then transported to jail, under arrest for murder.

II.

Procedural History

Solicitor Trey Gowdy filed Notice of Intent to Seek the Death Penalty on July 9, 2009. The Defendant was booked into the county jail on July 15, 2009. Clay Allen, the Spartanburg Public Defender, filed a Notice of Representation and Request for Discovery on July 15, 2009. The Defendant was arraigned on Murder and Kidnapping charges on July 16, 2009. On July 24, 2009 the Defendant served notice of withdrawal of his Rule 5 discovery and Brady Request, and substituted these with a Motion for an Order Declaring that the Defendant's Due Process Rights and Right of Confrontation Require that the Defendant be Allowed to Examine Critical Evidence in the Possession of the State.

Additional Defense Motions were filed in 2009, but were not pursued by the defense at that time.

In November, 2010, Solicitor Gowdy was elected to the United States House of Representatives. He was sworn into office in January, 2011. In January, 2011, Deputy Solicitor Barry Barnette was appointed by the Governor to complete Solicitor Gowdy's term of office as Solicitor.

Throughout 2010 and 2011, the Seventh Circuit Solicitor's Office was in pre-trial litigation involving a death penalty case returned on reversal and remand to Cherokee County for retrial. In September, 2011, that case resolved.

The Spartanburg Office also made significant strides during this period to bring the Spartanburg criminal case-load up to goals intended under a judge-run docket through a Consent Administrative Order of the South Carolina Supreme Court, setting rules for disposition of cases.

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That experimental docket has now been expanded for anticipated application in all circuits of the State. *See, State v. Langford*, 400 S.C. 421, 735 S.E. 2nd 471 (SC 2012).

Proximate to the end of the Cherokee County death penalty case, in May and April, 2011, the Defendant in this case served subpoenas on the Sheriff's Office in lieu of discovery in the case. The Defendant also attempted to obtain information as to the case and other matters under pretext via FOIA requests.

The State filed motions to quash the subpoenas as improperly issued pursuant to SCRCrP 13, and served timely responses under FOIA stating as objections, in part, that the use of FOIA in such a fashion (for discovery in a criminal proceeding) had been addressed and denied under state and federal case law.

The State also filed and served a thorough and responsive Motion and Memorandum, with supporting exhibits, in August, 2011, seeking protection from further discovery abuse by the defense in this case. It sought an order from the Court that "Defendant's counsel be ordered to comply with Rule 5 of the South Carolina Rules of Criminal Procedure, if in fact they do wish to engage in mutual discovery." (*State's Motion of August 11, 2011, p.15, #3 and #6*). The Motion and Memorandum were filed seeking protection by order of the court from Defendant's discovery abuses, or a modifying order, pursuant to SCRCrP 5(d)(1). A party participating in discovery has rights to protection, denial, restriction, or deferral of discovery, and "such other order as is appropriate under this Rule. Also, pursuant to Rule 5(g), "[t]he court may, for good cause shown, waive the requirements of this rule."

The Defendant did not file written response, did not file a memorandum in support of his position, nor did he respond in writing, citing any authorities to rebut the State's position. The Defendant never sought through the Court a denial, a restriction, deferral or protection from discovery under the Rule.

The Defendant's attorneys have evoked the standard argument that "a man's life is at stake", but have never shown "good cause" seeking a waiver of the requirements of the rule. The only way their failure can be correct is that a capital case is a *per se* exception to Rule 5. It is submitted, as shown below, that such is not the case, has never been the case, and the history of

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discovery in both state courts and under the United States Supreme Court strongly argues against such a construction of the rule.

It should also bear noting that the Defendant himself has never expressly confirmed that he has waived discovery in the case on the record.

On June 8, 2012 the State served Notice of the Aggravating Circumstances for the death penalty in this case.

The State served the Defendant with a copy of discovery in the case on June 11, 2012, even though the defense still maintained their claim that they were not participating in the formal discovery process. The State provided the case file of Brooke [REDACTED]'s murder to protect against any potential post-conviction relief issues.

A status conference was held in the case on June 13, 2012 with an intended court date of October 2012 announced by the trial judge. It was during this status conference that the defense first raised a mental retardation issue. A scheduling order was issued for July 3, 2012 to have issues preserved for the October trial date. However, an indefinite continuance was requested by the defense, and an order was filed in August, 2012, all as a result of the late notice of a potential mental retardation issue raised by the defense.

In July 2012, the Defendant began again to file motions, among them one asking the Court to order the Solicitor "To Show Cause Why the Sheriff Should Not Comply with a Lawful Subpoena Requesting Production of Evidence Regarding the Investigation of the Attempted Murders of the Defendant's Family Members". In short, almost a year after he had essentially conceded the issue and left the field, he again returned to it with a litany of motions seeking discovery by any other name, through means calculated to evade the "reciprocal" requirements of Rule 5.

In May, 2013, another status conference was held. The defense asked for additional time to finish their *Atkins* hearing investigation. A number of emails then followed in efforts by the Court to set a trial date in line with defense counsel's schedule. The trial judge attempted to set a fall date, but a status conference on August 30, 2012 ultimately resulted in the current scheduling

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order for motions in November and the *Atkins* hearing in December, with a trial in January, 2014 to follow.

III.

Argument as to Defendant's Motion

Application of Due Process Rights to the State and to Victims

One of the most significant of cases affecting capital litigation, *Payne v. Tennessee*, 501 U.S. 808, 111 S.Ct. 2587 (1991), arose out of a Victim's Rights Movement that began in the 1970's and developed into a broad-reaching state and federal body of law and policy. In that case the U.S. Supreme Court held that victim impact testimony was admissible in a sentencing proceeding in a death penalty case. See, *State v. Powers*, 331 S.C. 37, 45, 501 SE 2d 116, 120 (SC 1998) (Defendant not entitled to pre-trial *in camera* hearing as a motion of right on victim impact evidence).

It is today recognized that victims enjoy certain fundamental rights and rights to due process in criminal proceedings, as does the accused.

Pursuant to *Art. I, Section 24, the South Carolina Constitution* the Victims' Bill of Rights provides a series of specific guarantees to victims of state crimes in South Carolina, among them "a reasonable disposition and prompt and final conclusion of the case", *Art. I, Sec. 24 (11)*, a right to "be reasonably protected from the accused or persons acting on his behalf throughout the criminal justice process", *Art. I, Sec. 24, (6)*, "be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal and juvenile justice process, and informed of the victim's constitutional rights provided by statute", all of these enumerated in order "[t]o preserve and protect victims' rights to justice and due process regardless of race, sex, age, religion, or economic status." *Art. I, Sec. 24 (A)*.

The term "victim" is defined to include members of a victim's family and their representatives. *Art. I, Sec. 24 (C) (2)*. The General Assembly is further empowered to enact further substantive and procedural laws "to define, implement, preserve, and protect the rights guaranteed to victims by this section." *Art. I, Sec. 24 (C)(3)*, and "[t]he enumeration in the

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Constitution of certain rights for victims shall not be construed to deny or disparage others granted by the General Assembly or retained by the victims." *Art. I, Sec. 24 (C) (4)*.

The federal constitution explicitly recognizes in the separate Amendments that certain rights are reserved to and retained by the people. U.S. Const. Articles IX and X. The same due process clause of the federal constitution which applies to the rights of an accused in a criminal proceeding also provides that due process applies beyond the rights solely of an accused, and that it protects against deprivations "of life, liberty, or property, without due process of law." U.S. Const. Amendment XIV, section 1; U.S. Constl Amendment V.

The victims of crimes have a state constitutional right of access to state courts under the Victim's Bill of Rights and Article I, Section 9. These also confer, or affirm, rights which are protected from deprivation under provisions in our federal constitution cited above. Victims and their families have a right in the proceedings that their own access to the courts of our State be meaningful, as do the defendants. Westbrook, "At least Treat Us like Criminals!: South Carolina Responds to Victim's Pleas for Equal Rights", 49 S.C.L.R. 575 (Spring 1998).

A victim and her family have an equal right as a class under our state and federal constitutions to a meaningful hearing under *Atkins*, as does a defendant. No more of a right, but absolutely no less.

The issue of access to information used or reviewed for the Atkins hearing in this matter is critical to the State's ability to go forward on the death penalty in this case.

In *Franklin v Maynard*, 356 S.C. 276, 588 S.E.2nd 604(SC 2003), our Supreme Court granted certiorari in its original jurisdiction to "establish procedures for possible capital cases where the defendant is allegedly mentally retarded", in line with the decision of the U.S. Supreme Court that the execution of mentally retarded persons is cruel and unusual punishment prohibited by the Eighth Amendment of the U.S. Constitution. 356 S.C. at 278.

The Court in *Franklin* first determined there was no need to create a "new" definition of mental retardation, finding that the definition of it found in the mitigating provisions of South Carolina's death penalty statute is sufficient. Under that statute, mental retardation is defined as "significantly subaverage general intellectual functioning existing concurrently with deficits in

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adaptive behavior and *manifested during the developmental period.* 356 S.C. at 279. The Court also pointed out that this statutory definition is the same as to other statutes dealing with mental retardation under South Carolina law. *Id* at n. 2.

The next issue the Court addressed was that of the order of proof. The Court required that "the trial judge shall make the determination in a pre-trial hearing, if so requested by the defendant or the prosecution, after hearing evidence, including expert testimony, from both the defendant and the State." 588 S.E. 2nd at p. 606.

The burden of proof at the pre-trial hearing, as set by the Court in *Franklin*, is that "[t]he defendant shall have the burden of proving he or she is mentally retarded by a preponderance of the evidence." *Id.*

At the conclusion of the hearing, if the judge determines by a preponderance of the evidence that a defendant is mentally retarded, the defendant is not eligible for a death penalty. If he is determined not to be mentally retarded, it still remains a matter the jury can consider in mitigation to reject a sentence of death. *Id.*

In this case, the trial judge will have discretion to determine the issue of the defendant's retardation by a preponderance of the evidence. The State will require information the Defendant's experts relied on in reaching their opinion, require it in time for a meaningful opportunity for cross-examination. SCRE 705 ("unless the court rules otherwise"); SCRCrP 5 (f), ("If the defendant fails to comply with the requirements of the subdivision, , the court may exclude the testimony of any expert witness offered by the defendant *on the issue of his mental state.*")(emphasis added).

The standard is simply whether it is "more likely than not" that the defendant is retarded. Adequate time to review how Defendant's experts have come to their conclusions, and to prepare for their cross-examination, will be critical to a meaningful opportunity for the State to be heard on the issue.

The language, intent and meaning of Rule 5, and its Subdivisions Favors the State

The rules of procedure in South Carolina, in letter and spirit, favor mutual exchanges of information. Subdivisions for "Disclosure in Criminal Cases" under Rule 6 address disclosures

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by the prosecution, disclosures by the defendant, regulation of the process, notice of alibi and notice of an insanity defense or a "Plea of guilty but Mentally Ill." The Defendant argues that "[t]he language of Rule (f) is clear, and it does not encompass mental retardation." Actually, the matter is not "clear" in the Defendant's favor as he claims it to be, but rather is in line with the intent of the rule to put an end to "sand-bagging" by one side or the other.

In *Franklin*, the very headnotes under which issues as to sentencing and punishment were considered by the Court expressly included and made reference to a "mental illness or disorder". 356 S.C. at 277, Headnote 5. (emphasis added). Two cases are cited under that headnote, one of which is *Singleton v. State*, 313 S.C. 75, 437 S.E.2nd 53(1993).

Singleton is a case in which a defendant's competency at the time of execution was at issue. In short, the issue was competency to understand and appreciate the surroundings and circumstances leading up to the actual event of an execution.

The Court looked in *Singleton* to the analysis of the United States Supreme Court under *Ford v. Wainwright*, 477 U.S. 399, 106 S.Ct. 2595 (1987), and to its own analysis of the common law, as well as the Constitution of South Carolina, in reaching its decision to "adopt a slightly modified standard [of competency greater than the A.B.A. Standard] in South Carolina which satisfies the mandates of federal due process." *Singleton*, 313 S.C. at 80-86.

The A.B.A. standard as to competency for execution of an inmate makes explicit reference to an inability to appreciate acts and consequences for execution "as a result of mental illness or mental retardation." 437 S.E. 2nd at 55-57 (A.B.A. Standard 7-5.6 (b)(referring to convict's ability to understand the nature of proceedings or to recognize or understand that which is necessary to assist counsel or the court) .

Under Rule 5 (f), the language does not support the Defendant's quibbles seeking bright lines between insanity, mental illness and mental retardation. The very statutes he relies on to define "guilty but mentally ill" or "insanity", S.C. Code Ann. Section 17-24-10(a), are both concerned with the same issue as addressed in *Wainwright*, *Atkins*, *Franklin* and *Singleton*, the execution of those who do not fall within or satisfy a key purpose of capital punishment, that of retribution.

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Under Rule 5(f), "[i]f the defendant fails to comply with the requirements of the subdivision [ten day notice after request from the State], the court may exclude the testimony of any expert witness offered by the defendant *on the issue of his mental state.*" (emphasis added).

Though added to provide notice of intent to enter a plea of guilty but mentally ill, as shown by the language and analysis above from *Singleton* and other related cases, the clear intent was to address questions bearing upon considerations of guilt *and* considerations for punishment.

The words "mental state" are defined as "[c]apacity or condition of one's mind in terms of ability to do or not do a certain act. See Mental capacity or competence." *Black's Law Dictionary, 6th Ed., p. 986 (West Publishing Co. 1990)*. The words "mental capacity or competence" mean "such a measure of intelligence, understanding, memory or judgment relative to the particular transaction... as will enable the person to understand the nature, terms and effect of his or her act." *Id.*

The Defendant argues that "[t]he Due Process Clause of the United States Constitution ... requires that any imbalance in discovery rights must work in the Defendant's favor," and cites as authority for this proposition the case of *Wardius v. Oregon, 412 U.S. 470, 474-75 (1973)* (emphasis added), from the United States Supreme Court. (*Defendant's Motion to Deny Production Requests, p. 4. (See further discussion as to Due Process, Wardius and Fairness, below)*).

The Defendant argues repeatedly that the canons of statutory interpretation govern the meaning of the rules of practice and that this court must follow them. (Defendant's Motion, pp. 8-10, approximately 13 specific claims for application of the canons of statutory interpretation). He could not be more wrong.

The rules of practice for state courts in South Carolina are not governed by canons of statutory interpretation. They are rules of the court, promulgated by our state Supreme Court under constitutional requirements that strike a delicate balance between the legislative and judicial branches of government, and their separate functions and powers.

The Court acts, initiates, promulgates the rules, and submits them to the Judicial Committee of each House of the General Assembly during a regular session not later than

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February 1st, and they become effective 90 days thereafter *unless disapproved by concurrent resolution of both Houses with concurrence of three-fifths of the members present and voting.* S.C. Const. Art. V, Section 4; S.C. Const. Art. V, Section 4A; *Stokes v. Denmark Emergency Medical Services*, 315 S.C. 263, at 266-67, 433 S.E. 2nd 850 (1993); *Spartanburg Co. Dept. of Social Services v. Padgett*, 296 S.C. 79, 85-86, 370 S.E. 2nd 872 (SC 1998) (Per Curiam Opinion of the Court) ("The purpose of these mandates in Article V [regarding rule-making] is, among other things, to insure that each participant in the judicial system, be he litigant, lawyer or judge, can find in the Constitution, statutes and rules of this Court a court system which is the same in each county of this state...[T]he fair and efficient functioning of our trial system demands the cooperation of both the lawyers and parties on the one hand and judiciary on the other. Mutual respect, civility and courtesy are the lubricants which oil this great adversarial engine—the American system of adjusting citizens' disputes which is unique among the nations"). As to the depth of this separation of powers dispute between the General Assembly and the Supreme Court in late 1970's/1980's, over rule making authority for the courts see *Underwood, The Constitution of South Carolina, Vol. I, Ch. 4, pp. 59-67; Ch. 8, pp. 162-64; 172-78* (initial legislative proposal for General Assembly to affirm rules of the court, the Court thereby "obtaining positive legislative approval", was ultimately replaced with a constitutional amendment essentially in the mode of "veto" requirements – after meeting between new Chief Justice Littlejohn and legislative delegation including Members Wilkins, Toal and Sheheen, followed by statement of understanding that words "subject to statutory law" only meant that Court-promulgated rules should not contravene statutory law." *Underwood, Vol. I, Ch. 8, at p.177*)(emphasis added).

Our state constitution, case precedents and authoritative sources make clear that our state rules of court are intended to provide uniformity and fairness in the courts. The Defendant's efforts to obtain discovery clearly show that, while denying that he wishes to participate in discovery under Rule 5, he has sought mutual discovery through other improper artifices. The State has complied with discovery in response to his original request. The State has sought discovery under its motion in response to his improper efforts to obtain information under FOIA or under subpoenas.

The defense has waited three years before first notifying the Court of the Solicitor of his intent to claim the Defendant is mentally retarded and not subject to the death penalty under

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Atkins. The Circuit Courts of this State, as courts of general jurisdiction, have broad supervisory powers over pre-trial and trial proceedings. See *United States v. Hastings*, 462 U.S. 499, 504-510, 103 S. Ct. 1974-82 (1983) (interest in prompt administration of justice and the interests of victims are to be balanced against actions of errant counsel in considerations for abuses of the system).

With few exceptions in matters before it, whether continuances, joinder, admission of evidence, conduct of counsel, witnesses or litigants, the standard is not one governed by canons of statutory authority but by the lawful and reasonable exercise of judicial discretion. In matters of civil discovery, sanctions are intended to preserve the rights of discovery provided by the Rules. See *Downey v. Dixon*, 294 S.C. 42, 362 S.E.2nd 317, 318-19 (Ct. App. 1987) (sanction in a civil proceeding should be commensurate with aims of the rules and need to protect discovery rights from abuse, deter abuse and to give adequate protection to the discovery process); and cf. *Halverson v. Yawn*, 328 S.C. 618, 493 S.E. 2nd 883 (Ct. App. 1997), rehearing denied (in a civil proceeding trial judge's discretion over sanctions imposed will not be disturbed absent abuse of discretion).

The State does not seek "sanctions" *per se* for the conduct of Defendant's counsel. Rather, the State seeks recognition from the Court that the defense has clearly "gamed the system", that precedents from the courts in this state call for fairness in trial preparations, and that, because of defense counsel's efforts to evade discovery against their own positions while relentlessly pursuing it as against the State by improper means, warrants and justifies fairness from the Court. The Rules in their letter and intent warrant information that will allow the State to prepare cross-examination of defense witnesses at a hearing as critical as an *Atkins* hearing.

As a matter of the court's supervisory powers and discretion to assure fairness in the proceedings, sandbagging or holding cards should not be countenanced, let alone rewarded. The Defendant has no right to evade the rules and then raise a major issue after three years. There is no right, fundamental or otherwise, to hold cards or to deprive a party of a meaningful opportunity to cross-examine critical witnesses.

The Defendant's reliance on Wardius is Misplaced and Misleading

Wardius v. Oregon is cited by the Defendant as support for his "right" to a special "imbalance" under South Carolina's rules of discovery in criminal cases, and that the playing

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field must always be tilted in his favor. (Defendant's Motion, p. 4) ("*The Due process Clause of the United States Constitution further requires that any imbalance in discovery rights must work in the Defendant's favor. Wardius v. Oregon, 412 U.S. 470, 474-75(1973)*").

The words above are cited as if they are the holding of the case in *Wardius*. They are not.

The ruling of the Court in *Wardius* stated the following:

"We do not suggest that the Due Process Clause of its own force requires Oregon to adopt [discovery provisions identical to those found under Florida law and addressed by the Court in *Williams v. Florida*, citations omitted]. *But we do hold that in the absence of a strong showing of state interests to the contrary, discovery must be a two-way street.* The State may not insist that trials be a 'search for truth' so far as defense witnesses are concerned, while maintaining 'poker game' secrecy for its own witnesses. It is fundamentally unfair to require a defendant to divulge the details of surprise concerning refutation of the very pieces of evidence which he disclosed to the State." *Wardius at pp. 475-76. (emphasis added).*

Wardius v. Oregon was handed down by the U.S. Supreme Court in June, 1973, almost precisely one year after the Court handed down its seminal decision on the death penalty in *Furman v. Georgia*, 408 U.S. 238 (June 29, 1972). In *Furman*, the Court held the statutory procedures in most state death penalty cases resulted in "cruel and unusual punishment" under 14th / 8th Amendment Due Process analysis. The holdings in *Wardius* and *Furman* reflected efforts by that Court to bring state court procedures more in line with federal due process principles, and to assure fundamental fairness in state criminal proceedings.

The Defendant in the case at bar first filed a discovery request and then withdrew it. The defense next sought to obtain discovery via subpoenas that clearly violated rules of practice in South Carolina, (*See arguments in State's Motion for Protection, filed August 11, 2011*).

The Defendant also served FOIA requests that violated Supreme Court precedent prohibiting use of FOIA to seek discovery in criminal proceedings. *See State v. Noah Robinson*, 305 S.C. 469, 476-77, 409 S.E. 2nd 404(1991) ("*[W]e conclude that the South Carolina FOIA exempts discovery of material that is not otherwise discoverable under Rule 56(a)(3) from discovery*" *part on construction of the federal FOIA, under John Doe v. John Doe Corp.*, 493 U.S. 146, 110

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S. Ct. 471 (1989) ("In construing the federal FOIA, the United States Supreme Court has held that the FOIA does not supplement or displace the applicable rules of discovery.").

In the memorandum filed in response to these first efforts by the Defendant to game the rules of discovery, the State also put the Defendant on notice of, cited and discussed extensively the potential applicability here of the South Carolina Supreme Court's decision in *State v. Torrence*, 305 S.C. 45, 60, 64-65 n. 11, 406 S.E. 2nd 315 (1991)(Toal, A.J., writing with the concurrence of the majority, overruling South Carolina's doctrine of *in favorem vitae* due in part to patterns by defense counsel that had emerged at the trial level in capital cases in South Carolina).

The conduct engaged in by litigants in *Torrence* was collectively detrimental to the state's criminal justice system. In short, in light of other protections such as habeas corpus and post-conviction relief for capital defendants, the practices of "sand-bagging" appeared sufficiently pervasive to bring into question adverse effects upon the keystone of our system of justice, the fair pursuit of zealous advocacy. *Torrence*, 406 S.E.2nd 315, 325-28, ("The purposeful failure to object because of the safety net provided by *in favorem vitae* also forces the trial judge to inject himself into certain situations in a quasi-adversarial role...This is a breakdown of the traditional adversarial process we can no longer sanction.")

The regulation of mutual exchanges of information remains fundamentally a matter of state law, subject to procedural fairness for all persons with lawful interests in that process. Gaming a discovery process is not a right granted to any criminal defendant by state or federal law.

During the period when *Furman* and *Wardius* were decided, individual states retained considerable latitude over matters of state criminal procedure, even when they might involve and affect fundamental rights under federal due process. See *Williams v. Florida*, 399 U.S. 78, 81-85, 90 S. Ct. 1893, 97- 98(1970) (state alibi notice/ discovery rule did not unconstitutionally infringe upon a defendant's right against self-incrimination under Sixth/Fourteenth Amendment Due Process analysis; state rule that a jury of six of one's peers in criminal cases was found just as constitutionally sufficient as the more commonly accepted "accidental" jury of twelve. 399 U.S. 86-104, 90 S.Ct. 1897- 1907.) Of particular importance to the free reign that

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the defense claims here, it was suggested by the same Court that decided *Furman* that the procedural latitude of states over matters such as discovery applied even in death penalty cases. *Williams*, 399 U.S. at 103, 90 S. Ct. at 1907.

The Court's actual words in *Wardius* and *Williams* are far more proximate in time, intent and federal judicial philosophy to that which the same Court intended in *Furman*. As to state discovery procedures and due process, the defense arguments claiming a unilateral right to evade mutual disclosure in death-eligible cases are at odds with those cases. The actions of the defense run counter to due process and fundamental fairness, or to the "two-way street" which the Court sought for the parties in *Williams*, *Furman* and *Wardius*.

The Court in *Wardius* made clear that with respect to discovery in criminal cases "we find *ample room* in that system, at least as far as 'due process' is concerned, for (a rule) which is designed to *enhance the search for truth in the criminal trial by insuring both the defendant and the State ample opportunity to investigate certain facts crucial to the determination of guilt or innocence*." *Wardius*, at 473-74, citing *Williams*, 399 U.S. at 82. (emphasis added).

The Defendant's actions are in pursuit of discovery from the State, by any other name. As such, the State's compliance with discovery and written response to his motions claiming right to "issue-notice" compel that he give information on which his experts have/will rely.

CONCLUSION

Based upon the foregoing, the Defendant's motion to deny pre-hearing access to information of their expert witnesses should be denied.



Barry J. Barnette, Solicitor
Seventh Judicial Circuit

Spartanburg, SC
October 23, 2013

M. HOPE BLACKLEY

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SPARTANBURG COUNTY

STATE OF SOUTH CAROLINA)
)
VS.)
)
)
Ricky Lee Blackwell, Sr.,)
)
)
DEFENDANT.)
)

STATE'S RETURN TO DEFENDANT'S
MOTION TO EXCLUDE EVIDENCE OF
EVALUATION BY DR. BROWN

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Mr. Allen signed their consent to the Order in exchange for the State consenting to a continuance until March for trial of the case. The State hereby incorporates and includes all previous motions, returns and memoranda of the parties with this Return by reference, and as further support that the Defense did not comply with the Court's Order for all of the *Atkins* materials to be provided to DDSN and the State.

3. The Defendant's position as to what the standards are in an *Atkins/Franklin* hearing is incorrect, in respect to what the Defense must prove. The Defendant's own witness, Dr. Calloway, did not use the ABAS materials correctly. Many of the ABAS questions were not completed and Dr. Calloway's testimony as to her "interpretation" of the results was ambivalent and inconsistent. Dr. Calloway's testimony of the "the data speaks for itself" during her direct testimony changed to "subject to interpretation" when questioned by the Court, as well as shown by Dr. Brown's testimony.

All of this further showed her answers were inconsistent, at best. She also talked about the "typos" in her report from the "cut and pasting" of her report from other reports. Furthermore, Dr. Calloway did not look at, nor consider any of the facts involving the crime nor at the jail records of the Defendant as to his conduct while incarcerated. Dr. Calloway also used the DSM-V in her expert findings. The DSM-V is not to be used in evaluations until October 2014.

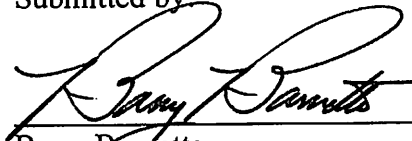
4. The Defense submitted several cases, at the end of the hearing, involving the definition of Mental Retardation in social security cases. The Defense argued

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the definition is the same in both types of cases to be applied to this case. The State would argue that the definition of Mental Retardation stated by the Defense in the hearing is not correct. The State has attached the SSI definition to this Motion (Exhibit #1) and it is not the same definition that is used by the State of South Carolina in criminal cases or used in the DSM-IV TR. The Defense never asked Dr. Brown, Dr. Calloway, or Dr. Harrison about this issue and the State would ask the Court to disregard the Defense's argument concerning the use of cases submitted to the Court involving Social Security hearings.

Submitted by:



Barry Barnette
Solicitor
Seventh Judicial Circuit

Spartanburg, South Carolina
February 24, 2014

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JAMES L. GARNLEY

EXHIBIT #1

12.05 Intellectual disability: intellectual disability refers to significantly subaverage general intellectual functioning with deficits in adaptive functioning initially manifested during the developmental period; i.e., the evidence demonstrates or supports onset of the impairment before age 22.

The required level of severity for this disorder is met when the requirements in A, B, C, or D are satisfied.

A. Mental incapacity evidenced by dependence upon others for personal needs (e.g., toileting, eating, dressing, or bathing) and inability to follow directions, such that the use of standardized measures of intellectual functioning is precluded;

OR

B. A valid verbal, performance, or full scale IQ of 59 or less;

OR

C. A valid verbal, performance, or full scale IQ of 60 through 70 and a physical or other mental impairment imposing an additional and significant work-related limitation of function;

OR

D. A valid verbal, performance, or full scale IQ of 60 through 70, resulting in at least two of the following:

1. Marked restriction of activities of daily living; or
2. Marked difficulties in maintaining social functioning; or

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3. Marked difficulties in maintaining concentration, persistence, or pace; or
4. Repeated episodes of decompensation, each of extended duration.

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) COURT OF GENERAL SESSIONS

3
4
5 STATE OF SOUTH CAROLINA,) TRANSCRIPT
6 PLAINTIFF,) OF
7 vs.) RECORD
8 RICKY LEE BLACKWELL,) 2009-GS-42-3609
9 DEFENDANT.) 2009-GS-42-3610

10
11
12 February 19th - 21st, 2014
13 Spartanburg, South Carolina
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16

17 B E F O R E:

18 THE HONORABLE ROGER L. COUCH, Judge.
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25

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

2

3

BARRY BARNETTE
SOLICITOR
Attorney for the State

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DERRICK BULSA
DEPUTY SOLICITOR
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RUSSELL GHENT
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WILLIAM MCGUIRE
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CLAY ALLEN
PUBLIC DEFENDER
Attorney for the Defendant

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PAMELA E. GREEN
Circuit Court Reporter
Seventh Judicial Circuit

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I N D E X

WITNESSES

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E X H I B I T S

<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
<u>Court's Exhibits</u>			
C-1	Curriculum Vitae	8	10
C-2	Report	8	10
C-3	Curriculum Vitae	175	372
C-4	Report	175	385

1	<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
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P R O C E E D I N G S

(WHEREUPON, the curriculum vitae of Doctor Harrison was marked as Court's Exhibit No. 1 and the report of Doctor Harrison was marked as Court's Exhibit No. 2 for identification purposes only at this time.)

THE COURT: All right. Mr. Barnette, is the State ready to proceed at this time?

SOLICITOR BARNETTE: Yes, sir, we are, with Doctor Harrison's testimony.

THE COURT: All right. Thank you.

And is the defense ready to proceed at this time?

MR. MCGUIRE: Yes, sir.

THE COURT: All right. Before we begin, we're to begin the Atkins hearing this afternoon, but before we begin I want to go over just a couple things with Mr. Blackwell.

Mr. Blackwell, yesterday -- you can remain seated. Yesterday we conducted a pretrial conference in your case, and, at that time, I inquired of your attorneys about your absence from that meeting. I was advised that you were informed of the meeting and that you had agreed to waive your presence at that meeting.

Is that correct?

THE DEFENDANT: Yes, sir.

THE COURT: So, your attorneys had discussed the

1 meeting with you and you had no problem with us going
2 forward in your absence?

3 THE DEFENDANT: Right.

4 THE COURT: That's true?

5 THE DEFENDANT: (Nods affirmatively.)

6 THE COURT: Okay. Thank you, sir.

7 THE DEFENDANT: Uh-huh. (Affirmative).

8 THE COURT: I also received a request from the State to
9 be allowed to go forward with Doctor Harrison's testimony
10 this afternoon. I realize normally the defense has the
11 burden of proof and would be going first in this hearing,
12 but my understanding is there's been an agreement to allow
13 Doctor Harrison's testimony to be taken out of order.

14 Is that right, Mr. Allen?

15 MR. ALLEN: That is correct, Your Honor.

16 THE COURT: All right. So, at this time, if -- does
17 either side wish to make any opening comments before we
18 begin from the State?

19 SOLICITOR BARNETTE: No, sir.

20 THE COURT: Any from the defense?

21 MR. MCGUIRE: No, sir.

22 THE COURT: All right. Then the State may call its
23 witness.

24 SOLICITOR BARNETTE: Your Honor, I'd like to call
25 Doctor Harrison to the stand please.

Kimberly Harrison - Direct examination
by Solicitor Barnette

1 THE COURT: Come forward please, ma'am, to my left and
2 be sworn.

3 DOCTOR KIMBERLY HARRISON, being first
4 duly sworn, testifies as follows:

5 THE COURT: State your name please, ma'am.

6 THE WITNESS: Kim Harrison. H-A-R-R-I-S-O-N.

7 THE COURT: Thank you.

8 Your witness, Mr. Barnette.

9 SOLICITOR BARNETTE: May it please the Court, Your
10 Honor.

11 I've got two Court Exhibits I've previously marked
12 here. I'd like to give a copy to the Court as well as the
13 defense. The defense has these so you could actually---

14 THE COURT: Any objection to those being made exhibits?

15 MR. MCGUIRE: No, sir.

16 THE COURT: All right. Then -- they have already been
17 marked?

18 SOLICITOR BARNETTE: Yes, sir, they have.

19 THE COURT: They'll be admitted as marked then.

20 (WHEREUPON, Court's Exhibit Nos. 1 and 2 were received
21 into evidence at this time.)

22 SOLICITOR BARNETTE: May I approach the bench, Your
23 Honor?

24 THE COURT: You can pass those up. Thank you.

25 All right. And they have been marked as State's

Kimberly Harrison - Direct examination
by Solicitor Barnette

1 Exhibits?

2 SOLICITOR BARNETTE: Court's Exhibits.

3 THE COURT: Court's Exhibits 1 and 2.

4 All right. You may proceed, Mr. Barnette.

5 SOLICITOR BARNETTE: Yes, sir, and we marked those as
6 Court's Exhibits for this hearing only, Your Honor.

7 THE COURT: That's quite all right, yes, sir.

8 SOLICITOR BARNETTE: Yes, sir.

9 DIRECT EXAMINATION

10 BY SOLICITOR BARNETTE:

11 Q Doctor Harrison, where are you employed at, ma'am?

12 A At the South Carolina Department of Mental Health.

13 Q And what's your position there, ma'am?

14 A My job title is chief psychologist with the forensic
15 evaluation service.

16 Q Okay. And how long have you been there, ma'am?

17 A Approximately five and a half years.

18 Q Okay. If you would, I know you have given me a CV
19 concerning your current positions and your education and
20 everything.

21 A Correct.

22 SOLICITOR BARNETTE: May I approach the witness, Your
23 Honor?

24 THE COURT: You may.

25 Q Is that a CV that you sent to us and I believe we

Kimberly Harrison - Direct examination
by Solicitor Barnette

1 provided that to defense also?

2 A Yes, it is.

3 SOLICITOR BARNETTE: And, Your Honor, I'd like to mark
4 that and put that into the hearing as evidence at this point
5 concerning her qualifications.

6 THE COURT: Any objections?

7 MR. ALLEN: No, Your Honor.

8 THE COURT: Without objections, it will be admitted.

9 (WHEREUPON, Court's Exhibit No. 1 was previously
10 admitted into evidence.)

11 THE COURT: You may proceed.

12 Q But if would, just briefly go through where you --
13 your, your educational background, ma'am, if you would?

14 A Sure. I have a Bachelor's Degree in Psychology, a
15 Master's Degree in Psychology, and a Ph.D. in Clinical
16 Psychology. I also completed a one year post-doctoral
17 fellowship in the field of clinical forensic psychology.

18 Q Okay. And do you have licenses here in the State of
19 South Carolina to practice?

20 A Yes, I do.

21 Q And what licenses do you have, ma'am?

22 A It's a licensed psychologist.

23 Q Okay. And do you have them in any other state also?

24 A In the State of Texas.

25 Q Okay. And as part of your training, medical training

Kimberly Harrison - Direct examination
by Solicitor Barnette

1 and education, have you specialized in certain areas, ma'am?

2 A Yes.

3 Q And what area is that?

4 A Clinical forensic psychology.

5 Q Okay. And have you testified -- or how many people
6 have you examined in your career?

7 A Hundreds. I'm not, not sure.

8 Q And have you been qualified in State Courts here in
9 South Carolina as an expert in this period?

10 A Yes, I have.

11 SOLICITOR BARNETTE: Your Honor, I'd like to move her,
12 at this time, as an expert in this area that we're going
13 into, Your Honor---

14 THE COURT: Any objection---

15 SOLICITOR BARNETTE: ---for purposes---

16 THE COURT: ---to her being qualified as an expert I
17 think she said in clinical psychology?

18 Is that the field that she's being offered---

19 SOLICITOR BARNETTE: Well, it's actually forensic
20 psychiatry.

21 THE COURT: Forensic. I think it was clinical forensic
22 psychology was the word.

23 SOLICITOR BARNETTE: Yes, that's the official word.

24 MR. ALLEN: If I may voir dire on a couple of issues,
25 Your Honor?

Kimberly Harrison - Cross-examination
by Mr. Allen

1 THE COURT: Yes, you may. You may examine her on that.

2 CROSS-EXAMINATION

3 BY MR. ALLEN:

4 Q Doctor Harrison, have you had experience in the, in the
5 assessment for mental retardation or intellectual
6 disability?

7 A Yes, I have.

8 Q Okay. I was looking for that in your C, in your CV and
9 I notice that you primarily most recently were employed with
10 the Department of Mental Health?

11 A That's correct.

12 Q But you've given IQ tests and that sort of thing?

13 A Yes, that's all standard part of training in clinical
14 psychology. So, I've given probably hundreds of IQ tests
15 and assessing people for mental retardation or other
16 intellectual disabilities.

17 Q During your training in clinical psychology?

18 A During my, my training in my practice at the Department
19 of Mental Health and in my private practice through the
20 University of South Carolina School of Medicine.

21 Q Thank you.

22 No other questions.

23 THE COURT: All right. Are there any objections to her
24 being---

25 MR. ALLEN: No, Your Honor.

Kimberly Harrison - Direct examination
by Solicitor Barnette

1 THE COURT: ---designated as an expert in the field of
2 clinical forensic psychology?

3 MR. ALLEN: No, Your Honor.

4 THE COURT: Without objection, she'll be designated as
5 an expert within that field.

6 You may proceed, Mr. Barnette.

7 SOLICITOR BARNETTE: Thank you.

8 CONTINUED DIRECT EXAMINATION

9 BY SOLICITOR BARNETTE:

10 Q Doctor, did you receive an order from this Court that
11 instructed your office to evaluate the defendant's
12 competency to stand trial---

13 A Yes, I did.

14 Q ---in this matter?

15 And did you and another person do the examination?

16 A Yes, at the Department of Mental Health, the case is
17 assigned to a psychologist or a psychiatrist and a social
18 worker.

19 Q Okay.

20 A So, they're two evaluators.

21 Q And who was the second evaluator with you, ma'am?

22 A Her name is Cassandra Sims. She's a master level
23 social worker.

24 Q Okay. And prior to the examination of this defendant,
25 did you receive evidence of his crimes or information about

Kimberly Harrison - Direct examination
by Solicitor Barnette

1 that, what he had committed in this case?

2 A Yes, I did.

3 Q And obtaining this information, is that part of
4 standard procedure to get that information in these
5 examinations?

6 A Yes, it is.

7 Q And why is that?

8 A When we're evaluating for -- someone for competency to
9 stand trial, we need to know the details of the offenses,
10 obviously the names of what they're charged with so that
11 then we can assess their understanding of those charges,
12 what kind of evidence might there be against them. So, it's
13 important for us to have an understanding of all the
14 information on the offenses.

15 Q And looking at Court Exhibit 2, you listed most of
16 these sources that you looked at, is that correct, in your
17 report?

18 A Yes, I did.

19 Q And also -- do you also look at social history, medical
20 history, and things of that -- of the defendant in this
21 case?

22 A Yes, I do. We try to get whatever information might be
23 relevant to the issues at hand. The social worker's role in
24 these evaluations is to contact a family member or someone
25 who knows the defendant and interview them to just get a

Kimberly Harrison - Direct examination
by Solicitor Barnette

1 third party source of information about the person's
2 history. If it's relevant, we will request school records,
3 mental health records, medical records, anything that might
4 help us when it comes to diagnosing the individual.

5 Q Okay. And you also list a lot of these sources also in
6 your report, is that correct?

7 A Correct.

8 Q And did you also -- I believe y'all contacted the
9 defendant's mother, is that correct?

10 A Yes, the social worker, Ms. Sims, did talk with Mr.
11 Blackwell's mother.

12 Q In this case -- and that was part of the report also?

13 A Correct.

14 Q What was done as part of your examination?

15 What kind of test, questions, interviews, things like
16 that do you do, ma'am?

17 A In this particular case I interviewed Mr. Blackwell for
18 about an hour and 20 minutes, and, again, this evaluation
19 was solely to focus on his competency to stand trial. I did
20 not do any testing, didn't have him fill out questionnaires
21 or anything like that. It was just very focused on coming
22 up with a diagnosis and then assessing his competency to
23 stand trial.

24 Q And when was this examination done, ma'am---

25 A This was---

Kimberly Harrison - Direct examination
by Solicitor Barnette

1 Q ---for your standpoint?

2 A ---on April 24th, 2013.

3 Q Okay. And obviously you're familiar with the
4 requirements about competency to stand trial and so forth
5 about that, is that correct, the State laws here in this
6 state?

7 A Correct.

8 Q And based off that -- and let me do this before I --
9 Court Exhibit 2, and this is your report, is this correct,
10 ma'am?

11 A Yes, this is my report on his competency to stand
12 trial.

13 Q And on the findings that you made concerning that?

14 A Correct.

15 SOLICITOR BARNETTE: Your Honor, I'd like to move Court
16 Exhibit 2 into evidence at this time.

17 THE COURT: Any objections?

18 MR. ALLEN: No, Your Honor.

19 THE COURT: Without objection, it will be admitted as
20 marked.

21 (WHEREUPON, Court Exhibit No. 2 was previously received
22 into evidence.)

23 THE COURT: You may proceed.

24 SOLICITOR BARNETTE: Thank you, Your Honor.

25 THE COURT: Yes, sir.

Kimberly Harrison - Direct examination
by Solicitor Barnette

1 Q And based off your examination, does the defendant have
2 the ability to understand the proceedings against him?

3 A Yes, he did.

4 Q And is he able to assist in his own defense and
5 basically be able to consult with his attorney and basically
6 understand that and have a rational understanding of those
7 procedures?

8 A Yes, that was my opinion.

9 Q Okay. And did he understand the nature of the
10 proceedings against him?

11 A Yes, he did.

12 Q Did he understand what crimes he's charged with?

13 A Yes, he did.

14 Q Did he understand the penalties of these crimes?

15 A Yes, he did.

16 Q Okay. Did he understand the, the rules of the -- roles
17 of the different Court officers like the judge, jury, his
18 attorney, and the solicitor?

19 A Yes, he did.

20 Q And from your view of the history and your own
21 examination, did you find any evidence of mental retardation
22 in this defendant?

23 A That was an area that I did look at for this
24 evaluation. Usually, if a Court order is issued for a
25 competency evaluation based on a suspicion of mental

Kimberly Harrison - Direct examination
by Solicitor Barnette

1 retardation or intellectual disability, it gets sent to the
2 Department of Disability and Special Needs. In this case,
3 for whatever reason, it came to the Department of Mental
4 Health. So, I was very aware that this was going to be an
5 issue. In the case that there was further evidence that
6 might suggest an intellectual disability, I would of either
7 referred the case on to DDSN or requested a joint evaluation
8 with DDSN and myself.

9 In the case of Mr. Blackwell, we did have some school
10 records when it looked like -- when he first entered school.
11 So, maybe around the age of seven he did have a low IQ. His
12 IQ was reported to be 68 I believe at that time, which would
13 suggest a possible diagnosis of an intellectual disability.
14 However, approximately one year later, when he was eight
15 years old, his IQ at that time was reported to be 87, which
16 would be considered in the low average range of intellectual
17 development, and not in the intellectually disabled range.

18 In speaking with Mr. Blackwell and in learning about
19 his history, I learned that he had been employed as a
20 forklift operator and other types of labor, skilled labor
21 types of jobs, a truck driver, a dyer at a textile plant.
22 He had apparently lived relatively independently. He had
23 been married, and just in talking with him, his
24 communication skills, his ability to understand my questions
25 and respond appropriately to them, his ability to think

kimberly Harrison - Direct examination
by Solicitor Barnette

1 through different scenarios, his abilities for abstract
2 thinking, so, for example, being able to interpret what
3 different proverbs or sayings mean to identify similarities
4 between objects, those are all considered tasks of abstract
5 thinking, and he was able to do those things without
6 problem. He did not demonstrate any obvious problems with
7 attention or concentration or his memory.

8 And, so, through the course of my evaluation, I didn't
9 even see enough indication that would suggest referring the
10 case over to the DDSN or to request for a joint evaluation
11 where I and a psychologist from DDSN would, would evaluate
12 him concurrently.

13 Q And how many people have you examined over your years,
14 doctor, concerning different examinations?

15 A For competency to stand trial evaluations, probably
16 several hundred, three to four hundred.

17 Q And, of course, in South Carolina, one of those things
18 is for mental retardation or shown, show you have to refer
19 them or do a joint thing usually with DDSN, is that correct?

20 A That's correct.

21 Q And if you would of seen any type of indication of
22 that, you would of referred him, is that correct, or would
23 joint---

24 A That's correct.

25 Q Okay.

Kimberly Harrison - Direct examination
by Solicitor Barnette

1 A It's not uncommon for that first IQ score that was
2 reported when he was seven years old, if Mr. Blackwell had
3 come from -- he was -- that was his first year in school
4 from what I understand, and it's not uncommon for someone
5 to, if they've come out of an environment where maybe they
6 weren't intellectually stimulated a lot as a child, it's not
7 unusual to have a low IQ, but then we saw, the next year,
8 his IQ was measured at a much higher level. So, I felt like
9 that was indication that he likely did not have an
10 intellectual disability.

11 Q And plus his history, work history, his family history
12 and everything, indicated that he had no mental retardation
13 issues, didn't it?

14 A Correct.

15 Q And he also had a commercial driver's license to drive
16 a truck and obviously that's more than a regular driver's
17 license.

18 So, would a mentally retarded person be able to get a
19 commercial driver's license, in your opinion?

20 A It would be unlikely because it does require obviously,
21 if it's a written test, requires reading skills, ability to
22 understand the language, ability to formulate appropriate
23 responses, understanding of rather technical machinery. So,
24 it would be unusual for a person with mental retardation to
25 be able to obtain a commercial driver's license.

Kimberly Harrison - Direct examination
by Solicitor Barnette

1 Q Okay. In reviewing the defendant's history, did you
2 see indication of a mental illness with him?

3 A At the time I did diagnose him with major depressive
4 disorder recurrent, but in full remission at the time that I
5 saw him. Based on his history, he did have some major
6 depressive episodes in his past, which are characterized by
7 depressed mood, lack of interest in activities, sleep
8 changes, weight changes, fatigue, feelings of worthlessness,
9 and, based on his history, he did have those major
10 depressive episodes in the past.

11 At the time I saw him, he denied current symptoms of
12 depression. And, so, that's why I said that it was in
13 remission.

14 I also did diagnose him with generalized anxiety
15 disorder, which is basically a pattern of persistent worry
16 about things and, again, problems with concentration,
17 problems with sleep, fatigue, restlessness, and he did
18 have -- appear to have those symptoms around the Year 2000.
19 At the time I saw him, again, he did not report or endorse
20 any symptoms of anxiety. So, that appears that it had
21 resolved in the past as well.

22 Q And was he taking medication at the time that you
23 examined him, doctor, in this case?

24 A I'm just gonna refresh my memory here. At the time
25 that I saw him he was taking Thorazine, which is categorized

Kimberly Harrison - Direct examination
by Solicitor Barnette

1 as an antipsychotic medication. He was also taking Paxil,
2 which is an anti-depressant medication, and he was taking
3 Cogentin, which is used to relieve the side effects of
4 antipsychotic medications.

5 Q Okay. And who subscribed (sic) those?

6 Do you know who subscribed (sic) those from your
7 talking to him?

8 A I believe he received them at the detention center, and
9 based on some documents I saw, they were prescribed by a
10 psychiatrist, Doctor Donna Schwartz-Watts.

11 Q And I noticed in your report it says, and I'm not good
12 at pronouncing these drugs sometimes, Seroquel,
13 S-E-R-O-Q-U-E-L, they didn't want to give that to him
14 because he was hoarding it?

15 Is that something that was indicated in your report?

16 You may want to take a chance and look at it.

17 A Sure. Let me just take a quick look.

18 Yes, he was prescribed Seroquel, which is another
19 antipsychotic medication, and then, according to a note that
20 was written, they said if that jail basically doesn't want
21 to get him, give him Seroquel because of, I suppose,
22 hoarding is what they were talking about, then they can
23 prescribe the Thorazine. I don't know for sure if Mr.
24 Blackwell was hoarding or not, but that is commonly used as
25 a drug of abuse in the detention centers. So they often

Kimberly Harrison - Direct examination
by Solicitor Barnette

1 don't prescribe it just as a caution against hoarding and
2 selling it.

3 Q And based off your professional opinions, is the
4 defendant competent to stand trial in this matter?

5 A Yes, that was my opinion.

6 Q And did he have the ability to differentiate right from
7 wrong at the time of the offense?

8 A I did not evaluate Mr. Blackwell for criminal
9 responsibility at the time of the offense.

10 Q Did you feel like, based on talking with him and
11 everything, it would not be anything wrong with him based
12 off your evaluation of him?

13 A At the time that I evaluated him, no, he did not have
14 significant symptoms of a mental illness.

15 Q And the -- I think you've testified before, but just to
16 make sure it's clear on the record, you didn't see any signs
17 of mental retardation based off your examination of him?

18 A That's correct.

19 Q And based off the information you was given based off
20 the reports and everything?

21 A Correct.

22 Q And he -- obviously he gave you the information about
23 his work history and everything from that himself?

24 A Yes, he did.

25 Q So, obviously he was able to converse with you, give

Kimberly Harrison - Direct examination
by Solicitor Barnette

1 you this information and so forth, is that right?

2 A Correct.

3 SOLICITOR BARNETTE: One moment, Your Honor, please.

4 THE COURT: Yes, sir.

5 (Pause.)

6 Q Doctor, if you would, please answer any questions that
7 the defense may have for you as well. Thank you, ma'am.

8 A Yes.

9 THE COURT: Mr. Allen, you may proceed.

10 MR. ALLEN: Thank you, Your Honor.

11 THE COURT: Yes, sir.

12 CROSS-EXAMINATION

13 BY MR. ALLEN:

14 Q Doctor, when we -- first of all, I'm gonna get some
15 terminology straight if you don't mind.

16 A Sure.

17 Q We've been using a lot of times the phrase mental
18 retardation, correct?

19 But I understand in the -- beginning with the DSM-5
20 that they had -- what they formerly called mental
21 retardation is now called intellectual disability, is that
22 correct?

23 A That's correct.

24 Q And it's still characterized by the different degrees
25 of severity like mild, moderate, severe?

Kimberly Harrison - Cross-examination
by Mr. Allen

1 A Severe and profound.

2 Q Severe and profound?

3 A Yes.

4 Q Thank you.

5 So, can we agree that, when either the lawyers or you
6 use the phrase mental retardation, it also means
7 intellectual disability?

8 A Yes, I've been trying to switch to intellectual
9 disability, but we've been using the term mental retardation
10 for so long that sometimes that comes out instead. So, yes.

11 Q And so have I.

12 A Yes.

13 Q But I'm trying to change too.

14 A Yes.

15 Q And when I use the phrase intellectual disability, can
16 we agree that that -- I'm also referring to mental
17 retardation?

18 A Yes.

19 Q Okay. I want the record to be clear when we use that,
20 the terms.

21 And intellectual disability is characterized by what in
22 South Carolina?

23 Do you know?

24 A In South Carolina, I can tell you what the DSM says,
25 but I don't have a statute in front of me.

Kimberly Harrison - Cross-examination
by Mr. Allen

1 Q Okay. The DSM-5 or IV?

2 which DSM definition will you be using for---

3 A Well, at the time that I did this evaluation I was
4 using the DSM-IV-TR.

5 Q Okay. And that -- and when you say mental retardation
6 under DSM-IV, that refers to what?

7 A That refers to an IQ or an intellectual test score that
8 is generally below the level of 70. When we talk about IQ
9 scores, an IQ of 100 is considered average. So, an IQ score
10 of less than 70 would be considered in the range of mental
11 retardation or intellectual disability. However, in
12 addition to that test score, there have to be also deficits
13 in what's called adaptive functioning, and those adaptive
14 functioning is basically how, just how we function in the
15 world, our ability to take care of ourselves, to maintain
16 proper hygiene, to hold employment, to communicate with
17 others, to maintain relation -- social relationships, to
18 engage in hobbies or activities for recreation. So, all of
19 those are considered adaptive functions.

20 So, basically to have a diagnosis of intellectual
21 disability, there have to be intellectual deficits as
22 measured by an IQ test as well as deficits in adaptive
23 functioning and those deficits have to be present before the
24 age of 18 for it to be considered an intellectual
25 disability.

Kimberly Harrison - Cross-examination
by Mr. Allen

1 Q Okay. And not to quibble with the definition, but
2 isn't it true that, under the DSM-IV, it defines the first
3 part of the definition of mental retardation requires
4 significantly subaverage general intellectual functioning,
5 is that correct?

6 A That sounds correct.

7 Q It doesn't really refer in the DSM to a specific score
8 on the IQ test then, does it?

9 It just talks about general -- it refers to significant
10 subaverage general intellectual functioning, is that
11 correct?

12 A It does give guidelines --

13 Q It does give guidelines?

14 A -- with the different levels we spoke about. So, mild
15 mental retardation, mild intellectual disability may be
16 considered from about a score of 55 through 70 and so on
17 down. So, it does give ranges as sort of estimates.

18 Q Sure.

19 And is it possible someone with mild mental retardation
20 to actually score somewhat over 70, is that correct?

21 A That is correct because of the testing, error of
22 measurement, when we get into statistics --

23 Q Sure.

24 A -- it's definitely possible for a person to score
25 somewhat higher than 70 and they could still be considered

Kimberly Harrison - Cross-examination
by Mr. Allen

1 to have mild mental retardation.

2 Q Generally, the standard error of measurement is plus or
3 minus five, as I understand it, is that correct?

4 A That's correct.

5 Q And, therefore, if someone scores, on an IQ test, a
6 score of 70, what that really is saying is 65 to 75, is that
7 correct?

8 A Generally speaking, yes.

9 Q Okay. And that's -- and, of course, there are a
10 variety of other factors that go into IQ testing such as
11 adjusting the scores for the Flynn effect, correct?

12 A Correct.

13 Q And that's adjusting it for when the test was, as I
14 understand it, norm to the general population, is that
15 correct?

16 A Yes, there's sort of a creep if you will in scores over
17 time. People tend to get higher scores the longer a test
18 has been out. So, adjusting for that, yes.

19 Q And there also should be adjustments for such things as
20 a practice effect, correct?

21 A Correct, if a person has taken an IQ test in the past,
22 especially recently, they may be more familiar with the
23 types of test items, and, therefore, might get a higher
24 score.

25 Q Sure.

Kimberly Harrison - Cross-examination
by Mr. Allen

1 Okay. Now, when you were discussing, for example, the
2 solicitor kept asking you if you found any evidence of
3 mental retardation.

4 There is evidence, is there not, of mental retardation
5 in his records?

6 A There was that IQ score back when he was seven years
7 old, yes.

8 Q IQ score when he was seven years old?

9 A Yes.

10 Q Cause that was on something called the California Test
11 of Mental Maturity I believe?

12 A I don't recall which test it was.

13 Q Okay. Did you have a -- do you have a copy of the
14 school records with you or---

15 A Not with me, I don't.

16 Q ---on that part?

17 One moment.

18 (Pause.)

19 MR. ALLEN: Court bear with me a moment.

20 THE COURT: Yes, sir.

21 (Pause.)

22 Q The test that you saw on his school records, that was
23 not an individualized standardized test, is that correct?

24 A Again, I don't recall which test was used.

25 Q Okay.

Kimberly Harrison - Cross-examination
by Mr. Allen

1 THE COURT: You may approach the witness.

2 MR. ALLEN: Thank you, Your Honor. I apologize.

3 Q I'm gonna show you a document that -- do you recall
4 seeing a document similar to this?

5 A Yes.

6 Q Okay. And this is a report of a California Achievement
7 Test?

8 A Correct.

9 Q Indicating that it was given in 1966 --

10 A Correct.

11 Q -- I believe it was?

12 A Yes.

13 Q And it shows a IQ of -- can you see that on there after
14 that's the --?

15 A These appear to be achievement tests, which would be---

16 Q Achievement tests?

17 A ---different from IQ tests, yes.

18 Q Okay. Excuse me. Here's the one I was looking for.

19 A Okay.

20 Q California Short Form Test of Mental Maturity.

21 A Yes.

22 Q This is part of the school records of Mr. Blackwell
23 that you had seen before?

24 A Correct.

25 Q And showing it to, to refresh your recollection, it was

Kimberly Harrison - Cross-examination
by Mr. Allen

1 given in 19, in April of 1966?

2 A Yes.

3 Q And shows a full scale IQ of 68?

4 A Yes, a language score of 73, nonlanguage of 67, and a
5 total or full IQ of 68.

6 Q Okay. And this was from the California Short Form Test
7 of Mental Maturity, is that correct?

8 A Yes.

9 Q Do you know that that is -- what kind of test would --
10 that is?

11 In other words, is it given to a group of students
12 typically or do you know?

13 A I do not know.

14 Q Okay.

15 A I don't believe that's a test that's used anymore.

16 Q Okay.

17 A So, I'm really not familiar with it.

18 Q Sure.

19 Okay. Is it -- but this test was given in 1966, you
20 will concede is evidence of mental retardation?

21 A Possible evidence.

22 Q Possible?

23 A It's just a test score. So, we don't have the other
24 information regarding his adaptive functioning at that time.

25 Q Okay. Sure.

Kimberly Harrison - Cross-examination
by Mr. Allen

1 And, of course, as you've indicated that, later in 1967
2 I believe it was, he scored a full scale IQ score of was it
3 eight---

4 A Eighty-seven I believe.

5 Q Eighty-seven?

6 A Yes.

7 Q Okay. There was a -- wasn't there another test in his
8 records given in 1972?

9 Do you recall that test?

10 A I don't recall. I reported all of the test scores that
11 I had available to me.

12 Q Showing you a page from his records---

13 SOLICITOR BARNETTE: Your Honor, not to interrupt, but
14 if he could pre-mark those -- go ahead and mark them so
15 they'll be a part of the record, what he's showing the
16 doctor in this case.

17 MR. ALLEN: Okay.

18 THE COURT: Well, he can mark it for identification
19 purposes. It's not been introduced. So, if you wish to do
20 that you may.

21 MR. ALLEN: Thank you, Your Honor. Defense Exhibits --
22 we can -- can we mark them all together?

23 I'll just delineate which page.

24 THE COURT: I don't know what they all are. So, I'm
25 not gonna---

kimberly Harrison - Cross-examination
by Mr. Allen

1 MR. ALLEN: Okay. That's fine.

2 THE COURT: If you're gonna use them as separate
3 documents, and refer to them separately, they need to be
4 marked separately.

5 MR. ALLEN: Very well. We can mark them as Defense
6 Exhibits 1 through 5 for identification.

7 THE COURT: All right. Take a moment and allow her to
8 mark them please.

9 (WHEREUPON, the medical records were marked as
10 Defendant's Exhibit Nos. 1 through 5 for identification
11 purposes only at this time.)

12 MR. ALLEN: Okay. If I may?

13 THE COURT: Yes, sir.

14 Q Showing you Defense Exhibits 5 -- Exhibit 5 for
15 identification, this is a portion of Mr. Blackwell's records
16 that you had seen before?

17 A Let's see.

18 Q And drawing specifically your attention to testing in
19 number---

20 A There's an IQ score here.

21 Q Yes. Of a, of a test given in was it 1973?

22 A Appears to be, yes.

23 Q Okay. And a full scale -- and this was I believe --
24 are you familiar with what that tests, the FTAA?

25 A I'm not familiar with that test, no.

Kimberly Harrison - Cross-examination
by Mr. Allen

1 Q Does it measure an IQ---

2 A It says---

3 Q ---testing?

4 A I guess that's language IQ, what we may consider verbal
5 IQ of 76 --

6 Q Uh-huh. (Affirmative).

7 A -- nonlanguage of 76 and a total of 72.

8 Q Okay. Total of 72.

9 And this is given when he was what, in 19 -- apparently
10 in October of 1973?

11 A Right, when he was 14, almost 15.

12 Q Fifteen years old.

13 And 72, a full scale IQ score of 72 is closer within
14 the same range of an IQ score of 68, would it not be?

15 A Yes, that would be considered basically in the same
16 range.

17 Q Okay. And is that not also evidence of possible, of
18 possible mental retardation?

19 A Well, it's possible evidence of a low IQ score. Again,
20 we don't know about the adaptive functioning side.

21 Q Granted.

22 Okay. But it could be -- but it could be evidence of
23 mental retardation, could it not?

24 A Sure, it could be, yes.

25 Q Did you note his reading levels on some of his

Kimberly Harrison - Cross-examination
by Mr. Allen

1 standardized testing reflected in his records, his school
2 records?

3 A I did not include them in my reports. I don't remember
4 them offhand.

5 Q Did, did you include them at -- did you see them?
6 Did you note them?

7 A I'm sure I did when I was reviewing the records.

8 Q Okay. I'm showing you again I believe it would be
9 Defense Exhibit 5.

10 Does it show some scores dealing with reading levels
11 and grade levels and that sort of thing?

12 A Uh-huh. (Affirmative).

13 Q Does it show that he was reading at approximately a
14 fifth grade level in 1973, for example?

15 A I'm honestly not sure what these numbers are here.

16 Q Okay.

17 A Because there's one that says 13. So, I wouldn't think
18 that would be a grade level.

19 Q Okay. Are you familiar on the entry for 19, for
20 October of 1974, the entries here, for, for example, there's
21 abbreviation for NP, national percentile?

22 Are you familiar with that?

23 A I -- in a way, yes. This would be more the school
24 psychologist type of area.

25 Q All right. And does it show that, for example, in

Kimberly Harrison - Cross-examination
by Mr. Allen

1 1974, he was reading -- he was in the third percentile---

2 A For---

3 Q ---for total reading?

4 A For a total reading, yes.

5 Q Now, it's not usual for people with mild mental
6 retardation to be able to read, is that correct?

7 A That's correct.

8 Q Or to write?

9 A Correct.

10 Q And to do some mathematics or arithmetic, correct?

11 A Correct.

12 Q And to do some thinking, of course?

13 A Sure.

14 Q Right.

15 And when we talk about third percentile, a percentile
16 means, as I understand it, and you correct me if I'm wrong,
17 there's 97 percent people who do better---

18 A Correct.

19 Q ---than say a person in the third percentile, correct?

20 A Correct.

21 Q Very well.

22 I mean so he's definitely at the lower range of reading
23 in 1974 as measured by that test and in his records?

24 A It appears to be, yes.

25 Q Okay. And that would also be evidence of mental

Kimberly Harrison - Cross-examination
by Mr. Allen

1 retardation or intellectual disability?

2 A It could be looking at all the other factors as well,
3 yes.

4 Q Okay. Did you consider his adult basic learning
5 examination that was taken when he was approximately 18
6 years old as reflected in his school records?

7 A I don't recall that, no.

8 Q But, in general, it's not unusual for someone with mild
9 mental retardation or mild intellectual disability to be
10 able to read at the fifth or sixth grade level, is that
11 correct?

12 A It's, it's possible.

13 Q Okay. And to also do arithmetic at approximately the
14 sixth grade level?

15 A It's possible.

16 Q And if there were such in the records, that could --
17 that would be evidence or could be evidence of mental
18 retardation, correct?

19 A It could be in the context of other information, yes.

20 Q Okay. And could be a sign of mental retardation or
21 intellectual disability, correct?

22 A Well, it would be sort of one piece to look at.

23 Q From one piece to look at?

24 A Right.

25 Q Okay. When you do an evaluation for the Department of

Kimberly Harrison - Cross-examination
by Mr. Allen

1 Mental Health for competency, you're required to determine
2 if there's a -- if you can make a diagnosis as to mental
3 illness, correct?

4 A Correct.

5 Q And if you make a diagnosis as to mental illness,
6 you're required to, if you see evidence or see indications
7 of mental retardation, preliminary indication of mental
8 retardation, you should refer it to the Department of
9 Disabilities and Special Needs for a dual diagnosis, is that
10 correct?

11 A Correct.

12 Q And you're not required to evaluate, to weigh the
13 evidence, but simply you find the preliminary indications of
14 possible mental retardation to recommend a dual diagnosis,
15 is that correct, or a dual evaluation I should say?

16 A Well, it -- there's some leeway in that, and it -- the
17 statute doesn't specify how much of an indication. Frankly
18 if we were to refer everybody that we saw who had an
19 indication of maybe a lower than average IQ, we would be
20 referring or requesting joint evaluations on about
21 95 percent of the people that we see.

22 Q Okay.

23 A So, after speaking with Mr. Blackwell, after going
24 through all these competency issues, his ability to
25 communicate, his ability to answer my questions, left me

Kimberly Harrison - Cross-examination
by Mr. Allen

1 with no concern that he might have an intellectual
2 disability.

3 Q And as a forensic psychologist, you're required to
4 know, to some degree, the laws that applies to your area of
5 expertise, is that correct?

6 A That's correct.

7 Q Okay. And isn't it true that the law of South Carolina
8 is that a preliminary indication is a -- requires that there
9 be signs of mental retardation, correct, or a sign of mental
10 retardation, correct?

11 A I don't -- I haven't looked at the statute in a while.
12 I'm not sure.

13 Q Well, actually that would be a case of State versus
14 Evins.

15 Are -- you're not familiar with that?

16 A I didn't hear you. I'm sorry.

17 Q That actually would be found in the case of The State
18 versus Evins decided by I believe it's the South Carolina
19 Supreme Court.

20 A I'm not sure.

21 Q Okay. So, is it fair to say then that when you were
22 doing your evaluation of Mr. Blackwell, you are also, to
23 some degree, weighing the evidence as well as it relates to
24 mental retardation or intellectual disability?

25 A Sure because of the basis for the Court order that this

Kimberly Harrison - Cross-examination
by Mr. Allen

1 was the basis, I was looking for signs or indications,
2 particularly in my interactions with him, that this would
3 need to be a referral to DDSN.

4 Q Those who are mildly mentally retarded or mildly
5 intellectually disabled can communicate, correct?

6 A Generally speaking, yes.

7 Q They can answer questions, correct?

8 A To some degree. Sometimes simpler language is
9 required. There's a lot of individual variation.

10 Q Sure.

11 Many -- I mean there's no way you can look at an
12 individual and tell that person suffers from mild
13 intellectual disability, correct?

14 A By just looking at them physically?

15 Q Yes.

16 A No.

17 Q Okay. And that, in fact, there has to be additional
18 testing, is that correct?

19 A That would be the best way, yes.

20 Q Okay. And you, and you actually, for the purpose of
21 determining intellectual disability or mental retardation,
22 you did not actually do any testing, is that correct?

23 A I did not do any testing.

24 Q Like you didn't do an IQ test?

25 A No, I did not.

Kimberly Harrison - Cross-examination
by Mr. Allen

1 Q All right. Prior to your examination -- and you were,
2 you were not aware, at that -- he had been given an IQ test
3 by another psychologist working for the defense, working---

4 A No, I was not aware of that.

5 Q And that he had scored a full scale IQ of I believe it
6 was 63?

7 SOLICITOR BARNETTE: Your Honor, I'm gonna object at
8 this point. She didn't have that information available to
9 her. I don't know how she can testify to it.

10 Q Or that later he was evaluated---

11 THE COURT: Well, she has not attempted to testify
12 concerning that testing. If we go there, then the objection
13 might be proper.

14 You may proceed, Mr. Allen.

15 Q I guess what I'm trying to do is to -- because we are
16 taking her out of order to some degree, I'm trying to save
17 time, but be that as it may, you were not aware that he had
18 been given a -- you were, you were not aware that he had
19 been given an IQ test at the time of your examination by
20 specifically Doctor Ginger Calloway, were you?

21 A No, I was not aware of that.

22 Q Okay. And also subsequent to your evaluation, to your
23 evaluation for competency of Mr. Blackwell, you obviously
24 did not have an evaluation that was later done by Doctor
25 Brown of the Department of Disability and Special Needs?

Kimberly Harrison - Cross-examination
by Mr. Allen

1 A His evaluation was done after mine?

2 Q That's correct.

3 A Then I did not have it at the time---

4 Q That's right.

5 A ---I did mine.

6 Q That's right.

7 And if those evaluations tested him, as far as an IQ
8 goes, in the range of 63, 68, for example, that would
9 indicate -- that could be an indication of intellectual
10 disability, correct, low general intellectual functioning?

11 A That could be a piece of it, yes.

12 Q Yes.

13 Okay. And if he indeed were tested and it -- by --
14 with an individual standardized IQ test by qualified
15 psychologist and tested in the range of 63 or 68, that would
16 indicate that the score that you were looking at, given to
17 him in the, in 1966, I believe it was of 87, is incorrect?

18 A Not necessarily. There are other -- when you give a, a
19 test to somebody, it's also important to test for their
20 effort that they put forth and what we call response style
21 that they use when taking the test.

22 Q Okay.

23 A So that would be important to consider as well. If a
24 person doesn't put forth effort on testing, of course, their
25 score is going to come out lower.

Kimberly Harrison - Cross-examination
by Mr. Allen

1 Q Sure.

2 And there are ways to test for that measure for that by
3 the psychologist giving the test, correct?

4 A This are ways, yes.

5 Q Okay. So, assuming that a -- there is a valid score in
6 the sixties range, 63 to 68, you would agree then, at the
7 time you saw Mr. Blackwell, that he was functioning at a low
8 intellectual functioning and that the score of 87 may be
9 incorrect that was given to him in the third grade?

10 A Yeah, it's possible that any of those test reports
11 could of been incorrect, yes.

12 Q Okay. Now, when you also conducted your evaluation, I
13 believe you indicated that part of your reasoning for
14 determining that he did not suffer from mental retardation
15 or intellectual disability was his employment history, is
16 that correct?

17 A Yes, that was part of my consideration.

18 Q That -- and plus specifically about that, the fact that
19 he was employed?

20 A Well, the fact that he was employed and the, the type
21 of employment that he had, that he operated heavy machinery
22 such as a forklift, that he did have a commercial driver's
23 license, and that when he did begin receiving disability
24 benefits, it seems like the basis for those benefits was for
25 physical ailments and not any kind of intellectual

Kimberly Harrison - Cross-examination
by Mr. Allen

- 1 disability or mental disorder.
- 2 Q Okay. Of course, there are work records and
- 3 indications that he had accidents with the truck when he was
- 4 doing the truck driving, correct?
- 5 A I believe so, yes.
- 6 Q That he -- and the skilled labor you're talking about
- 7 is driving a forklift?
- 8 A Correct.
- 9 Q When you say that he was living independently, what
- 10 exactly were you basing that on?
- 11 A I believe he was married and living with his wife in a
- 12 home and living as a couple.
- 13 Q Okay. Did you question him about who paid the bills?
- 14 A I don't recall that.
- 15 Q Did you consider who wrote the checks?
- 16 A I don't recall if I asked him that.
- 17 Q Did you consider who did most of the household chores?
- 18 A I do not recall.
- 19 Q So, when you say living or who or did you consider who
- 20 did the shopping?
- 21 A I don't recall if I asked him about that.
- 22 Q Who prepared the meals?
- 23 A I don't recall.
- 24 Q Who kept track of the appointments?
- 25 A I do not recall that.

Kimberly Harrison - Cross-examination
by Mr. Allen

1 Q So, when you say living independently, you just simply
2 meant when he was living with his wife, correct?

3 A Correct.

4 Q And those who suffer from mild intellectual disability,
5 there are people who were -- who have mild intellectual
6 disability and who are married, correct?

7 A That's correct.

8 Q And who live with their spouse?

9 A Correct.

10 Q Do you -- I believe another part of your determination
11 was based on what you called his observed reading ability?

12 A Yes.

13 Q And what did you mean by that?

14 A At the beginning of our evaluations we have a form that
15 we have the defendant read out loud to us that basically
16 just explains the purpose of the evaluation and explains the
17 limits of confidentiality. It explains that this is not a
18 traditional doctor/patient relationship. Explains who the
19 findings of the evaluation will go to. And, so, I always
20 ask the defendant to read that out loud so we can just get
21 at least some sense if they're able to read at all or if
22 they have problems with certain words.

23 And -- so, it's certainly not a formal test. It just
24 gives me some idea of if they're able to read and he read
25 that form and answered questions about -- then I asked him

Kimberly Harrison - Cross-examination
by Mr. Allen

1 questions about who's the report going to go to, and other
2 questions to follow-up to assess their understanding of what
3 they read, and he had no problems with those tasks.

4 Q I believe you -- is this a standard form that you give
5 to basically anybody that's referred to you for the purpose
6 of a competency evaluation, correct?

7 A Correct.

8 Q And, therefore, it's probably written for any people
9 with a number of educational levels?

10 would that be correct?

11 A Yes, I don't know the, sort of the grade level at which
12 it's written.

13 Q Okay. So, it's not written in very sophisticated
14 language, is it?

15 A No, it's trying to be kept as basic as possible. There
16 are some words like evaluation or solicitor that sometimes
17 people have difficulty with, but, in general, it's a fairly
18 basic form.

19 Q Okay. And the timing -- I believe you said you saw
20 Mr. Blackwell in April of 2013, wasn't it?

21 A That's correct.

22 Q And at that time he had been in jail for a little over
23 three and a half years, correct, since July of 2009?

24 A I believe that's right, yes.

25 Q You also referred to his language skills.

Kimberly Harrison - Cross-examination
by Mr. Allen

1 I mean what were you talking about basically there, his
2 ability to talk to you?

3 A Just his communication with me, his ability to
4 understand what I was asking him, his ability to respond to
5 appropriately, use appropriate words. Just the verbal
6 communication.

7 Q Well, you would -- would you agree he did not use very
8 sophisticated words, correct?

9 A I don't recall specifically, but I don't believe so.

10 Q Okay. And the abstract thought that you observed, that
11 you based your opinion on, what was that based on?

12 A Some of that was hypothetical situations when
13 addressing the issue of competency to stand trial such as if
14 the solicitor were to offer you this deal, what would you
15 think about that or how would you decide how to proceed.
16 Sort of his ability to weigh different options, to think in
17 his best interest, to sort of consider the consequences of
18 different decisions.

19 Also just a common task we ask them to do is interpret
20 proverbs. So, what does it mean when somebody says you
21 don't judge a book by its cover. Just being able to take
22 that and abstract it to its meaning instead of interpreting
23 it concretely like we're not just talking about a book.
24 We're talking about something else. So, those are sort of
25 indications of ability for abstract thought.

Kimberly Harrison - Cross-examination
by Mr. Allen

1 Q Okay. And what was his response to the you can't judge
2 a book by its cover, for example?

3 A I don't recall. I did not include that specific
4 information in my report.

5 Q Okay. Let me go back to the education a little bit.
6 When you did talk with Mr. Blackwell, he told you he
7 had taken some special education or had special education
8 courses?

9 A I believe so.

10 Q Is that correct?

11 A Yes.

12 Q And did -- and when you reviewed his school records,
13 isn't it true that you saw that he took some courses that
14 were labeled or had the prefix ADJ?

15 A I don't recall.

16 Q Like -- you don't recall?

17 A No.

18 Q Okay.

19 MR. ALLEN: One second please, Your Honor.

20 THE COURT: Yes, sir.

21 (Pause.)

22 MR. ALLEN: May we mark three pages, Your Honor, as
23 Defense Exhibit 6 for identification please?

24 THE COURT: You may do so.

25 (WHEREUPON, the school records were marked as

Kimberly Harrison - Cross-examination
by Mr. Allen

1 Defendant's Exhibit No. 6 for identification purposes only
2 at this time.)

3 Q Showing you Defense Exhibit 6 for identification, three
4 pages, do you recall seeing this record in Mr. Blackwell's
5 schools records?

6 A I don't recall it specifically, but it's, it's likely
7 that it was in his school records.

8 Q Okay. And it shows his -- some of the courses that he
9 took by grades?

10 A Yes.

11 Q Okay. And you see, for example, I'm gonna put -- point
12 to the far right corner in the middle of the page on the
13 first page---

14 A Uh-huh. (Affirmative).

15 Q ---of School Year '73, '74, he had a course that was
16 called ADJ English?

17 A Yes.

18 Q ADJ. Math?

19 A Yes.

20 Q ABJ. Sciences?

21 A Correct.

22 Q Along with pre-vocation and physical education?

23 A Yes.

24 Q And then the ensuing years he had other courses with
25 that ADJ prefix, correct?

Kimberly Harrison - Cross-examination
by Mr. Allen

1 A Yes.

2 Q Do you know what that means?

3 A I don't know. There's -- well, it's -- here it looks
4 like it's spelled out adjunct.

5 Q Okay.

6 A But I'm not sure.

7 Q The school record's from Chesnee High School I believe?

8 A Appears to be, yes.

9 Q Did you or did the social worker working with you call
10 Chesnee High School to find out what ADJ courses or adjunct
11 courses were?

12 A No, we did not.

13 Q Okay. And you -- could these have been the courses
14 that Mr. Blackwell -- do you know whether or not these are
15 the courses Mr. Blackwell was referring to when he was
16 talking about special education?

17 A I don't know. He, he told me that he was in special
18 education. I would assume these were likely his special
19 education classes. I don't know that for sure. But I have
20 no reason to doubt the fact that he was in special education
21 classes for at least some of his course work.

22 Q Okay. And also it shows that he repeated the ninth
23 grade?

24 A Yes.

25 Q Okay. And it shows that, when he dropped out in his

Kimberly Harrison - Cross-examination
by Mr. Allen

1 junior year, his class rank was 113 in a class of 113?

2 A That's correct.

3 Q Okay. And the fact that he took special education --
4 or if he took special education courses, and considering his
5 rank when he dropped out, and also that he repeated a grade,
6 could that also be evidence of intellectual disability?

7 A There's several options for what it could mean. It
8 could mean a learning disorder or learning disability. It
9 could mean a lack of effort in his classes or it could mean
10 an intellectual disability, yes.

11 Q Okay. So, it could be evidence of an intellectual
12 disability?

13 A It could be.

14 (Pause.)

15 Q One more thing on this document. Looking at the third
16 page, in the first column, not quite halfway down, first
17 column on the left, the -- it shows the date of May '76. In
18 Grade Ten he took something called the ABLC I believe it's
19 called.

20 A I'm not sure---

21 Q Okay.

22 A ---what that test is.

23 Q And it shows a reading and it shows a score or grade.
24 The -- a reading score of 5.8.

25 A Correct. I don't know what that refers to.

Kimberly Harrison - Cross-examination
by Mr. Allen

- 1 Q Okay. And arithmetic total of 5.6.
2 You don't know what that refers to?
3 A I don't, no.
4 Q Okay. Did you call the school or have the social
5 worker call the school to find out what these numbers mean
6 --
7 A No, I did not.
8 Q -- what this test means?
9 A No, I did not.
10 Q Going back to when you were talking to him and getting
11 his understanding of certain things about the Court and
12 about the system, I believe you indicated that he said you
13 talked to him and had talked to you about a plea deal or
14 anything like that?
15 A Right. I generally ask questions about just different
16 options and how they would -- I'm not necessarily interested
17 in their decisions, but just how do they go about their
18 decision making process, who would they consult for advice,
19 sort of how they would come to a decision.
20 Q Did Mr. Blackwell indicate to you at all anything about
21 any plea deals being offered in his case --
22 A No, I, I don't believe so.
23 Q -- or that his attorney offered a plea deal in this
24 case?
25 A I don't recall that he mentioned that, no.

Kimberly Harrison - Cross-examination
by Mr. Allen

1 Q Okay. And you didn't ask about, specifically I
2 presume, is that correct?

3 A Well, I asked about the possibilities of what could
4 happen if he's found guilty, and he came up with different
5 options that were appropriate.

6 Q Okay. But in testing his memory, for example, you
7 didn't ask specifically if there were any plea deals offered
8 in this case?

9 A No, because, with a competency to stand trial
10 evaluation, generally there aren't any plea deals offered,
11 offered by that point in the process.

12 Q Okay. Or there was a possibility that plea deals were
13 offered, but they were declined for one reason or another?
14 Did you consider that?

15 A Well, generally when we're, when we're asked to do a
16 competency to stand trial evaluation, that's before any
17 deals are offered or any further decisions about the case
18 are made.

19 Q All right. So, you didn't ask?

20 A I probably would not have asked, no.

21 Q When considering his levels of functioning,
22 conversation, and employment history, and all that, did you
23 use any instrument such as a Vineland instrument or an ABAS
24 or an ABAS-2?

25 A No, I did not do any testing or use any instruments or

Kimberly Harrison - Cross-examination
by Mr. Allen

1 anything.

2 Q Okay. And, therefore, you did not investigate any
3 adaptive deficits, correct?

4 A Not in any formal way, no.

5 MR. ALLEN: Okay. One second please, Your Honor.

6 THE COURT: Yes, sir.

7 (Pause.)

8 MR. ALLEN: That's all the questions I have. Thank
9 you, Your Honor.

10 SOLICITOR BARNETTE: Your Honor, can I get the exhibits
11 from Mr. Allen and take a look at it before I do my
12 redirect?

13 THE COURT: Yes, sir.

14 MR. ALLEN: Sure. Six.

15 (Pause.)

16 SOLICITOR BARNETTE: Your Honor, I'd like to move
17 Defendant's Exhibits into evidence at this time. I believe
18 they were just marked for ID purposes. I'd like to make
19 them evidence in the case.

20 THE COURT: Any objections to their being made
21 exhibits?

22 MR. ALLEN: No, Your Honor.

23 THE COURT: Which numbers are you specifically talking
24 about?

25 SOLICITOR BARNETTE: One through six. All their

Kimberly Harrison - Cross-examination
by Mr. Allen

1 exhibits, Your Honor.

2 THE COURT: One through six. No objections to those.

3 SOLICITOR BARNETTE: Thank you, Your Honor.

4 THE COURT: All right. They'll be made exhibits.

5 (WHEREUPON, Defendant's Exhibit Nos. 1 through 6 were
6 received into evidence at this time.)

7 THE COURT: You may proceed.

8 SOLICITOR BARNETTE: May I approach the witness, Your
9 Honor?

10 THE COURT: You may.

11 REDIRECT EXAMINATION

12 BY SOLICITOR BARNETTE:

13 Q I'd like to show you Defense Exhibit No. 5 here in this
14 case, and specifically talking about the date
15 October 10th of 1970. I believe the testing was done
16 concerning -- is the same California test that's been talked
17 about, and I believe, if I'm reading this correct, there's
18 an IQ test with a total of 86?

19 A It appears to be. I'm not sure. It's a little bit
20 hard to read.

21 Q And I apologize for that. That's the copy they gave to
22 us or whatever from there. So --.

23 A Right.

24 Q But if it was an 86, which it appears to be on the
25 record, where would that IQ score score in relationship --

Kimberly Harrison - Redirect examination
by Solicitor Barnette

1 A That would generally be considered in the low average
2 range.

3 Q But obviously that's above any mental retardation or
4 intellectual disability range, is that correct?

5 A Yes.

6 Q So, that's another score, along with the 87, the 86 is
7 also another score showing that?

8 A If that's what it is. I'm not, not entirely sure, but
9 yes.

10 Q Okay. But if it was an 86, which it appears to be on
11 the record, that would be the equivalent to, to -- similar
12 to the 87?

13 A Correct.

14 Q And I believe, if I heard your testimony earlier
15 correct, doctor, usually it's onset of 18 years old when
16 this becomes due.

17 Can you explain to the Court in a little bit more
18 detail?

19 A Sure. Evidence of intellectual disability has to be
20 present before the age of 18. So it has to be something
21 that the person is either born with or acquires or becomes
22 noticeable during childhood. So, it's generally identified
23 by schools, of course. But if it's -- has an onset of after
24 the age of 18, then it is not considered an intellectual
25 disability.

Kimberly Harrison - Redirect examination
by Solicitor Barnette

1 Q And they keep talking about the DSM-5.

2 A Yes.

3 Q Isn't it true that this is not officially -- they're
4 still doing revisions to it and so forth?

5 It won't become official until October of 2014 or later
6 this year?

7 A That's my understanding. I do know that, at the
8 Department of Mental Health, we have not formally adopted
9 the DSM-5. We're still based out of DSM-IV as far as how we
10 provide our diagnoses. So, we're sort of in this middle
11 ground right now---

12 Q So, right now the DSM---

13 A ---of transition.

14 Q The DSM-IV-TR is what you used when you did the
15 evaluation?

16 A Yes.

17 Q And that's the standard right now because it has not
18 been accepted by y'all's department as well as the community
19 itself, I mean the, the medical community itself I should
20 say?

21 A That's my understanding, yes.

22 Q And I believe it's later this year. I think October of
23 2014 is when it's suppose to be accepted.

24 A That sounds right.

25 Q I know they kept asking you about law and everything.

Kimberly Harrison - Redirect examination
by Solicitor Barnette

1 If ID has not been accepted -- I mean obviously it hasn't
2 been finalized yet or whatever. Obviously it's something
3 that can't be reflected in the law. We're still in the
4 mental retardation statutes basically at this point.

5 Wouldn't you agree with that at that point?

6 A I'm, I'm not sure.

7 Q You're using what you presently have in the TR-4?

8 A Correct.

9 SOLICITOR BARNETTE: Okay. One moment, Your Honor,
10 please.

11 THE COURT: Yes, sir.

12 (Pause.)

13 Q Thank you, ma'am. Please answer any other questions
14 they may have for you.

15 A Thank you.

16 THE COURT: Recross.

17 MR. ALLEN: One moment.

18 THE COURT: Yes, sir.

19 (Pause.)

20 RE CROSS EXAMINATION

21 BY MR. ALLEN:

22 Q For the purpose of testing someone for mental
23 retardation under the DSM-IV, what instrument or test would
24 you typically use or would you use to determine their
25 general intellectual functioning?

Kimberly Harrison - Recross examination
By Mr. Allen

1 A I would typically use the wechsler Adult Intelligence
2 Scale, the latest edition.

3 Q And the latest edition is --?

4 A Is the Fourth.

5 Q Okay. So, it's called the WAIS-IV I think?

6 A The WAIS-IV, yes.

7 Q Okay. And also under the DSM-IV definition of mental
8 retardation, they talk about adaptive functioning. They're
9 talking about functioning in I believe it's either ten or
10 eleven skilled areas, correct?

11 A Yes.

12 Q Okay. Functioning areas.

13 And under the DSM-IV guidelines that if someone is
14 deficient in two of those areas, as well as having a
15 intellectual, a general intellectual functioning, a
16 significant subaverage intellectual functioning, and onset
17 prior to age 18, a diagnosis of mental retardation is
18 appropriate, correct?

19 A That is correct.

20 Q Regardless of the strengths of an individual, you're
21 looking for deficits in two of the skilled areas in adaptive
22 functioning, correct?

23 A That's correct.

24 Q There may be strengths, but there's also some deficits?

25 A Correct.

Kimberly Harrison - Recross examination
By Mr. Allen

1 Q If they're deficits in two areas along with the other
2 criteria --

3 A Right.

4 Q -- there could be a diagnosis of mental retardation?

5 A Correct.

6 Q Okay. And you did not do a specific examination for
7 those adaptive skill areas?

8 A No, I do not.

9 Q Okay. Thank you.

10 THE COURT: All right. Thank you very much, ma'am.
11 You may step down.

12 THE WITNESS: Thank you.

13 SOLICITOR BARNETTE: Can we ask this witness be
14 excused, Your Honor?

15 THE COURT: Any objection that she be excused?

16 MR. ALLEN: Not for purpose of this hearing, Your
17 Honor, but possibility, depending upon how this goes, she
18 may be needed later in the trial.

19 THE COURT: Well, I'm not dealing with the trial. I'm
20 dealing with the Atkins hearing. She's asking to be excused
21 from the Atkins hearing.

22 Any objection to her being excused from the Atkins
23 hearing?

24 MR. ALLEN: No, Your Honor.

25 THE COURT: All right, ma'am. You're free to go.

1 Thank you very much.

2 THE WITNESS: Thank you.

3 THE COURT: All right. I think we'll move over and the
4 defense may now call its witnesses.

5 MR. MCGUIRE: Judge, can we take a break?

6 THE COURT: Certainly. We'll take about a ten minute
7 break.

8 MR. MCGUIRE: Thank you.

9 THE COURT: The Court will be in recess for that length
10 of time.

11 Thank you.

12 MR. MCGUIRE: Yes, sir.

13 (WHEREUPON, a short recess was taken at this time.)

14 THE COURT: All right. The defense may call its
15 witness.

16 MR. MCGUIRE: Thank you, Your Honor.

17 Defense calls Doctor Ginger Calloway.

18 THE COURT: Come forward please to be sworn.

19 DOCTOR GINGER CALLOWAY, being first duly
20 sworn, testified as follows:

21 THE COURT: Be seated, and once you're seated, state
22 your name please, ma'am.

23 THE WITNESS: Should I bend this back?

24 THE COURT: Beg your pardon?

25 THE WITNESS: Should I bend this -- yes, I see it bends

Ginger Calloway - Direct examination
by Mr. McGuire

1 back.

2 My name is Ginger Calloway.

3 THE COURT: All right. Thank you very much.

4 You may proceed, Mr. McGuire.

5 MR. MCGUIRE: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 BY MR. MCGUIRE:

8 Q Doctor Calloway, if you could, tell the Court your
9 profession.

10 A I am a psychologist.

11 MR. MCGUIRE: And if I could approach the witness, Your
12 Honor?

13 THE COURT: You may.

14 Q I don't need to have this marked.

15 Ma'am, I'm gonna hand you what's clearly a copy of your
16 CV.

17 Do you mind stating your educational background for the
18 Court?

19 A I have a B.A. in Psychology from Queens College in
20 Charlotte, North Carolina. I have a six year Master's
21 Degree in School Psychology from North Carolina State
22 University, and I have a Ph.D. in Psychology from North
23 Carolina State University.

24 Q Okay. And, if you could, go on further and state your
25 work history for the Court.

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by Mr. McGuire

1 A I didn't say, but I did a predoctoral, general
2 predoctoral internship in clinical psychology prior to
3 completing the Ph.D. and I also did two years of
4 post-doctoral training that is required by the North
5 Carolina Psychology Board, supervised training.

6 My work history includes -- I worked for a number of
7 years in a community mental health center in Raleigh, North
8 Carolina. When I started doing some private practice work I
9 had a contract with the Wake County Public Schools to
10 evaluate children who were in special education classes.
11 So, those kids would of been diagnosed either with
12 intellectual disability, learning disabilities, or emotional
13 handicaps and this was for reevaluation. The federal
14 standards require reevaluation periodically of these kids.

15 I -- let's see. What else would you see?

16 I started a private practice in 1983. For a number of
17 years I was working as a clinician doing general clinical
18 sorts of work with a focus in assessment. That's on my CV.
19 You can see the kind of assessment experiences that I've
20 had.

21 Probably about 25 or 30 years ago I think it is now I
22 started doing some forensic work and that ultimately became
23 the bulk of my practice probably about 15, 20 years ago.

24 Q Okay. Forensic practice.

25 And that would include testifying in court?

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by Mr. McGuire

1 A Yes.

2 Q And my understanding is you've testified both for the
3 defense and the State in your career?

4 A I have.

5 Q And---

6 A And for plaintiff and defendant -- and defendant in, in
7 personal injury matters, yes.

8 Q Sure.

9 My understanding is that you've testified on behalf of
10 the Attorney General's Office in North Carolina?

11 A I have, I have -- yes, I have done work with them with
12 the -- a number of assistant attorney generals, yes.

13 Q Okay. And that's mostly the civil arena?

14 A That's mostly in the civil arena tort arena.

15 Q Okay. With regard to intellectual disability or mental
16 retardation, have you had occasion to assess people for that
17 diagnosis?

18 A Yes.

19 Q Okay.

20 A Beginning in my graduate years, we -- I worked with a
21 professor who had a number of grants and we went into the
22 mountains of North Carolina to test children for the purpose
23 of identifying them for special education interventions.
24 And, so, that's when I started my assessment background I
25 guess you could say with, with the mentally retarded or the

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by Mr. McGuire

1 intellectually disabled as it's now called.

2 Q Okay. And you've had an occasion to testify in the
3 criminal courts?

4 A I have, yes.

5 Q Both in North Carolina and South Carolina?

6 A Yes, I have and -- yes, I have.

7 Q And that would be qualified as an expert in forensic
8 psychology and specifically with regard to mental
9 retardation or intellectual disability assessments?

10 A Yes, that's correct.

11 Q Okay.

12 (WHEREUPON, the CV of Doctor Calloway was marked as
13 Defendant's Exhibit No. 7 for identification purposes only
14 at this time.)

15 MR. MCGUIRE: Judge, if I could approach, this is just
16 a courtesy copy -- well, it's actually marked now. I would
17 move that into the Court's file as evidence just for the
18 purpose of this hearing only. I don't believe there's an
19 objection.

20 THE COURT: Any objection to Defense 7?

21 SOLICITOR GHENT: No objection, Your Honor.

22 THE COURT: All right. It will be admitted into
23 evidence as Defendant's No. 7.

24 (WHEREUPON, Defendant's Exhibit No. 7 was received into
25 evidence at this time.)

Ginger Calloway - Direct examination
by Mr. McGuire

1 MR. MCGUIRE: Judge, if I could approach your bench
2 please?

3 THE COURT: You may.

4 MR. MCGUIRE: We've put together a couple of exhibits.
5 They're in these volumes.

6 THE COURT: All right.

7 MR. MCGUIRE: There's a Table of Contents and
8 everything's marked, and if there's -- if I, if I call Mr.
9 -- I mean Doctor Calloway's attention to an article or a
10 journal article or an excerpt from the DSM, I'll go ahead
11 and note what exhibit it is, and you'll be able to turn to
12 it and follow along.

13 THE COURT: Thank you very much.

14 MR. MCGUIRE: I've also given the prosecutor an
15 identical copy of that notebook, and I have one available
16 for Doctor Calloway here.

17 THE COURT: All right. Thank you.

18 MR. MCGUIRE: Your Honor, at this time we'd move to
19 qualify -- Doctor Calloway qualified as an expert in
20 forensic psychology. Specifically with regard to assessing
21 people for mental retardation or intellectual disability.

22 THE COURT: Any objection to that designation from the
23 State?

24 SOLICITOR GHENT: No objection, Your Honor.

25 THE COURT: All right. Without objection she'll be

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by Mr. McGuire

1 designated as an expert within that field.

2 You may proceed.

3 MR. MCGUIRE: Thank you, Your Honor.

4 Q Doctor Calloway, what I want to do is talk a little bit
5 about the definition of mental retardation. Let's nail that
6 down first, and I'm gonna -- I want to do what lawyers call
7 leading a little bit to move things along.

8 Now, my understanding, in North Carolina, y'all have a
9 statute that disallowed the execution of mentally retarded
10 people before the Atkins case?

11 A That is correct.

12 Q Okay. And that was not the case in South Carolina?

13 A (Witness nods affirmatively.)

14 Q In fact---

15 A That's my understanding.

16 Q And Atkins left it to the state to develop their own
17 definition of mental retardation?

18 A Yes, that's my understanding.

19 Q Okay. And in, in a case called Franklin v. Maynard in
20 South Carolina, the Court said we already had a definition
21 of mental retardation and that was in our death penalty
22 statute?

23 A Yes.

24 MR. MCGUIRE: Okay. And, judge, I have copies of
25 Atkins and Franklin and the South Carolina Code as Exhibits

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1 2, 3, and 4.

2 THE COURT: Thank you.

3 Q Now, there were some talk with the last witness
4 regarding the DSM-IV.

5 If you could, give the Court the definition of mental
6 retardation as it appears in the DSM-IV.

7 A Do you want me to do it with what I remember by memory
8 or do you want me to look at an exhibit here?

9 Q Either.

10 A Okay. Significantly subaverage general intellectual
11 functioning as exhibited by administration of a standardized
12 intelligence test with a score of 70 or below. That's one
13 prong. A second prong is the presence of adaptive deficits
14 in two of ten areas identified by the DSM-IV-TR, and the
15 third prong is the onset of the disability before the age of
16 18.

17 Q Okay. Now, with regard to the subaverage intellectual
18 functioning, my understanding is that the mean on a
19 standardized IQ test would be a hundred?

20 A Correct.

21 Q And that standard deviation would be 15 points?

22 A For some tests, yes.

23 Q And that the two standard deviations is what puts
24 somebody in the mild mentally retarded range?

25 A That's correct. That's how psychologist refer to that

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by Mr. McGuire

1 as operationalizing the definition of subaverage general
2 intellectual functioning. That's what we named it.

3 Q Okay. So, a mean of a hundred, two center deviations,
4 each one being 15, equals 70 basically?

5 A Correct.

6 Q Okay. And obviously IQ tests have standards, standards
7 of error?

8 A Yes.

9 Q And see---

10 A Standard Error of Measurement.

11 Q Called SEM, standard error or measurement?

12 A Correct.

13 Q Give or take five points on most?

14 A Yes, that's---

15 Q Roughly.

16 A Close enough.

17 Q Okay. And sometimes we have to adjust an IQ test for
18 what's called the Flynn effect, and basic -- my
19 understanding is, and tell me if I'm wrong, is that when a
20 test comes out, it's norm to the population at the time, the
21 population generally gets a little smarter, so if you're
22 using a test that's a couple years old, you have to subtract
23 a couple points from the score?

24 A Well, it might be a little more accurate to say that
25 the test becomes somewhat obsolete.

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1 Q Fair enough.

2 A Because knowledge within the test itself becomes known
3 to the general public.

4 Q Okay.

5 A And, so, then there's a sophistication there that
6 didn't exist before. So, there's an adjustment with the
7 Flynn effect --

8 Q Okay.

9 A -- to correct for that.

10 MR. MCGUIRE: Okay. And, judge, just for the Court's
11 benefit and the prosecutor's benefit, Exhibits 5 and 6 are
12 excerpts from the DSM-IV and DSM-5.

13 Now, with the regard -- with regard to the DSM-IV
14 adaptive functioning deficits, we're talking about ten skill
15 areas and a person would have to have a deficit in only two
16 to be found, to be found to be mentally retarded as long as
17 they -- you meet the other two prongs?

18 A Correct.

19 Q And could you tell the judge -- I think, I think we
20 have a table. Well, I tell you what, let's skip that for
21 right now.

22 As this -- as the definition -- there's also another
23 definition that's provided by the AAMR, correct?

24 A Now called the AAIDD, correct.

25 Q Okay. And, in fact, in the Atkins case, they mentioned

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1 that organization?

2 A Yes.

3 Q Okay. And that definition, while being slightly
4 different from that of the DSM, most experts agree that
5 they're essentially similar?

6 A They're roughly similar. I think the AAIDD does not
7 specify this bright line that's sometimes called of 70.

8 Q Right.

9 A But it talks about subaverage general intellectual
10 functioning being two standard deviations below the mean for
11 any particular individually administered scientifically
12 recognized intelligence test.

13 MR. MCGUIRE: Okay. And, Your Honor, for the Court's
14 benefit and the prosecutor's benefit, Exhibit 7 is an
15 excerpt from Mental Retardation Tenth Edition AAMR, and it
16 includes the definition of mental retardation that's
17 referenced in the Atkins case.

18 Now, one thing I want to talk about just briefly before
19 we go into more detail about adaptive functioning deficits
20 is that there's an assumption, or tell me if this is
21 correct, is there an assumption that a person with mental
22 retardation will have strengths?

23 A well, I think it is not -- I think it's not considered
24 an assumption. It's a fact.

25 Q Okay. And, obviously, in this case, we have

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1 Mr. Blackwell functioning at a certain level being able to
2 drive a truck?

3 A Correct.

4 SOLICITOR GHENT: Your Honor, at this time, and I think
5 I understand the reason why counsel is doing it, if we're
6 gonna be eight hours, some leading is appropriate, but I
7 like the fact that the last one was a question, the last one
8 before, but he's doing a great deal of testifying.

9 THE COURT: All right. Well, you should place them in
10 the form of questions.

11 SOLICITOR GHENT: Thank you, Your Honor.

12 THE COURT: Not statements.

13 SOLICITOR GHENT: I apologize for the interruption.

14 MR. MCGUIRE: Sure.

15 THE COURT: Thank you.

16 Q Can somebody be mild mentally retarded and drive a
17 truck?

18 A Yes.

19 Q A forklift?

20 A Yes.

21 Q Be a welder?

22 A Yes.

23 Q Get a GED?

24 A Yes.

25 Q Read?

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- 1 A Yes.
- 2 Q Write?
- 3 A Yes.
- 4 Q Write letters?
- 5 A Yes.
- 6 Q Use the telephone?
- 7 A Yes.
- 8 Q Use an ATM machine?
- 9 A Yes.
- 10 Q Have a child?
- 11 A Yes.
- 12 Q Marry?
- 13 A Yes.
- 14 Q Do household chores?
- 15 A Yes.
- 16 Q Cook?
- 17 A Yes.
- 18 Q Shop?
- 19 A Yes.
- 20 Q Count money?
- 21 A Yes.
- 22 Q Make change?
- 23 A Yes.
- 24 Q Buy clothes?
- 25 A Yes.

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1 Q Dress themselves?

2 A Yes.

3 Q Maintain hygiene?

4 A Yes.

5 Q Work?

6 A Yes.

7 Q Be a mechanic?

8 A Yes.

9 Q Be a pizza delivery driver?

10 A Yes.

11 Q Have a driver's license?

12 A Yes.

13 Q Get a CDL?

14 A Yes.

15 Q Can you rule out mental retardation by pointing to
16 these skills and say the person's not M.R.?

17 A No, because that's not the way, in our profession, that
18 we go about assessing adaptive functioning. It's not a rule
19 out. It's looking at the entire picture of who the person
20 is with regard to strengths and deficits and identifying
21 those deficits in terms of these skill areas. You mentioned
22 ten. Factor analysis now shows us that there really are
23 only four. Those ten areas sort of drop down, if you will,
24 to be four areas.

25 Q And is that conceptual, social, and practical?

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1 A Yes.

2 Q With an overall combination?

3 A Right. Yes, general adaptive---

4 Q Okay. And---

5 A ---composite.

6 Q Okay. And with regard to determining if somebody has
7 deficits in their functioning, what is the best practice?

8 What's the method that is the best practice in your
9 field?

10 A Well, the AAIDD, which stands for the American
11 Association on Intellectual and Developmental Disabilities,
12 which use to be the AAMR, the American Association on Mental
13 Retardation, that organization recommends use of a
14 standardized instrument as well as extensive interviewing to
15 determine whether there are, are deficits and whether they
16 fall below this -- just like you were looking at the IQ and
17 saying subaverage general intellectual functioning falls two
18 standard deviations below the mean. Well, we want to know
19 the same thing for adaptive deficits and the best way to do
20 that is with a standardized instrument as well as intensive
21 interviewing.

22 Q When you say standardized, what do you mean?

23 A An instrument that has been subjected to statistical
24 techniques, has internal consistency, has been validated on
25 a sample of people who are intellectually disabled versus

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1 people who are not. It's an instrument that has
2 reliability. So, it tests the same from one setting to
3 another, from one person to another. It holds together. It
4 has an internal sort of coherence I guess would be another
5 way to talk about that.

6 Q Okay. And are these values regarding adaptive
7 deficits, are they expressed in a numerical form?

8 A Correct. In the same way that we talk about the IQ
9 test, we have that same metric, if you will, so that you can
10 look at a person's scores on the standardized measure of
11 adaptive functioning and say oh, okay, I understand this in
12 terms of how IQ tests work.

13 Q Okay. So, a standardized instrument that would measure
14 adaptive deficits, it actually results in a numeric value?

15 A Correct.

16 Q And in terms of reliability, it means that it's been
17 given a number of times and it's consistent?

18 A Correct.

19 Q And valid means it's actually measuring what it's
20 suppose to measure?

21 A That is correct, yes.

22 Q And before these instruments are available to
23 practitioners or clinicians, they've been vetted and tested?

24 A That's correct.

25 Q And normed?

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1 A Yes, you have a normative sample so that you can tell
2 how people vary around the mean.

3 Q Okay. And there's the, the Vineland. There's the
4 SIB-R. There's the ABAS.

5 These are three, right?

6 A That's correct.

7 Q And I believe you actually used the ABAS in this case?

8 A I did.

9 Q Can you tell the judge what that stands for?

10 A Adaptive Behavior Assessment System.

11 Q Okay. And that would be one of those instruments --
12 well, how do you give an ABAS?

13 Tell the Court how you; how you give an ABAS.

14 A Well, I, I give the ABAS in the way that I was taught
15 by my -- I've had some supervision and consultation from
16 people who are expert in the field. I've also taken some
17 workshops on Atkins evaluations.

18 And, so, the way that it's been taught to me -- and
19 also there, there are recommendations within the literature
20 for how we should go, we meaning psychologist who do these
21 sorts of Atkins evaluations, should go about administering
22 the ABAS. And, so, the way to do that is to give the ABAS
23 individually to someone who's likely to have a good deal of
24 information about the subject. In this case, it would be --
25 the subject would be Mr. Blackwell.

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1 Q Right.

2 A So, I would choose a number of different people, not
3 just one person, not just two people, not even just three.
4 The people that I have received training from recommend as
5 many as ten to fifteen to twenty different people. That's
6 often difficult to find that number of people. But
7 certainly more than two or three. Hopefully you have
8 anywhere between six to ten people that you would have that
9 would have some intimate knowledge of the every day
10 activities of the subject for whom you're seeking
11 information about.

12 And, so, the ABAS, I sit down with the person and I
13 individually ask them to -- the question and ask them -- I
14 give them a copy of the ABAS so they can see how it is that
15 they're to respond. There's a four-point response that,
16 that they can select from for each question, and the reason
17 that I've been taught to do this individually is because
18 people often lose sight of the fact that we're not looking
19 at what a person might do if given the proper opportunity
20 or, or if they had motivation, for example. We're looking
21 at what a person actually did or does.

22 That's how adaptive functioning is assessed, and it's
23 very easy for people, in the context of that ABAS, to get
24 distracted and to begin thinking in terms of what might be
25 or yeah, I know he could do this, and so you're not sure if

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1 they're guessing or not. So, so, there is a correction
2 factor on the ABAS for guessing, and I want to know if the
3 person is guessing and I want to know exactly what they're
4 saying, you know, about that.

5 So, I just remind them now, you are telling me, you
6 know, that what the person does. I don't remind them of
7 that on every question. But if they spontaneously offer,
8 for example, oh, I know he could do that, then I try to
9 clarify that. Are you telling me that he does do that or he
10 did do that, he can do it, you know, or you have actually
11 seen him or you haven't seen him do these things.

12 Q Why not just give an ABAS or a Vineland or SIB-R to
13 Mr. Blackwell and let him tell you about himself?

14 A For several reasons. People who are suspected of
15 having intellectual disability, particularly people who fall
16 within the mild range of intellectual disability, are people
17 who are -- have sufficient awareness to know that they are
18 not as bright, if you want to put it that way, they're not
19 as capable, they don't have as much intellect as other
20 people, and this is for -- this is a shameful thing in our
21 society not to be bright, not to be capable. It's shameful.

22 So, there is a -- there's a way in which people who
23 have intellectual disability, particularly people with the
24 mild form of it, will want to cover what they, what they
25 don't know and pretend that they do know. There's a book

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1 called The Cloak of Competence in which this man did a study
2 of a number of people in California with intellectual
3 disability, and he came up with this concept of The Cloak of
4 Competence.

5 So, this describes the way in which, if you will, like
6 somebody would put on a coat to cover themselves, The Cloak
7 of Competence is what people with mild M.R. or mild I.D. do
8 in order to pass, in order to look like that they are
9 average normal people.

10 Q Okay. And is it, is it -- is there a fear that they
11 would overestimate their abilities?

12 A Yes, absolutely because they want to appear to be more
13 capable than they, they are because it's a shameful thing to
14 be incapable or incompetent.

15 Q In looking at adaptive deficits with regard to a
16 subject who is suspected of having an intellectual
17 disability, relying on an ABAS or a Vineland or a SIB-R
18 given to the subject alone, would that be valid?

19 A Not in an Atkins evaluation, no, and, in fact, it's not
20 really recommended in any sort of an evaluation for
21 intellectual disability. You might give that instrument to
22 the person to see what they, how they responded to other
23 people, for example, that you would assess and that might
24 give you some estimate, for example, of how much they do
25 overinflate their abilities. That might be really

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1 important---

2 Q Sure.

3 A ---in a clinical setting, but in the forensic setting
4 of an Atkins evaluation, no, that's not sufficient to have
5 only the ABAS or a SIB-R administered to the subject alone
6 for all the reasons I said as well as for the fact that, in
7 forensic evaluations, unlike clinical evaluations, we're
8 expected to meet a higher standard of performance, a higher
9 standard of practice, and we have to have what are called
10 multiple sources of information.

11 So, in the Atkins evaluation, it's very, it's very
12 important to have multiple informants we call them or you
13 can call them collateral sources of information. On the
14 ABAS they're called informants. So, you want to have
15 multiple informants so that you can compare what all these
16 different people are saying about this subject, and then
17 what you're looking for ultimately is this convergence in
18 your data, where does your data take you when you're reading
19 it.

20 Q When you say convergence of the data, do you mean where
21 or is another way to put it the consistency of the
22 information?

23 A It's not just consistency. It's the way in which the
24 data leads you, as a reporter, you know, as an evaluator, to
25 a conclusion because there's a preponderance of information

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1 that points to the same conclusion.

2 Q Okay. I'm gonna step back just a little bit and ask
3 you what Division 33 is.

4 A The American Psychological Association has a number of
5 different divisions and Division 33 has to do with
6 developmental disabilities.

7 Q Are you a member of that?

8 A I belong to that division.

9 Q Okay. And there's a division for forensic people in
10 general, is that correct?

11 A That's correct, Division 41.

12 Q And you're a member of Division 41?

13 A I am.

14 Q And Greg Olley, who is that?

15 A Doctor Olley is a professor over at UNC and he works in
16 a, in a center for the assessment and treatment and policy
17 making for individuals with intellectual disability and
18 other developmental disabilities and he is one of my
19 mentors.

20 Q Okay. And he's written extensively in the field?

21 A He has.

22 Q And you've -- part of your job, being current with the
23 literature and the best practices in the field, includes
24 reading journal articles?

25 A That's correct.

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1 Q And in all the journal articles in the field, what's
2 the consensus with regard to reliability of or validity of
3 giving an ABAS to just the subject or defendant?

4 A It's not reliable.

5 Q Okay. And is the best---

6 A You ask valid -- validity too. It's also not valid.

7 Q Okay. And with regard to the best practice or the, the
8 practice that would be necessary to live up to a forensic
9 evaluation, especially in an Atkins context, the -- what's
10 the consensus in the literature regarding the number of
11 informants necessary to or the number of informants that you
12 would try to gather information from?

13 A Well, I think what I said roughly, you know, Doctor
14 Olley had said, in many articles and to me personally too,
15 anywhere between ten to twenty. But I can consider, you
16 know, if I can get six to twelve people, that's pretty good
17 for most situations.

18 MR. MCGUIRE: And, judge, just for the Court's
19 reference, Exhibits 9, 10, 11, and 12 are all papers written
20 by Doctor Olley.

21 THE COURT: Thank you.

22 Q Let's start talking about Ricky.

23 You were engaged by the defense to assess him to
24 determine whether he had an intellectual disability?

25 A Whether he could be diagnosed with intellectual

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1 disability, yes.

2 Q Okay. And for the first part, I'm just gonna confine
3 it to the subaverage general intellectual functioning, two
4 standard deviations from a hundred on the standardized test.

5 Did you give him a test?

6 A I did.

7 Q And what was it?

8 A The Wechsler Adult Intelligence Scale, Revision IV.

9 Q Okay. And why that test?

10 A For a, a couple of reasons. The WAIS-IV it's called is
11 somewhat easier for, for examiners to administer. It's a
12 little easier for the lay person to read about and
13 understand. It, it breaks the IQ out into these composite
14 sorts of scores, and -- so, it gives you, in my thinking, a
15 bit more comprehensive type of way of explaining what the
16 person's strengths and limitations are.

17 Q Okay. And that's sort of a personal preference on your
18 part?

19 A Yes.

20 Q And how, how is that task recognized in the literature
21 in the field?

22 A Well, that and the Stanford-Binet are the two most
23 frequently used individually administered scientifically
24 recognized standardized measures of intelligence.

25 Q Okay. And how did Ricky do?

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1 A He was in a subaverage general intellectual functioning
2 area. He fell below 70.

3 Q Okay. Do you recall what his exact full scale IQ was?

4 A I don't. I should know that. But I think it's 63. I
5 think I obtained a score of 63 or 65 and Doctor Brown
6 obtained one of 68 I believe. I think that's right.

7 Q Yeah.

8 Actually I'm gonna, I'm gonna hold off asking you
9 questions about Doctor Brown. I know that you've reviewed
10 his report, but my understanding is he'll testify later --

11 A Oh, I apologize.

12 Q -- and I'll hold your questions regarding him in
13 rebuttable.

14 A Yes.

15 Q Okay. We'll call you after Doctor Brown.

16 The -- did you have any worries or concern or were
17 there any indications that Ricky was malingering at all?

18 A I get -- no, no, there weren't. I gave him, from, from
19 a, from a viewpoint of my observing his behaviors, I noticed
20 a number of behaviors that would argue against malingering,
21 but I also didn't rely just on my behavioral observations.
22 I also gave him something called the Test of Memory
23 Malingering, and on that he performed adequately to suggest
24 that he doesn't have malingering.

25 In the area of intellectual disability, the other way

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1 that we look at and I use -- I keep saying we, when I, when
2 I say that I mean practitioners who are doing Atkins
3 evaluations.

4 Q Yes.

5 A What we do is we look at, again, this convergence of
6 the data. So, if there's this convergence of the data that
7 shows, for example, that leads a reporter, an examiner, to
8 the conclusion that there is intellectual disability, then
9 that supports the notion the person is not malingering.

10 Q I see.

11 Now, with regard to a person's intellectual
12 functioning, my understanding -- tell me what your
13 understanding is of is that a, a condition that is constant
14 in one's life.

15 A Not necessarily. There would probably be some
16 constancy. I don't think you could go from an IQ, for
17 example, of 55 and suddenly become an Einstein, but there is
18 some constant -- so, there is some constancy, but there's
19 also some variability and fluctuations over time.

20 Q Okay.

21 A Yes.

22 Q But with regard to Ricky's IQ placing him in the mildly
23 mentally retarded range, what's your opinion with regard to
24 was that his intellectual ability when he was growing up
25 before 18?

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1 A From my examination, yes. That's, that's what -- I, I
2 looked at a number of different sources that suggested that
3 his intellectual functioning was subaverage before the age
4 of 18, yes.

5 Q Okay. Ricky had a four wheeler accident in his life,
6 is that correct?

7 A That's correct.

8 Q Would it be appropriate in your field to just speculate
9 that maybe that had an affect on his IQ?

10 A Well, I think it's not inappropriate to say that it may
11 have affected his cognitive functioning. Whether it
12 affected his specific IQ scores or not, I'm -- that would be
13 perhaps a bit more speculative, and I don't think we would
14 rule out anything on the basis of the four wheeler. We just
15 would note that it may have affected his cognitive
16 functioning.

17 He did have a four wheeler accident and there were not
18 sufficient records to review to suggest that that cognitive
19 ability had been tested at the time of the accident, and,
20 you know, that anyone had come to any conclusion that he had
21 lost, for example, cognitive ability due to that.

22 Q Okay. The one question I'm gonna ask you about Doctor
23 Brown's report is that he did agree with you that Ricky did,
24 in fact, have an IQ that put him in the M.R. range?

25 A Correct.

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1 Q And he gave also a WAIS which would be a valid
2 standardized test?

3 A Correct.

4 Q And he saw no issues of malingering?

5 A Correct.

6 Q And, again, this would put him in the mildly mental
7 retarded range?

8 A Correct.

9 Q Okay. I want to make sure you've got your report.

10 A That would be good cause I'm not sure I remember the
11 details.

12 MR. MCGUIRE: If I could have just a second, judge?

13 THE COURT: Yes, sir.

14 (Pause.)

15 MR. MCGUIRE: Judge, I want to have this marked just to
16 complete a good record.

17 (WHEREUPON, Doctor Calloway's report was marked as
18 Defendant's Exhibit No. 8 for identification purposes only
19 at this time.)

20 Q Doctor Calloway, I'm gonna give you what's been marked
21 Defense Exhibit No. 8 and let's turn to Page 5 of -- first
22 off, if you could just tell me, for the record, what that
23 is.

24 A This is the psychological report that I prepared on
25 Mr. Blackwell and -- yeah, it's called psychological report.

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1 Q Okay. And I've turned it to Page 5. It's a 40 page
2 report.

3 A Yes.

4 Q The top of the page indicates assessment methods and
5 records reviewed.

6 Is this with regard to what you did in your assessment
7 of Mr. Blackwell?

8 A I did, yes.

9 Q Okay. The first -- what's the first item on the list?

10 A Forensic client history and checklist.

11 Q Okay. If you would, just tell the Court briefly what
12 that, what that is.

13 A It's a structured interview form that asked the subject
14 a number of basic questions, name, address, where -- what
15 were the jobs that you held, what were the dates that you
16 held them, what was the reason that you left the job, what
17 were your -- what were your job responsibilities, education,
18 were you in any special education classes.

19 It asked about family history. It asked about medical
20 history. It asked about relationship history. It asked
21 about legal, difficulties with the legal system. It asked
22 about tattoos.

23 Let's see, what else does it ask about?

24 Oh, substance abuse history.

25 Q Okay.

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1 A It asked about that sort of thing. So, as many, as
2 many details as you can get about the, about the individual.

3 Q Okay. So, it's a, an instrument to, to guide you
4 through a structured interview?

5 A Correct.

6 Q To make sure you don't miss anything?

7 A That's correct.

8 Q And that's given on a regular basis in the field?

9 A Correct. This one is one that I don't know how many
10 people use it, but structured interviews are, are used, yes,
11 routinely in the field.

12 Q Okay. And my understanding is you actually had some
13 participation in preparing this one?

14 A In, in its construction, yes.

15 Q Okay. The next item is the Wechsler Adult Intelligence
16 Scale Revision IV.

17 That's the WAIS-IV we've been talking about --

18 A That's correct.

19 Q -- that Ricky scored a 63 on?

20 A Yes, I think -- well, I would---

21 Q I can tell you it's 63.

22 A All right. All right. I trust you.

23 Q We'll verify that later, but I can, to save a little
24 time, I'll tell you that's what it is.

25 A Right.

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1 Q And, of course, that's the same test that Doctor Brown
2 gave and Ricky scored a 68 on?

3 A Yes.

4 Q And both these scores are in the mild mentally retarded
5 range?

6 A Correct.

7 Q Okay. The next item is assessment of map skills
8 through interview and use of South Carolina map.

9 Tell me about that.

10 A Well, the next one is actually the Wide Range
11 Achievement Test.

12 Q Oh, I'm sorry. You're right. The WRAT-4.

13 A Uh-huh. (Affirmative).

14 Q I think you refer to it as the WRAT-4?

15 A Yeah, the WRAT-4.

16 Q And tell the judge just a little bit about what that
17 is.

18 A It's just a quick screening measure of the person's
19 achievement level just to get a sense of where they're
20 functioning. It's not an in-depth sort of achievement test
21 like the Woodcock-Johnson or something like that.

22 Q Okay.

23 A But it gives you -- it gives you an approximate idea of
24 where the person's functioning.

25 Q Okay. And then the next was the issue with the map and

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1 the South Carolina map.

2 A Yes.

3 Q Tell me just briefly about that.

4 A It's, it's a, it's a measure Doctor Olley taught me to
5 use, and what I do is, is take a map in, in this case, of
6 South Carolina, and ask Mr. Blackwell a number of questions
7 like where's the Atlantic Ocean, how far from -- you know,
8 show me how -- if I'm going from Columbia to Spartanburg,
9 would I be going in what direction. So, it's a number of
10 questions like that to see if the person has a sense of
11 direction, and if they understand what is meant by north,
12 south, east, west.

13 Q Okay. And the next item is Competence Assessment to
14 Stand Trial for Mentally Retarded Defendants otherwise
15 referred to at the CAST-MR.

16 A Correct.

17 Q Could you tell the judge just briefly what that is?

18 A It is an instrument that is used if you're trying to
19 get an understanding of how much the person, in this case
20 Mr. Blackwell, understood about the legal system and what he
21 was being charged with, what he, what the different roles of
22 the different people in the legal system to get a sense of
23 how he compares to other people with mild M.R.---

24 Q Okay.

25 A ---or mild I.D.

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1 Q And then we come to the, the malingering issue.

2 Now, of course, everybody agreed, from what I can tell,
3 reviewing your report, Doctor Brown, everybody agreed
4 there's no malingering in this case?

5 A Correct.

6 Q Nonetheless, you used what's called the Test of Memory
7 Malingering or the TOMM?

8 A Correct.

9 Q Can you tell the judge what that is briefly?

10 A It is a measure that is used to get at malingering.
11 There are direct measures of malingering and then we have
12 some, what are called embedded measures like in the MMPI,
13 for example. You'd be looking at the pattern of the scores
14 as well as the elevations on certain scales. The same thing
15 with the PAI. But this one is a direct, suppose to be a
16 direct measure of malingering.

17 Q Okay. And actually I'm gonna skip it. Malingering is
18 really not an issue in the case. So, there's really no
19 detail to go into it.

20 With regard to the Adaptive Behavior Assessment System
21 II, also known as the ABAS-II, tell the judge a little bit
22 about what that is.

23 We talked about it briefly so far.

24 A It assesses adaptive functioning in ten different
25 areas. Originally the AAMR identified these -- I should

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1 back up.

2 Historically the AAMR identified intellectual
3 disability or what was then called mental retardation more
4 along the lines of the adaptive functioning because the
5 AAMR's mission, if you will, was to assist and, and help
6 people with intellectual disability to be able to function
7 more adaptively in the world. So, their focus originally
8 was on this area of adaptive functioning. Once IQ tests
9 came along or began to be -- I shouldn't say came along
10 because Binet, of course, developed an IQ test many many
11 years ago.

12 But when IQ tests began to be used more frequently in
13 the school systems and in other places, then the AA, AAMR
14 shifted a bit to, to incorporate the notion of IQ and how
15 that might also play into intellectual disability. So, the
16 ten areas identified as important for every day life skills
17 are these ten areas that the ABAS assesses.

18 Now, as I mentioned earlier, ultimately factor analysis
19 and various factor analyses of these ten areas show us that
20 there really are only four groupings. So, these ten areas
21 group into really three areas with a general composite. So,
22 the, the social captures a number of different, of the ten
23 different areas and then the conceptual and then the
24 practical.

25 But the ABAS goes back to the notion that there are

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1 these ten areas and, and looks at all ten of those areas to
2 get a rating. It's a rating system of how the person -- can
3 the person sometimes do this or can he do it, you know, most
4 of the time or does he do it all the time.

5 Q Okay. And these instruments, they reduced the results
6 to numbers?

7 A Correct, uh-huh. (Affirmative).

8 Q And they're standardized?

9 A Correct.

10 Q Normed?

11 A Yes, correct.

12 Q Valid?

13 A Yes.

14 Q And reliable?

15 A Yes, that's correct.

16 Q It's not just talking to people and taking notes what
17 you think is going on?

18 A That's correct.

19 Q Okay.

20 A That's correct. I mean you are taking notes.

21 Q Sure.

22 A But, but the conclusion -- when you're -- if I could
23 maybe say what you said a bit differently?

24 Q Okay.

25 A When an examiner or I've been saying a reporter cause

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1 that's really what I am, I'm reporting the findings, when a
2 reporter or an examiner states a conclusion, it's because
3 the, of those numbers. Not because of incidental comments
4 like he could do this or he couldn't do that, but because
5 the numbers add up to a deficit or they don't.

6 Q I see.

7 And with regard to the ten skill areas to be found
8 mentally retarded, a person would have to have deficits in
9 two of the ten as long as you meet the other two prongs?

10 A Correct.

11 Q Okay. And who did you give the ABAS to?

12 A Well, to Mr. Blackwell's mother, Mildred Blackwell, to
13 his father, Cletus Blackwell, to his daughter, Heather
14 Bryant, to Reverend Ken Rice who was his former pastor and
15 also counselor, to Ms. Jean White, who has been a close
16 friend of the family and who's a neighbor. So, she lives in
17 the area where Mr. Blackwell grew up very close to where his
18 mom and dad lived. Louise Scruggs was Mr. Blackwell's
19 former teacher when he was taking these adjunct classes, and
20 we -- and I interviewed her in her home. Ricky Bagwell, who
21 is a former employer, and Gail Shook, who is also a former
22 supervisor.

23 Q Okay. Now, obviously you reviewed some other records
24 that are normal in a, in a case like this, arrest record,
25 some Court documents, notice seeking the death penalty, some

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1 correspondents where we offer to plead Ricky to life---

2 A Yes.

3 Q ---without parole for these charges.

4 A Uh-huh. (Affirmative).

5 Q And then some interview summaries?

6 A Yes.

7 Q Specifically with, in one case, Cheryl Ponder, summary
8 of school records that we've prepared through the use of
9 investigators?

10 A Yes.

11 Q Also some records regarding Ricky's family?

12 A Yes.

13 Q And that would include IQ tests given to his family?

14 A Correct.

15 Q That would include his father?

16 A Yes.

17 Q His daughter, Heather?

18 A Yes.

19 Q You got school records for Mark Allen Bryant, which is
20 Heather's son?

21 A Yes.

22 Q Spartanburg County School District records for Caleb
23 Bryant, also Heather's son, also Ricky's grandchild?

24 A Yes.

25 Q Records from McKenzie Nicole Bryant, also Ricky's

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1 grandchild and Heather's child?

2 A Yes.

3 Q And Ricky, of course, has had some psychiatric issues
4 in his life and you've reviewed those records and that
5 would---

6 A I have.

7 Q And that would include records regarding a suicidal
8 gesture?

9 A Yes.

10 Q You reviewed a psychiatrist---

11 SOLICITOR GHENT: Your Honor, again, could I object?
12 We've gone back to testifying rather than asking.

13 THE COURT: Could you frame questions please?

14 Q I want to ask you if you've looked at these things.

15 A Yes.

16 Q And you say yes or no.

17 Okay?

18 A All right.

19 Q Have you also reviewed an interview with Jean Bradley
20 White that was prepared by Cara Richards?

21 A Yes.

22 Q Psychiatric history, mental status examination from
23 1990 for Ricky Blackwell?

24 A Yes.

25 Q Inpatient psychiatric assessment, Carolina Behavioral

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1 Health, 2008, also for Ricky Blackwell?

2 A Yes.

3 Q Westgate Family Physicians regarding Ricky Blackwell?

4 A Yes.

5 Q And I believe that was sort of his general practice
6 doctor?

7 A Yes.

8 Q Did you also review records of treatment for Mr.
9 Blackwell, again, from Westgate Family Physician?

10 A Yes.

11 Q Also records from Carolina Center for Behavioral
12 Health?

13 A Yes.

14 Q And that was also regarding Mr. Blackwell?

15 A Yes.

16 Q Patrick B. Harris Psychiatric Hospital records again
17 for Mr. Blackwell?

18 A Yes.

19 Q Did you also review records from Mr. Blackwell from
20 Spartanburg County School District?

21 A Yes.

22 Q Did you also review Spartanburg Regional Healthcare
23 System records for Ricky Blackwell?

24 A Yes.

25 Q Did you also review Patrick B. Harris Psychiatric

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1 Hospital records for both Heather Blackwell Bryant and
2 Donald Blackwell?

3 A Yes.

4 Q And, again, Heather Bryant is Ricky's daughter?

5 A Heather is Ricky's daughter and Donald Blackwell is
6 the, as I have down here, the brother of Ricky Blackwell.

7 Q All right. Did you also review Spartanburg Area Mental
8 Health Center records for Heather Bryant for Donald -- I'm
9 sorry. I repeated that.

10 A Yes.

11 Q School District Two records from Spartanburg for
12 Ricky's father?

13 A Yes, Cletus Blackwell.

14 Q Okay. And did you also review Chesnee High School
15 records for Heather Bryant?

16 A Yes.

17 Q Again, that's Ricky's daughter?

18 A Yes.

19 Q Did you review Spartanburg Regional Healthcare System
20 records for Donald Blackwell?

21 A Yes.

22 Q And, again, that's Ricky's brother?

23 A Yes.

24 Q Carolina Family Physicians records for Mildred
25 Blackwell?

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1 A Yes.

2 Q And that's Ricky's mother?

3 A Yes.

4 Q Did you also review the Spartanburg County Coroner's
5 record regarding Donald, regarding Donald Blackwell?

6 A Yes.

7 Q Because he's passed and he's no longer alive?

8 A Correct.

9 Q Did you review Social Security Administration records
10 for Mr. Blackwell?

11 A Yes.

12 Q And did you also review the Spartanburg County School
13 District Two records for both Caleb Bryant and Mark Allen
14 Bryant, both Ricky's grandsons?

15 A Yes.

16 Q And both -- they're both Heather's boys, Heather's
17 sons?

18 A Yes.

19 Q Okay. And with regard to the best practice in the
20 field and for examination that would meet the standard for
21 forensic practitioner especially in the case of an Atkins
22 investigation, my understanding is more information is
23 better?

24 A Yes.

25 Q Okay.

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1 A As much as possible. Everything that you can possibly
2 obtain.

3 Q Okay. And, of course, you've interviewed
4 Mr. Blackwell?

5 A I have.

6 Q And could you tell the judge a little bit about that?

7 A I -- that's included in the behavior observations
8 section of my report, and I talked about what he looked
9 like. He was handcuffed and -- accept for one hand and he
10 was shackled, and he was very very anxious. He tended to
11 tear up at times. He was fairly emotional, and he was
12 limited with regard to the use of language in his ability to
13 provide details.

14 It's not uncommon for people with mild I.D. to need
15 some assistance like they'll give you a short sentence, and
16 then you'll say well, I, you know, does, you know, you asked
17 for more elaborations so that you can understand what it is
18 that they're trying to communicate. So, there was a good
19 deal of that that caused me to ask him more questions.

20 He also appeared to me to be naive looking like a young
21 child and rather frightened looking I think would be another
22 way of talking about him. Sometimes he would say that he
23 couldn't do certain things. He knew when he reached his
24 limit, for example, and he wasn't able to do certain things.
25 He was quite polite and he was very deferential and he used

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1 yes, ma'am and no, ma'am routinely. He was cooperative and
2 I talked about his simple manner, and he described ways to
3 mean, when I asked him a number of questions in which he was
4 highly dependent on family members, on his, on his ex-wife,
5 on his daughter, and we discussed those kinds of things to
6 the point of highly dependent meaning for a place to live,
7 for cooking, for everyday necessary skills of living.

8 Q Okay. Let me ask you just a little bit about that
9 while we're on that. We'll, we'll go into a little more
10 detail later, but just to hit a couple of the salient facts
11 here, Angie and Ricky -- and when I say Angie, Angie is
12 Ricky's wife, correct?

13 A Ex-wife, yes.

14 Q Ex-wife, you're right. They're, they're divorced now,
15 and at the time of this, the incident that we're here for in
16 this Court, July of 2009, she was his estranged wife?

17 A Correct.

18 Q And, of course, they were married for 29 years?

19 A Correct.

20 Q And with regard to the household, they had a joint
21 checking account?

22 A Yes, they did.

23 Q Did Ricky write any checks?

24 A No, he did not.

25 Q Angie pay all the bills?

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1 A Yes.

2 Q Angie -- did Angie, did Angie make his medical
3 appointments?

4 A Yes.

5 Q Go with him?

6 A Yes.

7 Q Did she -- was she in charge of the medication --

8 A Yes.

9 Q -- and making sure he took it?

10 A Yes.

11 Q And purchasing it?

12 A Yes.

13 Q She did the shopping?

14 A Yes.

15 Q Did she -- did she manage the couple's finances?

16 A Yes.

17 Q Did she manage the household in general?

18 A Yes.

19 Q Would it be a fair statement to say that Ricky
20 basically worked and turned over his pay check and that's
21 about it?

22 A That's what it sounded like to me from a number of what
23 I would call multiple sources of information, yes.

24 Q Okay. Tell me a little bit about Mr. Blackwell's
25 family history.

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1 A Okay. That is contained on Pages 7 through -- well, I
2 guess if we want to talk about the first part of it, it's
3 Page 7 and 8 of my report.

4 So, he grew up in Chesnee. He lived on land that was
5 owned by his father and mother. He lived close to them,
6 within walking distance. His father and mother helped him
7 and Angie purchase their first home, and I believe helped
8 them purchase their second home as well.

9 He went to the -- he, he did not complete school
10 totally. He flunked a grade in school, and from interview
11 with Ms. Scruggs, he was in adjunct classes, which she
12 explained were preliminary to special education classes in
13 that county. She, herself, was a special education teacher
14 later, and this is the information that she gave us, gave me
15 about, about him was that he was in those classes and he was
16 sort of -- I believe the way she put it was he blended in
17 and he didn't really stand out in any particular type.

18 The -- one of the things that is, was important to me
19 and the reason I made a table here on Page 8 and Page 9 is
20 to show the number of people in Mr. Blackwell's family who
21 have scores that fall into a range of intellectual
22 disability. So, I put that into this table so that it would
23 be easier for the reader to see that rather than just
24 putting that in a narrative form.

25 Q Okay. well, let's, let's go through that.

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1 with regard to Ricky's father, Cletus Blackwell --

2 A Correct.

3 Q -- did you have any information with regard to any
4 testing or IQ scores for him?

5 A He was given what's called an Otis Self-Administering
6 Test of Mental Ability. That's in the school records, and
7 they reported his IQ score as 60 there.

8 Q A 60?

9 A Uh-huh. (Affirmative).

10 Q Now, is an Otis -- there's been some talk in this case
11 already about California Test of Mental Maturity, short form
12 tests like that.

13 Is an Otis an achievement test or is it specifically
14 used to, to go after IQ?

15 A It's used to go at IQ, but it's a group administered
16 test, and group measures of IQ are typically not considered
17 as accurate as individually administered measures of IQ.

18 Q Okay. Sure.

19 I mean the ways -- the Stanford-Binet, that's the
20 standard measurement. These other tests were -- they don't
21 have the same weight?

22 A They don't, but the school sometimes needs to know. I
23 mean the school would give a shortened form or an
24 abbreviated form or a, what's the word I'm looking for, like
25 a screening type measure because they, they would need to

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1 know does this individual need some interventions to help
2 them, to assist them in going forward in their academic
3 career. So, the school uses these sorts of things. The
4 Otis happens to be one that's also used with gifted children
5 to screen out to see if they need to go into gifted and
6 talented classes.

7 Q Okay. And, again, Mr. Cletus Blackwell's score,
8 Ricky's father, was 60?

9 A Yes, that's correct

10 Q With regard to Mildred Blackwell, did you make an
11 effort to get her school records?

12 A Yes, the investigator did and there were no records.
13 The school wasn't able to identify those records or find
14 those records.

15 Q Okay. I mean I -- it's not uncommon in your -- is it,
16 is it, is it, is it uncommon in your practice to not be able
17 to find school records for people who are in their seventies
18 or fifties?

19 A I would say it's common to have school records
20 destroyed even for people that I come across that are in
21 their thirties.

22 Q Right.

23 A And sometimes in their twenties. Much depends on the
24 school system. Some school systems are better than others
25 at record retention. Some people -- some school systems

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1 have more room than other school systems to retain records.

2 So, it just varies a great deal from one system to another.

3 Q Okay. But nonetheless, an effort was made and---

4 A Yes.

5 Q Okay. With regard to Donald Blackwell --

6 A Yes.

7 Q -- now, of course, this is Ricky's brother whose passed
8 away?

9 A Correct.

10 Q Did you find any records regarding Mr. Donald Blackwell
11 and IQ scores?

12 A Yes, and this was -- these two tests -- well, they're
13 both the same, Short Form Test of Academic Aptitude.

14 They're not exactly the same as an, as an individually
15 administered scientifically recognized IQ test like the WAIS
16 or the Binet. But, again, they're a rough approximation of
17 what IQ is. And, so, for him, the IQ scores that were
18 reported there in the records were 73 and 74.

19 Q Okay. Nearly two standard deviations from the mean of
20 a hundred?

21 A Yes, and I don't know what the standard error of
22 measurement is for either -- for those two aptitude tests.

23 Q Right.

24 A So, I wouldn't be able to give you what the range is---

25 Q Sure.

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1 A ---cause I don't know.

2 Q Sure.

3 It's not uncommon for tests to be used for a certain
4 period and then go obsolete?

5 A Correct, or to be, to be modified. The California
6 test, for example, I looked up on the Internet and also in
7 the publisher, and it is been modified to a different name.
8 I've forgot now what it's -- California something, but it's
9 not the same name as what's in the school records that we
10 have.

11 Q Okay. With regard to Heather, this is Ricky's
12 daughter?

13 A Yes.

14 Q Were you able to find some IQ tests regarding her?

15 A Yes, she was given the Otis-Lennon School Ability Test.
16 These Otis-Lennon, they're, they're -- they probably are
17 somewhat different from one another as I understand them. I
18 have never administered one of these. I've seen a good
19 number of them because of working with kids and seen school
20 records, and that sort of thing. But I'm not -- I don't
21 know, but they're all in the same genre so to speak.
22 They're all the Otis-Lennon. So -- but with different forms
23 and her---

24 Q And she took two IQ tests?

25 A Yes. Well, two ability tests.

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1 Q Right.

2 And what were the scores?

3 A 57 and 71.

4 Q And, again, this is Ricky's daughter?

5 A Correct.

6 Q Now, Heather has a son Caleb, is that correct?

7 A Correct.

8 Q And Caleb is obviously Ricky's grandson?

9 A Yes.

10 Q And were you able to find any records regarding Caleb's
11 IQ score?

12 A Yes, now, for him, he was given the Wechsler
13 Intelligence Scale for children. So, that's the children's
14 version of the Wechsler that was given to Mr. Blackwell, and
15 he was given Revision IV, which is the latest revision of
16 that measure, it's called the WIS, and his IQ was 52.

17 Q Now, this one would not be a screening measure?

18 A No, no. This is the same thing -- it's the same thing
19 as what Mr. Blackwell was given. It's just that it's a
20 children's form. So, it was standardized normed on
21 children.

22 Q Okay.

23 A Whereas the WAIS, the Wechsler Adult Intelligence
24 Scale, was standardized and normed on adults.

25 Q Okay. So, Caleb's score was 52?

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1 A Correct.

2 Q On an individual IQ test?

3 A That's correct. Individually administered,
4 scientifically recognized.

5 Q Thank you. Fair enough.

6 A That's kind of the code I guess in the, in the
7 literature.

8 Q Okay. And Heather has another son, Allen?

9 A Correct.

10 Q And obviously, again, this is Ricky's grandson?

11 A Yes.

12 Q Were you able to find any records with regard to his
13 grandson, Allen's IQ?

14 A Yes, there were two tests that were given to him. The
15 Stanford-Binet Intelligence Scale Version V, which is the
16 most recent version of that, and the Reynolds Intellectual
17 Assessment Scales.

18 Q And what was Allen's performance?

19 A On the Stanford-Binet he received a 50, and on the
20 Reynolds he received a 46.

21 Q And the Stanford-Binet is like the WAIS, it's
22 individually administered or a scientifically reliable
23 instrument?

24 A Yes.

25 Q Not a screening short form test?

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1 A That's correct.

2 Q Now, Ricky's got a cousin named Roger, Roger Bridges.

3 A Yes.

4 Q Were you able to find any records with regard to
5 Mr. Bridges and if he suffers from M.R.?

6 A Yes, he was diagnosed with moderate mental retardation
7 in the records that we have from Newberry Center.

8 Q Okay. All of the IQ scores that you were able to
9 uncover in Ricky's family, his father, brother, daughter,
10 his grandchildren, all in the mentally retarded range?

11 A Correct, intellectually disabled now.

12 Q Now, you also reviewed just not IQ scores or school
13 records to see how somebody's functioning intellectually.
14 You also reviewed psychiatric records and mental health
15 records.

16 A I did.

17 Q On Page 9 of your report you talk about that in some
18 detail and I'd like to go through that for the judge.

19 Tell me just briefly, if you could, just summarize
20 Ricky's psychiatric records.

21 A He's had various diagnoses. I think the most frequent
22 one is major depressive disorder, and the first time he was
23 diagnosed with that was at age 31. Then he was diagnosed at
24 age 42 with acute anxiety, depression, and insomnia. At age
25 47 he was diagnosed with anxiety and depression, and then at

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1 age 50 he was involuntarily committed at which time he was
2 diagnosed, on discharge, with major, major depressive
3 disorders occurrence severe without psychosis.

4 He has also not -- it's not in this table, but he has
5 also made a suicidal gesture or attempt. I'm not sure what
6 to call it either way.

7 Q That was back in the early 90's?

8 A Yes, I believe it was.

9 Q When he was fighting Hodgkins lymphoma?

10 A I believe that's correct.

11 Q And his depression appeared to be somewhat related to
12 that?

13 A Yes, I think that's right.

14 Q And with regard to the suicide attempt in '08, December
15 of '08, was that related to the breakup with Angie?

16 A Yes.

17 Q And he tried to overdose on drugs?

18 A He did.

19 Q And those were prescribed drugs?

20 A Those were prescription drugs, yes.

21 Q From his doctor?

22 A From his doctor, yes.

23 Q With regard to Donald and, again, this is Ricky's
24 brother whose passed away, can you tell the judge just
25 briefly what you found with regard to Donald?

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1 A With -- Donald's psychiatric difficulties are a bit
2 more severe in some regards. They both had mood and
3 thinking disorders. But Donald's eventuated, I guess the
4 reason I'm saying more severe, is because his eventuated in
5 what might have been a suicide or possible overdose.

6 Q Sure.

7 A He was first diagnosed at age 29 with depression and
8 suicidal attempt. At age 30 he was diagnosed with
9 schizo-affective disorder, possible panic disorder, and a
10 rule out for atypical bipolar disorder or anxiety disorder.
11 Then at age 31 he was admitted to an inpatient hospital at
12 31 twice. So, first in the early part of '95 and then a
13 little bit later in the Spring of '95 and then again in the
14 Fall of '95 at -- and he was diagnosed with schizophrenia
15 the first time. The second time was schizophrenia paranoid
16 type chronic with acute exacerbation, and then the last time
17 he was diagnosed with schizo-affective disorder and panic
18 disorder.

19 Following that, roughly what would that be, November,
20 December, January, two months later, he was in, he was in an
21 inpatient facility again, and he was diagnosed with
22 schizo-affective disorder, and he went to an inpatient
23 facility again two months after that.

24 Q Okay.

25 A Then in '98 -- oh '97, at age 33, he was in an

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1 inpatient facility. I wasn't able to find a diagnosis.

2 That's why that is, column is blank, and then in '98 he went
3 to an inpatient facility once again and I didn't find a
4 diagnosis.

5 In 2000, at age 37, he went to an inpatient facility
6 again, and he was diagnosed with schizo-affective disorder
7 bipolar type in -- I think that's it.

8 Q Okay. I'm gonna bring us back to talking about Rick
9 and his walk in life.

10 Was he living with his parents when he married Angie?

11 A Yes, uh-huh. (Affirmative).

12 Q Where did they live after they got married?

13 A They, they -- well, first, I believe first they might
14 of lived briefly with Angie's parents is what, the history
15 that I have says, and then, secondly, they lived in a
16 trailer that Cletus and Mildred bought for them and put on
17 Cletus and Mildred's land.

18 Q Okay. And then, of course, Angie kind of ran the
19 household?

20 A Yes.

21 Q But Ricky worked hard?

22 A Yes, he did, uh-huh. (Affirmative).

23 Q And he had a number of jobs?

24 A Yes, he was described as a good worker.

25 Q Okay. And when -- let's go through some of his

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1 employment history.

2 A Okay.

3 Q But before we get to that, Ricky, Ricky left high
4 school without graduating?

5 A He did.

6 Q How far did he go?

7 A What do you mean how far?

8 Q Oh, in South Carolina we say how far did you go in
9 school.

10 A Oh.

11 Q So---

12 A Okay.

13 Q ---how far did he go in school?

14 A He went to the tenth grade is what I have. Oh, he
15 said -- I'm sorry. I'd reading what he reported. He
16 reported he went to the tenth grade. The school records I
17 have reported that he went to the eleventh.

18 Q Okay. Repeated ninth grade?

19 A Correct.

20 Q Were all -- were all of his classes in ninth grade
21 these adjunct classes?

22 A Correct.

23 Q Failed them all?

24 A Correct.

25 Q And the -- what's your understanding of the adjunct or

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1 special ed class?

2 A Well, earlier what I said was that Ms. Scruggs, in an
3 interview, explained that the adjunct classes were classes
4 that predated I think, I forget what word I used, but it
5 would be more accurate to say predated special education
6 classes in that county. So, they were -- what, what her
7 specific explanation was, if I remember correctly, was that
8 they were for the children who were not expected to follow
9 an academic track, but who were, who were given some
10 assistance to get out of school and be able to find a job
11 once they were out of school. So, more of an occupational
12 focus.

13 Q Okay. And would it also be individual, individualized
14 attention, smaller groups, more attention paid to students,
15 that sort of thing?

16 A Yes.

17 Q Okay.

18 A That's what -- that's what she indicated in her, in her
19 -- during interview with her, yes.

20 Q Despite that extra attention, Ricky failed every
21 subject in ninth grade?

22 A Correct. And also the other thing Ms. Scruggs
23 mentioned was that the adjunct classes were smaller in terms
24 of the number of students who were placed in them. So, not
25 just individual attention, but a smaller class size in which

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1 to receive that individual attention. Exactly like what a
2 special education class would be like.

3 Q Okay. Now, we all know that Ricky eventually became a
4 truck driver?

5 A Yes.

6 Q Did he walk out of high school and go drive a truck?

7 A No, he did not.

8 Q Where did he go first?

9 A He had some -- let's look at that. On Page 11 of my
10 report, in 1976 he was working for James Belue, and he was
11 putting lids on the boxes of peaches. Then he worked for
12 United Overton Corporation. Then for Community Cash Stores,
13 Incorporated. Then for Crown Cork & Seal Company where he
14 inspected cans for defects. Then for White Bag Company
15 where he stacked pallets. Then for Milliken & Company, and
16 then for Newspaperman Management Production Company. Then
17 for a company, Phillips Fibers, and then for an ice company
18 where he bagged ice. Then for farm and feed mills store.
19 Then for fast print store. Then for Oneida Industries, and
20 then, in '82, so from '76 to '82, he worked at all these
21 different places and then '82 then he became a truck driver.
22 Q After your -- in, in 1982 when he got the truck driving
23 job, did he shortly thereafter get in an accident?
24 A He did.
25 Q And he left that job shortly thereafter?

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1 A Yes.

2 Q Now, his dad was able to get him a job with Hess?

3 A Yes, his -- Cletus helped him get that job is my
4 understanding.

5 Q Okay. And that's because Cletus, his dad drives a
6 truck for Hess, or did---

7 A Yes.

8 Q ---at the time?

9 A He did.

10 Q And Cletus got him a job with Hess, but, again, another
11 accident with the truck?

12 A Yes, he had an accident and lost the job.

13 Q Okay. He also had a trucking job in '94 -- '84 to '86
14 with Charles Belue and another accident?

15 A Yes, that's correct.

16 Q Okay. And lost that job because of the accident?

17 A Yes, it's my understanding, yes.

18 Q He also had some just basic factory jobs I think in '84
19 for a textile company?

20 A Yes.

21 Q And then he went back to trucking?

22 A Yes.

23 Q He tried to be a self-employed truck driver for a
24 little while, didn't he?

25 A Yes, he did.

Ginger Calloway - Direct examination
by Mr. McGuire

1 Q what happened?

2 A well, he wasn't able to keep some of the records that
3 were necessary to keep, and ultimately he lost the truck I
4 think because of having an accident.

5 Q So, he wrecked another truck?

6 A Yes.

7 Q But he kept on trying to be a truck driver and he
8 worked with K&S Trucking in '85?

9 A Right.

10 Q Now, he was unemployed for some time due to cancer, is
11 that right?

12 A That's right.

13 Q How long was that period?

14 A From '87 to '97. It's on Page 12.

15 Q Okay. And -- but, but Ricky, always being a hard
16 worker, tried to go back to work?

17 A Yes.

18 Q And he was a forklift operator?

19 A Yes, he was. And at Springs, if my memory is correct,
20 I believe Springs is where he obtained a job because of his
21 ex-wife's help. I think that's right.

22 Q Okay. In all of these jobs, did Ricky ever become a
23 supervisor?

24 A No, no, he never, he never had a supervisory sort of
25 position at all.

Ginger Calloway - Direct examination
by Mr. McGuire

1 Q Did he ever -- was he ever tasked with training people
2 or new hires?

3 A No.

4 Q Was he ever given tasks that would require judgment to
5 figure them out?

6 A No, he was, he was given the kind of jobs you would
7 expect for somebody with a mild intellectual disability.
8 He, he could, he could do repetitive tasks. He could be
9 taught. I mean the -- part of the definition I guess you
10 could say of mild intellectual disability and the way in
11 which the schools classified these children is to call them
12 educable mentally handicapped. That means they can be
13 educated. So, if taught repetitive tasks, they can do those
14 tasks. That's what the definition of educable mentally
15 handicapped is.

16 Q Okay. And with regard to the truck driving, did Ricky
17 grow up riding in the big truck?

18 A Well, that's -- yes, that's what several people told me
19 was that, and Cletus too, was that he, he lived on the farm
20 and so there were, there were trucks to drive and other farm
21 equipment to drive.

22 Q And did -- when Cletus was actually driving 18
23 wheelers, did he actually teach Ricky and let him drive?

24 A I'm sorry.

25 Could you say that---

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by Mr. McGuire

1 Q Oh.

2 A I wasn't paying attention I think.

3 Q When Cletus was actually working for a trucking
4 enterprise --

5 A Yes.

6 Q -- and had 18 wheelers where he'd drive them home---

7 A Oh.

8 Q -- did he let Ricky drive with him and teach Ricky how
9 to drive the truck?

10 A Yes, and some of the records too that we have from I
11 believe Belue suggest that Ricky also had people in the
12 truck with him. That was some of the disciplinary action
13 that he got from time to time.

14 Q Okay.

15 A But the way that Ricky explained it to me that he
16 learned to drive the truck and how he could drive the truck,
17 even some distance for Belue, for example, was a, a sequence
18 of being taught by someone how to do that, a sequence of,
19 of, of having the same route each and every time, of knowing
20 where to go from one place to another, and of having people
21 at times in the truck with him particularly in the beginning
22 when he would be learning a new route or going on the route
23 for the first time then he would have someone with him and
24 it wouldn't be uncommon for him to have, to have something
25 with him and that was corroborated in the, the documentation

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by Mr. McGuire

1 that we reviewed where he received disciplinary reprimands,
2 I guess you would say, for having people in the truck.

3 Q Having people in the truck that were --?

4 A That were not employees---

5 Q -- maybe --

6 A -- of the company.

7 Q Right.

8 But maybe some of them had to get someplace?

9 A Correct.

10 Q And sometimes Ricky would drive a truck not just by
11 himself, but he'd follow another truck in the same convoy
12 sort of?

13 A Yes, exactly.

14 Q In fact, I think there's a time where he got fired for
15 following basically his partner---

16 THE COURT: You're gonna have to start asking
17 questions.

18 MR. MCGUIRE: Sorry, judge.

19 THE COURT: I've warned you three times.

20 MR. MCGUIRE: Thank you.

21 THE COURT: Let's start asking some questions.

22 Q Do you have information as to whether or not Ricky was
23 fired because he followed one of these trucks?

24 A He, he -- it was hard to follow in his description of
25 that. He talked about a time when that happened, but I

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by Mr. McGuire

1 think I got a little bit more clarity from talking with,
2 with Cletus about that and then looking in the -- some of
3 the records that we had. I guess what, you know -- well, I
4 should wait for your question. I'm sorry.

5 Q All right. We, we can come back to it later. We can
6 talk about it in more detail.

7 Did Ricky ever have assistance with, with keeping
8 records when he was a trucker?

9 A Yeah, I said that earlier that he, he -- well, I said
10 he had difficulty keeping records, and, so, yes, he did have
11 some help with keeping records. His dad helped him some.

12 Q I want to go back and nail down these tasks that he was
13 given in high school now. We've already talked about
14 adjunct classes, failure of failing ninth grade, and all
15 that. Let's talk about the testing that he actually got
16 and, again, Ricky's 55 years old now. These records are
17 pretty old, but they go back to when he was seven years old.

18 Is that right?

19 A Correct.

20 Q And, so, the first test that we have from Ricky, is it,
21 is it from April 1966?

22 A It is from that time period, yes.

23 Q Was Ricky seven years old?

24 A Yes.

25 Q What was the result of that test?

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by Mr. McGuire

1 A He had -- he -- well, this is another one of those
2 tests that's not really an IQ test per se, but they do
3 report an IQ on these tests. And, so, the IQ that was
4 reported for that test was a 68 in 1966.

5 Q Okay. And what was the name of that test?

6 A The California Test of Mental Maturity.

7 Q Is it designed to go after IQ?

8 A Well, it is -- it's considered a measure of general
9 aptitude, but that can include achievement and as well. So,
10 no, it's not strictly speaking an intelligence test that you
11 would use for placement purposes.

12 Once again, the school often needs to know why is it
13 that a child, for example, is not doing as well as peers.
14 So, they might give a test just to see like how does this
15 kiddo compare to other kids their same age, and, so, a test
16 that would be easily available to a, to a school
17 administrator, for example, would be this California Test of
18 Mental Maturity. You wouldn't have -- you wouldn't need
19 any, any specialized expertise in order to administer it.

20 Q Okay. It's very often these tests are administered in
21 group settings?

22 A Correct, yes.

23 Q And there's no narrative that -- is there any narrative
24 that accompanies this to indicates how it was given, who
25 gave it?

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by Mr. McGuire

1 A All we -- we had very scarce records that we had for
2 him, and no, there was no explanation of who administered or
3 if administered the test, how it was administered, if it was
4 a group or not a group. None of that was clear from the
5 records. We just had very sparse records on him.

6 MR. MCGUIRE: And, Your Honor, just for the Court's
7 convenience, these records are all gonna be found in Tab 23
8 of the notebooks I passed up so you can follow along.

9 Now, Ricky got a test the next year, didn't he?

10 A He did. It allegedly is the same test although we
11 don't know what form it was. We don't know if it was the
12 exact same test. It's not clear. It has the same name as
13 the test before, but we don't know if it's a different form
14 or, or not. So --.

15 Q Okay. And he did score much higher on this one?

16 A He scored an 87.

17 Q Okay. But this is not a WIS, which would be the, the
18 Intelligence Scale for Children?

19 A Correct.

20 Q It's not an individualized test?

21 A That's correct. Well, as far as I know, the -- what
22 I've been able to learn about the California Test of Mental
23 Maturity is that it's not an individually administered test,
24 correct.

25 Q Okay. Now, some of these tests, my understanding is

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by Mr. McGuire

1 that they don't just try to give these IQ scores, but
2 actually tell you how you're doing in comparison to other
3 children with what you've learned?

4 A I'm not sure I understand that.

5 Q Yeah, it's not very -- I didn't put that very well.

6 Some of these tests can tell you where you fall in a
7 percentile rank based on performance?

8 A Oh, okay. Yes.

9 Q Okay. And did, did he get some tests like that?

10 A He did.

11 Q And what were they?

12 A Well, if you keep going down on Page 14, if you keep
13 going down like the California Achievement Test, at 11 years
14 of age was in the -- his score fell in the fifth percentile.

15 Q Does that mean he was in the top five percent?

16 A No, it means, when you look at percentiles, the way
17 that those are interpreted, is that 95 percent of all
18 children who took that test would score higher than he did.
19 So, he was in the lower portion of that test.

20 Q Okay. And he took some more -- he, as he went through
21 school, he took more tests like that?

22 A Yes, he took the comprehensive test of basic skills at
23 age 12 and scored in the 28th percentile.

24 Q So, 72 percent of the population would be better?

25 A Correct.

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by Mr. McGuire

1 Q what else did he take?

2 A He took a -- what's called a short form test of
3 academic aptitude at age 14, and then he also took, again,
4 it looks like a number of times, the comprehensive test of
5 basic skills, which he took at age 14, at age 15, and then
6 finally, at age 18, he took the adult basic learning
7 examination.

8 Q when he took the short form test of academic aptitude,
9 does that test also give a reported IQ score?

10 A It did.

11 Q And what was that?

12 A Seventy-two.

13 Q when he took the comprehensive test of basic skills,
14 was he in the, when he was 12 years old, was he in the 28th
15 percentile?

16 A At age 12, when he took the comprehensive test of basic
17 skills, I've got down here 28th percentile.

18 Q Okay. I think I already asked you about that one, and,
19 again, is that 72 percent doing better than him?

20 A Yeah, you did ask me about that one.

21 Q Okay. Did he take the -- I'm gonna, I'm gonna read
22 from Page 6 of 8 of your supplemental report, which is
23 attached there.

24 A Okay.

25 what page are you on?

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1 Q Six of eight. Page 6.

2 A All right.

3 Q From the supplemental report?

4 A Yes.

5 SOLICITOR GHENT: Objection, Your Honor. Can he ask
6 the question or let her answer something, but reading to her
7 and---

8 THE COURT: Well, he has not yet formed a question. So
9 --.

10 SOLICITOR GHENT: Yes, sir.

11 THE COURT: I'll let him have, take a stab at forming a
12 question.

13 Go ahead, Mr. McGuire.

14 MR. MCGUIRE: Thanks, judge.

15 THE COURT: You're welcome.

16 Q So, I want to direct your attention to Page 6.

17 Are you there?

18 A I am, of the supplemental report.

19 THE COURT: Let me ask you, Mr. McGuire, the report
20 itself, is, is it in the exhibits you've given me?

21 MR. MCGUIRE: It should be. If it's not---

22 THE COURT: What tab is it at?

23 MR. MCGUIRE: well, I don't -- I'm not sure I had it
24 tabbed. I had it in the pocket. It should be in the pocket
25 of your -- if not, I can give you another copy.

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1 THE COURT: Just one second.

2 (Pause.)

3 THE COURT: I don't see anything in the pockets.

4 MR. MCGUIRE: It might be an oversight on my part.

5 If I can approach?

6 THE COURT: Thank you. Please do.

7 MR. MCGUIRE: It's my oversight. I apologize.

8 THE COURT: That's all right. I just couldn't locate it
9 and I wanted to be sure I had it.

10 You may proceed.

11 MR. MCGUIRE: Yes, sir, that's my fault. I apologize
12 for that.

13 THE COURT: That's okay.

14 MR. MCGUIRE: And, judge---

15 THE COURT: And you're referring now to the
16 supplemental report?

17 MR. MCGUIRE: Yes, sir.

18 THE COURT: All right. I've got it.

19 Q And with regard to when Ricky was 14 years old, I think
20 we already talked about the Short Form Test of Academic
21 Aptitude.

22 A Yes.

23 Q But I don't want to -- I want to make sure I'm not
24 missing anything.

25 What was his score on that?

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1 A On the Short Form Test of Academic Aptitude, which was
2 administered to him at 14 years of age, he had an IQ of 72.

3 Q Okay. Now, he was given another test -- was he given
4 another test when he was 14?

5 A Yes, he was given the Comprehensive Test of Basic
6 Skills.

7 Q How did he do?

8 A I'm looking at Page 5 because that is the corrected
9 table.

10 Q Okay.

11 A I made some errors on the original table, which, for
12 the sake of being clear, the original table appears in my
13 original report on Page 14. In the -- I repeated that table
14 with errors on Page 6 of the supplemental report so that it
15 would be easy for the reader to flip back and forth between
16 Page 5 of the supplemental report and Page 6 of the
17 supplemental report. So, I'm looking at Page 5 because
18 that's easier for me to look at, and to answer your question
19 about the other tests that he was given at age 14, he was
20 given the comprehensive test of basic skills -- and I'm
21 sorry.

22 Did, did you ask me another question following that?

23 I apologize.

24 Q No, that's fine.

25 And how did he perform on that test?

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by Mr. McGuire

1 A On reading, he performed at the 19th percentile, and on
2 total language he performed at the 41st percentile.

3 Q Okay. And did he get another test when he was 15 years
4 old?

5 A He did. He was given that -- I would assume it's the
6 same test. It's hard to know. There's no narrative in any
7 of these records. I don't know if it's a different form.
8 It has the same name as the test he was given at age 14
9 called Comprehensive Test of Basic Skills, and on that, for
10 the total battery, he scored in the 7th percentile.

11 Q Okay. And, again, when we -- we're talking about
12 percentiles, we're talking about 7th percentile, 93 percent
13 did better?

14 A Yes, that's correct.

15 Q When he was 18 and still in high school --

16 A Yes.

17 Q -- we took---

18 A Well, yes, he was still in high school. He was, he was
19 still in high school.

20 Q When he was still in high school at 18, he took another
21 test?

22 A He did.

23 Q What was it?

24 A Called the Adult Basic Learning Examination.

25 Q And what did it measure?

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by Mr. McGuire

1 A It looks like it measured what I would call achievement
2 because it gives a, a reading score and a grade level and
3 then it, it gives an arithmetic problem, problem solving
4 score and a grade level and a arithmetic computation score
5 with a grade level and a total arithmetic score with the
6 grade level. So, I, I would say that it's a measure of
7 achievement.

8 Q Okay. And when he was 18 years old and somewhere
9 between ninth and tenth grade I suppose, at what level was
10 he reading?

11 A He was reading at grade level 5.8.

12 Q How about math?

13 A And then his arithmetic problem solving was at grade
14 6.6, arithmetic computation was at grade 5.2, and total
15 arithmetic was at grade 5.6.

16 Q In the -- in your field, when someone tries to say what
17 are the abilities of some, an adult that has mental
18 retardation, what age are we talking about if you're sort of
19 higher functional?

20 What I'm talking about is could somebody act as
21 sophisticated as a 21 year old at 18, 11, and 12?

22 A Well, if you look at how he was scoring, I think that
23 may be helpful, he's scoring at like a fifth to sixth grade
24 level here at age 18. So, he's, he's really functioning
25 like an 11 to 12 year old child. I mean that's -- and

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1 that's some, sometimes how we talk about -- well, there's
2 one particular case from North Carolina that I'm thinking
3 about where the judge talked about and Doctor Olley talked
4 about the defendant being like a 12 year old kid in terms of
5 the sorts of things that he was capable of doing.

6 Q Okay. Fair enough.

7 Now, Ricky took one more test before leaving high
8 school, is that right?

9 A That's right. He took this Comprehensive Test of Basic
10 Skills again.

11 Q And how did he do?

12 He was 18 years old?

13 A Yes, he was 18 years old.

14 Q And how did he do?

15 A The total battery was 8th percentile.

16 Q So, 92 percent did better?

17 A Correct.

18 Q And he left school and didn't take any more tests after
19 that?

20 A Correct. That's my understanding. Well, that's what
21 the records say.

22 Q Okay. Now, with regard to -- there's some, some amount
23 of -- is there some amount of variance in his, in his test
24 taking?

25 A Yes, that is not uncommon. First of all, I said

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1 earlier that it wouldn't be uncommon, but it's even more
2 common for people at the lower end of the normal curve.
3 There's several studies by Whitaker that talk about the
4 reasons for that, but it's more common to find more
5 variation for people at the lower end of the curve than for
6 people say in the middle.

7 MR. MCGUIRE: Okay. And, judge, for your benefit,
8 Exhibits 14 and 15 talk about variance---

9 THE COURT: Okay.

10 MR. MCGUIRE: ---and the author is Mr. Whitaker or
11 Whitaker rather.

12 Now, going back to Ricky's IQ and the, the intelligence
13 test that you gave him scoring a full scale 63 --

14 A Yes.

15 Q -- where does that place him in the general population
16 as a percentile?

17 A Well, it places him at the lower end of the normal
18 curve.

19 Q How low?

20 A Well, I -- let's see. I have to stop and think.

21 Okay. So, 68 percent falls between 90 and 110. So,
22 then it's like probably two percent of the bottom or 2.5
23 percent I think in the bottom.

24 Q So, with regard to the tests that measures his
25 intelligence, approximately 98 percent of the population is

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by Mr. McGuire

1 higher?

2 A Roughly. Roughly, yes.

3 Q Roughly.

4 A 97.5 to 98 percent --

5 Q Okay.

6 A -- is higher.

7 Q Okay. Now, there doesn't seem to be, again, any
8 disagreement that Ricky meets one of the prongs?

9 A Correct.

10 Q And that would be his intelligence?

11 A Correct.

12 Q With regard to adaptive behaviors, let's tell the judge
13 what you were able to find in that regard.

14 A All right. That's a much more difficult and nuisance
15 to sort of vary. I guess that's the first thing I would
16 say.

17 Q Sure.

18 A That part of my report starts on Page 18. So, I spoke
19 earlier about using standardized measure of adaptive
20 functioning, and I also identified the people to whom I gave
21 that standardized measure.

22 Q Okay.

23 A So, that -- that's what I did. I went to these
24 peoples' homes and I interviewed them with the ABAS. I
25 also -- Doctor Olley has given me additional questions to

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1 ask people about adaptive functioning. So, I used those as
2 well in the interview session, and if there are things I
3 don't understand that the person's telling me, then I ask
4 more questions. So, I have fairly thorough notes for each
5 person that I interviewed for the adaptive functioning
6 piece.

7 After I've done that interview with each one of those
8 people, and given them the ABAS, and recorded their answers,
9 then I take that -- those, those results back to my office
10 usually, and I score the ABAS and come up with the scores
11 that are converted to standard. There's a raw score and
12 then the raw score becomes converted to a standard score,
13 and then that becomes converted to what's called a composite
14 score. So, that's what I did in terms of how I went about
15 assessing the specific skills that he does or does not have.

16 I also looked through all the records that I have for
17 confirmation or disconfirmation of the kinds of findings
18 that I had on the ABAS. So, I was looking for anything that
19 would, could be brought together in this whole data set to,
20 to show convergence or just dis, disconfirm convergence.

21 Q Okay.

22 A So --.

23 Q Now, some historians or people that are reporters of
24 information, let's assume that they can't give a full ABAS
25 cause they just don't know the person that well or they

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1 don't know every aspect in their life that well.

2 Do you just give up and not interview them?

3 A No, no, I, I went -- and that would be the case for,
4 for his employers and also for Mr. Scruggs that there were
5 certain areas that a teacher wouldn't be expected to know
6 about an individual like home living, for example. She
7 wouldn't have any direct knowledge of what Ricky was like in
8 the home.

9 So, I asked Ms. Scruggs the questions that she was able
10 to answer. There were a couple of sections, I don't
11 remember now off the top of my head, that she was able to
12 guess, but they were not complete enough to, to combine into
13 a score. So, there were just certain areas that she was
14 able to give any information about and I've indicated that
15 on the chart, in one of the charts that I have here, which
16 areas the different informants were able to report. Let me
17 see which page that's on.

18 Okay. It starts on Page 24. So, his mother, his
19 father and, and the other people that I interviewed are all
20 listed here, and then if they were able to give information,
21 then they filled that out, I came up with a score, and that
22 scaled score is identified in the third column here of this
23 table on Page 24.

24 So, if you go to community use, then both Mr. Bagwell
25 and Ms. Shook, both of whom were either employers or

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1 supervisors, were unable to give sufficient information for
2 that area to be scored. Nevertheless, I used the
3 information that they provided in the areas they were able
4 to give me information. Unfortunately what happens in all
5 Atkins evaluations is that we have imperfect information,
6 and we have imperfect sorts of, of -- incomplete data, that
7 would be another way to say it.

8 So, that's another reason for obtaining multiple
9 informants because you're -- it's, it's an imperfect
10 situation. You try to get as many informants as you can so
11 that you enhance the, the probability that you'll get some
12 kind of findings and that the findings will be sensible and
13 make sense to the person who's reading the report.

14 Q Okay. So, so, let's tell the judge about the ABAS and
15 these numbers and what they mean.

16 A Okay. Back to Page 24. What I've done here on this
17 table, a scale score of ten on any one area. So, the first
18 skill area that is assessed is communication or that I
19 report on is communication, and in that -- if he had
20 obtained a score of ten, that would be an average score of
21 what we would expect of people with average sort of
22 abilities. A scaled score with one asterisk by it means
23 that that's a significantly low score, and then a scale
24 score of where I've put two asterisks means a very
25 significantly low score. So, very significantly means this

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1 below two percentile, two percent or below area.

2 So, you can go down and look for his mom, her scale --
3 the scaled score I obtained from her results was a three,
4 which is a very significantly low score and the same thing
5 for Cletus. And then for Heather, that's not a
6 significantly low score for her reporting. For Reverend
7 Rice, it was significantly low. For Ms. White, it was
8 significantly low. For Ms. Scruggs, it was average, and
9 then for Mr. Bagwell it was significantly low and for Ms.
10 Shook it was -- I mean for Mr. Bagwell it was very
11 significantly low, and then for Ms. Shook it was
12 significantly low.

13 So, that's the way you read that is who -- how did the
14 results of each person for each one of these areas come out
15 in terms of a scaled score.

16 Q Okay. And, for instance, in the skill area of
17 communication, what's the ball park number of questions you
18 would ask each of these people?

19 A Goodness, I think -- I think each area has roughly
20 between 30 to 40 questions. I think that's right.

21 Q I mean -- I guess the point I'm getting at is you don't
22 ask how well does he communicate and stuff like that?

23 A Oh, no, no, no. You ask very specific questions about
24 communication. That's correct.

25 Q Okay.

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1 A That's correct.

2 Q And you're taking all the responses and all the numbers
3 from all the questions---

4 A And you add them up and then you convert them. You
5 look in these tables. You have tables and then you look in
6 the tables for what the score is.

7 Q Okay. And with regard to community use, what was --
8 what were the findings?

9 A With regard to community use, there were one, two,
10 three, four, five people who rated him as very significantly
11 low, and there was one person, Reverend Rice, who rated him
12 as significantly low, and then for Mr. Bagwell and Ms.
13 Shook, they were unable to rate him in that area.

14 Q Okay. And if somebody told you I just really don't
15 know about that part of their life, that would be the no
16 rating information?

17 A Either that or they had so many guesses that it
18 invalidated that particular area to be scored. I might have
19 asked them the questions, but they might have guessed so
20 much that I had to write it off. In other words, I had to
21 say well, this was invalid because they didn't have enough
22 direct observation of the person to be able to say
23 conclusively this is the score I give him.

24 Q Okay.

25 A This is the rating that I give him.

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1 Q And that's in an effort to be as reliable and accurate
2 as possible?

3 A Correct, and in following the test instructions.

4 Q And that would -- not only the test instructions, but
5 that would be the best practice in the field?

6 A Yes.

7 Q With regard to functional academics --

8 A Yes.

9 Q -- what were the scorings regarding that skill area?

10 A Well, one, two, three people gave him very
11 significantly low scores, and one, two, three people gave
12 him significantly low scores, and then two people,
13 Mr. Bagwell and Ms. Shook again, gave him either no rating
14 or their ratings couldn't be used because of guessing.

15 Q Okay. And when we use the term functional academics,
16 tell the judge what we're sort of saying.

17 A What we're looking at is his ability or anyone's
18 ability to use what it is that they've learned in school in
19 sort of a practical way. How you know could -- can they go
20 to the store and give the clerk the correct change for
21 something that they purchased, can they count the money
22 back. If they gave the clerk a \$20 bill, can they count the
23 money back from the, purchasing something that cost \$17.55,
24 for example.

25 So, it's that kind of a question getting at what the,

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1 how the person's able to apply what it is that they've
2 learned in school to the world, to the real world.

3 Q Okay. And I neglected to ask you -- we all assume we
4 kind of know what communication is. So, I'm not even gonna
5 ask you about that.

6 But with regard to community use, what's -- what are we
7 talking about?

8 A Well, we're talking about -- well, let me back up and
9 say this first. In any of these areas, what, what a, a
10 rating is being premised upon is the individual's ability to
11 perform these tasks independently without help. Okay. So,
12 so, one of the questions in community use might be something
13 like does he use the library.

14 Okay. Okay. Yeah, he might go to the library or some
15 such place with say his grandchildren or with his daughter.
16 But is he -- is -- the question really gets at does he use
17 the resources in the library independently without support.
18 That's what an adaptive deficit would be is his inability to
19 do that. If he is able to do that, and he does that
20 consistently, then the rater, the informant, would be giving
21 him a score of three, that he does that all the time without
22 assistance.

23 Q Okay. And the other skill area or the next skill
24 area---

25 THE COURT: Just for my information, the, the rating

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1 level goes from ten to one?

2 THE WITNESS: No, sir, the rating goes -- so, there's
3 a -- let's say the question would be does he go, does he use
4 the library.

5 THE COURT: Uh-huh. (Affirmative).

6 THE WITNESS: So, the informant, the person who's
7 taking the ABAS, would give him a zero meaning he doesn't
8 show any ability at all. One, he -- I think the language is
9 he sometimes does that. Number two is he occasionally does
10 it. Number three is he does it all the time. So that --
11 so, the individual taking the ABAS gives it a rating.

12 Now, what happens with say the 35 questions that go
13 into community use, the examiner, in this case me---

14 THE COURT: Uh-huh. (Affirmative).

15 THE WITNESS: ---adds up all of those zero, one, two
16 three ratings and comes up with a number, and I look that
17 number up in a table, and that table converts that raw score
18 to the scaled score, and the reason that we use scaled
19 scores is because we, we psychologist, because a scaled
20 score communicates the same information. In other words, if
21 he gets a ten on communication, that means, interpretively,
22 the same thing as getting a ten on community use. So, he is
23 in an average range if he gets a ten.

24 THE COURT: What would be the highest scaled score on
25 any of these?

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1 THE WITNESS: Probably a -- I've forgotten. I would
2 have to look, but I think it's around 15, 17, something like
3 that.

4 THE COURT: Okay.

5 THE WITNESS: Nineteen.

6 THE COURT: All right. Thank you.

7 THE WITNESS: I'm not sure. I'll be glad to look it
8 up.

9 THE COURT: Well, no, I'm just trying to get a
10 framework in what I'm, what I'm looking at.

11 THE WITNESS: Yes, sir.

12 THE COURT: Go ahead.

13 Q So, when you see a, say a number three here, that's a
14 scaled score, not that they got a three on a particular
15 question --

16 A That's correct.

17 Q -- or they got all threes or an average of three?

18 A Right. And we're talking about -- we're talking about
19 a combined score here that's the combination of all the
20 questions within the communication area.

21 Q Sure.

22 And that's how we get a ten with Ms. Scruggs on
23 communication. Obviously there was no response for her to
24 say he's a ten on that as---

25 A Right.

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1 Q ---a scaled score?

2 A Right. It's a scaled score, and she, she would be
3 rating him zero, one, two, three, and then I would take all
4 of her ratings, total them up, go to my table, which
5 converts the raw score to a scaled score, and then I would
6 report the scaled score.

7 Q Okay. And ten would be average?

8 A Ten would be average.

9 Q Okay. With regard to the, the skill of home living,
10 what were the results there?

11 A Well, there he had -- let's see. One, two -- two
12 people who rated him very significantly low, and one, two
13 people who rated him significantly low. One person,
14 Reverend Rice, who rated him in basically a average to low
15 average kind of range, and then Ms. Scruggs did not rate him
16 or either she had insufficient information to allow me to
17 convert that score, and the same thing for Mr. Bagwell and
18 Ms. Shook.

19 Q Okay. And how about health and safety?

20 SOLICITOR BARNETTE: Your Honor, I apologize.
21 Could we ask for a break?

22 I know---

23 THE COURT: Oh, certainly, we'll take a break.
24 We'll take a short recess.

25 I'll caution the witness. You're in the midst of your

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1 testimony. Please do not discuss your testimony with anyone
2 during the break.

3 THE WITNESS: Yes, sir.

4 THE COURT: Thank you very much.

5 (WHEREUPON, a short recess was taken at this time.)

6 SOLICITOR BULSA: Your Honor, I believe we can start.

7 He's out checking---

8 THE COURT: Okay. I was waiting on Mr. Barnette.

9 SOLICITOR BULSA: I believe we can start.

10 THE COURT: All right. Mr. McGuire, you may proceed.

11 SOLICITOR BARNETTE: Thank you, Your Honor.

12 THE COURT: Yes, sir.

13 CONTINUED DIRECT EXAMINATION

14 BY MR. MCGUIRE:

15 Q Now, Doctor Calloway, just to clarify for the record, I
16 just want to make sure I don't miss anything.

17 when I say the skill area of communication, community
18 use, functional academics, where, where are these things
19 found?

20 where do they come from?

21 why are we using these names?

22 A Because they are the skill areas that were identified
23 by the American Association on Mental Retardation as being
24 the areas that are important for everyday functioning.

25 Q Okay. And they're measured numerically with these

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1 instruments?

2 A That is correct.

3 Q Okay. These are the skill areas that are found within
4 the definition of mental retardation?

5 A Yes, they're the skill areas that are identified as
6 being important for adaptive functioning.

7 Q Okay. And with regard to -- I think we left off at
8 home living.

9 A Okay. Yes, I think I talked about that already. I---

10 Q Yeah, I think that was the last one we covered.

11 A Yes.

12 Q We already covered it.

13 A Yes.

14 Q And then health and safety is another skill area.

15 A Yes.

16 Q And what were the reports regarding Mr. Blackwell's,
17 Ricky's skills with regard to health and safety?

18 A Well, there were one, two, three people who rated him
19 very significantly low. Two people who said significantly
20 low, and then Ms. Scruggs, Mr. Bagwell, and Ms. Shook either
21 had insufficient information or did not feel that they could
22 rate the area.

23 Q Okay. And with regard to leisure --

24 A Yes.

25 Q -- what were the findings there?

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1 A There were no findings of very significantly low.
2 There were one, two, three, four findings of significantly
3 low. One finding that is in an average range. Nine, ten
4 eleven would be average. Ten is the exact average. It's
5 called mean. And then Ms. Scruggs, Mr. Bagwell, and Ms.
6 Shook I have listed as no rating and I think I've already
7 explained that.

8 Q Sure.

9 And with regard to the next skill area, self-care?

10 A Yes, there, there were -- there was one person who
11 identified him as in a very significantly low area. There
12 were one, two, three people who identified him as
13 significantly low, and one person, Heather, who said he was
14 in an average range, and Ms. Scruggs felt that he was in an
15 above average range. So, 12, 13 would be above average.

16 Q Okay. And what about self-direction?

17 A Self-direction, he had -- he was given ratings that
18 fell within a very significantly low area for one person,
19 and then one, two, three, four people rated him in a
20 significantly low area, and then, again, Ms. Scruggs and
21 Mr. Bagwell -- oh, I apologize. I said that incorrectly.

22 Let me go back. One, two people rated him in a very
23 significantly low area, and then one, two, three, four
24 people rated him in a significantly low area, and two
25 people -- there were no ratings for Mr. Bagwell and Ms.

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1 Shook.

2 Q And---

3 A I'm sorry. Ms. Scruggs and Mr. Bagwell. I can't --
4 it's hard to see it across this table.

5 Q Right. I think, I think Ms. Shook was a---

6 A Ms. Shook was a two.

7 Q Right.

8 A Yes.

9 Q And with regard to the next skill set level, social
10 functioning, what were the results?

11 A The results there were that one person rated him in a
12 significantly low area and -- no, two. Oh, gosh, I keep
13 getting the word mixed up. I'm sorry. It's one person
14 there.

15 So, then one, two, three people rated him in a
16 significantly low area. Heather rated him in an average
17 area, and then for Louise, Mr. Bagwell, and Ms. Shook, there
18 was no rating I've reported.

19 Q Okay. And with regard to work skills, what were the
20 results there?

21 A Yeah, let me say one thing about the work area. When
22 you, when you do the -- when an examiner takes the raw
23 scores and converts those to scaled scores, there's an
24 option to convert to the, when you do the final composite
25 area, remember there's social and conceptional and

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1 practical, you have the option of including work or not
2 depending on how many ratings you have for that. So, I just
3 wanted to say that. That comes in later.

4 But for the work area, Mildred, Cletus, Heather, Jean
5 White, and Louis Scruggs provided no ratings and Reverend
6 Rice provided a significantly low rating as did Mr. Bagwell
7 and Ms. Shook provided a rating that fell within normal
8 limits.

9 Q Okay. And then I think you go into some more detail
10 with regard to these findings.

11 If you could, tell the judge now, not just in terms of
12 these numbers, but what you actually found in, in these
13 skill areas.

14 A Okay. What I did next in my report, on Page 26, is I
15 took the definition of each of these areas from -- that
16 come -- comes from the AAMR, the American Association on
17 Mental Retardation. It comes from their last manual.
18 These -- the definitions for each one of these skill areas.

19 So, I took the definitions so it would alert the reader
20 to what it is that's being called communication. So, here's
21 a definition for what communication is, and then what I did,
22 for each one of these skill areas, I'm gonna use
23 communication because it's illustrated of what I did in
24 every area --

25 Q Sure.

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1 A -- so what I did then is I said, for the areas of
2 communication, six of the eight raters provided scores that
3 were in a significantly low to very significantly low area
4 of adaptive functioning, and then that indicates, according
5 to these raters, an adaptive deficit for him in the area of
6 communication.

7 I then took, from either comments that were made to me
8 on this ABAS interviewing or comments that were made in the
9 additional interviewing that I did with these individual
10 raters, I took their comments that would be with -- that
11 would give the reader an illustration of what they were
12 talking about or thinking about when they described him in
13 these deficient ways. So, that's what's listed next is some
14 direct quotes. When I put things in quotes, that came from
15 that person and that's what they said about him.

16 So, Reverend Rice was actually someone who knew a good
17 deal about, about Ricky's communication because he, he
18 worked with him as a pastor. He also worked with him as a
19 counselor. He was a counselor actually for Angie and Ricky,
20 and I -- Reverend Rice had a school for a while that Ricky's
21 children went to. And, so, he had a, a good bit of
22 information about communication.

23 So, I chose him as a person who had a great many
24 comments to make about Ricky and gave those kind of comments
25 as, as illustrations of how it is that Ricky is -- has a

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1 deficit in that area when we are thinking about him relative
2 to other people.

3 Q And, and my understanding is that the Reverend Rice's
4 relationship with Ricky is also sort of like his pastor, his
5 religious mentor?

6 A Yeah, he's -- he, to my understanding, still has a
7 relationship with him, has taken him one or two Bibles into
8 the jail, to the detention center, and maintained some kind
9 of relationship with him, yes.

10 Q Did he---

11 A So, he's had a variety -- when I was saying that he was
12 his counselor, he was his, you know, his pastor, he had --
13 he had the children in their school, I was trying to give
14 the range here of roles that Reverend Rice had with, with
15 Ricky.

16 Q Okay. So, he was a good reporter?

17 A He was. He was a good reporter. He had a lot of
18 information.

19 Q What kind of -- did -- what kind of Bible did Reverend
20 Rice give Ricky?

21 A Well, he first took him one that Ricky wasn't able to
22 read, and then he took him one that was geared down a bit to
23 a level that you could call maybe an advanced child's
24 version of a, of a Bible.

25 Q Was it called sort of like a -- did he refer to it as

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1 an easy reader Bible?

2 A An easy reader, that's right.

3 Q And what was your ultimate finding with regard to the
4 skill set regarding communication?

5 A The, the conclusion from the -- all the results and
6 that means the ABAS, that means the various records that
7 were reviewed, that means the -- all of the, all of the
8 dataset for this entire assessment came -- indicated a
9 finding of a significant deficit in the area of
10 communication.

11 Q Okay. And I think you go on in your report to give
12 some specific information with regard to self-care.

13 A Yes.

14 Q If you could tell the judge about that.

15 A I talked about how various raters rated him, and then I
16 gave, again, specific examples of what various people said
17 about him. In general, people saw him as being fairly neat
18 and clean, and that, you know, particularly Ms. Scruggs. I
19 think she gave some fairly good descriptions of him when he
20 came to school, and that he did not ever seem to be unkempt.
21 For example, when I saw him he did not smell like some
22 people who are detained in correctional centers do. He
23 looked, you know, for, for a detention center, he looked
24 clean and healthy and -- well, not healthy perhaps, but
25 clean. And certainly he was not unkempt in the way that

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1 some, some individuals are---

2 Q Okay.

3 A ---in correction centers.

4 Q And ultimately your finding in this area was?

5 A That it doesn't appear that he has a deficit in that
6 area.

7 Q Okay. The next skill set would be home living, and you
8 went into some specific information there. If you would
9 tell the judge about that.

10 A Yes. Oh, well, again, once again, about the ABAS
11 findings, but I think here is where I had a great deal of
12 information from I'll call it corroborating sources in terms
13 of the records that I had with regard to how it was that
14 Mr. Blackwell was quite dependent upon his wife, for
15 example, to take care of daily living in terms of cooking,
16 in terms of budgeting, in terms of, of paying the bills, in
17 terms of writing checks, all of these sorts of ways. He
18 didn't wash or dry his own clothes. He didn't cook for
19 himself. He didn't budget money. He did not routinely shop
20 on his own without assistance from, for clothes or
21 groceries.

22 And after his wife left him, more importantly, he was
23 not able to maintain these tasks of daily living that his
24 wife had been doing for him, and ultimately his mother moved
25 in for a little while with him in the trailer where he and

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1 his wife had lived, and she began cooking for him and then,
2 ultimately what happened, was he moved back into the
3 parent's household because he was -- he did not cook, did
4 not clean his own clothes, did not shop for himself, and
5 these tasks were provided to him by his parents.

6 Q So, his wife leaves him, his mom moves in, and then he
7 moves in with mom and dad?

8 A Correct. And before that, his -- the place where he
9 and his wife were living, the trailer that they had, went
10 into arrears and because he didn't know about how to pay for
11 the monthly mortgage payment, and his father was the one who
12 ultimately provided the money to take that -- get that
13 trailer out of or that mobile home out of arrears.

14 Q Okay. So, when his wife left him, he was -- he
15 basically lost his trailer and his dad bought it from the
16 owner?

17 A Well, he, he wouldn't -- yeah, I would say he lost his
18 trailer, but I would also say that, even before that, he
19 exhibited an inability to, to -- he was not able to exhibit
20 daily living skills that would enable him to keep the
21 trailer or to provide for himself as far as cooking,
22 cleaning, budgeting. Cleaning, I mean cleaning the trailer.
23 I mean cleaning, you know, his clothes. That's what I mean.
24 Across the board, he was not taking care of himself
25 independently.

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1 Q Okay. And I think I may of already asked you earlier
2 that regarding the checking account that Angie and Ricky
3 had, Angie paid all the bills and wrote all the checks?

4 A Yes, I said that, yes.

5 Q You couldn't find one check that Ricky wrote?

6 A Correct. So, my -- so, the conclusion---

7 Q And you were---

8 A ---of all of that---

9 Q Yeah, that's what I was gonna ask you before we go into
10 the next section.

11 Your ultimate conclusion with regard to that skill set
12 was what?

13 A Well, the data, you know, reading the data, the
14 conclusion is that he exhibits a significant deficit in
15 this, this area of home living.

16 Q Yes, it's not so much your personal judgment. It's
17 really just what the data shows.

18 A Correct.

19 Q And you're merely reporting that?

20 A That's correct. I mean I'm, I'm going about conducting
21 an Atkins evaluation in a particular kind of way that could
22 be replicated by another forensic examiner and the
23 conclusions should be the same because it's the data that
24 leads one to the conclusion. It's not my personal opinion.
25 That's correct.

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1 Q Okay. And the next skill set is community use, and you
2 go into a little bit more detail.

3 If you could tell the judge a little bit more about
4 that.

5 A No, the next skill set---

6 Q Oh, I'm sorry.

7 A ---is social.

8 THE COURT: It is. It's social.

9 MR. MCGUIRE: You're right.

10 THE COURT: You may proceed.

11 THE WITNESS: Okay.

12 MR. MCGUIRE: Thanks for following along, judge.

13 THE COURT: Oh, I'm following along. You may proceed.

14 MR. MCGUIRE: Thank you, Your Honor.

15 Q So, with regard to the, the more detailed information
16 with regard to social, if you could tell the judge a little
17 bit about that.

18 A Okay. Same as before. There's a definition here from
19 the AAMR manual of what social skills are, and then there's
20 the information provided from the ABAS given to multiple
21 informants, and then there are the collateral or collateral
22 sources or informants who rated the ABAS, description of
23 what he was like, what Mr. Blackwell was like or is like
24 with regard to social interactions. So, there's some
25 examples here to, to illustrate what this area is like.

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1 Q And tell me what his life was like after Angie left.

2 A Well, again, he really only related to his mom and his
3 dad and his daughter. He did spend some -- if, if his
4 mother wasn't cooking for him then his daughter was. And,
5 so, most of his or I would say probably the great majority
6 of his time was being spent with his parents or with his
7 daughter. And, so -- and then there were people like
8 Angie's father with whom he was spending some time every day
9 and I believe it was Angie's brother that he was spending
10 time with every day. So, that was his circle of people and
11 those, those are the activities that he engaged in each day
12 was visit with these different people or having a meal with
13 these different people.

14 Q So, he lived with mom and dad. He'd go and visit Jerry
15 Wayne, Angie's dad. Sometimes he'd go to the junk yard and
16 hang out with Angie's brother-in-law and then hang out with
17 Heather and her family?

18 A Yes, that's correct.

19 Q This -- was his world kind of small?

20 A Well, I was gonna use the word constricted. He had a
21 very restricted, I guess it would be, sort of world that he
22 lived in. Routine would be another -- would be a better
23 word because the routines for him day in and day out were
24 the same. So, he was a very routinized person, which is one
25 thing that, you know, that, that sticking to a routine is,

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1 is quite -- is characteristic of people with intellectual
2 limitations that fall into an intellectually disabled range,
3 for example. The more that the routines can be the same,
4 then the easier it is because there are fewer tasks to be
5 accomplished.

6 So, in the correctional center, for example, his days,
7 you know, are, are, are dictated by other people, and he, he
8 follows a routine and I'm sure he does well with that
9 because he learned that routine within, I'm sure, a period
10 of time, it being reinforced day in and day out that it's
11 the same routine.

12 Q Socially, how did Ricky react to Angie leaving him?
13 Did he ever get over that?

14 A He -- Reverend Rice is probably the best informant for
15 this, and he described him as -- I think this was a really
16 good example of, of how, how Ricky had difficulty adapting
17 and learning from these -- from the, the divorce or the
18 separation. So, no, he had great difficulty letting go. He
19 kept repeating the same thing to Reverend Rice each and
20 everytime I believe is the way that Reverend Rice described
21 it. Each and everytime that Ricky would come in, he would
22 say the same thing, and each and everytime that Reverend
23 Rice would talk to him, it was the same message every day,
24 the same message, and Reverend Rice was trying to support
25 him to, to help him realize that he was giving all, whatever

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1 money he had from working, to Angie and that that wasn't
2 ultimately gonna help him at all. Even if he -- Angie
3 wanted to come back to him, that wasn't going to, to cause
4 her to want to come back to him.

5 So, he had great difficulty in understanding what
6 Reverend Rice said, and he never quite seemed to grasp that.
7 He kept doing the same sort of repetitive maladaptive
8 pattern again and again.

9 Q What about, what about going back to when he was
10 younger in high school and his judgment with his, his peers,
11 his social peers?

12 A Well, I think that both Jean, the neighbor and friend,
13 she talked about that. Her -- the -- where she talked about
14 that is on Page 30. I've got a paragraph there at the end
15 just before the highlighted or bolded area where she says he
16 would give his toys away and things away just to have a
17 friend, and Heather also talked about the fact that he
18 didn't have a lot of friends. Mostly his friend, Dale, or
19 another close friend, his cousin, not a big group of people
20 he went out with, and then Ms. Scruggs commented that he
21 would have been fine if he had a friend or if he didn't. He
22 just didn't seem to put forth more, more -- much in the way
23 of interacting with people to cause a friendship to be
24 developed, and Mr. Bagwell essentially said the same thing,
25 that he got along well with other people, but he wasn't

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1 doing anything to sort of create a, a sense of, of
2 companionship or friendship.

3 Back to the paragraph before that, Cletus and Mildred
4 talked a good deal about his relationships with his friends
5 and how he -- it was easy for people to take advantage of
6 him, and they both said he went along because he was
7 intimidated and afraid of other people, and that he would
8 just sort of give in to whatever they wanted. They gave an
9 example of a car that some of his friends took from him one
10 time, and Cletus had to involve the law enforcement, I
11 believe, to ultimately locate that car because Ricky didn't
12 know what happened. They -- friends had tossed him out, at
13 one point, of the car and he didn't have any idea where the
14 car ended up.

15 Q What's your ultimate conclusion regarding that skill
16 set?

17 A Well, I said that he -- it appears that he does have a
18 deficit in this area. However, it also appears as a
19 relative strength for him though not when you compare him to
20 the general population. If you look at just Ricky in terms
21 of social kind of veneer I guess you could say, he's polite,
22 he's deferential, he gets along with other people on the
23 job. His employer -- one of his employers, I think it was
24 Ms. Shook, said she would give anything to have another
25 employee just like him. She enjoyed having him work for

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1 her. He never questioned her, her directions. He would
2 always do what he was asked to do. She could ask him to do
3 the most menial of tasks and he was happy to do that.

4 So, she and other employers enjoyed having him as an
5 employee. He was described as a good employee. So, I
6 think, you know, if you look at it that way, clearly it
7 was -- the social area was an area of strength for him in
8 terms of his relative strengths and limitations, but not
9 when you compare him to the general populous.

10 Q Okay. He had a nice temperament?

11 A Yes, that would be a good way to say it --

12 Q Okay.

13 A -- and a pleasant demeanor.

14 Q And now I think we're finally to community use.

15 A Yes.

16 Q All right. If you could, tell us -- the judge a little
17 bit more specifically about what you found there.

18 A Okay. So, again, the same thing again, define the area
19 and then tell the results from the ABAS, and then give some
20 examples that came from records and from other -- from the
21 collateral sources themselves to describe it, and then the
22 conclusion there is that he exhibited a significant deficit
23 in that area.

24 Q And with regard to health and safety?

25 A Yes, I think -- oh, wait, didn't you skip something?

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1 Q I probably did. Let me see.

2 A Number 6.

3 Q Oh, self-direction?

4 A Uh-huh. (Affirmative).

5 Q Can you tell the judge a little bit more about your
6 specific findings with self-direction?

7 A So, in self-direction, again, it's the same thing as
8 before that I'm defining it and then I'm giving the results
9 from the ABAS and then I'm giving comments either from
10 records or from the different collateral sources report. I
11 talked here in the middle a little bit about the -- to
12 get -- to cut to the chase, the, the conclusion was that he
13 does have a significant deficit in this area of
14 self-direction. But I talked a little bit here about what I
15 think I mentioned earlier.

16 On Page 32, the second full paragraph there, I talked
17 about how, because of his, his politeness and his
18 compliance, he was given opportunities to learn these kinds
19 of skills in this self-direction area, and also because he's
20 older and has had more work experiences relative to some
21 people assessed in Atkins evaluations, he had more -- he's
22 acquired more skills in that area.

23 So, I'm -- as a matter of learning, because of the age
24 and because of being given these experiences and
25 opportunities because of his temperament, his compliance,

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1 then he has more, more kind of -- has a greater -- he's
2 acquired more in this area than, than some other people that
3 I've evaluated, for example.

4 Q And what was your ultimate conclusion there again?

5 A Sorry. It was that he exhibits a significant deficit
6 in that area.

7 Q And I think now we're on health and safety?

8 A Yes.

9 Q If you could, tell the judge a little bit more
10 specifically about what you found there.

11 A Okay. So, again, the definition, and, again, how
12 many -- what the people rated him on the ABAS, and then the
13 description of him from various people, and it -- I said
14 here that it doesn't look like this area gives any support
15 for him having a deficit---

16 Q Okay.

17 A ---in the health and safety area.

18 Q Okay. So, he's got some strengths?

19 A Yes, he does.

20 Q And with regard to functional academics?

21 A Yes, again, same process, definition, reporting of the
22 test results, and then reporting of the various comments
23 from different people, and then he -- the conclusion from
24 all that data then is that he does exhibit a significant
25 deficit in that area.

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1 Q Okay. And tell me a little bit about Mr. Bagwell. He
2 was one of the employers that employed Ricky to drive a
3 truck.

4 A Yes.

5 Q Tell me about his comments with regard to Ricky and
6 being able to drive a truck.

7 A Well, let me see. That's on Page 34, and you had asked
8 me earlier about the -- how he -- how -- about the logs and
9 so forth and so Mildred and Cletus reported on that. But
10 Mr. Bagwell said if you could drive at all you could drive
11 those trucks, and this is down at the latter part of that
12 paragraph. He said later you don't need a Ph.D. or college
13 degree to drive a truck, and he thought that he didn't drive
14 tanker trucks, which required a greater amount of paperwork
15 to be completed by the driver.

16 Q And what did Mr. Bagwell say about if you could just
17 drive at all, you could drive a truck?

18 A Yeah, this is what I just read. If you could drive at
19 all you could drive those trucks.

20 Q Got you.

21 With regard -- we've already talked about the, the
22 checks.

23 I mean did you get information at all that Ricky could
24 handle finances or pay bills or negotiate the bank?

25 A No, they're -- in fact, here, let's see, one, two,

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1 third paragraph, several collateral sources that include
2 Mildred, Cletus, Heather, and Reverend Rice reported that
3 Ricky did not handle money in the way of checks. He
4 routinely turned his paycheck over to Angie who deposited
5 these and who paid bills. He did not write checks, and
6 according to his own report, he was fearful of "messing up
7 if he did so" cause I asked him that. That's where that,
8 that came from. I asked him that in an interview, and he
9 was -- said "oh, no, I wouldn't do that." I said "why not?"
10 He said "I'd probably mess it up."

11 And then he didn't use -- then I go on to say here he
12 didn't use credit or debit cards. He didn't use weekly or
13 routine budgets, and he did not purchase large items like
14 his home without support or help from others.

15 Q Okay.

16 A So, the critical variable, again, with adaptive
17 functioning, this is doing -- engaging in these life skills
18 in, in an independent way without support.

19 Q And what was your ultimate conclusion with his ability
20 to do that?

21 A That he exhibits a significant deficit in functional
22 academics.

23 Q Yeah, I know you talked a little bit about schooling in
24 that, but I think we've covered that sufficiently. So, I
25 skipped over that.

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1 But your ultimate conclusion was he did have a
2 significant deficit there?

3 A Yes.

4 Q And I think that takes us to the skill set of leisure.
5 I think we can kind of just skip over that cause you didn't
6 find a significant deficit there.

7 A Right.

8 Q I mean he's kind of just a good old boy that kind of --
9 I mean he didn't -- he doesn't have a very extensive leisure
10 schedule, but he didn't have a deficit there?

11 A Right, that's what I -- that's what the data suggested,
12 yes.

13 Q Okay. well -- and tell the judge a little bit more
14 about work. I mean that's sort of a, a concern in this case
15 since he was able to drive a truck---

16 A Okay.

17 Q ---and a forklift.

18 A well, I start off saying, with regard to the raters,
19 this is on Page 36, I start off saying that there were three
20 raters with sufficient knowledge of his work habits and
21 skills to provide information on the ABAS. Reverend Rice
22 and Mr. Bagwell provided ratings of significantly impaired
23 functioning while Ms. Shook provided a rating of average
24 functioning for -- so -- and then Cletus and Mildred talked
25 about him requiring help from other people to get to and

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1 from work, to get vehicles for use in his work, to obtain
2 jobs. We know that he obtained jobs with Cletus' help, with
3 Angie's help.

4 They -- but still, even though Cletus and Mildred
5 provided these kind of specific pieces of information, they
6 were not able to rate the work area. They just didn't have
7 enough information about his specific work habits and work
8 skills on-the-job to be able to do that.

9 Q Okay.

10 A So then I talked about Reverend Rice and he also, like
11 other people, reported that, that Ricky turned his pay check
12 over to Angie, and that Angie managed the money, and he went
13 on to talk about his health and also described him as a
14 person with -- with not great ambition or not a person with
15 great ambitions.

16 I also mentioned, as I did earlier, about Ms. Shook
17 saying that he was the kind of employee she'd like to have
18 more of, that he was very dependable, and then she talked
19 about his driving a forklift, and what he did in terms of
20 driving a forklift was he would be told take, you know, this
21 bolt of fabric from this shelf and move it over here to this
22 shelf or this particular place. So, that's where -- what he
23 did there.

24 And, so, what I concluded there was that it's unclear
25 whether he had a significant deficit, the kind -- and I went

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1 on to say the kind of tasks he performed, this is on Page
2 37, were repetitive in nature that required limited training
3 and they were generally supervised by others. He didn't
4 obtain supervisory positions nor did he move beyond a
5 limited set of skills in this area despite many years of
6 working. Nevertheless, work represents an area of relative
7 success for him when compared to other areas of adaptive
8 functioning, and, therefore, the conclusion is that the area
9 of work doesn't represent an area of significant deficit for
10 him.

11 Q Okay. And we're kind of bringing it home here with
12 regard to after all of the ABAS instruments were given to
13 all these people, plus the other comments they made in
14 addition to you.

15 what were your ultimate conclusions with regard to
16 Ricky and adaptive deficits?

17 Does he meet the definition of M.R.?

18 A Yes.

19 Q And why?

20 A Because I go on to talk about that in the summary and
21 conclusions part here, which is on Page 37. So, I, again,
22 bring up the elements, the prongs for determination of a
23 diagnosis of an intellectual disability. So, there's
24 evidence for the subaverage intellectual ability. He had
25 the 63 from the IQ test which I gave him, and then the

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1 second prong is the deficits in adaptive functioning.

2 He exhibited unequivocal sort of deficits in
3 communication, home living, social, community use,
4 self-direction, and functional academics. He exhibited
5 deficits on the ABAS measure in all four domain areas. So,
6 that goes to the composite scores that I've mentioned
7 several times, conception, social, practical, and then
8 general, general adaptive composite. So, he exhibited
9 deficits on the ABAS in all four of those areas when you
10 combine those ten areas.

11 And then the third prong is that the age of onset is
12 before the age of 18. So, I looked at all of the data that
13 we had from school, from the comments of various people
14 about him, from the ABAS findings, and it appeared that he
15 does exhibit these deficits and subaverage functioning prior
16 to the age of 18.

17 Q Why can't we just look at his truck driving and say
18 he's not retarded?

19 THE COURT: Mr. McGuire, we're gonna stop at that
20 point.

21 MR. MCGUIRE: Sure.

22 THE COURT: We'll begin again in the morning.

23 MR. MCGUIRE: Yes, sir.

24 THE COURT: I'll caution the witness not to discuss
25 your testimony during the break.

1 we'll resume again at nine o'clock in the morning.
2 Court's in recess until that time.
3 Thank you very much.

4 MR. MCGUIRE: Thank you, Your Honor.

5
6 (WHEREUPON, Court was in recess for the evening.)

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1 Thursday, February 20th, 2014

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3 (WHEREUPON, a CV of Doctor Brown and the report of
4 Doctor Brown were marked as Court's Exhibit Nos. 3 and 4 for
5 identification purposes only at this time.)

6 THE COURT: Ms. Calloway, you may resume the stand.

7 SOLICITOR BARNETTE: Your Honor, can I put something on
8 the record before we get started on that?

9 THE COURT: Just one second.

10 SOLICITOR BARNETTE: Thank you, Your Honor.

11 (Pause.)

12 THE COURT: Yes, Mr. Barnette, we can go ahead and do
13 that.

14 SOLICITOR BARNETTE: Okay. Thank you, Your Honor.

15 In reviewing the notebooks that they handed up to the
16 Court, Doctor Calloway and everything --

17 THE COURT: Yes, sir.

18 SOLICITOR BARNETTE: -- I have objection to certain
19 parts of especially the articles, and the reason why
20 obviously, under Rule 705, she can testify, you know, bring
21 in hearsay reports and everything.

22 THE COURT: He's not attempted to introduce those
23 things into evidence.

24 SOLICITOR BARNETTE: I understand, but I know, in this
25 situation, I know you're the trier of fact. I know they

1 handed the notebook up. I don't know if you've reviewed
2 them or not.

3 THE COURT: Not since last night, no, I haven't read
4 all those articles that are in there, no, sir.

5 SOLICITOR BARNETTE: Yeah, the---

6 THE COURT: I have reviewed the report that was put in
7 the record. I took that with me last night.

8 SOLICITOR BARNETTE: Yes, sir, and I, I think the
9 articles themselves are inadmissible hearsay for the trier
10 of fact either if it's the Court or the jury.

11 THE COURT: All right.

12 SOLICITOR BARNETTE: And I think it would be improper
13 to expose you to -- obviously she can talk about it. She
14 can use that. But I don't think she can introduce those
15 articles or they can't to the trier of fact.

16 THE COURT: Well, anything that's not in evidence, as
17 the trier of fact, I will not consider it.

18 SOLICITOR BARNETTE: Okay. Thank you, Your Honor.
19 That's the point I wanted to make from that standpoint.

20 THE COURT: All right. Come forward, ma'am.

21 (WHEREUPON, the witness returns to the stand.)

22 THE COURT: I will explain to you, about 9:30 I'm gonna
23 get interrupted. I have first appearances across the hall.
24 They're gonna come get me. I'll be gone for about 15 or 20
25 minutes and then we'll start back up. We'll have to take a

1 break.

2 As we go along, I talked with the court reporter this
3 morning, you've been referring to items in the notebook as
4 exhibits. If you'd refer to them as tabs. The exhibits are
5 what's been introduced into evidence and through the court
6 reporter.

7 MR. MCGUIRE: Yes, sir.

8 THE COURT: It's confusing on the transcript if you
9 talk about Exhibit 1 in the notebook and then Exhibit 1 in
10 the trial is a different document.

11 Do you follow what I'm saying?

12 MR. MCGUIRE: I do.

13 THE COURT: So, as we refer to whatever's in the
14 notebook, if you would refer to them by tabs in the
15 notebook.

16 MR. MCGUIRE: Absolutely.

17 THE COURT: Cause tabs -- the notebooks have not been
18 put into evidence.

19 MR. MCGUIRE: Not yet.

20 THE COURT: Okay. All right. Now, you may proceed
21 with your examination.

22 MR. MCGUIRE: Thank you, Your Honor.

23 THE COURT: Yes, sir.

24 DOCTOR GINGER CALLOWAY, having been
25 previously sworn, testified as follows:

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1 CONTINUED DIRECT EXAMINATION

2 BY MR. MCGUIRE:

3 Q Doctor Calloway, I neglected to ask you a little bit
4 about the genesis of an intellectual disability cause we
5 were talking about the family's IQ scores, Ricky's father,
6 Cletus, Ricky's, Ricky's brother, Ricky's daughter, and all
7 of his grandchildren, and all of those IQ scores fell within
8 the mildly M.R. range, and my question to you is can mental
9 retardation have a familial hereditary component?

10 A Yes, there can.

11 MR. MCGUIRE: You all right?

12 A Yes, there can, there can be.

13 Q Okay. And I asked you to bring with you the materials
14 that you've actually relied upon that you went out and
15 inspected in coming up with your conclusions.

16 Are those the documents there?

17 A Yes.

18 Q And those are documents that you relied on in forming
19 your opinion with regard to Ricky?

20 A Yes.

21 MR. MCGUIRE: Judge, I want to move those into
22 evidence.

23 THE COURT: Objections?

24 SOLICITOR BARNETTE: Your Honor, which notebook is it?

25 MR. MCGUIRE: You've got -- judge, we've previously

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1 given all of these documents to the prosecutor when we
2 turned over what was, in essence, the Atkins investigation.
3 They've got -- they came like this.

4 SOLICITOR BARNETTE: Okay. And these were not the
5 notebooks that we were given yesterday?

6 MR. MCGUIRE: No.

7 SOLICITOR BARNETTE: That's what I thought not.

8 Your Honor, can we have a continuance to check with
9 these items over ahead of time to make sure they're the same
10 items that we received?

11 THE COURT: Certainly.

12 SOLICITOR BARNETTE: Yes, sir, I apologize.

13 THE COURT: That's quite all right. Take your time.

14 (Pause.)

15 SOLICITOR BARNETTE: Your Honor, the objection's gonna
16 be the same under Rule 507 -- Rule 705, she can refer to
17 these things. These are inadmissible hearsay. However, she
18 can use those as the basis of her opinion. We object and
19 ask the Court to keep these out of evidence because I
20 think -- obviously she can talk about it, she can refer to
21 it, but I think it's outside the rules cause they're
22 introducing hearsay that was brought in by other people.

23 Obviously she can testify about her opinions. She can
24 refer to them from what she's testifying to, but to enter
25 these records themselves I think would be, under our rules,

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1 would not be allowed.

2 THE COURT: I'll hear from the defense.

3 MR. MCGUIRE: Your Honor, we move that they be
4 introduced in evidence as documents that are normally relied
5 on in the course of an expert in this field in forming an
6 opinion.

7 THE COURT: Well, that's not what she testified to thus
8 far. She testified that these were the documents that she
9 used. She did not testify to the fact that these are
10 documents that are normally used by people within her field
11 with which to formulate opinions.

12 MR. MCGUIRE: You're correct, judge, and I was remiss
13 in phrasing my question.

14 So, Doctor Calloway, the records that, that are at
15 issue here that you've inspected, the two volumes of
16 records, would those -- tell the judge a little bit about
17 the records and what are they.

18 A They are records that I've accumulated from people that
19 I have consulted with, used as mentors, and---

20 Q Oh, no, no. Not the, not the articles and the
21 literature and that sort of thing. The actual documents,
22 school records, and that sort of thing.

23 A Oh, the school records, oh, yes. Those were the
24 records that were provided or found by the investigator and
25 provided to me and that I reviewed and they're listed in my

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by Mr. McGuire

1 report that I relied upon.

2 Q Okay. And that is a pretty comprehensive list. It
3 includes school records, Social Security records, interview
4 summaries.

5 Are all these documents that you listed that you
6 reviewed, are those documents the type of documents that are
7 normally reviewed and relied upon by experts in your field
8 in reaching an opinion or conclusion regarding somebody
9 having mild M.R. or I.D.?

10 A In an Atkins evaluation, yes.

11 MR. MCGUIRE: Okay. At this time we move them in,
12 judge.

13 THE COURT: All right. Now Mr. Barnette.

14 SOLICITOR BARNETTE: Yes, sir, we'd state the same
15 objection. I think, under Rule 705, she can refer to them.
16 She can say they're the basis of her opinion, but to
17 introduce the records themselves as evidence in this case, I
18 think it's inadmissible hearsay, and would like to put that
19 objection on the record, Your Honor.

20 THE COURT: I'm looking at 703. Not 705. 703 says
21 that the facts or data in a particular case upon which an
22 expert bases an opinion or inference may be those perceived
23 by or made known to the expert at or before the hearing if
24 of a type reasonably relied upon by experts in that -- in
25 her particular field in forming opinions or inferences upon

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1 the subject, the facts, or data need not be admissible in
2 evidence.

3 MR. MCGUIRE: That's true. It doesn't have to be a
4 fact that's entered into evidence, but it doesn't bar it as
5 well.

6 THE COURT: I understand that.

7 Generally, Mr. Barnette, experts have the right to rely
8 on hearsay in formulating their opinions. What she's
9 attempting to do is to put into evidence apparently the
10 documents upon which she has relied in making -- in offering
11 that opinion. They're being offered, I take it, for that
12 purpose and that purpose alone.

13 MR. MCGUIRE: That's correct.

14 THE COURT: Not necessarily for the truth of the
15 matters asserted therein.

16 MR. MCGUIRE: That's correct.

17 THE COURT: Am I stating your position correctly?

18 MR. MCGUIRE: Very accurately. It's an indication of
19 how reliable this Atkins evaluation is.

20 THE COURT: So --.

21 SOLICITOR BARNETTE: Your Honor.

22 THE COURT: -- the Court would take them in that
23 fashion, that these are the documents that she used.
24 However, I wouldn't take them necessarily to state the truth
25 within them. In other words, she's just stating this is

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1 the, this is the article that I relied upon or this is the
2 methodology that I used.

3 SOLICITOR BARNETTE: Yes, sir, and I agree, she can
4 testify to that, but to enter these records in, she can
5 testify to them, but they're -- I mean they've got all kinds
6 of things they want to enter.

7 THE COURT: Well, I don't know what's all in that book
8 that you have there because that was produced to you.

9 SOLICITOR BARNETTE: Yes, sir, I know.

10 THE COURT: So, if there's something in there that you
11 feel that she did not rely upon or something that you feel
12 that, that is not a document that's normally used by experts
13 within the field, the question is admissibility, not
14 necessarily truthfulness of them or whether the Court
15 accepts them as true.

16 SOLICITOR BARNETTE: I think -- the reason why I did --
17 I know I've had cases with experts before and I've tried to
18 introduce things through them and so forth. It's got to be
19 very careful. Courts have been very careful about
20 introducing the information because a lot of hearsay stuff
21 can get in through there that obviously she can say she
22 relies on her opinion. She can testify to her opinion. I
23 don't have any problem with that.

24 But when you start adding all this, for example,
25 they've got---

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1 THE COURT: Well, this is for purposes of this hearing.
2 Not any other hearing. Now, again, I don't know what's in
3 there. If you want to take the time to go through it and,
4 and tell me that there's something that they've thrown in
5 there that's obviously not something that an expert would of
6 used or is not reflected in her opinion in any fashion, I'll
7 be glad to listen to you. It's a massive volume --

8 SOLICITOR BARNETTE: It is.

9 THE COURT: -- and I'm not asking you to accept it on
10 its face.

11 SOLICITOR BARNETTE: And I'm not saying we didn't
12 receive any of these records. Obviously I did a cursory
13 review of it. Looks like we've received the majority of
14 what I could see from here.

15 But, for example, correspondents from Clay Allen
16 accepting a plea available -- admission of guilt from Ricky
17 Blackwell. I mean I don't know where that has any relevance
18 in that and things like that.

19 What I'm saying is they're wanting to introduce
20 everything in here and is she gonna testify she relied on
21 everything from this?

22 I mean I think she's got to have---

23 THE COURT: You have the right to cross-examine her on
24 it certainly, and I'll give you that right in just a few
25 minutes.

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1 SOLICITOR BARNETTE: But I, I still think that to allow
2 this in, I think it would be improper from this standpoint
3 that it allows in all, all this information and she can
4 testify to it, rely to it, and---

5 THE COURT: Mr. Barnette, I can't just exclude evidence
6 because it's large. Okay. I've got to have some specific
7 objection that you're objecting to something in there
8 specifically I -- as, as it being offered as articles and
9 information upon which she based her opinion, I would
10 generally rule that's admissible for that purpose and that
11 purpose alone. It doesn't prove anything else other than
12 that's what she relied upon. But, again, I don't know
13 what's in there and I'm not telling you to accept it.

14 SOLICITOR BARNETTE: Well, I understand.

15 THE COURT: But I can't exclude it simply because it's
16 a big book, it's a large volume.

17 SOLICITOR BARNETTE: No, sir, and well, what I mean is
18 obviously, obviously it's all hearsay, and I realize certain
19 hearsay there's exceptions to it, and obviously experts can
20 rely on that.

21 THE COURT: Experts have the right to use hearsay in
22 formulating their opinions.

23 SOLICITOR BARNETTE: But I think this is outside the
24 scope because they're trying to introduce all kinds of
25 things and there's school records and everything, and, like

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1 I say, she's got to testify to what she relies on and
2 obviously she can---

3 THE COURT: She's just testified she relied on
4 everything in that book is what she testified to. I'm gonna
5 let it in --

6 SOLICITOR BARNETTE: Yes, sir, I understand.

7 THE COURT: -- unless it's a, unless it's a specific
8 objection to any particular document. Now, if there is,
9 if -- again, it's for that purpose and that purpose alone
10 and no other purpose other than that is information upon
11 which she relied in formulating her opinion.

12 SOLICITOR BARNETTE: And, Your Honor, if I can just
13 note my objection. I'm not gonna keep objecting as she's
14 testifying. If I can just note that objection for the
15 record.

16 THE COURT: Yes, sir, your, your objection will be
17 noted and continued throughout her testimony.

18 SOLICITOR BARNETTE: Thank you, Your Honor.

19 THE COURT: All right. They need to be marked
20 separately or they need to be marked as---

21 MR. MCGUIRE: They can be together.

22 THE COURT: All right. As A and B.

23 MR. MCGUIRE: Volumes 1 and 2.

24 (WHEREUPON, the two notebooks were marked as
25 Defendant's Exhibit Nos. 9-A and 9-B and received into

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by Mr. McGuire

1 evidence at this time.)

2 THE COURT: You may proceed.

3 MR. MCGUIRE: Yes, sir, thank you, judge.

4 THE COURT: Yes, sir.

5 (WHEREUPON, a book was marked as Defendant's Exhibit
6 No. 10 for identification purposes only at this time.)

7 MR. MCGUIRE: Judge, if I could approach the witness?

8 THE COURT: You may.

9 MR. MCGUIRE: Thank you, Your Honor.

10 THE COURT: Yes, sir.

11 Q Doctor Calloway, I'm gonna place up here in front of
12 you what's been marked No. 10 for ID, Defense Exhibit, and
13 just for the clarity of the record, it is Volume 1 of a
14 number of documents that are tabbed separately as -- not as
15 exhibits, but right now just tabbed numbers, and I want to
16 get you to refer to that in just a second.

17 On the table of contents, Tab Number 1 refers to your
18 CV.

19 Judge, I want to move that into evidence now.

20 THE COURT: I think it's already in evidence.

21 MR. MCGUIRE: I think it's been marked, but not in.
22 For the Court's benefit, I've provided copies of Atkins,
23 Franklin v. Maynard, and South Carolina Code Section. I'd
24 go ahead and make them exhibits, and I want to mark that
25 whole notebook as one.

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1 THE COURT: Those are cases.

2 MR. MCGUIRE: Sure.

3 THE COURT: So, you don't have to make those exhibits.
4 You certainly have a right to refer to them.

5 MR. MCGUIRE: Sure. I'm just -- for the -- so I don't
6 have to take them out and I'm just gonna move them in. I
7 don't -- I mean I can't imagine there being an objection.

8 THE COURT: Well, I don't know. He's standing up
9 behind you. Let's see.

10 SOLICITOR BARNETTE: We don't object to that part, Your
11 Honor. I think it -- obviously the Court can take notice of
12 through the -- you know---

13 THE COURT: I'll take judicial notice that those are
14 case law, and, and let's -- later there's an objection,
15 they'll be noted as in the book, but they are case law and
16 the Court takes judicial notice of cases.

17 SOLICITOR BARNETTE: But just of our objection, Your
18 Honor, but the issue I've got is he's throwing everything in
19 there, and, like I said, I know---

20 THE COURT: Well, we can stop the hearing and y'all can
21 clean it up.

22 SOLICITOR BARNETTE: Yes, sir.

23 THE COURT: Do you want to do that, Mr. Barnette?

24 SOLICITOR BARNETTE: No, sir.

25 THE COURT: I'll be glad to give you time and step down

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1 and we can come back later.

2 SOLICITOR BARNETTE: No, sir, I understand.

3 SOLICITOR GHENT: Your Honor, may I just clarify one
4 thing on the record?

5 THE COURT: Yes, sir.

6 SOLICITOR GHENT: Counsel turned to me and asked about
7 the CV and I told him it was in. I'm assuming it is in.
8 But if it's not, we have no objection to its admissibility.

9 THE COURT: Well, let's check with the court reporter.

10 COURT REPORTER: I think it's in.

11 THE COURT: It's in according to the court reporter.

12 SOLICITOR GHENT: Okay.

13 THE COURT: I thought I admitted it yesterday.

14 SOLICITOR GHENT: Yes, sir.

15 THE COURT: All right.

16 MR. MCGUIRE: Thank you, sir. Thank you, ma'am.

17 Q And listed as Tab Number 5 and 6 and 7, I believe those
18 are excerpts from the DSM-IV, DSM-5, and a book called
19 Mental Retardation that was Tenth Edition with the AAMR.

20 A Yes.

21 Q And are those authoritative texts that would be used
22 and relied upon by an expert in your field in, in conducting
23 an evaluation or assessment as to whether or not a person
24 has I.D.?

25 A In an Atkins evaluation, yes.

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1 Q In an Atkins evaluation, yes.

2 A Uh-huh. (Affirmative).

3 MR. MCGUIRE: Move, move those in, judge.

4 THE COURT: Now, that's in the book already?

5 MR. MCGUIRE: Yes, sir.

6 THE COURT: It's already been admitted?

7 MR. MCGUIRE: No, no, the book's been -- the whole
8 book's not been admitted unless or maybe I'm confused.

9 THE COURT: Maybe I'm confused.

10 SOLICITOR GHENT: I know I am.

11 THE COURT: I thought you offered the books and they've
12 been offered as books.

13 MR. MCGUIRE: These are eight here.

14 COURT REPORTER: That one is ID. That No. 10 is just
15 ID. The other ones are here.

16 THE COURT: I misunderstood.

17 MR. MCGUIRE: I'm sorry, judge.

18 THE COURT: Well, let me see No. 10.

19 MR. MCGUIRE: This is -- Your Honor, this is the same
20 thing I passed up to the Court.

21 THE COURT: This is the information that was given to
22 the Court yesterday?

23 MR. MCGUIRE: Yes, sir, and---

24 THE COURT: One of the books?

25 MR. MCGUIRE: One of the books.

Ginger Calloway - Direct examination
by Mr. McGuire

1 THE COURT: You're wanting to put the entire book in or
2 certain tabs out of the book?

3 MR. MCGUIRE: The whole book.

4 THE COURT: Objections?

5 SOLICITOR BARNETTE: Yes, sir, I think that's what we
6 talked about when we first started. I just want to make
7 sure it's the same book. I think it's the one with the
8 articles and---

9 THE COURT: It's got case law in it. It's got
10 articles. That's what we talked about earlier this morning.

11 SOLICITOR BARNETTE: Yes, sir, I, I think -- well, my
12 objection is obviously the articles she can testify to.
13 It's outside the scope of her -- to enter it in as evidence.
14 To move all these articles in evidence would be inadmissible
15 hearsay. It's outside the Rules of 702, 703, and 705 from
16 that standpoint, and a lot of the stuff you can refer to,
17 obviously the case law and everything from that, and that's
18 just cumulative from that standpoint. So, we'd object to
19 the whole thing on several different basis.

20 THE COURT: And the purpose of it being introduced is?

21 MR. MCGUIRE: Your Honor, it's much like the other
22 issue. With these two books, which are all the documents
23 that the expert relied on in reaching her opinion --

24 THE COURT: Okay.

25 MR. MCGUIRE: -- they're not for the truth of the

Ginger Calloway - Direct examination
by Mr. McGuire

1 matter. For instance, there could be a -- and very often we
2 give indictments and arrest warrants to our experts. I'm
3 not vouching obviously for the truth of the matter in those
4 documents, but they would be appropriate for an expert to
5 review and rely on in their assessment.

6 THE COURT: So, you're offering them only for the
7 purpose of this information---

8 MR. MCGUIRE: Yeah.

9 THE COURT: ---upon which she relied in formulating her
10 opinion?

11 MR. MCGUIRE: Exactly.

12 THE COURT: I'll admit it for that purpose subject to
13 your continuing -- oh, excuse me, Mr. Barnette.

14 SOLICITOR BARNETTE: Just one thing, Your Honor, and I
15 just thought about this or whatever. If we're gonna allow
16 all these articles in and everything, well, we can bring in
17 hundreds of experts through these articles and bring in
18 through everything.

19 THE COURT: Well, again, Mr. Barnette, I'm not
20 accepting those as the opinions of anybody on this case. I
21 think they're -- from what I have seen when I just looked at
22 it, it appears to be general articles on subjects not on
23 this case.

24 SOLICITOR BARNETTE: Yes, sir.

25 THE COURT: They don't offer any opinions on this case.

Ginger Calloway - Direct examination
by Mr. McGuire

1 They talk about methodology and things of that nature it
2 appears. Now, I haven't gone through it item-by-item, and I
3 admit this is a very unusual procedure offered by the
4 defense, and I've offered you an opportunity to go through
5 it item-by-item.

6 SOLICITOR BARNETTE: well, like I said---

7 THE COURT: It's been offered to me as the documents
8 upon which this expert relied in formulating her opinions.
9 Now, you certainly have a right to, to attack the efficacy
10 of any of that information, the value of any of that
11 information, the truthfulness or the reliability of that
12 information. That's what you do when you attack, attack
13 experts. But it's being offered to me and I'm not accepting
14 it as evidence of anything other than what she looked at in
15 formulating her opinion.

16 SOLICITOR BARNETTE: Yes, sir, I understand.

17 THE COURT: So, that's the purpose for which I'm
18 admitting it and that's the only purpose the Court will
19 consider it as, and I admit it's a large volume of
20 information, and I'm not asking you to accept it on its
21 face. You certainly have a right to review it. If it
22 appears to be -- for all I know there could be cartoons in
23 there. I don't know what's in there. I haven't looked at
24 it.

25 So, if you want to go through it, you -- I'm giving you

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by Mr. McGuire

1 again -- I'm offering you the opportunity to go through it.
2 If you want to object to anything that you feel she would
3 not of used in formulating opinions, if there's something in
4 there that you feel that they're trying to get into evidence
5 that's improper, other than information that she's based her
6 opinion on, I'll be glad to hear you on it. But right now,
7 if she's testifying those are the documents that I used to
8 formulate my opinion and they're offering it to show what
9 she studied or read or what she did to formulate her
10 opinion, I'm gonna admit it for the purpose.

11 Now, if you would like to review it and see if they're
12 documents in there that don't fit that definition, I'll be
13 more than happy to allow you to do that.

14 SOLICITOR BARNETTE: Yes, sir, and I appreciate that.
15 I've -- actually I've reviewed this one and I've looked
16 through it cause that's the reason I raised the objection
17 before we started from that standpoint.

18 THE COURT: Uh-huh. (Affirmative).

19 SOLICITOR BARNETTE: And it just feels like several of
20 these articles are just done just to make part of the Atkins
21 hearing and things like that. Not pertinent to this case.
22 Just to put the issue of mental health and mental issue in
23 front of the Court for that. Of course, she can rely on
24 that, and I'm just afraid they're trying to---

25 THE COURT: The issues that are before the Court are

Ginger Calloway - Direct examination
by Mr. McGuire

1 outlined by the Laney case in South Carolina, the last one
2 that I've read, and I've read some others, and that's the
3 test I intend to use. It's what our Courts asked me to, to,
4 to go over. I don't know what those articles suggest that I
5 do because, quite frankly, they're not our Supreme Court.

6 SOLICITOR BARNETTE: Well, a lot of the articles refer
7 to other states, other weights and everything, and that's
8 another reason why I'm objecting in this case.

9 THE COURT: Then you have the right to cross-examine
10 her on whether or not she's based her opinion on proper
11 criteria.

12 SOLICITOR BARNETTE: Yes, sir.

13 THE COURT: You reserve that right.

14 SOLICITOR BARNETTE: Thank you, Your Honor.

15 THE COURT: All right. I'm gonna admit it for that
16 purpose.

17 Has that been marked?

18 COURT REPORTER: Yes, sir.

19 THE COURT: Okay. It was ID before?

20 COURT REPORTER: Yes, sir.

21 THE COURT: It's now admitted.

22 (WHEREUPON, State's Exhibit No. 10 was received into
23 evidence at this time.)

24 THE COURT: You may proceed.

25 MR. MCGUIRE: Judge, I'm not sure if there is an

Ginger Calloway - Direct examination
by Mr. McGuire

1 objection, but volume 2 of that notebook series contains a
2 ton of financial records and checks, and those would
3 actually be more sort of evidentiary. Obviously, Doctor
4 Calloway's reviewed them and relied upon them in formulating
5 her opinion. I move them in as well.

6 THE COURT: Same objection, Mr. Barnette?

7 SOLICITOR BARNETTE: Yes, sir, I mean I could add a
8 different objection, but I, I believe those were the
9 financial records. Obviously they didn't prove chain and
10 things like that, but I'm not gonna stop the hearing because
11 of that, but it would be the same general objection.

12 THE COURT: I'm gonna allow it in for that purpose.

13 (WHEREUPON, the financial information was marked as
14 Defendant's Exhibit No. 11 and received into evidence at
15 this time.)

16 THE COURT: We have reached the point where I'll have
17 to go across the hall. So, I'll take a brief recess. Court
18 will resume as soon as I finish first appearances.

19 Thank you very much.

20 MR. MCGUIRE: Yes, sir, thank you.

21 THE COURT: We didn't get a lot done.

22 Same admonition.

23 THE WITNESS: Yes, sir.

24 THE COURT: You can't talk about your testimony.

25 (WHEREUPON, a short recess was taken at this time.)

Ginger Calloway - Direct examination
by Mr. McGuire

1 THE COURT: Ma'am, you may resume the stand. Thank
2 you.

3 (Witness returns to the stand at this time.)

4 THE COURT: And you may resume your examination.

5 MR. MCGUIRE: Thank you very much, judge.

6 THE COURT: Yes, sir.

7 CONTINUED DIRECT EXAMINATION

8 BY MR. MCGUIRE:

9 Q Doctor Calloway, I, I was gonna go through this
10 notebook in a little bit more detail, but it's in evidence.
11 The articles will be available to the judge. And, so, I'm
12 gonna cease doing that to save a little bit of time.

13 What I'm gonna do is instead just ask you about the --
14 one of the prongs of an I.D. or M.R. diagnosis, which is
15 onset before age 18. I don't think I fully covered that
16 with you.

17 How do we know that Ricky Blackwell, in fact, had M.R.
18 or I.D. before onset of 18 or onset before 18?

19 A The information that I relied on came from the school
20 mostly and that's a source of information that's sort of
21 high on the list of information. If you want to rate kind
22 of how much weight I suppose you give to various sources,
23 then where I relied on was, was from the school records.

24 Q Okay. And that would include his being 18 and reading
25 at a, approximately a fifth grade level?

Ginger Calloway - Direct examination
by Mr. McGuire

1 A Well, included the fact that he was in these adjunct
2 classes. It included that he was 113 in his class of 113.
3 It included that he failed the classes that he did despite
4 being given individual attention, smaller class size,
5 tracked into something that was less academic than other
6 children, and it included some of the test scores although
7 they wouldn't be given the weight that a standardized
8 individual, individually administered intelligence test
9 would be given. They give some idea of where he was
10 functioning and clearly he was functioning below the level
11 of other children his age.

12 Q Okay.

13 A He also failed the ninth grade.

14 Q Okay. And with regard to the adaptive deficits, I
15 understand that the DSM has the, the ten skill set areas and
16 it requires a finding of deficits in only two for a
17 classification as M.R., and then there's also the conceptual
18 social practical domains with also a global functioning.

19 Can you just tell the judge just very briefly what
20 adaptive deficits you saw and how they fit into those
21 definitions?

22 A For him?

23 Q For Mr. Blackwell.

24 A Well, I went through that yesterday and named the ones
25 that were deficits. I'd have to look at my report.

Ginger Calloway - Direct examination
by Mr. McGuire

1 which tab is it under?

2 Q I can just give you --

3 A Okay.

4 Q -- give you your report.

5 A Thank you.

6 Q Uh-huh. (Affirmative).

7 A I believe that it's summarized on the last page of the
8 psychological report. Where -- it's on Page 37 of the
9 psychological report.

10 Q Yes, ma'am.

11 A Number two, deficits and adaptive functioning.
12 Mr. Blackwell exhibited unequivocal deficits in adaptive
13 functioning in communication, home living, social, community
14 use, self-direction, and functional academics. He exhibited
15 deficits on the ABAS measure in all four domain areas.

16 Q That's all I have for you. Thank you, ma'am.

17 THE COURT: You may cross-examine.

18 SOLICITOR GHENT: Your Honor, I asked that a podium be
19 brought over.

20 Can I have a few minutes to set up?

21 THE COURT: Sure.

22 SOLICITOR GHENT: I didn't realize it was gonna be
23 quite so quick.

24 THE COURT: Okay. I'll stay on the bench.

25 SOLICITOR GHENT: Thank you.

Ginger Calloway - Direct examination
by Mr. McGuire

1 THE COURT: Go ahead. Whatever you need to do.

2 MR. MCGUIRE: Judge, do you mind if I step out while
3 the podium's being brought over?

4 THE COURT: Just don't go far.

5 MR. MCGUIRE: Oh, I'll be on a short leash, judge.
6 Thank you.

7 (Pause.)

8 MR. ALLEN: Your Honor, if I may approach?

9 THE COURT: Yes, sir.

10 Solicitor.

11 SOLICITOR BARNETTE: I told him to go ahead, Your
12 Honor.

13 THE COURT: Okay.

14 All right. Yes, sir.

15 (WHEREUPON, a bench conference was held at this time.)

16 THE COURT: You may proceed.

17 SOLICITOR GHENT: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY SOLICITOR GHENT:

20 Q Doctor, again, I introduced myself. I think it's been
21 months, but it's probably not. I'm Russell Ghent. I met
22 you previously.

23 You, I believe, testified you've been a forensic
24 psychologist for 15 years or been testifying in Atkins
25 matters for 15 years?

Ginger Calloway - Cross-examination
by Solicitor Ghent

1 A I think what I said was that I've been involved in the
2 forensic practice more like probably 20 years or so. I
3 think I, I accepted the first case not long after I, a
4 forensic case, not long after I began a private practice,
5 which was in 1984.

6 Q Okay. So, in terms of most of your career, it's been
7 spent giving testimony and consulting with attorneys and
8 basically testifying as Court's witnesses?

9 A That would be a part of what I do. The -- I would say
10 the bulk of -- now are you asking the bulk of my forensic
11 career?

12 Q Yes, ma'am.

13 A Uh-huh. (Affirmative).

14 That would be evaluations and conducting assessments in
15 various matters in the forensic area. The consultation to
16 attorneys, some of that, yes, and testifying, yes.

17 Q Okay. One of the things that I have reviewed is your
18 testimony in previous Atkins matters in North Carolina.

19 I believe it would be correct that you gave testimony
20 for the defendant in an Atkins hearing September 2005?

21 That would be State of North Carolina versus Clinton
22 Smith.

23 A Yes, that's correct.

24 Q Okay. And on February 13th, 2006, while it's not an
25 Atkins matter, but in Federal Court, on a writ of Habeas

Ginger Calloway - Cross-examination
by Solicitor Ghent

1 Corpus raising a claim of ineffective assistance of counsel,
2 I believe you also testified?

3 A Levon, Levon "Bo" Jones, yes.

4 Q Okay. And on October 16th, 2006, I believe you gave
5 testimony on an Atkins hearing, State versus Kenneth -- is
6 it Rouse or Rouse?

7 A I think it's Rouse.

8 Q Okay.

9 A Uh-huh. (Affirmative).

10 Q That would be before Judge Brandon Long in Randolph
11 County, North Carolina.

12 You testified for the defendant again, correct?

13 A Correct.

14 Q Approximately how many times would you say you have
15 testified in Atkins hearings?

16 A I think it's probably been somewhere between eight to
17 ten or twelve times I think.

18 Q Not more than that?

19 A I've conducted Atkins evaluations in more times than
20 that, but I don't always testify in those cases.

21 Q In those cases -- that, that's a more limited number
22 than I would of expected.

23 In those cases, have you ever testified for the State?

24 A No, never testified for the State in a criminal matter.

25 Q All right. And---

Ginger Calloway - Cross-examination
by Solicitor Ghent

1 A No, no, that's not -- yeah, that's true. That's true.

2 Q All right.

3 A well, no, that's not true. I testified for the State
4 recently, but it was as a fact witness. Not as an expert
5 witness.

6 Q Okay. Okay. Now, with respect to your testimony in
7 civil matters, you said you have testified for the State in
8 that, correct?

9 A I, I think what I said was that I have worked with
10 assistant attorney generals and testified for --.

11 Q Okay. You were a Court's witness in a federal case?

12 A Yes.

13 Q Involving sexual abuse?

14 A You'll have to remind me of the case.

15 Q well, excuse me, sexual harassment.

16 A I was -- that, that's correct. The Attorney General's
17 office hired me in a case of sexual harassment. That's
18 exactly right.

19 Q All right. And, and there was a psychiatrist with you
20 on that case as well, correct?

21 A I don't think so. I'm not sure. I don't remember
22 that. I don't remember a psychiatrist in that case.

23 Q Okay. It wouldn't be the psychiatrist who's been named
24 as the Court psychiatrist -- I mean the defendant's
25 psychiatrist in this case, a gentleman from North Carolina?

Ginger Calloway - Cross-examination
by Solicitor Ghent

- 1 A Are you -- who, who is it that you're speaking of?
- 2 Q The -- Your Honor, I've got so many documents.
- 3 Covan. Doctor Covan.
- 4 A Covan?
- 5 Do you mean Corvin?
- 6 Q Corvin.
- 7 A Corvin. Corvin.
- 8 Q Okay. You did testify -- he worked with you on that
- 9 case.
- 10 He was a Court's witness too, wasn't he?
- 11 A Not -- now, you'll -- give me the name of the case
- 12 cause I don't remember the sexual harassment case involving
- 13 Doctor Corvin.
- 14 Q Okay. I will come back to that.
- 15 A Okay.
- 16 Q But let me move on to the question of, again, you've
- 17 never testified for the State as an expert, correct?
- 18 A In a Atkins matter?
- 19 Q Yes.
- 20 A That is correct.
- 21 Q You have testified one time in South Carolina, correct?
- 22 A Correct.
- 23 Q And that was in Dillon County?
- 24 A Yes, sir.
- 25 Q And I think that was State versus Robert Nelson?

Ginger Calloway - Cross-examination
by Solicitor Ghent

1 A Yes, sir.

2 Q And who was the defense attorney in that case?

3 A Mr. McGuire and Mr. Secore.

4 Q All right. Doctor, with respect to the report you
5 made, while you refer to the DSM-5 in your report, you have
6 acknowledged that it is not effective, they're not suppose
7 to really be using it for coding purposes, et cetera, until
8 the Fall of this year, correct?

9 A I'm not aware of that. I'm aware that people in my
10 field are using it for conceptual purposes to think through,
11 for example, how it's different than the DSM-IV.

12 Q Uh-huh. (Affirmative).

13 A And, so, to be completely thorough in presenting all
14 the kind of scientific thinking that people who are
15 conducting Atkins evaluations would use, I included that
16 definition as well.

17 Q All right. And the sources that you also rely on are
18 this book, the Manual on Intellectual Disability Definition
19 Classification and Systems of Support, 2010?

20 A Is that the AAIDD manual?

21 Q Yes, ma'am.

22 A Yes.

23 Q Okay. Going to the matter of your examination of
24 Mr. Blackwell, how old again was he?

25 A At the time I evaluated him in 6/29/12 he was 53.

Ginger Calloway - Cross-examination
by Solicitor Ghent

1 Q And, so, he was substantially beyond 18?

2 A Correct.

3 Q So, for purposes of the criteria laid out in this
4 manual and in the DSM-IV, limited -- severe limitations in
5 intellectual functioning, severe limitations in adaptive
6 functioning, onset before 18, is that correct?

7 A You're, you're giving the definition?

8 Q Yes.

9 A Yes.

10 Q For purposes of that, he was well beyond 18 and it all
11 has to be determined before 18, correct?

12 A No, sir, that's not correct.

13 Q That's not correct?

14 A No, sir, that is not way -- the way that an Atkins
15 evaluation is conducted. Often times we have, as I said
16 yesterday, we have imperfect information because we don't
17 have any measures, for example, of adaptive functioning
18 given to him before then.

19 Q I'm sorry. I think, I think I misunderstood your
20 response or either that or I misphrased the question.

21 The adaptive -- the, the testing, the determination, is
22 to be made, it is to originate before 15?

23 A No, sir.

24 Q 18. Excuse me.

25 A Do you mean the IQ testing?

Ginger Calloway - Cross-examination
by Solicitor Ghent

1 Is that---

2 Q Yes.

3 A No, no. No, sir, that's not correct.

4 Q That's not correct?

5 A No, sir, there would be many times, for example, where
6 we wouldn't be able to have an IQ test. He's a good
7 example. There were no special education classes at the
8 time that he was in the -- in school. So, he would not have
9 been given an IQ test, and there are, there are school
10 districts who can't afford to bring in a school psychologist
11 to do IQ testing on all the children that they might place
12 in special education classes.

13 So, no, it is not required that the subject or the
14 defendant must have had an IQ test---

15 Q That's still, that's still not what I'm saying.

16 what I'm saying that the problems, in terms of whether
17 it's an intellectual disability or mental retardation, the
18 onset has to be by the age of 18, doesn't it?

19 A Why don't you simplify that for me because I seem to be
20 having trouble understanding your question?

21 Q Well, I guess I could simply find the definition and
22 read it. Page 6 of your manual.

23 A I don't have that manual in front of me.

24 SOLICITOR GHENT: Well, may I approach, Your Honor?

25 THE COURT: You may.

Ginger Calloway - Cross-examination
by Solicitor Ghent

1 Q This definition -- if you just read right there from it
2 out loud please.

3 A Oh, the authoritative definition of intellectual
4 disability is that of the AAIDD, previously the AAMR. The
5 definition in the 2002 AAMR manual, which remains in effect
6 in this Eleventh Edition of the manual, is shown here with a
7 minor edit that substitutes the term intellectual disability
8 from mental retardation. Intellectual disability is
9 characterized by significant limitations both in
10 intellectual functioning and in adaptive behavior as
11 expressed in conceptional, social, and practical adaptive
12 skills. This disability originates before the age of 18.

13 Q I, I thought the last time I asked it originates before
14 18, correct?

15 A I'm trying to answer your question as best I can. The,
16 the disability of intellectual disability -- the -- an
17 intellectual disability originates in the developmental
18 period, which is before the age of 18. That is correct.

19 Q Just out of curiosity, in terms of why that age was
20 chosen, the book talks about it, and I'm sure you can tell
21 us about it, one of the, one of the things that the books
22 mentions, at age 18, generally people are getting out of
23 high school, they're moving into other areas, and your IQ
24 should of settled into what it's gonna be, correct?

25 A I, I would agree with the first two things you said,

Ginger Calloway - Cross-examination
by Solicitor Ghent

1 but IQ isn't always completely settled --

2 Q Oh, okay.

3 A -- if you will, by the time you're 18.

4 Q But that is originally one of the reasons why 18 was
5 chosen?

6 A I think that it probably has more to do with the fact
7 that developmental disabilities are, are seen as originating
8 in the developmental period because they, when they
9 originate, they, they prevent the individual from, from
10 following a normal developmental trajectory. So, you want
11 to capture that with the sense that this is a disability
12 that then affects the person for the rest of their life.

13 Q But it is there by 18?

14 A It, it originates, yes, in the developmental period
15 before the age of 18.

16 Q Okay. So, the test, and what I'm trying to get clear
17 on, the test is those three?

18 A I see where we're having trouble. You're talking about
19 test, and I'm assuming you're talking about---

20 Q No, ma'am, I'm talking about just the definition.

21 A You mean the criteria --

22 Q Yes. Yes.

23 A -- for arriving at a diagnosis---

24 Q Here in Court---

25 A ----as much.

Ginger Calloway - Cross-examination
by Solicitor Ghent

1 Q Here in Court, what we are talking about is the three
2 criteria which are required for I.D., or as the Court called
3 it in Franklin, mental retardation, correct?

4 A Let me see if I understand your question.

5 The criteria for arriving at a diagnosis of
6 intellectual disability have, has three prongs, and yes, the
7 answer to that is yes.

8 Q Okay. Okay. So, that's what we're here about. That's
9 the judge's area for determination.

10 would that be a fair statement?

11 A It is the judge's determination as to whether this man
12 is or is not intellectually disabled.

13 Q And Atkins, unlike in your report, I think you used the
14 term embraces the DSM definition. Actually Atkins leaves it
15 up to each state to define mental retardation.

16 That's what happened in Franklin, correct?

17 A That is correct. It is both and. Not an either or as
18 I understand it.

19 Q I'm sorry. I don't understand.

20 A The Atkins decision it, as I put it in my report,
21 looked to the professional standards as a way of defining
22 intellectual disability and left the decision for whether or
23 not an individual is intellectually disabled to the tryer of
24 fact in each state.

25 Q That's your understanding?

Ginger Calloway - Cross-examination
by Solicitor Ghent

1 A That's my understanding.

2 Q Okay. Let's go to your interview with the defendant.

3 First of all, I have trouble -- I can tell that your
4 report, your first report, is very extensive, 40 pages.
5 There is no date that it's written. It says it was -- the
6 evaluation was June 19th, 2012.

7 Now, it's 40 pages. So, I would imagine it took you a
8 while to write it.

9 So, is that why you didn't put a date in for when it
10 was written because you did in your revision, revision of
11 the psychological report?

12 A Oh, yes, I did. No, I don't remember the exact date
13 and I don't remember why I didn't put it.

14 Q Well, I mean but it would of been done over a period?

15 A It was probably done over about a month I think.

16 Q Okay. And you wouldn't know how long that took and the
17 reason why I'm asking is age at evaluation -- and these are
18 the type of things that, at times, I find they, they are
19 discrepancies. There are several in the report that you
20 wrote January 24th of this year, but you've -- this, this
21 seems just very basic.

22 Age at evaluation is 53 years, and in the first line,
23 just below it, Ricky Lee Blackwell is a 54-year old
24 Caucasian male. Did it take -- now, his birthdate is in
25 November.

Ginger Calloway - Cross-examination
by Solicitor Ghent

1 So, did it take a period of several months, carrying
2 over until he had had a birthday because the date of the
3 evaluation is June 29th, 2012?

4 A The report, as I recall, was mostly written in the
5 month of December because there was some anticipation that
6 there might be a hearing in December. I believe that was
7 originally scheduled. So, the report was written just prior
8 to the anticipated date for the, the original hearing on
9 this matter. So, at the time that I wrote the report, he
10 was 54 years old. And, so, yes, that's true. I have him
11 written as 53 at the time of evaluation, and at the time I
12 wrote the report he was 54, that's correct.

13 Q So that I'm clear, when you talk about the time of
14 evaluation, is the evaluation the entire process or is the
15 evaluation the interview?

16 Please enlighten me.

17 A The evaluation date is the actual one-on-one contact
18 that I had with him. The assessment process that produced
19 this report took, I guess, what, about a year and a half,
20 close to two years, to gather all the information and review
21 it and read it.

22 Q Okay. And in terms of the evaluation itself, you took
23 I believe seven hours?

24 A On two different occasions, yes.

25 Q You broke it up?

Ginger Calloway - Cross-examination
by Solicitor Ghent

1 A Yes, I was there twice, uh-huh. (Affirmative).

2 Q Once for each test?

3 A Once for each test?

4 That's not clear to me.

5 Q Well, you said, on Page 2, you gave him the wide Range
6 Achievement Test Version IV, you gave him the CAST-MR, and
7 you gave him the Memory Malinger Test---

8 A And---

9 Q ---correct?

10 A And I gave him the forensic client history and
11 checklist.

12 Q Okay. So, with all of those, I'm asking did you break
13 it up because of the testing?

14 Did you --?

15 A Okay. I'm not sure -- go ahead. Finish your---

16 Q Well, did you break it up because of the testing?

17 Did he require breaks?

18 Was there a problem?

19 I'm just wanting to know the reason for your taking two
20 different trips. I was wondering if it was because you were
21 doing different testing.

22 A Okay. You're asking me two sort of questions.

23 Let's see. The reason for doing the testing in two
24 different time periods probably had to do with my schedule
25 I'm thinking because it takes me three to three and a half

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1 hours to drive down here. So, I most likely came the first
2 time -- I almost always start and I believe I did start with
3 him with the forensic client history and checklist, and then
4 I would of administered most likely the TOMM. I'm not sure
5 about the dates. Those dates would be on the tests
6 themselves, which have been produced to Doctor Brown. So
7 --.

8 Q But they were not produced to us?

9 A That's correct.

10 Q And the reason why you said you didn't do that was a
11 matter of ethics, copyright, you couldn't do it?

12 A Primarily copyright restrictions.

13 Q Now, that case which -- Your Honor, may I have a
14 moment?

15 THE COURT: Yes, sir.

16 (Pause.)

17 Q The case involved I believe the North Carolina
18 Department of Agriculture and Consumers?

19 A Oh, that's different.

20 Q Does that ring a bell?

21 A That's different than the sexual harassment case that I
22 was thinking about. You're -- but that's a different case
23 and I think -- you may be right. I don't remember if Doctor
24 Corvin was involved in that one.

25 Q Okay. But one of the things -- one of the ways I

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1 learned of that case is, in that case, you filed an
2 affidavit with the Court refusing to provide the materials,
3 correct?

4 A That's incorrect.

5 Q Okay. Well then tell us what you filed it for.

6 A Okay. I was asked to give the copyrighted materials,
7 the test themselves, and I was also asked to produce the
8 questions from the test meaning the actual, for instance,
9 MMPI questions to the Court. I'm not able to do that
10 without a protective order, and so---

11 Q Without a Court order?

12 A A protective order is a Court order, yes, sir, uh-huh.
13 (Affirmative).

14 Q Okay.

15 A And if I could finish?

16 Q Yes, ma'am.

17 A Uh-huh. (Affirmative).

18 So, I wrote -- I asked for permission to write the
19 judge. I forget if it was Judge Eagles or another judge,
20 Judge Flanagan.

21 Q Louise---

22 A Was it Flanagan?

23 Q That's it.

24 A Okay. And, so, I wrote to her and explained what the
25 ethical dilemmas were with producing that copyrighted

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1 material without some sort of a protective order, and I also
2 explained about the copyright kind of restrictions, and then
3 she issued a -- she issued her decision about that.

4 Q But we didn't get---

5 A And it was not a refusal. It was, it was an
6 opportunity for me to say to the Court I can do this under
7 these circumstances.

8 Q Well, you filed an affidavit. You didn't produce it
9 until the judge gave an order.

10 A I filed an affidavit explaining to the judge that I was
11 willing to produce those materials with a protective order
12 and she issued an order to that effect.

13 Q All right. And, in this case, we didn't get the
14 materials from you until yesterday morning?

15 A I don't know what materials you're talking about.

16 Q The materials on the testing that you did. The
17 materials, your notes, the test results, all of that.

18 A I produced what I was asked to produce. Doctor Brown
19 requested the testing.

20 Q I'm talking about to the State.

21 A I was never asked by the State to produce that.

22 SOLICITOR GHENT: Your Honor, may I have a moment?

23 THE COURT: Yes, sir.

24 (Pause.)

25 Q I, I'm, I'm sorry for the confusion, but you did know

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1 there was an order entered into that we were to get all of
2 your materials. That was entered into I believe it was
3 November the 6th, and we were to get them by November the
4 21st.

5 You're not aware of that?

6 A I don't think so. I produced what I was asked to
7 produce.

8 Q And then we had a further hearing on enforcement of the
9 agreement to produce all of your information and you weren't
10 aware of that?

11 A No, sir.

12 Q Doctor -- may I approach, Your Honor?

13 THE COURT: You may.

14 Q Number three of documents reviewed for your
15 supplemental report, revised report --

16 A Yes.

17 Q -- would you please read what number three is?

18 A Memorandum in support of motion to enforce agreement
19 order. You're right.

20 Q Okay.

21 A I stand corrected.

22 Q So, you were aware that there was an order outstanding
23 to produce all of your information, correct?

24 MR. MCGUIRE: Judge, I'd actually object to that. That
25 actually requires a legal conclusion of exactly what was

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1 covered under that order. Arguably none of that stuff was
2 covered, and she would not have any legal expertise to know
3 what's covered and what's not.

4 She did produce everything she was asked. We had
5 subpoenaed Doctor Brown's notes cause they weren't produced
6 to us in the normal course of business, and then Doctor
7 Calloway's schedule obviously delayed her production. She's
8 produced everything.

9 THE COURT: I'll allow how to cross-examine on that
10 subject.

11 Overruled.

12 SOLICITOR GHENT: Thank you, Your Honor.

13 Q Well, here's part of my confusion, doctor, and, again,
14 you're an expert, you're a psychologist, and you're an
15 expert witness, and, in this particular case, you revised
16 your report, your original report. While we had no
17 information in terms of the internal thoughts, the
18 preparation, the questionnaires, the questioning, any of
19 that---

20 MR. MCGUIRE: Objection. Testimony.

21 Q Were you aware of that?

22 THE COURT: Just one second. I've got an objection
23 to---

24 SOLICITOR GHENT: Yes, sir.

25 THE COURT: ---deal with.

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1 MR. MCGUIRE: He can't reference---

2 THE COURT: Let him finish before you object as to
3 whether it's a question or not.

4 MR. MCGUIRE: Thank you, Your Honor.

5 THE COURT: Go ahead.

6 Q Were you aware of that?

7 A You've gotten me very confused. I have no earthly idea
8 what you're asking.

9 Q Well---

10 MR. MCGUIRE: And, judge, my objection is it's, it's
11 calling for her, one, to speculate as to their thought
12 process, which is absolutely unallowed. It's forbidden.
13 So, my first objection would be on speculation.

14 THE COURT: Overruled.

15 SOLICITOR GHENT: Thank you, Your Honor.

16 May I approach?

17 THE COURT: You may.

18 Q Doctor, you read this motion, correct?

19 You reviewed it?

20 I mean that's in your supplemental report?

21 A If I said I reviewed it in my supplemental, yes. That
22 is what I did.

23 Q At Page 10, it has testing results listed for
24 Mr. Blackwell while he was in school, does it not?

25 A Where are you looking at?

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1 Q This paragraph right here with things in bold.

2 would you please read that out loud for the court?

3 A Yes. Defendant's attorneys failed, however, to inform
4 the Court or the solicitor that records in their possession
5 and apparently reviewed by Doctor Calloway show that, in
6 1967, defendant scored 87 in testing. In 1970 he scored 75.
7 In 1971 he scored 90. In 1973 he scored 96. In 1974 he
8 scored 78, and in 1977 he scored 79, and that he was reading
9 at almost a sixth grade level, was solving math problems at
10 a sixth grade level, and was computing math at a fifth grade
11 level.

12 Q All right. And if I may, you reviewed this report,
13 this motion, this memorandum, and you would of seen that,
14 wouldn't you of?

15 A Yes.

16 Q And as a result -- and I apologize.

17 May I approach, Your Honor?

18 THE COURT: You may.

19 Q This is a marked copy and I apologize for all the
20 marking, but the test results that we are referring to are
21 right here and you put them in that first report, correct?

22 A They don't exist.

23 Q well, I understand what you're saying now, but in your
24 first report you said these were IQs, correct?

25 A That is correct and that was a clerical error which I

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1 corrected.

2 Q A typo you called it?

3 A Clerical error.

4 Q Is that correct?

5 A Clerical error or a typo. It was a mistake.

6 Q It was a mistake.

7 So, you then went back and you revised those numbers,
8 did you not?

9 A No, I did not revise those numbers. I issued a
10 supplemental report where I listed two tables. One table
11 has the original table in the psychological report with the
12 incorrect information, the errors, and the other table has
13 the corrected scores.

14 SOLICITOR GHENT: May I approach, Your Honor?

15 THE COURT: You may.

16 Q Again, at Page 5 of 8, Table 3-A---

17 A Okay. Now, you are -- if you will explain to me which
18 one of my reports you're on.

19 Q Well, it's the much smaller one by all appearances.
20 That would be the one that is eight pages. That's your
21 supplemental. Your revised report.

22 A Okay. That's the one you're referring to.

23 Q I apologize.

24 A That's quite all right.

25 Q You've got that?

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- 1 A I do.
- 2 Q Okay. Let's go to that.
- 3 A Okay. Which page please?
- 4 Q First of all, let's go to 3-A.
- 5 A 3-A?
- 6 Q Oh, excuse me. I'm sorry. Page 5, Table 3-A.
- 7 A Yes.
- 8 Q All right. You've got California Test of Mental
- 9 Maturity, seven years old, IQ, 68, mild I.D.?
- 10 A Yes.
- 11 Q That would be mild intellectual disability?
- 12 A Yes.
- 13 Q The next test which you have is October 1967?
- 14 A Yes.
- 15 Q IQ equals 87.
- 16 Low average?
- 17 A Yes.
- 18 Q That's quite a jump?
- 19 A Yes.
- 20 Q Okay. Now, next you've got the California Achievement
- 21 Test. It has an asterisk.
- 22 A Uh-huh. (Affirmative).
- 23 Q That indicates changes differing from table in
- 24 psychological report. He's now 11 years old, and the only
- 25 thing you put down is fifth percentile, but you don't put

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1 down anything with respect to the information that was in
2 the earlier report about his IQ, 75.

3 A There were -- okay. I don't even see where I put fifth
4 percentile in that column that you're talking about.

5 Are you talking---

6 Q Are you talking about number three, the very first
7 asterisk?

8 A Okay. Yes. Sorry. I was looking at the next one.

9 Q Okay. In October 1970, and I'll try to give you as
10 much information as possible, he's 11 years old, California
11 Test of Mental Maturity, date October 1970, language IQ, you
12 have a question mark, 84, nonlanguage IQ, you now have a
13 question mark, 90, total IQ, you have a question mark, 86.
14 Low average.

15 So, all of those, if they had been left in as they were
16 in your first report at Page 14, would indicate that he has
17 an IQ that is above, even borderline mentally retarded,
18 correct?

19 A If they were correct scores, that would be a correct
20 inclusion.

21 Q All right. Let's go to the next test when he's 12
22 years old.

23 Your eight page supplemental report, your revision,
24 he's tested October of 1971. He was 12 years old, and all
25 you say is 26th percentile?

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1 A 28th percentile I believe.

2 Q Yes, you're correct, 28th percentile.

3 And would you please go to your original report on that
4 test when he was 12, October of 1971?

5 A If it's easier for me, if you don't mind, if I go to
6 the next page of the supplemental report --

7 Q That's fine.

8 A -- which is Page 6, and that, that reproduces Table 3
9 from the psychological report that you're referring to.

10 It's a little easier for me just to flip---

11 Q Okay.

12 A ---one page if that's all right with you.

13 Q Yes, ma'am.

14 A And what is your question?

15 Q What is IQ reported in your original report?

16 A The IQ, which does not exist in the records of his
17 school records and which is some sort of a clerical error,
18 is listed as 90.

19 Q In 1973, he is 14 years old and, again, staying with
20 that table---

21 A Which, which--

22 Q The one from your original report.

23 A Okay.

24 Q There is an IQ that is reported as 72 and you put mild
25 I.D., correct?

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1 A That's correct.

2 Q You're saying that one never existed?

3 A No, I'm not saying that. It, it does not have -- if
4 you go back to Table 3-A on the supplemental report, which
5 is on Page 5, the page just before Page 6 in the
6 supplemental report, that is listed as IQ 72. And, so, that
7 one does exist in the actual records for Mr. Blackwell, his
8 school records.

9 Q Comprehensive Test of Basic Skills, October 1973, 14
10 years old, let's go first to your page, your original
11 report.

12 what is the IQ reported?

13 A The IQ, which does not exist in the school records for
14 Mr. Blackwell, and, so, therefore, is some sort of an error
15 on my part, is listed as an IQ of 87.

16 Q The, the 1974, 15 years old, total battery IQ of what?

17 A Once again, if we are looking at Table 3 on Page 6 of
18 the supplemental, which is a reproduction from the table in
19 the psychological report, that IQ score that is listed there
20 at date 10/74, when he's 15 years old, is -- does not appear
21 in the school records for Mr. Blackwell. It's an error on
22 my part, and it is listed as an IQ of 78.

23 Q Doctor, in your supplemental report, and I'm sorry, I'm
24 not -- I don't know any other way to say it, but ask it
25 rather, how would you define a typo because that's what you

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1 call it in your supplemental report, and with all of these,
2 what has happened is that the high IQs have been
3 extrapolated by you because, after we filed our motion,
4 you're saying you took a look, you went back, and you went
5 oh, there were no IQs?

6 A No, that's not what happened at all. That's not what
7 happened at all. We had -- here's how I became aware of the
8 error. I had -- we had a meeting, the mitigation
9 specialist, the two attorneys, and myself had a meeting, and
10 this was before I received this motion about the -- I forget
11 what it's called now. I'm sorry. I can go back and look
12 and see what that's called so I get it correct for the
13 record.

14 Q Motion to enforce?

15 A Memorandum and support of motion to enforcement.

16 Okay. So, before I got that we had this meeting and we
17 were discussing my report and I noticed that those IQs
18 seemed weird. They didn't make any sense to me, and they
19 weren't mentioned in the narrative that I wrote in the
20 psychological report.

21 So, then, what I did was to go back to the records, the
22 actual school records, to look and see if those IQs existed
23 and they didn't. I really honestly don't have an
24 explanation for you about how I made that kind of an error.
25 I, I inserted something that doesn't exist. It doesn't

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1 exist in the school record.

2 The only way that I can think of that that happened is
3 that I was working on two reports at one time, and I
4 definitely cut and pasted from an older report for certain
5 portions of Mr. Blackwell's report, and in working on the
6 two reports at the same time, I don't know if I might have
7 made an error in cutting and pasting. I'm just not sure how
8 that happened. But it's definitely an error. I definitely
9 made it. I read something that wasn't there or I produced
10 it out of thin air. I'm not sure how it happened, but I
11 definitely wanted to address that, and I brought it to the
12 attention of the attorneys right away and said this is a
13 problem, and I decided to issue a supplemental report to
14 correct that.

15 Q And now you're testifying that you feel that the school
16 records can be used to establish that he had a mental
17 disability?

18 A They are part of what was used to establish that he had
19 an intellectual disability at the, the functioning deficits
20 part of the -- the adaptive deficits part of that to
21 contribute to that prong of the definition for intellectual
22 disability.

23 SOLICITOR GHENT: Your Honor, may I approach the
24 witness?

25 THE COURT: You may.

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1 Q I have four pages from his school records that I will
2 ask you -- you don't have to say anything other than yes or
3 no.

4 A Okay.

5 Q Have you seen those before?

6 A Yes.

7 Q You recognize them?

8 A I believe they are attached to my supplemental report.

9 Q They were appendixes?

10 A They were appendixes, uh-huh. (Affirmative).

11 SOLICITOR GHENT: Your Honor, at this time I would move
12 to have these marked separately with both pages.

13 THE COURT: Any objection?

14 MR. MCGUIRE: No objection.

15 THE COURT: Without objection they'll be marked as
16 State's Exhibits separately.

17 SOLICITOR GHENT: Your Honor, would you like to see
18 them first?

19 THE COURT: No, no. Go ahead. He doesn't object. You
20 can put them in.

21 (WHEREUPON, the two reports were marked as State's
22 Exhibit Nos. 1 and 2 and received into evidence at this
23 time.)

24 SOLICITOR GHENT: Approach, Your Honor?

25 THE COURT: You may.

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1 Q You have seen these and they are in the book that is
2 now in evidence, correct?

3 A Let me just look. I think that's right, yes.

4 SOLICITOR GHENT: I would move to offer them at this
5 time.

6 THE COURT: They've been admitted, those two separate
7 documents.

8 SOLICITOR GHENT: I'm sorry. I didn't hear that. I
9 thought he had agreed for identification.

10 THE COURT: No, no.

11 MR. MCGUIRE: No objection.

12 THE COURT: I don't think you object to their
13 admission. I've admitted them. They're in.

14 SOLICITOR GHENT: Thank you, Your Honor.

15 THE COURT: Yes, sir.

16 Q Doctor, the, the test that you have in front of you are
17 tests that were given to Ricky Lee Blackwell when he was a
18 child, are they not?

19 A Yes.

20 Q There are two California Achievement Tests, correct?

21 A Yes.

22 Q And there are two tests for I believe mental maturity?

23 A Correct.

24 Q Okay. And those are short form test of mental
25 maturity, correct?

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1 A Yes, sir.

2 Q Now, with respect to the one that was given May 1996,
3 do you see that?

4 A Do you mean, do you mean May 1966?

5 Q Yes, I'm sorry. 1966.

6 A Yes, I see that.

7 Q And the teacher or examiner was E. Bishop?

8 A Yes.

9 Q And you reviewed the school records.
10 Ms. Bishop was a teacher, was she not?

11 A I believe that's correct.

12 Q You know nothing about her experience and background?

13 A That is correct.

14 Q You know nothing about how well she might of
15 administered a test?

16 A That's correct.

17 Q Now, the question I would ask you, first, is before we
18 go too far with that, again, your book, doesn't it say that
19 the testing is to be individualized as you did when you
20 tested Mr. Blackwell in 2012?

21 A Okay. Now, when -- okay. You, you're, you're gonna
22 need to clarify that for me cause I'm not sure with -- the
23 testing for what?

24 Q IQ.

25 A Do you mean the testing of an intelligence test?

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1 Is that what you're referring to, a standardized
2 individually administered IQ test?

3 Q Thank you, ma'am.

4 That is what is required, correct?

5 A That is what is required to establish IQ.

6 Q To establish IQ?

7 A Yes.

8 Q Now, with respect to these mental maturity tests, they
9 are referenced in your report, do you know anything about
10 the administration of them other than they were given by a
11 teacher?

12 A I, I did look them up, and I did consult with a
13 colleague who has some experience with some of these tests
14 and I -- it's my understanding they were group tests.

15 Q Okay. And these types of tests would be administered
16 earlier in the education of a young person, correct?

17 A Well, some school -- it differs from one school
18 district to another. Some school districts might give them
19 say every other year or every third year. So, that wouldn't
20 be early on necessarily. They could go throughout the
21 whole---

22 Q Let's look, let's look then to the May 1966 test. It's
23 right there. It says it was administered in the first
24 grade.

25 Correct?

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1 A If we're talking about Mr. Blackwell and when he was
2 administered this test, that is correct.

3 Q All right. And the teach -- examiner was E. Bishop?

4 A That's correct.

5 Q And the pupil's age was seven and a half years?

6 A No, seven years five months.

7 Q Okay. Seven years five months. I rounded it. I
8 apologize.

9 And in terms of on the California Achievement Test,
10 this test was using 1963 norms, correct?

11 A I don't know that. I don't remember when it was first
12 issued. So, I can't answer that question.

13 Q Well, it's right there at the top on the California
14 Achievement Test.

15 A Oh, thank you. You're right. For use in 1963 norms.
16 Thank you.

17 Q And it says right there what grades?

18 A Lower primary, Grades 1 and 2.

19 Q And on this test, Mr. Blackwell, if we can go through,
20 it tested reading, arithmetic, and language, correct?

21 A It tested reading, vocab comprehension, and arithmetic,
22 reasoning, and fundamentals.

23 Q Well, I was gonna drop down. I was gonna do the first
24 broad ones.

25 A Oh, okay.

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1 Q Reading, arithmetic, and language, correct?

2 A Yes.

3 Q And those are broken down into reading vocabulary --
4 let's go with reading first.

5 Reading comprehension and reasoning, correct?

6 A Reading vocabulary and---

7 Q Excuse me.

8 A ---reading comprehension.

9 Q Okay. And on those two, he got a 37 on reading
10 vocabulary, reading comprehension he got a five, and he got
11 a total of 42, correct?

12 A That is a raw score.

13 Q Raw score?

14 A Uh-huh. (Affirmative).

15 Q And the arithmetic is reasoning and fundamentals?

16 A Yes, uh-huh. (Affirmative).

17 Q And he got a 21 on reasoning and a 48 on fundamentals,
18 correct?

19 A Yes, raw score, uh-huh. (Affirmative).

20 Q And on language he got a total of 106, correct?

21 A That's correct, uh-huh. (Affirmative).

22 Q Okay. And the second test -- oh, by the way, let me
23 ask you about the short form test he was given that same day
24 in 1966 graded by Elizabeth Bishop.

25 It has an IQ of what?

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1 A It's says the IQ is 68.

2 Q And up until that point Mr. Blackwell had not been to
3 school, correct?

4 A I believe that's right. I don't believe he went to
5 kindergarten.

6 Q Okay. And with the test being administered April of
7 1966, it was towards the end of the year?

8 A That's correct.

9 Q He was in school for the first time. Let's talk a
10 little bit about the home environment he came from.

11 His mother has been taking drugs for years, correct, a
12 lot of drugs?

13 A Taking drugs, could you define that?

14 Q Well, right now she is on---

15 A If you can -- I'm -- what I meant to distinguish, when
16 you say taking drugs, I've---

17 Q Medications.

18 A Prescribed medications?

19 Q Well, let's run through them and see if you recognize
20 them.

21 That would be Mildred?

22 A Yes, the, the distinction I was trying to make in, in
23 your use of using drugs was to understand if you meant using
24 drugs as in illicit drugs.

25 Q No, that's Heather, his daughter. Right now I'm just

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1 talking about Mildred, his mother.

2 A Okay. That's the distinction I was trying to make.

3 Q That's one of the things that runs through this family,
4 would you not agree, Donald, Mildred, Heather, his, his
5 daughter?

6 I mean there have -- and even the defendant.

7 There have been a great many instances within this
8 family of drug abuse?

9 A Prescription and illicit, that is correct.

10 Q And you don't think that might affect someone's mental
11 capacity, reasoning, their ability?

12 would it even affect their IQ?

13 I'll give you the easy one first.

14 A Whether it does or not is not relevant for a diagnosis
15 of I.D. What we are looking at is how the person is
16 functioning, and that's what we -- that's what we assess is
17 actual performance, whether it's an IQ test or whether it's
18 a measure of adaptive functioning.

19 Now, to answer your question specifically, do I think
20 that the use of drugs affects reasoning, absolutely.

21 Q Okay. Well, it came from a home environment that was
22 not the best.

23 Can we agree on that?

24 A He came -- I would probably put it slightly differently
25 just to say he came from a very complex home environment

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1 where there were a lot of various problems, yes, sir.

2 Q Okay. And, so, this young boy, at seven years and five
3 months, tested at school, had an IQ score, a raw score of
4 68?

5 A That is -- no, he didn't have a raw score of 68. He
6 had a raw score of 41. He had an IQ of 68.

7 Q Excuse me. You're right. IQ of 68 according to that
8 test.

9 A According to that test, that's correct.

10 Q And you left that one in?

11 A Yes, sir.

12 Q Uh-huh. (Affirmative).

13 A I didn't leave -- I'm sorry. Correction. I didn't
14 leave it in. It remains the same from Table 3 in the
15 supplemental report to Table 3-A in the supplemental report.

16 Q Okay.

17 A There were no changes to it because it was an IQ score
18 that was listed in the records, yes, sir.

19 Q All right. Now, let's go to the testing that was done
20 November 6th, 1967.

21 A Okay.

22 Q And, again, would you -- can we agree that a child
23 going to school having the stimulation of an environment
24 where he is called upon to learn, does learn, that this
25 would be something that might well affect how intelligent he