

Jun 11 2026

S.C. SUPREME COURT

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

CLARENCE W. JENKINS,)
)
 APPLICANT,)
)
 VS)
)
 STATE OF SOUTH CAROLINA,)
)
 RESPONDENT.)
 _____)

2015-CP-23-2629

JANUARY 30-31, 2023

TRANSCRIPT OF RECORD

B E F O R E:

THE HONORABLE G.D MORGAN, JUDGE

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

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Attorney for the
Applicant

Taylor Smith, Esquire
Attorney for the
Respondent/State

Susan W. Hudgins, CVR
Official Court Reporter

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1 THE COURT: Yeah, that'll be fine.

2 MS. HENRY: Thank you. This is number
3 11 in my application. I'm amending 11A to add that
4 the applicant submitted alibi witnesses to defense
5 counsel including the following parties: Jamese
6 Gibbs, Mrs. Jenkins, Shanek Robinson, and the
7 defendant. That all of these parties were
8 available to testify at the trial and that none of
9 them were called. Further, that these witnesses
10 would have been able to impeach Carman Jenkins'
11 testimony at trial.

12 I have no amendments to B, C, or D.
13 We're withdrawing E, that the defense failed to use
14 the victim's drug history and the presence of drugs
15 in her system and the codefendant's history of
16 lying to attack the cause of death and the
17 defendant's level of participation in this crime.
18 That allegation is withdrawn.

19 And then I am amending 11F which
20 currently reads: The defense failed to make a
21 motion to quash the indictment for murder for lack
22 of specificity as no manner of death was alleged on
23 the indictment, the indictment being based on
24 hearsay testimony before the grand jury.

25 I am withdrawing the third allegation,

1 that the number of indictments during that grand
2 jury term were objectionable. And we are adding,
3 or asking to, to include that the failure to object
4 to the change of the date the morning of the trial
5 on the indictment the date the crime occurred from
6 the date determined to be accurate by the
7 Greenville County Grand Jury.

8 THE COURT: All right. Run that one by
9 me. You said 11F. Is that what you said?

10 MS. HENRY: Yes, sir, that last one was
11 11F.

12 THE COURT: Okay. And the third,
13 you're withdrawing the third...

14 MS. HENRY: Yes, the third
15 allegation --

16 THE COURT: The third allegation?

17 MS. HENRY: -- starting with number of
18 indictments during the grand jury term.

19 THE COURT: All right. And adding?

20 MS. HENRY: That the defense team
21 failed to object to the modification of the date.
22 I believe in the original indictment that went
23 through the grand jury, the date was April 10th.
24 And that's what was approved by the grand jury.
25 And it was modified on the solicitor's motion the

1 morning of trial to April 6th with no objection
2 from the defense.

3 THE COURT: All right. Any objection
4 to the amendments to the application from the
5 State?

6 MR. SMITH: No, Your Honor.

7 THE COURT: All right. The amendments
8 will be granted.

9 MS. HENRY: Thank you, Your Honor.

10 THE COURT: All right. Next?

11 MR. SMITH: Yes. May it please the
12 Court. Mr. Jenkins was indicted in November 2008
13 for the kidnapping and murder of Mekole Harris. At
14 some point thereafter, the State served Mr. Jenkins
15 with notice that it was seeking the death penalty
16 upon his conviction.

17 He was eventually tried before a jury
18 in Greenville County in April of 2012. By that
19 time, the State had withdrawn its death penalty
20 notice. Judge Edward Miller was the presiding
21 judge at trial.

22 At least three criminal defense lawyers
23 represented Mr. Jenkins with the principal three
24 being John Mauldin, Susannah Ross, and Mark
25 MacDougall. At the conclusion of the trial, the

1 jury found Mr. Jenkins guilty as indicted. Judge
2 Miller sentenced him to prison for life for murder
3 and did not issue a sentence for kidnapping in
4 accordance with state law.

5 The South Carolina Court of Appeals
6 affirmed on the three different arguments raised on
7 appeal, and the South Carolina Court of Appeals
8 denied Mr. Jenkins' petition for a writ of
9 certiorari. Since then Mr. Jenkins has filed his
10 application, and I understand the issues we're
11 moving forward on today.

12 Your Honor, just as a housekeeping,
13 because Mr. Jenkins is seeking post-conviction
14 relief, it's the State's position that if he were
15 successful today that he potentially could face the
16 death penalty again if he were retried. And with
17 that in mind, I'd ask Your Honor to question
18 Mr. Jenkins to make sure that he understands that
19 and that he's willing to go forward with that
20 despite that possibility.

21 THE COURT: All right. Mr. Jenkins, if
22 you would please stand.

23 (The Applicant stood.)

24 THE COURT: Now, you were convicted of
25 these charges, and you were sentenced to life in

1 prison. Do you understand that as part of that --
2 or prior to trial that the death penalty was
3 withdrawn, and the case proceeded and you were
4 sentenced to life in prison. Do you understand
5 that?

6 THE APPLICANT: Yes, sir.

7 THE COURT: Do you understand that if
8 you prevail here today, if I grant your application
9 for post-conviction relief, it goes back, and the
10 death penalty is potentially back on the table. Do
11 you understand that?

12 THE APPLICANT: Yes, sir.

13 THE COURT: Having understood that, do
14 you want to proceed today with your PCR hearing?

15 THE APPLICANT: Yes, sir.

16 THE COURT: All right.

17 Anything else from the State?

18 MR. SMITH: Yes, Your Honor. May I
19 confer with Ms. Henry for a second?

20 THE COURT: Yes.

21 (Off-the-record conference.)

22 MR. SMITH: Your Honor, I'd ask that
23 the witnesses be sequestered, anyone who plans to
24 testify or may testify.

25 THE COURT: All right. Any objection

1 from the Applicant?

2 MS. HENRY: No, Your Honor.

3 THE COURT: All right. We'll sequester
4 the witnesses. And y'all know who they are, so
5 I'll leave that up to y'all to make sure those
6 people are sequestered.

7 UNKNOWN FEMALE: Can we sit in the same
8 room out there?

9 THE COURT: Yes.

10 Any objection that they sit out there?

11 MS. HENRY: No, Your Honor.

12 THE COURT: All right. Anything else
13 from the State?

14 MR. SMITH: Your Honor, may we approach
15 the bench?

16 THE COURT: Yeah.

17 (A bench conference was held off the
18 record.)

19 THE COURT: All right. I'll turn it
20 over to the Applicant, Ms. Henry.

21 MS. HENRY: Thank you, Your Honor. We
22 call Ronnie Mitchell.

23 LAVERNE RONNIE MITCHELL,

24 being first duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MS. HENRY:

2 Q. Mr. Mitchell, thank you for being here.
3 So, Mr. Mitchell, can you tell us what you're doing
4 for work right now?

5 A. I work at Rogers Group. I do work for
6 the state.

7 THE REPORTER: Okay. I'm sorry. I
8 didn't --

9 THE WITNESS: I work for Rogers Group
10 in Greenville. We do road work for the state of
11 South Carolina.

12 BY MS. HENRY:

13 Q. So you do road work for the state?

14 A. Yes, ma'am.

15 Q. All right. Mr. Mitchell, can you tell
16 us where you're living right now?

17 A. I stay at 208 Brunswick Avenue in North
18 Greenville, South Carolina, in Cherrydale.

19 Q. And then your date of birth?

20 A. 10/8/63.

21 Q. Okay. I'm going to take you back to
22 2008. Where were you living in 2008?

23 A. The Shady Rest Motel.

24 Q. Can you -- is that -- was that near the
25 HotSpot?

1 A. Yeah, it's near the Hot Spot on
2 Alexander Street.

3 Q. Okay. Were you living by yourself?

4 A. No. With my girlfriend, Lakeisha
5 Cunningham.

6 Q. All right. And then can you tell me
7 where your house was in relation to HotSpot?

8 A. It's right there behind HotSpot.

9 Q. Can you walk to the HotSpot?

10 A. Yeah. They got a little alley cut
11 through there you can walk through.

12 Q. You do? Okay. So a decent amount of
13 traffic back there?

14 A. Yes.

15 Q. Okay. All right. Did you have an
16 opportunity to talk to the police on April 7th of
17 2008?

18 A. Yes. They asked me if I know Mekole.
19 I told them I seen her at the store on a Friday
20 afternoon about 5:30 after I got off work. That's
21 the last time I seen her.

22 Q. Okay. So let me back up. That's great
23 information. So you knew Mekole Harris?

24 A. Yeah. I met her through my girlfriend.

25 Q. All right. Were you close to her?

1 A. No.

2 Q. But you recognized her?

3 A. Yes.

4 Q. Okay. How did you recognize her?

5 A. Because I seen her -- my girlfriend
6 introduced me to her, and I was at the store on a
7 Friday afternoon. She rode through there on her
8 bicycle.

9 Q. Okay. So she was on a bicycle?

10 A. Yes.

11 Q. All right. And then how do you know
12 what time it was?

13 A. I get off work about 5:15. I go down
14 to the store about 5:30 to cash my checks.

15 Q. Okay. And then so what you told the
16 police on April 7, 2008, you still feel like that's
17 accurate?

18 A. Yes.

19 Q. And you still remember it yourself?

20 A. Yes. That's the last time I seen her,
21 yes.

22 Q. All right. I don't have any other
23 questions.

24 THE COURT: All right. Cross?

25 CROSS EXAMINATION

1 BY MR. SMITH:

2 Q. Mr. Mitchell, what is your full name?

3 A. Laverne Ronnie Mitchell.

4 Q. Okay. Do you have any connection to
5 Mr. Jenkins? Do you know Mr. Jenkins?

6 A. I don't know him at all, sir. I don't
7 know nothing about that man.

8 Q. Okay. How long did you live over on
9 Tindal Road?

10 A. Maybe about three or four years, and
11 then they shut the trailer park down for some
12 reason.

13 Q. Okay. What was the date range when you
14 lived at Tindal Road?

15 A. It's so long ago. The county closed it
16 down for some reason. I don't know how long ago
17 that was. I was staying at Tindal Road.

18 Q. When?

19 A. I don't know the exact year when they
20 closed it down, sir.

21 Q. You testified you remembered something
22 that happened in 2008, but you don't remember --

23 A. I don't know the year they closed the
24 trailer park down. They didn't give nobody time.
25 They just told us -- gave us 30 days to get out.

1 Q. Well, when did you move to Tindal Road?

2 A. Tindal Road? I can't -- way before --
3 about three years before that happened. I don't
4 remember the exact date.

5 Q. So you remember April 7th, 2008, but
6 not something more recent?

7 A. I got a copy of the paper I got from
8 the officer right here, sir. I don't know nothing
9 else about this case.

10 Q. Well, I'm not asking you about the
11 case. I'm asking you where you lived.

12 A. I stayed on Tindal Road. I moved from
13 Tindal Road to Shady Rest Apartments.

14 Q. Okay. How long ago did you live at
15 Tindal Road?

16 A. I'm talking about 10 or 15 years ago
17 probably. I don't know the exact year.

18 Q. Ten or fifteen?

19 A. Yes, sir.

20 Q. Okay. So that would have been, could
21 have been as recently as 2013. Could have been
22 2010.

23 A. Yeah, somewhere around there. I don't
24 know exactly the year, sir.

25 Q. All right. But that's possible it

1 could have been 2009, 2010?

2 A. It's possible.

3 Q. Okay. When did you live in Bluffton?

4 A. I was born and raised in Bluffton.

5 Q. Okay. All right. How many times did
6 you see Mekole Harris?

7 A. How many times I seen her when?

8 Q. Ever.

9 A. I would probably see her about once a
10 week or twice a week. When I go down there, she be
11 riding her bicycle through the neighborhood.

12 Q. Okay. So it was kind of a regular
13 thing to see her?

14 A. Yeah. I never had no conversation or
15 nothing with her.

16 Q. Okay. Would you say probably that was
17 sort of like a routine thing to see her?

18 A. Yes.

19 Q. All right. Did you go near Labor
20 Finders much back then?

21 A. Yes, sir.

22 Q. Okay. Why did you go around there?

23 A. That was daily work before I got my
24 permanent job, sir.

25 Q. Okay. So you were working with Labor

1 Finders?

2 A. Yes.

3 Q. Okay. While you were working at Labor
4 Finders, did you ever get around Mr. Jenkins?

5 A. No, sir. I don't even know him, sir.
6 That's the first time I seen him was this morning,
7 sir.

8 Q. How many people work at Labor Finders
9 --

10 A. It varied on a daily basis. It might
11 be a 50; it might be 100 people up there. You
12 never know.

13 Q. Did you ever see people at Labor
14 Finders that worked there all the time and you sort
15 of recognized their face or get used to seeing them
16 there?

17 A. I know a couple people there.

18 Q. Okay. How did you hear about
19 Mr. Jenkins' pending post-conviction relief case?

20 A. An attorney contacted me.

21 Q. So let me ask you this. Didn't you
22 plead guilty back on March 14, 2016, of possession
23 with intent to distribute cocaine base first
24 offense?

25 A. Yes.

1 Q. Is that a yes?

2 A. Yes.

3 Q. Okay. And that was here in Greenville
4 County. Right?

5 A. Yes.

6 Q. All right. And you did three years for
7 that?

8 A. Eighteen months.

9 Q. Okay. But it was a three-year
10 sentence?

11 A. Yes.

12 Q. Did you live in Bluffton back in 2006?

13 A. I go back to see my family. I don't
14 live in Bluffton no more.

15 Q. All right. You used to though?

16 A. Yes. I was born and raised in
17 Bluffton.

18 Q. One moment, please. Let me ask you
19 about your work schedule. Did you always get off
20 of work at -- what time did you say you got off
21 work at?

22 A. Sometimes we get off at 5:00. It's
23 mostly between 5:00 and 5:30 every day.

24 Q. Okay. What days of the week did you
25 work?

1 A. We worked five days a week.

2 Q. Was it Monday through Friday every way?

3 A. Yes, Monday through Friday.

4 Q. Okay. Did you ever get off of work
5 before 5 o'clock?

6 A. It might be sometimes.

7 Q. Sometimes?

8 A. But mostly it be about 5:00 or 5:30
9 every day.

10 Q. Okay. How far was Labor Finders from
11 your work?

12 A. My work? Labor Finders liable to send
13 you any place. They might send you from Greenville
14 to Anderson. It varies on a day-to-day basis.

15 Q. So where was it that you saw Mekole
16 Harris?

17 A. At the store, the HotSpot on Short
18 Street I went and cashed my check.

19 Q. And what date was that again?

20 A. It was on a Friday.

21 Q. Do you know the date?

22 A. I think about April 3rd or 4th. I
23 think that's Friday's date.

24 Q. So it was a Friday?

25 A. Yes, sir.

1 Q. How far was HotSpot from your work?

2 A. From my work?

3 Q. From your work?

4 A. I was working at Marietta Supplies.

5 When we leave there, we go straight down there. I
6 drive to work.

7 Q. All right. So say you got off of work
8 at 5 o'clock. How long would it take you to get
9 back to the HotSpot?

10 A. About 20 minutes because we were
11 working in Travelers Rest that day.

12 Q. Okay.

13 A. At the corner in Travelers Rest.

14 Q. Okay. So you said you last saw Mekole
15 Harris on Friday April 5th?

16 A. I did not say -- no. I said April 3rd
17 or 4th was the date, sir. About 5:30.

18 Q. And you're sure it was a Friday?

19 A. Yes, sir.

20 Q. All right. No more questions.

21 THE COURT: Any redirect?

22 MS. HENRY: No, your Honor.

23 THE COURT: All right. You may step
24 down.

25 All right. Next witness.

1 MS. HENRY: The Applicant calls -- we
2 call Clarence Jenkins.

3 CLARENCE JENKINS,
4 being first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MS. HENRY:

7 Q. Clarence, can you tell us where you're
8 currently living?

9 A. Broad River Correctional Institution,
10 4460 Broad River Road, Columbia, South Carolina.

11 THE REPORTER: Can you pull up to the
12 microphone, please?

13 THE WITNESS: Yes, ma'am.

14 THE REPORTER: Thank you.

15 BY MS. HENRY:

16 Q. Clarence, tell us what you're in prison
17 for.

18 A. Murder and kidnapping.

19 Q. And those allegations or those charges,
20 those are from April 2008?

21 A. Yes, ma'am.

22 Q. All right. So, Clarence, I want you --
23 did you testify at your original trial?

24 A. No, ma'am.

25 Q. So I'm going to -- I'm going to walk

1 you through -- I want you to walk the Court through
2 the testimony or some of the testimony that you
3 would have given at the trial. And I want you to
4 just start with describing your relationship with
5 Carman to the Court.

6 A. I had met Carman back in 2007. I was
7 staying with my mom. We had just moved from
8 Sherwood Lane which is Piedmont Manor, to Roper
9 Station. And I actually just got dumped by my
10 youngest son's mother. So we moved over there to
11 Roper Station the early part of 2007. My mother
12 met Carman and her mom way before I did. I was
13 doing little side jobs, underneath the table jobs,
14 going in and out of town and hustling on the side.
15 So I really wasn't there that much. Then one night
16 I came in from town and seen my mother downstairs
17 because we lived right above them. She told me to
18 come in. That's when I met Carman and her mom.
19 And, honestly, I really didn't want to have a
20 conversation right then. I had just gotten into
21 town. And during that time in my life the only
22 thing I was really focused on is drinking and
23 getting high. I really wasn't focused on anything
24 else.

25 Q. How old were you at the time?

1 A. 2007, I think I was maybe 23 or 24.

2 Q. So what year did you meet Carman?

3 A. It was the early part of 2007.

4 Q. 2007?

5 A. Yes, ma'am.

6 Q. Okay.

7 A. So my mom introduced me to Carman and
8 her mom. Carman was laid out on the couch with
9 some boy shorts and a tank top, which is really
10 probably the only reason I stayed. But we end up
11 talking, and that's when I found out a lot about
12 Carman and her mom. Carman's mom is a Methodist.
13 She's really a religious -- strong in her religion.
14 Carman is adopted, but Carman was mostly into
15 females than males.

16 Q. And that was something that you knew
17 going into that relationship with Carman?

18 A. Well, it wasn't actually supposed to be
19 a relationship. It was just supposed to be a
20 little fun here and there. That was it. But she
21 ended up getting pregnant. The deal was her mom
22 was always trying to push her onto guys, you know,
23 get her -- let them meet up, let her meet a good
24 guy and so forth like that. And my mom always
25 wanted me to meet somebody, stop being in the

1 streets, stop doing the stuff I was doing. Plus,
2 like I said, I had just got dumped by my youngest
3 son's mother and already had an older son by a
4 different female. So my mama was trying to get me
5 to straighten up during that time. So with the
6 pressure going on both sides, me and Carman started
7 just basically talking every once in a while
8 whenever I came through. Me and Carman came to an
9 agreement that I would tell her mom that me and her
10 was dating, and she can go off and get with whoever
11 she deals with and we just mess around every so
12 forth.

13 Q. And did Carman take you up on that?

14 A. Well, first she said let me -- let her
15 think about it. I said about maybe a few days
16 later after I left and came back in -- she was
17 like, yeah. So I was like, cool. It really wasn't
18 that much of a big deal because, like I said,
19 during that time of my life, I was just drinking
20 and smoking and messing around. I really wasn't --
21 I wasn't a good father. I wasn't a good man. I
22 was just in the street.

23 Q. But you and Carman got married. Right?

24 A. Yeah. We started messing around the
25 early part of 2007. June we found out she was

1 pregnant. And her mom and my mom made -- yeah, we
2 got married December of 2007. They set up for us
3 to go to this lady's house. She was a notary
4 public. We went to her house one night and got
5 married.

6 MR. SMITH: Your Honor, I'm sorry to
7 interrupt. I forgot that Mr. MacDougall is on
8 virtual courtroom. And the witnesses are
9 sequestered. But I assume he can actually hear
10 Mr. Jenkins' testimony. That's not something I
11 thought of until this moment. But I just wanted to
12 make it --

13 THE COURT: I understand he cannot
14 hear.

15 MR. SMITH: Okay. Thank you.

16 BY MS. HENRY:

17 Q. And, Clarence, I just want to clarify
18 this. So you had two children with Carman Jenkins?

19 A. I have two daughters, yes, ma'am.

20 Q. Okay. And did you and Carman start
21 seeing each other in 2006?

22 A. No. We started messing around in 2007.

23 Q. When did you have your first -- when is
24 your daughter's birthday?

25 A. My youngest girl was a month before,

1 March 25th. That was 2008 before I got locked up.

2 Q. Right. So we're looking at the end of
3 March for your youngest daughter?

4 A. Yeah, and my oldest was March 5th. So
5 yeah, I think it might have been 2006.

6 Q. All right. So you married Carman
7 sometime in --

8 A. December.

9 Q. -- December?

10 A. It was in December.

11 Q. Okay. So you married Carman in
12 December. You guys stay in a relationship. Were
13 you and Carman living together?

14 A. We didn't start living together until
15 after we got married. That was one of the things
16 that Carman and I just had to find us a place so
17 she could move in so we could be together.

18 Q. Okay. Where did you live with Carman?

19 A. We lived in Boiling Springs, a trailer
20 in Boiling Springs. We lived in 209 Lulu Lane. We
21 lived off Tindal Road. We lived a few places and
22 moved around a lot.

23 Q. How long did you live at Tindal Lane?
24 Or Tindal Road?

25 A. I didn't stay there that much because

1 during that time, honestly, me and Carman were just
2 basically fed up with each other. I would get
3 tired -- like we were staying at Lulu Lane. I'd
4 get sick and tired of her not cleaning up or just
5 get sick and tired of her. And I would kick her
6 out, and she'll go back to her mom's. Once we
7 moved over there to Tindal Road which was her
8 trailer, I would just get up and leave and go to my
9 mom's, so I really wasn't there that much.

10 Q. Okay. And this is at Tindal Road?

11 A. Yeah, Tindal Road.

12 Q. Okay. When did you live at Tindal
13 Road? When did you guys get the Tindal Road
14 location?

15 A. I'm not sure exactly when, but I know
16 we was at Tindal Road in 2008.

17 Q. All right. And you don't know how long
18 you had been there?

19 A. Like I said, I really wasn't -- I
20 really wasn't -- I was leaving off back and forth,
21 so I'm really not quite sure. As a matter of fact,
22 I wasn't even there the day when she signed the
23 lease.

24 Q. Is your name on the lease?

25 A. No.

1 Q. Is there anything else that you want to
2 tell the Court about your history with Carman?
3 Just your history.

4 A. Well, like I said, me and Carman, we
5 kind of actually got forced into a relationship.
6 She wasn't happy with me. I wasn't really happy
7 with her. It started out just to be nothing, and
8 she ended up getting pregnant. And like I say, my
9 mom, she was like: You've already got two kids by
10 two different women. You've got to man up and do
11 something. And her mom, she's a really religious
12 person, so she wasn't trying to go for that.

13 But mostly Carman really wasn't
14 interested in being with a man. She was mostly
15 interested in being with a female. In her entire
16 life, she's only been, not counting me, two men in
17 her life out of all the relationships she's been in
18 from college to dating around and when she played
19 basketball, band. So, I mean, it was just
20 something that really shouldn't have happened.

21 Q. Can you describe your relationship with
22 Grace Davis?

23 A. This is actually -- actually this is
24 when I stayed over there at 209 Lulu Lane. I had
25 kicked Carman out. I got fed up with her told her

1 to go back to her mom's house. Anytime we split
2 up, I would just basically try to find somebody
3 else. And then our parents, they would talk to us
4 and get us back together. But this time I kicked
5 her out and told her to go back to her mom's. She
6 took her daughter and went back to her mom's house,
7 and I was just doing me.

8 And one night I went over to my
9 sister's house, and I seen Grace over there. We
10 just started talking, had a few drinks. Went back
11 to my trailer and messed around. Once again, it
12 was just supposed to be something just messing
13 around with. It wasn't supposed to be nothing
14 serious or nothing like that.

15 Q. Okay. So you and Grace Davis became
16 physically intimate the night you met her?

17 A. Yeah.

18 Q. And did that intimacy continue?

19 A. Yeah. Carman found out that I had
20 messed around with her, and she was still trying to
21 prevent her mom from being able to say I told you
22 so in our relationship and trying to get back
23 together. And I was being childish, so I started
24 just throwing Grace in her face and just basically
25 trying to get her mom to be mad and not like me so

1 I could move on and she would move on. So that's
2 basically how Carman found out about me and Grace.

3 Q. All right. So this is the summer of
4 2007?

5 A. Yeah.

6 Q. Does that sound right?

7 A. Yeah.

8 Q. Okay. So summer of 2007, you're
9 married to Carman?

10 A. Yeah.

11 Q. Is Carman pregnant at this point?

12 A. Yeah.

13 Q. And then you have another daughter with
14 Carman.

15 A. Yeah.

16 Q. So you meet Grace, and you start a
17 sexual relationship with her?

18 A. Yes, ma'am.

19 Q. Okay. And then shortly after you began
20 that relationship, does Grace move in with you and
21 Carman?

22 A. Yeah. I had picked Grace up, and like
23 I say, I was trying to just throw it in her mom's
24 face. So I picked Grace up, and I took her over to
25 her mom's house while they were having Sunday

1 dinner. It didn't turn out too well, but --

2 THE COURT: Mr. Jenkins, if you'll
3 speak a little bit into that microphone.

4 THE WITNESS: I'm sorry. I picked her
5 up and took her over to her mom's house and had
6 Sunday dinner. Didn't work out too well, but we
7 stayed there a little longer than we expected
8 because Grace was staying in the shelter at this
9 time. So she was like, she's got to get back. So
10 I wasn't going to take her back, so she had called
11 my sister to come pick her up. My sister took her
12 back. By the time she made it to the shelter, it
13 was closed.

14 Q. So Grace came and lived with you after
15 she was unable to get into a shelter?

16 A. Yeah.

17 Q. Okay. After Grace came to live with
18 you, was Carman also living with you?

19 A. Yes, ma'am. Carman came back actually
20 the same night. She told her mom that she's coming
21 back with us saying -- she packed her stuff up with
22 our daughter and came back to the house. Me and
23 her had a discussion. I was like: Look, if you're
24 going to come back, you've got to do something
25 different. I mean, like she's never cleaned at

1 all. So that was one of the criteria for her to
2 come back, that she would start cleaning up or
3 doing something.

4 Q. Okay. So after you meet Grace, who all
5 is in the house?

6 A. At this time, it's me, Carman, Grace,
7 my daughter and Grace's kids, I believe.

8 Q. How many kids did Grace have?

9 A. Three.

10 Q. What were the sleeping arrangements?
11 Where was everybody in this trailer?

12 A. Me, Carman, and Grace slept in the
13 master bedroom with my daughter, and the other
14 three, Grace's daughter and two sons slept at the
15 end in the other bedroom.

16 Q. And then shortly after you all moved in
17 together, were you arrested?

18 A. Yes, ma'am. I was arrested for driving
19 under suspension. And I think it was either -- it
20 was one of the ones that you couldn't pay out. It
21 was a mandatory sentence, so I got locked up and
22 did 90 days in the Department of Corrections.

23 Q. Okay. And when you came out of the
24 Department of Corrections, did you move back in to
25 Tindal Road?

1 A. Yes, ma'am. During the time that I was
2 locked up, Carman and Grace used to write me to let
3 me know what's going on. Grace told me that her
4 and Carman started a relationship and that Carman
5 wanted all three of us to be together. Because
6 even though we were sleeping in the same bed, it
7 wasn't a threesome. I would just -- I'll mess with
8 her, I'll mess with Carman or go off and sleep with
9 somebody else.

10 Q. So you guys had an open relationship?

11 A. To me, it was.

12 Q. Okay. And were Carman and Grace also
13 together intimately?

14 A. Yes.

15 Q. Okay. And how long did that go on?

16 A. That went on actually the whole time I
17 was actually incarcerated. At first when they
18 wrote me and told me that they was together and
19 they wanted all three of us together, I was mad
20 about it because that was not the plan. The plan
21 was just to have fun and keep it moving, but after
22 being locked up for a month and a half and them
23 writing me about all the good details of this and
24 that, I said, all right. Whatever. I accepted it.

25 Q. Okay. So when you got out, you lived

1 with Grace and Carman and their -- and your
2 children and Grace's children at Tindal Road?

3 A. Yeah.

4 Q. When did you move out?

5 A. I actually moved out March the 16th,
6 the same day that Grace left. The reason for that
7 was when I got out, the three of us, we messed
8 around. And Grace was telling me that Carman was
9 in love with her and this and that. So I asked
10 Carman -- I was like: Are you in love with her?
11 She was like: Yeah, she's in love with me. She's
12 the love of my life. I was like: Okay. Well, if
13 you want me, you're trying to be with her, now just
14 get on through. She was like: Yeah, I don't want
15 to be with you no more. So I was like: Okay.
16 Cool.

17 Q. When you moved out, where did you go?

18 A. I went to my mom's house.

19 Q. Where was your mom living at the time?

20 A. 110 Cornelia Street.

21 Q. Okay. What's your mom's name?

22 A. Myrtle Gibbs.

23 Q. Who else was living in the house?

24 A. Jamese Gibbs and my nieces and nephew.

25 Q. How many nieces and nephews?

1 A. Three nieces and one nephew.

2 Q. And where were your children?

3 A. Mine was with Carman.

4 Q. Who was with Carman?

5 A. My daughter -- my daughters was with --
6 my daughters was with Carman for three days after I
7 moved out because instead of going straight over
8 there to my mom's house, I had to do some other
9 things. Then after three days, I came back and
10 picked my daughters up, and me and my daughters was
11 at 110 Cornelius Street.

12 Q. Okay. So you left on March 16, 2008?

13 A. Yeah.

14 Q. And then you went back on March 19,
15 2008, and picked up the girls?

16 A. Yeah.

17 Q. And you brought -- did you bring them
18 back with you to...

19 A. 110 Cornelia Street.

20 Q. ... 110 Cornelia Street? And did you
21 leave the girls there?

22 A. Yeah.

23 Q. Were you staying there?

24 A. Off and on, yeah.

25 Q. Where were you staying during the off?

1 A. It was during this time to support my
2 habit, I would actually cook for about three -- say
3 about six people. And when you cook for them, they
4 would --

5 Q. Explain to the Court what cooking is.

6 A. I'm sorry. Cooking is when you turn
7 cocaine into crack. And I came up around a lot of
8 the old cats that actually taught me how to stretch
9 it or make it better. You put two grams of baking
10 soda on an ounce of crack and actually make it
11 better than anybody else. So then you put seven on
12 there and stretch it. But the better the quality
13 is, the better your customers will come back. And
14 since I was a smoker, I can test it for myself and
15 just tweak it if I needed to.

16 I had a few people that didn't have too
17 much quality. They got this substance called
18 blowup. When you put that on there, it just
19 absorbs the water around the cocaine and makes it
20 even bigger. The quality is not that good, but you
21 can -- the person who is selling it can make more
22 than they would from just the baking soda or
23 nothing at all.

24 Q. Very detailed. So you were making
25 drugs?

1 A. Yeah.

2 Q. Okay. And where were you doing that?

3 A. I was actually doing that at Carman's
4 trailer.

5 Q. So you were cooking drugs occasionally
6 at Carman's trailer?

7 A. Yeah, when she wasn't there.

8 Q. All right. And you were living with
9 your mother and your sister?

10 A. That's right.

11 Q. And you had your girls with you?

12 A. That's right.

13 Q. At your mother and your sister's house?

14 A. Yes.

15 Q. Okay. And you had moved out as of
16 March 13th?

17 A. No. I moved out March 16th, the same
18 day Grace left because me and Carman got into a big
19 argument about it, and she ended up taking off in
20 the van and going after Grace. And I was like,
21 whatever, man. I just grabbed some stuff and took
22 off. That's actually one of the main reasons why I
23 ended up leaving my daughters there because I was
24 mad, and I just wanted to go get high and get
25 something to drink. So I went off and got high for

1 a couple of days. Came back and picked up the kids
2 and left, just left a note.

3 Q. Describe Carman's reaction to Grace
4 leaving.

5 A. I was in the living room while they
6 were talking in the back bedroom. And I heard
7 Carman screaming at Grace talking about: You're
8 not going to leave. What you think you're doing?
9 And they ended up coming into the living room, and
10 I'm just --

11 MR. SMITH: Objection to hearsay, Your
12 Honor.

13 MS. HENRY: Your Honor, he hasn't
14 testified to them saying anything.

15 THE COURT: I don't think -- they
16 haven't said anything yet.

17 MS. HENRY: He heard screaming. So far
18 that's where we are.

19 THE COURT: Overruled.

20 THE WITNESS: So they ended up coming
21 in the room just arguing. And eventually they
22 calmed it down, hugged. Carman went to the back
23 bedroom wiping her face, and Grace came over there,
24 spoke with me about her leaving. I said all right.

25 Q. Did Grace leave after that?

1 A. Yeah.

2 Q. Then what did Carman do?

3 A. Came out there yelling and going on,
4 arguing with me talking about I should have did
5 this and --

6 Q. Wait a minute. We don't want to know
7 what Carman said, just what you observed Carman
8 doing and what her demeanor was.

9 A. She was angry, crying, and just upset.
10 And the fact that I guess I really didn't care at
11 the time made her even more mad. She ended up
12 jumping in the van and said she was going after
13 Grace.

14 Q. Okay. So by April of 2008, are you and
15 Carman still living together?

16 A. I come there off and on, but, no, we're
17 not living together.

18 Q. Okay. Before we start to talk about
19 what you remember about the events of that first
20 weekend of April in 2008, I want you to talk to us
21 about Mekole Harris and your relationship with her.

22 A. I first met Mekole back in 2005. I was
23 at one of my associate's house up there in
24 Donaldson Center. We used to sell out of a trailer
25 up in there. And Mekole had come through with

1 somebody who was having a little party up there,
2 just getting out and drinking. This was like the
3 early part of 2007. She came up there to get
4 something from him, but he was high and drunk, so I
5 ended up giving her something. I gave her some
6 drugs. She left. And I found out later on that
7 she actually got a possession of paraphernalia or
8 drugs or something like that that she had actually
9 got from me.

10 Q. Clarence, let me pause you just to make
11 sure I understand what you're saying. So is this
12 interaction where you either sold or gave Mekole
13 drugs, is that the first time that you met her?

14 A. Yeah, that was the first time I met
15 her.

16 Q. Okay. So you were saying that was in
17 early 2007?

18 A. No. Early 2005.

19 Q. 2005?

20 A. It was like around January 1st, 2005.

21 Q. Okay. So after that first meeting with
22 Ms. Harris, what was your relationship like after
23 that? When's the next time you saw her?

24 A. I seen her maybe a couple of weeks
25 later. Come to find out, she knew a lot of the

1 same people that I used to go and speak with and
2 get high with. So I used to see her pretty
3 frequently.

4 Q. So at the beginning of 2008, January,
5 February, and March, how often did you see
6 Ms. Harris, and what was your relationship with her
7 at that time?

8 A. I used to see her almost every day up
9 there at Labor Finders. She actually helped me out
10 a lot because when I first moved over there, Labor
11 Finders -- too many people didn't really want to
12 deal with me. I guess how my demeanor or whatever
13 like that.

14 Q. When you say deal with you, what do you
15 mean?

16 A. They was -- well, she would basically
17 bring customers to me. I would give her whatever
18 she wanted. She will bring customers to me because
19 she used to deal in that area over there at Labor
20 Finders. She knew the area. I didn't. I had just
21 got over there. And she was basically a lifesaver
22 because nobody really wouldn't too much deal with
23 me because I wasn't used to being over there at
24 Rutherford Road.

25 Q. Are you talking about drugs?

1 A. Yeah.

2 Q. Okay. So what did Mekole do for you?
3 What did Ms. Harris do for you?

4 A. She would -- whenever I was up there at
5 Labor Finders, she would hold it for me, or the
6 guys that she used to talk to, she would bring them
7 up there to buy from me. Whenever the guys get off
8 work, they would cash their checks and want
9 something to smoke, want something to drink.

10 Q. Okay. So Mekole was your connection
11 there?

12 A. Yes, ma'am.

13 Q. Did you also have an intimate
14 relationship with Ms. Harris?

15 A. Yes, ma'am.

16 Q. And how long did you have that
17 relationship with her?

18 A. I mean, we was just -- Mekole was
19 really kind of like my smoke partner up there at
20 Rutherford Road, up there at Labor Finders. I can
21 just sit up there and just chill with her smoking.
22 It wasn't nothing serious. I mean, I could just be
23 myself around her. I mean, I didn't have to worry
24 about nothing. I was just able to sit and chill
25 and smoke and drink with her.

1 Q. All right. Now, that we've kind of
2 establish the players in this, I want to take you
3 back to, let's say, the evening of or late at night
4 on April 3, 2008. Okay. Do you remember -- this
5 would be Thursday. Do you remember whether or not
6 you worked at the Ingles? What you were doing?

7 A. I worked at the Ingles in Easley
8 cleaning, I think, either the refrigerators or just
9 clean out the Ingles. It was a cleanup job from
10 10:00 PM till about 3:00 or 4:00 that morning.

11 Q. And were you by yourself doing that?

12 A. No. At first I would -- I probably
13 went there maybe one time by myself, but Carman
14 started working over there and coming up there with
15 me.

16 Q. So on Thursday, April the 3rd, were you
17 up there at Ingles with Carman?

18 A. It was either that Thursday or that
19 Friday, either one or both of them days. I'm not
20 exactly quite sure exactly. But most of the
21 time -- anytime I went to Labor Finders, Carman --
22 for the most part, Carman was with me at the time.
23 If I was to say so, I would say, yeah, she was with
24 me that Thursday. As a matter of fact, yeah, she
25 was with me that Thursday because as soon as we got

1 off and went to Labor Finders -- she was -- yeah,
2 she was with me that Thursday.

3 Q. Clarence, at that time, you had just
4 gotten out of jail not too long ago for the driving
5 under suspension. Were you driving at all?

6 A. No.

7 Q. Did you have a car?

8 A. No.

9 Q. Okay. Who was your transportation?

10 A. Carman.

11 Q. Were you also getting transportation
12 from your sister and your mom?

13 A. Yeah, my sister would come pick me up.
14 But if Carman didn't drop me off, I started
15 walking. To be honest with you, me going to the
16 Department of Corrections was actually my first
17 time ever being in the penitentiary. I used to get
18 little speeding tickets, but that was just in the
19 county jail. That actually scared the living crap
20 out of me, so much so that I actually quit my last
21 job which I was going around selling vacuum
22 cleaners before I started working at Labor Finders.
23 And I had found out from one of the workers there
24 that they'll potentially call the cops on you if
25 you're driving around the neighborhood. And I

1 ended up getting another driving under suspension
2 charge before we even moved to Tindal Road, so I
3 had a -- pretty much a bench warrant on me, so I
4 wasn't driving anymore period. I wasn't trying to
5 be nowhere where the police might get called.

6 Q. All right. Let me bring you back to
7 Thursday, April 3rd. You guys had -- according to
8 you, you and Carman had just finished cleaning the
9 Ingles. Did you guys go back to Labor Finders?

10 A. Yeah, we went back to Labor Finders as
11 soon as we got off. I'd say we worked from about
12 10:00 till about 3:00 or 4:00 that morning. You
13 wait around to get your check, go cash your check
14 and mostly leave.

15 Q. What did you do that morning?

16 A. That morning, I stayed around for a
17 little bit longer because I was waiting for Mekole
18 to come around so we could get our smoke on. Then
19 I was going to give her some stuff to hold for me
20 and take off.

21 Q. Okay. Was she there?

22 A. That Thursday, yeah, she was there.

23 Q. Okay. What did you do? So did you
24 smoke up with her?

25 A. Yeah. Carman was supposed to just

1 leave, but she ended up staying around and ended up
2 getting into a disagreement with Mekole which it
3 wasn't the first time. She ended up getting in a
4 disagreement with her that night, so we took a few
5 shots, and I just jumped in the van and we left.

6 Q. Okay. So you jumped in the van with
7 who? Carman?

8 A. With Carman.

9 Q. Where did you go?

10 A. Went back to -- wait a minute. That
11 was Friday morning. Okay. I know Friday morning
12 when we got off around 4:30, about 3:30 or 4:00 --
13 let me make sure I got this right. We worked
14 Thursday and got off -- went to work Thursday
15 around 10 o'clock. And I'm sorry. It's been over
16 15 years now.

17 Q. That's okay, Clarence. Take your time.

18 A. So Thursday went to work about
19 10 o'clock, got off around 3:00 or 4:00. Okay. We
20 went back to Labor Finders. That Friday, Mekole
21 wasn't there that morning.

22 Q. So when you and Carman first came back
23 from working at Ingles, this would be around
24 4 o'clock in the morning?

25 A. Yeah.

1 Q. You went to Labor Finders.

2 A. Yeah.

3 Q. And was Mekole there?

4 A. No, Mekole wasn't there that morning.

5 Q. Okay. What did you do?

6 A. I had to go back to Carman's place
7 because, first of all, when we left work that
8 night, I actually forgot my bag with me. Which
9 when I say bag, I mean drugs and stuff like that.
10 Just a few things to smoke or whatever that day.
11 So when I did get off and go back to Labor Finders,
12 get our check, Mekole wasn't there. I ended up
13 going back to Carman's place, picked my bag up.
14 Then she took me to my sister's place which is on
15 110 Cornelia Street. I went over there and talked
16 to my sister and told her I was going to come back
17 over there and spend time with her, my mom and the
18 kids. You know, I wasn't feeling good around that
19 time.

20 Q. Okay. What time did you go to your
21 mom's house?

22 A. It was probably -- it was just around
23 like maybe about 8:00 or 8:30. Somewhere around
24 there. I'm not quite sure exactly what time, but I
25 know it was early that morning.

1 Q. Okay. So --

2 A. And Carman --

3 Q. So now we're Friday morning?

4 A. Yeah, Friday morning.

5 Q. We're at 8:00 AM.

6 A. I was over there for a little bit.

7 Q. Over where? Where were you?

8 A. 110 Cornelia Street.

9 Q. Who is there when you got home?

10 A. My mother, my sister, Boo, and Tunu

11 (phonetic), my other sister, Nunu (phonetic).

12 Tunu. Sorry. Tunu. Jameese and Tunu was there.

13 Q. So Jameese was there?

14 A. Yeah, Jameese was there.

15 Q. All right. So Jameese was there. What

16 did you do when you got there?

17 A. Went in there and kissed my mom. Not

18 really trying to get too close, just give her a

19 little peck and go because I used to try to hide

20 the smoking and drinking from my family. I don't

21 really know if that worked, but I tried. I kissed

22 my mom, told my sister that I'll be back and spend

23 the weekend with them. And just left.

24 Q. Okay. So you left. What time did you

25 leave?

1 A. I probably wasn't there no more than
2 like maybe 15 or 20 minutes.

3 Q. All right. Where did you go?

4 A. Back -- she dropped me back off at
5 Labor Finders.

6 Q. What did you do at Labor Finders?

7 A. Once I got back to Labor Finders,
8 Mekole was there, so I just chilled up there with
9 Mekole most of the day. Made a few sales, smoked
10 some and just chilled out up there. Chilled out up
11 there for the most part. I think it was about -- I
12 can't remember exactly. We each had to leave.
13 Well, I actually had to leave out of Labor Finders,
14 I can't remember exactly why I had to leave. No.
15 I'm sorry. I didn't have to leave. Mekole left
16 out the back from -- because she was in the back
17 smoking. And the lighter didn't work, so she
18 actually had to go out and find a lighter. Came
19 back and finished smoking. I ended up leaving
20 Labor Finders around like 4:30 or 5 o'clock walking
21 toward 110 Cornelia Street.

22 Q. Okay. So you left Labor Finders around
23 4:30 or 5:00?

24 A. Yeah.

25 Q. On Friday?

1 A. Yeah.

2 Q. And that's April 4th?

3 A. Yeah.

4 Q. And then you went back to your mom's
5 house?

6 A. Yeah.

7 Q. Your mom and James's house?

8 A. Yeah.

9 Q. Okay. What happened after that? Did
10 you stay there -- were you there the rest of the
11 night?

12 A. Yeah. It probably took me a little
13 longer than it probably should have from walking.
14 But once I got there, I probably got there maybe
15 like 6:00 or 6:30, somewhere around there. Stayed
16 there all night. Got up that Saturday morning.
17 Spent time with my mom and nieces and nephews and
18 my sister. Sunday I stayed there with them all
19 morning. Carman came over that afternoon.

20 Q. And this is on Sunday?

21 A. Yeah, this is on Sunday. She's been
22 calling me all weekend, but I was ignoring her
23 phone calls. So that Sunday afternoon, she came
24 over, and we got into an argument. She wanted me
25 to come back to the trailer to talk to me about

1 something. But instead, we ended up getting to the
2 law library. Not law library, but the library.

3 Q. Okay. Why did you go to the library?

4 A. Well, back in the early part of March,
5 one of my associates had put me on about this --
6 it's a creeper thing. It's one of a white-collar
7 crime. Basically, all you do is you set up an
8 email in a site like Craigslist or some dating app,
9 put a female's profile on there, a young female's
10 profile, and trying to basically lure in a
11 pedophile or something like that and trick them
12 into giving you money or something like that.

13 Q. Okay. So why was Carman with you if
14 you were setting up this creep site?

15 A. Well, because I didn't actually know
16 how. I knew how to set up an email address, but I
17 didn't know how to link everything up together.
18 Carman told me that she actually knew someone to
19 help me out, but she never actually got around to
20 it. I probably checked -- every time I checked it,
21 it was just nothing there. So then she used to get
22 mad at me for checking it.

23 Q. So how long were you at the library?

24 A. I wasn't even at the library that long.
25 Maybe -- I was probably gone for maybe an hour at

1 the most.

2 Q. Okay. Then what did you do after the
3 library?

4 A. Headed right back to 110 Cornelia
5 Street.

6 Q. All right. So you know that there is
7 video of you that was presented at your trial of
8 you being at the library with Carman. Right?

9 A. Yeah.

10 Q. And so it's your testimony that the
11 reason that you were there was to check on this
12 creeping John website or this creeping John
13 situation?

14 A. That's what initially -- yeah, that's
15 what it initially was supposed to be.

16 Q. And there's no -- did you have a
17 website or anything else to present to them.

18 A. I mean, I can tell you the whole
19 details how it worked, how it was supposed to work.
20 But as far as actually having a website itself, no.

21 Q. And you think that's because Carman
22 never sat it up?

23 A. Yeah. She -- Carman was never the
24 utmost truthful person. She would always try to
25 hide things from me or get mad or do something

1 vindictive. Like I said, me and her, we didn't
2 have nowhere near even a good relationship, so I
3 mean...

4 Q. So what did you do after the library?

5 A. Basically, we argued all the way back
6 to my sister's house. She stayed there for a few
7 minutes, telling me that she needed to talk to me.
8 I needed to come to the trailer. That it's
9 important that she needed to talk to me.

10 Q. Did you go back to the trailer?

11 A. No.

12 Q. What do you do instead?

13 A. I stayed at my sister's house. I got
14 out of the van, slammed the door and walked off
15 into my sister's house and stayed all night.

16 Q. So you were at your sister's house the
17 entire night of Sunday?

18 A. Yeah.

19 Q. And that is April 6, 2008?

20 A. Yeah.

21 Q. Okay. What do you do in the morning on
22 April 7th?

23 A. Monday morning, I got up. Took me a
24 shower, got myself together and walked to Labor
25 Finders and just smoked on my way there. Labor

1 Finders, I'm not -- I don't actually smoke inside
2 the house. If I wanted to smoke or anything like
3 that, I would actually have to leave and walk up
4 the street.

5 Q. Did you have somewhere specific to be
6 through Labor Finders?

7 A. Yeah. I had this ticket to work at
8 this pool service place at 8:30.

9 Q. Was Carman -- where was Carman?

10 A. When I got to Labor Finders, Carman was
11 already there sitting in the parking lot in the
12 van.

13 Q. Did you talk to her?

14 A. At first, no. I just walked right past
15 the van, went in there, got my ticket. Then she
16 got out of the van and came in, telling me that we
17 needed to talk or whatever like this.

18 MR. SMITH: Objection, hearsay.

19 THE COURT: Sustained.

20 BY MS. HENRY:

21 Q. Try not to repeat anything that Carman
22 told you. We're just interested in your
23 observations.

24 A. All right. She got out of the van and
25 came in upset. And so to make a long story short,

1 she wasn't going nowhere until we talked, so she
2 ended up staying up there at Labor Finders till it
3 was time for me to go to the site. She drove me to
4 the site. Literally stayed out in the parking lot
5 while I worked. Got off of work to go back to
6 Labor Finders. I'm trying to tell her that: Hey,
7 look. We can talk later on. I've been working at
8 this pool place. It's hot out there. I'm just
9 trying to smoke something, get something to drink
10 and just relax. She wasn't trying to go nowhere at
11 all.

12 Q. What did you think the conversation was
13 going to be about?

14 A. Well, a little while before then, she
15 came to her trailer, and she caught me and Mekole
16 smoking and drugs all up on the table and stuff.
17 It was a big situation about that. They got into a
18 little pushing match or whatever like that. So I
19 figured that she found the little bags and stuff I
20 had stashed in the back bedroom or in the safe
21 because I had quite a few things over there at her
22 trailer.

23 Q. Okay. So you thought she was going to
24 be mad at you for keeping drugs at the trailer?

25 A. Yeah, because that was the situation

1 before.

2 Q. Okay. Did you eventually go back to
3 the trailer with Carman on Monday?

4 A. Later on that night. Carman would not
5 leave.

6 Q. Would not leave where?

7 A. Labor Finders. I mean, she just
8 wouldn't go nowhere. I was sitting there trying to
9 get my smoke on. I was looking for Mekole, my
10 smoke partner. I stayed up there for about almost
11 maybe an hour and a half looking for Mekole
12 because, I mean, that was on Monday. Like I told
13 you before, Mekole used to help me out a lot. She
14 actually never missed a Monday's appointment unless
15 she had some specific something she was going to
16 do. So I waited up there for maybe an hour and a
17 half. She never showed up, so I had phoned her to
18 take me around to certain places so I can re up on
19 a few things and the few people that I dealt with
20 that I cooked for. Pick up some stuff and then bag
21 up to cook later on.

22 Q. So Carman waited at Labor Finders until
23 you were done?

24 A. Yes.

25 Q. Is that right? And then Carman really

1 wanted to talk?

2 A. Yeah.

3 Q. So you're testifying that she ended up
4 driving you around to pick up drugs. And then
5 where did you go?

6 A. Later on that night I'd say about maybe
7 9:30, 9:40, somewhere around there, we finally made
8 it back over to her trailer. We pulled up at the
9 trailer. She got out the passenger side. I mean,
10 not the passenger side. She got out the driver's
11 side seat, and I'm sitting in the passenger side.
12 I'm sitting there just smoking and drinking, and
13 she's telling me I need to come inside the trailer.
14 We get into another argument and whatever like
15 that. So eventually, I end up getting out of the
16 van and coming inside the trailer.

17 Q. Okay. What happens when you get inside
18 the trailer?

19 A. Actually, as soon as I walked through
20 the door, she lays in on me, going on and on about
21 Grace and about Mekole, about the drugs, about how
22 can I have the stuff here knowing that our
23 daughters can be here, and a whole bunch of stuff.
24 This went on and on and on.

25 MR. SMITH: Objection to hearsay again,

1 Your Honor.

2 THE COURT: Sustained.

3 THE WITNESS: Sorry. To make a --

4 BY MS. HENRY:

5 Q. What do you do next after you go inside
6 the trailer?

7 A. She -- I can't say what she said, but
8 she basically points me to the back, makes a
9 comment and points toward the back, so I end up
10 going to the back. As soon as I walked through the
11 back bedroom, I look and I see Mekole stretched out
12 over on the floor on a pile of clothes wrapped up.
13 Looked like she was wrapped up. So I'm just
14 staring for a second, and then I started figuring
15 it out. I'm like: Yo, what is this? She's just
16 standing right there just looking at me. You know
17 what I'm saying? So, I mean, I don't know if
18 anybody's ever been high before, but that was
19 almost an instantaneous sober. So I'm just
20 freaking out. So I go over. I pulled the sheet
21 back. And it is. It's Mekole, and she has a
22 20 milliliter syringe gauge in her neck. There was
23 a white spoon with cocaine on it laid beside her on
24 the cover, and she had a gash on her forehead. It
25 looked like -- it was so bad that she looked like

1 she had been -- like there was a hole like she had
2 been shot or something like that. She had white --
3 a white substance around her mouth like she had
4 been foaming at the mouth or something like that.
5 So I'm just freaking out and trying to find out
6 what's going on, and she's just sitting there just
7 looking at me.

8 Q. Who's looking at you?

9 A. Carman.

10 Q. What do you do next, Clarence?

11 A. I literally -- I take off to the living
12 room because the only thing that was going through
13 my mind is basically I don't -- we didn't know what
14 to do. I'm literally -- don't know what to do. So
15 I'm just trying to grab everything I have there.
16 I'm reaching underneath the couch, trying to grab
17 everything I had and get everything out of the
18 safe. Trying to back up, trying to just get on
19 through. So I grabbed the grill. I took it
20 outside. I'm trying to, whatever papers I have
21 with people's names on it or the correct formula
22 that I used for different peoples, I'm trying to
23 burn everything in the grill and just get on
24 through.

25 One of the individuals that I was

1 supposed to meet early that day at Donaldson
2 Center, he ended up showing up later on, maybe
3 around 10 or 11 o'clock. And I'm bagging
4 everything up, throwing it outside. He comes up.
5 I stopped him at the door. And he was like: Yo,
6 what's wrong? And I couldn't say nothing. I'm
7 just like: Look, I've got to go. I've got to go.
8 So he was like: All right. Hold on.

9 While I'm still in the house, a vehicle
10 had pulled up for a second while he's standing
11 outside. And I'm freaking out even more, but it
12 just pulls off. So I come outside like: Yo,
13 what's going on? I was like: It's nothing. So we
14 take off because he had parked down there toward
15 the entrance. So I leave off with him.

16 And me and Carman, we had conversations
17 between that I can't -- you say I can't say what
18 she said. But we're going back and forth during
19 the whole process.

20 So I end up taking off. I spent a
21 couple days with him and another individual just
22 trying to get my mind right and getting high and
23 just -- just trying to get my mind right.

24 She's steady calling my phone. She --
25 well, we had -- we ended up having a conversation,

1 and I ended up going back over there. And this was
2 actually Wednesday, Wednesday night. I'm going
3 back over there, and Mekole is still in the back.
4 Me and her end up getting into it again, and she
5 basically pointed some things out. And I felt like
6 basically I didn't have no choice but to help her
7 cover up what happened.

8 Q. Why did you feel you didn't have a
9 choice? What were you worried that would come out?

10 A. Like I said, the first time I went to
11 prison for that night, it literally scared the crap
12 out of me. I had a lot of stuff at her trailer,
13 and she knew about everything I had. I had one
14 legal gun, but I had, like, three other guns.

15 Q. So you were worried that -- were you
16 worried that Mekole would report you for having
17 guns and drugs? Not Mekole. I apologize.

18 A. It wasn't --

19 Q. Carman.

20 A. It's not something I was worried about.
21 It's something that -- it was expressed.

22 Q. Okay. So that was the threat?

23 A. Yeah.

24 Q. So what did you do?

25 A. She told me that -- well, she

1 basically -- basically, she knew everything. She
2 used to work for this architect company, so she
3 knew everything about Greenville. That was another
4 thing that I found interesting about her. She took
5 me places in Greenville that I didn't even know
6 about. So she basically was like: Help me do
7 this, help me do that. So I did. She knew of a
8 place where she drove us there. It was a gate
9 right in front of it. Didn't have a lock on it or
10 nothing. She pulled right up to the gate. I
11 jumped out. I opened up the gate. She drove
12 around in. Backed all the way up to the -- like a
13 dark spot like -- maybe like -- I don't know -- 15
14 or 20 feet, maybe a little more than that. I
15 helped her carry Mekole out of the back of the van.
16 Placed her on the ground beside my daughter's
17 playpen. And I took off and jumped in the van and
18 started smoking. She poured gas on top of it, lit
19 Mekole on fire and jumped in the van and we drove
20 off. Headed back to her trailer.

21 Q. What did you do next?

22 A. I end up staying there the rest of that
23 night. Then she explained a lot of details of what
24 -- from what she told me what happened, what led up
25 to the reason, and this and that.

1 Q. Did you stay at the trailer?

2 A. Yeah, I did.

3 Q. You stayed at the trailer after you
4 guys, the two of you, took the body out to Paris
5 Mountain?

6 A. Yes.

7 Q. What do you -- so you stayed there on
8 Wednesday. On Thursday what do you do when you
9 wake up?

10 A. I didn't sleep that night. I stayed up
11 pacing back and forth just getting high. Thursday
12 morning I got -- Thursday morning I told her --
13 basically, I was like -- I mean, honestly, I
14 couldn't do it. You know?

15 Q. You couldn't do what? What are you
16 talking about, Clarence? What do you mean?

17 A. I wanted to get as far away from that
18 whole situation as possible. She wanted to stay
19 there and was still bent on keeping that place.
20 But I wanted to get as far away from it as
21 possible. And it got to the point where I was
22 like: You know what? I don't care about what
23 happens. I'm just -- mentally I couldn't deal with
24 it. I just couldn't deal with it.

25 So I took off walking. I walked to my

1 mom's place at 110 Cornelia Street. A few minutes
2 after I got there, Carman pulled up in the van. I
3 was getting the kids -- I was getting the kids
4 because I was honestly thinking about just getting
5 as far away from that situation as possible. I had
6 a plan of going to Asheville, North Carolina. I
7 used to stay up there in the apartments with my
8 oldest son's mother, Heather. So I was just
9 thinking of some place, any place, to go, but we
10 ended up going back to the trailer talking some
11 more.

12 And the next thing I know, I get a
13 knock on the door. I'm freaking out. I'm like:
14 What's going on? She was like: Just stay back
15 here in the bedroom. She goes to the door. Says:
16 The police is out there. So I go hide. They come
17 in, and they find me. We get arrested.

18 MR. SMITH: Your Honor, it's now
19 12 o'clock. It's the time that Mr. MacDougall said
20 he had to leave for another appointment. I don't
21 want to interrupt, but I want to make sure we
22 address that before we reach that exact time we had
23 discussed previously about possibly looking at
24 Mr. MacDougall could testify a little bit later
25 this afternoon or perhaps on some other day this

1 week. Is that something we can discuss with him
2 now?

3 THE COURT: Yeah. Refresh my memory.
4 So he's got something this afternoon?

5 MR. SMITH: He told me he had to leave
6 at 12:00 for a client meeting. But then I believe
7 that he could come back from -- I wrote it down
8 somewhere. But somewhere in the range of 1:00 to
9 1:45 or something like that. And then he has to be
10 gone afterwards because he has a lecture tonight
11 about a law school somewhere.

12 THE COURT: Okay. So what's your
13 proposal?

14 MR. SMITH: I think it's possible that
15 we could fit him in in that 1:00 to 2:00 timeframe
16 if I can get him to confirm that that still works.
17 And if not, I can discuss with him maybe doing some
18 other day this week. Maybe in the morning or
19 sometime before Thursday.

20 THE COURT: All right. Ms. Henry?

21 MS. HENRY: Either of those is fine.
22 Thursday is, again, like I told the Court during
23 the conference, it's tough for me. But I can
24 certainly make it work on Tuesday or Wednesday if
25 he needs to come back. A lot of it depends on the

1 Court. Are we pushing through? Are we going to
2 finish Mr. Jenkins' testimony, and then we'll have
3 lunch after my last two witnesses and we deal with
4 Mr. MacDougall?

5 THE COURT: My thinking was to finish
6 with Mr. Jenkins here.

7 MS. HENRY: I'm also happy to have the
8 state put Mr. MacDougall up out of order if they
9 want to before I rest, but I still have two more
10 witnesses after Mr. Jenkins.

11 THE COURT: All right. Mr. Smith, if
12 we could get -- it's 12:00 now. As I told you,
13 I've got a hearing in another matter that I have to
14 handle at 2 o'clock. I anticipate it at the latest
15 would go to 2:30. Probably less than that, but
16 estimated to be about a 30-minute hearing that I
17 have to hear.

18 I'm really going to need more help from
19 y'all more than me making this decision because I
20 don't know what the time, what logistics are for
21 your -- what potential time for witnesses.

22 MS. HENRY: I don't think my -- Mr.
23 Jenkins is about to wrap up for us. I don't know.
24 I don't think -- my other two witnesses will not
25 take as long, but I don't know what the State's

1 cross is going to look like. And that will be the
2 close of my case, Your Honor.

3 MR. SMITH: I think if we take a lunch,
4 then we probably won't have time to get to
5 Mr. MacDougall today. So with that being the case,
6 maybe I could talk to him about joining us again by
7 WebEx one day this week.

8 THE COURT: And Ms. Henry can't do it
9 Thursday, so it would need to be either Tuesday or
10 Wednesday.

11 MR. SMITH: Okay.

12 THE COURT: And I think at the bench
13 you told me that you anticipate it being somewhere
14 around 45 minutes or so. And I'm not holding you
15 to that, but generally 45 minutes to an hour with
16 Mr. MacDougall?

17 MR. SMITH: I think it would be less
18 than an hour. I think an hour is probably the high
19 end there.

20 MS. HENRY: Unless something changes,
21 Your Honor, or I hear different testimony from the
22 other defense counsel, I don't have a lot of
23 questions for Mr. MacDougall.

24 THE COURT: All right. And as I said,
25 trying to get him in at 1:00 to 1:30 today is going

1 to be difficult because we need to take lunch for
2 everybody. And I've got that hearing at 2:00 that
3 I have to handle. So I think probably the best
4 thing to do is just fit Mr. MacDougall in Tuesday
5 or Wednesday. We've got the hearing that follows
6 this one. It is set for three days, so I believe
7 we can fit Mr. MacDougall in 45 minutes to an hour
8 somewhere either tomorrow or Wednesday. So I think
9 that's what we'll do is let's finish here with
10 Mr. Jenkins and take our lunch. And we'll have
11 Mr. MacDougall, we'll put him in at some point.
12 All right?

13 MS. HENRY: Yes, sir.

14 MR. SMITH: Your Honor, may I have just
15 a moment to call him and --

16 THE COURT: I was getting ready to say,
17 yeah, let him know. Text him or call him.
18 Whatever you need. Are you going to call him?

19 MR. SMITH: I will, Your Honor.

20 THE COURT: All right. Why don't we
21 just take a short restroom break then, and I'll
22 give you an opportunity. You need about five
23 minutes? Five minutes or ten minutes?

24 MR. SMITH: That will be fine.

25 THE COURT: Let's do that.

1 (A recess transpired.)

2 THE COURT: All right. We're ready to
3 resume.

4 MS. HENRY: Thank you, Your Honor.

5 BY MS. HENRY:

6 Q. And you know, Clarence, you're still
7 under oath. So Clarence, when we left off, I think
8 that you had ended with you ultimately being
9 arrested along with Carman.

10 A. Yes, ma'am.

11 Q. Okay. I want to take you back a little
12 bit. At the very beginning, you talked about your
13 relationship with Carman. One of the things that
14 Carman testified to at the original trial is that
15 you were the violent one. You were the scary one.
16 You were the intimidating one. You were the
17 controlling one. Is any of that accurate?

18 A. No, ma'am.

19 Q. Who was the violent one in the
20 relationship between you and Carman?

21 A. Actually, it was Carman.

22 Q. Can you give us an example?

23 A. Yeah. One night I came back from
24 working down in Greenville, here in Greenville, and
25 I was drunk and all. I ended up telling her

1 something real disrespectful, and she hauled off
2 and used one of my gloves to punch me in the eye
3 and actually knocked me out. I actually had to go
4 to the hospital about that.

5 Q. Did you have any visible injuries from
6 that attack?

7 A. Yeah. My eye was closed shut. I
8 literally could not see.

9 Q. All right. And any other times that
10 Carman was violent with you?

11 A. Yeah. In the early part of our
12 relationship, like I say, we would always argue,
13 fuss, and fight. One of the first times that I had
14 told her I was going to leave her, she had grabbed
15 a little knife out of the kitchen and stood in
16 front of the door and told me if I leave, she was
17 going to cut me. So I just --

18 MR. SMITH: Objection to hearsay.

19 THE COURT: Sustained.

20 THE WITNESS: So I just looked at her
21 and just walked to the door, grabbed the handle,
22 and she cut me on my arm. I've actually still got
23 the cut. And maybe -- I don't now -- a little
24 while later after that, we went through it again.
25 I'm telling her I'm leaving and I'm taking the kids

1 this time. And she ended up cutting me again on my
2 right arm.

3 Q. Okay. So Carman has punched you in the
4 face?

5 A. Yeah.

6 Q. She's cut you at least twice with a
7 knife?

8 A. Yeah.

9 Q. Clarence, how far did you go in school?

10 A. Elementary school. I never made it to
11 middle school. I didn't get my GED until after I
12 got imprisoned.

13 Q. Okay. And then how far did Carman go
14 in school?

15 A. Carman, she had a scholarship to go to
16 Spartanburg Methodist College. She took business
17 administration.

18 Q. So Carman is really smart?

19 A. Yeah. That was actually one of the
20 things I admired about her.

21 Q. And some of Carman's testimony included
22 testimony that you had changed and that you had
23 become very controlling. And I'm referring to
24 Carman's direct testimony at page 406. That she
25 wasn't allowed to go anywhere, she wasn't allowed

1 to talk with her mother even on the phone. That
2 you were always monitoring her even during her
3 visits with her mother. Is that accurate?

4 A. No, ma'am.

5 Q. Carman also testified on page 407 that
6 you became very angry with her and threatened her
7 frequently. Is that accurate?

8 A. No, ma'am.

9 Q. And that Carman is afraid of you?

10 A. No, ma'am.

11 Q. In the relationship between you and
12 Carman, who was the controlling one?

13 A. That would be Carman. I was -- I
14 honestly didn't really care what was going on and
15 anything like that. If she wanted to do something,
16 she did it. It wasn't a big deal.

17 Q. Carman went on to testify during the
18 original trial -- and this is page 417 and 418 of
19 the transcript -- that you were very controlling to
20 both her and Grace, that you were very abusive, and
21 they were not allowed to go anywhere. Is any of
22 that true?

23 A. I never stopped anybody from going
24 anywhere. I probably did cuss a lot. Like I said,
25 me and Carman did not get along. We just had two

1 kids to together. That's about it. And I mean, I
2 probably did cuss them and disrespect them a lot,
3 but I was never threatening or anything like that.

4 Q. Okay. So did you verbally threaten
5 either her or Grace?

6 A. No.

7 Q. Okay. And then Carman went on to
8 testify on page 418 that the reason she stayed was
9 mostly fear that kept her at the house with you.
10 Do you feel like you gave Carman or Grace -- I
11 mean, do you feel like -- did you threaten Carman
12 or Grace to the point that they would have been
13 afraid?

14 A. No. Carman wasn't afraid of me.
15 Honestly, I don't think Carman was afraid of
16 anybody. She had asked us to do whatever she
17 wanted. She actually even stole my 40-cal, the
18 only thing that I had and got caught with it by the
19 police that took it from her after her mom took her
20 car back.

21 Q. All right. Carman also testified --
22 and this is page 483 -- that you and she had never
23 lived apart other than a brief time in August of
24 2007. Essentially, she testified that you had not
25 moved in with your mother in March and April of

1 2008. Is that accurate?

2 A. No.

3 Q. So you were not living with Carman in
4 2008?

5 A. No.

6 Q. In March or April of 2008?

7 A. No.

8 Q. Okay. And you were, in fact, living
9 with your sister and your mother at that time?

10 A. Yeah.

11 Q. So that testimony from Carman was not
12 true?

13 A. That's correct.

14 Q. Okay. Let's see. Did you ever tell
15 Carman that you went to Greenville High School and
16 completed it?

17 A. No.

18 Q. Carman testified -- and this is the
19 transcript pages 480 through 481 -- that you had
20 told her you went to Greenville High School and
21 that was her understanding of your education level.
22 Is that true?

23 A. No.

24 Q. Carman also testified -- and this is
25 page 496 through 497 of the transcript -- that the

1 children were with her during part of this time. I
2 believe that she claims that they were with her a
3 portion of Tuesday and Wednesday. That would be
4 April 8th and 9th. Is that true?

5 A. She had one of our daughters. Not the
6 other one. Just one.

7 Q. Okay. So Carman did have one of the
8 children with her?

9 A. Yes.

10 Q. And so if she testified that she had
11 both of the children with her when the police came
12 the first time, that would not be true?

13 A. That's a no.

14 Q. Okay. And then Carman also testified
15 that you were at the house with her when the police
16 came by at first, the first time. Is that true?

17 A. No.

18 Q. So that would be another lie. Carman
19 also testified generally -- this is the majority of
20 her testimony -- that you were with her from
21 Thursday evening at the Ingles all the way through
22 until at you, at the very least, went to work at
23 Labor Finders on Monday. That you were with her at
24 the house and that you did not leave the house
25 unless it was with her during that entire period.

1 Is that true?

2 A. No, it's not.

3 Q. And if you had testified, would you
4 have been able to refute or impeach that testimony
5 from her?

6 A. Yes, ma'am.

7 Q. I'm going to ask you a couple more
8 follow-up questions, Clarence. And then just to
9 clarify this, you've testified already that Carman
10 was the one that was upset over Grace leaving?

11 A. Yeah.

12 Q. Okay. And then -- go ahead.

13 A. After I did that little 90 days in the
14 Department of Corrections and came back, it was
15 like Carman was a totally different person. She
16 was in love with Grace, so, I mean, she literally
17 wanted to be with her.

18 Q. Okay. So when Grace left, it was
19 Carman that chased after her?

20 A. Yes.

21 Q. And it was Carman that was upset that
22 Grace left?

23 A. Yes, ma'am.

24 Q. And it was Carman that wanted -- that
25 asked Grace to come back?

1 A. Yes, ma'am.

2 Q. And I also just want to confirm that it
3 was, in fact, that the trailer was, in fact, in
4 Carman's name?

5 A. Yes.

6 Q. And it was Carman's trailer?

7 A. Yes.

8 Q. And Carman was living in it by herself?

9 A. Yes.

10 Q. At the time that this occurred?

11 A. Yes, ma'am.

12 Q. It was also -- I also want to confirm
13 with you that you did not have a car.

14 A. No, I didn't.

15 Q. And then did Carman have a car?

16 A. Yes, ma'am.

17 Q. All right. And then it's also your
18 testimony that Carman knew, that it was Carman that
19 was familiar with Paris Mountain?

20 A. Yes, ma'am.

21 Q. And it was Carman that found the spot
22 where you eventually left Mekole?

23 A. Yes, ma'am.

24 Q. It's also your testimony that you were
25 not -- that you did not kidnap Mekole?

1 A. No.

2 Q. And then you didn't kill Mekole?

3 A. No, ma'am.

4 Q. Did you participate in her death?

5 A. No, ma'am.

6 Q. Now, based on your testimony, did you
7 participate in hiding and disposing of her body?

8 A. Yes, ma'am.

9 Q. And you're admitting to that?

10 A. Yes, ma'am.

11 Q. All right. When you were working with
12 the defense team -- and that would be Susannah
13 Ross, Mark MacDougall and John Mauldin. Are those
14 all of your defense attorneys?

15 A. Yes, ma'am.

16 Q. Did you provide them with a list or
17 information about court witnesses?

18 A. Yes, ma'am.

19 Q. Was your sister, Jamese Gibbs, one of
20 those witnesses?

21 A. Yes, ma'am.

22 Q. Did you want -- did you ask the members
23 of your defense team to interview Jamese?

24 A. Yes, ma'am.

25 Q. And Jamese is your sister. Correct?

1 A. Yes, ma'am.

2 Q. So why did you want the defense team to
3 interview Ms. Gibbs?

4 A. So that they actually -- so it could
5 actually come out exactly what happened that
6 weekend.

7 Q. Okay. Did you feel like Ms. Gibbs
8 would be able to provide them with information
9 about your whereabouts that weekend?

10 A. Yes, ma'am.

11 Q. Did you feel like what she said would
12 support your version of events?

13 A. Yes, ma'am.

14 Q. Did you also give Shanek Robinson's
15 name --

16 A. Yes, ma'am.

17 Q. -- to your defense team? Tell the
18 Court who Shanek is.

19 A. Shanek is my next to biggest sister.

20 Q. Okay. And did you also feel like
21 Ms. Robinson could provide similar information to
22 your defense team?

23 A. Yes, ma'am.

24 Q. Do you know if both of them were
25 interviewed by your defense team?

1 A. I don't think they were.

2 Q. You don't think they were interviewed?

3 A. No, ma'am.

4 Q. Was the information that your attorneys
5 got from -- so your attorneys never discussed any
6 information that they obtained from either one of
7 them with you?

8 A. No, ma'am.

9 Q. Was it your understanding that they
10 were going to be called as witnesses?

11 A. Yes, ma'am.

12 Q. It was? So you knew --

13 A. They were -- they wasn't actually in
14 the courtroom of the trial, every day on the court;
15 they actually left because they was actually
16 supposed to testify.

17 Q. Okay. So it was your understanding
18 from your conversations with your defense team that
19 they would be testifying at your trial?

20 A. Yes, ma'am.

21 Q. Okay. And were they there?

22 A. Yes, ma'am.

23 Q. So they were at the trial?

24 A. Yes, ma'am.

25 Q. Did your defense team call them as

1 witnesses?

2 A. No, ma'am.

3 Q. No? Did you -- did any of your
4 attorneys ever discuss with you why they weren't
5 called?

6 A. No, ma'am.

7 Q. Were you part of that discussion?

8 A. No.

9 Q. Okay. So they were left off, and it's
10 your testimony that the defense team didn't explain
11 why and did not ask for your buy-in on the decision
12 to not have them testify?

13 A. That's correct.

14 Q. Did you want them to testify?

15 A. Yes, ma'am.

16 Q. And, Mr. Jenkins, you've chosen to
17 testify today?

18 A. Yes, ma'am.

19 Q. And I do want to ask you why you
20 decided not to testify at your original hearing.

21 A. The reason why didn't testify at my
22 original hearing was because my attorneys, they
23 stated that with a whole bunch of people saying
24 this, seeing my case on TV, and trying to get out
25 on my case that it wouldn't be in my best interest

1 if I testified.

2 Q. You had had -- there had been a lot of
3 publicity around your case. Is that accurate?

4 A. Yes, ma'am.

5 Q. And you had also -- had you also had
6 issues with people taking -- did you have your
7 discovery or portions of your discovery with you in
8 the jail?

9 A. Yes, ma'am.

10 Q. Okay. Had you ever had any issues with
11 people taking pieces of that --

12 A. Yes, ma'am.

13 Q. -- or reading it?

14 A. Yes, ma'am.

15 Q. Did you report those to the jail
16 personnel?

17 A. Yes, ma'am.

18 Q. Did you report those to your defense
19 team?

20 A. Yes, ma'am.

21 Q. Did you feel -- well -- so you reported
22 the incidents to the defense team and to the jail
23 personnel?

24 A. Yes, ma'am.

25 Q. When you talked to your defense team

1 about the decision not to have you testify because
2 of potential jailhouse snitches, did you discuss
3 the fact that you had reported and had
4 documentation of people taking your discovery?

5 A. Yes, ma'am.

6 Q. Okay. And even with that information,
7 even with that information out there, did you feel
8 like the fact that you reported the theft of the
9 discovery -- did you feel like that would be enough
10 to impeach them --

11 A. Yes, ma'am.

12 Q. -- if they testified?

13 A. Yes, ma'am.

14 Q. Did you agree with the decision not to
15 testify at the time?

16 A. I didn't agree with it, but I accepted
17 it. I just trusted that they knew what they were
18 talking about.

19 Q. Did you feel like -- do you feel that
20 you should have testified?

21 A. Yes, ma'am.

22 Q. Are there any -- let me just check
23 here. As part of the defense's opening statement,
24 one of your defense counsel, Mark MacDougall, told
25 the jury: He's unconventional in the sense that

1 he's given to fantastical stories. You know people
2 like that, and Mr. Jenkins is one of those people.
3 You'll hear about some of those stories. And
4 that's one of the times we urge you to keep your
5 common sense close by judging what he says. That
6 is page 81 of the transcript, the original trial
7 transcript.

8 Mr. Jenkins, during the opening
9 statement, by the time of the opening statement,
10 had you discussed your right to testify or whether
11 or not you would testify yet with the Court?

12 A. No, ma'am.

13 Q. So you had not -- had you fully made
14 the decision about whether or not you would
15 testify?

16 A. No, ma'am.

17 Q. So as part of Mr. MacDougall's opening
18 statement, he intimates that you're a bit of a
19 liar?

20 A. Yes, ma'am.

21 Q. Did that at all affect your decision
22 later to testify or not testify?

23 A. Yes, ma'am.

24 Q. Did you feel like him intimating that
25 you told fantastical stories at the opening of the

1 trial would made it difficult for you to be taken
2 seriously during your testimony?

3 A. Yes, ma'am.

4 Q. Or you believed?

5 A. Yes, ma'am.

6 Q. Is that something that you discussed
7 with your counsel as being part of your defense?

8 A. No, ma'am.

9 Q. And would you have agreed to
10 Mr. MacDougall saying that?

11 A. No, ma'am.

12 Q. All right. Is there anything else that
13 you want to talk to the Court or you want the Court
14 to know about any of this related to your PCR?

15 A. The issues concerning my -- basically
16 the issues concerning my indictment, the fact that
17 as soon as the solicitor's office said they rest,
18 my defense team said they rest which was -- which
19 actually played another part in me accepting what
20 they say not to testify because as soon the
21 solicitor made a closing argument, he brought up
22 everything that the police for the most part -- he
23 made references to the things that my defense team
24 stated in their opening argument and that the fact
25 that they didn't put any evidence into it, so he

1 basically said it was like the defense team said
2 this, this, and that, but the record doesn't show
3 any of that. There's no evidence into that.

4 Q. So you feel -- okay. Let me walk you
5 through that. So you want the Court to be aware,
6 right -- and let me phrase this correctly. During
7 the opening statement, you felt like the defense --
8 during your defense team's opening statement, you
9 feel like they made promises to the jury about what
10 they were going to prove?

11 A. Yes, ma'am.

12 Q. What promises specifically do you feel
13 like were important as part of the opening
14 statement?

15 A. They spoke about a lot of the evidence
16 concerning educational-wise and things that they
17 were supposed to produce inside the -- in the trial
18 that they never fulfilled.

19 Q. Okay. And you feel like this was
20 remarked upon by the, that this was used against
21 you as part of the closing by the State?

22 A. Yes, ma'am.

23 Q. Okay. And you feel like that was
24 effective with the jury?

25 A. Yes, ma'am.

1 Q. And do you feel like that would have
2 been combated by your defense team putting you up
3 as a witness?

4 A. Putting me up as a witness, putting my
5 other witnesses up to testify. Even doing pretrial
6 research concerning the indictment, how the
7 indictment didn't give me the ability to even try
8 to come up with a defense in the case because from
9 which it didn't state all the essential elements of
10 the crime that had been charged. There's a --
11 there's a lot that played a part that I believe
12 that would have had an different outcome if it
13 wasn't for the errors that my attorney made,
14 especially concerning that the jury sent back an
15 exhibit stating that they already didn't believe my
16 codefendant. And I think they stated verbatim that
17 she's a prepared witness, only speaks the truth
18 sometimes. If my attorney would have -- could have
19 made to testify, my witnesses, or any evidence,
20 it's a reasonable possibility that the outcome of
21 the trial could have been different.

22 Q. Okay. Clarence, we intend to get into
23 the indictment issue with the attorneys. Yes,
24 absolutely. Okay. Clarence, is there anything
25 else you want to tell the Court?

1 A. Yeah. Just briefly. First of all, I
2 want to apologize for my memory. I mean, it has
3 been 15 years, and I was heavily on alcohol and
4 drugs back then. So I'm not -- I'm not asking
5 about that.

6 Q. Okay. No further questions.

7 THE COURT: All right. Cross?

8 CROSS EXAMINATION

9 BY MR. SMITH:

10 Q. Mr. Jenkins, you testified about being
11 at a family member's house from certain dates in
12 April. Whose house are you talking about? Because
13 you said your mother's house and your sister's
14 house. Whose house is it?

15 A. It was my sister's house. It's 110
16 Cornelia Street. That's my sister's house, and my
17 mother lived with my sister and her kids.

18 Q. Okay. So when you use those, you're
19 saying your sister's house or your mother's house,
20 you're referring to the same place. Is that right?

21 A. Yes, sir.

22 Q. And you talked about being over there
23 on certain dates. And I want to make sure that I
24 understand. So you testified that you worked at
25 Ingles on April the 3rd, and then you testified

1 that it could have been April the 4th or both.

2 You're weren't sure. Right?

3 A. No. I'm saying that April 3rd at
4 Ingles in Easley, we went to work -- I was assigned
5 the job through Labor Finders to work at Ingles in
6 Easley to clean up on April 3rd. We went to work
7 at 10:00 PM, got off around 3:00 or 4:00 that
8 morning. That was April 3rd.

9 Q. Okay. And so you talked about also
10 being at Labor Finders on April the 3rd. Right?
11 You were at Labor Finders on April the 3rd?

12 A. That's what I was just -- that was
13 the...

14 Q. So you said that was April the 3rd.
15 Were you there on April the 3rd?

16 A. Yeah, Thursday, April the 3rd, I went
17 to Labor Finders, got our job at 10:00 PM that
18 night at Ingles in Easley cleaning up. Got off at
19 3:00 or 4:00 Friday morning, April 4th.

20 Q. So you were working at Ingles after you
21 had been smoking crack at Labor Finders?

22 A. Yeah. It doesn't impair you. It just
23 relaxes you.

24 Q. Okay. Were you smoking a lot of crack
25 at the time during that week?

1 A. I would say so.

2 Q. And you had your crack at the trailer
3 on Tindal Road. Right?

4 A. Yes, sir.

5 Q. Okay. So your testimony is that you
6 had lots of crack at that trailer but you also
7 didn't live there. Is that right?

8 A. Yeah.

9 Q. You felt safe storing your crack in a
10 place where you didn't live?

11 A. It's far away from me and my kids.

12 Q. Okay. But you were also worried about
13 others finding the crack. Right?

14 A. Well, the only person that would be at
15 that place during that time would be Carman.

16 Q. How do you know that if you're not
17 there as you've testified?

18 A. I mean, I guess it's a possibility that
19 she could bring somebody else there.

20 Q. It was your testimony that Mekole
21 Harris was there without your knowledge. Right?

22 A. Yeah.

23 Q. Okay. So if that's true, there were
24 people there. Right?

25 A. I can't see who comes and goes if I'm

1 not there.

2 Q. Okay. Even though it wasn't your home
3 as you testified, you felt comfortable enough to
4 cook meth in a van in the yard?

5 A. Who said anything about cooking meth in
6 a van?

7 Q. Isn't that what you testified to?

8 A. No, I did not testify.

9 Q. What were you doing with meth -- I'm
10 sorry. Drugs in the van at the trailer?

11 A. I never said I cooked drugs in a van.
12 My precise words was that I was cooking drugs
13 inside of her trailer. It was cocaine. I can go
14 through the whole details and process if you want.

15 Q. Okay. So you would go over to that
16 trailer, is your testimony, to cook drugs in the
17 trailer?

18 A. Yeah. I sure couldn't cook it at my
19 mom's -- my sister's house.

20 Q. And you said you had four guns in that
21 trailer?

22 A. Well, yes, I had four guns until Carman
23 stole one and ended up getting it took by the
24 police.

25 Q. Okay. But if you have the criminal

1 record you did at that time and had just been out
2 of prison, were you allowed to have guns at that
3 point?

4 A. I had only been locked up for driving
5 offences. I had no criminal record.

6 Q. But you talked about one of the guns
7 being legal. How was the gun legal?

8 A. You can buy a gun off anybody for some
9 crack or drugs or whatever.

10 Q. So what made it illegal?

11 A. If you don't purchase a gun legally
12 through a store or someplace like that, it's
13 illegal.

14 Q. So you traded some kind of drugs for
15 it?

16 A. Yeah.

17 Q. Okay. So you don't live at this house.
18 You testified you don't really have anything to do
19 with that, but you're running a drug operation out
20 of it for guns.

21 A. I never said I was running a drug
22 operation. Just a place where --

23 Q. But what do you call cooking drugs from
24 a house? What is that?

25 A. That's just cooking drugs. All right.

1 You get a few ounces of cocaine. If you want to
2 break it down, let's break it down, sir. You get a
3 few ounces of cocaine. You add a little baking
4 soda or some blowup to it, and you make it just a
5 little cookie that you break up and sell the rocks.
6 That's not anything major. Basically, I was just
7 doing it to support my habit.

8 Q. Okay. Well --

9 A. And maybe a little money on the side.

10 Q. What was your habit?

11 A. Drinking and smoking crack.

12 Q. Okay. So you testified that while you
13 were at the trailer on Tindal Road on, I believe it
14 was, Sunday that someone drove up in the yard. You
15 testified that Carman --

16 A. No, I did not. I didn't say that I was
17 at Tindal Road on a Sunday. I said Sunday I was at
18 110 Cornelia Street. I was there all morning. I
19 said Carman came through there that afternoon. We
20 got into an argument, and we ended up leaving and
21 going to the library. Was gone for maybe about an
22 hour and argued all the way back. She dropped me
23 off and took off because she was trying to get me
24 to come to the trailer. I also stated that she
25 pretty much blew my phone up all that weekend, but

1 I was ignoring her calls.

2 Q. Okay. So you testified that Carman
3 took you to the trailer on a Monday night. Is that
4 right?

5 A. Yes. Monday night around 9:30, 9:40.

6 Q. Okay. You testified you didn't really
7 want to go. Is that right?

8 A. No, because I knew -- I knew what I was
9 in for. It ain't nothing but an arguing match with
10 her.

11 Q. So you also testified that a guy came
12 up in the yard. Right?

13 A. Yes.

14 Q. And you testified -- who was the guy?

15 A. Actually, I don't know his real name,
16 but they call him Weed Man.

17 Q. Call him what?

18 A. I said I don't know his real name, but
19 they call him Weed Man. We started out, I guess,
20 because he started out selling weed before moving
21 on up. An individual from Donaldson Center.

22 Q. And what were you two planning?

23 A. Well, I went there earlier. Carman
24 took me there a little bit earlier. He was one of
25 the people I used to cook for. So I went there to

1 just reopen -- give me a little something to smoke
2 while I'm cooking this stuff, but he was busy. So
3 I just told him to go back up over there.

4 Q. Okay. So you just testified you were
5 there earlier. You were where earlier.

6 A. On what day?

7 Q. Well, what day were you talking about
8 just now?

9 A. I don't know. You said I was there
10 earlier. I was trying --

11 Q. You just testified in an answer to my
12 question that you were there earlier that day?

13 A. Oh, you're talking about --

14 Q. Where were you --

15 A. -- Monday.

16 Q. Where were you earlier that day?

17 A. Donaldson Center.

18 Q. Okay.

19 A. It's a trailer park. If you go up to
20 Donaldson Center, back then you had two gas
21 stations on one side. If you're going up this way
22 on the right side, it's a trailer park. On this
23 side, I think it's some kind of factory or a
24 military base somewhere up there. But he stayed
25 over here to the right right by the gas station.

1 Drive down a few streets, make another left, and it
2 was like the second or third trailer down.

3 Q. Okay. What did you do there at the
4 Donaldson Center?

5 A. Carman took me over there to pick up
6 his supply and get me a little -- my extra for
7 cooking for him.

8 Q. Okay. What time were you at the
9 Donaldson Center?

10 A. I don't know. I'd say I probably left
11 Labor Finders as soon as I got off work. We waited
12 there about an hour and a half for Mekole to show
13 up, but she never did. So maybe about 6:00 or
14 7:00, somewhere around there. It wasn't dark, but
15 it was starting to get dark.

16 Q. Okay. So what time did you get to the
17 trailer on Tindal Road on Monday night?

18 A. That would be 9:30 to 9:40, somewhere
19 around there.

20 Q. So the Donaldson road trip, that's new.
21 You didn't mention that when you were testifying
22 earlier. Right?

23 A. Actually, I did, I said Donaldson
24 Center. I didn't go into details.

25 Q. On direct examination when Ms. Henry

1 was asking you questions?

2 A. Yeah. I didn't go into detail about
3 the gas stations or you turn right and what street
4 you turn on, but I did say Donaldson Center.

5 Q. Okay. So what were you and this guy
6 supposed to be meeting about at the trailer on
7 Tindal Road?

8 A. The same thing. I'm supposed to pick
9 up from him at his spot.

10 Q. Okay. So you sort of planned it out
11 where you where you were going to be?

12 A. Since he was already busy, I had just
13 told him to pull back up on me at her truck.

14 Q. Okay. So even though you were going
15 somewhere with Carman you didn't want to go, you
16 were making plans to meet this guy there?

17 A. Yeah.

18 Q. Okay. So you just testified you were
19 not looking forward to it. You thought you might
20 have an argument, but you're planning drug meets
21 too?

22 A. We did have an argument. I also told
23 you before that when -- that Carman was not going
24 to leave my side. I told you that she took me to
25 work that Monday, stayed outside the job site all

1 day in the van waiting for me. Took me from the
2 jobs site back to Labor Finders and waited there
3 and wasn't going nowhere until I talked to her. So
4 it wasn't actually like we was going anywhere else
5 except to her trailer. So when we did leave Labor
6 Finders, the Donaldson Center area was the first
7 place I went to. And since I already know that we
8 was going to have an argument, I told him -- I
9 said: Look, whenever you finish, just pull up on
10 me. I'll be down there. I left him, went to the
11 fuel supply, picked up some stuff and went over
12 there because I figured that she found everything,
13 which she did. And she was basically lying to me
14 that she did.

15 Q. Okay. This guy, what's his phone
16 number? Do you know?

17 A. It's been 15 years now. I was high
18 back then. No disrespect, but I don't remember the
19 phone number.

20 Q. You remember a lot of other details
21 you're saying?

22 A. Yeah.

23 Q. Okay. What was Carman's phone number?

24 A. I think it was 4418 something.

25 Q. Okay. So if we look at your phone

1 records, it's going to show calls to Carman and
2 calls to this other guy you were supposedly meeting
3 with that Monday night?

4 A. That and a lot of other calls too.

5 Q. So you testified about going in and
6 finding Ms. Harris' body on the floor. Then you
7 testified that you threw some things in the grill.
8 Why would you put stuff in the grill?

9 A. When I got there after me and Carman
10 got into it and she made these certain comments and
11 pointed toward the back and I went back there and
12 found Mekole back there, I completely lost it. I
13 mean, I was just trying to do any and everything,
14 whatever came to mind to try to get as far away
15 from the situation as I possibly can. I mean, I
16 literally honestly didn't know what to do. I
17 literally didn't know what to do.

18 Q. Well, you testified that you rounded up
19 things and burned them. That sounds like you were
20 thinking about what to do. Right?

21 A. No. Let's just -- let's put it in
22 perspective. Say you have a trailer. You have
23 other people that you're cooking for. This is not
24 your stuff, and these are not nice people. So,
25 one, you don't want to lose their stuff. Two,

1 there's a -- you just found a body in that trailer.

2 Q. Wait a second. I thought the drugs
3 were yours?

4 A. I just told you that I picked up some
5 drugs that I cooked for other people and they give
6 me basically to support my habit and make a little
7 extra money on the side. Not one time that I said
8 the drugs was mine, because if the drugs was mine,
9 I wouldn't have to go to them to get any to cook.

10 Q. You did testify that you had drugs at
11 the trailer. Right?

12 A. Yes.

13 Q. Okay. All right. Continue on. Why
14 are you burning stuff in the grill?

15 A. Actually, like I said, I didn't know
16 what to do. I was just running around doing
17 whatever came to mind.

18 Q. So the first thing that came to mind
19 was to burn clothes?

20 A. I never said I burned clothes. I said
21 I burned all the names and paperwork I had for
22 formulas because different people I did different
23 things for them. I cooked their stuff in a
24 different way. Not everybody has the same quality.

25 Q. So what exactly did you throw on the

1 grill?

2 A. Basically notebooks, paperwork,
3 little -- whatever I couldn't get in my big bag. I
4 had a lot of syringes. Syringes with different
5 gauges from .2 all the way up to .2 cc,
6 20 milliliters, different syringes, syringes that
7 are exchangeable depending on the syringes you've
8 got. It was just a whole bunch of stuff that I was
9 just trying to gather whatever I couldn't get in
10 the bag and just get rid of.

11 Q. What about what happened to the needles
12 or the syringes?

13 A. I mean, whatever got thrown in the
14 grill, they stayed in the grill.

15 Q. Were the needles still on the syringes
16 when you threw them in?

17 A. A few of them were because in the pack,
18 the syringes actually don't come -- the needles
19 actually don't come on the syringe. You actually
20 have to screw it onto or click it on.

21 Q. Okay. So you threw papers, notebooks,
22 and syringes?

23 A. Little plastic baggies. Whatever I
24 could. I mean, I don't actually remember verbatim
25 everything I threw in there. I was just -- I was

1 just grabbing stuff. And whatever I couldn't get
2 in the bag, I was just throwing it, trying to rush
3 and do something.

4 Q. All right. So the police didn't find
5 needles in the grill, though. Right?

6 A. I don't know what they found. I know
7 they found a spoon with gloves on it that they
8 didn't test.

9 Q. That wasn't in the grill, though.
10 Right?

11 A. No, but it was in the bathroom.

12 Q. All right. In the house with all your
13 drugs?

14 A. Well, there was no drugs right then,
15 but, yeah.

16 Q. I thought you testified the reason you
17 were worried is about people finding your drugs?

18 A. And you just heard me testify that
19 after I found Mekole there, I ran around gathering
20 everything up, put in the bag. And whatever I
21 couldn't stuff in the bag, I threw in the grill.
22 So by the time the police got there, they didn't
23 find much. Not counting the fact that they -- I
24 seriously doubt they used the drug dog or anything
25 like that because if they were so focused on

1 anything like that, they would have tested
2 everything that they found inside the house instead
3 of not testing it.

4 Q. So you walk in the house, according to
5 your version of events, and you find a friend of
6 yours, as you've testified, dead on the floor. And
7 your first thought is to burn evidence?

8 A. No. You said I couldn't say what the
9 argument that me and Carman had gotten into, so I
10 could only tell you what I did. I couldn't say the
11 backwards and forth that I did. I specifically
12 said when I went back there and seen Mekole down
13 there, I described what I've seen and the position
14 that she was in. I said, Carman was sitting there
15 looking at me, but she -- I couldn't tell you me
16 asking her these questions or her saying this or
17 her saying that.

18 Q. I'm not asking what she said. I'm
19 asking what you did. So you testified that you
20 were friends with Ms. Harris. You hung out with
21 her all the time at Labor Finders and smoked drugs
22 with her. And I believe you said at your
23 sentencing hearing that you had meals with her.
24 And yet you find her dead on the floor and you just
25 burn drugs. That's what you do when you find a

1 dead friend on the floor?

2 A. First of all, when I found her, I was
3 high and I was drunk. Second of all --

4 Q. Hold on. You testified that you
5 sobered up when you saw her though. Right?

6 A. Have you ever been -- have you ever
7 been on drugs?

8 Q. I haven't.

9 A. I have. So whenever you see something
10 traumatic and you are intoxicated or high, you do
11 sober up real quick. Now, you're not 100 percent
12 because you still have consumed the drugs. It's a
13 mind altering substance. So even though you're
14 seeing something traumatic, it's not like you're
15 just going to automatically be 100 percent. So I
16 did whatever I thought -- I specifically told you
17 that I didn't know what to do.

18 Q. Except to burn drugs. Correct?

19 A. No. I burned paper, plastic, syringes,
20 and whatever else I found.

21 Q. Well, you just testified --

22 A. I did not burn drugs.

23 Q. You just testified a minute ago that
24 the reason drugs weren't in the house is because
25 you burned them. Right?

1 A. No. I said I gathered them up, stuffed
2 them in the bag. And whatever I couldn't stick in
3 the bag from the syringes, papers, baggies, and
4 other stuff -- not drugs -- went into the grill or
5 the dumpster. I also specifically told you that
6 somebody came up there, and we got the bags and
7 left. Not one time did I say I burned drugs. The
8 drugs weren't mine. Why would I burn drugs that
9 aren't mine? Or burn drugs period.

10 Q. When you were at your mother's house
11 on --

12 A. Friday?

13 Q. -- I believe you testified April
14 the 4th, what were you doing at your mother's house
15 that day?

16 A. I -- basically after I left -- after I
17 picked up my bag from Carman, we shot over there to
18 my mom and my sister's house. I was letting them
19 know that I was going to be over there with them
20 the weekend just to chill out there all weekend
21 with them. I don't know. I probably got there
22 maybe around 8:00 or 9:00. I'm really not quite
23 sure exactly what time that morning, but I got over
24 there just to let them know that I'll be back over
25 there to spend the weekend with them.

1 Q. Okay. So you don't know exactly the
2 time you arrived at the house. Right? That's what
3 you're saying?

4 A. I know it was that morning. It
5 wasn't -- I can't remember verbatim, but I know it
6 was that morning --

7 Q. Did you go back --

8 A. -- maybe 9:00, 10:00, or 11:00,
9 somewhere around there.

10 Q. Did you go back to your mother's that
11 day?

12 A. Yeah, I went -- after I spent some time
13 up there at Labor Finders, I walked back to the
14 house.

15 Q. What time did you get back to your
16 mother's house on Friday?

17 A. It was probably around 6:30 or 7:00,
18 somewhere along there.

19 Q. What did you do there?

20 A. Well, after smoking on my way back down
21 there, got in, took me a shower. Just chilled out
22 with them. The rest of the night I don't remember
23 verbatim exactly what I did, but just chilled out
24 with my family.

25 Q. Do you not remember because you had

1 been smoking drugs that day too?

2 A. Well, it's been 15 years. And, yeah, I
3 was doing drugs back then.

4 Q. So that's affecting your memory, the
5 drugs?

6 A. I'm not going to say it's affected my
7 memory, but it makes things a little cloudy.

8 Q. What did you do on Sunday?

9 A. Sunday, got up that morning, chilled
10 out with them for the most part of that day.
11 Carman came around that afternoon. We got into an
12 argument outside. She was trying to get me to once
13 again come back over there to the trailer. We
14 ended up going to the library.

15 Q. Which library?

16 A. The library Downtown Greenville. I
17 think there's actually only one -- at the time
18 there was only one big library down there in
19 Greenville.

20 Q. Okay. And you went to the library
21 multiple times. Right?

22 A. Yeah.

23 Q. Okay. And you used the computers
24 there?

25 A. Yeah.

1 Q. And at trial, you were seen on video
2 doing that. Right?

3 A. Yeah.

4 Q. At the same time you were there, the
5 computers were accessing an email account that was
6 being put in ransom notes. Right?

7 A. I didn't know about the ransom notes at
8 that time.

9 Q. Okay. You just happened to be at the
10 library at the same time that the ransom email
11 account was being used?

12 A. No. I just specifically told you that
13 I was the one who checked the email.

14 Q. So you checked the ransom email?

15 A. No. I checked the email. I did not
16 know it was for ransom. And I also testified
17 earlier that an associate of mine in the early part
18 of March had basically put me on this scheme that's
19 called creeping where you make a fictitious email
20 address, and then you've got to find a way to link
21 it to some kind of site like Craigslist or some
22 kind of dating app, put a young female's picture on
23 there, and just try to lure people in to send you,
24 like, naked pictures of them. Then you say they're
25 under age and try to get them to pay. That's what

1 Carman was supposed to have been setting up for me,
2 but she didn't.

3 Q. Okay. What's your associate's name?

4 A. I'm sorry?

5 Q. You said you were working with an
6 associate. Who was that?

7 A. Yes. No, I didn't say I was working
8 with an associate; I said an associate put me up on
9 that.

10 Q. Who was the associate?

11 A. All I know him is by his nickname.
12 Nobody goes by their real name. They call him K.D.

13 Q. So you were using, according to your
14 testimony, the public library computers to run a
15 scam?

16 A. Yeah. Carman -- I checked it one time
17 at a place where she got really mad at me. I mean,
18 she really got heated at me, so I just went to the
19 library to check them other two times. But nothing
20 was ever there. And every time I asked her about
21 it, she would just tell me she's getting to it. I
22 mean, this was -- from what I was told, it
23 shouldn't take that long to set all that up, but it
24 took her forever. She still -- she never did get
25 around to it.

1 Q. What did you do on Saturday?

2 A. On Saturday I spent all that day at my
3 sister and mother's house at 110 Cornelia Street
4 just playing with the nieces and nephew of my
5 sister.

6 Q. So you stayed there all day?

7 A. Yeah.

8 Q. You never left?

9 A. No.

10 Q. And you testified it was your mother,
11 your sister, Jameese, and her kids. Right?

12 A. Yes.

13 Q. That's who was there?

14 A. Yes.

15 Q. Okay. And so when you say you were
16 spending time with family, you're always referring
17 to that place with those people?

18 A. Yeah. Whenever -- whenever -- like,
19 because my sister, my baby sister, Lulu, she did
20 work a lot.

21 Q. Which sister?

22 A. Jameese.

23 Q. Okay.

24 A. She worked a lot. Sometime she'll work
25 at night; sometimes she'll work early in the

1 morning. But I'll be over there with mom, the
2 kids, and with her whenever she's there.

3 Q. Okay. You testified earlier about
4 getting into a pushing match with Carman. Didn't
5 Carman and Grace testify at trial that you were
6 controlling?

7 A. That's what -- that's what they --
8 that's what she did testify. I don't know if Grace
9 testified to that, but I know Carman did.

10 Q. So a pushing match? You were pushing
11 each other?

12 A. No. I said -- actually, I never
13 actually put hands on Carman period. I never
14 actually put hands on a female period at all. I
15 use to be belligerent a lot and just say a whole
16 bunch of disrespectful stuff. But as far as
17 threatening or any type of violence, no.

18 Q. You were the one that came up with the
19 marriage vows for all three of you. Right?

20 A. Well, actually it was -- it was really
21 Carman's idea. I did write them up because she
22 said she wanted the three of us to be together.
23 Now, when she first initially -- when they both
24 first initially wrote, I was obviously upset about
25 that because that wasn't planned. I wasn't trying

1 to be with them. I was just having some fun. But
2 after being locked up for about a month and a half
3 and them writing me with detailed descriptions of
4 the different types of fun, I said okay.

5 Q. You testified earlier that when Grace
6 left, you kind of said okay and sort of whatever
7 about her. Right?

8 A. Yeah.

9 Q. Did she sort of just decide to leave on
10 her own?

11 A. No. Things started going down at the
12 trailer. And I think something happened where the
13 kids got taken away. I think one of the
14 requirements for her to get her kids back is she
15 had to get her own place or something like that. I
16 really don't remember all the details, but it was
17 something like that. I guess that's the reason why
18 she had to leave.

19 Q. You don't remember all the details? So
20 she sort of left on her own. Right?

21 A. Yeah. I remember she went back there,
22 had a conversation towards the master bedroom with
23 Carman. They got into an argument. Then when they
24 come out the back, Carman is upset, crying. They
25 go on for little bit. After a while, they calm

1 down. Carman goes in the back. Grace comes up
2 there and tells me she's got to leave for some
3 reason, to get her kids back or something like
4 that. I tell her okay.

5 Q. At your sentencing hearing, didn't you
6 tell Judge Miller that you made Grace leave?

7 A. I probably told -- I don't remember
8 saying I made Grace leave. I probably said that
9 Carman blamed me and said it was my fault that
10 Grace left. But she did blame me for that, but I
11 don't actually remember saying that I made Grace
12 leave. But if you can show me, if you've got it
13 down there, I'll be happy to...

14 MR. SMITH: Your Honor, may I approach?

15 THE COURT: Yeah.

16 BY MR. SMITH:

17 Q. And I'm going to be directing you to
18 page 779 of the transcript. Will you confirm that
19 this is after the jury has reached its verdict and
20 you're talking to Judge Miller down at the bottom
21 on 779?

22 A. Yeah, I see sentencing on the other
23 page.

24 Q. And you told the judge that Carman was
25 mad about how you forced Grace to leave. Right?

1 A. Yeah, I said that -- as a matter of
2 fact, I can actually read it verbatim. Okay.
3 Yeah, I said: Carman told me that Mekole came
4 there looking for me, and she was upset because me
5 and Carman had got into it, got into an argument,
6 about how I forced Grace to leave on March 16th.

7 Q. And then you repeat it again at the top
8 of page 780. Right?

9 A. Yeah.

10 Q. Forcing Grace to leave?

11 A. Yeah. Carman always basically said it
12 was my fault that Grace was leaving.

13 Q. Okay.

14 A. That was one of our major arguments
15 that we had.

16 Q. Okay. And you also, looking at
17 page 778, you told Judge Miller that you were back
18 and forth at the trailer that week. Right?

19 A. Actually, no, it doesn't say I went
20 back and forth to it that week. It says verbatim:
21 At my mother's house, and the defendant [sic] knows
22 that I was back and forth from my mother's house to
23 Carman's house. It doesn't say nothing about that
24 week because, like I stated earlier, that I was
25 going back and forth.

1 Q. I thought you testified you moved out
2 on the 16th --

3 A. I did.

4 Q. -- and then never went back?

5 A. I never said I didn't go back because
6 if I never went back, I wouldn't be able to go
7 there to cook the drugs or anything like that. I
8 never said I didn't go back. I said I moved out.

9 Q. Okay. So you were back and forth
10 though; you weren't at your mother's house all
11 weekend?

12 A. No. I was there all weekend. I never
13 said -- that paper does not say anything about me
14 not being there that weekend. It says I went back
15 and forth.

16 Q. Okay.

17 A. Nowhere on that paper does it say the
18 weekend.

19 Q. You testified earlier that someone at
20 the jail took your discovery. Who took that? Who
21 did that?

22 A. At the Greenville County Jail, they
23 have a booth where you don't actually have a key to
24 open up your own door. They can hit your button or
25 they can just leave your doors unlocked. But

1 anybody can come in anybody's cell and take
2 anything. There's been plenty of incidents at the
3 county jail where people have went into another
4 person's cell and took things, so I can't actually
5 say who did it.

6 Q. You said you told your lawyers. Who
7 did you tell?

8 A. I told the staff at the Greenville
9 County Detention Center that some of my legal work
10 was missing, and I also told my defense team. I
11 think that was one of the reasons why I think they
12 got mad at me for even having my legal work there
13 because I don't think they wanted me to probably
14 because of that reason.

15 Q. Who on your legal team did you tell?

16 A. It was either -- I think it was
17 probably Mauldin, Mauldin or Susannah. I really
18 didn't talk to Mauldin, but it was like Mauldin or
19 Susannah.

20 Q. Okay. The reason you moved out is the
21 house was dirty, and it was important for you that
22 Carman keep the house clean. Right?

23 A. That was one of the reasons I moved
24 out. Honestly, I would have probably got any
25 reason just to go. The house dirty or always

1 arguing. The few times we did sleep together was
2 far and few. It was just one thing after another.
3 Like I told you, Carman wasn't happy with me. I
4 didn't make her happy. She didn't make me happy.
5 It wasn't like we went into this whole relationship
6 type thing. Because think about it. A few months
7 after I met her, she ends up pregnant. A few
8 months after that, we end up married. And, I mean,
9 what relationship like that ever works?

10 Q. So if you were going in Carman's
11 trailer to cook drugs, as you testified, you at
12 least had keys to the trailer. Right?

13 A. Actually, the back door -- it's a
14 trailer. The back door didn't even lock, so if you
15 pull the back door, it comes right open. Now, I
16 did have a key, but one of the times that me and
17 her got into it, I took the key and through it
18 across the street and said a bunch of disrespectful
19 things and left.

20 Q. Okay. So you just came and went
21 through her back door as you pleased?

22 A. Yeah.

23 Q. Okay. And you also testified that
24 during this whole time period, you were on
25 unemployment, you were getting paid under the

1 table, and you were selling drugs. Is that right?

2 A. Well, working at Labor Finders, working
3 under the table, yeah.

4 Q. Did you seek medical attention for the
5 cuts you said you got on your arm from Carman's
6 knife?

7 A. Not from the hospital.

8 Q. Well, where from then?

9 A. I knew this stripper girl that used to
10 work at Godiva's down there in Greenville. She
11 used to get some dollars from me. She can tape it
12 up just like anybody else.

13 Q. So you went to a stripper to get it
14 taped up?

15 A. I went -- actually, I went to a
16 stripper to do more than be taped up, but, yeah,
17 that's what I did. I can show you the scar if you
18 want to see it though.

19 Q. Yes, show us.

20 THE APPLICANT: Do you mind? It's
21 right here. I got a cut mark that you can actually
22 see where it actually started and where it actually
23 ended and right over here on the side.

24 THE COURT: Can you roll up your
25 sleeves? Just sit right there. You can just stay

1 right there and roll up your sleeve. Can you roll
2 up your sleeves?

3 THE APPLICANT: No, sir. Could you
4 help me?

5 MR. SMITH: If it's going to be a big
6 production, that's fine.

7 THE APPLICANT: It's right there.

8 MR. SMITH: May I come up there, Your
9 Honor?

10 MS. HENRY: May we both approach, Your
11 Honor?

12 THE COURT: Yeah.

13 THE APPLICANT: Let me stand up for a
14 second.

15 MS. HENRY: Is it the white spot right
16 there, or is it somewhere -- something else? Show
17 us what you're talking about.

18 THE APPLICANT: It goes from here to
19 here. You can see this one a lot better.

20 MS. HENRY: They've really got you in
21 there, don't they?

22 THE APPLICANT: Yeah. See, that one
23 starts from right here and goes from right there.

24 MS. HENRY: Yes, very clearly.

25 Clarence, can you turn around and show the Court?

1 THE APPLICANT: It starts from right
2 here and goes to right there. When I went over
3 there to grab it, she hit down and cut me right
4 there. This one she grabbed the other hand and
5 slit me across there.

6 MR. SMITH: I don't see the one on his
7 left arm.

8 THE APPLICANT: I'll need to take my
9 jacket off.

10 THE COURT: I don't think we need to.

11 MS. HENRY: And for the record, Your
12 Honor, I think all of us can see, like, a white
13 scar on his right arm.

14 THE COURT: I see a -- I don't see it
15 as a significant scar. I see something on the
16 right arm. I did not see much on the left arm.
17 You may continue.

18 BY MR. SMITH:

19 Q. So tell me how you helped Carman take
20 Ms. Harris's body out. What did you do?

21 A. What I got to say right there Wednesday
22 night we got into a big argument about everything,
23 and basically I didn't have a choice. So I took my
24 daughter's playpen, picked Mekole up, placed her in
25 the playpen with everything that she was laying on.

1 Rolled the playpen out onto the front porch. She
2 backed the van up to the front porch. We rolled
3 Mekole into the van. I got in the passenger seat.
4 She drove off to the location where she knew at.
5 It was a gate in front of there. I got out of the
6 passenger seat, opened up the gate. She drove in,
7 then backed down a certain ways. After carrying
8 Mekole out of the van onto the ground, I left and
9 jumped in the passenger seat. She grabbed the gas
10 can out of the back of the van, poured it on Mekole
11 and the playpen. Threw the can back into the back
12 of the van and struck a match and threw it on the
13 playpen.

14 Q. Okay.

15 A. Walked over to the driver's side and
16 got in and we drove off and headed back to the
17 trailer.

18 Q. Okay. So that was the extent,
19 according to your testimony, of your involvement
20 with Ms. Harris's body?

21 A. Yes, sir.

22 Q. Okay. Was she heavy?

23 A. Yes, sir, but I was fat back then. I
24 mean, I'm fat now, but I didn't -- it's not like I
25 worked out or anything like that.

1 THE COURT: Mr. Smith, hold on just a
2 second. If I can get y'all up here.

3 (A bench conference was held off the
4 record.)

5 BY MR. SMITH:

6 Q. Isn't it true that after you met with
7 Ms. Ross and discussed her opinion that the
8 information you had given her about your
9 whereabouts the week of the murder would not be
10 sufficient for an alibi defense, that you or
11 someone that you knew you sent a letter to her
12 saying that you were in Florida that week.

13 A. In Florida?

14 Q. Yes. That's my question.

15 A. We never talked about anybody's sending
16 a letter saying I was in Florida. I do know
17 that -- and I found this out when I was going
18 through my discovery that one of the investigators
19 had spoke with somebody. I think it was -- I can't
20 remember his name. But it's a report that he spoke
21 with an individual. He was incarcerated when he
22 spoke to him. And the individual told him that I
23 used to frequently go up with him, meet him in Dade
24 County, Florida.

25 Q. Okay. So you deny that you sent a

1 letter or had someone send a letter saying that you
2 were in Florida that week?

3 A. No, I didn't send a letter.

4 Q. Okay. Isn't it true that you gave your
5 lawyers conflicting stories about what happened
6 that week?

7 A. I don't remember giving my attorneys no
8 conflicting stories.

9 Q. You don't remember?

10 A. No. I seriously doubt I would give
11 them conflicting stories.

12 Q. You told them about -- you talked to
13 them about the organization, didn't you? You told
14 people you were in an organization and that people
15 were trying to get you?

16 A. No.

17 Q. You never told anybody about an
18 organization?

19 A. No. I do know that --

20 Q. I'm asking the questions. So you
21 testified earlier about the people that you were
22 with at your mother's house, but you didn't say
23 anything about your sister Shanek Robinson. Right?
24 So how could she give an alibi for you if she
25 wasn't at your mother's that weekend or that week?

1 A. I didn't say she wasn't there that
2 weekend.

3 Q. Well, I asked you to list who was
4 there, and she wasn't on the list. Right?

5 A. For the most part of that whole week,
6 if my sister, Lulu, wasn't working, she was there.
7 My mother was always there. The kids -- Tunu, she
8 came by on Friday.

9 Q. Is that your sister Shanek?

10 A. Yes.

11 Q. Okay. So she was only there, according
12 to your testimony, on Friday. Right?

13 A. Yeah.

14 Q. When was she there on Friday?

15 A. Maybe about 9:00, 10:00, maybe 11:00.
16 Somewhere -- she was there before I left.

17 Q. 9:00, 10:00, or 11:00 in the morning or
18 at night?

19 A. In the morning.

20 Q. So you only saw your sister Shanek for
21 three hours or so at most on Friday morning.
22 Right?

23 A. At the most. I didn't think it was
24 that long, but yeah, Friday morning.

25 Q. Okay. And you testified that your

1 sister, Jamese, worked a lot.

2 A. Yeah.

3 Q. What was her work schedule?

4 A. Sometimes she would work early in the
5 morning, around 5 o'clock in the morning; sometimes
6 she would work at night. I mean, she worked a lot
7 of hours. She didn't have, like, one set schedule
8 like a nine-to-five.

9 Q. Okay. Was your mother working at that
10 time?

11 A. No.

12 Q. No more questions. Thank you.

13 THE COURT: All right. Any redirect.

14 MS. HENRY: Just very brief, Your
15 Honor, just in response to the most recent
16 questions.

17 REDIRECT EXAMINATION

18 BY MS. HENRY:

19 Q. Clarence, I just want to clarify -- so
20 I just want to clarify Jamese Gibbs, your sister,
21 she worked a lot, but she was home and she did live
22 there?

23 A. Yeah.

24 Q. Okay. And Shanek Robinson was in and
25 out...

1 A. Yeah.

2 Q. ... of the house that you lived at
3 while you were living with your sister, Jamese?

4 A. Yeah.

5 Q. And then was your mother -- her name
6 was Myrtle?

7 A. Myrtle Gibbs.

8 Q. Okay. And she was at home pretty much
9 all the time?

10 A. Yeah.

11 Q. So was she working?

12 A. No.

13 Q. No? So she was home all the time. She
14 was also on your defense attorney's witness list.

15 A. Yes.

16 Q. Okay. And she was also present at the
17 trial?

18 A. Yes.

19 Q. And would she have been able, do you
20 believe if she had testified, been able to provide
21 the most complete support for your timeline and
22 when you were -- when you are and when you were not
23 in the house?

24 A. Yes.

25 Q. And your mother has since been

1 deceased?

2 A. Yes, ma'am.

3 Q. When did she die?

4 A. She passed away in 2014.

5 Q. Okay. And this trial was held in 2012?

6 A. Yes.

7 Q. All right. So your mother was
8 available, she did have the most complete alibi
9 information for you, and she was not called as a
10 witness?

11 A. No.

12 Q. All right. No further questions.

13 THE COURT: Any recross?

14 MR. SMITH: No, Your Honor.

15 THE COURT: All right. You may step
16 down. Thank you.

17 All right. We'll take a lunch recess.
18 Let's be back here at 2:45. As I told you, I've
19 got a hearing at 2 o'clock that probably will not
20 last too long, but I have to hear it because it's
21 an injunction. So we'll reconvene at 2:45.

22 Not to hold you down, but just trying
23 to get an I idea. How many more witnesses?

24 MS. HENRY: I have two more witnesses,
25 Your Honor. It's James Gibbs and Shanek Robinson

1 and then we'll rest.

2 THE COURT: And then how many witnesses
3 do you think you'll have from the State?

4 MR. SMITH: Two, maybe three today.

5 THE COURT: Okay. Now, is this going
6 to go into tomorrow because that other hearing is
7 supposed to be set to start at 9:30 in the morning,
8 I believe. Yeah, it looks like the other hearing
9 for tomorrow is set at 9:30. So is there a
10 possibility this is going to go into tomorrow?

11 MS. HENRY: I had certainly not
12 intended for it to, Your Honor. Mr. Jenkins was by
13 far my longest witness. I don't see either Jamese
14 or Shanek taking longer than half an hour each.

15 THE COURT: Well, I mean, we'll go to
16 get it concluded today if we can. But -- and I'm
17 not telling you to rush to do anything. I'm just
18 trying to get an idea from a logistical standpoint
19 and a scheduling standpoint because if it is,
20 there's a chance is going to go into tomorrow, the
21 hearing -- we need to alert everybody on the
22 hearing that starts tomorrow morning that that will
23 not be going forward at 9:30. So is there a
24 possibility we can get it finished today.

25 MR. SMITH: I think so.

1 MS. HENRY: Absolutely, Your Honor.

2 THE COURT: All right. Then I will go
3 until we can get it finished as long as our court
4 personnel is okay because I want to make sure
5 they're all right and don't have anywhere to be.
6 But, hopefully, we can kind of move it on after
7 Mr. Jenkins' testimony. Maybe we can get it done.
8 Let's do that.

9 So we'll recess until 2:45 and go from
10 there.

11 MS. HENRY: Yes, sir.

12 MR. SMITH: One more thing on schedule,
13 Your Honor. I talked with Mr. MacDougall, and he
14 said that he could be available tomorrow from 10:00
15 till 11:00, 11:00 to 12:00, or 2:00 to 3:00.

16 THE COURT: Well, the problem there is
17 we have that other hearing. His testimony is going
18 to need to be either before we go or some kind of
19 lunch break or something because those times are
20 not suitable if we've got this other hearing that
21 goes tomorrow. I'm not going to stop that hearing
22 and then hear him and then resume unless we've got
23 either time before or time added. I don't want to
24 take anybody's lunch of our court personnel. I
25 don't want to take anybody's lunchtime as well, so

1 I'm not sure those times...

2 MS. HENRY: Your Honor, could we start
3 early tomorrow perhaps?

4 THE COURT: Yes.

5 MS. HENRY: I mean, I've also got
6 appointments tomorrow because I was not planning to
7 run it in to tomorrow. Again, I will move them if
8 we need to. I'm happy to start as early as the
9 Court can. I mean, Mr. MacDougall knew about this.
10 He said he was available before it was scheduled.

11 THE COURT: Yeah.

12 MS. HENRY: So I'm a little --

13 THE COURT: Well, he's had notice of
14 this thing, and you apparently didn't even know it.
15 And he's just telling you I've got these scheduling
16 problems.

17 MR. SMITH: I don't think he thought
18 that it would take as long as it has, but I did not
19 expect to have this many scheduling issues as we've
20 had.

21 THE COURT: Well, those times that he
22 has given you are probably not suitable. And,
23 again, as I said, I'm not going to stop the other
24 hearing for Mr. MacDougall. And so we may want to
25 take him up early in the morning if we don't --

1 hopefully we'll finish here today, and we can take
2 him up maybe at 8:30 or 8:45 or something in the
3 morning and get his testimony done. As I
4 understand, his is going to be about 45 minutes. I
5 know I'm not holding you to it. But, I mean,
6 generally it may be around 45 minutes?

7 MR. SMITH: Something like that.

8 MS. HENRY: Yes, sir. I have very
9 limited questions for Mr. MacDougall.

10 THE COURT: Okay. So I think if we can
11 start his maybe around 8:45 that we can get his
12 done, and that should keep us on schedule for the
13 other hearing. And of course, if it goes a few
14 minutes into that other hearing, that's all right.
15 But I don't plan to stop that other hearing in the
16 middle of that one and put this one up. So I think
17 we can put him up in the morning, and that should
18 take care of -- if there's some issue with the
19 scheduling on that, let me know, and maybe we can
20 do it at some kind of break or something. But, you
21 know, he's had notice of this from what I can see.

22 So we'll adjourn here until 2:45 on
23 this one.

24 (A lunch recess transpired.)

25 THE COURT: All right. Are we ready to

1 proceed?

2 MS. HENRY: Yes, Your Honor. Applicant
3 calls Jamese Gibbs. Your Honor, if I could step
4 outside to grab her?

5 THE COURT: Yeah.

6 JAMESE GIBBS,

7 being first duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. HENRY:

10 Q. Ms. Gibbs, can you tell the Court where
11 you're working?

12 A. I'm working at the Embassy on Verdae.

13 Q. The Embassy? Is that Embassy Suites?

14 A. It's Embassy Suites. It's a golf
15 course out there.

16 Q. What do you do for them?

17 A. I am a banquet captain. I deal with
18 thousands of people a day.

19 Q. Okay. And, Jamese, do you have any
20 children?

21 A. I do. I have four.

22 Q. And how old are they now?

23 A. They are 21, 20, 19 and 18.

24 Q. Congratulations.

25 A. Thank you.

1 Q. Jamese, how far did you go in school?

2 A. I went to the 11th grade.

3 Q. Jamese, what's your relationship to the
4 defendant Clarence Jenkins?

5 A. That's my brother.

6 Q. And do you still talk to your brother?

7 A. Not really. He's locked up, so it's
8 really hard to talk to him.

9 Q. All right. So not very often?

10 A. Yeah.

11 Q. And you still care about him?

12 A. Yes, I do.

13 Q. So given that you've got that
14 relationship with him and you've testified you
15 cared about him, would you lie for him?

16 A. No.

17 Q. Okay. So, for instance, would you say
18 that he was somewhere he wasn't to help him out if
19 it wasn't the truth?

20 A. No.

21 Q. All right. And just to be clear for
22 the Court, you understand all of that and you're
23 here to tell the truth about what you remember
24 about the events related to the situation in 2008?

25 A. Yes, ma'am.

1 Q. All right. Well, I'm going to take you
2 back first 2007. Where were you living in 2007?

3 A. Cornelia Street.

4 Q. Okay. And who else was part of that
5 household?

6 A. It was me, my mom, and my four kids.

7 Q. You, your mom, and your four kids? And
8 whose house was it?

9 A. It was mine. I was renting it.

10 Q. Okay. So it was your house; it was
11 rented in your name?

12 A. Yes.

13 Q. But your mom was living with you?

14 A. Yes.

15 Q. Okay. All right. And in 2007, where
16 was Clarence living?

17 A. In a trailer.

18 Q. Was Clarence living with you in 2007?

19 A. In 2007?

20 Q. Uh-huh (affirmative).

21 A. No. I think he was in a trailer.

22 Q. Okay. So he was in a trailer. Was
23 Clarence married?

24 A. In 2007?

25 Q. Uh-huh (affirmative).

1 A. Yes, he was.

2 Q. All right. Who was he married to?

3 A. Carman Marie.

4 Q. Okay. And in 2007, did they have one
5 child?

6 A. Yes, there was one.

7 Q. All right. I also want to ask you
8 about 2007. Were you part of a victims class?

9 A. Yes, I was. I was part of the victims
10 class.

11 Q. And why were you there?

12 A. I walked in on my fiancé, and he had
13 another woman in there with my newborn. I got
14 arrested because they called me the aggressor. And
15 so then I wind up -- yeah, I wind up being in the
16 anger management class. And then when they figured
17 out what was going on, I wound up being in the
18 victims class. So they switched me from the anger
19 management class to the victims class.

20 Q. Okay. All right. And did you meet
21 anyone in that class?

22 A. I did.

23 Q. Who did you meet?

24 A. Grace.

25 Q. All right. Is that Grace Davis?

1 A. Yes.

2 Q. Is that the woman -- well, did that
3 woman -- did Grace Davis -- is she the person that
4 ultimately ended up in a romantic relationship with
5 both Clarence and Carman?

6 A. Yes.

7 Q. Is that the same Grace Davis?

8 A. Yes.

9 Q. All right. Did you introduce -- did
10 you introduce Grace and Clarence?

11 A. Yeah, because what it was is that she
12 had needed a way out. And when we was in the
13 victims class, we always tried to help each other
14 out. And she was having problems, and I had let
15 her spend the night at my house.

16 Q. The night that she stayed at your house
17 or was starting to stay at your house, is that the
18 night she met Clarence?

19 A. Yes.

20 Q. Okay. So were Clarence and Grace
21 together romantically after that in a relationship?

22 A. I saw that they started hanging out
23 together. I kind of figured it, but my brother, he
24 just wouldn't say, well, you know.

25 Q. Okay. After a while, did it become

1 obvious that they were together?

2 A. Yes.

3 Q. And what was Carman's reaction to that
4 initially?

5 A. I really don't know her reaction to the
6 fact of Grace there. The only thing that I do know
7 is that she actually was happy that Grace was
8 there.

9 Q. Okay. At some point, did Grace move
10 into the trailer with Clarence and Carman?

11 A. Yes.

12 Q. She did? And did she move in with her
13 children?

14 A. Yes, because her kids had wound up
15 being taken away from her.

16 Q. Okay. So sometime toward the end of
17 2007, Clarence, Grace, and Carman are all living
18 together with all the kids. Is that right?

19 A. Yes.

20 Q. Okay. Now I want to move you forward
21 into 2008. All right? Did Carman have her second
22 child in 2008?

23 A. Yes.

24 Q. Would the date March 3rd, 2008 -- would
25 that make sense for the birth date?

1 A. It would make sense because mom, she
2 was really excited about the baby being born in the
3 month that she was born.

4 Q. Was your mom born in March?

5 A. Yes.

6 Q. Okay. That would make sense. All
7 right. So as of March 3rd, 2008, Clarence and
8 Carman had two little girls?

9 A. Yes.

10 Q. A newborn and another very young child?

11 A. Yes.

12 Q. All right. So fast forwarding a little
13 bit further to March, I would say -- would around
14 March 19th make sense for the living arrangements
15 to change? Do you remember when the little girls
16 moved in with you?

17 A. I really don't remember, but I know it
18 was close to the time when she was born.

19 Q. Okay. So sometime in March?

20 A. Yes, because I kept telling her that,
21 you know, hey, she's a beautiful baby. The baby
22 needs to be with their mom.

23 Q. Okay. So there was some discussion
24 about how young that baby was?

25 A. Yes.

1 Q. So you distinctly remember that?

2 A. Yes. She was with me basically the
3 whole time. That was my baby until she got taken
4 away.

5 Q. Okay. So you developed quite an
6 attachment?

7 A. Yes, I did.

8 Q. All right. So the two little girls
9 come to live with you, your mom, and your kids?

10 A. Uh-huh (affirmative).

11 Q. Okay. Does Clarence come to live with
12 you as well?

13 A. Yes, to help out.

14 Q. Okay. So Clarence is also living with
15 you at this time?

16 A. Yes.

17 Q. How was that working? Where is
18 everybody staying? Where is everybody sleeping?

19 A. Okay. I think he took over my bed when
20 I wasn't there, but he would, like, lay on the
21 couch. My mom had her own room. My kids had their
22 own room. Like, my bedroom was -- like right when
23 I walked in the front door, it was like off to the
24 left. So whenever I would come in from work, he'll
25 be in my bed, and I'll be like: Hey, you've got to

1 get up.

2 Q. Finders keepers. Right? Okay. And
3 just for the record, what address was this that you
4 guys were living at? Where were you renting? Do
5 you remember?

6 A. It was on Cornelia Street.

7 Q. Okay.

8 A. About 220 Cornelia Street.

9 Q. All right. But you were on Cornelia
10 Street?

11 A. I was on Cornelia Street.

12 Q. Did you have another house at any point
13 in time on Cornelia Street, or is that the only
14 time you lived there?

15 A. That was the only place I had on
16 Cornelia Street because that house was the house
17 that I wound up getting to leave my ex.

18 Q. Okay. So it's a distinct memory?

19 A. Yes, very much.

20 Q. During the time that Clarence and the
21 little girls moved in with you, what was the status
22 of Carman and Clarence's relationship?

23 A. They were on the outs.

24 Q. Describe that. What was that like?

25 A. Not getting along, I guess. It's like

1 when you have somebody else in your relationship
2 and you're trying to be with that one person and
3 that one person don't want to be with you and wants
4 to be with somebody else, it makes -- what's the
5 word for it -- turmoil in a relationship to where
6 they weren't seeing eye to eye.

7 Q. All right. And what was the status of
8 Grace's relationship with Carman and Clarence?

9 A. They were happy. I mean, she was
10 happy. I mean, I just didn't understand it.

11 Q. Grace was happy in that relationship
12 with them?

13 A. Yes. So far that I know.

14 Q. And then what about after Clarence
15 moved in with you?

16 A. Afterwards?

17 Q. Did you see Grace at all after that?

18 A. I think I might have saw her one or two
19 times, but I didn't see her anymore, like, after
20 that.

21 Q. And then that was after she was trying
22 to get her kids back?

23 A. Yes. She was really upset about not
24 having her kids.

25 Q. Okay. And you said that Clarence moved

1 in to help you with the kids?

2 A. Yeah. I needed help.

3 Q. Hey, I'm not pushing back on that. I'm
4 trying to figure out how much was Carman over
5 there. How much was Carman home with the kids?

6 A. That's where the problem was. When I
7 would see her, she would come, like, every so
8 often. But I would tell her: Hey, newborn baby.
9 You know? Baby needs to be with their mama. I
10 mean, I was always the one always stressing about
11 the family and being together. We tried to talk to
12 her, but, you know, sometimes they just don't
13 listen.

14 Q. Very true. During this time period
15 when Clarence was living with you, March and
16 onward, did Clarence have any kind of car or
17 independent transportation?

18 A. Well, it wasn't his car.

19 Q. What car was it?

20 A. They had a van.

21 Q. So was that van, was that Carman's?

22 A. That was Carman's. That was Carman's
23 van.

24 Q. Okay. So did Clarence have his own
25 car?

1 A. No.

2 Q. How did he normally get around?

3 A. Sometimes he'd walk, or sometimes
4 Carman would come pick him up, or I would take him.

5 Q. So it was Carman with the independent
6 transportation with her own ride?

7 A. Yes.

8 Q. All right. Okay. And then I'm going
9 to talk to you a little bit about your schedule
10 just so we can kind of get an idea of what was
11 going on. So at that time that this -- so at the
12 beginning of April or certainly April 4th through
13 April 10th, where were you working?

14 A. I was working at the Hyatt Regency
15 Downtown.

16 Q. Okay. What were you doing for them?

17 A. I was actually a banquet captain down
18 there.

19 Q. What was your normal schedule?

20 A. My normal schedule would be 5:00 AM in
21 the morning. It varied because of what I do. I do
22 banquets. I do functions. I can't leave until my
23 function is over, then I have to do my closing
24 checks. So it varies. It might be 3:00; it might
25 be 4:00. It might be 1 o'clock the next morning.

1 Q. All right. Let's see. Then I want to
2 go ahead and move forward a little bit in April,
3 and I want to talk a little bit starting -- I want
4 to talk about April 4th, 2008. That would have
5 been a Friday. Do you remember what your schedule
6 was that day?

7 A. I had to go in at 5:00 that morning.

8 Q. Okay. And then you were going in and
9 working at the Hyatt?

10 A. Yes.

11 Q. And then do you remember when you got
12 home? As close as you can get.

13 A. Around 3:00 or 5:00.

14 Q. So sometime in-between 3:00 and 5:00?

15 A. In-between, yes.

16 Q. And then when you got home, do you
17 remember anything specific about your arrival? Who
18 was home?

19 A. My brother, he was there. He stepped
20 out on the porch laughing at me because my yard was
21 trashed. And I told him: Hey, you've got to clean
22 up this yard. He was like: Yeah. He never got it
23 done.

24 Q. Describe trash. It's clearly a
25 formative memory for you. Describe trash for me.

1 A. It is because it made me so mad. To me
2 it was like paper and stuff all in the yard, like
3 somebody -- I mean, I don't know -- dumped a trash
4 can or something. I don't even know what happened
5 while I was at work, but my yard was trashed.
6 Maybe he had the kids out there playing with the
7 paper and stuff. Not even paper airplanes. It was
8 trash.

9 Q. So after you talked to Clarence, what
10 did y'all do?

11 A. We went back inside.

12 Q. Who all was there when you guys went
13 back inside?

14 A. My mom.

15 Q. Were the kids there?

16 A. Yes, the kids are there.

17 Q. Okay. So they were home?

18 A. Yes.

19 Q. Okay. So what do you do then?

20 A. Sit there, talk with mom for a little
21 while. Mom, she talks. My mom talks. She talks.
22 And I think I wound up getting something to eat and
23 laid down and went to bed.

24 Q. Okay. Around what time would you say
25 you went to bed?

1 A. Around about 7:00.

2 Q. Okay. And then did Clarence leave the
3 house any time between the time when you got home
4 until the time you went to bed?

5 A. No. He was still there.

6 Q. So Clarence was still home? Okay. And
7 do you know whether Clarence left after you went to
8 sleep?

9 A. I don't know if he left.

10 Q. All right. Don't know. Well, I'm
11 going to take you forward a day to Saturday. This
12 will be April 5th. Did you have to work on
13 April 5th?

14 A. Yes, I did.

15 Q. Do you know what time you went in?

16 A. The same time.

17 Q. Did you get home around the same time?

18 A. Yes.

19 Q. So do you remember -- do you remember
20 whether or not Clarence was home?

21 A. No, I don't remember.

22 Q. Okay. That's all right. As part of
23 Carman's testimony -- this is in the transcript --
24 Carman testified that you came by the trailer on
25 Saturday and spoke to her for five to ten minutes.

1 Is that possible? Did you go by the trailer on
2 Saturday and speak to Carman?

3 A. I don't remember going by to see her or
4 talk to her.

5 Q. And her testimony, I believe, was that
6 it was during the day. Would that have been
7 possible with your work schedule?

8 A. No, because I can't get off from work
9 until everything is done.

10 Q. Okay. So -- okay. Thank you. All
11 right. Let's move forward -- moving forward into
12 Sunday, do you remember whether or not you had to
13 work on Sunday? This would be -- we just went
14 through Saturday. This would be on Sunday, and
15 this would be April 6th.

16 A. I think I was off that day. I was off
17 that day.

18 Q. All right. So if you were off, what
19 did you do?

20 A. Spent time with my kids because I
21 barely was spending time with them. I know I would
22 hold the baby and cuddle up with her. Just spend
23 time with the kids.

24 Q. So this would be Sunday. Did you see
25 Clarence at all that day?

1 A. Yes, I did.

2 Q. Okay. Where did you see him?

3 A. Carman had dropped him off.

4 Q. So he had been with Carman, and Carman
5 had dropped him off. Did Carman come inside?

6 A. No. She didn't come inside that day.

7 Q. Okay.

8 A. She said she had stuff to do.

9 Q. And then when Carman left, did she
10 leave without Clarence?

11 A. Yes.

12 Q. So she left Clarence at your house?

13 A. Uh-huh (affirmative).

14 Q. And what did Clarence do for the rest
15 of the day?

16 A. He hung out.

17 Q. All right. And then do you remember
18 what time you went to sleep on Sunday?

19 A. I went to sleep around about my normal
20 time at 7:00 because that next Monday, I had to go
21 back in to work.

22 Q. And did Clarence leave before, at any
23 time before you went to sleep after Carman dropped
24 him off?

25 A. I don't remember that. I don't know.

1 Q. All right. Carman testified that she
2 and Clarence had only lived apart one time since
3 their marriage, and that that was back in 2007
4 before he went to prison. She testified that she
5 and Clarence were living together in April of 2008.
6 Is that true?

7 A. No, because when he went to prison,
8 they were living together.

9 Q. Okay. Were Carman and Clarence living
10 together in March and April of 2008?

11 A. Of 2008?

12 Q. 2008.

13 A. No, because that's when he was staying
14 with me.

15 Q. Okay. And if you have been called as a
16 witness at the original trial, would you have told
17 the jury that that was a lie?

18 A. Yes.

19 Q. Would you have been able to testify
20 then that Clarence was living with you?

21 A. Yes.

22 Q. Okay. All right. Carman also
23 testified throughout the duration of her testimony
24 that Clarence was at the trailer from Friday,
25 April 4th, in 2008 after he got off work to at

1 least Monday April 7th when she claims he went to
2 Labor Finders, and they went together and that they
3 were together that entire time or that Clarence was
4 at the trailer. Is that -- is that true?

5 A. No, it's not true because how would my
6 yard get all messed up?

7 Q. Okay. So if Clarence had been gone
8 from Friday, April 4th, until Tuesday, April 8th,
9 would you have remembered that?

10 A. Yes.

11 Q. And you're testifying here today that
12 you saw Clarence on Friday. I believe Friday,
13 definitely Sunday, and then part of Saturday. Is
14 that accurate?

15 A. Yes, ma'am.

16 Q. Okay. So is it possible that -- so if
17 you had been called as a witness at the original
18 trial, would you have been able to testify that
19 Carman's timeline was not true?

20 A. Yes, I would be able to.

21 Q. Okay. All right. Can you describe
22 Clarence's general character? Is he loud?
23 Violent? Mean?

24 A. My brother, he's caring. He's a really
25 caring person. He's a little hardheaded sometimes,

1 like, growing up, you know. I tried to tell him
2 what he needs to do. Like being a bouncer at a
3 club, I thought that was a big no no because people
4 are weird. But he's really caring. I know he
5 loves his kids, and he cares about family. And I
6 think that when we sit down and we talk, it gets
7 some -- he gets it. He gets it. And he tries.
8 And I think that's the time when he had separated
9 from Carman because I was talking to him and
10 letting him know that, you know, that little love
11 triangle just wasn't working. You need to have
12 your family together to be a family. And he was
13 listening.

14 Q. Okay.

15 A. And he's very -- he's a real sweet
16 person.

17 Q. And what about Carman's personality and
18 behavior? Angry? Controlling? Violent? Sweet?
19 Who was she?

20 A. I couldn't tell with Carman. One
21 minute she's angry; the next minute, she's happy,
22 or she don't want to be with Junior. Or she's
23 putting on his clothes and walking around with
24 shades on. And I was like: Okay, we need to go
25 get you some clothes because you don't need to be

1 looking like a guy. You know, when I talked to
2 her, she seemed like that she would listen to me,
3 but then I felt like she really wasn't.

4 Q. Okay.

5 A. Especially dealing with the newborn
6 baby, her youngest one.

7 Q. She wasn't really paying attention?

8 A. I really wanted her to really be there
9 for her.

10 Q. Okay. Were you aware of any instances
11 where Carman was violent with Clarence?

12 A. No, I was not.

13 Q. You weren't?

14 A. I heard about it, but I think he kept
15 it a point probably to keep it away from me. But I
16 heard about it. That was about it.

17 MR. SMITH: Objection, Your Honor.

18 It's something she doesn't have personal knowledge
19 about.

20 THE COURT: Sustained.

21 BY MS. HENRY:

22 Q. Okay. Are you aware of any instances
23 where Clarence has been violent with Carman?

24 A. No.

25 Q. And in front of you, did Clarence ever

1 exhibit any behavior that was controlling?

2 Violent?

3 A. No.

4 Q. Okay. So Carman testified that she was
5 afraid of Clarence and that he was controlling and
6 abusive. If you had testified at the trial, would
7 you have been able to tell the jury that that was
8 not true?

9 A. Yes. I've never seen him be like that
10 towards her. It was always loving. It was
11 whatever she wanted, he would give her.

12 Q. Okay. How far did Clarence go in
13 school, James?

14 A. He didn't go that far. I think it was
15 elementary school.

16 Q. Elementary school?

17 A. Yeah.

18 Q. Okay. And was Clarence very tech savvy
19 or no?

20 A. Very what?

21 Q. Was he good at technology?

22 A. No.

23 Q. Okay. So Clarence has got an
24 elementary school education. He's not very tech
25 savvy. Carman testified that she was told that he

1 had gone through high school. Is that possible?

2 A. That is not possible.

3 Q. All right. And if you had been called
4 as a witness, would you have been able to tell the
5 jury that that was not true?

6 A. Yes.

7 Q. All right. So, Jamese, as you said
8 before, this happened over 15 years ago. So at the
9 time, do you feel like you remembered a lot more
10 detail?

11 A. Yeah, because it was fresh.

12 Q. Okay. Were you ever interviewed by
13 Clarence's attorneys?

14 A. I think -- I'm sorry. I was in this
15 building over there at the office.

16 Q. Oh, okay.

17 A. Yes, it was this building.

18 Q. Do you remember which lawyers
19 interviewed you?

20 A. John Mauldin was his lawyer.

21 Q. Do you know if you talked to John
22 Mauldin specifically, or was it somebody else?

23 A. I talked to him sometimes specifically.

24 Q. Okay.

25 A. And there was a lady, but I don't

1 remember her name.

2 Q. That's okay.

3 A. I'm sorry.

4 Q. That's okay. Do you know how many
5 times you talked to them?

6 A. It was every time that we came up here,
7 we would talk.

8 Q. Okay. When you were interviewed --
9 over the times that you were interviewed by his
10 legal team, did you provide them with a detailed
11 timeline of where you were and when you saw
12 Clarence?

13 A. Yes.

14 Q. Okay. And then were you subpoenaed to
15 appear at trial?

16 A. Yes.

17 Q. Did you come?

18 A. Yes.

19 Q. Were you called to testify?

20 A. No.

21 Q. So you were never able to tell the jury
22 what you knew?

23 A. I was never called to testify.

24 Q. And then did anyone ever tell you why
25 or talk to you about it?

1 A. I don't remember. I don't remember if
2 anybody talked to me about it.

3 Q. All right, Ms. Gibbs. I don't have any
4 other questions.

5 THE COURT: All right. Cross?

6 CROSS EXAMINATION

7 BY MR. SMITH:

8 Q. Ms. Gibbs, on April the 5th, you
9 testified that you -- what time did you go to work
10 on April 5th?

11 A. 5:00, my normal time.

12 Q. Okay. When you say normal time, does
13 that mean you went to work at 5:00 AM every day?

14 A. Yes. I have to open up stuff.

15 Q. Okay. You testified earlier that
16 sometimes you'd have to go in at 1:00. What was
17 that about?

18 A. I don't have to sometimes go in at
19 1:00; sometimes I stay past 1:00.

20 Q. Past 1:00?

21 A. Yes, because --

22 Q. So what's your normal -- I'm sorry. I
23 didn't mean to interrupt you.

24 A. Because what I do, I come in and open
25 up. I get the function going. I can't leave until

1 the function ends. Once the function ends, I have
2 to do closing paperwork to where I have to close
3 out everything, and then I'm able to leave.

4 Q. Okay. So you didn't have a set work
5 schedule where you worked, say, 5:00 AM to 3:00 PM;
6 it varied every day?

7 A. Yes, but mainly I went in -- my start
8 time would be around that time.

9 Q. Okay. How many days a week did you
10 work during that timeframe?

11 A. Almost every day. I would have at
12 least one day off.

13 Q. Okay. Did you get lunch breaks or any
14 kind of break during your work period?

15 A. Whenever I had time to get a lunch
16 break. Whenever I had time. Sometimes I had to
17 work straight through my lunch break. We call that
18 eating in lunch.

19 Q. All right. How long -- when you got a
20 lunch break, how long would it last?

21 A. It would vary because I would hardly
22 ever get a break. Maybe five minutes or
23 ten minutes.

24 Q. Did you ever get enough break where you
25 could, say, go grab something to eat from somewhere

1 else?

2 A. No.

3 Q. Okay.

4 A. That was not possible.

5 Q. Okay.

6 A. I was in charge of a lot of people.

7 And if I got missing, then they start getting
8 missing. Then I have to play babysitter and go and
9 find them. I just wasn't really about all that.

10 Q. Okay. So what was your work schedule
11 on April the 4th, 2008?

12 A. I went in in the morning and got off
13 around 3:00, maybe 5 o'clock.

14 Q. Okay. How long would it take you to
15 get home from work when you got off work?

16 A. It would take me a good five to
17 ten minutes because Cornelia Street is real, real
18 close to downtown.

19 Q. Okay. You talked about what you did on
20 April 4th. How do you know that your brother
21 didn't leave the house while you were there that
22 day?

23 A. On April 4th?

24 Q. Right.

25 A. Well, when I got up that morning, he

1 was there. When I went to work and I came back, he
2 was there. And he had to help my mom. He had to
3 help my mom with the kids.

4 Q. But you weren't there during that
5 timeframe, so you didn't observe that yourself.
6 Right?

7 A. No, but I know what he does. He
8 wouldn't leave mama there with the kids by herself.

9 Q. But you weren't there. Right? You're
10 assuming he did?

11 A. Uh-huh (affirmative).

12 Q. Okay. And you testified you don't
13 remember if your brother was home when you when you
14 went to work at 5:00 AM on April the 5th. Right?

15 A. Yes.

16 Q. What time did you get off from work on
17 April the 5th?

18 A. Around -- it would have to be right
19 about the same time of 3:00 and 5:00.

20 Q. Okay. Are you just guessing, or do you
21 know for a fact?

22 A. It's been so long ago. I know between
23 3:00 to 5:00. That's the normal time I would get
24 off.

25 Q. Do you know on that particular day,

1 though, or are you saying you know because that's
2 what time you think you got off from work that day?

3 A. I know I got off at 5:00.

4 Q. Okay. And then on April 6th, when did
5 you first see your brother?

6 A. That was Sunday?

7 Q. Correct.

8 A. I saw him, I think, around 2 o'clock
9 when Carman was dropping him off.

10 Q. Okay.

11 A. That's when I remember seeing him.

12 Q. So about 2:00 PM?

13 A. Yeah.

14 Q. Okay. And what did your brother do
15 after 2:00 PM?

16 A. Well, he came in the house. We hung
17 out like we normally do. That's about it.

18 Q. Were you in a position where you would
19 have known if he had left the house after 2:00 PM.

20 A. Yeah, I would have known.

21 Q. Okay.

22 A. Because my room is right there at the
23 door. Even if I went to sit down in there with the
24 babies, I could see him walk past to go out the
25 front door.

1 Q. And you testified a few minutes ago you
2 don't remember if he left before you went to sleep
3 that night?

4 A. After I went to sleep? I don't know
5 what he did after I went to sleep.

6 Q. You testified you don't remember if he
7 left before you went to sleep. Right?

8 A. He was there when I went to sleep.

9 Q. But you don't remember if he left at
10 any point before you went to sleep?

11 A. He did not leave at any point before I
12 went to sleep.

13 Q. Okay. So you weren't in a position to
14 personally observe what happened between your
15 brother and Carman when they were at the trailer.
16 Correct?

17 A. Yeah, I don't know.

18 Q. Okay. You said you talked to
19 Mr. Mauldin and a lady. Was it your understanding
20 that she was a lawyer, or what was her role?

21 A. I think she was helping Mr. Mauldin out
22 trying to figure out the case.

23 Q. Okay. Something like an assistant or
24 investigator or something?

25 A. She probably was an investigator.

1 Q. Okay. Just one moment. No more
2 questions. Thank you.

3 THE COURT: Redirect?

4 MS. HENRY: No, Your Honor.

5 THE COURT: All right, ma'am. You may
6 step down.

7 Next witness.

8 MS. HENRY: Your Honor, Applicant calls
9 Shanek Robinson.

10 (The witness was sworn.)

11 MR. SMITH: Your Honor, I'm sorry to
12 interrupt. I was talking with Ms. Henry about
13 this. Mark MacDougall got back to me; 8:45 does
14 work for him. So I think sometime this afternoon I
15 can work on an order from Your Honor asking CDC to
16 leave Mr. Jenkins here overnight.

17 THE COURT: Okay.

18 MR. SMITH: I understand that the
19 corrections officers were wanting to know if they
20 could be cut loose to go back instead of waiting.

21 THE COURT: Yeah. If we're going to go
22 at 8:45 and we'll keep him here, I'll sign an order
23 allowing, and they can go back.

24 MR. SMITH: Okay.

25 MS. HENRY: Thank you, Your Honor.

1 SHANEK ROBINSON,

2 being first duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. HENRY:

5 Q. All right. So, Shanek, you've already
6 told the Court your name. Can you tell us what you
7 do for living?

8 A. I am a professor at Midlands Technical
9 College. I teach cardiac care.

10 Q. How long have you been doing that?

11 THE REPORTER: Can you speak into the
12 microphone?

13 BY MS. HENRY:

14 Q. I'm sorry. This courtroom can be hard
15 to hear in.

16 (Off-the-record conference.)

17 BY MS. HENRY:

18 Q. So you're a professor at Midlands Tech?

19 A. Midlands Technical College in Columbia.

20 Q. Is cardiac care -- is that a type of
21 nursing, or is it something else?

22 A. Well, it is a prerequisite for nursing,
23 so nursing students would take EKG. And so I teach
24 cardiac care and EKG. But it's not just for
25 nursing students. It's for paramedic students.

1 Anybody that's needing that particular skill.

2 Q. Okay. How long have you been doing
3 that?

4 A. Twelve years.

5 Q. All right. Then, Shanek, do you have
6 any kids?

7 A. Yes.

8 Q. How many?

9 A. Four.

10 Q. How old are they now?

11 A. They're 27, 26, 17, and 13.

12 Q. Oh, wow. Okay.

13 A. Two grand babies.

14 Q. Two grand babies? Okay. And then how
15 far did you have to go in school in order to be
16 able to teach?

17 A. Well, I finished my associates degree
18 and I started working in para medicine. And from
19 there -- so I teach -- I taught also adult
20 education to help adults pass the GED. So from
21 that background and me doing paramedicine, I
22 relocated to Columbia. And a friend of mine said:
23 Well, have you thought about teaching? And I was
24 like: I mean, I do adult education. She said --
25 and I said: I don't think it's the same thing.

1 And she said: Yeah, come try it out. So that's
2 how I ended up getting into teaching and then doing
3 credits so that I can have my certification to
4 teach cardiac care and EKG. So I started there.
5 So associates degree is my degree, but then I also
6 took other courses to teach.

7 Q. Okay. That was an excellent summary.
8 Tell us what your relationship is to Clarence
9 Jenkins.

10 A. Clarence is my younger brother. He's
11 my baby brother.

12 Q. Baby brother? Okay. Do you ever still
13 talk to Clarence?

14 A. Yes. Mostly write. But sometimes we
15 talk, but mostly write.

16 Q. And you still care about Clarence?

17 A. Oh, yeah.

18 Q. So given that relationship that you
19 still care about Clarence, would you lie for him?
20 For instance, would you say he was somewhere when
21 he wasn't? Would you make up any facts to help him
22 out?

23 A. Not at all, no.

24 Q. All right. And then just to be clear,
25 you're here today to tell the truth as you remember

1 it?

2 A. Yes, ma'am.

3 Q. Okay. All right, Shanek. I'm going to
4 take you back to March and April of 2008.

5 A. Okay.

6 Q. So where were you living in March and
7 April of 2008?

8 A. In Greenville on Pleasant Ridge Avenue.

9 Q. And who all was living with you? Who
10 was in your household?

11 A. Myself, my husband, my older two boys,
12 and I was pregnant with Kennedy.

13 Q. And then in April of 2008, where was
14 Clarence living?

15 A. With my sister.

16 Q. And then what was the setup that you
17 remember at your sister's house?

18 A. Well, he -- it was my brother and the
19 two girls, and he had to help take care of them.
20 They were -- well, my brother was married also at
21 the time, but they were having difficulties. And
22 so he and the girls moved in with my sister.

23 Q. Okay. And you already kind of touched
24 on it, but as far as you knew yourself, what was
25 the status of Carman and Clarence's relationship

1 during that time?

2 A. They were married. They were just
3 having marital problems is what they said.

4 Q. And you also knew Grace Davis or knew
5 of Grace Davis?

6 A. I knew of Grace Davis.

7 Q. So you didn't really know her?

8 A. No, I didn't know her. I've spoken to
9 her. I mean, I -- know her, know her? No, but I
10 have spoken to her. I knew who she was. But as
11 far as like knowing her personally, no.

12 Q. Okay. Were you aware of the
13 relationship between Clarence and Grace and Carman?

14 A. Yes.

15 Q. All right. During this time period
16 when Clarence and the two young girls are living
17 with your sister, was Carman helping out with the
18 kids? Was she over there all the time helping and
19 doing things?

20 A. No. As far as I know, I was helping
21 with diapers and wipes. So I would come maybe once
22 or twice a week and bring pampers wipes or money,
23 whichever my sister needed. As far as Carman, I
24 didn't really see her much.

25 Q. Okay.

1 A. I would say that if she was helping, I
2 didn't see it.

3 Q. Okay. Then how about Clarence? Was
4 Clarence there? Was he helping?

5 A. Yes, my brother was there. As far as
6 financially helping, I'm not sure what my sister
7 and him had settled, but he had to help keep the
8 kids and watch the kids. So if she worked, he was
9 there with the kids; if he worked, she was there
10 with the kids. So he had to help, yes, ma'am.

11 Q. And at that time, what was your
12 understanding of that three-way relationship? Was
13 that still going on?

14 A. The three -- okay. Be more specific.
15 Which three are you talking about?

16 Q. Sure. Between Carman, Grace, and
17 Clarence. Were they still together as a unit in
18 April of 2008 when he was living with your sister?

19 A. So my understanding from my brother was
20 that he did not want to participate in that type of
21 relationship anymore. And because of that, they
22 split.

23 Q. Okay.

24 A. Well, they split and back up because
25 they had gotten back together. But then -- and I

1 think she was the reason why they got back
2 together. I'm not 100 percent sure about that, but
3 he decided he didn't want to do that relationship
4 anymore. And as far as I know, there wasn't that
5 relationship anymore because he was staying with my
6 sister.

7 Q. Okay. So Clarence was done with the
8 relationship as far as you know?

9 A. As far as I know.

10 Q. Okay. And that was part of the reason
11 he was actually living with Jamese?

12 A. Yes, ma'am.

13 Q. Instead of with Carman at the trailer?

14 A. Yes, ma'am.

15 Q. All right. Shanek, I'm sorry. Give me
16 one second. So I want to take you to Friday, April
17 -- oh, take your time.

18 A. I'm fine. I'm just trying to clean my
19 glasses off. I am -- the older you get, the harder
20 it is for you to see.

21 Q. Absolutely.

22 A. So mine we're a little bit cloudy.

23 Q. I'm sorry, Shanek. Give me one second.
24 So when you would come over to the house to visit
25 during these times and Clarence was there, what was

1 he doing?

2 A. Most of the time, he was sleeping.
3 Like laying around. Little Carman was jumping on
4 him, and Melissa, she was a teeny baby, so she was
5 asleep or whatever. But most of the time, he was
6 asleep. So I would wake him up and tell them I was
7 there and that I left something for him. You know,
8 we'd chit chat for a little while, and then I'd
9 head out.

10 Q. Okay. And you said that you brought
11 pampers and some other stuff. So everybody in the
12 family was contributing to helping?

13 A. Everybody was contributing. Like our
14 uncle and his wife. Whatever we could do to kind
15 of help smooth things and things run smoothly. We
16 all tried to kind of work as a team to make sure he
17 has the -- my thing was diapers and wipes.

18 Q. And was Clarence working at the time?
19 What was your awareness of that?

20 A. He was working for -- not a -- like an
21 employment agency where you work a day and you get
22 paid or something like that.

23 Q. You're talking about Labor Finders?

24 A. Yeah, something like that. Yeah, Labor
25 Finders.

1 Q. Okay.

2 A. So you would work -- it wasn't like a
3 full-time employment like you had a job every day.
4 Whatever they had available for you according to
5 them was what -- well, I'll say my brother, and
6 what he would say was like if they have work for
7 you, then you would work that day, and then you
8 would get paid. So he didn't have, like, a lot of
9 money, so that's why all of us we were, like,
10 chipping in to do whatever we could.

11 Q. All right. And did Clarence have any
12 independent transportation?

13 A. No, ma'am.

14 Q. How was he getting to work?

15 A. Walk or my sister or sometimes his wife
16 Carman.

17 Q. Okay. So sometimes Carman would take
18 him?

19 A. Uh-huh (affirmative), yes, ma'am.

20 Q. Would Carman go to the house a lot?

21 A. I didn't really see her that much. I
22 only seen her once or twice. I didn't see her a
23 whole lot. And I, myself, wasn't there every day
24 either, so I was there maybe once or twice a week.

25 Q. Okay. Once or twice a week?

1 A. Yeah.

2 Q. Did you have usual days that you came
3 by?

4 A. Uh-huh (affirmative).

5 Q. Okay. What were those?

6 A. Wednesdays and Fridays.

7 Q. Okay. Well, let's go ahead and move
8 forward then to April 4th which would be the --
9 which was a Friday which is the Friday before all
10 this happened, the Friday that all this started.
11 Do you remember what your schedule was on that
12 Friday?

13 A. School, and probably after school,
14 picking up my kids from school. So school, my mom
15 and my sister's house, and then I'd leave in time
16 to pick up my kids from school.

17 Q. Okay. So it was your normal schedule
18 on Friday to go -- and were you going to teach?

19 A. Yes. So adult education. And, also, I
20 was taking classes. So adult education, classes,
21 my mom's, my brother's, leave their kids for
22 school.

23 Q. Okay. So the time that you would go
24 over to your mom's and brother's and sister's, was
25 that normally sometime in the morning on Fridays?

1 A. Yes. Normally in the morning. It was
2 about 11:00 or 11:30-ish.

3 Q. Okay. And then on Friday April 4th,
4 did you see Clarence?

5 A. Yes. He was asleep. And the girls
6 were there. And I talked to my mom, had coffee.
7 She was complaining as usual.

8 Q. Is this your mom complaining?

9 A. She was always complaining about
10 something.

11 Q. And where was Clarence?

12 A. Asleep.

13 Q. Did you talk to him at all while you
14 were there?

15 A. I would usually wake him up a little
16 bit just to let him know I was there and I came by.
17 And then he'll chit chat with me or go back to
18 sleep.

19 Q. Okay. And then when you're there, did
20 you normally do anything else?

21 A. Coffee with my mom, talk with my mom,
22 and in and out.

23 Q. Okay. After you did all that, what did
24 you do?

25 A. Leave there, go home, prepare to pick

1 the kids up from school.

2 Q. And then did you come back again that
3 week, or was it --

4 A. On that Friday? Are you talking about
5 Friday?

6 Q. Yeah. Did you come back again? You
7 said sometimes you visited on Fridays and
8 Wednesdays.

9 A. Oh, that's the next week. So, yes.
10 The next week, yes, on Wednesday. But that Friday
11 I didn't go back again because that's usually the
12 weekend, if that's what you're asking me.

13 Q. Yeah.

14 A. I did not go back after that day.

15 Q. Okay. Until the next week?

16 A. Until the next week.

17 Q. Okay. Do you have any idea why Carman
18 didn't keep the girls with her?

19 A. She said that she was having
20 difficulty --

21 MR. SMITH: Objection, hearsay.

22 THE COURT: Sustained.

23 BY MS. HENRY:

24 Q. Did you observe any changes in Carman's
25 behavior around the time that she would have left

1 the girls with your sister and your mother?

2 A. Depressive mood, sad. I would say that
3 she -- I guess that's what she said. But she said
4 she was trying to --

5 Q. Yeah, nothing that she said to you.
6 Just what you observed from her.

7 A. That she was sad. She was kind of not
8 in a good mood. Not like a mean mood, but just
9 kind of just sad. She had, you know, had a baby,
10 so for me, you know -- you know, sometimes when you
11 have children, you go through like a little
12 postpartum or whatever. And I tried to encourage
13 her with that, why she would be sad. But other
14 than that, just that she was sad.

15 Q. Did you observe any extreme behavior or
16 extreme emotion from Clarence?

17 A. Same thing. He was sad. He was sad
18 because of the circumstances with -- according to
19 him -- and you could see it though. But the things
20 that they were going through as a married couple.
21 He wanted a family, and she --

22 MR. SMITH: Objection, hearsay.

23 THE WITNESS: Well, that's not hearsay.
24 That's me observing my brother.

25 THE COURT: I'll overrule it.

1 THE WITNESS: He wanted a family, and
2 we all knew that. It was just kind of sad for him
3 as well.

4 BY MS. HENRY:

5 Q. That that wasn't happening?

6 A. Uh-huh (affirmative).

7 Q. All right. Can you -- let's see. So
8 Carman -- let's do it this way. So Carman
9 testified during the original trial that Clarence
10 was violent, that he was the abuser, that he
11 threatened her, and that she stayed in the
12 relationship out of fear. Do you know of any
13 instances where Clarence was violent toward Carman?

14 A. I do not.

15 Q. Do you know of any instances where
16 Carman was violent toward Clarence?

17 A. I do.

18 Q. Okay. Can you describe those for the
19 Court?

20 A. It was my brother -- well, one of my
21 friends got my brother a job working at a club as
22 security. And after that, when I saw him --
23 because usually, like I said, they didn't have a
24 lot of money, so we'd help out with different
25 things like diapers or whatever. And so he came by

1 the house to get money for diapers, and he had a
2 black eye. And I was like: What? Why do you have
3 a black eye? What happened? Was it something at
4 work? He was like: I'm okay. I'm fine.

5 MR. SMITH: Objection.

6 THE COURT: Sustained.

7 BY MS. HENRY:

8 Q. Did you ever find out that Clarence
9 received the black eye from Carman?

10 A. Yes.

11 Q. Okay.

12 A. Yes.

13 Q. Did you ever have discussions with --
14 and don't tell me what you said. But did you talk
15 to both Clarence and Carman?

16 A. Yes.

17 Q. About the black eye?

18 A. Yes.

19 Q. And it was your understanding from both
20 of them that Carman had hit Clarence?

21 A. Yes.

22 Q. Okay. Is that the only time that you
23 became aware of Carman being violent with Clarence?

24 A. That was the only time that I was aware
25 that she was violent with him, yes.

1 Q. Okay. Did you feel or did you -- did
2 you see a change in Clarence's behavior during his
3 relationship with Carman?

4 A. What do you mean by change? What do
5 you mean by that? Like -- okay. Let's see.

6 Q. If the answer is no, that's okay too,
7 Shanek?

8 A. Well, I --

9 Q. I mean, what was Clarence like --

10 A. I would say --

11 Q. -- before the relationship?

12 A. I would say that he became a husband
13 and a father. I did see those changes in him, that
14 he was more responsible or he wanted to be more
15 responsible for taking care of his family and
16 making sure his family was okay. That change I did
17 see in him.

18 Q. Did you ever observe Clarence being
19 violent or threatening toward anyone else other
20 than Carman?

21 A. No.

22 Q. Okay. How would you describe
23 Clarence's personality?

24 A. My brother can be a pain in the butt,
25 but most of the time he's jovial. And pain in the

1 butt like annoying sometimes. Just normal sibling
2 relationship. Nothing -- we just had a normal
3 relationship, you know. He was -- he's a loving
4 person. Did he get roared up? Probably, yeah.
5 But, I mean, he had sisters, so we didn't really
6 have a whole bunch of roughhousing. Just a normal
7 sibling relationship. I guess that's the best way
8 I can describe it.

9 Q. How did your brother handle blood?

10 A. He didn't.

11 Q. Can you describe it for us? Can you
12 explain that to the Court?

13 A. Okay. I can give you an example. So
14 at my house -- and he was younger, probably about
15 15 or so. Maybe 14. I was trimming the hedges,
16 and I ended up getting cut or whatever. So I had
17 called over to him to go in the house to grab
18 something for me. And he came over to help and I
19 had just a little blood on my hand, and he went
20 boop. And so my mom --

21 Q. What is boop?

22 A. He just fell out.

23 Q. Did Clarence pass out?

24 A. Yeah, like -- and I'm saying: Mom,
25 what in the world is he doing? And she said: He

1 does that. And I go: I don't think that's normal.
2 So when we got him to come to, I told him: You
3 could have let me die out here. I got cut with the
4 hedges and you just fell out on me. And he would
5 do that. He wasn't -- he was just squeamish.

6 Q. What happened when your son broke his
7 arm?

8 A. So my son fell from two stories because
9 there was a piece of a gate missing when we were at
10 a hotel. And he fell on his arm, and his arm
11 looked like an M. And my brother saw it, and my
12 brother did the same thing. He just passed out.

13 Q. Okay. So there's a pattern to this
14 with Clarence?

15 A. Uh-huh (affirmative).

16 Q. Related to blood and injuries?

17 A. Uh-huh (affirmative).

18 Q. Okay. Did you guys have any kind of
19 family jokes about what would happen when he had
20 kids?

21 A. That he wouldn't be able to watch the
22 delivery because he would just pass out.

23 Q. Okay. Carman testified at the original
24 trial that not only the murder but also the
25 mutilation was Clarence. And that included blood

1 and cutting and amputation of hands and feet. That
2 was her testimony that it was Clarence. Given what
3 you know about Clarence and how he handles injury,
4 blood, is that even possible?

5 A. Not to me, no. Not to me and even my
6 family members.

7 Q. Is Carman at all squeamish as far as
8 you know?

9 A. Not as far as I know.

10 Q. Any family histories or jokes that are
11 similar to what you've just told about Clarence?

12 A. For Carman?

13 Q. Uh-huh (affirmative).

14 A. Just that -- she would just -- she was
15 in charge.

16 Q. Carman had a powerful personality?

17 A. Yeah, she was just in charge.

18 Q. All right. So if you had been called
19 to testify at the original trial, would you have
20 been able to tell those stories about Clarence?

21 A. Yeah.

22 Q. And would you have been able to testify
23 that you found it very unlikely that Clarence would
24 have been able to do the things that Carman
25 described?

1 A. Yes.

2 Q. Okay. All right. Just a couple more
3 questions, Shanek. So Carman also testified that
4 she and Clarence were still living together in
5 March and April of 2008. As far as you're aware,
6 was that true?

7 A. No.

8 Q. Okay. And if you had been called to
9 testify, would you have been able to testify that
10 that was not true?

11 A. Yes.

12 Q. Okay. All right. Did you ever talk
13 to -- were you interviewed by Clarence's attorneys?

14 A. Yes, ma'am.

15 Q. Do you remember who you talked to?

16 A. Mr. Mauldin, and I think her name was
17 Susan. Susan?

18 Q. Do you remember what you talked about
19 with them?

20 A. Timelines, history, family history. A
21 lot of stuff. A lot of stuff I can't even remember
22 that we talked about, but it was a lot. I used to
23 drive from Columbia here to meet up with them as
24 well. And it would be hours that we would talk
25 about different things with the case.

1 Q. Okay. And this happened over 15 years
2 ago at this point. Right? And would you say that
3 at the time you were discussing this with
4 Clarence's defense team that you had a much sharper
5 recollection --

6 A. Oh, yeah.

7 Q. -- of dates, times and timelines?

8 A. Uh-huh (affirmative).

9 Q. And did you disclose all that
10 information to his defense team?

11 A. Yes. Whatever they asked of us. We
12 disclose all information we had available at the
13 time.

14 Q. And did you receive a subpoena to
15 appear at trial?

16 A. Yes.

17 Q. And did you come? Were you there?

18 A. Did I do what?

19 Q. Did you come to the trial?

20 A. Yes.

21 Q. And were you called to testify?

22 A. No.

23 Q. So you were never given the opportunity
24 to tell the jury all the information that you and I
25 just reviewed today?

1 A. No, ma'am.

2 Q. And were you ever told why?

3 A. The -- I would say no. Because of the
4 explanations, it's more like hearsay, so I would
5 say no, it wasn't a real good explanation of why.

6 Q. All right. No further questions.

7 Thank you.

8 THE COURT: All right. Cross?

9 CROSS EXAMINATION

10 BY MR. SMITH:

11 Q. Ms. Gibbs, a lot of your understanding
12 of the dynamic in the three-way relationship
13 between your brother, Carman, and Grace comes from
14 whatever your brother told you. Right?

15 A. Mrs. Robinson.

16 Q. I'm sorry.

17 A. That's okay.

18 Q. I apologize.

19 A. That's fine. Say that one more time.

20 Q. Your understanding of the internal
21 dynamics of the three-way relationship between your
22 brother, Carman, and Grace comes from what your
23 brother told you. Right?

24 A. No, not just from what my brother told
25 me but from what I observed myself and what the

1 three of them said.

2 Q. Okay.

3 A. They actually had a whole thing written
4 out that I read that was between the three of them.

5 Q. Marriage vows?

6 A. I guess, explaining the relationship
7 between them.

8 Q. Okay. And are you aware that your
9 brother wrote those?

10 A. That they wrote them together. That's
11 what they said, they wrote them together.

12 Q. Okay. And you testified about visiting
13 your sister's house on February the 4th, and you
14 talked about your usual Friday routine. How do you
15 know that you visited there specifically on this
16 Friday rather than remembering your general
17 routine?

18 A. Well, because that's what I always do.
19 And probably since I can remember, we -- our
20 family, we spend a lot of time at dinners, so we
21 visit a lot. And everybody helps out. And my days
22 are always those days.

23 Q. Okay.

24 A. Now, that doesn't mean that I wouldn't
25 come an extra day because I would sometimes

1 depending on if they needed me for something. But
2 usually my time with them would be Wednesdays and
3 Fridays.

4 Q. Okay. What time did you leave your
5 sister's house on April the 4th?

6 A. It was sometime that afternoon before I
7 -- I left there, went home, and got ready to pick
8 my kids up from school. So sometime that
9 afternoon. I don't know the exact time, but it was
10 sometime that afternoon.

11 Q. Okay.

12 A. And school gets out for my children
13 around 2:30.

14 Q. Was your brother there the entire time
15 that you were there?

16 A. Yes.

17 Q. Okay. You testified about the fact
18 that you felt that your brother was trying to
19 provide for his family. Would it surprise you to
20 know that he testified earlier today that he was
21 cooking crack and selling it to people at Labor
22 Finders?

23 A. Would that surprise me? Yes, a little.

24 Q. All right.

25 A. A little. Yeah, that would surprise me

1 a little bit.

2 Q. Would it surprise you if he testified
3 that he would go to the trailer on Tindal Road when
4 Carman was not there and cook crack inside the
5 trailer?

6 A. Yes.

7 Q. Okay. Would it surprise you to know
8 that earlier today he testified that when he saw
9 Ms. Harris' body on the floor that after being
10 shocked, the first thing he did essentially was to
11 go around and find things and burn them so that the
12 police wouldn't find them?

13 A. Yes.

14 Q. Okay. Would it surprise you to know he
15 testified earlier today that he helped Carman take
16 Ms. Harris' body and set it on fire with gasoline
17 and leave it somewhere on the roadside?

18 A. Yes.

19 Q. Okay. And I think you testified
20 earlier that you weren't around Carman and her
21 family that much.

22 A. (Witness moves head from side to side.)

23 Q. Okay. The things you testified to here
24 today, did you tell those same things to the
25 lawyers you met --

1 A. Yes.

2 Q. -- Mr. Jenkins' lawyers?

3 A. Yes.

4 Q. Okay. Just one moment, please. Thank
5 you. No more questions.

6 THE COURT: All right. Any redirect?

7 MS. HENRY: No, your Honor.

8 THE COURT: All right. You may step
9 down. Thank you, ma'am.

10 MS. HENRY: Applicant rests, Your
11 Honor.

12 THE COURT: All right.

13 MS. HENRY: Your Honor, may I release
14 Ms. Gibbs and Ms. Robinson.

15 THE COURT: Any objection from the
16 State?

17 MR. SMITH: No objection.

18 THE COURT: All right. They are
19 released.

20 MS. HENRY: Your Honor, if you'll give
21 me one second.

22 THE COURT: Yes, ma'am.

23 MS. HENRY: Thank you, Your Honor.

24 THE COURT: All right. Anything before
25 we start the State's case?

1 MR. SMITH: Your Honor, may I grab
2 Mr. Mauldin real quick?

3 THE COURT: All right.

4 MR. SMITH: Your Honor, I call Mr. John
5 Mauldin.

6 THE COURT: All right.

7 JOHN MAULDIN,

8 being first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. SMITH:

11 Q. Mr. Mauldin, can you tell me when you
12 begin practicing law?

13 A. February of 1974.

14 Q. Can you give me a brief summary of your
15 legal experience?

16 A. Yeah. I graduated from Emory Law
17 school in '73. Went on active duty in the
18 military. Came to Greenville in February of '74
19 and worked for two and a half years in the public
20 defender's office as an assistant. Began private
21 law practice in probably '76 and practiced
22 privately until 1992 when I was appointed the
23 public defender after the retirement of Pete Partee
24 and served as the public defender for Greenville
25 and then as the Thirteenth Circuit Public Defender

1 until my retirement in 2018. I've been retired
2 since then.

3 Q. Okay. How did you get involved in
4 Mr. Jenkins' underlying criminal case?

5 A. Our office would have been appointed
6 after his arrest. He apparently applied for a
7 public defender, and our office was appointed. And
8 due to the nature of the case, I assumed lead
9 counsel representation at that time. I don't know
10 the exactly the date of the appointment, but it
11 would have been very quickly after his arrest.

12 Q. Okay. What other lawyers were involved
13 in the representation of Mr. Jenkins?

14 A. I can't recall exactly the date of the
15 death penalty noticed in this case. From the time
16 he was arrested until the State served a death
17 penalty noticed, I would have been primary and the
18 only counsel. When the death penalty notice was
19 served, he became eligible for appointment of a
20 second chair. And Susannah Ross who was in private
21 law practice in Greenville was appointed second
22 chair to assist us or assist me. I then enrolled
23 the assistance of a law firm out of Washington that
24 I had worked with previously and had had good
25 experiences with to further assist us.

1 Q. Is that how Mr. Mark MacDougall got
2 involved?

3 A. Yeah. Mark MacDougall is a partner in
4 the Akin Gump Law Firm.

5 Q. Okay. How did you share the duties of
6 representation of Mr. Jenkins with those other
7 lawyers?

8 A. Well, we had to -- you know, it's been
9 14 years, I guess, ago, so I'm just giving you the
10 best I can recall. We would have gotten together,
11 looked at the potential areas that were naturally
12 separated, that could be naturally separated in a
13 case of that complexity, and then talked among
14 ourselves about how best to do that. As lead
15 counsel, I took the responsibility of making the
16 final decision. And so we did go through the
17 process collectively of looking at issues and
18 trying to figure out the best way to separate the
19 responsibilities.

20 Q. Okay. And what were those different
21 areas that all of you identified?

22 A. The separation that we came up with
23 basically was that Mr. MacDougall would be
24 responsible for issues that involved forensics. We
25 knew certainly that there would be a lot of blood

1 evidence, DNA evidence, fingerprint evidence,
2 murder weapon evidence. And those were forensic
3 issues that Mark had a great interest in, and it
4 was natural for him. And he also had a lot of
5 resources. In a law firm of that size, he could
6 enroll assistance from associates in that law firm
7 to help him with the forensic analysis.

8 Susannah -- Susannah and I both had met
9 with Mr. Jenkins at the jail. And Clarence, I felt
10 like, had responded very positively to Susanna's
11 approach to discussing his case with him and so
12 forth. Mine was probably a little more harsh. And
13 so what we did was we said, okay, Susannah is going
14 to handle the direct client part of the case.
15 She's going to be responsible for Clarence's
16 testimony if he were to end up testifying at trial.
17 She's going to meet with him regularly at the jail
18 because that's a very important part of a
19 complicated case is to maintain a relationship with
20 the client. And that was her area of
21 responsibility.

22 And my responsibility in the initial
23 was the handling of the codefendant, the wife. And
24 I felt like I wanted to assign myself the
25 responsibility of the mitigation in the anticipated

1 penalty phase of the case because it was a capital
2 case at that time. So I attempted to manage the
3 experts and the mitigation and also be responsible
4 for the codefendant's positioning in the case.

5 Q. Okay. Do you remember how long it was
6 before you were served with the death notice, and
7 then again how long it was that you labored under
8 the impression that the trial would be a capital
9 trial?

10 A. I can't tell you exact. I think the
11 file would actually answer that. In the file,
12 there's notice of intent to seek the death penalty
13 somewhere. There's also an order appointing
14 cocounsel, so that would be the time at which --
15 but I don't think it was a very long time. I think
16 that Mr. Ariail, at the time, was very intent on
17 seeking the death penalty in this case, and I think
18 that notice was served pretty quickly.

19 When Mr. Ariail did not seek reelection
20 in November of 2010, Mr. Wilkins took over as the
21 solicitor. The death notice was still on the table
22 at that point, and it seems like -- I can't recall
23 when Mr. Wilkins withdrew the notice, but he still
24 maintained that it would be a capital case for a
25 good long period of time while in his service as

1 solicitor.

2 Q. Okay. So what sorts of pretrial
3 investigation and factual development did you do at
4 that time because you believed it would be a
5 capital trial? Was there anything unique about
6 your work there?

7 A. Well, obviously we had to retain a
8 number of different experts, mental health experts,
9 mitigation, social worker, people that were
10 potential witnesses in a penalty phase, but they
11 were hired to go out and do exactly what you're
12 describing. We had a private investigator that we
13 hired for what I would describe as the guilt phase
14 of the case. That's the innocence/guilt trial. If
15 I recall, Pete Skidmore from Rock Hill was our
16 investigator, and he was assigned to review the
17 police records and determine whether or not
18 follow-up investigations were necessary on a
19 factual basis.

20 We obviously retained experts with
21 regard to any DNA potential, any fingerprint
22 potential. Handwriting was also, if I recall, an
23 issue in this case. So we had all those experts
24 hired, and they would do whatever we asked them to
25 do.

1 Q. Okay. As best as you can, can you give
2 me a brief summary of the State's case against
3 Mr. Jenkins?

4 A. I don't really know how much background
5 you want to know. I mean, I can give you as much
6 as I can recall. The State's case essentially was
7 that Clarence and Carman had a friend named Grace,
8 and they were very, very close friends. And
9 Clarence went to jail on a driving under suspension
10 charge, and I think it was a 60- to 90-day period.
11 Seems like a 90-day timeframe where he was out of
12 the house in jail. And during that period of time,
13 Carman, who was Mr. Jenkins' wife and the
14 codefendant, and Grace developed an intimate
15 relationship. And when Clarence came home from
16 jail, they continued that relationship and
17 essentially created sort of a three-party,
18 three-party marriage, if you would, so to speak.

19 This went on for a number of months.
20 It did develop some significant friction. Grace
21 had some children that were living in that house
22 with them. DSS took Grace's children. And as a
23 result, Grace left the relationship and went back
24 to her family. And Carman, the wife, was very
25 disappointed that Grace had left and was

1 essentially going to do anything she could to get
2 Grace to come back. They tried a number of
3 efforts. Clarence and Carman tried to get Grace to
4 come back. She wouldn't.

5 And what then ended up happening was
6 Clarence met a woman named Mekole Harris. And with
7 his efforts at Labor Finders when he was working
8 through Labor Finders -- and Mekole would sometimes
9 be around the Labor Finders location. Clarence
10 started seeing Mekole. He then brought Mekole to
11 the trailer where he and Carman were living.
12 Almost -- you could almost describe it as somewhat
13 of a substitute for Grace. It did not suit Carman,
14 and so they -- you know, the allegation by the
15 State was that the two of them committed a
16 horrendous murder of Mekole, dismembered her and
17 left body parts on two different -- at two
18 different front doors of Grace's family members
19 with threatening letters that Grace needed to come
20 back. And that was kind of the nutshell of how it
21 happened, how it evolved. Then it was committed.
22 And they identified Mekole through fingerprint
23 evidence as the victim. They then through
24 investigation at Labor Finders connected Clarence
25 with Mekole. They then connected Carman with

1 Clarence, and the case began to be put together.

2 Q. Okay.

3 A. That's kind of -- that's definitely it
4 in a nutshell. It's obviously much more
5 complicated, but that's kind of the overall theory,
6 I think.

7 Q. Okay. Did you personally meet with
8 Mr. Jenkins' two sisters, Shanek Robinson and
9 Jamese Gibbs?

10 A. I'm not really sure that I ever
11 personally met with them. What I recall is that
12 very early in the case when the death notice was
13 served, the family of my client would come to the
14 my office so that I could explain the complicated
15 process by which the case would go. That it would
16 be two trials. If this was a long term, that we
17 really were going to need the family's support, the
18 family's help, in preparing the case. I believe
19 that I may very well have met with the sisters that
20 you've identified in that context. I know that I
21 met with Clarence's mother in that I know she came
22 to the office, and I seem to recall -- but I might
23 be getting it mixed up with another one of these
24 cases. It's hard for me to say particularly, but
25 that would have been the context of an early

1 meeting with family members.

2 Q. Okay. Is it your understanding that
3 Ms. Ross met with them? Do you know if she did?

4 A. Yes. And that is my understanding as a
5 result of conversations, that she would have been
6 having regularly -- and I don't remember back -- I
7 can't say that she went down there like every week,
8 but she had -- over the long time this case was
9 pending, she had many, many, many jail visits with
10 Clarence. And I know as a result of those jail
11 visits, she did meet with family members. And
12 those two sisters, I think, were among those family
13 members.

14 Q. Okay. Did you have good communication
15 with Mr. Ross and Mr. MacDougall?

16 A. Absolutely. We had regular staff
17 meetings. Probably -- I would say we probably got
18 together -- as a team, we would probably get
19 together every six weeks or so while the case was
20 processing.

21 This is a long-term case. And while
22 the death penalty notice was in effect, it had to
23 be communicated to each other what we were coming
24 up with or what we were working on. I would be
25 reporting on what mitigation was being developed or

1 what I had discovered about the codefendant, Mark
2 would discuss forensics, and Susannah would discuss
3 communications with Clarence. And that would have
4 included the family members.

5 Q. Okay. So you met about every six weeks
6 over the course of years?

7 A. You know -- and I'll tell you, I
8 can't -- I can't really say that it was absolutely
9 every six weeks, but we met certainly periodically,
10 certainly regularly. But what timeframe between
11 each meeting, I can't say under oath.

12 Q. Did you personally discuss a potential
13 alibi with Mr. Jenkins and his family members?

14 A. Did I personally discuss an alibi with
15 Clarence? No.

16 Q. Okay. Did you ever discuss that with
17 his family members personally?

18 A. No, I don't think that discussion took
19 place between me and the family members.

20 Q. So when you were talking with -- you
21 mentioned you did meet with Mr. Jenkins. When you
22 talked to him about the State's allegations, did he
23 tell you where he was on these few dates in April,
24 April 4th, 5th, and 6th?

25 A. He did not, not personally to me.

1 Q. Okay.

2 A. And let me elaborate on that just a
3 bit. Early in the case, the communication between
4 me and Clarence was limited basically to our need
5 that he be open and clear and honest with people
6 participating in his defense and the procedure.
7 You know, he was in jail and he was not going to
8 get out on bond, so he needed to be aware that it
9 was a long time. It would take a long time. We
10 would have a lot of different people coming down to
11 talk to him. We would have experts that would be
12 dealing with mental evaluation information and that
13 he needed to understand and to be very cooperative.
14 Those were the communications he would have been
15 getting from me.

16 The meetings that he had with Susannah
17 Ross were certainly more case specific from a
18 factual -- you know, where were you? Who did you
19 do this with? What about this? Susannah would be
20 getting the discovery and would be asking Clarence
21 what he thinks about certain disclosures that we
22 were receiving. That kind of conversation was
23 going on between Ms. Ross and Clarence, not between
24 me and Clarence.

25 Q. So that was because that was her

1 sphere?

2 A. That was the area that she really had
3 responsibility for.

4 Q. So let me ask you, you mentioned these
5 conversations you had with Mr. Jenkins about
6 cooperating. Was there any particular reason that
7 you felt the need to have those conversations with
8 him, or is that just a routine thing you were doing
9 considering it could work out to be a capital
10 crime?

11 A. They are routine, those -- the types of
12 meetings that I have described are those that I
13 felt would occur in every case of this nature. I
14 do recall -- and I don't remember what the
15 hesitancy was with Clarence. There was one time
16 when I had to go down to the jail and encourage
17 that he cooperate with our experts. I don't
18 remember which expert, but I do remember that this
19 came up that he was really afraid to share
20 information and so forth with the people that we
21 had working on the case. So I had to go down and I
22 met with him -- I believe that's the case -- and
23 told him he really needed to be cooperative with
24 us. So that's my best recollection.

25 Q. Okay. Did you discuss with Ms. Ross

1 and Mr. MacDougall -- did all of you have a
2 conversation about whether you could present an
3 alibi defense for Mr. Jenkins?

4 A. The issue of potential for alibi
5 definitely came up in conversation.

6 Q. Okay. Was that just one conversation,
7 or was that an ongoing thing?

8 A. No. Once it was brought up -- and
9 obviously we had to make sure that we determined
10 the legitimacy of the issue. And if I recall
11 correctly, the initial communication about a
12 potential alibi was maybe a year and a half or more
13 into the case. There was this moment in time when
14 it was brought to our attention as a team that
15 there was potential witness testimony that could be
16 considered an alibi. So we had to make a
17 determination about how legitimate that piece of
18 information was. And that's what that was --
19 Susannah was responsible for that.

20 Q. Okay. What sort of conclusion did the
21 three of you come to about whether you could pursue
22 an alibi defense?

23 A. The problem that presented itself --
24 first of all, one of the problems was that this
25 information came after such a lengthy period of

1 time. That did -- that gave us pause to try to
2 feel like whether or not this was really the case.
3 So we had to kind of put that in the formula. The
4 information that Susannah was sharing with us was
5 that he was what was described as in and out of his
6 mother -- of Myrtle's house during this, the
7 critical timeframe. That he was, what you might
8 say, coming and going. He would be over there
9 some, and then he would be gone the other times.
10 And the -- so it did present us with the difficulty
11 about whether or not that we could actually rely
12 upon that as an alibi, particularly because it was
13 family members and because -- I think if I'm not
14 mistaken, about a year and a half had passed before
15 that was ever even presented to us. The client at
16 that point had not presented such information. At
17 least best I can recall, the client had not
18 presented that information to Susannah, but you can
19 ask her about those conversations. And so it was
20 suspect. It was very suspect. And we were
21 concerned about it. And we discussed it. We did
22 not conclude absolutely that we were not going to
23 seek information in that regard. If I'm not
24 mistaken, I believe Susannah actually did meet with
25 the sisters, take information about what they were

1 saying. And it was kind of like -- the fact of the
2 matter was it was what I would call an imperfect
3 situation. Our strategy was in trying to what we
4 consider save Clarence's life -- because it was
5 still a death penalty case. That would have been
6 -- the credibility for the defense would have been
7 suspect if we presented that type of testimony and
8 claimed it was alibi when it really wasn't. It was
9 not what we considered to be a valid alibi claim.
10 It wasn't that he wasn't coming and going. It was
11 that the coming and going did not mean that at the
12 critical moments he was involved in the case, and
13 we felt like the credibility of our case would be
14 injured significantly if that type information was
15 presented.

16 Q. Okay. So essentially what you're
17 saying is you weren't sure that the information you
18 had from Mr. Jenkins' family members would be
19 enough to prove that he was not at the trailer at
20 the time of the kidnapping and the murder. Is that
21 right?

22 A. Well, obviously, yeah, I guess if I
23 understood your question. If we had information
24 that we felt like was valid and credible and had --
25 for example, I think -- what's your name? Taylor

1 Smith?

2 Q. That's right.

3 A. Mr. Smith, for example, when we met
4 with family at the beginning of the case, I was
5 concerned because if Clarence had actually been
6 elsewhere, it seemed like they would be telling us
7 that then. I mean, you know, this case was a week
8 old or two weeks old at that point. And if he was
9 somewhere else, they would have been saying that.
10 And then for it to come up a year and a half later,
11 we did have serious questions about that and how
12 reliable that was. I would admit that perhaps
13 trial counsel shouldn't be making a determination
14 of the credibility of a piece of evidence, but we
15 also had to attempt to save Clarence's life. And I
16 just felt like the credibility of our presentation
17 would have been gutted if we had put up that type
18 of information that really did not fill in the
19 blanks. It was not helpful.

20 Q. Okay. So I'd like to turn a little bit
21 now toward Mr. Jenkins himself. Did you all
22 consider having Mr. Jenkins testify at his trial?

23 A. Absolutely.

24 Q. Okay. And what sort of things did you
25 take into consideration there?

1 A. Well -- and let me -- if I may go back
2 just one moment about the information about the
3 alibi. This issue was brought to our attention,
4 like I said, probably a year and a half into the
5 case. Well, sometime about a year after that, we
6 were -- we received information. And I don't
7 really know exactly how to say it. This is -- but
8 we received information about an alibi in Florida.
9 And this alibi, you know, it served to contaminate
10 our consideration of this previous -- we had two
11 informations about alibis which were totally
12 inconsistent, totally inconsistent. And this was
13 information that was provided to Ms. Ross about the
14 Florida situation. She brought it to the
15 attention, of course, of our group that represented
16 Clarence. And we absolutely knew that that was not
17 true. We just knew that that was not true. And it
18 just -- it placed us in a position where we had --
19 it was just a very, very, very disconcerting
20 situation. And I would suggest that perhaps
21 Susannah, when she testifies, I believe since it
22 did come to her, I think she would be the one to
23 explain the predicament it placed the defense in.

24 Q. Okay. And since your responsibility at
25 trial was to cross-examine Carman Jenkins, do you

1 think that any of the information all of you had
2 for Mr. Jenkins' family members make you feel as if
3 you could put them on the stand to challenge
4 Carman's version of the events for the week?

5 A. I'm going to ask that you repeat that.
6 I can't quite -- I'm not following.

7 Q. I think it's me.

8 A. No. I'm not following you.

9 Q. So you're cross-examining Carman at
10 trial?

11 A. Right.

12 Q. And you want to challenge her version
13 of events?

14 A. Yes.

15 Q. Did you think the information you had
16 from Mr. Jenkins' family members was good enough or
17 exculpatory enough that you wanted to put them on
18 the stand to provide contrary testimony?

19 A. Absolutely not.

20 Q. Okay.

21 A. The information that Clarence and also
22 other members of his family were providing Ms. Ross
23 that were -- and that information was then being
24 provided to us as a group to decide what strategies
25 to implement. The value of calling the family

1 members to attempt to impeach the information that
2 Carman was providing on the stand would not have
3 been worthwhile. And that was my call. I did not
4 believe that their information that they were going
5 to provide, or at least that Susannah was giving
6 me, would have had any effect on Carman's
7 credibility. I was in a position attempting to
8 attack her credibility, and that was not going to
9 be one of the weapons I would use.

10 Furthermore, I believed -- and I, if
11 placed in the same position, I believe that I would
12 take the same posture. I believed that Clarence
13 should not testify. I did not think that his
14 testimony would have helped him. There was too
15 much correspondence from the jail that could have
16 been used to totally impeach Clarence, and we were
17 certainly hoping that he would not testify. That
18 was going to be his decision, but we were hoping he
19 would not. He chose not to. And I certainly --
20 after he made that choice, I certainly would not
21 have called the sisters in the absence of
22 Clarence's testimony.

23 Q. Okay. Why are you worried about
24 jailhouse correspondence?

25 A. Well, let me preface that answer with

1 this was correspondence that almost all of it was
2 addressed to Ms. Ross. So I'm not really sure.
3 There were things in correspondence that were not
4 in the best interest of the client as far as the
5 guilt or innocence of the crime, so I don't really
6 know how I'm supposed to answer your question. And
7 I'll be glad to answer it if I'm supposed to, but
8 I'm not really sure I'm supposed to.

9 Q. Is that because you're not entirely
10 sure what was in the correspondence?

11 A. Well, we got -- the correspondence are
12 in the file. They're in this file. And this file
13 is open to unrestricted inspection, as far as I
14 know. But there were contents in the
15 correspondence that were written to Susannah Ross
16 that would not necessarily have served in our
17 client's best interest.

18 Q. Okay.

19 A. Does that answer your question?

20 Q. I think so. I just want to clarify
21 that I'm asking you Mr. Jenkins has alleged today
22 that he wanted to testify and believes he should
23 have testified. Okay? And you understand that
24 he's waived his attorney-client privilege by
25 presenting this case today. Right?

1 A. Yes. But this was not communication to
2 me directly. It was not Clarence to John; it was
3 Clarence to Susannah Ross who was on the defense
4 team that I had the opportunity to hear about.

5 Q. Okay.

6 A. So I'm thinking that perhaps she would
7 be the one to relate the contents of those types of
8 correspondence.

9 Q. Okay. Was it correspondence you
10 reviewed yourself, or did you just hear about it
11 from Ms. Ross?

12 A. No. Some of the correspondence, I
13 certainly read. They were important.

14 Q. Okay. You know -- you're aware that
15 Mr. MacDougall said in his opening statement that
16 Mr. Jenkins was an unconventional person. Are you
17 aware of that?

18 A. I am.

19 Q. Are you aware that he said that
20 Mr. Jenkins sometimes gave what he called
21 fantastical stories?

22 A. I am.

23 Q. Okay. In your experience in
24 representing Mr. Jenkins, did you share the same
25 opinion?

1 A. Well, I would suspect that my opinion
2 is probably irrelevant on that, but I'll be glad to
3 answer if necessary. Mr. MacDougall's opening
4 statement -- he was assigned the responsibility to
5 present an opening statement. That was -- as we
6 went down the case, we would assign specific
7 responsibilities to various people. And Mark was
8 given that responsibility. I did not meet with
9 Mark. I mean, Mark had been an integral part of
10 the team. He knew exactly what we were attempting
11 to do and try to do. And the opening statement was
12 his opening statement. I did not find anything he
13 said to be objectionable or outside the realm of
14 what we were attempting to say and do. So whatever
15 he said, I would endorse.

16 Q. Okay. So your hesitation to put
17 Mr. Jenkins on the stand, was it merely because you
18 were worried that he could be impeached with
19 something, or did you also feel worried about what
20 he might say on the stand?

21 A. We were worried about both.

22 Q. Okay.

23 A. We were worried -- you know, we
24 certainly had gotten to know Clarence over those
25 years, and Susannah was the person -- and Susannah

1 would have handled his examination. Her judgment
2 on whether or not it was in his best interest to
3 testify would have been taken very seriously by
4 cocounsel because she was the one that had a
5 relationship with Mr. Jenkins.

6 Secondly, we were aware of
7 correspondence from the jail that we knew would be
8 part of the cross-examination of Clarence if he
9 testified. And it was our view that it was not in
10 his best interest to testify, both because of what
11 we would not be able to control about what he would
12 or wouldn't say, which was a concern to us, but
13 because we felt that the State was in possession of
14 material that clearly could impeach the client.

15 Q. Okay.

16 A. So I think that we conducted that part
17 of the case with a great respect for the client's
18 right to testify or not. We certainly realized
19 that if he didn't testify, then there would be no
20 defense witnesses and that that was going to be a
21 very difficult hill to climb, so to speak. But we
22 also felt that if he did testify, my thought was he
23 would have no chance.

24 Q. Okay. Did you ever hear Mr. Jenkins
25 talking about being a member of some kind of

1 organization or some group that was after him? Do
2 you have any knowledge about that?

3 A. That was -- that was the subject of
4 some of our communications in the team setting. It
5 clearly was an issue in the case that was very,
6 very hard to grasp in terms of its reality, and we
7 were concerned about whether or not there was any
8 way that we could present such information. It
9 just -- well, that's all I can say about it.

10 Q. Was it your understanding that it was
11 some kind of conspiracy type thing or a gang?

12 A. This is, again, a matter of my attempt
13 to put together my recollection of this part of the
14 case. When the idea of sending letters to family
15 members of Grace in an effort to what I would call
16 intimidate her and attempt to get her to come back
17 to Carman, references to these what the
18 organization might do or would do, it was part of
19 what appeared to be a part of an idea of
20 threatening and intimidating Grace to come back to
21 Carman and Clarence. So it was like part of the
22 text, if you will, of the idea of leaving these
23 body parts as a threat, and letters as a threat, to
24 get them to do what Carman and Clarence wanted them
25 to do.

1 Q. Does the name Ronnie Mitchell sound
2 familiar to you?

3 A. No. I'm not sure.

4 Q. Do you remember having any sorts of
5 discussions with Ms. Ross and Mr. MacDougall about
6 anyone claiming to have seen Ms. Harris out and
7 about during the timeframe in which the State
8 alleged she had been kidnapped?

9 A. Okay. Let me see if I -- this was
10 someone who says they saw her out and about that
11 would be inconsistent with her having been taken
12 and staying at the trailer? Is that what you mean?

13 Q. At least during the time we know of,
14 the Friday through Sunday, Friday night through
15 Sunday. So say you have a three-day period. And
16 the State's presentation is that she's kidnapped
17 that whole time and is killed at the end. And a
18 witness comes up and says they saw her on day
19 number two somewhere. Are you aware of any kind of
20 information like that coming up during the case?

21 A. All right. I'm going to say, no, I am
22 not aware. I don't know this name that you gave
23 me, and I'm am not aware of a piece of evidence
24 that would have indicated that from the time
25 Clarence and Mekole Harris were at Labor Finders

1 and Mekole went with Clarence to the residence on
2 Tindal Avenue -- from the time she showed up at
3 Tindal Avenue, I am not aware of anybody saying she
4 was somewhere else. Does that answer your
5 question?

6 Q. It does.

7 A. Okay.

8 Q. In terms of defending the case, would
9 you have given consideration to putting a witness
10 saying that up on the stand to say I saw Mekole
11 Harris somewhere else on Saturday, whatever date?

12 A. All right. Let me make sure I
13 understand your question, and I'll have a specific
14 answer if I do. If I were aware that from the time
15 Mekole went to Tindal Avenue with Clarence,
16 thereafter if I were made aware of a witness that
17 said they saw Mekole Harris at some third location,
18 yes, I would have seriously considered
19 investigating and perhaps using that person as a
20 witness. I don't recall being aware of any such
21 person. Is that right?

22 Q. So you would have wanted to know more
23 information. Right?

24 A. If I had had that information, I would
25 have certainly attempted to investigate whether or

1 not that person was answering what -- was giving me
2 information that I was understanding.

3 MR. SMITH: Your Honor, may I approach?

4 THE COURT: Yes.

5 MR. SMITH: And I'd like to have
6 something marked for identification as State's
7 Exhibit 1.

8 (STATE'S EXHIBIT 1, RONNIE MITCHELL
9 INDICTMENT, was marked for identification.)

10 MS. HENRY: Your Honor, I'm looking at
11 the exhibit that the State is trying to introduce
12 through Mr. Mauldin and would ask him to identify
13 it. The witness has already testified that he
14 doesn't recognize the name Ronnie Mitchell, so it
15 would be our position that attempting to introduce
16 this through this witness would be inappropriate.

17 THE COURT: How are you going to get
18 that in, Mr. Smith?

19 MR. SMITH: Your Honor, this is a
20 self-authenticating document. Mr. Mitchell
21 testified earlier. We discussed this off record
22 earlier, but the purpose of this exhibit would be
23 to show that Mr. Mitchell had an impeachable
24 offense at the time of trial. This is not
25 something that could be used to impeach his

1 testimony today, but at the trial in 2012, this was
2 fair game. I'm sure it's something that could have
3 come up at trial had he taken the stand. And so I
4 would like to get this document in through
5 Mr. Mauldin. Obviously, he says he has no
6 awareness of Mr. Mitchell, so the purpose is not to
7 have him discuss Mr. Mitchell specifically. But I
8 think I can get the document in through him in
9 terms of authenticating it and then asking him.

10 THE COURT: Well, that's two different
11 things. If you're getting it through him to
12 authenticate, you get it through him through
13 authentication. Self-serving under the rules of
14 evidence, that's a different thing. You can get it
15 in as far as authenticating it. That's not an
16 issue, and you're not trying to authenticate it
17 with Mr. Mauldin.

18 What's the objection? What's the basis
19 of the objection? It is a self-authenticating
20 document, so I'll allow it there. But what is the
21 objection?

22 MS. HENRY: At this point based on the
23 State's reason for wanting to get it admitted,
24 which is to prove that Mr. Mauldin wouldn't have
25 used it or didn't put Ronnie Mitchell on the stand

1 because he has an impeachable offense or had an
2 impeachable offense at the time, makes absolutely
3 no sense and is completely irrelevant now that
4 Mr. Mauldin has testified that he didn't even know
5 who Ronnie Mitchell was.

6 THE COURT: There's the objection.

7 MR. SMITH: But he clarified that.

8 THE COURT: There's the objection.
9 It's irrelevant. It's certainly authenticated, so
10 you don't even need Mr. Mauldin to authenticate it
11 because it's authenticated under the rules of
12 evidence.

13 MR. SMITH: Right.

14 THE COURT: The basis of the objection
15 is relevance. Mr. Mauldin never heard of
16 Mr. Mitchell, doesn't know Mr. Mitchell. Didn't
17 use it in his defense strategy. Didn't use it in
18 the trial of the case. Didn't use it in his
19 preparation. Didn't use it for any other purpose.
20 So unless you convince me otherwise of the
21 relevance through Mr. Mauldin, I'm not going to
22 allow it, but I'll hear you out.

23 MR. SMITH: Okay. So I'm not offering
24 it to say that Mr. Mauldin -- this is why
25 Mr. Mitchell did not take the stand. From

1 Mr. Mauldin's testimony, he doesn't know who Ronnie
2 Mitchell is. I think this on its own goes to the
3 State's prejudice argument as to Mr. Mitchell.
4 Even if Your Honor finds that he should have called
5 Mr. Mitchell as a witness at trial, I believe that
6 this is evidence that goes to the State's position
7 on prejudice which shows that Mr. Mitchell's
8 testimony at trial would have been impeachable.
9 Now, I don't think it really matters for that point
10 whether Mr. Mauldin knows about him or not. It's a
11 stand-alone prejudice issue.

12 THE COURT: Just saying you wanted it
13 admitted because it would -- had they known about
14 this, they probably wouldn't have called him
15 because of impeachment issue, I'll be honest. I've
16 tried a bunch of cases in my life, and I've put on
17 witnesses -- even though they had convictions, I
18 put them on the stand sometimes. And I would
19 preface it with my own witness and say: Now,
20 Mr. Smith or Mr. Jones, you do have a conviction
21 for such and such. But if their testimony was very
22 important, I still would put them on potentially.
23 Now, there would be times when I wouldn't. So with
24 this particular witness for purposes of your
25 argument, I don't think it is relevant. And so I

1 sustain the objection on relevance.

2 MR. SMITH: So just for clarification
3 Your Honor, is the objection to the exhibit itself
4 or to my asking Mr. Mauldin would this have
5 affected his decision had he known about
6 Mr. Mitchell?

7 THE COURT: The objection is not to the
8 admissibility as far as authentication. It's
9 authenticated as a public record. The objection is
10 sustained as to the relevance through this
11 particular witness admitting the document into
12 evidence. You can certainly ask him a question.
13 Well, if you knew a witness had a criminal record,
14 would you allow that? Well, I don't know because
15 the thing is he doesn't even know Mr. Mitchell,
16 never heard of Mr. Mitchell, doesn't know anything
17 about him. In fact, Mr. Mauldin said he didn't
18 even know of any potential testimony about anybody
19 seeing Ms. Harris during this weekend. And
20 certainly Mr. Mauldin would have used that had he
21 known that, but he didn't know about it.

22 MR. SMITH: Can I try it one more time
23 a different way?

24 THE COURT: I'll hear you.

25 MR. SMITH: Well, may I admit this as a

1 stand-alone thing without asking Mr. Mauldin about
2 it to say whether it's a strong argument or not,
3 that it least it is a relevant one that
4 Mr. Mitchell, had he testified at trial, would have
5 had an impeachable felony on his record?

6 THE COURT: I think I can take judicial
7 notice that if Mr. Mauldin -- I mean Mr. Mitchell
8 has a conviction that it would have been on his
9 record and is -- let me see it.

10 MR. SMITH: Because that would be good
11 enough for me.

12 THE COURT: It's grand larceny. It's
13 an impeachable record. That occurred in 2006. So
14 at the time at trial, it would have been within ten
15 years, so under 609, it would have been an
16 impeachable offense. So I'll take judicial notice
17 of the fact that it would have been an impeachable
18 offense most likely. Of course, it would have had
19 to have undergone a 403 analysis. And I don't know
20 what the trial judge would have done with it. But
21 I don't think it's admissible as a piece of
22 evidence through Mr. Mauldin.

23 MR. SMITH: Okay. And if Your Honor
24 takes judicial notice, I withdraw the attempt to
25 get the exhibit in. Thank you.

1 THE COURT: Let's take a short little
2 restroom break here. And in the logistics, after
3 Mr. Mauldin, you have one or two more?

4 MR. SMITH: One more. However, there
5 is a private investigator too. And if there's some
6 things that -- Ms. Ross was the person that in my
7 position talked the most with witnesses. And if
8 there's something that she can't remember or thinks
9 that the investigator is the person who had such
10 and such interaction, that may affect my decision
11 on that. But I think Ms. Ross will be it.

12 THE COURT: All right. I would like to
13 finish today because, again, we have this three-day
14 hearing starting tomorrow at 9:30. And we're going
15 to have Mr. MacDougall at 8:45, so I want to get
16 through these two witnesses here this afternoon.
17 So let's just take a short restroom break, and then
18 we'll start back.

19 (A recess transpired.)

20 THE COURT: All right.

21 BY MR. SMITH:

22 Q. Mr. Mauldin, I have some questions
23 about the indictments. This is my last topic
24 today. Did you personally review the indictments?

25 A. Did I personally review the indictment?

1 Yes.

2 Q. Did you feel like they adequately
3 informed you and Mr. Jenkins of the State's case
4 and the elements they'd have to prove at trial?

5 A. I felt like the indictment appeared to
6 be valid on its face.

7 Q. Okay. Did you see a basis to challenge
8 the indictment, to move to quash it, because it did
9 not allege a specific cause of death?

10 A. No, I did not.

11 Q. Is that something you considered?

12 A. Well, if you're asking if we -- we
13 would have made such a motion if we, in fact, felt
14 like it was an appropriate motion to make. We did
15 not -- if I -- if I recall correctly, we did not
16 challenge the face of the indictment. So, I mean,
17 we didn't do it.

18 Q. Okay.

19 A. We would have done it had we felt like
20 it was an appropriate position to take.

21 Q. At the time, did you think an
22 indictment would be invalid because it did not
23 allege a specific cause of death?

24 A. Well, you know, I suspect that's a
25 matter of law. I mean, the indictment either is or

1 isn't sufficient. And in this particular case, I
2 saw no deficiency that would support a motion to
3 quash that indictment.

4 Q. Why did you -- did you consider
5 challenging the indictment on the basis that it may
6 have been supported through the grand jury by
7 hearsay?

8 A. No, I did not consider making that
9 objection.

10 Q. What's your understanding of hearsay
11 before a grand jury?

12 A. I understand that hearsay in the
13 presentation to a grand jury is common.

14 Q. Okay.

15 A. And please be assured I'm not saying I
16 endorse that, but I think that kind of happens all
17 the time.

18 Q. Okay. At the beginning of trial, you
19 stated you had no objection to the State's oral
20 motion to amend the indictment to change the date
21 range. Can you tell me why you had no objection to
22 that?

23 A. Okay. I'm going to tell you right now
24 I have no independent recollection of that specific
25 event you just described. Maybe if I looked at

1 whatever the transcript reflects about what they
2 did and what I didn't do, maybe I could answer
3 that. It is not uncommon -- at least in my
4 experience, it is not uncommon for the State to
5 amend its indictment. We clearly were on notice of
6 what our client was being tried for, and we
7 understood what we thought to be the timeframe of
8 the events. So I don't think it was that we were
9 then somehow caught by surprise. So if the
10 transcript in this case reflects that an amendment
11 was made to the indictment and I did not object,
12 then the transcript speaks for itself. I don't
13 think I would have felt like I needed to object, so
14 I didn't.

15 Q. Okay. No more questions. Thank you.

16 THE COURT: Cross?

17 MS. HENRY: Yes, Your Honor. Your
18 Honor, may I approach?

19 THE COURT: Yes. Y'all don't need to
20 ask me permission to approach. Y'all can approach
21 any time.

22 CROSS EXAMINATION

23 BY MS. HENRY:

24 Q. I'm going to kind of post up here.
25 Mr. Mauldin, can you hear me?

1 A. Yes, I can. Thank you.

2 MS. HENRY: I'd like to have this
3 marked as Applicant's Exhibit A.

4 THE REPORTER: One?

5 MS. HENRY: One?

6 THE REPORTER: Yes.

7 (APPLICANT'S EXHIBIT 1, INDICTMENT,
8 marked for identification.)

9 BY MS. HENRY:

10 Q. Mr. Mauldin, I'm going to hand you
11 applicant's Exhibit 1. Would you flip to those and
12 tell me if you recognize all those.

13 A. I have looked at them.

14 Q. And do you recognize all of those?

15 A. Yes.

16 Q. Can you tell the Court what you've got?

17 A. Okay. Page 1 is what I will call the
18 outside page of the indictment in this matter, and
19 the second page is what I would describe as the
20 inside of the indictment that alleges the offense
21 in question. The third page is the arrest warrant,
22 and it appears that this is a copy of the arrest
23 warrant actually delivered to the client, Clarence
24 Jenkins. And then the fourth page is what seems to
25 be a copy of page 21 which I am going to make an

1 assumption is page 21 out of the trial transcript
2 in this case.

3 Q. Yes, Your Honor. Sorry. Yes,
4 Mr. Mauldin.

5 A. That's what's contained in that
6 package.

7 MS. HENRY: Okay, Your Honor. I'd ask
8 that Applicant's Exhibit 1 be moved into evidence.

9 THE COURT: Any objection --

10 MR. SMITH: No objection.

11 THE COURT: Applicant's Exhibit 1 is
12 admitted into evidence without objection.

13 MS. HENRY: Thank you, Your Honor.

14 (APPLICANT'S EXHIBIT 1, INDICTMENT,
15 admitted into evidence.)

16 BY MS. HENRY:

17 Q. All right. Mr. Mauldin, if you would
18 tell us what's the date of the offense according to
19 the grand jury? And that's on the second page of
20 the indictment. What was the original date as
21 identified by the State Grand Jury -- or the grand
22 jury?

23 A. The original date was on or about the
24 10th day of April.

25 Q. Okay. And that is what the grand jury

1 identified as the date of the offense or the date
2 of the murder in this case? That is the murder
3 indictment. Correct?

4 A. Yeah. I don't -- that's what it says.

5 Q. Okay. All right. And that's on the
6 second page of the indictment?

7 A. Right.

8 Q. And then if you'll flip to the third
9 page and take a look at the arrest warrant for me.
10 What does the arrest warrant say the date of the
11 offense is?

12 A. On or about 4/7/08.

13 Q. So April 7th, '08?

14 A. That's the arrest warrant.

15 Q. Okay. And if you'll flip back to
16 page 2 for me on the indictment. What was the date
17 of the offense according to the handwritten change
18 on the indictment?

19 A. On or about the 6th day of April.

20 Q. Okay. And then if you'll flip back to
21 the last page of the packet to page -- is it 21 --
22 of the transcript, of the trial transcript. What
23 day -- when was the change made to the indictment,
24 the official change? Was it made during the first
25 day of the trial?

1 A. I would actually have to say that the
2 transcript would have to speak for itself on which
3 day of the trial this was. I would certainly make
4 an assumption that I think is fair, that this was
5 part of the first day's proceeding.

6 Q. I understand.

7 A. But the page is not actually dated.

8 Q. Was the defendant and you, his
9 counsel -- were you told that the offense day was
10 going to be modified or that the offense date was
11 going to be different from the warrant and from the
12 indictment given down by the grand jury?

13 A. I cannot recall a specific moment when
14 Mr. Wilkins would have made a statement to me that
15 they intended to amend the date, but his statement
16 is -- contains the quote: We've discussed this
17 previously. So I'm going to accept the fact that
18 we had -- that the defense had been approached
19 about that amendment and had no objection to it.

20 Q. Okay. So can you tell me -- and flip
21 back to the -- this should be on the indictment.
22 Can you tell me whose initials are on the
23 indictment?

24 A. Pardon me?

25 Q. Whose initials are on the indictment by

1 the date change?

2 A. The initials on the indictment?

3 Q. Uh-huh (affirmative), on the second
4 page by the date change from the 10th to the 6th.

5 A. Are you asking me about this amendment?

6 Q. Yes, sir.

7 A. I actually cannot read those letters.
8 I don't know what that says.

9 Q. Okay. So you don't know whose initials
10 those are?

11 A. I do not know whose initials are on
12 page 2 of this package.

13 Q. Okay. All right. I'm going to ask you
14 to go back to the first page of the packet, the top
15 page of the indictment. Whose name is on there as
16 the witness that testified before the grand jury?

17 A. C.T. Miller.

18 Q. Okay. And do you remember Deputy
19 Miller or C.T. Miller?

20 A. I do not. I don't have any independent
21 recollection of his involvement.

22 Q. Okay. And then -- all right. I'll ask
23 you to flip to the warrant again, Your -- sorry. I
24 apologize, Mr. Mauldin. And can you tell us who
25 signed the warrant affidavit?

1 A. C.T. Miller.

2 Q. Okay. And then the offense date on the
3 warrant, again, that's April 7th. Right?

4 A. The date of when the incident is
5 alleged to have occurred is April 7th.

6 Q. Thank you for the clarity. I
7 appreciate that. Okay. So on the warrant that
8 Deputy Miller signed as an affidavit, he stated
9 that the offense date was April 7th?

10 A. Yeah.

11 Q. All right. And then the grand jury --
12 and he was also the person that testified in front
13 of the grand jury according to his signature on the
14 indictment?

15 A. Well, according to this document, he is
16 listed as the witness for the indictment.

17 Q. Are there any other witnesses listed on
18 the indictment?

19 A. None that I can see, but, you know, I
20 wouldn't want to say that I am unfamiliar with what
21 happened here in the indictment, so I really don't
22 know. I don't know whether other people testified
23 or not. I really do not have knowledge of that.

24 Q. I understand. And I understand that
25 the grand jury proceeding is secret.

1 A. Right.

2 Q. But I'm just asking if the solicitor's
3 office or the grand jury indicated that they
4 received testimony from anyone else on the
5 indictment. Do you see anybody --

6 A. His name is the only name listed as a
7 witness supporting this indictment.

8 Q. All right. And then apparently
9 according to what's on the second page of the
10 indictment, the grand jury determined, based on the
11 evidence that was presented to it, that the crime
12 happened on April 10th according to the original
13 text of the document?

14 A. Original text, that's correct.

15 Q. Okay. And since we don't have access
16 to grand jury testimony, is there any way for you
17 to know how the grand jury came up with that date?

18 A. I cannot.

19 Q. April 10th could, in fact, be the
20 correct date?

21 A. The only -- the only thing I would say
22 is that the language on or about is on all these
23 documents, both these documents.

24 Q. Okay.

25 A. But I do not know what supported that

1 other than Mr. Miller.

2 Q. Okay. And then the date on the
3 indictment was changed by four full days, right,
4 from April 10th to April 6th?

5 A. From the 10th to the 6th.

6 Q. And then for alibi purposes, isn't that
7 kind of a significant difference?

8 A. Do what?

9 Q. For alibi purposes, is a four-day
10 difference --

11 A. Oh, yeah.

12 Q. -- for when the murder occurred?

13 A. That would be relevant in terms of the
14 evaluation of the quality of the alibi information.

15 Q. Okay. So after the date change by the
16 solicitor's office or by -- as allowed by the Court
17 and requested by the solicitor's office on the
18 morning of trial, shouldn't the defendant have been
19 given time to regroup his alibi evidence and
20 re-examine it perhaps?

21 A. The best I can respond, Ms. Henry, is
22 that the operaty (phonic) or what I would describe
23 relevant timeframe is included in all of these
24 dates. It was a weekend essentially if I'm
25 recalling correctly. It was a weekend of, you

1 know, a Friday, Saturday, Sunday, Monday timeframe.
2 Each one of the days, the 10th, the 6th, the 7th,
3 they all are in that same timeframe. And we had
4 prepared our case based upon that time block. So
5 when it was modified or amended, we did not then
6 sense that we needed to somehow revisit the alibi
7 information.

8 Q. Okay. I'm going to ask you to take
9 another look at the second page of the indictment.
10 And could you read that language into the record
11 for me?

12 A. Pardon me?

13 Q. Would you read that language into the
14 record.

15 A. The paragraphs contained in the
16 indictment?

17 Q. Yes, sir.

18 A. That Clarence Williams -- you want me
19 to read the first part?

20 Q. Oh, no. Just the body of the
21 paragraph.

22 A. The body of the indictment?

23 Q. Yes, sir.

24 A. Okay. That Clarence Williams Jenkins
25 did in Greenville County on or about the 10th day

1 of April of 2008 unlawfully and with malice
2 aforethought killed Mekole Harris. And then it
3 cites the statute. The 10th was subsequently
4 amended to the 6th.

5 Q. Okay. And I'm sure that you're
6 familiar with Code Section § 17-19-30 that walks
7 you through what allegations are sufficient for an
8 indictment of murder?

9 A. Well, it's been a number of years since
10 I've actually read that statute.

11 Q. Would you like me to refresh your
12 memory?

13 A. Yeah, I would love for you to
14 refreshment my memory.

15 Q. All right. Every indictment for murder
16 shall be deemed and adjudged sufficient and good in
17 law which in addition to setting forth the time and
18 place together with the plain statement divested of
19 all useless phraseology of the manner in which the
20 death of the deceased was caused. Charges that the
21 defendant did feloniously, willfully, and of his
22 malicious aforethought killed and murder the
23 deceased.

24 A. Okay.

25 Q. So having heard that now and having

1 read the body -- the language in the body of the
2 indictment, you can see that there is no cause of
3 death or manner of death listed or outlined in the
4 indictment?

5 A. That's true.

6 Q. Okay. Why no objection to that?

7 A. I don't really have any explanation for
8 that. I think that certainly in most of the cases
9 that I have been involved in over the years,
10 whether a murder victim was killed by a gun or a
11 knife or strangulation or some other means or
12 manner simply in many, many cases it's not
13 contained in the body of the indictment. So the
14 absence of the actual cause of death in this
15 indictment we're looking at now did not spark a
16 sense that I needed to object to it as being
17 deficient on its face.

18 Q. And reading the discovery related to
19 this case, the -- in this case, the body was
20 damaged. Correct? The majority of the victim's
21 body in this case was burned?

22 A. That's right.

23 Q. Okay. Was the coroner able to
24 establish a cause of death based on forensics alone
25 in this case?

1 A. No. I did not -- we did not believe
2 that that would be even attempted.

3 Q. And wasn't the cause of death, the
4 manner of death, really left up to the
5 codefendant's testimony, Carman --

6 A. For the most --

7 Q. Sorry. Carman Jenkins?

8 A. For the most part, that's correct. The
9 codefendant's description of the manner in which
10 the codefendant and Clarence committed the actual
11 homicide was going to be relied upon by the State
12 to establish the cause of death.

13 Q. Okay. And given that there was no
14 independent forensic information or evidence at
15 least that was definitive related to the cause of
16 death or the manner of death in this case, and that
17 the State was relying almost entirely on Carman
18 Jenkins' version of the events, do you not think
19 that it might have been important to force the
20 State to articulate in the indictment the manner of
21 death that they were proceeding with? Do you think
22 that might have affected the way that you managed
23 the case or your strategy?

24 A. Well, I guess the best answer I can
25 give you is that, no, I did not. I did not object

1 to the deficiency that you are asserting in the
2 indictment because I actually did not believe that
3 it had to be in there. And if I'm wrong about it,
4 I'm wrong. I did not look at this indictment and
5 feel that there was a violation of the process by
6 which a person would have been indicted for this
7 offense. You know, the only physical remains at
8 the time of the arrest at the -- let me see when
9 this indictment was. At the time of this
10 indictment, the remains of Ms. Harris, I believe,
11 had not been found. Now, I may stand to be
12 corrected because it was a four-year period. But I
13 believe that this indictment was issued prior to
14 Carman directing or taking law enforcement to the
15 location where her remains had been disposed of.

16 Q. And, Mr. Mauldin, in addition to the
17 majority of the timeline and the manner of the
18 death coming from the codefendant, there were
19 remains that were found almost immediately. And
20 that was the victim's appendages?

21 A. Right.

22 Q. Hands and feet?

23 A. Yes.

24 Q. And were they tested by a toxicologist?

25 A. Yes.

1 Q. And that was a toxicologist provided by
2 the State?

3 A. Yes.

4 Q. And did the report come back and state
5 that she had drugs in her system?

6 A. It did. And, again, I would say I'm
7 just going to have to -- this is just a memory. I
8 can look in that seven-box file there and see if I
9 could actually find that toxicology report. But if
10 I recall correctly, there was trace evidence, some
11 evidence, of drugs that were discovered from the
12 hands and feet.

13 Q. Okay. And from looking at the reports
14 that were provided -- and I don't know if you
15 remember this report, but stop me if this does not
16 sound correct. But they were not able to give an
17 actual amount of the drugs due to the decomposition
18 of the hands and feet, so they were able to
19 identify that there were drugs in her system, but
20 they were not able to give a baseline or an amount.
21 Does that sound accurate to you?

22 A. That's not -- and I can't really say
23 that that's exactly how I remember it. I remember
24 that we were aware of what we, as a group,
25 identified as -- what I think I previously said

1 trace -- there was trace evidence. And by that I
2 meant there was some evidence of drugs in her
3 system, but we did not have an impression that that
4 was any significant amount. Now, if your question
5 is did they say they didn't know the amount, I do
6 not recall that.

7 Q. Okay.

8 A. I don't recall that report that you
9 just referenced.

10 Q. All right. I want to break away a
11 little bit from this portion of the conversation.
12 You've reviewed -- even though you guys had
13 partitioned out portions of action on this case,
14 you reviewed all the discovery. Right? You went
15 through the incident reports, the police reports,
16 any witness statements, as lead counsel on this
17 case?

18 A. When we would receive discovery
19 material, the way it -- the way it would work is
20 that material would generally be delivered to me.
21 I would then identify what area of the case -- for
22 example, I would run a copy of all of the discovery
23 and provide it to the other two counsel so that
24 they could actually go through it and identify --
25 if it was forensics, for example, Mr. MacDougall

1 would pay attention particularly to that. Or if it
2 was specific factual witnesses and so forth,
3 Susannah might pay close attention to that. So the
4 material was received by me, duplicated, provided
5 to cocounsel, and then I would basically pretty
6 much attempt to review everything. It was a lot of
7 material, but I would attempt to review and
8 certainly had my antenna up for anything that
9 related, for example, to the codefendant or
10 something that I knew I was working on
11 specifically.

12 Q. Okay. So what was the overall -- you
13 mentioned this a couple of times in talking with
14 the attorney general. What was the overall trial
15 strategy from your perspective in this case?

16 A. The overall trial strategy was to do
17 all we possibly could to discredit the
18 codefendant's story because, like you mentioned a
19 few moments ago, it was her story that supported
20 the date of the offense. Well, her story was the
21 center of the case. And the discrediting of that
22 witness was critical to any potential success. And
23 the secondary was that what Carman was doing,
24 Clarence was following her. So that -- the
25 strategy was to discredit her to the extent that we

1 could because it just -- quite frankly, her prints
2 basically were all over the case.

3 The motive for sending out the
4 threatening letters. She was the educated one.
5 She was the leader, so to speak. And we wanted to
6 discredit her, and we wanted the jury, at the
7 worst, to accept the fact that Clarence was
8 essentially following her lead, that that was the
9 overall strategy of the case. And I admit, quite
10 frankly, that it was a reach. There was no
11 question about the difference in the two
12 defendants. Carman had received a scholarship to
13 go to college. Clarence had a fifth-grade
14 education, so there was a tremendous difference
15 between the two participants in this offense. And
16 so our strategy was to try to discredit her to the
17 extent possible.

18 Q. So outside -- there were a couple of
19 independent points on the timeline, right, that
20 were corroborated by video or third parties. For
21 instance, the fact that Clarence and Carman did, in
22 fact, go to the library together on Sunday?

23 A. They went to the library more than on a
24 few occasions checking the computer.

25 Q. Okay.

1 A. And then there was information,
2 third-party information, regarding Clarence being
3 at Labor Finders with Mekole.

4 Q. Yes. At Labor Finders with Mekole.
5 But outside of a couple of those independently
6 verifiable instances between April 4th, 2008, and
7 April 7th, 2008, when the State alleges this
8 happened, the rest of it, all of the information
9 that was internal to the trailer, the manner of
10 death, who did what inside the trailer, all that,
11 like you testified to, came from Carman Jenkins.
12 Right?

13 A. You know, all is a pretty encompassing
14 term. I'm not going to deny what you just said,
15 but the case predominantly relied upon the
16 information from Carman. And that's why it was so
17 important for us to discredit her.

18 Q. Okay. So that's what I want to talk
19 about next then. So you testified earlier that the
20 value of calling the family to impeach Carman was
21 not worthwhile. I want to talk to you about that
22 based on the strategy that you just outlined for
23 the trial. So Carman testified that -- Carman
24 testified that Clarence was violent, controlling,
25 and threatening during the trial. Do you remember

1 that?

2 A. Yes.

3 Q. Okay. Would it surprise you that
4 Jamese Gibbs and Shanek Robinson testified today
5 that Carman was the violent one and that Carman was
6 the controlling one. Was that part of your
7 awareness of what their testimony would be prior to
8 the trial in 2012?

9 A. You're saying that a person testified
10 today? I was sequestered, so I don't know what
11 people have said. But someone said today that
12 Carman was the violent one?

13 Q. Yes.

14 A. My cross examination of Carman, I
15 think, speaks for itself in terms of our position
16 about her being aggressive and a violent person.
17 To the extent that that cross-examination could
18 have been, what I would say, enhanced by a member
19 of the family of the codefendant, the measure of
20 that quality would have been pretty tight if that
21 meant, you know -- the sister of Clarence, it's
22 kind of hard to classify her as some third person.
23 She is a member of his family. She's his sister.
24 And so her confirmation that Carman would have been
25 the violent one, I'm really not sure whether that

1 would have risen to the level to warrant then
2 calling her as a witness.

3 Q. Let me back it up. How much did you
4 discuss with Susannah the testimony that Jamese
5 Gibbs and Shanek Robinson would have provided?

6 A. You know, the way that would work and
7 the way I would call recall it working is that when
8 any one of the members of the team came up with
9 information that they thought was relevant to
10 present in the case, they would bring it to the
11 team, and we would discuss what I would describe as
12 pros and cons of any such information. Susannah
13 was communicating with family members and making
14 notes. I'm sure you've read them. You've had
15 access to our file. And so she would have been
16 basically relating to us what she was taking notes
17 about her discussions with those family members.
18 So how we would have measured it would depend
19 directly upon what Susannah told us those witnesses
20 were saying.

21 Q. Okay. So if you were -- and we'll save
22 some of that then. So if you were aware of a
23 testimony from a family member, from Jamese and
24 Myrtle, who is now deceased, or from Shanek that --
25 let me back this up. So Carman testified

1 essentially that Clarence was with her or at the
2 trailer from after work when he got back from Labor
3 Finders on April 4th in 2008 at least until he went
4 back to Labor Finders on Monday, I believe,
5 April 7th of 2008, and that the murder occurred on
6 April 6th, 2008. All right. If you had a witness,
7 including -- I mean, either a real third-party, as
8 you suggest, or a family member that could testify
9 that Clarence was, in fact, not there the entire
10 weekend, would that not have been an important
11 witness to impeach Carman's timeline?

12 A. The information, if I recall, that was
13 given to us was that Clarence was coming and going
14 during that three to four critical days, that he
15 was coming and going. And, you know, he was at the
16 trailer. He was not at the trailer. He was at the
17 trailer. He was not at the trailer. That was the
18 information that was provided to me through
19 Susannah Ross about what this family said. So it
20 was like we had to take what I would have described
21 as somewhat of an imperfect situation and measure
22 the potential effect that it might have. And
23 that's exactly what we found ourselves doing.

24 Q. Okay.

25 A. We were making strategic decisions

1 about what value any particular witness would have
2 been either to discredit Carman or to establish
3 some potential alibi.

4 Q. Okay. So if you had -- so Carman's
5 testimony -- let me just break it down. So
6 Carman's testimony is that Clarence picked up
7 Mekole Harris, right -- picked up Mekole Harris and
8 brought her home around 5:00 PM on Friday
9 April 4th?

10 A. And I'm going to have a hard time
11 knowing which day was which. But, yes, the
12 testimony was that Clarence had been at Labor
13 Finders more than once with Mekole Harris and that
14 at a particular day leading up to that weekend,
15 Mekole Harris went to Clarence and Carman's
16 trailer.

17 Q. Okay. All right.

18 A. And I do not believe that there was
19 ever any impression that Mekole Harris ever went
20 anywhere else after that.

21 Q. Agreed.

22 A. Right.

23 Q. Agreed. And then that they kept her --
24 this is according to Carman. That Carman's
25 testimony was that they kept her at the trailer.

1 Once she came to the trailer around 5:00 they kept
2 her at the trailer Friday through her murder on
3 Sunday morning.

4 A. That's my recollection, and the
5 testimony, of course, would speak for itself.

6 Q. Okay. And then Carman testified that
7 she and Clarence hung out all day on Saturday while
8 Mekole was in the house. Carman further testified
9 that Clarence did not leave, that Carman was the
10 only one who left to go get burgers and bring them
11 back. Do you remember that testimony?

12 A. I remember her testifying that she
13 left, I do...

14 Q. And if you had a witness that was able
15 to testify that they saw Clarence on Saturday not
16 at the trailer, that would have been valuable
17 testimony?

18 A. Well, if that was what the witness was
19 actually saying, it could have been of value. And,
20 again, the information, if I recall -- and this was
21 information coming to me through cocounsel -- was
22 that this information was a year and a half after
23 the incident, and that this coming -- the
24 description about him coming and going during that
25 weekend was a year and a half. And one of the

1 issues with it, of course, was its reliability. It
2 was -- it did not appear to be very reliable to us
3 in terms of any pinpointing of any information
4 about when he was or wasn't at the trailer.

5 Q. The same information -- when you guys
6 were initially deciding whether or not to put the
7 two sisters, Jamese Gibbs and Shanek Robinson, up
8 as witnesses, it sounds like you decided that they
9 were not a full alibi witness?

10 A. Well, we had -- just like in any -- the
11 evaluation of any witness, we had to decide the
12 value of whatever the witness is going to testify
13 to. We had to decide exactly what kind of posture
14 that would put the defense in if, in fact, we
15 decided to present such what I would call imperfect
16 information. That sometime during that weekend, he
17 may have been there; he may not have been there.
18 And I'll give you a perfect example. I can't
19 remember off the top of my head which one of the
20 sisters it was, but one of the sisters said that
21 she went to the trailer Saturday morning and
22 knocked on the door to get money for Clarence and
23 Carman's children. And this was -- the children
24 were staying over at the -- at Myrtle's house who
25 was the mother. This sister went to the residence

1 to attempt to get money from Clarence and Carman.
2 And it simply would not have made any sense for
3 that sister to then say Clarence wasn't over there.
4 This was my method of evaluating it. It wouldn't
5 make sense for her to say I went over there to get
6 money to help with the children if Clarence was
7 already over there with the children. That would
8 not make any sense, so our concern was that the
9 credibility of our case would have gone down the
10 drain. And that's -- you know, I had to make a
11 judgment call. I had to do the best I could with
12 what I had, and I just simply had to make that
13 call. And that, the information about going over
14 that Saturday morning, that was information that
15 Susannah related to me. But that was also taken
16 into account when a year and a half later there's
17 all of a sudden he was staying at mom's house.
18 That just did not measure up.

19 Q. Okay. So you communicated a lot with
20 Susannah about this case via email?

21 A. Pardon?

22 Q. You communicated between the attorneys
23 a lot via email?

24 A. Absolutely. Well -- and I would say --
25 I don't know that I would say I communicated a lot

1 by email. You know, in cases like we had, we
2 prefer to be communicating in person or by phone.

3 Q. Okay. You guys did communicate some
4 via email?

5 A. Uh-huh (affirmative).

6 Q. Maybe I should add a qualifier there.
7 It looks like you guys became aware at the very
8 least, according to the documents that are in your
9 file, that you had witnesses that said that the
10 client was with his girls at Jamese's all weekend
11 as early as, it looks like, mid 2009. Does that
12 sound right? This would have happened in '08.

13 A. If I could see -- I can't -- if you
14 could show me what you're asking me about if you
15 don't mind.

16 MR. SMITH: I would request a copy too.
17 I'm not sure what this is. I don't have a copy of
18 that.

19 MS. HENRY: Sure.

20 MR. SMITH: Is there any way we can get
21 a copy made?

22 THE COURT: Are you moving to put it
23 into evidence?

24 MS. HENRY: No, Your Honor.

25 MR. SMITH: He's still being questioned

1 about it.

2 MS. HENRY: He's refreshing his own
3 memory at his request.

4 THE COURT: He asked her to refresh his
5 recollection, so -- you can look at it, but she's
6 not putting it into evidence. She's just
7 refreshing his recollection.

8 MR. SMITH: I think I still would like
9 a copy because it could be relevant to questions I
10 could ask him on recross [sic].

11 THE COURT: Is that in the file?

12 MS. HENRY: Yes, Your Honor.

13 THE COURT: It's in the file. I'm not
14 going to stop here to get a copy. You can refresh
15 his recollection with it.

16 BY MS. HENRY:

17 Q. Mr. Mauldin, do you feel refreshed, or
18 do you need me to hand it back up?

19 A. No. I haven't -- you're asking me
20 about communications between me and the cocounsel.

21 Q. Yes, sir.

22 A. And I would have to actually know a
23 little more about it before I can be responsive to
24 whatever you're asking.

25 Q. Okay. Will taking a look at the

1 communication I'm referencing help refresh your
2 memory?

3 A. Yeah, that would be fine. I don't know
4 whether I remember.

5 Q. That's okay. Either you do or you
6 don't.

7 A. (Reviews document.) Okay. Just having
8 looked at that document you handed me, it is -- it
9 appears to be a document created by Ms. Ross. It
10 is her handwriting, so I don't have any
11 recollection of that document.

12 Q. Okay. Well, let's move on. Do you
13 remember receiving copies of affidavits that were
14 collected from Myrtle Gibbs and Jamese Gibbs on
15 September 17th, 2009, by your office?

16 A. I remember when asked about that by the
17 attorney general. I went into the file and saw two
18 one-page affidavits signed by those people.

19 Q. All right. And then do you remember
20 sending communication to Robert Ariail, to Bob
21 Ariail, April 1st of 2010 related to the Jenkins
22 case?

23 A. Do I remember sending -- was it
24 correspondence?

25 Q. Correspondence. It's a two-page letter

1 from Bob Ariail to you. Would taking a look at it
2 help refresh your memory?

3 A. Yes. (Reviews document) I remember --
4 I remember the context in which this communication
5 was prepared by me and sent to the solicitor.

6 Q. Okay.

7 A. And there was an attempt -- this was
8 when the death penalty continued to be on the
9 table, and we had a conversation about providing
10 what I would describe as a supporting position by
11 us in an effort to get the prosecutor to not seek
12 the death penalty and try the case as a noncapital
13 murder. That was the context. And the information
14 provided in that letter if you -- I believe there
15 was reference to the rules that it would remain
16 confidential, that it was not going to be then used
17 against Mr. Jenkins in any trial. It was kind of
18 like -- it was almost like a settlement proposal.
19 It was a negotiated kind of a settlement type
20 proposal.

21 Q. And I think you're very clear about
22 that at the beginning of the letter.

23 A. Yes. I tried to be.

24 Q. Yes. What I wanted to ask you about is
25 other portions of the letter.

1 A. Okay.

2 Q. In the letter, you reference that mid
3 March 2008 Clarence Jenkins was spending the
4 majority of time at his mother's and sister's house
5 due to marital difficulties.

6 A. That's right.

7 Q. Does that sound accurate?

8 A. That's what I said.

9 Q. Okay. So it sounds like, at least by
10 April 1st, 2010, right, that your understanding of
11 what happened in the case was that Clarence was
12 spending his time and was living with Myrtle and
13 Jamese?

14 A. No, I did not. I'm sorry. That really
15 was not what I understood to be the case.

16 Q. So Clarence Jenkins was spending the
17 majority of time at his mother and sister's house
18 due to marital difficulties does not track at all
19 with --

20 A. That was not -- what you just read is
21 what I sent to the solicitor. In the month prior
22 to the homicide, that they were having marital
23 difficulties and that Clarence was spending a good
24 bit of his time at his mother and sister's house,
25 but I don't think I was trying to indicate that he

1 was living there because my understanding was that
2 they really were living together but he was using
3 the mother, his mother's house, as essentially a
4 place to get away from Carman because of problems.
5 So he was back and forth between these two
6 residences. And they're -- they're not a long way
7 apart. They're both in Greenville, so it's easily
8 a back-and-forth short trip.

9 Q. Okay. And as part of the letter, too,
10 you also said that Clarence didn't even know about
11 Mekole's death until Carman Jenkins picked him up
12 at his sister Jamese's house and drove him over to
13 the trailer. Does that sound right?

14 A. Well, I'll have to see the --

15 MR. SMITH: Your Honor, I think I'm
16 going to object under the best evidence rule.
17 Since so much of this letter is getting quoted, if
18 it be offered into evidence so we can consider the
19 whole context of the letter.

20 THE COURT: Is your issue as to what's
21 in the letter, because that's where the best
22 evidence rule comes in?

23 MR. SMITH: Or the rule of completeness
24 that if we're going to talk about --

25 THE COURT: That's a different rule.

1 The rule of completeness and the rule of best
2 evidence rule is different. The best evidence rule
3 applies if there's an issue as to the nature of the
4 writing or the question of whether or not what's in
5 the document is at issue. And I don't hear that as
6 an issue here, so the best evidence rule doesn't
7 necessarily come into play.

8 MR. SMITH: I misstated the rule.

9 THE COURT: I see. The doctrine of
10 completeness requires that if a part is admitted
11 into evidence, that the rest of it, and to get a
12 context, is admitted. So is that an issue here?

13 MR. SMITH: It is, Your Honor.

14 THE COURT: What is the issue of
15 completeness with this?

16 MR. SMITH: We're quoting from parts of
17 the letter, and I think the context of the whole
18 letter, since there's a purpose to this letter, it
19 could be relevant to give me context.

20 THE COURT: It can be accomplished in
21 two ways. One, it can be accomplished on redirect.
22 He can read the rest of it or we can have
23 Ms. Henry.

24 How long is the letter?

25 MR. SMITH: It's a page and a half.

1 And I'm not asking him necessarily about whether or
2 not he sent this to Bob Ariail. We've already
3 establish that. I'm asking him if this was his
4 understanding of the trial at this time, April --
5 like at the time that he sent this to Bob Ariail,
6 April 1st, 2010.

7 THE COURT: So you're not asking him to
8 read it; you're just asking him that question?

9 MS. HENRY: Yes.

10 THE COURT: All right. You can ask the
11 question.

12 And, Mr. Mauldin, you can answer that.
13 I don't think she's leaving anything out. She's
14 just asking him if he sent that to Mr. Ariail.

15 Correct?

16 MS. HENRY: Yes, sir.

17 BY MS. HENRY:

18 Q. All right. Moving on. So at the time
19 that you --

20 THE COURT: Let me ask you real quick,
21 how much longer on cross? We're going to end the
22 day here, but how much longer?

23 MS. HENRY: Not long. Not long, Your
24 Honor.

25 THE COURT: All right. This will be

1 the last one. We're going to go into tomorrow, so
2 this will be the last witness for today.

3 BY MS. HENRY:

4 Q. All right. Mr. Mauldin, just a couple
5 of other quick questions. On March 26, 2012, did
6 you send -- do you remember as a group sending
7 three alibi witness names in response to the
8 State's request for disclosure of an alibi defense?

9 A. I did not remember that until I was
10 subpoenaed and went through the file to be
11 responsive to the questions. I do recall seeing --
12 if I remember correctly, the way this developed was
13 according to Rule 5, if we we're going to declare
14 either alibi or mental illness, we had to give
15 notice. We did. The State then asked for more
16 particular information, and we provided, I think,
17 what you're referring to. So that's -- I do recall
18 that.

19 Q. And did you list Jamese Gibbs, Shanek
20 Gibbs [sic], and Myrtle Gibbs as your alibi
21 witnesses?

22 A. Well, I can't -- I do not have a
23 recollection of who was listed on that document.

24 Q. Okay. So you don't remember which
25 alibi witnesses you provided to the State?

1 A. Well...

2 Q. I'm sorry. Am I asking --

3 A. You're asking me to testify under oath
4 what is on a document that was produced ten years
5 ago, so I'm just going to say if you would allow me
6 to see the document you're referring to, I'll be
7 glad to tell you whose names are on it.

8 Q. Well, that's my fault. Do you remember
9 who you submitted to the State as alibi witnesses
10 for the Clarence Jenkins' case?

11 A. I can't say that I do.

12 Q. Okay.

13 A. I mean, I think that the mother was
14 still living at the time, and I believe she was on
15 that list. I think that the sisters were likely to
16 be on that list. Whether or not there was any
17 other additional -- we had to -- we had to keep our
18 options as open as possible. And if we didn't
19 provide them a name and then attempted to use
20 someone at trial, we would have not been allowed to
21 do that. So I do believe that the mother and the
22 two sisters' names would have been on that response
23 we sent to the State, but I can't testify that
24 that's the only thing on there.

25 Q. Okay. And then were those three names

1 also on the names that you passed up to the judge
2 as part of your witness list at the trial?

3 A. Well, I'll only answer it this way. I
4 do not recall the names that were on a witness
5 list, if any. I just do not have an independent
6 recollection of the document. I would be glad to
7 look at any document and confirm its authenticity,
8 but I don't know what -- whether we gave a list and
9 if we did, what names were on it.

10 Q. Okay.

11 MS. HENRY: One moment, Your Honor.
12 Okay. I don't have any other questions.

13 Thank you, Mr. Mauldin.

14 THE COURT: All right. Any redirect?

15 MR. SMITH: I'll try to limit it to
16 three, Your Honor.

17 RE CROSS EXAMINATION

18 BY MR. SMITH:

19 Q. Mr. Mauldin, you testified a few
20 minutes ago about hearing that one of the sisters
21 was knocking on Mr. Jenkins' door?

22 A. Right.

23 Q. Do you know who told you that?

24 A. Yeah. Susannah Ross told me that.
25 Susannah had an opportunity to speak with the

1 sisters, and one of the things that she told me was
2 that one of the two sisters -- and I can't remember
3 which one -- had gone over that Saturday of that
4 weekend and knocked on the door to get money from
5 Clarence and Carman for their children who were
6 staying over at her mother's house.

7 Q. Okay. Is it unusual for defense
8 lawyers to put people on a witness list that they
9 end up not calling at trial?

10 A. Well, that's not unusual at all.

11 Q. Okay. And then referring to the
12 communications you had with Solicitor Ariail, did
13 you go about presenting your case in such a way to
14 Solicitor Ariail so as to try to convince him to
15 withdraw the death notice?

16 A. Absolutely. The context was, quite
17 frankly, that this case was definitely going to be
18 a trial. It was going to be tried either capital
19 or noncapital. We were making a full throttle
20 effort to get the prosecution to pull the capital,
21 and we would then prepare to try the case as a
22 noncapital murder, which is, in fact, what ended up
23 happening. We were incredibly -- quite frankly
24 incredibly pleased that we were able to accomplish
25 that. We felt like that was a real victory to some

1 extent. So the communication that was referred to
2 a few moments ago, I was doing everything I could
3 possibly do to try to get Mr. Ariail to see it my
4 way, so to speak.

5 Q. Okay. Putting the best picture on your
6 case that you could. Is that a good way to put it?

7 A. Well, yeah. I mean, the case was
8 horrible, and it was really kind of hard to put any
9 good face on it. I just was expressing to
10 Mr. Ariail, give him an opportunity to consider
11 every factor before we went into the trauma of a
12 capital trial.

13 Q. Thank you.

14 THE COURT: Any recross?

15 MS. HENRY: No, your Honor.

16 THE COURT: All right. Thank you,
17 Mr. Mauldin.

18 We are going to adjourn for the day,
19 and we'll start at 8:45 with the WebEx witness, and
20 then we will go to whoever the next witnesses are.
21 That means that the hearing set for tomorrow will
22 be -- will not start until after this one. Maybe
23 11 o'clock. Maybe later. I don't know. It just
24 depends on when this one gets finished. And
25 considering how it's gone today, I don't know when

1 this is going to get finished tomorrow morning. So
2 that hearing, the next thing after this, we'll
3 just...

4 If you would, Mr. Smith, let the
5 parties know that we'll give them an 11 o'clock
6 time, but that may or may not be the case.

7 So we'll resume here -- I mean adjourn
8 here until 8:45 in the morning.

9 MS. HENRY: Thank you, Your Honor.

10 THE COURT: Any objection to
11 Mr. Mauldin being excused?

12 MS. HENRY: No, your Honor.

13 THE COURT: You are excused. Thank
14 you, Mr. Mauldin.

15 MR. SMITH: Can we get an order to have
16 Mr. Jenkins --

17 THE COURT: We've got it signed, and
18 the deputy has that right there.

19 (Court adjourned for the day at
20 approximately 6:11 PM.)

21 **JANUARY 31, 2023**

22 THE COURT: All right. Are we ready to
23 proceed? I think the next witness is by WebEx. Is
24 that right?

25 MR. SMITH: That's right.

1 THE COURT: All right. Are we ready to
2 proceed?

3 MR. SMITH: We are, Your Honor.

4 THE COURT: All right.

5 MR. SMITH: And he can hear me through
6 that microphone. Is that right?

7 THE COURT: He should be able to. Just
8 try it out. Is he on yet? There we go.

9 All right. Are you Mr. MacDougall?

10 THE WITNESS: Yes, Your Honor.

11 THE COURT: All right. Can you hear us
12 pretty good? Can you hear us good?

13 THE WITNESS: I can, Your Honor, yes.

14 THE COURT: All right. Good deal.
15 Mr. Smith?

16 MR. SMITH: Is it okay if I remain
17 seated, Your Honor?

18 THE COURT: Yeah, with the microphone,
19 that will be fine.

20 MR. SMITH: Good morning,
21 Mr. MacDougall. Can you hear me?

22 THE WITNESS: Good morning. Yes, I
23 can.

24 MR. SMITH: I'd ask that Mr. MacDougall
25 be sworn.

1 THE COURT: If you would, raise your
2 right hand.

3 MARK MACDOUGALL,

4 being first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. SMITH:

7 Q. Mr. MacDougall, can you tell me a
8 little bit about your education and legal
9 experience?

10 A. Sure. I graduated from Notre Dame in
11 1978 and received an MBA from Boston University in
12 1979. I then went to law school at George
13 Washington University and graduated in 1985. Went
14 to work for a law firm for four years, then joined
15 the Department of Justice in the criminal division
16 for several years where I prosecuted bank fraud
17 cases. I returned to this law firm, Akin Gump, in
18 1994 where I have been -- 1993, I'm sorry -- where
19 I have continued to practice ever since. I became
20 a partner in 1995 and primarily practice
21 white-collar criminal defense law.

22 Q. How did you come to be involved in
23 Clarence Jenkins' underlying criminal case?

24 A. I started working with a lawyer named
25 Bill Nettles from Columbia in 1999 on another death

1 penalty case. I did two more cases with Bill, one
2 of which involved a case in Greenville in which
3 John Mauldin was the public defender, so I got to
4 know John. And Clarence Jenkins' case was the
5 fourth case that we tried pro bono with the lawyers
6 in South Carolina.

7 Q. Okay. How did you share the
8 responsibility of the representation with the other
9 lawyers?

10 A. It's collegial. When we've done these
11 cases in South Carolina, and since then elsewhere,
12 we work with local public defenders or
13 court-appointed lawyers. And, you know, there's a
14 discussion about how we're going to proceed at
15 trial. One of the things the firm brings to the
16 case is resources, research, and writing and that
17 sort of thing, so we do a great deal of that. I
18 usually bring a couple of associates who may argue
19 motions, but it's a collegial discussion. We work
20 it out as any lawyers would in a case.

21 Q. Okay. Did you have a conversation with
22 John Mauldin and Susannah Ross about dividing up
23 responsibilities in Mr. Jenkins' case?

24 A. I'm sure we had several of those
25 conversations, many of them. I had already tried a

1 case with John. Knew him well. I have great
2 respect for him. I enjoyed working with him, so
3 I'm sure we have had multiple conversations as we
4 did with Ms. Ross.

5 Q. Okay. How long did you work for
6 Mr. Jenkins with the understanding that he was
7 going to have a capital trial?

8 A. I don't know how long it was. John
9 called us, I believe, shortly after the death
10 notice was served. We began looking at the file.
11 I know Mr. Mauldin persuaded or negotiated a
12 withdrawal of the death notice by the State at
13 which point the case was no longer, obviously, a
14 death penalty case but remained a capital trial.
15 John asked us if we'd continue notwithstanding the
16 fact that there was no longer risk of the death
17 penalty, and we agreed and moved on. But I can't
18 tell you how long that period was. It was
19 certainly a matter of months. It may have been
20 more than a year.

21 Q. Generally, what sort of work do you
22 remember being done in this case in anticipation of
23 a death penalty trial?

24 A. Extensive review of the record, the
25 discovery produced by the State. Now, if it's

1 anticipation of a death penalty trial, my
2 recollection is that -- and I don't have the
3 timeframe, but my recollection is that the death
4 notice was withdrawn fairly early on. In other
5 words, it was quite a bit of time between the
6 withdrawal of the death notice and trial.

7 So we did what you do when you prepare
8 a case. We ultimately talked to witnesses to the
9 extent they were available, reviewed the file, and
10 collaborated with Ms. Ross and Mr. Mauldin in
11 preparation to try the case.

12 Q. Okay. So did you meet with Mr. Jenkins
13 personally?

14 A. Yes. I don't have a specific
15 recollection of meeting him in the jail. I'm sure
16 we did. I just can't tell you what day that was or
17 what the circumstances were.

18 Q. Okay. Did you meet with potential
19 witnesses personally?

20 A. Again, most of what I did at trial was
21 -- I think the record reflects this -- was forensic
22 cross-examination of police witnesses and SLED
23 witnesses and so forth. So I don't know -- and I'm
24 quite certain I didn't meet with him in advance of
25 trial just because of the circumstances of their

1 job and my job. So I don't have a specific
2 recollection of meeting with a witness, but given
3 the scope of what I did at trial and the focus on
4 the forensic and police witnesses, that wouldn't be
5 unusual.

6 Q. Was it your understanding that either
7 Susannah Ross or John Mauldin would be more
8 responsible for dealing with potential witnesses?

9 A. Well, the critical witness was Carman
10 Jenkins, of course. And from the outset, John was
11 going to conduct that cross-examination. She was
12 in detention as well. Ms. Ross, I believe -- and,
13 again, it's been ten years, but I believe Ms. Ross
14 was focused on the examination, cross-examination,
15 of Grace Davis. You know, beyond that, most of the
16 witnesses were, you know, forensics or, as I said,
17 police or lay witnesses.

18 Q. Okay. Did you have a discussion with
19 Ms. Ross and Mr. Mauldin about the possibility of
20 pursuing an alibi defense at trial?

21 A. Yes. My recollection, again, with the
22 passage of time is that Mr. Jenkins had witnesses
23 who were in detention with him, one or more, who
24 were willing to testify that he was somewhere other
25 than Greenville when the crime was committed. We

1 determined -- I did anyway. I don't speak for
2 anybody else. My conclusion was that these were
3 not credible witnesses.

4 Let me just expand on that for a
5 minute. You know, when we try a case, the goal is
6 often to provide, usually and should be, to provide
7 an alternative narrative consistent with the
8 evidence. And the alternative narrative strategy
9 that we decided on was that Carman Jenkins was
10 primarily responsible for the homicide and the
11 associated crimes. And so trying to introduce
12 witnesses who perhaps were prepare to testify that
13 Mr. Jenkins was somewhere else was inconsistent
14 with that strategy.

15 Q. Okay.

16 A. And then I would quell that in the fact
17 that we did -- we concluded, at least to the extent
18 that I recall the recollection, that those
19 witnesses did not have credibility.

20 Q. Do you remember the reasons that you
21 felt those witnesses were not credible?

22 A. I think the nature -- again, it's been
23 ten years, but the nature of their proffer, the
24 evidence that contradicted what we understood they
25 might be willing to say, he was in another state.

1 In particular there was video evidence of Carman
2 Jenkins and Clarence Jenkins walking into the
3 library at the time the computers there were used.
4 So to have introduced witnesses, even if they were
5 prepared to testify under oath that Mr. Jenkins was
6 not in Greenville or was not in South Carolina at
7 the time, would have been a lie by fairly
8 compelling evidence that he was. So in order to
9 maintain credibility and consistent with our
10 strategy, I think that was the decision. I don't
11 speak for John Mauldin or Susannah Ross. They may
12 have other color on that, but that's my
13 recollection.

14 Q. Okay. Do you remember discussions
15 about whether Mr. Jenkins would testify?

16 A. Yes. That's always a possibility.
17 And, you know, the decision is ultimately the
18 defendant's. I can tell you my recollection was
19 that it would be -- he would have a very difficult
20 time testifying. The cross-examination would be
21 difficult to sustain consistent with our strategy
22 of emphasizing Carman Jenkins' role in the offense.

23 Q. Okay. So I'd like to ask you questions
24 about your opening statement. At one point in your
25 opening statement, you referred to Mr. Jenkins as

1 an unconventional person who was given to
2 fantastical stories. Can you tell me what you
3 meant by that?

4 A. Sure. As you know, an opening
5 statement is intended to provide a preview of what
6 the evidence will show. And it's also from a
7 defense perspective useful, if possible, to dilute
8 or address some of the more damaging evidence the
9 jury is going to hear.

10 There was discovery that clearly
11 suggested to was that one of the things, for
12 example, that Mr. Jenkins had told people was that
13 he was part of some organization. I think the
14 testimony was that the organization was watching
15 the house, and the organization was involved in all
16 kinds of activities. That was, as far as we could
17 tell, completely made up, and there was no gang or
18 organized crime or Mafia that he was associated
19 with. And the jury was going to hear that. And
20 the aim -- and if you put that statement in the
21 context of the opening statement, the aim was to
22 paint Mr. Jenkins as someone who was not a
23 dangerous person. And to the extent the jury was
24 going to hear evidence that he claimed to be part
25 of some ominous organization, that that was just

1 not true. That he was someone who, you know, was
2 given to making statements like that which were
3 harmless. And the point of that portion of the
4 opening statement was that Clarence Jenkins is
5 harmless. Clarence Jenkins has never had a violent
6 crime charged. His principal crime was driving
7 without a license, and he does that a lot. And
8 that sometimes he says things that are just, you
9 know, innocuous but also not believable. I think
10 the point of that statement, the reference to
11 fantastical statements, is that he was a defendant
12 who was not part of some dark organized crime group
13 but rather was just someone who had limited
14 capabilities and made things up.

15 Q. Did Mr. Jenkins do or say anything
16 during the course of your representation of him
17 that made you concerned about what he might say if
18 he were on the stand?

19 A. I don't recall any in particular. We
20 were concerned about his cross-examination. I was
21 concerned about his cross-examination. I think
22 everyone was should he choose to testify.

23 Q. Okay. Did you discuss your opening
24 statement with Mr. Mauldin or Ms. Ross ahead of
25 time?

1 A. I'm sure I did. I don't have a
2 specific recollection of any such conversation, but
3 I'm sure I would have discussed it with them just
4 as Mr. Mauldin discussed his closing argument with
5 us.

6 Q. Okay. And I asked you just a little
7 earlier about potential witnesses. Were you -- and
8 I heard you testify also that you felt that Carman
9 Jenkins' testimony was critical to the State's
10 case. Were you aware of any potential witnesses
11 that you felt could have been called to credibly
12 impeach her version of events?

13 A. Any witnesses that could impeach?
14 Well, sure. I mean -- well, by impeach, I think
15 further implicate her in the crime. Her testimony,
16 as I recall it, and her cooperation with the State
17 was geared toward implicating Mr. Jenkins much more
18 actively in the homicide and the kidnapping than we
19 believed was appropriate. So, for example, you
20 know, Grace Davis would testify that the van
21 belonged to Carman and the trailer belong to Carman
22 and the computer belonged to -- so to the extent
23 that impeaches her testimony by making her a more
24 dominant figure, I suppose it does. But, you know,
25 Mr. Mauldin's cross examination of her, as I recall

1 it, was focused on the inconsistencies in her
2 story.

3 Q. Okay. Can you tell me why the defense
4 did not put Mr. Jenkins' sisters on the stand at
5 trial, or his mother?

6 A. I don't recall. That was not -- as I
7 said, most of my cross-examination, as I remember,
8 was focused on SLED and police witnesses. So there
9 may well have been those discussions. I just -- I
10 wasn't part of them or I don't recall.

11 Q. Okay. Are you aware of anyone named
12 Ronnie Mitchell who allegedly had information about
13 Ms. Harris' location during the timeframe at issue
14 with the kidnapping indictment?

15 A. You know, I have a recollection that
16 there was some person who was willing to say that
17 the victim -- that she'd seen the victim during the
18 time that the State alleged Mekole Harris was being
19 held. Beyond that, I don't have a specific
20 recollection of a name or what she might have said.

21 Q. Okay. So using the pronouns there, I
22 take it that that person you're referring to was a
23 female?

24 A. Yes, but I could be wrong about that.

25 Q. Okay.

1 A. I could -- again, a lot of time has
2 gone by, and any of those witnesses were not my
3 primary responsibility in the case.

4 Q. Okay. The final topic I'd like to ask
5 you about would be the indictments. Did you see
6 any basis upon which the indictments could be
7 quashed for lack of specificity about the cause of
8 death or the fact that it was amended during the
9 course of trial?

10 A. No. I think the circumstances of the
11 homicide, I understood, made a determination of
12 cause of death problematic. I don't have a
13 recollection of it being amended during the course
14 of trial. And I should tell you I'm not a South
15 Carolina lawyer, so, I mean, I've tried cases all
16 over the country and several in South Carolina.
17 But as far as defects that might be peculiar to
18 South Carolina law, I rely on the local public
19 defenders to analyze that. But I don't recall an
20 amendment in the course of trial.

21 Q. Okay. Do you feel that you had
22 adequate notice from the indictment and discovery
23 to defend Mr. Jenkins at trial?

24 A. Yes.

25 Q. Okay. All right. No more questions.

1 Thank you, Mr. MacDougall.

2 THE COURT: All right.

3 Cross-examination?

4 MS. HENRY: Thank you, Your Honor.

5 Just one moment. No questions for Mr. MacDougall.

6 THE COURT: All right. Thank you,
7 Mr. MacDougall. I appreciate you being able to
8 join us here today. Thank you.

9 THE WITNESS: Thank you. May I be
10 excused, Your Honor?

11 THE COURT: You are excused.

12 THE WITNESS: Thank you.

13 THE COURT: All right. Next witness.

14 MR. SMITH: Your Honor, that will be
15 Susannah Ross. May I take a moment to get in touch
16 with her.

17 THE COURT: Yes, you may.

18 MR. SMITH: Your Honor, she's on her
19 way here. She says she's one mile away.

20 THE COURT: Okay.

21 MR. SMITH: Is it all right if we take
22 a brief break?

23 THE COURT: Yeah, that will be fine.
24 Yeah, we'll take a brief recess.

25 (A recess transpired.)

1 THE COURT: All right. I see Ms. Ross
2 is here. Mr. Smith, call your next witness.

3 MR. SMITH: Yes, Your Honor. I call
4 Ms. Ross.

5 (The witness was sworn.)

6 THE WITNESS: I'd like to go ahead and
7 get my file because I know I'll need it.

8 SUSANNAH C. ROSS,

9 being first duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. SMITH:

12 Q. Can you tell me when you were admitted
13 to practice in South Carolina?

14 A. Gosh, '95 or '96. The end of '95.

15 Q. And can you give us a brief summary of
16 your legal experience?

17 A. I've always -- I worked at -- I've
18 always done criminal defense. I worked at the
19 public defender's office for six years and then
20 part time for probably another 10 or 15. And then
21 I'm in my own law practice.

22 Q. How did you come to be involved in
23 Mr. Jenkins' criminal case?

24 A. John Mauldin asked me to second chair,
25 and I was appointed to do that.

1 Q. Okay. How did the responsibility for
2 the representation get divvied up between the
3 lawyers?

4 A. Well, John Mauldin was lead counsel. I
5 was second chair. I did a lot of going down to the
6 jail back and forth to visit with Mr. Jenkins, so
7 that was sort of my job. I worked with social
8 history. Aiken Gump sort of volunteered to be
9 involved in the case when it was a death penalty
10 case, so I really let them have it. With that, we
11 -- he had a number of assistants. There was just a
12 whole team that they had, so I just divvied stuff
13 up to them to take a look at this, take a look at
14 this, and limit my capacity to really to social
15 history and just visiting, making jail visits.

16 Q. Okay. And by he, you're referring to
17 Mark MacDougall?

18 A. Yes.

19 Q. Okay. What was your understanding of
20 his responsibility at trial?

21 A. He did opening and, I think, science
22 cross. And, again, this was -- I did cross on just
23 a few lay witnesses. And I can't remember. I
24 believe Mr. Mauldin had Carman.

25 Q. Okay. Was there any particular reason

1 that you took the issues dealing with Mr. Jenkins?

2 A. I had gone -- I had done a lot of the
3 social history stuff and was just fairly familiar
4 with it.

5 Q. Okay. What sorts of work did you do in
6 anticipation of trial while you still believed it
7 was going to be a death penalty trial?

8 A. We had probably biweekly team meetings.
9 I can't even remember. This was over ten years
10 ago. But we had team meetings quite often. I met
11 with Mr. Mauldin. We discussed it often. A lot of
12 jail visits. I met with Clarence's family members
13 along with Tracy and Jan Vogelsang. So we would go
14 talk to family members. Went to the scene. Just
15 did a general investigation. We did a battery of
16 mental health tests on Mr. Jenkins to see if there
17 were any issues there. We were really trying to
18 work a lot on, you know, the penalty phase if it
19 happened.

20 At the same time, there was a change of
21 incoming solicitors, so we were making every effort
22 to make sure to try not -- to get this to go not as
23 a death penalty case. So that was a real victory
24 for us. We spent hours and hours, you know, me
25 meeting with Betty just trying to encourage her --

1 Betty Strong -- to let's just take this as a
2 regular case that's not a death penalty case
3 because we've got so many mental health issues, and
4 they were -- for the longest time, there were
5 issues of -- there were just evidentiary issues and
6 problems that they potentially had that I was
7 trying to make the most of to make this case not be
8 a death penalty case.

9 Q. Okay. You referred to Betty Strong.
10 Was she a prosecutor in the solicitor's office?

11 A. Yes.

12 Q. Okay. How many times did you meet with
13 Mr. Jenkins personally?

14 A. I don't know. And I thought I had time
15 sheets somewhere, but I can't find them. I tried
16 to go biweekly at the least, so a couple times a
17 month. I'm sure I missed some time over the three
18 or four years. I can't even remember his
19 representation.

20 Q. Okay. So maybe twice a month for three
21 to four years with some exceptions?

22 A. Uh-huh (affirmative).

23 Q. Okay. Did you meet with Mr. Jenkins --
24 when you met with Mr. Jenkins, did either
25 Mr. Mauldin or Mr. MacDougall go with you.

1 A. No, usually not. Sometimes they did.

2 Q. Okay. Did you meet with Mr. Jenkins'
3 sisters personally?

4 A. One sister I remember for sure. I
5 don't know about the other sister.

6 Q. Okay. So the sister you met, was that
7 Jamese Gibbs?

8 A. Yes. Tracy and I and Jan went to her
9 house and met with her.

10 MS. HENRY: I'm sorry. I missed that.

11 THE WITNESS: Tracy and I went to her
12 house and met with Jamese Gibbs.

13 BY MR. SMITH:

14 Q. And who is Tracy?

15 A. Tracy was the investigator on the case.

16 Q. Okay.

17 A. Tracy Burnett.

18 Q. She was working for the public
19 defender's office?

20 A. Yes.

21 Q. Which sister did you meet with?

22 A. I think it was Jamese.

23 Q. Did you meet with his other sister,
24 Ms. Robinson?

25 A. I probably did, but I really don't

1 remember specifically.

2 Q. Okay. How about Mr. Jenkins' mother?

3 A. Yes, I met with her. I believe Myrtle
4 was her name.

5 Q. Okay. Did you meet with his family
6 collectively, or did you just sort of meet with
7 them one at a time?

8 A. I think I went over to Jamese's house
9 once or twice, and I know -- I'm pretty sure Myrtle
10 was there when I went there. Again, this was a
11 long time ago, like 13 years ago, I think, when I
12 did that, so I could be wrong. But I do remember
13 going to her house. I'm just not sure exactly who
14 was there.

15 Q. Okay. Did Mr. Jenkins' mother or
16 either of his two sisters ever give you information
17 that you believe supported an alibi defense?

18 A. At one point -- not really. So when I
19 went over right after the incident and I went over
20 and met with them, there was no he has an alibi.
21 He couldn't have done this. That was not a topic.
22 They had mentioned that he had been staying with
23 them. Eventually -- and I believe this was efforts
24 to pursue a non death penalty case -- I did get
25 affidavits from them saying that he lived with

1 them, but -- and I think that's true, but it was
2 certainly not what I would call an alibi.

3 Q. Okay. So I guess a different part to
4 that -- and we'll come back to some of this. But
5 when you said that they told you that he was
6 staying with them, did you take that to mean that
7 he was living there or that he would visit
8 sometimes?

9 A. I thought visit sometimes. They didn't
10 show me, like, his room there or anything like
11 that.

12 Q. Okay. Did you ask them for information
13 about where he had been on the critical dates in
14 April, or were you sort of waiting on them to offer
15 that information?

16 A. I can't remember specifically. I know
17 I got -- I found a file. I had files on different
18 people. And I'm looking at the file on Jamese
19 Gibbs who I believe is his sister. And I'm looking
20 at my notes. And they -- they do say -- they say:
21 Clarence was in and out. They say -- Myrtle says:
22 Carman and Clarence left with the children at noon.
23 Let's see. She said: Clarence was working.
24 Carman was working at Sports Authority but quit.
25 She said something about working and taking baby.

1 Did go over to the house on Saturday to ask for
2 money for the kids. And something about Melissa
3 may. And she said: The trailer was close to their
4 house.

5 That's what I mean by it's an imperfect
6 alibi. If it's an alibi, why is Jamese going over
7 to the trailer to get money for the kids if
8 Clarence is staying at that house with her where
9 they'd have the money?

10 Q. And the Saturday, is that referring to
11 April 5th, 2008?

12 A. I'm guessing.

13 Q. And are these notes you took while you
14 were meeting with her, or are they contemporaneous
15 notes?

16 A. These are just notes I had at some
17 point when I talked to her. I just put Jamese
18 notes, and then I have sort of a line of
19 questioning that I would have asked her if we put
20 her on the stand. So I prepared her as if she
21 would be a witness but did not anticipate her being
22 a witness.

23 Q. Okay. Did you take that to mean that
24 she did not present a complete alibi for
25 Mr. Jenkins?

1 A. Yes.

2 Q. Okay. What do you remember about what
3 Mr. Jenkins' mother told you?

4 A. I've got that file. She said a lot,
5 and she was kind of all over the place. It was
6 hard to keep up with her a little bit. And I have
7 a lot, for some reason, a lot of -- I think Jan's
8 notes are in her file. I don't think I anticipated
9 her being a witness. So, yeah, I don't have a lot
10 of notes in this file from her. There might be
11 somewhere else, but I just did not have a lot on
12 her.

13 Q. Okay. Did you feel that what she told
14 you would have been helpful for an alibi defense?

15 A. No, not really. Another problem with
16 alibi, if I'd put either of these up, what we had,
17 we had jail letters from people at the jail. And
18 one of them was someone Mesat Klus (phonetic), and
19 another was Wilson -- Wallace Willard. And so what
20 happened, at some point I believe I was discussing
21 with Clarence an alibi defense. And I think the
22 situation -- it was so many years ago, I don't
23 remember for sure. But I think the situation was
24 him saying: I've got an alibi defense, my mother
25 and my sister, and me saying: There's a problem

1 with that because my other witnesses saw you at
2 Labor Finders. You're on video all over the place.
3 You're going back and forth to work. That is an
4 imperfect alibi. It doesn't make it less likely
5 that you're guilty because it was so imperfect.

6 And he said: Well, you know, what
7 would be a perfect alibi? And I said: Like being
8 in Florida for two weeks during the time of the
9 crime. That would be a perfect alibi. You were
10 out of the state. You couldn't have gone and done
11 it. And so then like a couple months later, I get
12 these letters saying, you know: Hey. I'm a friend
13 of Clarence's. He and I were in Florida over this
14 weekend partying and celebrating that I'm now
15 single. And blah, blah, blah. And so I think this
16 was sent to me, but there's also a file where
17 copies were sent to law enforcement. And there was
18 another guy, this Willard guy, and they went and
19 investigated him. And both these people denied
20 writing these letters and had been roommates of
21 Mr. Jenkins. So I felt if we put up an alibi
22 defense, that would open the door and they would
23 immediately come in and say, well, did you know he
24 was in Florida during this time like his roommates
25 at the jail said. So I found that would be a

1 terrible -- you know, alibis aren't great when, you
2 know, Nema (phonic) comes in and says he was with
3 me the whole time. It's not the strongest defense.
4 But then when it has that many holes in it and then
5 opens the door to, you know, letters -- which this
6 whole case involved sending letters. You know,
7 just more sort of forged weird letters, I thought
8 would just be super damaging to the case. Which
9 the trial was going fairly well. You know, the
10 jury had a question. It was a good trial, and I
11 think putting them up with, you know, a bad alibi
12 defense would have killed the case.

13 Q. Okay. So you mentioned the uniqueness
14 of getting letters. That was one of the
15 allegations against Mr. Jenkins was that he and
16 Carman were sending ransom letters through the
17 mail. Right?

18 A. That's correct.

19 Q. So I think I heard you say that law
20 enforcement had these letters from this person
21 about an alibi in Florida. Is that right?

22 A. Yes.

23 Q. Okay. Were you concerned about the
24 possibility that they could do some rebuttal
25 evidence if you were to present an alibi based on

1 that or something else at trial?

2 A. Exactly. I think that would absolutely
3 open the door to where they could ask that question
4 of that witness.

5 Q. Okay. May I see the letter?

6 A. And if they couldn't, I think they
7 could recall -- I mean, they could just recall and
8 put up the evidence in general.

9 MR. SMITH: Your Honor, is it okay if I
10 take a look?

11 THE COURT: Yeah.

12 THE WITNESS: Here's the sort of
13 incident reports about this Wallace Willard.
14 Here's the letter I had.

15 BY MR. SMITH:

16 Q. Which?

17 A. I think one is a photocopy of the
18 other.

19 Q. Okay. Is there any way I could get a
20 copy of this? I'd like to offer it. I don't have
21 a copy myself.

22 A. We could go across the hall and do it.

23 THE COURT: Yeah, we can do it on a
24 break.

25 MR. SMITH: Okay.

1 BY MR. SMITH:

2 Q. And the same with the notes that you
3 have from the interview with Ms. Gibbs.

4 A. And these are just my notes. I mean, I
5 wrote them out ten years ago.

6 Q. Okay. And then is this where it says
7 that he was in and out?

8 A. Yes, it says that somewhere in there.

9 Q. I just want to make sure it's the right
10 thing.

11 A. This one is the working and taking
12 baby. Did go over to house. This one just says
13 Clarence.

14 THE COURT: Can you hear her?

15 THE REPORTER: No, sir.

16 THE COURT: Ms. Ross, please speak up.

17 THE WITNESS: I'm sorry. That's where
18 it says Clarence in and out.

19 MR. SMITH: Okay. So should I wait
20 till the break and deal with that or offer them
21 now?

22 THE COURT: You can go ahead and offer
23 them now, and then we'll make a copy.

24 Any objection?

25 Let counsel see them.

1 MS. HENRY: Okay.

2 THE COURT: All right. Any objection?

3 MS. HENRY: Your Honor, it depends on
4 the purpose he's offering it for. As far as the
5 letter goes, you know, the witness is saying that
6 she received it in the mail from a witness. If
7 it's just to show that she received it and that it
8 was part of their deliberation, then I don't have
9 an objection. But as far as its veracity or its
10 truth or where it's coming from, I mean, I do
11 object if it's for any other purpose than to show
12 that Susannah did receive a letter from some person
13 that stated that what this letter says regarding
14 being in Florida with Clarence.

15 THE COURT: All right. Mr. Smith?

16 MR. SMITH: I'm not offering it for the
17 truth of the matter asserted because obviously I
18 don't believe he was in Florida at the time. I
19 think it goes to show that they had reason to doubt
20 an alibi defense, and this is something they
21 considered.

22 THE COURT: I'll admit it over -- is it
23 one or two letters?

24 MR. SMITH: The letter would be State's
25 Exhibit 2, and the notes would be State's Exhibit

1 3.

2 THE COURT: All right. So State's
3 Exhibit 2 is admitted into evidence over objection.
4 States Exhibit 3 is admitted into evidence over
5 objection.

6 (STATE'S EXHIBIT 2, FLORIDA ALIBI
7 WITNESS LETTER, was offered and admitted into
8 evidence.)

9 (STATE'S EXHIBIT 3, SUSANNAH ROSS
10 NOTES, was offered and admitted into evidence.)

11

12 MR. SMITH: Or 1. I'm sorry.

13 THE COURT: Is it 1?

14 (Off-the-record conference.)

15 BY MR. SMITH:

16 Q. Did Mr. Jenkins himself ever provide
17 you with information you believed would support an
18 alibi defense?

19 A. There was so much information back and
20 forth. I'm sure at some point he did say, you
21 know, I have an alibi. But he said a lot. I mean,
22 there was a lot, you know, going back and forth.
23 Upon our investigation of the case, we did not feel
24 that there was a strong alibi defense. We made a
25 strategic decision not to present an alibi defense

1 because we thought that would be unbelievable and
2 that the State had a lot of evidence that they
3 could make holes in that alibi.

4 Q. Okay. So you said there was a lot
5 going back and forth. When you say a lot, what do
6 you mean by that?

7 A. Well, we were visiting for years and
8 talking about different cases, and Clarence was
9 talking to me about different defenses, different
10 situations. You know, this was so long ago, I had
11 forgotten a lot of this. But then I'm looking at
12 letters I got that were talking about how he was
13 sort of dealing drugs, and, you know, some cartel
14 or someone got in and set him up. This would --
15 there was all kinds of stuff that was bantered
16 around about defenses. And that can happen in a
17 case that gets so old back and forth where what are
18 you talking about for years and years. And I'm
19 trying to address all his concerns and have it in a
20 place where -- certainly in a death penalty case,
21 if you have a situation where you can remove death
22 penalty for the situation, you want the client's
23 trust enough to hope that he will believe you when
24 you advise one way or the other. So that was what
25 the objective was going down there, and he had many

1 different defenses over the years.

2 Q. Okay. So where did he say he was on
3 April 4th, 5th, and 6th?

4 A. I can't remember.

5 Q. Okay. Do you remember him saying that
6 he spent that whole time with his family?

7 A. He probably did at some point.

8 Q. Okay. Do you remember him saying
9 anything that contradicted that?

10 A. Well, you know, when he was saying that
11 he was in Florida, that contradicted that.

12 Q. So he said -- he told you he was in
13 Florida?

14 A. Yes. He was backing up the Florida
15 letter situation.

16 Q. Okay. So you discussed that letter
17 with him, and then he told you he agreed with that?

18 A. You know, it so long ago I don't have a
19 specific recollection of that discussion, but I
20 would have discussed that letter with him. I went
21 and discussed it with the people who allegedly
22 wrote the letters. You know, I investigated, fully
23 investigated, these letters.

24 Q. Okay. So I guess overall why did you
25 not believe that his family members could be

1 credible alibi witnesses?

2 A. Because I felt that the State could
3 cross-examine them. It's been so long on this
4 case, but I believe there were videos at the
5 Greenville County Library, two sets of videos at
6 the library. There were witnesses who saw Clarence
7 outside burning stuff at his grill at the trailer
8 over this weekend in question.

9 Some of the letters that were sent
10 out -- there was a fingerprint on a letter with
11 Clarence's fingerprint on the letter that was found
12 in the couch of the trailer that would have been
13 sent out over that weekend. Like, how did this
14 letter get there?

15 Q. That was the trailer where he and
16 Carman lived together?

17 A. Right. You know, that had been
18 spray-painted with all crazy -- trashed and -- yes,
19 that's where he and Carman had lived. And there
20 was more. There was just -- there was a lot of
21 stuff that could put holes in that alibi defense.

22 Q. Okay. Did Mr. Jenkins tell you what he
23 was doing with the grill? What was he burning in
24 the grill?

25 A. I don't remember. I mean, I know from

1 the case that they said that there were remnants of
2 clothes that were burned in the grill, but I don't
3 remember him saying what was burned in the grill.
4 I don't even know if he was -- if we ever -- if he
5 ever got to the point where he was saying he burned
6 anything in the grill at all.

7 Q. Okay.

8 A. I guess they had his prints on the
9 lighter fluid too.

10 Q. Did he deny burning stuff in the grill?

11 A. I don't remember. It was just so long
12 ago. I mean, basically he denied these charges.
13 That was his position the entire time. I thought
14 it was a big victory for us to get death penalty
15 off the table because usually that requires a plea
16 of some sort, and he was not pleading to anything.
17 So having a trial that wasn't a death penalty trial
18 was a victory in this case.

19 Q. Did he tell you that he cooked cocaine
20 and crack in the trailer on Tindal Road?

21 A. I don't remember specifically. I do
22 remember he was talking about how he was a major
23 drug dealer and was selling drugs to different
24 people.

25 Q. Okay. Did he ever tell you that the

1 reason he helped -- did he ever tell you that he
2 helped Carman dismember Ms. Harris and dispose of
3 her remains because she had threatened to reveal
4 his drug operation?

5 A. I don't remember that specifically. He
6 could have well said that. If anything, the
7 problem with that is while they're finding DNA
8 evidence in the shower cap and around, they went
9 through this trailer very thoroughly. No evidence
10 of cooking cocaine or anything in the microwave.
11 No drugs, I don't believe, were found that all in
12 the trailer.

13 Q. Okay.

14 A. So that just made it hard. And we
15 did -- I mean, a lot of the whole defense was
16 Carman was the mastermind. You know what I mean?
17 That she was the guilty one. And I think that
18 defense was presented pretty well.

19 Q. Okay. Did you discuss with Mr. Mauldin
20 and Mr. MacDougall your opinions about the
21 possibility of raising an alibi defense or your
22 opinions about what Mr. Jenkins' family members
23 told you?

24 A. I probably did. We would have gone to
25 a meeting about it. I talked to Tracy Burkett

1 yesterday about this, and what her recollection was
2 -- and she recalled going over and speaking -- she
3 and Jan going over and speaking to the Gibbs about
4 the alibi defense, but I don't recall having a
5 specific discussion with them about that.

6 Q. Okay. Do you recall getting any
7 letters or any sort of communications from
8 Mr. Jenkins from jail that you thought were
9 incriminating?

10 A. I got a lot of letters from him from
11 the jail. I don't know whether they'd be -- I
12 don't know whether they'd be incriminating or not.
13 I can't remember, but I don't think so. I think
14 there was so many, I think one problem was sort of
15 that I'd seen enough of them that I could tell when
16 I saw some forgeries with some other stuff. It
17 looked like his handwriting because I had seen so
18 much of it. But as far as, you know, he never
19 confessed in a letter to me or anything like that.

20 Q. Okay. Did you discuss with Mr. Mauldin
21 and Mr. MacDougall about whether or not it would be
22 a good idea for Mr. Jenkins to testify?

23 A. I think he would be a terrible witness
24 on the stand most likely with the evidence they had
25 against him. That being said, he's a very

1 compelling person as well. When we first went to
2 meet with Clarence, I think he had been -- right
3 when we were appointed, he had a driving under
4 suspension or something, so we went to Columbia to
5 SCDC to meet with him. And both just came out
6 like, I cannot believe these charges against this
7 person. I'm stunned. So in that sense, I think he
8 could be compelling. I just think that there were
9 so many efforts that he made in the case to sort of
10 correct his case and to fix it, you know, like
11 leaving a trail of his handwriting that I think
12 that he could be cross-examined and the jury would
13 think, well, no one who didn't do this stuff would
14 do this much to contaminate the case to make it to
15 try to exonerate himself.

16 Q. Okay. Did he make any statements that
17 he was in an organization or some organization or
18 group was after him?

19 A. At some point, I do remember that, yes,
20 but this is not a situation where you meet with
21 him, he's just been, you know, charged with murder
22 and he says, wait, there's this organization after
23 me. I'm not guilty. I have an alibi. I was with
24 my parents. All this stuff developed through three
25 years of representation. This was not something

1 that, you know, was initially told to us.

2 Q. Okay. Did Mr. Jenkins -- did he tell
3 you that he helped Candace dispose of Ms. Harris'
4 body, or did he deny that he had been there
5 altogether?

6 A. I can't remember. I think we were
7 all -- probably both, but I can't remember
8 specifically.

9 Q. Okay. Do you remember him admitting to
10 any part of the crimes?

11 A. No. He was denying them. And it was
12 not admissible in court -- we had sort of -- we
13 even had a polygraph done. Part of the negotiation
14 to get rid of the death penalty was to offer a
15 polygraph with an agreement that it cannot be used
16 by anyone. We thought that would be safe. And
17 then as it turned out, they wouldn't let me in to
18 witness it itself, but some of the pre-questions
19 they were mirandizing him. And I asked them not to
20 because our deal was not to use any of these
21 polygraph questions. And they -- anyway, they
22 stopped at some point, and I think it's because I
23 probably stopped the process of the polygraph, but
24 I can't recall specifically. But I did have in my
25 notes that they were saying he seemed deceptive in

1 even the pre-questions that they give. And I think
2 that's where it got -- I got it pulled where it was
3 like, we're not getting anywhere with this and
4 there's too much risk. But it wasn't like we had a
5 passed polygraph to go with either. I'm just
6 saying that as an addition, that was saying he was
7 showing that he was being deceptive.

8 Q. What do you mean by pre-questions?

9 A. They do -- when you get a polygraph,
10 they'll ask, did you do this? Did you not? But
11 before all that, they'll say what's your name?
12 Where did you go to school? They ask, like, a list
13 of sort of base questions.

14 Q. Okay. Is that something you took into
15 consideration when deciding whether it would be a
16 good idea for Mr. Jenkins to testify?

17 A. Yes. I don't think it was the end-all
18 be-all because they can't use the polygraph. But
19 it certainly is something I would consider. But,
20 also, you know, I was second chair on this. And
21 Mr. Jenkins himself, I mean, he was asked whether
22 he wanted to testify. That wasn't really me. You
23 know, I didn't tell him he can't testify. It was
24 just we all agreed that he wouldn't do a good job.

25 Q. So when you say that Mr. Jenkins denied

1 everything, what did he deny? Did he say I wasn't
2 there; I didn't kill her, but I did this? I'm
3 trying to narrow down to nail this down. What is
4 it that he denied?

5 A. I don't recall exactly. I don't make
6 it my practice -- when I have a client who is not
7 going to plead or admit guilt at all and we're
8 going to talk, I usually don't spend a lot of time
9 breaking down exactly what they did and didn't do
10 because at this point, I don't care. I'm just
11 trying to defend the case the best I can.

12 Q. Okay. So you mentioned about having
13 the family members sign these affidavits. Was that
14 in preparation for trial, or was that for use in
15 negotiations with the solicitor's office to
16 withdraw the death penalty?

17 A. I think it was just in general to get
18 it, but it was trying to get them to withdraw the
19 death penalty. I don't think the death penalty had
20 been withdrawn at that point, and I was trying to
21 do anything or get anything. We offered up a lie
22 detector test. We were doing anything we could try
23 to do to make the State not have this as a death
24 penalty case.

25 Q. Okay. Did you intend to call his

1 sisters and mother as alibi witnesses at trial?

2 A. We would have discussed that, but, no,
3 we did not have any intent one way or the other at
4 that point. I think the trial was three or
5 four years off, so it was still a death penalty at
6 that point. We would have probably called them
7 certainly as social witnesses in the penalty phase
8 of a death penalty. So at that point, that's where
9 we were.

10 Q. Is it unusual for you in criminal
11 defense practice to list witnesses on a witness
12 list but not to call them in the end?

13 A. No. We do that all the time.

14 Q. Okay.

15 A. It's to leave things open. You know,
16 with that being said, it's been -- again, this case
17 is so old. But when we were thinking about as a
18 death penalty case, it's a little different in how
19 you think about it. So it can -- having alibi
20 could have been a factor then. We just didn't have
21 all the evidence.

22 Q. Did Mr. MacDougall consult with you
23 about his opening statement, what he planned to
24 say?

25 A. I don't think so, no. I think he said

1 or did it beforehand and said he had done it. I
2 think that was it. I just don't recall that.

3 Q. Okay. Are you familiar with someone
4 named Ronnie Mitchell?

5 A. That doesn't ring a bell. Could be.
6 I'm terrible with names.

7 Q. Do you recall being aware of someone
8 who allegedly would testify that Ms. Harris had
9 been seen somewhere in the public during the time
10 window in which the State alleged she had been
11 kidnapped?

12 A. I don't recall that, but it's certainly
13 possible. It's been a long time.

14 Q. Okay. Is that the sort of thing that
15 you would have used in Mr. Jenkins' defense, or
16 would you have rejected that as not useful?

17 A. I don't really know. It's difficult
18 with this case with an on-or-about kind of
19 indictment where Ms. Harris, Mekole's body, wasn't
20 found for a year or more. I mean, it did not have
21 an exact time of death that I recall other than
22 what Carman ended up saying whenever she turned and
23 led them to the body like a year or two years
24 later. So I think that time of death was a very
25 open question there. So I don't know if someone

1 saying, oh, on Saturday afternoon, I saw her, so
2 she couldn't have been killed that day wouldn't be
3 helpful because it could have been at any time.
4 And obviously she was killed.

5 Q. Did you consider using Mr. Jenkins'
6 family members to put on the stand to contradict
7 Carman's testimony about their relationship or his
8 actions during this time window?

9 A. I don't remember. I just would say
10 probably not because sometimes when there's been so
11 much out there, all the things, Carman's testimony.
12 There was a lot of stuff in there. And to come in
13 and say, you know, well, she didn't give good care
14 to one of the kids. You know, a lot of the stuff
15 that she can say about Carman, I didn't think that
16 would be a powerful witness position, especially
17 when you're giving up putting up no defense and
18 getting final closing versus coming up and saying,
19 you know, Carman didn't tell the truth about one
20 little tiny thing. I didn't think that would bring
21 the whole testimony into question enough to be
22 worthwhile.

23 Q. Was it important to you,
24 Mr. MacDougall, and Mr. Mauldin to have final
25 closing?

1 A. That was really Mr. Mauldin's thing.
2 It's always nice to have final closing. I mean, if
3 the State puts up a compelling -- generally the way
4 I sort of measure things, if I feel like there's a
5 good chance that you can win a case with final
6 closing, that's a good way to go. If the case is
7 just terrible and you're desperate and you have to
8 put up your -- if you have testimony that you want
9 to put up or you need to put up something, that's
10 when you rethink whether you're going to put up
11 witnesses or not.

12 Q. Do you remember having any problem with
13 the State's amending the indictment on the date of
14 trial to change the date from April 10th to
15 April 6th?

16 A. You know, I saw that. And I couldn't
17 remember it happening. I think that would be
18 something that team MacDougall would look into. I
19 mean, that's where you have the paralegal and five
20 underling lawyers and they look into that and see
21 if it's enough. Usually my gut on that with
22 changing the date in an on-or-about situation, I
23 think if we wanted a continuance of the trial,
24 that's what you'd get if he objected to the
25 indictment. They would just, okay, we'll reindict

1 and you'll be trying this case in a month. I
2 didn't -- and I thought it was quite likely that
3 Judge Miller wouldn't care and just keep it there.

4 Q. Okay. Do you feel like you had enough
5 notice from the indictment and the discovery to
6 prepare a defense for Mr. Jenkins?

7 A. Yes. And I think that would have been
8 Judge Miller's reasoning. If we moved to change
9 the indictment, he would have said, you know full
10 well when this happened. This did not prevent your
11 ability to prepare the case, this change in the
12 date of the indictment.

13 Q. Okay. Did you see any reason to
14 challenge the indictment based upon the possibility
15 that it may have been supported by hearsay before
16 the grand jury?

17 A. No. That issue has been litigated and
18 has been lost a number of times. And just another
19 thing on the indictment -- again, it's so long ago,
20 I don't have a super specific reference. But
21 sometimes if I feel like something is wrong with an
22 indictment, under recent case law, I will not say
23 anything ahead of time and hope they just try the
24 case with the wrong indictment. And then you have
25 something to come back later and say, wow, that was

1 -- you know, there's a problem. But if they
2 correct it beforehand or -- sometimes that's the
3 thing to do, and I don't remember if I had done
4 that or not at the time.

5 Q. One moment, please. No more questions.
6 Thank you.

7 THE COURT: Cross-examination?

8 MS. HENRY: Thank you, Your Honor.

9 CROSS EXAMINATION

10 BY MS. HENRY:

11 Q. Okay. So, Susanna, both Mark
12 MacDougall and John Mauldin both testified that you
13 were the person that handed all these fact
14 witnesses, that you were the one that did the
15 interviews with potential alibi witnesses and, like
16 you testified before, kind of did the followup on
17 people that came up related to this alibi including
18 his family. Is that accurate?

19 A. To some degree. A lot of that was
20 through Jan and Tracy. Their job as the
21 investigator and social worker was to meet with
22 family members more so than my job because it was a
23 social history thing. So they went and met --
24 there were times with when I didn't meet with
25 family members when they did. But, yes, as far as

1 the three lawyers, I was the one doing point with
2 the social witness history.

3 Q. And then as far as the investigators,
4 you would have been the attorney in charge of their
5 work product?

6 A. Yes.

7 Q. Okay. And Mauldin also testified that
8 the case strategy for Clarence's defense team was
9 twofold. One, to discredit the codefendant's
10 story. So that would be Carman Jenkins. Discredit
11 her version of events. And then, two, to
12 demonstrate that Clarence Jenkins was a follower.
13 Would you say that's accurate for what your defense
14 strategy was?

15 A. I guess so, yeah. I mean...

16 Q. Okay. I mean, do you disagree with it?

17 A. No.

18 Q. Okay. Great. All right. So Carman --
19 you mentioned before there were a couple of points
20 of independent timeline reference. So, for
21 instance, I think there was a Labor Finders
22 reference, is what Mauldin testified to. There was
23 the library visit that was on film on Sunday. And
24 then there was potentially a third party that
25 claimed that they saw Clarence out at the grill, I

1 think, either Sunday on Monday.

2 A. Right. And there could have been more
3 than that. I just -- I did not redo this trial or
4 re-prepare and go over all the facts again, so
5 there could be more. You know, I know there was at
6 least that.

7 Q. Okay. The majority of the timeline for
8 when all this happened was provided by the
9 codefendant, Carman Jenkins. Would you say that
10 that's accurate?

11 A. Yeah, probably so.

12 Q. All right. Okay. So you testified a
13 minute ago that you did --

14 A. Actually, let me rephrase that.

15 Q. Sure.

16 A. We had Mark MacDougall. Their firm had
17 prepared, you know, an 11-page chronology that went
18 through all the discovery and network back and
19 forth. So going through this, it's not all what
20 Carman said. This was prepared before Carman. It
21 was just everywhere, the whole chronology, the
22 whole timeline, everywhere he had been. And then I
23 created a second timeline of my own. So I don't
24 think it's fair to say that Carman created the
25 whole timeline by her statement because a lot of

1 these were done before her statement even happened.

2 This was just --

3 Q. Carman also gave a statement to police.

4 Right?

5 A. That's true.

6 Q. All right. And did that form the basis

7 for your timeline?

8 A. No.

9 Q. It didn't? What did then?

10 A. Incident reports, where things were
11 discovered, what other witnesses said. Everything.
12 It was part of the timeline. Everything in
13 discovery became the timeline. It wasn't just what
14 Carman said.

15 Q. Okay. Was there anything in forensics
16 that formed a portion of the timeline?

17 A. I don't think so, no.

18 Q. Okay.

19 A. I can't remember any of that about the
20 case. I can't remember whether the autopsy gave a
21 time of death or not. I don't think it did, but I
22 didn't review any of that.

23 Q. Okay. And then the other people that
24 testified at the trial as to independent pieces of
25 the timeline would have been, at least as far as

1 what I've read, is the person from the library, the
2 person from Labor Finders, and the woman that
3 testified that she saw Clarence out at the
4 barbecue. The rest of the timeline was provided by
5 -- via Carman Jenkins' testimony?

6 A. Uh-huh (affirmative).

7 Q. Okay. All right. Moving forward, you
8 testified that you remember Jamese Gibbs and that
9 you remember her as Clarence's sister?

10 A. Yes.

11 Q. And that you did speak to her?

12 A. I believe we went to her house.

13 Q. Okay. So you interviewed her as a
14 potential witness. Would it surprise you to find
15 out that she had testified that she met with either
16 you or members of your team several times to go
17 over a timeline for her.

18 A. No, that wouldn't surprise me. The
19 timeline part would surprise me. A lot of it was
20 social history because it was a death penalty case.
21 So at that point, we are asking what happened when
22 Clarence was a baby. He had some illnesses. He
23 has some different stuff. So a lot of that was the
24 start of it that I recall more. I don't recall so
25 much sitting, with her going over a timeline.

1 Q. And, Susanna, do you remember when the
2 death penalty notice was removed?

3 A. No, I don't. It was sometime after Bob
4 Ariail left as the solicitor, so 20 -- I think we
5 were a year or two in.

6 Q. Okay. So it was removed at least by
7 the year that this case was tried?

8 A. Yes.

9 Q. So 2012?

10 A. Yes.

11 Q. So sometime before then?

12 A. Uh-huh (affirmative).

13 (APPLICANT'S EXHIBIT 2, EMAIL FROM
14 SUSANNAH ROSS, marked for identification.)
15 BY MS. HENRY:

16 Q. All right. I'm going to hand you this
17 piece of paper marked Plaintiff's Exhibit 2. Just
18 take a look at it.

19 A. Okay.

20 Q. I just want to ask you about -- do you
21 recognize it?

22 A. You know, yes. I mean, I recognize
23 what it is. I don't, in fact, have an independent
24 recollection of sending that.

25 Q. That's okay.

1 A. But I'm sure I did.

2 Q. Okay. Will you tell the Court what it
3 is?

4 A. It's an email from me saying I met with
5 Jamese and Shanek yesterday and gave them some
6 subpoenas. They are on board with testifying and
7 plan to come on April 9th.

8 Q. Okay. Great. Thank you.

9 MS. HENRY: And I'll ask that this be
10 admitted as Plaintiff's Exhibit 2.

11 THE COURT: Any objection?

12 MR. SMITH: No objection.

13 THE COURT: All right. Applicant's
14 Exhibit 2 is admitted into evidence without
15 objection.

16 (APPLICANT'S EXHIBIT 2, EMAIL FROM
17 SUSANNAH ROSS, admitted into evidence.)

18 BY MS. HENRY:

19 Q. All right. And the reason I'm asking
20 you about that is because by the time that you sent
21 this email to, it looks like, John Mauldin, the
22 death penalty had already been withdrawn.

23 A. Okay.

24 Q. Right? So you would not have been
25 talking to them in order to get a social history

1 anymore.

2 A. Okay.

3 Q. You would have been interviewing them
4 as actual witnesses.

5 A. Okay.

6 Q. So I'm asking if you remember the
7 conversations that you reference having with Jamese
8 Gibbs and Shanek regarding testifying at the trial?

9 A. No.

10 Q. Okay. That's all right. So Jamese
11 Gibbs testified yesterday that Clarence was living
12 with her and not with Carman during the time this
13 occurred. She also testified that Clarence was at
14 her home until at least 7:00 PM on April 4th, the
15 night that Carman claimed that the victim was
16 kidnapped.

17 A. Uh-huh (affirmative).

18 Q. She also testified that Clarence was
19 also at her home from the time that Carman dropped
20 him off and go into the library until 7:00 PM on
21 Sunday, that Clarence had a 6th grade education,
22 and that Clarence was not obsessed with Grace, that
23 that was a Carman issue. And she kind of fleshed
24 all this out a little further.

25 A. Uh-huh (affirmative).

1 Q. Is that consistent with the
2 conversations -- although obviously she didn't
3 testify to it, that's what she testified to
4 yesterday. And it's your testimony today that you
5 don't recall your conversations with her in
6 anticipation of trial?

7 A. I don't specifically recall them. That
8 does not surprise me. We talked a lot about, you
9 know, Carman, that the whole point was Carman was
10 in control and had this other person living with
11 them and kind of ran the show. And that was really
12 the defense in the case.

13 Q. Okay. So that was the defense in the
14 case. So all of these statements pretty much
15 directly contradict Carman Jenkins' testimony and
16 her timeline. Do you not think that that would
17 have been key and very helpful to the defense's
18 stated strategy defense?

19 A. It would have been if there weren't
20 other problems with that. There were too many
21 holes in her timeline, and being related -- it was
22 her brother -- and the recollection was from a long
23 time ago. I did not think that was a great
24 defense. And, again, there were three of us on the
25 team doing it, so it could have been different

1 decisions. But if we had felt like this is the
2 biggest loser case, the jury is going to be out for
3 three seconds unless we do something, those
4 witnesses were there to present an alibi. But
5 since we felt that there were a lot of holes in the
6 alibi and a lot of problems, we didn't use those
7 witnesses. And some of the problems were -- I
8 mean, I just noticed in my timeline -- let's see.
9 There was an application for the SunTrust Bank. I
10 had notes: Clarence says bought six pounds of
11 marijuana and left at Tindal Street. He had two or
12 three phones. And that was just -- I did some
13 notes about what he said there. On Saturday, they
14 checked the email account registered to Grace, and
15 then they checked the library Sunday at 3:15. I
16 just didn't think -- I thought that there were
17 going to be problems showing that timeline. And
18 for me -- I can't remember -- I don't want to say
19 for sure. But the exact time of death, I don't
20 think that was dispositive in this case. In other
21 words, if you could have said Clarence was right in
22 front of me, here's a video at 3 o'clock on
23 Saturday, I think there were -- I think there was
24 -- time of death was kind of -- could have been
25 different times of death.

1 Q. So I'm going to ask you really quickly
2 about Shanek Robinson as well. So yesterday she
3 testified that Clarence was living with Jamese and
4 not with Carman which contradicted Carman's
5 testimony. She testified that Carman was the
6 violent one and not Clarence which also
7 contradicted Carman's testimony. She testified
8 that Carman had actually given Clarence a black eye
9 which also contradicted Carman's testimony. That
10 Clarence was not tech savvy and had a 6th grade
11 education which also contradicted Carman's
12 testimony. And that Clarence also had a history of
13 fainting and passing out in the face of, like,
14 medical extremes. So blood, broken bones, that
15 type of thing, which directly contradicted Carman's
16 testimony. And I know that you've already
17 testified that you don't remember speaking with
18 Jamese, so I'm not going to ask if that's
19 consistent with her conversations with you. But
20 given that's what she's testified to under oath
21 here, I think we can assume that it would have been
22 something similar. Do you not think that those
23 statements directly contradicting Carman, her
24 timeline, and her depiction of her relationship
25 with Clarence, given that your strategy was to show

1 that he was a follower and to discredit Carman,
2 that those would have been an important -- that
3 would have been an important witness?

4 A. If I didn't think that it could go
5 wrong, that would have been an important witness.
6 We were trying this case to win it and were aware
7 or would have been aware -- but I don't remember
8 exactly what those witnesses would have said and
9 didn't think that would be helpful to the case to
10 put up those witnesses. And that's why we didn't
11 do it.

12 Q. Mr. Mauldin and you both said that
13 about trying to win the case. What part of this --
14 it sounds like a slow plea. So the way that it --
15 right? Because you don't have any independent
16 witnesses. You didn't put Clarence up. It was
17 small attacks on Carman about the education, and
18 the idea seems to have been that Clarence was there
19 and participated but was not the leader. So what
20 was -- what was the winning strategy? And if
21 that's what it was, then that's fine. I just want
22 to make sure I understand why you would not have
23 put these people up if there was no way we were
24 winning -- you were winning this with what you had?

25 A. I think if we put up an alibi witness,

1 I think the State could have put up a number of
2 witnesses showing that Clarence was manipulative
3 and he was manipulating the case and sending out
4 fake letters with fake alibis. And, there again,
5 like I said in the beginning, all the letters,
6 which these letters that went out were -- the case
7 was all about this. So I think putting them up
8 would have opened the door to that. Now, if I'm
9 wrong there, then okay. But I think if we had put
10 them up, I think that could have certainly brought
11 out a rebuttal of these people if not cross-
12 examination with that. So that's what I was
13 worried about. I thought that would have blown the
14 case up, and I think Clarence would have lost
15 100 percent if we had done that. And that's why we
16 didn't.

17 Q. Okay. Susanna, thank you so much. I
18 don't have any other questions.

19 THE COURT: All right. Any redirect?

20 MR. SMITH: Yes, sir.

21 REDIRECT EXAMINATION

22 BY MR. SMITH:

23 Q. Ms. Ross, regardless of what
24 Mr. Jenkins' sisters told you during whatever
25 conversations are referenced in that email I think

1 is Plaintiff's 2, you had already -- correct me if
2 I'm wrong. You had already formed an opinion that
3 they would not be good alibi witnesses. Is that
4 right?

5 A. I thought they would be fine witnesses.
6 I just thought that -- I mean, I think they're nice
7 people. I'm sure they were great yesterday. I
8 just didn't think that -- I thought that that could
9 bring in issues that the State could poke holes in
10 the alibi and then get up in closing and make us
11 look bad.

12 Q. And you had already formed an opinion
13 that they had incomplete -- they offered an
14 incomplete alibi?

15 A. Yes.

16 Q. Okay. No more questions. Thank you.

17 THE COURT: All right. Any recross or
18 anything?

19 MS. HENRY: No, your Honor.

20 THE COURT: Thank you, Ms. Ross.

21 THE WITNESS: Thank you. Should I just
22 leave that stuff there?

23 THE COURT: You want to make copies of
24 those two?

25 MR. SMITH: Yes, Your Honor. The State

1 rests.

2 THE COURT: All right. Why don't we --
3 when we finish up -- the State rests. When we
4 finish up, let's have copies made and then the
5 originals can be given back to Ms. Ross. You want
6 to go ahead? You can do it now if you want to.

7 All right. The State rests?

8 MR. SMITH: Yes, sir.

9 THE COURT: All right. Anything else?
10 Would y'all like to summarize or not? Anything
11 from the Applicant?

12 MS. HENRY: Your Honor, I did just want
13 to make sure that we had made -- and I'm sure it
14 probably already is automatically, that we had
15 made -- I did a lot of referencing to the
16 transcript. And I just want to make sure that
17 that's part of the record.

18 THE COURT: Referencing to the
19 transcript?

20 MS. HENRY: The trial transcript, Your
21 Honor.

22 THE COURT: All right. And you're
23 talking about in your examinations when you were
24 referencing the transcript.

25 MS. HENRY: Yes, sir. And I did it

1 assuming -- because we normally make the trial
2 transcript a part of -- like, an exhibit of the
3 record at the beginning. I wasn't sure if we had
4 done that. I just want to make sure that we had
5 because I didn't...

6 MR. SMITH: We can do that.

7 THE COURT: Yeah, I don't think it has
8 been made part of the record yet. Unless there's
9 any objection from the State.

10 Is there any objection from the State?

11 MR. SMITH: No objection.

12 THE COURT: All right. So we'll admit
13 that. Do you want to admit that as part of the
14 Applicant's case?

15 MS. HENRY: Sure. That's fine, Your
16 Honor.

17 THE COURT: Or a joint exhibit?
18 Whatever you want to do.

19 MR. SMITH: Either way.

20 MS. HENRY: Either way.

21 THE COURT: Why don't we just make it
22 as a joint exhibit to the Court, so we'll do that
23 Joint Exhibit Number 1, Susan.

24 (JOINT EXHIBIT 1, TRIAL TRANSCRIPT,
25 marked and entered into evidence.)

1 MS. HENRY: Thank you, Your Honor.

2 MR. SMITH: Can we just also note the
3 appellate briefs and opinion just by reference or
4 something, just that they'll be part of the record
5 too?

6 THE COURT: Do you want to make those
7 part of the record then?

8 MS. HENRY: I mean, we didn't call them
9 as a witness, and no one referenced any of the
10 appellate briefs or decisions in any of their
11 arguments, so I don't see --

12 THE COURT: I don't think -- Mr. Smith,
13 what would the relevance of making the appellate
14 briefs part of the record? I mean, they're part of
15 the trial record obviously.

16 MR. SMITH: I think they're for Your
17 Honor to take into consideration for whatever value
18 they may have in considering the issues in the
19 case.

20 MS. HENRY: I feel like they weren't
21 submitted to the Court. And this is probably
22 pointless. They are part of the trial record.
23 They're there for you to reference, but neither of
24 the parties referenced them. The appellate counsel
25 wasn't called as a witness, and, you know, no one

1 attempted to introduce any information from them.

2 THE COURT: Yeah, I don't think they've
3 been introduced. I've read them. I read the file.

4 MR. SMITH: That's good enough.

5 THE COURT: But they've not been
6 referenced or made part of the record, so I won't
7 admit those in the record. I've actually read the
8 file.

9 MR. SMITH: That's good enough.

10 MS. HENRY: And, Your Honor, I did just
11 want to reference for the record as well that the
12 statutes that I was referring to when discussing
13 the indictment with John Mauldin was South Carolina
14 Code Section § 17-19-100 and South Carolina Statute
15 § 17-19-30.

16 THE COURT: Okay.

17 MS. HENRY: I think I did reference
18 them, but I wasn't sure if I made that clear.

19 THE COURT: All right. Do either one
20 of you -- do you want to give any closing? I mean,
21 I'm familiar with what's happened, but I'll give
22 you certainly the opportunity if you want to do any
23 summary. Do either one of you want to?

24 MS. HENRY: Your Honor, just really
25 briefly. As we discussed with all the witnesses,

1 the offense date on the indictment issue. The
2 offense date on the indictment was April 10, 2008.
3 It was certified by the grand jury using testimony
4 that was provided by the State with, according to
5 them, a hearsay police officer that then later did
6 not testify at the trial. It was the certified
7 date provided by the grand jury. The date that it
8 was changed to on the indictment was April 6th.
9 And I just want to know did the offense date on the
10 arrest warrant provided by the same officer that
11 allegedly testified at the grand jury proceeding
12 was April 7th on the warrant.

13 Section § 17-19-100 deals with these
14 indictment changes. Only the Court can make this
15 change, and only if the change does not change the
16 nature of the offense charged and does not present
17 any kind of surprise. It would be our position
18 here that the testimony from all the witnesses was
19 that this offense was alleged to have occurred
20 between April 4th and April 7th. The grand jury
21 indicted on an April 10th incident day. That's
22 really a large difference. That's four plus days
23 difference between the date, what the date was
24 eventually changed to, and it's different from the
25 day on the warrant which was signed -- which is an

1 affidavit that was signed by the same person that
2 testified allegedly at the grand jury. It would be
3 our position that given the large difference in
4 time, the date and time that it was changed, which
5 would be the eve of trial, that the defense team
6 should have asked for a continuance and
7 reformulated the potential alibi situation or at
8 least requested that the grand jury come back and
9 find out whether or not the State could indict on
10 an April 6th offense date.

11 And as to the rest of this, as to the
12 rest of it, you know, Your Honor, you've heard all
13 of the testimony related to the potential
14 witnesses. And I do want to emphasize that we
15 modified our argument at the beginning to include
16 not just that they should have been called as a
17 total alibi witness, but that they should have been
18 called to impeach Carman Jenkins which was the
19 State's entire case. She provided the majority of
20 the timeline. Nothing that was outside of Carman
21 Jenkins proved anything other than that Clarence
22 Jenkins was at the library and was grilling.

23 THE COURT: Ms. Henry, don't you think
24 that if those alibi witnesses were called that it
25 would totally have destroyed the defense's case?

1 The holes that they could have poked on
2 cross-examination and the evidence that could have
3 been bought out in response to the alibi witnesses,
4 do you not think that that would just have really
5 shut the door on the defense or at least provided a
6 just extremely strong case for conviction in this
7 case?

8 MS. HENRY: So are you talking about
9 the letters that Susanna --

10 THE COURT: And it was a year and a
11 half before they came forward. Now, let me -- a
12 year and a half. All of a sudden a year and a half
13 later, oh, by the way, they were -- he was at our
14 house, and he was living there. And one of the
15 witnesses, one of the sisters said, I went to work
16 in the morning and came back to work late in the
17 afternoon. So she was gone the whole day. And the
18 library testimony, the seeing him on the grill.
19 And had that evidence being put up, do you not
20 think that would have just really harmed the
21 defense's case?

22 MS. HENRY: So all of the evidence that
23 you're referencing already came in. And I don't
24 believe that any of the testimony from James Gibbs
25 or from Shanek Robinson contradicted the

1 independent spottings of Clarence. They didn't
2 contradict that he went to the library. They
3 didn't contradict that he was there at the grill.
4 What it did was contradict Carman Jenkins' timeline
5 and her credibility. And so I do think that given
6 what the defense had and given the fact that Carman
7 Jenkins' credibility was already pretty compromised
8 by the deal she'd made with the State that it might
9 have been effective in at least getting a mistrial
10 or having the jury conclude that they couldn't
11 trust her. And since the majority of the timeline,
12 who killed her, all of that, everything internal
13 certainly to the trailer was coming from the
14 codefendant. I do think that impeaching Carman's
15 reliability and her version of events would
16 potentially have changed the outcome of the trial.

17 But I understand everything you're
18 saying. I do. That's all we've got. Thank you,
19 Your Honor.

20 THE COURT: All right. Thank you.

21 Yes, sir?

22 MR. SMITH: And, Your Honor, I'll just
23 try to go quickly and in order. The first issue
24 would be the alibi witnesses. I think regardless
25 of what they said here today, the two sisters, all

1 the lawyers gave good reasons for not putting them
2 up as witnesses at trial, and they had good reason
3 not to do that. For one, as Your Honor pointed
4 out, they waited so long to come forward with an
5 alibi. None of them could be a complete alibi.
6 They also seemed to apparently contradict
7 themselves over time and said something different
8 this week than they told Ms. Ross when she took
9 those notes.

10 Additionally, what they said
11 contradicted what Mr. Jenkins told Ms. Ross when he
12 agreed with this letter that came in saying that he
13 was in Florida. That's another reason for her to
14 not put up an alibi defense because very suspicious
15 circumstances. After she has this conversation
16 with Mr. Jenkins in which she gives an example of
17 his being in Florida, she gets a suspicious letter
18 that is even more suspicious after the
19 investigation is done into its source. So she
20 projects that he can't really put an alibi defense
21 up. I think the clear implication from that is if
22 she believes he was manufacturing an alibi, then --
23 so they had good reasons for not putting them up.

24 Also, I think even this week there's
25 good reason not to -- for Your Honor to find that

1 the alibi witnesses wouldn't have been helpful to
2 Mr. Jenkins. None of them were there the whole
3 time. Their memories were not so great. I guess
4 understandably, it's been so long. One sister had
5 only been there one day that week, and then the
6 other sister couldn't remember some details but
7 strangely she remembered very specific times about
8 when she was at work. But I think even then she
9 still contradicted some of what she said about
10 that. And then -- so those are the alibi
11 witnesses.

12 The next issue would be the opening
13 statement. I think it seems clear in this case
14 that Mr. Jenkins had made statements that could be
15 considered fantastical. I think Mr. MacDougall was
16 trying to put a benign characterization on that in
17 anticipation that those things could come out in
18 evidence at trial, to lessen the blow so to speak.
19 And it seems clear in this case that they all
20 believed that Mr. Jenkins had made some sort of
21 bizarre statements over time, so I don't think
22 that's a big problem.

23 We had one witness who said he saw
24 Ms. Harris during this time even though -- he, of
25 course, had a felony conviction on his record.

1 Also could have been impeached with a previous
2 felony conviction at the time of trial. I will
3 note for Your Honor that according to the
4 sentencing sheet that was admitted in that case
5 that his address at the time of that -- I believe
6 it was a 2016 conviction -- was Tindal Road. And
7 it had a lot number on it which sounds like a
8 trailer park address. So I think that, you know,
9 there's some circumstances there which it would be
10 reasonable to question whether he lived near
11 Mr. Jenkins or knew him is, you know, quite strange
12 that he would live on the same street and in a
13 trailer park on that street.

14 But anyway, moving on to the issue of
15 the indictments. All the lawyers agreed they
16 didn't see any problem with this. They felt
17 prepared for trial and they understood what the
18 issues would be. And cause of death and I think
19 even date of death, they don't have to be elements
20 the State has to prove. And I know that because
21 you could have a circumstance in which you had no
22 idea when someone had died, but you could still
23 prove they were guilty of murder. You sort of give
24 a time window. You don't have to know a specific
25 date when someone died. Regardless of the

1 amendment, they were aware of the situation and had
2 discussed that they felt prepared to represent
3 Mr. Jenkins. And if they didn't feel alarmed at
4 the day back then, I don't think we should take
5 issue with it today. They've given good reasons
6 for believing that.

7 There's some authority out there for
8 why an indictment is fine even if it's based on
9 hearsay. I point Your Honor to US Supreme Court
10 opinion *Castella v. United States* -- the case
11 number is 350 US 359 -- where they note that all
12 the evidence before a grand jury in that specific
13 case was hearsay and felt that regardless they were
14 not -- that it was not a requirement under the
15 Fifth Amendment that all evidence before the grand
16 jury be tried by competency and adequacy. And our
17 South Carolina Supreme Court has adopted that in
18 various cases as has the Fourth Circuit Court of
19 Appeals. For example, *Jones v. Taylor*, 547 F.2nd
20 808, and the Fourth Circuit said: It is settled
21 that a bill of indictment based on hearsay
22 testimony does not violate any constitutional
23 right. And in *State v. Williams*, a South Carolina
24 Supreme Court case, 263 SC 290, the Supreme Court
25 said: While adopting the holding in *Costello*, an

1 indictment based on hearsay does not violate the
2 South Carolina Constitution. And our appellate
3 court opinions, quote, preclude inquiry into the
4 factual basis for an indictment by the grand jury.
5 Additionally, the rules of evidence don't apply in
6 grand jury proceedings. And there's Supreme Court
7 case law in South Carolina saying that indictments
8 a notice indictment -- a notice document in 2021.
9 State v. Lewis 434 SC 158, the Supreme Court said:
10 The primary purpose of an indictment is threefold,
11 to put the defendant on notice of the elements of
12 the offense, to allow him to decide whether to
13 plead guilty or stand trial, to enable the trial
14 court to know what judgment to pronounce following
15 a conviction. The threshold for an indictment
16 invalid is generally not high. I think that all
17 that case law is basically dispositive on this
18 point.

19 And finally whether the witnesses'
20 provided testimony could have been used to
21 contradict or impeach Carman's version of events at
22 trial. There was enough outside corroborating
23 evidence that the lawyers reasonably concluded that
24 what his family members may have had to say on was
25 Carman mean or did she do a good job of taking care

1 of the kids would not be enough to overcome her
2 testimony which implicated herself and which
3 matched the specific pieces of evidence out there
4 like the sighting of Mr. Jenkins with Ms. Harris,
5 the witness who saw him burning things in a grill
6 which he testified here this week was he was
7 burning things in the trailer there. His
8 fingerprint was on one of the letters. It was a
9 ransom note that had been going around leading up
10 to the kidnapping. So enough corroboration there
11 that they felt would not be helpful. Particularly,
12 they were afraid of other issues coming in. And
13 I'll state finally, Your Honor -- I'll stress again
14 Ms. Ross said that Mr. Jenkins told her that he was
15 in Florida at the time. She said he also may have
16 told her that he was with his family members that
17 week. But once he contradicts himself on that, I
18 mean, they're not putting up an alibi defense
19 anymore. So I think all of their decisions were
20 reasonable.

21 So any other issues, I'll be happy
22 to...

23 THE COURT: All right. Thank you both.
24 Both of you did a good job. I've read the file,
25 but I'll look at it again and my notes from the

1 hearing today and yesterday and I'll let you know
2 my decision.

3 MS. HENRY: Thank you, Your Honor.

4 THE COURT: Thank you.

5 (The hearing was concluded at
6 approximately 10:50 AM.)

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CERTIFICATE OF REPORTER

I, Renee H. Tollison, Certified
Verbatim Reporter and Notary Public for the State
of South Carolina (Retired) at Large, do hereby
certify that the foregoing transcript is a true,
accurate, and complete record.

I further certify that I am neither
related to nor counsel for any party to the cause
pending or interested in the events thereof.

Witness my hand, I have hereunto
affixed my official seal this 24th day of August,
2023, at Anderson, Anderson County, South Carolina.

S/Renee H. Tollison

Renee H. Tollison, CVR
Official Court Reporter (Retired)
My Commission expires
August 15, 2032