

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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S.C. Supreme Court

Appeal from Spartanburg County
The Honorable Brooks P. Goldsmith, Circuit Court Judge

Appellate Case No. 2013-001284

Circuit Court Case No. 2010-CP-42-4049

NATHANIEL TEAMER,

Respondent,

v.

STATE OF SOUTH CAROLINA,

Petitioner.

**APPENDIX
VOLUME 2 of 3**

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STATEMENT OF ISSUES ON APPEAL**ISSUE I.**

Did trial court err in refusing to sever the burglary first degree charge from charges of felony D.U.I. with great bodily injury and failure to stop when signaled by law enforcement officer with great bodily injury in violation of Appellant's fourteenth amendment to a fair trial pursuant to the United States Constitution.

ISSUE II.

Trial Court erred when the Appellant was not allowed to present evidence that the driver of second vehicle was under the influence of alcohol or drugs at the time of the collision.

ISSUE III.

Whether trial court erred in refusing to grant Appellant's Motion to Sequester three material witnesses, SCRE 615.

ISSUE IV.

Trial Court erred in refusing to allow defense counsel to impeach key State witnesses Erica Gray, Mary Gray and Donald Martin with actual prior inconsistent statements pursuant to S.C.R.E. 801 (d)(1)(A)(C).

STATEMENT OF THE CASE

In May 2006, the Spartanburg County Grand Jury indicted Teamer for burglary first degree, armed robbery, felony D.U.I. with great bodily injury and failure to stop with great bodily injury. On September 10, 2007 Teamer proceeded to trial before Honorable J. Derham Cole. The jury returned a verdict of not guilty of armed robbery. The jury returned verdicts of guilty on other charges. Judge Cole sentenced Teamer to 30 years for burglary first degree, 15 years concurrent for felony D.U.I. and 10 years concurrent for failure to stop. A timely notice of intent to appeal was filed on September 19, 2007. Appellate Defense filed an Anders Brief. The Pro Se Supplemental Brief follows.:

ISSUE I.

The trial judge erred in refusing to sever the burglary first degree charge from charges of felony D.U.I. with great bodily injury and failure to stop when signaled by law enforcement officer with great bodily injury in violation of Appellant's fourteenth amendment to a fair trial pursuant to the United States Constitution.

The Appellant submits that the trial courts failure to sever the unrelated burglary first degree and armed robbery from the DUI and failure to stop constituted an abuse of discretion and amounted to an error of law in violation of State v. Tate, 334 S.E.2d. 289 (Ct.App. 1985).

These charges were separate and distinct offenses that did not arise out of (1) single chain of circumstances (2) were not proved by same evidence (3) were not even remotely of the same general nature (4) and a real right of defendant was prejudiced. See State v. Tucker, 478 S.E.2d. 260 (1996); State v. Middleton, 339 S.E.2d. 692 (1986).

As stated in Appellant counsel's brief (which is incorporated herein by reference) the alleged burglary occurred at 11:00 pm. Two hours later at 1:00 am Appellant was signaled to pull over for unrelated offenses and of course the offenses are not of same nature and were not proved by same evidence.

More cogently the defense to the DUI / Failure to stop was prejudicial. In order to present to the jury that Appellant could have not pulled over based on his intoxication rather than his effort to flee from burglary. The defense would have had to have

admitted to a key element of DUI / Failure to stop in order to negate the inference this was evidence of flight from the burglary rather than flight because of DUI.

Thus, these charges should not have been joined on evidence of flight as evidence of flight was open to various interpretations, one being flight to avoid a DUI as opposed to alleged flight from the burglary. Secondly, the proof of the DUI / Failure to stop was infinitely greater than that of the evidence from burglary and the jury could have interpreted such a reckless disregard to the safety of others meant that he was fleeing from the burglary when it is equally plausible Appellant could have been fleeing only from D.U.I. The prejudicial effect of what amounts to other crimes evidence of reckless DUI / Failure to stop, which occurred two hours later, being admitted in an unrelated burglary is manifest belief that Appellant was in flight from the burglary and had a separate reckless disregard to safety of others in DUI / Failure to stop.

For joinder of offenses to be based on same act or transaction they must be temporarily or logically related. U.S. v. Bullock, 71 F.3d. 171, 174 (5thCir. 1995); U.S. v. Montes-Cardenas, 746 F.2d. 771.

Other than flight from D.U.I. it was also relevant that Appellant was on house arrest this could have been yet another reason he'd fled from police. The connection between the burglary and DUI / Failure to stop was too tenuous to justify a joinder of burglary and dui failure to stop and in order to show he was fleeing either from the house arrest or the dui itself (rather than burglary) he would have to necessarily admit to the

allegation that he did fail to stop but not for reasons stated (i.e.) flight from burglary.

This denied his right to a fair trial and prejudiced his defense. Pursuant to U.S. v. Boizer, 840 F.2d. 1343 cert denied 108 S.Ct. 2022 (CA7 1988) this issue was raised and ruled upon pursuant to SCRE 103 as time to decide whether it is fair to subject defendant to a single trial for a variety of crimes given risk that evidence introduced to support some of those crimes may infect jury consideration of the others is before trial when defendant can complain of misjoinder or move for severance. This, based upon Boizer this issue was raised pretrial, fully argued and ruled upon and is thus preserved for Direct Appeal. SCRE 103.

Appellant further notes that it is "law of the case" that these crimes were "not connected" by Solicitor's own admission (see page 110). Appellant relies on OID Chief v. U.S., 117 S.Ct. 644 (1998) that this other crimes evidence was prejudicial to his right to a fair trial under the U.S. Constitution.

In Lucero v. Kirby, 133 F.3d. 1299, 1314 (10th 1998) citing U.S. v. Lane, 106 S.Ct. 725 (1986) "Misjoinder rises to the level of a constitutional violation only if it results in prejudice so great as to deny defendant his right to a fair trial. USCA 14th". In fact, in Lucero held, "the joinder of multiple offenses in a single trial may result in prejudice to a defendant because "the jury may use the evidence of one of the crimes charged to infer a criminal disposition on the part of the defendant from which is found his guilt of the other crime charged" Drew v. US, 331 F.2d. 85, 88 (D.C.Cir. 1964). The jury may also confuse or "cumulate" the evidence of the various crimes charged and find guilt, when if considered separately it would not so find. Id. See also Herring

11 P.3d. at 377 (discussing potential prejudice from joinder of offenses). Closs v. Leapley, 18 P.3d. 574, 578 (8th 1994)(same). In Lucero, at 1315, "courts have recognized that the joinder of offenses in a single trial may be prejudicial when there is a great disparity in the amount of evidence of the underlying joined offense." (See U.S. v. Foutz, 540 P.2d. 733, 738 (4th Cir. 1976) one danger in joining offenses with a disparity of evidence is that the state may be joining a strong evidentiary case with a weaker one "in the hope that an overlapping consideration of the evidence [will] lead to convictions on both". U.S. v. Clayton, 450 P.2d. 16, 19 (1st Cir. 1971).

And, in Appellant's case while the evidence of failure to stop was overwhelming the evidence of burglary and robbery were weak; (Note Appellant was acquitted of arm robbery and based on I.D. by voice and inference reach from letter).

It is clear the sole connection between the two cases is the "Flight Question", as whether failure to stop is evidence of guilt upon the burglary offense of guilty knowledge to be inferred from flight. When the inference that one who flee's from law is motivated by consciousness of guilt is, at best, a weak inference and strength of inference is further attenuated where defendant has not actively sought to avoid capture. Criminal Law Key 552(2).

It is clear that the evidence of flight could have been from the associated DUI and not necessarily from the burglary. In fact, there is no probative evidence in the record to show that the flight was in anyway connected to the burglary rather than from the traffic violations and DUI. The relationship between the flight and burglary is too tenuous to allow a joinder, and the

joinder too prejudicial to the Appellant and real rights of the appellant were prejudiced. State v. Tate, supra., U.S. v. Lane, supra. U.S.C.A. 14th Amend. See: R.O.A. page 11, line 16 - page 31, line 10. This issue was raised and ruled upon by the court, renewed at R.O.A. page 471, 1:24 - page 472. 1. 2.

ISSUE II.

Trial Court erred when the Appellant was not allowed to present evidence that the driver of second vehicle was under the influence of alcohol or drugs at time of the collision.

At page 308, line 11; trial counsel states, "The victim is going to testify, I assume, in the felony D.U.I. and I want to put this on record".

I would like to introduce some evidence of the victims alcohol intoxication that night. I want to get into that a little bit in my cross. So I'd like a ruling on that.

It's highly relevant to what caused the wreck in the first place, and especially when I believe that the direct testimony of Officer Evett will reveal that he did not see the wreck happen and his testimony will be inconclusive as to what actually caused the wreck.

The court at pg. 311, line 16 sustained the objection and would not allow Appellant to introduce evidence of victim's alcohol level to show it was possible victim's intoxication caused the accident. Yet in closing arguments the solicitor at pg. 434 line 3, that "Mr. Young (victim) had nothing to do with this, absolutely nothing. And at pg. 340, line 21; David M. Evett (Police Officer) testified, "I couldn't see if he crossed the center line because I couldn't see his car".

Clearly, evidence that the victim was (A) under the influence of alcohol or drugs was relevant to who was at fault for the collision and (B) could have been utilized to prove that the proximate cause of the crash was that of impaired victim crossing over the center line.

In State v. Schmidt, 342 S.E.2d. 401, 401(1986) evidence is relevant if it tends to establish or to make more or less probable some matter in issue upon which it direct or indirectly bears. See S.C.R.E. 401. The fact in dispute at trial was whether Appellant's intoxication and failure to stop was the cause of victim's great bodily injury - the fact that the victim was also under influence of alcohol or drugs was relevant to who caused the accident that resulted in his bodily injury. At 263-265 Dwayne Darrity testimony as to who caused the accident is speculative, based on hearsay, and is not supported by accident reconstruction. Pg. 266, line 6-11. In fact, David Evett; ROA 351, line 9, Q. "that you do not know who caused the accident. A. Right. I do not know. At ROA 310. Dwayne Darrity at ROA 266, line 1, who testified he was not at the scene of accident. line 1-5. Q. And the only really investigation you did that you found marks over the center line. Okay. Did you match them up with Charlie Teamer, that the car was being driven by Charlie Teamer, on that night? What I'm asking you is did you do an accident reconstruction. A. No, we did not. Thus, the trial court violated Appellant's right to present a defense to a key element of the offense - causing "Great Bodily Injury"-via D.U.I.- fail to stop pursuant U.S.Const. 6th Amendment. Rock v. Arkansas, 483 U.S. 44(1987).

The exclusion of this evidence was "arbitrary and disproportionate". Quinn v. Hayes, 234 F.3d. 837,849(4th Cir.2000). The evidence of victim being intoxicated was especially probative as the Appellant's alcohol level was only .02 (legal presumptive level being .08) as to who caused the accident - (e.g.) going directly to a key element of the offenses as set forth in the jury charge at ROA 454-455 "that the defendant in the

driving of his motor vehicle while under the influence did some act forbidden by law or neglected some duty imposed by law in the operation of that motor vehicle and lastly, that the forbidden act or neglect of the duty proximately caused the great bodily injury to a person other than himself".

The intoxication of victim could have led a reasonable fact finder to find there was reasonable doubt as to proximate cause of the accident. There is no probative evidence in the record Appellant crossed center line, that coupled with the victim's intoxication created a legitimate defense that was not allowed to be presented. U.S.C.A. 6th Amend, Rock v. Arkansas, supra.

ISSUE III.

Whether trial court erred in refusing to grant Appellant's Motion to Sequester three material witnesses. SCRE 615.

At R.O.A. pg.50, 1.19 - pg.54, 1.16; trial counsel requested that the three victims (Material Fact Witnesses) be sequestered. The trial court denied this motion.

These three witnesses Erica Gray, Mary Gray and Donald Martin, were sisters, mother and son, respectively, and alleged victims and witnesses of the burglary. (Appellant was acquitted of the robbery). And it was these witnesses testimony that formed the very foundation of the States case.

It must be noted that initially none of these witnesses in their written statement named Appellant even though they all knew Appellant(i.e.)(R.O.A. pg.135, 1.24 - pg.136, 1.5, R.O.A. pg.172, 1.16-25, R.O.A. pg.192, 1.6-15).

The trial court allowed these witnesses to be present during each others testimony because they had given written statements to Police. (R.O.A. pg.54, 1.9-13). Appellant asserts this was an error of law, violation of SCRE 615, which states:

At the request of a party the court may order witnesses excluded so they cannot hear the testimony of other witnesses and it may make the order of its own motion. This Rule does not authorize exclusion of a party who is a natural person. An officer or employee of a party which is not a natural person designated as its representative by its attorney or a person whose presence is shown by a party to be essential to the presentation of the partys case.

SCRE Rule 615 makes no exception to a victim witness, which

seemed to be the basis of the Solicitor's motion that the victim had a right to be present while other victims testified (R.O.A. pg.51, l.11).

Appellant asserts based on the inconsistencies in the written statements of the witnesses and the inconsistencies of their testimony (R.O.A. ppgs. 117 - 199) it violated his due process right to a fair trial under the Fourteenth Amendments U.S. Constitution to allow these victims, who are also family members, to be present while each of them testified to tailor their testimony.

"There is a strong presumption in favor of sequestration of witnesses", U.S. v. Jackson, 60 F.3d. 128(2nd Cir.1995) citing Geders v. U.S., 96 S.Ct. 1330,1335 (1976); "The Supreme Court observed this practice, which goes back to our inheritance of the common Germanic Law, serves two purposes' it exercises restraint on witnesses tailoring their testimony to that of earlier witnesses and it aids in detective testimony that is less than candid". See; Holder v. U.S., 14 S.Ct. 10 (1893).

These witness could only testify that they reconized the "voice" of Appellant and otherwise could not I.D. the suspect and again did not I.D. Appellant in the initial written statements. For these witnesses to be allowed to sit in the Courtroom and hear other witnesses position how they could I.D. his voice was fundamentally unfair and denied Appellant a fair trial and was not "harmless beyond a reasonable doubt". Chapman v. California, (cite)

In State v. Saltz, 551 S.E.2d. 240 (SC 2001) the Supreme Court held, decision whether to order sequestration is in the sound discretion of the trial court.

Appellant submits it was in fact an abuse of discretion to not require these material fact witnesses to be sequestered based on court ruling that since witnesses had given written statements they should not be sequestered. Fontaine v. Pietz, 354 S.E.2d. 565 (SC 1987) held, abuse of discretion occurs where the trial judge ruling is based on an error of law or when based on factual conclusion, are without evidentiary support.

Clearly, Rule 615 provides no support for the basis of the trial court's ruling (witnesses providing written statements) and thus the court's ruling, outside of Rule 615, is based on an error of law and prejudice to Appellant is manifest unto itself.

ISSUE IV.

Trial Court erred in refusing to allow defense counsel to impeach key state witnesses Erica Gray, Mary Gray and Donald Martin with actual prior inconsistent statements pursuant to S.C.R.E. 801 (d)(1)(A)(C).

The foundation of the states case was the voice identification of the Gray family, Erica Gray, Mary Gray and son Donald Martin (R.O.A. pg. 119-199). In the initial statements to police neither of these three witnesses ever identified defendant Nathaniel C. Teamer by name as the person who entered the dwelling. Yet at trial these witnesses consistently stated they did so (in their statements) even though they did not do so and these statements made went solely to the identification of the defendant. (R.O.A. 119-199).

(1) It was never proven that he did so without consent. See 16-11-311(A).

Appellant asserts these prior statements were inconsistent with the later trial testimony. See State v. Blalock, 591 S.E.2d. 632 (S.C.App.2003) rehearing denied, cert. denied(2003) held since defendants wife did not make a clear and unequivocal admission that her prior statement to detective was inconsistent with her trial testimony and thus extrinsic evidence of wife prior inconsistent statement was properly admitted. See 801 (d)(1)(A).

However, pursuant to Rule 801 (d)(1)(C) the witness statement may also be introduced if it goes to the issue of "identification of a person made after percieving the person". And clearly the testimony of Erica Gray, Mary Gray and Donald Martin went solely to the issue of identification of Appellant. Notwithstanding

whether (or not) the statement was inconsistent they were admissible as it went to identification of a person made after perceiving the person. SCRE 801 (d)(1)(C).

Thus, it seems the SCRE 801 (d)(1)(C) has a independent basis for admission of the prior statement of the witness when that statement is "one of identification of a person (in this case the appellant) made after perceiving the person". Whether (or not) the statement is inconsistent with the trial testimony.

It must be noted first the foundation requirement of SCRE Rule 613 (B) was met as witnesses were advised of the substance of the statement, time and place it was allegedly made, the person to whom it was allegedly made and given the opportunity to explain or deny the statement.

None of the witnesses admitted to omitting Nathaniel Teamer from their statements, to the contrary all of the witnesses stated they told police at the time of statement Nathaniel Teamer was the perpetrator even though it was not in the statements. R.O.A. ppgs. 119-199. Thus, in regard to 801 (d)(1)(A) these were prior inconsistent statements that should have been admitted. See State v. Blalock, supra. and again pursuant to SCRE 801 (d)(1)(A) they should have been admitted as it went to identity of person made after perceiving the person.

Of course, pursuant to SCRE 103 (A)(2) states, "in case the ruling is one excluding evidence the substance of the evidence and the specific evidentiary basis supporting the admission were made known to the court or were apparent from the context. See State v. Cabbagestalk, 314 S.E.2d. 10 (1984); see 103 (A)(2) notes!

The Rule does not change S.C. Law by dispensing with the

requirement of a proffer and a statement of the grounds for admissibility where the substance of the evidence and the grounds are apparent from the context.

In this case the actual inconsistent statements themselves were not proffered but the grounds are apparent from the context. (The actual witness statements are attached herewith as part of the Record On Appeal).

And thus the issue is squarely preserved for appellate review under the precepts of SCRE 103(A)(2). See Aakjer v. Spagnoli, 352 S.E.2d. 503 (S.C.App.1987); State v. Lynn, 284 S.E.2d. 786 (1981); Muhleck v. Tamanini, 244 S.E.2d. 535 (1978); see also S.C. Code Of Laws; § 19-1-80, § 19-1-90, §19-1-100.

In addition to the merits of the issue under state law 801 (d)(1)(A) and 801 (d)(1)(C) the appellant asserts the refusal to allow him to introduce the statements of Erica Gray, Mary Gray and Donald Martin to impeach their testimony denied him his due process right to a fair trial under the fourteenth amendment of U.S. Constitution and denied him his ability to be able to cross examine his accuser under the sixth amendment to the U.S. Constitution.

Appellant further asserts the refusal to allow him to introduce the prior inconsistent statements and the (self same) statements that went to the identity (of Appellant) made after percieving that person was cumulative error to the trial court's refusal to sequester these same witnesses pursuant to SCRE 615 (see issue three) and aggregate error this court must analyze whether the cumulative effect is such that collectively they can no longer be held harmless. Cargle v. Mullin, 317 F.3d. 1196, 1220.

(10th 2003) and denied appellant his right to a fair trial pursuant to the fourteenth amendment.

CONCLUSION

Based on the above arguments taken separately and considered in context of cumulative error the convictions must be reversed and remanded for a new trial.

Respectfully (Pro Se),

151 MICHAEL C. GOANOR
McCormick Correctional Inst.
McCormick, SC 29899

*Appellant reserves his right to file (Pro Se) for rehearing and writ of certiorari and asks to be notified in writing of any decision and objects to counsel being relieved as in violation of his sixth amendment right to Appellate Counsel.

PROOF OF SERVICE

The Pro Se Appellant hereby attests and affirms under oath that a true copy of Pro Se Supplemental Brief was mailed to:

- 1) Salley W. Elliott, Esq.
Post Office Box 11549
Columbia, S.C. 29211
- 2) Katherine Hudgins
Post Office Box 11589
Columbia, S.C. 29211

By U.S. Mail postage affixed
this 9th day Jan. 2008

I affirm under oath
pursuant to 28 U.S.C. 1746.

131 Katherine C. Steamer

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County
J. Derham Cole, Circuit Court Judge

ATTY GEN.

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JAN 14 2003

TORNEY GENERAL

The State,

Respondent,

v.

Nathaniel Teamer,

Appellant.

SUPPLEMENTAL APPENDIX
TO PRO-SE APPELLANTS
SUPPLEMENTAL BRIEF

Nathaniel Teamer
McCormick Correctional Inst.
386 Redemption Way
McCormick, South Carolina 29899

PUBLIC SAFETY DEPARTMENT 000013

2005 JUL 24

CITY OF SPARTANBURG
P.O. BOX 546 - 145 W. BROAD ST.
SPARTANBURG, S.C. 29304

12-42	CASE NUMBER
02-0067-06	

WITNESS INTERVIEW FORM

Name: Donald Martin Jr. Address: [REDACTED] Spartanburg, SC
29306Telephone Number: 597- [REDACTED] Social Security Number: _____Date of Birth: 06-10-84 Today's Date: 2/2/06 Time: 2345

This is the statement given to officer Patton on 2-2-06 at 2345 hours in reference to a robbery/Assault at the address of Mr. Donald Martin, I was watching the Basketball game and someone tried to open the door and I asked who it was. The guy said Murder-Rich. I opened the door and a Black Male wearing all black and a mask with a long pump gun and he pointed it at me and said "give it up." He asked me where "little Buddy" is at. He made me give him all my money and then went to the back of the house with my sister and mom was at, as I was walking back to them. He then told me to go back in the living room. He then made me take my pants off and went back in the back. I then took off out the door and went down the street to tell someone to call the police.

Time Interview Began: 2345 p.m. Time (Statement/Interview) was completed: 0000 p.m.I have read this statement consisting of 1 page(s), and I swear or affirm that the facts contained therein are true and correct.

I further state that I have received a copy of this statement.

SWORN TO AND SUBSCRIBED TO BEFORE ME

THIS _____ DAY OF _____, 19____

Signed: Donald MartinWitness: Officer T. PattonNOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: _____

PUBLIC SAFETY DEPARTMENT 00010

CITY OF SPARTANBURG
P.O. BOX 546 - 145 W. BROAD ST.
SPARTANBURG, S.C. 29304

2006 JUL 36 P 12

CASE NUMBER
41 02-0067-06

WITNESS INTERVIEW FORM

Name: Erica P. Gray Address: [REDACTED] Circle
Telephone Number: 597-[REDACTED] Social Security Number: [REDACTED]
Date of Birth: 7.17.75 Today's Date: 02.07.06 Time: 1230pm

This statement was obtained from Erica P. Gray on 02.07.06 at 1230 hrs in the training room at Sams Club. Statement was written by Inv. Heather Forrester in the words of Erica P. Gray. Beginning of Statement:
On 02.02.06 I got home from work at about 6 or 6:30pm. When I was walking in the door, Charlie Teamer was walking out my door so he had been there that day. Right before 11pm that night I was in the bedroom with my momma, Mary Gray and my daughter, Javonica [REDACTED]. My brother Donald Martin, was in the livingroom. I heard a knock on the door and heard my brother ask who it was. I heard a voice say "murder". I knew that it was Charlie Teamer because I know his voice and everyone calls him "murder". My brother opened the door and he was standing there wearing black pants, black shirt, black gloves and a dark stocking mask. He (suspect) was holding a long black gun and I heard ^{HGF} him say "get down on the floor". When I heard that I picked up the phone and called 911 and told them that we are getting robbed and send

Time Interview Began: 1230 p.m. Time (Statement/Interview) was completed: 1:04 p.m.

I have read this statement consisting of 2 page(s), and I swear or affirm that the facts contained therein are true and correct.

I further state that I have received a copy of this statement.

SWORN TO AND SUBSCRIBED TO BEFORE ME

THIS _____ DAY OF _____, 19____

NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: _____

Signed: X Erica Gray

Witness: Heather H. Forrester

Witness: _____

PUBLIC SAFETY DEPARTMENT 000009

CITY OF SPARTANBURG
P.O. BOX 546 - 145 W. BROAD ST.
SPARTANBURG, S.C. 29304

2006 JUL 36 P

CASE NUMBER
02-0067-00

WITNESS INTERVIEW FORM

Name: ERICA P. GRAYAddress: [REDACTED]Telephone Number: 597- [REDACTED]Social Security Number: [REDACTED]Date of Birth: 7-17-75Today's Date: 02-02-06Time: 11:45 P.M.

ON THURSDAY FEBRUARY 2, 2006 AT AROUND 11:00 P.M. I WAS IN THE BED ASLEEP. I HEARD A NOISE IN THE LIVINGROOM I THEN CALLED 911 AND TOLD THEM SOMEONE IS HERE ROBBING US. I THEN WENT INTO ANOTHER ROOM AND THE SUSPECT A BLACK MALE DRESSED IN ALL BLACK CAME IN AND SAID I KNOW YOU BITCHES AIN'T BACK HERE CALLING THE POLICE. HE THEN TOLD ME TO GET MY POCKETBOOK OR I WILL SHOOT YOUR MOMMA. I THEN DUMPED MY POCKETBOOK ON THE BED. HE SAID WHERE IS THE MONEY. HE WAS ARMED WITH A LONG GUN. HE TOLD ME TO GET ON THE FLOOR AFTER HE HIT ME WITH THE GUN. HE THEN WENT BACK INTO THE LIVINGROOM WITH MY BROTHER. I HEARD A SHOT BUT I DON'T WHERE IT WAS. THE POLICE THEN ARRIVED THE SUSPECT HAD HIS FACE COVERED.

Time Interview Began: 11:45 P.M.Time (Statement/Interview) was completed: 11:54 P.M.I have read this statement consisting of 1 page(s), and I swear or affirm that the facts contained therein are true and correct.

I further state that I have received a copy of this statement.

SWORN TO AND SUBSCRIBED TO BEFORE ME

THIS _____ DAY OF _____, 19____

NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: _____Signed: Erica GrayWitness: Chad E. Tillet

Witness:

PUBLIC SAFETY DEPARTMENT 000014

CITY OF SPARTANBURG
P.O. BOX 546 - 145 W. BROAD ST.
SPARTANBURG, S.C. 29304

2006 JUL 36

12- CASE NUMBER

CR-0067.06

WITNESS INTERVIEW FORM

Name: MARY GRAY Address: [REDACTED]
Telephone Number: 597- [REDACTED] Social Security Number: [REDACTED]
Date of Birth: 11-27-54 Today's Date: 2-2-06 Time: 11:45

A MAN CAME IN AND SAID GIVE ME YOUR
MONEY HE HAD A BIG GUN AND HE
WAS TALL AND HE WAS WEAR BLACK AND
A MASK HE WENT OUT THE DOOR AND I
THAT HE HAD TOOK MY SON. End of
Statement

Time Interview Began: _____ .m. Time (Statement/Interview) was completed: _____ .m.

I have read this statement consisting of _____ page(s), and I swear or affirm that the facts contained therein are true and correct.

I further state that I have received a copy of this statement.

SWORN TO AND SUBSCRIBED TO BEFORE ME

THIS _____ DAY OF _____, 19____

NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: _____

Signed: Mary Gray

Witness: [Signature]

Witness: _____

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State,

Respondent,

v.

Nathaniel Teamer,

Appellant.

Appeal From Spartanburg County
J. Derham Cole, Circuit Court Judge

Unpublished Opinion No. 2010-UP-117
Submitted January 4, 2010 – Filed February 11, 2010

APPEAL DISMISSED

Appellate Defender Kathrine H. Hudgins, of
Columbia.

Attorney General Henry Dargan McMaster, Chief
Deputy Attorney General John W. McIntosh, and
Assistant Deputy Attorney General Salley W. Elliott,
all of Columbia; and Solicitor Harold W. Gowdy, III,
of Spartanburg, for Respondent.

PER CURIAM: Nathaniel Teamer was convicted of first-degree burglary, felony driving under the influence with great bodily injury, and failure to stop when signaled by law enforcement with great bodily injury. Teamer appeals, arguing the trial judge erred in failing to sever the burglary charge from DUI and failure to stop. Teamer also filed a pro se brief. After a thorough review of the record and both briefs pursuant to Anders v. California, 386 U.S. 738 (1967), and State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991), we dismiss the appeal and grant counsel's motion to be relieved.¹

APPEAL DISMISSED.

WILLIAMS, PIEPER, and LOCKEMY, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

S.C. COURT OF APPEALS

P.O. BOX 11629

COLUMBIA, SC 29211

RECEIVED

FEB 23 2010

ATTORNEY GENERAL'S
OFFICE

State V. Nathaniel C. Teamer #1

Spartanburg County Hon. J. Derham Cole,

Dear Clerk of Court,

Please find enclosed a petition for Rehearing and petition for Rehearing En Banc from the 2/11/10 dismissal of the above appeal.

Petitioner seeks to argue against the precedent of State V. Lyles 2008, along with Proof of Service.

s/ Nathaniel C. Teamer

Nathaniel C. Teamer

MCI

386 Redemption Way

McCormick, SC

29899

CC: Attorney General

PROOF OF SERVICE

I Nathaniel Teamer have mailed a true copy of the enclosed
to:

Donald Z. Zelenica (ESQ)
Attorney General Office
P.O. Box 11549
Columbia, SC 29211

Sally W. Elliott
Attorney General Office
P.O. Box 11549
Columbia, S.C. 29211

This 16 day February 2010
by US Mail postage affixed,

Sworn and Subscribed before me
this 16 day February
2010 J. C. Franklin
Notary Public
12-16-2019

s/ Nathaniel C. Teamer
Nathaniel C. Teamer

My Comm Expired

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County
J. Derham Cole, Circuit Court Judge

The State,

V.

Respondent,

Nathaniel Teamer #1

Appellant

PETITION FOR REHEARING
AND PETITION FOR REHEARING EN BANC

Appellant respectfully petitions this Honorable Court for a petition for rehearing, and petitions the entire court of appeal for Rehearing EN BANC as the court of appeals, it is respectfully submitted, Mis apprehended both the Applicable Law and the Relevant Facts in regards to the case Sub judice, where, the trial court committed at-least 4 Reversible Errors in this case that were pur. to State v. Johnson 508 SE 2d. 29(SC1998) Scre 103 preserved for appellate review.

In totality the 4errors had a commulative effect of prejudice to appellants right to a fair trial U.S.C. A. 14th.

The Trial Court clearly erred in allowing the totally unrelated offenses of Burglary First Degree and Armed Robbery (1), and a Felony D.U.I. (2) and failure to stop for a blue light.

It is clear beyond any doubt that the trial judge abused his discretion in denying the motion to sever these unrelated offenses Fontaine V. Dietz 354 Se 2d. 505 (SC 1987).

First these charges were not joined together in the same indictment.

(1) Appellant was acquitted of the armed robbery

(2) Felony DUI w/ great bodily injury.

They clearly did not arise out of a single chain of circumstances (2) they were not proved by the same evidence (3) they were not of the same general nature and (4) most cogently real and substantial rights of the defendant were prejudiced by the joinder of these unrelated offenses. State V. Tate 334 Se 2d. 287(Ct App 1985) State V. Tucker 478 Se 2d. 260(1996).

The alleged burglary supposedly occurred at 11:pm, over two hours later appellant was signaled to be pulled over for "throwing a beer can out of window" and failed to stop for the blue light for that violation (Beer Can) and this resulting felony D.U.I. By solicitors own admission at page 110 these cases were not connected. Pur. to US. V. Lane 106 Sct 725 (1986) the prejudice was so great to the applicant so great as deny him his right to a fair trial. (See attached brief) There is No probative evidence in the record to show the failure to stop was in anyway associated with the burglary, but rather logically was related to the D.U.I. and throwing of beer can.

This court should reconsider its decision to relieve counsel and summarily dismiss the appeal and reconsider the same En Bance of issue where trial court erred when the appellant was not allowed to present evidence that the driver of second vehicle was under influence of alcohol or drugs at the time of collision.

The Victim was under influence of alcohol (DUI) at the time of the accident, and this evidence was relevant to the question that the proximate cause of the accident was that of the impaired victim crossing over the center line.

Yet the solicitor was allowed in closing arguments to aver, Mr. Young (Victim) had nothing to do with this (Roa 434 L.3).

thus, appellant was denied his 6th amendment right to present evidence pur Rock V. Arkansas 483 US 44 (1987) that he did not cause the great bodily injury, but rather the other driver did by crossing the center line himself. The exclusion of this eviden was arbitrary and disproportionate Quinn V. Hayes 234 F3d. 837, 849 (4th 2000).

This court should grant Rehearing or Rehearing En Banc on issue whether trial court erred in refusing to grant appellants motion to sequester three material witnesses Scre 615.

The victims brother, sister and mother- Donald Martin, Erica Gray and Mary Gray, respectively, alleged victims of the 11:PM burglary were the foundation of the states case. None of the written statements given prior to trial even implicates the appellant who was like family' to the victims.

The trial court allowed these three witnesses to be present during each others testimony (over objection of counsel) because they had given written statements to police. Appellant contends on appeal this was a error of law Fantaing V. Pictz 345 Se 2d. 565 (SC 1987) and has no legal support pur. to Rule 615 Scre, and is in violation of Geders V. United States 96 Sct 1330, 1335(1976).

There is a strong presumption in favor of sequestration of witnesses, which series two purposes, to exercise restraint on witnesses tailoring their testimony to that of earlier witnesses and aids in detecting testimony that is less than candid.

This is especially crucial in this case as the victims states they could only I.D. the voice of the burglary and did not I.D. appellant in any written statements and inconsistencies of

their written statements.
(See Attached Brief)

ISSUE 1V

This court should grant rehearing and rehearing En Banc upon issue the trial courts refusal to allow defense counsel to impeach. Key state witnesses Erica Gray, Mary Gray, and Donald Martin with actual prior inconsistent statements pur to Scre 801(d) 1) A) and (C).

The above victims did NOT I.D. the appellant as the perpetrator in their statements to police; however, on the stand under oath, they stated they Did ID the appellant in their written statements.

Defense counsel then attempted to move the written statements into evidence as prior inconsistent statements pur to Scre 801(d) 1) A) and (C) and was not allowed to do so. In clear violation of State V. Blalock 571 Se 2d. 632 (SC App 2003) also, these written statements clearly went to the issue of Identification of a person made after perceiving the person Scre (d) 1) C).

The objection to this exclusion of inconsistent statements are clear from the context of the record pur to State V. Cabbage Stalk 314 SE 2d. 10 (1984) See Scre 103 A)2 notes:

(See: Attached Brief)

Also, pur. to Cargle V. Mullin 317 F. 3d. 1196 1220 (10th 2003) cumulative effect of prejudice in failing to allow admission of prior inconsistent statements and refusal to sequester witnesses.

CONCLUSION

Petition for Rehearing and Rehearing En Banc be granted, and
Counsels petition to be relieved as counsel be Denied

Respectfully Submitted,

s/ Nathaniel C. Teamer

Nathaniel C. Teamer (Pro Se)

MCI 386 Redemption Way

McCormick, SC 29899

ARGUMENT

The judge erred in refusing to sever the burglary first charge from the charges of felony driving under the influence [DUI] with great bodily injury and failure to stop when signaled by law enforcement officer with great bodily injury.

Initially, the State intended to try Teamer for murder, assault and battery with intent to kill [ABIK], burglary first degree, armed robbery, felony DUI with great bodily injury and failure to stop with great bodily injury in one trial. (Tr. p. 11, lines 1-12). Teamer objected and moved to sever the charges. (Tr. p. 11, lines 15 - p. 12, 13, 14, lines 1-12). Teamer argued that the six separate indictments arose from three separate incidents, the murder and ABIK arising from one incident, the burglary first degree and armed robbery arising from a second incident and the felony DUI and failure to stop arising from a third incident. (Tr. p. 12, lines 16-21). After hearing argument from both sides (Tr. pp. 14 - 25), the judge granted the motion to sever as to the murder and ABIK charges but allowed the other charges to be tried together. (Tr. p. 26, lines 2- p. 27, p. 28, lines 1-16). In regard to the burglary first degree and armed robbery charges being tried with the felony DUI and failure to stop, the judge stated, "It's not so much when he was charged with it. It's the fact that he had been accused of it. The police were aware of his identity of being the perpetrator, and they were aware of that fact and were looking for him at the time that the failing to stop and the felony D.U.I. occurred. So that's what I perceive to be a logical connection between those offenses." (Tr. p. 28, lines 22 - p. 29, lines 1-3). The judge erred.

A motion for severance is addressed to the trial court and should not be disturbed unless abuse of discretion is shown. State v. Anderson, 318 S.C. 395, 458 S.E.2d 56 (Ct. App. 1995). Charges can be joined in the same indictment and tried together where (1)

they arise out of a single chain of circumstances, (2) are proved by the same evidence, (3) are of the same general nature, and (4) no real right of the defendant has been prejudiced. State v. Tate, 286 S.C. 462, 334 S.E.2d 289 (Ct.App. 1985); State v. Tucker, 324 S.C. 155, 478 S.E.2d 260 (1996).

According to the prosecutor, the burglary took place at 11:00 PM. (Tr. p. 15, lines 5-7). Later, at about 1:00 AM, Officer Timothy Allen St. Louis, Jr. saw a car pull out of the Li'l Cricket Convenience Store with no headlights. (Tr. p. 319, lines 1-4). A chase ensued and Teamer was eventually arrested for failure to stop and DUI after being involved in an accident with another car. Although witnesses from the burglary incident knew Teamer and had identified him to the police, the later pursuit was not a result of that investigation. At the time of the pursuit when the officer saw the car with no headlights, law enforcement investigating the burglary did not have a description of the car Teamer was driving. (Tr. p. 23, lines 15-19). The failure to stop and DUI were not connected to the burglary incident. The two incidents did not arise out of a single chain of circumstances.

This case is distinguished from the facts of Tucker where the Court found consolidation proper. In Tucker the subsequent burglaries that were tried with a murder charge were committed solely to avoid capture for the murder charge. The DUI and failure to stop in the present case were simply bad luck on the part of Teamer and not necessarily committed solely to avoid capture on other charges. The two separate incidents are not proved by the same evidence, are not of the same general nature and Teamer was prejudiced by the judge's failure to sever. The judge erred in refusing to sever the burglary first charge from the charges of felony DUI with great bodily injury and failure to stop when signaled by law enforcement officer with great bodily injury.

STATEMENT OF THE CASE

In May 2006, the Spartanburg County Grand Jury indicted Teamer for burglary first degree, armed robbery, felony D.U.I. with great bodily injury and failure to stop with great bodily injury. On September 10, 2007 Teamer proceeded to trial before Honorable J. Derham Cole. The jury returned a verdict of not guilty of armed robbery. The jury returned verdicts of guilty on other charges. Judge Cole sentenced Teamer to 30 years for burglary first degree, 15 years concurrent for felony D.U.I. and 10 years concurrent for failure to stop. A timely notice of intent to appeal was filed on September 19, 2007. Appellate Defense filed an Anders Brief. The Pro Se Supplemental Brief follows.:

STATEMENT OF ISSUES ON APPEAL

ISSUE I.

Did trial court err in refusing to sever the burglary first degree charge from charges of felony D.U.I. with great bodily injury and failure to stop when signaled by law enforcement officer with great bodily injury in violation of Appellant's fourteenth amendment to a fair trial pursuant to the United States Constitution.

ISSUE II.

Trial Court erred when the Appellant was not allowed to present evidence that the driver of second vehicle was under the influence of alcohol or drugs at the time of the collision.

ISSUE III.

Whether trial court erred in refusing to grant Appellant's Motion to Sequester three material witnesses, SCRE 615.

ISSUE IV.

Trial Court erred in refusing to allow defense counsel to impeach key State witnesses Erica Gray, Mary Gray and Donald Martin with actual prior inconsistent statements pursuant to S.C.R.E. 801 (d)(1)(A)(C).

ISSUE I.

The trial judge erred in refusing to sever the burglary first degree charge from charges of felony D.U.I. with great bodily injury and failure to stop when signaled by law enforcement officer with great bodily injury in violation of Appellant's fourteenth amendment to a fair trial pursuant to the United States Constitution.

The Appellant submits that the trial courts failure to sever the unrelated burglary first degree and armed robbery from the DUI and failure to stop constituted an abuse of discretion and amounted to an error of law in violation of State v. Tate, 334 S.E.2d. 289 (Ct.App. 1985).

These charges were separate and distinct offenses that did not arise out of (1) single chain of circumstances (2) were not proved by same evidence (3) were not even remotely of the same general nature (4) and a real right of defendant was prejudiced. See State v. Tucker, 478 S.E.2d. 260 (1996); State v. Middleton, 339 S.E.2d. 692 (1986).

As stated in Appellant counsel's brief (which is incorporated herein by reference) the alleged burglary occurred at 11:00 pm. Two hours later at 1:00 am Appellant was signaled to pull over for unrelated offenses and of course the offenses are not of same nature and were not proved by same evidence.

More cogently the defense to the DUI / failure to stop was prejudicial. In order to present to the jury that Appellant could have not pulled over based on his intoxication rather than his effort to flee from burglary. The defense would have had to have

admitted to a key element of DUI / Failure to stop in order to negate the inference this was evidence of flight from the burglary rather than flight because of DUI.

Thus, these charges should not have been joined on evidence of flight as evidence of flight was open to various interpretations, one being flight to avoid a DUI as opposed to alleged flight from the burglary. Secondly, the proof of the DUI / Failure to stop was infinitely greater than that of the evidence from burglary and the jury could have interpreted such a reckless disregard to the safety of others meant that he was fleeing from the burglary when it is equally plausible Appellant could have been fleeing only from D.U.I. The prejudicial effect of what amounts to other crimes evidence of reckless DUI / Failure to stop, which occurred two hours later, being admitted in an unrelated burglary is manifest belief that Appellant was in flight from the burglary and had a separate reckless disregard to safety of others in DUI / Failure to stop.

For joinder of offenses to be based on same act or transaction they must be temporarily or logically related. U.S. v. Bullock, 71 F.3d. 171, 174 (5th Cir. 1995); U.S. v. Montes-Cardenas, 746 F.2d. 771.

Other than flight from D.U.I. it was also relevant that Appellant was on house arrest this could have been yet another reason he'd fled from police. The connection between the burglary and DUI / Failure to stop was too tenuous to justify a joinder of burglary and dui failure to stop and in order to show he was fleeing either from the house arrest or the dui itself (rather than burglary) he would have to necessarily admit to the

allegation that he did fail to stop but not for reasons stated (i.e.) flight from burglary.

This denied his right to a fair trial and prejudiced his defense. Pursuant to U.S. v. Holzer, 840 F.2d. 1343 cert denied 108 S.Ct. 2022 (CA7 1988) this issue was raised and ruled upon pursuant to SCRE 103 as time to decide whether it is fair to subject defendant to a single trial for a variety of crimes given risk that evidence introduced to support some of those crimes may infect jury consideration of the others is before trial when defendant can complain of misjoinder or move for severance. This, based upon Holzer this issue was raised pretrial, fully argued and ruled upon and is thus preserved for Direct Appeal. SCRE 103.

Appellant further notes that it is "law of the case" that these crimes were "not connected" by Solicitor's own admission (see page 110). Appellant relies on OID Chief v. U.S., 117 S.Ct. 644 (1998) that this other crimes evidence was prejudicial to his right to a fair trial under the U.S. Constitution.

In Lucero v. Kirby, 133 F.3d. 1299, 1314 (10th 1998) citing U.S. v. Lane, 106 S.Ct. 725 (1986) "Misjoinder rises to the level of a constitutional violation only if it results in prejudice so great as to deny defendant his right to a fair trial. USCA 14th". In fact, in Lucero held, "the joinder of multiple offenses in a single trial may result in prejudice to a defendant because 'the jury may use the evidence of one of the crimes charged to infer a criminal disposition on the part of the defendant from which is found his guilt of the other crime charged' Drew v. US, 331 F.2d. 85, 88 (D.C.Cir. 1964). The jury may also confuse or "cumulate" the evidence of the various crimes charged and find guilt, when it considered separately it would not so find. Id. See also Herring

11 P.3d. at 377 (discussing potential prejudice from joinder of offenses). Closs v. Leapley, 18 P.3d. 574, 578 (8th 1994)(same). In Lucero, at 1315, "courts have recognized that the joinder of offenses in a single trial may be prejudicial when there is a great disparity in the amount of evidence of the underlying joined offense." (See U.S. v. Poutz, 540 P.2d. 733, 738 (4th Cir. 1976) one danger in joining offenses with a disparity of evidence is that the state may be joining a strong evidentiary case with a weaker one "in the hope that an overlapping consideration of the evidence [will] lead to convictions on both". U.S. v. Clayton, 450 P.2d. 16, 19 (1st Cir. 1971)).

And, in Appellant's case while the evidence of failure to stop was overwhelming the evidence of burglary and robbery were weak: (Note Appellant was acquitted of arm robbery and based on I.D. by voice and inference reach from letter).

It is clear the sole connection between the two cases is the "Flight Question", as whether failure to stop is evidence of guilt upon the burglary offense of guilty knowledge to be inferred from flight. When the inference that one who flee's from law is motivated by consciousness of guilt is, at best, a weak inference and strength of inference is further attenuated where defendant has not actively sought to avoid capture. Criminal Law Key 552(2).

It is clear that the evidence of flight could have been from the associated DUI and not necessarily from the burglary. In fact, there is no probative evidence in the record to show that the flight was in anyway connected to the burglary rather than from the traffic violations and DUI. The relationship between the flight and burglary is too tenuous to allow a joinder, and the

joinder too prejudicial to the Appellant and real rights of the appellant were prejudiced. State v. Tate, supra., U.S. v. Lane, supra. U.S.C.A. 14th Amend. See: R.O.A. page 11, line 16. - page 31, line 10. This issue was raised and ruled upon by the court, renewed at R.O.A. page 471, 1.24 - page 472. 1. 2.

ISSUE II.

Trial Court erred when the Appellant was not allowed to present evidence that the driver of second vehicle was under the influence of alcohol or drugs at time of the collision.

At page 308, line 11; trial counsel states, "The victim is going to testify, I assume, in the felony D.U.I. and I want to put this on record".

I would like to introduce some evidence of the victims alcohol intoxication that night. I want to get into that a little bit in my cross. So I'd like a ruling on that.

It's highly relevant to what caused the wreck in the first place, and especially when I believe that the direct testimony of Officer Evett will reveal that he did not see the wreck happen and his testimony will be inconclusive as to what actually caused the wreck.

The court at pg. 311, line 16 sustained the objection and would not allow Appellant to introduce evidence of victim's alcohol level to show it was possible victim's intoxication caused the accident. Yet in closing arguments the solicitor at pg. 434 line 3, that "Mr. Young (victim) had nothing to do with this, absolutely nothing. And at pg. 340, line 21; David M. Evett (Police Officer) testified, "I couldn't see if he crossed the center line because I couldn't see his car".

Clearly, evidence that the victim was (A) under the influence of alcohol or drugs was relevant to who was at fault for the collision and (B) could have been utilized to prove that the proximate cause of the crash was that of impaired victim crossing over the center line.

In State v. Schmidt, 342 S.E.2d. 401, 401(1986) evidence is relevant if it tends to establish or to make more or less probable some matter in issue upon which it direct or indirectly bears. See S.C.R.E. 401. The fact in dispute at trial was whether Appellant's intoxication and failure to stop was the cause of victim's great bodily injury - the fact that the victim was also under influence of alcohol or drugs was relevant to who caused the accident that resulted in his bodily injury. At 263-265 Dwayne Darrity testimony as to who caused the accident is speculative, based on hearsay, and is not supported by accident reconstruction. Pg. 266, line 6-11. In fact, David Evett; ROA 351, line 9, Q. "that you do not know who caused the accident. A. Right. I do not know. At ROA 310. Dwayne Darrity at ROA 266, line 1, who testified he was not at the scene of accident. line 1-5. Q. And the only really investigation you did that you found marks over the center line. Okay. Did you match them up with Charlie Teamer, that the car was being driven by Charlie Teamer, on that night? What I'm asking you is did you do an accident reconstruction. A. No, we did not. Thus, the trial court violated Appellant's right to present a defense to a key element of the offense - causing "Great Bodily Injury"-via D.U.I.- fail to stop pursuant U.S.Const. 6th Amendment. Rock v. Arkansas, 483 U.S. 44(1987).

The exclusion of this evidence was "arbitrary and disproportionate". Quinn v. Hayes, 234 F.3d. 837,849(4th Cir.2000). The evidence of victim being intoxicated was especially probative as the Appellant's alcohol level was only .02 (legal presumptive level being .08) as to who caused the accident - (e.g.) going directly to a key element of the offenses as set forth in the jury charge at ROA 454-455 "that the defendant in the

driving of his motor vehicle while under the influence did some act forbidden by law or neglected some duty imposed by law in the operation of that motor vehicle and lastly, that the forbidden act or neglect of the duty proximately caused the great bodily injury to a person other than himself".

The intoxication of victim could have led a reasonable fact finder to find there was reasonable doubt as to proximate cause of the accident. There is no probative evidence in the record Appellant crossed center line, that coupled with the victim's intoxication created a legitimate defense that was not allowed to be presented. U.S.C.A. 6th Amend, Rock v. Arkansas, supra.

ISSUE III.

Whether trial court erred in refusing to grant Appellant's Motion to Sequester three material witnesses. SCRE 615.

At R.O.A. pg.50, 1.19 - pg.54, 1.16; trial counsel requested that the three victims (Material Fact Witnesses) be sequestered. The trial court denied this motion.

These three witnesses Erica Gray, Mary Gray and Donald Martin, were sisters, mother and son, respectively, and alleged victims and witnesses of the burglary. (Appellant was acquitted of the robbery). And it was these witnesses testimony that formed the very foundation of the States case.

It must be noted that initially none of these witnesses in their written statement named Appellant even though they all knew Appellant(i.e.)(R.O.A. pg.135, 1.24 - pg.136, 1.5, R.O.A. pg.172, 1.16-25, R.O.A. pg.192, 1.6-15).

The trial court allowed these witnesses to be present during each others testimony because they had given written statements to Police. (R.O.A. pg.54, 1.9-13). Appellant asserts this was an error of law, violation of SCRE 615, which states:

At the request of a party the court may order witnesses excluded so they cannot hear the testimony of other witnesses and it may make the order of its own motion. This Rule does not authorize exclusion of a party who is a natural person. An officer or employee of a party which is not a natural person designated as its representative by its attorney or a person whose presence is shown by a party to be essential to the presentation of the partys case.

SCRE Rule 615 makes no exception to a victim witness, which

seemed to be the basis of the Solicitor's motion that the victim had a right to be present while other victims testified (R.O.A. pg.51, l.11).

Appellant asserts based on the inconsistencies in the written statements of the witnesses and the inconsistencies of their testimony (R.O.A. ppgs. 117 - 199) it violated his due process right to a fair trial under the Fourteenth Amendments U.S. Constitution to allow these victims, who are also family members, to be present while each of them testified to tailor their testimony.

"There is a strong presumption in favor of sequestration of witnesses", U.S. v. Jackson, 60 F.3d. 128(2nd Cir.1995) citing Geders v. U.S., 96 S.Ct. 1330,1335 (1976); "The Supreme Court observed this practice, which goes back to our inheritance of the common Germanic Law, serves two purposes' it exercises restraint on witnesses tailoring their testimony to that of earlier witnesses and it aids in detective testimony that is less than candid". See: Holder v. U.S., 14 S.Ct. 10 (1893).

These witness could only testify that they reconized the "voice" of Appellant and otherwise could not I.D. the suspect and again did not I.D. Appellant in the initial written statements. For these witnesses to be allowed to sit in the Courtroom and hear other witnesses position how they could I.D. his voice was fundamentally unfair and denied Appellant a fair trial and was not "harmless beyond a reasonable doubt". Chapman v. California, (cite)

In State v. Saltz, 551 S.E.2d. 240 (SC 2001) the Supreme Court held, decision whether to order sequestration is in the sound discretion of the trial court.

Appellant submits it was in fact an abuse of discretion to not require these material fact witnesses to be sequestered based on court ruling that since witnesses had given written statements they should not be sequestered. Fontaine v. Pietz, 354 S.E.2d. 565 (SC 1987) held, abuse of discretion occurs where the trial judge ruling is based on an error of law or when based on factual conclusion, are without evidentiary support.

Clearly, Rule 615 provides no support for the basis of the trial court's ruling (witnesses providing written statements) and thus the court's ruling, outside of Rule 615, is based on an error of law and prejudice to Appellant is manifest unto itself.

ISSUE IV.

Trial Court erred in refusing to allow defense counsel to impeach key state witnesses Erica Gray, Mary Gray and Donald Martin with actual prior inconsistent statements pursuant to S.C.R.E. 801 (d)(1)(A)(C).

The foundation of the states case was the voice identification of the Gray family, Erica Gray, Mary Gray and son Donald Martin (R.O.A. pg. 119-199). In the initial statements to police neither of these three witnesses ever identified defendant Nathaniel C. Teamer by name as the person who entered the dwelling. Yet at trial these witnesses consistently stated they did so (in their statements) even though they did not do so and these statements made went solely to the identification of the defendant. (R.O.A. 119-199).

(1) It was never proven that he did so without consent. See 16-11-311(A).

Appellant asserts these prior statements were inconsistent with the later trial testimony. See State v. Blalock, 591 S.E.2d. 632 (S.C.App.2003) rehearing denied, cert. denied(2003) held since defendants wife did not make a clear and unequivocal admission that her prior statement to detective was inconsistent with her trial testimony and thus extrinsic evidence of wife prior inconsistent statement was properly admitted. See 801 (d)(1)(A).

However, pursuant to Rule 801 (d)(1)(C) the witness statement may also be introduced if it goes to the issue of "identification of a person made after perceiving the person". And clearly the testimony of Erica Gray, Mary Gray and Donald Martin went solely to the issue of identification of Appellant. Notwithstanding

whether (or not) the statement was inconsistent they were admissible as it went to identification of a person made after perceiving the person. SCRE 801 (d)(1)(C).

Thus, it seems the SCRE 801 (d)(1)(C) has an independent basis for admission of the prior statement of the witness when that statement is "one of identification of a person (in this case the appellant) made after perceiving the person". Whether (or not) the statement is inconsistent with the trial testimony.

It must be noted first the foundation requirement of SCRE Rule 613 (B) was met as witnesses were advised of the substance of the statement, time and place it was allegedly made, the person to whom it was allegedly made and given the opportunity to explain or deny the statement.

None of the witnesses admitted to omitting Nathaniel Teamer from their statements, to the contrary all of the witnesses stated they told police at the time of statement Nathaniel Teamer was the perpetrator even though it was not in the statements. R.O.A. ppgs. 119-199. Thus, in regard to 801 (d)(1)(A) these were prior inconsistent statements that should have been admitted. See State v. Blalock, supra. and again pursuant to SCRE 801 (d)(1)(A) they should have been admitted as it went to identity of person made after perceiving the person.

Of course, pursuant to SCRE 103 (A)(2) states, "in case the ruling is one excluding evidence the substance of the evidence and the specific evidentiary basis supporting the admission were made known to the court or were apparent from the context. See State v. Cabbagestalk, 314 S.E.2d. 10 (1984); see 103 (A)(2) notes!

The Rule does not change S.C. Law by dispensing with the

requirement of a proffer and a statement of the grounds for admissibility where the substance of the evidence and the grounds are apparent from the context.

In this case the actual inconsistent statements themselves were not proffered but the grounds are apparent from the context. (The actual witness statements are attached herewith as part of the Record On Appeal).

And thus the issue is squarely preserved for appellate review under the precepts of SCRE 103(A)(2). See Aakjer v. Spagnoli, 352 S.E.2d. 503 (S.C.App.1987); State v. Lynn, 284 S.E.2d. 786 (1981); Muhleck v. Tamanini, 244 S.E.2d. 535 (1978); see also S.C. Code Of Laws; § 19-1-80, § 19-1-90, §19-1-100.

In addition to the merits of the issue under state law 801 (d)(1)(A) and 801 (d)(1)(C) the appellant asserts the refusal to allow him to introduce the statements of Erica Gray, Mary Gray and Donald Martin to impeach their testimony denied him his due process right to a fair trial under the fourteenth amendment of U.S. Constitution and denied him his ability to be able to cross examine his accuser under the sixth amendment to the U.S. Constitution.

Appellant further asserts the refusal to allow him to introduce the prior inconsistent statements and the (self same) statements that went to the identity (of Appellant) made after percieving that person was cumulative error to the trial court's refusal to sequester these same witnesses pursuant to SCRE 615 (see issue three) and aggregate error this court must analyze whether the cumulative effect is such that collectively they can no longer be held harmless. Carple v. Mullin, 317 F.3d. 1196, 1220

(10th 2003) and denied appellant his right to a fair trial pursuant to the fourteenth amendment.

CONCLUSION

Based on the above arguments taken separately and considered in context of cumulative error the convictions must be reversed and remanded for a new trial.

Respectfully (Pro Se),

/s/ Nathaniel C. GEAMOL
McCormick Correctional Inst.
McCormick, SC 29899

*Appellant reserves his right to file (Pro Se) for rehearing and writ of certiorari and asks to be notified in writing of any decision and objects to counsel being relieved as in violation of his sixth amendment right to Appellate Counsel.

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JUN 07 2010

The South Carolina Court of Appeals

**ATTORNEY GENERALS
OFFICE**

The State,

Respondent,

y.

Nathaniel Teamer,

Appellant.

The Honorable J. Derham Cole
Spartanburg County
Trial Court Case No. 2006-GS-40-01732
2006-GS-42-01719
2006-GS-42-01733

ORDER DENYING PETITION FOR REHEARING EN BANC

PER CURIAM: After a careful consideration of the Petition for Rehearing En Banc, the Court has determined that en banc consideration is not necessary to secure or maintain the uniformity of its decisions, nor is the proceeding one involving a question of exceptional importance. Further, the Court finds no other ground appearing to warrant a rehearing en banc.

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

John Carnegie C. J.
Thomas E. Whaley J.
Paul E. Short J.
H. B. Wiles J.

_____. J.

Daniel G. Pieper

J.

Ch. K.

J.

John D. [unclear]

J.

James E. [unclear]

J.

Columbia, South Carolina

Judge Thomas not participating.

June 4, 2010

cc: Appellate Defender Kathrine H. Hudgins
Nathaniel Teamer, #285309
Attorney General Henry Dargan McMaster
Chief Deputy Attorney General John W. McIntosh
Assistant Deputy Attorney General Salley W. Elliott
Harold W. Gowdy, III, Esquire

The South Carolina Court of Appeals

JUN 07 2010

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ATTORNEY GENERALS
OFFICE

The State,

Respondent,

v.

Nathaniel Teamer,

Appellant.

The Honorable J. Derham Cole
Spartanburg County
Trial Court Case No. 2006-GS-40-01732
2006-GS-42-01719
2006-GS-42-01733

ORDER DENYING PETITION FOR REHEARING

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

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

H. B. Wee J.

Daniel G. Pieper J.

[Signature] J.

Columbia, South Carolina

____ June 4 __, 2010

cc: Appellate Defender Kathrine H. Hudgins
Nathaniel Teamer, #285309
Attorney General Henry Dargan McMaster
Chief Deputy Attorney General John W. McIntosh
Assistant Deputy Attorney General Salley W. Elliott
Harold W. Gowdy, III, Esquire

close



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ATTORNEY GENERALS

The South Carolina Court of Appeals

TANYA A. GEE
CLERKV. CLAIRE ALLEN
DEPUTY CLERKPOST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

July 13, 2010

REMITTITURThe Honorable M. Hope Blackley
Post Office Box 3483
Spartanburg, SC 29304Re: The State v. Teamer, Nathaniel #1
2006-GS-40-01732
2006-GS-42-01719
2006-GS-42-01733

Dear Ms. Blackley:

The above referenced matter is hereby remitted to the lower court. A copy of the judgment of this Court is attached.

Sincerely,

*V. Claire Allen*V. Claire Allen
Deputy Clerk of Court

VCA/lf

cc: Appellate Defender Kathrine H. Hudgins
Nathaniel Teamer, #285309
Assistant Deputy Attorney General Salley W. Elliott
Harold W. Gowdy, III, Esquire

750

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

NATHANIEL TEAMER, 285309)

Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2010-CP-42-4049

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention McCormick Correctional Institution, 386 Redemption Way,
McCormick, SC 29899
2. Name and location of Court which imposed sentence Spartanburg County Court of
General Sessions, 180 Magnolia Street, Spartanburg, SC 29306
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2006-GS-42-1719: Burglary, First Degree
 - (b) 2006-GS-42-1732: Driving Under the Influence, Great Bodily Injury
 - (c) 2006-GS-42-1733: Failure to Stop for Blue Lights
5. The date upon which sentence was imposed and the terms of the sentence:

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SPARTANBURG COUNTY
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HOPE BLACKLEY

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- (a) September 12, 2007: 30 years
 (b) September 12, 2007: 15 years
 (c) September 12, 2007: 10 years
6. Check whether a finding of guilty was made:
 (a) after a plea of guilty _____
 (b) after a plea of not guilty X
 (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes.
8. If you answered "yes" to (7), list:
 (a) the name of each Court to which you appealed:
 i. South Carolina Court of Appeals
 ii. _____
 iii. _____
 (b) the result in each such Court to which you appealed:
 i. Dismissed.
 ii. _____
 iii. _____
 (c) the date of each such result:
 i. February 11, 2010
 ii. Rehearing denied on June 4, 2010
 iii. _____
 (d) if known, citations of any written opinion or orders entered pursuant to such results:
 i. _____
 ii. _____
 iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
 (a) _____
 (b) _____
 (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in

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custody unlawfully:

- (a) Ineffective assistance of trial counsel.
- (b) Ineffective assistance of appellate counsel.
- (c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) Failure to prepare and investigate.
- (b) Failure to make proper objections at trial.
- (c) Failure to call witnesses and present evidence.

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? No.
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No.
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No.
- (d) any other petitions, motions or applications in this or any other Court? No.

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(b) the name and location of the Court in which each was filed:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____

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iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No.

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) Post Conviction Relief is the proper forum for such allegations.

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? _____

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Revised 3/2003

- (b) your trial, if any? Yes.
- (c) your sentencing? Yes.
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes.
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Joshua Schultz, 184 North Daniel Morgan Ave., Spartanburg, SC 29306
- ii. Katherine H. Hudgins, Office of Appellate Defense, 1330 Lady Street, Suite 401, Columbia, SC 29201
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Trial.
- ii. Direct Appeal.
- iii. _____
19. State clearly the relief you seek in filing this application:
- A new trial.
20. Are you now under sentence from any other court that you have not challenged?
- No.

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SPARTANBURG COUNTY
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M. HOPE BLACKWELL

2010-CP-42-4049

STATE OF SOUTH CAROLINA)

County of McCormick)

VERIFICATION

I, Nathaniel Teamer, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Nathaniel Teamer

SWORN to and subscribed before me this 26
day of July, 2010

Joyle L Young (L.S.)
Notary Public

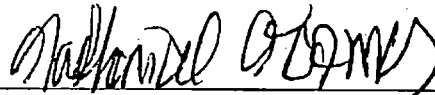
My Commission Expires: 8/28/2011

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SPARTANBURG COUNTY
2010 AUG - 2 AM 10:28
M. HOPE ELAORLEY

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Nathaniel Teamer, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

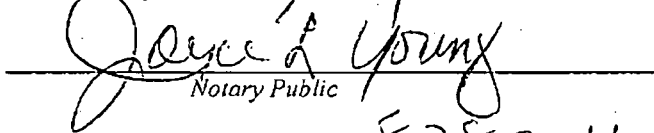
- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.



Applicant

SWORN or affirmed to and subscribed before me this

26 day of July, 2010


Notary Public

My Commission Expires: 8-28-2011

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SPARTANBURG COUNTY
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M. HOPE BLANCHLEY

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	SEVENTH JUDICIAL CIRCUIT
	)	
Nathaniel Teamer, 285309,	)	2010-CP-42-4049
	)	
v.	)	MOTION FOR DISCOVERY
	)	IN POST CONVICTION RELIEF
State of South Carolina,	)	
Respondent.	)	

COMES NOW the Applicant, by and through his undersigned attorney, and requests that this Court enter an Order for Order for Production of Discovery pursuant to S.C. Code Ann. §17-27-150(a) (2008).

This matter comes before the Court by way of an Application for Post Conviction Relief filed on August 2, 2010. The State submitted a Return on or about February 16, 2010. After a thorough review of the case documents provided by the State, reviewing the Clerk of Court's file, reviewing the public defender's file, and the utilization of a private investigator, undersigned counsel submits that the requested documents and/or case materials are necessary to properly prepare and present the Applicant's claims.

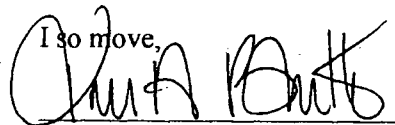
Therefore, the Applicant would move before this Court for the production of the following case documents pursuant to S.C. Code Ann. §17-27-150(a) (2008).

1. A complete copy of the Spartanburg Public Safety Department policy that was in place in 2006 for vehicle inventory searches.
2. A copy of any written reports or investigative files from the following arrest records of Erica Paulette Gray:
 - a. Agency: Spartanburg Police Department, Warrant No.: E138187, Arrest Charge: False Information to Police, Offense Date: June 10, 1994
 - b. Agency: Spartanburg Police Department, Arrest Charge: Assault and Battery, Offense Date: June 24, 2005. Information also may be available under the name of Donald Martin.

3. Any materials used by the Spartanburg County Solicitor's Office and/or Spartanburg Public Safety Division to establish the authenticity and foundation for the recorded detention center call introduced as State's Exhibit #21-A. Transcript p. 124. Specifically, but not limited to, the detention center phone logs, the times detention center inmates located in Pod 5 were given access to the phone on February 5, 2006, and a listing of all Spartanburg County Detention Center employees assigned to Pod 5 and inmates calling areas on February 5, 2006.
4. Any materials and/or information used to establish a chain of custody for the letters introduced through the testimony of Erica Gray. Transcript p. 152-3.

The Applicant, through undersigned counsel, submits that the above listed documents and case materials are necessary to properly prepare and present his claims. Furthermore, the Applicant, through counsel, submits that this request is not being made as a fishing expedition, but it is only being submitted to the Court after a thorough review of all available case documents and materials.

THEREFORE, based upon the foregoing the Applicant respectfully requests that this Court hold a hearing and enter an Order for Discovery for the above listed case documents and materials that are necessary for the presentation of the Applicant's case.

I so move,


Tricia A. Blanchette
PO Box 12725
Columbia, SC 29211

May 16, 2011
Columbia, SC

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
Nathaniel Teamer, #285309,	)	2010-CP-42-4049
	)	
Applicant,	)	
	)	RETURN TO MOTION
v.	)	FOR DISCOVERY
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

This matter comes before the Court by way of the Applicant's Motion for Discovery. The Applicant requests an Order allowing Applicant access to the contents of files and other evidence that appears to be in the custody and control of the Spartanburg County Solicitor's Office and the Spartanburg County Sheriff's Department. The Respondent submits that the Applicant's Motion for Discovery lacks good cause and should be denied.

I.

Respondent objects to the Motion for Discovery, first, the offices named are not a party to the post-conviction relief action and the documents or files the Applicant seeks are in the possession, custody, and control of each office named and are not matters the Office of the Attorney General can produce. A post-conviction relief action takes the place of the relief available under the common law writ of habeas corpus in circuit court. See Simpson v. State, 329 S.C.43, 495 S.E.2d 429 (1998); see also S.C. Code Ann. section 17-27-20(b) (2003)(stating PCR "comprehends and takes the place of all other common law, statutory, or other remedies heretofore available for challenging the validity of the conviction or sentence.") Therefore, post-conviction relief is brought by an applicant against the State of South Carolina as the custodian

of an applicant asserting the detention or custody is unlawful. Post-conviction relief applicants are typically incarcerated at the South Carolina Department of Corrections and are seeking relief from confinement by showing the conviction and sentence supporting the confinement is unconstitutional or is otherwise subject to collateral attack. The offices named are not the custodians of a convicted defendant and are not parties to this civil action.

II.

Second, Respondent objects to Applicant's Motion because the Uniform Post-Conviction Procedure Act does not allow for discovery in a non-capital post-conviction relief case without good cause and order of the circuit court permitting discovery requests. S.C. Code Ann. § 17-27-150(A) states:

A party in a non-capital post-conviction relief proceeding shall be entitled to invoke the processes of discovery available under the South Carolina Rules of Civil Procedure if, and to the extent that, the judge in the exercise of his discretion and for good cause shown grants leave to do so, but not otherwise. If necessary for the effective utilization of discovery procedures, counsel may be appointed by the judge for an applicant who qualifies for appointment pursuant to Section 17-27-60 or similar applicable provisions of law.

The conviction being challenged by the Applicant in this action arises from a non-capital offense. Furthermore, Respondent submits that discovery should not be permitted because the Applicant has not made the requisite showing of good cause. Applicant has been given access to the evidence introduced during Applicant's trial and information included in the Spartanburg County Solicitor's office file.

III.

The Respondent therefore objects to the Motion for Discovery and requests that the Court deny the Applicant's Motion.

WHEREFORE, the State requests that this Court deny the Motion for Discovery.

Respectfully submitted,

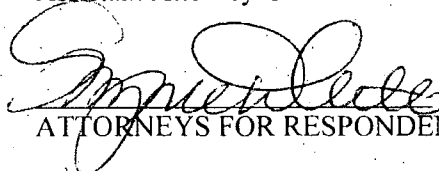
ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

SUZANNE H. WHITE
Assistant Attorney General

BY:



ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737

May 26, 2011.

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

COUNTY OF SPARTANBURG)

Nathaniel Teamer, #285309,)

2010-CP-42-4049

2010-CP-42-4081

Applicant,)

v.)

ORDER

State of South Carolina,)

Respondent.)

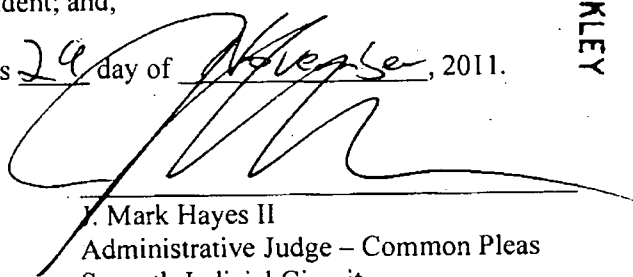
This matter comes before the Court by way of Applicant's Motion for Discovery. Applicant motioned the court to unseal a copy of the transcript from the guilty plea of Kelvin D. McKinney, (2007-GS-42-3910), dated March 27, 2008. This transcript has been sealed on my instructions. However, after consent of both the Solicitor and prior Counsel for Mr. McKinney, this Court grants the motion only for the limited purpose of review by Counsels for the Applicant, Ms. Tricia Blanchette, Esquire, and Mr. Jeremy Thompson, Esquire, and Counsel for the Respondent, Ms. Suzanne H. White, Esquire, for testimony regarding any negotiated deals between Mr. McKinney and the Seventh Judicial Circuit Solicitor's Office.

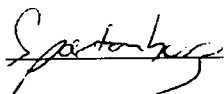
This Court instructs all attorneys involved to not provide the copies of the transcript to any other individuals and to ensure that the contents of the transcript remain confidential.

IT IS THEREFORE ORDERED:

1. That a copy of the sealed transcript of the aforementioned guilty plea of Mr. Kelvin D. McKinney be provided to both Counsels for the Applicant and Counsel for the Respondent; and,

AND IT IS SO ORDERED this 29 day of November, 2011.


J. Mark Hayes II
Administrative Judge – Common Pleas
Seventh Judicial Circuit

 South Carolina.

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

Nathaniel Teamer, 285309,)
Applicant,)

v.)

State of South Carolina,)
Respondent.)IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2010-CP-42-4049

AMENDMENT TO APPLICATION
FOR POST CONVICTION RELIEF

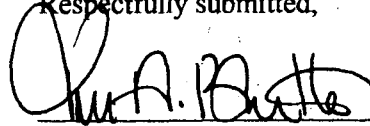
Applicant, by and through his Attorney, Tricia A. Blanchette, would amend his Application for Post Conviction Relief filed on August 2, 2010, by adding the following specific allegations to his original allegation of ineffective assistance of trial and appellate counsel:

1. Ineffective assistance of trial counsel for failure to prepare with Applicant by going over the discovery materials and fully discussing trial strategy; failure to investigate the witnesses and evidence put forth by the State.
2. Ineffective assistance of trial counsel for failure to make a pre-trial motion regarding the t-shirt worn by the murder victim's family in the courtroom. Failure to request to have the jury questioned regarding their exposure to it.
3. Ineffective assistance of trial counsel for making a motion to sever which allowed the State to stream line the case against Applicant, eliminated defenses and allowed evidence from charges in 1st trial to be used against Applicant in 2nd trial. Ineffective assistance of counsel for failure to be prepared to proceed after motion to sever was granted and to properly preserve the issue for appellate review.
4. Ineffective assistance of trial counsel for failure to discuss the letters admitted into evidence with Applicant prior to trial. Ineffective assistance of trial counsel for providing false information to the court regarding the recipient of the letters, stipulating to the authenticity of the letters, making an untimely objection regarding the recipient and/or foundation for the letters. Ineffective assistance of trial counsel for failure to use the letters to explore the defense regarding the underlying DSS case.
5. Ineffective assistance of trial counsel regarding the phone call evidence introduced and relied upon by the State at trial, specifically:

- a. Failure to effectively raise a pre-trial argument regarding the logistics of Applicant accessing the phone at the jail.
 - b. Failure to obtain records and/or testimony regarding Applicant's location and access to the phone at the jail.
 - c. Failure to object to the introduction of the call records at trial.
 - d. Failure to object to Erica Gray's identification of Applicant's voice.
 - e. Failure to have a clear strategy regarding redactions and/or the use of the entire phone conversations.
6. Ineffective assistance of trial counsel for failure to properly cross-examine the victims that testified and present Applicant's defense regarding the underlying DSS case.
7. Ineffective assistance of trial counsel regarding the handling of the testimony and evidence elicited from law enforcement witnesses, specifically:
 - a. Failure to object to the introduction of the video evidence.
 - b. Failure to file a motion and/or object concerning the destruction of the beer can, which was taken into evidence.
 - c. Failure to properly address the testimony and/or evidence regarding Applicant's usage of his headlights.
 - d. Failure to object to opinion testimony offered by law enforcement.
8. Ineffective assistance of trial counsel for failure to address Applicant's filed Motion to Dismiss the Felony DUI charge. Failure to raise all viable defenses to the Felony DUI charge.
9. Ineffective assistance of trial counsel for failure to effectively argue for introduction of the victim's (James Young) toxicology results. Failure to utilize the testimony of James Young to further expose inconsistencies in the testimony of the law enforcement officers.
10. Ineffective assistance of trial counsel for failure to advise Applicant regarding the introduction and use of the drug evidence. Failure to make objections: 1) regarding the searches of the Chevy Caprice that resulted in the location of the drug evidence, 2) regarding chain of custody, and 3) regarding the use of an uncharged "bad act."
11. Ineffective assistance of trial counsel for failure to make a directed verdict motion on the burglary and armed robbery charges.
12. Ineffective assistance of trial counsel for failure to properly prepare and utilize Applicant's alibi witnesses.

13. Ineffective assistance of trial counsel for failure to object to the State's closing argument, i.e. bolstering.
 14. Ineffective assistance of appellate counsel for failure to raise all meritorious issues on appeal, including but not limited to pre-trial motions, trial objections and rulings on Applicant's evidence.
-
15. Pursuant to Rule 15(b), SCRPC, Applicant would move to amend to conform to the evidence and testimony presented at the evidentiary hearing.

Respectfully submitted,



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October 8, 2012
Columbia, SC

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COMMON PLEAS COURT
3 Nathaniel Teamer,)
4 Applicant,) TRANSCRIPT OF RECORD
5 -vs-) 2010-CP-42-4049
6 The State.) October 29, 2012
7 Spartanburg, South Carolina
8
9

10 B E F O R E:

11 HONORABLE BROOKS P. GOLDSMITH, JUDGE
12

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

14 TRICIA BLANCHETTE, ESQUIRE
15 JEREMY ADAM THOMPSON, ESQUIRE
16 Attorney for the Applicant

17 SUZANNE WHITE, ESQUIRE
18 Attorney for the State
19

20 Linda D. Moffitt
21 Circuit Court Reporter
22
23
24
25

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1 (Proceedings October 29, 2012)

2 THE COURT: Ms. Blanchette, are you prepared to
3 proceed?

4 MS. BLANCHETTE: Yes, Your Honor, we are.

5 THE COURT: Ms. White.

6 MR. WHITE: Yes, Your Honor.

7 We can give the case number and a brief procedural
8 history if you'd like.

9 Your Honor, this is case No. 2010-CP-42-4049. It's
10 the case of Nathaniel Charles Teamer vs. the State.

11 The application was filed in August of 2010. This
12 is -- involves a case that the applicant was indicted May
13 of 2006 for burglary first degree, felony D.U.I. great
14 bodily injury, failure to stop when signaled by officer and
15 an armed robbery charge.

16 Josh Schultz represented him at trial.

17 September 12th of 2007 he went -- went to trial on
18 these charges.

19 There had also been -- and I know we'll get into this
20 a little bit later -- several other charges that originally
21 were linked, but because of a motion to sever at that time
22 the only charges that were proceeded with at trial were the
23 burg first, armed robbery, failure to stop and felony
24 D.U.I.

25 On September 12th of 2007 the applicant was found not

1 guilty of the armed robbery and guilty of the other
2 charges. He was sentenced to 30 years for burglary first
3 degree, 15 years for felony D.U.I. and ten years for the
4 failure to stop, which were all to run concurrent.

5 There was an appeal filed, and the convictions were
6 affirmed February 11th of 2010.

7 And at this point, Your Honor, we did have an initial
8 application that had some allegations, and then I know that
9 you should have in a packet the amendment that was filed a
10 little bit ago in this case that had additional
11 allegations.

12 Instead of reading over each of those independently
13 I'll just allow that to reflect -- the application. I
14 believe there are 15 amendments.

15 THE COURT: I have amendment filed October the 12th of
16 2012.

17 MS. WHITE: Yes, Your Honor. And so at that time I
18 can turn it over to Ms. Blanchette.

19 THE COURT: Ms. Blanchette.

20 MS. BLANCHETTE: Your Honor, if I could just beg the
21 Court's indulgence one moment.

22 (Pause.)

23 MS. WHITE: Your Honor, if I may approach too, this
24 was -- I guess we're asking kind of for a court's exhibit.
25 Essentially Exhibit No. 1, this is -- we mentioned a map

1 for you of the location, and this map does represent the
2 location of the burglary and the armed robbery location.

3 The failure to stop and the felony D.U.I. goes off the
4 map, but I don't think location was as important for that.
5 So we I think agreed that this map for what we need it and
6 for your purposes would be sufficient.

7 MS. BLANCHETTE: We do, Your Honor.

8 THE COURT: Okay.

9 MS. BLANCHETTE: And, Your Honor, I also have a copy
10 of each exhibit we plan to introduce. would you like to
11 have that packet with you now that you can go through? I
12 have them in the order I plan to introduce them.

13 THE COURT: Certainly.

14 MS. BLANCHETTE: And one final matter, Your Honor, is
15 you did acknowledge the amendment, but since we put that
16 together there was a new case decided in the South Carolina
17 Supreme Court, the State vs. Gregory Daniels. That's
18 opinion No. 27180. And in that case they talk about
19 charges to the jury, and specifically using the language
20 fair and just.

21 I have a copy of that case to provide to the Court,
22 but we would like to make an additional amendment alleging
23 that counsel was ineffective for not objecting to similar
24 language in this case.

25 THE COURT: All right. There's no objection to the

Latoya McCravy
Direct examination by Mr. Blanchette

1 amendment.

2 MS. WHITE: No objection, Your Honor.

3 MS. BLANCHETTE: Your Honor, we are prepared to call
4 our first witness. I call Ms. Latoya McCravy to the stand.

5 LATOYA MCCRAVY, having been
6 first duly sworn, testified as follows:

7 DIRECT EXAMINATION BY MS. BLANCHETTE

8 Q Could you please state your name for the record?

9 A Latoya McCravy.

10 Q Okay. Can you say that loud enough for the clerk to
11 hear?

12 A Latoya McCravy.

13 Q And can you spell your last name, please?

14 A M-C-C-R-A-V-Y.

15 Q Ms. McCravy, did you attend Nathaniel Teamer's trial
16 that was held here in Spartanburg on September 10th through
17 12th of 2007?

18 A Yes.

19 Q Okay. And you were in attendance at that trial.
20 At any time did you see something or was something
21 brought to your attention that caused you concern?

22 A Yes.

23 Q And can you please explain what that was?

24 A The t-shirt with murder article on it.

25 Q Okay. You saw a t-shirt, you said?

Latoya McCravy
Direct examination by Mr. Blanchette

- 1 A Yes, ma'am.
- 2 Q Okay. And what was on that t-shirt?
- 3 A His picture and the article.
- 4 Q Okay. And what was that article about?
- 5 A The murder.
- 6 Q Okay. And when did you see that t-shirt?
- 7 A On break.
- 8 MS. BLANCHETTE: Were you able to get that?
- 9 Q Okay. You saw it during a break, is that correct?
- 10 A Yes.
- 11 Q Okay. And do you know who had on that t-shirt?
- 12 A Yeah.
- 13 Q who had on that t-shirt that you saw?
- 14 A Dawn.
- 15 Q who was that? I'm sorry?
- 16 A Dawn.
- 17 Q Dawn.
- 18 A Yeah.
- 19 Q And how was Dawn connected to the murder case?
- 20 A It was her brother's murder.
- 21 Q Okay. So you saw Dawn Hunter with a t-shirt about the
- 22 murder case during the break of the burglary trial, is that
- 23 correct?
- 24 A Yes.
- 25 Q Okay. Did you ever see that t-shirt displayed in

Latoya McCravy
Direct examination by Mr. Blanchette

1 public in the courtroom?

2 A No. It was open but -- the jacket was -- but --

3 Q okay. Did --

4 A -- I was on the other side.

5 Q okay. Did she have a jacket on over the t-shirt?

6 A Yes.

7 Q okay. And in the courtroom did you see it zipped up
8 or opened?

9 A It was zipped when we came back in.

10 Q okay. And did you have concern that the jury may have
11 seen that t-shirt?

12 A They was sitting on that side.

13 Q okay.

14 MS. BLANCHETTE: Your Honor, if I could just beg the
15 Court's indulgence one moment.

16 THE COURT: Sure.

17 MS. BLANCHETTE: Your Honor, I have no further
18 questions of this witness.

19 THE COURT: Cross-examination.

20 MS. WHITE: The state has no questions for this
21 witness, Your Honor.

22 THE COURT: Thank you, ma'am. You may step down.

23 MS. BLANCHETTE: Your Honor, I'd call my client,
24 Nathaniel Teamer, to the stand.

25

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 NATHANIEL TEAMER, having been
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MS. BLANCHETTE

4 Q Please state your name for the record.

5 A Nathaniel Teamer.

6 Q And, Mr. Teamer, have you filed the P.C.R. application
7 we are here on today, 2010-CP-42-4049?

8 A Yes, ma'am.

9 Q And by way of this application are you alleging
10 ineffective assistance of both trial and appellate counsel?

11 A Yes, ma'am.

12 Q And what is the relief that you're asking this Court
13 to give you today?

14 A A new trial.

15 Q Mr. Teamer, we have met extensively for several years
16 preparing for today, and I've explained to you there's
17 risks in going forward with a P.C.R.

18 By asking for a new trial you're asking this Court to
19 set aside your convictions and to put you in the position
20 you were after you were indicted to face your charges all
21 over again with absolutely no guarantee of less time.

22 Understanding that, do you still want to go forward
23 today?

24 A Yes, ma'am.

25 Q Okay. Now, Mr. Teamer, do you remember when you were

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 arrested in this case?

2 A Yes, ma'am.

3 Q When was that?

4 A February 3rd --

5 Q Of what year?

6 A -- of 2006.

7 Q Okay. And after you were arrested did you make bond
8 or did you stay in the county facility?

9 A Stayed at the county.

10 Q Were you appointed or did you retain an attorney?

11 A Appointed.

12 Q And who were you appointed, Mr. Teamer?

13 A Joshua Schultz.

14 Q Do you remember approximately how many times you all
15 met to prepare for trial?

16 A Probably about five or six times.

17 Q And, Mr. Teamer, we're here today as a result of your
18 convictions on burglary in the first degree and D.U.I.
19 causing great bodily injury and failure to stop. But at
20 the time you were meeting with Mr. Schultz were you meeting
21 about a number of other charges?

22 A Yes, ma'am.

23 Q Okay. Can you explain what you were originally
24 charged with?

25 A Burglary first, armed robbery, murder, assault and

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 battery, intent to kill, felony D.U.I., failure to stop.

2 Q And during those meetings were you addressing all of
3 those charges, or did you break them up? What did you do
4 during the course of those meetings?

5 A We was addressing all. It was like different times
6 we'd do different stuff.

7 Q Okay. And during those meetings did your attorney
8 bring you what's often called the discovery or the Rule 5
9 materials to go over?

10 A Yes, ma'am.

11 Q How did y'all go about going over that?

12 A Sometimes he'll just hand me paperwork and sometime
13 we'll read over or watch a D.V.D. or something.

14 Q Okay. When you say watch a D.V.D. or something,
15 specifically in this case there was a D.V.D. introduced

16 from an officer's camera as part of the vehicle chase in
17 this case. Did you all review that?

18 A Yes, ma'am.

19 Q Okay. Do you know if Mr. Schultz utilized a private
20 investigator?

21 A I think at the end he did, but as far as every day, I
22 don't think so.

23 Q Okay. Did you ever speak with a private investigator?

24 A One came and talked to me -- a dude. He came and
25 talked to me, but he ain't never show up for my murder

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 trial. That was for the murder.

2 Q Okay. Was there ever a private investigator used as
3 far as you know in the burglary trial that we're here about
4 today?

5 A She was in my trial. That's it.

6 Q Okay. Now, you called several witnesses in this case,
7 and there was a number of witnesses called by the state.

8 Did you ever ask Mr. Schultz to investigate those
9 witnesses? And, if so, do you know what he did about it?

10 A Yes, ma'am.

11 Q Okay. And what did -- what do you know that he did
12 about it?

13 A He ain't talked to none of the Grays or nothing like
14 that. I asked him to get records for the Grays and impeach
15 them like police reports and D.S.S. records.

16 Q Okay. And when you say the Grays, I know you know
17 everything about your case. But could you explain who the
18 Grays are?

19 A Natalie -- nah. Excuse me. Erica Gray, Mary Gray and
20 Donald Martin.

21 Q And how are they involved in this case?

22 A They say I -- they I.D.'d my voice as being the armed
23 robber.

24 Q Okay. Are they, in fact, the people that were listed
25 as victims and called as the state's witnesses?

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A Yes, ma'am.

2 Q Okay. And who was the victim on the D.U.I. charge
3 that you had?

4 A James Young.

5 Q Okay. Did you ever ask him to do anything in regards
6 to James Young?

7 A Yes, ma'am.

8 Q And what was that, Mr. Teamer?

9 A Pull up his background and find out why his charge was
10 dropped, his D.U.I. was dropped, so we could see if he
11 just -- was it dropped for him just to testify on me and
12 not be brought to the jury's attention.

13 Q And in regards to that D.U.I., you were charged with
14 great bodily injury. Were you aware of that prior to
15 trial?

16 A Yes, ma'am.

17 Q Okay. So you were aware of the great bodily injury
18 charge?

19 A Not on the failure to stop, but the felony D.U.I., I
20 was.

21 Q Okay. And explain the charge you weren't aware of.

22 A The failure to stop causing great bodily injury. I
23 ain't know that till the trial.

24 Q Now, is there anything else you want to tell the Court
25 about pretrial before we jump in and start talking about

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 what actually took place at the trial itself?

2 A Yes, ma'am.

3 Q Okay. what is that?

4 A In the pretrial about the Grays I asked him to go
5 see -- get a ruling from the judge on Erica Gray, had false
6 information. I think it was in '94. But he said he was
7 going to go into the ruling -- get a ruling on it, but he
8 never did to see could we impeach her on false information
9 for a similar burglary.

10 Q Okay. Mr. Teamer, we're going to get into what
11 actually happened throughout the course of trial, but let
12 me ask that question better.

13 Before the trial started was there anything else you'd
14 asked Mr. Schultz to do as far as investigation or meeting
15 with you or reviewing evidence that I failed to ask you
16 about?

17 A Yes, about the phone calls from the county jail.

18 Q Okay. So there's a number of things that you asked
19 him to investigate that didn't play out through the course
20 of your trial, is that correct?

21 A Yes, ma'am, letters, phone calls, etc.

22 Q Okay. well, let's start going through those if you
23 could open up your transcript, please, to page 13. There
24 Mr. Schultz is making a -- I'm sorry. I'll let you get
25 your stuff out.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 (Pause.)

2 A Say page 13?

3 Q Page 11 actually. I'm sorry. There your attorney is
4 making a motion to sever your original charges.

5 You were charged with murder. He explains assault and
6 battery, felony D.U.I., failure to stop, armed robbery and
7 burglary in the first degree. And he makes the motion to
8 sever those charges and argues they're actually three
9 separate incidents. Did you talk with him about that motion
10 prior to trial?

11 A Yes, ma'am.

12 Q Okay. And what was your understanding as to the
13 motion he was going to be making for severance?

14 A That we was going to go to trial to each separate
15 indictment.

16 Q Okay. And if you could turn to page 20 -- 26 through
17 28. Throughout the course of those three pages the judge
18 makes his ruling that the cases can be severed. And if you
19 look specifically at page 28, lines three through six, do
20 you want to read lines three through six?

21 A "Another way of saying the failure to stop and felony
22 D.U.I. may be tried with either or other incident, but
23 they -- the two are -- incidents involving murder and
24 burglary are not to be tried together."

25 Q Okay. And that's the Court's ruling. He ruled that

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 the murder and burglary could not be tried together, but
2 the traffic charges -- the D.U.I. and the failure to
3 stop -- could be tried with either case.

4 A Yes, sir.

5 Q And it was your understanding though that your
6 attorney was moving to have three separate trials, is that
7 correct?

8 A Yes, ma'am.

9 Q Okay. Now, did your attorney ask for any further
10 clarification on that or tell the judge, no, in fact, we're
11 asking for three trials, not two?

12 A No, ma'am. He just abandoned the issue.

13 Q If you could look on page 43, please, there do you
14 recall once the judge granted your attorney's severance he
15 actually asked for more time to prepare?

16 A Yes, ma'am.

17 Q And what was your reaction to that request?

18 A I didn't understand how he got four severs and not be
19 prepared for his own motion.

20 Q Now, if you could, turn to page 421, please, and look
21 at lines 15 through 25. I'll give you a chance to review
22 that.

23 A Say 15 through 25?

24 Q Uh-huh.

25 A All right.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Now, there your attorney is making an argument that
2 there would have to be two Charlies if they believed that
3 you committed this burglary and then were also the person
4 arrested for the D.U.I. charge. Wouldn't his argument have
5 made a lot more sense if all the cases had been tried
6 together?

7 A Yes, ma'am.

8 Q Would you like to explain that, why you think that
9 argument would have been more valid if all the cases were
10 tried together?

11 A Because it was three different characters, three
12 different descriptions, two different weapons in the murder
13 and the robbery. And basically it was a coldblooded
14 killing and a murder where he had on gloves, latex gloves,
15 with all black on. And in the burglary he's supposed to

16 had on a ski mask with a shotgun. Then you got the driver.
17 He say he ride through Park Hills throwing stuff outta the
18 car. So that's three different characters, three different
19 descriptions.

20 Q And these -- those all allegedly happened on the same
21 evening.

22 The cops arrived, the first response. And the murder
23 case according to the murder transcript was 8:49 p.m. The
24 burglary happened at approximately 11:00 p.m., and then the
25 driving arrest happened at approximately 12:57 p.m.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 So one person supposedly committed all of these crimes
2 in the course of one evening. Is that what the state
3 alleged?

4 A Yes, ma'am.

5 Q Okay. And is it your position today that it would
6 have been more advantageous to your defense to have to have
7 the state prove all three of those were committed by you in
8 the same evening?

9 A Yes, ma'am.

10 Q Are you alleging today that your attorney was actually
11 ineffective for making the motion to sever?

12 A Yes, ma'am.

13 Q Would you like to expand on that any further,
14 Mr. Teamer?

15 A Basically, no. I don't have nothing else to say.

16 Q Okay. And did it, in fact, allow the state to
17 somewhat clean up their case, to take the case in pieces
18 and give it to the jury separately so they didn't have to
19 worry about it all adding up or making sense?

20 A Yes, ma'am.

21 Q Now, Kathrine Hudgins from the office of appellate
22 defense handled your appeal, is that correct?

23 A Yes, ma'am.

24 Q And she filed an Anders brief on your behalf.

25 A Yes, ma'am.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q And the issue she actually argued was that the trial
2 court erred by failing to sever the D.U.I. from the
3 burglary first and the armed robbery charges, is that
4 correct?

5 A Yes, ma'am.

6 Q Now, I know that you're not an attorney, so we'll get
7 into this more with Mr. Schultz. But just in your review
8 do you feel that your attorney properly argued that issue
9 so it could be presented the best it could on appeal?

10 A No, ma'am.

11 Q Okay. Mr. Teamer, we're going to revisit this
12 severance issue throughout because it builds throughout
13 your trial as to the importance of the severance, but is
14 there anything else you'd like to testify about it further
15 at this time?

16 A Yes, ma'am.

17 Q Okay. Please go ahead.

18 A The simple fact when the evidence -- when he asked for
19 the severance, the evidence was introduced -- the driver.
20 He didn't ever object to it any more once the judge said
21 you're going to go forward with the driving and the
22 burglary. He didn't object then. When evidence came in
23 for the driving offense, he didn't object.

24 Q And, Mr. Teamer, we've asked the Court to incorporate
25 the transcript from your second trial, and I'll just put

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 that docket number on the record. That's docket No.
2 2007-GS-42-1407 and 1408.

3 That trial was held in front of Judge Cole here in
4 Spartanburg on January 14th through 16th of 2008.

5 Now, at that murder trial did they actually use the
6 driving offenses against you at that trial also?

7 A Yes, ma'am.

8 Q And was it your understanding when the judge made this
9 ruling here that those charges were going to be brought up
10 in both cases?

11 A No, ma'am. I'm saying I didn't know it was going to
12 be brought up. He said they could be tried with either-or.
13 Is that what you mean?

14 Q Yeah. You can further explain that.

15 A I thought it was just going to be tried with the
16 burglary since he went -- he said it could be tried with
17 the murder or the burglary or either-or, but he said the
18 murder and the burglary couldn't be tried together.

19 Q And you weren't tried again, but they called the
20 witnesses and they brought up those charges in your second
21 trial, is that correct?

22 A Yes, ma'am.

23 Q Okay. Now, Mr. Teamer, you also mentioned there were
24 some letters that you wanted your attorney to investigate
25 and look into.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 If you could, turn to page 32 of your transcript,
2 please. If you could, review lines two through 17.

3 THE COURT: Was that page 37?

4 MS. BLANCHETTE: Thirty-two, Your Honor.

5 THE COURT: Thirty-two. Sorry.

6 MS. BLANCHETTE: I may have misspoke. Lines two
7 through 17.

8 BY MS. BLANCHETTE

9 Q Now, there your attorney is making a motion to have
10 the letters excluded, is that correct?

11 A Yes, ma'am.

12 Q Okay. And the argument's kind of long, but
13 essentially he's saying they may be relevant but he thinks
14 they're confusing. So he's asking the Court to exclude
15 those letters.

16 A Yes, ma'am.

17 Q And if you could look, continue to look, on page 33,
18 and look at lines five through six. There he informs the
19 Court that these letters were written by you. Is that what
20 he tells the Court?

21 A Yes, ma'am.

22 Q Okay. And then if you could, look at lines 16 through
23 17. He informs the Court that those letters were turned
24 over by Erica Gray. Could you explain who Erica Gray is in
25 this case?

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A She is the victim of the armed robbery, burglary.

2 Q Okay. And then if you could look on -- scan page 33,
3 and look at lines 21 through 23. If you could, read lines
4 21 through 23 for us, please.

5 A "That the recipient -- the recipient of the letters
6 provided them to the police."

7 Joshua Schultz say, "Yes, sir."

8 Q Okay. And he's already said that the recipient was
9 Erica Gray. Or I'm sorry. That Erica Gray provided them
10 to the police. So essentially he's saying there the
11 recipient was Erica Gray. Is that what he's telling the
12 Court?

13 A Yes, ma'am.

14 Q And did you know otherwise?

15 A Yes, ma'am.

16 Q Okay. And could you please explain that?

17 A The letter's written to Natalie Gray. I was telling
18 him the whole time that Erica wasn't the recipient of the
19 letter.

20 Q And he was specifically asked by the Court. The
21 recipient of the letters provided them to the police, and
22 she's one that's going to testify. And he said, "Yes,
23 sir."

24 A Yes, ma'am.

25 Q But you had given him information otherwise.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A Yes, ma'am.

2 MS. BLANCHETTE: Your Honor, may I approach the
3 witness?

4 THE COURT: Certainly.

5 MS. BLANCHETTE: Your Honor, I have 20 exhibits.
6 would you like me to ask each time to approach?

7 THE COURT: No. Please do not.

8 BY MS. BLANCHETTE

9 Q Mr. Teamer, could you identify what this appears to be
10 for the record?

11 A The letters that Erica turned in.

12 Q Okay. What does it say at the top as far as what this
13 document is?

14 A A property report.

15 Q Okay. And is it from the Spartanburg Public Safety
16 Department?

17 A Yes, ma'am.

18 MS. BLANCHETTE: Your Honor, at this time I'd move
19 this property report in as Applicant's No. 1.

20 MS. WHITE: No objection, Your Honor.

21 (Incident report dated February 16, 2006, marked
22 Applicant's Exhibit No. 1.)

23 Q And on this property report, who does it say turned in
24 those letters?

25 A Erica Gray.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Okay. Now, Mr. Teamer you're not disputing that Erica
2 Gray turned in the letters. You're disputing that she was
3 the recipient.

4 A Yes, ma'am.

5 Q Okay. And the state explains on page 34, lines 19
6 through 25, why they plan to introduce these letters. I'll
7 give you a second to turn that. That's page 34, lines 19
8 through 25.

9 A Yes, ma'am.

10 Q And they plan to introduce those letters to show your
11 motive regarding one of the victims, Donald Martin. Is
12 that what the state says?

13 A Yes, ma'am.

14 Q So these letters are very important because they're
15 going to be used by the state to establish motive in your
16 case.

17 A Yes, ma'am.

18 Q Now, if you could look at page 36, lines 11 through
19 23, there the state explains that the recipient of the
20 letters is going to introduce them and lay the foundation.
21 And, again, the judge specifically asks, and they say yes,
22 the recipient of those letters is going to be available.

23 A Yes, ma'am.

24 Q Okay. And, again, you had told Joshua Schultz that
25 Erica Gray was not the recipient of those letters.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A Yes, ma'am.

2 Q And the Court ruled on page 96 that those letters
3 could be admitted, is that correct? I'll let you turn
4 there. It's 96, lines 22 and 23.

5 A Yes, ma'am.

6 Q And selected portions were going to be admitted. Did
7 you have any issue with the Court just using the selected
8 portions?

9 A They supposed to show the whole portion.

10 Q Okay. Why did you want the whole portion shown?

11 A That's what me and the attorney agreed on, part of our
12 strategy, to show that the letter wasn't saying what
13 basically the state was saying it was saying.

14 Q Okay. So you wanted the entire letters admitted if
15 they were going to be admitted.

16 A Yes, ma'am.

17 Q Okay. And did your attorney follow through on what
18 you said was your strategy?

19 A No, ma'am.

20 Q Okay. And that's something you all had discussed
21 ahead of time, that if the letters came in, you wanted the
22 entire letters in.

23 A Yes, ma'am.

24 Q Okay. Now, let's look at how those letters were used
25 at trial if you could turn to page 152, lines one through

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 four. And there on direct examination Erica Gray actually
2 identifies your handwriting in those letters, is that
3 correct?

4 A Yes, ma'am.

5 Q Did you know that she was going to be used by the
6 state -- one of the victims in this case -- to identify
7 your handwriting?

8 A No, ma'am.

9 Q Did you raise any concern to Mr. Schultz regarding
10 that?

11 A Yes, ma'am.

12 Q Now, if you could, continue to look at pages 152 to
13 153. There she testifies that the letters were actually
14 addressed to Chrissy and her daughter Ieshia.

15 If you could look at specifically page 153, line seven,
16 what does your attorney do on page 153, line seven?

17 A Object to the letters.

18 Q And why does he object?

19 A Because I told him the recipient wasn't Erica Gray.

20 Q But at the beginning pretrial when he's making the
21 motion to have these letters not admitted he agrees with
22 the state that the recipient is going to be there to lay
23 the proper foundation. And that recipient is Erica Gray.

24 A Yes, ma'am.

25 Q But then when she goes to testify in front of the jury

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 he chooses to object at that point saying that information
2 is not correct, she's, in fact, not the recipient.

3 A Yes, ma'am.

4 Q Do you have any idea why he didn't raise this argument
5 that he made on page 153 during his pretrial motion?

6 A No, ma'am. Basically, just misrepresented the Court
7 with the whole recipient issue.

8 Q And then Erica goes on on page 153 to explain how she
9 obtained the letters and turned them in even though she was
10 not the recipient, is that correct?

11 A Yes, ma'am.

12 Q Is there anything else regarding this issue of his
13 pretrial motion, his trial objection, and this issue of the
14 recipient that you would like to explain to the Court as
15 far as your allegations today?

16 A Yes, ma'am. That we ain't never -- we never discussed
17 the fact that he was going to stipulate that I wrote the
18 letters. And the -- the request forms they used from the
19 county jail, he never asked me did I write -- did I write
20 them even -- could I even read or write to write the -- the
21 known handwriting samples that they took.

22 Q Okay. Well, let's look at page 233, because I think
23 that goes into what you're talking about here if you could
24 turn to page 233.

25 The state actually called SLED agent Gail Heath, and

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 she testified as an expert that that was your handwriting on
2 those letters.

3 A Yes, ma'am.

4 Q And those letters were admitted without objection on
5 page 233, is that correct?

6 A Yes, ma'am.

7 Q And are you alleging that your attorney should have
8 objected at that point?

9 A Yes, ma'am.

10 Q Okay. And the Court actually asked him if you look at
11 lines 15 through 17 -- I'm sorry. I might have the wrong
12 lines. Just a second here.

13 If you look at lines ten through 12 he said, "You said
14 you didn't object. Have you rethought your objection?"

15 So the Court's even asking him if he's second-guessing
16 whether or not he should object at that point.

17 A Yes, ma'am.

18 Q And it was your understanding he was going to object.

19 A Yes, ma'am.

20 Q Was it essentially your strategy pretrial to get these
21 letters excluded that the state was trying to use to prove
22 motive?

23 A Yes, ma'am.

24 Q And are you alleging today that your attorney did not
25 effectively do that pretrial?

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A No, ma'am.

2 Q Okay. Are you also alleging today that when he made
3 the motion during the trial it was a little too little, a
4 little too late? You know, he just -- he realized too late
5 that -- what the tissue was.

6 A Yes, ma'am.

7 Q And then finally here when he has the opportunity to
8 object to the introduction of the letters he does not make
9 that objection even when questioned by the Court.

10 A Yes, ma'am.

11 Q Okay. And those letters were actually read to the
12 jury on page 243, is that correct?

13 A Yes, ma'am.

14 Q Okay. Mr. Teamer, is there anything else regarding
15 these letters that you would like to explain to the Court?

16 A Yes, ma'am. I think -- what I think about the whole
17 letter issue that he wanted to get in, because he was
18 really objecting to make me feel good, but he was
19 stipulating at the same time. So I'm trying to figure out
20 how you going to stipulate that the letter's mine and
21 object at the same time. When you stipulate they go
22 undisputed, and the state ain't had to lay their foundation
23 for the whole thing.

24 Q Okay. A second major piece of evidence in this case
25 were phone calls that the state admitted, is that correct?

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A Yes, ma'am.

2 Q Okay. And if you could, turn back to page 37, please.
3 Please let me know if I'm going too quickly for you. There
4 on page 37 does your attorney make a similar objection
5 regarding relevancy and prejudice as to the letters?

6 A Yes, ma'am.

7 Q And specifically if you could look at lines 14 through
8 18 -- actually, just go ahead and read those into the
9 record, and then I'll ask you a question.

10 A "Your Honor, as I said before, if you do hold that
11 it's relevant -- relevant I would just ask that large portion
12 of the whole phone conversation which the state intends to
13 offer be read into the -- be listened to by the jury, not
14 just the portion that the solicitor's office wants to
15 have."

16 Q So there he's asking the Court to play the entire
17 phone conversations.

18 A Yes, ma'am.

19 Q Did you have the opportunity to review those extensive
20 phone conversations with Mr. Schultz prior to trial?

21 A No, ma'am.

22 Q Okay. And that was a key piece of evidence in the
23 state's case, is that correct?

24 A Yes, ma'am.

25 Q Are you alleging that you should have reviewed those

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 with Mr. Schultz?

2 A Yes, ma'am.

3 Q Okay. Now, if you could, look at page 118, please.

4 MS. WHITE: Your Honor, I just want to put on the
5 record I know we allow some leeway for leading, but if
6 counsel could try to not ask as many leading questions for
7 the applicant.

8 THE COURT: Noted.

9 MS. BLANCHETTE: I assume that objection is sustained.

10 THE COURT: Sustained.

11 BY MS. BLANCHETTE

12 Q If you could, look at page 118, please. There your
13 attorney's actually asking Michael Jones on
14 cross-examination about what pod you were located in and
15 what phone calls could be made, is that correct?

16 A Yes, ma'am.

17 MS. BLANCHETTE: Your Honor, if I could just ask for
18 some clarification on that ruling, is it okay if I still
19 summarize the transcript, or would you like for me to be
20 more specific with having him read it in?

21 MS. WHITE: I mean, I think it's fine. I just was
22 asking for clarification. He's answering a lot of just yes
23 and no's instead of actually testifying as to what he
24 thought the -- the problem was. I think counsel was
25 testifying more as to the actual issues.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 THE COURT: I agree.

2 MS. BLANCHETTE: Can I still summarize the transcript?
3 Is that okay?

4 THE COURT: Certainly.

5 MS. BLANCHETTE: Okay. I just wanted to make sure,
6 because I can break that down more too.

7 BY MS. BLANCHETTE

8 Q There your attorney's questioning Michael Jones, and
9 he starts asking him about pod issues and phone-call times,
10 is that correct?

11 A Yes, ma'am.

12 Q Now, regarding this pod issue that he starts raising
13 on page 118, had you discussed that with your attorney
14 prior to trial?

15 A No, ma'am.

16 Q If you didn't discuss it with him prior to trial was
17 it an issue that came up during trial?

18 A Yes, ma'am, while Michael Jones was testifying.

19 Q Could you explain how that came up?

20 A When they said the time on the specific phone call
21 that the state had recorded, it was no way -- I tell him
22 there was no way that I could use the phone at that time.

23 Q So you all -- you all did not review those prior to
24 trial, but during trial you raised the issue to him that
25 you couldn't have made those phone calls, is that correct?

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A Yes, ma'am.

2 Q Okay. Now, was that raised at all during the pretrial
3 motion where he was trying to get those excluded?

4 A No, ma'am.

5 Q What is your allegation regarding the pretrial motion
6 and the pod and timing issue? Could you explain that to
7 the Court, please?

8 A Yes, ma'am. I feel like he didn't want me to listen
9 to the phone call for some reason or another, but I think
10 the whole objection was just something to satisfy me.

11 But once Michael Jones got on the stand if I would've
12 listened to the phone calls and knew the time from the
13 beginning I could have told him and he could have properly
14 investigated that I couldn't use the phone at that specific
15 time because of the rotations, the cell that I was in.

16 Q Mr. Teamer, I'm going to hand you a document if you
17 could identify what this appears to be for the record,
18 please.

19 A This is after I -- after Michael Jones was on the
20 stand. He's telling P.I. to go call the jail and get the
21 specific times and rotation of what time I came out.

22 Q Okay. For the record, could you identify what this
23 appears to be?

24 A The jail rotation time.

25 Q All right.

Nathaniel Teamer
Direct examination by Ms. Blanchette

- 1 A They wrote the cell number I was in.
- 2 Q And whose handwriting is on this as far as you know?
- 3 A The private investigator, Wendy.
- 4 Q Okay. And who else's handwriting is on the bottom?
- 5 A Mine.
- 6 Q Okay. And do these appear to be notes?
- 7 A Yes, ma'am.
- 8 Q And when were these notes made?
- 9 A During, while he was testifying, during Michael Jones'
- 10 testimony.
- 11 Q Okay. And that is, in fact, your handwriting at the
- 12 bottom of the page, is that correct?
- 13 A Yes, ma'am.
- 14 MS. BLANCHETTE: Your Honor, at this time I'd move
- 15 this as Applicant's No. 2.
- 16 MS. WHITE: No objection, Your Honor.
- 17 THE COURT: Without objection.
- 18 MS. BLANCHETTE: Your Honor, please let me know if I
- 19 need to show you which one I'm talking about.
- 20 THE COURT: You're right.
- 21 MS. BLANCHETTE: I think they're in the same order.
- 22 Yeah.
- 23 (Notes marked Applicant's Exhibit No. 2.)
- 24 Q Mr. Teamer, you have Applicant's Exhibit No. 2 in
- 25 front of you. Could you just kind of explain what was

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 going on during the trial when this note was made?

2 A Yes, ma'am. When he was testifying I was writing down
3 with him with the cross-examining him on what to object to.

4 Q And could you explain what that was, what you were
5 saying needed to be done?

6 A I was telling him that there was no way I could use
7 the phone at that time, they got to be some kind of mixup
8 in the times or something.

9 Q And this only came out during the course of the trial.
10 It wasn't something you all talked about for the pretrial
11 motion, is that correct?

12 A Yes, ma'am. It didn't come out till the trial because
13 I never listened to the phone call or knew what time the
14 call supposed to been made.

15 Q And, Mr. Teamer, as part of your post conviction
16 relief application were we actually able to obtain an order
17 granting us the ability to conduct discovery in this case?

18 A Yes, ma'am.

19 Q Okay. And one of the items that you requested in and
20 that we requested through that discovery was the
21 information needed to confirm what cell you were in at that
22 time and what time you would have been released to make
23 phone calls, is that correct?

24 A Yes, ma'am.

25 Q Mr. Teamer, could you identify this for the record,

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Direct examination by Ms. Blanchette

1 please?

2 A Yes, ma'am. This is part of the -- Spartanburg County
3 sent us about the cell I was in, pod five, cell 44.

4 Q Okay. And this is a letter. What's the date on it?

5 A October the 13th of 2011.

6 Q Okay. And it's sent to whom?

7 A Patricia Blanchette.

8 Q And it's signed by whom?

9 A Kimberly Ashant.

10 Q Okay.

11 MS. BLANCHETTE: Your Honor, at this time I move this
12 in as Applicant's No. 3.

13 THE COURT: Without objection.

14 MS. WHITE: No objection, Your Honor.

15 (Letter dated October 13, 2011, marked Applicant's
16 Exhibit No. 3.)

17 Q And the letter is in the record, but we were not able
18 to obtain those records because they're no longer
19 available, is that correct?

20 A Yes, ma'am.

21 Q Okay. And, Mr. Teamer, what are you alleging that
22 Mr. Schultz should have done as far as those records are
23 concerned?

24 A He should have got -- he should have let me listen to
25 the phone calls and investigated and gotten the pod times

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1 of what time I came out, and we could have been able to
2 properly object to the phone call coming in.

3 Q Okay. If you could look at -- further at the
4 testimony of Mr. Michael Jones on page 114, he explains
5 that he's the captain in charge of the inmate calls and
6 records, is that correct?

7 A Yes, ma'am.

8 Q And he brought the calls and records to court that
9 day?

10 A Yes, ma'am.

11 Q And then if you could look at page 116, when those
12 records are introduced does your attorney object?

13 A No, ma'am.

14 Q And what are you alleging he should have done there,
15 Mr. Teamer?

16 A Objected so it would have been preserved for review.

17 Q And then looking again at page 117 through 118, that's
18 when he begins to go into the questions about where you
19 were located and what time you could have made calls.

20 A Yes, ma'am. That was after he had the times I told
21 him I couldn't use.

22 Q Now, if you could turn to page 123 through 124, there
23 the state actually uses Erica Gray again, but this time to
24 identify your voice, is that correct?

25 A Yes, ma'am.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Did Mr. Schultz make any objection to Erica Gray's
2 identification of your voice?

3 A No, ma'am.

4 Q Then if you could, turn all the way to the end to page
5 435 and 436, please. And the record would reflect the
6 proper argument, but just summarizing the state submits
7 that those phone calls were your admission of this crime.

8 A Yes, ma'am.

9 Q Do you recall them arguing that in closing argument?

10 A Yes, ma'am.

11 Q And does that display the importance of these phone
12 calls?

13 A Yes, ma'am.

14 Q Is there anything else regarding these phone calls
15 that you'd like to explain to the Court as far as your

16 allegations of your attorney being ineffective and the
17 prejudice you suffered?

18 A Yes, ma'am. I never was able to listen to the phone
19 call and the whole contents.

20 He was saying he wanted the whole phone conversation
21 played if it was going to be played. He never got it
22 played. He never let me listen to it. So I wouldn't have
23 been to tell him that I never could use the phone at that
24 time because of the cell I was in, and basically just
25 failure to investigate the whole issue.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Okay. If there is nothing else, Mr. Teamer, let's
2 talk about the victims that testified in this case, the
3 state's witnesses, first Erica Gray.

4 If you could turn to page 120 and if you could look at
5 page [sic] five through nine, just go ahead and read those
6 where she explains what happened.

7 A "A I got off of work about 9:30. I took a
8 bath and got ready for bed. I was in bed when I
9 heard a knock at the door. And he -- and he
10 said his name was Murda Rich.

11 "Q whose nickname is that?

12 "A Nathaniel Teamer.

13 Q So there she identifies you as the person that came to
14 the door about 9:30, identified themselves as Murda Rich.
15 And she knew that to be you, Nathaniel Teamer, is that
16 correct?

17 A Yes, ma'am.

18 Q And if you look at page 121 through 122 she explains
19 that you had seen her counting her tax return the day
20 before. Is that what she testified to?

21 A Yes, ma'am.

22 Q If you could turn over to page 126 and look at lines
23 one through eight, there your attorney discusses that she
24 gave two statements in this case. And the first statement
25 was given the same night at 11:45, is that correct?

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A Yes, ma'am.

2 Q Mr. Teamer, could you please identify this for the
3 record?

4 A Erica Gray's witness interview form.

5 Q Okay. And what's the date on this witness interview
6 form?

7 A 2/2/06.

8 Q Okay. And it's actually marked as Defendant's Exhibit
9 3, is that correct?

10 A Yes, ma'am.

11 MS. BLANCHETTE: Your Honor, at this time I'd move
12 this in as Applicant's No. 4.

13 THE COURT: Without objection?

14 MS. WHITE: Without objection, Your Honor.

15 (Witness interview form dated February 2, 2006, marked
16 Applicant's Exhibit No. 4.)

17 Q And if you look at page 126 your attorney questions
18 her about that statement, is that correct?

19 A Yes, ma'am.

20 Q And she admits throughout the course of her testimony
21 that she doesn't mention your name in that statement.

22 A Yes, ma'am.

23 Q Okay. Is there anything regarding that statement that
24 you felt your attorney should have further asked her about?

25 A Basically, why she -- why she ain't mentioned my name

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 in the statement. And a lot of other facts that came out
2 at trial she didn't mention.

3 Q And if you could look at page 135, there your attorney
4 actually attempts to introduce it. But there's some
5 question about whether or not he laid the proper
6 foundation.

7 A Yes, ma'am.

8 Q Okay. And your attorney will be asked more about
9 that, but is there anything you want to mention about kind
10 of the Court's comments or the state's comments about your
11 attorney attempting to use that statement?

12 A Well, he wasn't laying the proper foundation. He just
13 straight trying to get the statement in without asking the
14 right questions to lay the foundation for it.

15 Q Mr. Teamer, could you identify this document for the
16 record, please?

17 A Erica Gray's second witness interview form.

18 Q Okay. And what's the date on this?

19 A 2/7/06.

20 Q And how many pages does it say it is?

21 A It say two pages.

22 Q Okay. And there's only one page there, is that
23 correct?

24 A Yes, ma'am.

25 MS. BLANCHETTE: Your Honor, there may be a matter we

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 need to put on the record.

2 Your Honor, if I may, we have -- myself and the state,
3 Suzanne White, have -- checked the clerk of court's file,
4 and there was only one page in their file even though this
5 is a 2-page statement. And it appears that only one page
6 was introduced as the Defense Exhibit No. 4 at trial. And
7 I just wanted to put that on the record as to why I'm only
8 introducing one page but...

9 MS. WHITE: And I agree, Your Honor. We -- I do have
10 the second page that I received from the state, and we'll
11 go into that with Mr. Schultz on testimony.

12 THE COURT: Okay.

13 MS. BLANCHETTE: Thank you, Your Honor.

14 Your Honor, at this time I'd move to introduce this as
15 Applicant's No. 5.

16 THE COURT: That's without objection.

17 (Witness interview form dated February 7, 2006, marked
18 Applicant's Exhibit No. 5.)

19 Q Mr. Teamer, there you have one page. Does it mention
20 your name at all on that one page?

21 A Yes, ma'am.

22 Q Okay. And were you aware until recently that it
23 appears that only one page of this statement was introduced
24 into the record?

25 A Yes, ma'am.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q You knew at trial that your attorney only introduced
2 one page of the 2-page statement?

3 A Yes, ma'am.

4 Q Okay. Was there -- do you know why he only introduced
5 one page?

6 A He didn't never say. I kept telling him I only had
7 one page, but he didn't never get into it.

8 Q Okay. When you say kept telling him I only had one
9 page do you -- what did you mean by that?

10 A I just let him know that I had one page of Erica
11 Gray's second statement when it say two pages.

12 Q Okay. Now, you had mentioned earlier that there were
13 a number of things your attorney failed to ask Erica Gray
14 about.

15 A Yes, ma'am.

16 Q Okay. And you said one of those was a prior charge,
17 is that correct?

18 A Yes, ma'am.

19 Q Okay. Could you explain what information you gave the
20 Court in that -- or gave your attorney in that regard?

21 A That Erica Gray was involved in a -- another burglary
22 incident when she was shot. When she gave a suspect name
23 and came back and told the police that she lied, she was
24 charged with false information.

25 Q Mr. Teamer, could you identify what this appears to be

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 for the record, please?

2 A It's the police record of Erica Gray where she was
3 charged with false information and a ticket she hadn't paid
4 for.

5 Q Okay. And it's the Spartanburg magistrate's case
6 history, is that correct? It says on the top.

7 A Yes, ma'am.

8 MS. BLANCHETTE: Your Honor, at this time we would
9 move this case history as Applicant's No. 6.

10 MS. WHITE: Without objection, Your Honor.

11 (Case history marked Applicant's Exhibit No. 6.)

12 Q And, Mr. Teamer, if you look at this, this is the
13 incident that you had told Mr. Schultz about.

14 A Yes, ma'am.

15 Q Okay. And there in the notes it gives some details of
16 what occurred.

17 A Yes, ma'am.

18 Q Okay. And this is information that you had knowledge
19 of and asked your attorney to obtain, is that correct?

20 A Yes, ma'am.

21 Q And why did you want him to obtain it?

22 A So we can impeach Erica Gray since she was the main
23 witness of my burglary first and armed robbery.

24 Q Okay. Did your attorney use this record at trial?

25 A No, ma'am.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Mr. Teamer, was there additional information regarding
2 Erica Gray and her family, the victims of this case, that
3 you asked Mr. Schultz to look into or obtain?

4 A Yes, ma'am.

5 Q Mr. Teamer, if you could identify this for the record,
6 if you could state what it is and the date on it, please.

7 A It's a incident report, a police report, of Donald
8 Martin when he was shot in the mouth.

9 Q Okay. What's the date on that?

10 A 6/24/05.

11 Q Okay. And if you could actually take off the paper
12 clip, there's a couple of documents there I want you to
13 identify. What's the second document?

14 A Another police report of Ieshia [REDACTED].

15 Q Okay. And what's the date on that?

16 A 6/24/05.

17 Q Okay. And what's the charge listed?

18 A She was charged with marijuana.

19 Q Okay. And finally the third document, what's the
20 caption on that?

21 A The custody battle of Ieshia [REDACTED].

22 Q All right. What does -- what's the title on it? What
23 does it say there in bold?

24 A Order to release under house arrest.

25 Q Okay.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 MS. BLANCHETTE: Your Honor, at this time we'd move
2 these three documents as Applicant's No. 7.

3 MS. WHITE: If I could clarify, Patricia.

4 MS. BLANCHETTE: Yes.

5 MS. WHITE: Which was the first document? Because
6 I've two different ones that you have.

7 (Pause.)

8 MS. WHITE: Okay. No objection, Your Honor.

9 THE COURT: All right. Without objection.

10 (Incident reports dated June 24, 2005, marked
11 Applicant's Exhibit No. 7.)

12 MS. WHITE: I'm sorry. Are these going in as one
13 document or separate?

14 MS. BLANCHETTE: I put them in as one unless the Court
15 or the state would like otherwise.

16 MS. WHITE: All right. I just wanted to clarify.

17 BY MS. BLANCHETTE

18 Q Mr. Teamer, could you go through each one and explain
19 what you asked Mr. Schultz to do regarding it and what the
20 significance of it is, please?

21 A The first one, Donald Martin was shot in the mouth. I
22 was wanting him to go into the fact that they done been
23 robbed before and they misidentified the suspects on that
24 robbery.

25 Q okay.

Nathaniel Teamer
Direct examination by Ms. Blanchette

- 1 A And just the background, period.
- 2 Q So that was a report that you wanted him to get and
- 3 then investigate the specifics of.
- 4 A Yes, ma'am.
- 5 Q Okay. And as far as you know did he do that?
- 6 A No, ma'am.
- 7 Q Okay. And Donald Martin was also a witness in this
- 8 case, is that correct?
- 9 A Yes, ma'am.
- 10 Q Okay. The second report there with the same date of
- 11 6/24/05, could you explain why you asked him to get that
- 12 and what the significance was?
- 13 A Because Mary Gray and Ieshia-grandma had gave Ieshia
- 14 the bag containing the marijuana and the scales and told
- 15 her to run with it. I wanted him -- she was a witness in
- 16 my case -- to impeach her on it also. She was a victim in
- 17 the robbery too.
- 18 Q Okay. And you're so familiar with this, so let's try
- 19 to break it down, you know, as basic as we can.
- 20 The first report has to do with an incident at the home
- 21 involving Donald Martin.
- 22 A Yes, ma'am.
- 23 Q The second report, that's on the same day, correct?
- 24 A Yes, ma'am.
- 25 Q Okay. And that involves an Ieshia Gray, is that

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 correct?

2 A Yes, ma'am.

3 Q Okay. How is Ieshia related to Donald Martin?

4 A That's his niece.

5 Q Okay. Are you also related to Ieshia?

6 A Yes, ma'am.

7 Q How are you related to Ieshia?

8 A She's my first cousin -- my cousin -- my first cousin

9 got a baby -- is her daddy. Excuse me.

10 Q why don't you say that again for us, please?

11 A Her father is my first cousin.

12 Q Okay. And the second report deals with her and Mary

13 Gray, is that correct?

14 A Yes, ma'am.

15 Q Okay. And then the third, the issue of the

16 house-arrest order, why did you ask your attorney to get

17 that and what does it matter?

18 A It's concerning the custody battle of Ieshia. There
19 was the whole family feud I was telling him we were having
20 over Ieshia due to the fact that Donald Martin had molested
21 her before when she was younger, then due to the fact that,
22 know what I say, they were mad at us because there was a
23 big family dispute over the custody battle with her.

24 Q Okay. And is this information you gave Mr. Schultz
25 before you went into this trial?

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A Yes, ma'am.

2 Q Okay. And just -- just so I completely understand,
3 when you say there was a family issue, that's between
4 yourself and the Grays, is that correct?

5 A Yes, ma'am.

6 Q Okay. How do you think that played into this case?
7 why did that matter?

8 A Because Erica Gray was mad at me because it came back
9 out about the whole Donald Martin situation was molesting
10 her. So that's how my cousin was able to obtain custody of
11 her.

12 Q So these documents, were they fundamental or key to
13 your defense in this case?

14 A Yes, ma'am.

15 Q And explain to us what that defense was.

16 A It would'a showed that she had motive to lie on me,
17 that she was mad at me about the whole situation with the
18 Ieshia thing.

19 She felt like I got stuff started and got Ieshia took
20 from her. He was paying child support, so she ended up
21 having to pay child support and stuff like that.

22 Q And was it your understanding that this defense was
23 going to come through Mr. Schultz's cross-examination or
24 impeachment of Donald Martin and the Graves?

25 A Yes, ma'am.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Okay. And did he do that on your behalf?

2 A No, ma'am.

3 Q Okay. Let me show you an additional document here.

4 If you could, identify what that appears to be and the date
5 on that, please.

6 A Another incident report.

7 Q What's the date on this incident report?

8 A I think it's 8/4/2005, yeah.

9 Q And what's the charge on this incident report?

10 A Sexual assault.

11 Q And who is the victim?

12 A Ieshia [REDACTED].

13 MS. BLANCHETTE: Your Honor, at this time I'd move
14 this in as Applicant's No. 8.

15 MS. WHITE: No objection, Your Honor.

16 THE COURT: Without objection.

17 (Incident report dated August 1, 1996, marked
18 Applicant's Exhibit No. 8.)

19 Q Mr. Teamer, is this another one of the documents you
20 asked Joshua Schultz to obtain?

21 A Yes, ma'am.

22 Q And you wanted him to obtain this to prepare your
23 defense, is that correct?

24 A Yes, ma'am.

25 Q Okay. Please explain the importance of this document.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A It would've showed the whole motive and vendetta
2 behind the Grays and Martin -- won't allow it.

3 Q And why is that?

4 A Because due to the fact that the accessory assault
5 with Ieshia [REDACTED] came back out.

6 Q Is there anything else regarding that incident report
7 and the request you made of your attorney and what you
8 wanted him to do with it that you would like to tell the
9 Court about?

10 A No, ma'am.

11 Q Let me show you one last incident report. I'm sorry.
12 Let me let you identify that. And tell us the date,
13 please.

14 A The date on this one is 3/30/2006.

15 Q And -- and what's the title of this document?

16 A Robbery.

17 Q What does it say at the very top?

18 A Incident report.

19 Q Okay.

20 MS. BLANCHETTE: Your Honor, at this time I'd move
21 this incident report as Applicant's No. 9.

22 MS. WHITE: No objection, Your Honor.

23 THE COURT: Without objection.

24 (Incident report dated March 30, 2006, marked
25 Applicant's Exhibit No. 9.)

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Same, Mr. Teamer. Could you explain why you asked
2 Mr. Schultz to get this document and why it mattered?

3 A Yes. That's another incident where Donald Martin was
4 robbed and the victims was never -- I mean, the suspect was
5 never found guilty of the charge. He misidentified the
6 suspect.

7 Q Why does that matter to your case, Mr. Teamer?

8 A To show that they known for lying and knowing for just
9 picking people out and misidentifying people.

10 Q Okay. And the date on that was what? I'm sorry?

11 A 03/30/2006.

12 Q Okay. And the incident date in your case was
13 February 2nd of 2006. So this happened just a month after
14 you allegedly broke into their home, is that correct?

15 A Yes, ma'am.

16 Q Okay. And why did you -- is there any further reason
17 why you wanted your attorney to obtain this document and
18 question them about it?

19 A Just to impeach them on it about their past history,
20 their past lies, their past misidentification.

21 Q Okay. Is there anything else regarding these incident
22 reports, this defense you've been talking about, and your
23 allegations as to how Mr. Schultz handled it that you'd
24 like to tell the Court?

25 A No, ma'am. Basically, he was just ineffective for not

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 bringing up the whole vendetta issue, the reason why they
2 had to lie on me, and the reason why they were mad at me.

3 Q How important was that issue to your case?

4 A Very important to show that they had reason to lie,
5 that they had -- they were biased against me from the
6 beginning.

7 Q And they were the state's primary witnesses in this
8 case, is that correct?

9 A Yes, ma'am.

10 Q And did you testify in this case?

11 A No, ma'am.

12 MS. BLANCHETTE: If I could just beg the Court's
13 indulgence one moment.

14 (Pause.)

15 Q Mr. Teamer, let's just revisit one issue that we've
16 been talking about. We've introduced the D.S.S. order
17 involving Ieshia.

18 A Yes, ma'am.

19 Q Okay. Could you explain how exactly you were involved
20 in that and why that led to animosity between you and the
21 Grays?

22 A They trying -- they trying to say that I told my
23 cousin Reggie about the -- the whole issue with Ieshia and
24 got the issue started back up.

25 Q Okay. And since we don't know anybody here, could you

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 break it down even simpler for us? who is Reggie and --

2 A Reggie Nash is my first cousin, which is Ieshia's
3 daddy.

4 Q Okay. And so Reginald Nash is Ieshia's daddy. And
5 what are they alleging that you did?

6 A Told Reggie that I -- that Donald Martin molested
7 Ieshia.

8 Q And why is it that you think that was a factor in
9 these charges and in this trial?

10 A Because Erica Gray and Donald Martin was mad for me
11 bringing that out because that's how he was able to obtain
12 custody of Ieshia.

13 Q And who is he that got custody of Ieshia?

14 A Reginald Nash.

15 Q Okay. who had custody before Mr. Nash?

16 A Erica Gray.

17 Q And was this a matter that you discussed with
18 Mr. Schultz?

19 A Yes, ma'am.

20 Q Okay. And is this an issue that you thought was going
21 to be a fundamental part of your defense?

22 A Yes, ma'am.

23 Q And what is your -- if you could just restate your
24 general allegation, again, regarding what Mr. Schultz
25 failed to do.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A He failed to get the records to show the history of
2 the Grays, the background of how they were known, known for
3 telling -- making false statements to the police, known for
4 misidentifying the wrong people in other crime, and the
5 fact that they was biased against me for the whole D.S.S.
6 thing with Reggie and Erica Gray.

7 Q Were you prejudiced when your attorney didn't do this?

8 A Yes, ma'am.

9 Q Didn't do these things.

10 A Yes, ma'am.

11 Q Howso?

12 A Because we didn't have a right -- I wasn't able to
13 impeach the Grays, right, on their whole motive for
14 testifying.

15 Q Okay. Let's talk a little bit more about the Grays'
16 testimony. If you could, turn to page 157, lines 17
17 through 21. And there Mary Gray is testifying. Who is
18 Mary Gray?

19 A Erica's Gray [sic] mother.

20 Q Okay. And they all live at this home together, is
21 that correct?

22 A Yes, ma'am.

23 Q Okay. And does she indicate that you had just been
24 there, she had just fed you dinner that night?

25 A Yes, ma'am.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Okay. Had you, in fact, been there, Mr. Teamer?

2 A Yes, ma'am.

3 Q Did you often eat dinner with the Grays?

4 A Yes, ma'am. well, Mary Gray.

5 Q Did you live in close proximity to the Grays?

6 A Yes, ma'am.

7 Q Could you explain where you lived in relation to their
8 house?

9 A Say about five houses down.

10 Q So she admits that you'd been there eating dinner with
11 them. And then if you could, look at page 156. I'm
12 actually going to have you read lines 18 through 25 as to
13 what she said happened.

14 A "Little Charlie knocked on our door, and my son opened
15 the door and let him in. And he said his name was Murda,
16 and that's when I heard him arguing with my son. When
17 he -- when he got through then arguing with my son he came
18 in my bedroom. He put the gun to me. I heard him. He
19 told my son and them to give it up or he's going to shoot
20 their mama. And that was -- that was it. And then the
21 police came."

22 Q Okay. If you could, turn to page 159, lines 13
23 through 15. She actually admits she never saw you with
24 Donald, is that correct?

25 A Yes, ma'am.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q And if you could look at page 162, lines eight through
2 11, she admits that the intruder had on a black mask but
3 she knew it was you by your voice, is that correct?

4 A Yes, ma'am.

5 Q And then if you could look at page 167, lines ten
6 through 13, she actually says what she heard you say was
7 Murda, but she didn't know you by that name.

8 A Yes, ma'am.

9 Q In reviewing the entire transcript, specifically those
10 portions I just gave you, was Mary Gray's identification of
11 you very strong? Could she clearly say it was you in her
12 house that night?

13 A No, ma'am.

14 Q And if you could turn to page 164 or back to page 164,
15 your attorney attempts to admit her statement, is that
16 correct?

17 A Yes, ma'am.

18 Q And does the state object?

19 A Yes, ma'am.

20 Q And what's the Court's ruling?

21 A "Put it in the form of a question." They sustained.

22 Q Okay. Could you identify this for the record?

23 A Mary Gray's witness interview form.

24 Q And what's the date on that witness interview form?

25 A 2/2/2006.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 MS. BLANCHETTE: Your Honor, at this time I'd move
2 this interview form in as Applicant's No. 10.

3 MS. WHITE: No objection, Your Honor.

4 THE COURT: Without objection.

5 (Witness interview form dated February 2, 2006, marked
6 Applicant's Exhibit No. 10.)

7 Q And this is the statement your attorney was attempting
8 to introduce, is that correct?

9 A Yes, ma'am.

10 Q And he wasn't able to get that into evidence.

11 A No, ma'am.

12 Q Okay. Had you discussed that statement with him?

13 A Yes, ma'am.

14 Q Why did you all want that statement into evidence?

15 A Because my name ain't -- isn't on the statement.

16 Q Okay. And he was not successful in getting that
17 statement to the jury.

18 A Yes, ma'am.

19 Q Could you turn to page 171 and look at lines 12
20 through 23?

21 (Pause.)

22 Q Okay. You've had a chance to look over that.

23 A Yes, ma'am.

24 Q Okay. Just to summarize that I'll rely upon what's in
25 the record, but there your attorney is attempting to ask

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 her about somebody robbing them before and Donald being
2 shot in the mouth, is that correct?

3 A Yes, ma'am.

4 Q Is that the exact information you were just talking
5 about that you wanted him to go into?

6 A Yes, ma'am.

7 Q Okay. Could you explain why you don't think that is
8 sufficient or what's wrong with how he handled it here?

9 A Because he wasn't able to go to -- the people that had
10 the records and the police report that I was telling him
11 about, he would've been able to better cross-examine on.

12 Q Is there anything else about Mary Gray that you'd like
13 to tell this court as far as how your attorney handled her
14 testimony?

15 A No, ma'am. Basically, he just ain't had nothing to
16 impeach her with because he failed to investigate the
17 report that I told him.

18 Q If you could, turn to page 175, the testimony of
19 Donald Martin, and look at lines 11 through 23. What time
20 did he say this happened?

21 A About 11:00 something.

22 Q And how does he say the person identified themselves?

23 A Murda.

24 Q And who does he say Murda is?

25 A Me, Little Charlie.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Okay. And who is Little Charlie?

2 A Me.

3 Q Okay. Is that your nickname?

4 A Yes, ma'am.

5 Q Okay. If you could, look at page 185, lines 14 and

6 15. Go ahead and read that -- actually lines 13 through

7 15. Why don't you read that?

8 A "And the suspect said Murda." And the answer, "Murda

9 Rich. That's what he said. He said it real low as Murda."

10 Q Why does it matter that he's admitting there that the
11 suspect said Murda real low?

12 A Because Erica and Mary Gray said they heard the knock
13 at the door and the suspect said Murda.

14 Q Okay. And where were they supposedly located?

15 A In the back bedroom.

16 Q Okay. Is that an issue that Mr. Schultz capitalized
17 on your behalf? Let me reask that question. That was a
18 bad question.

19 Once Mr. Martin admitted that the suspect said it real
20 low did Mr. Schultz bring out the fact that people
21 supposedly heard it in a different part of the house?

22 A No, ma'am.

23 Q Okay. Did you pick up on that?

24 A Yes, ma'am.

25 Q Okay. Did you bring anything to Mr. Schultz's

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 attention, or was he kind of in the heat of the trial and
2 y'all didn't get to talk about it?

3 A It was in the heat of the trial.

4 Q If you could, just briefly look over page 185 through
5 186, mostly page 186, lines four through 14. Why does he
6 explain that he let the suspect in?

7 A Because he said that was his people.

8 Q And because it was his people's, he let the person in,
9 is that correct?

10 A Yes, ma'am.

11 Q Once you heard that testimony did that peak your
12 attention as to one of the elements of the crimes you were
13 charged with?

14 A Yes, ma'am.

15 Q Please explain.

16 A Because he said if it was me and he opened the door
17 for me and I was his people, then he gave me consent to
18 come in the house if the suspect was me.

19 Q Was the issue of consent ever argued by Mr. Schultz?

20 A No, ma'am.

21 Q Mr. Teamer, I'm going to hand you this document if you
22 could identify what it says at the top and the date for the
23 record, please.

24 A Witness interview form by Donald Martin, 2/2/2006.

25 Q Okay. And -- and that's just a 1-page document,

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 correct?

2 A Yes, ma'am.

3 MS. BLANCHETTE: Your Honor, at this time we'd move
4 this as Applicant's No. 11.

5 MS. WHITE: Without objection, Your Honor.

6 THE COURT: Without objection.

7 (Witness interview form dated February 2, 2006, marked
8 Applicant's Exhibit No. 11.)

9 Q Mr. Teamer, in looking at that statement if you could
10 turn to page 180, there Mr. Schultz is asking Donald Martin
11 about that statement, is that correct?

12 A Yes, ma'am.

13 Q And then at the bottom of page 180 he attempts to move
14 it into evidence.

15 A Yes, ma'am.

16 Q And the state objects saying he hasn't laid the proper
17 foundation, is that correct?

18 A Yes, ma'am.

19 Q And the jury is actually sent out. And then there's a
20 discussion by the Court regarding whether or not your
21 attorney had laid the proper foundation.

22 A Yes, ma'am.

23 Q And you look at page 181 and 182, the Court actually
24 explains to your attorney how he needs to lay the proper
25 foundation before attempting to introduce such documents.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A Yes, ma'am.

2 Q Okay. What, if any, reaction did you have to that,
3 the jury going out, your attorney being told by the court
4 how he needed to introduce this document?

5 A That my attorney wasn't aware how to properly lay a
6 foundation to get a statement in and he didn't really know
7 what he was doing.

8 Q How important were these statements and the words said
9 by the Grays and Mr. Martin to your case?

10 A Very important.

11 Q Is there anything else regarding Mr. Martin's
12 statement that you'd like to tell the court in relation to
13 your P.C.R. allegations?

14 A Yes, ma'am. Due to the fact that my name is nowhere
15 in the statement and we didn't get to introduce it to the
16 jury because my lawyer didn't lay the proper foundation.

17 Q Now, if you could, look at page 184, lines 16 through
18 25. And there Mr. Schultz starts going into Ieshia [REDACTED]
19 with Mr. Martin, is that correct?

20 A Yes, ma'am.

21 Q And if you could look at page 185, lines four through
22 seven, go ahead and read those into the record.

23 A Question: "No D.S.S. hearing involving Ieshia with
24 you?"

25 And Mr. Barnette objected.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 "well, they said I had some words with her."

2 Then the judge sustained it.

3 Q Okay. There your attorney attempts to question him
4 about a D.S.S. hearing, is that correct?

5 A Yes, ma'am.

6 Q Okay. Could you tie that back to the documents we
7 previously introduced?

8 A Yes, ma'am.

9 Q Okay. Please explain it to us.

10 A He would have been able to better get it -- he
11 would've been able to better impeach him on it if he knew,
12 investigated the D.S.S. records that I told him about.

13 Q Okay. Instead he asked him this one question here,
14 and the objection is sustained. How important was that
15 issue to your case?

16 A Very important.

17 Q why is that?

18 A To show the bias between why he had, was lies against
19 me and the whole situation.

20 Q Do you remember talking with Mr. Schultz about it?
21 Was that strategy? Was that part of your defense? How
22 would you characterize trying to go into this D.S.S. case?

23 A Yes, ma'am. I thought from my understanding that we
24 was going into pretrial hearing with the whole D.S.S., the
25 whole background of the Grays, the false information of

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Erica Gray.

2 Q And why do you say pretrial hearing? What was your
3 understanding about that?

4 A We could have had a ruling on what could come in and
5 what wouldn't've come in.

6 Q And did Mr. Schultz do that on your behalf?

7 A No, ma'am.

8 Q And then if you could look at -- was there anything
9 else regarding Mr. Martin that you'd like to tell the Court
10 before I move on?

11 A No, ma'am.

12 Q Okay. If you could look at page 246, lines three
13 through six, there Investigator Gardner testifies about
14 doing a search warrant at [REDACTED] Circle. I can take
15 that paper from you.

16 A Say 246?

17 Q 246, lines three through six. Did a search warrant at
18 [REDACTED] Circle.

19 A Yes, ma'am.

20 Q Who resides at that address?

21 A My mother and me.

22 Q Okay. And then if you could turn to page 247, lines
23 nine through 12.

24 A Okay.

25 Q He explains that at that address he found an envelope

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 addressed to Murda, M-U-R-D-A, is that correct?

2 A Yes, ma'am.

3 Q Did you know prior to trial that the state planned to
4 introduce that envelope?

5 A They mentioned it in the pretrial.

6 Q Okay. Is that something you talked about with
7 Mr. Schultz?

8 A Yes, ma'am.

9 Q Okay. Do you have an allegation regarding his
10 handling of that?

11 A I'll take that back too. I didn't even talk to him
12 about it, but when they brought it up I asked him was he
13 going to object to it, and he never objected to it or
14 contested it or nothing.

15 Q Okay. And to clarify, did you talk about it before
16 your trial?

17 A Yes, ma'am.

18 Q Okay.

19 A I mean no, ma'am. In the pretrial -- I keep saying --
20 in the pretrial before trial, right.

21 Q Before your trial even started when you guys were
22 meeting at the jail did he let you know that the state
23 intended to introduce an envelope they found at your
24 mother's house with the name Murda, M-U-R-D-A, on it?

25 A Not as I can recall.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Okay. Are you alleging that's something you should
2 have discussed?

3 A Yes, ma'am.

4 Q Why did that envelope matter in the grand scheme of
5 things?

6 A Because that's who the Grays had identified theirself
7 at the door as Murda.

8 Q Now, if you could, turn to your attorney's closing
9 argument on page 426, and look through to page 428.

10 Mr. Schultz says he is going to give 12 reasons, and he
11 actually goes into 13 reasons for reasonable doubt. A
12 majority of those reasons had to do the unreliability of the
13 Grays.

14 A Yes, ma'am.

15 Q Could you explain how you are -- the things that
16 you're saying he should have done would have added to his
17 argument?

18 A Talking about like the reports?

19 Q Yeah. It's the things that you're alleging today he
20 should have done. How would those have added to his
21 closing argument?

22 A He would have been able to impeach them on everything,
23 their past history and how they told lies before.

24 Q So the whole -- the majority of his closing argument
25 is about these 13 reasons with most of them being about the

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Grays being unreliable. But did you have additional
2 information to offer to add to his 13 reasons?

3 A Yes, ma'am.

4 Q And did he fail to use that on your behalf?

5 A Yes, ma'am.

6 Q Okay.

7 MS. BLANCHETTE: Your Honor, if I could approach
8 briefly I have -- do we need to take a break anyway?

9 THE COURT: Is that what you're going to suggest? May
10 not be a bad time.

11 MS. BLANCHETTE: If I can approach I can explain the
12 question I had if you don't mind.

13 (Bench conference held off the record.)

14 THE COURT: We'll take a 5-minute recess.

15 (Whereupon, a recess was taken.)

16 THE COURT: What about lunch at 15 till 1:00?

17 MS. BLANCHETTE: I'll take lunch.

18 THE COURT: You may go ahead.

19 MS. BLANCHETTE: Thank you, Your Honor.

20 BY MS. BLANCHETTE

21 Q Mr. Teamer, let's now talk about the driving under the
22 influence charge in this case.

23 A Yes, ma'am.

24 Q Okay. Let me hand you a document. And I need for you
25 to identify this for the record. would you tell us the

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 title of that document and the day written on it?

2 A Inmate grievance, 11/1 zero -- 2006.

3 Q And the inmate's name on it?

4 A Nathaniel Teamer, Jr.

5 MS. BLANCHETTE: Were you able to locate that, Your
6 Honor?

7 At this time I would move to introduce this as
8 Applicant's No. 12.

9 MS. WHITE: No objection, Your Honor.

10 THE COURT: Without objection.

11 (Inmate grievance dated November 1, 2006, marked
12 Applicant's Exhibit No. 12.)

13 Q Mr. Teamer, can you explain -- Mr. Teamer, can you
14 explain what this document is?

15 A Yes. I was writing the judge about my felony D.U.I.

16 charge that I ain't never had a prelim on before and how my
17 due process violated and I think the charge should have
18 been dismissed.

19 Q Okay. And you wrote to Judge Hayes about that, is
20 that correct?

21 A Yes, ma'am.

22 Q Okay. Is that an argument that Mr. Schultz ever made
23 on your behalf?

24 A No, ma'am.

25 Q Okay. Is that something you talked with him about?

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A Yes, ma'am.

2 Q Okay. And let me hand you another document here.

3 Could you read the title of this document and the date
4 that's stamped on there for us?

5 A Yes. This is a motion to demand for dismissing the
6 charges.

7 Q And what's the date stamped on there?

8 A September the 28th of 2006.

9 THE COURT: Your Honor, at this time I would move to
10 admit this handwritten motion as Applicant's No. 13.

11 MS. WHITE: No objection, Your Honor.

12 THE COURT: Without objection.

13 (Motion dated September 23, 2006, marked Applicant's
14 Exhibit No. 13.)

15 Q Mr. Teamer, did you prepare and file this motion?

16 A Yes, ma'am.

17 Q Why did you do that?

18 A Because my attorney wouldn't listen to me and do it
19 hisself, so I just took it upon myself because I never had
20 a prelim before and my rights were violated because I
21 continuously requested for a prelim.

22 Q Okay. And I assume you explained that in your
23 handwritten request to Judge Hayes and in the motion. But
24 is there anything else regarding the claims you were making
25 to the Court that you'd like to explain to the judge today?

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A No, ma'am.

2 Q Okay. And you discussed this matter with Mr. Schultz.

3 A Yes, ma'am.

4 Q And do you recall why he didn't, or did he explain to
5 you why he wouldn't have filed this on your behalf?

6 A No, ma'am. He ain't never explained why. He
7 basically explained to me if he didn't file it, then it was
8 no good.

9 Q Okay. But the clerk, in fact, filed. There's a stamp
10 where that motion was filed.

11 A Yes, ma'am.

12 Q Okay. Now, at the beginning of the trial -- and I'll
13 try not to confuse you with the word pretrial any more --
14 at the beginning of the trial did Mr. Schultz raise any
15 type of motion for dismissal of the D.U.I. charge?

16 A No, ma'am.

17 Q Is that something that you'd requested that he do?

18 A Yes, ma'am.

19 Q Do you have an allegation on your P.C.R. regarding
20 that?

21 A Yes, ma'am.

22 Q Okay. Please explain.

23 A Yes. Due to the fact that I didn't have a prelim and
24 my Sixth and Fourteenth Amendment was violated, I feel like
25 he should have requested dismissal of the charge of felony

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 D.U.I.

2 Q And it was your understanding also that when he moved
3 to sever he was going to ask the Court to not allow that
4 charge to be tried with your other charges.

5 A He never discussed that.

6 Q Oh, he didn't discuss that.

7 Okay. If you could turn to page 308, your attorney
8 does make a motion regarding this D.U.I. charge. Let's look
9 at that. If you look at 308 beginning on line ten there
10 your attorney explains that he would like to introduce
11 evidence of the victim, James Young's, tox -- toxicology and
12 his intoxication the night of the accident. Is that what he
13 argues?

14 A Yes, ma'am.

15 Q Okay. Is that something you discussed with him before
16 your trial started?

17 A Yes, ma'am.

18 Q Okay. And what was your understanding of what he was
19 going to do, how he was going to try to use that?

20 A He was going to try to get it in and try to show
21 proximate cause, cause the blue [sic] says the police
22 officer ain't see who hit who. He -- he trying to figure
23 who was the cause of the wreck, either me or the victim.

24 Q Okay. And if you look at page 309 the state explains
25 that -- 308 to 309 -- that the victim was found not guilty

Nathaniel Teamer
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1 of his D.U.I. charge and argued that it wasn't relevant.

2 In response on page 310, the bottom, beginning on line
3 21, through 311 -- why don't you go ahead and read that?
4 310 starting at line 21 through line four on 311.

5 A "The only evidence I will produce is this really --
6 the only thing that I wanted to talk about here, is that
7 they collected his urine, blood and did a report, did the
8 same analysis that they did with Mr. Teamer. I would just
9 introduce to -- introduce -- like to introduce that to him
10 and say do you recognize that and is that -- that your name
11 there and did they test your blood and did they test your
12 urine. That's all I really want to get into."

13 Q Okay. And did the Court allow him to get into that?

14 A No, ma'am.

15 Q Mr. Teamer, did you ever see that SLED toxicology
16 report that he's referring to?

17 A No, ma'am.

18 Q Okay. As part of your discovery though did you
19 receive some documentation on Mr. Young?

20 A Yes, ma'am.

21 Q Let me hand you this packet of documents. If you
22 could, identify what's in this packet.

23 A Yes, ma'am. The South -- this is South Carolina
24 Division Urine Blood Collection Report for James Young.

25 Q Okay. And what's the second page?

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1 A It's a subpoena in a criminal case.

2 Q Okay. And whose records are they asking for in this
3 subpoena?

4 A James Young.

5 Q Okay. If you could turn to the third page, what does
6 that appear to be?

7 A James Young's advisement of implied cons -- consent
8 and rights driving under fluid [sic] advisement.

9 Q And the final page, what is this document? Where did
10 you get this document?

11 A That was in my motion of discovery with the other
12 papers of James Young, and the injuries.

13 Q Okay.

14 MS. BLANCHETTE: Your Honor, at this time we would
15 move to introduce this packet of information regarding
16 James Young as Applicant's No. 14.

17 MS. WHITE: Without objection, Your Honor.

18 THE COURT: All right. Without objection.

19 (Urine and blood collection report dated February 3,
20 2006, marked Applicant's Exhibit No. 14.)

21 Q Now, this is the only information you were able to
22 find in your discovery regarding James Young, is that
23 correct?

24 A Yes, ma'am.

25 Q But this is information you anticipated.

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Direct examination by Ms. Blanchette

1 A Excuse me.

2 (Pause.)

3 Q Just let me know when you're ready, Mr. Teamer.

4 A I'm ready, Ms. Blanchette.

5 Q Okay. Is this information you anticipated your
6 attorney was going to use in his cross-examination of James
7 Young?

8 A Yes, ma'am.

9 Q Okay. And it appears from this documentation that law
10 enforcement put him through a lot of the same procedures
11 they did you when this accident occurred, is that correct?

12 A Yes, ma'am.

13 Q Okay. And could you explain why that last page, the
14 medical records, why you thought that was important?

15 A Due to the fact that he had cocaine and other drugs in
16 his system.

17 Q And was that information that your attorney brought
18 out when he was asking to introduce the SLED toxicology
19 report?

20 A No, ma'am.

21 Q Is there anything else regarding that documentation as
22 far as what you anticipated your attorney was going to do
23 and what he failed to do on your behalf?

24 A I basically thought he was going to try to figure out.
25 I was asking him.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 He told me from the beginning of the trial that we
2 wasn't going to be able to use the D.U.I. report but he was
3 going to get it on record.

4 well, my whole concern is why was it dropped. They
5 saying it was dismissed or either throwed out, but it
6 could've been throwed out due to the fact that they just
7 wanted him to testify against me and we couldn't bring it
8 up. I wanted him to investigate the criminal history of
9 James Young and the whole D.U.I. thing being dismissed from
10 the beginning.

11 Q Okay. And James Young testified, is that correct?

12 A Yes, ma'am.

13 Q Okay. Now, he testified if you'll look at page 359
14 that he had left his friend's house somewhere between
15 12:30 and 1:00 p.m. And then if you could look at page

16 360, lines 11 through 17, why don't you just go ahead and
17 read how he describes the accident on lines 11 through 17?

18 A "There is a little knoll, not a hill, a knoll. I saw
19 lights coming at me. As soon as the lights -- the car got
20 across the knoll, it just turned right into me. It was
21 being followed by the police. It was being followed by a
22 police car, because right before the impact I saw blue
23 lights, right before the impact. And I knew it was being
24 followed by the law."

25 Q Does James Young say he saw lights coming at him?

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1 A Yes, ma'am.

2 Q Does he also say he saw blue lights coming at him?

3 A Yes, ma'am.

4 Q Okay. Now, let's look at the testimony of the
5 officers regarding this same accident.

6 If you could, turn to page 257, please. There Corporal
7 Darity is testifying. And he explains that he was the one
8 who responded to the accident. You were located in a blue
9 Caprice and James Young was located in a Chevy truck.

10 He's then asked if you turn to page 258 and look at
11 lines one through five as to what the cause of the accident
12 was. Could you read his response there on lines three
13 through five?

14 A "Mr. Teamer was traveling northbound on Mount Zion
15 Road. He crossed the center line striking Mr. Young
16 driving a 1988 Ford, I'm sorry, Dodge pickup truck."

17 Q Did your attorney object when on direct examination he
18 said you caused the accident by crossing the center line?

19 A No, ma'am.

20 Q Now, on cross-examination -- I'll just give you some
21 reference points here. Page 262, to three, he does admit
22 that he didn't know the cause of the accident in his
23 report, correct?

24 A Yes, ma'am.

25 Q Okay. And if you look at page 265, lines 21 through

Nathaniel Teamer
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1 24, he also admits that he doesn't mention the fact you
2 crossed the center line in his report.

3 A Yes, ma'am.

4 Q If you turn one more page -- and please slow me down
5 if I'm going too fast -- page 266, lines six through 11, he
6 says -- he admits that he didn't do any measurement or
7 reconstruction of the accident, is that correct?

8 A Yes, ma'am.

9 Q And then if you could, look at page 270, please, lines
10 two through about 14. If you could, read over that.

11 A A lot --

12 Q I know. Just read over it yourself, and then I'll ask
13 you a question.

14 (Pause.)

15 Q Specifically line seven, where does he say he got the
16 information about you crossing the center line?

17 A Based on observation from the deputy.

18 Q So going back, your attorney didn't object on direct
19 examination though when he said that you caused this
20 accident by crossing the center line.

21 A No, ma'am.

22 Q But through cross-examination, and recross, it came
23 out that he actually got that information from another
24 deputy, is that correct?

25 A Yes, ma'am.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Does he say there who the deputy was?

2 A No, ma'am.

3 Q Okay. Does your attorney ever ask him who that deputy
4 was?

5 A No, ma'am.

6 Q Did you ever review Corporal Darity's report with your
7 attorney prior to your trial and talk about
8 cross-examination of him?

9 A Can't read. It was fuzzy like. You couldn't even
10 read the police report.

11 Q Okay. Now, another officer that was involved was
12 Officer St. Louis. And he was involved a little bit
13 earlier in the sequence of events when he was called after
14 Darity. And if you could, turn to page 314. He explains
15 that he began following the Chevy Caprice after it pulled
16 out in front of him with no lights on. Is that what the
17 record reflects?

18 A Yes, ma'am.

19 Q And specifically on line 17 he says there were no
20 lights on the vehicle.

21 A Yes, ma'am.

22 Q Okay. Then on pages 314, if you continue on through
23 315, he explains that he turned on his video and obtained a
24 video of the vehicle as it was driving.

25 A Yes, ma'am.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q And the vehicle threw out a beer can, blew a stop
2 sign, but he had to stop per policy. He couldn't continue
3 to follow the vehicle.

4 A Yes, ma'am.

5 Q Okay. Now, that video, it was played on page 316
6 without objection, is that correct?

7 A Yes, ma'am.

8 Q Did you review that video with your attorney prior to
9 the trial?

10 A Yes, ma'am.

11 Q Okay. Did you know that he wasn't going to object to
12 it?

13 A No, ma'am. I thought we was going to object based on
14 the severance motion.

15 Q Okay. And we had requested and obtained the original
16 exhibit from the clerk of court's office of that video, is
17 that correct?

18 A Yes, ma'am.

19 Q Okay.

20 MS. BLANCHETTE: Your Honor, at this time I would move
21 this video -- and I don't know if there's a better way to
22 do this -- as Applicant's No. 15. It's my understanding
23 we're going to keep it in the criminal file, but we're
24 going to mark it also as a P.C.R. exhibit.

25 THE COURT: Ms. White.

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1 MS. WHITE: Without objection, Your Honor.

2 THE COURT: All right. Motion is granted.

3 (Videotape previously marked State's Exhibit No. 14 at
4 trial marked Applicant's Exhibit No. 15.)

5 MS. BLANCHETTE: Additionally, Your Honor, we would
6 like for you to view it. I understand it's a V.H.S. I
7 also have my personal copy on a C.D. or a D.V.D. that I
8 could provide to the Court if you would like to review that
9 over the course of the next two days or if you'd prefer to
10 review the V.H.S.

11 THE COURT: It'd be easier if I could view it without
12 having it in a V.H.S. format.

13 Any objection, Ms. White, to me reviewing the --

14 MS. WHITE: The applicant's copy, no, Your Honor.

15 THE COURT: Okay.

16 MS. WHITE: I believe she's got the full copy on
17 there, so I'm okay with that.

18 THE COURT: All right. We'll do it that way then.

19 MS. BLANCHETTE: And, Your Honor, we're going to work
20 on finding the timing for you.

21 It's actually -- there's several incidents that
22 happened before we get to this one on the video. And I saw
23 it at the court of appeals, and I want to say it's about 50
24 minutes in. But we're going to get the exact time before
25 we turn that over to you so you can cue it up accordingly.

Nathaniel Teamer
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1 THE COURT: All right. Thank you.

2 MS. BLANCHETTE: Thank you.

3 BY MS. BLANCHETTE

4 Q If you could, turn to page 322 of Officer St. Louis'
5 testimony, and look at lines seven through 16. Does he
6 explain that he obtained an item of evidence that was
7 thrown out of the Chevy Caprice?

8 A Yes, ma'am.

9 Q And what was that piece of evidence?

10 A He's saying Icehouse beer can.

11 Q Okay. And what does he say happened to that piece of
12 evidence?

13 A It was destroyed.

14 Q Okay. Mr. Teamer, could you identify what this
15 document appears to be for the record, please?

16 A Spartanburg Public Safety Department. That's all it
17 says. And it says -- gets this evidence sheet, a beer can,
18 Icehouse, 12-ounce.

19 Q Okay. And did you receive this as part of the
20 discovery in your case?

21 A Yes, ma'am.

22 Q Okay.

23 MS. BLANCHETTE: Your Honor, at this time I'd move
24 this in as Applicant's No. 15.

25 THE COURT: Without objection.

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Direct examination by Ms. Blanchette

1 MS. BLANCHETTE: I'm sorry. It's No. 16.

2 (Property report dated February 3, 2006, marked
3 Applicant's Exhibit No. 16.)

4 Q Now, did you review that document? Did you know that
5 that beer can had been taken into evidence?

6 A Yes, ma'am.

7 Q Okay. Did you know before your trial started that it
8 had been destroyed?

9 A No, ma'am.

10 Q So you did not discuss that with Mr. Schultz.

11 A No, ma'am.

12 Q Did your attorney make any motions or objections
13 regarding the destruction of that piece of evidence?

14 A No, ma'am.

15 Q Okay. Do you have an allegation today regarding his
16 failure to do so?

17 A Yes, ma'am. Basically, the video we reviewed don't
18 show nothing getting throwed out the window, so I feel like
19 it was just old, bad accident since I wasn't changed with
20 littering or open beer can or nothing like that to the
21 whole situation.

22 Q And is that a reason why you also want the video
23 admitted into and for the Court to review it as part of
24 your P.C.R.?

25 A Yes, ma'am.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Okay. Is there anything else regarding Officer St.
2 Louis' testimony, the beer can, the video that you would
3 like to explain to the Court or make an allegation as to?

4 A No, ma'am.

5 Q All right. Let's talk about Officer -- and I believe
6 it's -- Evett's testimony on page 331. He explains that he
7 heard the be-on-the-lookout or the BOLO call and he saw the
8 vehicle in question so he turned around.

9 If you could, look at page 332 beginning at line 22
10 through line two on 333.

11 A Yes, ma'am.

12 Q What does he say as far as the Chevy Caprice or the
13 vehicle having its lights on?

14 A He said it wasn't on.

15 Q Okay. So Officer Evett testifies as he's following
16 this vehicle the lights are off. And does he -- what does
17 he say? What's his opinion as to the lights being off? Is
18 that safe or unsafe?

19 A Unsafe.

20 Q Okay. If you could, look at page 334, line 17. And
21 he -- and if you could look through the bottom of the page
22 how he explains what happens there, does he indicate
23 whether or not the vehicle had its lights on?

24 A Said was they was off.

25 Q And what does he say about his blue lights? Were his

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1 blue lights on or off?

2 A It was off.

3 Q Okay. And then if you look at page 336, line six --

4 why don't you go ahead and read six through 25 there and

5 how he explains this accident occurred?

6 A "I followed the vehicle up Mount Zion Road. And where
7 the Hope Road comes into Mount Zion there's another "V" or
8 a "Y" -- a "V" at the bottom of the "Y". When we came
9 around the corner I couldn't see the vehicle any more. We
10 came around the corner and the road "V" off to the right.
11 And when I come -- when I come around I couldn't see the
12 vehicle any more. So when I went right and continued on
13 Mount Zion I really, as chance would have it, because I
14 didn't know which way the vehicle had gone, I went around
15 Mount Zion, and I still couldn't see the vehicle. But off
16 in the distance I saw another set of headlights coming
17 towards me. And it was several hundred yards up the road.
18 The vehicle I was behind, I didn't really know it was there
19 because it wasn't. I didn't see any brake lights. That's
20 kind of what I was following, was the brake lights. And
21 then I saw headlights coming with the other vehicle coming
22 towards me. I thought maybe I had picked the wrong
23 direction to go. And then I saw a shower of sparks.
24 That's when the two vehicles collided."

25 Q Okay. So that's his testimony about how -- how he saw

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 this accident occur. If you could, look at page 340, lines
2 16 through 25. He's asked, "whose fault was this wreck?"

3 And lines 18 through 20, whose fault does he say it
4 was?

5 A "Based off my observations it would be Mr. Teamer's
6 fault for the wreck. He was driving without headlights."

7 Q So here the officer on the scene who somewhat saw it
8 as he described says you caused the accident because you
9 weren't driving with your headlights, is that correct?

10 A Yes, ma'am.

11 Q But Corporal Darity testified that an unnamed deputy
12 told him you caused the accident because you crossed the
13 center line.

14 A Yes, ma'am.

15 Q Does -- you've reviewed all of Officer Evett's
16 testimony. Does he ever say you crossed the center line
17 and caused this accident?

18 A No, ma'am.

19 Q If you could actually look at page 348 through 349,
20 lines 23 through 25, and one through two, does he admit
21 that you were actually obeying all of the rules of the road
22 except using your headlights?

23 A Yes, ma'am.

24 Q So he never says anything about you crossing the
25 center line.

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Direct examination by Ms. Blanchette

1 A No, ma'am.

2 Q If you could look at page 358, lines 11 through 14,
3 when asked does he actually admit you never swerved or left
4 the roadway?

5 A Yes, ma'am.

6 Q What are you alleging that your attorney should have
7 done regarding this law enforcement testimony about the
8 cause of the accident?

9 A He should have asked for in a direct-verdict form
10 motion -- he should have more to go into, into the fact
11 that the police had different inconsistent statement.

12 Q And is there anything regarding James Young and his
13 testimony about seeing headlights and seeing blue lights
14 that was the exact opposite of law enforcement -- is there
15 anything else regarding his testimony that you thought your
16 attorney should do?

17 A Yes, ma'am. Due to the fact that the police saying
18 they didn't have their lights on, and he saying he had,
19 that he seen lights, he should have had that part of the
20 direct-motion verdict too.

21 Q Mr. Teamer, is there anything else regarding being the
22 cause of the accident in the law enforcement testimony that
23 you would like to tell the Court or explain as part of your
24 P.C.R. application?

25 A Hold on one second.

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Direct examination by Ms. Blanchette

1 (Pause.)

2 A The whole thing, the Dwayne Darity testimony, I feel
3 like he should have objected to that because he gave
4 opinion testimony due to the fact that he didn't see the
5 car wreck. And he could have had stronger direct-verdict
6 motion by showing that for one the police video didn't show
7 beer cans being throwed outta the car, and, for two, there
8 was never a video recording of the felony D.U.I., which
9 felony D.U.I. required a mandatory video that the police
10 has it. The police has -- he admitted he had video
11 equipment but he didn't never use it because he say he shut
12 them all off.

13 Q And let me stop you right there.

14 Let's look at 356, line 24 through the -- lines one
15 through ten on 357. Does Officer Evett admit that he had a
16 video machine on that night and he did not use it?

17 A Yes, ma'am.

18 Q And line two -- or I'm sorry -- page 357, line two,
19 what does he say as to his failure to use it?

20 A "That was my error, sir. A brand new camera. Never
21 had a camera before in my car before. I had it for a few
22 week. When I went to the jail to seek a warrant I turned
23 the camera and radio and everything in off -- off. And
24 when I left the jail I turned -- never turned the camera
25 back on."

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Direct examination by Ms. Blanchette

1 Q So he admits there that was my error, sir.

2 A Yes, ma'am.

3 Q But was there ever raised as part of a motion on your
4 behalf by your defense attorney?

5 A No, ma'am.

6 Q Okay. Now, Mr. Teamer, if you could, turn to page 367
7 and the testimony of Edgar Guthro from the Spartanburg
8 police department. He -- I'm sorry. Actually, turn to
9 page 368, lines seven through nine. And there does he
10 indicate that he received a blue Chevy Caprice that he
11 processed in this case?

12 A Yes, ma'am.

13 Q Okay. If you could, look at page 369, lines 14
14 through 18. And go ahead and read those into the record.

15 A "Q Okay. Showing this area right here.

16 Did you find objects right here and take a
17 closer picture of that?

18 "A Yes, sir, I did. That was a bag --
19 not bag -- that was a plastic baggy
20 containing -- containing what we normally refer
21 to as green leafy substance until it's tested."

22 Q Okay. And if you could look at page 373, lines 20
23 through 25, what do they say that green leafy substance
24 tested positive for?

25 A Marijuana.

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Direct examination by Ms. Blanchette

1 Q And how much weight did they find?

2 A 24.2 -- 4.24 grams.

3 Q Before your trial started did your attorney advise you
4 that the state was going to plan to introduce 4.24 grams of
5 marijuana that was supposedly found in the Chevy Caprice
6 you were arrested in?

7 A No, ma'am.

8 Q Did he raise any motions at the beginning of your
9 trial regarding the admissibility of that drug evidence?

10 A No, ma'am.

11 Q What is your allegation today regarding his failure to
12 do so?

13 A Trial counsel ineffective for objecting to the
14 marijuana due to the fact I was never charged with any
15 marijuana.

16 Q I'm sorry, Mr. Teamer. I may have heard you wrong.
17 Did you say for objecting or for not objecting? Please
18 clarify.

19 A For not objecting. He didn't object.

20 Q Okay. Now, we've already discussed the fact that
21 there was a second trial on the murder charges. Those
22 charges were severed at the beginning of this trial, is
23 that correct?

24 A Yes, ma'am.

25 Q Okay. Do you have that trial transcript with you?

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Direct examination by Ms. Blanchette

1 A Yes, ma'am, I have it here.

2 Q Okay. If you could, pull that out, please.

3 MS. BLANCHETTE: Your Honor, this is going to be a
4 lengthy issue. I know you mentioned what time you want to
5 break for lunch. I didn't know if you'd prefer to break
6 here or if you want me to go ahead and begin this issue
7 with this exhibit.

8 MS. WHITE: Go ahead and break now if you want.

9 MS. BLANCHETTE: I just didn't want to go past 12:45.
10 I have quite a bit of testimony and exhibits to get on this
11 issue.

12 THE COURT: We could probably just go to 12:45 and
13 then break for lunch.

14 MS. BLANCHETTE: Okay. That's perfectly fine.

15 BY MR. BLANCHETTE

16 Q Mr. Teamer, I'll get that transcript in a minute. I'm
17 going to hand you a packet there.

18 Could you identify what the first page of this packet
19 says?

20 A State of South Carolina, search warrant.

21 Q And what's the date on that search warrant?

22 A February 3rd of 2006.

23 Q Okay. If you could, turn one, two, three, four, five
24 pages. Is there another search warrant?

25 A Yes, ma'am.

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Direct examination by Ms. Blanchette

1 Q what's the date on that?

2 A February the 10th of 2006.

3 Q Okay. If you could turn five pages again, what's
4 there?

5 A February the 22nd of 2006.

6 Q Is that another search warrant?

7 A Yes, ma'am.

8 Q Okay. And then five pages one more time.

9 A February 10th.

10 Q Okay. And what's that?

11 A February the 10th of 2006.

12 Q Okay. And is there scribbling over it where it says
13 search warrant?

14 A Yes, ma'am.

15 Q Okay.

16 MS. BLANCHETTE: Your Honor, at this time we would
17 move to introduce this packet of search warrants as
18 Applicant's No. 17.

19 MS. WHITE: Without objection, Your Honor.

20 (Search warrants marked Applicant's Exhibit No. 17.)

21 Q Now, if you could, open up the murder trial
22 transcript, please, and look at page 44.

23 At your murder trial did your attorney make a pretrial
24 motion to have evidence excluded that was found in the
25 search of the Caprice that Investigator Guthro was talking

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1 about at your burglary trial?

2 A Yes, ma'am.

3 Q Did he make such a motion at the burglary trial?

4 A No, ma'am.

5 Q Okay. Let's look at the motion he did make at the
6 murder trial. If we could, look at page 44.

7 MS. WHITE: Patricia, I was going to say I didn't
8 bring the packet. I wasn't -- I didn't know that you were
9 going to go into the transcript. So the judge doesn't have
10 this transcript right now.

11 MS. BLANCHETTE: We are incorporating into the record.

12 MS. WHITE: Yeah. We don't -- but the transcript --
13 I've got it out in the car. I'll be happy to go get it.
14 But I don't know if maybe that means we might want to break
15 right now.

16 MS. BLANCHETTE: It's a good time to break for lunch.

17 THE COURT: We'll go to lunch.

18 MS. WHITE: That's what I'm thinking. And then we'll
19 have both of them here for you.

20 THE COURT: Ten minutes to 2:00. Will that work?

21 MS. BLANCHETTE: That's just fine.

22 THE COURT: All right. We'll be in recess until ten
23 minutes till 2:00.

24 (Whereupon, a recess was taken.)

25 MS. WHITE: Your Honor, I had to sent Mr. Korny back.

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1 That might be him right now. I think I hear somebody at
2 the door -- but to get that transcript that I had
3 unfortunately -- never mind -- forgotten. But he should be
4 back in just one minute.

5 THE COURT: Do we need to wait on that? Because
6 that's where we -- that's where we were.

7 MS. WHITE: I think so, yes, sir.

8 THE COURT: Still moving through the transcript.
9 Okay. All right. We'll be at ease for a few moments.
10 (Pause.)

11 THE COURT: Whenever you're ready.

12 MS. BLANCHETTE: Thank you, Your Honor.

13 BY MS. BLANCHETTE

14 Q Mr. Teamer, before the break we had introduced
15 Applicant's No. 17, a packet of search warrants. And if
16 you could, look at the murder trial transcript on page 44,
17 please, where Investigator Guthro is testifying in-camera
18 prior to trial.

19 A Got it.

20 Q And on page 44 beginning at line 20 does he explain
21 what he finds as a result of the first search warrant in
22 that packet?

23 A Yes, ma'am.

24 Q And what was found as a result of the first search
25 warrant in the packet that we introduced?

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1 A silver Verizon cell phone.

2 Q Okay. And then he explains that there was a second
3 search warrant executed. And if you could, turn to page
4 45, lines 15 through 18, where he's being questioned about
5 that search warrant, which is the second search warrant in
6 our packet. Line 17, what does he say was found as a
7 result of the second search warrant on the Chevy Caprice?

8 A A green dinner jacket.

9 Q And what else?

10 A Red rag.

11 Q Okay. So there's two search warrants executed. The
12 first one they find a Verizon cell phone in the Chevy
13 Caprice, correct?

14 A Yes, ma'am.

15 Q And in the second one they find a jacket and a red
16 rag.

17 A Yes, ma'am.

18 Q Okay. If you could, turn to page 46. If you could,
19 just go ahead and read the entire page, just so if you'd do
20 the answers and questions.

21 A Question:

22 "Q Do you have a search warrant?

23 "A No, sir.

24 "Q Do you think of getting one?

25 "A No, sir. I was only -- I was only in

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1 there looking at the car. I was simply looking
2 to see what was in it.

3 "Q You were told by whom?

4 "A Investigator Porter.

5 "Q Investigator Porter. Investigator
6 Porter told you you didn't need one.

7 "A No.

8 "Q What did Investigator Porter tell
9 you?

10 "A That he already executed the one,
11 that one he had. He executed the warrant and
12 that he had -- he had done with the car.

13 "Q Are you aware the search warrants are
14 good?

15 "A Well, I'm up to ten days. Yes, I am.

16 "Q What did you ask Investigator Porter,
17 whether this search warrant was valid?

18 "A I asked Investigator Porter to
19 actually -- when I approached him if he wanted
20 me to assist him with that, and he said he
21 already done it. This was day prior to the
22 22nd. I don't remember exactly what date it
23 was.

24 "Q Do you realize there wasn't a search
25 warrant?

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1 "A I know there was no search warrant.

2 Q If you could read through -- I'm sorry -- line two on
3 the next page.

4 A "Q Nevertheless, you continued to search.

5 "A I looked to see what was in the car, yes.

6 Q So there in-camera Investigator Guthro testifies about
7 his knowledge of the two previous searches. He was told by
8 Porter that the searches were completed. And he decided to
9 go look in the car on his own, is that correct?

10 A Yes, ma'am.

11 Q Okay. And on page 47, lines one through 17, he goes
12 on to explain that he obtained -- he found another cell
13 phone when he was looking in the car, and it was not in
14 plain view. Is that what he testifies to?

15 A Yes, ma'am.

16 Q Now, if you could look at the bottom of page 47
17 through page 48 is he asked there about whether or not he's
18 familiar with the inventory policy for the police
19 department?

20 A Yes, ma'am.

21 Q And what does he say?

22 A He says --

23 Q Specifically on page 48, lines seven through nine.

24 A No. He ain't familiar with it.

25 Q So he admits there pretrial that he doesn't know what

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 the inventory policy is for his department.

2 A Yes, ma'am.

3 Q Okay. Then if you could, turn to page 52. And he
4 explains there that he obtained a third search warrant
5 based upon the evidence he had found during his proposed
6 inventory search, is that correct?

7 A Yes, ma'am.

8 Q Okay. And if you could, turn to or look at page 52,
9 lines 11 through 18. If you could, just read into the
10 record what he found on his -- his second search or the
11 third search with the search warrant.

12 A "Yes. A cold -- one cold red Mountain Dew bottle, one
13 Newport cigarette butt, one bag of leafy green substance,
14 one Wal-Mart film receipt, one disposable camera box, one
15 pair of sunglasses and one knife, one Minute Maid orange
16 juice bottle, four cigarette butts from -- from driver's
17 floor, one hand-roll cigar, five flies, six swabs,
18 handprint from interior of vehicle, palm print from rear --
19 rear-view mirror," but nothing else was taken.

20 Q So the green leafy substance is one of the items he
21 obtained during his second search of the vehicle or the
22 third search with the warrant, is that correct?

23 A Yes, ma'am.

24 Q Okay. If you could, look at page 53. I promise this
25 might be the last reading I have you do. If you could,

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1 read lines three through 11.

2 A "So the last search I referred to that was more
3 than -- that was more of a tool of record the defendant
4 belonging, correct, that was done because I pulled the
5 phone outta the car." Hold up. "I pulled the phone outta
6 the car that turned out to be inven -- evi -- evi --
7 evitory [sic] value indicating the car had not been
8 properly done to begin with. So another search warrant was
9 obtained. I executed a warrant and processed that vehicle
10 listing the stuff that was taken out of it, yes, including
11 fingerprint form, print swabs from steering wheel.

12 Q So he explained that this pretrial motion at the
13 murder case, that the reason he went back in and did obtain
14 the search warrant where he found the green leafy substance
15 was because of that first search he did without a warrant
16 where he found the cell phone, is that correct?

17 A Yes, ma'am.

18 Q Now, this motion is raised pretrial at your murder
19 case.

20 Did your attorney make any type of motion regarding the
21 steps that the law enforcement took in retrieving that green
22 leafy substance at your burglary trial?

23 A No, ma'am.

24 Q Did he raise the issue at all?

25 A No, ma'am.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Now, looking back at the murder case on page 62, line
2 ten, the issue there was the admissibility of the cell
3 phone, and the judge ruled that it could come in as part of
4 an inventory search, is that correct? Is that what the
5 judge ruled?

6 A Yes, ma'am.

7 Q Okay. And in this case we were granted the
8 opportunity to do discovery, is that correct?

9 A Yes, ma'am.

10 Q And as part of that we requested that the state or the
11 solicitor's office provide us a copy of the inventory
12 policy that was in place at this time.

13 A Yes, ma'am.

14 Q Okay. Mr. Teamer, I'm going to have you identify
15 those documents for the record, please.

16 A State of South Carolina. Got Barry Barnette on there.

17 Q Okay. And what's the date on this?

18 A September the 1st of 2011.

19 Q And who is the person it's written to?

20 A Dear Ms. Patricia Blanchard -- Blanchette.

21 Q Okay. And it's signed by whom?

22 A John Pilgram.

23 Q Okay. And then there's a third page here. And what
24 does it say at the top of that?

25 A Spartanburg Public Safety -- Spartanburg Public Safety

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Department general orders.

2 Q And, Mr. Teamer, is this the written response we
3 received from the solicitor's office to the discovery order
4 issued by Judge Couch, along with their response, which is
5 the 1-page public safety department general order?

6 A Yes, ma'am.

7 MS. BLANCHETTE: Your Honor, at this time I'd admit
8 this as Applicant's No. 18.

9 MS. WHITE: Without objection, Your Honor.

10 THE COURT: Without objection.

11 (Letter dated September 1, 2011, marked Applicant's
12 Exhibit No. 18.)

13 Q Now, at the murder trial Judge Cole ruled that it was
14 a proper inventory search. But did anyone including your
15 attorney ever check into what the inventory policy was at
16 the time?

17 A No, ma'am.

18 Q Okay. And if you could, just summarize your
19 allegation as to what your attorney should have done
20 regarding the search warrants and this issue at the
21 inventory policy at the burglary trial.

22 A He should have asked for a copy of the inventory
23 violation so he could have properly argued the whole
24 argument with the search warrant and objected to the
25 marijuana or the search warrant.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Do you have any knowledge as to why your attorney did
2 not raise this issue at your burglary but raised it at the
3 murder trial?

4 A No, ma'am.

5 Q Now, on pages 375 through 379 your attorney made a
6 motion for a directed verdict.

7 A We back to the first?

8 Q Yes. I'm sorry. Turning back to the burglary trial.

9 A Say what page?

10 Q 375 through 379. Your attorney makes his argument for
11 a directed verdict.

12 A Yeah.

13 Q And in response, specifically on page 378, look at
14 lines 13 through 14, line 17, and lines 20. The state
15 argues that the officers had on their blue lights.

16 Did your attorney ever raise the facts -- the fact that
17 the officers testified otherwise?

18 A No, ma'am.

19 Q Did your attorney make any mention of the inconsistent
20 testimony regarding the use of your headlights and the
21 officers' use of blue lights?

22 A No, ma'am.

23 Q Did your attorney make any specific directed verdict
24 argument -- directed-verdict-motion arguments on the armed
25 robbery or burglary charges?

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A No, ma'am.

2 Q And were you, in fact, found not guilty on the armed
3 robbery charge?

4 A Yes, ma'am.

5 Q Now, if you could, look at page 379, lines 19 through
6 25, specifically line 20. The court asked him no motions
7 on the burglary indictment or the armed robbery indictment.
8 And he says, "No, Your Honor."

9 Did you anticipate that your attorney was going to make
10 a directed verdict motion on those argu -- or on those
11 charges?

12 A Yes, ma'am.

13 Q Did he discuss with you the fact that he was going to
14 not make an argument?

15 A No, ma'am.

16 Q Are you alleging today that he's ineffective for
17 failing to make an argument?

18 A Yes, ma'am.

19 Q Is there anything else you'd like to tell the court
20 regarding your counsel's directed verdict argument on your
21 behalf?

22 A Basically, he should have asked for a directed verdict
23 on the robbery and the burglary first because my name
24 was -- wasn't in any statement, basically the background
25 impeachment of the Grays.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q And today we've spoken at length about their
2 inconsistent testimony. And that was an issue he didn't
3 even raise to the Court, correct?

4 A Yes, ma'am.

5 Q He deferred his opening argument until the state
6 rested. Was that something you all had discussed?

7 A I don't recall.

8 Q Okay. Now, you called two witnesses. And correct me
9 if I say this wrong. It's Osia, but it's spelled O-S-I-A,
10 Feaster and Daisy Feaster. Is that correct?

11 A Yes, ma'am.

12 Q And please explain who those two individuals were.

13 A Osia was my girlfriend at the time and Ms. Daisy was
14 her mother.

15 Q Okay. Let's look at their testimony briefly. On page
16 387 through 389 Osia essentially testifies that you were
17 with her from about 8:00 p.m. until 11:15 p.m., is that
18 correct?

19 A Yes, ma'am.

20 Q And if you turn to page 390 and you look at lines 12
21 through 13 she indicates that you borrowed her car sometime
22 after 11:15 p.m.

23 A Yes, ma'am.

24 Q Did Mr. Schultz meet with her as far as you know and
25 go over her testimony regarding your alibi?

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A I think he did, yes, ma'am.

2 Q Okay. Is there anything further you're alleging he
3 should have done in his preparation or utilization of Osia
4 Feaster's testimony?

5 A He should have let her listen to the phone call as
6 well as me cause she didn't get to listen to 'm till
7 Burnett asked her about them -- Barry Barnette.

8 Q Okay. If you turn to page 392, you look at lines six
9 through 12, are you referring to where she's asked about
10 identifying -- I'm sorry. Let me ask you this first.

11 On page 392, lines six through 12, she's asked there to
12 identify your handwriting, isn't she?

13 A Yes, ma'am.

14 Q Okay. And did you anticipate that the state was going
15 to try to utilize her to identify your handwriting on those

16 letters we've talked about today?

17 A No, ma'am.

18 Q And then if you look at page 393 through 394 the state
19 uses her to identify your voice on those phone-call
20 recordings.

21 A Yes, ma'am.

22 Q Okay. So the state essentially used your witness to
23 identify your handwriting and your voice on those two
24 damaging pieces of evidence.

25 A Yes, ma'am.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Okay. Now, let's talk briefly about her mom, Daisy
2 Feaster. On pages 403 through 404 she said that you came
3 into their house around 8:00 p.m. Is that what you recall?

4 A Yes, ma'am.

5 Q And she explains on 405 to 406 that she was at
6 Wal-Mart from 9:00 to 12:00 but she got home around
7 12:00 and you were still there eating wings at the time.

8 A Yes, ma'am.

9 Q Now, do you know if Mr. Schultz met with her and
10 properly prepared her to testify?

11 A I think he did, but I ain't for sure.

12 Q Okay. Is there anything else regarding her testimony
13 that you're alleging he should have done?

14 A No, ma'am.

15 Q Let's talk about one more witness, Christina Hoggle.

16 Look at pages 408 through 409. She was the officer that
17 inventoried your belongings when you were arrested,
18 correct?

19 A Yes, ma'am.

20 Q And she's explains that you were booked at the jail
21 with \$1.52, keys and Chapstick.

22 A Yes, ma'am.

23 Q Okay. Let me get you to identify this for the record.

24 MS. BLANCHETTE: Your Honor, I'm not absolutely sure
25 if this was included in your packet or not.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 THE COURT: Okay.

2 Q Could you identify what this appears to be?

3 A Search warrant.

4 Q Okay. And what's the date on this search warrant?

5 A February the 10th of 2006.

6 Q Okay.

7 MS. BLANCHETTE: Your Honor, at this time I would
8 admit this as Applicant's No. 19.

9 MS. WHITE: Without objection.

10 THE COURT: No objection. Motion's granted.

11 (Search warrant marked Applicant's Exhibit No. 19.)

12 Q Mr. Teamer, could you explain why this search warrant
13 is of significance?

14 A Yes, ma'am. Do you want me to explain?

15 Q Yes, please. Go ahead.

16 A Basically, because they did a search warrant on my
17 property, my bin at the county jail, for which I was
18 arrested in. And the clothing don't fit none of the
19 descriptions of the murder or the burglary rather. We in
20 the burglary now though. They don't fit the description of
21 the burglary.

22 Q And did you anticipate that your attorney was going to
23 go into the clothing items that you were arrested in with
24 Ms. Hoggle?

25 A Yes, ma'am.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Okay. And did he fail to do that on your behalf?

2 A Yes, ma'am.

3 Q Now, let's jump back to the very beginning. We talked
4 about the fact that your attorney made a motion of sever.
5 And the judge ruled that the murder and the burglary could
6 not be tried together, is that correct?

7 A Yes, ma'am.

8 Q Okay. And just to summarize, you've alleged today
9 that your attorney was ineffective for making that motion,
10 is that correct?

11 A Yes, ma'am.

12 Q Now, let's -- let's look at this timeline of events
13 now that we've gone through the whole case.

14 Your alibi witnesses essentially say that you're at the
15 Feasters' home from anywhere from 8:00 to 12:00 p.m., is
16 that correct?

17 A Yes, ma'am.

18 Q And the Grays testified that you had been with them
19 earlier that evening eating dinner, is that correct?

20 A Yes, ma'am.

21 Q Okay. So could you go through the sequence of events
22 that the suspect would have had to have done in this one
23 evening for us starting with dinner at the Grays all the
24 way through the arrest at 12:57?

25 A He would have had to leave Grays, change clothes, get

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 a rifle, ski mask, run up -- no. Excuse me. He would have
2 had to leave the Grays, had latex gloves with all black on,
3 shoot the victim, kill the victim, and then go change
4 clothes, put on different clothes, go rob some more
5 victims, and burglarize them, and then leave and go change
6 clothes and go on a high-speed class and get caught.

7 Q Now, let's talk about some of those specifics that are
8 in -- in these transcripts.

9 The person would have to leave the Grays and get
10 changed.

11 And Michael Proctor in the murder trial doesn't
12 describe what the suspect had on, but he does say on page
13 110 of the murder trial that the individual put on latex
14 gloves before opening fire with what they found to be a 9mm,
15 is that correct?

16 A Yes, ma'am.

17 Q So the person that committed this murder was smart
18 enough to put on latex gloves, used a 9mm, killed one
19 victim and nearly killed the second victim, is that
20 correct?

21 A Yes, ma'am.

22 Q And what was supposedly the motive for the murder?
23 why was Mr. Hunter murdered?

24 A They say he was murdered -- in my case why they say he
25 was murdered?

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q why did they say in the murder case? what was the
2 motive for murdering Mr. Hunter?

3 A They tried to say he told on me in another incident.

4 Q So Mr. Hunter was murdered because he was a witness in
5 another case, is that correct?

6 A Yes. That's what the state alleged.

7 Q Okay. So the person leaves the Grays, goes and
8 commits a murder with a 9mm, latex gloves. And the purpose
9 of that murder was to get rid of a witness.

10 A Yes, ma'am.

11 Q Okay. And that occurs approximately around 8:45 p.m.,
12 correct?

13 A Yes, ma'am.

14 Q And then around 11:00 p.m. this same person shows up
15 at the Grays' residence, people that he just had eaten

16 dinner with. Identifies himself by his nickname. Shoots a
17 shotgun. Has Mr. Martin strip down to nearly nothing.
18 Lets all of these people see him. Leaves all of these
19 witnesses alive in the house and flees the scene, is that
20 correct?

21 A Yes, ma'am.

22 Q And then finally this same person has enough time to
23 get intoxicated to qualify for a driving under the
24 influence and lead the officers on a high-speed chase that
25 ended or a high-speed-swerving chase -- whatever the record

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 reflects -- that ended at 11:57 p.m.

2 A Yes, ma'am.

3 Q Is it your -- explain your position today as to why it
4 would have been beneficial for you to have all of those
5 cases tried together.

6 A Because it really wouldn't have made no sense but the
7 chara -- the wit -- the witness' character, and then what I
8 had on when I was arrested -- wasn't no blood found on my
9 clothes, no gunshot residue, just different stuff like
10 that, crime elements.

11 Q And you would rest upon the record. And essentially
12 we're asking the Court to review the entire record. We're
13 just summarizing this as to why you're making this
14 allegation, correct?

15 A Yes, ma'am.

16 Q Okay. And additionally you have an alibi. You had
17 two witnesses come and say that you were with them from
18 anywhere from 8:00 to 12:00 p.m., is that correct?

19 A Yes, ma'am.

20 Q Mr. Teamer, I have a couple of questions for you
21 regarding closing arguments. But is there anything else
22 regarding the trial in this case that you'd like to make an
23 allegation about or raise to the Court today?

24 A Yeah. I would like also bring in the fact that he'd a
25 raised together. Kevin McKinney. He's supposed to been

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 the jailhouse snitch. He wrote two separate statements,
2 and I feel like the jury would'a heard both of his
3 statements and been able to see that he gave two different
4 stories in a video confession.

5 Q And it would be exhaustive to go through everything
6 that happened in the murder trial and explain why it would
7 have been helpful that they -- that they be tried together.
8 But you're asking the Court to review that murder trial to
9 examine the prejudice on this issue, is that correct?

10 A Yes, ma'am.

11 Q Okay. Now, as far as the state's closing arguments on
12 page 435, line 20, the state essentially argues that the
13 phone calls are your admission, you've admitted this crime.

14 A Yes, ma'am.

15 Q And you didn't testify in this case, is that correct?

16 A No, ma'am.

17 Q Okay. And then do you have an allegation regarding
18 bolstering in the state's closing argument?

19 A Yes, ma'am.

20 Q Okay. If you'd like to explain that to the Court,
21 please, and I can direct your attention to page 429, line
22 seven.

23 A Where at?

24 Q Do you have an allegation regarding the state's
25 closing argument as to bolstering?

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A Yes, ma'am.

2 Q Okay. Could you please explain it?

3 A The baby, Javanica [REDACTED], 429, line seven, through
4 nine, they say the truth comes from the mouth of babies. I
5 had to put a 9-year-old girl up. It pained me to do that,
6 but you needed to know the truth for that night. I feel
7 like that was vouching for the 9-year-old.

8 Q And what are you alleging Mr. Schultz should have
9 done?

10 A Objected.

11 Q Okay. And then if you could turn to page 436, are you
12 alleging he should have made an objection there too?

13 A Yes, ma'am.

14 Q Okay. And what should he have objected to?

15 A The same thing, the truth come from the mouth of
16 babies.

17 Q Okay. If you could, look at page 437, lines 12
18 through 13. There does the judge ask the jury to reach a
19 fair and just decision in this case?

20 A Yes, ma'am.

21 Q Okay. And are you alleging based upon the recent case
22 of State vs. Daniels your attorney should have objected to
23 that?

24 A Yes, ma'am.

25 Q Okay. Mr. Teamer, are there any other allegations

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 regarding your trial counsel that I have failed to go over
2 with you today or allowed you to put into the record at
3 this point?

4 A Yes, ma'am. Going back to the D.U.I.

5 Q Go ahead, sir.

6 A I would like to get in the fact that he didn't go into
7 the fact with the D.U.I., also didn't record the video of
8 why he didn't have the I.V. [sic]. He didn't sign
9 affidavit about why he didn't have the video. He didn't
10 question him about the video or none of the above about the
11 video. He's supposed to have a video on every D.U.I. case.
12 That's one allegation.

13 Q Is there anything else that we failed to go over?

14 A Yes, ma'am. The fact that he didn't get into it with
15 the Grays like 431. Barry Barnette finally admits that the
16 letter was written to Natalie Gray after that they done
17 false misrepresented to the Court in the motion hearings
18 that the letter was wrote to Erica Gray. And also the fact
19 that Erica Gray didn't write her second statement and
20 mention my name until the letter was received the same
21 date. He didn't get into that.

22 Q So there was further impeachment regarding her
23 statements that you anticipated he would do.

24 A Yes, ma'am.

25 Q Okay. Is there anything else, Mr. Teamer?

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A I think that's it.

2 Q Regarding your appellate counsel, you've also alleged
3 that appellate counsel was ineffective, is that correct?

4 A Yes, ma'am.

5 Q Ms. Kathrine Hudgins filed an Anders brief on your
6 behalf.

7 A Yes, ma'am.

8 Q And you filed a pro se brief on your own, is that
9 correct?

10 A Yes, ma'am.

11 Q And in that pro se brief you raised four issues on
12 your own.

13 A Yes, ma'am.

14 Q Okay. And are you alleging that your attorney was
15 ineffective for failing to raise the three issues you
16 raised that were not in her brief?

17 A Yes, ma'am.

18 Q Okay. Additionally, are you alleging that appellate
19 counsel was ineffective for failing to raise all
20 meritorious issues on your appeal?

21 A Yes, ma'am.

22 Q Specifically, your attorney made objections to the --
23 or tried to introduce the victim's toxicology report. And
24 that was overruled. That was not raised on your appeal,
25 correct?

Nathaniel Teamer
Cross-examination by Ms. White

1 A No, ma'am.

2 Q Is there anything else that you would like to allege
3 should have been raised on your appeal?

4 A My direct appeal?

5 Q Yes.

6 A No, ma'am.

7 MS. BLANCHETTE: Your Honor, if I --

8 A I think the --

9 Q Okay.

10 A The sequestration wasn't raised due to the fact that
11 all the Grays got to sit in -- in the courtroom and listen
12 to each-other testimony and tailor each-other testimony to
13 add up the same. About it.

14 MS. BLANCHETTE: Your Honor, if I could beg the
15 Court's indulgence one moment.

16 THE COURT: Certainly.

17 (Pause.)

18 MS. BLANCHETTE: Your Honor, I have no further
19 questions.

20 THE COURT: Cross-examination.

21 MS. WHITE: Thank you, Your Honor. Briefly.

22 CROSS-EXAMINATION

23 BY MS. WHITE

24 Q I'm going try to go through kind of the same order
25 that Ms. Blanchette went through, some of our initial

Nathaniel Teamer
Cross-examination by Ms. white

1 hearings.

2 Now, Mr. Teamer, you testified that you were arrested
3 February the 3rd of 2006 and did not make bond at that time,
4 is that right?

5 A Yes, ma'am.

6 Q And at the time that you were arrested on these
7 charges you were also currently on house arrest for other
8 charges, is that right?

9 A Yes, ma'am.

10 Q Can you tell us what those were for?

11 A I was charged with C.S.C., kidnapping, aggravated
12 assault and battery. I think that's it.

13 Q Okay. And, in fact, the charges that you mentioned
14 that Mr. McKinney had given or the motive -- excuse me --
15 that supposedly Mr. Hunter was killed for, that was one of
16 the charges that the incident, a prior shooting, is that
17 right, that you were on house arrest for?

18 A I wasn't charged with that until after I was charged
19 with the murder --

20 Q Oh, okay.

21 A -- which was 13 months later.

22 Q Okay. Now, you testified that you -- in the motion to
23 sever you thought that counsel was going to request for
24 three separate trials, isn't that right?

25 A Yes, ma'am.

Nathaniel Teamer
Cross-examination by Ms. White

1 Q And isn't it true that he initially did ask the Court
2 to separate and have three separate trials?

3 A Yes, ma'am.

4 Q Okay. And ultimately the Court ruled not to and
5 selected to have two separate trials.

6 A Yes, ma'am.

7 Q Okay. In the issues of the -- the letters I think
8 that were used to -- the letters that Erica Gray testified
9 to, weren't the letters you testified earlier today that
10 you wanted that they decided to enter selected portions
11 over objection, but isn't that true that the full letters
12 were ultimately read by Gail Heath when she identified your
13 handwriting?

14 A I don't think she read but like one of the four
15 letters.

16 Q All right. So she read at least one of the full
17 letters, was record into the record.

18 A Yes, ma'am.

19 Q But your testimony is you wanted all of the letters
20 put in.

21 A That's what the lawyer requested.

22 Q Okay. You also argued that counsel should have
23 objected earlier because Erica Gray was not the actual
24 recipient of the letters, is that correct?

25 A Yes, ma'am.

Nathaniel Teamer
Cross-examination by Ms. White

- 1 Q Okay. Now, Erica testified that Natalie -- and
2 Natalie was her sister, is that correct?
- 3 A Yes, ma'am.
- 4 Q That Natalie had given her the letters.
- 5 A That's what she said, yeah.
- 6 Q And isn't it true that the Ieshia who was a recipient
7 of a letter as well was Erica's daughter at the time?
- 8 A She didn't have custody of her at the time.
- 9 Q Right. She was living with Natalie, is that correct?
- 10 A Yes, ma'am.
- 11 Q But she was 16.
- 12 A Yes, ma'am, 16 or 17.
- 13 Q Okay. And Natalie ultimately was listed and had been
14 subpoenaed by the state for a potential witness but didn't
15 testify.
- 16 A I never seen her on the witness list.
- 17 Q Okay. So you never saw the state's witness list?
- 18 A No, ma'am.
- 19 Q And you were not aware that Natalie had been
20 subpoenaed and could potentially testify?
- 21 A No, ma'am.
- 22 Q Okay. In regards to attacking the credibility of the
23 Grays, Erica Gray -- you testified that counsel failed to
24 raise the false-information-to-police charge.
- 25 A Yes, ma'am.

Nathaniel Teamer
Cross-examination by Ms. White

1 Q And he did bring up a charge, a previous drug charge,
2 is that right?

3 A Yes, ma'am.

4 Q Okay. He also on cross-examination attempted to point
5 out the fact that she did not ever name you in her first
6 statement, is that right?

7 A Yes, ma'am.

8 Q And, in fact, he did so on cross-examination with
9 Mary, with Donald. He pointed out that fact that neither
10 one of them or none of them actually named him -- named you
11 as the suspect. They just mentioned the Murda or Murda
12 Rich, is that right?

13 A Yes, ma'am.

14 Q Okay. And he attempted to get their statements in to
15 show that as inconsistent statements, did he not?

16 A Yes, ma'am.

17 Q Right. Your testimony is that he didn't lay the
18 proper foundation. But the Court also said they had not
19 actually denied anything in those statements. They just
20 were saying they didn't remember, is that right?

21 A Yes, ma'am.

22 Q Okay.

23 MS. WHITE: One moment, please, Your Honor.

24 (Pause.)

25 Q And your testimony about the -- Erica's identification

Nathaniel Teamer
Cross-examination by Ms. White

1 of your voice and of your handwriting is that you believe
2 counsel should have objected to that?

3 A Yes, ma'am.

4 Q Okay. Did he ever talk with you about the fact
5 that -- that someone that's just kind of a layperson can
6 identify handwriting and voice if they're familiar with it?

7 A No, ma'am.

8 Q Okay. In regards to the motive and wanting to get the
9 information in about the D.S.S. case, the incident report
10 that was put into evidence earlier indicates that Mr. Nash
11 reported the sexual assault, is that correct?

12 A Yes, ma'am.

13 Q Okay. So at this point your testimony is that you
14 were involved though and that was their motive for lying on
15 you?

16 A They felt like I'm the one that got it all started
17 back up by telling Nash about it.

18 Q Okay. But yet you were also testifying here that you
19 had dinner with them that night, is that right?

20 A Had dinner with Mary Gray, yes.

21 Q Okay. So you got along with them well enough to have
22 dinner at their house, but yet they had a motive enough to
23 accuse you of breaking into their house that night?

24 A Yes, ma'am. Once the letters came out, that's when
25 Erica really put the finger on me.

Nathaniel Teamer
Cross-examination by Ms. White

1 Q Okay. And the information that we have in the record
2 from about Ieshia and the custody, you said the D.S.S. --
3 kind of family court report.

4 A Yes, ma'am.

5 Q Doesn't that relate more to her being released to her
6 father after she was arrested for the
7 possession-of-marijuana charge?

8 A Yes, ma'am.

9 Q Okay. So that doesn't reflect a custody battle, and
10 that in regards to her being released to her father while
11 these charges were pending, is that right?

12 A That's how he got to keep her, by the sexual assault
13 being reported.

14 Q Okay. Also, in regards to the incident reports that
15 you indicate involved prior shootings with Mr. Martin,
16 there's two incident reports, one from '05 and one that
17 happened about a month or so after this burglary.

18 A Yes, ma'am.

19 Q And you said that they indicated that the Grays tended
20 to lie, make stories up, and that Donald Martin had accused
21 other people in the past that weren't guilty.

22 A Yes, ma'am.

23 Q And, now, on the incident reports it names suspects,
24 but it doesn't say anywhere in there that they were found
25 not to be guilty, does it?

Nathaniel Teamer
Cross-examination by Ms. White

1 A That was the whole purpose of me trying to get the
2 lawyer, to find out what was going on with all of that.

3 Q But you don't have necessarily any evidence that these
4 people were never charged or were found not guilty of these
5 crimes.

6 A No, ma'am. I just got the police report that I was
7 able to get.

8 Q Okay. And, in fact, counsel did bring up to
9 Mr. Martin that he had previously been shot at in the
10 neighborhood, is that right?

11 A Yes, ma'am.

12 Q And asked Ms. Mary Gray about that as well.

13 A But he couldn't get into it because he didn't have
14 nothing to go into it with, no evidence or what.

15 Q Okay. You testified at one point earlier tonight that
16 counsel should have argued consent in regards to the
17 burglary.

18 A Yes, ma'am.

19 Q Okay. If he's arguing a consent, then are you not --
20 are you admitting that you went into the house that night?

21 A No, ma'am. It just something that popped out to me
22 and my attorney.

23 Q Okay. So you're saying that you just think at this
24 point that could have been another defense?

25 A Yes, ma'am.

Nathaniel Teamer
Cross-examination by Ms. White

1 Q All right. Now, in regards to the motion to dismiss,
2 you said that counsel told you you couldn't file a motion
3 on your own when you were represented by counsel.

4 A Yes, ma'am.

5 Q All right. And, in fact, was he your original
6 attorney, or had another attorney been appointed as well on
7 the case? Do you remember Jason Chehowski maybe?

8 A Yes. He was my attorney at first.

9 Q Okay. So he was your attorney first, and then when he
10 left maybe the office Mr. Schultz took over?

11 A Yes, ma'am.

12 Q All right. And at this point the letters you wrote in
13 Sep -- the motion was in September and the inmate form was
14 in November of '06.

15 A Yes, ma'am.

16 Q You had been indicted already on these charges in May
17 of '06, is that correct?

18 A Yes, ma'am. I assume so.

19 Q Okay. In regards to the victim of the felony D.U.I.,
20 James Young, now, Mr. Schultz tried to get in the
21 toxicology report and get in the information about his
22 cocaine, is that right?

23 A Yes, ma'am.

24 Q All right. And you testified that you thought his
25 charges had been essentially dismissed.

Nathaniel Teamer
Cross-examination by Ms. White

1 A That was the whole purpose of trying to figure out
2 what they dismissed. But he didn't say nothing about
3 cocaine. He was like D.U.I. So I'm assuming that Joshua
4 didn't even really know what was in his system and stuff.

5 Q Okay. And I am just...

6 MS. WHITE: For the record, if I can approach, Your
7 Honor.

8 Q I'm just going to show you -- and you may or may not
9 have seen this. You can tell me if it shows James T. Young
10 charged with a D.U.I., that he was found not guilty on a
11 bench trial.

12 A I ain't never seen that.

13 Q Okay.

14 MS. WHITE: I'd like to enter this into evidence
15 though as a court document.

16 THE COURT: Any objection, Ms. Blanchette?

17 MS. BLANCHETTE: No, Your Honor. It's actually stated
18 in the transcript.

19 MS. WHITE: We can do it State's Exhibit 1 actually.

20 (Case history marked State's Exhibit No. 1.)

21 Q So from reviewing that and from Mr. Barnette
22 testifying or speaking at the hearing he wasn't -- the
23 charges weren't dismissed, but it appears that perhaps they
24 were -- he was actually found not guilty.

25 A That's what they were saying. I never seen no

Nathaniel Teamer
Cross-examination by Ms. White

1 evidence of it.

2 Q Okay. But you do agree that counsel did attempt to
3 get that into the record and, in fact, started to ask
4 Mr. Young a little bit about what he had been doing earlier
5 that evening and how much sleep he had gotten and if he'd
6 been hanging out with friends or working.

7 A Yes, ma'am.

8 Q Okay. In regards to the officers' testimony having to
9 do with a felony D.U.I., there was a lot of testimony about
10 the Caprice turning the lights on and off.

11 A Yes, ma'am.

12 Q And, in fact, Mr. -- I think it was Officer St. Louis
13 testified one of your arguments is that he -- the video
14 should have been shown because it showed inconsistencies
15 with Officer St. Louis testifying that his blue lights were

16 on but no beer can was seen in the video.

17 A Yes, ma'am.

18 Q And is it not correct that on page 314 of the
19 transcript he testified that he didn't actually turn his
20 blue lights on until after the beer can was thrown out of
21 the window?

22 And you can look. Page 314, lines ten through 15. He
23 said he began running the video but he didn't turn his blue
24 lights on until after you had turned onto Goldbrook.

25 A He didn't say that. He said he began to run the video

Nathaniel Teamer
Cross-examination by Ms. White

1 in this place as far as D.U. and I -- D.U.I. investigation.
2 "He went down Overbrook Circle this way. And right there
3 he threw what I believe Ice House beer can outta the
4 window."

5 Q Right. Okay. And then he says he made another right
6 onto Goldbrook, "And I initiated by blue lights along right
7 in there."

8 A Yeah. I see what you're talking about.

9 Q Okay. Counsel also cross-examined them about the fact
10 that really when it came to your driving other than the
11 lights -- and I believe counsel mentioned that earlier --
12 you were obeying all the rules of the road, is that right?

13 A Yes, ma'am.

14 Q So he got the officers to say that you had stopped at
15 stop signs, stopped at stoplights, turned -- you even used
16 your turn signal, is that correct?

17 A Yes, ma'am.

18 Q Okay. And, in fact, he got some of the officers to
19 actually say that, you know, generally with a D.U.I. case
20 that's not what they see.

21 A Yes, ma'am.

22 Q Okay. Counsel also talked with -- I think it was --
23 Officer Evett when he testified. And he said that it was
24 your fault. We testified earlier on page 340.

25 If you'll look at page 351 counsel was cross-examining

Nathaniel Teamer
Cross-examination by Ms. White

1 Officer Evett. And at that point he's saying -- lines six
2 through ten. "Right. He actually did not know who caused
3 the car accident. He just heard the findings later."

4 A Yes, ma'am.

5 Q And that's where if you'll keep reading, look a little
6 bit, he also -- that's when he pointed out that the car
7 didn't necessarily fit the profile of someone under the
8 influence, although without the headlights and driving
9 fast, is that right?

10 A Yes, ma'am.

11 Q Okay. All right. Now, the directed-verdict motion,
12 counsel did argue for the felony D.U.I. and the failure to
13 stop on the directed verdict, is that correct?

14 A Yes, ma'am. But he didn't argue the inconsistencies
15 when we saying in the previous testimony.

16 Q But he argued that he didn't think the state had met
17 their burden of proof enough to present it to the jury.

18 A Yes, ma'am. He didn't argue enough to ask for a
19 direct motion.

20 Q Okay. And he chose not to argue for the burglary and
21 armed robbery, is that right?

22 A Yes, ma'am.

23 Q Now, the argument that -- that having a motion to
24 sever enabled the state to kind of streamline their case or
25 to present certain evidence, your argument is that you

Nathaniel Teamer
Redirect examination by Ms. Blanchette

1 would have done better for the state to charge you and you
2 be facing a murder charge at the same time and have the
3 jury hear that not only were you charged with burglary and
4 running from police but also with a murder and assault and
5 battery with intent to kill?

6 A Yes, ma'am.

7 Q Okay.

8 MS. WHITE: If I could have one moment, Your Honor.

9 THE COURT: Sure.

10 (Pause.)

11 MS. WHITE: Your Honor, I think that's all the
12 questions I have for this witness.

13 THE COURT: Redirect?

14 MS. BLANCHETTE: Very briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MS. BLANCHETTE

17 Q If you can look at page 33, please, lines 15 through
18 24, on cross-examination the state indicated Natalie Gray
19 was on the witness list and potentially prepared to testify
20 as the recipient of the letters. But on those lines who
21 does your attorney tell the Court was the recipient of the
22 letters?

23 A Erica Gray.

24 Q And he never says Natalie Gray is. And let's verify
25 that she's going to testify here today.

Nathaniel Teamer
Redirect examination by Ms. Blanchette

1 A Yes, ma'am.

2 Q If you could, turn to page 310, please. And if you
3 could look at Mr. Schultz's argument beginning at the
4 bottom of page 310 over to page 311, there he somewhat
5 haphazardly tells the Court that he wants to introduce a
6 toxicology report because they tested James Young's blood
7 or urine and he wants to go into what they found.

8 Does he clarify he's talking about alcohol or drugs at
9 that point?

10 A No, ma'am.

11 Q Does he ever tell the Court that he has a report that
12 indicates James Young tested positive for cocaine?

13 A No, ma'am.

14 Q And then if we could just look at the testimony of the
15 law enforcement officers, is it your allegation here today
16 that the issue with the use of the blue lights is in
17 reference to Officer Evett, the officer that was the last
18 one before the accident?

19 A Yes, ma'am.

20 Q And you do not have an issue with Officer St. Louis as
21 to whether or not he used his blue lights.

22 A No, ma'am.

23 Q Okay. And going back to Corporal Darity's testimony,
24 when he says that you were the cause of the accident
25 because you crossed -- because you crossed the center

Nathaniel Teamer
Recross-examination by Ms. White

1 line -- and he was told that by a deputy -- as of today do
2 we know who that deputy is?

3 A No, ma'am.

4 MS. BLANCHETTE: Your Honor, I have no further
5 questions.

6 RECROSS-EXAMINATION

7 BY MS. WHITE

8 Q Just one followup in regards to the testimony about
9 the applicant or -- excuse me -- the victim of the car
10 crash and the cocaine. In that case he was found not
11 guilty. And in this case the alcohol was not the issue in
12 your case with the felony D.U.I., was it?

13 A No, ma'am.

14 Q And it was the marijuana use, is that right?

15 A Say combination mixed.

16 Q Okay. All right.

17 MS. WHITE: That's all I have, Your Honor.

18 THE COURT: All right. Thank you, sir. You may step
19 down.

20 MR. THOMPSON: May it please the Court.

21 THE COURT: Yes, sir.

22 MR. THOMPSON: The applicant would call Joshua
23 schultz. And before Mr. Schultz testifies I want to hand
24 up the C.D. of the traffic accident off St. Louis' video
25 recording.

1 I believe I narrowed that down to -- I believe it's
2 from 33 minutes to 34 minutes and 35 seconds on that video
3 as the relevant part.

4 I have a little bit of difficulty playing it on my
5 computer. You can only cut through about 5-minute
6 segments, at least on my computer. So you might have to
7 sit through a couple of extra minutes, but it should be
8 around 33 minutes.

9 THE COURT: Let me -- before we put Mr. Schultz on the
10 stand let me find out about this.

11 This is not the original of anything.

12 MS. BLANCHETTE: That is a copy of the V.H.S. tape
13 right there.

14 THE COURT: A portion of the V.H.S. tape --

15 MS. BLANCHETTE: Is it a portion of the V.H.S. tape?
16 I believe it's the entire V.H.S. tape.

17 THE COURT: Okay.

18 MS. BLANCHETTE: I have seen both of them, and it's my
19 understanding that's a complete copy. That actually came
20 from Mr. Schultz's file, so he may be able to best answer
21 that.

22 MS. WHITE: I think what they're saying about the 33
23 minutes is that the officer actually had various incidents
24 on the tape, and so you're having to cut through to get to
25 actually Mr. Teamer's case.

1 MS. BLANCHETTE: It's the officer's dash cam.

2 THE COURT: Oh, I see.

3 MS. BLANCHETTE: And Mr. Teamer's incident doesn't
4 start until the 33-minute point. So you have several
5 arrests and people being pulled over and...

6 THE COURT: Now, is this mine to keep or is this -- am
7 I borrowing this?

8 MS. WHITE: I don't have another right now, but if we
9 need to make a copy I'm sure we can --

10 MS. BLANCHETTE: We do not have another copy at this
11 time. We had some C.D. copying issues in this case, to say
12 the least.

13 I have a copy saved to my computer if something
14 horrible happens to that, but it was going to be on loan is
15 that's okay.

16 MS. WHITE: If that's -- was that a copy, or is that
17 the actual one you took from his file?

18 MS. BLANCHETTE: My investigator told me it was a
19 copy, and I paid for the copy.

20 MS. WHITE: Okay. Because we just want to doublecheck
21 and make sure the one is still in the file.

22 MS. BLANCHETTE: It says copy on it. Sorry. A lot of
23 confusion here.

24 THE COURT: It amazes me that in this day and age it's
25 not simple, that you can't just say pop it in, copy.

E. Joshua Schultz
Direct examination by Mr. Thompson

1 MS. WHITE: Right. We can clarify I think maybe, you
2 know, by tomorrow when we get back to make sure if you can
3 keep that or we can get some other copies made, Your Honor.

4 THE COURT: All right. It's on loan to me.

5 MS. BLANCHETTE: For the time. And we will clarify
6 tomorrow if it is your copy. Thank you.

7 THE COURT: Mr. Schultz, come on up.

8 E. JOSHUA SCHULTZ, having been
9 first duly sworn, testified as follows:

10 DIRECT EXAMINATION BY MR. THOMPSON

11 Q How are you doing this afternoon, Mr. Schultz?

12 A Very well. Hope you are.

13 Q Doing well. I apologize if my teeth start
14 chattering -- you know, chattering midway through this.
15 It's pretty cold in this courtroom.

16 A Yes, sir.

17 Q But I'll try to get through this as quickly as I can
18 so we can get out to the nice warm air outside.

19 How long have you been practicing law?

20 A Since 2005.

21 Q 2005. In South Carolina?

22 A Yes, sir.

23 Q Are you licensed to practice anywhere else?

24 A No, sir.

25 Q And how much of your practice -- well, let me rephrase

E. Joshua Schultz
Direct examination by Mr. Thompson

1 that.

2 where do you work now?

3 A I work in private practice across the street here.

4 Q Do you have your own firm?

5 A I do.

6 Q And how much of that practice is devoted to criminal
7 law?

8 A Almost about 95 percent.

9 Q Ninety-five percent of it.

10 what kind of cases do you normally handle -- all kinds
11 or --

12 A In private practice?

13 Q Yes.

14 A Mostly D.U.I.s, drug offenses, and some other various
15 and sundry matters.

16 Q And how long have you been out on your own?

17 A Since June 2008.

18 Q Since June of 2008.

19 A Yes, sir.

20 Q And so at the time of the trial where were you
21 employed?

22 A The Spartanburg County Public Defender's Office.

23 Q And had you started working there since you got sworn
24 in?

25 A Yes, sir.

E. Joshua Schultz
Direct examination by Mr. Thompson

1 Q And this trial occurred specifically September the
2 10th through the 12th of 2007. So how long had you been
3 practicing by that point?

4 A I was sworn in I believe in November of 2005, so
5 almost two years.

6 Q Almost two years.

7 A Almost two years.

8 Q How many trials had you handled at that point?

9 A I handled some trials in magistrate court as well as
10 general sessions. I can't remember.

11 Q would you say more than ten?

12 A Bench trial -- with bench trials and jury trials.

13 Q In magistrate's court.

14 A Yeah. I would say so.

15 Q How many would you say in general sessions -- maybe
16 five or so? Is that a fair number?

17 A I really can't remember.

18 Q And obviously magistrates' cases aren't that serious.
19 what kind of cases had you tried in general sessions court
20 if you remember?

21 A I think the one previous to Mr. Teamer was an armed
22 robbery and a burglary. Here. I believe that was in June
23 of that year to my recollection.

24 Q And when did you start representing Mr. Teamer?

25 A I'd started representing Mr. Teamer when I took over

E. Joshua Schultz
Direct examination by Mr. Thompson

1 the file from Mr. Chehowski. I can't remember the exact
2 date, but I think it was sometime early 2007, I believe.

3 Q And obviously being a public defender you were
4 appointed to represent him.

5 A Yes, sir.

6 Q Were you assigned to handle all of his charges? Did
7 you handle -- did you get appointed to the murder and the
8 burglary and everything else?

9 A Yes. I handled all of his charges.

10 Q And just a quick question on office policy.
11 How many attorneys did you have in the office?

12 A At what time?

13 Q Just at the time of this trial.

14 A How many attorneys did the public defender's office
15 employ?

16 Q Yeah. Just in general. I mean, I'm not asking for --

17 A Full time or part time?

18 Q Full time.

19 A Okay. Eight or nine including myself.

20 Q And was anybody else assigned to handle this case with
21 you?

22 A I had a second chair during the September of 2007
23 trial. I believe that was Jimmy Hatcher. He was a public
24 defender.

25 Q So for the burglary case you had a second chair.

E. Joshua Schultz
Direct examination by Mr. Thompson

1 A Yes, sir.

2 Q Okay. Did you have a second chair for the murder
3 case?

4 A I don't believe so.

5 Q And you said you'd been representing Mr. Teamer since
6 about the beginning of 2007. So that's right at about nine
7 months prior to the burglary trial?

8 A Yes, give or take.

9 Q How many times do you think you met with Mr. Teamer
10 prior to the trial?

11 A I don't really remember. But for something serious
12 like this -- I think I met with him several times. I don't
13 really remember the exact times I met with him.

14 Q His testimony was five or six. Would you say that's
15 about accurate?

16 A I know I at least met with him about five or six
17 times. I can't really remember the exact amount.

18 Q And how long do you think those meetings lasted? I
19 mean, did you have short meetings, long meetings? Were
20 they -- just how did they go? How long did they go?

21 A Sometimes we had short a meeting and sometimes we had
22 a long meeting. It's like the long meeting we went over
23 the D.V.D. of the -- the D.U.I. That was rather long. And
24 then sometimes I would just go over and say, hey, I'm still
25 working on your case, here's some more discovery that I

E. Joshua Schultz
Direct examination by Mr. Thompson

1 got.

2 Q And just sit and talk about that?

3 A Uh-huh. And a lot of times what we did too is
4 Mr. Teamer brought up really good points in the letters
5 that he wrote to me. And so a lot of the times I would
6 read those, and those were good points that I ultimately
7 did use at trial sometimes.

8 Q So do you think you had a pretty good working
9 relationship with him?

10 A I did. I liked Mr. Teamer.

11 Q Now, I want to talk about, a little bit about, your
12 investigation in I guess the nine months leading up to this
13 trial.

14 Did you -- did you go over the discovery with -- you
15 said -- you said you had gone over the discovery. Did you
16 go over all the discovery with Mr. Teamer?

17 A I went over all discovery that I -- that I had the
18 time to go over with him.

19 Q You had the time to go over with him?

20 A Yes.

21 Q And did Mr. Teamer tell you about his relationship
22 with the Grays?

23 A Oh, yeah.

24 Q And did he tell you about the D.S.S. issue with
25 Mr. Martin?

E. Joshua Schultz
Direct examination by Mr. Thompson

1 A Yes.

2 Q And that's how you found out about all of that?

3 A Absolutely, yes, sir.

4 Q And did you discuss the letters that had been -- well,

5 let me ask you this. When did you get those letters? When

6 did you get the letters that they allege Mr. Teamer wrote?

7 was that like a late edition surprise, or how long? How

8 long had you known about those letters prior to trial?

9 A Are you talking about when the state provided that to
10 me in discovery?

11 Q Right, yes.

12 A I would have to check the file. I can't remember
13 specifically.

14 Q Did you discuss those letters with Mr. Teamer prior to
15 the trial?

16 A As I remember, yes.

17 Q And how about the phone call made to -- the recorded

18 phone call -- not recorded, but the phone call made to

19 Erica Gray? Did you talk about that with Mr. Teamer?

20 A There was a lot of phone calls.

21 Q A lot of phone calls. Did you go over those phone
22 calls?

23 A I can't remember going specifically over those phone
24 calls with him.

25 Q Did you know prior to trial which of those phone calls

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1 the state intended to admit?

2 A I can't remember that.

3 Q And did Mr. Teamer provide you with the names of any
4 alibi witnesses to go interview?

5 A Yes.

6 Q Did you have a private investigator working on the
7 case?

8 A Yes. On the burglary case?

9 Q Yes.

10 A I had Wendy Alley. She was the investigator for the
11 public defender's office. She was working with me on the
12 case.

13 Q And what did you have her investigating specifically?

14 A She investigated a couple of things. I think she --
15 I'm trying to think. Beg your patience.

16 Q Take your time.

17 (Pause.)

18 A I think she may have pulled some records for me as to
19 printouts of past criminal activity or what have you. Some
20 of those things as well.

21 Q Did you ask her to get any documentation pertaining to
22 the Grays? Did you have her pull up any of the incident
23 reports?

24 A I think she did.

25 Q You pulled them up. Do you have them in your file?

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1 A I probably -- I probably did. Yeah. Now that you
2 mentioned it, yeah, I think I did.

3 Q And did you get the report that Erica Gray had
4 given -- had been convicted of giving false information to
5 police?

6 A Actually, that's -- the interesting thing with that is
7 that right before trial I made a motion to get all the
8 N.C.I.C. printouts of all the state's testifying witnesses.
9 And as I remember, the N.C.I.C. report for her had an
10 arrest charge for giving false information. But there was
11 no disposition on it, so I didn't use it to impeach her
12 credibility. And that was a 1994 conviction I found out.

13 Q And if you had done a lit bit further digging and
14 seen -- you had checked out what the disposal of that
15 charge had been, if you found out it was a conviction,
16 would you have used that at trial?

17 A Yes.

18 Q And did you also get any records from the D.S.S. case?
19 Did you get -- did you track down anything, any orders or
20 anything like that from the D.S.S. case?

21 A No. I tried to bring that up in -- during
22 cross-examination, but I don't think I was allowed to get
23 into that.

24 Q And we'll get to that a little bit later, but did
25 you -- you didn't have any records on hand or anything like

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1 that you could provide to the Court during your
2 cross-examination.

3 A Not that I remember.

4 Q Did you or did you have your investigator speak to
5 anybody regarding the phone calls that Mr. Teamer made to
6 Erica Gray?

7 A The phone calls that were presented in trial?

8 Q Yes.

9 A I don't believe so. I went over them, but I don't
10 think I had my investigator look into them.

11 MR. THOMPSON: May I approach the witness, Your Honor?

12 THE COURT: Sure.

13 Q I'm going to ask the same thing that Ms. Blanchette
14 did.

15 THE COURT: Keep approaching.

16 BY MR. THOMPSON

17 A That refreshes my memory. That is actually -- okay.
18 I believe this is Wendy Alley's -- my investigator's --
19 writing here.

20 Q And what document and which exhibit is that?

21 A This is Plaintiff's Exhibit 2.

22 Q Okay. So did she -- is that information she
23 collected?

24 A Yes.

25 Q Did you personally speak to anybody at the jail about

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1 that information?

2 A I think I did.

3 Q Did you determine whether or not any of those phone
4 calls could or could not have been made because of that
5 information?

6 A No.

7 Q No.

8 A But this -- this -- just to clarify, this is -- I
9 believe this is my investigator's handwriting here. But at
10 the bottom here I believe this is Mr. Teamer's.

11 Q And I believe he testified to that earlier.

12 A Okay.

13 Q And who were the -- who were the alibi witnesses that
14 Mr. Teamer provided you with?

15 A The Feasters, I believe.

16 Q And did you speak to them personally prior to the
17 trial?

18 A Yes.

19 Q Did you happen to have any of them listen to the
20 letters or listen to the -- listen to the phone calls or go
21 over the letters?

22 A I don't believe I had.

23 Q And finally did you get a copy of the inventory-search
24 policy from the department of public safety?

25 A Not that I remember.

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1 Q Now, I want to move into the trial a little bit.

2 which charges was the state planning on calling for the
3 trial, all of them?

4 A All of them at least initially, September of 2007.

5 Q Had you been noticed for all of the charges -- the
6 murder, the burglary and the D.U.I.?

7 A I believe I have -- had.

8 Q Okay. Did you want them all tried together?

9 A No.

10 Q Why not?

11 A I made a motion to sever because I thought that if the
12 jury would have heard every one of these cases one after
13 the other, after the other, I thought that that would have
14 created all kinds of prejudice for my client.

15 I also would have thought that just the way juries
16 are -- I thought they would have said, well -- maybe the
17 jury would have thought, well, if he did one of these
18 things, then he probably did everything else. So that's why
19 I made my motion to sever.

20 Q Did you anticipate that motion getting granted?

21 A Yes. I thought I had a good chance to get it granted.

22 Q You thought you had a good chance. Did you think that
23 the state was going to go forward with the burglary charge
24 or the murder charge?

25 A I thought they were going to go forward with the

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1 murder charge, at least in September.

2 Q Okay. Now, then you mentioned a little bit that you
3 thought that you were afraid the jury heard these things
4 back to back. I want to go over what these back-to-back
5 incidents are and kind of go over the timeline a little
6 bit, and correct me if I'm wrong.

7 Mr. Teamer is at the Grays' house that afternoon,
8 right, with Mary Gray? Mary Gray testifies that Mr. Teamer
9 is at her house.

10 A I believe that's what was her testimony, yes.

11 Q And in order for all of these things to have happened
12 on the same day, Mr. Teamer then leaves her house and has
13 to go commit the murder, right, about 8:45 p.m.?

14 A Well, that's what the state was alleging, yes.

15 Q Right. That's what the state was alleging. This is
16 all what the state's alleging.

17 He has to go commit the murder at 8:45. And what kind
18 of gun did Mr. Teamer have allegedly?

19 A The state alleged that Mr. Teamer had a 9mm Ruger.

20 Q And what kind of clothing to the extent that there was
21 any information about this, what kind of clothing was he
22 wearing?

23 A When?

24 Q At the murder.

25 A I think he had allegedly latex gloves, and I believe a

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1 coat.

2 Q Coat. Okay. So then he shoots the victim, both
3 victims, in the murder case and runs off, right? This is
4 right at 8:45, correct?

5 A Well, yes, that's -- that's what the --

6 Q State alleges.

7 A State alleges.

8 Q All what the state alleges.

9 A Yes.

10 Q Then the Grays get burglarized at around 11:00 o'clock
11 that night, right?

12 A That's what they said, yes.

13 Q And the assailant is coming in wearing all black, got
14 a ski mask on and all of that kind of stuff, right?

15 Now, the first incident with the murder, there was
16 actually a composite sketch done, wasn't there?

17 A Yes. I believe from Mr. Proctor.

18 Q And that was a sketch of just the person's face,
19 right?

20 A Yes.

21 Q Was the person wearing a ski mask then?

22 A When?

23 Q At the murder. In order for him to have seen his face
24 was he wearing a ski mask?

25 A No.

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1 Q Okay. And what kind of gun -- Mr. Teamer has a
2 shotgun at the second incident, right, for the burglary?

3 A Allegedly, yes.

4 Q Allegedly. Wearing all black and wearing a ski mask.
5 Comes in and says it's Murda, right, Murda? That's who --
6 that's who's at the door, is Murda, right?

7 A That's what the testimony said.

8 Q Okay. He shoots a shot but doesn't kill anybody at
9 that scene and then runs off from there, right, with the
10 burglary, right? I mean, this is all what the state is
11 alleging, right?

12 A Yes.

13 Q And then he's pulled over a couple -- or responded by
14 officer St. Louis about two hours later, right?

15 A Yes.

16 Q And he's not wearing the same clothes he allegedly
17 wore to the burglary, right? He's got different clothes
18 again, right?

19 A Yes.

20 Q Okay. And the -- he has no gun on him. All he's got
21 is just a little chapstick and some pocket change, right,
22 when he's arrested, correct?

23 A That's right.

24 Q And your alibi witnesses were going to testify that
25 Mr. Teamer was with them when?

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1 A During that night.

2 Q The entire night.

3 A I believe so.

4 Q So the alibi witnesses were providing you with an
5 alibi for the entire night, for all the incidents with the
6 exception of the felony D.U.I.

7 A Yes. That's all the concepts, yes.

8 Q So the state was going to allege that Mr. Teamer
9 had -- if you'd put all of this together, the state was
10 going to allege that Mr. Teamer had been at the Grays,
11 left, changed clothes, got the 9mm handgun, got latex
12 gloves, got in the car with the victim, shot at the
13 victims. And I believe you asked at the murder case
14 about --

15 A I think you have it reversed. Isn't it the other way
16 around?

17 Q He's at the Grays first, and then he commits the
18 murder. He's at the Grays' house. He comes back later
19 that day.

20 A Okay.

21 Q So he's at the Grays' house first. He leaves there,
22 commits the murder, comes back to the Grays' house a couple
23 of hours later wearing different clothes with a different
24 gun, commits that -- commits that crime, leaves there,
25 changes clothes again, ditches the shotgun somewhere, has

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1 time enough to drink alcohol and get marijuana in his
2 system and -- and this had to have happened after the
3 burglary, or at least at some point in time during the time
4 of the burglary, in order for that to be still in the
5 system, that low amount still in the system -- and is --
6 is -- you know, just spotted driving by Officer Evett later
7 that night -- Officer St. Louis and Officer Evett later
8 that night -- and you have alibi witnesses who can point --
9 who can testify that he is with them the entire night, at
10 least not for the murder and burglary, right?

11 with all of that present don't you find that a little
12 bit incredible that they're going to allege that he
13 committed all of those different crimes in one night?

14 A Yes. That would -- that would be difficult to do.

15 Q That would be difficult to do.

16 Now, going to just a little bit more in trial prep,
17 going to the D.U.I. charge, how many videos of Mr. Teamer
18 driving were you provided with they had seen?

19 A One, I think.

20 Q One. And that was by Officer St. Louis, not Officer
21 Evett.

22 A Yes.

23 Q Was there a second video provided? Did Officer St.
24 Louis have a second video?

25 A I don't believe so.

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1 Q Do you remember why he didn't have a second video?

2 A No.

3 Q Did he testify...

4 MR. THOMPSON: And, Your Honor, I'm referring to pages
5 356 -- happened to turn right to it -- 356 and 357, lines
6 about 24, 25, on 356, and then over toward 357 the next
7 day.

8 Q Basically, Officer Evett testifies that he had the
9 camera on his car but just failed to turn it on, right?

10 A That's beginning at 357, sir?

11 Q Three -- yes.

12 A Uh-huh.

13 Q Now, you do a lot of D.U.I. work, right?

14 A I do.

15 Q Are you supposed to have the camera on when you stop
16 somebody for a D.U.I.?

17 A You're supposed to unless you provide an affidavit.

18 Q Did officer Evett provide an affidavit?

19 A I do not believe so.

20 Q Were you provided with an affidavit as to why he
21 didn't turn it on?

22 A No.

23 Q Are you familiar with the statute that requires that
24 you provide the affidavit?

25 A Yes, I'm familiar with it.

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1 Q Is there an exception there for not turning on the
2 camera for I-just-forgot-to-turn-it-on?

3 A Well, I still wasn't provided an affidavit.

4 Q Right.

5 A I guess the exception would be that I just didn't turn
6 it on, and he had to -- again, this is speculative. He --
7 obviously, he didn't say this, but I guess maybe if you
8 were to put on the affidavit I just didn't turn it on
9 because it was a brand new camera and he didn't -- never
10 had a camera in my car before, so he didn't know how to
11 work it, but then, nevertheless, he would have had to also
12 put in the affidavit what steps has been taken to rectify
13 the situation or take affirmative steps to make sure this
14 wouldn't happen again.

15 Q Right. But I guess -- let me ask you this. Had you
16 handled a whole lot of D.U.I. cases at this point in time
17 in your career?

18 A Yes.

19 Q You had. If -- and you've handled a lot more of them
20 since.

21 A Oh, absolutely.

22 Q At this point if you had been provided with this same
23 set of facts would you have moved to dismiss this charge
24 because of the failure to provide a video tape at the
25 accident scene?

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1 A Yes. I would have made that motion.

2 Q And you didn't make that at this trial.

3 A No, sir.

4 Q And, in fact, your client had made such a motion on
5 his own, hadn't he? Do you recognize -- had you ever seen
6 that before?

7 A Thank you. I probably have.

8 Q And what is that?

9 A This is -- this is something filed pro se by
10 Mr. Teamer saying that he was denied due process of law
11 because a preliminary hearing wasn't granted. But it's a
12 motion to demand for dismissal of the charges on the felony
13 D.U.I. I don't -- I don't believe it says anything about
14 the -- the lack of an affidavit or video. If it does,
15 point it out to me.

16 Q So he had filed a motion to dis -- and that was
17 Plaintiff's Exhibit 13. I forget if you mentioned that or
18 not.

19 A Yes.

20 Q He had filed a motion to dismiss the D.U.I. charge.
21 You did not, is that correct?

22 A I did not under 2953. I don't believe Mr. Teamer did
23 either. But I did not file a motion to dismiss the charge
24 under that. Of course the -- if I could.

25 Q Uh-huh.

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1 A Of course back prior to 2009 the case law was sort of
2 fluid in that area. I believe I still should have made the
3 motion, but it could have been denied because the case law
4 I think was pretty fluid. And I believe that was before
5 the Mount Pleasant case was decided. So that -- that could
6 have been denied.

7 Q But presumably that issue could have been preserved
8 for the appeal.

9 A Yes.

10 Q And he could have been the -- the case you're talking
11 about where it was reversed. The Supreme Court ultimately
12 said you have to provide the video tape, right?

13 A Yes.

14 Q And other than that, other than -- I guess not other
15 than -- what was your defense planning on -- what were you
16 planning on presenting as a defense on the D.U.I. charge?

17 A That he was not materially and -- or -- and
18 appreciably impaired, which is still the standard by which
19 D.U.I.s are -- are judged, because Charlie had a B.A.C.
20 level well below .08. So I thought we had good defenses
21 with that.

22 Plus, it took a -- a lot to drive that car through some
23 pretty trying circumstances there. And even an officer
24 said -- I believe Officer Evett in my cross-examination said
25 that he even used his turn signal, which is maybe not

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1 evidence of impairment. So I thought that I presented a
2 good cross-examination there. But that was my strategy.

3 Q Okay. And how were you planning on attacking the
4 burglary charge? What was going to be your main defense on
5 the burglary charge, that it wasn't him obviously?

6 A Yes, yes.

7 Q And so were you going to plan on using their --
8 obviously the inconsistent statements given by the
9 witnesses --

10 A Yes.

11 Q -- who did not identify Mr. Teamer as the individual
12 who initially in their initial statements -- they didn't
13 say Teamer, they didn't say Murda. They just -- they just
14 talked about the incident, right?

15 A Yeah, they just talked about the incident. And I
16 remember even if I wouldn't -- wouldn't have got those
17 statements in -- I believe I got it in that they said that
18 it -- they didn't mention Charlie Teamer or anybody else.

19 Q I do want to go into those prior inconsistent
20 statements for just one minute, because I believe on a
21 number of different occasions you tried to get those prior
22 statements admitted at trial.

23 And at one point in time you were actually basically
24 instructed by the Court on how to do -- how to impeach
25 somebody with a prior inconsistent statement.

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1 Were you familiar with the prior inconsistent statement
2 process and how you get something like that in at trial
3 during this -- prior to this trial?

4 A I was. But it was one of my first times doing that.

5 Q Okay.

6 A So that was one of the --

7 Q Having some difficulty with it?

8 A Yeah, difficulty with it. But I believe I had gotten
9 enough on the record at that point, but I wish it was a
10 little easier to get that kind of extrinsic evidence in.

11 Q All right. Now, I want to actually get into the --
12 the trial itself. Did you intend for there to be -- when
13 you made your severance motion did you intend for there to
14 be two or three separate trials? Did you want there to be
15 three trials or did you want there to be two trials?

16 A I can't remember specifically, but I -- I was hoping
17 that it would be three.

18 Q And just do the murder, the burglary, and then the
19 D.U.I.

20 A Felony D.U.I., yes.

21 Q And do you believe you made that clear in your motion?

22 A I'd have to recheck it.

23 Q And spec --

24 A Well, I can tell you we -- we did discuss that back in
25 chambers.

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1 Q You discussed that back in chambers?

2 A Yes. And I believe the judge's -- Judge Cole -- what
3 I think he decided to do is to sever the case, grant --
4 grant my motion, but the state could try the burglary and
5 the felony D.U.I., or the murder, and the murder and ABWIK
6 and the felony D.U.I. And I guess the felony D.U.I. would
7 be part of the res gestae in both incidents.

8 Q In both incidents?

9 A Yes, sir.

10 Q We'll get into that -- we'll get into that tomorrow
11 with -- at least with regard to the murder. And we
12 asked -- and we talked about this a little bit earlier --
13 again, you -- you were prepared for the Court to grant your
14 motion, but you thought the state was going to go forward
15 on the murder case and not on the burglary, right?

16 A In September of 2007 I was thinking that the state
17 would probably try the murder first. And if you've seen
18 the transcript there, I asked for a --

19 Q Continuance.

20 A -- continuance at least for the next morning as I
21 remember.

22 And you see I -- I wrote my opening statement to be
23 consistent with the murder, not that I wasn't prepared to
24 try, you know, the burglary and the armed robbery. And I
25 wouldn't say I was more prepared to try the murder, but my

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1 opening statement I wanted to be very, very detailed with
2 it. So that's why I asked for a continuance until the next
3 morning.

4 Q And do you think at that point in time with the way
5 the state proceeded that you were better prepared to try
6 the cases all together or just the burglary?

7 A I was -- I was thinking -- and I would find it hard to
8 believe -- that the Court would allow the state to go
9 forward on all of the charges at once.

10 So I was -- when I was preparing -- in the months
11 before I had prepared for the murder, because the murder was
12 more complicated, murder and ABWIK and everything. And
13 could you ask the question again?

14 Q I think -- I think you're answering. I think you're
15 answering my question.

16 A Okay.

17 Q So I -- you said -- you said you weren't pre -- you
18 weren't -- I guess to use double negatives -- you weren't
19 not prepared for the burglary. But you were expecting to
20 walk into that courtroom prepared to go to trial just on
21 the murder. And that's what your focus was leading up to
22 that case?

23 A No. I -- I knew the possibility that -- that if my
24 motion to sever was granted I was -- I was thinking -- I
25 mean, it's a probability question. I was thinking that the

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1 state would probably do the murder first because that --
2 that he was looking at more time with, rather than --
3 because personally I thought that -- I thought -- I thought
4 that the state had better proof in the -- in the murder
5 rather than the burglary. So I thought that they were
6 going to try the murder first. But I was prepared either
7 way I think.

8 Q And we talked about a little bit on the D.U.I. motion.
9 You obviously did not make a motion to dismiss pursuant to
10 section 2953, right?

11 A I do not make a motion to dismiss under 2952 for
12 failure to produce the video.

13 Q Video of the second -- of Officer St. Louis' por --
14 I'm sorry -- Officer Evett's portion of the -- leading up
15 to the actual accident.

16 A Yes, yes.

17 Q And --

18 A But I was provided another video.

19 Q Right.

20 A But I did get that.

21 Q And you couldn't have moved the -- the statute
22 requires that the -- that -- that the actual stop be
23 recorded, right, the Miranda warnings and all of that kind
24 of stuff?

25 A Yes, but there are exceptions --

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1 Q Right.

2 A -- for the felony D.U.I. because in a lot of felony
3 D.U.I.s there's, you know -- there's people that -- like a
4 felony D.U.I. with death there's -- there's bodies.

5 Q Right.

6 A And so in somebody that's gravely injured, obviously
7 cannot do the field sobriety tests. So there are
8 exceptions to -- to that.

9 Q There are. But you don't -- those exceptions are
10 designed primarily for someone who shows up at the scene
11 after an accident. I mean, you don't find too many felony
12 D.U.I.s where you've actually got a cop following them
13 prior to the accident, do you?

14 A No, no. Sometimes you do, but for the most part, no.

15 Q Doesn't happen very frequently.

16 A It does not happen very frequently, no.

17 Q And in retrospect do you believe you should have made
18 such a motion.

19 A Yes, I do.

20 Q Did you try and get an advance ruling on the D.S.S.
21 issue? Did you try in pretrial say, "Your Honor, I want to
22 move this evidence of the D.S.S. case against Donald Martin
23 in"?

24 A I can't remember. I don't believe I did.

25 Q Okay. And were you planning on using that as part of

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1 your impeachment of Donald Martin and Erica Gray and the
2 Grays?

3 A Yes, and I tried to do that.

4 Q And you tried.

5 A Yes.

6 Q And the judge -- I'll refer you to page 185, lines
7 four through seven. And that's where you are asking about
8 the D.S.S. case, and Mr. Barnette objects, and it's
9 sustained, correct?

10 A Yes.

11 Q Is that the only effort you made throughout the course
12 of the entire trial -- and if -- if you remember one, let
13 me know, like I asked you to look through the whole
14 transcript obviously, right, but do you recall ever making
15 another attempt to get the D.S.S. evidence in?

16 A I don't believe so.

17 Q Do you believe it's relevant?

18 A Yes, I believe it's relevant. And then it comes down
19 to a question of the admissibility.

20 Q Did you ever at some point in time -- and, again, you
21 just -- you just said you didn't, but hypothetically
22 speaking -- did you at ever -- at any point in time argue
23 to Judge Cole, "Your Honor, look, they're alleging that or
24 -- or my client was the one that triggered this, this
25 D.S.S. case coming up, and they don't like him because of

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1 that"? Did you ever bring that up to Judge Cole? Did you
2 ever explain that to him?

3 A I don't believe I did.

4 Q Did you ever do anything to set up why you were trying
5 to ask the D.S.S. question to Donald Martin during
6 cross-examination?

7 A Other -- other than --

8 Q Other than the cross.

9 A Other than the cross, no.

10 Q And after the state introduced these letters talking
11 about -- you know, these -- these letters are -- are
12 addressed -- at least some of them -- to Ieshia, aren't
13 they? The letters from Mr. Teamer.

14 A The -- the letters that were presented in court?

15 Q Yes.

16 A Yes.

17 Q Yes. And they're -- they are -- and in those letters,
18 at least at some point, Mr. Teamer's talking about the
19 relationship between Ieshia and Mr. Martin.

20 A Uh-huh.

21 Q Did you at any point in time consider -- consider
22 asking to get into the D.S.S. evidence after those letters
23 had been admitted so you could explain what your client was
24 talking about in those letters?

25 A I don't believe so.

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1 Q Do you believe -- again, this is part of your trial
2 strategy to get into that evidence. Do you believe you
3 should have tried to do that, tried to get that evidence
4 in?

5 A I -- I believe that probably would have shown bias on
6 their part. Whether ultimately it would have been
7 successful is another matter. I don't know.

8 Q And obviously that would have been up to Judge Cole,
9 but if you had proffered that information if he had let --
10 if he had excluded that, that could have been brought up on
11 appeal too, correct?

12 A Yes, yes.

13 Q And -- and speaking of appeals, just generally
14 speaking do you -- how -- how do you -- if you make a
15 motion in limine, how do you preserve the denial of that
16 motion for appeal?

17 A Are you asking generally?

18 Q I'm asking -- yes, yeah.

19 A Well, I would make the motion pretrial, and then when
20 it's -- assuming that my motion is denied, then I would
21 make it again later on during the state's case in chief
22 just to preserve the issue.

23 Q To preserve it. You have to object again to preserve
24 the issue for appeal.

25 A I have to object, yes.

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1 Q Now, do you recall -- who received -- moving to the
2 letters a little bit. who received the letters that
3 Mr. Teamer wrote? Was it Erica Gray or was it Natalie
4 Gray?

5 A Well, what -- what letter are you -- you referring to?

6 Q The letters that got admitted at the trial.

7 A Okay.

8 Q The -- when I refer to letters and phone calls, I
9 mean, these are -- these are -- the ones that actually got
10 admitted at the trial.

11 A All right. I think it was Natalie, yeah.

12 Q Right. Excuse me.

13 A Could I ask you what page you're on?

14 Q Yeah. Page 33, and I'll go lines 21 through 23.

15 The Court says, "But the recipient of these letters
16 provided them to the police."

17 And you say, "Yes, sir."

18 Now, Erica Gray provided them to the police, correct?

19 A Well, that's what -- that's what it says. It says it
20 says -- it has me on line 16 saying, "Mr. Schultz, I
21 believe Erica Gray gave them to the solicitor's office."

22 Then -- then Barry Barnette says, "That's correct.

23 well, they gave them actually to the -- brought in and
24 gave to the department of public safety, and we got those.

25 Q And then you -- and then the Court says, "The

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1 recipient of those letters provided them to the police."

2 And you say, "Yes, sir."

3 Is that correct?

4 A Yes. That's what the transcript says.

5 Q Okay. And that's not actually what happened.

6 Ms. Gray was not actually the recipient of the letters, was
7 she?

8 A Ms. Gray.

9 Q Ms. -- that is -- that is confusing. I apologize.

10 Ms. Erica Gray was not the recipient of the letters,
11 correct?

12 A That's right.

13 Q Did you make a motion to suppress those letters on the
14 basis that the recipient of the letters actually never
15 testified at trial?

16 A I think I made a motion to suppress, but I don't think
17 it was on those grounds.

18 Q Did you -- did you make one? Okay. So you don't
19 think you made one on those grounds.

20 A Yes.

21 MR. THOMPSON: Beg the Court's indulgence.

22 THE COURT: Yes, sir.

23 (Pause.)

24 Q Turning to the collect phone calls made from the
25 prison -- and, again, I understand it -- it might have been

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1 a little bit difficult for you because there were hundreds
2 of phone calls. And I understand how that -- how that can
3 be -- a lot of times those get dumped on you right before
4 the trial too. But you did have your --

5 A And in this case I think it was.

6 Q Dumped on you right before trial?

7 A Maybe not right before trial, but I remember I got
8 them --

9 Q And-but, nevertheless, you still had enough time to
10 get your investigator to go look and find the -- at least
11 try and get times where he could have made those phone
12 calls, correct?

13 A Yeah. She -- she could have done that.

14 Q And during your cross-examination of -- the officer
15 actually testifies about the --

16 A What -- what page is that?

17 Q Talking about page 117 through 118, Michael Jones.
18 You actually cross-examine primarily on the basis that
19 these phone calls were made from pod five and pod six and
20 things of that nature.

21 A Yes.

22 Q Were you planning on going anywhere with that? Did
23 you have any additional information at your disposal that
24 you were going to use that would show that he did not make
25 those phone calls or they couldn't have been made at the

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1 time they were saying they were made?

2 A I don't believe so. Of course the -- I think it was
3 in the burglary case that -- that some phone calls were
4 made or some phone calls were presented to the jury.

5 And I remember listening to them, and they were -- they
6 were -- some parts were inaudible. I couldn't -- I couldn't
7 understand a lot of the parts. And I remember specifically
8 looking at the jury when these things were presented, and a
9 lot of them couldn't understand it either, so.

10 Q And while you're on page 116 -- we were just talking
11 about this a couple of minutes ago -- did you object to
12 these phone calls coming in prior to the trial? Did you
13 make a motion prior to trial to keep those -- those out,
14 the phone calls, on the basis of relevancy?

15 A Prior to trial?

16 Q Yes, during the pretrial motions.

17 A I don't believe so.

18 Q You don't believe so.

19 Page 37 I will refer you to. I'll flip you back to 116
20 in a minute. Lines five through 18, in particular lines
21 nine through 13.

22 Says, "I think the jail recordings themselves are --
23 not only are they prejudicial, but I think more so than
24 being prejudicial they lead to confusion of the facts -- the
25 jury. That's why we would object to not only the relevancy,

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1 but it also tends to confuse the jury."

2 Do you remember that? This is the burglary trial. I'm
3 sorry. Page 37, lines nine through 13.

4 A Yeah. Actually, I do say that. And this is the same
5 thing I'm saying today at the bottom of 37. "To tell the
6 truth, I listened to the phone conversations. I couldn't
7 tell who he was talking to."

8 Q Right. So you object to them.

9 A And so -- okay. I do remember now. I -- I did object
10 to them.

11 Q Okay. Now I'll flip you back to page 116.

12 A Of what?

13 Q Of the burglary transcript.

14 A Okay.

15 Q And the phone call is actually admitted at that point
16 in time, isn't it?

17 A Yes.

18 Q And do you renew your objection at that point?

19 A I do not.

20 Q So in order to preserve that issue for appeal you
21 needed to re-renew your objection at that point, right?

22 A Yes.

23 Q And you failed to do so.

24 A I did.

25 Q Did you object to Erica Gray's identification of

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1 Mr. Teamer's voice over the phone at any point in time?

2 A Do you have a page you're referring to?

3 Q I don't think you did. There's not really a page.

4 A Okay.

5 Q Do you remember making an objection?

6 A I don't remember.

7 Q If the record reflects that you did not, did you
8 consider making any such objection?

9 A I probably considered it, but I think I covered it
10 during cross-examination. I think I asked her some -- some
11 questions on cross-examination that would maybe have taken
12 the place of that.

13 Q Turning to one of the very first things that we heard
14 about here today, do you recall there being anybody from
15 the victim's family, in particular Dawn Hunter, in the

16 courtroom with a shirt on that had some prejudicial
17 information on it?

18 A No. I don't remember that.

19 Q Don't remember that. Did anybody bring that to your
20 attention?

21 A I can't remember.

22 Q And obviously if the record reflects you didn't make
23 any objection on -- in response to that, you just -- you
24 didn't.

25 A I don't believe so.

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1 Q The marijuana that was found in your client's car, did
2 you make any objection to the admission of the marijuana?

3 The record reflects that you didn't. Do you disagree with
4 the record?

5 A I don't.

6 Q Did you consider making the objection because it was a
7 prior bad act that was on charge conduct?

8 A Could you repeat the question again?

9 Q The marijuana. Possession of marijuana is bad, right?

10 A Uh-huh.

11 Q Did you consider objecting to the marijuana on the
12 basis that because he was not charged with possession of
13 marijuana it was impermissible prior-bad-act conduct and
14 not -- should not have come in?

15 A Yes. I considered that.

16 Q Did you make that motion?

17 A I did not.

18 Q Did you make -- did you consider making any motion
19 pertaining to the search procedures used to seize the
20 marijuana? You made -- you made at the murder trial --
21 sorry to preface my question with another question -- but
22 at the murder trial you did object to the inventory search
23 of the vehicle, correct?

24 A Yes.

25 Q Did you consider making that same inventory-search

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1 motion at the burglary trial?

2 A I did, but I did not make it.

3 Q And did not make it. You made it at the murder trial.

4 Do you think that was a good motion to make?

5 A Oh, yes.

6 Q And you said earlier that you were, I guess,

7 planning -- I mean, you were planning on doing the murder.

8 Were you planning on making that inventory motion search --

9 the search motion at the burglary trial when this first
10 came up?

11 That was a poorly worded question. You were planning
12 on going to trial on the murder, right, in September?

13 A Yes, both -- both charges, yes.

14 Q Right. Were you planning on challenging the inventory
15 search at that time or was that --

16 A If the murder would have been tried.

17 Q If the murder would have been tried.

18 okay. Did you consider making the same motion at --
19 for the evidence that was seized to go towards the
20 burglary -- the phone, phone records, marijuana that came as
21 the -- as a result of the second search? Did you consider
22 making any of that -- that motion?

23 A You're only talking about the marijuana.

24 Q Right. At this point at the --

25 A At this point. Okay. I -- I did consider -- I

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1 remember I did consider making that motion, but I thought
2 that maybe finding marijuana is -- would be one of the
3 least of the concerns there in the case, so.

4 Q And did you consider making a motion to suppress the
5 marijuana because there was an issue with the chain of
6 custody between who found it, how it -- how it got tested
7 and all of that kind of stuff?

8 A I -- I don't remember even considering that.

9 Q Do you recall there being testimony that a beer can
10 was thrown out of the car?

11 A Yes.

12 Q Do you know what happened to that beer can?

13 A No. Do you mean now?

14 Q What happened to it after the thing? Was it
15 destroyed?

16 I'm going to hand you Plaintiff's No. 16. That's the
17 beer can. Says it was destroyed over here, this side.

18 A Okay. Yes.

19 Q Was it destroyed?

20 A It was destroyed. Well, according to that.

21 Q Did you consider making a motion to exclude evidence
22 of the beer can considering that it had been physically
23 destroyed by the police prior to the trial?

24 A No.

25 MR. THOMPSON: And, Your Honor, for the record this

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1 says it was destroyed on 2/27/07, which is about seven
2 months prior to the trial.

3 Q Now, at a certain point in time in the trial you argue
4 that James Young's toxicology report should have been
5 admitted. Do you remember that?

6 A I do.

7 Q And did you actually have a SLED document, a SLED
8 toxicology report?

9 A I must have.

10 Q Do you remember what those reports' findings were?

11 A Not specifically.

12 Q I'm going to hand you Plaintiff's Exhibit No. 14.

13 This actually isn't a SLED report, but this is Mr. Young's
14 result. Could you tell me that what is right there?

15 A Positive for cocaine.

16 Q Positive for cocaine. So at least these medical
17 records show that Mr. Young had cocaine in his system, had
18 enough to get past the threshold amount so that it come up
19 on this report.

20 A That's not a SLED toxicology report, but -- but, yes,
21 that would show positive for cocaine.

22 Q And do you -- again, do you recall what that SLED
23 report actually said? I mean, does it -- does it say that
24 he was positive for cocaine?

25 A I don't remember.

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1 Q Don't remember. But that at least says he was
2 positive for cocaine.

3 A Yes, sir.

4 Q At any point in time -- and I'm going to let -- this
5 is one of those -- well, if the record -- if the record
6 shows that you didn't would you disagree with it? At any
7 point in time do you remember mentioning the word cocaine
8 to Judge Cole in arguing that those report results should
9 come in in the burglary trial?

10 A On the record?

11 Q Yeah, on the record.

12 A For the felony D.U.I. trial.

13 Q Right.

14 A I can't remember.

15 Q And if the record shows that you didn't say cocaine,
16 that he tested positive for cocaine, that -- you didn't --
17 you didn't actually mention it, correct? You don't
18 disagree with the record.

19 A According to the record.

20 Q And actually the judge asked you -- and I will ask you
21 to open the transcript after this one -- page 309, lines
22 six through 15, says -- the Court asked you, "well,
23 Mr. Schultz, are you just wanting to examine the witness on
24 whether or not he had been drinking that night?

25 You answered:

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1 MR. SCHULTZ: "That's correct, Your
2 Honor. I just wanted to get a couple of
3 questions of that nature asked and
4 answered by him.

5 THE COURT: "And what would be the
6 relevance of that?"

7 And your answer:

8 MR. SCHULTZ: "As to whether or not
9 he had too much," which I presume you mean
10 maybe he had had too much to drink.

11 Q Did you consider arguing that if the state was going
12 to get into evidence that because your client had marijuana
13 and alcohol in his system that since Mr. Young had cocaine
14 in his system that you should be able to get into that as
15 well?

16 The state was -- correct me if I'm wrong. The state
17 argued that your client was impaired because of the
18 marijuana and the alcohol in his system, right?

19 A Yes.

20 Q And you had -- at least if not the SLED report, you at
21 least had those medical reports saying that Mr. Young had
22 tested positive for cocaine, correct?

23 A Yes.

24 Q Do you believe it would have been a good idea to argue
25 to Judge Cole that despite the fact that Mr. Young was

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1 found not guilty at the bench trial that the evidence of
2 cocaine use if they were going to argue your client was at
3 fault because of the marijuana, that he should be at fault
4 because of the cocaine?

5 A Yes.

6 Q Do you think that would have been a good argument to
7 make?

8 A Yes.

9 Q And you -- if the record reflects that you did not
10 make that argument, you don't disagree with it.

11 A I don't disagree with that, although it would have
12 been difficult to get into it because he was found not
13 guilty on the D.U.I.

14 Q I understand. But did you -- did you investigate the
15 circumstances of that at all? Do you know why he was found
16 not guilty of the D.U.I.?

17 A No.

18 Q And this is State's Exhibit 1. You state the
19 disposition right there.

20 A It was not guilty, bench trial.

21 Q Bench trial.

22 Are there ways to be found not guilty, especially in
23 magistrate's court, of charges not really fact related?

24 Let me -- that's a poorly -- poor question. Do cases
25 get dismissed or found not guilty at a bench trial because

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1 an officer doesn't show up?

2 A Yes.

3 Q And is that entirely possible what account -- could
4 have happened there?

5 A It's possible, yes.

6 Q And --

7 MS. WHITE: Your Honor, I think that calls for
8 speculation. If it says not guilty, bench trial, then
9 we've just to go on what the records says.

10 MR. THOMPSON: I'm just asking him what could have
11 happened, I mean, what not-guilty-bench-trial might mean.

12 MS. WHITE: Your Honor, I renew my objection for
13 speculation. He doesn't know -- you know, all we've got
14 here is the record that indicates it was not guilty, not
15 that it was dismissed for failure to show up.

16 THE COURT: I understand. It is a bench trial.
17 Go ahead. Overruled.

18 MR. THOMPSON: Thank you, Your Honor.

19 BY MR. THOMPSON

20 A If I could expand on that, that could have been a lot
21 of -- a lot of ways.

22 I mean, sometimes an officer can just go up there and
23 say I don't want to -- I don't want to prosecute. And it's
24 listed down there not-guilty-bench-trial. Or it could have
25 been the officer didn't show up. Or it could have been a

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1 whole host of other reasons why that's happened.

2 Sometimes like in my practice I request a jury trial,
3 and a jury trial takes, you know, 18 months to go. And the
4 cop has left the jurisdiction. So it's marked down as
5 bench-trial-not-guilty.

6 Q And that doesn't -- and that's doesn't mean that he
7 was found not guilty because of an actual trial where
8 evidence was presented, where the evidence of the D.U.I.
9 was presented, and the judge at the end of the case just
10 said I don't believe it, he's not guilty.

11 A What was that?

12 Q That -- in your experience that document saying
13 not-guilty-bench-trial does not automatically mean that
14 what happened for that trial was that the officer came
15 forward, testified as to his findings and the -- and the
16 evidence of intoxication and the judge just found him not
17 guilty.

18 A It doesn't automatically mean anything.

19 Q Right.

20 A Yeah.

21 Q And it could have been any of those possibilities.

22 A Could have been any.

23 Q And did you consider arguing to the judge that simply
24 because it's a not-guilty-bench-trial -- I don't even know
25 if you knew it was a bench trial at that point in time.

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1 Did you -- did you know that it was a bench trial? Did you
2 have that record?

3 A No, I did not have that record.

4 Q So you just knew it was a not-guilty --

5 A Yeah.

6 Q -- at that point in time.

7 A Yeah.

8 Q If it had been a not-guilty-bench-trial -- if you had
9 known that -- would you have made an argument at that point
10 in time that it could be any number of things as to why
11 that was a not-guilty-bench-trial and that's it's not
12 necessarily a finding on the facts?

13 A If I would have known that I would have probably have
14 made an argument about it. In fact, I may have even made
15 the argument that just because he had cocaine in his system
16 that doesn't necessarily mean that he was materially and
17 appreciably impaired. He could have had a little cocaine
18 that -- you know, I'm not being flippant here.

19 Q Yeah, right.

20 A I'm saying maybe I could have introduced that. Do you
21 understand my point?

22 Q I believe so.

23 A Okay. What I'm saying is maybe I could have got into
24 it a little bit -- a little bit more. I would have said,
25 "Judge, maybe he wasn't" -- the standard is materially and

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1 appreciably impaired. But maybe I could have got into the
2 fact that he had cocaine or some other kind of alcohol in
3 his system or whatever showed up with the hospital record.
4 That's -- that's -- I maybe could have used that argument.
5 But, nevertheless, I -- I had a difficult time to overcome
6 because he was found not guilty on it, so.

7 Q Right. But you didn't know at that point in time it
8 was a bench guilt -- bench not guilty.

9 A I didn't have the disposition in front of me.

10 All I knew -- well, I didn't -- I shouldn't say that.
11 I knew there was a not-guilty, but I didn't know how it
12 was -- how it was disposed of.

13 Q Now, going towards the officers' testimony about the
14 D.U.I., do you recall testimony from the officers that your
15 client crossed the center line and that's what caused the
16 accident?

17 A I -- I do recall that, and I think Mr. Barnette got
18 that, elicited that on his examination.

19 Q Right. Now, you say you do D.U.I.s. Is it common
20 practice for SLED -- not SLED -- for the highway patrol if
21 there's been a felony D.U.I. in particular to send out the
22 MAIT team to do an accident reconstruction?

23 A Yeah. In the felony D.U.I. it's usually a practice.

24 Q And was that what occurred in this case? Did they
25 have a scene-accident-reconstruction expert come and

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1 testify in this case?

2 A I don't believe so.

3 Q And if the record reflects that it wasn't -- would you
4 disagree with me that no one, at least that testified as to
5 the actual accident itself -- the three officers testified
6 the accident itself -- they were not qualified as experts,
7 right?

8 A That's right.

9 Q So, and you -- you elicited on cross-examination from
10 Officer Evett that he didn't see the accident, right?

11 A Yes.

12 Q So the officer who testified that Mr. Teamer crossed
13 the center line got that information from somebody else,
14 right? Somebody had to have provided him that information,
15 right? That's hearsay, right?

16 A Yes.

17 Q Experts are allowed to rely on hearsay when making
18 their conclusions, aren't they?

19 A Yes.

20 Q But non-witness -- non-expert witnesses aren't, are
21 they?

22 A No.

23 Q Did you consider objecting to those findings on the
24 basis that this was being -- that this not -- let me
25 rephrase that a little bit, because there were a couple of

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1 issues here. Did you consider objecting on the basis that
2 he was testifying as to hearsay information as to how he
3 con -- how he made that conclusion?

4 A Officer Evett?

5 Q No. The officer --

6 A St. Louis?

7 Q Darity -- Darity, the officer from highway patrol.

8 Let me point you to specific testimony, page 270, lines
9 two through 11 or 14.

10 A 270?

11 Q Yes. And again the burglary transcript.

12 A Could you repeat the question again?

13 Q Do you -- or I just wanted you to read that, page 270,
14 lines two through 14.

15 A Two through 14?

16 Q Yes.

17 A Okay.

18 "Q And on your accident report you have
19 that also. You showed him crossing the center
20 line, didn't you?

21 "A Yes, sir, I did.

22 "Q Was that based off observations
23 that -- that you was told about?

24 "A Based on observations from the
25 deputy.

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1 "Q And was --

2 "A And --

3 "Q Go ahead. I'm sorry.

4 "A And placement of the vehicles, yes,
5 sir.

6 "Q Placement of the vehicles that showed
7 that he'd crossed the center line also.

8 "A Yes, sir.

9 Q Okay. So in that portion of the testimony this is the
10 officer from the highway patrol that said that his findings
11 were that your client crossed the center line.

12 A Yes.

13 Q And that he got that information from the -- from a
14 deputy, right?

15 A Yes.

16 Q That's hearsay.

17 A Yes.

18 Q Did you consider making an objection at that point in
19 time to that testimony on the basis of hearsay?

20 A I did not.

21 Q And obviously the record shows you did not make an
22 objection.

23 A That's correct.

24 Q Did you also consider making an objection on the basis
25 that this was an opinion on an ultimate issue at the trial?

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1 It's because who crossed the center line, who is at fault,
2 is one of the elements of felony D.U.I., is it not? In
3 order to be convicted of felony D.U.I. your client has to
4 have been at fault in the accident, has to be the proximate
5 cause of the accident, correct?

6 So if he crossed the center line -- if you have
7 testimony from someone that says he crossed the center line,
8 that's testimony -- this person was not there, did not see
9 it, got all of his information from somebody else. That is
10 an opinion on an ultimate issue, is it not?

11 A Yes.

12 Q And did you consider making an objection to that
13 testimony on that basis?

14 A I did not.

15 Q Do you think you should have made those objections?

16 A Yes.

17 Q Turning to your directed-verdict motions, is it your
18 standard practice to make a directed-verdict motion for all
19 of the charges at the close of the state's case?

20 A It is my standard motion, yeah.

21 Q And in this case -- and I'll refer you to page 375,
22 lines 11 through 15 -- I believe Ms. --

23 MS. WHITE: White.

24 MR. THOMPSON: -- white. I'm sorry.

25 Q Ms. white actually brought this up earlier. The Court

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1 says:

2 THE COURT: All right. Any motions
3 or other matters to address before we
4 continue?

5 MR. SCHULTZ: Yes. There's a couple
6 from the defense. I'd like to move at
7 this time for a directed verdict on all of
8 the charges, Your Honor.

9 Q Do you remember saying that?

10 A Yes.

11 Q And then you launch into a directed-verdict motion for
12 the felony D.U.I.

13 A Uh-huh.

14 Q And then a directed-verdict motion for the failure to
15 stop.

16 Then on page 379 the Court asked you, lines 20 through
17 22.

18 THE COURT: No motions on the
19 burglary indictment or the armed robbery
20 indictment.

21 MR. SCHULTZ: No, no, Your Honor.

22 Q Do you remember saying that?

23 A Yes.

24 Q So at that point in time did you say I'm not making
25 any directed-verdict motions for the armed robbery or the

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1 burglary?

2 A Yes. That's what the record --

3 Q That's what you said.

4 A Yes.

5 Q Okay. Did you consider arguing that you should have
6 been granted a directed verdict on the burglary charge
7 because your client was let in so there was no breaking and
8 entering?

9 A I believe I -- I don't believe I argued consent.
10 Well, I didn't. The record doesn't reflect it.

11 Q Thank you.

12 MR. THOMPSON: Beg the Court's indulgence one moment.

13 THE COURT: Yes, sir.

14 (Pause.)

15 Q Going back to the statements for just a minute, do you
16 have any, I guess, explanation for why with regard to Erica
17 Gray's statement, 2-page statement, that you only admitted
18 one page of that 2-page statement?

19 A May I see the statement?

20 Q One moment.

21 (Pause.)

22 A Could you repeat the question?

23 Q Do you -- do you acknowledge that that statement says
24 that there are two pages on that statement?

25 A Yes.

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1 Q And that there's only one here? That's only one page.

2 A Yeah, that's only one page, yeah.

3 Q And it does -- obviously, it continues. It says, "we
4 are getting robbed and sanded [sic]," and it just stops,
5 right?

6 A Uh-huh.

7 Q This was pulled from the clerk's file as your exhibit.
8 Is there any explanation for why you didn't admit the
9 second page of this statement when you admitted it at
10 trial?

11 A I can't remember.

12 Q I'm almost finished. I promise.

13 Do you recall the portion of the closing argument
14 referred to by Mr. Teamer earlier that it pained Mr.
15 Barnette to put a 9-year-old up to testify?

16 A Uh-huh.

17 Q Did you consider objecting to that portion of the
18 closing argument as improper bolstering?

19 A No, I -- I didn't consider objecting to that.

20 Q Do you believe it's -- it's improper bolstering of her
21 testimony?

22 A No. The state presented it in its case in chief.
23 They can present children witnesses. I didn't find it
24 improper.

25 Q You don't believe it was improper for the state to

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1 argue how difficult it was for him personally -- not the
2 prosecutor -- to put up personally a 9-year-old girl to
3 testify? You don't believe that's improper?

4 A Repeat your question.

5 Q Do you believe it's improper for a solicitor to
6 personally say to the jury it hurt me to put up a
7 9-year-old girl to testify? Do you believe that's
8 improper?

9 A I -- I really can't get inside the state's head. I
10 don't -- no. I don't think it's improper.

11 Q Okay. And turning to your closing argument for a
12 minute, if the record reflects that -- that you didn't, you
13 won't disagree with -- do you remember -- or at any point
14 in time did you argue that James Young's testimony that he
15 saw headlights coming at him and blue lights right behind

16 him -- did you consider arguing that in the jury -- to the
17 jury as evidence that Officer Evett in particular was
18 incorrect about his recollection of the accident, that the
19 accident might not have occurred in the way the state said
20 it did?

21 A If it's not on the record, I didn't.

22 Q Then finally on page 437, lines I guess 20 to 24 this
23 is --

24 A I'm sorry. What page?

25 Q 437. I'm sorry. This is the Court's charge to the

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1 jury.

2 THE COURT: Your sole objective is to
3 simply reach the truth in the matter, and
4 by doing that you will have fulfilled your
5 obligations as jurors, and that is to
6 simply give both the state and the
7 defendant a fair and impartial trial.

8 Q Did you consider objecting to that portion of the
9 charge as burden-shifting in that their responsibility is
10 not to give the state a fair trial, that it dilutes their,
11 the jury's, responsibility to give a fair trial to the
12 defendant?

13 A No.

14 MR. THOMPSON: Beg the Court's indulgence.

15 THE COURT: All right.

16 (Pause.)

17 Q One last thing.

18 Christina Hoggle -- H-O-G-G-L-E -- I hope I'm
19 pronouncing that correctly -- you actually called her as
20 your witness, didn't you? And that's page 408.

21 A Yes.

22 Q Did you consider asking Ms. Hoggle any questions about
23 the clothing that Mr. Teamer was wearing when he was booked
24 to further show the discrepancy between the D.U.I. and the
25 earlier burglary?

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1 A I didn't ask -- ask on record.

2 Q Okay.

3 MR. THOMPSON: No further questions.

4 MS. WHITE: Your Honor, is there any way I can ask for
5 a brief 5-minute break?

6 THE COURT: Four and three quarters.

7 MS. WHITE: Okay. That'll be okay as well. Thank
8 you, Your Honor.

9 THE COURT: We'll take a short recess.

10 (Whereupon, a recess was taken.)

11 THE COURT: Ms. White.

12 MR. WHITE: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MS. WHITE

15 Q I'm going to try to -- I ran through my notepad
16 unfortunately, so I'm going to have to flip it over in a
17 minute and follow through with some questions. But, again,
18 I'm going to try to start off kind of in the same order
19 that we went with Mr. Thompson.

20 Starting off with -- you talked a little bit about some
21 of your meetings with the applicant. You said some of them
22 were short and some were longer. You went over some of the
23 documents.

24 Did you always feel like you were able to discuss
25 things with him in a fairly clear, I guess, and distinct

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Cross-examination by Ms. White

1 manner to get -- to get the information across?

2 A Yeah. Mr. Teamer is a smart guy. He's an intelligent
3 guy. I think he understood what I was talking about.

4 Q And at that point I know you had been appointed to
5 represent him on these, the six total charges we're talking
6 about.

7 The other charges that he had been on home detention
8 for, were those in any way connected to or was that going to
9 have any impact on these charges to your understanding?

10 A No, not really.

11 Q Okay.

12 A Not as far as trial strategy goes. I mean, that's
13 something completely different. If -- if there was a plea
14 offer made that could come into that.

15 Q Okay.

16 A But --

17 Q And, in fact, just to clarify, was there originally an
18 escape charge related to the home detention --

19 A Uh-huh.

20 Q -- that was ultimately --

21 A There was.

22 Q -- dropped?

23 A There was.

24 Q Okay. You said that Mr. Teamer wrote you a lot and
25 came up with some good points. Were you able to discuss

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1 with him everything from strategy to witnesses?

2 A I discussed everything in the time that I had as a
3 public defender -- and I had a lot of cases. In the time
4 that I had I thought I went over everything that I could
5 have with Mr. Teamer.

6 Q And as you mentioned, that with public defenders,
7 obviously, as well as solicitors, there's a pretty heavy
8 case load.

9 In regards to how you dole out your time for the cases
10 that you have, do you have any method or did you have any
11 way of determining based on the severity of the charges how
12 much time you would spend or how much research or
13 investigation you would do?

14 A Well, obviously with a petty larceny I would spend a
15 lot less time. But I remember specifically that -- that
16 last week before the trial I was out of town. And I
17 remember I -- I blocked off that whole week just to -- I
18 brought all of those files with me. And I remember writing
19 out my opening part of my closing. I scripted all of my
20 cross-examination, direct examination, answers, and
21 obviously from the file and everything. So I put a lot of
22 work into it.

23 Q And, in fact, you went through -- there were a list.
24 Do you recall -- and I'm just going to -- from the general
25 session records that were in the list of potential state

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1 witnesses at the time was pretty extensive, was it not?

2 A It was.

3 Q And I think I have perhaps a total of -- and this was
4 obviously at the time that they were still pursuing all of
5 the charges -- about 79 witnesses that were of potential.

6 Had you had that list or something similar to tell you who
7 they were expecting to call prior to in order to prepare?

8 A Prior to?

9 Q The trial. Did you have knowledge of what state
10 witnesses --

11 A Oh, yes.

12 Q -- the state was going to call?

13 A Yes. Their practice usually -- I remember I think I
14 was presented with that list if not the week before, but
15 definitely Monday morning that we started out I was given
16 that list. But that's -- that's a state's practice, is
17 that they give you the list of witnesses on Monday morning.
18 But anybody could, you know, figure it out anyways.

19 Q Right.

20 A I mean, you know, maybe not the chain-of-custody
21 folks, but the key witnesses obviously for the felony
22 D.U.I., you know, the officers that arrested him there.
23 Going back to the burglary, you know, the Grays. And then
24 of course, you know, Proctor and, you know, everybody else,
25 so.

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1 Q Okay. You did testify that you couldn't remember if
2 you'd gone over the phone calls with Mr. Teamer.

3 Do you recall -- and I think you -- you might have
4 mentioned this a little bit -- how soon to the trial you
5 received the discovery of the jail phone calls?

6 A I don't remember, but it was very close in time to the
7 actual calling of the case in September of 2007.

8 Q And there was a substantial number of calls, is that
9 right?

10 A Oh, yeah. And it would -- it would take a long time
11 for me to go over with them there. It would have taken a
12 while.

13 Q Okay. In regards to just your general practice as an
14 attorney do you generally go over and review every piece of
15 evidence with a client?

16 A I don't review every piece of evidence because in a
17 case like this, I mean -- well, the stuff over there is
18 voluminous. I mean, it would be. And I -- the clients --
19 I do attempt to in the jail. So I did the best I could
20 with the limited time that I had.

21 Q Okay. You testified -- we were talking about Erica
22 Gray and impeaching her with her prior record. And the
23 transcript reflects you asked her about a drug charge.

24 You mentioned that you had not asked her about the
25 false information because the N.C.I.C. didn't show a

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1 disposition.

2 A That's right.

3 Q And at this point -- this trial was in 2007, is that
4 right?

5 A That's right.

6 Q And do you think a 1994 charge -- what kind of impact
7 do you think that would have had?

8 A I think it may have had some impact, but maybe minimal
9 impact, because there was -- I think it was still
10 admissible, but it was definitely outside of ten years and
11 it was -- did not carry a term of imprisonment a year or
12 more. But it was admissible because it's a crime of
13 dishonesty and moral turpitude, so.

14 Q Okay. In regards to the D.S.S. information you've
15 been asked about as to whether or not you were trying to
16 get this information in, was there any solid, I guess,
17 connection between any D.S.S. case with Ieshia [REDACTED] who was
18 16 at the time and any motive behind the Teamers other than
19 Mr. Teamer's belief?

20 A Well, like I said before, I didn't subpoena any D.S.S.
21 things, so I didn't really bring that to bear at trial so
22 that that would have been -- I don't know.

23 Q Okay. So what -- from what you were told by the
24 applicant or by your client, or given, you didn't have
25 anything necessarily that connected this D.S.S. case to a

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Cross-examination by Ms. White

1 motive necessarily other than his belief that it was
2 connected?

3 A Yes.

4 Q Okay. And from the records that we've introduced
5 today the D -- or the alleged sexual assault was reported
6 by Ieshia [REDACTED] father, is that not right?

7 A Yes.

8 Q And so there was no mention on that incident report --
9 and you may not have even had a chance to review it -- of
10 Mr. Teamer though, was there?

11 A I don't believe so.

12 Q Okay. And in your practice or your experience
13 would -- what kind of information would you have to have
14 shown the Court to be able to introduce D.S.S. records of a
15 minor who was not particularly a victim in this case? I

16 know she had received a letter or so, but she was not
17 necessary involved or at the house.

18 A Well, that -- that would have been very difficult to
19 overcome over the state's objections.

20 My -- I guess I'm speculating now. But if I would have
21 tried to introduce it it would have been to impeach them by
22 bias, meaning they -- they wanted to get back at Mr. Teamer,
23 so they made up these accusations. That would have been my
24 argument.

25 Q And, in fact, the letter -- and I think I'm going to

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1 try to make sure I've got this on the right location. The
2 mention of Mr. Teamer considering, I guess, Duke or Donald
3 Martin to be a rapist was kind of brought in when Ms. Gail
4 Heath testified, was it not?

5 A It was.

6 Q And let me get to the right place here. If you'll
7 look at page 240 of the burglary transcript, that this
8 was -- Gail Heath was the SLED investigator who -- or the
9 SLED expert in handwriting analysis.

10 And if you'll look for me, 241, starting page or line
11 nine, Gail Heath is essentially publishing the letter to
12 the -- to the Court. And line 16 mentions punk uncle Duke's
13 stuff. "They should have finished him. He got you messed
14 up in some situations."

15 And then if you'll -- and he also mentions at the
16 bottom, "Every time I see you around Duke I'm going to
17 flip."

18 And the next page at the beginning, "what he did to you
19 when you was little. He got you thinking sex is okay, but
20 it's not."

21 Continue on. That information was essentially -- was
22 that what you're trying to get in in regard -- any kind of
23 motive or bias?

24 A Yes.

25 Q And I think perhaps it might even continue, page 244.

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Cross-examination by Ms. White

1 He's mentioned again at the top of page 244 saying, "Nobody
2 can do anything to your uncle," is that correct?
3 Mentioning Duke and --

4 A To Duke -- Pimp, Duke and Pooh.

5 Q Right. And that was Erica Gray's nickname, is that
6 correct?

7 A I believe so, yeah.

8 Q Okay. So that information came in somewhat during Ms.
9 Heath's testimony.

10 A Yes.

11 Q Okay. And you also asked Duke a little bit about any
12 alleged relationship he had with Ieshia during cross, is
13 that correct?

14 A That's correct.

15 Q Okay. In regards to the D.V.D.s and the motions to
16 dismiss, first, in regards to Mr. Teamer's pro se motion,
17 is it your understanding, or what is your understanding
18 with regards to the rules about hybrid representation and
19 filing pro se motions when you're represented by counsel?

20 A Mr. Teamer was represented by someone at the public
21 defender's office at any point when he was incarcerated.

22 So my understanding of the hybrid representation is
23 that the court will -- it's very difficult for a defendant.
24 Obviously, the rules are different if he's pro se, but for a
25 defendant represented by counsel it's very difficult for a

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1 defendant to get in front of a judge just by filing a motion
2 when he has a retained or a public defender -- retained
3 attorney or private counsel.

4 Q Okay. And in regards to the date of this motion,
5 Mr. Teamer was indicted in May of '06, and this motion was
6 filed September of '06. And a statement I think where he
7 requested Judge Hayes to consider the motion was November
8 of '06.

9 what's your understanding with regards filing a motion
10 to dismiss based on the failure to get a preliminary
11 hearing?

12 A Once a case is indicted the defendant loses his right
13 to a preliminary hearing.

14 Q So at that point in May of '06 the chance for a
15 preliminary hearing had essentially been eliminated.

16 A It had already passed.

17 Q And you began representing him at the beginning of
18 '07, is that correct?

19 A I believe so.

20 Q In regards to the statute about requiring a video tape
21 of a D.U.I., you mentioned that there was some exceptions.
22 One of the exceptions has to do with the traffic accident,
23 doesn't it?

24 A Yes.

25 Q And is it possible that a video will not be required

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1 if there was a traffic accident investigation? Or excuse
2 me. Let me clarify. That it's not necessarily a ground
3 for dismissal of a charge?

4 A That's right. It's not a ground for dismissal under
5 2953.

6 Q Okay.

7 A Itself. It's not a ground for dismissal --

8 Q Right.

9 A -- in and of itself.

10 Q Correct. In regards to your defense for burglary, you
11 testified that it was essentially a defense of innocence,
12 that it was not him. So would you have normally tried to
13 argue that it wasn't him but he had consent?

14 A If -- if I think -- I would have argued consent, then
15 that would've -- I think a lot of jurors would have thought
16 that that would almost be tantamount to admission of guilt.
17 So I didn't want to open that door.

18 So I decided instead to just try and, you know, make
19 them make the witnesses there at that home appear that they
20 didn't know what they're talking about through trying to get
21 the statements in or trying to impeach their credibility.

22 Q Okay.

23 A So that was a judgment call I had made about the
24 consent. I think if -- if it would have brought that in, I
25 think it would be very -- I think it would open the door to

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1 other stuff that I didn't want to get into.

2 Q Okay. And speaking of the inconsistent statements, we
3 had or the state had a statement from Mary Gray, Erica
4 Gray, Donald Martin and the young Javanica [REDACTED] is that
5 right, in relates -- as relates to the burglary? They
6 essentially had two statements from -- from Erica as well
7 but --

8 A Yeah. I don't know. Did the little child give a
9 statement?

10 Q To be honest that might be incorrect, but she did
11 ultimately testify at trial, is that right?

12 A That's correct.

13 Q Okay. In any of the -- the actual written statements
14 that you received as part of discovery, the first
15 statements that were given that evening, was Mr. Teamer

16 ever mentioned in those by name as Charlie Teamer or Little
17 C or --

18 A I would have to see the statements again, but I
19 don't -- I do not believe initially they mentioned Little C
20 or Charlie Teamer or anybody.

21 Q I'm going to show you something. If you can, see if
22 you recognize this.

23 A Thank you. Okay.

24 Q And do you recognize that?

25 A Yes.

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Cross-examination by Ms. White

1 Q Okay. And what does that appear to be?

2 A The -- a statement of Erica Gray, but it's not dated.

3 Q Okay. And it might be better to show you in context.

4 I'm showing you if you can look at the top right. What
5 does it say that is?

6 A Page two of two.

7 Q Okay. Earlier today we introduced page one of two of
8 a statement of Erica Gray.

9 Do you recall if you ever had the second page of this
10 statement if you can just look over it?

11 A The -- let me clarify. Are you saying did I have the
12 second page of the statement in discovery?

13 Q Yes.

14 A Yes.

15 Q So you had seen a copy of the full statement of Erica
16 Gray, the full one and two pages.

17 A Yes. I believe so.

18 Q Okay.

19 MS. WHITE: Your Honor, I'd like to move that into --
20 as State's 2, I believe.

21 MR. THOMPSON: No objection.

22 THE COURT: It's admitted without objection.

23 MR. THOMPSON: I'm going to hand you a copy of that,
24 Your Honor.

25 (Statement of Erica Gray marked State's Exhibit No. 2.)

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1 Q I'm going to have you just kind of glance over this
2 again. Earlier you were asked about the statement and as
3 to why in the file or at trial only the first page was
4 placed in.

5 A Yes. I remember it.

6 Q Okay. Does that refresh your recollection as to why
7 you didn't put it in, or are you still not sure?

8 A I'm still not sure. But I know -- I know that this
9 mentions -- you know, this specifically says Charlie
10 Teamer. And obviously I don't think I wanted a statement
11 indicating that my client committed these crimes. So maybe
12 that could be a reason why page two of two was -- I did not
13 move to have that admitted.

14 Q Okay. So, in fact, as her second statement, that was
15 the only portion of it that actually directly mentioned him
16 by name.

17 A Well, if I could see the other part.

18 Q I'm going to bring up the previous statements that
19 have been introduced, her first statement and then the
20 first page of that statement.

21 A Well, in the first page right here it does -- it does
22 say Charlie Teamer.

23 Q Okay.

24 A And-but that's -- you see that was done 12:30 p.m.
25 on -- well, 12:30 p.m. that was completed on one of four.

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1 And that was done 2/7/06.

2 This was done right after this allegedly happened. The
3 first one was done 2/2/06. And she -- she -- I don't
4 believe Erica says anything about -- or she doesn't use the
5 word Charlie or Teamer -- Charlie Teamer.

6 Q Okay.

7 A Okay.

8 Q And, in fact, you cross-examined the Grays on the fact
9 that in their first statements given that night then, you
10 know, incidents should be freshest, they didn't have
11 anywhere in their written statements that they all signed
12 that it was Mr. Teamer.

13 A That's right. I did ask them those questions, and
14 that to my recollection -- we've got the transcript -- that
15 was their response.

16 Q Okay. And, in fact, you were hoping I guess to get
17 the statements put into evidence at that point, because I
18 know we've talked a little bit about the prior inconsistent
19 statements and the attempting to introduce.

20 Were you hoping to actually get the statements in for
21 the jury to see? Did you feel comfortable enough with the
22 testimony being introduced?

23 A I felt comfortable that the testimony, I think, was
24 adequate.

25 Q Did you feel like you were able to show their

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Cross-examination by Ms. White

1 inconsistencies or show their lack of identification?

2 A Yes.

3 Q In regards to identifying as well, I'll just kind of
4 jump to the fact that you -- you didn't object to Erica
5 identifying Mr. Teamer's writing in the letters or his
6 voice on the -- on the phone calls.

7 A No. But I tried to cross-examine her on the vocal
8 recognition.

9 Q And that's what I was going to ask. Is there any --
10 in the rules of evidence is it allowed to have someone
11 identify a voice or a handwriting that's not an expert?

12 A Yeah. I think a layperson is allowed to do that.

13 Q Okay. So what -- was there an objection that you
14 should have -- you thought you should have made?

15 A I don't believe so.

16 Q Okay. In regards to the testimony of Erica about the
17 letters, I think a lot has been talked about as to the fact
18 that she wasn't the actual original recipient of the
19 letters. She is the one that received the letters though
20 from Ieshia [REDACTED] and Natalie Gray and turned them over to
21 the police, is that correct?

22 A That's correct, yeah.

23 Q Okay. From your understanding is there -- you know,
24 we talk about chain of custody when it comes to drug
25 evidence. Is there a chain of custody for the non-fungible

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Cross-examination by Ms. White

1 items, for things like that?

2 A Yes.

3 Q Okay. And is that an issue that you think you could
4 have brought up having to do with Erica testifying about
5 the letters that she received from her daughter and from
6 her sister?

7 A Yes.

8 Q Was that -- is that clear?

9 A I believe Natalie received the letters.

10 Q Right. I was going to say they were addressed to
11 Natalie. And I think one was specifically addressed to
12 Ieshia who was staying at Natalie's house at the time but
13 was Erica's daughter, yes.

14 A Yes. There was -- there would be chain-of-custody
15 defenses if they didn't establish a chain of custody for
16 these.

17 Q Okay. Did you think there was an issue with
18 establishing the state's failure to establish any kind of
19 chain of custody for these letters?

20 A There could have been.

21 Q Okay. And today do you still feel that there was an
22 issue with the chain of custody?

23 A Yes.

24 Q Okay. Even though Erica could identify the
25 handwriting, obviously you saw a lot of Mr. Teamer's

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Cross-examination by Ms. White

1 handwriting. You stipulated I think to one of the original
2 documents that Ms. Heath did.

3 Do you think there was a way you could have objected to
4 get any of the letters out based on identification of
5 handwriting?

6 A No, because I think -- I believe they had a
7 handwriting expert there. I believe I did object to the
8 introduction but they -- I think -- well, ultimately, I was
9 overruled on it.

10 Q Okay. In regards to the phone calls that were made,
11 you listened to some of the phone calls, in particular the
12 ones that were going to be introduced. And as we've
13 testified or as you testified earlier, there was an
14 objection made, a 401 objection, about the letters and
15 about the phone calls pretrial.

16 A Uh-huh.

17 Q You said that the phone calls were actually fairly
18 hard to understand. Was that something that you felt was
19 real important to keep out? Did you think it really hurt
20 your case? Did you think it helped or was there -- what
21 was your thought?

22 A I don't think it really hurt the case and I don't
23 think it really helped the state's case. That's still my
24 opinion.

25 I remember very clearly hearing -- well, not clearly

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1 hearing those things. But I remember listening to those
2 voice recordings. And I couldn't make heads or tails out of
3 them. And I remember specifically looking -- it was in the
4 other courtroom over there. But I remember looking at other
5 jurors there. And I think they had confused looks on their
6 faces as well. But that was a -- that's a judgment call
7 that I made.

8 Q Okay.

9 A That's what I think. That was my opinion of the
10 adequacy or inadequacy of those phone calls.

11 Q Okay. The marijuana you said you considered but
12 didn't make a motion to suppress the marijuana as a prior
13 bad act.

14 You said, I think, that you thought that was kind of a
15 minor issue in this case.

16 The state actually -- the felony D.U.I. -- he was
17 charged more so because of marijuana in his system more than
18 alcohol, is that correct? Is that an accurate statement --
19 or the combination I guess of the two?

20 A Yes, the combination.

21 Well, the state alleges that the combination of
22 marijuana plus the relatively low amounts of alcohol
23 contributed to making him materially and appreciably
24 impaired. But I thought I got good cross-examination
25 testimony out of Officer Evett that said it would -- it

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1 would take a lot of effort to control the car and maneuver
2 the car over what he did for that length of time.

3 Q And, in fact, the roads -- you cross-examined him on
4 the fact that these were some kind of dark, curvy,
5 lots-of-turn roads that were kind of not the easiest to
6 maneuver around probably in the daylight.

7 A Uh-huh. And I remember specifically just -- I know
8 you didn't ask this question but the -- I remember just
9 myself. I drove out one night, and I remember I traced
10 this by myself. And that was a tough road to maneuver.
11 And that kind of led to my cross-examination questions of
12 Deputy Evett.

13 Q And in regards to the testimony about the ultimate
14 cause of the accident, I know you said that you didn't
15 object to a hearsay statement by Darity that said that it
16 was from crossing the center line.

17 weren't you able to cross-examine him and have him
18 ultimately testify that he actually didn't know the cause?

19 A I don't think Darity, but I do believe Evett said
20 that.

21 Q Okay. And I'm going to pull up. I think it's page
22 three. Okay. And St. Louis was originally -- I think you
23 testified. Let me get back to Darity here.

24 MS. WHITE: One moment, please, Your Honor.

25 (Pause.)

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Cross-examination by Ms. White

1 A If I could read that to answer your question further?

2 Q Yes.

3 A 351 of the transcript there, my cross-examination of
4 Deputy Evett there, line six, is:

5 "Q Okay. So it is your conclusion, and
6 if you reasonably assess your statement here,
7 that you do not know who caused the car
8 accident, right?

9 A His answer was:

10 "A Right. No, I do not know.

11 Q And also I was going to say in page 263 Darity as
12 well -- you were able to cross-examine him over the fact
13 that he didn't include a lot of information in his incident
14 report.

15 A Yeah, his -- Darity's incident report is very
16 barebones as I remember.

17 Q And, in fact, the information you said he thought that
18 the accident was caused by Mr. Teamer on 262. And he
19 reached that determination based on another officer. Then
20 he said based on investigation, he said there were marks on
21 the road. But then he admitted that none of that
22 information was actually in his report.

23 A Yes.

24 Q Okay. So did you feel like after your
25 cross-examination of the officers that you had I guess

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Cross-examination by Ms. White

1 sufficiently attacked their testimony or been able to bring
2 out any inconsistencies that you felt were important at
3 that time?

4 A Yes.

5 Q In regards to Mr. Young, we talked about the fact that
6 he was found not guilty and the disposition says by a bench
7 trial.

8 To your experience or in your experience can you bring
9 up someone and impeach them with a charge that they had that
10 they were found not guilty of?

11 A No.

12 Q So the fact that it may or may not have been dismissed
13 by any sort of ways or actually not dismissed -- excuse me.
14 He was found not guilty of the charge. By any kind of way
15 would that have been admissible still? And that might not
16 be the clearest way.

17 would you have been able to most likely in your
18 experience get that entered into evidence when he was not
19 guilty even if it had been because the officer didn't show
20 up?

21 A It would've been -- it would've been very difficult to
22 get into evidence being that he was found not guilty.

23 Q So the -- the actual reason for the not-guilty is not
24 as important in your understanding as perhaps the fact that
25 it's an actually not-guilty verdict?

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Cross-examination by Ms. White

1 A The thing that's -- that was important to me was that
2 I could not impeach his credibility based on the fact that
3 he was found not guilty in the D.U.I.

4 Q And you tried to ask him a few questions kind of about
5 what he had been doing earlier that night. What was your
6 hope for that perhaps?

7 A I thought it would -- I thought he would have said
8 something.

9 Q Caught himself --

10 A Caught himself offguard.

11 Q Okay.

12 A He didn't.

13 Q In regards to -- you were asked earlier about was
14 there an accident reconstruction team in this case. Is
15 that something that in this particular situation and

16 regarding an officer involved in I guess a chase or someone
17 fleeing an officer, is that something that's generally done
18 when someone's following a car and there's an accident?

19 A It's generally done for felony D.U.I.

20 Q Okay. So even if an officer's following a car and an
21 accident happens, they still do a -- a reconstruction?

22 A Most of the times they would do some, some report,
23 some accident reconstruction.

24 Q And is that something you would've wanted in this
25 case?

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Cross-examination by Ms. White

1 A Yes.

2 Q Okay. You explained that you didn't do a directed
3 verdict on the burglary and armed robbery. Was there a
4 reason you didn't do that?

5 A I thought my -- I really did think my strongest
6 argument was the -- was the felony D.U.I.

7 I thought that even in the light most favorable to the
8 state that they did not meet their burden of proof. So
9 that's why I made the argument for a directed verdict for
10 the felony D.U.I. and not the burglary and the armed
11 robbery.

12 Now, turns out I was wrong because Mr. Teamer was found
13 not guilty on the armed robbery. So but I didn't -- didn't
14 make it.

15 Q At the time you felt that there was sufficient
16 evidence to send to the jury?

17 A At the time I thought in the light most favorable to
18 the state, I thought there was sufficient evidence.

19 Q Okay. Just to follow up on the questions regarding
20 timeline and the feasibility of this, I want you to look at
21 the map, and this is the map. And just for my purposes
22 only -- not to be introduced -- the locations have been
23 marked. The location for the burglary was where to your
24 knowledge?

25 A Overbrook.

E. Joshua Schultz
Cross-examination by Ms. White

1 Q And that was where the Grays lived. And I think
2 Mr. Teamer testified he lived several -- three to five --
3 houses away from them on Overbrook as well.

4 A I believe so.

5 Q Okay. In the grand scheme of the events that night --
6 and I hate to go back over the timeline -- but he was
7 allegedly eating dinner at the Grays' house on Overbrook.
8 The murder happened around 8:45 at Theodosia and Chester
9 Street intersection.

10 All of the events that happened that night were in a
11 realm of about three to five miles probably, is that
12 correct?

13 A Those events?

14 Q If you're looking at -- well, those were actually I
15 guess closer actually. Those were very close to each
16 other?

17 A The felony D.U.I. occurred way out.

18 Q Right. Not thinking about the felony D.U.I.

19 A Okay.

20 Q In fact, before he was -- before the chase ensued, I
21 guess, the officer that originally stopped him, stopped him
22 near. And he actually turned onto Overbrook at one time.
23 Is that what the testimony was? Do you recall that?

24 A I believe so, yes.

25 Q So initially the initial viewing I guess of the

E. Joshua Schultz
Cross-examination by Ms. White

1 Caprice with the throwing out of the beer can in the Li'L
2 Cricket was on John B. White Boulevard towards Overbrook.

3 A Yeah, Reidville Road, yeah.

4 Q Okay. So would then -- I mean, we're looking at, you
5 know, maybe a mile or so between where the murder happened,
6 where the burglary happened, where he was having dinner and
7 then --

8 A Yes, relatively.

9 Q -- ultimately even within a couple of miles of where
10 the murder victim or the applicable victim says he picked
11 him up, is that right?

12 A Yes.

13 Q So we're not looking at a place that would have caused
14 30 minutes for him to get to the next location.

15 A No, not -- not between the burglary and the shooting
16 and the allegations where he was picked up.

17 Q So the shooting we're saying happened about 8:45 at
18 the Theodosia and Chester Street intersection.

19 The next event that happened was around 11:00 o'clock
20 at Overbrook. That was less than approximately maybe a mile
21 or so from the murder location, is that correct?

22 A Yes.

23 Q And it was within about five houses from his home?

24 A Yes.

25 Q And then following that about another -- after the

E. Joshua Schultz
Cross-examination by Ms. White

1 burglary of about 11:00 or so he was actually stopped close
2 to 1:00 a.m. after the accident, is that right?

3 A Yes.

4 Q But he was originally seen near Overbrook when he was
5 stopped, when he was originally followed for the --

6 A Okay, yes, yes.

7 Q -- D.U.I.

8 A Yes.

9 Q So, so when you're looking at a timeline, you said
10 earlier, sure, it's questionable that someone would commit
11 these three crimes or do this all in one night, but is it
12 feasible that someone could have done that within -- I
13 mean, when we're looking at a 2-or-3-mile radius?

14 A Well, it's difficult but not impossible.

15 Q Okay. And with his home being so near to the
16 locations of the shooting and the burglary, the fact that
17 the person that did the burglary and the shooting had two
18 separate guns, is that something that makes it impossible?

19 A No. It doesn't make it impossible at all.

20 Q Okay. Or the fact that somebody might have worn
21 different clothes, they could have changed clothes at the
22 home that's right within about a mile or two, is that
23 correct?

24 A Like I said, it's difficult but not impossible.

25 Q Right. Okay.

E. Joshua Schultz
Cross-examination by Ms. White

1 MS. WHITE: If I can just have one moment, Your Honor.

2 THE COURT: Certainly.

3 (Pause.)

4 Q Going back to a couple of points.

5 One is we were talking about the chain of custody with
6 the letters. On the state's witness list were you aware of
7 or do you recall that Natalie Gray was listed as a potential
8 state's witness?

9 A Yes. I believe she was.

10 Q And had she testified to receiving the letters from
11 Mr. Teamer do you think that would have -- would have
12 solved some chain-of-custody issues had there been any with
13 the letters since she was the original recipient?

14 A Yes. If she was the recipient that would have, I
15 guess, cured any chain-of-custody problems.

16 Q As far as you know she was subpoenaed and prepared --
17 or there I guess for the state to call as a witness.

18 A Yes.

19 Q Okay. Alibi witnesses. Ms. Feaster and her daughter
20 who was the defendant's girlfriend at the time, how did
21 they -- how was their testimony in regards to alibi?

22 A It wasn't very good.

23 Q Okay.

24 A But that's just my opinion.

25 Q Sure.

E. Joshua Schultz
Cross-examination by Ms. White

1 A I mean, I -- I don't know what the jury -- jury was
2 thinking. But I believe that Mr. Barnette effectively
3 cross-examined them.

4 Q And you had talked to them prior to trial, correct?

5 A I did.

6 Q And, in fact, the alibi, the timeline, there was some
7 perhaps holes in the time for that evening.

8 A Yes.

9 Q And wasn't it true that Ms. Feaster, the mother,
10 actually said, "I saw him there earlier in the night at
11 8:00, but then I didn't actually see him until I got home
12 close to midnight or 11:00 or something"?

13 A That's right.

14 Q Okay. The inventory search of the car, you made a
15 pretty substantial objection when it came to the search
16 that Officer Guthro did prior to the murder trial.

17 What was the main thing that you were trying to keep
18 out --

19 A The cell phone.

20 Q -- as a result of that search?

21 A The cell phone.

22 Q Okay. So the cell phone that he found when he said he
23 had been doing an inventory search, that was used
24 substantially in the murder trial?

25 A Yes.

E. Joshua Schultz
Cross-examination by Ms. White

1 Q So when it comes to your concerns for the evidence
2 that was found, the marijuana, some of the other items that
3 were found, was that really a substantial concern of yours?

4 A It was not.

5 Q Okay. And that -- is that -- does that explain maybe
6 why you made the argument more so at the murder trial
7 instead of the burglary?

8 A Yes.

9 Q Okay. And you've not had a chance to know whether or
10 not had there by any kind of reconstructive report that it
11 would have been helpful or hurtful to your case at the
12 time, do you?

13 A I was never provided one.

14 Q Right. There's not one here today, so you don't know
15 whether or not still it would have been helpful or harmful
16 to your case, is that right?

17 A That's right.

18 Q Because it very well could have actually indicated
19 that because of his lack of headlights or because of the
20 presence of different things in his system it was actually
21 caused by your client at the time.

22 A Yes. That could have been a possibility.

23 Q Okay.

24 MS. WHITE: Your Honor, I think that's all I have at
25 this time.

E. Joshua Schultz
Redirect examination by Mr. Thompson

1 THE COURT: Redirect?

2 MR. THOMPSON: Very briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. THOMPSON

5 Q Mr. Schultz, you testified that you worked on the case
6 the whole week prior to the trial beginning, is that right?

7 A Yes.

8 Q You had written your opening and part of your closing
9 and all of that kind of stuff, right?

10 A That's right.

11 Q How much of that did you have to throw away because
12 your motion to sever got granted?

13 A Not a lot.

14 Q Not a lot?

15 A No.

16 Q Your opening you at least had to, right?

17 A Yeah, yeah. I had to redact my opening, but I -- as I
18 remember right, I scripted a lot of my cross-examination
19 for everybody and people that were going to testify in the
20 murder and the ABWIK and people that would have testified
21 in the burglary.

22 Q Ms. White -- and I believe, quote, her word -- I
23 believe Ms. White said that the testimony about the
24 letters -- and I'm referring to pages 241 and 242. I
25 believe she said somewhat gets into the DSS stuff. Is

E. Joshua Schultz
Redirect examination by Mr. Thompson

1 that -- is that what you were asked? Do you recall that
2 being asked? The -- the testimony about the letters gets
3 into some of the D.S.S. information.

4 A well, not the testimony. I believe the letters
5 themselves.

6 Q The letters. Okay, that's what I'm asking -- the
7 letters.

8 A Yes, it did.

9 Q The letters, all they say is that there's something
10 that went on between Ieshia and Donald Martin, right?

11 A That's what the letters said, yes.

12 Q That's all they said.

13 A Yes.

14 Q The letters don't say anything about why Donald Martin
15 and Erica Gray and Mary Gray would be upset at Nathaniel

16 Teamer, do they?

17 A I believe so.

18 Q That's what the D.S.S. information is relevant to,
19 isn't it, as to motive to bias and why they would make up
20 these allegations, isn't it?

21 A Without the D.S.S. records I wouldn't have that.

22 Q I understand. But that's what the D.S.S. issue is
23 about, isn't it, is the motive to lie on the part of the
24 Grays, right?

25 A Yes, yes.

E. Joshua Schultz
Redirect examination by Mr. Thompson

1 Q So the letters themselves don't actually get into what
2 you would need to get into with the D.S.S. issue, does it?

3 A It touches on it.

4 Q It touches on the actual criminal -- to some oblique
5 degree it touches on the incident between Ieshia and
6 Donald. But it doesn't say anything about why the Grays
7 were upset at Mr. Teamer, does it?

8 A Well, like I said, it touches on it in -- in your fine
9 words obliquely.

10 Q Right.

11 A But it doesn't directly say it, no.

12 Q But you don't -- there's no testimony -- there's
13 nothing in those letters saying the Grays are mad at me
14 because I told them, I told the police, and I told your dad
15 about Mr. -- about Donald, about Donald's sexual activity,
16 right, nothing about that?

17 A No.

18 Q No?

19 A No. Not in that letter that you're referring to.

20 Q You testified on cross about the exception for traffic
21 accident for the 2953, correct?

22 A Yes.

23 Q And that's -- and I asked you about that earlier
24 that -- but that with felony D.U.I.s most of the time what
25 happens is the accident occurs and then the police are

E. Joshua Schultz
Redirect examination by Mr. Thompson

1 called, right?

2 A Yes.

3 Q It's unusual that you would get a situation where a
4 police officer was following the car --

5 A Yes.

6 Q -- as the accident occurred.

7 A That's right.

8 Q And that's what that section is -- is it -- is it your
9 belief-understanding that that's what the section is for
10 when they're responding to an accident investigation,
11 they're called to an accident investigation? Is that what
12 that -- that exception is for? Your standard felony D.U.I.
13 situation.

14 A I really don't understand the question.

15 Q Okay. The -- the exception for accident
16 investigations, does that in your opinion pertain primarily
17 to standard felony D.U.I. cases?

18 A Are you talking about statutorily?

19 Q Yes.

20 A Under 56-5-2953.

21 Q Right. Is that -- could you make an argument that
22 that is what that statute pertains to, is to protect
23 officers responding to accidents who have got to protect,
24 you know, got to investigate situations when they first get
25 to the scene?

E. Joshua Schultz
Redirect examination by Mr. Thompson

1 A If -- if you're referring to the fact that a case
2 can't be dismissed, yes.

3 Q Right.

4 A Okay. It's to protect officers that don't -- well,
5 that do respond to a felony D.U.I. or a traffic accident.
6 It could be a 1-person accident, or I've had D.U.I.s that
7 I've tried in this very courtroom like a D.U.I. second a
8 couple of months ago where there was no video but my guy
9 was involved in a 1-person collision. He -- he hit a tree.

10 Okay. well, there's no video of him driving. There's
11 no evidence of field sobriety tests, nor is there evidence
12 of the standard Miranda warnings that were given.

13 Nevertheless, he did have an affidavit, okay, saying
14 why this happened. And that's the exception. So I think in
15 a roundabout way I am saying yes. Okay.

16 Q You'd also need an affidavit, wouldn't you, to fall
17 under that exception?

18 A Yes. And I believe at the time in 2007 when we tried
19 this case -- I believe the law was pretty clear on that,
20 but the case law was kind of fluid about that.

21 I notice it's much more stronger right now. Okay. And
22 maybe you've tried D.U.I.s as well, but under, you know,
23 State vs. Murphy everything has to be videotaped, at least
24 under State vs. Murphy.

25 Q Yeah.

E. Joshua Schultz
Redirect examination by Mr. Thompson

1 A So everything has to be videotaped. But in this back
2 in 2007 the law was kind of more fluid. But, nevertheless,
3 I agree I should have made that motion.

4 Q And, nevertheless, you did not have an affidavit from
5 Officer Evett stating I didn't turn my camera on because I
6 was responding to an accident investigation.

7 A I don't -- I believe so.

8 Q And that wouldn't have been an accurate affidavit for
9 him to provide because he had been following Mr. Teamer for
10 miles before that, hadn't he? There was no reason why that
11 camera couldn't have been turned on before, was there?

12 A His testimony said that.

13 Q Right.

14 A Yeah.

15 Q Right.

16 A So no.

17 Q So do you believe that exception would have been
18 applicable in this case?

19 A The exception to 2953?

20 Q For the affidavit responding to a traffic accident
21 where you have an officer who was following him for miles
22 and just neglected to turn the camera on and who didn't
23 submit an affidavit.

24 A No. I do not believe that -- that exception -- well,
25 but the law was different. So, but I -- but I think your

E. Joshua Schultz
Redirect examination by Mr. Thompson

1 point is I still should have made that motion to dismiss.

2 Q The case law hadn't come about by that point, but the
3 statute still existed that said that.

4 A The statute basically existed almost -- almost in its
5 present form.

6 Q Then.

7 A Then in 2007. Of course they changed the law in
8 February of 2009.

9 Q Now, you testified that you would not have argued
10 consent in the -- in your closing argument. I'm not asking
11 you would you have argued consent in your closing argument.
12 I'm asking you --

13 A Consent as far as the burglary goes?

14 Q As the burglary, yes. I apologize.

15 I'm asking you would you have argued consent to the

16 judge in a directed-verdict motion. You're not conceding
17 anything to a jury at that point. You're arguing to the
18 judge that there is -- that because he was let in there's no
19 breaking and entering.

20 A That would be a valid point.

21 Q You testified that the argument -- that you could have
22 argued the chain of custody for the letters in terms of
23 Natalie Gray testifying and that you still feel that
24 argument could have been made. But you again stipulated at
25 the beginning of the trial that Erica Gray actually

E. Joshua Schultz
Redirect examination by Mr. Thompson

1 received the letters, right?

2 A Yes, yes.

3 Q And the -- you testified earlier that you don't
4 believe that the phone calls were either harmful or helpful
5 for the state. And I understand that's your opinion. But
6 the end of the state's closing argument -- and I'll refer
7 you to page 435 to page 436 -- the last thing Mr. Barnette
8 does is play the C.D. for the jury of the phone calls, tell
9 them, lines 22 through 23 on 435, "This man did it, all of
10 these crimes, that night, ladies and gentlemen."

11 Right before that he says and my guy said, "Even from
12 his own lips that you've heard on the tape, and I am going
13 to play it one more time. This man did it."

14 The state obviously believed those -- those phone calls
15 were harmful, right?

16 A That's true. I would assume so.

17 Q That's -- that's what he closed with, right?

18 A Yes.

19 Q Ended his closing argument with.

20 A Uh-huh.

21 Q Just a couple more things.

22 You -- you did cross Officer Evett on the cause of the
23 accident, but you did not get Officer Darity to admit that
24 he didn't under -- anything about their not -- about
25 Mr. Teamer not crossing the center line, did you?

E. Joshua Schultz
Redirect examination by Mr. Thompson

1 A I don't believe so.

2 Q And obviously it was a good thing to get Officer Evett
3 to testify that the cause of the accident was not crossing
4 the center line but basically because his headlights were
5 off --

6 A Yes.

7 Q -- to -- to conflict that with off -- with Trooper
8 Darity's testimony. But wouldn't it also have been helpful
9 to keep Darity's testimony out as well because it's hearsay
10 and opinion testimony if that objection could have been
11 made and had been successful?

12 A Yes, sir.

13 Q And Ms. White was asking you about the MAIT team
14 coming in. I'm not asking did you want the MAIT team to
15 come in. I'm asking was there somebody from the MAIT team
16 who was qualified or just from anybody who was qualified in
17 accident scene reconstruction who testified at the trial.

18 A I do not believe so.

19 Q And, lastly, you testified that regarding the timeline
20 that it's not impossible for someone to have committed all
21 of these crimes all in one night.

22 Could you have argued to the jury that it was not
23 plausible for someone to have committed all of these crimes
24 in one night?

25 A I think I did.

E. Joshua Schultz
Redirect examination by Mr. Thompson

1 Q And would that not have been your argument had all
2 three cases been tried together --

3 A Well.

4 Q -- that it would be very difficult for someone to have
5 done all of these crimes the way they say they did all in
6 one night?

7 A I would go back to the issue of prejudice. I --
8 obviously I considered it, but that was a strategy that I
9 made.

10 I thought that the jury -- if they saw everything that
11 Mr. Teamer was alleged to do that night they -- they would
12 have heard something and they would have said, well, he did
13 something here, I know he's a bad guy, so we're just going
14 to convict him of everything here.

15 Okay. So I thought based upon my judgment -- I weighed
16 that. Okay. And I thought that the proper thing to do was
17 to sever it. And that's -- that's what happened.

18 And I still made that argument of plausibility because
19 I think -- you know, I think I said -- I remember sometime
20 in the closing -- and I'm not sure if I made it in the
21 murder or I made it in the burglary -- that you have to
22 believe that there are two Charlie Teamers there that night.
23 So I did make that argument.

24 Q And I understand your argument on the prejudice aspect
25 of things. would that argument not have been stronger if

E. Joshua Schultz
Recross-examination by Ms. White

1 the evidence had been for all of the charges presented at
2 one trial?

3 MS. WHITE: Your Honor, I think he asked. And I think
4 he's already kind of asked and answered this.

5 THE COURT: Why don't you ask it one more time?

6 Q Would the argument that you make that there were two
7 Charlie Teamers have been stronger if you had had all of
8 that evidence from all of the charges made at one trial?

9 A Possibly. But, again, I think the prejudice of having
10 all of that stuff being thrown to the jury would have been
11 a bad move on my part.

12 MR. THOMPSON: Beg the Court's indulgence.

13 THE COURT: All right, sir.

14 MR. THOMPSON: No further questions, Your Honor.

15 THE COURT: Any recross?

16 MS. WHITE: Just briefly, Your Honor.

17 RECROSS-EXAMINATION

18 BY MS. WHITE

19 Q I hate to belabor the point on the felony D.U.I. and
20 the video and exceptions, but you mentioned that there's --
21 the statute has been essentially the same for several
22 years.

23 A Uh-huh.

24 Q Haven't there been some recent cases that even
25 affirmed the fact that the lack of an affidavit is not

E. Joshua Schultz
Recross-examination by Ms. White

1 necessarily grounds for an immediate dismissal of a felony
2 D.U.I.?

3 A Yes.

4 Q So in this situation you're still looking at totality
5 of circumstances. And the Court's still going to look at
6 everything, not the fact that there's no affidavit or no
7 video.

8 A Yes.

9 Q Okay.

10 MS. WHITE: That's all I have, Your Honor.

11 THE COURT: Thank you. You may step down.

12 THE WITNESS: Thank you, Your Honor.

13 MS. BLANCHETTE: Your Honor, we have no further
14 witnesses unless -- at this point it's my understanding the
15 state doesn't have any witnesses. Unless that position

16 changes, I may need to recall my client. But at this time
17 we don't have any further witnesses that we plan to call.

18 THE COURT: Ms. White.

19 MS. WHITE: Your Honor, the state has no witnesses.

20 MS. BLANCHETTE: Your Honor, I do have -- I know the
21 late hour, and you've heard a lot from us, and I understand
22 that you have the amendment and you've heard all of our
23 allegations and the testimony.

24 I have a couple of cases just on some pinpoint issues.
25 I'm not providing a case on everything we've talked about

1 today.

2 I'd be happy to hand those up with just a 30-second
3 explanation as to why I'm handing those up. And then if
4 the Court would like to hear anything further from me, I'd
5 be happy to. Otherwise, I will be finished.

6 THE COURT: Certainly.

7 MS. BLANCHETTE: And I have already provided the
8 case -- all of these for the state.

9 The first case I'll be handing up is the State vs.
10 Danny Cortez Brown. And that goes to the issue of the
11 research that we brought up today and the exclusion of the
12 evidence for failure to follow the inventory policy.

13 I also have a copy for the Court of the State vs.
14 Jason Ervin Black. That was a recent South Carolina Court
15 of Appeals decision that came out October 3rd of 2012.

16 That's opinion No. 27176. And this goes into the use of
17 prior convictions.

18 I also have a copy of the Town of Mount Pleasant vs.
19 Roberts which is a Supreme Court decision out of -- from
20 2011 which goes into this issue we've been belaboring about
21 the use of the video as to the D.U.I. charge.

22 I also have a copy of Ingle vs. the State of South
23 Carolina, Supreme Court decision out of 2002. And this is
24 just an analysis of reasonable strategy and in P.C.R.
25 looking at whether or not counsel's specific strategy meets

1 the standard.

2 I also have a copy of the State vs. Gregory Daniels, a
3 recent decision out of the South Carolina Supreme Court
4 issued October 10th of 2012, opinion No. 27180. And this
5 is the case where they actually discuss the language that
6 we addressed in the closing, the fair and just language.

7 And then finally I have a copy of Bennett vs. the
8 State of South Carolina, a Supreme Court case out of 2009.
9 This addresses the fact that there can be ineffective
10 assistance of appellate counsel even in Anders cases.

11 And those are just some cases that were
12 directly-on-point issues we raised today. I'd be happy to
13 answer any questions, provide any further cases or research
14 that the Court requests.

15 THE COURT: No. I don't have any questions, but I
16 would be glad to receive the cases that you just referred
17 to.

18 Ms. White.

19 MS. WHITE: Thank you, Your Honor.

20 The state has no cases other than the case I was
21 referring to, State vs. Manning, which was a 2012, but
22 obviously this -- this trial happened in 2007.

23 I think that in this case, you know, we've had a lot
24 of testimony and evidence, but it still comes down to a
25 burden of proof by the applicant and that the proof needs

1 to be that not only was counsel deficient in a particular
2 area but that that particular deficiency could have
3 affected the outcome of the trial. And I think that in
4 this case that the applicant's failed to meet that burden
5 as to each of the issues raised. And we would just ask
6 that you deny the application.

7 THE COURT: Okay. I'm going to take this matter under
8 advisement.

9 I take it nobody is submitting a brief. There hasn't
10 been any pretrial briefs, or nobody wants a posttrial
11 brief.

12 okay. I'll be in touch.

13 MS. WHITE: Thank you, Your Honor.

14 MS. BLANCHETTE: And if there's any issue which you
15 would like a memorandum or further explanation, I would be
16 happy to. I just didn't want to put something together
17 without --

18 THE COURT: I still have to review the video.

19 MS. BLANCHETTE: And you're more than welcome to keep
20 that copy if you'd like, Your Honor.

21 THE COURT: Well, let me -- let's talk about tomorrow.

22 It was my understanding that the attorneys believed
23 that the trial, the second trial we'll call it, would be
24 shorter than this one -- no. Longer than this one. I'm
25 sorry.

1 MS. WHITE: I felt this one was going to end right
2 after lunch though so I'm --

3 THE COURT: Well, is there any chance we need to start
4 at 9:00 o'clock or is there any chance we could start at
5 9:00 instead of 9:30?

6 MS. WHITE: I mean, I think if we need to, I know
7 we're all driving from Columbia but I think --

8 MS. BLANCHETTE: My first witness, I'll put her on.
9 She's coming from Columbia. I put her on notice for 9:30,
10 but I can get in touch with her and change that. I might
11 could always call witnesses out of order too and work with
12 whatever we need to do.

13 THE COURT: If we don't finish tomorrow --

14 MS. BLANCHETTE: We did start late today.

15 MS. WHITE: I don't think they're going to allow us to
16 continue any more.

17 THE COURT: We've got a scheduling problem --

18 MS. WHITE: Right.

19 MS. BLANCHETTE: Right.

20 THE COURT: -- which means we have to reconvene
21 another date and maybe another place. I don't know.

22 MS. WHITE: Right. And I'd rather not hold the record
23 open for additional if we can help it.

24 MS. BLANCHETTE: If the Court doesn't mind me calling
25 Mr. Teamer and possibly taking a break to call witnesses as

1 they arrive, there's no issue with starting earlier on my
2 behalf.

3 THE COURT: I don't mind.

4 MS. WHITE: That's fine with us.

5 THE COURT: All right. Well, I know you did have an
6 issue with victims.

7 MS. WHITE: And some of them were here today, Your
8 Honor, so, you know, we can -- I think they're here.

9 The other ones that are not here, I don't think we'll
10 have an issue with a 30-minute time. I think a lot of
11 times they're here prior to anyway.

12 THE COURT: All right. Let's try 9:00 o'clock. And
13 if something happens and we can't make it work, we'll just
14 have to deal with it.

15 MS. WHITE: Okay.

16 THE COURT: All right.

17 MS. WHITE: Thank you, Your Honor.

18 THE COURT: Court is adjourned until 9:00 o'clock
19 tomorrow morning.

20 END OF PROCEEDINGS OCTOBER 29, 2012

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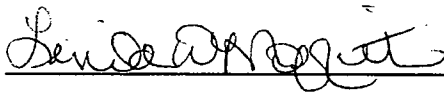
25

CERTIFICATE

I, the undersigned Linda D. Moffitt, official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Common Pleas Court for Spartanburg County, South Carolina, on the 29th day of October 2012.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

August 27, 2013

A handwritten signature in cursive script, appearing to read "Linda D. Moffitt", is written over a horizontal line.

Linda D. Moffitt
Circuit Court Reporter



Get Google Maps on your phone

Text the word "GMAPS" to 466453



[illegible]

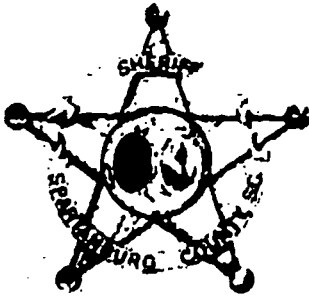
for. lean think → (Per jail offer in Pod 5 today)
 He says this is the way phones
 work for cell 44, they were same in 06
 as is today (The right time's)

Mon	7A-8A	Mon- 7pm-8pm
Tu	8A-9A	Tue- 8pm-9pm
W	9A-10A	Wed- 9pm-10pm
Th	10A-11A	Thur- 10pm-11pm
F	11A-12p	Fri- 11pm-12am
Sa	5A-6p	Sat. 5AM-6AM
→ Su	6A-7p	<u>Sun- 6AM-7AM</u>

phones come ↑ in Pod 5 @ 5 AM
 + the cells start rotating per the jail
 offer in Pod 5 today.

△ was in Pod 5 cell 44 on 2-5-06
 which was on a Sunday + ~~which~~
 would have come ↑ for calls @ 6A
 @ the earliest.

Phones don't come on at Spentenberg Center till
 till 7:30 AM in the morning. CAN'T use the phone
 in Pod #5 till 7:30am + after. I don't of use the
 phone that Sun on the 5th in Pod #5! Capt. Jones
 who's over the phone in recording says on the
 5th the 5th of the day. In fact
 I don't see any way to get no way
 I don't see any way to get no way



**SPARTANBURG COUNTY SHERIFF'S OFFICE
DETENTION FACILITY**

**Major Neal Urch
Director**

October 13th, 2011

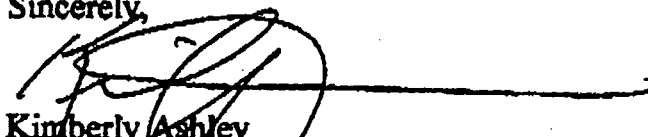
**To: Tricia Blanchette
Re: Subpoena for Jail records**

As per your request it has been confirmed that inmate Nathaniel Teamer was located in Pod 5 cell 44 from February 4th, 2006 to February 6th, 2006 but due to the fact the inmate was not in "lock down" status his phone times would not have been logged in the housing log book. A search was done for the housing log book which would have listed the Officers assigned to Pod 5 on the day in question but due to the length of time that has passed we are unable to locate that document.

Again I apologize for any inconvenience this may have caused you in your case.

If there is anything else that I can help you with please do not hesitate to call me.

Sincerely,



Kimberly Ashley
Administrative Lieutenant
Spartanburg County Sheriff's Office
Jail Division

864 562 4296

2005 JUL 36 P

819

CASE NUMBER
02-0067-06

WITNESS INTERVIEW FORM

Name: ERICA P. GRAY Address: [REDACTED]
Telephone Number: 597-[REDACTED] Social Security Number: [REDACTED]
Date of Birth: 7-17-75 Today's Date: 02-02-06 Time: 11:45 P.M.

ON THURSDAY FEBRUARY 2, 2006 AT AROUND
11:00 P.M. I WAS IN THE BED ASLEEP. I HEARD
A NOISE IN THE LIVINGROOM I THEN CALLED 911
AND TOLD THEM SOMEONE IS HERE ROBBING US
I THEN WENT INTO ANOTHER ROOM AND THE SUSPECT
A BLACK MALE DRESSED IN ALL BLACK CAME IN AND
SAID I KNOW YOU BITCHES AIN'T BACK HERE CALLING THE
POLICE. HE THEN TOLD ME TO GET MY POCKETBOOK OR
I WILL SHOOT YOUR MOMMA. I THEN DUMPED MY
POCKETBOOK ON THE BED. HE SAID WHERE IS THE MONEY
HE WAS ARMED WITH A LONG GUN. HE TOLD ME
TO GET ON THE FLOOR AFTER HE HIT ME
WITH THE GUN. HE THEN WENT BACK INTO THE
LIVINGROOM WITH MY BROTHER. I HEARD A SHOT
BUT I DON'T WHERE IT WAS. THE POLICE THEN ARRIVED
THE SUSPECT HAD HIS FACE COVERED

Time Interview Began: 11:45 P.m. Time (Statement/Interview) was completed: 11:54 P.m.

I have read this statement consisting of 1 page(s), and I swear or affirm that the facts contained therein are true and correct.

I further state that I have received a copy of this statement.

SWORN TO AND SUBSCRIBED TO BEFORE ME

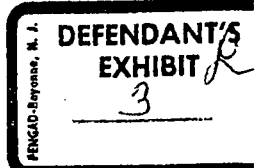
THIS _____ DAY OF _____, 19____

NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: _____

Signed: Erica Gray

Witness: Chad E. Talbot

Witness: _____



PUBLIC SAFETY DEPARTMENT

CITY OF SPARTANBURG
P.O. BOX 546 - 145 W. BROAD ST.
SPARTANBURG, S.C. 29304

CASE NUMBER

02-0067-06

WITNESS INTERVIEW FORM

Name: Erica P. Gray Address: [REDACTED]
Telephone Number: 597-[REDACTED] Social Security Number: [REDACTED]
Date of Birth: 7.17.75 Today's Date: 02.07.06 Time: 1230pm

This statement was obtained from Erica P. Gray on 02.07.06 at 1230 hrs in the training room at Sams Club. Statement was written by Inv. Heather Forrester in the words of Erica P. Gray. Beginning of statement:
On 02.02.06 I got home from work at about 6 or 6:30pm. When I was walking in the door, Charlie Teamer was walking out my door so he had been there that day. Right before 11pm that night I was in the bedroom with my momma, Mary Gray and my daughter, Javonica Mays. My brother Donald Martin, was in the livingroom. I heard a knock on the door and heard my brother ask who it was. I heard a voice say "murder". I knew that it was Charlie Teamer because I know his voice and everybody calls him "murder". My brother opened the door and he was standing there wearing black pants, black shirt, black gloves and a dark stocking mask. He (suspect) was holding a long black gun and I heard ~~my~~ ^{HGF} him say "get down on the floor". When I heard that I picked up the phone and called 911 and told them that we are getting robbed and send

Time Interview Began: 1230 p.m. Time (Statement/Interview) was completed: 1:04 p.m.

I have read this statement consisting of 2 page(s), and I swear or affirm that the facts contained therein are true and correct.

I further state that I have received a copy of this statement.

SWORN TO AND SUBSCRIBED TO BEFORE ME

THIS _____ DAY OF _____, 19____

Signed: X Erica Gray

Witness: Heather H. Forrester

Witness: _____

NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: _____

CASE HISTORY FOR CASE E138187

The State of South Carolina VS ERICA PAULETTE GRAY

821

FILED DATE: 7/7/1994

CASE TYPE: CR

STATUS: Disposed

JUDGE: Anderson, Georgia V

CASE PARTIES:

Defendant Gray, Erica Paulette

Affiant Porter, Rick

CITY POLICE DEPT., ,

CASE HISTORY FOR CASE E138187

Grav, Erica Paulette

Age: Unknown

DOB: Unknown

DL#:

, 000000000

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
1223 Report / Giving false information to law enforcement, fire dept. or rescue dept.	7/7/1994	Guilty Bench Trial	1/12/1995

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
Charge: Report / Giving false information to law enforcement, fire dept. or re				
Fine to General Fund	\$200.00	\$0.00	\$200.00	999
State Assessment	176.00	0.00	176.00	999
Total:	\$376.00	\$0.00	\$376.00	

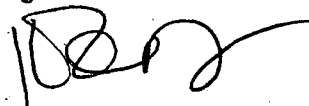
DATE	TIME	EVENT DESCRIPTION
1/01/1993	7:05 pm	Received payment of \$376.00 from ERICA PAULETTE GRAY for ERICA PAULETTE GRAY . Printed receipt #13246.
2/22/1994	7:05 pm	Court event: Criminal/Traffic Court
1/12/1995	7:05 pm	recorded the following Case Note: FALSE INFO TO POLICE/FIRE/
1/12/1995	7:05 pm	recorded the following Case Note: THE DEFENDANT DID GIVE FALSE INFORMATION TO
1/12/1995	7:05 pm	recorded the following Case Note: POLICE OFFICERS, INCLUDING DETECTIVE PORTER,
1/12/1995	7:05 pm	recorded the following Case Note: CONCERNING A REPORTED SHOOTING AND BURGLARY
1/12/1995	7:05 pm	recorded the following Case Note: AT HER HOME RESULTING IN CHARGES ON REGINALD
1/12/1995	7:05 pm	recorded the following Case Note: NASH. ON JULY 7, 1994 THE DEFENDANT
1/12/1995	7:05 pm	recorded the following Case Note: TESTIFIED IN A PRELIMINARY HEARING THAT SHE
1/12/1995	7:05 pm	recorded the following Case Note: HAD LIED TO THE POLICE ON JUNE 10, 1994.
1/12/1995	7:05 pm	recorded the following Case Note: AFFLIANT'S BELIEF IS BASED UPON PERSONAL

Print Date: 05/16/2011
 Print Time: 5:49:41PM
 Requested By: KDUFFY

CaseHistory.rpt

This is a certified true copy
 of the records kept in the
 Spartanburg Magistrate Court

Page 1 of 2

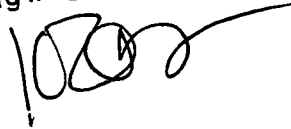


CASE HISTORY FOR CASE E138187

822

01/12/1995	7:05 pm	recorded the following Case Note: KNOWLEDGE.
01/12/1995	7:05 pm	recorded the following Case Note: ARREST WARRANT ISSUED
01/12/1995	7:05 pm	recorded the following Case Note: Trial letter, room2
01/12/1995	7:05 pm	recorded the following Case Note: Trial letter rescheduled, room2
01/12/1995	7:05 pm	recorded the following Case Note: 376.00 Assessed 951 FINE AND COST
01/12/1995	7:05 pm	recorded the following Case Note: 376.00 Total Payment CS HO C
01/12/1995	7:05 pm	recorded the following Case Note: GUILTY/BENCH TRIAL

This is a certified true copy
of the records kept in the
Spartanburg Magistrate Court



Print Date: 05/16/2011
Print Time: 5:49:41PM
Requested By: KDUFFY

CaseHistory.rpt

Page 2 of 2

SPARTANBURG PUBLIC SAFETY
DEPARTMENT
SC0420100INFORMATION
ONLYCASE NUMBER
06086805NCIC
INQ. ENT

INCIDENT REPORT

F

EVENT

VICTIM NO

SUBJECT NO

EVENT

PROPERTY

INCIDENT TYPE					COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICT
16-03- 0620 Assault / Assault and battery with Intent to Kill (ABWIK) 13A AGGRAVATED ASSAULT					YES NO	YES NO	RESIDENCE/HOME		☒ Individual ☐ Business ☐ Financial ☐ Government ☐ Relig. Org. ☐ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.
2. 16-11-0311 Burglary / Burglary (After June 20, 1985) - First degree 220 BURGLARY/BREAKING AND ENTERING					YES NO	YES NO	APARTMENT/CONDO		
3.					YES NO	YES NO			
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER) Spartanburg, SC							ZIP CODE 29306-	WEAPON TYPE HANDGUN	
INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK	DISPATCH TIME	TIME ARRIVED	DEPART. TIME	LOCATION NO.
06/24/2005	06:45		06/24/2005	07:00	06/24/2005	07:05	07:07	08:00	4
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	ETH
			#1 #2 #3						
ADDRESS					CITY	STATE	ZIP CODE	LOCATION NO.	
VICTIM'S NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	ETH
MILLER, LASHAWN			#1 ST #2 ST #3 ST		S	B	M	19	N
ADDRESS					CITY	STATE	ZIP CODE	LOCATION NO.	
					DUNCAN	SC	29306-	4	
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.					
		BLACK	BROWN						
ADDRESS					CITY	STATE	ZIP CODE	LOCATION NO.	
VISIBLE INJURY (MCT.1) YES NO EXPLAIN:					Other COMPLAINT OF ANY NON-VISIBLE INJURIES YES NO				
VICTIM (NO. 1) USING ALCOHOL YES NO UNK. TYPE:					DRUGS YES NO UNK. TYPE:				
TWO MAN VEH. ONE MAN VEH. DETECTIVE/PLASMT. OTHER ALONE ASSISTED					*J-This Jurisdiction. S-State. O-Out of State. U-Unknown.				
☒ SUSPECT	NAME (LAST, FIRST, MIDDLE)				RACE	SEX	AGE	ETH	DATE OF BIRTH
☐ RUNAWAY	JETER, TRAVIS				B	M	18	N	01/26/1987
☐ WANTED	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.				DAYTIME PHONE		EVENING PHONE		
☒ WARRANT					803-				
☒ ARREST	ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO.	
☐ JAIL					Woodruff	SC	29388-	4	
☐ SUMMONS	SUBJECT (NO. 1) USING ALCOHOL YES NO UNK. TYPE:				ARRESTED NEAR OFFENSE SCENE YES NO		DATE/TIME OF OFFENSE		DATE/TIME OF ARREST
				2		06/24/2005 6:45:00 AM		06/30/2005 1:30:00 PM	
DAY OF THE WEEK		HOW REPORTED		A= OFFICER DISPATCHED ON CALL D= COMPLAINT WRITTEN IN		DIFF. FACTOR		A= RESISTANCE/HOSTILITY E= COMPLAINANT FRE-	
S M T W T F S UNK				B= REPORT TAKEN BY PHONE E= OFFICER INITIATED				QUENTLY INTOXICATED	
				C= COMPLAINANT WALKED IN F= OTHER				F= DOMESTIC N= NORMAL	
ORIGINAL RUSSELL-R									
ON 06-24-2005, I WAS ON CRESCENT AVENUE WHEN I WAS DISPATCHED TO [REDACTED] IN REFERENCE TO A SHOOTING. UPON MY ARRIVAL THE VICTIM MR. DONALD MARTIN, JR. WAS LYING ON THE GROUND NEAR HIS RESIDENCE COVERED IN BLOOD. MR. MARTIN WAS UNRESPONSIVE BUT AWAKE. THE VICTIM MS. BRITTNEY BOYCE SAID THAT THE THREE SUSPECTS KICKED THE FRONT DOOR IN, HELD HER AND THE OTHER VICTIMS AT GUNPOINT, THEN SHE HEARD A SHOT AND MR. MARTIN RECEIVED A GUNSHOT TO THE MOUTH AREA. A SHORT TIME LATER ANOTHER VICTIM MR. SHAWN MILLER WAS FOUND IN SOME BUSHES NEAR THE RESIDENCE. MR. MILLER GAVE THE NAMES OF "BLACK PAT" AND TRAVIS FROM PHYLLIS GOINS AS TWO OF THE THREE SUSPECTS THAT PARTICIPATED IN THE SHOOTING. VNI'S WERE NOT ABLE TO BE GIVEN OUT AND CID (SGT TAYLOR, BOOZER, HEARST AND TALANGES) ARRIVED SHORTLY AND TOOK OVER THE SCENE.									
JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY					JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY				
TYPE (GROUP)									TOTAL VALUE
STOLEN	0								0
DAMAGED	0								0
BURNED	0								0
RECOVERED	0								0
SEIZED	0								0
SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☐ YES ☒ NO		S. F.	☒ ACTIVE ☐ ADM. CLOSED		☐ ARRESTED UNDER 18		☐ EX-CLEAR UNDER 18
					☐ UNFOUNDED		☒ ARRESTED 18 AND OVER		☐ EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE NO CUSTODY									
REPORTING OFFICER(S)			DATE	UNIT NUMBER	APPROVING OFFICER			DATE	UNIT NUMBER
RUSSELL, R R			06/24/2005 7:07:00	0110					

824

AGENCY : SPARTANBURG PUBLIC
SAFETY DEPARTMENTORI # :
Report Date/Time : 06/24/2005 06:45
Incident # : 06086805INCIDENT REPORT
ADDITIONAL OTHERS

PERSON TYPE SUSPECT	NAME (LAST, FIRST, MIDDLE) SMITH, PATRICK, ANTIONE				RELATIONSHIP SUBJECT #1 #2 #3			RESIDENT J	RACE B	SEX M	AGE 18 /	D.O.B. 05/29/1987	ETH N
	HEIGHT 511	WEIGHT 180	HAIR BLACK	EYES BROWN	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	ADDRESS [REDACTED]				CITY SPARTANBURG	STATE SC	ZIP CODE 29306-	LOCATION NO 4	DAYTIME PHONE 864-583 [REDACTED]		EVENING PHONE [REDACTED]		
VISIBLE INJURY ☐ YES ☐ NO ☐ EXPLAIN- _____ COMPLAINT OF ANY NON-VISIBLE INJURIES ☐ YES ☐ NO ☐													
USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. ☒ DRUGS: ☐ YES ☐ NO ☐ UNK. ☒ TYPE: _____													

PERSON TYPE SUSPECT	NAME (LAST, FIRST, MIDDLE) UNKNOWN				RELATIONSHIP SUBJECT #1 #2 #3			RESIDENT U	RACE B	SEX M	AGE 17 / 23	D.O.B.	ETH N
	HEIGHT	WEIGHT	HAIR BLACK	EYES BROWN	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC. PHYSICAL ODDITIES/LEFT FACIAL CHEEK/TUMOR								
	ADDRESS [REDACTED]				CITY	STATE	ZIP CODE	LOCATION NO 4	DAYTIME PHONE [REDACTED]		EVENING PHONE [REDACTED]		
VISIBLE INJURY ☐ YES ☐ NO ☐ EXPLAIN- _____ COMPLAINT OF ANY NON-VISIBLE INJURIES ☐ YES ☐ NO ☐													
USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. ☒ DRUGS: ☐ YES ☐ NO ☐ UNK. ☒ TYPE: _____													

PERSON TYPE VICTIM	NAME (LAST, FIRST, MIDDLE) MARTIN, DONALD, JR				RELATIONSHIP SUBJECT #1 #2 #3			RESIDENT J	RACE B	SEX M	AGE 21 /	D.O.B. 06/10/1984	ETH N
	HEIGHT	WEIGHT	HAIR BLACK	EYES BROWN	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	ADDRESS [REDACTED]				CITY SPARTANBURG	STATE SC	ZIP CODE 29306-	LOCATION NO 4	DAYTIME PHONE [REDACTED]		EVENING PHONE [REDACTED]		
VISIBLE INJURY ☐ YES ☐ NO ☐ EXPLAIN- _____ Internal Other _____ COMPLAINT OF ANY NON-VISIBLE INJURIES ☐ YES ☐ NO ☐													
USING: ALCOHOL ☐ YES ☐ NO ☒ UNK. ☐ DRUGS: ☐ YES ☐ NO ☒ UNK. ☐ TYPE: _____													

PERSON TYPE VICTIM	NAME (LAST, FIRST, MIDDLE) BOYCE, BRITTNEY				RELATIONSHIP SUBJECT #1 #2 #3			RESIDENT J	RACE B	SEX F	AGE 19 /	D.O.B.	ETH N
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	ADDRESS [REDACTED]				CITY Spartanburg	STATE SC	ZIP CODE 29306-	LOCATION NO 4	DAYTIME PHONE [REDACTED]		EVENING PHONE [REDACTED]		
VISIBLE INJURY ☐ YES ☐ NO ☐ EXPLAIN- _____ Other _____ COMPLAINT OF ANY NON-VISIBLE INJURIES ☐ YES ☐ NO ☐													
USING: ALCOHOL ☐ YES ☐ NO ☒ UNK. ☐ DRUGS: ☐ YES ☐ NO ☒ UNK. ☐ TYPE: _____													

PERSON TYPE VICTIM	NAME (LAST, FIRST, MIDDLE) GRAY, MARY				RELATIONSHIP SUBJECT #1 #2 #3			RESIDENT J	RACE B	SEX F	AGE 50 /	D.O.B.	ETH N
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	ADDRESS [REDACTED]				CITY Spartanburg	STATE SC	ZIP CODE 29306-	LOCATION NO 4	DAYTIME PHONE [REDACTED]		EVENING PHONE [REDACTED]		
VISIBLE INJURY ☐ YES ☐ NO ☐ EXPLAIN- _____ Other _____ COMPLAINT OF ANY NON-VISIBLE INJURIES ☐ YES ☐ NO ☐													
USING: ALCOHOL ☐ YES ☐ NO ☒ UNK. ☐ DRUGS: ☐ YES ☐ NO ☒ UNK. ☐ TYPE: _____													

PERSON TYPE VICTIM	NAME (LAST, FIRST, MIDDLE) [REDACTED] JAVONICA [REDACTED]				RELATIONSHIP SUBJECT #1 #2 #3			RESIDENT J	RACE B	SEX F	AGE 6 / 8	D.O.B.	ETH N
	HEIGHT	WEIGHT	HAIR BLACK	EYES BROWN	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	ADDRESS 700 ARIZONA AVE				CITY SPARTANBURG	STATE SC	ZIP CODE 29306-	LOCATION NO	DAYTIME PHONE [REDACTED]		EVENING PHONE [REDACTED]		

USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. ☐ DRUGS: ☐ YES ☐ NO ☐ UNK. ☐ TYPE:

AGENCY: SPARTANBURG PUBLIC

ORI #:

Report Date/Time: 06/24/2005 06:45

Incident #: 06088805

 INCIDENT REPORT
 ADDITIONAL OTHERS

PERSON TYPE VICTIM	NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
	IESHA				#1	#2	#3	J	B	F	14	12/22/1990	N
	HEIGHT	WEIGHT	HAIR BLACK	EYES BROW	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
ADDRESS				CITY		STATE	ZIP CODE	LOCATION NO.	DAYTIME PHONE		EVENING PHONE		
				SPARTANBURG		SC	29306-						
VISIBLE INJURY ☐ YES ☐ NO ☐ EXPLAIN- COMPLAINT OF ANY NON-VISIBLE INJURIES ☐ YES ☐ NO ☐													
USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. ☐ DRUGS: ☐ YES ☐ NO ☐ UNK. ☐ TYPE:													

PERSON TYPE VICTIM	NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
	NYQWESHA				#1	#2	#3	J	B	F	4		N
	HEIGHT	WEIGHT	HAIR BLACK	EYES BROW	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
ADDRESS				CITY		STATE	ZIP CODE	LOCATION NO.	DAYTIME PHONE		EVENING PHONE		
				SPARTANBURG		SC	29306-						
VISIBLE INJURY ☐ YES ☐ NO ☐ EXPLAIN- COMPLAINT OF ANY NON-VISIBLE INJURIES ☐ YES ☐ NO ☐													
USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. ☐ DRUGS: ☐ YES ☐ NO ☐ UNK. ☐ TYPE:													

PERSON TYPE	NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	ADDRESS				CITY		STATE	ZIP CODE	LOCATION NO.	DAYTIME PHONE		EVENING PHONE	
VISIBLE INJURY ☐ YES ☐ NO ☐ EXPLAIN- COMPLAINT OF ANY NON-VISIBLE INJURIES ☐ YES ☐ NO ☐													
USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. ☐ DRUGS: ☐ YES ☐ NO ☐ UNK. ☐ TYPE:													

PERSON TYPE	NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	ADDRESS				CITY		STATE	ZIP CODE	LOCATION NO.	DAYTIME PHONE		EVENING PHONE	
VISIBLE INJURY ☐ YES ☐ NO ☐ EXPLAIN- COMPLAINT OF ANY NON-VISIBLE INJURIES ☐ YES ☐ NO ☐													
USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. ☐ DRUGS: ☐ YES ☐ NO ☐ UNK. ☐ TYPE:													

PERSON TYPE	NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	ADDRESS				CITY		STATE	ZIP CODE	LOCATION NO.	DAYTIME PHONE		EVENING PHONE	
VISIBLE INJURY ☐ YES ☐ NO ☐ EXPLAIN- COMPLAINT OF ANY NON-VISIBLE INJURIES ☐ YES ☐ NO ☐													
USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. ☐ DRUGS: ☐ YES ☐ NO ☐ UNK. ☐ TYPE:													

PERSON TYPE	NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	ADDRESS				CITY		STATE	ZIP CODE	LOCATION NO.	DAYTIME PHONE		EVENING PHONE	

826

USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. ☐ DRUGS: ☐ YES ☐ NO ☐ UNK. ☐ TYPE:

AGENCY: SPARTANBURG PUBLIC SAFETY
 ORI #:
 Report Date / Time: 06/24/2005 06:45
 Incident #: 06086805

ADDITIONAL PROPERTY

STATUS: NONE		RELATED TO: VICTIM 1 MILLER, SHAWN		CLASS:	
DESCRIPTION: NONE				LOCATION:	
BRAND		MODEL		SERIAL NO.	
UCR CODE 220		QUANTITY 1		VALUE	
DATE RECOVERED		JURISDICTION STOLEN		JURISDICTION RECOVERED	
STATUS:		RELATED TO:		CLASS:	
DESCRIPTION				LOCATION	
BRAND		MODEL		SERIAL NO.	
UCR CODE		QUANTITY		VALUE	
DATE RECOVERED		JURISDICTION STOLEN		JURISDICTION RECOVERED	
STATUS:		RELATED TO:		CLASS:	
DESCRIPTION				LOCATION	
BRAND		MODEL		SERIAL NO.	
UCR CODE		QUANTITY		VALUE	
DATE RECOVERED		JURISDICTION STOLEN		JURISDICTION RECOVERED	
STATUS:		RELATED TO:		CLASS:	
DESCRIPTION				LOCATION	
BRAND		MODEL		SERIAL NO.	
UCR CODE		QUANTITY		VALUE	
DATE RECOVERED		JURISDICTION STOLEN		JURISDICTION RECOVERED	
STATUS:		RELATED TO:		CLASS:	
DESCRIPTION				LOCATION	
BRAND		MODEL		SERIAL NO.	
UCR CODE		QUANTITY		VALUE	
DATE RECOVERED		JURISDICTION STOLEN		JURISDICTION RECOVERED	
STATUS:		RELATED TO:		CLASS:	
DESCRIPTION				LOCATION	
BRAND		MODEL		SERIAL NO.	
UCR CODE		QUANTITY		VALUE	
DATE RECOVERED		JURISDICTION STOLEN		JURISDICTION RECOVERED	
STATUS:		RELATED TO:		CLASS:	
DESCRIPTION				LOCATION	
BRAND		MODEL		SERIAL NO.	
UCR CODE		QUANTITY		VALUE	
DATE RECOVERED		JURISDICTION STOLEN		JURISDICTION RECOVERED	

ADDITIONAL NARRATIVE

Agency Name: SPARTANBURG PUBLIC SAFETY DEPARTMENT	ORI #: SC0420100	Report Date/Time: 06/24/2005 6:45:00 AM	OCA #: 06086805

SUPPLEMENTAL - HAUSE, RW

ON 6-24-05 AT 0705 I RESPONDED TO A SHOOTING AT [REDACTED] [REDACTED]. UPON MY ARRIVAL, I USED CRIME SCENE TAPE TO CORDON OFF A CRIME SCENE WHICH INCLUDED W. ARIZONA AVE FROM CALIFORNIA BLVD. TO THE DEAD END OF W. ARIZONA AVE.

ADDITIONAL NARRATIVE

Agency Name SPARTANBURG PUBLIC SAFETY DEPARTMENT	ORI # SC0420100	Report Date/Time: 06/24/2005 6:45:00 AM	OCA # 06086805

SUPPLEMENTAL - HEYDE, T

ON 06-24-05, I RESPONDED TO [REDACTED] AT 0720 HOURS TO ASSIST OFFICER RUSSELL AND OFFICER HAUSE. I STARTED A CRIME SCENE LOG AND PASSED IT ON TO OFFICER MCULLOUGH TO COMPLETE.

ADDITIONAL NARRATIVE

Agency Name: SPARTANBURG PUBLIC SAFETY DEPARTMENT	ORI #: SC0420100	Report Date/Time: 06/24/2005 6:45:00 AM	OCA #: 06086805

SUPPLEMENTAL - NOWAK, R

ON JUNE 24, 2005 AT APPROXIMATELY 0703 A SHOOTING CALL WAS DISPATCHED ON W ARIZONA. WHILE EN ROUTE I CONTACTED MPO REECE AND REQUESTED HIS ASSISTANCE. HE STATED HE WAS EN ROUTE. I ALSO CONTACTED LT. LAMB TO CALL OUT INVESTIGATIONS. WHILE RESPONDING TO THE SCENE OFFICER KUHN FLAGGED ME DOWN NEAR CRESCENT ROAD. SHE HAD A YOUNG BLACK FEMALE AT GUN POINT ON THE GROUND. I GOT OUT WITH OFFICER KUHN AND SHE STATED THAT THE SUBJECT HAD SOMETHING ON HER SIDE. I STEPPED AROUND THE SUBJECT AND RECOVERED A GALLON ZIPLOC BAG THAT APPEARED TO BE FILLED WITH MARIJUANA AND A LARGE SET OF SCALES. I ASKED THE SUBJECT AND THEN SEARCHED HER FOR WEAPONS. THE SUBJECT WAS PLACED IN THE BACK OF OFFICER KUHN'S VEHICLE AND OFFICER KUHN TRANSPORTED HER TO CITY HALL. I RESPONDED OVER TO W. ARIZONA. I SPOKE WITH LT. LAMB AGAIN AND HE STATED SGT TAYLOR WAS EN ROUTE. I ALSO CALLED THE FORENSIC UNIT (TALANGES) AND HE RESPONDED TO THE SCENE. THE CRIME SCENE WAS ROPED OFF AND OFFICER HEYDE STARTED A CRIME SCENE LOG, WHICH HE PASSED OFF TO OFFICER MCCULLOUGH. OFFICERS HEYDE, KING, KUHN, HAUSE AND MYSELF COMPLETED SUPPLEMENTALS. OFFICER RUSSELL COMPLETED THE INITIAL REPORT. THE CRIME SCENE WAS RELEASED TO SGT TAYLOR.

ADDITIONAL NARRATIVE

Agency Name: SPARTANBURG PUBLIC SAFETY DEPARTMENT	ORI #: SC0420100	Report Date/Time: 06/24/2005 6:45:00 AM	OCA #: 06086805

SUPPLEMENTAL - KING, JA

ON 6-24-05 AT APPROXIMATELY 0706 HOURS I RESPONDED TO [REDACTED] TO ASSIST WITH A POSSIBLE SHOOTING. I WAS THE FIRST OFFICER ON SCENE AT [REDACTED]. I OBSERVED SEVERAL SUBJECTS STANDING IN FRONT OF THE RESIDENCE AND ONE BLACK MALE WITH DREADS LAYING IN THE FRONT YARD. THE SUBJECT APPEARED TO BE SHOT IN THE SHOULDER. SHORTLY AFTER, A SECOND SUBJECT CAME WALKING OUT OF THE WOODS NEXT TO THE RESIDENCE. I IDENTIFIED HIM AS SHAWN MILLER, DOB 9-25-85. EMS ARRIVED AND TRANSPORTED BOTH VICTIMS.

I ASSISTED OFFICER REECE IN A K-9 TRACK AT APPROXIMATELY 0745 HOURS.

ADDITIONAL NARRATIVE

Agency Name: SPARTANBURG PUBLIC SAFETY DEPARTMENT	ORI #: SC0420100	Report Date/Time: 06/24/2005 6:45:00 AM	OCA #: 06086805

SUPPLEMENTAL - KUHN, S

06-24-05 AT 0706 HOURS AS I COMPLETED A BURGLARY REPORT FROM [REDACTED]. COMMUNICATIONS ADVISED VIA RADIO OF A POSSIBLE HOSTAGE SITUATION WITH SHOOTING VICTIMS. I LEFT MY INCIDENT LOCATION AND PROCEEDED TO W. ARIZONA AVE TO ASSIST. EN ROUTE AS I TRAVELLED EAST ON CRESCENT AVENUE, I OBSERVED A BLACK FEMALE STANDING AT THE CORNER OF CRESTVIEW AND CRESCENT AVENUE. SHE WAS STANDING IN THE MIDDLE OF THE ROADWAY OF CRESTVIEW CLUTCHING HER STOMACH WITH BOTH ARMS AS IF TO CONCEAL SOMETHING. I STOPPED AND ASKED IF SHE WAS OK AND WHERE SHE WAS COMING FROM. SHE INDICATED THAT SHE WAS COMING FROM THE AREA OF THE SHOOTING. I ALSO OBSERVED A DISTINCT BULGE UNDER HER SHIRT. CONCERNED FOR MY SAFETY, THE FEMALE'S, AND POSSIBLY EVIDENCE PRESERVATION I PLACED THE YOUNG LADY ON THE GROUND AND HAD LT NOWAK STOPPED TO TURN INTO CRESTVIEW DRIVE, I HAD HER TURN TO MY LOCATION AND STOP. FROM THE BLACK FEMALE I RECOVERED A GALLON SIZE BLUE ZIP LOCK BACK CONTAINING A LEAFY SUBSTANCE KNOWN TO ME AS MARIJUANA AND ONE PELOOZE DIGITAL GREY TABLET. I HAVE PLACED THESE TWO ITEMS INTO EVIDENCE. THE WEIGHT OF THE LEAFY SUBSTANCE IS. AT THE TIME I ENCOUNTERED THE FEMALE NO SUSPECT DESCRIPTIONS HAD BEEN GIVEN OUT. I TRANSPORTED THE FEMALE LESHA GRAY-SON TO CITY HALL TO BE INTERVIEWED.

ADDITIONAL NARRATIVE

Agency Name: SPARTANBURG PUBLIC SAFETY DEPARTMENT	ORI #: SC0420100	Report Date/Time: 06/24/2005 6:45:00 AM	OCA #: 06086805

SUPPLEMENTAL - MCCULLOUGH, SM

ON TODAY'S DATE AT 0735 HRS. THIS OFFICER ARRIVED AT THE CORNER OF W. ARIZONA AVE. AND CALIFORNIA AVE. AT THIS TIME I WAS ADVISED BY LT. A. GILBERT TO TAKE OVER THE CRIME SCENE LOG FROM OFC. T. HEYDE. I MAINTAINED THE LOG UNTIL 1245 HRS.

ADDITIONAL NARRATIVE

Agency Name: SPARTANBURG PUBLIC SAFETY DEPARTMENT	ORI #: SC0420100	Report Date/Time: 06/24/2005 6:45:00 AM	OCA #: 06086805

SUPPLEMENTAL- MASON, CW

ON 06-26-06 AT APPROX 2020 HRS I WAS DISPATCHED TO SPARTANBURG REGIONAL IN REFERENCE TO MORE INFORMATION ON THE HOME INVASION CASE. UPON ARRIVAL AT APPROX 2027 HRS THE VICTIM STATED THAT A B/F CALLING HERSELF POOHBEAR HAS CALLED THE VICTIM SEVERAL TIMES TELLING THE VICTIM THAT SHE KNOWS WHO THE SUSPECTS ARE THAT CAME INTO VICTIM'S HOUSE THE OTHER NIGHT. THE NAMES THAT POOH BEAR GAVE HER ARE A DAVLAND ANTONIO MILLER, A KEVIN JUNIOR AND A THE MONIKER OF A COWBOY SMITH. THE VICTIM DOES NOT KNOW THE INFORMANT BY NAME BUT THINKS SHE LIVES SOME WHERE IN CAMMIE CLAGGET IN EITHER [REDACTED] THE VICTIM STATED THAT SHE HAS RECORDED THE CALLS AND HAS THE RECORDINGS AVAILABLE IF NEEDED.

INCIDENT REPORT

INFORMATION
ONLY

CASE NUMBER
06088405

NCIC
833
ENTD.
No

INCIDENT TYPE				COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM	
1. PWID MARIJUANA 35A DRUG/NARCOTIC VIOLATIONS				☒ YES ☐ NO	☐ YES ☒ NO	HIGHWAY/ROAD/ALLE		☐ Individual ☐ Business ☐ Financial Inst ☐ Government ☐ Relig. Orgn. ☐ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.	
2. POSSESSION DRUG PARAPHERNALIA 35B DRUG EQUIPMENT VIOLATIONS				☐ YES ☐ NO	☐ YES ☒ NO	HIGHWAY/ROAD/ALLE			
3.				☐ YES ☐ NO	☐ YES ☐ NO				
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)						ZIP CODE	WEAPON TYPE		
[REDACTED] SPARTANBURG, SC						29306-			
INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK		LOCATION NO.		
06/24/2005	07:06		06/24/2005	07:06	DISP. DATE	DISP. TIME	TIME ARRIVED	DEPART. TIME	
							08:30	11:50	
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	
SAAR, CRYSTAL			#1 #2 #3		J	W	F	28 /	
ADDRESS			CITY		STATE	ZIP CODE	LOCATION NO.		
[REDACTED]			SPARTANBURG		SC	29306-	3		
VICTIM'S NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	
CITY OF SPARTANBURG			#1 #2 #3					/	
ADDRESS			CITY		STATE	ZIP CODE	LOCATION NO.		
[REDACTED]			SPARTANBURG		SC	29306-	3		
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.					
ADDRESS			CITY		STATE	ZIP CODE	LOCATION NO.		
[REDACTED]			SPARTANBURG		SC	29306-	3		
VIOLENCE (MCT.1) ☐ YES ☐ NO ☐ EXPLAIN.				COMPLAINT OF ANY NON-VIOLENCE ☐ YES ☐ NO ☐					
VICTIM (NO.1) USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. ☐ TYPE:				DRUGS: ☐ YES ☐ NO ☐ UNK. ☐ TYPE:					
TWO-MAN VEH. ☐ ONE-MAN VEH. ☐ DETECTIVE/PLASMT. ☐ OTHER ☐				*J-This Jurisdiction. S-State. O-Out of State. U-Unknown.					
ALONE ☐ ASSISTED ☐									
☒ SUSPECT	NAME (LAST, FIRST, MIDDLE)				RACE	SEX	AGE	ETH.	
	[REDACTED] IESHA, [REDACTED]				B	F	14 /	N	
☐ RUNAWAY	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.				DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	
					12/22/1990	506	205	BLACK	
☐ WANTED	ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO.	
	[REDACTED]				SPARTANBURG	SC	29306-	3	
☐ WARRANT	SUBJECT (NO.1) USING ALCOHOL ☐ YES ☐ NO ☐ UNK. ☐ TYPE:				ARRESTED NEAR OFFENSE SCENE ☐ YES ☐ NO ☐				
☐ ARREST	MARIJUANA				DATE/TIME OF OFFENSE				
☐ JAIL	TOTAL # ARRESTED				DATE/TIME OF ARREST				
☐ SUMMONS	1				06/24/2005 7:06:00 AM				
DAY OF THE WEEK				HOW REPORTED		A= OFFICER DISPATCHED ON CALL		D= COMPLAINT WRITTEN IN	
S M T W T F S UNK						B= REPORT TAKEN BY PHONE		E= OFFICER INITIATED	
						C= COMPLAINANT WALKED IN		F= OTHER	
						DIFF. FACTOR		A= RESISTANCE/HOSTILITY	
								B= WEAPONS	
								C= UNFOUNDED CALLS	
								D= MENTAL SUBJECT	
								E= COMPLAINANT FRE-QUENTLY INTOXICATED	
								F= DOMESTIC	
								N= NORMAL	
ORIGINAL - SAAR, C									
ON 6-24-05 AT 0830 HRS I WAS INFORMED BY OFFICER KUHN THAT IESHA [REDACTED] WAS LOCATED AT CRESTVIEW AND CRESCENT WITH A BLUE IN COLOR GALLON SIZE ZIP LOCK BAG WITH GREEN LEAFY SUBSTANCE INSIDE AND A SCALE. I SPOKE WITH IESHA ABOUT THE SUBSTANCE AND THE SCALE. SHE STATED THAT AFTER THE SHOOTING HER AND HER GRANDMOTHER, MARY GRAY, WENT OUT THE BACK DOOR IN THE YARD. IESHA STATED THAT HER GRANDMOTHER GAVE HER A BROWN PAPER BAG AND TOLD HER TO TAKE IT TO DEVAN'S HOUSE, UNKNOWN LAST NAME. SHE STATED THAT SHE KNEW WHAT WAS IN THE BAG BUT DIDN'T LOOK. INVESTIGATORS SPOKE WITH MS GRAY AND SHE DENIES GIVING HER THE "DOPE" THAT SHE GOT IT ON HER OWN. I SPOKE WITH ERICA MCJIMPSEY ABOUT THE SITUATION, SHE STATED THAT IESHA NASH HAS OTHER CHARGES PENDING AND TO CHARGE IESHA WITH PWID AND TRANSPORT HER TO DEPARTMENT OF JUVENILE									
JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY					JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY				
TYPE (GROUP)	DRUGS/NARCOTICS	DRUGS/NARCOTICS EQUIPMENT					TOTAL VALUE		
STOLEN	0	0					0		
DAMAGED	0	0					0		
BURNED	0	0					0		
RECOVERED	0	0					0		
SEIZED	0	1					1		
SUBJECT IDENTIFIED ☐ YES ☐ NO ☐		SUBJECT LOCATED ☐ YES ☐ NO ☐		S. F.	☐ ACTIVE ☐ ADM. CLOSED	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18		
					☐ UNFOUNDED	☐ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER		
REASON FOR EXCEPTIONAL CLEARANCE 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE AND CUSTODY.									
REPORTING OFFICER(S)			DATE	UNIT NUMBER	APPROVING OFFICER			DATE	UNIT NUMBER
SAAR, C C			06/24/2005 8:30:00 AM	0166					
FOLLOWUP INVESTIGATION ☐ YES ☐ NO ☐					OFFICER				

ADDITIONAL NARRATIVE

Agency Name: SPARTANBURG PUBLIC SAFETY DEPARTMENT	ORI #: SC0420100	Report Date/Time: 06/24/2005 7:06:00 AM	OCA #: 06088405

JUSTICE IN COLUMBIA, SC. I CONTACTED DJJ OFFICE AT SPARTANBURG COUNTY COURT ABOUT A REFERRAL AND THEY WILL BE OVER WITH PAPERWORK. LINDELL JACKSON CAME TO CITY HALL AT 1150 HRS AND DROPPED OFF SCREENING PAPERS FOR DJJ.

AGENCY: SPARTANBURG PUBLIC SAFETY
ORI #:
Report Date / Time: 06/24/2005 07:06
Incident #: 06088405

STATE OF SOUTH CAROLINA)

IN THE FAMILY COURT

COUNTY OF SPARTANBURG)

IN THE INTEREST OF:)

**ORDER FOR RELEASE
UNDER HOUSE ARREST**

Iesha [REDACTED])

B/M [REDACTED] DOB: 12-22-90)

Child Under the Age of 17 Yrs.)

2005-JU-42-314

HEARING DATE:**JUNE 28, 2005****JUDGE:****GEORGIA V. ANDERSON****COURT REPORTER:****CHERYL MACMILLAN****ATTORNEY FOR SOLICITOR:****ERIKA L. MCJIMPSEY****ATTORNEY FOR JUVENILE:****KAREN HAMRICK****GUARDIAN AD LITEM:****NONE PRESENT**

This matter comes before the Family Court of the Seventh Judicial Circuit for the purpose of determining whether said minor less than seventeen (17) years of age should be detained or released this 28TH day of June, 2005.

The Court considering all the allegations cited in the Petition(s) dated and filed by the Seventh Judicial Circuit Solicitor, by reference made a part hereof, and the testimony and other evidence presented to the Court, finds that said child should be released to the care and custody of Reginald Nash, Defendant's parent/guardian.

IT IS ORDERED THAT said Defendant shall be released on Electronic monitoring to the above parent/guardian, provided however, that the within Defendant shall at all times be in the physical presence of the aforesaid parent/guardian or inside the residence of Reginald Nash located at [REDACTED], Spartanburg, SC except for the purpose of going directly to and from school and/or church, doctor's appointments, or lawyer's office. The minor is not to talk on the phone with friends or have friends to visit at the home.

IT IS FURTHER ORDERED that in the event the within Defendant is found to be outside the physical presence of the parent/guardian or said parent/ guardian's residence except for the purposes of attending school and/or church, going to doctor's appointments, or going to the library, she shall be immediately placed in a secure juvenile facility provided by Spartanburg County until she may be brought before the Court and dealt with accordingly. A copy of this Order shall serve as authority for the detention and placement of the within Defendant in a secure juvenile facility provided by Spartanburg County.

IT IS FURTHER ORDERED that in the event the within Defendant shall violate this Order the parent/guardian shall immediately notify the Police Department where the parent/guardian lives and the Spartanburg Office of the South Carolina Department of Juvenile Justice. In the event the parent/guardian fails to notify, as set forth above, of the Defendant's violation, said parent/guardian shall be subject to the contempt powers of this Court.

IT IS FURTHER ORDERED that a copy of this Order shall be disseminated to law enforcement agencies upon its execution by the Court.

AND IT IS SO ORDERED.


GEORGIA V. ANDERSON
Family Court Judge

June 28, 2005
Spartanburg, South Carolina

YWD
2

INCIDENT REPORT

INVEST

VICTIM

SUSPECT

FOLLOWUP

PROPERTY

PROPERTY

INCIDENT TYPE				COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM							
1. CRIMINAL SEXUAL CONDUCT 11A CRIMINAL SEXUAL CONDUCT				☒ YES ☐ NO	☐ YES ☒ NO	RESIDENCE/HOME		☒ Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Relig. Orgn. ☐ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.							
2.				☐ YES ☐ NO	☐ YES ☐ NO										
3.				☐ YES ☐ NO	☐ YES ☐ NO										
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER) 231 CONLEY ST, SPARTANBURG, SC						ZIP CODE 29301-	WEAPON TYPE								
INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK			LOCATION NO.							
08/01/1996	15:00		08/01/1999	15:00	DISP. DATE	DISP. TIME	TIME ARRIVED	DEPART. TIME							
					08/04/2005	10:54	10:59	12:30	3						
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE) NASH, REGINALD			RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE				
			#1 #2 #3		J	B	M	31	N	864-209- [REDACTED]	-- [REDACTED]				
ADDRESS			CITY		STATE	ZIP CODE	LOCATION NO.								
			SPARTANBURG		SC	29301-	4								
VICTIM'S NAME (LAST, FIRST, MIDDLE) [REDACTED] IESHA			RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE				
			#1 #2 #3		J	B	F	14	N	864-209- [REDACTED]	-- [REDACTED]				
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.											
508	160	BLACK	BROWN												
ADDRESS			CITY		STATE	ZIP CODE	LOCATION NO.								
			SPARTANBURG		SC	29301-	4								
VIOLENCE (VCT.1) ☐ YES ☐ NO ☐ EXPLAIN-				COMPLAINT OF ANY NON-VIOLENCE ☐ YES ☐ NO ☐											
VCTM (NO.1) USING ALCOHOL ☐ YES ☐ NO ☒ UNK. ☐				DRUGS: ☐ YES ☐ NO ☒ UNK. ☐				TYPE:							
TWO MAN VEH. ☐ ONE MAN VEH. ☐ DETECTIVE PLASMT. ☐ OTHER ☐				ALONE ☐ ASSISTED ☐				*J-This Jurisdiction. S-State. O-Out of State. U-Unknown.							
☒ SUSPECT	NAME (LAST, FIRST, MIDDLE) MARTIN, DONALD, JR				RACE	SEX	AGE	ETH	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES		
					B	M	21	N	06/10/1984	509	150	BLACK	BROWN		
☐ RUNAWAY	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.														
☐ WANTED	DAYTIME PHONE ☐ EVENING PHONE ☐														
☐ WARRANT	ADDRESS														
☐ ARREST	CITY														
☐ JAIL	STATE														
☐ SUMMONS	ZIP CODE														
SUBJECT (NO.1) USING ALCOHOL ☐ YES ☐ NO ☒ UNK. ☐				ARRESTED NEAR OFFENSE SCENE ☐ YES ☐ NO ☒				DATE/TIME OF OFFENSE				DATE/TIME OF ARREST			
DRUGS ☐ YES ☐ NO ☒ UNK. ☐				TOTAL # ARRESTED				08/01/1996 3:00:00 PM							
DAY OF THE WEEK				HOW REPORTED				A= OFFICER DISPATCHED ON CALL D= COMPLAINT WRITTEN IN				DIFF. FACTOR		A= RESISTANCE/HOSTILITY E= COMPLAINANT FRE- QUENTLY INTOXICATED	
S M T W T F S UNK								B= REPORT TAKEN BY PHONE E= OFFICER INITIATED						F= DOMESTIC N= NORMAL	
								C= COMPLAINANT WALKED IN F= OTHER							
ORIGINAL- FORRESTER, H															
RESPONDED TO A SEXUAL ASSAULT REPORTED AT [REDACTED]															
JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY						JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY									
TYPE (GROUP)											TOTAL VALUE				
STOLEN											0				
DAMAGED											0				
BURNED											0				
RECOVERED											0				
SEIZED											0				
SUBJECT IDENTIFIED ☒ YES ☐ NO ☐		SUBJECT LOCATED ☐ YES ☒ NO ☐		S. F. [REDACTED]		☒ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED		ARRESTED UNDER 18 ARRESTED 18 AND OVER		☐ EX-CLEAR UNDER 18 ☒ EX-CLEAR 18 AND OVER					
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☒ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE NO CUSTODY															
REPORTING OFFICER(S)				DATE		UNIT NUMBER		APPROVING OFFICER				DATE		UNIT NUMBER	
GAULT, H D				08/04/2005 10:54:00		0182									
								FOLLOWUP INVESTIGATION ☒ YES ☐ NO ☐				OFFICER GAULT, H D		08/04/2005 1:38:00	
														0182	

ADDITIONAL OTHERS

PERSON TYPE Parent	NAME (LAST, FIRST, MIDDLE) GRAY, ERICA				RELATIONSHIP SUBJECT #1 #2 #3			RESIDENT J	RACE B	SEX F	AGE 29	D.O.B. 07/17/1976	ETH N
	HEIGHT	WEIGHT	HAIR BLACK	EYES BROW	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	ADDRESS 200 BONAIRE AVE				CITY Spartanburg		STATE SC	ZIP CODE 29303	LOCATION NO. 1	DAYTIME PHONE --		EVENING PHONE --	
VIOLENCE/NURY ☐ YES ☐ NO ☐ EXPLAIN- COMPLAINT OF ANY NON-VIOLENCE/NURY ☐ YES ☐ NO ☐													
USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. ☐ DRUGS: ☐ YES ☐ NO ☐ UNK. ☐ TYPE:													

PERSON TYPE	NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP SUBJECT #1 #2 #3			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	ADDRESS				CITY		STATE	ZIP CODE	LOCATION NO.	DAYTIME PHONE		EVENING PHONE	
VIOLENCE/NURY ☐ YES ☐ NO ☐ EXPLAIN- COMPLAINT OF ANY NON-VIOLENCE/NURY ☐ YES ☐ NO ☐													
USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. ☐ DRUGS: ☐ YES ☐ NO ☐ UNK. ☐ TYPE:													

PERSON TYPE	NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP SUBJECT #1 #2 #3			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	ADDRESS				CITY		STATE	ZIP CODE	LOCATION NO.	DAYTIME PHONE		EVENING PHONE	
VIOLENCE/NURY ☐ YES ☐ NO ☐ EXPLAIN- COMPLAINT OF ANY NON-VIOLENCE/NURY ☐ YES ☐ NO ☐													
USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. ☐ DRUGS: ☐ YES ☐ NO ☐ UNK. ☐ TYPE:													

PERSON TYPE	NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP SUBJECT #1 #2 #3			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	ADDRESS				CITY		STATE	ZIP CODE	LOCATION NO.	DAYTIME PHONE		EVENING PHONE	
VIOLENCE/NURY ☐ YES ☐ NO ☐ EXPLAIN- COMPLAINT OF ANY NON-VIOLENCE/NURY ☐ YES ☐ NO ☐													
USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. ☐ DRUGS: ☐ YES ☐ NO ☐ UNK. ☐ TYPE:													

PERSON TYPE	NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP SUBJECT #1 #2 #3			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	ADDRESS				CITY		STATE	ZIP CODE	LOCATION NO.	DAYTIME PHONE		EVENING PHONE	
VIOLENCE/NURY ☐ YES ☐ NO ☐ EXPLAIN- COMPLAINT OF ANY NON-VIOLENCE/NURY ☐ YES ☐ NO ☐													
USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. ☐ DRUGS: ☐ YES ☐ NO ☐ UNK. ☐ TYPE:													

PERSON TYPE	NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP SUBJECT #1 #2 #3			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	ADDRESS				CITY		STATE	ZIP CODE	LOCATION NO.	DAYTIME PHONE		EVENING PHONE	
VIOLENCE/NURY ☐ YES ☐ NO ☐ EXPLAIN- COMPLAINT OF ANY NON-VIOLENCE/NURY ☐ YES ☐ NO ☐													
USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. ☐ DRUGS: ☐ YES ☐ NO ☐ UNK. ☐ TYPE:													

SPARTANBURG PUBLIC SAFETY
DEPARTMENT
SC0420100

INFORMATION
ONLY

CASE NUMBER
03098006

NCIC

INQ. No ENTD. No

INCIDENT REPORT

INCIDENT TYPE				COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
1. STRONG ARMED ROBBERY 120 ROBBERY				☒ YES ☐ NO	☐ YES ☒ NO	APARTMENT/CONDO		☒ Individual ☐ Business ☐ Financial Inst ☐ Government ☐ Relig. Orgn. ☐ Soc./Public ☐ Other ☐ Unknown ☐ Police Off
2.				☐ YES ☐ NO	☐ YES ☐ NO			
3.				☐ YES ☐ NO	☐ YES ☐ NO			
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)						ZIP CODE	WEAPON TYPE	
[REDACTED], SPARTANBURG, SC						29301-		
INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK		LOCATION NO.	
03/30/2006	00:30		03/30/2006	00:45	DISP. DATE	DISP. TIME	TIME ARRIVED	DEPART. TIME
							00:39	01:30
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE
			#1 #2 #3					
ADDRESS			CITY		STATE	ZIP CODE	LOCATION NO.	
VICTIM'S NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE
MARTIN, DONALD, JR			#1 #2 #3		J	B	M	21
			AQ AQ					
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.				
ADDRESS			CITY		STATE	ZIP CODE	LOCATION NO.	
[REDACTED] DR			SPARTANBURG		SC	29306-		
VISIBLE INJURY (MCT 1) ☐ YES ☐ NO ☐ EXPLAIN-						COMPLAINT OF ANY NON-VISIBLE INJURIES ☐ YES ☐ NO ☐		
VICTIM (NO 1) USING: ALCOHOL ☐ YES ☐ NO ☒ UNK. ☐						DRUGS: ☐ YES ☐ NO ☒ UNK. ☐		
TYPE:								
TWO MAN VEH ☐ ONE MAN VEH ☐ DETECTIVE PLASMT. ☐ OTHER ☐						ALONE ☐ ASSISTED ☐		
*J-This Jurisdiction. S-State. O-Out of State. U-Unknown.								
☒ SUSPECT	NAME (LAST, FIRST, MIDDLE)				RACE	SEX	AGE	ETH.
	COHEN, LADERRIS				B	M	23 / 26	N
☐ RUNAWAY	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.				HEIGHT	WEIGHT	HAIR	EYES
	TATTOO/3/RIGHT FACIAL CHEEK/ROBIN				604	200	BLACK	BROWN
☐ WANTED	ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO.
	[REDACTED]				SPARTANBURG	SC	29306-	
☐ ARREST	SUBJECT (NO 1) USING ALCOHOL ☐ YES ☐ NO ☐ UNK. ☐				ARRESTED NEAR OFFENSE SCENE ☐ YES ☐ NO ☒		DATE/TIME OF OFFENSE	
	DRUGS ☐ YES ☐ NO ☐ UNK. ☐				TOTAL # ARRESTED		DATE/TIME OF ARREST	
	TYPE				1		03/30/2006 12:30:00 AM	
							11/13/2006 4:31:00 PM	
DAY OF THE WEEK		HOW REPORTED:		A= OFFICER DISPATCHED ON CALL		D= COMPLAINT WRITTEN IN		DIFF. FACTOR
S M T W T F S UNK				B= REPORT TAKEN BY PHONE		E= OFFICER INITIATED		
				C= COMPLAINANT WALKED IN		F= OTHER		
ORIGINAL - BLEDSOE								
ON 3-30-06 AT 0036 HOURS I RECEIVED A CALL FROM DISPATCH TO GO TO [REDACTED] CIR FOR A WELFARE CHECK. WHEN I ARRIVED I SPOKE TO THE VICTIM, MR DONALD MARTIN, WHO STATES THAT WHILE HE WAS AT APARTMENT [REDACTED] PLAYING CARDS HE WAS ROBBED. MR MARTIN FURTHER STATES THAT THE SUSPECTS, MR TRAVIS WILKINS AND MR LADERRIS COHEN, STARTED PUSHING HIM AROUND AND DEMANDING MONEY. WHEN MR MARTIN REFUSED MR COHEN FORCIBLY HELD MR MARTIN DOWN ON THE COUCH WITH BOTH HANDS ON HIS SHOULDERS WHILE MR WILKINS WENT THROUGH HIS POCKETS REMOVING ALL OF MR MARTINS CASH AND HIS NOKIA CELL PHONE. WHEN MR MARTIN WAS ABLE TO GET UP HE LOCKED HIMSELF IN THE WITNESSES, MS MONIQUE CAMPBELL, ROOM. MR MARTIN STATES THAT BOTH SUSPECTS REPEATEDLY THREATENED TO SHOOT HIM IF HE DID NOT COME OUT. MR MARTIN STAYED IN THE BEDROOM UNTIL								
JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY SC0420100				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY				
TYPE (GROUP)	MONEY/CASH	OTHER	TOTAL VALUE					
STOLEN	75	50	125					
DAMAGED	0	0	0					
BURNED	0	0	0					
RECOVERED	0	0	0					
SEIZED	0	0	0					
SUBJECT IDENTIFIED ☐ YES ☐ NO ☐		SUBJECT LOCATED ☐ YES ☐ NO ☐		S. F.	☒ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED	☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER		☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE NO CUSTODY								
REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER	
RIFDSOF 1A		03/30/2006 12:39:00	0188					

ADDITIONAL NARRATIVE

Agency Name: SPARTANBURG PUBLIC SAFETY DEPARTMENT	ORI #: SC0420100	Report Date/Time: 03/30/2006 12:30:00 AM	OCA #: 03098006

THE SUSPECTS DEPARTED. MR MARTIN WAS AFRAID THAT MR WILKINS AND MR COHEN WOULD MAKE GOOD ON THEIR THREAT TO SHOOT HIM AND WENT STRAIGHT HOME AND CALLED POLICE. MS CAMPBELL REFUSED TO GIVE A STATEMENT OR OTHERWISE HELP WITH THE INVESTIGATION. MR MARTIN DID PROVIDE A WRITTEN STATEMENT AND IT WAS PLACED INTO EVIDENCE. MR MARTIN ALSO PICKED ONE SUBJECT OUT OF A PHOTO LINE UP AND THIS WAS ALSO PLACED INTO EVIDENCE. VN COMPLETED. WARRANT WAS SIGNED BY JUDGE GOWAN WARRANT NUMBER K-101337 THE SUBJECT THAT MR MARTIN IDENTIFIED WAS MR COHEN. WE DID NOT HAVE A PHOTO ON FILE FOR MR WILKINS BUT MR MARTIN HAS KNOWN HIM FOR OVER 15 YEARS.

Incident #: 03098006

ADDITIONAL OTHERS

PERSON TYPE SUSPECT	NAME (LAST, FIRST, MIDDLE) WILKINS, TRAVIS				RELATIONSHIP SUBJECT #1 #2 #3			RESIDENT U	RACE B	SEX M	AGE 26 / 28	D.O.B.	ETH N
	HEIGHT 602	WEIGHT 210	HAIR BROW	EYES BROW	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO.	DAYTIME PHONE		EVENING PHONE		
VISIBLE INJURY ☐ YES ☐ NO ☐ EXPLAIN- COMPLAINT OF ANY NON-VISIBLE INJURIES ☐ YES ☐ NO ☐													
USING: ALCOHOL ☒ YES ☐ NO ☐ UNK. ☐ DRUGS: ☐ YES ☐ NO ☐ UNK. ☒ TYPE:													

PERSON TYPE WITNESS	NAME (LAST, FIRST, MIDDLE) CAMPBELL, MONIQUE				RELATIONSHIP SUBJECT #1 #2 #3			RESIDENT J	RACE B	SEX F	AGE 21 / 24	D.O.B.	ETH N
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	ADDRESS				CITY SPARTANBURG	STATE SC	ZIP CODE 29301-	LOCATION NO.	DAYTIME PHONE 864-587		EVENING PHONE 864-574-		
VISIBLE INJURY ☐ YES ☐ NO ☐ EXPLAIN- COMPLAINT OF ANY NON-VISIBLE INJURIES ☐ YES ☐ NO ☐													
USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. ☒ DRUGS: ☐ YES ☐ NO ☐ UNK. ☒ TYPE:													

PERSON TYPE	NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP SUBJECT #1 #2 #3			RESIDENT	RACE	SEX	AGE /	D.O.B.	ETH
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO.	DAYTIME PHONE		EVENING PHONE		
VISIBLE INJURY ☐ YES ☐ NO ☐ EXPLAIN- COMPLAINT OF ANY NON-VISIBLE INJURIES ☐ YES ☐ NO ☐													
USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. ☐ DRUGS: ☐ YES ☐ NO ☐ UNK. ☐ TYPE:													

PERSON TYPE	NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP SUBJECT #1 #2 #3			RESIDENT	RACE	SEX	AGE /	D.O.B.	ETH
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO.	DAYTIME PHONE		EVENING PHONE		
VISIBLE INJURY ☐ YES ☐ NO ☐ EXPLAIN- COMPLAINT OF ANY NON-VISIBLE INJURIES ☐ YES ☐ NO ☐													
USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. ☐ DRUGS: ☐ YES ☐ NO ☐ UNK. ☐ TYPE:													

PERSON TYPE	NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP SUBJECT #1 #2 #3			RESIDENT	RACE	SEX	AGE /	D.O.B.	ETH
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO.	DAYTIME PHONE		EVENING PHONE		
VISIBLE INJURY ☐ YES ☐ NO ☐ EXPLAIN- COMPLAINT OF ANY NON-VISIBLE INJURIES ☐ YES ☐ NO ☐													
USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. ☐ DRUGS: ☐ YES ☐ NO ☐ UNK. ☐ TYPE:													

PERSON TYPE	NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP SUBJECT #1 #2 #3			RESIDENT	RACE	SEX	AGE /	D.O.B.	ETH
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO.	DAYTIME PHONE		EVENING PHONE		
VISIBLE INJURY ☐ YES ☐ NO ☐ EXPLAIN- COMPLAINT OF ANY NON-VISIBLE INJURIES ☐ YES ☐ NO ☐													
USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. ☐ DRUGS: ☐ YES ☐ NO ☐ UNK. ☐ TYPE:													

844

Report Date/Time:

03/30/2006

00:30

Incident #:

03098006

ADDITIONAL PROPERTY

STATUS: STOLEN	RELATED TO: VICTIM 1 MARTIN, DONALD	CLASS: MONEY/CASH
DESCRIPTION MONEY		LOCATION
BRAND	MODEL	SERIAL NO.
UCR CODE 120	QUANTITY 1	VALUE 75
DATE RECOVERED	JURISDICTION STOLEN SC0420100	JURISDICTION RECOVERED
STATUS: STOLEN	RELATED TO: VICTIM 1 MARTIN, DONALD	CLASS: OTHER
DESCRIPTION CELL PHONE		LOCATION
BRAND NOKIA	MODEL	SERIAL NO.
UCR CODE 120	QUANTITY 1	VALUE 50
DATE RECOVERED	JURISDICTION STOLEN SC0420100	JURISDICTION RECOVERED
STATUS:	RELATED TO:	CLASS:
DESCRIPTION		LOCATION
BRAND	MODEL	SERIAL NO.
UCR CODE	QUANTITY	VALUE
DATE RECOVERED	JURISDICTION STOLEN	JURISDICTION RECOVERED
STATUS:	RELATED TO:	CLASS:
DESCRIPTION		LOCATION
BRAND	MODEL	SERIAL NO.
UCR CODE	QUANTITY	VALUE
DATE RECOVERED	JURISDICTION STOLEN	JURISDICTION RECOVERED
STATUS:	RELATED TO:	CLASS:
DESCRIPTION		LOCATION
BRAND	MODEL	SERIAL NO.
UCR CODE	QUANTITY	VALUE
DATE RECOVERED	JURISDICTION STOLEN	JURISDICTION RECOVERED
STATUS:	RELATED TO:	CLASS:
DESCRIPTION		LOCATION
BRAND	MODEL	SERIAL NO.
UCR CODE	QUANTITY	VALUE
DATE RECOVERED	JURISDICTION STOLEN	JURISDICTION RECOVERED
STATUS:	RELATED TO:	CLASS:
DESCRIPTION		LOCATION
BRAND	MODEL	SERIAL NO.
UCR CODE	QUANTITY	VALUE
DATE RECOVERED	JURISDICTION STOLEN	JURISDICTION RECOVERED

2006 JUL 36

CASE NUMBER 845

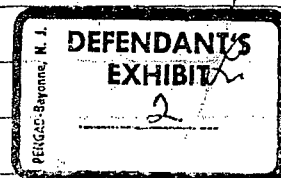
CITY OF SPARTANBURG
P.O. BOX 546 - 145 W. BROAD ST.
SPARTANBURG, S.C. 29304

CR-0067.06

WITNESS INTERVIEW FORM

Name: MARY GRAY Address: [REDACTED]Telephone Number: 597- [REDACTED] Social Security Number: [REDACTED]Date of Birth: 11-27-54 Today's Date: 2-2-06 Time: 11:45

A MAN CAME IN AND SAID GIVE ME YOUR
MONEY. HE HAD A BIG GUN AND HE
WAS TALL AND HE WAS WEAR BLACK AND
A MASK. HE WENT OUT THE DOOR AND I
THAT HE HAD TOOK MY SON. End of
statement



Time Interview Began: _____ m. Time (Statement/Interview) was completed: _____ m.

I have read this statement consisting of _____ page(s), and I swear or affirm that the facts contained therein are true and correct.

I further state that I have received a copy of this statement.

SWORN TO AND SUBSCRIBED TO BEFORE ME

THIS _____ DAY OF _____, 19____

NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: _____

Signed: Mary GrayWitness: [Signature]

Witness: _____

CITY OF SPARTANBURG
P.O. BOX 546 - 145 W. BROAD ST.
SPARTANBURG, S.C. 29304

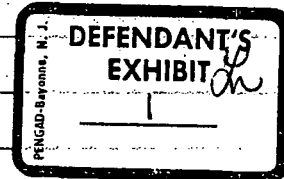
2006 JUL 36 P

12-42	CASE NUMBER
02-0067-06	

WITNESS INTERVIEW FORM

Name: Donald Martin Jr. Address: [REDACTED] Sp4ly. SC 29306
Telephone Number: 597-[REDACTED] Social Security Number: _____
Date of Birth: 06-10-84 Today's Date: 2/2/06 Time: 2345

This is the statement given to officer Patton on 2-2-06 at 2345 hours in reference to a robbery/Assault at the address of Mr. Donald Martin. I was watching the Basketball game and someone tried to open the door and I asked who it was. The guy said Murder Rich. I opened the door and a Black Male wearing all black and a mask with a long pump gun and he pointed it at me and said "give it up!" He asked me where "little Buddy is at." He made me give him all my money and then went to the back of the house with my sister and mom was at, as I was walking back to them. He then told me to go back in the living room. He then made me take my pants off and went back in the back. I then took off out the door and went down the street to tell someone to call the police.



Time Interview Began: 2345 p.m. Time (Statement/Interview) was completed: 0000 p.m.

I have read this statement consisting of 1 page(s), and I swear or affirm that the facts contained therein are true and correct.

I further state that I have received a copy of this statement.

SWORN TO AND SUBSCRIBED TO BEFORE ME

THIS _____ DAY OF _____, 19____

NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: _____

Signed: Donald Martin

Witness: Officer T. Patton

Witness: _____

INMATE GRIEVANCE / REQUEST FORM

INMATE'S NAME (PRINT) Nathaniel C. Teamer Jr.YOUR CELL # Pod 6 34-A TODAY'S DATE 11-1-06

IN KEEPING WITH THE DIRECTOR'S POLICY OF OPEN COMMUNICATIONS BETWEEN THE STAFF AND INMATES, THIS FORM IS TO BE USED BY ANY INMATE WHO WISHES TO CONVEY A COMPLAINT, GRIEVANCE, OR SPECIAL REQUEST. IF THE SITUATION CAN BE RESOLVED IMMEDIATELY BY AN OFFICER, A REPLY WILL BE MADE ON THIS FORM, AND RETURNED TO THE INMATE AS SOON AS POSSIBLE. IF THE OFFICER CANNOT RESOLVE THE SITUATION, THE INMATE COMPLAINT, GRIEVANCE, OR REQUEST WILL BE FORWARDED TO THE SUPERVISOR AND/OR THE DIRECTOR FOR HIS REVIEW.

DESCRIBE THE COMPLAINT, GRIEVANCE, REQUEST, ECT. (NOTE: USE BACK IF MORE ROOM IS NEEDED.)

Judge Hayes is writing about a matter concerning my rights being violated due to the due process and law in which I suspect to have been granted a preliminary hearing for a Felony DUI charge and I wasn't granted that right. I wrote solicitors over the preliminary hearing, Public Defender over the preliminary hearing, magistrate court judges, clerk of court and several more

INMATE'S SIGNATURE Nathaniel C. Teamer Jr.Turn
over
back →

RECEIVED BY OFFICER _____ DATE _____ TIME _____

INMATE SHOULD NOT WRITE BELOW THIS LINE

TO BE COMPLETED BY JAIL STAFF MEMBER (ONLY CHECK IN APPROPRIATE BOX AT BOTTOM OF PAGE WHEN FORWARDING TO ANOTHER PERSON AND/OR AGENCY.)

ACTION/RESPONSE _____

Sworn To and Submitted
Before me on this _____

Day of _____ 2006.

S/ _____ (L.S.)

Notary Public for South Carolina.
My Commission Expires: _____

Respectfully submitted,

CC. S/ _____

DIRECTOR/ STAFF MEMBER'S SIGNATURE

Mr. Nathaniel Teamer
950 California Ave. — Spartanburg S.C.
2930

DISTRIBUTION:

() INMATE

() INMATE'S FILE

() DIRECTOR

() OTHER DEPT/INDIVIDUAL

Requests 48 wrote to prove that i wrote these Following People. I have
wrote request asking why wasn't a preliminary set for the Felony
DUI and i got no answer in Return. I never receive a paper of
notice for a preliminary hearing. I never receive a warrant (only a
blue ticket) for the Felony DUI. I also was charge with Failure
to stop for a blue light 70877DL Warrant number that was a city
charge the same day i was charge with the Felony DUI C479968.
I was charge on 2-3-06 with these charges. I was set a preliminary
hearing on 2-27-06 for the Failure to stop for a blue light
that preliminary was reset to another date because the lawyer
who was representing me for the preliminary only was able to
come. I ask about the Felony DUI on that date and the solicitor over
the preliminary and office (Police) over the city preliminary knew
nothing of the Felony DUI. The Felony DUI is also County. I was reset
another preliminary on 4-3-06 for the Failure to stop for a blue
light (nothing mention about the Felony DUI) and the Failure to
stop was reset ~~to~~ to 5-8-06. So At that hearing the officer over
the city charge Failure to stop for a blue light mention something about
the Felony DUI was caught up in the case file with the Failure to
stop. The Judge (Magistrate) over the preliminary ask the lawyer
who was representing me the Disposition of the Felony DUI and
to ask for a (reset) date instead of a Dismissal against my Request
but the magistrate court Judge order a reset date for the Felony
DUI and that was May 8th 06 and i still haven't receive a prelim
my right for the preliminary hearing was violated in every way
possible. I requested for a prelim when i was first arrested. I wrote
and wrote the above people asking why i wasn't set a prelim and
why haven't i receive any paper work for a prelim date. Still no
prelim. The Felony DUI is really not been filed properly to be sent
upstairs to the General session's court. I wrote the court records
trying to get the Judge name who order the reset date on May 8th
his name wasn't on my paper work. Confirm by magistrate
Judge Ashmore. The Failure to stop was sent upstairs to General session
court at the preliminary on May 8th 06 but no Disposition on the
Felony DUI Charge. The process (Due process) wasn't followed correct
on the Felony DUI so i put in a motion of Dismissal and sent it
to the solicitor over my case, the public Defender over my case
and the Clerk of Courts Mark Kitchen. And it was filed and stamped
with the Clerk of Courts on Sept. 28 06, 10:26 AM and the Clerk of
Courts also forward it to the solicitor office & Public Defender's office
i went through the proper channels and still haven't gotten no
response. So now i'm writing you Judge Hayes. I'm also going
to send you a copy of the motion of Dismissal with this request. I
also still have the other request of proof that i wrote & wrote
about the Felony DUI about Dearest Town. Dear, (2) second request

copy READ sign.

+Honorable Judge +Hayes

INMATE GRIEVANCE / REQUEST FORM

Continued
From the back
of request
Form one

INMATE'S NAME (PRINT) Nathaniel C. TEAMER JR.

YOUR CELL # 34-A TODAY'S DATE 11-1-06

IN KEEPING WITH THE DIRECTOR'S POLICY OF OPEN COMMUNICATIONS BETWEEN THE STAFF AND INMATES, THIS FORM IS TO BE USED BY ANY INMATE WHO WISHES TO CONVEY A COMPLAINT, GRIEVANCE, OR SPECIAL REQUEST. IF THE SITUATION CAN BE RESOLVED IMMEDIATELY BY AN OFFICER, A REPLY WILL BE MADE ON THIS FORM, AND RETURNED TO THE INMATE AS SOON AS POSSIBLE. IF THE OFFICER CANNOT RESOLVE THE SITUATION, THE INMATE COMPLAINT, GRIEVANCE, OR REQUEST WILL BE FORWARDED TO THE SUPERVISOR AND/OR THE DIRECTOR FOR HIS REVIEW.

DESCRIBE THE COMPLAINT, GRIEVANCE, REQUEST, ECT. (NOTE: USE BACK IF MORE ROOM IS NEEDED.)

Judge Hayes I also wrote the Disposition of arrest warrants to the clerk of court and it was filed on Aug 16th 06 8:53AM and also the clerk of court forward copy's to the solicitor & public defender's office. I still have that copy also. I wrote the Rule 3 Disposition of arrest warrant C. and D. category. (C) Action on warrant. within 90 days after receipt

INMATE'S SIGNATURE Nathaniel TEAMER JR.

Turn over Back

RECEIVED BY OFFICER _____ DATE _____ TIME _____

INMATE SHOULD NOT WRITE BELOW THIS LINE

TO BE COMPLETED BY JAIL STAFF MEMBER (ONLY CHECK IN APPROPRIATE BOX AT BOTTOM OF PAGE WHEN FORWARDING TO ANOTHER PERSON AND/OR AGENCY.)

ACTION/RESPONSE Sworn to and submitted before me on this
Day of 2006
3/ (L.S.)
Notary public for South Carolina.
my Commission expires
Respectfully submitted.
C.C.S.

DIRECTOR/ STAFF MEMBER'S SIGNATURE

Mr. Nathaniel TEAMER
950 California Ave. - Spartanburg SC. 29303

DISTRIBUTION: () INMATE () INMATE'S FILE
() DIRECTOR () OTHER DEPT/INDIVIDUAL

take action on the warrant by (1) preparing a motion for presentation to the Grand Jury, which indictment shall be filed with the clerk of court, assigned a criminal case number, and presented to the Grand Jury (2) normally dismissing the warrant, noting on the face of the warrant the actions taken, or (3) making other affirmative disposition in writing and filing such action with the clerk of court.

1.) Extension of time: Solicitor may petition the Circuit Court for an order delaying action on the warrant, as set forth above, for successive 90 day period if the Circuit Court specifically finds and cause for such delay for each successive 90 day period. Judge Hayes got one of these rules been followed. Also can be check and proven by the Court file's. They just continued to ignore my request's & my Rights to a preliminary Judge Hayes. There was nothing else I could do but write you in the matter. Magistrate Judge Ashmore heck into a couple things concerning the situation but he told me it was over his head now that he can't dismiss the Felony DUI because it was sent upstairs to General session's court. I respect what he's saying and is thankful for his help but my no understanding is now was it ever sent upstairs to General session when the Judge didn't sent it upstairs at the preliminary on May 8th ob. He order a reset date. Nothing more. Judge Ashmore didn't say nothing about an Grand Jury indictment or nothing so it's not a disposition on the charge at all. My Sixth 6th and Fourthteenth Amendment was violated Judge Hayes. I'm asking you to please grant my motion for Dismissal because I went through the proper channels. I even have the preliminary hearing papers for the date and time set for the failure to stop and not one for the Felony DUI. I was also told that the person I had a car accident with was also under the influence and was charge with Driving under the influence the same night I was. So who's to say who hit who? That's what preliminary hearing findings or for and I didn't get me. I have my motion of Discovery for the Felony DUI and it was the Driving under the influence Advisement in which they did on me and the victim I was charge for but they didn't put that he was charge with under the influence for. (Which Drugs) and so forth. Nothing. All that suppose to come with the motion of Discovery they're continually violated me Judge Hayes. I respectfully request that you Dismiss this charge. I really hope you can help me. Please get back in contact with me Judge Hayes. Thanks for your time and help in Advance. Nathaniel Featide.

State of South Carolina.
County of Spartanburg.

In The Court of Common-
Pleas.

7th Judicial Circuit.

Mr. Nathaniel Turner

Petitioner

Motion And Demand
For Dismissal of Charge!

v.

State of South Carolina.

Respondent

Pending Charge: Felony
DuI-C479968

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2006 SEP 28 AM 10:26

MARC
WITCHENS

The Petitioner herein Motion The Court For
Dismissal of Charge Due To Violation of His Due
Process of Law Officially And His Sixth (6th),
Fourteenth (14th) Amendment. At The Petitioner

Arraignment Which Is The Triggering Process of
His Due Process of Law. The Petitioner Did
Inform The Proceeding Judge That He Would
Like A Preliminary Hearing Granted. Without A
Preliminary Hearing Honored Affected The Fair-
ness, Integrity, or Public Reputation, of Judicial
Proceedings. The Petitioner WAS Not Given A chance
To show That upon His Arrest No Warrant Was
Shown, or Given To Himself - Nor HAS BEEN ISSUED
ONE until This Current Date.

Further, The Petitioner Then was Clearly Denied
All Standing To show His Innocent(s) For The
Above - Referenced Pending Charge - Therefore,
Petitioner Request For Dismissal of His Charge.

Sworn To And Submitted
Before me on This 23

Day of September 2006.

S/ [Signature] (L.S.)

Notary Public For South Carolina.

My Commission Expires: March 6TH 2016.

Respectfully Submitted,

CC. S/ NATHANIEL TEAMER

MR. NATHANIEL TEAMER

950 California Avenue.

Spartanburg, S.C. 29303

CC. / MARK Kitchen
CLERK OF COURT

CC. / Barry Barnette
Solicitor's Office.

CC. / Chehoski
Public Defender's Office.

MARK KITCHENS

2006 SEP 28 AM 10:26

CLERK OF COURT
FILED

SOUTH CAROLINA LAW ENFORCEMENT DIVISION - URINE/BLOOD COLLECTION REPORT

Subject: YOUNG JAMES THOMAS SPRUE
Last Name First Name Middle Name County of Arrest
Subject's Address: [REDACTED] SPRUE SC 29307
Driver's License Number: [REDACTED] State: SC DOB: 6-5-64 Sex: M Race: W
Arresting Officer: D K DARTY Agency: SCHP
Arresting Officer's Address: 8794 Fair Forest Rd Sprue SC 29303
Date of Arrest: 2-3-06 Time of Arrest: 0335 AM/PM Traffic Ticket Number: 5RMC
Date of Test: 2-3-06 Time of Test: 0335 AM/PM Location of Collection: SRMC

CHECK THE FOLLOWING (CHECK BOTH IF APPLICABLE)

- ☒ Subject is under arrest for Section 56-5-2930, 56-5-2933, 56-5-2945, 56-1-2120, 50-21-112, 50-21-113 or 23-31-415; or is in violation of Section 56-5-2945, 50-21-113 or 56-1-286 of the 1976 South Carolina Code of Laws as amended.
- ☐ Subject has been advised in writing of his/her Implied Consent Rights.

CHECK THE CORRECT ONE (ONLY ONE CAN APPLY)

- ☐ Subject had a DataMaster reading of less than 0.08%, and a urine sample is requested. DataMaster reading: _____ (optional)
- ☒ Subject is unconscious or otherwise incapable of refusal and is considered informed, therefore, a blood sample is requested.
- ☐ A blood sample is requested by the arresting officer because a licensed medical person has informed the officer that the subject is unable to take a breath test at this time due to any reason deemed acceptable by that licensed medical person.
- ☐ Subject is under arrest for, or in violation of, Section 56-5-2945 or 50-21-113, and, pursuant to Section 56-5-2946 or 50-21-116, a blood sample or a blood and urine sample is/are requested.
- ☐ A blood sample is requested by the subject for his/her own independent test.

Name and Title of Licensed Medical Personnel: My Nguyen My Nguyen, RN

(Please Print)

Signature of Licensed Medical Personnel: _____

THIS SECTION TO BE CHECKED BY SAMPLE COLLECTOR

- ☐ Using a non-ethanol prep, a blood sample was collected into an unused, uncontaminated vial and given directly to the arresting officer (or to the subject requesting sample for his/her independent test) after collection.
- ☒ A urine sample was collected into an unused, uncontaminated container and given directly to the arresting officer after collection.

Name of Licensed or Trained Collector: Brant Gertz CPT

(Please Print)

Signature of Licensed or Trained Collector: Brant Gertz CPT

FINAL CHECKS FOR LAW ENFORCEMENT OFFICER

- ☐ Sample collection was under my direct supervision.
- ☐ Sample container is properly labeled with the subject's name and time of collection.
- ☐ Sample is properly sealed and ready for transport.

Signature of Officer: _____

Date: _____

I, UNABLE TO SIGN
(Subject's Signature)

received a copy of this report on 2-3-06
Date

White Copy: Arresting Officer

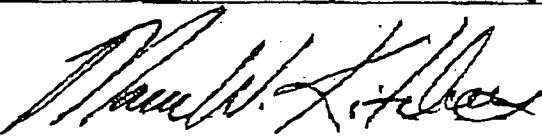
Canary Copy: Hospital

Pink Copy: Subject

Goldenrod Copy: SLED

8540035

2005 JUL 24 P 12:45
SUBPOENA IN A CRIMINAL CASE

SOUTH CAROLINA GENERAL SESSIONS COURT		COUNTY SPARTANBURG
THE STATE OF SOUTH CAROLINA v. NATHANIEL TEAMER		CASE NO. C479968 & 70871DL 45-38-64 SUBPOENA FOR ☐ PERSON ☒ DOCUMENT(S) OR OBJECT(S) DC 2-706 OPT 2-1706
TO: FRANCES RICHARDSON SPTBG. RED MED CENTER- MEDICAL RECORDS Via Fax: 560-6073		
☐ YOU ARE HEREBY COMMANDED to appear in the above named court at the place, date, and time specified below to testify in the above entitled case.		
PLACE Spartanburg County Courthouse Second Floor 180 Magnolia Street Spartanburg, SC 29306		COURTROOM Solicitor's Office DATE AND TIME 02/23/06
☐ YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s): Any and all records for: James Thomas Young a male. Records including but not limited to the following items: all blood-alcohol and/or drug test results, all chain of custody records on all blood alcohol and/or drug test results including who drew the blood or took the urine and who tested the blood or urine sample as well as any-one who may have transported the blood or urine sample, the Results Inquiry Accession (RIA) form, and the Patient Order Audit (POA) form, relating to an accident on February 3, 2006 to Present. Incident location: Mt. Zion Road, Spartanburg, South Carolina. Please provide any photographs that you may have. Please call Wendy Howell when ready at 596-2575.		
This subpoena shall remain in effect until you are granted leave to depart by the court or by an office acting on behalf of the court.		
CLERK OF COURT 		DATE 02/21/06
BY DEPUTY CLERK		
THIS SUBPOENA IS ISSUED UPON APPLICATION OF THE: ☒ SOLICITOR ☐ DEFENDANT	ATTORNEY'S NAME AND ADDRESS BARRY BARNETTE Deputy Solicitor Seventh Judicial Circuit Spartanburg County Courthouse 180 Magnolia Street, Third Floor Spartanburg, SC 29306 (864) 596-2575 FEB 21 2006 060486224	

ADVISEMENT OF IMPLIED CONSENT RIGHTS

855

JAMES T Young
Subject's Name (Print)
[REDACTED]
Driver's License Number



6-5-64
Date of Birth
SC
State Licensed

DRIVING UNDER THE INFLUENCE ADVISEMENT

- (A) Will test be videotaped? If answer is Yes, Start here → ♦ Inform subject he/she is being videotaped.
♦ Advise subject of Miranda rights.
If answer is No, Start here → ♦ Inform subject of the type (breath, blood, urine) samples requested.
- (B) Then read the following advisement to subject:
- ♦ You are under arrest for Driving Under the Influence (DUI), Section 56-5-2930, South Carolina Code of Laws 1976, as amended.
 - ♦ The arresting officer has directed that samples be taken for alcohol and/or drug testing.
 - ♦ The samples will be taken and tested according to Section 56-5-2950 and SLED policies.
 - ♦ You do not have to take the tests or give the samples, but if you refuse to submit to the tests, your privilege to drive in South Carolina must be suspended or denied for at least ninety (90) days and your refusal may be used against you in court.
 - ♦ If you take the tests or give the samples and have an alcohol concentration of eight one-hundredths of one percent (0.08%) or more, you may instead be charged with Driving with an Unlawful Alcohol Concentration (DUAC), Section 56-5-2933.
 - ♦ If you have an alcohol concentration of fifteen one-hundredths of one percent (0.15%) or more, your privilege to drive in South Carolina must be suspended for at least thirty (30) days.
 - ♦ You have the right to have a qualified person of your own choosing conduct additional independent tests at your expense and the officer, upon request, must provide you affirmative assistance.
 - ♦ You have the right to request an administrative hearing within thirty (30) days of the issuance of the notice of suspension.
 - ♦ If you do not request an administrative hearing or if your suspension is upheld at the administrative hearing, you must enroll in an Alcohol and Drug Safety Action Program.

If applicable, perform the following procedures:

- (C) Check subject's mouth and remove any foreign material. (Not required if a refusal has occurred.)
(D) Time stamp Breath Alcohol Analysis Test Report. (Not required if a refusal has occurred.)
(E) Observe subject for a minimum of twenty (20) minutes before collecting breath sample. (Not required if a refusal has occurred.)
(F) Enter biographical data into BAC DataMaster. (Required for all tests, including refusals.)

FELONY DRIVING UNDER THE INFLUENCE ADVISEMENT

- (A) Will test be videotaped? If answer is Yes, Start here → ♦ Inform subject he/she is being videotaped.
♦ Advise subject of Miranda rights.
If answer is No, Start here → ♦ Inform subject of the type (breath, blood, urine) samples requested.
- (B) Then read the following advisement to subject:
- ♦ You are under arrest for Felony Driving Under the Influence (Felony DUI), Section 56-5-2945, South Carolina Code of Laws 1976, as amended, or a law enforcement officer has probable cause to believe that you have violated this section.
 - ♦ The officer has directed that samples be taken for alcohol and/or drug testing.
 - ♦ The samples will be taken and tested according to Section 56-5-2950 and SLED policies.
 - ♦ Pursuant to Section 56-5-2946, you must submit to either one or a combination of chemical tests for the purpose of determining the presence of alcohol, drugs, or a combination of alcohol and drugs.
 - ♦ The resistance, obstruction, or opposition to testing pursuant to Section 56-5-2946 is evidence admissible at trial.
 - ♦ If your tests or samples have an alcohol concentration of fifteen one-hundredths of one percent (0.15%) or more, your privilege to drive in South Carolina must be suspended for at least thirty (30) days.
 - ♦ You have the right to have a qualified person of your own choosing conduct additional independent tests at your expense and the officer, upon request, must provide you affirmative assistance.
 - ♦ You have the right to request an administrative hearing within thirty (30) days of the issuance of the notice of suspension.
 - ♦ If you do not request an administrative hearing or if your suspension is upheld at the administrative hearing, you must enroll in an Alcohol and Drug Safety Action Program.

If applicable, perform the following procedures:

- (C) Check subject's mouth and remove any foreign material.
(D) Time stamp Breath Alcohol Analysis Test Report.
(E) Observe subject for a minimum of twenty (20) minutes before collecting breath sample.
(F) Enter biographical data into BAC DataMaster.

DWAYNE K DARTY
Officer's Name (Print)
Dwayne K Darty
Officer's Signature

UNCONSCIOUS UNABLE TO SIGN
Subject's Signature (Received Copy)
2-3-06 0300
Date Time

Radiology Results.

Interpreted by: _____

Spine: _____

Chest: - In pneumothorax, n

Pelvis: _____

Other: Rt. knee

CT Head: - negative

CT Abd: _____

CT Pelvis: _____

Other: CT C-spine - negative

FAST: _____

Labs:

ABG pH / pO₂ / pCO₂ / HCO₃ / BE / Sat

PT: 13 INR: 1.0

PTT: 26

UA: _____

UDS: @ cocaine

EtOH: - negative

Amylase: _____

Cardiac Enzymes: _____

UPT: _____

143 Na	107 Cl	BUN 11	Glu
3.8 K	28 CO ₂	Cr 1.0	93

WBC	14.8 Hgb	Plt
26	14.8	341

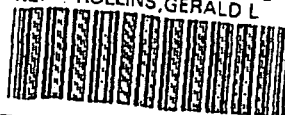
Problem List - Management Plan

Consultant Called

- 41 yom, @ cocaine use, with isolated orthopedic injury Rt. knee, rt. patellar tendon. At calcaneus fx.
- No trauma surgery issues - C-spine cleared
- ~~Appx 4 weeks~~ + 4 weeks of Rt. foot - other notified
- S/p MVC - Right calcaneus fx.
- @ patellar tendon injury.
- CV/HIS
- cleared from any other traumatic injury
- dis for surgery per ortho.

Otho - Rollins

0603400012 000-453864 02/03/06
 YOUNG, JAMES THOMAS 06/05/64 M 4
 ADM ROLLINS, GERALD L
 REF ROLLINS, GERALD L



2/3/06
 Date

PRINTED BY: FM20261
 Resident Signature 2/22/2006

Trauma Chief Signature

857

Ex. 100 A 21



TEAMER

February D.U.I.

MUS/ST

STATE OF SOUTH CAROLINA

County of SPARTANBURG, SC

SEARCH WARRANT

DATE February 3, 2006

OFFICER INV RUSSELL PORTER

COUNTY OF SPARTANBURG, SCPersonally appeared before me, one Inv. Russell Porter

Who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this county:

DESCRIPTION OF PROPERTY SOUGHT

Any and all evidence pertaining to the death/s of known victim/s or unknown victim/s to include, but not limited to blood, body fluids, or other items/evidence that would yield DNA, fingerprints, weapons, guns, ammunition, bullets, shell casings, projectiles, bullet fragments, knives, sharp edged instruments, blount ~~instruments~~, or other objects that ~~may have been used to cause injury or death to the victim/s; clothing, blood~~ stained clothing, hair, fabric fibers. Also the identity of any unknown victims, how they died and who or what is responsible for their deaths. Any paperwork or articles that tend to show who has control over or resides at the premises to be searched.

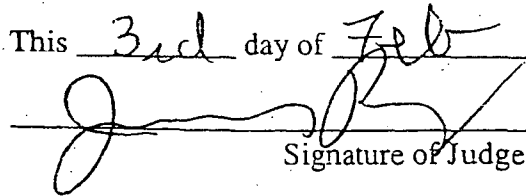
DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

1985 Chevrolet Caprice, 4 door blue in color bearing South Carolina tag 849UPU and VIN #1G1BN69H5FY120384 registered to Osia Tansha Feaster of [REDACTED] Street, Spartanburg, S.C. 29301

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

On 02/02/2006 Officers with the Spartanburg Public Safety Department responded to the intersection of Theodosia Drive and Chester Street after a call was made to 911 stating that he was shot and the passenger in the car was dead. Officers responded to the scene. Officers discovered a 1997 Toyota 4-Runner, silver in color bearing South Carolina tag 276KYV and VIN #JT3GM84R9V0011648 with an unidentified b/m in the front passenger seat that appeared to have been shot in the head. This vehicle was found off the roadway of Theodosia Drive. This warrant is needed to process this vehicle for any and all evidence to help identify the victim and any suspect or suspects that might be responsible for this crime

Sworn to and Subscribed before me

This 3rd day of Feb; 2006
Signature of JudgeRussell P. Porter
AffiantAddress 1415 W. Broad St.Spartanburg 29304Phone 596-2845

TY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE
CIPALITY OF SPARTANBURG COUNTY, SC

aring from the attached affidavit that there are reasonable grounds to believe that certain property subject to
under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the
ing premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

Chevrolet Caprice, 4 door blue in color bearing South Carolina tag 849UPU and VIN #1G1BN69H5FY120384
red to Osia Tansha Feaster of [REDACTED], Spartanburg, S.C. 29301

therefore, you are hereby authorized to search premises for the property described below, and to seize such
ty if found:

DESCRIPTION OF PROPERTY SOUGHT

nd all evidence pertaining to the death/s of known victim/s or unknown victim/s to include, but not limited to
, body fluids, or other items/evidence that would yield DNA, fingerprints, weapons, guns, ammunition, bullets,
asings, projectiles, bullet fragments, knives, sharp edged instruments, blount instruments, or other objects that may
een used to cause injury or death to the victim/s, clothing, blood stained clothing, hair, fabric fibers. Also the
ty of any unknown victims, how they died and who or what is responsible for their deaths. Any paperwork or
s that tend to show who has control over or resides at the premises to be searched.

Search Warrant shall not be valid for more than ten days from the date of issuance.

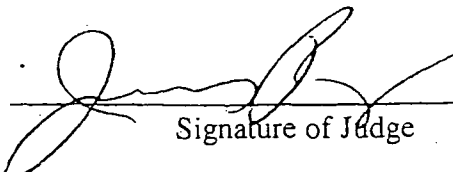
ten inventory of all property seized pursuant to this Search Warrant shall be made to

ANY SPARTANBURG COUNTY MAGISTRATE

in ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a
of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

py of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such
h if practicable, and, if not, to such person as soon thereafter as is practicable: in the event the identity of such
n in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the
n, a copy shall be attached to a prominent place on such premises.

Spartanburg, SC
Feb 3, 2006, 20

 (L.S.)
Signature of Judge

RETURN

I received the attached Search Warrant Feb 8, 2006, and have executed it as

Follows: On Feb 8, 2006 at 210 o'clock 7 M,

I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with the vehicle

Name of person searched or "at the place of search" with.

Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: (1) silver Verizon

cell phone (flip phone) taken from the front drivers seat of the
vehicle. Nothing else taken.

Search stopped at 2:28 pm.

This inventory was made in the presence of Inv. Heather Forrester & Inv. Russell

AND Porter

I swear this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this _____

Day of _____

Heather G. Forrester
(Signature of Executing Office)

(L.S.)
Signature of Judge

STATE OF SOUTH CAROLINA

County of SPARTANBURG, SC

Copy

SEARCH WARRANT

DATE February 10, 2006

OFFICER INV Heather Forrester

STATE OF SOUTH CAROLINA

SEARCH WARRANT

COUNTY OF SPARTANBURG, SCTO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF SPARTANBURG COUNTY, SC

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

1985 Chevrolet Caprice, 4 door blue in color bearing South Carolina tag of 849-UPU and VIN 1G1BN69H5FY120384 registered to Osia Feaster of [REDACTED] Street, Spartanburg, SC 29301.

Now, therefore, you are hereby authorized to search premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY SOUGHT

Any and all evidence pertaining to the death/s of known victim/s to include, but not limited to blood, shell casings, body fluids, or other items/evidence that would yield DNA, fingerprints, weapons, guns, ammunition, bullets, projectiles, bullet fragments, knives, sharp edged instruments, blount instruments, or other objects that may have been used to cause injury or death to the victims, clothing, blood stained clothing, hair, fabric fibers. Also the identity of any unknown victims, how they died and who or what is responsible for their deaths. Any paperwork or articles that tend to show who has control over the premise to be searched.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

ANY SPARTANBURG COUNTY MAGISTRATE

Within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable: in the event the identity of such person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Spartanburg, SC
Feb 10, 2006

[Signature] (L.S.)
Signature of Judge

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF SPARTANBURG, SC

Personally appeared before me, one Heather Forrester
Who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this county:

DESCRIPTION OF PROPERTY SOUGHT

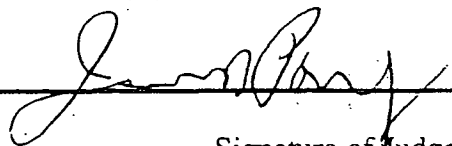
Any and all evidence pertaining to the death/s or assault of known victim/s or unknown victim/s to include, but not limited to blood, body fluids, or other items/evidence that would yield DNA, fingerprints, weapons, guns, ammunition, bullets, shell casings, projectiles, bullet fragments, knives, sharp edged instruments, blount instruments, or other objects that may have been used to cause injury or death to the victim/s, clothing, blood stained clothing, hair, fabric fibers and cellular phones. Also the identity of any unknown victims, how they died and who or what is responsible for their deaths. Any paperwork or articles that tend to show who has control over or resides at the premises to be searched.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

1985 Chevrolet Caprice, 4 door, blue in color bearing South Carolina tag 849 UPU and VIN 1G1BN69H5FY120384 registered to Osia Feaster of [REDACTED] Street, Spartanburg SC 29301.

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY
SOUGHT IS ON THE SUBJECT PREMISES

On 02-02-06 Officers of the Public Safety Dept responded to an reported call of two victims shot on Sedosia Dr and Chester St. Evidence collected from the vehicle suggest that the suspect placed several telephone calls to a home phone and a cell phone that was found to belong to Osia Feaster. Through a victim interview, the victim identified the above listed vehicle as being parked at the residence where the suspect was picked up. Also the victim identified a jacket, which was lying in the front seat of this vehicle as the jacket the suspect was wearing during the crime. Speaking with the registered owner of the vehicle, she stated that she had given her keys to the above vehicle to Charles Teamer. Due to the fact that there is evidence of this crime left in the vehicle your affiant request a search warrant for the above listed property.

Sworn to before me

Signature of Judge

*Feb 10, 2006**Heather G Forrester*

Affiant

Address

*145 W Broadway St**SP+BG SC 29306*

Phone

544-2035

RETURN

Received the attached Search Warrant _____, 20____, and have executed it as

Follows; On Feb 10, 2006 at 11 00 Am o'clock 11 M,

I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with Osia Feather

Name of person searched or "at the place of search" with.

Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: _____

Green Down Jacket

Red Rug

This inventory was made in the presence of Inv. R. Porter

AND E. Guthrie Inv. H. Feather

I swear this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 14th

Day of Feb 2006

Russell Potts
(Signature of Executing Office)

[Signature] (L.S.)
Signature of Judge

STATE OF SOUTH CAROLINA

County of SPARTANBURG, SC

SEARCH WARRANT

DATE FEBRUARY 22, 2006

OFFICER INV RUSSELL PORTER

STATE OF SOUTH CAROLINA

SEARCH WARRANT

COUNTY OF SPARTANBURG, SC

I, ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF SPARTANBURG COUNTY, SC

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

1985 Chevrolet Caprice, 4 Door, blue in color bearing South Carolina tag 849 UPN and VIN 1G1BN69H5FY120384 registered to Osia Feaster of [REDACTED] Spartanburg SC 29310

Now, therefore, you are hereby authorized to search premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY SOUGHT

Any and all evidence pertaining to the death of known victim to include, but not limited to blood, body fluids, or other items/evidence that would yield DNA, fingerprints, weapons, guns, ammunition, bullets, shell casings, projectiles, bullet fragments, used to cause injury or death to the victim, clothing, blood stained clothing, hair, fabric fibers, cellular telephone, telephone bills or other papers that show ownership or who resides at this property and any other items of evidentiary value.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

ANY SPARTANBURG COUNTY MAGISTRATE

Within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of such person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Spartanburg SC
20 06

[Signature] (L.S.)
Signature of Judge

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF SPARTANBURG, SCPersonally appeared before me, one INV RUSSELL PORTER

Who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this county:

DESCRIPTION OF PROPERTY SOUGHT

Any and all evidence pertaining to the death of known victim to include, but not limited to blood, body fluids, or other items/evidence that would yield DNA, fingerprints, weapons, guns, ammunition, bullets, shell casings, projectiles, bullet fragments, used to cause injury or death to the victim, clothing, blood stained clothing, hair, fabric fibers, cellular telephone, telephone bills or other papers that show ownership or who resides at this property and any other items of evidentiary value.

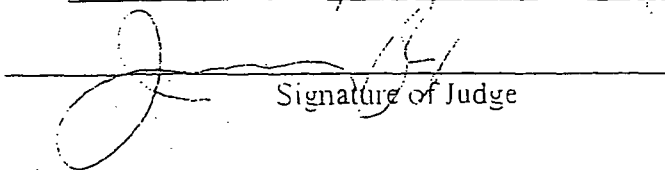
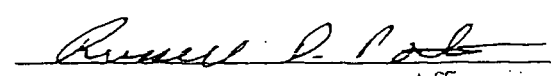
DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

1985 Chevrolet Caprice, 4 Door, blue in color bearing South Carolina tag 849 UPN and VIN 1G1BN69H5FY120384 registered to Osia Feaster of [REDACTED] St. Spartanburg SC 29310

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY
SOUGHT IS ON THE SUBJECT PREMISES

On 02/02/06 Spartanburg Public Safety Department officers responded to a shooting at Theodosia Drive and Chester Street. Upon arrival officers discovered that a black male had been murdered in a 1997 Toyota Four Runner, registered to David Proctor. Officers located David Michael Proctor at [REDACTED] with multiple gun shot wounds. Mr. Proctor stated that the deceased victim had used his cellular telephone to call the person they picked up and told him that they were on the way to pick him up. Mr. Proctor gave recounts of what happened and relayed to police that he and the deceased victim had picked up a black male in front of [REDACTED] minutes before the shooting and that the person that they picked up was the one shooting. The victim recalls seeing a vehicle parked in the drive of the residence that matched the 1985 Chevrolet Caprice registered to Osia Feaster ([REDACTED] St). The subject Nathaniel Charles Teamer was found with the vehicle, the items sought may connect or provide evidence to link him to this crime.

Sworn to and Subscribed before me

This 1st day of March 2006
Signature of Judge
AffiantAddress 1415 W. Broad St.Spartanburg, SC 29306Phone 866-2845

I received the attached Search Warrant 03-01-06, 20 06, and have executed it as

Follows: On 03-01- 2006 at 0930 o'clock A M,

I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with TO Vehicle

Name of person searched or "at the place of search" with.

Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: 1 Color Red Mountain Dew

Bottle, 1 Newport Cigarette Butt, 1 Bag of Green Beans, 5 Cigarettes, 1 Walnut Film

Receipt, 1 Disposable Camera Box, 1 Pair of Sunglasses, 1-Knife, 1 mini-mid

Orange Juice Bottle, 4 Cigarette Butts From Drivers Floor, 1 Hand Rolled Cigar,

5-Flyers, 6 Sigs, 35 Hand Print From Exterior of Vehicle, Palm Print

From Red View Mirror, Nothing Else Taken

This inventory was made in the presence of Forensic IDV Courtney Westfall, Forensic IDV

AND G.U. GETHAN

I swear this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this

Day of

March 2006

Signature of Judge

(Signature of Executing Office)

(L.S.)

STATE OF SOUTH CAROLINA

County of SPARTANBURG, SC

SEARCH WARRANT

DATE February 10, 2006

OFFICER INV RUSSELL PORTER

STATE OF SOUTH CAROLINA

SEARCH WARRANT

UNTY OF Spartanburg, SCTO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE
MUNICIPALITY OF Spartanburg, SC:

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

1985 Chevrolet Caprice, 4 door, blue in color bearing South Carolina tag 849 UPU and VIN 1G1BN69H5FY120384 registered to Osia Feaster of [REDACTED] Spartanburg SC 29301

Now, therefore, you are hereby authorized to search premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY SOUGHT

Any and all evidence pertaining to the death of known victims to include, but not limited to blood, shell casings, body fluid or other items/evidence that would yield DNA, fingerprints, weapons, guns, ammunition, bullets, projectiles, bullet fragments, knives, sharp edged instruments, blount instruments, or other objects that may have been used to cause injury or death to the victims, clothing, blood stain clothing, hair, fibers and cell phones. Also the identity of any unknown victims, how they died and who or what caused the death. Any paperwork or articles that tend to show who has control over the premise to be searched.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

Spartanburg County Magistrate Court

Within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable: in the event the identity of such person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Spartanburg, S.C.
Feb 14,, 2006

[Signature] (L.S.)
Signature of Judge

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF Spartanburg, SC

Personally appeared before me, one Russell Porter
Who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this county:

DESCRIPTION OF PROPERTY SOUGHT

Any and all evidence pertaining to the death of known victims to include, but not limited to blood, shell casings, body fluid or other items/evidence that would yield DNA, fingerprints, weapons, guns, ammunition, bullets, projectiles, bullet fragments, knives, sharp edged instruments, blount instruments, or other objects that may have been used to cause injury or death to the victims, clothing, blood stain clothing, hair , fibers ans cell phones. Also the identity of any unknown victims, how they died and who or what caused the death. Any paperwork or articles that tend to show who has control over the premise to be searched.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

1985 Chevrolet Caprice, 4 door, blue in color bearing South Carolina tag 849 UPU and VIN 1G1BN69H5FY120384 registered to Osia Feaster of [REDACTED] Spartanburg SC 29301

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

On 02-02-06 Officers with the Spartanburg Public Safety Department responded to a call of two shooting victims at the intersection of Theodosia and Chester Streets. Evidence collected from the vehicle suggests that the suspect placed several phone calls to a home and a cell phone that was found to be listed to Osia Feaster, whom the above listed vehicle is registered. Through a victim interview, the victim identified the above listed vehicle as being similar to a vehicle parked in the driveway of the residence where the suspect was picked up. Also the victim identified a green jacket in the front seat of this vehicle as being similar to the jacket worn by the suspect during the commission of this crime. Ms Feaster stated that she did give the keys to the above listed vehicle to Charles Teamer who was arrested by the SCHE within hours after this crime. Due to the fact that evidence may exist in this vehicle, your affiant request a search warrant for the vehicle.

Sworn to and Subscribed before me

This 14 day of Feb, 2006

[Signature]
Signature of Judge

11:03 AM

(L. S.)

Affiant

Address

Phone

Spartanburg County Court House
180 Magnolia Street
Spartanburg, S.C. 29306
Phone (864) 596-2575
Fax (864) 596-2386



Cherokee County Court House
Floyd Baker Blvd.
Gaffney, S.C. 29340
Phone (864) 487-2576
Fax (864) 487-2753

BARRY J. BARNETTE

Solicitor, Seventh Judicial Circuit

September 1, 2011

Tricia A. Blanchette, Esquire
Post Office Box 12725
Columbia, South Carolina 29211

RE: Nathaniel Teamer

Dear Ms. Blanchette:

Below, please find our response to your Order Authorizing Discovery and Subpoena on case number 2010-CP-42-4181:

1. A complete copy of the Spartanburg Public Safety Department policy that was in place in 2006 for vehicle inventory searches.

A copy of the Spartanburg Public Safety Department - General Orders is attached denoted #1.

2. The name of the attorney assigned to represent Kelvin McKinney after his apprehension in the Detroit area. A copy of the video from both statements, which are attached herein, given by Kelvin McKinney to Spartanburg Public Safety Department. The Spartanburg Solicitor's Office has provided counsel with a copy of the video statement introduced at trial as Defendant's Exhibit #1, but it is the Applicant's belief that there is a video that corresponds with both of the attached statements of Kelvin McKinney. See Transcript p. 257

It is unknown to officers of the Public Safety Department nor Solicitor's Office the name of the attorney assigned to represent Kelvin McKinney in the Detroit area. The video statement presented as Exhibit #1 is the only video statement made. The statement of 02/14/2007 was not videotaped per Investigator Jason Bryant.

3. The video and written report of the statement obtained from Antonio Hunter in January 2006 by the Spartanburg Public Safety Department, which was argued as the motive for the charges at issue. See Transcript p. 277.

Per Investigator Jason Bryant there was no video made at the time of the statement.

4. Any written or video recorded statements obtained from Rick Bartlett. See Transcript p. 104

After speaking with Investigators from Spartanburg Public Safety, there are no written or video recorded statements from this subject.

5. Any and all information on the suspect "Leon Franklin" listed on the SLED report regarding DNA analysis. Transcript p. 351.

After speaking with Investigator Porter, he has no information on Leon Franklin and does not recall any information on this person.

In response to your Order Authorizing Discovery and Subpoena on case number 2010-CP-42-4049:

1. A complete copy of the Spartanburg Public Safety Department policy that was in place in 2006 for vehicle inventory searches.

See attached copy from Item number 1 in case number 2010-CP-42-4181.

2. Any materials used by the Spartanburg County Solicitor's Office and/or Spartanburg Public Safety Division to establish the authenticity and foundation for the recorded detention center call introduced as State's Exhibit #21-A. Transcript p. 124. Specifically, but not limited to, the detention center phone logs, the times detention center inmates located in Pod 5 were given access to the phone on February 5, 2006, and a listing of all Spartanburg County Detention Center employees assigned to Pod 5 and inmates calling areas on February 5, 2006.

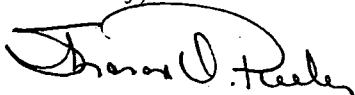
Jail calls are subpoenaed from the Spartanburg County Detention Facility. The Detention Facility can verify their recording procedures, as well as the procedure for inmate access for phone use, and their employment rosters and schedules.

3. Any materials and/or information used to establish a chain of custody for the letters introduced through the testimony of Erica Gray. Transcript p. 152-3.

Spartanburg Public Safety Department Evidence Sheets (copy enclosed) denotes letters recovered from Erica Gray by Heather Forrester. These were turned into the Spartanburg Public Safety Evidence Room (Reeves) before being delivered to SLED by Investigator Todd Wilson.

If you should have any questions or need any additional information, please feel free to contact me.

Sincerely,



Sharon O. Peeler
7th Judicial Circuit

sop
Enclosures:

SPARTANBURG PUBLIC SAFETY DEPARTMENT - GENERAL ORDERS



TITLE: IMPOUNDED VEHICLE INVENTORY		NUMBER: 720.3
EFFECTIVE DATE: 07/09/98		REVIEW DATE: September
☐ New ☐ Amends ☒ Rescinds		
AUTHORITY: Director A. Tony Fisher	DISTRIBUTION: A	TOTAL PAGES: 1

PURPOSE

The purpose of this policy is to ensure that all impounded vehicles are inventoried and that the inventory is properly documented.

DEFINITION

Impounded vehicle - is a vehicle that is held in legal custody.

POLICY

It shall be the policy of the Spartanburg Public Safety Department that every vehicle impounded by an officer will have all items in the vehicle inventoried and listed on the wrecker/owners request report form or on a property report. The inventory list or property report shall be attached to the incident report and shall become a part of the case file.

Rescinds Policy 210-409 dated April 28, 1995

STATE OF SOUTH CAROLINA

County of SPARTANBURG, SC

COPIES

SEARCH WARRANT

DATE February 10, 2006

OFFICER Jay C. Steadman

COUNTY OF SPARTANBURG, SCTO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE
MUNICIPALITY OF SPARTANBURG COUNTY, SC

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

Spartanburg County Detention Center
950 California Ave.
Spartanburg, South Carolina 29303

Now, therefore, you are hereby authorized to search premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY SOUGHT

All clothing including shoes belonging to Charlie Teamer located in his personal property of the Spartanburg County Detention center storage at 950 California Ave., Spartanburg, South Carolina.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

ANY SPARTANBURG COUNTY MAGISTRATE

Within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable; and, if not, to such person as soon thereafter as is practicable: in the event the identity of such person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Spartanburg, SC
10, 20 06

J. B. Bell (L.S.)
Signature of Judge

AFFIDAVIT878
COUNTY OF SPARTANBURG, SC

Personally appeared before me, one Inv. Jay C. Steadman
Who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this county:

DESCRIPTION OF PROPERTY SOUGHT

All clothing including shoes belonging to Charlie Teamer located in his personal property of the Spartanburg County Detention center storage at 950 California Ave., Spartanburg, South Carolina.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

Spartanburg County Detention Center
950 California Ave.
Spartanburg, South Carolina 29303

**REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY
SOUGHT IS ON THE SUBJECT PREMISES**

On 02/02/06 Spartanburg Public Safety Department officers responded to a shooting at Theodosia Drive and Chester Street. Upon arrival officers discovered that a black male had been murdered in a 1997 Toyota Four Runner, registered to David Proctor. Officers located David Michael Proctor at [REDACTED] with multiple gun shot wounds. Mr. Proctor said that the deceased victim had used his cellular telephone to call the person they picked up and told him that they were on the way to pick him up. Mr. Proctor gave recounts of what happened and relayed to police that he and the deceased victim had picked up a black male in front of [REDACTED] Street minutes before the shooting and that the person that they picked up was the one shooting. Telephone records showed that the cellular telephone number called was also calling the house telephone for [REDACTED] Street. The resident of [REDACTED] Street is the girlfriend of Charlie Teamer who has the cellular telephone called by the victims. Charlie Teamer was arrested in the vehicle, which is registered to the resident of [REDACTED] Street on 02/03/06. Charlie Teamer was wearing clothing matching the description given by the victim of the shooting. His clothing was placed into his property at Spartanburg County Detention Center located at 950 California Ave. This clothing is needed for testing of DNA evidence.

Sworn to and Subscribed before me

This 12th day of February; 20 06
[Signature]
Signature of Judge

[Signature] Affiant
Address 145 W. Broad St
Spartanburg, South Carolina 29036
Phone 864-596-2065

I received the attached Search Warrant FEBRUARY 10, 2006, and have executed it as

Follows: On FEBRUARY 10, 2006 at 1130 o'clock A M,

I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with TEAMER, CHARLIE

Name of person searched or "at the place of search" with.

Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: _____

(2) BLACK NIKE AIR SHOES SIZE 10 (1) GRAY T-SHIRT SIZE 2X WITH MAKAUOLI
BRANDED IN RED LETTERS AND A LARGE (M) IN BLUE BETWEEN MAKAUOLI & BRANDED
(1) BROWN LIKE SHOES XL (1) WHITE TANK TOP SIZE 2XL (1) BLACK COLORADO
TIMBERLINE COAT XL (1) GRAY NAUTICA XL SWEAT PANTS

This inventory was made in the presence of INVESTIGATOR STEADMAN CITY

AND CPL E. L. WOODFORD

I swear this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 10th

Day of Feb, 06

[Signature] (L.S.)

Signature of Judge

11:40 AM

Cpl. E. L. Woodford
(Signature of Executing Officer)

880

Spartanburg Magistrate

CASE HISTORY FOR CASE C479965

The State of South Carolina VS JAMES T YOUNG

FILED DATE: 2/13/2006

CASE TYPE: TR

STATUS: Disposed

JUDGE: Paslay, James Buckingham

CASE PARTIES:

Defendant Young, James T

SPARTANBURG, SC 293070000

Officer Darity

Defendant Attorney White, John B.

Harrison White Smith & Coggins, PC, P.O. Box 3547, Spartanburg, SC 29304

Affiant Darity, D.K.

HIGHWAY PATROL, 000000000

CASE HISTORY FOR CASE C479965

Young, James T

Age: 48

DOB: 6/5/1964

DL#: [REDACTED]

SSN: 000-00-0000

SPARTANBURG, SC 293070000

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
2980 DUI / Driving under the influence .08, 1st offense	2/3/2006	Not Guilty Bench Trial	8/9/2006

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY

Total:

DATE	TIME	EVENT DESCRIPTION
8/9/2006	12:00 AM	Filing recorded: Jury Trial Requested
8/9/2006	1:00 PM	Court event: Criminal/Traffic Court
2/20/2006	12:00 AM	Filing recorded: TLN - LETTER PRINTED
7/7/2006	12:00 AM	Filing recorded: JTRL - LETTER PRINTED
8/9/2006	12:00 AM	recorded the following Case Note: DUI
8/9/2006	12:00 AM	recorded the following Case Note: Costs were Adjusted on this Case. Original total costs were 992
2/20/2006	12:00 AM	AMB recorded the following Case Note: COURT: 02/20/2006 1100AM TO 03/20/2006 0
3/24/2006	12:00 AM	LEG recorded the following Case Note: COURT: 03/20/2006 0600PM TO 00/00/0000
7/7/2006	12:00 AM	LEG recorded the following Case Note: COURT: 08/09/2006 0100PM
2/13/2006	12:00 AM	JMW recorded the following Case Note: TICKET ADDED

Print Date: 10/25/2012

Print Time: 3:08:32PM

Requested By: C42AFREEMA

CaseHistory.rpt V6.1

Page 1 of 2

2/13/2006 12:00 AM LEG recorded the following Case Note: CASE #:C479965 CHANGED 06-0453
8/9/2006 12:00 AM AMB recorded the following Case Note: DISP:4 08/09/2006

and a certified true copy
of the records kept in the
Spartanburg Magistrate's Court.

VOLUNTARY STATEMENT

PAGE 2 OF 2

CASE NUMBER

02-0067-06

NAME: Enica P Gray

an officer. I heard him tell my brother to take off his pants and give him all his money. In a minute, he came to the bedroom and I heard him say "ya'll bitches better not be calling the police". He came in and was standing at the bottom of the bed. He pulled my daughters hair, Joronica, and said, "bitch get up and come on". She ran to the top of the bed with my momma, Mary Gray. Then he hit me in the back with the gun and said "bitch go get your pocketbook". I went into the other room and got it. He said "hurry up or I'll kill your momma". When I got back I dumped it out to show him I had no money. While he was with us, my brother ran out the house to call 911. He (suspect) saw my brother was gone and he left. Right after he left I heard a gunshot. A few minutes later the police came and even my daughter told them it was Charlie Teamer. I know Charlie did this because I know his voice very well. He only lives 3 houses down and I used baby sit him. He is at my house 7 days a week and I know his voice, his height and his weight. My whole family knows it is him. I think he did this because a day earlier he saw me ^{HGF} counting my tax return and knew I had money. He got 250.00 from my brother. My momma said he was wearing the same blk pants w/ big pockets during the robbery as when he was visiting earlier the same night. END OF STATEMENT.

WITNESS: Debra J. Smith

WITNESS: _____

Enica P Gray
Signature of person giving voluntary statement

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3 The State,)
4) TRANSCRIPT OF RECORD
5 -vs-) 2007-GS-42-1407;1408
6 Nathaniel Charles Teamer,)
7 Defendant.) January 14 - 16, 2008
8) Spartanburg, South Carolina
9)

10 B E F O R E:

11 HONORABLE J. DERHAM COLE, JUDGE; and a jury
12
13

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

15 BARRY BARNETTE, ESQUIRE
16 ALEX STALVEY, ESQUIRE
17 Attorneys for the State

18 JOSHUA SCHULTZ, ESQUIRE
19 Attorney for the Defendant
20
21

22 Linda D. Moffitt
23 Circuit Court Reporter
24
25

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	<u>EXHIBITS</u>			
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
1				
2				
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1				
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4	S-21	Bullet jacket fragment		182
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7	S-24	Cigarette butt		
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3	S-38	Photograph		189
4	S-39	Photographs		115
5	S-40	Photographs		115
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15	S-50	Photograph		190
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21	S-56	Photograph		190
22	S-57	Photograph		190
23	S-58	Photograph		191
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25	S-60	Photograph		191

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	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
1				
2				
3	S-61	Photograph		191
4	S-62	Photograph		191
5	S-63	Photograph		191
6	S-64	Photograph		191
7	S-65	Photograph		191
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10	S-68	Photograph		191
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24	S-82	Photograph		
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1				
2				
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7	S-88	Drawing of suspect		114
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10	S-91	Photograph		203
11	S-92	Photograph		203
12	S-93	Photograph		203
13	S-94	Pawn shop receipt		
14	S-95	9 mm pistol		202
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16	S-97	Paper with phone number		130
17	S-98	Box of gloves		149
18	S-99	Blue glove		149
19	S-100	Paper with phone number		175
20	S-101	Serial number	206	206
21	S-102	White latex glove with blood	229	233
22	S-103	Paper with phone number		289

23

24

25

EXHIBITS

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Jury qualification

1 (Proceedings January 14, 2008)

2 (The following takes place in the presence of the jury
3 venire.)

4 THE COURT: All right. Now, I know we've got a panel
5 of jurors and we've got potential witnesses in the case.

6 Understand that we're in the process of selecting a
7 jury. Those persons who have come into the courtroom as
8 potential witnesses, there are to be no discussions, no
9 conversations, no talking by you during the course of this
10 process.

11 All right. Ladies and gentlemen, we are ready to
12 begin with the trial of the case, and so first we've got to
13 select a jury.

14 The title of the case that some of you will be asked
15 to participate in is the case of the State vs. Nathaniel
16 Charles Teamer.

17 Mr. Teamer has been accused by the state. This is a
18 criminal case. Mr. Teamer has been accused by the state of
19 two separate and distinct crimes, although they are alleged
20 to have arisen out of one particular event or occurrence
21 that the state alleges occurred back on February the 2nd of
22 2006.

23 By way of these documents which are referred to as
24 indictments the state through the prosecutor has charged
25 Mr. Teamer with the crimes of murder and of assault and

Jury qualification

1 battery with intent to kill. There are two separate
2 charges; there are two separate indictments.

3 Indictment 2007-1407 charges Mr. Teamer with the crime
4 of murder.. And that indictment alleges that Mr. Teamer did
5 here in Spartanburg County on or about February the 2nd of
6 2006 wilfully and with malice aforethought kill one James
7 Antonio Hunter by shooting him with a gun and that
8 Mr. Hunter died as a proximate result of that gunshot
9 wound.

10 Mr. Teamer is also accused of assault and battery with
11 intent to kill. Indictment 2007-1408 alleges that Mr.
12 Teamer did here in Spartanburg County on or about February
13 the 2nd of 2006, and with malice aforethought, commit an
14 assault and battery upon one David Proctor by shooting him
15 with a gun and intending to kill Mr. Proctor.

16 Now, as to those allegations and as to the charges
17 contained in each of those indictments the defendant,
18 Mr. Teamer, has entered a plea of not guilty. And that
19 plea of not guilty therefore places upon the state, because
20 they've brought these charges, to prove Mr. Teamer's guilt
21 to the satisfaction of a jury beyond a reasonable doubt
22 before any verdict of guilty could be returned as to either
23 of the indictments.

24 Every person accused of a crime is presumed to be
25 innocent. The burden is upon the state because they

Jury qualification

1 brought the charge to prove the defendant's guilt beyond a
2 reasonable doubt.

3 So we're going to be selecting 13 of you to
4 participate in the trial of the case. And by way of your
5 participation you'll be called upon to listen to the
6 testimony that will be provided by way of witnesses and to
7 consider any other evidence that might be introduced during
8 the trial of the case.

9 After all of that evidence has been received and I've
10 instructed you on the law that's applicable, the jury will
11 go back, deliberate, decide the facts, apply the law and
12 arrive at a fair and just decision.

13 Now, before we can do that I've got some questions to
14 ask you. The purpose of the questions is to determine if
15 there's some reason why any one of you jurors should not be
16 selected to serve in this particular case.

17 So as these questions are asked if you need to respond
18 to them, I'm going to ask that you please stand, and I'll
19 address any matter with you individually.

20 Now, first of all, as I told you, the defendant in
21 this case is Nathaniel Charles Teamer.

22 Mr. Teamer, if you will, please stand and face the
23 jury panel so that they may see who you are.

24 (Whereupon, the defendant and Mr. Schultz stood.)

25 THE COURT: Mr. Teamer is standing to your left.

Jury qualification

1 Standing to his left is Josh Schultz who is his lawyer and
2 will be assisting him in the trial of this case.

3 Thank you. Be seated.

4 The two persons which are alleged in these indictments
5 to be the victims of these offenses is David Proctor. He's
6 the person alleged to have been the victim of the assault
7 and battery with intent to kill.

8 Is Mr. Proctor present?

9 (Whereupon, the victim stood.)

10 THE COURT: This is Mr. Proctor.

11 And James Antonio Hunter is the victim, alleged to be
12 the victim, in the murder case.

13 Are any of his family members present?

14 (Whereupon, the family members of James Antonio Hunter
15 stood.)

16 THE COURT: All right. If you will, please stand so
17 the jury can see you, and by seeing you they may determine
18 if they knew Mr. Hunter.

19 All right. Thank you. Be seated.

20 Presenting the case on behalf of the state are Barry
21 Barnette who is the deputy solicitor for the 7th Judicial
22 Circuit and Alex Stalvey who is an assistant circuit
23 solicitor for the 7th Judicial Circuit.

24 Now, I'm going to recite a list of potential
25 witnesses. And as I recite this list I don't want you to

Jury qualification

1 become concerned that you think this case might last the
2 rest of the year. There are a number of potential
3 witnesses. It's not likely all of these witnesses are
4 going to be called during the trial of this case. It just
5 depends on how things develop in the trial.

6 But they are all potential witnesses. In other words,
7 they have some knowledge of something that relates to this
8 case, but they may likely not all testify.

9 But I'm going to recite the entire list. Again, the
10 purpose is to determine if you know anybody involved in
11 this case. And so as this list is recited, if you are
12 related to any potential witnesses, or you are a friend of
13 any potential witnesses, or you work with any of these
14 potential witnesses, or you know in any fashion any of
15 these potential witnesses, I'm going to ask that you please
16 stand as that name is called. And then I'll address that
17 connection with you after I conclude reciting the entire
18 list.

19 Donald Martin, Jr.; Heather Forrester, Spartanburg
20 Public Safety Department; Mary Gray.

21 Now, some of these witnesses don't have necessarily a
22 professional title. And you might know somebody that has
23 that similar name or the same name. So if you're not sure
24 if you know that particular person or not, just stand. And
25 I'll try to identify that individual witness more

Jury qualification

1 particularly for your benefit.

2 A. T. Patton, Spartanburg Public Safety Department; C.
3 E. Tillotson, Spartanburg Public Safety Department; Erica
4 Gray; Javanica [REDACTED] Clarence Murphy; Robin Morman;
5 Dwayne Darity, South Carolina State Trooper; David Evett,
6 Spartanburg County Sheriff's Department; James Thomas
7 Young; Brandon Landrum, state law enforcement division;
8 Officer St. Louis with the Spartanburg Public Safety
9 Department; Wayne Jones, Spartanburg County Detention
10 Facility; Joseph Kleman, Spartanburg Regional Medical
11 Center; Brandi Gentry, Spartanburg Regional Medical Center;
12 Investigator Gardner, Spartanburg Public Safety Department;
13 Investigator Steadman, Spartanburg Public Safety
14 Department; Investigator Cheryl Boyd, Spartanburg Public
15 Safety Department; Investigator Toby Bradley, Spartanburg
16 Public Safety Department; Investigator Rusty Clevenger, the
17 circuit solicitor's office; Mark Freeman, county detention
18 facility; Nancy Vinson, county detention facility; Kelvin
19 McKinney, Spartanburg, a resident of Spartanburg; Amy Ruth
20 Hunter; Dawn Hunter; Osia Feaster; Reginald Hunter; Duran
21 Woodruff; Annie Kelly; David Proctor; John David Wren,
22 Spartanburg Regional Medical Center; Amy Stephens; Jan
23 Bryson.

24 These next five witnesses are with the state law
25 enforcement division, including Amy Stephens; Jan Bryson;

Jury qualification

1 Rhonda Fields; Dennis Earele; Tammy Bannister and Alice
2 Shealy.

3 Stephen Lully, Spartanburg County Coroner's Office;
4 David Reeves, Spartanburg Public Safety Department;
5 Margaret Greer, Spartanburg County Sheriff's Department;
6 Officer S. M. Watts, Public Safety Department; Officer
7 David Wood, Public Safety Department; Investigator Lou
8 Parris, Spartanburg Public Safety Department; Shadauya
9 Wikes; Ed Guthro, Spartanburg Public Safety Department;
10 Doris Boozer, Spartanburg Public Safety Department; J. L.
11 Hall, Spartanburg Public Safety Department; Steven Lamb,
12 Spartanburg Public Safety Department; Ken Whitner, state
13 law enforcement division; Nikki Perry, state law
14 enforcement division; Gail Heath, state law enforcement
15 division; Michelle Peak and Reggie Laird with Carolina
16 Community Services; Laura Brown, EZ Money Pawn Shop; Wendy
17 Silver; Brandon Crowe, Singular Wireless; George Nicholson,
18 BellSouth; Natalie Erdossy, Sprint-Nextel; Courtney
19 Westfall, Spartanburg Public Safety Department; Ashley
20 Harris, Spartanburg County Sheriff's Department; Mylnor
21 Beach, Spartanburg Public Safety Department; Selena Kinard.

22 The following nine or ten witnesses are with SLED.
23 Selena Kinard; Betty Butler; Marsha Leizel; Sheree Brown;
24 Theresa Hooks; Larry Ross; Amy Stephens; Karonda Williams;
25 Karl Kenley. They are all with SLED.

Jury qualification

1 Jason Harris, Spartanburg Public Safety Department;
2 Robert Rosenberg, Spartanburg County Sheriff's Department;
3 Todd Wilson and Rick Gregory with the circuit solicitor's
4 office; Jason Bryant, Spartanburg County Sheriff's
5 Department; Natalie Gray; Ieshia [REDACTED] and Gail Moffitt
6 with the clerk of court's office, Spartanburg County.

7 Also Lane Feaster; Kevin Riddle; Keith Letman; Wendy
8 Alley; Teresa Speller; and Mary Teamer.

9 Now, anybody else, any other witnesses for the state?

10 MR. BARNETTE: Yes, sir. James Sutton is the other
11 witness, Your Honor.

12 THE COURT: James Sutton?

13 MR. BARNETTE: Yes, sir.

14 THE COURT: And James Sutton is with who?

15 MR. BARNETTE: With the Department of Public Safety,
16 Your Honor.

17 THE COURT: Any others for the defense?

18 MR. SCHULTZ: None from the defense, Your Honor.

19 THE COURT: Okay. All right. Now, I've identified
20 the defendant; I've identified the persons who are alleged
21 to have been the victims of these crimes; I've identified
22 the lawyers involved in the trial of the case; I've
23 identified all of the potential witnesses.

24 Now, what I need to know is is there any member of the
25 jury panel who has any connection by blood, by marriage, by

Jury qualification

1 friendship, professional association, social contact? Any
2 juror know any persons who have been identified for your
3 benefit? If so, please stand.

4 All right. Yes, sir. Your name and juror number,
5 please, sir.

6 JUROR NO. 29: Juror No. 29.

7 THE COURT: Okay. Who is it that you know?

8 JUROR NO. 29: You said Toby Bradley. I think it's my
9 neighbor if that's the right one.

10 THE COURT: Toby Bradley with Spartanburg Public
11 Safety?

12 JUROR NO. 29: Yes, sir.

13 THE COURT: Yeah. Is there anything about that
14 connection that would have any impact?

15 JUROR NO. 29: I just call him every once and a while.
16 He lived right beside me, so.

17 THE COURT: Well, would that fact have any bearing
18 upon your decision in the case?

19 JUROR NO. 29: No, sir.

20 THE COURT: And your juror number was 29?

21 JUROR NO. 29: Yes, sir.

22 THE COURT: Okay. Thank you. Be seated.

23 Yes, ma'am.

24 JUROR NO. 23: Juror 23. I believe the name Mark
25 Freeman. My daughter is a friend of his wife. He works at

Jury qualification

1 the detention center.

2 THE COURT: Right.

3 JUROR NO. 23: I don't know him but I know the name,
4 and I know that my daughter is a friend of his wife.

5 THE COURT: Okay. Is there anything about that
6 connection that would have any impact or affect your
7 judgment in any way?

8 JUROR NO. 23: No.

9 THE COURT: Thank you. Be seated.
10 Yes, ma'am.

11 JUROR NO. 27: No. 27. If that, if David Wren is a
12 pathologist at Spartanburg Regional Medical Center.

13 THE COURT: He is.

14 JUROR NO. 27: I know him and his wife and his
15 children.

16 THE COURT: Would that have any bearing upon your
17 decision in this case?

18 JUROR NO. 27: None at all.

19 THE COURT: Thank you. Be seated.

20 Anyone else know anybody involved in the case? If so,
21 please stand.

22 (No response.)

23 THE COURT: Does any member of the jury panel know
24 anybody who is employed in the circuit solicitor's office
25 or the Spartanburg County Public Defender's Office? If so,

Jury qualification

1 please stand.

2 (No response.)

3 THE COURT: All right. Now, this is a case, as I told
4 you, that the state alleges occurred back in February of
5 2006. And it is alleged to have occurred in the Park Hills
6 community, the section of Park Hills which is off of --
7 quicker to get to off West Main Street -- at the, the
8 streets were Chester Street and Theodosia Avenue, I believe
9 it is, or Theodosia Street off West Main Street where the
10 Steeple used to be. It's before that, but it is not far
11 from there. The state alleges that occurred on
12 February the 2nd of 2006.

13 Is there any member of the jury panel who thinks
14 you've heard, seen or read anything about this particular
15 case? In other words, do you have any information, do you
16 think you have any information at all or you've been
17 exposed to any information that might relate to this
18 particular case? If so, please stand.

19 (No response.)

20 THE COURT: And I need to know if you saw it in the
21 news, television, radio or newspaper or you've heard
22 somebody talking about the case, whether it be a friend or
23 neighbor or stranger. Do you think you've been exposed to
24 any type of information that relates to this particular
25 case? If so, please stand.

Jury qualification

1 (No response.)

2 THE COURT: Is there any member of the jury panel who
3 is a member of or do you contribute time or money to any
4 organizations that might be described as law enforcement
5 support type of organizations?

6 Those would include Mothers Against Drunk Drivers,
7 Citizens Against Violent Crime, the honorary sheriffs'
8 association, the honorary troopers' association, a
9 neighborhood watch program, any type of victims or witness
10 advocacy group or program.

11 If you are a member of any similar types of
12 organizations or you contribute time or money to any of
13 those types of organizations, I'm going to ask that you
14 please stand.

15 All right. Name and number, please, sir.

16 JUROR NO. 8: Edgar Barrett, No. 8. I've given small
17 donations to Mothers Against Drunk Driving and the South
18 Carolina Troopers Association.

19 THE COURT: Okay. Thank you. You may be seated.

20 Is there any member of the jury panel or any member of
21 your immediate family -- and for the purpose of these
22 questions let's define an immediate family member as a
23 parent, a spouse, a child or a sibling -- a parent, spouse,
24 a child or a sibling.

25 I need to know if you or any members of your immediate

Jury qualification

1 families are now or have ever been employed as any type of
2 law enforcement officer. That would include civilian and
3 military; that would include sheriff's departments, city
4 police departments, town or municipal law enforcement
5 agencies.

6 That would include the state law enforcement, the F.
7 B. I.; that would include any correctional officer, whether
8 it be in the Department of Corrections or any local jail or
9 the detention facility; that would include the department
10 of probation, a solicitor's office or any other
11 prosecutor's office, federal or state. That ought to cover
12 it.

13 You or any family member ever been employed, now or
14 previously, as a law enforcement officer? If so, please
15 stand.

16 JUROR NO. 63: I don't know if this counts. My
17 son-in-law is Mike Hunter. He a detention officer here in
18 Spartanburg.

19 THE COURT: That does count. And your name is what,
20 ma'am?

21 JUROR NO. 63: Laura Foy, and it's 63.

22 THE COURT: And is there anything about that
23 connection that would affect your judgment in this case?

24 JUROR NO. 63: No.

25 THE COURT: Thank you, ma'am. Be seated.

Jury qualification

1 Yes, sir.

2 JUROR NO. 29: I have an uncle in Union County, Roger
3 Gregory.

4 THE COURT: And your number again was what?

5 JUROR NO. 29: Twenty-nine.

6 THE COURT: Twenty-nine. Would that affect your
7 judgment in this case?

8 JUROR NO. 29: No, sir. I also have a second cousin
9 that's the sheriff of Laurens County, Ricky Chastain.

10 THE COURT: All right. Would that have any bearing
11 upon your decision?

12 JUROR NO. 29: No, sir.

13 THE COURT: Thank you. Be seated.

14 Yes, ma'am.

15 JUROR NO. 23: Juror 23. My daughter is an
16 investigator for the Spartanburg County Sheriff's
17 Department and my son-in-law is a deputy with the
18 Spartanburg County Sheriff's Department.

19 THE COURT: Tell me what their names are, please.

20 JUROR NO. 23: Econ Woody is the investigator; Eric
21 Wood, the deputy.

22 THE COURT: And would those connections have any
23 bearing upon your decision in the case?

24 JUROR NO. 23: That wouldn't have any bearing, no.

25 THE COURT: Thank you. Be seated.

Jury qualification

1 Has any member of the jury panel or any member of your
2 immediate family ever been the victim of or ever been
3 accused of the commission of any type of violent offense?
4 And I'm going to include in the classification -- this is
5 my definition, now, of a violent offense.

6 That would include the crimes of murder, manslaughter,
7 burglary, armed robbery, criminal sexual conduct, rape,
8 aggravated assault and battery, aggravated domestic
9 violence, armed robbery, or any other similar type of
10 criminal offense.

11 If you or a family member has ever been the victim of
12 such an offense or ever been accused of having committed
13 any such offense, I would ask that you please stand and
14 provide me with that information.

15 Now, those that are standing, I recognize that there
16 may be some sensitivity to the information that you have.
17 If you don't want to provide it in front of the audience,
18 feel free to come down here, and I'll address it with you
19 privately here at the bench.

20 I'll start over here if you'll give me your name and
21 your number, please, sir.

22 JUROR NO. 33: Jerel Cook, No. 33.

23 THE COURT: And how does that question relate to you?

24 JUROR NO. 33: I had a brother that was killed back in
25 '72, a violent crime.

Jury qualification

1 THE COURT: All right. Would that experience have any
2 bearing, that experience have any bearing, upon your
3 decision in this case?

4 JUROR NO. 33: No, sir, it would not.

5 THE COURT: Thank you. Be seated.

6 Yes, ma'am.

7 JUROR NO. 92: My sister was a victim of domestic
8 violence.

9 THE COURT: And tell me your name, please, ma'am.

10 JUROR NO. 92: Ninety-two, Donna Kinder.

11 THE COURT: All right. Would that have any bearing
12 upon your decision in this case?

13 JUROR NO. 92: No, sir.

14 THE COURT: Thank you. Be seated.

15 Yes, ma'am.

16 JUROR NO. 71: I'm Juror 71. And my mother -- my
17 parents' home was burglarized.

18 THE COURT: Would that have any bearing upon your
19 decision?

20 JUROR NO. 71: No.

21 THE COURT: Thank you. Be seated.

22 Yes, sir.

23 JUROR NO. 8: Juror 8. My car was burglarized and my
24 brother's home was burglarized.

25 THE COURT: Would either of those facts have any

Jury qualification

1 bearing upon your decision?

2 JUROR NO. 8: No, sir.

3 THE COURT: Thank you. Be seated.

4 Yes, ma'am.

5 JUROR NO. 31: Juror No. 31, Tiffany Coleman. My
6 nephew was accused of murder.

7 THE COURT: And would that -- was that in Spartanburg
8 County?

9 JUROR NO. 31: Yes, sir.

10 THE COURT: Would that have any bearing upon your
11 decision in this case?

12 JUROR NO. 31: No, sir.

13 THE COURT: Thank you. Be seated.

14 Now, in this particular case, as I told you, the
15 defendant is accused of having committed the crimes of
16 murder and of assault and battery with intent to kill.

17 Is there anything about those particular crimes,
18 specifically, or the nature of those particular types of
19 crimes that would affect any juror in such a way that you
20 could not be fair and impartial if you were called upon to
21 serve as a juror? If so, please stand.

22 (No response.)

23 THE COURT: Has any member of the jury panel ever been
24 called to testify as a witness either for the state or for
25 a defendant in a criminal trial previously? Anyone ever

Jury qualification

1 been called to testify as a witness in a criminal trial for
2 the state or for a defendant? If so, please stand.

3 Yes, ma'am.

4 JUROR NO. 88: Eighty-eight. Back in '84, '83,
5 something like that, the Allen Peak trial. I don't
6 remember what year it was.

7 THE COURT: All right. And you were called to testify
8 as a witness in that case?

9 JUROR NO. 88: Yes, sir.

10 THE COURT: Would that have any bearing upon your
11 decision in this case?

12 JUROR NO. 88: No.

13 THE COURT: All right. Thank you. Be seated.

14 Yes, ma'am.

15 JUROR NO. 12: I was a witness in '85 for a family
16 member.. It wasn't, it was a driving without a license,
17 something of that effect. I really don't even remember.

18 THE COURT: Okay.

19 JUROR NO. 12: I remember testifying. That's about
20 it.

21 THE COURT: And your name was what?

22 JUROR NO. 12: Cindy Blackburn, No. 12.

23 THE COURT: Thank you. It wouldn't have any bearing
24 upon your decision?

25 JUROR NO. 12: No, sir.

Jury qualification

1 THE COURT: Thank you.

2 JUROR NO. 27: I might have missed a call on the last
3 question, but I was a victim of a strong arm robbery, and I
4 was a witness for the hospital where I was from.

5 THE COURT: All right. And give me your number again,
6 please.

7 JUROR NO. 27: Twenty-seven.

8 THE COURT: Twenty-seven. Okay. Would that affect
9 your judgment in any way?

10 JUROR NO. 27: No.

11 THE COURT: Thank you. Be seated.

12 Now, when I identified the defendant for you and also
13 identified the persons that are alleged to have been the
14 victims which are Mr. -- is it supposed to be Proctor?

15 MR. BARNETTE: Yes, sir, it is. We was going to ask
16 to amend that later.

17 THE COURT: Mr. Proctor and Mr. Hunter.

18 I also need to know if you know any members of their
19 respective families. In other words, you might not know
20 them but you might have some connection with a respective
21 family member.

22 Does any jurors know any of the family members of any
23 person who has been identified this morning for your
24 benefit? If so, please stand.

25 JUROR NO. 29: Last name is Proctor.

Jury qualification

1 THE COURT: David Proctor.

2 JUROR NO. 29: I worked with a David Proctor, and his
3 son was shot. And I don't know if it's the same guy.

4 THE COURT: Is this Mr. Proctor right here?

5 MR. BARNETTE: Yes, sir, it is.

6 THE COURT: This is Mr. Proctor right here. Do you
7 know him?

8 JUROR NO. 29: Does his dad work at Webco?

9 THE VICTIM: Yeah. David L. Proctor.

10 JUROR NO. 29: That's where I work.

11 THE COURT: Okay. And so you know Mr. Proctor's
12 father.

13 JUROR NO. 29: Yes, sir.

14 THE COURT: Now, don't tell me anything that you might
15 have heard about this particular incident. But have you
16 heard something about this case from his father, yes or no?

17 JUROR NO. 29: Yes, sir.

18 THE COURT: You have. Is there anything about -- and
19 what was the most recent time that you heard anything about
20 it?

21 JUROR NO. 29: I just when it, when it happened. That
22 was it. There was no more talk, just when it happened.

23 THE COURT: Okay. And is there anything about what
24 you were told that would cause you to have already formed
25 an opinion or made up your mind as to how this case ought

Jury qualification

1 to come out?

2 JUROR NO. 29: Yes, sir.

3 THE COURT: Okay. And is there anything about the
4 evidence that could change your mind, or you've pretty much
5 got it made up?

6 JUROR NO. 29: My mind is probably made up.

7 THE COURT: Okay. What was your number again?

8 JUROR NO. 29: Twenty-nine.

9 THE COURT: Twenty-nine.

10 All right. Juror 29 will be excused from service in
11 the case. But don't leave.

12 And you are Mr. Chastain.

13 JUROR NO. 29: Yes, sir.

14 THE COURT: Yeah.

15 All right. Has any other juror already formed an
16 opinion or made up your mind as to how this case ought to
17 come out based upon what you've heard up until this point
18 or based upon any consideration? Have you already made up
19 your mind as to what you think the verdict ought to be in
20 this case? If so, please stand.

21 (No response.)

22 THE COURT: Is there any member of the jury panel that
23 knows of any reason whatsoever why you think you could not
24 be fair and impartial if you were called upon to serve as a
25 juror in this particular case? If you have any reason at

Jury qualification

1 all why you think you could not be fair and impartial, I
2 would ask that you please stand.

3 (No response.)

4 THE COURT: Any other questions requested by the
5 state?

6 MR. BARNETTE: May we approach the bench for a second,
7 Your Honor?

8 (Bench conference held off the record.)

9 THE COURT: Ms. Coleman, you indicated that you had a
10 relative who had been charged with murder.

11 JUROR NO. 31: Yes, sir.

12 THE COURT: Do you recall, did you come to court in
13 that case and --

14 JUROR NO. 31: I did.

15 THE COURT: And did you meet the lawyers involved in
16 the case?

17 JUROR NO. 31: Yes, sir.

18 THE COURT: Do you know, do you recall having met Mr.
19 Barnette?

20 JUROR NO. 31: I don't recall. It's been like 19 --
21 it's been over ten years ago.

22 THE COURT: But, in any event, you don't recall having
23 met Mr. Barnette or seeing him involved in that case.

24 JUROR NO. 31: I do not remember.

25 THE COURT: Okay. And you're telling me that there's

Jury qualification

1 nothing about that case that would affect your judgment in
2 this case.

3 JUROR NO. 31: There is not.

4 THE COURT: Okay. Thank you. Be seated.

5 One other potential witness that I left the name off
6 is Russell Porter, also with the Public Safety Department.
7 Does any juror know Russell Porter with the Spartanburg
8 Public Safety Department?

9 (No response.)

10 THE COURT: All right. Any other questions requested
11 by the state or the defense?

12 MR. BARNETTE: None from the state, Your Honor.

13 MR. SCHULTZ: None from the defense, Your Honor.

14 THE COURT: All right. We will strike the list.

15 As your name is called you will be asked to come
16 forward. Just if you're towards the walls, you can come
17 around the ends. If you're towards the middle, come up the
18 middle aisle.

19 Just take about two steps past where the lawyers are
20 seated at the desks and turn and face your fellow jurors.
21 Each side has an opportunity to have you seated for service
22 in the case or to have you excused from service in the
23 case. If either side asks that you be excused, you can
24 simply go back and have a seat where you are now.

25 If both agree to have you seated you'll be having a

Jury qualification

1 seat in the jury box to your right and to my left. So
2 please simply come forward as your name is called. You'll
3 be instructed if you're to be seated for service in this
4 case, or excused.

5 (Whereupon, a jury was impanelled.)

6 THE COURT: All right. Those who have been selected,
7 I'm going to ask you to please go with a bailiff to a jury
8 room. And that's the room you'll be occupying during the
9 course of this trial. And we'll bring you back in just a
10 few minutes to excuse you for lunch.

11 (The following takes place outside the presence of the
12 jury.)

13 THE COURT: Are there any matters that need to be
14 addressed regarding jury selection by the state?

15 MR. BARNETTE: None from the state, Your Honor.

16 THE COURT: By the defendant?

17 MR. SCHULTZ: None from the defense, Your Honor.

18 (Whereupon, the remaining members of the jury venire
19 were excused.)

20 THE COURT: All right. Bring the jury back, please,
21 sir.

22 (The following takes place in the presence of the
23 jury.)

24 THE COURT: All right. Ladies and gentlemen, we're
25 going to recess for lunch or excuse you for lunch. And

Jury qualification

1 I've got some other matters that I've got to address that
2 relate to the case before we can actually start trying it.
3 We'll do that between now and when you come back.

4 But I'm going to ask you to report back to that jury
5 room that you've just been shown to. Report back there at
6 3:00 o'clock this afternoon, at 3:00 o'clock this
7 afternoon.

8 Keep in mind as you leave you can't talk about this
9 case. You can't discuss it in any fashion whatsoever with
10 any person whatsoever. That includes friends; that
11 includes relatives; that includes your fellow jurors. You
12 can only discuss the case when you're involved in jury
13 deliberations at the trial's conclusion.

14 Also, you cannot permit yourselves to be exposed to
15 any type of media coverage that might relate to the case,
16 whether it be television or radio or newspapers. Anything
17 that relates to this case you have to avoid because your
18 decision in this case must be based solely upon what you
19 see and hear during the trial. And you're not permitted to
20 be influenced by any outside consideration.

21 So no newspaper articles, no television exposure, no
22 radio item exposure, no discussions among yourselves or
23 with anyone else except when I've instructed you to begin
24 jury deliberations at the trial's end.

25 With that, do have a good lunch. And please report

Motion

1 back to your jury room at 3:00 o'clock this afternoon.

2 If you're not sure how to get back to that room, talk
3 to the bailiffs before you leave. They'll provide you with
4 those directions.

5 Have a good lunch. I'll see you at 3:00 o'clock this
6 afternoon.

7 (The following takes place outside the presence of the
8 jury.)

9 THE COURT: All right. Court is in recess until 2:30.

10 (Whereupon, a recess was taken.)

11 (State's Exhibits Nos. 1 through 94 for identification
12 were premarked by the solicitor's office.)

13 THE COURT: All right. Have you got all of the
14 exhibits marked?

15 MR. BARNETTE: We have most of them, Your Honor. I
16 think there's a few other ones that if we need to mark,
17 we'll have those marked at a later time.

18 THE COURT: All right. Were y'all ready for the
19 motions?

20 MR. SCHULTZ: Yes, sir, Your Honor.

21 THE COURT: Who has the first one?

22 MR. SCHULTZ: Your Honor, the first defense motion is
23 to challenge the admissibility of the phone that was found
24 by a search conducted by Investigator Guthro on, I believe,
25 February 22nd of 2006.

Edgar Victor Guthro (In-camera)
Direct examination by Mr. Barnette

1 And I think we would like to take some testimony today
2 to -- I would like to argue that this is an invalid search
3 and subject to the exclusionary rule under the Fourth
4 Amendment.

5 THE COURT: Okay. Mr. Barnette.

6 MR. BARNETTE: Your Honor, we are prepared to call
7 Investigator Guthro if you would like to, Your Honor.

8 THE COURT: Okay.

9 EDGAR VICTOR GUTHRO, having
10 been first duly sworn, testified as follows:

11 DIRECT EXAMINATION BY MR. BARNETTE

12 Q If you would, sir, please state your full name for the
13 record.

14 A Edgar Victor Guthro.

15 Q And where do you work at, sir?

16 A Spartanburg Public Safety Department.

17 Q And what's your position there, sir?

18 A Forensic tech.

19 Q And how long have you been with the department of
20 public safety, sir?

21 A A little over 19 years.

22 Q Going back, was you involved in the investigation of a
23 murder and ABWIK that occurred concerning Nathan Charles
24 Teamer back on February the 2nd of 2006?

25 A I was.

Edgar Victor Guthro (In-camera)
Direct examination by Mr. Barnette

1 Q And did you process that crime scene?

2 A Yes, I did.

3 Q Later on was there a car, a Caprice, a 1985 Caprice,
4 that was actually owned by Osia Feaster that was processed
5 by you?

6 A Yes, sir.

7 Q In that situation, when did you process that car?

8 A Actually processed --

9 Q If you would --

10 A -- on 3/2 of 06, I believe.

11 Q March 2nd of 2006. And where had that car previously
12 been before it came to the department of public safety?

13 A It had been at the county's impound lot.

14 Q And was it impounded by the highway patrol?

15 A Yes.

16 Q And when it came into you y'all's -- where does it
17 come to when it comes to the department of public safety?

18 A It was placed into our building that we have on the
19 impound lot.

20 Q Is that where you impound all cars and evidence of
21 that type that you're going to process?

22 A Yes.

23 Q And had anybody from the city since it came into
24 y'all's possession, had anybody at the city looked at the
25 car?

Edgar Victor Guthro (In-camera)
Direct examination by Mr. Barnette

1 A Yes.

2 Q Had there been two search warrants that was previously
3 done by the city when it was in the -- or the highway
4 patrol's control patrol, I mean, control? Excuse me.

5 A That's correct. One while it was theirs and one while
6 it was in ours, was done by an investigator.

7 Q Okay. And had anybody done an inventory search on the
8 car by y'all's part?

9 A No, sir.

10 Q Did you go to do an investigative search? Or
11 inventory search I should say.

12 A I did. I knew that the search warrant had been done.
13 I had talked to the investigator, and he stated it was
14 done. And I went to see what was in the car because I knew
15 we didn't know as far as money or valuables or anything
16 that might have been there.

17 Q And this had just came back into y'all's -- it came
18 from the county impound lot to y'all, is that right?

19 A That's correct.

20 Q What did you find in the car when you went in to do
21 the controlled search?

22 A When I went in, the car had been in an accident, and
23 it was very damaged. There was a piece of sheet metal
24 laying across the front seat. I removed that and laid it
25 on the top of the car. And basically when I do a search

Edgar Victor Guthro (In-camera)
Cross-examination by Mr. Schultz

1 like that, I started and went all the way around the car.

2 The first thing I did was stick my hand under the
3 driver's seat. That pulled out a cell phone at that time.

4 Q And was the cell phone number (864)921- [REDACTED]

5 A I didn't know what it was at that time. The phone was
6 dead.

7 Q Okay. And did you later complete your search of the
8 car with Courtney Westfall at a later time?

9 A I did, yes.

10 Q And was this item turned over to the department of
11 public safety investigators to investigate?

12 A The phone?

13 Q Yes.

14 A Yes, sir.

15 Q If you would, please answer any questions that
16 Mr. Schultz may have for you, sir.

17 CROSS-EXAMINATION

18 BY MR. SCHULTZ

19 Q It's Officer Guthro?

20 A Yes.

21 Q Now, you are aware that some searches were done
22 previously on this car, correct?

23 A That's correct.

24 Q Okay. And where were these searches done, do you
25 know?

Edgar Victor Guthro (In-camera)
Cross-examination by Mr. Schultz

1 A One of them was in the county, I think at the county's
2 impound lot. And one was done at the city after the city
3 had the vehicle.

4 Q Where was the first one done, do you know?

5 A The county impound lot, I believe.

6 Q And where is this county impound lot?

7 A I don't know what street it's on, but it's in the
8 county.

9 Q But you've been there, correct?

10 A In reference to this?

11 Q Have you been to the county impound lot?

12 A I've been there one time, which was fairly recently.

13 Q Okay. Looking at this, this is a search warrant and
14 the affidavit signed by Russell Porter. Russell Porter
15 works for the city, correct?

16 A That's correct.

17 Q And this was signed by a magistrate, correct?

18 A Yeah, appears to be. I can't read it. I assume it
19 was.

20 Q And according to the return on the search warrant,
21 what was found?

22 A There was a silver Verizon cell phone -- it has flip
23 phone in parenthesis -- taken. It says front. I assume
24 that it means from the front driver's seat of the vehicle.
25 Nothing else taken.

Edgar Victor Guthro (In-camera)
Cross-examination by Mr. Schultz

1 Q Do you know the number to that phone?

2 A No, sir.

3 Q And you weren't involved in that search at all,
4 correct?

5 A That's correct.

6 Q Nevertheless, this search warrant was issued by a
7 magistrate, correct?

8 A I would assume so. I didn't have anything to do with
9 it, but it would appear to have been, yes.

10 Q Then another search was performed on the same car.

11 A That's correct.

12 Q And where was this?

13 A That was -- the car was in the city's impound building
14 at that time.

15 Q I'm going to show you this search warrant here. And
16 according to this on the return, what was found?

17 A A green down jacket and a red rag. I think that says
18 red.

19 Q And this was also signed by a magistrate, correct?

20 A Yes.

21 Q And what date was your search warrant?

22 A After those were done, was 2/22, I believe.

23 Q So February 22nd of 2006 was the date you conducted
24 your search.

25 A Yes.

Edgar Victor Guthro (In-camera)
Cross-examination by Mr. Schultz

- 1 Q Did you have a search warrant?
- 2 A No, sir.
- 3 Q Did you think of getting one?
- 4 A No, sir. I was only there looking at the car. I was
- 5 simply looking to see what was in it.
- 6 Q You were told by whom?
- 7 A Investigator Porter.
- 8 Q Investigator Porter. Investigator Porter told you
- 9 that you didn't need one?
- 10 A No.
- 11 Q What did Investigator Porter tell you?
- 12 A That he had already executed the warrant and that he
- 13 had, he was done with the car.
- 14 Q Are you aware that search warrants are only good for
- 15 up to ten days?
- 16 A Yes, I am.
- 17 Q And did you ask Investigator Porter whether this
- 18 search warrant was valid?
- 19 A I asked Investigator Porter actually when I approached
- 20 him if he wanted me to assist him with that, and he said
- 21 he'd already done it. This was days prior to the 22nd. I
- 22 don't remember exactly what day it was.
- 23 Q But now you realize that there wasn't a search
- 24 warrant.
- 25 A I knew there was no search warrant, yes.

Edgar Victor Guthro (In-camera)
Cross-examination by Mr. Schultz

1 Q And, nevertheless, you continued to search.

2 A I looked to see what was in the car, yes.

3 Q And according to your investigation report you state
4 that you then reach under the driver's seat and felt a
5 rectangular object. "I pulled the object from under the
6 seat and saw that it was a Nokia cell phone."

7 A That's correct.

8 Q A cell phone case. So where exactly did you find
9 this?

10 A Under the driver's seat.

11 Q Underneath the driver's seat. Was it far in there
12 or --

13 A Fire?

14 Q Far under the driver's seat or was it --

15 A I couldn't see it. I simply ran my hand up under it.

16 Q So it wasn't in plain view, correct?

17 A That's correct.

18 Q Now, who are you employed by?

19 A Spartanburg Public Safety Department.

20 Q Spartanburg Public Safety. Now, when Spartanburg
21 Public Safety does inventory searches do they have any kind
22 of written inventory policy?

23 A They have one that is -- well, I'm not sure what the
24 policy is. But they have a form that the patrol officers
25 use when they tow a vehicle.

Edgar Victor Guthro (In-camera)
Cross-examination by Mr. Schultz

1 Q Is that all you know about as far as the written
2 inventory policy?

3 A Yes.

4 Q Okay. Do you know of any other standardized policies
5 that either the county or the city has in regards to
6 inventory searches?

7 A No, sir. I can tell you how we do it. But as far as
8 what their actual written policy says, no, I don't I don't
9 know.

10 Q I would like to know how you do it.

11 A Normally, in a serious case such as a homicide, a car
12 comes in that's going to be processed for evidence, an
13 inventory is usually done at the same time the search
14 warrant is executed. In fact, that's the way we always do
15 it, but this being an exception because this warrant was
16 executed by an investigator. Any items that are found are
17 not necessarily of evidentiary value, but things like
18 potential money or purses or any number of different
19 things, are taken out of the car and placed into evidence
20 where they're not lost or stolen by somebody else.

21 Q So your testimony here today is that according to your
22 policy, is that you always do a search warrant prior to
23 doing a search, correct?

24 A No. That's the way we do it. I have no idea what the
25 policy says. An inventory search generally takes place

Edgar Victor Guthro (In-camera)
Cross-examination by Mr. Schultz

1 after somebody is arrested. If their car is impounded,
2 then that will be done by a patrol officer normally. We
3 would see what was in the vehicle if it was listed on their
4 tow sheet.

5 Q Now, let me bring you back to the first search. Isn't
6 it true that that would be considered an inventory search,
7 correct?

8 A Which one?

9 Q The first search on --

10 A The one?

11 Q The search warrant that I showed you the date of that.

12 A They were, they had seen a phone. I'm aware of that
13 they seen a phone in plain view. They did a search warrant
14 to obtain that phone. And that's what they did.

15 Q And that search was conducted on the 3rd of February,
16 2006, correct?

17 A I would have to be looking at the warrant to tell you,
18 but I'm assuming that's correct.

19 Q Well, I'll show you the warrant.

20 A It was executed on February 8th of 2006.

21 Q And then, as I had said before, there was another
22 search done. When was this search conducted?

23 A February 10th of 2006, 11:00 a.m.

24 Q Now, part of your job is to investigate crimes,
25 correct?

Edgar Victor Guthro (In-camera)
Cross-examination by Mr. Schultz

1 A That's correct.

2 Q And when you investigate crimes you gather evidence,
3 correct?

4 A That's correct.

5 Q And in such a case like this there was evidence in
6 this car, correct, or there could have been?

7 A After? Are you talking about when I looked in it --

8 Q Yes.

9 A -- the first time? I wasn't looking for evidence. I
10 would have suspected that there wouldn't have been any, but
11 there was.

12 Q But there was.

13 A That's correct.

14 Q But you were assigned to investigate this case,
15 correct?

16 A Are you asking if I'm the lead investigator on the
17 case?

18 Q No. You were assigned. You could have been the lead
19 investigator or you could not have been the lead
20 investigator on this case.

21 A Was I working on this case? Yes.

22 Q You were working on this case.

23 A Yes.

24 Q And your duty is to investigate matters, correct?

25 A That's correct.

Edgar Victor Guthro (In-camera)
Cross-examination by Mr. Schultz

1 Q And as part of these duties you investigated this car,
2 correct?

3 A I went to do, to see what was in that car. And if
4 anything of value would have been in that car, I'd have
5 taken it and placed it in evidence.

6 Q So it was an investigation, correct?

7 A You're losing me. I don't understand. I'm working
8 the case. The car would have been -- two warrants had been
9 executed on the car by investigators. But there was, other
10 than the items that they had taken out of the car --

11 Q It's a fairly simple question. Were you investigating
12 a crime?

13 A I was inventorying a car. It was involved in a crime,
14 yes.

15 Q You knew it was involved in a crime, correct?

16 A That's correct.

17 Q And you knew two prior search warrants were executed
18 on it, correct?

19 A That's correct.

20 Q Okay. And you were investigating this.

21 A I investigated --

22 MR. BARNETTE: Your Honor, I'm going to object at this
23 point. This is asked and answered. I know it's pretrial
24 but --

25 THE COURT: Well, I think he said he was involved in

Edgar Victor Guthro (In-camera)
Cross-examination by Mr. Schultz

1 the investigation, so.

2 Q Now, on March the 1st of 2006 were you aware that
3 another search warrant was done of this car?

4 A The 1st?

5 Q On March the 1st.

6 A I know that I executed one on 3/2. It might have been
7 obtained on the 1st. I'm not sure.

8 MR. SCHULTZ: Beg the Court's patience, Your Honor.

9 Q This search warrant right here, could you read what is
10 on the return?

11 A Yes. "One cold, red Mountain Dew bottle, one Newport
12 cigarette butt, one bag of green leafy substance, one
13 Wal-mart film receipt, one disposable camera box, one pair
14 of sunglasses, one knife, one Minute Maid orange juice
15 bottle, four cigarette butts from driver's floor, one
16 hand-rolled cigar, five flyers, six swabs, handprint from
17 the exterior of the vehicle, palm print from rear view
18 mirror." And nothing else was taken.

19 Q Nothing else was taken. Did you execute this?

20 A Yes.

21 Q So you were the one that wrote this, correct?

22 A That's correct.

23 Q Okay. Now, doesn't this return on the warrant seem
24 more like an inventory?

25 A Yes. That was the actual search I processed.

Edgar Victor Guthro (In-camera)
Redirect examination by Mr. Barnette

1 Q That was an actual inventory, correct?

2 A That was an actual search for evidence at that point.

3 Q So that last search that I referred to, that was more
4 of a tool to record the defendant's belongings, correct?

5 A That was done because I had pulled the phone out of
6 the car that turned out to be of evidentiary value
7 indicating that the car had not been properly done to begin
8 with. So another warrant was obtained, and I executed that
9 warrant and processed that vehicle listing the stuff that
10 was taken out of it, yes, including the fingerprints, palm
11 prints, swabs from the steering wheel.

12 Q And this was all taken during March the 1st, correct?

13 A On the 2nd.

14 Q March 2nd. Excuse me. March 2nd.

15 MR. SCHULTZ: Beg the Court's patience, Your Honor.

16 (Pause.)

17 MR. SCHULTZ: Your Honor, that's all I have at this
18 time.

19 MR. BARNETTE: Just a few on redirect, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. BARNETTE

22 Q I want to make sure I understand your response to
23 Mr. Schultz's questions.

24 When you went to look there, you just assumed there
25 was no evidence there. You was just inventorying it just

Edgar Victor Guthro (In-camera)
Redirect examination by Mr. Barnette

1 for money purposes or anything of value that may be in the
2 car.

3 A Anything of value that needed to be placed into
4 evidence where it couldn't be lost or stolen by somebody
5 while it was in our -- I know it's going to be in our
6 possession for approximately 75 years. At that point there
7 could have been a body in the trunk for all I know.

8 Q But the thing was it had been in the possession of
9 another agency.

10 A Yes.

11 Q And was sent to you. Is this something that you
12 normally do, is check anything that comes into our agency
13 to make sure that y'all inventory what may or may not be
14 given to you?

15 A That would be normal. I have personally not done it.
16 I've been in this position for a couple of years. But,
17 yeah, that would be normal.

18 Q And, well, you don't have that happen very often
19 obviously.

20 A That's correct. This is the first time I've had it.

21 Q So I'm assuming usually y'all would do your own thing
22 if it came directly to you. But it didn't in this case.

23 A That's right.

24 Q So once you did that, once you found -- you knew they
25 were looking for a cell phone, not that you was looking for

Edgar Victor Guthro (In-camera)
Recross-examination by Mr. Schultz

1 a cell phone. You was just looking to see anything of
2 value. You went and got a search warrant after that point?

3 A Yes, sir.

4 Q Because you thought there might be potentially more
5 evidence inside of it?

6 A Yes.

7 Q Thank you, sir.

8 MR. SCHULTZ: Just briefly, Your Honor.

9 RECROSS-EXAMINATION

10 BY MR. SCHULTZ

11 Q When you went and found the Nokia cell phone did you
12 or did you not have a search warrant?

13 A I did not.

14 Q And when you went back on March the 2nd of 2006, when
15 you found all of this other stuff, you did have a search
16 warrant, correct?

17 A That's correct.

18 Q And that was more of an inventory search rather than
19 an investigation, correct?

20 A That was a search for evidence. I was looking for any
21 other evidence that might have been overlooked initially by
22 the investigators who had executed the warrants.

23 Q Nevertheless, a lot of the stuff that you found on
24 March the 2nd was in plain view, correct?

25 A Yes, yes. Some of it was, some of it -- some of it

Motion

1 wasn't. Some of it I had to remove the back seat to find.

2 MR. SCHULTZ: That's all I have, Your Honor.

3 MR. BARNETTE: No further questions, Your Honor.

4 THE COURT: You may step down.

5 MR. BARNETTE: Your Honor, that would be the state's
6 showing concerning the issue of the cell phone itself.

7 MR. SCHULTZ: Your Honor, if I may, I believe it was
8 pretty clear from Officer Guthro's testimony that the
9 purpose of the search on February 22nd was investigatory in
10 nature. It was not an inventory search. It was an
11 investigation used to find evidence in this case.

12 Your Honor, we heard testimony that on February the
13 3rd of 2006 a warrant was issued to search the Caprice. In
14 that search a silver Verizon phone was found.

15 Then on February the 10th of 2006 another search
16 warrant was issued and a green down jacket and a red rag
17 were found in the car.

18 That was the last search warrant that was issued
19 before Investigator Guthro went to, went back to the car
20 and found the Nokia cell phone. That was done without a
21 search warrant. That was not an inventory search
22 whatsoever. And it also, was not done without a search
23 warrant, because the last search warrant issued in this
24 case was from February the 10th of 2006. And this
25 search -- and this search that Investigator Guthro did was

Motion

1 on February the 22nd of 2006.

2 The next search that was done was on May 2nd for a
3 search warrant that was issued on, excuse me,
4 March 2nd that was issued on March 1st. And that,
5 according to the testimony, was more of an inventory
6 search.

7 Again, nothing was found there that was fairly
8 incriminating. But, nevertheless, on February 22nd they
9 did find a phone, which as the evidence may reveal was, is
10 allegedly incriminating to Mr. Teamer.

11 So I believe that according to South Dakota v.
12 Opperman, which is I believe the relevant case law on this,
13 is that any time a car is impounded or is in the custody of
14 a, of the county or of the city there's a lesson --
15 expectation of privacy. I understand that. And I think
16 the case law is pretty clear on that. But the -- any
17 subsequent search of an automobile must be of an inventory
18 nature.

19 Now, Investigator Guthro admitted on the stand that
20 there was no standardized or written policy or procedure
21 for this, and he did not follow in that. If he would have,
22 he would have had a search warrant done. And according to
23 South Dakota v. Opperman there -- if an investigation -- if
24 the search is primarily investigative, then the evidence
25 should be not admitted.

Motion

1 I find it interesting that the search that was done on
2 February the 22nd of 2006 revealed only one thing. That
3 only one thing was a Nokia cell phone.

4 And then on March 2nd Investigator Guthro returned and
5 did a full inventory search because he read to the Court
6 all of the things that he found in that car. That's a
7 proper inventory search, the one on March 2nd.

8 The one on February the 22nd of 2006 was primarily
9 investigative in nature, thus not being an inventory
10 search. And thus I believe that evidence should be denied
11 and should be thrown out as a result of the search on
12 February 22nd.

13 THE COURT: Mr. Barnette.

14 MR. BARNETTE: May it please the Court, Your Honor.

15 Your Honor, we would argue that obviously through the
16 testimony that Investigator Guthro presented, he didn't go
17 to do an investigative search. The first -- he thought all
18 of the evidence had been taken care of. It'd been switched
19 from a different agency, the highway patrol or the county,
20 to his agency, the department of public safety.

21 He went to do an inventory just to make sure there
22 wasn't anything of value or anything inside of it. He
23 finds this phone. He realizes that, you know, they hadn't
24 done everything.

25 So he goes back and gets a search warrant to go back

Motion

1 and to do an investigative search of that. And he does an
2 investigative search. Other items are found or whatever.
3 But we submit it wasn't an investigative search at the time
4 he went to do an inventory on a car that had been
5 transferred from another agency to his agency. And
6 therefore we feel like the phone should be allowed to stay
7 in and presented as evidence.

8 THE COURT: When was the car transferred from one
9 agency to another?

10 MR. BARNETTE: Yes, sir.

11 THE COURT: I say when was that.

12 MR. BARNETTE: Let me check, Your Honor. Let me ask
13 Officer Guthro.

14 THE COURT: Can y'all agree on that?

15 (Pause.)

16 THE COURT: Well, that's all right if you don't know.
17 All right. Don't worry about that.

18 As I understand it, the car had been impounded by the
19 highway patrol or by a state trooper and it was in the
20 custody of the state or perhaps county impound lot.

21 MR. BARNETTE: That's correct, Your Honor.

22 THE COURT: It was transferred to the city because
23 they were investigating another crime involving this
24 defendant.

25 From what I, from what I can understand of Officer

Motion

1 Guthro's testimony, was that he realized that no one -- on
2 February the 22nd is when he realized that no one had
3 conducted an inventory of the vehicle. So he didn't know
4 what was in there or what was not in there.

5 But he realized that there was no inventory conducted.
6 And his testimony is that he knew it was the policy of the
7 department to conduct an inventory search of a vehicle that
8 was impounded. This car happened to be taken into custody
9 by another department.

10 So when he realized that there was no inventory of the
11 contents of the vehicle he went to conduct an inventory
12 search, notwithstanding the fact that there had been two
13 previous search warrants issued looking for particular
14 items, I assume. I haven't seen those warrants, but
15 looking for specific items.

16 He realized there were items in the car, there was no
17 inventory and therefore the department could be subjected
18 to a lawsuit based upon the loss of some valuables that
19 might take place, not knowing what's in the vehicle.

20 So as I understand the testimony, on February the
21 22nd he went to conduct that inventory search. Pursuant to
22 his conducting that inventory he found a cell phone which
23 obviously has some value. And it was taken into custody by
24 him for protection of the defendant's property and
25 protected the department from being sued as a result of it

Motion

1 becoming lost.

2 Inventory searches are proper searches so long as
3 there is a standard policy. I think Mr. Guthro indicated
4 he didn't use the form but he conducted the inventory as
5 per the policy.

6 The March the 2nd search is a search for evidence.
7 That's not an inventory search. That was a search to -- I
8 don't know what that warrant says either, but you don't
9 need a warrant to conduct an inventory search.

10 The purpose of an inventory search is to inventory the
11 contents of a vehicle that's been taken into custody to
12 protect the department from claims for loss of property and
13 to protect a person's property whose car has been taken
14 into custody.

15 So what I gather from the testimony, and the only
16 testimony I've heard and the only evidence that's been
17 presented is that of Mr. Guthro. From what I gather, he on
18 the 22nd was conducting an inventory to protect the
19 property and the vehicle. As a result of that search he
20 took into his possession a telephone.

21 That is not an illegal search in my view,
22 understanding what the case law is. I think it's
23 appropriate. It can't be a pretext to conduct a search. I
24 mean, you can't say I'm going to do an inventory of a
25 vehicle just so you can conduct a search of it.

Motion

1 But in this case, as I understand it, Officer Guthro
2 had no idea there was anything in the car of any value. He
3 assumed that an inventory had already been done and
4 anything of value had been removed.

5 It turns out when he went to -- when he realized there
6 was no inventory that had previously been done, he went to
7 do it and found an item. And he realized then that all
8 items had not been taken out of the vehicle. So he took it
9 into custody.

10 I think it appears to be an appropriate inventory of
11 the vehicle. So the, you know the, taking of the telephone
12 into custody I don't think was improper. Now, what was
13 done with it afterwards might be a different issue
14 altogether.

15 Is that going to be addressed today or sometime?

16 MR. BARNETTE: Not from the state, Your Honor.

17 THE COURT: Yeah. I understand.

18 MR. SCHULTZ: Not from the defense.

19 THE COURT: Okay. Motion to exclude the phone is
20 denied.

21 Anything else?

22 MR. BARNETTE: Nothing from the state, Your Honor.

23 THE COURT: Okay.

24 MR. SCHULTZ: Your Honor, I have one other, a couple.

25 THE COURT: Okay.

Motion

1 MR. SCHULTZ: Your Honor, in the last trial back in
2 September of 2007 there were several letters from or to the
3 defendant indicating that, on those letters that, his
4 nickname was Murda or Murda Rich.

5 Your Honor, in the last trial that we did the state
6 introduced these, these letters, because I think it went to
7 the identity issue.

8 Your Honor, in this case I believe that the
9 introduction of these letters will not go to the issue of
10 identity. It would go --

11 THE COURT: Are you going to offer them, Mr. Barnette?

12 MR. BARNETTE: No, sir. It will be just reply
13 testimony. It depends on what the defense will present on
14 their alibi.

15 THE COURT: Well, let's just, let's suffice it to say
16 that those letters and their contents, envelopes and
17 contents, will not be introduced without the issue of their
18 admissibility being addressed by the Court. How about
19 that?

20 MR. SCHULTZ: That's fine, Your Honor.

21 THE COURT: Okay.

22 MR. SCHULTZ: Your Honor, I have a couple of more
23 motions.

24 THE COURT: Okay.

25 MR. SCHULTZ: I believe that Mr. Teamer gave no

Motion

1 statements to either the prosecution or any police agency.
2 I've been not been made aware of any statements that Mr.
3 Teamer gave.

4 THE COURT: Does the state intend to introduce any
5 statements, written or oral, made by the defendant?

6 MR. BARNETTE: No, sir.

7 THE COURT: Okay.

8 MR. SCHULTZ: I believe that there's no Lyle, South
9 Carolina Rules of Evidence, 404(b) evidence, that the state
10 intends to present.

11 MR. BARNETTE: None, Your Honor.

12 THE COURT: All right.

13 MR. SCHULTZ: Your Honor, in the last trial -- I have
14 received some copies of current criminal records of the
15 state's testifying witnesses. I would like to -- I believe
16 if there's any more witnesses that the state intends to
17 call that I be allowed to see those, see the actual
18 reports.

19 THE COURT: Do you have the criminal records of all of
20 those who testified previously?

21 MR. SCHULTZ: All of those who testified previously I
22 do have.

23 THE COURT: All right. Any additional records?

24 MR. BARNETTE: There are some witnesses -- I think
25 Kelvin McKinney is who he is talking about. He has his

Motion

1 record. He should have all, all potential witnesses that's
2 going to -- we gave it to him before the other trial
3 because we thought we was trying this with it. Of course
4 this was severed at the time.

5 THE COURT: Okay.

6 MR. BARNETTE: So he was given all of those N. C. I.
7 C. up to that point. I can go back and check, Your Honor,
8 and see if there is. But I don't think there's any
9 additional records other than those records.

10 THE COURT: Okay.

11 MR. SCHULTZ: Your Honor, the only reason I mentioned
12 that is that I don't know if these people have picked up
13 new convictions since September. That very well could have
14 happened. I would just like to see a new run-through of
15 the N. C. I. C. reports.

16 MR. BARNETTE: Well, if Mr. McKinney is the one he's
17 worried about, I guarantee you he hasn't because he's still
18 been in jail the whole time. So that would be the main
19 person. And I think the other gentleman he's talking about
20 is Reginald Hunter. And Mr. Hunter is in the county jail
21 right now. But he has not been convicted on that charge.

22 THE COURT: It doesn't appear there's any additional
23 information. But you can ask the witness about it if you
24 want to.

25 MR. SCHULTZ: All right. Thank you, Your Honor.

Motion

1 Now, the -- as Mr. Barnette indicated that he intends
2 to call a witness, one Kelvin McKinney who is currently at
3 the Spartanburg County Detention Facility, and he's going
4 to present some evidence that would tend to point fingers
5 at my client, Your Honor, I want to know if there's any
6 pending criminal charges against Mr. McKinney that the
7 state has agreed to either dismiss or reduce or any kind of
8 plea bargaining that Mr. McKinney has engaged in with the
9 state.

10 MR. BARNETTE: Your Honor, Mr. McKinney has been
11 charged with assault and battery with intent to kill from
12 an incident of January the 14th of 2006, which the
13 defendant is also charged in it. They were both
14 codefendants in that situation.

15 Mr. McKinney -- he has not been promised anything. He
16 will -- I told him that if he cooperates I'll tell the
17 sentencing judge that he cooperated in this murder case.
18 That's the only thing that he's been told. He has not been
19 promised a sentence or anything of that nature.

20 THE COURT: So he's not been offered any sort of plea
21 negotiation. There have been no charges pending that have
22 been dropped or intending to be dropped or that have been
23 reduced or intended to be reduced.

24 MR. BARNETTE: That's correct, Your Honor. And his
25 attorney, Phil Sinclair, has been involved in all of those

Motion

1 discussions also.

2 THE COURT: Okay.

3 MR. SCHULTZ: Your Honor, I have another motion, and
4 that's for sequestering of all potential state's witnesses.
5 I understand the Victim's Bill of Rights mandates that some
6 victims stay here. But I believe the only victim that is
7 prepared to testify is Mr. Proctor.

8 Your Honor, I would ask of the Court, and I do this in
9 the best of faith, that all the other witnesses be
10 sequestered during the state's case in chief.

11 THE COURT: Any objection?

12 MR. BARNETTE: Your Honor, I think he has statements
13 from most of the witnesses that are going to testify, but I
14 would ask -- obviously, it includes the victims' families.
15 We have the Hunter family. Dawn Hunter is a potential
16 witness in the case. We would ask her to be able to stay,
17 because she is obviously the sister of the victim on the
18 murder case. Of course Mr. Proctor's here also.

19 Of course we have investigators that we -- Mr.
20 Gregory. I don't think they're going to be testifying, but
21 they're here just for administration. They also helped us
22 interview witnesses. So they'd be potential reply
23 witnesses or concerning the testimony, impeachment
24 witnesses, potential.

25 But, you know, obviously we object to it. But, like I

Motion

1 say, I'll leave it in the Court's discretion. But I think
2 it needs to be more, more than just Mr. Proctor being left
3 in the courtroom.

4 THE COURT: Well, the persons you want to remain are
5 Mr. Proctor and Mr. Hunter's sister?

6 MR. BARNETTE: Yes, sir. Ms. Dawn Hunter. I think
7 she's the only witness out of the Hunter family. I think
8 there's nobody else. Of course we do have officers and so
9 forth also present.

10 THE COURT: And your chief investigating officer.

11 MR. BARNETTE: Witness in that case. And Jay Steadman
12 is going to be the gentleman, I think, that's going to be
13 staying on that part. And of course David Reeves is the
14 evidence officer. We'd ask him to just stay for the
15 evidence, Your Honor.

16 THE COURT: Those four may remain. The rest of them
17 will be sequestered.

18 And those witnesses -- it's reciprocal, both defense
19 and state's witnesses are sequestered.

20 MR. BARNETTE: Thank you, Your Honor.

21 THE COURT: And those who are present -- and I'll have
22 to ask y'all to instruct others -- you are not permitted to
23 discuss your testimony with any person who is a witness in
24 this case.

25 Okay. All right. Anything else?

Motion

1 MR. SCHULTZ: Your Honor, I believe we talked about
2 this back in chambers, but the solicitor has informed the
3 Court back in chambers that the -- Mr. Proctor does not
4 intend to point anybody out in court in the state's case in
5 chief.

6 If this has changed -- and I do not believe this has
7 changed -- I would just like to make sure that this does
8 not happen. If, if the case has changed where Mr. Proctor
9 intends to point out the defendant in court, I would ask
10 for a Neal vs. Biggers hearing, but I'm not sure if this is
11 the case.

12 MR. BARNETTE: Your Honor, I'm not going to ask him to
13 identify the defendant in the courtroom. I don't know if
14 Mr. -- the defense is going to do that or not. Obviously,
15 this is the first time he's seen him, but I'm not going to
16 ask him that question.

17 THE COURT: So unless the defense asks him whether he
18 can or cannot, he'll not be making an in-court
19 identification of the defendant.

20 MR. BARNETTE: That's correct, Your Honor. I'll be
21 showing him the drawing that was made based off his
22 observations and everything, ask him to I. D. if that's the
23 drawing that was done by the department of public safety,
24 Investigator Hawes in particular, and ask him and probably
25 move that into evidence. Investigator Hawes will also

Motion

1 testify to that also.

2 THE COURT: Okay.

3 MR. SCHULTZ: Your Honor, since the escape document is
4 not being tried, that, that only leaves, and I just want to
5 make sure that the escape is not being tried in this case.

6 THE COURT: It's not.

7 MR. SCHULTZ: Okay. Your Honor, that leaves me with a
8 couple of more. But the biggest, biggest one is that
9 recently last month, December 18th of 2007, Mr. Barnette
10 served notice to seek life without parole for Mr. Teamer as
11 a result of his prior conviction back in September of
12 '07 for burglary first.

13 Your Honor, as you're familiar with the facts of this
14 case, what happened that night is there was allegedly a
15 murder done.

16 THE COURT: Do you want me to prevent them from
17 seeking a life sentence?

18 MR. SCHULTZ: Well, no. I understand that murder
19 carries up to 30 to life. I understand that. But I
20 believe that the life-without-parole statute is
21 inapplicable in this case, Your Honor, because --

22 THE COURT: Well, why don't we address that if and
23 when it becomes relevant? Right now he's not been
24 convicted of anything.

25 MR. SCHULTZ: I understand that, Your Honor.

Motion

1 THE COURT: Well, I think that's more appropriate to
2 discuss at the time of any sentencing hearing.

3 MR. SCHULTZ: Your Honor, just one more motion here.

4 THE COURT: Okay.

5 MR. SCHULTZ: Your Honor, because these events are so
6 closely connected and similarly situated, that I believe
7 that it is a tall order for either the state or the defense
8 to not get into what happened later on that night as a
9 result of trying this murder and assault and battery with
10 intent to kill.

11 More specifically, I believe that if, if I call an
12 alibi witness, the solicitor has indicated to me that he
13 believes that that opens the door into the convictions that
14 Mr. Teamer was convicted of back in September of '07, that
15 being felony D. U. I., burglary first and failure to stop.

16 I don't believe that is the case, so I would like some
17 kind of pretrial ruling. I'm not sure if this is the
18 appropriate time to do such. I would like some kind of
19 pretrial ruling as to, as to if I present an alibi witness
20 and she testifies to the fact that Mr. Teamer was here at
21 this point when the alleged murder happened. That's what I
22 want to make sure, that that does not open the door into
23 his past convictions, his prior convictions.

24 MR. BARNETTE: Your Honor, we were going to bring up
25 the failure to stop obviously. That's part of the res

Motion

1 gestae as far as I'm concerned to show where the cell phone
2 came from, where he was found at.

3 We weren't going to bring up the home invasion or the
4 burglary first unless, obviously, on his alibi defense or
5 on his defense he would make that an issue. I don't know
6 if it will be an issue or not. I haven't heard their
7 evidence.

8 But, obviously, the failure to stop, we are going to
9 introduce that because of, well, two reasons, evidence of
10 flight and then also the cell phone was found in that car.
11 That cell phone, the number, is matched to several phone
12 calls that was made to Mr. Proctor's phone when he and
13 Mr. Hunter was going to meet with him.

14 THE COURT: And all of this occurred on the same
15 night?

16 MR. BARNETTE: Yes, sir. Well, well, actually the
17 same night. One was -- the murder was around February the
18 2nd at 8:45 p.m. The failure to stop was January the 3rd,
19 I mean, February the 3rd, the next day or next morning.

20 THE COURT: Two days, but the same 24-hour period.

21 MR. BARNETTE: Yes, sir. It is. It's about 1:00 or
22 2:00 o'clock in the morning when that happened.

23 THE COURT: Well, Mr. Schultz, it's hard for me to
24 know what's relevant or what door has been opened or what
25 ought to be allowed in without hearing the evidence and

Motion

1 seeing what the context of it is.

2 Now, I will say just the fact that you call somebody
3 as an alibi is not going to open the door for prior
4 convictions. But if it's otherwise relevant to some issue
5 in this case, then it may come in. But I don't know
6 whether you'll open the door or whether it'll be relevant
7 on its own. I don't know. I'll just have to see that as
8 the time comes.

9 Just the fact that you have an alibi doesn't, doesn't
10 make a prior conviction for the burglary relevant. I can
11 tell you that.

12 MR. SCHULTZ: Your Honor, beg the Court's patience.

13 (Pause.)

14 MR. SCHULTZ: Your Honor, there is one more issue that
15 is found here, and that concerns the search warrant for
16 phone records addressed to BellSouth Telecommunications,
17 and therefore phone records, (864)542-██████████ And these
18 phone records, I'll allow the solicitors to get out that
19 search warrant.

20 MR. BARNETTE: That's fine. You can go ahead.

21 MR. SCHULTZ: An affidavit was signed by a magistrate
22 on February the 10th of 2006, and on February 22nd of 2006,
23 45 pages of records, of subscriber information, were
24 returned.

25 Your Honor, this, this was ten days after the, more

Motion

1 than ten days after the, issuance of the warrant. So I
2 believe that these would be inadmissible under the Fourth
3 Amendment.

4 MR. BARNETTE: Your Honor, I'll be glad to hand the
5 search warrant up to you. It's within ten days. I would
6 argue even if it's outside the ten days there's no
7 prejudice to the defendant in this situation.

8 Plus, these phone records are gathered by companies
9 outside the jurisdiction of the South Carolina times, or
10 obviously to get these records it takes a great deal of
11 time because there's thousands of these records here. And
12 they have to be researched and everything.

13 I do have the search warrant I think he's talking
14 about. I'd like to make that Court's Exhibit No. 1 if
15 possible.

16 THE COURT: Well, is it fair to that say they were
17 requested, they just weren't provided by the phone company
18 inside the ten days?

19 MR. BARNETTE: Yes, sir. That's correct.

20 THE COURT: Okay. Well, I'm going to deny your motion
21 to exclude that.

22 MR. BARNETTE: I don't know if you needed a copy of
23 the search warrant for that, Your Honor.

24 THE COURT: Not if y'all agree.

25 MR. BARNETTE: Yes, sir.

Motion

1 THE COURT: A search warrant was issued to get the
2 records relating to that telephone number from various
3 subscribers, or was it one?

4 MR. BARNETTE: The subscriber he's talking about,
5 BellSouth, is 597- [REDACTED] That was issued on February the
6 5th. It was returned on February the 14th which is within
7 the ten days, Your Honor.

8 THE COURT: Okay. Well, in that case that is within
9 ten days. So that, that motion is denied based on the
10 grounds --

11 MR. BARNETTE: Your Honor, if he's talking -- I don't
12 know which search warrant he's talking about. I'm assuming
13 that's the BellSouth one. Okay. You're talking about a
14 different search warrant, 542- [REDACTED]

15 MR. SCHULTZ: The search warrant that he's talking
16 about is not -- is within the 10-day time period. But the
17 one that I'm talking about is outside the scope of ten
18 days.

19 MR. BARNETTE: But, Your Honor, I would even argue if
20 it's outside the scope of ten days it's because the
21 telephone company didn't give it back to me. It's not
22 because --

23 THE COURT: I understand. I deny your motion to
24 exclude it --

25 MR. BARNETTE: Thank you.

Motion

1 THE COURT: -- so long as it's otherwise relevant.

2 MR. BARNETTE: Yes, sir.

3 THE COURT: Anything else?

4 MR. SCHULTZ: That's all I have, Your Honor.

5 THE COURT: All right. Are we ready for the jury?

6 MR. BARNETTE: The state is ready, Your Honor.

7 MR. SCHULTZ: Is defense is ready, Your Honor.

8 THE COURT: Okay. Bring them in. Ask Ms. Mize to
9 take the foreperson's seat.

10 MR. BARNETTE: Your Honor, one matter I wanted to make
11 sure about.

12 Is it okay if Investigator Gregory stays in the
13 courtroom? He is on our witness list. He's there just for
14 impeachment of witnesses if they change their story.

15 THE COURT: What say the defense?

16 MR. SCHULTZ: Your Honor, I was just going to not
17 address that. I believe I have no objection to that.

18 Your Honor, I would just like to see if it's possible
19 for the defendant's mother to stay in the courtroom. I do
20 not intend to call her as a witness any more because of
21 the --

22 THE COURT: Well, if you're not going to call her,
23 then, sure, she can stay.

24 MR. BARNETTE: Yes, sir. We agree if he wants to keep
25 Ms. Teamer in. That's okay.

1 THE COURT: Okay.

2 MR. BARNETTE: And then last I think Ms. Rish is going
3 to stay, Jay Steadman, Proctor and the Hunter family, I
4 mean the Hunter family. Ms. Hunter is the only other
5 witness I intend to call.

6 (The following takes place in the presence of the
7 jury.)

8 THE COURT: Good afternoon, ladies and gentlemen.

9 Y'all can move over one seat. That way you might be
10 able to see a little better if they use that screen. I'm
11 not sure you can.

12 Thank you for your patience. I had some matters to
13 address. It took me a little longer than I had
14 anticipated.

15 But we are now ready to begin with the trial of the
16 case for which you were selected.

17 And, Ms. Mize, I'm going to ask you to serve as the
18 foreperson of the jury. Now, the foreperson has three
19 duties that none of the other jurors have.

20 Number one, you'll be asked to serve as the
21 spokesperson for the jury. And so if during the trial
22 something comes up that needs to be brought to my
23 attention, you or a fellow juror has any difficulty,
24 problem or question, you let the bailiff know. He'll let
25 me know. And I'll address those problems or answer those

1 questions.

2 Secondly, you'll be asked to preside over jury
3 deliberations when the times comes. That of course won't
4 be until after all of the evidence has been received and I
5 have instructed you on the law. But when the time comes
6 for you and your fellow jurors to go back and begin
7 deliberations in order to arrive at your decision, you're
8 called upon to preside over that process in the jury room
9 simply to ensure that those deliberations are carried out
10 in some orderly fashion.

11 And, thirdly, you'll be asked to actually write the
12 verdicts or the decisions of the jury. You'll do that on a
13 verdict form that I'll provide you at the trial's
14 conclusion on which you will indicate the jury's unanimous
15 decision to each of the separate charges.

16 Now, the foreperson has those specific duties that I
17 just indicated. That does not however mean that she is any
18 more important than any of you other jurors, because any
19 decision a jury brings has to be unanimous. That is all 12
20 of you must be in agreement. The verdicts have to be
21 unanimous.

22 Someone simply has to be delegated those
23 responsibilities that I have just indicated, and I have
24 delegated those to Ms. Mize in appointing her as the
25 foreperson. But all of you jurors are equally important so

1 far as the ultimate decisions in this case are concerned,
2 because, as I've stated, the verdicts have to be unanimous.
3 All of you have to be in agreement.

4 Now, Mr. Willard and Mr. Barrett, each of you have
5 been selected as alternate jurors. And the function of an
6 alternate juror is for one or both of you to take the place
7 of one or two of the original 12 jurors in the event that
8 those one or two of those jurors cannot continue to serve
9 for some reason.

10 And if one is called away because of an emergency or
11 an illness and cannot continue, then one or both of you
12 would be called upon to take any juror's place. And in
13 that event one or both of you would become the 12th juror.

14 So it is important that each of you pay just as
15 careful attention as we ask of all of the jurors in the
16 case because it does occur from time to time for one reason
17 or another one of these original 12 may be unable to
18 continue. In that event one or both of you would be called
19 upon to participate throughout the case.

20 So we do appreciate your participation as alternate
21 jurors, just as we appreciate the participation of all of
22 you jurors who have been selected for the purpose of
23 deciding the verdicts in this particular case.

24 You may swear the panel.

25 (Whereupon, the jury was duly sworn.)

1 THE COURT: All right. Ladies and gentlemen, as you
2 know, you have been selected to decide the verdicts in the
3 case of the State vs. Nathaniel Charles Teamer.

4 As you have previously been told, Mr. Teamer is
5 accused of having committed two separate crimes. They are
6 alleged to have arisen on one particular date and arising
7 out of one event or course of events that the state alleges
8 occurred back on February the 2nd of 2006.

9 On that date they allege that Mr. Teamer committed two
10 crimes. One is the crime of murder in that he did with
11 malice aforethought kill one James Antonio Hunter, and,
12 secondly, that he committed the crime of assault and
13 battery with intent to kill by committing an assault and
14 battery with malice aforethought against one David Proctor.

15 Now, as you've also been told, as to those allegations
16 and as to those charges Mr. Teamer has entered a plea of
17 not guilty. And that plea of not guilty therefore places
18 upon the state the burden of proving the allegations that
19 they have set forth in each of those indictments, the
20 burden of proving each of the essential elements that make
21 up the crimes of murder and of assault and battery with
22 intent to kill; and therefore the burden is upon the state
23 to establish the defendant's guilt to the satisfaction of
24 you 12 jurors beyond a reasonable doubt before any verdict
25 of guilty could be returned as to that particular

1 indictment.

2 Every person who is accused of a crime, and it doesn't
3 matter how serious the crime might be, every person accused
4 of a crime is presumed to be innocent. And that
5 presumption of innocence remains with any defendant, as it
6 does with this defendant, from the time that he is placed
7 under arrest and throughout the course of the criminal
8 process and even throughout the course of the actual trial
9 in the case.

10 That presumption of innocence will be with Mr. Teamer
11 even when you go back to begin your deliberations at the
12 trial's conclusion. And that presumption of innocence will
13 be with him in that jury room, and it'll remain with him
14 forever unless you 12 jurors determine that he's no longer
15 entitled to that presumption of innocence.

16 That is after you 12 jurors have carefully considered
17 all the evidence in the case, and from that evidence you
18 decided what you believe to be the true facts, and after
19 deciding those facts you apply the law that I will have
20 provided you, if you 12 jurors unanimously determine that
21 the defendant's guilt has been proven beyond a reasonable
22 doubt as to a particular charge, then he would no longer be
23 entitled to that presumption of innocence. But it's only
24 if, unless and until you 12 jurors are satisfied of his
25 guilt beyond a reasonable doubt that the presumption of

1 innocence is no longer applicable.

2 Now, the way the trial will proceed is that in a
3 moment the lawyers are going to address you in what are
4 called opening statements. There are two occasions in the
5 trial of a case where lawyers are permitted to address the
6 jury, and that is at the beginning of the trial before any
7 evidence has been introduced and then, secondly, again,
8 after all of the evidence has been received. So the
9 evidence comes in between the lawyers' statements, opening
10 and closing statements.

11 Please understand however that the lawyers' statements
12 are not evidence in the case, and that's because the
13 lawyers aren't witnesses to anything. They're not going to
14 tell you anything they know about this case of their own
15 personal knowledge like witnesses will. They're not going
16 to testify under oath from the witness stand. They're not
17 going to be subjected to direct and cross-examination as
18 witnesses will be. And so what they tell you is not
19 evidence in the case. But you should listen to what they
20 have to say because their statements to serve a purpose.

21 The opening statements serve to provide you with a
22 basic understanding as to what this case is about from the
23 perspective of the state and the defendant so that you'll
24 have some context in which to place the evidence that we
25 will be receiving shortly thereafter.

1 The closing statements allow the lawyers an
2 opportunity to discuss with you the evidence that you have
3 seen and heard during the trial of the case. And each will
4 have an opportunity to try to persuade you or to convince
5 you that that evidence does or does not support a
6 particular decision. Now, as I've stated, those aren't
7 evidence. The evidence comes in between.

8 The state has the burden of proof, so the state will
9 go forward first in its presentation of evidence. And, for
10 instance, right now if you were asked to go back into the
11 jury room and to decide the case based on the evidence,
12 you'd have to return a verdict of not guilty, because there
13 is no evidence.

14 So the state has the obligation to prove to your
15 satisfaction beyond a reasonable doubt the defendant's
16 guilt. So they do have to go forward with evidence, and
17 therefore they'll go first in the presentation of their
18 evidence.

19 Once they have concluded with that presentation a
20 defendant has the same opportunity to present evidence by
21 way of testimony or otherwise. But a defendant is under no
22 obligation to testify in a case or call any witnesses or
23 produce any evidence.

24 The burden is on the state to prove his guilt. The
25 burden is never upon a defendant to prove that he is not

1 guilty or to prove that he is innocent because in some
2 cases that wouldn't even be possible.

3 But a defendant, while he doesn't have to testify,
4 he's not obligated to testify, he is given the same
5 opportunity to testify should he wish to do so, or call
6 other witnesses for that matter.

7 After all of the evidence has been received and you
8 hear the final summations of the lawyers, I will then
9 instruct you fully on the law as it relates to these
10 particular crimes specifically and to any criminal offense
11 generally. And I'll instruct you fully on that law. And
12 then you'll be asked to go back into the jury room and
13 begin with your deliberations in the case. Through that
14 process you will carefully examine all of the evidence.
15 You will decide the facts; you will apply the law; and you
16 will arrive at a fair and just decision in this case.

17 Now, all that we're going to ask for you to do is to
18 pay careful attention throughout the course of the trial.
19 Now, witnesses testify, and there may be a number of them.
20 Sometimes in a given case you have witnesses testify, and
21 they testify in conflict. That is one witness' testimony
22 is contrary, might even be opposite, to another witness'
23 testimony.

24 Well, that doesn't mean that you can't decide the
25 case. It just means that you have the prerogative. You

1 have to determine what is the most believable and credible
2 testimony. And that's the testimony that you will accept.
3 And you will reject any evidence or testimony that you find
4 not to be credible or believable.

5 But it is important that you give each witness that
6 testifies close attention because you might be in a
7 situation when you go back into the jury room where you
8 have to resolve those credibility issues. And so it's
9 important for you to observe a witness so that you'll be in
10 a position to carefully examine that witness' testimony in
11 light of not only just that witness' own testimony but in
12 light of all of the evidence and all of the testimony
13 received during the trial of the case.

14 It's also important that you keep an open mind
15 throughout the course of the trial. And by that I simply
16 mean that you're not to begin making up your minds or
17 formulating your opinions as to what you think the ultimate
18 decisions in this case ought to be until all of the
19 evidence has been received, until I have instructed you on
20 the law that's applicable and until you've been asked to go
21 back into the jury room to begin with your deliberations in
22 the case. That is the process that is designed for you 12
23 jurors to arrive at a fair and just decision.

24 So I do want to thank you in advance for your
25 participation, as well as for your careful attention. I

Opening statements

1 would ask that you please give the lawyers your attention
2 now as they give you their opening statements.

3 Mr. Stalvey.

4 MR. STALVEY: Thank you, Your Honor. May it please
5 the Court.

6 THE COURT: Yes, sir.

7 MR. STALVEY: Ladies and gentlemen, as you just heard,
8 you determine the facts in this case. And the facts in
9 this case will show that on February 2nd of 2006 this
10 defendant did in cold blood and without any provocation
11 whatsoever kill Tony Hunter.

12 The facts will also show that on that same date, on
13 the same date and the same incident, this defendant did
14 attempt to kill in cold blood without any provocation Mike
15 Proctor.

16 Ladies and gentlemen, those are the facts of this
17 case. And because of those facts this defendant now stands
18 before you charged with murder and assault and battery with
19 intent to kill.

20 Now, as you will soon hear, on that night
21 approximately 8:00 o'clock p.m. Tony Hunter and Mike
22 Proctor went to pick this defendant up at his house on
23 South Center Street here in Spartanburg.

24 Tony and Mike were looking to get some drugs. This
25 defendant knew where to get some drugs. He needed a ride.

Opening statements

1 They picked this defendant up at his house. Mike Proctor
2 is driving the car. Tony Hunter is in the passenger seat.
3 The defendant gets in behind Tony Hunter.

4 They drive down Main Street here in Spartanburg and
5 take a right on Chester Street into the Park Hills
6 neighborhood. They go down Chester Street.

7 Mike Proctor is not familiar with the area. He is
8 getting instructions on where to go from the defendant and
9 from Tony Hunter.

10 They come to where Chester Street dead-ends into
11 Theodosia Drive. Mike waits for directions, whether to
12 take a right or to take a left.

13 It's at this point, ladies and gentlemen, that this
14 defendant pulls out a 9-millimeter pistol and puts it to
15 the back of Tony Hunter's head and shoots him three times
16 at point blank range.

17 Mike Proctor tries to get out of the car. While he's
18 trying to get out of the car the defendant then shoots him
19 three times. He hits him in the arm, hits him in the face
20 and hits him in the leg. Mike's able to get up the street,
21 go to a house. Someone answers the door. They call 9-1-1.

22 When the police respond to the scene they find that
23 the car has rolled through the dead-end over an embankment
24 down into the woods. The police go down, find the car.
25 They see Tony Hunter slumped over in the passenger seat.

Opening statements

1 He has two bullet wounds to the back of his head. Tony
2 Hunter is pronounced dead there at the scene that night.

3 Later on, early that morning, the defendant is caught
4 by the police. He is placed under arrest and he's taken
5 into custody.

6 Now, ladies and gentlemen, those are the facts of this
7 case. And as you're probably aware, I was not out there
8 that night. Solicitor Barnette was not out there that
9 night.

10 The reason we know these things is because we've
11 listened to the people that were there that night. The
12 reason we know these things is that we've talked to the
13 police that responded to the scene. We've talked to the
14 detectives that investigated this crime.

15 Now it's your turn to hear from these same people.
16 They're going to tell you what happened that night.
17 They're going to explain to you in detail what they found
18 out when they went there and they did their jobs.

19 Ladies and gentlemen, what you will learn is that this
20 was not just some random act of violence. You will learn
21 that this defendant had a reason to want Tony Hunter dead.
22 You'll learn that Mike Proctor was in the wrong place at
23 the wrong time and it nearly cost him his life.

24 Ladies and gentlemen, you will also see evidence in
25 this case. This evidence will give you a more clear

Opening statements

1 picture as to what happened that night. This evidence will
2 not only put the defendant there that night. It will also
3 put the murder weapon in his hand.

4 Ladies and gentlemen, all that we ask is that you
5 review this evidence carefully, you give it every possible
6 consideration that you can, you listen to the witnesses
7 carefully, pay attention to what they have to say, you
8 approach these things with a clear and open mind.

9 At the conclusion of this case and at the end of this
10 trial it will be clear to you that this defendant is guilty
11 of both of those charges that he stands here today charged
12 with. He's guilty of murder; he's guilty of assault and
13 battery with intent to kill. We will ask you to come back
14 with a verdict that speaks the truth.

15 Ladies and gentlemen, if you do that, you've done your
16 job as jurors. And if you do that you will have served
17 justice in this case. Thank you.

18 THE COURT: Mr. Schultz.

19 MR. SCHULTZ: May it please the Court, Your Honor.

20 Good afternoon, ladies and gentlemen. Members of the
21 jury, imagine for the minute that you're charged with a
22 crime. Imagine if you, if you will, there are no eye
23 witnesses to place you at the scene of the crime and your
24 fingerprints were never found at the scene. There's a
25 weapon but no D. N. A. No fingerprints were found on that

Opening statements

1 weapon. Now, imagine that you were being brought to trial
2 on this type of evidence.

3 Well, ladies and gentlemen, you don't have to imagine
4 that. That's what's going on today. And that's exactly
5 the position that my client, Charlie Teamer, finds himself
6 in. He is an innocent man and he's wrongly accused of
7 crimes that he did not commit.

8 My name is Joshua Schultz. And as I said before, I
9 represent Charlie Teamer.

10 Today is one of the two times that I get to talk to
11 you face to face about this case. This is a very important
12 time, and I'm going to try my best to communicate what
13 happened in this case.

14 Mr. Teamer is accused of the most serious crime on our
15 books, and that's murder. And over the course of the next
16 few days you'll see and hear evidence from the state. And
17 then Charlie and I will put up our side of the case. And
18 after all is said and done there will be no doubt in your
19 mind that you should acquit Charlie on all of these
20 charges.

21 Now, when the prosecutor spoke to you about what
22 Charlie is being charged with I saw the look on some of
23 your faces. This is a despicable, terrible, monstrous
24 crime. But I just want you to know that Charlie did not
25 commit this crime.

Opening statements

1 Charlie is not guilty. Over the course of my
2 representation of him I've gotten to know him. He's a good
3 man. I got to know his family. He's a devoted son who
4 misses his family extremely. Charlie is not guilty.

5 That brings us to what my opening statement is all
6 about, getting blamed for something that you didn't do.
7 And I think we all can relate to this.

8 The purpose of an opening statement is not to tell you
9 what evidence is. The witnesses and the exhibits will do
10 that. Nor is the purpose of an opening statement for me to
11 try to imprint in your minds every important fact of this
12 case. If we tried to do that, we would be here for an
13 awfully long time. So what is an opening statement? An
14 opening statement is served like getting someone ready for
15 a trip that they have never taken before.

16 I'm going to try to get you oriented to certain signs,
17 to certain landmarks so that when we actually take the trip
18 to trial you will understand where y'all are going, where
19 you are and where we have been. My purpose here today is
20 to give you a preview of what the evidence will show.

21 Ladies and gentlemen, this is not a black-and-white
22 case. This is not a simple case.

23 Let me introduce Charlie first. As I said before,
24 he's a dedicated son who misses his family extremely and
25 wants to be restored to liberty and freedom. There is no

Opening statements

1 doubt in their mind and there is no doubt in my mind, and
2 at the end of this trial there will be no doubt in your
3 mind that he did not commit these most heinous crimes.

4 Ladies and gentlemen, this is not the case of
5 cold-blooded Mr. Teamer as the state would have you
6 believe. This is a case of false accusation, a false
7 charge and a false indictment. And Charlie needs your help
8 over the next few days to help clear his name.

9 Now, you've heard somebody make a bunch of claims here
10 about Charlie as though these claims were the gospel truth.
11 Well, the prosecutor just said there's nothing more than a
12 claim of what he expects the evidence to be.

13 I intend no rudeness when I say this, but don't
14 believe a word of it until what you've heard the evidence
15 say. They have the burden of proof in this case. They
16 have the burden of proof. Not me, not Charlie. They have
17 the burden of proof. Nobody knows anything until they
18 start to carry this burden.

19 All the indictment is, and the Court has already read
20 that indictment to you, is just a statement on paper.
21 That's all it is, a piece of paper.

22 Now, in trials somebody has to go first, and in this
23 case, as in every case where the government has claimed
24 somebody did something wrong, they go first. So when it's
25 our turn we will present evidence that will give you

Opening statements

1 reasonable doubt. But even before it is our turn I will be
2 cross-examining the state's witnesses that are presented
3 here to bring out some of these reasonable doubts.

4 Sometimes it will just be to flush out the details.
5 Sometimes it will be to show that government, state's
6 witnesses, are biased or prejudiced or are even being
7 untruthful with you or relying on faulty or incomplete
8 information.

9 We're going to hear from representatives of the city,
10 county police departments in this case. You will see that
11 there were a lot of mistakes made in the investigation of
12 this case, a lot of omissions made, leads not followed,
13 evidence not looked at, suspects not interrogated,
14 witnesses not interviewed. And at the end of their work,
15 they put a man's life on the line because of this.

16 Now, you may hear from some members of Mr. Hunter's
17 family. And they want to bring closure to this. And I can
18 understand that. But them wanting closure is not a good
19 enough reason to convict an innocent man of these charges.

20 Now, you will see and hear forensic evidence. Now,
21 we've heard a lot about that recently, T. V. shows like C.
22 S. I. or N. C. I. S. For the most part those T. V. shows
23 always end up in an hour. And at the end a criminal is
24 brought to justice, because someone leaves the tiniest hair
25 fiber at the scene of the crime.

Opening statements

1 In this case you will hear forensic evidence or rather
2 lack of forensic evidence. This case is not like C. S. I.
3 because you will hear and see that the state cannot produce
4 anything approaching the level of technical requirements in
5 a T. V. show. Then you will hear from an eye witness, an
6 eye witness that was there that night in the car as shots
7 rang out.

8 Then finally the state, and I'm not sure when they'll
9 do this today. They may do this today; they may do this
10 tomorrow. The state will put up someone from the jail to
11 testify as to what really went on that night. And I'm
12 going to test his credibility, test his bias, to see if he
13 is really telling the truth or is it just a way to get
14 something that he wants.

15 Then you will hear from our side, and you will hear
16 the witness testify that Mr. Teamer was nowhere near the
17 scene of the crime that night.

18 Now, ladies and gentlemen, I ask you. Please keep an
19 open mind until you've heard all the evidence, all the
20 evidence. Sometimes the very last thing you hear about
21 some situation is the thing that decides it for you.
22 Sometimes it's what you hear until the end that is the
23 solution to the whole problem.

24 Now, I have told you what I believe the evidence will
25 be. I'm not by doing this going to assume a burden of

Opening statements

1 proof that the defense does not have.

2 Now, members of the jury, the prosecutor has that
3 burden, as I explained to you before. And when this case
4 is all over I will stand in front of you again and point
5 out ways in which they have not carried their burden.

6 You have heard the words reasonable doubt and
7 presumption of innocence. We've heard them on T. V. shows,
8 heard them in movies. Today these words are more than a
9 script. Today these words are reality.

10 You must remember that my client, Charlie, stands
11 before you innocent of the charge that the state has
12 accused him of -- accused him of. It is the state's duty
13 to prove each and every element of their case beyond a
14 reasonable doubt. It's their duty, their solemn duty, to
15 present evidence so convincing and so damning and so
16 overwhelming that you cannot even have one reasonable doubt
17 that Charlie did this. Not one.

18 Now, I'm going to conclude here. If you don't
19 remember anything I said in my opening statement, I ask you
20 to remember this. Charlie did not commit these crimes. He
21 never killed anybody; he never wounded anybody.

22 With that, I want to thank you for your attention. I
23 look forward to this case.

24 MR. STALVEY: Your Honor, the state would call Officer
25 Watts of the Spartanburg Public Safety Department.

Scott McCain Watts
Direct examination by Mr. Stalvey

1 SCOTT MCCAIN WATTS, having
2 been first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. STALVEY

4 Q Officer Watts, if you could, please give your full
5 name for the record.

6 A Scott McCain Watts.

7 Q And who do you work for?

8 A Spartanburg Public Safety.

9 Q And how long have you worked for them?

10 A Nine and a half years.

11 Q And what are your duties there?

12 A Field patrol officer and field training officer.

13 Q And were those your duties on February 2nd of 2006?

14 A Yes, they were.

15 Q And did you respond to a call that night at Theodosia
16 Drive and Chester Street?

17 A Yes, sir, I did.

18 Q And what were you called there for?

19 A I was initially dispatched for a shooting call.

20 Q And what happened when you got to the scene?

21 A I arrived on the scene, and up the street just a
22 little bit at the intersection of Theodosia and Chester I
23 was waved down by a white male saying that there was a car
24 down in the embankment with the victim.

25 Q About what time was this?

Scott McCain Watts
Direct examination by Mr. Stalvey

1 A I arrived on the scene at 8:49.

2 Q And what did you do after you were told there was a
3 car and a victim?

4 A I drove up to that area and got out of my vehicle. I
5 saw the vehicle down the embankment. So I took running,
6 off running, towards the vehicle, clearing the vehicle with
7 my firearm, and went to the passenger side of the vehicle.

8 Q Why did you clear the vehicle with your firearm?

9 Well, first explain to this jury what that means when you
10 say you cleared it with your firearm.

11 A I was making sure there was no potential threats at
12 the vehicle until I got up to it, making sure nobody came
13 out with a firearm but me because it was initially a
14 shooting call.

15 Q And where was the vehicle situated when you got there?

16 A It was actually probably about 60, maybe about 60 feet
17 or so, 60 or 70 feet down in the wood line in some brushes
18 and some trees.

19 Q And how were the roads set up where -- where you found
20 the vehicle?

21 A Chester Street comes up to Theodosia making a "T", and
22 it was directly above that.

23 Q So could you tell what had happened to the vehicle
24 from where it was situated when you found it?

25 A You could tell it was coming from Chester at Theodosia

Scott McCain Watts
Direct examination by Mr. Stalvey

1 at the stop sign and actually went into the wood line from
2 there.

3 Q Okay. And after you ran down to the vehicle, you say
4 you cleared it. What did you see?

5 A I went to the passenger side of the vehicle. And I
6 could see a figure in the window on the passenger-side
7 front seat. I tried to open up the door, but I couldn't
8 get it open due to the tree beside it.

9 At that point I went to the driver's seat. I opened
10 up the door. I could see there was blood all over the
11 place.

12 I saw a victim slumped over. I moved his head to
13 check for a pulse. I did not feel a pulse. So I called
14 for E. M. S. to respond, that I had a victim.

15 I noticed a gunshot, apparent gunshot, wound to the
16 back of the head and also a grazing shot to the back of the
17 head.

18 Q What happened after that?

19 A After that E. M. S. called, responded, came down and
20 verified that there was no pulse. At that point my duties
21 were to secure the scene and start roping it off for
22 investigations.

23 Q Did you do that?

24 A Yes, sir.

25 MR. STALVEY: Beg the Court's indulgence.

Scott McCain Watts
Cross-examination by Mr. Schultz

1 (Pause.)

2 Q Officer Watts, did this happen in Spartanburg city?

3 A Yes, sir.

4 Q And that's in the county of Spartanburg?

5 A Yes, sir.

6 Q Please answer any questions Mr. Schultz may have for
7 you.

8 CROSS-EXAMINATION

9 BY MR. SCHULTZ

10 Q Officer Watts, what time did you arrive on the scene?

11 A 8:49.

12 Q 8:49. Okay. Did you ride with anybody else?

13 A Yes, sir. I had a trainee with me, P. S. O. Tina
14 Hern.

15 Q And did anybody else -- was anybody else with you
16 there?

17 A Not directly where I was at. Captain Hardy was in the
18 area also looking for a potential crime scene. And I
19 believe he went to an address off of Fairforest Street.

20 I originally -- that address comes up to Fairforest at
21 Theodosia. And I pulled onto Theodosia. And I believe
22 he'd got out of his vehicle and was going to, up to, that
23 address when I was waved down.

24 Q So initially what your testimony is today is that
25 there are three officers working the scene, correct?

Scott McCain Watts
Cross-examination by Mr. Schultz

- 1 A At that point, no, sir. Officer Hern was in her
2 observation phase. So she would not be working anything.
3 Q Okay. But it was you and a trainee, correct?
4 A Correct.
5 Q Okay. And Officer Hern, you said?
6 A She was my trainee.
7 Q Okay. And Officer Hardy, you said.
8 A Captain Hardy, yes, sir.
9 Q Where was Captain Hardy?
10 A I believe he went to an address off of Fairforest
11 Street.
12 Q Okay. Now, according to your testimony today, that
13 you walked or you entered the vehicle, correct?
14 A On?
15 Q Did you go into the vehicle?
16 A Yes, sir.
17 Q Okay. Did you crawl around it?
18 A No, sir. I leaned over the front seat to feel the
19 vehicle neck of the victim.
20 Q You leaned over the front seat. Okay. Did you notice
21 a lot of blood?
22 A Yes, sir.
23 Q Okay. Where did you notice all of this blood?
24 A It was everywhere, all over the vehicle. It was on
25 the front dash. Keep on?

Scott McCain Watts
Cross-examination by Mr. Schultz

1 Q Is that it?

2 A Front dash. It was on the seats, all over. The
3 victim had blood on him.

4 Q Was it on the rear seats?

5 A I did not see that.

6 Q Now, as part of your duties that night, and according
7 to your direct testimony, that you secured the crime scene,
8 correct?

9 A I assisted in securing the crime scene with the other
10 officers, yes, sir.

11 Q And what do you do when you secure the crime scene?

12 A Rope it off with police tape making sure there are no
13 potential threats in the area.

14 Q Did you scour the ground around the car that night?

15 A No, sir.

16 Q Okay. Wouldn't you think that would be a pretty good
17 idea to see if there was any evidence there?

18 A Yes, sir, that would be. Other officers were assigned
19 to do so.

20 Q Other officers were assigned to do so.

21 A Yes, sir.

22 Q Okay. So you secured the crime scene and looked
23 inside the car. Was that the end of your duties that
24 night?

25 A Yes, sir, and just to stay at the crime scene and keep

Scott McCain Watts
Cross-examination by Mr. Schultz

1 it secure with the officers. I was stationed at that
2 potential -- that first initial area.

3 Q When did you leave the crime scene?

4 A I do not have it wrote down. I do remember it was
5 after my shift had ended shortly after that. So
6 approximately a little bit after midnight.

7 Q A little bit after midnight. Okay. So you were there
8 from approximately 8:50, so let's just say 9:00 o'clock, to
9 12:00 o'clock. And how many hours is that?

10 A Three hours.

11 Q Three hours. Okay. So in this time you never thought
12 it wise to look over the scene of the crime to make sure
13 there was no evidence laying around outside the car,
14 correct?

15 A Correct. It was turned over to Investigator Porter
16 there at the investigations division.

17 MR. SCHULTZ: Beg the Court's patience, Your Honor.

18 (Pause.)

19 Q And what time did the dispatch come through?

20 A I was originally dispatched at 8:46.

21 Q 8:46. Where was this dispatch from? Excuse me.

22 A My location?

23 Q Yes.

24 A I was on Crescent Avenue.

25 Q Crescent Avenue. And how long did it take to get from

Scott McCain Watts
Cross-examination by Mr. Schultz

1 Crescent Avenue to Chester and Theodosia?

2 A Three minutes.

3 Q Three minutes.

4 MR. SCHULTZ: And just one further question, Your
5 Honor.

6 Q What direction did you take to get there to Chester
7 and Theodosia?

8 A I went down Crescent towards John B. White, taking a
9 right onto John B. White. At that point I continued on
10 down to West Crescent, taking a left onto West Crescent,
11 going on down, taking a right onto Fairforest, at that
12 point turning left onto Theodosia.

13 Q And how long did that take you?

14 A Three minutes.

15 Q Three minutes.

16 MR. SCHULTZ: That's all I have, Your Honor. Thank
17 you.

18 MR. STALVEY: No further questions, Your Honor.

19 THE COURT: You may step down.

20 MR. STAVLEY: Your Honor, may this witness be excused?

21 THE COURT: He may be.

22 (Whereupon, the witness was excused.)

23 MR. BARNETTE: Your Honor, I would like to call Mike
24 Porter to the stand, please, Mike Proctor, I mean. I'm
25 sorry.

3 DIRECT EXAMINATION BY MR. BARNETTE

6 | A David Michael Proctor.

8 | A I currently live in Greenville.

10 A Right now I am working at Bonefish as a line cook.

12 Q And back on February the 2nd of 2006 where did you
13 live at, sir?

16 Q And where did you go to high school at, sir?

18 Q And did you graduate from there, sir?

20 Q Let me take you back to February 2nd of 2006. If you
21 would, tell the jury how you started your day out, or mid
22 afternoon, or so forth.

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David Michael Proctor
Direct examination by Mr. Barnette

1 or two probably.

2 Sometime around 6:00 o'clock I went over to Tony
3 Hunter's apartment. At that time he lived at Whispering
4 Pines. From what I remember and told investigators at the
5 time, we hung out over there for probably about 30 minutes
6 before going to the south side. I went over there for
7 maybe another 30 minutes. Sometime around 7:00 o'clock we
8 had to take Rick home.

9 Q And why did you have to take Rick home?

10 A He had to go home to his girlfriend.

11 Q And where did he live at?

12 A He lived down Highway 29 heading towards the
13 interstate, 85, about, you know, a few miles down, down 29.

14 Q After you dropped him off, what happened then?

15 A At that point Tony and I -- Tony had been on the
16 phone, and he was trying to set something up for the two of
17 us. And we went back towards the north side.

18 Q And when you're talking about the phone, whose phone
19 was he using?

20 A He was using my phone.

21 Q And what was your phone number, sir?

22 A That's (864) 357- [REDACTED]

23 Q Let me show you what's been marked as State's Exhibit
24 No. 8. If you would, sir, take a look at that. Was that
25 your cell phone, sir?

David Michael Proctor
Direct examination by Mr. Barnette

1 A Yes.

2 Q And was that the one Tony was using that evening?

3 A Yes.

4 MR. BARNETTE: Your Honor, I would like to mark
5 State's Exhibit No. 8, enter into evidence at this time.

6 MR. SCHULTZ: No objection.

7 THE COURT: It's admitted.

8 (Samsung Sprint cellular phone marked State's Exhibit
9 No. 8.)

10 Q Okay. So this was a cell phone that he was using that
11 night.

12 A Yes, sir.

13 Q And he was calling to do what? Can you tell us again?

14 A Yeah. Well, the whole reason I was around Rick and
15 Tony that day, you know, I, I was using drugs and getting
16 high. That was Tony's reason for calling this guy. We
17 were trying to get more drugs. And that, that's why we
18 were going over there.

19 Q And where did you go at to meet this fellow?

20 A Yeah. On the, on the north side of town right near
21 the old Steeple restaurant and the Main Street Motel, up
22 from there. That's Baltimore Street, I believe. It's back
23 in there on the north side.

24 You know, I was able to show like a couple of days
25 after I got out of the hospital. You know, I went, I went

David Michael Proctor
Direct examination by Mr. Barnette

1 back and showed the investigators. We were at the area.

2 Q Okay. And you went back, and you took them back to
3 the house where you met this follow.

4 A Right. So from Rick's house, Tony and I went to pick
5 up this guy on the north side. Yeah. That's, that's the
6 house that I took investigators back to.

7 Q Let me show you what's been marked State's Exhibit
8 No. 69. Is this a picture? Does this picture fairly
9 represent the residence where you met this individual, as
10 well as the detectives too?

11 A Yes. That's the house we went to.

12 Q Okay.

13 MR. BARNETTE: Your Honor, I would like to enter
14 State's Exhibit No. 69 into evidence at this time.

15 MR. SCHULTZ: No objection.

16 THE COURT: It's admitted.

17 (Photograph marked State's Exhibit No. 69.)

18 MR. BARNETTE: Like I say, this has been marked. May
19 I publish State's Exhibit No. 69 to the jury, Your Honor?

20 THE COURT: You may.

21 Q This is your cell phone number, is that correct, Mr.
22 Proctor?

23 A Yes.

24 Q While we're waiting for that to warm up, if you would,
25 write down your cell phone number again, please.

David Michael Proctor
Direct examination by Mr. Barnette

1 A Okay.

2 (Number written by witness.)

3 Q And this was the cell number for this cell phone,
4 right?

5 A Yes.

6 MR. BARNETTE: Your Honor, I would like to mark this
7 as State's Exhibit No. 96 and enter it into evidence at
8 this time.

9 THE COURT: Any objection?

10 MR. SCHULTZ: No objection, Your Honor. Before that
11 can I see that?

12 MR. BARNETTE: Yes, sir.

13 MR. SCHULTZ: No objection, Your Honor.

14 (Paper with phone number marked State's Exhibit No.
15 96.)

16 Q Okay. Like I said, this has been marked.

17 MR. BARNETTE: May I publish State's Exhibit No. 96 to
18 the jury, Your Honor?

19 THE COURT: You may.

20 Q This is your cell phone number, is that correct,
21 Mr. Proctor?

22 A Yes.

23 Q And this was the house that you picked him up in front
24 of.

25 A Right. That's the house Tony and I went to. And the

David Michael Proctor
Direct examination by Mr. Barnette

1 guy we picked up was standing out front waiting for us.

2 Q And was this -- well, I'll let the picture speak for
3 itself. After you picked him up from there, what did y'all
4 do then, sir?

5 A Well, we ended up just having a couple of minutes. I
6 never knew the guy was going to get in the car. I thought
7 that Tony was just going to be able to pick something up
8 from the guy. I never seen the guy before and didn't want
9 to guy to get in my car.

10 He ended up getting in my car in my back seat. At
11 that time I was driving a 4Runner. And so they began
12 giving me directions. And we, we took off driving from the
13 north side and drove. It took maybe two minutes to get
14 down to Highway 29. Do you want me to continue?

15 Q Yes, sir. Let me ask you one question. Was this the
16 fellow that Tony had been talking to on the cell phone?

17 A Right, yeah. It's the guy Tony had been talking to
18 about the past 30 minutes.

19 Q If you would, continue on, sir.

20 A Okay. So, like I said, we were leaving the north side
21 and got back to Highway 29 right there by that Main Street
22 Motel. And I made a right onto Highway 29.

23 And it was at that point -- I had just made a right,
24 maybe been going straight on 29 towards the west side of
25 town for 15 seconds -- when the gentleman in the back seat

David Michael Proctor
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1 said you've gone too far, you need to turn around. He
2 wanted me to make a left on Theodosia. So I had to make a
3 U-turn on 29.

4 Right before I turned around I looked in my back seat.
5 The guy in the back seat had on latex gloves. I could see
6 like plastic latex gloves you use in a hospital. Anyways,
7 so that was kind of worrying me seeing that.

8 I went and made a U-turn and went back and made a
9 right on Theodosia and went down to that intersection of
10 Theodosia and Chester.

11 Q And then what happened, sir?

12 A I sat at that intersection for maybe three seconds
13 waiting to hear whether to go left or right from both Tony
14 or the guy in the back seat. And then the guy in the back
15 seat opened fire. He, he shot Tony in the back of the head
16 twice and shot me four times before I could get out of the
17 vehicle.

18 Q And what did you do?

19 A What did I do?

20 Q Yes, sir.

21 A I opened the door and took off running. I ran about a
22 block down, down the road.

23 One of the shots got me in the jaw. It was the only
24 one I knew about at the time. I was bleeding so bad from
25 it, it soaked my jacket in blood. So I didn't know if I

David Michael Proctor
Direct examination by Mr. Barnette

1 was shot in the neck or what, you know, so I was trying to
2 run and hold my shoulder up to the wound. I didn't know if
3 I was bleeding to death or what.

4 Anyways, I ran a block and started knocking on doors.
5 You know, my cell phone was in the car. So I needed
6 someone to call 9-1-1.

7 I made it like a block down Chester Street and knocked
8 on several houses. You know, I just pounded on the front
9 doors. And finally someone came outside. You know, they
10 called 9-1-1. And I waited in their screen porch for
11 paramedics and police officers to arrive.

12 Q Afterwards did investigators talk -- was you taken to
13 the hospital?

14 A Yeah. I was taken by ambulance to the hospital.

15 Q If you would, step down for a second and let the jury
16 take a look. I think two of your wounds you can see. If
17 you would, come down and show them.

18 (Whereupon, the witness left the stand.)

19 Q There was four total right, is that right?

20 A Right, four total.

21 Q If you would, show the one on your arm.

22 A This is the entry right here, and the exit. It was so
23 close in the back seat that three of the bullets came in
24 and out of me.

25 Q Talk loud enough so she can hear you. Just talk

David Michael Proctor
Direct examination by Mr. Barnette

1 louder so she can hear you.

2 A Another one, this is the one in my jaw. It came in
3 right here and out right here. One in my right shoulder,
4 my clavicle, and then there's still a bullet in my left
5 leg.

6 Q Thank you, sir. Please have a seat.

7 (Whereupon, the witness returned to the stand.)

8 Q How long was you in the hospital, sir?

9 A Three or four days.

10 Q After that did you talk to the detectives about this
11 case?

12 A Yeah. Well, I talked to the detectives and police
13 investigators as soon as that night. They wanted
14 statements right away. But, yeah, all throughout my time
15 at the hospital.

16 Q And did you talk to Investigator Hawes about a sketch?

17 A The sketch artist?

18 Q Yes, sir.

19 A Yes.

20 Q And in talking to him did you describe the individual
21 that you saw that night in your back seat?

22 A Yes.

23 Q And did you describe the man that shot you and Tony
24 Hunter?

25 A Yes.

David Michael Proctor
Direct examination by Mr. Barnette

1 Q Let me show you. Let me show you what's been marked
2 as State's Exhibit 88 for I. D. purposes at this time.

3 Is that a copy of the sketch or is that the sketch
4 that Investigator Hawes drew, the sketch artist drew, for
5 you based off your descriptions?

6 A Yes.

7 Q Did he suggest anything to you or did you do all the
8 talking to him about the person that you saw that night?

9 A Right. It took about an hour if I can remember. You
10 know, they, you start out real slowly, and you describe
11 each faciar -- facial feature. And then, but, yeah, it was
12 all according to what I said that he sketched.

13 Q And how long did you look at this individual?

14 A The guy who shot me and Tony?

15 Q Right. Or how much? Did you get to look at him real
16 good?

17 A Right. Well, when we picked him up, again, you know,
18 the shooting happened at night. And we picked him up five
19 minutes before that. So it was dark. I could only see the
20 guy as he walked in front of my vehicle. And there were
21 two times that I turned around to look at him. So not
22 long. Maybe a total of five to ten seconds.

23 Q But you had never seen this individual before.

24 A No. Never seen the guy before.

25 Q Had he ever been in your car or your vehicle before?

David Michael Proctor
Direct examination by Mr. Barnette

1 A No.

2 Q And you gave this description based on what you saw
3 that night.

4 A Right, right, the short time that I saw him that
5 night.

6 Q You didn't make it based off anything the police said
7 to you or anything like that.

8 A No.

9 MR. BARNETTE: Your Honor, I would like to enter
10 State's Exhibit No. 88 at this time into evidence.

11 MR. SCHULTZ: No objection, Your Honor.

12 THE COURT: It is admitted.

13 (Drawing of suspect marked State's Exhibit No. 88.)

14 MR. BARNETTE: Your Honor, I would like to publish it
15 to the jury at this time.

16 THE COURT: You may.

17 Q If you would, sir, was this the sketch that was done
18 based off your observations and what you saw that night?

19 A Yes.

20 Q I'm showing you State's Exhibit No. 8. This was your
21 cell phone. Was that left in the vehicle that night?

22 A Yeah, yes.

23 Q And this is the phone, is that right?

24 A Yes.

25 Q Let me show you another picture. What kind of vehicle

David Michael Proctor
Direct examination by Mr. Barnette

1 was you driving that night, sir?

2 A I was driving a 1997 Toyota 4Runner.

3 Q Let me show you what's been marked as State's
4 Exhibits 40 and 39. Are those pictures of your 4Runner or
5 the vehicle you were driving that night?

6 A Yes.

7 Q And these pictures fairly represent that car?

8 A Yes. It's the back of the car.

9 MR. BARNETTE: Your Honor, I'd like to enter State's
10 Exhibits 39 and 40 into evidence at this time.

11 MR. SCHULTZ: No objection, Your Honor.

12 THE COURT: They are admitted.

13 (Photographs marked State's Exhibits Nos. 39 and 40.)

14 MR. BARNETTE: Your Honor, may I publish these to the
15 jury at this time?

16 THE COURT: You may.

17 Q I'm going to show you State's Exhibit No. 39. And
18 what's this a picture of, sir?

19 A Again, that's a picture of the vehicle that I was
20 driving that night, the '97 4Runner.

21 Q And just showing you State's Exhibit No. 40, is that
22 just another angle of the car?

23 A Yes.

24 Q And that was the license plate that was on it.

25 A Yes, 276 KYV.

David Michael Proctor
Cross-examination by Mr. Schultz

1 Q During this time did you do anything or did Tony
2 Hunter do anything to threaten this individual in the back
3 seat or anything?

4 A No.

5 Q And which direction did he shoot you from?

6 A Behind from the right, right rear.

7 Q And which direction was Tony Hunter shot from?

8 A Directly behind.

9 Q And, again, this individual was the one that Tony was
10 talking to on your cell phone.

11 A Right.

12 MR. BARNETTE: One moment, Your Honor, please.

13 (Pause.)

14 Q Please answer any questions that Mr. Schultz may have
15 for you, sir.

16 CROSS-EXAMINATION

17 BY MR. SCHULTZ

18 Q Mr. Proctor, you gave a statement in this case,
19 correct?

20 A A statement?

21 Q Yes.

22 A Yeah. I gave a couple of statements actually.

23 Q Do you remember who you gave this statement to?

24 A The police officer's name?

25 Q Yes.

David Michael Proctor
Cross-examination by Mr. Schultz

1 A I think one of them might have been named Gardner.
2 The other one I don't recall.

3 Q Now, wasn't it true that you were doing drugs that
4 night? Correct?

5 A Yes.

6 Q And would it be also true that when people do drugs
7 their memory of certain events is clouded, correct?

8 A No.

9 Q No, that's not true?

10 A No. I mean, people have amnesia, dementia,
11 Alzheimer's. But my memory is fine of that night.

12 Q So it's your testimony today that you were doing weed
13 and you were doing cocaine. And yet you want the jury to
14 believe that everything from that night is crystal clear.

15 A Yes. We, we didn't get to do any. We were going to
16 buy it. The person who shot us prevented us from doing
17 any.

18 Q But yet your testimony here is today that you were
19 doing drugs, correct?

20 A My reason for being around Tony and the guy who shot
21 us was only because I was trying to get drugs.

22 Q Trying to get drugs.

23 A Trying to get drugs.

24 Q Now, you were interviewed by officers, correct?

25 A Yes.

David Michael Proctor
Cross-examination by Mr. Schultz

1 Q And you were interviewed by officers at the hospital,
2 correct?

3 A I had officers talking to me all for like the first
4 couple of weeks after the ordeal happened.

5 Q And you were shot. And when you went to the hospital
6 you received treatment, correct?

7 A Yes.

8 Q And as part of this treatment you were given
9 medications, correct?

10 A Yes.

11 Q Okay. Do you remember what kind of medications that
12 they gave you?

13 A Morphine in the hospital. What kind of medications do
14 you mean? Do you mean like for pain?

15 Q Well, like morphine.

16 A Sure. Morphine. I had to have surgery to reset my
17 jaw. So they put me to sleep. What is it? I can't think
18 of what it is. Anesthesia. I'm sure there are probably a
19 couple of things I'm leaving out. I don't know.

20 Q So you were on the morphine. You were on anesthesia.
21 Now, the aftereffects of that are -- they last for quite
22 some time, correct?

23 A The drugs or being shot?

24 Q The drugs themselves.

25 A I don't -- I didn't notice any lasting effects, no.