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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from the Administrative Law Court
Honorable Crystal M. Rookard, Administrative Law Judge

Case No. 2026-001548
ALC Docket No. 25-ALJ-15-00033-AP

Herbert Bell, #132646,

v.

South Carolina Department of Probation,
Parole and Pardon Services,

Appellant,

Respondent.

RECORD ON APPEAL

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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Herbert Bell, #132646,

Appellant,

v.

South Carolina Department of Probation,
Parole and Pardon Services,

Respondent.

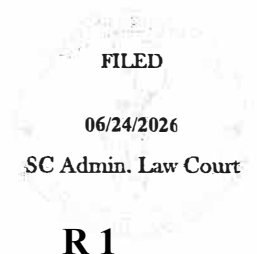
Docket No. 25-ALJ-15-0033-AP

FINAL ORDER

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to the Notice of Appeal filed on December 18, 2025, by Herbert Bell (Appellant), an inmate incarcerated with the South Carolina Department of Corrections. This case was assigned to the undersigned on January 5, 2026.

On November 19, 2025, the South Carolina Department of Probation, Parole and Pardon Services (Department) notified Appellant that the South Carolina Parole Board (Board) rejected him for parole. This appeal followed. Appellant challenges the Board's denial of parole, contending that the method and procedure employed by the Board in reaching its decision to deny parole violates his due process rights. The Department filed the Record on Appeal (Record) on January 21, 2026. On March 17, 2026, Appellant filed a Motion to Supplement the Record, a Motion to Conduct Discovery, and a Motion to Stay. The Department filed a Motion in Opposition to Appellant's Motion to Supplement the Record on Appeal, Motion for Discovery, and Motion to Stay on March 25, 2026. Appellant filed a Motion for an Extension to File Initial Brief on March 27, 2026. The Court denied Appellant's Motion to Supplement the Record, Motion to Conduct Discovery, and Motion to Stay, but granted Appellant's Motion for an Extension to File Initial Brief on April 6, 2026. Appellant filed his initial brief on May 7, 2026. The Department filed its brief on May 20, 2026. Appellant filed a reply brief on June 1, 2026. After careful consideration of the parties' briefs, the Record, and the applicable law, the Court finds no error in the Board's decision. Accordingly, the Department's decision is affirmed.



STANDARD OF REVIEW

The Court's jurisdiction to review this matter is derived from the South Carolina Supreme Court decisions in *Al-Shabazz* and *Furtick*. *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000) (establishing an administrative review process for inmate appeals); *Furtick v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 352 S.C. 594, 576 S.E.2d 146 (2003) (incorporating final decisions of the Department into that review process). As explained by the *Al-Shabazz* court, "procedural due process is guaranteed when an inmate is deprived of an interest encompassed by the Fourteenth Amendment's protection of liberty and property." *Wicker v. S.C. Dep't of Corrs.*, 360 S.C. 421, 424, 602 S.E.2d 56, 58 (2004) (citation omitted).

Since parole is a privilege, not a right, the routine denial of parole does not constitute such a liberty interest. *See Cooper v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 377 S.C. 489, 495-96, 661 S.E.2d 106, 109-10 (2008). The *Cooper* court expounded that:

if ... [the Board] ... clearly states in its order denying parole that it considered the factors outlined in section 24-21-640 and the fifteen factors published in its parole form. ... the decision will constitute a routine denial of parole and the ALC would have limited authority to review the decision to determine whether the Board followed proper procedure.

Cooper v. S.C. Dept. of Prob. Pardon and Parole Services, 377 S.C. 489, 66 S.E.2d 106 (2008).

The *Cooper* decision was underscored by *Compton v. S.C. Dep't of Prob. Pardon and Parole Services*, 385 S.C. 476, 685 S.E.2d 175 (2009), wherein the court reiterated that infringement of a state-created liberty interest could be avoided if "the Parole Board clearly states in its order denying parole that it considered the factors outlined in section 24-21-640 and the fifteen factors published in Form 1212." This Court's authority to review decisions of the Board is limited to determining whether the Board followed the proper procedure and considered the relevant factors, not the Board's substantive decision to deny an appellant parole. Further, if the Court concludes the Board's action was a routine denial of parole, then the Board's decision is not reviewable for an abuse of discretion. *See S.C. Code Ann. § 1-23-600(D)* (Supp. 2025) (stating an administrative law judge shall not hear "an appeal involving the denial of parole to a potentially eligible inmate by the Department").

In reviewing such matters, the Court sits in its appellate capacity. *See Cooper*, 377 S.C. at 497, 661 S.E.2d at 110; *Al-Shabazz*, 338 S.C. at 377, 527 S.E.2d at 754. Under the Administrative

Procedures Act, the Court's review in appellate matters is confined to the record. S.C. Code Ann. § 1-23-380(4) (Supp. 2025). The Court may modify or reverse the decision of the agency when substantial rights of the appellant have been prejudiced. S.C. Code Ann. § 1-23-380(5) (Supp. 2025). Substantial rights of the appellant are prejudiced when the agency's findings, inferences, conclusions, or decisions are: (a) in violation of constitutional or statutory provisions; (b) in excess of the statutory authority of the agency; (c) made upon unlawful procedure; (d) affected by other error of law; (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. *Id.* "When appealing an agency's decision, the burden rests squarely on the appellant to prove that substantive rights were prejudiced based on one of six statutory criteria listed above." *S.C. Dep't of Corr. v. Mitchell*, 377 S.C. 256, 259-60, 659 S.E.2d 233, 235 (Ct. App. 2008); *see also Pressley v. Lancaster County*, 343 S.C. 696, 704, 542 S.E.2d 366, 370 (Ct. App. 2001) ("The party challenging a governmental body's decision bears the burden of proving the decision is arbitrary."); *Waters v. S.C. Land Res. Conservation Comm'n*, 321 S.C. 219, 226, 467 S.E.2d 913, 917 (1996) ("The burden is on appellants to prove convincingly that the agency's decision is unsupported by the evidence.").

DISCUSSION

In this instance, the Board's November 19, 2025 denial letter reflects the Board's consideration of the factors outlined in section 24-21-640 and subsection -10(F)(1) of the South Carolina Code (2025), factors published in the Department's Form 1212 (Criteria for Parole Consideration), and it included specific findings of fact to support its findings. *Cooper*, 377 S.C. at 500, 661 S.E.2d at 112 (Board's adherence to procedure constitutes a routine denial).¹ Moreover, Appellant has not pointed to any specific procedural error in the Board's review. *See Mitchell*, 377 S.C. at 259-60, 659 S.E.2d at 235. Appellant argues the Board violated his due process rights by failing to consider evidence that his parole file contained erroneous information and then relying on this erroneous information to deny his parole. Appellant further contends the Department erred when it subjected him to a sex offender actuarial risk assessment tool and then relied upon those results as a criterion for denying his parole. In turn, the Department argues that the Board denied

¹ These include (1) the nature and seriousness of Appellant's current offense, (2) the indication of violence in this or previous offense, (3) the failure to successfully complete a community supervision program and (4) Appellant's institutional record is unfavorable.

parole after considering all the required statutory criteria, thus Appellant's due process rights were not violated.

This Court's review is limited to whether the Board followed the proper procedure, and not its substantive decision upon finding the Board issued a routine denial of parole. Because the Board's decision is consistent with the requirements set out in *Cooper* and those reiterated in *Compton*, the Court finds that the decision constitutes a routine denial of parole. A conclusion which is further supported by the Board's Notice of Rejection which implies that Appellant has not been permanently denied parole eligibility since the Board will notify Appellant thirty days prior to his next parole hearing. Therefore, because the Record reflects that the Board denied Appellant's parole after complying with the necessary procedure and considering the appropriate factors, the Court may not interfere with the Department's determination.

ORDER

IT IS THEREFORE ORDERED that the Department's determination is **AFFIRMED**.
AND IT IS SO ORDERED.



The Honorable Crystal M. Rookard
South Carolina Administrative Law Judge

June 24, 2026
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Elizabeth Brown, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



Elizabeth Brown
Judicial Law Clerk

June 24, 2026
Columbia, South Carolina

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Herbert Bell, #132646,

Appellant,

v.

South Carolina Department of Probation,
Parole and Pardon Services,

Respondent.

Docket No. 25-ALJ-15-0033-AP

ORDER

This matter is before the Administrative Law Court (ALC or Court) pursuant to the Notice of Appeal filed on December 18, 2025, by Herbert Bell (Appellant), an individual incarcerated with the South Carolina Department of Corrections. This matter was assigned to the undersigned on January 5, 2026. On November 19, 2025, the South Carolina Department of Probation, Parole and Pardon Services (Department) notified Appellant that the South Carolina Parole Board (Board) rejected him for parole. The Department filed the Record on Appeal (Record) on January 21, 2026. On March 17, 2026, Appellant filed a Motion to Supplement the Record on Appeal, a Motion to Conduct Discovery, and a Motion to Stay. The Department filed a Motion in Opposition to Appellant's Motion to Supplement the Record on Appeal, Motion for Discovery, and Motion to Stay on March 25, 2026. Appellant filed a Motion for an Extension to File Initial Brief on March 27, 2026.

Appellant requests in the Motion to Supplement to supplement the Record, pursuant to Rule 68 of the Rules of Procedure of the Administrative Law Court (SCALCR) and Rule 212(b) of the South Carolina Appellate Court Rules, with: (1) Appellant's parole packet; (2) the audio recording of Appellant's parole hearing; (3) the transcript of Appellant's 1986 trial for kidnapping; (4) Appellant's parole file; and (5) Appellant's COMPAS Assessment test and results along with any other assessment administered to Appellant in preparation for his parole hearing.¹ Appellant contends this supplemental documentation is required due to factual inaccuracies in his parole file and due process implications based upon the material reviewed at the parole hearing. Appellant

¹ Rule 68, SCALCR provides the South Carolina Appellate Court rules may be applied at the discretion of the presiding administrative law judge.

cites *Kelsey v. S.C. Department of Probation, Parole and Pardon Services*, 441 S.C. 373, 893 S.E.2d 588 (Ct. App. 2023) to support his proposition that an inmate can review the parole file before a hearing to have the opportunity to correct any inaccuracies. In response, the Department argues the additional documentation is immaterial and outside the scope of this Court. The Department cites *Compton v. S.C. Department of Probation, Parole and Pardon Services*, 385 S.C. 476, 685 S.E.2d 175 (2009), where the court stated the infringement of a state-created liberty interest could be avoided if “the Parole Board clearly states in its order denying parole that it considered the factors outlined in section 24-21-640 and the fifteen factors published in Form 1212.” This Court’s authority to review decisions of the Board is limited to determining whether the Board followed the proper procedure and considered the relevant factors, not the Board’s substantive decision to deny parole. See *Cooper v. S.C. Dep’t of Prob., Parole & Pardon Servs.*, 377 S.C. 489, 495-96, 661 S.E.2d 106, 109-10 (2008); see also S.C. Code Ann § 1-23-600(D) (Supp. 2025) (“[a]n administrative law judge shall not hear . . . an appeal involving the denial of parole to a potentially eligible inmate by the Department of Probation, Parole and Pardon Services”).

Appellant further requests in its Motion to Conduct Discovery to permit limited discovery pursuant to Rule 21(A), SCALCR to determine if his due process rights were implicated in his denial of parole.² Appellant argues discovery is warranted in this instance pursuant to *Ross v. Medical University of S.C.*, which states that “[i]n cases of alleged irregularity in procedure before the agency, not shown in the record, proof thereon may be taken in the court.” 317 S.C. 377, 380, 453 S.E.2d 880, 882 (1994) (quoting S.C. Code Ann. § 1-23-380(4) (Supp. 2025)). In turn, the Department asserts it complied with Rule 58, SCALCR. Rule 58, SCALCR outlines what the Record shall consist of and includes the Department “need only provide a copy of the agency decisions, and where applicable, the decision following a motion for reconsideration.”

In reviewing such matters, the Court sits in its appellate capacity. See *Cooper*, 377 S.C. at 497, 661 S.E.2d at 110; *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000) (establishing an administrative review process for inmate appeals); *Furtick v. S.C. Dep’t of Prob., Parole & Pardon Servs.*, 352 S.C. 594, 600, 576 S.E.2d 146, 150 (2003) (incorporating final decisions of the Department into that review process). Under the Administrative Procedures Act, the Court’s review in appellate matters is confined to the record. S.C. Code Ann. § 1-23-380(4) (Supp. 2025).

² Rule 21(A), SCALCR applies to contested cases heard before the Court.

As such, after careful consideration of the filings, the Court concludes that discovery and supplementation of the Record is not appropriate in this instance. With respect to Appellant's Motion to Stay, this Court finds it appropriate to adjust the timelines for the filing of the briefs as requested in Appellant's Motion for an Extension to File Initial Brief.

ORDER

IT IS THEREFORE ORDERED that Appellant's Motion to Supplement the Record on Appeal, Motion to Conduct Discovery, and Motion to Stay are **DENIED**.

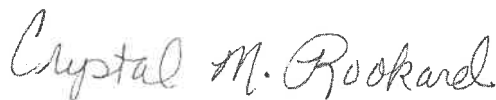
IT IS FURTHER ORDERED that Appellant's Motion for an Extension to File Initial Brief is **GRANTED**.

IT IS FURTHER ORDERED that the Appellant shall file his brief within thirty (30) days of this Order.

IT IS FURTHER ORDERED that the Department shall file its brief within fifty (50) days of this Order.

IT IS FURTHER ORDERED that Appellant may file a reply brief within ten (10) days from the date the Department's brief is filed.

AND IT IS SO ORDERED.



The Honorable Crystal M. Rookard
South Carolina Administrative Law Judge

April 6, 2026
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Elizabeth Brown, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



Elizabeth Brown
Judicial Law Clerk

April 6, 2026
Columbia, South Carolina

NOTICE OF APPEAL FROM ADMINISTRATIVE TRIBUNAL

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
The Honorable S. Phillip Lenski, Administrative Law Judge

Case No. 25-ALJ-15-0033-AP

HERBERT BELL, #132646,..... APPELLANT,

v.

S.C. DEPARTMENT OF PROBATION, PAROLE AND
PARDON SERVICES.....RESPONDENT.

NOTICE OF APPEAL

Herbert Lee Bell appeals the order of the Honorable Crystal M. Rookard dated June 24, 2026. Appellant received a copy of this decision on June 29, 2026. A copy of the written order is attached as **Exhibit A**.

By: s/ Rebecca Depp
Rebecca Depp, S.C. Bar No. 101171
rdepp@tsscnow.org

s/ Allison Elder
Allison Elder, S.C. Bar No. 104123
aelder@tsscnow.org

Time Served
P.O. Box 615
Taylors, South Carolina 29687
(864) 546-5060

July 13, 2026.
Greenville, South Carolina.

Attorneys for Appellant

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
The Honorable S. Phillip Lenski, Administrative Law Judge

Case No. 25-ALJ-15-0033-AP

HERBERT BELL, #132646,..... APPELLANT,

v.

S.C. DEPARTMENT OF PROBATION, PAROLE AND
PARDON SERVICES.....RESPONDENT.

PROOF OF SERVICE

I, Rebecca Depp, attorney for Appellant, do hereby certify that I have served all counsel in this action with a copy of the pleading hereinbelow specified by depositing a copy of the same in the United States mail, postage prepaid, this 13th day of July, 2026.

Pleading: Notice of Appeal

Served: Matthew Buchanan, General Counsel
SC Dept. of Probation, Parole & Pardon Services
P.O. Box 207
Columbia, SC 29202

The Honorable Crystal M. Rookard
Clerk, South Carolina Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, SC 29201

I further certify that all parties required by Rule 61 to be served have been served.

[SIGNATURE PAGE TO FOLLOW]

Rebecca Depp, S.C. Bar No. 101171
rdepp@tsscnw.org

Time Served
P.O. Box 615
Taylors, South Carolina 29687
(864) 546-5060

Attorney for Appellant

July 13, 2026
Greenville, South Carolina.

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Honorable Crystal Rookard, Administrative Law Judge
Docket No. 25-ALJ-15-0033

HERBERT BELL, # 132646Appellant,

v.

SOUTH CAROLINA DEPARTMENT OF PROBATION,
PAROLE, & PARDON
SERVICES.....Respondent.

BRIEF OF APPELLANT

REBECCA DEPP
Time Served
P.O. Box 615
Taylors, SC 29697
(864) 546-5060
rdepp@tsscnow.org
Bar No. 101171

Counsel for Appellant

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STATEMENT OF THE ISSUES ON APPEAL

1. Whether the Department of Probation, Pardon, and Parole Services' (DPPPS) erred and violated Herbert Lee Bell's due process rights by: 1) failing to consider objective evidence offered to support the contention that Herbert's parole file contained clearly erroneous information, and then 2) relying on that clearly erroneous information in denying his parole.
2. Whether Herbert Bell was convicted for committing sexual misconduct, and, if not, whether DPPPS erred and violated Herbert's due process rights by: 1) subjecting him to an actuarial risk assessment test that was not designed to determine the future risk of a man who has not committed sexual misconduct, and 2) relying on the results of that test as criteria for denying his parole.

STATEMENT OF THE CASE

After a two-day jury trial in June 1986, Herbert Lee Bell was convicted of the crime of kidnapping and is now serving a mandatory life sentence for this conviction.¹ His conviction arose from an incident where a man identified as “Tony” asked a teenager, Jay Edens, who was driving his dad’s pickup truck, for a ride to a bait shop and then a fishing hole. (Record at 6-11; Trial Transcript PP. 51-56). Although there was no overt threat made by Tony to obtain the ride, Jay testified at trial he felt obligated to give Tony a ride because, “if I would have told him I was going to leave him, he might have beat me up.” (Record at 6-29; Trial Transcript PP. 51-60; PP. 86-99, *see esp.* P. 89, Ln. 13-16). After not being able to locate his friends at the fishing hole, Tony asked Jay for a ride to Tony’s home. (Record at 10-13; Trial Transcript PP. 55-58). When the two had been going down a dirt road for a while, Jay stopped the truck and attempted to cut the ignition. (Record at 14; Trial Transcript 59). Tony then grabbed Jay’s wrist; Jay twisted out of the grip, opened the truck door, and ran out. (Record at 14; 26-29; Trial Transcript 59; 96-99). At this point, according to Jay’s testimony, Tony shouted “Stop or [I am] going to shoot.” (Trial Transcript P. 99). Jay testified he did not see a gun or hear a gunshot. (Record at 29, Trial Transcript P. 99 “Q: Did you ever hear a shot?” A: “No, Sir.” Q: “[Victim], had he ever said anything about a gun before that?” A: “No, Sir.” P. 99, Ln. 8-12). Jay continued to run to a neighboring home where he called the police.²

The offense of kidnapping is defined as:

A person who unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away any other person by any means whatsoever without authority of law, except when a minor is seized or taken by his parent, is guilty of [kidnapping.]

¹ In 1991—five years after Herbert Bell was sentenced to life imprisonment—the Legislature amended the kidnapping statute. Specifically, the Legislature changed the mandatory life sentence for the offense to a discretionary sentence with a maximum period of incarceration not to exceed thirty years. 1991 Act 117 (H.B. 3350). As of today, Mr. Bell has spent forty years serving a sentence for Tony’s crime against Jay Edens.

² As described *infra*, although the remainder of Herbert Bell’s two-day trial transcript was sent to and considered by DPPPS in its reconsideration of Herbert’s parole denial, it was not included in the Record in this appeal, filed by DPPPS on January 21, 2026. Herbert filed a Motion to Supplement the Record with the remainder of the transcript on March 17, 2026, among other documents in possession and considered by DPPPS in its parole decision, but the Motion was denied on April 6, 2026. Herbert preserves his request to supplement the record for appeal.

S.C. Code Ann. § 16-3-910; *see also State v. Kornahrens*, 290 S.C. 281, 287, 350 S.E.2d 180, 184 (1986) (describing same elements of kidnapping from the time of Herbert’s conviction). As is clear from the statute, sexual misconduct is not an element of kidnapping. During Herbert’s arrest, trial, and conviction, sexual misconduct was not alleged—it was not even suggested. Herbert Bell was not convicted of sexual misconduct.

In preparation for a parole hearing, the DPPPS prepares a parole case summary report, called the “parole file.” *Policy and Procedure Manual Parole Board Manual*, South Carolina Board of Pardons and Paroles, 21, <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ProbationParoleandPardon/Parole%20Board%20Manual.pdf>. Among other relevant information, the parole file includes: (1) “[t]he criminal offense and a description of it;” and (2) “[r]isk classification reports.” *Id.* In 2023, the South Carolina Court of Appeals held that prisoners are entitled to review this parole file in order to report any inaccuracies. *Kelsey v. S.C. Dep’t of Prob., Parole, & Pardon Servs.*, 441 S.C. 373, 379, 893 S.E.2d 588, 591–92 (Ct. App. 2023). Per DPPPS practice, prisoners are given this parole file to review *on the day* of their hearing. (Record at 3, “Acknowledgement of Parole File Review”). Neither the lawyer, nor the incarcerated person is able to retain this parole file or make a copy of it. *Id.* Instead, they must return it to the DPPPS before the end of the hearing. *Id.*

Herbert Bell was able to review his parole file on the day of his November 20, 2024 hearing. He was represented at that hearing by two law students from the University of South Carolina School of Law under the supervision of an attorney. On the day of the hearing, the law students noticed that, in Herbert’s parole file, the description of the offense indicated a gun was used. Pursuant to *Kelsey*, the law students clarified for the record that, according to the transcript of Herbert’s 1986 trial, there was no gun involved in the commission of the crime. Herbert’s parole was denied. The following year, on the morning of his November 19, 2025 parole hearing, Herbert was represented at his hearing by attorney Rebecca Depp. The morning of that hearing, she was able to review Herbert’s parole file for the first time since his last hearing. (Record at 3, “Acknowledgement of Parole File Review”). During the hearing, Herbert’s attorney contended there were two mistakes in the parole file that, pursuant to *Kelsey*, need to be reported. Specifically, she alerted to the Board that Herbert’s parole file incorrectly stated that: (1) Herbert was convicted of abducting a teenager at gunpoint, and (2) Herbert was high risk for

“recommitting” a sexual-misconduct crime. Herbert’s attorney contended these facts did not accurately reflect the underlying facts of Herbert’s kidnapping conviction.

Immediately following the November 19, 2025 hearing, Herbert’s parole was denied by a vote of three to three. (Record at 1, “Notice of Rejection”). Later that day, Mr. Bell received a “Notice of Rejection” (Record at 1, “Notice of Rejection”). On December 4, 2025, Herbert sent DPPPS a letter asking for reconsideration of his parole denial. (Record at 4-5, “Reconsideration Letter”). Specifically, Herbert asked for reconsideration based on: (1) the two factual inaccuracies in his file, and (2) his concern that, in preparation for his parole hearing, he was administered a Static 99-R sexual recidivism risk assessment, which—because he has not committed sexual misconduct—would not be able to produce accurate results regarding his proclivity to commit sexual misconduct in the future. (Record at 4-5, “Reconsideration Letter”). In support of the reconsideration request, Herbert submitted the transcript of his June 24-25, 1986 kidnapping trial. (Record at 5, “Reconsideration Letter”). On December 11, 2025, DPPPS sent Herbert a letter indicating it would not reconsider his parole denial.

On December 18, 2025, Herbert filed the current appeal. (“Notice of Appeal,” filed December 18, 2026). In accordance with the ALC rules, DPPPS filed a Record in this appeal on January 21, 2026. Herbert filed a Motion to Supplement the Record and a Motion to Conduct Limited Discovery on March 17, 2026. In the motions, Herbert requested the Record be supplemented with: 1) Herbert’s parole packet, prepared by his attorney and filed with DPPPS in preparation for his November 19, 2025 parole hearing; 2) Herbert’s parole file, prepared by DPPPS; 3) the audio recording of the November 19, 2025 parole hearing; 4) the full transcript of Herbert’s kidnapping trial; and 5) Herbert’s COMPAS and Static-99R Assessment results. (Motion to Supplement the Record, filed March 17, 2026). The Motion to Supplement the Record and the Motion to Conduct Limited Discovery were denied on April 6, 2026. (Order denying Motions to Supplement the Record and Conduct Discovery, filed April 6, 2026).

STANDARD OF REVIEW

“The Administrative Procedures Act [(APA)] establishes the standard of review an ALC must apply when reviewing an agency's decision[.]” *S.C. Dep't of Corr. v. Mitchell*, 377 S.C. 256, 259, 659 S.E.2d 233, 235 (Ct. App. 2008). Under the APA, the ALC “may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are . . . in violation of constitutional or statutory

provisions . . . clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or . . . arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.” S.C. Code Ann. § 1-23-380(A)(5). “The ALC may not grant an inmate relief from an erroneous administrative decision by [the Parole Board] . . . unless the inmate demonstrates the error deprived him of due process.” *Allen v. S.C. Dep’t of Corr.*, 439 S.C. 164, 171, 886 S.E.2d 671, 674 (2023)

ARGUMENTS

1. DPPPS erred and violated Herbert Lee Bell’s due process rights by: 1) failing to consider objective evidence offered to support the contention that Herbert’s parole file contained clearly erroneous information, and then: 2) relying on that clearly erroneous information in denying his parole.

Herbert Bell now argues the Parole Board both erred and violated his due process by: 1) failing to consider objective evidence that Herbert’s conviction did not involve either a gun or sexual misconduct before determining whether he should be paroled, and then 2) relying on the erroneous information in Herbert’s parole file in denying his parole.

According to the notice sent to Herbert on the day of his November 19, 2025 hearing, the Parole Board found both the “Nature And Seriousness Of Current Offense” and an “Indication Of Violence In This Or Previous Offense” supported the denial of Herbert’s parole. (Record at 1, “Notice of Rejection”). Herbert timely requested a reconsideration of his parole denial and submitted Herbert’s June 24 and 25, 1986 trial transcript in support. (Record at 4-5, “Reconsideration Letter”).

On December 11, 2025, DPPPS sent Herbert a letter indicating it would not reconsider his parole denial, but instead “the transcript you provided will be sent to our investigators, and the facts will be investigated and corrected, if necessary, prior to Mr. Bell’s next hearing.” (Record at 30, “Letter Denying Reconsideration”). Further, DPPPS indicated that, because Herbert will be required to register for the sexual offense registry upon his release from prison, “the parole packet describes accurately Mr. Bell’s situation[; t]his certainly leaves you free to point out to the Board at the next hearing that Mr. Bell’s fifteen-year-old victim was not sexually assaulted.” (Record at 31, “Letter Denying Reconsideration”). The letter concluded by stating, “Therefore a review of

your correspondence, the Parole Packet [sic³], the recoding of the hearing, the trial transcript, and the COMPAS assessment reveals no indication the Board relied on erroneous or incomplete information.” (Record at 31, “Letter Denying Reconsideration”).

By statute, the Parole Board must consider its proffered, public criteria when determining whether to grant or deny parole. S.C. Code Ann. § 24-21-640. In *Compton*, the Court held that constitutional due process requires the Parole Board to consider the section 24-21-640 and Form 1212 criteria in its parole determination. *Compton v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 385 S.C. 476, 479, 685 S.E.2d 175, 177 (2009) (“[I]f the Parole Board deviates from or renders its decision without consideration of the appropriate criteria, it essentially abrogates an inmate's right to parole eligibility and infringes on a state-created liberty interest, warranting minimal due process protection.”).⁴ Further, in *Kelsey*, the South Carolina Court of Appeals found minimum

³ Herbert’s letter requesting reconsideration of Mr. Bell’s November 19, 2025 Parole Denial, and in DPPPS’ letter denying that reconsideration, Mr. Bell and DPPPS refer to the “parole file” prepared by DPPPS when using the term “parole packet.” (Record at 4-5, 30-31). We wish to clarify for this and future filings that “parole file” will reference the file prepared by DPPPS in preparation for a parole hearing, while “parole packet” will refer to the packet of information prepared by Herbert’s attorney and filed with DPPPS in preparation for the parole hearing.

⁴ In the past, *Compton* has been interpreted as holding: 1) a routine denial of parole is any denial where an inmate *receives notice* that the Parole Board considered the statutorily required factors in denying parole, and 2) the ALC does not have jurisdiction to review a routine denial of parole. However, this interpretation of *Compton* is not accurate. First, the Supreme Court has clarified that the ALC absolutely has jurisdiction to review a denial of parole—routine or otherwise. *See Allen*, 439 S.C. at 168, 886 S.E.2d at 672 (“The ALC has appellate jurisdiction over any matter where the procedural requirements for perfecting an appeal have been met.”). Second, in the same opinion, the Supreme Court clarified that the ALC may review an agency appeal to determine whether the agency violated an inmates’ right to due process, and, if so, it may correct the agency decision. *Id.* at 171, 886 S.E.2d at 674. Thus, the material due process determination from any parole denial is not whether the Parole Board *issued notice* that it considered relevant factors in denying parole, but rather, whether the Parole Board violated an inmate’s procedural due process rights in denying parole. *Allen*, 439 S.C. at 171, 886 S.E.2d at 674; *Compton*, 385 S.C. at 479, 685 S.E.2d at 177; *see also Kurschner v. City of Camden Plan. Comm'n*, 376 S.C. 165, 171, 656 S.E.2d 346, 350 (2008) (“The fundamental requirements of due process include notice, an opportunity to be heard in a meaningful way, and judicial review.”). We note that if *Compton* does hold that an inmate’s procedural due process rights are entirely satisfied as long as they receive notice that the Parole Board considered criteria when considering whether to deny parole, then we assert *Compton* should be overruled and abrogated as that holding itself would violate due process by making any meaningful judicial review of the parole process impossible. S.C. Const. art. I, § 22; *see also Kurschner v. City of Camden Plan. Comm'n*, 376 S.C. 165, 171, 656 S.E.2d 346, 350 (2008) (“The fundamental requirements of due process include notice, an opportunity to be heard in a meaningful way, and judicial review.”)

due process entitled an inmate to review his parole file to have the opportunity to correct any inaccuracies in the file. 441 S.C. at 379, 893 S.E.2d at 591–92.

Thus, as the law stands today, it is clear that due process not only requires the Parole Board consider evidence depicting “the characteristics of [an inmate’s] current offense” in denying parole, it also requires an inmate the opportunity to review and correct any inaccuracies in his parole file with evidence before the Parole Board makes a decision to grant or deny parole. (Record at 1, “Notice of Rejection”); *Compton*, 385 S.C. at 479, 685 S.E.2d at 177; *see also Greenholtz v. Inmates of Nebraska Penal & Corr. Complex*, 442 U.S. 1, 15 n.7 (1979) (noting an inaccurate parole file implicates due process); *Kelsey*, 441 S.C. at 379, 893 S.E.2d at 591–92 (holding due process requires an inmate the opportunity to review his or her parole file before a hearing in order to correct any inaccuracies); *Blackwell v. S.C. Dep’t of Prob. Parole & Pardon Servs.*, Op. No. 2024-UP-211 (S.C. Ct. App. filed June 12, 2024)⁵ (holding as long as inmate is able to present objective evidence correcting the inaccuracy *before* the Parole Board votes on whether to grant or deny parole, an inmate’s due process rights are not violated).

Herbert Bell was not convicted of abducting a teenager at gunpoint. Instead, the transcript of his trial for kidnapping reveals a strange tale of a man named “Tony” who hitched a ride from a teenager driving a pick-up truck in 1986, bought crickets from a bait shop, went to a fishing hole, and finally grabbed the teen’s arm when the teen stopped the truck. (Record at 6-29, “Trial Transcript”). This thirty-minute encounter culminated with Tony shouting at the teenager, “Stop or [I am] going to shoot,” but there was no gun seen ever, and there was no threat of violence before that point. *Id.* This is a very different crime than one where a man pulls a gun on a boy, forces him into a car, and makes him drive around while threatening him with violent action—which is how the crime is characterized in Herbert’s parole file.

Furthermore, there is a much more egregious mischaracterization in Herbert’s parole file; specifically, the 2025 parole file indicates Herbert has committed sexual misconduct. This is false in every way. We are particularly alarmed at the language from DPPPS’ letter denying reconsideration letter that states, “the parole [file] describes accurately Mr. Bell’s situation[; t]his

⁵ *Blackwell v. S.C. Dep’t of Prob. Parole & Pardon Servs.*, Op. No. 2024-UP-211 is not published, and it is therefore not precedential. Nevertheless, it is the only case in South Carolina that has applied the recent holding from *Kelsey*; therefore, we believe it is persuasive authority in Herbert’s case.

certainly leaves you free to point out to the Board at the next hearing that Mr. Bell's fifteen-year-old victim was not sexually assaulted." (Record at 31, "Letter Denying Reconsideration"). Again, we point out that sexual misconduct is not an element of kidnapping, and the 1986 trial transcript unequivocally reveals that Herbert was not convicted of sexual misconduct. S.C. Code Ann. § 16-3-910; *Kornahrens*, 290 S.C. at 287, 350 S.E.2d at 184; (Record at 6-29, "Trial Transcript").

Herbert's parole file does not "accurately describe [his] situation," and for the parole file to include gun violence and sexual misconduct as features of Herbert's conviction, and then for DPPPS to refuse to send the objective evidence demonstrating that Herbert's parole file was inaccurate to the Parole Board indicates that DPPPS' parole procedure has been carried out in a way that is arbitrary, prohibits meaningful opportunity to be heard, and infringes on Herbert's state-created liberty interest. *See* S.C. Const. art. I, § 22; S.C. Code Ann. § 1-23-380(A)(5) (ALC may correct arbitrary decisions or procedure).

- 2. DPPPS erred and violated Herbert's due process rights by: 1) subjecting him to an actuarial risk assessment test that was not designed to determine the future risk of a man who has not committed sexual misconduct, and 2) relying on the results of that test as criteria for denying his parole. Herbert Bell was not convicted of sexual misconduct; therefore, we ask this Court to make a finding on the record that the underlying facts of his kidnapping conviction do not contain sexual misconduct.**

DPPPS has violated Herbert's due process rights by: 1) subjecting him to an actuarial risk assessment test that was not designed to determine the future risk of a man who has not committed sexual misconduct, and 2) relying on the results of that test as criteria for denying his parole. Accordingly, the Parole Board's decision to deny Herbert's parole was arbitrary and an abuse of discretion. In accord with *Thompson v. State*, 415 S.C. 560, 566, 785 S.E.2d 189, 192 (2016), we ask the ALC to make a finding on the record that Herbert's kidnapping offense did not involve sexual misconduct.

In 1994—eight years after Herbert was convicted of kidnapping—the Legislature passed an act establishing South Carolina's Sex Offender Registry. 1994 Act 497 (H.B. 4820). As written into the Act, the Sex Offender Registry is a civil statute, and its purpose is not to punish offenders who have committed sexual misconduct. *Thompson*, 566, 785 S.E.2d at 192; *State v. Walls*, 348 S.C. 26, 31, 558 S.E.2d 524, 526 (2002). Rather, the purpose of the Registry is to "protect the public from those sex offenders who may re-offend and to aid law enforcement in solving sex crimes." *Walls*, 348 S.C. at 31, 558 S.E.2d at 526; *see also Hazel v. State*, 377 S.C. 60, 63–64,

659 S.E.2d 137, 139 (2008) (detailing legislative history of the Sex Offender Registry Act). Crimes that qualify for the Sex Offender Registry are found in section 23–3–430 of the South Carolina Code.

Kidnapping and trafficking are the only two offenses listed as registrable offenses in section 23-3-430 that do not include sexual misconduct as an element of the crime. S.C. Code Ann. § 23-3-430 (listing registrable crimes, such as: voyeurism, buggery, incest, indecent exposure, sexual exploitation, criminal sexual conduct, sexual battery, etc.). In 2016, the South Carolina Supreme Court analyzed when a court may evaluate the underlying facts of a conviction for kidnapping to determine it does not include sexual misconduct. *Thompson*, 415 S.C. at 566, 785 S.E.2d at 192. In *Thompson*, the Court held the finding does not have to be made at the time of the offender’s original sentencing and it does not have to be made once the offender is released from prison. *Id.* Rather, because incarcerated people’s eligibility for certain programs and services within prison are based on their propensity for sexual misconduct, the person who has been convicted of kidnapping is entitled to a “meaningful opportunity to be heard on whether his kidnapping offenses were sexual in nature” as soon as the civil consequences flow from the conviction. *Id.*

In 2010, the Legislature passed the Omnibus Crime Reduction and Sentencing Reform Act. 2010 Act 273 (S.B. 1154). As part of that Act, the Legislature directed the Department of Probation, Pardon, and Parole Services (DPPPS) to establish “a process for adopting a validated actuarial risk and needs assessment tool consistent with evidence-based practices and factors that contribute to criminal behavior, which the parole board shall use in making parole decisions[.]”. S.C. Code Ann. § 24-21-10 (F)(1). In response to this requirement, the Parole Board purchased “an actuarial risk/needs assessment tool” called “COMPAS by Northpointe, Inc.” *2011 Report to the Sentencing Reform Oversight Committee*, DPPPS, Nov. 2011, 4, https://ppp.sc.gov/sites/dppps/files/Documents/Annual%20Statistics%20and%20Reports/SROC%20Reports/2011_SROC_Report.pdf. The COMPAS tool purchased by DPPPS also includes “[s]econdary assessments” designed to “enhance supervision strategies with specialized populations (domestic violence offenders, sex offenders etc.).” *Id.* at 18. According to Northpointe’s Practitioner’s Guide to COMPAS Core, The COMPAS secondary assessments “for this purpose” include: . . . the STATIC 99 . . . for use with adult male sex assault offenders[.]” *Practitioner’s Guide to COMPAS Core*, Northpointe, March 13, 2015, 30,

<https://archive.epic.org/algorithmic-transparency/crim-justice/EPIC-16-06-23-WI-FOIA-201600805-COMPASPractitionerGuide.pdf>.

Importantly, the Static 99R risk assessment tool is not designed to be taken by men who have not committed sexual misconduct. See A. Phenix, et.al., *2016 Static-99R Coding Rules*, “Definitions: Sex Offense,” 20, <https://www.oregon.gov/boppps/Documents/Exhibits/ExhibitQ2.pdf> (“For the purposes of a Static-99R assessment a sex offence is an officially recorded sexual misbehaviour or criminal behaviour with sexual intent.”). If taken by a man who has not committed sexual misconduct, the Static 99-R will not give accurate results. See L. Maaïke Helmus et. al., *Static-99r: Strengths, 10 Limitations, Predictive Accuracy Meta-Analysis, and Legal Admissibility Review*, 28 Psychol. Pub. Pol’y & L. 307, 309 (2022) (“The appropriate population for Static-99R may not fully correspond with the population of individuals labeled as ‘sex offenders’ in the criminal legal system The scale cannot be used for individuals whose . . . offenses [are] without a sexual motive. . . . It also cannot be used to determine guilt or innocence.”); *2016 Static-99R Coding Rules*, “Whom Can you Use the Static-99R on?”, 13, (“This instrument is not recommended for . . . those who have never committed a sex offence, nor is it recommended for making recommendations regarding the determination of guilt or innocence in those accused of a sex offence . . . Static-99R applies where there is reason to believe an actual sex offence has occurred . . . with an identifiable victim[.]”).

We do not dispute that Herbert Bell will be required to be on the Sex Offender Registry if he is released on parole. S.C. Code Ann. § 23-3-430(C)(3)(d). Nevertheless, the legal fiction that Herbert is a “sex offender” does not alter the reality that *he has not* committed, nor has he been convicted of, sexual misconduct with anyone, ever. According to Herbert’s parole file, his Static-99R assessment coded him as moderate to high risk for sexual recidivism. His overall COMPAS assessment coded him as low risk for committing any future crime. This discrepancy is of course explained by the fact that the Static-99R cannot give an accurate assessment of the future criminality of a man who has never committed sexual misconduct. Because the Parole Board is required to consider Herbert’s “actuarial risk and needs assessment factors” in determining parole, (Record at 1, “Notice of Rejection”); S.C. Code Ann. § 24-21-10 (F)(1), Herbert’s due process rights are implicated by the Board’s consideration of the results of a recidivism test not designed to be used on someone who has not previously committed sexual misconduct. See *Barton v. S.C. Dep’t of Prob. Parole & Pardon Servs.*, 404 S.C. 395, 413, 745 S.E.2d 110, 120 (2013) (explaining

an inmate has a “substantial personal right to statutorily correct parole review”); S.C. Const. art. I, § 22; S.C. Code Ann. § 1-23-380(A)(5) (ALC may correct arbitrary decisions or procedure); *Compton*, 385 S.C. at 479, 685 S.E.2d at 177. (“[I]f the Parole Board deviates from or renders its decision without consideration of the appropriate criteria, it essentially abrogates an inmate's right to parole eligibility and infringes on a state-created liberty interest, warranting minimal due process protection.”); *Greenholtz v. Inmates of Nebraska Penal & Corr. Complex*, 442 U.S. 1, 15 n.7 (1979) (noting an inaccurate parole file implicates due process); *Kelsey*, 441 S.C. at 379, 893 S.E.2d at 591–92 (holding due process requires an inmate the opportunity to review his or her parole file before a hearing in order to correct any inaccuracies); *Blackwell v. S.C. Dep't of Prob. Parole & Pardon Servs.*, Op. No. 2024-UP-211 (S.C. Ct. App. filed June 12, 2024)⁶ (holding as long as inmate is able to present objective evidence correcting the inaccuracy *before* the Parole Board votes on whether to grant or deny parole, an inmate’s due process rights are not violated).

CONCLUSION

Under the Due Process clauses of the U.S. and South Carolina constitutions, Herbert Lee Bell is entitled to a statutorily correct parole process that allows for notice, an opportunity to be heard in a meaningful way, and judicial review. DPPPS erred and violated Herbert Lee Bell’s due process rights by failing to consider objective evidence offered to support the contention that Herbert’s parole file contained inaccurate information that his conviction involved gun violence and sexual misconduct and in relying on that clearly erroneous information in denying his parole. His due process rights were further violated when DPPPS subjected Herbert to a sexual recidivism risk assessment that is not designed to give an accurate result for the future criminality of a man who has never committed sexual misconduct. We are asking the ALC make a *Thompson* finding on the record that Herbert’s underlying conviction does not involve sexual misconduct and remand Herbert’s case to the Parole Board with instructions that the Board: 1) consider the transcript of his 1986 conviction for kidnapping, and 2) remove from consideration the Static 99-R assessment results at a new parole hearing. *See Kelsey*. 441 S.C. at 379, 893 S.E.2d at 591–92 (finding when due process was violated in parole denial decision, inmate was entitled to a new parole hearing on remand).

⁶ *Blackwell v. S.C. Dep't of Prob. Parole & Pardon Servs.*, Op. No. 2024-UP-211 is not published, and it is therefore not precedential. Nevertheless, it is the only case in South Carolina that has applied the recent holding from *Kelsey*; therefore, we believe it is persuasive authority in Herbert’s case.

STATE OF SOUTH CAROLINA
In The Administrative Law Court
Docket Number 25-ALJ-15-0033

APPEAL OF FINAL DECISION
Department of Probation, Parole and Pardon Services

HERBERT BELL, #132646,APPELLANT

v.

S.C. DEPARTMENT OF PROBATION, PAROLE AND
PARDON SERVICES, RESPONDENT

BRIEF OF RESPONDENT

**Matthew Buchanan
General Counsel**

**South Carolina Department of Probation,
Parole and Pardon Services
P.O. Box 207
Columbia, South Carolina 29202
(803) 734-9220**

ATTORNEY FOR RESPONDENT

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APPELLANT'S STATEMENT OF ISSUES ON APPEAL

1. Whether the Department of Probation, Pardon, and Parole Services' [sic] (DPPPS) erred and violated Herbert Lee Bell's due process rights by: 1) failing to consider objective evidence offered to support the contention that Herbert's parole file contained clearly erroneous information, and then 2) relying on that clearly erroneous information in denying his parole.
2. Whether Herbert Bell was convicted for committing sexual misconduct, and if not, whether DPPPS erred and violated Herbert's due process rights by: 1) subjecting him to an actuarial risk assessment test that was not designed to determine the future risk of a man who has not committed sexual misconduct, and 2) relying on the results of that test as criteria for denying his parole.

RESPONDENT'S STATEMENT OF ISSUES ON APPEAL

1. Whether the Board followed the procedure outlined in *Cooper v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 377 S.C. 489, 661 S.E.2d 106 (2008), thus making this a routine denial of parole the appeal of which this Court must dismiss?
2. Whether the Board's decision should be upheld when Appellant was able to review his parole file and report the inaccuracies he perceived and that the Administrative Law Court's role is not to provide a forum in which an inmate may relitigate the facts of his offense?
3. Whether Respondent violates an inmate's limited due process rights by utilizing a sex-offender assessment tool when the inmate was convicted of an offense that requires him to register as a sex offender?

STATEMENT OF THE CASE

On July 23, 1985, on Bluff Road in Richland County South Carolina, Appellant abducted a fifteen-year-old victim who was driving his father's truck. Appellant forced the victim to drive to different locations in the Richland County area. The abduction lasted at least thirty minutes during which Appellant threatened to shoot the victim. The victim finally was able to escape by getting out of the truck and running nearly a mile to safety. The Appellant was later arrested and charged with the offense of kidnapping.

On February 25, 1986, Appellant appeared before the Honorable Marion H. Kinnon after a two-day trial in which he was found guilty by a jury. Appellant was sentenced to life in prison. At the time Appellant committed this offense South Carolina law allowed an inmate serving a life sentence for kidnapping parole eligibility upon the service of ten years incarceration.

Appellant appeared before the Parole Board for his first consideration for parole on August 10, 1994, and was denied. Appellant has been before the Parole Board twenty-seven times since his first appearance. At the most recent hearing on November 19, 2025, Appellant's parole was denied based on the nature and seriousness of current offense; indication of violence; failure to successfully complete a community supervision program; and an unfavorable institutional record. R. p. 1.

Following his rejection, Appellant submitted a request for reconsideration on December 4, 2025. R. p. 4. That request was denied in a letter dated December 11, 2025. R. p. 30. Appellant then filed an appeal with this court seeking review, alleging that Respondent allowed the Board to consider erroneous evidence and for conducting a risk assessment for sex offenders. Respondent's brief follows.

ARGUMENT

- 1. The Parole Board's denial of parole after consideration of all the required statutory criteria; therefore, this court must dismiss this appeal.**

As an initial matter, inmates do not have a right to receive parole in South Carolina. The United States Supreme Court has held that inmates do not have the constitutional right to early release of an otherwise valid sentence. *Greenholtz v. Neb. Penal Inmates*, 442 U.S. 1, 7 (1979). Furthermore, the South Carolina Supreme Court has also confirmed that parole is a privilege and not a right. *Sullivan v. S.C. Dep't of Corr.*, 355 S.C. 437, 443 n. 4, 586 S.E.2d 124 127 n.4 (2003). This necessarily places inmates who are parole eligible and who are solely appealing the denial of parole into an extremely limited posture regarding due process arguments.

The Administrative Law Court (ALC) does not have the authority to hear challenges to the Board's decision when it makes a routine denial of parole. The ALC's authority to review final decisions of the Department of Probation, Parole and Pardon Services (the Department) is based upon the decisions of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000) and *Furtick v. S.C. Dept. of Probation, Parole and Pardon Services*, 352 S.C. 594, 576 S.E.2d 146 (2002), as well as S.C. Code Ann. § 1-23-600(D). In *Al-Shabazz*, the Supreme Court created a new avenue by which inmates could seek review of some final decisions of a State Agency in "non-collateral" matters related to a conviction or sentence, i.e., matters in which an inmate does not challenge the validity of a conviction or sentence. The Court held that inmates could appeal those final agency decisions to the ALC and ultimately to circuit court pursuant to the Administrative Procedures Act. *Al-Shabazz*, 338 S.C. at 376, 527 S.E.2d at 754.

When an inmate alleges that the Department erroneously determined that he was not eligible for parole, *Furtick* held that the "permanent denial of parole eligibility" by the Department

“implicates a liberty interest sufficient to require at least minimal due process.” *Furtick*, 352 S.C. at 598, 576 S.E.2d at 149 (emphasis in original).

In this case, Appellant is challenging the Board’s decision not to grant him parole at his regularly scheduled parole hearing. The Supreme Court addressed this very issue in *Furtick*, where the Court noted, “[a]lthough this provision creates a liberty interest in parole eligibility, it **does not** create a liberty interest in parole.” 352 S.C. at 598, 576 S.E.2d at 149 n.4 (emphasis added). Since no liberty interest is implicated when a potentially eligible inmate is denied parole by the Board, an inmate has no right to appeal the denial of parole to the ALC (under *Furtick* or any other rationale), but instead must await their next parole hearing. *Id.* This is also apparent in the statutory language governing the ALC’s ability to hear cases found at S.C. Code Ann. § 1-23-600(D): “An administrative law judge shall not hear an appeal from an inmate in the custody of the Department of Corrections involving ... the denial of parole to a potentially eligible inmate by the Department of Probation, Parole and Pardon Services.” Therefore, pursuant to statute and the Supreme Court’s decision in *Furtick*, the Board’s decision is not appealable to the ALC.

The South Carolina Supreme Court held that an appeal can only be heard if the inmate alleges the Board failed to consider the statutorily-created parole criteria, which would have the effect of rendering an inmate parole ineligible. *Cooper v. S.C. Dept. of Probation, Parole and Pardon Services*, 377 S.C. 489, 502, 661 S.E.2d 106, 113 (2008). In that case, the Court reviewed an allegation that the Board was not following the procedure established by Section 24-21-640 or utilizing the board-created criteria for parole consideration. The Court remanded the Board’s denial of parole, only because there was no evidence that the Board weighed the factors in Section 24-21-640 or its own criteria for parole consideration.

The Court determined, however, that in the future the issue could be remedied by the Board stating clearly that it had considered the required factors before rendering its decision regarding parole. The Court stated, “We emphasize that ... if [the Parole Board] clearly states in its order denying parole that it considered the factors outlined in section 24-21-640 and the fifteen factors published in its parole form... the decision will constitute a routine denial of parole and the ALC would have limited authority to review the decision to determine whether the Board followed proper procedure.” *Cooper* at 500, 661 S.E.2d at 112. This holding was further clarified by the Supreme Court in *Compton v. S.C. Dep’t of Prob., Parole and Pardon Servs.*, 385 S.C. 476, 479, 684 S.E.2d 175, 177 (2009).

As evidenced in the Record, this procedure was followed. The Board stated in its letter of rejection that it carefully considered the required factors. R.p.1.

Respondent respectfully submits that any analysis beyond this finding would be no longer be an effort in ascertaining *if* the Board followed the procedure in *Cooper*, but instead would constitute a review of *how* the Board used and applied the required parole consideration criteria. As noted by our Supreme Court, there is no authority for such a review. Any challenges to how the Board decided, weighed consideration criteria, or viewed certain facts necessarily go to the decision-making authority of the Board, and such arguments should not be given any weight by this Court. “Undoubtedly, the Parole Board is the sole authority with respect to decisions regarding the grant or denial of parole.” *Cooper*, 377 S.C. at 499, 661 S.E.2d at 111.

A constant refrain throughout Appellant’s appeal is his assertion that he has due process rights tantamount to contested cases and criminal trials at his parole hearings. This is incorrect. Due process rights are at a **minimum** at parole hearings. It bears repeating that no inmate has a right to parole. Parole is a privilege, not a right. *State v. Dingle*, 376 S.C. 643, 649, 659 S.E.2d

101, 104 (2008) (citing *Sullivan*, 355 S.C. at 443 n.4, 586 S.E.2 at 127 n.4). Therefore, even if a parole-eligible inmate serves the entirety of his sentence, even life, without receiving parole, he would not be deprived of his rights so long as he was afforded parole consideration hearings. See e.g., *Greenholtz*. When the Board denies parole while adhering to the requirements of *Cooper* and *Compton*, as it has done in this case, the inmate has lost nothing nor has anything been taken away. Thus, due process rights of inmates at parole hearings are at their lowest ebb.

For this reason, *Compton*'s instruction to the ALC that if the Board followed the procedure outlined in *Cooper* that the ALC has limited authority to review the decision remains sound. Appellant attempts to cast doubt on *Compton*'s validity by raising *Allen v. S.C. Dep't of Corr.*, 439 S.C. 164, 886 S.E.2d 671 (2023), but he is incorrect. *Allen* operated to clarify that the ALC had subject matter jurisdiction over inmate appeals but emphasized "the ALC is not required to hold a hearing in every matter and may summarily dismiss an inmate's grievance if it does not implicate a state-created liberty or property interest sufficient to trigger procedural due process guarantees." *Id.* at 171, 886 S.E.2d at 674.

This squares firmly with *Compton*'s language which states, "In *Cooper*, we held that if the Parole Board deviates from or renders its decision without consideration of the appropriate criteria, it essentially abrogates an inmate's right to parole eligibility and infringes on a state-created liberty interest, warranting minimal due process protection. ... We emphasized that this result could be avoided in the future if the Parole Board clearly states in its order denying parole that it considered the factors outlined in section 24-21-640 and the fifteen factors published in Form 1212, and that if the Parole Board complies with this procedure, the decision will constitute a routine denial of parole and the ALC will have limited authority to review the decision."

Allen states that “[t]he ALC may not grant an inmate relief from an erroneous administrative decision by SCDC, however, unless the inmate demonstrates the error deprived him of due process.” Similarly, the Board does not deprive an inmate of due process when it denies parole if it followed the procedure outlined in *Cooper*. Summary dismissal of an appeal from a routine denial of parole is therefore appropriate.

2. Respondent did not violate Appellant’s due process rights when it declined to change the factual summary of the criminal offense to a narrative tailored to Appellant’s liking.

Appellant claims that his due process rights were violated because Respondent did not give him a new parole hearing with a revised factual summary that follows his narrative of events. Respondent would submit that even *if* some facts need to be corrected (which Respondent does not concede), his minimal due process rights were met by Appellant having a chance to review his file and report the perceived inaccuracies to the Board. *Kelsey v. S.C. Dep’t of Prob., Parole & Pardon Servs.*, 441 S.C. 373, 893 S.E.2d 588 (Ct. App. 2023).

Respondent reiterates the argument against Appellant’s attempts to overinflate his minimal due process rights at parole hearings *supra*. With that in mind, Appellant’s arguments fail when he claims his due process rights were violated because the summary of the facts of the offense included the victim being threatened with a gun and that he was determined to be a sex offender.

Appellant decries these things to be “clearly erroneous,” but in fact both are true. The victim testified at trial that Appellant threatened to shoot him, leading the victim to believe he had a gun. R. 29. Reporting this fact to the Board is not erroneous, and Appellant further had the opportunity to address the Board regarding his version of events.

Similarly, South Carolina law makes kidnapping a victim under eighteen a sex offense requiring the defendant to register as a sex offender. This information also is not inaccurate.

Respondent would strongly caution this Court against taking on the role of reviewing trial transcripts to determine what is the “truest version” of the crime for the purposes of deciding what the Parole Board is allowed to consider. To take Appellant’s position, it doesn’t matter what the jury determined, the ALC should step in and become a secondary finder of facts for the express purpose of dictating what the Parole Board is allowed to hear. In his case, he appears to insist that the Board should be told that an unidentified man named “Tony” is the real kidnapper. (Appellant’s Brief, p. 6).

Respectfully, this is not the ALC’s role. Appellant had the opportunity to report to the Board his version of events – even to profess innocence if he so wishes. The only appealable issue is whether the Board followed the requirements of *Cooper*; the ALC does not have the authority to relitigate the facts of his trial.

3. The Department did not violate Appellant’s limited due process rights by using a sex offender assessment tool when Appellant committed a sexual offense.

Appellant claims that the Department violated his due process rights by utilizing the Static 99R risk assessment tool. Respondent would again assert that Appellant has limited due process rights at parole consideration hearings, and also had the opportunity to address the Board and dispute any perceived inaccuracies. *Kelsey*, 441 S.C. at 378-9, 893 S.E.2d at 591.

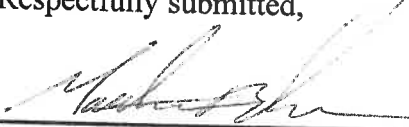
Appellant again seeks to relitigate the facts of his offense, this time splitting the hairs between committing a sexual offense and committing sexual misconduct. Respondent submits that this Court does not have the authority to dictate what sort of actuarial risk and needs assessment tool is permissible under S.C. Code 24-21-10(F)(1). Quite simply, Appellant was convicted of an offense requiring him to register as a sex offender, so therefore he was convicted of a sexual offense. Appellant cites to the Static 99R definitions that define sex offenses as “sexual misbehavior or criminal behavior with sexual intent.” (Brief of Appellant, p. 9). Fortunately, the

victim had been able to escape the kidnapping, so whether Appellant had “sexual intent” is unknown but also irrelevant. South Carolina presumes sexual intent whenever a non-parent kidnaps someone under eighteen. S.C. Code 23-3-430(C)(1)(b). Consequently, even if this Court had the authority to hear the appeal regarding whether the Static 99R assessment was appropriate, it should find that Respondent was correct in providing the Board with the assessment results. Therefore, Appellant’s argument that administering the Static 99R assessment violated his due process rights fails.

CONCLUSION

The Parole Board stated in its letter of rejection that it had carefully considered the requisite factors of parole consideration, which satisfies *Cooper* and makes the denial of parole routine. That should end this Court’s inquiry and make this matter ripe for dismissal. Appellant’s other arguments go to the Board’s sole authority over parole decisions and attempt to relitigate the facts of the offense. Respondent therefore respectfully requests the Appellant’s appeal be dismissed and the final decision of the Board be affirmed.

Respectfully submitted,



Matthew Buchanan
General Counsel

South Carolina Department of Probation,
Parole and Pardon Services
P.O. Box 207
Columbia, South Carolina 29202
(803) 734-9220

Columbia, South Carolina
May 20, 2026

STATE OF SOUTH CAROLINA
In The Administrative Law Court
Docket Number 25-ALJ-15-0033

APPEAL OF FINAL DECISION
Department of Probation, Parole, and Pardon Services

HERBERT BELL, #132646APPELLANT

v.

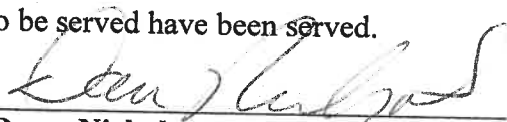
S.C. DEPARTMENT OF PROBATION, PAROLE AND
PARDON SERVICES,RESPONDENT

CERTIFICATE OF SERVICE

I, Dawn K. Nichols, Executive Assistant to counsel for Respondent, certify that I have served the within Brief of Respondent on Appellant by depositing a copy of the same in the United States mail, postage prepaid, the 20th day of May, 2026, addressed to:

Rebecca Depp, Esquire
Time Served
PO Box 615
Taylors, SC 29687

I further certify that all parties required to be served have been served.



Dawn Nichols
Executive Administrative Assistant
South Carolina Department of Probation,
Parole, and Pardon Services
P. O. Box 207
Columbia, South Carolina 29202

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Honorable Crystal Rookard, Administrative Law Judge
Docket No. 25-ALJ-15-0033

HERBERT BELL, # 132646Appellant,

v.

SOUTH CAROLINA DEPARTMENT OF PROBATION,
PAROLE, & PARDON SERVICES.....Respondent.

REPLY BRIEF OF APPELLANT

REBECCA DEPP
Time Served
P.O. Box 615
Taylors, SC 29697
(864) 546-5060
rdepp@tsscnow.org
Bar No. 101171

Counsel for Appellant

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APPELLANT'S STATEMENT OF ISSUES ON APPEAL

1. Whether the Department of Probation, Pardon, and Parole Services' (DPPPS) erred and violated Herbert Lee Bell's due process rights by: 1) failing to consider objective evidence offered to support the contention that Herbert's parole file contained clearly erroneous information, and then 2) relying on that clearly erroneous information in denying his parole.
2. Whether Herbert Bell was convicted for committing sexual misconduct, and, if not, whether DPPPS erred and violated Herbert's due process rights by: 1) subjecting him to an actuarial risk assessment test that was not designed to determine the future risk of a man who has not committed sexual misconduct, and 2) relying on the results of that test as criteria for denying his parole.

RESPONDENT'S STATEMENT OF ISSUES ON APPEAL

1. Whether the Board followed the procedure outlined in *Cooper v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 377 S.C. 489,661 S.E.2d 106 (2008), thus making this a routine denial of parole the appeal of which this Court must dismiss?
2. Whether the Board's decision should be upheld when Appellant was able to review his parole file and report the inaccuracies he perceived and that the Administrative Law Court's role is not to provide a forum in which an inmate may relitigate the facts of his offense?
3. Whether Respondent violates an inmate's limited due process rights by utilizing a sex-offender assessment tool when the inmate was convicted of an offense that requires him to register as a sex offender?

REPLY ARGUMENTS

- I. In this appeal, Herbert Lee Bell is not attempting to relitigate the facts of his conviction—rather, he is asserting his right to a constitutionally protected parole procedure.**

Regardless of the fact that Herbert Lee Bell is an inmate and parole is a privilege, due process requires that Herbert Lee Bell is entitled to statutorily and regulatory correct parole consideration. *See Cooper v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 377 S.C. 489, 499, 661 S.E.2d 106, 112 (2008), *abrogated on other grounds by Allen v. S.C. Dep't of Corr.*, 439 S.C. 164, 886 S.E.2d 671 (2023) (“Parole is a privilege and [an inmate] has no right to be paroled; however, [an inmate] does have a right to require the Board to adhere to statutory requirements in rendering a decision.”). Under South Carolina law, and relevant to this appeal, this process is outlined as follows:

- 1) A person who is up for parole is entitled to see his or her parole file, prepared by DPPPS, before his or her Parole Board hearing. *See Kelsey v. S.C. Dep't of Prob., Parole, & Pardon Servs.*, 441 S.C. 373, 379, 893 S.E.2d 588, 591 (Ct. App. 2023) (holding DPPPS’ rules imply “an inmate is entitled to review his or her file” so long as “the protections for victims [are] in place by reasonable redaction and sealing.”)
- 2) After review of this file, a person who is up for parole is required to report any inaccuracies in it and have an opportunity to submit evidence in support of the file’s correction to the Parole Board for consideration. *See id.* (remanding inmate’s case for an immediate new parole hearing when he was denied an opportunity to report inaccuracies in his parole file); *Blackwell v. S.C. Dep't of Prob. Parole & Pardon Servs.*, Op. No. 2024-UP-211 (S.C. Ct. App. filed June 12, 2024)¹ (holding inmate was entitled to offer evidence to Parole Board in support of his contention that his parole file mischaracterized facts relevant to his parole consideration).
- 3) The Parole Board is, in turn, required to review this evidence before weighing and considering its relevant, published factors in determining whether to grant parole. *See Compton v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 385 S.C. 476, 479, 685 S.E.2d

¹ *Blackwell v. S.C. Dep't of Prob. Parole & Pardon Servs.*, Op. No. 2024-UP-211 is not published, and it is therefore not precedential. Nevertheless, it is the only case in South Carolina that has applied the recent holding from *Kelsey*; therefore, we believe it is persuasive authority in Herbert’s case.

175, 177 (2009) (stating, “if the Parole Board deviates from or renders its decision without consideration of the appropriate criteria, it essentially abrogates an inmate's right to parole eligibility and infringes on a state-created liberty interest, warranting minimal due process protection” because a decision that does not weigh these appropriate factors is “arbitrary and capricious”); *Blackwell*, Op. No. 2024-UP-211 (holding an inmate’s due process rights were not violated when he was able to present evidence in support of correction of his parole file to the Parole Board *before* the Parole Board voted on whether to grant or deny parole,); *see also Greenholtz v. Inmates of Nebraska Penal & Corr. Complex*, 442 U.S. 1, 15 n.7 (1979) (noting an inaccurate parole file implicates due process);

- 4) If, after a vote, the Parole Board denies parole, the Parole Board is required to give notice to the inmate of its findings of facts and conclusions of law as to why it has denied parole. *See Cooper*, 377 S.C. at 500, 661 S.E.2d at 112, *abrogated on other grounds by Allen*, 439 S.C. at 164, 886 S.E.2d at 671 (“Pursuant to the terms of the APA, a final decision in an agency adjudication of a contested case ‘shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.’ S.C. Code Ann. § 1–23–350 (2005).”).
- 5) A person’s whose parole has been denied may appeal that decision, and if the ALC determines the process outlined above was not followed, the ALC may determine the inmate’s parole denial was not “routine” but was, instead, tainted by the Parole Board’s failure to operate within its statutorily, regulatorily, and constitutionally prescribed parameters. *See id.* at 499, 661 S.E.2d at 111 (2008), *abrogated by Allen v. S.C. Dep’t of Corr.*, 439 S.C. 164, 886 S.E.2d 671 (2023) (“Undoubtedly, the Parole Board is the sole authority with respect to decisions regarding the grant or denial of parole. However, the Legislature created this Board to operate within certain parameters. We do not believe the Legislature established the Board and intended for it to render decisions without any means of accountability.”); *see also Allen*, 439 S.C. at 171, 886 S.E.2d at 674 (holding the ALC has authority to ensure inmate’s due process rights are protected).

Respondent contends that, in this appeal, Herbert asserts he has due process rights “tantamount to contested cases and criminal trials at his parole hearing.” (**Resp. Br. at 4**). Respectfully, this is a gross mischaracterization of Herbert’s argument on appeal. Herbert is not requesting that this

Court adopt criminal trial procedure for parole hearings or even that this Court re-weigh the factors considered by the Parole Board in denying Herbert's parole. Rather, Herbert contends that the information the Board considered when weighing the factors for his parole release was inaccurate, and, as such, its decision could not be an exercise of "routine" discretion—but was, in fact, arbitrary. *See e.g. Cooper*, 377 S.C. at 495–96, 661 S.E.2d at 109–10, *abrogated by Allen*, 439 S.C. at 886 S.E.2d at 671 (“[T]his case essentially involves a determination of whether the Parole Board's decision amounted to a routine denial of parole or effectively rendered [an inmate] parole ineligible . . . if [the inmate] was rendered ineligible for parole due to the procedure employed by the Parole Board, then he was deprived of a state-created liberty interest which triggered the due process requirements of judicial review.”).

Herbert is therefore requesting that this Court remand Herbert's case to the Parole Board so that the Board may have the opportunity to consider evidence he submitted in support of his contention that his parole file bears inaccurate information. This is Herbert's right, as **minimum** due process requires that the Parole Board follows its own rules, statutory requirements, and constitutional obligations as interpreted by recent South Carolina appellate court decisions such as *Cooper*, *Compton*, *Kelsey*, *Blackwell* and *Allen* when rendering a parole determination. S.C. Const. art. I, § 22.

Finally, Herbert is not attempting to relitigate the facts of his conviction in this appeal without regard to “what the jury determined;” nor is Herbert attempting to “change the factual summary of the criminal offense to a narrative tailored to [his] liking.” (**Resp. Br. at 6**). This argument by Respondent offends—as it implies Herbert is twisting the narrative of his conviction away from the truth to something ugly and false for his benefit—without respect for our criminal justice and jury system. This is not the case. Herbert is asking the Parole Board to read the transcript of his trial and decide for itself what the underlying facts of his conviction reveal about the nature, seriousness, and violence of his crime—all factors the Board is required to weigh in determining to deny or grant parole. Therefore, contrary to Respondent's assertion, Herbert is not asking the ALC to become a “forum” or “secondary finder of facts” to determine the “truest version” of Herbert's crime. (**Resp. Br. at iii, 7**). Instead, Herbert is asking this Court to remand the case to

the Parole Board to read the transcript of Herbert's conviction in order to ensure its decision to deny parole is not arbitrary.²

II. Sexual intent is not an element of kidnapping. It is well-established law that an inmate is entitled to a declaration by a reviewing court that his kidnapping conviction did not involve sexual misconduct when it, in fact, did not.

Respectfully, we are astonished by Respondent's argument that "South Carolina presumes sexual intent whenever a non-parent kidnaps someone under eighteen." (**Resp. Br. at 7**). The elements of kidnapping are clearly demarcated in section 16-3-919 of the South Carolina code. *See also State v. Kornahrens*, 290 S.C. 281, 287, 350 S.E.2d 180, 184 (1986) (describing same elements of kidnapping from the time of Herbert's conviction). Neither sexual intent, nor sexual misconduct are elements of kidnapping. Further, the South Carolina Supreme Court has explicitly found the *mens rea* of kidnapping is neither "purpose," nor is kidnapping a "crime of strict liability." *State v. Jefferies*, 316 S.C. 13, 19, 446 S.E.2d 427, 430 (1994). Rather the *mens rea* for kidnapping is "knowledge" that a person "unlawfully seize[d], confine[d], inveigle[d], decoy[ed], kidnap[ped], abduct[ed], or carrie[d] away another person." *Id.*; S.C. Code Ann. § 16-3-910.

Further, the South Carolina Supreme Court has also found that 1) the sex offender registry is a civil requirement distinct and apart from criminal liability and punishment of the underlying crime, and 2) the determination of whether a kidnapping conviction included sexual misconduct is a separate inquiry from whether a person convicted of kidnapping will be required to register as a sex offender upon his release from prison. *See Thompson v. State*, 415 S.C. 560, 565, 785 S.E.2d 189, 191 (2016) (finding lower court erred in determining that whether a kidnapping conviction included sexual misconduct and whether a kidnapping conviction was registrable were the same inquiry). Therefore, we absolutely disagree with Respondent's argument that because Herbert

² To the extent Herbert must prove he was prejudiced by DPPPS' decision to decline to send the transcript to the Parole Board for its consideration in order to receive relief from this Court in the form of a remand, we have attempted to summarize the facts of Herbert's kidnapping conviction in our appellate brief. Herbert has always maintained his innocence of this crime; nevertheless, in this appeal, he is not challenging his conviction—nor is he attempting to curtail or evade the truth. Rather, in our submissions, we have attempted to scrupulously adhere to the facts of Herbert's kidnapping conviction, erring on the side of submitting more than required in order for the Court and DPPPS to see our open-handedness on this issue. It is our firm belief that, even under the worst version of the facts presented at trial, there is no way to conclude that Herbert is a sexual predator who once abducted a child at gunpoint. The transcript speaks for itself.

may be required to register as a sex offender upon his release, that “whether Appellant had ‘sexual intent’ is . . . irrelevant” in this case. **(Resp. Br. 8).**

Rather—as detailed in our main brief—in South Carolina, the Parole Board is statutorily required to review actuarial risk assessment results of the recidivism risk posed by the men and women it is evaluating for parole. In order for this inquiry comport with the law, we assume DPPPS is required to administer these assessment tools according to their own coding rules. If not, we contend the Parole Board’s reliance on this test renders its parole decision arbitrary and a violation of due process. Therefore, we respectfully ask the ALC to make a *Thompson* finding that Herbert Lee Bell has not been convicted of sexual misconduct and remand his case to the Parole Board for reconsideration without inaccurate findings from a Static-99R assessment.

CONCLUSION

Under the Due Process clauses of the U.S. and South Carolina constitutions, Herbert Lee Bell is entitled to a statutorily and regulatorily correct parole process that allows for notice, an opportunity to be heard in a meaningful way, and judicial review. DPPPS erred and violated Herbert Lee Bell’s due process rights by failing to allow the Parole Board the opportunity to consider evidence offered to support Herbert’s contention that his parole file contained the inaccurate information that his conviction involved gun violence and sexual misconduct. He was prejudiced when the Parole Board relied on this clearly erroneous information in denying his parole. His due process rights were further violated when DPPPS subjected Herbert to a sexual recidivism risk assessment that is not designed to give an accurate result for the future criminality of a man who has never committed sexual misconduct. We are asking the ALC make a *Thompson* finding on the record that Herbert’s underlying conviction does not involve sexual misconduct and remand Herbert’s case to the Parole Board for reconsideration with instructions that the Board: 1) consider the transcript of his 1986 conviction for kidnapping, and 2) remove from consideration the Static 99-R assessment results. *See Kelsey*. 441 S.C. at 379, 893 S.E.2d at 591–92 (finding when due process was violated in parole denial decision, inmate was entitled to a new parole hearing on remand).

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

HERBERT BELL, # 132646.	)	Docket No. 25-ALJ-15-0033
	)	
Appellant,	)	
v.	)	
	)	
South Carolina Department of	)	<u>APPELLANT’S MOTION TO</u>
Probation, Parole and Pardon Services,	)	<u>SUPPLEMENT THE RECORD ON</u>
	)	<u>APPEAL, MOTION TO CONDUCT</u>
Respondent.	)	<u>DISCOVERY, AND MOTION TO</u>
	)	<u>STAY</u>

MOTION TO SUPPLEMENT THE RECORD ON APPEAL

Pursuant to Rule 68, SCALC, and Rule 212(b), SCACR, Appellant Herbert Bell moves this court to allow him to supplement the Record on Appeal in the above-captioned matter by including:

(1) documents received by Respondent, the South Carolina Department of Probation, Parole and Pardon Services (DPPPS) prior to the Mr. Bell’s November 19, 2025 hearing (also known as his Parole Packet) (**Attachment A**); (2) the audio recording of Mr. Bell’s November 19, 2025 parole hearing (**Attachment B**); (3) the full transcript of Mr. Bell’s June 24-25, 1986 trial for kidnapping (**Attachment C**); (4) Mr. Bell’s parole file, which was reviewed by Mr. Bell and his attorney on the morning of the November 19, 2025 hearing (**in custody of DPPPS**); and (5) Mr. Bell’s COMPAS Assessment test and results, as well as the test and results of any other assessment administered to Mr. Bell in preparation for his parole hearing—such as the Static-99R assessment for sexual recidivism (**in custody of DPPPS**).

BACKGROUND

This is an appeal from the denial of Mr. Bell's parole following a November 19, 2025 hearing that took place virtually from Lee Correctional Facility. The morning of the hearing, Mr. Bell and his attorney were permitted to review a portion of Mr. Bell's Parole File for the purpose of allowing Mr. Bell to notify the Board of any perceived inaccuracies within the file. *See Kelsey v. S.C. Dep't of Prob., Parole, & Pardon Servs.*, 441 S.C. 373, 893 S.E.2d 588 (Ct. App. 2023) (holding an inmate is entitled to review his or her parole file in order to notify the Parole Board of any errors or inaccuracies); *see also* (**Record at 3**,¹ "Acknowledgement of Parole File Review"). Mr. Bell and his attorney had not previously been permitted to review the file, were not permitted to retain the file, and were not permitted to make a copy of this file; however, upon information and belief of Mr. Bell's attorney, the file indicated (1) Mr. Bell "abducted a high school student and forced him to drive around while threatening to shoot him" (**Attachment B**, Parole Hearing Audio Recording Part 3 at 00.04-00.09); and (2) Mr. Bell had a "moderate to high risk of [sic] convicted of another sexual offense" (**Attachment B**, Parole Hearing Audio Recording Part 3 at 01.30-01.42). Further, his parole file indicated that, while Mr. Bell received an assessment of "moderate to high risk of recommitting a sexual offense" upon release, Mr. Bell received an overall risk assessment of "low" for recidivism on his COMPAS assessment. These are bot inaccurate statements.

Mr. Bell was convicted of kidnapping in 1986, and his conviction arose from an incident where a man named "Tony" asked for and received a ride to a bait shop and fishing hole from a teenager, Jay Edens, who was driving his father's pick-up truck at the time. Based on the testimony

¹ The Record referenced in this motion is the "Record on Appeal" filed by DPPPS in this case on January 21, 2026.

offered by the victim at trial, the victim was not forced to drive the man around at gunpoint. Instead, the victim testified he was afraid he might get beaten up if he did not give the man a ride. (**Record at 6-29**; Trial Transcript PP. 51-60; PP. 86-99, see esp. P. 89, Ln. 13-16, “Because if I would have told him I was going to leave him, he might have beat me up.”). The victim testified he never saw a gun nor heard a gunshot (**Record at 29**, Trial Transcript P. 99 “Q: Did you ever hear a shot?” A: “No, Sir.” Q: “[Victim], had he ever said anything about a gun before that?” A: “No, Sir.” P. 99, Ln. 8-12). Instead, the victim testified that, after he left the truck, the assailant stated, “Stop or I’ll shoot.” (Trial Transcript P. 99).

Further, kidnapping does not contain sexual misconduct as an element of the offense. S.C. Code Ann. § 16-3-910 (West 2026); *see also State v. Kornahrens*, 290 S.C. 281, 287, 350 S.E.2d 180, 184 (1986) (stating elements of kidnapping at the time of Mr. Bell’s conviction as: “Kidnapping occurs when one unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts or carries away any other person by any means whatsoever without authority of law.”). There is no allegation that Mr. Bell committed sexual misconduct when he was found guilty of kidnapping Jay Edens.

At the time of the November 19, 2025 hearing, Mr. Bell’s attorney contended the two statements in the file—indicating: (1) Mr. Bell was convicted of abducting a teenager at gunpoint, and (2) Mr. Bell was high risk for “*recommitting*” a sexual-misconduct crime—did not accurately reflect the underlying facts of Mr. Bell’s kidnapping conviction. (**Attachment B**, Parole Hearing Audio Recording Part 2 at 04.50-05.00, Parole Hearing Audio Recording Part 3 00.00-02:34). Mr. Bell’s attorney attempted to correct these errors in the parole file and to answer any questions the Parole Board may have about the inaccuracies in the file. (**Attachment B**, Parole Hearing Audio Recording Part 2 at 04.50-05.00, Parole Hearing Audio Recording Part 3 00.00-02:34).

Immediately following the November 19, 2025 hearing, Mr. Bell’s parole was denied by a vote of three to three. (**Attachment B**, Parole Hearing Audio Recording Part 3 03:33-3:50); *see also* (**Record at 1**, “Notice of Rejection”). Later that day, Mr. Bell received a “Notice of Rejection” from the Parole Board indicating, that, in denying his parole, the Board “careful[ly]” considered:

(1) the characteristics of your current offense(s), prior offense(s), prior supervision history, prison disciplinary record, and/or prior criminal record, as described in the findings of fact below; (2) the factors published in Department Form 1212 (Criteria for Parole Consideration); (3) the factors outlined in Section 24-21-640 of the South Carolina Code of Laws, and (4) actuarial risk and needs assessment factors pursuant to Section 24-21-1 O (F) (1) of the South Carolina Code of Laws.

....

FINDINGS OF FACT:

01 Nature And Seriousness Of Current Offense
02 Indication Of Violence In This Or Previous Offense
05 Failure To Successfully Complete A Community Supervision Program
06 Institutional Record Is Unfavorable

(**Record at 1**, “Notice of Rejection”).

On December 4, 2025, Mr. Bell’s attorney sent DPPPS a letter asking for reconsideration of Mr. Bell’s parole denial. (**Record at 4-5**, “Reconsideration Letter”). Specifically, Mr. Bell asked for reconsideration based on: (1) the two factual inaccuracies in his file, and (2) Mr. Bell’s concern that, in preparation for his parole hearing, he was administered a sexual misconduct recidivism risk assessment (such as the Static-99R), which—because he has not committed sexual misconduct—would not be able to produce accurate results regarding his proclivity to commit sexual misconduct in the future. (**Record at 4-5**, “Reconsideration Letter”). In support of the

reconsideration request, Mr. Bell submitted the transcript of his June 24-25, 1986 kidnapping trial. (**Record at 5**, “Reconsideration Letter”); *see also* (**Attachment C**).

On December 11, 2025, DPPPS sent Mr. Bell’s attorney a letter indicating it would not reconsider Mr. Bell’s parole denial, but instead “the transcript you provided will be sent to our investigators, and the facts will be investigated and corrected, if necessary, prior to Mr. Bell’s next hearing.” (**Record at 30**, “Letter Denying Reconsideration”). Further, without referencing whether Mr. Bell was administered a sexual recidivism assessment, such as the Static-99R, DPPPS stated, “You also take issue with the characterization of this kidnapping as a sex crime, and the reference in the parole packet’s (COMPAS) assessment that Mr. Bell has a moderate to high risk of recommitting a sexual offense.” (**Record at 30**, “Letter Denying Reconsideration”). DPPPS indicated that, because Mr. Bell will be required to register for the sexual offense registry upon his release from prison, “the parole packet describes accurately Mr. Bell’s situation.” (**Record at 31**, “Letter Denying Reconsideration”). The letter concluded by stating, “Therefore a review of your correspondence, the Parole Packet^[2], the recoding of the hearing, the trial transcript, and the COMPAS assessment reveals no indication the Board relied on erroneous or incomplete information.” (**Record at 31**, “Letter Denying Reconsideration,” *emphasis added*). After

² Notably, at other places in the Record and in case law, the “parole packet” is a term used to describe the packet of information that counsel for a prisoner is permitted to submit to DPPPS in preparation for a parole hearing (*see Attachment A*), whereas “parole file” is the term used to describe the file used by the Parole Board, prepared by DPPPS investigators, which gives a statement of prisoner’s case and any risk assessment results. *See Kelsey*, 441 S.C. at 374–78, 893 S.E.2d at 589–92 (describing contents of a parole file and holding an inmate is entitled to review his or her parole file); *see also* (**Record at 3**, “Acknowledgement of Parole File Review”). In both Mr. Bell’s letter requesting reconsideration of Mr. Bell’s November 19, 2025 Parole Denial, and in DPPPS’ letter denying that reconsideration, Mr. Bell and DPPPS refer to the “parole file” prepared by DPPPS when using the term “parole packet.” (**Record at 4-5, 30-31**). We wish to clarify for this and future filings that “parole file” will reference the file prepared by DPPPS in preparation for a parole hearing, while “parole packet” will refer to the packet of information prepared by Mr. Bell’s attorney in preparation for the parole hearing.

receiving the denial of the request for reconsideration, Mr. Bell filed the current appeal. (Notice of Appeal, filed December 18, 2026).

DUE PROCESS

Under the due process protections of the United States’ and South Carolina Constitution, an inmate has a “substantial personal right to statutorily correct parole review.” *Barton v. S.C. Dep’t of Prob. Parole & Pardon Servs.*, 404 S.C. 395, 413, 745 S.E.2d 110, 120 (2013). Part of this due process right to a statutorily correct parole review is an inmate’s right to review the parole file in order to report any inaccuracies. *Kelsey*, 441 S.C. at 379, 893 S.E.2d at 591–92 (“With the protections for victims in place by reasonable redaction and sealing, we find an inmate is entitled to review his or her file. Thus, we reverse and remand for [inmate] to review his file, report any inaccuracies, and be given a new parole hearing.”).

Further, an inmate’s state-created liberty interest to parole eligibility is implicated, sufficient to warrant a hearing and review by the ALC, when the Parole Board’s denial of parole was arbitrary. *See Cooper*, 377 S.C. at 499, 661 S.E.2d at 111, *abrogated on other grounds by Allen*, 439 S.C. 164, 886 S.E.2d 671 (“If a Parole Board deviates from or renders its decision without consideration of the appropriate criteria, we believe it essentially abrogates an inmate’s right to parole eligibility and, thus, infringes on a state-created liberty interest.”). The decision to deny parole is arbitrary when an inmate’s parole is denied due to inaccurate information in the parole file. *See e.g. Greenholtz v. Inmates of Nebraska Penal & Corr. Complex*, 442 U.S. 1, 15 n.7 (1979) (indicating an inmate’s right to due process at a parole hearing is at risk when “relevant adverse factual information in the inmate’s file is wholly inaccurate”); *cf. Blackwell v. S.C. Dep’t of Prob. Parole & Pardon Servs.*, Op. No. 2024-UP-211 (S.C. Ct. App. filed June 12, 2024) (holding that, despite the due process implications of inaccurate information in his parole file,

inmate was not prejudiced by the inaccuracies because “the Board members who were present at the hearing were given an opportunity to review [the objective evidence of correct information] themselves and to reconsider their votes in light of the [objective evidence correcting the parole file]”).³

FACTUAL INACCURACIES

Mr. Bell and his attorney had the opportunity to review his parole file for the first time in the cafeteria of Lee Correctional Facility as they awaited his parole hearing on the morning of November 19, 2025. (**Record at 3**, “Acknowledgement of Parole File Review”). Upon viewing the file, Mr. Bell’s attorney had sufficient time only to note the two most concerning inaccuracies: (1) that Mr. Bell “abducted a high school student and forced him to drive around while threatening to shoot him” (**Attachment B**, Parole Hearing Audio Recording Part 3 at 00.04-00.09); and (2) that Mr. Bell had a “moderate to high risk of [sic] convicted of *another* sexual offense” (emphasis added) (**Attachment B**, Parole Hearing Audio Recording Part 3 at 01.30-01.42).

Mr. Bell’s attorney did make a statement during the same-day hearing that the file was inaccurate. However, due to the posture of the proceeding—namely, that (1) there was no way to know what these inaccuracies would be prior to the day of the hearing, and (2) the hearing occurred in a prison facility⁴—Mr. Bell’s attorney was not able to present any evidence during the hearing

³ *Blackwell v. S.C. Dep’t of Prob. Parole & Pardon Servs.*, Op. No. 2024-UP-211 is not published, and it is therefore not precedential. Nevertheless, it is the only case in South Carolina that has applied the recent holding from *Kelsey*; therefore, we believe it is persuasive authority in Mr. Bell’s case. See *Kelsey*, 441 S.C. 373, 893 S.E.2d 588 (holding an inmate is entitled to review his or her parole file in order to notify the Parole Board of any errors or inaccuracies).

⁴ Because Mr. Bell’s attorney was present with Mr. Bell at Lee Correctional Facility during the hearing, Mr. Bell’s attorney was required to leave all electronics, including her smart-phone, computer, and apple watch in her car.

to support the contention that: (1) victim was not abducted at gunpoint and (2) Mr. Bell's conviction did not involve sexual misconduct.

In the Notice of Rejection of Mr. Bell's parole, the Parole Board indicated it considered "the characteristics of [Mr. Bell's] current offense" when it denied his parole, finding the "Nature And Seriousness Of Current Offense" and an "Indication Of Violence In This Or Previous Offense" supported the denial. (**Record at 1**, "Notice of Rejection"). Whether Mr. Bell was convicted of abducting a teenager at gunpoint and whether the crime he was convicted of committing included sexual misconduct are material facts in determining the nature, seriousness, and violence of the current offense.

On December 4, 2025, Mr. Bell submitted the objective evidence indicating there were inaccurate facts in Mr. Bell's file. (**Record at 4-5**, "Reconsideration Letter"). Specifically, Mr. Bell's attorney attached the June 24 and 25, 1986 trial transcript a letter asking DPPPS for reconsideration of the denial of parole. (**Record at 4-5**, "Reconsideration Letter").

However, according to the December 11, 2025 letter in response from DPPPS, this evidence never went before the Parole Board for reconsideration. (**Record at 30**, "Letter Denying Reconsideration"). Instead, the letter from DPPPS denying reconsideration indicates DPPPS did not believe it was required to present this evidence to the Board for the following three reasons: (1) "During the hearing the Board gave [counsel for Mr. Bell] the opportunity to address and correct any inaccuracies you perceived in the parole [file]," (2) the transcript provided "will be investigated and corrected, if necessary, prior to Mr. Bell's *next* hearing," and (3) Mr. Bell will be required to be on the sex offender registry upon his release.⁵ (emphasis added) (**Record at 30**,

⁵ Mr. Bell does not dispute that, under section 23-3-430(d) of the South Carolina code, Mr. Bell will likely be required to register on the sex-offender registry upon his release from prison. S.C. Code Ann. § 23-3-430(d) (providing that a person convicted of "kidnapping (Section 16-3-910) of

“Letter Denying Reconsideration”). These facts and remedies are not sufficient to correct any due process concerns implicated by the inaccuracies in Mr. Bell’s parole file. Mr. Bell did not commit sexual misconduct, and he did not abduct a high school student and force him to drive around while threatening to shoot that student. If the Board believed Mr. Bell did these things based on his parole file, then the Board’s decision to deny Mr. Bell parole is based on inaccurate information. Due process requires the Parole Board consider evidence depicting “the characteristics of [Mr. Bell’s] current offense,” in denying parole, and due process requires an inmate the opportunity to review and correct any inaccuracies in his parole file with evidence *before* the Parole Board makes a decision to grant or deny parole. *Greenholtz*, 442 U.S. at 15 n.7 (noting an inaccurate parole file implicates due process); *Kelsey*, 441 S.C. at 379, 893 S.E.2d at 591–92 (holding due process requires an inmate the opportunity to review his or her parole file before a hearing in order to correct any inaccuracies); *Blackwell*, Op. No. 2024-UP-211 (holding inmate was not prejudiced by inaccurate information in his parole file when he was able to present objective evidence correcting the inaccuracy before the Parole Board voted on whether to grant or deny parole).

a person under eighteen years of age except when the offense is committed by a parent” “shall be referred to as a Tier III offender” for purposes of the registry statute); *but see Thompson v. State*, 415 S.C. 560, 567, 785 S.E.2d 189, 192 (2016) (“Because there is no way to determine whether the General Assembly will amend [the registry statute] prior [an inmate’s release], a declaration that [the inmate] is not required to register as a sex offender in the future would be purely advisory”).

Nevertheless, Mr. Bell “is entitled to a meaningful opportunity to be heard” regarding whether his kidnapping conviction involved sexual misconduct. *Thompson v. State*, 415 S.C. at 566, 785 S.E.2d at 192; *see also Hazel v. State*, 377 S.C. 60, 63–65, 659 S.E.2d 137, 139–40 (2008) (detailing the history of the kidnapping statute in relation to the sex offender registry statute, including the fact that the sex offender registry statute was not passed until 1994—nine years after Mr. Bell’s kidnapping conviction); *id.* (finding kidnapping does not include sexual misconduct as an element, but a court “has the power to make the determination that a prior kidnapping offense did not involve sexual misconduct”). This is because the consequences of having committed sexual misconduct “follow immediately after conviction, and not merely upon . . . release from prison.” *Thompson v. State*, 415 S.C. at 566, 785 S.E.2d at 192.

Because this appeal turns on: (1) the true nature of Mr. Bell’s underlying conviction, (2) the information contained in the parole file created by DPPPS in preparation for Mr. Bell’s November 19, 2025; and (3) what was said during Mr. Bell’s November 19, 2025 hearing, we now move this Court to supplement the record on appeal to include: 1) Mr. Bell’s parole packet (**Attachment A**); (2) the audio recording of Mr. Bell’s November 19, 2025 parole hearing (**Attachment B**); (3) the full transcript of June 24-25, 1986 trial for kidnapping (**Attachment C**); and (4) Mr. Bell’s parole file, which was reviewed by Mr. Bell and his attorney on the morning of the November 19, 2025 hearing (**in custody of DPPPS**).

RISK ASSESSMENT TEST AND RESULTS

Next, in addition to a COMPAS assessment for general recidivism, we believe Mr. Bell was required to undergo a Static-99R sexual misconduct recidivism assessment in preparation for his November 19, 2025. The reason for this belief is that Mr. Bell’s parole file indicated Mr. Bell had a “moderate to high risk of [sic] convicted of another sexual offense.” (**Attachment B**, Parole Hearing Audio Recording Part 3 at 01.30-01.42). Notably, this assessment result is not typical of a COMPAS assessment for recidivism risk. Rather, “[t]he risk assessment portion of COMPAS generates risk scores displayed in the form of a bar chart, with three bars that represent pretrial recidivism risk, general recidivism risk, and violent recidivism risk.” *State v. Loomis*, 881 N.W.2d 749, 754 (Wis. 2016).

If Mr. Bell was required to undergo a Static-99R sexual misconduct recidivism—or another comparable assessment for sexual misconduct recidivism—then we believe any assessment results would not be competent or reliable evidence of his recidivism risk in any way. As detailed above, Mr. Bell did not commit sexual misconduct. Therefore, he is not the type of individual for whom the Static-99R was designed to assess. See L. Maaïke Helmus et. al., *Static-99r: Strengths,*

Limitations, Predictive Accuracy Meta-Analysis, and Legal Admissibility Review, 28 Psychol. Pub. Pol'y & L. 307, 309 (2022) (“The appropriate population for Static-99R may not fully correspond with the population of individuals labeled as ‘sex offenders’ in the criminal legal system The scale cannot be used for individuals whose. . . offenses [are] without a sexual motive. . . . It also cannot be used to determine guilt or innocence.”). Because the Parole Board considered Mr. Bell’s “actuarial risk and needs assessment factors” when it denied his parole, (**Record at 1**, “Notice of Rejection”), Mr. Bell’s due process rights are implicated by the Board’s consideration of the results of a recidivism test not designed to be used on someone who has not previously committed sexual misconduct. *See Barton*, 404 S.C. at 413, 745 S.E.2d at 120 (explaining an inmate has a “substantial personal right to statutorily correct parole review”).

We are moving the Court to order DPPPS to supplement the record with Mr. Bell’s parole file, which was reviewed by Mr. Bell and his attorney on the morning of the November 19, 2025 hearing (**in custody of DPPPS**), as well as Mr. Bell’s COMPAS Assessment test and results and the test and results of any other assessment administered to Mr. Bell—such as the Static-99R assessment for sexual recidivism considered by the Parole Board in its decision to deny Mr. Bell parole (**in custody of DPPPS**).

MOTION TO CONDUCT DISCOVERY

Next, because this appeal turns, in part, on whether Mr. Bell’s due process rights were implicated by DPPPS’ administration and consideration of a sexual misconduct risk assessment when denying his parole, we are moving this Court to permit limited discovery in this appeal pursuant to Rule 21(A), SCALC. Discovery in an appeal before the ALC is appropriate where, as here, the ALC has a “duty to examine the procedural methods employed at an administrative

hearing to ensure that a fair and impartial procedure was used.” *Ross v. Med. Univ. of S.C.*, 317 S.C. 377, 381, 453 S.E.2d 880, 883 (1994) (quoting 2 Am. Jur. 2d, Administrative Law § 611).

MOTION TO STAY THE APPEAL

Mr. Bell’s appellate brief is due on April 5, 2026. Due to the incomplete status of the Record on appeal, Mr. Bell respectfully requests the Court grant Mr. Bell a stay in his appeal. If the Court grants Mr. Bell’s Motion to Supplement the Record and/or his Motion to Conduct Discovery, Mr. Bell requests that the stay be lifted on the date discovery and supplementation are completed. If Mr. Bell’s Motions are denied, Mr. Bell respectfully requests a two-week extension from the date Mr. Bell receives notice the Motions have been denied to file the appellate brief.

ATTACHMENT A

Mr. Bell's parole packet

TIME SERVED

(864) 546-5060 | www.timeserved-sc.org



Office Address
222 Rutherford St.
Greenville, SC 29609

Mailing Address
P.O. Box 615
Taylors, SC 29687

October 29, 2025

Re: Parole Packet for Mr. Herbert Lee Bell (SCDC No. 132646)

Dear Ms. Seckinger, Ms. DuPriest Taylor, Mr. Wideman, Mr. Boyd, Mr. Eldridge, and Ms. Miro,

Although we are not here today on a medical parole case, Mr. Herbert Lee Bell fits all elements of the statutory definition of terminally ill.¹ We ask the Parole Board to take his current health and his diagnosis of stage IV lung cancer into account when determining whether to grant parole.

Mr. Bell is a sixty-six-year-old man who is 5'11" tall—but weighs only 124 lbs. He is not well, and he has a team of people working to place him in a home to meet his needs if he is released, including his brother Stanley, his attorneys at Time Served, and Terre Marshall, Director of Complex Reentry Transitions at SCDC. He also has a team of dedicated medical professionals at South Carolina Oncology Associates (SCOA) who have consistently and graciously treated Mr. Bell since his diagnosis. We bring it to the Board's attention that, at times, SCDC has not been able to transport Mr. Bell to his appointments at SCOA, and he has therefore not been able to consistently receive chemotherapy treatments twice a month as ordered by his oncologist. Mr. Bell is living on borrowed time.

In July 1985, Mr. Bell was walking down the street with his wife's sister when a car stopped and asked if they knew "Tony." Mr. Bell and his sister-in-law answered that they did not and asked why the man was looking for Tony. The man responded he would like to give Tony a job. Mr. Bell was looking for work at the time, and he left his address with the driver, stating if the man did not find Tony, Mr. Bell was available to work.

What Mr. Bell did not know is that a man who called himself Tony had asked a fifteen-year-old boy, Jay Edens, for a ride earlier in the day. Jay had just started driving and was intimidated by Tony, a grown man of a different race. Jay drove Tony to a bait shop, where Tony bought crickets, then drove Tony to a fishing hole. When Tony could not find his friends at the fishing

¹ S.C. Code Ann. § 24-21-715 states:

(1) "Terminally ill" means an inmate who, as determined by a licensed physician, has an incurable condition caused by illness or disease that was unknown at the time of sentencing or, since the time of sentencing, has progressed to render the inmate terminally ill, and that will likely produce death within two years, and that is so debilitating that the inmate does not pose a public safety risk.

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Greenville, SC 29609

Mailing Address
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Taylors, SC 29687

hole, Tony asked Jay to drive him to Tony's home down a dirt road. Eventually, Jay felt his truck could not go down the unpaved road any further and stopped the truck. Tony then told Jay to take a walk with him. Sensing danger, Jay opened the driver's side door and fled. As he was fleeing, Tony yelled, "Stop or [I am] going to shoot." (Trial Trans. 99). When Jay reached a neighbor, he called the police and his father's co-workers. He gave a description of Tony, describing a man that was roughly the same age and build as Mr. Bell. Jay's father's co-workers then began driving around Columbia at random, going to places where they knew young black men lived and worked. One stopped Mr. Bell, promised him work, and took his address.

The next day, Jay and his father's coworkers drove up to the address Mr. Bell had given the day before and asked if he would come out—they had work for him. When he did, Jay identified Mr. Bell as Tony.

Mr. Bell grew up in Columbia, South Carolina in the 1960s and 1970s. In the 70s, Mr. Bell got into trouble multiple times for stealing and housebreaking. Each time he was charged, he pled guilty to his crimes. While on parole for his last housebreaking offense, he was staying at his mother-in-law's home. The day Jay Edens drove Tony around the dirt roads outside of Columbia, Mr. Bell was home with his mother-in-law, his sister-in-law, and his neighbor's children. At trial, Mr. Bell testified in his own defense. Three people testified to his alibi. Nevertheless, the jury believed in the strength of Jay Eden's identification testimony. Mr. Bell was found guilty of kidnapping.

In 1985, the offense of kidnapping carried a mandatory sentence of life imprisonment. Once convicted of the crime, a judge had no discretion in determining a sentence. It would have to be life. This lack of discretion was causing trouble in South Carolina, and in the early 1980s, the issue of whether a mandatory life sentence for kidnapping constituted cruel and unusual punishment went to the South Carolina Supreme Court multiple times. The Court found "a life sentence for kidnapping committed in association with a sexual assault did not constitute cruel and unusual punishment." *State v. Hall*, 280 S.C. 74, 78, 310 S.E.2d 429, 432 (1983). Mr. Bell's kidnapping charge did not involve sexual misconduct.

Eventually the issue of whether the mandatory life sentence for kidnapping was too harsh was addressed by the Legislature. In 1991—five years after Mr. Bell was sentenced to life imprisonment—the General Assembly amended the kidnapping statute. Specifically, the Legislature changed the mandatory life sentence for the offense to a discretionary sentence with a maximum period of incarceration *not to exceed thirty years*. 1991 Act 117 (H.B. 3350).

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Greenville, SC 29609

Mailing Address
P.O. Box 615
Taylors, SC 29687

As of today, Mr. Bell has spent forty years serving his sentence for Tony's crimes against Jay Edens. Mr. Bell has not had an easy time in SCDC custody. Much of his time was spent angry; he has racked up disciplinary sanctions for marijuana use and other infractions. He takes responsibility for his anger and his actions in prison. He takes responsibility for his foolishness as a young man in Columbia, breaking the law and stealing. He does not take responsibility for abducting Jay Edens. For forty years, he has maintained his innocence of that crime.

In 2022, Mr. Bell was diagnosed with lung cancer. Since that time, he has had a reawakening of his faith in Jesus. He has been attending Celebrate Recovery, he has applied to be in JumpStart, he has not gotten into trouble. He is also actively dying. After chemotherapy, he is cold and weak. He has trouble staying warm. His greatest wish is to die and be buried in the same cemetery as his mother and father, or his brother Steve.

His remaining brother, Stanley, is ready to help him and supports his parole. It is time for Mr. Bell to be released from SCDC custody. He is not a danger to society.

Today, we ask that this Parole Board please give dignity to Herbert Lee Bell. This man is a child of God, and he asks for mercy. Please, in your discretion, give him comfort these last months of his life.

Respectfully Submitted,

A handwritten signature in black ink that reads "Rebecca Depp". The signature is fluid and cursive.

Rebecca Depp, Lawyer for Mr. Herbert Lee Bell.

Attachments:

1. Letter from South Carolina Oncology Associates
2. Letter from Stanley Bell in Support of Herbert Bell
3. Certificate of Achievements from time in Prison



166 STONERIDGE DRIVE | COLUMBIA, SC 29210
1105 NORTH LAFAYETTE DR. | SUMTER, SC 29150
803-461-3000 | FAX 803-461-4917 | www.sconcoology.net

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Fred J. Kudrik, M.D.

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Frank E. Sobash

CHIEF OPERATING OFFICER
J. Wade Bonner, MBA

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Lea Moser, RN, BSN, OCN

DIRECTOR OF PHARMACY
Eric Soong, PHARM. D.

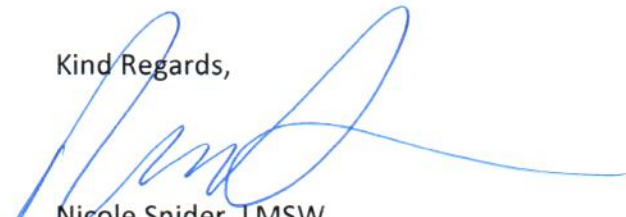
September 29, 2025

RE: Herbert Bell (DOB: 9/26/59)

To Whom It May Concern:

The above referenced patient has a diagnosis of stage IV adenocarcinoma of the lung. He progressed on first line metastatic treatment with Carboplatin, Pemetrexed & Pembrolizumab and has now transitioned to treatment with Amivantamab (given days 1 & 15 every 28 days) after scans in 05/2023 revealed progression of disease. He has tolerated treatment well and overall doing well. The PET/CT scan reveals stable to slightly improved disease. MRI of the brain did not reveal any acute findings. He has a life expectancy of 1-2 years but it is imperative that he is able to be transported to each of his treatments as he has missed some in the past. His next appointments are scheduled as follows: 10/1/25 at 11am (Chemo), 10/15/25 at 11am (Chemo), 10/24/25 at 8am (MD F/U). With that said, Mr. Bell will continue with the same course of treatment and will have follow-up MD visits every 3 months.

Kind Regards,



Nicole Snider, LMSW
Social Worker



Dr. Robert Collins
Oncologist

MEDICAL ONCOLOGY

Charles M. Butler, M.D.
Woodrow Coker, M.D., MSPH
Robert J. Collins III, M.D., MPH
Mohamed El Geneidy, M.D.
Anne S. Hutchison, M.D.
Fred J. Kudrik, M.D.
Steven M. Minter, D.O.
Chaudhry M. Mushtaq, M.D., FACP
Sarah Mushtaq, M.D.
Malshundria S. Prophet, M.D.
Scott R. Sommers, M.D.
Jill Sullivan, M.D., PhD

GYNECOLOGIC ONCOLOGY

William Merritt, M.D.
James A. Williams, M.D.

RADIOLOGY

Kevin P. Gibbs, M.D.
David T. Powell, M.D.

RADIATION ONCOLOGY

Kevin Blas, M.D.
Edward W. Duffy III, M.D.
Kurt D. Meyer, M.D., PhD
Brandon M. Stone, M.D.
Leonid Zamdborg, M.D., PhD

**NURSE PRACTITIONERS/
PHYSICIAN ASSISTANTS**

Garland P. Ames, FNP-BC
Mary Baird, MSN, AGNP-C
Morgan Boatwright, APRN, FNP-BC
Kylie P. Capdevila, FNP-BC
Nichole Hendry, PA-C
Katie Matzko, MSN, APRN, ANP-C
Sydney J. Mayes, MSN, APRN, FNP-BC
Tonya Melton, MSN, APRN, FNP-BC
Ashley N. Miller, FNP-BC, AOCNP
Kitra Nichols, MSN, FNP-BC
Andrea Oates, MSN, FNP-BC
Natalie O'Kelly, MSN, FNP-C
Sarah P. Peden, MS, APRN, FNP-BC
Jessica H. Wheeler, MSN, AGACNP
Kim D. Willis, ACNP-C

October 21, 2025

South Carolina Department Of
Probation, Parole and Pardon Services
293 Greystone Blvd., Columbia, South Carolina 29210

RE: Support Letter for Herbert Bell

The Parole Board:

My relationship with my brother, Herbert Bell, is one of the most cherished aspects of my life. Growing up together, we shared countless adventures and created memories that have shaped who we are today.

One of my fondest memories is the time we spent playing basketball and boxing in the backyard. Those hot summer afternoons were filled with laughter, friendly competition, and the thrill of trying to outdo each other. Whether we were shooting hoops or sparring in the makeshift ring we created, those moments taught me the importance of teamwork and perseverance. Herbert's positive attitude always pushed me to improve, and I admired his determination.

In addition to our sports activities, we also enjoyed quieter moments together. Playing checkers and card games became a favorite pastime, often stretching into the evening as we battled for victory. During those games, we would share our thoughts and dreams, discussing our aspirations and how to achieve them. Herbert's wisdom and encouragement inspired me to aim higher and believe in myself.

Summer fishing trips were another highlight of our childhood. We would wake up early, filled with excitement, and spend the day by the water, hoping to catch something big. It was during these peaceful moments that we had some of our deepest life talks. We would discuss everything from our goals to our fears, strengthening our bond and understanding of one another.

One particularly memorable experience was when we teamed up to clean our parents' yard and paint the house. It may sound like a chore, but we turned it into a fun day filled with laughter and playful banter. Working side by side, we reminisced about our childhood and made plans for the future. Those moments of collaboration and shared effort reminded me of the strong connection we have as brothers.

As we grow older, I often find myself reflecting on those experiences and wishing to create more memories like them. I cherish my relationship with Herbert and look forward to spending more time together, continuing to support each other's dreams and enjoying life's simple pleasures. Our bond is a treasure, and I am grateful for every moment we have shared.

My brother has always been candid about his past actions and the impact they have had on others. He frequently reflects on his wrongdoing and expresses a deep sense of remorse for any harm he may have caused. This genuine acknowledgment of his past mistakes is a testament to his growth and commitment to becoming a better person.

He understands the seriousness of his actions and recognizes that they were not just mistakes but choices that affected the lives of others. His ability to articulate his feelings of regret is a powerful indicator of his empathy

and responsibility. He often says, “I’m sorry; I made a mistake,” and “I should have known better.” These phrases are not just words to him; they represent a sincere desire to take accountability for his past.

Herbert is actively working to turn his life around, striving to be more responsible and accountable for his actions in his everyday life. He acknowledges that expressing remorse is essential for seeking reconciliation and repairing relationships. By recognizing the impact of his behavior, he is committed to making amends and ensuring that he does not repeat the same mistakes.

This journey of self-improvement has not been easy for him, but his determination to learn from his past is commendable. He is focused on building a better future, one where he can contribute positively to those around him. I admire his willingness to confront his past and take the necessary steps toward personal growth and accountability.

In expressing his remorse, my brother demonstrates that he is not only aware of his past but is also dedicated to making things right. His journey towards accountability is ongoing, and I believe that with each step he takes, he is moving closer to becoming the responsible and caring individual he aspires to be.

My brother has made significant strides in his rehabilitation while in prison, actively participating in various programs that demonstrate his commitment to personal growth and positive change. These efforts reflect his desire to transform his life and emerge as a more responsible individual.

One of the key areas he has focused on is substance abuse treatment. Through individual counseling and group therapy sessions, he has gained valuable insights into the root causes of his past behaviors and learned effective coping strategies. This program has not only helped him confront his addiction but has also equipped him with the tools to maintain sobriety upon his release.

Additionally, my brother has engaged in anger management programs that have been instrumental in addressing his emotional responses and developing healthier ways to express himself. By learning stress management techniques and problem-solving skills, he is better prepared to navigate challenges without resorting to anger.

Education has played a crucial role in his rehabilitation journey as well. He has enrolled in Adult Basic Education (ABE) and is currently preparing for his GED. This pursuit of knowledge has rekindled his passion for learning and provided him with a sense of purpose. He understands that education is a vital steppingstone toward a brighter future and is determined to succeed.

My brother has also taken advantage of vocational training programs, particularly in carpentry and computer skills. These skills not only enhance his employability but also give him a sense of accomplishment. He enjoys creating tangible products and recognizes the importance of having marketable skills for reintegration into society.

Furthermore, he has participated in cognitive behavioral therapy (CBT) and various mental health support programs. These initiatives have helped him address underlying issues and develop a healthier mindset. The progress he has made in understanding his thoughts and behaviors is a testament to his dedication to personal development.

My brother is also involved in family relationships programs, which have allowed him to strengthen his bonds with loved ones. These sessions emphasize effective communication and rebuilding trust, both essential for maintaining relationships post-incarceration.

Finally, he is actively preparing for his transition back into society by participating in re-entry programs that offer job search assistance and community reintegration support. He is committed to finding stable housing and employment upon release, ensuring he has the resources necessary for a successful reintegration.

Overall, my brother’s participation in these rehabilitation programs reflects his genuine desire to change and grow. His commitment to education, personal development, and fostering positive relationships speaks volumes about his character and determination to create a better future for himself and those around him. I am proud of the progress he has made and look forward to supporting him as he continues on this path.

Our family is unwavering in our commitment to supporting my brother upon his release from prison. We fully understand that reintegrating into society after an extended period of incarceration presents significant challenges, and we are ready to provide the necessary support system to ensure his successful transition. Our family discussions have focused on his specific needs, including essential items such as clothing and hygiene products, to help him feel comfortable and welcomed as he returns home.

Emotional support will be a top priority for us during this transition. We are dedicated to actively listening to his experiences and feelings, recognizing that adjusting to life outside prison can be overwhelming. Our goal is to create a safe space for him to express himself without judgment. We understand the importance of patience as he navigates this new chapter, and we are committed to being there for him every step of the way.

In addition to emotional support, we plan to assist my brother in finding stable housing and job opportunities. If possible, we will provide him with a place to stay, ensuring he has a supportive environment as he reintegrates. We will also help him with his resume and connect him to local organizations that offer job training and support. These practical steps are essential for helping him regain his independence and build a foundation for a successful future.

Recognizing the significance of mental health, we will encourage him to seek therapy or counseling to address any challenges he may face. Establishing a daily routine will also be vital in providing the stability he needs during this transition. We are committed to ensuring he understands any legal obligations he must adhere to, and we will assist him with financial planning to help him manage his resources effectively.

Regular check-ins will be an essential part of our support system, particularly in the initial months following his release. We want him to know that he is not alone during this journey and that we are here to celebrate his progress, no matter how small. Our family stands united in our dedication to his reintegration, and we are committed to helping him create a positive and successful future. Thank you for considering our family's commitment as you evaluate his parole application.

My brother and I have thoughtfully developed a comprehensive transition plan for his life after release from prison, focusing on employment, housing, and community involvement. On his first day, he intends to report to the parole office to understand the conditions of his parole and ensure he is aligned with the expectations for a successful reintegration. He is committed to abstaining from drugs and alcohol and plans to check into transitional housing. If possible, he hopes to reach out to family to strengthen his support network right from the start. This initial step will be crucial for him to establish a solid foundation as he transitions back into society.

In the first week, my brother aims to establish essential documentation and resources to support his reintegration. He plans to obtain a social security card, which is vital for employment and accessing services. Additionally, he intends to secure a library card to take advantage of free resources and learning opportunities. A bus pass will also be on his list to ensure he can travel easily to job interviews and support meetings. He recognizes that these practical steps will help him navigate the challenges of everyday life outside of prison.

Moreover, my brother understands the importance of connecting with organizations that provide assistance with employment. He plans to update his resume and seek help in creating one if needed. This proactive approach will enable him to apply for jobs that align with his skills and interests. Additionally, he intends to apply for assistance programs such as health insurance and food stamps, which will help alleviate some financial burdens as he establishes himself. By focusing on these immediate goals, he aims to set a positive tone for his reintegration journey.

In the first month after his release, my brother's goals include staying committed to the structured program of the transitional housing facility. He plans to secure a part-time job to gain work experience and financial independence. Continuing his participation in Alcoholics Anonymous and Narcotics Anonymous will be essential for maintaining his sobriety and building a supportive network. He recognizes that surrounding himself with positive influences is vital for his ongoing success and resilience.

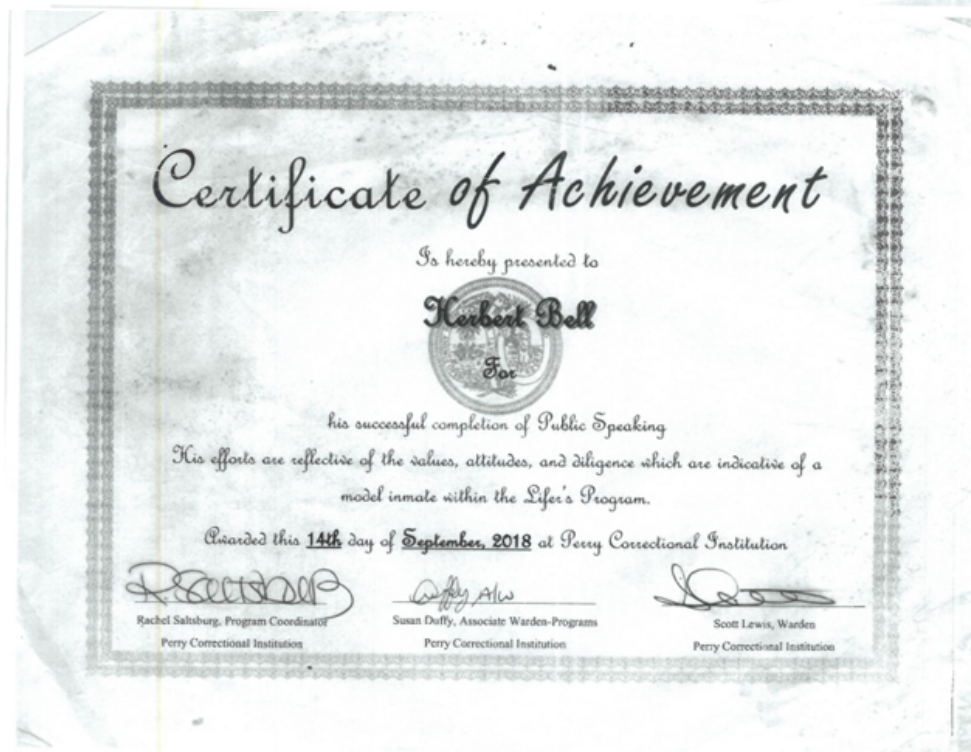
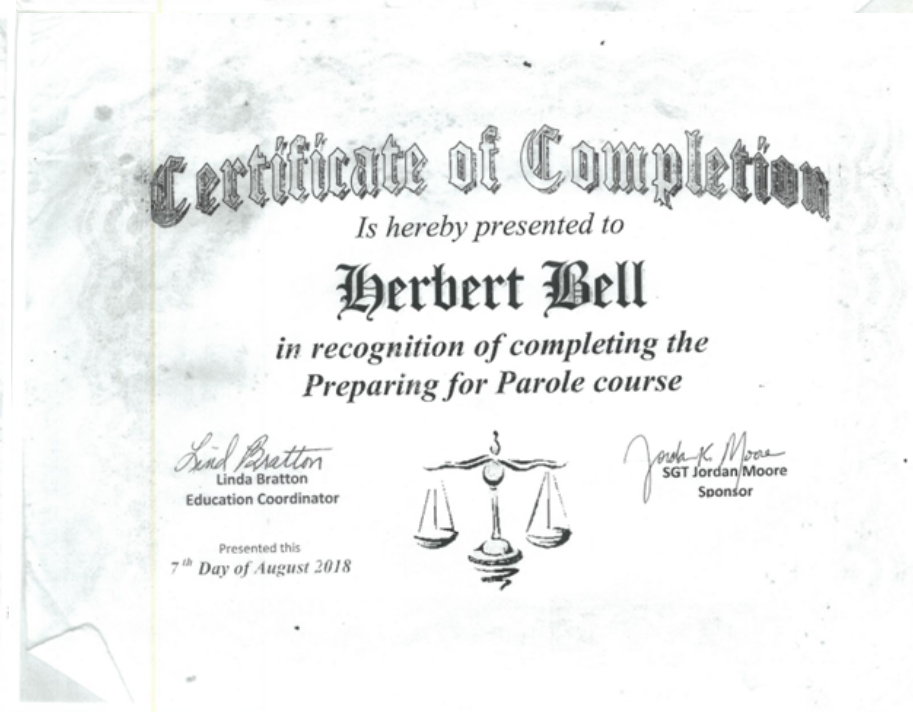
As he progresses through the first month, my brother also intends to open a bank account to manage his finances effectively. Developing good financial habits will be an important aspect of his personal growth. He is determined to obey all laws and report to his parole officer as scheduled, understanding the importance of compliance in maintaining his freedom. By being punctual in his work and school commitments, he aims to establish a reputation for reliability and responsibility.

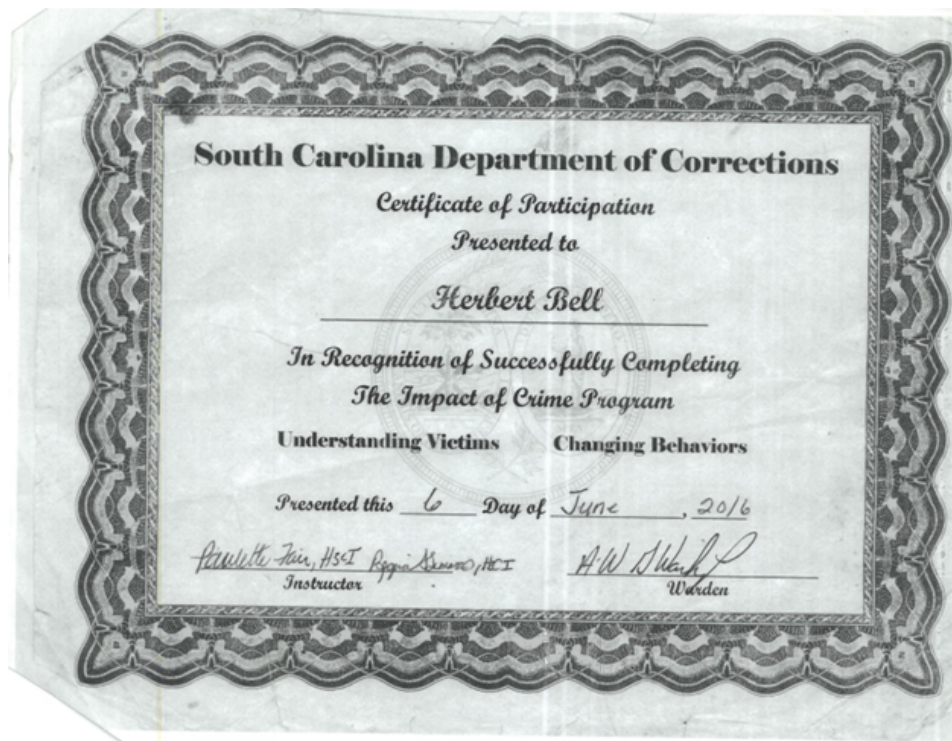
Looking ahead to the six-month and one-year milestones, my brother plans to excel in his job and any educational opportunities he pursues. He is committed to staying active in his church and engaging in volunteer work within the community, which will help him build meaningful connections and contribute positively to society. His long-term aspirations include obtaining stable housing, completing his degree, and eventually getting married or engaged, all of which reflect his desire for a fulfilling and responsible life.

Through consistent efforts and a strong commitment to his goals, my brother aims to be a productive and respectable member of society, making his family proud. His thoughtful planning and dedication to personal growth demonstrate his readiness to embrace this new chapter in his life. With the support of our family and his determination, I believe he will successfully navigate the challenges ahead and create a positive future for himself.

Sincerely,

Stanley T. Bell





ATTACHMENT B

The audio recording of Mr. Bell's November 19, 2025 parole hearing,
separated into Parts 1, 2, and 3

(Attachment B is submitted via the flash drive filed with this Motion)

ATTACHMENT C

The full transcript of Herbert Lee Bell's June 24-25, 1986 trial for kidnapping

(Attachment C is submitted via the flash drive filed with this Motion)

STATE OF SOUTH CAROLINA
In The Administrative Law Court
Docket No. 25-ALJ-15-0033

APPEAL OF FINAL DECISION
Department of Probation, Parole, and Pardon Services

HERBERT BELL, # 132646Appellant,

v.

SOUTH CAROLINA DEPARTMENT OF PROBATION,
PAROLE & PARDON SERVICES.....Respondent.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Motion to Supplement the Record, Motion to Conduct Discovery, and Motion to Stay the appeal complies with Rule 7 and Rule 61, SCALC.

Rebecca Depp
Counsel for Appellant
Time Served
P.O. Box 615
Taylors, SC 29697
(864) 546-5060
rdepp@tsscnow.org

March 17, 2026

STATE OF SOUTH CAROLINA
In The Administrative Law Court
Docket No. 25-ALJ-15-0033

APPEAL OF FINAL DECISION
Department of Probation, Parole, and Pardon Services

HERBERT BELL, # 132646Appellant,

v.

SOUTH CAROLINA DEPARTMENT OF PROBATION,
PAROLE & PARDON SERVICES.....Respondent.

CERTIFICATE OF SERVICE

I, Rebecca Depp, counsel for Herbert Bell, certify that I have served the within Motion to Supplement the Record, Motion to Conduct Discovery, and Motion to Stay, dated March 16, 2026, on Respondent by depositing a copy of the same in the United States mail, postage prepaid, the 17th of March, 2026 addressed to:

Deputy Director of Legal Services
Dept. of PPPS
PO Box 207
Columbia, SC 29202

I further certify that all parties required by Rule 61 to be served have been served.

Rebecca Depp
Counsel for Appellant
Time Served
P.O. Box 615
Taylors, SC 29697
(864) 546-5060
rdepp@tsscnw.org

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Herbert Bell, #132646,	)	Docket No. 25-ALJ-15-0033
	)	
Appellant,	)	
	)	
v.	)	OBJECTION TO APPELLANT'S
South Carolina Department of Probation,	)	MOTION TO SUPPLEMENT
Parole and Pardon Services,	)	RECORD ON APPEAL, FOR
	)	DISCOVERY AND TO STAY
Respondent.	)	BRIEFING
	)	

Respondent, the Department of Probation, Parole and Pardon Services files this objection to Appellant's motion to supplement the record. Respondent so responds because the Administrative Law Court Rules limit the record for appeals from the Parole and Pardon Board. Furthermore, South Carolina law places severe limits on the authority of the Administrative Law Court to review routine denials of parole, and granting Appellant's request would exceed those limits.

The SCALC Rules, amended in 2021 and reorganized in 2025, now only require a copy of the agency decision and the decision following any motion for reconsideration, if applicable, be included in the record. SCALC Rule 58.

Appellant is requesting permission to supplement the record with 1) the packet submitted on behalf of Mr. Bell in advance of his most recent parole hearing; 2) audio recording of Appellant's hearing; 3) full transcript of Mr. Bell's June 24-25, 1986 trial for kidnapping; 4) Mr. Bell's parole file; and 5) Mr. Bell's COMPAS Assessment test and results, as well as any other assessment administered to Mr. Bell in preparation for his parole hearing.

The Supreme Court's opinion in *Compton v. S.C. Dep't of Prob., Parole and Pardon Servs.*, 385 S.C. 476, 479, 685 S.E.2d 175, 177 (2009), held that "if the Parole Board clearly states

in its order denying parole that it considered the factors outlined in S.C. Code Ann. §24-21-640 and the fifteen factors published in Form 1212, and that if the Parole Board complies with this procedure, the decision will constitute a routine denial of parole and the ALC will have limited authority to review the decision.” Because this procedure was followed, the ALC consequently does not have the authority to overturn or remand a routine denial of parole.

Appellant proposes additional material which Respondent respectfully submits is immaterial to the matter at issue and is outside the scope of the limited authority of the ALC.

The Supreme Court in *Compton* set the outer reaches of the extremely limited authority of the Administrative Law Court to review a parole consideration decision of the Parole Board, by only allowing a review of the issue of whether the Parole Board complied with the stated procedure. Records such as the materials Appellant wants to offer into the record are simply not relevant to the limited nature and scope of the appellate review. It is apparent by Appellant’s attempts to expand the record that he hopes to relitigate the facts of the criminal offense and force a narrative of events tailored to his liking – which is far beyond the limited scope of this Court’s authority over Parole Board decisions.

Respondent respectfully submits that this Court is bound to dismiss the case when the Board follows the procedure outlined by Supreme Court in *Cooper v. S.C. Dep’t of Probation, Parole & Pardon Servs.*, 377 S.C. 489, 661 S.E.2d 106, (2008) and *Compton*.

Appellant’s request to supplement the record should also be denied in light of this Court’s limited jurisdiction. “[T]he Parole Board is the sole authority with respect to decisions regarding the grant or denial of parole.” *Cooper* at 499, 661 S.E.2d 111. Furthermore, under S.C. Code §1-23-600(D), an ALC judge may not hear an appeal from a parole-eligible inmate regarding the routine denial of parole.

Appellant's reliance on *Kelsey v. S.C. Dep't of Probation, Parole and Pardon Services*, 441 S.C. 373, 893 S.E.2d 588 (Ct. App. 2023), should also be considered unpersuasive. That case only holds that Appellant should have the opportunity to review his parole file and report any inaccuracies to the Board. By his own admission in his Motion, he has done this. (Motion of Appellant, p. 3.) Consequently, there is no need to expand the Record or conduct further discovery in an effort to relitigate the underlying facts of Appellant's conviction.¹ Expanding the Record to include the *entire trial transcript* so that the contents of the parole file can be litigated is an egregious expansion of the limited holding of *Kelsey*. This Court should not invite such a monumental task when the Court of Appeals in *Kelsey* left the procedure outlined in *Cooper* and *Compton* fully intact. Furthermore, §1-23-600(D) is also firmly in place. This Court should therefore deny Appellant's Motion.

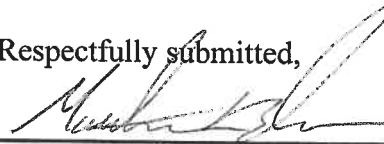
The Department has provided the required materials pursuant to Rule 58, SCALC, which is the rejection letter stating clearly that the Board considered all the requisite factors required by *Cooper*, and the decision to the motion for reconsideration.

Respondent would respectfully submit that expanding the record is inappropriate because of this Court's limited authority to consider and hear appeals from the routine denial of parole. Because expanding the record is inappropriate, Respondent would also oppose staying the appeal. For these reasons, Respondent respectfully requests that Appellant's motion to supplement the record be denied.

(Signature on following page)

¹ Appellant's insistence that *Kelsey* gives him a due process right of access to his parole file is incorrect. The Court of Appeals specifically held that it was from the language of the Department's Form 1212 that provides him with the entitlement to view his file, not due process. See also, *Franklin v. Shields*, 569 F.2d 800 (4th Cir. 1978) *Cert. denied*, 435 U.S. 1003 (1978).

Respectfully submitted,



Matthew C. Buchanan
General Counsel

South Carolina Department of Probation, Parole
and Pardon Services
P.O. Box 207
Columbia, South Carolina 29202

Columbia, South Carolina
March 25, 2026

STATE OF SOUTH CAROLINA
In The Administrative Law Court
Docket Number 25-ALJ-15-0033

APPEAL OF FINAL DECISION
Department of Probation, Parole, and Pardon Services

HERBERT BELL, #132646APPELLANT

v.

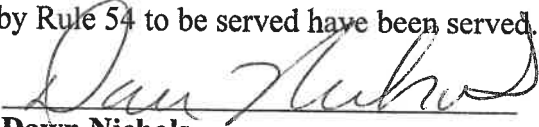
S.C. DEPARTMENT OF PROBATION, PAROLE AND
PARDON SERVICES,RESPONDENT

CERTIFICATE OF SERVICE

I, Dawn K. Nichols, Executive Assistant to counsel for Respondent, certify that I have served the within Appellant's Motion to Supplement the Record on Appeal, Motion for Discovery, and Motion to Stay dated March 25, 2026, on Appellant by depositing a copy of the same in the United States mail, postage prepaid, the 25th day of March, 2026, addressed to:

Rebecca Depp, Esquire
Time Served
PO Box 615
Taylors, SC 29687

I further certify that all parties required by Rule 54 to be served have been served.


Dawn Nichols
Executive Administrative Assistant
South Carolina Department of Probation,
Parole, and Pardon Services
P. O. Box 207
Columbia, South Carolina 29202

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

HERBERT BELL, # 132646.	)	Docket No. 25-ALJ-15-0033
	)	
Appellant,	)	
v.	)	
	)	
South Carolina Department of	)	<u>APPELLANT’S MOTION FOR</u>
Probation, Parole and Pardon Services,	)	<u>AN EXTENSION TO FILE</u>
	)	<u>INITIAL BRIEF</u>
Respondent.	)	
	)	

MOTION FOR AN EXTENSION TO FILE INITIAL BRIEF

Appellant Herbert Bell moves this court to allow him an extension to file his initial brief. His initial brief is due to the Court on April 5, 2026. However, on March 17, 2026, Mr. Bell filed a Motion to Supplement the Record, Motion to Conduct Discovery, and a Motion to Stay for this Court’s consideration. Mr. Bell now moves the Court to allow the deadline for filing Mr. Bell’s initial brief to be extended until fourteen days after receiving notice of a denial of the March 17, 2026 Motions, or, in the alternative, in the manner requested in the March 17, 2026 Motion to Stay.

Respectfully submitted,

Rebecca Depp
Counsel for Appellant
Time Served
P.O. Box 615
Taylors, SC 29697
(864) 546-5060
rdepp@tsscnw.org

March 26, 2026

STATE OF SOUTH CAROLINA
In The Administrative Law Court
Docket No. 25-ALJ-15-0033

APPEAL OF FINAL DECISION
Department of Probation, Parole, and Pardon Services

HERBERT BELL, # 132646Appellant,

v.

SOUTH CAROLINA DEPARTMENT OF PROBATION,
PAROLE & PARDON SERVICES.....Respondent.

CERTIFICATE OF SERVICE

I, Rebecca Depp, counsel for Herbert Bell, certify that I have served the within Motion for an Extension to File Initial Brief, dated March 26, 2026, on Respondent by depositing a copy of the same in the United States mail, postage prepaid, the 26th of March, 2026 addressed to:

Deputy Director of Legal Services
Dept. of PPPS
PO Box 207
Columbia, SC 29202

I further certify that all parties required by Rule 61 to be served have been served.

Rebecca Depp
Counsel for Appellant
Time Served
P.O. Box 615
Taylors, SC 29697
(864) 546-5060
rdepp@tsscnow.org

APPEAL OF FINAL DECISION
Department of Probation, Parole, and Pardon Services

HERBERT BELL, #132646APPELLANT

v.

S.C. DEPARTMENT OF PROBATION, PAROLE AND
PARDON SERVICES,RESPONDENT

RECORD ON APPEAL

Matthew C. Buchanan
General Counsel

**South Carolina Department of Probation,
Parole and Pardon Services
P. O. Box 207
Columbia, South Carolina 29202
(803) 734-9220**

ATTORNEY FOR RESPONDENT

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State of South Carolina
Department of Probation, Parole and Pardon Services

HENRY McMASTER
Governor



JAKE GADSDEN, JR.
Director

293 Greystone Boulevard
Post Office Box 207
Columbia, South Carolina 29202
Telephone: (803) 734-9220
Fax: (803) 734-9440
www.dppps.sc.gov

November 19, 2025

Mr. Herbert Bell #00132646
Lee Correctional Institution
990 Wisacky Hwy.
Bishopville, SC 29010

RE: NOTICE OF REJECTION

Dear Mr. Bell:

It is my responsibility to inform you, on behalf of the South Carolina Parole Board, that the Board has reached a decision regarding your parole hearing. The Board hereby makes the following CONCLUSION OF LAW:

After careful consideration of: (1) the characteristics of your current offense(s), prior offense(s), prior supervision history, prison disciplinary record, and/or prior criminal record, as described in the findings of fact below; (2) the factors published in Department Form 1212 (Criteria for Parole Consideration); (3) the factors outlined in Section 24-21-640 of the South Carolina Code of Laws, and (4) actuarial risk and needs assessment factors pursuant to Section 24-21-10 (F) (1) of the South Carolina Code of Laws. The Parole Board had determined that your parole must be denied.

You will be notified 30 days prior to your next scheduled parole consideration date.

FINDINGS OF FACT:

01 Nature And Seriousness Of Current Offense
02 Indication Of Violence In This Or Previous Offense
05 Failure To Successfully Complete A Community Supervision Program
06 Institutional Record Is Unfavorable
Vote Count: 3 Rejected - 3 Parole

Sincerely,

A handwritten signature in cursive script that reads "Katrina Canada".

Katrina Canada
Asst. Deputy Director for Parole Board and Release Services

R 83 11/19/2025



South Carolina Department of Probation, Parole and Pardon Services

Criteria for Parole Consideration

Inmate Name
BELL, HERBERT L.

SCDC#
00132646

SC Board of Probation, Parole and Pardon Services
P.O. Box 207
Columbia, SC 29202

Criteria for Parole Consideration

The South Carolina parole law creates no right to be released on parole. Parole in South Carolina is strictly a matter of privilege or grace. The South Carolina Board of Probation, Parole and Pardon Services has absolute discretion to grant or deny parole. As such, the publication of these parole criteria in no way creates an expectancy of release; nor does it bind the Parole Board in any way to favorable parole decision or establish any presumptions of entitlement to parole.

In deciding whether or not to grant parole, the Parole Board considers, among other things, the inmate's record before incarceration as well as during incarceration. The record itself is prepared through investigations conducted for the Parole Board, and it becomes a part of the inmate's parole file. The files are maintained by the Department of Probation, Parole and Pardon Services and are, by the statute, privileged and confidential. The confidentiality of the parole file is far reaching; inmates themselves have no right to inspect the contents of their files. If the inmate thinks his/her file is somehow incomplete or contains some errors or other inaccuracy, he/she must notify the Board of the specific error or inaccuracy. The Board will investigate the inquiry and notify the inmate of the action taken.

Inmates do, however, enjoy certain rights in the parole process. The inmate has the right to appear at his parole hearing. If the inmate fails to appear, the Board may decide his/her case in absence. The inmate has the right to be represented by an attorney; however, he/she has no right to have an attorney appointed if he/she cannot afford one. At the hearing, the inmate has the right to present witnesses and evidence on his/her own behalf, but an inmate does not have a right to confront witnesses.

In deciding whether or not an inmate should be granted parole, the Board or Panel of the Board exercises its absolute discretion to the limits allowed by state and federal law. The discretion of the Board or panel aims at protecting the best interest of both society and the inmate being considered for parole. In its concern for the protection of society's and the inmate's best interests, the Board or Panel deliberates upon the "reasonable probability" that an inmate will not again violate the law, if parole is granted. When deliberating that an inmate will not again violate the law, the Board or Panel weighs the factors listed below. The Board or Panel, in its absolute discretion, also considers any other factors not listed below which it considers relevant in a particular case.

1. The risk the inmate poses to the community;
2. The nature and seriousness of the inmate's offense, the circumstances surrounding the offense, and the inmate's attitude toward it;
3. The inmate's prior criminal records and his/her adjustment under any previous programs or supervision;
4. The inmate's attitude toward his/her family, the victim, and authority in general;
5. The inmate's adjustment while in confinement, including his/her progress in counseling, therapy, and other similar programs designed to encourage the inmate to improve himself/herself;
6. The inmate's employment history, including his/her job training and skills and his/her stability in the work place;
7. The inmate's physical, mental and emotional health;
8. The inmate's understanding of the cause of his/her past criminal conduct;
9. The inmate's efforts to solve his/her problems such as seeking treatment for substance abuse, enrolling in academic and vocational education courses, and in general using whatever resources the Department of corrections has made available to inmates to help with their problems;
10. The adequacy of the inmate's overall parole plan. This includes inmates living arrangements, where he/she will live and who he will live with; the character of those with whom the inmate plans to associate in both his/her working hours and his/her off-work hours; the inmate's plans for gainful employment;
11. The willingness of the Community into which the inmate will be released to receive the inmate;
12. The willingness of the inmate's family to allow his/her to return to the family circle;
13. The attitudes of the sentencing judge, the solicitor, and local law enforcement officers respecting the inmate's parole;
14. The feelings of the victim's family, and any witnesses to the crime about the release of the inmate;
15. The actuarial risk and needs assessment outlined in section 24-21-10 (F)(1) of the S.C. Code of laws; which evaluates based on Criminal Involvement, Relationships/Lifestyle, Personality/Attitudes, Family, Social Exclusion and Mental Health.
16. Other factors considered relevant in a particular case by the Board.

Reservation of Discretionary Power of the Parole Board

These criteria in no way limit the absolute discretion of the Parole Board or Panel to make parole decisions on a case-by case basis and to grant or deny parole as it determines to be in the best interest of society and the inmate under review.

In some cases, the Board may decide that the inmate should be granted parole if the inmate completes one or more stated conditions. When this is the case, the Board may grant a parole that becomes effective when the inmate completes one or more stated conditions. Should the inmate fail to complete any one of these conditions or disobey any rule or regulation of the South Carolina Department of Corrections before satisfying the stated conditions to make his parole effective, the Board may rescind the inmate's parole and treat the case as though parole had been rejected. In other cases, the Board may feel it needs more time to form its decision. In such cases, the Board may simply take the parole consideration under advisement and reschedule it at a later date. Similarly, the Board may postpone a parole hearing in order to dispose of detainers or pending charges. If the Board rejects an inmate for parole, the inmate will be given written notice of rejection stating the reasons for rejection. Decisions of the Board have no precedential effect whatever and in no way limit the Board's absolute discretion at later parole hearings.

After rejection for parole, the procedure of scheduling of rehearing is as follows:

1. An individual serving time for a violent offense defined in §16-1-60 of the South Carolina Code of Laws 1976 will be reheard for parole two years following the date of parole rejections. Applicable legal exceptions may allow for a one year hearing.
2. An individual serving time for a nonviolent offense defined in §16-1-70 of the South Carolina Code of Laws 1976 will be reheard for parole one year following the date of parole rejections.

I certify that the above material has been explained to me, and I have received a copy.

Inmate's
Signature:

Herbert Bell

Date: 8/6/2025

Witness
Signature:

[Signature]

Date: 8/6/2025

South Carolina Department of Probation, Parole and Pardon Services
Acknowledgement of Parole File Review

SC Department of Probation, Parole and Pardon Services
P.O. Box 207 Columbia, SC 29202

Inmate Name HERBERT BELL	SCDC# 132646
------------------------------------	------------------------

The "Parole File" is defined as information compiled by the Agency for review by the SC Board of Pardons and Paroles in the course of their duty to consider cases for parole.

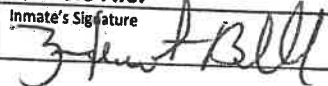
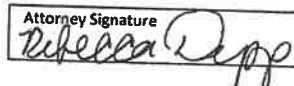
Information received from the inmate or third parties is not a part of the Agency's presentation and for the purpose of sharing parole files for review will not be reproduced.

All Victim information is redacted.

Regarding the hearing scheduled for (Hearing Date) 11/19/2025, the above-identified inmate and/or his attorney are permitted to review the parole file as prepared by the SC Department of Probation, Parole and Pardon Services.

The undersigned parties acknowledge the Agency's definition of parole file and understand that any alleged discrepancies identified within the parole file will be documented and may be addressed during the active hearing with the Board. The Agency is not obligated to alter facts or details which are unsubstantiated by official records. The Board maintains full discretion to grant or deny parole, based on their established criteria.

I certify that the above has been explained to me, and upon acknowledgement I have been granted access to review the Parole File.

Inmate's Signature 	Date <u>11-18-25</u>	Attorney Signature 	Date <u>11-19-25</u>
SCDPPPS Witness Signature 	Date <u>11-19-2025</u>	Other Witness Signature (Optional)	Date

☐ The inmate requests a review and corrections of the file.

☐ The inmate declined to review the parole file.

Inmate's Signature	Date	Attorney Signature	Date
SCDPPPS Witness Signature	Date	Other Witness Signature (Optional)	Date

TIME SERVED

(864) 546-5060 | www.timeserved-sc.org



Office Address
222 Rutherford St.
Greenville, SC 29609

Mailing Address
P.O. Box 615
Taylors, SC 29687

SCDPPPS

Attn: Valerie Suber

P.O. Box 207

Columbia, SC 29202

Sent by USPS and email

December 4, 2025

Re: Reconsideration and Correction of Herbert Lee Bell's Parole File, No. 132646

Dear Ms. Suber,

I represented Herbert Lee Bell, No. 132646, in his parole hearing on November 19, 2025. At that time, we attempted to make two clarifications to his parole packet. First, in the description of the offense, the parole packet indicated Mr. Bell required the victim to drive him around Columbia while threatening the victim with a gun. Based on the testimony offered by the victim at trial, the victim was not forced to drive the man around at gunpoint. Instead, the victim testified he was afraid he might get beaten up if he did not give the man a ride. (Trial Transcript PP. 51-60; PP. 86-99, *see esp.* P. 89, Ln. 13-16, "Because if I would have told him I was going to leave him, he might have beat me up."). The victim testified he never saw a gun nor heard a gunshot (Trial Transcript P. 99 "Q: Did you ever hear a shot?" A: "No, Sir." Q: "[Victim], had he ever said anything about a gun before that?" A: "No, Sir." P. 99, Ln. 8-12). Instead, the victim testified that, after he left the truck, the assailant stated, "Stop or I'll shoot." (Trial Transcript P. 99).

The second clarification we would like to make for the record is that Mr. Bell's crime was not a sexual offense. At the time Mr. Bell was convicted of this crime, kidnapping was defined as occurring when: "one unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts or carries away any other person by any means whatsoever without authority of law." S.C. Code Ann. § 16-3-910 (1985); *State v. Kornahrens*, 290 S.C. 281, 287, 350 S.E.2d 180, 184 (1986). Mr. Bell is convicted of obtaining a ride to a bait shop and then a fishing hole from the victim who was driving a pick-up truck at the time. At no point during the commission of this crime was there any allegation of sexual misconduct. We are submitting the transcript of Mr. Bell's trial in support of these clarifications.

Mr. Bell will have to be on the registry if he is released on parole because the victim was a teenager at the time the offense occurred—not because Mr. Bell committed sexual misconduct. *See* S.C. Code Ann. § 23-3-430 (B)(3)(d) ("For purposes of this article, a person who has been convicted of, or pled guilty or nolo contendere to any of the following offenses shall be referred to as a Tier III offender . . . kidnapping (Section 16-3-910) of a person under eighteen years of age except when the offense is committed by a parent[.]"). Mr. Bell's parole packet stated Mr.

TIME SERVED

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Office Address
222 Rutherford St.
Greenville, SC 29609

Mailing Address
P.O. Box 615
Taylors, SC 29687

Bell has a moderate to high risk of recommitting a sexual offense. Mr. Bell has never been convicted of committing a sexual offense; therefore, he cannot be at risk for re-committing one. We ask that the parole packet be corrected to reflect this reality.

We are also concerned that the statement Mr. Bell "has a moderate to high risk of recommitting a sexual offense" in Mr. Bell's parole packet reveals Mr. Bell was required to take a sex offender risk assessment in preparation for his parole hearing. Mr. Bell has not committed nor been convicted of sexual misconduct. Mr. Bell would likely not grasp the sexual risk assessment questions, and therefore, it would be inappropriate for him to complete the assessment. Any results of this assessment would not be probative of Mr. Bell's actual risk to society upon parole.

Thank you for your time and consideration of these two corrections Ms. Suber. Due to Mr. Bell's current health status of stage IV lung cancer and, based on these clarifications to his parole packet, we respectfully request reconsideration of his parole as soon as possible. We believe correction of his parole packet is vitally important moving forward.

Thank you for your assistance, and please contact me with any questions at rdepp@tsscnow.org or (508) 340-8303.
Sincerely,

Rebecca Depp
Time Served

CC. Herbert Lee Bell, No. 132646

Attachments:

1. Transcript of June 24-25, 1986 Trial, *State v. Bell*, Vol. 1 and Vol. 2
 - a. Submitted electronically to Valerie Suber as email attachment on December 4, 2025

1 A OKAY. WE WERE ON BLUFF ROAD AT TONY'S RESTAURANT
2 AND MR. BELL WAS WALKING TOWARDS ME AND I WAS COMING OUT
3 OF TONY'S RESTAURANT WITH THE FOOD.

4 Q OKAY. APPROXIMATELY WHAT TIME IS THIS NOW?

5 A IT'S ABOUT 1:15.

6 Q SO IT'S LIGHT OUT?

7 A YES, SIR.

8 Q IT WAS 1:15 IN THE AFTERNOON?

9 A YES, SIR.

10 Q WHAT WERE YOU DOING THERE?

11 A PICKING UP LUNCH FOR A CUSTOMER AT MY DAD'S
12 OFFICE.

13 Q NOW, HAD YOU ALREADY PICKED THE FOOD UP?

14 A YES, SIR.

15 Q WHAT DID YOU DO AFTER PICKING THE FOOD UP?

16 A I SAT IT ON THE CAR THAT WAS TO THE LEFT OF ME ON
17 THE ROOF SO I COULD UNLOCK THE DOOR.

18 Q AND WHEN YOU UNLOCKED THE DOOR, WHAT DID YOU DO?

19 A MR. BELL APPROACHED ME AND ASKED ME FOR A RIDE.
20 THAT HE HAD WALKED ALL THE WAY FROM THE FARMER'S MARKET
21 AND I TOLD HIM I WAS BUSY. I HAD TO GO BACK TO WORK
22 BECAUSE I HAD TO GO OUT OF TOWN.

23 Q NOW, HE ACTUALLY SPOKE TO YOU AT THAT TIME?

24 A YES, SIR.

25 Q DID YOU GET A GOOD LOOK AT HIS FACE AT THAT TIME?

1 A NO, SIR.

2 Q WHY NOT?

3 A BECAUSE WHEN I STARTED TALKING TO HIM I WAS
4 LOOKING DOWN.

5 Q NOW, AFTER YOU SAID NO, HE COULDN'T HAVE A RIDE,
6 WHAT HAPPENED THEN?

7 A HE JUST SAID ALL RIGHT AND I TURNED AROUND TO GET
8 THE FOOD AND -- WELL, I HAD ALREADY OPENED MY DOOR AND I
9 TURNED AROUND TO GET THE FOOD OFF THE OTHER CAR AND THEN
10 I BACKED INTO THE SEAT BECAUSE IT WAS IN A BOX AND I
11 TURNED AROUND TO PUT IT IN THE MIDDLE OF THE TRUCK AND
12 HE WAS IN THE PASSENGER SIDE OF THE TRUCK.

13 Q AFTER THAT, DID YOU GET A LOOK AT HIS FACE AT THAT
14 TIME?

15 A YES, SIR.

16 Q AND WAS IT A SIDE VIEW OR A FRONT VIEW?

17 A A FRONT VIEW BECAUSE HE WAS LOOKING AT ME.

18 Q SO YOU LOOKED HIM STRAIGHT IN THE FACE?

19 A YES, SIR.

20 Q AND WHAT DID YOU DO AFTER THAT?

21 A WELL, I WAS A LITTLE BIT SCARED AND HE JUST TOLD
22 ME THAT HE WAS GOING TO TAKE ME TO THE STORE THAT WAS
23 JUST DOWN THE STREET BY OTASCO OR SOMETHING LIKE THAT.
24 AND SO I DID. AND THEN---

25 Q NOW, DURING THE TIME THAT YOU DROVE HIM AROUND IN

1 THIS AREA, DID YOU HAVE AN OPPORTUNITY TO LOOK AT HIS
2 FACE?

3 A NO, SIR. I DIDN'T WANT TO LOOK AT HIS FACE.

4 Q SO -- WAS HE TALKING TO YOU?

5 A NOT MUCH. HE SAID HE WAS COOL. THAT WAS IT.

6 Q OKAY. WAS HE TELLING YOU WHERE TO TURN OR WHERE
7 TO DRIVE?

8 A HE WAS TELLING ME WHERE TO GO, YES, SIR.

9 Q OKAY. AND WHERE DID YOU GO?

10 A I WENT -- I CAME OUT OF TONY'S AND I TOOK A RIGHT
11 AND WENT DOWN THE STREET INTO THE BAIT SHOP, A LITTLE
12 STORE.

13 Q WHAT DID YOU DO AT THAT TIME?

14 A HE GOT OUT. MR. BELL GOT OUT OF THE PICKUP TRUCK.
15 HE ASKED ME IF I WAS GOING TO WAIT ON HIM AND I SAID
16 SURE. AND THEN HE WASN'T IN THERE TWO SECONDS. HE JUST
17 OPENED THE DOOR AND I STARTED TO GO AND THIS LITTLE BLUE
18 CAR, PINTO, SOMETHING LIKE THAT, PULLED UP BEHIND ME AND
19 THERE WAS AN OLD TRUCK IN FRONT OF ME THAT WAS SITTING
20 ON BLOCKS AND I COULDN'T GO FORWARD OR BACKWARD. AND
21 THEN---

22 Q NOW, WHEN HE TOLD YOU THAT HE WAS GOING TO GO
23 INSIDE THE BAIT SHOP, DID YOU GET A LOOK AT HIS FACE AT
24 THAT TIME?

25 A NO, SIR.

1 Q WELL, WHAT WERE YOU DOING?

2 A I WAS LOOKING AT THE STEERING WHEEL OF THE TRUCK.

3 Q AND WHY WERE YOU DOING THAT?

4 A BECAUSE I WAS JUST SCARED.

5 Q SO YOU TRIED TO BACK OUT?

6 A YES, SIR.

7 Q AND WHAT HAPPENED?

8 A A BLUE PINTO PULLED UP BEHIND ME WITH TWO WHITE
9 PEOPLE IN IT.

10 Q WHAT DID YOU DO AT THAT TIME?

11 A WELL, THERE WAS NOTHING I COULD DO. I SAT THERE
12 AND I -- I JUST SAT THERE.

13 Q OKAY. HOW LONG WAS HE INSIDE THE BAIT SHOP?

14 A ABOUT FIVE SECONDS.

15 Q AND WHAT HAPPENED AFTER HE CAME OUT?

16 A THE TRUCK WAS ROLLING BACKWARDS AND HE KINDA HIT
17 ON THE HOOD OF THE CAR AND ASKED ME WHERE I WAS GOING.
18 AND I SAID NO, I WAS JUST TURNING AROUND.

19 Q WERE YOU REALLY TRYING TO GET AWAY AT THAT TIME?

20 A YES, SIR.

21 Q HE ASKED YOU WHAT YOU WERE DOING AND WHAT---

22 A WHERE I WAS GOING, YES, SIR.

23 Q DID YOU GET A GOOD LOOK AT HIS FACE AT THAT TIME?

24 A YES, SIR.

25 Q DID YOU GET A LOOK AT HIS FACE WHEN HE BEAT ON THE

1 HOOD OF YOUR CAR?

2 A NO, SIR, IT SCARED ME. I DIDN'T SEE HIM COMING
3 OUT. I WAS LOOKING BACKWARDS BACKING OUT.

4 Q SO WHAT HAPPENED? DID HE GET BACK IN THE CAR?

5 A YES, SIR.

6 Q WHAT DID YOU DO?

7 A HE TOLD ME THAT I WAS GOING TO TAKE HIM TO WHITE
8 HOUSE ROAD BECAUSE, I BELIEVE, ONE OF HIS FRIENDS NAMED
9 JIM WAS DOWN THERE AND HE WAS GOING TO GO FISHING. AND
10 HE HAD A BAG AND SO I WAS TAKING HIM TO WHITE HOUSE ROAD
11 AND WE TOOK A LEFT GOING THERE AND HE---

12 Q DID YOU KNOW WHAT WAS IN THE BAG?

13 A NO, SIR. I HEARD SOMETHING CRAWLING AROUND AND HE
14 TOLD ME THAT IT WAS CRICKETS.

15 Q DID YOU AT THAT TIME GET A LOOK AT HIS FACE WHEN
16 HE TOLD YOU HE WANTED YOU TO GO TO WHITE HORSE(SIC)
17 ROAD?

18 A NO, SIR.

19 Q WHITE HOUSE---

20 A NO, SIR.

21 Q AND THEN WHAT DID YOU DO? YOU DROVE OFF?

22 A YES, SIR.

23 Q WAS HE TELLING YOU WHERE TO GO?

24 A YES, SIR.

25 Q WHAT DID YOU DO?

1 A I TOOK HIM WHERE -- WELL, HE TOLD ME TO GO TO
2 WHITE HOUSE ROAD. I WENT THERE. AND HE STUCK HIS HEAD
3 OUT THE WINDOW AND STARTED SCREAMING FOR JIM AND HE SAID
4 HIM AND HIS WIFE WERE DOWN THERE FISHING AND HIS WIFE
5 WAS PREGNANT.

6 Q DID YOU ACTUALLY SEE HIS FACE AT THAT TIME?

7 A NO, SIR.

8 Q OKAY. SO WHEN DID YOU SEE HIS FACE DURING THIS
9 TIME?

10 A I SAW IT AFTER WE GOT OUT WHITE HOUSE ROAD BECAUSE
11 I KEPT ON ASKING HIM. HE GOES -- HE DIDN'T KNOW WHERE
12 JIM WAS. AND I KEPT ON ASKING HIM IF HE COULD BE HERE
13 OR THERE. YOU KNOW. THERE'S A STORE UP THE ROAD AND I
14 ASKED HIM IF MAYBE HE COULD BE AT THAT STORE.

15 Q NOW, DID YOU KNOW WHERE YOU WERE BACK THERE?

16 A WHEN I WAS ON BLUFF ROAD, I DID. YES, SIR,
17 BECAUSE MY UNCLE'S IS RIGHT AROUND IN THERE.

18 Q OKAY. WHEN YOU GOT OFF OF BLUFF ROAD, OKAY WAS HE
19 TELLING YOU WHERE TO GO?

20 A YES, SIR.

21 Q OKAY. AND EXPLAIN EXACTLY WHERE YOU WENT.

22 A WELL, THE FIRST TIME I DON'T KNOW WHERE I WAS
23 REALLY, BUT WE TOOK A LEFT OFF OF BLUFF ROAD. IT WAS
24 PAST BLUFF ESTATES AND WE WENT DOWN ONE ROAD FOR ABOUT
25 HALF A MILE OR A MILE. THEN WE TOOK A LEFT AT --

1 -- IT WAS KIND OF A CURVE AND WE WENT AROUND. AND IT
2 WAS -- THERE WAS AN OLD MUDDY ROAD WITH A BUNCH OF HOLES
3 IN IT TO THE RIGHT AND HE TOOK ME DOWN THAT AND THEN I
4 TOLD HIM THAT MY TRUCK WASN'T GOING TO MAKE IT AFTER WE
5 WENT THROUGH THE FIRST MUDHOLE AND HE SAID THAT HE KNEW
6 A LOT ABOUT TRUCKS AND THAT IT WOULD MAKE IT. AND---

7 Q NOW, WERE YOU LOOKING AT HIM WHEN HE WAS SAYING
8 THIS TO YOU?

9 A NO, SIR, I'M LOOKING TRYING TO GET OUT BECAUSE I
10 THOUGHT I WAS GOING TO GET STUCK.

11 Q OKAY!

12 A AND SO I TOLD HIM IT JUST WASN'T GOING TO MAKE IT
13 AND SO I PUT IT IN REVERSE AND THEN I JUST BARELY GOT
14 OUT THEN.

15 Q WHAT HAPPENED THEN?

16 A WE WENT BACK OUT THE EXACT WAY THAT WE CAME IN AND
17 WE GOT BACK ON BLUFF ROAD AND WE TOOK A RIGHT. AND WE
18 WERE GOING ALONG -- WE WENT BACK PAST BLUFF ESTATES AND
19 THEN WE GOT ON ATLAS ROAD I THINK IT WAS AND WE WENT UP
20 TO ALMOST BOOZER LUMBER. AND WE TOOK A RIGHT. THERE'S
21 A RIGHT BEFORE THE CHURCH AND THERE'S A RIGHT AFTER A
22 CHURCH. WE TOOK THE RIGHT AFTER IT. AND AFTER WE GOT
23 ON THAT RIGHT, WE TOOK ANOTHER RIGHT AND WE WENT PAST
24 SOME KIDS PLAYING IN THE FRONT YARD AND I KIND OF WAVED
25 AT THEM. AND THEN---

1 Q WHY DID YOU DO THAT?

2 A JUST SO -- I DON'T KNOW. I WAS REAL SCARED AND
3 WHEN WE GOT BACK IN THE WOODS, I KNEW SOMETHING WAS UP.
4 AND SO I JUST WAVED AT THEM SO MAYBE IF I RAN BACK TO
5 THEIR HOUSE, THEY WOULD MEMORIZE ME AND THEY DID.

6 Q OKAY. SO ONCE YOU WENT PAST THE KIDS, WHAT DID
7 YOU DO? HAVE YOU LOOKED AT HIS FACE SINCE YOU GOT OFF
8 OF BLUFF ROADS?

9 A NO, SIR. NO, SIR.

10 Q OKAY. WHAT DID YOU DO THEN?

11 A I WENT -- WE WENT AND THERE'S -- THE ROAD COMES
12 OUT HERE AND THEN THERE'S THIS LITTLE ROAD AND THEN
13 THERE'S ANOTHER ROAD AND WE TOOK THE LEFT AND WE KEPT ON
14 GOING TO THE LEFT AND THERE'S A BIG SIGN THAT SAYS DEAD
15 END. AND SO WE KEPT ON GOING BACK DOWN THAT ROAD AND HE
16 KEPT ON SAYING HIS HOUSE WAS RIGHT AROUND THE CORNER.
17 RIGHT AROUND THE CORNER. AND THEN SO AFTER WE FINISHED
18 -- IT WAS AN OLD GRAVEL ROAD AND AFTER WE GOT PAST THE
19 GRAVEL ROAD, IT WAS A CLAY ROAD AND YOU HAD TO GO UP A
20 HILL AND I WENT UP THE HILL AND THERE WAS A BIG TRASH
21 PILE SITTING RIGHT THERE. AND I TOLD HIM HE WAS GOING
22 TO HAVE TO WALK FROM HERE BECAUSE THERE WAS NO WAY THAT
23 MY TRUCK WAS GOING TO MAKE IT OVER THAT TRASH HILL. AND
24 THEN THAT REALLY SCARED ME BECAUSE THERE WAS NO HOUSE
25 ANYWHERE NEAR EXCEPT WHERE THOSE KIDS WERE. AND SO HE

1 SAID I GUESS YOU'RE RIGHT. THEN HE SAID THAT I WAS GOING
2 TO HAVE TO TAKE A WALK WITH HIM IN THE WOODS. AND I HAD
3 ALREADY PUT THE TRUCK IN REVERSE TO LEAVE AND I CUT IT
4 -- I MEAN HE REACHED OVER THERE AND CUT IT OFF AND
5 GRABBED MY RIGHT ARM AND TOLD ME THAT I BETTER NOT RUN
6 OR THAT IT WAS STUPID TO RUN OR SOMETHING LIKE THAT.

7 Q WHAT DID HE DO THEN?

8 A I BENT DOWN OVER THE STEERING WHEEL AND GRABBED
9 THE HANDLE TO OPEN THE DOOR WITH MY LEFT HAND AND WHEN I
10 CAME BACK UP, I CAME UP WITH THE HANDLE SO IT DIDN'T
11 MAKE ANY NOISE---

12 Q WAS HE STILL HOLDING ONTO YOU?

13 A YES, SIR.

14 Q DID HE HAVE THE KEYS OR DID YOU HAVE THE KEYS?

15 A HE HAD THE KEYS. AND SO AFTER I CAME UP, I JUST
16 YANKED FOR THE DOOR AND YANKED AWAY AND STARTED RUNNING.

17 Q OKAY. DID HE SAY ANYTHING AT THAT TIME TO YOU?

18 A AFTER I GOT DOWN THE ROAD AWHILE---

19 THE COURT: SOLICITOR, I DON'T MEAN TO LEAD YOU,
20 BUT THIS IS ONLY FOR IDENTIFICATION.

21 THE SOLICITOR: YES, SIR, I'M SORRY. I GOT A
22 LITTLE OFF.

23 THE COURT: WE'RE NOT TRYING THE CASE NOW.

24 THE SOLICITOR: YES, YOUR HONOR. LET ME GO BACK.
25 WHEN HE GRABBED YOU AND SAID WHAT HE SAID ABOUT NOT RUNNING,

1 DID YOU LOOK AT HIS FACE AT THAT TIME?

2 A YES, SIR, I ASKED HIM IF HE WAS SERIOUS.

3 Q OKAY. DID YOU LOOK ABSOLUTELY IN HIS FACE?

4 A YES, SIR.

5 Q AND WHAT WAS THE LIGHTING LIKE?

6 A WHAT DO YOU MEAN?

7 Q WAS IT BRIGHT OUT? DARK OUT?

8 A YES, SIR.

9 Q COULD YOU ACTUALLY SEE HIS FACE?

10 A YES, SIR.

11 Q NOW, DID YOU ALSO HAVE AN OPPORTUNITY TO VIEW A
12 PHOTO LINEUP?

13 A NOT THAT DAY.

14 Q WHEN WAS IT?

15 A IT WAS THE 24TH. IT WAS THE NEXT MORNING.

16 Q OKAY. DO YOU REMEMBER WHO BROUGHT THAT FIRST
17 LINEUP TO YOU?

18 A MR. WICKER.

19 Q I HAND YOU STATE'S EXHIBIT NUMBER ONE -- WELL, LET
20 ME ASK YOU ONE QUESTION BEFORE WE LOOK AT THIS.
21 APPROXIMATELY HOW LONG WERE YOU WITH THE DEFENDANT THAT
22 DAY?

23 A I'M NOT REAL SURE.

24 Q WAS IT OVER 15 MINUTES? WAS IT OVER 20 MINUTES?

25 A IT WAS OVER 30 MINUTES.

1 ACTUALLY YOUR TRUCK?

2 A WELL, MY DAD'S. IT'S MY DAD'S.

3 Q BUT IT'S THE TRUCK YOU WERE DRIVING?

4 A YES, SIR.

5 Q AND YOU SAY AT THAT TIME SOMEONE WALKED UP TO YOU.
6 WHO WAS THAT AGAIN?

7 A MR. BELL.

8 Q I MEAN DID YOU KNOW HIS NAME AT THAT TIME?

9 A NO, SIR.

10 Q HAD YOU EVER MET HIM BEFORE?

11 A NO, SIR.

12 Q HAD YOU EVER EVEN SEEN HIM BEFORE?

13 A NO, SIR.

14 Q SO YOU DIDN'T KNOW WHAT HIS NAME WAS AT THAT TIME?

15 A NO, SIR.

16 Q AND HE WALKED UP TO YOU AND DID WHAT?

17 A HE ASKED ME FOR A RIDE AND I SAID NO, THAT I WAS
18 BUSY AND I WAS GOING OUT OF TOWN. AND HE SAID ALL RIGHT
19 AND I---

20 Q DID YOU PAY MUCH ATTENTION TO HIM AT THAT TIME?

21 A NO, SIR, NOT REALLY.

22 Q WHAT DID YOU DO?

23 A I UNLOCKED -- I SET THE LUNCH -- IT WAS IN A BOX.
24 I SET IT ON THE HOOD OF THE CAR AND THEN I UNLOCKED MY
25 DOOR AND I OPENED IT AND I GOT INTO MY SEAT AND TURNED

1 AROUND WITH THE BOX TO SET IT IN THE MIDDLE OF THE TRUCK
2 AND HE WAS THERE. HE WAS IN THE PASSENGER'S SIDE OF THE
3 TRUCK.

4 Q NOW, YOU SAY YOU GOT INTO YOUR CAR. DID YOU BACK
5 INTO YOUR CAR? HOW DID YOU DO THAT WITH YOUR LUNCH?

6 A I JUST PICKED IT UP WITH THIS HAND AND JUST KINDA
7 TOOK A STEP BACKWARDS INTO THE SEAT.

8 Q SO YOU WERE NOT FACING THE PASSENGER'S SEAT AT
9 THAT TIME?

10 A NO, SIR.

11 Q AND WHEN YOU GOT IN THERE, WHAT DID YOU SEE?

12 A MR. BELL OR THIS MAN.

13 Q DID THAT SCARE YOU AT ALL?

14 A NOT THAT MUCH. IT SCARED ME A LITTLE BIT.

15 Q WHAT DID YOU DO AT THAT TIME?

16 A I DIDN'T DO ANYTHING. HE TOLD ME THAT I WAS GOING
17 TO TAKE HIM TO THE BAIT SHOP THAT WAS RIGHT DOWN THE
18 ROAD TO THE RIGHT.

19 Q WHAT DID YOU DO?

20 A I TOOK HIM TO THE BAIT SHOP.

21 Q WHY DID YOU DO THAT?

22 A BECAUSE I WAS SCARED THAT IF I DIDN'T, HE WOULD
23 BEAT ME UP.

24 Q NOW, YOU TOOK HIM DOWN TO THE BAIT SHOP. WHILE
25 -- YOU MENTIONED BEFORE THAT YOU SAW HIM WHEN HE WALKED

1 UP TO YOU AND WHEN HE GOT IN THE CAR AND TOLD YOU TO GO
2 TO THE BAIT SHOP, HAD YOU LOOKED AT HIS FACE YET?

3 A NO, SIR, NOT REALLY.

4 Q WHY NOT?

5 A BECAUSE I JUST WASN'T PAYING ANY ATTENTION TO HIM.

6 I MEAN I MIGHT -- I GLANCED UP PROBABLY AND JUST DIDN'T
7 PAY ATTENTION.

8 Q WERE YOU STILL SCARED AT THAT TIME?

9 A YES, SIR.

10 Q NOW, YOU SAY YOU DROVE DOWN TO THE BAIT SHOP, WHAT
11 BAIT SHOP IS THAT, DO YOU KNOW?

12 A I DON'T REMEMBER.

13 Q HOW FAR FROM WHERE -- FROM TONY'S IS IT?

14 A IT'S ABOUT THREE BLOCKS.

15 Q OKAY. DID HE MENTION ANY NAMES TO YOU ABOUT WHAT
16 HIS NAME WAS AT ANY TIME?

17 A AFTER WE GOT -- AFTER HE HAD ALREADY BEEN IN THE
18 STORE, HE TOLD ME HIS NAME WAS TONY.

19 Q OKAY. THIS IS THE BAIT SHOP YOU'RE TALKING ABOUT?

20 A YES, SIR.

21 Q YOU SAY YOU DROVE DOWN TO THE BAIT SHOP. WHAT
22 HAPPENED AT THE BAIT SHOP?

23 A HE GOT OUT OF MY TRUCK AND ASKED ME IF I WAS GOING
24 TO WAIT ON HIM AND I SAID YES. AND THEN---

25 Q WERE YOU GOING TO WAIT ON HIM?

18

1 A NO, SIR.

2 Q WHY NOT?

3 A BECAUSE I WAS SCARED AND SO I WAS GOING TO LEAVE
4 HIM. AND SO I STARTED TO BACK UP AND THIS LITTLE BLUE
5 PINTO PULLED UP WITH TWO WHITE GUYS IN IT AND SET THERE
6 FOR AWHILE. AND I COULDN'T GO FORWARD BECAUSE THERE WAS
7 ANOTHER OLD TRUCK IN FRONT OF ME. AND SO THEN THEY
8 LEFT AND I STARTED ROLLING BACKWARDS AND HE WASN'T IN
9 THE STORE BUT FIVE -- ABOUT FIVE SECONDS AND HE CAME
10 BACK OUT AND HIT THE FRONT OF THE TRUCK AND ASKED ME
11 WHERE I WAS GOING. AND I TOLD HIM I WAS JUST TURNING
12 AROUND. AND THEN---

13 Q WHY DID YOU TELL HIM YOU WERE JUST TURNING AROUND?

14 A BECAUSE IF I WOULD HAVE TOLD HIM I WAS GOING TO
15 LEAVE HIM, HE MIGHT HAVE BEAT ME UP. JUST GOTTEN REAL
16 MAD.

17 Q WERE YOU SCARED OF HIM AT THAT TIME?

18 A YES, SIR.

19 Q WHEN YOU WERE BACKING UP, DID YOU HAVE YOUR HEAD
20 TURNED OR WHAT WERE YOU DOING?

21 A MY HEAD WAS TURNED TOWARDS THE BACK SO I COULD SEE
22 WHERE I WAS BACKING UP.

23 Q AND IS THAT WHEN HE HIT THE HOOD OF THE CAR?

24 A YES, SIR.

25 Q DID HE HIT IT VERY HARD OR SOFT OR WHAT?

1 A IT WASN'T -- NO, SIR, HE DIDN'T HIT IT VERY HARD.

2 Q NOW, WHAT HAPPENED AFTER THAT?

3 A HE GOT BACK IN THE TRUCK AND TOLD ME -- HE ASKED
4 ME WHERE I WAS GOING AND I SAID NOWHERE, I WAS JUST
5 TURNING AROUND. AND THEN SO HE TOLD ME TO TAKE HIM TO
6 WHITE HOUSE ROAD.

7 Q NOW, WHEN HE WAS TALKING TO YOU, DID YOU GET A
8 GOOD LOOK AT HIS FACE AT THAT TIME?

9 A NO, SIR, NOT REALLY. HE JUST TOLD ME -- HE TOLD
10 ME TO TAKE HIM TO WHITE HOUSE ROAD AND I WAS JUST
11 BASICALLY LOOKING AT THE ROAD.

12 Q OKAY.

13 A AND I JUST DIDN'T WANT TO LOOK AT HIM.

14 Q OKAY. NOW, WHAT DID THIS FELLOW LOOK LIKE TO YOU
15 AT THAT TIME? WHAT WAS HE WEARING? WHAT WAS HIS FACIAL
16 APPEARANCE? WHAT DID HE LOOK LIKE TO YOU?

17 A WELL, I LOOKED DOWN MOST OF THE TIME. SO I REALLY
18 I GOT JUST A GOOD LOOK AT HIS JEANS AND HIS SHOES.

19 Q NOW, WHY WERE YOU LOOKING DOWN?

20 A BECAUSE I DIDN'T WANT TO LOOK AT HIS FACE BECAUSE
21 I -- I DON'T KNOW I JUST DIDN'T WANT TO LOOK AT HIS
22 FACE. I WAS JUST---

23 Q WERE YOU STILL SCARED AT THAT TIME?

24 A YES, SIR.

25 Q YOU SAY YOU LOOKED AT HIS SHOES. WAS THERE

1 ANYTHING PECULIAR ABOUT HIS SHOES?

2 A THEY WERE SUEDE AND THEY WERE LIKE A PAIR OF PENNY
3 LOAFERS EXCEPT THEY WERE SUEDE AND YOU JUST SLIP THEM
4 ON. NOT SUEDE -- THEY WERE OF CLOTH MATERIAL.

5 Q ARE THEY LIKE THE SHOES YOU'VE GOT ON NOW?

6 A EXCEPT THEY'RE CANVAS.

7 Q SHOW THE JURY WHAT YOU'VE GOT ON.

8 A (WITNESS COMPLIES.)

9 Q YOU REMEMBER THEM BECAUSE THEY WERE CANVASS?

10 A YES, SIR.

11 Q AND WHAT COLOR WERE THEY?

12 A BLUE -- KIND OF A NAVY BLUE.

13 Q SO ONCE HE GOT BACK INTO THE CAR WITH YOU, HE TOLD
14 YOU TO DRIVE WHERE?

15 A TO WHITE HOUSE ROAD.

16 Q DID YOU KNOW WHERE THAT IS?

17 A YES, SIR.

18 Q WHERE IS THAT?

19 A IT'S RIGHT BY QUALITY PARTS ON BLUFF ROAD AND IT'S
20 ON BERLE MANNING'S LAND.

21 Q APPROXIMATELY HOW FAR IS THAT FROM THE BAIT SHOP?

22 A I'M NOT REAL SURE.

23 Q OKAY. DID HE GET ANYTHING AT THE BAIT SHOP TO
24 YOUR KNOWLEDGE?

25 A YES, SIR, HE GOT A PAPER BAG.

1 Q DID YOU KNOW WHAT WAS IN THE BAG?

2 A NO, SIR. HE TOLD ME THERE WAS BEER AND CRICKETS
3 AND PRETZELS IN IT, BUT I WASN'T SURE.

4 Q IT COULD HAVE BEEN ANYTHING -- I MEAN IT COULD
5 HAVE BEEN ANYTHING, COULDN'T IT?

6 A YES, SIR.

7 Q NOW, WHEN YOU WERE DRIVING DOWN TO WHITE HOUSE
8 ROAD, WERE YOU SCARED AT THAT TIME?

9 A YES, SIR.

10 Q DID YOU GET DOWN TO WHITE HOUSE ROAD?

11 A YES, SIR, WE GOT TO THE -- THERE'S A LITTLE
12 STREAM. IT'S CALLED THE FISHING HOLE AND HE STUCK HIS
13 HEAD OUT OF THE WINDOW AND STARTED CALLING SOME OF HIS
14 FRIENDS OR HIS FRIEND JIM. DID ANYBODY ANSWER HIM?

15 A NO, SIR.

16 Q OKAY. ONCE YOU GOT TO WHITE HOUSE ROAD, WHAT
17 HAPPENED THEN?

18 A UH---

19 Q IS WHITE HOUSE ROAD RIGHT OFF OF BLUFF ROAD?

20 A YES, SIR.

21 Q WHEN YOU GOT TO WHITE HOUSE ROAD, WHAT DID YOU DO?

22 A I WAS -- WELL, WHEN HE FIRST -- WHEN I TURNED ONTO
23 WHITE HOUSE ROAD, HE ROLLED HIS WINDOW DOWN AND STARTED
24 SCREAMING FOR JIM AND THIS SCARED ME REAL BAD AND THAT'S
25 WHEN I STARTED GETTING REALLY SCARED BECAUSE I DIDN'T

1 KNOW WHO OR WHAT JIM WAS. AND SO IT JUST SCARED ME A
2 LOT.

3 Q WHAT DID YOU DO AFTER THAT?

4 A WELL, HE GOT BACK IN THE -- HE BROUGHT HIS HEAD
5 BACK IN THE TRUCK AND I WENT UP WHITE HOUSE ROAD JUST A
6 LITTLE BIT MORE AND TURNED AROUND.

7 Q NOW, WHY DID YOU DO THAT?

8 A BECAUSE HE TOLD ME TO.

9 Q NOW, IS HE TELLING YOU WHERE TO DRIVE AND EVERY-
10 THING?

11 A YES, SIR.

12 Q WERE YOU DOING THIS ON YOUR OWN FREE WILL AND
13 ACCORD OR---

14 MR. ALLEN: OBJECTION, HE'S LEADING THE WITNESS.

15 THE COURT: DO NOT LEAD SOLICITOR.

16 THE SOLICITOR: YES, SIR. WHAT ARE YOU FEELING
17 LIKE RIGHT NOW -- RIGHT THEN?

18 A WELL, I'M JUST REAL SCARED.

19 Q IS HE TELLING YOU WHERE TO GO?

20 A YES, SIR.

21 Q NOW, ONCE YOU TURNED AROUND FROM WHITE HOUSE ROAD,
22 WHAT HAPPENED AFTER THAT?

23 A HE TOOK ME BACK OUT TO BLUFF ROAD AND TOLD ME TO
24 TURN RIGHT AND SO I DID. AND THEN WE WENT PAST BLUFF
25 ESTATES AND WE TURNED ONTO SOME ROAD. I CAN'T REMEMBER

1 THE NAME OF IT.

2 Q NOW, WHY DID YOU TURN ONTO THAT ROAD?

3 A BECAUSE HE TOLD ME TO. HE WAS TELLING ME WHERE TO
4 GO THIS WHOLE TIME. AND SO AFTER WE TURNED THERE, WE
5 WENT DOWN THAT ROAD ABOUT A MILE, A MILE AND A HALF AND
6 IT KIND OF CURVED OUT TO THE LEFT. AND SO WE WENT DOWN
7 THAT ROAD AND THERE WAS AN OLD DIRT ROAD OR A CLAY-
8 WORK ROAD TO THE RIGHT AND HE TOLD ME TO TURN ON IT. IT
9 WAS A SHORT CUT TO HIS HOUSE. AND SO I TURNED ON IT.
10 AND IT WAS REAL MUDDY AND WE GOT THROUGH A COUPLE OF MUD-
11 HOLES AND I TOLD HIM THAT THE TRUCK WASN'T GOING TO MAKE
12 IT.

13 Q NOW, IS THAT WHY YOU STOPPED BECAUSE YOU DIDN'T
14 THINK THE TRUCK WAS GOING TO MAKE IT OR WERE YOU GETTING
15 THREATENED AT THAT TIME?

16 A I DIDN'T THINK THE TRUCK WAS GOING TO MAKE IT.

17 Q WERE YOU STILL SCARED?

18 A YES, SIR.

19 Q ONCE YOU TOLD HIM THAT WHAT HAPPENED?

20 A HE SAID THAT HE KNEW A LOT ABOUT TRUCKS AND THAT
21 IT WOULD MAKE IT. BUT I SAID IT WOULDN'T AND I JUST
22 KIND OF THREW IT IN REVERSE AND JUST BARELY GOT OUT.

23 Q WHAT HAPPENED AFTER THAT?

24 A HE TOOK ME BACK OUT TO BLUFF ROAD THE EXACT WAY
25 THAT WE CAME IN AND WE WENT DOWN TO ATLAS ROAD AND TOOK

1 A RIGHT ONTO ATLAS ROAD. AND THERE'S A STREET BEFORE
2 AN OLD CHURCH AND THERE'S A STREET AFTER IT AND WE
3 TURNED ON THE STREET AFTER IT.

4 Q IS HE STILL TELLING YOU WHERE TO GO?

5 A YES, SIR. AND THEN -- SO WE TOOK A RIGHT AT THE
6 END OF THAT STREET AND WENT BY A HOUSE WITH SOME KIDS
7 PLAYING IN THE FRONT YARD. AND I WAVED AT THEM SO THEY---

8 Q WHY DID YOU WAVE AT THEM?

9 A SO MAYBE IF -- YOU KNOW SOMETHING HAPPENED AND I
10 WANTED TO RUN BACK TO THEM AND THEY WOULD KNOW ME
11 BECAUSE I JUST WAVED AT THEM. THEY WOULD MEMORIZE. AND
12 SO I WENT DOWN THIS OLD ROAD AND THEN WE TOOK A LEFT.
13 AND THEN THERE'S A RIGHT YOU CAN TAKE AND THEN YOU CAN
14 KEEP ON GOING STRAIGHT.

15 Q NOW, IS HE STILL TELLING YOU WHERE TO GO?

16 A YES, SIR.

17 Q OKAY. SO HE TOLD ME TO GO BACK TO THIS OLD GRAVEL
18 ROAD AND THERE'S A BIG SIGN THAT SAID DEAD END ON IT.
19 AND SO WE STARTED GOING BACK TO THIS OLD GRAVEL ROAD AND
20 HE TOLD ME TO KEEP ON GOING. HE KEPT ON SAYING HIS
21 HOUSE IS RIGHT AROUND THE CORNER. EVERY CORNER WE WENT
22 AROUND, HIS HOUSE WAS RIGHT AROUND IT. AND SO WE WENT
23 UP OR DOWN THIS GRAVEL ROAD AND WENT UP THE OTHER SIDE
24 OF A CLAY BANK AND WE CAME TO A BIG OLD GARBAGE PILE AND
25 I TOLD HIM THAT THE TRUCK DEFINITELY WASN'T GOING TO

1 MAKE IT OVER THIS GARBAGE PILE. AND HE TOLD ME TO --
2 I MEAN I SAID YOU'RE GOING TO HAVE TO WALK FROM HERE.
3 AND HE SAID YEAH, I GUESS YOU'RE RIGHT. AND THEN HE
4 SAID WE'RE GOING TO TAKE A WALK IN THE WOODS TOGETHER.
5 AND THEN HE REACHED -- I HAD THE TRUCK IN REVERSE
6 BECAUSE I WAS READY TO LEAVE AND HE REACHED---

7 Q WHEN HE SAID THAT YOU WERE GOING TO TAKE A WALK
8 TOGETHER, WHAT DID YOU THINK THAT MEANT?

9 A I THOUGHT THAT WE WERE JUST GOING TO GET OUT AND
10 GO BACK IN THE WOODS AND I ASKED HIM IF HE WAS SERIOUS.
11 I LOOKED HIM IN -- I GOT A PRETTY GOOD LOOK AT HIM THEN
12 WHEN I ASKED HIM IF HE WAS SERIOUS.

13 Q WERE YOU SCARED STILL?

14 A VERY. ESPECIALLY SINCE HE HAD CUT THE TRUCK OFF I
15 WAS VERY SCARED. AND SO HE GRABBED MY ARM AND GRABBED
16 THE -- GRABBED MY RIGHT ARM AND GRABBED THE KEYS WHERE
17 YOU TURN THE CAR OFF AND TOLD ME THAT -- HE TOLD ME NOT
18 TO RUN IT WAS A STUPID THING TO DO OR IT WAS STUPID TO
19 RUN OR SOMETHING RIGHT AROUND THERE. SO I BENT DOWN
20 OVER THE STEERING WHEEL AND GRABBED THE HANDLE ON THE
21 DOOR AND I CAME BACK UP WITH THE HANDLE SO IT WOULDN'T
22 MAKE ANY NOISE. AND THEN I YANKED AWAY FROM HIM AND
23 STARTED RUNNING.

24 Q WHEN YOU YANKED AWAY FROM HIM ARE YOU SAYING HE
25 WAS STILL HOLDING YOU AT THAT TIME?

1 A YES, SIR.
2 Q I WANT YOU TO COME DOWN HERE.
3 A (WITNESS COMPLIES.)
4 Q NOW, JAY, I WANT YOU TO PRETEND LIKE I'M YOU---
5 A OKAY.
6 Q ---AND I'M DRIVING RIGHT HERE---
7 A ALL RIGHT.
8 Q AND YOU ARE MR. BELL---
9 A OKAY.
10 Q WHEN Y'ALL CAME TO A STOP ON THAT DEAD END SHOW ME
11 EXACTLY WHAT YOU. -- WERE YOU -- YOU HAD YOUR HANDS LIKE
12 THIS?
13 A RIGHT. MY HANDS WERE LIKE THAT. SO THAT ONE IS
14 UP HERE.
15 Q THIS ONE IS UP HERE?
16 A NO, THAT ONE IS.
17 Q THIS ONE?
18 A RIGHT.
19 Q OKAY. WHERE'S THE IGNITION?
20 A THE IGNITION IS RIGHT HERE AND THIS HAND RIGHT
21 HERE. HE GRABBED ME WITH A REAL TIGHT GRIP HERE AND
22 GRABBED IT RIGHT THERE AND CUT IT OFF. HE HAD ME LIKE
23 THAT. HE LEANED WAY ACROSS THE TRUCK.
24 Q NOW, YOU SAY HE GRABBED THE KEYS. DID HE PULL THE
25 KEYS BACK?

1 A NO, SIR. HE TRIED---

2 Q MAKE SURE YOU SPEAK UP.

3 A HE TRIED TO PULL THE KEYS BACK, BUT SINCE THE

4 TRUCK WAS IN REVERSE, THEY WOULDN'T COME OUT.

5 Q NOW, SHOW ME AGAIN HOW HE'S DOING?

6 A LIKE THAT AND LIKE THAT.

7 Q AND YOU SAY THIS IS WHEN YOU PULLED AWAY FROM HIM?

8 A YES, SIR, I AFTER I -- AFTER I---

9 Q WHAT DID YOU DO WITH THIS HAND?

10 A AFTER I BENT DOWN OVER THE STEERING WHEEL AND THAT

11 HAND WAS UP ON THE LEVER RIGHT THERE AND I CAME BACK UP

12 AND BROUGHT THAT ARM UP WITH IT. THE LEVER CAME OPEN

13 AND IT DIDN'T MAKE ANY NOISE. AND THEN HE HAD ME LIKE

14 THAT AND HE STILL YANKED AWAY AND THAT HAND HIT THE DOOR

15 AND THEN IT CAME OPEN AND I STARTED RUNNING AND I GUESS

16 HE LET GO.

17 Q HAVE A SEAT.

18 A (WITNESS COMPLIES.)

19 Q NOW, JAY, UP TO THAT POINT, UP UNTIL YOU GOT OUT

20 OF THE TRUCK AND RAN OFF---

21 A YES, SIR.

22 Q ---APPROXIMATELY HOW LONG HAD YOU BEEN IN CONTACT

23 WITH THE DEFENDANT?

24 A IT WAS OVER 30 MINUTES. OVER 35 MINUTES FOR THAT

25 FACT.

1 Q AND WHEN YOU GOT OUT OF THAT TRUCK, WHAT DID YOU
2 DO?

3 A WELL, I STARTED RUNNING AND I GOT DOWN THE CLAY
4 ROAD AND I WAS -- I'D JUST GOT ON THE GRAVEL ROAD AND I
5 HAD BEEN ON THERE FOR AWHILE AND THEN I -- ALL OF A
6 SUDDEN I HEARD HIM SAY STOP OR HE WAS GOING TO SHOOT AND
7 I DIDN'T -- I JUST KEPT ON RUNNING.

8 Q DID YOU EVER HEAR A SHOT?

9 A NO, SIR.

10 Q JAY, HAD HE EVER SAID ANYTHING ABOUT A GUN BEFORE
11 THAT?

12 A NO, SIR.

13 Q HE DID SAY STOP OR I'LL SHOOT?

14 A YES, SIR.

15 Q JAY, THIS WHOLE -- UP TO THIS POINT, YOUR DEALINGS
16 WITH MR. BELL, DID YOU FEEL THREATENED?

17 A YES, SIR.

18 Q DID YOU WANT TO DRIVE HIM AROUND TOWN?

19 A NO, SIR.

20 Q DID YOU FEEL LIKE SOMETHING WAS GOING TO HAPPEN TO
21 YOU IF YOU DIDN'T---

22 MR. ALLEN: OBJECTION. HE'S STILL LEADING THE
23 WITNESS, YOUR HONOR.

24 THE COURT: PLEASE REPHRASE. DO NOT LEAD.

25 THE SOLICITOR: YES, SIR. WHAT, IF ANYTHING, DID

State of South Carolina
Department of Probation, Parole and Pardon Services

HENRY McMASTER
Governor



JAKE GADSDEN, JR.
Director

293 GREYSTONE BOULEVARD
COLUMBIA, SOUTH CAROLINA 29210
Telephone: (803) 734-9220 / Facsimile: (803) 734-9440
PPP.SC.GOV
MAILING ADDRESS: P.O. BOX 207
COLUMBIA, SOUTH CAROLINA 29202

December 11, 2025

Rebecca Depp, Esquire
Time Served
P.O. Box 615
Taylors, SC 29687

Re: Herbert Lee Bell, # 132646
Request for a Reconsideration Hearing

Dear Ms. Depp:

This letter is in response to your correspondence dated December 4, 2025 in which you request that the Board conduct a rehearing to reconsider the denial of parole to Mr. Bell.

You express concerns about the parole packet's description of Mr. Bell's conduct during the kidnapping, specifically that Mr. Bell required his victim to drive around Columbia "while threatening him with a gun." The transcript you provided will be sent to our investigators, and the facts will be investigated and corrected, if necessary, prior to Mr. Bell's next hearing.

The standard for granting a request for a reconsideration hearing includes a showing that the Board may have based its decision on erroneous or incomplete information. You were able to—and did—correct any inaccuracy regarding the use of a gun in this crime. During the hearing the Board gave you the opportunity to address and correct any inaccuracies you perceived in the parole packet. You did both.

You also take issue with the characterization of this kidnapping as a sex crime, and the reference in the parole packet's (COMPAS) assessment that Mr. Bell has a moderate to high risk of recommitting a sexual offense. As you accurately point out, unless committed by a parent, kidnapping a person under eighteen years of age "shall be referred to as a Tier III offender."



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R 112

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S.C. Code § 23-3-430 is entitled "Sex offender registry." Subsection (3)(d) provides in pertinent part that a person convicted of "(d) kidnapping (Section 16-3-910) of a person under eighteen years of age..." must register as a sex offender. Thus, the parole packet describes accurately Mr. Bell's situation. This certainly leaves you free to point out to the Board at the next hearing that Mr. Bell's fifteen-year-old victim was not sexually assaulted.

Therefore, a review of your correspondence, the Parole Packet, the recording of the hearing, the trial transcript, and the COMPAS assessment reveals no indication the Board relied upon erroneous or incomplete information.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael D. McMullen". The signature is fluid and cursive, with the first name "Michael" and last name "McMullen" clearly distinguishable.

Michael D. McMullen
Legal Counsel

STATE OF SOUTH CAROLINA
In The Administrative Law Court
Docket Number 25-ALJ-15-0033

APPEAL OF FINAL DECISION
Department of Probation, Parole, and Pardon Services

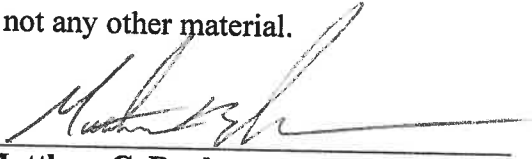
HERBERT BELL, #132646APPELLANT

v.

S.C. DEPARTMENT OF PROBATION, PAROLE AND
PARDON SERVICES,RESPONDENT

CERTIFICATE OF COUNSEL

The undersigned certifies that this Record on Appeal complies with Rule 61 of the Rules of Procedure for the Administrative Law Court and contains all material proposed to be included in the Record on Appeal by all of the parties and not any other material.



Matthew C. Buchanan
General Counsel

South Carolina Department of
Probation, Parole and Pardon Services
P. O. Box 207
Columbia, South Carolina 29202
(803) 734-9220

January 21, 2026

STATE OF SOUTH CAROLINA
In The Administrative Law Court
Docket Number 25-ALJ-15-0033

APPEAL OF FINAL DECISION
Department of Probation, Parole, and Pardon Services

HERBERT BELL, #132646APPELLANT

v.

S.C. DEPARTMENT OF PROBATION, PAROLE AND
PARDON SERVICES,RESPONDENT

CERTIFICATE OF SERVICE

I, Dawn K. Nichols, Executive Assistant to counsel for Respondent, certify that I have served the within *Record on Appeal*, dated January 21, 2026, on Appellant by depositing a copy of the same in the United States mail, postage prepaid, the 21st day of January, 2026, addressed to:

Rebecca Depp, Esquire
Time Served
PO Box 615
Taylors, SC 29687

I further certify that all parties required by Rule 61 to be served have been served.

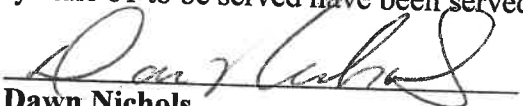

Dawn Nichols
Executive Administrative Assistant
South Carolina Department of Probation,
Parole, and Pardon Services
P. O. Box 207
Columbia, South Carolina 29202

Exhibit 1

Audio Recording of Herbert Bell's 2025 Parole Hearing (DPPPS, Nov. 19, 2025)

Submitted to Court as a CD Rom

Exhibit 2

Audio Recording of Herbert Bell's 2024 Parole Hearing (DPPPS, Nov. 20, 2024)

Submitted to Court as a CD Rom

State of South Carolina
Department of Probation, Parole and Pardon Services

HENRY McMASTER
Governor



JODI GALLMAN
Acting Director

293 GREYSTONE BOULEVARD
COLUMBIA, SOUTH CAROLINA 29210
Telephone: (803) 734-9220 / Facsimile: (803) 734-9440
www.dppps.sc.gov/
MAILING ADDRESS: P.O. BOX 207
COLUMBIA, SOUTH CAROLINA 29202

December 04, 2024
Attorney Allison Elder
RE:BELL, HERBERT LEE (SCDC ID: 00132646)
222 Rutherford St Greenville, SC 29210

This letter is in response to your request for a review of your parole file regarding the parole hearing conducted on 11/20/2024.

During the review the inmate added notes regarding Program Involvement. You were given the opportunity to discuss the Program Involvement(s) with the Board, during the hearing. During the review the inmate also added notes regarding at least one prior conviction. A review of the CCH and other available systems revealed that the listing is correct. Additionally, notes were added to the facts of at least one current conviction. The inmate was given the opportunity to discuss his/her perceptions of the criminal offense(s) with the Board, during the hearing. Lastly, notes were added to the Criminogenic Needs portion of the COMPAS Assessment Bar Chart. These conclusions are derived from the COMPAS assessment, which is a tool designed to identify criminogenic needs of individuals possibly returning to society, in an effort to minimize future criminal involvement. The information stems from answers provided during the interview. You were given the opportunity to discuss this with the Board, during the hearing.

Please note, there is no rehearing/appeal process for the routine denial of parole.

Sincerely,

A handwritten signature in black ink, appearing to read "Valerie Suber".

Valerie Suber/ NH (Investigator III)
Associate Deputy Director of Paroles, Pardons and Release Services
SC Department of Probation, Parole and Pardon Services



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R 118



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Office Address
222 Rutherford St.
Greenville, SC 29609

Mailing Address
P.O. Box 615
Taylors, SC 29687

October 29, 2025

Re: Parole Packet for Mr. Herbert Lee Bell (SCDC No. 132646)

Dear Ms. Seckinger, Ms. DuPriest Taylor, Mr. Wideman, Mr. Boyd, Mr. Eldridge, and Ms. Miro,

Although we are not here today on a medical parole case, Mr. Herbert Lee Bell fits all elements of the statutory definition of terminally ill.¹ We ask the Parole Board to take his current health and his diagnosis of stage IV lung cancer into account when determining whether to grant parole.

Mr. Bell is a sixty-six-year-old man who is 5'11" tall—but weighs only 124 lbs. He is not well, and he has a team of people working to place him in a home to meet his needs if he is released, including his brother Stanley, his attorneys at Time Served, and Terre Marshall, Director of Complex Reentry Transitions at SCDC. He also has a team of dedicated medical professionals at South Carolina Oncology Associates (SCOA) who have consistently and graciously treated Mr. Bell since his diagnosis. We bring it to the Board's attention that, at times, SCDC has not been able to transport Mr. Bell to his appointments at SCOA, and he has therefore not been able to consistently receive chemotherapy treatments twice a month as ordered by his oncologist. Mr. Bell is living on borrowed time.

In July 1985, Mr. Bell was walking down the street with his wife's sister when a car stopped and asked if they knew "Tony." Mr. Bell and his sister-in-law answered that they did not and asked why the man was looking for Tony. The man responded he would like to give Tony a job. Mr. Bell was looking for work at the time, and he left his address with the driver, stating if the man did not find Tony, Mr. Bell was available to work.

What Mr. Bell did not know is that a man who called himself Tony had asked a fifteen-year-old boy, Jay Edens, for a ride earlier in the day. Jay had just started driving and was intimidated by Tony, a grown man of a different race. Jay drove Tony to a bait shop, where Tony bought crickets, then drove Tony to a fishing hole. When Tony could not find his friends at the fishing

¹ S.C. Code Ann. § 24-21-715 states:

(1) "Terminally ill" means an inmate who, as determined by a licensed physician, has an incurable condition caused by illness or disease that was unknown at the time of sentencing or, since the time of sentencing, has progressed to render the inmate terminally ill, and that will likely produce death within two years, and that is so debilitating that the inmate does not pose a public safety risk.

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hole, Tony asked Jay to drive him to Tony's home down a dirt road. Eventually, Jay felt his truck could not go down the unpaved road any further and stopped the truck. Tony then told Jay to take a walk with him. Sensing danger, Jay opened the driver's side door and fled. As he was fleeing, Tony yelled, "Stop or [I am] going to shoot." (Trial Trans. 99). When Jay reached a neighbor, he called the police and his father's co-workers. He gave a description of Tony, describing a man that was roughly the same age and build as Mr. Bell. Jay's father's co-workers then began driving around Columbia at random, going to places where they knew young black men lived and worked. One stopped Mr. Bell, promised him work, and took his address.

The next day, Jay and his father's coworkers drove up to the address Mr. Bell had given the day before and asked if he would come out—they had work for him. When he did, Jay identified Mr. Bell as Tony.

Mr. Bell grew up in Columbia, South Carolina in the 1960s and 1970s. In the 70s, Mr. Bell got into trouble multiple times for stealing and housebreaking. Each time he was charged, he pled guilty to his crimes. While on parole for his last housebreaking offense, he was staying at his mother-in-law's home. The day Jay Edens drove Tony around the dirt roads outside of Columbia, Mr. Bell was home with his mother-in-law, his sister-in-law, and his neighbor's children. At trial, Mr. Bell testified in his own defense. Three people testified to his alibi. Nevertheless, the jury believed in the strength of Jay Eden's identification testimony. Mr. Bell was found guilty of kidnapping.

In 1985, the offense of kidnapping carried a mandatory sentence of life imprisonment. Once convicted of the crime, a judge had no discretion in determining a sentence. It would have to be life. This lack of discretion was causing trouble in South Carolina, and in the early 1980s, the issue of whether a mandatory life sentence for kidnapping constituted cruel and unusual punishment went to the South Carolina Supreme Court multiple times. The Court found "a life sentence for kidnapping committed in association with a sexual assault did not constitute cruel and unusual punishment." *State v. Hall*, 280 S.C. 74, 78, 310 S.E.2d 429, 432 (1983). Mr. Bell's kidnapping charge did not involve sexual misconduct.

Eventually the issue of whether the mandatory life sentence for kidnapping was too harsh was addressed by the Legislature. In 1991—five years after Mr. Bell was sentenced to life imprisonment—the General Assembly amended the kidnapping statute. Specifically, the Legislature changed the mandatory life sentence for the offense to a discretionary sentence with a maximum period of incarceration *not to exceed thirty years*. 1991 Act 117 (H.B. 3350).

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Office Address
222 Rutherford St.
Greenville, SC 29609

Mailing Address
P.O. Box 615
Taylors, SC 29687

As of today, Mr. Bell has spent forty years serving his sentence for Tony's crimes against Jay Edens. Mr. Bell has not had an easy time in SCDC custody. Much of his time was spent angry; he has racked up disciplinary sanctions for marijuana use and other infractions. He takes responsibility for his anger and his actions in prison. He takes responsibility for his foolishness as a young man in Columbia, breaking the law and stealing. He does not take responsibility for abducting Jay Edens. For forty years, he has maintained his innocence of that crime.

In 2022, Mr. Bell was diagnosed with lung cancer. Since that time, he has had a reawakening of his faith in Jesus. He has been attending Celebrate Recovery, he has applied to be in JumpStart, he has not gotten into trouble. He is also actively dying. After chemotherapy, he is cold and weak. He has trouble staying warm. His greatest wish is to die and be buried in the same cemetery as his mother and father, or his brother Steve.

His remaining brother, Stanley, is ready to help him and supports his parole. It is time for Mr. Bell to be released from SCDC custody. He is not a danger to society.

Today, we ask that this Parole Board please give dignity to Herbert Lee Bell. This man is a child of God, and he asks for mercy. Please, in your discretion, give him comfort these last months of his life.

Respectfully Submitted,

A handwritten signature in black ink that reads "Rebecca Depp". The signature is fluid and cursive.

Rebecca Depp, Lawyer for Mr. Herbert Lee Bell.

Attachments:

1. Letter from South Carolina Oncology Associates
2. Letter from Stanley Bell in Support of Herbert Bell
3. Certificate of Achievements from time in Prison



166 STONERIDGE DRIVE | COLUMBIA, SC 29210
1105 NORTH LAFAYETTE DR. | SUMTER, SC 29150
803-461-3000 | FAX 803-461-4917 | www.sconcoology.net

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DIRECTOR OF PHARMACY
Eric Soong, PHARM. D.

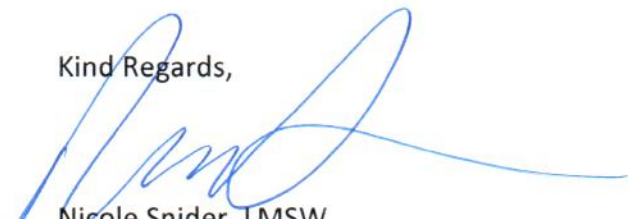
September 29, 2025

RE: Herbert Bell (DOB: 9/26/59)

To Whom It May Concern:

The above referenced patient has a diagnosis of stage IV adenocarcinoma of the lung. He progressed on first line metastatic treatment with Carboplatin, Pemetrexed & Pembrolizumab and has now transitioned to treatment with Amivantamab (given days 1 & 15 every 28 days) after scans in 05/2023 revealed progression of disease. He has tolerated treatment well and overall doing well. The PET/CT scan reveals stable to slightly improved disease. MRI of the brain did not reveal any acute findings. He has a life expectancy of 1-2 years but it is imperative that he is able to be transported to each of his treatments as he has missed some in the past. His next appointments are scheduled as follows: 10/1/25 at 11am (Chemo), 10/15/25 at 11am (Chemo), 10/24/25 at 8am (MD F/U). With that said, Mr. Bell will continue with the same course of treatment and will have follow-up MD visits every 3 months.

Kind Regards,



Nicole Snider, LMSW
Social Worker



Dr. Robert Collins
Oncologist

MEDICAL ONCOLOGY

Charles M. Butler, M.D.
Woodrow Coker, M.D., MSPH
Robert J. Collins III, M.D., MPH
Mohamed El Geneidy, M.D.
Anne S. Hutchison, M.D.
Fred J. Kudrik, M.D.
Steven M. Minter, D.O.
Chaudhry M. Mushtaq, M.D., FACP
Sarah Mushtaq, M.D.
Malshundria S. Prophet, M.D.
Scott R. Sommers, M.D.
Jill Sullivan, M.D., PhD

GYNECOLOGIC ONCOLOGY

William Merritt, M.D.
James A. Williams, M.D.

RADIOLOGY

Kevin P. Gibbs, M.D.
David T. Powell, M.D.

RADIATION ONCOLOGY

Kevin Blas, M.D.
Edward W. Duffy III, M.D.
Kurt D. Meyer, M.D., PhD
Brandon M. Stone, M.D.
Leonid Zamdborg, M.D., PhD

**NURSE PRACTITIONERS/
PHYSICIAN ASSISTANTS**

Garland P. Ames, FNP-BC
Mary Baird, MSN, AGNP-C
Morgan Boatwright, APRN, FNP-BC
Kylie P. Capdevila, FNP-BC
Nichole Hendry, PA-C
Katie Matzko, MSN, APRN, ANP-C
Sydney J. Mayes, MSN, APRN, FNP-BC
Tonya Melton, MSN, APRN, FNP-BC
Ashley N. Miller, FNP-BC, AOCNP
Kitra Nichols, MSN, FNP-BC
Andrea Oates, MSN, FNP-BC
Natalie O'Kelly, MSN, FNP-C
Sarah P. Peden, MS, APRN, FNP-BC
Jessica H. Wheeler, MSN, AGACNP
Kim D. Willis, ACNP-C

October 21, 2025

South Carolina Department Of
Probation, Parole and Pardon Services
293 Greystone Blvd., Columbia, South Carolina 29210

RE: Support Letter for Herbert Bell

The Parole Board:

My relationship with my brother, Herbert Bell, is one of the most cherished aspects of my life. Growing up together, we shared countless adventures and created memories that have shaped who we are today.

One of my fondest memories is the time we spent playing basketball and boxing in the backyard. Those hot summer afternoons were filled with laughter, friendly competition, and the thrill of trying to outdo each other. Whether we were shooting hoops or sparring in the makeshift ring we created, those moments taught me the importance of teamwork and perseverance. Herbert's positive attitude always pushed me to improve, and I admired his determination.

In addition to our sports activities, we also enjoyed quieter moments together. Playing checkers and card games became a favorite pastime, often stretching into the evening as we battled for victory. During those games, we would share our thoughts and dreams, discussing our aspirations and how to achieve them. Herbert's wisdom and encouragement inspired me to aim higher and believe in myself.

Summer fishing trips were another highlight of our childhood. We would wake up early, filled with excitement, and spend the day by the water, hoping to catch something big. It was during these peaceful moments that we had some of our deepest life talks. We would discuss everything from our goals to our fears, strengthening our bond and understanding of one another.

One particularly memorable experience was when we teamed up to clean our parents' yard and paint the house. It may sound like a chore, but we turned it into a fun day filled with laughter and playful banter. Working side by side, we reminisced about our childhood and made plans for the future. Those moments of collaboration and shared effort reminded me of the strong connection we have as brothers.

As we grow older, I often find myself reflecting on those experiences and wishing to create more memories like them. I cherish my relationship with Herbert and look forward to spending more time together, continuing to support each other's dreams and enjoying life's simple pleasures. Our bond is a treasure, and I am grateful for every moment we have shared.

My brother has always been candid about his past actions and the impact they have had on others. He frequently reflects on his wrongdoing and expresses a deep sense of remorse for any harm he may have caused. This genuine acknowledgment of his past mistakes is a testament to his growth and commitment to becoming a better person.

He understands the seriousness of his actions and recognizes that they were not just mistakes but choices that affected the lives of others. His ability to articulate his feelings of regret is a powerful indicator of his empathy

and responsibility. He often says, “I’m sorry; I made a mistake,” and “I should have known better.” These phrases are not just words to him; they represent a sincere desire to take accountability for his past.

Herbert is actively working to turn his life around, striving to be more responsible and accountable for his actions in his everyday life. He acknowledges that expressing remorse is essential for seeking reconciliation and repairing relationships. By recognizing the impact of his behavior, he is committed to making amends and ensuring that he does not repeat the same mistakes.

This journey of self-improvement has not been easy for him, but his determination to learn from his past is commendable. He is focused on building a better future, one where he can contribute positively to those around him. I admire his willingness to confront his past and take the necessary steps toward personal growth and accountability.

In expressing his remorse, my brother demonstrates that he is not only aware of his past but is also dedicated to making things right. His journey towards accountability is ongoing, and I believe that with each step he takes, he is moving closer to becoming the responsible and caring individual he aspires to be.

My brother has made significant strides in his rehabilitation while in prison, actively participating in various programs that demonstrate his commitment to personal growth and positive change. These efforts reflect his desire to transform his life and emerge as a more responsible individual.

One of the key areas he has focused on is substance abuse treatment. Through individual counseling and group therapy sessions, he has gained valuable insights into the root causes of his past behaviors and learned effective coping strategies. This program has not only helped him confront his addiction but has also equipped him with the tools to maintain sobriety upon his release.

Additionally, my brother has engaged in anger management programs that have been instrumental in addressing his emotional responses and developing healthier ways to express himself. By learning stress management techniques and problem-solving skills, he is better prepared to navigate challenges without resorting to anger.

Education has played a crucial role in his rehabilitation journey as well. He has enrolled in Adult Basic Education (ABE) and is currently preparing for his GED. This pursuit of knowledge has rekindled his passion for learning and provided him with a sense of purpose. He understands that education is a vital steppingstone toward a brighter future and is determined to succeed.

My brother has also taken advantage of vocational training programs, particularly in carpentry and computer skills. These skills not only enhance his employability but also give him a sense of accomplishment. He enjoys creating tangible products and recognizes the importance of having marketable skills for reintegration into society.

Furthermore, he has participated in cognitive behavioral therapy (CBT) and various mental health support programs. These initiatives have helped him address underlying issues and develop a healthier mindset. The progress he has made in understanding his thoughts and behaviors is a testament to his dedication to personal development.

My brother is also involved in family relationships programs, which have allowed him to strengthen his bonds with loved ones. These sessions emphasize effective communication and rebuilding trust, both essential for maintaining relationships post-incarceration.

Finally, he is actively preparing for his transition back into society by participating in re-entry programs that offer job search assistance and community reintegration support. He is committed to finding stable housing and employment upon release, ensuring he has the resources necessary for a successful reintegration.

Overall, my brother’s participation in these rehabilitation programs reflects his genuine desire to change and grow. His commitment to education, personal development, and fostering positive relationships speaks volumes about his character and determination to create a better future for himself and those around him. I am proud of the progress he has made and look forward to supporting him as he continues on this path.

Our family is unwavering in our commitment to supporting my brother upon his release from prison. We fully understand that reintegrating into society after an extended period of incarceration presents significant challenges, and we are ready to provide the necessary support system to ensure his successful transition. Our family discussions have focused on his specific needs, including essential items such as clothing and hygiene products, to help him feel comfortable and welcomed as he returns home.

Emotional support will be a top priority for us during this transition. We are dedicated to actively listening to his experiences and feelings, recognizing that adjusting to life outside prison can be overwhelming. Our goal is to create a safe space for him to express himself without judgment. We understand the importance of patience as he navigates this new chapter, and we are committed to being there for him every step of the way.

In addition to emotional support, we plan to assist my brother in finding stable housing and job opportunities. If possible, we will provide him with a place to stay, ensuring he has a supportive environment as he reintegrates. We will also help him with his resume and connect him to local organizations that offer job training and support. These practical steps are essential for helping him regain his independence and build a foundation for a successful future.

Recognizing the significance of mental health, we will encourage him to seek therapy or counseling to address any challenges he may face. Establishing a daily routine will also be vital in providing the stability he needs during this transition. We are committed to ensuring he understands any legal obligations he must adhere to, and we will assist him with financial planning to help him manage his resources effectively.

Regular check-ins will be an essential part of our support system, particularly in the initial months following his release. We want him to know that he is not alone during this journey and that we are here to celebrate his progress, no matter how small. Our family stands united in our dedication to his reintegration, and we are committed to helping him create a positive and successful future. Thank you for considering our family's commitment as you evaluate his parole application.

My brother and I have thoughtfully developed a comprehensive transition plan for his life after release from prison, focusing on employment, housing, and community involvement. On his first day, he intends to report to the parole office to understand the conditions of his parole and ensure he is aligned with the expectations for a successful reintegration. He is committed to abstaining from drugs and alcohol and plans to check into transitional housing. If possible, he hopes to reach out to family to strengthen his support network right from the start. This initial step will be crucial for him to establish a solid foundation as he transitions back into society.

In the first week, my brother aims to establish essential documentation and resources to support his reintegration. He plans to obtain a social security card, which is vital for employment and accessing services. Additionally, he intends to secure a library card to take advantage of free resources and learning opportunities. A bus pass will also be on his list to ensure he can travel easily to job interviews and support meetings. He recognizes that these practical steps will help him navigate the challenges of everyday life outside of prison.

Moreover, my brother understands the importance of connecting with organizations that provide assistance with employment. He plans to update his resume and seek help in creating one if needed. This proactive approach will enable him to apply for jobs that align with his skills and interests. Additionally, he intends to apply for assistance programs such as health insurance and food stamps, which will help alleviate some financial burdens as he establishes himself. By focusing on these immediate goals, he aims to set a positive tone for his reintegration journey.

In the first month after his release, my brother's goals include staying committed to the structured program of the transitional housing facility. He plans to secure a part-time job to gain work experience and financial independence. Continuing his participation in Alcoholics Anonymous and Narcotics Anonymous will be essential for maintaining his sobriety and building a supportive network. He recognizes that surrounding himself with positive influences is vital for his ongoing success and resilience.

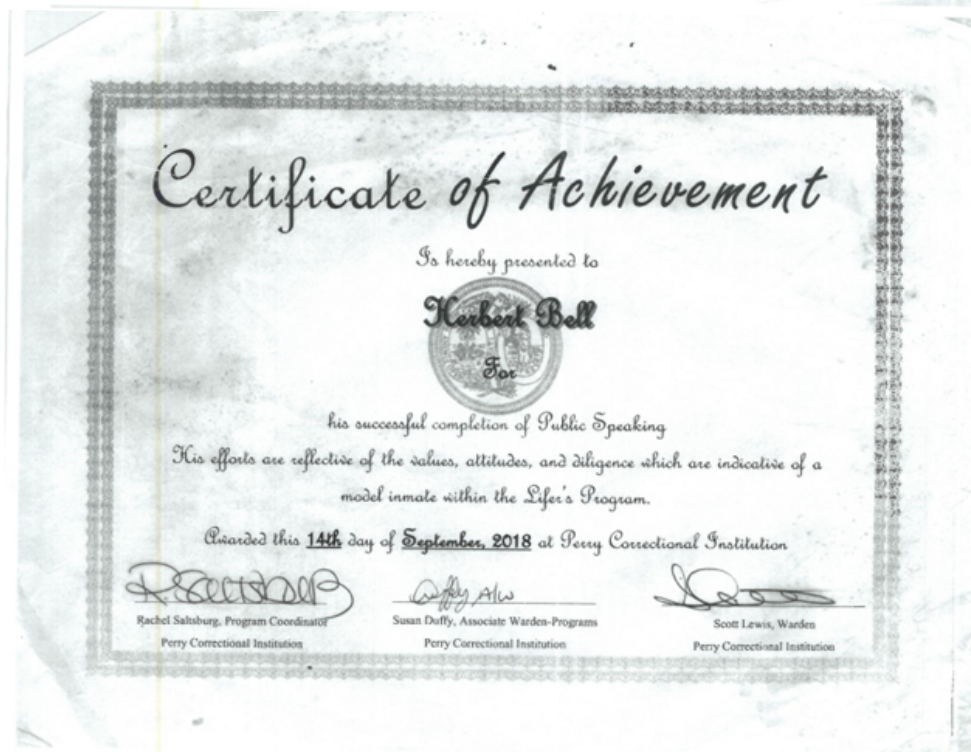
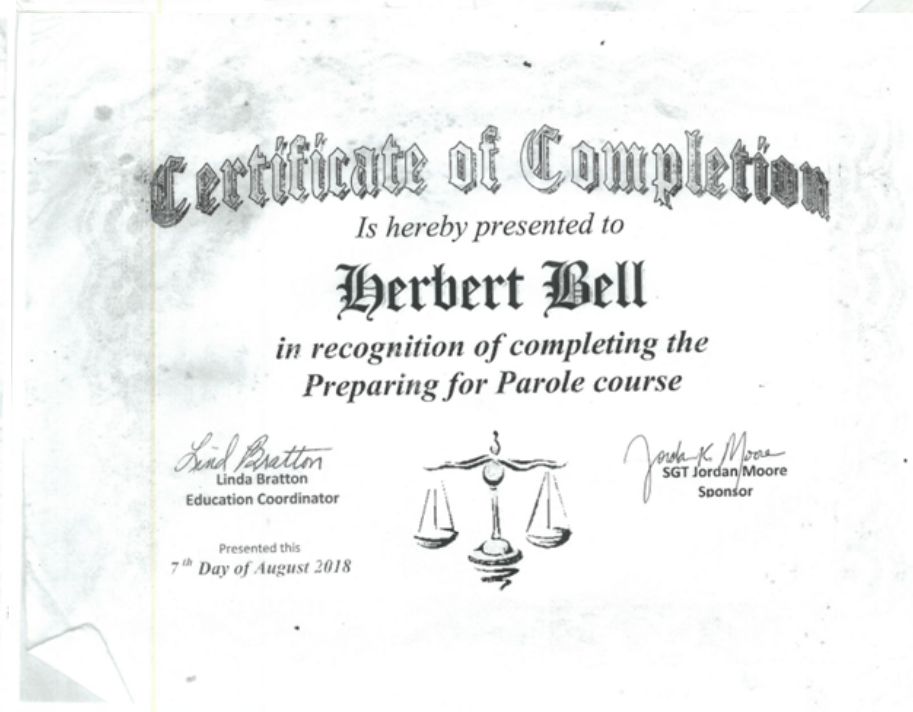
As he progresses through the first month, my brother also intends to open a bank account to manage his finances effectively. Developing good financial habits will be an important aspect of his personal growth. He is determined to obey all laws and report to his parole officer as scheduled, understanding the importance of compliance in maintaining his freedom. By being punctual in his work and school commitments, he aims to establish a reputation for reliability and responsibility.

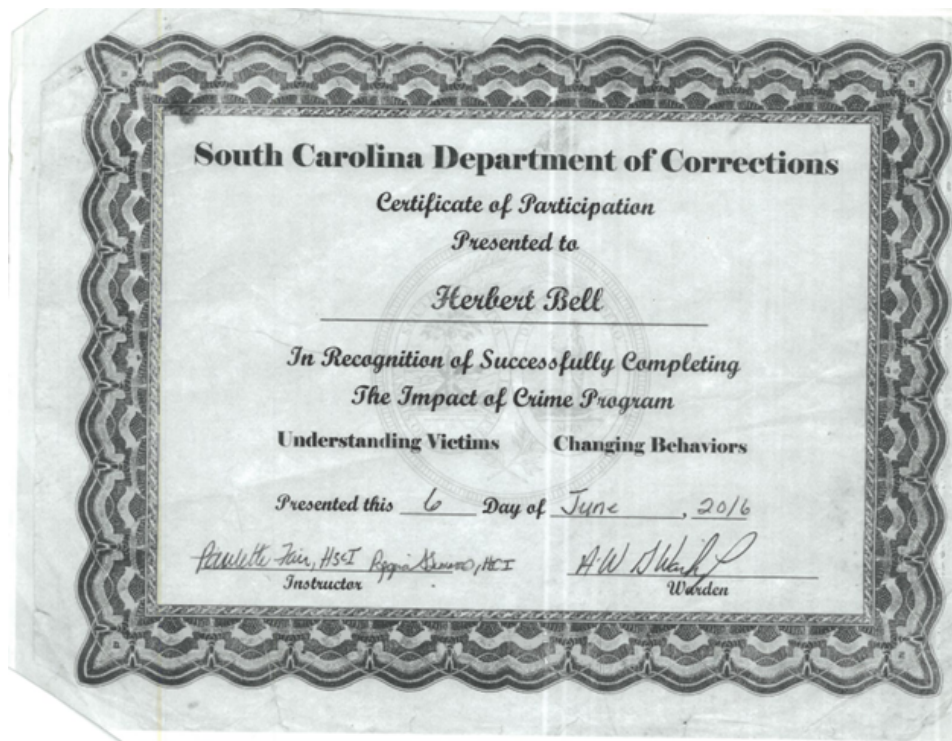
Looking ahead to the six-month and one-year milestones, my brother plans to excel in his job and any educational opportunities he pursues. He is committed to staying active in his church and engaging in volunteer work within the community, which will help him build meaningful connections and contribute positively to society. His long-term aspirations include obtaining stable housing, completing his degree, and eventually getting married or engaged, all of which reflect his desire for a fulfilling and responsible life.

Through consistent efforts and a strong commitment to his goals, my brother aims to be a productive and respectable member of society, making his family proud. His thoughtful planning and dedication to personal growth demonstrate his readiness to embrace this new chapter in his life. With the support of our family and his determination, I believe he will successfully navigate the challenges ahead and create a positive future for himself.

Sincerely,

Stanley T. Bell





1 STATE OF SOUTH CAROLINA

2 COUNTY OF RICHLAND

IN THE COURT OF GENERAL SESSIONS

3
4
5 THE STATE,

6 PLAINTIFF,

7 -VS-

8 HERBERT LEE BELL,

9 DEFENDANT.

:
:
:
: TRANSCRIPT OF RECORD
:
:

: JUNE 24-25, 1986
: COLUMBIA, SOUTH CAROLINA

10
11 B E F O R E:

12 THE HONORABLE MARION H. KINON, JUDGE; AND A JURY.

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

14 BARNEY GIESE, ESQ.,
15 DEPUTY SOLICITOR FOR THE FIFTH JUDICIAL CIRCUIT,

16 JOHN BLINCOW, JR., ESQ.,
17 ASSISTANT SOLICITOR FOR THE FIFTH JUDICIAL CIRCUIT,
ATTORNEYS FOR THE STATE,

18 CLAY T. ALLEN, ESQ.,
19 ASSISTANT PUBLIC DEFENDER FOR RICHLAND COUNTY,

20 CHRISTINE HOOK, ESQ.,
21 ASSISTANT PUBLIC DEFENDER FOR RICHLAND COUNTY,
22 ATTORNEYS FOR THE DEFNDANT.

23
24 ROBBIE KOON
25 CIRCUIT COURT REPORTER

ROBBIE KOON
CIRCUIT COURT REPORTER
3012 VILLAGE CREEK DRIVE
COLUMBIA, SOUTH CAROLINA

R 129

THE STATE OF SOUTH CAROLINA
RICHLAND COUNTY
Fifth Circuit

February 24th term, 1956
The State of South Carolina

vs
Herbert Lee Bell
Sex M Race B DOB 9-26-57
Soc. Sec. No. 5-11-5-299

The prisoner, Herbert Lee Bell
[] having entered a guilty plea

☒ having been found guilty by jury trial as charged

It is the

SENTENCE

The sentence of the Court is that the prisoner
Herbert Lee Bell shall be confined in the custody of the
Department of Corrections of the State of South Carolina for a period
of his entire life and the Department of Corrections
shall designate a place of confinement where the sentence shall be served

Marion H. Kinn
Presiding Judge

The State of South Carolina
County of Richland

I, BARBARA A. SCOTT, Clerk of Court of General Sessions
for Richland County, State aforesaid, do hereby certify that the fore-
going is a true copy of the sentence pronounced by the Court in the
case above entitled.

Given under my HAND and the Seal
of the said Court at Columbia, S.C.
this 25th of Feb 1956

Barbara A. Scott
C.C.G.S.R.C.D.

ATTEST:
A TRUE COPY

Barbara A. Scott

C. C. G. S. R. C. S.

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NOTE: ALL EXHIBITS FILED WITH THE CLERK OF COURT FOR
RICHLAND COUNTY.

P R O C E E D I N G S

MONDAY, FEBRUARY 24, 1986

THE COURT: ALL RIGHT, SIR, YOU MAY PROCEED.

SOLICITOR GIESE: YOUR HONOR, AT THIS TIME THE STATE CALLS THE CASE OF THE STATE VS. HERBERT LEE BELL, INDICTMENT FOR KIDNAPPING. INDICTMENT 85-GS-40-2631. THE STATE IS READY TO PROCEED.

MR. ALLEN: THANK YOU. YOUR HONOR, IF IT PLEASE THE COURT, I HAVE A COUPLE OF MOTIONS TO MAKE AT THIS TIME AS WELL AS REQUEST VOIR DIRE AND MY WITNESS LIST.

YOUR HONOR, FIRST OF ALL, LET ME MAKE THE COURT AWARE OF A POSSIBLE PROBLEM WITH AN ALIBI WITNESS THAT I HAVE COMING IN. MRS. LILLIE GARDNER OR GUNTER BELL. I HAVE PUT, OF COURSE, THE SOLICITOR, ON NOTICE OF ALIBI DEFENSE. MY INVESTIGATOR WAS INFORMED LAST NIGHT THAT SHE HAS SOME KIND OF INFECTION IN HER FOOT AND THE DOCTOR HAS ADVISED HER TO STAY OFF HER FEET. SHE IS A DIABETIC AND I UNDERSTAND THAT SOMETIMES DEPENDING UPON HOW BAD THE DIABETES IS THEY CAN BE PRONE TO THOSE TYPE CIRCULATION PROBLEMS IN THEIR EXTREMITIES. I'VE TALKED WITH HER DAUGHTER, MRS. RENEE HENDLEY, WHO INDICATES THAT SHE IS ON HER WAY; BUT SHOULD IT COME DOWN TO THAT, I WOULD REQUEST SOME HELP FROM THE COURT SINCE -- WHEN IT GETS CLOSER TO OUR PUTTING ON OUR CASE TO HAVE DEPUTIES TO GO OUT AND PICK HER UP BECAUSE SHE HAS BEEN

1 TOLD TO BE OFF HER FEET. I UNDERSTAND SHE'S ON HER WAY
2 IN, BUT THERE'S A POSSIBILITY SHE MAY NOT MAKE IT IN
3 TIME.

4 THE COURT: SOLICITOR?

5 SOLICITOR GIESE: WE HAVE NO PROBLEM WITH THAT. I
6 DON'T THINK YOU'RE GOING TO GET TO YOUR CASE FOR A
7 WHILE. PROBABLY THIS AFTERNOON.

8 MR. ALLEN: RIGHT. IT'S GOING TO BE A GOOD LONG
9 WHILE, BUT I JUST NEED TO MAKE THE COURT AWARE OF THE
10 POSSIBLE PROBLEM.

11 THE COURT: ALL RIGHT, SIR.

12 MR. ALLEN: THANK YOU. AT THIS TIME, I WOULD MOVE
13 ALSO FOR A CLEAN COPY OF THE INDICTMENT IF THE INDICTMENT
14 IS PRESENTED TO THE JURY.

15 SOLICITOR GIESE: WE HAVE NO OPPOSITION TO THAT,
16 YOUR HONOR. WE'LL GET SOMEBODY TO TYPE IT UP.

17 THE COURT: ALL RIGHT, SIR. MR. ALLEN, IF YOU
18 WILL CHECK OUT THE INDICTMENT. THEY WILL HAVE IT
19 RETYPED. YOU CHECK IT OVER. IF YOU HAVE ANY OBJECTIONS
20 FURTHER, LET ME KNOW.

21 MR. ALLEN: YES, YOUR HONOR, I WILL. THANK YOU.
22 I WOULD ALSO RENEW MY MOTION UNDER CRIMINAL PRACTICE
23 RULE 8 FOR THE RECORD. I HAVE BEEN PROVIDED A WHOLE LOT
24 OF DOCUMENTS WHICH INCLUDE A FOUR PAGE STATEMENT OF MR.
25 JAY EDENS. A ONE PAGE STATEMENT OF GARY WATTS. SIX

1 PAGES OF NOTES FROM THE RICHLAND COUNTY SHERIFF DEPARTMENT'S
2 INVESTIGATORS BROWN, WICKER, AND CROXTON. THE RICHLAND
3 COUNTY SHERIFF DEPARTMENT'S INCIDENT REPORT AND SUPPLEMENTAL
4 REPORTS. VARIOUS DOCUMENTS RELATING TO THE PHOTOGRAPHIC
5 ARRAY SHOWN TO MR. EDENS ON JULY 24TH. I'VE ALSO BEEN
6 PROVIDED WITH THE DEFENDANT'S RIGHTS WAIVER, A COPY OF
7 HIS RAP SHEET, AND BEEN PROVIDED THE OPPORTUNITY TO
8 VIEW PHOTOGRAPH ARRAY SHOWN TO MR. EDENS ON THE 23RD AND
9 THE 24TH. AND I'VE BEEN ADVISED OF AN ORAL STATEMENT OF
10 MR. BELL MADE TO GARY WATTS IN THE PRESENCE OF ANOTHER
11 INDIVIDUAL ON THE EVENING OF THE 24TH -- JULY 24, 1985.
12 AND AT THIS TIME, I WOULD -- YOU KNOW, OTHER THAN WHAT
13 I'VE LISTED, DOES THE STATE HAVE ANYTHING ELSE?

14 SOLICITOR GIESE: YOUR HONOR, PURSUANT TO OUR OPEN
15 FILE POLICY THAT SOLICITOR ANDERS HAS, WE'VE GIVEN HIM
16 EVERYTHING WE'VE GOT. I THINK THAT'S EVERYTHING WE'VE
17 GOT.

18 MR. ALLEN: RIGHT. I JUST WANTED TO MAKE IT FOR
19 THE RECORD, YOUR HONOR. MY LAST MOTION, YOUR HONOR, IS
20 I WOULD MOVE TO SUPPRESS ALL OUT OF COURT IDENTIFICATIONS
21 AND IN-COURT -- AND THE RESULT OF IN-COURT IDENTIFICATIONS
22 WHICH HAVE BEEN MADE OR WILL BE MADE BY MR. JAY EDENS
23 BECAUSE I BELIEVE THAT UNDER ALL THE CIRCUMSTANCES THAT
24 THE OUT OF COURT IDENTIFICATION HAS BEEN SO IMPERMISSIBLY
25 SUGGESTIVE AS TO GIVE RISE TO A VERY SUBSTANTIAL LIKELI-

1 HOOD OF IRREVOCABLE MISIDENTIFICATION. SPECIFICALLY,
2 YOUR HONOR, IT IS MY UNDERSTANDING THAT THE EVIDENCE
3 WILL INDICATE THAT JAY EDENS WAS DRIVEN BY MR. GARY
4 WATTS TO THE RESIDENCE OF MR. HERBERT BELL AND HERBERT
5 BELL WAS ASKED BY MR. WATTS TO COME OUTSIDE WHERE HE WAS
6 POINTED AT. MR. EDENS WAS, I BELIEVE, ASKED THE
7 QUESTION IF THAT WAS NOT THE ONE WHO KIDNAPPED HIM TO
8 WHICH HE POSSIBLY RESPONDED YES. IT'S ALSO MY UNDERSTAND-
9 ING THAT WITHIN TWO HOURS OF THAT IDENTIFICATION AT MR.
10 BELL'S RESIDENCE, A PHOTOGRAPHIC ARRAY CONTAINING MR.
11 BELL'S PICTURE WAS SHOWN TO MR. EDENS AT THE RICHLAND
12 COUNTY SHERIFF'S DEPARTMENT WHERE HE PICKED OUT THAT
13 PICTURE. AND UNDER THOSE FACTS AND OTHERS TO BE
14 DEVELOPED, I WOULD ASK THE COURT TO SUPPRESS OUT OF
15 COURT AND IN-COURT IDENTIFICATIONS OF HERBERT BELL.

16 THE COURT: SOLICITOR, WHAT'S YOUR POSITION?

17 SOLICITOR GIESE: WELL, YOUR HONOR, OF COURSE, I
18 BELIEVE WE NEED TO HAVE A -- PROBABLY HAVE A FACTUAL
19 HEARING ON THAT OUT OF THE PRESENCE OF THE JURY.

20 THE COURT: MR. ALLEN, I AGREE YOUR MOTION IS
21 PREMATURE; BUT, OF COURSE, IT'S PROPER IN THAT IT KEEPS
22 ME ON NOTICE AND, SOLICITOR, PRIOR TO GOING INTO THAT
23 TESTIMONY, I WANT TO CONDUCT AN IN-CAMERA HEARING.

24 SOLICITOR GIESE: MAY I SUGGEST AND SEE IF HIS
25 HONOR AGREES WITH IT. PICKING A JURY, OPENING, AND THEN

1 MY FIRST WITNESS IS GOING TO BE JAY EDENS WHO WAS THE
2 VICTIM IN THIS CASE -- GOING INTO IT AT THAT TIME OUT OF
3 THE PRESENCE OF THE JURY.

4 MR. ALLEN: THAT'S---

5 THE COURT: IS THAT AGREEABLE?

6 MR. ALLEN: OH, YES, SIR. I WAS PUTTING THE COURT
7 AND THE SOLICITOR ON NOTICE THAT I INTEND TO MAKE THAT
8 AN ISSUE---

9 THE COURT: YES, SIR, AND I APPRECIATE YOUR DOING
10 IT. YES, SIR. ANYTHING BEFORE I SEND FOR THE JURY?

11 SOLICITOR GIESE: NOTHING FROM THE STATE.

12 MR. ALLEN: THOSE ARE ALL THE MOTIONS, I HAVE YOUR
13 HONOR.

14 THE COURT: SEND ME A JURY.

15 (WHEREUPON, THE JURY VENIRE
16 ENTERS THE COURTROOM AT THIS TIME.)

17 THE COURT: LADIES AND GENTLEMEN OF THE JURY
18 VENIRE, PLEASE GIVE ME YOUR ATTENTION. WE ARE ABOUT TO
19 BEGIN THE TRIAL OF THE CASE OF THE STATE VS. HERBERT LEE
20 BELL, WHO HAS BEEN INDICTED FOR KIDNAPPING.. IN THAT
21 CONNECTION, I WOULD LIKE TO ASK YOU A FEW QUESTIONS.
22 WOULD YOU HAVE MR. BELL STAND AND FACE THE JURY, PLEASE?

23 (WHEREUPON THE DEFENDANT
24 FACES THE JURY VENIRE AT THIS TIME.)

25 ANY MEMBER OF THE JURY PANEL RELATED BY BLOOD OR

1 MARRIAGE OR CLOSE PERSONAL ACQUAINTANCE TO HERBERT LEE
2 BELL; IF SO, PLEASE STAND?

3 (NO RESPONSE.)

4 YOU MAY BE SEATED.

5 (WHEREUPON THE DEFENDANT IS
6 SEATED AT THIS TIME.)

7 THE PROSECUTING WITNESS IS JAY EDENS. ANY MEMBER
8 OF THE JURY PANEL RELATED BY BLOOD OR MARRIAGE OR CLOSE
9 PERSONAL ACQUAINTANCE TO JAY EDENS; IF SO, PLEASE STAND?

10 (NO RESPONSE.)

11 NOW, THE FOLLOWING ARE POSSIBLE WITNESSES AND I
12 REALIZE THAT ALL OF THEM IS NOT IN COURT AT THIS TIME;
13 HOWEVER, IF THEY'RE IN COURT, I'LL ASK THEM TO STAND AND
14 FACE THE JURY. VIRGINIA HOOD. ANY MEMBER OF THE JURY
15 PANEL RELATED BY BLOOD OR MARRIAGE OR CLOSE PERSONAL
16 ACQUAINTANCE TO VIRGINIA HOOD; IF SO, PLEASE STAND?

17 (NO RESPONSE.)

18 GARY WATTS. ANY MEMBER OF THE JURY PANEL RELATED
19 BY BLOOD OR MARRIAGE OR CLOSE PERSONAL ACQUAINTANCE TO
20 GARY WATTS; IF SO, PLEASE STAND?

21 (NO RESPONSE.)

22 JAMES CHAPMAN. ANY MEMBER OF THE JURY PANEL
23 RELATED BY BLOOD OR MARRIAGE, CLOSE PERSONAL ACQUAINTANCE
24 TO JAMES CHAPMAN; IF SO, PLEASE STAND?

25 (NO RESPONSE.)

1 TOM WICKER. ANY MEMBER OF THE JURY PANEL RELATED
2 BY BLOOD OR MARRIAGE OR CLOSE PERSONAL ACQUAINTANCE TO
3 TOM WICKER OF THE RICHLAND COUNTY SHERIFF'S DEPARTMENT;
4 IF SO, PLEASE STAND?

5 (NO RESPONSE.)

6 BILL BROWN. ANY MEMBER OF THE JURY PANEL RELATED
7 BY BLOOD OR MARRIAGE OR CLOSE PERSONAL ACQUAINTANCE TO
8 BILL BROWN OF THE RICHLAND COUNTY SHERIFF'S DEPARTMENT;
9 IF SO, PLEASE STAND?

10 (NO RESPONSE.)

11 LILLIE GUNTER BELL. ANY MEMBER OF THE JURY PANEL
12 RELATED BY BLOOD OR MARRIAGE OR CLOSE PERSONAL ACQUAINTANCE
13 TO LILLIE GUNTER BELL; IF SO, PLEASE STAND?

14 (NO RESPONSE.)

15 ELIZABETH FRESTER. ANY MEMBER OF THE JURY PANEL
16 RELATED BY BLOOD OR MARRIAGE TO ELIZABETH FRESTER WHO IS
17 TO YOUR REAR? STANDS TO YOUR REAR. IF SO, PLEASE
18 STAND?

19 (NO RESPONSE.)

20 ANY MEMBER OF THE JURY PANEL RELATED BY BLOOD OR
21 MARRIAGE OR CLOSE PERSONAL ACQUAINTANCE TO RENEE HENDLEY
22 WHO IS SEATED TO THE REAR; IF SO, PLEASE STAND?

23 (NO RESPONSE.)

24 SIMON HENDLEY. ANY MEMBER OF THE JURY PANEL
25 RELATED BY BLOOD OR MARRIAGE OR CLOSE PERSONAL ACQUAINTANCE

1 TO SIMON HENDLEY; IF SO, PLEASE STAND?

2 (NO RESPONSE.)

3 ROBIN THOMPSON. ANY MEMBER OF THE JURY PANEL
4 RELATED BY BLOOD OR MARRIAGE OR CLOSE PERSONAL ACQUAINTANCE
5 TO ROBIN THOMPSON; IF SO, PLEASE STAND?

6 (NO RESPONSE.)

7 JEROD YOUNG. ANY MEMBER OF THE JURY PANEL RELATED
8 BY BLOOD OR MARRIAGE OR CLOSE PERSONAL ACQUAINTANCE TO
9 JEROD YOUNG; IF SO, PLEASE STAND?

10 (NO RESPONSE.)

11 JANICE RICHARDSON. ANY MEMBER OF THE JURY PANEL
12 RELATED BY BLOOD OR MARRIAGE OR CLOSE PERSONAL ACQUAINTANCE
13 TO JANICE RICHARDSON; IF SO, PLEASE STAND?

14 (NO RESPONSE.)

15 BILL BELCH. ANY MEMBER OF THE JURY PANEL RELATED
16 BY BLOOD OR MARRIAGE OR CLOSE PERSONAL ACQUAINTANCE TO
17 BILL BELCH OR THE RECORDS CUSTODIAN OF THE RICHLAND
18 COUNTY DETENTION CENTER; IF SO, PLEASE STAND?

19 (NO RESPONSE.)

20 HAS ANY MEMBER OF THE JURY PANEL FORMED OR
21 EXPRESSED ANY OPINION ABOUT ANY OF THE ISSUES INVOLVED
22 IN THE TRIAL OF THIS CASE OR AS TO THE GUILT OR INNOCENCE
23 OF THIS DEFENDANT; IF SO, PLEASE STAND?

24 (NO RESPONSE.)

25 HAS ANY MEMBER OF THE JURY PANEL DISCUSSED THIS

1 CASE OR HEARD ANYONE DISCUSS THIS CASE EITHER TODAY OR
2 BEFORE TODAY; IF SO, PLEASE STAND?

3 (WHEREUPON, A JUROR
4 STANDS.)

5 THE COURT: YOUR NAME, PLEASE?

6 THE JUROR: RHODA PETTIS(SIC).

7 THE CLERK OF COURT: T-11.

8 THE COURT: AND HAVE YOU HEARD THIS CASE DISCUSSED?

9 THE JUROR: YES, SIR.

10 THE COURT: AND WOULD THAT INFLUENCE YOU IF YOU
11 WERE SELECTED AS A JUROR?

12 THE JUROR: YES, SIR.

13 THE COURT: ALL RIGHT. IF HER NAME IS DRAWN,
14 PLEASE STAND IT ASIDE. ANY OF YOU RELATED BY BLOOD OR
15 MARRIAGE TO OR ARE YOU A FRIEND OF ANYONE WHO IS
16 EMPLOYED IN THE FIFTH CIRCUIT SOLICITOR'S OFFICE, THE
17 PUBLIC DEFENDER'S OFFICE, THE COLUMBIA POLICE DEPARTMENT,
18 THE RICHLAND COUNTY SHERIFF'S DEPARTMENT, THE STATE LAW
19 ENFORCEMENT DIVISION, OR THE SOUTH CAROLINA HIGHWAY
20 PATROL; IF SO, PLEASE STAND?

21 (NO RESPONSE.)

22 DO ANY OF YOU KNOW ANY OF THE WITNESSES IN THIS
23 CASE; IF SO, PLEASE STAND?

24 (NO RESPONSE.)

25 ANY MEMBER OF THE JURY PANEL BEEN EMPLOYED BY

1 ANY CIVILIAN OR MILITARY LAW ENFORCEMENT AGENCY; IF SO,
2 PLEASE STAND?

3 (NO RESPONSE.)

4 IS THERE ANY MEMBER OF THE JURY PANEL WHO COULD
5 NOT GIVE BOTH THE STATE AND THE DEFENSE A FAIR AND
6 IMPARTIAL TRIAL; IF SO, PLEASE STAND?

7 (NO RESPONSE.)

8 ANY MEMBER OF THE JURY PANEL HAVE ANY REASON WHY
9 THEY SHOULD NOT SERVE AS A JUROR ON THIS PARTICULAR
10 CASE; IF SO, PLEASE STAND?

11 (NO RESPONSE.)

12 ANY ADDITIONAL QUESTIONS FROM THE STATE?

13 SOLICITOR GIESE: NONE FROM THE STATE, YOUR HONOR.

14 THE COURT: FROM THE DEFENSE?

15 MR. ALLEN: NO, YOUR HONOR.

16 THE COURT: AS I UNDERSTAND IT, THE STRIKES ARE
17 FIVE AND FIVE. YOU MAY GIVE US A JURY.

18 (WHEREUPON, TWELVE JURORS
19 AND TWO ALTERNATES WERE SELECTED TO SIT IN THE TRIAL OF
20 THIS CASE.)

21 THE COURT: MR. RUFF, I'M GOING TO APPOINT YOU AS
22 THE FOREMAN. PLEASE HAVE A SEAT AT THE END AND OCCUPY
23 THAT SEAT AT ALL TIMES. MR. SHOW AND MS. MONROE, YOU
24 ARE BOTH ALTERNATES. PLEASE OCCUPY THE SEATS ON THE
25 BACK ROW AT ALL TIMES.

1 THE CLERK OF COURT: LADIES AND GENTLEMEN, IF YOU
2 WILL PLEASE STAND, RAISE YOUR RIGHT HANDS TO BE SWORN.

3 (WHEREUPON, THE JURY WAS
4 FIRST DULY SWORN AT THIS TIME.)

5 THE COURT: MR. FOREMAN, AND LADIES AND GENTLEMEN
6 OF THE JURY, THE CASE WE'LL ABOUT TO TRY IS THE CASE OF
7 THE STATE VS. HERBERT LEE BELL, WHO HAS BEEN INDICTED
8 FOR KIDNAPPING. THE ELEMENTS OF THE INDICTMENT WILL BE
9 EXPLAINED TO YOU LATER. YOU SHOULD UNDERSTAND THAT THE
10 INDICTMENT IS SIMPLY THE CHARGE BY WHICH THE CASE IS
11 BROUGHT INTO COURT; AND IT IS NOT IN ANY SENSE EVIDENCE
12 OF ANY OF THE ALLEGATIONS IT CONTAINS.

13 TO THIS INDICTMENT, THE DEFENDANT HAS PLED NOT
14 GUILTY. THE STATE; THEREFORE, HAS THE BURDEN OF PROVING
15 HIS GUILT BEYOND A REASONABLE DOUBT. AND IT WOULD BE
16 YOUR DUTY, LADIES AND GENTLEMEN TO DECIDE WHETHER THE
17 STATE HAS MET THAT BURDEN. IT IS YOUR SOLEMN RESPONSIBILITY
18 TO DETERMINE THE GUILT OR INNOCENCE OF THE DEFENDANT AND
19 YOUR VERDICT MUST BE BASED SOLELY ON THE EVIDENCE AS IT
20 IS PRESENTED TO YOU IN THIS TRIAL AND ON THE LAW AS I
21 INSTRUCT YOU DURING AND AT THE CLOSE OF THE TRIAL.

22 IN JUST A MINUTE, THE SOLICITOR WILL MAKE WHAT IS
23 CALLED HIS OPENING STATEMENT IN WHICH HE WILL EXPLAIN TO
24 YOU THE ISSUES IN THIS CASE OR AT LEAST WHAT HE CONTENDS
25 TO BE THE ISSUES IN THIS CASE. IF THE ATTORNEY FOR THE

1 DEFENDANT WISHES TO DO SO, HE MAY ALSO MAKE AN OPENING
2 STATEMENT ALTHOUGH HE IS NOT REQUIRED TO DO SO. AND I
3 WISH TO TELL YOU THAT WHAT THE ATTORNEYS WILL TELL YOU
4 AT THIS TIME IS NOT EVIDENCE IN THIS CASE. IT IS ONLY
5 THEIR CONTENTION AS TO WHAT THE ISSUES ARE. THE
6 EVIDENCE IN THIS CASE WILL BE PRESENTED TO YOU BY THE
7 TESTIMONY OF SWORN WITNESSES FROM THE WITNESS STAND AND
8 BY SUCH EXHIBITS AS MAY BE OFFERED INTO EVIDENCE. IN
9 CONSIDERATION OF THIS EVIDENCE, YOU SHOULD REMEMBER THAT
10 UNDER THE CONSTITUTION AND THE LAW OF THE STATE OF SOUTH
11 CAROLINA, YOU TWELVE JURORS ALONE ARE THE JUDGES OF THE
12 FACTS.

13 MY DUTY IS TO RULE UPON ADMISSIBILITY OF THE
14 TESTIMONY AND THE EVIDENCE. ONCE I HAVE RULED THE
15 TESTIMONY OR THE EVIDENCE IS ADMISSIBLE, IT IS FOR YOU,
16 THE JURY, TO DECIDE WHAT WEIGHT OR PROBATIVE VALUE TO
17 GIVE TO THIS TESTIMONY -- EVIDENCE. I AM NOT PERMITTED
18 TO COMMENT UPON THE FACTS OR TO INDICATE IN ANY MANNER
19 HOW I MAY FEEL ABOUT THE GUILT OR INNOCENCE OF THE
20 DEFENDANT AND I WILL NOT DO SO. FOR THAT REASON ON
21 OCCASIONS, IT MAY BE NECESSARY THAT I ASK THAT YOU GO TO
22 THE JURYROOM WHILE I DISCUSS MATTERS OF LAW WITH THE
23 ATTORNEYS. AND THE REASON THAT I MUST ASK THAT YOU GO
24 TO THE JURYROOM IF THE OCCASION ARISES IS OFTEN TIME IN
25 DETERMINING WHETHER OR NOT CERTAIN TESTIMONY OR EVIDENCE

1 IS ADMISSIBLE, I MUST COMMENT UPON THE FACTS. AS I
2 HAVE STATED, IT'S IMPROPER FOR ME TO DO SO IN YOUR
3 PRESENCE. SO ON OCCASION YOU MAY BE ASKED TO GO TO THE
4 JURYROOM. YOU MUST NOT CONSIDER ANYTHING YOU MAY HAVE
5 READ OR HEARD ABOUT THIS CASE OUTSIDE THE COURTROOM
6 WHETHER BEFORE OR DURING THE TRIAL. UNTIL THIS CASE IS
7 SUBMITTED TO YOU, YOU MUST NOT DISCUSS IT WITH ANYONE.
8 NOT EVEN YOUR FELLOW JURORS OR MEMBERS OF YOUR OWN
9 FAMILY.

10 AFTER IT IS SUBMITTED TO YOU, YOU MUST DISCUSS IT
11 ONLY IN THE JURYROOM WITH YOUR FELLOW JURORS. IT IS
12 IMPORTANT THAT YOU KEEP AN OPEN MIND AND NOT DECIDE THE
13 CASE UNTIL THE ENTIRE MATTER HAS BEEN SUBMITTED TO YOU
14 UNDER MY INSTRUCTION.

15 MR. FOREMAN, IT WILL BE YOUR ADDED DUTY TO PRESIDE
16 IN THE JURYROOM, TO BE THE JURY SPOKESMAN IN THE
17 COURTROOM, AND TO WRITE THE VERDICT OF THE JURY; BUT I
18 WILL GIVE YOU FURTHER INSTRUCTIONS IN THAT REGARDS WHEN
19 I CHARGE THE LAW APPLICABLE TO THIS CASE. PLEASE
20 UNDERSTAND THIS HAS NOT BEEN A CHARGE UPON THE LAW. I
21 WILL CHARGE YOU THE LAW APPLICABLE TO THIS CASE AT THE
22 CONCLUSION OF THE TRIAL. THIS HAS BEEN MERELY AN
23 ATTEMPT ON MY PART TO BRIEFLY EXPLAIN TO YOU SOME OF THE
24 PROCEDURES THAT WE WILL FOLLOW IN THE TRIAL OF THIS CASE
25 SO THAT YOU MAY HAVE A BETTER UNDERSTANDING AS WHAT MAY

1 BE HAPPENING FROM TIME TO TIME. YOU MAY PROCEED
2 SOLICITOR.

3 SOLICITOR GIESE: MAY IT PLEASE THE COURT, YOUR
4 HONOR.

5 (WHEREUPON; OPENING
6 STATEMENTS WERE PRESENTED AT THIS TIME BY DEPUTY
7 SOLICITOR GIESE ON BEHALF OF THE STATE AND BY ASSISTANT
8 PUBLIC DEFENDER ALLEN ON BEHALF OF THE DEFENDANT.)

9 SOLICITOR GIESE: YOUR HONOR, I BELIEVE AT THIS
10 TIME, WE HAVE A MATTER THAT NEEDS TO BE TAKEN UP OUTSIDE
11 THE JURY'S PRESENCE.

12 THE COURT: LADIES AND GENTLEMEN OF THE JURY,
13 PLEASE GO TO YOUR JURYROOM AFTER WHICH I'LL TAKE UP A
14 MATTER WITH THE ATTORNEYS.

15 (JURY OUT.)

16 SOLICITOR GIESE: YOUR HONOR, AT THIS TIME, I
17 BELIEVE WE NEED TO GO INTO THE IDENTIFICATIONS, THE OUT
18 OF COURT IDENTIFICATIONS. AT THIS TIME, WE HAVE TWO
19 INVESTIGATORS THAT WE NEED TO PUT UP AND ALSO THE VICTIM
20 IN THE CASE. WE'LL START WITH THE INVESTIGATORS IF THAT'S
21 ALL RIGHT WITH YOU.

22 THE COURT: ALL RIGHT. NOW, IT'S 11:25. HOW LONG
23 ARE YOU ANTICIPATING?

24 SOLICITOR GIESE: YOUR HONOR, I DON'T KNOW HOW
25 LONG MR. ALLEN IS GOING TO CROSS-EXAMINE. I WOULD THINK

1 PROBABLY -- IT'S GOING TO TAKE AT LEAST 30 MINUTES.
2 MAYBE 45.

3 MR. ALLEN: I'D SAY HALF AN HOUR TO 45 MINUTES AS
4 WELL, YOUR HONOR.

5 SOLICITOR GIESE: AT LEAST.

6 THE COURT: ALL RIGHT. WHAT I'M THINKING ABOUT IS
7 JUST GOING AHEAD AND SENDING THE JURY TO LUNCH NOW AND
8 BRINGING THEM BACK AT 2 O'CLOCK. WOULDN'T THAT BE THE
9 BETTER WAY?

10 SOLICITOR GIESE: YES, SIR.

11 MR. ALLEN: YES, YOUR HONOR.

12 THE COURT: TELL THE JURY WHEN THEY'RE READY TO
13 PLEASE COME BACK IN.

14 (JURY IN.)

15 THE COURT: LET ME EXPLAIN TO YOU WHY I NEED THE
16 TWO ALTERNATES TO SIT ON THE BACK ROW. IN ANOTHER
17 COUNTY AND ANOTHER JUDGE -- AND IT COULD HAVE HAPPENED
18 TO ME, WHEN THE CASE WENT TO THE JURY, HE EXCUSED ONE OF
19 THE REGULAR JURORS AND KEPT ONE OF THE ALTERNATES WHICH
20 WAS AN IMPROPER PROCEDURE. SO WE ALWAYS PUT THE TWO
21 ALTERNATES AT A PARTICULAR PLACE. AND THAT'S THE REASON
22 FOR THAT.

23 NOW, LADIES AND GENTLEMEN, I HAVE TALKED TO THE
24 ATTORNEYS AND IT APPEARS IT WOULD PROBABLY BE AN HOUR
25 BEFORE I COULD GO INTO THE TESTIMONY AND AS I TOLD YOU

1 THIS MORNING, I'LL TRY TO KEEP YOU WAITING JUST AS
2 LITTLE AS I CAN. SO I'M GOING TO GIVE YOU SOME EXTRA
3 TIME AT LUNCH. WE WILL NOT HAVE EXTRA TIME, BUT Y'ALL
4 WILL. AND I'M GOING TO EXCUSE YOU UNTIL 2 O'CLOCK
5 TODAY. AND WHEN YOU COME BACK AT TWO, I'D ASK THAT YOU
6 PLEASE GO STRAIGHT TO THE JURYROOM. MY REASON FOR THAT
7 IS TWOFOLD. FIRST, I NEED TO KNOW WHEN ALL FOURTEEN OF
8 YOU ARE BACK SO THAT I CAN RESUME THE TRIAL. THE OTHER
9 REASON THAT I ASK THAT YOU GO STRAIGHT TO THE JURYROOM,
10 IF YOU HAPPEN TO BE OUT IN THE COURTROOM OR IN THE HALL,
11 SOMEONE NOT REALIZING YOU'RE SITTING AS A JUROR ON THIS
12 PARTICULAR CASE MIGHT MAKE A COMMENT ABOUT IT. IF YOU
13 WOULD OVERHEAR IT, THAT COULD BE THE POSSIBLE GROUNDS
14 FOR A MISTRIAL. SO YOU'RE EXCUSED UNTIL 2 O'CLOCK
15 TODAY. PLEASE BE BACK IN THE JURYROOM AT 2:00 P.M.
16 EVERYONE ELSE REMAIN SEATED.

17 (JURY OUT.)

18 THE COURT: ALL RIGHT. SOLICITOR, YOU MAY
19 PROCEED.

20 SOLICITOR GIESE: YOUR HONOR, AT THIS TIME, THE
21 STATE CALLS INVESTIGATOR TOM WICKER.

22 (INVESTIGATOR TOM WICKER,
23 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:)

24 DIRECT EXAMINATION BY DEPUTY SOLICITOR GIESE:

25 Q INVESTIGATOR WICKER, DID YOU HAVE AN OCCASION TO

1 CONDUCT A PHOTO LINE-UP IN THIS CASE?

2 A YES, SIR, I DID.

3 Q AND WHAT DAY WAS THAT?

4 A IT WAS ON JULY 24TH.

5 Q 1985?

6 A YES, SIR.

7 Q AND WHERE DID THAT TAKE PLACE?

8 A OFF OF BLUFF ROAD AT THE OFFICES OF EDENS TRUCKING.

9 Q DO YOU KNOW WHAT TIME OF THE DAY THAT WAS?

10 A IT WAS IN THE MORNING AROUND ELEVEN. I'M NOT
11 SURE.

12 Q SO THIS WOULD HAVE BEEN THE DAY AFTER THE INCIDENT?

13 A THAT IS CORRECT.

14 Q AND APPROXIMATELY HOW LONG AFTER THE CRIME WOULD
15 THAT HAVE BEEN? HOUR WISE?

16 A OH, 15 -- 18 HOURS.

17 Q NOW, DID YOU HAVE ANYONE SPECIFIC IN THE LINE-
18 UP THAT YOU WERE LOOKING AT AT THAT TIME?

19 A YES, SIR.

20 Q WHO WAS THAT?

21 A AMAKER WAS THE LAST NAME. I BELIEVE THE FIRST
22 NAME IS LEROY.

23 Q OKAY. AND THAT WAS NOT THE DEFENDANT IN THIS
24 CASE?

25 A THAT IS CORRECT.

1 Q AND NOW, YOU SAID THAT YOU PRESENTED A LINE-
2 UP TO -- WHAT WAS IT? MR. EDENS? JAY EDENS?

3 A TO JAY EDENS, THAT'S CORRECT.

4 Q HOW MANY PEOPLE WERE IN THE LINEUP?

5 A SIX.

6 Q IT WAS A PHOTO LINEUP?

7 A CORRECT.

8 Q NOW, WHY DID YOU PUT LEROY AMAKER'S NAME --
9 PICTURE IN THAT LINEUP?

10 A HIS NAME HAD BEEN PROVIDED TO OUR DEPARTMENT AS
11 POSSIBLE SUSPECT IN THE ABDUCTION OF JAY EDENS.

12 Q NOW, WHAT PHYSICAL DESCRIPTION WERE YOU LOOKING
13 FOR AT THAT TIME?

14 A HE WAS APPROXIMATELY SIX FOOT TALL. I BELIEVE 180
15 POUNDS, A BLACK MALE. I DON'T REMEMBER ANYTHING ELSE
16 UNUSUAL.

17 Q WERE ALL THE SIX DEFENDANTS' PICTURES IN THE
18 LINEUP, WERE THEY ABOUT THE SAME?

19 A THEY WERE ALL BLACK MALES. I WOULDN'T SIT HERE
20 AND TELL YOU THEY WERE ALL APPROXIMATELY THE SAME
21 HEIGHT. IT'S JUST A PHOTO OF THE HEAD, THE FACE AREA.

22 Q DO YOU HAVE THAT PHOTO LINEUP WITH YOU TODAY?

23 A YES, SIR.

24 Q OKAY. HAVE YOU KEPT IT IN YOUR POSSESSION SINCE
25 THEN?

1 A IT'S BEEN IN THE POSSESSION OF THE RICHLAND COUNTY
2 SHERIFF'S DEPARTMENT.

3 Q OKAY. AND IS IT IN SUBSTANTIALLY THE SAME
4 CONDITION AS IT WAS THAT DAY?

5 A YES, SIR.

6 Q MAY I SEE IT, PLEASE?

7 A YES, SIR.

8 (WHEREUPON, THE LINEUP IS
9 HANDED TO THE SOLICITOR AT THIS TIME.)

10 THE SOLICITOR: YOUR HONOR, WE WOULD LIKE TO MARK
11 THIS FOR IDENTIFICATION ONLY AT THIS TIME.

12 (WHEREUPON, STATE'S EXHIBIT
13 NUMBER ONE, PHOTO LINEUP, MARKED FOR IDENTIFICATION ONLY
14 AT THIS TIME.)

15 THE SOLICITOR: INVESTIGATOR WICKER, I HAND YOU
16 BACK STATE'S -- MARKED STATE'S EXHIBIT NUMBER ONE FOR
17 IDENTIFICATION. IS MR. BELL'S PICTURE IN THAT?

18 A NO, SIR.

19 Q WHY NOT?

20 A WELL, LIKE I SAID MR. AMAKER WAS THE SUSPECT THAT
21 THE LINEUP WAS BEING PREPARED FOR. THE OTHER FIVE WERE
22 JUST PICTURES THAT WOULD HAVE SIMILAR CHARACTERISTICS AS
23 MR. AMAKER'S. MR. BELL'S PICTURE COULD HAVE BEEN IN
24 THERE BY CHANCE. IT JUST WAS NOT.

25 Q AND DID YOU TELL THE VICTIM ANYTHING BEFORE HE VIEWED

1 THE LINEUP?

2 A NO, SIR.

3 Q WOULD YOU TELL THE COURT EXACTLY WHAT HAPPENED IN
4 THE LINEUP?

5 A WHEN I SAY I TOLD HIM NOTHING, I TOLD HIM NOTHING
6 ABOUT WHO WAS IN THERE OR THERE WAS A DEFINITE SUSPECT.
7 I JUST WANTED HIM TO LOOK AT SOME PHOTOGRAPHS. WE
8 TALKED BEFORE HE OBSERVED THE LINEUP.

9 Q DID YOU TRY TO INFLUENCE THE VICTIM IN ANY WAY IN
10 THIS CASE?

11 A NO, SIR.

12 Q OKAY. WHAT DID THE VICTIM DO WHEN HE LOOKED AT
13 THE SIX PHOTOGRAPHS?

14 A HE LOOKED THEM OVER CLOSELY. HE STATED THAT
15 NUMBER SIX WOULD BE THE CLOSEST TO IT IF YOU COULD
16 CHANGE AROUND -- I BELIEVE IT WAS THE NOSE AND THE HAIR
17 AND SOMETHING ABOUT THE LIPS. SIX WAS THE -- TO GIVE ME
18 AN IDEA OF WHAT THE PERSON LOOKED LIKE, HE WAS USING SIX
19 AS A DESCRIPTION.

20 Q BUT HE DID NOT IDENTIFY NUMBER SIX?

21 A NO; SIR.

22 Q DID HE IDENTIFY ANYONE IN THE LINEUP?

23 A NO, SIR. MR. AMAKER WAS NUMBER FOUR.

24 Q AND HE DID NOT IDENTIFY ANYONE IN THERE?

25 A THAT'S CORRECT.

1 Q THAT'S ALL I HAVE OF THIS WITNESS, YOUR HONOR.

2 CROSS-EXAMINATION BY MR. ALLEN:

3 Q INVESTIGATOR WICKER, WHICH NUMBER OF THE PROSECUTION
4 EXHIBIT -- WHICH NUMBER IS MR. LEROY AMAKER?

5 A MR. AMAKER IS NUMBER FOUR.

6 Q NUMBER FOUR. OKAY. NOW, WHAT SPECIFICALLY DID
7 MR. EDENS SAY ABOUT CHANGING AROUND NUMBER SIX? HIS
8 HAIR, NOSE, LIPS IF YOU CAN RECALL.

9 A I JUST REMEMBER IT WAS ABOUT THOSE QUALITIES. HE
10 WAS USING NUMBER SIX TO -- AS CLOSE AS I COULD GIVE YOU
11 AS AN IDEA OF HOW HE COMPARED IT IS AS A COMPOSITE.
12 INSTEAD OF DRAWING OUT A COMPOSITE, HE SAID NUMBER SIX
13 WOULD BE THE PERSON IF HIS HAIR, NOSE, LIPS, AND ALL
14 WERE DIFFERENT. HE WAS TRYING TO CHANGE THE PICTURE
15 FOR ME OF NUMBER SIX.

16 Q DID YOU TAKE ANY NOTES OR DID HE SAY HOW SPECIFICALLY
17 TO CHANGE THE NOSE AND THE HAIR?

18 A I -- NO, SIR. I DON'T BELIEVE SO. IF THERE HAD
19 BEEN ANY NOTES, THEY WOULD HAVE BEEN ON THE BACK OF THE
20 PHOTO LINE FORM.

21 Q WHICH WOULD BE---

22 A I HAVE NONE. I JUST HAVE IN MY NOTES THAT EDENS
23 TENTATIVELY I.D. NUMBER SIX WITH CORRECTIONS.

24 Q THESE CORRECTIONS WOULD BE IMPORTANT IN TRYING TO
25 FIND THIS INDIVIDUAL, RIGHT? THE INDIVIDUAL WHO ALLEGEDLY

1 KIDNAPPED MR. EDENS?

2 A THEY'RE IMPORTANT IN SAYING THAT THE CHANGES OF
3 NUMBER SIX WHICH GIVES YOU A PERSON OF A NARROWER NOSE,
4 SHORTER HAIRCUT, THINGS LIKE THIS. THIS WOULD BE --
5 YOU KNOW THE DIFFERENCES IN THAT. IT'S STILL -- IT'S
6 NOT SOMETHING THAT I COULD USE TO PASS ALONG TO OTHER
7 INVESTIGATORS TO SAY THIS IS THE MAN WITHOUT ME TELLING
8 THEM ABOUT WHAT I HAD IN MIND. WE COULD NOT USE IT FOR
9 WHAT WE USE AS A -- WHICH IS CALLED A BOLO FORM WHERE WE
10 PUT A COMPOSITE UP OR A PICTURE OF SOMEONE UP AND SAY
11 I'M LOOKING FOR THIS MAN OR SOMEONE LIKE HIM. I COULD
12 NOT USE IT IN THAT ASPECT.

13 Q AND THAT WAS NOT DONE IN THIS CASE?

14 A NO, SIR.

15 Q A COMPOSITE. OKAY. IN THE DESCRIPTION OF THE
16 PERPETRATOR GIVEN TO THE POLICE OR THE RICHLAND COUNTY
17 SHERIFF'S DEPARTMENT, WASN'T THE DESCRIPTION ALSO THAT
18 IN ADDITION TO THE HEIGHT, WEIGHT, AND THE FACT HE WAS A
19 BLACK MALE, ISN'T IT ALSO THAT HE HAD CLOSE-CUT HAIR?

20 A I CAN GO BACK TO THE REPORT. I DON'T DOUBT IT.
21 YES, SIR.

22 Q IT IS. ALSO HE HAD A DARK COMPLEXION?

23 A THAT IS NOT IN THE BASIS OF THE REPORT. I DO NOT
24 SEE IT IN THE INVESTIGATOR'S NOTES THAT FIRST TALKED
25 WITH MR. EDENS.

1 Q OKAY. MAY I SEE PROSECUTION EXHIBIT NUMBER ONE
2 FOR IDENTIFICATION, PLEASE?

3 A (WITNESS COMPLIES.)

4 Q NOTHING IN YOUR REPORT INDICATING THAT THE
5 PERPETRATOR HAD A MUSTACHE, IS IT?

6 A NO, SIR.

7 Q THAT PART OF THE DESCRIPTION WAS NEVER GIVEN?

8 A NOT THAT I REMEMBER, NO, SIR.

9 Q AND, OF COURSE, IT'S OBVIOUS THAT ON PROSECUTION'S
10 EXHIBIT NUMBER ONE FOR IDENTIFICATION, ALL SIX PICTURES
11 WERE OF INDIVIDUALS WHO HAVE MUSTACHES, IS THAT CORRECT?

12 A YES, SIR.

13 Q THANK YOU. ONE MOMENT PLEASE, YOUR HONOR.
14 NO FURTHER QUESTIONS FOR THIS WITNESS, YOUR HONOR.
15 THANK YOU.

16 THE SOLICITOR: THAT'S ALL.

17 (WHEREUPON, THE WITNESS WAS
18 EXCUSED AT THIS TIME.)

19 SOLICITOR GIESE: THE STATE WOULD CALL INVESTIGATOR
20 BROWN.

21 (INVESTIGATOR WILLIAM H.
22 BROWN, FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:)

23 DIRECT EXAMINATION BY DEPUTY SOLICITOR GIESE:

24 Q INVESTIGATOR BROWN, YOU ALSO INVESTIGATED THIS
25 CASE DID YOU NOT?

1 A YES, SIR, I DID ASSIST.

2 Q OKAY. WHEN YOU SAY YOU ASSISTED, HOW DID THAT
3 WORK?

4 A THE INITIAL INVESTIGATIVE WORK WAS ON THE DAY SHIFT
5 WHICH ENDS AT 4 O'CLOCK AND I WOULD HAVE WORKED FROM
6 FROM FOUR TO TWELVE ON THIS PARTICULAR EVENING ON JULY
7 23RD WHEN THE OFFENSE TOOK PLACE. MY UNDERSTANDING IS
8 THAT INVESTIGATOR WICKER HANDLED THE CASE UP UNTIL 4
9 O'CLOCK OR SHORTLY THEREAFTER. AFTER THAT, I WAS TO
10 HANDLE ANY ACTIVE LEADS THAT CAME INTO OUR DEPARTMENT.

11 Q YOU KIND OF ALTERNATED, IS THAT RIGHT?

12 A YES, SIR.

13 Q DEPENDING UPON THE HOURS YOU WORKED?

14 A YES, SIR. ON A CASE LIKE THIS, YES, SIR.

15 Q ALL RIGHT, SIR. DID YOU HAVE AN OCCASION TO
16 CONDUCT A PHOTO LINEUP IN THIS CASE?

17 A YES, SIR, I DID.

18 Q AND WHEN DID THAT TAKE PLACE?

19 A IT TOOK PLACE ON THE 24TH OF JULY, 1985.

20 Q ABOUT WHAT TIME?

21 A I CAN TELL YOU EXACTLY WHAT TIME IT WAS. IT WAS
22 IN THE EVENING HOURS APPROXIMATELY 9 O'CLOCK.

23 Q SO IS THIS THE SAME DAY THAT THE OTHER LINEUP WAS
24 SHOWN?

25 A YES, SIR. IT WAS THE SAME EVENING. THE OTHER

1 LINEUP WAS SHOWN IN THE A.M. THIS LINEUP WAS SHOWN AT
2 EXACTLY 9 O'CLOCK ON JULY 24TH IN THE P.M.

3 Q SO APPROXIMATELY HOW LONG AFTER THE INCIDENT DID
4 THIS LINEUP TAKE PLACE?

5 A THIRTY-SIX HOURS. SOMEWHERE ALONG THERE.

6 Q NOW, WHERE DID THE PHOTO LINEUP TAKE PLACE?

7 A IT TOOK PLACE AT THE RICHLAND COUNTY SHERIFF'S
8 OFFICE ON HUGER STREET.

9 Q OKAY. WHO WAS THERE AT THAT TIME?

10 A MYSELF, GARY WATTS, AND THE VICTIM, JAY EDENS.

11 Q WHO -- OR DID YOU HAVE A SUSPECT AT THAT TIME?

12 A YES, SIR, I DID.

13 Q WHO WAS THAT?

14 A HIS NAME WAS HERBERT BELL, JR. -- HERBERT LEE BELL,
15 JR.

16 Q OKAY. HOW DID YOU GET THIS PERSON'S NAME AS A
17 SUSPECT?

18 A I WAS INFORMED BY AN INDIVIDUAL GARY WATTS, THAT
19 THIS WAS A SUSPECT AND THAT HE HAD BEEN IDENTIFIED BY
20 THE VICTIM APPROXIMATELY AN HOUR OR TWO EARLIER ON
21 WINTER PARK DRIVE. AT THAT POINT, I WENT TO THE
22 SHERIFF'S OFFICE. RECEIVING THAT INFORMATION, PUT
23 TOGETHER A PHOTOGRAPHIC LINEUP. CALLED MR. EDENS IN.
24 MR. EDENS CAME IN AND POSITIVELY IDENTIFIED MR. HERBERT
25 LEE BELL AS BEING THIS PERSON WHO DID KIDNAP HIM ON THE

1 23RD.

2 Q OKAY. INVESTIGATOR BROWN, LET ME GO BACK. HOW
3 MANY PHOTOGRAPHS WERE THERE IN THE LINEUP?

4 A SIX, SIR.

5 Q IS THAT STANDARD FOR Y'ALL?

6 A YES, SIR.

7 Q NOW, DO YOU STILL HAVE THE PHOTOGRAPHS WITH YOU?

8 A YES, SIR, I DO.

9 Q HOW WERE THEY DISPLAYED?

10 A THEY'RE DISPLAYED BY NUMERICAL NUMBERS ONE, TWO,
11 THREE, FOUR, FIVE, AND SIX.

12 Q AND THOSE ARE THE SAME PHOTOGRAPHS YOU SHOWED JAY
13 EDENS THAT NIGHT?

14 A YES, SIR.

15 Q ARE THEY IN THE SAME ORDER?

16 A YES, SIR.

17 Q OKAY. AND HAVE Y'ALL OR HAS THE RICHLAND COUNTY
18 SHERIFF'S DEPARTMENT BEEN IN POSSESSION OF THOSE?

19 A YES, SIR, WE HAVE.

20 Q AND DID YOU BRING THEM AT MY REQUEST TODAY?

21 A YES, SIR, I DID.

22 Q AND IS THAT LINEUP IN SUBSTANTIALLY THE SAME
23 CONDITION AS IT WAS THE DAY YOU SHOWED IT?

24 A YES, SIR.

25 Q ALL RIGHT. YOUR HONOR, I WOULD LIKE TO MARK THIS

1 FOR IDENTIFICATION ONLY AT THIS TIME ALSO.

2 (WHEREUPON, STATE'S EXHIBIT
3 NUMBER TWO, PHOTO LINEUP, MARKED FOR IDENTIFICATION ONLY
4 AT THIS TIME.)

5 THE SOLICITOR: ALL RIGHT. INVESTIGATOR BROWN, I
6 HAND YOU STATE'S EXHIBIT MARKED FOR IDENTIFICATION ONLY
7 NUMBER TWO BACK TO YOU.

8 A YES, SIR.

9 Q YOU SAY THIS IS THE LINEUP THAT YOU SHOWED JAY
10 EDENS?

11 A YES, SIR, IT IS.

12 Q OKAY. BEFORE YOU SHOWED MR. EDENS THIS LINEUP,
13 WHAT DID YOU SAY TO HIM IF ANYTHING?

14 A CALLED MR EDENS IN. I SAT HIM DOWN IN THE OFFICE.
15 I TOLD HIM THAT I WAS ABOUT TO SHOW HIM A PHOTOGRAPHIC
16 LINEUP WHICH WOULD HAVE SIX PICTURES IN IT. I TOLD HIM
17 THAT ONCE I PRESENTED IT TO HIM THAT I COULD NOT SAY
18 ANYTHING REGARDING TO IT. I INDICATED TO HIM THAT I
19 WANTED HIM TO LOOK AT THIS LINEUP AND TELL ME IF THE GUY
20 WHO HAD KIDNAPPED HIM ON THE 23RD WAS IN THERE AND IF
21 SO, TO TELL ME.

22 Q IS THAT ALL YOU TOLD HIM AT THAT TIME?

23 A THAT IS IT.

24 Q WHAT DID YOU DO AFTER YOU TOLD HIM THAT?

25 A I PRESENTED THE LINEUP TO HIM.

1 Q NOW, ARE ALL THE PEOPLE IN THAT PHOTOGRAPHIC
2 LINEUP, ARE THEY OF SIMILAR PHYSICAL APPEARANCE?

3 A YES, SIR.

4 Q OKAY. WHAT APPEARANCE IS THAT?

5 A THAT IS -- HAS THE HAIR IN BASICALLY THE SAME
6 FASHION. THE NOSES ARE VERY SIMILAR. THE LIPS ARE VERY
7 SIMILIAR. THEY ALL APPEARED TO BE APPROXIMATELY THE
8 SAME AGE FRAME.

9 Q HAD YOU SHOWN THE VICTIM, MR. EDENS, A PHOTOGRAPH
10 OF MR. BELL BEFORE YOU SHOWED HIM THIS LINEUP?

11 A NO, SIR.

12 Q AND TO YOUR KNOWLEDGE IS THAT THE FIRST PICTURE HE
13 HAD EVER SEEN OF HERBERT BELL?

14 A YES, SIR, TO MY KNOWLEDGE.

15 Q OKAY. DID YOU INFLUENCE HIM IN ANY WAY---

16 A NO, SIR.

17 Q ---AS TO PICKING OUT ANYBODY?

18 A NO, SIR.

19 Q APPROXIMATELY HOW LONG DID IT TAKE FOR HIM TO PICK
20 OUT MR. BELL? WHICH ONE IS MR. BELL IN THERE BY THE
21 WAY?

22 A MR. BELL WAS NUMBER FIVE. IT TOOK MR. EDENS A
23 VERY SHORT PERIOD OF TIME. I WOULD SAY PROBABLY BETWEEN
24 15 TO 30 SECONDS AT THE MAXIMUM.

25 Q AND HE PICKED OUT NUMBER FIVE?

1 A YES, SIR, HE DID.

2 Q DID HE SAY ANYTHING WHEN HE PICKED OUT NUMBER
3 FIVE?

4 A HE SAID THAT'S HIM. HE SAID NO DOUBT ABOUT IT.
5 THAT'S HIM.

6 Q HE SAID NO DOUBT ABOUT IT. THAT'S---

7 A THAT'S HIM.

8 Q DID -- IS IT STANDARD PROCEDURE FOR -- AT THE
9 RICHLAND COUNTY SHERIFF'S DEPARTMENT FOR A VICTIM TO
10 FILL OUT A FORM?

11 A YES, SIR, IT IS.

12 Q WHEN THEY PICK SOMEONE OUT?

13 A YES, SIR.

14 Q AND DID HE, IN FACT, IN THIS CASE PICK(SIC) OUT A
15 FORM?

16 A YES, SIR, HE DID.

17 Q I MEAN FILL OUT A FORM?

18 A YES, SIR, HE DID.

19 Q DID HE IN THE OTHER CASE? IN THE OTHER PHOTO
20 LINEUP?

21 A NO; SIR, HE DID NOT.

22 Q SO ANYTIME SOMEONE IS PICKED OUT OF A PHOTO
23 LINEUP, THEY HAVE TO FILL OUT ONE OF THESE FORMS?

24 A YES, SIR.

25 Q DOES HE SIGN THE FORM?

1 A YES, SIR.

2 Q AND DID HE, IN FACT, SIGN THE FORM ON THIS CASE?

3 A YES, SIR, HE DID.

4 Q AND WHAT NUMBER DID HE PICK AGAIN?

5 A NUMBER FIVE.

6 Q AND IS THAT MR. BELL'S PICTURE?

7 A YES, SIR, IT IS.

8 Q THAT'S ALL I HAVE, SIR.

9 CROSS-EXAMINATION BY MR. ALLEN:

10 Q INVESTIGATOR BROWN---

11 A YES, SIR.

12 Q YOU WERE AWARE WHEN YOU SHOWED HIM THAT PHOTO
13 ARRAY THAT HE HAD AROUND SEVEN OR 7:30 THAT SAME EVENING
14 PICKED OUT OR SEEN AN INDIVIDUAL IDENTIFIED AS MR. BELL
15 AT MR. BELL'S RESIDENCE, IS THAT NOT TRUE?

16 A THAT'S TRUE.

17 Q AND YOU WERE -- AND THAT'S HOW MR. BELL BECAME A
18 SUSPECT OR ONE OF THE REASONS HE BECAME A SUSPECT IN
19 THIS CASE, CORRECT?

20 A YES, SIR.

21 Q AND HE WAS AT THE RESIDENCE TO YOUR INFORMATION
22 APPROXIMATELY WHAT -- AN HOUR AND A HALF, TWO HOURS
23 BEFORE YOU SHOWED HIM THOSE PICTURES?

24 A APPROXIMATELY, YES, SIR.

25 Q APPROXIMATELY. NOW, DID HE TELL YOU THE NAME OF

1 THE INDIVIDUAL HE SAW AT THE RESIDENCE?

2 A YES, SIR.

3 Q AND WHAT DID HE SAY ABOUT SEEING THIS INDIVIDUAL
4 AT THE RESIDENCE?

5 A HE INDICATED THAT THAT WAS THE PERSON WHO KIDNAPPED
6 HIM ON THE 23RD.

7 Q WHAT -- WHAT ELSE DID MR. JAY EDENS TELL YOU ABOUT
8 GOING OUT THERE THAT DAY OR THAT NIGHT?

9 A INDICATED THAT HE WENT OUT THERE WITH MR. WATTS TO
10 LOOK AROUND THE NEIGHBORHOOD. THEY CAME UP TO THIS
11 HOUSE. I BELIEVE IT WAS MR. WATTS WHO INFORMED ANOTHER
12 MEMBER OF THE HOUSEHOLD TO ASK MR. BELL TO COME OUT.
13 MR. BELL CAME OUT. MR. JAY EDENS IN THE BACKSEAT OF THE
14 AUTOMOBILE INDICATED THAT THAT WAS THE MAN. AND THEY
15 TALKED BRIEFLY AND LEFT. AND THAT'S WHEN THEY CALLED
16 THE SHERIFF'S DEPARTMENT.

17 Q OKAY. WHAT WAS MR. EDENS' CONDITION LIKE WHEN YOU
18 FIRST STARTED TALKING TO HIM? HE WAS UPSET?

19 A HE WAS VERY UPSET.

20 Q VERY UPSET. HE WAS STILL IN THAT CONDITION WHEN
21 YOU SHOWED HIM THE PHOTOGRAPHIC ARRAY?

22 A YOU COULD TELL THAT IT WAS BOTHERING HIM. YES,
23 SIR. I MEAN HE WASN'T UPSET TO THE POINT THAT WHERE HE
24 NEEDED MEDICAL ATTENTION OR ANYTHING OF THAT NATURE, BUT
25 HE WAS VERY MUCH CONCERNED.

1 Q NOW, HOW OLD IS THAT PARTICULAR PICTURE DO YOU
2 KNOW? OF MR. BELL, NUMBER FIVE, IN PROSECUTION EXHIBIT
3 NUMBER TWO?

4 A I DON'T KNOW EXACTLY HOW OLD IT IS. I WOULD SAY
5 THAT IT WOULD BE AN '84 OR AN '85 PICTURE.

6 Q '80---

7 A ---AN '84 OR AN '85 PICTURE. I CAN'T SAY EXACTLY
8 HOW OLD IT IS.

9 Q NOW, THE DESCRIPTION THAT YOU HAD BEEN GIVEN ABOUT
10 THIS INDIVIDUAL WHO ALLEGEDLY KIDNAPPED MR. EDENS --
11 WELL, FIRST OF ALL, YOU TALKED TO JAY EDENS ABOUT WHAT
12 HAD HAPPENED ON THE 23RD, IS THAT CORRECT?

13 A YES, SIR, I DID. THAT EVENING.

14 Q HE DESCRIBED TO YOU AN INDIVIDUAL WHO IN ADDITION
15 TO THE HEIGHT AND WEIGHT, DESCRIBED A DARK COMPLEXION
16 DARK MAN?

17 A ABOUT SIX. TO 6'2", SLIM BUILD, DARK COMPLEXION.

18 Q OKAY. DID HE INDICATE ANYTHING TO YOU ABOUT THE
19 HAIRCUT? SHORT HAIRCUT OR A CLOSELY CUT HAIRCUT?

20 A NO, SIR.

21 Q DID HE INDICATE ANYTHING TO YOU ABOUT HAVING A
22 MUSTACHE?

23 A NO INDICATION OF A MUSTACHE.

24 Q WELL, HE -- HE GAVE A DETAILED DESCRIPTION OF WHAT
25 THIS INDIVIDUAL WAS WEARING, IS THAT CORRECT?

1 A YES, SIR.

2 Q HE EVEN DESCRIBED A WATCH THE INDIVIDUAL WAS
3 WEARING, IS THAT CORRECT?

4 A YES, SIR.

5 Q HE DIDN'T DESCRIBE TO YOU ANY MUSTACHE OR ANY
6 SCARS ON HIS FACE?

7 A NO, SIR.

8 Q NOW, ALL THE SIX PICTURES IN THE PHOTOGRAPHIC
9 ARRAY YOU SHOWED MR. EDENS, PROSECUTION EXHIBIT TWO FOR
10 IDENTIFICATION, THEY ALL PORTRAY BLACK MEN WHO HAVE A
11 MUSTACHE TO SOME DEGREE, IS THAT CORRECT?

12 A A LIGHT MUSTACHE, YES, SIR.

13 Q EVERYONE OF THEM HAS A LIGHT MUSTACHE?

14 A YES, SIR.

15 Q OKAY. MAY I SEE PROSECUTION EXHIBIT NUMBER TWO.
16 AND ISN'T IT TRUE THAT NOT ALL PICTURES PORTRAY AN
17 INDIVIDUAL WHO HAS THE SAME COMPLEXIONS. THERE ARE SOME
18 PICTURES WHO HAVE DARKER COMPLEXIONS THAN OTHERS, IS
19 THAT CORRECT?

20 A YOU CAN DO MOST ANYTHING WITH THE CAMERA. YOU CAN
21 MAKE THEM LIGHT OR YOU CAN MAKE THEM DARK.

22 Q BUT I'M TALKING ABOUT THE PARTICULAR PICTURES YOU
23 SHOWED MR. EDENS ON THE 24TH OF JULY, 1985. PROSECUTION
24 EXHIBIT NUMBER TWO CONTAINS SIX PICTURES OF BLACK
25 INDIVIDUALS, BUT THEY ARE NOT ALL THE SAME GENERAL COMPLEXION

1 AS IT APPEARS ON THESE PICTURES, CORRECT?

2 A I WOULDN'T HAVE ANY REAL PROBLEM WITH THEM MYSELF
3 TO BE HONEST WITH YOU. YOU'VE GOT SOME THAT ARE GOING
4 TO BE A LITTLE LIGHTER AND A LITTLE DARKER THAN OTHERS,
5 BUT THAT'S -- THERE'S NO BIG MAJOR DISCREPANCY IN THERE.
6 PERSONALLY, MYSELF, I THINK IT'S A GOOD LINEUP.

7 Q ONE MOMENT PLEASE, YOUR HONOR. NO FURTHER
8 QUESTIONS OF THIS WITNESS.

9 THE SOLICITOR: THAT'S ALL I HAVE OF THIS WITNESS.
10 (WHEREUPON, THE WITNESS WAS
11 EXCUSED AT THIS TIME.)

12 SOLICITOR GIESE: AT THIS TIME, THE STATE CALLS
13 GARY WATTS.

14 (GARY WATTS, FIRST BEING
15 DULY SWORN, TESTIFIED AS FOLLOWS:)

16 DIRECT EXAMINATION BY DEPUTY SOLICITOR GIESE:

17 Q MR. WATTS, WHAT IS YOUR INVOLVEMENT IN THIS CASE?

18 A I -- AT THE TIME THIS INCIDENT HAPPENED, I WAS
19 WORKING WITH THE VICTIM'S FATHER AND FAMILY FRIENDS FOR
20 A LONG PERIOD OF TIME I GUESS AND---

21 Q SO WHEN DID YOU FIRST GET INVOLVED WITH THE CASE?

22 A THE VICTIM CALLED ME IMMEDIATELY AFTER HE ESCAPED.

23 Q THAT WAS ON THE 23RD?

24 A YES, SIR.

25 Q THE DAY OF THE INCIDENT?

1 A THE DAY OF THE INCIDENT. THAT'S CORRECT.

2 Q NOW, MR. ALLEN EARLIER TALKED ABOUT SOME KIND OF
3 IDENTIFICATION THAT JAY EDENS MADE ON THE 24TH, THE DAY
4 AFTER THE INCIDENT. WILL YOU TELL THE JUDGE EXACTLY
5 WHAT TOOK PLACE AT THAT IDENTIFICATION PROCEDURE?

6 A IS THIS THE---

7 Q AT THE HOUSE.

8 A AT THE HOUSE.

9 Q WHEN HE FIRST SAW HERBERT BELL.

10 A OKAY. WE HAD -- I SAY WE. MYSELF, JAY, JAMES
11 CHAPMAN, AND ANOTHER WITNESS HAD BEEN -- WERE RIDING THE
12 AREA OF BLUFF ESTATES AND BLUFF ROAD---

13 Q AND WHY WERE YOU DOING THAT?

14 A THIS IS THE AREA THAT THE SUSPECT HAD JUMPED OUT
15 OF THE VEHICLE AND LEFT. THEY HAD DRIVEN TO THE SAME
16 BASIC AREA THAT THEY HAD LEFT THE PICKUP TRUCK THE DAY
17 OF THE INCIDENT. SO WE WERE DRIVING THE AREA JUST
18 LOOKING IN THE AREA TO SEE IF THE SAME SUSPECT POSSIBLY
19 WAS WALKING AROUND. THE PREVIOUS DAY I HAD SEEN A
20 SUSPECT THAT HAD MATCHED THE DESCRIPTION THAT JAY AND
21 THE LADY FROM THE LITTLE STORE HAD GIVEN ME. AND SO WE
22 WERE IN THE AREA JUST BASICALLY LOOKING TO SEE IF ANYONE
23 AROUND THAT JAY COULD IDENTIFY.

24 Q NOW, YOU SAY YOU'RE IN THE AREA DRIVING AROUND.
25 APPROXIMATELY HOW MANY PEOPLE DID YOU SEE AS YOU WERE

1 DRIVING AROUND? AND TELL THE JUDGE EXACTLY WHERE YOU
2 WENT AND WHO YOU SAW?

3 A WE WENT TO THE -- I BELIEVE IT'S CALLED THE 4 & 1
4 CLUB, AND -- SEVERAL OF THE NIGHTCLUBS. I DON'T
5 REMEMBER ALL THE NAMES EXACTLY -- RIGHT AT BLUFF ESTATES
6 AND BLUFF ROAD AND SAW APPROXIMATELY I'D SAY 50 TO 75
7 BLACK MALES.

8 Q AND WITH THESE 50 TO 75 BLACK MALES, DID JAY EDENS
9 EVER IDENTIFY EITHER ONE OF THEM AS THE PERSON THAT HAD
10 KIDNAPPED HIM?

11 A HERBERT BELL. THIS WAS THE LAST -- OF COURSE, HE
12 IDENTIFIED HIM AS THE ONE THAT HAD KIDNAPPED HIM.

13 Q HE DIDN'T IDENTIFY HIM AT THE CLUBS, DID HE?

14 A NO, SIR.

15 Q OKAY. SO AFTER YOU FINISHED WITH THE CLUBS AND
16 LOOKING AT THESE 50 TO 75 PEOPLE, WHAT DID YOU DO?

17 A WE WERE STILL RIDING THE AREA. THIS AREA OFF OF
18 BLUFF ROAD, THERE ARE A LOT OF PEOPLE -- A LOT OF FOOT
19 TRAFFIC, INDIVIDUALS WALKING AROUND BLUFF ESTATES AND
20 THE -- AS WE WERE RIDING, I RECOGNIZED THE GIRL THAT WAS
21 WITH THIS SAME FELLOW THAT I HAD SEEN THE DAY BEFORE.

22 Q THIS WAS THE ONE THAT HAD BEEN WALKING IN THE AREA
23 THE DAY BEFORE?

24 A THAT'S CORRECT.

25 Q OKAY.

1 A AND I ASKED HER AT THAT TIME WHERE HER BOYFRIEND
2 WAS. SHE SAID HE'S IN THE HOUSE. I SAID, WELL, YOU
3 KNOW, ASK HIM TO COME OUT. SHE DID AND WHEN HE --
4 AS SOON AS HE STEPPED OUT THE FRONT DOOR, THAT'S WHEN
5 JAY SCREAMED OUT THAT'S HIM.

6 Q SO AS SOON AS MR. BELL WALKED OUT OF THE DOOR, JAY
7 DID WHAT?

8 A HE SCREAMED OUT MY GOD OR SOMETHING -- SOME
9 EXPRESSION THAT THAT'S HIM.

10 Q WAS HE UPSET AT THAT TIME?

11 A VERY.

12 Q DID YOU IN ANY WAY INFLUENCE HIM ON MAKING THAT
13 IDENTIFICATION?

14 A NONE WHATSOEVER.

15 Q AND WHY WERE YOU THERE? JUST---

16 A WE WERE JUST BASICALLY RIDING THE AREA TO SEE IF
17 ANYONE -- TO SEE IF HE RECOGNIZED ANYONE.

18 Q WHAT DID YOU DO AFTER JAY IDENTIFIED HIM AT THAT
19 TIME?

20 A AT THAT TIME, WE WENT BACK TO MR. CHAPMAN'S HOUSE
21 AND I CONTACTED INVESTIGATOR WICKER OF THE SHERIFF'S
22 OFFICE.

23 Q DID YOU GO DOWN ALSO AND VIEW THE PHOTOGRAPHIC
24 LINEUP?

25 A YES, SIR. I WAS WITH JAY.

1 Q AND YOU'RE ACTUALLY THE ONE THAT TOLD THEM WHAT
2 HIS NAME WAS?

3 A THAT'S CORRECT. I HAD HIS NAME FROM THE DAY
4 BEFORE.

5 Q FROM THE DAY BEFORE?

6 A YES, SIR. HE HAD GIVEN ME HIS NAME THE DAY BEFORE
7 AND HIS ADDRESS.

8 Q THAT'S ALL I HAVE OF THIS WITNESS.

9 CROSS-EXAMINATION BY ASSISTANT PUBLIC DEFENDER ALLEN:

10 Q MR. WATTS, YOU'RE NOT A LAW ENFORCEMENT OFFICER
11 ARE YOU?

12 A I AM DEPUTY CORONER IN RICHLAND COUNTY.

13 Q MAYBE I SHOULD REPHRASE MY QUESTION. OTHER THAN
14 THAT, YOU'RE NOT WITH THE SHERIFF'S DEPARTMENT?

15 A I AM NOT WITH THE SHERIFF'S OFFICE, NO, SIR.

16 Q AND YOUR INTEREST IN THIS CASE WAS ALSO BECAUSE
17 YOU WORKED FOR JAY EDENS' FATHER, IS THAT CORRECT?

18 A THAT'S CORRECT.

19 Q OKAY. NOW, THE INDIVIDUAL THAT JAY EDENS DESCRIBED
20 WAS A DARK COMPLEXION BLACK MAN, A CERTAIN HEIGHT AND
21 WEIGHT, AND CLOSELY CUT HAIR, IS THAT CORRECT?

22 A I HAVE NO NOTES AT ALL AS FAR AS THAT. I'M GOING
23 BY WHAT Y'ALL HAVE SAID EARLIER AND I THINK THAT'S
24 CORRECT. YES, SIR.

25 Q OKAY. WELL, I'M NOT TESTIFYING. SO IF YOU DON'T

1 KNOW THAT, THAT'S FINE. MR. WATTS, WHEN YOU SAW HERBERT
2 BELL FOR THE FIRST TIME, YOU HAD A CONVERSATION WITH MR.
3 BELL, IS THAT CORRECT?

4 A THAT'S CORRECT.

5 Q YOU ASKED HIM IF HE KNEW A FELLOW NAMED TONY?

6 A NO, SIR, I DON'T REMEMBER ASKING HIM IF HE KNEW
7 SOMEONE NAMED TONY. I REMEMBER ASKING HIM IF HE HAD
8 BEEN AT TONY'S---

9 Q BEEN AT TONY'S?

10 A ---EARLIER.

11 Q TONY'S?

12 A YES, SIR. THAT'S A RESTAURANT.

13 Q OKAY. MR. BELL GAVE YOU HIS NAME AND ADDRESS
14 BECAUSE YOU INDICATED TO HIM THAT YOU WERE LOOKING FOR
15 SOMEONE FOR THE PURPOSES OF POSSIBLY HAVING A JOB FOR
16 HIM OR EMPLOYMENT?

17 A NO, I ASKED MR. BELL AT THE TIME IF HE HAD BEEN
18 THE ONE EARLIER THAT HAD GOTTEN IN THE TRUCK WITH THE
19 YOUNG BOY AND ASKED HIM CONCERNING SOME EMPLOYMENT. AT
20 THAT TIME, HE STATED HE WAS NOT, BUT HE WAS LOOKING FOR
21 A JOB. SO I THEN ASKED HIM FOR HIS NAME AND ADDRESS AND
22 TOLD HIM THAT I WOULD GET BACK IN TOUCH WITH HIM.

23 Q OKAY. AND THAT'S HOW YOU FIRST MADE CONTACT WITH
24 MR. BELL AND THAT'S HOW YOU GOT HIS ADDRESS, IS THAT
25 CORRECT?

1 A I FIRST MADE CONTACT WITH HIM WHEN I SAW HIM
2 WALKING ON, I BELIEVE, BECKHAM SWAMP ROAD WEARING A
3 SHIRT THAT WAS DESCRIBED TO ME AS THE SHIRT THAT THE
4 SUSPECT HAD BEEN WEARING.

5 Q I SEE. NOW, YOU CAME TO MR. BELL'S HOUSE SPECIFICALLY
6 BECAUSE YOU WERE LOOKING OR TRYING TO HELP JAY EDENS
7 FIND SOMEBODY THAT LOOKED LIKE THE PERPETRATOR, IS THAT
8 CORRECT?

9 A I DON'T -- WE WERE LOOKING FOR THE PERPETRATOR,
10 THAT'S CORRECT.

11 Q OKAY. AND THAT'S WHY YOU CAME TO MR. BELL'S
12 HOUSE?

13 A NO, SIR. AT THE TIME WE STOPPED, WE DID NOT
14 REALLY STOP AT HIS HOUSE. WE STOPPED IN THE STREET AND
15 I SPOKE TO -- I ASSUME IT WAS HIS GIRLFRIEND OR HIS
16 SISTER OR WHOEVER HAD BEEN WITH HIM THE DAY BEFORE. I
17 DID NOT KNOW WHICH HOUSE WAS MR. BELL'S. I ASKED THIS
18 YOUNG LADY, YOU KNOW, WHERE HER FRIEND WAS FROM YESTERDAY
19 AND THAT'S WHEN SHE WENT IN THE HOUSE AND GOT HIM. BUT
20 I DID NOT KNOW WHICH HOUSE. NO.

21 Q BUT YOU WANTED TO FIND MR. BELL---

22 A I WANTED TO FIND---

23 Q ---SPECIFICALLY SO THAT JAY COULD SEE HIM, IS THAT
24 CORRECT?

25 A I WANTED TO FIND THE SUSPECT THAT I HAD SEEN THE

1 DAY BEFORE WEARING A SHIRT. NOT KNOWING IT WAS MR. BELL
2 OR ANYONE ELSE. JUST KNOWING THAT I KNEW THAT HE WAS IN
3 THE AREA.

4 Q THE SUSPECT THAT YOU HAD SEEN BEFORE, WAS THAT MR.
5 BELL OR WAS THAT MR. AMAKER?

6 A MR. BELL.

7 Q MR. BELL.

8 A THE ONE I HAD GOTTEN HIS NAME AND ADDRESS FROM.

9 Q OKAY.

10 A THAT YOU WERE ASKING ABOUT THE PREVIOUS DAY.

11 THAT'S CORRECT.

12 Q THAT'S CORRECT. AND YOU WERE LOOKING FOR THAT
13 INDIVIDUAL TO SHOW HIM TO JAY?

14 A WE WERE LOOKING FOR ALL THE INDIVIDUALS IN THE
15 AREA. I REMEMBERED THAT INDIVIDUAL FROM THE DAY BEFORE;
16 AND WHEN I SAW THE GIRL THAT HE HAD BEEN WITH, I ASKED
17 HER WHERE HE WAS AND THAT'S WHEN SHE TOLD ME HE WAS
18 INSIDE. WE DID NOT GO TO THAT HOUSE LOOKING FOR MR.
19 BELL IF THAT'S WHAT YOU'RE ASKING.

20 Q WELL, WHY DID YOU GO TO THAT HOUSE?

21 A WE NEVER WENT TO THE HOUSE. THAT'S WHAT I'M
22 TRYING TO EXPLAIN TO YOU. WE STOPPED IN THE ROAD.
23 TALKED TO THE GIRL. I DID NOT KNOW AT THE TIME WHICH
24 HOUSE IT WAS. I DID NOT.

25 Q BUT HADN'T YOU OBTAINED MR. BELL'S ADDRESS FROM

1 THE DAY BEFORE WHEN YOU WERE TALKING ABOUT EMPLOYMENT?

2 A THAT'S CORRECT.

3 Q OKAY. AND THAT ADDRESS WAS 4025 WINTER PARK
4 DRIVE?

5 A IF YOU SAY SO, THAT'S CORRECT.

6 Q WELL -- OKAY. IF YOU DON'T REMEMBER -- YOU DON'T
7 REMEMBER IT SPECIFICALLY, CORRECT?

8 A NO.

9 Q OKAY. NOW, WHEN YOU STOPPED THE CAR, WHERE WAS
10 THE CAR IN RELATION TO THE HOUSE MR. BELL CAME OUT OF?

11 A UH -- PROBABLY TWO DOORS DOWN AND ACROSS THE
12 STREET. SOMETHING -- YOU KNOW.

13 Q HOW FAR DISTANCE WISE?

14 A 75 TO 100 FEET.

15 Q OKAY. WHERE WAS JAY EDENS AT THIS TIME?

16 A HE WAS IN THE BACKSEAT.

17 Q OF THE CAR?

18 A OF THE CAR.

19 Q WELL, HOW CLOSE DID MR. BELL GET TO MR. EDENS
20 BEFORE HE SAID, WELL -- THAT MR. BELL WAS THE ONE?

21 A THE ORIGINAL STATEMENT THAT HE MADE, MY GOD THAT'S
22 HIM OR ALONG THAT LINES WAS WHEN MR. BELL WALKED OUT OF
23 THE HOUSE WHICH WAS A GOOD 75 OR 100 FEET AWAY. MR.
24 BELL THEN CAME OVER TO THE CAR AND TALKED TO ME THROUGH
25 THE PASSENGER'S SIDE WINDOW WHICH WOULD HAVE MEANT THAT

1 JAY WAS CLOSER THAN I AM TO THE COURT REPORTER.

2 Q OKAY. YOU WERE STILL IN THE CAR ALL THIS TIME?

3 A THAT'S CORRECT.

4 Q I SEE. SO YOU WERE JUST TALKING TO THE LADY IN
5 FRONT OF THE HOUSE OUTSIDE -- WHILE YOU WERE SITTING IN
6 THE CAR?

7 A NO, THE LADY -- THE LADY -- YOU MUST HAVE MISUNDER-
8 STOOD ME. THE LADY WAS IN THE STREET. OKAY.

9 Q THE LADY WAS -- OKAY.

10 A THAT'S THE REASON WE STOPPED.

11 Q I SEE.

12 A SHE HAD BEEN WITH MR. BELL THE DAY BEFORE. I
13 STOPPED AND ASKED HER -- YOU KNOW, WHERE WAS HER FRIEND
14 FROM YESTERDAY. SHE WAS ALREADY IN THE STREET. WE DID
15 NOT GO TO THE HOUSE AND TALK TO HER. WE STOPPED ON THE
16 STREET.

17 Q OKAY. NOW, DIDN'T YOU ASK JAY EDENS AT ANY POINT
18 IF -- POINTING TO MR. BELL IF THAT WAS THE ONE WHO HAD
19 KIDNAPPED HIM?

20 A NO, SIR.

21 Q NOW, YOU SAID---

22 A WHEN---

23 Q SIR?

24 A I WAS GOING TO SAY THAT WHEN HE WALKED OUT JAY ON
25 HIS OWN VOLITION STATED THAT THAT WAS HIM. AS A MATTER

1 OF FACT, HE GOT VERY SCARED WHEN HE APPROACHED THE CAR.
2 HE WAS EXTREMELY, EXTREMELY SCARED.

3 Q I SEE. DID JAY EDENS SAY ANYTHING ELSE AS MR.
4 BELL GOT CLOSER TO THE CAR?

5 A JUST STATED THAT THAT WAS HIM. THAT THAT'S THE
6 MAN.

7 Q NOW, HOW MANY OTHER PEOPLE -- HOW MANY OTHER BLACK
8 MALES APPROXIMATELY 6 FEET, 6' 2" HEIGHT DID YOU SEE ON
9 THAT STREET THAT NIGHT?

10 A ON THAT PARTICULAR STREET?

11 Q YES. ON WINTER PARK DRIVE?

12 A UH -- TWO, THREE OR FOUR.

13 Q AT THE TIME THAT YOU SHOWED JAY EDENS OR WENT DOWN
14 WINTER PARK DRIVE, WERE YOU AWARE THAT THE INDIVIDUAL
15 WHO HAD BEEN IDENTIFIED AS A FIRST SUSPECT, THIS
16 LEON(SIC) AMAKER ALSO LIVED ON WINTER PARK DRIVE OR WAS
17 SEEN AT A HOUSE ON WINTER PARK DRIVE?

18 A NO, SIR, I WAS NOT AWARE OF HIS ADDRESS. NO, SIR.

19 Q AND YOUR TESTIMONY IS THAT THE REASON YOU WENT
20 DOWN WINTER PARK DRIVE WAS BECAUSE THAT WAS NEAR THE
21 AREA WHERE THE TRUCK WAS LEFT?

22 A NO. WE HAD GONE ON EVERY STREET IN THE AREA.

23 Q SIR?

24 A WE HAD GONE DOWN EVERY STREET IN THAT AREA. NOT
25 JUST WINTER PARK DRIVE.

1 Q OKAY.

2 A ALL THE STREETS IN THE BLUFF ESTATES AND STAR
3 LIGHT ESTATES AREA.

4 Q I SEE. ONE MOMENT, PLEASE, YOUR HONOR. NO
5 FURTHER QUESTIONS OF THIS WITNESS.

6 REDIRECT EXAMINATION BY DEPUTY SOLICITOR GIESE:

7 Q JUST ONE QUESTION, YOUR HONOR. DO YOU KNOW
8 WHETHER YOU PASSED LEROY AMAKER THAT DAY?

9 A YES, SIR.

10 Q YOU DID?

11 A YES, SIR.

12 Q WHEN YOU WERE RIDING AROUND?

13 A YES, SIR.

14 Q OKAY. AND DID JAY IDENTIFY HIM AT THAT TIME?

15 A JAY DID NOT IDENTIFY HIM. AS A MATTER OF FACT,
16 THERE WAS NEVER ANY QUESTION THAT THAT WAS HIM WHEN HE
17 SAW HIM AT FIRST. WE WERE CLOSER THAN YOU AND I ARE TO
18 LEROY.

19 Q JAY SAID AS A MATTER OF FACT AFTER HE SAW HIM
20 PHYSICALLY THAT THAT WAS NOT HIM?

21 A THAT'S CORRECT.

22 Q THAT'S ALL I HAVE OF THIS WITNESS.

23 RECROSS EXAMINATION BY ASSISTANT PUBLIC DEFENDER ALLEN:

24 Q WHAT DID YOU ASK JAY OR HOW DID THAT COMMENT COME
25 OUT FROM JAY? DID YOU ASK HIM WAS THAT THE GUY THAT---

1 A I ASKED HIM IF HE RECOGNIZED THAT FELLOW.

2 Q IF HE RECOGNIZED THAT FELLOW?

3 A UH-HUH.

4 Q DID YOU ASK THE SAME QUESTION WHEN HERBERT BELL
5 CAME OUT?

6 A I DIDN'T HAVE A CHANCE TO.

7 Q YOU---

8 A AS I STATED MR. ALLEN, THE SECOND THAT MR. BELL
9 WALKED OUT THE FRONT DOOR OF THE HOUSE IS WHEN JAY
10 SCREAMED THAT'S HIM. THAT WAS IT.

11 Q NO FURTHER QUESTIONS.

12 THE SOLICITOR: THAT'S ALL FROM THIS WITNESS.

13 (WHEREUPON, THE WITNESS WAS
14 EXCUSED AT THIS TIME.)

15 THE SOLICITOR: THE STATE CALLS JAY EDENS.

16 (JAMES D. EDENS, FIRST
17 BEING DULY SWORN, TESTIFIED AS FOLLOWS:)

18 DIRECT EXAMINATION BY DEPUTY SOLICITOR GIESE:

19 Q JAY, I WANT YOU TO TELL THE JUDGE WHAT YOUR FIRST
20 CONTACT WITH MR. BELL WAS ON THE 23RD OF JULY?

21 A HE---

22 Q WHERE WERE YOU?

23 A WE WERE ON BLUFF ROAD AT TONY'S RESTAURANT---

24 Q LET ME MOVE THIS MICROPHONE DOWN A LITTLE CLOSER
25 FOR YOU.

1 A OKAY. WE WERE ON BLUFF ROAD AT TONY'S RESTAURANT
2 AND MR. BELL WAS WALKING TOWARDS ME AND I WAS COMING OUT
3 OF TONY'S RESTAURANT WITH THE FOOD.

4 Q OKAY. APPROXIMATELY WHAT TIME IS THIS NOW?

5 A IT'S ABOUT 1:15.

6 Q SO IT'S LIGHT OUT?

7 A YES, SIR.

8 Q IT WAS 1:15 IN THE AFTERNOON?

9 A YES, SIR.

10 Q WHAT WERE YOU DOING THERE?

11 A PICKING UP LUNCH FOR A CUSTOMER AT MY DAD'S
12 OFFICE.

13 Q NOW, HAD YOU ALREADY PICKED THE FOOD UP?

14 A YES, SIR.

15 Q WHAT DID YOU DO AFTER PICKING THE FOOD UP?

16 A I SAT IT ON THE CAR THAT WAS TO THE LEFT OF ME ON
17 THE ROOF SO I COULD UNLOCK THE DOOR.

18 Q AND WHEN YOU UNLOCKED THE DOOR, WHAT DID YOU DO?

19 A MR. BELL APPROACHED ME AND ASKED ME FOR A RIDE.
20 THAT HE HAD WALKED ALL THE WAY FROM THE FARMER'S MARKET
21 AND I TOLD HIM I WAS BUSY. I HAD TO GO BACK TO WORK
22 BECAUSE I HAD TO GO OUT OF TOWN.

23 Q NOW, HE ACTUALLY SPOKE TO YOU AT THAT TIME?

24 A YES, SIR.

25 Q DID YOU GET A GOOD LOOK AT HIS FACE AT THAT TIME?

1 A NO, SIR.

2 Q WHY NOT?

3 A BECAUSE WHEN I STARTED TALKING TO HIM I WAS
4 LOOKING DOWN.

5 Q NOW, AFTER YOU SAID NO, HE COULDN'T HAVE A RIDE,
6 WHAT HAPPENED THEN?

7 A HE JUST SAID ALL RIGHT AND I TURNED AROUND TO GET
8 THE FOOD AND -- WELL, I HAD ALREADY OPENED MY DOOR AND I
9 TURNED AROUND TO GET THE FOOD OFF THE OTHER CAR AND THEN
10 I BACKED INTO THE SEAT BECAUSE IT WAS IN A BOX AND I
11 TURNED AROUND TO PUT IT IN THE MIDDLE OF THE TRUCK AND
12 HE WAS IN THE PASSENGER SIDE OF THE TRUCK.

13 Q AFTER THAT, DID YOU GET A LOOK AT HIS FACE AT THAT
14 TIME?

15 A YES, SIR.

16 Q AND WAS IT A SIDE VIEW OR A FRONT VIEW?

17 A A FRONT VIEW BECAUSE HE WAS LOOKING AT ME.

18 Q SO YOU LOOKED HIM STRAIGHT IN THE FACE?

19 A YES, SIR.

20 Q AND WHAT DID YOU DO AFTER THAT?

21 A WELL, I WAS A LITTLE BIT SCARED AND HE JUST TOLD
22 ME THAT HE WAS GOING TO TAKE ME TO THE STORE THAT WAS
23 JUST DOWN THE STREET BY OTASCO OR SOMETHING LIKE THAT.
24 AND SO I DID. AND THEN---

25 Q NOW, DURING THE TIME THAT YOU DROVE HIM AROUND IN

1 THIS AREA, DID YOU HAVE AN OPPORTUNITY TO LOOK AT HIS
2 FACE?

3 A NO, SIR. I DIDN'T WANT TO LOOK AT HIS FACE.

4 Q SO -- WAS HE TALKING TO YOU?

5 A NOT MUCH. HE SAID HE WAS COOL. THAT WAS IT.

6 Q OKAY. WAS HE TELLING YOU WHERE TO TURN OR WHERE
7 TO DRIVE?

8 A HE WAS TELLING ME WHERE TO GO, YES, SIR.

9 Q OKAY. AND WHERE DID YOU GO?

10 A I WENT -- I CAME OUT OF TONY'S AND I TOOK A RIGHT
11 AND WENT DOWN THE STREET INTO THE BAIT SHOP, A LITTLE
12 STORE.

13 Q WHAT DID YOU DO AT THAT TIME?

14 A HE GOT OUT. MR. BELL GOT OUT OF THE PICKUP TRUCK.
15 HE ASKED ME IF I WAS GOING TO WAIT ON HIM AND I SAID
16 SURE. AND THEN HE WASN'T IN THERE TWO SECONDS. HE JUST
17 OPENED THE DOOR AND I STARTED TO GO AND THIS LITTLE BLUE
18 CAR, PINTO, SOMETHING LIKE THAT, PULLED UP BEHIND ME AND
19 THERE WAS AN OLD TRUCK IN FRONT OF ME THAT WAS SITTING
20 ON BLOCKS AND I COULDN'T GO FORWARD OR BACKWARD. AND
21 THEN---

22 Q NOW, WHEN HE TOLD YOU THAT HE WAS GOING TO GO
23 INSIDE THE BAIT SHOP, DID YOU GET A LOOK AT HIS FACE AT
24 THAT TIME?

25 A NO, SIR.

1 Q WELL, WHAT WERE YOU DOING?

2 A I WAS LOOKING AT THE STEERING WHEEL OF THE TRUCK.

3 Q AND WHY WERE YOU DOING THAT?

4 A BECAUSE I WAS JUST SCARED.

5 Q SO YOU TRIED TO BACK OUT?

6 A YES, SIR.

7 Q AND WHAT HAPPENED?

8 A A BLUE PINTO PULLED UP BEHIND ME WITH TWO WHITE
9 PEOPLE IN IT.

10 Q WHAT DID YOU DO AT THAT TIME?

11 A WELL, THERE WAS NOTHING I COULD DO. I SAT THERE
12 AND I -- I JUST SAT THERE.

13 Q OKAY. HOW LONG WAS HE INSIDE THE BAIT SHOP?

14 A ABOUT FIVE SECONDS.

15 Q AND WHAT HAPPENED AFTER HE CAME OUT?

16 A THE TRUCK WAS ROLLING BACKWARDS AND HE KINDA HIT
17 ON THE HOOD OF THE CAR AND ASKED ME WHERE I WAS GOING.
18 AND I SAID NO, I WAS JUST TURNING AROUND.

19 Q WERE YOU REALLY TRYING TO GET AWAY AT THAT TIME?

20 A YES, SIR.

21 Q HE ASKED YOU WHAT YOU WERE DOING AND WHAT---

22 A WHERE I WAS GOING, YES, SIR.

23 Q DID YOU GET A GOOD LOOK AT HIS FACE AT THAT TIME?

24 A YES, SIR.

25 Q DID YOU GET A LOOK AT HIS FACE WHEN HE BEAT ON THE

1 HOOD OF YOUR CAR?

2 A NO, SIR, IT SCARED ME. I DIDN'T SEE HIM COMING
3 OUT. I WAS LOOKING BACKWARDS BACKING OUT.

4 Q SO WHAT HAPPENED? DID HE GET BACK IN THE CAR?

5 A YES, SIR.

6 Q WHAT DID YOU DO?

7 A HE TOLD ME THAT I WAS GOING TO TAKE HIM TO WHITE
8 HOUSE ROAD BECAUSE, I BELIEVE, ONE OF HIS FRIENDS NAMED
9 JIM WAS DOWN THERE AND HE WAS GOING TO GO FISHING. AND
10 HE HAD A BAG AND SO I WAS TAKING HIM TO WHITE HOUSE ROAD
11 AND WE TOOK A LEFT GOING THERE AND HE---

12 Q DID YOU KNOW WHAT WAS IN THE BAG?

13 A NO, SIR. I HEARD SOMETHING CRAWLING AROUND AND HE
14 TOLD ME THAT IT WAS CRICKETS.

15 Q DID YOU AT THAT TIME GET A LOOK AT HIS FACE WHEN
16 HE TOLD YOU HE WANTED YOU TO GO TO WHITE HORSE(SIC)
17 ROAD?

18 A NO, SIR.

19 Q WHITE HOUSE---

20 A NO, SIR.

21 Q AND THEN WHAT DID YOU DO? YOU DROVE OFF?

22 A YES, SIR.

23 Q WAS HE TELLING YOU WHERE TO GO?

24 A YES, SIR.

25 Q WHAT DID YOU DO?

1 A I TOOK HIM WHERE -- WELL, HE TOLD ME TO GO TO
2 WHITE HOUSE ROAD. I WENT THERE. AND HE STUCK HIS HEAD
3 OUT THE WINDOW AND STARTED SCREAMING FOR JIM AND HE SAID
4 HIM AND HIS WIFE WERE DOWN THERE FISHING AND HIS WIFE
5 WAS PREGNANT.

6 Q DID YOU ACTUALLY SEE HIS FACE AT THAT TIME?

7 A NO, SIR.

8 Q OKAY. SO WHEN DID YOU SEE HIS FACE DURING THIS
9 TIME?

10 A I SAW IT AFTER WE GOT OUT WHITE HOUSE ROAD BECAUSE
11 I KEPT ON ASKING HIM. HE GOES -- HE DIDN'T KNOW WHERE
12 JIM WAS. AND I KEPT ON ASKING HIM IF HE COULD BE HERE
13 OR THERE. YOU KNOW. THERE'S A STORE UP THE ROAD AND I
14 ASKED HIM IF MAYBE HE COULD BE AT THAT STORE.

15 Q NOW, DID YOU KNOW WHERE YOU WERE BACK THERE?

16 A WHEN I WAS ON BLUFF ROAD, I DID. YES, SIR,
17 BECAUSE MY UNCLE'S IS RIGHT AROUND IN THERE.

18 Q OKAY. WHEN YOU GOT OFF OF BLUFF ROAD, OKAY WAS HE
19 TELLING YOU WHERE TO GO?

20 A YES, SIR.

21 Q OKAY. AND EXPLAIN EXACTLY WHERE YOU WENT.

22 A WELL, THE FIRST TIME I DON'T KNOW WHERE I WAS
23 REALLY, BUT WE TOOK A LEFT OFF OF BLUFF ROAD. IT WAS
24 PAST BLUFF ESTATES AND WE WENT DOWN ONE ROAD FOR ABOUT
25 HALF A MILE OR A MILE. THEN WE TOOK A LEFT AT --

1 -- IT WAS KIND OF A CURVE AND WE WENT AROUND. AND IT
2 WAS -- THERE WAS AN OLD MUDDY ROAD WITH A BUNCH OF HOLES
3 IN IT TO THE RIGHT AND HE TOOK ME DOWN THAT AND THEN I
4 TOLD HIM THAT MY TRUCK WASN'T GOING TO MAKE IT AFTER WE
5 WENT THROUGH THE FIRST MUDHOLE AND HE SAID THAT HE KNEW
6 A LOT ABOUT TRUCKS AND THAT IT WOULD MAKE IT. AND---

7 Q NOW, WERE YOU LOOKING AT HIM WHEN HE WAS SAYING
8 THIS TO YOU?

9 A NO, SIR, I'M LOOKING TRYING TO GET OUT BECAUSE I
10 THOUGHT I WAS GOING TO GET STUCK.

11 Q OKAY.

12 A AND SO I TOLD HIM IT JUST WASN'T GOING TO MAKE IT
13 AND SO I PUT IT IN REVERSE AND THEN I JUST BARELY GOT
14 OUT THEN.

15 Q WHAT HAPPENED THEN?

16 A WE WENT BACK OUT THE EXACT WAY THAT WE CAME IN AND
17 WE GOT BACK ON BLUFF ROAD AND WE TOOK A RIGHT. AND WE
18 WERE GOING ALONG -- WE WENT BACK PAST BLUFF ESTATES AND
19 THEN WE GOT ON ATLAS ROAD I THINK IT WAS AND WE WENT UP
20 TO ALMOST BOOZER LUMBER. AND WE TOOK A RIGHT. THERE'S
21 A RIGHT BEFORE THE CHURCH AND THERE'S A RIGHT AFTER A
22 CHURCH. WE TOOK THE RIGHT AFTER IT. AND AFTER WE GOT
23 ON THAT RIGHT, WE TOOK ANOTHER RIGHT AND WE WENT PAST
24 SOME KIDS PLAYING IN THE FRONT YARD AND I KIND OF WAVED
25 AT THEM. AND THEN---

1 Q WHY DID YOU DO THAT?

2 A JUST SO -- I DON'T KNOW. I WAS REAL SCARED AND
3 WHEN WE GOT BACK IN THE WOODS, I KNEW SOMETHING WAS UP.
4 AND SO I JUST WAVED AT THEM SO MAYBE IF I RAN BACK TO
5 THEIR HOUSE, THEY WOULD MEMORIZE ME AND THEY DID.

6 Q OKAY. SO ONCE YOU WENT PAST THE KIDS, WHAT DID
7 YOU DO? HAVE YOU LOOKED AT HIS FACE SINCE YOU GOT OFF
8 OF BLUFF ROADS?

9 A NO, SIR. NO, SIR.

10 Q OKAY. WHAT DID YOU DO THEN?

11 A I WENT -- WE WENT AND THERE'S -- THE ROAD COMES
12 OUT HERE AND THEN THERE'S THIS LITTLE ROAD AND THEN
13 THERE'S ANOTHER ROAD AND WE TOOK THE LEFT AND WE KEPT ON
14 GOING TO THE LEFT AND THERE'S A BIG SIGN THAT SAYS DEAD
15 END. AND SO WE KEPT ON GOING BACK DOWN THAT ROAD AND HE
16 KEPT ON SAYING HIS HOUSE WAS RIGHT AROUND THE CORNER.
17 RIGHT AROUND THE CORNER. AND THEN SO AFTER WE FINISHED
18 -- IT WAS AN OLD GRAVEL ROAD AND AFTER WE GOT PAST THE
19 GRAVEL ROAD, IT WAS A CLAY ROAD AND YOU HAD TO GO UP A
20 HILL AND I WENT UP THE HILL AND THERE WAS A BIG TRASH
21 PILE SITTING RIGHT THERE. AND I TOLD HIM HE WAS GOING
22 TO HAVE TO WALK FROM HERE BECAUSE THERE WAS NO WAY THAT
23 MY TRUCK WAS GOING TO MAKE IT OVER THAT TRASH HILL. AND
24 THEN THAT REALLY SCARED ME BECAUSE THERE WAS NO HOUSE
25 ANYWHERE NEAR EXCEPT WHERE THOSE KIDS WERE. AND SO HE

1 SAID I GUESS YOU'RE RIGHT. THEN HE SAID THAT I WAS GOING
2 TO HAVE TO TAKE A WALK WITH HIM IN THE WOODS. AND I HAD
3 ALREADY PUT THE TRUCK IN REVERSE TO LEAVE AND I CUT IT
4 -- I MEAN HE REACHED OVER THERE AND CUT IT OFF AND
5 GRABBED MY RIGHT ARM AND TOLD ME THAT I BETTER NOT RUN
6 OR THAT IT WAS STUPID TO RUN OR SOMETHING LIKE THAT.

7 Q WHAT DID HE DO THEN?

8 A I BENT DOWN OVER THE STEERING WHEEL AND GRABBED
9 THE HANDLE TO OPEN THE DOOR WITH MY LEFT HAND AND WHEN I
10 CAME BACK UP, I CAME UP WITH THE HANDLE SO IT DIDN'T
11 MAKE ANY NOISE---

12 Q WAS HE STILL HOLDING ONTO YOU?

13 A YES, SIR.

14 Q DID HE HAVE THE KEYS OR DID YOU HAVE THE KEYS?

15 A HE HAD THE KEYS. AND SO AFTER I CAME UP, I JUST
16 YANKED FOR THE DOOR AND YANKED AWAY AND STARTED RUNNING.

17 Q OKAY. DID HE SAY ANYTHING AT THAT TIME TO YOU?

18 A AFTER I GOT DOWN THE ROAD AWHILE---

19 THE COURT: SOLICITOR, I DON'T MEAN TO LEAD YOU,
20 BUT THIS IS ONLY FOR IDENTIFICATION.

21 THE SOLICITOR: YES, SIR, I'M SORRY. I GOT A
22 LITTLE OFF.

23 THE COURT: WE'RE NOT TRYING THE CASE NOW.

24 THE SOLICITOR: YES, YOUR HONOR. LET ME GO BACK.

25 WHEN HE GRABBED YOU AND SAID WHAT HE SAID ABOUT NOT RUNNING,

1 DID YOU LOOK AT HIS FACE AT THAT TIME?

2 A YES, SIR, I ASKED HIM IF HE WAS SERIOUS.

3 Q OKAY. DID YOU LOOK ABSOLUTELY IN HIS FACE?

4 A YES, SIR.

5 Q AND WHAT WAS THE LIGHTING LIKE?

6 A WHAT DO YOU MEAN?

7 Q WAS IT BRIGHT OUT? DARK OUT?

8 A YES, SIR.

9 Q COULD YOU ACTUALLY SEE HIS FACE?

10 A YES, SIR.

11 Q NOW, DID YOU ALSO HAVE AN OPPORTUNITY TO VIEW A
12 PHOTO LINEUP?

13 A NOT THAT DAY.

14 Q WHEN WAS IT?

15 A IT WAS THE 24TH. IT WAS THE NEXT MORNING.

16 Q OKAY. DO YOU REMEMBER WHO BROUGHT THAT FIRST
17 LINEUP TO YOU?

18 A MR. WICKER.

19 Q I HAND YOU STATE'S EXHIBIT NUMBER ONE -- WELL, LET
20 ME ASK YOU ONE QUESTION BEFORE WE LOOK AT THIS.

21 APPROXIMATELY HOW LONG WERE YOU WITH THE DEFENDANT THAT
22 DAY?

23 A I'M NOT REAL SURE.

24 Q WAS IT OVER 15 MINUTES? WAS IT OVER 20 MINUTES?

25 A IT WAS OVER 30 MINUTES.

1 Q SO YOU WERE WITH HIM THIS WHOLE TIME?

2 A YES, SIR.

3 Q YOU HAD AN AMPLE OPPORTUNITY TO LOOK AT HIM?

4 A YES, SIR.

5 Q OKAY. I HAND YOU STATE'S EXHIBIT NUMBER ONE. CAN

6 YOU IDENTIFY THAT?

7 A YES, SIR.

8 Q WHAT IS THAT?

9 A THIS IS THE LINEUP THAT MR. WICKER SHOWED ME.

10 Q OKAY. AND DID YOU PICK ANYONE OUT OF THAT LINEUP?

11 A NO, SIR.

12 Q I HAND YOU STATE'S EXHIBIT NUMBER TWO. CAN YOU

13 IDENTIFY THAT?

14 A YES, SIR.

15 Q WHAT IS IT?

16 A IT'S THE LINEUP THAT MR. BROWN SHOWED ME JULY 24TH

17 THAT NIGHT.

18 Q OKAY. WHERE DID THAT TAKE PLACE?

19 A AT MR. BROWN'S OFFICE.

20 Q DID HE TELL YOU ANYTHING BEFORE HE SHOWED IT TO

21 YOU?

22 A NO, SIR, BUT TO PICK OUT WHO I THOUGHT WAS THE

23 MAN.

24 Q DID HE SUGGEST TO YOU WHICH ONE TO PICK?

25 A NO, SIR.

1 Q DID YOU HAVE AN OPPORTUNITY TO VIEW THIS LINEUP?

2 A YES, SIR.

3 Q AND DID YOU PICK SOMEONE OUT?

4 A YES, SIR.

5 Q WHO DID YOU PICK OUT?

6 A NUMBER FIVE.

7 Q ANY DOUBT IN YOUR MIND THAT THAT'S THE MAN?

8 A THERE'S NO DOUBT.

9 Q OKAY. WHY DID YOU PICK THAT PHOTOGRAPH?

10 A BECAUSE I JUST KNEW IT WAS HIM. THAT'S JUST IT.
11 IT WAS HIM SO I PICKED HIM.

12 Q NOW, LET'S GO BACK TO WHEN YOU WERE WITH GARY
13 WATTS AND WAS IT MR. CHAPMAN?

14 A YES, SIR.

15 Q OKAY. TELL US REAL QUICKLY ABOUT THAT? ABOUT
16 WHAT TIME WAS THAT?

17 A IT WAS AFTER WORK. IT WAS -- YOU MEAN -- IT WAS
18 PROBABLY ABOUT 5:30, 6 O'CLOCK.

19 Q WAS IT STILL LIGHT OUT?

20 A JUST BARELY.

21 Q OKAY.

22 A IT WAS DUSK.

23 Q WHAT WERE Y'ALL DOING?

24 A THEY JUST TOLD ME THAT THEY -- WE WERE GOING TO
25 RIDE AROUND TO SEE IF I NOTICED ANYBODY. I DIDN'T KNOW

1 WHO I WAS LOOKING FOR. YOU KNOW. ALL I KNEW IS WHAT I
2 WAS LOOKING FOR.

3 Q OKAY. AND HOW MANY PEOPLE DO YOU THINK YOU LOOKED
4 AT THAT NIGHT?

5 A WE WENT BY A COUPLE OF -- YOU KNOW HANGOUTS AND WE
6 SAW A BUNCH OF PEOPLE THERE. AND THEN LIKE GARY SAID
7 THERE WAS A BUNCH OF PEOPLE WALKING AROUND AND WE LOOKED
8 AT THEM AND THEN WE WENT BY ONE PERSON'S HOUSE AND THERE
9 WAS JUST A BUNCH OF PEOPLE IN THE BACKYARD AND WE LOOKED
10 AT THEM.

11 Q SO, APPROXIMATELY HOW MANY PEOPLE DO YOU THINK YOU
12 LOOKED AT? DO YOU HAVE ANY IDEA?

13 A UH -- SEVENTY-FIVE.

14 Q IT WAS A BUNCH OF PEOPLE?

15 A YES, SIR.

16 Q OKAY. NOW, LET'S GO DIRECTLY TO WHEN YOU WERE
17 WITH MR. WATTS AT MR. BELL'S HOUSE. TELL THE JUDGE
18 ABOUT THAT.

19 A WE PULLED UP AND I DIDN'T KNOW WHAT WAS HAPPENING.
20 GARY ASKED A LADY TO GO GET HER BOYFRIEND OR FRIEND AND
21 SHE DID.

22 Q NOW, WHAT TIME WAS THIS?

23 A THIS WAS LIKE 7 O'CLOCK, 7:15.

24 Q WAS IT STILL LIGHT ENOUGH OUT FOR YOU?

25 A YES, SIR.

1 Q OKAY. WHEN WAS THE FIRST TIME YOU SAW MR. BELL?

2 A THAT DAY AT 7 O'CLOCK, 7:15.

3 Q WHERE WAS HE COMING FROM?

4 A HIS HOUSE.

5 Q OKAY. AND TELL THE JUDGE ABOUT THAT?

6 A WELL, SHE WENT AND GOT HER BOYFRIEND AND HE CAME
7 OUT TO THE DOOR AND HE SAW US OR -- AND HE HAD JUST
8 CHANGED EVERYTHING ABOUT HIM. HIS HAIR AND EVERYTHING.
9 AND HE STOPPED AT THE DOOR AND HE WOULDN'T COME. AND
10 THEN HE STARTED WALKING OUT AND HE HAD HIS HEAD --
11 HIS HEAD WAS DOWN. HE WASN'T LOOKING UP. HE WAS
12 LOOKING AT THE GROUND AND HE WAS WALKING TO THE CAR.
13 AND I JUST KNEW THE MINUTE HE GOT TO THAT DOOR THAT WAS
14 HIM. AND SO I SAID THAT WAS HIM.

15 Q DID ANYBODY SUGGEST TO YOU THAT THIS WAS THE
16 FELLOW?

17 A NO, SIR, I DIDN'T EVEN -- NOBODY SAID ANYTHING TO
18 ME.

19 Q NOW, LET'S GOT TO THE PHYSICAL DESCRIPTION THAT
20 YOU GAVE THE POLICE. WHAT WAS THAT TO THE BEST OF YOUR
21 RECOLLECTION?

22 A WELL, I TOLD THEM THAT HE WAS WEARING A HAT AND IT
23 WAS NOT LIKE A CLOSE SHAVE. IT WAS FULL, KIND OF FULL.
24 IT WAS MEDIUM AND IT WAS REAL NAPPY. I TOLD THEM THAT
25 HE HAD A LIGHT MUSTACHE AND HE HAD A -- LIKE A KIND OF

1 A WIDE MOUTH. AND I TOLD THEM ABOUT HIS SHOES AND HIS
2 PANTS AND HIS WATCH.

3 Q ABOUT WHAT SIZE DID YOU SAY HE WAS?

4 A I TOLD THEM HE WAS ANYWHERE FROM ABOUT 6 FOOT AND
5 SIX TWO. ABOUT 175 TO 180 POUNDS.

6 Q BUT YOU DESCRIBED HIS FACE AS HAVING A MUSTACHE?

7 A YES, SIR.

8 Q OKAY. WHEN YOU SAY NAPPY HAIR, WHAT DO YOU MEAN
9 BY THAT?

10 A IT WAS -- I MEAN IT WAS FULL, BUT IT WAS REAL
11 DIRTY AND IT WAS TWISTED.

12 Q IS THERE ANY DOUBT IN YOUR MIND THAT MR. BELL IS
13 THE MAN THAT DID THIS TO YOU?

14 A NO DOUBT.

15 Q ALL RIGHT.

16 CROSS-EXAMINATION BY ASSISTANT PUBLIC DEFENDER ALLEN:

17 Q MR. EDENS OR DO YOU MIND MY CALLING YOU JAY?

18 A THAT'S FINE.

19 Q JAY, THIS INDIVIDUAL THAT GOT IN YOUR TRUCK OUT AT
20 TONY'S RESTAURANT TOLD YOU HIS NAME WAS TONY, IS THAT
21 CORRECT?

22 A YES, SIR, THAT IS CORRECT.

23 Q IS THAT RIGHT?

24 A YES, SIR.

25 Q OKAY. NOW, WHEN YOU TALKED TO THE POLICE ABOUT THIS

1 INDIVIDUAL YOU SAID HE WAS A BLACK MAN, DARK COMPLEXION?

2 A YES, SIR.

3 Q YOU SAID HE HAD CLOSE-CUT HAIR?

4 A NO, SIR.

5 Q YOU DIDN'T SAY THAT?

6 A NO, SIR.

7 Q YOU TOLD THEM HE WAS APPROXIMATELY 20 -- 25 YEARS
8 OLD?

9 A YES, SIR.

10 Q ABOUT SIX FEET, SIX TWO?

11 A YES, SIR.

12 Q SLIM?

13 A UH -- I TOLD THEM HE WAS ANYWHERE FROM SLIM TO
14 JUST A LITTLE BIT CHUNKY. HE HAD MUSCLE. THAT'S WHAT I
15 TOLD THEM. HE WAS SLIM, BUT HE HAD MUSCLE.

16 Q HE HAD MUSCLE. OKAY. YOU DIDN'T TELL THEM
17 ANYTHING ABOUT SCARS ON---

18 A NO, SIR.

19 Q ---HIS FACE?

20 A NO, SIR.

21 Q AND DID YOU TELL THEM ABOUT THE MUSTACHE?

22 A YES, SIR, I DID.

23 Q ARE YOU POSITIVE ABOUT THAT?

24 A I AM POSITIVE.

25 Q WHO DID YOU TELL THEM ABOUT THE MUSTACHE?

1 A I TOLD MY MOM AND I TOLD MR. BROWN. I'M PRETTY
2 SURE I TOLD HIM.

3 Q INVESTIGATOR BILL BROWN?

4 A YES, SIR.

5 Q WHEN DID YOU TELL INVESTIGATOR BILL BROWN ABOUT
6 THAT?

7 A WHEN I WENT TO PUT TOGETHER A PICTURE.

8 Q WITH WHOM?

9 A MR. BROWN.

10 Q MR. BROWN?

11 A I THINK IT -- I CAN'T REMEMBER IF IT WAS HIM OR
12 NOT.

13 Q THAT WAS THE FIRST TIME YOU TALKED ABOUT
14 HAVING A MUSTACHE?

15 A YES, SIR.

16 Q WHEN YOU WENT TO PUT TOGETHER A PICTURE WITH MR.
17 BROWN?

18 A I THINK IT WAS HIM. I'M NOT REAL SURE, SIR.

19 Q THIS WAS AFTER YOU HAD SEEN THE FIRST PHOTOGRAPH
20 ARRAY, IS THAT CORRECT?

21 A SIR?

22 Q THIS WAS AFTER YOU HAD SEEN THE PICTURES MR.
23 WICKER SHOWED YOU, IS THAT CORRECT?

24 A NO, SIR. THIS WAS THAT NIGHT.

25 Q SIR?

1 A THIS WAS THAT NIGHT. THIS WAS THE JULY THE 23RD.

2 Q OKAY. YOU TOLD MR. BROWN ABOUT THAT?

3 A YES, SIR.

4 Q WHEN YOU WERE WRITING YOUR STATEMENT?

5 A YES, SIR.

6 Q NOW, ARE YOU REALLY POSITIVE PROSECUTION EXHIBIT
7 ONE IS -- ARE ALL THE PICTURES THAT MR. WICKER SHOWED
8 YOU?

9 A THAT'S THEM.

10 Q HOW DO YOU REMEMBER THIS?

11 A BECAUSE I REMEMBER PICKING NUMBER SIX AND PUTTING
12 ALL -- JUST ADDING LITTLE THINGS. LIKE I TOLD HIM
13 DIFFERENT HAIR, A LITTLE WIDER CHEEK BONES, AND---

14 Q YOU REMEMBER ALL THESE SIX PICTURES?

15 A YES, SIR.

16 Q HOW LONG DID YOU LOOK AT THIS?

17 A I LOOKED AT THEM FOR A GOOD WHILE. I GOT A CLOSE
18 LOOK AT THEM. FIVE TO TEN MINUTES. I LOOKED AT THEM
19 REAL LONG.

20 Q FIVE TO TEN MINUTES. THIS WAS ON THE 23RD OF
21 JULY?

22 A THE 24TH.

23 Q THE 24TH OF JULY. AND YOU REMEMBER ALL SIX OF
24 THESE PICTURES FROM THAT DAY?

25 A YES, SIR.

1 Q AND YOU REMEMBER EACH AND EVERYONE OF THE
2 PICTURES OF PROSECUTION EXHIBIT TWO FOR IDENTIFICATION?

3 A YES, SIR.

4 Q EVERYONE OF THEM?

5 A EVERYONE OF THEM.

6 Q HOW LONG DID YOU LOOK AT THESE?

7 A I LOOKED AT THOSE FOR ABOUT FIVE MINUTES.

8 Q FOR ABOUT FIVE MINUTES?

9 A YES, SIR.

10 Q YOU REMEMBER THAT LADY THAT WAS SITTING OUTSIDE
11 THE HOUSE -- OKAY. LET ME PHRASE THE QUESTION PROPERLY.

12 DO YOU REMEMBER WHEN YOU AND MR. WATTS AND MR. CHAPMAN
13 WERE RIDING IN THE CAR AND YOU WENT DOWN THIS ROAD?

14 A YES, SIR.

15 Q AND MR. WATTS CALLED -- TALKED TO A LADY SITTING
16 OUTSIDE THE HOUSE?

17 A YES, SIR.

18 Q DO YOU SEE HER IN THE COURTROOM TODAY?

19 A YES, SIR.

20 Q HOW LONG DID YOU SEE HER THAT NIGHT?

21 A WELL, WHEN WE FIRST CAME UP, SHE HAD ON ROLLER
22 SKATES AND SO I FIRST SAW HER THEN. SHE WAS THERE WHILE
23 WE WERE TALKING TO MR. BELL. SO I SAW HER ALMOST LONGER
24 THAN I SAW HIM.

25 Q LONGER THAN YOU SAW MR. BELL. NOW, WHEN YOU WERE

1 IN THE TRUCK -- YOU SAID YOU WERE IN THE TRUCK FOR WHAT?
2 YOU SAID APPROXIMATELY 30 MINUTES OR OVER 30 MINUTES?

3 A IT WAS OVER 30 MINUTES.

4 Q CAN YOU GIVE US ANYMORE OF AN APPROXIMATION OR IS
5 THAT AS CLOSE AS YOU CAN---

6 A THAT'S AS CLOSE AS I CAN GET IT.

7 Q NOW, WHEN YOU WERE IN THE TRUCK, WOULDN'T YOU SAY
8 MOST OF YOUR ATTENTION WAS DIVERTED ON THE ROAD?

9 A YES, SIR.

10 Q AND YOU WERE HOW OLD THEN? FIFTEEN?

11 A YES, SIR.

12 Q AND YOU HAD NOT BEEN DRIVING THAT LONG, IS THAT
13 CORRECT?

14 A THAT'S CORRECT.

15 Q HOW LONG HAD YOU BEEN DRIVING?

16 A SINCE JUNE 17TH.

17 Q OF 1985?

18 A YES, SIR.

19 Q SO A LITTLE OVER A MONTH?

20 A YES, SIR.

21 Q YOU WERE BEING VERY CAREFUL WITH THAT TRUCK, IS
22 THAT CORRECT?

23 A YES, SIR.

24 Q THAT WAS PROBABLY YOUR FATHER'S TRUCK OR HIS
25 BUSINESS'S TRUCK?

1 A IT WAS MY DAD'S.

2 Q OKAY. YOUR FATHER'S TRUCK. NOW, HOW LONG DO YOU
3 THINK YOU SAW -- ACTUALLY LOOKED AT THE FACE OF THIS
4 INDIVIDUAL WHO SAID HE WAS TONY?

5 A I LOOKED AT HIS FACE ABOUT FOUR TIMES MAYBE AND
6 THE LONGEST I LOOKED AT HIM WAS RIGHT AT THE END WHEN I
7 -- BEFORE I RAN.

8 Q OKAY. THE LONGEST YOU LOOKED AT HIM WAS HOW LONG?

9 A I LOOKED AT HIM FOR ABOUT TEN SECONDS RIGHT AT THE
10 END.

11 Q TEN SECONDS?

12 A BUT I KEPT ON GETTING GLANCES OF HIM. SO.

13 Q OKAY. AND HOW LONG WOULD YOU LOOK AT HIM THE
14 OTHER APPROXIMATELY THREE TIMES?

15 A NOT LONG. FIFTEEN SECONDS MAYBE.

16 Q THE LONGEST YOU LOOKED AT HIM WAS AT THE END?

17 A NO, SIR. I LOOKED AT HIM THREE OR FOUR TIMES.

18 Q OKAY.

19 A I LOOKED AT HIM FOR LIKE 15 SECONDS WHEN HE GAVE --
20 HE OFFERED ME A WATCH.

21 Q HE OFFERED YOU A WATCH?

22 A RIGHT. AND I LOOKED AT HIM THEN FOR ABOUT 15
23 SECONDS. AND THEN I -- I DIDN'T GET A GLIMPSE AT HIM AT
24 THE STORE.

25 Q SIR?

1 A I DIDN'T GET A GLIMPSE AT HIM AT THE STORE AND
2 THEN---

3 Q WHICH STORE ARE WE TALKING ABOUT? ARE WE TALKING
4 ABOUT THE RESTAURANT OR THE BAIT SHOP?

5 A THE BAIT SHOP.

6 Q THE BAIT SHOP.

7 A AND THEN I GOT A GLIMPSE AT HIM AT THE STORE
8 BEFORE, YOU KNOW, WHEN HE GOT IN MY TRUCK AT THE
9 BEGINNING. AND THEN I GOT A GLIMPSE AT HIM RIGHT AT THE
10 END. AND THEY WERE ALL AROUND TEN OR 15 SECONDS.

11 Q NOW, WHEN YOU WERE RIDING AROUND WITH MR. WATTS
12 AGAIN ON THE EVENING OF THE 24TH, WHAT TIME APPROXIMATELY
13 WAS IT THAT YOU SAW MR. BELL? WOULD YOU SAY AROUND
14 SEVEN?

15 A YES, SIR, SEVEN, 7:15.

16 Q SEVEN, 7:15. NOW, WHAT DID MR. WATTS OR MR.
17 CHAPMAN SAY TO YOU WHILE Y'ALL WERE RIDING AROUND?

18 A NOTHING. NOTHING CONCERNING THE KIDNAPPING.

19 Q BEFORE YOU STARTED RIDING AROUND WITH MR. WATTS,
20 WHAT WAS SAID ABOUT WHAT Y'ALL INTENDED TO DO?

21 A NOTHING -- WELL, HE SAID THAT WE WERE GOING TO
22 RIDE AROUND AND JUST LOOK. LOOK AT DIFFERENT PEOPLE IN
23 THAT AREA AND THAT WAS ALL THAT WAS SAID ABOUT IT.

24 Q WHAT DID YOU UNDERSTAND THAT TO MEAN?

25 A I UNDERSTAND THAT WE WERE GOING TO LOOK FOR THE SUSPECT.

1 Q OKAY. NOW, YOU WERE GOING TO LOOK FOR TONY, IS
2 THAT RIGHT?

3 A RIGHT.

4 Q OKAY. DID MR. WATTS ASK YOU ANYTHING WHEN YOU SAW
5 MR. BELL?

6 A NO, SIR, HE DIDN'T HAVE A CHANCE TO.

7 Q DID HE ASK YOU ANYTHING AFTER Y'ALL DROVE AWAY
8 FROM THE HOUSE?

9 A HE ASKED ME IF THAT WAS HIM.

10 Q THAT WAS HIM?

11 A YES, SIR.

12 Q AND DO YOU REMEMBER WHAT YOUR RESPONSE WAS?

13 A YES, SIR.

14 Q IT WAS?

15 A YES.

16 Q WAS THAT ALL THAT WAS SAID AT THAT TIME?

17 A YES, SIR.

18 Q NOW, LET'S TALK ABOUT WHEN YOU -- WHEN MR. BROWN,
19 INVESTIGATOR BROWN SHOWED YOU THE PHOTOGRAPHIC PICTURES.

20 THIS WAS APPROXIMATELY WHAT? TWO HOURS AFTER YOU HAD
21 SEEN MR. BELL AT HIS HOME?

22 A YES, SIR.

23 Q AND HAD YOU TOLD INVESTIGATOR BROWN OR HEARD MR.
24 WATTS TELL MR BROWN THAT THEY HAD A SUSPECT NAMED
25 HERBERT BELL?

1 A NO, SIR. I DIDN'T HEAR -- NO, SIR.

2 Q YOU DIDN'T HEAR THAT. WHEN YOU WERE SHOWN THE
3 PICTURES MR. BROWN SHOWED YOU, YOU WERE EXPECTING TO
4 FIND MR. BELL'S PICTURE IN THERE WERE YOU NOT?

5 A UH -- WELL, I DIDN'T REALLY KNOW. I WAS JUST
6 LOOKING FOR THE MAN THAT I THOUGHT WAS HIM.

7 Q WHAT I'M GETTING AT IS YOU HAD SEEN HIM JUST A
8 COUPLE OF HOURS EARLIER?

9 A YES, SIR.

10 Q AND RIGHT AFTER YOU SAW HIM, APPARENTLY SOMEONE
11 CALLED THE SHERIFF'S DEPARTMENT, IS THAT CORRECT?

12 A YES, SIR.

13 Q SAYING ESSENTIALLY THAT THEY HAD GOTTEN A SUSPECT?

14 A YES, SIR. YES, SIR.

15 Q AND THEN YOU WERE TAKEN TO THE POLICE DEPARTMENT
16 WHERE THEY WERE GOING TO SHOW YOU SOME PICTURES?

17 A YES, SIR.

18 Q NOW, WEREN'T YOU SORT OF EXPECTING TO FIND MR.
19 BELL'S PICTURE IN THERE?

20 A I WAS LOOKING FOR IT.

21 Q YOU WERE LOOKING FOR THAT PICTURE?

22 A YES, SIR.

23 Q YOU WERE LOOKING FOR THAT INDIVIDUAL YOU SAW OUT
24 ON THAT HOUSE -- ON THAT STREET?

25 A YES, SIR.

1 TO THE POLICE STATION TWO HOURS LATER WHILE THAT MAN WAS
2 STILL FRESH IN HIS MIND OF THE PERSON HE SAW OUT IN THE
3 WINTER PARK DRIVE, AGAIN PICKING HIM OUT JUST INDICATES
4 TO ME THAT THERE'S JUST BEEN SUCH AN IMPERMISSIBLE
5 IDENTIFICATION OR SUGGESTIVE -- IMPERMISSIBLY SUGGESTIVE
6 IDENTIFICATION AS TO RAISE THE LIKELIHOOD OF A WRONGFUL
7 IDENTIFICATION HERE IN THIS TRIAL TODAY WHEN HE HASN'T
8 SEEN HIM AGAIN EXCEPT WHEN HE FIRST TESTIFIED. AGAIN AS
9 HE TESTIFIED HE MADE STATEMENTS THAT HE REMEMBERED THE
10 NUMBERS HE HAD PICKED OUT AND THAT SORT OF THING. AND I
11 WOULD JUST---

12 THE COURT: MR. ALLEN, I CANNOT FIND ANYTHING
13 WRONG WITH THE PROCEDURE THAT WAS USED. ONE OF THE
14 WITNESSES STATED THAT HE THOUGHT IT WAS OUTSTANDING AND
15 I AGREE. I'VE EXAMINED THE PHOTOGRAPHS USED IN THE
16 PHOTO LINEUP IN STATE'S EXHIBIT NUMBER ONE AND NUMBER
17 TWO. I FIND THAT EACH PHOTOGRAPH CONTAINS PERSONS OF
18 THE SAME RACE, SIZE, AND FACIAL FEATURES AND THAT THE
19 RECORD SUPPORTS THE CONCLUSION THAT THE VICTIM'S IN-
20 CAMERA IDENTIFICATION OF THE DEFENDANT DID NOT STEM FROM
21 ANY LINEUP PROCEDURE GIVING RISE TO A SUBSTANTIAL
22 LIKELIHOOD OF MISIDENTIFICATION IN VIOLATION OF THE
23 DEFENDANT'S CONSTITUTIONAL RIGHTS. THE PHOTOGRAPHS USED
24 WERE NOT SUGGESTIVE AND DUE PROCESS WAS NOT VIOLATED. I
25 FIND THAT THE PHOTO LINEUP AND THE IDENTIFICATION OF THE

1 WAS USED IN THIS PARTICULAR CASE HAS BEEN SO IMPERMISSIVELY
2 SUGGESTIVE AS TO GIVE RISE TO A VERY SUBSTANTIAL
3 LIKELIHOOD THAT THERE'S BEEN AN IRREVOCABLE MISIDENTIFICATION.

4 WE'VE HEARD TESTIMONY CONCERNING THE INITIAL DESCRIPTION
5 OF THE INDIVIDUAL SUCH AS A CLOSE HAIRCUT, DARK COMPLEXION,
6 AND THAT SORT OF THING. A LIGHT MUSTACHE.

7 THE FIRST PHOTO ARRAY SHOWS -- I MEAN AS YOUR
8 HONOR CAN SEE, ALL THE INDIVIDUALS ON THAT PHOTO ARRAY
9 HAD A HEAVY MUSTACHE. IN THE SECOND PHOTO ARRAY THERE
10 ARE -- YOUR HONOR, CAN LOOK FOR THEM AT -- FOR YOURSELF
11 TO MAKE A DETERMINATION; BUT I WOULD SUBMIT THAT THERE
12 ARE DIFFERENCES IN THE COMPLEXIONS. SPECIFICALLY
13 NUMBERS ONE AND FOUR SEEM TO BE A DARKER COMPLEXION THAN
14 SOME OF THE OTHER PICTURES ON THAT PARTICULAR ARRAY.
15 AND I WOULD -- YOU KNOW IT'S JUST MY CONTENTION THAT THE
16 MERE TAKING THIS YOUNG INDIVIDUAL -- HE'S 15 YEARS OLD
17 AT THE TIME OUT IN THAT PARTICULAR AREA AND SHOWING HIM
18 INDIVIDUALS. HE FIRST IDENTIFIED THE INDIVIDUAL, THEN
19 HE WAS TAKEN DOWN TO THE POLICE STATION JUST TWO HOURS
20 LATER WHILE HE WAS STILL RELATIVELY UPSET AND SHOWING
21 HIM ANOTHER PICTURE. HE TESTIFIED HE WAS BASICALLY
22 LOOKING FOR THAT PARTICULAR INDIVIDUAL. , IT WOULD BE MY
23 CONTENTION THAT THE FACT THAT HE HAD SEEN HIM ON THE
24 STREET WHAT APPEARS TO ME TO BE A SUGGESTIVE WAY. IT'S
25 A ONE ON ONE SHOW-UP TYPE OF THING, THEN TAKE HIM DOWN

1 Q AND THAT PICTURE IS STILL IN YOUR MIND, IS THAT
2 CORRECT?

3 A YES, SIR.

4 Q BEFORE YOU WERE BEING ALLOWED TO TESTIFY --
5 YOUR COMING UP TO COURT AND TESTIFYING TODAY, DID YOU
6 EVER SEE ANY OF THOSE PICTURES, THOSE TWELVE PICTURES
7 THAT WE'VE BEEN SHOWING YOU?

8 A YES, SIR. I'VE SEEN THEM ALL.

9 Q LET ME FINISH MY QUESTION. BEFORE YOU TOOK THE
10 STAND TO TESTIFY---

11 A YES, SIR.

12 Q ---HAD YOU EVER SEEN THOSE TWELVE PICTURES SINCE
13 THE 24TH?

14 A NO, SIR.

15 Q YOU'VE NEVER SEEN THEM AGAIN?

16 A NO, SIR.

17 Q THIS IS THE FIRST TIME YOU'VE SEEN THOSE PICTURES
18 SINCE YOU WERE SHOWN THOSE BY INVESTIGATORS WICKER AND
19 BROWN?

20 A YES, SIR.

21 Q YOU REMEMBER, OF COURSE, THE NUMBERS THAT YOU
22 PICKED OUT, RIGHT?

23 A YES, SIR.

24 Q BEFORE TODAY, HAVE YOU EVER BEEN TOLD THAT THE MAN
25 YOU PICKED UP WAS ARRESTED FOR BEING TONY?

1 A YES, SIR.

2 Q WHEN WERE YOU---

3 A AS BEING TONY?

4 Q WELL, THE MAN YOU FIRST DESCRIBED AS TONY, HAVE
5 YOU EVER BEEN TOLD THAT HE HAD BEEN ARRESTED?

6 A WELL, SOMEBODY TOLD ME THAT MR. BELL HAD BEEN
7 ARRESTED AND THAT'S THE MAN THAT TOLD ME HIS NAME WAS
8 TONY.

9 Q OKAY. WHAT I'M GETTING AT IS AFTER YOU PICKED OUT
10 MR. BELL'S PICTURE---

11 A RIGHT.

12 Q ---YOU'VE BEEN TOLD BEFORE TODAY THAT MR. BELL HAD
13 BEEN ARRESTED, IS THAT CORRECT?

14 A YES, SIR.

15 Q WHEN WERE YOU FIRST TOLD THAT?

16 A THAT NIGHT, THE 24TH.

17 Q OKAY. YOU REMEMBER THAT PICTURE YOU PICKED OUT,
18 CORRECT?

19 A YES, SIR.

20 Q ONE MOMENT PLEASE, YOUR HONOR. HOW DID YOU FIND
21 OUT THAT MAN'S NAME? MR. BELL'S NAME?

22 A WELL, WHEN I WENT TO THE SHERIFF'S DEPARTMENT AND
23 AFTER I HAD PICKED THE LINEUP, I HEARD THE NAME MENTIONED.

24 Q FROM? HOW WAS IT MENTIONED?

25 A MR. BROWN AND GARY WATTS.

1 Q WERE YOU STILL IN THE ROOM WHEN THEY WERE TALKING?

2 A NO, SIR, THEY WERE IN A DIFFERENT ROOM. BUT I
3 MEAN, IT WAS RIGHT ACROSS THE HALL FROM WHERE I WAS
4 SITTING.

5 Q OH. I SEE. YOU REMEMBER THAT NAME SINCE THEN,
6 CORRECT?

7 A YES, SIR.

8 Q ONE MOMENT, PLEASE, YOUR HONOR. I'VE GOT NO
9 FURTHER QUESTIONS, YOUR HONOR, OF JAY EDENS. THANK YOU.

10 THE COURT: YOU MAY COME DOWN.

11 (WHEREUPON, THE WITNESS WAS
12 EXCUSED AT THIS TIME.)

13 THE SOLICITOR: THAT'S ALL I HAVE, YOUR HONOR.
14 YOUR HONOR, THAT IS OUR PROFFER OF EVIDENCE.

15 THE COURT: MR. ALLEN, DO YOU WISH TO MAKE A
16 SHOWING?

17 MR. ALLEN: ONE MOMENT, PLEASE, YOUR HONOR.

18 (WHEREUPON, MR. ALLEN
19 CONFERS WITH THE DEFENDANT AT THIS TIME.)

20 MR. ALLEN: YOUR HONOR, I HAVE NO EVIDENCE TO
21 PRESENT AT THIS TIME.

22 THE COURT: EITHER SIDE WISH TO MAKE A STATEMENT?

23 MR. ALLEN: YES, YOUR HONOR IF I MAY? I'LL BE
24 BRIEF. YOUR HONOR, ESSENTIALLY WHAT'S -- OUR CONTENTION
25 IS, OF COURSE, THAT THE IDENTIFICATION PROCEDURE THAT

1 WAS USED IN THIS PARTICULAR CASE HAS BEEN SO IMPERMISSIVELY
2 SUGGESTIVE AS TO GIVE RISE TO A VERY SUBSTANTIAL
3 LIKELIHOOD THAT THERE'S BEEN AN IRREVOCABLE MISIDENTIFICATION.

4 WE'VE HEARD TESTIMONY CONCERNING THE INITIAL DESCRIPTION
5 OF THE INDIVIDUAL SUCH AS A CLOSE HAIRCUT, DARK COMPLEXION,
6 AND THAT SORT OF THING. A LIGHT MUSTACHE.

7 THE FIRST PHOTO ARRAY SHOWS -- I MEAN AS YOUR
8 HONOR CAN SEE, ALL THE INDIVIDUALS ON THAT PHOTO ARRAY
9 HAD A HEAVY MUSTACHE. IN THE SECOND PHOTO ARRAY THERE
10 ARE -- YOUR HONOR, CAN LOOK FOR THEM AT -- FOR YOURSELF
11 TO MAKE A DETERMINATION, BUT I WOULD SUBMIT THAT THERE
12 ARE DIFFERENCES IN THE COMPLEXIONS. SPECIFICALLY
13 NUMBERS ONE AND FOUR SEEM TO BE A DARKER COMPLEXION THAN
14 SOME OF THE OTHER PICTURES ON THAT PARTICULAR ARRAY.
15 AND I WOULD -- YOU KNOW IT'S JUST MY CONTENTION THAT THE
16 MERE TAKING THIS YOUNG INDIVIDUAL -- HE'S 15 YEARS OLD
17 AT THE TIME OUT IN THAT PARTICULAR AREA AND SHOWING HIM
18 INDIVIDUALS. HE FIRST IDENTIFIED THE INDIVIDUAL, THEN
19 HE WAS TAKEN DOWN TO THE POLICE STATION JUST TWO HOURS
20 LATER WHILE HE WAS STILL RELATIVELY UPSET AND SHOWING
21 HIM ANOTHER PICTURE. HE TESTIFIED HE WAS BASICALLY
22 LOOKING FOR THAT PARTICULAR INDIVIDUAL. IT WOULD BE MY
23 CONTENTION THAT THE FACT THAT HE HAD SEEN HIM ON THE
24 STREET WHAT APPEARS TO ME TO BE A SUGGESTIVE WAY. IT'S
25 A ONE ON ONE SHOW-UP TYPE OF THING, THEN TAKE HIM DOWN

1 TO THE POLICE STATION TWO HOURS LATER WHILE THAT MAN WAS
2 STILL FRESH IN HIS MIND OF THE PERSON HE SAW OUT IN THE
3 WINTER PARK DRIVE, AGAIN PICKING HIM OUT JUST INDICATES
4 TO ME THAT THERE'S JUST BEEN SUCH AN IMPERMISSIBLE
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7 IDENTIFICATION HERE IN THIS TRIAL TODAY WHEN HE HASN'T
8 SEEN HIM AGAIN EXCEPT WHEN HE FIRST TESTIFIED. AGAIN AS
9 HE TESTIFIED HE MADE STATEMENTS THAT HE REMEMBERED THE
10 NUMBERS HE HAD PICKED OUT AND THAT SORT OF THING. AND I
11 WOULD JUST---

12 THE COURT: MR. ALLEN, I CANNOT FIND ANYTHING
13 WRONG WITH THE PROCEDURE THAT WAS USED. ONE OF THE
14 WITNESSES STATED THAT HE THOUGHT IT WAS OUTSTANDING AND
15 I AGREE. I'VE EXAMINED THE PHOTOGRAPHS USED IN THE
16 PHOTO LINEUP IN STATE'S EXHIBIT NUMBER ONE AND NUMBER
17 TWO. I FIND THAT EACH PHOTOGRAPH CONTAINS PERSONS OF
18 THE SAME RACE, SIZE, AND FACIAL FEATURES AND THAT THE
19 RECORD SUPPORTS THE CONCLUSION THAT THE VICTIM'S IN-
20 CAMERA IDENTIFICATION OF THE DEFENDANT DID NOT STEM FROM
21 ANY LINEUP PROCEDURE GIVING RISE TO A SUBSTANTIAL
22 LIKELIHOOD OF MISIDENTIFICATION IN VIOLATION OF THE
23 DEFENDANT'S CONSTITUTIONAL RIGHTS. THE PHOTOGRAPHS USED
24 WERE NOT SUGGESTIVE AND DUE PROCESS WAS NOT VIOLATED. I
25 FIND THAT THE PHOTO LINEUP AND THE IDENTIFICATION OF THE

1 DEFENDANT WAS PROPER. ANYTHING FURTHER BEFORE WE RECESS
2 FOR LUNCH?

3 THE SOLICITOR: NOTHING FROM THE STATE, YOUR
4 HONOR.

5 THE COURT: IF THE OFFICERS WILL TAKE CHARGE OF
6 THE DEFENDANT.

7 MR. ALLEN: YES, YOUR HONOR.

8 THE COURT: ALL RIGHT. LET'S REMEMBER BE BACK
9 AT 2 O'CLOCK. COURT WILL BE IN RECESS UNTIL 2:00 P.M.

10 (WHEREUPON, COURT RECESSED
11 FOR LUNCH AT THIS TIME.)

12 (WHEREUPON, COURT RECONVENED
13 AFTER LUNCH AT 2:00 P.M.)

14 THE COURT: ANY MATTERS TO TAKE UP BEFORE WE BRING
15 IN THE JURY?

16 THE SOLICITOR: NONE FROM THE STATE.

17 THE COURT: THE DEFENSE?

18 MR. ALLEN: NOT AT THIS TIME, YOUR HONOR.

19 THE COURT: GIVE US A JURY, PLEASE?

20 (JURY IN.)

21 THE BAILIFF: THE JURY IS ALL PRESENT, YOUR HONOR.

22 THE COURT: THE STATE WAIVE POLLING OF THE JURY?

23 THE SOLICITOR: THE STATE WAIVES, YOUR HONOR.

24 THE COURT: THE DEFENSE WAIVE POLLING OF THE JURY?

25 MR. ALLEN: YES, YOUR HONOR.

1 THE COURT: YOU MAY PROCEED.

2 THE SOLICITOR: THANK YOU, YOUR HONOR: AT THIS
3 TIME THE STATE CALLS JAY EDENS.

4 (JAMES D. EDENS, FIRST
5 BEING DULY SWORN, TESTIFIED AS FOLLOWS:)

6 DIRECT EXAMINATION BY DEPUTY SOLICITOR GIESE:

7 Q JAY, WHY DON'T YOU SPEAK UP IN THAT MICROPHONE SO
8 EVERYBODY IN THE JURYBOX CAN HEAR YOU?

9 A YES, SIR.

10 Q JAY, HOW OLD ARE YOU?

11 A FIFTEEN.

12 Q AND WHEN DO YOU TURN SIXTEEN?

13 A JUNE 17TH.

14 Q NOW, WHERE DO YOU LIVE AT?

15 A 716 ALBION ROAD.

16 Q IS THAT HERE IN COLUMBIA?

17 A YES, SIR.

18 Q WHERE DO YOU GO TO SCHOOL?

19 A CARDINAL-NEWMAN.

20 Q NOW, DO YOU WORK ANYWHERE?

21 A I WORK DURING THE SUMMER FOR MY DAD.

22 Q IS HE HERE TODAY?

23 A YES, SIR.

24 Q WHICH ONE IS HE?

25 A THE MAN SITTING IN THE BACK BY MR. WICKER.

1 Q AND WHAT KIND OF WORK DO YOU DO FOR HIM?

2 A I DELIVER TRUCK PARTS.

3 Q DOES HE HAVE BUSINESS HERE IN TOWN THEN?

4 A YES, SIR.

5 Q OKAY. AND WERE YOU WORKING FOR HIM BACK IN JULY
6 OF 1985?

7 A YES, SIR.

8 Q OKAY. THAT'S DURING THE SUMMER WHILE YOU'RE NOT
9 IN SCHOOL?

10 A RIGHT.

11 Q WHAT DO YOU DO FOR HIM EXACTLY?

12 A WELL, I SWEEP UP AROUND THE OFFICE AND I DELIVER
13 PARTS AND I'LL GO GET THE LUNCH TOO.

14 Q AND YOU DO THAT WHAT ALL DAY LONG IN THE SUMMER?

15 A YES, SIR.

16 Q FIVE DAYS A WEEK?

17 A YES, SIR, FIVE AND FOUR DAYS A WEEK.

18 Q OKAY. NOW, JAY, I WANT TO TAKE YOU BACK TO JULY
19 23, 1985. YOU WERE WORKING FOR YOUR DAD THAT DAY?

20 A YES, SIR.

21 Q AND DO YOU REMEMBER WHAT DAY THAT WAS?

22 A IT WAS ON THE 23RD.

23 Q OKAY. DO YOU REMEMBER WHAT DAY OF THE WEEK?

24 A NO, SIR..

25 Q WHAT TIME DID YOU GET TO WORK THAT DAY?

1 A ABOUT 8:30.

2 Q IS THAT WHEN YOU USUALLY GET TO WORK?

3 A YES, SIR.

4 Q WHEN DO YOU GET OFF?

5 A AROUND 4:30 OR 5 O'CLOCK.

6 Q WHENEVER THEY LET YOU OFF?

7 A YES, SIR.

8 Q NOW, YOU SAY YOU GOT THERE AT 8:30. WHAT DID YOU

9 DO THAT MORNING? DO YOU REMEMBER?

10 A I SHOVELED SAND TO COVER UP THE MUD IN THE BACK

11 PARKING LOT.

12 Q DID YOU DO THAT ALL MORNING?

13 A YES, SIR.

14 Q HOW LONG DID THAT TAKE?

15 A FROM ABOUT 9 O'CLOCK UNTIL 12:15, AND THAT'S WHEN

16 I GOT THE LUNCH FOR EVERYBODY.

17 Q NOW, YOU SAY YOU GOT LUNCH FOR EVERYBODY. WHO DO

18 YOU GO GET LUNCH FOR?

19 A JUST THE PEOPLE THAT WORK IN THE OFFICE.

20 Q HOW MANY PEOPLE IS THAT?

21 A USUALLY ABOUT SIX PEOPLE.

22 Q DO YOU ACTUALLY GO GET THE LUNCHES YOURSELF?

23 A YES, SIR.

24 Q WHERE DO YOU USUALLY GO?

25 A BERNIE'S OR TONY'S.

1 Q NOW, WHERE ARE THEY?

2 A WELL, TONY'S IS RIGHT DOWN THE STREET FROM MY

3 DAD'S OFFICE AND BERNIE'S IS RIGHT UP THE STREET.

4 Q WHAT ARE THEY?

5 A RESTAURANTS.

6 Q IS THAT ON BLUFF ROAD?

7 A YES, SIR.

8 Q IS THAT WHERE YOUR FATHER'S BUSINESS IS NEAR BLUFF

9 ROAD?

10 A YES, SIR, IT'S ON BLUFF ROAD.

11 Q SO THIS DAY AT 12:15, YOU WENT AND GOT LUNCHES FOR

12 EVERYBODY. HOW MANY DID YOU GET AT THAT TIME DO YOU

13 REMEMBER?

14 A AT 12:15, I GOT LUNCH FOR FOUR PEOPLE.

15 Q INCLUDING YOURSELF?

16 A YES, SIR.

17 Q WHAT DID YOU DO ONCE YOU GOT THE LUNCHES?

18 A I BROUGHT THEM BACK TO THE OFFICE AND STARTED

19 SHOVELING SAND AGAIN.

20 Q DID YOU GET TO EAT YOUR LUNCH?

21 A YES, SIR.

22 Q AND THEN YOU STARTED SHOVELING SAND AGAIN?

23 A YES, SIR.

24 Q YOU HADN'T FINISHED?

25 A NO, SIR.

1 Q OKAY. DID YOU HAVE MUCH MORE TO DO THAT DAY?

2 A YES, SIR.

3 Q NOW, WHAT HAPPENED AFTER YOU STARTED SHOVELING
4 SAND AGAIN?

5 A WELL, MR. WATTS CAME BACK THERE AND TOLD ME THAT I
6 NEEDED TO GO GET ONE MORE LUNCH FOR ANOTHER -- FOR A
7 CUSTOMER. AND SO I WENT DOWN TO TONY'S RESTAURANT AND
8 GOT THE LUNCH.

9 Q WHO WAS -- DO YOU KNOW WHO THE CUSTOMER WAS?

10 A NO, SIR.

11 Q YOU JUST KNEW YOU HAD TO GET ONE MORE LUNCH?

12 A YES, SIR.

13 Q HAD YOU BEEN TO TONY'S THAT MORNING TO GET THE
14 OTHER LUNCHES?

15 A YES, SIR.

16 Q SO ABOUT WHAT TIME WAS THAT? DO YOU REMEMBER?

17 A ONE-FIFTEEN.

18 Q SO YOU WENT DOWN THERE AT 1:15. TELL THE JURY
19 EXACTLY WHAT YOU DID ONCE YOU GOT DOWN THERE?

20 A I GOT DOWN THERE AND I GOT OUT OF MY PICKUP TRUCK
21 AND I LOCKED THE DOORS -- OR MY DOOR. AND I WALKED IN
22 AND I ORDERED THE LUNCH AND I WAS WALKING BACK OUT TO MY
23 TRUCK AND MR. BELL APPROACHED ME AND ASKED ME FOR A
24 RIDE.

25 Q NOW, YOU SAY YOU GOT BACK TO YOUR TRUCK, IS THAT

1 ACTUALLY YOUR TRUCK?

2 A WELL, MY DAD'S. IT'S MY DAD'S.

3 Q BUT IT'S THE TRUCK YOU WERE DRIVING?

4 A YES, SIR.

5 Q AND YOU SAY AT THAT TIME SOMEONE WALKED UP TO YOU.

6 WHO WAS THAT AGAIN?

7 A MR. BELL.

8 Q I MEAN DID YOU KNOW HIS NAME AT THAT TIME?

9 A NO, SIR.

10 Q HAD YOU EVER MET HIM BEFORE?

11 A NO, SIR.

12 Q HAD YOU EVER EVEN SEEN HIM BEFORE?

13 A NO, SIR.

14 Q SO YOU DIDN'T KNOW WHAT HIS NAME WAS AT THAT TIME?

15 A NO, SIR.

16 Q AND HE WALKED UP TO YOU AND DID WHAT?

17 A HE ASKED ME FOR A RIDE AND I SAID NO, THAT I WAS
18 BUSY AND I WAS GOING OUT OF TOWN. AND HE SAID ALL RIGHT
19 AND I---

20 Q DID YOU PAY MUCH ATTENTION TO HIM AT THAT TIME?

21 A NO, SIR, NOT REALLY.

22 Q WHAT DID YOU DO?

23 A I UNLOCKED -- I SET THE LUNCH -- IT WAS IN A BOX.

24 I SET IT ON THE HOOD OF THE CAR AND THEN I UNLOCKED MY

25 DOOR AND I OPENED IT AND I GOT INTO MY SEAT AND TURNED

1 AROUND WITH THE BOX TO SET IT IN THE MIDDLE OF THE TRUCK
2 AND HE WAS THERE. HE WAS IN THE PASSENGER'S SIDE OF THE
3 TRUCK.

4 Q NOW, YOU SAY YOU GOT INTO YOUR CAR. DID YOU BACK
5 INTO YOUR CAR? HOW DID YOU DO THAT WITH YOUR LUNCH?

6 A I JUST PICKED IT UP WITH THIS HAND AND JUST KINDA
7 TOOK A STEP BACKWARDS INTO THE SEAT.

8 Q SO YOU WERE NOT FACING THE PASSENGER'S SEAT AT
9 THAT TIME?

10 A NO, SIR.

11 Q AND WHEN YOU GOT IN THERE, WHAT DID YOU SEE?

12 A MR. BELL OR THIS MAN.

13 Q DID THAT SCARE YOU AT ALL?

14 A NOT THAT MUCH. IT SCARED ME A LITTLE BIT.

15 Q WHAT DID YOU DO AT THAT TIME?

16 A I DIDN'T DO ANYTHING. HE TOLD ME THAT I WAS GOING
17 TO TAKE HIM TO THE BAIT SHOP THAT WAS RIGHT DOWN THE
18 ROAD TO THE RIGHT.

19 Q WHAT DID YOU DO?

20 A I TOOK HIM TO THE BAIT SHOP.

21 Q WHY DID YOU DO THAT?

22 A BECAUSE I WAS SCARED THAT IF I DIDN'T, HE WOULD
23 BEAT ME UP.

24 Q NOW, YOU TOOK HIM DOWN TO THE BAIT SHOP. WHILE
25 -- YOU MENTIONED BEFORE THAT YOU SAW HIM WHEN HE WALKED

1 UP TO YOU AND WHEN HE GOT IN THE CAR AND TOLD YOU TO GO
2 TO THE BAIT SHOP, HAD YOU LOOKED AT HIS FACE YET?

3 A NO, SIR, NOT REALLY.

4 Q WHY NOT?

5 A BECAUSE I JUST WASN'T PAYING ANY ATTENTION TO HIM.

6 I MEAN I MIGHT -- I GLANCED UP PROBABLY AND JUST DIDN'T
7 PAY ATTENTION.

8 Q WERE YOU STILL SCARED AT THAT TIME?

9 A YES, SIR.

10 Q NOW, YOU SAY YOU DROVE DOWN TO THE BAIT SHOP, WHAT
11 BAIT SHOP IS THAT, DO YOU KNOW?

12 A I DON'T REMEMBER.

13 Q HOW FAR FROM WHERE -- FROM TONY'S IS IT?

14 A IT'S ABOUT THREE BLOCKS.

15 Q OKAY. DID HE MENTION ANY NAMES TO YOU ABOUT WHAT
16 HIS NAME WAS AT ANY TIME?

17 A AFTER WE GOT -- AFTER HE HAD ALREADY BEEN IN THE
18 STORE, HE TOLD ME HIS NAME WAS TONY.

19 Q OKAY. THIS IS THE BAIT SHOP YOU'RE TALKING ABOUT?

20 A YES, SIR.

21 Q YOU SAY YOU DROVE DOWN TO THE BAIT SHOP. WHAT
22 HAPPENED AT THE BAIT SHOP?

23 A HE GOT OUT OF MY TRUCK AND ASKED ME IF I WAS GOING
24 TO WAIT ON HIM AND I SAID YES. AND THEN---

25 Q WERE YOU GOING TO WAIT ON HIM?

1 A NO, SIR.

2 Q WHY NOT?

3 A BECAUSE I WAS SCARED AND SO I WAS GOING TO LEAVE
4 HIM. AND SO I STARTED TO BACK UP AND THIS LITTLE BLUE
5 PINTO PULLED UP WITH TWO WHITE GUYS IN IT AND SET THERE
6 FOR AWHILE. AND I COULDN'T GO FORWARD BECAUSE THERE WAS
7 ANOTHER OLD TRUCK IN FRONT OF ME. AND SO THEN THEY
8 LEFT AND I STARTED ROLLING BACKWARDS AND HE WASN'T IN
9 THE STORE BUT FIVE -- ABOUT FIVE SECONDS AND HE CAME
10 BACK OUT AND HIT THE FRONT OF THE TRUCK AND ASKED ME
11 WHERE I WAS GOING. AND I TOLD HIM I WAS JUST TURNING
12 AROUND. AND THEN---

13 Q WHY DID YOU TELL HIM YOU WERE JUST TURNING AROUND?

14 A BECAUSE IF I WOULD HAVE TOLD HIM I WAS GOING TO
15 LEAVE HIM, HE MIGHT HAVE BEAT ME UP. JUST GOTTEN REAL
16 MAD.

17 Q WERE YOU SCARED OF HIM AT THAT TIME?

18 A YES, SIR.

19 Q WHEN YOU WERE BACKING UP, DID YOU HAVE YOUR HEAD
20 TURNED OR WHAT WERE YOU DOING?

21 A MY HEAD WAS TURNED TOWARDS THE BACK SO I COULD SEE
22 WHERE I WAS BACKING UP.

23 Q AND IS THAT WHEN HE HIT THE HOOD OF THE CAR?

24 A YES, SIR.

25 Q DID HE HIT IT VERY HARD OR SOFT OR WHAT?

1 A IT WASN'T -- NO, SIR, HE DIDN'T HIT IT VERY HARD.

2 Q NOW, WHAT HAPPENED AFTER THAT?

3 A HE GOT BACK IN THE TRUCK AND TOLD ME -- HE ASKED
4 ME WHERE I WAS GOING AND I SAID NOWHERE, I WAS JUST
5 TURNING AROUND. AND THEN SO HE TOLD ME TO TAKE HIM TO
6 WHITE HOUSE ROAD.

7 Q NOW, WHEN HE WAS TALKING TO YOU, DID YOU GET A
8 GOOD LOOK AT HIS FACE AT THAT TIME?

9 A NO, SIR, NOT REALLY. HE JUST TOLD ME -- HE TOLD
10 ME TO TAKE HIM TO WHITE HOUSE ROAD AND I WAS JUST
11 BASICALLY LOOKING AT THE ROAD.

12 Q OKAY.

13 A AND I JUST DIDN'T WANT TO LOOK AT HIM.

14 Q OKAY. NOW, WHAT DID THIS FELLOW LOOK LIKE TO YOU
15 AT THAT TIME? WHAT WAS HE WEARING? WHAT WAS HIS FACIAL
16 APPEARANCE? WHAT DID HE LOOK LIKE TO YOU?

17 A WELL, I LOOKED DOWN MOST OF THE TIME. SO I REALLY
18 I GOT JUST A GOOD LOOK AT HIS JEANS AND HIS SHOES.

19 Q NOW, WHY WERE YOU LOOKING DOWN?

20 A BECAUSE I DIDN'T WANT TO LOOK AT HIS FACE BECAUSE
21 I -- I DON'T KNOW I JUST DIDN'T WANT TO LOOK AT HIS
22 FACE. I WAS JUST---

23 Q WERE YOU STILL SCARED AT THAT TIME?

24 A YES, SIR.

25 Q YOU SAY YOU LOOKED AT HIS SHOES. WAS THERE

1 ANYTHING PECULIAR ABOUT HIS SHOES?

2 A THEY WERE SUEDE AND THEY WERE LIKE A PAIR OF PENNY
3 LOAFERS EXCEPT THEY WERE SUEDE AND YOU JUST SLIP THEM
4 ON. NOT SUEDE -- THEY WERE OF CLOTH MATERIAL.

5 Q ARE THEY LIKE THE SHOES YOU'VE GOT ON NOW?

6 A EXCEPT THEY'RE CANVAS.

7 Q SHOW THE JURY WHAT YOU'VE GOT ON.

8 A (WITNESS COMPLIES.)

9 Q YOU REMEMBER THEM BECAUSE THEY WERE CANVASS?

10 A YES, SIR.

11 Q AND WHAT COLOR WERE THEY?

12 A BLUE -- KIND OF A NAVY BLUE.

13 Q SO ONCE HE GOT BACK INTO THE CAR WITH YOU, HE TOLD
14 YOU TO DRIVE WHERE?

15 A TO WHITE HOUSE ROAD.

16 Q DID YOU KNOW WHERE THAT IS?

17 A YES, SIR.

18 Q WHERE IS THAT?

19 A IT'S RIGHT BY QUALITY PARTS ON BLUFF ROAD AND IT'S
20 ON BERLE MANNING'S LAND.

21 Q APPROXIMATELY HOW FAR IS THAT FROM THE BAIT SHOP?

22 A I'M NOT REAL SURE.

23 Q OKAY. DID HE GET ANYTHING AT THE BAIT SHOP TO
24 YOUR KNOWLEDGE?

25 A YES, SIR, HE GOT A PAPER BAG.

1 Q DID YOU KNOW WHAT WAS IN THE BAG?

2 A NO, SIR. HE TOLD ME THERE WAS BEER AND CRICKETS
3 AND PRETZELS IN IT, BUT I WASN'T SURE.

4 Q IT COULD HAVE BEEN ANYTHING -- I MEAN IT COULD
5 HAVE BEEN ANYTHING, COULDN'T IT?

6 A YES, SIR.

7 Q NOW, WHEN YOU WERE DRIVING DOWN TO WHITE HOUSE
8 ROAD, WERE YOU SCARED AT THAT TIME?

9 A YES, SIR.

10 Q DID YOU GET DOWN TO WHITE HOUSE ROAD?

11 A YES, SIR, WE GOT TO THE -- THERE'S A LITTLE
12 STREAM. IT'S CALLED THE FISHING HOLE AND HE STUCK HIS
13 HEAD OUT OF THE WINDOW AND STARTED CALLING SOME OF HIS
14 FRIENDS OR HIS FRIEND JIM. DID ANYBODY ANSWER HIM?

15 A NO, SIR.

16 Q OKAY. ONCE YOU GOT TO WHITE HOUSE ROAD, WHAT
17 HAPPENED THEN?

18 A UH---

19 Q IS WHITE HOUSE ROAD RIGHT OFF OF BLUFF ROAD?

20 A YES, SIR.

21 Q WHEN YOU GOT TO WHITE HOUSE ROAD, WHAT DID YOU DO?

22 A I WAS -- WELL, WHEN HE FIRST -- WHEN I TURNED ONTO
23 WHITE HOUSE ROAD, HE ROLLED HIS WINDOW DOWN AND STARTED
24 SCREAMING FOR JIM AND THIS SCARED ME REAL BAD AND THAT'S
25 WHEN I STARTED GETTING REALLY SCARED BECAUSE I DIDN'T

1 KNOW WHO OR WHAT JIM WAS. AND SO IT JUST SCARED ME A
2 LOT.

3 Q WHAT DID YOU DO AFTER THAT?

4 A WELL, HE GOT BACK IN THE -- HE BROUGHT HIS HEAD
5 BACK IN THE TRUCK AND I WENT UP WHITE HOUSE ROAD JUST A
6 LITTLE BIT MORE AND TURNED AROUND.

7 Q NOW, WHY DID YOU DO THAT?

8 A BECAUSE HE TOLD ME TO.

9 Q NOW, IS HE TELLING YOU WHERE TO DRIVE AND EVERY-
10 THING?

11 A YES, SIR.

12 Q WERE YOU DOING THIS ON YOUR OWN FREE WILL AND
13 ACCORD OR---

14 MR. ALLEN: OBJECTION, HE'S LEADING THE WITNESS.

15 THE COURT: DO NOT LEAD SOLICITOR.

16 THE SOLICITOR: YES, SIR. WHAT ARE YOU FEELING
17 LIKE RIGHT NOW -- RIGHT THEN?

18 A WELL, I'M JUST REAL SCARED.

19 Q IS HE TELLING YOU WHERE TO GO?

20 A YES, SIR.

21 Q NOW; ONCE YOU TURNED AROUND FROM WHITE HOUSE ROAD,
22 WHAT HAPPENED AFTER THAT?

23 A HE TOOK ME BACK OUT TO BLUFF ROAD AND TOLD ME TO
24 TURN RIGHT AND SO I DID. AND THEN WE WENT PAST BLUFF
25 ESTATES AND WE TURNED ONTO SOME ROAD. I CAN'T REMEMBER

1 THE NAME OF IT.

2 Q NOW, WHY DID YOU TURN ONTO THAT ROAD?

3 A BECAUSE HE TOLD ME TO. HE WAS TELLING ME WHERE TO
4 GO THIS WHOLE TIME. AND SO AFTER WE TURNED THERE, WE
5 WENT DOWN THAT ROAD ABOUT A MILE, A MILE AND A HALF AND
6 IT KIND OF CURVED OUT TO THE LEFT. AND SO WE WENT DOWN
7 THAT ROAD AND THERE WAS AN OLD DIRT ROAD OR A CLAY-
8 WORK ROAD TO THE RIGHT AND HE TOLD ME TO TURN ON IT. IT
9 WAS A SHORT CUT TO HIS HOUSE. AND SO I TURNED ON IT.
10 AND IT WAS REAL MUDDY AND WE GOT THROUGH A COUPLE OF MUD-
11 HOLES AND I TOLD HIM THAT THE TRUCK WASN'T GOING TO MAKE
12 IT.

13 Q NOW, IS THAT WHY YOU STOPPED BECAUSE YOU DIDN'T
14 THINK THE TRUCK WAS GOING TO MAKE IT OR WERE YOU GETTING
15 THREATENED AT THAT TIME?

16 A I DIDN'T THINK THE TRUCK WAS GOING TO MAKE IT.

17 Q WERE YOU STILL SCARED?

18 A YES, SIR.

19 Q ONCE YOU TOLD HIM THAT WHAT HAPPENED?

20 A HE SAID THAT HE KNEW A LOT ABOUT TRUCKS AND THAT
21 IT WOULD MAKE IT. BUT I SAID IT WOULDN'T AND I JUST
22 KIND OF THREW IT IN REVERSE AND JUST BARELY GOT OUT.

23 Q WHAT HAPPENED AFTER THAT?

24 A HE TOOK ME BACK OUT TO BLUFF ROAD THE EXACT WAY
25 THAT WE CAME IN AND WE WENT DOWN TO ATLAS ROAD AND TOOK

1 A RIGHT ONTO ATLAS ROAD. AND THERE'S A STREET BEFORE
2 AN OLD CHURCH AND THERE'S A STREET AFTER IT AND WE
3 TURNED ON THE STREET AFTER IT.

4 Q IS HE STILL TELLING YOU WHERE TO GO?

5 A YES, SIR. AND THEN -- SO WE TOOK A RIGHT AT THE
6 END OF THAT STREET AND WENT BY A HOUSE WITH SOME KIDS
7 PLAYING IN THE FRONT YARD. AND I WAVED AT THEM SO THEY---

8 Q WHY DID YOU WAVE AT THEM?

9 A SO MAYBE IF -- YOU KNOW SOMETHING HAPPENED AND I
10 WANTED TO RUN BACK TO THEM AND THEY WOULD KNOW ME
11 BECAUSE I JUST WAVED AT THEM. THEY WOULD MEMORIZE. AND
12 SO I WENT DOWN THIS OLD ROAD AND THEN WE TOOK A LEFT.
13 AND THEN THERE'S A RIGHT YOU CAN TAKE AND THEN YOU CAN
14 KEEP ON GOING STRAIGHT.

15 Q NOW, IS HE STILL TELLING YOU WHERE TO GO?

16 A YES, SIR.

17 Q OKAY. SO HE TOLD ME TO GO BACK TO THIS OLD GRAVEL
18 ROAD AND THERE'S A BIG SIGN THAT SAID DEAD END ON IT.
19 AND SO WE STARTED GOING BACK TO THIS OLD GRAVEL ROAD AND
20 HE TOLD ME TO KEEP ON GOING. HE KEPT ON SAYING HIS
21 HOUSE IS RIGHT AROUND THE CORNER. EVERY CORNER WE WENT
22 AROUND, HIS HOUSE WAS RIGHT AROUND IT. AND SO WE WENT
23 UP OR DOWN THIS GRAVEL ROAD AND WENT UP THE OTHER SIDE
24 OF A CLAY BANK AND WE CAME TO A BIG OLD GARBAGE PILE AND
25 I TOLD HIM THAT THE TRUCK DEFINITELY WASN'T GOING TO

1 MAKE IT OVER THIS GARBAGE PILE. AND HE TOLD ME TO --
2 I MEAN I SAID YOU'RE GOING TO HAVE TO WALK FROM HERE.
3 AND HE SAID YEAH, I GUESS YOU'RE RIGHT. AND THEN HE
4 SAID WE'RE GOING TO TAKE A WALK IN THE WOODS TOGETHER.
5 AND THEN HE REACHED -- I HAD THE TRUCK IN REVERSE
6 BECAUSE I WAS READY TO LEAVE AND HE REACHED---

7 Q WHEN HE SAID THAT YOU WERE GOING TO TAKE A WALK
8 TOGETHER, WHAT DID YOU THINK THAT MEANT?

9 A I THOUGHT THAT WE WERE JUST GOING TO GET OUT AND
10 GO BACK IN THE WOODS AND I ASKED HIM IF HE WAS SERIOUS.
11 I LOOKED HIM IN -- I GOT A PRETTY GOOD LOOK AT HIM THEN
12 WHEN I ASKED HIM IF HE WAS SERIOUS.

13 Q WERE YOU SCARED STILL?

14 A VERY. ESPECIALLY SINCE HE HAD CUT THE TRUCK OFF I
15 WAS VERY SCARED. AND SO HE GRABBED MY ARM AND GRABBED
16 THE -- GRABBED MY RIGHT ARM AND GRABBED THE KEYS WHERE
17 YOU TURN THE CAR OFF AND TOLD ME THAT -- HE TOLD ME NOT
18 TO RUN IT WAS A STUPID THING TO DO OR IT WAS STUPID TO
19 RUN OR SOMETHING RIGHT AROUND THERE. SO I BENT DOWN
20 OVER THE STEERING WHEEL AND GRABBED THE HANDLE ON THE
21 DOOR AND I CAME BACK UP WITH THE HANDLE SO IT WOULDN'T
22 MAKE ANY NOISE. AND THEN I YANKED AWAY FROM HIM AND
23 STARTED RUNNING.

24 Q WHEN YOU YANKED AWAY FROM HIM ARE YOU SAYING HE
25 WAS STILL HOLDING YOU AT THAT TIME?

1 A YES, SIR.

2 Q I WANT YOU TO COME DOWN HERE.

3 A (WITNESS COMPLIES.)

4 Q NOW, JAY, I WANT YOU TO PRETEND LIKE I'M YOU---

5 A OKAY.

6 Q ---AND I'M DRIVING RIGHT HERE---

7 A ALL RIGHT.

8 Q AND YOU ARE MR. BELL---

9 A OKAY.

10 Q WHEN Y'ALL CAME TO A STOP ON THAT DEAD END SHOW ME

11 EXACTLY WHAT YOU -- WERE YOU -- YOU HAD YOUR HANDS LIKE

12 THIS?

13 A RIGHT. MY HANDS WERE LIKE THAT. SO THAT ONE IS

14 UP HERE.

15 Q THIS ONE IS UP HERE?

16 A NO, THAT ONE IS.

17 Q THIS ONE?

18 A RIGHT.

19 Q OKAY. WHERE'S THE IGNITION?

20 A THE IGNITION IS RIGHT HERE AND THIS HAND RIGHT

21 HERE. HE GRABBED ME WITH A REAL TIGHT GRIP HERE AND

22 GRABBED IT RIGHT THERE AND CUT IT OFF. HE HAD ME LIKE

23 THAT. HE LEANED WAY ACROSS THE TRUCK.

24 Q NOW, YOU SAY HE GRABBED THE KEYS. DID HE PULL THE

25 KEYS BACK?

1 A NO, SIR. HE TRIED---

2 Q MAKE SURE YOU SPEAK UP.

3 A HE TRIED TO PULL THE KEYS BACK, BUT SINCE THE
4 TRUCK WAS IN REVERSE, THEY WOULDN'T COME OUT.

5 Q NOW, SHOW ME AGAIN HOW HE'S DOING?

6 A LIKE THAT AND LIKE THAT.

7 Q AND YOU SAY THIS IS WHEN YOU PULLED AWAY FROM HIM?

8 A YES, SIR, I AFTER I -- AFTER I---

9 Q WHAT DID YOU DO WITH THIS HAND?

10 A AFTER I BENT DOWN OVER THE STEERING WHEEL AND THAT
11 HAND WAS UP ON THE LEVER RIGHT THERE AND I CAME BACK UP
12 AND BROUGHT THAT ARM UP WITH IT. THE LEVER CAME OPEN
13 AND IT DIDN'T MAKE ANY NOISE. AND THEN HE HAD ME LIKE
14 THAT AND HE STILL YANKED AWAY AND THAT HAND HIT THE DOOR
15 AND THEN IT CAME OPEN AND I STARTED RUNNING AND I GUESS
16 HE LET GO.

17 Q HAVE A SEAT.

18 A (WITNESS COMPLIES.)

19 Q NOW, JAY, UP TO THAT POINT, UP UNTIL YOU GOT OUT
20 OF THE TRUCK AND RAN OFF---

21 A YES, SIR.

22 Q ---APPROXIMATELY HOW LONG HAD YOU BEEN IN CONTACT
23 WITH THE DEFENDANT?

24 A IT WAS OVER 30 MINUTES. OVER 35 MINUTES FOR THAT
25 FACT.

1 Q AND WHEN YOU GOT OUT OF THAT TRUCK, WHAT DID YOU
2 DO?

3 A WELL, I STARTED RUNNING AND I GOT DOWN THE CLAY
4 ROAD AND I WAS -- I'D JUST GOT ON THE GRAVEL ROAD AND I
5 HAD BEEN ON THERE FOR AWHILE AND THEN I -- ALL OF A
6 SUDDEN I HEARD HIM SAY STOP OR HE WAS GOING TO SHOOT AND
7 I DIDN'T -- I JUST KEPT ON RUNNING.

8 Q DID YOU EVER HEAR A SHOT?

9 A NO, SIR.

10 Q JAY, HAD HE EVER SAID ANYTHING ABOUT A GUN BEFORE
11 THAT?

12 A NO, SIR.

13 Q HE DID SAY STOP OR I'LL SHOOT?

14 A YES, SIR.

15 Q JAY, THIS WHOLE -- UP TO THIS POINT, YOUR DEALINGS
16 WITH MR. BELL, DID YOU FEEL THREATENED?

17 A YES, SIR.

18 Q DID YOU WANT TO DRIVE HIM AROUND TOWN?

19 A NO, SIR.

20 Q DID YOU FEEL LIKE SOMETHING WAS GOING TO HAPPEN TO
21 YOU IF YOU DIDN'T---

22 MR. ALLEN: OBJECTION. HE'S STILL LEADING THE
23 WITNESS, YOUR HONOR.

24 THE COURT: PLEASE REPHRASE. DO NOT LEAD.

25 THE SOLICITOR: YES, SIR. WHAT, IF ANYTHING, DID

1 YOU FEEL IF YOU HAD NOT DRIVEN HIM AROUND?

2 A HE PROBABLY WOULD HAVE BEAT ME UP. I WAS DOING
3 THIS AGAINST MY WILL.

4 Q WERE YOU SCARED?

5 A YES, SIR.

6 Q YOU DID FEEL THREATENED?

7 A YES, SIR.

8 Q FOR THE RECORD, JAY, I WANT YOU TO SEE -- LOOK
9 AROUND THE COURTROOM AND SEE IF YOU CAN IDENTIFY THE MAN,
10 WHO WAS WITH YOU FOR 30 MINUTES, THAT KIDNAPPED YOU?

11 A THIS MAN SITTING RIGHT DOWN HERE. MR. BELL.

12 Q ANY DOUBT IN YOUR MIND?

13 A NO, SIR.

14 Q WOULD YOU EVER FORGET HIM?

15 A NO, SIR.

16 Q WHY NOT?

17 A I JUST -- I MEAN WHEN YOU GET KIDNAPPED, YOU DON'T
18 FORGET PEOPLE LIKE THAT.

19 Q NOW, ONCE YOU HAD RUN AND HE HAD YELLED AT YOU,
20 WHAT DID YOU DO THEN?

21 A I DID -- I MEAN I JUST KEPT ON RUNNING.

22 Q AND WHERE DID YOU RUN TO?

23 A THE LITTLE -- WHERE I SAW THE KIDS PLAYING IN THE
24 FRONT YARD AND I RAN TO THEIR HOUSE.

25 Q APPROXIMATELY HOW FAR WAS THAT FROM WHERE YOU

1 PARKED -- FROM WHERE YOU STOPPED THAT TRUCK?

2 A I COULDN'T TELL YOU.

3 Q DID YOU FEEL BAD ABOUT LEAVING THE TRUCK THERE?

4 A NO, SIR.

5 Q WHY NOT?

6 A BECAUSE I DIDN'T CARE ABOUT THE TRUCK. YOU CAN
7 GET A NEW TRUCK.

8 Q AND HOW FAR DID YOU SAY IT WAS FROM WHERE THE
9 TRUCK WAS TO WHERE THIS HOUSE WAS?

10 A I'M NOT SURE.

11 Q WAS IT A GOOD RUN?

12 A YES, SIR.

13 Q WERE YOU RUNNING HARD?

14 A YES, SIR.

15 Q WHEN YOU GOT TO THIS HOUSE, WHAT DID YOU DO?

16 A THERE WAS A MAN SITTING IN THE FRONT YARD AND I
17 TOLD HIM WHAT HAD HAPPENED AND HE CALLED THE POLICE.
18 AND THEN THEY GOT THERE.

19 Q DO YOU REMEMBER WHO THE FIRST POLICE OFFICERS WERE
20 THERE?

21 A NO, SIR.

22 Q DID YOU TELL THEM WHAT HAPPENED TO YOU?

23 A YES, SIR.

24 Q DID YOU TELL THEM WHERE YOUR TRUCK -- WHERE YOU
25 LEFT YOUR TRUCK?

1 A YES, SIR.

2 Q AFTER THE POLICE GOT THERE, WHAT DID YOU DO?

3 A WELL, ABOUT THE SAME TIME THE POLICE GOT THERE,
4 GARY GOT THERE AND I RODE BACK TO WHERE THE TRUCK WAS
5 WITH HIM.

6 Q NOW, YOU SAY GARY. WHO IS GARY?

7 A MR. WATTS. HE'S SITTING RIGHT DOWN HERE.

8 Q GARY WATTS?

9 A YES, SIR.

10 Q OKAY.

11 A AND I RODE BACK TO THE TRUCK WITH HIM AND THEY
12 JUST ASKED ME A BUNCH OF QUESTIONS.

13 Q OKAY. NOW, YOU SAY YOU RODE BACK TO THE TRUCK,
14 WAS THE TRUCK STILL THERE?

15 A YES, SIR.

16 Q WERE THE KEYS THERE?

17 A YES, SIR.

18 Q AND WAS IT EXACTLY WHERE YOU HAD LEFT IT?

19 A YES, SIR.

20 Q AND WHERE WAS THAT?

21 A IT WAS UP AT THE TOP OF THE CLAY HILL AND BOTH THE
22 DOORS WERE OPENED AND -- EVERYTHING WAS EXACTLY THE
23 SAME.

24 Q BOTH DOORS WERE OPENED?

25 A YES, SIR.

1 Q AFTER THEY ASKED YOU SOME QUESTIONS, WHAT DID YOU
2 DO?

3 A I WENT BACK TO THE OFFICE AND PUT SOME BANDAIDES
4 ON MY FEET.

5 Q AND WHY DID YOU DO THAT?

6 A BECAUSE I WAS BAREFOOTED RUNNING DOWN A ROCK ROAD.

7 Q WERE YOU CUT?

8 A YES, SIR.

9 Q HOW BADLY WERE YOU CUT?

10 A NOT VERY BADLY.

11 Q BUT BAD ENOUGH TO HAVE A BANDAID?

12 A YES, SIR.

13 Q DID YOU GO HOME THAT NIGHT AFTER WORK?

14 A I WENT BACK TO THE POLICE STATION AND WROTE A
15 STATEMENT AND COMPOSITE(SIC) A PICTURE.

16 Q OKAY. NOW, YOU SAY THAT YOU WENT BACK TO THE
17 POLICE STATION. DID YOU LOOK AT ANY LINEUPS THAT NIGHT?

18 A NO, SIR.

19 Q OKAY. IN FACT, AFTER YOU MADE YOUR STATEMENT DID
20 YOU PRETTY MUCH LEAVE?

21 A YES, SIR.

22 Q OKAY. WHERE DID YOU GO?

23 A I WENT TO MY HOUSE.

24 Q DID YOU GO TO SLEEP THAT NIGHT?

25 A YES, SIR.

1 Q YOU WERE PRETTY TIRED FROM THIS?

2 A YES, SIR.

3 Q NOW, WHAT WAS YOUR NEXT CONTACT WITH THIS CASE?

4 A THE NEXT DAY, THE 24TH.

5 Q AND APPROXIMATELY WHAT TIME?

6 A IT WAS IN THE MORNING. IF I HAD TO SAY, I'D
7 PROBABLY SAY AROUND 9:30.

8 Q ABOUT 9:30 IN THE MORNING?

9 A YES, SIR.

10 Q AND WHAT WAS THAT CONTACT?

11 A IT WAS WITH MR. WICKER. I GOT SHOWN A LINEUP.

12 Q OKAY. YOU SAY MR. WICKER. ARE YOU TALKING ABOUT
13 INVESTIGATOR WICKER SEATED BACK HERE?

14 A YES, SIR.

15 Q HE SHOWED YOU A LINEUP AT THAT TIME?

16 A YES, SIR.

17 Q DID YOU PICK ANYBODY OUT OF THAT LINEUP?

18 A NO, SIR.

19 Q WHY NOT?

20 A BECAUSE NONE OF THEM WERE THE MAN THAT KIDNAPPED
21 ME.

22 Q I HAND YOU STATE'S EXHIBIT NUMBER ONE MARKED FOR
23 IDENTIFICATION ONLY. I WANT YOU TO TAKE A GOOD LOOK AT
24 THAT AND TELL ME IF YOU CAN RECOGNIZE THAT?

25 A YES, SIR.

1 Q WHAT IS IT?

2 A IT'S THE LINEUP THAT MR. WICKER GAVE ME THAT
3 MORNING AND I DID NOT PICK ANY OF THESE MEN.

4 Q DID YOU TALK TO HIM ABOUT THE LINEUP?

5 A YES, SIR.

6 Q WHAT DID YOU TELL HIM?

7 A I TOLD HIM THAT NUMBER SIX WITH CHANGES.

8 Q WHAT KIND OF CHANGES DID YOU TELL HIM?

9 A I TOLD HIM ABOUT THE HAIR. A WIDER MOUTH OR JAW
10 AND A LITTLE BIT NARROWER NOSE.

11 Q BUT YOU DIDN'T PICK ANYBODY OUT OF THIS LINEUP?

12 A NO, SIR.

13 Q AND WHY WAS THAT?

14 A BECAUSE IT WASN'T HIM.

15 Q BEFORE WE GO ON, JAY, WHAT KIND OF DESCRIPTION DID
16 YOU TELL THE POLICE?

17 A I TOLD THEM THAT HE HAD PRETTY FULL OR MEDIUM, BUT
18 IT WAS REAL NAPPY -- HIS HAIR WAS REAL NAPPY. IT WAS
19 TWISTED UP AND IT WAS DIRTY. I TOLD THEM THAT HE WAS
20 PRETTY SLIM BUT HE HAD SOME MUSCLE. AND I TOLD THEM
21 ABOUT HIS JEANS AND THAT HE HAD BLUE SHOES. CANVAS.
22 SLIP-ONS.

23 Q HOW ABOUT FACIAL FEATURES? DID YOU TELL THEM
24 ANYTHING ABOUT THAT?

25 A I TOLD -- UH -- YES, SIR. I DESCRIBED HIS FACE AS

1 WIDE MOUTH AND PRETTY -- PRETTY DARK COLORED SKIN AND
2 THE REST -- YOU KNOW. HAIR WAS NAPPY AND DIRTY.

3 Q DID YOU TELL THEM ABOUT HAVING A MUSTACHE OR ANY
4 FACIAL HAIR?

5 A YES, SIR. I SAID HE HAD A LIGHT MUSTACHE, BUT IT
6 WAS NOTICEABLE.

7 Q A LIGHT MUSTACHE?

8 A YES, SIR.

9 Q NOW, ONCE YOU COULD NOT IDENTIFY ANYONE IN THAT
10 FIRST LINEUP, WHAT DID YOU DO THEN?

11 A WELL, I WENT BACK TO WORK AND THEN I'D SAY ABOUT
12 4:30 OR 5 O'CLOCK, THAT'S WHEN CHAPMAN AND MR. WATTS
13 CAME AND---

14 Q NOW, WHEN YOU SAY CHAPMAN, WHO ARE YOU TALKING
15 ABOUT?

16 A JAMES CHAPMAN SITTING ON THE END OF THIS BENCH
17 DOWN HERE.

18 Q RIGHT HERE?

19 A YES, SIR.

20 Q HOW LONG HAVE YOU KNOWN MR. CHAPMAN?

21 A EVER SINCE I WAS A LITTLE BOY.

22 Q OKAY. AND YOU SAID WHAT HAPPENED NOW?

23 A HIM AND ONE OF HIS FRIENDS, THIS SERGEANT IN THE
24 ARMY---

25 Q WHO IS THAT?

1 A BRUCE -- I DON'T KNOW HIS LAST NAME.

2 Q OKAY.

3 A THEY CAME AND GOT ME AND TOLD ME THAT WE WERE
4 GOING TO LOOK FOR THE SUSPECT. AND I HAD NO IDEA WHO I
5 WAS LOOKING FOR OR ANYTHING. I WAS JUST GOING IN THE
6 VICINITY OF WHERE THE TRUCK WAS AND I WAS JUST GOING TO
7 LOOK TO SEE IF I NOTICED ANYBODY. AND SO WE WENT DOWN
8 THERE AND WE HAD BEEN LOOKING ALL DAY.

9 Q NOW, YOU SAY ALL DAY---

10 A WELL, ALL EVENING.

11 Q ABOUT WHAT TIME DID YOU START THIS SEARCH?

12 A ABOUT 5 O'CLOCK. ALL EVENING.

13 Q FIVE O'CLOCK?

14 A YES, SIR.

15 Q AND YOU SAY YOU DROVE AROUND DOWN THERE. WHERE
16 EXACTLY ARE YOU TALKING ABOUT?

17 A NEAR BLUFF ESTATES. ATLAS ROAD. THAT AREA.

18 Q IS THAT WHERE YOU WERE DRIVING AROUND WITH MR.
19 BELL?

20 A YES, SIR.

21 Q NOW, YOU SAY YOU DROVE AROUND A LOT. TELL US
22 EXACTLY WHERE YOU LOOKED.

23 A WE WENT ON BLUFF ROAD. WE WENT TO A LOT OF PLACES
24 THAT PEOPLE HANG OUT FROM DOWN THERE ON FRIDAYS AND WE
25 JUST WENT TO ALL THEM PLACES AND WE SAW A BUNCH OF

1 PEOPLE. AND WE WENT THROUGH THE SAME PLACE THAT I WENT
2 WHEN I WAS WITH MR. BELL.

3 Q NOW, YOU SAY THAT YOU SAW A LOT OF PEOPLE. WHERE
4 DID YOU SEE THESE PEOPLE?

5 A AT -- LIKE LITTLE STORES ON THE SIDE OF THE ROAD.

6 Q WERE THEY STANDING OUT---

7 A YES, SIR. JUST STANDING OUT THERE.

8 Q DID YOU STOP AND LOOK INSIDE THE STORES?

9 A NO, SIR.

10 Q YOU JUST DROVE BY?

11 A WE JUST DROVE BY THEM AND PULLED UP IN THE PARKING
12 LOT AND DROVE BY REAL SLOWLY SO I COULD GET A GOOD LOOK
13 AT EVERYBODY.

14 Q UP TO THAT POINT, HOW MANY PEOPLE DO YOU THINK YOU
15 LOOKED AT?

16 A AT THAT FIRST STORE, WE LOOKED AT PROBABLY 30
17 PEOPLE.

18 Q OKAY. AND TOTAL HOW MANY PEOPLE DO YOU THINK YOU
19 LOOKED AT?

20 A PRETTY MUCH. ABOUT 75 I'D SAY.

21 Q DID YOU CHOOSE ANYONE OF THOSE PEOPLE AT THAT
22 TIME?

23 A NO, SIR.

24 Q WHY NOT?

25 A BECAUSE NONE OF THEM WERE THE MAN THAT HAD KIDNAPPED

1 A YES, SIR.

2 Q AND WERE YOU FORCED TO DO SOMETHING AGAINST YOUR
3 WILL?

4 A YES, SIR.

5 Q DID YOU FEEL LIKE YOU COULD GET AWAY IF YOU WANTED
6 TO---

7 MR. ALLEN: OBJECTION, YOUR HONOR, HE'S LEADING
8 THE WITNESS AND I BELIEVE THE QUESTION HAS BEEN ASKED
9 AND ANSWERED.

10 THE SOLICITOR: I'LL WITHDRAW THE QUESTION. ONE
11 OTHER THING, JAY, YOU SAID THAT YOU WERE ABDUCTED AT
12 TONY'S?

13 A YES, SIR.

14 Q IT WAS AT TONY'S?

15 A YES, SIR.

16 Q THIS LITTLE RESTAURANT?

17 A YES, SIR.

18 Q DID ALL THIS TAKE PLACE IN RICHLAND COUNTY TO YOUR
19 KNOWLEDGE?

20 A YES, SIR.

21 Q THAT'S ALL I HAVE.

22 MR. ALLEN: YOUR HONOR?

23 CROSS-EXAMINATION BY ASSISTANT PUBLIC DEFENDER ALLEN:

24 Q JAY, DO YOU MIND IF I CALL YOU THAT?

25 A NO, SIR.

1 Q JAY, YOU FIRST SAW THIS INDIVIDUAL THAT SAYS HIS
2 NAME IS TONY AROUND 1:15 IN THE AFTERNOON?

3 A YES, SIR.

4 Q THAT WAS ON JULY 23, 1985?

5 A YES, SIR.

6 Q YOU'RE PRETTY SURE ABOUT THE TIME, AREN'T YOU?

7 A YES, SIR, 1:15.

8 Q ONE-FIFTEEN. YOU DON'T REMEMBER WHAT DAY OF THE
9 WEEK THIS WAS?

10 A NO, SIR.

11 Q THIS WAS AT TONY'S RESTAURANT?

12 A YES, SIR.

13 Q ARE YOU STILL FAMILIAR WITH THE BLUFF ROAD AREA?

14 A VERY FAMILIAR.

15 Q OKAY. IS THIS THE OLDER TONY'S SNACK SHOP OR THE
16 NEWER ONE?

17 A I'M NOT THAT FAMILIAR. I HAVE NO IDEA.

18 Q OKAY. WOULD YOU RECOGNIZE TONY'S SNACK SHOP IF
19 YOU SAW IT THE ONE YOU WENT TO ON---

20 A YES, SIR.

21 Q I SHOW YOU A PICTURE AND ASK YOU IF YOU RECOGNIZE
22 WHAT THIS PICTURE DEPICTS?

23 A THAT'S THE PARKING LOT RIGHT THERE AT TONY'S.

24 Q I'M LOOKING AT THE BUILDING.

25 A OKAY.

1 Q IS THAT A PICTURE OF TONY'S SNACK SHOP, THE ONE
2 YOU WENT TO ON THE 23RD OF JULY?

3 A YES, SIR.

4 Q OKAY. THAT'S THE BUILDING, OF COURSE, THE WHITE
5 PART OF THE BUILDING?

6 A RIGHT.

7 Q AND DOES THAT PRETTY WELL ACCURATELY SHOW WHAT
8 TONY'S SNACK SHOP AND THAT PARKING LOT LOOKED LIKE ON
9 THAT DAY?

10 A IT WAS -- I MEAN IT HAD A LOT MORE CARS IN IT.

11 Q A LOT MORE CARS. BUT THAT SHOWS WHAT TONY'S SNACK
12 SHOP AND THE PARKING LOT---

13 A YES, SIR.

14 Q ---LOOKED LIKE ON THAT DATE WITHOUT THE CARS?

15 A RIGHT.

16 Q OKAY. I WOULD LIKE THIS TO BE MARKED AS DEFENSE
17 EXHIBIT NUMBER ONE AND, YOUR HONOR, WE WOULD MOVE TO
18 INTRODUCE IT AS DEFENSE EXHIBIT NUMBER ONE?

19 THE SOLICITOR: NO OBJECTION.

20 THE COURT: ADMITTED INTO EVIDENCE WITHOUT
21 OBJECTION.

22 (WHEREUPON, DEFENDANT'S
23 EXHIBIT NUMBER ONE, PHOTOGRAPH, MARKED INTO EVIDENCE AT
24 THIS TIME WITHOUT OBJECTION.)

25 MR. ALLEN: THANK YOU. NOW -- MAY I PASS THIS

1 AROUND TO THE JURY NOW, YOUR HONOR?

2 THE COURT: UH-HUH.

3
4 (WHEREUPON, THE EXHIBIT IS
5 HANDED TO THE JURY AT THIS TIME.)

6 MR. ALLEN: NOW, JAY, WHEN YOU DESCRIBED --
7 WELL, FIRST LET'S TALK ABOUT HOW MANY TIMES YOU LOOKED
8 AT THIS PERSON. THIS PERSON AS I UNDERSTAND CAME UP TO
9 YOU IN TONY'S PARKING LOT, TOLD YOU HIS NAME WAS TONY
10 AND WANTED A RIDE OR IT WAS SOMETHING LIKE THAT,
11 CORRECT?

12 A YES, SIR.

13 Q. AND YOU DIDN'T REALLY LOOK AT HIM AT THAT TIME, IS
14 THAT RIGHT?

15 A RIGHT. I MIGHT HAVE GOT A GLIMPSE OF HIM MAYBE.

16 Q GOT A GLIMPSE OF WHAT HE LOOKED LIKE?

17 A RIGHT.

18 Q PRIMARILY YOU WERE LOOKING DOWN OR AWAY?

19 A YES, SIR.

20 Q YOU WERE IN A HURRY, IS THAT RIGHT?

21 A YES, SIR.

22 Q YOU WERE UNLOCKING YOUR DOOR OF YOUR TRUCK?

23 A YES, SIR.

24 Q THIS WAS YOUR FATHER'S TRUCK, YOU INDICATED, CORRECT?

25 A YES, SIR.

Q NOW, THEN YOU GOT IN THE TRUCK AGAIN. DURING THIS

1 30 TO 35 MINUTES OR OVER 35 MINUTES---

2 A RIGHT.

3 Q ---YOU LOOKED AT THIS PERSON TONY APPROXIMATELY
4 HOW MANY TIMES?

5 A ABOUT THREE TIMES.

6 Q ABOUT THREE TIMES?

7 A THREE OR FOUR TIMES, YES, SIR.

8 Q THREE OR FOUR TIMES. HOW LONG WOULD YOU LOOK AT
9 HIM AT A TIME?

10 A ABOUT 10 -- 15 SECONDS.

11 Q IS THAT PRETTY MUCH LIKE EACH TIME YOU LOOKED AT
12 HIM. TEN? 15 SECONDS?

13 A YES, SIR. I WOULDN'T LOOK AT HIM MUCH. I WAS
14 TRYING NOT TO.

15 Q OKAY. YOU WERE SCARED, RIGHT?

16 A YES, SIR.

17 Q AND ALSO YOU HAD NOT BEEN DRIVING THAT LONG AT
18 THAT TIME HAD YOU?

19 A RIGHT.

20 Q YOU STARTED DRIVING---

21 A JUNE 17TH, A MONTH---

22 Q THE DAY YOU TURNED 15?

23 A RIGHT.

24 Q OKAY. SO YOU WERE DRIVING A LITTLE OVER A MONTH
25 AT THE TIME THIS OCCURRED?

1 A RIGHT.

2 Q YOU WERE PAYING A LOT OF ATTENTION TO WHERE YOU
3 WERE GOING AND HOW WELL YOU WERE DRIVING, CORRECT?

4 A YES, SIR.

5 Q OKAY. YOU DIDN'T WANT TO HAVE AN ACCIDENT IN YOUR
6 FATHER'S TRUCK?

7 A RIGHT.

8 Q OKAY. NOW, SO YOU SAW THIS INDIVIDUAL IN THE
9 PARKING LOT AND YOU DIDN'T LOOK AT HIM THAT MUCH AND
10 THEN YOU SAW HIM AGAIN FOR THREE OR FOUR TIMES FOR TEN
11 OR 15 SECONDS EACH?

12 A YES, SIR.

13 Q OKAY. NOW, YOU INDICATED THAT WHEN YOU WERE
14 DESCRIBING HIM TO THE POLICE, YOU SAID HE WAS A BLACK
15 MALE APPROXIMATELY WHAT? SIX FEET OR SIX TWO? IS THAT
16 WHAT YOU TOLD THE POLICE?

17 A YES, SIR.

18 Q AND YOU TOLD THE POLICE HE WAS SLIM?

19 A YES, SIR.

20 Q AND THAT HE HAD A DARK COMPLEXION OR DARK COLORED
21 SKIN?

22 A YES, SIR.

23 Q YOU TOLD THE POLICE THAT HE WAS WEARING A RED
24 BASEBALL KIND OF HAT MADE OUT OF SMOOTH MATERIAL?

25 A YES, SIR.

1 Q AND YOU TOLD THEM THAT HE WAS WEARING A DARK
2 COLORED OR A SHORT SLEEVE SHIRT?

3 A YES, SIR.

4 Q AND WRANGLER BLUEJEANS WITH YELLOW STITCHING ON
5 THE SIDE?

6 A THAT'S CORRECT.

7 Q AND BLUE TENNIS SHOES WITHOUT SHOESTRINGS?

8 A YES, SIR. CANVAS.

9 Q YOU TOLD THEM THAT HE HAD CLOSELY CUT HAIR?

10 A NO, SIR.

11 Q WHAT DID YOU TELL THEM ABOUT HIS HAIR?

12 A I TOLD THEM IT WAS MEDIUM, BUT IT WAS REAL TWISTED
13 UP AND NAPPY. IT WAS DIRTY.

14 Q I SEE. YOU DIDN'T TELL THE POLICE -- LET'S BACK
15 UP. YOU MENTIONED TO THE POLICE THAT HE HAD A KIND OF
16 WATCH ON WITH SOME DIAMONDS IN IT?

17 A HE HAD A GOLD WATCH AND ONE DIAMOND WAS IN IT AND
18 ONE DIAMOND WAS MISSING.

19 Q OKAY. DESCRIBE THAT A LITTLE BIT MORE IF YOU CAN.
20 WHERE WERE THE DIAMONDS ON THAT WATCH AND WHICH ONE WAS
21 MISSING?

22 A ONE WAS ABOVE THE TWELVE AND ONE WAS UNDER THE
23 SIX.

24 Q AND WHICH ONE WAS MISSING?

25 A I CAN'T REMEMBER.

1 Q YOU DIDN'T TELL THE POLICE ABOUT ANY SCARS ON HIS
2 EYEBROW OR ON HIS NOSE OR ANYTHING LIKE THAT, DID YOU?

3 A NO, SIR.

4 Q AND YOU DIDN'T TELL THE POLICE ANYTHING ABOUT HIS
5 HAVING A MUSTACHE DID YOU?

6 A YES, SIR.

7 Q WHEN DID YOU TELL THE POLICE THAT?

8 A I'M POSITIVE I TOLD MR. BROWN THAT HE HAD A LIGHT
9 MUSTACHE.

10 Q YOU MADE A STATEMENT IN REGARDS TO THIS PARTICULAR
11 CASE?

12 A YES, SIR, AND THEN---

13 Q AND MR. BROWN WAS ASKING YOU QUESTIONS. MR. BROWN
14 WAS WRITING ON IT, IS THAT CORRECT?

15 A YES, SIR.

16 Q AND YOU READ THE STATEMENT BEFORE YOU SIGNED IT?

17 A YES, SIR.

18 Q AND DO YOU RECALL WHETHER OR NOT IN THAT STATEMENT
19 THERE'S ANYTHING TO THE EFFECT OF THE -- ABOUT THE MUSTACHE
20 OR DO YOU NEED TO READ OVER IT?

21 A YES, SIR, I KNOW THERE'S SOMETHING IN IT ABOUT A
22 MUSTACHE.

23 Q REALLY?

24 A YES, SIR.

25 Q ON MR. BELL?

1 Q YOU DIDN'T TELL THE POLICE ABOUT ANY SCARS ON HIS
2 EYEBROW OR ON HIS NOSE OR ANYTHING LIKE THAT, DID YOU?

3 A NO, SIR.

4 Q AND YOU DIDN'T TELL THE POLICE ANYTHING ABOUT HIS
5 HAVING A MUSTACHE DID YOU?

6 A YES, SIR.

7 Q WHEN DID YOU TELL THE POLICE THAT?

8 A I'M POSITIVE I TOLD MR. BROWN THAT HE HAD A LIGHT
9 MUSTACHE.

10 Q YOU MADE A STATEMENT IN REGARDS TO THIS PARTICULAR
11 CASE?

12 A YES, SIR, AND THEN---

13 Q AND MR. BROWN WAS ASKING YOU QUESTIONS. MR. BROWN
14 WAS WRITING ON IT, IS THAT CORRECT?

15 A YES, SIR.

16 Q AND YOU READ THE STATEMENT BEFORE YOU SIGNED IT?

17 A YES, SIR.

18 Q AND DO YOU RECALL WHETHER OR NOT IN THAT STATEMENT
19 THERE'S ANYTHING TO THE EFFECT OF THE -- ABOUT THE MUSTACHE
20 OR DO YOU NEED TO READ OVER IT?

21 A YES, SIR, I KNOW THERE'S SOMETHING IN IT ABOUT A
22 MUSTACHE.

23 Q REALLY?

24 A YES, SIR.

25 Q ON MR. BELL?

1 A YES, SIR.

2 Q OKAY. THE STATEMENT YOU MADE ON THE 23RD OF JULY?

3 A YES, SIR.

4 Q I SHOW YOU A PHOTO COPY OF SOMETHING AND ASK YOU
5 IF YOU RECOGNIZE WHAT THAT IS?

6 A THIS IS MY STATEMENT.

7 Q IS THAT THE SAME STATEMENT OR A COPY OF IT THAT
8 YOU MADE ON THE 23RD OF JULY TO INVESTIGATOR BILL BROWN?

9 A YES, SIR.

10 Q NOW, IT'S GOT YOUR SIGNATURE ON ALL THREE PAGES?

11 A YES, SIR.

12 Q AT THIS TIME, I PROBABLY SHOULD MARK THIS FOR
13 IDENTIFICATION PURPOSES ONLY.

14 THE SOLICITOR: YOUR HONOR, I'M GOING TO OBJECT TO
15 THIS -- THE FORM THAT MR. ALLEN IS USING I DON'T BELIEVE
16 IS THE CORRECT FORM FOR CROSS-EXAMINING SOMEONE ON A
17 STATEMENT MADE BY SOMEONE. IF HE'S GOT A PRIOR INCONSISTENCY,
18 HE KNOWS HOW TO -- HE KNOWS HOW TO GO ABOUT IT.

19 THE COURT: YOU MUST LAY THE PROPER FOUNDATION,
20 MR. ALLEN.

21 MR. ALLEN: YES, YOUR HONOR.

22 THE COURT: YOU MAY PROCEED.

23 MR. ALLEN: OKAY. THAT'S THE STATEMENT YOU MADE
24 TO INVESTIGATOR BILL BROWN ON THE 23RD OF JULY, 1986(SIC),
25 IS THAT CORRECT?

1 A YES, SIR.

2 Q WAS THAT KNOWN AS ROBBIE'S PLACE ON BLUFF ROAD?

3 A I'M NOT SURE.

4 Q APPROXIMATELY HOW FAR DOWN FROM THE --- TONY'S
5 SNACK SHOP WAS IT?

6 A THREE BLOCKS MAYBE.

7 Q THREE BLOCKS. WERE YOU GOING AWAY FROM TOWN OR
8 TOWARDS TOWN?

9 A AWAY. I WAS GOING TOWARDS BLUFF ESTATES.

10 Q TOWARDS BLUFF ESTATES. WOULD YOU BE ABLE TO
11 RECOGNIZE THAT BAIT SHOP AGAIN IF YOU SAW IT IN A
12 PICTURE?

13 A YES, SIR, PROBABLY.

14 Q I SHOW YOU THIS AND ASK YOU IF YOU RECOGNIZE THAT?

15 A THIS ISN'T IT.

16 Q THAT'S NOT THE BAIT SHOP YOU WENT TO?

17 A I DON'T THINK. I DON'T THINK. THE BAIT SHOP I
18 WENT TO HAD A GAS PUMP OUT IN FRONT OF IT I THINK. I'M
19 NOT REAL SURE.

20 Q DOES IT LOOK SIMILAR TO IT OTHER THAN THE GAS
21 PUMP?

22 A UH---

23 Q THERE ARE OTHER DIFFERENCES?

24 A I COULDN'T TELL YOU. ALL I REMEMBER IS THE GAS
25 PUMP OUT FRONT.

1 Q VERY WELL. AND YOU SAY THIS PERSON WAS GONE FOR
2 HOW LONG INTO THE BAIT SHOP?

3 A NOT LONG. PROBABLY ABOUT FIVE OR TEN SECONDS.

4 Q FIVE OR TEN SECONDS. AND THEN YOU TRIED TO LEAVE
5 IN THE TRUCK?

6 A YES, SIR.

7 Q YOU DIDN'T GET OUT OF THE TRUCK?

8 A NO, SIR.

9 Q YOU DIDN'T TRY TO GET OUT OF THE TRUCK?

10 A NO, SIR. I DIDN'T THINK ABOUT IT. I WAS SCARED.

11 Q DO YOU RECALL WHAT THIS PARTICULAR AREA OF BLUFF
12 ROAD LOOKED LIKE? LIKE WERE THERE OTHER BUSINESSES
13 AROUND?

14 A THERE WERE OTHER BUSINESSES AROUND BOTH PLACES.
15 TONY'S AND THE GAS STATION -- OR THE LITTLE PLACE HE
16 WENT INTO.

17 Q OKAY. WHAT YOU CALLED THE BAIT SHOP?

18 A YES, SIR.

19 Q WASN'T -- WASN'T COLUMBIA INDUSTRIAL PARK KIND OF
20 CADDY-CORNERED ACROSS BLUFF ROAD FROM THE BAIT SHOP?

21 A I COULDN'T TELL YOU.

22 Q THERE WERE PEOPLE AT TONY'S TOO WHEN YOU GOT INTO
23 YOUR TRUCK, IS THAT CORRECT?

24 A YES, SIR.

25 Q BUT YOU DID NOT GET OUT OF YOUR TRUCK?

1 A NO, SIR.

2 Q NOW, YOU INDICATED THAT LATER ON YOU DROVE TO --
3 OR YOU SAW SOME PEOPLE IN THE YARD PLAYING WHERE YOU
4 WERE DRIVING AROUND THE CLAY ROAD -- WAS IT CLAY OR DIRT?

5 A THE ROAD THAT I TURNED ON TO START WITH, IT WAS
6 GRAVEL. RIGHT. AND THEN THE GRAVEL JUST QUIT AND IT
7 WAS CLAY.

8 Q OKAY. AND THEN YOU RAN TO THESE PEOPLE'S YARD, IS
9 THAT RIGHT?

10 A YES, SIR.

11 Q AND YOU DON'T KNOW WHAT HAPPENED TO THIS INDIVIDUAL
12 AFTER THAT?

13 A NO, SIR.

14 Q NOW, YOU SAW THE FIRST PHOTOGRAPH FOR IDENTIFICATION,
15 FIRST PHOTO ARRAY, PROSECUTION'S EXHIBIT NUMBER ONE,
16 WHEN?

17 A ON JULY 24TH. THAT MORNING.

18 Q THAT MORNING?

19 A RIGHT. IN THE A.M. HOURS.

20 Q AND MR. WICKER SHOWED YOU THIS, RIGHT?

21 A YES, SIR.

22 Q OKAY. ARE YOU SURE THIS IS THE SAME ONE YOU SAW
23 THAT DAY?

24 A I'M POSITIVE. THERE'S NO DOUBT.

25 Q DID YOU PUT ANY MARKS OR ANY INITIALS ON THIS

1 PICTURE -- ON THIS THING?

2 A NO, SIR. I DIDN'T. I DON'T KNOW IF HE DID OR
3 NOT.

4 Q WELL, WHAT I'M GETTING AT IS YOU REMEMBER EACH AND
5 EVERY ONE OF THESE FACES?

6 A YES, SIR.

7 Q ALL SIX OF THESE FACES?

8 A YES, SIR.

9 Q AND YOU LOOKED AT THEM FOR APPROXIMATELY FIVE
10 MINUTES, IS THAT CORRECT?

11 A NO, SIR.

12 Q WELL, HOW LONG DID YOU LOOK AT THAT ONE?

13 A ABOUT TEN OR 15 MINUTES.

14 Q ABOUT 10 OR 15 MINUTES?

15 A RIGHT.

16 Q OKAY. AND THEN MR. WATTS AND MR. CHAPMAN TOOK YOU
17 DRIVING AROUND THE AREA, IS THAT CORRECT?

18 A THAT'S CORRECT.

19 Q AND THEY SAID THEY WERE GOING TO LOOK FOR SOMEONE,
20 LOOK FOR THE PERSON---

21 A WE WERE LOOKING FOR THE PERSON. I DIDN'T KNOW
22 THAT WE WERE SPECIFICALLY LOOKING FOR MR. BELL OR --
23 WE WERE JUST LOOKING FOR THE PERSON THAT KIDNAPPED ME.

24 Q WELL, YOU KNEW YOU WERE OUT THERE LOOKING FOR
25 SOMEBODY THAT WAS TONY OR THAT YOU THOUGHT WAS TONY,

1 CORRECT?

2 A RIGHT. THAT'S CORRECT.

3 Q OKAY. NOW, YOU AFTER DRIVING AROUND AWHILE, Y'ALL
4 CAME UP -- WAS IT WINTER PARK DRIVE OR ARE YOU NOT SURE
5 OF THE NAME?

6 A WINTER PARK DRIVE.

7 Q WINTER PARK DRIVE. AND WHAT WAS BEING SAID IN THE
8 CAR THE ENTIRE TIME YOU WERE DRIVING AROUND?

9 A WELL -- I MEAN WE'D PULL UP INTO A PLACE THAT
10 PEOPLE WERE HANGING OUT AND THEY WOULD ASK ME IS THAT
11 HIM AND THEN I WOULD SAY NO. AND THEN WHEN WE DROVE
12 BACK OUT, WE'D TALK ABOUT SOMETHING BESIDES THE PERSON
13 THAT KIDNAPPED ME AND THEN WE'D COME UP TO ANOTHER PLACE
14 AND HE'D ASK ME THE SAME QUESTION.

15 Q HE WOULD ASK YOU IS THAT HIM?

16 A RIGHT.

17 Q AND HE WAS TALKING ABOUT---

18 A A GROUP OF PEOPLE.

19 Q SIR?

20 A WE WERE TALKING ABOUT A GROUP OF PEOPLE.

21 Q OKAY. AND THEN YOU CAME UP ON WINTER PARK DRIVE.
22 MR. WATTS ASKED A YOUNG LADY OUT THERE IF HER BOYFRIEND
23 WAS AROUND, IS THAT CORRECT?

24 A YES, SIR.

25 Q AND THEN HE CAME TO THE DOOR OR HE CAME OUT OF THE

1 HOUSE?

2 A YES, SIR.

3 Q A HUNDRED FEET AWAY FROM YOU?

4 A THE CAR WAS TWO DOORS DOWN AND ACROSS THE STREET
5 ABOUT 100 FEET AWAY FROM THE HOUSE AND THEN WHEN HE GOT
6 UP TO THE CAR, HE WAS VERY CLOSE.

7 Q AND YOU FIRST RECOGNIZED HIM YOU SAY WHEN HE CAME
8 OUT OF THE HOUSE?

9 A WHEN HE GOT TO THE DOOR AND GOT OUT OF THE SCREEN
10 PART OF THE DOOR, I KNEW IT WAS HIM. THERE WAS NO
11 DOUBT.

12 Q THAT WAS APPROXIMATELY 100 FEET AWAY FROM YOU?

13 A YES, SIR.

14 Q TWO DOORS DOWN?

15 A THAT'S EXACTLY RIGHT.

16 Q NOW, WHEN YOU LEFT YOU WENT TO WHERE? MR.
17 CHAPMAN'S HOUSE?

18 A THAT'S EXACTLY RIGHT.

19 Q OKAY. AND THE POLICE PICKED YOU UP FROM WHERE?
20 THE SHERIFF'S DEPARTMENT PICKED YOU UP FROM WHERE?

21 A INVESTIGATOR BROWN PICKED ME UP FROM MY DAD'S
22 OFFICE WHERE I WORKED DURING THE SUMMER AFTER WE LEFT --
23 ME AND MR. WATTS LEFT CHAPMAN'S HOUSE.

24 Q I SEE. OKAY. AND THEN YOU WENT DOWN TO THE
25 SHERIFF'S DEPARTMENT AGAIN, IS THAT CORRECT?

- 1 A YES, SIR.
- 2 Q WHERE YOU FIRST WROTE A STATEMENT?
- 3 A SIR?
- 4 Q YOU FIRST WROTE A STATEMENT?
- 5 A YES, SIR, I WROTE A SHORT STATEMENT ON JULY 24TH.
- 6 Q OKAY. AND THEN YOU LOOKED AT SOME PICTURES AGAIN?
- 7 A YES, SIR.
- 8 Q WHICH YOU IDENTIFIED AS PROSECUTION'S EXHIBIT
- 9 NUMBER TWO, RIGHT?
- 10 A THAT'S EXACTLY RIGHT.
- 11 Q NOW, YOU REMEMBER EVERY FACE ON THIS ARRAY AS WELL
- 12 OR DO YOU JUST REMEMBER NUMBER FIVE?
- 13 A I REMEMBER ALL OF THEM.
- 14 Q YOU REMEMBER ALL OF THEM?
- 15 A YES, SIR.
- 16 Q OKAY. AND YOU SAW THIS FOR FIVE MINUTES, CORRECT?
- 17 A YES, SIR, THAT'S CORRECT.
- 18 Q NOW, WHEN YOU WENT DOWN TO THE SHERIFF'S DEPARTMENT,
- 19 YOU SORT OF EXPECTED MR. BELL'S PICTURE TO BE IN THAT
- 20 SECOND SET OF PICTURES, CORRECT?
- 21 A UH -- SORT OF, YES, SIR.
- 22 Q I MEAN HAD SOMEONE TOLD YOU THE NAME BY THE TIME
- 23 THAT YOU HAD SEEN THE PICTURES?
- 24 A NO, SIR.
- 25 Q DID MR. WATTS KNOW THE NAME OR DO YOU KNOW THAT?

1 A MR. WATTS KNEW THE NAME. I KNOW THAT HE KNEW THE
2 NAME NOW. I DIDN'T KNOW THEN.

3 Q OKAY. THAT'S WHAT I'M GETTING AT. SO -- BUT YOU
4 KNEW THAT -- AND YOU HAD SEEN THIS PERSON FOR ABOUT TWO
5 HOURS PRIOR TO PICKING THIS PICTURE OUT AGAIN, CORRECT?

6 A YES, SIR.

7 Q AND WEREN'T YOU SORT OF LOOKING FOR PICTURES THAT
8 RESEMBLED THE PERSON YOU SAW OUT ON WINTER PARK DRIVE?

9 A YES, SIR, SORT OF.

10 Q ALL RIGHT. AND THAT'S ALSO THE PERSON THAT YOU'RE
11 LOOKING FOR NOW, IS THAT CORRECT?

12 A SIR?

13 Q AND THAT'S ALSO THE PERSON YOU'RE LOOKING FOR NOW
14 IN THE COURTROOM, IS THAT CORRECT?

15 A YES, SIR.

16 Q I WANT TO BACK UP FOR JUST A MINUTE. WHEN YOU
17 WERE OUT JUST PRIOR TO YOUR DECIDING TO RUN FROM THE
18 TRUCK, YOU WERE OUT ON BASICALLY A DIRT ROAD -- OR AT
19 THE INTERSECTION OF A DIRT ROAD AND A GRAVEL ROAD OR
20 WHAT?

21 A I WAS UP -- I HAD ALREADY GONE PAST THE INTERSECTION
22 OF THE GRAVEL ROAD AND THE CLAY ROAD AND I WAS UP
23 FARTHER IN THE -- INTO THE CLAY ROAD AT A TRASH PILE.

24 Q YOU WERE ALL THE WAY WHERE THAT ROAD TAKES A
25 SHARP CURVE TO THE LEFT?

1 A THE ROAD THAT I RAN FROM---

2 Q UH-HUH---

3 A ---STARTED OUT AS GRAVEL---

4 Q RIGHT---

5 A ---AND THEN THE GRAVEL STOPPED AND YOU WENT UP A
6 LITTLE EMBANKMENT ON A CLAY ROAD---

7 AND THEN I WENT DOWN IT FOR ABOUT -- FROM ABOUT ME
8 TO YOU AND THERE WAS A TRASH PILE.

9 Q OKAY. AND THAT'S WHERE THE TRUCK STOPPED?

10 A THAT'S EXACTLY RIGHT.

11 Q AND YOU TOLD THIS INDIVIDUAL, TONY, YOU WEREN'T
12 GOING ANY FURTHER, IS THAT RIGHT?

13 A I TOLD HIM I COULDN'T GO ANY FURTHER.

14 Q YOU COULDN'T GO ANY FURTHER. DID YOU STOP THE
15 TRUCK COMPLETELY?

16 A YES, SIR.

17 Q AND IS THAT WHEN THIS PERSON GRABBED YOUR ARM AND
18 GRABBED THE KEYS TO THE TRUCK?

19 A I PUT IT IN REVERSE AND THEN HE GRABBED THE KEYS
20 AND MY ARM.

21 Q OKAY. WELL -- BUT YOU HAD ALREADY STOPPED?

22 A YES, SIR.

23 Q WAS THE TRUCK COASTING AS YOU REACHED DOWN TO OPEN
24 UP THE DOOR?

25 A NO, SIR, IT WAS COMPLETELY STOPPED.

1 Q COMPLETELY STOPPED. ARE YOU SURE ABOUT THAT?

2 A I'M POSITIVE.

3 Q I'LL AGAIN SHOW YOU -- SHOULD I HAVE THIS MARKED
4 NOW, YOUR HONOR? I WOULD LIKE TO HAVE THIS MARKED AS
5 TWO FOR IDENTIFICATION? I'M JUST MARKING IT FOR
6 IDENTIFICATION.

7 THE COURT: IDENTIFICATION IT CAN BE MARKED.

8 MR. ALLEN: OKAY. IDENTIFICATION, PLEASE?

9 (WHEREUPON, DEFENDANT'S
10 EXHIBIT NUMBER TWO, STATEMENT, MARKED FOR IDENTIFICATION
11 ONLY AT THIS TIME.)

12 MR. ALLEN: AGAIN THIS IS YOUR THREE-PAGE STATEMENT
13 YOU MADE TO INVESTIGATOR BROWN ON THE 23RD OF JULY,
14 1985, CORRECT?

15 A THAT'S CORRECT.

16 Q NOW, LOOKING AT THE -- LOOKING ON THE SECOND PAGE,
17 ISN'T IT TRUE THAT YOU STATED IN THAT STATEMENT THAT AS
18 I WAS STOPPING THE TRUCK, I ALSO WAS OPENING MY DOOR?

19 A YES, SIR, BUT THAT'S NOT CORRECT

20 Q THAT'S NOT CORRECT?

21 A NO, SIR. THE TRUCK WAS STOPPED. IT WAS IN
22 REVERSE AND THE MAN HAD CUT IT OFF.

23 Q I SEE. AND YOU MADE THIS STATEMENT AS YOU WERE
24 TALKING TO INVESTIGATOR BROWN, CORRECT?

25 A YES, SIR. THAT'S NOT -- THIS -- THAT'S NOT

1 CORRECT.

2 Q AND YOU READ OVER THIS STATEMENT ON THE 23RD OF
3 JULY?

4 A YES, SIR.

5 Q AND YOU SIGNED THIS STATEMENT, IS THAT CORRECT?

6 A THAT IS CORRECT.

7 Q AND YOU SIGNED YOUR NAME RIGHT BELOW WHERE IT SAYS
8 THAT YOU MAKE THIS STATEMENT OF YOUR OWN FREE WILL AND
9 ACCORD, WITHOUT REWARD OR INTIMIDATION. ALL OF THE
10 ABOVE IS THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
11 TRUTH. SO HELP ME GOD?

12 A THAT'S CORRECT.

13 Q BUT NOW YOU'RE TELLING US THAT THAT IS NOT
14 ACCURATE?

15 A THAT WAS A MISTAKE. IT WASN'T A LIE. IT WAS A
16 MISTAKE.

17 Q IT WAS NOT ACCURATE. I MEAN I'M NOT TRYING TO
18 ACCUSE YOU OF LYING---

19 THE SOLICITOR: YOUR HONOR, HE'S BEEN ARGUMENTATIVE
20 NOW WITH THE WITNESS.

21 MR. ALLEN: I'LL WITHDRAW THE QUESTION. ONE
22 MOMENT, PLEASE, YOUR HONOR.

23 (WHEREUPON, MR. ALLEN .
24 CONFERS WITH THE DEFENDANT AT THIS TIME.)

25 MR. ALLEN: NO FURTHER QUESTIONS, YOUR HONOR.

1 THANK YOU.

2 THE SOLICITOR: JUST ONE OR TWO, YOUR HONOR. VERY
3 BRIEF.

4 REDIRECT EXAMINATION BY DEPUTY SOLICITOR GIESE:

5 Q JAY, WHICH IS IT? WAS THE CAR ROLLING OR WHAT?

6 A IT WAS STOPPED. IT WAS STOPPED.

7 Q THAT'S HOW YOU REMEMBER THE DAY?

8 A THAT'S EXACTLY RIGHT. IT WAS IN REVERSE AND IT
9 WAS CUT OFF AND THERE'S NO WAY THE TRUCK WILL ROLL.

10 Q ONE OTHER THING. WHEN YOU IDENTIFIED MR. BELL THE
11 FIRST TIME WITH MR. WATTS AND MR. CHAPMAN---

12 A YES, SIR.

13 Q ---I BELIEVE EARLIER YOU SAID THAT EACH TIME YOU
14 WOULD RUN INTO SOMEBODY ON BLUFF ROAD OR THAT AREA, THEY
15 WOULD ASK YOU IS THAT HIM?

16 A THAT'S EXACTLY RIGHT.

17 Q DID THEY HAVE A CHANCE TO ASK YOU IS THAT HIM IN
18 THIS CASE?

19 A NO, SIR.

20 Q WHY NOT?

21 A BECAUSE THE MINUTE HE GOT TO THE DOOR THERE WAS NO
22 DOUBT IN MY MIND THAT THAT WAS THE MAN.

23 Q DID YOU TELL THEM THAT?

24 A YES, SIR.

25 Q THAT'S ALL I HAVE.

1 MR. ALLEN: NOTHING FURTHER.

2 THE COURT: YOU MAY COME DOWN.

3 (WHEREUPON, THE WITNESS WAS
4 EXCUSED AT THIS TIME.)

5 THE SOLICITOR: YOUR HONOR, PLEASE, WE CALL JAMES
6 CHAPMAN NEXT.

7 (JAMES E. CHAPMAN, FIRST
8 BEING DULY SWORN, TESTIFIED AS FOLLOWS:)

9 DIRECT EXAMINATION BY ASSISTANT SOLICITOR JOHN BLINCOW:

10 Q MR. CHAPMAN, WHERE ARE YOU EMPLOYED?

11 A MOUNT VERNON MILLS.

12 Q WHAT DO YOU DO FOR MOUNT VERNON MILLS?

13 A DRIVE A TRUCK.

14 Q HOW LONG HAVE YOU BEEN A TRUCK DRIVER?

15 A THE 27TH OF SEPTEMBER WILL GIVE ME 23 YEARS.

16 Q TWENTY-THREE YEARS. HOW LONG HAVE YOU KNOWN JAY
17 EDENS?

18 A WELL, I'LL TELL YOU THE TRUTH. I KNOWED(SIC) JAY
19 BEFORE HE KNOWED HIMSELF.

20 Q YOU'VE KNOWN THE EDENS' FAMILY FOR A LONG WHILE?

21 A YES, SIR.

22 Q HOW DID YOU BECOME INVOLVE IN THIS SITUATION LAST
23 JULY?

24 A WELL, I HAD JUST GOT IN FROM OUT OF TOWN. I THINK
25 I HAD BEEN TO SAGINAW, MICHIGAN, SOMEWHERE UP THERE AND

1 THEY CALLED ME AND SAID COME BY MR. EDENS' OFFICE. AND
2 SO I DID. AND HE SAID THAT SOMEBODY HAD KIDNAPPED JAY.
3 AND I ASKED HIM COULD ANYBODY GIVE ME A FULL DESSCRIPTION,
4 YOU KNOW, HOW THE GUY LOOKED, NOTHING LIKE THAT. AND
5 COULDN'T NOBODY GIVE ME A FULL DESCRIPTION. THEN I ASKED
6 WHERE'S THE TRUCK AT. SO THEY TOLD ME WHERE THE TRUCK
7 WAS AT. SO ME AND JOE WEAVES WAS EMPLOYED WITH MR.
8 EDENS AT THAT TIME AND TOOK ME WHERE THE TRUCK WAS AT.
9 SO---

10 Q ARE YOU FAMILIAR WITH THAT AREA? BLUFF ROAD AND
11 DOWN IN THERE?

12 A YEAH. I STAY IN BLUFF ESTATES.

13 Q HOW LONG HAVE YOU LIVED IN BLUFF ESTATES?

14 A EVER SINCE 1970.

15 Q YES, SIR. SO WHOSE IDEA WAS IT TO GET JAY AND GET
16 IN THE CAR AND GO -- AND ESSENTIALLY JUST LOOK AROUND THE
17 NEIGHBORHOOD?

18 A IT WAS MY IDEA.

19 Q YOU'RE FAMILIAR WITH THAT AREA?

20 A RIGHT.

21 Q YOU KNOW THE STREETS AND SO FORTH THAT ARE BACK IN
22 THERE. IS THAT -- ALL OF THAT -- TONY'S RESTAURANT AND
23 YOUR HOUSE AND WHERE THE TRUCK WAS FOUND, IS ALL OF THAT
24 IN RICHLAND COUNTY?

25 A RIGHT.

1 Q ALL RIGHT, SIR. JUST EXPLAIN IF YOU WILL FOR THE
2 COURT -- FIRST OF ALL, WHO ALL WAS IN THE CAR WHEN YOU
3 WENT LOOKING AROUND?

4 A OKAY. IT WAS BRUCE. HE'S A SERGEANT BUT HE'S
5 GONE TO GERMANY NOW.

6 Q IS HE IN GERMANY NOW?

7 A RIGHT.

8 Q A FRIEND OF YOURS?

9 A RIGHT. AND MYSELF. SO BRUCE WAS ON -- BRUCE WAS
10 DRIVING THE CAR. I WAS ON THE DRIVERS' SIDE. GARY WAS
11 IN THE FRONT OF THE CAR. HE WAS ON THE PASSENGER'S SIDE.
12 JAY WAS IN THE BACK OF THE CAR WHICH IS ON THE PASSENGER'S
13 SIDE.

14 Q YOU AND JAY WERE SITTING IN THE BACKSEAT?

15 A RIGHT.

16 Q ALL RIGHT. WHAT KIND OF A CAR WERE YOU IN?

17 A Z 28 CAMARO.

18 Q THIS CAR BELONGED TO BRUCE?

19 A BRUCE. THE CAR HAD BLACK TINTED GLASS IN IT. YOU
20 COULD LOOK OUT, BUT YOU COULDN'T SEE IN THE CAR.

21 Q ALL RIGHT, SIR.

22 A SO MY SUGGESTION ON THE WHOLE DEAL WAS -- THIS IS
23 WHAT I SAID. I SAID IF YOU'RE GOING TO CATCH HIM, YOU
24 WILL NOT CATCH HIM WITH A WHITE AND BLACK CAR---

25 Q YES, SIR---

1 A ---BECAUSE WHEN YOU COME DOWN THERE, I SAID HE'S
2 GOING TO BE GONE. HE WILL BE STANDING IN A CROWD AND YOU
3 STILL WOULDN'T KNOW WHO IT WAS. I SAID LET'S TAKE THE
4 CAMARO ROUND THERE. HE COULD LOOK OUT THE CAR, BUT THEY
5 COULDN'T SEE HIM. SO WE RODE DOWN -- NO, THEY CAME TO MY
6 HOUSE -- GARY AND JAY.

7 Q ABOUT WHAT TIME WAS THIS, MR. CHAPMAN?

8 A I CAN'T TELL YOU WHAT TIME IT WAS BECAUSE---

9 Q WAS IT STILL LIGHT OUTSIDE?

10 A OH, YEAH. AND SO WE LEFT THERE. WENT BACK DOWN BY
11 -- RODE SLOWLY BY THE POT-A-GOLD WHICH IS ON THE RIGHT
12 HAND SIDE OF THE ROAD. THEN WE WENT ON DOWN THERE. FOUR
13 & ONE IS ON THE LEFT SO WE PULLED UP IN THERE AND I TOLD
14 JAY BE SURE. WE STOPPED. I SAID LOOK. MAKE SURE YOU
15 -- IF YOU SEE HIM, DON'T SAY ANYTHING. JUST SAY YOU SEE
16 THE GUY.

17 Q YES, SIR.

18 A SO WE LEFT THERE AND WE RODE OVER IN THE STARLIGHT
19 WHICH IS ABOUT ANOTHER BLOCK UP.

20 Q IS THAT A RESIDENTIAL AREA?

21 A YEAH.

22 Q SORT OF LIKE BLUFF ESTATES?

23 A RIGHT WHICH IS---

24 Q A NEIGHBORHOOD?

25 A RIGHT. WHICH IS JUST ACROSS THE CREEK IS ALL IT IS.

1 Q YES, SIR.

2 A SO WE RODE AROUND THROUGH THERE AND HE WAS TELLING
3 ME -- HE SAID, CHAPMAN, -- HE SAID, CHAPMAN, I WAS EVEN
4 ON THIS BACK STREET BACK HERE BECAUSE I KNOW. HE SAID A
5 GUY DOWN HERE HAS GOT A CAR IN HIS BACKYARD WITH ONE OF
6 THOSE THINGS UP ON IT. SO SURE ENOUGH, WE WENT RIGHT BY
7 -- WE RIGHT THERE AT THE HOUSE AND RIGHT UP THERE'S A
8 ROAD TO THE LEFT WHERE YOU GO BACK IN THE FIELD UP IN
9 THERE WHICH IT IS BECAUSE MY BOY DRIVES A MOTORCYCLE OVER
10 THERE SOMETIME.

11 Q THIS IS WHERE JAY SAID HE AND MR. BELL HAD GONE IN
12 THE TRUCK---

13 MR. ALLEN: OBJECTION. LEADING---

14 A I SAID HE SAID HE HAD BEEN BACK IN THERE.

15 THE COURT: DO NOT LEAD, SOLICITOR.

16 THE SOLICITOR: YES, SIR. WAS THIS THE SAME AREA
17 THAT JAY AND MR. BELL HAD BEEN DRIVING?

18 A OKAY. THAT PARTICULAR AREA IF YOU GO UP THE WAY IT
19 HAPPENED AT THAT PARTICULAR AREA, YOU CAN COME RIGHT BACK
20 IN THERE THROUGH THE WOODS.

21 Q ALL RIGHT, SIR.

22 A AND SO WE LEFT FROM THAT PART. WE COME BACK OUT,
23 WE RODE IN BLUFF ESTATES WHICH GOES BY MY HOUSE --
24 PAST RIGHT BACK BY MY HOUSE, GOT TO THE END OF THE
25 STREET, TURN LEFT. SO WE RODE AROUND ON WINTER PARK

1 DRIVE AND---

2 Q BEFORE YOU GOT TO THIS PARTICULAR HOUSE, HOW MANY
3 FOLKS HAD Y'ALL SEEN THAT DAY?

4 A OH, I DON'T KNOW BECAUSE IT WAS QUITE A FEW OF THEM
5 DOWN THERE ON THAT CORNER WHERE THEY CALL FOUR & ONE.
6 SOME WAS AT THE STORE AND SOME WAS OVER THERE UNDER THE
7 TREE.

8 Q YES, SIR.

9 A BY THE BANK OVER THERE.

10 Q UP TO THAT POINT HAD JAY SAID ANYONE LOOKED LIKE
11 ANYONE?

12 A HE DID NOT SAY -- HE SAID NOBODY EVEN LOOKED CLOSE.
13 I SAID MAKE SURE YOU LOOK GOOD. I SAID DON'T ACCUSE
14 SOMEBODY YOU DON'T KNOW WHAT YOU'RE TALKING ABOUT. HE
15 SAID NO, "CHAP", IT'S NONE OF THESE THAT I KNOW. YOU
16 KNOW THAT WAS -- THAT KIDNAPPED HIM.

17 Q YES, SIR.

18 A SO LIKE I SAID WE LEFT FROM THERE. WE RODE THROUGH
19 STARLITE. WE COME BACK -- RODE RIGHT BACK BY MY HOUSE
20 AND WE WERE RIDING SLOW. SO WE WENT TO THE END OF THE
21 STREET, TURNED LEFT, GO UP AND WE TURNED BACK RIGHT AND
22 WE COME AROUND ON WINTER PARK. SO THE LITTLE LADY WAS
23 OUT THERE IN THE YARD AND GARY SAID, HOLD, STOP HERE A
24 MINUTE, BRUCE. HE SAYS I KNOW SOMEBODY. AND SO HE
25 CALLED AND ASKED HER WHERE WAS HER BOYFRIEND OR HER

1 HUSBAND OR WHATEVER HE WAS. SHE SAID HE WAS IN THE
2 HOUSE. AND TO GO TELL HIM TO COME HERE. SO WHEN HE COME
3 TO THE DOOR, JAY ALL BUT -- HE WAS SO NERVOUS -- HE HAD
4 THESE LITTLE GLASSES THE GUYS USED TO WHERE AROUND THEIR
5 NECK. HE WAS SO NERVOUS HE COULDN'T PUT HIS GLASSES ON.
6 I SAID JUST BE COOL. HE SAID CHAPMAN, THAT'S THE GUY. I
7 SAID WELL, JUST BE COOL. JUST DON'T SAY ANYTHING.

8 Q WHEN DID JAY SAY THAT?

9 A WHEN THE GUY -- TIME THE GUY PUT HIS HEAD OUT --
10 WHEN HE STEPPED OUT THE DOOR.

11 Q AND THIS WAS WHEN Y'ALL WERE STILL IN THE CAR?

12 A STILL IN THE CAR. ACTUALLY THEY WERE STANDING
13 ABOUT 75 FEET FROM THE HOUSE TO WHERE THE CAR WAS. WE
14 HAD STOPPED IN THE CENTER OF THE ROAD AND THEN BRUCE
15 PULLED ON UP A LITTLE PIECE FURTHER.

16 Q YES, SIR.

17 A AND WHEN THE GUY COME OUT THE DOOR, HE SAID CHAPMAN,
18 THAT'S HIM. I SAID, WELL, JUST BE -- AND HE COME OVER
19 TOWARDS THE CAR AND HE LEANED OVER ON THE DOOR LIKE THAT
20 AND HE SAID HEY CHAPMAN. I SAID HEY. LIKE I SAID YOU
21 KNOW IT WAS THE FIRST TIME I -- I DIDN'T KNOW THAT WAS
22 HIS NAME BECAUSE MY TRUCK BE PARKED IN THE STREET AND A
23 LOT OF PEOPLE COME BY AND SAY HEY CHAPMAN, I DON'T EVEN
24 KNOW. BUT I STILL SPEAK. AND THESE WERE THE WORDS. SO
25 GARY ASKED HIM DID HE WANT A JOB AND HE SAID YES. AND

1 THESE THE WORDS HE ASKED. HE SAID WELL, DID YOU SEE THIS
2 FELLOW HERE TODAY? HE SAID YEAH, I TALKED TO HIM TODAY.

3 Q LET ME ASK YOU THIS. WHEN THE SUBJECT CAME TO THE
4 PORCH, WAS THERE A SCREEN PORCH OR JUST A REGULAR DECK AT
5 THE HOUSE THERE?

6 A NO, I DON'T THINK IT'S EVEN -- I THINK IT'S LIKE A
7 LITTLE PATIO PORCH WHERE YOU JUST WALK STRAIGHT OUT
8 GROUND LEVEL---

9 Q YES, SIR.

10 A ---AND THE DOOR CAME OPEN.

11 Q WHEN MR. BELL GOT TO THE DOOR, HOW SURE WAS JAY IN
12 HIS IDENTIFICATION?

13 A WELL, I THINK IF JAY HAD A CHANCE TO RUN, HE WOULD
14 HAVE RUN AGAIN.

15 Q AND HOW WOULD YOU DESCRIBE JAY'S MENTAL STATE --
16 I BELIEVE THAT YOU ALREADY HAVE. HOW WOULD YOU DESCRIBE
17 IT?

18 A WELL, LET'S JUST PUT IT THIS WAY. JAY TURNED
19 REDDER THAN WHAT HE WAS. I WAS SITTING BACK THERE
20 LOOKING AT HIM. HE WAS NERVOUS. AND I SAID JAY, --
21 I SAID JUST SIT BACK, DON'T WORRY ABOUT IT. NOBODY IS
22 GOING TO BOTHER YOU. BUT BEFORE YOU DO -- WHEN MR. BELL
23 CAME OUT THE DOOR -- I MEAN -- I MEAN IT WAS JUST ALL --
24 IT WAS JUST ALL A DIFFERENT REACT THEN. NIGHT AND DAY.

25 Q DID YOU -- DID YOU SAY ANYTHING OR DID MR. WATTS OR

1 DID BRUCE SAY ANYTHING TO JAY WHEN MR. BELL CAME TO THE
2 FRONT DOOR?

3 A BRUCE SAID -- JUST LIKE THIS RIGHT HERE, DON'T SAY
4 ANYTHING. JUST BE COOL. AND HE SAID THAT'S THE GUY
5 RIGHT THERE. AND HE DIDN'T, BUT HE WAS REAL NERVOUS IN
6 THE BACK.

7 Q AND YOU WERE SITTING IN THE BACKSEAT---

8 A AND I WAS SITTING IN THE BACK SIDE.

9 Q WHAT DID Y'ALL DO AFTER THAT?

10 A LEFT THERE, TOOK JAY BACK TO MY HOUSE BECAUSE MY
11 SON IS RIGHT ALONG WITH JAY. AND I TOLD HIM I SAID Y'ALL
12 GO IN THE HOUSE. SO GARY WANTED TO GO BACK DOWN THERE
13 AND TALK TO HIM.

14 Q YOUR SON IS ABOUT JAY'S AGE?

15 A RIGHT.

16 Q I SEE. ALL RIGHT, SIR. AND THEN YOU AND MR. WATTS
17 WENT BACK TO---

18 A WENT BACK AROUND TO WHERE MR. BELL WAS STAYING AT
19 AND HE TALKED TO MR. BELL. HE SAID YOU SURE YOU WANT THE
20 JOB? AND THIS THE WORDS I TOLD MR. BELL BEFORE I LEFT
21 FROM AROUND THERE. I SAID YOU KNOW WHERE THE PLACE IS
22 AND HE SAID UP ON BLUFF ROAD -- I SAID OKAY. YOU LOOK TO
23 THE RIGHT AND THE NATIONAL GUARD ARMY GOT A NEW PLACE
24 THERE ON THE RIGHT. I SAID YOU LOOK OVER TO THE LEFT,
25 YOU'LL SEE GOODYEAR THERE. YOU'LL SEE ALL THOSE TRUCKS.

1 I SAID THAT'S THE PLACE TO BE AT. I SAID I WOULD BE
2 THERE EITHER 7:30 OR 8 O'CLOCK THAT -- THE NEXT DAY.

3 Q ALL RIGHT. MR. CHAPMAN, DID YOU TALK TO MR. BELL?

4 A WHEN? THE SAME DAY?

5 Q THAT NIGHT?

6 A NOTHING, BUT JUST SPOKE TO HIM AND TOLD HIM ABOUT
7 THE JOB. THAT WAS IT.

8 Q JUST ABOUT WHERE TO REPORT TO WORK AND SO FORTH?

9 A THAT'S RIGHT.

10 Q DID MR. WATTS TALK TO MR. BELL?

11 A MR. WATTS SAID THE SAME THING THAT I SAID WHEN I
12 WAS THERE AND WHEN HE CAME BACK OUT, MR. BELL WAS ON HIS
13 SIDE. AND BEFORE WE GOT READY TO LEAVE, THEY WERE SORT
14 OF TALKING LOW, BUT I DID NOT HEAR ALL THE CONVERSATION.
15 BUT I DO KNOW, I TOLD HIM -- I TOLD HIM YOU KNOW WHERE
16 THE PLACE IS WHEN WE GOT READY TO PULL OFF. THAT WAS IT.

17 Q AND YOU WERE -- WHEN YOU WENT BACK AROUND THERE THE
18 SECOND TIME, JUST YOU AND MR. WATTS IN THE CAR?

19 A THAT'S RIGHT.

20 Q AND YOU WERE SITTING IN THE FRONT SEAT?

21 A SITTING IN THE FRONT SEAT.

22 Q AND WHEN MR. BELL CAME UP, HE CAME UP TO MR. WATTS'
23 SIDE OF THE CAR?

24 A THAT'S RIGHT.

25 Q AND THEY HAD A CONVERSATION. MR. CHAPMAN, YOU SAY

1 YOU'VE KNOWN JAY A LONG WHILE. IN YOUR OPINION WHEN HE
2 SAW MR. BELL ON THE STEP---

3 MR. ALLEN: I OBJECT TO THIS, YOUR HONOR, AS TO HIS
4 OPINION ABOUT WHATEVER IT WAS TO BE ILLICIT. THERE'S
5 NOTHING TO INDICATE HE'S AN EXPERT WITNESS OR ANYTHING
6 LIKE THAT.

7 THE COURT: SOLICITOR?

8 THE SOLICITOR: I'LL WITHDRAW THE QUESTION, YOUR
9 HONOR. WAS -- LET ME ASK YOU THIS. WAS JAY ABLE TO
10 IDENTIFY THE MAN THAT CAME TO THE STEPS?

11 A BEFORE THE MAN COULD GET TWO FEET OUT THE DOOR, HE
12 RECOGNIZED HIM.

13 Q HOW SURE WAS HE?

14 A HE WAS SO SURE HE COULDN'T GET HIS GLASSES ON.
15 THAT'S JUST HOW NERVOUS HE WAS.

16 Q YES, SIR. MR. CHAPMAN, THE FELLOW THAT Y'ALL SAW
17 THAT DAY OUT THERE ON WINTER PARK, IS HE IN THE COURTROOM?

18 A YES, SIR.

19 Q WILL YOU POINT HIM OUT FOR US?

20 A YES, SIR.

21 Q ANY DOUBT IN YOUR MIND?

22 A THAT'S THE ONE. MR. BELL IS THE ONE THAT COME OUT
23 THE HOUSE.

24 Q THAT'S ALL I HAVE FROM MR. CHAPMAN, JUDGE. THANK
25 YOU.

1 MR. ALLEN: THANK YOU.

2 CROSS-EXAMINATION BY ASSISTANT PUBLIC DEFENDER ALLEN:

3 Q MR. CHAPMAN, YOU USED TO WORK FOR JAY'S FATHER, IS
4 THAT CORRECT?

5 A RIGHT.

6 Q YOU WORKED FOR HIS FATHER A NUMBER OF YEARS?

7 A RIGHT.

8 Q HOW MANY YEARS WOULD YOU ESTIMATE?

9 A UH -- PRETTY CLOSE TO 15 YEARS.

10 Q YOU LEFT WITH -- HIS FATHER'S EMPLOYMENT ON
11 FRIENDLY TERMS I TAKE IT?

12 A RIGHT.

13 Q NOW -- IN FACT, YOU WANTED TO HELP IN THIS SITUATION
14 WHEN YOU WERE TOLD ABOUT IT, IS THAT CORRECT?

15 A THAT'S CORRECT.

16 Q AS A MATTER OF FACT, ISN'T IT TRUE THAT EARLIER ON
17 THE 23RD OF JULY, YOU PROVIDED THE SHERIFF'S DEPARTMENT
18 WITH THE DIRECTIONS TO WHERE ANOTHER INDIVIDUAL WHO MET
19 THIS DESCRIPTION THAT JAY HAD GIVEN WAS?

20 A REPEAT YOUR QUESTION AGAIN?

21 Q ON THE 23RD OF JULY, DIDN'T YOU AND SERGEANT BROWN
22 PROVIDE THE SHERIFF'S DEPARTMENT DIRECTIONS TO WHERE
23 ANOTHER PERSON WHO MET THIS DESCRIPTION WAS?

24 A YOU MEAN DID WE GIVE HIM THE INFORMATION WHERE THE
25 GUY WAS?

1 Q OKAY. BEFORE YOU WENT DRIVING OR RIDING AROUND
2 WITH JAY AND SERGEANT BROWN AND MR. WATTS---

3 A I DON'T KNOW WHAT DAY IT WAS. I CAN PUT IT TO YOU
4 THIS WAY. BUT THE OTHER GUY THEY HAD SAID WAS WAS AMAKER---

5 Q OKAY. YOU HAD SEEN THIS GUY ON THE ROAD, THOUGHT
6 HE MATCHED THE GENERAL DESCRIPTION THAT JAY HAD GIVEN,
7 AND PROVIDED THAT TO THE POLICE, RIGHT?

8 A YES. THE GUY -- HE WALKS RIGHT BY MY HOUSE LIKE
9 THIS AND THAT'S THE ONE THEY THOUGHT IT WAS. AND WHEN
10 JAY SEEN HIM, JAY SAID THAT'S NOT THE GUY.

11 Q WELL -- BUT YOU PROVIDED THAT INFORMATION. THAT
12 WAS A DIFFERENT PERSON, RIGHT?

13 A RIGHT.

14 Q AND HE MET THE GENERAL DESCRIPTION THAT JAY HAD
15 GIVEN, CORRECT?

16 A WELL, NOW, I DON'T KNOW ABOUT ALL THE DESCRIPTION
17 HE MET. BUT I'M JUST TELLING YOU ABOUT WHAT I SEEN.

18 Q WELL, WHAT KIND OF A -- NEVER MIND. WHEN YOU AND
19 MR. WATTS RETURNED ON THE 24TH TO MR. BELL'S HOUSE AFTER
20 TAKING JAY BACK TO YOUR HOUSE, WERE YOU IN THE SAME CAR
21 OR WERE YOU IN A DIFFERENT CAR?

22 A NO, WE WAS IN A RED AND A WHITE BLAZER, GMC.

23 Q OKAY. MORE LIKE A TRUCK OR SOMETHING.

24 A IT'S A FOUR-WHEEL DRIVE.

25 Q AND THE ONLY CONVERSATION YOU HEARD OR THE ONLY

1 THING YOU HEARD MR. BELL TALK ABOUT WHEN YOU RETURNED WAS
2 ABOUT GETTING THE JOB OR GETTING OUT TO THE JOB SITE?

3 A THAT'S RIGHT AND THEY WERE OVER THERE TALKING LOW
4 AND WHEN I LOOKED BACK, THAT'S THE WORDS I SAID. I
5 SAID YOU MAKE SURE YOU KNOW WHERE TO COME TO.

6 Q OKAY. ONE MOMENT PLEASE, YOUR HONOR. I'VE GOT NO
7 FURTHER QUESTIONS OF MR. CHAPMAN. THANK YOU.

8 THE SOLICITOR: THAT'S ALL FROM MR. CHAPMAN, YOUR
9 HONOR.

10 THE COURT: COME DOWN.

11 (WHEREUPON, THE WITNESS WAS
12 EXCUSED AT THIS TIME.)

13 THE SOLICITOR: THE STATE CALLS GARY WATTS.

14 (GARY WATTS, FIRST BEING
15 DULY SWORN, TESTIFIED AS FOLLOWS:)

16 DIRECT EXAMINATION BY DEPUTY SOLICITOR GIESSE:

17 Q MR. WATTS, WHERE ARE YOU EMPLOYED NOW?

18 A I AM WITH MORRIS MID-STATE COMMUNICATION AND
19 RICHLAND COUNTY CORONER'S OFFICE.

20 Q WHAT DO YOU DO WITH THE CORONER'S OFFICE?

21 A I AM DEPUTY CORONER.

22 Q NOW, MR. WATTS, BACK IN JULY OF 19 -- JULY 23,
23 1985, WHERE WERE YOU EMPLOYED?

24 A I WAS EMPLOYED ALSO WITH THE CORONER'S OFFICE, BUT
25 I WAS ALSO A SALESMAN WITH EDENS OR EASTCOAST TRUCK SALES.

1 Q IS THIS WORK WITH THE CORONER'S OFFICE PART-
2 TIME?

3 A YES, SIR.

4 Q IS IT SORT OF LIKE NIGHT CALL?

5 A YES, SIR.

6 Q NOW, HOW LONG HAVE YOU LIVED IN COLUMBIA?

7 A TWENTY-NINE YEARS.

8 Q HOW OLD ARE YOU?

9 A TWENTY-NINE.

10 Q OKAY. SO YOU'VE LIVED HERE ALL YOUR LIFE?

11 A YES, SIR.

12 Q WHERE DO YOU LIVE NOW?

13 A IN ROUND TOP OVER NEAR BELT LINE AND TRENHOLM.

14 Q BACK IN JULY OF 1985, YOU ACTUALLY WORKED FOR MR.
15 EDENS?

16 A THAT'S CORRECT.

17 Q WHAT WAS YOUR FIRST INVOLVEMENT IN THIS CASE?

18 A FROM THE VERY BEGINNING, I'M THE ONE THAT HAD
19 ACTUALLY SENT JAY TO PICK THE LUNCH UP. IT WAS FOR A
20 CUSTOMER. ONE OF MY CUSTOMERS.

21 Q WHO WAS THE CUSTOMER?

22 A I WANT TO SAY DON THORNTON, BUT I MAY OR MAY NOT BE
23 CORRECT. I THINK THAT'S CORRECT.

24 Q DO Y'ALL NORMALLY DO THAT?

25 A YES, SIR.

1 Q BUY PEOPLE LUNCHES THAT WAY?

2 A IF THEY ARE THERE DURING LUNCHTIME AND WE'RE
3 WORKING A DEAL OR SOMETHING, YES. IT'S NOT UNUSUAL AT
4 ALL TO BUY LUNCHES.

5 Q WAS IT PRETTY STANDARD BACK THEN TO SEND JAY?

6 A YES, SIR. HE WAS THERE AS OUR RUNNER, BOY-FRIDAY,
7 WHATEVER.

8 Q YOU HAD HIM DO THAT JUST ABOUT EVERYDAY THAT HE
9 WORKED?

10 A YES, SIR.

11 Q AND APPROXIMATELY WHAT TIME DID YOU SEND HIM TO
12 THIS LUNCH?

13 A IT WAS -- IT WAS 1 O'CLOCK. IT WAS LATER THAN THE
14 NORMAL LUNCH HOUR BECAUSE MOST OF THEM HAD ALREADY EATEN.
15 SO -- YOU KNOW IT WAS ABOUT ONE -- A LITTLE AFTER ONE,
16 SOMETHING LIKE THAT.

17 Q DID YOU AFTER A WHILE GET SUSPICIOUS THAT HE HAD
18 NOT RETURNED?

19 A YES, SIR.

20 Q APPROXIMATELY HOW LONG WAS THAT?

21 A FORTY-FIVE MINUTES, AN HOUR LATER, SOMETHING LIKE
22 THAT I STILL HAD NOT HEARD FROM HIM. I WAS A LITTLE
23 CONCERNED ABOUT HIM AT THAT TIME.

24 Q OKAY. WHEN WAS THE NEXT TIME YOU SAW JAY?

25 A HE CALLED ME. LIKE I SAID, AROUND AN HOUR AFTER HE

1 HAD BEEN GONE. WE WERE BUSY. I WASN'T THINKING ABOUT IT
2 A LOT, BUT THE CUSTOMER HAD MADE SOME REMARKS ABOUT WHERE
3 WAS HIS LUNCH -- YOU KNOW. THAT WAS THE ONLY THING THAT
4 BROUGHT IT UP. AND I'D SAY ABOUT AN HOUR LATER JAY
5 CALLED AND WAS CRYING AND WAS UPSET ON THE PHONE AND WAS
6 TRYING TO TELL ME WHERE HE WAS. HE COULDN'T EVEN TELL
7 ME. SO HE ENDED UP PUTTING THIS OTHER PERSON ON THE
8 PHONE AND THEY DESCRIBED TO ME AND TOLD ME WHERE HE WAS
9 AND THAT'S WHERE I WENT.

10 Q AFTER YOU GOT THIS INFORMATION, WHERE DID YOU GO?

11 A TO THE -- TO THE LOCATION WHERE JAY WAS AND I DO
12 NOT REMEMBER THE ROAD -- THE NAME, BUT IT'S THE ONE
13 BEHIND -- IT RUNS PARALLEL WITH ATLAS ROAD BEHIND THE
14 CHURCH.

15 Q WHERE EXACTLY BACK THERE? IS THERE A HOUSE?

16 A YES. THE HOUSE.

17 Q THE HOUSE?

18 A YES, SIR.

19 Q WERE THERE ANY OTHER PEOPLE THERE WHEN YOU GOT
20 THERE?

21 A YES, SIR. IT WAS AN ELDERLY BLACK WOMAN, AN
22 ELDERLY BLACK MAN, AND TWO OR THREE CHILDREN ALL IN THE
23 FRONT YARD.

24 Q OKAY. WERE YOU THERE BEFORE THE POLICE GOT THERE?

25 A APPARENTLY WHAT HAD HAPPENED -- THESE PEOPLE CALLED

1 THE POLICE WHEN JAY RAN TO THE FRONT YARD---

2 MR. ALLEN: I OBJECT TO THIS POINT, YOUR HONOR. IT
3 SEEMS HE'S AT THIS TIME TESTIFYING FROM POSSIBLY HEARSAY
4 OR SOMEBODY---

5 THE COURT: SOLICITOR, THAT WOULD BE HEARSAY.

6 THE SOLICITOR: YES, SIR, WE'LL WITHDRAW THAT.

7 A OKAY.

8 Q WHEN YOU GOT THERE, WERE THERE ANY POLICE THERE?

9 A NO, THE PEOPLE HAD TOLD ME THE POLICE HAD GONE ON
10 DOWN THE ROAD.

11 Q AND WHAT DID YOU DO WHEN YOU GOT THERE -- WHAT DID
12 JAY LOOK LIKE WHEN YOU GOT THERE?

13 A WELL, HE WAS VISIBLY SHAKEN. HE WAS STILL CRYING.
14 VERY EMOTIONAL. VERY NERVOUS. CRYING. TALKING --
15 REALLY NOT MAKING A WHOLE LOT OF SENSE AT ALL SAYING THAT
16 SOMEONE HAD TAKEN HIM AND -- I SAID WELL, COME ON WE'LL
17 RIDE BACK AROUND. AND HE GOT VERY, VERY UPSET WHEN I
18 STARTED DRIVING BACK AROUND TO WHERE HE SAID THE TRUCK
19 WAS EVEN THOUGH---

20 Q DID JAY TELL YOU WHERE THE TRUCK WAS?

21 A YEAH. YEAH.

22 Q DID YOU GO OVER THERE?

23 A YES, I DID. AND THERE WERE TWO -- THERE WERE TWO
24 SHERIFF'S DEPUTIES' CARS THERE AND EVEN WITH THE DEPUTIES
25 -- EVEN THOUGH HE COULD SEE THE DEPUTIES, HE WAS STILL --

1 DID NOT EVEN WANT TO DRIVE UP THIS SAME ROAD. SO WE
2 -- I MEAN WE ACTULLY STOPPED FOR A SECOND AND I TOLD HIM
3 EVERYTHING WAS GOING TO BE ALL RIGHT. NOBODY WAS GOING
4 TO BOTHER HIM. LET'S RIDE ON BACK UP THERE AND SEE
5 WHAT'S GOING ON. SO WE DID.

6 Q WHEN YOU GOT BACK THERE, WHAT DID YOU FIND?

7 A HIS TRUCK OR HIS FATHER'S TRUCK -- THE TRUCK THAT
8 HE WAS DRIVING THAT DAY WAS BACK UP IN THIS -- THE BEST
9 WAY I CAN DESCRIBE IT, THERE'S A ROAD, A GRAVEL ROAD THAT
10 TURNS INTO CLAY AND IT SORT OF BOOTLEGGED BACK TO THE
11 LEFT AND THERE'S ANOTHER EXTENSION THAT RUNS OFF TO IT
12 THAT RUNS UP INTO A TRASH DUMP TYPE SITUATION. THE TRUCK
13 WAS BACK UP THIS EXTENSION PROBABLY 30 TO 45 YARDS AND IT
14 STOPPED. THERE WAS A SHERIFF'S DEPUTY CAR BEHIND IT;
15 HOWEVER, THE TRUCK STILL HAD BOTH ITS DOORS OPEN AND, OF
16 COURSE, THE DEPUTIES WERE THERE LOOKING IN THE WOODS.

17 Q YOU SAY BOTH DOORS WERE STILL OPEN?

18 A YES, SIR.

19 Q WHEN YOU GOT THERE. ONCE YOU SAW THAT, WHAT DID
20 YOU DO?

21 A I TALKED WITH THE -- ONE OF THE LINE DEPUTIES AND
22 THEY TOLD ME THAT THEY HAD AN I.D. MAN COMING OUT AND
23 THEY HAD AN INVESTIGATOR COMING OUT, TOO, ALSO.

24 Q WHAT DID YOU DO AFTER THAT? DID YOU LEAVE?

25 A WE STAYED FOR A FEW MINUTES AND TALKED TO ONE OF

1 THE INVESTIGATORS THAT CAME TO THE SCENE AND TALKED TO
2 THE I.D. PERSONNEL. AND THEN WE LEFT AND WE WENT AND
3 CALLED HIS MOTHER AND TOLD HER WHAT WAS HAPPENING.

4 Q ALL RIGHT. SO YOU PRETTY MUCH STAYED WITH JAY
5 AFTER--

6 A YEAH.

7 Q ---AFTER THE THING HAPPENED?

8 A ENTIRELY.

9 Q AND DID YOU TAKE HIM ANYWHERE AFTER THAT ? AFTER
10 YOU CALLED HIS MOTHER?

11 A YEAH. WE WENT AND PICKED HIS MOTHER UP. HIS
12 FATHER WAS, I BELIEVE, IN ATLANTA. OKAY. WE PICKED HIS
13 MOTHER UP. WE WENT BACK DOWN TO OUR OFFICE AND I BELIEVE
14 ONE OF THE DEPUTIES CAME BACK BY OUR OFFICE OR SOMETHING
15 AND TALKED TO HIM A FEW MINUTES. AND WE WAITED. THEY
16 THEN LEFT. HIS FATHER -- EXCUSE ME. HIS MOTHER AND JAY
17 WENT TO THE AIRPORT TO PICK HIS FATHER UP.

18 Q OKAY. AND ONCE JAY HAD LEFT, WHAT DID YOU DO?

19 A I WENT AND STARTED RIDING THE AREA AROUND BLUFF
20 ESTATES AND STAR LITE ESTATES AND AROUND BLUFF ROAD TO
21 SEE IF I COULD RECOGNIZE ANYONE THAT MATCHED THE DESCRIPTION.

22 Q OKAY. HAD JAY TOLD YOU WHAT THE DESCRIPTION WAS?

23 A YES, SIR.

24 Q OKAY. DID YOU, IN FACT, SEE ANYONE THAT MATCHED
25 THE DESCRIPTION?

1 A YES, SIR, I DID.

2 Q WHO WAS THAT?

3 A HERBERT BELL.

4 Q OKAY. AND PLEASE RELATE TO THE JURY WHAT EXACTLY
5 HAPPENED -- NOW, THIS IS STILL ON THE SAME DAY THAT THE
6 INCIDENT TOOK PLACE, IS THAT RIGHT?

7 A THIS IS THREE, FOUR HOURS LATER I WOULD SAY. THE
8 SAME DAY.

9 Q AND WHERE EXACTLY DID YOU SEE WHO YOU LATER
10 IDENTIFIED AS HERBERT BELL? WHERE EXACTLY DID YOU SEE
11 HIM?

12 A THAT WAS ON BECKHAM SWAMP ROAD WHICH IS -- IF
13 YOU'RE FAMILIAR WITH BLUFF AND ATLAS ROAD, BECKHAM SWAMP
14 IS RIGHT -- RIGHT AT THAT SAME INTERSECTION ALMOST.

15 Q OKAY. NOW, RELATE TO THE JURY EXACTLY WHAT YOU SAW
16 AND WHAT HAPPENED?

17 A THE INDIVIDUAL THAT WAS LATER IDENTIFIED AS HERBERT
18 BELL WAS WITH A FEMALE SUBJECT ON BECKHAM SWAMP ROAD. HE
19 HAD ON A SORT OF -- FROM A DISTANCE IT LOOKED LIKE A
20 DIRTY T-SHIRT ALMOST. IT TURNED OUT IT WAS A FISHNET
21 TYPE SHIRT. HE HAD ON SHORT PANTS AND GENERAL BODY-
22 BUILD DESCRIPTION AS JAY HAD SAID EARLIER.

23 Q THIS IS SEVERAL HOURS AFTER---

24 A THIS WAS -- LIKE I SAID THREE OR FOUR HOURS LATER.

25 Q AND WHAT EXACTLY -- DID YOU HAVE A CONVERSATION

1 WITH HIM AT THAT TIME?

2 A I DID.

3 Q AND WHAT EXACTLY HAPPENED

4 A I STOPPED AND JAY HAD SAID SOMETHING TO ME ABOUT
5 THAT THIS MAN HAD -- JAY HAD TOLD HIM SOMETHING TO THE
6 EFFECT, DON'T BOTHER ME, MY FATHER WILL GIVE YOU A JOB OR
7 SOMETHING ALONG THAT LINE. SO I HAD ASKED MR. BELL IF HE
8 WAS THE ONE THAT HAD BEEN WITH THE BOY EARLIER AND ASKED
9 HIM ABOUT A JOB AND HE SAID NO AT THAT TIME.

10 Q HE SAID NO AT THAT TIME?

11 A HE SAID NO. AND---

12 Q WHAT DID YOU DO?

13 A I SAID WELL, I WORK RIGHT UP THE STREET. I SAID
14 ARE YOU LOOKING FOR A JOB? HE SAID YES, I AM. AND I
15 SAID WELL, GIVE ME YOUR NAME AND ADDRESS AND I'LL GET
16 BACK IN TOUCH WITH YOU. AND HE DID. HE GAVE ME HIS NAME
17 AS HERBERT BELL AND HIS ADDRESS AS 4025 WINTER PARK
18 DRIVE.

19 Q NOW, ONCE YOU HAD GOTTEN THAT INFORMATION, WHAT DID
20 YOU DO?

21 I WENT BACK TO OUR OFFICE -- WELL, THAT'S NOT CORRECT. I
22 PROBABLY RODE AROUND FOR A FEW MORE MINUTES AND THEN I
23 WENT BACK TO THE OFFICE TO MEET MR. EDENS COMING BACK
24 FROM THE AIRPORT.

25 Q AND DID YOU HAVE ANY OTHER CONTACT WITH THE CASE

1 THAT DAY?

2 A I WENT FROM THERE TO THE SHERIFF'S OFFICE WITH THEM
3 THAT EVENING. YES, SIR.

4 Q AND YOU WERE DOWN THERE WHEN JAY WAS MAKING HIS
5 STATEMENT?

6 A YES, SIR.

7 Q THE NEXT DAY WHICH WOULD HAVE BEEN THE 24TH, THE
8 DAY AFTER THE INCIDENT, WHAT DID YOU DO?

9 A THERE AGAIN I WENT INTO WORK AS USUAL AND JAY CAME
10 INTO WORK ALSO. AND ABOUT -- I THINK IT WAS ABOUT 10:30
11 OR 11 O'CLOCK, INVESTIGATOR WICKER CALLED FROM MR. EDENS'
12 OFFICE AND I TOOK JAY AROUND THERE TO VIEW A PHOTO
13 LINEUP.

14 Q SO YOU WERE THERE WHEN THE PHOTO LINEUP WAS SHOWN?

15 A YES, I WAS.

16 Q OKAY. AFTER THE PHOTO LINEUP WAS SHOWN, WHAT
17 HAPPENED? WHAT DID YOU DO?

18 A WE WENT BACK AROUND TO OUR OFFICE. JAY AND---

19 Q YOU WENT BACK TO WORK?

20 A YEAH, WENT BACK TO WORK.

21 Q DID YOU WORK THE REST OF THAT DAY?

22 A UNTIL ABOUT 4:30 OR 5 O'CLOCK.

23 Q OKAY. TELL THE JURY WHAT YOU DID ABOUT 4:30 OR 5
24 O'CLOCK?

25 A THAT AFTERNOON, MR. CHAPMAN AND BRUCE - I CAN'T

1 REMEMBER BRUCE'S LAST NAME -- CAME TO OUR OFFICE IN
2 BRUCE'S CAR WHICH CHAPMAN HAS DESCRIBED AS A CAMARO WITH
3 DARKENED WINDOWS. THE KIND THAT YOU CAN SEE OUT OF, BUT
4 CAN'T SEE IN. AND THE FOUR OF US, BRUCE AND JAMES AND
5 MYSELF AND JAY ALL RODE BACK INTO THE SAME STAR LITE AND
6 BLUFF ESTATES SECTION LOOKING TO SEE IF JAY COULD
7 RECOGNIZE ANYONE.

8 Q NOW, DO YOU REMEMBER EXACTLY WHERE YOU WENT?

9 A I REMEMBER SOME OF THE PLACES I WENT. I DON'T
10 REMEMBER EXACTLY. WE DID GO TO -- I BELIEVE IT'S CALLED
11 THE POT-A-GOLD. WE WENT TO A PLACE CALLED THE FOUR &
12 ONE. WE WENT TO STAR LITE ESTATES, WE WENT TO BLUFF
13 ESTATES. WE WENT BACK TO THE LOCATION WHERE JAY HAD RUN
14 TO. I MEAN ALL BACK UP IN THAT AREA.

15 Q AND HOW MANY PEOPLE DO YOU THINK Y'ALL SAW THAT
16 DAY? JUST IN THAT PERIOD OF TIME?

17 A I SAID EARLIER 50 TO 75 PEOPLE. SOMETHING LIKE
18 THAT. A GOOD MANY. I'M TALKING MALE ADULT BLACKS.
19 FIFTY TO 75.

20 Q WHEN YOU DID THAT, YOU WERE DOING THAT TO SEE
21 WHETHER HE COULD IDENTIFY ANYONE?

22 A SEE IF HE RECOGNIZED ANYONE. THAT'S CORRECT.

23 Q AND HAD HE IDENTIFIED ANYONE UP TO THAT POINT?

24 A NO, SIR.

25 Q WHAT DID YOU DO AFTER THAT?

- 1 A UH -- WE CONTINUED TO RIDE THE SAME AREA. WE WENT
2 BACK FROM BLUFF ESTATES. WENT BACK INTO WINTER PARK
3 DRIVE AND AT THAT TIME I NOTICED THE SAME GIRL THAT I HAD
4 SEEN THE DAY BEFORE ON WINTER PARK DRIVE. AND I TOLD
5 BRUCE TO -- WE HAD GONE PAST HER AND I TOLD BRUCE TO TURN
6 AROUND AND GO BACK AND WE DID. AND I STOPPED BESIDE HER
7 AND I SAID, YOU KNOW, WHERE'S YOUR -- I DON'T KNOW IF I
8 SAID BOYFRIEND OR FRIEND OR WHATEVER -- THE FELLOW THAT
9 YOU WERE WITH YESTERDAY? AND SHE SAID HE'S IN THE HOUSE.
10 AND I SAID WELL, ASK HIM TO COME OUT HERE A MINUTE. AND
11 SHE SAID ALL RIGHT. AND SHE WENT OVER TO THE HOUSE AND
12 GOT HIM AND THAT'S WHEN HE WALKED OUT.
- 13 Q NOW, IS THAT THE SAME FELLOW THAT YOU HAD SEEN THE
14 DAY BEFORE IN THE AREA?
- 15 A YES, SIR.
- 16 Q NO DOUBT IN YOUR MIND?
- 17 A NO DOUBT IN MY MIND.
- 18 Q AND AS SOON AS HE CAME OUT OF THE DOOR, WHAT
19 HAPPENED?
- 20 A THAT'S WHEN JAY PANICKED IN THE BACKSEAT. HE WAS
21 CONCERNED REALLY THAT THIS FELLOW WAS GOING TO GET HIM
22 EVEN THOUGH CHAPMAN AND MYSELF AND BRUCE WERE ALL IN THE
23 CAR. HE WAS CONCERNED AT THAT TIME THAT THIS GUY SOMEHOW
24 WAS GOING TO HARM HIM.
- 25 Q OKAY. AND DID THE FELLOW COME OVER AT THAT TIME?

1 A HE DID COME OVER TO THE CAR, YES. HE CAME OVER TO
2 MY SIDE AND---

3 Q NOW, WHERE WERE YOU SITTING AND WHERE WAS JAY
4 SITTING?

5 A I WAS SITTING IN THE FRONT PASSENGER'S SIDE AND JAY
6 WAS IN THE REAR PASSENGER'S SIDE.

7 Q SO HE WAS RIGHT BEHIND YOU?

8 A HE WAS BEHIND ME. THEN HE CAME OVER -- THE WINDOW
9 WAS ROLLED DOWN AND HE AND I WERE TALKING -- YOU KNOW AS
10 CLOSE AS MYSELF AND THIS BENCH.

11 Q AND WHAT WAS DISCUSSED? WHAT DID YOU ACTUALLY SAY
12 TO MR. BELL AT THAT TIME?

13 A I MENTIONED SOMETHING TO HIM AGAIN ABOUT A JOB,
14 SOMETHING ABOUT THE FACT THAT -- YOU KNOW, ARE YOU STILL
15 LOOKING FOR A JOB OR -- YOU KNOW, SOMETHING ALONG THAT
16 LINE. I DIDN'T WANT TO SAY ANYTHING -- WHEN HE LOOKED IN
17 THE BACKSEAT AND AS PANICKY AS JAY WAS, I DIDN'T WANT TO SAY
18 ANYTHING AT THAT TIME TO SPOOK HIM OR LET HIM THINK THAT
19 WE WERE DOING ANYTHING TO -- YOU KNOW, LET HIM BE
20 CONCERNED ABOUT IT.

21 Q AFTER YOU HAD TALKED TO HIM, WHAT DID YOU DO?

22 A WE LEFT. WENT BACK TO MR. CHAPMAN'S HOUSE---

23 Q HOW FAR IS MR. CHAPMAN'S HOUSE FROM THIS HOUSE THAT
24 MR. BELL WAS IN?

25 A THREE BLOCKS.

1 MR. ALLEN: I OBJECT TO THIS POINT -- THIS PART OF
2 THE HEARSAY, YOUR HONOR. IT'S WHAT HE TOLD INVESTIGATOR
3 WICKER---

4 THE COURT: HE CAN SAY WHAT HE SAID. HE CAN'T SAY
5 WHAT THE INVESTIGATOR SAID.

6 MR. ALLEN: VERY WELL.

7 THE SOLICITOR: SO YOU CALLED INVESTIGATOR WICKER
8 AND WHAT HAPPENED?

9 A I TOLD INVESTIGATOR WICKER THAT I HAD TALKED TO A
10 SUBJECT THAT WAS INVOLVED IN THIS INCIDENT. I BELIEVE I
11 GAVE HIM HIS NAME AND TOLD HIM WHERE HE WAS AND INVESTIGATOR
12 WICKER SAID HE WAS GOING TO CONTACT, I BELIEVE, INVESTIGATOR
13 BROWN AT THAT TIME AND FOR ME TO TAKE JAY ON DOWN TO OUR
14 OFFICE. AND THAT INVESTIGATOR BROWN WOULD GET BACK IN
15 TOUCH WITH US.

16 Q DID YOU GIVE INVESTIGATOR BROWN MR. BELL'S NAME?

17 A YES, I DID.

18 Q ALL RIGHT. AND YOU WERE DOWN WHEN THIS SECOND
19 LINEUP TOOK PLACE?

20 A YES, SIR. THAT -- THAT HAPPENED AFTER WE WENT TO
21 THE SHERIFF'S OFFICE.

22 Q THAT'S ALL I HAVE.

23 CROSS-EXAMINATION BY ASSISTANT PUBLIC DEFENDER ALLEN:

24 Q MR. WATTS, YOU INDICATED THAT YOU AT THAT TIME
25 WORKED FOR JAY'S FATHER, CORRECT?

1 A THAT'S CORRECT.

2 Q AND YOU STILL WORK FOR HIM, RIGHT?

3 A THAT'S NOT CORRECT.

4 Q THAT'S NOT CORRECT. I'M SORRY. I MISUNDERSTOOD.
5 HOW LONG HAD YOU WORKED FOR MR. EDENS?

6 A I WAS AT THE TRUCK LOT FOR ABOUT SIX MONTHS.

7 Q YOU WORKED FOR MR. EDENS ON OTHER OCCASIONS?

8 A I WAS A POLICE OFFICER IN THE CITY OF FOREST ACRES
9 WHEN HE WAS OUT THERE, YES, SIR.

10 Q NOW, YOU SAID YOU FIRST MET MR. BELL ON THE 23RD OF
11 JULY?

12 A THE DAY OF THE INCIDENT.

13 Q AND WHEN YOU -- DO YOU RECALL WHAT DAY OF THE WEEK
14 THIS WAS?

15 A NO, SIR.

16 Q IT WAS A WORK DAY; HOWEVER, RIGHT?

17 A YES, SIR.

18 Q OKAY. WHEN YOU SAW HIM, YOU SAW HIM WALKING WITH A
19 YOUNG LADY DOWN THE ROAD AND YOU -- DIDN'T YOU ASK HIM IF
20 HE KNEW SCMEBODY NAMED TONY?

21 A I MAY HAVE ASKED HIM IF HE WAS TONY. THAT MAY HAVE
22 BEEN -- I MAY HAVE SAID THAT. ARE YOU TONY.

23 Q I SEE. DIDN'T MR. BELL ASK YOU WHY YOU WANTED TONY
24 AND YOU INDICATED THAT YOU HAD A JOB FOR HIM OR MAY HAVE
25 HAD A JOB FOR HIM?

1 A TOLD HIM THAT I WAS LOOKING FOR SOMEONE THAT WAS
2 LOOKING FOR A JOB.

3 Q OKAY. MR. BELL THEN INDICATED THAT HE WAS INTERESTED
4 IN THE JOB, CORRECT?

5 A THAT'S CORRECT.

6 Q AND THAT'S HOW YOU GOT HIS NAME AND HIS ADDRESS?

7 A CORRECT.

8 Q DID YOU AT THAT TIME TELL HIM WHERE THE JOB YOU HAD
9 IN MIND FOR HIM WAS?

10 A I DON'T BELIEVE I MENTIONED ANY COMPANY NAME. I
11 JUST TOLD HIM IT WOULD BE WITH ME.

12 Q I'M SORRY. I COULDN'T HEAR THAT LAST PART?

13 A I SAID I DID NOT TELL HIM A COMPANY NAME AT THAT
14 TIME. I JUST TOLD HIM THAT I WOULD BE IN TOUCH WITH HIM.

15 I WOULD ASSUME HE KNEW THE JOB WAS WITH ME AT SOME
16 POINT.

17 Q I SEE. NOW, WHEN YOU FIRST -- NOW, YOU INDICATED
18 THAT YOU RODE DOWN WINTER PARK DRIVE. YOU KNEW AT THAT
19 TIME WHEN YOU WERE DRIVING JAY DOWN WINTER PARK DRIVE
20 THAT THAT WAS THE ROAD THAT MR. BELL LIVED ON, IS THAT
21 CORRECT? .

22 A YES, SIR. I HAD HIS ADDRESS FROM THE DAY BEFORE.
23 THAT'S CORRECT.

24 Q OKAY. AND THAT WAS STILL IN YOUR MIND, IS THAT
25 CORRECT?

1 A THAT'S CORRECT.

2 Q BECAUSE HE LOOKED LIKE THIS PERSON THAT WAS
3 DESCRIBED BY JAY, IS THAT CORRECT?

4 A FROM THE DAY BEFORE, THAT'S CORRECT.

5 Q WHEN YOU FIRST SAW MR. BELL ON THE 23RD, YOU SAID
6 HE WAS WEARING SHORT PANTS?

7 A THAT'S CORRECT.

8 Q OKAY. THEY WERE WHITE COLOR IN COLOR?

9 A NO, HE HAD A WHITE-BEIGE LOOKING SHIRT ON. I DON'T
10 RECALL THE COLOR OF THE SHORTS AT THIS TIME. I MAY HAVE
11 MADE SOMETHING IN MY STATEMENT, BUT I DON'T HAVE IT IN
12 FRONT OF ME.

13 Q I SEE. DID YOU SEE HIM WEARING A WATCH?

14 A I DIDN'T PAY ATTENTION TO IT IF HE HAD ONE ON.

15 Q OKAY.. BUT YOU KNEW AT THIS TIME THAT JAY HAD
16 DESCRIBED AN INDIVIDUAL WHO HAD WORN WRANGLER BLUEJEANS
17 AND HAD A PARTICULAR KIND OF A WATCH WITH ONE DIAMOND
18 MISSING AND ONE DIAMOND ON THE WATCH?

19 A NO, SIR, I DID NOT AT THE TIME. THIS WAS PRIOR TO
20 JAY GIVING HIS STATEMENT AT THE SHERIFF'S OFFICE SO I
21 WASN'T -- I HAD NOT GOTTEN THE DETAILS THAT HE HAD GIVEN
22 AT THE SHERIFF'S OFFICE AT THIS TIME.

23 Q THE INDIVIDUAL YOU WERE LOOKING FOR THEN WAS JUST
24 WHAT A BLACK MALE---

25 A A BLACK MALE, SLENDER BUT STOCKY AT THE SAMETIME.

1 JAY TOLD ME HE DID HAVE A MUSTACHE. A FAINT MUSTACHE.
2 HE HAD ON WHAT WAS CONSIDERED A -- WHAT HE CALLED A DIRTY-
3 LOOKING TYPE T-SHIRT SITUATION AND I BELIEVE HE TOLD ME
4 BLUEJEANS, BUT I DON'T REMEMBER AS FAR AS ANY KIND OF
5 WRANGLER OR STITCHES OR ANYTHING ELSE AT THAT TIME.

6 Q I SEE. OKAY. WHEN YOU DROVE AWAY FROM MR. BELL ON
7 THE 23RD, YOU WERE STILL PRETTY SURE THAT THAT WAS THE
8 PERSON Y'ALL WAS LOOKING FOR?

9 A HE -- THE PERSON THAT I TALKED TO ON THE 23RD,
10 THREE OR FOUR HOURS AFTER THE INCIDENT HAPPENED IN MY
11 OPINION MATCHED THE DESCRIPTION AS TO WHAT JAY HAD TOLD
12 ME EARLIER. MORE SO THAN ANYONE ELSE I HAD SEEN THAT
13 DAY.

14 Q I SEE. NOW, SO WHEN YOU'RE DRIVING DOWN WINTER
15 PARK ROAD, THIS IS STILL IN THE BACK OF YOUR MIND THAT
16 YOU HAD SEEN THIS INDIVIDUAL WHO YOU THOUGHT MATCHED THE
17 DESCRIPTION, IS THAT CORRECT?

18 A THAT'S CORRECT.

19 Q NOW, WHEN YOU GOT MR. BELL TO COME OUTSIDE OF THE
20 HOUSE, YOU ONLY TALKED TO HIM ABOUT THE JOB IS THAT
21 CORRECT?

22 A THAT'S CORRECT.

23 Q AND THEN WHEN YOU CAME BACK TO HIS HOUSE WITH MR.
24 CHAPMAN, YOU ONLY TALKED TO HIM ABOUT THE JOB, IS THAT
25 CORRECT?

1 A NO, SIR, THAT'S NOT CORRECT.

2 Q YOU DID NOT SAY ANYTHING ABOUT THE JOB OR DID YOU
3 TALK TO---

4 A OH, I DID SAY SOMETHING ABOUT THE JOB ALSO; BUT I --
5 WHEN I CAME BACK WITH MR. CHAPMAN IS WHEN I ASKED HIM WHY
6 HE HAD TOLD ME WHAT HE HAD THE PREVIOUS DAY AND WHY, IN
7 FACT, HE WAS THE ONE THAT HAD GOTTEN IN THE TRUCK WITH
8 HIM.

9 Q NOW, WHEN YOU MADE A STATEMENT -- YOU MADE A
10 STATEMENT TO INVESTIGATOR BILL BROWN ON JULY 24, 1985?

11 A YES, SIR.

12 Q AFTER YOU HAD SEEN MR. BELL IN FRONT OF HIS
13 RESIDENCE AND AGAIN TALKED WITH HIM, IS THAT CORRECT?

14 A THAT'S CORRECT.

15 Q DO YOU RECALL IN YOUR STATEMENT WHETHER YOU
16 INDICATED THAT YOU AND MR. CHAPMAN WENT BACK TO HIS
17 RESIDENCE OR---

18 A I DON'T KNOW THAT I PUT THAT IN THE STATEMENT, BUT
19 BOTH OF US DID GO BACK TO HIS RESIDENCE.

20 Q OKAY. ISN'T IT TRUE THAT YOU PUT IN YOUR STATEMENT
21 THAT YOU WENT BACK TO THE RESIDENCE AND MADE NO MENTION
22 OF MR. CHAPMAN?

23 A COULD I SEE A COPY OF MY STATEMENT?

24 Q OH, SORRY. LET ME SHOW YOU THIS PHOTO COPY AND ASK
25 YOU IF YOU RECOGNIZE WHAT THAT IS?

1 A NOW, THIS IS A STATEMENT THAT I MADE AT THE
2 SHERIFF'S OFFICE ON THE 24TH.

3 Q ON THE 24TH. OKAY. NOW, ISN'T IT TRUE THAT IN
4 THAT PARTICULAR STATEMENT, YOU TOLD THE SHERIFF THAT YOU
5 WENT BACK TO MR. BELL'S RESIDENCE TO TALK WITH HIM?

6 A THAT'S CORRECT. IT'S IN HERE I WENT BACK.

7 Q AND IN THAT WHOLE STATEMENT THERE IS NOTHING SAID
8 ABOUT MR. CHAPMAN HAVING BEEN WITH YOU WHEN YOU WENT BACK
9 TO MR. BELL'S?

10 A NO, SIR, IT'S NOT.

11 Q IF I COULD JUST MARK IT FOR IDENTIFICATION, PLEASE?

12 (WHEREUPON, DEFENDANT'S
13 EXHIBIT NUMBER THREE, STATEMENT, MARKED FOR IDENTIFICATION
14 ONLY AT THIS TIME.)

15 MR. ALLEN: WHEN YOU WERE TALKING WITH MR. BELL
16 ABOUT BEING WITH THAT PERSON ISN'T IT TRUE Y'ALL WERE
17 TALKING IN A TONE OF VOICE THAT COULD BE HEARD BY ANYONE
18 ELSE THAT WAS SITTING IN THAT CAR OR THAT TRUCK?

19 A I DON'T HAVE ANY WAY OF GAUGING THAT. I MEAN WE
20 WEREN'T WHISPERING TO EACH OTHER, BUT I WAS TALKING
21 OUTSIDE THE TRUCK TO MR. BELL WHO WAS ALSO OUTSIDE THE
22 TRUCK.

23 Q IN A NORMAL CONVERSATIONAL TONE?

24 A NORMAL CONVERSATION, THAT'S CORRECT.

25 Q IN FACT, THAT WAS ONE OF THE REASONS YOU WANTED MR.

1 CHAPMAN TO GO BACK WITH YOU TO HAVE A WITNESS, IS THAT
2 CORRECT?

3 A NO, SIR.

4 Q IT WAS NOT IT. ONE MOMENT PLEASE, YOUR HONOR. NO
5 FURTHER QUESTIONS.

6 REDIRECT EXAMINATION BY DEPUTY SOLICITOR GIESE:

7 Q JUST ONE. MR. WATTS, DID YOU, IN FACT, GO BACK IN
8 THE BLAZER?

9 A YES, I DID.

10 Q WITH MR. CHAPMAN?

11 A YES, I DID.

12 Q THAT'S ALL.

13 THE COURT: ANYTHING FURTHER?

14 MR. ALLEN: NO, YOUR HONOR.

15 THE COURT: YOU CAN COME DOWN.

16 (WHEREUPON, THE WITNESS WAS
17 EXCUSED AT THIS TIME.)

18 THE COURT: LADIES AND GENTLEMEN, IT'S MY PRACTICE
19 TO TAKE A RECESS EACH AFTERNOON AND EACH MORNING. SO
20 IT'S TIME FOR OUR AFTERNOON RECESS. LET ME CAUTION YOU
21 DURING THE RECESS DO NOT DISCUSS THE TESTIMONY THAT
22 YOU'VE HEARD SO FAR BECAUSE YOU'RE NOT TO BEGIN YOUR
23 DELIBERATIONS UNTIL YOU HAVE HEARD ALL OF THE TESTIMONY,
24 THE ARGUMENTS OF THE ATTORNEYS, AND THE CHARGE UPON THE
25 LAW. IF YOU WOULD LIKE SOME COOKIES OR COFFEE, LET THE

1 BAILIFFS KNOW. THEY WILL BE MORE THAN GLAD TO MAKE
2 ARRANGEMENTS. AFTER YOU HAVE COMPLETED YOUR REFRESHMENTS
3 ALSO LET THE BAILIFFS KNOW AND THEN WE'LL START BACK WITH
4 THE TRIAL OF THE CASE. PLEASE RETIRE TO THE JURYROOM.

5 (JURY OUT.)

6 WE'LL BE IN RECESS FOR 15 MINUTES.

7 (RECESS.)

8 THE COURT: BRING THE JURY IN?

9 (JURY IN.)

10 THE SOLICITOR: THE STATE CALLS TOM WICKER.

11 (TOM WICKER, FIRST BEING
12 DULY SWORN, TESTIFIED AS FOLLOWS:)

13 DIRECT EXAMINATION BY DEPUTY SOLICITOR GIERSE:

14 Q INVESTIGATOR WICKER, WHERE ARE YOU EMPLOYED?

15 A RICHLAND COUNTY SHERIFF'S DEPARTMENT.

16 Q AND WHAT DO YOU DO THERE?

17 A I'M A CRIMINAL INVESTIGATOR.

18 Q HOW LONG HAVE YOU BEEN WITH THE RICHLAND COUNTY
19 SHERIFF'S DEPARTMENT?

20 A APPROXIMATELY 10 YEARS.

21 Q BEFORE THAT, WERE YOU IN LAW ENFORCEMENT?

22 A I WAS A LITTLE OVER THREE YEARS WITH THE CALIFORNIA
23 HIGHWAY PATROL. I WAS A STATE INVESTIGATOR FOR THE STATE
24 OF SOUTH -- OF CALIFORNIA, I'M SORRY, FOR FOUR YEARS.

25 Q THAT WAS FOUR YEARS BEFORE YOU CAME HERE?

1 A SEVEN YEARS TOTAL BEFORE HERE, YES.

2 Q AND YOU SAY YOU'VE BEEN WITH THE RICHLAND COUNTY
3 SHERIFF'S DEPARTMENT FOR TEN YEARS?

4 A YES, SIR.

5 Q HOW LONG HAVE YOU BEEN AN INVESTIGATOR THERE?

6 A SEVEN AND A HALF YEARS.

7 Q AND WERE YOU, IN FACT, THE INVESTIGATOR ON THIS
8 CASE OR ONE OF THEM?

9 A YES, SIR.

10 Q AND DID YOU, IN FACT, INVESTIGATE THIS CASE?

11 A YES, SIR.

12 Q WHAT WAS YOUR FIRST CONTACT WITH THIS CASE?

13 A I WAS BRIEFED ON THE CASE BY INVESTIGATOR CAPLIN(SIC)
14 ON THE 24TH OF JULY. RECEIVED INFORMATION OF A POSSIBLE
15 SUSPECT THAT MET THE GENERAL DESCRIPTION IN THE AREA.

16 Q AND WHO WAS THAT?

17 A IT WAS LEON OR LEROY AMAKER.

18 Q OKAY. THAT WAS NOT THE DEFENDANT?

19 A THAT IS CORRECT.

20 Q OKAY. AND SO YOUR FIRST LEAD IN THIS CASE WAS FOR
21 SOMEONE ELSE?

22 A CORRECT.

23 Q OKAY. AND TELL US ABOUT THAT LEAD. HOW DID YOU
24 GET THAT LEAD?

25 A I OBTAINED A PICTURE OF THAT INDIVIDUAL AND THEN

1 TOOK IT TO OUR LAB WHERE THEY PREPARED WHAT WE CALL A
2 PHOTOGRAPHIC LINEUP. THIS IS SIX INDIVIDUAL PICTURES.
3 ONE OF THE SUSPECT AND FIVE OTHERS THAT ARE GOING TO BE
4 THE SAME CHARACTERISTICS IN GENERAL JUST TO SHOW TO
5 SOMEONE TO SEE IF THEY CAN MAKE AN IDENTIFICATION.

6 Q OKAY. AND WHY DID YOU GET THIS PHOTO LINEUP UP?

7 A IT WAS OF MR. AMAKER TO SHOW JUST TO SEE IF HE WAS
8 THE PERSON THAT COMMITTED THE KIDNAPPING.

9 Q AND YOU SAY THAT YOU GOT JUST A TIP?

10 A THAT IS CORRECT.

11 Q DO YOU GET A LOT OF TIPS ON A LOT OF CASES THAT
12 DON'T PAN OUT?

13 A OH, YES. MOST DO NOT PAN OUT.

14 Q AND DID YOU, IN FACT, PREPARE A LINEUP IN THIS CASE
15 WITH MR. AMAKER'S PICTURE IN IT?

16 A YES.

17 Q WAS MR. BELL'S PICTURE IN THE LINEUP THAT YOU MADE
18 UP?

19 A NO, IT WAS NOT.

20 Q OKAY. WAS HE A SUSPECT AT THAT TIME?

21 A NO..

22 Q SO CORRECT ME IF I'M WRONG. YOU HAD A PHOTO LINEUP
23 WITH A MR. AMAKER IN IT, BUT NOT A MR. BELL?

24 A THAT IS CORRECT.

25 Q OKAY. WHAT DID YOU DO WITH THE LINEUP?

1 A I TOOK IT AND SHOWED IT TO THE VICTIM IN THIS
2 CRIME. JAY EDENS.

3 Q OKAY. IS THAT MR. EDENS WHO TESTIFIED EARLIER?

4 A THAT IS CORRECT.

5 Q AND WERE YOU THERE WHEN YOU ACTUALLY SHOWED IT TO
6 HIM?

7 A YES, SIR.

8 Q WHAT DID YOU TELL HIM BEFORE YOU SHOWED IT TO HIM?

9 A JUST -- YOU KNOW EXPLAINING BRIEFLY NOT THAT THE
10 SUSPECT WAS IN THERE OR THAT ANY PARTICULAR PERSON WAS IN
11 THERE, BUT JUST TO LOOK AT THEM TO SEE IF THE PERSON WAS
12 IN THE LINEUP.

13 Q I'M SORRY. GO AHEAD.

14 A THAT'S IT IN GENERAL.

15 Q WHEN DID IT TAKE PLACE?

16 A APPROXIMATELY 11 O'CLOCK ON THE -- 11 O'CLOCK A.M.
17 ON THE 24TH OF JULY.

18 Q THIS IS THE DAY AFTER THE INCIDENT?

19 A CORRECT.

20 Q WHO ELSE WAS THERE WITH YOU WHEN THAT FIRST LINEUP
21 WAS SHOWN?

22 A THERE WAS MR. EDENS, JAY'S FATHER. THERE WAS GARY
23 WATTS, THERE WAS ONE PERSON THAT I DO NOT REMEMBER HIS
24 NAME WHO WAS THERE ON STRICTLY A BUSINESS MEETING ON
25 THEIR END. I THINK THAT WAS ALL.

1 Q NOW, YOU SAY YOU SHOWED THIS LINEUP AT APPROXIMATELY
2 11 O'CLOCK?

3 A YES, SIR.

4 Q AND WHAT DID YOU TELL MR. EDENS BEFORE YOU SHOWED
5 IT TO HIM?

6 A THAT THERE WAS NO GUARANTEE THAT THE PERSON THAT
7 COMMITTED THE CRIME WAS IN THERE, BUT TO LOOK AT THE
8 PICTURES.

9 Q AND DID YOU, IN FACT, SHOW HIM THE LINEUP?

10 A YES, I DID.

11 Q I HAND YOU STATE'S EXHIBIT NUMBER ONE MARKED FOR
12 IDENTIFICATION ONLY. CAN YOU IDENTIFY THAT? IF YOU CAN,
13 TELL US HOW?

14 A THIS IS A LINEUP THAT WAS PREPARED FOR ME BY OUR
15 LABORATORY PEOPLE. PICTURE NUMBER FOUR IS AMAKER.

16 Q AND, IN FACT -- HOW DO YOU KNOW THAT IS THE LINEUP
17 THAT YOU SHOWED?

18 A THIS HAS BEEN IN OUR POSSESSION. IT WAS MARKED BY
19 THE LIEUTENANT THAT PREPARED IT AT MY DIRECTION AND IT'S
20 BEEN PART OF OUR CASE SINCE THAT TIME.

21 Q OKAY. AND IS IT IN SUBSTANTIALLY THE SAME
22 CONDITION TODAY AS IT WAS WHEN YOU SHOWED IT TO JAY EDENS?

23 A YES.

24 Q YOUR HONOR, AT THIS TIME, WE WOULD LIKE TO --
25 WE'D MOVE TO PLACE STATE'S EXHIBIT NUMBER ONE MARKED FOR I.D.

1 INTO EVIDENCE?

2 MR. ALLEN: NO OBJECTION.

3 THE COURT: WITHOUT OBJECTION.

4 (WHEREUPON, STATE'S EXHIBIT
5 NUMBER ONE, PHOTO LINEUP, MARKED INTO EVIDENCE AT THIS
6 TIME WITHOUT OBJECTION.)

7 THE SOLICITOR: NOW, INVESTIGATOR WICKER, I HAND
8 YOU STATE'S EXHIBIT NUMBER ONE BACK AGAIN. I WANT YOU TO
9 TELL US WHAT IF; ANYTHING, HAPPENED WHEN YOU SHOWED JAY
10 EDENS THAT PHOTO LINEUP?

11 A HE STUDIED IT AT LENGTH. AND THEN HE ACTUALLY
12 ELIMINATED PERSONS FROM THE LINEUP AND FINALLY IT CAME TO
13 WHERE HE SAID THAT NUMBER SIX WOULD BE THE PERSON IF YOU
14 CHANGED HIS HAIR AND HIS NOSE AND I BELIEVE HIS LIPS
15 AROUND. HE WAS SAYING THAT'S THE BEST THAT I HAVE REALLY
16 IS WHAT IT AMOUNTED TO. THAT NUMBER SIX CAME THE CLOSEST
17 TO LOOKING LIKE THE PERSON, BUT IT WOULD HAVE TAKEN THOSE
18 CHANGES FOR NUMBER SIX TO BE THE PERSON.

19 Q OKAY. SO HE DID NOT MAKE A POSITIVE IDENTIFICATION
20 OF ANYONE IN THAT LINEUP?

21 A THAT IS CORRECT.

22 Q WHAT IF HE HAD MADE A POSITIVE IDENTIFICATION OF
23 SOMEONE IN THAT LINEUP, WOULD YOU HAVE DONE A FORM OR
24 ANYTHING? DO YOU HAVE FORMS THAT YOU DO?

25 A YES, SIR, WE HAVE A STANDARD PHOTO LINEUP IDENTIFICATION

1 FORM.

2 Q AND WAS ONE DONE IN THIS CASE?

3 A NO.

4 Q AND WHY NOT?

5 A JUST THAT ALL WE HAD WAS A TENATIVE IDENTIFICATION
6 AT BEST.

7 Q HE DID NOT IDENTIFY ANYONE?

8 A THAT'S CORRECT.

9 Q THAT'S ALL I HAVE OF THIS WITNESS.

10 CROSS-EXAMINATION BY ASSISTANT PUBLIC DEFENDER ALLEN:

11 Q INVESTIGATOR WICKER, THE -- WERE YOU GIVEN A
12 GENERAL DESCRIPTION, TYPE OF SUSPECT YOU WERE TO BE
13 LOOKING FOR?

14 A I HAD THE GENERAL DESCRIPTION, YES, SIR.

15 Q OKAY. AND THAT WAS ESSENTIALLY WHAT?

16 A SIX FOOT, 180, BLACK MALE, I BELIEVE 28 YEARS OLD.

17 Q DARK COMPLEXION?

18 A I'LL HAVE TO GO BACK TO LOOK FOR THE SPECIFICS. IT
19 WAS ON THE REPORTS AND THE FOLLOW-UP SHEETS IS WHERE I
20 WAS GETTING THE INFORMATION FROM.

21 Q DO YOU RECALL ANY DESCRIPTION ABOUT A HAIRCUT OR
22 HOW HIS HAIR LOOKED?

23 A IN THE ORIGINAL INCIDENT REPORT MADE BY DEPUTY
24 WELLS STATES THAT THE SUSPECT HAD CLOSE-CUT HAIR.

25 Q AND THAT WAS THE DESCRIPTION YOU WERE WORKING OFF

1 OF?

2 A YES, SIR, THAT WAS PART OF IT.

3 Q OKAY. ANYTHING -- ANY INFORMATION TO YOUR KNOWLEDGE
4 ABOUT A MUSTACHE IN THAT -- IN THE INITIAL DESCRIPTION?

5 A NOT THAT I REMEMBER.

6 Q SORRY?

7 A NOT THAT I REMEMBER.

8 Q OR SCARS ON THE SUSPECT'S FACE OR NOSE?

9 A NO.

10 Q BUT I NOTICE IN PROSECUTION'S EXHIBIT NUMBER ONE,
11 THE PHOTO ARRAY, YOU SHOWED MR. EDENS -- YOU SHOWED MR.
12 JAY EDENS, ALL THOSE CONTAINED PEOPLE WHO HAD MUSTACHES,
13 CORRECT?

14 A WHAT THE PHOTO LINEUP?

15 Q YES.

16 A YES, SIR, THEY WOULD. THE PICTURE WE HAVE OF MR.
17 AMAKER HAS A MUSTACHE.

18 Q SO YOU WERE ALSO TRYING TO GET PHOTOS THAT RESEMBLED
19 THE SUSPECT AT THE TIME, IS THAT CORRECT?

20 A YES, SIR.

21 Q YOU SHOWED THIS SAME -- EXCUSE ME -- THAT'S OKAY.
22 NO FURTHER QUESTIONS, YOUR HONOR.

23 REDIRECT EXAMINATION BY DEPUTY SOLICITOR GIESE:

24 Q JUST ONE QUESTION, YOUR HONOR. INVESTIGATOR
25 WICKER, MR. ALLEN MENTIONED THAT THERE WAS NO MENTION OF

1 A MUSTACHE IN THAT ONE DESCRIPTION THAT YOU HAD RIGHT
2 THERE, IS THAT CORRECT?

3 A THAT IS CORRECT.

4 Q DO YOU KNOW HOW MANY TIMES MR. EDENS COULD HAVE HAD
5 TO GIVE A DESCRIPTION TO POLICE OFFICERS THAT NIGHT, THAT
6 DAY?

7 A I CAN COUNT BACK. HE GAVE ONE ON THE INCIDENT
8 REPORT. ONE ON A FOLLOW-UP SHEET, ONE ON A COMPOSITE. I
9 WOULD SAY AT LEAST THREE. I DON'T KNOW WHETHER HE GAVE
10 IT TO ANY OTHERS OR NOT.

11 Q SO HE VERY POSSIBLY COULD HAVE TOLD SOMEONE --
12 ONE OF THE POLICE OFFICERS THAT HE HAD A MUSTACHE AND YOU
13 WOULDN'T KNOW ABOUT IT?

14 A THAT'S CORRECT.

15 Q THAT'S ALL.

16 RECROSS EXAMINATION BY ASSISTANT PUBLIC DEFENDER ALLEN:

17 Q YOU SAID THERE WERE SEVERAL RECORDED DESCRIPTIONS
18 ON OTHER FOLLOW-UP SHEETS -- INCIDENT REPORTS?

19 A YES, SIR, WE HAVE ONE ON THE INCIDENT REPORT
20 ITSELF. AND WE HAVE ANOTHER ON A FOLLOW-UP SHEET AND
21 THEN WE HAVE A COMPOSITE SHEET, I BELIEVE, THAT WAS ALL
22 PREPARED ON THE SAME DAY.

23 Q YOU HAVE A VARIETY OF THOSE. DO YOU HAVE THOSE
24 FORMS WITH YOU?

25 A YES, SIR, THEY'RE ALL -- NOT RIGHT HERE WITH ME,

1 BUT YES, THEY'RE ALL HERE IN THE COURTROOM, I BELIEVE.

2 Q WELL, DO YOU RECALL ANY AT ALL CONCERNING A
3 MUSTACHE OR MAKING ANY STATEMENT ABOUT A MUSTACHE?

4 A ON THE COMPOSITE, THERE'S A MUSTACHE.

5 Q THE COMPOSITE. I SAID COMPOSITE, SIR?

6 A THIS IS WHEN A PERSON PUTS TOGETHER A PICTURE FORM.

7 Q YOUR HONOR, IF COUNSEL AND I MAY APPROACH THE
8 BENCH?

9 THE SOLICITOR: YEAH, I THINK WE HAVE A MATTER OF
10 LAW WE HAVE TO DISCUSS.

11 THE COURT: LADIES AND GENTLEMEN, I'D ASK YOU TO
12 PLEASE GO TO THE JURYROOM WHILE I DISCUSS A MATTER OF
13 LAW.

14 (JURY OUT.)

15 THE COURT: WHAT'S YOUR MATTER OF LAW?

16 (WHEREUPON, MR. ALLEN AND
17 THE SOLICITOR CONFER AT THIS TIME.)

18 THE SOLICITOR: YOUR HONOR, I BELIEVE WE SETTLED
19 IT. THERE APPARENTLY WAS A COMPOSITE THAT I WAS NOT
20 AWARE OF UNTIL JUST NOW. MR. ALLEN HAS SEEN IT I GUESS
21 PURSUANT TO RULE 8, I GUESS I WOULD HAVE HAD A DUTY TO
22 DISCLOSE IT. I DIDN'T KNOW ABOUT IT. I BELIEVE MR.
23 ALLEN DOES NOT WANT IT PRODUCED AT THIS TIME. AND WE'LL
24 PROCEED WITH---

25 THE COURT: IS THAT CORRECT, MR. ALLEN?

1 MR. ALLEN: THAT'S CORRECT, YOUR HONOR. WE WOULD
2 PREFER IT NOT BE PRODUCED AT THIS TIME EVEN THOUGH IT WAS
3 SORT OF RAISED IN MY CROSS-EXAMINATION. I'LL DROP THIS
4 LINE -- DROP THAT LINE OF QUESTIONING.

5 THE COURT: SEE IF THE JURY IS READY. IF SO, BRING
6 THEM BACK.

7 (JURY IN.)

8 THE COURT: LADIES AND GENTLEMEN OF THE JURY, I
9 FORGOT TO TELL YOU, BUT WHEN I SEND YOU TO THE JURYROOM,
10 I DON'T KNOW IF IT'S GOING TO TAKE ME FIVE SECONDS, FIVE
11 MINUTES, OR 50 MINUTES. AND IF I SEND YOU TO THE
12 JURYROOM AND I SEND FOR YOU RIGHT SHORTLY, IF YOU NEED TO
13 FINISH A CIGARETTE OR WHATEVER, GO RIGHT AHEAD. YOU'LL
14 GOING TO HAVE TO WAIT ON US, WE'LL WAIT ON YOU. I WANTED
15 TO EXPLAIN THAT TO YOU. I DIDN'T WANT YOU TO THINK THAT
16 I WAS RUNNING YOU IN AND RUNNING YOU RIGHT BACK OUT. AND
17 IF YOU NEED A FEW MORE MINUTES, FEEL FREE TO TAKE IT.
18 YOU MAY PROCEED.

19 MR. ALLEN: THANK YOU, YOUR HONOR. I'VE GOT NO
20 FURTHER QUESTIONS OF THIS WITNESS.

21 THE SOLICITOR: THAT'S ALL I HAVE OF THIS WITNESS.

22 THE COURT: YOU MAY COME DOWN.

23 (WHEREUPON, THE WITNESS WAS
24 EXCUSED AT THIS TIME.)

25 THE SOLICITOR: THE STATE CALLS INVESTIGATOR BROWN.

1 (WILLIAM BROWN, FIRST BEING
2 DULY SWORN, TESTIFIED AS FOLLOWS:)

3 DIRECT EXAMINATION BY DEPUTY SOLICITOR GIESE:

4 THE SOLICITOR: YOUR HONOR, MAY WE APPROACH THE
5 BENCH JUST FOR A SECOND?

6 (WHEREUPON, A BENCH CONFERENCE
7 WAS HELD AT THIS TIME OFF THE RECORD IN THE PRESENCE OF
8 THE JURY, BUT OUT OF THE HEARING OF THE JURY.)

9 THE SOLICITOR: INVESTIGATOR BROWN, WHERE ARE YOU
10 EMPLOYED?

11 A I'M EMPLOYED WITH THE RICHLAND COUNTY SHERIFF'S
12 OFFICE.

13 Q AND HOW LONG HAVE YOU BEEN EMPLOYED THERE?

14 A APPROXIMATELY FOUR YEARS.

15 Q IS THAT ALL THE POLICE WORK THAT YOU'VE DONE IN
16 YOUR CAREER?

17 A NO, SIR. I HAVE ANOTHER FOUR YEARS AT THE COLUMBIA
18 POLICE DEPARTMENT.

19 Q AND HOW LONG HAVE YOU BEEN AN INVESTIGATOR WITH THE
20 RICHLAND COUNTY SHERIFF'S DEPARTMENT?

21 A APPROXIMATELY A YEAR.

22 Q NOW, INVESTIGATOR BROWN, ARE YOU ASSIGNED TO ANY
23 SPECIFIC INVESTIGATORY GROUP THERE OR IS IT JUST A BASIC
24 INVESTIGATOR?

25 A NO, SIR, I'M JUST A BASIC CRIMINAL INVESTIGATOR.

1 Q AND, IN FACT, WERE YOU ASSIGNED TO INVESTIGATE THIS
2 CASE?

3 A YES, SIR, I WAS.

4 Q WHEN DID YOU GET ASSIGNED TO THIS CASE?

5 A ON THE 23RD DAY OF JULY, 1985.

6 Q WHAT SHIFT WERE YOU WORKING THAT DAY?

7 A I WAS ON THE EVENING SHIFT FROM FOUR TO TWELVE.

8 Q AND BASICALLY WERE YOU ALTERNATING WITH INVESTIGATOR
9 WICKER?

10 A YES, SIR.

11 Q SO YOU WERE WORKING FOUR TO TWELVE AND HE WAS
12 WORKING THE WHAT?

13 A EIGHT TO FOUR.

14 Q OKAY. SO YOU WERE BOTH INVESTIGATING THIS CASE
15 BASICALLY AT THE SAME TIME?

16 A YES, SIR.

17 Q THAT'S NATURAL, ISN'T IT?

18 A YES, SIR.

19 Q NOW, WHEN WAS YOUR -- YOU SAY YOUR FIRST CONTACT
20 WITH THIS CASE WAS ON JULY 23. WHAT IS THE FIRST THING
21 YOU DID INVOLVING THIS CASE?

22 A I WAS CALLED IN ON JULY 23RD. IT WAS ABOUT 5:45 TO
23 SPEAK WITH A MR. JAY EDENS, WHO WAS THE VICTIM IN THIS
24 CASE. I WAS CALLED IN AND BRIEFED BY MY CAPTAIN WITH THE
25 INVESTIGATIVE DIVISION AS TO WHAT HAD OCCURRED. HE

1 FORWARDED ME A COPY OF THE INCIDENT REPORT AND ASKED THAT I
2 SIT DOWN AND HAVE AN INTERVIEW WITH THE VICTIM IN THIS
3 PARTICULAR CASE AND TO OBTAIN A STATEMENT AS TO EXACTLY
4 WHAT HE THOUGHT HAPPENED DURING THIS TIME. THAT'S
5 BASICALLY WHAT I DID ON THAT EVENING.

6 Q DID YOU ACTUALLY GO OUT TO THE SCENE?

7 A NO, SIR.

8 Q SO YOU DIDN'T GO OUT TO WHERE THE CAR WAS?

9 A NO, SIR.

10 Q AFTER YOU INTERVIEWED MR. EDENS, WHAT DID YOU DO?

11 A BASICALLY AFTER I GOT THROUGH WITH THE INTERVIEW, I
12 PASSED WHAT INFORMATION I HAD ON TO INVESTIGATOR WICKER
13 THE FOLLOWING MORNING AND THAT'S WHEN HE ACTUALLY PICKED
14 UP ON THE CASE.

15 Q THE NEXT DAY THAT YOU CAME ON WAS WHAT TIME?

16 A FOUR O'CLOCK.

17 Q THAT WAS THE NEXT DAY?

18 A YES, SIR, THE 24TH.

19 Q WHAT DID YOU DO AT THAT TIME?

20 A AT THAT PARTICULARLY TIME, I WAS CONTACTED BY
21 INVESTIGATOR WICKER WHO HAD CALLED ME AT APPROXIMATELY
22 7:00 OR 7:15, SOMEWHERE ALONG THERE WHO HAD INDICATED
23 THAT THE VICTIM AND GARY WATTS HAD IDENTIFIED A SUSPECT
24 IN THIS PARTICULAR CASE. I WENT BY THE TRUCKING LINE
25 WHICH IS ON BLUFF ROAD. I TALKED TO GARY WATTS. I TALKED

1 TO THE VICTIM. AT THAT PARTICULAR TIME, GARY WATTS WAS
2 ABLE TO GIVE ME A NAME AND BASICALLY AN ADDRESS WHERE
3 THIS INDIVIDUAL WAS THOUGHT TO RESIDE AT.

4 Q NOW, WHAT WAS THE NAME THAT HE GAVE YOU?

5 A HE GAVE ME THE NAME OF HERBERT BELL.

6 Q AFTER HE GAVE YOU THAT NAME, WHAT DID YOU DO?

7 A I WENT BACK TO THE RICHLAND COUNTY SHERIFF'S
8 DEPARTMENT. I DID SOME BACKGROUND SEARCH THROUGH OUR
9 COMPUTER SYSTEM WHICH GOES THROUGH THE RECORDS AT SLED
10 AND I CAME UP WITH A NAME AND A DATE OF BIRTH. AT THIS
11 PARTICULAR TIME I WENT AND FOUND A PICTURE OF A GUY BY
12 THE NAME OF HERBERT LEE BELL, JR. WHO ALSO HAD GIVEN A
13 PAST ADDRESS AS RESIDING AT 4025 WINTER PARK DRIVE.
14 USING THAT TYPE OF INFORMATION, I TOOK THAT TO OUR LAB
15 SECTION AT THE RICHLAND COUNTY SHERIFF'S DEPARTMENT AND I
16 ASKED FOR A PHOTOGRAPHIC LINEUP CONSISTING OF SIX PEOPLE.

17 Q NOW, LET ME INTERRUPT YOU THERE AND JUMP FORWARD.
18 WERE YOU ACTUALLY IN ON THE ARREST OF MR. BELL?

19 A YES, SIR.

20 Q OKAY. WHEN DID THAT TAKE PLACE?

21 A THAT TOOK PLACE IN MY OFFICE AT NINE -- ABOUT --
22 APPROXIMATELY 9:35 ON THE DAY OF THE 24TH.

23 Q OKAY. AND WHAT WAS HE ARRESTED FOR AT THAT TIME?

24 A HE WAS ARRESTED FOR KIDNAPPING BY ME.

25 Q DID YOU SUBSEQUENTLY EXECUTE A SEARCH WARRANT?

1 A YES, SIR, I DID.

2 Q AND WHERE DID YOU EXECUTE THAT SEARCH WARRANT?

3 A AT 4025 WINTER PARK DRIVE IN RICHLAND COUNTY.

4 Q NOW, WHY DID YOU GO TO 4025 WINTER PARK, RICHLAND
5 COUNTY?

6 A BECAUSE AT THE TIME OF THE ARREST, WE HAVE TO FILL
7 OUT AN ARREST REPORT WITH THE SHERIFF'S OFFICE AND ON
8 THAT ARREST REPORT HE INDICATED THAT HE RESIDED AT 4025
9 WINTER PARK DRIVE.

10 Q SO THE ONLY REASON THAT YOU THOUGHT HE RESIDED
11 THERE IS BECAUSE HE TOLD YOU HE RESIDED THERE, IS THAT
12 RIGHT?

13 A YES, SIR.

14 Q IS IT VERY -- IS IT POSSIBLE OR DID YOU KNOW OF ANY
15 INFORMATION THAT HE WAS NOT LIVING AT 4025 WINTER PARK?

16 A YES, SIR, I RECEIVED INFORMATION AFTER I HAD SERVED
17 THE SEARCH WARRANT THAT WOULD HAVE INDICATED THAT IT'S
18 POSSIBLE THAT HE MAY HAVE BEEN RESIDING IN ANOTHER
19 LOCATION ALSO.

20 Q NOW, YOU SAY THAT YOU FOUND THIS INFORMATION OUT
21 AFTER YOU SERVED THE SEARCH WARRANT AT 4025. HOW ABOUT
22 TELLING THE JURY WHAT EXACTLY YOU DO WHEN YOU SERVE A
23 SEARCH WARRANT OR -- EVEN TO GET ONE, WHAT DO YOU DO?

24 A YOU HAVE TO OBTAIN PROBABLE CAUSE THROUGH THE
25 JUDGE'S OFFICE. YOU HAVE TO GO TO THE MAGISTRATE'S OFFICE

1 AND REQUEST A SEARCH WARRANT. YOU HAVE TO GET A DESCRIPTION
2 OF THE HOUSE. YOU HAVE TO LIST THE ITEMS THAT YOU ARE
3 LOOKING FOR IN THIS SEARCH WARRANT AND YOU HAVE TO GIVE
4 SOME REASON AS TO WHY YOU BELIEVE THAT THESE ITEMS MAY
5 LIVE -- MAY BE THERE AT THAT PARTICULAR TIME.

6 Q AND DID YOU ACTUALLY DO THAT IN THIS CASE?

7 A YES, SIR, I DID.

8 Q AND WHICH MAGISTRATE DID YOU GO TO TO GET THE
9 SEARCH WARRANT?

10 A THIS WAS APPROXIMATELY 12 O'CLOCK AT NIGHT BY THE
11 TIME I HAD EVERYTHING I NEEDED AND THE ONLY MAGISTRATE I
12 COULD FIND AT THAT POINT WAS MAGISTRATE MEL MARR(SIC) WHO
13 IS A MAGISTRATE IN THE BLYTHEWOOD AREA.

14 Q NOW, ONCE YOU GOT WITH JUDGE MARR AND HE SIGNED
15 YOUR SEARCH WARRANT, WHAT DID YOU DO?

16 A I GOT WITH A FEW OTHER -- I GOT WITH INVESTIGATOR
17 CHRISTY. I GOT WITH SERGEANT WALBERT(SIC) AT THE
18 RICHLAND COUNTY SHERIFF'S OFFICE AND INDICATED THAT I
19 NEEDED TO GO EXECUTE A SEARCH WARRANT AND NEEDED SOME
20 ASSISTANCE IN DOING SO. WE ALL WENT TO THE INCIDENT
21 LOCATION, KNOCKED ON THE DOOR AND A MRS. GUNTER CAME TO
22 THE DOOR WHO INDICATED THAT SHE WAS THE MOTHER-IN-
23 LAW OF THE SUSPECT.

24 Q MOTHER-IN-LAW OF THE SUSPECT?

25 A THAT'S WHAT SHE INDICATED TO ME, YES, SIR.

1 Q OKAY. WHAT HAPPENED THEN?

2 A I ADVISED HER OF THE NATURE AS TO WHY I WAS THERE.
3 INDICATED THAT WE HAD TO LOOK THROUGHOUT THE HOUSE FOR
4 CERTAIN ITEMS THAT WERE ON THE SEARCH WARRANT AND SHE SAT
5 DOWN IN THE DEN AREA -- I HAD A UNIFORM OFFICER WATCH
6 EVERYBODY THAT WAS IN THE HOUSE. THEY WERE CONTAINED IN
7 THE DEN AND MYSELF AND ANOTHER OFFICER WENT THROUGH THE
8 HOUSE AND LOOKED FOR WHAT WE HAD IN THE SEARCH WARRANT.

9 THE COURT: EXCUSE ME JUST A MINUTE, SOLICITOR.
10 NOW, MR. ALLEN, DO YOU WANT ME TO CONDUCT A HEARING, AN
11 IN-CAMERA HEARING IN REGARDS TO THIS?

12 MR. ALLEN: NO, SIR, YOUR HONOR. IF I MAY EXPLAIN
13 A LITTLE---

14 THE COURT: I WAS INFORMED AT THE BENCH CONFERENCE
15 YOU HAD NO OBJECTION.

16 MR. ALLEN: THAT'S CORRECT.

17 THE COURT: I JUST WANTED THAT FOR THE RECORD.

18 MR. ALLEN: I WANT -- YES, SIR, WE CAN STATE FOR
19 THE RECORD THAT I -- NOR DO I REQUEST AN IN-CAMERA
20 HEARING.

21 THE COURT: AND YOU DO NOT OBJECT TO THIS LINE OF
22 TESTIMONY?

23 MR. ALLEN: I DO NOT OBJECT TO THIS LINE OF
24 TESTIMONY AT ALL, YOUR HONOR.

25 THE COURT: YOU MAY PROCEED.

1 THE SOLICITOR: THANK YOU, YOUR HONOR. OKAY,
2 INVESTIGATOR, SO YOU -- LET'S GET BACK. YOU SAID THAT
3 YOU SERVED THE SEARCH WARRANT AT 4025 WINTER PARK?

4 A YES, SIR. WINTER PARK DRIVE.

5 Q OKAY. AND WHO ANSWERED THE DOOR?

6 A A MISS LILLIE GUNTER.

7 Q AND IT WAS YOUR UNDERSTANDING AT THIS TIME WHEN YOU
8 SERVED THAT THAT THIS WAS THE RESIDENCE OF MR. BELL?

9 A YES, SIR.

10 Q NOW, WHEN YOU SERVED THE SEARCH WARRANT, WHAT
11 EXACTLY DID YOU DO?

12 A I -- TECHNICALLY I HAD INVESTIGATOR CHRISTY WHO
13 EXECUTED THE SEARCH WARRANT BECAUSE I HAD SIGNED IT. WE
14 WENT TO THE DIFFERENT ROOMS THROUGHOUT THE HOUSE AND
15 COLLECTED THE EVIDENCE.

16 Q WHAT DID YOU COLLECT FROM THERE THAT YOU ACTUALLY
17 TOOK FROM THE HOUSE?

18 A TAKEN IN REGARDS TO THE SEARCH WARRANT WERE ONE
19 PAIR OF SHOES. A LOT OF PEOPLE REFER TO THESE TYPE OF
20 SHOES AS EASY WALKERS. THEY WOULD RESEMBLE A CANVAS TYPE
21 SHOE WITH A SOFT BOTTOM. THEY WOULD NOT HAVE ANY
22 SHOESTRINGS. THINGS OF THIS NATURE. THAT IS THE ONLY
23 THING THAT WE TOOK FROM THE HOUSE ON THAT NIGHT.

24 Q I HAND YOU THIS. CAN YOU IDENTIFY IT?

25 A YES, I CAN.

1 Q AND HOW CAN YOU IDENTIFY IT?

2 A I CAN IDENTIFY IT BY MY SIGNATURE. THESE ARE, IN
3 FACT, THE SHOES THAT WERE TAKEN FROM THE HOUSE LOCATED AT
4 20 -- CORRECTION 4025 WINTER PARK DRIVE.

5 Q AND HAVE THEY BEEN IN YOUR POSSESSION SINCE THEN OR
6 IN THE RICHLAND COUNTY SHERIFF DEPARTMENT'S POSSESSION?

7 A THEY WERE PLACED INTO EVIDENCE AND HAVE BEEN THERE
8 -- I GOT THEM RIGHT WHENEVER WE BROKE FOR LUNCH. THAT'S
9 WHEN I WENT DOWN AND GOT THEM OUT OF THE EVIDENCE ROOM
10 FROM THE EVIDENCE CUSTODIAN.

11 Q AND ARE THEY IN SUBSTANTIALLY THE SAME CONDITION AS
12 THEY WERE THAT DAY?

13 A THEY ARE IN THE SAME CONDITION, YES.

14 Q YOUR HONOR, WE MOVE TO PLACE THESE INTO EVIDENCE AT
15 THIS TIME.

16 THE COURT: ANY OBJECTIONS?

17 MR. ALLEN: NO, YOUR HONOR.

18 THE COURT: ADMITTED INTO EVIDENCE WITHOUT OBJECTION.

19 (WHEREUPON, STATE'S EXHIBIT
20 NUMBER THREE, SHOES, MARKED INTO EVIDENCE AT THIS TIME
21 WITHOUT OBJECTION.)

22 THE SOLICITOR: NOW, INVESTIGATOR BROWN, LET ME
23 JUMP BACK---

24 A OKAY.

25 Q LET ME JUMP BACK. I'M GOING TO JUMP BACK. THE

1 TRUCK WAS DISCOVERED BY RICHLAND COUNTY SHERIFF'S
2 DEPARTMENT, IS THAT CORRECT?

3 A YES, SIR, IT WAS.

4 Q OKAY. DO YOU KNOW IF IT WAS DUSTED FOR PRINTS?

5 A IT WAS IN FACT.

6 Q AND WERE THERE ANY PRINTS FOUND?

7 A NO, SIR.

8 Q NONE AT ALL?

9 A NO, SIR.

10 Q NONE THAT COULD BE MATCHED TO ANYBODY?

11 A NO, SIR.

12 Q BUT AN EFFORT WAS MADE?

13 A YES, SIR.

14 Q LET ME JUMP FORWARD. AFTER YOU TOOK THESE SHOES,
15 WHAT DID YOU DO?

16 A I PLACED THEM INTO EVIDENCE.

17 Q OKAY. AND AFTER THAT -- WHAT ELSE HAVE YOU DONE
18 WITH THIS CASE AFTER THAT?

19 A THAT'S BEEN BASICALLY IT. I INFORMED INVESTIGATOR
20 WICKER OF MY FINDINGS SINCE WE WERE WORKING ON THIS CASE
21 TOGETHER. THE FOLLOW-UPS OR WHAT HAVE YOU WERE PLACED IN
22 HIS POSSESSION THE NEXT MORNING.

23 Q AND THESE SHOES WERE FOUND IN THE RESIDENCE OF --
24 IN ONE OF THE RESIDENCES OF MR. BELL?

25 A YES, SIR.

1 Q DID YOU EVER SEARCH THE OTHER POTENTIAL RESIDENCE?

2 A NO, SIR.

3 Q AND WHY NOT?

4 A BECAUSE I DON'T KNOW WHERE IT'S AT.

5 Q BUT YOU DO HAVE INFORMATION THAT THERE IS---

6 A I HAVE INFORMATION THAT HE'S---

7 MR. ALLEN: OBJECTION AS TO THIS INFORMATION, YOUR
8 HONOR. THAT'S HEARSAY.

9 THE COURT: SOLICITOR.

10 THE SOLICITOR: SORRY, YOUR HONOR. NOW, LET'S GO
11 BACK. WE WERE DISCUSSING MAKING A PHOTO LINEUP UP IN
12 THIS CASE.

13 A YES, SIR.

14 Q WHEN DID YOU DO THAT?

15 A I DID THAT ON THE EVENING OF THE 24TH AFTR I HAD A
16 NAME AND FOUND OUT THAT WE HAD A PICTURE OF THIS INDIVIDUAL
17 AT THE SHERIFF'S OFFICE, I SUBMITTED IT TO OUR LAB AT
18 THAT PARTICULAR TIME TO REQUEST A LINEUP.

19 Q AND DID YOU, IN FACT, GET A LINEUP AT THAT TIME?

20 A YES, SIR, SHORTLY THEREAFTER.

21 Q APPROXIMATELY WHAT TIME WAS THAT?

22 A I GOT THE LINEUP AT APPROXIMATELY 8:30, QUARTER
23 TILL NINE.

24 Q AND DID YOU, IN FACT, THEN SHOW A LINEUP TO SOMEONE
25 IN THIS CASE?

1 A AT 9 O'CLOCK, I INTERVIEWED A -- THE VICTIM, MR.
2 EDENS IN THIS PARTICULAR CASE AND SHOWED HIM A LINEUP. I
3 INDICATED TO HIM THIS PARTICULAR POINT THAT I WAS GOING
4 TO SHOW HIM A LINEUP THAT CONSISTED OF SIX PICTURES. I
5 INDICATED TO HIM THAT WHAT I WANTED TO KNOW IS IF THE
6 PERSON WHO HAD KIDNAPPED HIM ON THE 23RD WAS, IN FACT, IN
7 THIS LINEUP OR NOT.

8 Q AND WHO ELSE WAS THERE AT THAT TIME?

9 A IT WAS MYSELF, THE VICTIM, MR. EDENS, AND MR. WATTS
10 WAS ALSO WITH HIM.

11 Q OKAY. NOW, LET ME ASK YOU ABOUT THIS -- BEFORE YOU
12 GET INTO WHETHER HE IDENTIFIED ANYONE OR NOT, THESE
13 PEOPLE IN THE PHOTOGRAPHIC LINEUP, WERE THEY OF SIMILAR
14 APPEARANCE?

15 A YES, SIR. YES, SIR.

16 Q AND, IN FACT, THEY FIT THE PHYSICAL DESCRIPTION
17 THAT YOU HAD AT THAT TIME?

18 A YES, SIR, THEY DID.

19 Q OKAY. HOW MANY PICTURES WERE THERE IN THE LINEUP?
20 THERE WERE A TOTAL OF SIX.

21 Q DID YOU TRY TO INFLUENCE THE VICTIM IN ANYWAY---

22 A NO, SIR.

23 Q ---BEFORE THIS?

24 A NO, SIR.

25 Q AND WHAT EXACTLY DID YOU TELL HIM BEFORE HE LOOKED

1 AT THE LINEUP?

2 A I INDICATED TO HIM THAT I HAD SIX PICTURES THAT I
3 NEEDED TO SHOW HIM AND THAT I WANTED FOR HIM TO LOOK AT
4 THE LINEUP AND TO INDICATE IF THERE WAS SOMEONE IN THERE
5 THAT, IN FACT, KIDNAPPED HIM ON THE 23RD.

6 Q OKAY. AND DID HE, IN FACT, IDENTIFY ANYONE?

7 A YES, SIR, HE DID.

8 Q WHO DID HE IDENTIFY?

9 A HE IDENTIFIED HERBERT LEE BELL, JR., THE DEFENDANT
10 IN THIS CASE AS BEING PHOTO NUMBER FIVE IN THE PHOTO
11 LINEUP.

12 Q DO YOU REMEMBER EXACTLY WHAT HE SAID OR HOW LONG HE
13 TOOK?

14 A HE SAID THAT'S IT. HE SAID THERE'S NO DOUBT ABOUT
15 IT. HE SAID THAT'S IT RIGHT THERE. THAT'S HIM. TOOK
16 HIM APPROXIMATELY 15 TO 30 SECONDS. IT WASN'T A LONG
17 PERIOD OF TIME.

18 Q DID HE THEN SUBSEQUENTLY LOOK AT IT FOR A WHILE?

19 A YES.

20 Q SO HE ACTUALLY STUDIED THE LINEUP AFTER HE HAD
21 IDENTIFIED HIM?

22 A YES, SIR. IT WAS ON MY DESK FOR A WHILE AFTER I
23 GOT THROUGH WITH THE PHYSICAL LINEUP -- CORRECTION WITH
24 THE PHOTO LINEUP ITSELF, THEN I TOOK A STATEMENT AS TO
25 WHAT HAD HAPPENED THAT PARTICULAR DAY AND GOT ALL THAT ON

1 PAPER.

2 Q NOW, I HAND YOU STATE'S EXHIBIT MARKED FOR IDENTIFICATION
3 ONLY NUMBER TWO. I WANT YOU TO TAKE A LOOK AT IT AND
4 TELL ME IF YOU CAN IDENTIFY IT?

5 A YES, SIR, I CAN.

6 Q WHAT IS IT?

7 A IT IS A PHOTOGRAPHIC LINEUP THAT I REQUESTED ON THE
8 24TH OF JULY OF 1985.

9 Q IS THIS THE EXACT SAME PHOTOGRAPHIC LINEUP THAT YOU
10 SHOWED MR. EDENS?

11 A YES, SIR.

12 Q AND WHO DID HE PICK OUT IN THAT?

13 A HE PICKED OUT PHOTO NUMBER FIVE, SIR.

14 Q AND WHO WAS THAT?

15 A THAT WAS HERBERT LEE BELL, JR., THE DEFENDANT IN
16 THIS CASE.

17 Q AND HAS THIS PHOTO LINEUP CHANGED IN ANY WAY?

18 A NO, SIR.

19 Q HAS IT BEEN IN Y'ALL'S CONTROL?

20 A YES, SIR.

21 Q AND IS IT IN SUBSTANTIALLY THE SAME CONDITION?

22 A YES, SIR.

23 Q AS IT WAS THAT DAY?

24 A YES, SIR.

25 Q YOUR HONOR, I WOULD MOVE TO HAVE THIS PLACED IN

1 EVIDENCE.

2 MR. ALLEN: NO OBJECTION.

3 THE COURT: WITHOUT OBJECTION.

4 (WHEREUPON, STATE'S EXHIBIT
5 NUMBER TWO, PHOTO LINEUP, MARKED INTO EVIDENCE AT THIS
6 TIME WITHOUT OBJECTION.)

7 THE SOLICITOR: NOW, INVESTIGATOR IS IT STANDARD
8 OPERATING PROCEDURES OF THE RICHLAND COUNTY SHERIFF'S
9 DEPARTMENT TO FILL OUT A FORM IF SOMEONE IS PICKED OUT OF
10 A PHOTO LINEUP?

11 A YES, SIR, IT IS.

12 Q AND WAS ONE DONE IN THIS CASE?

13 A YES, SIR.

14 Q DID THE VICTIM ACTUALLY SIGN IT IN THIS CASE?

15 A YES, SIR, HE DID.

16 Q AND THAT'S ONLY DONE WHEN SOMEONE IS ACTUALLY
17 CHOSEN FROM THE LINEUP?

18 A RIGHT.

19 Q THAT'S ALL I HAVE.

20 CROSS-EXAMINATION BY ASSISTANT PUBLIC DEFENDER ALLEN:

21 Q INVESTIGATOR BROWN, YOU SAY NO FINGERPRINTS WERE
22 TAKEN, IS THAT CORRECT?

23 A THE SCENE WAS PROCESSED FOR PRINTS, BUT NONE WERE
24 LIFTED, SIR.

25 Q AND ANY ATTEMPTS TO MAKE FOOT MOLDS OF ANY FOOTPRINTS

1 AROUND THE TRUCK?

2 A NO, SIR, NOT TO MY KNOWLEDGE.

3 Q OKAY. WHEN YOU GOT THE SEARCH WARRANT, YOU
4 INDICATED ON THE SEARCH WARRANT YOU WERE LOOKING FOR
5 VARIOUS THINGS, IS THAT CORRECT?

6 A YES, SIR, I DID.

7 Q AND SPECIFICALLY YOU WERE LOOKING FOR THE TYPE OF
8 CLOTHING THAT JAY EDENS HAD DESCRIBED THIS PERSON AS
9 HAVING WORN, IS THAT CORRECT?

10 A ON THE DAY OF THE 23RD, YES, SIR.

11 Q YOU WERE LOOKING FOR A RED BASEBALL TYPE CAP, IS
12 THAT CORRECT?

13 A THAT'S CORRECT.

14 Q YOU WERE ALSO LOOKING FOR A WATCH HAVING TWO
15 DIAMONDS WITH THE DIAMOND OVER THE NUMBER TWELVE MISSING,
16 IS THAT CORRECT?

17 A THAT'S RIGHT.

18 Q IS THAT BECAUSE IT'S YOUR UNDERSTANDING MR. JAY
19 EDENS DESCRIBED THE WATCH WITH THAT MUCH PARTICULARITY?

20 A YES, SIR, HE HAD INDICATED THAT THE WATCH WAS --
21 THAT THE DEFENDANT HAD THE WATCH ON AT THE TIME THAT HE
22 WAS KIDNAPPED AND THAT HE NOTICED THAT IT DID HAVE A
23 DIAMOND MISSING OUT OF IT.

24 Q HE INDICATED THAT THIS PERSON WHO IDENTIFIED
25 HIMSELF AS TONY WAS WEARING A WATCH?

1 A YES, SIR.

2 Q OKAY. YOU WERE ALSO LOOKING FOR WRANGLER STYLE
3 BLUEJEANS WITH YELLOW STITCHING?

4 A YES, SIR, THAT'S CORRECT.

5 Q AND A DARK T-SHIRT?

6 A RIGHT.

7 Q AND TENNIS SHOES WITHOUT THE LACES?

8 A THAT'S RIGHT.

9 Q AND A RED MECHANIC---

10 A YES, SIR.

11 Q OKAY. IS THERE ANY REASON WHY YOU WERE LOOKING FOR
12 THAT?

13 A HE INDICATED THAT HE HAD ONE IN HIS BACK POCKET.

14 Q ONE IN HIS BACK POCKET. OKAY. NOW, YOU ACCOMPANIED---

15 A CORRECTION, SIR. I INDICATED IN HIS BACK POCKET.
16 HE MAY HAVE INDICATED THAT IT WAS A BANDANNA TYPE, BUT HE
17 DID INDICATE THAT HE HAD A RED RAG THAT APPEARED TO COME
18 FROM A GARAGE TYPE.

19 Q I SEE. OKAY. THANK YOU FOR THE CLARIFICATION.
20 NOW, YOU THEN -- YOU ACCOMPANIED INVESTIGATOR CHRISTY TO
21 4025 WINTER PARK DRIVE, CORRECT?

22 A YES, SIR.

23 Q AND Y'ALL DID A PRETTY THOROUGH SEARCH OF THE
24 HOUSE, IS THAT NOT RIGHT?

25 A THAT IS NORMAL. YES, SIR. YES, SIR.

1 Q OKAY. NOW, YOU SEARCHED PRETTY MUCH EVERY PLACE
2 YOU THOUGHT YOU WOULD FIND THESE VARIOUS CLOTHING ITEMS,
3 CORRECT?

4 A YES, SIR.

5 Q CLOSETS IN THE HOUSE?

6 A YES, SIR.

7 Q ALL THE CLOSETS?

8 A I CHECKED EVERYTHING IN THE HOUSE.

9 Q OKAY. BUREAU -- CHEST OF DRAWER AND THAT SORT OF
10 THING?

11 A YES, SIR, I CHECKED EVERYTHING IN THE HOUSE.

12 Q LEFT NO STONE UNTURNED?

13 A I CHECKED EVERYWHERE I KNEW TO CHECK.

14 Q YOU DIDN'T FIND A RED BASEBALL KIND OF CAP DID YOU?

15 A THE ONLY THING I FOUND WAS THE SHOES.

16 Q AND YOU DIDN'T FIND THE WATCH EITHER?

17 A NO, SIR.

18 Q OR THE BLUEJEANS WITH YELLOW STITCHING?

19 A NO, SIR.

20 Q OR A DARK T-SHIRT?

21 A NO, SIR.

22 Q OR THE RAG?

23 A NO, SIR, NO RAG.

24 Q YOU INDICATED THAT ON THE 24TH MR. EDENS -- YOU
25 SHOWED JAY EDENS FIRST THE PHOTOGRAPHS, CORRECT?

1 A RIGHT.

2 Q THE PHOTOGRAPHS THAT HE IDENTIFIED AS PROSECUTION'S
3 EXHIBIT TWO, RIGHT?

4 A I SHOWED HIM THE PHOTOGRAPHS, YES, SIR.

5 Q OKAY. AND IT WAS AFTER SHOWING HIM THE PHOTOGRAPHS
6 THAT HE MADE THE STATEMENT TO YOU, IS THAT CORRECT?

7 A THE WRITTEN STATEMENT. I MAY HAVE VERY WELL GOTTEN
8 AN ORAL STATEMENT. I KNOW I GOT AN ORAL STATEMENT. YOU
9 KNOW, HE WAS TELLING ME WHAT WAS HAPPENING AS WE WERE
10 GETTING TOGETHER THAT EVENING AT HIS FATHER'S BUSINESS
11 AND THEN WE WENT DOWN TO THE SHERIFF'S OFFICE. AND I
12 KNOW GOOD AND WELL I HAD SOME PARTS OF AN ORAL STATEMENT,
13 BUT IT'S -- I ALWAYS LIKE TO GET SOMEBODY AFTER SOMETHING
14 LIKE THIS AND SIT THEM DOWN AND TRY TO GET ALL THE
15 INFORMATION THAT I CAN OUT OF THEM AND GET IT IN WRITING.
16 AND THAT WAS DONE AFTER THE PHOTO LINEUP.

17 Q AFTER THE PHOTO LINEUP?

18 A YES.

19 Q AND DID HE INDICATE AT ANY TIME TO YOU THAT HE KNEW
20 THE PERSON'S NAME WAS MR. BELL OR HERBERT BELL?

21 A DID HE INDICATE THAT HE KNEW HIM BY NAME?

22 Q OR THAT HE HAD BEEN TOLD IT WAS BELL?

23 A NOT TO MY KNOWLEDGE.

24 Q THANK YOU. ONE SECOND. NO FURTHER QUESTIONS.

25 REDIRECT EXAMINATION BY DEPUTY SOLICITOR GIESE:

1 Q I JUST HAVE A COUPLE, YOUR HONOR. INVESTIGATOR,
2 THIS SEARCH WARRANT WE'VE BEEN TALKING ABOUT, HOW LONG
3 AFTER THIS CRIME DID YOU SERVE THAT SEARCH WARRANT?

4 A APPROXIMATELY 31 HOURS.

5 Q THIRTY-ONE HOURS?

6 A APPROXIMATELY 31 HOURS.

7 Q AND NO ONE HAD SEARCHED MR. BELL'S HOUSE OR THE
8 HOUSE THAT HE SAYS WAS HIS OR ALLEGES WAS HIS BEFORE
9 THAT?

10 A NO, SIR.

11 Q SO HE HAD 31 HOURS TO DO WHATEVER HE WANTED TO DO?

12 A YES, SIR.

13 Q WITH WHATEVER HE WANTED TO DO IT WITH?

14 A YES, SIR.

15 Q INVESTIGATOR, DID YOU ACTUALLY CHECK OUTSIDE THE
16 HOUSE OR JUST THE INSIDE OF THE HOUSE?

17 A I CHECKED THE INSIDE OF THE HOUSE.

18 Q SO YOU DON'T SEARCH ANYTHING OUTSIDE OF THE HOUSE?

19 A NO, SIR.

20 Q DID YOU CHECK THE GARBAGE CANS?

21 A NO, SIR.

22 Q DID YOU CHECK UNDERNEATH THE HOUSE?

23 A NO, SIR.

24 Q DID YOU CHECK ANY HOLES IN THE BACKYARD?

25 A NO, SIR.

1 Q IN OTHER WORDS, YOU JUST CHECKED THE INSIDE OF THAT
2 HOUSE?

3 A YES, SIR, THAT'S CORRECT.

4 Q JUST THIS ONE HOUSE?

5 A YES, SIR.

6 Q THAT'S ALL I HAVE.

7 (WHEREUPON, THE WITNESS WAS
8 EXCUSED AT THIS TIME.)

9 THE SOLICITOR: YOUR HONOR, I HATE TO APPROACH THE
10 BENCH AGAIN, BUT MAY WE?

11 (WHEREUPON, A BENCH CONFERENCE
12 WAS HELD AT THIS TIME OFF THE RECORD IN THE PRESENCE OF
13 THE JURY, BUT OUT OF THE HEARING OF THE JURY.)

14 THE COURT: LADIES AND GENTLEMEN, AT THIS TIME, I
15 HAVE A MATTER OF LAW I MUST TAKE UP WITH THE ATTORNEYS.
16 PLEASE RETIRE TO THE JURYROOM. DO NOT DISCUSS THE
17 TESTIMONY YOU HAVE HEARD SO FAR.

18 (JURY OUT.)

19 THE COURT: ALL RIGHT. SOLICITOR, IF YOU WILL LET
20 ME KNOW WHEN YOU'RE READY TO PROCEED.

21 THE SOLICITOR: YES, SIR.

22 (WHEREUPON, THE SOLICITOR
23 AND MR. ALLEN CONFER AT THIS TIME.)

24 THE SOLICITOR: BEG THE COURT'S INDULGENCE JUST A
25 FEW MORE SECONDS. YOUR HONOR, WE'RE READY TO GO FORWARD.

1 THE COURT: ARE YOU READY FOR THE JURY?

2 THE SOLICITOR: YES, SIR, I'M READY. I'M GOING TO
3 REST AND I'M NOT SURE WHAT MR. ALLEN WANTS TO DO.

4 THE COURT: ALL RIGHT. THE STATE WILL REST?

5 THE SOLICITOR: WE'RE GOING TO REST, YES, SIR.

6 THE COURT: ALL RIGHT, SIR. I CAN HEAR YOUR
7 MOTIONS AT THIS TIME THEN MR. ALLEN.

8 MR. ALLEN: THANK YOU, YOUR HONOR. AT THIS TIME I
9 WOULD MAKE THE MOTIONS FOR A DIRECTED VERDICT BASED UPON
10 THE EVIDENCE IN THE LIGHT MOST FAVORABLE TO THE STATE, I
11 WOULD SUBMIT THERE HAS NOT BEEN SUFFICIENT EVIDENCE PRESENTED FOR
12 A PRIMA FACIE CASE IN THE CASE OF KIDNAPPING.

13 THE COURT: MR. ALLEN, I HATE TO DISAGREE WITH YOU
14 AGAIN, BUT---

15 MR. ALLEN: WELL---

16 THE COURT: ---TO ME THIS IS A STRONG CASE.

17 MR. ALLEN: YES, YOUR HONOR.

18 THE COURT: OF COURSE, I HAVEN'T HEARD THE DEFENSE,
19 BUT THERE'S BEEN SOME STRONG EVIDENCE ON THE STATE'S SIDE
20 SO THAT MAKES IT A QUESTION OF FACT FOR THE JURY.

21 MR. ALLEN: YES, YOUR HONOR. THE NEXT MATTER
22 WHICH I WOULD SUGGEST WE TAKE AT THIS TIME, WOULD BE TO
23 SETTLE THE DEFENDANT'S RECORD FOR THE PURPOSE OF IMPEACHMENT.
24 AND ALSO I WOULD LIKE TO INQUIRE IF THE COURT WANTS US
25 TO PROCEED WITH OUR FIRST WITNESS TONIGHT WHO I ANTICIPATE

1 TO BE A PRETTY LONG WITNESS.

2 THE COURT: YES, SIR, I RECKON WE MIGHT AS WELL
3 PROCEED. WE HAVEN'T HAD ANY SHORT ONES YET. SO IT
4 WOULDN'T SURPRISE ME TO HAVE A LONG ONE. ALL RIGHT, SIR.

5 THE SOLICITOR: YOUR HONOR, IF YOU WOULD LIKE US TO
6 -- I GUESS YOU WANT ME TO READ OUT WHAT I BELIEVE IS
7 IMPEACHABLE THEN?

8 THE COURT: YES, SIR.

9 THE SOLICITOR: YOUR HONOR, HE'S GOT A 1975
10 CONVICTION FOR SHOPLIFTING TWO COUNTS AND A HOUSEBREAKING
11 AND LARCENY ONE COUNT FROM 1975.

12 THE COURT: ALL RIGHT, SIR. WHAT'S YOUR POSITION
13 ON THOSE?

14 MR. ALLEN: YOUR HONOR, ALTHOUGH THE STATE HAS NOT
15 ADOPTED ANY KIND OF A TEN YEAR RULE UNLIKE THE FEDERAL
16 SYSTEM, I WOULD SUBMIT THAT A 1975 CONVICTION WOULD BE
17 TOO REMOTE IN TIME.

18 THE COURT: ALL RIGHT, SIR. IN REGARDS TO '75, WAS
19 HE CONFINED OR---

20 THE SOLICITOR: YES, SIR, HE GOT A YOUTHFUL
21 OFFENDER SENTENCE AT THAT TIME. HE RECEIVED ONE TO SIX
22 YEARS ON ALL THREE COUNTS.

23 THE COURT: THAT WOULD NOT BE REMOTE AND THAT WOULD
24 BE PROPER.

25 THE SOLICITOR: THANK YOU. YOUR HONOR, HE THEN HAS

1 A 1978 CONVICTION FOR DESTRUCTION OF PRIVATE PROPERTY.

2 THE COURT: ALL RIGHT, SIR. WHAT'S YOUR POSITION
3 ON THAT ONE?

4 MR. ALLEN: I'M LOOKING THROUGH MY LIST FOR A CASE,
5 BUT I DON'T RECALL A CASE WHERE THE SUPREME COURT HAS
6 DECLARED THAT TO BE A CRIME OF MORAL TURPITUDE AND I
7 WOULD SUBMIT THAT IT WOULD NOT BE A CRIME OF MORAL
8 TURPITUDE. IT DOESN'T NECESSARILY INVOLVE ANY KIND OF
9 DISHONEST BEHAVIOR LIKE LARCENY AND HOUSEBREAKING WOULD.

10 THE COURT: SOLICITOR, DO YOU HAVE A CASE THAT SAYS
11 THAT IS MORAL TURPITUDE?

12 THE SOLICITOR: NO, SIR, I SURE DON'T. I THOUGHT
13 MAYBE IF YOU WOULD LIKE TO MAKE NEW LAW---

14 THE COURT: NO, SIR, I'VE MADE ENOUGH NEW LAW AND
15 OUR COURTS HAVE HELD THAT BREACH OF PEACE IS NOT MORAL
16 TURPITUDE. TRESPASSING IS NOT MORAL TURPITUDE.
17 DISORDERLY CONDUCT IS NOT. SO THAT WOULD PROBABLY FALL
18 INTO THAT CATEGORY.

19 THE SOLICITOR: YES, SIR.

20 THE COURT: SO DO NOT BRING OUT THAT OFFENSE.

21 THE SOLICITOR: YOUR HONOR, THE NEXT OFFENSE IS A
22 1978 CONVICTION FOR LARCENY. IT WOULD BE PETTY LARCENY
23 WHICH I BELIEVE IS A CRIME OF MORAL TURPITUDE.

24 THE COURT: WHAT'S YOUR POSITION?

25 MR. ALLEN: I -- JUST ONE SECOND. THAT WAS 1978?

1 THE SOLICITOR: 1978.

2 MR. ALLEN: I'VE GOT AN OBJECTION TO THAT ONE.

3 THE SOLICITOR: OKAY. YOUR HONOR, THE NEXT ONE IS
4 A 1978 CONVICTION FOR HOUSEBREAKING AND ASSAULT WITH A
5 DEADLY WEAPON. HE RECEIVED NINE YEARS CONFINEMENT IN
6 1978 ON THAT. YOUR HONOR, OF COURSE, HOUSEBREAKING I'M
7 SURE IS A CRIME OR I BELIEVE IT'S A CRIME OF MORAL
8 TURPITUDE. THE ASSAULT WITH A DEADLY WEAPON I DON'T
9 THINK IS.

10 THE COURT: WE HAVE RULED THAT ASSAULT AND BATTERY
11 WITH INTENT TO KILL IS MORAL TURPITUDE, ASSAULT WITH
12 INTENT TO COMMIT CRIMINAL SEXUAL CONDUCT IS---

13 THE SOLICITOR: YES, SIR.

14 THE COURT: SO JUST GO WITH THE---

15 THE SOLICITOR: YES, SIR---

16 MR. ALLEN: I'M SORRY, I DIDN'T---

17 THE SOLICITOR: I'LL JUST GO WITH THE HOUSEBREAKING.

18 THE COURT: DO YOU AGREE THAT HOUSEBREAKING IS
19 MORAL TURPITUDE?

20 MR. ALLEN: OH, YES, YOUR HONOR, I AGREE TO THAT,
21 BUT I WAS CURIOUS ABOUT -- I SPOKE BEFORE I THOUGHT. I'M
22 SORRY.

23 THE SOLICITOR: YOUR HONOR, THEN IN 1982, HE WAS
24 AGAIN CONVICTED OF HOUSEBREAKING AND PETTY LARCENY. HE
25 RECEIVED FIVE YEARS CONFINEMENT ON THOSE.

1 THE COURT: THAT INVOLVES MORAL TURPITUDE.

2 THE SOLICITOR: YES, SIR.

3 MR. ALLEN: YES, YOUR HONOR.

4 THE SOLICITOR: AND, YOUR HONOR, HE GOT FIVE YEARS
5 ON THAT. WAS PAROLED I GUESS IN '84, AND SINCE THEN HE
6 JUST HAS THIS KIDNAPPING CHARGE AGAINST HIM.

7 THE COURT: ALL RIGHT, SIR. NOW, MR. BELL, IF YOU
8 WILL COME FORWARD AT THIS TIME, I WANT TO ADVISE YOU OF
9 CERTAIN OF YOUR RIGHTS. YOU HAVE THE RIGHT TO TESTIFY IN
10 THIS CASE---

11 THE DEFENDANT: YES, SIR.

12 THE COURT: ---NOW, IN THE EVENT YOU ELECT TO
13 TESTIFY, THE SOLICITOR WOULD HAVE THE RIGHT TO BRING OUT
14 THESE PRIOR OFFENSES INVOLVING MORAL TURPITUDE THAT I
15 JUST -- THAT WE JUST WENT OVER. DO YOU UNDERSTAND THAT?

16 THE DEFENDANT: YES, SIR.

17 THE COURT: NOW, I WILL CHARGE THE JURY THAT THESE
18 OFFENSES ARE ONLY FOR THE PURPOSES OF IMPEACHMENT OF YOUR
19 TESTIMONY AND IT'S NOT -- AND IT CAN ONLY BE CONSIDERED
20 BY THEM AS TO YOUR CREDIBILITY AND EVIDENCE OF A PRIOR
21 CRIME CANNOT BE CONSIDERED BY THEM FOR ANY OTHER PURPOSE.
22 DO YOU UNDERSTAND THAT?

23 THE DEFENDANT: YES, SIR.

24 THE COURT: NOW, I WOULD FURTHER CHARGE THEM AND I
25 WOULD FURTHER INSTRUCT YOU THAT WHETHER OR NOT YOU TESTIFY

1 IS ENTIRELY UP TO YOU. NO ONE CAN MAKE YOU TESTIFY. IF
2 YOU WISH TO TESTIFY, YOU MAY DO SO. AND IN THE EVENT
3 THAT YOU ELECT TO TESTIFY, I WILL CHARGE THE JURY THAT
4 THE FAILURE OF THE DEFENDANT IN A -- EXCUSE ME, IF YOU
5 ELECT NOT TO TESTIFY, I WOULD INSTRUCT THE JURY THAT THE
6 FAILURE OF A DEFENDANT IN A TRIAL OF A CRIMINAL CASE TO
7 TESTIFY IN HIS OWN BEHALF IS NOT A FACTOR TO BE CONSIDERED
8 BY THEM IN ANY WAY IN THEIR DELIBERATIONS AND IN THEIR
9 CONSIDERATION ON THE QUESTION OF YOUR GUILT ACCUSED. I
10 WOULD FURTHER CHARGE THEM IT MUST NOT BE CONSIDERED BY
11 THEM IN ANY MANNER WHATSOEVER AGAINST YOU AND MITIGATE
12 AGAINST YOU IN ANY RESPECT WHATSOEVER. A DEFENDANT HAS
13 THE CONSTITUTIONAL RIGHT TO REMAIN SILENT AND THE
14 ASSERTION OF SUCH CONSTITUTIONAL RIGHT CANNOT AND MUST
15 NOT BE CONSIDERED BY YOU -- CORRECTION, MUST NOT BE
16 CONSIDERED BY THE JURY IN THEIR DELIBERATIONS. AND I
17 WOULD CHARGE THEM FURTHER THAT UNDER THEIR OATH, THEY ARE
18 TO REACH NO INFERENCE AND DRAW NO CONCLUSION WHATSOEVER
19 FROM THE FACT THAT YOU DID NOT TESTIFY IF YOU ELECT NOT
20 TO TESTIFY.

21 THE FAILURE OF A DEFENDANT TO TESTIFY SHOULD NOT
22 EVEN BE DISCUSSED IN THE JURYROOM. THE BURDEN OF PROOF
23 IS UPON THE STATE TO PROVE YOUR GUILT BEYOND A REASONABLE
24 DOUBT. IT IS NOT INCUMBENT UPON YOURSELF TO PROVE YOUR
25 INNOCENCE. THE BURDEN OF PROOF REMAINS UPON THE STATE TO

1 PROVE GUILT BEYOND A REASONABLE DOUBT AND THE FAILURE OF
2 YOURSELF TO TESTIFY IS NOT A FACTOR TO BE CONSIDERED BY
3 THE JURY IN DETERMINING THE GUILT OR INNOCENCE OF
4 YOURSELF.

5 NOW, WHETHER OR NOT YOU TESTIFY IS ENTIRELY UP TO
6 YOU. YOU MAY CONSULT WITH MEMBERS OF YOUR FAMILY,
7 FRIENDS, ANYONE ELSE. YOU MAY TALK WITH YOUR LAWYER AS I
8 FEEL THAT YOU HAVE ALREADY DISCUSSED THIS WITH YOUR
9 LAWYER, BUT THE ULTIMATE DECISION AS TO WHETHER OR NOT TO
10 TESTIFY IS ENTIRELY UP TO YOU. DO YOU HAVE ANY QUESTIONS
11 THAT YOU WOULD LIKE TO ASK OF ME?

12 THE DEFENDANT: NO, SIR, I UNDERSTAND.

13 THE COURT: ALL RIGHT, SIR. I FIND THAT YOU
14 UNDERSTAND YOUR RIGHTS. YOU MAY BE SEATED. IF YOU WILL
15 GIVE US A JURY, PLEASE?

16 (JURY IN.)

17 THE COURT: LADIES AND GENTLEMEN OF THE JURY,
18 DURING THE RECESS, THE STATE HAS RESTED WHICH MEANS THE
19 STATE HAS COMPLETED ITS CASE. WE WILL NOW PROCEED.

20 MR. ALLEN: THANK YOU, YOUR HONOR. THE DEFENSE
21 CALLS HERBERT LEE BELL TO THE STAND.

22 (HERBERT LEE BELL, JR.,
23 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:)

24 DIRECT EXAMINATION BY ASSISTANT PUBLIC DEFENDER ALLEN:

25 Q OKAY. HERBERT, I WANT TO ASK YOU TO MAKE SURE YOU

1 SPEAK UP SO THAT WE CAN ALL HEAR YOU. HOW OLD ARE YOU
2 MR. BELL?

3 A TWENTY-SIX.

4 Q AND WHERE DO YOU LIVE?

5 A 4025 WINTER PARK DRIVE.

6 Q OKAY. CAN YOU SPEAK A LITTLE MORE SLOWLY, PLEASE,
7 SO I CAN UNDERSTAND YOU.

8 A 4025 WINTER PARK DRIVE.

9 Q YOU DON'T HAVE TO SPEAK THAT SLOW. JUST NORMAL
10 CONVERSATION, PLEASE, SO WE CAN ALL UNDERSTAND WHAT YOU
11 ARE SAYING. WHO DO YOU LIVE WITH?

12 A LILLIE GUNTER, RENEE HENDLEY, AND SIMON HENDLEY.

13 Q AND WERE YOU LIVING THERE WITH THEM ON JULY 23RD
14 AND 24TH OF THIS YEAR?

15 A YES, SIR.

16 Q EXCUSE ME, LAST YEAR?

17 A (NO RESPONSE.)

18 Q CORRECT?

19 A YES, SIR..

20 Q BEFORE WE GO ANY FURTHER, LET'S GET SOMETHING
21 CLEARED UP RIGHT NOW. IN 1972, DID YOU PLEAD GUILTY TO
22 SHOPLIFTING, HOUSEBREAKING, AND LARCENY?

23 A YES, SIR.

24 Q IN 1978 DID YOU PLEAD GUILTY TO PETTY LARCENY?

25 A YES, SIR.

1 Q AND AGAIN IN 1978, DID YOU PLEAD GUILTY TO HOUSEBREAK-
2 ING?

3 A YES, SIR.

4 Q IN 1982, HOUSEBREAKING AND PETTY LARCENY?

5 A YES, SIR.

6 Q YOU PLEAD GUILTY TO THAT?

7 A YES, SIR.

8 Q NOW---

9 THE COURT: EXCUSE ME JUST ONE MINUTE. LADIES AND
10 GENTLEMEN, I CHARGE YOU THAT THE EVIDENCE OF A PRIOR
11 CONVICTION OF A CRIME OF MORAL TURPITUDE CAN ONLY BE
12 CONSIDERED BY YOU AS TO THE DEFENDANT'S CREDIBILITY.
13 SUCH EVIDENCE OF A PRIOR CRIME CANNOT BE CONSIDERED BY
14 YOU FOR ANY OTHER PURPOSE.

15 MR. ALLEN: THANK YOU, YOUR HONOR. WERE YOU
16 ARRESTED LAST YEAR ON JULY 24TH?

17 A YES, SIR.

18 Q AND HOW DID YOU COME ABOUT TO BE ARRESTED?

19 A MR. -- MR. GARY WATTS -- ME AND RENEE HENDLEY WAS
20 SITTING ON BECKHAM ROAD AND HE DROVE UP IN A TRUCK. ME
21 AND RENEE WAS SITTING ON THE SIDE OF THE ROAD. HE
22 STOPPED AND ASKED ME DID I KNOW TONY. I TOLD HIM NO,
23 SIR---

24 Q EXCUSE ME. IF YOU'LL JUST STOP RIGHT HERE FOR A
25 SECOND. LET'S GO TO THE BEGINNING. THE VERY BEGINNING.

1 YOU WANT TO DO THAT? ON JULY 23, 1985, WHERE WERE YOU
2 AROUND 1:00 P.M. OR 1:15 IN THE AFTERNOON?

3 A I WAS AT HOME.

4 Q HOME WHERE?

5 A AT 4025 WINTER PARK DRIVE.

6 Q WHY WERE YOU AT HOME?

7 A BECAUSE LILLIE GUNTER -- SHE IS A DIABETIC, RIGHT.
8 AND SHE WAS BABYSITTING LIZ FRUSTER'S KIDS AND BY SHE
9 WAS BEING SORT OF ILL, I STAYED THERE TO HELP HER WITH
10 THE KIDS.

11 Q HOW LONG DID YOU STAY AT HOME?

12 A ALL DAY UNTIL APPROXIMATELY 5:30 AND 6 O'CLOCK.
13 BETWEEN THOSE HOURS.

14 Q WHO ELSE WAS IN THE HOUSE?

15 A RENEE. ROBIN CAME WITH RENEE -- AND ROBIN, RENEE'S
16 FRIEND CAME OVER NAMED ROBIN THOMPSON.

17 Q THOMPSON?

18 A YEAH.

19 Q WERE THERE ANY CHILDREN IN THE HOUSE?

20 A YEAH.

21 Q WHO WERE THEY?

22 A LITTLE RICKY -- THERE'S TWO LITTLE OLE KIDS. IT'S
23 LITTLE RICKY AND BIG RICKY.

24 Q WHO ARE THE CHILDREN -- TO WHOM DID THE CHILDREN
25 BELONG?

- 1 A MRS. LIZ FRESTER.
- 2 Q OKAY. HOW OLD ARE THEY APPROXIMATELY?
- 3 A LITTLE RICKY IS ABOUT TWO AND -- I MEAN LITTLE
- 4 RICKY ABOUT ONE AND BIG RICKY ABOUT THREE.
- 5 Q OKAY. WHAT'S YOUR HEIGHT?
- 6 A FIVE TEN.
- 7 Q AND WHAT WAS YOUR WEIGHT BACK IN JULY OF 1985?
- 8 A ONE FIFTY-FIVE.
- 9 Q DID YOU HAVE A MUSTACHE THEN?
- 10 A AS YOU SEE NOW.
- 11 Q WHAT WAS YOUR HAIR LIKE ON JULY 23, 1985?
- 12 A I HAD JELLY(SIC) CURLS -- MY HAIR WAS APPROXIMATELY
- 13 THREE INCHES TO FOUR INCHES LONG.
- 14 Q WHAT DO YOU MEAN BY JELLY CURLS? IS IT SORT OF
- 15 LIKE WHAT YOUR HAIR IS NOW?
- 16 A NO, SIR.
- 17 Q WELL, SORT OF DESCRIBE WHAT YOUR HAIR LOOKED LIKE?
- 18 A I CAN DESCRIBE A WITNESS. SHE'S GOT SOME IN HER
- 19 HAIR BACK THERE TO THE JURY WHERE THEY CAN SEE AND WHERE
- 20 THEY CAN BE ABLE TO UNDERSTAND WHAT A JELLY CURL LOOKS
- 21 LIKE.
- 22 Q OKAY. WELL, THAT DOESN'T GO ON THE RECORD, BUT IS
- 23 IT SORT OF CURLY?
- 24 A SIR?
- 25 Q WAS YOUR HAIR REAL---

1 A STRINGY, NOT CURLY.

2 Q OH. DID YOU HAVE ANY MARKS OR SCARS ON YOUR FACE
3 IN JULY?

4 A YES, SIR.

5 Q AND WHAT MARKS OR SCARS?

6 A I GOT ONE RIGHT HERE ON THE TOP OF MY NOSE, MY
7 NOSTRIL.

8 Q CAN YOU STAND RIGHT IN FRONT OF THE JURYBOX PLEASE
9 AND POINT?

10 A (WITNESS COMPLIES.)

11 Q OKAY. SPEAK UP SO THE COURT REPORTER CAN TAKE THAT
12 DOWN.

13 A THERE'S A MARK RIGHT THERE ON THE TOP OF MY
14 NOSTRIL, MY NOSE. ALSO A MARK ON THE SIDE OF MY FACE.

15 Q THAT'S OVER YOUR RIGHT EYEBROW?

16 A RIGHT EYEBROW.

17 Q HAVE A SEAT, PLEASE?

18 A (WITNESS COMPLIES.)

19 Q HOW DID YOU GET THOSE MARKS?

20 A FROM A CAR ACCIDENT.

21 Q OKAY. WHEN WAS THAT CAR ACCIDENT APPROXIMATELY?

22 A NINE MONTHS AGO -- I MEAN TEN MONTHS AGO.

23 Q WOULD THAT BE AROUND MAY OF 1985?

24 A RIGHT.

25 Q NOW, YOU HAVE HEARD SOME TESTIMONY CONCERNING SOME

1 BLUEJEANS WITH YELLOW STITCHING. DO YOU OWN ANY BLUEJEANS
2 LIKE THAT?

3 A NO, SIR.

4 Q WHAT ABOUT A RED BASEBALL HAT?

5 A NO, SIR.

6 Q AND WHAT ABOUT A WATCH WITH SOME DIAMONDS ON IT
7 ABOVE THE TWELVE AND THE SIX?

8 A NO, SIR.

9 Q AND YOU'VE SEEN PROSECUTION EXHIBIT OR STATE'S
10 EXHIBIT NUMBER THREE, THESE SHOES?

11 A YES, SIR.

12 Q WHOSE SHOES ARE THOSE?

13 A MR. SIMON HENDLEY.

14 Q WHO IS HE?

15 A MY -- RENEE HENDLEY'S HUSBAND.

16 Q OKAY. WHAT RELATIONSHIP IS HE TO YOU?

17 A BROTHER-IN-LAW.

18 Q THANK YOU. SO I'LL TAKE THIS AGAIN FROM YOU. DO
19 YOU KNOW MR. GARY WATTS, THE INDIVIDUAL IN THE COAT AND---

20 A NEVER SEEN HIM IN MY LIFE. NO MORE THAN THE DAY HE
21 CAME UP TO ME ASKING ABOUT TONY. I DON'T KNOW HIM.

22 Q OKAY. HAVE YOU MET HIM BEFORE?

23 A NO.

24 Q YOU NEVER SAW HIM BEFORE?

25 A THE DAY HE CAME TO ME ABOUT A JOB, YES.

1 Q OKAY. WHEN WAS THAT?

2 A JULY 24TH.

3 Q OKAY. TELL US ABOUT WHEN YOU FIRST SAW OR MET UP
4 WITH MR. GARY WATTS?

5 A ME AND RENEE HENDLEY WAS SITTING -- WHICH NOW I
6 JUST NOW LEARNED THE NAME OF THE ROAD, BECKHAM ROAD,
7 SINCE I'VE BEEN CONFINED DOWN AT THE RICHLAND COUNTY
8 DETENTION CENTER.

9 Q OKAY. RENEE HENDLEY IS WHAT RELATIONSHIP TO YOU?

10 A SHE'S MARRIED TO SIMON HENDLEY SO THAT WOULD MAKE
11 HER BE MY SISTER-IN-LAW.

12 Q OKAY. CONTINUE. WHAT HAPPENED WHEN YOU AND RENEE
13 FIRST SAW MR. GARY WATTS?

14 A WE WERE SITTING ON THE SIDE -- THE LITTLE AREA WHERE
15 EVERYBODY GO AT. SOMETIMES IN THE AFTERNOON. AND THIS
16 GENTLEMAN, GARY WATTS, CAME UP TO ME AND ASKED ME DO I
17 KNOW TONY. I TOLD HIM NO, SIR. HE PULLED OFF AND WENT
18 AROUND IN THE COMMUNITY AND CAME BACK APPROXIMATELY 15 OR
19 20 MINUTES. HE CAME BACK AND SAID DO YOU KNOW TONY? I
20 SAID NO, SIR. I ASKED HIM -- I INQUIRED WHAT HE---

21 Q EXCUSE ME, MR. BELL. CAN YOU SORT OF TALK IN THE
22 MICROPHONE. I CAN HARDLY HEAR YOU UP HERE. PLEASE
23 CONTINUE, BUT TRY TO TALK INTO THE MICROPHONE SO WE CAN
24 HEAR YOU.

25 A OKAY. AS I WAS SAYING WHEN HE CAME BACK, HE ASKED

1 ME AGAIN DO I KNOW TONY. I TOLD HIM, NO, SIR. THEN I
2 INQUIRED WHY HE WAS LOOKING FOR TONY AND HE SAID ABOUT
3 SOME EMPLOYMENT. I TOLD HIM I WAS SEEKING SOME EMPLOYMENT.

4 SO HE SAID WHAT'S YOUR NAME AND I TOLD HIM MY NAME WAS
5 HERBERT LEE BELL AND GAVE HIM MY ADDRESS. SO HE PULLED
6 OFF. BEFORE HE PULLED OFF, HE SAID IF I DON'T FIND TONY,
7 I'LL GET BACK WITH YOU. HE PULLED OFF AND LEFT. FROM
8 THAT POINT, ME AND RENEE SAT THERE APPROXIMATELY 10 TO 15
9 MORE MINUTES. WE LEFT AND WENT BEHIND ATLAS ROAD SCHOOL
10 WHERE THEY HAD A BALL GAME AT. WE STAYED BACK THERE UNTIL
11 IT GOT NEAR -- NEAR DARK. SO WE LEFT AND WENT HOME. AT
12 THIS POINT, RENEE WENT HOME. I WENT IN ANOTHER DIRECTION.
13 SO ON THE WAY BACK HOME, I WAS TOLD BY SOME FRIENDS THAT
14 THE POLICE HAD BEEN BY MY RESIDENCE. SO I WAS THINKING
15 THEN IN MY MIND WHAT THEY WERE LOOKING FOR ME FOR. SO---

16 Q LET ME INTERRUPT YOU FOR A MOMENT HERE. DID MR.
17 WATTS EVER COME TO YOUR HOUSE ON THE 24TH WITH MR.
18 CHAPMAN AND SOME OTHER PEOPLE?

19 A EIGHT MONTHS AGO, I CAN'T REALLY SAY. IF HE DID, I
20 DON'T KNOW.

21 Q DID YOU -- DO YOU RECALL HAVING ANY CONVERSATION
22 WITH MR. GARY WATTS OUTSIDE YOUR HOUSE?

23 A WHAT YOU MEAN? EXPLAIN IT. YOU SAY A CONVERSATION
24 WHAT KIND OF A CONVERSATION?

25 Q DO YOU RECALL THE TESTIMONY OF MR. WATTS -- I'M

1 A NO, SIR.

2 Q NOW, WHEN -- HOW DID YOU GET TO THE SHERIFF'S
3 DEPARTMENT ON THE 24TH -- OR DID YOU GO TO THE SHERIFF'S
4 DEPARTMENT ON THE 24TH?

5 A WELL, AFTER I DISCOVERED THEY WERE LOOKING FOR ME,
6 A PATROL CAR WAS COMING DOWN IN BLUFF ESTATES AREA. I
7 FLAGGED THE CAR DOWN MYSELF AND ASKED THEM WHAT THEY
8 WANTED TO QUESTION ME ABOUT. SO HE GOT ON THE LITTLE
9 THING AND CALLED INTO THE CENTER. HE ASKED ME IF I'M
10 COMING IN VOLUNTARILY AND I SAID YES, SIR. BECAUSE I
11 WANTED TO KNOW WHY THEY WERE LOOKING FOR ME.

12 Q AND YOU CAME IN VOLUNTARILY?

13 A YES, SIR.

14 Q AND YOU SPOKE WITH INVESTIGATOR BILL BROWN BRIEFLY
15 THAT DAY?

16 A WHEN THEY BROUGHT ME IN, YEAH.

17 Q OKAY. WHAT, IF ANYTHING, DID YOU TELL HIM ABOUT
18 WHAT YOU KNEW ABOUT THE KIDNAPPING OF JAY EDENS?

19 A I TOLD HIM I WAS NO WAY INVOLVED.

20 Q TELL US A LITTLE BIT ABOUT THE BLUFF ROAD AREA.
21 WHAT KIND OF A ROAD IS BLUFF ROAD DO YOU KNOW? DESCRIBE
22 BLUFF ROAD FOR ME?

23 A WHICH AREA ARE YOU SPEAKING ON BLUFF ROAD BECAUSE
24 BLUFF ROAD HAS GOT MANY DIFFERENT AREAS.

25 Q WELL, FROM -- LET'S SAY WHAT KIND OF A ROAD IS IT

1 TALKING ABOUT GOING TO YOUR HOUSE WHERE YOU MADE CERTAIN
2 STATEMENTS---

3 A NO, SIR.

4 Q YOU DON'T RECALL THAT TESTIMONY?

5 A NO, SIR.

6 Q YOU DON'T RECALL THAT TESTIMONY?

7 A HE CAME BACK AND HE SAID DO YOU KNOW WHERE CAROLINA
8 EASTERN PLACE WAS WHICH I DIDN'T KNOW WHERE IT WAS. SO
9 MR. JAMES CHAPMAN TRIED TO DESCRIBE THE PLACE TO ME WHICH
10 MR. CHAPMAN KNEW I DIDN'T KNOW WHERE THE PLACE WAS. HE
11 SAID WELL, YOU'LL BE UP THERE ABOUT 10 O'CLOCK IN THE
12 MORNING.

13 Q OKAY. WHY WERE YOU GOING TO GO UP THERE?

14 A WHY?

15 Q YES.

16 A BECAUSE HE HAD TOLD ME ABOUT A JOB.

17 Q IS THAT WHY YOU THOUGHT MR. WATTS CAME TO YOUR
18 HOUSE? ABOUT THE JOB?

19 A THAT'S WHAT HE TOLD ME.

20 Q OKAY. AND WHO ALL WAS WITH HIM?

21 A AS I STATED EARLIER, I CAN'T REMEMBER BECAUSE IT
22 WAS EIGHT MONTHS AGO.

23 Q OKAY. DID YOU EVER SAY ANYTHING TO MR. WATTS ABOUT
24 RIDING SOME KID AROUND SOME ROADS -- AROUND THE BLUFF
25 ROAD AREA ON THE 24TH OF JULY?

1 FROM LIKE BLUFF ESTATES ALL THE WAY DOWN TO -- ARE YOU
2 FAMILIAR WITH TONY'S SNACK SHOP?

3 A I'M -- SINCE I'VE BEEN IN HERE I'VE GOT FAMILIAR
4 WITH IT, BUT WHEN I'M ON THE STREET, I KNOW IT EXISTS BUT
5 I NEVER WENT THERE.

6 Q HOW MANY LANES DOES BLUFF ROAD HAVE?

7 A THREE.

8 Q THREE YOU SAY?

9 A YEAH, BECAUSE THEY---

10 Q EACH WAY OR---

11 A ---BECAUSE THEY'RE BUILDING NEW PARTS ON THE ROAD
12 SO I CAN'T SAY.

13 Q OKAY. ONE MOMENT, PLEASE, YOUR HONOR. BEFORE
14 TODAY, DO YOU RECALL EVER SEEING MR. JAY EDENS BEFORE?
15 THE YOUNG MAN SITTING HERE?

16 A THIS IS THE FIRST TIME IN MY LIFE I'VE EVER SEEN
17 THAT GENTLEMAN RIGHT THERE.

18 Q OKAY. THANK YOU. I'VE GOT NO FURTHER QUESTIONS.
19 THANK YOU.

20 CROSS-EXAMINATION BY DEPUTY SOLICITOR GIESE:

21 Q MR. BELL, LET'S GET A COUPLE OF THINGS STRAIGHT
22 RIGHT OFF THE BAT HERE AS MR. ALLEN DID. IT'S TRUE YOU
23 WERE CONVICTED FOR SHOPLIFTING TWICE IN 1975, IS THAT
24 CORRECT?

25 A YES, SIR, I PLED GUILTY TO SHOPLIFTING..

1 Q AND IT'S TRUE YOU WERE CONVICTED OF HOUSEBREAKING
2 THAT SAME YEAR, IS THAT RIGHT?

3 A YES, SIR, I PLED GUILTY.

4 Q AND THEN IN 1978, YOU WERE CONVICTED OF PETTY
5 LARCENY?

6 A YES, SIR, I PLED GUILTY.

7 Q OKAY. 1978, CONVICTION FOR HOUSEBREAKING?

8 A YES, SIR, I PLED GUILTY.

9 Q AND THEN ANOTHER 1982 CONVICTION FOR HOUSEBREAKING
10 AND PETTY LARCENY, IS THAT RIGHT?

11 A YES, SIR, I PLED GUILTY.

12 Q SO YOU SAY?

13 A SIR?

14 Q SO YOU SAY. NOW, LET'S GET TO THE DAY IN QUESTION.

15 NOW, I'M NOT SURE AND MAYBE I MISUNDERSTOOD YOU, BUT I
16 THOUGHT YOU SAID ON DIRECT EXAMINATION OF MR. ALLEN THAT
17 YOU NEVER SAW ANYONE COME OVER TO YOUR HOUSE ON JULY
18 24TH? DIDN'T YOU SAY THAT?

19 A I DIDN'T MAKE SUCH A STATEMENT. I'M QUITE SURE I
20 DIDN'T. I'M QUITE SURE THE JURY HEARD ME WHAT I SAID.

21 Q ISN'T IT TRUE YOU SAID EARLIER THAT NO ONE CAME BY
22 YOUR HOUSE ON THE 24TH?

23 A I DIDN'T SAY THAT.

24 Q SO NOW YOUR TESTIMONY IS THAT SOMEONE DID COME BY
25 YOUR HOUSE ON THE 24TH?

1 A WHO -- WHAT ARE YOU SAYING. YOU'RE SAYING SOMEBODY
2 CAME BY. DESCRIBE WHO YOU'RE SAYING.

3 Q OKAY. MR. CHAPMAN, MR. WATTS, MR. EDENS.

4 A WELL, NAME A PERSON. WHEN YOU SAY SOMEBODY COME BY
5 IT COULD BE ANYBODY.

6 Q I JUST DID. MR. CHAPMAN, MR. WATTS, AND MR. EDENS.
7 YES OR NO, DID THEY COME BY YOUR HOUSE ON THE 24TH OF
8 JULY?

9 A I SEEN MR. CHAPMAN. I SEEN MR. -- WHAT -- MR.
10 WATTS, BUT I NEVER SEEN MR. JAY EDENS A DAY IN MY LIFE.
11 THIS IS THE FIRST DAY I EVER LAID EYES ON THAT MAN RIGHT
12 THERE.

13 Q SO THEY DID COME BY YOUR HOUSE?

14 A I SAID MR. CHAPMAN AND MR. GARY WATTS. I DIDN'T
15 SAY JAY EDENS.

16 Q OKAY. SO YOUR TESTIMONY NOW IS THAT THEY CAME BY
17 YOUR HOUSE ON THE 24TH?

18 A YES, SIR.

19 Q OKAY. DID YOU SEE MR. WATTS ON THE 23RD OF JULY?

20 A NO, SIR.

21 Q SO YOU NEVER SAW MR. WATTS. HE NEVER DROVE UP TO
22 YOU AND RENEE ON THE 23RD OF JULY?

23 A NO, SIR, HE DROVE UP ON THE 24TH IN THE AFTERNOON
24 AROUND ABOUT 5:30.

25 Q OKAY. SO IN OTHER WORDS, MR. WATTS IS NOT TELLING

1 THE TRUTH WHEN HE SAYS THAT---

2 MR. ALLEN: OBJECTION. PITTING ONE WITNESS AGAINST
3 THE OTHER.

4 THE COURT: OBJECTION SUSTAINED.

5 THE SOLICITOR: IT'S YOUR TESTIMONY YOU NEVER SAW
6 GARY WATTS BEFORE JULY 24, 1985, IS THAT RIGHT?

7 A THAT'S THE TRUTH. THAT'S THE FIRST DAY HE CAME TO
8 ME. JULY 24TH.

9 Q IT'S YOUR TESTIMONY THAT YOU WERE AT YOUR HOUSE ALL
10 DAY FROM 12:45 UNTIL WHEN?

11 A UNTIL APPROXIMATELY -- ME AND RENEE LEFT AROUND
12 ABOUT TEN MINUTES AFTER FIVE, QUARTER AFTER FIVE.

13 Q AND WHERE DID YOU GO?

14 A WE WENT DOWN -- WALKED DOWN TO BECKHAM ROAD WHERE
15 WE WENT AND SAT DOWN. WE WENT AND SAT DOWN AND TALKED
16 ABOUT LIFE IN GENERAL.

17 Q SO YOUR TESTIMONY IS YOU DID WALK WITH RENEE ON THE
18 23RD?

19 A ON THE 24TH.

20 Q I'M TALKING ABOUT THE 23RD WHEN THIS THING TOOK
21 PLACE.

22 A I DON'T KNOW NOTHING ABOUT WHEN THIS TOOK PLACE.
23 I'M TALKING ABOUT ON THE DAY THAT HE CAME TO ME. I DON'T
24 KNOW WHAT YOU'RE TALKING ABOUT ON THE 23RD.

25 Q WHAT DID YOU DO ON THE 23RD?

1 A I WAS -- ON THE 23RD I WAS HOME.

2 Q BABYSITTING?

3 A THAT'S RIGHT. BECAUSE MY MOTHER-IN-LAW SHE'S A
4 DIABETIC AND SHE WAS SICK. AND WHICH I'M QUITE SURE
5 SHE'S GOT MEDICAL RECORDS THAT CAN PROVE THIS.

6 Q ON THE 23RD YOU SAY YOU WERE AT HOME?

7 A THAT'S RIGHT ON THE 23RD.

8 Q WHAT TIME DID YOU LEAVE HOME ON THE 23RD?

9 A LATE IN THE AFTERNOON.

10 Q WHAT TIME?

11 A I COULDN'T GIVE YOU APPROXIMATELY NO TIME.

12 Q WELL, YOU JUST STATED THAT ON THE 23RD YOU WERE AT
13 HOME FROM 12:45 TO FIVE.

14 A I MISUNDERSTOOD YOU. I SAID ON THE 24TH.

15 Q BUT THIS INCIDENT DIDN'T TAKE PLACE ON THE 24TH.
16 IT TOOK PLACE ON THE 23RD.

17 A I DIDN'T KNOW WHEN THE INCIDENT TOOK PLACE BECAUSE
18 I WASN'T ANY WHERE INVOLVED IN THE---

19 Q IN OTHER WORDS, YOU DON'T REMEMBER MUCH ABOUT THE
20 23RD, IS THAT RIGHT?

21 A YEAH, I CAN REMEMBER I WAS HOME.

22 Q WHAT TIME DID YOU LEAVE HOME ON THE 23RD?

23 A LIKE I SAID IT WAS APPROXIMATELY LATE IN THE
24 AFTERNOON. PROBABLY 5:30 OR 6 O'CLOCK. IF YOU GIVE ME
25 AN APPROXIMATE TIME I WILL.

1 Q THAT'S ON THE 23RD. BUT YOU DON'T REMEMBER MUCH
2 ABOUT THE 23RD, IS THAT RIGHT?

3 A I JUST TOLD YOU. AIN'T I JUST MADE A STATEMENT.

4 Q YOUR HONOR, PLEASE ASK HIM TO ANSWER THE QUESTION
5 AND NOT ARGUE WITH ME.

6 A I'M NOT ARGUING. I'M GIVING YOU MY TRUE ANSWER.

7 Q ISN'T IT TRUE YOU DON'T REMEMBER MUCH ABOUT THE
8 23RD?

9 A YES, I REMEMBER ABOUT THE 23RD.

10 Q BUT YOU SAID EARLIER YOU DIDN'T UNDERSTAND ABOUT
11 THE 23RD.

12 A I DIDN'T SAY THAT. YOU CAN---

13 Q IF YOU DIDN'T, THEN I'M SURE THE JURY KNOWS YOU
14 DIDN'T. LET ME ASK YOU ONE THING. ON THE 24TH AFTER YOU
15 HAD TALKED TO MR. WATTS AND MR. CHAPMAN -- YOU REMEMBER
16 THAT? YOU WERE TALKING TO THEM ON THE 24TH?

17 A YEAH, GO AHEAD. CARRY ON.

18 Q DO YOU REMEMBER IT OR NOT?

19 A YES, SIR.

20 Q OKAY. ISN'T IT TRUE THAT YOU LEFT THE HOUSE AT
21 4025 WINTER PARK WITH A BAG FULL OF CLOTHING? ISN'T IT
22 TRUE?

23 A NO, SIR.

24 Q I INTEND TO IMPEACH YOU ON THAT.

25 A GO AHEAD.

1 Q I WILL WHEN I GET A CHANCE. SO IT'S YOUR TESTIMONY
2 -- I'LL GIVE YOU ONE MORE CHANCE. IT'S YOUR TESTIMONY
3 THAT ON THE 24TH AFTER YOU TALKED TO MR. WATTS AND MR.
4 CHAPMAN, YOU DID NOT LEAVE 4025 WINTER PARK WITH A BAG?

5 A NO, SIR.

6 Q THAT'S ALL I WANT. YOU SAY THESE SHOES ARE NOT
7 YOURS?

8 A YES, SIR, AND I'M WILLING TO TRY THEM ON.

9 Q LET ME ASK YOU THIS. YOU SAY THEY'RE WHOSE?

10 A MR. SIMON HENDLEY IN THE BACK BACK THERE. AS I SAY
11 I'M WILLING TO TRY THESE SHOES ON.

12 Q DON'T YOU FIND IT INTERESTING THAT EVERYTHING IS
13 MISSING EXCEPT HIS SHOES FROM THE DESCRIPTION THAT WAS
14 GIVEN?

15 A I DON'T UNDERSTAND WHAT YOU'RE SAYING. EXPLAIN
16 YOURSELF A LITTLE BIT MORE CLEAR, SIR.

17 Q ISN'T IT UNUSUAL TO YOU THAT EVERY SINGLE PIECE
18 OF CLOTHING THAT YOU WERE WEARING---

19 A WHAT DO YOU MEAN I WAS WEARING?

20 Q YOU ALLEGEDLY WERE WEARING IS MISSING EXCEPT FOR
21 HIS SHOES.

22 A THAT WAS AN ALLEGATION MADE BY SOMEONE ELSE. I
23 DON'T OWN CLOTHES LIKE THAT.

24 MR. ALLEN: I WOULD OBJECT. IT SEEMS THAT THE
25 SOLICITOR IS ARGUING WITH THE DEFENDANT AND SAYING CERTAIN

1 THINGS THAT THE DEFENDANT HAS NOT SAID.

2 THE COURT: THE QUESTION IS PROPER. YOU MAY
3 PROCEED, SOLICITOR.

4 THE SOLICITOR: THANK YOU, YOUR HONOR.. DOESN'T
5 THAT SEEM UNUSUAL TO YOU?

6 A WHAT DO YOU MEAN?

7 Q DOESN'T IT SEEM UNUSUAL TO YOU---

8 A WHAT SEEMS UNUSUAL?

9 Q THAT ALL THE CLOTHING IN THIS CASE YOU ALLEGEDLY
10 HAD ON IS MISSING EXCEPT FOR THE SHOES THAT ARE NOT
11 YOURS?

12 A AS I JUST STATED, I DON'T OWN SUCH CLOTHES.

13 Q YOU DON'T NOW.

14 A WHICH I NEVER DID.

15 Q OKAY. SO IT'S YOUR TESTIMONY THAT ON THE 24TH, YOU
16 DID HAVE A CONVERSATION WITH MR. WATTS AND MR. CHAPMAN?

17 A SIR?

18 Q ISN'T IT TRUE THAT ON THE 24TH YOU HAD A CONVERSATION
19 WITH MR. WATTS AND MR. CHAPMAN?

20 A YES, SIR.

21 Q WHAT TIME WAS THAT?

22 A I CAN'T GIVE YOU AN APPROXIMATE TIME.

23 Q WELL, WHEN WAS THE FIRST TIME YOU SAW MR. WATTS?

24 A WHEN ME AND RENEE WAS SITTING ON BECKMAN ROAD. I
25 DIDN'T HAVE NO WATCH ON SO I CAN NOT TELL YOU WHAT TIME

1 IT WAS.

2 Q AND THAT'S THE FIRST TIME YOU SAW MR. WATTS?

3 A YES, SIR.

4 Q WHEN WAS THE SECOND TIME YOU SAW HIM?

5 A THE SAME DAY.

6 Q WHERE?

7 A HE DROVE BACK UP TO MY RESIDENCE.

8 Q AND WHAT DID HE SAY TO YOU THEN?

9 A HE ASKED ME DO I KNOW WHERE EASTERN TRUCK, SOME
10 PLACE WAS AND I TOLD HIM NO, SIR. AND MR. CHAPMAN TRIED
11 TO DESCRIBE THE PLACE TO ME. AND HE SAID WOULD YOU BE
12 THERE AT 10 O'CLOCK IN THE MORNING AND I SAID YES, SIR.
13 AND THAT'S ALL THAT WAS SAID.

14 Q THEN YOU NEVER SAW HIM AGAIN?

15 A NO, SIR.

16 Q AND IT'S YOUR TESTIMONY THAT YOU DID NOT MAKE A
17 STATEMENT TO MR. WATTS TO THE EFFECT THAT YOU HAD
18 ABDUCTED JAY EDENS, SOMEONE YOU DIDN'T KNOW, A WHITE BOY,
19 IS THAT RIGHT?

20 A RUN THAT AGAIN. I DIDN'T UNDERSTAND IT.

21 Q IS IT YOUR TESTIMONY THAT YOU DID NOT MAKE A
22 STATEMENT TO GARY WATTS TO THE EFFECT THAT YOU HAD
23 KIDNAPPED SOMEONE?

24 A I DIDN'T NEVER TOLD HIM ANY SUCH A THING.

25 Q THIS WHOLE THING IS A FRAME-UP?

1 A THAT'S EXACTLY WHAT IT IS TO ME.

2 Q IT'S A FRAME-UP?

3 A THAT'S RIGHT.

4 Q THAT'S ALL I HAVE.

5 MR. ALLEN: NO FURTHER QUESTIONS, YOUR HONOR.

6 THE COURT: YOU MAY COME DOWN.

7 (WHEREUPON, THE WITNESS WAS
8 EXCUSED AT THIS TIME.)

9 MR. ALLEN: MRS. LILLIE GUNTER.

10 (MRS. LILLIE GUNTER, FIRST
11 BEING DULY SWORN, TESTIFIED AS FOLLOWS:)

12 DIRECT EXAMINATION BY ASSISTANT PUBLIC DEFENDER ALLEN:

13 Q MRS. GUNTER, WHAT RELATIONSHIP ARE YOU TO HERBERT
14 LEE BELL?

15 A WELL, HE USED TO BE INVOLVED WITH MY DAUGHTER---

16 Q OKAY---

17 A ---BUT ENGAGED NOW.

18 Q OKAY. YOU'RE GOING TO HAVE TO SPEAK UP A LITTLE
19 BIT LOUDER.

20 A OKAY. HE USED TO BE INVOLVED WITH MY DAUGHTER.

21 Q OKAY. WHAT DO YOU OFTEN DESCRIBE YOURSELF AS FAR
22 AS A RELATIONSHIP WITH HIM IS?

23 A WELL, EVERYBODY THOUGHT I WAS HIS MOTHER-IN-
24 LAW.

25 Q CAN YOU SCOOT YOUR CHAIR A LITTLE BIT CLOSER TO THE

1 MICROPHONE SO I CAN HEAR YOU BETTER.

2 A (WITNESS COMPLIES.)

3 Q OKAY. WHERE DO YOU LIVE, MRS. GUNTER?

4 A 4025 WINTER PARK DRIVE.

5 Q 4025 WINTER PARK DRIVE?

6 A WINTER PARK DRIVE.

7 Q OKAY. IS THAT WHERE YOU WERE LIVING ON JULY 25,
8 1985?

9 A YES, SIR.

10 Q WHERE WERE YOU ON JULY 23, 1985?

11 A AT HOME.

12 Q OKAY. WHERE WAS -- DO YOU KNOW WHERE HERBERT LEE
13 BELL WAS AROUND 1 O'CLOCK -- 1:15 THAT DAY?

14 A HE WAS AT HOME.

15 Q AND WHAT WAS HE DOING AT HOME?

16 A BABYSITTING FOR ME.

17 Q WHO WAS HE BABYSITTING?

18 A RAVON -- SEE I KEEP TWO OF THEM, RAVON AND LITTLE
19 RICKY. BUT THAT DAY I JUST HAD RAVON.

20 Q OKAY. WHO ARE THEY THE CHILDREN OF?

21 A LIZ FRUSTER.

22 Q IS SHE A NEIGHBOR OF YOURS?

23 A YEAH, NEXT DOOR NEIGHBOR.

24 Q IS THERE ANYTHING UNUSUAL THAT DAY ABOUT YOUR
25 HEALTH OR ANYTHING?

1 A WELL, THAT MORNING I HAD FELL IN THE KITCHEN. I'M
2 A DIABETIC. THAT MORNING I FELL. AND WHEN HERB AND MY
3 DAUGHTER WOKE ME UP THEY ASKED ME WHY MY MOUTH WAS
4 BLEEDING. I HAD FELL. I TOLD THEM I HAD FELL AND HURT
5 MY MOUTH.

6 Q OKAY. THAT WAS---

7 A THAT WAS ON MONDAY. THAT WAS ON MONDAY WHEN I
8 FELL. MONDAY NIGHT. ON TUESDAY WHEN THEY WOKE ME UP,
9 THEY ASKED ME WHAT WAS WRONG WITH MY MOUTH. WHY IT WAS
10 BLEEDING.

11 Q WHAT DATE -- DO YOU RECALL WHAT DATE MONDAY AND
12 TUESDAY WERE THAT YOU'RE TALKING ABOUT?

13 A UH -- THE 22ND WAS THAT MONDAY.

14 Q AND JULY 23RD WAS---

15 A WAS THE DAY I WAS SICK.

16 Q DID YOU SEE HERBERT LEE BELL AROUND 1 O'CLOCK OR
17 1:15 ON THE 23RD?

18 A ON THE 23RD, HE WOKE ME UP TO TAKE A BATH AND IT
19 WAS 1:15 THEN.

20 Q HOW DO YOU KNOW?

21 A WELL, I WAS ASLEEP. BEFORE I WENT TO SLEEP I WAS
22 LOOKING AT T. V. THE YOUNG AND THE RESTLESS WAS ON. IT
23 HADN'T GONE OFF YET.

24 Q THE YOUNG AND THE RESTLESS WAS ON?

25 A YEAH, IT WAS STILL ON AND THEN I GOT A CLOCK BY MY

1 BED AND I LOOKED AT THE CLOCK AND IT WAS 1:15.

2 Q WAS THAT PROGRAM ON WHEN YOU AWOKED?

3 A YEAH, UH-HUH. IT WAS STILL ON.

4 Q IS THAT ONE OF YOUR FAVORITE SHOWS?

5 A YES, I WATCH IT EVERYDAY.

6 Q OKAY. WHAT TIME DOES THAT SHOW NORMALLY RUN BACK
7 IN JULY OF 1985?

8 A FROM 12:30 TO 1:30.

9 Q WHAT DID YOU DO AFTER YOU TOOK YOUR BATH?

10 A WELL, I TOOK MY BATH AND I WENT IN THE FRONT ROOM
11 AND LAID ON THE COUCH.

12 Q OKAY. AND DID YOU SEE HERBERT LEE BELL?

13 A YEAH, HE WAS LAYING ON THE FLOOR WITH THE BABY.
14 WITH RAYMOND.

15 Q WITH MRS. FRUSTER'S CHILDREN?

16 A YES.

17 Q HOW OLD ARE THOSE TWO CHILDREN APPROXIMATELY?

18 A RAVON. IS ABOUT ONE -- A YEAR AND TWO MONTHS NOW,
19 I THINK. AND LITTLE RICKY, I THINK HE'S ABOUT THREE.

20 Q OKAY. WAS THERE ANYBODY ELSE IN THE HOUSE?

21 A YEAH, MY DAUGHTER RENEE HENDLEY. MY SON WAS BUT
22 HE'S NOT HERE. HE WAS HOME. AND ROBIN THOMPSON.

23 Q WHO IS ROBIN THOMPSON?

24 A THAT'S A FRIEND, MY DAUGHTER'S FRIEND.

25 Q I SEE. NOW, LET'S TALK ABOUT SOMETHING ELSE RIGHT

1 NOW. DO YOU KNOW WHETHER OR NOT HERBERT BELL BACK IN
2 JULY, ON JULY 23RD OF LAST YEAR OWNED A WATCH WITH SOME
3 DIAMONDS OR SOME STONES ON IT OR IN IT?

4 A NO, I'VE NEVER SEEN A WATCH LIKE THAT BEFORE. I
5 NEVER SEEN HIM WITH NO KIND OF WATCH.

6 Q OKAY. HAVE YOU EVER SEEN HERBERT BELL WEAR A
7 WATCH?

8 A HAVE WHAT NOW?

9 Q HAVE YOU EVER SEEN MR. BELL WEARING A WATCH?

10 A NO.

11 Q I SHOW YOU STATE'S EXHIBIT NUMBER THREE AND ASK YOU
12 IF YOU KNOW WHAT THOSE THINGS ARE?

13 A THAT IS MY SON-IN-LAW'S SHOES.

14 Q YOUR SON-IN-LAW'S?

15 A SIMON HENDLEY.

16 Q THANK YOU. NO FURTHER QUESTIONS OF MRS. GUNTER.

17 ~~CROSS-EXAMINATION~~ BY DEPUTY SOLICITOR GIESE:

18 Q MRS. GUNTER, YOU ARE RELATED TO THIS GENTLEMAN?

19 A HE USED TO BE INVOLVED WITH MY DAUGHTER AT ONE
20 TIME.

21 Q HE USED TO BE INVOLVED WITH YOUR DAUGHTER?

22 A YEAH, AT ONE TIME.

23 Q NOW, WHOSE HOUSE IS THAT?

24 A MINE.

25 Q OKAY. SO HE WOULD HAVE BASICALLY BEEN YOUR COMMON

1 LAW SON-IN-LAW?

2 A YEAH.

3 Q YOU WERE KIND OF CLOSE TO HIM, WEREN'T YOU?

4 A YEAH, I'M CLOSE TO EVERYBODY IN THE HOUSE.

5 Q I MEAN YOU WERE FRIENDLY TO HIM?

6 A YEAH, I'M FRIENDLY TO EVERYBODY.

7 Q HE WAS FRIENDLY TO YOU.

8 A (NO RESPONSE.)

9 Q HE WAS FRIENDLY TO YOU?

10 A EVERYBODY IS FRIENDLY TO ME AS LONG AS I DON'T
11 BOTHER NOBODY. I JUST STAY AT HOME ALL THE TIME.

12 Q I MEAN YOU LIKE HIM?

13 A I LIKE A LOT OF PEOPLE.

14 Q BUT YOU LIKED---

15 A UH-HUH. YEAH, I DID.

16 Q PLEASE JUST ANSWER MY QUESTION. DID YOU LIKE HIM?

17 A NO, I LOVED HIM.

18 Q SO NOW YOU LOVED HIM?

19 A UH-HUH.

20 Q AND HE WAS YOUR COMMON LAW SON-IN-LAW?

21 A YEAP, AT THE TIME.

22 Q WAS HE ACTUALLY LIVING THERE?

23 A YES, HE WAS.

24 Q WAS HE HELPING SUPPORT EVERYBODY?

25 A HE DIDN'T HAVE A JOB AT THE MOMENT -- HE HAD A JOB,

1 BUT HE WENT -- HE HAD TO GO -- YOU KNOW BROKE HIS PAROLE
2 AND WHEN HE CAME BACK HE HAD TO FIND A JOB.

3 Q HE WHAT?

4 A WHEN HE CAME BACK HOME, HE HAD DONE WENT TO JAIL
5 BECAUSE HE VIOLATED HIS PROBATION AND THEN WHEN HE CAME
6 BACK HOME HE HADN'T FOUND A JOB YET BUT HE WAS LOOKING
7 FOR A JOB.

8 Q SO YOU WERE BASICALLY SUPPORTING HIM?

9 A NO, I WASN'T SUPPORTING HIM. HE WAS JUST STAYING
10 THERE, BUT I WASN'T SUPPORTING HIM.

11 Q DID HE STAY THERE EVERY NIGHT?

12 A YEAH.

13 Q IT'S YOUR TESTIMONY THAT YOU WOKE UP AT ABOUT ONE
14 OR 1:15, IS THAT RIGHT?

15 A HE WOKE ME UP AT 1:15.

16 Q HOW DO YOU KNOW THAT THE YOUNG AND THE RESTLESS HAD
17 BEEN ON FOR 45 MINUTES?

18 A WELL, THE ONLY THING I KNOW THE T.V. IN MY ROOM WAS
19 ON. WHEN I WOKE UP THE YOUNG AND THE RESTLESS WAS ON.
20 WHEN HE WOKE ME UP, IT WAS ON AND HE HAD RAN SOME WATER
21 IN THE TUB AND TOLD ME TO GET UP AND TAKE MY BATH.

22 Q OKAY. BUT YOU SAID THE YOUNG AND THE RESTLESS
23 STARTED AT 12:30, IS THAT RIGHT?

24 A YEAH.

25 Q OKAY. SO WHEN HE WOKE YOU UP, IT COULD HAVE BEEN

1 12:32?

2 A NO, IT WASN'T. IT WAS QUARTER AFTER.

3 Q IT COULD HAVE BEEN 12:35?

4 A IT WAS QUARTER AFTER ONE.

5 Q WELL, YOU STATED EARLIER THAT THE YOUNG AND THE
6 RESTLESS STARTED AT 12:30, IS THAT RIGHT?

7 A YEAH.

8 Q OKAY. THE YOUNG AND THE RESTLESS WAS ON WHEN HE
9 WOKE YOU UP?

10 A IT GOES OFF AT 1:30.

11 Q WERE YOU FEELING WELL THEN?

12 A I WAS FEELING A LITTLE WEAK.

13 Q A LITTLE SLUGGISH?

14 A NO, JUST WEAK.

15 Q A LITTLE TIRED?

16 A JUST WEAK, THAT'S ALL.

17 Q THAT'S TIRED, ISN'T IT?

18 A I WAS FEELING A LITTLE WEAK. THAT'S ALL.

19 Q KIND OF DROWSY?

20 A NO. I KNOW EXACTLY WHAT WAS GOING ON.

21 Q BUT YOU SAID YOU HAD JUST WOKEN UP FROM FALLING
22 DOWN FROM THE DAY BEFORE, ISN'T THAT RIGHT?

23 A YEAH.

24 Q OKAY. SO YOU MUST HAVE BEEN A LITTLE DROWSY?

25 A NO, I JUST WAS FEELING -- YOU KNOW, WASN'T FEELING

1 TOO GOOD, BUT I WASN'T DRAGGING OR NOTHING LIKE THAT. I
2 KNOWED(SIC) WHAT WAS GOING ON AROUND HERE.

3 Q YOU KNOW THE YOUNG AND THE RESTLESS WAS ON?

4 A YEAH.

5 Q AND YOU KNOW THEY CAME ON AT 12:30?

6 A YEAH, AND GO OFF AT 1:30.

7 Q DO YOU KNOW WHAT HE WAS DOING AT 3 O'CLOCK THAT
8 DAY?

9 A WELL, HE WAS IN THE HOUSE THE WHOLE TIME.

10 Q HOW DO YOU KNOW THAT? DID YOU STAY UP THE WHOLE
11 TIME?

12 A YEAH, AFTER I TOOK MY BATH, I CAME IN THE FRONT
13 ROOM AND LAID DOWN. I WENT -- AFTER MRS. FRUSTER CAME
14 AND GOT HER SON, I STILL WAS LAYING THERE. ALL OF US WAS
15 IN THERE PLAYING RECORDS. AND I WENT AND LAID DOWN IN MY
16 SON'S ROOM ABOUT 5 O'CLOCK AND THE NEXT THING I KNOW WHEN
17 I SEEN HERBERT BELL, NEXT IT WAS AT NIGHT BECAUSE HE HAD
18 WOKE ME UP AND ASKED ME DID I WANT SOMETHING TO EAT. AND
19 I SAID NO, BECAUSE HE HAD COOKED PORK 'N BEANS AND I
20 DON'T LIKE PORK 'N BEANS. BUT I KNOW HE WAS UP UNTIL
21 FIVE. THAT'S ALL I KNOW.

22 Q DO YOU REMEMBER THE 24TH AT ALL?

23 A YEAH.

24 Q CKAY. HOW DO YOU REMEMBER THAT DAY?

25 A I REMEMBER WHEN CHAPMAN AND GARY WATTS CAME BY IN A

1 BLACK CAR AT FIRST. I THINK IT WAS A BLACK CAR.

2 Q IT'S YOUR TESTIMONY THAT YOU WATCHED MR. BELL, YOUR
3 SON-IN-LAW, FROM WHAT 1:15 UNTIL 5 O'CLOCK?

4 A HE WOKE ME UP AT 1:15, YES.

5 Q BUT YOU WATCHED HIM FROM THEN ON?

6 A HE WOKE ME UP AT 1:15. I TOOK MY BATH. THEN I
7 WENT IN THE FRONT ROOM. WE ALL WAS IN THE FRONT ROOM
8 INCLUDING HERBERT BELL AND UNTIL 5 O'CLOCK I WENT AND
9 LAID DOWN. THE NEXT THING WHEN I SEEN HIM IT WAS NIGHT.
10 HE WOKE ME UP AND ASKED ME DID I WANT TO EAT.

11 Q DO YOU REMEMBER -- IN YOUR STATE THAT YOU WERE IN,
12 DO YOU REMEMBER MR. CHAPMAN COMING UP THERE?

13 A YEAH, CHAPMAN WAS IN THE TRUCK.

14 Q OKAY. AND THAT WAS THE DAY AFTER?

15 A THAT WAS ON THE 24TH.

16 Q LET ME ASK YOU THIS. DO YOU REMEMBER THE DAY THAT
17 HE WAS ARRESTED?

18 A WHO? HERBERT BELL?

19 Q YEAH.

20 A THE 24TH.

21 Q YOU REMEMBER THAT DAY. LET ME ASK YOU THIS. THE
22 STORY THAT YOU'VE JUST GIVEN, YOU SAW THE INVESTIGATORS
23 IN THERE EARLIER, DIDN'T YOU?

24 A YEAH, UH-HUH.

25 Q WHY DIDN'T YOU GIVE THEM THAT STATEMENT? WHY DIDN'T

1 YOU COME DOWN AND SAY HERBERT BELL IS AN INNOCENT MAN?

2 A I TOLD THEM THAT -- I TOLD THEM THAT WHEN THEY CAME
3 TO MY HOUSE.

4 Q WHO DID YOU TELL THAT TO?

5 A I TOLD THE MAN WITH THE DARK HAIR SITTING OVER
6 THERE AND I TOLD HIM THAT NONE OF THESE THINGS -- YOU
7 KNOW HE HAD GIVEN ME A COPY AND NONE OF THESE THINGS WERE
8 IN HERE AND THEN HE TOLD ME -- THEN HE LOOKED. THEN HE
9 CAME BACK IN THE FRONT ROOM AND SAID WE FOUND MOST OF THE
10 STUFF -- THAT'S WHAT HE TOLD ME. WE FOUND MOST OF THE
11 STUFF ALREADY AND Y'ALL MIGHT AS WELL GO AHEAD AND TELL
12 WHERE THE REST OF THE STUFF IS AT BECAUSE Y'ALL CAN GET
13 IN TROUBLE.

14 Q YOU DIDN'T FEEL LIKE IT WAS IMPORTANT ENOUGH FOR
15 YOU TO GO DOWN TO THE POLICE STATION OR TO THE SHERIFF'S
16 DEPARTMENT AND DEMAND TO MAKE A STATEMENT.

17 A I TOLD THEM THAT AND THEY DIDN'T BELIEVE ME. THEY
18 JUST SAID---

19 Q DID YOU OR DID YOU NOT GO DOWN AND MAKE A STATEMENT?

20 A NO, I DIDN'T. NO, I DIDN'T.

21 Q ALL RIGHT. YOU DIDN'T CARE ENOUGH---

22 A I JUST TOLD THEM THAT AND THEY DIDN'T, REFUSED TO
23 BELIEVE ME.

24 Q OKAY. YOU DIDN'T HEAR HIM TESTIFY TO THAT, DID
25 YOU?

1 A NO, I DIDN'T.

2 Q THAT'S ALL I HAVE.

3 MR. ALLEN: NO FURTHER QUESTIONS OF THIS WITNESS.

4 THE COURT: YOU MAY COME DOWN. YOU GOT A SHORT
5 ONE?

6 (WHEREUPON, THE WITNESS WAS
7 EXCUSED AT THIS TIME.)

8 MR. ALLEN: WELL, ABOUT AS LONG AS MRS. GUNTER WAS,
9 YOUR HONOR.

10 THE COURT: ALL RIGHT, SIR. WELL, LET'S PROCEED
11 WITH ONE MORE THEN.

12 MR. ALLEN: MRS. ELIZABETH FRUSTER.

13 (ELIZABETH FRUSTER, FIRST
14 BEING DULY SWORN, TESTIFIED AS FOLLOWS:).

15 DIRECT EXAMINATION BY ASSISTANT PUBLIC DEFENDER ALLEN:

16 Q MRS. FRUSTER, I'M GOING TO ASK THAT YOU ALSO MAKE
17 SURE YOU SPEAK UP SO I CAN HEAR YOU WAY BACK HERE WHERE
18 I'M STANDING?

19 A OKAY.

20 Q WHERE DO YOU LIVE, MRS. FRUSTER?

21 A 4029 --4020 WINTER PARK DRIVE. 4029.

22 Q THANK YOU. AND WHERE IS THAT IN RELATIONSHIP TO
23 WHERE MRS. GUNTER AND HERBERT BELL LIVE?

24 A RIGHT NEXT DOOR.

25 Q RIGHT NEXT DOOR. WERE YOU LIVING AT THAT PARTICULAR

1 ADDRESS IN JULY OF 1985?

2 A YES, SIR.

3 Q DID YOU SEE MR. BELL ON THE 23RD?

4 A YES, SIR.

5 Q AND WHEN AND WHAT WERE THE CIRCUMSTANCES? TELL US
6 ABOUT THAT?

7 A WELL, AFTER I GOT OFF FROM WORK AT FOUR AND I WENT
8 OVER TO PICK UP THE KIDS AND HE WAS ON THE FLOOR WITH THE
9 LITTLE BABY PLAYING WITH HIM.

10 Q WHEN DID YOU COME TO PICK UP YOUR CHILDREN ON THAT
11 DAY?

12 A IT WAS ABOUT -- WELL, USUALLY I PICK THEM UP
13 BETWEEN FOUR AND 4:30. LIKE IT TAKES ME ABOUT TEN
14 MINUTES, BUT I'M JUST SAYING. LIKE SOMETIMES I WOULD
15 WALK AND TALK UNTIL THE TIME. IT WAS BETWEEN FOUR AND
16 4:30.

17 Q DID YOU SEE MR. BELL EARLIER THAT DAY AT THE
18 RESIDENCE?

19 A NO, I WAS WORKING.

20 Q OKAY. WHEN DID YOU BRING THE CHILDREN TO THE
21 RESIDENCE?

22 A AT SEVEN THAT MORNING.

23 Q WHO DID YOU SEE THERE WHEN YOU BROUGHT THE CHILDREN
24 TO THE RESIDENCE?

25 A ON THAT DAY HERBERT BELL ANSWERED THE DOOR.

1 Q HE DID?

2 A UH-HUH.

3 Q ALL RIGHT. THANK YOU. OH, EXCUSE ME. HOW MANY
4 CHILDREN DID YOU LEAVE?

5 A I ONLY HAVE TWO.

6 Q PARDON?

7 A TWO. HE SAID LITTLE RICKY AND RICKY, BUT
8 IT'S RICKY AND RAVON.

9 Q RAYMOND?

10 A RAVON---

11 Q HOW OLD WERE THEY BACK IN JULY?

12 A RICKY WAS THREE AND RAVON WAS ABOUT EIGHT MONTHS,
13 NINE MONTHS. WELL, HE'S BIG FOR HIS SIZE.

14 Q OKAY. THANK YOU. NO FURTHER QUESTIONS.

15 CROSS-EXAMINATION BY DEPUTY SOLICITOR GIESE:

16 Q MRS. FRUSTER -- MRS. FRUSTER?

17 A YEAH.

18 Q WHERE DO YOU WORK?

19 A FLURORCARBON COMPONENTS.

20 Q FLUROR---

21 A F-L-U-R-O-R-C-A-R-B-O-N COMPONENTS.

22 Q WHAT'S THAT JUST OUT OF CURIOSITY?

23 A IT'S A MACHINE OPERATING CENTER THAT MAKES NUCLEAR
24 WEAPONS FOR LIKE AIRPLANES OR SOMETHING LIKE THAT. AND
25 SUBMARINES.

1 Q THAT'S IN TOWN HERE? OR OUT BLUFF ROAD?

2 A INDUSTRIAL PARK.

3 Q AND YOU SAY ON THE 23RD YOU REMEMBER DROPPING YOUR
4 CHILDREN OFF AT AROUND 7 O'CLOCK THAT MORNING?

5 A YEAH, AROUND SEVEN.

6 Q AND YOU REMEMBER PICKING THEM UP AT FOUR?

7 A BETWEEN FOUR AND FOUR-THIRTY.

8 Q BETWEEN FOUR AND FOUR-THIRTY?

9 A YEAH.

10 Q IT COULD HAVE BEEN 4:30 YOU PICKED THEM UP?

11 A IT COULD HAVE BEEN. MAINLY WHEN I PICK THEM UP
12 SOMETIME AND THEN LIKE, THEY'RE REAL CLOSE WITH "MISS"
13 LILLIE AND STUFF. SO THEY'LL GO BACK OVER THERE --
14 LITTLE RICKY WILL GO BACK OVER THERE AND THEN SHE WILL
15 SOMETIMES SEND FOR RAVON. SOMETIMES LITTLE RICKY WAS
16 PROBABLY STILL OVER THERE.

17 Q BUT BETWEEN 7:00 A.M. IN THE MORNING AND 4:30 THAT
18 AFTERNOON, YOU DON'T KNOW WHO TOOK CARE OF YOUR KIDS DO
19 YOU?

20 A NO, UNTIL I CAME HOME AND HERBERT WAS TELLING ME
21 THAT LILLIE WAS SICK BECAUSE SHE WAS LAYING ON THE COUCH
22 IN HER NIGHTGOWN.

23 Q BUT YOU DON'T REMEMBER SEEING HIM AT 7 O'CLOCK THAT
24 DAY?

25 A NO.

1 Q OR 1:15?

2 A NO.

3 Q OR 1:30?

4 A NO.

5 Q OR AT 1:45?

6 A UNTIL FOUR---

7 Q OR TWO O'CLOCK?

8 A NO, SIR.

9 Q UP UNTIL 4:30, YOU DON'T KNOW WHAT HERBERT BELL
10 DID, IS THAT RIGHT?

11 A RIGHT.

12 Q HE COULD HAVE BEEN DOING ANYTHING BETWEEN 7 O'CLOCK
13 AND 4 O'CLOCK THAT DAY OR 4:30 THAT DAY?

14 A WELL, JUST BY WHAT HE TOLD ME HE BABYSIT THE
15 KIDS FOR ME THAT DAY. THAT'S ALL I KNOW HE DID WAS
16 BABYSIT THE KIDS BECAUSE LILLIE GUNTER WAS SICK.

17 Q BUT YOU DON'T KNOW WHAT HE DID FROM SEVEN TO 4:30,
18 IS THAT RIGHT? FROM YOUR OWN PERSONAL KNOWLEDGE?

19 A FROM MY PERSONAL KNOWLEDGE JUST BY WHAT HE TOLD ME.

20 Q HE COULD HAVE DONE ANYTHING DURING THOSE HOURS, IS
21 THAT RIGHT?

22 A ONLY WHAT HE -- LIKE I SAID TO MY KNOWLEDGE HE
23 COULD HAVE BEEN, BUT WHEN HE STATED TO ME THAT HE BABYSIT
24 THE KIDS BECAUSE SHE WAS SICK.

25 Q THAT'S ALL I HAVE.

1 A OKAY.

2 MR. ALLEN: THAT'S -- NO MORE QUESTIONS FROM ME.

3 THE COURT: ALL RIGHT. YOU MAY COME DOWN.

4 (WHEREUPON, THE WITNESS WAS
5 EXCUSED AT THIS TIME.)

6 THE COURT: LADIES AND GENTLEMEN, AT THIS TIME,
7 WE'LL RECESS UNTIL 9:30 IN THE MORNING. LET ME CAUTION
8 YOU DURING THE RECESS DO NOT DISCUSS THE CASE WITH
9 ANYONE. IF ANYONE ATTEMPTS TO DISCUSS THE CASE WITH YOU,
10 PLEASE LET ME KNOW UPON YOUR RETURN. DO NOT BE SEEN IN
11 THE PRESENCE OF ANY OF THE PARTIES WHO HAVE AN INTEREST
12 IN THE OUTCOME OF THIS CASE. WHEN YOU COME BACK AT 9:30
13 IN THE MORNING, I ASK THAT YOU GO STRAIGHT TO THE
14 JURYROOM AND I'LL DO MY BEST TO START PROMPTLY AT 9:30.
15 EVERYONE ELSE REMAIN SEATED. THE JURY MAY RETIRE. BE
16 BACK AT 9:30 IN THE MORNING.

17 MR. ALLEN: YOUR HONOR, BEFORE THE JURY RETIRES,
18 MAY COUNSEL APPROACH THE BENCH?

19 THE COURT: YES, SIR.

20 (WHEREUPON, A BENCH CONFERENCE
21 WAS HELD AT THIS TIME OFF THE RECORD IN THE PRESENCE OF
22 THE JURY, BUT OUT OF THE HEARING OF THE JURY.)

23 THE COURT: LADIES AND GENTLEMEN, I ALSO FORGOT TO
24 TELL YOU DO NOT READ ANY NEWSPAPER ARTICLES IF ANY THERE
25 MIGHT BE ABOUT THIS CASE. DO NOT LISTEN TO ANY RADIO OR

1 T.V. COVERAGE IF ANY THERE MIGHT BE BECAUSE YOU'RE
2 TO DECIDE THIS CASE SOLELY UPON THE TESTIMONY AND
3 EVIDENCE THAT HAS BEEN PRESENTED IN THIS COURT. YOU MAY
4 RETIRE. EVERYONE ELSE REMAIN SEATED.

5 (JURY OUT.)

6 THE COURT: DO YOU HAVE ANY REQUEST TO CHARGE OR DO
7 YOU WANT TO MEET ME AT 9:15 AND GO OVER ANY REQUEST TO
8 CHARGE?

9 MR. ALLEN: I HAVE ONE NOW, BUT I MAY HAVE ANOTHER
10 ONE.

11 THE COURT: ALL RIGHT, SIR. IF YOU WILL GIVE THE
12 SOLICITOR A COPY AND WE'LL JUST MEET BACK AT 9:15 AND
13 DISPOSE OF THEM.

14 THE SOLICITOR: YES, SIR.

15 THE COURT: SOLICITOR, DO YOU HAVE ANY?

16 THE SOLICITOR: NO, SIR, I'M SURE YOUR STANDARD
17 CHARGE IS GOOD. I COULDN'T THINK OF THE RIGHT WORD.

18 THE COURT: WELL, ON OCCASIONS I'VE THOUGHT IT WAS
19 GOOD, BUT THE SUPREME COURT DISAGREED. ANYTHING FURTHER?

20 MR. ALLEN: NOT AT THIS TIME.

21 THE COURT: ALL RIGHT. WE'LL BE IN RECESS UNTIL
22 9:30 IN THE MORNING.

23 (WHEREUPON; COURT RECESSED
24 FOR THE DAY AT 5:45 P.M.)

25 (WHEREUPON, COURT RECONVENED

1 AT 9:30 A.M. ON TUESDAY, FEBRUARY 25, 1986.)

2 THE COURT: ARE THERE ANY REQUESTS FOR ME TO
3 DECIDE?

4 THE SOLICITOR: NONE FROM THE STATE.

5 MR. ALLEN: ONE. HAVEN'T RESEARCHED THE LAW ON
6 THIS PARTICULAR PRINCIPLE, BUT CROSS-EXAMINATION OF THE
7 SOLICITOR YESTERDAY, THE QUESTION MAY ARISE IN THE
8 JURY'S MIND THE FACT THAT SOMEONE DID NOT REPORT THE FACT
9 THAT HERBERT MAY OR MAY NOT HAVE BEEN -- WAS AT HOME AND
10 I WOULD REQUEST, YOUR HONOR, TO CHARGE THAT ONE HAS NO
11 LEGAL OBLIGATION TO REPORT THE NON-EXISTENCE OF A CRIME.
12 SPECIFICALLY I'M REFERRING TO THE TESTIMONY OF MRS.
13 GUNTER YESTERDAY WHEN SHE WAS ASKED BY MR. GIESE WHY SHE
14 DIDN'T TELL THE POLICE OR THE FACT THAT SHE DIDN'T GO
15 DOWN THERE---

16 THE COURT: ISN'T THAT SELF-EXPLANATORY? SHE SAYS
17 I DIDN'T KNOW IT WAS COMMITTED.

18 MR. ALLEN: YOU'VE GOT ME AT A LOSS I'LL BE RIGHT
19 HONEST WITH YOU. WHAT I'M REFERRING TO IS THE QUESTION
20 ASKED BY MR. GIESE THAT SHE DIDN'T TELL THE POLICE THAT
21 MR. BELL WAS AT HOME WITH HER ON THE 23RD---

22 (WHEREUPON, THE DEFENDANT
23 RAISES HIS HAND AT THIS TIME.)

24 MR. ALLEN: WHICH MAY RAISE A QUESTION IN THE
25 JURY'S MIND THAT MAYBE THIS WAS MERELY A STORY, YOU KNOW,

1 POSSIBLY SOMETHING WRONG WITH THIS---

2 THE COURT: WHEN I CHARGE HIM HE HAS -- HE DOES NOT
3 HAVE THE BURDEN OF PROOF, DOES NOT HAVE TO PROVE HIMSELF
4 INNOCENT, I THINK THAT COVERS IT.

5 MR. ALLEN: THAT'S ALL I WANTED THEN.

6 THE COURT: YOUR CLIENT IS WANTING TO TALK TO YOU.

7 (WHEREUPON, MR. ALLEN
8 CONFERS WITH THE DEFENDANT AT THIS TIME.)

9 THE COURT: WHAT ABOUT THE DEFENDANT'S REQUEST TO
10 CHARGE ON ALIBI?

11 THE SOLICITOR: YOUR HONOR, IT LOOKS TO ME LIKE AND
12 I'VE NEVER HEARD YOUR CHARGE ON ALIBI, BUT IT LOOKS TO ME
13 LIKE YOU'LL PROBABLY PRETTY WELL COVER IT IN YOUR CHARGE.

14 THE COURT: I WILL CHARGE ALIBI AND I WILL COMPARE
15 YOURS WITH MINE, MR. GIESE.

16 MR. ALLEN: ONE THING I NOTICED WHEN I WAS --
17 TYPED MY CASE LAW, I DID NOT TYPE IT ON THAT. DOES YOUR
18 HONOR NEED THAT?

19 THE COURT: NO, THAT'S NOT NECESSARY. THIS IS THE
20 BASIC LAW OF ALIBI. I MAY NOT USE YOUR EXACT WORDAGE.

21 MR. ALLEN: I NEVER HAVE HEARD YOURS.

22 THE COURT: ALL RIGHT. LET ME GIVE YOU THAT. IF
23 YOU WILL COME HERE AND LOOK AT IT, YOU WILL SEE IT IF
24 YOU'RE AGREEABLE TO IT.

25 (WHEREUPON, THE PARTIES LOOK

1 AT THE CHARGE AT THIS TIME.)

2 THE COURT: DO YOU AGREE WITH MY ALIBI CHARGE?

3 MR. ALLEN: YES, SIR.

4 THE COURT: NOW, I BELIEVE ALSO IDENTIFICATION
5 WOULD BE A CHARGE IN THIS MATTER.

6 MR. ALLEN: YES, YOUR HONOR.

7 THE COURT: I DON'T BELIEVE WE HAVE ANY CIRCUMSTANTIAL
8 EVIDENCE. DO BOTH SIDES AGREE TO THAT?

9 THE SOLICITOR: I AGREE.

10 MR. ALLEN: YES, SIR. NOTHING FURTHER.

11 THE COURT: ALL RIGHT. BRING IN THE JURY, PLEASE?

12 (JURY IN.)

13 THE BAILIFF: THE JURY IS ALL PRESENT, YOUR HONOR.

14 THE COURT: DOES THE STATE WAIVE POLLING OF THE
15 JURY?

16 THE SOLICITOR: THE STATE WAIVES, YOUR HONOR.

17 THE COURT: THE DEFENSE WAIVE POLLING OF THE JURY?

18 MR. ALLEN: YES, YOUR HONOR.

19 THE COURT: YOU MAY CALL YOUR NEXT WITNESS.

20 MR. ALLEN: THE DEFENSE CALLS RENEE HENDLEY.

21 (RENEE PRISCILLA HENDLEY,

22 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:)

23 DIRECT EXAMINATION BY MR. ALLEN:

24 Q MRS. HENDLEY, WHERE DO YOU LIVE?

25 A 4025 WINTER PARK DRIVE.

1 Q DID YOU LIVE THERE ON JULY 23RD AND 24TH OF LAST
2 YEAR?

3 A YES, I DID.

4 Q AND WHAT RELATIONSHIP ARE YOU TO HERBERT LEE BELL?

5 A THAT IS MY BROTHER-IN-LAW.

6 Q BROTHER-IN-LAW?

7 A UH-HUH.

8 Q WHAT RELATIONSHIP ARE YOU TO MRS. LILLIE GUNTER WHO
9 TESTIFIED?

10 A THAT'S MY MOTHER.

11 Q YOUR MOTHER?

12 A UH-HUH.

13 Q DO YOU RECALL SEEING HERBERT BELL IN THE AFTERNOON
14 OF THE 23RD OF JULY?

15 A YEAH, I WAS WITH HIM.

16 Q WHERE WERE YOU?

17 A WE WENT ON SWAMP ROAD.

18 Q OKAY. WHAT TIME APPROXIMATELY WAS THAT?

19 A THIS WAS ABOUT 5:30 OR 6 O'CLOCK.

20 Q DO YOU RECALL SEEING MR. BELL EARLIER THAT DAY?

21 A YEAH, HE WAS HOME.

22 Q OKAY. WHERE WERE YOU?

23 A HOME.

24 Q YOU WERE HOME?

25 A UH-HUH.

1 Q WHY WERE YOU HOME?

2 A WHY WERE I HOME?

3 Q YES, MA'AM.

4 A WAS JUST HOME TAKING CARE OF MY MAMA WITH HIM AND
5 THE CHILDREN.

6 Q OKAY. HOW OLD ARE YOU BY THE WAY?

7 A ME?

8 Q YES.

9 A SIXTEEN.

10 Q CKAY. AND WHAT WAS WRONG WITH YOUR MOTHER, DO YOU
11 KNOW?

12 A SHE HAD FELL UP IN THE KITCHEN AND BUST UP HER
13 MOUTH AND AS YOU HEARD HER. SAY YESTERDAY, SHE'S A
14 DIABETIC. AND SHE FELL UP IN THE KITCHEN AND BUST UP HER
15 MOUTH. AND SO WE WERE JUST HELPING HER OUT AND EVERYTHING
16 LIKE THAT. SHE WAS SICK. REAL SICK. BUT SHE KNOW WHAT
17 WAS GOING ON.

18 Q HOW LONG WERE YOU HOME?

19 A I WAS HOME ALL DAY LONG.

20 Q OKAY. HOW LONG WAS MR. BELL HOME?

21 A ALL DAY LONG WITH ME UNTIL 5:30.

22 Q TELL US -- NOW, LET'S TALK ABOUT WHAT HAPPENED
23 AROUND 5:30 WHEN YOU WERE WALKING ON BECKHAM SWAMP ROAD.

24 A WHAT HAPPENED?

25 Q YES.

1 A WE WENT BACK THERE, RIGHT. AND WE WERE SITTING UP
2 IN ABOUT THE MIDDLE OF THE STREET ON SWAMP ROAD AND---
3 Q WHO ARE WE?
4 A ME AND HERBERT BELL.
5 Q OKAY. TELL ME WHAT HAPPENED AFTER THAT?
6 A WHAT HAPPENED?
7 Q WHILE Y'ALL WERE SITTING ON THE ROAD.
8 A THAT MAN NAMED GARY WARD OR WATTS, WHATEVER HIS
9 NAME IS---
10 Q DO YOU SEE HIM IN THE COURTROOM?
11 A YEAH, I SEE HIM.
12 Q WHERE IS HE?
13 A RIGHT THERE. THE WHITE ONE.
14 Q HE'S THE WHITE FELLOW WITH THE BEARD---
15 A UH-HUH. YEAH.
16 Q WHAT HAPPENED WHEN HE---
17 A HE -- HE -- IT LOOKED LIKE HE WAS GOING TO PASS US
18 AT FIRST, BUT HE SEEN SOMEBODY SITTING IN THE MIDDLE OF
19 THE STREET AND HE CAME AND ASKED US DID WE KNOW A FELLOW
20 NAMED TONY. HE DID NOT ASK US.
21 Q WELL, WHAT DID HE ASK YOU?
22 A HE ASKED US DO WE KNOW A FELLOW NAMED TONY.
23 Q OKAY. AND WHAT, IF ANYTHING, WAS SAID TO HIM?
24 A REPEAT THAT.
25 Q WHAT, IF ANYTHING, WAS TOLD TO HIM BY EITHER YOU

1 OR MR. BELL?

2 A OH, WE ANSWERED HIM. WE DON'T KNOW ANYBODY NAMED
3 TONY. AND I HAD ASKED HIM, RIGHT. I SAID WELL WHAT IS
4 TONY'S LAST NAME AND HE SAID HE DIDN'T KNOW. AND I SAID
5 HOW COULD YOU BE LOOKING FOR SOMEBODY NAMED TONY IF YOU
6 DON'T KNOW THEIR LAST NAME.

7 Q AND WHAT, IF ANYTHING, DID HE SAY TO THAT?

8 A WHAT DID HE SAY AFTER THAT?

9 Q YES.

10 A HE SAID THAT HE WAS LOOKING FOR THIS FELLOW BECAUSE
11 A JOB.

12 Q AND WHAT; IF ANYTHING, DID YOU OR MR. BELL SAY
13 AFTER THAT?

14 A AFTER HE ASK US THAT?

15 Q YES.

16 A WE DIDN'T SAY NOTHING. WE JUST TOLD HIM WE DIDN'T
17 KNOW NOBODY NAMED TONY.

18 Q DID YOU HEAR A CONVERSATION BETWEEN MR. WATTS AND
19 MR. BELL---

20 A I WAS THERE WHEN HE WAS TALKING TO HERBERT AND THE ONLY
21 THING HE . . ASKED US DID WE KNOW SOMEBODY NAMED TONY
22 BECAUSE IT WAS CONCERNING ABOUT A JOB.

23 Q AND WHAT; IF ANYTHING ELSE WAS SAID ABOUT A JOB?

24 A THAT WAS ALL. HE -- AFTER THAT HE ASKED DID
25 HERBERT WANT THE JOB.

1 Q AND WHAT WAS SAID TO THAT?

2 A HERBERT SAID YEAH, HE NEEDED SOME EMPLOYMENT.

3 Q DID MR. WATTS GET MR. BELL'S---

4 A YEAH, HE GOT HIS ADDRESS. HE GOT HIS ADDRESS FROM
5 ME AND HERBERT.

6 Q OKAY. NOW, AND THAT WAS 4025 WINTER PARK?

7 A 4025 WINTER PARK DRIVE.

8 Q NOW -- IS STATE'S EXHIBIT THREE HERE IN THE
9 COURTROOM? MRS. HENDLEY, I'M GOING TO SHOW YOU STATE'S
10 EXHIBIT NUMBER THREE AND ASK YOU IF YOU RECOGNIZE THIS?

11 A YEAH. THAT'S MY HUSBAND'S SHOES, SIMON HENDLEY.

12 Q THANK YOU. NO FURTHER QUESTIONS.

13 CROSS-EXAMINATION BY SOLICITOR GIESE:

14 Q MRS. HENDLEY, YOU SAY THAT THIS CONVERSATION THAT
15 YOU HAD WITH GARY WATTS ON THAT ROAD TOOK PLACE ON THE
16 23RD?

17 A THE 23RD.

18 Q THE 23RD. YOU REMEMBER -- WHY DO YOU REMEMBER THE
19 23RD?

20 A BECAUSE THAT'S WHEN GARY WATTS DROVE UP TO US AND
21 ASKED US DO WE KNOW A FELLOW NAMED TONY AND I REMEMBERED
22 THE 23RD.

23 Q YOU SPECIFICALLY REMEMBER THE 23RD?

24 A THE 23RD.

25 Q LET ME ASK YOU THIS. DID YOU HEAR MR. BELL TESTIFY

1 EARLIER THAT HAPPENED ON THE 24TH?

2 A YEAH, I HEARD HIM SAY THAT; BUT HE WAS A LITTLE
3 MIXED UP. BUT I KNOW WHAT HAPPENED.

4 Q AND SO YOUR TESTIMONY IS THIS CONVERSATION TOOK
5 PLACE ON THE 23RD EXACTLY LIKE MR. WATTS TESTIFIED TO,
6 NOT TO WHAT MR. BELL TESTIFIED TO.

7 A EXACTLY LIKE MR. WATTS TESTIFIED THAT IT HAPPENED
8 ON THE 23RD.

9 Q OKAY. SO IN YOUR OPINION, MR. WATTS WAS TELLING
10 THE TRUTH AT THAT TIME---

11 MR. ALLEN: OBJECTION---

12 A NO, HE WASN'T---

13 MR. ALLEN: AGAIN, THE SOLICITOR IS PITTING
14 WITNESSES AGAINST EACH OTHER.

15 THE SOLICITOR: I'LL DROP IT, YOUR HONOR.

16 THE COURT: ALL RIGHT, SIR.

17 THE SOLICITOR: BUT YOU DO REMEMBER HERBERT BELL
18 STATING YESTERDAY---

19 A YEAH, I REMEMBER.

20 Q ---THAT IT WAS THE 24TH?

21 A UH-HUH.

22 Q THAT CONVERSATION DID TAKE PLACE?

23 A YES, IT DID ON THE 23RD.

24 Q NOW, ON THE 23RD, DID YOU STAY INSIDE ALL DAY?

25 A DID I STAY INSIDE WITH HERBERT BELL?

1 Q DID YOU STAY INSIDE ALL DAY?

2 A NO, I WENT OUT AT 5:30 OR 6 O'CLOCK.

3 Q WHAT TIME DID YOU GET UP ON THE 23RD?

4 A WHAT TIME DO I GET UP IN THE MORNING? WELL, I GOT
5 UP AROUND SEVEN.

6 Q OKAY. AND YOU STAYED INSIDE THE REST OF THE DAY
7 UNTIL 5:30?

8 A YEAH.

9 Q YOU DIDN'T GO ANYWHERE?

10 A DIDN'T GO ANYWHERE.

11 Q FOR TEN AND A HALF HOURS YOU STAYED INSIDE?

12 A YES, I DID.

13 Q WHAT DID YOU HAVE TO EAT THAT DAY?

14 A I DON'T KNOW WHAT WE HAD TO EAT. I BELIEVE WE HAD
15 GRITS.

16 Q YOU DON'T REMEMBER WHAT YOU HAD TO EAT, BUT YOU
17 REMEMBER YOU STAYED INSIDE ALL DAY?

18 A YES, I DO.

19 Q WAS IT RAINING OUT THAT DAY?

20 A NO, IT WAS SUNNY.

21 Q THAT'S WHY YOU WENT FOR THE WALK?

22 A UH-HUH.

23 Q YOU STAYED INSIDE FOR A STRAIGHT TEN AND A HALF
24 HOURS?

25 A I STAYED INSIDE ALL DAY UNTIL 5:30.

1 Q WHAT RELATIONSHIP ARE YOU TO HERBERT BELL?

2 A HIS SISTER-IN-LAW.

3 Q SISTER-IN-LAW?

4 A YEAH.

5 Q OKAY. SO YOU ARE MARRIED TO HIS BROTHER OR IS
6 HE---

7 A NO, I MARRIED SIMON HENDLEY, THE MAN -- THE
8 GENTLEMAN SITTING BACK THERE---

9 Q OKAY. BUT HE'S MARRIED TO WHOM IN YOUR FAMILY?

10 A NO, SEE, I'M HIS SISTER-IN-LAW BY COMMON LAW.

11 Q OH, OKAY. SO HE WAS SEEING SOMEONE -- HE WAS
12 SEEING YOUR SISTER?

13 A UH-HUH.

14 Q WAS YOUR SISTER THERE THAT DAY?

15 A NO, MY SISTER ISN'T THERE.

16 Q SHE WASN'T?

17 A NO, SHE'S NOT THERE.

18 Q WHERE WAS SHE?

19 A SHE'S IN A HOME.

20 Q WELL, WHERE WAS SHE THEN?

21 A IN A HOME.

22 Q IN A HOME OR HER HOME?

23 A IN HER HOME.

24 Q SO SHE WASN'T THERE, BUT YOU WERE THERE?

25 A YEAH, I WAS THERE UNTIL 5:30.

1 Q OKAY. AND HE WAS STAYING WITH Y'ALL?

2 A HE WAS STAYING WITH US.

3 Q DID HE STAY THERE EVERY NIGHT?

4 A EVERY NIGHT.

5 Q DO YOU REMEMBER THE 24TH OF JULY?

6 A YEAH, I REMEMBER THAT, TOO.

7 Q DO YOU REMEMBER WHEN THESE FELLOWS CAME UP?

8 A YEAH, I REMEMBER CHAPMAN, GARY WARD, BRUCE BROWN,
9 AND I DON'T REMEMBER THAT BOY RIGHT THERE. JAY EDENS.

10 BECAUSE I HAD MY HEAD TOTALLY IN THE CAR AND I DID NOT
11 SEE HIM.

12 Q SO WHEN THEY SAY THAT HE WAS THERE, THAT'S NOT
13 TRUE?

14 A THAT'S NOT TRUE BECAUSE I DIDN'T SEE HIM.

15 Q HE WAS NOT IN THE CAR?

16 A NO.

17 Q DO YOU REMEMBER WHEN HERBERT BELL WAS ARRESTED?

18 A YES, I DID.

19 Q AND DO YOU REMEMBER THE CONVERSATION THAT HERBERT
20 BELL HAD WITH MR. WATTS AND MR. CHAPMAN?

21 A YES, I DID. THEY WERE TALKING ABOUT A JOB.

22 Q HOW MANY TIMES WERE MR. CHAPMAN AND MR. WATTS THERE
23 ON THE 24TH?

24 A TWO.

25 Q TWICE?

1 A YEAH.

2 Q TWO DIFFERENT TIMES?

3 A ONE TIME IN A CAR---

4 Q IS THAT WHEN YOU LOOKED INSIDE THE CAR?

5 A YEAH, THAT'S WHEN I LOOKED INSIDE IT. AND---

6 Q AND YOU DIDN'T SEE JAY EDENS, RIGHT?

7 A NO, I DIDN'T SEE HIM. AND THE SECOND TIME, THEY
8 WERE IN A RED AND WHITE CAMPER -- WHATEVER IT IS. IT WAS
9 ONLY CHAPMAN AND GARY WARD THEN.

10 Q IT WAS A PRETTY BIG CAR, RIGHT?

11 A THAT'S A TRUCK---

12 Q THE SECOND TIME?

13 A UH-HUH.

14 Q AND IT'S YOUR TESTIMONY THAT JAY EDENS WAS NOT IN
15 THAT CAR?

16 A WAS NOT THERE. WAS NOT THERE. I DID NOT SEE HIM.

17 Q THAT'S ALL I HAVE OF THIS WITNESS.

18 MR. ALLEN: NOTHING ON REDIRECT.

19 THE COURT: YOU MAY COME DOWN.

20
21 (WHEREUPON, THE WITNESS WAS
EXCUSED AT THIS TIME.)

22 MR. ALLEN: MR. SIMON HENDLEY.

23 (SIMON HENDLEY, FIRST BEING
24 DULY SWORN, TESTIFIED AS FOLLOWS:)

25 DIRECT EXAMINATION BY MR. ALLEN:

1 Q MR. HENDLEY, IN JULY OF LAST YEAR, WHERE DID YOU
2 LIVE?

3 A 3909 PALMETTO AVENUE.

4 Q DID YOU -- ARE YOU MARRIED? TO WHOM ARE YOU
5 MARRIED IF YOU ARE?

6 A MISS RENEE HENDLEY.

7 Q WHERE DID SHE LIVE IN JULY?

8 A 4025 WINTER PARK DRIVE.

9 Q DID YOU HAVE ANY POSSESSIONS AT MRS. HENDLEY'S
10 RESIDENCE ON WINTER PARK DRIVE?

11 A YES, SIR.

12 Q OKAY. WHAT IN GENERAL DID YOU HAVE THERE?

13 A A PAIR OF BLACK EASY-WALKERS.

14 Q ANYTHING ELSE?

15 A NO, NOT THAT I KNOW OF.

16 Q I SHOW YOU STATE'S EXHIBIT THREE FOR -- STATE'S
17 EXHIBIT THREE. DO YOU KNOW WHAT THESE ARE?

18 A THOSE ARE MY BLACK EASY-WALKERS THAT I HAD AT THE
19 HOUSE.

20 Q YOU SURE ABOUT THAT?

21 A YES, SIR.

22 Q NO FURTHER QUESTIONS, YOUR HONOR.

23 CROSS-EXAMINATION BY MR. GIESE:

24 Q SORRY, I MISSED YOUR NAME?

25 A SIMON HENDLEY.

1 Q SIMON HENDLEY?

2 A YES, SIR.

3 Q AND WHERE DO YOU LIVE?

4 A 3909 PALMETTO AVENUE.

5 Q THAT'S WHERE YOU LIVE NOW?

6 A YES, SIR.

7 Q OKAY. WHERE WERE YOU LIVING ON JULY 23RD?

8 A 3909 PALMETTO AVENUE.

9 Q WERE YOU MARRIED TO MRS. HENDLEY THEN?

10 A YES, SIR.

11 Q BUT YOU JUST WEREN'T LIVING IN THE SAME PLACE?

12 A RIGHT.

13 Q OKAY. DID YOU EVER SEE ANYBODY CRUSH THE HEELS ON
14 THE BACK OF THESE SHOES AND WALK WITH JUST THEIR FEET IN
15 THERE LIKE FLIP-FLOPS?

16 A NO, SIR.

17 Q YOU'VE NEVER SEEN THAT?

18 A NO, SIR.

19 Q YOU'VE NEVER SEEN ANYBODY JUST PUT THEIR FOOT IN
20 THERE IF THEIR FOOT IS TOO BIG AND CRUSH THE BACK HEEL
21 AND WALK THEM LIKE FLIP-FLOPS?

22 A NO, SIR.

23 Q I'M NOT TALKING ABOUT THOSE SHOES. I'M TALKING
24 ABOUT ANY SHOES?

25 A OH, YES, SIR, I'VE SEEN THAT BEFORE.

1 Q OKAY. SO YOU'VE SEEN ON OTHER PEOPLE'S -- NOT IN
2 THOSE SHOES PARTICULARLY, BUT IN OTHER SHOES, YOU'VE SEEN
3 PEOPLE CRUSH THE BACK HEELS OF A SHOE AND WALK IN THEM
4 JUST WITH THEIR FEET IN THEM, IS THAT---

5 A YES, SIR.

6 Q OKAY. YOU SEE IT A LOT, DON'T YOU?

7 A RIGHT.

8 Q I MEAN PEOPLE DO THAT PRETTY REGULARLY DON'T THEY?

9 A RIGHT.

10 Q HAVE YOU EVER DONE IT?

11 A NO, SIR.

12 Q BUT YOU HAVE SEEN OTHER PEOPLE DO IT.

13 A YES, SIR.

14 Q THAT'S ALL I HAVE.

15 MR. ALLEN: NOTHING FURTHER FROM MR. HENDLEY.

16 THE COURT: COME DOWN.

17 (WHEREUPON, THE WITNESS IS
18 EXCUSED AT THIS TIME.)

19 MR. ALLEN: CALL MR. BILL BELCH.

20 (BILL BELCH, FIRST BEING
21 DULY SWORN, TESTIFIED AS FOLLOWS:)

22 DIRECT EXAMINATION BY MR. ALLEN:

23 Q MR. BELCH, WHERE DO YOU WORK?

24 A AT THE RICHLAND COUNTY DETENTION CENTER.

25 Q WHAT DO YOU DO THERE, MR. BELCH?

1 A I'M THE I.D. OFFICER IN CHARGE OF PHOTOGRAPHS AND
2 FINGERPRINT CARDS.

3 Q ARE YOU IN CHARGE OF ANY RECORDS?

4 A RIGHT. CRIMINAL RECORDS.

5 Q WHAT KIND OF RECORDS? WHAT KIND OF RECORDS WOULD
6 BE INCLUDED IN THE RECORDS YOU ARE IN CHARGE OF?

7 A PHOTOGRAPHS AND FINGERPRINTS OF ANYONE BOOKED INTO
8 THE DETENTION CENTER.

9 Q TELL US HOW ARE THE PHOTOGRAPHS OF PEOPLE AT THE
10 DETENTION CENTER TAKEN? WHAT'S THE GENERAL PROCEDURE?

11 A WELL, THE GENERAL PROCEDURE IS ANY TIME SOMEONE IS
12 ARRESTED AND PLACED IN OUR DETENTION CENTER RIGHT AFTER
13 THE BOOKING PROCEDURE WHERE ALL THE PROPERTY IS TAKEN
14 FROM THEM, A BOOKING CARD IS FILLED OUT. AFTER ALL THAT
15 PAPERWORK IS TAKEN CARE OF, THEY ARE TAKEN TO A ROOM
16 ADJACENT TO THE BOOKING OFFICE. THERE THEY ARE FINGERPRINTED
17 AND PHOTOGRAPHED.

18 Q WHO DOES THE PHOTOGRAPHING OR FINGERPRINT PEOPLE
19 WHO ARE BOOKED?

20 A THE OFFICERS ON DUTY AT THAT TIME.

21 Q IT WOULD NOT BE YOU?

22 A NO.

23 Q AND HOW ARE THESE PHOTOGRAPHS AND FINGERPRINT CARDS
24 MAINTAINED?

25 A WELL, EACH MORNING WHEN I GET TO WORK, I GO DOWNSTAIRS

1 IN THE LITTLE SMALL I.D. ROOM, I RETRIEVE THE FINGERPRINT
2 CARDS, THE PHOTOGRAPH CARDS, AND TAKE THEM UP TO MY
3 OFFICE AND FILE THEM.

4 Q NOW, AT MY REQUEST DID YOU BRING A PHOTOGRAPH OF
5 HERBERT BELL, THE DEFENDANT IN THIS CASE?

6 A YES, I DID.

7 Q MAY I HAVE THAT?

8 A (WITNESS COMPLIES.)

9 Q WHAT CAN YOU TELL US ABOUT IN GENERAL HOW THIS
10 PICTURE WAS MADE, WHEN IT WAS MADE, AND THAT SORT OF
11 THING?

12 A THE PHOTOGRAPH WAS MADE ON 7/24/85. JULY 24TH OF
13 '85.

14 Q AND HOW DO YOU KNOW THAT?

15 A HOW DO I KNOW THAT?

16 Q YES.

17 A BECAUSE HE WAS BOOKED INTO THE DETENTION CENTER
18 THAT DAY. AFTER HE WAS BOOKED IN, HIS PROPERTY TAKEN
19 FROM HIM, A BOOKING CARD FILLED OUT, HE MADE HIS PHONE
20 CALLS, HE WAS TAKEN TO THE FINGERPRINT ROOM ADJACENT TO
21 THE BOOKING OFFICE AND THERE OFFICER BOLER FINGERPRINTED
22 HIM AND TOOK HIS PHOTOGRAPH.

23 Q OKAY. ARE THERE ANY NOTATIONS ON THAT PICTURE
24 WHICH INDICATE WHEN AND HOW THAT PICTURE WAS MADE?

25 A ON THE BACK OF THE PHOTOGRAPH IS THE DATE THE

1 PHOTOGRAPH WAS MADE WHICH IS JULY 24, 1985. HERBERT LEE
2 BELL'S NAME IS ON IT---

3 THE SOLICITOR: YOUR HONOR, I MIGHT BE ABLE TO
4 SHORTEN THIS UP. I'VE SEEN THE PICTURE, THE PHOTOGRAPH.
5 I HAVE ABSOLUTELY NO PROBLEM WITH IT BEING PLACED INTO
6 EVIDENCE IF THAT'S WHAT HE WANTS TO DO.

7 MR. ALLEN: THANK YOU.

8 A GREAT.

9 MR. ALLEN: I THEN MOVE THAT IT BE PRESENTED INTO
10 EVIDENCE WITH LEAVE TO SUBSTITUTE A SUITABLE COPY FOR THE
11 RECORD. I IMAGINE THEY NEED THIS PICTURE BACK.

12 THE COURT: MOTION GRANTED IF YOU'LL JUST PLACE A
13 COPY---

14 A WE DON'T REALLY -- IF WHEN THE TRIAL IS THROUGH IF
15 THEY WOULD JUST RETURN IT TO US, THAT WILL BE FINE. NO
16 PROBLEM THERE.

17 MR. ALLEN: THANK YOU.

18 THE COURT: MR. ALLEN, YOU WOULD STILL HAVE TO
19 PUT A XEROXED COPY IN THE RECORD FOR OUR RECORD.

20 MR. ALLEN: YES, YOUR HONOR.

21 (WHEREUPON, DEFENDANT'S
22 EXHIBIT NUMBER FOUR, PHOTOGRAPH, MARKED INTO EVIDENCE AT
23 THIS TIME WITHOUT OBJECTION.)

24 MR. ALLEN: AT THIS TIME IF I MAY PUBLISH THIS TO
25 THE JURY, I HAVE NO FURTHER QUESTIONS OF MR. BELCH.

1 THE SOLICITOR: I HAVE NO QUESTIONS OF THIS
2 WITNESS.

3 THE COURT: YOU MAY COME DOWN. YOU'RE EXCUSED.
4 THANK YOU FOR COMING WITH US.

5 (WHEREUPON, THE WITNESS IS
6 EXCUSED AT THIS TIME.)

7 MR. ALLEN: AT THIS TIME, THE DEFENSE RESTS YOUR
8 HONOR.

9 THE COURT: ANYTHING IN REPLY?

10 THE SOLICITOR: YES, SIR. ONE WITNESS. AT THIS
11 TIME, THE STATE CALLS MR. CHAPMAN.

12 THE COURT: YOU'RE ALREADY UNDER OATH IF YOU WOULD
13 PLEASE HAVE A SEAT IN THE CHAIR.

14 (JAMES CHAPMAN, BEING
15 ALREADY DULY SWORN, RETURNED TO THE WITNESS STAND AND
16 TESTIFIED AS FOLLOWS:)

17 DIRECT EXAMINATION BY MR. GIESE:

18 Q MR. CHAPMAN, I'M NOT GOING TO GO BACK INTO A LOT OF
19 TESTIMONY, BUT I WANT YOU TO FOCUS YOUR TIME INTO JULY
20 24TH, AFTER JAY HAD IDENTIFIED MR. BELL AT MR. BELL'S
21 HOUSE. DO YOU REMEMBER THAT?

22 A YEAH, I DO.

23 Q OKAY. NOW, TELL THE JURY WHAT YOU DID AFTER THAT?

24 A OKAY. I DON'T KNOW THE DATE, BUT EVERYBODY SAYS IT
25 WAS THE 24TH WHEN HE WAS ARRESTED---

1 Q BUT IT WAS THE DATE HE IDENTIFIED HIM?

2 A RIGHT. WELL, IT WAS THE 24TH -- 23RD. AND LIKE I
3 SAY BRUCE WAS DRIVING THE CAR WHICH IS THE DRIVER OF THE
4 CAR. I'M ON THE LEFT HAND SIDE. GARY IS ON THE RIGHT
5 HAND SIDE, THE PASSENGER. JAY IS ON THE RIGHT HAND SIDE
6 IN THE BACKSEAT. AND WHEN MR. BELL WALKED OUT, JAY
7 RECOGNIZED AS HIM. AND HE HOLD HIS HEAD DOWN. HE WAS
8 NERVOUS TRYING TO PUT HIS GLASSES ON.

9 Q OKAY. FURTHER THAN THAT -- LET'S GO A LITTLE
10 FURTHER THAN THAT. AFTER Y'ALL HAD LEFT THE FIRST TIME --
11 IN FACT, AFTER YOU HAD LEFT THE SECOND TIME, WHAT DID YOU
12 DO SPECIFICALLY?

13 A OKAY. AFTER WE LEFT THE SECOND TIME, I WENT BACK
14 HOME AND LAID AROUND THE HOUSE THERE AND THEY TOLD ME
15 THEY HAD ALREADY CALLED THE SHERIFF TO COME PICK UP MR.
16 BELL. SO -- WELL, MY UNDERSTANDING WAS THE SHERIFF WENT
17 DOWN THERE AND THEY DIDN'T GET MR. BELL. SO THAT TIME IT
18 WAS ALREADY GOOD DUSK DARK AND I GOT A CALL THAT WAS MADE
19 TO ME AND TOLD ME TO GO BACK AROUND AND SEE IF MR. BELL
20 WAS THERE. SO WHEN I WENT BACK AROUND WHICH WAS MY THIRD
21 TIME GOING BACK AROUND, MR. BELL WAS STANDING ON THE
22 CORNER WHICH IS ABOUT A BLOCK FROM HIS HOUSE ON THE RIGHT
23 HAND SIDE WITH A BROWN PAPER BAG UNDER HIS ARM. AND THE
24 REASON I CAN SAY THIS, I WAS DRIVING A 1980 RED AND BLACK
25 COUGAR. I WAS GOING WITH MY WIFE TO THE STORE. SHE WAS

1 ON THE RIGHT HAND SIDE AND I WAS DRIVING AND SHE POINTED
2 TO ME. SHE SAID THERE'S HERBERT BELL STANDING RIGHT
3 THERE.

4 Q AND WHAT DID HE HAVE UNDERNEATH HIS ARM?

5 A HE HAD A BROWN PAPER BAG.

6 Q AND APPROXIMATELY HOW LONG WAS THAT AFTER THE
7 SECOND TIME?

8 A WELL, I COULDN'T -- I COULDN'T -- ANYWAY I FIGURE,
9 SAY ANYWHERE FROM THE SECOND TIME MIGHT BE TWO HOURS, TWO
10 HOURS AND A HALF APPROXIMATELY. I COULDN'T SPECIFICALLY
11 STATE IT THAT CLOSE.

12 Q BUT IT WAS FAIRLY SHORT PERIOD OF TIME?

13 A IT WAS SHORT.

14 Q OKAY. AND THE MAN THAT HAD THAT BAG UNDERNEATH HIS
15 ARM WAS HERBERT BELL?

16 A YEAH. WELL, SEE, MR. BELL AND THEY PROBABLY KNOW
17 ME. A LOT OF PEOPLE DOWN THERE KNOW ME BY MY WIFE
18 BECAUSE MY TRUCK WILL BE PARKED IN THE LEFT HAND SIDE OF
19 THE STREET AND A LOT OF PEOPLE WILL SAY CHAPMAN, BUT I
20 DON'T KNOW THEM. AND SHE KNOW MR. BELL, BUT I DON'T.

21 Q OKAY: BUT IT'S THE MAN SEATED IN THE COURTROOM, IS
22 THAT RIGHT?

23 A THAT'S THE MAN THEY SAY IS MR. BELL.

24 Q THAT'S THE MAN WITH THE BAG UNDERNEATH HIS ARM?

25 A RIGHT.

1 Q THAT'S ALL I HAVE.

2 CROSS-EXAMINATION BY MR. ALLEN:

3 Q MR. CHAPMAN, THIS WAS JUST A REGULAR OLD BROWN
4 PAPER BAG?

5 A I COULDN'T SPECIFICALLY SAY, BUT IT LOOKED LIKE ONE
6 OF THE BIG BAGS YOU WOULD GET OUT OF A GROCERY STORE.

7 Q OUT OF A GROCERY STORE. OKAY. I GUESS PEOPLE
8 CARRY PAPER BAGS PRETTY REGULARLY ALL OVER THE NEIGHBORHOOD?

9 A (NO RESPONSE.)

10 Q BRINGING HOME GROCERIES AND STUFF?

11 A WELL, LIKE I SAY, I DON'T KNOW. IF THEY'RE GOING
12 TO BUY GROCERIES, I IMAGINE THEY IS GOING TO HAVE A
13 PAPER BAG.

14 Q OKAY. AND YOU HAVE ABSOLUTELY NO IDEA WHAT WAS IN
15 THAT PAPER BAG?

16 A I REALLY DON'T.

17 Q YOU DIDN'T SEE OR ANYTHING LIKE THAT. AND IT WAS
18 YOU SAID STUCK UP UNDER HIS ARM?

19 A UNDER HIS ARM.

20 Q OKAY. LET'S TALK ABOUT WHEN---

21 A WAIT. COULD I -- EXCUSE ME, COULD I SAY SOMETHING
22 PLEASE?

23 Q WELL---

24 A GO ON WITH YOURS. GO AHEAD.

25 Q YOU FIRST WENT BY MR. BELL'S HOUSE WITH JAY EDENS

1 AND MR. WATTS AND SERGEANT BROWN---

2 A RIGHT. BRUCE.

3 Q ---AROUND SEVEN?

4 A NO, IT WASN'T NO 7 O'CLOCK. LIKE I SAID I DON'T
5 SPECIFICALLY KNOW WHAT TIME IT WAS.

6 Q ALL RIGHT, SIR. WELL, WHAT YOU ARE SAYING IS THAT
7 IT'S ABOUT TWO TO TWO AND A HALF HOURS AFTER MR. EDENS
8 MADE THIS IDENTIFICATION OF MR. BELL THAT YOU SAW MR.
9 BELL WITH THIS PAPER BAG, IS THAT CORRECT?

10 A I'M SAYING APPROXIMATELY. I'M NOT GOING TO PROMISE
11 YOU -- I'M NOT GOING TO SAY FOR SURE.

12 Q WELL, COULD IT HAVE BEEN LESS THAN TWO?

13 A IT COULD HAVE BEEN LESS THAN TWO.

14 Q HOW MUCH LESS THAN TWO?

15 A I'M TELLING YOU RIGHT NOW I DON'T KNOW.

16 Q YOU DON'T KNOW. TO YOUR BEST APPROXIMATION IT WAS
17 AROUND TWO TO TWO AND A HALF HOURS, RIGHT?

18 A THAT'S WHAT I WOULD SAY.

19 Q OKAY. THAT'S ALL I HAVE. THANK YOU.

20 THE SOLICITOR: THAT'S ALL FROM THE WITNESS, YOUR
21 HONOR. AND THAT'S ALL THE STATE HAS IN REPLY.

22 THE COURT: YOU MAY COME DOWN.

23 (WHEREUPON, THE WITNESS IS
24 EXCUSED AT THIS TIME.)

25 THE COURT: DOES THE STATE WAIVE OPENING ARGUMENT?

1 MR. GIESE: YOUR HONOR, I BELIEVE MR. BLINCOW IS
2 GOING TO ARGUE FOR JUST A VERY SHORT TIME AND THEN I'LL
3 FINISH UP.

4 THE COURT: YOU MAY PROCEED.

5 MR. BLINCOW: MAY IT PLEASE THE COURT, YOUR HONOR?

6 MR. ALLEN: MAY I INTERRUPT. SHOULD WE HAVE THE
7 MOTIONS---

8 THE COURT: LADIES AND GENTLEMEN, I'D ASK YOU TO
9 PLEASE GO TO THE JURYROOM WHILE I DISCUSS MATTERS OF LAW
10 WITH THE ATTORNEYS.

11 (JURY OUT.)

12 MR. ALLEN: YOUR HONOR, THIS WILL BE REAL SHORT. I
13 JUST WANT TO MAKE FOR THE RECORD MY MOTION FOR A DIRECTED
14 VERDICT AT THE CONCLUSION OF OUR CASE BASED ON THE GROUNDS
15 WHICH I EARLIER STATED AS WELL AS BASED ON ALL THE
16 EVIDENCE NOW INTO THE RECORD THAT I WOULD SUBMIT TO THE
17 COURT A DIRECTED VERDICT WOULD BE PROPER AT THIS TIME.

18 THE COURT: THIS IS A QUESTION OF FACT FOR THE
19 JURY. IT DEPENDS UPON WHO THEY BELIEVE SO THAT MOTION IS
20 DENIED.

21 MR. ALLEN: YES, YOUR HONOR.

22 THE COURT: HOW LONG DOES EITHER SIDE PLAN TO
23 ARGUE?

24 MR. GIESE: YOUR HONOR, AS YOU JUST STATED BASICALLY
25 THIS IS GOING TO BE A CREDIBILITY QUESTION FOR THE JURY.

1 FOR THAT REASON, I DON'T THINK I'M GOING TO ARGUE THAT
2 LONG. I DON'T KNOW. TWENTY MINUTES AT THE MOST.

3 MR. ALLEN: BASICALLY MY ARGUMENT I WOULD EXPECT
4 ANYWHERE FROM TWENTY TO THIRTY.

5 THE COURT: I WON'T LIMIT EITHER SIDE. BUT WE'LL
6 GO AHEAD WITH ARGUMENTS THEN. GIVE ME THE JURY, PLEASE.

7 (JURY IN.)

8 MR. BLINCOW: MAY IT PLEASE THE COURT, YOUR HONOR?
9 MR. FOREMAN AND LADIES AND GENTLEMEN, WE'RE AT THE --
10 ESSENTIALLY AT THE END OF THE TRIAL. ALL OF THE TESTIMONY
11 IS IN. ALL THE EXHIBITS THAT ARE COMING IN ARE IN. WHAT
12 IS LEFT IS FOR THE LAWYERS INVOLVED TO GIVE A FINAL
13 ARGUMENT AND THEN THE JUDGE'S CHARGE ON THE LAW. I WOULD
14 LIKE TO DISCUSS THE LAW WITH YOU FOR A MINUTE.

15 OF COURSE, IT'S THE -- THE LAW OF KIDNAPPING IN OUR
16 STATE IS RELATIVELY SIMPLE. IT'S A STATUTORY LAW. IT'S
17 DEFINED IN THE STATUTE. HIS HONOR WILL READ IT TO YOU IN
18 A MINUTE, BUT IT ESSENTIALLY INVOLVES TAKING SOMEONE AWAY
19 AGAINST THEIR WILL. SEIZING SOMEONE AND CARRYING HIM
20 AWAY AGAINST HIS WILL. IT DOES NOT REQUIRE IN OUR STATE
21 THAT IT LAST FOR ANY LENGTH OF TIME. THE LAW DOES NOT
22 REQUIRE THAT A RANSOM NOTE OR A DEMAND FOR MONEY BE
23 PROVIDED. SIMPLY THAT SOMEONE HAS TAKEN AWAY OR SEIZED
24 OR CONFINED AGAINST THEIR WILL.
25 THE LAW DOES NOT REQUIRE THAT A GUN OR A KNIFE BE INVOLVED.

1 SO IT'S RELATIVELY A SIMPLE STATUTORY OFFENSE WHICH HIS
2 HONOR WILL READ TO YOU IN JUST A MINUTE. WHAT YOU'VE GOT
3 TO DECIDE IS ESSENTIALLY WHAT HAPPENED; THAT IS, TO
4 DECIDE THE FACTS. DECIDE WHETHER OR NOT JAY EDENS WAS
5 KIDNAPPED BY MR. BELL AND DECIDE WHETHER OR NOT THE STATE
6 HAS PROVEN THIS TO YOU BEYOND A REASONABLE DOUBT.

7 A REASONABLE DOUBT HAS BEEN DEFINED IN THE LAW AS
8 BEING A SUBSTANTIAL DOUBT, A REAL DOUBT, A DOUBT FOR
9 WHICH YOU CAN GIVE A REASON. IT'S NOT A WEAK DOUBT OR A
10 SLIGHT DOUBT BECAUSE ACTUALLY YOU CAN DOUBT ANYTHING IF
11 YOU HAD A MIND TO. THE LAW DEFINES REASONABLE DOUBT AS
12 OUR BURDEN OF PROOF OF PROVING TO YOU THAT THIS HAPPENED
13 BEYOND A REASONABLE DOUBT, A SUBSTANTIAL DOUBT. I ASK
14 YOU TO CONSIDER THAT.

15 THE LAW SUGGESTS YOU TAKE A COMMON SENSE APPROACH
16 IN REACHING THE TRUTH, FINDING THE TRUTH, DECIDING WHAT
17 HAPPENED. AND THE LAW SUGGESTS THAT YOU LOOK AT THE
18 CREDIBILITY OR THE BELIEVABILITY OF THE WITNESSES. THIS
19 WOULD INVOLVE ANALYZING OR CONSIDERING THE Demeanor OR
20 THE APPEARANCE OF THE WITNESSES ON THE STAND. IT WOULD
21 INVOLVE DETERMINING WHO HAS AN INTEREST IN THE OUTCOME.
22 WHO HAS A REASON FOR LYING AND WHO DOESN'T.

23 THE SAME KIND OF APPROACH, A COLLECTIVE, ALL TWELVE
24 OF YOU, CONSIDER A COMMON SENSE APPROACH IN DETERMINING
25 WHETHER OR NOT THIS THING HAPPENED AND WHETHER OR NOT THE

1 STATE HAS PROVEN TO YOU BEYOND A REASONABLE DOUBT THAT IT
2 HAPPENED.

3 THE LAST THING I WOULD LIKE TO MENTION IS THE ALIBI
4 DEFENSE. MR. BELL HAS ASSERTED AN ALIBI DEFENSE AND THAT
5 IS -- YOU KNOW EXACTLY WHAT THAT IS TOO. IT INVOLVES
6 BEING AT ANOTHER SPECIFIED PLACE AT THE TIME THE OFFENSE
7 OCCURRED. AND THE WAY THAT THESE THINGS WORK IS SIMPLE
8 AS WELL. IT INVOLVES -- THE DEFENDANT DOES NOT HAVE TO
9 PROVE THAT HE WAS AT ANOTHER PLACE AT THE TIME IT
10 OCCURRED. THE STATE HAS TO PROVE THAT HE WAS AT THE
11 SCENE OF THE CRIME. AND YOU HAVE TO BE SATISFIED OF THIS
12 BEYOND A REASONABLE DOUBT. SO I WOULD ASK YOU TO
13 CONSIDER TO MR. BELL'S ALIBI DEFENSE; THAT IS, HE WAS NOT
14 AT THE SCENE. AND CONSIDER THE TESTIMONY YOU'VE HEARD
15 FROM THE WITNESS STAND TENDS TO PROVE OTHERWISE; THAT IS,
16 THAT HE WAS AT THE SCENE. THAT HE WAS AT TONY'S RESTAURANT
17 AND SO FORTH. AND CONSIDER ALL THAT.

18 SPECIFICALLY WHAT YOU'VE GOT TO DO IS FIND THE
19 TRUTH. THE LAW SAYS USE THE COMMON SENSE APPROACH.
20 WEIGH EVERYTHING YOU'VE HEARD FROM THE WITNESSES. TAKE
21 WHAT YOU'VE HEARD FROM THIS WITNESS STAND, COMBINE IT
22 WITH THE LAW THAT HIS HONOR WILL GIVE YOU ON KIDNAPPING
23 IN JUST A MINUTE AND DECIDE WHETHER OR NOT THE STATE HAS
24 MET THEIR BURDEN AND THAT IS WHETHER OR NOT THE STATE HAS
25 PROVEN TO YOU THAT THIS HAS HAPPENED. THAT MR. EDENS WAS

1 KIDNAPPED ON JULY 23RD. THAT HE WAS KIDNAPPED BY MR.
2 BELL.

3 THAT'S ESSENTIALLY ALL I HAVE. I WOULD LIKE TO
4 THANK YOU FOR YOUR CONSIDERATION. AND I WILL SIT DOWN
5 NOW AND TURN IT OVER TO MR. ALLEN. THANK YOU.

6 (WHEREUPON, CLOSING ARGUMENTS
7 WERE PRESENTED AT THIS TIME BY ASSISTANT PUBLIC DEFENDER,
8 MR. ALLEN, ON BEHALF OF THE DEFENDANT, BELL.)

9 MR. GIESE: MAY IT PLEASE THE COURT, YOUR HONOR?

10 THE COURT: SOLICITOR?

11 MR. GIESE: MR. FOREMAN AND LADIES AND GENTLEMEN OF
12 THE JURY, IT MIGHT REALLY SURPRISE YOU WHEN I TELL YOU
13 THAT THERE ARE SOME THINGS THAT MR. ALLEN AND MYSELF
14 AGREE ON IN THIS CASE. WHAT WE AGREE ON, I BELIEVE, IS
15 THAT SOMETHING HAPPENED THAT DAY, JULY 23, 1985. MR.
16 ALLEN SAYS THE ONLY ISSUE IN THIS CASE IS IDENTIFICATION
17 AND I AGREE WITH HIM AND I AGREE WITH HIM TOTALLY.

18 MR. ALLEN TOLD YOU THAT'S THE ONLY ISSUE AND,
19 LADIES AND GENTLEMEN, THAT IS THE ISSUE THAT YOU SHOULD
20 CONCERN YOURSELF WITH.

21 NOW, THERE ARE SOME THINGS THAT I DON'T AGREE WITH
22 MR. ALLEN ON. AND ONE OF THOSE IS COMPARING THIS CASE TO
23 A MOVIE. AN ALFRED HITCHCOCK MOVIE BECAUSE, LADIES AND
24 GENTLEMEN, THAT IS MAKE BELIEVE. THAT IS SOMETHING THAT
25 WAS DONE TO SELL THE MOVIE. THAT IS NOT REAL LIFE. THIS

1 IS REAL LIFE.

2 LET'S GO OVER WHAT WE HAVE. WE HAVE A FIFTEEN-
3 YEAR-OLD BOY YOUNG, INEXPERIENCED, WORKING FOR HIS FATHER
4 IN THE SUMMER. HE GOES TO THE STORE TO PICK UP SOME FOOD
5 AND SOMEONE FORCES HIS WAY INTO THE CAR. MAKES HIM DRIVE
6 AROUND RICHLAND COUNTY. DOWN BACK ROADS. GETS TO ONE
7 POINT IN RICHLAND COUNTY, THE TRUCK WON'T GO ANY FURTHER,
8 THE MAN LOOKS AT HIM AND SAYS, WE'RE GETTING OUT FOR A
9 WALK.

10 NOW, LADIES AND GENTLEMEN, I DON'T KNOW ABOUT YOU,
11 BUT I AM VERY, VERY GLAD THAT JAY EDENS GOT OUT OF THAT
12 TRUCK AND RAN. I'M GLAD THAT JAY EDENS DID NOT GET OUT
13 OF THAT TRUCK AND GO WITH MR. BELL. HEAVENS KNOWS WHAT
14 WE WOULD BE DOING HERE NOW IF HE HAD. NOW, YOU MIGHT SAY
15 JAY EDENS SHOULD HAVE LEFT EARLIER, HE SHOULD HAVE GOTTEN
16 AWAY EARLIER THAN THAT, WELL, LADIES AND GENTLEMEN, I
17 SUBMIT TO YOU JAY EDENS DID THE BEST HE COULD UNDER A
18 VERY TRYING AND DIFFICULT SITUATION.

19 LET'S LOOK AT THE DEFENSE MR. BELL HAS PUT UP.
20 WHAT DEFENSE WAS THAT? YOU'VE GOT THE WRONG MAN. NOT
21 THAT A KIDNAPPING HAPPENED OR NOT, BUT THAT YOU'VE GOT
22 THE WRONG MAN. AND WHO DID HE PUT UP TO SAY HE HAD THE
23 WRONG MAN? ONE, HE PUT UP MR. BELL HIMSELF. MR. BELL
24 GOT UP HERE ON THE STAND, SWORE AN OATH ON THE BIBLE AND
25 TOLD YOU SOME THINGS THAT DIDN'T MAKE SENSE. DIDN'T. HE

1 TOLD YOU THINGS THAT HIS OWN WITNESSES CONTRADICTED LATER
2 ON IN THE TESTIMONY. HE TOLD YOU THINGS THAT WELL, I
3 NEVER SAW ANYBODY ON JULY 23, 1985.

4 RENEE HENDLEY GOT UP ON THE STAND AND SAID YEAH, WE
5 SAW SOMEBODY ON THE 23RD. WE SAW GARY WATTS AND MR.
6 CHAPMAN. WHEN I ASKED THE DEFENDANT HE SAID NO, NO, I
7 DON'T REMEMBER. I JUST DON'T REMEMBER. WELL, THEY CAN'T
8 EVEN GET THEIR STORIES STRAIGHT, LADIES AND GENTLEMEN.

9 NOW, HE THEN PUT UP MRS. GUNTER. MRS. GUNTER WHO
10 HAD HAD A DIABETIC COMA THE DAY BEFORE AND FALLEN AND
11 HURT HER MOUTH, SHE SAID HEY, HE WAS IN THE HOUSE ALL DAY
12 LONG, ALL DAY LONG. OKAY. MRS. GUNTER WHO SAID SHE
13 LOVED MR. BELL. I SAID WELL, WERE YOU FEELING ANY AFTER
14 EFFECTS OF THE FALLING OF THE COMA? NO, I WAS FINE. I
15 KNOW HE WAS THERE. I SAW HIM THE WHOLE TIME HE WAS
16 THERE. WELL, HE DIDN'T SEE HIM -- SHE DIDN'T SEE HIM THE
17 WHOLE TIME HE WAS THERE, LADIES AND GENTLEMEN, BECAUSE IN
18 HER OWN TESTIMONY, SHE TOLD YOU SHE TOOK A BATH. DID SHE
19 SAY HOW LONG SHE TOOK A BATH FOR? NO. IT COULD HAVE
20 BEEN A PRETTY LONG TIME.

21 HE PUT UP MRS. FRUSTER. WHY DID THEY PUT UP MRS.
22 FRUSTER. ASK YOURSELF. I STILL DON'T KNOW. MRS.
23 FRUSTER'S TESTIMONY WAS SHE DROPPED THE KIDS OFF AT 7
24 O'CLOCK AND PICKED THEM UP AGAIN AT 4:30. SHE DOESN'T
25 KNOW WHAT HAPPENED FROM 7 O'CLOCK TO 4:30. SHE HAS NO

1 EARTHLY IDEA WHAT HAPPENED. SO MRS. FRUSTER, YOU CAN
2 FORGET ABOUT HER TESTIMONY. SHE HAD NOTHING TO DO WITH
3 THIS CASE.

4 AND FINALLY THEY PUT UP RENEE HENDLEY. NOW, MRS.
5 HENDLEY WHO IS THE SISTER-IN-LAW OF MR. BELL GOT UP HERE
6 TODAY AND SHE TOLD YOU THAT SOMEONE CAME BY THERE ON JULY
7 23RD. THEY SAW THEM. AND IT WAS GARY WATTS HIMSELF
8 WHICH, OF COURSE, CONTRADICTED MR. BELL'S TESTIMONY THE
9 DAY BEFORE.

10 NOW, ON THE 24TH SHE STATES SURE ENOUGH MR. WATTS
11 AND MR. CHAPMAN SHOWED UP AND THE THIRD MAN IN THE CAR
12 WHO IS NOW IN THE MILITARY WHO CAN'T BE HERE TODAY THEY
13 SHOWED UP; BUT WHO WASN'T IN THE CAR? SHE SAYS WELL, JAY
14 EDENS WASN'T IN THE CAR. WHAT DOES THAT TELL YOU, LADIES
15 AND GENTLEMEN? WHAT DOES THAT TELL YOU ABOUT RENEE
16 HENDLEY'S CREDIBILITY? I TELL YOU ONE THING. IT TELLS
17 YOU ONE THING. IT TELLS YOU EITHER RENEE HENDLEY GOT UP
18 HERE, SWORN AN OATH ON THIS BIBLE AND TOLD A LIE OR THAT
19 JAY EDENS GOT UP HERE SWORE AN OATH ON THAT BIBLE AND
20 LIED AND MR. CHAPMAN, WHO IS A LONG-DISTANCE TRUCK DRIVER
21 WHO GOT OFF HIS WORK TO BE HERE FOR TWO DAYS GOT UP HERE,
22 SWORE AN OATH ON THE BIBLE AND LIED THAT JAY EDENS WAS IN
23 THAT CAR AND THAT GARY WATTS GOT UP HERE ON THIS WITNESS
24 STAND, SWORE AN OATH ON THE BIBLE AND LIED.

25 NOW, LADIES AND GENTLEMEN, SOMEONE IS NOT TELLING

1 THE TRUTH ABOUT WHETHER JAY EDENS WAS IN THAT CAR. AND
2 YOU'VE GOT TO DECIDE WHICH ONES.

3 MR. ALLEN ALSO BROUGHT SOME OTHER THINGS UP THAT I
4 WANT TO TALK TO YOU ABOUT. THE FIRST ONE IS THE FACT
5 THAT THE PERSON THAT KIDNAPPED JAY EDENS, HIS NAME WAS
6 TONY. HE MADE A BIG POINT ABOUT THE FACT WELL, YOU'VE
7 GOT THE WRONG MAN BECAUSE TONY IS THE ONE WHO KIDNAPPED
8 HIM. NOW, THINK ABOUT IT, LADIES AND GENTLEMEN, IF IT
9 WERE YOU KIDNAPPING SOMEONE, IF IT WERE YOU THAT WAS
10 GOING TO FORCE SOMEBODY TO TAKE THEM SOMEWHERE, NO MATTER
11 WHAT YOUR INTENTIONS WERE, WOULD YOU GIVE THEM YOUR RIGHT
12 NAME? YOU'D TELL THEM ANOTHER NAME. I DON'T KNOW ABOUT
13 Y'ALL, BUT IF I WAS GOING TO FORCE SOMEBODY TO TAKE ME
14 SOMEWHERE I CERTAINLY WOULDN'T USE THE NAME BARNEY. I
15 MIGHT USE MY BROTHER'S NAME, BUT I'M NOT GOING TO USE MY
16 NAME.

17 NOW, THE OTHER THING MR. ALLEN MADE A BIG POINT
18 ABOUT WAS DESCRIPTION. WELL, HE MADE ALL THESE HORRIBLE
19 MISTAKES WITH THE DESCRIPTION. LADIES AND GENTLEMEN, THE
20 STATE SUBMITS TO YOU HIS DESCRIPTION WAS PRETTY DARN
21 CLOSE TO WHAT MR. BELL LOOKS LIKE. TALL -- FAIRLY TALL.
22 SOMEONE SAYS 5'10", 6 FOOT, 6'1". NOT A WHOLE LOT OF
23 DIFFERENCE THERE. SLENDER, BUT MUSCULAR BUILD, MUSTACHE.
24 MR. ALLEN MADE A BIG POINT, WELL, HE DIDN'T SEE THE SCARS
25 ON HIS FACE. DIDN'T SEE THE SCARS. LADIES AND GENTLEMEN,

1 I STOOD RIGHT HERE AND I COULDN'T SEE THE SCARS AND I
2 SPENT 15 MINUTES CROSS-EXAMINING HIM. HIS DESCRIPTION
3 THE STATE SUBMITS IS NOT THAT BAD. IN FACT, I THINK IT'S
4 GOOD. WE THINK IT'S GOOD. THAT'S WHY WE PUT IT INTO
5 EVIDENCE.

6 WHERE IS THE CLOTHING? ANOTHER ISSUE HE BROUGHT
7 UP. WHERE IS THE CLOTHING? I DON'T KNOW. I WISH WE DID
8 KNOW. THE SEARCH WARRANT WAS SERVED 31 HOURS AFTER THIS
9 INCIDENT TOOK PLACE. IT WAS SERVED SIX HOURS AFTER
10 HERBERT LEE BELL KNEW THAT HE WAS IN TROUBLE. BECAUSE IT
11 WAS SERVED SIX HOURS AFTER GARY WATTS AND MR. CHAPMAN
12 WENT BY THERE. IT WAS SERVED SIX HOURS AFTER HERBERT
13 BELL MADE THIS STATEMENT TO GARY WATTS, YES, I'M THE GUY
14 WHO DID IT. NOW, THINK ABOUT IT LADIES AND GENTLEMEN.
15 IF YOU HAD SIX HOURS TO GET RID OF THE CLOTHING YOU WERE
16 WEARING, WHAT WOULD YOU DO? CERTAINLY GET IT OUT OF THE
17 HOUSE.

18 NOW, ISN'T THIS A COINCIDENCE. WHAT A COINCIDENCE.
19 MR. ALLEN WANTS YOU TO BELIEVE -- WHAT A COINCIDENCE.
20 LESS THAN TWO HOURS LATER, FOUR HOURS BEFORE THE SEARCH
21 WARRANT WAS SERVED, HERBERT LEE BELL HAD A BAG UNDER HIS
22 ARM. HAD LEFT THE HOUSE AND HAD A BAG UNDER HIS ARM.
23 WHAT A COINCIDENCE. PURELY COINCIDENCE. THAT'S WHAT HE
24 WANTS YOU TO BELIEVE.

25 NOW, AS I TOLD YOU BEFORE IDENTIFICATION IS A KEY

1 ISSUE IN THIS CASE. VERY QUICKLY LET'S GO OVER JAY
2 EDENS' TESTIMONY BECAUSE JAY EDENS IS AN IMPORTANT
3 WITNESS IN THIS CASE AS YOU KNOW. JAY EDENS WAS WITH
4 THIS GENTLEMAN FOR 30 TO 35 MINUTES. NOW, I JUST LOOKED
5 UP AT THE CLOCK. YOU REMEMBER WHEN MR. BLINCOW STOOD UP
6 HERE AND BEGAN HIS TALK TO YOU. THAT WAS 35 MINUTES---

7 MR. ALLEN: OBJECTION, YOUR HONOR, HE'S GETTING TO
8 FACTS NOT IN EVIDENCE.

9 MR. GIESE: ---I'M JUST POINTING OUT IT'S BEEN 35
10 MINUTES, YOUR HONOR.

11 THE COURT: ALL RIGHT, SIR. DO NOT ARGUE MATTERS
12 THAT ARE NOT IN EVIDENCE.

13 MR. GIESE: OKAY. DO THIS. GO BACK TO YOUR
14 JURYROOM. WHEN YOU START TO DELIBERATE, I WANT YOU TO
15 LOOK AT YOUR CLOCK -- YOUR WATCH. THIRTY-FIVE MINUTES
16 LATER, I WANT YOU TO LOOK BACK AT YOUR WATCH AND THAT IS
17 HOW LONG JAY EDENS HAD TO BE WITH HERBERT BELL. NOW, MR.
18 ALLEN SAYS THAT HE ONLY LOOKED AT HIM FOR A MINUTE TO A
19 MINUTE AND 25 SECONDS. I'M NOT GOING TO BORE YOU BY
20 STANDING HERE WATCHING MY WATCH AND LETTING IT RUN FOR A
21 MINUTE TO A MINUTE AND 25 SECONDS. I SUGGEST YOU GO BACK
22 TO YOUR JURYROOM. AND YOU'VE GOT A MINUTE TO A MINUTE AND
23 25 SECOND RUN. AND I WANT YOU TO TELL EACH OTHER AND
24 DECIDE WHETHER YOU WOULD REMEMBER SOMEBODY THAT WAS WITH
25 YOU FOR 35 MINUTES AND LOOKED AT YOUR FACE AND TALKED TO

1 YOU FOR A MINUTE AND 25 SECONDS. THE STATE SUBMITS THAT
2 IS AN EXTENSIVE PERIOD OF TIME. IT IS A LONG PERIOD OF
3 TIME FOR SOMEONE TO LOOK AT YOUR FACE AND SAY SOMETHING
4 TO YOU. REMEMBER THE WORDS THAT JAY SAID ON THE STAND
5 YESTERDAY WHEN HE WAS BEING CROSS-EXAMINED BY MR. ALLEN.
6 I WROTE THEM DOWN. THIS IS A QUOTE. "YOU DON'T FORGET A
7 MAN THAT KIDNAPPED YOU." A MAN YOU WERE WITH FOR 35
8 MINUTES. A MAN THAT MADE YOU DRIVE ALL OVER RICHLAND
9 COUNTY. A MAN WHO DRAGGED YOU BY THE ARM, TOOK SOME KEYS
10 FROM YOU, TOLD YOU TO GET IN THE WOODS WITH HIM. IF YOU
11 THINK SOMEONE CAN FORGET A PERSON WHO DID THAT TO THEM --
12 THAT'S WHAT MR. ALLEN WANTS YOU TO BELIEVE.

13 NOW, LET'S TALK ABOUT THE IDENTIFICATION PROCEDURES
14 USED VERY QUICKLY. AFTER THIS HAPPENED JAY WAS SCARED.
15 THAT DAY HE WENT DOWN AND MADE A STATEMENT. WENT DOWN TO
16 THE POLICE DEPARTMENT AND MADE A STATEMENT WHICH YOU'VE
17 HEARD ABOUT. DIDN'T TRY TO IDENTIFY ANYONE THAT NIGHT.
18 THEY GOT A SUSPECT. THE POLICE, INVESTIGATOR WICKER,
19 DOING HIS JOB GOT A PHOTO LINEUP TOGETHER WITH THE
20 SUSPECT IN IT. THEY GOT A TIP. SOMEONE MATCHING THAT
21 DESCRIPTION. YOU'LL HAVE THIS BACK IN THE JURYROOM WITH
22 YOU AND I WANT YOU TO LOOK AT IT. THIS IS STATE'S
23 EXHIBIT NUMBER ONE AND I WANT YOU TO LOOK VERY CLOSELY AT
24 IT WHEN YOU GET BACK THERE. JAY LOOKED AT IT FOR AN
25 EXTENSIVE PERIOD OF TIME. DID HE PICK ANYONE OUT? DID

1 HE TRY AND FRAME AS HERBERT BELL TOLD YOU FRAME ONE OF
2 THESE SIX PEOPLE? NO. I ASKED HIM WHY HE DIDN'T PICK
3 ANYONE OUT. HE SAID BECAUSE THE MAN THAT KIDNAPPED ME
4 WASN'T IN HERE. IT MAKES PERFECT SENSE. SO WHAT DID
5 THEY DO? THEY WENT HOME. THEY SAID ALL WE CAN DO NOW IS
6 DRIVE AROUND. THAT SAME AFTERNOON AROUND 4:30, MR.
7 CHAPMAN, MR. WATTS, BRUCE, AND JAY EDENS GOT INTO A CAR
8 AND DROVE AROUND THAT AREA WHICH MAKES PRETTY GOOD SENSE.

9 NOW, WHEN THEY GOT OVER THERE, WHAT DID THEY DO?
10 DROVE AROUND, LOOKED AROUND THE SCENE. BY ALL THREE OF
11 THEIR TESTIMONY 50 TO 75 PEOPLE THAT COULD HAVE FIT THE
12 DESCRIPTION WERE SEEN. NOW, I DON'T KNOW ABOUT YOU, BUT
13 IF JAY EDENS WAS GOING TO FRAME SOMEBODY, DON'T YOU THINK
14 HE WOULD HAVE PICKED ONE OF THOSE. FIFTY TO 70 PEOPLE.
15 DID HE PICK ANY OF THOSE PEOPLE OUT? NO AND I ASKED HIM
16 WHY. HE SAID BECAUSE NONE OF THEM KIDNAPPED ME. IT
17 MAKES SENSE. THEY THEN WENT TO A HOUSE ON WINTER PARK
18 AND AS WE HAVE ALL HEARD AT THAT TIME MR. BELL, THE
19 DEFENDANT GOT DOWN OFF THE STAIRS, HE IMMEDIATELY SAID
20 THAT'S THE MAN. I ASKED HIM WHY DID YOU SAY THAT'S THE
21 MAN. HE SAID BECAUSE IT WAS. I NOTICED HIM AS SOON AS
22 HE DID IT. AND WHAT INTERESTING HAPPENED, HAPPENED IN
23 THAT CAR? WHAT HAPPENED IN THAT CAR? YOU HEARD FROM MR.
24 CHAPMAN AND MR. WATTS. WHAT WAS JAY'S REACTION WHEN HE
25 FIRST SAW THAT MAN? TURNED THREE SHADES OF RED, BECAME

1 VERY NERVOUS AND WANTED TO GET OUT OF THERE. WHY IS
2 THAT? DOESN'T THAT MAKE SENSE TO YOU WHY THAT IS?
3 BECAUSE JAY HAD SEEN THE MAN THAT HE SPENT 35 MINUTES
4 WITH THE DAY BEFORE. JAY HAD SEEN THE MAN WHO TRIED TO
5 TAKE HIM INTO THE WOODS. THAT'S WHY HE GOT UPSET.
6 SEVENTY-SIX PEOPLE LATER, JAY HAD FINALLY FOUND THE RIGHT
7 GUY. IS THAT WHAT SOUNDS LIKE SOMEBODY WHO IS TRYING TO
8 FRAME SOMEBODY? WHAT DID THEY DO? TOOK HIM DOWN TO THE
9 SHERIFF'S DEPARTMENT -- HERE AGAIN YOU CAN HAVE THIS BACK
10 IN YOUR ROOM WITH YOU -- SHOWED HIM A PHYSICAL LINEUP --
11 A PHOTO LINEUP. INVESTIGATOR BROWN DID THIS. LOOKED AT
12 THEM AND SURE ENOUGH HE SAID NO DOUBT IN MY MIND. EXACTLY
13 WHAT THE POLICE OFFICER TESTIFIED HE SAID. IT'S NUMBER
14 FIVE. NO DOUBT IN MY MIND. THIS IS THE MAN THAT MR.
15 BELL WOULD WANT YOU TO KNOW HAS FRAMED HIM. THIS IS THE
16 MAN WHO MR. ALLEN WANTS YOU TO BELIEVE IS MISTAKEN.

17 AFTER HE HAD IDENTIFIED MR. BELL AT HIS HOUSE OR AT
18 THE HOUSE HE LEFT THAT HE WAS STAYING IN AT THE TIME,
19 WHAT DID HE DO? HE TOOK JAY BACK BECAUSE HE WAS TOO
20 SCARED TO STAY THERE. MR. WATTS AND MR. CHAPMAN DROVE
21 BACK IN A BLAZER WHICH IS A VERY LARGE CAR. THE CAR IS
22 RUNNING. MR. BELL CAME DOWN THE STAIRS AGAIN. GOT RIGHT
23 UP TO MR. WATTS AND WHAT HAD HAPPENED AT THAT TIME? MR.
24 WATTS SAID WHY DIDN'T YOU TELL ME YESTERDAY THAT YOU WERE
25 THE MAN? ANSWER: I DON'T KNOW WHY, BUT I AM THE MAN.

1 LADIES AND GENTLEMEN, MR. ALLEN CALLS THAT A
2 STATEMENT. I CALL IT A CONFESSION. THIS WHOLE CASE,
3 LADIES AND GENTLEMEN, HAVE COME DOWN TO ONE THING.
4 CREDIBILITY. CREDIBILITY. WHO CAN YOU BELIEVE AND WHO
5 CAN'T YOU BELIEVE. WHO HAS A REASON TO LIE, WHO HAS A
6 REASON TO TELL THE TRUTH. ONE OF THE FACTORS THAT YOU
7 CAN PUT INTO CONSIDERATION ABOUT SOMEONE TELLING THE
8 TRUTH OR TELLING A LIE ARE CRIMES OF MORAL TURPITUDE.
9 LADIES AND GENTLEMEN, MR. BELL IS FRAUGHT WITH CRIMES OF
10 MORAL TURPITUDE. THAT'S SOMETHING YOU CAN CONSIDER IN
11 YOUR DELIBERATIONS OF WHO IS TELLING THE TRUTH BECAUSE IT
12 COMES DOWN TO REALLY BASIC, BASIC THINGS. AND THAT'S WHY
13 WE HAVE TWELVE PEOPLE ON THE JURY SO THEY CAN ALL USE
14 THEIR COMMON SENSE TO DECIDE WHO IS TELLING THE TRUTH.
15 IT COMES DOWN TO SOME BASIC THINGS. EITHER YOU BELIEVE
16 JAY EDENS, GARY WATTS, MR. CHAPMAN OR YOU BELIEVE HERBERT
17 BELL, RENEE HENDLEY, AND MRS. GUNTER BELL.

18 LADIES AND GENTLEMEN, THERE'S ABSOLUTELY NO WAY YOU
19 CAN BELIEVE ALL OF THEM AND COME BACK WITH A VERDICT.
20 YOU KNOW IT ALWAYS AMAZES ME WHENEVER I TRY A CASE HOW
21 MUCH POWER A JURY HAS. AND YOU DO. JURIES HAVE THE
22 POWER OVER LIFE AND DEATH BASICALLY. IT'S Y'ALL'S
23 DECISION AS TO THE FACTS OF THE CASE. IT ALWAYS AMAZES
24 ME HOW MUCH POWER YOU HAVE, BUT YOU KNOW THE POWER YOU
25 DON'T HAVE, THE ONE POWER YOU DON'T HAVE AND THAT IS TO

1 GO IN THIS YOUNG MAN'S BRAIN AND WIPE OUT -- WIPE OUT
2 THIS NIGHTMARE. BECAUSE, LADIES AND GENTLEMEN, THAT IS
3 EXACTLY WHAT THIS IS. FIFTEEN YEARS FROM NOW, 20 YEARS
4 FROM NOW, 30 YEARS FROM NOW, THIS YOUNG MAN IS STILL
5 GOING TO REMEMBER THIS; BUT YOU KNOW THE POWER YOU DO
6 HAVE -- THE POWER YOU DO HAVE IS TO SHOW JUSTICE IN THIS
7 CASE. AND, LADIES AND GENTLEMEN, THE STATE SUBMITS THAT
8 THE ONLY JUSTICE IN THIS CASE IS A GUILTY VERDICT OF
9 KIDNAPPING AGAINST HERBERT LEE BELL. THANK YOU.

10 THE COURT: SOLICITOR, I NEED THE CLEAN COPY.

11 THE SOLICITOR: YES, SIR. IT'S BEEN DONE, YOUR
12 HONOR, I JUST NEED TO GO RUN GET IT.

13 THE COURT: MR. FOREMAN AND LADIES AND GENTLEMEN OF
14 THE JURY, THE STATE OF SOUTH CAROLINA CHARGES THE
15 DEFENDANT, HERBERT LEE BELL, WITH THE OFFENSE OF KIDNAPPING.
16 THE INDICTMENT HAS BEEN READ TO YOU SO I WILL NOT REPEAT
17 THE ALLEGATIONS CONTAINED IN IT. YOU WILL HAVE IT IN
18 YOUR JURYROOM DURING YOUR DELIBERATIONS; HOWEVER, I
19 CHARGE YOU THAT THIS INDICTMENT IS NOT EVIDENCE. IT
20 MERELY CONTAINS THE CHARGES AGAINST THIS DEFENDANT. AND
21 TO THIS INDICTMENT THE DEFENDANT HAS PLED NOT GUILTY
22 WHICH PLACES UPON THE STATE THE BURDEN OF PROVING HIS
23 GUILT BEYOND A REASONABLE DOUBT.

24 A PERSON CHARGED WITH COMMITTING A CRIMINAL OFFENSE
25 IN SOUTH CAROLINA IS NEVER REQUIRED TO PROVE HIMSELF

1 INNOCENT. IT IS A VITAL AND IMPORTANT RULE OF THE LAW OF
2 EVIDENCE THAT A DEFENDANT IN A CRIMINAL TRIAL, NO MATTER
3 HOW GREAT OR SERIOUS MAY BE THE OFFENSE FOR WHICH HE IS
4 CHARGED, MUST ALWAYS BE PRESUMED INNOCENT UNTIL HIS GUILT
5 HAS BEEN PROVEN BEYOND A REASONABLE DOUBT. THIS PRESUMPTION
6 OF INNOCENCE REMAINS WITH THE DEFENDANT AT ALL TIMES.
7 FROM THE MOMENT OF HIS ARRAIGNMENT THROUGHOUT THE TRIAL
8 AND UNTIL THE JURY HAS UPON THE TESTIMONY AND EVIDENCE
9 PRESENTED REACHED A VERDICT OF GUILTY BEYOND A REASONABLE
10 DOUBT. FOR IT'S THE SOLEMN DUTY OF A JURY IF NOT CLEARLY
11 CONVINCED OF HIS GUILT BEYOND EVERY REASONABLE DOUBT TO
12 THE CONTRARY TO ACQUIT THE DEFENDANT.

13 NOW, WHAT IS A REASONABLE DOUBT? IT IS NOT AN
14 IMAGINARY OR FANCIFUL OR A WEAK DOUBT. RATHER IT IS A
15 DOUBT FOR WHICH THE WORDS IMPLY. A DOUBT FOR WHICH YOU
16 CAN GIVE A REASON. IF YOU HAVE A DOUBT FOR WHICH YOU CAN
17 GIVE A REASON AS TO THE GUILT OF THE DEFENDANT; THEN HE
18 WOULD BE ENTITLED TO A VERDICT OF NOT GUILTY.

19 REASONABLE DOUBT MAY ARISE FROM EVIDENCE WHICH IS
20 IN THE CASE OR FROM THE ABSENCE OR LACK OF ABSENCE IN THE
21 CASE. AND YOU TWELVE JURORS ALONE MUST MAKE THE DETERMINATION
22 OF WHETHER OR NOT REASONABLE DOUBT EXIST AS TO THE GUILT
23 OF THE DEFENDANT.

24 UNDER THE CONSTITUTION AND LAWS OF SOUTH CAROLINA
25 YOU ARE THE FINDERS OF THE FACTS IN THIS CASE. I DO NOT

1 HAVE THE RIGHT TO PASS UPON THE FACTS OR EVEN TO INTIMATE
2 OR EXPRESS ANY OPINION I MIGHT HAVE AS TO THEM. NOR MAY
3 I INTIMATE IN ANY WAY WHAT I MAY THINK ABOUT THE GUILT OR
4 INNOCENCE OF THE DEFENDANT. YOU'RE ALSO THE JUDGES AND
5 THE SOLE JUDGES OF THE CREDIBILITY WHICH SIMPLY MEANS THE
6 BELIEVABILITY OF THE WITNESSES WHO HAVE TESTIFIED IN THIS
7 CASE. IN PASSING UPON THEIR CREDIBILITY, YOU MAY TAKE
8 INTO CONSIDERATION MANY THINGS SUCH AS: THE Demeanor AND
9 MANNER OF TESTIFYING; WHETHER A WITNESS HAD A REASON TO
10 BE BIASED OR PREJUDICED; WHAT A WITNESS'S TESTIMONY WAS
11 CONTRADICTED ON THE ONE HAND; OR SUPPORTED AND CORROBORATED
12 ON THE OTHER HAND. YOU CERTAINLY DO NOT DETERMINE THIS
13 CREDIBILITY OR BELIEVABILITY BY COUNTING THE NUMBER OF
14 WITNESSES FOR EITHER SIDE. YOU MAY BELIEVE A SMALL
15 PORTION OF A WITNESS'S TESTIMONY AND DISREGARD THE LARGER
16 OR VICE VERSA. YOU MAY BELIEVE ONE WITNESS AGAINST MANY
17 OR MANY AGAINST ONE. ALL OF THESE THINGS YOU WILL
18 CONSIDER BEARING IN MIND YOU SHOULD GIVE THE DEFENDANT
19 THE BENEFIT OF EVERY REASONABLE DOUBT.

20 I CHARGE YOU THAT IN ORDER TO CONVICT THE DEFENDANT
21 OF ANYTHING, THE STATE MUST PROVE GUILT BEYOND ALL
22 REASONABLE DOUBT. AND YOU MAY NOT RETURN A GUILTY
23 VERDICT BASED UPON SUSPICION NO MATTER HOW STRONG THAT
24 SUSPICION MAY BE.

25 BY THE SAME CONSTITUTION AND LAWS WHICH MAKES YOU

1 THE FINDERS OF THE FACTS AND EVIDENCE AS I HAVE DISCUSSED
2 WITH YOU, I AM AS THE JUDGE MADE THE SOLE AND ONLY
3 INSTRUCTOR OF THE LAW AND YOU MUST ACCEPT AS CORRECT THE
4 LAW WHICH I CHARGE AND APPLY IT TO THE EVIDENCE AS YOU
5 FIND IT AND REACH YOUR VERDICT.

6 I CHARGE YOU IN THIS REGARDS THAT YOU NOR FOR THAT
7 MATTER I SHOULD NOT BE CONCERNED ABOUT WHAT THE LAW OUGHT
8 TO BE, BUT RATHER WHAT I CHARGE YOU THE LAW TO BE. I
9 CHARGE YOU THAT EVIDENCE OF A PRIOR CONVICTION OF A CRIME
10 OF MORAL TURPITUDE CAN ONLY BE CONSIDERED BY YOU AS TO
11 THE DEFENDANT'S CREDIBILITY. ANY EVIDENCE OF A PRIOR
12 CRIME CANNOT BE CONSIDERED BY YOU FOR ANY OTHER PURPOSE.

13 THE DEFENDANT HAS PLED IN THIS CASE WHAT WE CALL A
14 PLEA OF ALIBI. THAT MEANS HE WAS NOT AT THE SCENE OF THE
15 CRIME AT THE TIME IT WAS COMMITTED, BUT THAT HE WAS
16 ELSEWHERE AND HAD NOTHING TO DO WITH IT. THERE IS NO
17 BURDEN UPON THE DEFENDANT TO PROVE HIS ALIBI. THE BURDEN
18 IS UPON THE STATE TO PROVE THAT HE WAS ACTUALLY PRESENT
19 AT THE SCENE OF THE CRIME, HE ACTUALLY PARTICIPATED IN IT
20 AND HE WAS NOT ELSEWHERE. AND THE STATE MUST PROVE THIS
21 ALLEGATION AS ALL OTHER ALLEGATIONS ARE REQUIRED TO BE
22 PROVEN BY EVIDENCE BEYOND A REASONABLE DOUBT.

23 AN ISSUE IN THIS CASE IS THE IDENTIFICATION OF THE
24 DEFENDANT, HERBERT LEE BELL, AS THE PERPETRATOR OF THE
25 CRIME CHARGED. THE STATE OF SOUTH CAROLINA HAS THE BURDEN

1 OF PROVING IDENTITY BEYOND A REASONABLE DOUBT. AN
2 IDENTIFICATION WITNESS IS AN EXPRESSION OF BELIEF OR AN
3 IMPRESSION OF A WITNESS. YOU MAY CONSIDER THE OPPORTUNITY
4 A WITNESS HAD TO OBSERVE THE ALLEGED OFFENDER AT THE TIME
5 OF THE OFFENSE AND TO THEREAFTER MAKE AN IDENTIFICATION.
6 IT IS FOR YOU, THE JURY, TO DETERMINE THE ACCURACY OF THE
7 IDENTIFICATION OF THE DEFENDANT. YOU MUST CONSIDER THE
8 CREDIBILITY OF EACH IDENTIFICATION WITNESS IN THE SAME
9 WAY AS ANY OTHER WITNESS. YOU MAY CONSIDER HIS OR HER
10 TRUTHFULNESS AS WELL AS THE CAPACITY, OPPORTUNITY, AND
11 CIRCUMSTANCES OF THE OBSERVATION OF THE MATTERS ABOUT
12 WHICH HE OR SHE TESTIFIED.

13 SECTION 15-3-10, OF THE 1976 CODE OF LAWS AS
14 AMENDED IS CAPTIONED KIDNAPPING. AND IT READS IN PART
15 WHOEVER SHALL UNLAWFULLY SEIZE, CONFINE, INVEIGLE, DECOY,
16 KIDNAP, ABDUCT, OR CARRY AWAY ANY OTHER PERSON FOR ANY
17 MEANS WHATSOEVER WITHOUT AUTHORITY OF LAW SHALL BE GUILTY
18 OF KIDNAPPING.

19 THE WORD UNLAWFULLY APPLIES TO EACH OF THE SUBSEQUENT
20 WORDS OF SEIZE, CONFINE, INVEIGLE, DECOY, KIDNAP, ABDUCT,
21 AND CARRY AWAY. AND ALSO TO ANY OTHER PERSON. ALSO EACH
22 OF THE WORDS STARTING WITH SEIZE THROUGH CARRY AWAY RELATES
23 TO AND INCLUDES ONLY ANY OTHER PERSON.

24 THE TERM UNLAWFULLY MEANS AGAINST THE LAW OR
25 ILLEGAL WITHOUT AUTHORITY OF LAW. IT MEANS WITHOUT

1 AUTHORIZATION OF LAW OR WITHOUT THE LEGAL POWER UNDER THE
2 LAW OR WITHOUT BASIS OR SANCTION OF THE LAW.

3 SEIZE MEANS TO TAKE HOLD FORCIBLY. CONFINE MEANS
4 TO IMPRISONMENT OR SHUT UP OR RESTRAIN. KIDNAPPING IS A
5 FORCEFUL TAKING AND REMOVAL OF THE PERSON FROM ONE PLACE
6 TO ANOTHER AGAINST HIS WILL UNLAWFULLY AND WITHOUT
7 AUTHORITY OF LAW. ABDUCT MEANS TO TAKE A PERSON AWAY
8 UNLAWFULLY AND BY FORCE OR TO KIDNAP AND WITHOUT
9 CONSENT. CARRY AWAY MEANS MOVING FROM ONE PLACE TO
10 ANOTHER UNLAWFULLY WITHOUT AUTHORITY OF LAW AND WITHOUT
11 THE CONSENT OF THE PERSON BEING CARRIED AWAY. THE
12 CARRYING AWAY NEED NOT BE OF ANY SPECIFIC DISTANCE IF IT
13 IS OF A SUFFICIENT LENGTH TO ESTABLISH THAT IT WAS
14 UNLAWFULLY AND WITHOUT AUTHORITY OF LAW AND WITH A PURPOSE
15 TO VIOLATE THE LAW. UNDER THE STATUTE, THE STATE NEED
16 NOT PROVE EACH OF THE TERMS SEIZE, CONFINE, INVEIGLE,
17 DECOY, KIDNAP, OR CARRY AWAY. PROOF OF ANY ONE IS
18 SUFFICIENT PROVIDED THE STATE PROVES THAT SUCH WAS DONE,
19 THAT IT WAS DONE UNLAWFULLY AND WITHOUT AUTHORITY OF LAW
20 AND WITHOUT THE CONSENT OF IN THIS CASE MR. JAY EDENS.
21 THIS IS BECAUSE ALL OF THE TERMS UNDER THE STATUTE THAT
22 I'VE JUST READ TO YOU ARE EMBRACED WITHIN THE CAPTION
23 KIDNAPPING. EACH OF THE TERMS; HOWEVER, REQUIRES A
24 TAKING AND CARRYING AWAY WITHOUT CONSENT AND I HAVE
25 CHARGED THAT CONSENT ONCE GIVEN MAY BE WITHDRAWN. THE

1 STATE DOES NOT HAVE TO PROVE A MOTIVE. I CHARGE YOU
2 FURTHER THAT RANSOM IS NOT AN ELEMENT OF KIDNAPPING.

3 YOU HAVE BEEN SELECTED AS FAIR AND IMPARTIAL JURORS
4 SWORN TO IMPARTIALLY TRY AND DETERMINE THE FACTS IN THIS
5 CASE. NOW, WHEN YOU HAVE COMPLIED WITH YOUR OATH TO DO
6 SO, THEN NO ONE WILL HAVE A RIGHT TO CRITICIZE YOUR
7 VERDICT AND YOU WILL HAVE FULLY DISCHARGED YOUR DUTY AS
8 JURORS. YOU SHOULD NOT BE INFLUENCED BY OPINIONS OR
9 EXPRESSIONS OF OPINIONS, IF ANY, WHICH YOU MAY HAVE HEARD
10 ON THE OUTSIDE, BUT YOU ARE TO DECIDE THIS CASE ACCORDING
11 TO THE TESTIMONY THAT YOU HAVE HEARD FROM THE LIPS OF THE
12 SWORN WITNESSES ALONG WITH ANY OTHER EVIDENCE INTRODUCED.

13 LADIES AND GENTLEMEN, THERE ARE TWO VERDICTS THAT
14 YOU MAY FIND IN THIS CASE. ONE OF GUILTY AND THE OTHER
15 OF NOT GUILTY. THERE'S NO SIGNIFICANCE WHATSOEVER IN THE
16 ORDER IN WHICH I STATE THESE TWO POSSIBLE VERDICTS. IT
17 IS SIMPLY THAT ONE MUST BE STATED FIRST. THAT I COULD
18 HAVE REVERSED THE FORM OF THE VERDICT, BUT PLEASE GIVE
19 THAT -- THE ORDER OF THE FORMS OF THE VERDICT NO CONSIDERATION
20 WHATSOEVER.

21 NOW, LADIES AND GENTLEMEN, WHATEVER YOUR VERDICT IS
22 IT MUST BE UNANIMOUS WHICH MEANS THAT ALL TWELVE OF YOU
23 MUST CONSENT.

24 NOW, MR. FOREMAN, ON THE BACK OF THE INDICTMENT IS
25 PRINTED THE WORD VERDICT AND THEN THERE IS A COUPLE OF

1 LINES AND THEN THERE'S A PLACE FOR YOU TO SIGN YOUR NAME
2 AS THE FOREMAN. WHATEVER THE VERDICT OF THE JURY IS,
3 PLEASE WRITE IT BELOW THE WORD VEDICT AND SIGN YOUR NAME
4 AS THE FOREMAN. ONCE AGAIN, YOUR VERDICT WOULD BE EITHER
5 GUILTY OR NOT GUILTY.

6 NOW, OF THE TWELVE ORIGINAL JURORS, DOES ANYONE HAVE
7 ANY REASON WHY THEY SHOULD NOT CONTINUE TO SERVE AS A
8 JUROR IN THIS PARTICULAR CASE?

9 (NO RESPONSE.)

10 THEN I WOULD ASK THE TWO ALTERNATES TO PLEASE
11 REMAIN SEATED.

12 NOW, LADIES AND GENTLEMEN, UNDER OUR PROCEDURE AT
13 THIS TIME, I MUST DISCUSS MY CHARGE WITH THE ATTORNEYS.
14 IF I DEEM AN ADDITIONAL CHARGE IS NEEDED, I WILL HAVE ALL
15 TWELVE OF YOU TO BE BROUGHT BACK INTO THE COURTROOM AND I
16 WILL CHARGE YOU FURTHER. MR. FOREMAN, IF I DO NOT DEEM
17 AN ADDITIONAL CHARGE IS NEEDED, I WILL NOT CHARGE YOU
18 FURTHER AND I WILL SEND TO YOU THIS INDICTMENT WHICH IS
19 NO EVIDENCE. I WILL SEND TO YOU THE EXHIBITS. THE
20 EXHIBITS ARE EVIDENCE AND THE JURY MAY GIVE THE EXHIBITS
21 SUCH WEIGHT OR PROBATIVE VALUE AS THEY DEEM APPROPRIATE.
22 WHEN ALL TWELVE HAVE AGREED UPON A VERDICT, PLEASE KNOCK
23 UPON THE DOOR. THE OTHER TWELVE JURORS MAY RETIRE. DO
24 NOT BEGIN YOUR DELIBERATIONS. THE TWO ALTERNATES PLEASE
25 REMAIN SEATED WHERE YOU ARE.

1 (JURY OUT.)

2 TO THE TWO ALTERNATES PLEASE UNDERSTAND YOU HAVE
3 SERVED A USEFUL PURPOSE. IN CASES OF THIS NATURE WE
4 ALWAYS HAVE AT LEAST ONE ALTERNATE AND MOST TIMES TWO.
5 ON NUMEROUS OCCASIONS I HAVE HAD TO USE BOTH ALTERNATES.
6 HAD SOMEONE BEEN INCAPACITATED, THEN ONE OF YOU WOULD
7 HAVE TAKEN THEIR PLACE. IF I DID NOT HAVE AN ALTERNATE,
8 IT WOULD MEAN THAT WE WOULD HAVE TO TRY THIS CASE ALL
9 OVER. IT WOULD BE UNFORTUNATE FOR THE STATE, UNFORTUNATE
10 FOR THE DEFENSE, AND EXPENSIVE FOR THE COUNTY. YOU ARE
11 EXCUSED. I'LL ASK YOU TO PLEASE RETIRE TO THE JURY
12 ASSEMBLY ROOM. BETTER STILL, I'LL JUST EXCUSE YOU UNTIL
13 2:30 TODAY. IF Y'ALL WOULD LIKE TO REMAIN WITH US, YOU
14 MAY DO SO. BE BACK IN THE JURY ASSEMBLY ROOM AT 2:30.

15 (WHEREUPON, THE TWO ALTERNATES
16 WERE EXCUSED FROM FURTHER SERVICE AT THIS TIME.)

17 THE COURT: ANY EXCEPTIONS OR ADDITIONS FROM THE
18 STATE?

19 THE SOLICITOR: NONE FROM THE STATE, YOUR HONOR.

20 THE COURT: DEFENSE?

21 MR. ALLEN: NO, YOUR HONOR.

22 THE COURT: ALL RIGHT, SIR, MR. ALLEN, IF YOU WILL.
23 LOOK OVER THE CLEAN COPY OF THE INDICTMENT AND MAKE SURE
24 IT'S ALL RIGHT.

25 (WHEREUPON, THE JURY BEGAN

1 (WHEREUPON, THE JURY
2 RETURNED TO THE COURTROOM WITH A VERDICT AT 2:45 P.M.)

3 THE BAILIFF: THE JURY IS PRESENT, YOUR HONOR.

4 THE CLERK OF COURT: MR. FOREMAN, HAS THE JURY
5 REACHED A VERDICT?

6 THE FOREMAN: WE HAVE.

7 THE CLERK OF COURT: MAY I HAVE IT PLEASE?

8 (WHEREUPON, THE VERDICT IS
9 HANDED TO THE CLERK OF COURT AT THIS TIME.)

10 THE CLERK OF COURT: THANK YOU. INDICTMENT 85-
11 GS-2631, THE STATE VS. HERBERT LEE BELL, INDICTMENT FOR
12 KIDNAPPING. THE VERDICT IS GUILTY. IT'S SIGNED JESSIE --
13 IT LOOKS LIKE DELANEY AS FOREMAN. MR. FOREMAN, IS THAT
14 YOUR VERDICT AND THE VERDICT OF THIS JURY?

15 THE FOREMAN: IT IS.

16 THE COURT: ANY MATTERS FROM THE STATE BEFORE THE
17 JURY IS DISMISSED?

18 THE SOLICITOR: NOTHING FROM THE STATE.

19 THE COURT: FROM THE DEFENSE?

20 MR. ALLEN: REQUEST POLLING OF THE JURY, YOUR
21 HONOR.

22 THE COURT: YOU MAY POLL THE JURY.

23 THE CLERK OF COURT: MR. FOREMAN AND LADIES AND
24 GENTLEMEN OF THE JURY, AT THE REQUEST OF THE DEFENSE BY
25 THE ATTORNEY, IT'S NECESSARY FOR ME TO ASK YOU TWO

1 QUESTIONS. WHEN I CALL YOUR NAME IDENTIFY YOURSELF BY
2 STANDING.

3 JESSIE RUFF, JR., IS THAT YOUR VERDICT?

4 MR. RUFF: YES, MA'AM.

5 THE CLERK: IS IT STILL YOUR VERDICT?

6 MR. RUFF: YES, MA'AM.

7 THE CLERK: TEREAS(SIC) BELTON, IS THAT YOUR
8 VERDICT?

9 MS. BELTON: YES, MA'AM.

10 THE CLERK: IS IT STILL YOUR VERDICT?

11 MS. BELTON: YES, MA'AM.

12 THE CLERK: JUDY REESE, IS THAT YOUR VERDICT?

13 MS. REESE: YES.

14 THE CLERK: IS IT STILL YOUR VERDICT?

15 MS. REESE: YES.

16 THE CLERK: EDWARD HALSTON(SIC), WAS THAT YOUR
17 VERDICT AND IS IT STILL YOUR VERDICT?

18 MR. HALSTON: YES, MA'AM.

19 THE CLERK: JAMES HAWKINS, WAS THAT YOUR VERDICT
20 AND IS IT STILL YOUR VERDICT?

21 MR. HAWKINS: THAT'S STILL NOT MY VERDICT.

22 THE CLERK: STILL NOT YOUR VERDICT?

23 MR. HAWKINS: NO.

24 THE COURT: THEN THE JURY MUST RETIRE AND CONTINUE
25 IT'S DELIBERATIONS. PLEASE RETIRE TO THE JURYROOM.

1 EXCUSE ME, LADIES AND GENTLEMEN, PLEASE HAVE A SEAT.
2 WHILE YOU'RE HERE I WILL GIVE YOU THE ALLAN CHARGE. ON
3 SECOND THOUGHT, I DON'T BELIEVE ENOUGH TIME HAS EXPIRED.
4 PLEASE RETIRE TO THE JURYROOM AND CONTINUE YOUR DELIBERATIONS.

5 (WHEREUPON, THE JURY
6 RETURNED TO THE JURYROOM AT 2:50 P.M.)

7 THE COURT: NOW, MR. ALLEN, AS AN AFTERTHOUGHT I
8 ELECTED NOT TO GIVE THE ALLAN CHARGE BECAUSE AFTER THAT
9 JUROR'S STATEMENT, IT COULD BE FELT THAT I WAS PRESSURING
10 HIM BY GIVING HIM THE ALLAN CHARGE. NOW, IF YOU WANT ME
11 TO GIVE THE ALLAN CHARGE, I WILL AT THIS TIME OR I WILL
12 WAIT A REASONABLE PERIOD OF TIME AND THEN I'LL GIVE THE
13 ALLAN CHARGE. BUT IT'S BEEN THREE HOURS AND 42 MINUTES
14 SINCE THE JURY HAS BEEN DELIBERATING.

15 MR. ALLEN: YOUR HONOR, I WOULD REQUEST WE WAIT
16 LONGER BEFORE YOU GIVE THE ALLAN CHARGE.

17 THE COURT: ALL RIGHT. WE'LL BE AT EASE IN THIS
18 PARTICULAR CASE.

19 (WHEREUPON, OTHER MATTERS
20 WERE TAKEN UP WITH THE COURT AT THIS TIME NOT RELATING TO
21 THIS CASE.)

22 THE COURT: I UNDERSTAND THE JURY HAS A VERDICT.
23 GIVE US A JURY.

24 (WHEREUPON, THE JURY
25 RETURNED TO THE COURTROOM WITH A VERDICT AT 3:35 P.M.)

1 THE CLERK OF COURT: MR. FOREMAN, HAS THE JURY
2 REACHED AN UNANIMOUS VERDICT?

3 MR. FOREMAN: YES, WE HAVE.

4 THE COURT: NOW, IF YOU WILL POLL THE JURY.

5 THE CLERK OF COURT: I NEED TO ASK EACH OF YOU
6 INDIVIDUALLY. IF YOU WILL PLEASE STAND AS I CALL YOUR
7 NAME.

8 JESSIE RUFF, JR., IS THAT YOUR VERDICT AND IS IT
9 STILL YOUR VERDICT?

10 MR. RUFF: YES, MA'AM.

11 THE COURT: NOW, THE VERDICT WAS PREVIOUSLY GUILTY
12 AND THAT'S WHAT SHE'S ASKING IS YOUR VERDICT GUILTY?

13 (WHEREUPON, ALL JURORS WERE
14 POLLED INDIVIDUALLY AT THIS TIME AND ALL JURORS RESPONDED
15 IN THE AFFIRMATIVE AT THIS TIME.)

16 THE CLERK OF COURT: THE JURY HAS BEEN POLLED, YOUR
17 HONOR.

18 THE COURT: MR. ALLEN, ANYTHING FURTHER BEFORE THE
19 JURY IS DISMISSED?

20 MR. ALLEN: NOTHING BEFORE THE JURY IS DISMISSED,
21 NO, YOUR HONOR.

22 THE COURT: LADIES AND GENTLEMEN, THIS CONCLUDES
23 YOUR SERVICES IN THIS PARTICULAR CASE. I'D ASK YOU TO
24 PLEASE REPORT TO THE FIRST FLOOR ASSEMBLY ROOM. THANK
25 YOU SO MUCH. PLEASE RETIRE TO THE FIRST FLOOR.

1 (WHEREUPON, THE JURY WAS
2 EXCUSED AT THIS TIME.)

3 THE COURT: ALL RIGHT, SIR.

4 MR. ALLEN: YOUR HONOR, TWO MOTIONS PRIOR TO
5 RECESSING. FIRST, WE MOVE FOR A MISTRIAL BASED ON THE
6 EARLIER POLLING WHICH EVEN THOUGH -- YOU KNOW SEEMED TO
7 IDENTIFY ONE INDIVIDUAL WHO MAY HAVE FELT SOME SORT OF
8 PRESSURE FROM THE OTHER MEMBERS OF THIS JURY TO GO ALONG
9 WITH---

10 THE COURT: NOW, DO YOU HAVE ANY AUTHORITY TO THAT
11 EFFECT?

12 MR. ALLEN: NO, YOUR HONOR. NO, YOUR HONOR, I DO
13 NOT. I'M MAKING THIS MOTION---

14 THE COURT: ALL RIGHT, SIR.

15 MR. ALLEN: ---WITH THE GREATEST RESPECT TO THE
16 COURT, BUT WITHOUT AUTHORITY AS WELL. IN THE ALTERNATIVE,
17 YOUR HONOR, I MOVE FOR A NEW TRIAL BASED UPON MY EARLIER
18 OBJECTIONS AND MOTIONS WHICH HAVE BEEN RULED AGAINST MY
19 CLIENT---

20 THE COURT: ALL RIGHT, SIR. MR. ALLEN, ALL THOSE
21 MOTIONS ARE DENIED. THIS WAS A QUESTION OF FACT FOR THE
22 JURY. THE JURY HAS RULED AND I SIT HERE AS THE 13TH
23 JUROR AND, OF COURSE, OUR SUPREME COURT HAS RULED THAT I
24 COULD NO LONGER GIVE A JUDGMENT NOTWITHSTANDING THE
25 VERDICT, BUT I COULD GRANT YOU A NEW TRIAL AND I FIND

1 NOTHING IN THIS CASE THAT WARRANTS THE GRANTING OF A NEW
2 TRIAL. AS I STATED YESTERDAY I THOUGHT THIS WAS A STRONG
3 CASE AND I STILL DO.

4 MR. ALLEN: YES, YOUR HONOR.

5 THE COURT: ALL RIGHT, SIR. IF YOU WOULD HAVE THE
6 DEFENDANT COME AROUND FOR SENTENCING.

7 THE SOLICITOR: YOUR HONOR KNOWS THE FACTS AND THE---

8 THE COURT: I NEED THE INDICTMENT. ALL RIGHT, SIR,
9 I'VE HEARD THE FACTS AND I'VE HEARD THE RECORD.

10 MR. ALLEN: YOUR HONOR, AT THIS POINT I DON'T KNOW
11 WHAT IF ANYTHING ELSE I CAN SAY. AS I READ THE STATUTE
12 IT'S NOT MUCH THAT CAN BE DONE AT THIS POINT. YOUR HONOR
13 KNOWS MR. BELL'S AGE. YOU ALSO HAVE HEARD THE FACTS.
14 THE ONLY MITIGATING FACTOR I WOULD POINT OUT IS THAT JAY
15 EDENS WAS NOT INJURED THROUGHOUT THIS WHOLE THING.

16 THE COURT: IS THERE ANYTHING THAT YOU WOULD LIKE
17 TO TELL ME, MR. BELL?

18 THE DEFENDANT: NO, SIR, BUT I KNOW I'M INNOCENT OF
19 THIS CRIME THAT I'M BEING CONVICTED OF. AND THE ONLY
20 THING I CAN DO IS THROW MYSELF AT THE MERCY OF THE COURT.

21 THE COURT: WELL, MR. BELL, THE JURY DIDN'T BELIEVE
22 YOUR STORY. I DON'T BELIEVE YOUR STORY. I HEARD SOME
23 STRONG TESTIMONY AGAINST YOU. ONE MAN A MEMBER OF YOUR
24 OWN RACE AND I WOULD LIKE TO COMMEND HIM. HE WAS OUT TO
25 SEE THAT JUSTICE WAS DONE. I'VE NEVER SEEN THAT MAN

1 BEFORE, BUT I PRACTICED LAW FOR 25 YEARS AND A JUDGE FOR
2 SIX AND IF EVER I'VE SEEN A HONEST WITNESS ON THE STAND,
3 MR. CHAPMAN WAS A HONEST WITNESS. AND I DON'T KNOW IF
4 HE'S IN THE COURTROOM OR NOT, BUT HE SHOULD BE COMMENDED
5 FOR HIS EFFORTS IN THIS CASE AND AS I SAY I BELIEVE THE
6 MAN TOLD THE TRUTH. AND YOUR STORY JUST DID NOT HOLD
7 TRUE.

8 MR. BELL, I DON'T KNOW FOR WHAT MOTIVE YOU HAD WITH
9 THIS YOUNG MAN, BUT ANYBODY AND I STRONGLY BELIEVE MAN,
10 WOMAN, CHILD, BLACK, WHITE, YELLOW, WHAT. THEY HAVE THE
11 RIGHT TO GO DOWN THE STREET. THEY HAVE THE RIGHT TO
12 ATTEND TO THEIR OWN BUSINESS AND FOR SOME KIND OF REASON
13 YOU INTERFERED WITH THIS YOUNG MAN. I DON'T KNOW WHAT
14 YOUR MOTIVE WAS. OF COURSE, THERE'S A POSSIBILITY IF HE
15 HAD NOT HAD THE FORESIGHT AND THE INTELLIGENCE TO MAKE
16 THE BREAK THAT HE DID, THAT HE WOULD -- MIGHT NOT WOULD
17 BE HERE TODAY. BUT I HAVE NO ALTERNATIVE IN THE SENTENCE
18 THAT I MUST IMPOSE AND I SEE NO REASON WHY IT SHOULD NOT
19 BE.

20 THE SENTENCE OF THE COURT IS THAT HERBERT LEE BELL
21 SHALL BE CONFINED IN THE CUSTODY OF THE BOARD OF CORRECTIONS
22 FOR THE STATE OF SOUTH CAROLINA FOR THE PERIOD OF YOUR
23 ENTIRE LIFE. ALL FEES ARE WAIVED. MR. BELL, YOU HAVE
24 RECEIVED A FAIR TRIAL, BUT YOU DO HAVE THE RIGHT TO AN
25 APPEAL. IF THE OFFICERS WILL TAKE CHARGE OF THE DEFENDANT

1 AT THIS TIME.

2 THE SOLICITOR: THANK YOU, YOUR HONOR.

3 MR. ALLEN: THANK YOU, YOUR HONOR.

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1 STATE OF SOUTH CAROLINA

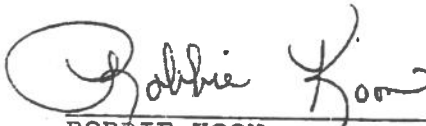
C E R T I F I C A T E

2 COUNTY OF RICHLAND

3
4
5 I, THE UNDERSIGNED ROBBIE KOON, OFFICIAL EXTRA
6 COURT REPORTER FOR THE FIFTH JUDICIAL CIRCUIT OF THE
7 STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE
8 FOREGOING IS A TRUE, ACCURATE, AND COMPLETE TRANSCRIPT
9 OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE
10 INTRODUCED IN THE TRIAL OF THE CAPTIONED CAUSE, RELATIVE
11 TO APPEAL, IN THE GENERAL SESSIONS COURT FOR RICHLAND
12 COUNTY, SOUTH CAROLINA, ON THE 24TH AND 25TH DAYS OF
13 FEBRUARY, 1986.

14 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
15 COUNSEL, NOR INTEREST TO ANY PARTY HERETO.

16
17 JULY 9, 1986

18 
19

20 ROBBIE KOON
21 CIRCUIT COURT REPORTER
22
23
24
25

RECEIVED

Oct 07 2026

SC Court of Appeals

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included and not any other material.



Rebecca Depp

Time Served

Bar No. 101171

rdepp@tsscnow.org