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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Barnwell County

Honorable Deadra L. Jefferson, Circuit Court Judge

MICHAEL P. BUCKMON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2026-000837

APPENDIX

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State of South Carolina)
) In the Court
County of Barnwell) Of General Sessions

Indictment No.: 2014-GS-06-00359
2016-GS-06-00205
2016-GS-06-00210

State of South Carolina,
Plaintiff.

vs.

Michael Paul Buckmon,
Defendant.

Transcript of Record

July 19, 2016
Barnwell, South Carolina

B E F O R E:

The Honorable Robert E. Hood, Judge.

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

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Brenda J. Sigwald, Circuit Court Reporter
To The Honorable R. Knox McMahon
P.O. Box 206, Jackson, South Carolina 29831

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JACKSON V DENNO HEARING

THE COURT: All right. In State versus Buckmon. Mr. Buckmon is present, represented by counsel: and State is present represented by Mr. Miller and Mr. Harte and we're going to do a Jackson versus Denno hearing; is that right.

MR. MILLER: That is correct, Your Honor.

THE COURT: Okay. Is the State ready to proceed.

MR. HARTE: Yes, Your Honor.

THE COURT: Okay.

MR. HARTE: State calls Lieutenant Craig Collier.

MR. CHESSER: I just want to put on the record that what our agreement is, is that this will be definitive that we're -- even though this will be tried in front of Judge Early that we're doing this attempting this to be the Jackson v Denno hearing.

THE COURT: Okay.

MR. MILLER: That is correct, Your Honor. We're just trying to get everything lined up so we can start that trial quickly on the 17th.

THE COURT: Great.

All right. And your name is what?

THE WITNESS: Craig Collier.

THE COURT: Collier?

THE WITNESS: Yes, sir.

THE COURT: All right. Thank you, Lieutenant Collier.

CRAIG COLLIER,

having been duly sworn, testified as follows:

THE COURT: All right. Mr. Harte.

MR. HARTE: Thank you, Your Honor.

DIRECT EXAMINATION IN-CAMERA

BY MR. HARTE:

Q Lieutenant Collier, where are you employed?

A I'm employed with the South Carolina Law Enforcement Division, commonly known as SLED.

Q How long you been in law enforcement?

A 21 years.

Q And how long have you been with the State Law Enforcement Division?

A Since 2001.

Q What is your position there?

A I'm currently supervisor, special agent over the arson investigations unit. I'm a Lieutenant at SLED, of the arson unit.

Q And what does that position require that you do?

A I manage the day-to-day operations of the arson unit. I supervise eleven special agents, and all they do is fire investigation; administrative duties as well. I also respond to fires, investigate fires. I'm a

certified -- nationally certified fire investigator as well.

Q What was your involvement in this case?

A I was supervising -- I'm the only supervisor in the arson unit, so I was the supervisor at the time and I responded to the fire scene with Agent Seals to assist him in the investigation. From time to time if there are fatal fires, a lot of times I go down just to have an extra set of eyes and help out.

Q During your involvement in the case, did you have occasion to speak with the defendant?

A I did, yes, sir.

Q When did that occur?

A May I refer to my statements here?

Q Of course.

A I spoke to Mr. Buckmon on November 10th of 2013.

Q Was anyone present that day as well?

A Yes, sir. Detective Brian Owens witnessed these statements here as well. I think he's with the Barnwell Police Department.

Q Okay. Did the defendant appear when you spoke to him to be under the influence of alcohol or drugs?

A No, sir, he did not.

Q Did he appear to have any physical or mental disability or impairment that would have inhibited his

ability to understand what y'all were talking about?

A No, sir, he did not.

Q Where did the conversation occur?

A At the Barnwell County Sheriff's Office.

Q How long did it last?

A According to my statement here that I took, I Mirandized him at 3:13 and the statement was signed at 5:30.

Q During that period of time did he ask to take a break?

A Not that I recall.

Q Did he ask to use the telephone?

A No, sir, not that I recall.

Q Did he ask for a bathroom break?

A Not that I recall.

Q Did he ask for any food?

A No, sir.

Q Did he ask for anything to drink?

A Not that I recall, no, sir.

Q During the course of your conversation with the defendant, did you promise anything if he gave you a statement?

A Absolutely not.

Q Did you threaten him in any way to make him give you a statement?

A No, sir.

(Court's Exhibit Number 1 was marked for identification.)

BY MR. HARTE:

Q I'm showing you what has been marked as Court's Exhibit Number 1. Can you please identify this?

A Yes, sir.

Q What is it?

A This is the standard SLED Miranda Rights form and it was dated November 10th, 2013, at the Barnwell County Sheriff's Office at 3:13 p.m. this right advised Mr. Buckmon of his rights, his Miranda Warning Rights and he understood -- that he understood each one and that he wanted to speak to me. He signed it. I witnessed it and Detective Owens witnessed it as well.

Q So that's the same Miranda warning form that you used when you interviewed the defendant on that date?

A Yes, sir, it is.

Q Okay. How do you know that it is, just to get it for the record?

A It's dated and signed.

Q Who is it signed by?

A It's signed by Michael P. Buckmon, myself, and Detective Owens.

Q Before you asked the defendant any questions, did

you advise him that he had to understand his rights?

A Yes, sir, I did.

Q Did he initial by each of the listed rights to indicate that he did understand them?

A He did initial, yes, sir.

Q And did the defendant sign the form to indicate that he had read the statement of his rights and that he understood what his rights were?

A Yes, sir, he did.

Q Okay.

MR. HARTE: Your Honor, at this time, we'd like to introduce Court's Exhibit Number 1.

MR. CHESSER: No objection.

THE COURT: Court's Number 1 without objection.

You need to mark it, Ms. Sigwald?

THE COURT REPORTER: It is marked.

THE COURT: All right. Great.

THE COURT REPORTER: Thank you.

THE COURT: Go ahead, Mr. Harte.

MR. HARTE: Thank you, Judge.

BY MR. HARTE:

Q Lieutenant Collier, was your interview recorded by audio or video equipment?

A No, sir, it was not.

Q Why not?

A It's SLED's policy not to record, audio or video, our statements. If the local jurisdiction chooses to do that, then we will do that, but as a matter of habit for SLED, we do not.
Q So, it's not your policy?
A It's our policy not to do it, yes, sir.
Q Okay. Was the statement that Mr. Buckmon gave you reduced to writing?
A Yes, sir, it was. Mr. Buckmon wrote it himself.
(Court's Exhibit Number 2 was marked for identification.)
BY MR. HARTE:
Q I'm showing you what's been marked as Court's Exhibit Number 2. Could you please identify it?
A Yes, sir. This is the statement that Mr. Buckmon provided on the same date and location.
Q If you could look at page 3 of that statement that he provided, I believe there are a series of questions and answers written down?
A Yes, sir.
Q Who was asking those questions?
A I was. I -- that's my handwriting. And -- the questions are written in my handwriting and the answers are written in his handwriting.
Q At any point during your conversation with the

defendant did he change his mind and ask to stop speaking to you?

A No, sir, he did not.

Q At any point during your interview did the defendant ask to speak with an attorney?

A No, sir, he did not.

(There was a pause in the proceedings.)

BY MR. HARTE:

Q Lieutenant Collier, could you please explain what happened when you asked the defendant if he had sex with Dawn Dempsey the night she died?

A Yes, sir. According to the question and answer section?

Q Yes, please?

A I asked the question -- I asked two questions, I'm sorry, four questions, regarding intercourse with Ms. Dempsey. The first one is Question Number 3: Did you engage in sexual intercourse with Donna Dempsey on October 31, 2013, or November 1st, 2013. At first he wrote yes and then he scratched it out and put his initials and he wrote no.

The next question was when was the last time you engaged in sexual intercourse with Donna Dempsey; and he wrote, Wednesday October 30th, 2013.

I asked: Have -- and I scratched out and

initialled and I wrote: How long have you been engaged in sexual intercourse with Donna Dempsey; and he responded around two months.

And the last question was: When you engaged in sexual intercourse with Donna Dempsey 2013, did you use a condom. He said: Yes, and I pulled them off throw it away.

Those are the questions and the answers he gave me verbatim.

Q Okay. Did someone from the solicitor's office tell you they wanted a recorded interview after your initial interview and written statement was obtained from the defendant?

A I believe they might have, yes, sir.

Q All right. Did you perform a subsequent interview with the defendant following that?

A I did not.

Q Did someone from your agency do that?

A My -- Agent Seals, did, yes, sir.

Q Okay.

MR. HARTE: And Your Honor, I don't believe I introduced Court's 2 into evidence, but if I didn't, I'd like to do that now.

THE COURT: Any objection to Court's Exhibit Number 2.

MR. CHESSER: No objection, Your Honor.

THE COURT: Court's Number 2 without objection.

MR. HARTE: Your Honor, I have no further questions for this witness.

THE COURT: All right. Mr. Chesser, would you like to cross?

MR. CHESSER: Thank you, Your Honor.

CROSS-EXAMINATION IN-CAMERA

BY MR. CHESSER:

Q Lieutenant Collier --

A Yes, sir.

Q Court's Exhibit Number 1 --

A The Miranda?

Q Yes, sir.

A Yes, sir.

Q What's the first question that -- or first right that you advised him of?

A You have the right to remain silent.

Q Okay. And did he initial that?

A He did that, yes, sir.

Q And what is the second one?

A Anything you say -- the second right?

Q Yes, please.

A Anything you say can be used in court as evidence against you.

Q And the third one?
A You're entitled to talk to a lawyer now and have him present now or any time during questioning.
Q The fourth one?
A If you cannot afford an attorney, one will be appointed for you without cost.
Q And the -- are there anymore?
A Yes, sir.
Q The fifth?
A If you decide the answer questions now without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.
Q Okay. And all those were initialled?
A That's correct, yes, sir.
Q All right. You know why the SLED has a policy of not video recording the interviews?
A No, sir, I do not.
Q Okay. With regard to this -- referring now, would be Exhibit Number 2?
A Yes, sir.
Q This question number 3 --
A On the question, answer/section, sir?
Q Yes, sir.
A Yes, sir.

Q As written there, the question is: Did you engage in sexual intercourse with Donna Dempsey on October 31, 2013, or on November 1st, 2013, that's what it says, right?

A That's the question, yes, sir.

Q And then he wrote yes, and then scratched that out and said no?

A Yes, sir, that's what it has here.

Q Did you have some conversation -- do you recall any conversation or explanation of why he would write yes and then write no?

A I do not recall that, sir.

Q All right.

A It's just been so long, I'm sorry, I don't.

Q Sure. All right. Thank you.

Well, let me ask you this.

A Yes, sir.

Q Did you tell him that if he answered -- if he talked with you that day that he could help himself in his case?

A No, sir, I don't tell people that.

Q Did you tell him if he talked with you, he'd have an opportunity to have a better result in his case?

A Not that I recall, no, sir.

Q Okay. Did you tell him that you were going to be speaking later on to his codefendant?

A I don't recall, sir.
Q Okay. Did you explain to him -- did you tell him what the maximum penalties for these charges were?
A I don't recall.
Q All right. I have no further questions. Thank you.
A Yes, sir.
THE COURT: Redirect?
MR. HARTE: Nothing from the State, Your Honor.
THE COURT: Okay. Thank you, Lieutenant Collier, you may step down.
THE WITNESS: Thank you, Judge.
THE COURT: You wish to call another witness, Mr. Harte?
MR. HARTE: Yes, Your Honor, the State calls Special Agent Sterling Seals.

STERLING SEALS,

having been duly sworn, testified as follows:

THE CLERK: If you would be seated and state your full name.
THE WITNESS: My name is Sterling Seals.

DIRECT EXAMINATION IN-CAMERA

BY MR. HARTE:

Q Good morning, Agent Seals.
A Good morning.

Q Where are you employed, sir?
A I'm employed with the South Carolina Law Enforcement Division commonly known as SLED.
Q How long have you been in law enforcement?
A It's over 17 years.
Q Okay. And how long have you been with SLED?
A Just short of 10 years.
Q What is your position there?
A I'm a special agent assigned to the arson and bomb unit.
Q And what does that require you do?
A We have jurisdiction over the State of South Carolina. We receive requests from sheriff's offices police departments, fire departments to conduct fire investigations. And then I respond to those fire investigations once I'm assigned. Once I have established the jurisdiction and have probable cause to do so, then I begin those investigations.
Q What was your involvement in this case?
A I received notification from -- from my supervisor to respond to [redacted] Berry Street in Barnwell in reference to a fatal fire that occurred in October of -- or, I'm sorry, November 1st, 2013, and I responded on that same date to that fire to conduct the investigation.
Q Were you the lead investigator?

A Yes, I was assigned as the case agent, as we refer to it.
Q As the case agent, did you have occasion to speak with the defendant?
A Yes, I did.
Q And when did that conversation occur?
A The first occasion occurred on November 11th on 2013, and it occurred at the Barnwell police department.
Q Okay. Was there a second interview with the defendant?
A There was a second interview.
Q And when was that one done?
A The second interview occurred on February 18th, 2014, at the Barnwell County Sheriff's Office.
Q During either or both to have those interviews, was somebody else present with you?
A Yes, in both occasions.
Q Who was that?
A On both occasions, there was Detective Glen Rice who was employed at the time with Barnwell Police Department.
Q During both of those interviews or rather either of those interviews, did the defendant appear to be under the influence of alcohol or drugs?
A No.

Q During either of those interviews did he appear to have any sort of physical or mental disability or impairment that would have interfered with his ability to understand what he was doing?

A No.

Q Where did these two interviews occur?

A The first interview occurred at the Barnwell Police Department.

Q You say the first interview, you're referring to the November 11th one?

A Yes, November 11th.

Q Okay. What about the second one?

A The second interview occurred at the Barnwell County Sheriff's Office, February 18, 2014.

Q Do you recall how long each of these interviews lasted?

A The first interview that occurred in November was just short of two hours.

Q What about the second one?

A It was about an hour.

Q At any time during either of these interviews, did the defendant ask to take a break?

A Not that I recall.

Q Did he ask for a telephone?

A No.

Q Does he ask for a bathroom break?
A No.
Q Did he ask for anything to eat?
A No.
Q Did he ask for anything to drink?
A I don't recall if he was asked if he wanted something to drink, but I know that he was provided with a beverage.
Q Okay. During the course of either of these interviews, did you promise the defendant anything to give you -- if he gave you a statement?
A No.
Q During either of these interviews, did you threaten him in any way to make him give you a statement?
A No.
Q During the November 11th interview, was the defendant advised of his constitutional rights pursuant to Miranda prior to any questioning?
A Yes, he was.
Q How was he advised of those rights?
A We utilized the SLED Miranda Rights form.
(Court's Exhibit Number 3, Number 4, Number 5, and Number 6 were marked for identification.)
BY MR. HARTE:
Q Agent Seals, I'm showing you what has been marked

as Court's 3. Can you identify this?

A This is the SLED Miranda Rights form that I completed on November 11th, 2013, and it was completed at the Barnwell Police Department.

Q Is this copy of the Miranda form the same one that was used when you interviewed the defendant?

A Yes, it is.

Q How do you know that?

A It's dated November 11th, 2013; and it has my signature as a witness, and there's a witness signature by Detective Glen Rice and it is also signed by Michael Paul Buckmon.

Q Before asking the defendant any questions, did you advise him that he had to understand his rights?

A Yes, I did.

Q Did he initial by each of the rights listed on that form indicating that he understood them?

A Yes, he did.

Q Did he ask you any questions or indicate to you in any way that he did not understand them?

A No.

Q Did the defendant sign the form indicating that he had read the statement of rights, understood what his rights were?

A Yes.

MR. HARTE: Your Honor, at this time the State would introduce Court's Exhibit Number 3.

MR. CHESSER: No objection.

THE COURT: Court's 3 without objection.

MR. HARTE: Thank you, Your Honor.

BY MR. HARTE:

Q Agent Seals, was your interview with the defendant recorded by audio or video?

A Yes, it was.

Q I'm showing you what's been marked as Court's Exhibit Number 4, can you please identify it?

A This is a DVD that is marked with Buckmon Interview with the date, 11/11/13.

Q And how do you know that, sir? How do you know that that's the video of that interview?

A This is just a copy of the interview that was submitted with the case file.

Q Okay. At any point during the interview with the defendant did he change his mind and ask to stop questioning?

A There was a point that he wanted to stop questioning.

Q What did you do when he said he wanted you to stop questioning?

A I ended the interview and stopped it at that point.

THE COURT: Are we on the November 11th interview.

THE WITNESS: Yes, Your Honor, yes, Your Honor.

THE COURT: Okay.

BY MR. HARTE:

Q At any point during the interview did the defendant ask to speak with his attorney?

A No.

Q Did he ask to speak to an attorney?

A No.

Q Okay.

MR. HARTE: Your Honor, at this time, we would seek to introduce Court's Exhibit Number 4.

MR. CHESSER: No objection.

THE COURT: Court's Exhibit Number 4 admitted without objection.

BY MR. HARTE:

Q After the defendant said he wanted to end the interview, what happened at that point?

A He asked to stop the interview. I exited the room and then he spoke briefly with Detective Glen Rice and then Detective Glen Rice informed me that he wished to speak with me again. So we reentered the room and continued in the room from there.

Q But you didn't continue to speak to him --

A No.

Q -- until you were made aware that he requested to continue the interview?
A No, no, I did not.
Q During the February 18th 2014, interview, was the defendant advised of his constitutional rights pursuant to Miranda prior to any questioning?
A Yes, he was.
Q How was he advised of those rights?
A He was advised of those rights by a SLED Miranda Rights form.
Q Agent Seals, I'm showing you what's been marked as Court's 5, can you identify it?
A This is also a SLED Miranda Rights form and it was signed by myself and it was dated on February 18th, 2014.
Q Is it a copy of the same Miranda warning form that you used when you interviewed the defendant?
A Yes, it is.
Q How do you know?
A It's -- like I said, it is signed by myself. It is signed as a witness also by Detective Glen Rice and it is signed by Michael Paul Buckmon.
Q Before you asked the defendant any questions, did you advise him he had to understand his rights?
A Yes.
Q Did he initial next to each right indicating that

he understood it?

A Yes, he did.

Q Did he ask you any questions or indicate to you that he did not understand the rights?

A No.

Q Did he sign the form to indicate he had read the statement of rights and understood what the rights were?

A Yes, he did.

MR. HARTE: Your Honor, at this time, the State would introduce Court's 5.

MR. CHESSER: No objection.

THE COURT: Court's 5 entered without objection.

BY MR. HARTE:

Q Agent Seals was your interview with the defendant on February 18th, 2014 recorded by audio or video equipment?

A Yes, it was.

Q I'm showing you what's been marked as Court's 6. Can you identify it?

A It is the DVD marked Buckmon Interview, February 18, 2014, and this is the copy that was submitted with the case file.

MR. HARTE: Your Honor, at this time, the State would introduce Court's 6.

MR. CHESSER: No objection.

THE COURT: Court's Number 6, admitted without objection.

BY MR. HARTE:

Q Agent Seals, during your interview with the defendant on February 18th, 2014, did he at any time say he wanted to stop questioning?

A No.

Q At any time during that interview did the defendant ask to speak with his attorney?

A His attorney was present.

Q Who was his attorney that day?

A His attorney at the time was Jason Price.

Q And he was present during the entirety of the interview?

A Yes, he was.

Q Okay. Thank you, Agent Seals, I have no further questions.

A Yes, sir.

THE COURT: Mr. Chesser?

MR. CHESSER: Thank you.

CROSS-EXAMINATION IN-CAMERA

BY MR. CHESSER:

Q Agent Seals, how long was your interview with Michael Buckmon on November 11th?

A It was just short of two hours.

Q And at that time was he in handcuffs?
A Yes.
Q Okay. He was wearing an orange jump suit?
A I can't recall the color at this time.
Q He was in prison clothes?
A Yes.
Q Okay. Did you tell him what charges he was facing?
A No, sir.
Q Did you tell him that this was his opportunity to help himself?
A No, sir.
Q Did you tell that -- I mean after the interview with Michael Buckmon you were going to be speaking with the codefendant Matthew Bolen?
A I can't recall, sir, not at this point.
Q Do you recall on November 11th if Bolen was in custody?
A He was in custody, yes.
Q Okay. And when Mr. Buckmon --
A Oh, stop right there. I cannot -- I cannot say that. I cannot say that he was in custody. The days are very close.
Q There came a point when Mr. Buckmon indicated that he no longer wished to speak with law enforcement?
A Yes, there was a point that he wanted to stop.

Q Okay. And who was in the room with him when he invoked that right?
A It was myself and Detective Glen Rice.
Q And you left the room?
A Yes, I did.
Q Did Glen Rice leave the room?
A Yes.
Q How was it that the interview recommenced?
A It's a very small police department, very close quarters. When I exited the room, Glen Rice and Michael Paul Buckmon were in a hallway. They spoke briefly and then Detective Glen Rice approached me and said that Michael Paul Buckmon wished to continue the interview.
Q And that was -- and at that time what happened?
A We reentered the room and continued with the interview.
Q All three of you?
A Yes.
Q At what point in that interview, that two hour period was that?
A I cannot tell you within a level of certainty.
Q Have you been trained in interview techniques?
A Yes, I have.
Q Is that part of your arson training or is that some other type of training?

A When you're employed with the South Carolina Law Enforcement Division as a sworn special agent, you're a special agent first and then you have a special assignment. So all agents will receive training that would be associated with investigation and interviewing is part of that fundamental, basic outline of training.

Q Do you recall what specific courses you've had in interrogation techniques?

A I've attended the Reid Technique, which is a private company that offers training, as well as another one. I would be remiss to give you the pronunciation, but two separate specific interview courses I have attended.

Q Okay. And do you remember approximately when you attended those courses?

A The Reid Technique would have been in the mid 2000's and the last one, I believe, was in the last 24 months.

Q Okay. In your interview techniques, you occasionally furnish the accused who is being interviewed with false information?

A Are you asking me specifically on this case or just -- repeat the question.

Q In this case did you give Mr. Buckmon false information about the evidence against him?

A I do not recall.

Q Okay. Do you recall telling him that the DNA evidence proved that he had had sexual intercourse with her immediately -- in the hours immediately preceding her death?
A There was a reference to DNA, yes.
Q And, in fact, you had no DNA results on November 11th, 2013, right?
A I cannot say at this point if I had. It was not a generated report.
Q So -- well, let me just ask you in general, then, is it acceptable in your interview techniques to lie to a defendant about the state of the evidence?
A Yes.
Q Okay. So that would be a technique that's in part of your repertoire or available techniques to get information?
A Yes.
Q Okay. And you don't recall specifically in this case if you used that technique?
A No, I cannot.
Q But it is your testimony then that Buckmon asked that the interview be continued; is that what you stated?
A Yes.
Q Did he make that question to you or --
A I was told by Detective Glen Rice that he wanted to

continue.

Q All right. That's all the questions that I have.

THE COURT: Redirect?

MR. HARTE: Briefly, Your Honor.

THE COURT: Sure.

REDIRECT EXAMINATION IN-CAMERA

BY MR. HARTE:

Q Agent Seals, when was the defendant taken into custody?

A I cannot say. It was -- I know it was, obviously, prior to when I interviewed him. I know that Lieutenant Collier had interviewed him the day before and I was contacted on November 11th because I was made aware that there was a request for a recorded interview.

Q Okay. Thank you. I have no further questions.

THE COURT: Any followup?

MR. CRESSER: Nothing further, Your Honor.

THE COURT: Thank you Special Agent Seals. You may step down.

Mr. Harte, do you wish to call another witness?

MR. MILLER: Your Honor, the State would call Glen Rice.

THE COURT: Okay. Mr. Rice, please come forward.

GLEN RICE,

having been duly sworn, testified as follows:

THE CLERK: State your full name for the record.

THE WITNESS: Thomas Glen Rice.

DIRECT EXAMINATION IN-CAMERA

BY MR. MILLER:

Q Mr. Rice, where do you work?

A Bamberg County Sheriff's Department.

Q And how long have you been with the Bamberg County Sheriff's Office?

A I've been with them since February of this year.

Q And prior to that -- being employed there, were you employed with the Barnwell Police Department?

A Yes, I was.

Q What was your job for the Barnwell Police Department?

A I was a detective.

Q Okay. And as a detective, were you involved in the investigation into the death of Ms. Donna Dempsey?

A Yes, I was.

Q Okay. What was your involvement in the case for the Barnwell Police Department?

A I was the lead detective for Barnwell Police Department, working along with Special Agent Seals with SLED on it.

Q Okay. And in that capacity as the lead detective for the Barnwell Police Department, did you have occasion

to be present whenever the defendant, Mr. Buckmon was interviewed?

A Yes, I did.

Q Were you present during the video-taped interview from November 11th 2013?

A Yes, I was.

Q And were you also present during the video taped interview from February 18th, of 2014?

A Yes.

Q Did you personally advise the defendant of his rights under Miranda?

A I did not.

Q At either interview?

A No, I did not.

Q Okay. Did you see Special Agent Seals give him those advisements?

A Yes, I did.

Q For both of the interviews?

A Yes, sir.

Q Did you ever make any threats, or attempt to intimidate the defendant into giving you a statement at either one of the interviews?

A No, I did not.

Q Did you make any promise or hold out some hope of reward to him in order to get him to give you the

statements at either one of the interviews?
A No, sir.
Q Now, you did, during the course of the interview on November 11th of 2011, or excuse me 2013, you did tell the defendant you were going to talk to his codefendant after you got done talking to him, didn't you?
A Yes.
Q And you did tell the defendant that this was his chance to talk and say what he knew because the other side of the story was coming, correct?
A That's correct.
Q Do you recall with specificity what was said when you and the defendant were off camera on November 11th 2013, and he had said I don't want to -- I'm done talking?
A I don't recall exactly what was said.
Q Okay. But, while you were off the camera at that point in time, can you testify to this Court that you didn't make any threats or any promises to him if he continued to talk?
A I didn't make any threats or promises --
Q Okay.
A -- toward Mr. Buckmon.
Q Okay. Did the defendant request to go back into the interview room or did the defendant ask you -- well answer that one first. Did the defendant request to go

back into the interview room on camera?

A Did he --

Q If you remember?

A I don't recall.

Q Okay. Did the defendant try to keep talking to you after you had walked out of the interview room with him?

A Yes.

Q Okay. Now, on the February 18th, 2014 interview, that interview was at the Barnwell Sheriff's Office, correct?

A That's correct.

Q And honestly, I don't know if you said a word during the course of the interview, do you recall anything specific about that interview?

A No, sir.

Q Do you -- did you see anyone, yourself, Agent Seals, anybody else try to threaten or intimidate the defendant into giving a statement?

A No, sir.

Q And his defense attorney, Jason Price -- was Jason Price there for that interview?

A He was.

Q All right. Please answer any questions Mr. Chesser might have for you.

///

CROSS-EXAMINATION IN-CAMERA

BY MR. CHESSER:

Q Detective Rice, I want to talk about the interview on November 11 of 2013. You recall when Michael Buckmon invoked his right to terminate the interview?

A Yes.

Q Okay. Now, you don't recall him asking to recommence the interview?

A I don't recall the conversation we had off camera.

Q Okay. So you can't tell the Court that Mr. Buckmon requested to have the interview continue?

A I can't tell you what we talked about off camera. I don't recall.

Q All right. What is your procedure when an interviewee, a defendant, an accused, invokes their right to terminate an interview? What is your procedure?

A I can still talk to them unless they specifically ask for a lawyer. If they ask for a lawyer, then I can't discuss any further with them.

Q So based on that procedure then, that's the procedure you employed in this case, right?

A He didn't request for a lawyer.

Q Right. He said I want to stop the interview, but you continued the interview, right?

A As he talked to me in the hallway, which, I don't

know exactly what the conversation was. I just knew we needed to be on camera if he wanted to talk to me further.

Q But, again, he didn't request for the interview to be continued, did he?

A He may have, he may not have, I don't recall.

Q All right. That's all the questions I have.

THE COURT: Mr. Miller?

MR. MILLER: Nothing further, Your Honor.

THE COURT: Thank you, Detective Rice, you may step down.

You have any further witnesses, Mr. Miller?

MR. MILLER: None from the State, Your Honor.

THE COURT: Okay. Mr. Chesser do you wish to call any witnesses?

MR. CHESSER: Beg the Court's indulgence.

THE COURT: Sure.

(There was a pause in the proceedings.)

MR. CHESSER: We don't have any testimony.

THE COURT: Okay. And the motion?

MR. CHESSER: Yes, sir. Your Honor, I would move to suppress, to exclude that portion of the interview of November 11th subsequent to Michael Paul Buckmon's invocation of his right to terminate the interview. At that point, law enforcement has an obligation to terminate the interview and what they did in this case is they

disregarded his invocation of his right to silence and they continued to question him and then they brought him back in the interview room and continued this interview. I would submit that is clearly in violation of Miranda. And we would ask that that portion of the interview, subsequent to his invocation of his rights be suppressed and not admitted, Your Honor.

THE COURT: All right.

Mr. Miller, slash, Mr. Harte.

MR. MILLER: Your Honor, and I was actually looking because we need to get the actual -- we did not publish these interviews for the Court that are in the evidence, but we will get the Court the exact time, but what is actually on the audio and the video of the interview, when he says he's done answering questions, he gets up and as he is walking out of the room --

THE COURT: Who is he?

MR. MILLER: Mr. Buckmon.

THE COURT: Okay.

MR. MILLER: When Mr. Buckmon gets up and he is walking out of the room, as Agent Seals testified, he's standing up and writing -- he stands up and starts writing in his notebook. He's concluded the interview. And as Mr. Buckmon leaves the room, you can hear him off camera say, I'll still talk to you, Rice.

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And at that point, they get out of earshot and Detective Rice clearly knew they needed to be back in the interview room. And I think if the Court looks at the video, it's approximately a two-minute span and if the Court looks at the video, it's clear from the surrounding circumstances, Mr. Buckmon did want to continue the interview.

He comes back in, he sits down in the chair, he starts talking about stuff again, he starts talking to them. Now admittedly at that point in time, Detective Rice is the only one that's asking him any questions because he's already expressed his frustrations with Agent Seals. Eventually, Agent Seals starts asking him other questions too, to which he responded, but, Your Honor, I think that the Court needs to take it into context and see the video of what was captured in the audio and the video to appreciate the fact that there's just absolutely no evidence that they took him and forced him or coerced him into continuing with his statement. He walks out of the door and as he's walking away from the microphone, apparently away from the microphone, he says to Detective Rice, I'll still talk to you and Detective Rice knows that if he's talking to him, he needs to be on camera and that -- we would submit that was what was going on during that period of time, was that he was explaining that he

needed to get back on the camera.

And we don't have any testimony to that effect, but we would say that you need to look -- or the Court needs to look at the circumstances surrounding it and the voluntariness of the statement by actually viewing that two-minute period whenever he is actually off of the camera's view so the Court can see what his attitude and what his demeanor was both before he said I want to stop the interview and after, when he came back into the room.

Because frankly, when he said he wanted to -- I believe the way he referred to it is, he said, I'm done, or something to that effect and he was pretty frustrated and when he walked back in and sat down, he was much more calm and he was like, okay, let's -- you know they keep going with it.

THE COURT: Agent Seals or Detective Rice, either one of you can answer this, but after he says whatever he says that causes y'all to leave the room, when you go back in the room, is all that on video?

DETECTIVE RICE: Yes, Your Honor.

THE COURT: Okay. Is that right Special Agent Seals?

AGENT SEALS: Yes, Your Honor.

THE COURT: Okay. All right. Do you have it pulled up where I can see it?

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MR. MILLER: We can get it, Your Honor. We'll get a laptop in here and the video is there.

All right. So for the record, let's deal with the November 10th, 2013 and the February 18th, 2014 statements. And, of course, it is the Court's responsibility to conduct an evidentiary hearing outside the presence of the jury where the State is required to prove that these statements were given voluntarily and their standard is by a preponderance of the evidence and only then, if the Court makes that decision, can they be submitted to the jury.

I find that all three of these interrogations were in -- they were custodial interrogations, he was clearly in custody. He was in -- by the February statement, he's actually -- has pending charges and he is in custody for each of these statements; and therefore, he must be informed of his Miranda warnings. I find that he was informed of his Miranda warnings.

He was advised and as to the November 10th and February 18 statement, he voluntarily waived his rights. I think that the State has proved that by a preponderance of the evidence and based on the totality of the circumstances. I find that the November 10th and February 18th statements were given knowingly, intelligently, and voluntarily without any threat, coercion, force, intimidation, or pressure, that his will was not overborne

considering all of the circumstances and that he was clearly advised of his Miranda warnings.

February 18th, he was there and present with his attorney at the time on the criminal charges. I take into fact his background, his experience and the conduct of the accused and the circumstances surrounding the case, I find that the first and the last statements were freely, voluntarily, knowingly, and intelligently made without threat, coercion, force, or intimidation, and that they would be admissible in trial if the State so sees fit to use them.

As to the November 11th, 2013, statement, I'm going to review the video. Y'all get it set up and then I'll rule on that.

MR. MILLER: Thank you, Your Honor.

(There was a pause in the proceedings.)

MR. MILLER: Your Honor, we're going to hand up the laptop here.

(The Court is watching the video for a short portion.)

THE COURT: How long until they come back in?

MR. MILLER: Approximately a minute and 50 seconds, I think, Judge.

THE COURT: Okay.

(Watching again.)

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THE COURT: Okay. Any comment on that, Mr. Chesser?

MR. CHESSER: No, Your Honor.

THE COURT: Okay. Mr. Miller?

MR. MILLER: No, Your Honor, aside from the previously mentioned totality of the circumstances and the Court's already spoken on the burden of proof on the State at this point in the process.

THE COURT: All right. On the November 11th, 2013 statement, I'm going to find that it was freely, voluntarily, knowingly, and intelligently made after his advice of Miranda warnings; that he was without any threat coercion, force, intimidation, or pressure. Based upon the totality of the circumstances, he was being interviewed, he basically says in the middle of the interview around minute 56, he says I'm ready to go, something of that nature. He doesn't say anything about wanting a lawyer or he won't talk without a lawyer or anything else.

The agents comply with him. He stands up. Agent Seals comes onto the video. He begins writing in his note pad and you can clearly hear Mr. Buckmon say to Detective Rice, you can come back and talk to me, something of that nature where he wishes to continue the interview at that time. He then comes back into the interview room, approximately a little under two minutes later, and sits

down; doesn't say I don't want to be here, he doesn't say I don't want to have anything to do with this. He doesn't say I don't want to talk. He doesn't say anything other than going right back into relevant information or what I would propose to be relevant information concerning the facts and circumstances of the case. Therefore, I find that the November 11th, 2013 statement is admissible, based upon the standards in Miranda versus Arizona, in State versus Miller, Court of Appeals, 2008, 375 SC 370. I think it was actually decided in 2007 and *certiorari* was denied in 2008; and all three statements are admissible.

Anything further from the defense?

MR. CHESSER: No, Your Honor.

THE COURT: And from the State?

MR. HARTE: No, Your Honor.

THE COURT: All right. Good luck to you Mr. Buckmon. You'll be on the trial docket --

He'll be first up in October, is that right?

MR. MILLER: That is correct, Your Honor.

THE COURT: You'll be first up in October and best of luck to you, sir.

* * * * * * * * * END OF TRANSCRIPT * * * * * * * * *

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State of South Carolina)
) Certificate of Reporter
County of Aiken)

I, THE UNDERSIGNED, Brenda J. Sigwald, Official Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that I reported the proceedings in the captioned case in the Court of General Sessions in and for the State of South Carolina on 19th day of July, 2016.

I FURTHER CERTIFY that the foregoing pages constitute a true, accurate and complete transcript of said hearing.

I FURTHER CERTIFY that I am neither kin, counsel, nor of interest to any party hereto.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at Aiken County, this 25th day of January, 2017.

Brenda J. Sigwald

Brenda J. Sigwald,
Court Reporter and Notary Public
For the State of South Carolina
My commission expires
January 4, 2020

State of South Carolina

Court of General Sessions

County of Barnwell

State	)	
	)	
	)	Transcript of Record
v.	)	2014-GS-06-00359
	)	2014-GS-06-00205
Michael Paul Buckmon	)	2014-GS-06-00210
	)	
Defendant.	)	

October 17 - 19, 2016
Barnwell, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge; and a jury.

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

David Miller, Deputy Solicitor
Attorney for the State

Michael Chesser, Esquire
Attorney for the Defendant

Bethanie K. Creppon
Circuit Court Reporter

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PROCEEDINGS

* * *

THE COURT: All right. Mr. Miller, call your first case.

MR. MILLER: Thank you, Your Honor. May it please the Court? State calls the State of South Carolina vs. Michael Paul Buckmon, Indictment 2014-GS-06-00359, a true billed indictment for criminal sexual conduct in the first degree; Indictment 2016-GS-06-205, a true billed indictment for arson in the first degree involving death; Indictment 2016-GS-06-210, true billed indictment for murder.

THE COURT: All right. Ladies and gentlemen of the jury panel, the State has called for trial a case against the defendant Michael Paul Buckmon. He has been indicted for the offenses of criminal sexual conduct, arson in the first degree, and murder.

Mr. Buckmon has pled not guilty to all three indictments. A plea of not guilty clothes him with the constitutional presumption of innocence unless the State is able to prove to you beyond a reasonable doubt the elements of each of these three separate indictments separate and apart from the

other.

So Mr. Buckmon has pled not guilty. He's presumed to be innocent unless the State is able to prove his guilt to you beyond a reasonable doubt.

The fact that he's been arrested, charged and indicted, that is not evidence in the case. Those are simply allegations. These are the formal legal documents by way this case comes into the courtroom. Please do not infer anything from the fact that he has been indicted for these three offenses.

By pleading not guilty, we will have a jury trial. During that trial, you will be the judges of the facts. You will determine what the true facts are and apply it to the law as I give it to you at the conclusion of the case.

Now, as I told you earlier, we will select 12 jurors to serve. We will select three alternates since this may go into Thursday. I have to ask you a few more questions to determine whether or not you're qualified to serve on this particular trial that has been called, so please listen carefully. And, once again, if any of the questions apply to you, please stand and we will discuss them.

Do I have any member of the jury panel who is related by blood or marriage or do I have anyone in

the jury panel who has ever had a close personal or social relationship with Michael Paul Buckmon?

Mr. Buckmon, would you stand and face the jury panel please.

THE DEFENDANT: You want me to stand?

THE COURT: Please.

Thank you. You may be seated.

Ma'am, please remain standing.

-- or the victim in this case who is a person named Donna Dempsey? So is anyone related by blood or marriage to Mr. Buckmon, Michael Paul, or to the deceased Donna Dempsey or have had a close personal or social relationship? Please stand.

You're not on the jury, sir.

THE WITNESS: No, sir.

THE COURT: All right. Ladies first. In the white blouse, ma'am, your name and number?

POTENTIAL JUROR: I don't know my number but my name is Janie Garvin. He was my son's friend in school so I know him good.

THE COURT: You know the defendant?

POTENTIAL JUROR: Yes.

THE COURT: Ms. Garvin?

POTENTIAL JUROR: Yes.

THE COURT: All right. Thank you. Hold on.

Ma'am, your name and number?

POTENTIAL JUROR: I'm Tameka Jones. I'm not sure about my number. I'm close friends with the defendant.

THE COURT: How close?

POTENTIAL JUROR: We grew up together.

THE COURT: Grew up together? Okay.

And sir on the back with the striped shirt, your name and number?

POTENTIAL JUROR: My number is 24, Willie Brown. Good friend.

THE COURT: Good friend?

POTENTIAL JUROR: Yes.

THE COURT: And ma'am, your name and number?

POTENTIAL JUROR: 133, Charlene Darlington. His aunt Sherrie Sherman Cooler and I were friends. We went to grade school and college together.

THE COURT: Okay. So you're close friends to his family?

POTENTIAL JUROR: Yes.

THE COURT: All right. Well, serving on a jury -- please remain standing for me. Serving on a jury requires that you listen to testimony and determine who is telling the truth. And we're all human. I mean, we have close friends, and it's

sometimes hard to judge a close friend or family or somebody that you grew up with or somebody that you've known all your life. And we normally don't put people on juries who are that close to either the defendant or the victim or even any of the witnesses. I'm going to ask the same question about witnesses so -- ma'am, your name again on the front?

POTENTIAL JUROR: My name? Charlene Owens Darlington.

THE COURT: Would you rather be relieved of your duty from having to listen to testimony dealing with close family friends?

POTENTIAL JUROR: I do.

THE COURT: You don't think you could be fair, is what I'm saying? And that's human nature.

POTENTIAL JUROR: I would be fair but it's uncomfortable.

THE COURT: I understand. All right. I'm going to excuse you from the trial of the case.

POTENTIAL JUROR: Thank you.

THE COURT: Y'all got her name and number?

POTENTIAL JUROR: 133. I may leave now?

THE COURT: Yes, ma'am.

POTENTIAL JUROR: Okay. Thank you.

THE COURT: Ma'am in the white shirt, your name

and number again?

POTENTIAL JUROR: My name is Janie Garvin but I don't remember my number.

MR. MILLER: 190.

THE COURT: And you are --

POTENTIAL JUROR: Well, actually I know him as a little boy and he used to be my son's best friend, so he's just like a son to me too.

THE COURT: All right. I deem legally that to be too close. I'm going to excuse you from the trial of the case. That wouldn't be fair to him or to the State.

POTENTIAL JUROR: Thank you.

THE COURT: Ma'am, your name again?

I'm going to get to you in just a second, ma'am.

POTENTIAL JUROR: Tameka Jones.

THE COURT: And you grow up with him?

POTENTIAL JUROR: Yes. And I'd rather be relieved.

THE COURT: I'm going to remove you. That's too close. Thank you.

Sir?

POTENTIAL JUROR: Willie Brown, Juror 24.

THE COURT: And you grew up with him too?

POTENTIAL JUROR: Well, we hung together a while.

THE COURT: Hung together? I'm older than you are. Hanging together, I assume, means y'all are close friends?

POTENTIAL JUROR: Yeah, we was good friends.

THE COURT: All right. I'm going to excuse you too.

POTENTIAL JUROR: Thank you.

THE COURT: Ma'am, you stood up a couple times in the pretty multicolored blouse. Your name and number?

POTENTIAL JUROR: Irone Aaron, Number 1.

THE COURT: And what's your situation?

POTENTIAL JUROR: He was a good friend to my son and my nephew, so -- and I knew his Aunt Sherrie.

THE COURT: And his what?

POTENTIAL JUROR: Excuse me?

THE COURT: He's a good friend to your son and what?

POTENTIAL JUROR: And I know his Aunt Sherrie.

THE COURT: So in other words, pretty close family relationship with his family and your family?

POTENTIAL JUROR: Well, he was like one of my

son's and nephew's friends so they came around a lot. So I don't know -- it would be kind of funny feeling --

THE COURT: I understand. I'm going to excuse you. Thank you. You may leave.

Ma'am in the back, your name and number?

POTENTIAL JUROR: Alicia Buxton, Juror Number 27. Michael Paul and I grew up together. We lived in the same apartments together, went to school together. I would definitely like to be excused.

THE COURT: I will excuse you. That's too close. Thank you.

Anyone else?

I asked about two names. Mike Paul Buckmon and the alleged victim is Donna Dempsey.

Anyone related by blood or marriage or had a close relationship with Donna Dempsey?

All right. We're going to go through that same exercise. Listen to these names as I call them and then I'll ask the same question. The potential witnesses in the trial of the case are: Tracy Dempsey -- I assume some kin to Donna Dempsey. I'm not sure -- Chris Robinson from Sharpton, Georgia; Hakeem Mixon; Felicia Worthy; and Lisha Williams as well as Loy Mitcham from Aiken.

THE WITNESS: I'm here, sir.
THE COURT: You're who?
THE WITNESS: Loy Mitcham.
THE COURT: Stand up for us, Mr. Mitcham, please.
THE WITNESS: Yes, sir.
THE COURT: Thank you. Just look at the jury panel.
Thank you. You may be seated.
-- Captain Mark Cato from the Barnwell Fire Department; Janice Ross -- she's a doctor from Newberry. She's a pathologist -- Lieutenant Craig Collier with SLED; Detective Deputy Glen Rice with Bamberg County Sheriff's Office; special agent with SLED Sterling Seals; and Matthew Trey Bolen of Williston.
Same question: Do I have any member of the jury panel who is related by blood or marriage, now or in the past, or do you now or have you in the past had a close personal or social relationship with any of these potential witnesses? If so, please stand.
Ladies first. In the black blouse.
POTENTIAL JUROR: I've known Mark Cato --
THE COURT: Your name and number?

POTENTIAL JUROR: Katrina Arbogast, Number 5.

THE COURT: And you know our fire chief; is that correct?

POTENTIAL JUROR: Yes. And Glen Rice.

THE COURT: And who?

POTENTIAL JUROR: Glen Rice.

THE COURT: Used to work here, now works in Bamberg. Glad to have him in Bamberg.

Know them or went to school with them, grew up with them or what?

POTENTIAL JUROR: I know them. My husband used to work with both of those.

THE COURT: Well, the fact that you know them and I assume that means you just know them -- I know a lot of people in the town I live in. Some of them I'm close to; some I just know.

POTENTIAL JUROR: Well, my husband and Mark Cato are -- well, they were real good friends. They still talk a good bit.

THE COURT: I want to feed everybody out of the same spoon and be fair. Is that relationship very close?

POTENTIAL JUROR: Not as much.

THE COURT: All right. Let me ask you this: The fact that you have some knowledge or know a

couple of the witnesses, Captain Cato and Detective Rice, would that in any way preclude or keep you from being a fair and impartial juror in the trial of this case being able to side the fact that your husband has some friendship with them and decide this case based solely on what is presented in the courtroom? Can you do that?

POTENTIAL JUROR: Yes.

THE COURT: Thank you. You may be seated.

Sir in the front right here.

POTENTIAL JUROR: Juror 149, Daryl Rhymes. I know Glen Rice. He is my niece's husband.

THE COURT: Your niece's husband? So that makes him family by marriage?

POTENTIAL JUROR: Yeah, family by marriage.

THE COURT: All right. I'm going to excuse you from the trial of this case. You're excused. Too close.

Sir, your name and number again, in the white shirt?

POTENTIAL JUROR: Thomas Higgs, Number 74.

THE COURT: And?

POTENTIAL JUROR: Approximately ten years ago over a period of some eight years prior to that, I worked with Glen Rice and I worked periodically with

Captain Cato. He was a volunteer fireman for the city. Detective Rice was a police officer -- making them essentially a second-tier, third-tier employee.

THE COURT: So you were a volunteer fireman at the time?

POTENTIAL JUROR: No, sir. I was city manager -- city administrator here. But I have not seen them in some ten years.

THE COURT: Okay. That's fair enough. The fact that you were the city manager at that time and these gentlemen worked for the city, would that in any way preclude or keep you from being able to decide this case based solely on what is presented on the witness stand and determining what the true facts are and applying those facts as they give them to you?

POTENTIAL JUROR: No, sir.

THE COURT: Thank you. You may be seated.

POTENTIAL JUROR: Terry Birkenstock.

THE COURT: I'm sorry. Your name and number?

POTENTIAL JUROR: Terry Birkenstock. Can't remember the number.

THE CLERK: Number 15.

POTENTIAL JUROR: This morning due to the lack of me keeping proper time I came early trying to

find when court started, and I approached these good people -- the two people on the front and asked them were they here for jury duty and they explained that they were here to testify on a murder trial. We didn't talk anything more about it after that.

THE COURT: Mr. Birkenstock, thank you for bringing that to my attention. That certainly was a benign request as to why you were here early and what they were doing here. In any way -- would that in any way preclude or keep you from being fair and impartial in the trial of the case?

POTENTIAL JUROR: Other than their emotional, why they were here, no, sir.

THE COURT: Well, what do you mean by that, other than --

POTENTIAL JUROR: You could feel the emotion from it.

THE COURT: Well, murder trials are very emotional cases for everybody concerned, including me and the -- everybody. It's a civic duty that's not -- you can't do it without feeling some emotion.

POTENTIAL JUROR: It was an eye-opener and the reason why I was here. Didn't want to be here but when I seen somebody was here, you could see there's a reason why I was here. People are involved in a

decision and you need to --

THE COURT: But can you make that decision based solely on what you hear presented in this courtroom?

POTENTIAL JUROR: I believe so, sir.

THE COURT: Thank you. You may be seated.

Representing Mr. Buckmon are lawyers from Aiken Mr. Michael Routzong and Michael Chesser. Mr. Chesser is on my right, your left. Mr. Routzong is on my left, your right.

The State will be represented by Mr. David Miller and Mr. Harte, Wilder Harte. They live in Aiken as well. Mr. Harte now lives in Columbia, I think.

First question: Has anyone on the jury panel ever had legal work in the past or currently performed by any of the four lawyers? If so, please stand.

Is any member of the jury panel related by blood or marriage, or do you now or have you in the past had a close personal relationship with any of the four lawyers who are involved in the case?

As I told you earlier, the indictment is the means by way this trial comes into the courtroom. The indictment is the means by way this case comes

into the courtroom. I need to ask you if you know anything about the case, about the facts in the case, if you heard anything about it, read anything about it, formed any opinions, anybody's discussed it with you, formed any preconceived ideas about the case.

It's alleged -- it is alleged -- these are allegations that must be proven in court -- that here in Barnwell County on Halloween of 2013 -- the night of October 31, 2013 into the morning hours of November 1, 2013 it is alleged that during that time period on Berry Street -- and I'm not sure where Berry Street is, but it's [redacted] Berry Street here in Barnwell -- that Mr. Buckmon committed a sexual battery on the deceased Donna Dempsey, constituting the crime of criminal sexual conduct.

It is further alleged that on those dates, probably into the morning hours of November 1, 2013, that by -- with malice aforethought, he murdered her by incapacitating her in some manner and setting fire to her residence where she was and as a result she died from the fire.

It is further alleged that between October 31 and November 1 of 2013 that he caused the residence or structure or building in which she died, that he

caused it to be set on fire, caused it to be burned. In other words, it's a case involving an event that occurred on Berry Street in Barnwell Halloween night of 2013 into the early morning hours of November 1, 2013. It's alleged that he had sexual battery with her that constituted criminal sexual conduct, that he caused her injuries, that he incapacitated her, set the house on fire and she died as a result.

Now, my question is: Do I have any member of the jury panel that has any knowledge of this event other than perhaps what you have read in the newspaper or any knowledge whatsoever which would preclude you from serving? If so, please stand.

Has anyone discussed this case with you? Have you read about it in the newspaper, seen it on the TV, Internet, neighbors talked to you about it? Anyone know anything at all about what happened back in 2013 on Halloween night on Berry Street?

Anyone formed any opinion about it?

Ladies and gentlemen, the way under our system of justice, which our forefathers fought for and we have our constitution and the laws that have evolved since the 1700s, when anyone is accused, such as Mr. Buckmon is in this case, of this offense of arson first degree, criminal sexual conduct and

murder, if he's accused and he says, I plead not guilty, then our system of justice handles it in this manner: We select 12 citizens from the community to sit and listen to the evidence and determine whether or not the State can prove his guilt to you beyond a reasonable doubt.

In other words, during the trial of a criminal case as well as a civil case, but in a criminal case, we have two judges who participate in the trial of the case. Now, it's obvious that I'm one of the judges because I'm up here with a black robe on.

I was elected by the State legislature to be the resident judge of Bamberg, Barnwell and Aiken Counties 12 years ago, and I preside in trials all over the state. And in those cases that I preside in I am the judge of the law in the case. In other words, I instruct you what the law is and you're under an oath to accept the law as I give to you.

So my job is fairly easy. I tell you what the law is dealing with murder and criminal sexual conduct and arson in the first degree, proof beyond a reasonable doubt, presumption of innocence. Those sorts of things. That's my main job in the case. I'm the judge of the law.

My other main responsibility is to make sure that the lawyers on both sides present their cases and present the evidence so that it complies with the rules of evidence and the rules of criminal procedure. What that happens sometimes is they can ask witness 1 a question and they'll say, well, it was in the nighttime, and witness 2 will say it was in the daytime, witness 3 will say, I don't know.

All of them are proper questions. You get three different answers. So we have to have a smarter judge than me. We have to have a judge of the facts in the case. And the judge of the facts in the case, they listen to all of the testimony and they determine who is telling the truth. They judge the credibility or the believability of the witnesses who testify in the case.

You do that day in and day out dealing with your children, your husbands, your wives, your friends, employees, employers. You know how to judge when someone is telling to truth. So that's the judges of the facts.

Well, so happens that judge of the facts are 12 people collectively acting as one. So the 12 jurors who are the judges of the facts, you listen and determine what the true facts are. And once you

make a decision as to what those true facts are, you apply the facts to the law as I give it to you, and then you will be in a position to render a true and just verdict in the case. Verdict simply means to speak the truth.

So having said that, do I have anyone on the jury panel who is unable for any reason whatsoever, whether it be a personal belief, a political belief, a religious belief or any kind of belief, that cannot perform this civic duty by sitting on the jury panel, listening to the testimony and determining what the true facts are and applying it to the law as I give to you?

I need to know that now. Do I have anyone who cannot perform that civic duty? Please stand.

Yes, ma'am, your name and number? You want to come up here and tell me what's going on, why you can't do that?

Your name and number?

POTENTIAL JUROR: 115, Kimberley M.

THE COURT: What's going on?

POTENTIAL JUROR: Because of my religious beliefs.

THE COURT: What kind of religion?

POTENTIAL JUROR: Jehovah's witness. I don't

believe in judging --

THE COURT: You're not judging. What you're doing is determining what the true facts are and applying it to the law as I give it to you. You can't do that?

POTENTIAL JUROR: I don't believe I can put judgment on someone.

THE COURT: All right. Well, you stay with us. I'll excuse you from the trial of this case but you need to stay with us.

POTENTIAL JUROR: Okay.

THE COURT: Do I have any member of the jury panel who is a contributor to or a member of an organization or group that has as its primary concern the promotion of law enforcement or victim's rights, such as MADD, Mothers Against Drunk Drivers; SADD, Students Against Drunk Drivers; CAVE, Citizens Against Violent Crime, or some other type of group? Anyone a member of those types of groups?

Any member of the jury panel, you or your immediately family an employee of law enforcement -- that would be the Barnwell County Sheriff's Office or Police Department, SLED, highway department -- please stand.

Yes, sir?

POTENTIAL JUROR: My son was formerly a police officer in Williston.

THE COURT: In Williston?

POTENTIAL JUROR: For about two years and Blackville for about two years. He is currently working in Beckley, West Virginia as a mechanic at a ski resort.

THE COURT: He's probably having more fun at the ski resort. You're Mr. Birkenstock, right? Number 15?

POTENTIAL JUROR: Yes, sir. And my sister retired from Dayton, Ohio, full career as a police officer.

THE COURT: Thank you. And the fact that you had family in law enforcement in the past, would that in any way, sir, preclude you from being fair and impartial?

POTENTIAL JUROR: I believe not, sir.

THE COURT: Thank you. You may be seated.

Yes, ma'am? Your name and number again?

POTENTIAL JUROR: Katrina Arbogast, Number 5. My husband is an ex-police officer.

THE COURT: I'm sorry. Is a what?

POTENTIAL JUROR: My husband is an ex-police officer.

THE COURT: Aiken? Where does he work?

POTENTIAL JUROR: He's no longer a police officer now.

THE COURT: The fact that your husband was at one time a police officer, would that in any way, ma'am, preclude or keep you from being fair and impartial, being able to try the case based solely on what you hear in the courtroom?

POTENTIAL JUROR: No, sir.

THE COURT: Thank you. You may be seated.

Sir in the back?

POTENTIAL JUROR: Ronnie, Juror Number 68 or 9. I'm not sure.

THE CLERK: 68.

POTENTIAL JUROR: My son-in-law J.D. Grubbs was an employee for the Barnwell Sheriff's Office.

THE COURT: The fact that your family member was in the past a member of the local law enforcement, Mr. Hare, would that in any way preclude or keep you from being fair and impartial in the trial of the case?

POTENTIAL JUROR: I don't think so, no, sir.

THE COURT: Thank you. You may be seated.

Ma'am, your name and number?

POTENTIAL JUROR: Maddie Brown, Juror 23.

THE COURT: Yes, ma'am, Ms. Brown?

POTENTIAL JUROR: Detention officer at Aiken County Detention Center. I worked with SCDC from 2013 to December of last year.

THE COURT: And the fact that you worked in the detention center at one time, Ms. Brown, would that in any way preclude or keep you from being fair and impartial in the trial of the case?

POTENTIAL JUROR: Yes, sir.

THE COURT: All right. Remove her from the jury. But you have to stay with me.

Your name and number?

POTENTIAL JUROR: Ethyl Washington. I don't know the number.

THE CLERK: Number 185.

POTENTIAL JUROR: My sister was a jailer at the Barnwell County Detention Center.

THE COURT: When was that, Ms. Washington?

POTENTIAL JUROR: I think she's done been retired now about eight years.

THE COURT: About eight years? So long before this allegedly happened?

POTENTIAL JUROR: Oh, yes.

THE COURT: Would that in any way keep you from being fair and impartial?

POTENTIAL JUROR: No, it would not.

THE COURT: Thank you, Ms. Washington.

Do I have any member of the jury panel who a member of your family has been a victim of burglary or arson or of a murder? If so, please stand.

Mr. Hare?

POTENTIAL JUROR: Yes, sir.

THE COURT: What was your number? 68?

POTENTIAL JUROR: 68. My dad was the victim of an armed robbery attack that led to his death numerous years ago.

THE COURT: How long ago was that?

POTENTIAL JUROR: Roughly 28 years ago.

THE COURT: All right. Mr. Hare, the fact that you had to endure that unpleasant experience, would that in any way preclude or keep you from being able to be a juror in the trial of this case, being fair to both sides?

POTENTIAL JUROR: Honestly it could, sir.

THE COURT: Could?

POTENTIAL JUROR: It could.

THE COURT: I can understand. We'll excuse you from the trial of the case.

POTENTIAL JUROR: Thank you.

THE COURT: Stick with me a minute.

Ma'am on the front row in the Gamecock colors.

POTENTIAL JUROR: 77, Tamara Hudson. My house was burglarized about four years ago.

THE COURT: And the fact that your house was burglarized four years ago, would that keep you from being a fair and impartial juror and being able to try the case based solely on what you hear?

POTENTIAL JUROR: No.

THE COURT: Thank you, ma'am.

Ma'am in the green and black.

POTENTIAL JUROR: Carla Dobson 50. House broken into.

THE COURT: I'm sorry. Your name and number again?

POTENTIAL JUROR: Carla Dobson, 50. My house was broken into several years back.

THE COURT: And the fact that your house was broken into years ago, ma'am, would that in any way preclude or keep you from being fair and impartial?

POTENTIAL JUROR: No, sir.

THE COURT: You may be seated.

Sir, last but not least?

POTENTIAL JUROR: Brian Moister, Juror 72. My mom was robbed at gunpoint probably 15 years ago.

THE COURT: Would that event preclude or keep

you from being fair and impartial in the trial of the case?

POTENTIAL JUROR: No, sir.

THE COURT: Thank you. You may be seated.

Last question: Does any member of the jury panel know of any reason whatsoever why he or she should not be able to serve as a juror with particular emphasis being placed on your ability to be fair both to the defendant and to the State? If so, please stand.

Any additional questions by the State?

MR. MILLER: None by the State, Your Honor.

THE COURT: By the defendant?

MR. CHESSER: No, Your Honor.

THE COURT: All right.

Ladies and gentlemen, the way we select a jury now on a criminal case as opposed to a civil case, who are car wreck cases or legal malpractice or something of that nature -- if we were trying a civil case, Ms. McElveen would give me a list with 20 names on it; the plaintiff, the person bringing the suit would strike four; the defendant would strike four, leaving us with 12.

In a criminal case it's a little different. We will randomly select jurors from a computer program.

We used to do it with a cigar box, just pull them out for years. But you'll be selected randomly. And as your name is called, if you would, please come and stand right here. The State has five strikes. The defendant has ten strikes. And they can strike you for most any reason or no reason at all within certain bounds.

Obviously that's dictated by certain cases before the U.S. Supreme Court. The lawyers know all about. They have to comply with those. Case called Batson, one of the main ones. But anyway, don't get your feelings hurt if they strike you because sometimes I don't know why.

But anyway, we'll go through that process until we get 12 jurors and three alternates and then we'll have our jury. So as your name is called please come forward and stand right here.

THE CLERK: Juror No. 159 Donald Sanders.

(Donald Sanders comes forward.)

THE CLERK: What says the State?

MR. MILLER: Please present Mr. Sanders.

THE CLERK: What says the defense?

MR. CHESSER: Please strike Mr. Sanders. Please excuse Mr. Sanders.

THE CLERK: Juror No. 82, Gary James.

(Gary James comes forward.)
THE CLERK: What says the State?
MR. MILLER: Please present Mr. James.
THE CLERK: What says the defense?
MR. CHESSER: Please seat Mr. James.
THE CLERK: Juror No. 54, Michael Dikes.
(Michael Dikes comes forward.)
THE CLERK: What says the State?
MR. MILLER: Please present Mr. Dikes.
THE CLERK: What says the defense?
MR. CHESSER: Please excuse Mr. Dikes.
THE CLERK: Juror No. 41, Porter Clayter.
(Porter Clayter comes forward.)
THE CLERK: What says the State?
MR. MILLER: Please present Mr. Clayter.
THE CLERK: What says the defense?
MR. CHESSER: Please seat Mr. Clayter.
THE CLERK: Juror No. 159, David Ryans.
(David Ryans comes forward.)
THE CLERK: What says the State?
MR. MILLER: Please present Mr. Ryans.
THE CLERK: What says the defense?
MR. CHESSER: Please seat Mr. Ryans.
THE CLERK: Juror No. 118, Valerie Moody.
(Valerie Moody comes forward.)

THE CLERK: What says the State?

MR. MILLER: Please present Ms. Moody.

THE CLERK: What says the defense?

MR. CHESSER: Please seat Ms. Moody.

THE CLERK: Juror No. 75, Larry Highsmith.

(Larry Highsmith comes forward.)

THE CLERK: What says the State?

MR. MILLER: Please present Mr. Highsmith.

THE CLERK: What says the defense?

MR. CHESSER: Please excuse this juror.

THE CLERK: Juror No. 95, Alex Kennedy.

(Alex Kennedy comes forward.)

THE CLERK: What says the State?

MR. MILLER: Please present the juror.

THE CLERK: What says the defense?

MR. CHESSER: Please seat the juror.

THE CLERK: Juror No. 14, Barbara Bell.

(Barbara Bell comes forward.)

THE CLERK: What says the State?

MR. MILLER: Please present Ms. Bell.

THE CLERK: What says the defense?

MR. CHESSER: Please excuse Ms. Bell.

THE CLERK: Juror No. 56, Johnnie Faust.

(Johnnie Faust comes forward.)

THE CLERK: What says the State?

MR. MILLER: Please present Mr. Faust.
THE CLERK: What says the defense?
MR. CHESSER: Please seat Mr. Faust.
THE CLERK: Juror No. 109, David Martin.
(David Martin comes forward.)
THE CLERK: What says the State?
MR. MILLER: Please present Mr. Martin.
THE CLERK: What says the defense?
MR. CHESSER: Please seat Mr. Martin.
THE CLERK: Juror No. 86, Chicora Johnson.
(Chicora Johnson comes forward.)
THE CLERK: What says the State?
MR. MILLER: Please excuse Ms. Johnson from the trial of this case.
THE CLERK: Juror No. 186, Lessie Washington.
(Lessie Washington comes forward.)
THE CLERK: What says the State?
MR. MILLER: Please excuse Ms. Washington from the trial of this case.
THE CLERK: Juror No. 125, Ronald Neville.
(Ronald Neville comes forward.)
THE CLERK: What says the State?
MR. MILLER: Please present the juror.
THE CLERK: What says the defense?
MR. CHESSER: Please seat Mr. Neville.

THE CLERK: Number 10, Betty Baxley.

(Betty Baxley comes forward.)

THE CLERK: What says the State?

MR. MILLER: Please present the juror.

THE CLERK: What says the defense?

MR. CHESSER: Please seat Ms. Baxley.

THE CLERK: Juror No. 108, Stephanie Mahuron.

(Stephanie Mahuron comes forward.)

THE CLERK: What says the State?

MR. MILLER: Please present the juror.

THE CLERK: What says the defense?

MR. CHESSER: Please seat Ms. Mahuron.

THE CLERK: Juror No. 53, Christine Dunaway.

(Christine Dunaway comes forward.)

THE CLERK: What says the State?

MR. MILLER: Please present the juror.

THE CLERK: What says the defense?

MR. CHESSER: Please excuse Ms. Dunaway.

THE CLERK: Juror No. 26, Betty Burch.

(Betty Burch comes forward.)

THE CLERK: What says the State?

MR. MILLER: Please present Ms. Burch.

THE CLERK: What says the defense?

MR. CHESSER: Please seat Ms. Burch.

THE CLERK: Juror 185, Ethel Washington.

(Ethel Washington comes forward.)
THE CLERK: What says the State?
MR. MILLER: Please present Ms. Washington.
THE CLERK: What says the defense?
MR. CHESSER: Please seat Ms. Washington.
THE COURT: All right. Two and one, three alternates.
THE CLERK: Juror No. 59, Karen Flanders.
(Karen Flanders comes forward.)
THE CLERK: What says the State?
MR. MILLER: Please present the juror.
THE CLERK: What says the defense?
MR. CHESSER: Please seat Ms. Flanders.
THE CLERK: Juror No. 96, Anthony Kennedy.
(Anthony Kennedy comes forward.)
THE CLERK: What says the State?
MR. MILLER: Please excuse Mr. Kennedy from the trial of this case.
THE CLERK: Juror No. 152, April Robinson.
(April Robinson comes forward.)
THE CLERK: What says the State?
MR. MILLER: Please present Ms. Robinson.
THE CLERK: What says the defense?
MR. CHESSER: Please seat Ms. Robinson.
THE CLERK: Juror No. 153 Donald Robinson.

THE COURT: Two and one again, gentlemen.

(Donald Robinson comes forward.)

THE CLERK: What says the State?

MR. MILLER: Please excuse Mr. Robinson from the trial of this case.

THE COURT: Who was that?

THE CLERK: Donald Robinson, Juror No. 153.

THE COURT: Thank you.

THE CLERK: Juror No. 76, Thomas Houston.

(Thomas Houston comes forward.)

THE CLERK: What says the State?

MR. MILLER: Please present Mr. Houston.

THE CLERK: What says the defense?

MR. CHESSER: Please excuse Mr. Houston.

THE CLERK: Juror No. 15 Terry Berkenstock.

(Terry Berkenstock comes forward.)

THE CLERK: What says the State?

MR. MILLER: Please present the juror.

THE CLERK: What says the defense?

MR. CHESSER: Please excuse Mr. Berkenstock.

THE CLERK: Juror No. 91, Thomas Johnson.

(Thomas Johnson comes forward.)

THE CLERK: What says the State?

MR. MILLER: Please present the juror.

THE CLERK: What says the defense?

MR. CHESSER: Please seat the juror.

THE COURT: Any motions by the State or the defendant in connection with the selection of the jury?

MR. MILLER: None from the State, Your Honor.

MR. CHESSER: None from the defense.

THE COURT: Now, ladies and gentlemen, as stated earlier and as represented I am now going to release you. Those of you who were not selected will be released for the balance of the week. You'll receive a check from the clerk by mail within the next few days.

If anyone needs a work excuse, please go downstairs to the clerk's office and they will provide one for you.

I thank you for your willingness to participate in this civic duty. We cannot run our court system without citizens being ready, willing and able to serve on jury duty and I thank you.

I'm going to release you now. If you would give the bailiffs at the back of the courtroom your badges as you leave. If anyone needs an elevator or needs assistance in going down the stairs, come right here and Officer Hires will help you. You may go. Thank you.

(The balance of the jury pool is excused at 3:16 p.m.)

THE COURT: Mr. Miller, Mr. Chesser, anything for the record before we proceed?

MR. MILLER: Nothing from the State, Your Honor.

MR. CHESSER: No, Your Honor.

THE COURT: All right. Ladies and gentlemen, we've been going an hour or so, anybody need a bathroom break or are you ready?

All right. We'll take about a ten-minute bathroom break. We'll come back out and probably go -- well, we won't go later than 5:00. We have three witnesses but I understand they're relatively short.

What we'll do is we'll come back and I'll give you a little bit of an opening statement followed by the lawyers giving you their opening statements and then we'll get right into the trial of the case.

If we're still going at 5:00, we'll look at where we are and we won't be long after that. Probably before that. So don't discuss the case. Don't talk about it. Go to the jury room, use the rest room, and we'll get cranked up here in just a few minutes.

(Jury exits the courtroom at 3:19 p.m.)

THE COURT: All right. We'll stand at ease for about 10 minutes.

(Court in recess.)

THE COURT: Anything for the record before we start back, Mr. Miller?

MR. MILLER: No, sir.

THE COURT: Mr. Chesser?

MR. CHESSER: No, sir.

THE COURT: Bring the jury in please.

(The jury enters the courtroom at 3:35 p.m.)

THE COURT: All right. Ladies and gentlemen, the first thing we have to do to get started is once again you have to stand and raise your right hand. Ms. McElveen will give you the oath of jurors.

THE CLERK: (Swears the jury.)

THE JURY: I do (in unison.)

THE COURT: All right. Ladies and gentlemen, let me once again remind you that the fact that the defendant Michael Paul Buckmon has been indicted by the Barnwell County grand jury for the offenses of arson in the first degree, murder and criminal sexual conduct.

That is obviously not evidence in the case. These are allegations. These are the way these

cases come into the courtroom.

He's pled not guilty to these charges, and a plea of not guilty puts the burden on the State to prove him guilty of each and every indictment and each and every element of each charge in each indictment separate and apart from the others to you beyond a reasonable doubt.

He has the constitutional presumption of innocence like all people accused of crimes until and unless the State is able to prove his guilt to you beyond a reasonable doubt. So please do not infer anything, do not take any stock in the indictments. These are simply allegations that the State has to prove.

This is a criminal case, as we keep talking about. In this case because the State has the burden of proof, they will go first in presenting their case. And the case will start off such as this: The State -- when I finish my few remarks -- they'll make their opening statement, followed by the defendant with their opening statement.

Opening statement is statements. This is not evidence in the case. It is simply what the lawyers contend they will be able to show, be able to prove. It's sort of a road map they will give you as to

where they're going with their case, what they intend to prove, what their defenses are, what they intend to show. So they will stand up and make that opening statement but that is not evidence in the case that you will consider in your deliberations.

Once the opening statements are completed, then the lawyers on behalf of the State because they do have the burden of proof going first, they will call witnesses and introduce relevant exhibits.

Once those people have testified and they've presented their case then the defendant if he chooses -- obviously he has absolutely no burden of proving anything, but if he chooses to put up a defense that's when he would do so. He may or may not.

Once all the testimony is in we will have closing arguments and then I will instruct or charge you on the law, and then you'll be in a position to start your deliberation.

I will tell you each time that we take a break please do not start talking about the case, do not start any deliberations, do not start discussing the case until all of the evidence has been presented to you, the final arguments have been made and I've instructed you on the law.

As this is a criminal case, as I told you, the State has the burden of proving all elements of the offenses. We try two types of cases in this courtroom throughout the state in all courtrooms. There are civil cases and criminal cases.

In a civil case if you were suing someone for running the red light out there and causing you to break your leg or going to a lawyer and he messes up your case and you're suing for legal malpractice or a doctor for medical malpractice or breach of contract -- civil cases where you're seeking monetary compensation -- when the parties come into the courtroom, the plaintiff -- the person bringing the case -- and the person getting sued -- the defendant -- they come in on equal footing and for the plaintiff to prevail he or she has to prove their case by what we call the preponderance or greater weight of the evidence.

If these were the scales of justice, they have to tip the scales ever so slightly in their favor in order to prevail. If they're able to tip the scales then they win. If the scales remain the same or tip in favor of the defendant, they don't prevail. That's the burden of proof in a civil case.

This is not a civil case. This is a criminal

case. Because the US Constitution and the Constitution of the State of South Carolina presumes people to be innocent until proven guilty beyond a reasonable doubt, when they come in the courtroom the scales of justice are tipped in their favor because of that presumption or burden of proof -- presumption of innocence.

For the State to prove them guilty beyond a reasonable doubt they have to tip the scales this way. So the burden of proof in a criminal case is much greater than in a civil case.

At the conclusion I'll give you the definitions of beyond a reasonable doubt. They have to prove their case to you beyond a reasonable doubt.

In just a minute we'll start with the trial of the case by taking opening statements and the testimony. Before we get there, I try to run an efficient courtroom. I try to start when I say we're going to start. If I say we're going to take a ten-minute break, I try not to go too far beyond that. I try to start right back. We'll start punctually on time in the morning.

And even though we're trying to be efficient with everyone's time, we're not trying to run a race up here. If at anytime you get uncomfortable, get

hot or cold, need a bathroom break, need to stretch, get tired of listening to me, please raise your hand and tell me you're too hot or too cold or you need a bathroom break. We want to make sure you're comfortable so you pay attention. So don't get uncomfortable. If you do, let me know and we'll try to help out.

When we break for the evening and probably in the morning before we start I'm going to ask that you select between the 12 regular jurors a foreperson. A foreperson is simply someone who is the spokesperson for the jury. They will bring to me any problems you may have or anything you want called to my attention. You'll lead up any discussions and you'll sign the verdict form.

So if you could choose a foreperson between the 12 of you, please do so. If you can't then I'm going to randomly select somebody, but I think you can choose your own foreperson.

We're going to get started here in just a few minutes. As I said, this is obviously a very serious trial. The man is charged with the murder of a lady here in Barnwell, Ms. Donna Dempsey. He's charged with setting her house on fire, charged with criminal sexual conduct.

So I'm asking that you pay very close attention to the lawyers as they present their opening statements, final arguments. Please pay close attention to the witnesses whose testify. If this trial is like the rest of them that I try week in and week out throughout the state, you will hear testimony from the witness stand that is admitted into the trial of the case, it's proper testimony, but sometimes testimony will differ from one witness to the next.

And that's where you have your job as the judges of the facts to determine what the true facts are, who you believe in their testimony. You're to judge the credibility or the believability of the witnesses who testify. At the conclusion you will sift all that out, determine what those true facts are, the 12 of you collectively acting at one and will be in a position to render a true and just verdict.

I look forward to working with you. This is not TV. Obviously this is the real world and -- so please pay close attention. Anything you need me to do for you, just raise your hand and we'll make sure that whatever need you have we take care of.

Any objections to my opening remarks by the

State?

MR. MILLER: No, sir, Your Honor.

THE COURT: By the defendant?

MR. CHESSER: No, Your Honor.

THE COURT: Mr. Miller, you may open.

MR. MILLER: Thank you, Your Honor. May it please the Court and Mr. Chesser, Mr. Routzong.

Ladies and gentlemen of the jury, what a difference a day makes. On Halloween 2013 at 4:00 in the afternoon, Donna Dempsey was doing whatever Donna Dempsey was doing. Twenty-for hours later, at 4:00 on November 1st everything of any significant value had been stolen from her home; she had been raped; she had been bludgeoned unconscious in her kitchen and lay bleeding on the floor; a fire had been started in an attempt to cover up those crimes that ultimately killed her.

And the people who committed that crime were in Greenville County selling the stuff that they had taken from her house. All in the span of 24 hours from 4:00 p.m. on the 31st of October to 4:00 p.m. on the 1st of November.

The defendant, and a guy you're going to hear from tomorrow, his codefendant, were together on the 31st. They both say that they were together on the

31st whenever they came into contact with the victim in this case.

You'll video of the two of them carrying a huge multi-piece drum set into that pawnshop. And you'll see them set it down in the pawnshop, go back out to the car together and pick up another piece, come back into the pawnshop, set it down. Back and forth they go. Neither one of them looks like they have a care in the world. They just murdered somebody less than ten hours before that.

The defendant walks up to the counter, makes the transaction, signs his name to the receipt for a couple hundred dollars. That's what Donna Dempsey is dead for, so that they could get away with a couple hundred dollars worth of stuff that they were going to go pawn in some other county and because of the fact that she was going to say that she'd been raped.

The judge has already talked to you a little bit about credibility, believability. How do you judge credibility? You do it every day. You do it with your coworkers. You do it with your children. You do it with your spouse.

Ladies and gentlemen, I submit to you one of the best ways to judge credibility is, have they

lied other times? There's an expression: Fool me once, shame on you; fool me twice, shame on me. I challenge you to listen very carefully when you hear the defendant's statements because he gave statements. You're going to hear over two hours and 15 minutes of him talking about what happened October 31st to November the 1st. And there's not any question that he's not being truthful in those statements because he'll say at one point, I didn't go into the house; and later on he'll say, oh, I went into the house but it was before anything happened; and later on he'll say, well, I was in the house to do this.

And I ask you to pay attention to that because over the course of three separate days -- the date of his arrest, the date after his arrest, and then about three months later -- there are three separate statements given to law enforcement. The first one is just a written statement, and that one just says, I went and sold this stuff at the pawnshop with this guy but that's all I did.

And then the day after his arrest there's a videotaped statement, got audio and video, given at the Barnwell Police Department, and in that statement, he goes all the way from there to --

well, you'll see where he ends up with that.

And then about three months later he gives that last statement at the Barnwell County Sheriff's Office. And ladies and gentlemen, I submit to you he's still not telling the truth. He still hasn't told the truth and we'll prove it to you beyond a reasonable doubt.

The evidence in this case and the facts of this case are intense. They're not comfortable. But we are here because Michael Paul Buckmon killed Donna Dempsey to cover up the fact that he raped Donna Dempsey.

Now, I doubt his attorney is going to talk a whole lot about what his statements were. He's going to want to talk about Matthew Bolen. But ladies and gentlemen, Matthew Bolen is not on trial today. He will have his time. His time is absolutely coming. He is charged with everything that the defendant is.

Today, is Michael Paul Buckmon's day in court. Please give us and him your attention, and at the end of this case you'll know, beyond any shadow of a doubt, that he and Matthew Bolen, together, together, stole from Donna Dempsey, raped Donna Dempsey, beat Donna Dempsey unconscious leaving her

in the floor of her kitchen and then set her house on fire. They were together all the time. They were always two people with one goal in common: We're going to get this stuff and then we're going to cover it up by setting the house on fire. And then they went off and they pawned the stuff in Greenville.

Thank you, ladies and gentlemen.

MR. CHESSER: May it please the Court, Mr. Miller, Mr. Harte.

Good afternoon. My name is Michael Chesser. I'm out of Aiken. I practice in Aiken and Barnwell and Bamberg and Edgefield and sometimes in Columbia. It's a privilege to be with you. I represent Michael Buckmon.

Michael, would you stand please?

THE DEFENDANT: Yes, sir.

MR. CHESSER: Thank you. This is Michael Paul Buckmon.

And Mr. Routzong has consented to help me with this case. Michael, will you please stand?

Thank you. Mr. Routzong is out of Aiken also and he and I have worked on some cases together in the past.

It's a lot of responsibility to represent

somebody in a case like this. But a lot of times people have a tendency to pay attention to the lawyers, think about the lawyers, but we really don't have the key role in this case.

By far the key role is the role that you have. You decide if the case is proven beyond a reasonable doubt. You decide if you have any question about the facts. You evaluate the witnesses. Your role is so much really more pressure-packed than my role or Mr. Miller's role.

The burden of proof, as Judge Early has instructed you and it will get repeated and repeated -- you're not in this situation very often so we take the liberty of repeating ourselves. But the State has to prove all of the elements of these offenses beyond a reasonable doubt, and as right now and as the case goes on, the defendant, the accused's is cloaked with this presumption of innocence.

When you hear the evidence, when you listen to the evidence, you listen to it in light of this presumption of innocence.

I want to talk a little bit now just about the facts or that is what the evidence will show. This case is almost three years old and there's a lot of

sort of preparation that goes into it, say on my part. It takes me time to figure out, you know, when things happened. I'd like to take a minute to sort of orient you to some extent.

This Halloween the 31st of October, 2013 was a Thursday. The area that we're talking about is on Berry Street, and I don't know if y'all know it, but it's heading out toward Walmart and it's on your right as you're going out of town. They have Berry and Cherry and so on.

So Donna Dempsey lived there at [redacted], I believe, Berry Street. This Halloween she celebrated it -- you'll hear testimony that she was in a witch's outfit and out and about in the street. And then at 9:30, Mr. Buckmon and Mr. Bolen and she end up going to a Reid's Grocery Store.

Now, after that, it is unclear -- there will be evidence presented to you as to what happened, but this time period between, say, 9:30 Thursday evening and 10:00 a.m. on Friday morning -- and that's when Loy Mitcham shows up -- he'll be testifying -- shows up at her house. This is the time period where the State is going to try to prove to you or tell you what happened based primarily or more than primarily on this testimony of Matthew Bolen.

And Matthew Bolen -- again, there -- he is a very key figure in this case and he has -- one thing you can be sure of is that he has a tremendous motivation to try to help himself. So one of perhaps the key -- single key thing that you'll be doing is to evaluate the testimony of this individual Matthew Bolen who has a mission here to save himself.

Now, one of the things that the judge mentioned to you is that you should wait until all of the testimony is in and then he will give you permission -- at that time he will instruct you to begin your deliberations. So I want to reemphasize that. I want to ask you to keep your minds open to absorb this testimony, to think about it but keep your minds open and not try to put things together, draw all kind of conclusions, inferences, weigh things until you get back in that final jury room and Judge Early instructs you at that time to begin your deliberations.

Please listen to this. I know you're listening to it attentively. As the judge said, it's a very significant, important case and thank you very much for being here.

THE COURT: You may call your first witness.

MR. MILLER: Thank you, Your Honor. The State calls Loy Mitcham to the stand.

LOY MITCHAM

being first duly sworn, testified as follows:

THE WITNESS: I do.

THE CLERK: Be seated and state your full name for the record.

THE WITNESS: Yes, ma'am.

My name is Loy McClain Mitcham, Sr.

DIRECT EXAMINATION

BY MR. MILLER:

Q. Mr. Mitcham, did you know Donna Dempsey?

A. Yes, sir I did.

Q. How did you know Ms. Dempsey?

A. She was my fiancee.

Q. Do you know where she lived?

A. [redacted] Berry Street.

Q. Is that in the City of Barnwell?

A. Yes, sir, that's correct.

Q. In Barnwell County?

A. Yes, sir.

Q. Did you live at [redacted] Berry Street at any time?

A. I stayed with her at [redacted] Berry Street very often, and she would sometimes come to my parents' house and we stayed there sometimes. And that's

[redacted] Two Notch Road, Aiken County, South Carolina 29803.

Q. Okay.

A. So we lived between the two places.

Q. So on the night of October 31st, 2013 were you staying in Aiken or were you staying in Barnwell?

A. I left [redacted] Berry Street to go have my first Halloween with my first grandson. He was -- had just -- this was his first Halloween and he wanted his Papa there. So I left there.

Donna would have come. She did not want Mrs. Joann that lived across the street to take care of the dogs for the entire weekend, so I told her to do whatever she wanted to do and take care of the dogs that evening and help party with the kids, the candy and all. She begged me to go so I would be with my grandson on his first Halloween.

Q. Okay.

A. I told her I loved her and left.

Q. What time approximately did you leave for Aiken?

A. I'd say about -- my mother picked me up about 6:00 I'd say.

Q. In the evening?

A. That's correct, sir.

Q. Okay. So let me see if I can summarize because you kind of went on a big tear there.
A. I'm sorry. Yes, sir.
Q. You said that taking care of the dogs for the whole weekend. Why would the neighbor be taking care of the dogs for the weekend?
A. Because on Friday morning we were going to spend the weekend at my parents' house.
Q. Okay. So she didn't want to go a night early because that would have left the neighbor taking care of the dogs for three nights instead of two?
A. That's correct, sir.
Q. All right. So when you went to Aiken at about 6:00 p.m. did you hear from Donna again that night?
A. Yes, sir, I did.
Q. When was the last time that you spoke to Donna Dempsey?
A. Just before midnight.
Q. Okay. So that's going into November the 1st?
A. Yes, sir.
Q. Okay. And was it an unusual or strange conversation or just kind of a normal conversation?
A. Fairly normal. I could tell that she'd had a couple of drinks but other than that, nothing out of the norm. She was very happy, almost giddy.

Q. All right. Did you ever hear from her again?
A. I woke up the next morning and turned on my cell phone and received a garbled message that I could not -- it was inaudible.
Q. So how do you know it was from her?
A. You could just barely -- you could hear the sounds of her -- you know, the tone of her voice.
Q. Okay.
A. I could tell it was definitely in her tone but I could not make out what she was saying.
Q. All right. Did you attempt to call her after you received that message?
A. Yes, I did, sir.
Q. And did you ultimately get in touch with her on the phone?
A. No, sir, I did not.
Q. What did you do when you could not get in touch with her on the phone?
A. My son and his, well, common-law wife and my grandson, they were already planning to go to Statesboro where they used to live to pick up some things but they were already going to go pick Donna up for our weekend in Aiken.
Q. Right.
A. We left a little early because of the panic.

The -- the panic of me picking up the phone and not being able to get the -- the voice box that records -- the tape recorder. I couldn't get a ring or a tape recording.

Q. I'm sorry. When you called [redacted] Berry Street, was that a landline or a cell phone?

A. That was a landline.

Q. Okay. You called the landline at [redacted] Berry. You weren't getting the answering machine or Donna to answer?

A. A squeal. Only a squeal.

THE COURT: Only what?

THE WITNESS: A squeal. A high pitched tone.

BY MR. MILLER:

Q. Okay. And so did you come to Barnwell?

A. Yes, sir, I did.

Q. Who came with you?

A. My son, my grandson, and his common-law wife.

Q. Okay. Your son was how old at this time?

A. I would have -- he's 26 now, so I would say he was 23 then.

Q. Okay. So your adult son, his common-law wife, your grandson and you?

A. That's correct.

Q. When you got to [redacted] Berry Street did you notice

anything unusual about the house?
A. Pulling into the yard, no.
Q. All right. When you got out of the car what did you do?
A. Went to the front door to knock. I remember mentioning to my son how odd it was that the door was not open and her bags weren't packed by the door.
Q. Why was that unusual to you?
A. Because it -- well, she worked at Savannah River Site for 21 years and was just the most meticulous person I ever met. Just unbelievably meticulous. And if she was going to be picked up she didn't want anyone to ever have to wait, so she'd have bags packed, literally sitting on the packed bags by the door playing with the two dogs Billy and Butterbean. They'd be sitting with her.
Q. Okay.
A. But the door was shut when I got there.
Q. So when you approached the door you didn't have keys to the house?
A. No, sir. I did not have keys on me that day, no.
Q. Okay. And when you approached the door did you notice anything unusual?

A. I looked up -- the first thing that I noticed was the -- well, visual or audial?
Q. Either one.
A. The first thing I noticed was the smell. It smelled like gasoline, like someone had left the Grillmaster that she had purchased for me on Father's Day. It was on the porch. And I said -- I turned to my son Skylar and said, somebody must have left the grill on. This smells like gas.

So I went and it was off and not just the knobs on the grill, the propane tank itself was off. I could still smell the smell. So when I knocked again -- the door wasn't set in real well, not perfectly. When I knocked a little bit harder I noticed a black soot streak at the corner of the trim and I said -- panic. At that point why else -- why would there be soot coming out the top corner?
Q. What did you do?
A. I yelled -- I said, Skylar, please come back to the back yard. Because I can get in through the back door by coming through the doggy door.
Q. You told Skylar to get out. Had he stayed in the car up until this point?
A. He had because he was going to stay in the car while I got inside to get Donna. But when I saw the

soot I wanted my son to be with me in case there was someone inside or anything. At that point it's backup.

Q. In case you needed help?

A. Yes, sir, absolutely.

Q. So you were running around to the house, yelled to your son. What happened then?

A. Ran around the house. My son followed me to the back of the yard. And I got to the door and the door has a type of lock on it. Some people here may know that if you got a lock that's built like this you can open it from the inside but if you shut it, it will not -- you'll lock yourself out, which I've done many times myself.

But anyway, this lock, you could unlock it or lock it. You would have to literally unlock the little piece in order for it to be unlocked on both sides. But if you locked it toward the outside you could still get out.

Q. You could still turn the knob?

A. That's correct.

Q. Okay.

A. But what I didn't understand when I reached my hand in to unlock the dead bolt, the dead bolt was unlocked.

Q. Okay.
A. But I couldn't open the outside lock. But that didn't matter. Since it was unlocked with the dead bolt all I had to do was just turn the knob.
Q. Okay. What happened when you opened the door?
A. I opened the door and there was high pitch squelching. If anybody understands --
THE COURT: Restate that please.
THE WITNESS: I'm sorry. Can I have a napkin please? I'm sorry.
BY MR. MILLER:
Q. Mr. Mitcham, let's start like this: When the door -- when you opened the door what's the first thing that you noticed?
A. Smoke, bellowing smoke.
Q. Was it dark?
A. It was dark.
THE COURT: What was dark?
THE WITNESS: The smoke was dark.
BY MR. MILLER:
Q. And in case we haven't covered this: What time of the morning was this?
A. This was just after 10:00.
Q. Okay.
A. Please give me a window of 15 minutes. It

could have been 10:00, 10:15.

Q. After ten o'clock?

A. After ten o'clock.

Q. All right. And the smoke is coming out the door. Would this be the door to the kitchen?

A. This is the back door into the kitchen.

Q. Okay. What did you see in addition to the smoke?

A. I walked in the door and I noticed -- it didn't look like anything was actually burnt, just everything was black. Everything was completely black. And the -- but it was enough heat for the electrical behind the walls and the ceiling to cause the wiring to squeal. That's what -- what was squealing was wiring to certain parts of the house because the electricity wasn't cut off.

So wherever damaged wires were you could just hear this squealing. It wasn't deafening by any means. Matter of fact, it was more annoying than anything. If I had to guess, I would say it was probably the smoke detector. But the noise caught me right after the smoke. Go ahead.

Q. What else did you see?

A. I went walking towards -- through the house. It was so black. Donna was on the floor but I

didn't know this at the time. I walked right past her, thinking maybe she may had started a kitchen fire and laid down anything. Anything.

So I'm going through the house, Donna, Donna, Donna. And as I come back through, I looked down and I saw her legs with her long skirt on. I couldn't see the upper body. I could just see her legs and her panties to her knees.

Q. What did you do -- what happened at that time?

A. I lost it. I yelled at my son immediately, dial 911, because I didn't have my phone in my hand.

Q. What happened next?

A. Obviously -- you know, I was scared to death. It didn't matter. I wanted to see if I could get a pulse. She was laying sideways a tad this way with her legs this way. Her arm was up this way. Obviously, I can't do it the right direction because I'm up here. Her feet were pointed towards the door.

Q. Right.

A. And I could see like this. And I looked down and I nudged her and said, Donna, baby, please get up. I reached down to see if I could feel any kind of pulse. She was so hot. She wasn't burnt but really sweaty and I couldn't even get a good grab.

So I tried to lift her up, and when I did the rigor mortis had set in and it lifted half her body. And I knew then.

Skylar said, they're on the phone. They want to know what's going on. I said, please let them know that Donna is -- she's not moving and rigor mortis had set in.

I don't remember exactly what I said other than, she's gone, and then walked out of the house and collapsed in my son's arms.

Q. What is the next thing you remember happening?

A. Next thing I remember happening was the coroner -- Skylar had got me to the front porch. The coroner was snapping his fingers in my face saying, Mr. Mitcham, Mr. Mitcham. I was pretty, you know, obviously out. When he finally got my attention I looked at him and said, is this for real? He grabbed -- he hugged me and he said, she's gone.

Q. Now, once the law enforcement got involved in the case did you meet with them to go through the house -- meet with anybody from law enforcement to go through the house to see if there were any items that were missing from the home?

A. Yes.

Q. And do you recall what some of those items were?
A. Yes, sir, I do. I had purchased -- me and Donna together had purchased my son a large black drum set double bass. And several laptops were missing -- one was broken; one was not -- and a portable with speakers synthesized keyboard.
Q. Okay. Did you go with the police and point out the items -- the places where items were missing?
A. Oh, yes, sir. Absolutely. They actually did part of that -- they just -- they didn't spend a lot of time on that. They were concerned with finding what happened -- you know, who did what with Donna.

But they definitely took pictures of the room where you could see the soot had fallen and then they took -- but there wasn't a lot of that because of the fact that -- I think by the time they got the stuff out of the door the soot really hadn't started caking the house yet.

MR. MILLER: We'll let Special Agent Seals testify about that.

THE WITNESS: Okay.

MR. MILLER: Please answer any questions Mr. Chesser may have for you.

THE COURT: Mr. Chesser?

CROSS-EXAMINATION

BY MR CHESSER:

Q. Mr. Mitcham?

A. Yes, sir.

Q. On that Friday morning, November 1st, you testified that there was a message, a garbled message on your mother's phone; is that right?

A. No, sir. It was on the cell phone that I -- the flip phone that I had at the time.

Q. On your cell phone then?

A. That's correct.

Q. Okay. And if there was a message there that means that the call had come in earlier and you had not been able to answer it, correct?

A. That's correct. I was asleep. Yes, sir.

Q. Okay. So you woke up and checked that phone and saw that message at what time?

A. It was about -- I woke up around seven o'clock, which would have been normal time for me. Between six and seven.

Q. Okay. So you woke up then and you checked that message and you couldn't understand it?

A. That's correct.

Q. Okay. You got out to Barnwell about 10:00 a.m., right?

A. That's correct.
Q. So the calls that you made where you got this nonresponse, you made those calls about 9:00 a.m., right?
A. That's correct.
Q. Okay.
A. Maybe a little bit earlier than that, just to make sure she was up and moving which is more courtesy than anything because I knew she would be.
Q. Yes, sir. I'm just trying to get that timeline.
A. I understand. Probably more like 8:30.
Q. Okay. So did you tell law enforcement about this garbled message on your cell phone?
A. To be honest with you, I do not recall whether I did or did not. I do know I was not asked about it.
Q. Okay. All right. But -- so you don't have any information as to whether that message was ever obtained by law enforcement?
A. I have no idea whatsoever, sir.
Q. Okay. Now, how long had your fiancee lived on Berry Street?
A. Actually, she purchased the house for her mother six years prior. And Donna went through a

divorce, which is right when I met her, and she moved out of the house that she -- of the marital home when she got the divorce and moved in with Betty her mother. The house was never in Betty's name but it was Betty's to live in as she chose.

Q. Okay. Well, let me ask you again. I understand you're trying to answer. But Donna -- in other words, first she lived there with her mother?

A. That's correct.

Q. Okay. And how many years ago was it that she began to live there with her mother?

A. The divorce was six years prior so I'd have to say she started living with her mother a year and a half after.

Q. Okay. So it would be between four and five years that she had lived there at the time of this Halloween of 2013, right?

A. Yes.

Q. Okay. Now, how long had you had a relationship with Donna prior to that Halloween of 2013?

A. Since the divorce.

Q. Okay. In other words, about that same time frame, four to five years?

A. Closer to six years.

Q. Okay.

A. Because she had lived with her -- remember, I told you, she lived with her mother for a while and I lived at [redacted] Two Notch. We didn't start cohabiting until a little bit later. The relationship was closer to six years.

Q. Okay. So did you actually live or spend significant time at this house on Berry Street?

A. Yes, I did.

Q. Okay. Now, looking at that house on Berry Street, the neighbors on the right, did you know those neighbors on the right?

A. The only neighbors that I knew that lived on the right -- it's a duplex. The neighbors on the right, the one that lived right next to us was -- I mentioned earlier, Joann the lady that watched her dogs across the street -- her son Lucius who recently passed away lived in the duplex closest to us. And the defendant's mother lived in the duplex next to that.

Q. Okay. In other words, looking at the house on the right side -- but you're not familiar with Hakeem Mixon? That name doesn't mean anything to you?

A. No. Hakeem who?

Q. The -- that area is a what was called mixed

neighborhood. It has black families and white families and other families living in it; isn't that right?

A. I would imagine so, sir. I didn't know -- I never heard it paraphrased that way but okay.

Q. Okay. You would agree with that?

A. Yes, sir.

Q. Okay. And she'd been living there for some four to five years, right?

A. Yes, sir.

MR. CHESSER: All right. That's all the questions I have. Thank you.

THE COURT: Redirect, if any?

MR. MILLER: None, Your Honor.

THE COURT: All right. Mr. Mitcham, you may step down.

THE WITNESS: Thank you, sir.

THE COURT: Thank you.

Next witness, please.

MR. MILLER: The State calls Captain Mark Cato.

MARK CATO

being first duly sworn, testified as follows:

THE WITNESS: Yes.

THE CLERK: Please be seated and state your full name for the record.

THE WITNESS: Mark Alan Cato, C-A-T-O.

DIRECT EXAMINATION

BY MR. MILLER:

Q. Captain, where are you employed?

A. Full time at Savannah River Site Fire Department.

Q. Okay. Is that your only source of employment?

A. No. I'm part time with the City of Barnwell Fire Department as a captain.

Q. Okay. How long have you been with Savannah River Site?

A. Seven years.

Q. What position do you hold there?

A. I'm a firefighter paramedic.

Q. Okay. And with the City of Barnwell what position do you hold?

A. Captain over training and also next in line if the chief is out of town or not available.

Q. How long have you been in that position?

A. About 15 years.

Q. Okay. So in total how long have you been a firefighter?

A. My total years in the fire service is 27 years this year.

Q. As a captain with the Barnwell Fire Department,

what are the responsibilities that you have?
A. My main job right now is training, but if we have a fire, like I said, if the chief is not there, then I assume command of the scene and make sure everybody's doing what they're supposed to do.
Q. Were you in that position on November 1st of 2013?
A. Yes, sir.
Q. Do you recall the events of that day?
A. Yes, sir.
Q. How did you become involved in this incident?
A. We were dispatched to that location for a structure fire with someone possibly trapped inside. Me and one of the firemen were actually just down the road from it in my pickup and were within just a minute or so of getting on the scene.
Q. How long from the time that you were notified that there was a possible fire until the time that you got there?
A. Maybe a minute, two at the most.
Q. Okay. Was anybody with you?
A. Yes.
Q. Who was that?
A. That was Lieutenant Ryan Delk.
Q. Was there anybody else that met you at the

scene?

A. Another firefighter Jerry Hodge had got there about the same time. He came in the other end of the street. I came in from the Barnwell side of the street.

Q. What did you find at that location?

A. When I got there, Jerry was talking to Mr. Mitcham trying to get some information. All I know is Jerry hollered at me and said, there's somebody still in the house.

Q. What was the first thing that you did when you got to the scene?

A. When I got there I assumed command of the scene on the radio and then I do what we call a 360 which is I try to go all the way around the house, get a size-up of what's going on. That way I can radio back to the trucks on the way what we're going to need.

Q. Okay. And when you sized up the house what did you radio back?

A. When I got to the backside I noticed the back door was open, there was some smoke coming out the back door. And I went ahead and called the first in truck, told them to go ahead and have some people packed out and ready to come in whenever they got

there.

Q. What does it mean to be packed --

A. Get on the full gear, air pack and all. Be ready to pull a line and go inside.

Q. Okay. Based on what you saw when you did your 360 of the house what did you do?

A. Just what I told you. I told them I wanted them to be ready.

Q. Did you do anything else?

A. Then myself, I went on up to the door since the door was already open and tried to holler out to see if anybody would answer me. I could see the victim's legs in the doorway. The smoke was probably halfway down, I'd say, maybe banked down a little bit, about halfway down the wall. So I was able to see along the floor way.

There was still too much heat and stuff for me to go in without any type of gear. I went in as far as I could to, you know, try to do an assessment real quick and maybe pull her out and realized that she was deceased.

Q. How did you determine she was deceased?

A. Based on the way she looked and I checked for a carotid pulse. I didn't find a pulse.

Q. Okay. Was there any fire visible from inside

the house?
A. I didn't see any fire from where I was at. No, sir.
Q. Okay. What was your level of visibility inside?
A. Like I said, it was very minimal at that point. You know, from ceiling down it was still pretty smoky and still warm.
Q. Okay. Based on all of that what did you do?
A. I backed back out and, like I said, had the guys when they got there to go on stretch a hose line. I wanted a crew to go in and do a search to see if we had anymore victims and to find where the fire was possibly at.
Q. Were any additional victims found inside the home?
A. No. They radioed back and said they found no other victims and no source of a fire.
Q. What did you do at that point?
A. At that point I had already started relying information to dispatch that we needed law enforcement due to a suspicious nature of a fire, which is protocol. Any time we have a victim in a fire we know we'll be investigating so we went ahead quarantined off the scene with the rope -- the

barricade tape -- I'm sorry -- and started keeping a log of who entered from that point on.

MR. MILLER: Thank you, Captain. I don't have any further questions for you. Please answer any questions the defense has.

THE COURT: Mr. Chesser?

MR. CHESSER: No questions, Your Honor.

THE COURT: You may step down.

Next witness please.

MR. MILLER: Your Honor, the State calls Detective Glen Rice.

GLEN RICE

being first duly sworn, testified as follows:

THE WITNESS: Yes, ma'am.

Thomas Glen Rice.

DIRECT EXAMINATION

BY MR. MILLER:

Q. Detective Rice, where are you employed currently?

A. With the Bamberg County Sheriff's Department.

Q. And how long have you been in law enforcement?

A. This past May was 17 years.

Q. All right. What are your job responsibilities with Bamberg where you are now?

A. Routine calls for service, basic

investigations, property crimes, domestics, such like that.

Q. And prior to working for the Bamberg County Sheriff's Office where did you work?

A. I worked for a short while, for a year with Ehrhardt Police Department and before there I was a detective with the Barnwell Police Department.

Q. While you were at the Barnwell Police Department working as a detective what kind of job responsibilities would you have?

A. As a detective we handled everything general sessions, felony from forgeries to armed robberies, shooting, stabbings, things such as that.

Q. So basically what you see on TV a detective doing?

A. Exactly.

Q. Major crime investigation?

A. That's correct.

Q. Okay. Were you employed as a detective for the Barnwell Police Department on October 31st, 2013?

A. Yes, I was.

Q. Okay. What was your responsibility in the case -- well, first of all, were you the lead detective on it. Were you the one that was kind of in charge of the investigation for Barnwell?

A. Once SLED become involved with the case I became the lead for Barnwell City Police Department to assist Special Agent Sterling Seals.
Q. Okay. So you said that SLED became involved and once SLED became involved my understanding it was their investigation?
A. That's correct.
Q. Okay. What were some of the things that you or people acting at your direction would do to assist with an investigation?
A. Being that he was out of town he probably wasn't very familiar with the community and people and I was like a liaison with him. As names and information would come in I could more rapidly run down and I would assist him with tracking down leads and stuff like that.
Q. Did you and your officers go talk to several people?
A. Yes.
Q. Okay. And as a result of your conversations and running down the leads, as you called them, as a result of all of that, were you able to pass on information to Agent Seals to allow suspects in the case to be developed?
A. Yes. Throughout all the legwork it wound up

that we did develop suspects in this case.
Q. And who were they?
A. Michael Paul Buckmon and Matthew Bolen.
Q. And this incident was discovered by Mr. Mitcham on November 1st and y'all were out there on November 1st?
A. I believe -- I'm not sure of the dates when I actually became involved with Special Agent Seals.
Q. Okay. When you -- at some point in time did you or people under your direction start looking for Michael Paul Buckmon and Matthew Bolen so that y'all could talk to them?
A. Absolutely.
Q. And did -- were they in the Barnwell area?
A. No. From everything we were learning they had left the area.
Q. Okay. Now, ultimately Mr. Buckmon was taken into custody; is that correct?
A. That is correct.
Q. And the next day which was -- do you recall what day he was taken into custody?
A. Not exactly.
Q. Okay. Well, the day after he was taken into custody, did you assist Agent Sterling Seals with an interview of Mr. Buckmon?

A. Yes, I did.
Q. Okay. So I'm going to show you what's been marked for identification as State's Exhibit 50. I'm going to ask you if you can identify that. Just tell me what it is.
A. It's a Miranda form. Something -- whenever we interview possible suspects we advise them of their Miranda rights.
Q. And is that signed by Mr. Buckmon?
A. It is.
Q. What is the date on that?
A. November 11th, 2013.
Q. Okay. So on November 11th, prior to Mr. Buckmon giving his statement, was this form explained to him?
A. Yes.
Q. And who did that?
A. Special Agent Soals.
Q. Okay. Were you present when it was explained to him?
A. I was.
Q. All right. And did anyone during the course of this being explained and him signing to say that he understood it, did anybody promise him anything or threaten him or try to coerce him into giving a

statement?
A. No.
Q. Did you get the feeling from your own experience, did he want to talk to law enforcement?
A. Yes.
Q. Okay. Now, sometime later on do you recall doing another audio and video recorded interview with Mr. Buckmon with Agent Seals?
A. Yes, I have.
Q. I'll show you what's been marked for identification as State's Exhibit 51 and ask you if you can tell me what that is.
A. This is a Miranda form advising the defendant of his rights.
Q. And what is the date on that form?
A. It is February 18th, 2014.
THE COURT: I'm sorry. What?
THE WITNESS: February 18th, 2014.
MR. MILLER: February 18th, 2014, Your Honor.
BY MR. MILLER:
Q. And is this form signed by Mr. Buckmon as well?
A. Yes, it is.
Q. And again, the witnesses here, it's Detective Glen Rice which is you and then Sterling Seals; is that correct?

A. That's correct.

MR. MILLER: I beg the Court's indulgence please.

Detective Rice, please answer any questions Mr. Chesser may have for you.

THE COURT: Cross?

MR. CHESSER: I have no questions for Detective Rice.

MR. MILLER: Your Honor, we have moved along quickly through our three witnesses and it's about 4:30.

THE COURT: And?

MR. MILLER: Your Honor --

THE COURT: I understand. We had discussed this, all the lawyers. To keep some semblance of order we decided to do three witnesses today, and it's run a little bit quicker than we thought so you'll get to leave a little earlier today.

What time is your first witness in the morning?

MR. MILLER: Your Honor, we can have him here as early as we -- we can go 9:30 easily. I'm getting a glare from the court reporter.

THE COURT: No, you're not, not from her. She'll be here at six if we have to.

Normally we have hot coffee and some

refreshments in the morning. We can have sausage biscuits or donuts and fruit or sausage biscuits and donuts and fruit. What's your pleasure?

THE JURY: Sausage biscuits (in unison.)

THE COURT: Ms. McElveen will have us some hot sausage biscuits and hot coffee. Is 9:30 okay to start? Which means if you want to have a hot sausage biscuit and some hot coffee you have to be here before 9:30. You can't bring it out into the courtroom. So we'll start right at 9:30.

I will ask you two or three things for me please: Number one, enjoy your sausage biscuit and your coffee in the morning; number two, please do not discuss the case among yourselves, don't start any deliberations and please don't discuss it with anyone tonight. If anyone insists on discussing it with you, please get their names and I'll deal with that tomorrow. I would ask you also please don't do any research on this. Don't go back and try to find anything on the internet or whatever you use, so forth. We want to try this case based solely on what we hear in the courtroom.

The last thing: In the morning while you come in and you're enjoying your sausage and biscuits please select me a foreperson for the 12 of you.

We'll start right at 9:30. Normally, we'll see how we're running at lunchtime. I may order some lunch in, pizza or sandwiches. We'll see how we're running and we'll make that decision tomorrow.

Have a pleasant evening. Everybody okay with rides? We're running on a good schedule so please be prompt in the morning. I'm easy to get along with until somebody is late and then I sometimes get a little testy.

Yes, ma'am?

JURY MEMBER: So we're starting court up at 9:30 so we should be here at 9:00?

THE COURT: If you want that sausage biscuit and coffee because I can't let you bring it out in the courtroom. Fair enough?

JURY MEMBER: I don't drink coffee. Could I have some orange juice please?

THE COURT: Yes, ma'am. The bailiff will show -- you're going to go back to the jury room now and they'll show you where to report in the morning. Any other questions?

Y'all have a very pleasant evening. Thank you so much. Y'all have been great, paying great attention and I look forward to working with you tomorrow. Everybody else please remain seated.

(The jury excused for the evening at 4:36 p.m.)

THE COURT: Mr. Miller, anything for the record before we break for the evening?

MR. MILLER: Nothing from the State, Your Honor.

THE COURT: Mr. Chesser, Routzong, et al?

MR. CHESSER: No, Your Honor.

THE COURT: All right. Gentlemen, who is here from the jail?

JAIL DEPUTY: I am, sir.

THE COURT: Please have him here at 9:00 in the morning properly dressed.

All right. We'll break for the evening.

(Court in recess for the day at 4:37 p.m.)

THE COURT: For the record, I had three jurors who failed to attend yesterday. Ms. Jamira Williams, would you please stand. Tell me why you were not here.

POTENTIAL JUROR: I placed it wrong on my calendar. I had it for Friday and not Monday.

THE COURT: Ms. Barbara Johnson, good morning. Why were you not here?

POTENTIAL JUROR: I didn't look at my calendar at all.

THE COURT: Ms. Ciara Croft, you okay today?

POTENTIAL JUROR: Yes.

THE COURT: I don't think so. Aren't you on probation right now?

POTENTIAL JUROR: Yes, sir.

THE COURT: You know what the conditions of your probation are, don't you? You're subject to random drug and alcohol testing. You know that?

POTENTIAL JUROR: Yes.

THE COURT: You want to sit with me this morning and let me get you tested?

POTENTIAL JUROR: That's fine.

THE COURT: Why not?

POTENTIAL JUROR: I said that was fine.

THE COURT: Why were you not here yesterday?

POTENTIAL JUROR: Cellulitis in my wrist and in my elbow.

THE COURT: Did you call anybody?

POTENTIAL JUROR: Yes, sir. I called them yesterday and let them know I was sick. I went to the hospital for it.

THE CLERK: She said she called yesterday afternoon and said she was sick and went to the hospital for it.

THE COURT: All right. Ladies, please in the future when you receive subpoenas from the court,

please honor those. It's important that we have you here because we can't do business without you. I'm going to transfer you to the next term of court. Please be present at that time. You'll receive your summons from Ms. McElveen. Thank you. You may leave.

All right. Let the record reflect as to the State versus Michael Paul Buckmon, we had an in chambers discussion this morning concerning a juror situation which I will put on the record when we take our first break. We're already running a little behind now.

As a result of that situation, I am replacing Juror No. 10, Ms. Betty Baxley. We have had a random selection between the three alternates. The clerk has randomly made a selection and I think it's Juror No. 91 Thomas Johnson.

Is that correct, ma'am?

THE CLERK: Yes, sir.

THE COURT: He will be substituted as the 12th juror. I will put on the record -- Mr. Miller, Mr. Chesser, remind me to do so when we take a morning break or lunch break.

Anything else for the record before we start back?

MR. MILLER: Your Honor, the State has submitted -- we also discussed during our in chambers discussion some issues related to the redaction.

THE COURT: You did. I have the State's requested charge. I will review it before we get to the video. Mr. Chesser, I would ask that you do so also and I suspect we can all agree on that language before we play the redacted video.

And Mr. Chesser, we also discussed you making sure you're protected on your objections that you made in limine and we'll handle that before we move into the videos.

MR. Chesser: Thank you, Your Honor.

MR. MILLER: And Your Honor, there is one photograph that Mr. Chesser requested redaction of. That redaction has been done as well. It's very clearly a redaction of that photograph and he's seen it and we agreed on it.

THE COURT: Thank you very much for your cooperation and working together.

Bring the jury in please.

(The jury enters the courtroom at 9:56 a.m.)

THE COURT: Good morning.

THE JURY: Good morning.

THE COURT: Let me, first of all, apologize. We're running 25 minutes behind schedule. It's certainly not intentional. I apologize for y'all having to sit back there and wait. Perhaps you had a chance to eat an extra biscuit.

But we had a number of jurors who failed to show yesterday. I had to deal with those. And it sometimes happens, we had some pretrial matters we had to discuss outside of your presence and went ahead and did that this morning so we wouldn't interrupt you in the trial of the case.

We're ready to move forward. We got everything streamlined for this morning. They have all of the witnesses here. So it looks like we may finish testimony today, if not, certainly early in the morning unless something really goes sideways.

Mr. Thomas Johnson, raise your hand. I'm elevating you as an alternate to the regular jury, the 12 people. If you would please come have a seat here please.

Were y'all able to select a foreperson?

Mr. Porter Clayter. Is this your first elected position?

THE FOREMAN: Yes.

THE COURT: You may call your next witness.

MR. MILLER: Your Honor, the State calls Matthew Bolen.

THE COURT: Mr. Bolen come right around here please.

MATTHEW BOLEN

being first duly sworn, testified as follows:

THE WITNESS: Yes, ma'am.

THE CLERK: Be seated and state your full name for the record.

THE WITNESS: Matthew Trey Bolen.

THE COURT: Mr. Bolen, you're going to have to speak up loud enough so we can all hear in the courtroom.

THE WITNESS: Matthew Trey Bolen.

DIRECT EXAMINATION

BY MR. MILLER:

Q. Mr. Bolen, do you know the defendant sitting at the table there?

A. Yes, sir.

Q. What's his name?

A. Michael Buckmon.

Q. Mr. Bolen, did you and Mr. Buckmon participate in setting fires at [redacted] Dompsey Street [sic]?

MR. CHESSER: Your Honor, I'd object to the leading.

THE COURT: Sustained.

BY MR. MILLER:

Q. Mr. Bolen, are you aware that there was a fire [redacted] Dempsey Street [sic] on November 1st?

A. Yes, sir.

Q. Who set that fire?

A. As far as I know, Mr. Buckmon.

Q. Did you participate in the burning of that fire?

A. Yes, sir.

Q. At the time that fire was -- well, at the time that you left that house, was Donna Dempsey inside?

A. Yes, sir.

Q. Was she walking around? What condition was she in?

A. I thought she was deceased.

THE COURT: What?

THE WITNESS: I thought she was deceased, dead.

THE COURT: Speak up so everybody can hear you please. Pull that mic closer to you.

BY MR. MILLER:

Q. Who was with you when you left [redacted] Berry Road [sic] that morning?

A. Mr. Buckmon.

Q. Where did you and Mr. Buckmon go?

A. After -- we went to Robert Eure's house.
Q. How did you get there?
A. Mr. Buckmon drove.
Q. What did he drive?
A. My Lincoln town car.
Q. Your Lincoln town car?
A. Yes, sir.
Q. Okay. Let's go back a little bit. How did you come to meet Donna Dempsey on October 31st?
A. Me and Mr. Buckmon saw her across the street on Berry Street.
Q. And do you know whose house that was across the street on Berry Street?
A. No, sir.
Q. Okay. What happened then?
A. She came over to where me and Mr. Buckmon were at.
Q. Where were you and Mr. Buckmon?
A. At a mutual friend's name Keem.
Q. Keem. Do you know Keem's full name?
A. Keem Mixon.
Q. So what were you doing over at Keem Mixon's house?
A. Doing drugs.
Q. Had you been -- were you doing anything else

that evening, that afternoon over at Hakeem Mixon's house?

A. Just drinking and doing drugs.

Q. When Ms. Dempsey came over, did you talk to her?

A. She started to say that she saw us, yeah, and we spoke, had a few words.

Q. All right. Did you know her prior to that time?

A. No, sir.

Q. Did she know anybody over there or did she appear to know anybody over there?

A. Not that I know of.

Q. Okay. Did she address anybody by name?

A. I don't remember that.

Q. Okay. When was the next time you saw Ms. Dempsey?

A. Later on that night.

Q. What happened then?

A. She came to where me and Mr. Buckmon were at.

Q. Where was that?

A. Behind his mother's house.

Q. In relationship to Keem's house, is it on Berry Street too?

A. Yes, sir. Next door.

Q. Okay.
A. Two houses over.
Q. Where is Mr. Buckmon's or his mother's house in relationship to Keem's house?
A. Two houses over.
Q. Two houses over?
A. Yes, sir.
Q. Okay. So when she comes over there to where you and Mr. Buckmon are, what's she talking about?
A. We were supposed to go get some beer or some liquor.
Q. Where were you going to get that at?
A. We ended up going to Reid's.
Q. Is Reid's a long way away from Berry Street where you were?
A. No, sir.
Q. How did you get there?
A. Mr. Buckmon drove my car.
Q. Who all went?
A. Mr. Buckmon, myself and Ms. Dempsey.
Q. After you get the beer or alcohol -- did you get that at the Reid's?
A. Yes, sir.
Q. Okay. After that where did you go?
A. After that, we went to the ATM that's by the

Reid's.

Q. In that same parking area or right beside it?

A. I believe so, yes, sir.

Q. All right. And did -- who got money out or did anybody get money out?

A. Ms. Dempsey.

Q. Okay. Did anybody else do any kind of transaction at the ATM?

A. Not to my knowledge.

Q. Okay. Well, were you in the car when this was going on?

A. Yes, sir.

Q. Just you and Mr. Buckmon and Ms. Dempsey, correct?

A. Yes, sir.

Q. Where were you sitting in the car?

A. In the passenger seat.

Q. And Ms. Dempsey was in the back?

A. Yes, sir.

Q. And Mr. Buckmon was driving?

A. Yes, sir.

Q. Okay. So where did you go after you left the ATM?

A. Back to Mr. Buckmon's mother's house.

Q. Okay. When you got to Mr. Buckmon's mother's

house, where would people typically park or where did Mr. Buckmon park that night?
A. We always parked in the back.
Q. So pull around behind the house?
A. Yes, sir.
Q. Okay. What did you do next?
A. Sat there and drink.
Q. Was -- did Ms. Dempsey leave or was she with you drinking?
A. She was with us drinking.
Q. Okay. At some point did you split off, you and Ms. Dempsey split up from Mr. Buckmon?
A. Yes, sir.
Q. Where did you and Ms. Dempsey go?
A. First all three of us went to Ms. Dempsey's house.
Q. Okay. And then what happened?
A. We sat there for a while and then Mr. Buckmon went to get some cocaine.
Q. When Mr. Buckmon left Ms. Dempsey's house what happened -- what interaction did you have with Ms. Dempsey?
A. Sat there and talked for a while.
Q. What else?
A. She started rubbing on me on the couch and then

we started to have sexual intercourse but we stopped.

Q. Was there anybody else at the house at that time?

A. No, sir.

Q. So it's you and Ms. Dempsey. Mr. Buckmon is gone. How long was it before Mr. Buckmon came back?

A. I couldn't give you a time.

Q. Okay. Did he ultimately come back to the house?

A. Yes, sir -- no, not immediately.

Q. But eventually he came back to the house?

A. Eventually he came back to the house, yes, sir.

Q. Okay. And you said during that time, you and Ms. Dempsey had consensual sex?

A. Yes, we started to but we stopped.

Q. Okay. Did you stop because she told you to stop?

A. Yes. Mainly her, yes, sir.

Q. All right. When Mr. Buckmon got back to the house, what happened next? Was there anybody with him?

A. Well, before he got back Keem came over to the house.

Q. Okay. So Hakeem comes over. It's you, Hakeem

and Ms. Dempsey in the house at that point?
A. Right.
Q. Okay. Then what happened?
A. Ms. Dempsey was in the restroom, so me and Hakeem went back to Mr. Buckmon's mother's house.
Q. What was Ms. Dempsey's state when she was in the restroom?
A. She was passed out.
Q. Did she go lay down on the floor in the restroom and pass out?
A. (Nonverbal response.)
Q. Let's be clear about something. There are two bathrooms in this house, correct, or do you know?
A. The one that I know of.
Q. Okay. Is that the bathroom she was in?
A. Yes, sir.
Q. All right. If you're at the front door of the house and you're looking at the house, would it be the bathroom at the end of the hall on the right?
A. Yes, sir.
MR. MILLER: Your Honor, we have submitted a number of exhibits, State's 1 through 45 and State's 48, 49, 50, 51, 52, 53, 54 and 55 to the defense. The defense has indicated that they have no objection to those exhibits. So that would be 1

through 55 with the exception of 46 and 47. Is that correct, Michael?

MR. CHESSER: Yes, sir.

MR. MILLER: Your Honor, at this time the State would move to introduce Exhibits 1 through 55 with the exception of Exhibits 46 and 47.

THE COURT: Any objection?

MR. CHESSER: No objection.

THE COURT: Thank you, 1 through 45 and 48 through 55.

(State's Exhibit Nos. 1 through 45 and 48 through 55 were entered into evidence.)

BY MR. MILLER:

Q. Mr. Bolen, I'm going to show you what's been marked as State's Exhibit 55. Can you tell me what that is?

A. It's a layout of Ms. Dempsey's house.

Q. Okay. If this is the front door here, is this the bathroom you're talking about at the end of the hall to the right?

A. Yes, sir.

Q. And that's the bathroom she was in?

A. Yes, sir.

Q. Okay. So you and Hakeem leave the house and where did you go?

A. Back to Mr. Buckmon's mother's house.
Q. And how far away is Mr. Buckmon's mother house from Ms. Dempsey's house?
A. Right next door.
Q. Okay. So it wasn't a long trip?
A. No, sir.
Q. Where was Mr. Buckmon?
A. Outside behind the house.
Q. Where was your vehicle?
A. Right there behind the house.
Q. Was he in the car?
A. He was outside of it.
Q. Was there anybody else there?
A. Yes, sir.
Q. Who else was there?
A. Buffy, Rain, Eisha, CeeLo and Mike Paul.
Q. All right. So you got CeeLo and Mike Paul and then three other people, correct?
A. Yes, sir.
Q. Those other three people are all female?
A. Yes, sir.
Q. Buffy, Rainy and who was the other one?
A. Eisha.
Q. Okay.
A. And then there was Keem. He was with me when

we came over.

THE COURT: Speak up.

A. Keem was with me when we came over.

Q. Right.

A. That's who I was with.

THE COURT: Hold on. My jurors cannot hear. Get the microphone closer to you or slide up to the microphone and speak into it. You can slide that chair up.

THE WITNESS: I said Hakeem was with me when we actually left so he was already there.

BY MR. MILLER:

Q. Okay. So Hakeem, you, Michael Paul, CeeLo. So that's four and then three girls?

A. Right.

Q. Seven people in total?

A. Yes, sir.

Q. You're all behind Michael Paul's house?

A. Yes, sir.

Q. And when we say Michael Paul's house we're talking about his mom's house, right?

A. Yes, sir.

Q. Okay. What happened then?

A. Sat out there and got high for a little while.

Q. Then what did you do?

A. Me, Mr. Buckmon and CeeLo went back to Ms. Dempsey's house.

Q. Okay. You, Buckmon, and CeeLo. So you left Hakeem or did Hakeem leave?

A. He was still outside.

Q. He didn't go back to the house with you?

A. No, sir.

Q. All right. What did y'all do when you got back to Ms. Dempsey's house?

A. Starting taking items out of the house.

Q. What did you take?

A. Mr. Buckmon had a TV. I had a laptop and CeeLo had a printer or something like that.

Q. Okay. What did you do next?

A. After that we went to Robert's house.

Q. How did you get there?

A. Rain drove us in my car.

Q. Who all was in the car?

A. Rain, Mr. Buckmon, myself, and Buffy.

Q. Okay. So just the four of you?

A. Yes, sir.

Q. What happened to CeeLo?

A. They left.

Q. Okay. And you said CeeLo had taken something out of the house. Did he actually take it with him

or did he leave it with you?

A. Went in the car.

Q. Okay. What about the TV that Mr. Buckmon had?

A. All of it was in the car.

Q. All of it was in the car?

A. Yes, sir.

Q. Do you know Robert's last name?

A. Eure.

Q. So you go to Robert Eure's house. Is that a long way away?

A. (No response.)

Q. How long did the drive take usually?

A. If I had to guess I'd say ten minutes.

Q. Okay. So it's a drive?

A. Yeah.

Q. What happened while you were at Robert Eure's house?

A. Went in there and Mr. Buckmon took the TV. We sat there and played cards for a little while.

Q. When did you -- how long were you there just in general terms? Was it minutes or an hour or more?

A. I couldn't tell you.

Q. When did you leave -- or why did you leave Robert Eure's house?

A. It's just what got decided at the time.

Q. What did you do when you left Robert Eure's house?
A. Rain drove back to where she was staying and got dropped off but she drove herself.
Q. Then where did you go from there?
A. Buffy drove to her house.
Q. Okay. And that left you and Mr. Buckmon with your car, correct?
A. Yes, sir.
Q. Was anybody else in the car?
A. No, sir.
Q. Where did you go from there?
A. Back to Mr. Buckmon's mother's house.
Q. And where did -- who was driving?
A. Mr. Buckmon.
Q. And where did you park?
A. Behind the house.
Q. All right. What happened next?
A. After that, we decided that we was going to get the drum set that was in Ms. Dempsey's house.
Q. Whose idea was it to go get the drum set?
A. I mentioned it and Mr. Buckmon said we should go get it.
Q. So why didn't you take it the first time when you were in there?

A. I don't know.

THE COURT: Speak up please.

THE WITNESS: I don't know.

BY MR. MILLER:

Q. So did you and Mr. Buckmon go back to the house?

A. Yes, sir.

Q. How did you get into the house?

A. Through the back door.

Q. When you went in the back door what happened next?

A. Mr. Buckmon peeked his head in Ms. Dempsey's bedroom and saw that she was asleep.

Q. What did you do then?

A. Started taking the drums out of the house.

Q. Now, I'm going back to this diagram, State's Exhibit 55. And again, if this is the front door, this is the back door. You can see the kitchen there. Where in the house were the drums located?

A. Right here.

Q. Okay. And you're pointing to the far right-hand corner bedroom from the front of the house, correct?

A. Yes, sir.

Q. All right. How many pieces were in the drum

set approximately?
A. I don't know.
Q. Was it a lot?
A. Seemed like a lot.
Q. Were they heavy?
A. Some of them.
Q. And as you're moving that drum set how are you doing it?
A. Grabbing them and -- first we both grabbed something and took it outside.
Q. Okay. Where did you place it when you took it outside?
A. Behind the back door. By the back door.
Q. So you placed it beside Ms. Dempsey's back door?
A. Yes, sir.
Q. Okay. And you said you and Mr. Buckmon were both carrying stuff out?
A. Yes, sir.
Q. All right. What happened then?
A. Then somehow we got into like an assembly line type thing. He'd hand me something and I'd set it outside.
Q. Okay. Once you got everything out the back door, you had all of the stuff that y'all were going

to take, was it just the drums? Was there anything else that you took?

A. There was a keyboard too.

Q. Okay. Was there anything else that you remember taking?

A. Not that I remember.

Q. Okay. So you got the drums and keyboard outside the back door. Then what did you do?

A. There was still a few pieces on the kitchen floor.

Q. Okay. What kind of pieces are you talking about?

A. Some stands and symbols.

Q. Okay. So what happened then?

A. After that Mr. Buckmon said he was going to go in the room and try to have sex with Ms. Dempsey.

Q. And what did you do?

A. I was loading up the -- supposed to finish loading up the drums.

Q. Okay. Did you get everything from inside to the outside?

A. Eventually, yes, sir.

Q. At any point in time did you go to look or try to get Mr. Buckmon to help you finish moving this stuff?

A. Yes, sir.
Q. And how did that interaction go?
A. The first time when I was taking some of the pieces off the floor that I mentioned earlier I told Mr. Buckmon I needed help; I didn't get a reply. There was another time that I -- the first time I heard some moaning from the bedroom is all I heard. I didn't get a reply. The second time when I came in I poked my head in the bedroom to tell him I needed help. He yelled at me and told me to come in there where he was at.
Q. What did he ask you to do?
A. He asked me to grab her belt and tie Ms. Dempsey up.
Q. Tie her up how?
A. By her feet.
Q. Did you dry to do that?
A. I couldn't do it.
Q. Did you attempt to do it?
A. I guess you could say yeah.
Q. Were you successful in tying her feet up?
A. No, sir.
Q. What did you do next?
A. Mr. Buckmon got mad and told me to go finish loading the drums up.

Q. At this point all the drums were already outside, right?

A. There was still a couple pieces in the living room.

Q. In the living room or in the kitchen?

A. In the kitchen. Sorry.

Q. All right. So did you get all of those items outside?

A. Yeah. After that I took everything outside.

Q. And where did those items move to next?

A. I moved them towards where the fence and there's a car right there. Around there.

Q. All right. The fence that you're talking about, is it a chain link fence?

A. Yes, sir.

Q. How tall is it?

A. I don't know.

Q. Is it over your head or is it --

A. No.

Q. On your own body how would you say -- where would it come up to?

A. Midsection.

Q. Okay. Was there a gate right there?

A. I can't remember.

Q. How were you moving stuff to the other side of

the fence? That's my question. Were you putting it over it?
A. Trying to, yes, sir.
Q. All right. Are you moving really fast at this point?
A. No.
Q. Why not?
A. Just hard for me to get stuff over the fence. I don't know. It's just hard to get it over.
Q. Okay. How -- if you remember, how long were you outside moving stuff from the back of the house to the fence and over the other side of the fence?
A. I couldn't tell you.
Q. Did it seem like a long time?
A. Yes, sir.
Q. What were the lighting conditions like at that time? Was it still middle of the night dark?
A. It was dark, yes, sir.
Q. Okay. So at this point Mr. Buckmon is in the house and you don't know what he's doing because you're not in the house, correct?
A. Yes, sir.
Q. And you get all of the stuff over the fence, correct?
A. No, sir.

Q. What -- what happened?
A. I couldn't get them over so I had to go tell Mr. Buckmon I needed help.
Q. Okay. So you go inside to tell him you need help getting this stuff over the fence?
A. Right.
Q. What did you see when you walked into the house?
A. I walked back in and I saw -- it looked like something burning on the stove and there was smoke in the air.
Q. What happened then?
A. After that, I saw Ms. Dempsey running from her bedroom with Mr. Buckmon behind her.
Q. She was in her bedroom? Now, let's go back to that State's Exhibit 55. From the front of the house -- so this is the front of the house. If you come in the front door, is -- which bedroom is Ms. Dempsey's bedroom?
A. Right here.
Q. Okay. So that's the first bedroom closest to the street on the left-hand side, correct?
A. Yes, sir.
Q. To the left of that first room you enter into?
A. Right.

Q. All right. She came out of that bedroom with Mr. Buckmon behind her, correct?
A. Yes, sir.
Q. What happened then?
A. Mr. Buckmon put her in a choke hold.
THE COURT: I'm sorry. Say it again.
THE WITNESS: Mr. Buckmon put her in a choke hold.
BY MR. MILLER:
Q. From behind?
A. Yes, sir.
Q. Okay. Did she stop running?
A. Yes, sir.
Q. What happened next?
A. They fell to the floor.
Q. How did they fall to the floor?
A. (No response.)
Q. Was he on her back? Did he pick her up and throw her on the floor? How did they fall to the floor?
A. I couldn't tell you. I just remember them going down to the ground.
Q. Okay. What happened then?
A. Ms. Dempsey went slack.
Q. Said she went slack?

A. Yes, sir.
Q. Like she passed out?
A. Yeah.
Q. I'm asking you. Is that what you mean?
A. Yes, sir.
Q. She just went limp?
A. Yes, sir.
Q. Okay. Then what happened?
A. Mr. Buckmon looked up and saw me standing there.
Q. And what did you do?
A. Just stood there.
Q. What happened next?
A. He got up and pushed me towards the back door and told me to get out and finish loading everything up.
Q. Did you go outside?
A. No, sir.
Q. Why not?
A. I don't know.
Q. What happened next?
A. Ms. Dempsey started to move.
Q. She was still on the ground in the kitchen?
A. Yes, sir.
Q. And you're in the kitchen?

A. Yes, sir.
Q. And Buckmon is in the kitchen?
A. Yes, sir.
Q. What happened when she started to move?
A. Mr. Buckmon came over there and punched her in the chest.
Q. In the chest?
A. Yes, sir.
Q. Okay. What happened next?
A. She turned to try to cover up her face. Mr. Buckmon put her back in a choke hold.
Q. Was he standing over her? Was he kneeling, laying on top of her while he's doing this? What's he doing?
A. I couldn't tell you his exact position.
Q. Okay. What happened after that?
A. After she went slack, Mr. Buckmon grabbed a hammer and hit her on the head with the hammer.
Q. Where was the hammer?
A. On the stove countertop area. Somewhere around there.
Q. After she was hit in the head in the kitchen, did she move anymore?
A. No, sir.
Q. What did you do at that time?

A. I just stood there.
Q. What made you move?
A. (No response.)
Q. What's the next thing you did after you just stood there?
A. I didn't move until Mr. Buckmon made me.
THE COURT: Speak up please.
Q. How did he --
THE COURT: Hold on, Mr. Miller.
You're going to have to speak up.
THE WITNESS: I didn't move until Mr. Buckmon made me move.
BY MR. MILLER:
Q. How did he make you move?
A. When he looked up and he saw me still standing there, he put the hammer in his waistband and pulled the gun out and put it in my face.
Q. Okay. What did he tell you to do, if anything?
A. Told me if I didn't keep my mouth closed and do what I was told to do he was going to kill me and my kids.
Q. What did he tell you to do?
A. After that he told me to find some bleach.
Q. Find some bleach?
A. Yes, sir.

Q. Did you try to find bleach?
A. Yes, sir.
Q. What was he doing during that time?
A. Standing by Ms. Dempsey.
Q. Were you able to find any bleach?
A. No, sir.
Q. Where did you look for bleach?
A. In the drawers, up under the sink, in the laundry room.
Q. Where was the laundry room in relationship to the kitchen?
A. Right there pretty much in the same section.
Q. Okay. Was there a door to the laundry room from the kitchen?
A. There was an entryway. Yes, sir.
Q. Okay. An entryway? You weren't able to find bleach?
A. No, sir.
Q. When you weren't able to find any bleach what did you do?
A. Mr. Buckmon told me to finish burning --
Q. If you remember exactly what he said you need to say exactly what he said.
A. He said, finish burning this shit down.
Q. What did you do when he told you to finish

burning the place?

A. I went in the living room.

Q. What did you see when you got there?

A. I saw a fire on top of the piano.

Q. And what was going on -- describe the fire. Describe what was happening.

A. It was a candle and some books over the top of the candle that caught fire.

Q. Now, explain this to me. You got a regular candle just sitting on top of the piano, correct?

A. Right.

Q. And then you've got books -- a stack of books?

A. Right.

Q. And you said one or some of the books had been positioned to be above the flame?

A. Right.

Q. Okay. All right. What did you do when you saw that -- was -- that book that was over the flame, had it started smoking or flaming up?

A. Yes, sir.

Q. What did you do?

A. I grabbed my shirt and grabbed the book and threw it -- went to the bathroom with it and threw it in the bathtub.

Q. Now, was that the same bathroom that you had

left Ms. Dempsey earlier that night?
A. Yes, sir.
Q. Where did you throw it in the bathroom?
A. In the bathtub.
Q. What else did you observe in the bathroom?
A. When I walk in the bathroom area there was some tissue like over a towel rack and there was a candle up under it. It wasn't on fire but I threw it in the bathtub too.
Q. Okay. When you say tissue, was this like toilet paper?
A. As far as I can remember, yeah.
Q. Was it a lot of it had been draped over or was it just one --
A. No, it was a good little bit.
Q. Okay. And you said you took that and threw it in the tub too?
A. Yes, sir.
Q. What did you do next?
A. Came back out of the bathroom.
Q. And where was the defendant during all of this time?
A. Standing in between where the kitchen and the living room connect.
Q. Okay. Is there an entryway from the kitchen

into the living room?

A. Yeah, where you can stand in the middle and be in both of them at the same time.

Q. Okay. So there's a doorway kind of like this and you can stand like this and be in both places?

A. Yes, sir.

Q. Okay. When you came out of the area where the bathroom was and you encountered Mr. Buckmon again, what did you do then?

A. We left.

Q. Where did you go?

A. Went back outside the back door of her house.

Q. And when you back out of the back door of Ms. Dempsey's house was Mr. Buckmon with you?

A. Yes, sir.

Q. And did either of you ever go back into Ms. Dempsey's house again?

A. No, sir.

Q. Once you got outside, you still had some stuff that wasn't moved over the fence, correct? Part of this drum set?

A. Yes, sir.

Q. What happened then?

A. Mr. Buckmon got upset with me because I didn't load the stuff up.

Q. Because you hadn't loaded all this into the car already?
A. Right.
Q. So what did you do?
A. Me and Mr. Buckmon jumped the fence and went over by my car, and he continued to tell me to grab the stuff by the fence and bring it to the car.
Q. So now you're going from the fence to the car, putting it in the car?
A. Yes, sir.
Q. Was Mr. Buckmon loading it into the car for you or you leave it here and he'd load it, or were you loading it in the car?
A. I loaded the majority of the items but there was a few that I set down and he just threw in the car.
Q. Okay. Did this drum set fill up the trunk of your car?
A. Trunk and the back seat.
Q. Okay. The trunk and the back seat.
A. Yes, sir.
Q. Was there anymore room in the car to put anything else?
A. No, sir. I had another piece in the front seat too.

Q. You had another piece of the drum set in the front seat?
A. Yes, sir.
Q. What was it? Do you recall?
A. I believe it was a snare.
Q. A snare drum? The round one?
A. Right.
Q. Okay. So who -- was there anybody else around besides you and Michael Paul Buckmon whenever all this was going on?
A. There was someone across the street.
Q. Okay. Was that person in any way involved at all with anything going on here?
A. No, sir.
Q. All right. Did you ever see the defendant's mother that morning?
A. No, sir.
Q. Okay. When you get into the car -- your car, who is driving?
A. Mr. Buckmon.
Q. Where are you?
A. In the passenger's seat.
Q. What about that snare drum you were talking about?
A. It's in my lap.

Q. Where did y'all go?
A. To Robert's house.
Q. After you go to Robert Eure's house where do you go?
A. I had to go -- Robert wasn't at his house so we had to go pick him up.
Q. Okay. Where was that -- do you recall -- that you picked him up?
A. Some apartments. I don't recall which ones.
Q. Okay. Are you from this area?
A. I'm mainly from Williston area.
Q. Okay. Do you have a lot of familiarity with Barnwell? Do you know where all these places are?
A. I have a mother-in-law that lives here but as far as the apartments and stuff I don't really know.
Q. So you go pick up Eure and did Eure go anywhere with you?
A. Yes, sir.
Q. Where did y'all go?
A. To the gas station.
Q. After going to the gas station, what did y'all do with Mr. Eure?
A. Dropped him back off.
Q. All right. Now, tell me who was in the car at this point. You've dropped off Mr. Eure. It's your

car. Who is driving?

A. Mr. Buckmon.

Q. You're in the passenger's seat?

A. I'm in the middle.

Q. Okay. In the middle?

A. Right.

Q. And who else is in the car?

A. Robert got in on the passenger's seat.

Q. Okay. Once you drop him off now it's just you and Mr. Buckmon, correct?

A. Yes, sir.

Q. And is Mr. Buckmon still driving?

A. Yes, sir.

Q. What did you do? Are you still in the passenger's seat?

A. Yes, sir.

Q. What did you do?

A. Eventually we started heading to Columbia. About that time I kind of blacked out.

Q. Okay. When you woke up -- well, let's go back. When you were loading all of the items into the car, you're loading the drums and everything else into the car, what were the lighting conditions like? What time of the day was it?

A. It just started to be morning time.

Q. Okay. Daybreak. Starting to get light, sky starting to lighten up?
A. Yes, sir.
Q. Okay. By the time you drop off Mr. Eure is it daylight outside?
A. Yes, sir.
Q. All right. When you wake up, where were you?
A. At a rest area.
Q. Where?
A. I couldn't give an exact location.
Q. Was it on one of the interstates?
A. Yes. Somewhere on the interstate.
Q. Okay. Do you know if it was on I-26 or if it was on I-20?
A. I don't know.
Q. Okay. What happened from there?
A. Mr. Buckmon got out and told me to drive.
Q. Okay. So now he's in the passenger's seat and you're in the driver's seat?
A. Yes, sir.
Q. Where is that snare drum?
A. Floorboard.
Q. Okay. And where did you drive to?
A. Piedmont -- well --
THE COURT: Speak up please.

A. Piedmont area.
Q. Why did you go to the Piedmont area?
A. It was just the only place I knew where to go.
Q. Why did you know to go there?
A. Because my grandparents have a trailer there.
Q. All right. Do your grandparents live there anymore?
A. No, sir.
Q. But they still own the trailer?
A. Yes, sir.
Q. All right. So you go to that trailer in Piedmont. Is Mr. Buckmon still with you?
A. Yes, sir.
Q. After you go to the trailer in Piedmont what did you do?
A. Before we got to the trailer we stopped at a gas station in Greenville to try to pawn the drums but they didn't accept it.
Q. Then where'd you go?
A. To the trailer in Piedmont.
Q. Then where'd you go?
A. After that we went to a pawnshop in Easley.
Q. And that pawnshop in Easley, were you able to pawn the drums?
A. Yes, sir.

Q. Now, when you were taken into custody -- when you were taken into custody, your car had already been found and seized by SLED, correct?
A. Yes, sir.
Q. And that was one of the ways they found you was because they found your car, correct?
A. Yes, sir.
Q. I'll show you what's been marked as State's Exhibit 4. This is a pawn receipt. This was in your vehicle, wasn't it?
A. Yes, sir.
Q. And this is from Blue Ridge Pawnbrokers in Easley, South Carolina, correct?
A. Yes, sir.
Q. And it says, one Pearl drum set, two symbols, and some other stuff and a Yamaha keyboard 12-piece and stands. You see that on there?
One Pearl drum set, two symbols, something, 12-piece and stands, Yamaha keyboard?
A. Yes, sir.
Q. Now whose name is that here?
A. Michael P. Buckmon.
Q. And what is the date and the time on that from the top of that receipt?
A. 11/1/13. Time, looks like 3:48.

Q. Now, State's Exhibit 53 which is already in evidence was a video, and on this video -- you initialed that this morning, correct?

A. Yes, sir.

Q. And put today's date on it?

A. Yes, sir.

Q. Is that video the video of the transaction at the pawnshop?

A. Yes, sir.

Q. One second please. When you were trying to tie Ms. Dempsey's feet what was she doing? Was she moving?

A. No, sir.

Q. Was she face up or face down?

A. Face up, I believe.

Q. After Mr. Buckmon hit Ms. Dempsey with the hammer in the kitchen, what did he do with the hammer?

A. Put it in his waistband.

Q. He put it in his waistband?

A. Yes, sir.

Q. Do you know what happened to that hammer ultimately?

A. Mr. Buckmon threw it in the woods.

Q. Where did he throw it in the woods?

A. On a road called -- Wren School Road, I believe, is the name of the road.
Q. After your arrest, did you try to take the police out to that area and show them where that hammer was?
A. Yes, sir.
Q. Were they able to find it?
A. No, sir.
Q. When you and Mr. Buckmon left [redacted] Berry Street, Ms. Dempsey's house -- when you left the house that morning, were there fires burning inside?
A. Not that I know of.
Q. Was Ms. Dempsey still inside the house in the kitchen?
A. Yes, sir.
Q. She was?
A. Yes, sir.
Q. What was her condition?
A. She was on the floor.
Q. Was there blood around her head?
A. I don't know.
MR. MILLER: Please answer any questions Mr. Chesser has for you.
MR. CHESSER: Your Honor, I request a short break.

THE COURT: Everybody okay over there?

We need to take a short break. We'll take a short bathroom break. Please don't discuss the case and don't deliberate. We'll be back in about ten minutes. Everybody else remain seated.

(The jury exits the courtroom at 10:40 a.m.)

THE COURT: All right. We'll take about a ten-minute break. If the witness needs a bathroom break, make sure he's taken care of.

(Trial in recess 10:41 a.m. to 10:59 a.m.)

(Jury enters the courtroom at 11:01 a.m.)

THE COURT: We had maintenance come up and check your chair. Is it okay?

JURY MEMBER: Thank you. Yes, it is.

THE COURT: Mr. Chesser.

MR. CHESSER: May it please the Court.

CROSS-EXAMINATION

BY MR. CHESSER:

Q. Mr. Bolen, how old are you?

A. Twenty-six.

Q. How long did you go to school?

A. To -- I completed the 11th grade.

Q. Now, you were convicted in 2009 of burglary in the second degree?

A. Yes, sir.

Q. And also, you were convicted of grand larceny more than $1,000?
A. Yes, sir.
Q. And on the burglary second you were sentenced to ten years suspended to two years and five years probation?
A. Repeat that one more time.
Q. Ten years suspended to two years active and five years probation?
A. I believe that's correct. Yes, sir.
Q. Okay. And you got three years suspended to two years active on the grand larceny, right?
A. I believe so. Yes, sir.
Q. So you actually went to prison on those charges?
A. Yes, sir.
Q. And in 2013, were you on probation?
A. No, sir.
Q. You don't think so?
A. No, sir.
Q. Okay. And also, when you went up to Greenville where your grandparents had a house -- that's what you testified to, right?
A. Yes, sir.
Q. And you ended up stealing an air conditioner

from that house?

A. Yes, sir.

Q. And then also -- and let's get the dates right. You were arrested on November the 11th?

A. I believe that's correct.

Q. Okay. And this happened on Friday, November the 1st?

A. October 31st through November the 1st. Yes, sir.

Q. And during this time period from November the 1st through November 11th, there were occasions when you came back to this area in your vehicle; isn't that correct?

A. Yes, sir.

Q. Okay. And on one of those occasions you stole some items from your grandparents the Goffs here in Williston, didn't you?

A. No, sir.

Q. In this case here you're charged with murder; isn't that correct?

A. Yes, sir.

Q. And you're charged with arson in the first degree?

A. Yes, sir.

Q. On the murder charge you understand that you're

facing 30 years to life?

A. Yes, sir.

Q. Day for day?

A. Yes, sir.

Q. And if you get life you come out of prison in a box, right?

A. Yes, sir.

Q. And you understand on the arson first you're looking at 30 years?

A. Yes, sir.

Q. And of those 30 whatever you get -- well, actually of the 30 you'd do 85 percent of those. You understand that?

A. Yes, sir.

Q. So you're here to help yourself, right?

A. Yes, sir.

Q. Now, you were interviewed by law enforcement on or about November 11th of 2013, correct?

A. I believe so.

Q. Okay. Now, what you've testified to, you would understand, is something that would make an unforgettable impression on you, right?

A. Yes, sir.

Q. So when you were interviewed on or about November 11th of 2013, in fact, you told law

enforcement that you handed a hammer to Mr. Buckmon, right?

A. Yes, sir.

Q. And now you're stating that you didn't, right?

A. I told them I didn't at first, in my first interview.

Q. So you told them one thing and then you changed it?

A. Yes, sir.

Q. And now you're changing it again?

A. Yes, sir.

Q. Also, in your statement, around about November 11th, you never mentioned anything about Mr. Buckmon having a gun at Donna Dempsey's house, did you?

A. Yes, I did.

Q. Are you familiar with the written statement you gave on or about November 11th?

A. Fairly, yes, sir.

Q. Okay. If I show it to you, would you be able to point out where you mention something about a gun?

A. I can read it and see if it's in there.

MR. CHESSER: Permission to approach?

A. Yes, sir. I previously forgot to mention that while in the house he pointed a black 45 pistol at me and said if I didn't do what he said he would kill me and my kids.

Q. So you're saying that when you first talked to them you didn't remember that, did you?

A. I told them. It's in my statement.

Q. And later on you changed your statement, right?

A. I told him it's right here, that he pointed the gun at me.

THE COURT: Speak up, sir. We can't hear you.

THE WITNESS: I told him it's right here, that he pointed the gun at me.

BY MR. MILLER:

Q. Now, that night on October 31st of 2013 -- well, during that day -- we'll start with that day -- you were giving tattoos in that area on Berry Street, right?

A. I can't really remember.

Q. Do you recall that you were wearing red shorts and a red shirt and a baseball cap?

A. I remember the red shirt and the red shorts. Yes, sir.

Q. Okay.

MR. CHESSER: Your Honor, I have exhibits which

we've agreed would come into evidence.

THE COURT: As Defendant's Exhibits?

MR. CHESSER: Yes, Your Honor. And they are Defendant's 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 18 and 19, and Defense would move these into evidence at this time.

THE COURT: Mr. Miller, 1 through 5, 8 through 13, 18 and 19.

MR. MILLER: Without objection, Your Honor.

THE COURT: Mr. Chesser, this is coming in on the defense side; is that correct?

MR. CHESSER: Yes, Your Honor.

THE COURT: All right.

(Defendant's Exhibit Nos. 1 through 5, 8 through 13, 18 and 19 were entered into evidence.)

BY MR. CHESSER:

Q. Let me show you what's been introduced into evidence as Defendant's Exhibit 19, Mr. Bolen and ask you, do you recognize -- isn't that you giving a tattoo on Halloween Day of 2013?

A. I don't know what day it is but that's me in the picture.

Q. All right. And would you disagree this is what you were wearing on Halloween of 2013?

A. That's it.

Q. That's it. Now, later on that night, you went over to Donna Dempsey's, right?
A. Yes, sir.
Q. And that would be after the trip to Reid's or Bi-Lo's at about 10:00 p.m. on October 31st, right?
A. I don't know what time but I know we went.
Q. But it was after that trip to the grocery store that you went over to Donna Dempsey's house and spent some time with her?
A. Yes, sir.
Q. Okay. Now -- and then you testified that later on that night, you went to Robert Eure's house, right?
A. Yes, sir.
Q. So at some point you changed these red shorts for a pair of blue jeans, right?
A. No.
Q. Is it your testimony here then that you were not wearing blue jeans on that Halloween night over at Donna Dempsey's?
A. Not that I remember, no.
Q. So you don't remember what you were wearing?
A. Red shorts, as far as I can recall.
Q. You testified about having sexual relations with Donna Dempsey at her house again after that

trip to Bi-Lo's, correct?
A. Yes, sir.
Q. Okay. Now, this was a time that you testified that Michael Buckmon was not present at her house, right? You were alone with her?
A. Yes, sir.
Q. Okay. And you stated that she came on to you or made advances to you; is that right?
A. Yes, sir.
Q. Okay. And then you began to have sexual relations with her in the living room, right?
A. Yes, sir.
Q. And those sexual relations advanced to her bedroom; isn't that right?
A. Yes, sir.
Q. And you testified that she asked you to stop having sexual intercourse with her at some point, right?
A. Yes, sir.
Q. And she indicated she was uncomfortable, correct?
A. We just stopped. Yes, sir.
Q. Sir?
A. Yeah. I mean, I don't know what the reason was. She just wanted to stop.

Q. Isn't it a fact that she told you that she was uncomfortable in the process of having sex with her?
A. I don't remember what she said exactly. I just know we stopped.
Q. Okay. At that point she performed oral sex on you; is that right?
A. Yes, sir.
Q. Now, there was a time later on that evening when you were over there at Donna Dempsey's with Hakeem Mixon, right?
A. Yes, sir.
Q. In fact, you understood that Hakeem had sex with her, correct?
A. No.
Q. He told you he had sex with her, didn't he?
A. No, he never told me that.
Q. And you told law enforcement that he told you that he had sex with her, right?
A. I don't remember saying that.
Q. You don't remember telling the SLED agent interviewing you that Hakeem said that he had sexual relations with Donna Dempsey?
A. I don't remember saying that, sir.
Q. Now, you recall that when you were arrested your car was seized by law enforcement, correct?

A. Yes, sir.
Q. All right. And various items were taken out of that vehicle, correct?
A. Right.
MR. CHESSER: Permission to approach, Your Honor?
THE COURT: Yes, sir.
BY MR. CHESSER:
Q. I'll show you what's been introduced into evidence as Defendant's Exhibit Number 1. You recognize this red and black baseball bat, correct?
A. Yes.
Q. That's your bat, right?
A. Yes, sir.
Q. You carry it around in your vehicle, right?
A. Right.
Q. And I'll show you Defendant's Exhibit No. 2 introduced into evidence. These are some knives that were in the trunk of your vehicle, right?
A. Yes, sir.
Q. Those are your knives, right?
A. Yeah.
Q. I'll show you Defendant's Exhibit No. 3. This is a red shirt, black shorts and a gray, looks like a tank top. Those are yours, correct?

A. Yes, sir.
Q. Defendant's Exhibit No. 4 in evidence, those are your red and black shoes, correct?
A. Yes, sir.
Q. Defendant's Exhibit 5 in evidence, again, red and black shoes, correct?
A. Yes, sir.
Q. Some jeans of yours -- two pair were found in that vehicle, correct?
A. I don't know how many pairs were found.
Q. Okay. Do you recognize these with the tear. Those are your jeans, aren't they?
A. Yes, sir.
THE COURT: Exhibit number?
MR. CHESSER: Thank you, Your Honor. Number 8.
BY MR. CHESSER:
Q. Defendant's Exhibit No. 9, again, those are your jeans with these holes in them?
A. Yes, sir.
Q. Number 10?
A. Yes, sir.
Q. Defendant's Exhibit No. 11, those are your jeans?
A. Yep.
Q. Number 12, your jeans?

A. Yes, sir.
Q. Number 13, your jeans?
A. (Nods head.)
Q. Now, at this point I want to show you Defendant's 18. Do you recall this being found in your vehicle?
A. Yeah.
Q. Okay. And this is 14 pieces of paper having to do with introduction into the Blood's street gang, correct?
A. Yes, sir.
Q. And this is your handwriting, right?
A. Yes, sir.
Q. I'm going to show you what appears to be page 6. It has 6 stars up at the top right corner, right?
A. Right.
Q. But it has what looks to be a reverse 9. Is that actually indicating that it's the 6th page?
A. Yes, sir.
Q. Okay. And you wrote that, right?
A. Yes, sir.
Q. You wrote it all in red ink, right?
A. Yes, sir.
Q. This next to the last paragraph, why I bang,

would you read that to the jury please?
A. It says, I bang for the cause, not because. I bang for all the real homies and O G's. I bang for blood, to be blood, to see blood. I bang for all the big homies and O G's who blood shed so I can B-hop and G-stroll. I don't rep this life. I bang this life till I get pushed.
Q. So Mr. Bolen you were, in fact, a banger; is that right?
A. No, sir.
Q. You had this Blood's -- basically sort of a Blood's Bible and that's what you were studying, right?
A. Yes, sir, I had it.
Q. Isn't it a fact in the Bloods they have an initiation process, Mr. Bolen?
A. I couldn't tell you.
Q. Isn't it a fact that you have to kill somebody to get inscripted into the Blood street gang?
A. I couldn't tell you.
Q. Isn't that what you wrote here, that you bang for the cause?
A. That's what I wrote, yes, sir.
MR. CHESSER: That's all the questions I have, Your Honor.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. MILLER:

Q. Mr. Bolen, to the best of your knowledge, aren't you and Mr. Buckmon facing the exact same charges?

A. Yes, sir.

Q. And when you were arrested and just in general through those ten days between October 31st and November 11th when you were arrested, what was your mental state at that time. What were you doing?

A. High all the time.

Q. You were high all the time?

A. Yeah. Delusional. I had a lack of sleep.

Q. And as you recalled what was going on talking to the officers, did you tell them in response to their questions what you remembered?

A. Yes, sir.

Q. And is that what you told the jury here today?

A. Yes, sir.

Q. What offers, what deals have been made for you to get up here and testify today?

A. Nothing.

Q. And if, in fact, if you don't testify truthfully in the opinion of the judge, if you don't

testify truthfully --

MR. CHESSER: Objection.

THE COURT: Sustained.

BY MR. MILLER:

Q. What do you get out of getting on the stand and not testifying truthfully?

A. What do I get out of testifying and not testifying truthfully?

Q. Yes.

A. As far as I know, more charges. I don't know.

Q. Do you expect to help yourself by testifying not truthfully?

A. Not truthfully?

Q. Not truthfully.

A. I don't see how that would help me.

Q. And as far as your testimony here today, if you are hoping to get some help with your charges because of that testimony, you understand that it has to be truthful, correct?

A. Yes, sir.

MR. MILLER: No further questions.

THE COURT: All right. You may step down.

MR. MILLER: Your Honor, may we approach?

(Off-the-record sidebar discussion.)

THE COURT: He's released from his subpoena.

He no longer has to be here today.

All right. Next witness.

MR. MILLER: Your Honor, the State calls Special Agent Sterling Seals.

STERLING SEALS

being first duly sworn, testified as follows:

THE CLERK: Have a seat and state your full name for the record.

THE COURT: Mr. Foreman, ladies and gentlemen of the jury, this is SLED Agent Seals. As I understand -- we had a conference with the lawyers before we started this morning and he had a couple roles in the investigation. We're going to do something a little different in his testimony.

He's going to testify this morning dealing with one aspect of the investigation. Mr. Chesser will be able to cross-examine him on that. And then to make things float chronologically he will come back after lunch to testify on the other aspect of the investigation, and also Mr. Chesser will be allowed to cross-examine him on that aspect.

Is that basically where we are on that?

MR. MILLER: That is, Your Honor. And I apologize, I should have asked before. We will need the two alternates to move to the other end so that

we can put up the screen.

THE COURT: All right.

Mr. Bamberg, can you help us?

My two alternates, would you move down here so you can see the screen?

Your witness.

DIRECT EXAMINATION

BY MR. MILLER:

Q. Special Agent Seals, where are you employed?

A. I'm employed with the South Carolina Law Enforcement Division which is also commonly referred to as SLED.

Q. How long have you been with SLED?

A. I've been with SLED over ten years.

Q. How long have you been with law enforcement?

A. I started out my career in 2000 so 17 years.

Q. Where did you start your career?

A. Before working at SLED I was employed with the Mount Pleasant Police Department here in South Carolina.

Q. What was your role with the Mount Pleasant Police Department?

A. I was patrolman as well as a SWAT team member.

Q. Okay. What do you do at SLED?

A. I am specifically assigned to the arson and

bomb investigation unit.

Q. Is that the only role that you have at SLED?

A. That is the unit I'm primarily assigned. All special agents at SLED are investigators and we are also subject to helping out with disaster relief such as Hurricane Matthew as well as restoring order if there's -- like we had last year at the Capital. We are subject to those type of call-outs as well, besides our primary responsibility.

Q. So your primary responsibility is that of an investigator, correct?

A. That's correct.

Q. What are some of the things that you as an investigator do?

A. As a member of the arson and bomb investigation unit my primary goal is to investigate fires around the State of South Carolina. We do investigate across the state. We're called in to investigate fires by any number of jurisdictions. It can be a police department, fire department or sheriff's department.

When we are called an agent is assigned. When it's myself I go there, and I conduct what we call an origin and cause investigation which is trying to determine where a fire started and how it started.

Q. What is the educational background that allows you to hold that position?
A. I hold a Bachelor of Science degree from the University of South Carolina in criminal justice. I also have a Master of Arts degree in education and social science from the Citadel with emphasis in criminal justice.
And I graduated from the South Carolina Fire Academy. I attended the arson investigation course that they offer. I also graduated from the National Fire Academy which is in Emmitsburg, Maryland. I graduated from their arson investigation course. And I have attended numerous other courses offered by a state as well as a federal institution, as well as private institutions at any time available.
Q. You mentioned a couple times the special unit that you are a part of with SLED.
A. Yes, sir.
Q. What is that called again?
A. It's the arson bomb investigation unit. We have two sides. We have agents that deal specifically with the fire and we have agents that we call bomb techs. They're still special agents but they're bomb techs. We work in accord with each other.

Q. Does that unit require you to participate in continuing education programs?

A. Yes. Annually I have to continuously go to training that deals with specifically what the kind of cases that I work. Just this year alone I attended a course on motor vehicle fires as well as reading publications. It's a constant requirement.

Q. Okay. Are there any specific certifications that you have to have within your field?

A. I belong to several organizations that are internationally recognized, one of which is the International Association of Arson Investigators, and under that organization I applied and obtained what they call FIT, which is a fire investigation technician certification.

I'm also a member of the National Association of Fire Investigators and under that particular organization I have two certifications. One is a certified fire and explosion investigator and I also have a certified vehicle fire investigator certification from NAFI as it's called.

Q. Over the course of your time with SLED, how many fire investigations have you been a part of?

A. I have investigated myself as a lead agent over 150 fires.

Q. Have you ever been qualified as an expert witness in South Carolina courts before?
A. Yes, I have.
Q. How many times?
A. Over five times.
MR. MILLER: Your Honor, at this time the State would offer Special Agent Seals as an expert in fire investigation.
THE COURT: Any cross-examination as to his qualifications?
MR. CHESSER: No, Your Honor.
THE COURT: I will qualify him.
Normally, Mr. Foreman, ladies and gentlemen of the jury, a witness is not allowed to give opinion testimony. We can only testify about we see, observe, direct things that we see. As an exception to that rule, if someone is qualified as an expert in a particular field such as an arson investigation, he would be allowed to give opinion testimony, allowed to give his opinion as to certain things.
I will at the end of the case tell you how you handle an expert witness's testimony like other witnesses and I'll charge you on that specific area of the law.

MR. MILLER: Thank you, Your Honor.

BY MR. MILLER:

Q. Agent Seals, what was your involvement in this case?

A. In this particular case I was contacted by my supervisor and he told me there had been a request from the Barnwell Police Department because they had had a fatal fire and they needed an investigator. I was assigned on November 1st, and I responded to [redacted] Berry Street on the same date to initiate an origin cause investigation involving a fatal fire.

Q. When you say an origin and cause investigation, what does that mean?

A. As I had mentioned earlier, when you have a fire it's the responsibility of the fire investigator to determine where the fire started and also, if you can, the cause of the fire.

Q. So when you began your arson investigation at [redacted] Berry Street, what did you do?

A. Once I arrived on the scene at [redacted] Berry Street I met with the first responders and the individuals that were there from the fire department, law enforcement. We have to establish jurisdiction and in this case it was a search warrant. Once I reviewed that document, made sure we have

jurisdiction to be there, then I began my investigation.

I initiated it by doing an outside scene assessment, basically walking around the residence, looking at the condition of the structure for safety purposes as well as looking at the fire damage.

Q. So you began your investigation on the exterior of the house?

A. That is correct.

Q. What sorts of things did you look for on the exterior?

A. Looking on the exterior I was looking for damage to the structure, whether it be structural damage or damage that would be caused as a result of a fire. I'm also looking for safety hazards; if there was electrical lines that were running, if they were still attached or if they'd come loose. Any number of things as well as you can have a septic tank that's been crushed by a fire truck. I'm looking for those type of situations at the exterior scene examination.

Q. Does your investigation end on the exterior of the house?

A. No, it does not. With a fatal fire investigation, once you enter the residence, if

that's where the victim is located, the victim is the priority. You will investigate around where the location of the victim is.

Once the scene has been processed around the victim and the victim has removed then you will continue on with an interior examination of the structure, and that's what I did in this particular case.

Q. During an interior examination what are you looking for?

A. When you're doing the interior examination -- and as I did in this particular case -- you're looking at each room. Or if it's a commercial structure it would be all the different compartments. But in this one looking in each room, looking at the damage, assessing the damage, looking at the fire patterns, assessing how the fire moved through the structure -- the movement and intensity of the fire. And once I have determined an area or areas of origin then I will look in those particular locations and try to determine the cause, something that caused the fire to occur in that location.

Q. Agent Seals --

MR. MILLER: Your Honor, may I approach?

BY MR. MILLER:

Q. Agent Seals, I'm handing you State's Exhibits 1 through 45. They're already been admitted into evidence. Could you just take a look through and identify those for us?
A. Yes, sir. You want me to tell the jury out loud what I'm looking at?
Q. Just tell us generally, what are you holding?
A. Okay. These are scene photographs that I took at [redacted] Berry Street. They are both exterior photographs as well as interior photographs, and I believe there's one photograph in here of the victim inside of the residence.
Q. Now, that particular photograph, is it in any way changed or altered from the photograph that you took that day?
A. The photograph of the victim? It's been redacted.
Q. Okay. Could you just generally describe that redaction?
A. There is a square black box to cover the victim's genitalia.
Q. Okay. But other than that, it's a fair and accurate representation of the photograph you took?
A. Yes, it is.
Q. Okay. Agent Seals, what I'd like to do at this

time is go through each photograph and ask you to describe why you took it, certain characteristics of each, et cetera. Would you like to hold on to those copies while you do that?

A. That would be fine. Thank you.

Q. And Agent Seals, if you need to step down and point anything out, I don't think that will be an issue but we'll ask the Court before you do that.

THE COURT: He may if he needs to.

MR. MILLER: Thank you, Your Honor.

BY MR. MILLER:

Q. Agent Seals, State's Exhibit 1, can you tell us what that is?

A. Ladies and gentlemen of the jury, this photograph here is the incident location I responded to. It's [redacted] Berry Street. This is the front of the residence, and the street right here this is actually Berry Street. This is the angle view you'd have looking straight on at the residence.

And this particular photograph here, what it shows is that you've got the siding, the shutters, the window. The tree is blocking -- I think it's a large oak here blocking it. But there's no damage you could see just standing on the street looking at it. There's no obvious fire damage you could see

from this photograph.

Next slide please. This is a closer photograph. This is moving up the driveway and now looking at the front door. The importance of this photograph here is you can see this is the roof or the under side of the porch, and you have the windows here and the doors. This is the storm door open. You have the white door, the front door and again the shutters. [redacted] here just showing the actual incident location address.

What's important about this photograph is you can't see any fire damage here except for a small amount of soot that's present right here at the upper portion of the door, and again, if you look at the top right corner you can see a very small amount of soot that is coming off the edges of that window frame as well as the upper part of the exterior side of the structure.

Q. Agent Seals, is that accumulation of soot unusual?

A. I would not characterize it as unusual. That is what was present.

Q. Would you expect to see that amount of soot or more soot?

A. To answer your question, I've worked fire

scenes where the structure was completely destroyed and I have worked them where they're just purely room content. That is just the amount of soot that was there. What it lets me know is this fire on the front side has not penetrated. It has not vented to the exterior part of the structure.

Q. Next slide please.

A. This is standing in the back yard of [redacted] Berry Street looking at the back door. Just like the two previous photographs you've looked at here, again, there's no location you can see all along the roof as well as these windows here and over here on the other side of the door where there's any indication that fire has come out of this structure. There's no smoke and soot damage that shows that the fire has exited and caused any damage or there's any heat damage. This is continuing to show the fire is contained to the inside of this structure.

Q. Next slide please.

A. This is just a closer view -- still in the back yard looking at the residence. You see a very small amount of soot coming out of the doggy door here and also a small amount at the upper portion of the set of windows there. This damage right here on the vinyl siding, what's important about that is vinyl

siding, it does not burn. If you light it, as soon as you let go of the heat source it's going to go out. It doesn't burn very well, doesn't produce a lot of fire.

What this is showing me is that damage is from heat inside the structure caused that melting, not from anything out here. You can see these items clearly. None of these items that caught fire, they did not cause that heat damage. That heat damage, to me, is indicating it comes from the inside of the structure.

Next slide please.

This is the door. Obviously you're looking to see if there's any indication of forced entry. Did somebody kick the door in, broke the windows? This is showing the door frame, your dead bolt lock and plate for your actual door.

What this is important to show is that this portion, this white portion -- this is the outside; this is the inside. And all the soot, all this is black. You'll see in more photographs why this is so dark. The soot collected right up to the door jam and it stopped. There's no damage to either plate to indicate forced entry and it also shows the door was closed at the time of the fire.

Next slide please.

This is the angle view that I had when I entered the structure from the rear door. This is the kitchen. The entire room is covered in a heavy layer of smoke and soot on all the items and this is an overall view. You can see the bottom of the photograph here. This is actually the victim's foot and it's the location in which she was located when I entered the room.

This is looking at the stove. Obviously with the kitchen there's a lot of things you want to look at. What's important on here obviously is you can see the condition of the crock pot, the can opener, coffee maker. You can see the stove, what's on the stove. There's some tissue here and some tissue here. You got common items you'd find in a kitchen. All the settings on the stove, the knobs, you can see they're all in opposition. One of the eyes was in the very lowest setting of one and that's indicated here in the photograph.

Q. Agent Seals, you listed off several appliances on that photo. Was there anything unusual or remarkable about any of the appliances?

A. No, there was not. I did not believe any of these items were a potential what we call an

ignition source, something that could have caused the fire.

Q. Thank you. Next slide.

A. This is standing -- right here the bottom left of this photograph being in front of that stove. It's looking back and this is the location of the victim. The victim was covered in a heavy layer of soot just like the rest of the room, and what that indicates to me is the victim was there before the fire started.

Just like everything else in the room where the victim is located, the soot collected on everything in there while the fire was occurring, and that is why it was so heavy on her body. And you could also see -- because soot collects -- as it goes up it enters the atmosphere and it comes down just like snow would, so anything on the underside isn't going to get under there.

So that's why the under part of the leg here, it's white and then on top it's heavy. As well as you can see the arms here, it's white on the underside and covered on the top. That's what it indicates to me.

Q. Agent Seals, there are a number of footprints in that photograph. Is there anything remarkable

about those?

A. No. You've heard from previous witnesses that by this point there have been several first responders as well as the victim's fiance that had been in up to this point.

Q. Okay. Thank you. Next slide.

A. Continue on past the victim where we were in the kitchen. This would be now in the living room. Now you're looking at the living room and the contents. Again, very heavy soot throughout the room. You have the layer of soot is beginning to come back down the wall. This door here is actually the front door, which you saw in one of the very first photographs. That's the front door.

Q. Thank you. Next slide.

A. This photograph would be from the last one would be turning slightly to the left and now you're looking down the hallway. So if you were looking at this piano, a little more to my right would be the front door. So now you've changed your angle of view and now you're looking down the hallway. You have these fire patterns that are coming down the hallway.

What's important for me and what I observed that day is that I don't have any fire down here at

the bottom which is your white wood trim. You can see the white wood trim and the door down the hallway. This is your return portion of your air conditioning unit and this is your light switch here.

All the fire is up high and what this is showing me -- and obviously I'm standing up high. In the living room you can see all the items in the previous photographs -- the chair and television and everything. So this is showing me that I have a fire that has moved down the hallway and has moved along up high and come into the living room.

Q. Agent Seals, why would fire move like that up high?

A. Well, fire -- if it's set -- and I say set -- when a fire occurs it's going to move up and it's going to move out, and it's affected by the surrounding materials that are in close proximity to it. So if a fire gets near a wall it's going to go up the wall because of the ceiling jet. It's going to move. It's going to plume. It's going to reach the upper level off the ceiling and it's going to move along. That's the ceiling jet. And it will come back down.

Another part of this photograph that's

important is this part of the piano, you have this pattern that goes across here. This 45-degree angle comes back here to these books. You have several items here and then it comes back. You have the pattern that comes along here.

One of the things I noticed about this later on is that this pattern moves along and it begins to narrow as it gets further away from its source but this fire here -- in my opinion there was another fire here and it created its own pattern independent of the larger fire that came down the hallway.

Q. Agent Seals, I need you to speak up just a little bit so that the jurors in the back can hear you as well as the court reporter.

A. Yes, sir.

Q. Next slide please.

A. This is moving more down the hallway, clearly in the hallway now. And this doorway over here to my left is the back bedroom on the back side of the house. This is looking straight on the hallway bathroom. This portion that you can see this light color, this is actually a tub and the entrance in the tub. And the white you can see over here to the far right of the screen, that is actually a doorway to a bedroom that is on the front side of the house.

Q. Next slide.

A. Hold on. I'm sorry. Can you go back one?

So again, like the previous photograph, the fire is coming out of this room. You can see the fire is heaviest in this room in any photographs you've seen. All of the charring that's occurred on the framing materials that come up here, it's blistered the walls. It's come up under the top side of this door frame and it's blistered and it's charred all of this.

But this pattern here, you see it coming here, also not as much but over here, to me that's an indication the fire has come out of that room, it's traveled up, come underneath that door and then gone down the hallway and then spread out.

Q. State's Exhibit 12 please.

A. This is another photograph. We're now back in the kitchen. And this is just a photograph that really shows you how much soot is present. It's very, very thick. The windows still are intact. Everything is covered in a very, very thick layer. And that's an indication that a fire has burned and it has gone into a state that it's began to -- went out but was a long process in relative terms and as combustion reduces you get more smoke and soot.

To give you an explanation of what soot is, soot is incomplete combustion. So you look at a campfire and see that black coming off, what that is it's actually the product of the wood burning, but the soot is the atmosphere and it's the particles of the wood that have not completely been consumed.

So that is actually what that is. And then it settles with the atmosphere and then it will come down. That's what happened here.

Q. State's Exhibit 13 please.

A. This is outside of the residence again. This is an addition and the water heater was in there. Again, it's just showing continued examination of the entire structure.

Q. Was there anything unusual or remarkable about that part of the house?

A. There wasn't anything unusual. Looking, again, you know, for potential ignition sources. And I entered through this door and, like I said, the water heater was in there. Nothing that struck me about that, no.

Q. Thank you. State's 14.

A. This is another photograph in the living room. This area right here would be you coming from the kitchen and this angle would be -- where I'm

standing I'm in the room and I had the front door behind me and I'm looking back at the master bedroom and the entrance to the kitchen.

This straight line that you see here right along, what we call that is line of demarcation. It means the smoke and soot and the gas as it filled the room it's come down and there's a layer and it creates that pattern on the wall.

Q. Thank you. State's 16.

A. This is looking straight down the hallway. It's a better photograph than the previous. Give you a better indication of how the fire is coming out of this bathroom, coming across this hallway.

But again, we have another fire, in my opinion, that started here and created this pattern here. We call that a V pattern. It's a shape of a V and puts up against a horizontal surface and moves up, leaves an impression and damages it just like that.

Q. Agent Seals, you mentioned two separate fires. Could you elaborate on what that means?

A. Well, like I originally stated, when you do an origin and cause investigation, you're looking for an area of origin or areas. You can have more than one. There can be more than one fire. At this point I have observed a fire that I believe came

from this hallway bathroom and another but smaller fire on top of this piano, as well as in one of the first photographs there was some toilet tissue that was found around the stove, yet the stove, I do not believe, was the cause of the tissue to be burned.

Even though it's very small, it's a small amount of combustible items that were burned, still at this point I've seen three areas of fire origin inside this one residence.

Q. Thank you. State's 16.

A. This is just -- this one, I think, just gives you a better indication of the second fire coming back through the books. You can see the books here as they come down and you have the candle here and, again, the patterns as they continue here.

Q. 17.

A. This is looking at -- in the living room this is showing you the sofa. Again, you know, looking at the lamp here, you can see the bulb here still intact. You can see the sofa, all of the items that are there, and the sofa has began to succumb to the heat that's coming in the fire. But this sofa and table and lamp were not ignition sources for the fire.

Q. 18.

A. This is standing in the hallway and looking straight up at the ceiling. You can see all the damage that's occurred, especially over here at this door right here. This is your overhead light fixture.

What's important about this is, this particular light, if this had been the ignition source for this fire, what I would expect to see and what I have seen in my experience is that all of this would be destroyed, if not completely consumed, and then you'd have a hole looking at the framing materials in the attic and the fire patterns would be spreading out from there but it's not. To me, this was affected by the fire but not an ignition source of the fire.

Q. 19.

A. This is the master bedroom. This would be on the other end of the house opposite of the bathroom we were just looking at. This is the mattress. What's important about this, just like with the victim's body and you saw the soot on there, that means the victim's body was there before the fire had started. Just like this, this means this mattress was removed of its bedding, if it had bedding, before the fire.

And the soot and smoke moved into this room and began to collect, but this is one of the least amount of areas of soot and smoke that was observed.

Q. 20.

A. This is looking at the kitchen. Now you've come back out of the master bedroom and this would be -- when you come out of the master bedroom and then over here on the left, this would be going out the back door. And you can see you have your dishwasher, your sink, oven, all your appliances.

Again, I'm looking at if there could be a potential ignition source for this fire in this residence, and this is showing that everything you'd normally find in a kitchen, everything looks like it should.

Q. 21.

A. This is a closer angle. Later on this beer can and the cigarette butt, you can see, was important. But again, looking at the crock pot, light switch, the microwave. You see your outlet there. And anything that's moved, like this, you can see that.

This is just another angle of looking right on into the kitchen sink. You can see your item here plugged in. There's no problem with the outlet. Again, heavy soot on the sink.

Next slide please.

This photograph is really to orient you to get you back in the bathroom. So now we're moving back to the bathroom.

Next slide please.

This is the master bedroom looking at the contents that were inside the room.

Next slide please.

Now, this is the main hallway bathroom. This is where I think the largest fire occurred. Right here at the bottom left is your sink, toilet, and on the back here it's kind of a mess here but this is like a mesh wire metal basket and some flat irons and a hair dryer. And this is the beginning of the tub at the top right corner.

Next slide please.

MR. MILLER: This is Number 26, Your Honor.

A. This is looking straight on the toilet. This yellow that you see and these pieces coming out here, this is the collection of the hair dryer and the flat irons.

Q. 27.

A. This is looking back at the sink. You have your light switches here. You got your outlet here, cord coming down here, and you have all kind of

items here. When you have a fire and things burn it will damage items found inside your house. We call that fall down so that's fall down. I've got fall down and I've got just items that were there before. And you'll see in the photographs that follow we remove this stuff but layer by layer, trying to see what's there.

Next slide please.

This is looking up at the medicine cabinet. You can see the damage to the walls. There's a lot of damage here but to me what I'm seeing is these walls were affected by a fire but not a fire that started in this location. This photograph is to show you the damage that was caused by the fire on the walls of the bathroom.

Next slide please.

This is the light fixture that's inside the bathroom that I mentioned before in the hallway. Still looking at, you know, what could be an ignition source in the bathroom. It's in good condition. It was affected by the fire but not an ignition source.

Next slide please.

This is looking at the floor. I've got some rolls of toilet tissue here. Toilet tissue is

toilet tissue but it's similar to the toilet tissue that was found on the stove. You can see the floor here, see the trim. It's still the original color, the white. Cabinets are in good condition. Obviously you got some more items over here. But this to me what's important is it's not a fire on the floor in the bathroom. Fire was -- it was away from this location.

Next slide.

MR. MILLER: 31, Your Honor.

A. Looking at the items more closely, this is the plug of one of the items of the collection of the hair dryer and flat irons. It's in good shape. If I had a lot of damage here and this was all brown and heavily charred, there would be more concern. Photograph is just showing you the process.

Next slide please.

This is a better collection. You can still see the original plastic, the sheathing on here. Again, another plug here. If these items were energized -- which you saw the previous plug, this plug and you see the condition. If these items were energized, they were plugged in and there was a malfunction -- they have what they call a thermal cut-off -- and the thermal cut-off had malfunctioned, there was a

runaway which means it basically just continues to heat.

If you have a flat iron they're specifically designed at a certain point to cut themselves off, but if it failed then you can have a fire that generates but that did not happen.

Q. So Agent Seals, those were not ignition sources for the fire in your opinion?

A. No, they were not.

Q. Okay. Number 33.

A. This is inside the bathroom and looking down the hallway, showing you how the fire has gone up the walls, under this door frame here and then moved down the hallway.

Next slide please.

This one is blurry but this is now looking down in the tub. You can see all the fire damage down in the tub. Now, in a couple slides before that, you saw the floor in the bathroom was you could see -- this one you can see damage down inside the tub.

Next slide please.

This is a picture of the breaker panel, just showing the different breakers for the house. Just another part of the process of examining not only the items in the house and the materials in the

house but also the electrical system.
Q. Now, in State's 35 here does the electrical system appear to be in normal working order?
A. The panel is in good condition. I don't have like a blowout. If you had a malfunction in this panel and you had like a big hole here, you could say, okay, I had a malfunction here at this location. We did not have that.
Q. But nothing to indicate this was an ignition source, correct?
A. That is correct.
Q. Okay. Number 36.
A. This is back to the main bathroom, the one we were talking about the whole time. And this is where we are going to cut this out and we're pulling out that outlet. Obviously the outlet, if you have a malfunction we have to take the time to cut out the drywall, look at the outlet and see if there's been a fire behind the wall.
Q. What was the result of that inspection?
A. If you could go to the next slide you'll see a better angle you can see. This now has been moved. Here you can see the wood frame materials behind the drywall. Here's your outlet. This is the outline of the housing. So I think this was affected by the

fire but not an ignition source.

Q. 38.

A. This is a cosmetic bag, hair dryer with cord wrapped around. It's not energized, not plugged in. It's not in play as an ignition source.

Q. 39.

A. Showing the plug, the condition, not energized.

Q. 40.

A. Moved all the debris out, looking at the sink. You can see something was there protected beforehand but now you can see up here. We've looked around the outlet, behind the wall, at the housing of the outlet, the top of the sink but not seeing anything here showing that the fire originated on the sink or around that outlet.

Q. 41.

A. This is -- if you were at the sink and you kind of squatted down and you looked up you're seeing under here. There's no damage here. If you had a fire in that sink and it was in the sink, you'd see damage under here, some charring and you don't see that. This is just showing the fire didn't originate at that sink.

Next slide.

This is the back bedroom -- if you were facing

the residence, it would be the back right bedroom. It's hard to see. Right here is a piece of a drum set. In another photograph I believe you'll be able to see where it actually says Pearl, which is the brand.

Q. 43.

A. This is a piece of the stand of a Pearl drum set and because you can see where it was moved ever so slightly you can tell it was there before the fire.

Q. Can we go back up to 42 real quick? Agent Seals, why did you take this photograph?

A. To show where these items were and the fact that they were sitting there and the fire had occurred, and then as the fire progressed the soot and smoke entered the room and collected on these items.

Q. Thank you. Number 44.

A. This is just -- and this is in the tub and you can see better here. You have books and something right here, and what that ended up -- when we recovered that it was actually a red T-shirt.

Q. Thank you. And finally, 45?

A. This is just a better angle here. I believe this is an image of Elvis Presley's head. This is

books and a red T-shirt, and these are combustible items that were found inside that tub in that hallway bathroom.

Q. Thank you, Agent Seals. You can retake the witness stand. I've just got a few more follow-up questions.

What areas of the house sustained the most damage?

A. I identified three areas of origin inside the house: the hallway bathroom, the counter in the kitchen near the stove where there was some toilet tissue, as well as the top of the piano in the living room. The most significant of those three locations was the hallway bathroom.

Q. Okay. And at the conclusion of an arson investigation, what do you attempt to do?

A. We classify the fire. There are several classifications for a fire. You can have accidental, incendiary, undetermined would be you could not determine the origin or cause.

In this particular case my fire was classified as incendiary. Incendiary is a fire that has been set and the person setting it knew it should not have been set.

Q. Do you attempt to determine why a fire was set?

A. I try to determine, if I believe it's an incendiary fire, the person or persons that brought the fuel load and the ignition source altogether to create the fire. That's what I'm trying to do is look for that individual or individuals.
Q. Is reaching that conclusion a part of your investigation?
A. Yes.
Q. What are some of the different reasons why a fire might be set?
A. There's a lot of different reasons people set fires. You have fires that are set by individuals for excitement. That would be a fire you've probably seen on Dateline or something. People are excited by a fire, get something out of it, like seeing the excitement. Power and influence, being able to do something like that, as well as vandalism, just wanting to destroy property. It could be related to a hate crime. It also can be for crime concealment as well, which basically a crime has occurred and to cover up any potential evidence the fire is set to cover up that crime.
Q. In this case did you reach a conclusion as to why this fire was set?
A. It was my opinion this fire was set for crime

concealment.

MR. MILLER: Thank you. Please answer any questions that Mr. Chesser may have.

CROSS-EXAMINATION

BY MR. CHESSER:

Q. Good afternoon.

A. Good afternoon.

Q. I want to ask you some specific questions. Donna Dempsey's body where it was found, the only item of clothing that she had on at that time was a T-shirt?

A. That's correct.

Q. Or could it be described as -- or was it some other kind of shirt? It was just a shirt, right?

A. It was a blue shirt.

Q. Okay. Now, you had occasion to interview Matthew Bolen, right?

A. That is correct.

Q. And that was -- actually, I believe it was November 12th and 13th?

A. November 12th.

Q. Okay. Do you recall that he told you that he was wearing pants at the time that he was at Donna Dempsey's house?

A. I can't recall if he said that or not.

Q. Can I show you something and have you take a look at it?
A. Yes, you can.
Q. I'll show you that. (Tenders document to witness.)
Having seen that, Agent Seals, does it refresh your recollection?
A. Yes, sir.
Ladies and gentlemen of the jury, what has been presented to me is a copy of my report. It's page 24 and it's a part where I'm referencing the interview with Bolen.
Q. Okay. And you indicate that your understanding was he was wearing pants at this time when he was at Donna Dempsey's, correct?
A. That's correct.
Q. All right. Thank you.
A. Uh-huh.
MR. CHESSER: Your Honor, at this time the defense would offer in a number of exhibits. Defendant's Exhibits 6, 7, 14, 15, 16, and 17. And as I understand, there's no objection.
MR. MILLER: Nothing from the State, Your Honor.
THE COURT: These are photos?

MR. CHESSER: Yes, Your Honor.

(Defendant's Exhibit Nos. 6 and 7 and 14 through 17 were entered into evidence.)

BY MR. CHESSER:

Q. Agent Seals, I'm going to ask you if you recognize these. I'm showing you first Defendant's Exhibit No. 6 in evidence. Do you recognize that?

A. Yes. This is the T-shirt that was recovered from inside the hallway bathroom in the tub.

Q. Okay. It's your understanding that T-shirt belonged to Matthew Bolen?

A. That's correct.

Q. Okay. I'll show you Defendant's Exhibit No. 7. You recognize that?

A. Yes. This is a photograph taken inside [redacted] Berry Street. This is of a cabinet that was -- you're in the kitchen, it would have been toward the end of it.

Q. Okay. Thank you. May I ask you to look through these State's Exhibits and find a picture that more or less shows the kitchen which would also tend to show this cabinet?

A. Yes. It's the one with the victim.

THE COURT: Number please?

THE WITNESS: Your Honor, it's Number 8.

BY MR. CHESSER:

Q. Now, what I would ask you to do is to tell the jury, referencing this photograph, where you observed suspected blood, blood spatter.

A. Well, let me -- I'll answer your question. When you refer to blood spatter that is something specifically that our crime scene agents, that they observe and they analyze and they make a determination on. So you would have to ask them about -- if you want to know about what that specifically is and what their interpretation of that is.

Q. Okay. I can understand that. Let me ask you this: In fact, it's your understanding there was suspected blood spatter found in that kitchen?

A. That's correct.

Q. Okay. The blood spatter, again, it's your understanding it was basically in the area near where Donna Dempsey's head was; is that correct?

A. There is a report that was generated by SLED that indicated that.

Q. Okay. I'll show you Defendant's Exhibit 14 and ask you if you recognize that and can state what it is?

A. This is a photograph taken inside of [redacted] Berry

Street and this is a photograph in the master bedroom of looking at the items on the floor.

Q. Okay. And is it fair to say this shows a woven leather belt?

A. That is correct.

Q. Okay. And it appears to be in two pieces?

A. That is correct.

Q. Okay. Show you Defendant's Exhibit 15, and I'd ask you is this, again, another picture of this woven leather belt?

A. That is correct.

Q. Do you recognize the bedroom where this leather belt is found?

A. The master bedroom.

Q. Right. Okay. Thank you. And I'll show you 16 and ask you, this is, again, another picture showing a fragment of this woven leather belt?

A. That's correct.

Q. Okay. Again, it would appear to be in the master bedroom?

A. That's correct.

Q. Okay. And finally, Defendant's Exhibit 17. And that would -- well, can you state what that is or do you know?

A. It's a picture of a woven leather belt.

Q. Okay. And it's -- it would be reasonable to conclude that's the leather belt collected in the possession of SLED, right?
A. Yes, sir.
Q. All three pieces?
A. Yes.
Q. Okay. I want to show you some exhibits that were introduced earlier. I'll show you what's in evidence as Defendant's Exhibit No. 11.
You're familiar with the fact that the vehicle that Matthew Bolen was in possession of was -- custody of that vehicle was obtained or seized by law enforcement on or about November the 12th, right?
A. Thereabouts. 11th or 12th, yes.
Q. Okay. And then inventoried items were taken out of that vehicle, right?
A. Yes.
Q. Do you recognize this as being some jeans that were taken out of the vehicle?
A. I was not there when they were taken out.
Q. Well, you heard Matthew Bolen recognize that these were his jeans out of that vehicle, didn't you?
A. Yes.

Q. Okay. These jeans, law enforcement considered that they may have blood spatter on them; isn't that correct?

A. We did collect them.

Q. Right.

A. Yes.

Q. And I'll show you Defendant's 10 -- 9 and 10 also and ask you if those appear to be the same jeans and, again, with some substance or splatter on them?

A. Yes.

Q. And finally, Defendant's 8. Again, the same question, with some -- Bolen's jeans, again, with this substance on them?

A. Yes, sir.

Q. Okay. Now, if Bolen hit Donna Dempsey in the head with this hammer, he would be expected to have blood spatter on his jeans, would he not?

A. Yes.

Q. Do you know what the results of the examination on these jeans were?

A. These jeans were not examined.

Q. All right. You had occasion to review the video at Reid's or Bi-Lo's. Have you reviewed that video?

A. Yes. It's been a while but yes.
Q. Okay. And you would agree that in that video, Mr. Buckmon is wearing khakis; isn't that correct?
A. I can't recall that, sir.
MR. CHESSER: All right. Thank you. No further questions.
MR. MILLER: Nothing from the State, Your Honor.
THE COURT: You may step down. You're testifying after lunch so please stay with us.
MR. MILLER: Your Honor, we have asked our next two witnesses to be present at 2:00. I imagine that they're going to get here a little bit before that.
THE COURT: Dr. Ross and --
MR. MILLER: Dr. Ross and we have another SLED agent who will be very brief.
THE COURT: And Dr. Ross will be very brief?
MR. MILLER: Yes, sir. With that in mind, I think if we could take an hour and a half for lunch that we'll be ready to go at 1:45.
THE COURT: Mr. Foreman, Ladies and Gentlemen, we're going to break until 2:00. We'll be back at 1:45 because there's always something to do.
Please don't discuss the case, don't let anybody discuss it with you. We'll start right back

at two o'clock with y'all. It sounds like we may probably finish up testimony this afternoon. Have a very pleasant lunch and I'll see you back at two o'clock ready to go.

(Jury exits the courtroom at 12:17 p.m.)

THE COURT: All right. Mr. Miller, anything for the record before we break for lunch?

MR. MILLER: Not before we break for lunch, Your Honor. If we come back at 1:45 that would probably be a great time for us to go ahead and make sure Mr. Chesser's objections are reserved as to the redactions and maybe he and Mr. Routzong can take a look at them during lunch.

THE COURT: Anything for the record before we break?

MR. CHESSER: No, Your Honor.

THE COURT: All right. Let's start back at -- we'll definitely start back at 2:00. How long are the videos?

MR. MILLER: One of them is an hour and 42 minutes and the second one is 40 minutes. They're pretty lengthy.

THE COURT: So we're not going to finish by this afternoon.

MR. MILLER: We'll be close. And that will

conclude the State's case.

THE COURT: Mr. Chesser, any idea about how long you're going to go? Just a guess.

MR. CHESSER: I would just say this: The only potential witness that I anticipate is the defendant and he'll be pondering this some. But I don't think -- well, I don't know in that respect -- but even if he were to testify, then we would be talking an hour, hour and a half.

THE COURT: Sure. Let's do this: Let's see how far we can get this afternoon. We're not going to argue and charge this afternoon. Obviously we'd be -- if we start at 2:00, we got two hours of video so that's four o'clock. Dr. Ross is 30 minutes so that's 4:30 and the other SLED agent is 30 minutes maybe. That's pushing us right to 5:00.

According to whether Mr. Buckmon wants to testify, that would be the only one. If he does we'll come back in the morning and take his testimony. If not, we'll come back and argue. If he testifies, we'll argue and charge after his testimony.

Anything I can do for y'all, Mr. Chesser, before lunch?

MR. CHESSER: No, sir. Thank you.

THE COURT: Mr. Buckmon, are you okay?

THE DEFENDANT: Yes, sir. Thank you.

THE COURT: All right. We'll stand at ease until 2:00.

(Lunch was taken from 12:19 to 1:46 p.m.)

THE COURT: Mr. Miller, anything for the record before we start?

MR. MILLER: Nothing for the State, Your Honor.

THE COURT: Mr. Chesser?

MR. CHESSER: Yes, Your Honor. We'd like to put some matters on the record with respect to the videos. There are -- the State intends to produce redacted versions of two video interviews of the defendant, Michael Paul Buckmon. One of these is the interview on November 11th, 2013; the other one is an interview February 18th, 2014.

And we've -- the defense has submitted a motion and a memorandum combination for the suppressing or redaction of these videos. And I would like at this time to just highlight a few matters concerning this.

In the first place, we move to exclude the videos based on the fact that Mr. Buckmon is in handcuffs, orange jail suit, leg chains. He's chained up throughout this and the impression that

that gives the jury -- and if this is admitted they're going to see some two hours of it -- is given that outfit, the chains, manacles and so on, is what we consider to be a very prejudicial reflection on his character. Something that they won't be able to get of their minds.

THE COURT: Do you have any -- I read that in your memorandum. I looked at the cases you submitted. None of them address that specific issue and quite frankly, I know of no cases for that sole reason alone that that video interview would not be allowed to be shown to the jury.

Are you aware of any cases that says that?

MR. CHESSER: No.

THE COURT: Neither am I.

MR. CHESSER: But we would move for exclusion on that basis.

THE COURT: I'm going to respectfully deny that.

MR. CHESSER: We also move for the exclusion of the video as a whole based on the position that the redaction of them renders them not coherent and not meaningful -- not representative of what the actual interviews were to the --

THE COURT: Mr. Chesser, that's an interesting

argument because you're the one who asked them to be redacted. I've granted your motion to redact just about everything you want out, and now you say by redacting it, it creates a situation that is not coherent and flowing. So which way do you want it?

And I'm not fussing at you. I appreciate what you're doing and I understand your position. I'll let you argue it.

MR. CHESSER: In addition, Your Honor -- we understand Your Honor is overruling that.

In addition, I do want to make clear -- well, let me just turn to the items that were admitted -- that were deemed to be admitted over objections. There's seven of them and --

THE COURT: It's my understanding you sent me the memo with all the -- and we'll make it part of the record but with all of the requested redactions, and I took that and went through it and sent it back to y'all saying, this is what I will redact. And that has been done.

And there were very few things left in that you didn't want in, I think. So exactly what is it that you're saying is not far enough in the redaction? What is troubling you or you're making an objection to?

MR. CHESSER: What I would do -- what I want to do is simply have my objections for the record --

THE COURT: Certainly. You can do it orally. You can submit your memo with everything that's still left in and showing what I did redact out or however you wish to protect the record.

MR. CHESSER: The only thing I can think of or what occurs to me with regard to the record is I would ask that your response be admitted into the record and simply be noted those items that you deem be admissible that my objection is noted and continues.

In other words, I would ask that your ruling when you decided what will be admitted and what will be excluded -- and it would also be understood that the parts that you mentioned might be for further argument that the State conceded or simply agreed to redact those. So I ask that the record be fleshed out to the extent that your response be made a part of the record.

THE COURT: Okay. Who has that -- I sent that e-mail -- Mr. Miller, do you have a copy of it?

MR. MILLER: I can print off a copy from our e-mail. I think we've written notes all over ours.

THE COURT: Why don't you make a clean copy of

it, show it to Mr. Chesser and we'll make that a Court's exhibit so Mr. Chesser will be protected on the record. Is that fair enough?

MR. MILLER: Yes, sir, Your Honor.

MR. CHESSER: Thank you, Your Honor.

(Court's Exhibit No. 1 marked for identification.)

MR. MILLER: And I would point out for the record, from the State vs. King case the process of analyzing prior bad act evidence begins with Rule 401 of South Carolina Rules of Evidence which are defining relevant evidence.

Your Honor, the State would submit that the seven portions of the some 73 requested redactions, the seven that the Court declined to redact after Mr. Chesser sent it in, we would say that those items -- you got to go a step prior to that. We don't believe that they are prior bad acts. We don't believe that they're admissible under 404, but even if you do analyze it under 404(b), they'd still be admissible.

They are certainly relevant because the defendant's entire claim eventually is that he knows all about what happened but he wasn't acting in concert with the defendant. So to the extent that

those arguments or statements at the end that Buckmon says he was threatening Matt; honestly he was going to hurt him; I knew my name would come up in this, those statements are his attempt to further convince law enforcement that he wasn't in on this with Bolen. And he was trying to distance himself from Matthew Bolen in the course of these various interviews.

Most of those statements -- all but one of them -- in fact, there was only one statement out of the hour and 50-plus-minute unredacted interview that was admitted, and that was the statement, if I was going to run from the police I could hide at Donna's.

He was trying to establish to law enforcement that he was close enough with the victim in this case that he could hide at her house if he wanted to.

Certainly there's no argument to be made that the statement, if I was going to run from the police I could hide at Donna's, is any kind of a prior bad act. It's not even an act that's occurred. Nobody has alleged that it has and he does it, so I don't think that that analysis is appropriate in that instance.

As to the second interview, again, this is a block of statements that were made in his attempt to demonstrate to the police that this -- and in fact, I think at one point he even says, I found out I was hanging out with a crazy person. This wasn't my friend. This wasn't somebody I was wanting to be with. This is somebody I was with against my will.

And I don't think any of those statements can be considered to be prior bad acts taken in the context of the argument as a whole. And if -- if they were, they would certainly be relevant to the context of the statement that he is making, and that would therefore make them probative.

Their prejudicial impact of him making statements like, I was threatening Bolen because of what he did and I was going to hurt him, but he didn't. I mean, I don't know how that is prejudicing him other than making it appear that he might be a tough guy.

But clearly, there's no implication that he ever got into a physical altercation with Mr. Bolen, that they ever fought. He says they argued; Bolen says they argued. I just don't think it's so prejudicial as to warrant its exclusion.

And having said that, in the context of a 403

analysis, it is probative though, Your Honor, from the issue of, he's saying that he was making these statements and he's saying this was going on during the seven-day long period between the time of the murder and the time that he and Bolen both agreed that they went their separate ways.

And so, with that in mind, he was with him for a week. Nobody's alleged that he did anything to Bolen. Nobody's alleged that Bolen did anything to him during that entire week. And certainly that makes these statements of, I was going to hurt him, probative as to his veracity. Just for one thing, because if he was going to hurt him, he had ample opportunity over the course of a week to hurt him and that didn't happen.

So the State thinks that, first of all, they should not be analyzed under 404. If they are analyzed under 404, they are still relevant under 401. And as relevant under 401 then you balance the probative value versus the prejudicial effect, which I will point out has to be unfair prejudice to the defendant under the 403 analysis, in which case those statements should properly come in this matter and the Court has so ruled.

As to anything that the Court said needed to be

excluded or anything that the Court indicated that it wanted to hear more argument from both sides on, we consented to the rest of them. So we got 66 redactions that we ended up doing in these two videos. And we submit that we have done them all by consent and the only possible issue could be those seven remaining redactions that were admitted by the Court in your initial analysis, Your Honor.

THE COURT: Mr. Chesser?

MR. CHESSER: Just briefly, Your Honor. On these final six admissions, which are all from the second tape, for the record one of them says, Buckmon says he was threatening Matthew; he says honestly he was going to hurt him; he says I knew my name would come up in this; he talked about putting guns in his house; Buckmon said he needed his guns because the people are coming; and then finally he was going to take Matt out -- I submit that these are way more prejudicial than probative.

What their probative value is I do not know. They have zero probative value. They have nothing to do with who committed this murder, and they have everything to do with the jury perceiving that Mr. Buckmon is a bad person.

I submit they are substantially more

prejudicial than probative and they're not relevant.

THE COURT: Thank you. Okay. So the record will be protected, number one, I want the unredacted tapes made a part of the record.

MR. MILLER: Want that to be made as a Court's exhibit, Your Honor?

THE COURT: Court's exhibit. Obviously the redacted copies will be coming into evidence. I want the memo that was submitted to me along with the requests for redactions part of the record as a Court exhibit.

And for the record, we conducted an in-camera review of the tapes along with Mr. Chesser's outline of what he wanted redacted. Very few that I left in. I think six or seven. I did an analysis under whether it was prior bad acts or prior conduct. I did an analysis whether it was relevant. And then last but not least I did a 403 probative versus prejudicial analysis, and I found those six or seven to be relevant, that the probative value outweighed the prejudicial value.

And I have so ruled and that's where we are. And I think that protects you on the record, Mr. Chesser.

MR. CHESSER: All I would ask at this point is

that I be protected and that there would be no need for me to make any more objections on these lines.

THE COURT: You are and you've raised it.

Mr. Miller, do you have any problem with that?

MR. MILLER: I do not, Your Honor. And I'm attempting to print right now the information that the Court is requesting.

THE COURT: Okay. We're going to get the jury in here. I see Newberry waiting on us and we said we'd start at 2:00.

See if my jury is back, please.

(Jury enters the courtroom at 2:02 p.m.)

THE COURT: I hope everyone had a pleasant lunch.

THE FOREMAN: We had a wonderful lunch. Thank you for the offer yesterday. We were okay though.

THE COURT: I'm going to buy you lunch tomorrow. What did I say, today? Tomorrow, I promise. I was going to buy lunch today but Ms. McElveen said the taxpayers were too broke for that.

THE CLERK: I'll see if I can't pass a collection hat.

THE COURT: We will have lunch tomorrow, I promise you. And if you get through before lunch is

ready you can take it with you.

THE CLERK: But you have to wait for it to get here.

THE COURT: Y'all are very fortunate in Barnwell to have a clerk of court as good as Ms. McElveen. She does an excellent job and runs a good court system.

You may call your next witness.

MR. MILLER: Your Honor, the State calls Dr. Janice Ross.

JANICE ROSS, MD

being first duly sworn, testified as follows:

THE WITNESS: I do.

THE CLERK: Be seated and state your full name for the record.

THE WITNESS: Janice Edwards Ross.

DIRECT EXAMINATION

BY MR. MILLER:

Q. Dr. Ross, where do you work?

A. I with Newberry Pathology Associates in Newberry, South Carolina.

Q. What do you do there?

A. We do forensic autopsies for different coroners in the State of South Carolina.

Q. What kind of training did you have to have or

education do you have to have to do that type of work?

A. I'm a doctor. I have a four-year degree from the University of South Carolina and four years of medical school where I got my MD at Upstate Medical Center in Syracuse, New York. That's where I did training in the field of pathology.

Pathology as opposed to surgery or pediatrics is a discipline in medicine where we learn how to diagnose diseases by using the microscope, by using the laboratory in the hospital. We also learn how to do an autopsy to find a cause of death.

I'm further trained through medical examiner's offices in doing forensic autopsy. The word forensic means legal. So we use our knowledge for legal matters like homicides, accidents, suicides, rapes. Forensic autopsy is more fine tuned. We identify patterns of injury, collect specimens for the court of law, take photographs, and come up with a -- decide on a cause and manner of death.

Q. Dr. Ross, have you ever been qualified as an expert witness in the State of South Carolina?

A. Yes.

Q. Approximately, just ballpark, how many times?

A. Over 200 times.

Q. Okay.

MR. MILLER: Your Honor, at this time the State would move to admit Dr. Ross as an expert witness in the field of forensic pathology.

THE COURT: Any cross-examination as to Dr. Ross's qualifications?

MR. CHESSER: No, Your Honor.

THE COURT: Thank you. She will be qualified as an expert in forensic pathology and will be allowed to give opinions in that field.

Mr. Miller.

MR. MILLER: Thank you, Your Honor.

BY MR. MILLER:

Q. Dr. Ross, did you have occasion to perform an autopsy on Donna Dempsey?

A. Yes, I did.

Q. When was that autopsy performed?

A. It was on November 2nd, 2013.

Q. Could you briefly state for the jury the relevant findings from that autopsy examination?

A. Yes. The body is brought to us in the morgue at Newberry County Memorial Hospital. In opening the body bag we found that the person was covered with soot. She was clothed only in a shirt and a bra. So we do external examination and then an

internal examination.

Externally we could see some injuries to her head, neck, and various parts of the body. And then we could see a lot of soot in her airways.

Q. Dr. Ross, whenever you received this body for autopsy, were you aware that it had been involved in a fire, or did you not discover that until you had opened it up?

A. We got a brief summary that she had been in a fire or a house where there was a fire that I guess put itself out but it was smoky.

Q. All right. So that was -- you expected the soot to be there, correct?

A. Correct.

Q. What were you able to determine about the cause of death based upon the autopsy that you did?

A. We had a lot of injury actually. But the soot, once we got inside and looked at the trachea and the airway down into the lungs we found a lot of dense soot in the airway, which means that she was breathing during the fire and -- in order to get that much soot down into her lungs.

Q. And I suppose that would be something you would expect to see with someone who had died in a fire or in the presence of a fire. But were there any

injuries that were not consistent with just somebody dying in a fire?

A. Yes.

Q. What were those injuries?

A. There were several. There was injury to her head. She had a lot of what we call blunt force injury. Injuries that cause splits in the skin, from being hit by an object or from hitting an object.

These injuries on the left side of her head were a little bit arc-shaped, little bit semicircular, and they actually broke the skin and fractured the skull underneath. A couple of areas -- there was a bone actually pushed into the brain tissue.

There was also a lot of bruising around her right face, around her neck and around her shoulders. There were what we call petechia, little red dots in her eyes and over the skin of her face. Petechia are caused by, for instance, when a lot of force is put on the front of the neck and does not allow blood to drain from the head back to the heart. Blood backs up under the pressure and blood breaks out of the capillaries and underneath the skin and cause little red dots. So that is a sign

of asphyxia due to strangulation.

Q. And were you able to tell from your examination whether the head injury and the strangulation were injuries that occurred prior to her dying in the fire or were those injuries that could have been post-mortem?

A. They were caused before the fire. The injury on the head had a lot of blood hemorrhage bruising around it, indicating again, circulation was caused. Plus, the brain was swollen and you get a swollen brain when you have blunt force injury to the head and when you have asphyxiation strangulation. Again, the strangulation causing the petechia would have occurred while circulation -- while the heart was still going.

So in other words, she had the injury to the head and the strangulation evidence before the fire, but she was alive enough to breathe in the dense soot.

Q. All right. I want to go over two more things with you. You said some kind of strangulation area to the neck, the upper body; some injury to the side of the head/face on the right side; and then blunt force trauma to the left side of the head?

A. Correct.

Q. Okay. Now, can you explain to the jury what the general terms cause of death and manner of death mean?

A. Yes. Cause of death is just like it means. What caused the death? Was it heart attack or bleeding out or broken heart? Manner of death -- there are five manners of death. One is homicide. One is suicide, accident, natural death like a heart attack and sometimes we can't determine it so we call it undetermined.

Q. Were you able to determine a cause as well as a manner of death in this case?

A. Yes.

Q. And what were they?

A. Cause of death was smoke inhalation due to incapacitation by the fractured skull and the beating -- due to the beating in addition -- contributing to that is the strangulation. Manner of death, homicide.

MR. MILLER: Thank you, Doctor. I don't have any further questions.

THE COURT: Mr. Chesser?

CROSS-EXAMINATION

BY MR. CHESSER:

Q. Good afternoon, Dr. Ross.

A. Good afternoon.
Q. In examining Ms. Dempsey, you found an abrasion below -- I guess you can correct me with the term but the vagina; is that right?
A. Yes, on the lower part of the vagina. On the entrance -- it's called the introitus but the entrance of the vagina.
Q. Okay. And can such an abrasion be the result of, say, rough sex?
A. Yes.
Q. If they had an abrasion like this, could it cause discomfort to the female in sexual intercourse?
A. Yes.
Q. Okay. In your autopsy, do you do blood alcohol analysis?
A. We draw blood and fluids and they're taken to SLED for analysis.
Q. So you send it off to them?
A. Yes.
Q. And finally, did you take other samples such as samples for the presence of sperm?
A. Yes, we did.
Q. Okay. Did you take a sample from the decedent's anal area?

A. Yes, we did.
Q. And the vagina?
A. Yes.
Q. And the mouth?
A. Yes.
Q. And did you also take separate samples which are designed for DNA analysis?
A. Yes. We sent -- we -- excuse me.
Q. Take your time. I'm sorry.
A. Tail end of a cold.
Q. Take your time, Dr. Ross.
THE COURT: You okay, Dr. Ross?
THE WITNESS: Yeah.
BY MR. CHESSER:
Q. This is my last question so...
A. Part of the rape kit is for DNA and we do blood analysis for DNA.
Q. Okay. And so you did that in this case and sent it off to SLED?
A. Yes.
MR. CHESSER: Okay. Thank you very much.

REDIRECT EXAMINATION

BY MR. MILLER:
Q. Dr. Ross, when you did this examination, this autopsy, did the decedent have injuries consistent

with a CSC, a rape?
A. Yes.
Q. Those injuries were consistent?
A. Yes.
Q. And when you -- you said you took these samples and you sent them off to SLED, talking about the blood alcohol content and the presence of any kind of drugs in the system that may have contributed to the person's death. When those go off to SLED do you actually get those results back?
A. I do, yes.
Q. And if there's something that you see in those test results that changes your opinion of the cause or manner of death, can you amend it?
A. Yes. In this case, the toxicology report indicated a high level of carbon monoxide, which supported the cause of death.
Q. And did the toxicology report indicate any other kind of drugs that would cause someone to drop dead?
A. No.
MR. MILLER: No further questions, Your Honor.
MR. CHESSER: I would like to clarify one thing.

RECROSS-EXAMINATION

BY MR. CHESSER:

Q. Dr. Ross, when you say consistent with criminal sexual conduct or rape, it's also consistent with rough sex; isn't that right?

A. Yes.

Q. In other words, it has other possible explanations, right?

A. Yes.

MR. CHESSER: Okay. Thank you.

MR. MILLER: Thank you.

THE COURT: Thank you. Dr. Ross, I hope you feel better. You are released from your subpoena and be careful going back to Newberry.

Next witness, please.

MR. MILLER: Your Honor, the State calls Lieutenant Craig Collier.

CRAIG COLLIER,

being first duly sworn, testified as follows:

THE WITNESS: Yes, ma'am.

THE CLERK: Be seated and state your full name for the record.

THE WITNESS: Timothy Craig Collier, Sr.

DIRECT EXAMINATION

BY MR. MILLER:

Q. Good afternoon, Lieutenant Collier.

A. Good afternoon.

Q. Where are you employed?

A. The State Law Enforcement Division commonly known as SLED.

Q. How long have you been in law enforcement?

A. Twenty-one years.

Q. And what is your position at SLED?

A. I'm currently the special agent in charge of the arson investigation unit.

Q. Okay. How long have you been in that position?

A. Since 2012.

Q. What was your involvement in this case?

A. I respond to the scene. I assisted Agent Seals in the scene examination and also assisted in follow-up investigation to certain limits. I have several agents under my command so I can't spend all my time on one case. I have the whole state to take care of so I was in and out on this investigation.

Q. In an assistance role?

A. Correct.

Q. In that role during your involvement in this case did you have occasion to speak with the

defendant?

A. I did.

Q. When did that conversation occur?

A. I took a statement from him. I don't have it in front of me to reference.

Q. If I showed you a document that had that date marked would it refresh your recollection?

A. Certainly.

November 10th, 2013.

Q. Thank you, Lieutenant. Was anyone else present when y'all spoke?

A. Yes, sir. There was an officer -- a Barnwell Police Department officer that was in the room as well.

Q. When you and the defendant spoke did the defendant appear to be under the influence of any alcohol or drugs?

A. No, sir, he did not.

Q. Did he appear to have any physical or mental disabilities that would have impaired his ability to have a conversation with you?

A. No, sir, he did not.

Q. Do you recall where this conversation occurred?

A. It was at the Barnwell County Sheriff's Office.

Q. Do you recall how long your conversation with

the defendant lasted?

A. I don't offhand. It was probably an hour or so -- a couple hours maybe. Without looking at the statement I couldn't tell you but it was probably a couple hours.

Q. At any time did he ask to take a break?

A. No, sir.

Q. Did he ask for a telephone?

A. No, sir.

Q. Bathroom break?

A. Not that I recall.

Q. Food?

A. No, sir.

Q. Drink?

A. No, sir.

Q. During the course of that conversation did you promise him anything?

A. No, sir, I did not.

Q. Did you threaten him in any way to make a statement to you?

A. No, sir, I did not.

Q. Was he advised of the nature of your investigation?

A. He was.

Q. Was he advised of his constitutional rights

prior to being questioned?
A. Yes, sir, he was.
Q. Lieutenant, I'd like to show you what has been admitted into evidence as State's Exhibit 48. Can you explain to the jury what that is?
A. Yes, sir. This is the standard Miranda rights form. You've probably seen it on TV. You have the right to remain silent. That's what this is.
Want me to read it to the jury?
Q. Just explain in general terms --
A. Sure. Basically this advises the person being questioned of their constitutional rights -- the right to have counsel present with them during questioning, that they have the right to answer questions without one or they can stop at any time until they have one present. Just making sure they understand their rights, that they have the right to stop talking to have a lawyer present if they wish to have one.
Q. Is that Miranda form a copy of the same one you used when you interviewed the defendant?
A. It appears to be, yes, sir.
Q. How do you know that?
A. My signature is on it. My handwriting with the location and date and time it was taken.

Mr. Buckmon's initials down on the left side, signature on the bottom.

Q. When you say the left side, what is indicated there?

A. Beside each statement there's a spot for him to initial whether or not he understands that statement, and if he understands it he initials by it. That's where he initialed by each one saying that he understood each one that I read to him.

Q. So he initialed next to each right?

A. Correct.

Q. And after going over that form with you he stated he wished to waive his rights?

A. That is correct. And then he signed the bottom of the page indicating that.

Q. After you and he went over that form did you ask him any questions?

A. I did. We spoke about the incident and as a result of our conversation he supplied a written statement in his own handwriting.

Q. Lieutenant, could you please identify what has been admitted into evidence as State's Exhibit 49?

A. Yes, sir. This is the voluntary statement that I took from Mr. Buckmon on November 10th, 2013. This is a common SLED form. The top part is

basically information about the interviewee -- date of birth, name, address, phone numbers -- and then a spot for he or she to write their statement, and he did it in his own handwriting. Each page is initialed and signed by myself and a witness.

Q. Is that statement the same copy -- a copy of the statement that he provided to you on that date?

A. Yes, sir. It appears to be.

Q. How do you know that?

A. It's signed by him, by me and by the witness on the date that I took the statement.

Q. Okay. And Lieutenant, on page 3 there are a series of questions and answers. Could you please explain to the jury who is asking those questions and who is answering the questions?

A. Certainly. This is commonly referred to as a Q&A, a question and answer. If after I read the statement there's still questions that I have that weren't addressed in the statement, I'll asked a pointed question and I'll have the interviewee answer it in a yes or no. These six questions at the end were questions that I wanted answered. I wrote the question out and had him write his answer after it.

MR. MILLER: Your Honor, at this time I'd like

Lieutenant Collier to publish that to the jury by reading it to them and while he does that we've provided it up on the screen so the jury can follow along.

A. The statement or the Q&A?

Q. Please read the entire statement from page 1 to page 3, and when you get to the Q&A, say Q and then A.

A. Okay. So the narrative: On October 31st, 2013 around 9:30, Ms. Donna Dempsey needed a ride to Reid's for beer and wine. I, Michael Paul Buckmon, and Matthew T. Bolen gave her a ride to Reid's. Then she paid me $20 for that. Then she stated she wanted some cocaine so she got me some money out the teller at SRP Bank.

Her and Matthew, AKA Matt Tat became intimate in the car rubbing on each other. We pulled behind my mother house and they walked to her house while I left to pick up some cocaine. Matthew and Donna was left at the house for about an hour alone.

When I got back Matt wanted to steal her belongings. I told him no and that I was cool with Lloyd and his wife because she knew my mother and baby-mom Ashley Rountree -- I think that says Rountree -- when I got back with the cocaine, Matt

stated he was ready to go so we left and went to a house party. And during that time Matt told me he needed to get some stolen items out my mom's back yard before my mom finds out. These items supposedly came from next door from Ms. Dempsey's house.

I was pissed because I told him not to do it. I had no choice but to move the items because they were on my mother's property. I forgot that a rifle was left in my mom's house so I had to go back and pick it back up.

We left to go to Greenville and he decided he wanted to pawn the items in exchange for money to buy cocaine from me. I went along with him. While there Matt also took items from his grandmother's house in Piedmont and took her items for the scrap yard.

The drum set and a keyboard was taken to the pawnshop called Palmetto Pawn in the Easley area. While there I was looking for a job and Matthew only wanted to rob people. I told him I'm not with it.

He always stayed on the phone worrying about was he hot in Barnwell. Then one morning he said he is wanted for a homicide. I told him if he is -- I told him he is going to have to man up on his

charges because I'm not falling for no one's actions.

I did not know the homicide was pertaining to Ms. Dempsey until Friday morning on the 8th of November 2013. On that date we was arguing because not only he took items from my neighbor, he probably killed her as well.

I then began doing my research and started calling back home. That's when I found out she was dead from the following people: Wilhelmina Buckmon, Ashley Rountree and Ms. Brenda Buckmon, Eisha Williams. When I asked him about it, he just stated, I need to leave the state.

I told him I was going back home to clear my name. We got into an argument at a small country store. I went in to charge my phone and when I came out he was gone. I was stranded. I called investigator Mr. Wayne Martin and told him I'll be back in Barnwell to cooperate with any questions and my only involvement which is possession of someone's stolen goods, which initialed MPB.

And then the question and answer portion. I wrote the question, did you participate in the death of Donna Dempsey? He responded no. Did you participate in the fire at Donna Dempsey's house?

He responded no. Did you engage in sexual intercourse with Donna Dempsey on October 31st, 2013 or November 1st 2013? At first he wrote yes and then he put his initials and wrote no.

Number four, when was the last time you engaged in sexual intercourse with Donna Dempsey? He answered, Wednesday, October 30th, 2013. Number five, I started with have and scratched out and wrote how long have you been engaging in sexual intercourse with Donna Dempsey? And he answered, around two months.

And the sixth and final question was, when you engaged in sexual intercourse with Donna Dempsey on October 30th, 2013 did you use a condom? And he answered, yes and I pulled off and throw it away.

Q. Thank you, Lieutenant Collier. On November 10th of 2013 when the defendant provided you with this statement, did you see anyone threaten, coerce or intimidate him in order to give you that statement?

A. No, sir, I did not.

Q. Did you or did you witness anyone else promise him anything?

A. No, sir, I did not.

Q. Was anything promised to him on November 10th,

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A. No, sir.

MR. MILLER: Thank you, Lieutenant. I have no further questions. Please answer any questions Mr. Chesser may have.

THE COURT: Mr. Chesser?

MR. CHESSER: I have no questions for Lieutenant Collier.

THE COURT: You may step down.

Next witness.

MR. MILLER: The State calls Special Agent Sterling Seals.

THE COURT: May Lieutenant Collier be excused?

MR. MILLER: The State would request so, Your Honor.

THE COURT: Any objection to Lieutenant Collier being excused, Mr. Chesser?

MR. CHESSER: No, sir.

THE COURT: Thank you, sir.

I'll remind you that you're still under oath, sir.

THE WITNESS: Yes, sir.

DIRECT EXAMINATION

BY MR. MILLER:

Q. Agent Seals, in your role investigating this

case did you have occasion to speak with the defendant?

A. Yes, I did.

Q. On how many occasions?

A. Two occasions.

Q. When was the first time that you had occasion to speak with the defendant?

A. The first one was on Veteran's Day, November 11th, 2013 and that occurred at the Barnwell Police Department in Barnwell, South Carolina. And the second one occurred on February 18th, 2014 and that was at the Barnwell County Sheriff's Department.

Q. Let's talk about the November conversation first. Who was present during that conversation?

A. It was myself and Detective Glen Rice who at the time was employed with the Barnwell Police Department.

Q. When you and the defendant had that conversation, did he appear to be under the influence of alcohol or drugs?

A. No, he did not.

Q. Did he appear in any way to be physically or mentally impaired such that his statement would be influenced by those things?

A. No, he did not.
Q. How long was your conversation with the defendant in November of 2013?
A. It was about two hours.
Q. At any time did he request to take a break?
A. Yes. He did ask at one point to stop.
Q. What happened when he asked to stop?
A. When Michael Paul Buckmon asked to stop I stopped the interview, and I got up, took my belongings and I left the room.
Q. What happened at that point?
A. After a short period of time, I was approached by Detective Glen Rice who said that Michael Paul Buckmon, who he had been talking with in the hallway, wanted to continue with the interview. At which time I reentered the room with Detective Glen Rice as well as Michael Paul Buckmon and the interview was continued.
Q. During the course of that interview, did he ask for a telephone?
A. No, he did not.
Q. Did he ask for a bathroom break?
A. No, he did not.
Q. Did he ask for anything to eat?
A. No.

Q. Did he ask for anything to drink?
A. He was provided a beverage. I can't recall if he asked for it but I know that we did provide him a beverage.
Q. Was it a Coke?
A. It was, I believe, Dr. Pepper.
Q. Okay. During the course of that conversation did you promise him anything in order to get him to give you a statement?
A. No, I did not.
Q. Did you threaten him in any way to make him give you a statement?
A. No, I did not.
Q. Was he advised of the nature of your investigation?
A. Yes.
Q. Was he advised of his constitutional rights prior to your questioning?
A. Yes, he was.
MR. MILLER: Your Honor, may I approach?
Q. Agent Seals, can you please identify what's been admitted into evidence as State's 50?
A. This is a SLED Miranda rights form. It was filled out on November 11th, 2013 and the place that it was filled out at was the Barnwell Police

Department. And it's signed by myself as well as Detective Glen Rice and Michael Paul Buckmon.

Q. Could you briefly explain to the jury again what that form is used for?

A. The Miranda rights form is provided to the individual that's being interviewed. Each of their rights is explained to them. And the individual that's being interviewed, they will initial if they understand their rights, and on this form each of the rights -- there are the initials MPB by each one of the rights.

Q. Were these rights explained to the defendant?

A. They were.

Q. Did he appear to understand the rights as you went over them?

A. He did.

Q. Did he initial next to each right explaining that he understood them?

A. Yes. The initials MPB are by all of the rights that are listed here on this form.

Q. Did he have any questions about any of his rights?

A. No, he did not.

Q. After you reviewed those rights with him did he indicate that he wished to waive them?

A. He signed the form which that's what this is, is a waiver of his Miranda rights, agreeing to speak with us.

Q. Okay. Was your interview with the defendant recorded in any way?

A. It was recorded.

Q. How was that done?

A. The Barnwell Police Department had video equipment set up and it was utilized for the interview.

Q. Was it utilized for the entirety of the interview.

A. Yes.

MR. CHESSER: This would be subject to previous objections on the record, Your Honor.

THE COURT: You're protected.

MR. MILLER: May I approach, Your Honor?

BY MR. MILLER:

Q. Agent Seals, could you please identify what has been marked as State's Exhibit 46?

A. This is a DVD. It's a copy of the recorded interview which I have reviewed and it has my initials on it. This is the interview that was conducted on November 11th, 2013 at the Barnwell Police Department with Michael Buckmon.

MR. MILLER: Your Honor, at this time we'd move to admit State's 46.

THE COURT: Any objections over the ones you've already noted?

MR. CHESSER: No further objections, Your Honor.

THE COURT: Thank you.

(State's Exhibit No. 46 was entered into evidence.)

BY MR. MILLER:

Q. Agent Seals, I now want to jump forward to the February 2014 interview. Do you recall what date that was done?

A. February 18th, 2014.

Q. Who was present during that interview?

A. That was myself, Michael Paul Buckmon, Detective Glen Rice and at the time Michael Paul Buckmon's attorney.

Q. Who was that?

A. Last name was Price.

Q. But he was there for the entirety of the interview?

A. Yes.

Q. Okay. Again, I'm just going to ask you the same couple questions. Did the defendant appear to

under the influence of alcohol or drugs?
A. No, he did not.
Q. Did he appear to be physically or mentally disabled in such a way that those things would interfere with his ability to give you a statement?
A. No, he did not.
Q. You may have already told me this but where did this interview occur?
A. This interview was conducted at the Barnwell County Sheriff's Office.
Q. How long did it last?
A. I believe the interview was under an hour.
Q. At any time during that interview did the defendant ask to take a break?
A. No.
Q. Did he ask for a telephone?
A. No.
Q. Bathroom break?
A. No.
Q. Food?
A. No.
Q. Drink?
A. No.
Q. During the course of that conversation did you promise the defendant anything in order to get him

to give you a statement?

A. No, I did not.

Q. Did you threaten, coerce or intimidate the defendant or did anyone else with you do that that day?

A. No, they did not and nor did I.

MR. MILLER: May I approach, Your Honor?

Q. Agent Seals, could you please identify this?

THE COURT: Number please?

MR. MILLER: 51.

THE WITNESS: 51, Your Honor.

A. This is a SLED Miranda rights form. It's the same type form that was used in the previous interview. The place that it was signed was the Barnwell County Sheriff's Office. The date indicated is February 18th 2014. The rights, they were explained to Michael Paul Buckmon, have his initials MPB by all of the rights. And the waiver of rights, below that there is a signature of Michael Paul Buckmon, and the witnesses are Detective Glen Rice as well as myself.

Q. Is it the same form that was used in the last two interviews?

A. Yes.

Q. And he initialed in all the appropriate places?

A. Yes, he did.
Q. And signed the waiver at the bottom?
A. Yes, he did.
Q. And his attorney was present for the entirety of the interview?
A. He was.
MR. MILLER: Your Honor, may I approach?
Q. Agent Seals, could you identify this?
A. This is State's Exhibit 47.
Q. Can you tell the jury what is it?
A. This is a recording of the video recorded interview of Michael Paul Buckmon on February 18th, 2014 and it has my initials on it.
Q. Have you reviewed that video since February 18th, 2014?
A. Yes, I have.
Q. Is it a fair and accurate representation of that video?
A. Yes, it is.
MR. MILLER: Your Honor at this time the State would move to admit State's 47.
MR. CHESSER: Subject to previous objections.
(State's Exhibit No. 47 was entered into evidence.)
MR. MILLER: Your Honor, at this time we'd like

to publish both interviews to the jury.

THE COURT: All right. Mr. Foreman, ladies and gentlemen of the jury, as you've heard, the State has introduced certain videotaped statements of the defendant. We're now going to show them to you.

The pretrial portion of this case during the discovery both the defendant and his lawyer were provided copies of these videos, and after reviewing the videos there were portions of the recordings that the defense and the State agreed should be removed from the recordings for various legal reasons based on previous cases and certain rules.

Both sides got together. They agreed that some things should be removed and then I had to -- they disagreed on some things and I had to make a pretrial ruling. This is what we call redaction. We redacted the statements to eliminate anything that was not relevant or perhaps violates some other types of cases and/or rulings.

So therefore, as a result of the redaction there are places in the video which appears to skip around or maybe where the sound drops out of the video. Both the State and the defendant have been provided with these redacted videos you're about to see. Both the state and the defense agreed that the

redactions conformed to my final order of where it should redact certain things out.

So as such, you're to draw absolutely no inference from the fact that the statements have been edited or redacted. You're to consider the statements as they are entered into evidence, and you're to give those statements whatever weight you feel the statements deserve, if any.

So having said that, we're going to start them. Which one you going to do first? 11/11/13?

MR. MILLER: Yes, sir. November 11th, 2013.

THE COURT: This one may be a little long. If we get into it, if anyone needs a bathroom break or need a break, raise your hand. Somewhere along the line we'll find the appropriate place to take a bathroom break or afternoon break. But if you need that break before I feel like we do, just raise your hand. And if you get too cold, let me know. If your chair doesn't work, let me know.

MR. MILLER: Your Honor, we just ask that Agent Seals be allowed to step down during the video due to the length.

THE COURT: You can sit over in the jury box or however you want to do it. Sit wherever you'd like to sit. Just don't discuss it with anyone.

THE WITNESS: Yes, sir.

THE COURT: All right. Mr. Bamberg, if you'll -- this is Exhibit No. 46, the video of 11/11/13 that has been redacted or edited.

(State's Exhibit No. 46 published to the jury.)

THE COURT: Mr. Bamberg, cut it off for a moment please.

(Sidebar conference.)

THE COURT: Can y'all understand and hear it?

THE JURY: Hearing and understanding.

THE COURT: How about y'all step in the jury room just a second and see if I can get this technical issue figured out.

THE FOREMAN: Yes. It's marginable at best.

(Jury exits the courtroom at 2:50 p.m.)

THE COURT: All right. Bring the jury back in please.

(The jury enters the courtroom at 2:57 p.m.)

THE COURT: All right. Dim the lights for me please.

(State's Exhibit 46 resumed for the jury and his Honor.)

MR. MILLER: Your Honor, may we approach briefly?

THE COURT: Everybody okay? We can stop for

the day. We've got about an hour and a half more to play on this one and the next one. We'll try to get a better audio system for early in the morning and finish it up, or we can continue going and listening to it like this. What is your pleasure? You have to come back tomorrow anyway.

THE FOREMAN: Yeah, break.

THE COURT: You want to let them try to get a little better audio? You're saying break for the day?

THE FOREMAN: Yes, sir.

THE COURT: All right. Turn the lights on for me.

All right. Couple things: 9:30 okay? You want another sausage biscuit or you want something different? And I'm going to buy you lunch tomorrow. I'm not going to get fussed at again. I can get you some fruit and donuts, I guess.

THE FOREMAN: Sausage biscuits.

THE CLERK: How about bacon, egg and cheese?

THE COURT: Just get half and half. All right. 9:30. If you want your breakfast, be here a little bit early. Please be on time. We're going to get started in the morning. I'll be in a better position to tell you -- we're going to finish

tomorrow one way or the other. We're down in the short roses, as my daddy used to say.

We'll get it turned over to y'all probably around lunchtime. I'll order your lunch so you don't have to leave. You can eat lunch here while you deliberate. Fair enough?

Don't deliberate tonight. Don't let anyone discuss it with you. Don't do any independent research. Please have a wonderful evening. Y'all have been great. I appreciate y'all paying close attention. Have a nice evening and see you bright and early in the morning.

(Jury exits the courtroom at 3:46 p.m.)

THE COURT: Mr. Miller, anything from the State before we break for the evening?

MR. MILLER: Nothing from the State, Your Honor.

THE COURT: Mr. Chesser?

MR. CHESSER: Nothing, Your Honor.

THE COURT: Mr. Buckmon, let me discuss a few things with you. Obviously tomorrow we're going to finish up, I assume, the State's case at the conclusion of playing the remainder of the interviews and that will conclude all the State's evidence.

Of course, at that time you have the right to present your defense, which means you can call witnesses, you can introduce relevant exhibits and you can take the witness stand and tell your side of the story.

THE DEFENDANT: Can I speak, Your Honor?

THE COURT: Well, let me finish and then you can. Fair enough?

THE DEFENDANT: Yes.

THE COURT: Make sure you understand what I'm saying. On the other side of that coin is if you decide to testify obviously you would be subject to the same rules everybody else is. You would be subject to being cross-examined on all relevant matters. Does he have a record that's habitual?

MR. MILLER: He does, Your Honor. He's got an ABHAN conviction from 2009.

THE COURT: And there is a possibility that your prior record could come in simply for the purpose of impeaching your believability or credibility once I make a decision as to whether or not it's more probative than prejudicial. That would be the only reason to attack your credibility.

On the other side of the coin you have the constitutional right under to United States

Constitution and the State Constitution to remain silent. Everyone who is accused of a criminal event or a crime has the absolute right to remain silent. You have absolute nothing to prove. The burden of proof is on the State.

If you do not take the witness stand, I will instruct the jury at the conclusion of the case that they cannot hold the fact that you did not testify against you in any manner whatsoever. They can't discuss it in the jury room. They cannot infer anything from it. They can't even mention it. You have the absolute right to remain silent and you have nothing to prove and I will tell them that.

So you'll have to make a decision tomorrow after the State's case as to whether or not you want to testify, and I just want to make sure you understand your right to remain silent and what I tell the jury if you don't testify. You have the right to testify, if you wish to, and you would be subject to cross-examination and perhaps that prior record may come in.

Now, having said that, you wanted to ask me a question and I'd be glad to answer it.

THE DEFENDANT: I didn't want to cost the State time and the law to argue but this witness in the

case as to what Matthew Bolen stated that I instructed other guys that was on the scene to make them do something -- and those guys already gave interviews to Mr. Seals and the State and writes that it was a total lie. They had nothing to do with the crime just as well as me. They already in prison. I didn't want you to have them subpoenaed from prison.

THE COURT: I don't have anything to do with who is called or who's not called. I don't think anybody else is going to be called by the State, and you have the right to present whoever you wish. I just need to know -- make sure you understand you have the right to not testify and if you don't I'll tell the jury they can't hold that against you in any manner whatsoever.

As far as these other witnesses and all, I don't control that until they get here to testify and determine whether or not what they're going to say is relevant or not. Relevant means having something to do with the case.

So do you have any other questions you want to ask me?

THE DEFENDANT: No, sir. I mean, the State didn't bring any witnesses -- all the witnesses

stating I didn't do nothing or they don't know if I did something. I guess that's why they didn't bring the witnesses.

THE COURT: I don't do the prosecuting. I sit up here and referee. I can't tell them whether to throw a curve ball or a force out. I have to just call it whether it's a ball or a strike.

All right. We'll get to that in the morning. You can make your decision tomorrow when we get to that point. Fair enough?

THE DEFENDANT: Yes, sir.

THE COURT: You need anything?

THE DEFENDANT: No, sir. I'm good.

THE COURT: All right. We'll break for the evening. Make sure the jail knows to have him here at 9:30 in the morning dressed out.

(Court recessed for the day at 3:51 p.m.)

THE COURT: Good morning. Please be seated.

Anything for the record before we start, Mr. Miller, on behalf of the State?

MR. MILLER: Your Honor, we have -- in accordance with the Court's instructions yesterday, relative to the redaction of the videos, I put together a Court's Exhibit No. 1 with Mr. Chesser's assistance that contains everything that I believe

the Court requested. We do have copies of the unredacted videos that Mr. Bamberg is getting right now.

THE COURT: That's fine. We can do that when we take a break. Let's get cranked.

MR. MILLER: All right. We're ready to go, Your Honor.

MR. CHESSER: Your Honor, we had submitted a published jury instruction re the jump suit and shackles. The prosecution indicated they don't have an objection to it and I've handed it up.

This is a case that Mr. Routzong found. But it appears that there's a line of cases and I think it would be proper to give a curative -- not so much curative but just an instruction.

THE COURT: You want me to give it now or you want me to give it when I charge the jury?

MR. CHESSER: I would ask that you give it now, Your Honor.

THE COURT: Mr. Miller?

MR. MILLER: Your Honor, I don't object to the instruction. I leave it to the Court's discretion when to make the charge.

THE COURT: Bring my jury in please.

(The jury enters the courtroom at 9:36 a.m.)

THE COURT: Good morning.

THE JURY: Good morning.

THE WITNESS: We're right on time this morning. I hope everyone had a wonderful evening. We're going to get started back in just a second with the conclusion of the first video and then we'll do the second video. I think that will complete the State's case and then we'll see where we go after that. I'll be in a position to -- is that correct?

MR. MILLER: We have a few follow-up questions for Agent Seals at that point.

THE COURT: So we'll move right along. Obviously yesterday while you were watching the video it shows Mr. Buckmon dressed in jail clothing and some type of restraints. Please be advised that it's not unusual when they take someone into custody for them to dress them in a jail suit and restraints.

So please don't infer anything from the fact that he was in jail clothes and is in restraints. Don't consider that in any manner when you deliberate. He's pled not guilty. He's presumed to be innocent unless the State can prove him guilty beyond a reasonable doubt. So please do not let the fact that he's in jail clothing at that time and

restrained have any effect on your deliberations and don't infer anything from the fact he's dressed in that manner.

Satisfied, Mr. Chesser?

MR. CHESSER: Yes, sir.

THE COURT: Mr. Miller?

MR. MILLER: Yes, sir.

THE COURT: Mr. Bamberg, you may dim the lights.

By the way, before we start look right in front of you. Look what we did last night. Got us some new speakers. Does the foreperson have the right to control the volume?

MR. MILLER: There is a volume knob on the front of the speaker in front of the foreperson. It might max out pretty quickly but it's there. And Mr. Bamberg has got his computer sound turned all the way up.

(State's Exhibit No. 46 resumed for the jury.)

THE COURT: Mr. Foreman, ladies and gentlemen, are you okay over there? You want to get started into the next one?

If you get uncomfortable raise your hand please.

(State's Exhibit No. 47 published to the jury.)

MR. MILLER: Your Honor, we'd also like to publish State's 52. It's already been admitted into evidence. We just haven't published it yet. It's about three minutes of video. Agent Seals is going to point out a few -- we can do it after a break if --

THE COURT: However you want to do it. You said you had some questions for him and now you're adding more time to it. Go ahead.

MR. MILLER: Just three minutes.

THE COURT: I'm not fussing. Go ahead. What is this we're watching now?

MR. MILLER: This is State's 52. It is a video of Berry Road [sic] from a drone that was flown over the street.

THE COURT: Thank you.

DIRECT EXAMINATION

BY MR. MILLER:

Q. Agent Seals, as this video plays could you please identify the defendant's mother's house and the incident location, Ms. Donna Dempsey's house?

A. Ms. Buckmon's house is white house, the one-story right there in front of you and the street to the right is Berry Street. This drone is moving up over the trees that if you were to come out the

door of Ms. Buckmon's house would be straight ahead. You have the storage shed behind the house. This is the storage house right here. Behind this line of trees is a cyclone fence. And this blue house right here is Ms. Donna Dempsey's residence right here.

There's a lot of overgrowth and stuff. This was taken after the fact. But what you can see here is you're seeing the entire roof of the structure, and there's no place where you'll see fire has come out of the structure.

This portion right here would be the front porch. This is the driveway. Again, this is [redacted] and this residence here on the right side was also mentioned. This area right here with the trees is the back yard of [redacted] Berry. You can see right here is the cyclone fence. It extended all the way across and separated the two properties.

The items that referred to where the location would have been, would have been roughly about this location. That's -- when you kept hearing about the items stacked up, it would have been over that fence right there. And when they're referring to the vehicle parked behind Ms. Buckmon's house, that would be the upper part of the frame right here.

The distance between this front door and

Ms. Buckmon's residence, the back of this residence is roughly a couple hundred yards.

MR. MILLER: That's good, Mr. Bamberg.

Agent Seals, if you wouldn't mind taking the stand we have a few follow-up questions.

BY MR. MILLER:

Q. Okay. Agent Seals, during both of those interviews, a number of different names were mentioned. A long list of individuals were mentioned. Did law enforcement follow up with those individuals?

MR. CHESSER: Objection.

THE COURT: Your objection is what?

MR. CHESSER: It obviously calls for hearsay, Your Honor.

MR. MILLER: He's testifying about information within his personal knowledge.

THE COURT: He just asked did he follow up. That's not hearsay. Overruled.

A. Yes. Law enforcement did follow up on the names that were referred to.

Q. Was any useful information obtained during --

MR. CHESSER: Objection.

THE COURT: Sustained.

A. No.

THE COURT: Don't --

MR. CHESSER: Objection.

THE COURT: Disregard that, ladies and gentlemen. He can't testify to what other people told him.

BY MR. MILLER:

Q. Okay. Agent Seals, on Monday when Loy Mitcham testified he stated that there were two dogs inside the residence. During your investigation were you able to determine what happened to those dogs?

MR. CHESSER: Objection.

THE COURT: What's the objection on that?

MR. CHESSER: It's much more prejudicial than probative, Your Honor. It has zero probative value and it's prejudicial.

THE COURT: I don't know what he's going to say. How's the dogs got anything to do with --

MR. MILLER: It's a portion of his investigation, Your Honor.

THE COURT: I'll sustain the objection.

MR. MILLER: Yes, Your Honor.

BY MR. MILLER:

Q. Agent Seals, the defendant stated during both interviews that when Mr. Bolen left him at the country store in the Upstate, he then contacted

Captain Wayne Martin to turn himself in. Did that occur?

A. Yes, it did.

Q. Okay. When did that happen?

A. I believe it was either November 9th or 10th.

Q. Okay. During the November 11, 2013 interview, the defendant indicated that Matthew Bolen had removed things from the house after the fires had been set. In your opinion was that corroborated by your investigation?

MR. CHESSER: Objection.

THE COURT: Sustained.

BY MR. MILLER:

Q. Agent Seals, during the February 2014 interview, the defendant stated that he could smell smoke from his mother's house. Was that corroborated by your investigation?

MR. CHESSER: Objection.

THE COURT: Sustained.

MR. MILLER: Your Honor, he's giving testimony within his expert --

THE COURT: Sustained.

MR. MILLER: Yes, Your Honor.

THE COURT: You didn't ask it right.

MR. MILLER: No further questions, Your Honor.

THE COURT: Anything on cross?

MR. CHESSER: No questions for this witness.

THE COURT: You may step down.

Next witness please.

MR. MILLER: Your Honor, the State rests.

THE COURT: Mr. Foreman, ladies and gentlemen, that concludes the State's presentation of testimony. I need to spend a few minutes with the lawyers to sort of see where we're going. I'll let you go back to your jury room now.

Ms. McElveen will come back. As promised, she will go over your lunch options with you. We'll order in so we can move along. So go back. Don't start any deliberations. Don't discuss the case and we'll have you back out in just a few minutes.

(The jury exits the courtroom at 11:18 a.m.)

THE COURT: Any motions by the State?

MR. MILLER: None by the State, Your Honor.

THE COURT: By the defendant?

MR. CHESSER: May it please the Court. Mr. Buckmon stands accused of murder, arson in the first degree and criminal sexual conduct --

THE COURT: That's correct.

MR. CHESSER: -- in the first degree. And at this time we would move for a motion of directed

verdict of not guilty on all three of those charges on the basis of no direct and no substantial circumstantial or indirect evidence that he is -- such that a jury could reasonably find that he is guilty of these three charges, Your Honor.

THE COURT: Well, the codefendant testified and said your client is the one who hit her in the head with a hammer, which according to the pathologist that's contributing or was the cause of her death. He set the fire.

Now, Mr. Miller, what evidence is there in the record about criminal sexual conduct that would --

MR. MILLER: Your Honor, there is substantial circumstantial evidence of the criminal sexual conduct, both from the testimony that has come out in the defendant's own statements about his inconsistencies in whether or not he even had sex with the victim in the first place or not; the changing variations of the story until he finally comes up and says in his final version of the story that he and his codefendant had sex with her.

At the same time the defendant -- or the codefendant who is cooperating and testified said that Mr. Bolen had sex with her and during that sexual encounter he instructed him to come in and

try to tie her up. He said he was not successful in tying her up. Then when she tried to get away from him, when she ran out of the bedroom, that's what precipitated him grabbing her around the neck, riding her to the floor, ultimately hitting her in the head with the hammer and directing that the fires be set around the house.

Certainly that's substantial circumstantial evidence of the fact that the sexual contact that Mr. Bolen talked about was not in any way consensual and, therefore, would constitute criminal sexual conduct.

And also, Your Honor, Dr. Ross also testified that the injuries to the victim were consistent with a CSC.

THE COURT: All right. Based on the testimony of the codefendant and if the jury believes him, that evidence is in existence and I will respectfully deny your motion. I'm not concerned at this stage of the game of the weight of the evidence but I'm concerned with the existence of the evidence and -- it's up to the jury to determine credibility of the witnesses, and if they believe the codefendant then it will sustain a conviction for CSC as well. So respectfully denied on all three

charges.

All right. Do you intend to put up any witnesses, Mr. Chesser?

MR. CHESSER: No, Your Honor. My understanding is that Mr. Buckmon does not intend to testify; although, it would be appropriate for the Court to inquire.

THE COURT: Mr. Buckmon, you recall yesterday before we left you and I talked about your right to remain silent and your right to testify during the trial, and I told you that if you testified you would be subject to cross-examination and your prior record may come in. I hadn't made that decision yet.

On the other side of the coin, you have the constitutional right under the 5th Amendment and the State of South Carolina's constitution not to testify. You have absolutely nothing to prove. The burden of proof is on the State. If you do not testify, then I will charge the jury -- are you listening? You paying attention?

THE DEFENDANT: Yeah, I'm paying attention, Your Honor. I'm aggravated.

THE COURT: What you aggravated about?

THE DEFENDANT: Because you denied my motion

for direct verdict. And Matthew stated that he assumed that I set the fires. The fires that he's trying to say I set wasn't even a fire extension -- wasn't even ruled as fire damage. Was it?

THE COURT: Sir, you're not here to ask questions. I'm asking you about your right to remain silent. You want to testify or not?

THE DEFENDANT: No. They pretty much read what I was stating so there's no reason for me to testify.

THE COURT: And obviously -- I'm not cutting you off but your lawyers have the right to argue all the points you're making about the inferences that they can draw from what Mr. Bolen testified about and what he didn't testify about.

If they believe him and what he said, that would be enough evidence to convict you. If they don't believe him -- I don't know how they're going to read your -- and take your statement. They -- that's why we have jurors who determine what the true facts are. I don't make that decision.

THE DEFENDANT: I mean, if I testify it's still dealing with what they seen on the videos. It's the same thing.

THE COURT: That's a decision you have to make.

MR. CHESSER: Me and you have made a decision. We've thought about it. He just wants to know you understand your rights.

THE DEFENDANT: Yes, sir.

MR. CHESSER: And we've talked about it.

Your Honor, he indicates that he does not wish to testify.

THE COURT: Is that correct, sir?

THE DEFENDANT: Yes, sir.

THE COURT: Any questions you want to ask me?

THE DEFENDANT: No, sir. But it seems like you're trying to put me in jail for a murder I didn't commit.

THE COURT: Well, that's not for me to decide. That's why we have the system that we have. The jury has heard the evidence --

THE DEFENDANT: I mean, Mr. Seals go on the cause of death smoke inhalation. You know, when Matthew set the fires in the bathroom that's what killed that woman. That's common sense.

THE COURT: Maybe that's what the jury will find. They may find different though. They may believe Matthew in his entirety.

THE DEFENDANT: They didn't see me set fires on the DVD.

THE COURT: All right, sir. You don't want to testify; is that correct?

Mr. Routzong, anything else you need to discuss with him?

MR. ROUTZONG: I'm fine, Judge.

THE COURT: All right. Let's take a short break.

Well, before we take a break, jury charges -- all right. As far as the jury charge goes, first of all, do I have any specific requests from anyone? Or do y'all want me to go over what my general charge is and then add to that?

MR. MILLER: That would be easy, Judge.

THE COURT: Mr. Chesser, Mr. Routzong, indictment is not evidence. There are multiple charges. Decide each one separate and apart from the other, three distinct verdicts. Presumption of innocence, reasonable doubt, duty of the jury and the judge, credibility of witnesses, expert witnesses, failure of defendant to testify, hand of one, mere presence, prior record of a witness, statement of defendant, arson first degree, murder, CSC first degree, unanimous verdict.

Mr. Chesser?

MR. CHESSER: We were going to request mere

presence but obviously you're giving that so we have no further requests.

THE COURT: Mr. Miller, I did not add direct evidence and circumstantial evidence. Do y'all want that?

MR. MILLER: I would prefer not, Your Honor. It seems like it just adds confusion.

THE COURT: It does.

Anything else?

MR. CHESSER: Your Honor, I've got -- I'm going to try to work with Mr. Bamberg to be able to use this projector device for my closing and I would like to ask for just about 15 minutes to get set up before we come back and rest and presumably start our arguments.

THE COURT: That's okay.

MR. CHESSER: Thank you, sir.

THE COURT: Now, the State's going to open on the law.

MR. MILLER: We'd waive formal opening, Judge.

THE COURT: Mr. Chesser, you go first followed by Mr. Miller. All right. We'll start 11:45. It's 11:30 now.

Madam clerk, would you go back and tell the jury we're going to take about 15 minutes and if

they need to stretch their legs or take a cigarette break, however y'all want to handle that.

(Off the record from 11:28 to 11:45 a.m.)

THE COURT: Is the State ready to proceed?

MR. MILLER: Yes, Your Honor.

MR. CHESSER: Yes, Your Honor. The defendant has indicated he'd like to apologize to the Court.

THE COURT: For what? You haven't done anything wrong.

THE DEFENDANT: The small outburst with the directed verdict issue. Got kind of discouraged.

THE COURT: I accept your apology but you certainly don't need to apologize. You're fine. You haven't done anything that's offended me. I understand. Fair enough?

THE DEFENDANT: Uh-huh.

THE COURT: All right.

(Jury enters the courtroom at 11:48 a.m.)

THE COURT: Mr. Foreman, ladies and gentlemen of the jury, we have now concluded the State's side of the case.

And Mr. Chesser?

MR. CHESSER: The defense rests at this time.

THE COURT: And there will be no testimony put up by the defendant. So that, I assume, is nothing

in rebuttal. That concludes all of the testimony. What's left now are the final arguments. The first argument will be made by the defense, Mr. Chesser, followed by the State.

As I told you when we started, final arguments is not evidence in the case. You have heard now all the evidence that you will hear on which you will make your decision. Obviously the two attorneys will be arguing in the light most favorable to their side but you've heard the evidence.

Not withstanding all of that, final arguments are a very important phase of the trial, so please pay close attention. Once we complete the final arguments, my charge to you or my instructions to you take about ten or 15 minutes and then we'll be in a position to let it be turned over to you to start your deliberation. I understand that y'all have ordered your lunch and it should be here coinciding about the same time we finish up everything. So please pay close attention.

Mr. Chesser.

MR. CHESSER: May it please the Court.

THE COURT: Certainly.

MR. CHESSER: Thank you. Thank you for being here. Thank you for your attention. To some extent

I'm going to try to project some of these things which we haven't done before so we're going to try our best. So bear with us if we have any sort of technical problems.

On this Halloween in 2013 what was new? What was new was Matthew Bolen. Mr. Buckmon had been there for the bulk, the majority of his life. He lived there with his mother. This happened some 24 hours after Matthew Bolen got there. So think about logically what had changed, what precipitated this event. Matthew Bolen.

Matthew is a guy who habitually stole. It came out that he had a conviction in 2009 for burglary second, a conviction for grand larceny and he actually ended up going to prison on those charges. Also, you'll recall that he went -- they went to Greenville to Matthew's grandmother's where he proceeds to steal an air conditioner from her house. That's what he testified to.

I'll talk a little bit more about this later, but he was obsessed with this Blood gang. You some 13 pages of handwritten red ink that he had copied out laboriously. And the other overarching thing to consider is that Buckmon had no motive. There was no motive in this for Buckmon.

Now, one of the things -- it seems to me I would submit to you that this motive, the lack of a motive -- what the prosecution is trying to do is to fill that with this allegation of criminal sexual conduct or rape. I'm just going to call it rape since that's a normal term.

Again, the reason that this charge is there is because the prosecution is scratching their heads and they put in -- create a motive really out of nothing. Just think about it, Buckmon is there all this time. Donna Dempsey lives there. She's lived there for years, four or five years, Loy Mitcham testified.

And this is -- I'm not really criticizing her character but she likes to drink and she likes to socialize, and she gets along well with everybody on this street, white or black or whatever. She gets along with everybody. Nakoem Mixon lives on one side. A gentleman lives in half the duplex on the other side. Michael Buckmon and his mother live on the other side of that duplex.

And she's out dressed as a witch for Halloween enjoying it with everybody. And she drinks. This isn't just one night. But that's kind of one of the things that she does. And it seems contrary to

common sense to some extent to common experience to think that she doesn't occasionally have sexual relations with young people or whoever there.

And I say that -- in this particular case what the prosecution's theory -- what they had Matthew Bolen testify to is that he met her in the afternoon that day and she was after him so to speak all day. And this is when she met him that afternoon.

The other thing -- and this is a side, I suppose, but Loy Mitcham talked about how she didn't want to go celebrate Halloween with him because she was there and she was concerned about her dog. It seems to me -- and again, this is not a criticism but she felt like she was going to have a good time where she was. She was going to dress up and go out and socialize and drink and have fun. I don't put her down for that. I think, you know, there's something to be said for living your life.

But at any rate, the idea that this -- that Mr. Michael Buckmon had some motive or idea to rape her, seems to me that is against common sense. And of course, in your experience of life that's one of the things you bring to the jury. But that just seems in the first instance far fetched, and I submit to you that the reason it's there is because

the prosecution is trying to fill this gap of no motive or the only person who had a motive was Matthew Bolen and his attempt to fulfill this Blood motto or Blood oath that he has.

Now, again with regard to the CSC, I would mention also that this neighbor Keem was over there in and out of her house. And this particular night she drinks to the point where there's testimony that she just passes out in the bathroom. And that's just to indicate that she has a tendency to overdrink and the idea, again, that she's living chased in this house is pretty far fetched.

Another thing is that Matthew Bolen testified that he had vaginal intercourse with her and that at some point she says, no, no, no. I'm not comfortable and she ended up -- I believe the testimony is she performed oral sex. But the point there is it's uncomfortable.

This would indicate that she was experiencing some type of discomfort which is consistent with this abrasion under the vagina, which Dr. Ross testified about. In other words, there's nothing here that requires this leap to say, oh, well, Michael Buckmon raped her. Not only is there nothing to suggest that, there's really no proof of

it.

And again, one of the things here is the photo in evidence of Donna Dempsey shows her down there naked on her kitchen floor and that -- it may to somebody suggest this, but a lot of people sleep in a night shirt, in a shirt. That's the way they sleep. I submit to you that's the way Donna Dempsey slept.

And there's no allegation that somehow she was violated on her kitchen floor. That's not even in a ballpark. It just happened that she ended up this way and the prosecution is searching for this motive so they came up with this. There's no substantial evidence to support that charge of CSC, rape.

One of the things that wasn't really emphasized, although you may have understood it, has to do with the cause of death. The prosecution, their theory is that the cause of death was this smoke inhalation, and as a technical matter of a fact, that may be the case.

It was not really emphasized to you and it may be important simply as a fact -- I don't know if it helps anybody but the doctor testified that her skull was crushed in. It was actually fractured and pushed into the brain. It just seems to me that the

cause of death really was this impact with the hammer. I wouldn't tell you sort of legally that that is binding on you or anything. I wouldn't suggest that.

But it seems to me to help you understand this case, the prosecution is emphasizing this fire as the cause of death and kind of in a way contrary to common sense because that's their backup theory. Because the person who had the blood on them, suspected blood -- I want to talk about this a little more later, because according to Agent Seals it was never tested.

But the person who has these specs and things that appear to be blood is Matthew Bolen, which is consistent with Matthew Bolen wielding whatever it was, whether it was a hammer or whatever it was. He's got the blood on him. That's what it would appear.

Now, I want to go ahead and talk about that or go over some of these exhibits. I'm just going to go over various exhibits just in order so -- this case -- y'all have had a lot of information in one day but I think y'all remember this. It will be a little bit of a jump around but hopefully not too much.

If we could just start with the first exhibit please.

This is the bat that was taken out of Matthew Bolen's vehicle in connection with his arrest on or about November the 12th or 11th and there's a couple of significances to this bat. One is the color of it. Everything about Matthew Bolen is red or red and black, and I submit to you that is because of his affiliation, his fascination, his obsession with this Blood gang.

The other question you have to ask yourself is, why does somebody carry a bat around in their vehicle?

We'll take a look at the second exhibit. These are two knives that were found in Matthew Bolen's trunk. I'm going to talk about those later. I'm going to suggest to you a theory about how this may have happened that involves those knives, so we'll come back to them.

The third exhibit. This is some clothes -- Matthew Bolen's clothes that were taken out of the vehicle. The idea here, again, is you've got this red and black. This continuous theme.

These are some sandals -- Matthew Bolen's sandals and just note the color please. These are

shoes and, again, you've got the red and black. And it's almost always the same shade of red.

Next exhibit please. Thank you, Mr. Bamberg. This is Matthew Bolen's shirt that he took into the bathroom of Donna Dempsey's house and attempted to burn in the bathtub. It was retrieved from the bathtub. Again, the color. Also, this is something that for whatever reason SLED chose not to test for blood.

This is what Agent Seals testified to was suspected blood spatter. You can see it here and here and here and here. And he indicated there was more on various parts of the room. It just -- again, they did not pursue that.

Next exhibit please.

The reason these -- again, this is the suspected blood on Matthew Bolen's jeans taken out of the vehicle. And one of the aspects of this that I would ask you to pay attention to is the similarity between these marks and the marks on that piece of furniture. In other words, it looks exactly the same. It's that spatter type pattern.

And this is, of course, consistent with what Agent Seals testified to is that if Matthew Bolen wielded the hammer he would have blood on his

clothes. We have what appears to be exactly something that looks similar to the blood spatter.

Next exhibit please. This is, of course, another example of apparent blood spatter on the jeans of Matthew Bolen.

Next exhibit. And of course, this is the same here in another region and obviously that's why they took these pictures. I mean, this is not arbitrary. They took them because of this suspected blood spatter.

Next exhibit please. And here again, you've got, again, same pattern that you see on that piece of furniture in the kitchen. And this is simply the rear of Matthew Bolen's and what you don't see on the rear of his jeans is any sort of pattern or speckling of blood spatter.

Next photo please. This is the same, an absence of blood spatter. And we'll stop here. And the idea here is that he is facing this. In other words, it would be consistent to have this on his front if he is actually wielding this hammer.

I'd like at this time to go to Exhibit 19. This, as Matthew Bolen recognized, is him giving a tattoo on this Halloween day and, of course, this shows his clothes, red clothes. Not just red but

the same exact tint of red that he has on consistently.

So what I would suggest to you, what the prosecution I would anticipate their argument is, well, Mr. Bolen may have killed Donna in effect, may have wielded this hammer but nevertheless Mr. Buckmon is guilty because of something to do with this fire.

But there's a couple of things about this fire that I would like to talk about. One of them is that the main thing that was set on fire was this red shirt. Matthew set fire to his own shirt in the bathroom. It is very odd to think that someone is going to go in this bathroom -- if you look at the picture, it's not a regular tub. It's sort of a raised, almost like a handicap tub where they have a door to go in it.

But one wonders if somebody is setting a fire, how logical is it to set it in a tub? I would submit to you that you can consider what Matthew Bolen's actual motive was in lighting that shirt on fire, if it was not simply to destroy the shirt, which somehow he had realized had something on it that he did not want -- that he wanted to destroy.

It just is so strange that someone would say --

would create this fire in a tub, in a controlled environment. So I would suggest to you to consider that actual motive.

Mr. Buckmon, you've heard his statements and what he said was he came in at some point and the fire was there. He panicked. He made some attempts to put it out and then left. And the prosecution wants to argue that that is sufficient to make him guilty of murder and arson first.

His Honor is going to give you an instruction on what's called mere presence where you end up at all or part of something but you don't contribute. You don't help. You don't have an agreement with that person. And under the circumstances he's going to instruct you that you can and should find the accused not guilty.

But the prosecution, their fallback argument is, again, that Buckmon somehow did something with this fire that would make him guilty, but his statement was that he simply tried to put it out.

I would like to go to the second interview and play just a 20-second spot from this.

(Interview clip published to the jury.)

So Agent Seals indicates that in the middle of the night, 3:00 or whatever, she goes next door and

says, I want some water. What is the inference from there? The inference is that she doesn't have water in her own house. Now, if Mr. Buckmon, he panics. He makes an ineffective attempt to put this fire out. But if there's no water it gives further credence to the fact that he was not in a position to easily put this out and he panicked and just said, I'm out of here.

And the prosecution, again, their fallback position is that Matthew Bolen may be lying about all this other stuff but Buckmon's involvement in this fire makes him guilty.

I submit to you that what Buckmon said is he panicked and he left and that is not enough. He did not help with these fires. And the prosecution, I don't think that their position can stand if Bolen is not telling the truth about all this other stuff and then say, oh, but at the end we've still got him through some type of a sort of safety net -- a prosecution safety net. I submit to you that if Bolen is so incredible, that their case falls.

One of the things I want to mention is that it's apparent that Michael Buckmon is from the wrong side of the tracks. He is sort of from that group of people -- and not necessarily bad people but

people who it's not their custom to freely cooperate with the police. The police are seen as an adversary. And sometimes in some cases it may be easier for the prosecution to convict somebody from the wrong side of the tracks, somebody that their first reaction is not, the police are here to try to help me -- somebody that if the prosecution goes after them it might be easier.

But I'd ask you not to make it easier. I'd ask you to comply with your oath, to fulfill your oath to require the prosecution to present proof beyond a reasonable doubt that he actually did these crimes.

Matthew Bolen, we talked about the fact that he has done this -- these burglaries and things but also, in this case, as you heard, he's facing the murder charge and the arson charge. Murder carries 30 to life day for day. That was the testimony. The arson is simply 30. And he hopes for a benefit and the prosecutor made reference to the idea that somehow it would be in the discretion of the judge.

The only way it can be in the discretion of the judge to give him less than 30 is if the chargers are reduced. Matthew Bolen is angling for a reduction in the charges.

If you have someone whose sort of mindset is

this allegiance, this study, almost obsessive writing of the Blood's Bible and then you offer them their only route and the prosecution says the truth. No one knows the truth. Their only out is to help themselves. Will they take it?

I want to go now to Exhibit 14. You heard Matthew Bolen testify that he tried to tie Donna up with a woven belt, and I'd submit to you -- this is a picture from the scene, of course. This would be her bed. This is the belt. Notice it's in two pieces and doesn't have the buckle part right here.

Next exhibit please. This is the buckle part and it appears to be well removed from the other parts. Again, it appears to be severed there.

Next exhibit. This, again, another photo image of the belt.

Next exhibit please. This is in SLED custody with all the three pieces of the belt here together. I want to suggest something to you: This story about the belt, I would submit to you it is true that Matthew Bolen tried to tie her up with the belt. I would submit to you that it is true that he did tie her up with a belt.

The reason that someone would need to tie her up in her room with a belt is if they were alone.

They would want -- he would want -- Matthew Bolen, I submit to you, would want to immobilize her legs and then he would get on her upper body and choke her out possibly. At that point he was wanting to kill her.

Now, the belt being in these pieces around her bed indicates that it was cut off her. Now, if you have a belt that is actually completed around you and you take a knife and you cut it, you're going to get exactly that situation, the three pieces.

Who has the knives? Matthew Bolen has the knives. He immobilizes her with this belt. He severs it and then you get these three pieces on the floor. And in the interim he chokes her out, does whatever it takes to immobilize her. Actually, he intends to kill her. He goes back to the kitchen. He continues his stealing but she is not out.

She comes out of the bedroom and she runs into Matthew Bolen. He intercepts her and then he kills her with the hammer. I submit to you that the blood is on his clothes. I submit to you he tried to burn the shirt with the blood on it.

If we could go to Exhibit 18. Can we page through here please? Next page, next page, next page, next page, next page.

Okay. This is what he read: Why I bang? I bang for the cause, not because. I bang for all the real homies and O G's. I bang for blood, to be blood, to see blood; bang for all the boy homies and G G's who blood shed so I can B-hop and G-stroll. I don't rep this life. I bang this life till I get rushed.

Next page please. Next page, next page, next page. This is the Blood roll call. Whose house is this? The Bloods have big dog style, bark. We eat so-and-so crabs. I got you blood, peace almighty. Alive to die. Red light, green light, oppression, destruction, victory. When I say gangster, you say kills. Gangster, kills; gangster, kills; gangster, kills.

Thank you.

I submit to you that Bolen had blood on jeans and on his shirt. He denied wearing his jeans on the stand. He wanted to put those jeans away from him, but Agent Seals had testified that he had earlier stated that he did have on pants or jeans and not those red shorts that you see in that photo. Agent Seals testified to that.

I submit to you that as jurors you in effect have a right to forensic evidence if it's out there.

In other words, Dr. Ross testified that she took sperm and DNA type of samples. In other words, she took samples from Donna Dempsey and sent them off for analysis. And yet, there is no testimony of DNA or sperm results.

There's no blood spatter analysis. Agent Seals testified that there were various locations of suspected blood spatter, pictures taken and so on, and no analysis. That is inexplicable. There is, of course, no analysis on Bolen's jeans with what would appear to be blood spatter.

I ask you to require that evidence and the absence of that evidence in the presence of reasonable doubt. I ask you to find Michael Paul Buckmon not guilty. Thank you.

THE COURT: Mr. Foreman, everybody okay?

MR. FOREMAN: Yes, sir.

THE COURT: Mr. Miller.

MR. MILLER: Thank you, Your Honor. May it please the Court?

THE COURT: Yes, sir.

MR. MILLER: Let's just go from the end. Why is there no DNA analysis? Because Matthew Bolen and Michael Paul Buckmon both testified they had sex with her that night. What is the presence of DNA

going to do in the case? Well, of course their DNA is there. I said we had sex with her.

What about the blood splatter? What if that blood spatter that is on his jeans is from there? Mr. Chesser is bent over trying to come up with a way where you can hit somebody with a hammer in their head and cause blood spatter up here on your jeans when the blood spatter is in the kitchen on the counter.

You know the other way that that happens a lot easier is if somebody else is hitting somebody with a hammer in the head right in front of you, which is what Matthew Bolen testified to from the stand. Why wouldn't he have blood on him? Why would the walls and the cabinets have blood on them and Michael Bolen not have blood on him if he was standing there when she got hit in the head with a hammer?

It's not CSI. You don't go down to the lab and throw something in the machine and stand there while there's a commercial break so that you can have the results pop out. These tests are expensive and they take a lot of time to do.

And one of the things that the lab will want is, tell us why you need it. Why do you need DNA analysis in a case where both of your suspects admit

they had sex with the victim? Don't have a real good answer for that.

The knife thing is kind of interesting though. That's a new one. The belt in three pieces. I'm sorry but I was trying to figure out, where do I cut my belt at exactly to make it fall apart in three pieces? It might fall apart in two. Where do you cut it to make it fall apart in three pieces?

The Bloods, the Bloods, the Bloods. It's a red herring. One of the things that the judge has told you is what the lawyers say in argument is not evidence. Well, there's another part to that too. The lawyers' questions are not evidence either.

So when Mr. Chesser asked Mr. Bolen, isn't it true you got to kill somebody to become a member of the Bloods gang? He says, I have no idea. That's certainly what he wanted you to believe. And based on his closing argument if he had said, well, yeah, that's supposed to be part of the deal, then he would have said, there's the motive. He's killing her because of the fact that he wanted to get into the Bloods gang.

But he didn't say that and when he didn't say that now the motive shifts. Oh, he's already a Blood. He's completely involved with them in

everything he does. He's a Bloods gang member.

He's a piece of trash. I can promise you that. There is nobody that has dealt with Matthew Bolen that went away from that conversation going, hey, that seems like a pretty nice guy. But guess what? People don't get involved in stuff like this if they're nice guys.

If there's going to be a codefendant in a CSC, robbery, arson, murder case, he's not going to be a good guy. And I submit to you that Matthew Bolen is not. But I will tell you what he is. He's either brilliant, which I didn't see from that stand, or he's telling the truth.

Kenny, I'd like State's Exhibit 44 please. Let's talk about the fire. Well, first of all, Mr. Chesser does get to argue the facts. He doesn't get to make them up. Dr. Ross testified the cause of death was smoke inhalation. The fire killed Donna Dempsey. He can talk about a hammer all he wants but the fire killed Donna Dempsey.

And when they incapacitated her -- and notice I said they. When they incapacitated her, left her passed out on the floor with a hammer blow to the head after setting her house on fire, they intended for her to die.

But what did Matthew Bolen say about that fire? He said, I went into the room and when I got into the room with the piano there was already a fire burning on top of the piano. I took my shirt -- his red shirt -- Mr. Chesser thinks he wanted to burn it because it had evidence on it. He took his shirt and he went into the bathroom where there was another fire that was starting and threw everything into the tub.

And he talked about there being some toilet paper hanging from the towel rack with a candle underneath it. Almost like somebody wanted there to be a fire but they didn't want it to start right away. Give them time to get out before the fire gets going real good. And he said he threw his shirt in there. It was holding books that were on fire.

These are pages of books that clearly have been on fire. There is his red shirt. You know what's missing out of this picture? Where are these blankets that the hero firefighter Michael Paul Buckmon allegedly used to try to put the fire out in the living room on top of the piano? Because that's what his last story was.

He came into the room, saw the fire, grabbed

some blankets, put the fire out, went into the bathroom, threw everything into the tub. Where are those blankets? How did Matthew Bolen's shirt survive the fire but the blankets didn't? That's just one of the problems with his story.

Go back a little bit further. How did he get to the house in the first place? Pretty consistently throughout all of his various stories he has said that there was a period of time when he was at Robert Eure's house for this big party and then he comes rolling over to his mom's house at 3:30, 4:30, 5:30 in the morning.

He comes in after a whole night of partying, gets out of the car, goes inside, lays down in his bed but a little while later for no reason at all that he can explain he gets up and walks outside. And he goes, I smell a fire. I better go check that out. He goes over to Ms. Dempsey's house. He goes in the front and that's when he sees what he describes in his statement as the blazing fire on top of the piano.

Now, use your common sense. For him to be able to smell a fire from 100 yards away at his mother's house that fire has got to be producing some pretty heavy smoke. Okay? You know the difference in your

own head between burgers cooking or steaks cooking on the grill and something being on fire that shouldn't be on fire.

And this isn't out in the country where maybe somebody just had a fire going. This is in the City of Barnwell, in a neighborhood. He smells smoke. For him to be able to smell that smoke that fire had to be going well. And when he gets over to the house, he runs inside.

Look at how close everything is in the pictures of the house. This is a small house. It is a small room. It has a piano in it and that piano is on fire. But he just goes on in like it's no big deal.

Agent Seals testified about how hot fires burn. He talked about how hot fires get. You heard Captain Cato talk about the heat he could still feel even after the door had been open when Loy came over the next morning and even after their response time, which wasn't very long but their response time. He walked in and he could still feel the heat.

And he was telling his guys, pack out. Hurry up and pack out. We've got a body in here. You need to go in and make sure there's nobody else inside the house.

When he was talking about packing out they're

putting on their breathing apparatus. Why? Because it's lethal inside there. It is poisonous gas. That's what that smoke is. You can't breathe it. That's why Ms. Dempsey is dead, is because she was left in there breathing with that gas.

But Michael Paul goes in and grabs some blankets and he puts out the fire. He's really kind of the hero of this story, if you listen to him. No.

Go back to his first story. He was with the victim and Bolen and they went to the store. Doesn't change. All the way through. Donna gave him money to get some cocaine. Doesn't change all the way through. He, Bolen and the victim went to his house, back yard. He came back after getting the cocaine but he didn't get to the house because Matt was coming out of the house whenever he walked up. That's important.

He and Matt go to the house party. That's consistent through every one of his stories. Then Matt tells him, I kind of took some stuff out of your neighbor's house and stacked it all up behind your mama's house. And he's mad but he goes back and helps him get the stuff anyway. And then he and Bolen go to Greenville, and then they pawn the drum

set and the keyboard.

Here's what he denied in his first statement: Said, I was never in the house that night. He said he didn't want to steal anything from the house. He says he doesn't have any knowledge and he doesn't even mention a fire. That never comes out at all. He says he didn't know anyone was dead until Bolen says that Bolen is wanted for a homicide. He didn't know that Ms. Dempsey was the victim until November 8th, one week after the incident. He claims that.

But interestingly enough, he also claims that he was on the phone with his mama, on the phone with his sister, talking to people back in Barnwell. He came back to Barnwell during that week period. And nobody thought to say, hey, you remember the woman that y'all stole all this stuff from? That's the woman who is dead.

During that time period, he was back here. He's talking to people on the phone but he claims, I didn't even know anybody was dead at first and I certainly didn't find out it was her until the day that we got into the argument and all of a sudden Bolen drives off and leaves me stranded.

So he didn't have sex with the victim on October 31st or November 1st. He's clear about it.

So clear, in fact, that when he writes yes in the question and answer on the form -- when he writes yes, he scratches through it and writes no. He wasn't involved in the death and he wasn't involved in the fire.

Well, ladies and gentlemen, there's a problem when you're not telling the truth about something. You can't get the details right. When there's that many details, you can't get them right. You can't keep them right.

So the next day -- and there were definitely some problems with his story. These are trained investigators: Investigator Rice, Agent Seals. This isn't their first rodeo. So the next day they go back to talk to him again and you saw the hour and 42 minutes that produced.

He never made it to the house that night because he called when he got back and Matt came over. It took him 35 minutes to change that story. That was his first statement. And I'm not talking about his first statement from November 10th. I'm talking about that day. He said, no, I never made it into the house that night because when I got back from going to go whenever, when I got back Matt called me. He comes over. Thirty-five minutes

later he goes, no, actually that's not how it happened.

The last time you saw the victim was when she and Bolen left the yard behind his mom's house to go to the victim's house. Doesn't know anything about a homicide. He never asked Matt -- while all this stuff with the drums is going on he never asked Matt where she was. What was she doing the whole time that we were loading all this stuff up? Doesn't ask. He kept trying to talk to Matt but Matt would never tell him anything so he never knew anything. He was just clueless. He didn't know what Matt would say about him.

But here comes his defense, the one you just heard: I don't have any reason to rape her or to steal from her. I been having sex with her. I got money. I got plenty of money. She gives me money.

He and Agent Seals get into a back and forth and he says there is no way he had sex with her on October 31st. And one hour into the interview, he says, actually, it was October 31st. Yeah, it was October 31st I had sex with her. Well, when did you have sex with her on October 31st? Well, after we came back from the store.

But wait a minute. You told us you didn't ever

go back into the house after you went to the store. No, I was -- that's why my beer can was in there.

First, first, first problem that Michael Paul Buckmon has: He doesn't know what the police know. He doesn't understand DNA. He doesn't understand that it's not like CSI. He didn't know that they hadn't taken that beer can and found a match to his DNA on it yet. They hadn't done that, but he knows he left a beer can in there.

Better explain that. So he explains it. He says, yeah, I did come back over and oh, by the way we did have sex too. I forgot about that.

Was Matthew Bolen around anywhere? No. He kind of came and stuck his head in the door but didn't come in. He doesn't change that until his third statement that he gives.

Three months later after he's got a lawyer, after he's heard from everybody on the street about what's going on and what do they know and what actually happened, that's when he says, wait a minute, I forgot again. There was another guy in the room having sex with her with me.

And all throughout in every one of his statements -- every single one of his statements throughout he's trashing the victim. She's a drunk.

She has sex with whoever. She'll do anything. It doesn't matter. She's drunk.

Let me ask you this: If she is as drunk as he and Matthew Bolen say that he is, how does she give consent to have sex with the two of them between 10:30 and 11:30 that night? She didn't. They were taking advantage of her.

Going back to that second statement. Bolen never told him about the fire and he didn't see the fire and he didn't know anything about the fire until he got to Greenville. That's when Bolen said something to him about the fire. Bolen did it. Bolen did it. I don't know anything about anything.

And then it was very interesting to me. He said specifically, specifically said, I never did smell the fire. How would I know there was a fire? I couldn't smell anything. That was his second statement, not his third one. His third one, that's the whole reason he went to the house where he supposedly saw everything.

Ladies and gentlemen, there were so many problems with his various stories. There are so many lies on top of lies on top of lies with his various stories that it would probably take me the two hours that y'all sat here watching the videos to

point them all out. The point is this: Consider Bolen's testimony. Bolen doesn't say he wasn't there when something happened. Bolen doesn't say he didn't see what happened or know how it happened. Bolen -- Mr. Chesser suggests that Bolen will just say anything in the world that the State asks him to say, but from that witness stand right there, he said, look, it didn't sound like he was raping her to me. He went in there and was having sex with her. He called me in.

If he supposedly -- all he's trying to do is lie his way into some kind of benefit why would he not say, oh, yeah, I heard her kicking and screaming and hollering. That's why he called me in there to tie up her legs?

Bolen is an idiot. Bolen is a drug addict. Bolen was high the whole night. Bolen was doing whatever he was told. Bolen thought there was a target of opportunity when he left her house to go over to Buckmon's before they went to the party. He says, she's passed out. And he said, you know, we went back over and picked up stuff we could pick up -- a laptop, a printer, a television. We took it back.

It's interesting. In Buckmon's third story --

when he's telling the third story with his attorney sitting there -- in that one he makes mention of the fact that there was some other stuff in the car. He never talked about how that other stuff was already in the car. He kind of glosses over the fact that there was actually this burglary that went on before that. He just doesn't mention it at all.

But he mentions the stuff being in Bolen's car which is strange. Because that would show that he knew exactly what was going on. That would show that when -- after the party, he and Bolen pulled back in behind Buckmon's yard behind his mom's house.

He knew exactly why they were going over there and what they intended to do. They were going to go in and see if she was still passed out, and if she was still out of it they were going to steal the drum set. They had an identified target, what they were going to take.

But in the meantime, Michael Paul Buckmon decided he was going to get what he didn't get before. This bothered Matthew Bolen, not because he has any kind of heart or morality. It bothered him because it left him doing all the work, but that's what he testified to.

Ladies and gentlemen, we're not trying to make Matthew Bolen something he's not. Matthew Bolen told you what Michael Paul Buckmon did in that house that night, and he told you that he saw it happen. He minimized his own actions. I will freely admit that he minimized what he did. What he told you still makes him just as guilty as Michael Paul Buckmon, but he minimized it.

Did he minimize it because he didn't want to admit it? Did he minimize it because of the fact that he just can't cope with the fact that he did this to another human being? I don't know.

But where it matters in this case -- because he will have his opportunity to have a jury or a judge decide his fate. There's nothing inconsistent about his story. And there's nothing consistent that is material about anything that Buckmon said on any of those videos.

He went from, I didn't see anything except for some drums outside and have no idea what happened, to, I'm in the house fighting the fire and she's lying on the floor in the kitchen. That's what his story is. And ladies and gentlemen, it's just not believable.

This is a new video and we didn't want you to

have to sit there and watch all of it because of the fact that, well, it doesn't have any sound and it's not very exciting. And I'm probably not very exciting myself at this point. But this is the video from the pawnshop. It's in evidence.

You see these two guys? That's the light blue Lincoln town car that is being driven by -- well, it's Bolen's car. I'm not sure who is driving at that point in time. But there's a guy and he's assessing, do we want to get this stuff? Yeah.

And they're going to start taking all this stuff out and they're going to start walking it into the pawnshop. And who goes to the counter and gets the money for it? Michael Paul Buckmon.

This is in Easley, and based on the date -- the date stamp there on the video, as well as the date that's on the receipt and the time on the receipt, it's about nine or ten hours after they have murdered Ms. Dempsey and set her house on fire.

Ladies and gentlemen, those are not two people who are scared of each other. Michael Paul says -- he says, he could have gotten rid of the hammer any time. He left me in Piedmont a couple of times. He left you in Piedmont? Well, if you were being forced to do something why didn't you leave? Why

didn't you say something to the pawnshop operator?

If these people in your neighborhood trust you so much, how are you letting something like this happen to your neighbor without saying a thing to anyone? You know, I started this off -- there he is, carrying it in. That's the keyboard.

I started off my opening argument by saying what a difference a day makes. What a difference ten days makes. Because one day you couldn't separate Michael Paul Buckmon and Matthew Bolen with a series of crimes. But once he was in custody, you got me, you got me, he did it.

Think about -- as much as Mr. Chessor spent talking about how he didn't think Matthew Bolen was credible and you shouldn't think that Matthew Bolen is credible in any way, shape or form. What was it that he actually said he was lying about? You didn't tell the police that my client had the gun when you had the first interview, did you? Yeah, I did. Show it to me in this statement.

He hands him the defense exhibit. Bolen looks, right here page 4. He read it out loud, oh, yeah, he had a gun. He pulled a gun on me. The jeans, Bolen didn't deny the jeans. The Blood garbage, he didn't deny that either. Where is the hole in the

story?

Bolen talked to the investigators, Agent Seals right after they had talked to Michael Paul Buckmon. His story matched the evidence. His story matched what they could see. His story matched what they knew. Michael Paul's didn't.

So three months later he took another shot at it and gave them a little bit different story. Guess what? That one doesn't match either. No blankets in the bathtub.

Think about Loy Mitcham's testimony. Gets there, pulls up in the car, gets out of the car, didn't smell anything. Got all the way to the door and was beating on the door and then he could smell something that smelled like it was burning. He said he thought that it was the gas grill that was right there on the porch, and you can see it in one of the photos too. There's a gas grill there. But he looked and not only were all of the knobs turned off, but the tank was turned off too. He couldn't smell it until he was right up on the house.

Then he talked about going around and gave us an interesting lesson on doorknobs and door locks and why they work. And he gets into the back door and he talks about all the smoke pouring out and

hitting him in the face and how he went in and was trying to see if Donna was in there because he knew she was supposed to be in there.

And then right after him comes Captain Mark Cato. And Captain Cato gets out and says, yeah, when I got out I could smoke. That makes sense. Loy had opened the back door. All of that smoke that was inside the house is billowing out of the house now.

Captain Cato talked about doing his outside scene assessment. He talked about walking in through the back door and seeing the body there, realizing there were no signs of life, but he was only however many feet -- you can see it in the photos.

He was just inside the kitchen and the door was wide open behind him, but he couldn't go look in the rest of the house for other people that might have been in there because of the smoke. So he told his guys to get packed out and he sent them in there to make sure there wasn't anybody else in there. That is the facts -- that is the facts lining up with the testimony.

Matthew Bolen -- all of the facts, all of the evidence lines up with his testimony. Did he

minimize what he did? Absolutely. Surely he did. He's not a good person. But ladies and gentlemen, that's the kind of person that gets involved in something like this. And that is the witness we have.

Ladies and gentlemen, the term verdict comes from the Latin veredicto which means to speak the truth. That's what we want. That's what we're asking for in this case. We want you to go into that jury room and to decide what is the truth.

If this was some kind of crazy set of circumstances that Michael Paul Buckmon had nothing to do with, if that's what you decide the truth is, then you should find him not guilty. If this is two guys that got involved in a situation with an incapacitated woman and one thing led to another and ultimately they ended up doing something that was really bad so they had to set the house on fire to cover it up, then he's guilty of everything that he's charged with.

Ladies and gentlemen, speak the truth with your verdict. Find the defendant guilty of murder, of arson, and of criminal sexual conduct. Murder for incapacitating her in that house and then leaving her there with the house on fire. The hammer was

not the murder weapon; the fire was. And I would ask -- I think y'all understand that. I think you understand that. Thank you for your time.

THE COURT: Mr. Foreman, ladies and gentlemen of the jury, my instructions are about ten, 15 minutes. Y'all need a break?

THE FOREMAN: Let's go.

THE COURT: Let's go? Let's roll. Is that what they say?

THE FOREMAN: Yes, sir.

THE COURT: All right. Mr. Foreman, ladies and gentlemen of the jury, let me remind you once again the fact that the defendant in this case has been indicted by the Barnwell County grand jury for the offenses of criminal sexual conduct, arson in the first degree, and murder and that he's been arrested, charged and indicted, that is not evidence in the case and cannot be considered by you as evidence in this case and cannot be evidence of guilt in the case, nor does it create any presumptions or inferences of guilt. The indictment is simply the way the case comes into the courtroom.

Like I said, in this case we're dealing with three separate charges: murder, arson in the first degree and criminal sexual conduct. Each indictment

charges a separate and distinct offense; therefore, you must decide each indictment separately on the evidence and the law applicable to it. And by your decision as to any other indictment you have to consider each one separate and apart. He can be convicted on one, found not guilty on the other or any combination thereof. And you will be asked to render a separate verdict on each of the indictments.

As to all three indictments the defendant has pled not guilty and that puts the burden, as I've told you a number of times, on the State to prove the defendant guilty as to each indictment to you beyond a reasonable doubt. A person charged with committing a criminal offense in our state is never required to prove himself innocent. I charge and instruct you that it is an important rule of law, a constitutional rule of law that a defendant in a criminal trial, no matter how serious the charges may be, will always be presumed to be innocent of those charges for which the indictments were issued unless guilt has been proven by the evidence satisfying you of that guilt beyond a reasonable doubt.

The presumption of innocence does not end when

you start your deliberations but it stays with the defendant throughout the trial unless you reach a verdict of guilt based on evidence satisfying you of that guilt beyond a reasonable doubt.

The presumption of innocence is not a mere legal theory. It's not just a legal phrase. It is a substantial constitutional right to which every defendant is entitled unless you the jury are satisfied from the evidence of the defendant's guilt beyond a reasonable doubt.

Now, what is a reasonable doubt? Our State Supreme Court has defined it in a number of manners. Probably the most popular definition of reasonable doubt, it is the kind of doubt that would cause a reasonable person to hesitate to act. It's the kind of doubt that would cause a reasonable person to hesitate to act.

I described the difference between a civil case and a criminal case when he started. A civil case is simply the preponderance of the evidence. A criminal case such as this it is evidence beyond a reasonable doubt.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. There are very few things in the world that

we know with absolute certainty, and in criminal cases the law does not require proof that overcomes every possible doubt.

If based on your consideration of the evidence you are firmly convinced that the defendant is guilty of the crimes charged, then you must find him guilty. If, on the other hand, you think there's a real possibility that he is not guilty, then you must give him the benefit of the doubt and find him not guilty.

Let me remind you once again as we discussed when we drew the jury that you and I have certain duties to perform during the trial of the case. My position makes me the judge of the law. As the judge of the law I have two functions to perform: One is to charge you on the law and instruct you on the law as I'm doing now. Therefore, you must accept the law as I give it to you.

If you some preconceived idea about what the law is or it should be and it doesn't agree with what I tell you, please set that aside and accept the law as I give it to you. I'm telling you the law based on the South Carolina Supreme Court, our statutory law and our case law.

My other function as the judge of the law is to

make sure that the lawyers have asked questions that comply with the rules of evidence. We've had very few objections in this case, so everything that has come into the trial of the case has been admitted into the trial. So those are my two functions.

Obviously, your function, you're the judge of the facts, so you have to take the facts and decide what the true facts are and apply those true facts to the law as I give it to you so you'll be in a position to render a verdict.

So having said that, if at any time during the trial of the case I have done anything up here that makes you think that I have an opinion about the facts, please disregard it. I can't. I try cases all over the state day in and day out and my position does not allow me to have any opinion about the facts. So if I've smiled, frowned, yawned, rolled my eyes, whatever, disregard it. I listen to cases all the time so I have no opinion about the facts. That is solely your responsibility.

Having that responsibility, obviously and necessarily, you must determine the credibility of the witnesses whose have testified in the case. Credibility simply means believability. Who do you believe? It becomes your duty as jurors to analyze

and evaluate the evidence to determine which evidence convinces you of its truth. In performing this task and in determining the credibility or believability of witnesses you have the right to believe one witness over several, several over one.

You can believe a part of the testimony and disregard the other part. You can believe everything a witness says. You don't have to believe a word a witness says. You can determine how they looked on the witness stand, did they exhibit any interest, bias, prejudice or other motive in the case, how they appeared.

What I'm saying, as I told you earlier when we drew you on the jury, don't leave your common sense at home. Bring it with you in that jury room. You deal with husbands, wives, spouses, children, family, friends. You know how to judge when someone is telling the truth. So use that common sense and perform your task of deciding what the true facts are in the case and applying those true facts to the law as I give it to you.

We had two witnesses, I think, who I qualified as an expert. Ordinarily our rules do not permit a witness to testify to opinions or conclusions. We have an exception to the rule for witnesses we call

expert witness, a witness who by education, experience and training has become an expert in some art, science, profession such as the doctor in this case or the SLED agent with arson. They may state an opinion in areas in which the witness claims to be an expert, and they can state the reasons for that opinion if the questions are asked in a proper manner.

You should consider any expert opinion received in the evidence in this case like any other evidence and give it the weight you think it deserves. If you decide the opinion of an expert is not based on sufficient education and training or the reasons given in support of the opinion are not sound or the opinion or opinions are outweighed by other evidence, you may disregard the opinion entirely.

An expert witness's testimony is to be given no greater weight than that of any other witness simply because he's an expert. Further, you're not required to accept an expert's opinion even though it is not contradicted.

In this case, the defendant did not testify. I instruct, charge and emphasize that the fact that the defendant did not testify is not, is not a factor to be considered by you in any manner

whatsoever in your deliberation and your consideration on the question of guilt or innocence of the defendant.

It must not be considered by you in any manner whatsoever. A defendant has the absolute constitutional right to remain silent and the assertion of this right must not be considered by you in your deliberations.

I repeat, under your oath, do not consider the fact that he did not testify. The fact that he did not testify should not be discussed at all by any of you in the jury room. The burden of proof, as I've told you many times, is on the State. The defendant is not required to prove his innocence, and the burden remains on the State to prove guilt beyond a reasonable doubt.

There is a law in our state, in all states where when crimes are committed by two or more people lawyers and judges commonly refer to as the hand of one is the hand of all. If a crime is committed by two or more people who are acting together in committing a crime, the act of one is the act of all. A person who joins with another to commit an unlawful act is criminally responsible for everything done by the other person which happens as

a probable or natural consequence of the acts done in carrying out the common plan and purpose.

For example, two people can be guilty of killing another person when only one had a gun. There was only one bullet and only one of the two fired the shot that caused the death. If two or more people are together, acting together and assisting each other in committing the crime, the act of one is the act of all or, as it is said sometimes, the hand of one is the hand of all.

Prior knowledge that a crime is going to be committed without more is not sufficient to make a person guilty of that crime. Mere knowledge that another person is going to commit a crime, even if the defendant is present when the crime is committed, is not sufficient to convict the defendant.

Guilt of the principal is shown by actual or constructive presence at the scene as a result of a prior arrangement; therefore, a finding of a prior arranged plan or common scheme is necessary for finding guilt as a principal. The State must prove beyond a reasonable doubt by competent evidence that theory of the hand of one is the hand of all. The principal in a crime is the one who either actually

commits the crime or who is present, aiding, abetting or assisting in committing the crime.

When a person does an act in the presence of or with assistance of another the act is done by both. When two or more are acting with a common plan or intent, are present at the commission of a crime, it does not matter who actually commits the crime. All are guilty. The hand of one is the hand of all.

Present at the commission of a crime means to be sufficiently near to aid, abet and assist in the commission of a crime. However, mere presence at the scene of a crime is not sufficient to convict.

Intent is also necessary element. There must have been a common design or intent to commit the crime and the crime must have been committed pursuant thereto with the person aiding and abetting by some overt act. Intent means intending the result which actually occurs.

Intent may be shown by acts or conduct of the defendant and other circumstances from which you may naturally and reasonably infer intent. The State must prove these elements beyond a reasonable doubt.

However, the mere presence at the scene is not sufficient to prove someone guilty of a crime. A defendant's mere presence where a crime is being

committed or mere association with the person who commits the crime does not make the defendant an accomplice or aider or abettor.

The burden is on the State to prove every element of the crime charged. If you find after reviewing all of the evidence that the State has proved that the defendant was only present at the scene and they have not proved beyond a reasonable doubt any other participation in the crime, then you must find the defendant not guilty.

We had one witness who testified in the case who had a prior record. A person who has a prior criminal record is competent to testify during a trial. A past record does not affect the ability of that witness to testify. The past record may only be considered by you, if at all, in determining the witness's believability or credibility. You are the sole judges of the facts and the believability of the witnesses is within your sole province.

Now, you have seen statements that have been made by the defendant. They've been admitted into the evidence in this case. At the pretrial ruling the Court has determined that the statements were admissible; however, I instruct you that the ultimate decision of whether or not the defendant

made the statement and he made it voluntarily and of his own free will is for you to determine. This means the statement was not caused by pressure, force, fear, threats, coerce or intimidation or by hope of a promise for leniency or reward of any kind.

So you determine whether or not the statements were voluntarily given. The State also has the burden of proving beyond a reasonable doubt that the statement was voluntary. If you decide that it was, then you may give the statement any further consideration that you deem proper. You must decide what weight, if any, should be given to the statement. It's up to you to decide credibility of the statement.

Now, let's turn to the actual offenses that are involved in this case. Mr. Foreman, ladies and gentlemen, obviously I got to start with one so don't put any significance in which one I start with. It just happens to be on my charge that arson in the first degree is the first one that comes up so let's talk about that.

He is indicted for the offense of arson in the first degree or first degree arson. That is set out in Section 16-11-110(A) of the Code of Laws of South

Carolina.

In order to prove first degree arson, the State must prove beyond a reasonable doubt that the defendant willfully and maliciously caused or set fire to burn or caused to be burned or aided and abetted or procured the burning of certain properties. The State must prove beyond a reasonable doubt that the defendant willfully, maliciously caused or set fire to or burned certain properties.

Willfully means that it was done -- not done by accident but was done knowingly and/or intentionally. The State must show that the burning was by the willful act of some person and not as a result of a natural or accidental cause.

Maliciously means with hatred, ill will or hostility towards another person. A person who intentionally does a wrongful act without legal justification or excuse does the act maliciously.

A malicious burning is an act done with a condition of mind that shows a heart bent on mischief, showing a desire to do an intentional wrong act towards another or towards the public without any legal justification or excuse.

Burning means actual combustion of some portion

or a piece of property. It is not necessary that the property be consumed or destroyed. Charring of the material of which the property is constructed or a change in the fiber or a composition of the structure is required for a burning.

Next, the State must prove boyond a reasonable doubt that the property which was burned was a building. A building includos a dwelling house. And finally, the State must prove beyond a reasonable doubt the burning directly or indirectly caused the death of a person or serious bodily injury. So that's what the elements are of arson in the first degree.

The second offense for which he is charged is criminal sexual conduct in the first degree. That is set out in Code Section 16-3-652. The defendant is charged with criminal sexual conduct in the first degree.

The first element which the State must prove beyond a reasonable doubt is that the defendant engaged in a sexual battery with the victim. Sexual battery is described as sexual intercourse, canoodling, fellatio, anal intercourse or any intrusion into the genital or anal openings of another person's body.

If you find the State has not shown beyond a reasonable doubt that a sexual battery occurred, you would stop deliberating and your verdict would be not guilty.

If you did find that a sexual battery did occur, i.e. sexual intercourse, you must then decide whether the State has proven beyond a reasonable doubt that: The defendant used aggravated force to accomplish the intercourse -- aggravated force means the use of physical force or physical violence of a high and aggravated nature to overcome the victim -- or that the victim submitted to the sexual battery, sexual intercourse while the victim was also the victim of a forcible confinement, kidnapping, robbery, burglary, housebreaking or other similar offense; or the defendant caused the victim without the victim's consent to become incapacitated by delivering a controlled substance or intoxicating substance to that defendant [sic].

Physical helpless means the victim was unconscious, asleep or for any other reason physically unable to communicate, consent to the sexual intercourse or battery.

And of course, the last indictment is the indictment for murder. The defendant is charged

with the offense of murder. The State must prove beyond a reasonable doubt that the defendant killed another person with malice aforethought.

Malice is defined as hatred, ill will or hostility towards another person. It is the intentional doing of a wrongful act without just cause or excuse and with an intent to inflict an injury or under circumstances that the law would infer an evil intent.

Malice aforethought does not require that the malice exists for any particular time before the act was committed, but malice must exist in the mind of the defendant just before and at the time the act is committed. Therefore, there must be a combination of the previous evil intent, i.e. malice and the act. And malice aforethought may be expressed or inferred from the situation.

That doesn't mean there's two different types of malice but it's the manner in which malice may be shown to exist, that is either by direct evidence or inference from the facts and circumstances or it may be inferred by a showing of total disregard for human life.

Now, Mr. Foreman, ladies and gentlemen, that's sort of the standard charge we give in all criminal

cases and then the last three charges dealing with murder, criminal sexual conduct and arson in the first degree were designed for this case in particular because those are the three indictments.

When you return to your jury room you will have the evidence with you. If you need to play any of it -- we got some of it on video and it may be easier to come back out here and look at it. I guess we could set that up in the jury room or we can play it on --

MR. MILLER: We actually brought the clean laptop from Aiken.

THE COURT: All right. We got a clean laptop. If you want to look at any of those interviews or whatever, just let us know and we'll bring it up for you. You'll have all of the evidence. You will be asked, as I said earlier, to consider each indictment separate and apart from the other, even though they somewhat interconnect but each one of them has to be separate and apart.

You'll have a verdict form for each one; murder criminal sexual conduct, arson in the first degree. It's simple: We find the defendant not guilty. We find the defendant guilty. Whichever one your decision is you just check the appropriate box and

sign your name. Your verdict must be unanimous. All 12 of you must agree.

If during the course of your deliberation you have a question you need to ask me, the procedure or protocol is that you write it out on a piece of paper -- you'll have a legal pad back there -- send it out to me. Sometimes I can answer it; sometimes I can't. It just depends on what the inquiry is.

I'm going to ask you to return to your jury room in just a second. Your food is back there. You can deliberate while you eat. You can eat and then deliberate. You can do it however you want to. You're the boss. All of you are the boss. He's sort of in charge.

When you've reached a unanimous decision as to all three indictments knock on the door and we'll receive you back here in the courtroom to receive the verdict. As I said, the verdict must be unanimous.

This is a huge civic duty that you have all been chose to serve on. You've paid excellent attention. You've done a great job. The lawyers have done good jobs. They've prepared. They've presented it to you. And now we're going to turn it over to you.

Obviously, we have no enemies to punish, no friends to reward. You're to make a careful deliberation of the facts, determine what those facts are, apply it to the law and then speak the truth with your verdict. If you have any questions let me know.

THE FOREMAN: Do the alternates have anything to say or any question to ask?

THE COURT: No, sir. The law on that is -- and that's a good question. It's sort of like going to the dance and not being asked to dance. They will be separated from you. It's only the 12 jurors who do the deliberation. Probably after it gets going in just a few minutes and they have a chance to eat I'll let them go. But they will be separated from you.

So Mr. Bailiff, when you go back, put the alternates in that separate room. Make sure they get their hands on the lunch. Once they finish their lunch let me know and we'll go from there.

(Jury exits the courtroom at 1:26.)

THE COURT: Any objections, requested additions or deletions to the charge?

MR. MILLER: Nothing from the State, Your Honor.

THE COURT: Mr. Chesser?

MR. CHESSER: Nothing from the defense.

THE COURT: Mr. Chesser, if you and Mr. Miller would please come forward and make sure we have all of the exhibits accounted for. These are the verdict forms.

MR. MILLER: We've reviewed the exhibits. They all appear to be in order and also the verdict form. The State does not object.

MR. CHESSER: We're in agreement with the verdict form, Your Honor.

THE COURT: And you've reviewed the evidence and it's all accounted for?

MR. CHESSER: Yes, sir.

THE COURT: All right. Ma'am, if you would take that into the jury room with the exhibits and tell them they can start their deliberation. And let's everybody sort of stand at ease.

(Jury begins deliberations at 1:28 p.m.)

THE COURT: All right. Is the State ready to receive the verdicts?

MR. MILLER: Yes, Your Honor.

THE COURT: Mr. Chesser?

MR. CHESSER: Yes, Your Honor.

THE COURT: All right. Let me make this

statement: Everyone has behave themselves admirably all week long. I don't know what the verdict is going to be. Obviously it's going to be either guilty or not guilty. If you are unable to control your emotions as to whether it's guilty or not guilty, I'm asking that you leave now.

I will not tolerate any outward display of emotion whatsoever. If any displays are made, you will be immediately confined and I will deal with you being in contempt of court. If you can't control your emotions, I'm asking that you step out now.

By staying I assume you're telling me you can. Bring the jury in please.

(The jury enters the courtroom at 2:27 p.m.)

THE COURT: Mr. Foreman, have y'all reached a verdict on all three indictments?

THE FOREMAN: Yes, sir, we have.

THE COURT: If you would hand it to the bailiff please and hand the exhibits to my deputy right here please.

Madam clerk.

THE CLERK: In the matters of State of South Carolina vs. Michael Paul Buckmon in the Court of General Sessions for the Second Judicial Circuit as

to the offense of criminal sexual conduct first degree the jury finds the defendant guilty. Signed by Porter Clayter, dated October 19th, 2016.

In the matter of the State vs. Michael Paul Buckmon in the Court of General Sessions for the Second Judicial Circuit as to the offense of arson first degree we the jury find the defendant guilty. Unanimously agree. Signed by Porter Clayter, dated October 19th, 2016.

As to the matter of the State of South Carolina vs. Michael Paul Buckmon in the Court of General Sessions for the Second Judicial Circuit as to the offense of murder we the jury find the defendant guilty. We unanimously agree. Signed by Porter Clayter, dated October 19th, 2016.

THE COURT: Anything for the jury before we dismiss them by the State?

MR. MILLER: Nothing from the State, Your Honor.

MR. CHESSER: We would ask -- respectfully request that the jury be polled, Your Honor.

THE COURT: Okay. Mr. Foreman, ladies and gentlemen of the jury, what that means is we will ask you individually, is this your verdict and is it still your verdict? So when I ask you the question

answer it accordingly. You will be called by name and number. Please stand and the clerk will ask you that question.

Madam clerk.

Hold on a second. You all right back there? Do you need to step out?

UNIDENTIFIED SPEAKER: I'm okay, sir. I'll step out if you need me to.

THE COURT: No, sir. If you have a medical condition, let us know.

Ma'am.

THE CLERK: Juror No. 82, Jerry James. Sir, was that your verdict?

JUROR NUMBER 82: Yes.

THE CLERK: Is it still your verdict?

JUROR NUMBER 82: Yes.

THE CLERK: Juror No. 41, Porter Clayter. Sir, was that your verdict?

JUROR NUMBER 41: Yes.

THE CLERK: Is it still your verdict?

JUROR NUMBER 41: Yes.

THE CLERK: Juror No. 158, David Ryans. Sir, was that your verdict?

JUROR NUMBER 158: Yes.

THE CLERK: Is it still your verdict?

JUROR NUMBER 158: Yes.

THE CLERK: Juror No. 118, Valerie Moody. Ma'am, was that your verdict?

JUROR NUMBER 118: Yes, ma'am.

THE CLERK: It still your verdict?

JUROR NUMBER 118: Yes, ma'am.

THE CLERK: Juror No. 95, Alex Kennedy. Sir, was that your verdict?

JUROR NUMBER 95: Yes, ma'am.

THE CLERK: Is it still your verdict?

JUROR NUMBER 95: Yes, ma'am.

THE CLERK: Juror No. 58, Johnny Faust. Sir, was that your verdict?

JUROR NUMBER 58: Yes, ma'am.

THE CLERK: Is it still your verdict?

JUROR NUMBER 58: Yes, ma'am.

THE CLERK: Juror No. 109, David Martin. Sir, was that your verdict?

JUROR NUMBER 109: Yes, ma'am.

THE CLERK: Is it still your verdict?

JUROR NUMBER 109: Yes, ma'am.

THE CLERK: Juror No. 125, Ronald Neville. Sir, was that your verdict?

JUROR NUMBER 125: Yes, ma'am.

THE CLERK: Is it still your verdict?

JUROR NUMBER 125: Yes, ma'am.

THE CLERK: Juror No. 108, Stephanie Mahuron. Ma'am, was that your verdict?

JUROR NUMBER 108: Yes.

THE CLERK: Is it still your verdict?

JUROR NUMBER 108: Yes.

THE CLERK: Juror No. 26, Betty Burch. Ma'am, was that your verdict?

JUROR NUMBER 26: Yes, it was.

THE CLERK: Is it still your verdict?

JUROR NUMBER 26: Yes.

THE CLERK: Juror No. 185, Ethel Washington. Ma'am, was that your verdict?

JUROR NUMBER 185: Yes.

THE CLERK: Is it still your verdict?

JUROR NUMBER 185: Yes.

THE CLERK: And Juror No. 91, Thomas Johnson. Sir, was that your verdict?

JUROR NUMBER 91: Yes, ma'am.

THE CLERK: Is it still your verdict?

JUROR NUMBER 91: Yes, ma'am.

THE COURT: Anything else, Mr. Chesser?

MR. CHESSER: No, Your Honor.

THE COURT: Mr. Foreman, ladies and gentlemen, on behalf of the citizens of Barnwell and the State

and of the judiciary, I appreciate your service. You've done a wonderful job. You paid close attention. Couldn't ask for anything more. I appreciate all.

What is left I have to now sentence him as soon as we get all of the paperwork. There will be a presentation by the defendant and the victims have a right to speak. You're welcome to stay for that. If you would like to leave, you're obviously welcome to leave.

We have all of the sentence sheets signed, Mr. Miller?

MR. MILLER: We passed them to the defense, Your Honor.

THE COURT: Y'all are welcome to stay or leave. It will take us about 15 or 20 minutes to do the little sentencing proceedings. Whatever your pleasure is.

THE FOREMAN: Are we supposed to leave and then come back if we want to stay?

THE COURT: No, sir. You can stay right there. We're getting ready to do it right now.

THE FOREMAN: I want to stay personally.

THE COURT: Okay. And when we finish if you would go into the jury room for just a few seconds

I'd like to speak to you. When we finish this.

THE CLERK: And I'll need a signature from you as well.

THE COURT: All right. Mr. Buckmon, if you'd come forward please.

(The defendant comes forward.)

THE COURT: Mr. Chesser, Mr. Routzong, I'd be glad to hear from you.

MR. CHESSER: Your Honor, I've been working with Michael for -- it seems like about eight months. This case was set for trial about three months ago and it came up for trial today. He's been extremely cooperative with me. He's been good to work with. He's intelligent.

So I can just say it's been my pleasure to work with him. He has -- as you heard, he has a prior ABHAN conviction. He's 36 years old and he's got some support here today. And at this point, Your Honor, we would just ask for a merciful and just sentence.

THE COURT: Mr. Routzong, anything you want to say?

MR. ROUTZONG: No, sir.

THE COURT: Mr. Buckmon, anything you want to tell me?

THE DEFENDANT: Yes, sir. I apologize to what happened to the victim's mother. I actually didn't commit those crimes and I ask, could you please be as lenient as possible so I can see my kids one day? That's all I ask.

THE COURT: Thank you. It appears you are currently on probation.

I sentenced him in 2009?

PROBATION AGENT: Yes, sir.

THE COURT: I don't remember him. February 24th, 2009 for assault and battery of a high and aggravated nature. You were given an eight-year sentence suspended to four years with five years of probation. You've had prior violations in January of 2012, February of 2011, June of 2013, July 2013, September 2013, September 2013, October 2013. And this conviction will also violate the terms of your probation.

You need to serve him?

PROBATION AGENT: Yes, sir, Your Honor.

Mr. Buckmon, by being found guilty of these new charges you have violated Conditions 6 and 10 of your probation.

THE COURT: Anybody from the victim's family like to say anything?

MR. MILLER: Yes, Your Honor. The victim's daughter Tracy Dempsey would like to address the Court.

THE COURT: Ms. Dempsey?

MS. DEMPSEY: I've never been through anything like this before. I want to thank everybody involved. I don't think anybody is ever going to really know exactly what happened but I do know -- I hope that God can reach him and God can -- I don't want to keep his kids from him but whatever part he had in it --

THE DEFENDANT: Don't y'all know I ain't do that, man? Tripping, man.

MS. DEMPSEY: God knows and God will make sure everything is okay. I just pray that everybody -- I don't wish death on anybody.

THE COURT: Thank you, ma'am.

Well, we may not know exactly what happened but we do know what happened. This lady suffered a horrible death, totally uncalled for. And obviously civilized society cannot condone this type of behavior, treatment of other individuals.

Anything else by any other victims?

MR. MILLER: No, sir, Your Honor.

THE DEFENDANT: I apologize, Your Honor.

THE COURT: You and I have gotten along fine.

THE DEFENDANT: Judge, please have mercy on me. I didn't commit that crime.

THE COURT: As to your probation violation, I revoke you in full, convert any monetary obligation to civil judgment.

PROBATION AGENT: Yes, sir.

THE COURT: Terminate the probation. It will run concurrent to 16-GS-06-210 which is the murder indictment.

All right. Mr. Buckmon, as to the indictment for murder 16-GS-06-210, the sentence of this Court is that you be committed to the state department of corrections for the balance of your natural life. As to the criminal sexual conduct in the first degree, that's a 30-year sentence. As to the first degree arson with death, that's a 30-year sentence. All run concurrent. Good luck to you.

MR. MILLER: Thank you, Your Honor.

THE COURT: Everybody remain seated.

THE DEFENDANT: I didn't fucking kill nobody. Get off me. Get the fuck off me, man.

THE COURT: Everybody remain seated.

Deputy, let's let them get out please.

(The defendant exits the courtroom.)

THE COURT: Everybody okay?

Obviously that concludes your jury service. Normally, we don't have that type of reaction to a verdict. But I'll talk with you in the jury room in just a second. I want to thank you personally.

THE CLERK: I need to put my six carryovers on the record.

THE COURT: I'll do that in just a second when I come back out.

MR. MILLER: And Your Honor, we do have one matter, Ms. Alvis and Mr. Emert have.

THE CLERK: I'll be back out in just a few minutes. I'm going to speak to them in the jury room.

Officers, I'm going to let everybody clear out, get him in the paddy wagon, family out before I let my jurors go down, and I want security on the street when they go down.

-- END OF TRANSCRIPT OF RECORD --

C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

I, the undersigned, Bethanie K. Creppon, Circuit Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the trial of the captioned cause, relative to appeal in the Criminal Court for Barnwell County, South Carolina, on the 17th, 18th, 19th of October, 2016.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

January 22, 2017

s/Bethanie K. Creppon

Bethanie K. Creppon
Circuit Court Reporter

FORM 5

STATE OF SOUTH CAROLINA)
County of Barnwell)

IN THE COURT OF COMMON PLEAS

Michael Paul Buckner #235058
Full name and prison number (if any) of Applicant

2019-CP-06-00126

v.

APPLICATION FOR

State of South Carolina

POST-CONVICTION RELIEF

FILED 2019 JAN 23 A 11:03
CLERK OF COURT
BARNWELL, S.C.

INSTRUCTIONS – READ CAREFULLY

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

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

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

1. Place of detention Perry Correctional Institution, P.O.B. 430 Oaklawn Rd. Pelzer S.C. 29669

2. Name and location of Court which imposed sentence Barnwell, 141 Main Steet Barnwell S.C. 29812

3. Name(s) of co-defendant(s) (if any) Matthew Trey Boken

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed: Clerk of Court's note:

(a) Murder, indictment number 16-03-0010 2016-GS-06-00210

(b) Arson, indictment number 16-11-110(A) 2016-GS-06-00205

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Clerk's none: 2014-GS-06-00359

(c) Criminal Sexual Conduct, indictment number 16-03-0652

5. The date upon which sentence was imposed and the terms of the sentence:

(a) 10-19-16 Murder Life

(b) 10-19-16 Arson 30 years

(c) 10-19-16 Criminal Sexual Conduct 30 years

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty ✓

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

Yes

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. The State of South Carolina, Court of Appeals

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. Appeal Dismissed

ii. _____

iii. _____

(c) the date of each such result:

i. Submitted January 1, 2019 - Filed February 13, 2019

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. Unpublished Opinion No. 2019-UP-072, decided without oral argument (Pursuant to Rule 215 SCACR

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not to appealing:

(a) _____

(b) _____

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) Prosecutorial misconduct, Prosecutorial Misconduct using false or perjury testimony, for conviction.

(b) Bad faith of Prosecution from withheld evidence resulting violation of the 14th Amendment Right to Favorable evidence

(c) Ineffective Assistance of Counsel, Deficient performance

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

(a) Prosecutor (Government) Allowed state witness to commit perjury, obtaining a tainted conviction

(b) Prosecutor (Government) withheld exculpatory, impeaching evidence favorable to petitioner

(c) Counsel failed to impeach, Failed to object, Failed to present evidence pertaining to my innocence.

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

(a) any petition in a State Court under South Carolina Law? NO

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? None other than Court of Appeals

(d) any other petitions, motions or applications in this or any other Court? NO

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

(a) the specific nature thereof:

i. N/A

ii. _____

iii. _____

iv. _____

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

i. N/A

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. N/A

ii.

iii.

iv.

(d) the date of each such disposition:

i. N/A

ii.

iii.

iv.

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

i. N/A

ii.

iii.

iv.

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

NO

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

(a) which grounds have been presented:

i. N/A

ii.

iii.

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

i. N/A

ii.

iii.

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

(a) Decided Allegations are Barred due to Post-Conviction Relief

(b) Decided Allegations are Barred due to Post-Conviction Relief

(c) Allegations set forth for Post-Conviction Relief

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

(a) your arraignment and plea? NO

(b) your trial, if any? yes

(c) your sentencing? yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

No

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. During the Barnwell General Session term of court I was represented by Mr. Michael Chesser, Esquire P.O. Box 1018 Aiken S.C. 29802

ii. During the course of Appeal I was represented by Susan B. Hackett, esquire S.C. Commission on Indigent Defense P.O. Box 11589 Columbia S.C. 29210

iii.

(b) the proceedings at which each such attorney represented you:

i. Mr. Michael Chesser, Esquire during the Barnwell General Session term of Court

ii. Mrs. Susan B Hackett during the course of Appeal

iii.

380

19. State clearly the relief you seek in filing this application:

Sentence to be Vacated, Setby aside

20. Are you now under sentence from any other court that you have not challenged?

NO

FILED FOR RECORD
2015 MAR -1 PM 2:48
BARNWELL COUNTY
CLERK OF COURT
BARNWELL, S.C.

STATE OF SOUTH CAROLINA)
) VERIFICATION
County of Barnwell)

I, Mr. Michael Paul Buckner #235058, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Mr. Michael Paul Buckner #235058

SWORN to and subscribed before me this 25th day of March, 2015.

Mary C. Merchant (L.S.)
Notary Public

My Commission Expires: 1-27-2023

Revised 3/2003

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

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

(1) I am the applicant in this action and I believe I am entitled to redress.

(2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Mr Michael Paul Backman #235058
Applicant

SWORN or affirmed to and subscribed before me this 2nd day of March, 2015.

Mary C Mykal
Notary Public

My Commission Expires: 1-23-2021

FILED FOR RECORD
2015 MAR -1 PM 2:48
RICHARD D. MELVEEN
CLERK OF COURT
STARKE, FLORIDA

382

Affidavit

3/28/19

I Mr. Michael Paul Buckman #235058 of S.C.D.C., being duly sworn upon my oath, that I am unable to provide the cost/fees for an Attorney, due to my poverty.

Sincerely,

Mr. Michael Paul Buckman
#235058

Sworn or affirmed to and subscribed before me this day of 28th day of March

Notary Public Signature

My Commission Expires:

I made signature while notary is present Mr. Michael P. Buckman

FILED FOR RECORD
2019 APR -1 PM 2:48
RICHLAND COUNTY
CLERK OF COURT

STATE OF SOUTH CAROLINA COUNTY OF BARNWELL	)	IN THE COURT OF COMMON PLEAS FOR THE SECOND JUDICIAL CIRCUIT
Michael Paul Beckmon, SCDC # 255058	)	Case No.: 2019-CP-06-00126
Applicant,	)	**RETURN AND MOTION FOR MORE DEFINITE STATEMENT**
v.	)	
State of South Carolina,	)	
Respondent	)	

FILED
2019 JUN 25 P 3:51

The State of South Carolina (Respondent), making its return to the application for post-conviction relief filed April 1, 2019, would respectfully show this Court:

I. Procedural History

Michael Paul Beckmon (Applicant) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Barnwell County Clerk of Court. Applicant was indicted for murder (2016-GS-06-00210), arson – first degree with death (2016-GS-06-00205), and criminal sexual conduct – first degree (2016-GS-06-00359). Applicant was represented by Michael Chesser, Esquire. The case was prosecuted by Deputy Solicitor David Miller of the Second Circuit Solicitor's Office. On August 17-19, 2016, Applicant proceeded to a trial before the Honorable Doyet A. Early, III, and a jury. Applicant was found guilty as indicted on all three charges and was sentenced to concurrent terms of thirty years' imprisonment for criminal sexual conduct, thirty years' imprisonment for arson, and life imprisonment for murder.

Applicant timely filed a notice of appeal. On July 25, 2017, Chesser filed an Anders brief on behalf of Applicant. On February 13, 2018, the South Carolina Court of Appeals dismissed Applicant's appeal. The Remittitur was issued on March 1, 2019.

II. Factual Summary

On October 31, 2013, Applicant raped and murdered Victim after stealing belongings from her home. (Tr. 49). Mathew Bolen, Applicant's co-defendant testified at trial. According to Bolen's testimony, he and Applicant first met Victim on the afternoon of October 31, 2013, when she approached them outside the home of their friend, Keem Mixon. (Tr 96). According to Bolen's testimony, Victim later approached them again outside Applicant's mother's house. (Tr. 98). Thereafter, Applicant, Bolen, and Victim went to a store to purchase alcohol. (Tr. 100). According to Bolen, he, Applicant, and Victim drank together at Victim's home. (Tr. 100). Bolen testified that Applicant eventually left Victim's briefly to retrieve some cocaine. (Tr. 100). During that time, according to Bolen, he and Victim had a brief consensual sexual encounter. (Tr. 100). According to Bolen, Victim eventually "passed out" from drinking and he went back to Applicant's mother's home to "get high" with Applicant and five other individuals. (Tr. 102). Eventually, Applicant and Bolen "decided that [they were] going to get the drum set that was in the kitchen." (Tr. 109). After both Bolen and Applicant began moving the drum set from Victim's home, Applicant told Bolen he was "going to try to have sex" with Victim. (Tr. 112).

Bolen continued to remove the drum set from the home, and testified that he walked back into Victim's home and saw what "looked like something burning on the stove," indicating that a fire had ensued. (Tr. 115). According to Bolen, he saw Victim run from her bedroom followed by Applicant. (Tr. 115). Appellant put Victim in a chokehold and subsequently punched Victim in the chest. (Tr. 115). Thereafter, Applicant took a hammer from the "stove countertop area" and hit Victim on the head with the hammer. (Tr. 115). The fire ultimately killed Victim. (Tr. 115).

III. Current Application

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel

    a. "Ineffective Assistance of Counsel, deficient performance...counsel fail[ed] to impeach, failed to object, failed to present evidence pertaining to my innocen[ce]."

2. Prosecutorial Misconduct

    a. "Prosecutor committing prosecutorial misconduct, using false or perjur[ed] testimony for conviction."

    b. "Bad faith or prosecution team withheld evidence constituting violation, due process, violation of 14th Amendment."

3. Newly Discovered Evidence

As requested relief, Applicant states that he wants "sentence to be vacated, setting aside."

Attached herewith and incorporated herein by reference are the records of the Barnwell County Clerk of Court regarding the trial challenged in this application including all pertinent transcripts, the Appellate record, the application, and Applicant's records from the South Carolina Department of Corrections. Respondent reserves the right to amend its return upon the receipt of other relevant records.

IV. Response to Allegations of Ineffective Assistance of Counsel

In his Application, Applicant alleges various claims of ineffective assistance of trial counsel. The Sixth Amendment to the United States Constitution guarantees a defendant the right to effective assistance of counsel. U. S. Const. amend. VI, Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008). In a post-conviction relief action, an applicant bears the burden of proving the allegations in his or her application. Butler v. State, 286

S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland, 466 U.S. 668; Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, the applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989.) Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690.) The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690.) The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

First, Applicant alleges that counsel was ineffective for "failing to impeach" and "failing to object." However, Applicant wholly fails to set forth with specificity the facts and circumstances upon which this ineffective assistance of counsel claim is based, including who counsel should have impeached, how counsel should have impeached the witness, and what counsel should have objected to. Based on this, it is impossible for Respondent to respond to this

allegation. Accordingly, Respondent moves herein for a more definite statement regarding this allegation.

Second, Applicant alleges that counsel was ineffective for "failing to present evidence pertaining to my innocence(sic)." However, Applicant wholly fails to set forth with specificity the facts and circumstances upon which the ineffective assistance of counsel claim is based, including what evidence counsel should have presented and how such evidence would have helped Applicant's case. Based on this, it is impossible for Respondent to respond to this allegation. Accordingly, Respondent moves herein for a more definite statement regarding this allegation.

V. Response to Allegations of Prosecutorial Misconduct

Applicant alleges that the State knowingly used perjured testimony in prosecuting the case against him. "A conviction obtained by the knowing use of perjured testimony is fundamentally unfair and must be set aside if there is any reasonable likelihood that the false testimony could have affected the jury's judgment." Simpson v. Moore, 367 S.C. 587, 601, 627 S.E.2d 701, 708 (2006) (citing United States v. Bagley, 473 U.S. 667, 678 (1985)). "The failure to correct false evidence is as reprehensible as its presentation." Riddle v. Dozmint, 369 S.C. 39, 47-48, 631 S.E.2d 70, 75 (2006) (citing Washington v. State, 324 S.C. 252, 478 S.E.2d 833 (1996)). "The knowing use of perjured testimony is subject to the materiality standard of review: evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." Simpson, 367 S.C. at 601, 627 S.E.2d at 708.

Applicant does not indicate what testimony he believes to be perjured, why he believes it to be perjured, or on what basis he believes the prosecution knew or should have known it to be

perjured. Accordingly, Respondent moves herein for a more definite statement regarding this allegation.

Applicant also alleges a Brady[1] violation. Brady requires the State to disclose evidence in its possession favorable to the accused and material to guilt or punishment. Clark v. State, 315 S.C. 385, 388, 434 S.E.2d 266, 268 (1993). A Brady claim is based upon the requirement of due process. Such a claim is complete if the accused can demonstrate (1) that the evidence was favorable to the accused, (2) it was in the possession of or known to the prosecution, (3) it was suppressed by the prosecution and (4) it was material to guilt or punishment. Gibson v. State, 334 S.C. 515, 524, 514 S.E.2d 320, 324 (1999). Exculpatory evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. Clark, 315 S.C. at 388, 434 S.E.2d at 268 (citing U.S. v. Bagley, 473 U.S. 667 (1985)).

However, Applicant wholly fails to set forth with specificity the facts and circumstances upon which the ineffective assistance of counsel claim is based, including what evidence was allegedly withheld and how such evidence was favorable to his case. Accordingly, Respondent moves herein for a more definite statement regarding this allegation.

VI. Newly Discovered Evidence

Applicant alleges newly discovered or after discovered evidence exists. However, Applicant wholly fails to specify any facts supporting his newly discovered evidence allegation, including, importantly, what evidence has allegedly been newly discovered. Therefore, the State,

[1] Brady v. Maryland, 373 U.S. 83 (1963).

as stated above, requests Applicant amend, through counsel, his PCR application to specify the facts supporting his newly discovered evidence claim.

A defendant requesting relief based on after discovered evidence must show that the evidence:

(1) Is such as would probably change the result if a new trial was had;
(2) Has been discovered since the trial;
(3) Could not by the exercise of due diligence have been discovered before the trial;
(4) Is material to the issue of guilt or innocence; and[ ]
(5) Is not merely cumulative or impeaching.

Hayden v. State, 278 S.C. 610, 611 12, 299 S.E.2d 854, 855 (1983).

Applicant has not shown the alleged evidence meets any of the requirements for after discovered evidence. Importantly, Applicant has not provided any factual basis for his claim. Even so, Applicant's claim is without merit as the new evidence, if offered by Applicant, is not likely to meet the five requirements prescribed in Hayden. However, the record likely does not directly dispute Applicant's allegation of newly discovered evidence; therefore, the State requests an evidentiary hearing to fully resolve the issue once, as requested above, Applicant provides a more definite statement. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the [PCR] court").

IV. Motion for More Definite Statement

In his application, Applicant wholly fails to set forth with specificity the facts and circumstances upon which his claims of ineffective assistance of counsel, newly discovered evidence, and prosecutorial misconduct are based. The Uniform Post-Conviction Procedure Act

requires that the Applicant must "... specifically set forth the grounds upon which the application is based." Section 17-27-30 of the Code of Laws of South Carolina (1976). In an application for post-conviction relief, it is incumbent upon Applicant to make at least a prima facie showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965).

In his Application, Applicant alleges that counsel was ineffective for failing "to object," failing "to impeach", and "failing to present evidence pertaining to [Applicant's] innocence[." Additionally, Applicant alleges that the prosecution "withheld evidence" and used "false or perjured testimony." Finally, it appears that Applicant alleges that there is newly discovered evidence pertaining to his case. However, Applicant failed to provide any supporting facts concerning these allegations. Therefore, Respondent moves to require Applicant to file an amended application well in advance of the hearing scheduled in this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the application.

VII. Any Future Amendments and Invocation of Discovery Process

Applicant must specify any claims he intends to raise at the evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCP. All claims should be made well in advance of the evidentiary hearing. Because Applicant has an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. *Pro se* filings will not be considered at the PCR hearing.

Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCP.

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

VIII. Response to Any and All Other Allegations

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

IX. Request for Applicant to file an Amended Application

WHEREFORE, having made its return, Respondent requests applicant, through his counsel, amend the application to provide the required specificity for the aforementioned allegations of ineffective assistance of counsel, newly discovered evidence, and prosecutorial misconduct.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

BRIANNA L. SCHILL
Assistant Attorney General

By: Brianna L. Schill
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

July 12, 2019

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SECOND JUDICIAL CIRCUIT
COUNTY OF BARNWELL	)	CASE NO. 2019-CP-06-00126
	)	
	)	
	)	
Michael Paul Buckman, #235058	)	AMENDMENT TO PCR APPLICATION
	)	
Applicant,	)	
	)	
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

FILED FOR RECORD
2022 JUN 29 PM 4:10

The Applicant, by and through appointed counsel below, hereby amends his PCR application filed on April 1, 2019, to add the following grounds and/or facts on which Applicant bases his allegations that he is being held in custody unlawfully:

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

Ineffective assistance of counsel for failing to obtain forensic testing of the t-shirt and jeans of co-defendant Bolen and for failing to pursue the issue of having the test results in order to use to support Applicant's innocence.

Ineffective assistance of counsel for failing to cross-examine witnesses regarding his perjury and failing to introduce evidence of co-defendant Bolen's videotaped interview to cross-examine him. Counsel's failure to present the evidence of the prior interview for impeachment purposes regarding the arson charge was ineffective assistance of counsel. Counsel failed to introduce the evidence to show how co-defendant Bolen's prior statement

reflected he did not see Applicant start a fire. This deficient performance was prejudicial to Applicant because Applicant's conviction was the result of allowing this perjury.

Ineffective assistance of counsel for failing to obtain and use impeachment evidence related to co-defendant Bolen wearing the jeans on the night of the alleged crime. Counsel was ineffective for failing to use the evidence related to the t-shirt with blood and the burning of the t-shirt to impeach co-defendant Bolen's testimony.

Ineffective assistance of counsel for failing to have a blood spatter analysis determination done to use to impeach co-defendant Bolen's testimony regarding where Applicant was standing when the hammer was used to strike the victim. Counsel's defective performance in this regard prejudiced Applicant because the reports indicate no blood spatter was found by the back door where co-defendant Bolen stated he was standing. Counsel was ineffective for failing to obtain expert testimony on this issue to use for impeachment and in support of Applicant's innocence.

Ineffective assistance of counsel for failing to cross-examine co-defendant Bolen on whether he was offered any type of deal for providing testimony.

Fourteenth Amendment violation for withheld evidence related to the test results and blood analyst determination of the blood spatter found on co-defendant Bolen. Such evidence would have been favorable to Applicant. Prosecutor withheld the evidence, intentionally depriving Applicant of the use of the evidence in his criminal trial in bad faith.

Prosecutorial misconduct for allowing and using perjured testimony to obtain a conviction.

Respectfully submitted.

s/ Nancy C. Fennell
Nancy C. Fennell
Law Office of Nancy C. Fennell, LLC
P.O. Box 2175
Irmo, South Carolina 29063
(803) 553-1772
nancyfennell@gmail.com
SC Bar No. 69729
Attorney for Applicant

Irmo, SC
January 24, 2022

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this Amendment to PCR Application was served upon the following this 24th day of January, 2022 via email to:

Megan Jameson
Senior Assistant Deputy Attorney General
mjameson@scag.gov
P.O. Box 11549
Columbia, SC 29211

Michael Neubauer
Assistant Attorney General
michaelneubauer@scag.gov
P.O. Box 11549
Columbia, SC 29211

FILED FOR RECORD
2022 JAN 25 PM 4:11
CLERK OF COURT
RICHLAND COUNTY, SC

s/ Nancy C. Fennell
Nancy C. Fennell
Attorney for Applicant

STATE OF SOUTH CAROLINA COUNTY OF BARNWELL	)	IN THE COURT OF COMMON PLEAS FOR THE SECOND JUDICIAL CIRCUIT
Michael Buckmon, #235058, Applicant, v. State of South Carolina, Respondent.	)	Case No.: 2019-CP-06-00126 **APPLICANT'S AMENDED APPLICATION**

NOW COMES Applicant, Michael Buckmon, amending his application filed April 1, 2019. In addition to the allegations raised in his initial application, Mr. Buckmon, through PCR Counsel, submits the following:

1. Ineffective assistance of counsel for:
    a. Failure to investigate and test the co-defendant's shirt and jeans.
    b. Failure to move to have Bolen's testimony excluded because he was in a delusional state of mind.
    c. Failure to properly cross-examine witnesses.
        i. Failure to properly cross-examine Bolen.
            1. Failure to use his first statement against him to show that the allegation that he saw Applicant start the fire was not in the initial statement.
            2. Failure to use the bloody and burned shirt was impeachment evidence.
            3. Failure to cross-examine Bolen about how he was the one wearing jeans.
            4. Failure to cross-examine Bolen about promises make in

exchange for testifying.

5. Failure to argue that Bolen's assertion of where Applicant was standing was incorrect based on the blood splatter.
6. Failure to properly cross-examine regarding why the blood was on Bolen.
7. Failure to cross-examine Bolen concerning prior inconsistent statements regarding the hammer and shirt.

d. Coercing Applicant out of testifying.

e. Failure to move to dismiss the CSC charge pre-trial and to properly argue that no evidence was presented of the CSC charge on directed verdict.

2. Prosecutorial misconduct for:

a. Putting forward false and misleading testimony through Bolen's testimony, which was ripe with inconsistencies to improperly frame Applicant for a crime he did not commit.

b. For improperly suppressing the test results on the clothing or otherwise failing to wait for test results to come back before taking the case to trial.

Conclusion

Based upon the above, Mr. Buckmon requests that this Court grant relief, vacate the convictions, and remand the case to the court of general sessions for a new trial.

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For Applicant Michael Buckmon

_____, 2025

STATE OF SOUTH CAROLINA COUNTY OF BARNWELL	)	IN THE COURT OF COMMON PLEAS FOR THE SECOND JUDICIAL CIRCUIT
Michael Buckmon, #235058, Applicant, v. State of South Carolina, Respondent.	)	Case No.: 2019-CP-06-00126 Affidavit of Service by Mail

1. I am the attorney for Applicant in the above-captioned matter.

2. Regular communication by mail exists throughout the state of South Carolina and this is a proper circumstance of service by mail.

3. I have this day served a copy of the Amended Application on the above-captioned matter on the following person by depositing the same in the United States mail with the proper postage affixed thereto:

Office of the Attorney General
Attn: Cruise Mitchell, Esquire
PCR Division
P.O. Box 11549
Columbia, SC, 29211

Attorney for Applicant

_____, 2025

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF BARNWELL	)	2019-CP-06-00126
	)	
	)	
	)	
	)	
	)	
MICHAEL PAUL BUCKMON,	)	
APPLICANT,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
STATE OF SOUTH CAROLINA,	)	
RESPONDENT.	)	

December 17, 2025
Aiken, South Carolina

B E F O R E:

THE HONORABLE DEADRA L. JEFFERSON, JUDGE.

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

CHELSEY MARTO, ESQ.
Attorney for the Applicant

CRUISE MITCHELL, ESQ.
Attorney for the Respondent

Penny M. Johnson
Court Reporter III

I N D E X

(AW) - Denotes Plaintiff's Witness
(RW) - Denotes Defense Witness

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(RW) DAVID W. MILLER:	
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E X H I B I T S

(There were no exhibits submitted.)

PROCEEDINGS

THE COURT: This is Michael Buckmon vs. The State of South Carolina, 2019-CP-06-00126. It's before the Court on an application for Post-Conviction Relief filed April 1 of 2019. A return and motion for more definite and certain statement was filed July 15th of 2019. An amended application was filed January 26th of 2022.

And then what date did you file this additional amendment, Ms. Marto?

MS. MARTO: It was officially filed December 12, 2025, Your Honor.

THE COURT: And he alleges ineffective assistance of counsel. He was indicted for murder 2016-GS-06-210, arson first degree with death, 2016-GS-06-205 and criminal sexual conduct first degree, 2014-GS-06-359.

On August 17th through 19th, he had a trial before Judge Early. He was found guilty as indicted on all three charges and was sentenced to concurrent terms of 30 years imprisonment for criminal sexual conduct, 30 years for arson and life for murder.

Let's see, he filed an appeal. An Anders brief was done and the Court of Appeals dismissed his appeal. The remittitur was issued March 1st of 2019.

Is the Applicant ready to proceed?

MS. MARTO: Yes, Your Honor.

THE COURT: Is the State ready to proceed?

MR. MITCHELL: Your Honor, can I put one thing on the record before we begin?

THE COURT: Sure.

MR. MITCHELL: Mr. Buckmon was represented by Mr. Michael Chesser. As you can tell, this case has some age on it, to say the least. And one of those reasons is because Mr. Chesser resigned his bar license years ago. We unsuccessfully have been able to subpoena him over the years. And before the hearing, Ms. Marto and I agreed that based on the allegations that the record and the testimony of Deputy Solicitor David Miller will be sufficient to deal with the allegations. So we've decided to go forward without the testimony of Mr. Chesser.

THE COURT: He was a public defender or was he in the private bar?

MR. MITCHELL: I believe he was a public defender.

MR. MILLER: No, ma'am.

THE COURT: He was not?

MR. MILLER: I'm sorry, Your Honor.

THE COURT: That's okay.

MR. MILLER: Mr. Chesser was in the private bar. He had been appointed on this particular case.

THE COURT: He was appointed on this case, so then he would have had to give -- at least, in Charleston, even if

you're appointed, once the case is over, you give your records to the public defender.

MR. MILLER: That is correct.

THE COURT: So that if you should leave for whatever, they could go get your files and then the public defender can testify about what's in your file.

Is that what happened with Mr. Chesser or did he maintain his files and y'all don't have them?

MR. MILLER: My understanding, Your Honor -- and I know this for a fact, that Michael Routzong was actively a public defender at the time. And he was sitting with Mr. Chesser.

THE COURT: Oh, so he has the file.

MR. MILLER: So I would assume that Mr. Routzong, in fact, retained the file for the public defender's office, but I don't have any personal knowledge.

THE COURT: That's spelled, R-O?

MR. MILLER: R-O-T --

MR. MITCHELL: I think it's R-O-U-T-Z-O-N-G.

MR. MILLER: That's it.

MR. MITCHELL: Rout.

THE COURT: E-N-G?

MR. MITCHELL: Z-O-N-G.

THE COURT: I glad I asked because I was going to try to do that phonetically and I know the court reporter was going to ask me later, so I just thought I'd make it easier

for the both of us.

Anything else we need to take up before we proceed?

MR. MITCHELL: No, Your Honor.

MS. MARTO: No, Your Honor.

THE COURT: You may proceed, Ms. Marto.

MS. MARTO: We would call Mr. Michael Buckmon.

THE COURT: Sir, come to the stand to be sworn.

MICHAEL BUCKMON,

after being duly sworn, testified as follows:

THE CLERK: He's been sworn, Your Honor.

If you'll take a seat in the witness stand there, state your full name for the Court and spell your last.

THE COURT: State your full name, sir.

THE WITNESS: Michael Buckmon.

THE COURT: Do you have a middle name?

THE WITNESS: Michael Paul Buckmon.

THE COURT: And if you would spell your last name for the court reporter.

THE WITNESS: B-U-C-K-M-O-N.

THE COURT: You may proceed, Ms. Marto.

MS. MARTO: Thank you, Judge.

THE COURT: You're welcome.

DIRECT EXAMINATION

BY MS. MARTO:

Q Sir, who were you represented by at trial?

A Mr. Michael Chesser, Esquire.
Q And who was the main prosecutor on the case?
A Mr. David Warren Miller, Esquire.
Q And what were you accused of? What were you charged with?
A I was accused of arson, criminal sexual conduct and murder?
Q And what was the outcome of your trial?
A I was found guilty of all three charges. They gave me natural life for the murder. I was supposedly an accomplice to this crime of arson. Basically, on everything, I was supposed to be some type of accomplice, supposed to be participation with the crime. But it was a battle of which person actually committed the crimes.

Basically, the whole case is built on, like, Brady vs. Maryland. It's just like Brady vs. Maryland. The State was undetermined on which person actually assaulted this victim, which person actually committed arson in this case. But I was given a natural life sentence.

Q So it was you and Mr. Bolen; is that correct?
A Yes, we were both charged.
Q And you were both charged?
A Yes, ma'am.
Q Mr. Bolen testified at trial?
A Yes, ma'am.

Q And how do you feel counsel did cross-examining him?

A It was very poor. He did not make any cross-examinations at all. It was like took nothing serious of the offense that add up to the actual offense, like, events that add up to the actual offense, even to the actual offense.

For example, when it came to the incident of arson -- matter of fact, there was an interview of me with SLED from Columbia and Barnwell Police Department, Mr. Glenn Rice. And in that interview, you know, Matthew specifically told them that he did not see me -- first of all, there was no prior knowledge. Like I said, it was a battle of who done the crime.

But Matthew Bolen told them he did not see me set a fire. He doesn't even know if he saw a fire or none of that. It was three fire -- three places that was ruled by SLED where the fires was started. In this case, Matthew admitted to setting fire, which they found a tee shirt in the home with blood on it. When it came to who was supposedly setting the fires, it was not a determined fact.

The State had to get their conviction by allowing this perjure to go through. The perjure went through, they did not correct it at all. They got their conviction due to the fact of the use of false perjured testimony. Basically, when he got on the stand, when Matthew got on the stand, my

attorney did not do anything to cross-examine at all in the case of the arson. So when asked about the arson, Matthew was, like, as far as I know, I supposedly saw the fire. Basically, Matthew did not give a direct substantial fact of me setting fire.

But if counsel would have used the DVD interview for impeachment purposes or whatever, then the jury would have easily found out hey, he just committed perjury. He told the people he didn't see nothing. And there's no prior knowledge of me actually going over there and starting a fire. Not at all. I have the evidence right here.

Q So you wanted counsel to cross-examine Mr. Bolen about why he didn't specifically say he saw you start the fire the first time; is that correct?

A Come again now.

Q You wanted counsel to cross-examine Bolen on why in his initial statement he did not specifically state he saw you start the fire?

A Right, right, right, right, right. Because there's evidence that he did not see me start the fire and I have it right here.

Q Okay. And then --

A This was said at the preliminary hearing, too, by the same SLED, so I say cops.

Q And you're, also, raising that counsel should have

cross-examined him about his shirt; is that correct?

A Yes. Yes. Yes. In this case, when it came to his shirt, like I said, SLED and Barnwell Police Department found his shirt in the home. SLED, Mr. Sterling Seals, he ruled that the fact these fires were started to cover up additional evidence.

Okay, when it came to the tee-shirt, Matthew was called [indiscernible]. If counsel would have used this interview in cross-examination, he could compare this evidence, then the case would have been flat out -- you know, we would know Matthew Bolen have done the crime by himself.

When it came to this tee shirt, they found it. According to the interview, SLED told him, we know you lying. We found your shirt. Once they found the shirt, that's when he tried to shift the burden. They took pictures of the shirt or whatever. The shirt had blood on it, soot on it.

And it was, really, a deficient performance in the police department. They know this guy had the tee shirt earlier that day. Many people saw the tee shirt on him that day. The tee shirt comes from a material fact of the investigation. They know he had the shirt on, did nothing. He has a sworn duty as a police office to make sure he preserve that evidence if it comes in your possession if you knew the person had it on earlier. Witnesses said they did

nothing to turn it over to Mr. Miller here for it to be tested.

Now, when they found the jeans which you have, they turned over the jeans to be tested and Mr. Miller admitted at trial he intentionally deprived me of a fair trial. He admitted it.

Q And you're saying that he admitted that he denied you a fair trial because --

A Yeah, because this blood evidence, it's a case of -- when he struck the victim -- they, also, have evidence of me having no blood on my shirt. I had a brand new white tee shirt on. There's evidence in that as well. This blood evidence is a material fact. Even the SLED agent on the stand stated at trial, since this blood is on this other guy, it's most likely he committed this crime, not me, between the battle of who actually struck this victim.

But the State, also, has a fact that Matthew Bolen, also, committed the arson trying to destroy the blood evidence. He thought this shirt would burn up, but by the grace of God, it didn't burn up and it kind of opened the case for the Court and even Investigator Seals said he committed this crime. He was just trying to shift it on me. And he couldn't because the evidence clearly stated -- if the attorney would have used the DVD for impeachment purposes, then you would know right off the bat that hey,

yeah, he didn't do it. He say he didn't. You didn't see him set the fire, but now you allow him to get on the stand. So it was elementary. He could have easily just cleared me of that charge right there, basically.

Q And you wanted him to cross-examine him on his shirt and the jeans because they were the clothes with the bulk of the blood on them, correct?

A Yes.

Q And you think that because they were the ones with the bulk of the blood on them and they were matched to Bolen that that's exculpatory towards you?

A Right, just like SLED said on the stand. He said it should have been tested in this battle -- it was a battle of who actually committed the crime. And within that battle, SLED stated it was most likely Matthew Bolen who committed the crime.

Q And what would testing the clothes specifically have done for you that would have been helpful?

A It would reeled in the fact that he done it. He, also, lied about the fact he didn't have the pants on the night of the murder. It would, also, have been useful for people to have heard that he was lying trying to put the pants away, you know, trying to deny the fact that he had the pants on, but he did have the pants on.

So it could have been introduced for impeachment

purposes. He would have easily brought about favorable results of him committing the crime, not me. Because like I said, we have evidence in the record of officers stating that they seen me at Wal-Mart a couple of days later with the same exact clothing that I had on the night with the victim and no blood. Fresh white tee shirt, no blood on me at all.

Q You're, also, alleging that you wanted counsel to properly cross-examine Bolen about promises may have been made for testifying; is that correct?

A Yes, ma'am. In this case, we both was offered a deal of 30 years in exchange for our testimony. Matthew took the deal. I remained in my innocence because I didn't commit the crime. And these are people that I knew. The family know that yes, this is a guy that came along and ruined all our lives. It's a case to where it happened in the heat of the moment. You know, he's invited to be around us. He doubled back, kills this victim. You know, he got caught. I panicked, didn't call the police.

But all the evidence is actually showing yes, Matthew, you actually struck this victim. You actually assaulted this victim. You actually admitted to the fact that you started the fire. When it came to me setting the fire, the State was undetermined. There's no prior knowledge of me doing anything of this crime as an arson, criminal sexual

conduct and assaulting to be an accomplice. It's clear, I wasn't an accomplice at all.

Q And what do you think putting those promises in exchange for testifying in front of the jury would have done for you?

A With the promises?

Q How would that have helped you?

A They would have known that -- it would have hindered the believability of them. I think it's Baker vs. Illinois. I read over the case a little bit. A lie is a lie. It's going to hinder the believability of that client.

Q You, also, wanted counsel to raise on cross-examination how his testimony didn't correlate with findings of the blood spatter analysis; is that correct?

A Say it one more time.

Q You're, also, alleging that -- you wanted counsel to cross-examine Bolen about how his telling of where you were standing was incorrect or inconsistent of the blood spatter analysis.

A Oh, okay, that's about the crime scene?

Q Yeah.

A Oh, we all know that a crime scene sometimes tells a story. And this case, the crime scene, blood spatter patterns was collected from the kitchen, some around the victim's head and on the lower cabinet in the kitchen,

traveling in the opposite direction for where Bolen was standing.

Now, in this case, in transcript records, once they reviewed them and the fact that in comparison of the interview that Matthew was supposed to be shirtless during the time of this. I'm supposed to be straddling the victim due to his testimony. Now, if you shirtless, it's impossible for me straddling this victim and blood getting on me. How blood going to get on you if you shirtless? Like, in the crime scene, where he stated he was standing was by the back door. The blood spatter only indicate that it traveled in a different direction.

This crime scene evidence versus the testimony, that crime scene contradicts his testimony showing perjury. This case actually rest on and the conviction was made through perjury. You read under Brady vs. Maryland, it actually state it's an issue as to whether the Courts -- it be satisfied a person be convicted by perjury and suppression by the State authorities.

Q You, also, wanted him to be cross-examined on why he was found with so much blood on him; is that correct?

A Yeah, he should have. He should have. That most definitely would have brought about an outcome of difference in the trial. Because it doesn't make sense for you not to cross-examine him about some blood on his clothing. The

only thing he did about that was present -- he presented the clothing, the shirt and the jeans, asking him was this his jeans or was this his shirt? He's admitting that these clothes are his. But the test results really needed to be there, into the battle, you know, who really did this.

Q And what do you think the test results would have shown?

A Oh, it would have revealed --

MR. MITCHELL: Objection, speculation.

THE COURT: Please repeat the question.

MS. MARTO: What do you think if the blood analysis had been done would have shown?

THE COURT: He's not qualified to testify to that. That requires scientific knowledge. It's speculative, lack of foundation. Sustained.

BY MS. MARTO:

Q And you wanted him to be cross-examined on prior inconsistent statements concerning a hammer; is that correct?

A No, we can pass on that one. Matter of fact, that's the only thing he cross-examined him about was the use of this hammer. And he admitted -- Matthew admitted to lying about that as well, whether the hammer was supposed to be handed to me or whether I was supposed to take this hammer. He admitted to changing his statement concerning the hammer.

It's already in the transcript records.

Q And not only are you raising that counsel should have properly cross-examined him, but you wanted to have removed -- prior to his testimony have him excluded from testifying altogether; is that correct?

A Yes, because I think at the end of his testimony, Matthew admitted -- like I say, it's in the record. Mr. Miller, the prosecutor, he asked him, he said, what state of mind was he in according to the interview with SLED when you got apprehended, when you finally got caught. Because he remained on the run. And Matthew admitted I was in a delusional state of mind, that Matthew was in a delusional state of mind due to being high on drugs.

And when Mr. Miller asked him, well, isn't this the same testimony that you're giving in this court today, it's the same interview that you gave law enforcement being in a delusional state of mind? And he admitted that his testimony today in court is of a delusional state of mind in the interview that I had. Meaning right there, your testimony amongst the court is really a false belief. It's not the truth. You're delusional and you're fabricating evidence and not telling the truth.

Basically, that person had killed somebody and just didn't want to accept, you know, hallucinating. He killed somebody and didn't want to accept that he killed somebody.

Q And you're, also, alleging that counsel, essentially, coerced you out of testifying; is that correct?
A Yes, ma'am. In this case, I was going to testify, but he -- he really told me, like, your old record is going to come up. It's going to look bad for you. It's the same prosecutor office that you're going in front of for charges that you didn't beat before. It just ain't going to look good. Basically, saying they might have a personal vendetta. So I was like, I just won't testify.
Q And what would your testimony have been had you testified at trial?
A The fact that Matthew Bolen did commit this crime. Interviews were presented, introduced at trial. And even the prosecutors themselves let the Court know that each one of my interviews was based on the fact that I wasn't in it on this crime. The prosecutor did tell them that, you know, let them know I wasn't in on the crime at all. He did do that.
Q Would you have testified that he acted alone?
A Yes, ma'am, I would have testified he acted alone. Yes, ma'am.
Q Where were you that night?
A When we came back, I went in the house. Matthew Bolen never left. I went back outside and I seen his car with the trunk up. I went next door and the closer I got to next

door, I started smelling smoke. The fire had started. The victim was in there. And I panicked. I had a criminal history and I just panicked. It was like the heat of the moment. And I just didn't know what to do. The crime was done. There's nothing I could have done about it, you know, right offhand.

Q You, also, raised the allegation that you wanted the CSC charge to be either dismissed pretrial or dismissed as a result of a directed verdict motion; is that correct?

A Yes. Mr. Chesser didn't raise no facts about that. Nothing was raised at trial. The only thing Matthew said about that, he supposedly heard moaning. That's it. He didn't state -- he stated something about I instructed him to come in there, in the room. That's it. He stated nothing else of me actually having sex, nothing. There was nothing even stated. There was no DNA samples according to, you know, to the fact I raped her.

Consensual was admitted by both of us. There was no rape at all. I was discriminated against. You have this admitted consensual sex by Matthew. His offense got dropped. I admitted to consensual sex, but mine did not get dismissed. The State had no evidence at trial consistent of my innocence -- I mean, of my guilt of me supposedly raping the victim.

But he gave no details and the Judge -- it was Judge

Early. He specifically instructed the jury and everybody, like, if the State fails to prove that a sexual encounter occurred, you've got to stop that deliberation and find him not guilty. Nothing was said about rape. Not one thing. I have the paper right here, transcript paper right here.

Q And beyond Mr. Bolen's testimony, what other evidence did they have at trial indicating guilt, do you know?

A There was nothing else. The case was built solely on Matthew's testimony. There was nothing else. Like I said, the prosecutor did state that all my interviews stated I had nothing to do with the crime. He did do that. I didn't have a fair trial.

Q Are there any other issues that we have not already raised that you wish to raise?

A No, ma'am.

MS. MARTO: Nothing further, Your Honor.

THE COURT: Any questions for the witness?

MR. MITCHELL: Just very briefly, Your Honor.

THE COURT: You may proceed when you're ready.

CROSS-EXAMINATION

BY MR. MITCHELL:

Q Mr. Buckmon, the trial court advised you of your right to testify at trial; is that correct?

A Yes, sir.

Q And you told them you did not wish to?

A Yes, sir.
Q You gave three statements to law enforcement; is that correct?
A Yes, sir.
Q And when you explained to the Court your reasoning for not testifying, I believe you stated they pretty much read what I was stating, so there's no reason for me to testify. If I testify, it's still dealing with what they've seen on the videos. It's the same thing.
A Right. It would have been the same thing, right. Right. But he scared me, you know, saying something about something going to come it. That's why I say it's going to be the same thing anyway. But he was stating some old records was going to come up. But you right, it would have been the same thing.
Q So that's why you chose not to testify?
A (No audible response.)
MR. MITCHELL: No further questions, Your Honor.
THE COURT: Any redirect?
MS. MARTO: No, Your Honor.
THE COURT: Sir, you may step down.
Any further witnesses?
MS. MARTO: David Miller.
THE COURT: I'm sorry, I didn't hear you?
MS. MARTO: David Miller.

THE COURT: Sir, if you would come and be sworn.

DAVID MILLER,

after being duly sworn, testified as follows:

THE CLERK: He's been sworn.

If you'll have a seat in the witness box and state your full name for the Court.

THE WITNESS: Good morning, Your Honor.

THE COURT: Good morning.

THE WITNESS: My name is David Warren Miller. My last name is spelled M-I-L-L-E-R.

THE COURT: You may proceed.

MS. MARTO: Thank you.

THE COURT: You're welcome.

DIRECT EXAMINATION

BY MS. MARTO:

Q Mr. Miller, you prosecuted this case; is that correct?

A That is correct.

Q And were you the main prosecutor on this case from start to finish?

A I was not the main prosecutor at the beginning of the case. The case arose in 2013 and I took over in Barnwell and Bamberg in June of 2015. So from June of 2015 on, I was the lead prosecutor on it.

Q Do you have any idea why clothing on the scene wasn't tested?

A Yes. Because the testing of the clothing would have done absolutely nothing to determine any fact that was at issue in the case. We argued at the trial that it was the victim's blood that was on the jeans. And Mr. Buckmon thinks that that somehow is suppressing evidence. We argued to the jury that there was blood on the jeans. And the problem with it was the blood -- where the blood was on the jeans didn't match his story. It matched Bolen's story.

Q Did you meet with Mr. Bolen before the trial --

THE COURT: Is that B-O-L-E-N?

THE WITNESS: B-O-L-E-N, yes, Your Honor.

THE COURT: I just wanted to make sure for the court reporter. You may continue.

THE WITNESS: Yes.

BY MS. MARTO:

Q Do you recall how many times you met with him?

A Actually, I think it was only one time whenever we met with him and Ms. McCann and it was to confirm the fact that he was going to testify at trial.

Q Over the course of your involvement with Mr. Bolen, did his story ever change?

A No.

Q Every detail remained the same from start to finish as best you recall?

A I don't know if every detail that he uttered remained

the same, but he only told me the story of what happened the day he told it to the jury.

We had his interview from whenever he had been interviewed Agent Seal. His attorney had gone over his interview with him on multiple occasions, Ms. McCann. And Ms. McCann said he is definitely going to testify. He is ready to testify. Y'all let us know when you want him to testify. So I only heard the story directly from Matthew Bolen whenever he told it on the stand.

Q And do you know how long you knew Mr. Bolen before he testified before the trial actually happened?

A It would have been, at least, a month.

Q Did you have any indication that he was not in his right mind when he was testifying?

A No.

Q What promises did you make Mr. Bolen when it came to testifying?

A Absolutely none.

Q Was there any indication given that you would be willing to entertain a lesser sentence or a better plea deal?

A There was no plea deal ever made to Matthew Bolen. There was no plea deal that was made to him. There was never any plea offer made to Michael Paul Buckmon that included him testifying because he was completely lacking in

credibility. We said that Michael Paul Buckmon to testify to what he was charged with for 30 years. That was the offer.

We told Matthew Bolen, because he did come -- his attorney had said from day one hey, my guy's going to testify. I don't ever take that as the final decision until it's time to go to trial. But all along we didn't talk about plea offers with Matthew Bolen because of the fact that his attorney had been saying he's going to testify whenever it comes time to testify. And if I have a witness that is testifying, they don't get an offer prior to their testimony.

Q And you would agree that the transcript is the best record of what happened at trial; is that correct?

A Yes.

Q And you never put on the record that you would help Mr. Bolen had he testified against Mr. Buckmon?

A I never put what on the record?

Q Put on the record that you would assist Mr. Bolen with his charges if he cooperated?

A If you look at the cross-examination -- or the redirect examination of Matthew Bolen, it is exactly what I've said. He was up there testifying with no offers or promises being made to him. He was clearly testifying because he was hoping it was going to help him in the future, but he had

absolutely no guarantee of that from me or anyone in my office and never had.

Q And you weren't privy to any conversations Mr. Buckmon had about testifying with his attorney, correct?

A If I heard about any conversations he had about testifying with his attorney, it would have been after the decision had been made.

As a matter of fact, the one thing I do recall is that while the jury was deliberating, so we had already done our closings -- I knew Mr. Chesser, knew Mr. Chesser well and one of the conversations that we had while the jury was deliberating, I had said something to the effect to Mr. Chesser, well, at least, Buckmon didn't get on the stand and tell a fourth version of the story because we would have been here even longer. And at that point, Chesser just kind of shook his head and moved on.

But that was the only conversation we ever had about him testifying. And it was after his decision had been made.

Q And is it fair to say that the crux of the State's case was Mr. Bolen's testimony?

A No, it's not. The fact of the matter is, the crux of the case was the investigation done by Senior Special Agent Sterling Seals, the evidence that was collected. If I recall correctly, somewhere in the neighborhood of 1200

photographs were taken. There was evidence collected from multiple different locations and multiple different jurisdictions. There was evidence of the car. There was evidence in the video from the pawn shop. Which, frankly, it's probably some of the most important evidence in the entire case that there was Mr. Buckmon's three different interviews, three different stories about what happened.

The first day he tells the story that he doesn't really know anything about anything and just found out about it thirdhand when he was already in Greenville County. And then his second story that he comes back with was Well, I knew about this, but I really didn't participate in it at all. And then his third story, he's coming up with another story. And that was several months later when he had an attorney representing him.

His inconsistencies in his story was why we did not believe his version of the story. The fact that Matthew Bolen told one story that was not contradicted by the evidence that we had, and Michael Paul Buckmon took three different stories to, essentially, at the end of the day, he got to the same story that Matthew Bolen did. He just put Matthew Bolen in Matthew Bolen's position and put Matthew Bolen in his position. And that was the problem.

They were both minimizing their involvement in the crime. I said to the jury that I believed that Matthew

Bolen was minimizing his involvement in the crime. But at the end of the day, they both admitted being there. They both admitted being present when this stuff was going on, when this crime was occurring that night in that house.

And there was video from a pawn shop ten hours later where they're both smiling and joking and taking this entire drum kit that had been stolen from the home and they're walking into the pawn shop with it. And the person that the check gets made out to for that drum kit, the person who talked to the manager of that pawn shop was Michael Paul Buckmon.

THE APPLICANT: That has nothing to do --

THE WITNESS: Neither one of them, neither one of them appeared in any way, shape or form to be under duress --

THE APPLICANT: [Indiscernible].

THE WITNESS: -- and that was what --

THE COURT: Sir, please don't speak while the witness is speaking. We gave you courtesy while you testified. We're going to extend the same courtesy to the witness. So, please, if you need a moment to collect yourself, let the Court know, and I'll give you a few moments. But don't talk while he's talking.

Thank you.

You may finish your testimony, sir, your answer.

THE WITNESS: Thank you, Your Honor.

THE COURT: You're welcome.

THE WITNESS: So there was a lot of evidence. And what it, ultimately, came down to was Matthew Bolen and Michael Paul Buckmon committed a heinous crime that night. They left and ten hours later, they're selling stuff that was stolen out of this dead woman's house that they had set on fire.

And at the end of the consideration of not just Matthew Bolen's testimony, but, also, the three separate statements that Michael Paul Buckmon gave, the jury did not believe that he was not an active participant in the crime.

BY MS. MARTO:

Q And to be clear, Mr. Buckmon's statements were played at trial, correct?

A Mr. Buckmon's three different interviews were all played for the jury.

Q Now, do you recall with Mr. Bolen, if he had initially stated that he saw Mr. Buckmon start a fire?

A I don't recall.

Q And it's your recollection that Mr. Bolen's clothes had the bulk of blood of them?

A I don't know about the bulk of the blood. I don't know that we had any clothes from Michael Paul Buckmon at all. I know there was blood or apparent blood on jeans that Matthew Bolen was wearing.

But the problem with the fact -- and the reason that we did not have anything -- have to get it tested was because Matthew Bolen's story was that he was standing in the kitchen when Michael Paul Buckmon started hitting this woman with a hammer and that blood was slinging all over the place. There was blood on the cabinets. There was blood on the countertop. So that would explain why blood was, also, on his jeans.

But she was on the floor when she was getting hit in the head, so whoever was hitting her in the head had to be bent over to be hitting her on the head with a hammer. And what Mr. Chesser -- we argued in close, what Mr. Chesser couldn't explain was how can someone be bent over hitting someone with a hammer and slinging blood all over the place and end up with that blood on the top and around the waistband area of the jeans?

The other possibility was that, as Matthew Bolen testified, while Michael Paul Buckmon is hitting her in the head with a hammer and slinging blood all over the kitchen, the blood is getting on him just like it's getting on the cabinets, just like it's getting on the countertops, it's getting everywhere. But if he was bent over wearing those jeans, his own body would have stopped the blood from getting in the position that it was on the jeans.

We took the position that the reason we didn't have to

test the jeans for the victim's blood was because that was the victim's blood on it.

Q Do you recall that there was blood just specifically on the counters or was it multiple different places about the room?

A It was on the cabinets, the walls, the counter. It was all over the place.

Q Again, you would agree the transcript is the best reflection of what was elicited at trial, correct?

A There were photos that were shown at trial.

Q And what was the evidence that you had substantiating the CSC charge specifically?

A The fact that Ms. Dempsey was incapable of giving consent and that Michael Buckmon first denied having sex with her, then when he was told by Agent Seals that there was a condom that had been recovered, he changed his story and said, okay, I did have sex with her. And Matthew Bolen testified that Matthew Bolen had had sex with her as had Michael Paul Buckmon, that he had walked in on them having sex. And she was passed out. She was incapacitated, according to both of their stories.

Q Do you recall if Mr. Bolen testified about whether Mr. Buckmon attempted to have sex with the victim in this case? Do you specifically recall if he testified to that or was it Mr. Buckmon's statements that, essentially, nails him on

that issue? Do you recall?

A Mr. Buckmon's statements nailed him on all of the issues --

THE APPLICANT: It's impossible --

THE COURT: Sir, do not speak again or I'm going to remove you from the courtroom.

THE APPLICANT: I need --

THE COURT: No, sir, you don't need to speak. You have testified --

THE APPLICANT: I'm --

THE COURT: I don't like repeating myself. We will have decorum in this courtroom. There's an order in which things have to move. You don't get to just -- this is not the People's Court. You don't get to just start talking out loud and making gestures. You need to control your emotions. This is a courtroom.

I'll give you an opportunity at a break to speak with your lawyer and see if there's anything further she needs to ask this witness, but I need you to comport your behavior. And I don't plan to repeat myself.

We on the same page?

THE APPLICANT: Yes, ma'am.

THE COURT: Thank you.

You may continue. Do you need the question repeated?

THE WITNESS: No, ma'am.

THE COURT: Okay. You may answer the question.

THE WITNESS: Again, Mr. Buckmon's statements were the biggest problem that Mr. Buckmon had at the end of the day. As far as what Bolen testified to, I don't specifically remember what he testified to, but the transcript would have it. My recollection was that he testified that at some point during the events that he walked in and that Mr. Buckmon was having sex with the victim.

BY MS. MARTO:

Q Did Mr. Buckmon ever specifically state or give a statement that he was guilty as a principal of this crime?

A No.

MS. MARTO: Nothing further, Your Honor.

THE COURT: Any questions for the witness?

MR. MITCHELL: Yes, Your Honor.

CROSS-EXAMINATION

BY MR. MITCHELL:

Q Good morning, Deputy Solicitor Miller. How are you?

A Good morning.

Q So Mr. Buckmon gave three different statements in this case?

A He gave three statements that had inconsistencies within each of them.

Q The first one, he claimed he wasn't even in the house that night, that Mr. Bolen had put all the stuff in his car

behind his mama's house?

A That was the gist of it.

Q Eventually, as the interviews went on, he eventually admitted to being in the house and having intercourse with the victim?

A That would have been the second statement.

Q And had Mr. Buckmon testified, would you have impeached him with these statements?

A I absolutely would have questioned him about the inconsistencies, but that was part of what the purpose of having all of his interviews published to the jury was. I wouldn't have had to go into it very far for the jury to realize how he had changed his story and was continuing to change his story.

Q And I believe you testified to this very well on direct, but would you go to the transcript, Page 308, if you don't mind, Mr. Miller?

A Is that the record on appeal 308 or --

Q Yes, sir, the bold numbers in the top right, the record on appeal numbers.

A Yes.

Q Actually, if you'll look at Page 309, Line 13.

A Yes.

Q It says -- this is you in response to Mr. Chesser's directed verdict motion on the CSC charge, correct?

A That is correct.
Q And you spelled out the evidence that you just spelled out on direct about why there's enough evidence to submit to the jury, correct?
A That is correct.
Q And the trial court, ultimately, denied that motion?
A It did.
Q So Mr. Chesser did make an attempt to argue that there was no evidence of criminal sexual conduct?
A He certainly did.
Q And Mr. Miller, I want to have you reference a few more pages in the transcript if that's okay, so bear with me.
A Yes, sir.
Q If you'll turn to Page 192 in the transcript.
A Yes, sir.
Q And that is Mr. Chesser's cross-examination of Matthew Bolen?
A That is correct.
Q And if you'll look at Lines 5 through 16?
A Yes, sir.
Q And that's Mr. Chesser cross-examining Matthew Bolen on the charges he's facing?
A And the potential sentences and what could happen to him.
Q And Mr. Chesser, also, asked him that he's here to help

himself, right, and then Mr. Bolen responded, Yes, sir?

A That is correct.

Q So Mr. Chesser did, in fact, cross-examine Matthew Bolen on that issue?

A He did.

Q And if you'll go to Page 196 and look at Lines 15 through 20. And this is, also, the cross-examination of Matthew Bolen by Mr. Chesser.

A Okay.

Q Is that Mr. Chesser cross-examining Matthew Bolen about wearing the pair of blue jeans that night?

A It is.

Q So Mr. Chesser did cross-examine him on the jeans?

A He did.

Q And if you'll look at page -- flip to Page 200 for me, please, Mr. Miller.

A Yes, sir.

Q And Lines 8 through 201, Line 7.

THE COURT: Can you repeat those lines for me?

MR. MITCHELL: Yes, Your Honor. It's Page 200, actually, 5 through 201, Line 7. And this is the cross-examination of Matthew Bolen by Mr. Chesser.

THE WITNESS: Yes, sir. This is where Mr. Chesser is showing photographs of the jeans and he's having Matthew Bolen admit that those were his jeans.

BY MR. MITCHELL:

Q And he was, also, using defense exhibits during that cross-examination, correct?

A Correct.

Q So the photos of the jeans were exhibits that Mr. Chesser himself admitted at trial?

A That is correct.

MR. MITCHELL: Beg the Court's indulgence.

(Pause.)

BY MR. MITCHELL:

Q Deputy Solicitor Miller, would you flip to Page 240, please?

THE COORT: You said Page 340?

MR. MITCHELL: 240, Your Honor.

THE COURT: 240.

MR. MITCHELL: Yes, ma'am, Lines 6 through 18.

BY MR. MITCHELL:

Q And this is the cross-examination of Sterling Seals by Mr. Chesser?

A Yes, sir.

Q And so in that cross-examination, Mr. Chesser used Bolen's statement to Lieutenant Seals where he admitted to wearing pants?

A He did.

Q So Mr. Chesser was able to get the testimony that Bolen

was, in fact, wearing pants and not shorts in front of a jury; is that correct?

A That is correct.

Q And Deputy Solicitor Miller, would you turn to Page 2427

A Yes, sir.

Q And Lines 2 through 21. And this is still cross-examination of Sterling Seals by Mr. Chesser?

A Yes. He's talking about -- Mr. Chesser is questioning Seals about the blood spatter.

Q So, once again, this is information that Mr. Chesser was able to elicit and get in front of the jury?

A That is correct. And I'd note that in addition to that, there were photographs that Agent Seals said he wouldn't say anything about because it was outside his expertise. But he wouldn't say anything about the interpretation of the blood spatter or high velocity versus low velocity or anything along those lines.

They were photos and the photos spoke for themselves as far as what they were, but that was something that Mr. Chesser got into in his clothing, was the fact that there wasn't some blood spatter expert that was coming to testify. And, you know, that was how the State had failed to meet its burden of proof.

Q So Mr. Chesser did argue all this in closing as well?

A Absolutely.
Q And, actually, if you'll turn to Page 245.
A Yes, sir.
Q And Lines 7 through 19.
A Yes, sir.
Q So Mr. Chesser cross-examined Lieutenant Seals and asked him if Bolen hit Donna Dempsey in the head with this hammer, he would expect to have blood spatter on his jeans; would he not? And Sterling Seals said yes, correct?
A That is correct.
Q So, once again, this information was before the jury?
A Yes. And he, actually, went on there about asking him about the results of the examination on the jeans. And at Line 22, on Page 245, Lieutenant Seals answered, The jeans were not examined. Which again, was a part of his closing argument.
Q And in Mr. Chesser's closing argument, I believe you were referencing this, he argued that the lack of testing was negligence on the part of the State's investigation, therefore, absence of evidence is the same as reasonable doubt. Do you recall that?
A He may have used those words. I haven't read the complete cross-examine -- or excuse me, closing argument that Mr. Chesser did, but I do remember that that was a large part of his closing argument was the fact that well,

the State could have done this and they didn't do that, so don't reward them for not being as complete and as thorough as he said that we should have been -- or the investigation should have been.

MR. MITCHELL: And for the Court's reference, Your Honor, that was Page 334, the closing argument portion where Mr. Chesser is making that argument.

Beg the Court's indulgence, Your Honor.

(Pause.)

BY MR. MITCHELL:

Q And, finally, Mr. Miller, if you'll turn to Page 327.

A Yes, sir.

Q And Lines 9 through 17.

A Correct.

Q And that's Mr. Chesser's closing argument, correct?

A That is.

Q And he was arguing that the burnt tee shirt found in the tub was Matthew Bolen's tee shirt?

A Yes.

Q And he was arguing that because it was his tee shirt, he's the one that set the fire, not Mr. Buckmon, correct?

A That is correct.

Q And Mr. Miller, did you have any indication that Mr. Bolen was in a delusional state of mind when he was testifying?

A Oh, no, not at all.

Q And you, also, argued that Mr. Bolen's testimony fit more squarely with the evidence than any of the statements Mr. Buckmon gave?

A There was nothing about Bolen's testimony -- from my discussions with Lieutenant Seals, there was really nothing about Bolen's testimony that was contradicted by the evidence that they had.

Now, whether Mr. Bolen was hitting Donna Dempsey in the head or whether Mr. Buckmon was hitting Donna Dempsey in the head with the hammer, you know, obviously, the evidence couldn't tell us that because we didn't have the hammer, but the evidence was that somebody had used something with a blunt -- some sort of blunt object to hit Donna Dempsey in the head.

I mean, that's what I say by there was nothing in the evidence that contradicted his statements. There were a lot of statements -- a lot of evidence that they had that yeah, it was -- you know, like the testimony about the red shirt in the bathtub and trying to put out the fire, that kind of stuff, you know, that was evidence that they had. And there wasn't anything that they asked him that he explained in a way that contradicted what they had.

And his story -- if I recall correctly, his interview that he gave was very shortly after Michael Paul Buckmon had

been interviewed the first time. Then they interviewed Bolen. Then they interviewed Buckmon again and Buckmon's story changed and still wasn't consistent with some of the evidence that they had. And then there was the third statement. So I don't recall anything specific about the evidence that they had that they could go in and they can say clearly he's lying about this particular part of it.

But as far as, you know, identity, this person versus this person -- and that was the other thing, too. In Bolen's statement and, ultimately, I think in Buckmon's statement as well, they both got to this point of yeah, I was there and I did some things, but I was forced to do it by the other person because I was scared. Which is why during the closing argument in the case, we had the jury watching the video in the pawn shop. You know, ten hours after the incident, they're both laughing and joking and carrying in pieces of the drum kit out of the car and into the pawn shop. They're big old buddies.

According to both of their stories for more than a week after the murder happened, they were hanging out together up in Greenville. They were together. And, ultimately, I think that the story was that they had some kind of falling out and Matthew Bolen left Michael Paul Buckmon standing on the side of the road or drove away from him while he was in the store or something. But once they got separated, that

was more than a week after the crime had occurred.
Q And they were clearly pawning the stolen items from Ms. Dempsey's house, correct.
A Absolutely. There was a gigantic keyboard and I want to say it was a 14-piece drum set, including the stool. I mean, it was big drums, smaller drums, cymbals, stands, all of that stuff.
Q So, clearly, that's additional evidence outside of Bolen's testimony that implicates Mr. Buckmon in this crime?
A Absolutely.
MR. MITCHELL: Mr. Miller, I believe that's all I have for you.
THE COURT: Any redirect?
MS. MARTO: No further questions for this witness.
MR. MILLER: Thank you, Your Honor.
THE COURT: You're welcome.
Anything further?
MR. MITCHELL: No witnesses from the State.
THE COURT: Any rebuttal?
MS. MARTO: No, Your Honor.
THE COURT: All right. Be glad to hear argument.
MS. MARTO: Judge, we just request that you find Mr. Buckmon credible in his testimony today and grant relief on the allegations he's raised, take a close look at the transcript and make your own determination concerning

whether you think counsel was ineffective in this case.

Thank you.

THE COURT: Yes, sir.

MR. MITCHELL: Your Honor, the State submits that Mr. Buckmon has failed to meet his burden establishing Mr. Chesser was ineffective. The bulk of his allegations center around Mr. Chesser failing to cross-examine Bolen on the shirt, the jeans as well as the blood spatter. Through the testimony of Deputy Solicitor Miller, it's clear that the record refutes this.

Mr. Chesser did cross-examine Bolen on the jeans, actually, admitted as Defense Exhibits photographs of the jeans. He continued this into the cross-examination of Lieutenant Seals where he successfully elicited testimony from Lieutenant Seals that had the person wearing the jeans been the one that hit the victim with the hammer, you would expect blood on it.

Mr. Chesser argued all this in closing to argue -- he used the shirt to argue that Mr. Bolen was the one that set the fire. He used the jeans to show that he was the one that, actually, was the one that hit the victim.

And he used the lab and forensic testing to his advantage. He argued that the State was negligent in their investigation and that the absence of testing is akin to reasonable doubt for the jury to find Mr. Buckmon not

guilty.

Your Honor, in that same vein, Deputy Solicitor Miller gave a credible reason for why the jeans were not tested. There was no dispute that the victim's blood would have been on the jeans. That was not a fact that was at dispute at trial. Plus, any test result that would come back positive for the blood of the victim would be of no benefit to Mr. Buckmon.

Furthermore, there has been no production today or presentation today of what any testing would have shown. Therefore, any testing is pure speculation anyhow and, therefore, Mr. Buckmon can't prove prejudice as to that allegation.

The allegation that Mr. Buckmon was coerced into not testifying, Mr. Buckmon himself on the stand admitted that Mr. Chesser advised him that his prior charges would come in. Mr. Buckmon said that was one of the reasons why he did not testify. Mr. Buckmon's own statement to the Court at his trial where he gave his own reasons for not testifying in that he just really testified to statements that were already before the jury through the statements of law enforcement. Therefore, those are the reasons he did not testify.

The Judge gave him a thorough colloquy on his rights to testify. Mr. Buckmon freely and voluntarily waived that

right. Therefore, that allegation should, also, be denied.

Your Honor, as far as no evidence of CSC, Mr. Chesser made a directed verdict motion arguing that exact point, that the State did not present enough sufficient evidence of criminal sexual conduct. Mr. Miller in response to the motion and here today on the stand explained the evidence that the State had presented at trial regarding the CSC for Mr. Buckmon. The trial court denied that motion. Therefore, this isn't even a cognizable claim, this is a direct appeal issue because Mr. Chesser made that exact objection.

And Mr. Miller was, also, credible in his testimony that there was zero indication that Mr. Bolen was delusional at the time of his trial. Therefore, for those reasons, Your Honor, Mr. Buckmon's application for Post-Conviction Relief should be denied.

THE COURT: The Court finds the testimony of Attorney Miller, who was the prosecuting attorney in this case, wholly credible. Does not find Mr. Buckmon's testimony to be credible. I think he's testifying to what he perceives happened, which, you know, is not unreasonable. However, when the Court is judging testimony, it looks at what is empirical, that being what is objective because this Court does not have a side.

And what is empirical is the transcript. It is a

contemporaneous record of what took place during the course of this trial. And it is overwhelming in its breadth in terms of proof the State provided of Mr. Chesser's performance representing Mr. Buckmon. And it really flies in the face in terms of credibility of every allegation Mr. Buckmon has asserted today. Again, it is empirical in nature and it simply just not withstand the allegations that he's making.

And without belaboring the issue because I think the transcript really speaks for itself, I would just note a few things. One of which is the breadth of the cross-examination of Mr. Bolen that Mr. Chesser engaged in, which is found at Page 189, starting at Line 6 through Page 202, ending at Line 25. The directed verdict motion, which Mr. Buckmon claims his lawyer failed to make is thorough and that is at Page 308, Line 24 through Page 311, ending in Line 1.

Also, what is I think of note that no one really touched on, but in reading the transcript, I think is persuasive is many of the allegations that are asserted by Mr. Buckmon don't hold weight because his lawyer did, in fact, argue that his co-defendant --

THE APPLICANT: [Indiscernible].

THE COURT: Sir, don't speak when the Court is speaking.

That Mr. Bolen was the sole actor in this case. And what is persuasive is the fact that the Court instructed on the hand of one, which is accomplice liability. And that is really what militates the most against Mr. Buckmon's argument because it really doesn't matter whose blood was on the jeans, it doesn't matter who hit her. It really doesn't matter who committed the criminal sexual conduct.

What matters is the fact that this jury apparently found in light of Mr. Bolen's testimony and in light of the statements that were admitted as well as the video that has been admitted that these parties entered into a conspiracy to commit this offense and did, in fact, enter into whether it be a tacit agreement or an overt agreement to do what they did and the hand of one was the hand of all. That one did, the other did --

THE APPLICANT: I ain't [indiscernible].

THE COURT: And that is memorialized at Page 362, Lines 17 through Page 363, Line 10.

The Court gave more than appropriate instructions on arson, CSC as well as murder. This really comes down to a credibility contest, about who the jury believed. And that's really not the burden of proof when it comes to a PCR. What is considered by the Court is whether Mr. Chesser was a zealous advocate for his client. He doesn't have to be perfect. Hindsight is always perfect. There are always

things we would do differently and that is not the barometer. This record is overwhelming that Mr. Chesser did a zealous job in advocating and representing Mr. Buckmon.

And there is DNA testimony in this case, and that is at Page 306, Line 24, ending at -- no, actually, Page 268, Lines 6 through 21. I've got to make sure.

(Pause.)

THE APPLICANT: [Indiscernible].

THE COURT: And I think that -- and I'll come back to that in a moment. But what is important when we talk about Mr. Chesser's performance is -- and I agree with Mr. Miller, if he did -- he seized on an opportunity, which was arguing that the State had fallen short of a thorough investigation. That is not a novel theory. It is one that is often pursued by defense counsel and one that is, oftentimes, quite effective. Because in this day and age, the public, and rightfully so, expects a certain level of investigation in a case, especially when you're talking about someone's due process rights and especially when you're talking about the heightened burden of proof that the State must meet, which is beyond a reasonable doubt.

So it is not unreasonable for attorneys, for defense counsel to make an argument regarding that. And, again, having sat on the bench now for 30 years in total, 24 as a circuit judge, I've heard many arguments from defense

counsel regarding the thoroughness of an investigation and seizing on the most what would seem miniscule issue and being quite successful at it.

And I've read Mr. Chesser's closing argument. It was a very thorough closing argument and I really can find no deficiencies in his performance in that regard. And there was a great deal of testimony about, basically, my words, not theirs, the trajectory of where this blood spatter went, where it went. But, again, when you talk about the hand of one, hand of all, it really don't matter whose jeans the blood was on. But they argued all of that and, apparently, the jury just didn't buy it. The jury felt factually that -- they gave consideration to the charge as a whole.

Again, I agree with Mr. Miller, that they both tried to minimize how inculpatory their behavior was regarding this incident. And generally when that happens, the jury believes a little, they disregard a little, but at the end of the day, they just did not find Mr. Chesser's argument that his client was exculpated by the actions or behaviors of his co-defendant, in essence, credible or believable.

And so, again, without belaboring and going through all of the allegations, I think there's been more than -- detailed testimony regarding that, but I would just hit another few things.

Mr. Bolen was testified [sic] thoroughly, and that is

again at Page 189, Lines 16 through Page 202, Line 25. I think we've covered the blood spatter through Mr. Miller's testimony, which the Court has found credible.

The transcript mitigates against the argument that Mr. Chesser failed to properly cross-examine regarding why the blood was on Bolen. That was covered in his cross. And failure to cross-examine Bolen concerning prior inconsistent statements regarding the hammer and the shirt, I think the transcript does not support that argument.

There's no merit to his argument that somehow he was coerced out of testifying. The transcript simply doesn't bear that out. The Court clearly questioned him regarding his right to testify. And not only did he answer it yes or no, he annotated his answer by saying that, in essence, there's really nothing for me to add to this because they have my statements and I really don't want to run the risk of being cross-examined, which was a reasonable decision.

Most defendants, frankly, when -- unless there's self-defense or something else where there are no statements available, you have the right to remain silent. And the Court advises you, you should assert that right because you have absolutely no burden of proof in this case. And the State has the burden of proof. And they're going to be instructed that they can't hold that against you. There's no inference. You have no burden of proof. You don't even

have to talk during a trial. You can sit where you're sitting and you have no burden to prove anything.

Now, the other assertions really deal -- well, and he thoroughly argued the directed verdict. The Court just denied it. And I don't think he could have done any more than he did.

And any assertion to dismiss the CSC charge pretrial is just really unlikely that that ever would have happened. I don't know what basis it would have been on except some deficiency in the indictment. The indictment is a notice document. Even if it had been dismissed, they just would have directly indicted him because no Judge would have dismissed it with prejudice.

So it just really is speculative saying that somehow failing to move to dismiss the CSC charge, especially where there was an admission that it was consensual. And the State's argument was that she wasn't in a position to consent. It just becomes a factual dispute of which the jury, apparently, made their decision regarding where the facts were on that issue.

He, also, raises prosecutorial misconduct. Again, without belaboring that, these are all really factual issues. They are not -- you know, the State has a right to prove their case, to establish the elements beyond a reasonable doubt. And because you simply disagree with how

they made that presentation, that's not prosecutorial misconduct.

So without, again, belaboring the point or the issues, which I think have been thoroughly covered in the examination of the witnesses, the Court denies the application.

The State needs to provide the Court with a proposed order within ten days of today making any findings of facts and conclusions of law that are supported by the record. They, of course, will send a copy of that to Mr. Marto prior to -- at the same time it is submitted to the Court.

Thank you all very much. If you would wait for a moment, I've done a form order, a copy of which will be provided to you.

THE APPLICANT: Your Honor.

THE COURT: No, sir, I'm not answering any questions.

THE APPLICANT: You ain't got to, (indiscernible) fucking --

THE COURT: If you use an expletive in this court again, I'm going to find you direct contempt --

THE APPLICANT: I'm going to --

THE COURT: Bring it to a close, sir. The Court has been very tolerant. For you to use that type of language is just inappropriate.

THE APPLICANT: My --

THE COURT: Please remove him from the courtroom.

THE APPLICANT: [Indiscernible] and I appreciate you, Ms. Marto. You --

(WHEREUPON, the Applicant was removed from the courtroom.)

THE COURT: I really would prefer that y'all refer that to the Aiken County Sheriff's Office for threatening a public official. Because he threatened Ms. Marto, that's really an assault. He threatened the Court. I know you can't do anything more to him, but they, at least, need to send a forensic psychiatrist at the Department of Corrections to have a little visit with him. We need to make sure he's not a threat to the Court or a threat to -- I'm less concerned about me.

I'm used to being -- you know, somebody with a life sentence cussing at me, it's like water on a duck's back. I don't care about that. It doesn't hurt my feelings. But I'm concerned about Ms. Marto's safety and I don't want her feeling -- she's doing a public service. She was zealous in advocating for him, when I'm sure when she read this stuff felt there was no merit to it, but she did a great job anyway. And I don't want her walking around looking over her shoulder feeling like she's threatened and that somebody can hurt her.

So I need that investigated and I need the forensic

folk at SLED to go have a chat with him and make sure he's not a credible threat to her and her safety. And if y'all could handle that, I'd appreciate it.

MR. MILLER: We'll take care of that, Your Honor.

THE COURT: Thank you. I appreciate it, Mr. Miller. Y'all have a good day.

MR. MILLER: You too, Your Honor.

THE COURT: Thank you.

I look forward to getting those orders and we'll get it done.

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

I, PENNY M. JOHNSON, Official Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the hearing of the captioned case, relative to appeal, in the Court of Common Pleas for Aiken County, South Carolina, on the 17th day of December, 2026.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

June 7, 2026

Penny M. Johnson

Penny M. Johnson
Official Court Reporter

STATE OF SOUTH CAROLINA COUNTY OF BARNWELL	IN THE COURT OF COMMON PLEAS FOR THE SECOND JUDICIAL CIRCUIT
Michael P. Buckmon, # 235058, Applicant, v. State Of South Carolina, Respondent.	Case No.: 2019-CP-06-00126 **ORDER OF DISMISSAL**

FILED FOR RECORD
2026 MAR -4 PM 2:12
BARNWELL COUNTY, S.C.
CLERK OF COURT
BARNWELL COUNTY, S.C.

Presiding Judge:	Hon. Deadra L. Jefferson
Applicant's Attorney:	Chelsey F. Marto, Esq.
Respondent's Attorney:	T. Cruise Mitchell, Esq.
Date of Hearing:	December 16, 2025
Court Reporter	Penny Johnson

This matter is before the Court by way of an application for post-conviction relief (PCR) filed by Michael Paul Buckmon ("Applicant") on April 1, 2019, amended on January 26, 2022, and December 9, 2025. Respondent filed a Return and Motion for More Definite Statement on July 15, 2019. On December 17, 2025, an evidentiary hearing convened before this Court. Applicant was present and represented by Chelsey F. Marto, Esq. Assistant Attorney General T. Cruise Mitchell, Esq. represented the State. At the evidentiary hearing, testimony was taken from Applicant and Deputy Solicitor David W. Miller ("Solicitor Miller").[1] After hearing the testimony at the PCR hearing, and upon full review of the record, this Court finds Applicant did not meet his burden of proof. Accordingly, relief is Denied, and this application is Dismissed with Prejudice.

PROCEDURAL HISTORY

[1] The Court is advised by Respondent that Applicant's trial counsel, Michael Chesser, Esq., resigned as an active member of the SC Bar December 17, 2018, under Rule 409, SCACR. As a result, they were unable to procure his presence for the evidentiary hearing. The parties consented to going forward in Attorney Chesser's absence.

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Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Barnwell County Clerk of Court. Applicant was indicted for Murder[2] (Indictment No. 2016-GS-06-00210), Arson – First Degree with Death[3] (Indictment No. 2016-GS-06-00205), and Criminal Sexual Conduct – First Degree[4] (Indictment No. 2014-GS-06-00359). Applicant was represented by Michael Chesser, Esq. The case was prosecuted by Deputy Solicitor David Miller of the Second Circuit Solicitor's Office. On August 17-19, 2016, Applicant proceeded to a jury trial before the Honorable Doyet A. Early, III. Applicant was found guilty as indicted on all three (3) charges. Judge Early sentenced Applicant to the South Carolina Department of Corrections (SCDC) for a period of thirty (30) years for Criminal Sexual Conduct – First Degree, thirty (30) years for Arson – First Degree with Death, and life imprisonment for Murder. The sentences were concurrent. Judge Early gave the Applicant credit for time served pursuant to S.C. Code Ann. § 24-13-40 to be calculated and applied by the SCDC.

Applicant timely filed a notice of appeal. The appeal was perfected by Appellate Defender Susan B. Hackett. On July 25, 2017, an Anders brief was filed on behalf of Applicant. On February 13, 2018, the South Carolina Court of Appeals dismissed Applicant's appeal. The Remittitur was issued on March 1, 2019.

CURRENT APPLICATION

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully based on the following:

1. Ineffective Assistance of Counsel

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[2] The offense of murder is a violent, most serious offense, punishable by death, or mandatory minimum term of imprisonment for thirty years to life. S.C. Code Ann. §16-03-20.
[3] The offense of arson in the first degree is a violent, most serious offense, punishable by imprisonment not less than thirty years. S.C. Code Ann. § 16-11-0110(A).
[4] The offense of criminal sexual conduct in the first degree is a violent, most serious offense, punishable by imprisonment for not more than thirty years, according to the discretion of the court.

2/4/20

a. "Ineffective Assistance of Counsel, deficient performance...counsel fail[ed] to impeach, failed to object, failed to present evidence pertaining to my innocen[ce]."

2. Prosecutorial Misconduct
   a. "Prosecutor committing prosecutorial misconduct, using false or perjur[ed] testimony for conviction."
   b. Bad faith or prosecution team withheld evidence constituting violation, due process, violation of 14th Amendmen."
3. Newly Discovered Evidence

On January 26, 2022, Applicant, through then PCR counsel Nancy Fennell, Esq. filed an amended application raising the following additional allegations:

1. Ineffective Assistance of Counsel:
   a. Failing to obtain forensic testing of the t-shirt and jeans of co-defendant Bolen and for failing to pursue the issue of having the test results in order to use support Applicant's innocence.
   b. Failing to cross-examine witnesses regarding his perjury and failing to introduce evidence of co-defendant Bolen's videotape interview to cross-examine him. Counsel's failure to present the evidence of the prior interview for impeachment purposes regarding the arson charge was ineffective assistance of counsel. Counsel failed to introduce the evidence to show how co-defendant Bolen's prior statement reflected he did not see Applicant start a fire. This deficient performance was prejudicial to Applicant because Applicant's conviction was the result of allowing this perjury.
   c. Failing to obtain and use impeachment evidence related to co-defendant Bolen wearing the jeans on the night of the alleged crime. Counsel was ineffective for failing to use the evidence related to the t-shirt with blood and the burning of the t-shirt to impeach co-defendant Bolen's testimony.
   d. Failing to have blood splatter analysis determination done to use to impeach co-defendant Bolen's testimony regarding where Applicant was standing when the hammer was used to strike the victim. Counsel's defective performance in this regard prejudiced Applicant because the reports indicate no blood splatter was found by the back door where co-defendant Bolen stated he was standing. Counsel was ineffective for failing to obtain expert testimony on this issue to use for impeachment and in support of Applicant's innocence.
   e. Failing to cross-examine co-defendant Bolen on whether he was offered any type of deal for providing testimony.
2. Prosecutorial Misconduct
   a. Fourteenth Amendment violation for withheld evidence relating to the test results and blood analyst determination of the blood splatter found on co-defendant bolen. Such evidence would have been favorable to Applicant. Prosecutor withheld the evidence, intentionally depriving Applicant of the use of the evidence in his criminal trial in bad faith.

b. Allowing and using perjured testimony to obtain a conviction.

On December 9, 2025, Applicant, through PCR counsel Chelsey F. Marto, filed an amended application raising the following additional allegations:

1. Ineffective assistance of counsel for:
    a. Failure to investigate and test the co-defendant's shirt and jeans.
    b. Failure to move to have Bolen's testimony excluded because he was in a delusional state of mind.
    c. Failure to properly cross-examine witnesses.
        i. Failure to properly cross-examine Bolen.
            1. Failure to use his first statement against him to show that the allegation that he saw Applicant start the fire was not in the initial statement.
            2. Failure to use the bloody and burned shirt was impeachment evidence.
            3. Failure to cross-examine Bolen about how he was the one wearing jeans.
            4. Failure to cross-examine Bolen about promises made in exchange for testifying.
            5. Failure to argue that Bolen's assertion of where Applicant was standing was incorrect based on the blood splatter.
            6. Failure to properly cross-examine regarding why the blood was on Bolen.
            7. Failure to cross-examine Bolen concerning prior inconsistent statements regarding the hammer and shirt.
    d. Coerced Applicant out of testifying.
    e. Failure to move to dismiss the CSC charge pre-trial and to properly argue that no evidence was presented of the CSC charge on directed verdict.
2. Prosecutorial misconduct for:
    a. Putting forward false and misleading testimony through Bolen's testimony, which was ripe with inconsistencies to improperly frame Applicant for a crime he did not commit.
    b. For improperly suppressing the test results on the clothing or otherwise failing to wait for test results to come back before taking the case to trial.

At the evidentiary hearing, Applicant only proceeded on the allegations raised in his amended application filed December 9, 2025.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Before this Court are the Barnwell County Clerk of Court records regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's records from his direct appeal, and the records of the current PCR action.

This Court has had the opportunity to review the trial transcript in its entirety and heard the testimony at the PCR hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. After a careful review based on the Strickland standard set forth below, this Court finds Applicant has failed to carry his burden of proof. Below are this Court's findings of facts and conclusions of law as required by S.C. Code Ann. § 17-27-80.

Ineffective Assistance of Counsel, Generally

In a PCR action, Applicant bears the burden of proving the allegations in his application by a preponderance of the evidence. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985); Rule 71.1(e), SCRCP. Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. First, Applicant must prove that counsel's performance was deficient. Strickland, 466 U.S. at 687; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442,

334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). "When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect." Yarborough v. Gentry, 540 U.S. 1, 5 (2003) (citing Strickland, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. Cullen v. Pinholster, 563 U.S. 170, 196 (2011); Harrington v. Richter, 562 U.S. 86, 109–10 (2011). "[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight." Yarborough, 540 U.S. at 6; see also Murphy v. Davis, 901 F.3d 578, 592 (5th Cir. 2018) ("[C]ounsel's performance need not be optimal to be reasonable.").

Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117–18, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 694). "This does not require a showing that counsel's actions 'more likely than not altered the outcome,' but the difference between Strickland's prejudice standard and a more-probable-than-not standard is slight and matters 'only in the rarest case.'" Harrington, 562 U.S. at 111-12 (quoting Strickland, 466 U.S. at 697). "The likelihood of a different result must be substantial, not just conceivable." Id. at 112.

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. Strickland, 466 U.S. at 696. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is

easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Id. at 696-97.

Counsel's Failure to Investigate and Test Co-Defendant's Shirt and Jeans, and Prosecutorial Misconduct

Applicant contends Counsel was ineffective for failing to investigate and test co-defendant Bolen's shirt and jeans. Applicant further contends the prosecutor engaged in misconduct for puting forth false and misleading testimony through Bolen and for improperly suppressing these test results or otherwise failing to wait for the test results to come back before taking the case to trial). This Court finds these allegations are without merit.

At the evidentiary hearing, Applicant testified the blood on co-defendant Bolen's shirt and jeans should have been tested by law enforcement. Applicant believes this test would demonstrate that his co-defendant committed the crime. Solicitor Miller testified they did not have the shirt and jeans tested because they were not determinative of any issue in the case and of little evidentiary value as it was uncontroverted the blood belonged to the victim. Solicitor Miller explained that Applicant hit the victim with a hammer and there was blood everywhere which was corroborated by photographs introduced at trial. Solicitor Miller testified that the trial transcript reflects that Counsel argued in closing that the lack of testing shows an inadequate investigation by the State. Moreover, counsel further argued the location of blood splatter on the co-defendant Bolen's closing as well as his t-shirt in the burnt tub as lack of the Applicant's culpability in the crime. (Tr. 245:7-19. 334; 327:9-17).

This Court finds Counsel was not ineffective for failing to test co-defendant's shirt and jeans. This Court finds it was not unreasonable for Counsel not to independently test the blood on Bolen's jeans and shirt. As Solicitor Miller credibly testified, there was no dispute that the blood on Bolen's clothing belonged to the victim. Furthermore, Counsel effectively utilized the absence

of forensic testing in his closing argument. During his closing, Counsel argued the following regarding the lack of testing:

> This is Matthew Bolen's shirt that he took into the bathroom of Donna Dempsey's house and attempted to burn in the bathtub. It was retrieved from the bathtub. Again, the color. Also, this is something that for whatever reason SLED chose not to test for blood.

(R. 325).

At the end of closing, Counsel finishes his argument with the following:

> I submit to you that Bolen had blood on jeans and on his shirt. He denied wearing his jeans on the stand. He wanted to put those jeans away from him, but Agent Seals had testified that he had earlier stated that he did have on pants or jeans and not those red shorts that you see in the photo. Agent Seal testified to that.
>
> I submit to you that as jurors you in effect have a right to forensic evidence if it's out there. In other words, Dr. Ross testified that she took sperm and DNA type of samples. In other words, she took samples from Donna Dempsey and sent them off for analysis. And yet, there is not testimony of DNA or sperm results.
>
> There's no blood splatter analysis. Agent Seals testified that there were various locations of suspected blood splatter, pictures taken and so on, and no analysis. That is inexplicable. There is, of course, no analysis on Bolen's jeans with what would appear to be blood splatter.
>
> I ask you to require that evidence and the absence of that evidence in the presence of reasonable doubt. I ask you to find Michael Paul Buckmon not guilty. Thank you.

(R. 333–334).[5]

This Court finds trial Counsel seized the opportunity to argue the State's investigation was inadequate. Considering the totality of the record and testimony in this proceeding had forensic testing been conducted on the clothing, Counsel would have lost the viability of this argument as

[5] Applicant testified that sex with the victim was "consensual" and that he had admitted same pretrial. The trial testimony reflects that both the Applicant and Bolen engaged in sex with the victim who was "passed out" from the injury inflicted by the hammer and incapable of "consent." The testimony further reflects that Bolen walked in in on the Applicant having sex with the victim.

trial. Therefore, Counsel was not deficient for failing to investigate and test co-defendant Bolen's clothing.

Similarly, this Court finds Solicitor Miller did not engage in prosecutorial misconduct regarding the testing of Bolen's clothing. Solicitor Miller credibly testified that there was no reason to have the clothing tested as there was no dispute that it was the victim's blood on Bolen's clothing. This Court further finds Solicitor Miller did not engage in prosecutorial misconduct by presenting the testimony of Applicant's co-defendant Bolen. Solicitors have the right to prosecute their cases as they see fit. See Terry v. State, 394 S.C. 62, 714 S.E.2d 326 (2011) (holding that prosecutor's decision not to introduce during guilt phase defendant's inculpatory statements to police officer was matter of prosecutorial discretion and strategy, and not prosecutorial misconduct.); see also Old Chief v. U.S., 519 U.S. 172, 117 S.Ct. 644, 136 L.Ed.2d 574 (1997) (it is "unquestionably true as a general matter" that "the prosecution is entitled to prove its case by evidence of its own choice..."). The believability of a witness is for a jury to determine and does not go to admissibility of a witness's testimony.

Further, Applicant has failed to prove he was prejudiced by this lack of testing. He has offered no credible evidence that additional testing of Bolen's clothing would have been favorable to his defense and altered the trial result, relying instead on mere speculation. It was not in dispute that it was the victim's blood on Bolen's clothing. Applicant asserts that such testing would have shown that Bolen was the individual who delivered the fatal blow. However, the State prosecuted this case under an accomplice liability theory, making it irrelevant who actually struck the victim with the hammer. Moreover, blood splatter on Bolen's clothing would not be determinative of who struck the fatal blow. There is ample evidence in the record to support the conclusion that the jury

clearly found that Applicant and Bolen were acting in concert with one another. Therefore, Applicant has failed to prove he was prejudiced as to this allegation.

Accordingly, this Court finds these allegations are Denied.

Counsel's Failure to Move to Have Bolen's Testimony Excluded Because He was in a Delusional State of Mind.

Applicant contends Counsel was ineffective for failing to move to have Bolen's testimony excluded because he was in a delusional state of mind. This Court finds this allegation is without merit.

At the evidentiary hearing, Applicant testified that Bolen admitted in his interview with SLED that he was in a delusional state of mind due to being high on drugs. He also asserts Bolen was delusional when testifying. Solicitor Miller testified there was no indication Bolen was in a delusional state of mind at the time of trial. He further testified that there was no indication that Bolen was not in his "right mind" at trial. Solicitor Miller explained that there was nothing in Bolen's testimony that was contradicted by the evidence.

This Court finds Counsel was not ineffective for failing to object to Bolen's testimony on the basis that he was in a delusional state of mind. Applicant has failed to present any credible evidence that Bolen was delusional at the time of trial. Solicitor Miller credibly testified that there was zero indication he was delusional at the time of trial. Furthermore, this goes to credibility of a witness which is a jury question. There is no indication in the trial record supporting the assertion that any objection on this basis would have been sustained.

Accordingly, this Court finds this allegation is Denied.

Counsel's Failure to Properly Cross-Examine Co-Defendant: Clothing and Blood Splatter Evidence to Impeach Testimony

 10/29

Applicant makes various allegations that Counsel was ineffective for failing to properly cross-examine co-defendant Bolen. This Court finds the record clearly refutes these allegations. Applicant contends Counsel was ineffective for failing to impeach Bolen using Bolen's shirt and jeans. Additionally, Applicant argues the blood splatter showed that Bolen committed the crime. This Court finds the record clearly refutes this allegation.

At the evidentiary hearing, Applicant testified that Counsel's cross-examination of Bolen was very poor. Applicant explained that Counsel failed to cross-examine Bolen regarding who set the fire. Applicant testified Counsel should have impeached Bolen using the bloody and burnt shirt. Applicant further testified Counsel should have used blood splatter evidence to demonstrate that Bolen committed the crime and not him. Applicant further testified Bolen lied about not having pants on the night of the murder and Counsel should have used this to impeach him. Solicitor Miller testified to various points in the transcript, discussed below, that refute these allegations.

At Applicant's trial, Counsel cross-examined Bolen concerning his inconsistent statements to law enforcement, including whether he provided the hammer to Applicant.[6] During that questioning, Bolen admitted that he told law enforcement one version of events and testified differently at trial. (R. 193). Counsel further cross-examined Bolen regarding his clothing on the night of the murder and introduced a photograph taken that day showing Bolen wearing a red shirt. (Defense Ex. 19; R. 195).

Counsel cross-examined Agent Seals extensively regarding the jeans, the shirt, and the significance of the blood splatter, including whether striking the victim with a hammer would result in blood on the jeans. (R. 241–246). Counsel additionally cross-examined Agent Seals regarding the burned shirt found in the hallway bathroom and established that the shirt belonged

[6] Bolen's cross examination is at R. 189, l:16 to 202, l:25

to Bolen. (R. 241). Counsel relied on the admitted exhibits depicting the shirt and jeans during this line of questioning.

Finally, Counsel argued these points extensively in closing asserting that Bolen burned his shirt, that he initiated the fire, and that the blood found on Bolen's clothing was consistent with the blood splatter discovered at the crime scene. (R. 324-327, 333).

In light of the foregoing, this Court finds the record clearly demonstrates that trial counsel thoroughly cross-examined Bolen and other witnesses regarding the very issues Applicant now asserts. Accordingly, this Court finds Counsel was not deficient in his cross-examination of Bolen.

Further, Applicant has failed to establish prejudice resulting from any alleged deficiency in Counsel's cross-examination of Bolen. As noted previously, the State prosecuted this case under a theory of accomplice liability. Applicant testified that he was "merely present" and there was nothing he could have done. Accordingly, even if the jury believed Bolen was the principal actor, Applicant nevertheless could have been found guilty as an accomplice. Therefore, Applicant has failed to demonstrate a reasonable probability the outcome at trial would have been different had Counsel further cross-examined Bolen.

Counsel's Failure to Properly Cross-Examine Co-Defendant: Bolen Wearing the Jeans

Applicant further contends Counsel was ineffective for failing to cross-examine Bolen about how he was the one wearing jeans. This Court finds this allegation is without merit.

At Applicant's trial, Counsel engaged in the following exchange with Bolen on cross-examination:

Q. So at some point you changed these red shorts for a pair of blue jeans, right?

A. No.

Q. Is it your testimony here then that you were not wearing blue jeans on that Halloween night over at Donna Dempsey's?

A. Not that I remember, no.

Q. So you don't remember what you were wearing?

A. Red shorts, as far as I can recall.

(R. 196). Applicant then admitted into evidence four photographs of Bolen's jeans found in his vehicle. (R. 199–201).

During the cross-examination of Agent Seals, the following exchange occurred:

Q. Okay. Now, you had occasion to interview Matthew Bolen, right?

A. That is correct.

Q. And that was - - actually, I believe it was November 12th and 13th?

A. November 12th.

Q. Okay. Do you recall that he told you that he was wearing pants at the time that he was at Donna Dempsey's house?

A. I can't recall if he said that or not.

Q. Can I show you something and have you take a look at it?

A. Yes, you can.

Q. I'll show you that. (Tenders document to witness.)
Having seen that, Agent Seals, does it refresh your recollection?

A. Yes sir.
Ladies and Gentlemen of the jury, what has been presented to me is a copy of my report. It's page 24 and it's a part where I'm referencing the interview with Bolen.

Q. Okay. And you indicate that your understanding was he was wearing pants at this time when he was at Donna Dempsey's, correct?

A. That's correct.

 130 20

Q. All right. Thank you.

(R. 295–296).

Counsel clearly attempted to elicit testimony from Bolen that he was wearing jeans on the night of the murder. Counsel also introduced into evidence four (4) photographs of jeans found in Bolen's vehicle, which Bolen admitted belonged to him. The clear purpose of the evidence was to show the jury that these were the pants Bolen was wearing on the night of the murder. Rather than confronting Bolen directly with his prior inconsistent statement, Counsel instead elicited testimony concerning the statement during his cross-examination of Agent Seals. This Court finds Counsel's approach objectively reasonable. Therefore, Counsel was not deficient for failing to further cross-examine Bolen on this inconsistency. Furthermore, as the prior inconsistent statement was presented to the jury through the cross-examination of Agent Seals, Applicant has failed to prove he was prejudiced.

Accordingly, this Court finds this allegation is Denied.

Counsel's Failure to Properly Cross-Examine Co-Defendant: Promises Made in Exchange for Testifying

Applicant contends Counsel was ineffective for failing to cross-examine Bolen regarding promises made in exchange for his testimony. This Court finds this allegation is without merit.

At the evidentiary hearing, Applicant testified that he and Bolen were both offered thirty (30) -year plea deals. Applicant testified Counsel should have cross-examined Bolen regarding this deal to impeach his credibility. Solicitor Miller testified he made absolutely no promises or plea deal to Bolen in exchange for his testimony. Solicitor Miller explained that there was never a plea offer made to Bolen or Applicant prior to trial. Moreover, he testified that he never made an offer to the Applicant in exchange for his trial testimony because Applicant lacked "credibility" as he had already given three (3) different versions of the events.

During the cross-examination of Bolen, Counsel elicited the following testimony:

Q. In this case here you're charged with murder; isn't that correct?

A. Yes, sir.

Q. And you're charged with arson in the first degree?

A. Yes, sir.

Q. On the murder charge you understand that you're facing 30 years to life?

A. Yes, sir.

Q. Day for day?

A. Yes, sir.

Q. And if you get life you come out of prison in a box, right?

A. Yes, sir.

Q. And you understand on the arson first you're looking at 30 years?

A. Yes, sir.

Q. And of those 30 whatever you get -- well, actually of the 30 you'd do 85 percent of those. You understand that?

A. Yes, sir.

Q. So you're here to help yourself, right?

A. Yes, sir.

(R. 191–192).

This Court finds Solicitor Miller's testimony credible on this issue and finds the Applicant's testimony lacks credibility. Based on Solicitor Miller's testimony this Court finds that no plea offer was made to Bolen prior to trial in exchange for his testimony. Accordingly, there was no agreement on which Counsel could have cross-examined Bolen. Therefore, this Court finds Counsel was not deficient for failing to cross-examine Bolen regarding alleged promises in

exchange for his testimony. Further, the record demonstrates that Counsel did effectively cross-examine Bolen concerning his pending charges and the potential sentences he faced, and successfully elicited testimony that Bolen was testifying in an effort to benefit himself on those charges. Thus, this Court finds Applicant has failed to meet his burden establishing ineffective assistance of counsel as to this allegation.

Accordingly, this Court finds this allegation is Denied.

Counsel's Failure to Properly Cross-Examine Co-Defendant; Bolen's Prior Inconsistent Statements Regarding the Hammer

Applicant contends Counsel was ineffective for failing to cross-examine Bolen concerning prior inconsistent statements regarding the hammer. This Court finds the record directly refutes this allegation.

At Applicant's trial, Counsel directly cross-examined Bolen concerning his inconsistent statements about whether he provided the hammer to Applicant. During that questioning, Bolen admitted he told law enforcement one version of events and testified differently at trial. (R. 193). Therefore, this Court finds Counsel was not deficient for failing to cross-examine Bolen on this issue.

Accordingly, this Court finds this allegation is Denied.

Counsel Coerced Applicant out of Testifying

Applicant contends Counsel was ineffective for coercing Applicant out of testifying. This Court finds this allegation is without merit.

At the evidentiary hearing, Applicant testified that Counsel talked him out of testifying because of his prior convictions. Applicant further testified that his attorney "scared" him out of testifying. Applicant asserts his testimony would have been that Bolen committed the crime. Applicant testified that he was advised of his right to testify, and he informed the trial court he did

not wish to. Applicant testified his testimony at trial would have been the same as his statements made to law enforcement, which were already before the jury.

Applicant's assertions regarding his right to testify are not supported by the record. At his trial, Applicant was advised of his right to testify in a colloquy with the trial court. (R. 311). After being advised of his rights, Applicant stated the following to the trial court:

> The Court: Sir, you're not here to ask questions. I'm asking you about your right to remain silent. You want to testify or not?
>
> The Defendant: No. They pretty much read what I was stating so there's no reason for me to testify.
>
> The Court: And obviously - - I'm not cutting you off but your lawyers have the right to argue all the points you're making about the inferences that they can draw from what Mr. Bolen testified about and what he didn't testify about. If they believe him and what he said, that would be enough evidence to convict you. If they don't believe him - - I don't know how they're going to read you - - and take your statement. They - - that's why we have jurors to determine what the true facts are. I don't make that decision.
>
> The Defendant: I mean, if I testify it's still dealing with what they seen on the videos. It's the same thing.
>
> The Court: That's a decision you have to make.
>
> Mr. Chesser: Me and you have made a decision. We've thought about it. He just wants to know you understand your rights.
>
> The Defendant: Yes, sir.
>
> Mr. Chesser: And we've talked about it.
> Your Honor, he indicates that he does not wish to testify.
>
> The Court: Is that correct, sir?
>
> The Defendant: Yes, sir.

(R. 312–313).

The record clearly demonstrates Applicant was properly advised of his right to testify and voluntarily elected not to do so. Applicant's testimony at the evidentiary hearing, as well as his

statements to the trial court, further establish that his decision was based on his prior criminal record, and that his trial testimony would have been consistent with his prior statements to law enforcement, which were already before the jury. Additionally, Counsel informed the trial court that he discussed the decision with Applicant and that, following the discussion, Applicant decided he did not wish to testify. Thus, this Court finds the record amply supports that Applicant articulated a reasonable basis for waiving his right to testify and that his decision was made knowingly, freely, voluntarily and not the result of any coercion by Counsel.

Furthermore, this Court finds Applicant has failed to demonstrate that he was prejudiced by his decision not to testify. As noted above, Applicant explained that his proposed testimony would have been consistent with his prior statements to law enforcement, which were already before the jury. Had Applicant testified, he would have merely offered the same account, while also subjecting himself to impeachment based on his prior inconsistent statements and prior convictions. Thus, Applicant has failed to demonstrate a reasonable probability the outcome of the trial would have been different had he testified.

Accordingly, this Court find this allegation is Denied.

Counsel's Failure to Properly Argue There was No Evidence of CSC

Applicant contends Counsel was ineffective for failing to move to dismiss the criminal sexual conduct (CSC) charge prior to trial and failing to properly argue there was no evidence of CSC charge on directed verdict. This Court finds this allegation is without merit.

At Applicant's trial, Counsel moved for a directed verdict on the basis of no direct and no substantial circumstantial evidence or indirect evidence such that a jury could reasonably find that he is guilty of these three (3) charges. In response, Solicitor Miller summarized the evidence the

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State presented in support of the CSC charge. (R. 308–310). The trial court then denied Counsel's motion, finding that sufficient direct and or substantial circumstantial evidence had been presented for the charge to be submitted to the jury. (R. 310–311).

The record clearly reflects that Counsel moved for a directed verdict on the ground that the evidence was insufficient to support the CSC charge. Therefore, this Court finds Counsel was not deficient. Further, this Court finds that the record does not support nor was any evidence presented during this hearing that any attempt to dismiss the CSC charge prior to trial would have been successful.

Accordingly, this Court finds this allegation is Denied.

CONCLUSION

Based on the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant relief. Thus, this application is denied and dismissed with prejudice.

Should Applicant wish to secure appellate review, he must file and serve a notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an applicant has the right to an appellate counsel's assistance in seeking review of the denial of PCR. Pursuant to Rule 71.1(g), SCRCP, if an applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on applicant's behalf. Attention is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED, AJUDGED, AND DECREED that Applicant's application for PCR is Denied and Dismissed with Prejudice; and Applicant must remain in the custody of the State.

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IT IS SO ORDERED.

Hon. Derek L. Jefferson
Presiding Judge
Second Judicial Circuit

February 17, 2026
Charleston, South Carolina
At Chambers

WITNESSES

State Law Enforcement Division

Sterling Seals

Law Enforcement Case #: 35-13-0106

DWL

ARREST WARRANT NUMBER

16-0106-0008

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date: July 14, 2016

VERDICT

Guilty

Foreperson of Petit Jury
Date: 12-15-16

DOCKET NO. 2016GS0600210

The State of South Carolina

County of Barnwell

COURT OF GENERAL SESSIONS

JULY TERM 2016

THE STATE
vs.

MICHAEL PAUL BUCKMON

CDR #: 0116

Indictment for

MURDER

§ 16-03-0010

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR MURDER
COUNTY OF BARNWELL	)	§ 16-03-0010

At a Court of General Sessions, convened on July 18, 2016, the Grand Jurors of Barnwell County present upon their oath:

That **MICHAEL PAUL BUCKMON**, along with another, did in Barnwell County on or about November 1, 2013, feloniously, wilfully and with malice aforethought, murder Donna Dempsey by means of incapacitating her before setting her residence on fire, and that the victim did die in Barnwell County at [redacted] Berry Street, Barnwell, South Carolina as a proximate result thereof on November 1, 2013. All in violation of Section 16-3-10 of the South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

David W. Miller

J. STROM THURMOND, SOLICITOR

WITNESSES

State Law Enforcement Division

Sterling Seals

Law Enforcement Case #: 35-13-0106

JWH

ARREST WARRANT NUMBER

2013A0620100361

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: November 13, 2014

VERDICT

Guilty

Foreperson of Petit Jury
Date: 12-19-14

DOCKET NO. 2014GS0600359

The State of South Carolina

County of Barnwell

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2014

THE STATE

vs.

MICHAEL PAUL BUCKMON

CDR #: 0160

Indictment for

CRIMINAL SEXUAL CONDUCT

§ 16-03-0652

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	CRIMINAL SEXUAL CONDUCT
COUNTY OF BARNWELL	)	
	)	§ 16-03-0652

At a Court of General Sessions, convened on November 17, 2014, the Grand Jurors of Barnwell County present upon their oath:

That **MICHAEL PAUL BUCKMON**, did between October 31, 2013 and November 1, 2013, in Barnwell County, South Carolina commit the crime of Criminal Sexual Conduct In The First Degree, in that the Defendant did commit a sexual battery, to wit: oral, vaginal and/or anal intercourse, upon and with the body of Donna Dempsey. Such sexual battery was accomplished by the use of force of a high and aggravated nature and/or the victim submitted to the sexual battery under circumstances where she was also the victim of forcible confinement, kidnapping, robbery, extortion, or burglary. All in violation of §16-3-652 Code of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

J. STROM THURMOND, SOLICITOR

WITNESSES

State Law Enforcement Division

Sterling Seals

Law Enforcement Case #: 35-13-0106

DWM

ARREST WARRANT NUMBER

16-DI06-0007

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: July 14, 2016

VERDICT

Guilty

Foreperson of Petit Jury

Date: 10-19-16

DOCKET NO. 2016GS0600205

The State of South Carolina

County of Barnwell

COURT OF GENERAL SESSIONS

JULY TERM 2016

THE STATE

vs.

MICHAEL PAUL BUCKMON

CDR #: 3535

Indictment for

ARSON FIRST DEGREE

§ 16-11-110(A)

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	ARSON FIRST DEGREE
COUNTY OF BARNWELL	)	
	)	§ 16-11-110(A)

At a Court of General Sessions, convened on July 18, 2016, the Grand Jurors of Barnwell County present upon their oath:

That **MICHAEL PAUL BUCKMON**, along with another, did in Barnwell County on or between October 31, 2013 and November 1, 2013, willfully and maliciously set fire to, burn, or cause to be burned, or did aid, counsel, or procure a burning that resulted in damage to a dwelling house, building, or structure, which resulted, either directly or indirectly in the death of Donna Dempsey, in violation of Section 16-11-110(A) of the South Carolina Code of Laws (1976 as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF Barnwell)
STATE VS.)
Michael Paul Dickinson)
AKA:)
Race: Black Sex: M Age: 39)
DOB: [redacted]-1977 SS#: [redacted])
Address: [redacted] Tryon St Apt [redacted])
City,State,Zip: [redacted] SC 29150-7210)
DL#: [redacted] SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS 483

INDICTMENT/CASE#: 2016GS0600210
A/W#: 16-0106-0008
Date of Offense: 11/1/2013
S.C. Code § : 16-03-0010; 16-03-0020
CDR Code #: 0116

SENTENCE SHEET
30-life

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Murder / Murder

in violation of § 16-03-0010; 16-03-0020 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC violator 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Miller, David Warren SC Bar# 100563 Defendant Attorney for Defendant SC Bar# 12112

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of Life imprisonment/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment of $ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Ordered ☐ Def. Waives Hearing ☐ Ordered
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessment 107.5 %)		$
§ 14-1-211(A)(1) (Corr. Surcharge)	$100	$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 61.6 (Public Def/Probation)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 56-21-114(B)(1) Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$60/ea	$
3% to County (if paid in installments)		$ 3.75
TOTAL		$ 128.75

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires $500 be paid to Clerk during probation and shall be collected before any other fee.

Clerk of Court Deputy Clerk: L Dawson H Ritchie
Court Reporter: Bethanie Carpenter
Presiding Judge: M Eargle
Judge Code: 213
Sentence Date: Oct. 19, 2016

SCCA217 (07/2010)

STATE OF SOUTH CAROLINA)
COUNTY OF Barnwell)
STATE VS.)
Michael Paul Buckner)
AKA:)
Race: Black Sex: M Age: 39)
DOB: [redacted] 1977 SS#: [redacted])
Address: [redacted] Tryon St Apt [redacted])
City,State,Zip: Sumter, SC 29150-7210)
DL#: [redacted] SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS06000359
A/W#: 2013A0620100081
Date of Offense: 11/1/2013
S.C. Code §: 16-03-0652
CDR Code #: 0160

SENTENCE SHEET
≤ 30 years

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Sex / Criminal sexual conduct - First degree

in violation of § 16-03-0652 of the S.C. Code of Laws, bearing CDR Code # 0160
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [signature] 18553 _____ [signature] 1312
Miller, David Warren SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment of $ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 16-65-06-210
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Ordered ☐ Def. Waives Hearing ☐ Ordered
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

*Fine:		$
§ 14-1-206 (Assessment 107.5%)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 61.6 (Public Def/Probation)	$500	$
§ 14-1-213 (Law Enforc. Funding)	$25	$ 25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 56-21-114(DUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$400ea	$
3% to County (If paid in installments)		$ 3.75
TOTAL		$ 128.75

☐ Appointed PD or appointed other counsel. Proviso 61.6 requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk: [signature]
Court Reporter: Bethanie Coppage
Presiding Judge: [signature]
Judge Code: 06
Sentence Date: Dec. 18, 2015

SCCA/217 (07/2016)

STATE OF SOUTH CAROLINA)
COUNTY OF Barnwell)
STATE VS.)
Michael Paul Stuckness)
AKA:)
Race: Black Sex: M Age: 39)
DOB: [redacted]1977 SS#[redacted])
Address: [redacted] Tryon St Apt [redacted])
City,State,Zip: Sumter, SC 29150-7210)
DL#: [redacted] SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS0600205
A/W#: 16-D06-0007
Date of Offense: 11/1/2013
S.C. Code § : 16-11-110(A)
CDR Code #: 3535

SENTENCE SHEET

30 yrs DSS

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Arson-First Degree with death

In violation of § 16-11-110(A) of the S.C. Code of Laws, bearing CDR Code # 3535
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (de Radiant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [signature] 69525 _____ [signature] 17112
Miller, David Warren SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment
of $ _____: plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 16-GS-06-210
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 61.6 (Public Def/Restitution)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 56-21-114(DUI Breath Test Fee)	$50	$
§ 56-5-2943(I) (Vehicle Assessment)	$40/ea	$
3% to County (If paid in installments)		$ 3.75
TOTAL		$ 128.75

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires $500 be paid to Clerk during probation and shall be collected before any other fine.

Clerk of Court/ Deputy Clerk: Shaquan M. Robbie
Court Reporter: Barbara Crapps
Presiding Judge: [signature]
Judge Code: 0136
Sentence Date: 12-19-16

3CCA/217 (07/2016)