

**STATE OF SOUTH CAROLINA
In The Supreme Court**

**APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas**

RECEIVED

J. Derham Cole, Circuit Court Judge

JAN 21 2014

S.C. Supreme Court

Appellate Case No. 2013-001772

ISAIAH WALKER, 322149,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

**APPENDIX
TO
PETITION FOR WRIT OF CERTIORARI**

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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

HONORABLE ROGER L. COUCH

Case No: 2007-GS-42-625

STATE OF SOUTH CAROLINA,

RESPONDENT,

against

ISAIAH WALKER,

APPELLANT.

RECORD ON APPEAL

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1 Q. Were you able to get a DNA profile from these items?

2 A. Let's see.

3 (Brief pause while witness reviews document.)

4 A. Yes, I was. The partial DNA profile developed, from
5 combined items 1.1 and 4.1, which was the swabs from the
6 casings in the car, were a mixture. But it was insufficient
7 for reliable interpretation.

8 And all that means is that there is -- there's so little
9 DNA there that I can't really say anything conclusive about it
10 at all.

11 And the partial DNA profile developed from combined items
12 15.1 and 16.1, was also determined to be insufficient for
13 reliable interpretation.

14 Q. Okay. So, there was some DNA there, just not enough for
15 you to analyze?

16 A. That's correct, not for me to draw any conclusions.

17 Q. All right. Let me ask you just a few more questions, and
18 I'm going to sit down. How would I leave DNA behind?

19 A. How would you ---

20 Q. How -- I mean, if I -- if I -- if I touch this bench ---

21 A. Yes.

22 Q. --- (demonstrates), could I leave DNA?

23 A. Possibly, yes.

24 Q. How else may I -- well, where do you find DNA?

25 A. You can find DNA in a number of places. DNA is in all of

1 your body fluids; blood, saliva, semen. So, if you leave any
2 of those behind, if you spit, there's skin cells generally in
3 your spit, and so, you could get it from that.

4 If you wear clothing you can leave it behind. Your
5 constantly shedding skin cells and it gets caught up in the
6 fabric. So, there's just -- there's a number of ways that you
7 can leave DNA behind.

8 Q. Can I get it by sweating? Can I leave it even by that?

9 A. Sweating?

10 Q. Yes.

11 A. Again, it's -- it's actually the skin cells that come
12 off. And, when you sweat, you tend to lose more skin -- skin
13 cells. They -- because they rub off and stick to whatever
14 they rub up against. So, sweating would leave it behind, but
15 it's not technically the sweat that has the DNA in it, but the
16 cells contained in that sweat.

17 Q. The skin cells?

18 A. Correct.

19 Q. Okay. All right.

20 (Brief Pause)

21 Q. Let me ask you just a few more questions. On those
22 samples, from the boot and the sweatshirt, that you identified
23 as Jeffrey Hubbard's, okay?

24 A. Okay.

25 Q. That belong to our victim, Jeffrey Hubbard.

1 A. Jeffrey Hubbard's, okay.

2 Q. What type of substance was that DNA found?

3 A. Okay. I'll have to refer to my case notes for that.

4 (Witness reviews document.)

5 Q. I mean, was it skin cells, was it hair, was it blood?

6 What -- what was it is what I'm asking.

7 A. Okay. Let's see, that was -- the outside of the right
8 boot was item 27.2. And I tested that and it came up positive
9 for presumptive test for blood. So, blood was indicated on
10 that item.

11 Q. Okay. How about on 28.2, the left wristband of the
12 sweatshirt?

13 (Witness reviews document.)

14 A. Twenty-eight point two (28.2), again, it came up
15 presumptive positive for blood. Blood was indicated on that
16 item.

17 Q. Okay. On 29.2, from the outside of the left Timberland
18 boot, what type of substance was our victim's DNA?

19 (Witness reviews document)

20 A. Again, blood was indicated on that item.

21 Q. And, from all the swabs of the driveway, what type of
22 substance?

23 (Witness reviews document.)

24 A. Blood was indicated on all the swabs from the driveway.
25 The items that were a mixture, I can't say which one of them

1 -- if it all came -- if all the DNA came from blood or some of
2 it came from blood and some of it came from skin cells or
3 what. I just know there was blood indicated on the item.

4 MR. WILLINGHAM: Okay. Thank you. If you would, answer
5 any questions the Defense lawyer has.

6 THE COURT: Mr. Richey, your witness.

7 MR. RICHEY: Thank you, Your Honor.

8 THE COURT: Yes, sir.

9 CROSS EXAMINATION by MR. RICHEY:

9:40 A.M.

10 Q. Ma'am, did you do a report?

11 A. Yes, sir, I did.

12 Q. Do you have that report with you?

13 A. Yes, sir, I do. I actually ---

14 MR. RICHEY: Can I approach the witness, Your Honor?

15 THE COURT: Yes, you may.

16 A. I actually issued three reports, sir.

17 Q. (By Mr. Richey) Okay. Let's see the reports you have.

18 (Brief pause while witness retrieves documents and hands
19 them to Mr. Richey.)

20 Q. Now, these are all the reports that you've done? There's
21 no other report out there?

22 A. I have not issued any other report, no.

23 Q. Okay. All right. Ma'am, I'm looking at these reports,
24 and maybe I'm missing something here.

25 (Brief pause while Mr. Richey reviews documents.)

1 Q. So, you -- I don't believe I see it in there either. On
2 this report, where it says items 36 through 43; do you see
3 that?

4 (Brief pause while witness examines document.)

5 A. Thirty-six (36) through 43?

6 Q. Yes.

7 A. Correct.

8 Q. Did you test those items?

9 A. Let's see, it looks like I tested them, for the possible
10 presence of blood, for items 36, 37, 38, 39, 40, and 41, and
11 no analysis was performed on item 42, 43, 44 or 46. Analysis
12 was performed on 45 and 47.

13 Q. So, it wasn't performed on 36, 37, 38, 39, 40 and 41?
14 Was anything performed on those items?

15 A. I'm sorry?

16 Q. Was any analysis performed on 36 through 41?

17 A. Only serology, no DNA analysis was performed on those
18 items.

19 Q. Okay. And is -- and those items, what were they?

20 A. They were swabs from a white Ford Probe.

21 Q. Okay. All right. And -- and from where on the Probe?

22 A. From where on the Probe?

23 Q. Yeah.

24 A. SLED's item 36 was from over the driver's door handle.

25 Item 37 was over the driver's door. Item 38 was from the

1 exterior driver's door handle.

2 Item 39 was from the center area of the trunk lid. Item
3 40 was from the left rear corner of the trunk lid. Item 41
4 was from the steering wheel. Item 42 was from the gear shift.

5 Q. Okay. That's fine. That's fine.

6 A. Okay.

7 Q. You don't know what that substance was that you were
8 asked to test? Was it blood?

9 A. For items 36 through 41 blood was indicated.

10 Q. Uh-huh (affirmative).

11 A. I did not test, for the presence of blood, on item 42,
12 43, or 44.

13 Q. When you say blood was indicated, there was blood there,
14 correct?

15 A. It is a presumptive test, not a confirmatory test. It
16 simply indicates that blood -- blood may be present on the
17 item.

18 Q. Okay. All right. And -- and DNA testing, it's -- it's
19 sort of like -- DNA, it's like the hidden little person down
20 there, right? DNA, it's -- it's a hidden thing?

21 I mean, I can't -- if I'm trying to alter something, it
22 would hard for me to alter my DNA? Once it's out, it would be
23 hard for me to alter?

24 A. That would be correct.

25 Q. I mean, I'd have to be real scientific. I'd have to have

1 all the education and qualifications that you have and a lab
2 and everything to alter it, correct?

3 A. Actually, you would probably have to be, in a specific
4 research area, to be able to manipulate DNA in that manner.

5 Q. Right. So, DNA is pretty firm, isn't it?

6 A. That's correct.

7 Q. Okay. And -- and -- and DNA, it's actually a lot more
8 firmer than a fingerprint, correct?

9 A. That's correct.

10 Q. Because a fingerprint, you know, it's -- it's -- it's
11 easier to contaminate a fingerprint by far than it is your
12 DNA, correct?

13 A. Umm, I don't know how easy it is to contaminate. I know
14 it's fairly easy to contaminate a fingerprint; it is also
15 possible to contaminate DNA.

16 Q. But DNA ---

17 A. Both are possible.

18 Q. But DNA, you have to have a controlled lab and all of
19 that?

20 A. That's correct.

21 Q. And most normal folks don't have a lab to contaminate
22 DNA, correct? Would that be a correct assumption?

23 A. To work with DNA?

24 Q. To -- for me to contaminate DNA, most folks would not
25 have the ability to do it because they wouldn't have the lab,

1 the scientific, and all that stuff?

2 A. Well, you wouldn't need a lab to contaminate DNA. That
3 would simply mean that you put foreign DNA in with the DNA
4 that was originally there. But, to manipulate DNA, you would
5 need a lab, correct.

6 Q. Right. To manipulate it. And -- and too, DNA, you don't
7 really need a lot of it? When we say DNA, I don't -- I don't
8 have to bring to you a cup of saliva like this (indicating)
9 for you to get the DNA, do I? You don't need that much, do
10 you?

11 A. No, that's correct, you don't.

12 Q. You need -- you need a very -- you need like an
13 microscope amounts, correct?

14 A. That's correct.

15 Q. I mean, so, it's -- it's a real minute; it's not like you
16 need all -- all the sample, correct?

17 A. That's correct.

18 Q. And, so, if you can see the blood, if I have a blood spot
19 and I can see it (taps on bar), I can look down and see it,
20 there's a great probability that I've got enough to do DNA,
21 right?

22 A. Generally speaking, that is correct.

23 Q. Right. And -- and for -- for your purposes, you wouldn't
24 -- you would need -- if I cut my finger right here and blood
25 came out, that would be way more than enough for you, right?

- 1 A. There would be a sufficient amount, that's correct.
- 2 Q. Right. As a matter of fact, just a little tiniest bit of
- 3 stuff has your DNA, right?
- 4 A. That's correct.
- 5 Q. And it tells the whole story about you, right?
- 6 A. As far as a DNA profile, that would be correct.
- 7 Q. Right. And, so, this notion that you need blood -- tons
- 8 of blood all over the place, is -- that's -- that's not
- 9 correct, is it?
- 10 A. No.
- 11 Q. Okay. And, in fact, on that Ford Probe, if there is
- 12 enough DNA to do a fingerprint, there's enough DNA for you to
- 13 test, correct?
- 14 A. Not necessarily. It's possible to have a fingerprint and
- 15 not have the person leave behind enough DNA to do DNA
- 16 analysis.
- 17 Q. Well, can't you do the DNA on the blood -- I'm talking --
- 18 I ain't talking about the person; I'm talking about the blood
- 19 on the car that has the print in it, correct?
- 20 A. Oh, okay. I see what you're saying.
- 21 Q. That is enough blood for you to test, correct?
- 22 A. More than likely, yes.
- 23 Q. Okay. You didn't test that in this case, right?
- 24 A. No, I did not.
- 25 Q. Okay. All right. But you had it, right?

- 1 A. That's correct.
- 2 Q. Okay. The blood, on the driver's door, you didn't test
- 3 that either, right?
- 4 A. Item 38, that's correct. I did not test that for DNA.
- 5 Q. Item 37 you didn't test?
- 6 A. That's correct.
- 7 Q. And item 42 you didn't test, right?
- 8 A. That's correct.
- 9 Q. That's on the gear shift. So, basically, the car -- all
- 10 this stuff that was on the car, you didn't test that,
- 11 correct? These items on the car?
- 12 A. That's correct.
- 13 Q. Okay. But you had enough blood; you just didn't do it?
- 14 A. That's correct.
- 15 (Brief pause while Mr. Richey retrieves exhibits.)
- 16 Q. We've been doing the boot thing here.
- 17 A. Okay.
- 18 Q. You haven't been here, but we've been doing this boot
- 19 thing. Okay. Back to the boots, okay?
- 20 We have -- we have -- well, actually, we'll call this the
- 21 talking boot, okay? And the reason why it's a talking boot is
- 22 that boot is not saying anything, but, from your perspective,
- 23 it's saying a lot, correct? It could be?
- 24 A. It could be.
- 25 Q. Right, because what's -- what's inside of that boot, it

- 1 talks to you. It doesn't talk to us, but it talks to you,
2 right?
- 3 A. In a manner of speaking. I suppose you could put it that
4 way ---
- 5 Q. Right.
- 6 A. --- yes.
- 7 Q. Okay. The way it talks is what is in there is particles
8 that someone wearing. And we had another lady here before and
9 she did the lifting and -- and passed it on to you. That
10 stuff that is there can tell a lot, right?
- 11 A. That's correct. It has the potential to, yes.
- 12 Q. The one thing it can't tell us, though, it can't tell us
13 time, can it?
- 14 A. That's correct.
- 15 Q. We can -- it would be great -- it does everything else;
16 it tells us who it is and all that, correct, but it just
17 doesn't give us time, right?
- 18 A. That's correct.
- 19 Q. Okay. So, we have to assume -- let me show you.
- 20 (Mr. Richey picks up boot.)
- 21 Q. In this boot -- and I might have -- that's the right
22 boot. You found a mixture, correct?
- 23 A. That's correct.
- 24 Q. Okay. And I think you used like the -- the marbles in
25 the jar.

- 1 A. That's correct.
- 2 Q. Right. And -- and -- and -- but this shoe is sort of
- 3 like the marbles in the jar, isn't it, okay, because the
- 4 marbles in the jar you have to put the marbles in the jar,
- 5 correct?
- 6 A. That's correct.
- 7 Q. The shoe, you have to put your foot in the shoe?
- 8 A. That's correct.
- 9 Q. Okay. So, we've got -- we got this, and Isaiah Walker
- 10 you said is the major contributor, right?
- 11 A. That's correct.
- 12 Q. Okay. But we also have on there a minor contributor?
- 13 A. That's correct.
- 14 Q. Okay. So, we've got another foot in the shoe?
- 15 A. More than likely that's how it got there, correct.
- 16 Q. Okay. And -- and that foot in the shoe says that someone
- 17 else is in the shoe?
- 18 A. Mostly likely, correct.
- 19 Q. All right. And that someone else you have said has been
- 20 as yet unidentified, correct?
- 21 A. That's correct.
- 22 Q. So, we know there's somebody else; you just don't know
- 23 who it is?
- 24 A. That's correct.
- 25 Q. Okay. All right. Tell me whose all DNA sample you got

1 to test from, just the sample of the people?

2 A. I received a standard from Isaiah Walker. I received a
3 standard from Jeffrey Hubbard. And I received a standard from
4 Brent Gentry.

5 Q. Okay. Okay. Twenty ---

6 (Brief pause while Mr. Richey examines exhibits.)

7 Q. Twenty-eight point seven (28.7) on your list -- let me
8 take the shoe on off -- 28.7 ---

9 (Mr. Richey retrieves exhibit.)

10 Q. --- what's that?

11 A. Twenty-eight point seven (28.7) is the swab from the
12 sweatshirt.

13 Q. Do you know where the swab came from on the sweatshirt?

14 A. Let me look at my notes and see if it says.

15 (Brief pause while witness examines document.)

16 A. According to my notes, the swab came from the entire neck
17 band of the sweatshirt.

18 Q. Okay. The sweatshirt (holds up exhibit).

19 A. That's correct.

20 Q. Okay. We ain't got no name for the sweatshirt; the
21 sweatshirt. So, when you said the neck, that's cut out? Is
22 that what you mean from the neck band?

23 A. That's correct.

24 Q. Okay. This sweatshirt, it's sort of like these boots
25 too, right? It -- it tells who's been in it, correct?

1 A. That's generally how the DNA gets there, correct.

2 Q. Okay. So, in this sweatshirt, you found the same thing
3 with the boots, right?

4 (Brief pause while witness reviews document.)

5 A. That's correct.

6 Q. Okay. All right. And -- and really -- really this is
7 the best place to cut this shirt, isn't it, if you want to
8 find out DNA?

9 A. It's one of the better places to cut, yes.

10 Q. Because, when you put on a shirt, you know, it -- if
11 you're sort of me, you've got stuff on you? You know, you --
12 it comes off here and here (indicating) most likely, right?

13 A. Simply because your sweatshirt is more likely to rub in
14 that area and in the wrists.

15 Q. And the hair too? The hair is a big component too,
16 correct?

17 A. Well, it depends on if the hair comes off and gets caught
18 in the sweatshirt and how much DNA -- how much cellular debris
19 is present on the hair.

20 Q. So, we've got an unidentified person in the sweatshirt
21 too, right?

22 A. That's correct.

23 (Brief Pause)

24 Q. On 28.3, we got -- on the wristband, we've got -- we've
25 got a -- a mixture; is that correct?

1 A. That's correct.

2 Q. And that mixture you said was Jeffrey Hubbard. And
3 Isaiah Walker cannot be excluded?

4 A. That's correct.

5 Q. And -- and the reason why that is because there's not
6 enough, for lack of a better phrase, lines to match him up on
7 the DNA, correct?

8 A. Let's see, 28.3...

9 (Brief pause while witness examines document.)

10 A. The problem with 28.3, if I use the marble analysis
11 again, was that, you know, sometimes like I said you can pull
12 out a major and a minor. And, so, you can have somebody who
13 contributes a lot of blue marbles and somebody who only
14 contributes a few red marbles.

15 But, in this case, whoever contributed the mixtures --
16 the mixture, they contributed approximately a similar amount
17 of DNA. So, it wasn't possible to pull out a major and a
18 minor contributor.

19 Q. Okay. And, so, you could not -- you could not get a
20 match on it, correct?

21 A. That's correct.

22 Q. And -- and oftentimes the more -- the more information
23 that you have, the more likelihood you're able to make a
24 match?

25 A. That's not necessarily true. If, again, you have an even

1 amount of contribution from both individuals, it doesn't
2 matter how many locations you test, you're still going to end
3 up with them giving an equal amount of DNA.

4 Now, you do end up -- it does come more unlikely that
5 someone could contribute to that mixture. But you can't say
6 for certain that this person did it or that person did.

7 Q. But more profiles that you have, the more likely you're
8 able to find matches?

9 A. Not the more profiles, because the more profiles you
10 have, the more -- the bigger mixture you have. But the more
11 locations you test, the more likely you are to be able to
12 narrow it down.

13 Q. The location is not what you tested, correct?

14 A. We -- technically, what we do is we test a number of
15 locations, and all of those locations put together gives you
16 the profile.

17 Q. Okay. All right. The more samples you have of DNA from
18 people, okay ---

19 A. Yes.

20 Q. --- the more information you have, right?

21 A. Correct.

22 Q. Okay. And that information could be used in comparisons,
23 correct?

24 A. That's correct.

25 Q. Okay. And -- and -- and DNA, you've had those nights in

1 the lab like, you know, I sometimes I have them in -- in my
2 office when you say, "Oh, God, look, that -- that matched."
3 You have those kind of nights, right?

4 A. There are -- with a mixture like this, you couldn't
5 declare a match. You could say -- the most you can say, even
6 if I got more profiles in, I could exclude people.

7 I could say they cannot be a contributor to this mixture.
8 But I cannot say conclusively that they are a contributor to
9 this mixture.

10 I just can say that they either are excluded as a
11 contributor or they're not excluded as a contributor. But
12 that would not be dependent on how many standards were
13 submitted. It would depend on each individual as to whether
14 or not that individual could be excluded or not.

15 Q. But, you never have those days when you thought, "Oh,
16 this matches"?

17 A. When it's a match, yes.

18 Q. Okay.

19 A. That's correct.

20 Q. And -- and, even as wise and as smart as you, and the
21 education you have, that even happens to you sometimes?

22 A. I'm not quite sure what you're asking. Usually, a match
23 is a match. I'm not quite sure I understand your question.

24 MR. RICHEY: One moment, Your Honor.

25 THE COURT: Yes, sir.

1 (Brief Pause)

2 Q. (By Mr. Richey) Ma'am, you've had this blood from this
3 car, right?

4 A. That's correct.

5 Q. Okay. And who told you not to test it?

6 A. I used a best evidence policy that we have at the lab.
7 And that's -- I used that to determine which evidence samples
8 to work and which ones not to work.

9 Q. So, you pick and choose what you think should be tested
10 and know nothing of the crime; is that correct?

11 A. No, that was -- it depends. On some cases, I have more
12 information on the crime than others.

13 Q. And -- and that blood -- blood in a case, in a DNA case,
14 is crucial -- crucial, right?

15 A. It can be.

16 Q. It is crucial -- huh?

17 A. It can be.

18 Q. And blood, when you talk DNA, you come to court and
19 testify a lot about DNA found in this person's blood, correct?

20 A. Often, correct.

21 Q. And blood is a significant thing in your field, correct?

22 A. It can be, depending on the situation, correct.

23 Q. It is a -- it is a major component that's used in this
24 DNA testing, correct?

25 A. Often, that's correct.

- 1 Q. And it's the best indicator you can have, one of the
- 2 best?
- 3 A. One of the best, depending on the situation.
- 4 Q. If you had to pick your top two, blood would be in it,
- 5 correct?
- 6 A. Possibly, yes, correct.
- 7 Q. And you get a sample of blood on a car, in a murder case,
- 8 and you don't test it?
- 9 A. That's correct.
- 10 Q. So, if -- if there's blood, on the top of that car, that
- 11 has a fingerprint in it, you could tell us whose blood that
- 12 was, couldn't you?
- 13 A. That's correct.
- 14 Q. You could tell us actually if the blood was there?
- 15 A. That's correct.
- 16 Q. And that would be pretty firm, wouldn't it?
- 17 A. That's correct.
- 18 Q. But you chose, independently, not to do it?
- 19 A. That's correct.
- 20 Q. Because of the best evidence; is that what you're saying?
- 21 A. The best evidence policy, yes, that's correct.
- 22 Q. And the best evidence, in your case, and the top two that
- 23 you testified, on a daily basis, is blood, correct?
- 24 A. Generally speaking. It depends on the case. In this
- 25 case, they were most interested in determining who was at the

1 crime scene besides the victim. And they felt that the best
2 way to do that was to determine who had been wearing the
3 sweatshirt and who had been wearing the boots.

4 Q. So, "they," and I'm assuming that's the higher ups,
5 decided that the blood on the car wasn't important?

6 A. They did not say one way or the other. They said they
7 were particularly interested in the sweatshirt and the boots.

8 (Brief Pause)

9 Q. Who do you work for, ma'am?

10 A. SLED, sir.

11 Q. And what is SLED?

12 A. The South Carolina Law Enforcement Division.

13 Q. And -- and that division, it has a dual purpose, doesn't
14 it? It's a dual purpose. Its -- its dual purpose is to test
15 evidence for citizens of this State, correct?

16 A. That's correct.

17 Q. And -- and that agency is there to protect the citizens
18 in two ways, correct?

19 A. That's correct.

20 Q. The first way is to protect the citizen, with the
21 information that it's given, to get the people off the street
22 that needs to be off the street, correct?

23 A. That's correct.

24 Q. A dual purpose of that -- of that organization is to
25 exclude and assist the citizens of this state in prosecution;

1 is that correct?

2 A. That's correct.

3 Q. And -- and in your capacity, on that job, testing the
4 blood on this car would assist, in both of those areas,
5 correct?

6 A. Possibly.

7 Q. It's possible, right?

8 A. It's possible.

9 Q. And you all made the decision not to do that?

10 A. That's correct. Had it been requested, I would have
11 tested that also.

12 Q. And you didn't find it odd that blood was not being
13 tested?

14 A. No. There is so much evidence -- there tends to be so
15 much evidence, in a homicide, that we often do not test all of
16 it simply because there is some that is considered to be more
17 probative or more helpful in the case.

18 And so, those -- we concentrate on those because we have
19 so many cases and so much information as needed. So, we
20 concentrate on the cases -- on the items that are considered
21 to be most probative. And we do; we work those items.

22 Q. Who is that? When you refer to "they," who is that?

23 A. I'm sorry. That would often be -- it's generally the
24 investigating officer, the individual that's working the crime
25 scene.

1 Sometimes it would be their major or chief could call our
2 lieutenant. There's a number of people that could request
3 that they work specific items.

4 Q. So, there's strategy involved in a case, correct?

5 A. That's correct.

6 Q. And, so -- but, it's strategy to say, "We want to do this
7 or that," correct?

8 A. That's correct.

9 Q. Okay. So, see, that's not the intent of your agency, is
10 it?

11 A. The intent of our agency is to work the evidence that is
12 requested, by the investigating agency, in an attempt to
13 assist them in solving crimes.

14 Q. And you work -- your agency works for the citizens of
15 this state, correct?

16 A. That's correct.

17 Q. And they're there to protect the citizens of this state,
18 correct?

19 A. That's correct.

20 Q. And your agency should be free from -- I'm -- I'm sorry.
21 I won't say.

22 (Mr. Richey picks up exhibit.)

23 Q. You could have actually told us whether this was a blood
24 fingerprint, couldn't you?

25 A. If it was a blood fingerprint?

1 Q. Yes. If there's blood left in that fingerprint, and they
2 gave you the blood, you could test it and determine whether it
3 was blood or not, correct?

4 A. If they gave that to me, correct. I don't ---

5 Q. Okay. And, if they gave you the stuff to test this car
6 -- they come to court and they tell you this stuff. And
7 they've got blood all over this car on the gear shift -- the
8 gear shift and all this stuff all over this car, you could
9 test this and tell us whether it was, in fact, blood or not;
10 is that correct?

11 A. I could tell you if blood was present, correct.

12 Q. Okay. But you all chose, in a strategy thing, not to do
13 it, correct?

14 A. That's correct.

15 MR. RICHEY: Thank you, ma'am.

16 THE COURT: Redirect, Mr. Willingham?

17 MR. WILLINGHAM: Thank you.

18 REDIRECT EXAMINATION by MR. WILLINGHAM: 10:04 A.M.

19 Q. Agent Clayton, you did test those items to see if it was
20 blood, didn't you?

21 A. I tested items 36, 37, 38, 39, 40, and 41 for a
22 presumptive blood test.

23 Q. Okay. So, let me just get to it. I don't want there to
24 be any confusion.

25 (Brief pause while Mr. Willingham retrieves exhibit.)

- 1 Q. Thirty-six (36), from the -- it's a swab from the
- 2 driver's side door.
- 3 A. Correct.
- 4 Q. Blood indicated?
- 5 A. Correct.
- 6 Q. Other -- over driver's door blood indicated?
- 7 A. Correct.
- 8 Q. Exterior driver's door handle, blood there?
- 9 A. It's indicated.
- 10 Q. Blood indicated?
- 11 A. Correct.
- 12 Q. All right. The center of the trunk lid, blood indicated?
- 13 A. That's correct.
- 14 Q. Left rear corner of trunk lid, blood indicated?
- 15 A. That's correct.
- 16 Q. Steering wheel, blood indicated?
- 17 A. Correct.
- 18 Q. All right. So, there was blood indicated there?
- 19 A. That's correct.
- 20 Q. You just can't tell me whose?
- 21 A. That's correct.
- 22 Q. Okay. And that's what we spent the last ten minutes
- 23 about, you can't tell me whose blood, but you say blood is
- 24 indicated as being there?
- 25 A. That's correct.

1 Q. Okay. Now, we talked a lot about this: Are you familiar
2 with fingerprint -- fingerprints?

3 A. I mean, I -- I don't do fingerprint analysis myself. But
4 I'm familiar with it in a general sense.

5 Q. Okay. Are you familiar that some prints are developed
6 using powder and some prints are developed using other
7 chemical processes?

8 A. That's correct.

9 Q. And such a chemical process could be amino black?

10 A. That's correct.

11 Q. Could that prevent you from being able to find DNA after
12 a sample has been processed in amino black?

13 A. Certain chemicals do interfere with DNA analysis. I --
14 I'm afraid I can't recall, off the top of my head, if amino
15 black is one of those that does or not.

16 MR. WILLINGHAM: Okay. All right. Thank you. I have
17 nothing else. Thank you, Your Honor.

18 THE COURT: Recross?

19 RECROSS EXAMINATION by MR. RICHEY:

10:06 A.M.

20 Q. Ma'am, I asked you, did you test this blood and your
21 response was "no"; is that correct?

22 A. You asked me, sir, if I had identified blood. I did not
23 identify blood. I simply did a presumptive test and it
24 indicated the presence of blood.

25 Q. So, now you did a test for blood? So, now, you tested

1 all these items?

2 A. As I said before, I tested to -- for the indication of
3 blood, but not for the identification of blood. The
4 presumptive test simply indicates that there's blood present.
5 There is a second confirmatory test that you can do that
6 confirms the presence of blood.

7 phenolphthalein, which is the type of test I used, is
8 only considered to be an indicator of blood because it can
9 sometimes cross react with -- or give a -- a false positive
10 with things like rust or other items like that. But it is a
11 -- it's an indicator of the presence of blood.

12 Q. So, all that stuff about best evidence and evidence and
13 all that, you know, you didn't test it because it wasn't the
14 best evidence policy and all that stuff, that's not -- that's
15 not correct ---

16 A. I did not do DNA testing on it because of the best
17 evidence policy, correct.

18 MR. RICHEY: Thank you, ma'am.

19 THE COURT: You may step down, ma'am. Thank you very
20 much.

21 MR. WILLINGHAM: Your Honor, we ask that she be excused.

22 THE COURT: Any objection?

23 MR. RICHEY: No objection.

24 THE COURT: Ma'am, you're excused and free to go.

25 THE WITNESS: Thank you.

1 THE COURT: Thank you very much.

2 (The witness stepped down from the witness stand and was
3 excused.)

4 THE COURT: You may call your next witness.

5 MR. WILLINGHAM: Your Honor, we call Brent Gentry.

6 (Mr. Gentry is summoned.)

7 (Mr. Gentry is brought into the courtroom.)

8 (Mr. Gentry stepped forward to be sworn.)

9 (Whereupon,

10 BRENT GENTRY

11 having been first duly sworn, testified as follows:)

12 THE COURT: Have a seat, sir, move as close to the
13 microphone as possible, and state your full name, please.

14 THE WITNESS: Brent Gentry.

15 THE COURT: Your witness, Mr. Willingham.

16 THE COURT: Thank you, Judge.

17 DIRECT EXAMINATION by MR. WILLINGHAM: 10::08 A.M.

18 Q. Mr. Gentry?

19 A. Yes, sir.

20 Q. It's obvious from your outfit that you're in jail?

21 A. Yes, sir.

22 Q. You're in jail charged with murder?

23 A. Yes, sir.

24 Q. In this case?

25 A. Yes, sir.

- 1 Q. You got a lawyer?
- 2 A. Yes, sir.
- 3 Q. His name is John Reckenbeil (phonetic)?
- 4 A. Yes, sir.
- 5 Q. You understand that there are certain rights I've got to
- 6 go over with you?
- 7 A. Yes, sir.
- 8 Q. You understand you got a right to remain silent?
- 9 A. Yes, sir.
- 10 Q. Anything you say can and will be used against you in
- 11 Court?
- 12 A. Yes, sir.
- 13 Q. You got a right to a lawyer?
- 14 A. Yes, sir.
- 15 Q. And, in fact, you've got a lawyer?
- 16 A. Yes, sir.
- 17 Q. All right. You've had those rights read to you before,
- 18 haven't you?
- 19 A. Yes, sir.
- 20 Q. Do you understand them?
- 21 A. Yes, sir.
- 22 Q. Now, it's a little bit something different about the
- 23 rights you had read before. Before the police have told you
- 24 that you got a right to stop answering questions at any time;
- 25 do you understand that?

- 1 A. Yes, sir.
- 2 Q. You understand that's not the case today?
- 3 A. Yes, sir.
- 4 Q. Once you start answering questions, and talking to me,
- 5 whenever I'm done, if the Defense lawyer wants to ask you
- 6 questions, you've got to answer them.
- 7 A. Yes, sir.
- 8 Q. You understand that?
- 9 A. Yes, sir.
- 10 Q. And we're not going to stop halfway through and say, "I
- 11 don't want to answer any more," do you understand?
- 12 A. Yes, sir.
- 13 Q. Are you willing to talk to me today?
- 14 A. Yes, sir.
- 15 Q. Where do you live?
- 16 A. Court (phonetic).
- 17 Q. Okay. I need you to speak up, so, this jury can hear
- 18 you, please.
- 19 A. Court.
- 20 Q. All right. Do you know the victim in this case, Jeffrey
- 21 Hubbard?
- 22 A. I know of him.
- 23 Q. You know of him? How do you know of him? How long have
- 24 you known him?
- 25 A. I haven't known him long. I seen him a couple of times.

- 1 Q. Seen him a couple of times? All right. How about the
2 Defendant in this case, Isaiah Walker, do you know him?
3 A. Yes, sir.
4 Q. How do you know him?
5 A. From my cousin.
6 Q. From your cousin. Who is your cousin?
7 A. Bryon Lowder (phonetic).
8 Q. Bryon Lowder. How long have you known Isaiah Walker?
9 A. I'd say ten (10) years.
10 Q. Do you consider yourself a friend?
11 A. You could say -- you could say.
12 Q. You could say that?
13 A. Yes, sir.
14 Q. Okay. I want you to go back to February 17th, of two
15 thousand and six (2006), okay?
16 A. Yes, sir.
17 Q. That morning, did you get up out of bed?
18 A. Yes, sir.
19 Q. And where did you go?
20 A. Down to my cousin's.
21 Q. Whose cousin -- what cousin?
22 A. Byron Lowder.
23 Q. Byron Lowder's house. Where does he live?
24 A. On Short Hill (phonetic).
25 Q. Short Hill?

- 1 A. Off Howard Street.
- 2 Q. Where is that at?
- 3 A. Off Howard Street.
- 4 Q. It's off Howard Street? And who does he live with?
- 5 A. His momma.
- 6 Q. Okay. What time did you get to his house?
- 7 A. Umm, early, about 9:00.
- 8 Q. Okay. Do you know -- do you wear a watch?
- 9 A. No, sir.
- 10 Q. When you're out on the street, do you wear a watch?
- 11 A. No, sir.
- 12 Q. But it was early in the morning?
- 13 A. Yes, sir.
- 14 Q. Anybody there when you got there?
- 15 A. Yes, sir.
- 16 Q. Who?
- 17 A. My cousin.
- 18 Q. Byron Lowder?
- 19 A. Isaiah.
- 20 Q. Isaiah Walker?
- 21 A. Yes, sir.
- 22 Q. Anybody else?
- 23 A. His little brother.
- 24 Q. Whose little brother?
- 25 A. Byron's.

- 1 Q. Byron's little brother? What's his name?
- 2 A. Corey Lowder.
- 3 Q. Corey Lowder. Anybody else?
- 4 A. No, sir.
- 5 Q. What were you all doing?
- 6 A. Just chilling, hanging out.
- 7 Q. Hanging out?
- 8 A. Yes, sir.
- 9 Q. Now, did you work at this time?
- 10 A. Yes, sir.
- 11 Q. And where did you work?
- 12 A. Ricky's.
- 13 Q. Ricky's Hot Dogs?
- 14 A. Yes, sir.
- 15 Q. Where about, which one? There's like three of them.
- 16 A. On Blackstock Road.
- 17 Q. Okay. But you weren't working this day or this morning?
- 18 A. No, sir.
- 19 Q. All right. How long were you all at Byron Lowder's
- 20 house?
- 21 A. I ain't sure.
- 22 Q. Okay. Did you ever leave?
- 23 A. Yes, sir.
- 24 Q. Where did you go?
- 25 A. I left with Isaiah. We went riding.

- 1 Q. You and the Defendant went riding. What did you go
2 riding in?
- 3 A. In a Cadillac.
- 4 Q. What kind of Cadillac? Describe it for me.
- 5 A. A white Cadillac with a blue top.
- 6 Q. Okay. Whose Cadillac was that?
- 7 A. A man that I know who I used to mess with.
- 8 Q. Okay. It wasn't yours?
- 9 A. No, sir.
- 10 Q. It wasn't the Defendant's?
- 11 A. No, sir.
- 12 Q. But you all were driving it?
- 13 A. Yes, sir.
- 14 Q. Who was driving?
- 15 A. Isaiah.
- 16 Q. Isaiah is driving. Where are you at?
- 17 A. In the passenger seat.
- 18 Q. Where do you all go?
- 19 A. We was just riding around at the time.
- 20 Q. Where do you all end up?
- 21 A. At Red Lobster.
- 22 Q. Okay. After Red Lobster, where do you go?
- 23 A. Magnolia Apartments.
- 24 Q. Now, that's kind of right across the street, right?
- 25 A. Yes, sir.

- 1 Q. On Blackstock across the street from Red Lobster?
- 2 A. Yes, sir.
- 3 Q. All right. Where do you go there?
- 4 A. Into a -- a apartment.
- 5 Q. Okay. Who all is there?
- 6 A. Two old men, me, and Isaiah.
- 7 Q. Okay. Anybody show up?
- 8 A. Yes, sir.
- 9 Q. Who showed up?
- 10 A. Jeff.
- 11 Q. Jeff Hubbard?
- 12 A. Yes, sir.
- 13 Q. The victim in this case?
- 14 A. Yes, sir.
- 15 Q. What was he driving?
- 16 A. I ain't sure.
- 17 Q. Okay. How long were you all there?
- 18 A. I don't know.
- 19 Q. How long was Jeff there?
- 20 A. I'd say twenty (20) minutes.
- 21 Q. Who left first, Jeff or you all?
- 22 A. Jeff.
- 23 Q. And where did you all go?
- 24 A. We stayed there.
- 25 Q. Where did Jeff go?

- 1 A. I don't know.
- 2 Q. All right. Did you ever leave there?
- 3 A. Yes, sir.
- 4 Q. Where did you go when you left there?
- 5 A. To a -- a trailer in Roebuck.
- 6 Q. To a trailer in Roebuck. And whose trailer was that? Do
- 7 you know?
- 8 A. No, sir.
- 9 Q. When you got there, was Jeffrey there?
- 10 A. Yes, sir.
- 11 Q. What was going on at that trailer in Roebuck?
- 12 A. At the time, nothing.
- 13 Q. Okay. Who drove from Magnolia over to the trailer in
- 14 Roebuck?
- 15 A. Me.
- 16 Q. Where was Isaiah?
- 17 A. In the passenger seat.
- 18 Q. Okay. Did you see what kind of car Jeff had at that
- 19 time?
- 20 A. There was a car in the driveway, but I don't know if it
- 21 was his.
- 22 Q. What kind of car was it in the driveway?
- 23 A. A white two door car.
- 24 Q. Do you remember the make or the model or anything; just
- 25 know white two door?

- 1 A. Yes, sir.
- 2 (Mr. Willingham retrieves State's Number 1 and shows to
- 3 witness.)
- 4 Q. Does that kind of look like the back of it, State's
- 5 Exhibit Number 1?
- 6 A. Yes, sir.
- 7 Q. What happened at the trailer?
- 8 A. We sit there and smoked, all three of us.
- 9 Q. Okay. You and Isaiah and Jeffrey all smoked?
- 10 A. Yes, sir.
- 11 Q. Then, what happened?
- 12 A. Isaiah went outside on his cell phone.
- 13 Q. Okay. How long was he talking on his phone?
- 14 A. He stayed outside for about five (5) minutes I guess.
- 15 Q. Do you know who he was talking to?
- 16 A. No, sir.
- 17 Q. What conversation did he have with the victim when he
- 18 came back inside?
- 19 A. They was going to make some kind of deal.
- 20 Q. What kind of deal?
- 21 A. A deal for some weed.
- 22 Q. A deal for some weed. When you say, "weed," what do you
- 23 mean?
- 24 A. Marijuana.
- 25 Q. Marijuana. What kind of deal were they going to make?

1 A. I think -- I don't know how much, but it was supposed to
2 be for four thousand dollars (\$4,000).

3 Q. Four thousand dollars (\$4,000). Were they supposed to be
4 buying it or were they supposed to be selling it?

5 A. They was going to buy it and resell it to somebody else.

6 Q. They were going to buy it and resell it to somebody else
7 for how much?

8 A. Four thousand dollars (\$4,000).

9 Q. Did they have the marijuana already?

10 A. No, sir.

11 Q. How much marijuana were they supposed to be selling?

12 A. I think two (2) pounds.

13 Q. Now, let me ask you this: How much does two (2) pounds
14 of marijuana normally cost?

15 A. Anywhere from ---

16 MR. RICHEY: Well, I object. I'm going to object unless
17 the solicitor is going to lay a proper foundation.

18 THE COURT: I'll allow the solicitor to question -- ask
19 some additional questions to lay a better foundation.

20 MR. WILLINGHAM: Sure I will, Judge.

21 Q. (By Mr. Willingham) Mr. Gentry, have you ever bought
22 marijuana before?

23 A. Yes, sir.

24 Q. Have you ever bought sizable amounts of marijuana before?

25 A. Yes, sir.

1 Q. Have you been involved in transactions where those
2 sizable amounts were bought?

3 A. Yes, sir.

4 Q. Do you know the street value of marijuana generally?

5 A. Yes, sir.

6 Q. On this day?

7 A. Yes, sir.

8 MR. WILLINGHAM: Your Honor, at this time, I'd ask him
9 how much the general value of two (2) pounds of marijuana is.

10 MR. RICHEY: No objection.

11 THE COURT: Okay. We'll allow the question. You may
12 proceed. You can answer the question, sir..

13 A. You can get it from more of eighteen -- eighteen hundred
14 (\$1,800).

15 Q. Eighteen hundred dollars (\$1,800)?

16 A. Yes, sir.

17 Q. Two (2) pounds of marijuana, and you're telling me they
18 were talking about selling two pounds of marijuana for four
19 thousand dollars (\$4,000)?

20 A. Yes, sir.

21 Q. Does that makes sense to you?

22 A. You find some people that you can get over that like.

23 Q. You can find some suckers out there that's going to buy
24 two pounds of marijuana for four thousand dollars (\$4,000)?

25 A. Yes, sir.

- 1 Q. Were you concerned about that transaction?
- 2 A. No, sir, because I ain't had no dealings with it, so...
- 3 Q. All right. It wasn't your -- it wasn't your -- it wasn't
- 4 your deal?
- 5 A. No, sir.
- 6 Q. Was our victim concerned?
- 7 A. He asked questions, but he didn't look like he was
- 8 concerned.
- 9 Q. What kind of questions did he ask?
- 10 A. Who the person was and that did he know him.
- 11 Q. And did Mr. Walker ever do anything to alleviate any of
- 12 these concerns?
- 13 A. He let him talk to him.
- 14 Q. He let him talk to who?
- 15 A. Whoever the person was supposed to been that was going to
- 16 buy it.
- 17 Q. So, this Defendant let Jeffrey Hubbard talk to whoever
- 18 was supposed to be buying this dope?
- 19 A. Yes, sir.
- 20 Q. And did, in fact, Jeffrey Hubbard talk to whoever was
- 21 going to buy the dope?
- 22 A. Yes, sir.
- 23 Q. And you witnessed that?
- 24 A. Yes, sir.
- 25 Q. And was that -- did that seem to alleviate any concern?

- 1 A. No, sir.
- 2 Q. You said he wasn't that concerned to begin with?
- 3 A. Huh-uh (negative).
- 4 Q. Okay. All right. How did Jeffrey Hubbard call that
- 5 person?
- 6 A. Isaiah Walker called him.
- 7 Q. Isaiah, the Defendant, called this person?
- 8 A. Yes, sir.
- 9 Q. On -- on a house phone, cell phone?
- 10 A. On his cell phone.
- 11 Q. On his cell phone? And, so, Jeffrey Hubbard was talking
- 12 on the Defendant's cell phone?
- 13 A. Yes, sir.
- 14 Q. To whoever this third person was?
- 15 A. Yes, sir.
- 16 Q. Do you know who this third person was?
- 17 A. No, sir.
- 18 Q. All right. How were they going to get the money to buy
- 19 the marijuana and turn around and sell it?
- 20 A. I assume they had it.
- 21 Q. Were they going to go in together and split it?
- 22 A. Yes, sir.
- 23 Q. Who -- who was the -- who were the people involved? You
- 24 say you weren't; it wasn't part of your deal. It was
- 25 Jeffrey's deal and the Defendant's deal?

- 1 A. Jeff and Isaiah.
- 2 Q. Just them?
- 3 A. Yes, sir.
- 4 Q. The two of them were going to have to come up with enough
- 5 money to come up to get two (2) pounds of dope and turn around
- 6 and sell it for double the money?
- 7 A. Yes, sir.
- 8 Q. Did Jeffrey have that much money on him?
- 9 A. No, sir.
- 10 Q. So, what did you all have to do?
- 11 A. He said he had to go to the bank.
- 12 Q. All right. So, did you go to the bank?
- 13 A. Yes, sir.
- 14 Q. What bank?
- 15 A. Well, I ain't sure of the name of it.
- 16 Q. Where is it?
- 17 A. It's on Blackstock Road.
- 18 Q. Whereabouts on Blackstock Road?
- 19 A. Going towards Westgate.
- 20 Q. All right. So, you all were in Roebuck going towards
- 21 Westgate. If I'm on Blackstock -- let's say I'm at Ricky's,
- 22 where you work. I'm on Blackstock heading toward Westgate,
- 23 that way?
- 24 A. Yes, sir.
- 25 Q. All right. After I -- after I'm at Ricky's, there's a

- 1 Blockbuster on my right, and a Waffle House and a barbeque
2 place on my left at that intersection. I think there's an
3 Exxon there too. Is it before that intersection or past that
4 intersection?
- 5 A. Past.
- 6 Q. So, you go pass that intersection and still on
7 Blackstock?
- 8 A. Yes, sir.
- 9 Q. As you come on down, and there's the Red Lobster, the
10 Wal-Mart, and the Home Depot and PetSmart and all of that. Is
11 it before that or after that?
- 12 A. It's before that.
- 13 Q. Before you get to the Red Lobster and Wal-Mart and all of
14 that?
- 15 A. Yes, sir.
- 16 Q. So, it's somewhere between that intersection and Red
17 Lobster?
- 18 A. Yes, sir.
- 19 Q. Right hand or left hand side of the road?
- 20 A. Left.
- 21 Q. So, if I'm going toward the mall, it's on the left-hand
22 side of the road?
- 23 A. Yes, sir.
- 24 Q. All right. But you don't know the name of the bank?
- 25 A. No, sir.

- 1 Q. All right. How did you get to the bank?
- 2 A. I drove the Cadillac. Me and Isaiah, we followed Jeff.
- 3 Q. You and the Defendant were in the Cadillac with you
- 4 driving?
- 5 A. Yes, sir.
- 6 Q. How does Jeffrey get there?
- 7 A. He's driving his car.
- 8 Q. He was driving his own car. Are you -- is he in front of
- 9 you or behind you?
- 10 A. In front of us.
- 11 Q. He's in front of you and you're following him?
- 12 A. Yes, sir.
- 13 Q. Do you make it to the bank?
- 14 A. Yes, sir.
- 15 Q. All right. When you get to the bank, who goes in?
- 16 A. Jeff.
- 17 Q. Do you go in with him?
- 18 A. No, sir.
- 19 Q. Does the Defendant go in with him?
- 20 A. No, sir.
- 21 Q. How long is he in that bank?
- 22 A. Umm, not that long.
- 23 Q. Not that long.
- 24 A. Huh-uh (negative).
- 25 Q. When he comes out of the bank -- does he come out of the

- 1 bank?
- 2 A. Yes, sir.
- 3 Q. When he comes out of the bank, where does he go?
- 4 A. He goes to his car.
- 5 Q. He gets in his car?
- 6 A. Yes, sir.
- 7 Q. All right. Where does Isaiah Walker go?
- 8 A. He got in the car with him.
- 9 Q. So, he gets out of your car and goes to get in the car
- 10 with Jeffrey Hubbard?
- 11 A. Yes, sir.
- 12 Q. Any idea what time this is?
- 13 A. No, sir.
- 14 Q. Okay. So, he gets in the car with Jeffrey. Does he say
- 15 anything to you before he gets -- gets out?
- 16 A. Yeah. He gave me some pills to take to the -- the
- 17 apartments we had went to before we went to Roebuck.
- 18 Q. Okay. Does he say anything to you about why he's getting
- 19 in the car with Jeffrey?
- 20 A. No, sir.
- 21 Q. All right. But, you say he told you something about some
- 22 pills?
- 23 A. Yeah. I was supposed to take them back to the apartment.
- 24 Q. What apartment?
- 25 A. In Magnolia.

- 1 Q. So, Walker gives you some pills to take back over to
2 Magnolia Apartments?
- 3 A. Yes, sir.
- 4 Q. All right. So, who pulls out first?
- 5 A. I do.
- 6 Q. And where do you go?
- 7 A. To Magnolia.
- 8 Q. And where did Jeffrey and Isaiah go? Do you know?
- 9 A. No, sir.
- 10 Q. Did you see them pull out?
- 11 A. Yes, sir.
- 12 Q. Which way did they go?
- 13 A. Right.
- 14 Q. They pull out of the bank and went right, that would have
15 been headed towards what?
- 16 A. Back towards the Blockbuster.
- 17 Q. Back towards Blockbuster and back towards Ricky's?
- 18 A. Yes, sir.
- 19 Q. Back towards -- back towards ---
- 20 A. Roebuck.
- 21 Q. You know it was back toward Roebuck. Do you know where
22 the Defendant, Isaiah Walker, lived?
- 23 A. Yes, sir.
- 24 Q. It was back towards his house; is that fair?
- 25 A. Yes, sir.

- 1 Q. All right. So, you say you go to the Magnolia
2 Apartments?
3 A. Yes, sir.
4 Q. And what do you do when you get there?
5 A. I take the pills to a man that was in there.
6 Q. Okay. And how long are you in there?
7 A. Not that long.
8 Q. How long is not very long? I wasn't there; you got to
9 tell me.
10 A. Five (5) minutes probably.
11 Q. You were there maybe five (5) minutes.
12 (Brief Pause)
13 Q. All right. After you were there that five (5) minutes
14 and drop off the pills -- did you get any money for them?
15 A. No, sir.
16 Q. You didn't get any money for them. Then, where did you
17 go?
18 A. I was told to go to Isaiah's house.
19 Q. Back towards Isaiah's house. You're driving the
20 Cadillac?
21 A. Yes, sir.
22 Q. How long does it take you to get back to Isaiah's house?
23 Any idea?
24 A. Not really.
25 Q. How did you go? Tell me the roads you took.

- 1 A. Blackstock.
- 2 Q. You took Blackstock all the way to what?
- 3 A. To the red light at -- right there before you get to the
- 4 Waffle House.
- 5 Q. Right there at Blockbuster. Then, what did you do?
- 6 A. I made a right.
- 7 Q. You turned right. That's on Reidville Road?
- 8 A. Yes, sir.
- 9 Q. All right. And how far up Reidville did you go?
- 10 A. To the -- to the little store there. It's at I think the
- 11 second light, there's a little store on the right.
- 12 Q. A little convenience store, a little Crown station?
- 13 A. Yes, sir.
- 14 Q. All right. And, when you got to that light, where did
- 15 you go?
- 16 A. I made a left.
- 17 Q. You turned left. That's Anderson Mill -- or Old Anderson
- 18 Mill. Do you know?
- 19 A. No, I don't the road ---
- 20 Q. It's one of the Anderson Mill Roads, you turned left on
- 21 that?
- 22 A. Yes, sir.
- 23 Q. Then, where did you go?
- 24 A. I went down. I think I made a left by the church.
- 25 Q. Do you have any idea what the name of that street is?

1 A. No, sir.

2 Q. All right. Then, where did you go?

3 A. I just kept around and it brought me to his house.

4 Q. Brought you around over to where he lives. Do you know
5 his address?

6 A. No, sir.

7 (Brief pause while Mr. Willingham retrieves exhibit.)

8 Q. I'm showing you State's Exhibit Number 61. Is that his
9 house?

10 (State's Number 61 shown to witness.)

11 A. Yes, sir.

12 Q. It is? Okay. When you got to that house -- when you got
13 to that house, what did you see?

14 A. I seen Isaiah at the driver's side of Jeff's car.

15 Q. You saw Isaiah at the driver's side of Jeff's car. Where
16 was Jeff?

17 A. I didn't see Jeff.

18 Q. You didn't see Jeff?

19 A. No, sir.

20 Q. Did you pull in the driveway?

21 A. No, sir.

22 Q. I think whenever you pull in the driveway, if you were,
23 it kind slopes down, right?

24 A. Yes, sir.

25 Q. All right. Were there any other cars around?

- 1 A. No, sir.
- 2 Q. Was there anybody else around?
- 3 A. No, sir.
- 4 Q. Just Isaiah?
- 5 A. Yes, sir.
- 6 Q. In Jeffrey's car?
- 7 A. He was standing outside the car.
- 8 Q. Who was outside the car?
- 9 A. Isaiah.
- 10 Q. What about Jeff?
- 11 A. I didn't see Jeff.
- 12 Q. You never saw him. All right. So, when you pull up --
- 13 you say you did or did not pull into the driveway?
- 14 A. No, sir, I didn't.
- 15 Q. Where did you pull?
- 16 A. Right on the side of the road.
- 17 (State's Number 61 shown on overhead.)
- 18 Q. That's the driveway and this is ~~WATERGATE~~ Road. You came
- 19 from this direction (indicating) or from the other direction?
- 20 A. The other.
- 21 Q. This way (indicating)?
- 22 A. Yeah.
- 23 Q. You came up this way (indicating)?
- 24 A. Yeah.
- 25 Q. Okay. And where did you stop?

- 1 A. The other.
- 2 Q. This way (indicating)?
- 3 A. Yeah.
- 4 Q. You came up this way (indicating)?
- 5 A. Yeah.
- 6 Q. Okay. And where did you stop?
- 7 A. Up by that red truck right there.
- 8 Q. You stopped right here (indicating)?
- 9 A. Uh-huh (affirmative).
- 10 Q. And where was Jeffrey's car?
- 11 A. Right there where that white car is.
- 12 Q. Right in here (indicating)?
- 13 A. Uh-huh (affirmative).
- 14 Q. All right. What, if anything, did the Defendant say to
- 15 you?
- 16 A. He didn't say nothing. He just told me to follow him
- 17 again.
- 18 Q. He said what?
- 19 A. To follow him.
- 20 Q. To follow him. Did he say where you were going?
- 21 A. No, sir.
- 22 Q. Did you follow him?
- 23 A. Yes, sir.
- 24 Q. Where did you go?
- 25 A. We made a right and got up to -- to the stop sign up

- 1 there.
- 2 Q. Okay. And, then, where?
- 3 A. We made a bear off to the left I think.
- 4 Q. Where did you end up?
- 5 A. At a dead end.
- 6 Q. Do you know the name of the road where you ended up?
- 7 A. No, sir.
- 8 Q. And you were following him then?
- 9 A. Yes, sir.
- 10 Q. What the area look like where you ended up?
- 11 A. There was a little pond, like a -- you can see the
- 12 highway.
- 13 Q. You could see the highway. When you say "highway," do
- 14 you mean the interstate?
- 15 A. Yes, sir.
- 16 Q. When you got to that road, what happened?
- 17 A. He pulled in right there by the little pond.
- 18 Q. Who pulled in?
- 19 A. Isaiah.
- 20 Q. Okay. And what happened when he pulled in?
- 21 A. The car got stuck I guess. I pulled down and turned
- 22 around. I think he had turned the wrong way or something.
- 23 Q. Say it louder.
- 24 A. I -- I pulled down and turned around thinking we had went
- 25 the wrong way or something.

- 1 Q. Okay. He pulled in and the car got stuck and you kept
2 going and turned around and figured you all were going
3 somewhere else?
- 4 A. Yes, sir.
- 5 Q. Do you know where you were going?
- 6 A. No, sir.
- 7 Q. What happened when you pulled back up?
- 8 A. Isaiah was getting out of the car taking his clothes off.
- 9 Q. He got out of the driver's or passenger's side?
- 10 A. The driver's.
- 11 Q. Taking his clothes off. What did he do with his clothes?
- 12 A. He threw them towards the pond.
- 13 Q. Where did he throw them?
- 14 A. Toward the pond.
- 15 Q. Toward the pond?
- 16 A. Yes, sir.
- 17 Q. Did they make it to the pond?
- 18 A. From what I seen, yeah.
- 19 Q. They looked like they did?
- 20 A. Yes, sir.
- 21 Q. What did he take off?
- 22 A. A black sweatshirt and some red pants and some boots.
- 23 Q. And he just slung them?
- 24 A. Yes, sir.
- 25 Q. Toward the pond?

- 1 A. Yes, sir.
- 2 Q. Okay. Did he have anything else on?
- 3 A. Some socks and some boxers.
- 4 Q. Did he keep those on?
- 5 A. Yes, sir.
- 6 Q. What did he do then?
- 7 A. He came and got in the car with me.
- 8 Q. And what did he say when he got in the car with you?
- 9 A. He told me that he had to do it.
- 10 Q. That he had to do it?
- 11 A. Yes, sir.
- 12 Q. Did he tell you what he had to do?
- 13 A. He just said that he had to do it.
- 14 Q. Did he say why he had to do it?
- 15 A. He said he thought he was going to get away with messing
- 16 with Amanda.
- 17 Q. Say that again.
- 18 A. He said he thought he was going to get away with messing
- 19 with Amanda.
- 20 Q. Now, who is Amanda?
- 21 A. Isaiah's girlfriend.
- 22 Q. Did Jeffrey Hubbard ever mess around with Amanda as far
- 23 as you know?
- 24 A. No, sir.
- 25 (Brief Pause)

- 1 Q. Did he say anything else at that time?
- 2 A. Just told me not to say nothing and drop him off back at
- 3 home.
- 4 Q. And did you take him home?
- 5 A. Yes, sir.
- 6 Q. Did you drop him off?
- 7 A. Yes, sir.
- 8 Q. Did you pull in the driveway then?
- 9 A. No, sir.
- 10 Q. You let him off on the street?
- 11 A. Yes, sir.
- 12 Q. And you never saw Jeff?
- 13 A. No, sir.
- 14 Q. Did you ever see any blood?
- 15 A. No, sir.
- 16 Q. Bullets?
- 17 A. No, sir.
- 18 Q. Casings?
- 19 A. No, sir.
- 20 (Brief Pause)
- 21 Q. Where did you go then?
- 22 A. I went to my aunt's house.
- 23 Q. Was anybody else back at Defendant Walker's house when
- 24 you got there?
- 25 A. Not that I seen.

- 1 Q. No other cars, no other people?
- 2 A. No, sir.
- 3 Q. You kept the car?
- 4 A. Yes, sir.
- 5 Q. Where did you go?
- 6 A. To my aunt's house.
- 7 Q. And that's where?
- 8 A. The northside of Spartanburg.
- 9 Q. And how long were you there?
- 10 A. I can't say.
- 11 Q. Okay.
- 12 A. For a little minute.
- 13 Q. Huh?
- 14 A. For a little minute -- a little minute.
- 15 Q. A little minute? What's a little minute?
- 16 A. A couple of hours.
- 17 Q. Okay. That's a lot. All right. Did you ever see Isaiah
- 18 again that day?
- 19 A. Yes, sir.
- 20 Q. When?
- 21 A. Later on that night.
- 22 Q. Where?
- 23 A. He called me and told me to come pick him up from the
- 24 Waffle House.
- 25 Q. Which Waffle House?

- 1 A. On Blackstock Road.
- 2 Q. And did you go?
- 3 A. Yes, sir.
- 4 Q. And when you got -- did you take anybody with you?
- 5 A. Yes, sir. I took my sister and my cousin.
- 6 Q. Why did you take them?
- 7 A. Because I didn't want to go by myself.
- 8 Q. Why?
- 9 A. Because I just didn't want to be by myself with him.
- 10 Q. With who?
- 11 A. Isaiah.
- 12 Q. When you got to the Waffle House, was anybody -- was
- 13 Isaiah there?
- 14 A. Yes, sir.
- 15 Q. Was he with anybody?
- 16 A. He was with Amanda.
- 17 Q. Amanda Pruitt, his girlfriend?
- 18 A. Yes, sir.
- 19 Q. All right. How long did you all stay at the Waffle
- 20 House?
- 21 A. Not long. He told me to follow him again.
- 22 Q. Okay. And where did you all go then?
- 23 A. To her house I guess, to where she lives at.
- 24 Q. You went to where -- where Amanda lives? Well, you went
- 25 to a house; don't know if she lived there or not; is that

- 1 fair?
- 2 A. Yes, sir.
- 3 Q. All right. And did -- who went inside there?
- 4 A. Amanda.
- 5 Q. Was she supposed to come back out?
- 6 A. Yes, sir.
- 7 Q. And where were you supposed to be taking her?
- 8 A. He was going to get me to drop them off at the room.
- 9 Q. What room?
- 10 A. He never did say.
- 11 Q. Okay. Did she come back out?
- 12 A. No, sir.
- 13 Q. Did the Defendant try to go get her?
- 14 A. Yes, sir.
- 15 Q. How long did that take?
- 16 A. A couple of minutes.
- 17 Q. What time of night are we talking about?
- 18 A. I ain't sure what time it was.
- 19 Q. Was it late?
- 20 A. Yeah.
- 21 Q. Dark?
- 22 A. Yes, sir.
- 23 Q. After dark -- way past dark?
- 24 A. Yes, sir.
- 25 Q. All right. Did you all ultimately leave that location?

- 1 A. Yes, sir.
- 2 Q. And, when you left, where did you go?
- 3 A. He told me to drop him off at home.
- 4 Q. So, in the car at this point, who is driving?
- 5 A. Me.
- 6 Q. Who else was in the car?
- 7 A. My sister, my cousin, and Isaiah.
- 8 Q. And where -- where is Isaiah sitting?
- 9 A. In the back seat.
- 10 Q. All right. So, you go to his house -- you go -- I assume
- 11 you go to his house?
- 12 A. Yes, sir.
- 13 Q. Did you make it there?
- 14 A. Yes, sir.
- 15 Q. What happens when you get there?
- 16 A. The police was already there.
- 17 Q. The police were there?
- 18 A. Yes, sir.
- 19 Q. Did you pull in the driveway?
- 20 A. No, sir, I backed in.
- 21 Q. You backed in the driveway?
- 22 A. After passing the house.
- 23 Q. You passed it and you backed back in?
- 24 A. Yes, sir.
- 25 Q. Why did you do that?

- 1 A. Because he told me not to stop at one point.
- 2 Q. Who told you not to stop?
- 3 A. Isaiah did.
- 4 Q. You backed into the driveway?
- 5 A. Yes, sir.
- 6 Q. The police got out?
- 7 A. Yes, sir.
- 8 Q. Actually, the police drew down on you, didn't they?
- 9 A. (Witness nods affirmatively.)
- 10 Q. You have to answer out loud. That lady right here ---
- 11 A. Yes, sir.
- 12 Q. --- is taking down everything and she can't record head
- 13 shakes.
- 14 A. Yes, sir.
- 15 Q. They drew down on you?
- 16 A. Yes, sir.
- 17 Q. Told you to get out of the car?
- 18 A. Yes, sir.
- 19 Q. And they got you out and they patted you down?
- 20 A. They told us to pull out of the driveway first.
- 21 Q. Okay.
- 22 A. And, then, they got me out and take me down and asked for
- 23 my driver's license.
- 24 Q. All right. Did they question you at the time?
- 25 A. Yes, sir.

- 1 Q. Did they question him, the Defendant?
- 2 A. I assume. I don't -- I don't think -- I don't know.
- 3 Q. I mean, you were more worried about you at that point?
- 4 A. Yes, sir.
- 5 Q. All right. How about the other people in the car, did
- 6 they talk to them?
- 7 A. I think so. I don't know.
- 8 Q. You were worried again, and they were talking to you?
- 9 A. Yes, sir.
- 10 Q. Did they ultimately let you go that night?
- 11 A. Yes, sir.
- 12 Q. All right. Did they let your cousin go?
- 13 A. Yes, sir.
- 14 Q. Your cousin and your sister?
- 15 A. My sister, yes, sir.
- 16 Q. Did they let your sister go?
- 17 A. Yes, sir.
- 18 Q. Do you know what happened that night to the Defendant?
- 19 A. They put him in handcuffs. I don't know if he went to
- 20 jail or not.
- 21 Q. Okay. All right. Now, the police called you again,
- 22 didn't they?
- 23 A. Yes, sir.
- 24 Q. And they started asking you about your whereabouts and
- 25 what you had been doing and this, that, and the other, right?

- 1 A. Yes, sir.
- 2 Q. And you lied to them, didn't you?
- 3 A. Yes, sir.
- 4 Q. What did you tell them?
- 5 A. I told them that I was with him all day and told them
6 everything that happened but I didn't tell them about the part
7 about me following him.
- 8 Q. Okay. In fact, you told them you were over at your
9 aunt's house sleeping all day?
- 10 A. Yes, sir.
- 11 Q. You didn't know nothing about nothing?
- 12 A. Yes, sir.
- 13 Q. And that wasn't true?
- 14 A. No, sir.
- 15 Q. They talked to you a number of times?
- 16 A. Yes, sir.
- 17 Q. Then, they arrested you?
- 18 A. Yes, sir.
- 19 Q. And that's when you told them about what you had seen and
20 done?
- 21 A. Yes, sir.
- 22 Q. Why did you lie?
- 23 A. Because I didn't want to get myself involved in it no
24 kind of way. And that's why I didn't go to them in the first
25 place when -- when I first knew what happened.

- 1 Q. So, you didn't want to get involved?
- 2 A. No, sir.
- 3 Q. You were looking out for you?
- 4 A. Yes, sir.
- 5 Q. And you got a prior record, don't you?
- 6 (Mr. Willingham reviews document.)
- 7 A. Yes, sir.
- 8 Q. And you got prior convictions for shoplifting?
- 9 A. Yes, sir.
- 10 Q. Back in two thousand, three (2003)?
- 11 A. Yes, sir.
- 12 Q. And you got prior convictions for -- it looks like for
- 13 possession -- possession and distribution of drugs near a
- 14 school?
- 15 A. Yes, sir.
- 16 Q. And you got a conviction for unlawful weapon?
- 17 A. Yes, sir.
- 18 Q. And that's around two thousand, four (2004). And you're
- 19 currently charged with murder?
- 20 A. Yes, sir.
- 21 Q. And you got a lawyer. Have you been promised anything in
- 22 exchange for your testimony?
- 23 A. No, sir.
- 24 Q. What is the only thing you've ever been asked about it or
- 25 asked to tell?

1 A. The truth.

2 Q. Now, I told you not to expect any deals, haven't I?

3 A. Yes, sir.

4 Q. Because there are none, are there?

5 A. No, sir.

6 MR. WILLINGHAM: Beg the Court's indulgence.

7 THE COURT: Yes, sir.

8 (Brief Pause)

9 MR. WILLINGHAM: If you would, answer any questions the
10 Defense lawyer has for you.

11 THE COURT: Mr. Richey, it's your witness.

12 CROSS EXAMINATION by MR. RICHEY:

10:40 A.M.

13 Q. Sir, during the -- first of all, every -- every -- most
14 people have a job; is that correct?

15 A. Yes, sir.

16 Q. And -- and really your main job is selling drugs,
17 correct?

18 A. No, sir.

19 Q. Okay. You -- you know a lot about the marijuana sale,
20 right?

21 A. Yes, sir.

22 Q. And you know about a lot -- a lot about selling crack
23 too, right?

24 A. No, sir. I don't sell crack, never have.

25 Q. Wait a minute. You have a conviction for selling crack,

1 right?

2 A. No.

3 Q. Well, the prosecutor just asked you did you have a
4 conviction for selling drugs near a school.

5 A. Drugs.

6 Q. Okay.

7 A. Drugs could be anything; crack, weed, pills.

8 Q. Okay. So, you -- so -- and -- and there is professional
9 protocol, in the sell of drugs, right? When I say protocol,
10 there's certain things you all do that that folks like me, who
11 don't do crack don't know, correct?

12 A. Yes. What do you mean by that question?

13 Q. Okay. Let me say this: When you -- one thing Jeffrey
14 Hubbard, the victim, and you were not close, correct?

15 A. Yes, sir.

16 Q. And the victim, Jeffrey Hubbard, in your testimony, and
17 Mr. Walker were close, correct?

18 A. Yes, sir.

19 Q. Okay. And the time that you all were doing all of this
20 riding around together, you didn't sense any animosity between
21 those two at all, correct?

22 A. No, sir.

23 Q. They were getting along fine, correct?

24 A. Yes, sir.

25 Q. And -- and they were, under your testimony, conspiring to

- 1 buy these drugs together, correct?
- 2 A. Yes, sir.
- 3 Q. The transaction seemed fine to you, correct?
- 4 A. Yes, sir.
- 5 Q. Okay. And -- and -- and, so, you were not alarmed at all
- 6 with that whole situation, correct?
- 7 A. No, sir.
- 8 Q. Okay. And you carry a gun, don't you?
- 9 A. No, sir.
- 10 Q. Have you ever carried a gun?
- 11 A. Yes, sir.
- 12 Q. Because, in fact, when you sell drugs, it's dangerous,
- 13 correct?
- 14 A. Yes, sir.
- 15 Q. And you have that gun for your protection, correct?
- 16 A. I didn't have no gun.
- 17 Q. When you carried your gun, would you admit ---
- 18 A. When you do, yeah.
- 19 Q. --- it was for your protection, correct?
- 20 A. Yes, sir.
- 21 Q. Because, when you're selling drugs, you have to have
- 22 protection, correct?
- 23 A. Yes, sir.
- 24 Q. Okay. So, at the time these drugs deals go down, because
- 25 it's so dangerous, everybody is protected, correct?

1 A. Yes, sir.

2 Q. Okay. Because you know -- you know, as well as -- well,
3 you know when -- when you're dealing with somebody and selling
4 drugs, you don't deal with nobody you don't know, correct?

5 A. Yes, sir.

6 Q. Okay. And, so, Jeffrey Hubbard to you -- you know, I
7 mean, you weren't in the deal because you don't know him,
8 right? You don't know him like that, right?

9 A. Yes, sir.

10 Q. Okay. You're going to say, "I don't know Jeffrey Hubbard
11 that I'm going to go out and stick my neck out on this drug
12 deal because I don't really know him. That's Isaiah's game
13 with him," right?

14 A. Yes, sir.

15 Q. Okay. All right. Because you know the dangers in
16 dealing with folks you don't know, correct?

17 A. Yes, sir.

18 Q. Okay. Because, when you go -- in fact, when you go do a
19 drug deal, and you meet at these locations, you're meeting
20 with a third person that could be very dangerous, correct?

21 A. Yes, sir.

22 Q. When they have the kind of dope you're talking about, in
23 this transaction, that person can be very dangerous, correct?

24 A. Yes, sir.

25 Q. And, when that person shows up with the dope, correct,

- 1 you better have the money, right?
- 2 A. Yes, sir.
- 3 Q. Because he's sticking his neck out, right?
- 4 A. Yes, sir.
- 5 Q. And he can become very dangerous, correct?
- 6 A. Yes, sir.
- 7 Q. And, so, that's why you weren't in that deal, correct?
- 8 A. Yes, sir.
- 9 Q. Because you're like, "I don't know who they're meeting,"
- 10 correct?
- 11 A. Yes, sir.
- 12 Q. And whoever they're meeting could be very dangerous
- 13 because of the amount of drugs we're talking about, correct?
- 14 A. Yes, sir.
- 15 Q. Okay. And, so, in fact, you -- according to your
- 16 testimony you lack -- you took a longer route to get to his
- 17 house than you had to, correct?
- 18 A. It's -- it's the only route I know how to get there.
- 19 Q. Is that the first time you've been to that house?
- 20 A. No, sir.
- 21 Q. And this was not some like isolated kind of incident? I
- 22 mean, it wasn't like you all said, "Hey, let's go get a bag of
- 23 weed and go on back to the house and smoke," correct? This
- 24 was something that -- that was of a major proportion because
- 25 it was planned; is that correct?

- 1 A. Yes, sir.
- 2 Q. What was that?
- 3 A. Yes, sir.
- 4 Q. And Jeffrey took the day off just -- I mean, you're
- 5 talking about a significant drug transaction, correct, so,
- 6 Jeffrey took the day off, correct?
- 7 A. I don't know if he took that day off.
- 8 Q. He wasn't working, right?
- 9 A. No, sir.
- 10 Q. Okay. And -- and you -- you're not in jail for murder
- 11 right now, are you?
- 12 A. Yes, sir.
- 13 Q. You were never released on your murder charge?
- 14 A. On bond.
- 15 Q. You -- you what?
- 16 A. On bond.
- 17 Q. Okay. And, so, the purpose of you coming here today in
- 18 jail is not because of your murder charge, correct, because
- 19 you were out on bond on the murder, right?
- 20 A. Yes, sir.
- 21 Q. And you did something to get yourself back in jail,
- 22 correct?
- 23 A. No, sir.
- 24 Q. Huh?
- 25 A. Yes, sir.

1 Q. Okay. So, you're not sitting in jail on some murder
2 charge right now, correct?

3 A. I'm sitting in here for murder though.

4 Q. Okay. And -- and, in fact, you believe that it's in your
5 best interest to testify, correct?

6 A. I would think so, yeah.

7 Q. Okay. And -- and, so, to be in your best interest, you
8 have to feel like you're getting something out of it, correct?

9 A. Not necessarily, but yeah, yes, sir.

10 Q. Okay. So, this notion about I ain't getting nothing,
11 been promised and stuff, you don't believe that because you're
12 expecting something, correct?

13 A. But nothing was promised.

14 Q. But you're expecting it, correct?

15 A. Yeah, expecting my charge to be dropped.

16 Q. Okay. You're expecting it. So, you expect that the
17 charge would be dropped against you and Mr. Walker convicted;
18 that's the plan, correct?

19 A. I don't know, if he's going to get convicted or not, but
20 I expect my charge to be dropped.

21 Q. Okay. All right. And that's the basis of this
22 testimony, correct?

23 A. Yes, sir.

24 Q. If you're going to get up here and testify and do all
25 this and -- and meet with the prosecutor and talk to him, the

1 least they can do is drop the charges, correct?

2 A. But I still wasn't promised nothing.

3 Q. But, no, but that's the least they can do, correct?

4 That's what you're thinking?

5 A. Yeah.

6 Q. Okay. Given the opportunity to tell the truth, over and
7 over again, you didn't tell the truth, did you?

8 A. Yes, sir.

9 Q. The first time the police talked to you did you tell the
10 truth?

11 A. No, sir.

12 Q. The second time they talked to you did you tell them the
13 truth?

14 A. Yes, sir.

15 Q. The second time you did?

16 A. Yes, sir.

17 Q. Okay. The third time did you do a lot of adding on?

18 A. I told them the same thing.

19 Q. But did you add to that statement?

20 A. Yes, sir.

21 Q. Okay. And you added the part about at the pond and
22 throwing the clothes and all of that, correct?

23 A. Huh-uh (negative).

24 Q. What did you add?

25 A. The part where I picked him up and what he told me.

- 1 Q. Okay. What about throwing the clothes and all of that?
- 2 A. That was the second time.
- 3 Q. Okay. All right. So, you have -- you have kind of bits
- 4 and pieced this story together, correct?
- 5 A. Yes, sir.
- 6 Q. Okay.
- 7 (Brief Pause)
- 8 Q. You ain't telling the truth now, are you?
- 9 A. Yes, sir.
- 10 Q. You're telling the truth today?
- 11 A. Yes, sir.
- 12 Q. So, the -- the truth you're telling today is you came --
- 13 you didn't see -- you didn't see no killing, did you?
- 14 A. No, sir.
- 15 Q. You didn't even see Jeffrey Hubbard, right?
- 16 A. No, sir.
- 17 Q. I mean, you didn't -- you go - you go up to the house and
- 18 you didn't see all that? You didn't see nothing other than
- 19 Isaiah standing there, correct?
- 20 A. Yes, sir.
- 21 Q. Okay. You didn't see no blood, no shells; you didn't see
- 22 none of that, did you?
- 23 A. No, sir.
- 24 Q. Okay. When you went - when you went back that night, you
- 25 didn't see no blood, no shells, nothing?

1 A. I see a bunch of police.

2 Q. Okay. So, when you and -- so, really, you ain't seen
3 nothing, right?

4 A. I told you everything I seen.

5 (Brief Pause)

6 Q. You went to that house, right?

7 A. Yes, sir.

8 Q. On that day, right?

9 A. Yes, sir.

10 Q. And you pulled up and it was daylight, right?

11 A. Yes, sir.

12 Q. Okay. You say you didn't go in the driveway, right?

13 A. Yes, sir.

14 Q. Right?

15 A. Yes, sir.

16 Q. Okay. And, when you got there, you said Jeff's car was
17 right here (indicating) where this car is parked, right?

18 A. Yes, sir.

19 Q. And you say you just saw Isaiah, right?

20 A. Yes, sir.

21 Q. Okay. Isaiah was standing in front of the car?

22 A. Right like there like he's fixing to get in the car. The
23 car's driver's side door open.

24 Q. Okay. The driver's side door is open. And, so, did you
25 get out of the car?

- 1 A. No, sir.
- 2 Q. You stayed in the car?
- 3 A. Yes, sir.
- 4 Q. So, you could see the yard and the driveway and all that
- 5 from where you were sitting; where you're sitting in the car?
- 6 A. Yeah.
- 7 Q. And you didn't see no blood, right?
- 8 A. No, sir.
- 9 Q. You didn't see no shell casings?
- 10 A. No, sir.
- 11 Q. Okay. So, when Jeffrey Hubbard's, as you know now, body
- 12 was in that car, your -- your story is that Isaiah had shot
- 13 him and he's in that car; that's -- you know that's what you
- 14 really saw now, right?
- 15 A. Repeat the question.
- 16 Q. Okay. You knew, at some point, that Jeffrey Hubbard's
- 17 body was in that car shot, correct?
- 18 A. No.
- 19 Q. Okay. At the pond, did you discover Jeffrey Hubbard's
- 20 body was in the car shot?
- 21 A. No, sir.
- 22 Q. So, you ain't seen Jeffrey Hubbard's body in that car at
- 23 all?
- 24 A. No, sir.
- 25 Q. All you had seen is Isaiah getting out? You hadn't seen

1 that body at all?

2 A. No, sir.

3 Q. Okay. So, when you got to the house and you saw Isaiah
4 standing there at the house, in the -- in the white -- and I'm
5 assuming that's Jeff's car, right? You didn't see no body?

6 A. No, sir.

7 Q. And you didn't see no blood?

8 A. No, sir.

9 Q. So, you and Isaiah, in your testimony, drove down to the
10 lake, you follow Isaiah and he dumped the car and he took off
11 his clothes and you all drove off, right?

12 A. Yes, sir.

13 Q. So, you ain't seen no murder. You ain't seen no
14 evidence. You ain't seen pretty much nothing, right?

15 A. Yes, sir.

16 Q. Okay. So, if someone would testify -- if a statement is
17 made that -- that there were shell casings and blood all over
18 this place, that would be a true statement?

19 MR. WILLINGHAM: Objection, Your Honor. That's pitting
20 witnesses and that's improper.

21 THE COURT: I'll sustain that objection.

22 Q. (By Mr. Richey) All right. There -- there would be no
23 cause to believe -- at the time that Isaiah is at that car,
24 that you see him, there would be no reason to believe that
25 there would be gunshots -- there would be casings and blood

- 1 there, correct?
- 2 A. It ain't like I was looking for it.
- 3 Q. You weren't looking for it, right?
- 4 A. No, sir.
- 5 Q. So, when you were -- when you were parked there, you
- 6 could see up the driveway, right? You could see up that
- 7 drive? You had a good view of it, correct?
- 8 A. I was like right there where that tree at, at the end of
- 9 that red truck.
- 10 Q. Did you see the car that -- that -- that -- did you see
- 11 the car that you claim that Isaiah was driving, the other car?
- 12 A. Yes, sir.
- 13 Q. Did you have a good view of it?
- 14 A. Yes, sir.
- 15 Q. Did you see any blood on it?
- 16 A. No, sir.
- 17 Q. It was clean like normal?
- 18 A. Yes, sir.
- 19 Q. When Isaiah got in the car, I'm assuming with you, and
- 20 you drove off ---
- 21 A. I was waiting on him to pull out.
- 22 Q. Okay. When you all get to the pond, right, who is
- 23 driving what car?
- 24 A. Isaiah is driving Jeff's car and I'm driving the
- 25 Cadillac.

- 1 Q. Okay. And, so, at some point, Isaiah gets out of the
2 car, right?
- 3 A. Yes, sir.
- 4 Q. And, when he gets out of the car, then, what? Does he
5 get in the car with you?
- 6 A. Yes, sir.
- 7 Q. He does?
- 8 A. (Witness nods affirmatively.)
- 9 Q. Does he get in on the driver or passenger side?
- 10 A. Passenger.
- 11 Q. The passenger side?
- 12 A. Yes, sir.
- 13 Q. Okay. And, when he gets in on the passenger side, did
14 you -- did you see any blood or anything on his hands?
- 15 A. No, sir.
- 16 Q. Did you see any blood or anything on the clothing that he
17 had on?
- 18 A. He didn't have on nothing but boxers and socks.
- 19 Q. Did you see what kind of shoes Isaiah was wearing?
- 20 A. The same shoes he had on earlier.
- 21 Q. What -- what shoes were those?
- 22 A. Some brown Timberlands.
- 23 Q. Okay. And, when he got out of the car, did he get out of
24 the car with them on and take them off?
- 25 A. Yes, sir.

- 1 Q. Okay. So, what he did ---
- 2 (Brief pause while Mr. Richey retrieves exhibit and
- 3 places State's Number 8 on overhead.)
- 4 Q. Okay. Is that a -- is that a picture of that pond?
- 5 A. Yes, sir.
- 6 Q. Okay. So, when -- when Isaiah's car is over here to the
- 7 right, correct?
- 8 A. Yes, sir.
- 9 Q. He gets out of the car, right? Is that what happened?
- 10 A. Yes, sir.
- 11 Q. And, when he gets out of the car, does he walk up this
- 12 way (indicating) and take his clothes off, or does he -- how
- 13 -- how -- where does he walk? Does he walk up here
- 14 (indicating) and take them off in that area?
- 15 A. He just started taking them off as soon as he got out of
- 16 the car.
- 17 Q. Okay. And he started throwing them?
- 18 A. Yes, sir.
- 19 Q. Was he throwing them back towards the street?
- 20 A. No, sir.
- 21 Q. He was throwing them away from the street?
- 22 A. Yes, sir.
- 23 Q. Okay. He was throwing them in sort of this direction
- 24 (indicating)?
- 25 A. Yes, sir.

- 1 Q. The boots and all that?
- 2 A. Yes, sir.
- 3 Q. Okay. Mr. Gentry, you -- you -- in the -- in the street
- 4 -- and I'm going to use the phrase, "street," and that's
- 5 unfortunate. When you deal drugs in the street, there's a
- 6 street code out there, isn't it?
- 7 A. Yes, sir.
- 8 Q. And there's a code, "don't tell," right?
- 9 A. Yes, sir.
- 10 Q. They're the most dangerous and severe people and you
- 11 don't tell?
- 12 A. Yes, sir.
- 13 Q. Okay. Even if you do know, you don't tell?
- 14 A. Yes, sir.
- 15 Q. Okay. And you're part of that code, correct?
- 16 A. No, sir.
- 17 Q. You're not, but you're aware of it?
- 18 A. Yes, sir.
- 19 Q. You knew Isaiah Walker, right?
- 20 A. Yes, sir.
- 21 Q. By the way, when is your trial date for this murder
- 22 charge?
- 23 A. I don't know.
- 24 (Brief Pause)
- 25 Q. How long -- you had known Mr. Hubbard, for a brief period

1 of time, Jeffrey Hubbard, the victim?

2 A. Yes, sir.

3 Q. You knew him for a brief time?

4 A. Just a brief.

5 Q. For a minute?

6 A. No. I had seen him a couple of times.

7 Q. Okay. And, during those times, did you ever do drugs
8 with him?

9 A. Yes, sir.

10 Q. Did you ever buy drugs from him?

11 A. No, sir.

12 Q. Did you ever sell drugs to him?

13 A. No, sir.

14 Q. Do you love your sister?

15 A. Sir?

16 Q. Do you love your sister?

17 A. Yes, sir.

18 MR. WILLINGHAM: I'm going to object to the relevance.

19 Whether he loves his sister or not has nothing to do with this
20 case.

21 MR. RICHEY: Okay. Well, I'll -- I'll rephrase it.

22 THE COURT: Thank you.

23 Q. (By Mr. Richey) You don't want any harm to come to your
24 sister, do you?

25 A. No, sir.

1 Q. And you don't want to risk putting her around somebody
2 that could cause harm to her, correct?

3 A. Yes, sir.

4 Q. And -- and you said that you were scared that night and
5 you didn't want to be alone, correct?

6 A. Yes, sir.

7 Q. And -- and you put your sister in harm's way and you were
8 afraid, correct?

9 A. If you want to put it that way.

10 Q. Okay. And this -- did Isaiah and Amanda, do they have a
11 wedding date? Do they have a wedding date?

12 A. Not that I know of.

13 Q. Okay. Were they -- were they engaged?

14 A. Not that I know of.

15 Q. Okay. And -- and really, you all had plenty of women,
16 correct?

17 A. Who is "you all"?

18 Q. You.

19 A. Yes, sir.

20 Q. And -- and women are not -- unfortunately, women are a
21 commodity in the -- in the street; isn't that so? These women
22 you have, you don't have these women, for the purpose of
23 marrying them, correct?

24 A. If you find the right one.

25 (Brief Pause)

1 MR. RICHEY: Just one moment, Your Honor, please.

2 THE COURT: Yes, sir.

3 MR. RICHEY: Thank you.

4 (Brief Pause)

5 Q. (By Mr. Richey) Do you know Chavez Miller?

6 A. Sir?

7 Q. Do you know Chavez Miller?

8 A. Yes, sir.

9 Q. How well do you know him?

10 A. He used to talk to my sister.

11 Q. When you say, "talk," what does that mean?

12 A. They was going together.

13 Q. Okay. And -- and, during that day, did you see Chavez
14 Miller at all?

15 A. No, sir.

16 Q. With other people?

17 A. No, sir.

18 Q. Is he in your -- in your little loop, meaning by "loop,"
19 friendship kind of thing?

20 A. He come around sometimes.

21 Q. Do -- do you sell with him?

22 A. No, sir.

23 Q. Do you trust him?

24 A. No, sir.

25 Q. You don't deal with anybody you don't know, correct?

1 A. Yes, sir.

2 Q. And this deal with -- with Jeffrey Hubbard and Isaiah
3 Walker was taking place with somebody you didn't know,
4 correct?

5 A. Yes, sir.

6 Q. And that's for safety, correct?

7 A. I guess so.

8 MR. RICHEY: Thank you, sir.

9 THE COURT: Redirect?

10 REDIRECT EXAMINATION by MR. WILLINGHAM:

11:01 A.M.

11 Q. You say you expect your charges to be dropped?

12 A. Yes, sir.

13 Q. It's what you hope?

14 A. Yes, sir.

15 Q. And you never got any hope from me, have you?

16 A. No, sir.

17 Q. And it's not like you came to me and say, "Look, Mr.
18 Solicitor, if you drop my charges, I'll testify for you."
19 That didn't happen, did it?

20 A. No, sir.

21 Q. You just got hope?

22 A. Yes, sir.

23 Q. And you've been disappointed before, hadn't you?

24 A. Yes, sir.

25 Q. And you're in jail on murder charges, aren't you?

- 1 A. Yes, sir.
- 2 Q. You got out on bond, didn't you?
- 3 A. Yes, sir.
- 4 Q. And you were on home detention?
- 5 A. Yes, sir.
- 6 Q. And you violated home detention?
- 7 A. Yes, sir.
- 8 Q. And that's why you're in jail?
- 9 A. Yes, sir.
- 10 Q. You're still in on murder charges?
- 11 A. Yes, sir.
- 12 Q. You gave that second -- second statement, to law
13 enforcement on February 26, of two thousand and six (2006),
14 didn't you?
- 15 A. (No Response)
- 16 Q. I'll show it to you.
- 17 (Witness shown document.)
- 18 (Brief pause while witness examines document.)
- 19 Q. That's your statement?
- 20 A. Yes, sir.
- 21 Q. That's your signature at the bottom?
- 22 A. Yes, sir.
- 23 Q. "Brent Gentry," and your signature at the bottom, a one
24 page statement?
- 25 A. Yes, sir.

- 1 Q. Dated 2/26/06?
- 2 A. Yes, sir.
- 3 Q. And you told them what kind of clothes he had on and what
- 4 he did with them, right?
- 5 A. Yes, sir.
- 6 Q. Tell me again what kind of clothes he had on.
- 7 A. A black sweatshirt and some red pants and some ---
- 8 Q. Hang on, slow down. Black sweatshirt.
- 9 (Mr. Willingham retrieves and holds up sweatshirt.)
- 10 Q. Does that look like it?
- 11 A. Yes, sir.
- 12 Q. What else?
- 13 A. Some red pants.
- 14 (Mr. Willingham retrieves and holds up pants.)
- 15 Q. Does that look like them?
- 16 A. Yes, sir.
- 17 Q. What else?
- 18 A. Some tan looking Timberland boots.
- 19 (Mr. Willingham retrieves and holds up boots.)
- 20 Q. Does that look like them?
- 21 A. Yes, sir.
- 22 Q. On that day, was Chavez Miller anywhere around?
- 23 A. No, sir.
- 24 Q. He dated your sister?
- 25 A. Yes, sir.

- 1 Q. You didn't see him that morning?
- 2 A. No, sir.
- 3 Q. You didn't see him that afternoon?
- 4 A. No, sir.
- 5 Q. You didn't see him that night?
- 6 A. No, sir.
- 7 Q. On this date, February 17th, two thousand and six (2006),
- 8 did you have a gun?
- 9 A. No, sir.
- 10 Q. But you have carried a gun before?
- 11 A. Yes, sir.
- 12 Q. You didn't have one on this day?
- 13 A. No, sir.
- 14 Q. How about the Defendant, did he have one?
- 15 A. I didn't see one.
- 16 Q. You didn't see one. Did he carry one?
- 17 A. I've known him to carry one before.
- 18 Q. Okay. You didn't see one this day?
- 19 A. No, sir.
- 20 Q. How about Jeffrey Hubbard, did he have a gun?
- 21 A. I didn't seen none.
- 22 Q. You didn't see one. Do you know if he carried one?
- 23 A. No, sir.
- 24 Q. You don't know?
- 25 A. No, sir.

1 MR. WILLINGHAM: Thank you.

2 THE COURT: Recross?

3 RECROSS EXAMINATION by MR. RICHEY:

11:04 A.M.

4 Q. You said ---

5 (Mr. Richey pulls out boot.)

6 Q. You said Isaiah Walker had this shoe on, right?

7 A. Yes, sir.

8 Q. Okay. And you saw him with this shoe on in the driveway,
9 correct?

10 A. Yes, sir.

11 Q. Okay. And, so, his feet was on -- on the driveway,
12 correct?

13 A. Yes, sir.

14 Q. So, your eyes saw the driveway with him with these shoes
15 on, correct?

16 A. I wasn't looking at his feet.

17 Q. But you saw the shoes, right?

18 A. He had them on all day.

19 Q. So, at the time that he was in that driveway, he had
20 these shoes on (indicating)?

21 A. I guess so, yeah.

22 Q. So, you're not sure whether he had them on, on in that
23 driveway, the day that you saw him by Jeffrey Hubbard's car?
24 You're not sure he had these shoes on?

25 A. He had them on all day.

1 Q. I'm not talking about all day. I'm talking about, from
2 the time that he was in that driveway, and he was by that car,
3 did you see him with these shoes on?

4 A. I wasn't looking at his feet.

5 Q. So, it's possible he did not have these shoes on,
6 correct?

7 A. It could be; I don't know.

8 MR. RICHEY: Thank you, sir.

9 THE COURT: All right, sir, you may step down. Thank
10 you very much.

11 (The witness stepped down from the witness stand.)

12 THE COURT: Solicitor, we've been going for about two
13 hours. I'm going to take a short break at this time.

14 MR. WILLINGHAM: Thank you, Judge.

15 THE COURT: Ladies and gentlemen of the jury, as I
16 always tell you, don't begin any discussions concerning this
17 case until I've instructed you to begin your deliberations.

18 At this time, we'll take about a ten (10) minute break
19 and give you a chance to stretch your legs and refresh
20 yourselves. You may step from the jury room -- from the
21 courtroom. Thank you.

22 (Off-the-Record Comments)

23 (The jury exited the courtroom at 11:06 a.m.)

24 THE COURT: All right. Court is in recess for about ten
25 (10) minutes. The Defendant remains in custody.

1 (Whereupon, a recess was taken from 11:06 a.m. till 11:22
2 a.m.)

3 (Whereupon, State's Exhibit Numbers 81 and 82 were marked
4 for identification.)

5 THE COURT: Thank you very much. You can be seated. Is
6 the State ready?

7 MR. WILLINGHAM: Yes, sir, Your Honor.

8 THE COURT: Is the Defense ready?

9 MR. RICHEY: Yes, sir.

10 THE COURT: All right. Bring the jury back.

11 (The bailiff stepped out to summon the jury.)

12 (The jury entered the courtroom at 11:23 a.m.)

13 THE COURT: Mr. Willingham, you may call your next
14 witness.

15 MR. WILLINGHAM: Judge, we call Dr. Wrenn.

16 (Dr. Wrenn is summoned.)

17 (Dr. Wrenn stepped forward to be sworn.)

18 (Whereupon,

19 DR. DAVID WRENN

20 having been first duly sworn, testified as follows:)

21 THE COURT: Sir, please, be seated and move as close to
22 the microphone as possible and state your full name for the
23 record.

24 THE WITNESS: My full name is John David Wrenn.

25 THE COURT: Mr. Willingham, it's your witness.

1 MR. WILLINGHAM: Thank you, judge.

2 DIRECT EXAMINATION by MR. WILLINGHAM:

11:23 A.M.

3 Q. Dr. Wrenn, you work at Spartanburg Regional Medical
4 Center; is that correct?

5 A. Well, I'm employed by Spartanburg Pathology Consultants,
6 which has a contract with Spartanburg Regional Medical Center,
7 and I'm full time there.

8 Q. Okay. And what do you do there?

9 A. I'm a path -- medical doctor with a specialty in
10 pathology. And I'm the laboratory medical director at
11 Spartanburg Regional Medical Center.

12 Q. If you would, explain to the jury what a pathologist is.

13 A. Well, pathology is that branch of medicine that is
14 concerned with the study of disease processes of the body. A
15 pathologist is a medical doctor that's trained and goes
16 through medical school.

17 And, once the pathologist is out, there is a -- several
18 avenues that a pathologist can take to become a pathologist.
19 Pathology is divided into two main areas. One is clinical
20 pathology and the other is anatomic pathology.

21 Clinical pathology is that branch of pathology that deals
22 with laboratory tests and studies, and as such a -- a
23 pathologist that has trained in clinical pathology runs
24 laboratories, oversees the decisions associated with various
25 tests, and acts as a consultant to a physician in interpreting

1 those tests and following up with additional tests suggesting
2 those tests.

3 Most people are -- are -- most people are familiar with
4 those -- those tests being blood tests, blood banking, testing
5 of samples for microbiology, and chemical tests on the blood.
6 Those are several of the branches of clinical pathology.

7 The other branch of pathology is anatomic pathology,
8 which actually deals with tissue; that being tissue that is
9 removed from the body, either in a physician's office or in
10 surgery.

11 It is sent to a pathologist for examination, if that
12 person does surgical pathology, which deals with taking that
13 tissue, looking at it, and by training, taking the appropriate
14 representative portions of that tissue, either part or all of
15 it, and submitting it for microscopic examination and, then,
16 interpreting those slides that are prepared;

17 Determining whether a process is benign or malignant and
18 whether it is infectious or some other process. And, then,
19 tells the physician, that has sent that, what the diagnosis is
20 for further treatment.

21 And anatomic pathology is further divided into surgical
22 pathology, which I've just alluded to, and autopsy pathology.
23 Autopsy pathology is just actually autopsies that are
24 associated with hospital deaths.

25 But a sub-branch of an autopsy pathology is forensic

1 pathology, which is medical/legal autopsies and investigation
2 of medical/legal things as far as the pathologic processes are
3 concerned.

4 Now, a pathologist can either take one of the two
5 avenues, or they can do a combined anatomic and pathology
6 residency [sic]. The general residency is five (5) years for
7 a combined, either three (3) in one (1) and two (2) in the
8 other, or some combination of those.

9 Then, autopsy -- I'm sorry, then, forensic pathology, if
10 one only wants to do forensic pathology, they train for three
11 (3) years in generalized anatomic pathology and does a
12 residency of one (1) to two (2) years in forensic pathology.

13 Q. And you are here today in your role as a forensic
14 pathologist?

15 A. That's correct.

16 Q. And you've testified in this court I can't even think how
17 many times in forensic pathology; is that correct?

18 A. Probably twelve (12) to twenty (20) times a year at
19 least.

20 Q. And you ---

21 A. Since 1989.

22 MR. WILLINGHAM: Your Honor, at this time, I offer Dr.
23 Wrenn as qualified and an expert to render an opinion in the
24 area of forensic pathology.

25 MR. RICHEY: I have no objection, Your Honor.

1 **THE COURT:** Without objection, he'll be qualified as an
2 expert in that field. You may proceed.

3 **MR. WILLINGHAM:** Thank you.

4 **Q.** (By Mr. Willingham) Dr. Wrenn, did you perform an autopsy
5 on the body of Jeffrey Hubbard?

6 **A.** Yes. I performed an autopsy, on the body of a biracial
7 male, identified as Jeffrey Hubbard, in the Spartanburg
8 Regional Medical Center autopsy room, on February the 18th, two
9 thousand, six (2006), beginning at 1:30 p.m.

10 **Q.** And, when you conduct an autopsy -- and this is probably
11 a too simple question and correct me -- you're looking for the
12 cause of death?

13 **A.** Well, that's the final objective.

14 **Q.** Okay. And, in order to find that final objective, you
15 have to examine the body?

16 **A.** Yes. Generally speaking, a -- a forensic autopsy
17 includes, not only a brief history of what the law enforcement
18 officers can tell me prior to the autopsy, or in the case of a
19 medial examiner system, the medical examiner actually goes to
20 the scene and may or may not do the autopsy, but at least that
21 medical examiner relays that information to the forensic
22 pathologist that will -- does the autopsy.

23 Then, we receive the body. It's -- in it's undisturbed
24 state. If there's been resuscitation attempts or whatever, we
25 tell them to leave it just like they finish. And, then, we

1 describe the clothing, remove the clothing from the body, and
2 then, do an external description briefly.

3 Then, if there's a lot of blood or whatever on the body,
4 we clean the body up, take photographs, re-describe the body,
5 and, then, do a complete autopsy, which includes the internal
6 examination of both the head and the thorax and abdomen.

7 Q. During your external examination of this body, did you
8 notice any injuries to Jeffrey Hubbard?

9 A. Well, yes. Basically, he had twenty-four (25) gunshot
10 wounds to the body.

11 Q. Okay. Were they located throughout the body or were they
12 centralized to one or two areas?

13 A. Well, now, some of the -- some of the gunshot wounds were
14 actually exits. But, nevertheless, there were twenty-four
15 (24) defects in the body.

16 There were --

17 (Brief pause while witness examines document.)

18 A. There was -- there were a set of gunshot wounds in a
19 lineal line in the left lower abdominal region. There were a
20 set of gunshot wounds, in the right arm, one -- there were
21 five (5) in the right arm.

22 There were gunshot wounds, in the right lateral back and
23 hip region and, then, several across the mid back and then, a
24 couple in the posterior lower buttocks and upper left leg
25 region.

1 Q. And, upon the examining the body internally, were you
2 able to determine what organs those bullets or projectiles had
3 passed through?

4 A. Yes. There -- like I said, there were multiple gunshot
5 wounds. He had through and through gunshot wounds to his
6 intestines, which is somewhat hard to count because of the way
7 the intestines fold back and forth.

8 He also had a large gaping gunshot wound, to the right
9 lobe of the liver, and he had a gunshot wound to the spleen.
10 None in the upper -- above the diaphragm, none in the -- the
11 chest actually.

12 Q. Okay. And, Doctor, did you make a diagram showing the
13 location of those various bullet -- bullet holes?

14 A. Yes. I -- I made a diagram, as well as a bullet wound
15 chart that traces most of those bullets.

16 Q. Okay. I'm going to show you what's been marked as
17 State's Exhibit Number 82 and ask if you recognize that?

18 (Exhibit shown to witness.)

19 A. Yes. That's a copy of the diagram indicating the gunshot
20 wounds, as well as some of the bullets that were recovered.

21 Q. Okay. Dr. Wrenn, when you performed this autopsy, law
22 enforcement officers were there?

23 A. That's correct.

24 Q. And, as you examined this body internally, it's my
25 understanding that you found projectiles or bullets inside

1 that body?

2 A. Yes. I found one within the shirt, but I found a total
3 of ten (10) -- ten (10) projectiles.

4 Q. Okay. And you turned those ten (10) projectiles over to
5 law enforcement that day; is that correct?

6 A. Well, this -- this autopsy took parts of two days.

7 Q. Okay.

8 A. The first day I recovered some of the more superficial
9 bullets.

10 Q. Right.

11 A. I recovered -- I forwarded those to Officer Russ -- Rusty
12 Clevenger, and the rest to Dominick Baird of the Spartanburg
13 County Police Department.

14 Q. Okay. Thank you. And you also -- some of those bullets
15 are noted on that chart ---

16 A. Yes.

17 Q. --- State's 82?

18 A. Yes. Yes, that's correct.

19 Q. And the other ones are noted on State's Exhibit 81?

20 A. That's correct.

21 MR. WILLINGHAM: Your Honor, at this time, I would move
22 State's Exhibits 81 and 82 into evidence.

23 THE COURT: Any objection?

24 MR. RICHEY: No objection.

25 THE COURT: Without objection, they'll be received as

1 marked.

2 (Whereupon, State's Exhibit Numbers 81 and 82 were
3 admitted into evidence without objection.)

4 Q. (By Mr. Willingham) I'm going to show you State's Exhibit
5 Number 82 on the overhead, Dr. Wrenn.

6 (State's Number 82 shown on overhead.)

7 Q. If you would, just explain to the jury what they're
8 seeing.

9 A. Well, this is a front and back diagram of a -- a -- a
10 male. There -- as I stated, there is set of four linear
11 gunshot wounds that are numbers I think 2, 3, 4, and 5 along
12 the left lower abdomen.

13 There's a gunshot wound in the right flank region.
14 There's another gunshot wound in the mid right abdomen.

15 (Brief Pause)

16 A. And, in the back -- or in the right arm, there's gunshot
17 wounds just above the elbow; one in the crease of the elbow,
18 two in the forearm. And then -- can you all see?

19 (Jurors nod in the affirmative.)

20 A. Then, there are additional gunshot wounds in the back, in
21 this -- in the mid -- middle back, there's a through and
22 through gunshot wound.

23 Then, there's six (6), in the right flank, one just in
24 the midline of the back, and, then, two in the lower left
25 buttocks region; one in the right buttock region and one in

1 the lateral right hip region.

2 Q. Okay. Dr. Wrenn, on the left side, the left picture ---

3 A. Yes.

4 Q. --- on the left, it appears to be left arm.

5 A. Yes. I did mention -- I forgot to mention, on the left
6 arm, on the forearm, on the bolar surface (phonetic) of the --
7 on the front surface, called the bolar surface, there's a
8 grazing gunshot wound to the arm with powder stippling around
9 that gunshot wound indicating a close range gunshot wound
10 because, as the weapon discharges the bullet, following that
11 bullet is expanding gases, burning powder, and soot, that
12 comes out the barrel.

13 And it actually can tattoo the skin, burn little holes in
14 the skin and deposit soot in that area. And that's what the
15 stippling indicates there.

16 Q. And you said that was a -- an indication of being shot in
17 close proximity; you mean struck in close proximity of the
18 gun?

19 A. Yes. Depending on the -- the type of weapon it is. With
20 a handgun that distance is usually less than six (6) to eight
21 (8) inches from the barrel when -- further than that distance,
22 the powder and soot will not -- the burning powder and soot
23 will not reach a surface. So, it just dissipates in the air.

24 But, if there -- it's close enough, then, it will cause
25 this stippling effect. It's either called stippling or

1 tattooing by various people.

2 Q. Dr. Wrenn, in reading your report, you said there was a
3 possible ricochet or grazing you said on the left little
4 finger?

5 A. That's correct. I did described that, in my autopsy
6 report, but I did not diagram it on the -- on the diagram.

7 Q. And how would you be able to determine it's a ricochet
8 type of wound?

9 A. Well, usually ricochets are somewhat like this one. If
10 -- if you notice, I've got several more round holes and then,
11 this one in the buttocks region is sort of irregular because,
12 as the bullet hits the surface and ricochets, it -- it usually
13 is tumbling. And, when it's tumbling, it does not leave a
14 nice round hole.

15 So, it's difficult to tell whether those are. But
16 they're usually a ricochet if they're not nice round holes.
17 Or you can tell that they've entered at a -- at an angle to
18 the -- to the surface.

19 For instance, if you -- if this were -- this whole screen
20 here had three dimensions to it, and I shot from your
21 position, straight on, it would be a nice hole.

22 But, if I walked over and shot at an angle
23 (demonstrates), up through this, there would be a grazing
24 area, as the bullet started into the skin, and it sort of digs
25 in and, then, continues to -- to move through the tissue and

1 -- and leaves a -- a hole that is not round unless you look at
2 it from the direction that the bullet were coming from.

3 Q. And, Doctor, based upon your examination and based upon
4 your experience and qualifications, do you have an opinion as
5 to what caused the death of Jeffrey Hubbard?

6 A. I simply assigned the cause of death due to
7 exsanguination, which means bleeding to death from internal
8 and external hemmorrhage, secondary to multiple gunshot wounds
9 to the body.

10 Q. So, you -- in -- in my terms, with the gunshots, there
11 were so many, it just caused him to bleed to death?

12 A. Yes. He had multiple areas that were bleeding,
13 particularly the liver, the spleen. Both bleed freely when
14 they're penetrated.

15 He had the gaping gunshot wound to the -- to the liver
16 itself. And, then, the bullets were the pelvis -- actually in
17 the pelvis there caused a lot of fracturing of the bones in
18 the pelvis. And they also bleed rather freely.

19 So, he basically just bled to death from -- from all
20 these gunshot wounds. It's really hard to say which one.

21 I mean, many of these by themselves could have caused the
22 death, but they were all collectively associated with his
23 death.

24 Q. And, Doctor, do you have an opinion, based upon your
25 examination, training, and experience, as to the manner of

1 death?

2 A. Well, the manner of death is -- there are five (5)
3 manners of death, which is what the coroner is mainly
4 interested in, whether a death is natural one caused; whether
5 it's a homicide, caused by someone else; suicide, caused by
6 the person themselves; accidental, and then, undetermined.

7 I have an -- (coughs) excuse me -- I have an opinion, but
8 the coroner in this county insists that he assign the manner
9 of death.

10 Q. What is your opinion, Doctor?

11 A. I think it's a homicide.

12 MR. WILLINGHAM: If you would, answer any questions that
13 the Defense lawyer has for you.

14 MR. RICHEY: One moment, Your Honor, please.

15 THE COURT: Yes, sir.

16 (Brief Pause)

17 MR. RICHEY: Thank you.

18 THE COURT: All right, Mr. Richey, you may proceed.

19 CROSS EXAMINATION by MR. RICHEY:

11:44 A.M.

20 Q. These -- basically I think you said he bled to death; is
21 that correct?

22 A. That is correct.

23 Q. Okay. These wounds, these gunshot wounds (indicating),
24 would they cause -- would they cause a lot of bleeding?

25 A. Well, he had -- he had bilateral hemothoraxes (phonetic).

1 That means blood within the -- the lung cavities themselves.

2 Now, I didn't find any gunshot wounds in there, but they
3 did go through the diaphragm, so, he -- he was bleeding into
4 his lung cavities from the gunshot wounds.

5 He had four hundred (400) cc's in each pleural cavity.
6 Now, a -- a normal individual -- and he was seventy-one inches
7 (71") in length and a hundred and eighty pounds (180 lbs.).
8 Normal individuals, by rule of thumb, are 5' 10" and weigh
9 about a hundred and fifty-five (155) pounds.

10 That's -- that's supposedly a normal individual from what
11 -- what one learns in medical school. Most people have about
12 eleven (11) liters of fluid, which is eleven thousand (11,000)
13 cc's.

14 Q. Let me ask you another question.

15 A. Well, I'm ---

16 Q. Okay. Go on.

17 A. Eight hundred (800) cc's is about a tenth (10th) of that
18 amount. When a person loses a baby or any adult loses around
19 ten percent (10%) of their body blood, then, they will usually
20 lose consciousness. And they will maybe keep bleeding for
21 awhile, but they will eventually die unless they're
22 resuscitated with -- with less than fifteen percent (15%);
23 around fifteen percent (15%) of blood -- blood loss.

24 Now, he also had massive retroperitoneal and peritoneal
25 hemorrhage in his abdomen itself, which added to that volume.

1 Now, it's really hard to tell how much blood is in the tissues
2 of the body.

3 But, nevertheless, one can see how much blood is in there
4 and estimate whether there's a lot of blood, in the whole
5 retroperitoneum, that tissue that lies behind the abdominal
6 cavity, how much blood is in there, how much is in the pelvis
7 and how much is in the abdomen. And all that adds up. So,
8 yes, he bled to death.

9 Q. Okay. My question was, would a gunshot wound cause you
10 to bleed out?

11 A. Yeah. All of them will.

12 Q. Okay. But, would be substantial bleeding out? Would it
13 be a drop or a lot?

14 A. Well, it depends on what -- what the bullet hits. You
15 know, if the bullet goes through your arm and doesn't hit
16 anything but capillaries, it's like having a stab wound
17 through your arm or a puncture wound.

18 You won't bleed very much. It clots off unless it hits a
19 major vessel, and then, some of them will cause a lot of
20 bleeding and others not very much.

21 Q. Okay. All these gunshots wounds in this case ---

22 A. Uh-huh (affirmative).

23 Q. --- would they cause a lot of bleeding, all these wounds
24 in totality together, would they cause a lot a bleeding?

25 A. Yes, that's correct.

1 Q. They will?

2 A. Yes.

3 Q. Okay. And would that bleeding be outward, a lot of it?

4 Not all of it, but would ---

5 A. Not necessarily out, not all of them. Most of it in the
6 abdomen won't. The only place that he would actually have
7 bled very much from outwardly is his gunshot wounds to his
8 arm.

9 Q. So, you're saying that this individual could be shot, and
10 there's not a lot of blood as a result of that shooting?

11 A. No. That's right.

12 Q. So, you would expect not to have a lot of blood at the
13 scene?

14 A. I don't think there would be a lot of blood at the scene
15 because the fact is that, when a bullet goes into the body,
16 unless it hits a major vessel in the subcutaneous tissues,
17 that blood is tampanoded by the position of the individual.

18 In fact, if I got shot in the chest and it went through
19 my heart, I could put -- I could lean over (demonstrates) and
20 tampanode that, which means to sort of put pressure on it. I
21 wouldn't bleed. I would bleed to death inside.

22 So, I can't tell you how much would be outside and how
23 much would be inside. Although most of those, as they're
24 shown, would probably lead to internal hemmorrhage, except the
25 one in his arm -- the several in his arm.

1 Q. Okay. So, in this particular case, I can be -- I can
2 basically be shot in -- in one location and that bleeding,
3 that outward bleeding, could end at some point, correct?

4 A. I'm -- I'm not sure I understand what you're asking, but
5 if you're asking if you can be shot at one location and maybe
6 walk or stagger or crawl to another one, you can. One can and
7 there may or may not be very much blood there.

8 Q. So, the initial -- but, when you get shot initially,
9 there will be some blood coming out, correct?

10 A. Not necessarily. I've seen people shot in the chest that
11 didn't have any blood hardly.

12 Q. What about in this case?

13 A. Well, I wasn't at the scene. I don't see what -- I don't
14 know what happened. But I do know that he could have bled
15 from his arm and probably not any of those to the body itself,
16 including those in the hip.

17 Q. So ---

18 A. Because there's a lot of tissue there to keep you from
19 bleeding.

20 Q. --- would it be reasonable to believe that a person shot
21 this much would have outward bleeding?

22 (Brief Pause)

23 A. He would have a moderate amount of bleeding from his
24 elbow. But I don't think he would have very much from any
25 other areas usually.

1 Q. Just from his elbow? So, he wouldn't have much from his
2 chest or anything?

3 A. No.

4 Q. And he wouldn't have -- so...

5 (Brief Pause)

6 MR. RICHEY: Thank you, Doctor.

7 THE COURT: Redirect?

8 REDIRECT EXAMINATION by MR. WILLINGHAM:

11:50 A.M.

9 Q. But he could have? And I think he was getting ready to
10 show you this picture. I'll show it to you.

11 (State's Number 4 shown on overhead.)

12 Q. Exhibit -- State's Exhibit Number 4 is a picture of our
13 victim found at -- where he was found. And that appears to be
14 blood in the center; its that right?

15 A. Right. He bled to death. I -- I also stated in my
16 description of clothing that there's abundant blood over most
17 of the garments.

18 Q. Okay. But, that -- and that can still be consistent with
19 his gunshot wounds?

20 A. Oh, yeah, yeah, it can. As I told you, he had a lot of
21 blood -- I mean, he had a lot of injuries to his right arm.
22 And he could have put his arm over his chest and -- and was
23 bleeding from that area.

24 It looks like -- I've never seen this picture at all. It
25 looks like he actually has blood up on his shoulder. But he

1 may have -- he had to put his hand up there or something. He
2 didn't have any injuries up there.

3 MR. WILLINGHAM: Thank you. I have no other questions,
4 Judge.

5 MR. RICHEY: No other questions.

6 THE COURT: Recross? Okay. Sir, you may step down.
7 You wish to excuse this witness?

8 MR. WILLINGHAM: Yes, sir, please.

9 THE COURT: Any objection?

10 MR. RICHEY: None, Your Honor.

11 THE COURT: You're free to go, sir. Thank you for
12 coming today.

13 (The witness stepped down from the witness stand and was
14 excused.)

15 THE COURT: The next witness, Mr. Willingham?

16 MR. WILLINGHAM: Judge, we call Raymond Annas.

17 (Mr. Annas is summoned.)

18 THE COURT: Sir, come forward and be sworn, please.

19 (Mr. Annas stepped forward to be sworn.)

20 THE COURT: Right over here (indicating).

21 (Whereupon,

22 RAYMOND ANNAS

23 having been first duly sworn, testified as follows:)

24 THE COURT: Sir, have a seat in the witness stand. And,
25 once you're seated, please, state your full name for the

1 record.

2 THE WITNESS: Raymond Clyde Annas.

3 THE COURT: Mr. Willingham, your witness.

4 MR. WILLINGHAM: Thank you.

5 DIRECT EXAMINATION by MR. WILLINGHAM:

11:53 A.M.

6 Q. Mr. Annas, where do you live?

7 A. ~~_____~~ Road in Roebuck.

8 Q. Who do you live with?

9 A. My wife.

10 Q. What do you do for a living?

11 A. I'm disabled.

12 Q. From what?

13 A. Impairment of mobility.

14 Q. And where did you work before?

15 A. *The Spartanburg Herald Journal.*

16 Q. *The Spartanburg Herald?*

17 A. *Herald-Journal.*

18 Q. What did you do for them?

19 A. I worked in the print press department.

20 Q. Okay. And what does mean? What is that?

21 A. That consists of getting the pages ready to go to press.

22 Q. Okay. Do you know the Defendant, Isaiah Walker?

23 A. I don't know him. He's just an acquaintance.

24 Q. Okay. So, you all are not friends, but you know him?

25 A. Right.

- 1 Q. You know who he is?
- 2 A. Right.
- 3 Q. Okay. How long have you known him?
- 4 A. Maybe a year and a half, two years max.
- 5 Q. Okay. You talked to him before?
- 6 A. Several occasions, yes.
- 7 Q. Talked to him on the phone?
- 8 A. Yes.
- 9 Q. I'm going to ask you about February the 17th of last year.
- 10 Did you talk to him on the phone that day?
- 11 A. I did.
- 12 Q. What did you all talk about?
- 13 A. He called and wanted me to do him a favor. And I agreed
- 14 to do it.
- 15 Q. What kind of favor did he ask you to do?
- 16 A. He was trying to get a drug transaction, and ---
- 17 Q. What kind of drug transaction?
- 18 A. He was wanting to buy two pounds of marijuana.
- 19 Q. And what was the price for it?
- 20 A. And he told me that this -- there was a fellow going to
- 21 be calling me and just wanted me to tell him that yeah, he
- 22 wanted two pounds of marijuana and that he would pay forty-
- 23 seven hundred dollars (\$4,700), forty-eight hundred (\$4,800)
- 24 if he delivered it.
- 25 Q. All right. So, someone was supposed to call you and you

- 1 were supposed to say, "I'm going to buy two pounds of dope for
2 forty-seven hundred dollars (\$4,700)"?
- 3 A. Forty-eight hundred dollars (\$4,800) if it was delivered.
- 4 Q. A hundred dollars (\$100) more if he delivered it to you?
- 5 A. Right.
- 6 Q. And forty-seven if not?
- 7 A. Right.
- 8 Q. Now, Mr. Annas, you don't have a prior record, do you?
- 9 A. No, sir.
- 10 Q. But, you do know about marijuana?
- 11 A. Yes.
- 12 Q. Have you ever smoked marijuana?
- 13 A. Occasionally, yes.
- 14 Q. Have you ever sold any marijuana?
- 15 A. No, sir.
- 16 Q. Have you ever bought any marijuana?
- 17 A. Yes.
- 18 Q. All right. Is forty-seven hundred dollars (\$4,700) a
19 reasonable price for two pounds of marijuana?
- 20 A. No, sir.
- 21 Q. Why not? Is that too high or too low?
- 22 A. Well, it's too high. If I can sell it for forty-seven
23 hundred dollars (\$4,700) for two pounds, I believe I'd sell it
24 all day too.
- 25 Q. That's a pretty good price for it?

1 A. Oh, excellent.

2 Q. Did that cause you any suspicion when he asked you to do
3 that?

4 A. It did in -- in some ways, but, in some ways, you don't
5 know what the other man is doing. You don't know what is
6 being played.

7 Q. There are some suckers out there that might pay forty-
8 seven hundred dollars (\$4,700) for marijuana?

9 A. I'm sure there are.

10 Q. Okay. And this day he asked you to tell somebody that
11 called you on the phone that you would buy two pounds of
12 marijuana for forty-seven hundred dollars, forty-eight if he
13 delivered?

14 A. Right.

15 Q. Did someone, then, call you?

16 A. Someone did call me.

17 Q. And what did you tell them?

18 A. I could not really understand the phone conversation on
19 the other phone.

20 Q. Was it a guy or a girl?

21 A. It was a guy.

22 Q. Okay. What did you tell him?

23 A. And he asked me what I wanted, and I told him I wanted
24 two pounds of marijuana; that I was going to the bank. He
25 asked me how much, and I told him forty-seven hundred dollars

- 1 (\$4,700), forty-eight hundred (\$4,800) if he delivered it.
- 2 Q. And that was the end of the conversation?
- 3 A. End of conversation.
- 4 Q. Okay. Did you ever deliver or have any marijuana
- 5 delivered to you?
- 6 A. No, sir.
- 7 Q. Did you have forty-seven hundred dollars (\$4,700)?
- 8 A. Oh, no, sir.
- 9 Q. Did you have forty-eight hundred dollars (\$4,800)?
- 10 A. No, sir.
- 11 Q. Were you going to be buying two pounds of dope?
- 12 A. Don't think so.
- 13 Q. You did that just as a favor to the Defendant; is that
- 14 right?
- 15 A. That's right.
- 16 Q. Do me a favor.
- 17 (Mr. Willingham hands Mr. Annas a piece of paper.)
- 18 Q. Write your name on that piece of paper.
- 19 A. (Witness did as requested.)
- 20 Q. And, on the bottom of that piece of paper, write your
- 21 phone number.
- 22 A. (Witness did as requested.)
- 23 Q. Is that your phone number?
- 24 A. Yes, sir.
- 25 Q. 574-

1 A. Five eight (58).

2 Q. Well, I'm going to -- I'm going to write it bigger, okay?

3 A. Okay.

4 Q. It's

5

6 A. Right.

7 Q. All right, that eight looks kind of funny. Let me get it
8 get right.

9 A. Okay.

10 MR. WILLINGHAM: Your Honor, at this time, I'll move
11 this as State's Exhibit Number 83.

12 THE COURT: Any objection to that being introduced into
13 evidence?

14 MR. RICHEY: I will object to this. His testimony is in
15 the record, and I'll object to this, that gentleman and his
16 testimony.

17 THE COURT: The testimony collaborates the exhibit.
18 I'll allow it in.

19 MR. WILLINGHAM: Thank you, Your Honor.

20 THE COURT: It's received into evidence as a Plaintiff's
21 Exhibit -- I mean, excuse me -- State's Exhibit.

22 (Brief Pause)

23 (Whereupon, State's Exhibit Number 83 was marked for
24 identification and admitted into evidence over objection.)

25 MR. WILLINGHAM: If you would, answer any questions the

1 Defense lawyer has got. Thank you.

2 THE COURT: Mr. Richey, your witness.

3 MR. RICHEY: Thank you, Your Honor.

4 CROSS EXAMINATION by MR. RICHEY:

11:59 A.M.

5 Q. Now, sir, forty-seven hundred dollars (\$4,700), that's --
6 that's a lot of money, correct?

7 A. Yes, it is.

8 Q. And the type of people that we're dealing with here --
9 well, first of all, you didn't know the second guy, right?

10 A. No, sir.

11 Q. The second guy is an unidentified guy, correct?

12 A. I've never seen him and never, you know, talked to him in
13 person.

14 Q. And you didn't ask him for his phone number, his name,
15 talk to him about his momma or anything?

16 A. No, no.

17 Q. All right. Forty-seven hundred dollars (\$4,700) is a lot
18 of money, isn't it?

19 A. Yeah, it is.

20 Q. And -- and, when you start talking about two pounds of
21 marijuana, you're talking about a lot of marijuana, correct?

22 A. Two pounds is substantial, yes.

23 Q. And -- and -- and -- and one thing you want to do is not
24 play games with people and their drugs and money, correct?

25 A. I had no intention of doing it ---

- 1 Q. No, I'm not ---
- 2 A. Well, I didn't understand you. Now, what is your
3 question?
- 4 Q. This drug stuff is serious business, correct?
- 5 A. It is.
- 6 Q. And it's nothing to play with, correct?
- 7 A. Right.
- 8 Q. And, when you're dealing with these people, they're no
9 suckers, right?
- 10 A. They don't play to be.
- 11 Q. Right. So, when you say you're going to have the money,
12 when they deliver it, you better have the money, correct?
- 13 A. Absolutely.
- 14 Q. Because, if they deliver, and you don't have forty-seven
15 hundred dollars (\$4,700), they're not a sucker, correct?
- 16 A. Right.
- 17 Q. You are, correct?
- 18 A. That's right.
- 19 MR. RICHEY: Thank you.
- 20 THE COURT: Redirect?
- 21 MR. WILLINGHAM: No, sir. We'd ask that he be excused.
- 22 THE COURT: Any objection?
- 23 MR. RICHEY: No objection.
- 24 THE COURT: Sir, you may step down. You are excused.
- 25 THE WITNESS: Thank you.

1 (Whereupon, the witness stepped down from the witness
2 stand and was excused.)

3 THE COURT: Mr. Willingham, the State may call its next
4 witness.

5 MR. WILLINGHAM: Judge, we call -- we call Kathy Bader.

6 (Ms. Bader is summoned.)

7 THE COURT: Ma'am, if you would, come forward and be
8 sworn.

9 (Ms. Bader stepped forward to be sworn.)

10 (Whereupon,

11 KATHY BADER

12 having been first duly sworn, testified as follows:)

13 THE COURT: Ma'am, have a seat in the witness stand and
14 move as close to the microphone as possible. Then, state your
15 full name.

16 THE WITNESS: Kathy D. Bader, B-a-d-e-r.

17 THE COURT: Mr. Willingham, it's your witness.

18 MR. WILLINGHAM: Thank you, Judge.

19 DIRECT EXAMINATION by MR. WILLINGHAM: 12:02 P.M.

20 Q. Ms. Bader, you've got a shirt on that says, "CPM."

21 A. Yes, sir.

22 Q. What is that?

23 A. It's CPM Federal Credit Union here in Spartanburg.

24 Q. Whereabouts in Spartanburg is that located?

25 A. Off of East Blackstock Road.

- 1 Q. On East Blackstock Road. All right. Let's say that I'm
2 at the -- are you familiar with that area?
- 3 A. Yes, sir.
- 4 Q. All right. Let's say that I'm at Blockbuster on
5 Blackstock. Let's say Blockbuster is on my right and little
6 pig barbeque is on my left. And I'm heading toward the mall.
- 7 A. Yes, sir.
- 8 Q. How do I get to your business?
- 9 A. As you cross over Reidville Road, I'm right there on the
10 left-hand side next to Semet (phonetic), the Men's Store, and
11 Enterprise Rental Car. I'm sandwiched in between them.
- 12 Q. And I would have to turn in left to get to you?
- 13 A. Yes, sir.
- 14 Q. If I go to the Red Lobster and Wal-Mart, I've gone too
15 far?
- 16 A. Yes, sir.
- 17 Q. All right. How long have you worked there?
- 18 A. Six and a half (6 ½) years.
- 19 Q. Six and a half (6 ½) years. What do you do for them?
- 20 A. I'm a member service representative. I'm a teller.
- 21 Q. Okay. Do you know a fellow named Jeffrey Hubbard?
- 22 A. Yes, sir.
- 23 Q. How do you know him?
- 24 A. He's a member of the credit union.
- 25 Q. Okay. So, he has had transaction at that location

1 before?

2 A. Yes, sir.

3 Q. Now, I want to ask you about one particular transaction
4 and that's on February the 17th of last year.

5 A. Yes, sir.

6 Q. Were you the teller working that day?

7 A. Yes, sir, I was.

8 Q. And did you actually wait on or help our victim, Jeffrey
9 Hubbard?

10 A. Yes, sir.

11 Q. And what type of transaction occurred that day?

12 A. He did a withdrawal.

13 Q. Do you know how much he withdrew?

14 A. It was three, seventy-five (\$375), three hundred and
15 seventy-five dollars (\$375.00).

16 Q. Three hundred and seventy-five dollars (\$375.00)? Okay.
17 And can you tell me what time he was in your bank withdrawing
18 that money?

19 A. It was about 12:54.

20 Q. Now, 12:54, that sounds pretty specific. How do you know
21 that?

22 A. It's on the receipt.

23 Q. It's on the receipt?

24 A. Yes, sir.

25 Q. Twelve, fifty-four (12:54) and that's going to be p.m.?

1 (Mr. Willingham writing on piece of paper.)

2 A. Yes, sir.

3 Q. On February...?

4 A. Seventeenth (17th).

5 Q. Of '06. And he withdrew ---

6 A. Three hundred and seventy-five dollars (\$375).

7 (Mr. Willingham writing on piece of paper.)

8 Q. Do you know how much that left him with in his account?

9 A. If I remember correctly, just some change.

10 Q. Okay. So, he took all the money he could out except for
11 change?

12 A. Yes, sir.

13 MR. WILLINGHAM: All right. I have no other questions
14 for this witness, Your Honor.

15 THE COURT: Mr. Richey?

16 CROSS EXAMINATION by MR. RICHEY:

12:04 P.M.

17 Q. Ma'am, did he have forty-seven hundred dollars (\$4,700)
18 in his account?

19 A. No, sir.

20 Q. Did he -- did he ask you for a loan for forty-seven
21 hundrd dollars (\$4,700)?

22 A. No, sir.

23 Q. Did he indicate to you that he needed more money?

24 A. No, sir.

25 Q. Was more money -- did he have more money available to

1 him?

2 A. No, sir.

3 Q. Okay. And, so, three hundred and some odd dollars, is
4 that all he had?

5 A. At that time, yes, sir.

6 Q. Okay. Do you know whether he -- do you -- do you have
7 any sister branches?

8 A. Yes, sir, we do, but not -- the closest one is in Greer.

9 Q. Okay. And are all the systems tied in together?

10 A. Yes, sir.

11 Q. Okay. So, if he got money from another location, you
12 would know that? I mean, you would know -- for example, if he
13 had a thousand dollars (\$1,000) in his account, and he went to
14 the one -- and I'm just making up a road -- the Reidville Road
15 one, okay, and he snatched out a thousand (\$1,000) in cash,
16 and he came to you, you know, an hour later, with a zero
17 balance, wanting a -- a thousand dollars, you would know he's
18 already gotten it?

19 A. Yes, sir.

20 Q. Okay. Thank you, ma'am.

21 A. Uh-huh (affirmative).

22 THE COURT: Redirect?

23 MR. WILLINGHAM: No, sir, Your Honor. We asked that she
24 be excused.

25 THE COURT: Ma'am, you may step down and you're excused

1 unless there's an objection. Any objection, Mr. Richey?

2 MR. RICHEY: None, Your Honor.

3 THE COURT: All right. You're excused, ma'am. Thank
4 you very much.

5 (Whereupon, the witness stepped down from the witness
6 stand and was excused.)

7 MR. WILLINGHAM: Your Honor, at this time, the State
8 would rest.

9 THE COURT: Ladies and gentlemen of the jury, that
10 completes the State's testimony in this case. And I'll also
11 note that we're a little past noon and it'll be good time for
12 us to take a break and come back after lunch for the remainder
13 of the case.

14 Now, I'll caution you, as I have every time that you've
15 left the courtroom, do not discuss the case with anyone. Do
16 not attempt to gather any information outside of the
17 courtroom.

18 And, should anyone attempt to contact you concerning this
19 matter, please, report that to the Court and don't put
20 yourself in a position where you might overhear any
21 conversations of the participants in this trial.

22 We've got some other matters that we need to take care
23 of, so, I'm going to ---

24 MR. WILLINGHAM: Judge?

25 THE COURT: Yes, sir?

1 MR. WILLINGHAM: Can I approach for just a moment.

2 THE COURT: Yes, you may. Mr. Richey, come forward,
3 please.

4 (Whereupon, a bench conference was had with Mr. Richey
5 and Mr. Willingham present.)

6 THE COURT: All right. We're going to take one second
7 while we check on something. Give us a moment.

8 (Brief Pause)

9 (Off-the-Record Discussion)

10 THE COURT: Ladies and gentlemen of the jury, it does
11 appear there's one other matter that has got to be taken care
12 of.

13 It doesn't have anything to do with this case, but it
14 will require Mr. Willingham's presence. So, we're going to
15 start back at 2:30 this afternoon.

16 Please, be back in the jury room at that point in time.
17 The same admonishment that I've given you before apply.
18 You're free to go to lunch. Thank you very much.

19 (The jury exited the courtroom at 12:08 p.m.)

20 THE COURT: Do you wish to go forward with motions or do
21 you want Mr. Richey to do that?

22 MS. HOLSBECK: Well, I'm sure he and I would make the
23 same motion, but do you want me to step out and grab him?

24 THE COURT: Check to see if he needs to join you.
25 Otherwise, I'll allow you to make a motion.

1 MS. HOLSBECK: All right.

2 (Ms. Holsbeck steps out to find Mr. Richey.)

3 (Brief Pause)

4 THE COURT: Mr. Richey, we're going to break till 2:30.

5 I do want you, however, if there's any motions you would like
6 to make this time, to place those on the record.

7 MR. RICHEY: Thank you, Your Honor. At this time, Your
8 Honor, we'd ask the Court to -- to grant us a directed verdict
9 in this case.

10 We believe that the evidence, taken in the light most
11 favorable to the State, we believe it's insignificant to
12 render a conviction of murder. And we would ask the Court to
13 -- to review this record and grant us a directed verdict at
14 this time and dismiss the -- the indictment against Mr.
15 Walker. Thank you, Your Honor.

16 THE COURT: All right. I have reviewed the evidence,
17 and I'm required to view the evidence that's presented, in the
18 light most favorable to the non-moving party, that being the
19 State. And, based on my review, I find the motion should be
20 denied.

21 MR. RICHEY: Thank you, Your Honor.

22 THE COURT: Anything else as far as motions?

23 MR. RICHEY: None, Your Honor.

24 THE COURT: At this point time, I do want to inquire of
25 your client concerning his right to testify in this case. So,

1 Madam Clerk, if you would, please, swear the Defendant.

2 (Whereupon,

3 **ISAIAH FREDERICK WALKER**

4 having been first duly sworn, testified as follows:)

5 (The Defendant was sworn at 12:14 p.m.)

6 **THE COURT:** All right, Mr. Walker, you can be seated. At
7 this time, I'm going to explain to you certain of your rights.
8 If you don't understand what I say, at this time, let me know
9 when I finish and I'll be more than happy to go back over
10 these matters and explain them to you, so, that you do
11 understand them fully.

12 We've reached the stage of your trial when you have the
13 right to present your defense. You have the right, at this
14 time, to claim the protections which are given to you by the
15 Fifth Amendment to the United States Constitution.

16 That Amendment reads in part that, "No person shall be
17 compelled, in any criminal case, to be a witness against
18 himself."

19 What that phrase means is that you cannot be required to
20 testify in this case. You have the right to testify, on your
21 behalf; however, no one can make you testify.

22 The right to remain silent is a personal right. No one
23 can waive or give up the right to remain silent except
24 yourself.

25 If you decide to testify, I must advise you that you will

1 be subject to the same rules that govern every other witness
2 who would testify in this case.

3 What that means is, that you will be examined by your
4 attorney and you'll be cross examined by the State's attorney.
5 If you have, on your -- on your record, any convictions which
6 involve dishonesty, false statements, or for crimes which were
7 punishment by imprisonment, for more than one year, and this
8 Court makes a determination that the probative value of that
9 information, of admitting that information, outweighs it's
10 prejudicial effect to you, the solicitor would be able to
11 introduce that record in order to attack your credibility.

12 If you decide to testify, the decision on your part must
13 be made freely, voluntarily, and intelligently with knowledge
14 of the rights or protection given to you by the Fifth
15 Amendment and also the consequences of your decision to
16 testify, if you decide to testify.

17 I will advise you that, if you decide not to testify,
18 that I will instruct the jurors that they cannot give the fact
19 that you did not testify any consideration whatsoever and that
20 there would be absolutely no prejudice to you because you did
21 not testify in this case.

22 The decision as to whether or not to testify is left
23 entirely up to you. You have the right to consult with anyone
24 you wish to consult with concerning this decision.

25 That includes your family, your friends, or your

1 attorney, or anyone else that you think that you should
2 discuss this with, but the final decision as to whether or not
3 you testify is your decision.

4 Now, do you understand the rights that I have explained
5 to you?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you have any question about what I just
8 explained to you?

9 THE DEFENDANT: No, sir.

10 THE COURT: Have you had the opportunity to discuss,
11 with your attorney or with anyone else, whether or not you
12 should testify?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Now, do you wish additional time in which to
15 talk to your attorney or anyone else at this time?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you wish to discuss the matter further
18 before you make a decision?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: All right. I will give you the opportunity
21 to do so. What I intend to do, then, is, upon reconvening at
22 2:30, I will, at that point in time, inquire of you concerning
23 your right to testify and whether or not you wish to go
24 forward and testify.

25 Mr. Richey?

1 MR. RICHEY: Okay. Your Honor, to make it clear, I -- I
2 believe -- I believe he understands his rights.

3 THE COURT: Yes, sir.

4 MR. RICHEY: We're in discussion about what we're going
5 to do with our case. As I understand, he understands his
6 rights; we just don't ---

7 THE COURT: All right. He understands where we are; he
8 just asks for additional time to talk it over. He certainly
9 has a right to do that and this would be a convenient time to
10 do so during our break.

11 So, when we come back at 2:30, I will, again, inquire as
12 to whether or not he wishes to testify. Anything else before
13 we take our lunch break?

14 MR. WILLINGHAM: Like I say, Judge, I'll be back ---

15 THE COURT: Sir?

16 MR. WILLINGHAM: I'll be back as quick as I can.

17 THE COURT: Okay. That'll be fine.

18 MR. RICHEY: Nothing, Your Honor.

19 THE COURT: All right. At this time, we will break for
20 lunch. I do note that there is a class in the courtroom.
21 I'll be happy to speak with you if you want to remain seated.
22 Would you like for me to speak to you briefly?

23 UNIDENTIFIED MALE: Yes, sir.

24 THE COURT: All right. I'll be happy to do that once
25 the courtroom has been cleared. So, at this point in time,

1 this case is adjourned till 2:30. Thank you very much. The
2 Defendant remains in custody.

3 (Whereupon, a lunch recess was had from 12:19 p.m. till
4 2:31 p.m.)

5 THE COURT: Thank you very much. You can be seated.

6 (The courtroom audience and participants did as requested
7 by the Court.)

8 THE COURT: It'll take us just a few minutes to get
9 everything up and working here, so, I'll start in a moment.

10 (Brief Pause)

11 (Off-the-Record Comments)

12 THE COURT: All right. We're back on the record. Mr.
13 Walker, I'm going to remind you that you are still under oath.
14 You were placed under oath before our break. And, at that
15 time, you and I had a discussion concerning your right to
16 remain silent under the Fifth Amendment to the Constitution.
17 Do you recall that discussion, sir?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Now, do I need to go back over any part of
20 that?

21 THE DEFENDANT: No, sir.

22 THE COURT: You understand that right?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Have you now had an opportunity to discuss
25 this matter with both your attorney and family members or

1 anyone else you wish to discuss it with?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And have you made a decision as to whether
4 or not to testify?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Are you going to testify in the case?

7 THE DEFENDANT: No, sir.

8 THE COURT: All right. Thank you very much. And we had
9 a pre-trial conference just for a moment, Mr. Richey. I
10 believe you indicated that you did not intend to call other
11 witnesses. Is that a correct statement?

12 MR. RICHEY: Yes. And -- and I would like the Court to
13 question my client to make sure he understands hat fact that
14 he has a right to go forward. And I talked to him about it,
15 and we -- we came to a decision, but ultimately, it's his
16 decision.

17 THE COURT: Yes, sir. Mr. Walker, have you had an
18 opportunity to discuss the presentation of additional evidence
19 with your -- with your attorney?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And have you completed that discussion?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Did your attorney answer all of your
24 questions?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Go over everything you wish for both of your
2 attorneys to go over; is that correct?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And are you satisfied with their
5 representation at this point in time?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Your attorney has informed me that you do --
8 that he does not intend to call additional witnesses. Do you
9 understand that as well?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And do you agree with that decision?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. Thank you very much. Anything
14 else you would like to ask him, Mr. Richey?

15 MR. RICHEY: No, sir.

16 THE COURT: All right. Is the State ready to go forward
17 at this time?

18 MR. WILLINGHAM: Yes, sir, Your Honor.

19 THE COURT: All right. What I'll do is, we'll bring the
20 jury in. I'll give you an opportunity to call witnesses, Mr.
21 Richey. I assume you'll rest on the record. And, then, we'll
22 move in to the closing statements.

23 MR. RICHEY: Yes, sir.

24 THE COURT: All right. Bring the jury back.

25 (The bailiff steps out to summon the jury.)

1 (The jury entered the courtroom at 2:37 p.m.)

2 **THE COURT:** All right. The record will reflect that all
3 jurors have returned to the courtroom. I trust everyone had a
4 good lunch and you're now ready to continue with the trial of
5 the case.

6 When we rested earlier, the State had completed the
7 presentation of its evidence. I told you, at the beginning of
8 the trial, once that had been completed, the Defense would
9 have the opportunity to call any witnesses that they choose to
10 call.

11 At this point in time, the State [sic] may call its first
12 -- I mean, the Defense may call its first witness.

13 **MR. RICHEY:** Your Honor, we rest at this time.

14 **THE COURT:** All right. Ladies and gentlemen, the
15 Defense has rested, and that means that concludes the
16 presentation of evidence in this case. And, at this point in
17 time, we will proceed with the arguments of counsel.

18 As I told you, at the beginning of the trial, the
19 statements or arguments made by counsel are not evidence in
20 the case. At the beginning of the trial, they set out what
21 they expected to be able -- that you would hear during the
22 trial of the case and what proof they expected to present.

23 They, now, will sum up the evidence based from their
24 client's perspective. So, at this point in time, I'll allow
25 the State to begin with its closing statement. Mr.Q 1

1 Willingham, you may proceed for the State.

2 MR. WILLINGHAM: Thank you, Judge.

3 (Mr. Willingham's closing argument began at 2:39 p.m.)

4 MR. WILLINGHAM: If it please the Court?

5 THE COURT: Yes, sir.

6 MR. WILLINGHAM: Ladies and gentlemen, this will be last
7 opportunity that I have to talk to you. So, I want to start
8 out by thanking you.

9 Thank you for your being here and thank you for being
10 patient with us for three days and thank you for listening and
11 being attentive to what the witnesses had to say and what the
12 evidence had to show.

13 I told you, in my opening, I want to take this
14 opportunity to talk to you about the facts and about the law
15 and put them together and see where we are.

16 What are the facts? You know, I left here Tuesday night
17 kind of scratching my head and wondering, you know, did I
18 really get the point across to the jury of what we were trying
19 to show that day?

20 And it's kind of frustrating because you try your best to
21 -- to put it all out there and try to make sense -- make it
22 make sense all at once. And you can't. That's just the
23 nature of the beast that we've got.

24 You can't give you all the information that we got all at
25 once. It has to come out bit by bit, sometimes slower than

1 others.

2 But, what did we learn, over these past three (3) days,
3 from this witness stand (indicating) and from these exhibits?
4 We learned that on February the 17th of two thousand and six
5 (2006), Jeffrey Hubbard, our victim, met up with the
6 Defendant, Isaiah Walker.

7 They met up one time, over at Magnolia Apartments, off of
8 Blackstock. They met up later on at a trailer in Roebuck.
9 And what were they doing? They're hanging out and smoking.

10 And they were going, to set up a drug deal, two pounds of
11 marijuana for forty-seven hundred dollars (\$4,700). Isaiah
12 Walker is setting up that drug deal, telling Jeffrey Hubbard,
13 "This is a good thing. That's a lot of money. We go buy the
14 marijuana cheap and sell it for a lot, easy money."

15 Setting it up, setting up the drug deal, setting up
16 Jeffrey Hubbard. Even went so far as to call Raymond Annas
17 and say, "Hey, look here, look here, I'm going to have this
18 guy call. Tell him I'll -- you'll buy forty-seven hundred
19 dollars worth of marijuana. Be the sucker for me."

20 He's like, okay; never had any intention of buying
21 marijuana. Isaiah Walker is setting up Jeffrey Hubbard.

22 So, to go buy that two pounds of marijuana, we're going
23 to go in together to get that two pounds, so, we can make all
24 this money. "Come on, Buddy, let's go together. Let's go to
25 the bank."

1 Jeffrey Hubbard goes to the bank; drives himself to the
2 bank, gets there and goes inside, withdraws three hundred and
3 seventy-five dollars at 12:54 (picks up piece of paper and
4 shows jury).

5 He comes out of the bank, gets in his car, and what
6 happens? That man (indicating) gets in the car with him. And
7 where do they go?

8 They go back to Isaiah Walker's house. And what the
9 discussions were, we'll never know. But, 1:54 [sic], that's
10 the last time anybody saw Jeffrey Hubbard alive, because at
11 1:45, less than an hour later, that's how he looked (shows
12 exhibit to jury).

13 Brent Gentry told you he was to leave that bank
14 delivering pills. He comes back to the house and doesn't see
15 Jeffrey, sees Jeffrey's car. The Defendant said, "Follow me."
16 So, they get in the car and they go riding.

17 They leave here and they go riding (State's exhibit on
18 overhead). They get to the end of the road and cross over the
19 interstate and they head down Westside Drive.

20 They go to the pond area. When they get to the pond
21 area, the Defendant turns in (State's exhibit on overhead) and
22 turns in that road (indicating) and what happens? The car
23 gets stuck. The car gets stuck.

24 "I have shot a man, left twenty-four (24) holes in him.
25 I'm getting rid of this car." The car gets stuck, he gets

1 out, and he starts flinging clothes.

2 He throws the sweatshirt to get rid of it, get shed of
3 it. He throws the pants, get rid of it. He takes his shoes
4 off. They won't find them on me. "Oh, man, I got blood all
5 over me."

6 (Mr. Willingham retrieves exhibits.)

7 MR. WILLINGHAM: "I got blood all over me. I got to get
8 rid of it," so, he chunks it. And some of it makes it to the
9 water. Some of it doesn't.

10 "But, my buddy is here, and he's going to get me out of
11 here. I get in the car with Brent Gentry and I'm leaving."
12 They get in the car and go back to his house and he's dropped
13 off.

14 In the meantime, cows are on the loose. The police come.
15 At 1:45 is when they find that car. They begin their
16 investigation. They go to the house and they start looking
17 for friends or acquaintances of Jeffrey Hubbard.

18 They go to the house, where Isaiah Walker lives, and
19 trips on a shell casing and sees blood. They process the
20 crime scene and find blood. They find shell casings.

21 All the shell casings, at the house and in the car, are
22 fired by one gun. Now, we don't have that gun. That gun is
23 gone. It was never recovered.

24 It wasn't in the pond. They drained the pond and had
25 metal detectors out there, had, you know, divers out there;

1 they looked all around and never found that gun.

2 That gun is gone. All the bullets from the body were
3 fired from the same gun.

4 Ladies and gentlemen, Isaiah Walker is guilty of murder.
5 How do we know that? How do we know that? You've got the
6 ballistics found in his driveway, matching the ballistics
7 evidence found at the pond.

8 You got his DNA, Isaiah Walker's DNA, in those boots and
9 on that sweatshirt, at the pond. You got the victim's blood
10 DNA in his driveway.

11 You got the victim's blood and DNA on his boots, on his
12 sweatshirt. His boots that they find the box for in his
13 bedroom.

14 You have his fingerprints on the victim's car in blood.
15 He is responsible for the murder of Jeffrey Hubbard.

16 Now, what is murder? Murder is the unlawful killing of
17 another person, with malice aforethought, either expressed or
18 implied. That's the definition the judge will give you for
19 murder.

20 It's an unlawful killing. Do we have that here? Sure.
21 We got a killing of another person, Jeffrey Hubbard, with
22 malice aforethought; with malice aforethought.

23 What is malice? Malice is a term of law. Some call it a
24 term of art that refers to an ill will, a heart bent on
25 mischief. An intention to inflict serious bodily harm.

1 That's what the judge will tell you is the definition of
2 malice. It can be either expressed or it can be implied.

3 Expressed malice, for example, if I say, "I'm going to
4 kill you," then, I do it. I've expressed my intention. I've
5 expressed my ill will. I've expressed my malice.

6 Do we have this in this case? Don't know. The other
7 type of malice, or the other form malice can take, is implied
8 malice. The judge will tell you, you may imply or infer
9 malice, from the use of a deadly weapon.

10 Just because someone is shot is an example of malice, an
11 example of intent to inflict serious bodily injury. And this
12 isn't one shot, you all.

13 You can't get more malicious than shooting a man twenty-
14 four (24) times -- twelve times, not twenty-four, leaving a
15 man with twenty-four holes in him, shot at least ten times
16 because that's how many bullets were taken out of the body.

17 There were other projectiles and bullets found at the
18 scene and found in the car. You can't get any more malicious
19 than that.

20 You can't get any more malicious than, then, just loading
21 that body up and dumping it in the back seat and driving it
22 down a road and leaving it; perfect examples, perfect examples
23 of malice.

24 The police finally get to talk to Isaiah Walker, and what
25 does he say? "I don't know nothing about nothing." "Yeah, I

1 understand my rights, but I ain't putting anything down on
2 paper." "I was somewhere else all day long."

3 "I was either taking a test. I was at school. I was
4 somewhere else. I don't know nothing about nothing." But,
5 yet, the evidence shows otherwise, ladies and gentlemen. The
6 evidence shows otherwise.

7 Every element of murder is proven beyond a reasonable
8 doubt. Isaiah Walker is responsible for what happened to
9 Jeffrey Hubbard.

10 Now, I could just sit down and let the Defense lawyer get
11 up, if he wanted to, and make his closing statements and then,
12 we'll go from there. But, when I sit down, I don't get to
13 come back up here and talk to you anymore.

14 I don't get to get back up here, as much as I may want
15 to, and say, "No, no, no, ladies and gentlemen, that's --
16 that's not right. That's not what the evidence showed.
17 That's a unfair characterization of the witnesses' testimony."

18 As much as I am absolutely, as certain as I can be of
19 anything, I'm going to want to get back up here and talk to
20 you again. But that judge is not going to let me. Somebody
21 has got to go first and somebody has got to go last. So, I
22 got to go first.

23 So, it's my job and my obligation and really my duty to
24 try to address what he may bring up. I guess I got to play
25 clairvoient a little bit and kind of anticipate what he may

1 say.

2 And he may say these things and he may say all of these
3 things. He may say none of these things. And he may say
4 something I just hadn't thought about.

5 But based, on his opening statements and cross
6 examination, and -- and asking the witnesses questions over
7 and over and over again, I kind of get an idea of what he
8 might say.

9 One of the things he might say -- might not, but one of
10 the things he might say is, you know, there's absolutely no
11 direct evidence linking or saying Isaiah Walker pulled the
12 trigger that killed Jeffrey Hubbard.

13 There's no direct evidence. There's no eye witness that
14 can come into this courtroom and say to you, "Isaiah Walker
15 pulled the trigger and killed Jeffrey Hubbard." It might
16 surprise you, got to agree with that.

17 There is no witness. There is no eye witness that saw
18 Isaiah Walker pull that trigger. Does that mean I throw up my
19 hands and go home and call it a day, "Go and sin no more"?
20 No. That's not what it means.

21 Why not? The judge will tell you there are two types of
22 evidence. Two types of evidence in every case, you have in --
23 in most criminal cases, two types. One is direct evidence and
24 the other is circumstantial evidence.

25 Direct evidence and circumstantial evidence are both good

1 forms of evidence. One does not carry more weight than the
2 other. They're just different forms of evidence.

3 An example of direct evidence is what I'm talking about,
4 an eye witness; somebody that saw something, heard something,
5 touched something, smelled something, saw something.

6 Circumstantial evidence is you can still figure the facts
7 out based upon the surrounding circumstance. I like to use an
8 example.

9 If I -- if this courtroom had windows and I looked out
10 and I saw rain coming down, I could come in and I can take
11 this witness stand and I can say, "Ladies and gentlemen of the
12 jury, it's raining outside." I seen it, I'm a witness, it's
13 raining outside.

14 That's direct evidence. Now, by the same token, we're in
15 this courtroom with no windows, and we hear a rumble of
16 thunder and a guy walks in the back door soaking wet, covered,
17 got a raincoat and shaking out an umbrella.

18 Well, you don't see it raining, but you don't have to.
19 You've got a perfect example of circumstantial evidence. You
20 don't see it, but you know from the circumstances; you know
21 from the jacket. You know from the umbrella.

22 You know from hearing the thunder. You know from the
23 circumstances that it must be raining outside.

24 You've got both direct and circumstantial evidence in
25 this case. You got direct evidence of -- of, you know, people

1 who -- Brent Gentry who saw what the Defendant did, heard what
2 they said setting up a drug deal.

3 You got circumstantial evidence as well. You got the
4 circumstances surrounding this crime. And every -- every
5 circumstances points in one direction. It points squarely
6 over here to him (indicating).

7 Where were the bullets found and the casings? (Knocks on
8 defense table) His driveway. Whose DNA was on the boots? His
9 (indicating). Whose bloody fingerprint? His (indicating).

10 Who set up the drug deal? Who set up Jeffrey Hubbard?
11 Him (indicating). Every -- who had the money at the end of
12 the night?

13 Jeffrey Hubbard didn't have any money on him. We know he
14 got three hundred and seventy-five dollars (\$375) out; who had
15 the money? Who had over a thousand dollars (\$1,000) in cash
16 in his pocket that night? Him (indicating).

17 The Defendant may stand up here and say, "Well, you know,
18 I'm going to ask you, ladies and gentlemen, to use your common
19 sense." If he said that one time in his opening, he said a
20 number of times, "Use your common sense."

21 I agree with you. Common sense is probably the most
22 valuable tool that you can bring to this criminal justice
23 system. Each of you has twelve -- thirteen, counting the
24 alternate -- different walks of life, different life
25 experiences, that helps you form your common sense.

1 But what makes -- you know, common sense tells you what
2 makes sense and what doesn't. Who is telling the truth and
3 who is not.

4 That is probably the most valuable tool that you bring to
5 this criminal justice system. And I am not asking you to
6 leave it at the door.

7 But he's going to get up here, I anticipate, and say,
8 "Ladies and gentlemen, does it makes sense for this man, who
9 just shot someone and left twenty-four holes in him to just go
10 and -- and leave the car right next to the side of the road
11 and -- and just throw the clothes where they can be easily
12 found and -- and leave all the stuff in his driveway and not
13 bother to clean up and not bother to pick up?"

14 "Does that make sense to you, ladies and gentlemen? If
15 it doesn't makes sense to you, then, that's a reasonable
16 doubt, and therefore, let him go and let him go home and sin
17 no more and not guilty."

18 Well, that's an abuse of your common sense. He just shot
19 someone over and over and over and over again. He, then, goes
20 and is ready to get out of Dodge, get -- let's clean this
21 thing up. Let's get this dead body and this car out of my
22 driveway.

23 I sure am not driving, you know, with the hand on 10:00
24 and 2:00 position, and look through the steering wheel like a
25 little old lady driving 20 miles an hour and get out and go a

1 ways down the road.

2 They're in a hurry to get rid of that stuff. All this
3 stuff happened in less than 45 minutes; getting out of the
4 neighborhood, crossing over the interstate, driving down
5 Westside Drive.

6 He turned in. He knows this neighborhood. He grew up
7 here. He lives in this neighborhood. He knows, as Mr. Richey
8 pointed out, that there are -- this is a dead end road.

9 He knows it's a dead end road, a road to nowhere. He
10 knows, if he turns in here, he can go hide it back here, in
11 the back of these woods, and it may be days or longer before
12 anybody finds this car or finds this body.

13 But what happened? He takes it too fast. He takes it
14 too fast, he turns around, and oops, the car gets stuck. The
15 car gets stuck and can't go any further.

16 Now, he's not sitting here, you know, thinking
17 rationally; thinking, calculating, "How am I going to get -- I
18 better not leave my DNA, better not leave my fingerprints."
19 He's just wanting to get away from that dead body.

20 And he gets out and he sheds his clothes and gets in the
21 car and tells Brent Gentry, "You better not tell anybody. I
22 did what I had to do. I'm tired of him messing with Amanda."
23 He did what he had to do. "Take me home."

24 Now, how are you going to get caught? Ain't nobody seen
25 me with Jeffrey Hubbard today. The only person seen me with

1 Jeffrey Hubbard today is my buddy Brent Gentry. My buddy who
2 knows the code. You don't tell.

3 They're not going to be able to connect me with Jeffrey
4 Hubbard. If I get out of here, and that body is out of my
5 yard, I'm good to go. I'm good. I'm out of here.

6 But, it doesn't work that way. Brent Gentry sticks with
7 the code at first. And, then, breaks that code and tells law
8 enforcement what he knows.

9 He make stand up here and say, "You know..." -- and he
10 asked a bunch of witnesses, "You know, that drug business,
11 it's dangerous. It's dangerous and everybody is carrying
12 guns. People get killed for drugs."

13 Surely, he won't say it, but he might infer that, you
14 know, Jeffrey Hubbard might have gotten what he had coming to
15 him; basically, trying to assassinate the character of my
16 victim.

17 Well, you all, a victim is -- is what he is. He's a --
18 he's a young man who worked at the swim center and is involved
19 in drugs. I ain't trying to hide that from you.

20 I'm not sure that's something easy for mom and dad to
21 have to listen to, but that's -- those are the facts. That's
22 what we got.

23 But no one, no one deserves -- deserves to die like this,
24 (picks up photograph and shows to jury) to be left upside down
25 and backwards in the back seat of a car with twenty-four (24)

1 holes in him.

2 So, just because Jeffrey Hubbard was involved in drugs
3 does not mean that it's okay; does not mean that he deserved
4 to die like that.

5 He may try to argue there was more than one gun. He may
6 try to say the victim shot a gun. You know, we talked a long
7 time about gunshot residual and positive tests on gunshot
8 residual.

9 And you remember he kept saying, "Well, that right there,
10 and that's -- that's pretty good stuff. You got a gunshot
11 residual kit and you got a positive test; that means somebody
12 fired a gun." That ain't what the witness testified to.

13 That's what Mr. Richey wanted him to say. He tried his
14 best to get him to say that. But he couldn't. And you
15 remember the testimony.

16 What he said, you got gunshot residual on your hand means
17 one of three things: Either you fired a gun, you were in
18 close proximity, when a gun went off, or you handled a gun.

19 Then, I went further and I asked that expert, "Of those
20 three, in this case, which is more likely?" He said the most
21 likely scenario, in this case, based on where it was and how
22 much it was, is that he was around a gun when it went off.

23 Well, sure he was. And it had to be in fairly close
24 proximity. It got to be pretty close to you when that gun
25 goes off.

1 Well, we know that's true. How do we know that's true?
2 We know it's true from Dr. Wrenn coming in here and testifying
3 about all the bullet holes and what ultimately killed him.
4 Right here (holds up exhibit), you got stippling or what he
5 called sometimes tattooing.

6 And you only get that if you're near the gun when it goes
7 off. If you're more than five (5) or six (6) feet away, you
8 don't get that anymore. You don't get that tattooing. You
9 don't get that soot and tar burning your skin.

10 But you got that here. So, to say the victim fired a gun
11 is wrong. It's just simply wrong.

12 He may say there's more than one shooter, more than one
13 gun. Ladies and gentlemen, again, I implore you to use your
14 common sense. All the casings found at the scene, at the pond
15 scene, and in the driveway, matched one gun.

16 All the bullets from the body, from the car, from the
17 clothing, matched one gun, with the exception of one shell
18 casing; I don't want to try to mislead you. The State's --
19 I'm not sure what State's Exhibit Number it is, but it's SLED
20 Number 21.

21 Do you remember Dan DeFreese up here talking to you, the
22 ballistics expert from SLED? He got up here and said all the
23 shell casings except for SLED number 21 matched.

24 But he showed you SLED number 21. He showed you that it
25 wasn't shiny anymore. It wasn't new like the rest of them.

1 He showed you that it was dented like maybe it had been
2 run over. He told you that he found grass clippings. It
3 looked weathered. He found grass clippings on the inside of
4 it.

5 Ladies and gentlemen, that shell could have been there
6 forever, has nothing to do with this case. There's one gun,
7 one shooter, sitting right there (indicating).

8 He may get up here and say, "You know, you just can't
9 believe Brent Gentry. You just can't do it." "This man is
10 charged with murder. He's going to sit up here, in this
11 witness stand, and lie, lie, lie." "Tell you nothing but
12 lies. Tell you what the prosecutor wants you to hear."

13 You, ladies and gentlemen, get to judge his credibility.
14 You do. You get to look at what bias he had, what reason he
15 has to lie. Is a murder charge a good reason to lie? Sure.
16 Sure.

17 But there's no agreement. It's not one of those things
18 of, "You drop my charges, I'm going to tell you what I want --
19 what you want to hear." You know, if he's going to lie, make
20 it a good one. Make it a good one.

21 If you're going to lie, if you're going to go out on that
22 limb and risk going to jail for perjury, go out on a limb and
23 say, "By golly, yeah, I saw him shoot and kill Jeffrey
24 Hubbard. I watched him. I saw it." If you're going to lie,
25 do it up right.

1 But he didn't. And, ladies and gentlemen, if all of you
2 had, if all I brought to you was Brent Gentry, I couldn't
3 stand up here, in good faith, and ask you to convict him. I
4 couldn't.

5 You got Brent Gentry who -- and I didn't dress him up. I
6 brought him in here in orange to show you the inmate that he
7 is. I didn't try to make a choir boy out of him. He is what
8 he is, a drug dealer, a thug, a friend of Isaiah Walker.

9 But you don't have just his testimony. You don't have to
10 ignore all this other evidence. You don't give a blind eye to
11 all of this (indicating). You just don't.

12 How do we know Brent Gentry is telling the truth? How do
13 we know that? What does he tell us? He tells us that, "I was
14 there. Isaiah Walker was setting up Jeffrey Hubbard."

15 He's setting him up. They were going to do a drug deal,
16 a drug transaction, for an ungodly amount of money, crazy
17 money, double what it normally cost, an ungodly amount of
18 money.

19 He called some man. A little bit later, he had Jeffrey
20 Hubbard call that same man to relieve concerns that Jeffrey
21 may have had about this deal going down.

22 How do we know that's true? How do we know that's true?
23 This morning we introduced phone records. Let's talk them for
24 awhile. We entered these phone records (indicating). We
25 introduced the phone records of the phone used by the

1 Defendant, okay?

2 And we also introduced the phone records used -- of the
3 phone used by Jeffrey Hubbard. When you get back to your jury
4 room, look at State's Exhibit Number 60, which is Jeffrey
5 Hubbard's phone records, look at the last number that called.

6 The last number to call Jeffrey Hubbard's cell phone was
7 978-2934, 978-2934. Whose phone number is that? You'll see
8 it right here on State's 59 (indicating).

9 That's Isaiah Walker's phone number. Isaiah's -- all the
10 outgoing calls show his phone number, 978-2934.

11 But more importantly, the point I was getting to, how do
12 we know Brent Gentry is telling the truth? Well, Raymond
13 Annas came in here and told you.

14 Yeah, Raymond Annas came in here and told you, "Isaiah
15 Walker calls me and asked me to do a favor, wanted me to tell
16 this guy I'd buy marijuana, two (2) pounds for forty-seven
17 hundred dollars (\$4,700), forty-eight -- make it -- make it
18 juicy for him, give him an extra hundred dollars if he'll
19 actually bring it to me." Make it real for him, saw dollar
20 signs.

21 And how do we know that's true? Raymond Annas had his --
22 I had him write his phone number down, 574-4958. Look at
23 these phone records when you're back there. Look at the ones
24 that start at 12:20 on February 17th, from Isaiah Walker's
25 phone he called -- he called 574-4958.

1 He calls it at 12:20. He calls it at 12:21, 12:22. He's
2 setting him up. He's setting him up to get to his money.
3 He's setting him up.

4 How else do we know Brent is telling the truth? Brent
5 Gentry told you that he saw him wearing these boots, throwing
6 these boots, throwing this sweatshirt, throwing these sweat
7 pants (picks up exhibits.)

8 Now, the Defense lawyer can get up here and say, "You
9 know, the police told him what to say." "You know, he's --
10 he's -- he's like a mocking bird. He's just giving right
11 back, the police, what they want to hear. He's just telling
12 them that."

13 The only problem with that is, ladies and gentlemen, on
14 -- he talked to the police and gave his statement on February
15 26th. Okay? He was arrested on February 26th, charged with
16 murder, and gave his statement about what that man did
17 (indicating).

18 The police didn't recover the pants until two days later,
19 at the pond, on the 28th. How are they going to know it's red
20 pants? They're looking for them. Brent Gentry knew it
21 because Brent Gentry saw it.

22 It ain't something the police said to him. It ain't
23 something the police told him. It's something he saw. That's
24 another indicator of credibility, another indicator of
25 believability.

1 Is he hoping for something? I'm sure he is. Is he
2 wanting to walk away from this? Gosh, I would be too. But
3 has he been promised anything? No. Has he been disappointed
4 before? And he's going to be disappointed again.

5 Just because he got charges on him doesn't mean he didn't
6 do it. It doesn't mean that his truth -- his testimony is not
7 true. It does not mean he's going to come in here and lie.
8 The evidence backs him up.

9 Now, ladies and gentlemen, there are other things he
10 might say. And I can't sit up here all day and guess at what
11 they're going to be. He might talk about the footprints and
12 how, you know, that's our mystery third person, our mystery
13 man, our mystery shooter, our mystery killer.

14 There is no mystery. Every piece of evidence points
15 squarely at him (indicating), not Brent Gentry. Brent
16 Gentry's DNA was not found on anything. Whose was? His
17 (indicating), our victim, and an EMS worker.

18 He might get up here and say, "You know, there are no
19 footprints from these Timberland boots right here at this car.
20 That proves that Brent Gentry is lying. That proves that
21 Isaiah Walker wasn't walking around out there."

22 Well, it doesn't. And we've -- we've spent days on boots
23 and footprints and that sort of thing. Those footprints on
24 this road (indicating) and in the pond could have been there
25 days before, could have something to do with the case and

1 might not; don't know.

2 But, to say that, though, he could have walked around and
3 not left footprints, and therefore, he's not guilty is wrong.
4 You know, things happen.

5 Please -- and I'm -- I'm not trying to make excuses for
6 them and not saying it's right, yeah, police need to be
7 careful and they testified, the forensic officers, when they
8 got out there, they were careful.

9 But they weren't the first ones out there. The first
10 people out there was an environmental control guy looking for
11 cows and finding a dead body. Not something you do every day.

12 And he calls EMS. He calls firefighters and they're out
13 there and they're not thinking, "I need to go look for the
14 killer." That's not their job.

15 They're there to try to help my victim. They're there to
16 try to help him, see if there's any help -- any -- any little
17 bit of life left in him.

18 And they're not purposefully going to go and stomp around
19 and cover up evidence and destroy evidence and lose
20 footprints. They're not going to do that on purpose, but,
21 it's going to happen.

22 And you can call it contamination, and you can call it
23 whatever you want to, but it -- it happens. And how do we
24 know it happened? How do we know it happened? It's because,
25 whenever Captain Kellet was examining that car and those

1 fingerprints, whose prints did they find on there?

2 They found the victim's prints, and you kind of expect
3 that. But she also found a paramedic's print. That paramedic
4 wasn't thinking about leaving his print there when he was
5 helping that -- that victim. It just got left there.

6 It was contaminated. It was another piece of evidence
7 left out there; not on purpose, not trying to destroy
8 anything.

9 That's just the nature of it. When you're out there
10 trying to help somebody, you're not worried about where you
11 put your feet and where you put your hands. You want to get
12 some help to that victim.

13 So, to say that they -- if -- if prints had been there,
14 they would have found them, that's unrealistic. It's just not
15 -- not necessarily true.

16 Ladies and gentlemen, I -- again, I could stand up here
17 all day and guess at what he's going to say. And I'm sure he
18 may say something I hadn't thought of. But every piece of
19 evidence points to the Defendant (indicating).

20 He was there. His DNA is there. His clothes are there.
21 His shoes are there. His prints are there.

22 And it's not one of these things -- it's not one of these
23 prints that he could have touched -- touched the car back at
24 the bank and left it there. It's not something he touched the
25 car days before. He touched that car and left his prints in

1 blood.

2 That's leaves no reasonable doubt that he was there and
3 nobody else; not Brent Gentry, not Chavez Miller. No prints
4 of Chavez Miller found anywhere. No prints of Brent Gentry.
5 One person, one killer, one actor, one person alone: Isaiah
6 Walker.

7 Like I say, you all, as much as I don't want to, I'm
8 going to have to sit down. And, when I sit down, I don't get
9 to come back up. And I may have missed something. So, I'm
10 going to ask you to remember the testimony, remember the
11 evidence.

12 Look at it back in your jury room. Don't be misled.
13 Don't -- don't be led down the primrose path. Don't have --
14 get -- get distracted by -- by something that's -- that's not
15 central to the case.

16 And when you -- when you're done, in your jury room, I'm
17 going to ask you to return a verdict; as I told you in my
18 opening, a verdict that will speak the truth.

19 A verdict that holds the person responsible for Jeffrey
20 Hubbard's death accountable. A verdict that holds Isaiah
21 Walker accountable. A verdict that tells Isaiah Walker he's
22 guilty. Thank you.

23 (Mr. Willingham's closing argument concluded at 3:24
24 p.m.)

25 THE COURT: Mr. Richey, for the Defense.

1 MR. RICHEY: Thank you, Your Honor.

2 THE COURT: Yes, sir.

3 MR. RICHEY: May it please the Court?

4 THE COURT: Yes, sir.

5 (Mr. Richey's closing argument began at 3:24 p.m.)

6 MR. RICHEY: Really, I really don't have probably as
7 much material as the prosecutor thinks I have. I believe,
8 when someone tells you not to -- not to take into
9 consideration something, or when they go through their case
10 and they give you a litany of problems in their case, that
11 that's what that scenario is.

12 You stand up here and you say, "These are the problems
13 that I have with this case. This is the first problem I have.
14 This is the second problem I have.

15 "These are the problems in my case, and I'm going to try
16 to answer them for you. Okay? I'm -- and it's so obvious that
17 I'm going to try to answer them for you." That's what that
18 is.

19 And that's the kind of stuff that will make you hesitate
20 in this case. To hesitate to believe that my client is guilty
21 of killing this gentleman. He just gave you a litany of
22 things.

23 And -- and it is interesting to see how I -- I made a big
24 deal out of SLED working for the people of this state. I made
25 a big deal out of they are there to protect people in two

1 ways. I made a big deal of it, okay?

2 I made a big deal out of it because that's what they're
3 here for and this prosecutor is here today. And, when they
4 come into the courtroom ---

5 (Mr. Richey retrieves chart.)

6 MR. RICHEY: --- and look at this stuff and tell you
7 what this is not, what this is not, okay? It's over the top.
8 What do I mean by what it's not?

9 This prosecutor stood up here and went on and on and on
10 about his bloody fingerprints, "Oh, he left his bloody
11 fingerprint on the car, his bloody fingerprint." "It wasn't
12 there before, da, da, da..."

13 We know that ain't -- not true. Do you know how we know
14 it's not true? Because we've got enough common sense, okay?
15 Because I tell you something about my daddy. He went to the
16 second grade. He has a son that's a lawyer. And he's got
17 kids with doctorate degrees, and he's smarter than all of us
18 because he uses his common sense.

19 And that is what this prosecutor is trying to get you out
20 of. If this stuff on this hand right here (indicating), these
21 fingerprints, we're looking at every one of them. What's
22 essential on these fingerprints? What?

23 They got black dye. That means they roll your hands on
24 black dye, put down and that's a fingerprint, okay? If you've
25 got a bloody fingerprint, that's what you get. It's on your

1 hand. It's there.

2 You take a picture of a red hand of those fingerprints.
3 That's what you do. This picture will be red, showing a red,
4 bloody print. That's what this picture would be because we
5 know that this is black (indicating).

6 Well, what about all of this stuff (indicating)? You
7 have to lift this print. You put the protein in it. You lift
8 it out of the blood. It's a print that's already there.

9 This thing (picks up chart), they come in here and say,
10 "Oh, I'd like to have twelve (12) points." Did you hear all
11 of that? "I like to have twelve (12) points. I do this and
12 that and all that," okay? But you come to court and you've
13 got eight (8) points, okay?

14 And you say, "Well, it's not important enough to mess up
15 my diagram and put twelve (12) of them on here." You're not
16 going to mess it up.

17 "I didn't want to mess it up." And you're convicting --
18 trying to convict the guy on the most serious charge out
19 there. You don't play this kind of game.

20 The DNA expert, she comes in here. I asked her about
21 that blood on that car and why she didn't test it, because she
22 said the best evidence.

23 He tried to clean it up, but she said, "I did not -- I
24 could have told you whether that was blood or not. I could
25 have told you whether there was DNA on that car."

1 "I could have told you that. But I choose not to. I
2 choose not to. Best evidence, we choose not to." That was
3 strategy.

4 These people are SLED. They're here to protect
5 everybody. They're not here to play some strategy game. It's
6 what it is. You get the evidence, you test it, and you come
7 back to court and you be straight up with it.

8 But, see, the evidence, in this case, points to -- if
9 it's not -- when you look at, how was this gentleman killed,
10 okay?

11 (Off-the-Record Comments)

12 (Mr. Richey retrieves exhibit.)

13 MR. RICHEY: How was this gentleman killed? This
14 gentleman was killed at the Walker's house, okay? And we've
15 got this diagram up here.

16 (State's Numbers 71 and 51 shown on overhead.)

17 MR. RICHEY: And I'm going to put it like this, okay,
18 and I'm going to -- and I've got a second diagram. We know by
19 these diagrams -- we know a couple of things.

20 We know that this gentleman, he initially was shot right
21 here (indicating), okay, shot right here (indicating) because
22 the way we know that -- the position we know that, Dr. Wrenn
23 helped us on that.

24 He was shot where this blood is right here (indicating),
25 okay, down by the street. He was shot, in the front side,

1 down by the street, okay?

2 We know that because he's got all the shootings in the
3 front, okay? And we know he wasn't shot in that car because
4 he was also shot in the back.

5 So, for someone would have to shoot him in the car, he
6 would have to flip over and they would have to shoot him
7 again, okay?

8 So, that's not sensible. So, we know he got shot down by
9 the street, okay? When he's shot, he, then, turns and goes
10 back towards the car, okay?

11 Because he's down in the street and he gets shot, and he
12 turns around, whoever is shooting him, shoots him in the back
13 because there's the shots that went in the back. Remember,
14 Dr. Wrenn said it's painful and all that stuff. And, if you
15 get shot multiple times, you don't just pass out.

16 Dr. Wrenn says you don't pass out, okay? What he said is
17 you have that initial bleeding. We've got that initial
18 bleeding. Here (indicating) the blood is going in the lungs.
19 It's not going on the ground.

20 Do you remember Dr. Wrenn talking about the lungs filling
21 up? The lungs filling up, that's why we don't have this real
22 bloody driveway like -- like you would think, real bloody,
23 because the -- the blood is going into the lungs.

24 He turns around. He's getting shot up in this area
25 (indicating), okay? All right. What he did, though, is he

1 goes to the car, okay?

2 He goes to the car and that's where the shots were fired.
3 That's where shots were fired at the car. That victim is
4 sitting in the car.

5 He runs to the car -- he runs to the car because we know
6 he's turning about like this (demonstrates) because he's hit
7 when he runs. He runs to the car and he shoots.

8 Now, the prosecutor is going to tell you -- the
9 prosecutor went into all this stuff about is it near me, is it
10 da, da, da. See, that stuff is strategy games. This man came
11 in and testified, said, "I test the -- the GSR kits for
12 shootings." "That's my job, for shootings."

13 And he tried to twist it around. He even try to say --
14 but I'm here for shootings. I'm here for shootings. And he
15 came to determine that the victim shot. He shot a gun.

16 So, for you to believe that Isaiah Walker actually killed
17 this gentleman, you -- the prosecutor wants you to make a
18 whole lot of leaps.

19 The first leap you'd have to make is you would have to
20 say Isaiah Walker, assuming he got out of the car with the
21 victim, came down here, in front of him, by the street
22 (indicating).

23 They had some altercation or whatever, he shoots him and
24 he turns around and Walker was shooting. So, he would have to
25 get out of the car and they would have to meet down in front

1 of the house. That's not so. That's not so.

2 And, of all the people involved with this victim that
3 day, of all the people, there was no animosity between him and
4 -- and Mr. Walker, none. There was none. There was no, "I'm
5 mad at him, he's mad at me," none, zero. Zip, none. Nothing.
6 Nothing. Zip.

7 He knew Mr. Walker. He knew him. He didn't know Brent
8 Gentry. "I don't deal with him like that because I don't know
9 him like that." So, we know that he just -- it looks like to
10 me, you've got a random shooting, just random.

11 The prosecutor is right, this -- this stuff is dangerous.
12 It is dangerous. Nobody gets what's coming to them. Nobody
13 gets what's coming to them. This boy has got a momma and he's
14 got a daddy. Nobody don't get what's coming to them.

15 And, you know, there -- there is -- there is a code out
16 there. And it's problematic because what the code does, is it
17 prevents people from coming forward. It prevents people.

18 And Brent Gentry came in here and the prosecutor is going
19 to say -- and you can take bits and pieces of what he's saying
20 as being the truth, okay? You can take bits and pieces.

21 One thing Brent Gentry said, if you remember, he said
22 that he didn't see any blood. He didn't see anything when he
23 got to that house, okay? Where did he say he parked? Where
24 did Brent Gentry say he parked?

25 Do you remember? He said he parked down here

1 (indicating). He parked down here (indicating). All right.
2 Brent Gentry parked down there.

3 There was no cars here (indicating) because, if there
4 was, common sense tell you the shells would have bounced off
5 cars and all that stuff.

6 So, Brent Gentry came here (indicating) and parked and
7 raced off. So, he would not -- he would not have seen all
8 this stuff I'm assuming. He would not have, okay?

9 But, then, he tells you, "I, then, go back to the house
10 and take Isaiah Walker back to his house." Take him back to
11 his house.

12 And all this stuff about he's panicked, he just killed a
13 man and he's this and that, if you believe Brent Gentry, he
14 took him back to the house and they just walked past that
15 stuff and he sit in the house.

16 That's what -- that's what -- is that believable? Is
17 that believable? I mean, if that isn't twisted and that ain't
18 -- use your common sense.

19 Would it be believable for him -- I'm assuming thirty
20 (30) minutes, after he has killed someone, thirty (30) minutes
21 he kills them, runs, dumps the car, throws the boots, and
22 then, goes back to the house where the killing happened.

23 Is that sensible? No, that's not sensible. It's not.
24 It is not sensible; it's not.

25 When you look at this thing and Isaiah Walker, it -- it

1 was interesting to say that they talked to Isaiah Walker.

2 They talked to him. And they said, "Where were you at?"

3 The prosecutor, he stood up here and said a couple of
4 things. He said, "Where were you at?" "I was taking a test."
5 "I was doing this," okay? That's what he said to you, right?

6 He also said a third thing; do you remember? "I was
7 involved in a stop," a third thing. The officer cross
8 examined, did he investigate that stop? And the response was
9 yes.

10 That's what the response was. That's what the response
11 was. Looking at this crime, this crime would have to be done
12 by someone with no connections with this -- with this area.

13 And the reason I say it was done, by someone with no
14 connections in this area, is because where these items were
15 found. These items -- if you remember, how he went into about
16 the boots being found right here (indicating).

17 Do you remember the lake is cleared and all that stuff,
18 and assuming that you can see through there and all that
19 stuff, okay? Remember we went through all of that? You can
20 see there, it's not grown up; the lake is this and that.

21 Those boots were thrown right here (indicating), right by
22 this road (indicating), okay? That car is right here
23 (indicating). All this stuff is on this road thrown out with
24 absolutely zero care. Zero care, no care at all; none, zip,
25 obvious and open, none.

1 At the house, the shells, the this, it's out there
2 obvious and open. It's out there. So, we know someone with
3 no connection to that residence, no connection to that
4 residence, did it.

5 I'll tell you something to think about too. Floyd
6 Walker, the cop leads him out there. Floyd Walker doesn't say
7 to the cops, "Hold on, hold on, hold, there's some stuff out
8 here." So, he don't know. He doesn't know. Okay?

9 He had gotten tipped off by anybody, "Hey, something
10 happened out there this afternoon. You might want to be kind
11 of on the lookout." He hadn't been tipped off. And that's
12 the daddy.

13 The momma, she's at work. They go get her, so, she ain't
14 got a clue. Okay? You know who else ain't got a clue?
15 Isaiah Walker.

16 You know why? He's sitting in the back seat of a car at
17 10:30 at night backing into the yard. Backing into the yard
18 at 10:30 at night, in the back seat of a car with girls, with
19 girls.

20 Brent Gentry doesn't testify, "Isaiah says, 'Ohhh, we
21 shouldn't go up there. Remember what you did today?
22 Remember?'" He didn't say any of that.

23 He sitting in the car in the back seat. So, the people
24 who live at that residence, the people who live at this
25 residence (indicating), their conduct does not exhibit that

1 they had any knowledge of this.

2 (Brief Pause)

3 MR. RICHEY: Brent Gentry. Brent Gentry is what he is.
4 He's what he is. See, your common sense tells you he's
5 expecting something out of this. I mean, the prosecutor says
6 he isn't expecting anything.

7 You can't stand up here and call him a thug and this and
8 that and know that he's not going to be -- for him to come in
9 here, he's going to have to get something. Okay?

10 He's going to have to get something to come in here. I
11 said, "When is your trial date," "I ain't got one." "I ain't
12 got one."

13 And the prosecutor says, "Oh, they set Jeffrey Hubbard
14 up." "They set him up." "They set him up." "They did a big
15 drug deal. They set him up." "They even went to the bank
16 with him." You know, set him up.

17 He went to the bank and got three hundred and seventy-
18 five dollars (\$375); that's it. They stand up and tell you
19 that Isaiah Walker had over a thousand dollars (\$1,000) on
20 him. He had duffles of money that this victim had.

21 If you subtract the money, three seventy-five (\$375); he
22 had almost double the money that this victim had. So, I mean,
23 use your common sense. It's not a set up for less money than
24 you already have.

25 The SLED persons, they come here in and they say, "Well,

1 if a person is there six hours, and five minutes after that, I
2 ain't doing it." Now, I've seen tests come back conclusive in
3 eight (8) hours. I've seen that. I've seen that happen. I
4 seen it happen. But I ain't going to do it. I'm not going to
5 do it because if it's six hours and a minute, okay?

6 And that's strategy. That's strategy. That's not trying
7 to get to the truth; that's strategy because, if you look at
8 Isaiah Walker was down at his house around 10:30.

9 They had him there. They had him there. They had a
10 chance, within the margin of error, to do it. They had him.
11 They had him. But they decided not to gamble on the results.
12 That's what that is.

13 DNA analysis, I'll take this boot back and give it its
14 normal home (picks up boot and places on witness stand).
15 Okay. Do you know why that boot is important? Because, see,
16 the prosecutor, he -- he wants you to believe what Brent
17 Gentry saw, okay? He wants you to believe that.

18 But Brent Gentry said he could not say that Isaiah Walker
19 was wearing these shoes when he saw him standing in the
20 driveway. That's what he said. He said that. He said that.

21 But, these shoes wound up on the side of the pond. They
22 did. They wound up on the side of the pond. And we know --
23 we know that somebody else was wearing these shoes other than
24 Isaiah Walker. We know that. We was told that point blank.

25 And we know somebody was wearing them for a shorter

1 period than Isaiah Walker. How do we know that? Remember the
2 marbles in the jar and you're put more in there; marbles in
3 the jar and you're putting more in it.

4 So, we know these shoes were worn for a short period of
5 time. And we know they weren't cleaned. We know that socks
6 -- because that was the whole issue, were these shoes -- was
7 that shirt, was it clean? Was it washed? Was it washed?

8 And that was a contentious point. That was a contentious
9 point. "Was it washed, was it washed?" "Well, I don't know
10 if Tide is in there." "I don't know." We -- we use our
11 common sense to say when it's washed, it's clean. It's clean.
12 If there is any evidence of it being washed, being washed,
13 then, that is going to affect the results.

14 (Brief Pause)

15 MR. RICHEY: The prosecutor, he made some very
16 compelling arguments, very compelling. But he said there is
17 no direct evidence that Isaiah Walker shot the victim.

18 He made some compelling discoveries in this case. There
19 is no direct evidence to link him to shooting this victim.
20 None.

21 He said I'm going to get up here and say there was more
22 than one gun. Well, it was already said. This witness
23 testified from this witness stand and he said, "I do not feel
24 comfortable testifying it couldn't have been multiple guns."
25 That's what he said. That's what he said. You can want him

1 to say whatever you want, but that's what he said.

2 (Brief Pause)

3 MR. RICHEY: Isaiah Walker, no matter how you twist it,
4 no matter how you want it, no matter how you -- no matter how
5 much you walk over here (indicating) and bang your hand in
6 front of this man (indicating), no matter how much you plead,
7 no matter how much you just say I -- I want an acquittal, no
8 matter how much you say it, Isaiah Walker is not guilty.

9 He did not kill this man. He didn't do it. He didn't do
10 it because you got to connect two many dots. You got to
11 ignore your common sense. You would have to ignore all of
12 that to believe -- to believe that.

13 And this really, really bothers me; this bothers me. We
14 -- we all want to be successful. And trying a case is no
15 different. They want to win. We want to win. Everybody
16 wants to win, but at what cost? But at what cost?

17 At what cost because, see, this is the only system we
18 got. This is the only system we got. And it's the greatest
19 system in the world.

20 But, in this system, we depend upon people to act in a
21 certain way. We -- we -- that's what it's -- it's for. And
22 the citizens of this state expect their law enforcement
23 division to come into a courtroom, and if you've got to say
24 it's bad, you got to say it. That's just how it is.

25 And, so, when you judge the credibility of it -- you

1 judge the credibility in this case, and one thing you have to
2 judge is how defensive was that person? How defensive was --
3 were they?

4 The GSR kit, you got the lead investigator up here.
5 What's the result? It ain't good for you, you might -- it's
6 not good evidence for you. I understand that it's not good
7 evidence for you. I understand you just got -- but, see,
8 that's not what we depend upon. You don't depend upon that;
9 we depend upon openness.

10 We don't depend upon our people from SLED coming up here
11 and being evasive. We -- we don't depend upon that just
12 because the evidence is not good for you. That's how it
13 works. That's how it works.

14 And that's what this case was. It was a defensive case
15 because the evidence, you got to take so many leaps and
16 connect the dots, because when the subjects of cross
17 examination are looked upon, it fails.

18 And some people get downright mad. It fails because, at
19 some point, you have to show your hand. You have to show your
20 hand.

21 And that's why I put those numbers on the screen for that
22 gun -- gun analyst expert, the numbers. Do you remember this
23 -- this number and this number and this number? It's any
24 second number from all these forty-five (45) guns you got
25 listed.

1 How do you talk around that? Forty-five (45) makes of
2 guns that shot these bullets. And -- and they sit up there
3 and tell you one bullet done it all. That's not true. This
4 man said there's forty-five (45) to fifty (50) guns, more --
5 multiple guns out there.

6 So, you can't stand up here and say it's one gun that
7 killed this man. You cannot say that. You have to say what
8 that gentleman told you even though it's bad for you. You
9 have to do that.

10 And the reason why you have to do it is you have to
11 protect the citizens. And that is what SLED does.

12 **(Brief Pause)**

13 **MR. RICHEY:** He covered a point, one good point. That
14 don't make you guilty. It don't. It does not, not where
15 there's a reasonable doubt. You know, we -- we say,
16 "reasonable doubt," Now, what does that mean? You know, What
17 does that mean?

18 Reasonable doubt means does it makes you hesitate to act?
19 And if you hesitate, you -- you got -- you got a eye you've
20 been cooking on. You know, it's black. You know, it's black.
21 But you know you've been cooking on it, so, you're -- you're
22 not sure, so, you kind of don't put your hand on it. You kind
23 of feel around it because you're not sure. 'Because you're not
24 really sure, so, instead of going forward (slaps hand down),
25 you stop and you think.

1 And that's what reasonable doubt is. Reasonable doubt is
2 the kind of doubt that makes a reasonable person hesitate to
3 act, that makes you hesitate to act.

4 They've got to prove murder, an unlawful killing,
5 premeditated -- premeditated. They got to prove that.

6 **MR. WILLINGHAM:** Objection, Your Honor. That's not the
7 proper standard. It's aforethought, not premeditated.

8 **THE COURT:** I'll sustain the objection.

9 **MR. WILLINGHAM:** Thank you.

10 **MR. RICHEY:** Okay. He's got to prove aforethought,
11 aforethought, a forethought. That's what he's got to prove.

12 And there is no evidence that there was any ill will.
13 And he's got to prove that. That's what he's got to prove.
14 Where is it coming from? Three hundred and seventy-five
15 dollars (\$375) when you got double that in your pocket? No.

16 You take him to your momma's home to do all this? No.
17 See, that's a reasonable doubt here. You get to that point,
18 and then, when you would start looking at it, it makes you
19 hesitate to convict.

20 And circumstantial evidence, yeah, hmm, the circumstances
21 are this and that, this and that. But, you know what? If --
22 if the circumstance, if you have a reasonable doubt of that
23 circumstance, you have to give Isaiah Walker the benefit of
24 that doubt.

25 You have to give him the benefit of that doubt because,

1 if you're torn between one -- one and two guns, he gets the
2 benefit of the doubt. If you're torn between whether he was
3 wearing these boots or not (indicating), he wins it.

4 If you're torn, between he was wearing this stuff, he
5 gets the benefit of that doubt. He gets the benefit of that
6 doubt. He gets the benefit of the doubt.

7 Isaiah Walker is innocent of this charge. He is. It's a
8 horrible murder. It's an horrible -- it is a gruesome murder.
9 It's an egregious murder. It is.

10 But, it's always hard. It's always hard, no matter how
11 painful it is. It's always hard to do what's right. It
12 always is.

13 It's never easy to do what's right. It is never ever
14 easy. And what is right in this case? What is right in this
15 case is to find Isaiah Walker not guilty. Do not do this.
16 It's just that simple. And they haven't given you any reason
17 not to do that.

18 But whoever pulled up on this street (indicating),
19 whoever pulled up on that street, in front of Jeffrey Hubbard
20 that day and shot him and made him twist -- twist around, and
21 made him seek refuge in that car, whoever did that, they'll
22 get their day.

23 They will get their day. Unfortunately, today is not the
24 day. Find Isaiah Walker not guilty. Thank you.

25 (Mr. Richey's closing argument concluded at 3:59 p.m.)

1 MR. RICHEY: Thank you, Your Honor.

2 THE COURT: Yes, sir.

3 (Brief Pause)

4 JURY CHARGE

3:59 P.M.

5 THE COURT: All right. Ladies and gentlemen of the
6 jury, I explained to you, at the beginning of the trial, once
7 you had heard the arguments of counsel, at the close of the
8 trial, I would charge you concerning the law.

9 I be -- we began this case with my going over with you
10 the indictment that was the formal charge that brought this
11 case before this Court, and I'll remind you that the fact that
12 a defendant has been arrested, charged, and indicted in the
13 case, is not evidence in the case and can't be considered by
14 you as evidence of guilt.

15 It cannot be considered by you, in any fashion, in
16 determining the guilt or the innocence of the Defendant. It
17 does not create a presumption or an inference of guilt.

18 This document is simply the formal written instrument
19 which contains the charges made against the Defendant. It's
20 the formal document which brought the case to this Court.

21 I'm going to go over that indictment with you again. The
22 indictment states that the Defendant, Isaiah Frederick Walker,
23 did in Spartanburg County, on or about February 17th, of two
24 thousand and six (2006), feloniously, willfully, and with
25 malice aforethought, kill Jeffrey Wayne Hubbard by shooting

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1 the victim multiple times. And the victim died as a proximate
2 result thereof. All in violation of Code Section 16-310 and
3 20 of the Code of Laws of South Carolina, 1976 as amended,
4 against the peace and dignity of the State and contrary to the
5 statutes in such case made and provided.

6 Now, I explained to you, at the beginning of the trial,
7 the Defendant has pled not guilty to this indictment. That
8 plea places the burden of proof upon the State to prove the
9 Defendant guilty.

10 A person charged with a crime, in the State of South
11 Carolina, is never required to prove himself innocent. I
12 charge you that it is an important rule of law that a
13 Defendant, in a criminal trial, no matter what the seriousness
14 of the charge might be, will always be presumed to be innocent
15 of the crime, for which the indictment has been issued, unless
16 and until guilt has been proven by evidence which satisfies
17 you of that guilt beyond a reasonable doubt.

18 This presumption of innocence does not end when you begin
19 your deliberations. It accompanies the Defendant throughout
20 the proceedings until you reach a verdict based on guilt and
21 evidence -- excuse me -- a verdict of guilt based on evidence
22 satisfying you of that guilt beyond a reasonable doubt.

23 The presumption of innocence has sometimes been described
24 by legal scholars as somewhat like the robe that a judge wears
25 into the courtroom. That -- that robe of innocence remains

1 about the Defendant's shoulders until and unless it has been
2 stripped from the Defendant by evidence satisfying you of that
3 Defendant's guilt beyond a reasonable doubt.

4 The presumption of innocence is not a mere legal theory.
5 It's not just a legal phrase. It's a substantial right to
6 which every defendant is entitled until and unless you, the
7 jury, are satisfied, from the evidence presented in the case,
8 of the Defendant's guilt beyond a reasonable doubt.

9 Now, you can probably tell, from what I've discussed with
10 you concerning the presumption of innocence, that the concept
11 or the phrase, "beyond a reasonable doubt" is an extremely
12 important phrase in our criminal justice system.

13 You may ask yourself just what is meant by that phrase,
14 "proof beyond a reasonable doubt." A reasonable doubt is that
15 kind of doubt which would cause a reasonable person to
16 hesitate to act.

17 The State has the burden of proving the Defendant guilty
18 beyond a reasonable doubt. Some of you may have served as
19 jurors on civil cases or been aware of civil cases tried in
20 this jurisdiction and other jurisdictions.

21 The burden of proof in those cases -- and that is where
22 someone is seeking monetary damages from another person -- is
23 different than the standard of proof in criminal court.

24 The proof in civil cases, those other kinds of cases, is
25 proof by the greater weight or the preponderance of the

1 evidence. That's described sometimes as the scales of
2 justice, tilting ever so slightly either in favor of the
3 plaintiff or in favor of the defendant.

4 Again, that's proof by the preponderance or greater
5 weight of the evidence and that is not the standard of proof
6 in a criminal trial such as the one that we're engaged in at
7 this time.

8 In criminal cases, the State's proof must be more
9 powerful than the preponderance of the evidence. It must be
10 proof beyond a reasonable doubt. Proof beyond a reasonable
11 doubt is that kind of proof which would leave you firmly
12 convinced of the defendant's guilt.

13 Now, we realize, in our system of justice, that there are
14 very few things in our lives that can be proven beyond any
15 doubt. And that's not the standard of proof to which the
16 State is put either.

17 If, based on your consideration of the evidence, you are
18 firmly convinced that the Defendant is guilty of the crime
19 charged, you must find the Defendant guilty.

20 If, on the other hand, you find that there is a real
21 possibility that the Defendant is not guilty, you must give
22 the Defendant the benefit of that doubt and find him not
23 guilty.

24 Now, I told you at the beginning of the trial and I tried
25 to explain to you a little bit about the different roles and

1 duties that you and I have in the trial of this case.

2 It's been my responsibility to preside over the trial of
3 this case. I've had to rule on the appropriateness of
4 questions or the admissibility of evidence that went into the
5 record. And you are to consider only the competent evidence
6 that was admitted into the record before you.

7 If there was any testimony, any question, or any
8 statement, that I ordered stricken from the record, you must
9 disregard that matter in its entirety.

10 You are to consider only the testimony which has been
11 presented from the witness stand, the exhibits which have been
12 made as part of the record, and any stipulations or agreements
13 made by counsel as to the admission of items of evidence and
14 those items of evidence admitted under those stipulations.

15 I now have the additional duty of charging you concerning
16 the law that is to be applied in this case. And, as the
17 presiding judge, I told you, at the beginning of this trial, I
18 am the sole judge of the law that it is to be applied to the
19 facts as you find them to be.

20 I told you, at the beginning of the trial, if you had any
21 idea as to what the law is or what the law ought to be, those
22 notions should be left outside of the jury room. You're to
23 take the law now as I give it to you exactly and apply it to
24 the facts as you find them to be and thereby reach a just and
25 a true verdict in this case.

1 In every case tried before this Court, where a jury
2 participates, the jury is the sole and exclusive judges of the
3 facts in this case. I told you, at the beginning of the
4 trial, if I said -- say anything in the discharge of my duties
5 or did any act, in the discharge of my duties, that gave you
6 any belief that I had any opinion as to how you determine the
7 facts in this case, you should disregard that notion.

8 The law doesn't allow me an opinion as to how you
9 determine the facts in this case. And I can assure you I have
10 no opinion as to how you determine the facts in this case.

11 You are the sole judges of the facts in this case. You
12 should not infer, from anything done by this Court, again,
13 that I have any opinion on that subject.

14 Now, also as your -- as jurors, it is your duty to
15 determine the effect, the value, and the weight and the truth
16 of the evidence which has been presented before you today, or
17 over the last three (3) days, and the evidence in this case is
18 -- is the evidence that came in through the testimony of
19 witnesses who were sworn to tell the truth, who testified from
20 this witness stand (indicating) and the documents and evidence
21 that came in through their testimony and any documents and
22 evidence admitted into the record by agreement of counsel and
23 by this Court.

24 Now, ladies and gentlemen of the jury, there are two
25 types of evidence which are generally presented during a

1 trial. They're generally classified as direct evidence and
2 circumstantial evidence.

3 Direct evidence is testimony given by a witness or a
4 person who claims to have actual knowledge of the fact about
5 which that person is testifying, such as an eye witness,
6 someone who actually saw, felt, experienced, tasted, heard the
7 matters about which that witness testified. It is evidence
8 which immediately establishes the main fact which is sought to
9 be proved.

10 Circumstantial evidence is proof of a chain of facts or
11 circumstances indicating the existence of another fact. It is
12 evidence which immediately establishes collateral facts from
13 which a main fact might be inferred. Circumstantial evidence,
14 therefore, is based on inference and not upon personal
15 knowledge or observation.

16 The law makes absolutely no distinction between the
17 weight or the value to be given to either direct or
18 circumstantial evidence. Nor is there a greater degree of
19 certainty required of circumstantial evidence than that of
20 direct evidence.

21 You should weigh all of the evidence in the case, and
22 after weighing all the evidence in the case, if you're not
23 convinced, of the guilt of the Defendant, beyond a reasonable
24 doubt, then, you must find the Defendant not guilty.

25 If, however, on the other hand, you are firmly convinced,

1 from the evidence presented, that the Defendant is guilty, you
2 must find the Defendant guilty.

3 Now, I would like to give a -- a brief example of what is
4 meant by the distinction between circumstantial evidence and
5 direct evidence. I've already explained direct evidence is
6 something that somebody actually saw, experienced, or felt.

7 Circumstantial evidence I like to -- to analogize by, if
8 you had gone to bed last night, looked outside in your yard or
9 on your driveway, everything was dry. The sky was clear, the
10 stars were shining, you slept all night, didn't wake up,
11 didn't hear anything, but this morning, when you woke up, you
12 looked outside and there was water dripping from the trees.

13 There was puddles in your driveway. You didn't see it
14 rain. You didn't hear it rain, you didn't actually experience
15 the fact that it did rain, but from the facts and
16 circumstances that you know exist, you might reasonably infer
17 the existence of the fact that it did rain during the evening.

18 That is what is meant by using circumstantial evidence to
19 create -- to create an inference and thereby prove or -- or
20 allow you to find some other fact.

21 I told you also, at the beginning of the trial, that it
22 is a necessary function of you, as the sole judges of the
23 facts, that you must determine the credibility or the
24 believability of each and every witness who testified in this
25 case.

1 And I told you at that time that you should use your own
2 good common sense in reaching that determination. It becomes
3 your duty, as jurors, to analyze and evaluate the evidence and
4 determine which evidence convinces you of its truth.

5 In determining the believability of witnesses who have
6 tested -- testified in this case, you have the right to
7 believe one witness against all others; all against one. You
8 have the right to believe all of what a witness tells you, a
9 part of what a witness tells you, or none of what a witness
10 tells you.

11 In reaching a decision, as to whether or not a witness is
12 deserving of a finding of -- of credibility by you, and using
13 your own good common sense, you can consider such factors as
14 whether or not the witness has some stake in the outcome of
15 the case;

16 Whether or not the witness has a bias or prejudice,
17 either for or against one side or the other; whether or not
18 the witness actually had the ability to know, see, or
19 experience the facts about which that witness testified.

20 And you observe the witnesses as they testify; the way
21 they spoke, their mannerisms. Use all of those factors in
22 reaching a determination as to whether or not you believe a
23 witness is deserving of a finding of credibility in this
24 matter.

25 Also, we had several witnesses who testified in this case

1 who were designated as expert witnesses. And I explained to
2 you at the time that testimony came in that our rules of
3 evidence do not ordinarily -- ordinarily allow a witness to
4 testify concerning opinions on subjects.

5 The exception to that rule is when we have a witness who
6 is designated as an expert witness. Again, that's a witness
7 who, because of their experience or education, has become an
8 expert in some field, art, science, or profession or calling.

9 And those individuals are allowed to state opinions as to
10 relevant, material matters, in which the witness claims to be
11 an expert and may also state the reasons for giving that
12 opinion.

13 You should consider any expert opinion received, as
14 evidence in this case, just like any other evidence. Give it
15 the weight you think it deserves. You decide if the -- if the
16 opinion of an expert is -- whether or not it's based on
17 sufficient education or experience.

18 Or you might conclude that the reasons given in support
19 of the opinion are not sound. Or you could -- could conclude
20 that the opinion is outweighed by other evidence.

21 In those cases, you have the right, as the sole judges of
22 the facts, to disregard an expert's opinion in its entirety.
23 The opinion of an expert's testimony is not to be given any
24 greater weight than any other witness simply because the
25 witness is an expert. You give it the weight you think it

1 deserves.

2 Further, you're not required to accept an expert's
3 opinion, even though it may not be contradicted by other
4 testimony.

5 Now, I instruct you and I emphasize to you the fact that
6 the Defendant did not testify in this case is not a factor to
7 be considered, by you in any way in your deliberations, in
8 your consideration of the question of guilt or innocence of
9 the defendant. It must not be considered by you in any manner
10 whatsoever.

11 A Defendant has a Constitutional right to remain silent.
12 And the assertion of that right must not be considered by you
13 in your deliberations. I repeat to you that, under the oath
14 you took as jurors, you are to draw no conclusion whatsoever
15 from the fact the Defendant in this case did not testify.

16 The fact that the Defendant did not testify in this case
17 should not even be discussed by you in the jury room. The
18 burden of proof, as I have stated to you in this case, is upon
19 the State. The Defendant is not required to prove himself
20 innocent.

21 The burden of proof remains upon the State throughout the
22 trial, until and unless that -- that guilt -- or guilt has
23 been to you by proof beyond a reasonable doubt.

24 Now, in every criminal case, in order to establish
25 criminal liability, the State must prove, beyond a reasonable

1 doubt, the element of criminal intent. For example, that's
2 the mental state required to be proven by the State for any
3 particular crime. And that -- that mental state might be
4 purpose, intent, knowledge, recklessness, criminal negligence.

5 Criminal intent must be proven by the State beyond a
6 reasonable doubt, as I've stated, and criminal intent is
7 always a matter to be determined by the jury in reaching its
8 verdict in a case.

9 And it must be determined, from the facts and
10 circumstances surrounding the situation, involved in this case
11 because there is no science or medical technology that allows
12 us to cut someone's head open and look inside at their brain
13 and determine what they intended to do in any given circum--
14 situation.

15 So, there's no medical way or no direct way of proving
16 intent. Intent may be inferred from the facts and
17 circumstances shown to have existed at that time as you find
18 them to be.

19 That's how you make a determination of whether or not the
20 element requiring intent was present. It's not necessary to
21 establish, again, intent by direct or positive evidence.

22 It can be established by inference, the same way as any
23 other fact may be established, taking into consideration the
24 -- the facts and circumstances as you find them to be, the
25 acts of the parties, and all of the facts and circumstances

1 surrounding the case.

2 Criminal intent is a mental state. It's a conscious
3 wrongdoing. It's up to you to determine what the Defendant
4 intended to do based upon the circumstances shown to have
5 existed at the time of the incident.

6 Criminal intent can arise also from failure to act;
7 negligence, reckless, or indifference to duty, or to
8 consequences. Those matters also can be considered by the law
9 to be the equivalent of criminal intent.

10 We also had a witness who testified in this case who had
11 a prior criminal record. A person who has a past criminal
12 record is competent to testify during a trial. A past record
13 does not affect the ability of that witness to testify.

14 The past record of a witness may be considered by you, if
15 at all, in determining the witness' believability. Remember,
16 you're the sole judges of the facts in this case, and the sole
17 judges of the believability of any and all witnesses who
18 testified during this trial.

19 Also, there was testimony given concerning statements
20 that may have been given by the Defendant. While the Court
21 has determined that these statements were admissible, I
22 instruct you that you make the ultimate decision as to whether
23 or not the Defendant made the statements and, if the Defendant
24 did make the statement, you must determine whether the
25 statements were made by deter -- by the Defendant voluntarily

1 and of his own freewill.

2 That means the statement was not caused by pressure,
3 force, fear, threats, coercion, intimidation, or by hope or
4 promise of leniency or award of any kind. In determining
5 whether a statement was voluntary, you should consider both
6 the characteristics of the Defendant, the details of the
7 questioning.

8 Some of the factors you can consider are the age of the
9 Defendant, the Defendant's education or lack thereof, the
10 Defendant's mental ability or capacity, the Defendant's
11 intelligence or IQ, the Defendant's background or environment,
12 the place and length of the detention, and the nature of the
13 questioning and the advice or lack thereof given to the
14 Defendant of his Constitutional Rights, including but not
15 limited to the right to remain silent;

16 That any statement could be used against him in a Court
17 of law; the right to have a lawyer present; or that if he
18 could not afford a lawyer, a lawyer could be appointed to
19 represent him without cost; and that he could stop making the
20 statement at any time.

21 You must carefully consider all of the surrounding
22 circumstances before you give any weight to an alleged
23 statement made by a Defendant. The State has the burden of
24 proving, beyond a reasonable doubt, that the alleged statement
25 was voluntary.

1 If you determine or -- that it was, you can give the
2 statement any weight you choose to give it. If you decide,
3 however, that it was not freely and voluntarily given, you
4 should not consider the statement at all.

5 Now, in this case, the Defendant, and in the indictment,
6 has been charged with the offense of murder. The State must
7 prove, beyond a reasonable doubt, that the Defendant killed
8 another person with malice aforethought.

9 "Malice" is defined under the law as hatred, ill will, or
10 hostility toward another person. It's the intentional doing
11 of a wrongful act, without just cause or excuse, and with the
12 intent to inflict an injury or under circumstances that the
13 law will infer that intent.

14 Malice does not require that the malice exists for any
15 particular time before the act is committed. But malice must
16 exist, in the mind of the Defendant, just before and at the
17 time the act was committed. Therefore, there must be a
18 combination of the previous evil intent and the act.

19 "Malice aforethought" may be expressed or inferred.
20 These terms "expressed" or "inferred," do not mean different
21 kinds of malice; they just mean differences in the manner or
22 the way in which malice might be shown to have existed;

23 That is, either by direct evidence or by circumstantial
24 evidence or inference from the facts and circumstances which
25 have been proven.

1 Expressed malice is shown when a person actually speaks
2 words of hostility which express hatred or ill will for
3 another. Or when the person has prepared beforehand to do the
4 act which was later accomplished.

5 For example, someone lying in wait for another person or
6 another act of preparation going to show that the deed was
7 within the Defendant's mind would be expressed malice.

8 Malice can be inferred from conduct showing a total
9 disregard for human life. Inferred malice may also arise when
10 the deed is done with a deadly weapon.

11 A deadly weapon is any article or instrument or substance
12 which is likely to cause death or bodily harm, when used on
13 another person, whether the instru -- instrument has been used
14 as a deadly weapon depends upon the facts and circumstances of
15 each case.

16 Under our law, the following instruments have been shown
17 to be deadly weapon: Those weapons include such weapons as a
18 firearm, a pistol, a shotgun, a rifle, a dirk, a dagger, a
19 knife, a slingshot, metal knuckles, razor, gasoline, fire
20 bomb, Matai cocktail (phonetic), and lighter fluid. A gun may
21 be a deadly weapon even if it is not operating.

22 Now, ladies and gentlemen of the jury, in this particular
23 case, there are two possible verdicts in the case. And I told
24 you, at the beginning of the trial, that -- that I would
25 appoint the foreperson of your jury during my explanation of

1 the law.

2 Mr. Charles Martin, if you'll raise your hand, please.

3 (Mr. Martin raises hand as requested by the Court.)

4 THE COURT: I'm appointing you as the foreperson of this
5 jury. You can put your hand down.

6 (Mr. Martin lowered his hand as requested by the Court.)

7 THE COURT: Sir, what that means is, is that you will be
8 the person who will preside over the deliberations of the
9 jury. As I told the jury, at the beginning of the trial, that
10 gives you no greater say in the outcome of the case than any
11 other juror.

12 It simply means someone must be there and organize the
13 discussions of the jury and also, if it's necessary,
14 communicate with the Court. If, during your deliberations,
15 you have a question that you would like to ask, I would ask
16 that the jury first of all agree upon the form of the
17 question.

18 Then, Mr. Foreman, you should place that question in
19 writing, knock on the door, inform the bailiff that you have a
20 question, pass the question to the bailiff. And I will
21 consider the question along with the attorneys in the case.

22 The reason I say I will consider it is that I'm not
23 allowed to answer each and every question that you might have
24 in your deliberations. I've explained that you and I have
25 separate functions.

1 You're the sole judges of the facts in this case, and I
2 cannot, in any way, enter into your deliberations in -- in
3 this matter on those points.

4 If you have a question, however, concerning the law to be
5 applied, or if you have a question concerning the evidence
6 that was presented, those questions generally can be responded
7 to.

8 But, again, should you have any question; I'm not telling
9 you not to ask them, what I'm telling you is to put it in
10 writing, inform the bailiff, and I will consider the -- the
11 appropriate response if that becomes necessary.

12 Also, I've explained to you that your verdict, before it
13 can be reached by you, must be unanimous. That means each and
14 every one of you must agree upon the verdict before it becomes
15 the verdict of the jury.

16 Now, in this case, the verdict form is relatively simple.
17 Mr. Bailiff, if you would, pass this to Mr. Martin for me.

18 **(The bailiff retrieves the verdict form from the Court**
19 **and passes it to Mr. Martin, the foreperson.)**

20 **THE COURT:** Sir, that is the verdict form that I have
21 prepared. It has, at the top of it, the caption of the case.
22 Below that, in large print, it states, "Verdict," and below
23 that one question is asked.

24 And it says, "As to, the number of this indictment,
25 against the named Defendant, for the crime of murder, we, the

1 jury, unanimously find," and the choices are "not guilty," or
2 "guilty."

3 Now, when the jury reaches a verdict, on one -- on one of
4 those particular verdicts, you will check the appropriate
5 blank and sign the form. And, again, it requires a unanimous
6 verdict before that can be done.

7 Also, I will tell you, the fact that I have placed those
8 choices, in any particular order on that form, should not be
9 taken by the jury to mean, again, that I have preference as to
10 how you determine the facts in this case.

11 There are simply two choices and they've got to be in
12 some order. I placed them in the order that's on that form.
13 It does not indicate a preference on my part one way or the
14 other.

15 Now, before you begin your deliberations, I'm going to go
16 over my charge with the attorneys. There may be some
17 additional matters or there may be some corrections, to what
18 I've told you, before I tell you to begin your deliberations.

19 I'm going to ask you one more time to retire to the jury
20 room. Do not begin your discussions until I've brought you
21 back into the courtroom and given you your final instructions.
22 You may retire to the jury room at this time.

23 (The jury exited the courtroom at 4:25 p.m.)

24 THE COURT: Any objection to the charge from the State?

25 MR. WILLINGHAM: No, sir, Your Honor.

1 THE COURT: Any from the Defense?

2 MR. RICHEY: None, Your Honor.

3 THE COURT: All right. I'm going to ask you gentlemen,
4 if you would, step up and let's get the exhibits to be
5 presented to the jury segregated, so, that we don't send
6 something back that's not supposed to be in their hands.

7 (Pause while Mr. Richey and Mr. Willingham go through the
8 exhibits with the court reporter.)

9 (Off-the-Record Comments)

10 MR. WILLINGHAM: The State agrees that all exhibits, 1
11 through 83, are present and accounted for.

12 MR. RICHEY: They're all there.

13 THE COURT: You agree too?

14 MR. RICHEY: Yes, sir.

15 THE COURT: All right. Thank you very much. All right.
16 Let's bring the jury back.

17 (The bailiff steps out to summon the jury.)

18 (The jury entered the courtroom at 4:36 p.m.)

19 THE COURT: Ladies and gentlemen, there are no
20 additional charges. All the evidence and exhibits had to be
21 checked and that's why it took some time.

22 So, at this point in time, I'm going to ask you to return
23 to the jury room, begin your deliberations, everyone except
24 the alternate. Begin your deliberations.

25 The bailiffs will deliver the evidence to you and you

1 continue your deliberations until a verdict is reached. You
2 may proceed. Alternate, you need to wait in the courtroom.
3 Thank you.

4 (The jury exited the courtroom at 4:37 p.m.)

5 THE COURT: All right. Are you Mr. Hobbs?

6 MR. HOBBS: Yes, sir.

7 THE COURT: Mr. Hobbs, what we're going to do -- Mr.
8 Hobbs has a bag in the jury room, so, get the bag and material
9 and bring it out for him. Just wait right there.

10 What we're going to do, is the bailiff is going to escort
11 you around to the jury assembly room. It's not in use at the
12 present. You'll remain there until -- until a verdict has
13 been reached.

14 And, at any time during the deliberations, one of the
15 jurors were to fall ill or have a family emergency or
16 something came up, you would be ask to join the jury at that
17 point in time and begin deliberations at this phase of the
18 verdict. So, it's necessary that you be present at least
19 until the verdict has been reached.

20 So, as soon as they get your bag for you, they'll take
21 you around to the assembly room. And we'll call you once a
22 verdict has been reached.

23 (Whereupon, the alternate exited the courtroom at 4:37
24 p.m.)

25 THE COURT: Any objection to my final instructions to

1 the jury?

2 MR. WILLINGHAM: No, sir, Your Honor.

3 THE COURT: Any objection from the Defense?

4 MR. RICHEY: No, sir.

5 THE COURT: All right. This case, then, will remain in
6 recess until such time as a verdict has been reached.

7 MR. WILLINGHAM: Thank you, Judge.

8 (Off-the-Record Comments)

9 THE COURT: Tell the jury they can begin deliberating.

10 (The bailiffs retrieved all the evidence and presented it
11 to the jury.)

12 (The jury began deliberating at 4:38 p.m.)

13 THE COURT: Be seated. Mr. Richey, I have received a
14 question from the foreperson. It doesn't have anything to do
15 with deliberations.

16 Mainly, they're asking permission to be allowed to pass
17 out phone numbers for people to be called to let them know
18 where they are. Unless there is an objection, I will allow
19 them to do that. Is there an objection from the State?

20 MR. WILLINGHAM: No, sir, Your Honor.

21 THE COURT: Any from the Defense?

22 MR. RICHEY: No, sir.

23 THE COURT: All right. Also, I will let you know, I'm
24 going to -- I'm just going to bring the foreperson in and
25 instruct him we will allow the bailiffs to get names and

1 numbers and make phone calls for them.

2 And I will also inform them that around 6:30, if a
3 verdict has not been reached, I'll send a bailiff or a clerk's
4 officer in to take their dinner orders and instruct them
5 they're not to discuss anything other than that. We'll
6 probably do that about 6:30.

7 MR. RICHEY: Thank you, Your Honor.

8 THE COURT: Bring the jury foreman in, please. Bring
9 the foreman in.

10 (The bailiff steps out to summon the foreperson.)

11 (Off-the-Record Comments)

12 THE COURT: And bring the Defendant in. We'll wait till
13 he gets here.

14 MR. WILLINGHAM: Judge, I didn't know the nature of the
15 question, and I asked my family to come on down. I've asked
16 the bailiff to inform them outside that they don't need to be
17 here.

18 THE COURT: Okay. I don't see any reason for them to be
19 here.

20 (Brief pause while the Defendant is brought into the
21 courtroom.)

22 THE COURT: Mr. Richey, and obviously, Mr. Walker, I
23 want to explain to you that the jury wants to be allowed to
24 contact family and let them know that they're here and not
25 able to come home.

1 So, I'm going to give them permission to do that. Also,
2 I'm giving them instructions concerning supper orders if that
3 becomes necessary. So, at this point in time, bring the fore
4 -- foreperson in, please.

5 (The foreperson steps into the courtroom.)

6 THE COURT: All right. Mr. Martin, you can just have a
7 seat in that first chair there.

8 MR. MARTIN: Yes, sir.

9 (Mr. Martin sits as instructed.)

10 THE COURT: I've received your request concerning
11 contacting family members, and I'm going to allow one of the
12 bailiffs to come in. And, if the jury members will just
13 inform that bailiff of a phone number and a contact person --

14 MR. MARTIN: Okay.

15 THE COURT: --- we'll be happy to call and let them know
16 that they're deliberating ---

17 MR MARTIN: That's fine.

18 THE COURT: --- and they'll be here until a verdict is
19 reached. Also, I'll advised you, around 6:30, if a verdict
20 hasn'the been reached, I will send -- I will send a bailiff,
21 or a person from the clerk's office, in to take orders for
22 dinner.

23 And just I'll instruct you to inform the jury that they
24 should communicate with that person only for that purpose, not
25 for any other purpose.

1 MR. MARTIN: Okay.

2 THE COURT: And we'll just have that person come in at
3 that time if that becomes necessary.

4 MR. MARTIN: Thank you very much.

5 THE COURT: You can retire, and I'll have the bailiff
6 step in and get those numbers and make the calls.

7 (The foreperson steps out of the courtroom.)

8 THE COURT: Any objection to my communication from the
9 State?

10 MR. WILLINGHAM: No, sir, Your Honor.

11 THE COURT: Any from the Defense?

12 MR. RICHEY: No, sir.

13 THE COURT: All right. I'll make this inquiry an
14 exhibit, Court's Exhibit Number 1. Court remains in recess
15 until such time as a verdict is reached. Thank you very much.

16 MR. RICHEY: Thank you, Your Honor.

17 (Whereupon, Court's Exhibit Number 1 was marked for
18 identification and admitted into evidence.)

19 (A verdict was reached at 6:43 p.m.)

20 BAILIFF: All rise. Court is in order again.

21 (The courtroom audience rose as requested.)

22 THE COURT: Thank you very much. You can be seated.

23 (The courtroom audience sat as requested.)

24 (Brief Pause)

25 THE COURT: All right. Mr. Willingham and Mr. Richey,

1 I've been informed that the jury has reached a verdict.
2 Before I bring the jury in, this has been a three-day trial.
3 I will caution anyone in the courtroom the receiving of a
4 verdict can be an emotional experience.

5 If you have a problem, in controlling your emotions, I'd
6 ask that you leave the courtroom at this time because any
7 outburst, by anyone in the courtroom, during the reading or
8 the taking of the verdict, will be considered to be a
9 violation of court decorum and possibly contempt of court.

10 So, if there is anyone who can't control their emotions,
11 during this period of time, I'd ask that you leave at this
12 time. Bring the jury back.

13 (The bailiff steps out to summon the jury into the
14 courtroom.)

15 (The jury entered the courtroom at 6:48 p.m.)

16 THE COURT: Mr. Martin, I've been informed, by the
17 bailiffs, that a verdict has been reached. Is that correct?

18 MR. MARTIN: Yes, sir, it is.

19 THE COURT: Hand the verdict to the bailiff, please.

20 (The foreperson did as requested by the Court.)

21 THE COURT: Thank you very much.

22 (Whereupon, the verdict form was handed up to the Court,
23 who, in turn, handed it to the clerk for publishing.)

24 THE COURT: Madam Clerk, you may publish the verdict.
25 The Defendant shall stand.

1 (Mr. Walker stood as directed by the Court.)

2 MADAM CLERK: The State of South Carolina, County of
3 Spartanburg, State of South Carolina v. Isaiah Frederick
4 Walker, in the Court of General Sessions, indictment number
5 2007-GS-42-0625, "We -- in the indictment number 07-GS-42-
6 0625, for murder, we the jury unanimously find the Defendant,
7 Isaiah Frederick Walker, guilty, signed this day Charles
8 Martin, Foreperson, May 31st, two thousand, seven (2007)."

9 Ladies and gentlemen of the jury, is this your verdict
10 and still your verdict? If so, please, raise your right hand.

11 (All jurors raised their right hand.)

12 THE COURT: Anything further from the State?

13 MR. WILLINGHAM: No, sir, Judge. Thank you.

14 THE COURT: Anything further from the Defense before I
15 release the jury?

16 MR. RICHEY: Nothing, Your Honor.

17 THE COURT: Ladies and gentlemen, thank you very much.
18 If you would, please -- the alternate is in the courtroom,
19 thank you. Ladies and gentlemen of the jury, this completes
20 your service in this particular case.

21 I want to thank you very much for your attention to your
22 duties and you carrying out your responsibilities. We are not
23 starting another trial this week, so, this ends your jury
24 service this week.

25 I want to thank you very much for serving again. If you

1 need an excuse for work, the clerk's office is closed. You
2 will need to get that tomorrow from them. They'll be happy to
3 provide you with a written excuse from work.

4 A few days later you should receive your pay for your
5 jury service. It won't be a large sum, but it will be
6 everything allowed by law and you'll receive that shortly.

7 I have told you, throughout this trial, that you should
8 not discuss this case with anyone. I will advise you, at this
9 point in time, you have the right to discuss this case with
10 anyone if you choose to.

11 You also have the right not to discuss this case with
12 anyone. And, if you decide to discuss it, you have the right
13 to terminate that conversation at any time.

14 If someone harasses you or bothers you concerning your
15 service on this jury, please, report that to the clerk's
16 office. I can assure you we'll take the appropriate action
17 should that occur.

18 Now, if you wish to be present, during the sentencing in
19 this case, the bailiffs will show you how to come into the
20 back of the courtroom. It's not required that you do that.
21 However, if you wish to be present, you may do so.

22 Mr. Foreman, before you leave the court -- the
23 courthouse, you'll need to see the clerk. You'll need to sign
24 the back of the indictment concerning the verdict. The rest
25 of you are free to go at this time. Thank you very much for

1 your help.

2 (The jury excused exited the courtroom at 6:51 p.m.)

3 (Off-the-Record Comments)

4 THE COURT: All right. Anything further from the State
5 at this time, Mr. Willingham?

6 MR. WILLINGHAM: Not prior to sentencing, Judge. I'll
7 speak with my people; they may wish to address the Court.

8 THE COURT: I understand that. Thank you. Anything
9 further for the Defense before we begin sentencing?

10 MR. RICHEY: No, sir.

11 THE COURT: All right. I'll give you an opportunity to
12 speak with the victims. And I know there's some paperwork
13 that needs to be done.

14 MR. WILLINGHAM: Thank you, Judge.

15 (Brief Pause)

16 (Off-the-Record Comments)

17 THE COURT: All right. I'll ask the Defense to approach
18 the bar, the Defendant and his defense attorney.

19 (Whereupon, Mr. Richey and Mr. Walker approach as
20 requested by the Court.)

21 THE COURT: All right. The verdict of the jury was
22 guilty. At this point in time, I will be more happy to hear
23 from you, Mr. Richey, in mitigation in sentencing.

24 MR. RICHEY: Thank you, Your Honor. My client is a
25 resident of Spartanburg County. He's -- he's got a lot of

1 support here. His mom is here and, as the Court can see, he
2 -- he had a pretty contingent here that supported him.

3 He's from a really good, solid family. They're really
4 good people I've known seven (7) or eight (8) years now. And
5 it surprises me that we're in this situation with this family.

6 I have actually represented Isaiah about seven (7) years
7 ago in a case where he was a victim. So, you know -- and I
8 didn't realize that until he told me yesterday. So, I got an
9 extensive history with this family.

10 And they have been very good to me. I'll just tell the
11 Court they have been very good to me and, you know, you -- you
12 do this job and you're only human. You want to see good
13 people have good things happen.

14 And I'm not saying the victim's family is not good. I --
15 they're -- they're in a tough bind. We're all in a tough
16 bind. But, you know, you see people that, you know, get up
17 and go to work every day, do what's right, and they get put in
18 this situation.

19 But I just ask the Court -- there's a minimum sentence
20 and it's thirty (30) years and it's a lot; it's a significant
21 amount of time. I'd ask the Court to consider doing that in
22 the case.

23 We -- you know, I'd ask the Court to do that. I think
24 that, you know, that's appropriate because that is a
25 substantial sentence. And I'd ask the Court to consider doing

1 that.

2 And I will say that Mr. Walker has -- Mr. Isaiah Walker
3 has been, you know, a -- a really good person to represent.
4 He hasn't gave me one stick of problems; he's been
5 cooperative.

6 He, you know, accepted the advice and, you know, and had
7 a good input in this case. And I just reiterate to the Court
8 that -- that this family deserves better, but we're here. And
9 I just ask the Court to do that.

10 **THE COURT:** Mr. Walker, anything you would like to say?

11 **THE DEFENDANT:** No, sir.

12 **THE COURT:** Mr. Willingham?

13 **MR. WILLINGHAM:** Your Honor, you know, I've been doing
14 this a long time, and I've never asked a judge for a
15 particular sentence, and I'm not going to start tonight.

16 I think this case is different than most other murder
17 cases in that it's not one or two shots. He was left with
18 twenty-four (24) holes in him. That's absolutely senseless, a
19 senseless crime.

20 I've spoken to the victim's family; they just want to --
21 to thank the Court for everything that the Court has done.
22 They want the Court to know that their son was a good son;
23 that he had a job. He worked.

24 That he was adopted. He's got a brother and two other
25 sisters; that they love their son. And they miss their son.

1 THE COURT: Do they wish to speak?

2 MR. WILLINGHAM: No, sir. They ask me to convey that on
3 their behalf.

4 THE COURT: Thank you.

5 (Brief pause while Court fills out paperwork.)

6 THE COURT: Mr. Walker, I've sat through the trial of
7 the case and heard the evidence that was presented. And I
8 believe the thing that concerns me the most about the case is,
9 from reviewing the evidence, the apparent design that was
10 involved, the way in which this occurred and was carried out
11 is extremely troubling to the Court.

12 I hope you appreciate the fact that your family has
13 supported you throughout this. However, the crime that was
14 committed took the life of an individual. It is the order of
15 the Court that you be confined to the State Department of
16 Corrections for a period of your life. Court is adjourned.

17 MR. WILLINGHAM: Thank you, Judge.

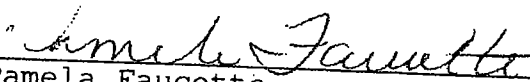
18 (Whereupon, court was adjourned and the proceeding
19 concluded at 6:59 p.m.)
20
21
22
23
24
25

REPORTER'S CERTIFICATE

I, the undersigned **PAMELA FAUCETTE**, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that I acted as the court reporter at the foregoing proceeding; that the foregoing pages, numbered 1 through 654, were transcribed by me and represent a complete and accurate transcription of said proceeding to the best of my knowledge and belief.

I do further certify that I am not of counsel for or in the employment of either of the parties to this action, nor am I interested in the results of this action.

February 21, 2008


Pamela Faucette
Official Court Reporter
Seventh Judicial Circuit

PAMELA FAUCETTE - (864) 574-9534 OR (336) 260-2864

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

HONORABLE ROGER L. COUCH

Case No: 2007-GS-42-625

STATE OF SOUTH CAROLINA,

RESPONDENT,

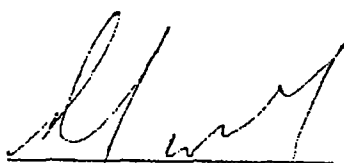
against

ISAIAH WALKER,

APPELLANT.

NOTICE OF APPEAL

Isaiah Walker appeals the conviction and sentence in this case. The sentence was imposed by the Honorable Roger L. Couch on May 31, 2007.



Rodney W. Richey
Post Office Box 10916
Greenville, South Carolina 29603
(864) 467-0503
Attorney for the Appellant

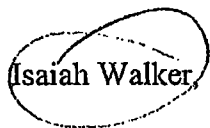
Other Counsel of Record:
James Donald Willingham, II, Esq.
8th Circuit Solicitor's Office
180 Magnolia Street
Spartanburg, South Carolina 29304

The South Carolina Court of Appeals

The State,

Respondent,

v.


 Isaiah Walker

Appellant.

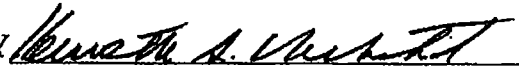
The Honorable Roger L. Couch
Spartanburg County
Trial Court Case No. 2007-GS-42-00625

ORDER of DISMISSAL

The above entitled case is pending on appeal in this Court. Due to the failure of appellant to serve and file the Appellant's Initial Brief and Designation of Matter in the above matter, as provided for in Rules 208 and 209 of the South Carolina Appellate Court Rules,

IT IS ORDERED that the above captioned appeal be and hereby is dismissed. Pursuant to Rule 221(b) of the South Carolina Appellate Court Rules, the remittitur in the case will be sent to the Clerk of Court for Spartanburg County after fifteen (15) days, exclusive of the date of filing this Order.

KAYE G. HEARN, CHIEF JUDGE

BY 
CLERK

Columbia, South Carolina

May 27, 2008

cc: Rodney Wade Richey, Esquire
Assistant Deputy Attorney General Salley W. Elliott
The Honorable Marcus W. Kitchens
The Honorable Roger L. Couch

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions
HONORABLE ROGER L. COUCH

RECEIVED
JUN 06 2008
SC Court of Appeals

Case No: 2007-GS-42-625

STATE OF SOUTH CAROLINA,

RESPONDENT,

against

ISAIAH WALKER,

APPELLANT.

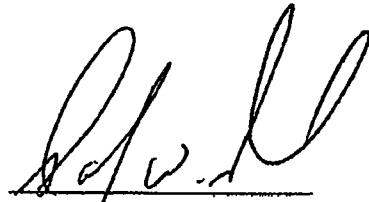
**MOTION TO REINSTATE APPEAL AND TO FILE INITIAL BRIEF AND
DESIGNATION MATTERS ON APPEAL OUT OF TIME**

The Appellant by and through his counsel moves this Court to allow him to file his initial brief and designation of matters on appeal out of time. The basis for this is as follows:

1. Counsel for the Appellant inadvertently allow the time to run on filing these matters.
2. That the Appellant received a life without parole sentence at the trial level.
3. In the interest of justice the Appellant should be allowed to proceed with his appeal.
4. The Appellant is requesting to extend the time until June 16, 2008.

5. Appellant counsel does not believe that this extension of time will prejudiced the Respondent.
- 6 Counsel for the Appellant attempted to contact the counsel for the State and was unsuccessful.

Wherefore, the Appellant by and through his counsel request the court to grant the relief requested in him motion



Rodney W. Richey
Post Office Box 10916
Greenville, South Carolina 29603
(864) 467-0503
Attorney for the Appellant

Other Counsel of Record:
Sally Elliot, Esquire
Office of Attorney General State of South Carolina
Post Office Box 11549
Columbia, SC 29211-1549.

GRANTED.

KAYE G. HEARN, C.J.
FOR THE COURT

By: V. Claire Allen
(Clerk) (Deputy Clerk)

6/18/08

FILED

6/18/08 LLP



The South Carolina Court of Appeals

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CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
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June 18, 2008

Rodney Wade Richey, Esquire
Richey & Richey, PA
P.O. Box 10916
Greenville, SC 29603-0916

Re: The State v. Walker, Isaiah

Dear Mr. Richey:

The Court has granted your Petition to Reinstate in the following order endorsed thereon:

"Granted.

Kaye G. Hearn, C.J.
For the Court

By: V. Claire Allen
DEPUTY CLERK

Columbia, South Carolina

June 18, 2008."

The Appellant's Initial Brief and Designation of Matter are due to be served and filed on or before July 18, 2008.

Very truly yours,

Angela Bennett
Angela Bennett
Docketing Specialist

VCA
/ab

cc: Assistant Deputy Attorney General Salley W. Elliott
The Honorable Marcus W. Kitchens
The Honorable Roger L. Couch

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

HONORABLE ROGER L. COUCH

Case No: 2007-GS-42-625

STATE OF SOUTH CAROLINA,

RESPONDENT,

against

ISAIAH WALKER,

APPELLANT.

ANDERS BRIEF OF APPELLANT

Rodney W. Richey
Post Office Box 10916
Greenville, South Carolina 29603
(864) 467-0503
Attorney for the Appellant

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TABLE OF AUTHORITIES

Cases

<u>State vs. Edwards</u> , 298 S.C. 272, 379 S.E. 2d 888 (1989).	4
<u>State vs. Martin</u> 278 S.C. 121, 398 S.ED 2d 345 (1991).....	4
<u>State vs. Childs</u> , 299 S.C. 471, 385 S.E.2d 839 (1989).....	4

STATEMENT OF ISSUE ON APPEAL

Whether the trial judge erred in not granting the Appellant's motion for direct verdict at the close of the State's case.

STATEMENT OF THE CASE

The Appellant, Isaiah Walker, was indicted by the Spartanburg County grand jury for the charge of murder. R. p. 41-42. The State alleged that Mr. Walker murdered a friend of his. The alleged murder took place pursuant to a drug deal. The victim was shot multiple times and a gun shot wound was the cause of death. The alleged incident occurred at the Appellant's home. On May 29 through May 31, 2007, the appellant proceeded to trial by jury for the charge. On May 31, 2007, the jury convicted the Appellant of murder and the trial judge sentenced him to a term of imprisonment for life. R. p. 696, line 12-16.

The State called several witnesses to prove the Appellant murdered the victim. The State did not have any direct evidence of the Appellant's guilt. The State relied on circumstantial evidence to prove the Appellant's guilt. The Appellant appeals his conviction and sentence in this matter.

ARGUMENT

The trial judge erred in not granting the Defendant's motion for direct verdict at the close of the State's case.

At the close of the States's case, counsel for the Appellant made a motion for direct verdict. R. p. 615, Lines 7-9. The lower court denied the Appellant's request. R. p. 615, Lines 16-20. The lower court should not refuse to grant the motion for direct verdict where the evidence merely raises a suspicion that the accused is guilty. State vs. Edwards, 298 S.C. 272, 379 S.E. 2d 888 (1989). The trial judge is required to submit the case to the jury if there is "any substantial evidence which reasonably tends to prove the guilt of the accused, or from which his guilt may be fairly and logically deduced. State vs. Martin. In reviewing a denial of a motion for a directed verdict, the appellate court must view the evidence in the light most favorable to the State. State vs. Childs, 299 S.C. 471, 385 S.E.2d 839 (1989).

In the present case, the State did not have any direct evidence that the Appellant actually murdered the victim. The State used circumstantial evidence to prove the Appellant's guilt. The State called the Appellant's alleged co-defendant, Brent Gentry, as a witness. Mr. Gentry testified that he did not see the Appellant murder the victim. He stated that he pulled up at the bottom of the driveway. R. p. 543, Lines 4-10. He did not provide any direct testimony as to the Appellant murdering the victim. The State merely used his testimony to claim that the Appellant was with the victim when he was killed.

Moreover, the co-defendant's statements that the Appellant stated that he had to do it is not conclusive as to the Appellant murdering the victim. R. p. 546, Lines 12-14. These statements were simply self-serving and did not prove that the Appellant had in fact murdered the

victim.

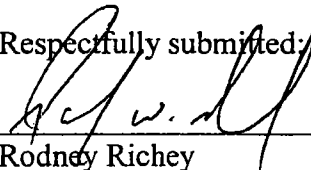
The State also called several expert witnesses with the South Carolina Department of Law Enforcement. None of these experts could say with any certainty that the Appellant murdered the victim. Their testimony was circumstantial in nature and did not provide any direct evidence as to the Appellant murdering the victim.

The State called Agent Dan Defreese from SLED to testify about the gun that was fired that killed the victim. The agent testified that two separate guns were fired from shell casting taken from the scene. R. p. 373, Lines 12-15. This testimony reveals that the victim could have been shot by any of two guns. There was no testimony that could say with any certainty which gun or shot killed the victim. This evidence taken in the light most favorable to the State shows that the Appellant was not responsible for the killing of the victim. The victim could have been killed by another person at the scene assuming the Appellant fired a gun. Therefore, this evidence taken in the light most favorable proves that the Appellant did not murder the victim.

CONCLUSION

Based on the foregoing arguments and citations the Appellant requests the Court to reverse the trial court ruling.

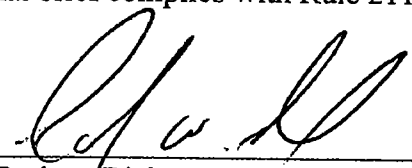
Respectfully submitted:



Rodney Richey
Richey and Richey, P.A.
Post Office Box 10916
Greenville, SC 29603
(864) 467-0503
Attorney for the Appellant

CERTIFICATION OF COUNSEL

Counsel for the Appellant certifies that his final brief complies with Rule 211(b).



Rodney Richey
Attorney for the Appellant

August 8, 2008

RECEIVED

JUN 17 2008

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

SC Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

Court of General Sessions

HONORABLE ROGER L. COUCH

Case No: 2007-GS-42-625

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

against

ISAIAH WALKER

APPELLANT.

**DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

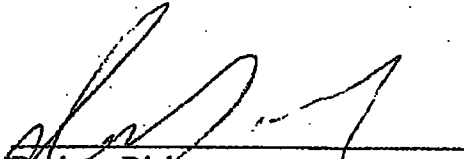
Appellant proposes the following be included in the Record on Appeal;

1. Trial Transcript dated May 29, 30, & 31, 2007
2. State's Exhibit, Color Photograph, Marked 41, Received 79, 144
3. State's Exhibit, Color Photograph, Marked 41, Received 79, 144
4. State's Exhibit, Color Photograph, Marked 41, Received 80, 144
5. State's Exhibit, Color Photograph, Marked 41, Received 82, 144
6. State's Exhibit, Color Photograph, Marked 41, Received 82, 144
7. State's Exhibit, Aerial Color Photograph, Marked 41, Received 91, 144
8. State's Exhibit, Aerial Color Photograph, Marked 41, Received 91, 144
9. State's Exhibit, Aerial Color Photograph, Marked 41, Received 91, 144
10. Crime Scene Diagram, Marked 41, Received 95, 144
11. Timberland Boot Right, Marked 41, Received 144
12. Timberland Boot Left, Marked 41, Received 144
13. Black Sweat Shirt, Marked 41, Received 144
14. Driver's License/CPM Card, Marked 41, Received 101, 144
15. Shell Casing in container, Marked 41, Received 102, 144
16. Two Cartridge Castings, Marked 41, Received 104, 144
17. Brent Gentry DNA swab, Marked 41, Received 106, 144
18. Red Sweat Pants, Marked 41, Received 109, 144

19. Spent 9mm Shell in Container, Marked 143, Received 144
20. Projectile, Marked 143, Received 144
21. Projectile, Marked 143, Received 144
22. Projectile, Marked 143, Received 144
23. Projectile, Marked 143, Received 144
24. Projectile, Marked 143, Received 144
25. Projectile, Marked 143, Received 144
26. Projectile, Marked 143, Received 144
27. Projectile, Marked 143, Received 144
28. Projectile, Marked 143, Received 144
29. Projectile, Marked 143, Received 144
30. Projectile, Marked 143, Received 144
31. Projectile, Marked 143, Received 144
32. Projectile, Marked 143, Received 144
33. Projectile, Marked 143, Received 144
34. Projectile, Marked 143, Received 144
35. Projectile, Marked 143, Received 144
36. Projectile, Marked 143, Received 144
37. Projectile, Marked 143, Received 144
38. Projectile, Marked 143, Received 144
39. Projectile, Marked 143, Received 144
40. Projectile, Marked 143, Received 144
41. Projectile, Marked 143, Received 144
42. Projectile, Marked 143, Received 144
43. Projectile, Marked 143, Received 144
44. Swab, Marked 143, Received 144
45. Swab, Marked 143, Received 144
46. Swab, Marked 143, Received 144
47. Swab, Marked 143, Received 144
48. Swab, Marked 143, Received 144
49. Swab, Marked 143, Received 144
50. Swab, Marked 143, Received 144
51. Swab, Marked 143, Received 144
52. Swab, Marked 143, Received 144
53. Swab, Marked 143, Received 144
54. Swab, Marked 143, Received 144
55. Swab, Marked 143, Received 144
56. Swab, Marked 143, Received 144
57. Blood Swab of Victim, Marked 143, Received 144
58. DNA Oral Swab - Mr. Walker, Marked 143, 144
59. Three small photographs, Marked 187, Received 188
60. Mr. Walker's Phone Records, Marked 202, Received 436
61. Mr. Hubbard's Phone Records, Marked 202, Received 436
62. Aerial Photo of Mr. Walker's Home, Marked 210, Received 211
63. Color Photograph, Marked 215, Received 215

64. Color Photograph, Marked 215, Received 215
65. Pre-Interrogation Waiver, Marked 224, Received 230
66. Mr. Walker's Fingerprint Card, Marked 272, Received 295
67. Fingerprint Card, Marked 272, Received 297
68. Fingerprint Card, Marked 272, Received 297
69. Fingerprint Card, Marked 272, Received 297
70. Fingerprint Card, Marked 272, Received 297
71. Cylinder Containing 35mm Negatives, Marked 272, Received 299
72. Diagram of 111 Dove Hill Rd., Marked 275, Received 276
73. Four items/DNA Swabs, Marked 380, Received 381
74. Four Items/DNA Swabs, Marked 381, Received 384
75. Cutting 28.1, Marked 383, Received 385
76. Cutting 28.2, Marked 383, Received 385
77. Cutting 28.3, Marked 383, Received 385
78. Cutting 28.5, Marked 383, Received 385
79. Cutting 28.6, Marked 383, Received 385
80. Cutting/Swab 28.7, Marked 383, Received 385
81. Chart/Fingerprints, Marked 415, Received 416
82. Autopsy Diagram - Bullets, Marked 539, Received 547
83. Autopsy Diagram - Injuries, Marked 539, Received 547
84. Raymond Annas Name & Phone Number, Marked 563, Received 563 (Over Obj.)
85. Jury's Question, Marked 647, Received 647
86. Indictment

I certify that this designation contains no matter which is irrelevant to this appeal.



Rodney Richey
Richey and Richey, P.A.
Post Office Box 10916
Greenville, SC 29603
(864) 467-0503
Attorney for the Appellant

Dated: June 13, 2008

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

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State,

Respondent,

v.

Isaiah Walker,

Appellant.

Appeal From Spartanburg County
Roger L. Couch, Circuit Court Judge

Unpublished Opinion No. 2010-UP-114
Submitted January 4, 2010 – Filed February 11, 2010

APPEAL DISMISSED

Rodney Wade Richey, of Greenville, for Appellant.

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

PER CURIAM: Isaiah Frederick Walker appeals his conviction and sentence for murder, arguing the trial court erred in declining to direct a verdict in his favor because the State presented no direct evidence of his guilt. After thoroughly reviewing the record and counsel's brief pursuant to Anders v. California, 386 U.S. 738 (1967), and State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991), we dismiss¹ Walker's appeal and grant counsel's motion to be relieved.

APPEAL DISMISSED.

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

2010 MAR 11 AM 9:08

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

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The South Carolina Court of Appeals

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March 4, 2010

REMITTITUR

The Honorable Ponda A. Caldwell
180 Magnolia Street
Spartanburg, SC 29304

Re: The State v. Walker, Isaiah
2007-GS-42-00625 ✓

Dear Ms. Caldwell:

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

The following exhibits were filed in this case:

State's exhibit 58(3 small photographs)
State's exhibit 80(Char/Fingerprints)

This office requests that Mr. Gregory Whitley, or his designee, pick up these exhibits within ten (10) days of the date of this letter.

Sincerely,

V. Claire Allen

V. Claire Allen
Deputy Clerk of Court

VCA/tf

cc: Isaiah Walker, #322149
Rodney Wade Richey, Esquire
Assistant Deputy Attorney General Donald J. Zelenka
Harold W. Gowdy, III, Esquire

2010 MAR 11 AM 5:08

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS

5368

ISAIAH WALKER, # 322149,)
Applicant,)

v.)

THE STATE OF SOUTH CAROLINA,)
Respondent.)

**APPLICATION FOR
POST-CONVICTION RELIEF**

INSTRUCTIONS – READ CAREFULLY

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

Since every application must be sworn to 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 applicant 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 applicant was convicted.

1. Place of detention: Lee Correctional Institution, 990 Wisacky Highway, Bishopville, SC 29010.
2. Name and location of Court which imposed sentence Spartanburg County General Session Court.
3. Name(s) of co-defendant(s) (if any) : N/A
4. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
(a) 2007-GS-42-0625 Murder
5. The date upon which sentence was imposed and the terms of the sentence:
(a) May 31, 2007- Life without parole.

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SPARTANBURG COUNTY
2007 OCT 26 AM 11:39
HOPE BLACKLEY

6. Check whether a finding of guilty was made
- (a) after a plea of guilty _____
- (b) after a plea of not guilty Yes
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence? Yes
8. If you answered "yes" to (7), list
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. N/A
- iii. N/A
- (b) the result in each such Court to which you appealed:
- i. Appeal Dismissed following submission of an Anders Brief.
- ii. N/A
- iii. N/A
- (c) the date of each such result:
- i. February 11, 2010
- ii. N/A
- iii. N/A
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Unpublished Opinion No. 2010-UP-114
- ii. N/A
- iii. N/A
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) N/A

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(c) N/A

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) The Applicant received Ineffective Assistance of Counsel prior and during his jury trial in violation of his rights pursuant to the Sixth and Fourteenth Amendments to the United States Constitution, as well as Article I, Section 14 of the South Carolina Constitution.

(b) The Applicant received ineffective assistance of Appellate Counsel in violation of his rights pursuant to the Sixth and Fourteenth Amendments to the United States Constitution, as well as Article I, Section 14 of the South Carolina Constitution.

(c) _____

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

(a) Trial Counsel failed to provide client effective assistance of counsel prior to and during his trial proceeding inasmuch as Counsel failed to recognize errors which occurred during his trial, and therefore, failed to make appropriate objections, and supporting legal arguments relating thereto. Counsel's failure to make these objections may have changed the outcome of the Applicant's trial and deprived him of the opportunity to have these issues addressed on their merits on direct appeal.

(b) Trial counsel filed a direct appeal on behalf of the Applicant and proceeded to file a no merit brief pursuant to Anders v. United States despite the fact that he was retained in this case.

(c)

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

(a) any petitions in a State Court under South Carolina law? n/a

(b) any petitions in State or Federal Courts for habeas corpus or post-conviction relief? n/a

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? n/a

(d) any other petitions, motions or applications in this or any other Court? n/a

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

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iii. n/a

iv. n/a

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

i. n/a

ii. n/a

iii. n/a

iv. n/a

(c) the disposition thereof:

i. n/a

ii. n/a

iii. n/a

iv. n/a

(d) the date of each such disposition:

i. n/a

ii. n/a

iii. n/a

iv. n/a

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

i. n/a

ii. n/a

iii. n/a

iv. n/a

14. Has any ground set forth in (10) been previously presented to this or any other Court, State of Federal, in any petition, motion or application which you have filed? NO

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

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(a) which grounds have been presented:

i. n/a

ii. n/a

iii. n/a

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

i. n/a

ii. n/a

iii. n/a

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) Collateral review through PCR represents the first appropriate opportunity the Applicant has had to raise these issues.

(b) _____

(c) _____

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

(a) your arraignment and plea? yes

(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? yes

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.

ii. Mr. Rodney Richey, Esquire, P. O. Box 10916, Greenville, SC 29603
Ms. Caroline Horlbeck, Esquire, 101 Whitsett Street, Greenville, SC 29601

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY

iii. Mr. Rodney Richey, Esquire, P. O. Box 10916 Greenville, SC 29603

(b) the proceedings at which each such attorney represented you:

i. Arrest and plea

ii. Sentencing

iii. Appeal to Court of Appeals

19. State clearly the relief you seek in filing this application. Vacation of judgments and sentences. Applicant seeks a new trial.
20. Are you now under sentence from any other court that you have not challenged? no

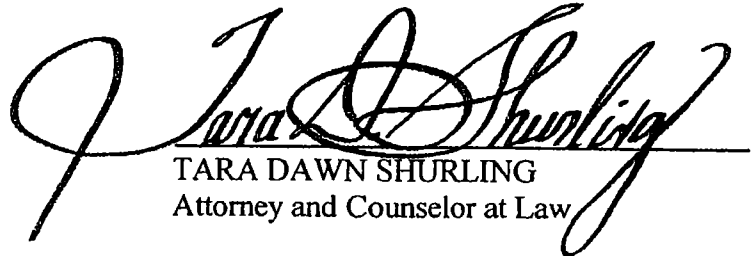
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STATE OF SOUTH CAROLINA

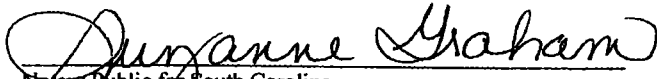
VERIFICATION

COUNTY OF SPARTANBURG

I, Tara Dawn Shurling, retained counsel for the Applicant, 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.


TARA DAWN SHURLING
Attorney and Counselor at Law

SWORN to and subscribed before me this 5th
day of October, 2010.


Notary Public for South Carolina
My Commission Expires: 3/12/2013

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M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

COUNTY OF SPARTANBURG)

Isaiah Walker, #322149,)

2010-CP-42-5368

Applicant,)

v.)

RETURN

State of South Carolina,)

Respondent.)
_____)

In response to the post-conviction relief application filed on October 6, 2010, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Spartanburg County Clerk of Court's orders of commitment. The Spartanburg County Grand Jury indicted the Applicant at the February 2007 term of General Sessions for murder (07-GS-42-0625). Mr. Rodney W. Richey, Esquire, represented the Applicant on the charge. On May 31, 2007, the Applicant was convicted of this charge by a jury. The Honorable Roger L. Couch sentenced the Applicant to confinement for life.

A timely Notice of Appeal was filed and an Anders brief was filed on Applicant's behalf. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. Walker, Op. No. 2010-UP-114 (filed February 11, 2010). The Remittitur was returned on March 4, 2010.

II.

In his application for post conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of trial counsel, in that;
 - i. Counsel failed to recognize errors during trial and failed to make appropriate objections and supporting legal arguments related to those errors; and
2. Ineffective assistance of appellate counsel, in that;
 - i. Counsel was retained in the this to represent Applicant, but filed a no merit brief pursuant to Anders v. United States on Applicant's behalf.

For the purpose of this Return, the Respondent incorporates the trial transcript, the Clerk of Court records, Applicant's appellate records, and the South Carolina Department of Corrections' records. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

Respondent asserts that the Applicant's allegation of ineffective assistance of trial counsel is without merit. Respondent asserts that the Applicant's attorney rendered effective assistance well within the standard of reasonableness within professional norms for a criminal defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Petitioner must prove that counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result. Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668, 104 S. Ct. 2052. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel.

First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its reasonableness under professional norms. Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland v. Washington. 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, 386 S.E.2d at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The allegation that appellate counsel was ineffective is without merit. Respondent contends that the Applicant's appellate counsel rendered adequate assistance and provided representation within the range of competence required by appellate attorneys. A defendant is constitutionally entitled to the effective assistance of appellate counsel. Evitts v. Lucey, 469 U.S. 387, 105 S.Ct. 830 (1985). Where ineffective assistance of appellate counsel is alleged, the Applicant must show that appellate counsel's performance was (1) deficient; and (2) that there was prejudice from the appellate counsel's deficiency. Southerland v. State, 337 S.C. 610, 524 S.E.2d 833 (1999). To be effective, appellate counsel must give assistance of such quality as to make appellate proceedings fair. Id. Appellate counsel must provide effective assistance but need not raise every non-frivolous issue presented by the record. Id. Appellate counsel has a professional duty to choose among potential issues according to their merit. Jones v. Barnes, 463 U.S. 745, 103 S.Ct. 3308 (1983). Where the

strategic decision to exclude certain issues on appeal is based on reasonable professional judgment, the failure to appeal all trial errors is not ineffective assistance of counsel. Griffin v. Aiken, 775 F.2d 1226 (4th Cir. 1985).

When a claim of ineffective assistance of appellate counsel is based upon failure to raise viable issues, the court must examine the record to determine "whether appellate counsel failed to present significant and obvious issues on appeal." Gray v. Greer, 800 F.2d 644, 646 (7th Cir. 1986). Generally, the presumption of effective assistance of counsel will be overcome only when the alleged ignored issues are clearly stronger than those actually raised on appeal. Id.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland v. Washington test with regard to the ineffectiveness claims against appellate counsel. However, the allegation of ineffective assistance of appellate counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

VI.

WHEREFORE, the Respondent requests an evidentiary hearing solely for the purpose of determining whether the Applicant's trial counsel and appellate counsel were ineffective.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

SUZANNE H. WHITE
Assistant Attorney General

By:



Attorneys for the Respondents
P.O. Box 11549
Columbia, S.C. 29211
(803) 734-3737

April 26, 2011

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

) IN THE COURT OF COMMON PLEAS
) SEVENTH JUDICIAL CIRCUIT

Isaiah Walker,

2010-CP-42-5368

)
)
) Applicant,

)
) v.

) **CERTIFICATE OF SERVICE BY MAIL**
)

) State of South Carolina,

) Respondent.
)

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Respondent's Return in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

Tara D. Shurling, Esquire
Law Offices of Tara Dawn Shurling, PA
3614 Landmark Drive, Suite D
Columbia, South Carolina 29204

Anne Mueller

Anne A. Mueller
Legal Assistant for the Respondent

DATED this 26th day of April, 2011.

11.50
40

Document File Copy
Scanned and entered
in WORD File 4. 27.11
By SP

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on FEB 22 2007, the
Grand Jurors of Spartanburg County present upon their oath:

MURDER

That the defendant, Isaiah Frederick Walker did, in Spartanburg County on or about February 17, 2006, feloniously, willfully, and with malice aforethought, kill Jeffrey Wayne Hubbard by shooting the victim multiple times, and that the victim died as a proximate result thereof, all in violation of §16-3-0010, 0020, *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.


DEPUTY SOLICITOR

DOCKET
07-GS-42-0025
The State of South Carolina
County of Spartanburg
Trey Gowdy, Solicitor

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2007 FEB 27 PM 3:26
TAMCO BUILDING

COURT OF GENERAL SESSIONS

FEB 26 2007 TERM

THE STATE

v

ISAIAH FREDERICK WALKER

Indictment for

MURDER

SC Code 16-03-0010, 0020
CDR Code 116
Class FEL-EXM

WITNESSES

1. SENTENCE MADE ☒ Computer

2. REPORT ENTERED ☒

SPARTANBURG CO SHERIFF'S OFFICE

4. INDEXED ☒

5. CHECKED WARRANTS ☒

6. CHECKED RETURNS ☒

7. ASSESSED FEE ☒

FLM: Spartanburg County Sheriff's Office

8. TRAFFIC VIOLATIONS CONF ☒

ARREST WARRANT NUMBER

K077951

ACTION OF GRAND JURY

Tony Billie

Veronica

Foreperson of Grand Jury

Date: 2-22-07

VERDICT

Guilty

Foreperson of Petit Jury

Date:

Charles Mark May 31, 2007

ARREST WARRANT

K- 077951

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
SPARTANBURG COUNTY

AFFIDAVIT CASE # K077951

 Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 610

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
SPARTANBURG COUNTY

THE STATE

against

WALKER, ISIAIAH FREDERICK

Address: _____

MOORE, SC 29369

Phone: _____ SSN: _____

Sex: ☒ M Race: ☒ B Height: _____ Weight: _____

Date: _____ DL #: _____

DOB: 05/12/1986 Agency ORI#: _____

Prosecuting Agency: _____

Prosecuting Officer: BOBO, KEVIN

Offense: MURDER / MURDER

Offense Code: 0116

Code/Ordinance Sec. 16-03-0010, 0020

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

 The accused
is to be arrested and brought before me to be
dealt with according to law.

 _____ (L.S.)
Signature of Judge

RETURN

 A copy of this arrest warrant was delivered to
defendant WALKER, ISIAIAH FREDERICK
on 02-27-06

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

 NANCY ATKINS
SPARTANBURG COUNTY JAIL
SPARTANBURG, SC 29306

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
SPARTANBURG COUNTY

 Personally appeared before me the affiant BOBO, KEVIN who
being duly sworn deposes and says that defendant WALKER, ISIAIAH FREDERICK
did within this county and state on 02/17/06 violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of SPARTANBURG)
in the following particulars:

 DESCRIPTION OF OFFENSE: MURDER / MURDER
16-03-0010, 0020

 I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:
THE DEFENDANT DID FELONIOUSLY, INTENTIONALLY, AND WITH MALICE
AFORETHOUGHT CAUSE THE DEATH OF ONE JEFFREY WAYNE HUBBARD BY
SHOOTING THE VICTIM NUMEROUS TIMES WITH A 9MM HANDGUN.

AFFIANT'S BELIEF IS BASED ON POLICE INVESTIGATION.

Signature of Affiant

Affiant's Address: SHERIFF'S DEPT.

00000

Affiant's Telephone 503-4500 000-0000

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

 It appearing from the above affidavit that there are reasonable grounds to believe that
on 02/17/06 defendant WALKER, ISIAIAH FREDERICK
did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of SPARTANBURG) as set forth below:

DESCRIPTION OF OFFENSE: MURDER / MURDER

16-03-0010, 0020

 Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
the defendant at the time of its execution, or as soon thereafter as is practicable.

_____ Sworn to and subscribed before me)

on FEBRUARY 26, 2006)

_____ (L.S.))

_____ Signature of Issuing Judge)

Judge Code: 012)

NANCY ATKINS)

ORIGINAL)

Judge's Address SPARTANBURG COUNTY JAIL

SPARTANBURG, SC 29306

Judge's Telephone 864 596-3024

 Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

 2006-02-26 11:56
MARC KITCHENS
CLERK OF COURT

731

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Spartanburg
STATE VS.
Isaiah Walker
AKA:
Race: B Sex: M Age: 21
DOB: 5/12/86 SS#:
Address:
City, State, Zip: 1100 S. 1369
DL# SID#

INDICTMENT/CASE#: 07-GS-42-625
AW#: K077931
Date of Offense: 2/17/06
S.C. Code §: 16-3-10
CDR Code #: 0116

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Murder

in violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ 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 initial)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST: [Signature] Solicitor Isaiah Walker Defendant [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of Life 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:
☐ 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 Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ 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 \$
\$35.13 (Public Def/Prob) \$500 \$
\$73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00
\$33.7, 1B TP (Drug Court Surcharge) \$100 \$
\$50-21-114(BUI Breath Test Fee) \$50 \$
\$56-5-2942(J) (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, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

K. McKinnis
Clerk of Court/ Deputy Clerk
Court Reporter: Pam Jacutte

PRESIDING JUDGE [Signature]
Judge Code: 21 11 13 15
Sentence Date: 5/31/07

IN THE COURT OF GENERAL SESSIONS
FOR THE SEVENTH JUDICIAL CIRCUIT

V.

STATE'S LIST OF POTENTIAL WITNESSES

07-GS-42-625

ISAIAH WALKER,
Defendant.

Elizabeth Walker

RAYMOND ANNAS – ; ROEBUCK

RICHARD WHITE – SPARTANBURG COUNTY SHERIFF'S OFFICE

LARRY SPROUSE - _____ ; SPARTANBURG

BRIAN HARVEY - () , ROEBUCK

KEVIN BOBO – SPARTANBURG COUNTY SHERIFF'S OFFICE

HUGH MURPHY – SPARTANBURG COUNTY SHERIFF'S OFFICE

ROBERT TALANGES – SPARTANBURG COUNTY SHERIFF'S OFFICE.

DAVID HOGSED – SPARTANBURG COUNTY SHERIFF'S OFFICE

TIM DAVIS – SPARTANBURG COUNTY SHERIFF'S OFFICE

DOMINICK BAIRD – SPARTANBURG COUNTY SHERIFF'S OFFICE

RUSTY CLEVENGER – 7TH CIRCUIT SOLICITOR'S OFFICE

WILLIAM GARY – SPARTANBURG COUNTY SHERIFF'S OFFICE

ROBERT ROSENBERG - SPARTANBURG COUNTY SHERIFF'S OFFICE

RUSSELL HOLTHAUS – SPARTANBURG COUNTY SHERIFF'S OFFICE

MARGARET GREER – SPARTANBURG COUNTY SHERIFF'S OFFICE

JOHN ROBERTS – SOUTH CAROLINA LAW ENFORCEMENT DIVISION

JENNIFER CLAYTON - SOUTH CAROLINA LAW ENFORCEMENT DIVISION

DAN DEFREESE – SOUTH CAROLINA LAW ENFORCEMENT DIVISION
PATTI RUFF – SOUTH CAROLINA LAW ENFORCEMENT DIVISION
EMILY REINHART – SOUTH CAROLINA LAW ENFORCEMENT DIVISION
BRUCE GANTT – SOUTH CAROLINA LAW ENFORCEMENT DIVISION
CAROL BROOKS – SOUTH CAROLINA LAW ENFORCEMENT DIVISION
CHRISTINE BARRICKMAN – SOUTH CAROLINA LAW ENFORCEMENT DIVISION
IRA JEFFCOAT – SOUTH CAROLINA LAW ENFORCEMENT DIVISION
KARONDA WILLIAMS – SOUTH CAROLINA LAW ENFORCEMENT DIVISION
SHEREE BROWN – SOUTH CAROLINA LAW ENFORCEMENT DIVISION
AMY STEPHENS – SOUTH CAROLINA LAW ENFORCEMENT DIVISION
J.F.KELLETT – GREENVILLE COUNTY SHERIFF'S OFFICE
BRENT GENTRY – _____; SPARTANBURG
WILLIE PAUL GENTRY – _____; MOORE
CHAVEZ MILLER – _____; ROEBUCK
DR. DAVID WREN – SPARTANBURG REGIONAL MEDICAL CENTER
REID LINDSEY – SPARTANBURG COUNTY SHERIFF'S OFFICE
JASON BRYANT- SPARTANBURG COUNTY SHERIFF'S OFFICE
ALLAN WOOD – SPARTANBURG COUNTY SHERIFF'S OFFICE
CHAVEZ MILLER – _____; SPARTANBURG
KATRICE GENTRY – _____; SPARTANBURG
PHILLIP YARBROUGH – _____; LANDRUM
CYNTHIA LARSON – _____; SPARTANBURG
AMANDA PRUITT – MOORE, SOUTH CAROLINA
KATHY BATER – CPM FEDERAL CREDIT UNION
FRANK FOY – CPM FEDERAL CREDIT UNION

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

State of South Carolina,

Plaintiff,

v.

Isaiah Frederick Walker,

Defendant,

) IN THE COURT OF GENERAL SESSIONS

) SEVENTH JUDICIAL CIRCUIT

VERDICT FORM

Case Number 07-GS-42-0625

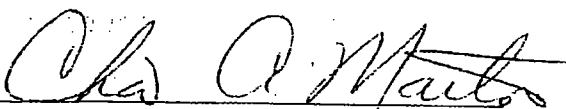
VERDICT

1. As to the indictment numbered 07-GS-42-0625 for Murder, we, the jury, unanimously find the Defendant, Isaiah Frederick Walker:

____ Not Guilty

 X Guilty

I certify this is decision was the unanimous decision of the jury.



Foreperson
May 31, 2007

Jurors for Isaiah Walker, 5-29-07

- prepson*
1. 57 William Gregory—HS; floor finisher
 2. 33 Charles Deming
 3. 91 Charles Martin—MBA; president of Bommer Industries
 4. 75 Cynthia Keith—HS; waitress at Wade's
 5. 185 Donnie Seay—HS; painter
 6. 22 Rick Clavenna—2 years college; sales at Littlejohn, Inc.
 7. 175 Gail Whitmire—masters; teacher
 8. 151 Tyler West—college; retail management at Walgreens
 9. 111 Mary Patskoski—college; teacher's assistant
 10. 139 Brandy Tillotson—HS; Centec
 11. 157 Judy Khang—sophomore in college; child care
 12. 176 Tammy Brown—student in college
 13. 65 Edward Hoppes—2 years college; self employed in sales

Chf. Pam Givette

J. Heston

- Mn. Hupp
- Mn. Mack
- Mn. Humphreys
- Mn. Scroggs
- Mn. Watson

Detention Office
Encls

State witnesses)
 Larry Spruice - Spky Co. Sheriff Dept
 Brian Harvey - Rockwell P.O. Dept
 David Haged - Spky Co Sheriff Dept
 Derrick Band - Spky Co Sheriff Dept
 Kevin Bube - Spky Co Sheriff Dept
 Russell Hedhaus - Green Spky Sheriff Dept
 Rusty Clivings - Solix Town
 Robert Talanga - Spky Co Sheriff Dept
 Dan DeGiacco - SLED
 John Roberts - SLED
 Bruce Gantt - SLED
 Patti Ruff - SLED
 Jackie Kelsie - Greenville & Sheriff Dept
 Springer Clayton - SLED
 Brian Henty - Resident
 Dr. David Wilson - SMC
 Raymond Annas - Resident Rockwell
 Kathy Beten - CPM Galtus Court Union

STATE OF SOUTH CAROLINA County of Spartanburg	
THE STATE OF SOUTH CAROLINA	
Against	
Defendant	
JURY	
Indictment For	

THE STATE)

Against

Isaiah Walker

Defendant

In The Spring Co.
General Session CourtCharged With Murder

- ¹ William Gregory - 57
- ² Charles Deming - 33
- ³ Charles Martin - 91 - Jorgensen
- ⁴ Cynthia Keith - 45
- ⁵ Donnie Seay - 185
- ⁶ Brett Clavenna - 22
- ⁷ Craig Whitmore - 175
- ⁸ Tyler West - 151
- ⁹ Mary Pat Okaske - 111
- ¹⁰ Brandy Tillotson - 139
- ¹¹ Judy Khang - 157
- ¹² Tammy Brown - 176
- Alt. Edward Hopper - 165

Excused By Court

163 Deborah Dreher

Excused By State

Excused By Defendant

179 Judy Ray
 173 Melie Brown
 103 Deborah Moore
 49 Paul Gerster
 36 Robert Green
 79 Shannon Lamb
 173 Jennifer Hupp
 42 Deborah Hyatt
 35 Doug Brown

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSIONS
 FOR THE SEVENTH JUDICIAL CIRCUIT

THE STATE OF SOUTH CAROLINA)

v.)

ISAIAH WALKER,
 Defendant.)

STATE'S LIST OF POTENTIAL
 WITNESSES

07-GS-42-625

✓RAYMOND ANNAS – _____ ; ROEBUCK

RICHARD WHITE – SPARTANBURG COUNTY SHERIFF'S OFFICE

✓LARRY SPROUSE – _____ SPARTANBURG

✓BRIAN HARVEY – _____ ROEBUCK

✓KEVIN BOBO – SPARTANBURG COUNTY SHERIFF'S OFFICE

HUGH MURPHY – SPARTANBURG COUNTY SHERIFF'S OFFICE

✓ROBERT TALANGES – SPARTANBURG COUNTY SHERIFF'S OFFICE

✓DAVID HOGSED – SPARTANBURG COUNTY SHERIFF'S OFFICE

TIM DAVIS – SPARTANBURG COUNTY SHERIFF'S OFFICE

✓DOMINICK BAIRD – SPARTANBURG COUNTY SHERIFF'S OFFICE

✓RUSTY CLEVINGER – 7TH CIRCUIT SOLICITOR'S OFFICE

WILLIAM GARY – SPARTANBURG COUNTY SHERIFF'S OFFICE

ROBERT ROSENBERG – SPARTANBURG COUNTY SHERIFF'S OFFICE

✓RUSSELL HOLTHAUS – SPARTANBURG COUNTY SHERIFF'S OFFICE

MARGARET GREER – SPARTANBURG COUNTY SHERIFF'S OFFICE

✓JOHN ROBERTS – SOUTH CAROLINA LAW ENFORCEMENT DIVISION

✓JENNIFER CLAYTON – SOUTH CAROLINA LAW ENFORCEMENT DIVISION

✓ DAN DEFREESE – SOUTH CAROLINA LAW ENFORCEMENT DIVISION

✓ PATTI RUFF – SOUTH CAROLINA LAW ENFORCEMENT DIVISION

EMILY REINHART – SOUTH CAROLINA LAW ENFORCEMENT DIVISION

✓ BRUCE GANTT – SOUTH CAROLINA LAW ENFORCEMENT DIVISION

CAROL BROOKS – SOUTH CAROLINA LAW ENFORCEMENT DIVISION

CHRISTINE BARRICKMAN – SOUTH CAROLINA LAW ENFORCEMENT DIVISION

IRA JEFFCOAT – SOUTH CAROLINA LAW ENFORCEMENT DIVISION

KARONDA WILLIAMS – SOUTH CAROLINA LAW ENFORCEMENT DIVISION

SHEREE BROWN – SOUTH CAROLINA LAW ENFORCEMENT DIVISION

AMY STEPHENS – SOUTH CAROLINA LAW ENFORCEMENT DIVISION

✓ J.F.KELLETT – GREENVILLE COUNTY SHERIFF'S OFFICE

✓ BRENT GENTRY – _____ ; SPARTANBURG

WILLIE PAUL GENTRY – _____ ; MOORE

CHAVEZ MILLER – _____ ROEBUCK

✓ DR. DAVID WREN – SPARTANBURG REGIONAL MEDICAL CENTER

REID LINDSEY – SPARTANBURG COUNTY SHERIFF'S OFFICE

JASON BRYANT - SPARTANBURG COUNTY SHERIFF'S OFFICE

ALLAN WOOD – SPARTANBURG COUNTY SHERIFF'S OFFICE

CHAVEZ MILLER - _____ T; SPARTANBURG

KATRICE GENTRY - _____ ; SPARTANBURG

PHILLIP YARBROUGH – _____ T; LANDRUM

CYNTHIA LARSON – _____ ; SPARTANBURG

AMANDA PRUITT – MOORE, SOUTH CAROLINA

✓ KATHY BATER – CPM FEDERAL CREDIT UNION

FRANK FOY – CPM FEDERAL CREDIT UNION

Walker, Isaiah F.
Name of Defendant

K017951
Warrant/Ticket Nos.

County/Municipality of Spokane

Charges: Murder

Trial Court:

- ☒ General Sessions
☐ Magistrate
☐ Municipal Court

CHECKLIST FOR MAGISTRATES AND MUNICIPAL JUDGES

DIRECTIONS: Magistrates and municipal court judges must use this checklist for ALL GENERAL SESSIONS CASES and for ALL MAGISTRATE AND MUNICIPAL COURT CASES IN WHICH BOND HAS BEEN SET BY A JUDGE. The judge should attach this checklist to the charging document (arrest warrant or uniform traffic ticket) when the defendant first appears before a judge for a bond hearing or first appearance, and complete the appropriate sections.

- ☐ BAIL PROCEEDING
☒ FIRST APPEARANCE (Non-Bailable Offenses)

1. Form used at bail proceeding
 - ☐ a. Bond Form I (personal recognizance)
 - ☐ b. Bond Form II (surety, cash, percentage)
 - ☒ c. None (Non-Bailable Offense)
2. For cases in which bond is set, defendant was informed:
 - ☒ a. Warrant for arrest will be issued for violation of any condition of bail bond order.
 - ☒ b. His right and obligation to be present at trial and that trial will proceed in his absence if he fails to attend.
 - ☐ c. Failure to appear in court as required will result in institution of additional criminal charges. For failure to appear in connection with a felony, additional charge has penalty of fine of not more than \$5,000 or imprisonment for not more than five (5) years, or both. For failure to appear in connection with a misdemeanor, additional charge has penalty of fine of not more than \$1,000 or imprisonment for not more than one (1) year, or both.
3. For cases to be tried in Court of General Sessions, defendant was informed of right to preliminary hearing if requested within ten (10) days:
 - ☒ a. Orally
 - ☒ b. In writing

(NOTE: Defendant must be informed of right both orally and in writing)
- ☒ 4. Defendant was informed of the right to trial by jury.
5. In all general sessions cases and in all magistrate or municipal cases in which a prison sentence is likely to be imposed, defendant was informed of the following:
 - ☒ a. Charges against defendant and nature of the charges.
 - ☒ b. Right to counsel and right to court-appointed counsel if financially unable to employ counsel
 - ☐ c. ((Optional: Local procedures may require judge to refer defendants to indigency screener. If so, note referral here) Required to appear before _____ on _____, 20____ for appointment of counsel.)

1st
Appearance or
Hearing Date: 2-27-06

[Signature]
Judge's Signature

ARREST WARRANT

K- 077951

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
SPARTANBURG COUNTY

THE STATE

against

WALKER, ISAIAH FREDERICK

Address: MOORE, SC 29309

Phone: _____ SSN: _____

S. M Race: B Height: _____ Weight: _____

L. State: _____ DL #: _____

DOB: 05/12/1986 Agency ORI#: _____

Prosecuting Agency: _____

Prosecuting Officer: BOBO, KEVINOffense: MURDER / MURDEROffense Code: 0116Code/Ordinance Sec. 16-03-0010, 0020

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge

(L.S.)

e: _____

RETURN

A copy of this arrest warrant was delivered to
defendant WALKER, ISAIAH FREDERICK
on 02-27-06

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

NANCY ATKINS
SPARTANBURG COUNTY JAIL
SPARTANBURG, SC 29306

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of
SPARTANBURG COUNTY

Personally appeared before me the affiant BOBO, KEVIN who
being duly sworn deposes and says that defendant WALKER, ISAIAH FREDERICK
did within this county and state on 02/17/06 violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of SPARTANBURG)
in the following particulars:

DESCRIPTION OF OFFENSE: MURDER / MURDER
16-03-0010, 0020

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:
THE DEFENDANT DID FELONIOUSLY, INTENTIONALLY, AND WITH MALICE
AFORETHOUGHT CAUSE THE DEATH OF ONE JEFFREY WAYNE HUBBARD BY
SHOOTING THE VICTIM NUMEROUS TIMES WITH A .9MM HANDGUN.

AFFIANT'S BELIEF IS BASED ON POLICE INVESTIGATION.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of
SPARTANBURG

Affiant's Address

SHERIFF'S DEPT

00000

Affiant's Telephone

503-4500

000-0000

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 02/17/06 defendant WALKER, ISAIAH FREDERICK
did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of SPARTANBURG) as set forth below:

DESCRIPTION OF OFFENSE: MURDER / MURDER
16-03-0010, 0020

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me)
on FEBRUARY 26, 2006)

Signature of Issuing Judge

Judge Code: 012

NANCY ATKINS ORIGINAL

Judge's Address

SPARTANBURG COUNTY JAIL

Judge's Telephone

854 595-7424

Issuing Court:

☒ Magistrate☐ Municipal☐ Circuit

The South Carolina Court of Appeals

The State,

Respondent,

v.

Isaiah Walker,

Appellant.

The Honorable Roger L. Couch
Spartanburg County
Trial Court Case No. 2007-GS-42-00625

ORDER of DISMISSAL

The above entitled case is pending on appeal in this Court. Due to the failure of appellant to serve and file the Appellant's Initial Brief and Designation of Matter in the above matter, as provided for in Rules 208 and 209 of the South Carolina Appellate Court Rules,

IT IS ORDERED that the above captioned appeal be and hereby is dismissed. Pursuant to Rule 221(b) of the South Carolina Appellate Court Rules, the remittitur in the case will be sent to the Clerk of Court for Spartanburg County after fifteen (15) days, exclusive of the date of filing this Order.

KAYE G. HEARN, CHIEF JUDGE

BY *Marcus W. Kitchens*

CLERK

Columbia, South Carolina

May 27, 2008

cc. Rodney Wade Richey, Esquire
Assistant Deputy Attorney General Sailey W. Elliott
The Honorable Marcus W. Kitchens
The Honorable Roger L. Couch

MAK KITCHENS

2008 JUN -4 PM 2:00



07-0625

The South Carolina Court of Appeals

KENNETH A. RICHSTAD
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1896
FAX: (803) 734-1839
WWW.SCCOURTS.ORG

2008 JUN 19 AM 9:35
MARC KITCHENS

June 18, 2008

Rodney Wade Richey, Esquire
Richey & Richey, PA
P.O. Box 10916
Greenville, SC 29603-0916

Re: The State v. Walker, Isaiah

Dear Mr. Richey:

The Court has granted your Petition to Reinstate in the following order endorsed thereon:

"Granted.

Kaye G. Hearn, C.J.
For the Court

By: V. Claire Allen
DEPUTY CLERK

Columbia, South Carolina

June 18, 2008.

The Appellant's Initial Brief and Designation of Matter are due to be served and filed on or before July 18, 2008.

Very truly yours,

Angela Bennett
Angela Bennett
Docketing Specialist

Wab

cc: Assistant Deputy Attorney General Salley W. Elliott
The Honorable Marcus W. Kitchens
The Honorable Roger L. Couch

RICHEY AND RICHEY
ATTORNEYS AT LAW

745

A Professional Association

Rodney W. Richey
Lola S. Richey

24 Vardry Street, Suite 403
Greenville, South Carolina 29601

Mailing Address:
Post Office Box 10916
Greenville, South Carolina 29603

(864) 467-0503
(864) 467-0646 (Fax)

Offices:
Greenville/Spartanburg

Website:
www.richeyandrichey.com

June 11, 2007

Marcus W. Kitchens
Clerk of Court
180 Magnolia St
Spartanburg, SC 29301

RE: State vs. Isaiah Walker
Case No.: 2007-GS-42-625

Dear Mr. Kitchens:

Enclosed please find a Notice of Appeal and one copy with regard to the above-captioned case. By copy of this letter I am serving the attorney for Respondent with a copy of same. Please file a copy with your office returning the remaining filed copy to me in the self-addressed, stamped envelope provided.

Thank you for your assistance. Should you have any further questions, please do not hesitate to contact our office.

Very truly yours,

RICHEY AND RICHEY, P.A.

Rodney Richey

RWR/tlg
Enclosures

cc: Donnie Willingham, Esquire
Isaiah Walker

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

HONORABLE ROGER L. COUCH

Case No: 2007-GS-42-625

STATE OF SOUTH CAROLINA,

RESPONDENT,

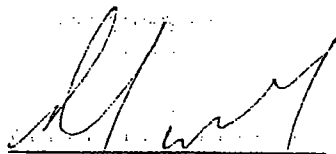
against

ISAIAH WALKER,

APPELLANT.

NOTICE OF APPEAL

Isaiah Walker appeals the conviction and sentence in this case. The sentence was imposed by the Honorable Roger L. Couch on May 31, 2007.



Rodney W. Richey
Post Office Box 10916
Greenville, South Carolina 29603
(864) 467-0503
Attorney for the Appellant

Other Counsel of Record:
James Donald Willingham, II, Esq.
8th Circuit Solicitor's Office
180 Magnolia Street
Spartanburg, South Carolina 29304

EXHIBITS FILES

2007-GS42-0625

STATE VS. ISAIAH F. WALKER

RELEASE TO RECORD CUSTODIAN ON: DATE: 6-1-07

RELEASE TO: *Angie Clinton*FROM: *Kimberly McKunney*

1 LG BOX

51. Swab / vehicle ✓	66. Fingerprint Card ✓
52. Swab / vehicle ✓	67. Fingerprint Card ✓
53. Swab / vehicle ✓	68. Fingerprint Card ✓
54. Swab / vehicle ✓	69. Fingerprint Card ✓
55. Swab / vehicle ✓	70. 100 cylinders containing 35mm negative ✓
56. Blood Swab / vehicle ✓	71. Diagram of 111 Dore Hill Road ✓
57. DNA oral Swab / Mr. Walker ✓	72. 4 Items / Swabs for DNN ✓
58. 3 Small photos ✓	73. 4 Items / Swabs for DNA 28.1 ✓
59. Maria Walker Phone Record ✓	74. Cutting 28.1 ✓
60. John Hubbard Phone Record ✓	75. Cutting 28.2 ✓
61. Aerial photo of Rft's house ✓	76. Cutting 28.3 ✓
62. Color Photo loot box ✓	77. Cutting 28.5 ✓
63. Color Photo loot box pre-Int ✓	78. Cutting 28.6 ✓
64. ~~Swab / vehicle~~ ✓	79. Cutting / Swab 28.7 ✓
65. Fingerprint Card - Swab ✓	80. Chart / fingerprints prepared by Capt. Kibler ✓

Defendant's Exhibits:

1. Autopsy ✓	6. _____
2. Diagram - Removed Bullets ✓	7. _____
3. Autopsy Diagram (injuries) ✓	8. _____
4. Raymond Armas Name + phone # ✓	9. _____
5. _____	10. _____

Court's Exhibits:

1. Jury's Question ✓	6. _____
2. _____	7. _____
3. _____	8. _____
4. _____	9. _____
5. _____	10. _____

Pamela L. Faucette
PAMELA FAUCETTE

Kenneth M. Kinney
CLERK OF COURT

RECEIPTS FOR EXHIBITS

749

CASE NO. 2007-CJ-42-0625

JUDGE Roger Couch

PLAINTIFF The State of S.C.

PLT ATTY Donnie Mullingsham

ENDANT Isaiah F. Walker

DEF. ATTY Rebby Lickup

TRIAL START DATE May 29, 2007

TRIAL END DATE

RECEIVED OF PAM FAUCETTE, COURT REPORTER FOR THE ABOVE CASE, THESE EXHIBITS:

- (1-57. Attributed to & agreed upon) 5/29/07
- 5/29/07 marked down PM news on 5/29/07
- | | |
|---|---------------------------------|
| E1. Color photo ✓ | E26. Projectile / Body ✓ |
| E2. Color photo ✓ | E27. Projectile / Body ✓ |
| E3. Color photo ✓ | E28. Projectile / Body ✓ |
| E4. Color photo ✓ | E29. Projectile / Body ✓ |
| E5. Color photo ✓ | E30. Projectile / Body ✓ |
| E6. Aerial Color photo ✓ | E31. Projectile / casing ✓ |
| E7. Aerial Color photo ✓ | E32. Projectile / casing ✓ |
| E8. Aerial Color photo ✓ | E33. Projectile / spent round ✓ |
| E9. Crime scene diagram ✓ | E34. Projectile / spent round ✓ |
| E10. Anterior view of Boot - Right ✓ | E35. Projectile / casing ✓ |
| E11. Anterior view of Boot - Left ✓ | E36. Projectile / ✓ |
| E12. Black Sweat shirt ✓ | E37. Projectile / casing ✓ |
| E13. Driver's License / PM Co. Card ✓ | E38. Projectile / casing ✓ |
| E14. Shell casing in container ✓ | E39. Projectile / casing ✓ |
| E15. 2 Cartridge casing for Feb 21 ✓ | E40. Projectile / casing ✓ |
| E16. Great Yontig DNA Swab ✓ | E41. Projectile / casing ✓ |
| E17. Red Sweat pants ✓ | E42. Projectile / casing ✓ |
| E18. Spent 9mm Shell in container ✓ | E43. Swab / home ✓ |
| E19. Fragment of Projectile / driver's seat ✓ | E44. Swab / home ✓ |
| E20. Projectile / driver's seat foam ✓ | E45. Swab / home ✓ |
| E21. Projectile / Body ✓ | E46. Swab / home ✓ |
| E22. Projectile / Body ✓ | E47. Swab / home ✓ |
| E23. Projectile / Body ✓ | E48. Swab / vehicle ✓ |
| E24. Projectile / Body ✓ | E49. Swab / vehicle ✓ |
| E25. Projectile / Body ✓ | E50. Swab / vehicle ✓ |

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

STATE OF SOUTH CAROLINA)

VS.)

Isaiah Walker)

IN THE COURT OF GENERAL SESSIONS

Indictment No(s):

Warrant No(s): K077951

REQUESTS FOR DISCLOSURE
(Recip. Rule 5)

TO: DEFENDANT AND HIS ATTORNEY Rodney Richie:

Pursuant to Rule 5, Rules of Criminal Procedure, the State in the above captioned matter requests the disclosure of the following evidence to the State by the Defendant:

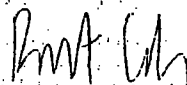
1) That the Defendant permit the prosecution to inspect and copy books, papers, documents, photographs, tangible objects or copies or portions thereof, which are within the possession, custody or control of the Defendant and which the Defendant intends to introduce as evidence in chief at the trial;

2) That the Defendant permit the prosecution to inspect and copy any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof, within the possession or control of the Defendant, which the Defendant intends to introduce as evidence in chief at the trial or which were prepared by a witness whom the Defendant intends to call at trial when the results or reports related to his testimony.

3) The prosecution requests that the Defendant serve upon the prosecution a written notice if he intends to offer an alibi defense, stating the specific place or places at which the Defendant claims to have been on February 17, 2006, the names, address, and birthdays of the witnesses upon whom he intends to rely to establish such alibi.

The State further requests that the Defendant notify the State of the Defendant's intention to rely upon the defense of insanity or plea of guilty but mentally ill at the time of the crime.

These requests are continuing requests for disclosure and any relevant matters arising subsequent to the date hereof should be regarded as included in this request.



Donnie Willingham
Deputy Solicitor
Seventh Judicial Circuit

Spartanburg, South Carolina
Dated: July 18, 2006

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

JDW
IN THE COURT OF GENERAL SESSIONS
SEVENTH JUDICIAL CIRCUIT

INDICTMENT NOS:
WARRANT NOS: 14077951

THE STATE OF SOUTH CAROLINA

AFFIDAVIT

VS.

Isaiah Walker

PERSONALLY APPEARED BEFORE ME the undersigned deponent who being duly sworn, says that he/she copied the following materials:

☐ Warrant or Ticket	☐ Incident Report
☐ Investigation Report	☐ Supplemental Reports
☐ Voluntary Statement	☐ Witnesses Written Statement
☒ Sol. Rule 5 Request	☐ Defendant's Rap Sheet (NCIC)
☐ Sol. Rule 5 Request Mailed _____	☐ Drug Report

Other: Pgs 1-14, 7-18-06

Copied Number of Pages: _____

I, R. Richey, attorney for the defendant(s) or his/her designee, have reviewed copies of the above referenced documents and accept them as the response to the Rule 5/Brady Motion in this matter. I also accept service of the Solicitor's Reciprocal Rule 5.

Signed / Accepted this _____ day of _____, 2006.

Rodney Richey
Representative or designee for Attorney

Rodney Richey
Attorney-At-Law

Sworn to before me this
_____ day of _____, 2006

Notary Public for South Carolina
My Commission Expires: _____

60 JUL 14 62 11P 2006

RICHEY AND RICHEY

ATTORNEYS AT LAW

A Professional Association

Rodney W. Richey
Lola S. Richey

24 Vardry Street, Suite 301
Greenville, South Carolina 29601

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Greenville/Spartanburg

Website:
www.richeyandrichey.com

May 9, 2006

Spartanburg County Clerk of Court
180 Magnolia Street
Spartanburg, SC 29306

RE: State v. Isaiah Walker
K077951

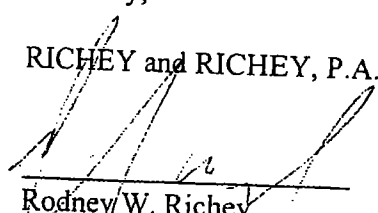
Dear Sir/Madam:

Please find enclosed Notice of Motion and Motion to Produce Pursuant to Rule 5 Rules of Criminal Procedure and Notice of Motion and Motion for the Production and Inspection of Evidence and Information Which May Lead to Evidence for the above referenced matter. Please clock, file, and return clocked copies in the enclosed return envelope.

If you should have any questions, please do not hesitate to contact our office.

Sincerely,

RICHEY and RICHEY, P.A.


Rodney W. Richey

RWR/tlg
enclosures

cc: J.D. Willingham, II, Solicitor
Isaiah Walker

ORIGINAL SENT

6740 107 11 JUN 2006

6740 107 11 JUN 2006

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF SPARTANBURG	)	
	)	K077951
THE STATE,	)	
	)	
-VS-	)	NOTICE OF MOTION AND MOTION
	)	FOR THE PRODUCTION AND
	)	INSPECTION OF EVIDENCE AND
ISAIAH FREDRICK WALKER,	)	INFORMATION WHICH MAY LEAD
DEFENDANT.	)	TO EVIDENCE
	)	
	)	

TO: JAMES DONALD WILLINGHAM, II, SOLICITOR

YOU WILL PLEASE TAKE NOTICE that as counsel for the above named, we are requesting, under the authority of Brady vs. Maryland, 373 U.S. 83 (1963); Napue vs. Illinois, 360 U.S. 364 (1959); Alcorta vs. Texas, 355 U.S. 28 (1957); Mooney vs. Holohan, 294 U.S. 103 (1935); Giglio vs. U.S., 405 U.S. 150 (1972); Moore vs. Illinois, 408 U.S. 786 (1972); and Kyles vs. Whitley, ____ U.S. ____ (1995), that your office supply to us, or make available for inspection, all evidence which may be favorable to the Defendant with regard to the offense with which he has been charged. The Defendant is requesting access to such favorable information as is in your custody as well as that being held by investigating officers or agencies. Such information would include but would not be confined to the following:

- 1) All written statements of the Defendant, whether signed or unsigned;
- 2) All written statements made by witnesses or any other persons, whether signed or unsigned, which relate to this case;

3) All tape recordings made by witnesses or any other persons in connection with this case;

4) Any and all written reports to the State Law Enforcement Division (SLED) Criminalistics Laboratory; Federal Bureau of Investigation Laboratories; City or County Police Department Criminalistics Identifications personnel, concerning an examination made by said laboratories and/or personnel thereof, of any physical, photographic or written evidence concerned with the investigation of this case;

5) Any and all photographs taken of the Defendant;

6) Any and all photographs taken at the scene of the alleged crime and/or the victim, or otherwise relating to this case;

7) Photographs that have been exhibited to any person for the purpose of establishing the identity of the perpetrator of the crime charged and the name and address of the person(s) to whom the photographs were shown;

8) Handwritten notes made by police or other investigating officers of their conversations with the Defendant;

9) Handwritten notes made by police or their investigating officers of their conversations or interviews with witnesses;

10) All transcripts made of tape recorded statements made by the accused and by potential prosecution witnesses, as well as any handwritten notes;

RICHEY and RICHEY, P.A.

67-6 17 11-12-90

11-12-90

11) Names and addresses of all witnesses having knowledge of the offense charged who have been interviewed by the Solicitor, his investigators, his staff or the investigating officers, whether subpoenaed or not, in the crime charged;

12) A copy of the incident report, together with copies of all supplemental reports written by officers investigating the crime involved in the above entitled action;

13) Right to inspect and/or copy or photograph all items of any kind and nature seized and removed as a result of any search of the Defendant and/or Co-Defendants, of any premises formerly occupied by the Defendant and/or Co-Defendants, if any, or any vehicle associated with the alleged crime;

14) Record of arrests and convictions of any and all witnesses, including the Defendant and any co-Defendants, known to the Solicitor's Office, in relation to this case;

15) All notes or memoranda, by police officers or other investigating officers of their conversations with persons who the State expects to or has called before the Grand Jury proceedings in connection with this case;

16) Autopsy reports and pathologist's reports to include any and all photographs of the victim; patient records provided to the pathologists; histological reports; toxicological studies; emergency room records, (including notations as to any medications administered as well as resuscitative measures instituted,

if any);

17) Any physical or tangible item in the possession of the Solicitor's Office which may have relevance to the guilt or innocence of this Defendant;

18) Any criminalistics reports or results of tests performed upon items requested in Paragraph 4 above;

19) The right to inspect and examine any and all video/audio tapes made at the scene of the crime alleged herein and to obtain a copy thereof.

Recognizing that Brady vs. Maryland, supra, and other authorities cited require that only information favorable to the Defendant be made available, and further recognizing that a genuine disagreement may arise as to whether or not a particular item of evidence is favorable, it will be requested that the Court Order provide for an in camera inspection of the items sought to be discovered should you feel that such items are not favorable to the Defendant. By permitting the Court to examine the items requested, the legitimate interests of the State will be protected in that no disclosure in excess of Brady, et al, will occur. Further, it will be requested of the Court that said Order will be a continuing one, providing that in the event any items sought to be discovered herein become available subsequent to the making of the Order pursuant to this motion, said items will be made available to the Defendant's attorney forthwith if

RICHEY and RICHEY, P.A.

576 11 11 1997

3-10-97

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)
THE STATE OF SOUTH CAROLINA,)
VS.)
ISAIAH FREDRICK WALKER,)
Defendant.)
_____)

IN THE COURT OF GENERAL SESSIONS

K077951

AFFIDAVIT OF SERVICE

I hereby certify that I am an employee of RICHEY and RICHEY and that on the 9 day of May, 2006, I served the Notice of Motion and Motion to Produce Pursuant to Rule 5 Rules of Criminal Procedure, and Notice of Motion and Motion for the Production and Inspection of Evidence and Information Which May Lead to Evidence, upon Mr. Jerry Peace, Assistant Solicitor, by placing it in the US Mail with the proper postage affixed at the following address:

James Donald Willingham, II, Solicitor
8th Circuit Solicitor's Office
180 Magnolia Street
Spartanburg, South Carolina 29304

Jim Shadine
Affidavit

SWORN TO AND SUBSCRIBED BEFORE
ME THIS 9 DAY OF May, 2006

NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 5-19-01

SHERMAN CUTLER

RICHEY and RICHEY, P.A. 09:57:11 AM 05/09/06

05/09/06

AGENCY I.D.
SC2420000

INCIDENT REPORT

CASE NUMBER

759

INC. ENT.

2006020987

INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
1. DEATH INVESTIGATION		☒ YES ☐ NO	☐ YES ☒ NO	Roadway		☐ Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Relig. Orgn. ☐ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.
2.		☐ YES ☐ NO	☐ YES ☐ NO	POND		
3.		☐ YES ☐ NO	☐ YES ☐ NO			
INCIDENT LOCATION (DIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)		DATE		ZIP CODE		WEAPON TYPE
INCIDENT DATE 24 HR. CLOCK TO DATE 24 HR. CLOCK		DISPATCH DATE/TIME 24 HR. CLOCK		DISPATCH DATE/TIME 24 HR. CLOCK		LOCATION NO.
2/17/06 1340 2/17/06 1419		2/17 1410 1419 1519				22
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX
SPROUSE - LARRY		STUR		OSOU	WM	40N
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.
		SOTB		SC	29301	
VICTIM'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX
				J S O U		
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.
VISIBLE INJURY (VICT. 1) ☐ YES ☐ NO EXPLAIN -		COMPLAINT OF ANY NON-VISIBLE INJURIES: ☐ YES ☐ NO				
VICTIM (NO. 1) USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. DRUGS: ☐ YES ☐ NO ☐ UNK. TYPE:						
TWO-MAN VEH. ☐ ONE-MAN VEH. ☐ DETECTIVE/SPLASMT. ☐ OTHER ☐ ALONE ☐ ASSISTED ☐ * J - This Jurisdiction S - State O - Out of State. U - Unknown						
SUBJECT NO. 1	☒ SUSPECT	NAME (LAST, FIRST, MIDDLE)		RACE	SEX	AGE
	☐ RUNAWAY			ETH.	DATE OF BIRTH	HEIGHT
	☐ WANTED	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		WEIGHT	HAIR	EYES
	☐ WARRANT	ADDRESS		CITY	STATE	ZIP CODE
☐ ARREST					LOCATION NO.	
☐ JAIL						
☐ SUMMONS						
SUBJECT (NO. 1) USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. DRUGS: ☐ YES ☐ NO ☐ UNK. TYPE:		ARRESTED NEAR OFFENSE SCENE ☐ YES ☐ NO		DATE/TIME OF OFFENSE		DATE/TIME OF ARREST
		TOTAL # ARRESTED				
NARRATIVE						
OFFICER Sprouse with Spartanburg County Litter Control was sent to _____ Drive to investigate some cars wandering around outside of their Fencing. That call was called in by Mrs Rowland of _____ Drive (6204). The call was made to Animal Control sometime today. OFFICER Sprouse Found a white Ford Probe in a ditch off the roadway near a small pond. The car was running and the front wheel spinning. He said that one person was inside not responding and he saw blood on the outside of the car and he called for further assistance. Ruebuck Fire Department and Meric 3						
TYPE (GROUP)		JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY		TOTAL VALUE
STOLEN						
DAMAGED						
BURNED						
RECOVERED						
SEIZED						
SUBJECT IDENTIFIED ☐ YES ☐ NO		SUBJECT LOCATED ☐ YES ☐ NO		☐ ACTIVE ☐ ADM CLOSED ☐ UNFOUNDED		☐ ARRESTED UNDER 18 ☐ EX-CLEAR UNDER 18
PERSON FOR EXCEPTIONAL CLEARANCE: ☐ OFFENDER DEATH ☐ NO PROSECUTION ☐ EXTRACTION DENIED		☐ ARRESTED 18 AND OVER ☐ EX-CLEAR 18 AND OVER		☐ VICTIM DECLINES COOPERATION ☐ JUVENILE - NO CUSTODY		
REPORTING OFFICER(S)		DATE		UNIT NUMBER		
Richard White		2/17/06		197		
FOLLOW-UP INVESTIGATION DATE AND OFFICER		DATE		UNIT NUMBER		

ACY I.D.
420000

SUPPLEMENTARY REPORT

CASE NUMBER

2006020987

760

INQ. ENTD.

☒ ORIGINAL
REPORT
☐ MODIFIES
ORIGINAL

☐ SUPPLEMENTAL
REPORT
☐ CASE STATUS
CHANGE

☐ ADDITIONAL
VICTIMS
☐ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
STOLEN PROPERTY
☐ ADDITIONAL
RECOVERED PROPERTY

PAGE 2 of 2 PAGES.

were dispatched on a wreck call to the location. They determined the victim in the car had been shot. They called for the police and myself, Officer Miller and Officer Foster responded. Detectives and identification divisions responded as well.

The tag on the car is 556 PLU, SC. Officer Sprouse said no one else was around when he arrived.

NARRATIVE

ADMINISTRATIVE

SUBJECT IDENTIFIED
☐ YES ☐ NO

SUBJECT LOCATED
☐ YES ☐ NO

☐ ACTIVE ☐ ADM. CLOSED
☐ UNFOUNDED

☐ ARRESTED UNDER 18
☐ ARRESTED 18 AND OVER

☐ EX-CLEAR UNDER 18
☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE NO CUSTODY

REPORTING OFFICER(S)

DATE

UNIT
NUMBER

APPROVING OFFICER

DATE

UNIT
NUMBER

Richard White

2/17/06

195

FOLLOW-UP
INVESTIGATION ☐ YES ☐ NO

OFFICER

761

AGENCY I.D.
SC0420000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

2006020987

NCIC

IND. ENTD.

☐ ORIGINAL
REPORT
☒ MODIFIES
ORIGINAL☒ SUPPLEMENTAL
REPORT
☐ CASE STATUS
CHANGE☐ ADDITIONAL
VICTIMS
☒ ADDITIONAL
OFFENDERS☐ ADDITIONAL
STOLEN PROPERTY
☐ ADDITIONAL
RECOVERED PROPERTY

PAGE 1 of 1 PAGES.

VICT./SUBJ. I.D. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT:			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH	
	☒ VICTIM # 1	Hubbard, Jeffrey Wayne		Acq.			☒ S O U	B	M	19	123186	N	
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
	☐ RUNAWAY	600	170	Blk	Bro								
	☐ WANTED	ADDRESS		CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE		EVENING PHONE			
	☐ WARRANT	Rd.		Roebuck	SC	29376	12						
	☐ ARREST	☒ VICTIM NO. 1 VISIBLE INJURY: ☐ NO ☒ YES		COMPLAINT OF NON-VISIBLE INJURIES: ☒ NO ☐ YES		VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK		☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPLASMT. ☐ ALONE					
	☐ JAIL	EXPLAIN: Multiple gunshots				DRUGS: ☐ NO ☐ YES TYPE: ☒ UNK		☐ ONE-MAN VEHICLE ☐ OTHER		☐ ASSISTED			
	☐ SUMMONS	☐ SUBJECT NO. : USING ALCOHOL: ☐ NO ☐ YES		USING DRUGS: ☐ NO ☐ YES ☐ TYPE: ☐ UNK									
	☐												

NARRATIVE

Victim was identified shortly after his body and car were discovered on Dr. last Friday, 021706. Subsequent investigation has revealed that the location where victim's body and car were found was not the actual scene of his murder. The actual scene of the victim's murder is suspect #1's driveway. Suspect #1 was located late last Friday night, but after extensive interviewing, suspect #1 cannot provide an alibi for himself from the last time victim was heard from and the discovery of his body in his car. Suspect #2 has been identified as the subject was driving suspect #1 around last Friday. He too has been interviewed several times, but he can't provide an alibi for himself either. Suspect #2 took a polygraph examination on 022006, which he failed. The white ZDR Cadillac with a blue vinyl top that both suspects admitted to traveling in last Friday was spotted by a resident of Westside Dr. as the car they saw leaving that road in a hurry shortly before victim was discovered. Forensic evidence collected from both crime scenes was sent to SLED.

See page 2

VEH./GUN/ETC. 1	STATUS		TYPE		VIN AND/OR LICENSE NO.		BOAT HULL NO. AND/OR REG. NO.	
	☐ STOLEN	☐ VEHICLE						
	☐ RECOVERED	☐ GUN						
	☐ FOUND	☐ BOAT						
	☐ TOWED	☐ LICENSE PLATE						
	☐ SUSPECT	☐ SECURITIES/BONDS/STOCKS						
	☐ VICTIM	☐ ARTICLE						
	SERIAL AND/OR OWNER APPLIED NO.		STATE		YEAR OF REGISTRATION		YEAR OF EXPIRATION	
	MODEL		STYLE		COLOR		MAKE	
	NIC NO.		DENOMINATION		ISSUER		SECURITIES DATE	
MISCELLANEOUS								

PROPERTY EST.	TYPE (GROUP)									TOTAL VALUE	
	STOLEN										
	DAMAGED										
	BURNED										
	RECOVERED										
SEIZED											

ADMINISTRATIVE	SUBJECT IDENTIFIED		SUBJECT LOCATED		☒ ACTIVE ☐ ADM. CLOSED		☐ ARRESTED UNDER 18		☐ EX. CLEAR UNDER 18		
	☒ YES ☐ NO		☐ YES ☒ NO		☐ UNFOUNDED		☐ ARRESTED 18 AND OVER		☐ EX. CLEAR 18 AND OVER		
	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH		2. ☐ NO PROSECUTION		3. ☐ EXTRADITION DENIED		4. ☐ VICTIM DECLINES COOPERATION		5. ☐ JUVENILE - NO CUSTODY		
	REPORTING OFFICER(S)		DATE		UNIT NUMBER		APPROVING OFFICER		DATE		
	Kevin Bobo		022606		I-15						
						FOLLOW-UP INVESTIGATION ☐ YES ☐ NO		OFFICER		UNIT NUMBER	

RECORDS

762

AGENCY I.D.
SCO 420000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

2006020987

NCIC

INCL. ENT'D.

☐ ORIGINAL REPORT	☐ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY	PAGE 2 of _____ PAGES.
☒ MODIFIES ORIGINAL	☐ CASE STATUS CHANGE	☒ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY	

VICT./SUBJ. I.D. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT:			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
	☐ VICTIM #	Gentry, Brent Fitzgerald		#1	#2	#3	☒ O U	B	M	21	100184	N
	☐ SUBJECT # 2	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.						
	☐ RUNAWAY	600	140	Blk	Bro							
	☐ WANTED	ADDRESS		CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE	EVENING PHONE			
	☐ WARRANT	_____ Ct.		Sptbg.	SC	29306	300	0298				
	☐ ARREST	☐ VICTIM NO. _____ VISIBLE INJURY: ☐ NO ☐ YES		☐ COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES		☐ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK		☐ TWO-MAN VEHICLE		☐ DETECTIVE/SPLASMT.		☐ ALONE
	☐ JAIL	EXPLAIN:		☐ NO ☐ YES		DRUGS: ☐ NO ☐ YES TYPE: ☐ UNK		☐ ONE-MAN VEHICLE		☐ OTHER		☐ ASSISTED
	☐ SUMMONS	☒ SUBJECT NO. 2: USING ALCOHOL: ☐ NO ☐ YES										
	☐	USING DRUGS: ☐ NO ☐ YES ☒ TYPE: ☒ UNK.										

VICT./SUBJ. I.D. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT:			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
	☐ VICTIM #			#1	#2	#3	☒ J S O U					
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.						
	☐ RUNAWAY											
	☐ WANTED	ADDRESS		CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE	EVENING PHONE			
	☐ WARRANT											
	☐ ARREST	☐ VICTIM NO. _____ VISIBLE INJURY: ☐ NO ☐ YES		☐ COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES		☐ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK		☐ TWO-MAN VEHICLE		☐ DETECTIVE/SPLASMT.		☐ ALONE
	☐ JAIL	EXPLAIN:		☐ NO ☐ YES		DRUGS: ☐ NO ☐ YES TYPE: ☐ UNK		☐ ONE-MAN VEHICLE		☐ OTHER		☐ ASSISTED
	☐ SUMMONS	☐ SUBJECT NO. _____: USING ALCOHOL: ☐ NO ☐ YES										
	☐	USING DRUGS: ☐ NO ☐ YES ☒ TYPE: ☒ UNK.										

NARRATIVE	for analysis this past Tuesday. Agent Jennifer Clayton contacted this officer yesterday afternoon and informed her analysis of the DNA evidence collected determined that suspect #1's DNA is inside the black hooded sweatshirt and the bloody boots found on the side of the pond where victim was found. Agent Clayton also informed DNA analysis also proves that it is victim's blood on those boots and in suspect #1's driveway. Suspect #2 was shown the bloody boots last Saturday, and he identified them as belonging to suspect #1. When a search warrant was executed at suspect #1's residence last Friday night, an empty Timberland Boot box was in plain view in the floor of his room, size 10 1/2. The boots found at the pond were also size 10 1/2. I will discuss appropriate warrants with a magistrate.											

VEH. / GUN / ETC. 1	STATUS		TYPE		VIN AND/OR LICENSE NO.		BOAT HULL NO. AND/OR REG. NO.	
	☐ STOLEN	☐ VEHICLE						
	☐ RECOVERED	☐ GUN						
	☐ FOUND	☐ BOAT						
	☐ TOWED	☐ LICENSE PLATE						
	☐ SUSPECT	☐ SECURITIES/BONDS/STOCKS						
	☐ VICTIM	☐ ARTICLE						

PROPERTY EST.	TYPE (GROUP)								TOTAL VALUE	
	STOLEN									
	DAMAGED									
	BURNED									
	RECOVERED									
	SEIZED									
	SUBJECT IDENTIFIED		SUBJECT LOCATED		☒ ACTIVE ☐ ADM. CLOSED		☐ ARRESTED UNDER 18		☐ EX-CLEAR UNDER 18	
	☒ YES ☐ NO		☐ YES ☒ NO		☐ UNFOUNDED		☐ ARRESTED 18 AND OVER		☐ EX-CLEAR 18 AND OVER	
	REASON FOR EXCEPTIONAL CLEARANCE 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY									
	REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER		

Kevin Bobo	022606	I-15	FOLLOW-UP INVESTIGATION	YES	NO

SH103

07-0000

763



The South Carolina Court of Appeals

TANYA A. GEE
CLERK
V. CLAIRE ALLEN
DEPUTY CLERK

ATTORNEY GENERAL'S OFFICE
RECEIVED 3-5-10
ADMINISTRATIVE INSTRUCTIONS
FILE _____ OPEN _____ END _____
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PEN RECORDS OFFICE BOX 11629 RECORDS
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CITY 1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

March 4, 2010

REMITTITUR

The Honorable Ponda A. Caldwell
180 Magnolia Street
Spartanburg, SC 29304

Re: The State v. Walker, Isaiah
2007-GS-42-00625

Dear Ms. Caldwell:

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

The following exhibits were filed in this case:

State's exhibit 58(3 small photographs)
State's exhibit 80(Chart/Fingerprints)

This office requests that Mr. Gregory Whitley, or his designee, pick up these exhibits within ten (10) days of the date of this letter.

Sincerely,

Handwritten signature of V. Claire Allen in cursive.

V. Claire Allen
Deputy Clerk of Court

VCA/tf

cc: Isaiah Walker, #322149
Rodney Wade Richey, Esquire
Assistant Deputy Attorney General Donald J. Zelenka
Harold W. Gowdy, III, Esquire

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2010 MAR -8 PM 1:33

ADMINISTRATIVE INSTRUCTIONS

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

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

The State,

Respondent,

v.

Isaiah Walker,

Appellant.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2010 MAR -8 PM 1:33

Appeal From Spartanburg County
Roger L. Couch, Circuit Court Judge

Unpublished Opinion No. 2010-UP-114
Submitted January 4, 2010 – Filed February 11, 2010

APPEAL DISMISSED

Rodney Wade Richey, of Greenville, for Appellant.

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

PER CURIAM: Isaiah Frederick Walker appeals his conviction and sentence for murder, arguing the trial court erred in declining to direct a verdict in his favor because the State presented no direct evidence of his guilt. After thoroughly reviewing the record and counsel's brief pursuant to Anders v. California, 386 U.S. 738 (1967), and State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991), we dismiss¹ Walker's appeal and grant counsel's motion to be relieved.

APPEAL DISMISSED.

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

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



HENRY McMASTER
ATTORNEY GENERAL

March 5, 2010

Honorable Harold W. Gowdy, III
Solicitor, Seventh Judicial Circuit
180 Magnolia Street, 3rd Floor
Spartanburg, South Carolina 29306

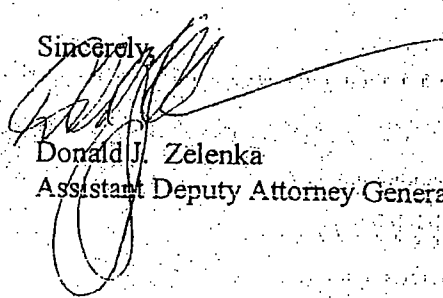
Re: State v. Isaiah Walker

Dear Solicitor Gowdy:

In its Opinion No. 2010-UP-114 filed February 11, 2010, the South Carolina Court of Appeals dismissed the above appeal. The Remittitur was subsequently sent to the Spartanburg County Clerk of Court. Therefore, with this letter, we are closing our direct appeal file in this matter.

This office has verified through the South Carolina Department of Corrections that the Appellant is presently incarcerated. By copy of this letter to the Department of Corrections, we are asking that they ensure that this sentence is carried out.

Sincerely,


Donald J. Zelenka
Assistant Deputy Attorney General

DJZ/lbb

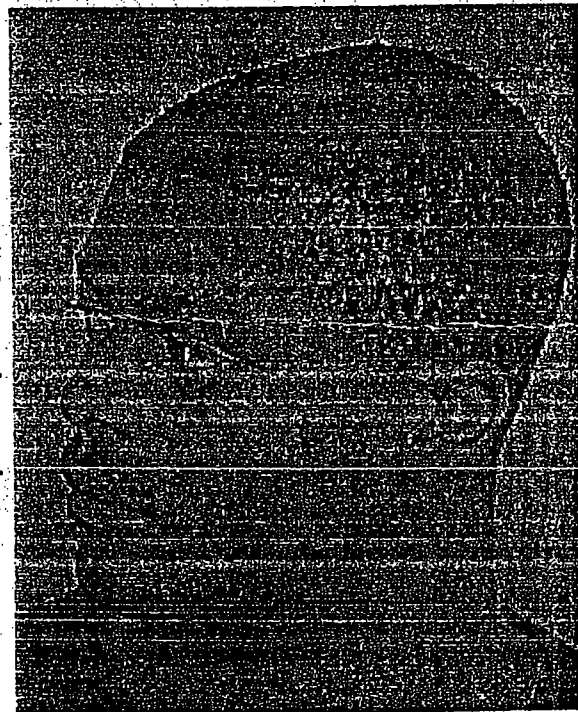
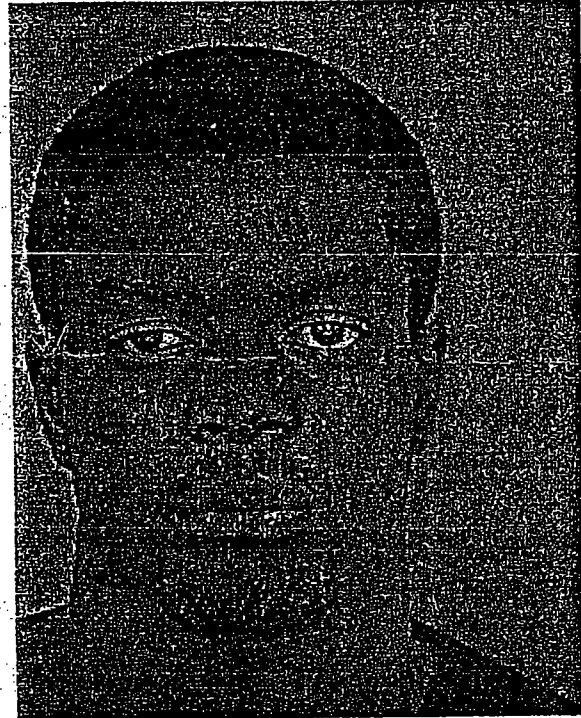
Enclosures: Opinion of S.C. Court of Appeals
Remittitur

cc: David M. Tatarsky, SC Dept. of Corrections
Ponda A. Caldwell, Clerk of Court
Sandi Wofford, Director, Victims Assistance

Spartanburg County Detention Facility Mugshot Profile

WALKER, ISAIAH FREDERICK

Booking #:
Booking Date: 07-31-2005
S.O. ID #:
ORI #: SC0420100
Arresting Agency: SPSPD
Date of Birth: 05-12-1986
Height: 601
Weight: 165
Race: BLACK
Sex: MALE
Hair Color: BLACK
Hair Length: ABOVE EARS
Hair Style: CURLY
Eye Color: BROWN
Eye Characteristics: NORMAL
Facial Hair: GOATEE _ MUSTACHE
Glasses: NO
Teeth: NONE MISSING
Complexion: CLEAR
Skin Tone: BLACK_BROWN
Build: SLENDER
Missing Limbs:
Disabilities:
Operator: GW
Comments:

**Aliases**

Last	First	Middle	Nickname

Charges

Category	Description

Scars/Marks/Tattoos

Type	Location	Description

Printed: Friday, February 17, 2006 7:38 PM

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

RECORD SUMMARY REPORT DATED 11/30/10

COAF

WALKER, ISAIAH - FBI # 556152DC1 SID# SC01519390 SCDC # 322149

OFFENDER TYPE.: ADULT-STRAIGHT SENTENCE

INSTITUTION .: LEE CORR INST

SECURITY/CUST.: 3 MINIMUM IN

CURR INCARC SENT.: 999 YRS 0 MOS 0 DYS

CENTRAL MONITORING.: YES

SOCIAL SECURITY #.: 986

DORM.: DAR2116T

RACE.: B SEX.: M

PROJ MAXOUT DATE: 99/99/9999

PROJ PAROLE DATE: 00/00/0000

EWC INB.: WASH RACK ATTENDANT

EDUC PGM.: NO CURR EDUC PROGRAM

EWC LEVEL: 3F5 REC LEVEL:

ASSIGNMENT.: CAFETERIA

CURRENT PROGRAM.: NO CURRENT PROGRAM

AGE.: 24 DATE OF BIRTH.: 5/12/84

PREVIOUS NUMBERS:

** NO PREVIOUS NUMBERS **

CURRENT OFFENSES	SENTENCE YRS MOS DYS COUNTY	SENTENCE START U/VU CATEGOR
MURDER	999 99 999 SPARTANBUR	2/27/20 6 U 5

PRIOR COMMITMENTS OVER 90 DAYS:

INMATE HAS NO PRIORS

DETAINERS (HOLD, WANTED, NOTIFY):

NO DETAINERS

NO DETAINERS

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

NO CRIMINAL CHARGES WHILE IN CUSTODY

NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

NO ASSAULTIVE DISCIPLINARY HISTORY

NON-ASSAULTIVE DISCIPLINARIES:

5/13/10 USE, POSS NARC, MARTIN, INAU CONVICTED

MAJOR

7/16/ 8 OUT OF PLACE

OTHER

5/ 5/ 8 OUT OF PLACE

CONVICTED

ADMIN

4/12/ 8 UNAUTHORIZED AGENCY UNIF DROPPED

MAJOR

2/ 9/ 8 OUT OF PLACE

OTHER

8/ 7/ 7 OUT OF PLACE

CONVICTED

ADMIN

HISTORY OF MOVEMENTS:

6/14/10 LEE

INCARCERATED

ADMINISTRATIVE

7/ 9/ 9 MCCORMICK

INCARCERATED

ADMINISTRATIVE

7/ 5/ 7 LEE

INCARCERATED

ADMINISTRATIVE

4/ 4/ 7 KIRKLAND

INCARCERATED

R&E PROCESSING

4/ 4/ 7 PERRY

INCARCERATED

NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	IN LU
WASH RACK ATTENDANT	10/14/10	0/ 0/ 0		3F
GENERAL WORKER	07/15/09	6/14/10	INSTIT TRANSFER	3F
GENERAL WORKER	01/10/08	7/ 9/ 9	INSTIT TRANSFER	3F
GENERAL WORKER	11/27/07	1/ 9/ 8	INSTIT TRANSFER	3F
FOOD SERVICE AIDE	07/19/07	11/26/ 7	UNSAT JOB PERFORM	3F
GENERAL WORKER	07/10/07	7/18/ 7	INMATE REQUEST	3F

HISTORY OF EARNED EDUCATION CREDITS:

REC DESCRIPTION	START DATE	END DATE	TERMINATION REASON

NO SCHOOL ASSIGNMENTS

***** END OF REPORT *****

FILED
CLERK OF COURT

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Spartanburg
STATE VS.

MAY 31 PM 7:00

INDICTMENT/CASE#: 07-GS-42-625AW#: K077931Date of Offense: 2/17/06S.C. Code §: 16-3-10CDR Code #: 0116AKA: MARC KITCHEN
Race: W Sex: M Age: 21
DOB: 5/12/86 SS#: 11 21
Address: 1125 S. C. 29369
City, State, Zip: 29369
DL# SID#

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Murderin violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury (Defendant initial)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]
Solicitor[Signature]
Defendant[Signature]
Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of Life 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: ☐ 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 Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ set by SCDPPPS

Recipient:	
*Fine:	\$ <u> </u>
\$14-1-206 (Assessments 107.5%)	\$ <u> </u>
\$14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ <u>100.00</u>
\$14-1-211(A)(2) (DUI Surcharge)	\$100 \$ <u> </u>
\$56-5-2995 (DUI Assessment)	\$12 \$ <u> </u>
\$35.13 (Public Def/Prob)	\$500 \$ <u> </u>
\$73.3, 1B TP (Law Enforce. Funding)	\$25 \$ <u>25.00</u>
\$33.7, 1B TP (Drug Court Surcharge)	\$100 \$ <u> </u>
\$50-21-114(BUI Breath Test Fee)	\$50 \$ <u> </u>
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ <u> </u>
3% to County (if paid in installments)	\$ <u>9.75</u>
TOTAL	\$ <u>178.75</u>

PTUP days/hours Public Service EmploymentObtain 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 FundOther: ☐ Appointed PD or appointed other counsel, \$35.13 TP

Requires \$500 be paid to Clerk during probation.

[Signature]
Clerk of Court/ Deputy ClerkCourt Reporter: [Signature]

PRESIDING JUDGE

[Signature]Sentence Date: 5/31/07

CLERK OF COURT

SPARTANBURG COUNTY

[Signature]DATED 5/31/07

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS

ISALAH WALKER, # 322149,)
Applicant,)

2010-CP-42-5368

v.)

**AMENDED APPLICATION FOR
POST-CONVICTION RELIEF**

THE STATE OF SOUTH CAROLINA,)
Respondent.)

The Post-Conviction Relief Application previously filed on October 6, 2010 under docket number 2010-CP-42-5368 is hereby amended as follows:

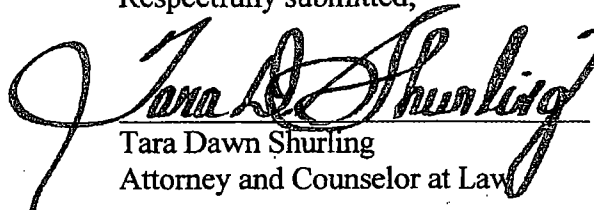
1. Trial counsel was ineffective for failing to object to testimony from Captain Jackie Kellet, an expert in the area of latent finger print identification, wherein the witness testified that her conclusion concerning the match of a latent palm print to the Applicant had "been verified by a second latent print examiner in my office" where said testimony constituted hearsay and violated the Applicant's right of confrontation.
2. Trial counsel was ineffective for neglecting to present as a witness for the defense, Amanda Murphy, where her testimony would have been crucial to the defense inasmuch as she would have refuted the contention of Brent Gentry that the deceased was killed by the Applicant because he was "messing with Amanda".
3. Trial counsel was ineffective for neglecting to present testimony from Cynthia Thacker where trial counsel was made aware prior to trial that this witness could refute the testimony of the Applicant's co-defendant concerning his whereabouts and activities on the morning of the shooting.
4. Trial counsel was ineffective for failing to present testimony from Kenneth Foster where his testimony would have refuted claims made by State witness Raymond Annas and where this witness was made known to defense counsel prior to the trial.
5. Trial counsel was ineffective for providing the Applicant less than reasonable professional assistance of counsel where he failed to fully and accurately advise the Applicant on the crucial question as to whether he should testify in his own defense at trial.

FILED
CLERK OF COURT
2010-10-06 PM 5:00
JAMES BLANKLEY

6. The Applicant has it upon information and belief that trial counsel neglected to convey to him and fully discuss with him two plea offers made by the State prior to trial.
7. Trial counsel was ineffective for misleading the Applicant concerning the strength of the State's case by informing him that a palm print asserted by the State to be a print made in the victim's blood was in fact a palm print with blood splattered on top of it.
8. Trial counsel was ineffective for leading the Applicant to believe that the DNA evidence in this case was inconclusive.
9. Trial counsel was ineffective for failing to fully cross-examination co-defendant, Brent Gentry, concerning all his pending charges at the time of his testimony at the Applicant's trial.

The Applicant has no further amendments at this time. Copies of these amendments have been served on opposing counsel, Suzanne H. White, Assistant Attorney General and Trial Counsel, Rodney W Richey, Esquire for the Applicant.

Respectfully submitted,


Tara Dawn Shurling
Attorney and Counselor at Law

3614 Landmark Dr., Ste. A
Columbia, SC 29204
803-738-8622
803-738-1600 (Fax)

ATTORNEY FOR APPLICANT.

This 5th day of September, 2012.
Columbia, SC

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 SEP -6 PM 1:45
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG)

ISALAH WALKER, # 322149,) 2010-CP-42-5368
Applicant,)
)
v.) **CERTIFICATE OF SERVICE**
)
THE STATE OF SOUTH CAROLINA,)
Respondent.)
)

The undersigned hereby certifies that one copy of the Amended Application for Post-Conviction Relief in the above-entitled case has been served upon, Rodney W. Richey, Esquire, trial counsel for the Applicant, by email, on this the 5th day of September, 2012.


Tara Dawn Shurling
Attorney and Counselor at Law

SWORN TO BEFORE me this 5th day
of September, 2012.

Notary Public for South Carolina
My Commission Expires: 3/12/13

FILED
CLERK OF COURT
SPRINGFIELD COUNTY
2012 SEP -6 PM 1:45
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS

ISAIAH WALKER, # 322149,)
 Applicant,)

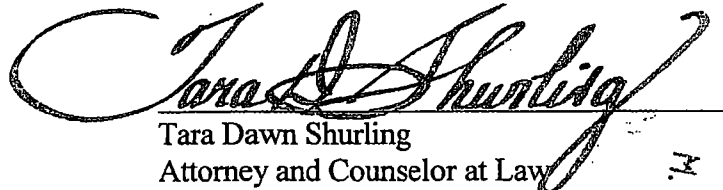
2010-CP-42-5368

v.)

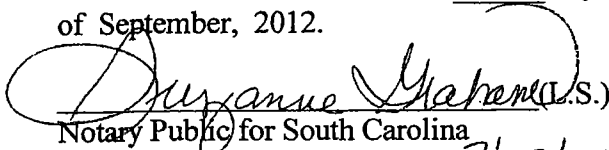
CERTIFICATE OF SERVICE

THE STATE OF SOUTH CAROLINA,)
 Respondent.)
 _____)

The undersigned hereby certifies that one copy of the Amended Application for Post-Conviction Relief in the above-entitled case has been served upon opposing counsel, Suzanne White, Assistant Attorney General, by email, on this the 5th day of September, 2012.


 Tara Dawn Shurling
 Attorney and Counselor at Law

SWORN TO BEFORE me this 5th day
 of September, 2012.

 (S.)
 Notary Public for South Carolina

My Commission Expires: 3/12/2013

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 2012 SEP -6 PM 1:45
 M. HOPE BLACKLEY

1 STATE OF SOUTH CAROLINA

2 COUNTY OF SPARTANBURG

} COURT OF COMMON PLEAS NONJURY

3
4 ISAIAH WALKER,

5 APPLICANT,

6 VS.

7 STATE OF SOUTH CAROLINA,

8 RESPONDENT.

TRANSCRIPT

OF

RECORD

2010-CP-42-5368

9
10 September 6th, 2012
11 Spartanburg, South Carolina
12

13 B E F O R E:

14 THE HONORABLE J. DERHAM COLE, Judge.

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

16 TARA SHURLING

17 ESQ.

18 Attorney for the Applicant

19 SUZANNE H. WHITE

20 ASSISTANT ATTORNEY GENERAL

21 Attorney for the State
22
23

24 PAMELA E. GREEN
25 Circuit Court Reporter
Seventh Judicial Circuit

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P R O C E E D I N G S

1
2
3 THE COURT: All right. Are we ready to begin now with
4 the two o'clock case?

5 MS. WHITE: Yes, Your Honor.

6 THE COURT: All right. Let's go.

7 MS. WHITE: Okay. Your Honor, this is the case of
8 Isaiah Walker versus The State. It's Case Number
9 2010-CP-42-5368. He's represented today by Ms. Tara
10 Shurling.

11 Mr. Walker proceeded to trial once he was indicted on a
12 murder charge, and was represented at the time by Rodney
13 Richey. He was convicted May 31st, 2007, and received a
14 life sentence. An Anders appeal was filed and was affirmed
15 February 11th, 2010.

16 This application was filed and I believe that
17 originally the, we had allegations of ineffective assistance
18 of counsel for counsel's failure to recognize errors and
19 make appropriate objections and ineffective assistance of
20 appellate counsel in that counsel filed the Anders brief or
21 a no merits brief even though he was retained, and I believe
22 Ms. Shurling has handed up the recently amended allegations
23 and the State does consent to going forward on those.

24 So, I will turn it over to her at this time.

25 THE COURT: All right. Ms. Shurling.

1 MS. SHURLING: Thank you, Your Honor.

2 Your Honor, at this time I would note for the record
3 that my client has generally alleged that his Sixth
4 Amendment right to effective assistance of counsel as
5 extended to the State's Fourteenth Amendment was violated
6 both prior to and during his trial. He would assert, with
7 specificity, the specific allegations contained in his
8 amended application for post-conviction relief, Your Honor,
9 and at this time he would call, as his first witness in his
10 case, his defense attorney, Mr. Richey.

11 THE COURT: All right. So, the grounds that he's
12 alleging are those set forth in Paragraph 11-A and B?

13 MS. SHURLING: Yes, sir, Your Honor, and the specific
14 allegations contained in the amended application handed up
15 to the bench.

16 THE COURT: Well, that's the one I'm referring to.

17 MS. SHURLING: Yes, sir, there are---

18 THE COURT: Excuse me. That's not the one.

19 MS. SHURLING: ---nine allegations.

20 THE COURT: Okay.

21 MS. SHURLING: Thank you.

22 RODNEY RICHEY, having been first
23 duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MS. SHURLING:

Rodney Richey - Direct examination
by Ms. Shurling

1 Q Would you state your full name for the record please?

2 A Rodney Wade Richey.

3 Q Mr. Richey, back at the time of this trial, how long
4 had you been practicing law?

5 A It's seventeen and a half now. I don't know. I would
6 say 12 to 14, somewhere around in there.

7 Q And, of course, this trial was in May of 2007. I
8 should of handed you that date.

9 A Twelve, twelve and a half years.

10 Q And what percentage, if you can tell us, of your
11 practice was dedicated to the practice of criminal defense?

12 A At that time about 50 percent.

13 Q About 50 percent?

14 A Yes, ma'am.

15 Q And prior to going into private practice, had you been
16 a government lawyer at all?

17 Were you a prosecutor or a public defender?

18 A I spent about a year at the Public Defender's Office.

19 Q Okay.

20 A Then I did a contract a couple of years after that.

21 Q And were you ever in the Solicitor's Office?

22 A No, ma'am.

23 Q Okay. And do you specifically recall representing
24 Isaiah walker?

25 A Yes, ma'am, I do.

Rodney Richey - Direct examination
by Ms. Shurling

1 Q Do you know how long after his initial arrest you were
2 hired?

3 A It was shortly thereafter. I was in, I was in, prior
4 to the arrest, I was in the case so to speak, but I was
5 already in it from the time of arrest.

6 Q Thank you.

7 And, Mr. Walker, did you entertain plea negotiations
8 with the State at all in this case?

9 A Yes, ma'am, I did.

10 Q And can you tell us, if you will, before this matter
11 proceeded to trial in May of 2007, what, if any, plea offers
12 had been extended to your client?

13 A It was initially an offer reduced to voluntary, which
14 was zero to 30, of course, and then sometime subsequent to
15 that it was a 19 year offer. I'm pretty sure it was 19
16 years.

17 Q Do you have anything in your file documenting what the
18 offer from the State was?

19 A I had a letter that it was reduced to voluntary, but I
20 went through the file and I didn't have anything stating 19.

21 Q Okay. And prior to going to trial in May of 2007, did
22 you convey that offer to your client?

23 A Yes, ma'am.

24 Q And I assume, since you proceeded to trial, it was your
25 position he declined that offer?

Rodney Richey - Direct examination
by Ms. Shurling

1 A Yes, ma'am, he did.

2 Q And do you have anything in your file documenting the
3 fact that that offer was conveyed to him and rejected?

4 A The rejection part, no, and as you said the 19, no. I
5 would say no.

6 Q Okay. Once the trial commenced in May of 2007, were
7 there any further offers?

8 A After the trial commenced there was no offers, but
9 after the trial ended there was, I use the phrase, quasi
10 offer made. It was an offer contingent upon him committing
11 to it.

12 Q Okay. And now you say after the trial.

13 You mean after the close of the evidence in the case?

14 A Yes, ma'am.

15 Q And that quasi offer, can you relay to us what that
16 offer was?

17 A It was, it was -- essentially I asked the solicitor I
18 said hey, is there anything else you can do for us in this
19 case. Okay. And he said if your client will commit, and I,
20 and I believe the number was 16, I would talk to the family.
21 Okay. But that was something that, at the time, Isaiah
22 didn't want to do, and, you know, I would say, looking back
23 on it, maybe that was something I should of, you know,
24 pushed him a little bit harder on. I mean I think it was
25 probably something I should of pushed him a little bit

Rodney Richey - Direct examination
by Ms. Shurling

1 harder on.

2 Q Well, let's backtrack for a minute to the initial offer
3 that you recall as 19 years for voluntary manslaughter.

4 Did you have discussions with your client's family
5 about the offer that had been extended?

6 A I'm not -- I would think it would of been our policy to
7 do that, but I don't know if I discussed the specific number
8 with them. But I did tell them there was an offer out
9 there. I'm---

10 Q I'm sorry. That there was an offer out there?

11 A Yes, ma'am.

12 Q Did you tell them it was for voluntary manslaughter?

13 A Yes, ma'am.

14 Q Did you explain to your client, Mr. Walker, the penalty
15 for murder?

16 A Yes.

17 Q And in addition to telling him the range, which I
18 assume you would of told him it was 30 years to life?

19 A Yes, ma'am.

20 Q Did you explain to him that any penalty imposed for
21 murder would result in a sentence that had to be served
22 day-for-day?

23 A I typically do. But I, I can't say I did. I can't say
24 with all absolute that I did it. That's generally my policy
25 when you go over the sentence with the defendant.

Rodney Richey - Direct examination
by Ms. Shurling

1 Q But you're not certain you did in this case?

2 A I'm not absolutely positive, no. But that's my policy,
3 but I'm not certain.

4 Q Okay. And do you have any recollection of explaining
5 to him that a sentence for voluntary manslaughter would,
6 unlike murder, be subject to the 85 percent rule?

7 A Absolutely. Absolutely 100 percent.

8 Q You told him that?

9 A Yes. Yes.

10 Q When the offer was extended that they would stick with
11 voluntary manslaughter, but reduce it to 16, did you convey
12 that offer to your client?

13 A I -- as I said earlier, it wasn't an offer. The
14 solicitor said if he would commit to it, and then he would
15 go talk to the victim, and there was no commitment by
16 Isaiah.

17 Q I understand.

18 Did you convey to your client the fact that the
19 solicitor had told you that if he would commit to voluntary
20 manslaughter for 16, he was willing to go to the family with
21 that as a suggested offer and discuss it with them?

22 A Yes.

23 Q And did you make it clear to him that if he did not
24 commit to accept that offer, if it was extended, that the
25 solicitor wasn't even gonna try to get the family to approve

Rodney Richey - Direct examination
by Ms. Shurling

1 it?

2 A I don't know if I said all that, but the gist of it I
3 said if you don't commit to it, then they're not gonna talk
4 to them.

5 Q Okay.

6 A And maybe I should of pushed Isaiah a little bit harder
7 to accept that. Maybe, maybe I should of done that.

8 Q Okay. As lawyers, you -- we understand, you understand
9 that the solicitor's Office has an obligation to address
10 potential plea negotiations with the victim, the victim's
11 family, correct?

12 A Yes, ma'am.

13 Q Do you have any specific recollection, with reference
14 to the offer that came after the close of the evidence in
15 this case, to explaining to Mr. Walker the fact that the
16 solicitor wasn't making a concrete offer because he would
17 first have to clear it with the family?

18 A Well, I guess what you're asking me is -- no, I didn't
19 go through that whole litany process. I didn't do that. I
20 didn't do that. The way you described it, I didn't give him
21 an overview of how it's done, no, ma'am.

22 Q Okay. Did you ask him whether he would accept a deal
23 to voluntary manslaughter for 16 if it were extended?

24 A He wouldn't take it.

25 Q So, the answer is yes, you did extend it to him?

Rodney Richey - Direct examination
by Ms. Shurling

1 You did tell him about it?

2 A I, I told him, you know, you got to commit to it before
3 they talk to them and---

4 Q Right.

5 A ---he did not want to commit to it.

6 Q Okay. And let's start with the first offer to plead to
7 voluntary manslaughter before the trial even began.

8 what reason did your client give you for not being
9 willing to plead to voluntary manslaughter?

10 A He didn't do it. He was not guilty of anything.

11 Q And isn't it a fact that he consistently told you that
12 Brent Gentry was the one that shot the deceased?

13 A Told me consistently, yes, ma'am.

14 Q And the fact that he did not shoot the deceased was the
15 reason he gave you for rejecting plea offers?

16 A Yes.

17 Q Okay.

18 A Yes.

19 Q And from the beginning, in your discussions with your
20 client, did he admit to you that he had helped Brent Gentry
21 dispose of the victim's body?

22 A He had -- he admitted to me that he disposed of,
23 disposed of the body.

24 Q Okay. Let me approach that question from a little bit
25 different angle.

Rodney Richey - Direct examination
by Ms. Shurling

1 Did he consistently tell you that Brent Gentry was the
2 one that shot Hubbard?

3 A Yes, ma'am.

4 Q And did he admit to you that he thereafter assisted
5 with the disposal of the body?

6 A Yes, ma'am.

7 Q And did he explain to you that that would be the reason
8 why there would be forensic evidence, DNA, on his clothing
9 and palm print inside the car?

10 A Yes, ma'am.

11 Q Okay.

12 A Yes, ma'am.

13 Q As you were approaching trial, did you and Mr. Walker
14 discuss, in advance, whether or not it would be in his best
15 interest to testify at trial?

16 A Yes, ma'am.

17 Q And what was your advice to him?

18 Did you advise him to testify or not testify?

19 A Well, I -- he said he wasn't, did not want to testify.
20 Okay. That's what his -- he did not want to testify. And,
21 so, I didn't advise him to testify or not testify. He
22 did -- he told me he did not want to testify.

23 Q Did you have discussions with him about the fact that
24 if he didn't testify there was going to be no evidence
25 before the Court, more importantly for the jury to hear, on

Rodney Richey - Direct examination
by Ms. Shurling

1 his theory of the case, which was that he helped dispose of
2 the body, but didn't shoot the victim?

3 A I, I discussed with him the last argument, and, and I,
4 I wanted him -- I felt like his testimony would be valuable
5 to the case based off the evidence, but the evidence and his
6 testimony did not reconcile each other, and I think that's
7 what the, the problem of his testimony is, and I believe the
8 evidence was better than his testimony.

9 Q Can you tell us in what regard you thought the evidence
10 was better than his testimony?

11 A Well, his testimony would be that, that the codefendant
12 came to his house to play basketball, and that the
13 codefendant borrowed some of his clothes, put them on to go
14 play basketball. The codefendant goes outside, shoots the
15 guy, unbeknownst to Isaiah. Isaiah then runs out, he takes
16 the body and puts it in the car, and he drives with the body
17 in the car by himself some mile or two to his pond, and then
18 tries to drive the body over in the water, but the wheel
19 gets stuck. And, so, they abandoned the body.

20 But then the codefendant takes off his clothes and
21 throws them in the river, Isaiah's clothes, and Isaiah
22 watches him throw his clothes in, in the river, and, and
23 that he subsequently spent all day with the gentleman cause
24 Isaiah was gonna say he was afraid of the guy, but then he
25 spent all day.

Rodney Richey - Direct examination
by Ms. Shurling

1 So, so, that was some bad testimony. But I felt like
2 that, in this case the evidence was, the victim was a drug
3 dealer, the victim carried a gun, and I mean that's -- I
4 think that was pretty not disputed. And Isaiah was at his
5 home when this murder happened. The victim had passed it,
6 failed the GSR kit, GSR kit, gun powder residue. There was
7 a shell found in the car underneath the, I think the break
8 thing that was not consistent with the bullet that shot him.

9 Okay. So, it was my opinion that I said hey, it's okay
10 if you shot this guy because this evidence, you're at your
11 own home, he's shooting, you got a right to defend yourself.

12 Okay. And, so, I felt like if the testimony went down
13 that road it would be great. But the testimony about the
14 codefendant switching the clothes, the spending all day with
15 him, and all that, I, I don't think the evidence was as
16 strong on that particular testimony as it was the evidence.
17 I think the, the evidence was strong on this boy shooting at
18 them meaning, meaning the victim shooting at whoever was at
19 the house, Isaiah or Brent Gentry, one of the two.

20 Q Well, let's talk about the evidence at trial for just a
21 moment.

22 You said that the victim was a drug dealer, and that
23 was pretty much undisputed?

24 Is that what I understood you to say?

25 A I think, I think nobody disputed that this was, this

Rodney Richey - Direct examination
by Ms. Shurling

1 case had some drug overtone in it. I don't think anybody
2 disputed that, and I don't, I don't think anybody did that
3 --

4 Q Okay.

5 A -- I don't believe.

6 Q Do you recall an incident during the trial when a
7 witness was asked, I believe it was Gentry, whether he had
8 ever sold drugs to the deceased?

9 A moments indulgence, Your Honor.

10 (Pause.)

11 MS. SHURLING: I apologize, Your Honor. I've lost my
12 spot. I'll find it in one moment.

13 Well, while I'm looking for that can you recount for us
14 what, if any, evidence came in in the presence of the jury
15 that would of established that the deceased was a drug
16 dealer?

17 A I think the trial was based on that they, that it was
18 set-up for a drug deal. They claimed that Isaiah set this
19 guy up, and, and the set-up was for drugs. I mean I think
20 that's the underlying theory the State had. I mean the
21 State, if I'm recollecting correct, didn't portray this guy
22 as being a great guy. I mean he wasn't portrayed as
23 somebody who was really an upstanding citizen, and I think
24 the State even acknowledged that in their opening.

25 Q So, your prospective that it was a, pretty much

Rodney Richey - Direct examination
by Ms. Shurling

1 uncontested thing that the deceased was a drug dealer is
2 based on Gentry's testimony that this whole thing was a
3 set-up drug deal?

4 A And I think the State conceded that in their opening.
5 I think the State conceded he's not a great guy, but that
6 doesn't mean he should be murdered, and all that kind of
7 stuff.

8 Q Okay. Now, what kind of prior record did your client
9 have, Mr. Walker?

10 A Minimum to none. Very minimum. He might of had a pill
11 charge or something. Minimum. Basically almost minimum to
12 none.

13 MS. SHURLING: May I approach, Your Honor?

14 (The Court nods affirmatively.)

15 Q Do you recognize this from the discovery package, Mr.
16 Richey?

17 A This specifically -- I don't know if I specifically
18 remember. I know what it is.

19 Q Okay.

20 A Yes, ma'am, I know what it is.

21 Q And do you recall being given documents relevant to the
22 various parties prior criminal records as part of the
23 discovery package?

24 A Yes, ma'am.

25 Q And that would of included your client?

Rodney Richey - Direct examination
by Ms. Shurling

1 A Yes, ma'am.

2 Q Can you publish for us what the only prior charges for
3 your client were?

4 A It was simple possession.

5 Q Of what?

6 A Marijuana.

7 MS. SHURLING: Okay. Your Honor, this would be
8 Applicant's 1.

9 MS. WHITE: No objection, Your Honor.

10 THE COURT: It's admitted.

11 Q Now, at the time of -- pardon me.

12 Madam Court Reporter, I know better than that. I
13 apologize.

14 (WHEREUPON, the record of the applicant was marked as
15 Applicant's Exhibit No. 1 and received into evidence at this
16 time.)

17 Q Now, you said you had discussions with your client
18 about the last argument.

19 A Okay.

20 Q Just for the record, I understand that to mean that you
21 explained to him that he would get the last argument if you
22 didn't put up any evidence?

23 A Yes, that's what I said.

24 Q And did you have discussions with him where you weighed
25 the relative value of the last argument versus him

Rodney Richey - Direct examination
by Ms. Shurling

1 testifying and providing testimony in support of an
2 alternative theory of the events that led to Mr. Hubbard's
3 death?

4 A Well, I'm gonna have to go back one. We had some
5 witnesses that we could of called. Okay. But those
6 witnesses would probably not of been beneficial to our case,
7 and a couple of them were very risky. And, so, at that
8 point, that's the decision we made about calling these
9 witnesses and not calling witnesses.

10 It wasn't, it wasn't a strategy where we decided we're
11 not gonna put up any evidence and all that. We had a couple
12 witnesses and we had another theory that we could of called
13 another witness to present another theory, but that witness
14 and those witnesses were really really risky. I mean --
15 and, so, the -- I mean they were really risky.

16 Q And there's, in fact, a place in the record, and, I'm
17 sorry, I don't have the page citation handy, but we're, at
18 some point, you asked for a moment to go notify a couple of
19 witnesses that you weren't going to use them?

20 A Yes, ma'am.

21 Q Can you tell me who those witnesses would of been?

22 A One of them was Chavez Miller. I remember that name.
23 The second was his mama, and it was one more. I can't
24 remember the other one right now, but I know those two for
25 sure.

Rodney Richey - Direct examination
by Ms. Shurling

1 Q Okay. And what would be the purpose of causing, of
2 calling Chavez Miller had been if you had called him?

3 A There was a theory out there that, that Chavez was
4 involved with this, that he was somehow involved, that he
5 had access to Isaiah's home, and that he, at often times,
6 wore clothes Isaiah wore, that, that he could of been a
7 person that was actually wearing the clothes and did it.
8 So, that theory was out there.

9 Q Okay. And you've additionally mentioned his mother.
10 Toward what purpose were you thinking of calling the
11 mother?

12 A His mother's gonna be a foundation witness for the
13 clothes for Chavez. His mother would of testified that he,
14 that Chavez frequently visited their home, that he had
15 access to the clothing, and that he, often times, borrowed
16 Isaiah's clothes and never brought them back and that type
17 of stuff.

18 Q Did either---

19 A And she was gonna be -- oh, I'm sorry. And she was
20 gonna be a very good witness for him.

21 Q Pardon?

22 A She would of been a very good witness for him.

23 Q Thank you.

24 Now, prior to trial, did Mr. Walker and his family give
25 you a list of persons that they thought would be beneficial

Rodney Richey - Direct examination
by Ms. Shurling

1 witnesses in this case?

2 A They got -- I got a list of witnesses, yes, ma'am, I
3 did.

4 Q And do you recall, during the testimony of Mr. Gentry,
5 his claim that your client had said something to the effect
6 of that he thought he was gonna get away with messing with
7 Amanda?

8 A Yes, ma'am.

9 Q Who was Amanda?

10 A Amanda was Isaiah's girlfriend at the time.

11 Q Did you interview her?

12 A I did not interview her. She's one of the -- I did not
13 interview her.

14 Q Pardon?

15 A I did not interview her.

16 Q Did you do any investigation to determine what, if any,
17 connection there was between Amanda and the deceased,
18 Mr. Hubbard?

19 A She was not gonna be a good witness for us. I made
20 that determination from discovery. She was not gonna be a
21 good witness in our case.

22 Q You made that determination based on what, sir?

23 A The discovery. She was not gonna be a good witness for
24 us, and the State -- I think the State was gonna call her at
25 some point, but just was not gonna be a favorable witness

Rodney Richey - Direct examination
by Ms. Shurling

1 for us.

2 Q Can you tell me what, in the discovery, led you to
3 believe that Amanda would not be a good witness?

4 A Apparently she was up at Spartanburg Tech or wherever
5 she went to school, and her and this girl gets in this
6 argument, and she makes a statement to the extent that she's
7 gonna pull an Isaiah on her, that, that -- it was a
8 statement that, that it implied that Isaiah had something to
9 do with killing this guy, and that, and that -- and I did
10 not want her to come in here and do that. I did not want
11 that statement anywhere in the case.

12 Q And at the time that statement was made, her boyfriend,
13 the applicant, Mr. Walker, was arrested and in jail awaiting
14 charges on murder, correct?

15 A Yes, ma'am.

16 Q Did you consider that that statement by Amanda could of
17 been characterized by you as puffery or making an idol
18 threat to someone she didn't like?

19 A I would -- that's -- see, that statement was not
20 isolated. And, so, I did not want to open the door to that
21 statement coming in this case because it was not an isolated
22 statement by an isolated individual, and, and, and I got the
23 State to commit to, to leaving her out of it. The State
24 wanted to call her as a witness, and I was able to keep her
25 out because it would, it would start up a line of testimony

Rodney Richey - Direct examination
by Ms. Shurling

1 that I didn't think was favorable to us.

2 Q Did you consider that that testimony could be
3 characterized as hearsay and ruled inadmissible?

4 A It -- well, she comes and testifies and says she said
5 it, and then, you know, it's problematic. But if the
6 witness comes to Court and she says yeah, I said it, and I,
7 I understand that -- that was a statement that had a lot
8 more other stuff that was gonna be bootstrapped on it that,
9 that it just was not gonna be good for Isaiah.

10 Isaiah, I mean if she testifies and, and if she's
11 attacked, there's some more, there's some other stuff to be
12 put on that that I did not want to come in at this trial.

13 Q Okay. Let's proceed back -- well, let's go backwards
14 for a minute.

15 The theory that Chavez Miller may of had something to
16 do with this case, where did that come from?

17 A It comes from Isaiah and his mama I believe. His mama
18 came up with the idea that Chavez had came to the home often
19 and had taken Isaiah's clothes and wore them and never
20 returned them. That, that's where the -- and, and Chavez,
21 he -- it was an issue whether he was gonna testify in the
22 case, and that was sort of a response to a statement Chavez
23 gave.

24 See, Chavez gave a statement in this case that's pretty
25 damaging to us. And, so, we had to have something to kind

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by Ms. Shurling

1 of negate what he was gonna say. I mean, I mean the State,
2 he was -- Chavez was here to testify if the State wanted him
3 to testify. We had to have something on him if he was gonna
4 testify. We had to have something because he gave -- well,
5 he gave a statement that was not very good to us.

6 Q Well, if the State wanted him to testify and he was
7 available to testify, why didn't the State call him?

8 A I---

9 MS. WHITE: Your Honor, I object to speculation on
10 that. He doesn't know why the State didn't call him.

11 MS. SHURLING: I'll rephrase.

12 Q Were you told why they weren't calling him?

13 A What I did was I, I, I told the solicitor, I said, I
14 mean -- he was a mixed bag for them too. He was a mixed
15 bag. Okay. And it was a mixed bag with both of us. And,
16 and I think the State, my understanding, determined that
17 they would not call him at that point. But he was a mixed
18 bag for both of us. I thought he was worse for us than
19 them.

20 Q Okay. Do you recall, and now this time I have a Page
21 Reference, on approximately Page 574, Gentry testifying that
22 Chavez Miller use to date his sister, but that he had not
23 seen him all day the date of this incident?

24 Do you recall that testimony?

25 A The record -- if it's in the record, yeah.

Rodney Richey - Direct examination
by Ms. Shurling

1 Q Okay. Did you interview other people who had been
2 around your client and Brent Gentry earlier that day to
3 determine if they were available witnesses that would have
4 indicated that that was not truthful?

5 A No, I had an investigator in the case and he went down
6 and talked to the folks that they presented and those folks
7 were not very cooperative at the time of the trial. But in
8 terms of Chavez Miller, I was not -- I mean Chavez Miller,
9 for me not to object to that, I did not want him in this
10 case in any form at all, and if that was what I was gonna
11 get, I was willing to accept that.

12 Q Okay. And can you share with us specifically what it
13 was you feared Chavez Miller would testify to?

14 A He gave a statement to law enforcement that Isaiah
15 admitted that he shot and killed the guy, and I did not want
16 that statement to come in. I did not want it to come in.

17 Q Okay. And did you also know that Chavez Miller not
18 only use to date Gentry's sister, but had a child with her?

19 A No, I didn't know that, no, ma'am. But I, I was really
20 afraid of that statement coming in at Isaiah's trial. I did
21 not want that statement---

22 Q I understand.

23 But did you explore the possibility that you could have
24 impeached Chavez Miller with a motive to cover for Gentry?

25 A I, I guess I could of done that, but I thought the

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1 statement, and I mean I really don't like -- you know, when
2 your cousin's down in the jail with you and they say you
3 told him that, I just didn't want that statement. I did not
4 want him to come in here and testify in front of this jury
5 that his cousin told him at the jail that he shot and killed
6 a guy. I just did not want that in the trial.

7 I mean I understand I could of impeached it. I could
8 of said he was, you know, not telling -- I could of done a
9 whole lot of things. But that's just something that I just
10 don't want, didn't want in the trial. I didn't want
11 somebody to say Isaiah told me he killed the guy.

12 Q Okay. Let's take a look for a moment at the testimony
13 of Jackie Collett, the fingerprint expert that presented
14 testimony for the State in this case.

15 Moments indulgence, Your Honor.

16 (Pause.)

17 Q Do you have a copy of the transcript?

18 A No, ma'am.

19 MS. WHITE: May I approach, Your Honor, and hand this
20 to Mr. Richey?

21 MS. SHURLING: And, Your Honor, for the record, because
22 this was an Anders brief situation on direct appeal, the
23 entire trial transcript was reproduced in the record on
24 appeal. What is ordinary practice on appeal is for the
25 trial transcript to be put in first in the record on appeal

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1 so that you can maintain the integrity of the page numbers.
2 from the original trial.

3 For whatever reason, that was not done in this case,
4 and a number of other documents were put ahead of the trial
5 transcript in the record on appeal. We are using here
6 today, in all of our references, references to the record on
7 appeal page numbers, which are handwritten at the bottom of
8 the page rather than the trial transcript pages.

9 In Mrs. Collett's testimony, looking at Page 460 in the
10 record on appeal, looking at Lines 8 through 11, she first
11 testifies to her determination that the latent print was
12 known to be that of Mr. Walker, and then she says and it's
13 been verified by a second latent print examiner in my
14 office.

15 Do you see that?

16 A Yes, ma'am.

17 Q Why didn't you object to that?

18 A I don't know. I didn't.

19 Q Was a second latent print investigator from her office
20 there to testify?

21 A No, and it's, it's -- I didn't think it was a dispute
22 of whose fingerprint it was. I don't think that was ever
23 disputed.

24 Q Well, would you agree that the presence of the so
25 called bloody palm print inside the victim's car was one of

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1 the strongest pieces of evidence against your client?

2 A It was, yes.

3 Q And that this statement informed the jury that the
4 conclusions of Captain Collett had been verified by a second
5 expert?

6 A Yes, ma'am.

7 Q And that expert was not there for you to question?

8 A Yes, ma'am, that's correct. It should of been objected
9 to.

10 Q Thank you.

11 Moving along, did you interview any of the other people
12 who would of been present at a trailer that was referenced
13 throughout the testimony of Mr. Gentry as being sort of the
14 hub of the mornings activities when this supposed deal with
15 the victim was being set up?

16 A No, I had an investigator doing that. He talked to
17 them. I met with the investigator to see what the extent of
18 the testimony would be, and the general feeling that -- I
19 have an investigator who talked to those folks.

20 Q Okay. Do you have any notes in your file concerning
21 any interview with a witness by the name of Cynthia Thacker?

22 A No, ma'am, I don't. I don't recall, no, ma'am.

23 Q How about Kenneth Foster, that name ring any bells?

24 A No, ma'am, whatever the names that was furnished to us,
25 that's who the investigator talked to.

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1 Q Okay. Now, moving from the testimony of Mr. Gentry for
2 a moment to that of a Mr. Annus, do you recall the testimony
3 of Mr. Annus in this case?

4 A Yes, ma'am, I recall the testimony.

5 Q And his testimony was pivotal to the State's theory of
6 the case in what regard?

7 A He was the guy that basically was involved in the
8 supposed set-up if I recall correctly. He's the guy that
9 was, supposedly had phoned that was involved in alleging to
10 luring the guy over to Isaiah's place.

11 Q Did you do any investigation into the background of
12 Raymond Annus?

13 A From what I was told by Mr. Annus, he was a guy that
14 basically did pills I mean, and he bought -- basically did
15 them. He's basically a guy that used pills all the time
16 basically.

17 Q And Mr. Annus, of course, testified at trial that he
18 did not know the victim, Mr. Hubbard?

19 A Yes, ma'am.

20 Q Is there any particular reason why you didn't ask him
21 whether or not he knew Brent Gentry?

22 A I don't, I don't know why I did not ask him that. But
23 if the record reflects I did not, I didn't ask him, I didn't
24 and maybe I should have.

25 Q If the theory of the defense that you were trying to

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1 develop through your cross-examination -- pardon me.

2 Excuse me, Your Honor.

3 Cross-examination of the State's witnesses was that
4 Brent Gentry was the shooter?

5 A Yes, ma'am.

6 Q And that he was lying about your client's role in this
7 crime?

8 A Yes, ma'am.

9 Q Would it not have then been crucial to establish that
10 Mr. Annus would have some conceivable motive for either
11 testifying against your client or for testifying for Brent
12 Gentry?

13 A Yes, I agree with that, yes, ma'am.

14 Q And as far as you know, neither you nor your
15 investigator did anything to investigate that particular
16 potential connection?

17 A Not that I can remember, no, ma'am. I'll say no cause
18 I don't remember.

19 Q Okay. As concerns that infamous palm print, did you
20 have discussions with your client about the nature of that
21 piece of forensic evidence before trial?

22 A Yes.

23 Q And can you recall for us what, if anything, you told
24 your client about that palm print?

25 A The way that -- what we, what -- we talked about the

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1 print before trial. My whole issue was gonna be okay, we
2 send this thing off to get tested, is it gonna be us, yes or
3 no. I mean that's, that's just the bottom line for me. If
4 we send it off, is it gonna be us period.

5 Okay. Talking to Isaiah, I determined it was going to
6 be us. Okay. Now, if it's going to be us, then, at that
7 point, I could send it out, test it, do this, but if it's
8 gonna be us, and I got an independent tester, the State
9 would have the right to see that, and I didn't want anything
10 to verify their expert. And, so, that was my whole deal
11 with that palm print.

12 The, the manner that was on the card is just that I
13 wanted to know is it going to be us. Okay. And if it's
14 going to be us, then we are not about to do something to
15 make that evidence stronger than what it is.

16 Q Mr. Richey, in your closing argument there's a portion
17 where you're referencing that palm print, and you're talking
18 about it being black and there being red on it, and that it,
19 it wasn't in red, it was black with red on it.

20 A Uh-huh. (Affirmative).

21 Q Do you remember---

22 A Yes, ma'am.

23 Q ---that portion of your argument?

24 A I can remember it, yeah, going -- yes, ma'am.

25 Q Was there any forensic evidence to dispute the State's

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1 claims that the actual palm print was made with blood as the
2 agent leaving the print?

3 A I don't know. I don't recall the -- I don't know.

4 Q Okay. Do you recall the State arguing that, just like
5 you make a print with ink and you roll it and you make a
6 print, that the same thing could happen if you got blood on
7 your hand?

8 A Yes, ma'am.

9 Q Okay.

10 A Yes, ma'am.

11 Q So, my question is was there anything scientific or
12 forensic that you had done in your preparation of this case
13 to support the idea that this was a palm print that had
14 blood on top of it as opposed to being a print made with
15 blood?

16 A As a said earlier -- the answer would be no.

17 Q Okay.

18 A The answer would be no.

19 Q And had you discussed with Isaiah Walker, prior to
20 trial, your plan to try to characterize this print as a
21 print with blood on it as opposed to a print made in blood?

22 A I don't know if I sit down and went through it like
23 that with him, no. No, I didn't do that. I didn't do that.
24 I mean I -- no, I didn't do that.

25 Q Did you ever tell him that you believed you could

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1 discount the weight of that evidence?

2 A No, I didn't tell him I could discount it cause I, I
3 knew all along that it was our print. You see, that's the
4 problem we've got with doing -- I mean, I mean I guess I
5 could of investigated -- I guess I could do all, did
6 something to prove, disprove what he was telling me. I
7 just -- I mean, I mean if you tell me it's his, then I
8 didn't have to investigate, try to investigate to disprove
9 what he's saying, and the, the problem with that is that I
10 did not -- that fingerprint, I knew it was ours. I knew it
11 was bad. Okay. I didn't want to do anything to compound
12 it, okay, to, to, to make it worse I should say.

13 Q I can clarify. I have been less articulate than I'd
14 like to be.

15 A Yes, ma'am.

16 Q I'm not asking why you didn't get it independently
17 tested or anything like that.

18 what I'm asking is, prior to trial, during the time
19 period when your client would of been making a decision
20 about whether or not to go to trial---

21 A Uh-huh. (Affirmative).

22 Q ---did you ever tell him that you thought you could
23 raise a question in the jury's mind about that palm print by
24 portraying it as a print with blood on top of it as opposed
25 to a print made in blood?

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1 A When I, when I talked to him about making the decision
2 whether to plea or not, I just said I think your theory of
3 what we're doing here is, is not good. Okay. We got some
4 problems. And, so, I didn't go through, when we talk about
5 the fingerprint, the hand print, palm print, I didn't do
6 that. I just said look, this case, with the way we're doing
7 it, we really need to consider taking this offer.

8 Okay. So, I did not specifically say this and that. I
9 just said hey, the way this is going, and I think I
10 mentioned earlier about the evidence versus what he was
11 saying.

12 Q Okay. Now, what about the strength of the DNA evidence
13 in this case.

14 Did you ever have discussions with your client about
15 the results of the DNA testing?

16 A Yeah. Yes, ma'am, I went over whatever evidence I went
17 over all with him at the jail. I went over it with him in
18 totality.

19 Q Did you ever convey to him, in anyway, the belief that
20 the DNA testing in this case was inconclusive?

21 A What happened, the clothes that were thrown into the
22 pond, I sent those ponds off, I sent, I sent those clothes
23 off to be tested cause I wanted to see whether there was any
24 that, whether there's any fibers of Gentry or somebody else
25 in those clothing, and when the test came back, that was

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1 inconclusive. They told me that they couldn't find anything
2 on the clothes and all that.

3 So, I told my client that that test was inconclusive.
4 I don't know if that's what you're referring to, but that,
5 that was inconclusive, yes, ma'am.

6 Q Okay. So, any discussion you had with your client or
7 your client's family about the DNA evidence being
8 inconclusive was specifically with reference to the clothing
9 that was found in the pond?

10 A Yes, ma'am, that's what I recall is that the clothing
11 in the pond that we sent out to get tested it was
12 inconclusive.

13 Q Did you make it clear to your client that the
14 inconclusive finding only extended to that clothing and did
15 not extend to other blood evidence in this case?

16 A Yes, ma'am. I -- yes, ma'am, we went through the
17 discovery.

18 Q Let's go back to the testimony of Brent Gentry for a
19 second.

20 Now, it's fair to say that Mr. Gentry was the State's
21 witness, isn't it?

22 A Yes, ma'am.

23 MS. SHURLING: Okay. And we can look at his testimony,
24 Your Honor, a moment. I need to convert back to the record
25 on appeal page numbers.

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1 On cross-examination you questioned Mr. Gentry about
2 the fact that he was in jail at the time of the trial.

3 A Yes, ma'am.

4 Q And that despite his assertions that he was in jail for
5 murder, that he had actually been released on bond on the
6 murder, right?

7 A Yes, ma'am.

8 Q And I'm gonna flip to Page 561 of the transcript,
9 again, using the record on appeal pages.

10 On 561 you say you did something to get yourself back
11 in jail, correct?

12 A Yes, ma'am.

13 Q And he says no, sir, and you say huh, and he says yes,
14 sir.

15 Remember that?

16 A If the transcript says it I don't argue with the
17 transcript.

18 Q Okay. Going over to the testimony on Page 520, you
19 elicit from him the fact that, despite his assertion that
20 nothing had been promised, that what he was hoping for was
21 to have his murder charge dismissed.

22 A Yes, ma'am.

23 Q Correct?

24 A Yes, ma'am.

25 Q Why didn't you ask him any further questions about what

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1 he had done that had landed him back in jail?

2 A I don't know. I can't answer that.

3 Q Would it be fair to say, Mr. Richey, that any pending
4 charges Brent Gentry had at the time of this trial would be
5 fair game for questioning pursuant to Giglio for impeachment
6 purposes?

7 A I would agree with that, yes, ma'am.

8 Q Okay. And do you recall getting a copy of Brent
9 Gentry's SLED record --

10 A I know.

11 Q -- in the discovery package?

12 A Yes, ma'am, I got it.

13 Q It reflected -- well, let me be fair and hand you a
14 copy.

15 A You can read it. You can read it to me.

16 Q I have another one.

17 A Okay.

18 Q Let me get my copy opened to the right place and we'll
19 pick right back up.

20 It reflected, did it not, that he had a 2005 drug case
21 for which he had received a sentence of four years suspended
22 with two years probation?

23 A That's correct.

24 Q Now, moving forward, this trial took place, as we've
25 already discussed, in May of 2007, correct?

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1 A Yes, ma'am.

2 Q Okay. Looking a little further down on the criminal
3 record of Brent Gentry, it shows that in April of '07, he
4 was arrested for entry on another's land on April 12th,
5 2007.

6 Do you see that?

7 A Yes, ma'am.

8 Q Okay. Now, going on down on July 3rd, 2007, which is
9 after the conclusion of this trial, Brent Gentry had a
10 judgment entered for accessory after the fact to a felony
11 Class A, B, or C for which he got eight years, and
12 referencing back to the original, the 2005 drug charge, he
13 got 46 months, which is the four years that he had hanging
14 over his head on probation, correct?

15 A Yes, ma'am.

16 Q Okay. Would it not have been appropriate for you to
17 question Brent Gentry not only about the murder charge he
18 had pending, but about the fact that he was facing a
19 probation revocation proceeding on a four year drug charge
20 that was hanging over his head?

21 A Yes, I think that's proper, yes, ma'am.

22 Q And was there any particular reason why you did not
23 question him about that?

24 A No, ma'am, I can't, I can't recall why, but it's proper
25 for cross-examination.

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1 Q Okay. And, again, so we can agree, you know that you
2 had Brent Gentry's prior record --

3 A I had it.

4 Q -- in the file?

5 A Yes, ma'am.

6 Q And it was part of the discovery materials?

7 A Yes, ma'am.

8 Q And we can tell from the transcript from your
9 cross-examination of him that you knew he'd been picked up
10 for something else?

11 A I knew it. I mean---

12 Q Okay.

13 A ---I had the record. I knew it.

14 Q And as a practicing criminal defense attorney, you
15 would of known, would you not, that if you're on probation
16 and you get arrested for something else, it's going to
17 trigger a probation revocation action?

18 A It could. It could. It could.

19 Q Well, and, in fact, the record reveals that it did?

20 A Yes, ma'am, it did.

21 MS. SHURLING: Okay. A moments indulgence, Your Honor.

22 (Pause.)

23 MR. SHURLING: Your Honor, for the record, there was a
24 copy of Mr. Gentry's record somewhere in the voluminous
25 discovery materials in this case. I couldn't put my hands

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1 on it when we were getting ready for this proceeding. The
2 witness has acknowledged that there was a copy of that
3 record in the discovery materials.

4 The copy that I've been referencing here today was run
5 from the SLED records department on September 5th, and I
6 provided respondent a copy, and I would move to introduce a
7 copy of that copy of Brent Gentry's record at this time as
8 Applicant's 2.

9 MS. WHITE: No objection, Your Honor.

10 THE COURT: It's admitted.

11 (WHEREUPON, the record was marked as Applicant's
12 Exhibit No. 2 and received into evidence at this time.)

13 Q In the testimony of Raymond Annus, which begins on Page
14 600 of the record on appeal, there is some brief questioning
15 of Mr. Annus concerning the fact that he has purchased
16 marijuana before?

17 A Yes, ma'am.

18 Q And that he smoked marijuana?

19 A Yes, ma'am.

20 Q If you had knowledge that he was in the habit of
21 trading his medication for that marijuana, why didn't you
22 question him about it?

23 A I don't know. I don't know. I can't recall. I don't
24 know. It's something maybe I should of questioned him about
25 that, but I don't know why I did or didn't.

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1 Q Okay. And forgive me if I've asked this already --

2 A Yes, ma'am.

3 Q -- I am not certain I did, did you say you had any
4 particular strategic or tactical reason for not asking
5 Mr. Annus about what, if any, relationship he had to Gentry?

6 A I don't think I had a strategic point of not doing
7 that, no, I don't think so.

8 Q Okay. Now, you did not raise any objections to the
9 jury charge given in this case --

10 A No, ma'am.

11 Q -- and nor am I gonna suggest that you should of, but I
12 do have a question for you.

13 A Okay.

14 Q If your client had testified that he was not present
15 when Mr. Hubbard was actually shot, and that he only, after
16 the fact, assisted Mr. Gentry in disposing of the body, your
17 client would of been entitled to an instruction on mere
18 presence, would he not?

19 A I would of assumed that's what his testimony is
20 gonna -- if -- that's not what my understanding of his
21 testimony would of been. But if it came out that way, I
22 would agree with that, yes.

23 Q Okay.

24 A Yes.

25 Q And, of course, if your client denied having any prior

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1 plan with Mr. Gentry to engage in a drug transaction, rob,
2 do anything to Mr. Hubbard, you would of had a viable
3 argument against any suggestion of accomplice liability as
4 well?

5 A Yes, ma'am, absolutely.

6 MS. SHURLING: Okay. A moments indulgence, Your Honor.

7 (Pause.)

8 MS. SHURLING: Approach, Your Honor?

9 (The Court nods affirmatively.)

10 Q Mr. Richey, do you recognize this letter?

11 A Yeah.

12 Q Okay.

13 A Yes, ma'am.

14 Q The -- in this correspondence you say, and I quote,
15 "there are statements by your girlfriend attributing the
16 murder to you."

17 A Uh-huh. (Affirmative).

18 Yes, ma'am.

19 Q Were you referring to written statements?

20 A I was referring to the statements that I just told you
21 she had made, the statement I previously talked about, and I
22 wanted Isaiah not to be talking to her at all because, at
23 that point, I deemed her to be not favorable to us, and I
24 wanted to make sure that he understood that, at the jail,
25 his phone calls would be recorded, and that he -- yeah.

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1 So, I didn't want, I didn't want her, him talking to
2 her because I didn't know where she's, what she was doing in
3 that context. I wanted, I wanted him to know to stay away
4 from her until we can figure it out, as the letter
5 reflected, to let Tony, and Tony's the investigator, let
6 Tony talk to her and go through Tony so we don't have this,
7 you know, he said this to me, and that. So --.

8 Q I understand.

9 A That's correct. That's correct.

10 Q I want to go back carefully for a moment though.

11 A Yes, ma'am.

12 Q It was your recollection that there was a mention in
13 the investigative report of someone having had an
14 altercation with Amanda.

15 A Yes, ma'am.

16 Q And---

17 A Yes, ma'am.

18 Q I'm sorry. And -- I was talking over you. I
19 apologized.

20 A Yes, ma'am.

21 Q And that person, the person with whom Amanda had the
22 altercation, had reported to law enforcement that Amanda
23 said I'm gonna pull an Isaiah on you?

24 A Yeah, I think that I -- I think that's the gist of it,
25 yes, ma'am.

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1 Q And is it your position that there was a written
2 statement from Amanda acknowledging having made that
3 statement to this witness?

4 A I think it was -- she had written that on the walls
5 over at the school. Okay. Amanda had written it over on
6 the walls at school. And, so, I did not want her to be a
7 part of him. I mean that was too risky for him to go talk
8 to her at that point. I said stay out of it and let the
9 investigator talk to her because anything that's remotely
10 implicating him in this crime -- I just didn't think he
11 needed to talk to her. I think he needed to go through the
12 investigator on that one.

13 Q I understand that. I think you've made that clear.

14 A Yes, ma'am.

15 Q But my point is the, the statement that was attributed
16 to Amanda --

17 A Uh-huh. (Affirmative).

18 Q -- as being wall graffiti at school was I'm gonna pull
19 an Isaiah on you?

20 A Uh-huh. (Affirmative).

21 Q There were no statements anywhere in the discovery in
22 which Amanda gave up Isaiah, if you will, and testified to
23 having knowledge of him having committed this murder?

24 A See, that's what I was afraid of. See, that's what I
25 was afraid of, that somehow the State would get a hold of

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1 her, and she would then say that. That -- I was scared of
2 that because if she's going to write that on the school and,
3 and do that, I didn't think that was in his best interest.

4 I didn't want to wait to figure out what she was
5 talking about. I just said client, stay away from her. Let
6 the investigator do it because, at the time the State, this
7 thing was written, we're in the middle of this guy's murder
8 trial, and for her to go and say I'm gonna pull an Isaiah
9 and all this stuff on you, I just said we're staying away
10 from that, we're staying away her, stay away from her.

11 Q Okay. Let me back up for a second.

12 A Yes, ma'am.

13 Q You're saying at the time this thing was written you
14 were in the middle of the murder trial?

15 A Middle of the case. Not the trial.

16 Q Middle of the case?

17 A Yeah, not the trial itself.

18 Q Okay.

19 A No, we're in the case.

20 Q And the letter that you sent your client in February
21 for the trial in May --

22 A Yes, ma'am.

23 Q -- tells him that they're statements by your girlfriend
24 attributing the murder to you.

25 A Yeah.

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1 Q And you're acknowledging here today that those
2 statements consisted exclusively of this I'm gonna pull an
3 Isaiah on you?

4 A I interpreted that to mean that she was saying that he
5 was involved in this murder. That's how I interpreted that
6 statement, and I was not going to water that statement down
7 one bit. If we're in a trial and she says pull an Isaiah,
8 she's fighting with people, I attribute her to saying that
9 he had done something really wrong, and we're in the middle
10 of him being charged with murder.

11 It wasn't, it wasn't the best timing on her part to
12 write that. I mean if she didn't write it, no big deal, but
13 when you write something like that and he's sitting in jail
14 for a murder charge, I'm gonna assume that she will be
15 talking about she's gonna kill the person. That's, that's
16 the assumption, that's the leap I made, and I wanted him not
17 to -- I want it to be clear to him, and that, that's a
18 strong letter, clear to him to stay away from this girl --

19 Q I understand.

20 A -- and let the investigator deal with her. So, I
21 interpreted the statement that strong.

22 Q Well, let's go ahead and introduce the letter as
23 Applicant's 3.

24 Without objection?

25 MS. WHITE: Without objection.

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1 (WHEREUPON, the letter was marked as Applicant's
2 Exhibit No. 3 and received into evidence at this time.)

3 Q So, we're in agreement that the letter conveyed what it
4 conveyed about the statement, but it also was intended to
5 cut off any direct communication between your client and his
6 girlfriend, Amanda?

7 A Absolutely. Absolutely.

8 Q And, again, you didn't interview Amanda?

9 A No, I did not interview her and because she was a mixed
10 bag.

11 Q Okay. Do -- can you present testimony here today that
12 your investigator definitely interviewed her?

13 A No, and, and I would say I just felt like that she was
14 a witness that was not going to help us.

15 Q But you made that determination without talking to her?

16 A Yes, ma'am, I made that determination based off what
17 she wrote, the timing of the case, and of, and the State
18 wanted to call her as a witness.

19 Q And, again, you're not representing to the Court that
20 your investigator interviewed her either?

21 A I don't know if he did or didn't call. I can't recall
22 if -- he may have. If I wrote the letter, then -- if I
23 wrote the letter -- if I wrote the letter -- I don't know
24 whether he did or he didn't.

25 Q Okay.

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by Ms. Shurling

1 A But he done a good job for us.

2 Q Well, you have your file with you here today?

3 A No, ma'am.

4 Q Did you get a subpoena from my office?

5 A Yes, ma'am, I got a subpoena.

6 Q And did that subpoena not direct you to bring with you
7 your file in this case?

8 A It did. I got it yesterday and I don't have it, but I
9 provided the file, made it open access. I had it in my
10 office. I emailed the things. So, you know, I wasn't---

11 Q I understand.

12 A Yes, ma'am.

13 Q But I'm unaware of anything, and I'm, I'm just asking
14 if you are, you're, you're not testifying that you have any
15 specific recollection of any kind of report through your,
16 from your investigator or anything about an interview with
17 Amanda?

18 A I have no recollection of it, I will say that.

19 Q Thank you.

20 Moments indulgence.

21 (Pause.)

22 MS. SHURLING: I have no further questions. If you
23 would please answer the State's questions.

24 CROSS-EXAMINATION

25 BY MS. WHITE:

Rodney Richey - Cross-examination
by Ms. White

1 Q Mr. Richey, how did you become involved with
2 representing the applicant in this case?

3 A His mother came there and asked me to represent him.

4 Q And you knew the family from past or---

5 A Yes, very, very, very, very good family. I mean
6 outstanding family.

7 Q Okay. And in regards to, I guess, the investigation to
8 start off with, you said you used an investigator?

9 A Yes, ma'am.

10 Q And was this someone you had used in the past in cases?

11 A A former police officer, yes, ma'am.

12 Q Okay. And you felt comfortable with his work and
13 sending him out---

14 A Yes, ma'am.

15 Q ---to do the investigation?

16 A Yes, ma'am.

17 Q In regards to defenses in this case and this trial
18 strategy, you've talked -- we talked a little bit about a
19 bloody handprint, whether or not the applicant was involved
20 in the shooting, or just involved in perhaps moving the body
21 afterwards.

22 Can you tell us a little bit about what the main
23 strategy was for the defense?

24 A One of the main things was that he, he was -- he
25 didn't -- that the codefendant actually killed him, okay,

Rodney Richey - Cross-examination
by Ms. White

1 and, and that was our theory, that he killed the guy because
2 our guy, Isaiah, I mean after the murder happened, his
3 conduct wasn't consistent with him killing the guy. I mean,
4 I mean he didn't try to run from the cops. He didn't do
5 anything.

6 I mean his conduct was not consistent with someone who
7 had just murdered someone, and that, that was one of the
8 problems in the case is that Isaiah's -- I mean his conduct
9 was not consistent with, in my view, I mean the State had a
10 different opinion, but, in my view, was not consistent with
11 someone who had just murdered the guy.

12 Q And, to your knowledge, Mr. Walker and Mr. Gentry, who
13 is, you're referring to as the codefendant, is that right?

14 A Yes, ma'am.

15 Q Okay. And those two gentlemen were arrested both for
16 the murder initially?

17 A Yes, ma'am.

18 Q Okay. And, ultimately, Mr. Gentry testified against
19 Mr. Walker obviously?

20 A Yes, ma'am.

21 Q Now, was there any -- I know you said that was, you
22 know, the theory or defense.

23 was there any concrete evidence that could place
24 Mr. Gentry at the scene of the crime, which was in front of
25 the applicant's home, that you recall?

Rodney Richey - Cross-examination
by Ms. White

1 A I don't recall. I don't know if -- cause nobody,
2 nobody witnessed what happened. Okay. Nobody witnessed
3 this crime. I mean it wasn't any witnesses came forward and
4 say I was out there, I saw the shooting. So, the only
5 evidence that Gentry was actually there was him, himself,
6 and Isaiah, that was his story. So --.

7 Q And, so, in your attempts to work on the case, you
8 didn't have any evidence put forth, but it was essentially
9 discredit Mr. Gentry, try to discredit the evidence against
10 your client?

11 A Well, I mean, you, you know, I think Ms. Shurling
12 pointed out, you know, I think you cross-examined him for
13 truthfulness, and you, you say he's not telling the truth.
14 But, you know, you got to keep him there though. I mean I
15 can't say that he wasn't there. We got to keep him there
16 with the same people.

17 Q And I know it was pointed out that you didn't ask him
18 about this trespassing charge that had gotten him back in
19 jail.

20 On cross you talked with him about whether or not there
21 was animosity between the victim and the applicant, correct?

22 A Yes, ma'am.

23 Q You talked to him and you got him to admit that he
24 carried a gun sometimes because he was involved in drug
25 sales?

Rodney Richey - Cross-examination
by Ms. White

1 A Yes, ma'am.

2 Q You got him to admit that he had sold drugs in the past

3 --

4 A Yes, ma'am.

5 Q -- and was involved in drugs, and he admitted that he
6 had met the victim a couple times, is that right?

7 A Yes, ma'am.

8 Q Okay. So, you were able to try to attack him some in
9 regards to his story that he was just completely out of
10 this?

11 A Yes, ma'am.

12 Q And Mr. Annus, you talked about -- you didn't recall
13 whether or not you questioned him or why you didn't question
14 him about the possibility of trading pills.

15 Wasn't it pointed out by the State he had no record, is
16 that correct?

17 A As I recall from the transcript, yes, ma'am.

18 Q Okay. So, you would of just asked him questions based
19 on hearsay, some things that people had, had said or, or
20 rumor on the street or was there any evidence to support
21 that he traded the pills or was that a---

22 A No, I mean there wasn't any evidence, but I don't think
23 there was any dispute about that fact. I mean I -- there
24 wasn't any evidence that he did concrete, but I don't think
25 it was a disputed point, but that's what he did.

Rodney Richey - Cross-examination
by Ms. White

1 Q And he acknowledged that he had hung out with the
2 gentleman before and smoked weed, right?

3 A Yes, ma'am.

4 Q And, in fact, Mr., I think Mr. Walker in particular
5 and, and then Mr. Gentry also admitted that he had smoked
6 weed with the victim and Mr. Walker, is that right?

7 A Yes, ma'am. If the transcript says that---

8 Q Okay.

9 A ---yes, ma'am.

10 MS. WHITE: If you can give me just a minute here.

11 (Pause.)

12 Q Now, in regards to talking with them about the plea,
13 just to go back over, you said that you do recall
14 specifically talking with the applicant about a voluntary
15 manslaughter plea would give him an 85 percent?

16 A Yes, ma'am.

17 Q So, is it not likely that if you talked with him about
18 that you explained the difference between that and the
19 murder charge being day-for-day?

20 A In the murder cases, I've had -- that's one big line
21 that's drawn in the sand. You get, get out a day-for-day
22 and go to 85 percent. That's the, the line there.

23 Q So, obviously you were aware of that, the difference at
24 the time of Mr. Walker's trial?

25 A Yes, ma'am.

Rodney Richey - Cross-examination
by Ms. White

1 Q And if you explained the 85 percent, you were
2 explaining it that was good because he's not serving
3 day-for-day?

4 A I don't know if I said it was good. I'll just I say
5 talked to him. I mean Isaiah -- I mean it -- I talked to
6 him. It wasn't good. I'll say that.

7 Q I'm sorry.

8 Yeah, maybe a better option?

9 A well---

10 Q Okay.

11 A ---maybe.

12 Q In regards to the handprint, you said you pretty
13 much -- you didn't want to, to help confirm that your, that
14 your client was in the car in any sense kind of that day
15 because you had been informed that that handprint would come
16 back as his, is that right?

17 A If, if, if it was determined that it's his, I didn't
18 want to do anything to support that.

19 Q To help support the State's case?

20 A Because I couldn't stand up and argue anything if I had
21 a test that it was his. I have no argument. Zero.

22 Q Okay. And, so, when the folks that testified as to the
23 handprint, do you recall the thought process in regards to
24 was there anything to, to kind of attack that?

25 Was it contamination?

Rodney Richey - Cross-examination
by Ms. White

1 Was it their abilities to, to test?

2 A I, I -- the, the, the fingerprint expert, I, you know,
3 I knew she'd never be good for us, and, you know, cause
4 she -- I mean she -- I had some history with her and I knew
5 she wouldn't be good for us.

6 Q There was no question that the blood and the bullet
7 evidence was found in front of the applicant's home, is that
8 correct?

9 A Yes, ma'am.

10 Q And the clothing of the applicant, with his DNA, was
11 found at the pond where they'd been kind of scattered and
12 thrown?

13 A Yes, ma'am.

14 Q Okay. You talked about Chavez Miller, and he was being
15 listed as the State.

16 Were they -- did the, did the State test for his DNA in
17 the boots or the clothing or did they test for Mr. Gentry's?

18 A I think Mr. Gentry and Mr. Walker's, but, like I said,
19 I'm -- Chavez Miller, I wasn't really interested in him
20 getting in this trial.

21 Q Okay. And they found predominately Mr. Walker's DNA,
22 but there was also a mixture, wasn't there?

23 A Yes, ma'am.

24 Q Okay. And in that -- was that part of trying to throw
25 some suspicion on someone else to focus on the, someone else

Rodney Richey - Cross-examination
by MS. White

1 had been wearing those clothes?

2 A Yes.

3 Q But there was no one that could be actually identified
4 as the contributor to that DNA mixture other than
5 Mr. Walker?

6 A I'll agree with that.

7 MS. WHITE: If you'll give me just a moment, Your
8 Honor.

9 (Pause.)

10 Q In particular, you talked a little bit about calling
11 witnesses and that you had some witnesses to call, but you
12 decided not to, is that correct?

13 Is that---

14 A That's---

15 Q ---accurate?

16 A That's correct.

17 Q Okay. Do you recall the judge talking to you about and
18 talking to your client at the end of the trial about that?

19 A It's in the transcript, yes, ma'am.

20 Q Okay. And I'll point to Page 621 and 622 of the record
21 on appeal with regards to the Court going over Mr. Walker's
22 right to testify, and, in fact, the Court reviewed that with
23 him and actually asked him, and said your attorney has
24 informed me that you do not, that he does not intend to call
25 additional witnesses. Do you understand that as well?

Rodney Richey - Cross-examination
by Ms. White

1 He said yes, sir.

2 And do you agree with that decision?

3 Yes, sir.

4 Do you recall that?

5 A It's in the transcript, yes, ma'am.

6 Q Okay. And you testified that, in regards to your
7 client testifying, he specifically did not want to testify
8 was your understanding?

9 A He, he didn't want to testify. That's, you know, and I
10 talked to him about it, and, you know, I think a lot of that
11 had to do with our discussions. I mean if, if, if the story
12 I'm hearing now, he probably would of testified.

13 Q And he had given a statement to the police not
14 implicating himself, but just a statement as to what he did
15 that day, is that correct?

16 A Yes, ma'am.

17 Q And was that statement consistent throughout or
18 inconsistent?

19 Do you recall?

20 A It might of been some inconsistencies, but I, you know,
21 I, I -- you know, I think all that provided to me was, is
22 that Isaiah, you know, he had been stopped by the police and
23 actually had gotten out of the charge. So, I mean -- so,
24 the story he was telling about this murder, I mean he was
25 more sophisticated I believe than, than, than what he was

Rodney Richey - Cross-examination
by Ms. White

1 telling us.

2 Q So, you're saying that he was smarter than to have left
3 all this evidence and things around?

4 Is that -- am I --.

5 A I mean -- I, I said it's -- I, I thought for a long
6 time that Isaiah did not do this cause I just did not
7 believe -- I mean when you represent somebody, and, and have
8 some history with them, I just don't believe that, that -- I
9 didn't believe that Isaiah would let somebody just totally
10 incriminate him and just, you know, not -- I just didn't, I
11 just didn't think he would let someone stand there and
12 incriminate him, you know, throw his clothes off, you know,
13 you know, carry the dead body, do all this stuff, and then,
14 later on that day, the cops stops him for just, and I can't
15 remember, some small crime, and he sit there and talked his
16 way out of it and got out of that, and I just said well,
17 then he let's this guy do all this stuff on him at the pond.
18 It just wasn't real consistent. It wasn't real consistent.

19 Q Okay. And, and going back real quick to the defense at
20 the trial, and, in fact, that's some of what you pointed out
21 was the fact that that had Mr. Walker been involved or been
22 the shooter, the shooting occurred at his mother and
23 father's home in front?

24 A Right.

25 Q There was blood and multiple, ten, twelve, or so,

Rodney Richey - Cross-examination
by Ms. White

1 bullet casings left out on the front lawn for what appears
2 to be hours, is that right?

3 A It's -- you're talking seven or eight hours. I mean it
4 was plenty of time if they wanted to get back there, and I
5 just didn't believe that Isaiah would just, I mean, kill
6 somebody in his mama's front yard and leave all that stuff
7 for them when they get home, when they got home. I -- you
8 know, I never really could wrap my head around it because
9 he's got a really tight family. His mom and daddy -- I mean
10 you're talking about some good people, work hard all day,
11 and I just did not believe that Isaiah would allow that mess
12 to stay in front of his mama's house and have them come home
13 to that.

14 I just could not -- so, that's why the story was kind
15 of difficult for me because I do not believe that he would
16 let his mom come home that day---

17 Q And Gentry, in fact, testified, you crossed him on the
18 fact that at one point, when he drove up, he didn't even see
19 the blood or anything, is that correct?

20 A Yeah, that's correct.

21 Q And, so, that, that didn't really connect with the
22 story either?

23 A Yeah, and -- yes.

24 Q So, so, you tried to point the inconsistencies out
25 throughout the various investigator's testimony and so on?

Rodney Richey - Cross-examination
by Ms. White

1 A Yes.

2 Q Okay. And in the letter that was introduced, you
3 mentioned letting your investigator talk with Amanda. I
4 know we talked about you having no recollection.

5 But in your practice, would you have generally said
6 that if you didn't either intend to have him talk to her or
7 if she already talked to---

8 A I would of never talked to her because I deemed her to
9 be a potential State witness, and, you know, I just felt
10 like, when she done that, she was not trying to help us out.

11 MS. WHITE: Okay. Your Honor, I think that's all the
12 questions I have at this time.

13 MS. SHURLING: Briefly.

14 REDIRECT EXAMINATION

15 BY MS. SHURLING:

16 Q You -- and I noticed you're looking -- were you needing
17 a break, Mr. Richey?

18 A No, I'm fine. I'm fine.

19 Q Okay. Excuse me.

20 When you say when she done that, when she, I presume
21 you mean the graffiti on the bathroom wall?

22 A Yes.

23 Q What evidence was there that she was even the person
24 that wrote that on the wall?

25 A It is my understanding, and I derived that wasn't

Rodney Richey - Redirect examination
by Ms. Shurling

1 disputed. It was not disputed. You know, it wasn't
2 disputed, and it was something that I had met with the
3 prosecutor cause she talked to the prosecutor. I mean, in
4 my recollection, she talked to the solicitor.

5 And, so, this stuff was coming from that side of the
6 table, and when it was coming from that side of the table,
7 I -- she just offered no value to the case meaning she, she
8 was not there at the crime scene. She, you know -- I mean
9 she had offered no value. She just had the potential to
10 then start throwing all this stuff that Isaiah said he done
11 it. See, once -- I was afraid that once she started, then
12 Chavez Miller was gonna be behind that, and I didn't want
13 this train coming in here that Isaiah -- I could of
14 cross-examined them. I could of disputed them. I could of
15 done all that.

16 But when you let that cat out the bag when someone says
17 your client said he did it, that's not the kind of bag you
18 want to let out under no circumstances, and that's not --
19 and that's why the State had her there for trial.

20 Q If we take a look at, at Brent Gentry's testimony
21 again, during your cross-examination of Mr. Gentry you
22 solicited testimony from him on Page 574 that he didn't see
23 Chavez Miller all day.

24 Do you recall that?

25 A If the transcript says that I will not argue with it.

Rodney Richey - Redirect examination
by Ms. Shurling

1 Q And the transcript of record from the direct appeal
2 included something that was introduced as an exhibit at
3 trial, and that was the phone records of Jeffery Hubbard?

4 A Uh-huh. (Affirmative).

5 Q Correct?

6 A Yes, ma'am.

7 MS. SHURLING: Your Honor, I'm referring to Page 20 of
8 the record on appeal.

9 Moments indulgence, Your Honor. I misplaced a piece of
10 paper.

11 (Pause.)

12 Q Okay. And you referred a little while ago to a
13 statement that was in the discovery from Chavez Miller in
14 which he claimed that your client had confessed to him.

15 A Essentially that's correct, yes, ma'am.

16 Q Can you identify this?

17 A Yeah, that's okay.

18 MS. SHURLING: Your Honor, this would be Applicant I
19 believe we're on 4.

20 MS. WHITE: No objection, Your Honor.

21 THE COURT: It's admitted.

22 (WHEREUPON, the statement was marked as Applicant's
23 Exhibit No. 4 and received into evidence at this time.)

24 Q I'm gonna let you hold on to that for just a second
25 while I get my copy of the record on appeal, and do you have

Rodney Richey - Redirect examination
by Ms. Shurling

- 1 a copy up there with you---
- 2 A No, ma'am.
- 3 Q ---of the record on appeal?
- 4 A No, ma'am, but I can look at yours.
- 5 Q On Page 20 -- well, first off, let's look at this
- 6 statement together.
- 7 In the top left-hand fourth line down---
- 8 A Yes, ma'am.
- 9 Q -- what question is asked?
- 10 what information is on the fourth line down?
- 11 A Okay. I would -- I was at the county getting
- 12 personal---
- 13 Q No, sir, Your Honor. On the top of the form.
- 14 A Oh, okay.
- 15 Q I mean -- pardon me, Mr. Richey.
- 16 A No.
- 17 Q About to put a black robe on you. I'm sorry.
- 18 A Phone number?
- 19 Q Yes.
- 20 A Yes, ma'am.
- 21 Q And what's that phone number?
- 22 A That phone number is --6988.
- 23 Q And the date of this shooting was February 17th,
- 24 2006?
- 25 A Uh-huh. (Affirmative).

Rodney Richey - Redirect examination
by Ms. Shurling

- 1 Q Is that correct?
- 2 A Yes, ma'am.
- 3 Q If I can get you to look at the victim's phone records
4 found on Page 20 --
- 5 A Okay.
- 6 Q -- of the record on appeal?
- 7 A Okay.
- 8 Q There are two places that are marked with a red star.
9 Can you identify what those show?
- 10 A They show the number, the exact same number that I
11 read.
- 12 Q And that would be a phone call what, sir?
- 13 A This is---
- 14 Q According to the records, that is the phone call --
15 the -- a number dialed by Jeffery Hubbard --
- 16 A Uh-huh. (Affirmative).
- 17 Q -- on the morning of February 17th, 2006, which was
18 the morning, the day Jeffery Hubbard was shot to death,
19 correct?
- 20 A That's correct.
- 21 Q Did you consider using the phone records that were in
22 evidence and the phone number provided on this statement to
23 establish that Chavez Miller had been in contact with the
24 victim on the day of the shooting?
- 25 A No.

Rodney Richey - Redirect examination
by Ms. Shurling

1 Q Now, the respondent had you exploring for a few minutes
2 possible reasons for the way your client talked to the
3 police when he was originally stopped.

4 A Yes, ma'am.

5 Q The record will reflect that even, according to Gentry,
6 these two young men, Gentry and your client, had known each
7 other for ten years?

8 A Yes, ma'am.

9 Q Isn't that correct?

10 A Yes, ma'am.

11 Q They were close friends?

12 A I mean not -- I mean from, from my client's telling me
13 they were not close friends. He, he, he said that he knew
14 Gentry, but that was one of the first times he had really
15 hung around him and that they were not tight tight like
16 that, but they were friends. That was his description.

17 Q Well, that's kind of my point.

18 When the State elicited testimony from Brent Gentry
19 that he knew the victim, had seen him a couple of times, but
20 that he'd known the defendant for ten years --

21 A Uh-huh. (Affirmative).

22 Q -- is there any particular reason why you did not
23 cross-examine him more concerning what, if any, real close
24 relationships he had with your client?

25 A He didn't -- I mean he didn't have a -- they -- Isaiah,

Rodney Richey - Redirect examination
by Ms. Shurling

1 Isaiah knew him and, and from what, my understanding, knew
2 his reputation, but -- and had some dealings with him. But
3 it was not a close friend of his. But he had known him an
4 extended period of time. But he did not -- he had some
5 dealings with him. He didn't like his dealings with him.

6 Q Okay.

7 A Yes, ma'am.

8 Q Now, I believe that it was your testimony earlier that
9 you were trying to keep Chavez Miller out of this trial,
10 right?

11 A Yes, ma'am, I did not want his statement to come in.

12 Q Then why did you question Brent Gentry at length on
13 cross about Chavez Miller and whether or not he had seen him
14 that day and so forth at trial?

15 A Because at that point I had some assurances that the
16 State would not, the State wasn't gonna use him. I had some
17 assurances the State was not gonna use that at all, but he
18 was here at trial. But I did not want his statement coming
19 in under no circumstances.

20 Q Weren't you afraid you were gonna open the door for
21 them to?

22 A No, cause I had some assurances that they wasn't gonna
23 call him.

24 Q And what was the reason that had been given to you for
25 why they weren't gonna call him?

Rodney Richey - Redirect examination
by Ms. Shurling

1 A I asked the solicitor, at that time was Donnie
2 willingham, the specifics of it, and at the end of the
3 conversation, it was, for my understanding, agreed upon that
4 they wouldn't call Amanda and they wouldn't call Chavez
5 Miller. That's---

6 Q Just being nice?

7 Just as a favor to you?

8 I mean I'm trying to understand why they didn't call
9 him.

10 A I, I told Mr. willingham, I think you got a lot of
11 problems with this guy, okay, and I don't think he's
12 trustworthy, okay, and I just think you have a lot of
13 problems with him. I don't think he's trustworthy. But I
14 got, and I wouldn't say an agreement, but I got a real firm
15 feeling from the State they were not gonna call him.

16 Q Thank you.

17 A moments indulgence.

18 (Pause.)

19 MS. SHURLING: That would be all from this witness,
20 Your Honor.

21 MS. WHITE: The State has nothing further, Your Honor.

22 THE COURT: You may step down.

23 WITNESS: Thank you, Your Honor.

24 MS. SHURLING: Your Honor, may we take a very brief
25 recess?

Rodney Richey - Redirect examination
by Ms. Shurling

1 THE COURT: All right. We'll take five minutes.

2 MS. SHURLING: Thank you, sir.

3 (WHEREUPON, a short recess was taken at this time.)

4 THE COURT: Who is your next witness?

5 MS. SHURLING: Pardon me, Your Honor?

6 THE COURT: Who is the witness?

7 MS. SHURLING: Your Honor, my next witness will be
8 Amanda Pruett Murphy.

9 Your Honor, would you like her to come on around?

10 THE COURT: Well, I understand she's right here. We're
11 waiting for the applicant.

12 MS. SHURLING: She's here, Your Honor.

13 THE COURT: Okay.

14 (WHEREUPON, the applicant comes into the courtroom at
15 this time.)

16 THE COURT: Okay. Next witness.

17 AMANDA MURPHY, having been first
18 duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. SHURLING:

21 Q State your full name for the record please.

22 A Amanda Pruett Murphy.

23 Q And, Mrs. Murphy, back at the time that the killing
24 we've been discussing here today took place, who was your
25 boyfriend?

Amanda Murphy - Direct examination
by Ms. Shurling

- 1 A Isaiah.
- 2 Q And how long had y'all been seeing one another?
- 3 A At least eight months.
- 4 Q Okay. And in the weeks or even months leading up to
- 5 his trial, were you ever interviewed by either Mr. Richey or
- 6 anyone from his office?
- 7 A No, I wasn't.
- 8 Q Amanda, I hate to ask you embarrassing questions, but
- 9 my job makes me sometimes.
- 10 Do you have any prior criminal record?
- 11 A Oh, yes, I do.
- 12 Q And what would that be for?
- 13 A Simple possession.
- 14 Q Simple possession?
- 15 A Uh-huh. (Affirmative).
- 16 Q You were arrested for that?
- 17 A Yes.
- 18 Q Okay. And was a judgment entered for that?
- 19 A Yeah, it's been dropped.
- 20 Q It was dropped?
- 21 A Uh-huh. (Affirmative).
- 22 Q Okay. With your permission, did we obtain your Social
- 23 Security number and run a background check on you through
- 24 SLED?
- 25 A Yes.

Amanda Murphy - Direct examination
by Ms. Shurling

1 MS. SHURLING: Any objection?

2 MS. WHITE: No objection, Your Honor.

3 MS. SHURLING: Applicant's 5.

4 For the record, Your Honor, a SLED record on Ms. Murphy
5 September 5th, which would be yesterday, indicated that
6 she had no arrest data on file with SLED.

7 (WHEREUPON, the document was marked as Applicant's
8 Exhibit No. 5 and received into evidence at this time.)

9 Q And you're telling us the only charge you were aware of
10 was a charge of simple possession of marijuana and it was
11 dropped?

12 A Uh-huh. (Affirmative).

13 Q Okay. Now, you've heard testimony here today about an
14 incident where you had a run-in with another young lady that
15 was reported as an assault?

16 A Yes.

17 Q Who was that woman?

18 A I couldn't even tell you her name.

19 Q Okay. And did you subsequently become aware that she
20 had reported graffiti on the school wall that threatened to
21 pull an Isaiah on her?

22 A I had no idea that any of that happened or I had no
23 idea that I did that.

24 Q Okay. Did you know anything about that until I
25 questioned you about it?

Amanda Murphy - Direct examination
by Ms. Shurling

1 A No.

2 Q And were you ever questioned by law enforcement about
3 making any such statement to her?

4 A No, I wasn't.

5 Q Were you interviewed by law enforcement?

6 A Yes, they came down when I moved to Myrtle Beach to go
7 to school, and they questioned me, and pretty much they
8 didn't listen to what I was saying cause I was trying to,
9 you know, tell them like stuff to support like, you know, to
10 help him out. So, they just left.

11 Q Okay. Were you present during Mr. Walker's trial?

12 A I was not.

13 Q Okay. Have you had an opportunity to read all or
14 portions of the trial transcript since the trial?

15 A I have not, no.

16 Q Okay. Did I discuss with you the fact that Mr. Gentry
17 reported that Isaiah said he shot the deceased because he
18 didn't want him to think he could get away with messing with
19 Amanda?

20 A Yes, you told me that.

21 Q Okay. Did you know Jeffery Hubbard?

22 A No, I had never met him.

23 Q Had you ever had conversations with anyone identifying
24 themselves as Jeffery Hubbard on a telephone?

25 A No, I didn't know who that was.

Amanda Murphy - Direct examination
by Ms. Shurling

1 Q To your knowledge, do you know any of Jeffery Hubbard's
2 close friends or associates?

3 A I went to school with his brother, but that's about it.

4 Q Okay. Can you think of a single incident that could,
5 in anyway, be described as Mr. Hubbard messing with you?

6 A Absolutely not, not. I didn't even know who the guy
7 was.

8 Q Okay. And if you had been called upon to testify on
9 Mr. Walker's behalf at trial, would you of been willing to
10 come and testify?

11 A Yes.

12 Q And being made mindful of the penalties for perjury,
13 would you of been willing to testify under oath that you did
14 not know Mr. Hubbard in any way, shape, form?

15 A Yes, I would.

16 Q And, once again, you were not interviewed by
17 Mr. Richey?

18 A No.

19 Q You were not interviewed by anyone from his staff?

20 A No, I wasn't.

21 Q And you were not questioned concerning graffiti at the
22 school---

23 A No.

24 Q ---that purported to quote you as saying you were gonna
25 pull an Isaiah on someone?

Amanda Murphy - Direct examination
by Ms. Shurling

1 A No, no one ever said anything about that.

2 Q And your discussions with me was the very first time
3 you knew anything about that?

4 A Yes.

5 Q So, if the young woman you had the run-in with reported
6 that, nothing was ever done to follow-up and check with you
7 to see if it was true?

8 A You're right, yes.

9 Q Okay. It's been a long time since this trial in 2007.

10 A Uh-huh. (Affirmative).

11 Q You're not dating -- well, that's obvious. He's locked
12 up.

13 But I mean have you maintained an ongoing romantic
14 relationship with Isaiah walker?

15 A Yeah, we were together I mean afterwards for a while.
16 I mean that doesn't really make a good relationship. So,
17 you know, obviously I had to move on. But we're still great
18 friends. I talk to him.

19 Q Okay. Now, so the record's very clear, you don't have
20 any children together?

21 A No.

22 Q Okay. So, you're not receiving any kind of financial
23 support from Isaiah or anyone in his family or circle of
24 friends?

25 A No, I'm not.

Amanda Murphy - Direct examination
by Ms. Shurling

1 Q And how long has it been since you and Isaiah
2 discontinued what you would call your romantic relationship?

3 A I mean we were together like a good while. Like
4 probably at least a good year after he went in. I mean we
5 were still---

6 Q So, for about a year after his incarceration you
7 maintained a romantic contact with one another?

8 A Yes.

9 Q So, from approximately 2008, sometime in 2008 until now
10 you have just been friends?

11 A Yes.

12 Q Have you been visiting him at the prison?

13 A I've never got to go visit him.

14 Q You've never been to visit him?

15 A Hu huh. (Negative).

16 Q Okay. And do you write him often?

17 A I don't have time.

18 Q Okay. Has anybody offered you anything, any kind of
19 compensation or reward or any favors or anything in exchange
20 for coming here to testify?

21 A No.

22 Q Do you know what perjury is, Amanda?

23 A Yes.

24 Q And you understand that it's a criminal offense for
25 which you can receive both jail time and a fine?

Amanda Murphy - Direct examination
by MS. Shurling

1 A Uh-huh. (Affirmative).

2 Q Despite your previous relationship with Mr. Walker and
3 whatever feelings of friendship you might harbor for him
4 today, would you, in anyway, risk prosecution for perjury to
5 testify on his behalf?

6 A No, I wouldn't.

7 MS. SHURLING: Moments indulgence.

8 (Pause.)

9 MS. SHURLING: Nothing further, Your Honor.

10 MS. WHITE: Your Honor, I have no questions for this
11 witness.

12 THE COURT: You may step down.

13 Kenneth Foster, Your Honor.

14 KENNETH SCOTT, having been first
15 duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. SHURLING:

18 Q would you state your full name for the record?

19 A Kenneth Foster Scott.

20 Q How old are you, Mr. Foster?

21 A I'm 57.

22 Q You and I are the same age. Okay.

23 A Thank you.

24 Q How do you know Isaiah walker?

25 A We grew up together.

Kenneth Scott - Direct examination
by Ms. Shurling

1 Q Pardon?

2 A He grew up in the neighborhood.

3 Q Okay.

4 A I know the family.

5 Q I'm gonna ask you to do me a favor. Everybody else in
6 the courtroom may have better hearing than me. But if you
7 can sit up a little bit close to the microphone and speak up
8 I'd appreciate it because my hearing is not the best in the
9 world, and that nice lady sitting next to you has to write
10 down every word you say.

11 You say you grew up in the neighborhood. Did you still
12 live in the same little community, I believe they call it
13 the Roebuck neighborhood---

14 A Yes, ma'am.

15 Q ---at the time this killing took place?

16 A Yes, ma'am.

17 Q And you still live there today?

18 A Today.

19 Q And, Mr. Foster, you have no criminal record at all, do
20 you?

21 A Yes, I do.

22 Q You do.

23 Okay. Well, SLED doesn't know about you either.

24 Tell me what you got.

25 A I got a traffic violations.

Kenneth Scott - Direct examination
by Ms. Shurling

1 Q Traffic violations.

2 Okay. And that's all?

3 A Non-support one time.

4 Q Sir?

5 A Non-support at one time.

6 Q Oh, you lost points one time?

7 A Non-support at one time.

8 Q Non-support.

9 Okay. But that's it?

10 A Well, that's about all.

11 Q Okay. Thank you.

12 Your Honor, for the record, I would introduce
13 Applicant's No. 6, which is a SLED record check confirming
14 no criminal record for this gentleman, and I will gladly
15 admit with the traffic violations---

16 MS. WHITE: With the exceptions, yes.

17 MS. SHURLING: ---and the non-support violations he
18 admitted on the stand.

19 MS. WHITE: Without objection, Your Honor.

20 (WHEREUPON, the document was marked as Applicant's
21 Exhibit No. 6 and received into evidence at this time.)

22 Q Mr. Foster, did you know Raymond Annus?

23 A Yes, I do.

24 Q How do you know him?

25 A Through contact during relationship being mutual.

Kenneth Scott - Direct examination
by Ms. Shurling

1 Q Sir?

2 A During -- he, he come to visit me for several of the
3 times. I'm a mechanic on the side and I works on his
4 vehicle and he come to me very often sometimes.

5 Q Okay. So, would you say you know him fairly well?

6 A Pretty well.

7 Q Okay. Do you have personal knowledge -- and before you
8 answer me, let me be real clear. I'm not talking about
9 rumors. I'm not talking about hearsay.

10 But do you have personal knowledge of Mr. Raymond
11 Annus' own drug use?

12 A Yes, I do.

13 Q Have you ever personally witnessed Mr. Raymond Annus
14 trade his lawful prescription medication for crack cocaine?

15 A I have seen that transaction.

16 Q Have you seen it more than once?

17 A Yes, I have.

18 Q Can you tell us approximately how many times you've
19 seen him do that?

20 A Numerous of times. I can't be specific about how many
21 times.

22 Q Okay. Now, I ask you and I'm gonna play fair and ask
23 on the stand too.

24 Did you ever see Mr. Annus trade pills for crack from
25 Mr. Gentry?

Kenneth Scott - Direct examination
by Ms. Shurling

1 A I'm not, I'm not familiar with Mr. Gentry.

2 Q Okay. And did you ever see Mr. Annus trade pills for
3 crack from Chavez Miller?

4 A No.

5 Q Okay. How about Mr. Hubbard, the deceased?

6 A Yes, I have.

7 Q On how many occasions?

8 A Several occasions.

9 Q Do you know what prescription medication Mr. Annus was
10 taking that he would trade for his crack?

11 A If I'm not mistaken, Lortabs or either Xanax. It's one
12 of the two.

13 Q Okay. If you had been asked for any information you
14 had concerning a relationship between Mr. Annus and the
15 deceased, Jeffery Hubbard, would you have been willing to
16 tell Mr. Richey or his investigator?

17 A I sure would have.

18 Q And would you have been willing to come to Court and
19 testify on behalf of Mr. Walker at trial if your testimony
20 had been required?

21 A Yes, I would have.

22 Q Now, I know you heard my questioning of Amanda, but I
23 have to ask you the same thing.

24 Are you real close friends with Mr. Walker's family?

25 A Yes, ma'am.

Kenneth Scott - Direct examination
by Ms. Shurling

1 Q Would you lie for them?

2 A No, ma'am.

3 Q Do you know what perjury is?

4 A Yes, I do.

5 Q Are you aware that it's a criminal offense that can
6 carry both a fine and/or some jail time?

7 A Yes, I am.

8 Q I understand that you like the walker's, but do you
9 like them enough to go to the jail for them?

10 A I'm not going to jail for anybody hopefully.

11 Q All right. Thank you.

12 One moment.

13 (Pause.)

14 MS. SHURLING: Nothing further.

15 MS. WHITE: Your Honor, I don't think I have any
16 questions of this witness.

17 THE COURT: You may step down.

18 MS. SHURLING: Your Honor, the next witness will be
19 Cynthia Diane Thacker.

20 CYNTHIA THACKER, having been first
21 duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. SHURLING:

24 Q Mrs. Thacker, in preparation for being called as a
25 witness here today, were you asked to provide my office or

Cynthia Thacker - Direct examination
by Ms. Shurling

1 someone on behalf of my office with your date of birth and
2 Social Security number?

3 A Yes.

4 Q And you understood that I was gonna run your criminal
5 record check before your testimony here today?

6 A Yes.

7 Q Okay. Now, unlike the two previous witnesses, you do
8 have a prior record, don't you?

9 A Yes, ma'am.

10 Q Can you reveal for us what prior criminal judgments and
11 sentence you have received?

12 A Well, no, I can't recall. It's been some years ago.
13 So, I can't even remember. I don't even know what they are.

14 MS. SHURLING: Okay. A moments indulgence, Your Honor.

15 THE COURT: Ms. Shurling, wouldn't this record speak
16 for itself?

17 MS. SHURLING: Sir?

18 THE COURT: I said doesn't this record speak for
19 itself.

20 MS. SHURLING: It does, Your Honor.

21 THE COURT: Okay.

22 Q All right. Mrs. Thacker, did you know my client,
23 Isaiah walker, prior to the time period when Mr. Hubbard was
24 killed?

25 A Yes.

Cynthia Thacker - Direct examination
by Ms. Shurling

1 Q How did you know him?

2 A Well, I been knowing him since he was a little boy.
3 But, you know, I also knew him coming down to the trailer
4 down there and stuff.

5 Q Okay. And did you live in a trailer at the time this
6 shooting occurred?

7 A Yes, ma'am.

8 Q Now, the testimony of Brent Gentry at Mr. Walker's
9 trial indicates that he and Mr. Walker went to a trailer in
10 Roebuck on the date that Mr. Hubbard was killed.

11 A Yes, ma'am.

12 Q Do you recall that?

13 A Yes, ma'am.

14 Q Who was at the trailer that morning?

15 A Me and Sheryl Miller and Isaiah. I guess that Gentry
16 guy cause I never seen him before. But it was just somebody
17 that was there different that I'd never seen before. The
18 guy who owned the trailer, Laddie, and Jeffery.

19 Q Now, you said Mr. Miller. I didn't catch the first
20 time.

21 That would be Chavez Miller?

22 A Yes.

23 Q Is there any question in your mind that Chavez Miller
24 was present there at the trailer along with the defendant
25 and Mr. Gentry that day?

Cynthia Thacker - Direct examination
by Ms. Shurling

1 A Yes, he was.

2 Q So, if Mr. Gentry testified under oath that he did not
3 see Chavez Miller all day that day, that would be untruthful
4 testimony?

5 A That's right.

6 Q While they were at the trailer, were they all sitting
7 around talking?

8 A Yes.

9 Q And was there anytime while they were there that
10 Mr. Gentry and Mr. Walker were there without Jeffery
11 Hubbard?

12 A No, they were all there together.

13 Q They were there -- who arrived first?

14 A Isaiah and -- no, Jeffery did. Jeffery was there
15 first.

16 Q And how much longer was it before Mr. Gentry and
17 Mr. Walker showed up?

18 A It was like several hours maybe.

19 Q Okay. And did Mr. Gentry and Mr. Walker come together?

20 A Yes.

21 Q Were they riding together?

22 A Yes.

23 Q Okay. And who left first?

24 A Isaiah and Gentry left first in the white car.

25 Q And how long after they departed did Mr. Hubbard leave?

Cynthia Thacker - Direct examination
by Ms. Shurling

1 A Right after them, but he stopped to talk to Chavez.

2 Q After?

3 You're sure about that?

4 A Yes, ma'am.

5 Q Okay. So, was there any time period in there when
6 Mr. Gentry and Mr. Walker would of been able to discuss out
7 in the open some kind of plan to set up Mr. Hubbard without
8 Mr. Hubbard hearing it?

9 A No.

10 Q Okay.

11 A Like a difference of maybe five minutes.

12 Q Okay. Now, what did you say about the five minutes?

13 A It was like maybe five minutes difference, you know,
14 from them leaving. He just stopped for a second to talk to
15 Chavez and then he left.

16 Q Okay. But even then they left first?

17 A Right.

18 Q Okay. So, any claim that there was a conversation at
19 the trailer and phone calls made from the trailer about this
20 plan to set up Mr. Hubbard would be untruthful?

21 A That's right.

22 Q If you had been interviewed by Mr. Richey or anyone on
23 his staff prior to this trial, would you have been willing
24 to come to Court and testify on behalf of Isaiah Walker?

25 A Yes, ma'am.

Cynthia Thacker - Direct examination
by Ms. Shurling

1 Q Now, has anybody promised you anything in exchange for
2 your testimony here today?

3 A No, ma'am.

4 Q Did anybody in Isaiah's family hold out any kind of
5 hope of reward or do you any kind of favors or anything in
6 exchange for being here?

7 A No, ma'am.

8 Q Now, Isaiah's been locked up since about 2007, right?

9 A Yes, ma'am.

10 Q Have you ever been to the prison to see him?

11 A No, ma'am.

12 Q Have you exchanged letters with him?

13 A No, ma'am.

14 Q Does he call you regularly?

15 A No, ma'am.

16 Q You don't have a baby with him, do you?

17 A No, ma'am.

18 Q So, you don't have any close affiliation with Isaiah
19 walker that would provide you with a motive to come here and
20 lie today?

21 A No, ma'am.

22 Q And you're aware of what perjury is?

23 A Yes, ma'am.

24 Q And you, you've heard me ask the other people. I'm not
25 gonna beat a dead horse.

Cynthia Thacker - Direct examination
by Ms. Shurling

1 But you wouldn't risk jail time or a fine --

2 A No, ma'am.

3 Q -- for any of these folks, would you?

4 A No, ma'am.

5 Q Thank you. Please answer any questions that the State
6 has for you.

7 MS. WHITE: Just briefly.

8 CROSS-EXAMINATION

9 BY MS. WHITE:

10 Q Mrs. Thacker, are you aware -- have you had a chance to
11 review the testimony that Mr. Gentry offered about the time
12 that was at the trailer?

13 A No, ma'am.

14 Q Okay. So, you're not aware that he, he did acknowledge
15 that, that the victim was already at the trailer when he and
16 Mr. walker arrived?

17 A I didn't --.

18 Q And you didn't know that they sat there and talked
19 about sitting there and all smoking, but that he said Isaiah
20 went outside to talk on his cell phone?

21 A No, ma'am.

22 Q Okay. And that Isaiah stayed outside for about five
23 minutes to have a conversation on the cell phone?

24 A No, ma'am.

25 MS. WHITE: Okay. That's all I have at this time, Your

Cynthia Thacker - Redirect examination
by Ms. Shurling

1 Honor.

2 REDIRECT EXAMINATION

3 BY MS. SHURLING:

4 Q I'm glad she reminded me.

5 Do you have any recollection of Isaiah stepping outside
6 for any period of time while he was there that day?

7 A No, ma'am.

8 Q If he had stepped outside -- first off, is this a
9 single wide, a double wide?

10 How big a trailer is it?

11 A It's like a single wide.

12 Q Okay. And is there anyway that Isaiah walker could of
13 stepped outside and been gone for five, ten minutes and you
14 not known it?

15 A No, ma'am.

16 Q None whatsoever?

17 A None whatsoever.

18 Q Thank you.

19 No further questions.

20 THE COURT: You may step down.

21 MS. SHURLING: Your Honor, at this time I would call
22 Isaiah walker.

23 ISAIAH WALKER, having been first duly
24 sworn, testified as follows:

25 DIRECT EXAMINATION

Isaiah Walker - Direct examination
by Ms. Shurling

1 BY MS. SHURLING:

2 Q State your full name for the record.

3 A Isaiah Fredrick Walker.

4 Q Okay. Isaiah, in my experience with you you are kind
5 of soft spoken. You've got a low voice and it's kind of
6 hard to understand sometimes. So, I'm gonna ask you to sit
7 up straight and speak directly into the microphone and try
8 to speak as clearly as you can so the court reporter can
9 hear everything and write it down.

10 Okay?

11 A (Witness nods affirmatively.)

12 I got you.

13 Q And remember what you said. Vocal answers. No head
14 answers.

15 All right?

16 A All right.

17 Q Okay. Thank you.

18 Now, when you were first stopped by the police and
19 questioned -- well, let me back up for a minute.

20 You and I discussed your case a lot, haven't we?

21 A Yes, ma'am.

22 Q And we have discussed the fact that any testimony you
23 give here today under oath has the potential for being used
24 against you in the future?

25 A Yes, ma'am.

Isaiah walker - Direct examination
by Ms. Shurling

1 Q And you're aware that any information you give here
2 under oath could be used, for example, to bring other
3 criminal charges against you?

4 A Yes, ma'am.

5 Q And you're aware that any information you give here
6 today, if you were blessed with a new trial, could be used
7 to impeach you or otherwise be used against you
8 potentially---

9 A Yes, ma'am.

10 Q ---in a future trial?

11 A Yes, ma'am.

12 Q Okay. When you were first stopped by the police
13 following the shooting death of Mr. Hubbard, why did you lie
14 to them?

15 A I was really just nervous.

16 Q Scared?

17 A Yes, ma'am.

18 Q How would you characterize your relationship with
19 Mr. Gentry?

20 Were you close friends?

21 A I wouldn't say close friends. I knew him.

22 Q Okay. On the day in question, were you hanging out
23 with Mr. Gentry?

24 A Yes, ma'am.

25 Q And were you at the trailer where Mrs. Thacker lived?

Isaiah Walker - Direct examination
by Ms. Shurling

- 1 A Yes, ma'am.
- 2 Q Did you go to that trailer with Mr. Gentry?
- 3 A Yes, ma'am.
- 4 Q Were you riding together?
- 5 A Yes, ma'am.
- 6 Q Okay. And when you arrived, was the victim,
- 7 Mr. Hubbard, there?
- 8 A Yes, ma'am.
- 9 Q At anytime during that visit -- well, first off, about
- 10 what time did you arrive at that trailer?
- 11 Do you remember?
- 12 A I don't really remember. I just remember it's in the
- 13 morning. I guess maybe -- no, I don't recall. I don't
- 14 remember.
- 15 Q Are you even sure it was in the morning?
- 16 Do you know?
- 17 A No, not really. I remember it was, it was early in the
- 18 day cause I remember I got up at maybe like 8:00 or 9:00.
- 19 So, it was early in the day. Maybe like nine, ten o'clock,
- 20 eleven o'clock, something like that.
- 21 Q Okay. Did you, at anytime while you were at the
- 22 trailer, call Mr. Annus?
- 23 A No, ma'am.
- 24 Q Did you call him later in the day?
- 25 A Yes, ma'am.

Isaiah Walker - Direct examination
by Ms. Shurling

1 Q why did you call him?

2 A To get some pills from him.

3 Q Get some pills from him?

4 A Yes, ma'am.

5 Q Was that something you had done with Mr. Annus
6 previously?

7 A Yes, ma'am.

8 Q What kind of pills did Mr. Annus have?

9 A Clonopins and Xanaxes.

10 Q Clonopin and Xanax?

11 A Yes, ma'am.

12 Q And did he have a prescription for those?

13 They were prescription meds?

14 A Yeah. Yes, ma'am.

15 Q Okay. And when you say you would get some pills from
16 him, were you buying them from him or trading him?

17 A Trading.

18 Q And what would he get from you in trade for the
19 Clonopin and Xanax?

20 A Marijuana.

21 Q Marijuana?

22 A Yes, ma'am.

23 Q Did he ever get any other kind of drugs from you in
24 exchange for the Clonopin?

25 A Cocaine.

Isaiah Walker - Direct examination
by Ms. Shurling

1 Q Okay. But was it more often than not marijuana from
2 you?

3 A Yes, ma'am.

4 Q Okay. You were occasionally buying and selling small
5 amounts of drugs back then, weren't you?

6 A Yes, ma'am.

7 Q Were you a big time drug dealer?

8 A No.

9 Q Did you conspire with Mr. Gentry to set up Mr. Hubbard
10 with some kind of bogus drug deal that day?

11 A No, ma'am.

12 Q When you and Mr. Gentry left the trailer, where did you
13 go next?

14 A We went to, I want to say soon thereafter, went to my
15 cousin Byron's house.

16 Q Okay. Now, thinking back, are you sure you and
17 Mr. Gentry were riding together that day?

18 A Yes, ma'am.

19 Q Okay. So, when Mr. Gentry testified that when you left
20 he went somewhere else to deliver some pills and only came
21 to your house after making that delivery that was a lie?

22 A Yes, ma'am.

23 Q When you got to the house, to your -- there was -- by
24 the way, they keep talking about it being your house.

25 It was mama's house, wasn't it?

Isaiah Walker - Direct examination
by Ms. Shurling

1 A Yes, ma'am.

2 Q When you got to your mama's house, what did you do?

3 A I went in the house. I was really getting my clothes
4 together. I went in the house and I heard gunshots. I came
5 outside and that's what it was. I panicked, you know what
6 I'm saying.

7 Q Okay. You heard gunshots.

8 How many shots did you hear?

9 A Maybe three or four.

10 Q Okay. And when you stuck your head out the door, were
11 shots still being fired?

12 A Yes, ma'am.

13 Q Who were the shots being fired between?

14 A Brent Gentry and Jeffery Hubbard.

15 Q Mr. Hubbard and---

16 A Yes, ma'am.

17 Q ---Brent Gentry?

18 A Yes, ma'am.

19 Q At some point did Mr. Hubbard fall to the ground in
20 your mama's yard?

21 A Yes, ma'am.

22 Q Did you participate in putting Mr. Hubbard back in his
23 vehicle?

24 A Yes, ma'am.

25 Q Who drove Mr. Hubbard's vehicle to the site where it

Isaiah Walker - Direct examination
by Ms. Shurling

1 was eventually found?

2 A Me.

3 Q And did Mr. Gentry follow you?

4 A Yes, ma'am.

5 Q Did you tell your lawyer, Mr. Richey, that you helped
6 Brent out, Mr. Gentry, by helping him get rid of the body?

7 A Yes, ma'am.

8 Q And, of course, let's don't forget, the body -- the
9 dead body was in your mama's front yard, right?

10 A Yes, ma'am.

11 Q So, would that have been a major consideration above
12 and beyond the fact that you knew Gentry?

13 A Yes, ma'am.

14 Q Okay. You took the car and you parked it and you left?

15 A No, ma'am, I took the car, I parked it, and, yes,
16 ma'am, I got in the car with Brent.

17 Q Okay. But first you tried to do something with the car
18 that didn't work, right?

19 A Yes, ma'am.

20 Q What did you try to do?

21 A Put it in the lake.

22 Q Okay. And why couldn't you do that?

23 A Cause it got stuck on an embankment.

24 Q Okay. Now, Mr. Hubbard had been shot quite a few
25 times, hadn't he?

Isaiah walker - Direct examination
by Ms. Shurling

- 1 A Yes, ma'am.
- 2 Q It was a real bloody mess, wasn't it?
- 3 A Yes, ma'am.
- 4 Q In helping put Mr. Hubbard's body back in his car, did
- 5 you get blood on yourself?
- 6 A Yes, ma'am.
- 7 Q And you were in the car, weren't you?
- 8 A Yes, ma'am.
- 9 Q So, you didn't really have any question that you might
- 10 of touched something with blood on your hands, did you?
- 11 A No, ma'am.
- 12 Q Okay. Now, let's talk about the Timberland boots for a
- 13 minute and the clothes.
- 14 Who was wearing the boots and the clothes that day?
- 15 A Mr. Gentry.
- 16 Q What's Mr. Gentry's size and build?
- 17 A I guess about the same thing as me.
- 18 Q Did you frequently wear each other's clothes?
- 19 A No, ma'am.
- 20 Q Did he frequently wear your clothes?
- 21 A Yes, ma'am.
- 22 Q Okay. And that day, he was wearing your Timberlands?
- 23 A Yes, ma'am.
- 24 Q And some of your other clothes too?
- 25 A Yes, ma'am.

Isaiah Walker - Direct examination
by Ms. Shurling

1 Q And before you left the scene he took those items off
2 and left them out there?

3 A No, he took them and tried to throw them and then --
4 well, basically, yes, ma'am.

5 Q Okay. But let's backup and parse that out.
6 When he left the scene with you, when he---

7 A Yes, ma'am.

8 Q ---picked you up where the car had gotten stuck---

9 A Uh-huh. (Affirmative).

10 Q ---he was still wearing those clothes, wasn't he?

11 A Yes, ma'am.

12 Q He went back later without you and left them at the
13 scene, didn't he?

14 A Yes, ma'am.

15 MS. WHITE: Your Honor, I would just object to the
16 leading nature of the questions.

17 THE COURT: Well, sure.

18 MS. SHURLING: I'll rephrase.

19 THE COURT: I would sustain that objection.

20 MS. WHITE: Thank you.

21 Q Did he take off the Timberland boots or the clothing
22 that belonged to you in your presence out there when you
23 were leaving the body in the car?

24 A No, ma'am.

25 Q Did you ever go back with him to the scene where the

Isaiah walker - Direct examination
by Ms. Shurling

- 1 body was left at a later date or time?
- 2 A No, ma'am.
- 3 Q When you left there where did you go?
- 4 A Back to my cousin Byron's house.
- 5 Q And who was driving?
- 6 A He was driving.
- 7 Q Mr. Gentry was driving?
- 8 A Yes, ma'am.
- 9 Q And he dropped you at your cousin Byron's house?
- 10 A Yes, ma'am.
- 11 Q Now, you just motioned back there.
- 12 Is Byron here?
- 13 A Yes, ma'am.
- 14 Q Okay. Did Mr. Gentry come in at the cousin's house?
- 15 A No, ma'am.
- 16 Q He just left?
- 17 A Yes, ma'am.
- 18 Q And when he left, was he wearing those clothing items?
- 19 A Yes, ma'am.
- 20 Q So, you have no firsthand knowledge of how those items
- 21 got back at the scene?
- 22 A No, ma'am.
- 23 Q But do you know of anyone else, other than you and
- 24 Mr. Gentry, that knew where that car with the body in it
- 25 was?

Isaiah walker - Direct examination
by Ms. Shurling

1 A Firsthand knowledge?

2 Q No.

3 Did -- to your knowledge, did anybody other than you
4 and Brent Gentry know where that car with the body in it
5 was?

6 A No, ma'am.

7 Q Okay. You've heard -- you've been here all day.
8 You've heard all the testimony.

9 A Yes, ma'am.

10 Q You have a couple of convictions for simple possession
11 of marijuana?

12 A Yes, ma'am.

13 Q Okay. And -- actually moments indulgence, Your Honor.
14 (Pause.)

15 Q Those two simple possession charges actually stemed
16 from the same date, don't they?

17 A Yes, ma'am.

18 Q And one was for simple possession of hashish?

19 A Yes, ma'am.

20 Q And the other one for simple possession of pot?

21 A Yes, ma'am.

22 Q And that's the only criminal record you have?

23 A Yes, ma'am.

24 Q Did you discuss with Mr. Richey the pros and cons of
25 your testifying at your jury trial?

Isaiah Walker - Direct examination
by Ms. Shurling

1 A Yes, ma'am.

2 Q Did you go over the discovery materials with him prior
3 to trial?

4 A Yes, ma'am.

5 Q Were you aware, from reviewing those discovery
6 materials, that Brent Gentry was saying you were the
7 shooter?

8 A Yes, ma'am.

9 Q And you knew that the State had what they were
10 characterizing as a bloody palm print that belonged to you
11 inside the car?

12 A Yes, ma'am.

13 Q You also knew that, pursuant to the search warrant,
14 they had seized a Timberland shoe box from your home?

15 A Yes, ma'am.

16 Q And that the size and style number and everything of
17 those shoes matched the shoes found at the scene?

18 A Yes, ma'am.

19 Q Did your lawyer share with you the fact that those SLED
20 forensic reports or, pardon me, the county forensic reports
21 had indicated a DNA match between blood found on those shoes
22 and the victim?

23 A Yes, ma'am.

24 Q If you didn't testify, what, if any, hope did you have
25 that the jury would acquit you?

Isaiah Walker - Direct examination
by Ms. Shurling

1 A Repeat it one more time.

2 Q Well, did you, did you talk with your lawyer about the
3 likelihood of a jury acquitting you with all of the evidence
4 that were just discussed being introduced in addition to
5 Mr. Gentry's testimony?

6 A Yes, ma'am.

7 Q And what did your lawyer tell you?

8 A He said that it would be in my best interest not to
9 take the stand cause they could ask questions that they
10 couldn't ask versus if I took the stand.

11 Q Okay. But if I understand you correctly, it was your
12 position that -- I'll rephrase.

13 You know that, even the version you're telling here
14 today, you committed a crime that day, didn't you?

15 A Yes, ma'am.

16 Q And what was that crime?

17 A Helping dispose of the body.

18 Q Okay. But if you didn't testify, how was this jury
19 going to know that it was your position that you were the
20 accessory after the fact, not Brent Gentry?

21 A I have absolutely no idea.

22 Q Okay. Well, what was the line of questioning -- we've
23 already talked about your prior record.

24 what was the line of questioning that your lawyer told
25 you he was afraid you would subject yourself to if you took

Isaiah Walker - Direct examination
by Ms. Shurling

1 the stand?

2 A He, he never said. He was just saying that it would of
3 just assassinated my character. It would of been like a
4 certain line of questioning they could of asked if I got on
5 the stand rather than if I didn't get on the stand, and he
6 felt like it was in my best interest if I didn't take the
7 stand. So, I didn't.

8 Q Did you ever discuss with your lawyer the fact that if
9 you did not testify there was absolutely no way the jury was
10 going to know your side, your theory of the case?

11 A No, ma'am.

12 MS. WHITE: Your Honor, I'm sorry. I would just say
13 we've asked -- it's been asked and answered.

14 MS. SHURLING: I'll move on.

15 Q Mr. Walker, did you discuss your actions on the date of
16 this shooting, from early in the day through when you were
17 stopped by the police, with your lawyer, Mr. Richey?

18 A Yes, ma'am.

19 Q And did you tell him everything you have told us here
20 today?

21 A Yes, ma'am.

22 Q And with that information, he still didn't want you
23 testifying?

24 A Yes, ma'am.

25 Q Did you trust his advice?

Isaiah Walker - Direct examination
by Ms. Shurling

1 A Yes, ma'am.

2 Q Prior to trial had Mr. Richey ever come to you with any
3 plea offers from the State?

4 A Yes, ma'am.

5 Q And what was the plea offer that was relayed to you?

6 A Thirty years.

7 Q And what did you understand the penalty for murder to
8 be?

9 A Thirty years to life.

10 Q Okay. So, the 30 years -- you say he relayed an offer
11 of 30 years to you?

12 A Yes, ma'am.

13 Q Thirty years for what?

14 A For I guess murder.

15 Q Okay. You say you guess murder. Let's be real
16 specific.

17 Did he say 30 years as a negotiated penalty for murder
18 or did he just say 30 years?

19 A I want to say it was something like manslaughter,
20 involuntary, or something like that.

21 Q Manslaughter for 30?

22 A Yes, ma'am.

23 Q And that was the first offer?

24 A Yes, ma'am, that's the only offer.

25 Q That was the only offer?

Isaiah Walker - Direct examination
by Ms. Shurling

1 A Yes, ma'am.

2 Q You've heard testimony here today about the State,
3 sometime prior to trial, offering manslaughter for 19.

4 Were you ever made aware of that offer?

5 A No, ma'am.

6 Q After the State put up their case and your lawyer told
7 the Court you were not gonna testify, were you ever told
8 about another offer at that late date before it went to the
9 jury?

10 A No, ma'am.

11 Q So, you were unaware -- let me rephrase that cause I
12 made a mistake. I said an offer, and that's not fair.

13 Did your lawyer ever tell you that the solicitor had
14 indicated he was willing to go to the victim's family about
15 a possible deal for 16 years if you would commit to taking
16 it if the offer was made?

17 A No, ma'am.

18 Q Knowing what you knew about the palm print and the
19 shoes and the other evidence in this case, if you had to
20 make a decision between finishing the trial or taking the 16
21 year deal, which would you have taken?

22 A Probably the 16.

23 Q Probably the 16?

24 A Yes, ma'am, I know I would of took the 16.

25 Q Okay. Rather than avoid what?

Isaiah walker - Direct examination
by Ms. Shurling

1 A What I got now.

2 Q Which is?

3 A Life.

4 Q Okay. Now, when you were preparing for trial and you
5 went over the events of that day with your lawyer, did you
6 tell him about other people that you saw at Mrs. Thacker's
7 trailer?

8 A Yes, ma'am.

9 Q And did you talk to him about your relationship with
10 Amanda?

11 A Yes, ma'am.

12 Q Did you tell him -- well, let me rephrase that. I
13 don't want to lead.

14 Did your lawyer ever question you about any bad blood
15 between you and Mr. Hubbard?

16 A Yes, ma'am.

17 Q And did he ask you if there was anything between Amanda
18 and Mr. Hubbard?

19 A Yes, ma'am.

20 Q And what did you tell him?

21 A No.

22 Q Not that you knew of?

23 A Yes, ma'am.

24 Q Did you make sure your lawyer knew how to contact
25 Amanda?

Isaiah Walker - Direct examination
by Ms. Shurling

- 1 A Yes, ma'am.
- 2 Q And did you give him names and addresses and phone
3 numbers of other potential witnesses?
- 4 A Yes, ma'am.
- 5 Q And, to your knowledge, did he ever come back and talk
6 to you about having interviewed any of those people?
- 7 A No, ma'am.
- 8 Q Did he tell you why he hadn't?
- 9 A No, ma'am.
- 10 Q When he told you that he didn't think it was in your
11 best interest to testify, did you discuss putting up other
12 evidence even if you weren't gonna testify?
- 13 A No, ma'am.
- 14 Q Did you understand that even if you didn't testify you
15 still had a right to put up other witnesses?
- 16 A No, ma'am.
- 17 Q I have explained the post-conviction relief process to
18 you at great length, haven't I?
- 19 A Yes, ma'am.
- 20 Q And I've even explained to you that, under at least one
21 contorted theory, the State could of sought the death
22 penalty in your case?
- 23 A Yes, ma'am.
- 24 Q Okay. Was there ever any discussion of the death
25 penalty being sought by the State in your case?

Isaiah walker - Direct examination
by Ms. Shurling

1 A No, ma'am.

2 Q Nobody ever threatened you with this being a capital
3 murder case or---

4 A No, ma'am.

5 Q Okay. But I have, haven't I?

6 A Yes, ma'am.

7 Q Okay. And, again, I'm not saying that they would, but
8 I have advised you clearly that, under at least one theory
9 of the case, the State could elect to seek the death penalty
10 on the facts of this case?

11 A Yes, ma'am.

12 Q And knowing that, you still wanted to proceed with this
13 post-conviction relief action here today?

14 A Yes, ma'am.

15 Q I've also told you that, barring some pretty
16 extraordinary circumstances not likely to be present in your
17 case, this is your one day in Court on state collateral
18 review.

19 You understand that, don't you?

20 A Yes, ma'am.

21 Q You've listened to my examination of all the witnesses
22 we've put up today.

23 Have I covered all of the issues with those witnesses
24 that you wanted me to cover?

25 A Yes, ma'am.

Isaiah Walker - Direct examination
by Ms. Shurling

1 Q Can you think of any -- well, let's backup.

2 I've discussed the standard of reasonable professional
3 assistance of counsel with you, have I not?

4 A Yes, ma'am.

5 Q And I've explained to you, under Strickland versus
6 Washington, that the burden of proof is on us --

7 A Yes, ma'am.

8 Q -- to show errors and omissions?

9 A Yes, ma'am.

10 Q Can you think of any specific errors or omissions, and
11 by that I mean anything that you think Mr. Richey did that
12 he did wrong or anything he didn't do that he should of done
13 other than matters I have already covered in my examination
14 of witnesses here today or the presentation of documents
15 here today?

16 A No, ma'am.

17 Q Nothing else you want to add?

18 A No, ma'am.

19 Q Is there anything else that you would like to add
20 insofar as an elaboration upon your answers to any of my
21 earlier questions?

22 Have you said everything you feel like you need to say?

23 A Yes, ma'am.

24 Q And did you ask any of the people that testified here
25 today, did you promise any of them anything in exchange for

Isaiah Walker - Direct examination
by Ms. Shurling

1 testifying?

2 A No, ma'am.

3 Q Did you even have anything to do with getting those
4 witnesses here today?

5 A No, ma'am.

6 Q Okay. Thank you. No further questions. I want you to
7 listen very carefully to the State's questions and answer
8 them truthfully.

9 MS. WHITE: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MS. WHITE:

12 Q Mr. Walker, I just have a few questions.

13 The story that you've told today about being involved
14 with Mr. Gentry and how the shooting happened and, and the
15 victim's body being moved, is that the same story you told
16 your attorney?

17 A Yes, ma'am.

18 Q Okay. And at -- the day of the shooting, you said you
19 heard some gunshots and looked out the door and they were
20 shooting and then you helped move the body.

21 So, did Mr. Gentry help you move the body into the car?

22 A Yes, ma'am.

23 Q And you said Mr. Gentry was wearing your clothes at the
24 time, is that right?

25 A Yes, ma'am.

Isaiah Walker - Cross-examination
by Ms. White

1 Q And as we've already discussed, this was a pretty
2 bloody scene. The coroner said that the victim had 24
3 holes, some exit, some entrance, right?

4 A Yes, ma'am.

5 Q But you said he was driving the Cadillac after you left
6 when you went with him to your cousin's house, but there was
7 never any blood discussed being in the Cadillac, was there?

8 A No, ma'am.

9 Q Okay. But you said he was wearing the clothes that had
10 some blood on them when he took you to Byron's house?

11 A Yes, ma'am.

12 Q Okay. But you don't have any explanation for that?

13 A No, ma'am.

14 Q Okay. You acknowledge that you reviewed all the
15 discovery materials with Mr. Richey and talked with all,
16 talked with him about various witnesses and whether or not
17 you should testify, but you said that Mr. Richey never
18 conveyed the two plea offers or the, the plea offer and the
19 opportunity to commit to the 16 years and the previous 19
20 years to you?

21 A Yes, ma'am.

22 Q Okay. Did he explain to you the difference between the
23 manslaughter and murder with murder being day-for-day and
24 manslaughter being 85 percent?

25 A No, ma'am.

Isaiah walker - Cross-examination
by Ms. White

1 Q Okay. You said you never knew if the attorney met with
2 any other people.

3 Were you aware that he had hired an investigator for
4 your case?

5 A Yes, ma'am.

6 Q Okay. So, whether or not Mr. Richey met with any of
7 the people, were you aware if the investigator met with any
8 of the people?

9 A If I recall, I remember him going to speak to I want to
10 say my mom and my dad.

11 Q Okay. And those are the only two people that you think
12 the investigator went to speak with or to your knowledge?

13 A Yes, ma'am.

14 Q All right. And you heard me ask about the fact that
15 the judge asked, asked you about your right to testify and
16 then also asked you if you were in agreement with Mr. Richey
17 of not putting any other witnesses on the stand, and you
18 agreed at the time that you were?

19 A Yes, ma'am.

20 Q Okay. At the time did you think you needed any other
21 witnesses or were, were you just saying that or --?

22 A No, ma'am, I just really just put my trust in him and
23 just rolled with it, with the flow.

24 Q Okay.

25 All right. Thank you, Your Honor. That's all I have

Isaiah walker - Redirect examination
by Ms. Shurling

1 of this witness.

2 REDIRECT EXAMINATION

3 BY MS. SHURLING:

4 Q What are your parents' names?

5 A Elizabeth walker and Floyd walker.

6 Q Elizabeth and Floyd?

7 A Yes, ma'am.

8 Q Okay. And who hired Mr. Richey?

9 A My mom and my dad.

10 Q Okay. I really hate to have to ask this, but when you
11 were assisting Mr. Gentry in moving Mr. Hubbard's body out
12 of your mama's front yard, how did you carry him?

13 A Putting him in the car?

14 Q Uh-huh. (Affirmative).

15 A By his, by his head and his shoes. well, by his shirt.

16 Q Okay. Who, who had his feet?

17 A Mr. Gentry.

18 Q And you had his shoulders?

19 A Yes, ma'am.

20 Q Okay. And were you carrying him face up?

21 A I don't remember.

22 Q Okay. But -- so, Mr. Gentry was carrying his feet --

23 A Yes, ma'am.

24 Q -- by the hand?

25 A Yes, ma'am.

Isaiah Walker - Redirect examination
by Ms. Shurling

1 Q Okay. And at any point did Mr. Gentry hoist the body
2 over his shoulder?

3 A I don't recall.

4 Q Do you recall him holding the body close to him at all?

5 A I don't recall. I don't think so.

6 Q Once you got the body from where it fell to the car,
7 where in the car did you put it?

8 A The body?

9 Q Uh-huh. (Affirmative).

10 A The back seat.

11 Q In the back seat?

12 A Yes, ma'am.

13 Q And how did you do that?

14 A Just lift the seat up and put him in---

15 Q Pardon?

16 A He had to get on the passenger seat, I mean passenger
17 side. I got on the driver's side and just wiggled like
18 that.

19 Q Okay. So, one of you went to one side of the car, the
20 other one on the other side, and you pulled him through the
21 open door?

22 A Uh-huh. (Affirmative).

23 Q Okay. So, would you agree that you were handling the
24 portion of the body that was bloodier than the end that
25 Mr. Gentry was carrying?

Isaiah Walker - Redirect examination
by Ms. Shurling

1 A Yes, ma'am.

2 Q What happened to your clothes from that day?

3 A I burned them.

4 Q You burned them?

5 A Yes, ma'am.

6 Q Where did you burn them?

7 A Out by the old, the old Anderson Mill.

8 Q Okay. Were you alone when you did that?

9 A Yes, ma'am.

10 Q And did you also tell Mr. Richey that?

11 A Yes, ma'am.

12 Q Okay. When Mr. Richey offered or told you about an
13 offer to manslaughter for 30 years, did you discuss that
14 with your parents?

15 A No, ma'am.

16 Q Did your parents ever discuss with you any other plea
17 offers that they had been told about?

18 A No, ma'am.

19 Q No further questions.

20 MS. WHITE: Just briefly, Your Honor.

21 RECROSS EXAMINATION

22 BY MS. WHITE:

23 Q Did you burn the clothes out by the mill before or
24 after Mr. Gentry dropped you off at your cousin's with no
25 car?

Isaiah Walker - Recross examination
by Ms. White

- 1 A Ma'am?
- 2 Q Did you burn the clothes before or after you said
- 3 Mr. Gentry dropped you off at your cousin's house?
- 4 A I had it in a book bag.
- 5 Q Okay. But that doesn't answer my question.
- 6 So, when he dropped you off at your cousin's, you, you
- 7 had the clothes in a book bag?
- 8 A Yeah, I still had them.
- 9 Q Okay. So, you had an extra change of clothes---
- 10 A Yes, ma'am, cause we---
- 11 Q ---in the car?
- 12 A Yes, ma'am, we was, we was going to play basketball
- 13 originally that morning. So, that's what I had on, my
- 14 basketball -- I had shorts and I had some old boots. I got
- 15 various Timberland boots, you know what I'm saying, they're
- 16 Euro teams and that's what --.
- 17 Q Okay. So, you had the bloody clothes in the backpack?
- 18 A Yes, ma'am.
- 19 Q And how did you get to Anderson Mill if Mr. Gentry had
- 20 dropped you off at your cousin's?
- 21 A Huh?
- 22 Q How did you get to the old Anderson Mill to burn the
- 23 clothes by yourself?
- 24 A Cause Brent Gentry came back and he came back to my
- 25 cousin Byron's house and I got in the car and --.

Isaiah walker - Recross examination
by Ms. white

1 Q Okay. And Gentry stayed at your cousin's?

2 A Ma'am?

3 Q Gentry stayed at your cousin's?

4 A He went back to his aunt's house at Northside
5 Apartments.

6 Q Okay. You dropped him off?

7 A Yes, ma'am.

8 Q Okay. And you've told all this to your attorney?

9 A Yes, ma'am.

10 Q Okay. Thank you.

11 No further questions, Your Honor.

12 MS. SHURLING: Nothing further, Your Honor.

13 THE COURT: You may step down.

14 MS. SHURLING: Your Honor, I'd call Elizabeth walker.

15 ELIZABETH WALKER, having been first
16 duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. SHURLING:

19 Q State your full name for the record please, ma'am.

20 A Elizabeth walker.

21 Q Mrs. walker, your husband's name is Floyd?

22 A Yes, it's Floyd walker.

23 Q And you heard your son's testimony a moment ago.

24 Is it true that you and your husband are the ones that
25 hired Mr. Richey?

Elizabeth Walker - Direct examination
by Ms. Shurling

1 A Yes.

2 Q And did you and your husband have meetings with Mr.
3 Richey during the time period before this case went to
4 trial?

5 A Yes.

6 Q And did Mr. Richey ever convey to you any potential
7 plea agreements that had been offered by the State?

8 A Yes.

9 Q And what would that offer have been that you heard from
10 Mr. Richey?

11 A Thirty years.

12 Q And do you remember what the 30 years was for?

13 A Murder.

14 Q Okay. It was your understanding that the only offer
15 was 30 years for murder?

16 A Yes.

17 Q Okay. Do you recall ever being told by Mr. Richey that
18 the State was willing to accept a plea to voluntary
19 manslaughter for 19 years?

20 A No.

21 Q Once this case went to trial, do you recall a time
22 before it went to the jury when Mr. Richey came to you with
23 an offer from the State -- or pardon me. I'm rephrasing --
24 I need to rephrase that again.

25 Was there a time before the jury came back with a

Elizabeth Walker - Direct examination
by Ms. Shurling

1 verdict that Mr. Richey came to you and said the State was
2 willing to consider another offer?

3 A No.

4 Q After hearing the evidence at trial, if you had known
5 that there was a possibility of a deal for 16 years for
6 voluntary manslaughter, would you have encouraged your son
7 to take it?

8 A Yes.

9 Q Did you ever have any discussions with Mr. Richey about
10 whether or not your son should testify?

11 A I don't believe so.

12 Q Okay. Now, your son's testified to giving Mr. Richey
13 the names of various potential witnesses.

14 Did you also give Mr. Richey the names of any
15 witnesses?

16 A Yes.

17 Q And who would those witnesses have been?

18 A Sheryl Miller, Laddie, Laddie, Laddie Moore Means,
19 Mrs. Darnell Miller.

20 Q And would these individuals have been character
21 witnesses essentially?

22 A Well, yeah, character witnesses and Sheryl Miller would
23 of been a person that would of been around the, the trailer
24 while a lot of this stuff took place---

25 Q Okay.

Elizabeth walker - Direct examination
by Ms. Shurling

1 A ---that morning.

2 Q I have no further questions. Please answer any
3 questions Ms. white has.

4 MS. WHITE: Your Honor, I don't think I have any
5 questions for this witness.

6 THE COURT: Step down.

7 MS. SHURLING: Mr. Floyd walker, Your Honor.

8 WITNESS: He's not here.

9 MS. SHURLING: Oh, he's not.

10 WITNESS: He's in the hospital.

11 MS. SHURLING: Your Honor, I have just been advised
12 that Mr. Floyd walker's in the hospital. I apologize.

13 Your Honor, I would have no further witnesses for the
14 applicant.

15 THE COURT: Anything further on behalf of the State?

16 MS. WHITE: No, Your Honor.

17 THE COURT: All right. I'll review the record in the
18 case and issue an order.

19 MS. WHITE: Thank you, Your Honor.

20 MS. SHURLING: Would Your Honor be willing to entertain
21 proposed orders?

22 THE COURT: I certainly will.

23 MS. SHURLING: Thank you, sir.

24 THE COURT: Okay.

25 MS. WHITE: Do you have a time frame, Your Honor, that

1 you---

2 THE COURT: What do you, what do you need?

3 What kind of time do you prefer?

4 MS. SHURLING: Your Honor, I'm starting involvement in
5 a murder trial on Monday. So, I would ask for some
6 latitude.

7 If we could have 30 days?

8 THE COURT: Thirty days will be fine.

9 MS. SHURLING: Thank you.

10 MS. WHITE: Thank you, Your Honor.

11

12 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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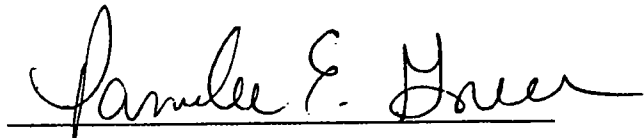
25

C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas Nonjury for Spartanburg County, South Carolina, on the 6th day of September, 2012.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

September 20th, 2012

A handwritten signature in cursive script, reading "Pamela E. Green", is written over a horizontal line.

PAMELA E. GREEN, Court Reporter

NOTIFIED COPY 894

M. Hope Blackley

SPARTANBURG SHERIFF'S OFFICE

2005 001-5 A 2 44

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CLERK OF COURT
SPARTANBURG COUNTY

MASTER NAME INDEX REPORT

DATE: 10/10/12

Person Name (Last, First, Middle, Suffix) WALKER, ISAIAH FREDERICK				MNI Number 203040				Person Type Individual				Last Date 7/31/2005			
Address (Number, Street, Apt.) [REDACTED]				City, State, ZIP MOORE, SC 29369				Telephone [REDACTED]-4540				Residence J			
Race B	Sex M	Date of Birth 05/12/1986	Age 19	Marital S	Eth. N	SSN [REDACTED]-1906	Height 601	Weight 165	Hair BLK	Eyes BRO	Skin BLK	Deceased NO			
Driver's License		State	Place of Birth SPARTANBURG, SC		Country US	Religion BAP						Illegal Alien NO			
Title / Occupation		Employer Name JOHNSON SANITATION			Employer Address				Telephone						
Nearest Relative Name LIZABETH WALKER				Nearest Relative Address SAME				Telephone							
Attorney			Number	Attorney Info:											
Caution / Warning											Sex Offender NO	Predator NO			
Gang Code	Affiliation	Packet ID Number 093591			Misc. ID Number (1)			Misc. ID Number (2)							
SCHOOL / CAMPUS INFORMATION															
Campus Security Alert NO	School Code	School Name				District	Telephone								
Contact	School/Campus Street Address				City, State, ZIP										
SCARS / MARKS / TATTOOS															



INVOLVEMENT

Paper Type	Date	Inv. Type	File Number	DOB	SSN	Address	Phone
Arrest	01/17/2004	Arrestee	2004-179678	05/12/1986	[REDACTED]-1906	[REDACTED] RD	[REDACTED]-4540
Charges		Charge Disposition					
18B-Simple Poss. Marijuana/Hash							
Booking	01/17/2004	Inmate	2004-000017247	05/12/1986	[REDACTED]-1906	[REDACTED] RD	
Charges		Charge Disposition					
18B-SIMPLE POSSESSION OF MARIJU.		18B		SIMPLE POSSESSION OF MARIJUANA			
Booking	07/31/2005	Inmate	2005-000001039	05/12/1986	[REDACTED]-1906	[REDACTED] RD	
Charges		Charge Disposition					
Citation	01/16/2004	Defendant	2004-000225	05/12/1986	[REDACTED]-1906	[REDACTED] RD	[REDACTED]-4540
Incident	06/15/2000	Victim	2000-061116	05/12/1986	[REDACTED]-1906	[REDACTED] RD	[REDACTED]-4540
Incident	01/30/2001	Victim	2001-012052	05/12/1986		[REDACTED] RD	[REDACTED]-4540
Incident	10/24/2003	Suspect	2003-101665	05/12/1986		[REDACTED] L RD	[REDACTED]-4540
Incident	01/16/2004	Suspect	2004-011047	05/12/1986		[REDACTED] L RD	[REDACTED]-4540
Incident	06/23/2005	Reporting	2005-061434	05/12/1986	[REDACTED]-1906	[REDACTED] L RD	[REDACTED]-4540
Pawn	03/24/1999	Pawner	SJP48173				

SPARTANBURG SHERIFF'S OFFICE

895

CLERK OF COURT
SPARTANBURG COUNTY

MASTER NAME INDEX REPORT

BY _____ D.C.
DATED _____

Person Name (Last, First, Middle, Suffix) WALKER, ISAIAH FREDERICK						MINI Number 203040		Person Type Individual			Last Date 7/31/2005		
Address (Number, Street, Apt.) RD						City, State, ZIP MOORE, SC 29369				Telephone -4540		Residence J	
Race B	Sex M	Date of Birth 05/12/1986	Age 19	Marital S	Eth. N	SSN -1906	Height 601	Weight 165	Hair BLK	Eyes BRO	Skin BLK	Deceased NO	
Driver's License			State	Place of Birth SPARTANBURG, SC			Country US	Religion BAP			Illegal Alien NO		
Title / Occupation		Employer Name JOHNSON SANITATION			Employer Address			CERTIFIED COPY			Telephone		
Nearest Relative Name ELIZABETH WALKER				Nearest Relative Address SAME									
Attorney				Number	Attorney Info:								
Caution / Warning												Sex Offender NO	Predator NO
Gang Info:	Gang Code	Affiliation		Packet ID Number 093591			Misc. ID Number (1)			Misc. ID Number (2)			

SCHOOL / CAMPUS INFORMATION

Campus Security Alert NO	School Code	School Name	District	Telephone
Contact	School/Campus Street Address		City, State, ZIP	

SCARS / MARKS / TATTOOS

INVOLVEMENT

Paper Type	Date	Inv. Type	File Number	DOB	SSN	Address	Phone
Arrest	01/17/2004	Arrestee	2004179678	05/12/1986	-1906	RD	-4540
Charges		Charge Disposition					
		18B-Simple Poss. Marijuana/Hash					
Booking	01/17/2004	Inmate	2004-000017247	05/12/1986	-1906	RD	
Charges		Charge Disposition					
		18B-SIMPLE POSSESSION OF MARIJU. 18B SIMPLE POSSESSION OF MARIJUANA					
Booking	07/31/2005	Inmate	2005-000001089	05/12/1986	-906	RD	
Charges		Charge Disposition					
Citation	01/16/2004	Defendant	2004-000225	05/12/1986	-906	RD	-4540
Incident	06/15/2000	Victim	2000-061116	05/12/1986	-1906	RD	4540
Incident	01/30/2001	Victim	2001-012052	05/12/1986		RD	-4540
Incident	10/24/2003	Suspect	2003-101665	05/12/1986		RD	4540
Incident	01/16/2004	Suspect	2004-011047	05/12/1986		RD	-4540
Incident	06/23/2005	Reporting	2005-061434	05/12/1986	-1906	RD	-4540
Pawn	03/24/1999	Pawner	SJP48173				

Payer Type	Date	Inv. Type	File Number	DOB	SSN	Address	Phone

896

* Charges already printed in 000014

2006 OCT -5 A 2:44

**SLED CATCH**
Citizens Access to Criminal Histories

Results

Hello

Name **Brent Gentry**Date of Birth **1984 10 01**

Maiden Name

Gender **Male**

SSN

Transaction **004886117**Date of Check **September 5, 2012 at 15:41****ARREST RECORD**
S.C. Law Enforcement Division
WWW

This record is based on a search using Last name, First initial, Date of Birth, Gender, and Social Security Number. Compare all identifying data given for record subject with screening subject. Fingerprint comparison is recommended as the most reliable means to identify a record subject.

INTERNET RAP SHEET REQUEST

ORI-SCLED0000 SID-SC01484977 FBI-***** PUR-E
ATN-WEB, ACCOUNT

AUTHORIZED USE ONLY. ***** CONTACT CONTRIBUTING
AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS.
BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY
SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-09/05/2012 TIME-15:35:42
REQ ORI-SCLED0000 S C LAW ENF DIV
SID-SC01484977 FBI-
NAME-GENTRY, BRENT FITZGERALD SEX-M RACE-B
HEIGHT-600 WEIGHT-150 EYES-BRO HAIR-BLK SKIN- BORN-SC
FPC- HENRY-
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFS

DATE RECORD ENTERED--N/A DATE OF LAST UPDATE--07/03/2007

ADDITIONAL IDENTIFIERS NAME	BIRTH DATES	MARKS	SOC SEC	MISC NUM
GENTRY, BRENT	10011984			
GENTRY, BRENT NMN	10041984			
GENTRY, BRENT FITSGERALD				
GENTRY, BRENT L				

CONTRIBUTOR/SUBJECT	DOA/RCVD CHARGE/DISPOSITION/ETC

GENTRY, BRENT FITZGERALD 06/20/2003
SC0420100 SPARTANBURG PD
ATN-422000066980
WARR-H447229
CIT-16-13-110 (B) (1)-MISDEMEANOR

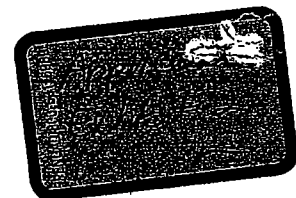
ARREST CHARGE 01-SHOPLIFTING
OFFENSE DATE-06/20/2003

CIT--MISDEMEANOR
WARR-H447229

COURT CHARGE 01-SHOPLIFTING
COURT DISP-CONVICTED;30 DAYS
/\$465 DUE BY 8/21/03
COURT DATE-07/21/2003
ATN-422000066980

GENTRY, BRENT FITZGERALD
SC0420100 SPARTANBURG PD
ATN-422000069398
WARR-66183CP

08/18/2003



A CERTIFIED COPY

M. Hope Blackley
CLERK OF COURT
SPARTANBURG COUNTY
BY *Shel Moffett* D.C.
DATED 10/10/12

SLED State Criminal Records Check - DB Check & Display

P898 of 4

CIT-16-11-610-UNCLASSIFIED

ARREST CHARGE 01-TRESPASSING
OFFENSE DATE-08/18/2003
PHOTOGRAPH AVAILABLE

CIT-16-11-610-UNCLASSIFIED
DOC-R84
WARR-66183CP

COURT CHARGE 01-TRESPASSING
COURT DISP-CONVICTED;\$153 OR
5D
ATN-422000069398

GENTRY, BRENT
SC0420100 SPARTANBURG PD
ATN-422000082594
WARR-91518CZ
CIT-16-11-610-UNCLASSIFIED

08/21/2004

01-TRESPASSING

ARREST CHARGE

OFFENSE DATE-08/21/2004
PHOTOGRAPH AVAILABLE

WARR-H683059
CIT-44-53-445(B) (1)-FELONY

ARREST CHARGE 02-D/S/P/M
DRUG O/T C/COCAINE/PWID/NE
AR SCHOOL
OFFENSE DATE-08/21/2004

WARR-H683060
CIT-16-23-20-MISDEMEANOR

ARREST CHARGE 03-UNLAWFUL
CARRYING OF WEAPON
OFFENSE DATE-08/21/2004

CIT-16-11-610-UNCLASSIFIED
DOC-R84
WARR-91518CZ

COURT CHARGE 01-TRESPASSING
COURT DISP-CONVICTED;SENTENCE
UNKNOWN
ATN-422000082594

CIT-44-53-445(B) (1)-FELONY
DOC-05GS4200490
WARR-H683059

COURT CHARGE 02-D/S/P/M DRUG
O/T C/COCAINE/PWID/NEAR
SCHOOL
COURT DISP-CONVICTED;4YRS,
SUS TS & 2YRS PROB CONC
RAND DRUG TEST
COURT DATE-07/14/2005

CIT-16-23-20-MISDEMEANOR
DOC-05GS4200491
WARR-H683060

COURT CHARGE 03-UNLAWFUL
CARRYING OF WEAPON
COURT DISP-CONVICTED;30DYS
CONC CFTS
COURT DATE-07/14/2005

GENTRY, BRENT NMN
SC0420100 SPARTANBURG PD
ATN-422000084836
WARR-91058CZ
CIT-16-11-610-UNCLASSIFIED

10/23/2004

WARR-91059CZ
CIT-16-17-725(B)-MISDEMEANOR

ARREST CHARGE 01-TRESPASSING
OFFENSE DATE-10/23/2004
PHOTOGRAPH AVAILABLE

WARR-91060CZ
CIT-44-53-960-MISDEMEANOR

ARREST CHARGE 02-GIVING FALSE
INFORMATION
OFFENSE DATE-10/23/2004

WARR-91061CZ
CIT-61-06-4720-MISDEMEANOR

ARREST CHARGE 03-POSSESSION
OF DRUG PARAPHERNALIA
OFFENSE DATE-10/23/2004

ARREST CHARGE 04-DRINKING

SLED State Criminal Records Check - DB Check & Display

899 of 4

CIT-16-11-610-UNCLASSIFIED
DOC-R84
WARR-91058CZ

ALCOHOL IN PUBLIC CONVEYAN
CE UNLAWFUL
OFFENSE DATE-10/23/2004

COURT CHARGE 01-TRESPASSING
COURT DISP-CONVICTED;\$465 OR
30D
ATN-422000084836

CIT-16-17-725(B)-MISDEMEANOR
DOC-R84
WARR-91059CZ

COURT CHARGE 02-GIVING FALSE
INFORMATION
COURT DISP-NON-CONVICTION;
NOLLE PROSSED

CIT-44-53-960-MISDEMEANOR
DOC-R84
WARR-91060CZ

COURT CHARGE 03-POSSESSION
OF DRUG PARAPHERNALIA
COURT DISP-CONVICTED;\$361 OR
14D

GENTRY, BRENT FITZGERALD
SC0420100 SPARTANBURG PD
CASE-02022605
ATN-422000088458
WARR-H903287
CIT-16-23-20-MISDEMEANOR

02/08/2005

ARREST CHARGE 01-UNLAWFUL
CARRYING OF WEAPON
OFFENSE DATE-02/07/2005

WARR-H903288
CIT-44-53-370(B)(2)-FELONY

ARREST CHARGE 02-MANUFT, POSSE
SS OTHER SUB SCH I, II, III
WITD-1ST
OFFENSE DATE-02/07/2005

WARR-22592DC
CIT-16-11-610-UNCLASSIFIED

ARREST CHARGE 03-TRESPASSING
OFFENSE DATE-02/07/2005

CIT-16-23-20-MISDEMEANOR
DOC-05GS4202205
WARR-H903287

COURT CHARGE 01-UNLAWFUL
CARRYING OF WEAPON
COURT DISP-NON-CONVICTION;
NOLLE PROSSED
COURT DATE-07/14/2005
ATN-422000088458

CIT-44-53-370(B)(2)-FELONY
DOC-05GS4202204
WARR-H903288

COURT CHARGE 02-MANUFT, POSSES
S OTHER SUB SCH I, II, III
WITD-1ST
COURT DISP-NON-CONVICTION;
NOLLE PROSSED
COURT DATE-07/14/2005

2005-GS-42-02204

SC040015G CENTRAL PPP
CASE-NA
CIT-44-53-445(B)(1)-FELONY

07/14/2005 CUSTODY STATUS-PROBATION
START DATE-07/14/2005

COURT CHARGE 01-D/S/P/M DRUG
O/T C/COCAINE/PWID/NEAR
SCHOOL
COURT DISP-CONVICTED;4 YRS
SUSP TO 2 YRS PROBATION
ATN-990000084495

GENTRY, BRENT FITZGERALD
SC0420100 SPARTANBURG PD
CASE-9021205
ATN-422100096990
WARR-19331DH
CIT-16-11-600-MISDEMEANOR

09/06/2005

ARREST CHARGE 01-ENTRY ON
ANOTHERS LANDS AFTER NOTIC

SLED State Criminal Records Check - DB Check & Display

900
Page 4 of 4

E
OFFENSE DATE-09/06/2005
PALM PRINTS AVAILABLE

GENTRY, BRENT FITZGERALD 02/26/2006
SC0420000 SPARTANBURG CNTY SO
CASE-2006020987
ATN-422100103335
WARR-K077952
CIT-16-3-10-FELONY

ARREST CHARGE 01-MURDER
OFFENSE DATE-02/26/2006
PALM PRINTS AVAILABLE

GENTRY, BRENT FITSGERALD 04/12/2007
SC0420100 SPARTANBURG PD
CASE-20070412
ATN-422100119363
WARR-53457DT
CIT-16-11-600-MISDEMEANOR

ARREST CHARGE 01-ENTRY ON
ANOTHERS LANDS AFTER NOTIC
E
OFFENSE DATE-04/12/2007
PALM PRINTS AVAILABLE

SC040015C SC DEPT CORRECTIONS 07/03/2007 CUSTODY STATUS-RECEIVED
CASE-200707 START DATE-07/03/2007
CIT-44-53-445(B) (1)-FELONY

COURT CHARGE 01-D/S/P/M DRUG
O/T C/COCAINE/PWID/NEAR
SCHOOL
COURT DISP-CONVICTED;46MOS
COURT DATE-07/03/2007
ATN-500300043781

CIT-16-1-55-FELONY

COURT CHARGE 02-ACC AFTER
THE FACT TO FELONY A, B, C
COURT DISP-CONVICTED;8YRS CC
COURT DATE-07/03/2007

BASED ON SEARCH OF SCLED CJIS CCH FILE USING SID/SC01484977
THIS CRIMINAL HISTORY RECORD IS FOR SOUTH CAROLINA ARRESTS AND
CONVICTIONS ONLY AND IS BASED ON THE INFORMATION PROVIDED. SINCE
CHANGES MAY OCCUR DAILY A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT
USE OF THIS RECORD IS ALLOWED.

INDIVIDUAL PROHIBITED FROM POSSESSING OR ACQUIRING FIREARM OR AMMUNITION
PURSUANT TO FEDERAL GUN CONTROL ACT OF 1968

INFORMATION SUBMITTED TO SLED CCH INDICATES THIS INDIVIDUAL HAS BEEN
CONVICTED OF A FELONY ACCORDING TO THE SOUTH CAROLINA CODE OF LAWS.
THEREFORE, THIS PERSON IS INELIGIBLE TO SHIP, TRANSPORT, OR RECEIVE ANY
FIREARM OR AMMUNITION AFFECTED BY INTERSTATE OR FOREIGN COMMERCE, AS
DEFINED BY THE GUN CONTROL ACT OF 1968 (18.USC 922(G)).

** S C CJIS END OF RECORD **

Credit Card Transaction Number 1346874009ICE56120905154119

Return

Another Check

Warrant K077952
07-05-42-1716
SDC Running Consecutive
to
05-05-42-490
Marilyn chg.

RICHEY AND RICHEY
ATTORNEYS AT LAW

A PROFESSIONAL ASSOCIATION

RODNEY W. RICHEY
LOLA S. RICHEY

POST OFFICE BOX 10916
GREENVILLE, SOUTH CAROLINA 29603

(864) 467-0503
(864) 467-0646 FAX

February 16, 2007

Isaiah Walker
Spartanburg County Detention Center
950 California Ave
Spartanburg, SC 29301

CERTIFIED COPY

M Hope Blackley
CLERK OF COURT
SPARTANBURG COUNTY
BY *Laila Moffitt* D.C.
DATED 10/10/12

Re: State of SC vs. Isaiah Walker

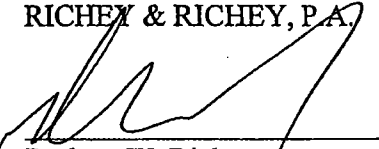
Dear Mr. Walker:

Please find enclosed additional discovery I have received in your case. This includes statements from other witnesses. There are statements by your girlfriend attributing the murder to you. Please read all statements carefully. Do not contact your girlfriend and talk with her about her statement. Please allow Tony to speak with her first. DO NOT call her on the telephone to talk. This could damage your case. Also, your calls from jail are subject to be recorded. The State will have those tapes available at trial.

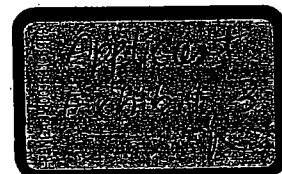
Thank you and if you should have any questions, please feel free to write me.

Sincerely,

RICHEY & RICHEY, P.A.


Rodney W. Richey

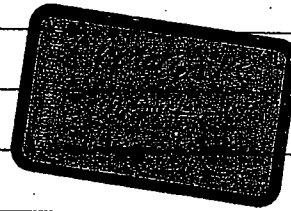
RWR/tlg
enclosure



2006 OCT -6 A 2:45

CASE# 7006020487	000031	VOLUNTARY STATEMENT		PAGE 1 of
STATEMENT OF: CHAVEZ MAURICE WILLER		AGE: 19	DATE: 122006	
ADDRESS: ROEBUCK, SC, 29376				
PHONE # 6988	DOB: 121886	SSN: 5348		

THIS PAST SATURDAY AFTERNOON AROUND 2:00 PM, I WAS GETTING OUT OF JAIL WHEN I SAW ISAIAH WILLER IN THE BOOKING AREA PIT. I WAS AT THE COUNTER GETTING MY PERSONAL BELONGINGS, AND HE WAS SITTING IN A CHAIR ON THE WALL, WAITING TO SEE THE JUDGE. I TOLD ISAIAH THE POLICE HAD QUESTIONED ME ABOUT JEFF'S MURDER, AND THAT HE WAS GOING DOWN FOR IT, BECAUSE THAT WAS MESSED UP. ISAIAH SAID I EMPTIED THE CLIP. HE SAID I EMPTIED IN A SOFT VOICE, AND THEN HE MOUTINED THE CLIP.



I have read this statement consisting of 1 pages(s), and I swear that the statement that I have just given is the truth, the whole truth, and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement. This statement was completed at 1450 P M. on the 20TH day of FEBRUARY 20 06.

WITNESS: Kenneth

SWORN to before me this 20

day of 2, 20 06

Jotam Public of South Carolina (Seal)

Chavez Miller
Signature of person giving voluntary statement

ATTACHED COPY

M. Hope Blachley
CLERK OF COURT
HARTMANBURG COUNTY
Shirley D.C.
DATED: 10/10/12



SLED CATCH

Citizens Access to Criminal Histories

Results

Name **Amanda Murphy**
Date of Birth **1988 01 03**
Maiden Name
Gender **Female**
SSN
Transaction **004885493**
Date of Check **September 5, 2012 at 12:50**

To Whom it may Concern:

The criminal history search was based upon the criteria furnished. It did not include a fingerprint comparison, which is the only means of positive identification. This **NO ARREST DATA** verification is only valid as of September 5, 2012 at 12:50 since a record may be established after that time. Therefore, if no action is taken within a reasonable period, it is recommended that another check be made.

Sincerely,

Wm. A. Steel

Chief Mark Keel.
South Carolina Law Enforcement Division

Credit Card Transaction Number **1346863388ICE156120905125033**

Return	Another Check
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CERTIFIED COPY

M. Hope Blackley
CLERK OF COURT
SPARTANBURG COUNTY
BY Hail M. H. et D.C.
DATED 10/10/12



SLED CATCH

Citizens Access to Criminal Histories

Results

Name **Kenneth Foster**

Date of Birth **1955 02 02**

Maiden Name

Gender **Male**

SSN

Transaction **004885491**

Date of Check **September 5, 2012 at 12:49**

NO ARREST DATA
IN ACCORDANCE WITH
S.C. CODE § 17-1-10
WHICH

To Whom it may Concern:

The criminal history search was based upon the criteria furnished. It did not include a fingerprint comparison, which is the only means of positive identification. This **NO ARREST DATA** verification is only valid as of September 5, 2012 at 12:49 since a record may be established after that time. Therefore, if no action is taken within a reasonable period, it is recommended that another check be made.

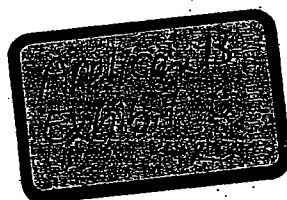
Sincerely,

Chief Mark Keel.
South Carolina Law Enforcement Division

Credit Card Transaction Number **1346863388ICE156120905124849**

Return

Another Check



CERTIFIED COPY

M. Hope Blackley

CLERK OF COURT

SPARTANBURG COUNTY

BY *Dail Hopper*

DATED *10/10/12*

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Isaiah Walker, #322149,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2010-CP-42-5368

ORDER OF DISMISSAL

This matter comes before the Court by way of an Application for Post-Conviction Relief filed October 6, 2010. The Respondent made its Return on or about April 27, 2011. An evidentiary hearing into the matter was convened on September 6, 2012, at the Spartanburg County Courthouse. The Applicant was present and represented by Tara D. Shurling, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf, along with his mother, Elizabeth Walker; former girlfriend, Amanda Murphy; and friends, Cynthia Tracker and Kenneth Foster. Rodney W. Richey, Esquire, also testified. This Court also had before it a copy of the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the Return, the trial transcript, Applicant's appellate records, and exhibits placed into evidence by Applicant.

PROCEDURAL HISTORY

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Spartanburg County Clerk of Court's orders of commitment. The Spartanburg County Grand Jury indicted the Applicant at the February 2007 term of General Sessions for

SCANNED

 FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 2013 JUL 18 PM 4:31
 HOPE BLACKEY

murder (07-GS-42-0625). Mr. Rodney W. Richey, Esquire, represented the Applicant on the charge. On May 31, 2007, the Applicant was convicted of this charge by a jury. The Honorable Roger L. Couch sentenced the Applicant to confinement for life.

A timely Notice of Appeal was filed and an Anders brief was filed on Applicant's behalf. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. Walker, Op. No. 2010-UP-114 (filed February 11, 2010). The Remittitur was returned on March 4, 2010.

ALLEGATIONS

In the current application, the Applicant alleged he was being held in custody unlawfully for the following reasons:

1. Ineffective assistance of trial counsel, in that;
 - i. Counsel failed to recognize errors during trial and failed to make appropriate objections and supporting legal arguments related to those errors; and
2. Ineffective assistance of appellate counsel, in that;
 - i. Counsel was retained to represent Applicant, but filed a no merit brief pursuant to Anders v. United States on Applicant's behalf.

Applicant's Counsel filed an amendment to the application on the day of the hearing,

raising the following additional allegations:

1. Ineffective assistance of trial counsel, in that;
 - i. Counsel failed to object to hearsay testimony offered from Captain Jackie Kellett regarding the fact that the her conclusion concerning the match of a latent palm print to the Applicant had "been verified by a second latent print examiner in my office,"
 - ii. Counsel failed to call Applicant's former girlfriend, Amanda Murphy, as a witness, where her testimony would have refuted Brent Gentry's contention that the victim was killed by the Applicant because the victim had been "messing with Amanda,"
 - iii. Counsel failed to call Cynthia Thacker as a witness, where her testimony could have refuted testimony of Applicant's co-defendant regarding his whereabouts and activities on the morning of the shooting,
 - iv. Counsel was ineffective for failing to call Kenneth Foster as a

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 JUL 15 PM 4:32
M. ROSE BLAKEY

- witness, where his testimony would have refuted claims by Raymond Annas,
- v. Counsel failed to fully and accurately advise the Applicant on the issue of whether or not he should testify in his own defense at trial,
 - vi. Counsel neglected to convey and discuss two plea offers made by the State prior to trial,
 - vii. Counsel misled the Applicant regarding the strength of the State's case regarding the palm print that could have either been in the victim's blood or a palm print with blood splattered on top,
 - viii. Counsel was ineffective for leading the Applicant to believe that the DNA evidence in the case was inconclusive,
 - ix. Counsel was ineffective for failing to fully cross-examine the co-defendant, Brent Gentry, regarding all of his pending charges at the time of his testimony at trial.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

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Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRPC). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). 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. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 486 S.E.2d 733, 735 (1997) (citing Strickland).

Failure to Call Witnesses

The Applicant alleged that Counsel was ineffective for his failure to call several witnesses at trial; including, Amanda Murphy, Cynthia Thacker, Kenneth Scott, and Chavez Miller. Applicant's mother, Elizabeth Walker, testified that she gave Counsel the names of witness, including Sheryl Miller, Laddie Moore Means, and Mrs. Darnell Miller, who could have been character witnesses. Mrs. Walker also testified that Sheryl Miller was around when the events of the day took place and could have testified to those events. (PCR p. 117). Counsel testified that his investigator attempted to interview various witnesses provided by the Applicant, but the majority of those people were not cooperative. (PCR p. 25). Furthermore, near the close of trial, Counsel acknowledged that the court asked the Applicant about the fact that Counsel did

not intend to call additional witnesses on his behalf and the Applicant acknowledged that he knew that and was in agreement with that decision. (PCR p. 56-7). The Applicant testified that he had told Counsel about all of the people in Ms. Thacker's trailer and gave him the names and numbers of other witnesses. (PCR p. 104-5). An Applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial. Bannister v. State, 333 S.C. 298, 509 S.E.2d 807 (1998).

Amanda Murphy

Counsel testified that he was aware of the Applicant's girlfriend, Amanda Murphy, as a potential witness; however, testified that he did not interview her. Counsel testified that based on discovery materials, Counsel determined that Amanda would not be a good witness for the defense. (PCR p. 21). Counsel explained further that an issue had occurred prior to trial where Amanda was accused of threatening a girl at Spartanburg Tech by saying she would "put [Isaiah] on her." (PCR p. 22). Counsel testified that Amanda had supposedly written these threats on the walls also at school. (PCR p. 44). Counsel testified that he did not want to risk bringing that issue or statement anywhere in the case and further testified that it was not an isolated statement or individual. (PCR p. 22). Counsel testified that he spoke with the State and although she had been listed as a State witness, the State agreed to not call Amanda as a witness. (PCR p. 22). Counsel testified that his recollection regarding the situation was that Amanda did not dispute writing threats on the wall. (PCR p. 60-1). In addition, Counsel testified that he also had information about the situation from the prosecutors and was under the belief that Amanda had spoken with them about the incident. (PCR p. 61).

Counsel acknowledged sending a letter to the Applicant, in which he requested that

Applicant not be in contact with Amanda because of the statements she was alleged to have made. (PCR p. 42-3). Applicant introduced the letter as Applicant's Exhibit #3. (PCR p. 46). Finally, Counsel testified that he did not believe that Amanda offered anything of value to the case, but had the potential to hurt. (PCR p. 61).

Amanda testified at the hearing that she was never interviewed by either Counsel or anyone from his office prior to Applicant's trial. (PCR p. 69). Amanda testified that at the time of the shooting, she and the Applicant had been dating approximately eight months. (PCR p. 68-9). Amanda acknowledged that she had previously been arrested for simple possession, but the charge was dropped. Amanda's SLED record was introduced as Applicant's Exhibit #5. Amanda, when asked about the altercation with someone at school, testified that she could not even tell the name now, but then testified regarding the graffiti, that "[she] had no idea that any of that happened or [] had no idea that [she] did that." (PCR p. 70). Amanda also testified she was never questioned by law enforcement about any statement or threats, but then testified that law enforcement did come to question her in Myrtle Beach, but claimed they did not listen because she was trying to support the Applicant. (PCR p. 71). Amanda further testified that she had never met the victim in this case, nor had she ever had any conversations with him on the phone. However, she did testify that she went to school with the victim's brother. (PCR p. 71-2).

The Applicant testified that he talked with Counsel about his relationship with Amanda. Applicant also testified that Counsel asked him if there was anything between the victim and Amanda and Applicant testified that he was not aware of anything. (PCR p. 104). Applicant also testified that he made sure Counsel had Amanda's contact information. (PCR p. 105).

Cynthia Thacker

Counsel testified that he did not personally interview anyone who would have been present at the trailer, referenced to by Mr. Gentry; rather his investigator met with and interviewed witnesses. (PCR p. 28). Counsel testified that he could not recall the name Cynthia Thacker, but the investigator talked with whoever was provided to Counsel as a potential witness. (PCR p. 28).

Cynthia Thacker testified that she has known the Applicant since he was a child, but she also knows him from the Applicant visiting her trailer. (PCR p. 82). Ms. Thacker testified that on the day the victim was killed, the Applicant, along with Sheryl Miller, Brent Gentry, and herself, were at the trailer, along with "Laddie," who owned the trailer¹. (PCR p. 82). Ms. Thacker testified that Jeffery ("the victim") arrived first, with Applicant and Gentry coming several hours later. Then Ms. Thacker testified that the Applicant and Gentry left with the victim leaving soon after talking with Chavez Miller. Ms. Thacker denied that the Applicant stepped outside of the trailer to use the phone. (PCR p. 87). Ms. Thacker testified that she would have been willing to testify on behalf of the Applicant, had she been asked by Counsel. (PCR p. 84).

Kenneth Foster Scott²

Kenneth Scott testified that he was 57, but knew the Applicant from the neighborhood. (PCR p. 76). Mr. Scott testified that he had no criminal convictions, but did have various traffic violations and a failure to pay child support. (PCR p. 77). Mr. Scott's SLED report was entered into evidence as Applicant's Exhibit #6. Mr. Scott testified that he knows Mr. Raymond Annus

¹ This Court notes that the transcript reflects that Ms. Thacker originally said "Sheryl" Miller, but when asked by PCR Counsel if she said "Chavez" Miller, she agreed. (PCR p. 82). The name "Sheryl" Miller as a witness was also later testified to by Applicant's mother, Elizabeth Walker. (PCR P. 117).

² PCR Counsel refers to the witness as Mr. Foster.

and has seen Mr. Annus trade his prescription medicine for crack cocaine numerous times. (PCR p. 78). Mr. Scott testified that he had never seen Mr. Annus complete any transactions with Brent Gentry or Chavez Miller, but he was able to testify that he had seen Mr. Annus trade with the victim several times. (PCR p. 79). Mr. Scott testified that he would have been willing to speak with Counsel or his investigator, or testify at trial about the relationship between Mr. Annus and the victim. (PCR p. 79).

Chavez Miller

Counsel also testified that Chavez Miller was a potential witness for both the State and the defense. Counsel testified that the Applicant and his mother suggested that Chavez might have had access to the Applicant's clothing from Applicant's home. (PCR p. 23). Counsel testified that in order to try and show that Chavez Miller had access to the Applicant's clothes, Counsel would have put up the Applicant's mother as a witness. Counsel testified that Applicant's mother could have been a good witness for the defense. (PCR p. 20). Low bringing in Chavez as a witness was a risk because Chavez had given a statement to police that was damaging for the Applicant's case. (PCR p. 23-4). Additionally, Counsel testified that because the statement indicated that the Applicant told Chavez (Applicant's cousin) that Applicant had killed the victim, Counsel did not want Chavez on the stand at all. (PCR p. 25). Counsel testified that although he considered that he could have attempted to impeach Chavez, he thought the risks were too great. (PCR p. 25).

The statement of Chavez Miller was introduced as Applicant's Exhibit #4. Mr. Miller's statement had his phone number listed. Counsel acknowledged that from the victim's phone records that were evidence at trial, it appeared that the victim called the number for Mr. Miller twice on the morning of February 17, 2006, which was the day he was ultimately shot. (PCR p.

63-4). Counsel testified that he did not consider using those phone records to attempt to show that Miller had been in contact with the victim on the day of the shooting. (PCR p. 64).

This Court has reviewed the testimony presented by each of the witnesses and finds Counsel's testimony to be more credible than Ms. Murphy's testimony. This Court finds that the testimony offered by Ms. Murphy was inconsistent and would not have affected the outcome of the trial. Ms. Murphy could only claim that she did not know nor did she have any interactions with the victim, but then also testified that she was aware that she went to school with the victim's brother. This Court believes that Counsel had a legitimate reason for not calling Ms. Murphy as a witness and recommending that his client refrain from communicating with her based on the allegations raised during her altercation with a girl at school. Although the Applicant offered Ms. Murphy's testimony at the hearing, this Court finds that he suffered no prejudice from Counsel's strategic decision to not call her.

As it relates to Mr. Scott, this Court does not find his testimony credible. The fact out of the three names mentioned, Mr. Scott only testified that he knew Mr. Annus traded pills for drugs with the victim, rather than any of the others draws the credibility of his testimony into question, especially when the testimony was already presented that all of the names mentioned dealt in drugs. The testimony offered simply maligned the victim's character rather than offer any substantive support for the defense. While it is possible that Counsel could have asked Mr. Annus about his drug trading, testimony was already presented to indicate that Mr. Annus smoked marijuana and had purchased it on occasion. Therefore, this Court can find no prejudice in Counsel's failure to call Mr. Scott in an attempt to either malign the victim's character or in an attempt to attack the credibility of Mr. Annus.

As it relates to Ms. Thacker, this Court finds her testimony to lack credibility. In addition to her criminal charges, testimony presented by the Applicant indicated that the people in the trailer were all smoking weed, which could call into question her ability to accurately recall the events six years earlier.

Counsel expressed a valid strategic decision for not calling Chavez Miller as a witness, in particular because of the written statement Mr. Miller gave to police indicating that the Applicant had confessed to the crime to Mr. Miller. Following the review of the testimony presented and the evidence, including the written statement, this Court finds that it was a reasonable strategic decision on behalf of Counsel to not call Mr. Miller as a witness.

Where counsel articulates valid reasons for employing a certain strategy, counsel's choice of tactics will not be deemed ineffective assistance. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 530 (1992). See also Dempsey v. State, 363 S.C. 365, 610 S.E.2d 815 (2005). McLaughlin v. State, 352 S.C. 476, 575 S.E.2d 841 (2003).

This Court is well aware of the established case law that an Applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial Bannister v. State, 333 S.C. 298, 509 S.E.2d 807 (1998). However, this Court finds that the testimony offered by each of the witnesses is not sufficient to establish prejudice from their failure to testify at the trial. Therefore, this claim is denied and dismissed.

Failure to Object to Hearsay

Applicant alleged that Counsel should have objected to a portion of the testimony of Captain Jackie Kellett³, witness for the State, as hearsay. Captain Kellett, when testifying about her conclusion regarding the match of a latent palm print to Applicant, indicated in her last

statement on direct examination, that the conclusion "had been verified by a second latent print examiner in [her] office." After reviewing the testimony of Kellett, Counsel testified that he did not know why he did not object to that statement by Captain Kellett. However, he testified that there was never a dispute as to whose print it was, although he acknowledged that a bloody print in the car was one of the strongest pieces of evidence against his client and he should have objected to the statement. (PCR p. 27-8).

Kellett was qualified as an expert in latent fingerprint identification, but Counsel cross-examined her as to the procedure of comparing the prints to prints given to her by the local police of a suspect, as well as how a print in a substance might differ from that on a clean surface. This Court does not find that the brief statement affected the outcome of the trial, based upon the other evidence and testimony offered. Although Counsel may have been deficient in his failure to object to this statement, this Court finds that the Applicant suffered no prejudice as a result of the alleged deficiency.

Failure to Effectively Cross-Examine Witnesses

Applicant alleged that Counsel was ineffective for failing to effectively cross-examine witnesses, in particular, Mr. Brent Gentry and Mr. Raymond Annus. An attorney's performance is not deficient if it is reasonable under professional norms. Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989).

Brent Gentry

Applicant alleged that Counsel was ineffective for failing to properly cross examine Brent Gentry during trial. Counsel testified that his main trial strategy was to throw the blame on Gentry, but there was no real evidence that Gentry was present at the house or actually shot the victim. (PCR p. 51). Counsel testified, as the transcript was reviewed, that he asked Gentry

³ PCR transcript references the witness as Jackie Collett.

questions about the fact that he was in jail at the time of the trial and had been out on bond, but had done something to have that bond revoked. (PCR p. 36). Counsel also asked Gentry about potential animosity between himself and the victim, had Gentry admit that he carried a gun sometimes because of drug involvement, and that he occasionally sold drugs. (PCR p. 51-2). Counsel further testified that he was able to get Gentry to say that he was hoping for his murder charge to be dismissed, even though he claimed nothing had been promised by the State. (PCR p. 36). Counsel also testified that he cross-examined Gentry regarding his testimony that when he showed up at Applicant's home, he saw no blood or evidence of the shooting, when the police found a great deal of blood and shell casings. (PCR p. 59).

Counsel acknowledged receiving a copy of Gentry's SLED record in discovery, but did not recall why he did not ask additional questions as to what charge specifically caused Gentry's bond to be revoked. (PCR p. 37). Applicant's Counsel introduced Gentry's SLED record as Applicant's Exhibit #2. (PCR p. 40). Further, Counsel testified that he did not, but it would have been proper cross examination for him to ask Gentry about the pending murder charge, as well as the probation revocation proceeding for a four year drug charge that was pending. (PCR p. 38).

Counsel testified that he did not further cross-examine Gentry on his relationship with the Applicant, because although Gentry testified that he had seen the victim only a few times, but knew the Applicant for about ten years, the fact that Gentry had known the Applicant was about ten years was not disputed. Rather, Counsel testified that the Applicant knew Gentry and knew his reputations and had even had some dealings with him, but did not consider Gentry a close friend. (PCR p. 65-6). Counsel acknowledged that he did cross-examine Gentry on his

relationship with Chavez Miller, but only did that because he had received assurances from the State that they were not calling Chavez Miller as a witness. (PCR p. 66-7).

Raymond Annus

Applicant also alleged that Counsel failed to cross examine Mr. Annus on various issues. Counsel agreed that he did not ask Mr. Annus any questions about Brent Gentry or his connection to Gentry and did not remember that his investigator did anything to investigate that particular connection. (PCR p. 30). Additionally, Counsel acknowledged that he did not ask Mr. Annus about the alleged habit of trading pills for marijuana. (PCR p. 40). However, Counsel also testified that Mr. Annus had no criminal record and there was no concrete evidence regarding any exchanging of pills or drugs. (PCR p. 52).

Regarding Counsel's cross-examination of Mr. Gentry, this Court finds no deficiency. Although Counsel failed to ask Mr. Gentry about a potential four year probation revocation he faced, Counsel did raise the question as to the murder charge that Mr. Gentry faced, which is much more significant and has much more bearing on any motivation to testify. Furthermore, Counsel was able to bring out Mr. Gentry's drug sales, gun possession, and other prior convictions. Additionally, Counsel cross-examined Gentry on the fact that the victim and the Applicant had a friendly relationship and there had been no animosity. In regards to his relationship with the Applicant, although Mr. Gentry testified that he had known the Applicant for ten years, he only briefly stated, when asked if they were friends, "you could say that." (Tr. p. 523). However, this Court does note that Mr. Gentry testified that he knows the Applicant through his (Mr. Gentry's) cousin, Byron Lowder and he and the Applicant spent part of the day of the shooting at Mr. Lowder's home. (Tr. p. 523-4). Similarly, the Applicant testified at the PCR hearing that on the day of the shooting, he and Mr. Gentry went to his (Applicant's) cousin

Byron's house following the disposal of the body. (PCR p. 97). Applicant continued to testify about his and Mr. Gentry's visit at his (Applicant's) cousin Byron's house as well. (PCR p. 113-5). This Court finds that the fact that both the Applicant and Mr. Gentry were related in some sort of fashion, further calls into question the credibility of the Applicant's testimony.

As to any questions regarding Mr. Annus' relationship with Mr. Gentry, Applicant's own witness Mr. Scott, testified that he had never seen Mr. Annus trade pills for drugs with Mr. Gentry. Therefore, the Applicant failed to show that if Counsel had asked any questions regarding any alleged relationship between the two would have provided any additional information.

The nature and scope of cross-examination is inherently a matter of trial tactics. United States v. Nersesian, 824 F.2d 1294, 1321 (2nd Cir. 1987). "[A] defendant has a 'burden of supplying sufficiently precise information,' of the evidence that would have been obtained had his counsel undertaken the desired investigation and of showing 'whether such information would have produced a different result.'" United States v. Rodriguez, 53 F.3d 1406, 1419 (9th Cir. 1995).

Accordingly, the Applicant has not shown that a different approach to cross-examination on either of these witnesses would have been beneficial to the defense. The Applicant did not present any testimony showing the witnesses' answers at trial would have been different. Moreover, this Court finds that the information presented by the Applicant was not sufficient to have altered the outcome of Applicant's trial had it been presented. Therefore, this claim is denied and dismissed.

Failure to Properly Advise Applicant Regarding Testifying at Trial

Counsel testified that he did discuss with Applicant his right to testify, but the Applicant

indicated to Counsel that he did not want to testify. (PCR p. 13-4). Counsel testified that he talked with the Applicant about the fact that his testimony could be valuable, but also that his testimony did not reconcile with the evidence and could present a problem. Counsel testified that the story the Applicant told him regarding the Brent Gentry wearing Applicant's clothes and shooting the victim, but then Applicant going on his own to dispose the body and then, being afraid of, but later spending all day with Gentry, did not appear to make sense. (PCR p. 14). Additionally, Counsel testified that there were some issues regarding whether or not the victim may have shot a gun based upon a shell that was found on the driveway, but then the victim had no gunshot residue on his hands. (PCR p. 15).

Counsel also testified that at the time of the decision regarding the Applicant testifying, he talked with him some about being able to have the last argument, if no evidence was put up by the defense. (PCR p. 18). Counsel testified that it was never the strategy to not present evidence in order to have last argument, but the witnesses they had available to testify were not and Counsel did not believe they would have been beneficial to the case. (PCR p. 18). Applicant introduced his criminal record, which indicated a simple possession of marijuana charge only, as Applicant's Exhibit #1. (PCR p. 18).

The Applicant testified that he never discussed with Counsel the fact of whether or not they could still put up evidence or witnesses for the defense even if the Applicant did not testify. (PCR p. 105). However, Applicant acknowledged that at the time of trial, when he informed the court that he agreed that he did not want to testify, he was just putting his trust in Counsel and "rolled with it, with the flow." (PCR p. 110).

This Court finds Counsel's testimony on this issue to be more credible than Applicant's testimony. This Court is not convinced that the Applicant wanted to testify on his behalf at trial

or that Counsel never discussed with him the options of calling other witnesses, when that information is directly refuted by the record. It is clear that the Applicant was aware of his right to testify and this Court finds that he chose to not testify on his own accord, after discussing the options with Counsel. Additionally, this Court, after reviewing the testimony provided by the Applicant at the hearing, finds his explanation of the events of that day to lack credibility and to be rather unbelievable. In particular, the Applicant's claims that Mr. Gentry was wearing Applicant's clothes, but picked up the Applicant at the pond and then later returned to the pond where the car was to try and disposed of the clothes, Applicant's failure to explain the lack of blood in the Cadillac, and his description of how he disposed of his own clothes. (PCR p. 95-96; 112-3). This Court finds no deficiency and can find no prejudice as a result of any actions of Counsel. This Court does not believe that Counsel offered any incorrect advice to the Applicant regarding his right to testify or whether or not he should testify based upon the testimony presented at the hearing. Therefore, this claim is denied and dismissed.

Failure to Convey and Discuss Plea Offers with Applicant

Applicant alleged that Counsel was ineffective for failing to convey and discuss plea offers with him prior to and during the trial. Counsel testified that prior to trial, the State had offered to reduce the charge to voluntary manslaughter and then sometime subsequent to that offer, the State made an offer of nineteen years. However, Counsel testified that he could only find a letter in his file regarding the offer reducing the charge to voluntary. (PCR p. 7). Counsel testified that prior to trial he did convey the offers to his client. Counsel also testified that he specifically recalled reviewing with Applicant the fact that voluntary manslaughter would be an 85% sentence rather than day for day. (PCR p. 53). However, Counsel testified that the Applicant rejected both offers. (PCR p. 7-8). Counsel also testified that following the

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presentation of the State's case, upon Counsel's request, the State indicated that they would be willing to talk with the victim's family and consider sixteen years if the Applicant would commit to that at the time. Counsel testified that he shared that information with the Applicant and the Applicant did not want to commit to accepting a sixteen year offer. (PCR p. 8; 10-11). Counsel testified that the reasons the Applicant gave for not accepting any of the offers was that he did not shoot the victim and was not guilty of anything, but that Brent Gentry was the one who shot the victim. (PCR p. 12-3). However, Counsel did testify that the Applicant admitted to disposing of the body. (PCR p. 13).

The Applicant testified that Counsel only relayed an offer of thirty years to him prior to trial and at first testified that he supposed it was for murder, but then stated that it was for manslaughter. (PCR p. 102). The Applicant testified that was the only offer he ever heard of from Counsel and that Counsel never came to him before trial with a nineteen year offer or during trial with a consideration for sixteen years. (PCR p. 102-3). Applicant testified that he would have taken the sixteen year consideration had he known about it during trial. (PCR p. 103). Applicant also testified that Counsel never reviewed with him the different laws between manslaughter being an 85% sentence versus murder being a day for day sentence. (PCR p. 109)

The Applicant's mother, Elizabeth Walker, also testified that she was told of a plea offer for thirty years to the charge of murder by Counsel, but was never informed of any other plea offers. (PCR p. 116). She also testified that after hearing the evidence presented at trial, if she had known there was a possibility for sixteen year sentence for voluntary manslaughter, she would have encouraged her son to take that sentence. (PCR p. 117).

The South Carolina Supreme Court has held that a case-by-case approach is appropriate for assessing "whether but for counsel's deficient performance a defendant would have accepted

the State's proposed plea bargain and that he would have benefited from the offer." Davie v. State, 381 S.C. 601, 613, 675 S.E.2d 416, 422 (2009). However, presumed prejudice is not appropriate and an Applicant must demonstrate actual prejudice. Id. (citing Nance v. Ozmint, 367 S.C. 547, 552, 626 S.E.2d 878, 880 (2006)).

This Court finds Counsel's testimony as to the plea offers and the Applicant's subsequent rejection of the offers to be credible. This Court does not find Applicant's testimony credible that he would have accepted a lesser-offer had he known about it based upon his continued insistence as to his innocence of shooting the victim and only being involved in disposing of the body. This Court does not make any credibility findings as to the testimony of the Applicant's mother because it is possible that she was unaware of the plea offers closer to and during trial. This Court finds that the Applicant failed to offer credible testimony that Counsel failed to convey these plea offers to him. Furthermore, the Applicant specifically testified that between the option of finishing the trial or accepting a sixteen year offer, he "probably, would have taken the sixteen years instead of receive a life sentence. This Court finds that it the Applicant failed to offer sufficient evidence that even if there was a plea offer that Counsel had failed to convey, that he would have accepted the offer. Therefore, this claim is denied and dismissed.

Failure to Properly Communicate with Applicant Regarding State's Evidence

Counsel testified that he spoke with Applicant prior to trial about the nature of the State's forensic evidence, including the palm print. (PCR p. 30). Counsel testified that his main concern was that if they had an independent test done on the palm print and it indicated that it was the Applicant, which was Counsel's understanding from their conversations, then the State would have the right to have that information. (PCR p. 31). Counsel testified that he did not want to make the State's evidence any stronger. (PCR p. 31). Counsel also testified that he did

nothing to determine if it was possible that it was a palm print with blood on top of it, other than a palm print made with blood. (PCR p. 32). Counsel testified that he never told the Applicant that the print could be discounted because Counsel knew all along that it was the Applicant's print based upon what the Applicant told him. (PCR p. 33). Counsel testified that he did not ever tell the Applicant, prior to trial, that he thought he could raise the question in the jury's mind as to whether or not the palm print was on top of rather than made in the blood. (PCR p. 33-4).

Counsel also testified that he reviewed with the Applicant the results of the DNA testing prior to trial. (PCR p. 34). Counsel testified that he did send some of the clothes off in an attempt to see if Gentry's DNA would be found, but that test was inconclusive. Counsel testified that he made it clear that the inconclusive result was only as to the clothing and not the other blood evidence in the case. (PCR p. 35).

The Applicant testified that Counsel reviewed discovery materials with him prior to trial. Applicant also testified that he was aware that Brent Gentry was pointing to the Applicant as the shooter and he was aware that the police had seized a Timberland shoe box from his home and that the size and style matched the boots found at the scene. The Applicant also testified that Counsel had shared with him the fact that there was a bloody palm print inside the car, which the State was claiming was the Applicant's, along with the fact that the forensic reports indicated that there was a match between the blood on the shoes and the victim. (PCR p. 99).

This Court finds that Counsel met with Applicant and thoroughly reviewed the discovery materials and potential trial strategy. There was no testimony or evidence presented that Counsel ever mischaracterized evidence or failed to review with the Applicant the discovery materials in preparation for trial. Additionally, the Applicant has failed to show that any conversation with

Counsel regarding the State's evidence prejudiced him in anyway. Therefore, this claim is denied and dismissed.

Ineffective Assistance of Appellate Counsel

The Applicant has claimed that trial counsel, who also represented Applicant on direct appeal, was ineffective for failing to file a merits brief and instead filing an Anders brief. However, the Applicant presented no testimony or evidence to support his claims in this regard. Therefore, this claim is denied and dismissed.

Summary

This Court finds that Counsel is an experienced attorney who was prepared for and effectively represented Applicant at his trial. This Court finds counsel adequately conferred with the Applicant, was thoroughly competent in his representation, and that Counsel's conduct does not fall below the objective standard of reasonableness.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence Counsel committed either errors or omissions in his representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland that he was prejudiced by Counsel's performance. There is no evidence that the outcome of the trial would have changed based upon any of the allegations of deficiency. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier supra. Therefore, this allegation is denied.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not

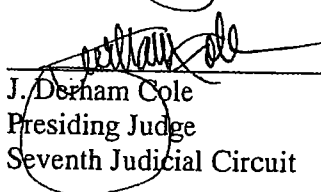
established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 10 day of July, 2013.


J. Derham Cole
Presiding Judge
Seventh Judicial Circuit

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M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas
J. Derham Cole, Presiding Judge

2010-CP-42-5368

RECEIVED

AUG 19 2013

S.C. Supreme Court

ISAIAH WALKER, 322149

Applicant,

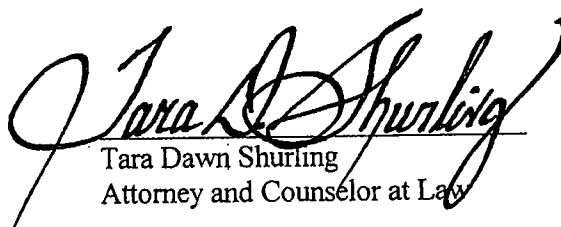
v.

THE STATE OF SOUTH CAROLINA,

Respondent.

NOTICE OF APPEAL

NOW COMES the Applicant in the above-captioned Post-Conviction Relief matter, acting by and through his undersigned counsel, giving notice of his appeal from the Order of Dismissal denying his Post-Conviction Relief filed July 15, 2013.



Tara Dawn Shurling
Attorney and Counselor at Law

3614 Landmark Drive, Suite A
Columbia, South Carolina 29204
(803)738-8622
(803)738-1600 FAX

ATTORNEY FOR APPLICANT

This 19th day of August, 2013.

Other Counsel of Record:
Suzanne H. White, Assistant Attorney General
P. O. Box 11549
Columbia, SC 29211
Attorney for Respondent
(803) 734-3737

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas
J. Derham Cole, Presiding Judge

2010-CP-43-5368

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AUG 19 2013

S.C. Supreme Court

ISAIAH WALKER, 322149

Applicant,

v.

THE STATE OF SOUTH CAROLINA,

Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that one copy of the Applicant's Notice of Appeal in the above-entitled cause has been served upon opposing counsel, Suzanne H. White, Assistant Attorney General, by mailing in an envelope properly addressed with postage prepaid on this 19th day of August, 2013.

Sharon McCollister

Sharon McCollister
Paralegal to Tara Dawn Shurling

EXOS 21 30A

SWORN TO BEFORE me this 19th day
Of August, 2013.

Deanne Gialan (L.S.)

Notary Public for South Carolina

My Commission Expires: 2/28/2023

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AUG 19 2013

200 Subline Group

