

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Anderson County

R. Lawton McIntosh, Circuit Court Judge

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S.C. Supreme Court

SHAWN WILLIAMS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-001697

APPENDIX

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STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
COUNTY OF ANDERSON)

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
 vs.) TRANSCRIPT OF RECORD
) 2007-GS-04-1450, 1451
)
 SHAWN A. WILLIAMS)
)
DEFENDANT.)

JANUARY 5, 2009
 ANDERSON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE J. C. NICHOLSON, JR., JUDGE.

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

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 Attorney for the State

ROBERT A. GAMBLE, PUBLIC DEFENDER
 Attorney for the Defendant

Donna Brady
 Official Court Reporter

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1 January 5, 2008

2 (WHEREUPON, Court convened with all parties present,
3 when the following proceedings were had:)

4 MR. MCELHANNON: Your Honor, the first case is state
5 versus Shawn Williams, indictments 2007-GS-04-1450, grand
6 larceny; 2007-GS-04-1451, murder and possession of a
7 knife during the commission of a violent crime;
8 2008-GS-04-2554, death or injury to a child in utero.

9 THE COURT: All right. Ladies and gentlemen of the
10 jury panel, we're getting ready to start the case of the
11 state vs. Shawn A Williams. He's indicted for death or
12 injury to a child and grand larceny. And count one,
13 murder, and two, possession -- count two, possession of
14 weapon during the commission of a violent crime, and
15 injury to a child.

16 The first thing I'm going to do is call out a list
17 of names. I'm going to ask you the same question about
18 each name. I'm going to ask you, do you know the
19 individual, are you related by blood or marriage? Have
20 you had any contact with the individual? When I say
21 marriages, I'm talking about past marriages as well as
22 present marriages. And if you have one in the immediate
23 future with one of the witnesses, I'd want to know that
24 also.

25 I had one juror who didn't want to tell anybody she

1 was divorced from one of the witnesses, going through a
2 knock-down, drag-out divorce. So past marriages or
3 present marriages.

4 The first name is Greg Hayden, works at the Anderson
5 County Sheriff's Office. Anybody know Greg Hayden, had
6 any contact with --

7 (Prospective juror stands.)

8 PROSPECTIVE JUROR: I know Greg Hayden.

9 THE COURT: What's your name?

10 PROSPECTIVE JUROR: Pam Boggs.

11 THE COURT: Yes, ma'am, Ms. Boggs? How do you know
12 him?

13 PROSPECTIVE JUROR: We built our house 20 years ago
14 Billy and Margaret's house, and I -- we just remained
15 friends.

16 THE COURT: How often do you see them, Miss Boggs?

17 PROSPECTIVE JUROR: Just in passing, not often. Two
18 or three times a year.

19 THE COURT: Would that interfere with you sitting on
20 this jury?

21 PROSPECTIVE JUROR: No, sir.

22 THE COURT: Would it cause you any difficulty in
23 sitting on this jury?

24 PROSPECTIVE JUROR: No, sir.

25 THE COURT: Can you base your decision on the

1 testimony you hear in the courtroom?

2 PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: Okay. Thank you, Miss Boggs.

4 The next name is Kevin Matheson, Anderson County
5 Sheriff's Office. Anybody related by blood or marriage
6 to Kevin Matheson? Anybody know Kevin Matheson? If so,
7 please stand.

8 The next name is Eddie Stancil, Anderson County
9 Sheriff's Office. Anybody know Eddie Stancil? Anybody
10 related by blood or marriage or had any contact with
11 Eddie Stancil? If so, please stand.

12 Next name is Tommy Clamp, Anderson County Sheriff's
13 Office. Anybody related by blood or marriage to Tommy
14 clamp, had any contact with Tommy Clamp? If so, please
15 stand.

16 (Prospective juror stands.)

17 THE COURT: Yes, sir, your name?

18 PROSPECTIVE JUROR: Chris Wilson.

19 THE COURT: Do you know your number, Mr. Wilson?

20 PROSPECTIVE JUROR: 172.

21 THE COURT: Mr. Wilson, how do you know Mr. Clamp?

22 PROSPECTIVE JUROR: He assisted in -- assistant
23 coach for my son's football team.

24 THE COURT: When was this?

25 PROSPECTIVE JUROR: Just this past year.

1 THE COURT: This past year. Do you see him outside
2 of that environment?

3 PROSPECTIVE JUROR: I saw him a couple of weeks ago
4 at a restaurant. Other than that, that was it.

5 THE COURT: Is he a personal friend or you just knew
6 him because he was assistant coach?

7 PROSPECTIVE JUROR: Knew him through that.

8 THE COURT: Were you satisfied with his coaching
9 duties or upset with him?

10 PROSPECTIVE JUROR: We were wins.

11 THE COURT: You were wins. So you're satisfied with
12 his services?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: All right. Would that interfere with
15 your ability to sit on this jury?

16 PROSPECTIVE JUROR: No, sir.

17 THE COURT: Okay. Can you be fair to both the state
18 and the defendant?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Can you base your decision on the
21 testimony you hear in the courtroom?

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: Thank you, Mr. Wilson.

24 Yes, sir? Your name?

25 PROSPECTIVE JUROR: I know Mr. Clamp, Michael

1 Harris.

2 THE COURT: What number?

3 PROSPECTIVE JUROR: Sixty-two.

4 THE COURT: Yes, sir, Mr. Harris?

5 PROSPECTIVE JUROR: I grew up across the street from
6 Tommy Clamp. We've been lifelong friends.

7 THE COURT: Do you want to come around up front
8 please. The attorneys can join me up here.

9 (Prospective juror and attorneys approach bench.)

10 THE COURT: You said you grew up with him across the
11 street?

12 PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: Went to grammar school?

14 PROSPECTIVE JUROR: He was just a few years younger
15 than I was, but we was in the neighborhood together.

16 THE COURT: Did you all graduate high school, the
17 same high school?

18 PROSPECTIVE JUROR: Yes, sir.

19 THE COURT: How often have you seen him since high
20 school?

21 PROSPECTIVE JUROR: Just, my parents still live
22 across from his parents, and I see him when we visit down
23 there.

24 THE COURT: Do you see him around town?

25 PROSPECTIVE JUROR: Occasionally.

1 THE COURT: Do you do anything socially with him?

2 PROSPECTIVE JUROR: No, sir.

3 THE COURT: Just been lifelong friends?

4 PROSPECTIVE JUROR: Also Greg Hayden. I didn't get
5 a chance to answer before you went to the next one. I go
6 to church with him.

7 THE COURT: You go to church with?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: Greg ever seen you there?

10 PROSPECTIVE JUROR: I don't talk to him every
11 Sunday.

12 THE COURT: You just see him at church? Do you see
13 him any other places other than church?

14 PROSPECTIVE JUROR: No, sir.

15 THE COURT: All right. How would that affect you
16 sitting in the jury if he possibly testified in this
17 trial?

18 PROSPECTIVE JUROR: It's hard to say.

19 THE COURT: Well, I understand. But only you can
20 answer that question. We all have our --

21 PROSPECTIVE JUROR: I would try not to let that have
22 any --

23 THE COURT: We all would try, but the question is
24 would it have any effect?

25 PROSPECTIVE JUROR: It probably wouldn't affect my

1 decision --

2 THE COURT: Why not?

3 PROSPECTIVE JUROR: I go by the testimony.

4 THE COURT: They're going to be offering testimony.

5 Law enforcement I don't know what they're going to say,

6 but they'll be offering the testimony.

7 PROSPECTIVE JUROR: I wouldn't let that have

8 anything to do with my decision.

9 THE COURT: You don't think you would favor his
10 testimony over somebody else's?

11 PROSPECTIVE JUROR: No, sir.

12 THE COURT: Any questions from the State?

13 MR. MCELHANNON: No, Your Honor.

14 MR. BYRHOLDT: No, Your Honor.

15 THE COURT: Can you be fair to both parties?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Can you base your decision on the
18 testimony you hear in court?

19 PROSPECTIVE JUROR: Yes, sir.

20 THE COURT: Thank you very much. Any motions?

21 MR. GAMBLE: I don't think I would -- I reserve
22 strike for that one.

23 THE COURT: All right. Thank you.

24 The next name is Garland Major, Anderson County
25 Sheriff's Office. Garland Major. Anybody related by

1 blood or marriage or know Garland Major? Has anybody had
2 any contact with Garland Major? If so, please stand.

3 The next name is Corporal Mack Hardeman, from
4 Mobile, Alabama. Anybody related by blood or marriage or
5 had any contact with Corporal Mack Hardeman from Mobile,
6 Alabama. If so, please stand.

7 Next name is Corporal Charles Bigsby, also from
8 Mobile Alabama. Anybody related by blood or marriage or
9 know Corporal Charles D. Bigsby? If so, please stand.

10 The next name is Ortha Hargrove, Mobile Alabama Police
11 Department. Does anybody know, related by blood or
12 marriage to Ortha Hargrove? If so, please stand.

13 The next name is Jack Derfener, Pendleton Emergency
14 Medical Services. Is anybody related by blood or
15 marriage? Does anybody know Jack Derfener, Pendleton
16 Emergency Medical Services? If so, please stand.

17 Next name is Michael Teel, also Pendleton Emergency
18 Medical Services. Does anybody know Michael -- excuse me
19 Matthew Teel. Matthew Teel. Is anybody related by blood
20 or marriage to Matthew Teel or anybody know Matthew Teel?
21 If so, please stand.

22 The next name is Dr. Michael Ward. Is anybody
23 related by blood or marriage to Dr. Michael Ward. Has
24 anybody been treated by Dr. Michael Ward? If so, please
25 stand.

1 The next name is Ken Bogan, South Carolina Law
2 Enforcement Division, commonly referred to as SLED. Is
3 anybody related by blood or marriage or anybody know Ken
4 Bogan if so, please stand.

5 The next name is she Chioma Denise Allen. Is that
6 how you pronounce it?

7 MR. MCELHANNON: Yes, sir.

8 THE COURT: Is anybody related by blood or marriage
9 or anybody know Chioma Denise, Ms. Allen? If so, please
10 stand.

11 The next name is Annie Walker. Is anybody related
12 by blood or marriage or anybody know Annie Walker? If
13 so, please stand. The next name is Lula Thompson,
14 anybody related by blood or marriage to Lula Thompson?
15 Anybody know Lula Thompson? If so, please stand.

16 The next name is Billy Lee Ethridge. Anybody
17 related by blood or marriage to Billy Lee Ethridge?
18 Anybody know Billy Lee Ethridge? If so, please stand.

19 The next name is Patricia J. Grate. Anybody related
20 by blood or marriage to Patricia J. Grate? Anybody know
21 Patricia J. Grate? If so, please stand.

22 Anybody know Craig Estrich? Anybody know Craig
23 Estrich, related by blood or marriage? If so, please
24 stand.

25 The next name is Lamar Fowler. Is anybody related

1 by blood or marriage? Does anybody know Lamar Fowler?
2 If so, please stand.

3 The next name is Cheryl Blackburn. Is anybody
4 related by blood or marriage to Cheryl Blackburn? Does
5 anybody know Cheryl Blackburn? If so, please stand.

6 The next name is Tim Lanier. Is anybody related by
7 blood or marriage to Tim Lanier? Does anybody know Tim
8 Lanier? If so, please stand.

9 (Juror stands.)

10 THE COURT: Yes, sir, your name?

11 PROSPECTIVE JUROR: Larry M. Lanier.

12 THE CLERK: Number 83.

13 THE COURT: Yes, sir, Mr. Lanier. Are you related
14 to him?

15 PROSPECTIVE JUROR: Yes, I am.

16 THE COURT: What is the relationship?

17 PROSPETIVE JUROR: He's my nephew.

18 THE COURT: Your nephew.

19 PROSPETIVE JUROR: Yes, sir.

20 THE COURT: Do you want to come around, please.

21 (Prospective juror steps forward.)

22 THE COURT: This is your brother's son?

23 PROSPECTIVE JUROR: Yes, sir. No, it's my uncle's
24 son, excuse me. I'm sorry.

25 THE COURT: How much do you see him?

1 PROSPECTIVE JUROR: I haven't seen him in about
2 three months.

3 THE COURT: Do you see the family?

4 PROSPECTIVE JUROR: Yes, we do; but like I say, I
5 haven't seen him in about three months.

6 THE COURT: Were you close to him growing up. How
7 old is he?

8 PROSPECTIVE JUROR: Approximately 33, 35, something
9 like that.

10 THE COURT: All right. Are you close to him?

11 PROSPECTIVE JUROR: No, sir.

12 THE COURT: Just know him because --

13 PROSPECTIVE JUROR: He's a part of our family, yes,
14 sir.

15 THE COURT: But you're not personally close to him?

16 PROSPECTIVE JUROR: No, sir.

17 THE COURT: See him once every three months?

18 PROSPECTIVE JUROR: Once every six, seven.

19 THE COURT: How would that affect you sitting on the
20 jury, assuming he would testify?

21 PROSPECTIVE JUROR: Not one bit.

22 THE COURT: Not at all?

23 PROSPECTIVE JUROR: No, sir.

24 THE COURT: Do you dislike him?

25 PROSPECTIVE JUROR: No, sir. I don't have a thing

1 against him. He's a nice gentleman as far as I know.

2 THE COURT: No grudge against him?

3 PROSPECTIVE JUROR: No, sir. Just not close.

4 THE COURT: Can you be fair to both the state and
5 defendant?

6 PROSPECTIVE JUROR: Yes, sir.

7 THE COURT: Can you base your decision on the
8 testimony you hear in the courtroom?

9 PROSPECTIVE JUROR: Yes, sir.

10 THE COURT: Any questions from the state?

11 MR. MCELHANNON: No, Your Honor.

12 THE COURT: From the defendant?

13 MR. GAMBLE: No, Your Honor.

14 THE COURT: All right. Any motions?

15 MR. GAMBLE: None.

16 THE COURT: Thank you, sir.

17 All right. Mr. Williams, would you stand and face
18 the jury please.

19 (Defendant stands.)

20 THE COURT: Thank you, sir. You may have a seat,
21 Mr. Williams. Is anybody related by blood or marriage to
22 Mr. Shawn A. Williams or does anybody know Shawn A.
23 Williams or had any contact with Shawn A. Williams? If
24 so, please stand. Solicitor, if you'll stand and
25 introduce yourself.

1 MR. MCELHANNON: Thank you, your Honor. May it
2 please the Court? I'm Scott McElhannon, the assistant
3 solicitor, prosecute cases in Anderson County. Seated
4 with me is Catherine Huey, also assistant solicitor, and
5 Kevin Matheson, lead investigator with the Anderson
6 County Sheriff's Office.

7 THE COURT: Is any member of the jury panel close
8 personal friends with anybody in the solicitor's office
9 or the solicitor herself? If so, please stand.

10 (No response elicited.)

11 THE COURT: Mr. Gamble, would you stand and
12 introduce yourself.

13 MR. GAMBLE: I'm Robert Gamble, the lawyer.

14 THE COURT: Has anybody been represented by
15 Mr. Gamble in the past or presently being represented by
16 Mr. Gamble or close personal friends with Mr. Gamble? If
17 so, please stand.

18 Has any members of the jury panel formed or
19 expressed an opinion about any issue or matter involved
20 in this case or this type of case? If so, please stand.
21 Is any member of the jury panel aware of any bias or
22 prejudice towards either the state or the defendant in
23 this case? If so, please stand.

24 This case is involving injury to an unborn child.
25 Does anybody have any bias or prejudice towards that type

1 of offense? If so, please stand. Any member of the jury
2 panel who is a member of the grand jury which found the
3 indictment in this case? If so, please stand.

4 Is any member of the jury panel a member of a group
5 which has as its primary concern promotion of law
6 enforcement or victims' rights? These groups include
7 MADD, SADD, CAVE, or CADRE. Is anybody a member or has
8 anybody contributed to those organizations? If so,
9 please stand.

10 Is there any member of the jury panel who has been a
11 victim in a crime or a member of your immediate family
12 been a victim of a crime? If so, please stand.

13 Yes, sir your name?

14 PROSPECTIVE JUROR: Chuck Ebbeler, number 41. As
15 you probably have in front of you, sir, I had a number of
16 traffic offenses and some other offenses.

17 THE COURT: The victim is the person that's the
18 victim of the crime, not the person charged with a crime.

19 PROSPECTIVE JUROR: I'm sorry. Sorry, I thought you
20 said convicted.

21 THE COURT: No, the victim of a crime. The person
22 that receives harm from the crime.

23 PROSPECTIVE JUROR: Yes, sir.

24 THE COURT: Thank you, Mr. Ebbeler.

25 PROSPECTIVE JUROR: I'm still standing, sir.

1 THE COURT: Yes, sir. Have a seat.

2 PROSPECTIVE JUROR: About a year ago we had a
3 burglary and the case never went anywhere, but we did
4 report it.

5 THE COURT: Was anybody ever arrested?

6 PROSPECTIVE JUROR: No, sir.

7 THE COURT: Do you have any bias or prejudice
8 towards the police for the failure to solve the case?

9 PROSPECTIVE JUROR: No, sir.

10 THE COURT: Thank you very much. Yes, sir. Your
11 name?

12 PROSPECTIVE JUROR: George Reed, number 131. I've
13 had personal property stolen from my property, rental
14 houses.

15 THE COURT: How long ago?

16 PROSPECTIVE JUROR: In the last year.

17 THE COURT: Was anyone charged or arrested?

18 PROSPECTIVE JUROR: No, sir.

19 THE COURT: Do you have any bias or prejudice as a
20 result of that experience?

21 PROSPECTIVE JUROR: No, sir.

22 THE COURT: Do you have any bias or prejudice
23 towards the sheriff's department or the city police as a
24 result of not solving the crime?

25 PROSPETIVE JUROR: No, sir.

1 THE COURT: Thank you, Mr. Reed.

2 PROSPETIVE JUROR: Walter Logan, number 91.

3 THE COURT: Yes, sir, Mr. Logan?

4 PROSPECTIVE JUROR: A lot of years ago my mother was
5 killed when I was very young.

6 THE COURT: A long time ago?

7 PROSPECTIVE JUROR: Yes, sir.

8 THE COURT: How long ago?

9 PROSPECTIVE JUROR: Oh, forty-four years ago.

10 THE COURT: Was she killed by someone?

11 PROSPECTIVE JUROR: My stepfather.

12 THE COURT: Your stepfather. Do you remember being
13 involved in the criminal process?

14 PROSPECTIVE JUROR: I didn't have to come to court
15 or anything.

16 THE COURT: As a result of that do you have any bias
17 or prejudice towards defendants in general?

18 PROSPECTIVE JUROR: That's -- I'm kind of stuck
19 between that one.

20 THE COURT: Pardon me?

21 PROSPECTIVE JUROR: I'm stuck with that. I think I
22 do. Yes, sir.

23 THE COURT: All right. Do you want to come around,
24 please? Come around, if you would.

25 (Prospective juror steps forward.)

1 THE COURT: Yes, sir, Mr. Logan?

2 PROSPECTIVE JUROR: I was six years old. My
3 stepfather killed my mother. I've never gotten over
4 that, shotgun went off and everything.

5 THE COURT: You still remember it like it was
6 yesterday?

7 PROSPECTIVE JUROR: Yes, sir.

8 THE COURT: You think you can sit on the jury?

9 PROSPECTIVE JUROR: I don't believe --

10 THE COURT: You think you can do it?

11 PROSPECTIVE JUROR: No, just being honest.

12 THE COURT: What's your stepfather's name?

13 PROSPECTIVE JUROR: Jim Wideman.

14 THE COURT: Appreciate it. You can go have a seat.

15 Cathy -- Mr. Logan, let me ask you a question. As I
16 called out the charges earlier, something as serious as
17 murder, do you have the same feelings about any type of
18 crime?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Just killings?

21 PROSPECTIVE JUROR: Yeah.

22 THE COURT: You think you would be okay on other
23 crimes?

24 PROSPECTIVE JUROR: Yeah, I think so.

25 THE COURT: Okay. Go have a seat. Thank you very

1 much. Since we have everybody up here, just come on
2 around, the three jurors.

3 MR. GAMBLE: 91 I move for cause.

4 THE COURT: Cathy, I'm going to strike him for
5 cause.

6 THE CLERK: Yes, your Honor.

7 (Prospective juror Boggs steps forward.)

8 THE COURT: Yes, Miss Boggs?

9 PROSPECTIVE JUROR: I'm a victim of what happened
10 this past year. One of the tenants, one of the
11 employee's spouses walloped me.

12 THE COURT: You have any bias or prejudice as a
13 result of that?

14 PROSPECTIVE JUROR: Just mad.

15 THE COURT: Did you whop him back?

16 PROSPECTIVE JUROR: No. It just shocked me.

17 THE COURT: I hope you got out of it without being
18 hurt too bad.

19 PROSPECTIVE JUROR: A black eye.

20 THE COURT: You think you can serve on this jury?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Can you be fair and impartial to both
23 parties?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Thank you, Miss Boggs.

1 Yes, sir?

2 PROSPETIVE JUROR: I had tools stole about five
3 years ago.

4 THE COURT: Did they ever find them?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Do you have any bias or prejudice as a
7 result of that experience?

8 PROSPECTIVE JUROR: No.

9 THE COURT: Yes, ma'am, Ms. Ashley?

10 PROSPETIVE JUROR: Juror number 7. I had personal
11 property stolen.

12 THE COURT: How long ago?

13 PROSPECTIVE JUROR: It was in June of this past
14 year.

15 THE COURT: What kind of property?

16 PROSPECTIVE JUROR: A whole carat diamond ring. My
17 husband's cousin was doing construction work in the
18 office. We know who done it, not pleased with the
19 sheriff's office.

20 THE COURT: Weren't pleased with the sheriff's
21 office?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Why not?

24 PROSPECTIVE JUROR: I don't feel they done their job
25 as good as they should.

1 THE COURT: Was he ever arrested?

2 PROSPECTIVE JUROR: He pleaded guilty to the
3 prescription drug charges.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR: He was the only one in the
6 house. He had access to steal the ring.

7 THE COURT: He was never charged with the stealing
8 of the ring?

9 PROSPECTIVE JUROR: No.

10 THE COURT: They never located the ring?

11 PROSPECTIVE JUROR: No.

12 THE COURT: How would that bias or prejudice affect
13 you in this case?

14 PROSPECTIVE JUROR: I don't -- I'm just, I don't
15 feel like the sheriff's office ever really done their
16 job.

17 THE COURT: I understand that. But my question is,
18 how would it affect you in this case?

19 PROSPECTIVE JUROR: It probably wouldn't.

20 THE COURT: Wouldn't affect you in this case?

21 PROSPECTIVE JUROR: (Shakes head from side to side.)

22 THE COURT: Do you think you can be fair to both
23 parties?

24 PROSPECTIVE JUROR: Uh-huh.

25 THE COURT: Thank you, Miss Ashley.

1 MR. MCELHANNON: I'm not going to make a motion on
2 that.

3 THE CLERK: Number 60, your Honor.

4 THE COURT: Yes, ma'am, Miss Hamson?

5 PROSPECTIVE JUROR: This is actually two different
6 questions. I'm a pharmaceutical rep. I do know
7 Dr. Warren, but I don't know --

8 THE COURT: Where does he practice?

9 MR. MCELHANNON: Greenville.

10 THE COURT: You wouldn't be selling him drugs.
11 Okay. All right. Thank you very much. All right.
12 Thank you very much.

13 Ladies and gentlemen, let me ask you a couple of
14 more questions. Has any member of the jury panel, a
15 member of their family or close personal friend, been
16 prosecuted by the solicitor's office here in the Tenth
17 Circuit. Let me rephrase it. Is there any member of the
18 jury panel that has been prosecuted by the solicitor's
19 office, or any member of your immediately family or close
20 personal friend been prosecuted by the solicitor's office
21 in the Tenth circuit, which is Oconee and Anderson
22 County? If so, please stand.

23 Does any member of the jury panel have any reason,
24 personal or otherwise, as to why they could not serve on
25 this jury? If so, please stand.

1 Is there any member of the jury panel who is related
2 or close personal friends of a person that works for law
3 enforcement? If so, please stand.

4 Yes, the gentlemen?

5 PROSPECTIVE JUROR: Robert Poole, 126.

6 THE CLERK: 126, Mr. Poole.

7 PROSPECTIVE JUROR: My father was a detective with
8 the Anderson County Sheriff's Department. He retired
9 about 20 years ago.

10 THE COURT: Retired 20 years ago?

11 PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: Okay. All right. The gentleman here,
13 what is your name?

14 PROSPECTIVE JUROR: Marshal Gambrell, number 56.

15 THE COURT: Yes, sir, Mr. Gambrell?

16 PROSPECTIVE JUROR: My brother-in-law is currently
17 employed with Anderson County Sheriff's Office.

18 THE COURT: Your brother-in-law?

19 PROSPECTIVE JUROR: Uh-huh.

20 THE COURT: Yes, sir?

21 PROSPECTIVE JUROR: Seventy-two, Errol Hunter. My
22 brother-in-law is a police officer.

23 THE COURT: Your number is 72?

24 PROSPECTIVE JUROR: Yes.

25 THE CLERK: Mr. Hunter. You can have a seat.

1 (Prospective jurors stand.)

2 THE COURT: Yes, sir? You're Charles Ebbeler?

3 PROSPECTIVE JUROR: Ebbeler, yes, sir. My wife
4 works for Anderson Police Department.

5 THE COURT: All right. Would the people that just
6 stood up line up and come forward, please, sir. All four
7 of you.

8 (Prospective jurors step forward.)

9 THE COURT: Mr. Byrholdt, you can join me on this if
10 you want to.

11 PROSPECTIVE JUROR: Marshal Gambrell juror number 56.

12 THE COURT: Who worked for the police department?

13 PROSPECTIVE JUROR: My brother-in-law, my wife's
14 brother.

15 THE COURT: Your wife's brother worked for the city
16 or county?

17 PROSPECTIVE JUROR: Anderson County.

18 THE COURT: Anderson County. How long has he worked
19 there?

20 PROSPECTIVE JUROR: We've been together eight years.
21 I think he's been either, when we first started dating, I
22 think he was working for Clemson University police.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR: And I guess he's been there four
25 or five years, I guess.

1 THE COURT: How often do you see him?

2 PROSPECTIVE JUROR: Just family and stuff. His
3 daughter stays at our house some.

4 THE COURT: So you see him or his wife every day?

5 PROSPECTIVE JUROR: No. Maybe twice a month.

6 THE COURT: You go out socially?

7 PROSPECTIVE JUROR: Occasionally.

8 THE COURT: Have you ever discussed with him his
9 views on law enforcement or the court system in general?

10 PROSPECTIVE JUROR: We've talked just about like
11 burglaries and stuff like that. Some of that stuff that
12 happened around the area. We talk about that; but, no.

13 THE COURT: What did he tell you about that?

14 PROSPECTIVE JUROR: Just kind of tells me what's
15 going on. If it's bad there or how it's going.

16 THE COURT: What section of the county is bad?

17 PROSPECTIVE JUROR: Right.

18 THE COURT: He ever give you his viewpoints of law
19 enforcement?

20 PROSPECTIVE JUROR: No.

21 THE COURT: All right. How would, you knowing him,
22 how would that affect you sitting on the jury?

23 PROSPECTIVE JUROR: It wouldn't.

24 THE COURT: Why not?

25 PROSPECTIVE JUROR: He's not going to make my

1 decisions for me. I make my own decisions.

2 THE COURT: You think you can be fair to both
3 parties?

4 PROSPECTIVE JUROR: Absolutely.

5 THE COURT: Any questions of the state?

6 MR. MCELHANNON: No, Your Honor.

7 THE COURT: Name of the officer?

8 PROSPECTIVE JUROR: Marty Robbins.

9 THE COURT: Marty Robinson.

10 PROSPECTIVE JUROR: Uh-huh.

11 THE COURT: Mr. Byrholdt, any questions?

12 MR. BYRHOLDT: No.

13 THE CLERK: Number 72, Mr. Hunter.

14 THE COURT: Mr. Hunter?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Who do you know in law enforcement?

17 PROSPECTIVE JUROR: My brother-in-law is a police
18 officer in Philadelphia.

19 THE COURT: What does he do in Philadelphia?

20 PROSPECTIVE JUROR: Just a regular police officer.

21 THE COURT: Street police officer? Detective?

22 PROSPECTIVE JUROR: Street.

23 THE COURT: How often do you see him?

24 PROSPECTIVE JUROR: Twice a year.

25 THE COURT: Does he come down here or you go there?

1 PROSPECTIVE JUROR: Both.

2 THE COURT: You all go? Both?

3 PROSPECTIVE JUROR: Yes, sir.

4 THE COURT: You from Philadelphia?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Your wife from Philadelphia?

7 PROSPECTIVE JUROR: Yes, she is.

8 THE COURT: You ever had any conversations with your
9 brother-in-law about law enforcement in general?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Does he ever tell you about things he's
12 involved in?

13 PROSPECTIVE JUROR: No.

14 THE COURT: You never discuss his job?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Ever discuss his job with your wife?

17 PROSPECTIVE JUROR: No, sir.

18 THE COURT: How would that affect you sitting on
19 this jury?

20 PROSPECTIVE JUROR: It wouldn't affect me.

21 THE COURT: Why not?

22 PROSPECTIVE JUROR: I don't have an opinion about
23 it.

24 THE COURT: You don't have an opinion about what?

25 PROSPECTIVE JUROR: About his job as a police

1 officer.

2 THE COURT: You don't think it would have any affect
3 on you at all on this jury?

4 PROSPECTIVE JUROR: No, sir.

5 THE COURT: Sitting on this jury?

6 PROSPECTIVE JUROR: No, sir.

7 THE COURT: You think you can be fair to both
8 parties?

9 PROSPECTIVE JUROR: Yes, sir.

10 THE COURT: Base your decision on the testimony you
11 hear in the courtroom?

12 PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: Any questions from the State?

14 MR. MCELHANNON: No, Your Honor.

15 THE COURT: From the defendants?

16 MR. GAMBLE: No.

17 MR. BYRHOLDT: Would you have a tendency to believe
18 a police officer over an ordinary citizen?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Thank you, Mr. Hunter.

21 THE CLERK: He's number 126, Mr. Poole, your Honor.

22 THE COURT: Who worked for the city?

23 PROSPECTIVE JUROR: My father worked for Anderson
24 County Sheriff's Department, I think retired maybe 20
25 years ago.

1 THE COURT: Is he still alive?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: What's his name?

4 PROSPECTIVE JUROR: Bob Poole.

5 THE COURT: How would that affect you sitting on
6 this jury?

7 PROSPECTIVE JUROR: I don't believe it would.

8 THE COURT: Why?

9 PROSPECTIVE JUROR: He -- it's just his job. I
10 mean, doesn't really matter to the relevancy of the case,
11 I guess.

12 THE COURT: Do you think you can be fair to both
13 parties?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Base your decision on the testimony you
16 hear in the courtroom?

17 PROSPECTIVE JUROR: Yes.

18 MR. BYRHOLDT: Would you have a tendency to believe
19 a police officer over somebody else?

20 PROSPECTIVE JUROR: Possibly.

21 MR. BYRHOLDT: Move to strike for cause, your Honor.

22 THE COURT: How would that affect you?

23 PROSPECTIVE JUROR: I would give credence to what
24 they said, probably.

25 THE COURT: All right. Any questions from the

1 State?

2 You can go have a seat thank you, Mr. Poole.

3 All right. When we get on the record I'll hear your
4 all's motion on that. Okay?

5 THE CLERK: Number 41, Mr. Ebbeler.

6 THE COURT: Do you go to Nascar races?

7 PROSPECTIVE JUROR: Once in a while, kind of.

8 THE COURT: Kind of?

9 PROSPECTIVE JUROR: They went and wimped it up.

10 THE COURT: Sort of boring?

11 PROSPECTIVE JUROR: Now it is, Dale Earnhardt died.

12 THE COURT: Who is the big one now?

13 PROSPECTIVE JUROR: Kyle is winning now, haven't
14 been -- what's the guy from up in your --

15 THE COURT: All right. Tell me about your wife.

16 PROSPECTIVE JUROR: My wife works for the Anderson
17 police department as a detention officer. She's been
18 there a long time. About moved up to where she's the
19 training officer in detention and she's transportation
20 officer for the city she -- as a matter of fact, she had
21 a run this morning to Greenville. She deals with
22 juveniles, once in a while takes them to Columbia. She
23 hauls people around.

24 THE COURT: How would that affect you sitting on
25 this jury?

1 PROSPECTIVE JUROR: I don't know. I'm kind of
2 amazed I'm still standing here, your Honor. It don't
3 affect me at all. Don't discuss her business, that's her
4 business. I don't have anything that exciting myself so
5 we're home taking kids racing, you know. And we don't
6 talk about business too much unless something exciting
7 has happened.

8 THE COURT: You don't think it would affect you
9 sitting on the jury?

10 PROSPECTIVE JUROR: No, sir.

11 THE COURT: Affect your --

12 PROSPECTIVE JUROR: I don't know if you have
13 records, I have a degree in criminal justice. I was a
14 private investigator for a number of years. My training
15 and education tells me to listen, pay attention and make
16 my own decisions what's right, not necessarily who said
17 it. That's the best I can do.

18 THE COURT: Any questions from the state?

19 MR. BYRHOLDT: If it's a case dealing with Anderson
20 city police where your wife works, would you have a
21 tendency to believe those people over ordinary people?

22 PROSPETIVE JUROR: No, because I know police
23 officers. They -- some of them aren't always truthful.

24 THE COURT: Thank you very much. Go have a seat.
25 Any motions?

1 MR. MCELHANNON: No.

2 THE COURT: Do you have any more questions you want
3 to ask?

4 MR. MCELHANNON: No, sir.

5 MR. GAMBLE: No, sir.

6 THE COURT: Is the state ready to strike?

7 MR. MCELHANNON: Yes, Your Honor.

8 THE COURT: Defendant ready to strike?

9 MR. GAMBLE: Defendant's ready, your Honor.

10 THE COURT: Madam Clerk, whenever you're ready.

11 THE CLERK: Thank you, your Honor.

12 Ladies and gentlemen, as I call your name, if you'll
13 please come forward, present yourself to the two tables.
14 We'll ask that you stand right up here in this open area,
15 face the state's table and the defense table. Then we'll
16 tell you whether to have a seat in the jury box or to
17 return to your seat. Please bring with you when you come
18 up any personal belongings that you have. Thank you.

19 Juror number 22, Judy Caldwell, number 22.

20 (Prospective juror 22, white female, steps forward.)

21 THE CLERK: What say you for the state?

22 MR. MCELHANNON: Please present the juror.

23 THE CLERK: Say you for the defendant?

24 MR. GAMBLE: Swear the lady, please.

25 THE CLERK: If you'll have a seat right up there in

1 the jury box, please, Ms. Caldwell.

2 Juror number 73, Shirley Irvin, number 73.

3 (Prospective juror 73, white female, steps forward.)

4 THE CLERK: What say you for the state?

5 MR. MCELHANNON: Present the juror.

6 THE CLERK: Say you for the defendant?

7 MR. GAMBLE: Excuse the lady, please.

8 THE CLERK: You may return to your seat. Thank you.

9 Number 97, Karleen Mattison, number 97.

10 (Prospective juror 97, white female, steps forward.)

11 THE CLERK: What say you for the state?

12 MR. MCELHANNON: Please present the juror.

13 THE CLERK: Say you for the defendant?

14 MR. GAMBLE: Excuse the lady, please.

15 THE CLERK: You may return to your seat, thank you,

16 Ms. Mattison.

17 Number 50, Amanda Flynn, number 50.

18 (Prospective juror 50, white female, steps forward.)

19 THE CLERK: What say you for the state?

20 MR. MCELHANNON: Excuse the juror.

21 THE CLERK: You may return to your seat. Thank you,

22 Ms. Glenn.

23 102 Shirley McClellan, number 102.

24 (Prospective juror 102, white female, steps

25 forward.)

1 THE CLERK: What say you for the state?
2 MR. MCELHANNON: Please present the juror.
3 THE CLERK: What say you for the defendant?
4 MR. GAMBLE: Swear the lady, please.
5 THE CLERK: Number 48, Vivian Farr, 48.
6 (Prospective juror 48, black female, steps forward.)
7 What say you for the state?
8 THE CLERK: What say you for the state?
9 MR. MCELHANNON: Please present the juror.
10 THE CLERK: Say you for the defendant?
11 MR. GAMBLE: Swear the lady, please.
12 THE CLERK: Have a seat in the jury box, please, Ms.
13 Barr.
14 Number 122, Hykeng Paul, number 122.
15 (Prospective juror 122, black male, steps forward.)
16 THE CLERK: What say you for the state?
17 MR. MCELHANNON: Present the juror.
18 THE CLERK: Say you for the defendant?
19 MR. GAMBLE: Swear the gentleman.
20 THE CLERK: Number 8, Kay Barrett, Juror number 8.
21 (Prospective juror 8, white female, steps forward.)
22 THE CLERK: What say you for the state?
23 MR. MCELHANNON: Present the juror.
24 THE CLERK: Say you for the defendant?
25 MR. GAMBLE: Excuse the lady, please.

1 THE CLERK: Thank you. Juror number 126, Robert
2 Poole, Jr. Number 126.

3 (Prospective juror 126, white male, steps forward.)

4 THE CLERK: What say you for the state?

5 MR. MCELHANNON: Present the juror.

6 THE CLERK: Say you for the defendant?

7 THE COURT: Do you want to come up?

8 MR. GAMBLE: Yes, sir. I need to come up.

9 THE COURT: All right. Solicitor.

10 (Attorneys approach the bench.)

11 MR. GAMBLE: Robert B. Poole, motion for cause. He
12 said he would believe a police officer over a civilian.
13 That would be cause for bias or prejudice.

14 THE CLERK: Mr. Poole, you've been struck for cause.
15 Just return to your seat. Juror number 83, Larry Lanier.
16 Number 83.

17 (Prospective juror 83, white male, steps forward.)

18 THE CLERK: What say you for the state?

19 MR. MCELHANNON: Please present the juror.

20 THE CLERK: Say you for the defendant?

21 MR. GAMBLE: Excuse the gentleman, please.

22 THE CLERK: You may return to your seat. Thank you,
23 Mr. Lanier. 131, George Reed, Jr. 131.

24 (Prospective juror 131, white male, steps forward.)

25 THE CLERK: What say you for the state?

1 MR. MCELHANNON: Please present the juror.

2 THE CLERK: Say you for the defendant?

3 MR. GAMBLE: Swear the gentleman.

4 THE CLERK: Have a seat please, Mr. Reeves in the
5 jury box.

6 Number 70, Debra Hudgens, number 70.

7 (Prospective juror 70, white female, steps forward.)

8 THE CLERK: What say you for the state?

9 MR. MCELHANNON: Please present the juror.

10 THE CLERK: Say you for the defendant?

11 MR. GAMBLE: Excuse the lady.

12 THE CLERK: Number 51, Stephen Foster, Number 51.

13 (Prospective juror 51, white male, steps forward.)

14 THE CLERK: What say you for the state?

15 MR. MCELHANNON: Present the juror.

16 THE CLERK: Say you for the defendant?

17 MR. GAMBLE: Excuse him.

18 THE CLERK: Number 44, David Ellison, number 44.

19 (Prospective juror 44, white male, steps forward.)

20 THE CLERK: What say you for the state?

21 MR. MCELHANNON: Present the juror.

22 THE CLERK: Say you for the defendant?

23 MR. GAMBLE: Swear the juror, please.

24 THE CLERK: If you'll have a seat, please, sir, in
25 the jury box.

1 Number 62, Michael Harris, number 62.
2 (Prospective juror 62, white male, steps forward.)
3 THE CLERK: What say you for the state?
4 MR. MCELHANNON: Present the juror.
5 THE CLERK: Say you for the defendant?
6 MR. GAMBLE: Excuse the juror.
7 THE CLERK: Thank you, Mr. Harris. You may return
8 to your seat.
9 163, James White, number 163.
10 (Prospective juror 163, white male, steps forward.)
11 THE CLERK: What say you for the state?
12 MR. MCELHANNON: Please excuse the juror from this
13 case.
14 THE CLERK: You may return to your seat.
15 Number 103, Kelly McCuen, 103.
16 (Prospective juror 103, white female, steps
17 forward.)
18 THE CLERK: What say you for the state?
19 MR. MCELHANNON: Please present the juror.
20 THE CLERK: Say you for the defendant?
21 MR. GAMBLE: Swear him.
22 THE CLERK: Have a seat, please, sir, in the jury.
23 Box.
24 Number 135, Charles Robinson, Jr. 135.
25 (Prospective juror 135, white male, steps forward.)

1 THE CLERK: What say you for the state?

2 MR. MCELHANNON: Please present the juror.

3 THE CLERK: Say you for the defendant?

4 MR. GAMBLE: Swear the gentleman, please.

5 THE CLERK: Have a seat, please, Mr. Robinson, in
6 the jury box.

7 Number 58, Jhon Geraldo, 58.

8 (Prospective juror 58, Hispanic male, steps
9 forward.)

10 THE CLERK: What say you for the state?

11 MR. MCELHANNON: Present the juror.

12 THE CLERK: Say you for the defendant?

13 MR. GAMBLE: Swear the gentleman.

14 THE CLERK: Have a seat in the jury box, Mr.
15 Geraldo.

16 Number 34, Timothy Dickson, 34.

17 (Prospective juror 34, white male, steps forward.)

18 THE CLERK: What say you for the state?

19 MR. MCELHANNON: Please present the juror.

20 THE CLERK: Say you for the defendant?

21 MR. GAMBLE: Excuse the juror, please.

22 THE CLERK: You may return to your seat, Mr.
23 Dickson.

24 Number 140, Timothy Sewell, 140.

25 (Prospective juror 140, white male, steps forward.)

1 THE CLERK: What say you for the state?

2 MR. MCELHANNON: Please excuse the juror.

3 THE CLERK: You may return to your seat. Thank you,
4 Mr. Sewell.

5 Number 154, Leland Tenijenhuis, 154.

6 (Prospective juror 154, white male, steps forward.)

7 THE CLERK: What say you for the state?

8 MR. MCELHANNON: Please present the juror.

9 THE CLERK: Say you for the defendant?

10 MR. GAMBLE: Swear the gentleman.

11 THE CLERK: Have a seat, please, in the jury box.

12 Number 129, Vance Rahn, 129.

13 (Prospective juror 129, white male, steps forward.)

14 THE CLERK: What say you for the state?

15 MR. MCELHANNON: Please present the juror.

16 THE CLERK: Say you for the defendant?

17 MR. GAMBLE: Excuse him.

18 THE CLERK: You may return to your seat. Thank you.

19 Number 81, Misty Land. Juror number 81.

20 (Prospective juror 81, white female, steps forward.)

21 THE CLERK: What say you for the state?

22 MR. MCELHANNON: Please present the juror.

23 THE CLERK: Say you for the defendant?

24 MR. GAMBLE: Swear the lady, please.

25 THE CLERK: Have a seat, please, Ms. Land, in the

1 jury box.

2 Number 75, Michael Junkins, 75.

3 (Prospective juror 75, white male, steps forward.)

4 THE CLERK: What say you for the state?

5 MR. MCELHANNON: Please present the juror.

6 THE CLERK: Say you for the defendant?

7 MR. GAMBLE: Excuse him.

8 THE CLERK: You may return to your seat, Mr.

9 Junkins.

10 Juror number 133, Hannah Reid, 133.

11 (Prospective juror 133, white female, steps
12 forward.)

13 THE CLERK: What say you for the state?

14 MR. MCELHANNON: Please present the juror.

15 THE CLERK: Say you for the defendant?

16 MR. GAMBLE: Swear the lady.

17 THE CLERK: Have a seat, please, Mrs. Reid, in the
18 jury box.

19 Number 27, Sharanda Thompson, 27.

20 (Prospective juror 27, white female, steps forward.)

21 THE CLERK: What say you for the state?

22 MR. MCELHANNON: Please excuse the juror.

23 THE CLERK: You may return to your seat, Mrs.

24 Thompson.

25 Number 174, Charles Wooten, 174.

1 (Prospective juror 174, white male, steps forward.)
2 THE CLERK: What say you for the state?
3 MR. MCELHANNON: Please present the juror.
4 THE CLERK: Say you for the defendant?
5 MR. GAMBLE: Excuse him.
6 THE CLERK: You may return to your seat, please.
7 THE COURT: All right. Let's do two alternates.
8 One and two on each alternate.
9 THE CLERK: Number 166, Jimmy Whitmire, 166.
10 (Prospective juror 166, white male, steps forward.)
11 THE CLERK: What say you for the state?
12 MR. MCELHANNON: Please present the juror.
13 THE CLERK: Say you for the defendant?
14 MR. GAMBLE: Swear him.
15 THE CLERK: Have a seat, Mr. Whitmire, in the jury
16 box. You'll be our first alternate.
17 Number 125, Rebecca Pickens, 125.
18 (Prospective juror 125, white female, steps
19 forward.)
20 THE CLERK: What say you for the state?
21 MR. MCELHANNON: Please present the juror.
22 THE CLERK: Say you for the defendant?
23 MR. GAMBLE: Excuse the lady, please.
24 THE CLERK: You may return to your seat, Ms.
25 Pickens.

1 Juror number 172, Christopher Wilson, 172.

2 (Prospective juror 172, white male, steps forward.)

3 THE CLERK: What say you for the state?

4 MR. MCELHANNON: Please present the juror.

5 THE CLERK: Say you for the defendant?

6 MR. GAMBLE: Excuse him.

7 THE CLERK: You may return to your seat, Mr. Wilson.

8 Thank you.

9 Number 5, Christy L. Allen, number 5.

10 (Prospective juror 5, white female, steps forward.)

11 THE CLERK: What say you for the state?

12 MR. MCELHANNON: Please present the juror.

13 THE CLERK: Say you for the defendant?

14 MR. GAMBLE: Swear the lady.

15 THE CLERK: Have a seat, Ms. Allen, in the jury box.

16 You'll be alternate no. 2.

17 THE COURT: Members of the jury, what I'm going to
18 do, ask you to go to the jury room, elect a foreman or
19 forelady. You may elect anybody except the alternates,
20 Mr. Whitmire or Ms. Allen. Once you have done that,
21 knock on the door, let the bailiff know. I'll get you
22 back in the courtroom shortly thereafter. Please don't
23 discuss the case, follow the bailiff to the jury room.

24 The foreman is George Reed, number 131, number 11 on
25 your strike sheet.

1 (Whereupon, other matters are heard before the
2 court, after which the jury returns to open court,
3 and the following proceedings are heard:)

4 THE COURT: Mr. Foreman, members of the jury, we're
5 going to strike another jury and I have some motions I
6 need to hear. So if you'll be back in the jury room at
7 3:00 we'll get started at that time. Follow the bailiff,
8 he'll show you where to come at 3:00. When you come in
9 the courthouse, come straight to the jury room. See you
10 at 3:00. If you'll follow the bailiff, he'll show you
11 where to come.

12 (Whereupon, other matters are heard before the
13 court, after which a lunch break is taken.)

14 AFTERNOON SESSION

15 (WHEREUPON, after the lunch break, court was again
16 in session with all parties present, when the
17 following proceedings were had:)

18 THE COURT: All right is the statement in writing or
19 is it verbal or?

20 MR. MCELHANNON: Writing, Your Honor.

21 THE COURT: Was it made here in Anderson or in
22 Alabama?

23 MR. MCELHANNON: Alabama, Your Honor.

24 THE COURT: Mr. Gamble, you alleging that the
25 Miranda rights were not given or not voluntarily entered

1 into? Both or one or what?

2 MR. GAMBLE: Basically, we just contest the entire
3 statement at this time for the record.

4 THE COURT: Are you alleging Miranda rights were not
5 given or were improperly given?

6 MR. GAMBLE: I think it's up to the state to show
7 they were or not -- I don't know, I wasn't there. All
8 I'm saying, I don't want to give into the statement
9 without having it certified to by the police officer on
10 the stand.

11 THE COURT: All right. I was just trying to find
12 out what your objection was concerning the statement.

13 MR. GAMBLE: I don't know until I hear what they've
14 done down there.

15 THE COURT: You seen the statement?

16 MR. GAMBLE: Yes, sir.

17 THE COURT: You haven't talked to the police
18 officer?

19 MR. GAMBLE: No. No, sir.

20 MR. MCELHANNON: Ready, Your Honor?

21 THE COURT: Yes, sir.

22 (WHEREUPON, State's Exhibit No. 1 is marked for
23 identification.)

24 (WHEREUPON, State's Exhibit No. 2 is marked for
25 identification.)

1 MR. MCELHANNON: May it please the Court? Your
2 Honor, the state would call Kevin Matheson.

3 KEVIN D. MATHESON, being first duly
4 sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. MCELHANNON:

7 THE CLERK: If you would state your full name and
8 spell your last for the record.

9 THE WITNESS: Kevin David Matheson, M-A-T-H-E-S-O-N.

10 Q Detective Matheson, where do you work?

11 A The Anderson Sheriff's Office.

12 Q How long have you been employed there?

13 A Approximately ten years.

14 Q In what capacity?

15 A Now, currently a detective.

16 Q How long have you been a detective?

17 A Approximately eight years.

18 Q And what are some of your duties as detective?

19 A Now am currently assigned to crimes against persons
20 and homicide.

21 Q What, in a normal investigation, would you do in a
22 case of homicide?

23 A Well, naturally the road deputies respond to the
24 scene when whenever a call is placed usually to 911.
25 After they arrive, they assess the situation to find

1 out if a crime has possibly been committed. When
2 that determination is made, they again contact their
3 supervisor who in turn contacts my supervisor and
4 ultimately I respond to the scene and take over the
5 scene from that point and investigate the crime.

6 Q You done that on numerous occasions?

7 A Yes, sir.

8 Q Regarding the incident that occurred January 22,
9 2007, are you familiar with that incident that
10 occurred in Pendleton?

11 A Yes, sir, I am.

12 Q Did you talk with the defendant, Shawn Williams, in
13 this case regarding taking a statement from him?

14 A Yes, sir, I did.

15 Q Where did that take place?

16 A That was at Mobile, Alabama, police department one of
17 their precincts.

18 Q If you could enlighten the Court why that took place
19 in Mobile.

20 A After the death had occurred, the defendant traveled
21 to Mobile, Alabama, where there were members --
22 parties he knew, acquainted of, in Mobile. And
23 that's where he ultimately drove to after the crime
24 was committed. When I was notified of that, we drove
25 to Mobile to speak with him.

- 1 Q Where was he when you got to Mobile?
- 2 A He was at the police department.
- 3 Q So Mobile police actually put him under arrest or
- 4 took him into custody?
- 5 A Yes, sir, took him into custody.
- 6 Q Did you advise the defendant of his rights?
- 7 A Yes, sir, I did.
- 8 Q Did you do so using a written form?
- 9 A Yes, sir.
- 10 Q Is that your standard procedure?
- 11 A Yes, sir, it is.
- 12 Q Let me show you what's been marked State's Exhibit
- 13 No. 1, ask if you can identify that.
- 14 A That's our standard advisory of rights form or
- 15 Miranda warnings.
- 16 Q Is that the form you used with Mr. Williams?
- 17 A Yes, sir, it is.
- 18 Q How do you recognize that form?
- 19 A By the signature and the dates, the location.
- 20 Q And did the defendant actually sign that form?
- 21 A Yes, he did.
- 22 Q Did he initial it anywhere?
- 23 A He did.
- 24 Q And where did that advice of rights take place?
- 25 A It was in an office at the Mobile police department.

1 I think it was one of the branches of the criminal
2 investigative division, a rather large room with
3 multiple desks.

4 Q Do you know was he denied any comforts, drink or
5 food?

6 A No. We actually inquired after we were able to make
7 contact with him that he didn't need anything.

8 Q He didn't even appear to?

9 A No. He -- I think he even commented that he had a
10 drink. I think he said he was too upset to eat.

11 Q How was Mr. Williams? Was he in handcuffs or seated?

12 A During our interview he was not handcuffed. He was
13 seated. I mean, we were at the table.

14 Q And was anyone else present other than yourself?

15 A Yes, Detective Eddie Stancil was there as well as a
16 couple of officers from Mobile, I believe were in the
17 room, but not sitting at the table in close
18 proximity.

19 Q State's Exhibit 1, that lists the defendants rights;
20 is that right?

21 A That's correct.

22 Q And how did you advise him of his rights?

23 A I always advise whoever I'm speaking with, when it
24 comes to the Miranda warnings, they're the Fifth and
25 Sixth Amendment rights. I always turn it to them so

1 they can read along with me as I go.

2 I always start out, "Before we ask you any questions
3 you must understand your rights." I pretty much read
4 word for word. The only thing I don't read are the
5 first two lines, I have them read it out loud for me
6 to make sure they can read and write. After they do
7 that, I have them initial it and ask after if they
8 understand those rights, Fifth Amendment rights. If
9 the answer is affirmative, I read the Sixth Amendment
10 right after that. I have them follow along with me
11 and I tell them to interrupt me at any time if they
12 don't understand something and I'll be glad to
13 explain it to them.

14 Q And did you in fact read that form to him?

15 A Yes, sir, I did.

16 Q What did you read? If you would, put that on record.

17 A "Before we ask you any questions, you must understand
18 your rights."

19 As I said, the defendant read aloud, "You have the
20 right to remain silent, anything you say can be used
21 against you in court." He initialed above both
22 those.

23 Then proceeded to say, "You have right to speak to a
24 lawyer for advice before we ask you any questions and
25 to have him with you during questioning. If you

1 cannot afford a lawyer, one will be appointed for you
2 before any questions if you wish. If you decide to
3 answer questions now, without a lawyer present, you
4 will still have the right to stop answering at any
5 time, you also have the right to stop answering at
6 any time until you speak to a lawyer."

7 At this point I explained that the last two sentences
8 are redundant, they repeat themselves. And I tell
9 them that because we want to make sure they
10 understand that at any time they want to stop they
11 can and we will not hold it against them.

12 Q Did you make sure he understood those rights?

13 A Yes, sir, I did.

14 Q How do you that? Are there any markings on there
15 where it shows he understood?

16 A The very first two lines I have them initial for the
17 reading, right there, and at the bottom I advised him
18 if he understood his rights, to just sign next to the
19 signature under the date and time; and that's just to
20 ensure that he did understand the rights.

21 Q And in your opinion did he seem to understand them?

22 A Yes, sir.

23 Q He wasn't or didn't appear to be, to you, under the
24 influence of any drugs and alcohol at the time, did
25 he?

1 A No, sir.

2 Q Did he do anything to show that he actually
3 understood the entire form?

4 A Yes, sir. He signed his signature at the bottom.

5 Q And dated it, I believe?

6 A Yes. And that's on the part we have the waiver of
7 rights at the bottom. I haven't testified to that.
8 The waiver of rights I'll read those aloud as I did
9 to him:

10 "I have read this statement of my rights and I
11 understand what my rights are. I am willing to make
12 a statement and answer questions. I do not want a
13 lawyer at this time. I understand and know what I am
14 doing. No promises or threats have been made to me
15 and no pressure or coercion of any kind has been used
16 against me." And I underlined the word coercion to
17 remind me that I did explain what the word coercion
18 meant to him.

19 Q Was there any intimidation at all in this situation?

20 A No, sir. It was a very relaxed atmosphere.

21 Q And did the defendant indicate to you whether he
22 wished to give a statement or not?

23 A Yes. He did wish to speak with us.

24 MR. MCELHANNON: At this time I'd ask State's

25 Exhibit 1 be admitted.

1 THE COURT: Pardon? Any objection, Mr. Gamble?

2 MR. GAMBLE: Yes, sir. I have a few questions to
3 ask about it.

4 THE COURT: Do you have any objection to it, legal
5 objection, being admitted as a Court's Exhibit?

6 MR. GAMBLE: No. Let it be admitted, then I'll ask
7 questions.

8 THE COURT: All right. Are you through with this
9 witness?

10 MR. MCELHANNON: No, sir. With that part of it,
11 Your Honor.

12 THE COURT: Pardon?

13 MR. MCELHANNON: Just with that part of it.

14 THE COURT: Go ahead and finish and I'll let Mr.
15 Gamble cross him.

16 Q Now, Detective Matheson, you stated he did wish to
17 give a statement?

18 A Yes, sir.

19 Q Let me show you what's marked State's Exhibit 2. Can
20 you identify that?

21 A Yes, sir. This is the typed statement I obtained
22 from Mr. Williams.

23 Q How did you actually obtain that and did you type it
24 yourself?

25 A I did. I typed it on a laptop.

1 Q How did that come about in the room?

2 A I actually brought the laptop with me and put it on
3 the desk. As he spoke, I tried to type and, of
4 course, during the interview, you know, I would ask
5 him questions. We would -- he would answer, I would
6 try to type it down word for word. During the
7 statement there was several times that he would want
8 to read what we just typed. I would turn the
9 computer, let him look at it. We would back up,
10 change things however he saw fit. I wanted to make
11 sure it was his statement. And then ultimately we
12 finished with that, as he read along with me, pretty
13 much during the entire time.

14 After I printed the statement out, he had the
15 opportunity to read it again, which he did make some
16 corrections and a couple of additions.

17 Q And after you finished making all the corrections
18 that he wanted, did you read it back to him or did he
19 read it himself?

20 A I'm trying to remember if I actually read it or he
21 read it. I usually read it, they follow along.
22 Sometimes they prefer to read it themselves. We make
23 sure they understand exactly what they're signing.
24 Like I said, he did make several changes and some
25 additions to the statement as well.

1 Q Did he indicate that was his statement?

2 A Yes, sir.

3 Q How did he do that?

4 A He signed the bottom of each page. I also had him
5 initial the beginning and the end of each page of the
6 writing.

7 Q At the end did he seem satisfied with the final
8 product?

9 A Yes, he did.

10 Q At this time I'd ask State's Exhibit 2?

11 THE COURT: Any objection being marked Court's
12 exhibit number 2?

13 MR. GAMBLE: No, Your Honor.

14 THE COURT: Okay. Thank you. Donna, if you'll mark
15 that Court's Exhibit No. 2 and the other Court's Exhibit
16 No. 1. Any other exhibits?

17 MR. MCELHANNON: No, sir.

18 THE COURT: Any other questions?

19 MR. MCELHANNON: No, sir.

20 THE COURT: Cross examination.

21 MR. GAMBLE: Yes, sir.

22 CROSS EXAMINATION

23 BY MR. GAMBLE:

24 Q Did he indicate to you prior to your reading the
25 advisory of rights that he wished to talk to a

1 lawyer.

2 A No, sir, not that I recall.

3 Q If you'll look at State's Exhibit -- Court's
4 Exhibit 1, State's Exhibit -- Court's Exhibit, I note
5 that you had him initial the first two blanks.

6 A That's correct.

7 Q You did not check any of the other blanks?

8 A That's correct.

9 Q Why?

10 A This form is actually slightly different than the
11 form that I'm used to using. The form I'm used to
12 using doesn't even have the little check box right
13 here. It's just a matter of what each detectives
14 preferences are. I don't usually check those. I have
15 them initial the first two lines, as I indicated
16 before, that they are able to read and write. Their
17 signature on the bottom indicates that they
18 understood their rights.

19 Q But you didn't check the blanks?

20 A No, sir. I never do.

21 Q And this advisory of rights is labeled Anderson
22 County Sheriff's Office. I'm of the impression
23 that's where you were.

24 A No, sir. I was at Mobile City Police Department
25 which is indicated at the location at the top.

1 Q I'm talking about the very top it says Anderson
2 County Sheriff's Office advisory of rights?

3 A Yes, sir. Because it's our form.

4 Q You claim you're not familiar with this form?

5 A No, sir, I didn't claim that. I am familiar with
6 this form.

7 Q But you didn't check it?

8 A What I'm telling you is we have a couple of
9 different, not really variations too much, the other
10 form that I'm used to using does not have the check
11 boxes. That's the only difference.

12 Q My question is, did you check this form off as you
13 read it to him?

14 A No, sir.

15 Q Okay. That's my only question.

16 Now, did you hear him mention a lawyer at any time
17 while you were at Mobile, Alabama, with him?

18 A I don't recall.

19 Q Your office has tape recording facilities, doesn't
20 it?

21 A We were at Mobile City Police Department.

22 Q My question was, does your office have a tape
23 recording facility?

24 A No, sir, not that I'm aware of.

25 Q Are you telling me that at the entire sheriff's

- 1 office there's not a tape recorder?
- 2 A If there is, we don't have one available to us.
- 3 That's not our general practice.
- 4 Q You spend all this money on cars but you don't have a
- 5 tape recorder?
- 6 A I'm not over the budget, sir.
- 7 Q Okay. You didn't have a tape recorder then?
- 8 A No, sir.
- 9 Q You didn't have one with you?
- 10 A No, sir.
- 11 Q You didn't have 30 bucks or so you could go get one
- 12 with, did you?
- 13 A No, sir.
- 14 Q So you didn't attempt to record this?
- 15 A No, sir, not at all.
- 16 Q Did you ask anyone in Mobile, Alabama, if they had a
- 17 tape recorder?
- 18 A No, sir, I did not.
- 19 Q Do you make it a habit to tape record a statement?
- 20 A No, sir, I do not.
- 21 Q Have you ever tape recorded a statement?
- 22 A No, sir, I have not.
- 23 Q Why?
- 24 A I'm sorry?
- 25 Q Why?

- 1 A It's just not in our procedures.
- 2 Q Why is not in your procedure?
- 3 A I don't write the procedures, sir.
- 4 Q All right. So what you're saying is what is on these
- 5 things is, according to you, what he said?
- 6 A You talking about the statement, sir?
- 7 Q Yeah. And to the advisory of rights?
- 8 A Correct.
- 9 Q You didn't back this up with anything, did you?
- 10 A No, sir, just witnesses.
- 11 Q Just what you say?
- 12 A Yes, sir.
- 13 Q And other than budgetary considerations, do you have
- 14 any other reason that your office doesn't use tape
- 15 recording?
- 16 A Not that I'm aware of, sir.
- 17 Q All right. Was Eddie Stancil with you the entire
- 18 time you were in this office in Mobile, Alabama?
- 19 A Yes, sir, he was.
- 20 Q Is Eddie still on the force?
- 21 A No, sir, he's not. He just retired.
- 22 Q Did you give him a copy of this statement in Mobile,
- 23 Alabama?
- 24 A Yes, sir, I did.
- 25 Q How did you give it to him?

1 A We made a xerox copy.

2 Q How did you print it?

3 A I printed this one, made a xerox copy of this one.

4 Q How did you print it?

5 A Took it on a thumb drive that I have with my laptop
6 and put it in one of their computers and print it
7 out.

8 Q You have all this technical equipment but no
9 recording?

10 A That's correct.

11 Q Okay. I have nothing further.

12 THE COURT: Any redirect?

13 MR. MCELHANNON: No, your Honor.

14 THE COURT: Any further witnesses?

15 MR. MCELHANNON: No, your Honor.

16 THE COURT: Any witnesses for purposes of
17 questioning on the voluntariness of the statement?

18 MR. GAMBLE: Call Shawn Williams.

19 SHAWN A. WILLIAMS, being first duly
20 sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. GAMBLE:

23 Q Shawn, pull the microphone right up to your mouth so
24 you can be heard. Your name.

25 A Shawn Alan Williams.

1 Q Up your voice some.

2 A Shawn Alan Williams.

3 Q Yeah, good. How old are you, Shawn?

4 A Forty-three. Forty-three.

5 Q All right. Did you have an occasion to be in Mobile,
6 Alabama, on or about January of '07?

7 A I was there.

8 Q All right. And did you have an occasion to be in the
9 Mobile Alabama Police Department?

10 A Yes, sir.

11 Q What, if anything, happened while you were in the
12 Mobile police department?

13 A You asking me -- I didn't understand the question.

14 Q Did you see two detectives from Anderson, South
15 Carolina, to wit: Eddie Stancil and Ken Matheson?

16 A Yes, I did.

17 Q Kevin Matheson. All right. And did you have a
18 conversation with either of those gentlemen?

19 A Yes, sir.

20 Q Which one?

21 A Both of them. There was another gentleman also I
22 spoke with first.

23 Q Up your voice some. I'm having trouble.

24 A His partner that came, I spoke with him first before
25 I spoke with Kevin.

1 Q You spoke with Eddie Stancil first?

2 A Yes, Mr. Stancil.

3 Q And what did you speak with him about?

4 A He asked me to give a statement and I told him no.

5 At first I asked, "Which one of you all is my
6 attorney?" That was the first thing I asked, neither
7 one of them told me they weren't my attorney.

8 Q You asked what?

9 A Was either one of them my attorney.

10 Q Was either one of them your attorney?

11 A That's correct, sir.

12 Q Were you furnished with an attorney in Mobile,
13 Alabama?

14 A No, sir.

15 Q All right. Why did you think one of these people was
16 your attorney?

17 A Because a tragedy had occurred.

18 Q All right. Had you asked anyone in Mobile, Alabama,
19 that was not related to Anderson, South Carolina, for
20 an attorney?

21 A No, sir.

22 Q All right. So you talked to Eddie Stancil?

23 A Correct, sir.

24 Q And what did you ask? I'm not your Honor.

25 A I said -- sir?

1 Q You asked him what?

2 A Well, he asked me, he referred to me that he know it
3 would be best for me give a statement because they
4 wanted to know whether or not it was accident or
5 intention or what? When he said accidental, then I,
6 you know, complied. At the time I was willing to
7 comply to giving the statement to, you know.

8 Q Who are you talking to at that time?

9 A They both were in the room at the time.

10 Q Both of them?

11 A Yes, sir.

12 Q And you said what now?

13 A Once he made it known that, you know, he wanted to
14 know whether or not it was accident or intentional or
15 whatever, once I heard accidental, then I was willing
16 to give a statement, let them know, because they
17 traveled so far, I let them know, you traveled this
18 far, at least I can let them know something.

19 Q Did you ask for lawyer?

20 A Well, once they let me know, neither one my lawyer, I
21 was leery about giving a statement anyway. It wasn't
22 until the gentleman conveyed about asking me I
23 figured it wouldn't be a problem. You know, what I'm
24 saying? So I was leery, though, but I gave a
25 statement.

1 Q All right. Did you consent to talk to either Kevin
2 Matheson or Eddie Stancil?

3 A I did, sir.

4 Q You did?

5 A Yes, sir.

6 Q Without a lawyer?

7 A Yes, sir.

8 Q Why did you do that?

9 A I wasn't quite in the right mind anyway. But like I
10 told them, they had traveled that far down there, you
11 know, so I figured it would be all right to give a
12 statement and tell them what really went down.

13 Q All right. Did you in fact give this statement
14 that's three pages long?

15 A I did give a statement, sir. Yes, sir. I did give a
16 statement.

17 Q And is this the statement you gave word for word?

18 A No, sir.

19 Q Why isn't it?

20 A It isn't. I can tell you what contents of that
21 statement is -- shoo, it looks tampered with.

22 Q Tampered with?

23 A Yes, sir.

24 Q Did you read it when it was printed off from the
25 computer?

- 1 A Not in its entirety. No, sir.
- 2 Q Is that your signature and initials on there?
- 3 A That's my -- that's correct.
- 4 Q Why did you sign it if it's not your complete
5 statement?
- 6 A Well, I wouldn't think no one would try to bamboozle
7 me.
- 8 Q I can't hear you.
- 9 A I wouldn't think no one would try to bamboozle me.
- 10 Q Tried to bamboozle you?
- 11 A Railroad me, you know, cross me --
- 12 Q All right.
- 13 A Because he's an officer.
- 14 Q All right. And did you receive a copy of this
15 statement?
- 16 A No, sir.
- 17 Q When did you receive a copy?
- 18 A I have not received one yet. I found out one got put
19 in --
- 20 Q Sir?
- 21 A I found out later --
- 22 Q You found out later what?
- 23 A I didn't find out until the day before Christmas that
24 it had been put -- placed in my property in Anderson
25 County Detention Center. I didn't find out that a

1 copy of the statement had been placed in my property
2 in Anderson County Detention Center. It wasn't until
3 then, the day before Christmas.

4 Q But you never received a copy of this?

5 A Never, sir.

6 Q Until it was found in your belongings after Christmas
7 at the detention center?

8 A Yes, sir. The one he supposed to be given me, yes.

9 Q December of what year, in '07?

10 A This year, sir. This year.

11 Q '08?

12 A Yes. Correct.

13 Q All right. Why did you initial that you received a
14 copy?

15 A At this point in time I don't remember signing,
16 initialing I received a copy. I don't remember that
17 part. I can't recollect that. But signing it and,
18 up, the part at the beginning, at the end, yes. And
19 signing, that's correct. But at the bottom I
20 can't -- I have no recollection of that.

21 Q Now, when you came back to Anderson County from
22 Mobile, Alabama, were you taken directly to the
23 county jail?

24 A Yes, sir. I went straight to the county jail.

25 Q And did they take all the belongings that were in

1 your possession at the county jail?

2 A Yes. I had to empty my pockets. That's correct.

3 Q And they issued you a receipt for all of that?

4 A No. No, sir.

5 Q You didn't get a receipt for your billfold, your
6 money, whatever you had?

7 A No, sir.

8 Q All right. So when you first asked for a lawyer,
9 what were you told?

10 A I don't believe I was told --

11 Q I can't hear.

12 A I don't believe I was told anything concerning my
13 lawyer, attorney.

14 Q They just ignored you?

15 A All I know they was ready to take down a statement.
16 He started typing, pressing keys.

17 Q Okay. Thank you.

18 CROSS EXAMINATION

19 BY MR. MCELHANNON:

20 Q Mr. Williams, let's look at this statement. It's
21 roughly two and a half pages long; is that correct?

22 A Yes, it is.

23 Q Look at the very beginning, on page one. Are those
24 your initials?

25 A Yes, they are.

- 1 Q At the bottom of page one are those your initials?
- 2 A Yes, sir.
- 3 Q Is that your signature at the bottom of page one?
- 4 A That's correct.
- 5 Q Now, page two, is that your initials at the top?
- 6 A Yes, sir.
- 7 Q And your initials at the bottom?
- 8 A Yes, sir.
- 9 Q And your signature at the bottom?
- 10 A That's correct.
- 11 Q And about midway down, you see a correction you made
- 12 in there?
- 13 A Yes.
- 14 Q And you initialed that?
- 15 A Yes. He asked me to.
- 16 Q Okay. And then on Page 3, you made a couple of
- 17 corrections and initialed them. Is that correct?
- 18 A They're there.
- 19 Q And those are your initials?
- 20 A That's my initials.
- 21 Q At the top and the bottom --
- 22 A Yes, sir.
- 23 Q -- along with your signature again?
- 24 A Yes, sir.
- 25 Q Did you also add something where you put -- "left

1 out" about being at O'Reillys and signed that on the
2 third page?

3 A Yeah. He asked me a question that was a way of
4 answering it.

5 Q He put that in there to make it correct, like you
6 wanted; is that correct?

7 A No.

8 Q Why did he put that in? You didn't tell him to put
9 that in?

10 A No. He asked me has she known for making stops,
11 frequent stops, you know what I'm saying? Stopped in
12 the middle of the street in Clemson Boulevard.

13 Q And you told him to add that into your statement?

14 A No, he asked me to.

15 Q You initialed and signed?

16 A Yeah.

17 Q That's what you're saying is the truth, right there,
18 about her stopping in the middle of Clemson
19 Boulevard?

20 A Yes.

21 Q How are you claiming that is tampered with if you
22 initialed every page and made corrections and signed
23 every page? How is that being tampered with?

24 A First and foremost I didn't write it.

25 Q But you told Kevin Matheson --

1 A I didn't write it. No, sir.

2 Q You didn't handwrite it, but dictating it to
3 Detective Matheson while he was writing it out?

4 A Type it, he didn't write it. He was typing.

5 Q Yes, sir.

6 A On the computer.

7 MR. MCELHANNON: Thank you, your Honor. That's all
8 I have.

9 THE COURT: Any direct?

10 MR. GAMBLE: No, sir.

11 THE COURT: Thank you. You may step down, Mr.
12 Williams.

13 Excuse me, do you have any other witnesses?

14 MR. GAMBLE: No, Your Honor.

15 THE COURT: He doesn't have anything. You have any
16 reply?

17 MR. MCELHANNON: No, sir.

18 THE COURT: Thank you very much. You have any
19 motions, Mr. Gamble?

20 MR. GAMBLE: Yes, sir. Move that the state be
21 excluded in that there's no indication but, other than
22 this form, which is not completely filled out, is not
23 checked on it at all, and he wasn't given a copy of this
24 statement at the time. I will go into that at a later
25 time, Your Honor.

1 MR. MCELHANNON: Your Honor, the state's position is
2 the waiver of rights was freely, voluntarily, knowingly,
3 and intelligently given as well as he initialed every
4 page. And in two or three areas he made corrections on
5 every page, adding something to the back page. And we
6 believe that was voluntarily given, your Honor.

7 THE COURT: All right. The Court's considered the
8 evidence offered by the state and by the defendant. The
9 court is convinced, and I so find, before the alleged
10 statement was obtained by the defendant, that the
11 defendant was fully advised of his rights under the Fifth
12 and Sixth Amendments of the constitution of the United
13 States. The defendant was advised prior to any
14 interrogation he had the right to remain silent and the
15 defendant was advised prior to any interrogation he had
16 the right to remain silent and make a statement, and that
17 such statement can and will be used against him in a
18 court of law.

19 The defendant was further advised prior to any
20 interrogation he had the right to employ, select an
21 attorney of his own choice; if he did not have not the
22 money or funds, resources to employ an attorney, the
23 court would appoint, provide an attorney for him.
24 Defendant was advised prior to any interrogation, he had
25 a right to consult with his attorney prior to

1 interrogation; he was advised prior to interrogation he
2 had a right to interrupt the interrogation at any time,
3 further had the right to stop answering questions at any
4 time during the interrogation, and was further advised
5 prior to any interrogation if he desired an attorney, the
6 interrogation would cease until an attorney was provided
7 for him.

8 Was given the opportunity to consult with an
9 attorney, that the defendant knowingly and intelligently
10 waived his rights under the Fifth and Sixth Amendments to
11 the constitution and the constitutional safeguards
12 required by Miranda vs. Arizona that the alleged
13 statement obtained from the defendant was freely and
14 voluntarily given without duress, without coercion
15 without undue influence, without reward, without promise,
16 hope of reward, without promise of leniency, without
17 threat of injury, without compulsion or inducement of any
18 kind; and that such alleged statement was the voluntarily
19 product of the free and unconstrained will of the
20 defendant.

21 The Court finds all the foregoing conclusions by the
22 preponderance of the evidence and I, therefore, find the
23 statement is admissible into evidence. Anything else?

24 MR. MCELHANNON: Nothing from the state, your Honor.

25 MR. GAMBLE: No, Your Honor.

1 THE COURT: All right. Are you all ready for
2 opening statements?

3 MR. MCELHANNON: Yes, sir, Your Honor.

4 MR. GAMBLE: Ready, Your Honor.

5 THE COURT: Mr. Gamble, do you need a short recess?

6 We'll take five minutes if you need it.

7 (Brief recess taken.)

8 THE COURT: All right. Mr. Foreman, if you'll sit
9 there, the two alternates will sit where they are on the
10 end, please. The rest of you can sit wherever you
11 choose.

12 Madam Clerk, if you'll swear the jury, please.

13 THE CLERK: Thank you, Your Honor.

14 (Whereupon, the clerk of court administered the oath
15 to a jury of twelve and two alternates.)

16 THE COURT: All right. Mr. Foreman, members of the
17 jury, concerning your note, yes, I will allow you to take
18 notes. We will pass out notepads and pens and pencils in
19 the morning when we start taking testimony. As far as a
20 transcript, no, there is no transcript. So I suggest you
21 pay attention.

22 This afternoon what we're going to have is opening
23 statements and we'll start the testimony in the morning
24 at 9:30.

25 Solicitor.

1 MR. MCELHANNON: Thank you, your Honor. May it
2 please the Court?

3 OPENING STATEMENT

4 MR. MCELHANNON: Ladies and gentlemen, I want to
5 tell you, thank you for your patience. To begin with --
6 it takes a while to get the trial started, but now we are
7 actually here. The defendant, seated over there, Shawn
8 Williams, is charged with four crimes. He's charged with
9 murder, and that being the murder of Josephine Estrich,
10 he's charged with possession of a knife during the
11 commission of a violent crime. He's charged with death
12 to a child in utero, and he's charged with grand larceny.

13 Now, why is he charged with all of these things?
14 That's what the state is going to prove throughout this
15 trial in the next day or two. But most of the testimony
16 or most of the evidence that you're going to hear is
17 going to come from witnesses on the stand here. We're
18 going to have what we term lay witnesses, which are
19 people, family members, that know the defendant as well
20 as the victim, Josephine Estrich.

21 We're going to have medical personnel. We're going
22 to have a forensic pathologist testify as to the manner
23 of death, how Josephine Estrich died. We're going to
24 have law enforcement. And we're going to have law
25 enforcement from not only Anderson County but Mobile,

1 Alabama. They will all be up here, under oath, telling
2 what they know about this case.

3 Now, January 22, 2007, Shawn Williams, and Josephine
4 Estrich were together. They had been dating for several
5 months prior to this. You're going to hear testimony
6 about Mr. Williams, his attitude toward Miss Estrich and
7 how he felt about it.

8 That day, January 22, 2007, started off from what I
9 can see, as a normal day. Mr. Williams had gone to
10 several family members around, they all live in kind of
11 the same vicinity, Pendleton area, Grate Road and Latimer
12 Road in Anderson County. He went by various houses to
13 see if he could do various odd jobs, paint one lady's
14 house or start some painting.

15 Later that day he was going to replace a fuel pump
16 on a gentleman's car for him. But what happened to
17 change all that? About midday you'll hear from a witness
18 going to be here. The witness -- Josephine Estrich came
19 to his house that day, stayed there about two hours and
20 45 minutes, almost three hours. While she was there, the
21 defendant called numerous times to that residence irate
22 that Josephine Estrich would not talk to him on the
23 phone, would not answer her phone. Eventually Josephine
24 Estrich left that person's house and went and met up with
25 the defendant, Shawn Williams. They got in her jeep

1 Cherokee and went to O'Reillys Auto Parts on Clemson
2 Boulevard where he was going to buy this fuel pump to put
3 in this man's vehicle.

4 Well, as they were coming back O'Reillys on Clemson
5 Boulevard, they stopped at a convenience store. And they
6 got into an argument of some type about their
7 relationship apparently, and Ms. Estrich left Mr.
8 Williams somewhere in the Wal-Mart area of Clemson
9 Boulevard. He called home, he stayed there at her house
10 some along with her brother, Craig Estrich. You'll hear
11 his testimony. He called numerous times to the home
12 saying, "She's left me. She's left me down here in
13 Anderson. Can you tell her to come get me."

14 Well, eventually, Ms. Estrich went and picked
15 Mr. Williams up. As they came back home and got near
16 where they resided or where each one of them resided at
17 Grate Road and Latimer Road, something in that jeep
18 happened, something horrible. Something absolutely
19 horrendous. Mr. Williams took a knife and plunged it
20 into Mrs. Estrich's chest, going through her sternum and
21 piercing her heart.

22 Now, what did he do after he did this? He drags her
23 out of her own vehicle and leaves her on the side of the
24 road like a piece of trash. He goes, changes his
25 clothes, goes to his house, changes his clothes, jumps

1 back in her vehicle and runs to Mobile, Alabama, to visit
2 his other ex-girlfriend that he had a daughter with.

3 He didn't call 9-1-1 for help. He didn't stop and
4 tell anybody what had happened, just left her on the side
5 of the road. This was about, the call came in about 9:14
6 to 9-1-1 someone actually finally saw the body, called
7 9-1-1. So it was dark in January. And he leaves her on
8 the side of the road.

9 Now, when he gets to Mobile, Alabama, he goes to his
10 ex-girlfriend's house and apparently through various
11 phonecalls, someone from Anderson alerts that woman that
12 some trouble has happened down here in Anderson, she
13 needs to get away from him. At that point Mobile police
14 were notified and they came and found Mr. Williams and
15 arrested him or put him into custody. And at that point
16 called Anderson County detectives, Kevin Matheson, who is
17 here who actually, along with another detective, went to
18 Mobile, Alabama and got Mr. Williams.

19 So what are we going to prove beyond a reasonable
20 doubt which is our burden? We're going to prove that
21 Mr. Williams committed murder, the unlawful taking of
22 another's life with malice aforethought. We're going to
23 prove -- I neglected to tell you this, she was five
24 weeks, approximately five weeks pregnant -- Josephine
25 Estrich was. We're going to prove that he killed a child

1 in utero. We're going to prove that he stole her jeep
2 Cherokee with the intent to permanently deprive her of it
3 and took it to Alabama. And we're going to prove that he
4 also had a knife and stabbed her with it, which is the
5 possession of a knife during the commission of a violent
6 crime.

7 I appreciate your patience throughout the trial. I
8 will try to keep it going smoothly. I think we will.
9 And I do believe after you've heard all of the testimony
10 and the facts in this case, that you will come back and
11 find him guilty of all four of these offenses beyond a
12 reasonable doubt. Thank you.

13 THE COURT: Mr. Gamble.

14 OPENING STATEMENT

15 BY MR. GAMBLE:

16 May it please the Court? In a case like this,
17 you're the sole judges of the facts. You're the sole
18 judges of the truthfulness or the voracity of each and
19 every witness that's on that stand. What you do is you
20 use your common sense and listen to what they say and
21 then apply your common sense to that and say, does it
22 ring true or can I believe it? And the state has to
23 prove their case, each and every element of it, beyond a
24 reasonable doubt.

25 Now what's a reasonable doubt? Easy. It's what

1 used to call teleological explanation. That's an
2 explanation that has the answer within the explanation.
3 The same word. A reasonable doubt is a doubt for which
4 you can give a reason. You say, well, I don't believe
5 that. Here is why. And, therefore, is your reason real?
6 Can you give a reasonable doubt?

7 You're going to be the judge also of the
8 truthfulness of each and every witness. Does each
9 witness or does any witness have an axe to grind? Are
10 they mad at the defendant? Are they upset with the
11 defendant? Should they have said this, and is there a
12 reason that you can give for them saying these things to
13 you?

14 The next thing, you're going to be the judge of a
15 statement, voluntary or involuntary statement. You have
16 to make sure that statement was given voluntarily, that
17 it was knowingly and intelligently given, that he was
18 offered an opportunity to have a lawyer present and he
19 knowingly and voluntarily and intentionally waived all
20 those rights. But that's up to you to determine if it is
21 truthful or if it is a statement that was given with all
22 of those rights given to him.

23 You're going to hear probably from a Dr. Ware, who
24 is a pathologist as to the cause of death. I can tell
25 you now, that's not the question, the cause of death.

1 The question is who caused the death. That's the
2 ultimate question.

3 It's not a matter of he running off to Alabama. The
4 state would say he went to see a former girlfriend. But
5 that it was his daughter, young daughter, he went to see
6 and he gave no problem to the people in Alabama. He was
7 arrested. We'll go into that tomorrow.

8 So here is the serious part of what you do. By
9 Shawn Williams saying, "I'm not guilty," he puts the
10 burden of proof on the state to prove beyond a reasonable
11 doubt all of the allegations of this indictment. Now he
12 doesn't have to say a word. It's up to the state to
13 prove. I can tell you this. My opinion at this point in
14 time, that he will be telling you what he saw. However,
15 it's up to you judge all parts of this case. It's up to
16 his honor to interpret the law to you. It's up to me to
17 present the case to you from Shawn Williams' side. And
18 it's up to state to prove the case beyond a reasonable
19 doubt, all the elements of it.

20 So now, there's where you come in as the sole judges
21 of the witnesses, voracity or truthfulness, the sole
22 judge of the facts. So, your job is a rough one. You
23 have to pick out and choose what's the truth, what's the
24 fact, what's proven, what isn't. Why didn't they do
25 this? Why didn't they do that? You've got to weed

1 through all that and come out with one answer that says
2 guilty or not guilty and 12 of you all have to agree.

3 That's why generally they don't let lawyers sit on a
4 jury panel, we never agree with anything anybody says at
5 all. We'd argue among ourselves until the sun came down
6 or came up, whichever way it went. So use your common
7 sense, use what you've been born with and taught, and
8 search for truth and voracity in this case. And then
9 your job will have been done.

10 Thank you.

11 THE COURT: All right. Mr. Foreman, ladies and
12 gentlemen of the jury as I told you when I started, we're
13 not going to start the testimony until 9:30 in the
14 morning. Be back in the jury room at 9:30, we'll get
15 started at that time. If there's anything in the paper
16 or on TV about it, please don't read it, don't listen to
17 it because I want you to make your decision on what you
18 hear in the courtroom not what some reporter's
19 interpretation of what he or she hears. See you in the
20 morning at 9:30.

21 (Whereupon, the proceedings are adjourned for the
22 evening recess.)
23
24
25

1 JANUARY 6, 2009

2 (WHEREUPON, Court convened with all parties present,
3 when the following proceedings were had:)

4 THE COURT: Anything from the State before we bring
5 the jury?

6 MR. MCELHANNON: No, Your Honor.

7 THE COURT: Anything from the defendant?

8 MR. GAMBLE: No, Your Honor.

9 (WHEREUPON, the jury came into open court at
10 approximately 9:40 a.m., when the following
11 proceedings were had:)

12 THE COURT: Solicitor, call your first witness. We
13 have all the jurors here.

14 MR. MCELHANNON: Thank you, your Honor. The State
15 calls Patricia Grate.

16 THE COURT: All right. Mr. Foreman, members of the
17 jury, the clerk's going to pass out notepads and pens for
18 you. You don't have to take notes. If you want to take
19 notes, raise your hands, she'll give you the notepads.
20 Does everybody want to take notes? If you would write
21 your name as soon as you get the notepads and pens on the
22 front of the pad. There's a little blank, write your
23 name. Write your name on the front of the pad.

24 When you leave the courtroom, leave the notepads in
25 the chairs. At the end of the case I'll let you take the

1 notepads back to the jury room with you. But during the
2 trial we're going to keep them in the courtroom, the
3 clerk will collect them whenever you leave the courtroom
4 and give them back to you at the end of the day or after
5 lunch or whenever it's appropriate. The notepads are
6 going to stay under the Court's control until the end of
7 the trial.

8 Solicitor, you may proceed.

9 MR. MCELHANNON: Thank you, your Honor.

10 PATRICIA GRATE, being first duly
11 sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. MCELHANNON:

14 Q Would you state your name, please.

15 A Patricia Grate, G-R-A-T-E.

16 Q Thank you, Ms. Grate. Where do you live?

17 A I live at Road, Anderson.

18 Q How long have you lived there?

19 A Fourteen years.

20 Q I believe you know the defendant, Mr. Williams?

21 A Yes, I do.

22 Q How do you know him?

23 A I am his aunt.

24 Q Does he live or did he live near you?

25 A Yes.

- 1 Q On January of 2007, did he live near you?
- 2 A Yes.
- 3 Q And how close to you?
- 4 A Directly across the street.
- 5 Q Did you see him quite often?
- 6 A Yes.
- 7 Q How frequently?
- 8 A At least twice a week.
- 9 Q Did you know Josephine Estrich?
- 10 A No, I did not.
- 11 Q Directing your attention to January 22nd, 2007, that
- 12 evening, did something happen outside of your home
- 13 and close to your home at Road?
- 14 A Yes.
- 15 Q And what occurred?
- 16 A I was -- I received a knock at my door about nine, a
- 17 little after 9 p.m. My next door neighbor said that
- 18 there was a lady in the road right in front of my
- 19 house.
- 20 Q Let me stop you. Who was your neighbor?
- 21 A Lee and Tina Estrich.
- 22 Q Estrich or Ethridge?
- 23 A Estrich I think it is.
- 24 Q Okay. Proceed.
- 25 A They asked if I had a blanket and would I come out

1 and see if I knew her, that apparently a lady had
2 been hit by a car and they needed a blanket to cover
3 her. So I took a comforter out and we covered her up
4 to her neck.

5 Q Did you recognize the woman who was laying on the
6 ground?

7 A No, I did not.

8 Q How light was it out there? Is there a street light
9 or --

10 A There is a street light but not directly where the
11 young lady was.

12 Q Had you seen Mr. Williams, the defendant, earlier
13 that day?

14 A Yes, I had.

15 Q About what time?

16 A Early morning.

17 Q Like prior to 9:00?

18 A Maybe around 10 or 11.

19 Q And did he discuss with you anything, any plans he
20 had for the next day?

21 A He said he was coming back home and that -- I asked
22 him, I wanted him to do some painting for me. And he
23 said we can do it tomorrow and I'll take you to Lowes
24 and we'll get the paint and I'll do your painting for
25 you.

1 Q So he was planning on painting some on your house on
2 January 23rd?

3 A The next day. Yes.

4 Q How long after the body was found did you stay on the
5 scene outside your home?

6 A Until midnight I guess, off and on, in and out of my
7 house.

8 Q And I think you gave a statement to the police that
9 night?

10 A Yes, I did.

11 Q A written statement?

12 A Yes.

13 Q Did you see or hear anything that night?

14 A No, I did not.

15 Q I believe your neighbors, the Estrichs and you share
16 a driveway?

17 A Yes, we do.

18 Q And how close to your driveway was Miss Estrich's
19 body if you can estimate?

20 A I don't have the slightest idea of footage.

21 Q Okay. Just a matter of feet?

22 A Yeah.

23 Q Is there anything else that you did that night
24 regarding this incident?

25 A No.

- 1 Q You were apparently on scene when EMS arrived?
- 2 A Yes.
- 3 Q And took her away?
- 4 A Yes.
- 5 Q And law enforcement arrived?
- 6 A Yes.
- 7 Q So you did not know anything of Mr. Williams and Miss
- 8 Estrich's relationship?
- 9 A I knew he knew her. I heard her name before.
- 10 Q Had you really never seen her?
- 11 A Once I think, in my home.
- 12 Q You just didn't recognize her?
- 13 A I didn't recognize her.
- 14 Q That's all I have.
- 15 THE COURT: Cross-examination.

16 CROSS-EXAMINATION

17 BY MR. GAMBLE:

- 18 Q The Ethridges had called 9-1-1; isn't that correct?
- 19 A Yes.
- 20 Q And you were watching Heroes I think on television?
- 21 A We had just started watching it, yes.
- 22 Q It comes on at 9:00?
- 23 A At 9:00.
- 24 Q So it was a little after 9 when you went out and
- 25 found this body on the road?

- 1 A Yes.
- 2 Q Was Lee Ethridge already out there?
- 3 A Yes.
- 4 Q And he had his cell phone in connection with
- 5 9-1-1?
- 6 A Yes.
- 7 Q And how long would you say before the ambulance or
- 8 EMS arrived?
- 9 A Longer than I had hoped it would be.
- 10 Q Your statement said quite a while?
- 11 A Yeah, quite a while.
- 12 Q Forty-five minutes or so, 10:00?
- 13 A I don't think it was that long. Maybe half hour.
- 14 Q And was that the Pendleton EMS?
- 15 A I do not know.
- 16 Q All right. So it was quite some time though,
- 17 according to you?
- 18 A It seemed like it was quite some time.
- 19 Q The lady on the road in your opinion was dead?
- 20 A Yes, I imagine. I haven't seen that many dead people
- 21 before, but --
- 22 Q Well, let's go -- she wasn't breathing, was she?
- 23 A Well, I couldn't tell whether she was breathing or
- 24 not. I know she wasn't moving.
- 25 Q Did anyone indicate that she wasn't breathing while

1 you there?

2 A Mr. Estrich said that he didn't think she wasn't
3 breathing I think.

4 Q Okay. So he had gotten closer to her than you?

5 A Yes.

6 Q And while you were there, were any sounds made by
7 this person on the road or --

8 A No.

9 Q -- any movement or anything?

10 A No.

11 Q All right. Excuse me one moment, please. Thank you,
12 ma'am.

13 THE COURT: Any redirect?

14 MR. MCELHANNON: No redirect, Your Honor.

15 THE COURT: You may step down. Thank you very much.
16 Call your next witness, please.

17 MR. MCELHANNON: State calls Lamar Fowler.

18 HERMAN LAMAR FOWLER, being first duly
19 sworn, testified as follows:

20 DIRECT EXAMINATION

21 THE CLERK: Please state your full name and spell
22 your last name for the record.

23 THE WITNESS: Herman Lamar Fowler, F-O-W-L-E-R.

24 BY MR. MCELHANNON:

25 Q Mr. Fowler, if I could ask you to speak up into the

1 mic when you answer so everyone can hear you.

2 A Okay.

3 Q Thank you. Mr. Fowler, where do you live?

4 A Road.

5 Q Okay. Is that in the vicinity of Grate Road, Latimer
6 Road?

7 A Like at the top of the hill, dead-end road.

8 Q Is that in the Pendleton area though?

9 A Kind of half and half.

10 Q Do you know the defendant, Shawn Williams?

11 A Yeah, he my cousin.

12 Q How long you known him?

13 A All my life.

14 Q Are you all close?

15 A Yeah, real close, like a brother.

16 Q Did you know Josephine Estrich?

17 A Not really.

18 Q Had you seen her with Shawn Williams?

19 A Maybe a couple of times. He was in the car.

20 Q Was it in her Jeep?

21 A Yes.

22 Q Now on January 22nd of 2007, do you remember that
23 day?

24 A Yes.

25 Q Did you see the defendant that day?

- 1 A He came to my house.
- 2 Q About what time?
- 3 A Probably about nine, maybe ten.
- 4 Q That morning?
- 5 A Yeah.
- 6 Q And how long of a drive or a walk, whatever, from his
- 7 house to your house would that be?
- 8 A Probably about five minutes, five or ten minutes,
- 9 maybe less than that.
- 10 Q Walk or drive?
- 11 A Walk.
- 12 Q A walk?
- 13 A Yeah.
- 14 Q Did you notice anything about Mr. Williams that
- 15 morning when you were talking to him?
- 16 A No. Just typical Shawn, just being himself.
- 17 Q How was -- was he acting differently to you?
- 18 A No, just maybe a little hyper but he just being
- 19 himself.
- 20 Q Did he tell you anything about he and Miss Estrich?
- 21 A No, just told me they were having a little problem.
- 22 Q Having some problems?
- 23 A Yeah.
- 24 Q Did you give a statement to the police?
- 25 A Yes.

- 1 Q And it's a written statement?
- 2 A Yeah.
- 3 Q Did Shawn say anything to you about his relationship
4 with Miss Estrich?
- 5 A No, only thing he just told me that they was just
6 having some problems and they was going to talk.
- 7 Q If I showed you your written statement you made the
8 23rd of January, 2007, would that help refresh your
9 memory on what you remember him saying that day?
- 10 A Yes, sir.
- 11 Q Okay. Do you recognize that, Mr. Fowler?
- 12 A Yes, sir.
- 13 Q Is that your statement you gave the 23rd of January?
- 14 A Yes, sir.
- 15 Q If you could just read it from the beginning to the
16 end.
- 17 A This statement is being written for me by Detective
18 G. M. -- I don't know who that is.
- 19 Q Hadden, I believe.
- 20 A Hadden. "I saw Shawn at my parent's house today. He
21 was talking" -- I don't know what that is.
- 22 Q "Sort of strange"?
- 23 A Yeah. "And Shawn said that he and Josephine were
24 having problems and they were probably about ready to
25 break up. She said that -- she said it was someone

1 tell her about his past. He was asking me for advice
2 and I told him to get it right and not to do nothing
3 crazy. I told him that if he could get it right and
4 he needs to leave. She said something like" --

5 Q Excuse me?

6 A -- "he's had to be save today or not to pick him up
7 from his mom's house."

8 Q Okay. Thank you, Mr. Fowler. I believe that last
9 sentence I believe she said something. I believe
10 that's Shawn said something?

11 A Yeah.

12 Q Is that correct?

13 A Yeah.

14 Q "Shawn said something like it had to be saved today
15 or not to pick him up from his mom's house"?

16 A Yes.

17 Q And what had to be saved today? His relationship
18 with Miss Estrich?

19 A Yes.

20 Q That's what you remember the discussion being the day
21 after -- or the day this happened?

22 A Yes.

23 Q Thank you.

24 Did you see Mr. Williams anymore that day after he
25 left your home?

- 1 A No.
- 2 Q When did he leave? How long did he stay there?
- 3 A Probably about maybe two and a half hours, something
- 4 like that. Just before I went to work.
- 5 Q You work in the afternoons?
- 6 A Yeah.
- 7 Q Where did you work?
- 8 A Energy Automotive.
- 9 Q And so after he left your home you didn't see him
- 10 anymore?
- 11 A No.
- 12 Q Until after all this occurred?
- 13 A Yeah.
- 14 Q And you did say he was talking sort of strange in
- 15 your statement?
- 16 A Yeah.
- 17 Q That's all the questions I have of this witness.
- 18 THE COURT: Cross examination.
- 19 CROSS EXAMINATION
- 20 BY MR. GAMBLE:
- 21 Q Can you describe strange? In other words, was he
- 22 sad? Was he mad? Was he upset? Was he fairly calm?
- 23 Tell me what you mean by strange.
- 24 A Fairly calm.
- 25 Q Sir?

- 1 A Fairly calm.
- 2 Q Okay. Didn't indicate he was mad or angry?
- 3 A No.
- 4 Q And he said he was upset because somebody been
- 5 telling her about his past?
- 6 A Yes.
- 7 Q Did you know what he was talking about?
- 8 A Just like things past, what he had went through in
- 9 the past.
- 10 Q Other girlfriends, other children, anything like
- 11 that?
- 12 A Something like that.
- 13 Q Yeah. So that's what you thought it meant?
- 14 A Yeah.
- 15 Q And did he appear, "I'll get that bitch" whatever?
- 16 A No.
- 17 Q Did he appear, "I want to smooth this out"?
- 18 A No.
- 19 Q How did he appear to you?
- 20 A He just act like he was just a normal person, just
- 21 kind of like talking to me like a brother talk, like
- 22 trying to get -- things occurred that day.
- 23 Q And he wanted to save this relationship?
- 24 A Well, he was just trying to talk to her to see if it
- 25 is going to solve anything or possibility break up.

- 1 Q Yeah. But he wasn't mad?
- 2 A No, not too mad -- he wasn't really mad, he just kind
3 of outgoing.
- 4 Q Hurt?
- 5 A Yeah.
- 6 Q How long had you known Josephine Estrich?
- 7 A I don't really know her. I just knew her through
8 him.
- 9 Q You just seen her with him or just talked to him
10 about her or what?
- 11 A He talked to me maybe a little about her but he never
12 just let me see her or whatever. She was in her
13 Jeep.
- 14 Q And he didn't live with her?
- 15 A Oh, I don't know.
- 16 Q Okay. Why did he say not to pick him up from mom's
17 house? Do you know?
- 18 A Oh, I don't know.
- 19 Q And he said something like, "It had to be saved
20 today," meaning the relationship?
- 21 A Yeah.
- 22 Q And he didn't say it had to end or -- today or not or
23 what exactly?
- 24 A He just trying to get it over with.
- 25 Q Do you know what he meant by that? That's my

1 question.

2 A He was trying to get it over with that day. Get some
3 closure.

4 Q To close it?

5 A Yeah.

6 Q Or leave it open?

7 A Yeah. Just trying to solve the situation.

8 Q But in your opinion he wasn't angry, mad or upset?

9 A No, he wasn't angry. He just trying to get stuff
10 situated. I was trying to talk to him so he won't do
11 nothing crazy or nothing.

12 Q Trying to talk himself into what to do?

13 A Yeah.

14 Q And you were helping him with that?

15 A Yeah.

16 Q Because he's your brother?

17 A Yeah.

18 Q Or like your brother?

19 A Yeah.

20 Q Where do you work, Mr. Fowler?

21 A Energy Automotive. Energy Automotive.

22 Q Okay. Were you so employed back in January of '07?

23 A Yeah.

24 Q Okay. He's your brother, brothers sometimes get in
25 fights. You ever had a fight with him?

1 A No.

2 Q He not that kind of person?

3 A No.

4 Q All right, sir. One moment, please.

5 MR. GAMBLE: Thank you. That's all I have.

6 THE COURT: Any redirect?

7 MR. MCELHANNON: Yes, sir.

8 REDIRECT EXAMINATION

9 BY MR. MCELHANNON:

10 Q Mr. Fowler, you stated on my direct exam that he was
11 acting hyper; is that correct?

12 A Yes.

13 Q But then in cross you said he was calm. Which is it?
14 Hyper or calm? Those are two different things.

15 A Just saying he was hyper at times and then calm. So
16 he was kind of in between both.

17 Q So there again goes back to your original statement
18 of how he was acting strange?

19 A Yeah.

20 Q And you told him -- you were so concerned that you
21 told him not to do anything crazy.

22 A Yeah.

23 Q Those were your words?

24 A Yeah.

25 Q Thank you. Nothing further.

1 MR. GAMBLE: I got a question on that one.

2 THE COURT: Okay. Recross.

3 RECROSS EXAMINATION

4 BY MR. GAMBLE:

5 Q What do you mean by crazy?

6 A I was just saying he's not crazy-crazy just like do
7 something just crazy. I'm saying he just crazy as
8 far as mind-wise for you to just tell him not to do
9 something crazy, just to be off to himself..

10 Q Just keep cool?

11 A Yeah.

12 Q Okay. Thank you.

13 THE COURT: You may step down. Thank you very much.
14 Call your next witness, please.

15 MR. MCELHANNON: State calls Denise Allen. Denise
16 Allen.

17 C. DENISE PERRIN, being first duly
18 sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. MCELHANNON:

21 THE CLERK: Please state your full name, spell your
22 last name for the record.

23 THE WITNESS: Chioma Denise Perrin. P-E-R-R-I-N.

24 Q I believe you did at the time of this incident go by
25 the last name of Allen?

- 1 A Yes, sir.
- 2 Q Okay. I'm used to calling you Miss Allen. Can I
- 3 just continue to call you that?
- 4 A That's fine.
- 5 Q Miss Allen, did you know the victim in this case,
- 6 Josephine Estrich?
- 7 A Yes, I did.
- 8 Q And how long did you know her?
- 9 A Thirteen years.
- 10 Q Were you close to her?
- 11 A Josephine and I worked together at Westpoint Stevens.
- 12 I knew of her. However, the last two years of her
- 13 life we had become very close.
- 14 Q And where do you work?
- 15 A I work at New Trends Hair Designers.
- 16 Q Were you Miss Estrich's hair stylist?
- 17 A I was.
- 18 Q And is it true hair stylists probably know a lot
- 19 about a person?
- 20 A Yes, sir.
- 21 Q How long did you know -- or did you know the
- 22 defendant, Shawn Williams?
- 23 A I met him in October of that year. The year that she
- 24 passed, the previous.
- 25 Q 2006?

1 A Right. That's when I met him. They had been dating
2 since July but she introduced me to him in October.

3 Q And so about four months?

4 A Uh-huh.

5 Q Did you see Josephine Estrich on January 22, 2007?

6 A Yes, sir.

7 Q And where did you see her?

8 A She came to my home.

9 Q What time was that?

10 A She got there about 12.

11 Q Did you all have plans either that day or you all
12 trying to make some plans?

13 A We did. We were supposed to go to lunch that day.
14 But I called her that morning. I called her about
15 eleven and told her I wasn't going to be able to do
16 lunch but she could come over to the house and she
17 did.

18 Q Why did she come over to your house?

19 A When Josephine had came to the salon that Friday,
20 Mr. Williams, he washed my car. So she brought him
21 up there and when she came in, she was totally -- her
22 countenance and everything was totally off. And so I
23 called her later on that day asked her did she need
24 to talk. She said yeah, so we made plans to go to
25 lunch on Monday.

- 1 Q That's the lunch that you canceled?
- 2 A Right.
- 3 Q Okay. Then she did come to your home?
- 4 A She did.
- 5 Q And you say she got there about 12?
- 6 A She did. She got there about 12.
- 7 Q And you all talked?
- 8 A We did. We talked. Before she got there,
- 9 Mr. Williams, he had called saying she was on her
- 10 way, and then she got there about 12.
- 11 Q And approximately how long did she stay there?
- 12 A She left around three, so about three hours.
- 13 Q During her visit there that day for those three hours
- 14 did you find out anything about her medical
- 15 condition?
- 16 A I did.
- 17 Q What was that?
- 18 A She was six-weeks pregnant.
- 19 Q And on January 22, 2007, I believe you already stated
- 20 Mr. Williams called your home before she arrived?
- 21 A Yes, sir.
- 22 Q Before she arrived?
- 23 A Before she arrived he had called the home. And when
- 24 she got there, I asked her how did he get the number?
- 25 She said she didn't know. I showed her the phone, it

1 was a 287 number. She said it was his mom's house.

2 Q And did he call there more than once that day?

3 A Yes, he did.

4 Q How many times approximately did he call your home?

5 A That day about three times.

6 Q During those three hours?

7 A During the three hours he called twice and then later
8 on in the day he called and left a message on the
9 phone.

10 Q And was Miss Estrich already gone at that time?

11 A At that time she was.

12 Q On the 22nd of January did you personally talk to
13 Shawn Williams on the phone?

14 A I did.

15 Q And what was his demeanor on the phone?

16 A He was angry, irate.

17 Q Did he sound upset?

18 A He was.

19 Q How was his voice to you over the phone?

20 A Loud, just loud. Irate.

21 Q Was he making demands?

22 A Yes, he was.

23 Q And what demands was he making?

24 A For me to put her on the telephone.

25 Q By "her," you mean Miss Estrich?

- 1 A Yes.
- 2 Q And she was still there at this time?
- 3 A She was still there.
- 4 Q Do you remember what Mr. Williams told you about
- 5 putting her on the phone?
- 6 A I do.
- 7 Q Could you tell the jury what he said?
- 8 A "Put her mother-fucking ass on the phone. If you
- 9 don't put her on the phone, I'm going to come down
- 10 there. I'm tired of her fucking with my emotions.
- 11 She's over there making plans to go to Red Lobster
- 12 with you. I told her I wanted to talk to her and she
- 13 won't even talk to me."
- 14 Q Then at that point did you give the phone to
- 15 Josephine?
- 16 A I did.
- 17 Q What did Josephine do after that conversation?
- 18 A She left.
- 19 Q Left your home?
- 20 A Yes, she was going to go get Nuna from school.
- 21 Q Who is Nuna?
- 22 A That's her daughter.
- 23 Q Did you see or speak with Josephine Estrich after she
- 24 left your home that day?
- 25 A No. When she left, I told her to call me, and I

1 never heard from her again.

2 Q And you gave a written statement to law enforcement?

3 A The next day I did.

4 Q Next day. I believe in that statement you actually
5 quoted what he, Mr. Williams, told you on the phone
6 conversation?

7 A I did. Uh-huh.

8 Q Let me show you what's been marked State's Exhibit 3
9 and 4 and see if you can identify these please.

10 A This is her Jeep. This is what she left in from my
11 home.

12 Q That's Josephine Estrich's Jeep?

13 A Yes, it is.

14 Q She was driving that January 22, 2007?

15 A She was.

16 MR. MCELHANNON: Your Honor, I'm going to ask to
17 move 3 and 4 into evidence. I think without objection.

18 MR. GAMBLE: No objection.

19 THE COURT: State's Exhibit 3 and 4 are admitted
20 without objection.

21 MR. MCELHANNON: Thank you, your Honor.

22 (WHEREUPON, State's Exhibit No. 3-4 is admitted into
23 evidence.)

24 Q Miss Allen, you have identified this as being the
25 vehicle of Miss Estrich; is that correct?

1 A That's correct.

2 Q And you actually saw her in it that day?

3 A I did.

4 MR. MCELHANNON: That's all the questions that I
5 have.

6 THE COURT: Cross examination.

7 CROSS EXAMINATION

8 BY MR. GAMBLE:

9 Q Now, you indicated there were three phone calls from
10 Shawn Williams to your house on January 22nd. Is
11 that correct?

12 A Two of them was to my home. The third one was a
13 message left on my cell phone.

14 Q Three phone messages came to your house?

15 A Yes.

16 Q The first one was simply Shawn telling you that
17 Josephine had dropped him off and she was on her way
18 to your house; is that correct?

19 A Correct.

20 Q And that was a calm message to you?

21 A Yes.

22 Q That was at about 11:45 in the morning?

23 A Right. Uh-huh.

24 Q And she got there about 12:15?

25 A Yes.

1 Q When was the second message?

2 A I guess about two something. It was right before it
3 was time for her to go get her daughter, so between
4 2:30 and three, when that second message was.

5 Q Was that message to you or Josephine?

6 A I answered the telephone. He talked to me, then I
7 gave her the phone.

8 Q What did he say to you when he talked to you at 2:30
9 to 3:00 that day?

10 A That's when he stated for me to "Put her
11 mother-fucking ass on the phone."

12 Q Different from the phone call at 11:45?

13 A Yes, sir.

14 Q And that call was from his mother's house?

15 A It was a 287 number. It was his mother's house.

16 Q Now, the third call you had answered, that was on the
17 recording; is that correct?

18 A Right. It was a message left on my cell phone. I
19 didn't know it was on there until the next day.

20 Q Did you give that recording to the detective,
21 Detective Beusse?

22 A I did.

23 Q So he's got a recording of that telephone message?

24 A Yes, sir, he does.

25 Q As far as you know?

1 A As far as I know he does.

2 Q To your knowledge do you pronounce it Eastrich
3 (phonetic) or Estrich?

4 A I pronounce it Estrich.

5 Q But it's also pronounced Eastrich?

6 A Yes, sir, it could be.

7 Q To your knowledge do you know where she was going
8 when she left your house at around 3, 3:30
9 thereabouts?

10 A When she left my home, she said she was going to go
11 get Nuna, her daughter.

12 Q Okay. Going to pick up her daughter?

13 A Correct.

14 Q And that was the last you saw of her?

15 A That's the last I saw of her.

16 Q All right. Excuse me one moment, please.

17 THE COURT: Any redirect?

18 MR. MCELHANNON: I don't think he's finished, Your
19 Honor.

20 MR. GAMBLE: That's all.

21 THE COURT: Any redirect?

22 MR. MCELHANNON: No redirect.

23 THE COURT: Thank you. Call your next witness.

24 MR. MCELHANNON: State calls Annie Walker. Annie
25 Walker.

1 ANNIE WALKER, being first duly sworn,
2 testified as follows:

3 DIRECT EXAMINATION

4 BY MR. MCELHANNON:

5 THE CLERK: State your full name and spell your last
6 name for the record.

7 THE WITNESS: Annie Walker, W-A-L-K-E-R.

8 Q Miss Walker, where do you live?

9 A Road, Anderson, South Carolina.

10 Q And that's close to Lamar Fowler?

11 A Yes, next door.

12 Q I believe you're related to him?

13 A He's my grandson.

14 Q Do you know the defendant, Shawn Williams?

15 A Yes, I do.

16 Q How do you know him?

17 A He's my husband's cousin.

18 Q So you know him pretty well?

19 A Yes.

20 Q Known him all his life?

21 A Yes.

22 Q On January 22, 2007, did you see Shawn Williams?

23 A Yes, I did.

24 Q And did you see or do you know Josephine Estrich?

25 A Well, I know of her.

1 Q To look to see her by appearance you would know her?

2 A Barely.

3 Q Did you see Shawn Williams and Miss Estrich that day?

4 A Yes, I did.

5 Q And where were they?

6 A They came to my house. And she -- he came inside and
7 she stayed in the Jeep.

8 Q And is it the Jeep that's in the picture I showed?

9 A Yes.

10 Q What time of day were they at your house?

11 A It was late afternoon. It was four-ish, maybe 4:30,
12 something to five maybe. It was late.

13 Q And do you know the reason that they came to your
14 home?

15 A Yes, Shawn had been working on my husband's truck and
16 Shawn came back to get some money to get the part.

17 Q Do you know what kind of part?

18 A No, I don't.

19 Q Did your husband give him some cash?

20 A Yes, that's why he came inside. He came and got \$20
21 to go get the part.

22 Q Do you know where they were going to get the part?

23 A All I know he was going to get the part.

24 Q And they left your home?

25 A Yes.

1 they left?

2 A No, I didn't.

3 MR. MCELHANNON: That's all the questions I have.

4 CROSS EXAMINATION

5 BY MR. GAMBLE:

6 Q I have a copy of the statement you gave to Detective
7 Puckhaber. In it you indicated that Shawn and his
8 girlfriend came to your house at 5:30 or 6?

9 A It was late.

10 Q Is that what you maintain now?

11 A Yes, it was late in the evening.

12 Q And you talked to Shawn?

13 A (Witness nods head up and down.)

14 Q You have to say yes or no.

15 A Yes.

16 Q The microphone doesn't pick up a nod.

17 A Yes.

18 Q How did Shawn appear to you when he came to your
19 house?

20 A Just himself.

21 Q Calm?

22 A Yeah. He wasn't -- he was just Shawn.

23 Q Just Shawn?

24 A That's it.

25 Q Not nervous or upset, jumpy, mad? Just Shawn?

- 1 A Just Shawn.
- 2 Q In the statement you indicated that Shawn said he was
3 going to O'Reillys. Is O'Reillys a bar or what is
4 O'Reillys?
- 5 A I think it's a place where you get parts. I don't
6 never go so I'm not familiar too much.
- 7 Q O'Reillys is a parts house?
- 8 A Yes.
- 9 Q And you don't know what time you went up to Grate
10 Road?
- 11 A No, I don't. I don't remember.
- 12 Q I understand.
- 13 Have you known Josephine in the past, Josephine
14 Estrich?
- 15 A No, I just seen her from a distance.
- 16 Q That's what I mean. You know what she looked like?
- 17 A Yes.
- 18 Q And you say you saw her in the Jeep?
- 19 A Yes.
- 20 Q And she was driving?
- 21 A She drove -- she was sitting on the passenger side
22 when they came to get the money to go get the part.
- 23 Q All right.
- 24 A But when she left, she was driving.
- 25 Q She was driving her Jeep?

1 A When she left.

2 Q When they left?

3 A Yes, sir.

4 Q So she slid over and Shawn got in the passenger side?

5 A Yes, sir.

6 Q And you watched this from your door?

7 A Yes. Yes. Out of my window.

8 Q And they just appeared calm to each other?

9 A Yeah.

10 Q Okay.

11 THE COURT: Any redirect?

12 MR. MCELHANNON: No redirect, your Honor.

13 THE COURT: Thank you very much. You may step down.

14 (Witness steps down from the stand.)

15 THE COURT: Call your next witness.

16 MR. MCELHANNON: State calls Craig Estrich.

17 CRAIG ESTRICH, being first duly

18 sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. MCELHANNON:

21 THE COURT: Turn him around where the jury can see

22 him, please.

23 Q Mr. Estrich, where do you live?

24 A Street in Pendleton.

25 Q Pendleton?

- 1 A Yes, sir.
- 2 Q And back in January of 2007 who did you live with?
- 3 A My sister.
- 4 Q That's Josephine?
- 5 A Yes, sir.
- 6 Q Did anyone else live there with you?
- 7 A My daughter. And Shawn, he stayed over there a whole
- 8 lot.
- 9 Q Shawn Williams, the defendant?
- 10 A Yes, sir.
- 11 Q So you know him?
- 12 A Yes, sir.
- 13 Q How long did you know him?
- 14 A I'm going to say the first time I met him was in
- 15 about July.
- 16 Q Of 2006?
- 17 A 2007, I think. No, 2006, yeah.
- 18 Q Okay. About six months before this happened?
- 19 A Yes, sir.
- 20 Q Do you know what type of relationship they had?
- 21 A Not really because they kind of kept everything away
- 22 from me, like they was very secretive. Like even
- 23 call him outside on the porch, talk to him and stuff
- 24 instead of just talking in the house or whatever.
- 25 Q So he didn't talk to her in front of you, is what

1 you're saying?

2 A Yes, sir.

3 Q Do you remember the day January 22, 2007?

4 A Yes, sir.

5 Q What were you doing that day?

6 A I think I was playing a game, the X Box, something,
7 and Shawn Williams called me.

8 Q Do you know what time of day that was that he called
9 you?

10 A Probably about 3:30 or 4:00.

11 Q Okay. What did he ask you? What did he tell you?

12 A Told me my sister had left him in Anderson and that
13 he needed a ride to come and get him.

14 Q What did you tell him?

15 A I told him that I'm not in it, you know what I'm
16 saying, I was like, "That's you-all's relationship."
17 You know, she come get you, she come get you.

18 Q Was she there when he called?

19 A No.

20 Q She come back to the house that day after that phone
21 call?

22 A Yes, sir.

23 Q What did you tell her, if anything?

24 A Well, the phone was ringing when she came in. Mr.
25 Williams had been calling and then she got there.

1 What was the question again?

2 Q So he called. You said the phone was ringing when
3 she got there. So he had been calling?

4 A Yeah.

5 Q Did he call more than once that afternoon?

6 A Yes, sir.

7 Q Do you know how many times he may have called?

8 A Probably about 10 or 15 times.

9 Q Like in a short period of time?

10 A Yeah, like back to back kind of like.

11 Q And you told your sister that?

12 A Yeah.

13 Q What did she do when you told her that? What was her
14 actions?

15 A Well, she -- when she came home that day, I noticed
16 that she was acting differently. It's like she was
17 acting kind of happy and I was like, why you in such
18 a good mood? She told me that she was just happy. I
19 don't know why.

20 Q Okay. And would that have been after 3:00 in the
21 afternoon?

22 A Yes, sir.

23 Q Now, after all the phone calls from Mr. Williams to
24 your house, did your sister Josephine do anything?

25 A Yeah. She asked me should she go pick him up and I

1 told her the same thing I told him. I said, "You
2 make that decision." She went to pick him up.

3 Q She left?

4 A Yes, sir.

5 Q Did you see your sister any after that?

6 A No, sir.

7 Q Did you go up to Grate Road that evening?

8 A No, sir.

9 Q When did you find out something happened to
10 Josephine?

11 A Probably like, I'm going to say 8:30, 9:00. My
12 cousin had called me. And she asked me was Tootie at
13 home. I said, "No." Which, right then, I knew
14 something had happened because my cousin tried not to
15 tell me about it. You know what I'm saying?
16 She just said, "Okay, then." And she hung the phone
17 up. And then she left and went to go look for
18 Tootie, I guess.

19 Q So you had a feeling something was wrong?

20 A Yes, sir.

21 Q And I believe you gave a statement to the police the
22 next day, the 23rd?

23 A I gave -- it might have been that night or the next
24 day. I'm not for sure.

25 Q Okay. When the phone was ringing when Josephine was

- 1 not there, you said it rang probably ten times?
- 2 A Yeah.
- 3 Q Did you have a caller ID on that phone?
- 4 A Yes, sir.
- 5 Q And after Josephine got back home, the phone rang
- 6 again; is that right?
- 7 A Yes, sir.
- 8 Q Did she look at the caller ID?
- 9 A It was from a pay phone.
- 10 Q Did she answer it?
- 11 A I don't think so.
- 12 Q I believe in your statement, your written statement,
- 13 you said that she left about 6:30 that night from
- 14 your house?
- 15 A Yes, sir.
- 16 Q And said she was going to get Mr. Williams?
- 17 A Yes, sir.
- 18 Q That's the last time you saw her?
- 19 A Yes, sir.
- 20 Q That's all the questions I have, your Honor.
- 21 THE COURT: Cross examination.

22 CROSS EXAMINATION

23 BY MR. GAMBLE:

- 24 Q Your sister, Josephine, picked up your daughter --
- 25 no, her daughter. Is that from school?

- 1 A Yes, sir.
- 2 Q And do you know what time she gets out of school?
- 3 A She go to after school.
- 4 Q She goes to what school?
- 5 A After-school program, like they have a little program
- 6 where they do their homework and stuff.
- 7 Q After school?
- 8 A Yeah.
- 9 Q For about an hour?
- 10 A Yeah.
- 11 Q She get out about 2:30?
- 12 A No. Probably like --
- 13 Q Three-thirty?
- 14 A More like three. And my sister went and got her
- 15 around four or something like that.
- 16 Q So she got home around four?
- 17 A Well, probably like 4:15, something like that.
- 18 Q Yeah. You didn't answer any of those calls that rang
- 19 between the -- when you were there by yourself, did
- 20 you?
- 21 A I answered the first one.
- 22 Q And that was Shawn?
- 23 A Yes, sir.
- 24 Q But you didn't answer any of the others?
- 25 A No, sir. No, sir.

1 Q So after about 4:15 or 4:30 when Josephine fixed you
2 supper --

3 A No, sir.

4 Q You told the officers she fixed you supper.

5 A I don't remember that fact. I really don't remember
6 every little detail.

7 Q Okay. And Josephine, to your knowledge, talked with
8 Shawn on the telephone after she had helped her
9 daughter with her homework?

10 A I don't know.

11 Q That's what you told the officers. Is that right?

12 A If I told him, yeah.

13 Q And she told Shawn she would leave in about ten
14 minutes. Did you know she was going to pick Shawn
15 up?

16 A Yes, sir.

17 Q And you say she left around 6:30?

18 A I guess so.

19 Q You don't know exactly when she left, do you?

20 A Well, it was in the summertime but it wasn't dark
21 yet. And then when I got the phone call saying that
22 my sister has been ran over or whatever, it was
23 getting dark.

24 Q It was already dark?

25 A Yeah.

1 Q Okay. After she left, you say about 15 or 20 minutes
2 after she left, Shawn called and you answered the
3 phone?

4 A Yeah.

5 Q And he asked was she there or had she left yet?

6 A Yes, sir.

7 Q And that's all he asked?

8 A To my knowledge. I can't remember about that day.

9 Q And you and he hung up the phone. That was the only
10 conversation you had with him?

11 A Yes, sir.

12 Q So that would have been about ten until seven or
13 thereabouts?

14 A I would say. Yeah, something like that.

15 Q Okay. Excuse me just a minute.

16 All right, sir. Thank you. That's all I have.

17 Hang on just a minute, let me check.

18 That's all I have.

19 THE COURT: Redirect.

20 MR. MCELHANNON: No redirect, your Honor.

21 THE COURT: Call your next witness.

22 MR. MCELHANNON: State calls Lula Thomason.

23 LULA THOMASON, being first duly
24 sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. MCELHANNON:

2 THE CLERK: Please state your full name, spell your
3 last name for the record.

4 THE WITNESS: Lula Thomason, T-H-O-M-A-S-O-N.

5 Q How old are you?

6 A Seventeen.

7 Q You go to high school?

8 A Yes, sir.

9 Q Where do you attend?

10 A Pendleton High School.

11 Q Do you have a job?

12 A Yes, sir.

13 Q Where do you work?

14 A Fuddrucker's of Anderson.

15 Q Do you know Josephine Estrich?

16 A Yes, sir.

17 Q Do you know what type of vehicle she drove?

18 A The Jeep.

19 Q And without putting this back up on the TV, is that
20 her Jeep?

21 A Yes, sir.

22 Q State's Exhibit 4?

23 A Yes, sir.

24 Q How long have you known Miss Estrich?

25 A All my life.

- 1 Q On January 22, 2007, did you see that Jeep?
- 2 A Yes, sir.
- 3 Q What time of day was this?
- 4 A Around 8:50, 8:45.
- 5 Q P.M.?
- 6 A Yes, sir.
- 7 Q 8:50 or 8:45 p.m. Where did you see it?
- 8 A Near Latimer Road. Well, on Latimer Road.
- 9 Q On Latimer Road?
- 10 A Uh-huh.
- 11 Q Is that close to Grate Road?
- 12 A Yes, sir. It's right off Grate Road.
- 13 Q That's in the Pendleton area?
- 14 A Yes, sir.
- 15 Q Do you live near there?
- 16 A I lived near there. I don't anymore but at the time
- 17 I did.
- 18 Q In January 2007 you lived there?
- 19 A Yes, sir.
- 20 Q And what were you doing, going home?
- 21 A Yes, sir.
- 22 Q From work or where?
- 23 A No, from Impact.
- 24 Q Was anyone with you?
- 25 A Yes, sir.

- 1 Q Who?
- 2 A Tyler Jenkins.
- 3 Q And where was this Jeep positioned on Latimer Road?
- 4 A It was in front of -- it was on the right -- well, if
- 5 you're going towards Grate Road, it would be on the
- 6 right side, parked on the right side, in front of
- 7 somebody's house.
- 8 Q Was it in the road or off the road?
- 9 A Pulled off the road.
- 10 Q Did you see anybody in the Jeep?
- 11 A Just one person.
- 12 Q Could you tell if it was a male or a female?
- 13 A No, sir.
- 14 Q Were there any streetlights or any type of lights
- 15 around that area?
- 16 A Yes, sir.
- 17 Q Just not enough light to distinguish?
- 18 A Yes, sir.
- 19 Q You're sure you only saw one person?
- 20 A Yes, sir.
- 21 Q Have you ever seen -- do you know Shawn Williams?
- 22 A I know of him.
- 23 Q To physically see him, you would know who he is?
- 24 A Yes, sir.
- 25 Q Had you ever seen him drive Josephine's Jeep?

- 1 A Yes, sir.
- 2 Q How often?
- 3 A About four or five times I've seen.
- 4 Q You ever seen Josephine in the Jeep with him when he
- 5 was driving?
- 6 A Yes, sir.
- 7 Q When did you hear or did you hear that something had
- 8 happened to Josephine?
- 9 A Around nine something, close to ten.
- 10 Q That same evening?
- 11 A Yes, sir.
- 12 Q Did you go back down to the scene at Grate Road?
- 13 A Yes, sir.
- 14 Q What was it like when you got there?
- 15 A Ambulances, polices, but her body was covered up.
- 16 Q It was covered up?
- 17 A Yes, sir.
- 18 Q Okay. And I believe you did give a statement to law
- 19 enforcement, a written statement?
- 20 A Yes, sir.
- 21 Q When you saw the Jeep on the right side of Latimer
- 22 Road, did you see anyone else around?
- 23 A No.
- 24 Q Just the one person inside the vehicle?
- 25 A Yes, sir.

1 MR. MCELHANNON: That's all the questions I have,
2 Your Honor.

3 THE COURT: Cross examination.

4 CROSS EXAMINATION

5 BY MR. GAMBLE:

6 Q How far, if you can tell me, was the Jeep on Latimer
7 Road from Grate Road?

8 A It was some feet. It was some feet.

9 Q Twenty?

10 A Longer than that.

11 Q Fifty?

12 A Probably longer than that. Yeah, about 50.

13 Q About 50?

14 A About 50.

15 Q Were the lights on?

16 A No, sir. In the Jeep?

17 Q Yeah.

18 A No, sir.

19 Q But it was dark because it was nine, sometime at
20 night, January 22nd?

21 A Yes, sir.

22 Q Okay. The figure, let's call it that, you saw in the
23 Jeep, was it in the driver's seat or the passenger
24 seat?

25 A Driver's seat.

1 Q Were you driving or was Tyler driving?

2 A Tyler was driving.

3 Q So you were on the passenger side?

4 A Yes, sir.

5 Q All right. Many times before you had seen Shawn
6 driving Tootie or Mrs. Estrich's Jeep?

7 A Yes, sir.

8 Q And she was driving sometimes and he was riding?

9 A Yes, sir.

10 Q So they kind of alternated who was driving and who
11 was riding?

12 A Yes, sir.

13 MR. GAMBLE: I don't believe I have anything else,
14 Your Honor. All I have, Your Honor.

15 THE COURT: Any redirect?

16 MR. MCELHANNON: No, sir.

17 THE COURT: All right. Mr. Foreman, ladies and
18 gentlemen of the jury, we're going to take a short break
19 at this time. Leave your notepads in your chair. Don't
20 discuss the case among yourselves. If anybody needs to
21 take a smoke break, let the bailiffs know. They'll take
22 you to the area to smoke. Anything else you need, let
23 the bailiffs know. We'll take a break for about 15 or 20
24 minutes.

25 (Whereupon, a recess was taken.)

1 THE COURT: Anything before we bring the jury?

2 MR. MCELHANNON: No, Your Honor.

3 MR. GAMBLE: No.

4 THE COURT: Call your next witness.

5 MR. MCELHANNON: Thank you, your Honor. The state
6 calls Billy Ethridge.

7 BILLY LEE ETHRIDGE, being first duly
8 sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. MCELHANNON:

11 THE CLERK: Please state your full name, spell your
12 last name for the record.

13 THE WITNESS: Willie Lee Ethridge, E-T-H-R-I-D-G-E.

14 Q Mr. Ethridge, where do you live?

15 A I live at Road.

16 Q That's in the Pendleton area?

17 A That's -- mailing address is Anderson, but for all
18 practical purposes it's Pendleton.

19 Q And you're next-door neighbors with Miss Patricia
20 Grate?

21 A Yes. We share a driveway.

22 Q How long have you been living there?

23 A This upcoming February will be three years.

24 Q And who do you live with there?

25 A My wife and kids.

1 Q On January 12th -- let me ask you this. Do you have
2 a background in any type of EMS?

3 A I drove trucks for the better part of ten years.
4 I've taken all kind of CPR courses, first responder
5 courses, been first on scene at more wrecks than I
6 care to remember. Trying to -- I have some
7 certifications, but I couldn't put my hands on them
8 now if I had to.

9 Q On the night of January 22, 2007, do you remember
10 that night?

11 A Yes, sir.

12 Q And had you and your wife and child been out
13 somewhere earlier that evening?

14 A We had gone somewhere in Anderson, Wal-Mart or
15 something like that. And when we came back, turning
16 off of Latimer onto Grate Road, my driveway is maybe
17 50 feet from that turn. And when I turned, there was
18 a body laid about half in the road, half in the
19 shoulder.

20 Q What did you do when you saw the body?

21 A I stopped dead in the middle of the road, turned on
22 my four-ways, my hazard lights, got out, assumed in
23 that scenario either somebody got sick and laid down
24 or had been hit by a car. My wife started trying to
25 talk to her with no responses.

1 At that point I started -- my phone -- actually, I
2 started dialing 9-1-1 as I was coming out of the
3 truck. But when -- my wife gets a little frantic,
4 this stuff. I don't want to ever say it's second
5 nature to somebody, but you get in a frame of mind
6 where, you know, where you got to go through -- and
7 you just zone in to pay attention to what you need to
8 pay attention to.

9 So I passed the cell phone off to her and started
10 checking to see what I was dealing with.

11 Q What did you do in order to check Miss Estrich?

12 A When I arrived there, Miss Estrich was laying on her
13 right side, about face two-thirds down to the ground.
14 It was dark. The only light I had was my headlights
15 and a flashlight.

16 I came across blood on her hand. I assumed she had
17 been hit by a car. Protocol is not to move her any
18 more than absolutely necessary because you can do
19 more damage than good. Started checking for, you
20 know, vitals, checking arteries. I did not get a
21 heartbeat at the throat. I checked behind the knees,
22 checked, you know, right here (indicates) everywhere
23 you get, even put my ear to her chest to see if I
24 could hear. Couldn't establish a heartbeat at all.
25 Backed up, started checking to find if there was any

1 breath or any movements. There were --

2 Q How did you do that?

3 A There were slight movements in the body. And the
4 body goes through weird stages. First, I felt.
5 Second, it was cold, if it had been a heavy breath,
6 you would have been able to see it in the air. I put
7 my ear right down to her nose. Nothing.

8 By this time I had sent my wife to Pat Grate's house
9 to get a blanket so if -- if she wasn't dead, start
10 aiming toward treating shock.

11 When she came back, I asked Miss Grate to borrow her
12 pair of glasses. I didn't have a mirror, what you
13 usually to use, holding a piece of glass underneath a
14 nostril or an open mouth. If there's any breath at
15 all, the steam will show and there was none.

16 Q In your opinion, was Miss Estrich already deceased?

17 A Yes.

18 Q What did you do at that point?

19 A At that point I got back on the phone I think with
20 9-1-1, explaining, trying to give them as much
21 information to pass on to whoever was coming in
22 because I am not a paramedic or anything like that.
23 But there are certain things, the more information
24 they know when they get there, you know, the better
25 direction they go.

1 Q When you got there, when you saw the body, did you
2 see anyone else around?

3 A No, sir.

4 Q Did you see any vehicles around?

5 A No, sir.

6 Q And was this a lighted area or a fairly dark?

7 A It's lighted but I'd say in a country version,
8 they're few and far between.

9 Q And can you estimate about what time of night this
10 was?

11 A I'd say 9, 9:15, something, somewhere in that
12 ballpark.

13 Q I think you said you saw blood on her hand?

14 A Yeah. In moving around, I came up with blood on --
15 on my hand so started trying to find where it was. I
16 knew I had not rolled her over to start checking
17 back. She had blood, small cuts on her left hand.

18 Q And you gave a statement I believe to law
19 enforcement?

20 A Yes, sir.

21 Q A written statement?

22 A What it says exactly I couldn't tell you, that was
23 two years ago; but I did.

24 Q Basically said that you saw blood on her shirt and
25 eye?

1 A Yeah. That's right. There was, I think it was her
2 right eye -- no. She was face down. Left eye had
3 blood just trickling like out of the tear duct area.

4 Q And on her shirt?

5 A Uh-huh.

6 Q You were there when EMS arrived on scene?

7 A Yes, sir.

8 Q You stayed there the whole time?

9 A I stayed, made sure nobody else touched, did
10 anything, kept my wife calm. Made sure -- Miss Grate
11 had come out also with her, didn't want, you know,
12 third-stage panics.

13 Q And about how long, if you could estimate, before EMS
14 got there?

15 A That wasn't real high in my --

16 Q I understand.

17 A In what I was paying attention to. But it was
18 probably under ten minutes. You know, I can remember
19 the -- seems like the 9-1-1 operator said they were
20 already en route, so at that point I tuned -- you
21 know, the clock doesn't work during these kind of
22 scenarios.

23 Q And once EMS got there, you had no further dealings
24 other than giving a statement?

25 A When they got there, I told them what I had done,

1 what I had seen, what two cents worth of information
2 I had. Stayed right there, you know, in case they
3 needed an extra hand. But at that point it was their
4 ballgame.

5 Q Thank you, Mr. Ethridge.

6 MR. GAMBLE: No questions, your Honor.

7 THE COURT: You may step down.

8 (Witness steps down from the stand.)

9 THE COURT: Call your next witness.

10 MR. MCELHANNON: State calls Jack Dorfner.

11 JACK DORFNER, being first duly sworn,
12 testified as follows:

13 DIRECT EXAMINATION

14 BY MR. MCELHANNON:

15 THE CLERK: Please state your full name and spell
16 your last name.

17 THE WITNESS: Jack William Dorfner, D-O-R-F-N-E-R.

18 Q Mr. Dorfner, who are you employed with?

19 A Pendleton EMS.

20 Q Were you so employed January 22, 2007?

21 A Yes, sir.

22 Q Did you get a call to respond to Road in
23 Anderson?

24 A Yes, sir, I did, for an unconscious patient or a man
25 down.

1 Q And what was the scene like when you arrived?

2 A When I pulled up next to the patient, we illuminated
3 the patient with the passenger side of the ambulance.
4 we have some scene lights there. There was a
5 gentleman on scene with his family and we found the
6 patient laying next to a mailbox on the side of the
7 road covered with a blanket.

8 Q So when you arrived, she already had the blanket on
9 her?

10 A Yes, sir.

11 Q What did you -- what procedures did you attempt
12 initially on Miss Estrich?

13 A Initially I made sure she was unconscious or
14 conscious. We found her unconscious, unresponsive.
15 I noticed there was a bit of blood here and there on
16 her, and she seemed to be -- the injuries didn't seem
17 to be consistent with a motor vehicle accident. I
18 removed the blanket off of her so that we could put
19 our EKG machine on her and checked for pulses. While
20 that was being applied -- I had no pulses in her neck
21 or her radial pulses in her wrist.
22 I exposed the patient by cutting her shirt off at
23 which point in time I noticed injuries that were
24 inconsistent with a motor vehicle accident or being
25 struck by a vehicle.

1 I placed her on the monitor at which point I found
2 her in what we refer to as asystole, which is a flat
3 line. It's not a workable rhythm at that point in
4 time.

5 And, like I said, because of the injuries I noticed,
6 I believed that we had a homicide scene and I backed
7 people off and contacted my dispatch and told them
8 that I believe we had a homicide crime scene and
9 stepped away from the body from there.

10 Q And I believe you said injuries inconsistent with a
11 motor vehicle wreck?

12 A Yes, sir. I noticed puncture wounds in the thorax,
13 in the torso.

14 Q And in your opinion you said flatline, she was
15 deceased when you were there?

16 A Yes, sir. We had an unknown downtime and also she
17 was cold to my touch. I removed one of my gloves and
18 touched her and she was also cold at that point in
19 time. So I believed she had probably been there for
20 a period of time that wouldn't make it -- not worth
21 working her and starting CPR. I didn't believe we
22 could save her.

23 Q After you called your dispatch, they then in turn
24 notified law enforcement?

25 A Yes, sir. Yeah, I had them notify the officers on

1 their way in so they had an idea. I'm sure they were
2 coming anyhow because we thought we had a person
3 struck by a vehicle so they would have been
4 dispatched anyhow.

5 Q And did you remain on the scene while law enforcement
6 arrived?

7 A I did. We stayed there throughout and transported
8 the body to the hospital.

9 Q After law enforcement released it to you?

10 A Yes.

11 Q That's all the questions I have, your Honor.

12 MR. GAMBLE: No questions, your Honor.

13 THE COURT: You may step down.

14 (Witness steps down from the stand.)

15 THE COURT: Call your next witness.

16 MR. MCELHANNON: State calls Cheryl Blackburn.

17 CHERYL BLACKBURN, being first duly
18 sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. MCELHANNON:

21 THE CLERK: State your full name and spell your last
22 name for the record.

23 THE WITNESS: Cheryl Antoinette Blackburn,
24 B-L-A-C-K-B-U-R-N.

25 Q Where do you live?

- 1 A Road.
- 2 Q Is that in Anderson?
- 3 A Yes.
- 4 Q Do you know the defendant in this case, Shawn
- 5 Williams?
- 6 A Yes. Shawn is my cousin.
- 7 Q Let me ask you this, also. Are you employed?
- 8 A Yes, I am.
- 9 Q Where do you work?
- 10 A Target.
- 11 Q Have you been there a long time?
- 12 A Twelve years.
- 13 Q Did you know the victim in this case, Josephine
- 14 Estrich?
- 15 A I met her through Shawn.
- 16 Q And did you know her well or as an acquaintance?
- 17 A No, I knew her family but I didn't know her.
- 18 Q Did you know that she and Shawn were dating?
- 19 A Yes.
- 20 Q On January 22, 2007, did you receive a phone call?
- 21 A Yes.
- 22 Q From whom?
- 23 A One of my sisters called me.
- 24 Q What did they tell you?
- 25 A She told me that our other sister called her and told

1 her that we -- to come pick her up because Pat had
2 called and said there was a lady body laying on the
3 side of the road in front of her house.

4 Q By Pat, you mean Mrs. Grate, Patricia Grate?

5 A Yes, Pat Grate.

6 Q There was a body laying in front of her house?

7 A Yes.

8 Q What did you do in response to that?

9 A My sister told me get dressed and come on. I got
10 dressed, went outside, picked up my other sister and
11 went up to Pat's.

12 Q What was the scene like when you all arrived there?

13 A It was a few people there. It wasn't a lot. And at
14 the time no one knew who she was and I looked at her
15 and I said, "That's Shawn girlfriend."

16 Q So you did recognize her?

17 A Yes.

18 Q What did you do after that?

19 A I kind of lost it because it brought back some
20 memories, so -- but once I calmed down, I called
21 Barbara and told her to call Diane, which at the time
22 I thought Diane was Josephine's sister. And I told
23 her to call and tell her they need to get -- come
24 down there.

25 Q Do you remember who all was on the scene when you all

1 got there?

2 A No, I don't.

3 Q Was EMS or law enforcement already there?

4 A EMS was.

5 Q How long do you think you stayed there?

6 A Probably about three hours maybe or more.

7 Q Now, I believe you gave law enforcement two different
8 statements, one on January 22nd, the day of the
9 incident, and also one on January 23rd, the day after
10 the incident. Is that correct?

11 A Yes, sir.

12 Q And what, if anything, did you do on January 23,
13 2007, the day after this happened?

14 A Well, my sister told me to call Daytra, Shawn's
15 ex-girlfriend. Well, used to be. When she was
16 living with him, we became good friends.

17 Q Where was she living at this time?

18 A In Alabama. And we kept in contact with each other.
19 So my sister told me that night to call her but I
20 didn't. So that morning when we went to my cousin's
21 house to have coffee, she said, "Cheryl, you really
22 need to see call Daytra to see if she's seen Shawn."

23 Q What time did you call?

24 A It might have been 7:30, 8:00.

25 Q Early that morning?

1 A It was early that morning. And I called Daytra's
2 grandmother's house, where she stayed, and I asked to
3 speak to Daytra and she said, "Daytra's not here."
4 I said, "Well, have you seen Shawn?"
5 And she said, "Yes."
6 She said that he came to her house about four
7 something that morning and she almost shot him
8 because he was peeping through her windows. And she
9 said that Daytra left with him.
10 And I said, "Well, you might want to call Daytra and
11 get her away from him." I said, "Because there was a
12 murder on Grate Road last night and it was his
13 girlfriend."
14 And I said, "You might want to call the law
15 enforcement and tell them to call the law enforcement
16 in Anderson and ask them what's going on."
17 And she said, "Okay." And then she called me back
18 and said that she had talked to Daytra, and Daytra --
19 she told Daytra she was sick and to come home, take
20 her to the emergency room. So Daytra came home.
21 And the law enforcement came and I talked to them and
22 they took Daytra in to try to get her to tell where
23 he was at.
24 Q Was this in Mobile, Alabama?
25 A I believe, yes.

1 MR. MCELHANNON: That's all the questions I have,
2 Your Honor.

3 THE COURT: Cross examination?

4 MR. GAMBLE: I've got one to clear up.

5 CROSS EXAMINATION

6 BY MR. GAMBLE:

7 Q You weren't talking to Dai-dai herself, were you?

8 A I talked to her grandmother.

9 Q Her grandmother?

10 A Yes, sir.

11 Q But you didn't talk to Dai-dai herself?

12 A I talked to Dai-dai later on that evening.

13 Q I mean on this phone call --

14 A No.

15 Q -- to Mobile?

16 A No.

17 Q All right. And when you say it was a murder of a
18 girlfriend, you just assumed that it was a murder?

19 A Yes. Well, that night they said it looked like she
20 had been stabbed. And I knew she was dead, so I
21 assumed it was murder.

22 Q You don't know if it was murder or an accident or
23 anything?

24 A No, I assumed.

25 Q Okay. Dai-dai is -- what's her real name?

- 1 A I couldn't tell you. Daytra?
- 2 Q Daytra?
- 3 A Yeah.
- 4 Q Daytra Evans?
- 5 A Uh-huh.
- 6 Q And she's the mother of a child that is Shawn
- 7 Williams' child?
- 8 A Yes.
- 9 Q And how old is the child?
- 10 A Maybe three years old, maybe two.
- 11 Q Three or four, somewhere along in there?
- 12 A Yes.
- 13 Q Under six at any rate?
- 14 A Yes.
- 15 Q To your knowledge is that his only child?
- 16 A No. He has another daughter.
- 17 Q Another boy?
- 18 A Daughter.
- 19 Q Daughter?
- 20 A Uh-huh.
- 21 Q Where is she?
- 22 A Sitting right over there.
- 23 Q She's practically grown then?
- 24 A Yes.
- 25 Q Okay.

1 MR. GAMBLE: Thank you.

2 THE COURT: Any direct?

3 MR. MCELHANNON: No, Your Honor.

4 THE COURT: You may step down.

5 (Witness steps down from the stand.)

6 THE COURT: Call your next witness.

7 MR. MCELHANNON: The state calls Detective Greg
8 Hayden.

9 GREG HAYDEN, being first duly sworn,
10 testified as follows:

11 DIRECT EXAMINATION

12 BY MR. MCELHANNON:

13 THE CLERK: Will you please state your full name,
14 spell your last name for the record.

15 THE WITNESS: Greg Hayden, last name is H-A-Y-D-E-N.

16 Q Detective Hayden, who do you work for?

17 A I work for the Anderson County Sheriff's Office.

18 Q How long have you been employed there?

19 A I've been employed there 13 years.

20 Q You've been a detective how long?

21 A For the past three years.

22 Q Were you a detective in January of 2007?

23 A Yes, I was.

24 Q And did you receive a call to respond to
25 Road?

1 A Yes, sir, I did.

2 Q Is that in Anderson County?

3 A Yes, sir.

4 Q What was the nature of that call that you received?

5 A I had received a call from dispatch advising that
6 there was a -- what had originally been reported as a
7 pedestrian struck by a car. And once first
8 responders arrived on scene, they found some
9 suspicious circumstances. They advised there was a
10 victim on scene that was deceased and it appeared to
11 be a suspicious death.

12 Q Do you remember who was on scene when you arrived?

13 A By the time I arrived on scene, the EMS, Pendleton
14 EMS, the Zion fire department, the South Carolina
15 Highway Patrol was on scene, as well as some road
16 patrol deputies from the sheriff's office.

17 Q What did you do on the scene?

18 A Upon learning it was going to be a suspicious death,
19 we expanded the crime scene to better secure it,
20 trying to get some bystanders back that were trying
21 to on look as far as what was going on and trying to
22 locate neighbors, anybody that may have been in the
23 area at the time it was reported, to begin some
24 preliminary investigation.

25 Q And I believe -- did you take some written statements

1 from various people?

2 A Yes, sir, I did.

3 Q How long were you on the scene?

4 A I remained there at the crime scene until the body
5 had been removed and transported by Pendleton EMS.

6 Q Did you at any time see a gray Jeep on the scene?

7 A No, sir.

8 Q Did you see the defendant, Shawn Williams, on the
9 scene?

10 A No, sir.

11 Q After you finished up what you were doing that night,
12 the 22nd, did that go into the morning of the 23rd?
13 Were you there that long?

14 A Yes, sir, I was.

15 Q After you left the scene, did you have any further
16 dealings in this incident?

17 A The following day I was contacted by Detective Beusse
18 to assist in recording a -- a message that had been
19 left on someone's telephone related to this incident.

20 Q And after that you didn't have anything further to
21 do?

22 A No, sir.

23 Q No further investigations?

24 A No, sir, not on my part.

25 Q You didn't go to Alabama or anything like that?

1 A No, sir.

2 MR. MCELHANNON: That's all the questions I have,
3 Your Honor.

4 MR. GAMBLE: No questions.

5 THE COURT: You may step down.

6 THE WITNESS: Thank you.

7 (Witness steps down from the stand.)

8 THE COURT: Call your next witness.

9 MR. MCELHANNON: The state calls Garland Major.

10 GARLAND J. MAJOR, JR., being first
11 duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. MCELHANNON:

14 THE CLERK: Will you please state your full name and
15 spell your last name for the record.

16 THE WITNESS: My full name is Garland James Major,
17 Jr. Spelling of the last name is M-A-J-O-R.

18 Q Mr. Major, who do you work for?

19 A The Anderson County Sheriff's Office.

20 Q What's your title?

21 A I am the lieutenant with the criminal investigation
22 division.

23 Q Were you employed by them on January 22, 2007?

24 A Yes, I was.

25 Q How long have you been employed by the sheriff's

1 department?

2 A Eleven years.

3 Q I believe you didn't go to the scene of
4 Road on January 22, 2007?

5 A That's correct, I did not.

6 Q Did you have an opportunity or reason to go there on
7 January 23rd?

8 A Yes, I did.

9 Q What was that reason?

10 A It was in the evening I received a phone call from
11 Detective Eddie Stancil and Detective Kevin Matheson
12 who were in Mobile, Alabama. They were interviewing
13 the defendant, Shawn Williams, and they were told
14 that after the victim, Josephine Estrich, was
15 stabbed, that he left the scene; and as he was
16 running through a kind of a wooded area, a yard, that
17 he took off or removed the clothing he was wearing
18 and threw them on the ground. And we wanted to go
19 there, see if we could locate the evidence and
20 collect it.

21 And after Detective Stancil told me what was going
22 on, I went to the scene which is an area off Burns
23 Bridge Road, Grate Road. It's in the Pendleton area
24 of Anderson County.

25 Q Show you what's been marked State's Exhibit 5, 6, 8,

1 9, 10, 11, ask you if you can identify those, please.

2 A Yes, sir. I recognize these.

3 Q What do those represent?

4 A It is a wooded area which is away from kind of a
5 gravel, old driveway leading to an abandoned trailer
6 on this property. It shows the trees, the leaves,
7 and the eight articles of clothing that forensics
8 Detective Carpenter and myself found there.

9 Q Okay.

10 MR. MCELHANNON: Your Honor, at this time I'd ask
11 State's 5 through 11 be admitted.

12 THE COURT: Any objection?

13 MR. GAMBLE: No objection.

14 THE COURT: 5 through 11 admitted without objection.
15 (WHEREUPON, State's Exhibit No. 5-11 are admitted
16 into evidence.)

17 Q If you could step down, come to the big screen over
18 there as I go through these. And if you could just
19 go through and kind of describe what the jury is
20 seeing in each photograph.

21 A You see the leaves in wintertime on the ground,
22 leaves. Over here, black athletic shoe. I call
23 tennis shoe, some people call sneakers. Here's a
24 white sock with it. Over here, a pair of white
25 thermal long john bottoms and a pair of blue denim.

1 I believe they're "F" jeans, blue denim jeans.

2 Q Again this was the location off of Burns Bridge Road
3 or in that vicinity?

4 A Right, Burns Bridge, Grate Road, right there. Yes,
5 sir.

6 Q Anything else on that picture?

7 A I do not see anything.

8 Q That was State's 5.

9 Let me show you State's 6.

10 A This is another closeup shot. You can't tell from
11 the previous one but we also had a pair of blue boxer
12 shorts there along with the thermal bottoms, blue
13 denim jeans. That's just a closeup shot of those
14 three items.

15 Q Okay. State's 7?

16 A Same thing, different angle.

17 Q Okay. State's 8?

18 A That is the black athletic shoe and the one white
19 sock.

20 Q Did you only find one shoe?

21 A Yes, one shoe and one sock.

22 Q Okay. State's 9?

23 A These are just the same -- same items, just kind of
24 stretched out so you could get a better idea of what
25 they looked like.

1 Q Okay. State's 10 I believe the same, just a
2 different angle?

3 A Yes, sir, that's correct.

4 Q And 11 as well?

5 A Yes, sir.

6 Q Have a seat.

7 A (Witness resumes the stand.)

8 Q And these items were collected on the next -- the
9 evening of the next day?

10 A Right, on the 23rd. Yes, sir.

11 Q January 23rd. Did you have any further involvement
12 in the investigation of this case?

13 A No, sir, I did not.

14 MR. MCELHANNON: That's all the questions I have.

15 THE COURT: Cross examination?

16 MR. GAMBLE: One moment, please, your Honor.

17 No, sir, no questions.

18 THE COURT: You may step down.

19 THE WITNESS: Thank you, your Honor.

20 (Witness steps down from the stand.)

21 THE COURT: Call your next witness.

22 MR. MCELHANNON: May we approach?

23 THE COURT: Yes, sir.

24 (WHEREUPON, a bench conference was held in the
25 presence of the jury but outside the hearing of the

1 jury.)

2 THE COURT: Mr. Foreman, ladies and gentlemen of the
3 jury, we'll take a lunch break at this time. It's now
4 12:00. Be back in your jury room at 1:30. We'll
5 continue the testimony at that time. Thank you very
6 much. Leave your notepads in your chairs. Please don't
7 discuss the case among yourselves.

8 (Whereupon, the jury is excused for the luncheon
9 recess.)

10 Anything from the state before we take a lunch
11 break?

12 MR. MCELHANNON: No, sir.

13 THE COURT: From the defense?

14 MR. GAMBLE: No, Your Honor.

15 THE COURT: Recess until 1:30.

16 (WHEREUPON, a lunch break was taken.)

17 AFTERNOON SESSION

18 (WHEREUPON, after the lunch break, court was again
19 in session with all parties present, when the
20 following proceedings were had:)

21 THE COURT: Anything before we bring the jury?

22 MR. MCELHANNON: No, your Honor.

23 MR. GAMBLE: No, your Honor.

24 (Whereupon, the following proceedings were had
25 within the presence of the jury:)

1 THE COURT: Does everybody have their pads? Okay.
2 Solicitor, call your next witness, please, sir.

3 MR. MCELHANNON: Thank you, your Honor. The state
4 calls officer Brad Latham.

5 BRAD LATHAM, being first duly sworn,
6 testified as follows:

7 DIRECT EXAMINATION

8 BY MR. MCELHANNON:

9 THE CLERK: Please state your full name and spell
10 your last name for the record.

11 THE WITNESS: Bradley Lewis Latham, last name
12 L-A-T-H-A-M.

13 Q Officer Latham, who do you work for?

14 A Mobile Police Department, Mobile, Alabama.

15 Q And how long have you been employed with them?

16 A Five and a half years.

17 Q What position or title do you hold there?

18 A Patrol, field operations.

19 Q You've been in field operations the entire five and
20 half years?

21 A Yes, sir.

22 Q Were you working in that capacity on January 22,
23 2007?

24 A Yes, I was.

25 Q And did you have an opportunity to respond to some

- 1 type of dispute at Street --
- 2 A Yes, I did.
- 3 Q -- in Mobile? And what type of situation was that?
- 4 A It was a domestic call where myself and backing
- 5 officer responded to the scene in reference to a
- 6 black male subject trying to enter the residence.
- 7 Q At Street?
- 8 A Correct.
- 9 Q When you responded, what was the situation?
- 10 A I noticed the young black female who was real upset
- 11 inside the residence with her grandmother and they
- 12 were talking about the situation.
- 13 Q And do you know who this young black female was?
- 14 A Daytra Evans.
- 15 Q You say she was there with her grandmother?
- 16 A Yes.
- 17 Q Did you actually speak with Daytra Evans?
- 18 A Yes, I did.
- 19 Q Did you speak with the grandmother?
- 20 A Yes, I did.
- 21 Q Based on your conversations with Daytra Evans and her
- 22 grandmother, did you take any action?
- 23 A Yes. She was real upset and spoke to her for a
- 24 while, and she said -- you know, she had some things
- 25 to talk to me about and discuss later on. So we

1 moved her to the precinct where we talked to her
2 there.

3 Q Okay. Based on, on your conversations with her there
4 at the precinct, did you follow up on any information
5 she gave you?

6 A Yes, I did.

7 Q What was that? How did you follow up?

8 A I notified my supervisors and let them know what she
9 stated and had them call up here and verify with
10 Anderson, South Carolina, that -- if in fact what
11 happened, is what she said happened.

12 Q So you were trying to verify the fact that someone
13 had died in Anderson, South Carolina?

14 A Correct.

15 Q What did -- so you did what? What was the procedure?
16 You went to your supervisor?

17 A I notified my supervisor what she said.

18 Q And did your supervisor instruct you in any way what
19 to do?

20 A We just stood by until we notified the detectives up
21 here.

22 Q Did you actually notify the detectives in Anderson?

23 A No, I didn't. I had my supervisor do it.

24 Q And based on the information that you obtained during
25 your interview or investigation, did you actually go

1 back and find the defendant, Shawn Williams?

2 A Yes. Yes, I did.

3 Q Where did you locate him?

4 A We were -- I was given an address by Daytra and went
5 over to Gaston Street, at the residence there, and
6 took him into custody.

7 Q Is that Street?

8 A Yes, it was.

9 Q And that's in Mobile, Alabama?

10 A Correct.

11 Q Did you verify who lived at that address?

12 A Yes, I did.

13 Q And who was that?

14 A I don't have her name on here. I can't recall her
15 name.

16 Q Do you know if she was a relative of anyone involved
17 in this?

18 A I don't know if she was a relative.

19 Q So after, you and some other officers took Mr.
20 Williams in custody?

21 A Yes. Once we found out that he was at that
22 residence, I gathered up a couple of officers and
23 went, knocked on the door and got him.

24 Q Did he give you any trouble?

25 A No, sir.

1 Q What did you do with him after you had him in
2 custody?

3 A Transported him to headquarters for questioning.

4 Q Did you do any questioning?

5 A No, I did not.

6 Q Did you have any further involvement in that?

7 A No, I did not.

8 Q Let me show you one photograph, Officer. It's marked
9 State's Exhibit 16. Ask you if you can identify
10 that?

11 A Yes.

12 Q And what is that a representation of?

13 A The residence we took him into custody at.

14 Q Is that ?

15 A Street.

16 MR. MCELHANNON: At this time ask State's 16 be
17 admitted.

18 MR. GAMBLE: No objection.

19 THE COURT: 16 admitted without objection.

20 (WHEREUPON, State's Exhibit No. 16 is admitted into
21 evidence.)

22 MR. MCELHANNON: All the questions I have.

23 CROSS EXAMINATION

24 BY MR. GAMBLE:

25 Q You got a pretty town you live in. What is field

1 operation?

2 A Sir?

3 Q Field operation?

4 A Patrol division.

5 Q What they call around here, routine patrol?

6 A I guess so.

7 Q Now, you've been in Mobile with the department for
8 five and a half years?

9 A Yes, sir.

10 Q As such, let me ask you this. At the Mobile
11 headquarters do you all have recording equipment?

12 A I think we do.

13 Q Would it be available to a visiting officer if he
14 asked for it?

15 A Yes.

16 Q You all would accommodate visiting officers, wouldn't
17 you?

18 A Yeah.

19 Q From other jurisdictions?

20 A Right.

21 Q Okay. And when you arrested the defendant, Shawn
22 Williams, what, if anything, did you tell him?

23 A I didn't tell him anything.

24 Q You just arrested?

25 A (Witness nods head up and down.)

- 1 Q Any trouble?
- 2 A No.
- 3 Q Went willingly with you?
- 4 A Yes, sir.
- 5 Q Was he awake or asleep when you came into is it
- 6 Gasden?
- 7 A Gaston. Gaston.
- 8 Q G-A-S-T-O-N?
- 9 A Yes, sir.
- 10 Q You just went into Gaston Street?
- 11 A Yes, sir.
- 12 Q Did anyone let you in?
- 13 A There was a female that came to the door first.
- 14 Q This was her residence to your knowledge?
- 15 A I guess so.
- 16 Q And I believe that Mr. Williams was asleep on a
- 17 couch?
- 18 A I don't know if he was or not.
- 19 Q Where was he when you first saw him?
- 20 A He walked out the front door.
- 21 Q Just came out the front door?
- 22 A Uh-huh.
- 23 Q And you said, "I'm taking you in"?
- 24 A I had, my other officer grabbed him and placed him
- 25 into custody and took him to the car.

1 Q Cuffed him?

2 A (Witness nods head up and down.)

3 Q Put him in the back seat?

4 A Yes, sir.

5 Q And that was it. You all didn't ask any questions or

6 say anything to him?

7 A Not at that time.

8 Q You give him any reason for the arrest?

9 A I told him he was being held for questioning.

10 Q Investigation?

11 A Investigative purposes, yeah.

12 Q And he didn't say anything?

13 A He wanted a cigarette.

14 Q Did you give him one?

15 A Yeah, he got one.

16 Q Good. All right, sir. Thank you.

17 THE COURT: Any redirect?

18 MR. MCELHANNON: No, Your Honor.

19 THE COURT: Step down. Thank you very much.

20 (Witness steps down from the stand.)

21 MR. MCELHANNON: State calls Corporal Rusty

22 Hardeman.

23 RUSTY HARDEMAN, being first duly

24 sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. MCELHANNON:

2 THE CLERK: If you'll please state your full name
3 and spell your last name for the record.

4 THE WITNESS: Mack Russell Hardeman,
5 H-A-R-D-E-M-A-N.

6 Q Corporal Hardeman, who are you employed with?

7 A City of Mobile Police Department.

8 Q How long have you been there?

9 A Almost 14 years.

10 Q What are your various divisions you've been in?

11 A I started out in the patrol division or field
12 operations division. From there I went to our
13 white-collar-crime investigative unit, then to our
14 burglary unit. And I've been in the -- in homicide
15 almost four years. I spent -- I've been in
16 investigations for nine.

17 Q Now, you were involved in this investigation of
18 January 23, 2007. Is that correct?

19 A Yes, I was.

20 Q What was your initial involvement?

21 A I was contacted by my supervisor, Sergeant Don
22 Boykin, and told that we were assisting Anderson,
23 South Carolina, deputies who were investigating a
24 possible homicide that occurred up here, and that the
25 suspect had been located in Mobile and taken into

1 custody.

2 Q What did you do based on that information?

3 A I spoke to, of course, my sergeant who told me the
4 suspect had been taken into custody and where he had
5 been taken into custody at Street. Then I
6 spoke to Detective Matheson by telephone, who told me
7 very briefly what he believed had happened, what the
8 evidence at the scene had shown, the location that
9 the body was found, when the body was found, the fact
10 that the victim's Jeep, 1992 Jeep Cherokee, was
11 missing; and that the suspect, Shawn Williams, had
12 been seen driving the vehicle earlier in the night
13 and warrants had been issued for Shawn Williams for
14 theft of the vehicle and for murder. And based on
15 that information, I obtained a search warrant for the
16 address at Street.

17 Q Do you know who resided in, owned that residence at
18 ?

19 A Angela Keith was the resident there.

20 Q Did you find out if she was related in any way to
21 anyone else?

22 A I believe that she was the cousin of Daytra Evans.

23 Q So you obtained a search warrant for
24 Street?

25 A Yes.

1 Q And you actually executed that search warrant?

2 A Yes, I did.

3 Q Did you collect the evidence that you found inside
4 that residence?

5 A Yes, I did.

6 Q Did you take photographs of the evidence or the
7 residence itself?

8 A Yes, sir.

9 Q I show you what's been marked State's Exhibits 17,
10 18, 19, 20, and 21 and ask you if you can identify
11 each one of those?

12 A Yes, sir, I can.

13 Q And what do those propose to be? If you can just go
14 through them.

15 A Seventeen is a photograph under the bathroom vanity
16 cabinet of a purse with paperwork.

17 Eighteen is a close up of the paperwork.

18 Nineteen is a photograph of the cushions of the sofa
19 in the front room of Street. And you can
20 tell there's something between the cushions, but you
21 can't tell what it is.

22 Twenty is a picture after I pulled back the cushion,
23 you can see that it's a set of keys.

24 And 21 is a set of keys with a Chrysler Jeep Cherokee
25 and a key fob with Anderson, South Carolina, on the

1 key fob.

2 Q If you can step down here so we can show these to the
3 jury.

4 (Witness steps down to jury box).

5 MR. MCELHANNON: At this time I'd ask that State's
6 Exhibit 17 through 21 be admitted.

7 THE COURT: Any objection?

8 MR. GAMBLE: No objection.

9 THE COURT: Seventeen through 21 admitted without
10 objection.

11 MR. MCELHANNON: Thank you, your Honor.

12 (WHEREUPON, State's Exhibit No. 17-21 is admitted
13 into evidence.)

14 Q Corporal, I'm going to start with State's 16. I
15 think you actually took that photograph, I believe.
16 Can you identify that?

17 A I didn't take it, but I was present when it was
18 taken. That's the residence of Street.
19 That is where I did the search warrant at.

20 Q That's where Angela Keith resides?

21 A Yes, sir.

22 Q And that's where the defendant was apprehended?

23 A Yes, sir.

24 Q Okay. And State's 17?

25 A This is under the bathroom vanity. Here is

1 countertop, the toilet. Under the counter, open the
2 doors with the purse and paperwork laying on top of
3 it.

4 Q That was in, just in a bathroom inside?

5 A In the bathroom of the residence, yes, sir.

6 Q And State's 18?

7 A It's just a close-up picture of the paperwork. The
8 victim's name is on the paperwork. That's how we
9 identified it as being her purse.

10 Q Is that the purse underneath the paperwork?

11 A Yes, it is. That purse, Ms. Keith advised that was
12 not her purse, that she found the purse there and
13 thought it might be involved in this case.

14 Q State's 18.

15 A Again, that's the cushions of the sofa. This would
16 be the back cushion you lay on. This is the seat,
17 and this area right here is where the keys are.

18 Q Why did you kind of spot that sofa, were you told
19 anything?

20 A I was told -- Miss Keith pointed out that area, said
21 that's where he was sleeping when the police arrived
22 before he walked outside and was taken into custody.

23 Q Okay. And State's 20?

24 A That's me pulling the cushion back so you can see the
25 keys.

1 Q And then State's 21?

2 A That's the set of keys. It's got the bonus cards for
3 like CVS pharmacy. There's the Jeep Cherokee and
4 this key fob here. It was some type of business from
5 Anderson, South Carolina, with a business name and
6 phone number on it.

7 Q Okay. Thank you. You can be seated.

8 A (Witness resumes the stand.)

9 Q Now, you said that Miss Keith actually notified you
10 about the purse?

11 A Yes.

12 Q And you went back and retrieved that yourself?

13 A Yes. We -- actually, she didn't notify me. About --
14 I don't remember how many days it was, but after we
15 did the search warrant, I received a call from one of
16 the investigators up here. I don't remember if it
17 was Detective Stancil or Detective Matheson. They
18 said they received a call from Angela Keith. There
19 was some additional property in the house.
20 I went back over with one of our identification
21 officers.

22 She met me at the door, invited me in and said "I
23 found this. I haven't touched it. This is where it
24 was." We photographed it in place and collected it.

25 Q And the photographs of the purse under the sink, is

1 where she showed it where it was?

2 A Yes.

3 Q Show you what's been marked State's Exhibit 22 and
4 ask if you can identify that please?

5 A Yes, I can.

6 Q And what would that be?

7 A This is the purse with the contents that was under
8 the counter.

9 Q And does some of these contents actually have
10 Josephine Estrich's name on it?

11 A Yes.

12 Q What is that in your hand?

13 A This is a voter's registration card for Anderson
14 Bishop's Branch Precinct for Josephine Estrich.

15 MR. MCELHANNON: At this time I'd ask State's 22 be
16 admitted.

17 THE COURT: Any objection?

18 MR. GAMBLE: No objection.

19 THE COURT: Twenty-two admitted without objection.

20 (WHEREUPON, State's Exhibit No. 22 is admitted into
21 evidence.)

22 BY MR. MCELHANNON:

23 Q Corporal, when Mr. Williams was at your precinct,
24 were you present when Detective Matheson arrived?

25 A Yes, I was.

1 Q And during Mr. Williams' statement that he gave to
2 Detective Matheson were you present as well, in the
3 same room?

4 A Yes, I was.

5 Q Did he appear to be under any undue influence or
6 coercion giving that statement?

7 A No, sir.

8 Q He freely and voluntarily gave it?

9 A Yes, sir.

10 Q Was he denied any comforts, food, drink, anything of
11 that nature?

12 A No, sir.

13 Q Was the statement recorded?

14 A It was not.

15 Q Were there other people in that same room?

16 A There was myself, there was Detective Matheson,
17 Detective Stancil. Detective Bagsby was there at the
18 beginning of the interview. I believe Sergeant
19 Boykin was there at the beginning of the interview.
20 The interview took a little while. I was the only
21 one that stayed there the whole time and was there
22 until the conclusion of the interview.

23 Q Corporal, did you have any further involvement in
24 this matter once they transported Mr. Williams back
25 to Anderson?

1 Q State's 14?

2 A This is a close-up picture of the same seat that we
3 looked at a while ago. That just shows more detail
4 of the transfer that was on the seat.

5 Q And finally State's 15.

6 A This is actually a picture from the passenger side
7 into the driver's side, and here we were just
8 documenting that we didn't see any blood transfer
9 over on this side of the vehicle.

10 Q Okay. You can return to your seat.

11 A (Witness resumes the stand.)

12 (WHEREUPON, State's Exhibit No. 23-24 are marked for
13 identification.)

14 Q Detective, let me show you what's been marked State's
15 Exhibit 23 and 24, ask you if you can identify those
16 two items?

17 A Yes, sir.

18 Q What would 23 be?

19 A State's Exhibit 23 is the relay that we found in the
20 rear area of the Cherokee. And I say rear area, the
21 back seat floorboard area.

22 Q Fuel pump relay?

23 A Yes, sir.

24 Q And what is 24, State's 24?

25 A State's Exhibit 24 is the receipt. After learning

1 that the defendant had possibly gone to O'Reillys for
2 a fuel pump relay, we followed that up and a
3 detective picked up this receipt where he had -- the
4 relay had been purchased there the day of the
5 incident.

6 Q And does it have the time that it was purchased on
7 there?

8 A It does.

9 Q What time of day is that?

10 A It's time stamped as 19:27 and someone handwrote the
11 translation of 7:27.

12 Q 7:27 p.m.?

13 A Yes, sir.

14 MR. MCELHANNON: At this time I'd ask that State's
15 23 and 24 be admitted.

16 THE COURT: Any objection?

17 MR. GAMBLE: No objection, your Honor.

18 THE COURT: State's 23 and 24 admitted without
19 objection.

20 (WHEREUPON, State's Exhibit No. 23-24 are admitted
21 into evidence.)

22 Q Now, Detective, back to the questioning of Mr.
23 Williams. Again, you were present and took the
24 statement from him, correct?

25 A That's correct, yes, sir.

1 Q What type of situation was this, what room were you
2 in?

3 A The room actually was a room with approximately six,
4 maybe seven cubicles that was around the wall area.
5 And in the middle between the cubicles was just a
6 large table, like a conference table.

7 Q And who was present during the interview?

8 A Myself, Detective Stancil, Detective Rusty Hardeman
9 from Mobile Police Department, and there was a couple
10 of others that were in and out that were kind of away
11 from where we were but within the room.

12 Q And Mr. Williams gave the -- gave this freely and
13 voluntarily?

14 A Yes, sir.

15 Q Was he under any duress or undue influence?

16 A No, sir.

17 Q Was he suffering from any lack of comforts, food,
18 cigarette, water?

19 A No, sir. We checked with him when we first made
20 contact to make sure that he didn't need any food or
21 drink or anything like that.

22 Q Let me show you what's been marked State's 1 and
23 State's 2, see if you can identify those.

24 A Yes, sir.

25 Q And what would State's Exhibit 1 be?

1 A State's Exhibit 1 is the Miranda warnings which is
2 the Fifth and Sixth Amendment warnings, and it's on
3 our form that we have at the sheriff's office.

4 Q And what is State's Exhibit 2?

5 A State's Exhibit 2 is three pages. It's a typed
6 statement from the defendant that I typed.

7 Q How did you type that?

8 A I typed the statement on a laptop as we were
9 interviewing the defendant.

10 Q And he was basically dictating to you?

11 A I tried my best to just type as he talked, word for
12 word. We made several changes throughout the
13 statement to make sure that it was what he wanted to
14 say.

15 Q And did he actually make corrections?

16 A He did. Even with backing up and erasing and adding
17 new things and changing things, even after we printed
18 it, after reviewing it afterwards, there was still a
19 few things that he wanted to change and we did. They
20 were crossed out and he initialed them, things of
21 that nature.

22 Q Okay. And going back to the Exhibit 1, the waiver of
23 rights form?

24 A Yes, sir.

25 Q How do you instruct a suspect to speak on his rights?

1 A May I step down so I can show?
2 This is the form that we use at the sheriff's office,
3 as I said, Fifth and Sixth Amendment rights we all
4 have. The way I do the advice of rights to any
5 person I'm speaking with is the same. I've been
6 doing it for the last 12 years. We always put the
7 location at the top, the location that we are present
8 when we're talking, the date, and of course the time.
9 When I do the rights, I have it faced to them where
10 they can read along with me and see exactly what
11 we're doing.
12 I'll read the very first line out. "Before we ask
13 you any questions you must understand your rights."
14 And then I have whoever I'm talking with read the
15 next two lines: "Those are the Fifth Amendment
16 rights, and you have the right to remain silent.
17 Anything you say may be used against you in court."
18 And I have them initial. And this is where the
19 defendant initialed next to both of those.
20 I have them initial. That's to remind me that they
21 can read and write. Not that they actually
22 understand that part, but to remind me that they have
23 read it aloud and they can read and write.
24 I then ask them if they understood. Okay. And as
25 long as they do and affirm it, go to the Sixth

1 Amendment. Then I read those aloud and have the
2 person I'm speaking to, read along with me if they
3 choose to do so.

4 Those are as follows: "You have the right to speak
5 to a lawyer for advice before we ask you any
6 questions and have him with you during questioning.

7 If you cannot afford a lawyer, one will be appointed
8 for you before any questioning if you wish.

9 If you decide to answer questions now without a
10 lawyer present, you will still have the right to stop
11 answering at any time. You also have the right to
12 stop answering at any time until you talk to a
13 lawyer."

14 Those last two sentences repeat themselves, and I
15 always bring that to their attention. And the reason
16 I do that is because I want to tell them, make sure
17 they understand that just because they sign this
18 form, that they can stop talking at any time. And we
19 can't hold it against them.

20 After that, if they understand their rights and they
21 don't have any questions, I have them put their
22 signature here. And that's just saying they
23 understand their rights and that's explained to them.
24 And, again, we date and then witness over here on the
25 side.

1 Down here at the bottom is the waiver of rights.
2 Before we go any further as far as questioning, we
3 get through the waiver of rights first as follows:
4 "I have read this statement of my rights and I
5 understand what my rights are. I am willing to make
6 a statement and answer questions. I do not want a
7 lawyer at this time. I understand and know what I am
8 doing. No promises or threats have been made to me
9 and no pressure or coercion of any kind has been used
10 against me."

11 And if you see, I underline the word "coercion,"
12 because it's not a common word that's used in
13 every-day language and I underline that to remind
14 myself, that I explained to the person I'm speaking
15 with what coercion means. As long as they understand
16 all that, then we sign -- we have them sign down here
17 at the bottom and initial it. Then we'll proceed
18 with the questioning.

19 Q Okay. And you did, in fact, go over that form in its
20 entirety with Mr. Williams?

21 A Yes, I did.

22 Q Did you -- in your opinion did he understand his
23 rights?

24 A Yes, sir.

25 Q How did he indicate that he did on that form?

- 1 A Both verbally and by signature.
- 2 Q In your opinion he wasn't under the influence of any
- 3 drugs or alcohol when he waived his rights?
- 4 A No, sir.
- 5 Q And was his waiver of rights voluntary?
- 6 A Yes, sir, they were.
- 7 Q After that was done, did he indicate that he wished
- 8 to give you a statement?
- 9 A Yes, sir.
- 10 Q I believe you said -- that's State's Exhibit 2?
- 11 A That's correct.
- 12 Q You put that in writing from him verbally telling you
- 13 what he wanted?
- 14 A Yes, sir. That's our policy. We actually do the
- 15 writing of the statements. It's a lot easier because
- 16 that way we can keep things in chronological order.
- 17 We can ask questions. And sometimes whoever you're
- 18 interviewing, they may skip around and talk about
- 19 stuff from last week or two years ago and then skip
- 20 forward. And this way it's easy for us to keep
- 21 things in chronological order so that it makes sense.
- 22 Q Did you write it as accurately as possible by what
- 23 the defendant was telling you?
- 24 A Yes, we typed it. And aside from the changes that
- 25 that you can see on the statement itself where things

1 had been marked out, there was multiple times that he
2 would ask to hear something back. And we'd turn the
3 laptop around and go over it. If he wasn't happy
4 with a particular paragraph or a wording, we would
5 back it up and, you know, try to change it to the way
6 he would like it.

7 Q And did you read the entire statement back to him or
8 did he read it himself?

9 A One or the other. We actually, sometimes we read
10 them, sometimes they prefer to read them back.
11 Nevertheless, either way, the statement was gone back
12 over and reviewed in its entirety after it was
13 printed out.

14 Q And did the defendant indicate that this was in fact
15 his statement?

16 A Yes. He even made some changes, like, actually on
17 the last couple of pages he made changes on each one.
18 And at the bottom there was something he wanted to
19 add. Since we already had it printed and signed, he
20 wrote that himself, handwritten at the very bottom.

21 Q Okay. Did he initial and sign every page? And I
22 think it's three pages?

23 A Yes. He did.

24 Q Did he in fact initial it multiple times on each
25 page?

1 A Yes, sir. Two, three initials at minimum per page.
2 And, like I said, in the corrections that he would
3 make, he would put his initials next to the
4 corrections as well.

5 MR. MCELHANNON: Your Honor, at this time I'd move
6 to have State's Exhibit 1 and 2 moved into evidence and
7 published to the jury.

8 THE COURT: Any objection?

9 MR. GAMBLE: No, Your Honor.

10 THE COURT: Okay. One and 2 admitted into evidence.
11 (WHEREUPON, State's Exhibit No. 1-2 are admitted
12 into evidence.)

13 Q Detective, can you read the defendant's statement?

14 A Sure.

15 "Detective K. D. Matheson is writing this statement
16 for me in my own words in the presence of Detective
17 Stancil. I've been dating Josephine for about eight
18 or nine months. I met her through a mutual friend
19 and we hit it off the first day.

20 "We got along real good and never fought about
21 nothing. We discussed some things but that's about
22 it. I've been wanting to find out where things were
23 gonna go for a while now. I've tried to talk to
24 Josephine about our future several times but she was
25 always cutting up with me.

1 "Monday I tried to talk to her about our relationship
2 and she said we would talk about it after she helped
3 her daughter with her homework. Around 7:00 she
4 finished with Laneka's homework and came over and
5 picked me up at my house. We went to O'Reillys on
6 Clemson Boulevard so I could get a fuel pump relay.
7 We left there and started back to my house.
8 We were talking about where our relationship was
9 going. I was playing with her and she was cutting
10 up, too. She was trying to play hardball, kind of
11 like mind games, trying to be funny.
12 "We went up to the Quick Stop across from K-Mart to
13 get some coffee. She stayed in the Jeep and I went
14 inside and got some coffee. When I came back out to
15 get in the Jeep, I opened the door and I asked her if
16 she was gonna talk to me about this stuff or
17 something like that.
18 "She said 'Get in the car.'
19 "And I said, 'No,' and asked her if she was going to
20 talk to me again and she told me to get in the car
21 again. Next thing I know, she pulled off. I was
22 just playing but she took me serious. She just left
23 me standing there.
24 "After I talked to her on the phone, she came back
25 and picked me up. I was trying to figure out -- I

1 was trying to figure out a way for her to understand
2 how I was feeling. I had walked to Wal-Mart to call
3 her and she came and picked me up. We left there and
4 started back to my house.
5 "We went up Clemson Boulevard in the Sandy Springs
6 and turned onto the road by Zeke's. We drove on up
7 to Burns Bridge Road and took it on over to Latimer.
8 On the way there, I had tried to explain to her the
9 difference between physical pain and the pain of the
10 heart.
11 "I pulled out my pocket knife so that I could give
12 her an example. At the time I was still joshing but
13 I was trying to prove a point by poking myself with
14 the knife to show her what I meant by physical pain.
15 When she saw the knife she said, 'Boy, put that up.'
16 I kept on trying to make my point and she grabbed the
17 knife from me. Stupidly, I tried to grab the knife
18 back from her. When I did, she slammed on the
19 brakes.
20 "After she slammed on the brakes, the knife went into
21 her chest. Right then, she started hollering and
22 crying and went to get out of the Jeep. I pulled her
23 back in because I was freaking out, too. The knife
24 came back out right after it went in. Everything is
25 kind of blurry after that. I don't remember what

1 happened to the knife right then. Both of us had our
2 hands on the knife.

3 "I was thinking right then to get to the house to
4 call 9-1-1. I pulled her over into the passenger
5 seat and I got under the wheel. I drove on up
6 Latimer and turned onto Grate Road and pulled into my
7 yard. I jumped out of the Jeep and started running
8 to the house to call 9-1-1.

9 "By the time I got to the porch to get my keys out of
10 my pocket, I looked back and she had got out of the
11 Jeep. I ran around and found her lying on the
12 ground. So I picked her up and put her in the back
13 seat so she could lay down. I start back to the
14 house again and she" -- and this was a correction
15 that he had made -- "jumped back out and took her
16 jacket off because she was -- said she was hot. I
17 put her back in the car again and I decided to take
18 her on to the hospital.

19 "As I was going up Grate Road towards Burns Bridge
20 Road, she said 'I'm not going to make it, just put me
21 in the woods.'

22 "I turned into a driveway and we got out of the Jeep.
23 I picked her up and took her to a light that was
24 there and we prayed. I asked her if she wanted to go
25 to heaven and she said, 'Yes.'

1 "I told her to ask God to forgive us and she did.
2 She was crying and I was crying, too. We started
3 saying the Lord's Prayer and I spoke a little Arabic.
4 I told her to say 'La ill allah, ill allah,' which
5 means basically there's God and only God. She said
6 it. And then we got back in the car and went back to
7 my house.
8 "She told me to take her to see her little girl for
9 one last time. We both were delirious and I was not
10 thinking clearly. We went back to my house and I
11 pulled up on the top part of the drive and she got
12 out again and tried to run to Aunt Pat's house but
13 she fell. All I can remember is her running and
14 falling, and all I could think of was trying to help
15 her get to where she wanted to be.
16 "At that point she said she wasn't going to make it.
17 I was saying stuff like 'Baby, I'm going down.'
18 That's about all I could get out because I was -- I
19 couldn't even tell you how I felt. I was scared for
20 her and I felt like I couldn't do nothing.
21 "Through all of that she was worried about me and we
22 kept saying stuff back and forth to each other. She
23 told me to go see my daughter. She even told me to
24 use her money to do it. So I ended up back in my
25 house and I grabbed the clothes that was on the bed.

1 I got in the Jeep and left. I went back to where we
2 were and I stopped again. I took my clothes off and
3 threw them on the ground at Grate Road and Burns
4 Bridge Road. It was the first driveway on the left,
5 past Grate Road on Burns Bridge. I put the clothes
6 on that I had got off the bed right there.
7 "I remember driving and driving. I wanted to turn
8 around but all I could think of is what she told me
9 about going to see my daughter. I don't even
10 remember crossing over the state line. I drove down
11 to Mobile and parked the Jeep in an apartment complex
12 off Martin Luther King Boulevard. I walked over to
13 my" -- there's another correction -- "baby's mama's
14 house. Her name is Daytra Evens. When I got there,
15 I visited with my daughter, Shawndayis. I didn't
16 tell her what happened because I didn't want her to
17 get mixed up in it. I stayed over there for a couple
18 of hours.
19 "Daytra took me over to her cousin, Angela's house.
20 She took me by the Jeep to get my stuff out of the
21 way. She kept asking me what I did. And I only told
22 her that I did something bad. I wasn't at Angela's
23 house too long when Mobile came and picked me up."
24 And -- excuse me -- at the bottom Shawn added,
25 "Tootie," and that's what was her nickname was, "was

1 known to stop the car when getting a little upset.
2 She had stopped the car in the middle of Clemson
3 Boulevard, just before O'Reillys on Clemson
4 Boulevard."

5 Q That was the entirety of his statement?

6 A Yes, sir.

7 Q Detective Matheson, that vehicle, the Jeep, do you
8 know approximately the value of that?

9 A I'm not sure right offhand, probably 1500, I guess.
10 I'm guessing.

11 Q Was the vehicle actually processed, the interior?

12 A Yes, it was.

13 Q By whom?

14 A Mobile police forensics unit.

15 Q And those items were sent to the South Carolina Law
16 Enforcement Division for analysis?

17 A That's correct.

18 MR. MCELHANNON: That's all the questions I have,
19 Detective Matheson.

20 THE COURT: Cross examination.

21 MR. GAMBLE: Yes, sir.

22 CROSS EXAMINATION

23 BY MR. GAMBLE:

24 Q On State's Exhibit 1, that form you had and you read
25 to the jury, there's a blank beside each question, or

1 statement as you call it, on the Fifth Amendment
2 rights?

3 A Yes, sir.

4 Q You had him initial the two on the Fifth Amendment
5 rights regarding the right to remain silent; is that
6 correct?

7 A The two lines, yes, sir.

8 Q You did not check that you read that to him, did you?

9 A No, sir.

10 Q In the check box?

11 A I'm not sure if that's a check box or if it's just
12 bullets that pop up when you create the form. I
13 don't know if they're intended to be check boxes or
14 not.

15 Q How many of those forms have you seen in your years
16 at the Anderson County Sheriff's Office?

17 A There's been -- I know there's a couple of three that
18 I'm aware of. Actually, I think this one was in
19 Detective Stancil's possession. Any form that we
20 have, they're the same wording, they just may have
21 been created by Adobe or could have been created by
22 Word, depending upon the detective or the person who
23 made the form out.

24 Q But don't those blocks indicate they should be
25 checked?

1 A No, sir. I mean I've seen detectives check those
2 before. But there's nothing that's ever -- nobody's
3 ever told any of us to check them. Like I said, I
4 think they're more considered bullets than they are
5 anything.

6 Q On a form why in the world do you have a block to
7 check if you don't check it?

8 A As I said, I don't think that's what it's intended
9 for.

10 Q What was it intended for?

11 A You familiar with bullets when you make a form like
12 in Microsoft Word, you can set up bullets where when
13 you hit enter, it comes up and it's a little mark, a
14 square, sometimes a circle, sometimes a number,
15 whatever you choose to set it as.

16 Q But, at any rate, you did not check any of those
17 blocks on State's Exhibit 1?

18 A No, sir.

19 Q All right. Now, you had him initial what you call a
20 Fifth Amendment right?

21 A That's correct.

22 Q Why didn't you have him initial the Sixth Amendment
23 right?

24 A The Fifth Amendment rights are the two lines that I
25 had him read out loud. The initials were intended to

1 remind me that he could read and write. They weren't
2 saying that he understood it.

3 Q My question was, why didn't you have him initial the
4 Sixth Amendment rights which says you have a right to
5 speak to a lawyer for advice before we ask you any
6 questions and have him with you during questioning?
7 Sir, that's the Sixth Amendment of the United States
8 constitution. Why didn't you have him initial the
9 Sixth Amendment rights?

10 A Because I read those out loud to him.

11 Q Well, didn't you read the first two or the Fifth
12 Amendment out loud to him?

13 A No, sir, he read those out loud.

14 Q So you were there and saw him read it or you had him
15 read it?

16 A I had him read the first two lines. That's why I had
17 him initial the first two lines, not the others.

18 Q Why didn't you have him read the next three lines?

19 A That's just not the way I do the advice of rights.

20 Q Is that not your procedure that you follow?

21 A No, sir.

22 Q That's not the procedure?

23 A No, sir.

24 Q All right. Is this what you do on every typed
25 statement that you have?

- 1 A I do these statements exactly the same every time.
- 2 Q Now, when the Mobile police asked you did you want
- 3 some recording equipment, you told them, "That's not
- 4 the procedure we follow during interrogation"?
- 5 A That's correct.
- 6 Q Is that always the case?
- 7 A Yes, sir, it is.
- 8 Q On any interrogation?
- 9 A Any interrogation or interview except for children
- 10 who are actually interviewed at another facility.
- 11 Q Do you recall when you and Officer Stancil
- 12 interviewed Daytra Lashawn Evans on January 24, 2007?
- 13 A Yes, sir, I do.
- 14 Q Do you recall that you recorded that on a CD ROM?
- 15 A No, sir, I'm not.
- 16 Q I received this as a part of discovery. Now, you
- 17 tell me, is that a recording of the Daytra Evans
- 18 statement?
- 19 A It's not mine. I mean, I don't know if it's
- 20 something from Mobile. I'm not aware of it.
- 21 Q Mobile just testified they didn't record anything.
- 22 A Well, then, all I know, this is a CD marked Daytra
- 23 Evans' interview with a case number. I don't know
- 24 what it is.
- 25 Q How did it get to the solicitor's office except from

- 1 your office?
- 2 A I can't answer that. I don't -- I'm not familiar
- 3 with it.
- 4 Q On the front doesn't it say "Interview with Daytra
- 5 Evans"?
- 6 A It says Daytra Evans interview and the case number.
- 7 Q And you did interview Daytra Evans?
- 8 A Yes, sir.
- 9 Q And that appears to be -- we can play it?
- 10 A That's fine.
- 11 Q It appears to be a recording of the interview with
- 12 Daytra Evans, isn't that what it appears to be?
- 13 A Sir, it appears to be a CD with Daytra Evans'
- 14 interview. I'm not sure if it's audio or if it's
- 15 video. I'm not familiar with this CD.
- 16 Q Well, it's basically audio.
- 17 Now, why didn't you record the interview with Shawn
- 18 Williams?
- 19 A That's not in our procedures to record interviews.
- 20 Q Why not?
- 21 A I didn't write the procedures. I'm not sure. That's
- 22 not in our policy.
- 23 Q Do you all not have recording facilities?
- 24 A We don't at the office.
- 25 Q But they testified that in Mobile they had recording

1 facilities?

2 A That's in Mobile, yes, sir.

3 Q And they said they offered them to you?

4 A Yes, sir.

5 Q And you said "It's not our procedure"?

6 A That's correct.

7 Q So you don't want interviews taped?

8 A Oh, not at all. I just don't want to vary from our
9 procedures. I have procedures I have to follow.

10 Q You don't want interviews taped, do you?

11 A No, sir, that's not it at all.

12 Q What is it at all?

13 A Our policy and procedures, we do not tape interviews.
14 I have to follow by those.

15 Q Who set that procedure?

16 A I'm not sure exactly who wrote the policy, but that's
17 in our general orders at the sheriff's office.

18 Q Where are they written down?

19 A You can find them on our website.

20 Q My question is where are they written down?

21 A You can find them on our website. We have books of
22 them throughout our office. We all have copies of
23 them.

24 Q You have the book with you where it says "do not
25 tape, do not record any interview"?

1 A No, sir, I do not.

2 Q But, yet, you interviewed Debra Evans -- Daytra
3 Evans, and you have a recording of it?

4 A If her interview was recorded, it was without my
5 knowledge.

6 Q Okay. So you weren't in the room with Eddie Stancil
7 when that was done, or was he not in the room with
8 you when it was done?

9 A Myself and Detective Stancil were in the room
10 together interviewing Mrs. Evans. If it was recorded
11 by Mobile Police Department, I'm not aware of it.

12 Q I know Mobile said they didn't report anything. They
13 offered you to record it, but you turned them down;
14 isn't that correct?

15 A That's correct.

16 Q Did you go over this case with the solicitor before
17 you came up here to testify?

18 A No, not really.

19 Q Did they inform you that they had sent to my office a
20 recording of the interview with Daytra Evans?

21 A I didn't discuss with them what you obtained in
22 discovery. I assume the entire file.

23 Q Did you review what had been sent on discovery to my
24 office?

25 A No. Usually what they send is what we have.

- 1 Q And what you furnished?
- 2 A Well, what our evidence division furnishes them.
- 3 Q Who processed the Jeep automobile?
- 4 A It was Mobile Police Department's forensics team.
- 5 Q Did they give that to you?
- 6 A It was put into evidence and I signed for them.
- 7 Everything was condensed into boxes and we brought
- 8 that back to the office.
- 9 Q And where are the results of that process?
- 10 A I think some things have been sent to SLED. I'm not
- 11 sure if everything is back yet or not.
- 12 Q Did you or your office ever process that Jeep?
- 13 A No, sir.
- 14 Q It was an incident that happened in Anderson County
- 15 and you're the chief investigating officer and you
- 16 didn't order or have processed the Jeep that was used
- 17 in this incident?
- 18 A Yes, I did have that accomplished in Mobile.
- 19 Q Mobile says they didn't do it.
- 20 A They did process the Jeep at a different location. I
- 21 believe the testimony was it wasn't processed where
- 22 it was recovered and that would be correct.
- 23 Q Who did they give the results of the processing of
- 24 the Jeep to?
- 25 A The -- everything that was collected in the Jeep was

1 collected there at Smith's Towing in Mobile, and it
2 was placed into evidence at their police department
3 which was later signed over to me and was transported
4 back to Anderson County and in turn signed over to
5 our evidence.

6 Q So you in fact had the processing results from the
7 Jeep in your possession?

8 A I'm not sure what you mean by results.

9 Q When you process the Jeep -- when you process an
10 automobile, what do you do? Let's go at it from A,
11 B, C.

12 A Well, we take anything that could possibly be of
13 evidentiary value. We take ownership information
14 and/or occupancy information. Numerous -- in this
15 case with apparent blood transfer or stains or
16 anything of that nature, we take swabs. Sometimes
17 trace evidence from the seats, pictures, photographs.

18 Q Was that done in this case?

19 A Yes, it was.

20 Q And what were the results of the blood swabs?

21 A I don't think the results have come back from SLED
22 yet.

23 Q Yet?

24 A I actually think they're coming with the SLED officer
25 that will be testifying later.

- 1 Q But you did not take these swabs?
- 2 A No, sir.
- 3 Q Detective Stancil did not take these swabs?
- 4 A No, sir.
- 5 Q No one from Mobile has testified they took the swabs?
- 6 A Not here today, no, sir.
- 7 Q But isn't it important that somebody took them?
- 8 A Yes, sir.
- 9 Q And to show this jury who took them?
- 10 A I was there when they took them.
- 11 Q Well, who took them?
- 12 A I'm not familiar with their names. They're Mobile
- 13 police officers.
- 14 Q You didn't sign or get them to sign the things over
- 15 to you in this murder investigation?
- 16 A Yes, sir. We have them all on our evidence sheets
- 17 and we do have that. You should have that with
- 18 discovery.
- 19 Q All right. What did the swab from the seatbelt show?
- 20 A I'm not sure, sir.
- 21 Q Did you investigate the seatbelt itself?
- 22 A The seatbelt itself?
- 23 Q Yeah.
- 24 A How do you mean?
- 25 Q Did you look at the seatbelt, the portion that comes

1 across the chest of the driver?

2 A I believe -- I mean I'd have to look at a picture.

3 Q Was there any notation of blood found on the exterior
4 of the seatbelt that comes across the chest of the
5 driver?

6 A Again, I would have to look at the photographs to
7 remember.

8 Q Did you review this case before you came to court?

9 A I did.

10 Q Did you recall seeing any blood samples from the
11 seatbelt at all?

12 A I don't remember which parts of the vehicle the swabs
13 were taken from, they took so many.

14 Q Who took the pictures of the passenger side, the
15 blood swabs on it?

16 A That would have been Mobile forensics.

17 Q They gave them to you?

18 A Yes.

19 Q Who?

20 A I'm not -- it's like I said, again, it's on the
21 paperwork where it was signed over but I'm not sure
22 of the name.

23 Q Do you have it here?

24 A It should be in the file. I mean you should have it.

25 Q Do you have it here?

1 A Sure. It's here somewhere.

2 Q Well, I'd like to see it.

3 A I imagine you're speaking of the evidence forms that
4 were used to be signed over?

5 Q No. I want where you signed that you got the
6 processing of the Jeep from someone in Mobile and who
7 that was and when you got it.

8 A I have it in the file.

9 Q Well, get your file.

10 A (Witness complies.)

11 Q All right.

12 THE COURT: Mr. Gamble, he's got the forms you were
13 interested in.

14 MR. GAMBLE: Could I have a moment, your Honor, to
15 review this?

16 THE COURT: Yes, sir.

17 Mr. Foreman, ladies and gentlemen, what we'll do is
18 take a break at this time while he's reviewing. Leave
19 your notepads in the chair. Anybody need a smoke break,
20 let the bailiff know. If you need anything, let the
21 bailiff know. We'll take about a 15- or 20-minute break.
22 Don't discuss the case among yourselves.

23 (Recess.)

24 THE COURT: Mr. Gamble, you may proceed please, sir.

25 MR. GAMBLE: Yes, sir. Thank you.

1 Q Before the break I was given an investigative
2 narrative done by an officer, I assume Mobile -- it
3 says in there that he's a -- Mobile Police
4 Department, Corporal A. Campbell. And that article
5 indicates that he processed this Jeep.

6 So, is that what you were referring to? You and I
7 were talking about before the break?

8 A Correct. I believe so, yes, sir.

9 Q Okay. He says he processed a green Jeep Cherokee but
10 we know it was a gray Jeep Cherokee, right?

11 A That's correct, sir.

12 Q So, you did not, for Anderson County, process a Jeep
13 Cherokee in Mobile, Alabama?

14 A No.

15 Q Even though the incident involving this Jeep Cherokee
16 occurred, according to you, in Anderson County, South
17 Carolina?

18 A We felt that it would -- it would hinder the evidence
19 more if we tried to transport it that distance
20 without processing it down there, especially with
21 them offering their assistance.

22 Q Could you process it yourself down there?

23 A No, sir. I'm not qualified for the processing.

24 Q Who is?

25 A Our forensics team here in Anderson.

- 1 Q How many of them are there?
- 2 A Currently I think we have four.
- 3 Q You had six back then, I think, didn't you?
- 4 A Yeah, but I think a couple of them, you know, one's
- 5 assigned to doing nothing but fingerprints in the
- 6 office; but I think we have like four guys that
- 7 actually go out in the field to do things.
- 8 Q Okay. So in January of '07 two of you went down to
- 9 Mobile, Alabama. You and Eddie Stancil?
- 10 A Yes, sir.
- 11 Q You drove down?
- 12 A Yes, sir.
- 13 Q About an eight-hour drive?
- 14 A Somewhere about, yes, sir.
- 15 Q Okay. And we have an evidence processing officer
- 16 here in Anderson, don't we?
- 17 A Yes, sir.
- 18 Q But no one called and said come down here and process
- 19 this Jeep?
- 20 A Oh, no, sir.
- 21 Q Did not?
- 22 A No, sir.
- 23 Q So what we have to rely on is the expertise of Mobile
- 24 City Police or County, whatever it is, Mobile Police
- 25 Department?

- 1 A Yes, sir.
- 2 Q But we don't know anything about them?
- 3 A No, sir.
- 4 Q Okay. And you didn't even look inside this Jeep, did
5 you?
- 6 A Yes, sir. I stood there while it was being
7 processed.
- 8 Q All right. Did you note any blood stains on the
9 seatbelt at all?
- 10 A Not that I recall.
- 11 Q Okay. Did you note any on the driver's side, any
12 bloodstains on the seats of the driver's side?
- 13 A No, sir.
- 14 Q All right. All this was analyzed, this processing
15 done by a person in Mobile, Alabama, was analyzed by
16 South Carolina Law Enforcement Division; is that
17 correct?
- 18 A That's correct.
- 19 Q And that person will be here tomorrow to explain what
20 was found; is that correct?
- 21 A From what I understand, yes, sir.
- 22 Q As far as you know, as far as I know?
- 23 A Yes, sir.
- 24 Q How did the Jeep get back to Anderson, South
25 Carolina?

1 A We brought the Jeep back to Anderson.

2 Q How?

3 A I actually drove the vehicle back.

4 Q You drove it?

5 A Yes, sir.

6 Q Once you got it here, did it go to compound yard?

7 A No, sir. It was brought back here as a courtesy to
8 the family to save them a tow bill or whatever, to
9 bring it back here. And they picked it up at our
10 office after we brought it back.

11 Q So nobody in our office here in Anderson did any
12 testing or analysis of anything within that Jeep?

13 A No, sir. That was done in Mobile.

14 Q My question was did anybody in Anderson do it?

15 A No, sir.

16 Q Just turned it back over to the family?

17 A Yes, sir.

18 Q All right, sir.

19 MR. GAMBLE: I don't think I have anything further.

20 Excuse me, Your Honor.

21 Your Honor, I request -- I don't know if I have it
22 or not. I'd ask for a copy of this narrative of the
23 investigation for purposes of tomorrow's cross
24 examination.

25 THE COURT: Do you have it?

1 MR. GAMBLE: I don't think I do.

2 THE COURT: If you have it, give him a copy of it.

3 MR. MCELHANNON: That's no problem, your Honor.

4 THE COURT: Anything else?

5 MR. GAMBLE: No, that's all, your Honor.

6 THE COURT: Redirect?

7 MR. MCELHANNON: Just one, your Honor.

8 REDIRECT EXAMINATION

9 BY MR. MCELHANNON:

10 Q Detective Matheson, let me clear something up with
11 the jury about the audio recording of Daytra Evans in
12 Mobile, Alabama.

13 A Yes, sir.

14 Q You acted like you didn't know anything about that
15 audio recording?

16 A I do not.

17 Q Would it make more sense to you if the actual audio
18 recording said it was done by Sergeant Boykin and
19 Bagsby of the Mobile Police Department?

20 A Yes, sir. That would make sense, yes, sir.

21 Q It was done at 11:30 in the morning of January 23,
22 2007. Were you even in Mobile at that time?

23 A No, sir, we were still on our way down.

24 MR. MCELHANNON: Nothing further, Your Honor.

25 THE COURT: Recross?

RECROSS EXAMINATION

BY MR. GAMBLE:

Q And you cooperated and Mobile cooperated with you.
You-all were hands together, weren't you?

A Yes, sir, as much as possible.

Q And nobody gave you this recording of Daytra Evans
that was made before you got to Mobile?

A It was probably brought back in the boxes of
evidence.

Q My question was, did any of the Mobile officers play
for you the recording of Daytra or give to you the
recording of Daytra?

A No, sir. No one played it.

Q That's my question. So you really weren't
cooperating with them or they weren't cooperating
with you?

A I don't understand your point.

Q If they did a recording of a witness and didn't give
it to you, then they weren't cooperating with you,
were they?

A I don't recall asking them for the recording. We
actually interviewed her for ourselves while we were
down there.

Q I know that, but did you know that she had already
given a statement?

1 A I can't remember if I had prior knowledge of that at
2 the time or not, but I knew I was in Mobile and we
3 wanted to speak to her in person.

4 Q Thank you.

5 MR. GAMBLE: No redirect, your Honor.

6 THE COURT: You may step down. Thank you very much.

7 (Witness steps down from the stand.)

8 THE COURT: Ladies and gentlemen of the jury, the
9 witnesses that the state's going to call, one of them is
10 a SLED agent, could not be here until tomorrow. The
11 other, a doctor in Greenville, could not be here until
12 tomorrow. We're going to recess at this time, reconvene
13 in the morning at 9:30. Be here at 9:30 in the morning.
14 Leave your notepads on the chairs. Don't discuss the
15 case among yourselves. Don't read anything in the paper,
16 watch anything on television.

17 As I told you yesterday, I want you decide the case
18 based on what you hear in the courtroom, not some
19 reporter's interpretation, what he or she reports on the
20 TV or radio. Have a good evening, see you in the
21 morning.

22 (Whereupon, the following proceedings were had
23 outside the presence of the jury:)

24 THE COURT: All right. If the bailiffs would keep
25 everybody in the courtroom, give the jury a chance to get

1 out of the courthouse. We'll adjourn until 9:30 in the
2 morning.

3 (Whereupon, the proceedings are adjourned for the
4 evening recess.)

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1 January 7, 2008

2 (WHEREUPON, Court reconvened with all parties
3 present, when the following proceedings were had:)

4 THE COURT: Anything from the plaintiff before the
5 jury comes back?

6 MR. MCELHANNON: No, sir.

7 THE COURT: Anything from the defendant?

8 MR. GAMBLE: No, Your Honor.

9 THE COURT: Bring us the jury.

10 (Whereupon, the following proceedings were had
11 within the presence of the jury:)

12 THE COURT: Solicitor, if you'll call your next
13 witness, please.

14 MR. MCELHANNON: Thank you, Your Honor, the state
15 calls Ken Bogan.

16 KEN BOGAN, being first duly sworn,
17 testified as follows:

18 DIRECT EXAMINATION

19 BY MR. MCELHANNON:

20 THE CLERK: Please state your full name and spell
21 your last name for the record.

22 A My name is Kenneth L. Bogan. My last name is spelled
23 B-O-G-A-N.

24 Q Mr. Bogan, what is your occupation?

25 A I'm a forensic DNA analyst with the South Carolina

1 Law Enforcement Division.

2 Q And how long have you been employed by -- you're
3 commonly referred to as SLED?

4 A That's correct.

5 Q How long have you been employed by SLED?

6 A Twenty-five years.

7 Q What basic services does SLED provide?

8 A Other than general law enforcement and the forensic
9 laboratory services, include such things as serology
10 and DNA analysis, the department which I'm assigned
11 to. Also have a toxicology section, a drug analysis
12 section, firearms and tool marks, questioned
13 documents.

14 Q Could you describe your educational background for
15 the jury please?

16 A Certainly. I have a Bachelor of Science from the
17 University of Central Florida. My degree is in
18 medical technology. Medical technology is a field of
19 science which deals with diagnostic medicine. I
20 worked for approximately six years as a medical
21 technologist in a hospital laboratory.

22 After six years, in 1984, I was hired by the South
23 Carolina Law Enforcement Division as a forensic
24 serologist. Serology is the field of science which
25 deals with the identification of body fluids, such as

1 blood, semen, or saliva. I worked for approximately
2 eight years as a forensic serologist.

3 I began my training as a DNA analyst in 1990 by
4 attending the Federal Bureau of Investigation's
5 forensic DNA analysis typing methods. I also attended
6 an advanced class in 1994 for DNA analysis and have
7 subsequently received training by attending
8 professional meetings every year since about 1994.

9 Q And have you testified in Court as an expert witness?

10 A Yes, in excess of 150 times as an expert in forensic
11 serology and 70 times as a forensic DNA analyst.

12 MR. MCELHANNON: Your Honor, at this time, I'd ask
13 that Mr. Bogan be qualified as a forensic DNA analyst.

14 THE COURT: Any objection?

15 MR. GAMBLE: No objection, Your Honor.

16 THE COURT: The Court so finds.

17 MR. MCELHANNON: Thank you, Your Honor.

18 Q Mr. Bogan, can you briefly explain to the jury how
19 you go about testing DNA?

20 A Yes. I receive evidence samples from law enforcement
21 agencies throughout the state of South Carolina. The
22 evidence is submitted primarily for the
23 identification of a body fluid to determine if
24 there's any biological stains. Those stains again
25 could be such things as blood, semen, or saliva. The

1 eventual purpose of having those stains present is to
2 develop a DNA profile from them. The way I do that
3 is ~~extract~~ DNA from those samples. It might be a
4 bloodstain, for example, I extract DNA from it and
5 amplify certain regions of the DNA molecule that I
6 can then quantify and then compare them to a known
7 DNA standard from an individual.

8 Q And what would you characterize as a match, a DNA
9 match?

10 A When the DNA profile developed from a sample has the
11 same characteristics as what I develop from a known
12 standard that is a sample that is known to come from
13 an individual, then I would determine that the DNA
14 profile from an evidence sample matches that
15 individual.

16 Q And you would -- do you quantitate that in some way
17 like that would be a one in a million chance of it
18 being someone other than the person you're checking?

19 A Yes. A composite DNA profile is pretty much unique
20 to an individual. No two people have the same DNA
21 except identical twins. And each analysis -- for
22 example, in developing a DNA profile I examine
23 approximately 16 different locations on the DNA
24 molecule. Some people may share those individual
25 characteristics, but they would not share the entire

1 composite of the DNA profile. Those individual
2 characteristics would exist in the population in a
3 certain percentage. And by combining those
4 frequencies of occurrence in the population, I can
5 calculate the probability of finding that profile in
6 the population so that it's a statistical
7 calculation.. And, oftentimes, the probabilities come
8 out into such numbers as one in a million, one in a
9 billion, one in a trillion, or even one in a
10 quadrillion.

11 Q And, Mr. Bogan, did you receive evidence in this
12 case, the case of the state versus Shawn Williams?

13 A Yes, I did.

14 Q I show you what's been marked state's Exhibit 29 and
15 30. See if you can identify those, please.

16 A State's Exhibit 29. It's obviously a heat-sealed
17 pouch. It contains an evidence sample, has the SLED
18 case number here, which is L071296. It has my
19 initials here as well as on the side where I resealed
20 it. And on the envelope inside it has my initials
21 here again, the case number, and SLED's item number,
22 which is item 39.

23 Q And can you tell what's in that exhibit?

24 A Yes. Item 39 contained -- it was a piece of cloth or
25 a rag, had stains on it.

1 Q And State's Exhibit 30?

2 A State's Exhibit 30, again, a heat-sealed pouch.

3 Inside is a manila envelope, has my case number on
4 the outside, has my initials in two places here.

5 This manila envelope contains evidence samples.

6 Again, this has my initials.

7 Inside State's Exhibit 30 are six, individual

8 envelopes. Each of the envelopes also bears my

9 initials and SLED's item number. It would be item

10 numbers 11.1, 11.2, 11.3, 52.1, 52.2, and 52.3.

11 Q So you know that those are the items that you've
12 actually analyzed?

13 A That's correct.

14 Q Your Honor, at this time I'd ask the State's 29 and
15 30 be admitted.

16 THE COURT: Any objection?

17 MR. GAMBLE: No objection, Your Honor.

18 THE COURT: Admitted without objection.

19 MR. GAMBLE: Thank you.

20 MR. MCELHANNON: Thank you, Your Honor.

21 (WHEREUPON, State's Exhibit No. 29 is admitted into
22 evidence.)

23 (WHEREUPON, State's Exhibit No. 30 is admitted into
24 evidence.)

25

1 BY MR. MCELHANNON:

2 Q In regard to State's Exhibit 29, Mr. Bogan, do you
3 have your report with you --

4 A I do.

5 Q -- on whether it was a match or not?

6 A Yes, sir, I do.

7 Q I believe you said that was a cloth rag with stains?

8 A Yes, that's correct.

9 Q And you did analyze that. What was your analysis?

10 A I did some presumptive analysis and it appeared to
11 have bloodstains on it. The presumptive analysis
12 indicated it was indeed blood. And I developed a DNA
13 profile from the bloodstains that were on that rag
14 and did a comparison of the DNA profile developed and
15 compared it to a DNA profile also developed from
16 Josephine Estrich and Shawn Williams.

17 Q And did you get a match?

18 A Yes. The DNA profile developed from that cloth rag
19 matched the DNA profile of Josephine Estrich. I also
20 calculated a probability of randomly selecting an
21 unrelated individual having that same profile and
22 that probability came out to approximately one in one
23 quintillion.

24 Q Now, let's go to State's Exhibit 30 and go one by one
25 on those.

- 1 A Okay.
- 2 Q If we can start, I guess, with 11.1?
- 3 A It's 11.1. It's described as a swab from a car. It
4 was also further described as being from the exterior
5 front passenger door. I did some preliminary
6 analysis on that as well. It indicated that blood
7 was present. I performed DNA analysis on it and
8 developed a DNA profile. The DNA profile that I
9 developed from 11.1 matched the DNA profile of Shawn
10 Williams.
- 11 Q I believe you said that was from the exterior front
12 passenger door?
- 13 A That's correct.
- 14 Q What was that probability on that?
- 15 A The probability of randomly selecting an unrelated
16 individual that have that same DNA profile is
17 approximately one in 17 quadrillion.
- 18 Q And let's go 11.2.
- 19 A Okay. 11.2 is a -- described as a swab from a car.
20 It was collected from the exterior driver's side,
21 door. I performed DNA analysis and developed a DNA
22 profile. The DNA profile developed from 11.2 also
23 matches the DNA profile of Shawn Williams.
- 24 Q And 11.3?
- 25 A 11.3 is a, also a swab from a car. It's described as

1 being collected from the exterior rear passenger
2 door. I also performed presumptive tests for the
3 presence of blood. That was positive -- not sure on
4 that. Yes, blood was indicated.

5 I also developed DNA profile from the swab, 11.3, and
6 the DNA profile matched the DNA profile of Josephine
7 Estrich.

8 Q I believe you said that was exterior rear passenger
9 door?

10 A That's correct.

11 Q 52.1?

12 A Item 52.1 is described as swabs from the car;
13 described as collected from the interior front
14 passenger door. I developed a DNA profile from that
15 blood on that swab and it matched the DNA profile of
16 Josephine Estrich.

17 Q And 52.3. Excuse me, 52.2, first.

18 A 52.2 is described as swabs from a car. Described as
19 being collected from the upper portion of the front
20 passenger seat. I developed a DNA profile from blood
21 on that swab. The DNA profile matches the DNA
22 profile of Shawn Williams.

23 Q 52.3?

24 A 52.3 is also swabs from a car. It was collected from
25 the front -- excuse me, the front passenger

1 floorboard. I detected blood on that and developed a
2 DNA profile. The DNA profile matched the DNA profile
3 of Josephine Estrich.

4 Q So through your analysis, you have DNA evidence that
5 both Josephine Estrich and Shawn Williams were in
6 that car -- in that vehicle?

7 A Yes. DNA profiles matched both of those individuals,
8 yes.

9 Q One moment.
10 That's all the questions I have. Please answer
11 anything Mr. Gamble may have.

12 THE COURT: Cross examination.

13 CROSS EXAMINATION

14 BY MR. GAMBLE:

15 Q When you analyze these samples, you don't have any
16 idea regarding the amount of blood that's on those
17 areas, do you?

18 A No, I don't.

19 Q You don't have any way of knowing the exact location
20 of where those blood spots were on, say, the exterior
21 of the door?

22 A I do not.

23 Q Just that it was the exterior of the door?

24 A That's the description as written on the envelope.

25 Q Correct. Number 39, let's go back to that. Did I

1 understand you correctly, that said the blood
2 indicated by DNA analysis on 39, a cloth rag, was
3 both Miss Estrich and Mr. Williams?

4 A No, sir.

5 Q Just Estrich?

6 A That's correct.

7 Q Okay. I misunderstood you.

8 Now, 52.1 were swabs from the front passenger door
9 that proved to be Miss -- that proved to be Miss
10 Estrich?

11 A That's correct.

12 Q 52.3 was from the front passenger floorboard that
13 also was Miss Estrich?

14 A Yes.

15 Q 52.2 -- upper portion, front passenger seat. Does
16 that mean the back of the seat as opposed to the seat
17 of the seat? Now, I know that's redundant, but I
18 don't know how else to say it.

19 A The only thing I can answer is that was what's
20 written on the envelope. It simply says upper
21 portion, front passenger seat.

22 Q All right. Then that was Mr. Williams' blood sample
23 there?

24 A The DNA profile matched Shawn Williams.

25 Q You analyzed some vaginal swabs and some other,

1 rectal swabs I believe it was, and you developed an
2 analysis there of semen. Is that correct?

3 A Yes, I did.

4 Q And these were swabs, of course, from Miss Josephine
5 Estrich?

6 A Yes.

7 Q And the semen you analyzed was from whom?

8 A I identified semen on vaginal swabs and developed a
9 DNA profile from that semen. The DNA profile also
10 on -- DNA profile from the vaginal swabs matched the
11 DNA profile of Shawn Williams. I was not able to
12 develop a DNA profile foreign to Josephine Estrich on
13 the rectal swabs.

14 Q 53.1, 53.2, on your -- what you have, showed a swab
15 from the car, just the car?

16 A That's the only identification that was on the
17 envelopes that I received.

18 Q We don't know where?

19 A I do not know where.

20 Q And when you analyze DNA, it's then possible to
21 determine the age of those swabs, isn't it?

22 A It's not possible to determine the age of the
23 material that's collected; for example, the
24 bloodstains.

25 Q That's what I'm asking.

1 A Right.

2 Q Inarticulately, I guess, but that's what I was
3 asking. So we don't know when the blood was
4 deposited into that automobile?

5 A I do not know.

6 Q Right. I, specifically, was referring to swab 53.1
7 and 53.2 that you have listed as an unidentified
8 female contributor. There, again, we don't know when
9 that was contributed, do we?

10 A I do not know.

11 Q And you can't tell, can you?

12 A No.

13 Q Whenever you do these analyses, do you ever have to
14 call back the investigating officer and ask questions
15 like where was this developed or anything like that?

16 A It's not necessary for me to do that. Basically,
17 there may be some discussion prior to analysis on
18 determining which samples might be considered most
19 helpful for the case. But, it makes absolutely no
20 difference to me which samples or where they're
21 collected from.

22 Q Yes, sir.

23 And you don't know the quantity from which these
24 swabs were made -- the quantity -- in other words,
25 the quantity of the splatter?

1 A I do not know.

2 Q Just that it was blood?

3 A It was blood and it was sufficient for me to develop
4 DNA profile.

5 Q Yes, sir. All right, sir. I think I have no further
6 questions. If you'll bear with me a minute.

7 A Yes, sir.

8 Q Be right back.

9 MR. GAMBLE: Thank you, sir. That's all I have.

10 THE COURT: Any redirect?

11 MR. MCELHANNON: No, Your Honor.

12 THE COURT: You may step down. Thank you very much.
13 Call your next witness.

14 MR. MCELHANNON: The state calls Dr. Michael Ward.

15 MICHAEL WARD, M.D., being first duly
16 sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. MCELHANNON:

19 THE CLERK: Please state your full name and spell
20 your last name for the record.

21 THE WITNESS: Michael Eugene Ward, W-A-R-D.

22 Q Dr. Ward, what is your profession?

23 A I'm a forensic pathologist.

24 Q And where do you work?

25 A I'm employed by Pathology Associates of Greenville as

1 a forensic pathologist. And I'm also employed by the
2 County of Greenville as the chief medical examiner.

3 Q Could you give the jury a description of your
4 educational background, please?

5 A I received my bachelor's degree in biology from the
6 University of Alabama, master's degree in forensic
7 science from the University of Alabama in Birmingham.
8 I received my medical degree from the University of
9 South Alabama. I did a four-year residency in
10 anatomic pathology at the Medical University of South
11 Carolina, and a one-year fellowship in forensic
12 pathology at the University of New Mexico in
13 Albuquerque.

14 Q And what does the term pathology mean? What does
15 that involve?

16 A Pathology is the study of disease and how this
17 disease process affects man. Basically, the things
18 that happen to us as we age, including infectious
19 disease, neoplasms, cancer, things like that.
20 Forensic pathology takes that one step further. Not
21 only do we deal with disease processes, but
22 interpretation of trauma, traumatic injuries, how
23 people die, and then the presentation of that
24 information in the judicial process.

25 Q And have you had an opportunity to testify in court

1 before?

2 A Yes, I have.

3 Q Do you know approximately how many times?

4 A Well over a hundred times.

5 Q And you have been qualified as an expert in those
6 cases?

7 A I have.

8 Q In forensic pathology?

9 A I'm generally qualified in anatomic and forensic
10 pathology.

11 Q At this time, Your Honor, I'd like to submit Dr. Ward
12 as a qualified forensic pathologist.

13 MR. GAMBLE: No objection, Your Honor.

14 THE COURT: All right. The Court so finds.

15 Q Dr. Ward, did you have occasion to examine and do an
16 autopsy on Josephine Estrich?

17 A Yes, I did.

18 Q And when did you do that autopsy?

19 A On January 23, 2007.

20 Q And, if you can tell the jury how did she come in?

21 A She -- the body -- I'm sorry, the body was received
22 to us in a body bag from the scene. When she arrived
23 at the autopsy room, she was dressed in clothing
24 which included lace-up shoes with white ankle socks,
25 a pair of blue denim pants, brown panties, a pink

1 pullover, three-quarter-inch sleeve shirt which had
2 been cut for resuscitative purposes, and a light blue
3 bra.

4 Q And when you took her clothes off, did you begin to
5 see any signs of visible injuries?

6 A Yes. The initial portion of the autopsy is to not
7 only examine the clothing but the external surface of
8 the body to determine any external injury that may be
9 present.

10 Q And what caught your attention, doctor?

11 A The most striking finding would be a stab wound which
12 was to the central portion of the chest,
13 approximately 15 inches from the top of the head and
14 within the midline of the chest. During the autopsy
15 it was determined that this stab wound penetrated
16 through the skin of the chest, through the underlying
17 sternum, which is the bone of the chest plate here,
18 and into the right atrium of the heart. This wound
19 had a depth of approximately three and one-half
20 inches. Within the fibrous sac around the heart
21 there had collected 400 milliliters of blood and in
22 the right chest cavity around the right lung there
23 had collected 1,500 milliliters of blood.

24 Q Is that, in quantitative terms, a good amount of
25 blood?

1 A That would be the equivalent of donating
2 approximately four liters -- I mean, four bags of
3 blood at the Red Cross.

4 Q And I believe you said the depth of the wound was
5 three and a half inches?

6 A That's correct.

7 Q So the blade on the instrument that was used would
8 have had to be at least three and a half inches long
9 or close to it?

10 A Plus or minus half an inch or so, yes.

11 Q How difficult or hard would it be to put a blade
12 through the sternum? Is the sternum a strong bone?

13 A The sternum is a calcified bone. In a young woman
14 it's not as firm as it would be in a 50-year old
15 gentleman like myself. But it's not something that's
16 going to pass easily, so it would take some -- a
17 deliberate force to penetrate through the sternum
18 with a knife.

19 Q And if you can tell on your autopsy report, how old
20 was Miss Estrich?

21 A She was 23.

22 Q Now, in addition to the stab wound, and can you show
23 the jury -- I don't know if you did before -- where
24 the stab wound was by using your own?

25 A It's approximately in this region here. (Indicates.)

1 Fifteen inches from the top of her head and within
2 the midline of her chest.

3 Q It was almost, would you say, dead center of the
4 chest, close to it?

5 A It was, yes.

6 Q Going from that injury to any other injuries on the
7 body, what else was remarkable to you?

8 A Remaining on the chest, there were other injuries
9 that we called sharp-force injuries. Approximately
10 two inches above this stab wound there were multiple
11 small pricks in the skin, if you will, that look
12 like -- that had been created by a sharp force that
13 did not penetrate through the skin, but were
14 superficial injuries in the skin -- in a -- roughly
15 in a linear pattern about two inches above the stab
16 wound.

17 Q So, in your opinion, were those separate and apart
18 from the actual stab wound?

19 A Yes, they were.

20 Q And how many approximately were there?

21 A There were at least three or four.

22 Q And they were all in the same vicinity, same area?

23 A They were all in about a one-half inch area.

24 Q What would that indicate to you as a forensic
25 pathologist?

1 A The most likely explanation for that is that when you
2 have a person who has a stab wound and other sharp-
3 force injuries is that those sharp-force injuries
4 were created with the same weapon that created the
5 stab wound. In this instance you can visualize that
6 the knife is being held to the chest, either in a
7 taunting fashion or in a threatening fashion, only
8 pricking the skin, not penetrating into the skin.

9 Q And moving from the wounds on the chest area, did you
10 notice anything about Miss Estrich's hands?

11 A Yes, I did.

12 On Miss Estrich's left hand, there are multiple
13 superficial and deep, incised wounds or cuts and
14 these are wounds that are created by a sharp
15 instrument, as in a knife. There is a cut at the web
16 space between the thumb and first finger of the left
17 hand. There's a deep cut on the outside of the left
18 fifth finger. There's a superficial cut on the back
19 of the left index finger and a cut to the palm
20 surface of the left hand at the junction of the hand,
21 with the left middle finger creating a skin flap,
22 basically, cutting upward creating a flap of skin.

23 On the back of the left wrist is a superficial,
24 incised wound at the junction of the wrist with the
25 left hand.

1 Q Doctor, let me show you what's been marked state's
2 Exhibits 25, 26, 27, and 28 and ask if you can
3 identify these, please.

4 A Yes, I can.

5 Q And what are those?

6 A State's exhibit -- these are photographs that were
7 taken during the time of the autopsy. State's
8 Exhibit 25 is a photograph of the wrist of Miss
9 Estrich, showing that superficial, incised wound that
10 I described.

11 State's Exhibit 26 is a photograph of the left index
12 and left thumb of Miss Estrich, showing a
13 superficial, incised wound to her index finger, and
14 the wound to the web space between her thumb and
15 first finger.

16 State's Exhibit 27 shows the deep, incised wound to
17 the left fifth finger of Miss Estrich. And State's
18 Exhibit 28 shows the incised wound again to the web
19 space between the left thumb and first finger.

20 MR. MCELHANNON: At this time, I'd ask State's 25
21 through 28 be admitted into evidence.

22 MR. GAMBLE: No objection, Your Honor. I've
23 previously seen them.

24 THE COURT: All right. 25, 26, 27, and 28 admitted
25 without objection.

1 (WHEREUPON, State's Exhibit No. 25-28 are admitted
2 into evidence.)

3 Q Dr. Ward, if you could step down to the screen.
4 Let's start with State's Exhibit 25.

5 A This is a photograph of the left wrist. This is the
6 upper part of the wrist; the elbow would be here with
7 the hand down in this region here. This is a
8 superficial, incised wound to the back of the left
9 wrist with the -- near the junction with the hand.

10 Q State's Exhibit 26?

11 A This is the left thumb, the left index finger of Miss
12 Estrich. This is a superficial, incised wound or a
13 cut to the back portion of her left index finger and
14 a portion of the cut to the web space between the
15 thumb and first finger.

16 Q Okay. Twenty-seven?

17 A This is the left hand -- back of the left hand of
18 Miss Estrich, the fifth, fourth, third, and index
19 fingers. This is the deep, incised wound, or the
20 deep cut to the outside portion of the left fifth
21 finger.

22 Q And 28?

23 A That's the left thumb, left index finger. Here's the
24 incised wound that we saw previously. And this is a
25 gaping, incised wound basically cutting the web space

1 between the thumb and left index finger.

2 Q Okay. Return to your seat. Thank you.

3 (Witness resumes the stand.)

4 Q Doctor, would you think you could characterize these
5 already as three distinct wounds on the left hand?

6 A There were five distinct wounds on the left hand.

7 Q Five total?

8 A That's correct.

9 Q The wounds on the left hand, would you, in your
10 opinion, characterize those as defensive-type wounds?

11 A I would.

12 Q Could you explain to the jury what a defensive wound
13 on a hand would be?

14 A A defense-type wound is a wound that's described and
15 is often seen in either blunt-force injuries or
16 sharp-force injuries because these are what I would
17 interpret as an up close and personal type of an
18 injury where the victim is trying to ward off blows
19 or to prevent further injury, either trying to block
20 the knife with the hand or grab the knife to take it
21 away; thus, resulting in cuts to the web space, cuts
22 to the palm surface of the hand, or the back of the
23 hand trying to block further blows.

24 Q Doctor, I'm going to give you a -- well, let me ask
25 you this. With the wound to the sternum and the

1 heart, can you estimate how long it would have taken
2 Miss Estrich to not be able to move anymore or to
3 run?

4 A While this is felt to be certainly a fatal injury,
5 it's not an injury that's going to result in death
6 immediately. There's trauma to the heart. There's
7 going to be a great deal of blood loss, but that
8 blood loss is a cumulative thing. There's blood
9 collecting in the right chest but there's also blood
10 collecting in the pericardial sac around the heart.
11 As that blood collects in the pericardial sac, then
12 the heart is no longer able to expand and to beat.
13 That's called cardiac tamponade; basically, can't
14 fill with blood, so can't beat any blood. The heart
15 muscle is still intact, it's still trying to beat, it
16 just is unable to move any more blood. And it takes
17 several minutes for that to happen. Certainly,
18 within the range of three to five minutes, most
19 likely, until there's not enough blood circulating
20 and Miss Estrich becomes unresponsive and then dies.

21 Q And would moving around by Miss Estrich cause blood
22 to come out faster, if the heart is trying to pump?

23 A Certainly, anything that increases her heart rate or
24 her blood pressure is going to cause the blood loss
25 from the heart to be even faster. That's correct.

1 Q And if this occurrence or this incident happened, she
2 was stabbed and then say ten minutes later, would it
3 still be possible for her to be trying to get out of
4 the vehicle and talking and running away from
5 someone?

6 A My impression would be that ten minutes is actually
7 quite a long time for a stab wound to the heart. She
8 may certainly have tried to exit the vehicle, have
9 been excited as a result of her stab wound, but I
10 don't think that she would be able to perform those
11 actions at ten minutes.

12 Q I believe you said three to five would be about
13 maximum?

14 A Would be my best estimate, yes.

15 Q Would, in your opinion as a forensic pathologist,
16 would the knife wound, could it have been caused by,
17 say, a car being slammed on brakes with the knife in
18 front of the chest? Would that have been enough
19 force to penetrate the sternum and into the heart
20 three and a half inches?

21 A I would not think so, no.

22 Q And I believe you characterized that at first as a --
23 I forget the word you used.

24 A It would require deliberate force to penetrate
25 through the sternum.

1 Q Doctor, was there anything else remarkable about Miss
2 Estrich during your autopsy?

3 A Yes, there was. Examination of the uterus of Miss
4 Estrich demonstrated that she had an intrauterine
5 pregnancy. A urine HCG was performed, which is human
6 chorionic gonadotrope, which is basically a urine
7 pregnancy test which was positive. Examination of
8 the fetus revealed an embryo basically, whose
9 measurements were consistent with -- I'm sorry -- a
10 31 to 33 days' gestation, so approximately one-month
11 pregnant.

12 Q Thank you, doctor. That's all I have.

13 CROSS EXAMINATION

14 BY MR. GAMBLE:

15 Q On the -- you performed the autopsy and were looking
16 at the actual injury to the breast area of the
17 sternum. Did you see or note any hilt marks that
18 were on the exterior portion of the sternum?

19 A No, I did not.

20 Q Do you see that where a knife is pushed with force,
21 generally speaking, into a body, do you find hilt
22 marks?

23 A Hilt marks are relatively uncommon. We generally
24 feel that when we see a hilt mark, that the knife has
25 been penetrated into the body to it's fullest extent

1 that testified, saying that she was coming home that
2 night about 8:50 and saw -- and she knew Tootie's Jeep,
3 she called her Tootie -- Josephine's Jeep parked on
4 Latimer Road, the right side of Latimer Road. She saw
5 one person in it, in the driver's seat. She couldn't
6 tell if it was a male or female. This is ten till nine
7 and it's just parked on the side of Latimer.

8 Now, after they found out what happened, the next
9 morning Cheryl Blackburn, another witness, testified that
10 she was concerned for Daytra Evans' safety so much so
11 that she felt it necessary to call and try to warn her
12 about Shawn and tell her what had happened in Anderson,
13 South Carolina.

14 Daytra Evans was in Mobile, Alabama. They did, in
15 fact, get Daytra's grandmother on the phone, as you
16 heard, and she made up a story that she was sick and got
17 Daytra away, and then the police apprehended him. It's
18 the state's position that all of these factors, taken as
19 a whole or taken separately, are malice aforethought and
20 enough to prove murder on behalf of Shawn Williams.

21 Now, I find it interesting that he claims he didn't
22 mean to do this and in his statement which is in
23 evidence -- it'll come back to the jury room with you.
24 But, yet, I'm going to show you some of the things that
25 he did not do after the murder.

1 Shawn Williams did not call 9-1-1. If this had
2 truly been something that he didn't mean to happen, he
3 would have and could have called 9-1-1. He did not try
4 to take her to the hospital. His explanation for that
5 is, in his statement, she told him she wasn't going to
6 make it; just leave her here, put her in the woods, leave
7 her here. Basically, I don't want to be -- I don't want
8 you to be bothered by trying to save my life. I'm going
9 to die anyway. Go see your daughter in Alabama. Here
10 take my money and go see your daughter. I'm more
11 concerned about you now than my own life. That's what he
12 wants you to believe in his statement. It's unbelievable.

13 He left her on the side of the road. He had -- they
14 had relatives all around that area, as you heard,
15 virtually within, I guess, 30 minutes or an hour.
16 Basically, that whole neighborhood was at the scene of
17 this crime. It would have been very easy for Shawn
18 Williams to go to any house in that neighborhood, knock
19 on the door and say, look we just had a terrible
20 situation out here, we need some help. But what did he
21 do? He pulls her out of the Jeep and leaves her on the
22 side of Grate Road, just laying there like trash.

23 What does he do then? He's concerned about himself,
24 so he goes home and he changes clothes, and he discards
25 the clothes that he has on in the Burns Bridge Road area.

1 Puts them in the woods, out there in the woods. Then he
2 steals Josephine's Jeep and runs ten hours -- eight or
3 ten hours to Mobile, Alabama, to his ex-girlfriend's
4 house where he basically convinces her to hide him out,
5 for a better term.

6 The license plate on the Jeep is removed. You saw
7 that in the pictures. And the Jeep is backed into a
8 parking space at an apartment complex. He didn't drive
9 the Jeep to Daytra Evans' house. He leaves it in an
10 apartment complex parking lot backed in with no tag.
11 Now, that to me -- common sense tells me that's someone
12 trying to hide something. Trying to first hide the
13 identity of the vehicle and then doesn't even want
14 anybody to find it or associate it with him because he's
15 at another residence.

16 He takes Josephine's purse out of the Jeep where it
17 had her identification inside the purse. You can look at
18 that. All the papers are still in her purse. And he
19 hides that under the bathroom sink at Street
20 in Alabama. So he's definitely trying to disguise and
21 hide what he has done in the state of South Carolina.

22 Now, Dr. Ward, who testified today, from the
23 autopsy, said that the fatal wound -- the fatal stab
24 wound was three and a half inches deep, penetrating the
25 sternum and puncturing the heart. You heard him say it

1 would have taken deliberate force to create such a wound
2 or cause such a wound. There were also multiple puncture
3 wounds above the fatal stab wound up here in her chest
4 area. She was stabbed right here and he said, basically,
5 dead center of the chest, through the sternum. I know he
6 said that a 23-year old female sternum is not as
7 calcified as a 50- or 60-year old man's. But he also
8 said it still takes a lot of force, and you heard him say
9 deliberate force, to penetrate the sternum and then put
10 the blade three and a half or four inches into the heart
11 or the chest cavity.

12 Also, one thing that totally contradicts the
13 defendant's statement about slamming on brakes and the
14 blade going into her chest, these five distinct defensive
15 wounds on her left hand; five different wounds on her
16 left hand. She's putting her hand out there trying to
17 make him quit poking her and finally he has enough of
18 that, and he just, with blunt force, jams that blade into
19 her chest.

20 And you'll see the pictures. I know you saw them in
21 the direct exam, but you'll actually see them close up.
22 And that is not just a minor scrape on her fingers and
23 the web between her thumb and forefingers. That took
24 some force to slice that like that. Five, not just one.
25 It wasn't like she grabbed the blade, he pulled it out

1 and cut her once. We've got it on different parts of the
2 hand. We've got it across the outside of the wrist. So
3 he continuously was trying to stab her and she was trying
4 to fend him off.

5 And last, Dr. Ward testified that Josephine Estrich
6 was pregnant, four-weeks pregnant. That goes to the
7 statute of the crime that he's charged with, death to a
8 child in utero.

9 Now, as far as the defendant's statement, I believe
10 you'll find it as incredible as I did. And I still do.
11 Mr. Williams wants you to believe that once he stabbed
12 her, that they drove on up to Latimer, turned on to Grate
13 Road and pulled into his yard -- "pulled into my yard."
14 He jumped out of the Jeep and started running to the
15 house to call 9-1-1.

16 "By the time I got to the porch to get my keys out
17 of my pocket, I looked back and she had gotten out of the
18 Jeep. I ran around and found her lying on the ground, so
19 I picked her up and put her in the back seat so she could
20 lay down. I start back to the house again and she jumps
21 back out and takes her jacket off because she said she
22 was hot."

23 She's dying. The doctor testified there were four
24 units of blood in her chest at the autopsy. She's
25 definitely bleeding out. She's dying. But yet, this is

1 the second time she's jumped out of the vehicle and this
2 time she's taking her jacket off because she's hot.

3 "Once again, I put her back in the car and decided
4 to take her on to the hospital. But as I was going up
5 Grate Road towards Burns Bridge Road, she says, 'I'm not
6 going to make it, just put me in the woods.'"

7 Common sense would tell you if someone is dying
8 they're not going to tell you just let me out of the car
9 and leave here me on the side of the road, drag me or put
10 me in the woods. That makes no sense whatsoever.

11 "I turned into a driveway and we got out of the
12 Jeep." Third time she's supposedly getting out of this
13 Jeep. "I picked her up and took her to a light that was
14 there and we prayed. And I asked her did she want to go
15 to heaven. She said, 'Yes.' I asked her to ask God to
16 forgive us, and she did."

17 Now, why he's asking God to forgive him and me, I
18 don't know, but that seems very strange to me to be in
19 his statement.

20 "She was crying and I was crying. We said the
21 Lord's prayer. And then we got back in the car and went
22 back to my house." So this is the third time they've
23 been in and out of the car and driving back and forth.
24 You've heard Dr. Ward testify three to five minutes,
25 maximum, and she would have bled out. She would have

1 been nonresponsive, dead. Three to five minutes. And
2 he's got her getting in and out of the car three times so
3 far.

4 Then when they went back -- "We went back to my
5 house. I pulled up on the top part of the drive, and she
6 got out again." Four times. Four times she's getting
7 out of this vehicle. And tried to run to Aunt Pat's
8 house but she fell. Now, Aunt Pat's house is right
9 there. Why didn't he go there to begin with and say
10 "Josephine's been stabbed, we need some help"?

11 But, yet, he was driving all around, putting her on
12 the side of the road, praying with her, and claiming she
13 was saying, "Just leave me here." So he's got her in and
14 out of the vehicle four times. And then at this point,
15 he claims that she says she's not going to make it.

16 And then through all of this, she was worried about
17 me and we kept saying stuff back and forth to each other.
18 "She told me to go see my daughter. She even told me to
19 use her money to do it." This is unbelievable. This
20 lady is dying and she's telling the person who's just
21 stabbed her, "Use my money to go see your daughter." It
22 makes no sense. It's not common sense. It didn't happen
23 this way.

24 Then he goes into what I've already been through.
25 He goes back to his house, grabs his clothes on the bed,

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1 as I stated, changed clothes, throws the other ones on
2 Burns Bridge Road, and took off to Alabama.

3 Basically, his entire statement is fabricated in a
4 way that he's trying to look like he didn't stab her on
5 purpose. But the testimony came out on the stand, and
6 the force that was used shows that he, in fact, did
7 deliberately stab her and was mad that entire day. And
8 the breaking point was when she left him -- drove off and
9 left him up there on Clemson Boulevard. How dare she
10 leave him on Clemson Boulevard. He wants an answer. He
11 wants to know where their relationship is going.

12 She won't talk to him because she doesn't want to.
13 She had that right; but, yet, he took it in his own hands
14 to say, no, you don't. And he plunged that knife into
15 her sternum.

16 Now, as I stated before, I do believe that the state
17 has proven beyond a reasonable doubt all the elements of
18 each crime committed by Mr. Williams. I know you're
19 going to deliberate thoroughly. As I stated, it's
20 important to him and it's also important to the victims
21 -- the victim's family. I thank you in advance for your
22 deliberations and trust that you will bring back a true
23 verdict.

24 Thank you.

25 THE COURT: Mr. Gamble.

1 MR. GAMBLE: May it please the Court, Your Honor.

2 CLOSING STATEMENT

3 BY MR. GAMBLE:

4 You know, years and years ago I had an older sister;
5 still have an older sister. She used to listen to a
6 record by The McGuire Sisters, I think one of those old
7 singing groups. The title of the song was *Little Things*
8 *Mean a Lot*. What I'm looking at today is are there
9 little things in this case that add up that mean a lot?
10 What do we know for sure and what have we been proven for
11 sure?

12 Well, let's start out with State's Exhibit 1. It's
13 a copy of it I have here. And the dog and pony show we
14 went through when I asked the detective, "Have you
15 checked off each of these advises of rights that you gave
16 him?

17 "No, we don't do that."

18 "Well, why are the check boxes there?"

19 "Because it's on the form."

20 "Did you record this statement?"

21 And I'm going straight to the statement. "No,
22 that's not our procedure."

23 "Well, it's the procedure in Mobile, Alabama, why
24 isn't it the procedure in Anderson, South Carolina?" Why
25 don't we have the right to view a statement that's being

Closing Statement by Mr. Gamble

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1 made, to view the person making the statement, to see
2 what he looks like when he's making the statement, and to
3 hear what he actually says? They deny you that right
4 because they don't want you to see, hear, or see what's
5 going on. So that leaves us with their version of what
6 the statement was.

7 Now, let's go to the little things mean a lot. In
8 that statement, he talked with Josephine and she was
9 helping her daughter with her homework. And that's true.
10 We know that. Came over and picked him up at his house
11 and he drove over to Miss Walker's house. We know that.
12 Miss Walker is an unimpeachable witness. He went over
13 there to get \$20 to buy a few pieces for a fuel pump
14 because he was working on Miss Walker's husband's car or
15 truck.

16 The next piece of evidence that shows it's true, is
17 you've got State's Exhibit 24, a receipt from O'Reillys
18 that says a fuel pump was bought at seven -- I can't read
19 this thing. January 20 at 19:27, which is 7:27 at night.
20 So that little thing is true. It's an insignificant part
21 of this whole thing but the pieces fit right together.

22 They were talking about their relationship and, now,
23 you got to remember, he knows by this time that she is
24 pregnant. That came out sometime during the testimony.
25 They stopped, and according to him, she drove off and I

1 talked to her on the phone and got her to come pick me up
2 at Wal-Mart. Why don't we have a record of all these
3 phone calls? The state can subpoena it from Bell South.
4 That's a 287 exchange. That's the phone that was
5 constantly used except for the cell phone. And cell
6 phone records even tell you where that person is that's
7 making the call. It's called triangulation. Three
8 towers will put right where that telephone is being used
9 and it's easy to get.

10 But the state doesn't show you that. The state
11 doesn't show you where one person, Denise Allen -- I
12 think her name was Denise -- I can't read my own writing.
13 Said he called two or three times, but we don't have a
14 record of those calls. She said there was a recording on
15 her phone from him, from Shawn Williams, and that she
16 gave that recording to officer Beusse. We haven't heard
17 that recording. We haven't seen how many phone calls
18 were made into that house. Because they didn't do that.

19 Anyway, back to Miss Walker. She gave him the
20 twenty dollars to go to O'Reillys and buy a fuel pump.
21 The receipt shows he paid twenty dollars. The fuel pump
22 cost around 13 bucks and he got some change -- six
23 dollars and some change. Another truism.

24 He -- and then indicates they're talking about the
25 physical pain. Now, there's a mystery in this case, I'll

Closing Statement by Mr. Gamble

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1 grant you, and I found it. Between seven some-odd and
2 nine, when this happened on Grate Road, according to the
3 South Carolina Law Enforcement Division records and
4 according to the records that were sent to them from
5 here, there were vaginal swabs taken and semen was
6 identified in this lady's vagina and in the panties and
7 that semen belonged to Shawn. Were they really mad? Was
8 there really a fight going on? I don't think so when you
9 find that kind of evidence. Little things mean a lot.

10 He was talking with her, foolishly, I guess,
11 explaining the difference between physical pain and
12 mental pain that comes in between two people. This is
13 from his statement. Stupidly, I suppose, he takes out a
14 pocketknife and to show her that he has -- the difference
15 in physical pain and mental pain for her. He says he
16 cuts himself. Is that true? Can we prove it?

17 Let's go back to the Anderson -- wait, whoa, not
18 Anderson County to get the evidence. Mobile police of
19 Alabama gathered the evidence from the Jeep, not
20 Anderson. We didn't do it. We brought the Jeep up here
21 and then turned it over to the relatives and didn't look
22 at it again. Anderson County didn't do a thing to
23 investigate that Jeep and the surroundings. All of it
24 was left with Mobile, Alabama.

25 Let's get down to it. Did he cut himself? The swab

1 from the car, upper portion, front passenger seat, blood
2 indicated. DNA analysis, Shawn Williams, his blood.
3 Swab from car exterior, front passenger door, blood
4 indicated. DNA analysis, Shawn Williams' blood. He was
5 bleeding on the front passenger door. Swab from car
6 exterior driver's side door. Blood indicated, Shawn
7 Williams. Driver's side door. That's important. He
8 says after the incident occurred where the knife went
9 into her chest -- I'll go to that last -- that he put her
10 in the passenger side. And, if you'll look, there's a
11 picture of the passenger side seat, Number 13, that shows
12 a stain on the front seat, passenger side. After this
13 happened, I put her over in the passenger side. I went
14 around and got in the driver's side. Swab from car
15 exterior driver's side door, blood indicated. Another
16 little thing that means a lot.

17 Swab from car exterior, rear passenger door, blood
18 indicated. This one is from the lady, Miss Estrich.
19 Now, you got some blood. That's all we have. You got to
20 remember now, this is probably some of the worst
21 investigation I've seen in 40 whatever years I've been
22 doing this. You've got, as I said, Mobile swabbing the
23 car without benefit of this statement to know what
24 they're looking for and where to look for it. You have
25 Anderson bringing the car back up here and not doing a

1 bloody thing, literally, to investigate, to look into
2 that car, to get recordings, to subpoena pieces.

3 All right. Another thing, they're back and forth
4 and the autopsy Dr. Evans testified he said that it would
5 take three to six minutes for her to die. We don't know
6 how long this incident lasted, you can't tell. Running
7 back and forth in a panic, doing everything they can, and
8 I have no idea what. I picked her up and put her in the
9 back seat.

10 What do we know? His blood and her blood on the
11 back door. We don't have swabs from the back seat,
12 because the Mobile police didn't have access to this
13 statement at the time they took the evidence. So
14 after -- it was going real bad and evidently she had
15 died, I don't know -- I ran into the house and grabbed
16 the clothes that was on the bed, went back to where we
17 were stopped. I took my clothes off and threw them on
18 the ground at Grate Road and Burns Bridge Road.

19 You have the pictures of clothes at Grate Road and
20 Burns Bridge Road. Another indication of little things
21 that mean a lot. When you add the little things up,
22 everything he's telling you is the truth.

23 I remember driving, crossing the state line. I
24 drove to Mobile, parked the Jeep, and walked over to
25 Daytra Evans. Visited with his daughter. Didn't tell

1 her what had happened because, "I didn't want her to get
2 mixed up." Stayed there for a while and she drove me
3 over to Angela's house. In the back of her Chrysler New
4 Yorker were his clothes, where he had put them, and she
5 drove him to Angela's house. Everything is matching.
6 Everything fits. Everything he's telling you is the
7 truth in this statement, even the little bitty,
8 insignificant things about leaving his clothes in the car
9 and going to Angela's house.

10 He was at Angela's house when Mobile's finest came
11 to arrest him. They took him in on suspicion of motor
12 vehicle theft. He went peacefully with them. They
13 didn't ask him anything. They notified Anderson.
14 Anderson got down there and took the statement, again,
15 not recorded. Don't show you anything about it. Don't
16 have any records here to back up anything they say. And
17 that was it.

18 Now, Craig Estrich, the brother, said he received
19 ten or fifteen calls from Shawn Williams. And he came by
20 after a while and was acting happy and they left around
21 4:15 or thereabouts. That's what my notes show. If
22 yours are different, take yours. But do we have a record
23 of those ten or fifteen calls coming from the 287
24 exchange to Craig Estrich's house? No. So it's up to
25 you what to believe.

Closing Statement by Mr. Gamble

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1 He says he went by to see Craig or talk to Craig.
2 Lula Thomason saw the car -- the Jeep out on Grate Road
3 somewhere around 8:45 to 8:50 and saw one person, either
4 a male or a female, in the seat. And then the rest is
5 they find it and everything. It's established that she
6 was dead.

7 Now, I asked the doctor, "If she held the knife, the
8 blade part, what they call defensive wound, and it moved,
9 would that have cut her such as it was?"

10 "Yes."

11 His statement is that she took the knife away from
12 him, "Boy," he says, "I was just joshing," explaining
13 that physical pain, "Boy, put that up." I kept on trying
14 to make my point. And she grabbed the knife from me.
15 Let's get logical. He doesn't say how, when, or where.
16 He has a knife. We don't know what it looks like. We
17 don't know the kind of knife it is, other than it's not a
18 dagger. We know it has a cutting edge and a blade. The
19 doctor told us that. If he has the handle and she grabs
20 the knife, she got the knife in this hand, but what part
21 of the knife does she have when she pulls it down, jams
22 on the brakes and it hits the steering wheel with enough
23 force to drive it through that hard bone -- that being
24 the hard bone that's not hard when you're 20 something,
25 whatever it's called.

1 Then panic sets in. They don't know what to do.
2 They're doing everything they can. They have no idea
3 what's going on. He's going to start to go to the
4 hospital but she can't make it. They stop. Do they call
5 9-1-1? No, they do not. Is that a faulty thing? Yes,
6 it's not good. Look at it. It's not good.

7 But everything he's told, insignificant facts, his
8 clothes were over there, were found over there, this was
9 done here, the receipt shows that was there. The phone
10 was over there. Yes, it was -- little things mean a lot.
11 Everything adds up. And he did this without benefit of a
12 lawyer. You know, we would have told him to shut up.
13 That's what we do. We would have told him, "Don't say a
14 word."

15 But, no, he told the detective everything he could
16 think of to tell him and then some, with evidently
17 nothing to hide because he knew it was bad, because he
18 knew his girlfriend was dead.

19 I would submit to you because of the physical
20 evidence that has been produced by the state, there is
21 insufficient evidence to call this a murder. Well, His
22 Honor is going to charge you of a lesser-included offense
23 called involuntary manslaughter. Involuntary
24 manslaughter is a reckless or negligent handling or use
25 of a deadly instrumentality which causes the death of

1. another. It is without malice toward that person, no
2 hate, no passion directed toward him.

3 If Shawn Williams is guilty of anything, I submit it
4 would be involuntary manslaughter. However, you've got
5 to go through the hurdles of a very bad criminal
6 investigation in order to get to that or to any verdict.
7 You can say, state, next time you make a case, come in
8 here with a case. Have your phone records. Do your own
9 swabbing of the cars, the things we get, blood, and
10 whatever else. Know what you're looking for. Go find
11 it. Give it to SLED, let them DNA it, know what we're
12 talking about. Do it right and get out.

13 If you find sufficient evidence that Shawn Williams
14 did something illegal, immoral, or otherwise, then it
15 should be involuntary manslaughter. But think of the old
16 song, *Little Things Mean a Lot*, and when you add up all
17 the truisms he put in that statement, why would you take
18 out one portion and say, well, that's not true, when he's
19 telling all he can tell, good, bad, ugly or indifferent,
20 to the detectives? Why would he make up something that's
21 almost bizarre? But it's there. And if he told the
22 truth, he told the truth.

23 And you cannot comment on this, His Honor will
24 charge you: Why didn't he testify? What's he got to
25 gain? Nothing. He told everything he knew in that

1 statement. He's sitting at that table over there. He
2 told you when this started, "I am not guilty." That's
3 what this trial is all about. When he says I'm not
4 guilty, it brings up a trial and then it's up to you.

5 Remember, I told you, don't leave your common sense
6 at home. Bring it with you. Know that little things
7 mean a lot. Little things add up. And it's the end of
8 this story that if he's telling the truth about
9 everything else, why would he make up this grandiose
10 story about the knife? It doesn't work and it doesn't
11 make sense. He said he cut himself. It shows that
12 blood's everywhere. Her blood's everywhere. They were
13 in love at one time and may still be. The semen shows
14 that.

15 It's your case now. I appreciate your attention. I
16 appreciate you being here and being out of your work and
17 coming into a strange environment and having to listen to
18 lawyers and police officers and all and telling you about
19 things that are probably alien and strange to your world.
20 But we deal with it day in and day out. We appreciate
21 you being here because, like I told you before, 12
22 lawyers would never decide anything. We'd be here until
23 the new moon came. So thank you.

24 JURY CHARGE
25

Jury Charge

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1 BY THE COURT:

2 All right. Mr. Foreman, members of the jury, the
3 State of South Carolina charges the defendant, Shawn A.
4 Williams, with one count of grand larceny, one count of
5 murder, one count of possession of a knife during the
6 commission of a crime, and one count of death to a child
7 in utero due to the commission of a violent crime. I
8 will give you a copy of these instructions in written
9 form, and during your deliberations you may refer to the
10 instructions to guide your decision-making. You must
11 consider the instructions as a whole and not follow some
12 and ignore others. Please return the instructions to the
13 Court at the time your verdict is rendered.

14 Now, during the course of this trial I have allowed
15 you to take notes, and I will tell you, notes do not take
16 preference over your individual recollection of the
17 notes. They are to aid your memory. And some of you did
18 not take notes and you should not give greater deference
19 to the people that took notes. Your independent
20 recollection of what you heard is as important as any
21 notes that would have been taken. As I said, they're to
22 help you with your decision-making process.

23 I charge you further that the defendant, excuse me,
24 I charge you that the fact that the defendant has elected
25 not to testify on his own behalf cannot and must not be

1 considered against him, under any circumstances, or in
2 any manner whatsoever. The decision of any defendant not
3 to take the witness stand and testify in his own behalf,
4 does not create any inference against him. I tell you
5 now, you must not permit that fact to weigh even in the
6 slightest degree against the defendant. You should not
7 permit this fact to enter into the discussions,
8 deliberations, or the issues in this case.

9 The same constitutional laws which designate and
10 make you the finders of the fact also make me the sole
11 instructor of the law. Accept the statements of the law
12 as given to you and base your decision making on what the
13 law is and not what you think the law should be.

14 As to these indictments, the defendant has entered a
15 plea of not guilty which places upon the state the burden
16 of proving the defendant guilty. A person charged with
17 committing a criminal offense in South Carolina is never
18 required to prove themselves innocent. I charge you,
19 it's a vital important rule of law of evidence that the
20 defendant in a criminal trial, no matter how great or
21 serious may be the offense with which he is charged, he
22 must always be presumed innocent until his guilt has been
23 proven beyond a reasonable doubt.

24 This presumption of innocence remains with the
25 defendant at all times from the moment of his appearance

Jury Charge

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1 in this Court throughout the trial until you, the jury,
2 have, upon the testimony and the evidence presented,
3 reached a verdict of guilty beyond a reasonable doubt.
4 For it's the solemn duty of the jury, if not clearly
5 convinced of his guilt beyond a reasonable doubt, to
6 acquit the defendant.

7 The burden of proof is upon the state to establish,
8 by evidence to your satisfaction, the guilt beyond a
9 reasonable doubt of this defendant.

10 What is reasonable doubt? Reasonable doubt is the
11 kind of doubt that would cause a reasonable person to
12 hesitate to act. If you have such a doubt as to the
13 guilt of the defendant, you would be entitled to a
14 verdict of not guilty. Reasonable doubt may arise from
15 the evidence presented in the case or from the absence or
16 lack of evidence in a case. You alone must make a
17 determination of whether or not reasonable doubt exists
18 as to the guilt of the defendant.

19 The term reasonable doubt should be given its
20 everyday, plain, ordinary meaning. Proof beyond a
21 reasonable doubt is proof that leaves you firmly
22 convinced of a defendant's guilt. Very few things in
23 this world that we know with absolute certainty, and in
24 criminal cases, the law does not require proof that
25 overcomes every possible doubt. If based upon your

1 consideration of the evidence, you are firmly convinced
2 the defendant is guilty of the crime charged, you must
3 find him guilty. On the other hand, if you are not
4 firmly convinced of the defendant's guilt, you must give
5 him the benefit of the doubt and find him not guilty.

6 The evidence from which you're to decide the facts
7 of the case consists of the sworn testimony of witnesses,
8 both on direct and cross-examination, regardless of who
9 called the witness, the exhibits that have been received
10 into evidence, and any facts which the lawyers have
11 agreed as stipulated.

12 Certain things are not evidence. You may not
13 consider them in deciding what the facts are. I will
14 list them for you. Arguments and statements by the
15 lawyers are not evidence. The lawyers are not witnesses.
16 What they've said in opening statements, closing
17 arguments, and at other times is intended to help you
18 interpret the evidence, but it is not evidence. If the
19 facts, as you remember them differ from the way lawyers
20 have stated them, your memory controls.

21 Questions or objections by lawyers are not evidence.
22 Attorneys have a duty to their clients to object when
23 they believe a question is improper under the rules of
24 evidence. You should not be influenced by the objection
25 or by the Court's ruling on the objection. Testimony

Jury Charge

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1 that's been excluded as stricken, being instructed to
2 disregard, is not evidence and must not be considered.
3 Anything you may have seen on television, read in the
4 paper, or heard from others when the Court is not in
5 session is not evidence. You'll decide the case solely
6 on the evidence received at trial.

7 Under our Constitution and Code of Laws, only you,
8 the jury, can make the findings of facts in this case. I
9 am not permitted to indicate to you how I may feel about
10 the testimony or evidence that's been presented.
11 Throughout this trial it's been my intention to be fair
12 and impartial toward each of the parties involved.

13 To determine the facts of this case you have to
14 evaluate the credibility, which means the believability.
15 Some of the things you may consider in deciding whether
16 or not to believe a witness' testimony about a particular
17 matter include: What was the manner or appearance of the
18 witness who testified? Was he or she straightforward or
19 hesitant in answering? Was the testimony of a witness
20 consistent or inconsistent? How did the witness come to
21 know the facts he or she testified to? Was the person
22 present during the incident or did he happen on the scene
23 after it occurred? Is there some reason a witness would
24 want to give testimony which would help or hurt one side
25 or the other? In other words, was the witness biased or

1 prejudiced? Was the testimony of a witness strengthened
2 or weakened by other testimony?

3 You can believe as much or as little of each
4 witness's testimony as you think proper. You may believe
5 the testimony of a single witness against that of many
6 witnesses or just the opposite. Of course, you do not
7 determine the truth by merely counting the number of
8 witnesses presented by each side. Throughout this
9 process you have but one objective, to seek the truth,
10 regardless of its source.

11 There are two types of evidence which are generally
12 presented during a trial, direct evidence and
13 circumstantial evidence. Direct evidence is the
14 testimony of a person who asserts and claims to have
15 actual knowledge of a fact, such as an eyewitness.
16 Circumstantial evidence is proof of a chain of facts and
17 circumstances indicating the existence of a fact.

18 The law makes absolutely no distinction between the
19 weight and value to be given to direct and circumstantial
20 evidence, nor is a greater degree of certainty required
21 of circumstantial evidence than of direct evidence. You
22 should weigh all the evidence in the case on a contested,
23 factual issue. You may have some direct evidence and
24 some circumstantial evidence. To determine the facts in
25 the case you will have to evaluate the credibility, which

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1 means the believability of each witness.

2 The rules of evidence ordinarily do not permit
3 witnesses to testify as to their opinions or conclusions.
4 An exception, however, to this rule does exist for those
5 whom we call expert witnesses. Expert witnesses are
6 witnesses who by education and experience have become
7 expert in some art, science, profession, or calling.
8 These witnesses may state their opinions as to relevant
9 and material matters of which they profess to be an
10 expert. They may also state their reasons for the
11 opinion.

12 You should consider the expert opinion received in
13 evidence in this case and give it such weight as you may
14 think it deserves. If you should decide an opinion of an
15 expert witness is not based upon sufficient evidence,
16 education, or experience, or if you should conclude that
17 the reasons given in support of the opinion are not
18 sound, or you feel that it's outweighed by other
19 evidence, you should disregard their opinion entirely.

20 While the Court generally determines the
21 admissibility of the evidence, I instruct you that as
22 regarding the alleged statement by the defendant that
23 you, ladies and gentlemen of the jury, make the ultimate
24 determination whether or not the defendant made said
25 statement; if he did make it, whether he was warned of

1 his constitutional rights; whether he knowingly and
2 intelligently waived his constitutional rights; and
3 whether it was made by the defendant voluntarily of his
4 own free will; and, finally, just what weight, if any,
5 should be given to the statement.

6 I charge you that you must determine whether the
7 alleged statement was the product of an essentially free
8 and unconstrained choice by its maker. If you determine
9 it was, the burden of proof is upon the state to prove
10 this fact, as all other facts, beyond a reasonable doubt.
11 And you may give it such further consideration as you
12 deem proper. If you determine the alleged statement is
13 not the free and voluntary willed expression of the
14 defendant, you should not consider it at all.

15 In determining whether a defendant's will was
16 overcome in obtaining a statement, you should consider
17 both the characteristics of the accused and the details
18 of the interrogation, which is often referred to as the
19 totality of the circumstances.

20 Some of the factors you may consider: Age and youth
21 of the accused, his education or lack thereof, his mental
22 ability or capacity, his I.Q. or intelligence, his
23 background or environment; the advice or lack thereof of
24 an accused to his constitutional rights, including, but
25 not limited to, the procedural safeguards known as

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1 Miranda warnings concerning the right to remain silent;
2 that his statement could be used against him in a court
3 of law; the right to have a lawyer present, if they're
4 indigent, and he could not afford a lawyer, a lawyer
5 would be appointed to represent him; he could stop the
6 statement at any time.

7 Other factors to consider are the place and length
8 of detention and nature of the questioning. You, the
9 jury, must carefully scrutinize all the surrounding
10 circumstances before you give any weight to the alleged
11 statement. You must be satisfied beyond a reasonable
12 doubt that it was made by the accused, uninfluenced by
13 promise or reward, threat of injury, or diminution of
14 rights.

15 Definition of murder. What is murder by definition?
16 Murder may be defined as the willful, felonious, killing
17 of a human being with malice aforethought, and malice
18 being either expressed malice or implied malice.

19 Definition of malice. Malice is a word suggesting
20 wickedness, hatred, and a determination to do what one
21 knows to be wrong without just cause or excuse or legal
22 provocation. Malice need not be in the mind of the one
23 doing the killing any particular length of time before
24 the act, its presence would be sufficient to render the
25 killing murder. Malice is said to be expressed when

1 there is manifest a violent, deliberate, intentional
2 unlawful act to take away the life of another human
3 being. Malice is implied when one intentionally or
4 deliberately does an unlawful act which he or she then
5 knows to be wrong in violation of his or her duty to
6 another and where no excuse or legal provocation appears
7 and under the circumstances attending the killing shows
8 an abandoned heart, a malignant heart fatally bent on
9 mischief.

10 Malice may be expressed by previous threats of
11 violence, lying in wait, or other circumstances showing
12 directly the intent to kill was entertained. The jury
13 may also conclude by deductive reasoning under certain
14 circumstances, malice may arise even though there's no
15 express direct evidence of intent to kill.

16 Malice may be inferred even though no express intent
17 to kill was provided by direct evidence. It may be
18 inferred from the facts and circumstances which are
19 proved. Malice may be inferred from the willful
20 deliberate and intentional doing of an unlawful act
21 without just cause or legal excuse. In other words,
22 general significance malice means the doing of a wrongful
23 act intentionally without justification or legal excuse.
24 Even if the facts proved are sufficient to raise an
25 inference to malice this inference would be simply an

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1 evidentiary fact to be taken into consideration by you,
2 the jury.

3 Inferred malice may also arise when the deed is done
4 with a deadly weapon. A deadly weapon is any article,
5 instrument, or substance to likely cause death or great
6 bodily harm. When an instrument has been used as a
7 deadly weapon depends upon the facts and circumstances of
8 each case.

9 The following examples of instruments may be deadly
10 weapons: a pistol, a shotgun, a knife, a rifle, a dirk, a
11 dagger, a slingshot, metal knuckles, a razor, gasoline, a
12 firebomb or Molotov cocktail, and lighter fluid. The use
13 of a deadly weapon permits you to infer malice, but does
14 not require you to infer malice. In other words, if such
15 conduct resulted directly in the death of another, such
16 conduct is so culpable and inexcusable, so aggravated and
17 grossly reckless as to show an active, intentional
18 disregard of the consequences of human life, thus
19 denoting a malignant spirit, a heart devoid of social
20 duty, fatally bent of mischief, the implication of malice
21 may arise.

22 Ladies and gentlemen, if you find that the state has
23 failed to prove beyond a reasonable doubt that the
24 defendant committed murder, you may consider whether the
25 state has proven beyond a reasonable doubt the defendant

1 committed involuntary manslaughter. Included within the
2 offense of murder is the lesser offense of involuntary
3 manslaughter.

4 Involuntary manslaughter is defined as the
5 unintentional killing of another, without malice, while
6 engaged in a lawful activity with reckless disregard for
7 the safety of others. Now, how does an unintentional
8 killing come about? It comes about with some degree of
9 negligence.

10 Let me explain negligence and its degrees. Simple
11 negligence is the lack of due care. In other words, the
12 doing of something a person of ordinary care and prudence
13 would not have done under the same or similar
14 circumstances. Other terms designate another degree of
15 negligence, these terms are willful, wanton, and
16 reckless. These terms imply that there was doing of a
17 negligent act knowingly; that is, when the person did a
18 negligent act, he knew it was a negligent act.

19 Any person charged with the crime of involuntary
20 manslaughter should be convicted only upon the showing of
21 criminal negligence. Criminal negligence is defined as
22 the reckless disregard for the safety of others. A mere
23 negligence would not support a conviction of involuntary
24 manslaughter. Malice is defined as the intent, without
25 justification or excuse, to commit a wrongful act.

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1 Because involuntary manslaughter is a crime without
2 malice no evidence of wrongful intent is necessary.

3 Death or injury to a child in utero due to the
4 commission of a violent crime. A person who commits a
5 violent crime, including murder and voluntary
6 manslaughter, causes the death of or bodily injury to a
7 child that's in utero at the time that the violent crime
8 is committed, is guilty of a separate offense other than
9 the offense of murder.

10 The state is not required to prove that the person
11 who committed the violent offense had knowledge, should
12 have had knowledge, that the victim of the underlying
13 offense was pregnant or that the defendant intended to
14 cause the death or bodily injury to the unborn child.
15 The term in utero means a human fetus at any stage of
16 development and is carried in the womb.

17 Possession of a crime within the commission of a
18 violent crime. The defendant is charged with possession
19 of a crime [sic] during the commission of and attempt to
20 commit a violent crime. The state must prove beyond a
21 reasonable doubt the defendant visibly displayed a knife
22 during the commission of a violent crime. A knife means
23 an instrument or a tool with a sharp cutting blade,
24 whether or not fastened to a handle which can be use to
25 inflict a cut, slash, or wound.

1 In order to find the defendant guilty of possession
2 of a weapon during the commission of a violent crime, you
3 must first find the defendant guilty of either committing
4 a violent crime or attempting to commit a violent crime.
5 Murder is a violent crime.

6 Now, as to grand larceny. What is meant by grand
7 larceny? The elements of the offense of grand larceny
8 are that the accused did take away the goods, goods or
9 things, personal property of another; and that the
10 accused intended to permanently deprive the owner of the
11 property without the owner's consent; and the value of
12 the thing taken was a thousand dollars or more.

13 I charge you, Mr. Foreman, ladies and gentlemen of
14 the jury, that grand larceny is the taking and carrying
15 away by the person goods of the person of another valued
16 at a thousand dollars or more with the intent to
17 permanently deprive the owner of its property and convert
18 it to the taker's own use. An essential element of the
19 crime of larceny is the taking possession of the goods or
20 things by the accused, must be also a carrying away in
21 order to constitute an offense. I charge you again, the
22 burden of proof beyond a reasonable doubt, each and every
23 one of these elements still lies with the state.

24 You've been selected as fair and impartial jurors,
25 sworn to impartiality, to try and determine the facts in

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1 the case. When you comply with your oath to do so, no
2 one will have a right to criticize your verdict because
3 you have fully discharged your duty as jurors. Decide
4 this case according to the testimony you heard from the
5 sworn witnesses along with the other evidence introduced.
6 I charge you as jurors you must decide the issues and
7 proceed without bias, without prejudice, to any party.
8 Do not allow yourself to be governed by sympathy, by
9 prejudice, by passion, by public opinion, or any other
10 arbitrary factor. Both the state and the defendant have
11 the right expect that each of you will carefully and
12 impartially consider all the evidence of the case and
13 follow the law as I have explained it to you.

14 Nothing I may have said or done during the course of
15 this trial has been in any way intended to express or
16 suggest my view of the case or an opinion of the facts,
17 If any inference or words seem to so indicate, disregard
18 such and form your own opinions.

19 Mr. Foreman, members of the jury, your verdict has
20 to be unanimous. All 12 of you have to agree. I would
21 say it's a collective reasoning process on your part,
22 respect each other's opinions, discuss the testimony,
23 review the evidence, reaching a fair and just verdict.

24 As far as these different causes of action, Mr.
25 Foreman, I have prepared two verdict forms. The first

1 verdict form is the name of the case, State of South
2 Carolina versus Shawn A. Williams, case numbers. Number
3 one says, "We, the jury, unanimously find the defendant,
4 Shawn A. Williams, guilty of the murder of Josephine
5 Estrich. We the jury unanimously find the defendant,
6 Shawn A. Williams, not guilty of the murder of Josephine
7 Estrich." And I have written, Mr. Foreman, if you'll
8 follow the instructions on the verdict sheet, it will
9 take you to the end of -- the top of the second page.

10 I have written, "Do you find, the defendant, Shawn
11 Williams, not guilty of the murder of Josephine Estrich?"
12 You may consider whether the defendant committed
13 involuntary manslaughter, which is a lesser-included
14 offense within the offense of murder, and answer only
15 question four. So if you find the defendant not guilty
16 of murder, then go to question four.

17 Question four says, "We, the jury, unanimously find
18 the defendant, Shawn Williams, guilty of involuntary
19 manslaughter. We the jury, unanimously find the
20 defendant, Shawn Williams, not guilty of involuntary
21 manslaughter." In other words, you can't find him guilty
22 of murder and involuntary. You can find him guilty of
23 murder or the lesser-included charge.

24 If you find the defendant guilty of murder, then
25 answer question two and three. Question two and three:

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1 Question two is concerning the death of a child in utero.
2 Question three is concerning the possession of a knife.
3 In other words, you cannot find him guilty of causing the
4 death of a child in utero while in possession of a knife
5 during the commission of a crime unless he's found guilty
6 of murder.

7 So two and three says, "We, the jury, unanimously
8 find the defendant, Shawn A. Williams, guilty of
9 committing a violent crime causing the death of a child
10 in utero at the time the violent crime was committed.
11 We, the jury, unanimously find the defendant, Shawn A.
12 Williams, not guilty of committing a violent crime
13 causing the death of a child in utero at the time of the
14 violent crime."

15 And number three, "We the jury unanimously find the
16 defendant, Shawn A. Williams, guilty of possession of a
17 knife during the commission of a violent crime. We, the
18 jury, unanimously find the defendant, Shawn A. Williams,
19 not guilty of possession of a knife during the commission
20 of a violent crime."

21 The second verdict form is concerning the grand
22 larceny. We, the jury, find the defendant, Shawn A.
23 Williams, guilty of grand larceny of property valued at
24 more than one thousand dollars. We, the jury, find the
25 defendant, Shawn A. Williams, not guilty of grand

1 larceny. There's a place on both verdict forms, Mr.
2 Foreman, for you sign and date it today. As I said, when
3 I started on the verdict form, just follow what's written
4 on the form, step-by-step. It's self-explanatory.

5 Mr. Foreman, what I'm going to do is ask you to go
6 to the jury room. You may take your notes with you.
7 Everybody take their notes. Please don't start your
8 deliberations until the bailiff brings the charge book,
9 the verdict forms, and all the exhibits that have been
10 admitted into evidence. At that time you can begin your
11 deliberations.

12 The reason I'm doing that is I need to take up my
13 charge with the attorneys and I may have to bring you
14 back and change something or add something. So I don't
15 want you to start your deliberations until I've done that
16 and the bailiff brings the items to your jury room.

17 Mr. Foreman, if you and the jury will follow the
18 bailiff. And the alternates, Mr. Whitmire and Christy
19 Allen, if you will just keep your seats, please. The
20 other 12 members of the jury, follow the bailiff to the
21 jury room. Take your notes with you, please.

22 (Whereupon, the following proceedings were had
23 outside the presence of the jury:)

24 THE COURT: Any exceptions to the charge from the
25 state?

Exceptions to charge

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1 MR. MCELHANNON: None from the state, Your Honor.

2 THE COURT: Any from the defendant?

3 MR. GAMBLE: None for the defendant, Your Honor.

4 THE COURT: All right. Would you come look at the
5 exhibits? Make sure they're all present. Put on the
6 record they're all present. I'll send the exhibits back
7 to the jury and tell them to begin their deliberations.

8 (Whereupon, the jury deliberates from 2:45 p.m.
9 until 5:30 p.m., after which the proceedings are
10 adjourned for the evening recess.)

11 January 8, 2009

12 (Whereupon, court reconvened with the jury returning
13 to deliberations from 9:27 a.m. to 1:50 p.m.)

14 THE COURT: All right. Would you bring us the jury
15 please, sir?

16 (Whereupon, the following proceedings were had
17 within the presence of the jury:)

18 THE COURT: Mr. Foreman, I think you've reached a
19 verdict; is that correct?

20 THE FOREMAN: That's correct, your Honor.

21 THE COURT: Would you hand the verdict forms to the
22 bailiff, please, sir?

23 (Foreman complies.)

24 THE COURT: Thank you, ma'am.

25 All right. Mr. Foreman, I have written your

1 verdicts on the three indictments and dated it today,
2 January 8, 2009. If you -- I'm going to give it to the
3 clerk. If you'll please sign where it says foreman, if
4 you would please. And I'll get the clerk to publish the
5 verdicts.

6 (Foreman complies.)

7 THE COURT: Madam clerk, if you'd publish the
8 verdict please.

9 THE CLERK: Thank you, your Honor. Case
10 2007-GS-04-1451, case 2008-GS-04-2554, the state of South
11 Carolina versus Shawn A. Williams. The verdict, "We, the
12 jury, unanimously find the defendant, Shawn A. Williams,
13 guilty of the murder of Josephine Estrich."

14 Next verdict, "We, the jury, unanimously find the
15 defendant, Shawn A. Williams, guilty of committing a
16 violent crime causing the death of a child who was in
17 utero at the time the violent crime was committed.

18 We, the jury, unanimously find the defendant, Shawn
19 A. Williams, guilty of possession of a knife during the
20 commission of a violent crime."

21 Mr. Foreman, ladies and gentlemen of the jury, if
22 these are your verdicts on these two indictments, would
23 you please indicate by raising your right hand.

24 (No negative response elicited.)

25 THE CLERK: Verdicts of the jury, your Honor.

Verdict and Sentencing

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1 THE COURT: All right. Let the record reflect all
2 12 jurors raised their right hand.

3 THE CLERK: Thank you, your Honor. As to case
4 2007-GS-04-1450, the state of South Carolina versus Shawn
5 A. Williams, the verdict of the jury, "We, the jury, find
6 the defendant, Shawn A. Williams, not guilty of grand
7 larceny of property valued at more than one thousand
8 dollars and less than five thousand dollars."

9 Mr. Foreman, ladies and gentlemen of the jury, if
10 this is your verdict, would you please indicate by
11 raising your right hand.

12 (No negative response elicited.)

13 THE CLERK: All hands raised, verdicts of the jury,
14 your Honor.

15 THE COURT: Thank you very much.

16 All right. Do you want me to hear from anybody on
17 behalf of the state? Any of the victim's family?

18 Glad to hear from you, Mr. Gamble, if you'll bring
19 Mr. Williams around please, sir. Mr. Williams, do you
20 want to come around, please, sir.

21 (Defendant and attorney approach.)

22 THE COURT: All right. Before we get to that, I
23 understand the sentence on the murder would be anywhere
24 from 30 to life. Does the state agree with that?

25 MR. MCELHANNON: Yes, Your Honor.

1 THE COURT: And you agree with that from the defense
2 standpoint?

3 MR. GAMBLE: Yes, Your Honor.

4 THE COURT: Child death, child in utero, also 30 to
5 life?

6 MR. MCELHANNON: Yes.

7 THE COURT: And commission of a violent crime, five
8 years?

9 MR. MCELHANNON: Yes.

10 THE COURT: Be less than the original sentence
11 encompassing five years; is that correct?

12 MR. MCELHANNON: Yes, sir.

13 MR. GAMBLE: Yes, sir.

14 THE COURT: What's his prior criminal history?

15 MR. MCELHANNON: He has a prior 1998 felony use of a
16 firearm while committing abduction. Also in '98 a felony
17 abduction in the state of Virginia.

18 THE COURT: How much time has he served on that?

19 MR. MCELHANNON: He served five years and ten
20 months.

21 THE COURT: No other record?

22 MR. MCELHANNON: Simple assault, your Honor, is it,
23 other than a carrying a concealed weapon in 1994.

24 THE COURT: Simple assault with weapon in '94?

25 MR. MCELHANNON: Yes.

1 THE COURT: And what's the time frame?

2 MR. MCELHANNON: 1998 was the felony abduction.

3 THE COURT: Yes, sir, your name?

4 MR. ESTRICH: Henry Lee Estrich.

5 THE COURT: I'll be glad to hear from you,

6 Mr. Estrich.

7 MR. ESTRICH: To kill my daughter like he did and

8 leave her on the side of the road like he did, I'm

9 looking for, hope that he get the maximum penalty.

10 THE COURT: Thank you very much. It's a real

11 tragedy for your daughter. Thank you very much.

12 Solicitor, anybody else you would like me to hear

13 from?

14 MR. MCELHANNON: I think that's all, your Honor.

15 THE COURT: Mr. Gamble, I'll be glad to hear from

16 you or anybody else, Mr. Williams or anybody you would

17 like me to hear from.

18 MR. GAMBLE: Mr. Williams wanted to address the

19 Court, your Honor.

20 THE COURT: Glad to hear you, Mr. Williams.

21 THE DEFENDANT: Truly --

22 THE COURT: You're going to have to speak up.

23 THE DEFENDANT: I'll say truly the 22nd of January

24 is a very sad day. I went to see -- my heart has been

25 going out to this family. I did what I could do to save

1 the child she was carrying, because the father wanted a
2 child when he said he wanted a child the first of the
3 year. I felt he accepted after he threatened me. When I
4 first met him, she told me that she respected Craig more
5 than her own dad. So you said what you said about the
6 knife, I tried to get it back. I wanted the baby to be
7 able to be here. Unfortunately, but God see fit for us
8 all to be able to go back.

9 THE COURT: Mr. Williams, let me say something to
10 you. I don't mind you saying something to the family.
11 The family is not sentencing you. I am. You need to
12 address me concerning sentencing. You can get anywhere
13 from 30 years to life. That's what I'm interested in
14 hearing.

15 THE DEFENDANT: I just wanted to apologize to the
16 family.

17 THE COURT: Fine. Make your apology to the family.
18 That's fine. I have no objection to that.

19 THE DEFENDANT: All right. Like I was saying, I
20 apologize to them very much because --

21 MR. GAMBLE: Talk to the Judge.

22 THE DEFENDANT: I just want to apologize to the
23 family and that, unfortunately, it was not what it
24 appeared to be.

25 THE COURT: It's not what?

1 THE DEFENDANT: The way it appeared is not what it
2 really is, what I'm saying. So I take that because I
3 love her.

4 THE COURT: According to the pathologist, you stuck
5 a knife through her sternum into her heart. That took a
6 right forceful blow.

7 THE DEFENDANT: I was there.

8 THE COURT: Why did you do it?

9 THE DEFENDANT: I was there.

10 THE COURT: I know you were there. Why did you do
11 it?

12 THE DEFENDANT: It was not -- it didn't go down like
13 that other man is saying. That's not how it went down,
14 the sad part about it.

15 THE COURT: You still saying it didn't go down that
16 way?

17 THE DEFENDANT: Just I had no intentions for her to
18 go, that's it, sad part about it. Why I -- God see fit
19 for me -- I mean, I won't do the time you won't give me
20 no way. See, what talking about, time for me to do, my
21 baby go. I apologize.

22 MR. GAMBLE: What he's referring to, your Honor,
23 there are a lot of kin of this lady in the pen, the jail
24 in the state of South Carolina, and he's saying and has
25 said from the very beginning that now he's a marked man

1 and any sentence he gets is a life -- a death sentence,
2 basically.

3 THE DEFENDANT: That would be.

4 THE COURT: I have no control over what happens in
5 prison. That's going to be between you, the warden, the
6 guard, and other inmates.

7 THE DEFENDANT: I understand. I'm not complaining.
8 Not complaining at all, Judge Nicholson, your Honor.
9 Just trying to tell you beautiful people I want so much
10 for the baby to be here. She didn't want to be here. I
11 want to be -- her brother in the wheelchair, asked could
12 he walk again, I believe he can walk again. I trying to
13 get close to -- got it put close to God, put my foot down
14 that. I cut my hand for sake -- walking and turned out
15 to be something bad. I'm trying to let call me nigger, I
16 didn't have knowledge, stupidity to want to cut my hand
17 to show her I love her that much. That much that she
18 could do whatever and I would still love her. And now
19 she's gone. Nobody -- and everybody think I did it
20 intentionally.

21 THE COURT: Well, even if your story is correct, you
22 intentionally put the knife to her chest.

23 THE DEFENDANT: Listen, I'm trying to tell you
24 something.

25 THE COURT: Pardon?

1 THE DEFENDANT: I'm trying to tell you something
2 real good.

3 THE COURT: Let me hear it.

4 THE DEFENDANT: I'm trying, telling you it didn't go
5 down like that.

6 THE COURT: You didn't put the knife to her chest?

7 THE DEFENDANT: It didn't go down like that, sir.

8 THE COURT: Well, did you put the knife to her chest
9 or did you not?

10 THE DEFENDANT: No.

11 THE COURT: You did not?

12 THE DEFENDANT: No, sir.

13 THE COURT: She stabbed herself?

14 THE DEFENDANT: That's what I was talking about the
15 detective's statement. The statement, that the man
16 tampered with the statement. You would have known that
17 the knife was in the left hand.

18 THE COURT: The knife was what?

19 THE DEFENDANT: In the left hand.

20 THE COURT: Okay.

21 THE DEFENDANT: Now, when it hit the brakes, I went
22 forward, we went forward. See what I'm saying? I didn't
23 even know if -- I would pay no attention until later on.
24 I didn't see the statement or nothing. It wasn't about
25 that. It was being her man, part of a beautiful family,

1 people I love. She cooked for me. She did.

2 Anyway, I just want to apologize, you know what I'm
3 saying? Maybe they can, even though I -- let me say
4 this. If they find forgiveness in their heart, I have,
5 time comes for judgment day, they be all right, too.
6 That's all. I'm going on be with her and the rest of my
7 family too, you know. I just want to say thank you. It
8 wasn't like no person I can't stand.

9 THE COURT: Thank you very much, Mr. Williams.
10 Mr. Gamble.

11 MR. GAMBLE: Nothing further from me, your Honor.

12 THE COURT: Anything else from the state?

13 MR. MCELHANNON: The state concurs with the victims'
14 families request of the maximum sentence, your Honor.

15 THE COURT: Okay. Mr. Williams, on indictment 1451,
16 that's the murder indictment, sentenced to the state
17 department of corrections for a period of life. That's
18 concurrent with indictment number 2554.

19 Indictment number 2554, sentence on death of child
20 in utero. Sentence is life concurrent with the murder
21 indictment.

22 Indictment 2551, possession of a knife during a
23 violent crime, sentenced to the state department of
24 corrections a period of five years.

25 Good luck to you.

1 THE COURT: Mr. Gamble, do you want ten days or do
2 you want motions today?

3 MR. GAMBLE: Neither, your Honor. We'll file
4 notice.

5 THE COURT: Mr. Foreman, members of the jury, I want
6 to thank you for your services this week. I'm going to
7 ask you to go to the jury room and the clerk will have
8 some letters for you for your employer. If you'll follow
9 the bailiff to the jury room.

10 * * * * * END OF REQUESTED TRANSCRIPT OF RECORD * * * * *

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1 CERTIFICATE OF REPORTER
2
34 STATE OF SOUTH CAROLINA)
5)
6 COUNTY OF ANDERSON)
7

8 I, Donna M. Brady, Official Court Reporter for the
9 Tenth Judicial Circuit of the State of South Carolina, do
10 hereby certify that the foregoing is a true, accurate and
11 complete Transcript of Record of the proceedings had and
12 evidence introduced in the trial of the captioned case,
13 relative to appeal, in the Court of General Sessions for
14 Anderson County, South Carolina, on the 5th through 7th
15 days of January, 2009.

16 I do further certify that I am neither of kin,
17 counsel nor interest to any party hereto.
18

19 May 25, 2009
20
21

22 Donna M. Brady
23 Donna M. Brady
24 Circuit Court Reporter
25

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Anderson County

J. C. Buddy Nicholson, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SHAWN WILLIAMS,

APPELLANT

FINAL ANDERS BRIEF OF APPELLANT

ROBERT M. DUDEK
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the court erred by refusing to direct a verdict of acquittal on the charge of murder and death of a child in utero during the commission of a violent crime, since there was no evidence appellant acted with malice aforethought, and the only evidence was that the decedent was stabbed accidentally?

STATEMENT OF THE CASE

Appellant was indicted for murder, causing the death of a child in utero during the commission of a violent crime, and possession of a knife during a violent crime. R. 311-314. Appellant's case was called to trial on January 5, 2009 before the Honorable J. C. Nicholson, Jr., and a jury. Robert Gamble represented appellant. Scott McElhannon was the assistant solicitor. R. 1.

The jury ultimately found appellant guilty on all three counts. R. 300, ll. 9-20. Judge Nicholson sentenced appellant to life imprisonment for murder, a concurrent term for life imprisonment for the death of a child in utero and five years imprisonment for possession of a knife during a violent crime. R. 308, ll. 15-24.

This appeal follows.

ARGUMENT

The court erred by refusing to direct a verdict of acquittal where the only evidence was that the decedent accidentally stabbed herself when she slammed on the brakes of her Jeep as she and appellant exchanged the knife. There was no evidence appellant killed the decedent with malice aforethought.

Relevant Facts

Patricia Grate was appellant's aunt and she lived in Anderson County. Appellant lived right across the street from Grate. R. 86, l. 11 – 87, l. 8. Grate said she did not know appellant's girlfriend Josephine Estrich. R. 87, ll. 9-10.

Grate remembered that on January 22, 2007, her neighbors, Lee and Tina Estrich, knocked on her door a little after nine at night. They informed her "that apparently a lady had been hit by the car and they needed a blanket to cover her. So I took a comforter out and we covered her up to the neck." R. 87, l. 20 – 88, l. 4.

Herman Lamar Fowler was appellant's cousin. He said appellant was like "a brother to him." R. 92, l. 18 – 93, l. 11. Fowler said he really did not know the decedent but he had seen her and appellant riding in her Jeep from time to time. R. 93, ll. 10-21.

Fowler remembered that on January 22, 2007 appellant seemed to be acting "a little hyper." This was at about nine o'clock in the morning. R. 94, ll. 1-19. Fowler admitted in his statement that he told the police appellant was acting "sort of strange" that morning. R. 95, l. 22 – 96, l. 1.

Fowler testified that appellant told him he had "to save" his relationship with the decedent that day. Fowler said he told appellant "not to do nothing crazy." R. 96, ll. 1-16.

Denise Perrin was the decedent's hairdresser and her friend. Perrin recalled that the decedent came by her house at about noon that day. Perrin learned the decedent was about six weeks pregnant. Perrin said appellant called up irate several times, and he demanded that Perrin get the decedent to the telephone to talk to him. R. 102, l. 17 – 109, l. 15.

Craig Estrich testified he was living with the decedent, who was his sister at the time. Craig remembered that appellant had dated his sister for about six months. R. 118, l. 17 – 119, l. 24.

Craig testified that appellant telephoned the house about ten to fifteen times that day. He remembered the decedent "was just happy. I don't know why." Craig recalled that the decedent told him that appellant was in Anderson, that he wanted a ride, and she asked him if she should go get appellant. Craig contended he told the decedent: "You make that decision. She went to pick him up." R. 121, l. 13 – 122, l. 3.

Craig recalled that he got a call from his cousin inquiring if the decedent had ever come home. Craig said he knew at that point that something was wrong. R. 122, ll. 9-18.

Billy Lee Ethridge was Grate's neighbor. He remembered when he returned to his house on the evening of January 22, 2007 that there was a body lying on the side of the road. Ethridge recalled: "Everyone thought she had been hit by a car." R. 133, l. 13 – 139, l. 4.

Pendleton EMS worker, Jack Dorfner, testified that he noticed injuries to the decedent that were inconsistent with "being struck by a vehicle." Dorfner said he determined this case involved a homicide. R. 139, l. 18 – 142, l. 11.

Appellant was located in Mobile, Alabama after a call was apparently placed by appellant's ex-girlfriend from Mobile to the authorities in Anderson. Garland Major of the Anderson County Sheriff's Department remembered he received a telephone call from Anderson Detective Eddie Stancil who drove to Mobile after the tip. Stancil told Major appellant had admitted to throwing his clothing in the woods after the decedent was stabbed. There was no hearsay objection to this testimony. R. 153, ll. 9-20.

The decedent's Jeep was found at the MLK apartment complex in Mobile, Alabama. Both the decedent's and appellant's blood and DNA were found inside the Jeep. The decedent's purse was found hidden underneath the sink in the home of his former girlfriend. R. 166, l. 6 – 172, l. 14; R. 178, l. 1-25; R. 224, l. 1 – 231, l. 25.

Appellant gave the Anderson detectives a statement while he was in Mobile. Appellant told Detective Stancil that he had dated the decedent for eight or nine months and "we got along real good and never fought about nothing." R. 197, ll. 15-21.

Appellant remembered he went with the decedent in the early evening that day to buy a fuel pump relay. The receipt for that fuel pump relay and the fuel pump relay were found inside the Jeep.

Appellant said he tried to explain the difference to the decedent "between physical pain and the pain of the heart." R. 199, ll. 5-10. Appellant said he cut himself on purpose with the knife and the decedent grabbed the knife from him. Appellant said, "Stupidly, I tried grab the knife back from her. When I did, she slammed on the brakes. After she slammed on the brakes, the knife went into her heart. ..." R. 198, l. 1 – 203, l. 4.

Appellant said before the decedent died they prayed together, he then threw his clothes into the woods, drove to Alabama and abandoned the Jeep at an apartment

complex. He went to his former girlfriend's house in Mobile, "and I only told her that I did something bad." R. 202, l. 1 – 203, l. 4.

Dr. Michael Ward, the pathologist, testified the decedent was stabbed in the chest and that she had two to three other stab wounds. Dr. Ward opined the decedent was deliberately stabbed, and that she had defensive wounds. R. 242, l. 3 – 248, l. 21.

Defense counsel moved for a directed verdict at the close of the evidence. R. 253, ll. 11-15. The judge rejected the argument that there "no showing of malice aforethought," and denied them motion.¹ R. 253, ll. 12-18.

Discussion

The only evidence regarding how the decedent came to be stabbed was appellant's statement that the decedent had the knife and that she was stabbed when she slammed on the brakes.

Appellant's statement to the police was largely corroborated by the other evidence. There was a receipt for the fuel pump relay he purchased with the decedent, and the fuel pump relay was found in the Jeep. Appellant's clothes were found in the woods where he told the police he abandoned them. Appellant admitted to the police that he went to Mobile, Alabama and left the Jeep in the apartment complex parking lot.

The state did not make any argument as to why appellant was not entitled to a directed verdict. Even though there was no evidence appellant killed the decedent with malice aforethought the judge denied the directed verdict motion.

¹ The judge also charged involuntary manslaughter in this case. R. 293, ll. 1-25. In addition, the judge charged that the jury may infer malice from the use of a deadly weapon. There was no objection to this jury instruction pursuant to State v. Belcher, 385, S.C. 597, 685 S.E.2d 802 (2009).

The judge charged involuntary manslaughter, and that was the only crime that the evidence supported. Where the state does not produce direct evidence or substantial circumstantial evidence that the defendant killed the decedent with malice aforethought the defendant is entitled to a directed verdict. See State v. Martin, 340 S.C. 597, 533 S.E.2d 572 (2000); State v. Schrock, 283 S.C. 129, 322 S.E.2d 450 (1984).

In the case of In re Walter M., ___ S.C. ___, 688 S.E.2d 133 (Ct. App. 2009) this Court rejected the defendant's argument that he was entitled to a directed verdict because the state had presented no evidence of malice. The Court noted there was evidence the juvenile at one point raised the gun from pointing at the ground to pointing it directly at the decedent who was shot.

Here, conversely, there is no evidence appellant deliberately stabbed the decedent. As such he was entitled to a directed verdict of acquittal on all three charges.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Anderson County

J. C. Buddy Nicholson, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

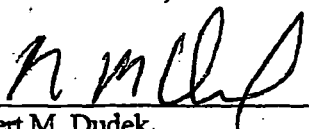
V.

SHAWN WILLIAMS,

APPELLANT

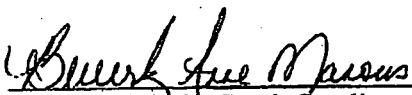
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Anders Brief of Appellant in the above referenced case has been served upon Donald J. Zelenka, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and the Final Anders Brief of Appellant and Record of Appeal on Shawn Williams, #332550 at McCormick Correctional Institution, 386 Redemption Way, McCormick, SC 29899 this 11th day of May, 2010.


Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 11th day of May, 2010.

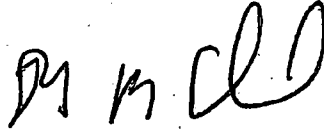
 (L.S.)
Notary Public for South Carolina

My Commission Expires: November 9, 2019

CONCLUSION

By reason of the foregoing arguments, an order of acquittal should be issued.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R M Dudek', written over a horizontal line.

Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 11th day of May, 2010

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Anderson County

J. C. Buddy Nicholson, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SHAWN WILLIAMS,

APPELLANT

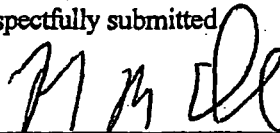
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Shawn Williams states:

1. He is Chief Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge J. C. Buddy Nicholson, Jr., which was held on January 8, 2009, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, he asks the Court to relieve him as counsel for Shawn Williams.

Respectfully submitted



Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 11th day of May, 2010.

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.

Shawn Williams, Appellant.

Appeal From Anderson County
J. C. "Buddy" Nicholson, Jr., Circuit Court Judge

Unpublished Opinion No. 2011-UP-361
Submitted June 1, 2011 – Filed June 30, 2011

APPEAL DISMISSED

Chief Appellate Defender Robert Dudek, of Columbia,
for Appellant.

Attorney General Alan Wilson, Chief Deputy Attorney
General John W. McIntosh, and Assistant Deputy
Attorney General Donald J. Zelenka, all of Columbia;
and Solicitor Christina T. Adams, of Anderson, for
Respondent.

PER CURIAM: Shawn Williams appeals his conviction for murder, causing the death of a child in utero during the commission of a violent crime, and possession of a knife during commission of a violent crime. On appeal, his counsel argues the trial court erred in denying his directed verdict motion. Williams also filed a pro se brief. After a thorough review of the record, counsel's brief, and Williams's pro se 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 dismiss the appeal and grant counsel's motion to be relieved.[1]

APPEAL DISMISSED.

FEW, C.J., and HUFF and KONDUROS, JJ., concur.

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

FORM 5

FILED-CLERK'S OFFICE
ANDERSON SC

STATE OF SOUTH CAROLINA

COUNTY OF Anderson

2012 SEP 21

IN THE COURT OF COMMON PLEAS

P 3:55

Shawn Williams #332350 COMMON PLEAS AND
Full name and prison number (if any) of Applicant GENERAL SESSIONS

v.

APPLICATION FOR

State of South Carolina Attorney of
General Office

POST-CONVICTION RELIEF

2012-CP-04-03042

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention 386 Redemption Way (McCormick, S.C.), McCormick Inst.
2. Name and location of Court which imposed sentence Anderson General Sessions
3. Name(s) of co-defendant(s) (if any) NONE
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 1451, Murder indictment / 2007 GS 04
 - (b) 2554, concurrent indictment, death of child in utero
 - (c) 2551, possession of a knife / 2007 GS 04
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) January 8, 2009
 - (b) Life, without parole, and concurrent life.

A TRUE COPY

Revised 8/30/03
SEP 21 2012

CLERK OF COURT

- (c) Plus five years.
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ✓
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. S.C. Court of Appeals (Direct Appeal)
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Denied - Anders
- ii. denied - pro se
- iii. _____
- (c) the date of each such result:
- i. May 19, 2010
- ii. September 27, 2011
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. No merit
- ii. Rule 268(d)(2) SCACR.
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) NA
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) 5th Amendment Right
- (b) 6th Amendment Right
- (c) 14th Amendment Right

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

- (a) Brady Material
- (b) Ineffective assistance Counsel
- (c) Due Process of Law

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

- (a) any petition in a State Court under South Carolina Law? YES
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NA
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NA
- (d) any other petitions, motions or applications in this or any other Court? NA

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. NA
- ii. _____
- iii. NA
- iv. _____

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

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

(c) the disposition thereof:

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

iv. _____

(d) the date of each such disposition:

i. NA

ii. _____

iii. NA

iv. _____

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

i. NA

ii. _____

iii. _____

iv. _____

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

NA

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

(a) which grounds have been presented:

i. NA

ii. NA

iii. _____

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

i. NA

ii. _____

iii. _____

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

(a) NA

(b) NA

(c) NA

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

- (a) your arraignment and plea? _____
- (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? NA

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. Robert A. Gamble / Anderson County 301 Camson Rd.
 - ii. Chief Robert M. Dudek / Appellate Defense 1330 Ledy St. Suite 401
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. At trial, Robert A. Gamble
 - ii. In direct appeal, Robert M. Dudek
 - iii. _____

19. State clearly the relief you seek in filing this application:

Vacate Conviction to less sentence, based on evidence.

20. Are you now under sentence from any other court that you have not challenged?

NA

STATE OF SOUTH CAROLINA)

County of _____)

VERIFICATION

I, ~~SAW~~, 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.

Shawn A. Williams

Shawn A. Williams 9-10-12

SWORN to and subscribed before me this 10
day of Sept, 2012.

J. C. Franklin (L.S.)
Notary Public

My Commission Expires: 12-16-2019

FILED-CLERK'S OFFICE
ANDERSON SC
2012 SEP 21 P 3:55
COMMON PLEAS AND
GENERAL SESSIONS

A TRUE COPY

SEP 21 2012

P. L. O. H. H. H.

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

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

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

Shawn Williams

Applicant

Shawn Williams 8-10-12

SWORN or affirmed to and subscribed before me this

10 day of Sept, 2012.

J C Franklin
Notary Public

My Commission Expires: 12-16-2019

COMMON PLEAS AND
GENERAL SESSIONS

2012 SEP 21 P 3:55

FILED-CLERK'S OFFICE
ANDERSON SC

A TRUE COPY

SEP 21 2012

Robert H. Hester

State of South Carolina, In The Court of Common Pleas
 County of Anderson) Ca/NO: 2012-CP-04-03042
 Shawn Williams #332550)
 VS.) Proof of Service
 Clerk of Court Anderson)
 County:)
 Respondent)

I certify that Shawn Williams; 332550
 has served a true copy of his Post Conviction Relief
 Application upon the Clerk of Court Anderson.

P.O. Box 8002 Anderson, S.C. 29622, By placing a true copy
 in the United States mail.

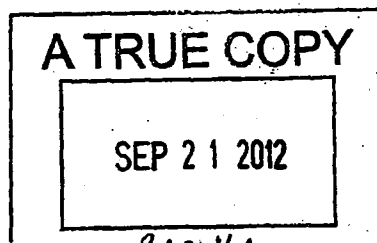
Sworn before me this
 Day of: 10 Sept. 2012
 Notary: J. A. Ankler
 Exp. Date: 12-16-2019

FILED-CLERK'S OFFICE
 ANDERSON SC
 2012 SEP 21 P 3:55
 COMMON PLEAS AND
 GENERAL SESSIONS

Shawn Williams 2-10-12

Shawn Williams #332550

S.K.
 386 Redemption Way
 McCormick, S.C. 29899



I Shawn Williams #332550
 386 Redemption Way
 McCormick, S.C. 29849

2012-CP-04-03042

Dear Honorable Clerk of Court, Anderson County.
 Enclosed, please find a original copy of
 my P.C.R application, I'm requesting a
 clocked-dated stamped copy, if you will re-
 turned to me. (Thanks kindly)

Shawn Williams 9-10-12
 Respectfully Submitted
 Shawn Williams

S.k/.

A.C.C.C.

Date 9- -2012

10 Sept 2012

JC Frank
 12-16-2019

FILED-CLERK'S OFFICE
 ANDERSON SC
 2012 SEP 21 P 3:55
 COMMON PLEAS AND
 GENERAL SESSIONS

A TRUE COPY

SEP 21 2012

P. L. O. Kelly

Shawn Williams #332550
386 Redemption Way
McCormick, S.C. 29599

A TRUE COPY

SEP 21 2012

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ANDERSON SC
2012 SEP 21 P 3 55
COMMON PLEAS AND
GENERAL SESSIONS

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2012-CP-04-03042

Clerk of Court
P.O. Box 8002
Anderson, S.C. 29622



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON	)	Case No. 2012-CP-04-3042
	)	
Shawn Williams,	)	
S.C.D.C. No. #332550	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent	)	

The Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed September 21, 2012, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Anderson County. The Applicant was indicted at the April 2007 term of the Court of General Sessions for Anderson County for murder and possession of a knife during the commission of violent crime (2007-GS-04-1451). The Applicant was indicted at the October 2008 term of the Court of General Sessions for Anderson County for death or injury to child in utero due to commission of a violent (2008-GS-04-2554). He was represented by Robert A. Gamble, Esquire. On January 8, 2009, the Applicant proceeded to trial after which he was found guilty as charged. He was sentenced by the Honorable J.C. Nicholson, to confinement for life for murder and five (5) years for possession of a knife during the commission of violent crime (2007-GS-04-1451) and life for death or injury to child in utero due to commission of a violent (2008-GS-04-2554). The sentences to be served concurrently.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. The Applicant was represented by Robert M. Dudek, Esquire on direct appeal. The South Carolina Court of Appeals on July 26, 2011 denied Applicant's appeal in an unpublished opinion. The remittitur was issued on January 20, 2012.

Attached herewith and incorporated herein by reference are the records of the Anderson County Clerk of Court regarding the subject conviction(s), the Applicant's records from the Department of Corrections, the transcript of the proceeding against Applicant, and Applicant's appellate records. Respondent reserves the right to amend its return upon the receipt of other relevant records.

II.

In his Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Trial Counsel;
2. Due Process Violation;
3. Brady Violation

III.

The Applicant's first claim is an allegation of ineffective assistance of trial counsel. The Respondent contends that the Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Id. 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, 334 S.E.2d 813.

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, 80 L.Ed.2d 674. 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, 300 S.C. at 117, 386 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.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of 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. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The Applicant further alleges that he was denied due process of law. The Applicant's allegation claims infringement of his rights under certain amendments to the United States Constitution. However, the Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must "... specifically set forth the grounds upon which the application is based." S.C. Code § 17-27-50 (2003). In an application for post-conviction relief, it is incumbent upon the Applicant to make at least a *prima facie* showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Since the Applicant has failed to make even a *prima facie* showing, the Respondent would submit that this allegation should be dismissed for failing to meet the requirements of the Uniform Post-Conviction Procedures Act. This allegation is so vague that it is impossible for the State to respond.

V.

Applicant raises additional direct appeal allegations. These allegations are not proper matters for PCR. Simmons v. State, 264 S.C. 417, 215 S.E.2d 833 (1975). Therefore Applicant's direct appeal allegations must be summarily dismissed.

VI.

The Respondent therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VII.

Applicant must specify any claims he intends to raise at the PCR trial. Any claims not *specifically* laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code '17-27-10 et seq; SCRCP 71.1. All claims should be made well in advance of the PCR hearing. If Applicant has an attorney appointed, the attorney, and not the inmate, is the only one authorized to file amendments. SCRCP Rule 11. Filings by inmates will not be considered at the PCR hearing.

VIII.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

IX.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held.

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

WALT WHITMIRE
Assistant Attorney General

By: 
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March 2nd, 2013

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
IN THE TENTH CIRCUIT

COUNTY OF ANDERSON)

2012-CP-04-3042

Shawn Williams, # 332550)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

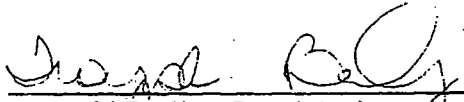
STATE OF SOUTH CAROLINA,)

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 **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Todd Pruette, Esquire
113 North Main Street
Anderson, SC 29621

DATED this 26th day of March, 2013


 Troyeshi Brailey, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	IN THE TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON	)	THE COURT OF COMMON PLEAS
	)	2012-CP-04-03042
SHAWN WILLIAMS,	)	
	)	
APPLICANT,	)	
	)	
VERSUS	)	
	)	
THE STATE OF SOUTH CAROLINA,	)	
	)	DATE: MAY 8, 2013
RESPONDENT.	)	ANDERSON, SOUTH CAROLINA

POST CONVICTION RELIEF HEARING

B E F O R E:

THE HONORABLE R. LAWTON MCINTOSH

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

TODD W. PRUETTE, ESQUIRE
ATTORNEY FOR THE APPLICANT

WALT WHITMIRE, ESQUIRE
ATTORNEY FOR THE STATE

ROBERT A. GAMBLE, ESQUIRE
WITNESS

PROVIDED FOR: SCCID

FOR COPIES CONTACT: JO RICE
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OFFICIAL COURT REPORTER
SOUTH CAROLINA JUDICIAL DEPARTMENT

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(*No Exhibits were entered into evidence)

SHAWN WILLIAMS VERSUS THE STATE OF SOUTH CAROLINA

1 THE COURT: Mr. Pruette, are you ready?

2 MR.. WHITMIRE: Yes, sir. The State calls Shawn
3 Williams v. the State of South Carolina, case number
4 2012-CP-04-3042. Mr. Williams is presently confined in the
5 State Department of Corrections pursuant to orders of
6 commitment from the Anderson County Clerk of Court. Mr.
7 Williams was indicted in the April 2007 term of court of
8 the Court of General Sessions for murder and possession of
9 a knife during the commission of a violent crime.

10 Mr. Williams was indicted in the 2008 term of the
11 Court of General Sessions in Anderson County for the death
12 and injury to a child in utero due to the commission of a
13 violent crime.

14 Mr. Williams was represented by Robert Gamble on
15 January 8, 2009. Mr. Williams proceeded to trial after
16 which he was found guilty. Judge Nicholson sentenced Mr.
17 Williams to confinement for life for murder plus five years
18 for possession of a knife during the commission of a
19 violent crime and life for the injury of a child in utero.
20 Sentences were to be served concurrently.

21 A timely notice of appeal was filed on his behalf.
22 Mr. Williams was represented by Mr. Dudek on direct appeal.
23 The Court of Appeals, July 6th, 2011 denied that appeal in
24 an unpublished opinion. Remittitur was issued January
25 20th, 2012. Mr. Williams filed his application for post-

1 conviction relief September 21st, 2012. The State filed
2 its return. Mr. Williams is present and represented by
3 counsel and at this time the State will turn matters over
4 to Mr. Pruette.

5 THE COURT: Mr. Pruette.

6 MR. PRUETTE: Thank you, Your Honor, may it please the
7 Court. Mr. Williams is here today because he believes
8 there were some errors that occurred during his hearing,
9 during his trial. Had they been corrected or brought to
10 the Court's attention or to the jury's attention, the
11 outcome may have been different.

12 THE COURT: Your grounds are ineffective assistance.
13 Is that correct?

14 MR. PRUETTE: Ineffective assistance, yes, Your Honor,
15 and also a Brady violation. Mr. Williams believes that
16 there is evidence that was collected that wasn't presented
17 to the Defense.

18 THE COURT: Failure to disclose Brady?

19 MR. PRUETTE: Yes, Your Honor..

20 THE COURT: Okay. Give me the basis for your
21 ineffective, please.

22 MR. PRUETTE: The failure to investigate. There were
23 phone records that weren't collected by the Defense and Mr.
24 Williams also had photographs taken of a cut hand that
25 weren't presented, that weren't brought. Also, failure to

1 present a defense. The Defense didn't bring any witnesses.
2 Mr. Williams didn't testify. They didn't bring any case at
3 all, Your Honor. They also -- Oh, I'm sorry. Also, for
4 the evidence, Mr. Williams requested a video from a store
5 that he left was a part of evidence that was never produced
6 to them, that was never brought.

7 THE COURT: Was that video under Brady or ineffective
8 assistance?

9 MR. PRUETTE: That would be Brady, Your Honor. And
10 also, failure to preserve objections properly. Mr. Gamble
11 should have made certain objections specifically dealing
12 with the jury charge dealing with malice inferred by the
13 use of a deadly weapon. Also, there was a pretrial
14 evidentiary hearing dealing with Mr. Williams' statement
15 and that hearing was held in front of prospective jurors
16 and that prejudiced them against him.

17 THE COURT: Jackson/Denno was heard in front of the
18 jurors?

19 MR. PRUETTE: Prospective jurors, yes, Your Honor.
20 They hadn't been sworn in yet, but they were in the
21 courtroom at the time of the hearing.

22 THE COURT: Okay.

23 MR. PRUETTE: Also, Mr. Williams believes that
24 Mr. Gamble failed to bring up the fact that when he was
25 indicted, that it was a direct indictment instead of

DIRECT EXAMINATION OF SHAWN WILLIAMS BY MR. PRUETTE

6

1 presented to a grand jury and it wasn't brought up and
2 Mr. Williams believes that prejudiced him, that it should
3 have been brought up at trial.

4 THE COURT: Well, I'm denying you on that motion
5 already. Okay?

6 MR. PRUETTE: And that's all, Your Honor.

7 THE COURT: Okay. Very good. Call your first witness.

8 MR. PRUETTE: Yes, Your Honor. We call Mr. Shawn
9 Williams.

10 THE COURT: Hold on. I'm going to change my ruling.
11 I'm going to let you try to present something on direct
12 indictment, but I will keep you on a real short leash. All
13 right?

14 MR. PRUETTE: Thank you, Your Honor.

15 THE COURT: All right.

16 (After being duly sworn by the Clerk of Court,

17 **SHAWN WILLIAMS** testified as follows:)

18 CLERK OF COURT: If you would take a seat in the
19 witness stand and state your name for the record, please.

20 MR. WILLIAMS: Yes, sir, my name is Shawn Allen
21 Williams.

DIRECT EXAMINATION

22
23 BY MR. PRUETTE:

24 Q Mr. Williams, you were convicted at this hearing in
25 January of 2009. Is that correct?

SHAWN WILLIAMS VERSUS THE STATE OF SOUTH CAROLINA

DIRECT EXAMINATION OF SHAWN WILLIAMS BY MR. PRUETTE

7

1 A That's correct, sir.

2 Q Okay. And you believe that there were some issues at
3 your trial that if they had been brought differently,
4 that a different outcome would have occurred.

5 Correct?

6 A That's correct, sir.

7 Q Now, you brought, you believe that there was a Brady
8 violation as far as you were not given all your
9 discovery. Correct?

10 A Yes, sir.

11 Q Tell us a little bit about that. What evidence was,
12 do you believe was collected that wasn't presented to
13 the Defense?

14 A First of all, I'd like to say that I'm not in the
15 position to even bring forth prejudice for my
16 attorney, because I'm indigent [verbatim].

17 THE COURT: Say that again?

18 A I said I'm indigent, so I feel kind of awkward about
19 bringing forth prejudice for my attorney because he
20 was provided by the State, you know, because I didn't
21 have to pay for an attorney, you know what I'm saying,
22 but he was present and I respect him. In the case, in
23 the beginning it was admitted that, it was said that
24 it was admitted that there was a Memorandum Act
25 [verbatim] as well as the statement was permissible.

DIRECT EXAMINATION OF SHAWN WILLIAMS BY MR. PRUETTE

8

- 1 He contested it at the evidentiary hearing.
- 2 Q Mr. Williams, what we are going to talk about first is
- 3 the evidence. What evidence do you believe was
- 4 collected in Alabama that you feel was not brought to
- 5 the Defense's attention?
- 6 A Photographs of my wounds. It was taken, but...
- 7 Q What kinds of wounds did you have?
- 8 A Cut wounds.
- 9 Q On your hand?
- 10 A Yes, sir.
- 11 Q And officers took pictures of these wounds. Correct?
- 12 A That's correct.
- 13 Q And those pictures were never brought to the Defense,
- 14 they were never given to the Defense in any kind of
- 15 discovery. Correct?
- 16 A That's correct.
- 17 Q They weren't presented at trial. Correct?
- 18 A No, they weren't.
- 19 Q Those wounds are consistent with your statement of how
- 20 you got those wounds, with trying to retrieve the
- 21 knife from the victim?
- 22 A That's correct, sir. They showed that there was
- 23 recklessness going on and also stipulated on the
- 24 statement it said I poked my hand, but there was a cut
- 25 on my hand. There's a difference from being poked and

DIRECT EXAMINATION OF SHAWN WILLIAMS BY MR. PRUETTE

9

1 being cut and I believe that would have weighed very
2 heavily and it's a Brady violation because it wasn't
3 brought into trial.

4 Q So, you believe the jury should have been given the
5 opportunity to look at those pictures and to weigh the
6 evidence ---

7 A Correct.

8 Q --- with respect to your statement as to the accuracy
9 of that?

10 A That's correct, sir.

11 Q Also, I believe you asked for a videotape of you
12 leaving the auto parts store. Correct?

13 A That's correct, sir.

14 Q And you were never given that evidence, correct? It
15 was never presented to the Defense?

16 A No, sir. It wasn't presented to the Defense, for
17 whatever reason I don't know, because it would have
18 substantiated a lot of what I said to them against
19 what was against me.

20 Q In what way?

21 A Well, sir, and Your Honor, it was shown that I walked
22 out from one store to another store where Mr. Gamble
23 contested the statement and it was shown that I did
24 not get back into the automobile at the scene. I
25 walked from one store to another store. The statement

DIRECT EXAMINATION OF SHAWN WILLIAMS BY MR. PRUETTE 10

1 said I got in the car, but that was false. I walked
2 to that store and she come over there and picked me
3 up.

4 Q Now, moving on to the ineffective service.

5 THE COURT: Well, let me ask you, how would that be
6 exculpatory as far as the video besides contradicting the
7 statement that he walked to his car first before he went in
8 the store?

9 MR. WILLIAMS: It would have shown that there was no
10 ill intent, no arguments going on. There was no arguing or
11 anything of this nature.

12 MR. PRUETTE: Yes, sir. There is a witness'
13 statement that she drove off, that she and Mr. Williams had
14 an argument and that they drove off, that there was some
15 heated exchange and that the videotape would have shown
16 that that exchange never happened and that he calmly walked
17 away to another store and that she didn't drive off in a
18 fit.

19 THE COURT: Gotcha.

20 Q Mr. Williams, moving on to the ineffective assistance
21 of counsel, you allege failure to investigate the
22 evidence. Did you tell Mr. Gamble about the pictures
23 and the photographs of your cut hand?

24 A At this point, I cannot acknowledge that I did because
25 it was so distorted in trial, you know, I was stressed

DIRECT EXAMINATION OF SHAWN WILLIAMS BY MR. PRUETTE 11

1 and overwhelmed about the loss that took place and I
2 didn't disclose it, but I would, you know, but I
3 wouldn't say I told him those intentions. No, sir.

4 Q The phone records, there is testimony from several
5 witnesses that you had called their houses looking for
6 Ms. Estrich and that in those phone calls you had some
7 heated exchanges. Did Mr. Gamble ever produce any
8 phone records or look up any records to see if any of
9 these phone calls were made?

10 A No, sir. He, we didn't get a chance to present any of
11 this because it wasn't disclosed. These records
12 weren't disclosed, they weren't disclosed to him or
13 presented at trial.

14 Q Yes, but did Mr. Gamble himself, did he ever obtain
15 these phone records?

16 A Oh, no. Not to my knowledge, no, sir.

17 Q He didn't present these at trial?

18 A No.

19 Q And going along also on the failure to present a
20 defense, you didn't testify at your trial. Correct?

21 A That's correct, sir.

22 Q Mr. Gamble also didn't call any witnesses. Correct?

23 A No, he didn't, sir.

24 Q So, he didn't bring any evidence forward in your favor
25 as far as corroborating your story and your statement

DIRECT EXAMINATION OF SHAWN WILLIAMS BY MR. PRUETTE

12

1 and also any evidence that might, such as phone
2 records or the videotape from the store showing the
3 exchange never occurred; that was never offered to the
4 jury. Correct?

5 A That's correct, sir. Unfortunately, my constitutional
6 rights were violated.

7 Q And then also, as we discussed earlier, at the
8 pretrial hearing, the evidentiary hearing on the
9 admissibility of your statement, the jury was present.
10 Correct?

11 A That's correct, sir, and that's a violation.

12 Q Okay. So, you believe that prejudiced you. You
13 testified at that evidentiary hearing. Correct?

14 A That's correct, sir.

15 Q So, the jury witnessed that. Correct?

16 A Yes, sir. That's correct.

17 Q Mr. Gamble didn't ask that the jury leave the room
18 prior to that hearing being held?

19 A A constitutional violation. No, he didn't.

20 Q And also, for the presenting the defense, there was an
21 expert witness, the medical witness that, the coroner.

22 A The pathologist.

23 Q The pathologist. He, Mr. Gamble, when cross examining
24 him, I believe that he made an error in Ms. Estrich's
25 age. Correct?

DIRECT EXAMINATION OF SHAWN WILLIAMS BY MR. PRUETTE

13

1 A That is correct, sir.

2 Q How old ---

3 THE COURT: He made an error in what?

4 MR. PRUETTE: Her age, Your Honor.

5 Q How old was Ms. Estrich?

6 A She was 34.

7 Q She was 34. The pathologist stated that she was how
8 old?

9 A Twenty-three, sir.

10 Q Twenty-three. And I believe in his report he states
11 that she was of that age and I believe she was in a
12 range between, I believe, her early twenties. Did Mr.
13 Gamble press upon this, the accuracy of her age, that
14 it could have brought doubt to the jury of the rest of
15 his statement?

16 A His expertise, his opinion was not contested, is what
17 I'm saying.

18 Q Do you believe that the fact that he got the age wrong
19 in something as simple as that, that it could have
20 brought into doubt his expertise?

21 A Yes, sir. It's a possibility that he could have been
22 brought forth the way he would have been diligent in
23 pursuing the expert witness because, basically, the
24 case was built around that. I think the expert should
25 have been questioned a little more, Your Honor, to

DIRECT EXAMINATION OF SHAWN WILLIAMS BY MR. PRUETTE

14

1 substantiate the allegations against me. My
2 constitutional rights have been violated. I ask you
3 to have mercy. I don't think he do everything
4 possible, because this has been below norm of the bar
5 association, I do believe.

6 Q And also, I believe at the end of the State's case,
7 Mr. Gamble did ask for a directed verdict. Correct?

8 A That's correct.

9 Q And that was denied?

10 A Yes, sir, it was denied.

11 Q Did Mr. Gamble ever ask for a reason for why it was
12 denied?

13 A My constitutional rights were violated in this
14 process. He did not ask that question.

15 Q Was there any reason for the denial of the directed
16 verdict?

17 A Constitutional rights violated. No, sir. He didn't.

18 Q Also, I believe during the jury charge that Judge
19 Nicholson stated that malice could be inferred by the
20 use of a deadly weapon. Is that correct?

21 A That's correct.

22 Q Okay. And I believe that there is case law that
23 states that malice can no longer be inferred by the
24 use of a deadly weapon. Correct?

25 A There is a correction on that because dealing with the

SHAWN WILLIAMS VERSUS THE STATE OF SOUTH CAROLINA

DIRECT EXAMINATION OF SHAWN WILLIAMS BY MR. PRUETTE

15

1 constitution violation, it's still a practice to
2 infer malice on the use of a deadly weapon based upon
3 the grounds that ---

4 Q There were mitigating factors in your statement that
5 gave them another possibility of what could have
6 happened? There was mitigating evidence?

7 A Yes. Yes, sir.

8 Q And you believe that Mr. Gamble should have objected
9 to this to preserve this to potentially allow for that
10 not to be brought to the jury?

11 A Yes. I do believe that was not a part of the norm,
12 the ineffectiveness, but unfortunately, I was
13 prejudiced.

14 THE COURT: Was self defense raised in this case?

15 MR. PRUETTE: No, Your Honor.

16 THE COURT: Okay.

17 Q I believe also as to the indictment, that it was a
18 direct indictment as opposed to the grand jury
19 meeting. Correct?

20 A That's correct.

21 Q And did Mr. Gamble ever bring this up during the
22 trial?

23 A Unfortunately, my constitutional rights were violated,
24 but it wasn't brought up and it wasn't contested and
25 neither was it through an affidavit, also, connected

DIRECT EXAMINATION OF SHAWN WILLIAMS BY MR. PRUETTE

16

1 with that.

2 Q Do you believe that prejudiced you?

3 A Yes, it did prejudice me.

4 Q Do you believe that had Mr. Gamble done these things
5 and brought these things to the jury's attention, that
6 possibly your sentence could have been mitigated or
7 you could have been found innocent?

8 A Your Honor, I would like to say that once again
9 showing prejudice. I'm not qualified as an attorney,
10 but I also happen to know he could have contested the
11 affidavit as well as the indictment. It would have
12 shown, the affidavit in the beginning said that it was
13 with malice aforethought. In doing so, they have to
14 have some type of evidence to go in front of the grand
15 jury, and it had to be overwhelming to go to a direct
16 indictment and for the grand jury to have malice
17 aforethought, murder from the beginning. The police
18 department takes care of the indictments concerning a
19 weapon. Well, Your Honor in going through the
20 statement, he said it was a weapon, but there was no
21 evidence of malice inferred and he could have
22 contested and brought that up. I don't have a problem
23 with the strategy of Mr. Gamble in its effectiveness,
24 but it showed ineffective by not contesting and having
25 a prospective jury there during the hearing in

DIRECT EXAMINATION OF SHAWN WILLIAMS BY MR. PRUETTE

17

1 violation of my constitutional rights according to
2 certain rules of law and they shouldn't have been in
3 there, but if he had followed the norm of the bar
4 association, he would have presented, you know, at
5 Jackson versus Denno a special hearing where only you
6 and the other parties would have been present.

7 THE COURT: All right, sir.

8 MR. PRUETTE: Your Honor, that's all we have for Mr.
9 Williams.

10 THE COURT: Okay.

11 Q May I say something to you in regards to that right
12 there? I had as one of the reasons also, concerning
13 the statement, because the totality ---

14 THE COURT: Excuse me. I need you to clarify who he
15 is and which statement.

16 MR. WILLIAMS: Oh, it was permissible to get enter the
17 statement, it was permissible.

18 THE COURT: Are you speaking of the Jackson/Denno
19 hearing prior to trial when you gave a statement?

20 MR. WILLIAMS: No, sir.

21 THE COURT: Which statement are you referring to?

22 MR. WILLIAMS: Yes, yes, yes, the statement. The
23 judge said he granted it to be admissible, but the judge
24 also stated because of the violation of my constitutional
25 right, had he been performing to his normal, if the

DIRECT EXAMINATION OF SHAWN WILLIAMS BY MR. PRUETTE

18

1 attorney had performed to his norm, the judge would have
2 said just let it be known because of the evidence presented
3 before him my constitutional right wasn't violated and
4 everything was done properly down there in Mobile, Alabama,
5 my attorney said he didn't hear what was going on. I walked
6 in there and I didn't want to talk. The judge said in
7 Memoranda versus Arizona, it must be proper. The device
8 was placed as well as me myself don't know anything about
9 advice given to me. I said I don't want to talk and I had
10 a right to be silent. Mr. Stancil wasn't there at the
11 trial to speak by asking me if it was an accident and of
12 course I wouldn't have known. An accident and I was forced
13 to come forward to give a statement because I had a right
14 to not say anything and right to an attorney and my
15 constitutional right was violated. You know what I'm
16 saying? He brought this up and the judge brought up
17 Memoranda versus Arizona and that was my safeguard towards
18 self-incrimination, but my rights was violated because I
19 didn't want to talk. I was coerced to talk. Thank you,
20 sir.

21 MR. PRUETTE: That's all we have, Your Honor.

22 THE COURT: All right. Mr. Whitmire, cross
23 examination.

CROSS EXAMINATION

24
25 BY MR. WHITMIRE:

CROSS EXAMINATION OF SHAWN WILLIAMS BY MR. WHITMIRE 19

1 Q Mr. Williams, starting with the statement you gave
2 police in Mobile, Alabama. You gave a statement to
3 Ted Stancil, Kevin Matheson, and several Mobile police
4 officers. Is that correct?

5 A That's incorrect. Only Stancil and, I think,
6 Matheson.

7 Q Didn't you initial every page of that statement?

8 A That's correct.

9 Q Before you even gave the statement, didn't you sign a
10 Miranda form that you have been advised of your
11 rights?

12 A But also Memoranda, that's what I'm saying regarding
13 Memoranda, because I stated that I didn't want to
14 talk. I was coerced.

15 Q You never invoked your right to counsel?

16 A Excuse me?

17 Q When you were being questioned, you never invoked your
18 right to counsel?

19 A What's that word?

20 Q You didn't say, "I don't want to talk to you anymore,
21 I want a lawyer."

22 A Yes, I did say my right, my constitutional right that
23 I didn't want to talk.

24 Q But you didn't do that, did you?

25 A Yes, I did.

CROSS EXAMINATION OF SHAWN WILLIAMS BY MR. WHITMIRE

20

1 Q They would have stopped the hearing.

2 A You can look at the -- the trial states on page, you
3 can go to the page, it says I didn't want to talk, I
4 was coerced by Stancil.

5 Q That was your testimony at the Denno hearing, but at
6 the end of the Denno hearing when Mr. Gamble presented
7 your defense, your claiming the fact that it wasn't
8 voluntary, didn't Judge Nicholson rule that you gave a
9 free and voluntary confessional statement?

10 A The judge also stated under Memoranda versus Arizona
11 my constitutional right was violated because my
12 present attorney would have known that.

13 Q You told Mr. Gamble all this. Didn't he bring it to
14 the Court's attention at the Denno hearing?

15 A Had Mr. Gamble not prejudiced me in disclosing
16 evidence and things of this nature. Do you know what
17 I'm saying?

18 Q In the statement you gave, didn't you have a chance to
19 review every page, initial it, and you even initialed
20 the corrections. Isn't that correct?

21 A Yes. That's correct.

22 MR. WHITMIRE: Referring to page 191, Your Honor, in
23 his statement. Just a few things.

24 Q Starting on page 199, in your statement, didn't you
25 claim that you held your knife up to yourself because

CROSS EXAMINATION OF SHAWN WILLIAMS BY MR. WHITMIRE 21

1 you wanted to show the victim the difference between
2 pain of the heart and physical pain?

3 A Incorrect. I didn't hold a knife up to myself.

4 Q And then on page 199, line 17, you state, "The victim
5 grabs the knife from me. I tried to grab the knife
6 back, she slammed on brakes and it went through her
7 chest and killed her." Is that correct?

8 A What page are you on?

9 Q Page 199, line 17. And you were holding the knife
10 when it went through her chest.

11 A One ninety-nine and seventeen.

12 Q And then on page 200, it continues, line 19, you made
13 a statement, well, a part of your statement is she
14 told you she was not going to make it, you needed to
15 just put her in the woods.

16 A Your Honor ---

17 Q That's in your statement. I mean, that's what ---

18 A But, Your Honor, you notice he said on page 199, line
19 17. It states that I grabbed a knife. That's what I
20 was saying. I was prejudiced because had this been
21 disclosed, as the cutting, it could have backed
22 everything else. My attorney would have had a chance
23 to defend the facts of that statement.

24 Q The statement was disclosed. Mr. Gamble, he had the
25 statement. Is that correct?

CROSS EXAMINATION OF SHAWN WILLIAMS BY MR. WHITMIRE

22

1 A That's correct.

2 Q And you also gave him a different statement.

3 A We was trying to prove that it was tampered with.

4 Q Okay. We'll continue on with the statement, but it
5 was admissible. Would you answer the question?

6 A Yes, that's correct.

7 Q Now, page 201, line 8, you said the victim wanted to
8 go see her daughter, but you went to your own house
9 instead, after she had been stabbed, you put her in
10 the driver's seat, I'm sorry, the passenger's seat.

11 A That's what the statement said. I didn't say it.

12 Q And the statement continues on 201, line 22. She
13 tells you, it says her last dying words were to take
14 her car and take her money and go visit your family in
15 Mobile. Is that correct?

16 A That's what the statement said.

17 Q Okay. And then on page 202, line 2, you took off your
18 clothes, threw them out, changed really fast. Is that
19 correct?

20 A That's incorrect if it said that. It never happened.

21 Q But this statement that you are claiming is completely
22 fabricated, didn't you stick to it even during the
23 sentencing even?

24 A No, I didn't stick to the statement. I contested the
25 statement.

CROSS EXAMINATION OF SHAWN WILLIAMS BY MR. WHITMIRE

23

1 MR. WHITMIRE: One moment, Your Honor.

2 Q Why would I ---

3 THE COURT: No, sir.

4 MR. WILLIAMS: All right.

5 Q Pages 307 and 308, during sentencing. And Mr.
6 Williams, do you recall the forensic pathologist for
7 the State, Dr. Ward's testimony at trial?

8 A Excuse me?

9 Q Dr. Ward, do you recall his testimony at trial?

10 A I know he got on the stand, yes.

11 Q Didn't he testify that the victim would have died
12 between three to five minutes from the loss of blood
13 from this wound?

14 A Yes. He did say that.

15 Q And on page 246, didn't he testify as a result of
16 autopsy, the victim had defensive wounds on her hand?

17 A It wasn't contested. Yes, he did say that.

18 Q Now, Mr. Gamble, he went over all this with you when
19 he got discovery. Is that correct?

20 A Say again?

21 Q Mr. Gamble reviewed all this with you when he got
22 discovery. Is that correct?

23 A No.

24 Q And outside of Dr. Ward's testimony - page 95, Your
25 Honor -- didn't Lamar Fowler testify that Josephine,

CROSS EXAMINATION OF SHAWN WILLIAMS BY MR. WHITMIRE 24

1 the victim, was on the verge of breaking up with you
2 before this alleged accident occurred?

3 A No.

4 MR. WHITMIRE: Then on page 107, Your Honor.

5 Q Didn't Ms. Perrin, Josephine's friend, testify that
6 you had called her, upset, making numerous phone calls
7 hours before the offense, demanding to speak to the
8 victim?

9 A That's what she said, but what she said was erratic.

10 MR. WHITMIRE: On page 133, Your Honor.

11 Q Billy Lee Ethridge, who discovered the victim's body,
12 didn't Mr. Ethridge testify the body was laying
13 halfway in the street and halfway in the ditch, that
14 you just left her there?

15 A That's what he said.

16 Q And when you drove to Mobile to go see, I believe,
17 your daughter or son, didn't you remove the license
18 plate from the jeep your were driving?

19 A No. No, I didn't.

20 Q You didn't?

21 A When was that statement, when you asked questions?
22 When was that?

23 Q When you fled to Mobile, when you left Mobile to go
24 see your other child, didn't you remove the license
25 plate from the jeep you were driving?

CROSS EXAMINATION OF SHAWN WILLIAMS BY MR. WHITMIRE 25

1 A No, I didn't. That was not proved, you know what I'm
2 saying?

3 Q And didn't Mr. Gamble meet with you and advise you of
4 the strength of the State's evidence when you were in
5 this case?

6 A No.

7 Q And wasn't Mr. Gamble able to get you a plea offer
8 straight up from Judge Maddox in this case?

9 A No.

10 Q Never did?

11 A No.

12 Q Not at all?

13 A No. From who, Maddox?

14 Q Uh-huh.

15 A No.

16 Q And you allege that, I believe it is, your waiver of
17 the right to testify was done in the presence of the
18 jury?

19 MR. WHITMIRE: Referring to page 252, Your Honor.

20 Q Wasn't the jury released at that point? They were
21 back in the jury room when Judge Nicholson went over
22 with you your rights to testify, your right to remain
23 silent.

24 A What page is this on?

25 Q Two fifty-two.

CROSS EXAMINATION OF SHAWN WILLIAMS BY MR. WHITMIRE

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1 A Which line?

2 Q I'm not certain. It's in the middle.

3 A And what was the question, again?

4 Q The jury wasn't present when you waived your right to
5 testify in your case. Is that correct?

6 A It says here, "Outside of the jury's presence". Okay.

7 Q And on page 255, when you waived your right to
8 testify, didn't you tell the Judge that you had met
9 with Mr. Gamble and you had the free and voluntary
10 right not to testify in your defense?

11 A Yes.

12 MR. WHITMIRE: Beg the Court's indulgence just a
13 moment.

14 Q And regarding this video of you leaving the store that
15 you claim Mr. Gamble didn't present at your trial,
16 what -- wasn't this hours before you were placed in
17 the car with the victim?

18 A I'm not understanding.

19 Q No, you said that there was some video that he did not
20 either obtain or use from the Rule 5 or the Brady
21 Violation. Can you explain the context of that? I'm
22 just confused.

23 A There's a receipt that says that I purchased the fuel
24 pump around 7:30. Okay? Now, in doing this, the
25 person sees I exit the store. Okay? Me exiting the

CROSS EXAMINATION OF SHAWN WILLIAMS BY MR. WHITMIRE

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1 store, it shows that I did not get in an automobile.
2 I walked to the other store.

3 Q Now, Mr. Williams, you made the statement you got in,
4 and furthermore, in sentencing didn't you claim this
5 was just an accident?

6 A That is correct.

7 Q So, there is no issue of alibi in your defense when
8 Mr. Gamble tried to present was that this was an
9 accident or maybe if he could potentially get a
10 negligent homicide, involuntary murder. Correct?

11 A I can't really say correct, because first of all,
12 based on him, I'm indigent, and he investigated and
13 did the best he could and couldn't do no better
14 because of the violation, my rights were violated.

15 Q Regardless, you understand Mr. Gamble has tried over
16 200-plus cases?

17 A That's why I'm saying I was prejudiced, because he did
18 what he could but he could have done better.

19 Q This evidence that you claim in this video, you
20 understand, you admit something really relevant to
21 your defense of the accident?

22 A Yes. This whole thing, I contested the statement. It
23 helps me contesting the statement that said I got in
24 the car, the statement says I got back in the car with
25 her. I was trying to contest the statement, that it

REDIRECT EXAMINATION OF SHAWN WILLIAMS BY MR. PRUETTE 28

1 was falsified. It was contaminated. Had this video
2 been brought to the Court's attention, the Judge, he
3 could have really seen -- well, wait a minute. This
4 video showing he never got in the car, because the
5 statement said we got back in the car and I got in the
6 car with her but I went to another store, the
7 convenience store, and I got coffee and another video
8 was showing when I got in the car, that I would have
9 gotten ---

10 Q Mr. Williams, so your signature wasn't on that Miranda
11 form or on the statement?

12 A Yes, my signature was, but again, my constitutional
13 rights were still violated.

14 Q And you initialed it, you went back and initialed
15 corrections in your statement afterwards ---

16 THE COURT: We've gone over that. Go ahead.

17 MR. WHITMIRE: No further questions, Your Honor.

18 Thank you.

19 THE COURT: Any redirect?

20 MR. PRUETTE: Yes, Your Honor. Thank you.

21 REDIRECT EXAMINATION

22 BY MR. PRUETTE:

23 Q Mr. Williams, on 107, they brought your attention to
24 phone calls to Ms. Perrin. Were phone records ever
25 produced to show you actually called her?

REDIRECT EXAMINATION OF SHAWN WILLIAMS BY MR. PRUETTE 29

1 A No.

2 Q Did the State or Mr. Gamble ever produce any evidence
3 that you made those phone calls?

4 A No, sir.

5 Q And those phone calls, especially the line on 107, did
6 prejudice the jury against you, correct? The type of
7 state of mind you were in. Correct?

8 A Yes, sir.

9 Q But the only testimony they have of that, or the only
10 evidence they have of that is your testimony.
11 Correct? But they can't show that you actually made
12 any of those phone calls. Correct?

13 A Correct.

14 Q Mr. Gamble never found those phone records or produced
15 those phone records to show that you made that call?

16 A Not making the call. There was something disclosed
17 that the phone line was made it was shown it was
18 erratic. The State tried to punish me with it so he
19 didn't get any phone records to show that I did or
20 didn't do it, that I made all the phone calls and the
21 statement that I made these phone calls. No.

22 A The State asked you about a plea offer that Mr. Gamble
23 had gone in front of Judge Maddox. Are you saying you
24 were never made aware of any plea offer or potential
25 plea?

REDIRECT EXAMINATION OF SHAWN WILLIAMS BY MR. PRUETTE 30

1 A He asked me had I came before a judge and offered a
2 plea. No, I wasn't offered a plea. I gave a
3 statement that had truth in its entirety. I wanted
4 the truth to be known. It was an accident. I wanted
5 the truth for the family, so they would know it was an
6 accident and I wasn't offered a plea on the evidence
7 that was going to be shown.

8 THE COURT: Say that last again?

9 MR. WILLIAMS: I say, if they had came to me with a
10 plea based upon the evidence that was presented, I would
11 have accepted, but they didn't come to me with any type of
12 plea that showed the facts, you know. There's no record
13 that they ever came before a judge for no plea.

14 Q So, Mr. Gamble didn't have you sign where you rejected
15 any kind of plea?

16 A No, sir.

17 Q No plea offer was ever offered to you, to your
18 knowledge?

19 A No, sir. There was nothing saying he came to me with
20 no paper and offered me no plea that they were even
21 asking. Nothing like that.

22 Q And to clarify, on your statement, when the State
23 asked you about asking for your attorney, you are
24 stating that the initial portion of the interview with
25 the police, you asked which one was your attorney.

REDIRECT EXAMINATION OF SHAWN WILLIAMS BY MR. PRUETTE 31

1 Correct?

2 A That's correct.

3 Q And you feel that invoked your right asking for
4 counsel. Correct? You feel that invoked your right
5 to an attorney, making sure you were represented, and
6 they should have halted the interrogation at that
7 point. Correct?

8 A That's correct.

9 MR. WILLIAMS: Your Honor, when they placed me under
10 arrest and I was arrested they wouldn't tell me why I was
11 under arrest. Why they wouldn't tell me that?

12 THE COURT: I'm not allowed to answer that.

13 MR. WILLIAMS: They didn't present affidavits saying
14 they were placing me under arrest for a murder. They
15 didn't do that. They just said, "We are going to read you
16 your rights. We want to know if you did do it or didn't do
17 it." It was a violation because I said I didn't want to
18 talk and then I was under arrest and seems like the proper
19 procedure would be to tell you you're under arrest. They
20 said yada, yada, yada, read my constitutional rights and
21 while we're giving you your constitutional rights I'm told
22 to give a statement after that. I wasn't given an option
23 whether or not I wanted to talk. I was coerced to go ahead
24 and I claimed it was an accident.

25 Q Mr. Williams, now, as far as the video, couldn't the

REDIRECT EXAMINATION OF SHAWN WILLIAMS BY MR. PRUETTE 32

1 video also signal the time that an incident occurred,
2 couldn't it also show your state of mind, that you
3 were calm at the time, there wasn't any arguing going
4 on, that you were calmly moving from one store to
5 another and that it could have played into your
6 statement that the accident had occurred correctly,
7 that you were not angry at the time when you were
8 together?

9 A Yes. Your Honor, it was in the statement that I
10 walked up to the store and I walked up to the store
11 and when I got out of a car at the grocery store and
12 the statement said that it stopped in the middle of
13 Clemson Boulevard and I walked to retrieve a fuel pump
14 and that could have weighed very heavily in my
15 defense.

16 Q And again, with the photographs in your hand, they
17 were never produced and the police in Alabama never
18 produced those to South Carolina and had never given
19 those to the Defense. Correct?

20 A That's correct. That was a violation.

21 Q Thank you, Mr. Williams.

22 MR. PRUETTE: Your Honor, that's all.

23 THE COURT: Mr. Whitmire?

24 MR. WHITMIRE: Just a few questions for Mr. Williams,
25 Your Honor.

RE-CROSS EXAMINATION

BY MR. WHITMIRE:

Q Mr. Williams, do you have those photographs today that you were talking about from the Mobile Police Department?

A I have papers that show that Mr. Stancil and Officer, the police obtained those as well as photos of me as well as the camera and it was disclosed at trial. We do have the photos, these photos that weren't contested, that show there was a record obtained that year from the detective as well as another detective that went down there twice to retrieve evidence.

Q And regarding phone records, you don't have those today and you don't have the voice mails you were talking about. Correct?

A That's correct.

Q And those phone calls could have actually hurt you pretty bad based on the witnesses' testimonies.

A I don't believe so.

Q Didn't Mr. Gamble point out to the jury in closing that the state was slacking off by not having that?

A That goes to show a violation. Yes.

Q He was able to represent you on that matter and regarding your decision not to testify, Mr. Gamble on the record says on point that your statement was

DIRECT EXAMINATION OF ROBERT GAMBLE BY MR. WHITMIRE 34

1 there and there was no point in your testifying, that
2 you waived your rights?

3 A No.

4 MR. WHITMIRE: No further questions, Your Honor.

5 THE COURT: You may step down, please, sir.

6 (Witness complies)

7 THE COURT: Call your next witness, please.

8 MR. PRUETTE: Your Honor, that's all we have.

9 THE COURT: All right. Mr. Whitmire?

10 MR. WHITMIRE: The State calls Mr. Gamble.

11 (After being duly sworn by the Clerk of Court,

12 **ROBERT GAMBLE** testified as follows:)

13 CLERK OF COURT: Take the stand and state your name
14 for the record, please, sir.

15 MR. GAMBLE: Robert Gamble.

16 DIRECT EXAMINATION

17 BY MR. WHITMIRE:

18 Q Mr. Gamble, do you recall when you were appointed to
19 Mr. Williams' case?

20 A Sometime in late February or March of '07.

21 Q And you made Rule 5 and Brady filings?

22 A I did.

23 Q Did you review State's evidence with Mr. Williams?

24 A Several times. I had a preliminary hearing on March
25 2nd and again on March 15th we had a bond hearing. He

DIRECT EXAMINATION OF ROBERT GAMBLE BY MR. WHITMIRE

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1 was located in cell B6. I went out to the jail June
2 19th of '07 and went over the case thoroughly with him
3 from 9:00 until around 3:00 or 3:30. March 12 of '08
4 I had a discussion with the Defendant about Schmerber.
5 July 22nd of '08, I went over some testimony with him
6 and went over with him to arrange a straight up plea
7 with Judge Maddox who I could not tell him what it
8 might bring because I did not have any written
9 authorization and so he chose not to plea before Judge
10 Maddox, but to go to trial.

11 Q Did you have a chance to review Dr. Ward's, the
12 principle Pathologist, report and share it with Mr.
13 Williams?

14 A All the testimony and all the witnesses' testimony and
15 statements, I went over these with Mr. Williams. Yes,
16 to answer your question, I did go over in detail, Dr.
17 Ward's statement or the discovery from Dr. Ward.

18 Q And what were Mr. Williams' facts as he gave them to
19 you or more specifically, did they differ from the
20 statement he gave police?

21 A No.

22 Q Were you able to obtain forensic reports sent from
23 Mobile to SLED?

24 A Yes.

25 Q Did Mr. Williams ask you to interview potential

DIRECT EXAMINATION OF ROBERT GAMBLE BY MR. WHITMIRE

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1 witnesses in this case?

2 A No. I did talk to Mrs. Grate several times on the
3 phone.

4 THE COURT: Mrs. Who?

5 MR. GAMBLE: Grate. G-R-A-T-E. That was the mother
6 of Mr. Williams on Grate Road in Pendleton.

7 Q And were you able to have Mr. Williams psychologically
8 evaluated?

9 A Yes, and he was determined not to need psychological
10 help and was not mentally ill.

11 Q Based on Mr. Williams' version of events, did you
12 briefly describe your trial strategy heading into
13 trial?

14 A The trial strategy was that it was an accident, based
15 on his statement. His statement is his only evidence
16 and there were -- I never did get the photographs from
17 Mobile with regards to cuts on his hands. There was
18 testimony from Officer Campbell, I think it was his
19 name, from Mobile that he did have minor cuts on both
20 hands, but in his statement he said that he was
21 cutting himself to show her the difference between
22 physical injury and emotional injury.

23 Q And in his statement, Mr. Williams alleged that he
24 made them. That is what he told the ---

25 A Yes. He told me the same thing and told the

1 investigator the same thing.

2 Q Do you briefly recall your strategy or reasoning to
3 not put up a defense in Mr. Williams' case?

4 A I knew that his statement was going to come in because
5 I've had very little success in this jurisdiction, but
6 I had to go with his statement and use it as a defense
7 instead of an admission of guilt. The difficulty I
8 had with the whole case was driving off and leaving
9 her on the side of the road and going to Mobile, out
10 of the state, instead of driving to a hospital or
11 emergency system. It just didn't make sense. If it
12 was an accident, why did he run away? That was the
13 difficulty I had and that's why the jury found him
14 guilty.

15 Q Did you see any reason to challenge the sufficiency of
16 the indictments?

17 A No, I didn't. As a matter of fact, I think, if I'm
18 not mistaken, there wasn't a direct indictment for
19 death of a child in utero. No, I didn't see any legal
20 basis to challenge that.

21 Q And at the time of trial, did you have any legal basis
22 to challenge malice in the jury instructions?

23 A At the time, no. The Supreme Court had not ruled or
24 they had ruled that it could be in and used, but the
25 ruling that it was only an inference came later after

CROSS EXAMINATION OF ROBERT GAMBLE BY MR. PRUETTE

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1 the trial, so unless I was a seer or able to project
2 to the future, I don't think I could have raised that.

3 Q Wasn't the trial held five months before the Supreme
4 Court issued State v. Belcher?

5 A I don't remember when it was held, I just know I
6 didn't have that ruling at the time of the trial.

7 MR. WHITMIRE: No more questions, Your Honor. Thank
8 you, Mr. Gamble.

9 THE COURT: Cross examination.

10 MR. WHITMIRE: Thank you, Your Honor.

11 CROSS EXAMINATION

12 BY MR. PRUETTE:

13 Q Mr. Gamble, just a few questions. As far as trial
14 strategy, one of the big hurdles for the State was
15 proving malice. Correct?

16 A Yes.

17 Q Okay. From Mr. Williams' statement and his statement
18 towards the events there was no malice included in
19 there. Correct? He states it was an accident?

20 A Yes. He claimed it was an accident. The fact that
21 she put on the brakes and was holding the knife led to
22 her death.

23 Q Okay. And I know you said the hurdle you had was him
24 driving off. That could not be explained by him just
25 being scared or kind of freaking out after the event,

CROSS EXAMINATION OF ROBERT GAMBLE BY MR. PRUETTE

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1 even if it was an accident as Mr. Williams stated?

2 That didn't so much point to malice. Correct?

3 A No. Well, technically it is an indication of malice,
4 running away or hiding or secreting oneself, but that
5 was the hardest part of the case to get around and I
6 don't think we got around it.

7 Q Also, one of the other things that pointed to malice
8 was the phone calls. Correct? To Ms. Perrin and also
9 to Ms. Estrich's brother? Correct? Showing his state
10 of mind prior to the event?

11 A I don't recall.

12 Q Did the State ever, you stated they never produced any
13 pictures of Mr. Williams' hand. Correct?

14 A Not that I recall.

15 Q You said that there was some testimony that he had
16 some injuries to the hand by one of the Alabama police
17 officers.

18 A Yes. Campbell, in Mobile, in his summary said he had
19 minor cuts on both hands.

20 Q Okay. In Mr. Williams' statement, he states that he
21 had two injuries. Correct? One from the poking
22 trying to show the difference between physical and
23 emotional pain and also one when he was trying to take
24 the knife away from Ms. Estrich. Correct?

25 A Right.

CROSS EXAMINATION OF ROBERT GAMBLE BY MR. PRUETTE

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1 Q So, if those photos would have shown more significant
2 damage to the hand other than just the poking, a small
3 cut, do you think that would have given more weight to
4 Mr. Williams' statement that it was an accident?

5 A That would be helpful, I assume. But, if I got the
6 photos and put them in, you know, they are in evidence
7 and there goes the last argument.

8 Q So, also with the phone records. The State never
9 produced any phone records to you. Correct?

10 A Not that I recall. No.

11 Q Did you ever go to look to see if they had the photos?
12 You, yourself?

13 A No.

14 Q Do you think that would have shown if Ms. Estrich or
15 Ms. Perrin didn't have those phone calls coming in
16 from a consistent phone number that it could have
17 shown or given less weight to their testimony?

18 A I don't think it would have shown anything.

19 Q Now, as far as the plea offer, Mr. Williams stated
20 that he was never, that you never came to him with any
21 kind of plea offer. I know you testified that you had
22 no specifics as to what the plea would be, do you have
23 anything that indicated that Mr. Williams turned down
24 that plea offer or it was not brought to his
25 attention?

- 1 A It was brought to his attention on July 22nd of '08.
2 Made the offer of a straight up plea to Maddox. I was
3 not going to tell him what I thought the sentence
4 would be. I don't do that. I had a discussion with
5 Judge Maddox. I knew approximately what it was going
6 to be if we did it, but I'm not allowed to tell him
7 that because something might change that comes out at
8 the plea time. I just made it a habit not to tell
9 what I was told the possible sentence would be.
- 10 Q Do you believe it would have been less than what Mr.
11 Williams received?
- 12 A I believe it would have been in the range of 30 years.
- 13 Q And what is Mr. Williams serving right now? What is
14 Mr. Williams serving right now?
- 15 A Life, without.
- 16 Q Did you ever have Mr. Williams sign anything saying
17 that he didn't want to plead, that he didn't want to
18 do the offer?
- 19 A No. I didn't, I never have those things done.
- 20 Q So, it's possible that Mr. Williams wasn't aware of
21 this offer that he could just plea straight up and
22 receive less than a life sentence?
- 23 A Now, you're changing up what I just said, because I do
24 not tell them that it will be less, I just tell them
25 that it would be to their advantage to take the plea

CROSS EXAMINATION OF ROBERT GAMBLE BY MR. PRUETTE

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1 offer that was made, period. Because if I tell him
2 it's going to be 30 years and something comes out at
3 the plea and the judge increases it, then that's on
4 me. That's not on the judge and I'm not going to do
5 that. I'm not going to tell them it's going to be "x"
6 years, because to do that breaks my confidential
7 relationship with some judges that I don't want to do
8 just for one case.

9 Q So, you're saying it would have been advantageous to
10 plea ---

11 A Yes.

12 Q --- as opposed...

13 A Yes, and I told him it would be to his advantage to
14 plea straight up in front of Judge Maddox with no ---

15 Q So, he could have inferred from there that he could
16 have received a less sentence than life?

17 A He could have inferred that or he could have inferred
18 that he could get life, too, but it was his decision,
19 not mine.

20 Q You did say that you went over the evidence with him
21 on multiple occasions.

22 A Yeah.

23 Q Did you infer, did you speak with him about how strong
24 the State's case was and you believed that they would
25 find him guilty?

CROSS EXAMINATION OF ROBERT GAMBLE BY MR. PRUETTE

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1 A I don't recall ever telling him that. I told him what
2 the facts were, what the State, what they were going
3 to show and then asked him what he wanted to do.

4 Q You did state that you told him that you thought it
5 would be to his advantage to plea, though. Correct?

6 A Yes, I told him that it would be to his advantage to
7 plea.

8 Q But you don't have any -- Mr. Williams says that he
9 was never brought that offer. You don't have any
10 proof of that offer being made to him?

11 A The only note I have is July 22nd of '08, "Made the
12 offer, straight up plea with Maddox. See notes
13 inside." And I -- on that day also saying, "See
14 discovery before making any decision." And we gave
15 him copies of all the discovery we had at that time.

16 Q So Mr. Williams, he told you about the cut on his
17 hand. Did he also tell you about the video?

18 A O'Reilly's?

19 Q Yes.

20 A I didn't consider it. I don't recall that he did, but
21 I didn't consider that of any evidentiary value.

22 Q Being so close to when things happened, do you believe
23 it could have shown his state of mind and that he was
24 calm at that time and again, go to malice and lack
25 thereof?

CROSS EXAMINATION OF ROBERT GAMBLE BY MR. PRUETTE

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1 A I think it was, if I recall, I believe it was two
2 hours before the incident. I don't think it would
3 have shown anything.

4 Q Dr. Ward's testimony, Ms. Estrich from Mr. Williams'
5 testimony and also from her death certificate
6 statement, she was 34 years old when she passed. Dr.
7 Ward states she was 23 when she passed. Wasn't his
8 testimony also something that played into malice,
9 proving malice, because of his testimony?

10 A He didn't exactly say there was any malice and the
11 fact that the incident report that he had, had her age
12 listed as 23. The death certificate, that information
13 was taken from her brother, which showed her age at
14 34. I didn't consider that of any importance to the
15 case whatsoever, the age of the deceased. Unless she
16 was a minor or a child, that might have an effect.
17 Dr. Ward, to my knowledge, and I don't recall exactly,
18 but I don't think he could prove any malice other than
19 the fact that the wound was three-and-a-half inches
20 deep into her heart and she bled out in no time flat
21 from that wound.

22 Q I believe that Dr. Ward stated that it was deliberate
23 force. Is that correct? That would have to -- would
24 that ---

25 A If that's what he said, that's what he said.

1 Deliberate force doesn't necessarily indicate malice.
2 He explained it when she put on the brakes when he
3 stabbed her.

4 Q As far as the jury instruction, being able to infer
5 malice through the use of a deadly weapon, and I know
6 that that case that went to the Supreme Court was
7 tried in May and this was tried in June of 2009, but
8 wasn't there some indication that the tide was turning
9 and that malice would no longer be inferred through
10 the use of a deadly weapon? I mean, that case in May
11 they objected to that jury instruction and got
12 overturned and the case here where showing malice was
13 such an important thing, don't you think it would have
14 been wise to object to that jury instruction?

15 A I was just a plain old criminal lawyer at that time
16 and I could not guess what the Supreme Court was
17 liable to do or not do and I took the law as it was
18 given to me and that was what I had to use and to
19 answer the question, if I objected to the inference of
20 malice, I would have no basis for it at that time.

21 Q Do you agree that malice was an issue and malice was a
22 burden of the State to prove and one problem they had
23 was trying to prove malice. Correct? The use of a
24 deadly weapon pretty much made it an easier process
25 for them.

CROSS EXAMINATION OF ROBERT GAMBLE BY MR. PRUETTE

46

1 A It was easier for them.

2 Q So, had that jury instruction not been included,
3 malice might have been harder to prove. Correct? And
4 his sentence could have possibly been mitigated?

5 A There is an old statement that says, "If a frog had
6 wings," and that's the situation you are raising here.
7 It's not a true situation because it didn't exist at
8 the time of this trial.

9 Q But you do say that malice was the hardest part of the
10 State's case. Correct?

11 A I think the State showed malice or did attempt to show
12 malice by his fleeing and subsequent to the accident
13 occurring, leaving the body on the side of the road.
14 I mean, if he had gone to the hospital it would have
15 been difficult for them to show malice, even if she
16 was dead already.

17 Q Mr. Gamble, during the indictment process and the
18 direct indictment not having the grand jury convene
19 and also showing that the affidavit in both of these
20 proving that there was malice aforethought, prior to
21 evidence, do you think that prejudiced Mr. Williams
22 and should have been something brought to the Court's
23 attention and possibly mitigating his sentence and
24 also his charges?

25 A No.

REDIRECT EXAMINATION OF ROBERT GAMBLE BY MR. WHITMIRE 47

1 MR. PRUETTE: Thank you, Your Honor.

2 THE COURT: Redirect?

3 MR. WHITMIRE: One question, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. WHITMIRE:

6 Q Wasn't Dr. Ward qualified as an expert in pathology?

7 A Yes.

8 Q Did you have any reason to object to any testimony
9 that Dr. Ward gave within his expertise?

10 A The only objection possible was the one that I knew
11 that she was not 23, but I didn't see that as relevant
12 or germane.

13 MR. WHITMIRE: Thank you, Your Honor. No further
14 questions.

15 THE COURT: All right. Thank you, sir. You may step
16 down. Is there any reason why Mr. Gamble can't be excused?

17 MR. WHITMIRE: No, Your Honor.

18 THE COURT: Anything further from the State?

19 MR. WHITMIRE: No, Your Honor.

20 THE COURT: From the Applicant?

21 MR. PRUETTE: No, Your Honor.

22 THE COURT: All right. I want to go over the grounds
23 of ineffective assistance: That the attorney failed to
24 properly investigate the case, that photos were not
25 presented of his wounds on his hand, he failed to present a

1 defense, failed to preserve objections regarding the jury
2 charge, the State failed to disclose Brady information,
3 being the video, further, that the Jackson/Denno was
4 conducted in front of jurors, and that there was a direct
5 indictment. Is that correct?

6 MR. PRUETTE: Yes, Your Honor.

7 THE COURT: All right. Let me address those. First,
8 as attorneys certainly know, the Applicant has the burden
9 of proof in this case. It's not just the burden to make
10 accusations or allegations, it's the burden to present
11 evidence to show that there was a deviation from the norms
12 expected of attorneys and also showing the resulting
13 prejudice that occurred that would make the trial turn out
14 differently.

15 In this case, Mr. Williams failed in all regards. He
16 failed to present any evidence, whatsoever, 1) that there
17 was a deviation from the standard expected of Mr. Gamble's
18 conduct, 2) even if there were, that the outcome of this
19 case would have been any different.

20 The failure to investigate. There has been no showing
21 as to what a proper investigation would have shown. In
22 effect, the photos, alleged wounds to the hand as
23 described, and obviously, that information was the same as
24 the Defendant's position and why he couldn't have put that
25 forward, I don't understand. Failure to present a defense

1 goes to failure to investigate. Those two things are
2 interrelated.

3 As to the jury charge. At the point in time this
4 trial occurred, there was no, the case law was such that
5 while you may have hoped to change the law, a failure to
6 object under that hope does not constitute a deficient
7 performance. Therefore, I'm going to find that Mr.
8 Gamble's performance in not objecting is not a deviation
9 from the norms expected.

10 As to the failure to disclose Brady material, there's
11 been no showing what the video would have shown. That
12 burden is on the Applicant. The Jackson/Denno, there's
13 been no evidence whatsoever or testimony, whatsoever, other
14 than counsel's opening statement that Jackson/Denno
15 occurred in front of any jurors and so that is discounted
16 in all respects.

17 The direct indictment versus the other is totally
18 irrelevant and has no bearing on this case.

19 All that being said, I find that Mr. Williams has
20 failed to meet his burden of proof, either as to the
21 deviations of the standards to be met by counsel or
22 prejudice caused by that alleged deviation.

23 That being said, I'm curious as to what effect, if
24 any, the change in the inference of malice would have after
25 the fact in this matter.

1 MR. WHITMIRE: Well, Your Honor, the Belcher opinion
2 has one footnote in which the Court specifically applied
3 the AIT analysis and said this is not retroactive and so
4 the State has found it is not retroactive and so at that
5 point, in terms of ineffective assistance of counsel, trial
6 counsel is not under the duty to be clairvoyant to
7 anticipate changes in the law just the norms at the time
8 and from Mr. Gamble's testimony, even if he did make an
9 objection, there's no indication that would have been
10 sustained, that the jury charge would not have gotten in
11 until the Supreme Court came down with an altered opinion.

12 THE COURT: All right. Mr. Pruette?

13 MR. PRUETTE: Your Honor, our position is still that
14 if Mr. Gamble would have made the objection, in the Belcher
15 case, that attorney had some ground to make an objection
16 and also if the objection had been made here, this case
17 would have been, pending appeal, it would have been
18 overturned on that.

19 THE COURT: I'm going to overrule you on those grounds
20 as well. I'll ask Mr. Whitmire to draft an order
21 consistent with my oral ruling and your submissions. Give
22 it to Mr. Pruette prior to submission to me, prior, so if
23 y'all have any objections to it, y'all can hash them out
24 before you submit it to me. If you can't work it out, give
25 me a list of your objections with the proposed order and I

1 will deal with it. Mr. Pruette, do you have anything
2 further?

3 MR. PRUETTE: Your Honor, I was going to ask if Your
4 Honor wanted me to draft the order, but...

5 THE COURT: I'm going to let Mr. Whitmire draw it up.

6 MR. WHITMIRE: I will draft the order within 30 days
7 and send it to Mr. Pruette first.

8 THE COURT: Okay. That being said, we'll take about a
9 ten minute break.

MR. PRUETTE: Thank you, Your Honor.

MR. WHITMIRE: Thank you, Your Honor.

(At which point, the hearing was concluded)

STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)

CERTIFICATE

BE IT KNOWN THAT I, THE UNDERSIGNED JO RICE, OFFICIAL COURT REPORTER FOR THE TENTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING TRANSCRIPT REPRESENTS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE HEARING IN THE CAPTIONED CASE, RELATIVE TO APPEAL, BEFORE THE CIRCUIT COURT FOR ANDERSON COUNTY, SOUTH CAROLINA, SO GIVEN ON MAY 8, 2013 TO THE BEST OF MY SKILL AND ABILITY;

THAT I AM NOT RELATED TO NOR AN EMPLOYEE OF ANY OF THE PARTIES HERETO, NOR A RELATIVE OR EMPLOYEE OF ANY ATTORNEY OR COUNSEL EMPLOYED BY THE PARTIES HERETO, NOR INTERESTED IN THE OUTCOME OF THIS ACTION.

IN WITNESS WHEREOF I HAVE HERE UNTO SET MY HAND AND SEAL THIS 8TH DAY OF NOVEMBER, 2013.



JO RICE
OFFICIAL COURT REPORTER

STATE OF SOUTH CAROLINA)
 COUNTY OF ANDERSON)
 IN THE COURT OF COMMON PLEAS
 FOR THE TENTH JUDICIAL CIRCUIT

Case No. 2012-CP-04-3042

Shawn Williams,
 S.C.D.C. No. 332550,

Applicant,

v.

State of South Carolina,

Respondent.

ORDER OF DISMISSAL

A TRUE COPY

AUG - 1 2013

Richard S. Kiley
 CLERK OF COURT

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed September 21, 2012. Respondent made its Return on March 26, 2012. An evidentiary hearing into the matter was convened on May 8, 2013 at the Anderson County Courthouse. The Applicant was present at the hearing and was represented by Todd Pruette, Esquire. The Respondent was represented by Walt Whitmire, Esquire, of the South Carolina Attorney General's Office. Applicant and trial counsel testified.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Anderson County Clerk of Court. Applicant was indicted at the April 2007 term of the Anderson County Grand Jury for murder and possession of knife during the commission of a violent crime (2007-GS-04-1451). Applicant was also indicted for death or injury to a child in utero due to the commission of a violent offense (2008-GS-04-2554). He was represented by Robert Gamble (trial counsel), Esquire. On January 8, 2009, the State called its case to trial. Applicant was found guilty as indicted. He was sentenced by the Honorable J.C. Nicholson to two terms of life imprisonment and a five year term of imprisonment for the weapons offense. The sentences were to be served concurrently.

A timely Notice of Appeal was filed on Applicant's behalf. Robert M. Dudek, Esquire, represented Applicant on the appeal. The South Carolina Court of Appeals affirmed Applicants sentence and conviction in an unpublished opinion (2011-UP-361) filed June 30, 2011. The Remittitur was issued on January 20, 2012.

At the PCR hearing, Applicant moved forward on the following allegations:

1. Ineffective assistance of counsel:
 - a. failure to investigate phone records and photographs relevant to Applicant's case.
 - b. failure to object to the Denno hearing being held before prospective jurors.
 - c. failure to challenge the direct presentment of the indictment.
 - d. failure to present a defense.
 - e. failure to object to improper testimony from the State's expert forensic pathologist.
 - f. failure to object to inference of malice from the use of a deadly weapon jury instruction.
2. Prosecutorial misconduct
 - a. Failure to comply with Brady and disclose photographs of Applicant and a video recording of Applicant and the victim prior to the commission of the offense.

SUMMARY OF TESTIMONY

At the PCR hearing Applicant testified. Applicant alleged trial counsel was ineffective for failing to investigate evidence that corroborated his version of the murder. Applicant stated he obtained cuts on his hands when he accidentally killed the victim. Applicant stated the Mobile police took photographs of his hands subsequent to his arrest. Applicant stated he told trial counsel about the wound on his hands. However, Applicant stated he never told trial counsel the Alabama police took pictures prior to being transferred in custody to Anderson. Applicant stated he failed to disclose this fact because he was overwhelmed. Applicant also alleged trial counsel failed to investigate phone records of the State's witnesses. Applicant also alleged trial counsel was ineffective for failing to present a defense at trial. Applicant stated trial counsel did not

present defense witnesses or evidence. Applicant also stated trial counsel did not have him testify. Applicant stated trial counsel never advised him on the strength of the State's evidence.

Applicant alleged trial counsel was ineffective for not challenging the process by which he was indicted. Applicant stated he was indicted by direct presentment. Applicant stated trial counsel should have challenged the procedure because Applicant now believes the grand jury might have decided not to indict him based on the language in the arrest warrant.

Applicant alleged trial counsel was ineffective for failing to object to the trial judge holding the Denno hearing in the presence of jurors. Applicant stated he was prejudiced from the contamination. Applicant stated trial counsel should have challenged the voluntariness of his statement. However, Applicant did not testify to beneficial facts that would have aided a defense at the Denno hearing.

Applicant alleged trial counsel was ineffective for failing to object to the improper testimony offered by the State's forensic pathologist. Applicant stated trial counsel should have objected when the pathologist incorrectly testified to the victim's age. Applicant stated trial counsel did not challenge the pathologist's experience. Applicant also stated trial counsel should have objected to the improper opinion testimony regarding force used to pierce the victim's heart.

Applicant alleged trial counsel was ineffective for failing to object to the pre-Belcher jury charge on the inference of malice from the use of a deadly weapon. Applicant also stated trial counsel failed to properly preserve his objection to the trial judge's denial of Applicant's directed verdict motion.

Last, Applicant alleged prosecutorial misconduct. Applicant alleged the solicitor failed to disclose Brady materials. First, Applicant stated the solicitor failed to disclose photographs from the Mobile police that showed cuts on his hands. Applicant stated these pictures would have

corroborated his testimony that he obtained the cuts while trying to grab the knife from the victim. Second, Applicant stated the solicitor failed to disclose a video recording from a local auto parts store that showed Applicant and the victim acting harmoniously. Applicant also stated the video would have contradicted timeline testimony from a State's witness.

Trial counsel testified at the PCR hearing. Trial counsel was appointed to represent Applicant in March of 2007. Trial Counsel recalls meeting with Applicant on at least five occasions to discuss the case. He filed for discovery and reviewed on the findings with Applicant on several occasions. Trial counsel reviewed the State's witness statements with Applicant. He additionally obtained and reviewed the SLED forensic report and the report of the pathologist's findings with Applicant. Trial counsel provided Applicant a copy of materials disclosed by the solicitor in discovery. Trial counsel discussed Applicant's version of the facts and contents of his statement to police with Applicant. Trial counsel testified that the version of the facts as Applicant told him did not materially differ from the statement he made while in custody. Trial counsel stated Applicant did not request he interview potential trial witnesses. Trial counsel had Applicant undergo a competency evaluation, which did not produce beneficial results to Applicant's defense. Trial counsel engaged in guilty plea negotiations with the solicitor and obtained a favorable offer. Trial counsel conveyed the guilty plea offer to Applicant and advised him that it was in his interest to accept it. However, Applicant refused the offer.

Regarding Applicant's failure to investigate allegation, trial counsel testified he conducted an investigation pursuant to his trial strategy. Although Applicant failed to produce phone records at this hearing, trial counsel surmised the evidence would most likely have yielded no benefit to Applicant's defense. Similarly, although Applicant failed to produce any evidence related to pictures of the wounds on his hands, trial counsel testified the evidence would not have

been material to Applicant's case. Trial counsel stated that presenting evidence on the issue would not have been worth forgoing the opportunity to make the final closing argument at trial.

Regarding other allegations made by Applicant, trial counsel testified Applicant was properly indicted. Trial counsel also testified he had no sustainable ground to object to the trial judge's jury instruction on the inference of malice. Trial counsel stated he could not prognosticate on the Supreme Court's future rulings. Trial counsel testified he did not find the pathologist's testimony objectionable. Trial counsel stated the victim's age was not relevant or germane to pathologist's findings. Trial counsel stated the pathologist's opinion testimony did not necessitate an objection. Trial counsel stated that "deliberate force" was not necessarily an indicator of malice.

Regarding the allegation of prosecutorial misconduct, trial counsel testified the purported evidence in question would not have constituted material evidence in Applicant's case. Trial counsel stated the alleged video recording of Applicant and the victim hours prior to the commission of the offense would have lacked any evidentiary value. Trial counsel echoed a similar response with regards to the purported photographs of Applicant's hands.

APPLICABLE LAW

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 692 (1984); Butler, 286 S.C. at 441, 334 S.E.2d at 813.

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. at 668, 104 S.Ct. at 2064. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 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.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court reviewed the Clerk of Court's records regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, the transcripts and documents from the prior proceedings, and, and legal arguments of counsel. Pursuant to S.C. Code Ann. §17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

A.

This Court finds Applicant failed to meet his burden to prove trial counsel was ineffective for failing to investigate phone records of State's witnesses and evidence of injury to Applicant's hands. "Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result." Moorehead v.

State 386, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998). This Court finds trial counsel's testimony credible and Applicant's testimony not credible. This Court finds trial counsel conducted a thorough investigation into Applicant's case. At trial, several State witnesses testified to receiving phone calls from Applicant in relation to the victim prior to trial. (Trial Tr. p.103; p.109; p.119; p.149). Applicant presented no credible evidence in support of this allegation. Additionally, Applicant failed to produce the alleged pictures taken of hands or produce credible evidence that the pictures existed. Therefore, this allegation is denied and dismissed.

B.

This Court finds Applicant's allegation trial counsel was ineffective for challenging his indictment proceeding is without merit. "Although an indictment does not confer subject matter jurisdiction, due process requires that a criminal defendant be properly served with a valid indictment. The indictment is a notice document that is required by our state constitution and statutes." State v. Smalls, 364 S.C. 343, 346, 613 S.E.2d 754, 756 (2005). "If the objection is timely made, the circuit court should judge the sufficiency of the indictment by determining whether (1) the offense is stated with sufficient certainty and particularity to enable the court to know what judgment to pronounce, and the defendant to know what he is called upon to answer and whether he may plead an acquittal or conviction thereon; and (2) whether it apprises the defendant of the elements of the offense that is intended to be charged." State v. Gentry, 363 S.C. 93, 102-03, 610 S.E.2d 494, 500 (2005). This Court finds Applicant was properly noticed of the charges he was convicted on at trial. Therefore, this allegation is denied and dismissed.

C.

This Court finds Applicant failed to meet his burden to prove trial counsel's performance during the Denno hearing was ineffective. "To determine the voluntariness of a statement, the

circuit court must first conduct an evidentiary hearing, outside the presence of the jury, where the State must show the statement was voluntarily made by a preponderance of the evidence.” State v. Dye, 384 S.C. 42, 47, 681 S.E.2d 23, 26 (Ct. App. 2009) (citing State v. Miller, 375 S.C. 370, 379, 652 S.E.2d 444, 448 (Ct. App. 2007)). “During this hearing, the circuit court must examine the totality of circumstances surrounding the statement and determine whether the State has carried its burden of proving the statement was given voluntarily.” Id. (citing Miller, at 383, 652 S.E.2d at 450)). This Court finds trial counsel’s testimony credible and Applicant’s testimony not credible. The trial transcript indicates the jury was dismissed subsequent to voir dire. (Trial Tr. p.47). The trial judge held the Denno hearing followed by a recess before the jury returned for opening statements. (Trial Tr. p.76). The Applicant failed to produce any witnesses to corroborate this allegation. See Foye v. State, 335 S.C. 586, 590, 518 S.E.2d 265, 267 (1999) (finding “Petitioner did not offer the testimony or affidavits of any of the seated jurors that they saw petitioner in chains and petitioner was prejudiced thereby. Without this evidence, petitioner’s claim is not supported by any probative evidence and is based on pure speculation.”). Furthermore, “[a]bsent evidence to the contrary, the regularity and legality of proceedings in general sessions court is presumed.” Weathers v. State, 319 S.C. 59, 62, 459 S.E.2d 838, 839 (1995) (citing Pringle v. State, 287 S.C. 409, 339 S.E.2d 127 (1986)). Additionally, this Court finds Applicant failed to show how trial counsel was deficient in failing to get Applicant’s statement suppressed. Therefore these allegations are denied and dismissed.

D.

This Court finds Applicant failed to meet his burden to prove trial counsel was ineffective for failing to present a defense. This Court finds trial counsel’s testimony credible and Applicant’s testimony not credible. Where the defendant claims that this right [to testify] was violated by defense counsel, this claim is properly framed as a claim of ineffective assistance of

counsel.” State v. Rivera, 402 S.C. 225, 240, 741 S.E.2d 694, 702 (2013) (citing United States v. Teague, 953 F.2d 1525, 1535 (11th Cir.1992)). This Court finds trial counsel’s advice to Applicant to not testify was a matter of sound trial strategy. See State v. Crowe, 258 S.C. 258, 268, 188 S.E.2d 379, 384 (1972) (“The election by a defendant to offer testimony or not is so intertwined with trial strategy, the development of the State’s case, and the basic rights of the defendant until the order of argument to the jury can only be finally determined in the light of the facts developed at the trial.”). This finds trial counsels strategy valid. Applicant’s detailed statement that the offense was accidental would have been submitted to the jury notwithstanding Applicant’s decision to testify. Trial counsel did not want sacrifice having the final closing argument at trial. See Moorehead, 386 S.C. at 329, 496 S.E.2d at 415. Furthermore, this Court finds the trial judge conducted thorough colloquy with Applicant on the matter. (Trial Tr. pp.254-7). See Brown v. State, 340 S.C. 590, 595, 533 S.E.2d 308, 310 (2000) “[a]n on-the-record waiver of a constitutional or statutory right is but one method of determining whether the defendant knowingly and intelligently waived that right.”).

Brown v. State, 340 S.C. 590, 595, 533 S.E.2d 308, 310 (2000). Additionally, Applicant failed to present any defense or evidence that trial counsel should have but did not present at trial. Therefore, this allegation is denied and dismissed.

E.

This Court finds Applicant failed to prove trial counsel was ineffective for failing to object to alleged improper testimony and jury instructions. This Court finds trial counsel’s testimony credible. Trial counsel testified he did not object to the pathologist’s inaccurate testimony regarding the victim’s age because the testimony was irrelevant and inconsequential to proving the cause of death. This Court agrees and finds Applicant suffered no prejudice. Second,

trial counsel testified he had no meritorious basis to object to expert opinion testimony. This Court agrees with trial counsel's assessment on the matter. "Expert testimony may be used to help the jury to determine a fact in issue based on the expert's specialized knowledge, experience, or skill and is necessary in cases in which the subject matter falls outside the realm of ordinary lay knowledge." Watson v. Ford Motor Co., 389 S.C. 434, 445, 699 S.E.2d 169, 175 (2010). This Court finds the forensic pathologists testimony on the cause and methodology of murder was reasonably confined to his expert qualification. This Court finds Applicant failed to produce any credible testimony that showed the expert was not qualified to testify on the matter. Furthermore, trial counsel vigorously cross-examined the expert on the matter. (Trial Tr. pp.249-51). See Lorenzen v. State, 376 S.C. 521, 531, 657 S.E.2d 771, 777 (2008) Therefore the allegation is denied and dismissed.

This Court finds Applicant's allegation that trial counsel failed to properly preserve his motion for directed verdict for appellate review is without merit. The State produced overwhelming evidence of Applicant's guilt at trial. This Court also finds Applicant's allegation that trial counsel should have objected to the trial judge's jury instruction that "malice may be inferred from the use of a deadly weapon" is without merit. State v. Belcher was decided by the Supreme Court half a year after Applicant's trial. See State v. Belcher, 385 S.C. 597, 685 S.E.2d 802 (2009). This Court agrees with trial counsel that he not is required to be clairvoyant. See Thornes v. State, 310 S.C. 306, 426 S.E.2d 764 (1993). Therefore, this allegation is denied and dismissed.

F.

This Court finds Applicant failed meet his burden to prove prosecutorial misconduct. "To establish a due process violation, an accused must demonstrate (1) the evidence was favorable to the accused, (2) it was in the possession of or known to the prosecution, (3) it was suppressed by

the prosecution, and (4) it was material to guilt or punishment.” State v. Geer, 391 S.C. 179, 192, 705 S.E.2d 441, 448 (Ct. App. 2010). This Court finds Applicant’s testimony not credible. Applicant wholly fails to prove the purported evidence was material. Applicant did not produce either the alleged video recording or the photographs. Neither did the Applicant produce any credible evidence that validated the existence of the evidence in dispute. This Court finds rhetoric alone does not above Applicant’s burden of proof to substantiate his claim. See State v. Newton, 274 S.C. 287, 291, 262 S.E.2d 906, 909 (1980). (“Mere absence of evidence of speculative value to a defendant without deliberate misconduct by the prosecution does not deprive a defendant of a fair trial.”). Therefore these allegations are denied and dismissed.

All Other Claims

Except as discussed above, this Court finds that the Applicant affirmatively waived the remaining allegations set forth in his application at the hearing. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. “An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable.” Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant’s failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

CONCLUSION

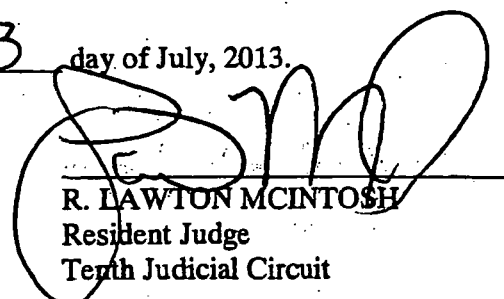
Based on all the forgoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a notice of intent to appeal within thirty (30) days from receipt of this Order to secure the appropriate appellate review. See Rule 203, SCACR; Rule 71.1(g), SCRCP; Bray v. State, 336 S.C. 137, 620 S.E.2d 743 (2005), for the obligation of Applicant's counsel to file and serve notice of appeal. The Applicant's attention is also directed to South Carolina Appellate Court Rule 243 for appropriate procedures after notice has been timely filed.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. Applicant must be remanded to the custody of Respondent

AND IT IS SO ORDERED this 23 day of July, 2013.


R. LAWTON MCINTOSH
Resident Judge
Tenth Judicial Circuit

Anderson, South Carolina

FILED-CLERK'S OFFICE
JUL 23 - 1 A 9:10
AND
GENERAL SESSIONS

WITNESSES
ACSD/K. MATHESON

DOCKET NO. 2007-65-04-1451

The State of South Carolina,
ANDERSON

County of _____

COURT OF GENERAL SESSIONS

APR 24 2007 TERM

THE STATE

MSM

vs.

SHAWN A. WILLIAMS

ARREST WARRANT NO. J423571
DIRECT

ACTION OF GRAND JURY
TRUE BILL

APR 24 2007

Foreman of Grand Jury

Foreperson

VERDICT

Guilty (6 counts)

Grand Juror
1/8/09
Date: Foreman of Petit Jury

Indictment for

Count One - MURDER

16-3-10/16-3-20 [0116]

Count Two - POSSESSION OF A KNIFE DURING
THE COMMISSION OF A VIOLENT CRIME
16-23-490 [0549]

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SEP 21 2012

01/08/09
Camp

Vol. II

FORM 32 (12/87)

STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)

INDICTMENT FOR

Ct. One - Murder

Ct. Two - Possession of a Knife During

The Commission of a Violent Crime

APR 24 2007

At a Court of General Sessions, convened on _____,
the Grand Jurors of ANDERSON County present upon their oath:

COUNT ONEMURDER

That Shawn A. Williams did in Anderson County, South Carolina, on or about January 22, 2007 feloniously, wilfully and with malice aforethought, kill one Josephine Estrich by means of stabbing her with a knife and the said victim died on January 22, 2007 as a proximate result thereof.

COUNT TWOPOSSESSION OF A KNIFE DURING THE COMMISSION OF A VIOLENT CRIME

That Shawn A. Williams did in Anderson County, South Carolina, on or about January 22, 2007 possess a knife during the commission of a violent crime, to wit: Murder. All in violation of Section 16-23-490, Code of Laws of South Carolina, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Scott McElhiney
SOLICITOR

A TRUE COPY

SEP 21 2012

408 STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Anderson

STATE, VS.

Shawn Williams

AKA:

Race: B

Sex: M

Age: 41

DOB:

SS#:

Address:

Pendleton, SC 29670

DL#:

SID#:

INDICTMENT/CASE#: 2007-ES-04-1451

A/W#: J423571

Date of Offense: 1/22/2007

S.C. Code §: 16-03-0010, 0020

CDR Code #: 0116

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was
TO: Murder / Murder☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)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:

Scott McElhannon

Solicitor:

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 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: 2554☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 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)	\$	\$
§ 90.11 TP (SCCJA Surcharge)	\$	\$

TOTAL \$ 130.00

Clerk of Court/ Deputy Clerk

SEP 21 2012

Court Reporter: Donna Braden

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.

PRESIDING JUDGE

Judge Code

Sentence Date: 11/1/09

SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

409

COUNTY OF Anderson
 STATE VS.
Shawn Williams
 AKA: _____
 Race: B Sex: M Age: 42
 DOB: _____ SS#: _____
 Address: Pendleton, SC 29670
 DL#: _____ SID#: _____

INDICTMENT/CASE#: 2007GS041451

A/W#: DIA2007GS041451

Date of Offense: 1/22/2007

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
 TO: Weapons / Poss. weapon during violent crime. if not also sen

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

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:

Scott McShannon
 Solicitor.

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 5 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 the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 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)	\$	\$
§ 90.11 TP (SCCJA Surcharge)	\$5	\$

TOTAL Cash on Hand \$130.00

Clerk of Court/ Deputy Clerk

SEP 21 2012

PRESIDING JUDGE

Judge Code: 21171Sentence Date: 1/18/09

Court Reporter: D. Brady
 SCCA /217 (07/2008)

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.

A TRUE COPY

WITNESSES

MATHESON, ACSD

ARREST WARRANT NUMBER

DIRECT

ACTION OF GRAND JURY

OCT 21 2008

Foreperson of Grand Jury

Date:

VERDICT

Guilty

Foreperson of Petit Jury

Date:

1/6/09

DOCKET NO. 2008GS04-2554

The State of South Carolina

County of Anderson

COURT OF GENERAL SESSIONS

OCT 21 2008

Term

THE STATE

VS.

Shawn A Williams

MSM

Indictment for

DEATH OR INJURY TO A CHILD IN
UTERO DUE TO COMMISSION OF A
VIOLENT CRIME

SC Code: 16-03-1083(A)(1)

CDR Code: 3304

A TRUE COPY

JUN 24 2009

Cathy M. Phillips
CLERK OF COURT

06/08/09
Cmp

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF Anderson)

OCT 21 2008

At a Court of General Sessions, convened on _____, the Grand Jurors of
Anderson County present upon their oath:

DEATH OR INJURY TO A CHILD IN UTERO DUE TO COMMISSION OF
A VIOLENT CRIME

That Shawn A. Williams did in Anderson County, on or about January 22, 2007, commit a violent crime as defined in Section 16-1-60, Code of Laws of South Carolina, (1976), as amended, that caused the death of, or bodily injury to a child who was in utero at the time the violent crime was committed. All in violation of Section 16-3-1083, Code of Laws of South Carolina, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

A TRUE COPY

SEP 21 2012

P. L. O. N. K. S.

Assistant Solicitor

4 STATE OF SOUTH CAROLINA

COUNTY OF Anderson
STATE VS.

Shawn Williams

AKA:

Race: B Sex: M Age: 43

DOB: SS#

Address:

Pendleton, SC 29670

DL#: SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008GS0402554

A/W#: 2008GS0402554

Date of Offense: 1/23/2007

S.C. Code § 16-03-1083 (A) (1)

CDR Code #: 3304

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: Child / Death or bodily injury to a child in utero during the commission of a vi

in violation of § 16-03-1083 (A) (1) of the S.C. Code of Laws, bearing CDR Code # 3304

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)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:

Scott McElhannon

McElhannon, M. Scott

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 11 1/2 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: 1451☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

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) \$

§ 90.11 TP (SCCJA Surcharge) \$5 \$

TOTAL

Cathy M. Williams

Clerk of Court/ Deputy Clerk

SEP 21 2012

PRESIDING JUDGE

Judge Code

Sentence Date: 11/21/09

Court Reporter: Donna Braden