

ORIGINAL

Volume II of II

STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM CHESTER COUNTY
D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRENDA BRATSCHI,

APPELLANT

APPELLATE CASE NO. 2012-211980

RECORD ON APPEAL

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT
STATE'S EXHIBIT # 24 (CD OF 911 CALL)**

1 Q I guess, I'm talking about the sone Denny. Did you
2 talk to Denny?

3 A No.

4 Q Did you talk to Bubba Miles?

5 A Not that I recollect, no.

6 Q And his first name might not be Bubba, but a
7 Mr. Miles. You don't remember talking to anybody?

8 A I talk to -- I believe I talk to -- I don't recall
9 talking to Bubba Miles.

10 Q Just so we're clear if Randy Bratschi was seen alive
11 on Sunday that would give you pause as to believe what you
12 stated in your affidavit Randy Bratschi was killed and or
13 went missing on November 26 and 27; isn't that correct?

14 A That's is correct.

15 Q Okay. Now, also as part of your investigation, you
16 went to Randy Bratschi's house and is it fair to say you
17 were kind of first on the scene whenever he went missing?

18 A First on the scene?

19 Q That was a bad question, I do that. Let me ask it
20 another way, I think you said that Russell Merrill
21 contacted you about Randy Bratschi not coming in to work?

22 A Right, that he had shown up for work and that he was
23 suppose to go out with them on that Friday night and that
24 he was concerned about him.

25 Q Who filed the missing person report? Who went

1 physically up to the Florence County Sheriff's Department
2 in person to file a missing person report on one Randy
3 Bratschi?

4 A Brenda did.

5 Q Brenda?

6 A Yes.

7 Q And you talk to Brenda; isn't that correct?

8 A I did.

9 Q As a matter of fact didn't Brenda voluntarily give
10 you a statement?

11 A She did.

12 Q Okay. On more than one occasion?

13 A Yes.

14 Q Okay. Now, when you went to Randy Bratschi residence
15 when was the first time you went to Randy Bratschi's
16 residence, I guess, it would be -- did you go to Randy
17 Bratschi's residence on December 1st that be a Monday?

18 A Don't think I went down there on the first.

19 Q Okay. And I think Ms. Bratschi filed the missing
20 person report on December 30th and that be on a Tuesday is
21 that your recollection?

22 A November 30th.

23 Q Okay. So Brenda came in to the Florence County
24 Sheriff's Department file missing person report on
25 Tuesday. When did you go to the residence after that was

1 it that same day?

2 A I was down there on that day, yes. I was down there
3 the Sunday night. I went down and left a note after I had
4 talk to Mr. Merrill and he had told me that he was
5 concerned about Randy. I had gone down there Sunday night
6 left a note on the door and then also called and left a
7 message on the answering machine because he didn't have a
8 cell phone.

9 Q You went down there Sunday night. Did you go to the
10 back door?

11 A I did, yes.

12 Q Did you see a note from Frankie Miles on the back
13 door?

14 A No, it wasn't on the back door.

15 Q Okay. Now, Sunday you went out there, when did you
16 obtain a warrant to actually enter into the house to
17 search the house?

18 A On the 30th.

19 Q So that would have been -- went there Sunday that be
20 the 28th and two days later you're inside the house?

21 A Correct.

22 Q Okay. Did you see anything out of place?

23 A No.

24 Q Did you see any blood?

25 A No.

1 Q Did you see broken windows?

2 A No.

3 Q Broken lamp?

4 A No.

5 Q Any furniture moved around look like there was a
6 fight?

7 A No, the bed was unmade, but other than that there was
8 no signs of any forced entry or anything that looked out
9 of place.

10 Q Did you see the note from Frankie Miles that was
11 written to Randy Bratschi sitting on the table?

12 A I did.

13 Q Okay.

14 MR. HERRON: Your Honor, may I approach the
15 witness?

16 THE COURT: Yes, sir.

17 BY MR. HERRON:

18 Q This is a copy of a note and I was wondering if you
19 could just take a second to read and tell me if you
20 recognize that?

21 A Yes.

22 Q Can you tell us -- does that note appear to be
23 written by Frankie Miles?

24 A It's signed by Frankie and I would assume, yes.

25 Q Okay.

1 MR. HERRON: Your Honor, I like this -- that
2 note now marked as Defendant's Exhibit 3 I believe.

3 MR. OZMENT: Is he moving it into evidence?

4 MR. HERRON: Into evidence, Your Honor.

5 MR. OZMENT: We would object to the notes
6 hearsay obviously.

7 MR. HERRON: Your Honor, it's a note that's
8 found during her investigation.

9 THE COURT: Objection sustained.

10 BY MR. HERRON:

11 Q Objection to the admissibility of the note. Let me
12 ask you this, based on what you saw do you have -- do you
13 have an understanding of where Randy Bratschi's boat was?

14 A Yes.

15 Q And where was that?

16 A Frankie had it.

17 Q And do you have an understanding who came by the
18 house to leave the note?

19 A Frankie did.

20 Q Frankie did, okay. Just so we clear, you did not see
21 that note on Sunday on the outside, but you did see it
22 Tuesday when you went into the house; is that correct?

23 A That's correct.

24 Q Okay. Now, back to 2004, Randy Bratschi went missing
25 and y'all didn't find his body until 2009; is that

1 correct?

2 A That's correct.

3 Q Okay. You never obtained a warrant for Brenda
4 Bratschi's arrest in 2004 to 2009; isn't that correct?

5 A That's correct.

6 Q And the reason you didn't obtain a warrant for her
7 arrest is there was no evidence to connect her to any kind
8 of murder; isn't that correct?

9 A No.

10 Q So you telling this jury that you believe Brenda
11 Bratschi murdered Randy Bratschi and you let her walk out
12 on the street for five years?

13 A I didn't know where Randy Bratschi was until July of
14 2009 or ---

15 Q Did you have -- I didn't mean to cut you off.

16 A I'm sorry. Until the body was identified later in
17 2009.

18 Q Let me ask you this back in 2004 when he first went
19 missing is it safe to say people don't go missing for five
20 years for no good reason?

21 A That's correct.

22 Q And you believe that Randy Bratschi was somewhere
23 dead?

24 A I did.

25 Q So from 2004 to 2009 you believe Randy Bratschi was

1 dead?

2 A I did.

3 Q Okay. But you never obtained a warrant for his
4 arrest because there was no evidence?

5 A I didn't -- I couldn't prove that Randy Bratschi was
6 dead.

7 Q Okay. Couldn't prove Randy Bratschi was dead. All
8 right. Now, when the body was discovered in 2009, it was
9 identified as Randy Bratschi, did that body give you any
10 idea of how Randy Bratschi died?

11 A No.

12 Q Did the bodily remains give you any idea where Randy
13 Bratschi died?

14 A No.

15 Q Did those bodily remains give you any idea who killed
16 Randy Bratschi? Any forensic DNA, blood anything?

17 A No.

18 Q Okay. Just so we clear for the jury from 2004 to
19 2009 you figured Randy Bratschi was dead and you never
20 moved for a warrant. And in 2009 you find the body, but
21 the body doesn't tell you anything at all; isn't that
22 correct?

23 A Told me that Randy Bratschi was dead.

24 Q But you just told this jury, it was safe to assume he
25 was dead because you believed him to be dead because he

1 didn't stay missing for five years for no good reason, so
2 you believed he was dead all along.

3 A I believed he was dead, but I could not confirm or
4 prove that he was dead until he was identified.

5 Q And now that you confirmed and proved -- now, in July
6 when the body turned up -- the bodily remains were found
7 in 2009; is that correct?

8 A That's correct.

9 Q Did you have -- and were found at Randy Bratschi's
10 residence; is that correct?

11 A Underneath his house.

12 Q Underneath his house. Did that affirm your belief
13 that Randy Bratschi was dead?

14 A Once he was identified, yes.

15 Q So in July did you go to a judge and say, hey, Judge,
16 we got these bones underneath Randy Bratschi's house I
17 want a warrant to arrest Brenda Bratschi?

18 A No.

19 Q As a matter of fact Mrs. Streett excuse me --
20 Investigator Streett, you didn't obtain that warrant until
21 July, August, September, October, wasn't November over
22 five months later that you obtained a warrant for Brenda
23 Bratschi's arrest?

24 A That correct.

25 Q Okay. Is there any physical evidence whatsoever that

1 tells you in this case, any physical evidence whatsoever
2 that tells you where he died?

3 A No.

4 Q How he died?

5 A No.

6 Q When he died?

7 A No.

8 Q Any physical evidence whatsoever that tells you who
9 killed Randy Bratschi?

10 A Physical evidence, no.

11 Q Okay. Because if you had something, you don't let a
12 murderer stay on the street for five years, do you? You
13 wouldn't let a murderer stay on the street for five years
14 would you?

15 A Not if I had -- no, uh-uh.

16 Q Now, let's get back to when Randy Bratschi was
17 actually found. They did the -- taking it back to the day
18 that you were out there doing the search in 2004. Isn't
19 it true that y'all had cadaver dogs out there?

20 A Which search?

21 Q I guess this would be the one that -- when he was
22 first reported missing in 2004, did y'all -- I guess, I'm
23 talking about the time that you went up underneath the
24 trailer -- that you yourself went up underneath the
25 trailer. Isn't it true that y'all had cadaver dogs out

1 there?

2 A We did.

3 Q Stupid question I know, but cadaver dogs their sole
4 purpose is to uncover cadavers? To catch on to a scent?

5 A Correct. They work off of the scent of
6 decomposition.

7 Q And it's your experience those cadaver dogs are
8 pretty good?

9 A Yes.

10 Q Okay. And this body when it was eventually found was
11 only in a very shallow grave at approximately eight inches
12 underneath the trailer; is that correct?

13 A That's correct.

14 Q And you testified earlier that you went underneath
15 the trailer and you didn't see anything. The cadaver
16 dogs -- did the cadaver dogs go underneath the trailer?

17 A No, they did not go underneath the trailer.

18 Q Did they hit on anything at the Randy Bratschi's
19 residence?

20 A No, they did not. They hit on an area during one of
21 the searches that was on the, I guess, Friendfield side of
22 the 22 acres where there was a large group of concrete
23 drainage pipes and for some reason the dogs picked up on
24 some sort of decomposition over there. And we looked, but
25 didn't find any remains.

1 Q Do you believe that Randy Bratschi was killed at
2 another location and then his remains brought back to the
3 residence and placed up underneath the trailer?

4 A I don't know.

5 Q You don't know. Is that possibility?

6 A I guess, it's a possibility.

7 Q Is it possible that Frankie Miles killed Randy
8 Bratschi, is that possible?

9 A I don't think so.

10 Q Is it possible?

11 A No.

12 Q Why not?

13 A Because Frankie was alibied and we know his
14 whereabouts for that Friday, Saturday and Sunday.

15 Q But if he was -- if Randy was alive Sunday, would you
16 know Frankie's whereabouts Sunday?

17 A We knew where Frankie was Sunday, yes.

18 Q How about Brenda did you talk to people where -- what
19 Brenda was doing?

20 A Yes.

21 Q Did you talk to her family members?

22 A Some of them.

23 Q Isn't it true that Brenda was normal old Brenda?

24 A Yes.

25 Q Did she -- did Brenda Bratschi based on any evidence

1 that you had discovered, do anything out of the ordinary
2 the week after she supposedly killed and put her husband
3 up underneath the trailer? Do you have any witnesses, any
4 evidence that she acted funny, that she told anybody
5 anything? Do you have anything that would indicate that
6 Brenda Bratschi was looking, sounding, acting any
7 differently?

8 A Define out of the ordinary, I don't understand what
9 your...

10 Q Did she get drunk and say I'm glad that son of a
11 bitch is gone?

12 A I don't ---

13 Q There was nothing like that?

14 A No.

15 Q Is that correct?

16 A That's correct.

17 Q Now, you also talk to Frankie Miles' father; is that
18 correct?

19 A That's correct.

20 Q And just so we clear for the Court's knowledge, his
21 father is no longer living; is that correct?

22 A I don't know about that.

23 MR. HERRON: Your Honor, may I approach?

24 THE COURT: Yes, sir.

25

1 (WHEREUPON, a bench conference was held in the
2 presence of the jury, but out of the hearing of the
3 jury.)

4 THE COURT: All right. Ladies and gentlemen,
5 I'm going to have to ask you to step to the jury room for
6 just a minute while we take up a matter of law outside
7 your presence. Do not discuss the case. I'll get you
8 back out here as quickly as possible.

9 (WHEREUPON, the jury retire to the jury room.)

10 THE COURT: All right. Mr. Herron.

11 MR. HERRON: Your Honor, the part of the note
12 that I'm trying to get into evidence is in Investigator
13 Streett's notes in quote this is an interview with Frank
14 Lee at [REDACTED] Georgetown Road. Lee stated that he
15 was concerned about his son, Frankie, and that he had saw
16 him on the previous Friday, December 1st 2004. Lee said
17 Frankie came by his house and was acting in quotation
18 marks, Like, he had something to hide. He tried to get
19 him to talk about what was bothering him, but he wouldn't
20 talk about anything in particular. He didn't stay long
21 then left. That's the only part that I want her to
22 testify to. I have no way -- absolutely no way of getting
23 that into evidence except through Investigator Streett
24 because Mr. Lee is unavailable. That would be present
25 sense impression as to how he thought Frankie was acting.

1 It's very important in this case because of the time line
2 and because Frankie has been charged with misprision of a
3 felony even according to their own theory he had quote
4 something to do with the murder. So it's very important
5 that this be allowed into evidence.

6 THE COURT: Mr. Ozment.

7 MR. OZMENT: Your Honor, that's simply not what
8 present sense impression exception is for.

9 THE COURT: Well, I mean, I think you got to go
10 look over at Rule 804.

11 MR. OZMENT: Well, Mr. Herron pointed to Rule
12 803.

13 THE COURT: I know.

14 MR. OZMENT: But looking at Rule 804 there, I
15 believe, four or five exceptions that we allow under our
16 court rules. And while the declarant is unavailable for
17 death and other reasons, it does provide extra exceptions.
18 I do not believe the hearsay something being suppressed
19 all together. In this case former testimony, statement
20 under belief of impending death and I believe that
21 declarants death, statement against interest and a
22 statement of personal or family history, which we agreed
23 has to do with a will or that kind of item. I don't see
24 how this falls into any of those.

25 MR. HERRON: It's former testimony, Your Honor.

1 THE COURT: It's not former testimony.

2 MR. HERRON: Well, I had a right under the rules
3 to subpoena Mr. Lee to testify and you could make the
4 argument that Mr. Lee being Frankie's father when Frankie
5 came over there, there was something going on with that
6 because quote, Frankie had something to hide that somehow
7 he was involving his dad into helping cover up, so it
8 would be a statement against interest as far as that goes.
9 The fact that he was even over there and he's quote acting
10 like he had something to hide.

11 MR. OZMENT: I think that's reaching for a
12 statement against interest.

13 THE COURT: I mean, are you not in essence
14 trying to invoke some third party guilt here?

15 MR. HERRON: No, Your Honor. I'm simply trying
16 to establish Frankie's -- how Frankie was acting because I
17 think Mrs. Streett testified on cross-examination that
18 Brenda wasn't acting -- there was anything out of the
19 ordinary with Brenda's family. And the reason I ask that
20 is I want to be able to ask her, hey, how about Frankie.
21 Do you have any indication whether or not Frankie was
22 acting strange? Yes, I do. I spoke to Frankie Lee he
23 said quote look like he had something to hide.

24 THE COURT: Anything else, Mr. Ozment?

25 MR. OZMENT: Anything that Frankie Lee said is

1 hearsay.

2 THE COURT: Hold on a second. Okay. Go ahead
3 and proffer the testimony, Mr. Herron.

4 MR. HERRON: Thank you, Your Honor.

5 BY MR. HERRON:

6 Q Investigator Street, isn't it true that you also had
7 -- part of your investigation you spoke to one Frank Lee?

8 A I did.

9 Q And that is Frankie Miles' father; is that correct?

10 A That's correct.

11 Q And he said -- told you in regards to his son when
12 you and him were talking that he said quote Lee said
13 Frankie came by his house and was acting like he had
14 something to hide end quotation marks. He tried to get
15 him to talk about what was bothering him, but he wouldn't
16 talk about anything in particular? Was that Frank Lee's
17 statement to you as part of your investigation?

18 A That's correct.

19 Q Did you keep that statement in part of your regularly
20 conducted business activity? You kept that as part of
21 records and investigation?

22 A Yes.

23 Q So it's part of your -- what you normally do every
24 day you take statements and put them somewhere?

25 A And talk to people.

1 MR. HERRON: Okay. That would be it, Your
2 Honor. I would also assert that she keeps in the regular
3 course of business activity. I don't know if that...

4 THE COURT: And you assert it's admissible under
5 present sense impression?

6 MR. HERRON: That and the fact that the witness
7 is unavailable, that and the fact that she kept this
8 statement in the course of regular conducted business
9 activity. And it also prejudices my client's case because
10 I have no way of bringing Frank Lee to testify as to what
11 his sense of Frankie was. It's pertinent to the case.
12 It's absolutely relevant because even under their theory
13 Frankie had something to do with it. Your Honor makes it
14 even more relevant the fact that his father -- his father
15 nobody knows him better than his father says quote look
16 like he had something to hide and this is December 1st
17 2004. And this is the December 1st was on a Wednesday,
18 Your Honor. This was immediately after Randy Bratschi
19 went missing and according to the State's position, he was
20 murdered and put underneath the trailer.

21 MR. OZMENT: Relevance has nothing to do with
22 hearsay. Also, if we're going to interpret the business
23 activity exception that way every statement, ever given to
24 law enforcement, that's ever written down on earth is
25 admissible under hearsay.

1 THE COURT: Mr. Herron, your testimony has been
2 proffered here and you are protected on the record with
3 regards to that. I'm not going to allow you to go into
4 it. I don't think it would fall under hearsay exception
5 of present sense impression, which is 803(1) or records of
6 regularly conducted activity 803(6). Furthermore, the
7 Court in some way -- I may be looking at it wrong here,
8 but I believe that you're looking at it -- to some degree
9 it's third party guilt here, that's what it was going to.
10 In State v. Gregory, is the key case with regards to third
11 party guilt. In State v. Burgess, 391 S.C. 15 talks about
12 State v. Gregory. It says in that case the evidence
13 offered by accused as to the commission of the crime by
14 another person must be limited to such facts as are
15 inconsistent with his own guilt, inconsistent with your
16 client's guilt. And to such facts as raised, a reasonable
17 inference or presumption as to his own innocence. Goes on
18 to say there must be such proof of connection with it such
19 a train of facts or circumstances as tends clearly to
20 point out such other person as the guilty party. Promote
21 acts disconnected and outside the crime itself cannot be
22 separately proved for such a purpose. I don't think that
23 it falls under a hearsay exception. I don't think that it
24 would -- that you're entitled under the rules when there's
25 been testimony that they investigated where the

1 whereabouts of Frankie Miles. That there was an alibi
2 that -- that was confirmed through their investigation.
3 So I think at this point there is not a connection or a
4 train of facts or circumstances that would point to him
5 having been involved in the murder of this victim. So I'm
6 not going to allow you to go there, but I will -- your
7 objection is so noted for the record and you proffered the
8 testimony.

9 MR. HERRON: Thank you, Your Honor.

10 THE COURT: Anything before I bring the jury
11 back in?

12 MR. OZMENT: Nothing from the State, Your Honor.

13 THE COURT: Bring us the jury please.

14 (WHEREUPON, the jury came into open court.)

15 THE COURT: Mr. Herron, you may continue.

16 MR. HERRON: Thank you, Your Honor.

17 CROSS-EXAMINATION CONTINUED

18 BY MR. HERRON:

19 Q Investigator Street, isn't it true that part of your
20 investigation you determine that sometimes when Randy
21 Bratschi wanted to get away from things, get away from it
22 all he would sometimes drive to the landing; is that true?

23 A Yes.

24 Q Okay. Was it Bluff's Landing where his car was
25 found? Is that the landing he like to go to?

1 A He went to that landing.

2 Q He went to that landing, okay. Now, as part of your
3 investigation, you talk to a number of people; is that
4 correct?

5 A A bunch of people, yes, sir.

6 Q A whole bunch of people. We're talking to many to
7 name, more than ten, right?

8 A Much more than ten.

9 Q Any eyewitnesses that say they saw Brenda kill Randy
10 Bratschi?

11 A No.

12 Q Any eyewitnesses that say they saw Brenda Bratschi
13 with Randy Bratschi's dead body?

14 A No.

15 Q Now, let's talk about money for a second. When you
16 did CDV's, can we agree that two top causes of divorce are
17 sex and money, can we agree to that?

18 A Infidelity, yes.

19 Q Isn't it true that Randy Bratschi had due to his
20 medications and due to the amount of drinking that he did,
21 he had performance problems; is that correct?

22 A The only indication that I had of that was what
23 Brenda told me.

24 Q Okay. Now, when the supposed attempted murder went
25 on, isn't it true that Randy Bratschi had been talking to

1 Sue Hill; is that true?

2 A When the ---

3 Q When the supposed attempted murder, assault and
4 battery with intent to kill that thing went on?

5 A No, he was not -- not at that time, no, sir.

6 Q Okay. Now, back to the money thing. I want the jury
7 to understand that when Randy Bratschi went missing isn't
8 it true that all his belongings, his house, his car, his
9 boat, his foul wheeler is anything that was marital
10 property, anything that was marital property wouldn't it
11 in fact by law go to one Brenda Bratschi?

12 A That is correct.

13 Q It would all -- she would get everything that he had?

14 A That is correct.

15 Q Life insurance she get?

16 A That is correct, yeah.

17 Q Now, I want you to tell this jury how much money, how
18 many things, how many houses, how many cars, how many four
19 wheelers, how many boats, what did one, Brenda Bratschi,
20 get from Randy Bratschi's estate after he was dead?

21 A I don't think she got anything.

22 Q Nothing. Zero. Goose egg; isn't that correct?

23 A To my knowledge, yes.

24 Q Now, this was a woman that has been labeled a gold
25 digger by some. Now ---

1 MR. HERRON: Your Honor, may I have one moment?

2 THE COURT: Yes, sir.

3 (WHEREUPON, a pause in the proceedings.)

4 BY MR. HERRON:

5 Q Investigator Streett, isn't it true that Brenda
6 Bratschi's family has access or they farm basically four
7 thousand acres of land in the Coward Pamplico area?

8 A That's my understanding.

9 Q Isn't it true that Brenda Bratschi tried to go to
10 work, but Randy Bratschi wouldn't let her?

11 A It's my understanding that she did work with her
12 family some.

13 Q And isn't it true that when she worked with her
14 family that Randy Delyn Bratschi had a curfew for her that
15 she had to be home at a certain time?

16 A I don't know. I'm not aware of a curfew and having
17 to be home at a certain time.

18 Q Okay. Now, this assault and battery with intent to
19 kill back in 2004, just so everybody is clear for the jury
20 this supposed attempted murder, she still has those
21 charges pending against her; isn't that correct?

22 A That's correct.

23 Q But yet the State has -- we're here today for a
24 murder trial that's supposedly happened five years after
25 the assault and battery with intent to kill; is that

1 correct?

2 A That's correct.

3 Q And isn't that like kind of putting the cart before
4 the horse?

5 A The sheriff's office doesn't decide which cases to
6 prosecute or when they're prosecuted.

7 Q If the jury finds Brenda Bratschi not guilty of
8 murder, isn't it true that she still has to stand trial
9 for the assault and battery with intent to kill?

10 A That is correct, my understanding.

11 Q Okay.

12 MR. HERRON: Thank you, Investigator Street. I
13 have no further questions.

14 THE COURT: Any redirect?

15 REDIRECT EXAMINATION

16 BY MR. OZMENT:

17 Q He was just asking about the assault and battery with
18 intent to kill. If that case were to go to trial, who do
19 you think the best witness would be?

20 A The best witness?

21 Q Yes. Who would be the first witness you would like
22 to put up if that case went to trial?

23 A Brenda.

24 Q Other than Brenda?

25 A Randy.

1 Q Okay. You think Randy be able to testify to that?

2 A No, Randy's dead.

3 Q All right. Mr. Herron also make a big deal with
4 those cups about the body being found or what difference
5 that made. Did it mean anything to you that the body was
6 found under their marital home?

7 A Made a big -- yes, made a lot of difference.

8 Q Did it mean anything to you in your investigation
9 that the body was found under a home that Brenda was at
10 the time ordered by court not to go to?

11 A That's correct.

12 Q Okay. You were there when the body was being
13 processed forensics; correct?

14 A Yes.

15 Q From your examination of the scene, could Randy
16 Bratschi have wrapped himself in a tarp?

17 A No.

18 Q Could Randy have sealed himself in tarp with the
19 tape?

20 A No.

21 Q Okay. Would you say from your investigation and the
22 scene that someone put him there?

23 A Yes.

24 Q Had some testimony on this previously how big was
25 Randy approximately excuse me -- at the time of the murder

1 how big was Randy?

2 A At the time of the murder that was about a month
3 after he had been in the hospital and he had lost weight
4 then. He was probably -- well, his height didn't change.
5 He was probably 5'8, 5'9 around there. He probably loss a
6 good 15 pounds or so at least I would think.

7 Q So he was still...

8 A Probably 175 range around in there.

9 Q Okay. At the time all this was happening, how big
10 was Brenda Bratschi?

11 A She probably weighed at least as I do, which is 157.
12 She was probably even more than that I would say 165,
13 around in there.

14 Q Okay. Mr. Herron asked you about if you had any
15 evidence of suspicious activity on the part of
16 Ms. Bratschi, did you talk to Jerome Eaddy in this case?

17 A I did.

18 Q Did you consider Ms. Bratschi being seen in full
19 camouflage the night ---

20 MR. HERRON: Your Honor, I believe this is
21 outside the scope of my cross. I object.

22 THE COURT: Objection overruled.

23 Go ahead, Mr. Ozment.

24 BY MR. OZMENT:

25 Q The statements that Mr. Eaddy gave you ---

1 MR. HERRON: Your Honor, same objection, I
2 didn't ask her about Mr. Eaddy.

3 MR. OZMENT: I thought you overruled the
4 objection, I'm sorry.

5 THE COURT: He just protecting the record.
6 Objection so noted.

7 MR. HERRON: You sustaining my objection?

8 THE COURT: I'm sorry I overruled your
9 objection.

10 Go ahead, Mr. Ozment. I'm sorry.

11 BY MR. OZMENT:

12 Q In the statements that Mr. Eaddy gave about
13 Ms. Bratschi being seen in camouflage coming back from the
14 landing, would you consider that suspicious activity?

15 A Yes, that's suspicious.

16 Q Okay. Mr. Herron asked you something about cadaver
17 dogs. Have you been on any investigations with cadaver
18 dogs?

19 A Yes.

20 Q Have you seen cadaver dogs other than this trial in
21 this case have you seen cadaver dogs miss bodies that were
22 later found?

23 A Yes.

24 Q What sort of things can affect a cadaver dog being
25 able find to someone?

1 A The length that the body's been buried. The depth
2 that the body has been buried at, the environmental
3 conditions. There's a number of different things that can
4 affect dog, cadaver dog and it's scent pick up.

5 Q Would the fact that Mr. Bratschi was found wrapped
6 and sealed in a tarp would that affect a dog's ability to
7 smell his body?

8 A That could affect it, yes.

9 Q Okay. And were the dogs able to actually go under
10 the trailer?

11 A No.

12 Q Okay. And you said, I believe, that the same cadaver
13 dogs did hit somewhere; correct?

14 A Correct.

15 Q Correct. And was the body found there?

16 A No.

17 Q So are cadaver dogs perfect?

18 A No.

19 Q Okay. Mr. Herron was asking you about Mr. Bratschi
20 being seen after Friday morning. What was Mr. Bratschi's
21 work schedule suppose to be that weekend?

22 A From what we understood, he had worked Thursday night
23 gotten off Friday morning after Thanksgiving. And then he
24 had signed up to work what they call an outage for some
25 extra overtime. That Saturday and Sunday instead of his

1 usual shift, he was to work I believe seven to 3:30 on
2 Saturday and Sunday. And then he would go back the
3 following week to his regular shift.

4 Q Did you check and did he show up on Saturday?

5 A He did not.

6 Q Did he show up on Sunday?

7 A He did not.

8 Q He did he show up on Monday?

9 A He did not.

10 Q When you said seven to three, is that going into the
11 morning and coming home in the afternoon?

12 A That is correct for those two days.

13 Q Mr. Herron was asking you a lot about Brenda
14 getting a property out of this situation. Do you know
15 when Brenda was not ordered to not go back to the trailer
16 from the family court, did she remove property from the
17 residence at that time?

18 A She did. She went back and got some of her property
19 and I believe some of Frankie's stuff too.

20 Q Okay. Now, you're an investigator and you charge
21 people with crimes as part of your job; correct?

22 A Yes.

23 Q If someone claims under a life insurance policy for a
24 person that they killed, could they be charged with
25 anything?

1 A Yes.

2 Q What could they be charged?

3 A There's various different things. There's state
4 charges and also I believe federal charges that could be
5 brought also.

6 Q What are kind of the gist of those charges? What are
7 the charges essentially?

8 A I'm not exactly sure what the exact charges are.

9 Q Is it a form of fraud?

10 A Correct, yes.

11 Q So not a murder charge. There's something in taking
12 the money as a result of murdering someone you can be
13 penalized for?

14 A Correct, benefiting from someone's death basically is
15 what it is.

16 Q Okay. Now, also at that protective order, how long
17 is that protective order in effect?

18 A For a year.

19 Q Okay. And when Mr. Bratschi was missing, he was not
20 considered dead by the legal system at that point;
21 correct?

22 A That's correct.

23 Q So even after he went missing that protective order
24 still protected that property for a year; correct?

25 A That's correct.

1 Q All right. This will be my last few questions. At
2 the beginning of Mr. Herron was asking you was asking
3 about the collections, did Mr. Bratschi have -- did he
4 ever have children besides when Frankie was living with
5 him?

6 A Yes.

7 Q Okay. How many children did Mr. Bratschi have?

8 A He has two daughters.

9 Q Okay. Did he raise them?

10 A He was married to their mother for over 20 years.

11 Q Okay. And to your knowledge was he working during
12 that time?

13 A Yes.

14 Q Okay. On the credit reports that you stated that you
15 investigated the collections before Randy was with Brenda,
16 how many of those did you say were credit card
17 collections?

18 A There were a couple.

19 Q Okay. And that number increase or decrease when he
20 got with Brenda?

21 A Increase.

22 Q And the amounts that were due did they increase or
23 decrease when he got with Brenda?

24 A Increase from what I recall.

25 Q Okay.

1 MR. OZMENT: No further questions, Your Honor.

2 MR. HERRON: Briefly, Your Honor.

3 RE CROSS-EXAMINATION

4 BY MR. HERRON:

5 Q Investigator Streett, just so we clear for the jury,
6 Brenda Bratschi had a right to all Randy Bratschi's
7 marital property once he passed away true or not?

8 A That's correct.

9 Q But as to this date, she has collected nothing. Now,
10 I got to ask you a question. If, if that body stayed up
11 underneath that house from 2004 and y'all hadn't
12 discovered it, wouldn't it have been a good idea for
13 Brenda to keep paying the taxes on it, keep paying the
14 property value on it, wouldn't that be a good idea to keep
15 that trailer where it was?

16 A Actually, I was sitting on the front porch of the
17 trailer on the date that the emergency order of protection
18 expired because I fully expected at that time that
19 Ms. Bratschi would be moving back into the marital home
20 since the property and the trailer had no mortgage on it.
21 It was owned free and clear. All she had to do was move
22 back into it. She never made a claim.

23 Q I'm sorry I didn't mean to cut you off.

24 A She never came back. And to my knowledge, she never
25 made a claim to any part of his property or anything.

1 Q All right. So to stop y'all from finding that body,
2 she wouldn't even had to pay a mortgage. All she would
3 have done is go move back in there like you described,
4 move back in there and just keep living there; isn't that
5 true?

6 A That is correct.

7 Q And she did not do that.

8 A I wouldn't want to live in a trailer where there was
9 a dead body buried under it either.

10 MR. HERRON: No further questions.

11 THE COURT: You may step down. Thank you.

12 (WHEREUPON, the witness leaves the witness
13 stand.)

14 MR. OZMENT: Can Investigator Streett be
15 released from her subpoena?

16 MR. HERRON: No objection, Your Honor.

17 THE COURT: Investigator Streett, you are
18 released from any further obligation with regards to your
19 subpoena. Thank you for being here.

20 Mr. Ozment.

21 MR. OZMENT: Your Honor, the State of South
22 Carolina rest its case.

23 THE COURT: All right. Ladies and gentlemen,
24 the State of South Carolina has rested its case. It is
25 now about 25 'til five. There are some matters of law

1 that we need to take up outside your presence and rather
2 than send you back to the jury room and bring you back
3 out, what I'm going to do at this time I'm going to
4 release you for the balance of today until in the morning.
5 I'm going to ask that you be back here tomorrow morning at
6 9:30, at 9:30.

7 During your overnight break, my instructions
8 remain the same that you're not to talk with anybody about
9 this case, that you're not to watch any news reports,
10 internet, radio, television, et cetera. You're not to do
11 any independent investigation on your own about this case.
12 You're to decide this case based solely upon the evidence
13 and testimony that's been presented in here and nowhere
14 else. If anybody during your overnight break tries to
15 talk to you about it, please let the foreman know. And,
16 Mr. Privette, you let me know as soon as you all return in
17 the morning, okay. You all have a nice evening.
18 Hopefully, you can get out here before it starts raining,
19 I hope it isn't raining out there now. Hope you all have
20 a nice evening and look forward to seeing you back here at
21 9:30 in the morning. Thank you. Everybody else remain
22 seated.

23 (WHEREUPON, the jury was excused for the day.)

24 THE COURT: Mr. Herron, happy to hear from you.

25 MR. HERRON: At this time, I move for a directed

1 verdict of not guilty on behalf of my client. Directed
2 verdict of acquittal. For one simple reason, what have
3 they shown, what have they shown. They have shown they
4 have spent a better part of two days talking about a
5 charge for which Brenda Bratschi currently stands -- that
6 will stand for trial on. This assault and battery with
7 intent to kill they spent two days talking about that. It
8 was a trial within a trial, Judge. And I would suggest to
9 you they can't even establish that, but what she's charge
10 with today is murder. The only thing they have
11 established is that it looked bad. It looks bad. The
12 body was found up underneath her house. It looks bad.
13 They got in a fuss four or five weeks beforehand. It
14 looks bad.

15 But, Your Honor, when you look at the evidence
16 as to -- I understand what they're trying to -- they're
17 trying to enunciate motive on the basis of that fight.
18 When Brenda Bratschi had the chance to be violent, when
19 Brenda Bratschi had the chance to raise her voice, when
20 Brenda Bratschi chance to cuss out, raise her voice, hit
21 Sue Hill, hit Randy Bratschi, what did Brenda Bratschi do?
22 She did probably what I would say 98 percent of women
23 couldn't do and that she simply said, I wonder how long
24 this has been going on and walked away.

25 Now, this is supposedly a woman that beats her

1 husband half to death for I don't know why, I guess, it
2 was a money issue, but let's go with money because that's
3 what the State keeps harping on money. She was just a
4 gold digger, got money issues. She beats her husband half
5 to death for no good reason, that's their theory. So four
6 or five weeks later, she kills him. In the meantime,
7 Brenda Bratschi catches Randy Bratschi red handed, goes up
8 to him I wonder how long this been going on walks away.
9 Had every chance to be violent and wasn't. Now, this
10 woman that supposedly beats her husband half to death for
11 no good reason over money when she had a chance to get
12 money from the murder, when she had a chance to walk back
13 into that home in 2009 and the marital property was hers,
14 she had that opportunity, she had that right. Now, this
15 is a woman that beats her husband half to death over
16 money, Judge. She doesn't get anything out of the murder.
17 So I don't understand how the State -- I don't understand
18 the State's theory of the case to be honest with you. She
19 beats her husband half to death because of money. And
20 then when it comes time to collect a good pay check to get
21 a four wheeler, to get a car, to get a truck, to get a
22 boat, to get a house paid for, she doesn't take that. She
23 just simply walks away from her legal rights at that point
24 to obtain all that. So if you're just basing this purely
25 on the State's theory and I think that's the only theory

1 they presented that somehow the assault and battery with
2 intent to kill carries over and skips it, forget about the
3 confrontation with Sue Hill and Randy Bratschi that
4 somehow intent skipped over all that and then came to
5 fruition four or five weeks after that, it just does not
6 make any sense. And I don't see how a reasonable jury
7 can find Brenda Bratschi guilty beyond a reasonable doubt
8 when everybody that got on that stand, Judge, I mean,
9 everybody said that there's no evidence of how Randy
10 Bratschi died, when Randy Bratschi died, where Randy
11 Bratschi died. For goodness sakes, Judge, nobody could
12 say if there was any evidence that who killed Brenda
13 Bratschi. They didn't even say, well, it look bad.
14 Everybody on that stand says there was no evidence. They
15 could have said, oh, well, you know, the body's found
16 here, they didn't say any of that. They said there was no
17 evidence circumstantial or otherwise. So the State -- I
18 understand the State's argument is gone be it's a
19 circumstantial case, but none of their witnesses have put
20 any circumstantial evidence into -- when I asked them that
21 question, they just simply said no. There is no evidence
22 as to when, where, how and especially who.

23 And, Judge, this woman has been sitting in jail
24 since 2009. The State is up here -- basically trying her
25 for assault and battery with intent to kill in the hopes,

1 in the hopes that if they can buy into that, then the
2 jury's going to somehow say, well, she tried to kill him
3 then. She must have killed him now. And, Your Honor, I
4 don't think that's the way verdicts should be rendered and
5 I think a reasonable jury cannot find beyond a reasonable
6 doubt that all these questions that Brenda Bratschi did in
7 fact kill Randy Bratschi when there's simply no evidence.
8 None.

9 THE COURT: Mr. Ozment.

10 MR. OZMENT: Your Honor, I think the State has
11 presented evidence in this case that will allow a
12 reasonable jury to find the defendant guilty of murder as
13 well as burying a body without notice. Going to the
14 assault and battery with intent to kill, that obviously
15 goes to motive and intent. I think that we have shown
16 that if Randy Bratschi was alive Brenda Bratschi could
17 have been prosecuted for the assault and battery with
18 intent to kill and been to going prison. He already made
19 a filing with the family court. We could assume
20 eventually lead to a divorce, that would have been her
21 income. Also, I think aside from the motive. We've also
22 shown that Ms. Bratschi was on the property on the weekend
23 that he went missing in violation of the family court's
24 protective order.

25 We've also shown from Mr. Eaddy that she was

1 seen in proximity to where the car was found and dropped
2 off back in proximity of the crime scene again on the same
3 weekend. She was dressed in camouflage operating under
4 darkness. Additionally, Your Honor, I think that the
5 State has shown that there's plenty of evidence that Randy
6 was scared of her, afraid she was going to do something
7 else that's why he got a protective order and that she
8 repeatedly violated that protective order by going to Sue
9 Hill's house and confronting Randy and as we said by going
10 to the residence on the weekend in question. So we
11 certainly think a reasonable jury could find her guilty on
12 both counts.

13 THE COURT: Anything else, Mr. Herron?

14 MR. HERRON: No, sir, Your Honor.

15 THE COURT: Okay. What I'm going to do --
16 before I rule on this, I'm going to take it under
17 advisement overnight ask that you all be back here at nine
18 o'clock in the morning, ask the jury to be back here at
19 9:30. You all be here at nine o'clock in the morning,
20 couple things I want to look at before I rule on this.
21 What I anticipate doing, I guess, depending on what my
22 ruling is is how we will proceed from there. If I deny
23 defendant's motion for a directed verdict as to each of
24 these charges, Mr. Herron you need to have your witnesses
25 here in case I do not grant your motions.

1 MR. HERRON: Yes, sir, Your Honor.

2 THE COURT: And be prepared to go forward. If
3 we go forward, what I will do I would like to finish
4 testimony in the morning maybe argue and charge after
5 lunch.

6 MR. OZMENT: Your Honor, the State may also have
7 some rebuttal witnesses depending on those witnesses, but
8 I'll have them.

9 THE COURT: Have your witnesses here both of
10 you. You got defense witnesses and any rebuttal witnesses
11 that need to be here in the morning. Mr. Herron has
12 indicated up here at side bar previously that none of his
13 witnesses he thought was that long.

14 Is that right, Mr. Herron?

15 MR. HERRON: That's correct, Your Honor.

16 THE COURT: So there's no reason why depending
17 on what my ruling is why we shouldn't be able to finish
18 testimony in the morning. All right. We'll stand at ease
19 until nine o'clock in the morning. Thank you.

20 (WHEREUPON, court back on the record.)

21 I want to advise Ms. Bratschi of her rights
22 depending on what my ruling is, so she can think about
23 that overnight. Ma'am, if you would stand and raise your
24 right hand to be sworn.

25 THE CLERK: You swear to tell the truth, the

1 whole truth and nothing but the truth so help you God?

2 THE DEFENDANT: I do.

3 THE COURT: Ma'am, you are Brenda Miles
4 Bratschi.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: All right. We've reached the stage
7 or at this time I'm going to explain to you certain of
8 your Constitutional Rights. If you do not understand
9 anything that I say, please let me know. If you want me
10 to explain anything in more detail as I go through these
11 rights, please let me know as well and I will do so. Do
12 you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: We know reach the stage of this
15 trial where you may present your defense. You have the
16 right to claim the protections given to you by the Fifth
17 Amendment to the Constitution of the United States. This
18 amendment states in part that no person, no person shall
19 be compelled in any criminal case to be a witness against
20 himself or herself. This means that you cannot be
21 required to testify in this case. You have the right to
22 testify on your own behalf. However, no one can make you
23 testify. This is a personal right and no one can waive
24 this right except you. If you decide to testify, you will
25 be subject to the same rules that govern other witnesses

1 and you may be examined and cross examined on any relevant
2 issue in this case. In addition, if you have any
3 convictions involving dishonesty or false statement or for
4 crimes punishable by imprisonment for more than one year
5 and this court deems or determines that the probative
6 value of admitting this evidence outweighs its prejudicial
7 effect to you, the Solicitor will be able to introduce
8 your record to attack your credibility. If you decide to
9 testify, this decision on your part must be freely,
10 voluntarily and intelligently made with knowledge of the
11 protections given to you by the Fifth Amendment and the
12 consequences of your decision to testify. If you decide
13 not to testify, I will instruct the jurors that they
14 cannot give the fact that you did not testify any
15 consideration whatsoever. And that there is to be
16 absolutely no prejudice to you because you did not
17 testify. It is left entirely up to you whether or not you
18 testify. You may talk with your attorney, your family and
19 friends or anyone else, but the final decision will be
20 left entirely up to you. Do you understand what I've
21 explain to you?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you have any questions about what
24 I've explain to you?

25 THE DEFENDANT: No, sir.

1 THE COURT: Have you discussed that with your
2 lawyer whether you should or should not testify?

3 THE DEFENDANT: We have talk some.

4 THE COURT: Okay. Well, I'm doing this and
5 giving you and explaining these rights to you this -- at
6 approximately at ten 'til five, five to five in the
7 afternoon to give you an opportunity to consider the
8 rights that I've explained to you overnight depending upon
9 my ruling tomorrow. If the case goes forward, you will
10 have the right to testify if you so desire, but I wanted
11 to explain these rights to you so you would have the
12 overnight break to further discuss them with your lawyer,
13 your family and friends, but I remind you that the
14 ultimate decision as to whether or not you testify rest
15 solely with you and no one else. Thank you.

16 Anything else, Mr. Herron?

17 MR. HERRON: No, Your Honor.

18 THE COURT: Anything further from the State?

19 MR. OZMENT: Nothing, Your Honor.

20 THE COURT: We stand at ease.

21 (WHEREUPON, the proceedings were concluded for
22 the day to be reconvened on April 19, 2012.)

23 THE COURT: Okay. All right. We stopped
24 yesterday after the State had rested it's case at the
25 conclusion of the State case. Defense counsel made a

1 motion for a directed verdict subsequent to defense
2 counsel making a motion for a directed verdict. A
3 memorandum along with a case was submitted to me about at
4 approximately 8:04 this morning by defense counsel. And
5 my reasoning in stating that is two fold. One is to let
6 defense counsel know we got it and I've read it. And two
7 to make sure the State received a copy of the memo as well
8 as the case provided by Mr. Herron.

9 MR. OZMENT: Yes, Your Honor, the State did
10 receive it and we would ask for some opportunity to
11 respond to it on the record.

12 THE COURT: Okay. I will give you an
13 opportunity at this time then. I'll be happy to hear from
14 you.

15 MR. OZMENT: Your Honor, I would -- Mr. Herron's
16 motion largely relies on the State v. Odom's case, which
17 was a case out of York County which was decided in
18 December of 2011. That case is distinguishable in several
19 ways. First of all, that case only had circumstantial
20 evidence. I think you arguably have some direct evidence
21 in this case. Mr. Rauch testified uncontroverted that he
22 saw Brenda Bratschi on the property which is the crime
23 scene at the time according to the State's theory that
24 Mr. Bratschi was murdered. There's nothing like that in
25 this case where a witness identified the actual defendant

1 in the case at the crime scene. In this case, a lady saw
2 it and said she saw two males, but we don't have that
3 here. We have witnesses that I saw Brenda Bratschi, I
4 know Brenda Bratschi. I saw her on the property when he
5 went missing. Other direct evidence in this case, Keith
6 Lutcken testified that there was blood on the rodeo that
7 belong to Ms. Bratschi. He stated that that blood was two
8 days to seven days old when the Rodeo was found and he was
9 processing it I believe that was Tuesday and Wednesday.
10 It was a Wednesday that would put that blood well after
11 the assault and battery with intent to kill, well after
12 the protective order that Ms. Bratschi was forbid from
13 going near that Rodeo, that Rodeo in the protective order
14 which is again part of the evidence in this case was
15 Mr. Bratschi's. So that is direct evidence that
16 Ms. Bratschi was in that Rodeo within the time frame that
17 the State says that he went missing additionally in
18 violation of a protective order.

19 THE COURT: Hold on a second.

20 Ma'am, no more flashes. Thank you.

21 Go ahead.

22 MR. OZMENT: Then turning to Mr. Eaddy's
23 testimony. Mr. Eaddy testified that Ms. Bratschi was seen
24 leaving from very close to where the Rodeo was found, came
25 back within a quarter mile of the crime scene dressed in

1 full camouflage under the cover of darkness. Again, the
2 same time frame, the same weekend.

3 Now, to further distinguish it from the evidence
4 case, the evidence case gives no motive why that house was
5 burglarized and why that and why there was larceny in that
6 house. This case is a truck load motive. The Odom case
7 also speaks of the Bostic case, which is a husband-wife
8 murder. Specifically, in the Odom's case, it says no
9 motive was presented by the State in the Bostic case. If
10 Your Honor can't find motive in this, I don't know where
11 -- what case would have motive. Also, in this case, if
12 you look at the statements -- the testimony about how the
13 body was buried, it's in a shallow grave under a trailer
14 which is a cramp space. Ms. Bratschi and Mr. Bratschi
15 were -- I think no matter what sizes you go within
16 50 pounds of each other. No doubt it would have been
17 difficult for Ms. Bratschi to move 175 to 190 pounds of
18 dead weight too far. I think it's very consistent that
19 she would have the most logical place to put him if she
20 killed him at the house would be bury him under the
21 trailer, that all makes sense.

22 Additionally, Mr. Herron's memorandum fails to
23 mention that five weeks before this she almost killed him
24 by beating him with a club. When the prior bad act comes
25 in, it's not just that okay you're allowed to talk about

1 that. It's probative of the case that we're trying here
2 today, that is evidence in this case. The prior bad acts
3 the circumstances relating to it and that gets us to our
4 motive. If Randy Bratschi was alive after that ABWIK,
5 Ms. Bratschi was looking at prison time because she tried
6 to kill him and was charged with him. She was looking at
7 losing her source of income. There's been testimony she
8 wasn't working at this time. She also was looking at
9 getting divorce. Randy had a good job, made good money
10 and she was going to lose all of that. There's plenty of
11 motive in this case from Ms. Bratschi to have done this.

12 Finally, this case is distinguished from Odom's
13 in that there was no order that anyone in Odom stay away
14 from the crime scene, stay away from anyone in this case
15 with a protective order. Ms. Bratschi was ordered to stay
16 away from Mr. Bratschi, to stay away from the crime scene,
17 to stay away from the vehicle. Her blood's in the
18 vehicle. And the testimony viewed in favor of the State
19 would say that there's no way that blood got there not
20 violating a protective order. Ms. Bratschi was seen
21 leaving the crime scene the weekend. Again, violation of
22 court order. Additionally, Ms. Bratschi followed
23 Mr. Bratschi apparently to Ms. Sue Hill's house. There's
24 no way I can figure out she would have known he was there
25 as well as contacting Sue Hill once again in violation of

1 the protective order. All of these circumstances both the
2 direct evidence as well the circumstantial evidence I
3 think distinguishes the Odom's case as well the Bostic
4 case, which really they're not useful in this because if
5 nothing else there's direct evidence as well as a lot more
6 circumstantial and that would be the State's argument.

7 THE COURT: Anything additional as far as
8 argument from defense that you hadn't already argued and
9 put in your memorandum, Mr. Herron?

10 MR. HERRON: Briefly, Your Honor.

11 THE COURT: Anything new now that's what I'm
12 asking?

13 MR. HERRON: Just in regards to what Mr. Ozment
14 stated about the ABWIK because that's not addressed in my
15 memorandum. The State's theory of motive is assault and
16 battery with intent to kill is suppose to happen four to
17 five weeks, that happened in 2004. They have not tried
18 Brenda Bratschi for that ABWIK eight years later and it's
19 very clear why they didn't. The reason they did not and
20 this was alluded to between recross between Matt,
21 Mr. Ozment, and Investigator Streett. They know, they
22 know they cannot make that case out without Mr. Bratschi,
23 so what they done in this is made this a case within a
24 case. They have put the cart before the horse. The ABWIK
25 took place four or five weeks and this is an

1 eight-year-old crime that they have not brought to trial.
2 And the reason why is they know they can't bring -- they
3 know they can't win it. And if she was found not guilty
4 -- they were not talking about prior bad acts because a
5 matter of law she would have been found not guilty of
6 that. So as a go around to that, they have basically
7 brought it in here without having tried her for that in
8 the hopes, the hopes that the mere -- they way it looks it
9 raises a suspicion. And as the Odom's case points out,
10 Judge, raising the suspicion ain't enough to get around a
11 defendant's motive -- motion for directed verdict. All
12 they done is raise suspicion. And you got to ask yourself
13 why have they not brought Brenda Bratschi to trial for an
14 attempted murder charge that happen back in 2004. They
15 brought it in here so it looks bad and because it raises
16 suspicion and that's not enough and the defendant's motion
17 for a directed verdict Your Honor should be granted.

18 THE COURT: All right. When ruling on a
19 directed verdict, on a motion for a directed verdict, the
20 trial court is concern with the existence or nonexistence
21 of evidence not its weight under State v. Williams 303
22 S.C. 274. When a motion for a directed verdict is made in
23 a criminal case where the State relies exclusively on
24 circumstantial evidence, all be it Mr. Ozment is argue
25 that there's some direct evidence, but in a case wherein

1 there is exclusively, where the State relies exclusively
2 upon circumstantial evidence, the circuit court, the trial
3 court is concerned with the existence or nonexistence of
4 evidence not its weight under State vs. Mitchell 341 S.C.
5 406.

6 Furthermore, the Court, the trial court should
7 not refuse to grant the motion for a directed verdict
8 whether the evidence merely raises a suspicion that the
9 accused is guilty. If there's any substantial evidence
10 which reasonably tends to prove the guilt of the accused
11 or from which his guilt maybe fairly logically deduced,
12 the trial court is required to submit the case to the
13 jury.

14 In looking at the totality of the circumstances
15 and the evidence that's been presented by the State, the
16 Court believes that more than a mere suspicion has been
17 raised as to the defendant's guilt. The Court has
18 reviewed the defendant's memorandum as well as the Odom's
19 case not going to go into detail in distinguishing the
20 Odom's case, but certainly believe based upon my review of
21 the Odom's case, it is certainly distinguishable from the
22 facts that we have in this particular case. And one thing
23 important in the Odom's case is I will say that
24 co-defendant in that case even testified that the
25 defendant in the Odom's case didn't have anything to do

1 with the alleged crime that he was convicted for. I
2 believe that the defendant's memorandum here and focusing
3 solely upon the testimony of Mr. Eaddy in giving the
4 defendant whom he identified giving the defendant a ride
5 home in and around the time that Mr. Bratschi disappeared
6 that is all that the defendant is focus -- solely focused
7 upon in his memorandum but looking at the totality, the
8 totality of the circumstances, I believe, that the
9 evidence certainly gives rise to more than mere suspicion
10 of the defendant's guilt and therefore, I am going to
11 respectfully deny your motion for a directed verdict.

12 Anything further from the State at this time?

13 MR. OZMENT: Not at this time, Your Honor.

14 THE COURT: From the defense?

15 MR. HERRON: Your Honor, I think you said we
16 were going to start at 9:30 and I got more witnesses
17 sequestered on ten if I can get just a moment to call --
18 to go down there and make sure they're there and I will
19 have the first one up here.

20 THE COURT: Yes, sir.

21 We'll stand at ease for just a few minutes.

22 (WHEREUPON, a break was taken.)

23 THE COURT: Okay. Yesterday, we left here and I
24 advised Ms. Bratschi of her rights under the U.S.
25 Constitution specifically her right whether or not she

1 wish to testify in her case.

2 Ms. Bratschi, if you would stand please, ma'am.
3 And as I just put on the record, I advised you of your
4 rights yesterday before we left here.

5 Madam clerk, before she answers any question,
6 would you place her under oath please.

7 THE CLERK: Please raise your right hand. Do
8 you swear to tell the truth, the whole truth, and nothing
9 but the truth so help you God?

10 THE DEFENDANT: I do.

11 THE COURT: Yesterday, before we left here, I
12 advised you of your rights under the Fifth Amendment to
13 the Constitution, your not to testify or incriminate
14 yourself or testify at trial of this case and gave you the
15 overnight time to discuss whether or not you wished to
16 testify with your lawyer, your family, friends or whoever
17 you so desire to talk to about that. And as I advised
18 you yesterday, the ultimate decision as to whether or not
19 you testify rest solely with you, rest solely with you and
20 no one else. First of all, let me ask you if you had
21 enough time to talk with your lawyer or whoever you so
22 desire to talk to as to whether or not you wish to testify
23 in the trial of this case?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you need any more time?

1 THE DEFENDANT: No, sir.

2 THE COURT: At this time do you wish to testify
3 in the trial of your case?

4 THE DEFENDANT: No, sir.

5 THE COURT: Okay. Ma'am, you may sit down.

6 All right. It's also been brought to my
7 attention that the defendant or defense counsel intends to
8 call Frankie Miles as a witness in this case. Mr. Miles
9 is here with his attorney, Mr. Hank Anderson.

10 Mr. Anderson, I'll be happy to hear from you if
11 anything you want to say at this time, otherwise I'm going
12 to move forward in advising him of his rights under the
13 Constitution. It's my understanding that he has some
14 pending charges against him that arise out of the matter
15 that we are here for or that his mother is on trial for
16 right now.

17 Madam clerk, I'm going to ask if you place
18 Mr. Miles under oath.

19 THE CLERK: If you will, sir, raise your right
20 hand. Do you swear to tell the truth, the whole truth,
21 and nothing but the truth so help you God?

22 FRANKIE MILES: Yes, ma'am.

23 THE COURT: Sir, you are Frankie Miles?

24 FRANKIE MILES: Yes, sir.

25 THE COURT: As I've stated on the record in your

1 presence with your attorney, defense counsel who
2 represents your mother has indicated he intends to call
3 you as a witness in this case. It's my understanding
4 there are some pending charges against you as well. Let
5 me advise you that an individual called to testify has a
6 Constitutional Right, has a Constitutional Right to assert
7 privilege under our Constitution not to be compelled in
8 any criminal case, in any criminal case to be a witness
9 against himself or to testify as to matters that could
10 incriminate them. If you are called as a witness in this
11 case, which defense counsel for your mother has indicated
12 he intends to call you as a witness, you have a right to
13 assert the protections guaranteed to you under the United
14 States Constitution and those rights protect you from
15 being compelled in any criminal case to testify or be a
16 witness against yourself. Do you understand those rights?

17 FRANKIE MILES: Yes, sir.

18 THE COURT: Mr. Anderson, anything further that
19 I need to go over with your client with regards to his
20 rights?

21 MR. ANDERSON: Not at this time, Your Honor, no,
22 sir.

23 THE COURT: Anything that you like to add on the
24 record with regards to this matter at this time,
25 Mr. Anderson?

1 MR. ANDERSON: No, sir.

2 THE COURT: All right, Mr. Miles, you may be
3 seated.

4 Anything further from the State?

5 MR. OZMENT: Nothing at this time, Your Honor.

6 THE COURT: Defense counsel?

7 MR. HERRON: Your Honor, after my witnesses are
8 called and cross examined and excused, may they be allowed
9 to join the family?

10 THE COURT: Yes, sir.

11 Any objection to that?

12 MR. WELLS: Mr. Miles will need to go back
13 downstairs.

14 THE COURT: He needs to go back unless he's
15 going to be your first witness.

16 MR. HERRON: No, he's not.

17 MR. ANDERSON: Your Honor, it's my understanding
18 I got to do something down on ten. I will go take care of
19 that and then I will need him to come back for Mr. Miles.

20 THE COURT: Okay. Anything else from the State
21 before we bring the jury in?

22 MR. OZMENT: Nothing at this time, Your Honor.

23 THE COURT: You ask them to retrieve your first
24 witness?

25 MR. HERRON: He's here.

1 THE COURT: Anything further from defense
2 counsel before we bring the jury in?

3 MR. HERRON: No, Your Honor.

4 THE COURT: All right. If you bring us the jury
5 please.

6 (WHEREUPON, the jury came into open court.)

7 THE COURT: Good morning, Mr. Foreman and ladies
8 and gentlemen of the jury. I hope you all had a good
9 night last night and are ready to proceed here this
10 morning.

11 At this time, I'm going to recognize defense
12 counsel, Mr. Herron, call your first witness please.

13 MR. HERRON: Your Honor, defense calls Mr. Heath
14 Matthews to the stand.

15 THE CLERK: If you will, sir, go to the witness
16 stand. If you will, sir, stop right there. Place your
17 left hand on the Bible and raise your right hand. Do you
18 swear to tell the truth, the whole truth, and nothing but
19 the truth so help you God?

20 THE WITNESS: Yes, ma'am.

21 THE CLERK: Please be seated in the witness
22 chair and state your full name for the record.

23 THE WITNESS: Heath Legrand Matthews.

24 WHEREUPON,

25 Heath L. Matthews,

1 after first having been duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. HERRON:

4 Q Hey, Mr. Matthews, how you doing?

5 A Good.

6 Q Tell the jury what your relationship with
7 Ms. Bratschi is?

8 A She's my aunt.

9 Q Okay. And tell the jury your relationship with
10 Frankie Miles?

11 A He's my cousin.

12 Q Okay. Now, can you -- I'm going to jump right into
13 it. The week of Thanksgiving can you tell the jury where
14 you and Frankie Miles were going and what y'all were
15 doing?

16 A We went down to Allison Landing camped out and went
17 duck hunting.

18 Q Okay. Allison Landing where is that at?

19 A Between Kingsberg and Johnsonville.

20 Q Okay. Now, did y'all have a boat? Who's boat did
21 you have?

22 A We had Randy's boat.

23 Q Okay. How did Frankie get Randy's boat? Do you
24 know?

25 A Randy let us borrow it to go duck hunting.

1 Q Okay. Now, what day was it that you left to go duck
2 hunting and what day was it that y'all came back from duck
3 hunting?

4 A We left Friday after Thanksgiving, come back that
5 Saturday morning.

6 Q So a stupid question y'all spent the night at the
7 river?

8 A Yes.

9 Q Did y'all camp out?

10 A Yes, sir.

11 Q Okay. That Saturday when y'all were coming back, did
12 y'all have the boat --- who's truck were you driving?

13 A We were driving Frankie's truck.

14 Q Did y'all have Randy's boat behind you?

15 A Yes, sir.

16 Q Okay. Did you see and hear Frankie Miles make a
17 phone call?

18 A Yes, sir.

19 Q Tell the jury what you heard in regards to that phone
20 call?

21 A Frankie called Randy was telling him thank you for
22 letting us use the boat.

23 MR. OZMENT: Your Honor, we would object to any
24 hearsay.

25 THE COURT: Objection sustained.

1 BY MR. HERRON:

2 Q Mr. Matthews, don't -- I know it's going to be hard
3 to do, but don't tell us what Frankie said tell us what
4 you heard on the phone?

5 A I heard Randy answer the phone say hello. Frankie
6 told him thank you ---

7 MR. OZMENT: Object to any hearsay.

8 THE COURT: Objection sustained.

9 BY MR. HERRON:

10 Q Did you hear Randy's voice?

11 A Yes, sir, I did.

12 Q Okay. Are you 110 percent sure that you heard
13 Randy's voice?

14 A Yes, sir.

15 Q Okay. And this was Saturday?

16 A Yes, sir.

17 Q Okay. Did Frankie take the boat back to Randy's
18 house that Saturday?

19 A No, sir.

20 Q Okay. Do you know when he took the boat back to
21 Randy?

22 A No, sir, I don't.

23 Q Now, let's talk about what you do for a living?

24 A We farm.

25 Q Okay. When you say we farm, who's we?

- 1 A Me, my brother and my daddy.
- 2 Q Okay. Now, did Brenda ever work with y'all?
- 3 A Yes, sir, she did.
- 4 Q Okay. How long did Brenda work with you?
- 5 A Off and on since I was a little boy.
- 6 Q Okay. When she started going out with Randy, did she
- 7 work with y'all then?
- 8 A Part-time.
- 9 Q Part-time. Why was it part-time?
- 10 A Because she had to be home before he got home.
- 11 Q How do you know that?
- 12 A Because she told us and he would get mad if she
- 13 didn't.
- 14 Q Okay. So she work part-time when together with Randy
- 15 and she had be home at a certain time?
- 16 A Yes, sir.
- 17 Q Now, after the fight that happened between Randy and
- 18 Brenda where did Brenda come to live?
- 19 A She come to live with me and my mom and my dad.
- 20 Q Okay. How did you like that?
- 21 A It was different, but it was okay.
- 22 Q Okay. It's a crowded house?
- 23 A Yes, sir.
- 24 Q Okay. Now, did you witness an incident in which
- 25 Randy Bratschi came to your mom's house?

1 A Yes, sir.

2 Q Just so we clear for the jury your mom is Brenda's
3 sister?

4 A Yes, sir.

5 Q So did you witness an incident in which Randy
6 Bratschi came to the house?

7 A Yes, sir, I did.

8 Q Tell the jury what you saw?

9 A We were in the house Aunt Brenda was outside. Randy
10 pulled up. She come running in the house hysterical.
11 He's outside, he's outside what to do. Momma told her to
12 go in the back, she would take care of it.

13 Q Okay. How did Randy seem when he was at the house?

14 A He couldn't hardly walk, he was leaning up on
15 vehicles stumbling.

16 Q Did your momma call the police on Randy to try to
17 report him as being DUI?

18 A Yes, sir, she called the Coward cop.

19 Q Was he there to pick up the Rodeo?

20 A Yes, sir.

21 Q And in your opinion who was scared of who that night?

22 A Aunt Brenda was scared of him.

23 Q Okay. Just so we clear for the jury, you're 100
24 percent sure that you heard Randy's voice Saturday?

25 A Yes, sir, I did.

1 MR. HERRON: No further questions. Thank you,
2 Mr. Matthews.

3 THE COURT: Cross-examination.

4 MR. OZMENT: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. OZMENT:

7 Q Mr. Matthews, how are you related to Ms. Bratschi?

8 A I'm her nephew, she's my aunt.

9 Q Did you say you know her since you were a little
10 boy?

11 A Yes, sir.

12 Q Okay. That night that you and Frankie went camping,
13 did Frankie leave that night at any time?

14 A Him and one of our other friends left went back to
15 the landing to get something out the truck and they come
16 back.

17 Q How long were they gone?

18 A Maybe 15 minutes at the most.

19 Q Okay. Now, on this Saturday when you said you heard
20 Randy's voice, did you see Randy at all?

21 A No, sir.

22 Q When is the last time you saw Randy?

23 A I never -- I met him one time.

24 Q Okay. So you've only met him one time?

25 A Yes, sir.

1 Q But you positive you heard his voice that day?

2 A Yes, sir. I talk with him on the phone before not
3 met him in person.

4 Q But y'all weren't close?

5 A No, sir.

6 Q Okay. How long was Frankie on the phone when you
7 heard Randy's voice?

8 A Probably three to four minutes.

9 Q Okay.

10 MR. OZMENT: No further questions, Your Honor.

11 MR. HERRON: Briefly, Your Honor.

12 REDIRECT EXAMINATION

13 BY MR. HERRON:

14 Q Okay. I think you testified on cross that the
15 conversation lasted three to four minutes. Is there any
16 possibility that Randy -- Frankie was talking to an
17 answering machine?

18 A No, sir.

19 MR. HERRON: Thanks for being here,

20 Mr. Matthews. I ask that the witness be excused.

21 THE COURT: Anything further?

22 MR. OZMENT: No objection, Your Honor.

23 THE COURT: Sir, you may step down. Thank you.

24 (WHEREUPON, the witness leaves the witness
25 stand.)

1 MR. HERRON: Can he be excused, Your Honor?

2 THE COURT: Any objection?

3 MR. OZMENT: No objection.

4 THE COURT: All right. sir, you are excused from
5 any further obligation with regard to your subpoena. You
6 free to leave if you so desire.

7 MR. HERRON: Your Honor, I believe they're going
8 to get my next witness.

9 THE COURT: Okay. Thank you.

10 MR. HERRON: Your Honor, the defense would call
11 Denny Matthews to the stand.

12 THE CLERK: If you will, sir, go to the witness
13 stand. If you will stop right there, sir. Place your
14 left hand on the Bible, raise your right hand. Do you
15 swear to tell the truth, the whole truth, and nothing but
16 the truth so help you God?

17 THE WITNESS: Yes, ma'am.

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

20 THE WITNESS: Dennis Elijah Matthews, Jr.

21 WHEREUPON,

22 Dennis Matthews,
23 after first having been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25

1 BY MR. HERRON:
2 Q Mr. Matthews, can I call you Denny?
3 A Yes, sir.
4 Q Most people call you Denny?
5 A (nodded head).
6 Q All right. Can you tell the jury what your
7 relationship to Brenda Bratschi is?
8 A Aunt.
9 Q Okay. What do y'all do for a living?
10 A Farm.
11 Q Does the whole family farm?
12 A Yeah.
13 Q How many acres do y'all farm?
14 A About 4300.
15 Q 4,300 acres. What area do y'all farm?
16 A From Lake City to Timmons ville to Florence.
17 Q Okay. Pretty big area?
18 A (nodded head).
19 Q Okay and you have to say yes or no because the court
20 reporter is going to have to take everything down.
21 A Okay.
22 Q First time testifying?
23 A Yes, sir.
24 Q You nervous?
25 A Yeah.

1 Q Okay.

2 THE COURT: Mr. Matthews, I need you to speak
3 up, okay.

4 THE WITNESS: Oh, I'm sorry.

5 BY MR. HERRON:

6 Q Mr. Matthews, has Brenda ever worked with y'all
7 farming?

8 A Yes.

9 Q Okay. When did she work with y'all farming?

10 A On and off for the last ten or 15 years.

11 Q Okay. Did you know Randy Bratschi?

12 A Not personally.

13 Q Okay. Did Brenda Bratschi ever work part-time with
14 you guys?

15 A Yeah.

16 Q Why did she work part-time with you guys?

17 A In between jobs she would help us part-time.

18 Q Okay. Did she have to get off at a certain time and
19 be back home at Randy's?

20 A The last time she had to be home at five.

21 Q And why she had to be home at five?

22 A She had to be home when Randy got home.

23 Q Okay. Now, you weren't living with your mom, Wanda
24 Matthews, when Brenda Bratschi and Frankie moved in with
25 them?

1 MR. OZMENT: Your Honor, we would object to any
2 leading questions.

3 THE COURT: Rephrase your question.

4 MR. HERRON: I'll move on.

5 BY MR. HERRON:

6 Q Okay. Now, Mr. Matthews, can you tell this jury what
7 you -- who you saw the Sunday after the Thanksgiving?

8 A I saw Randy between three and 3:30 the Sunday after
9 Thanksgiving.

10 Q How do you know it was Randy?

11 A Because I pass right by him and looked right at him.

12 Q What road were y'all on?

13 A Old Georgetown Highway.

14 Q Did Investigator Streett ever ask you if you saw
15 Randy on Sunday?

16 A I never talk with her. I was with my father and he
17 said he seen her, but they say we couldn't have seen his
18 truck because they been watching it since Thursday.

19 Q Are you 110 sure that you saw Randy Bratschi alive on
20 Sunday?

21 A Yes.

22 MR. HERRON: No further questions, Your Honor.

23 THE COURT: Mr. Ozment.

24 CROSS-EXAMINATION

25

1 BY MR. OZMENT:

2 Q How are you, Mr. Matthews?

3 A Good. How about you?

4 Q Good. I believe on direct you said that you don't
5 know Randy Bratschi personally?

6 A Well, I don't.

7 Q Have you ever met Randy Bratschi?

8 A No, but I seen him.

9 Q Okay. So you never met him, but you've seen him?

10 A That's right.

11 Q Okay. And so when you saw him on that Sunday was he
12 in a car?

13 A He was driving his Rodeo.

14 Q Okay. And were you in a car?

15 A Yes, sir.

16 Q Okay. So y'all passed each other on the road?

17 A Yes, sir.

18 Q Was it a stop sign or were you driving?

19 A No, we were driving.

20 Q Okay. So what you're saying is y'all were both
21 driving full speed 55 miles an hour?

22 A No, we was running about 35 cause actually me and my
23 father were checking crops.

24 Q Okay. Was he driving 55?

25 A Maybe.

1 Q Okay. And when you passed him, you're absolutely
2 sure it was him?

3 A Yes, sir, because I seen his license tag coming and I
4 knew it was his vehicle so I looked when we passed him.

5 Q Well, so did you recognize the vehicle or you
6 recognized him?

7 A I recognized the vehicle coming, so I was looking
8 when we passed him and it was him.

9 Q Okay. But you never met him?

10 A Not face to face personally. I seen him with my
11 aunt, but I never talk to him.

12 Q Okay. Now, Mr. Herron asked you about if Brenda
13 ever had to leave when she was working with you and I
14 believe you said that the last time she had to be home at
15 five.

16 A Yes, sir, that was the summer before all this
17 happened.

18 Q Okay. And that was just the last time she worked
19 with you?

20 A Yeah.

21 Q Okay. So it wasn't like every time she worked with
22 you during that time she always had to leave?

23 A That was the first time she had work with us since
24 she been married.

25 Q Okay.

1 MR. OZMENT: No further questions, Your Honor.

2 MR. HERRON: Briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. HERRON:

5 Q Mr. Matthews, did you make a comment to your dad, who
6 was driving, whenever you saw Randy Bratschi?

7 A Yes, sir.

8 Q What did you say?

9 A When we seen him in passing, I said, well, there's
10 Brenda's fling.

11 MR. HERRON: No further questions. Thank you.

12 MR. OZMENT: Nothing further, Your Honor.

13 THE COURT: All right. You may step down.

14 (WHEREUPON, the witness leaves the witness
15 stand.)

16 MR. HERRON: Your Honor, may I ask that the
17 witness be excused?

18 THE COURT: Any objection?

19 MR. OZMENT: No objection, Your Honor.

20 THE COURT: Sir, you may be excused have no
21 further obligations under your subpoena.

22 MR. HERRON: They got the next witness coming.

23 THE COURT: All right.

24 THE CLERK: If you will go to the witness stand,
25 place your left hand on the Bible and raise your right

1 hand. Do you swear to tell the truth, the whole truth,
2 and nothing but the truth so help you God?

3 THE WITNESS: Yes, I do.

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

6 THE WITNESS: Wanda Miles Matthews.

7 WHEREUPON,

8 Wanda M. Matthews,
9 after first having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. HERRON:

12 Q How you doing, Mrs. Matthews?

13 A Good.

14 Q Now, just get this out the way. Tell the jury your
15 relationship with Mrs. Bratschi?

16 A Brenda is my younger sister.

17 Q Okay. Now, how long have you known Randy Bratschi?

18 A We had -- when they met whatever.

19 Q Had you ever known Brenda to raise her voice or be
20 violent against Randy?

21 A No, sir.

22 Q Okay. Now, do y'all farm?

23 A Yes, sir.

24 Q Okay. Tell the jury about how many acres y'all
25 farm?

1 A We farm about 4,000 acres me, my husband along with
2 our two sons.

3 Q Okay. Did Brenda ever work with y'all?

4 A Yes, sir.

5 Q Tell the jury when she work with you and in what
6 capacity?

7 A Off and on through the years she did in the younger
8 years. After her and Randy were together, she had work
9 for a while little while.

10 Q When you say a little while, did something change in
11 her work schedule when her and Randy met.

12 A We had -- they were together I had to -- she was
13 allowed to get off and go home early.

14 Q Why is that?

15 A He wanted her there.

16 Q Okay. Now, there was a fight between them sometime a
17 month or two before Thanksgiving were you aware of that?

18 A Yes, sir, I got a call.

19 Q Okay. Did -- what was Brenda's demeanor after the
20 fight?

21 A She was very upset.

22 Q Okay. Now, after the fight, did she come live with
23 you and Heath?

24 A Yes.

25 Q And Heath's your son, right?

1 A Right.

2 Q Okay. Why did she come live with y'all?

3 A She had nowhere else to go. She had been told not to
4 go back to the house, so she moved in with us.

5 Q Okay. Do y'all go to church?

6 A Yes, sir.

7 Q Now, was there an occasion sometime between the fight
8 that occurred a couple months before Randy went missing
9 and he went missing, was there -- did Randy Bratschi show
10 up at your house?

11 A When the day that they came to court for the
12 protective hearing, I think is what it was called. He
13 came to our house to pick up the Rodeo.

14 Q How did he seem?

15 A He was drunk, intoxicated.

16 Q Could he walk straight?

17 A He had to hold on to the back of my -- I had a
18 Expedition at the time. He almost fell and reached out to
19 grab it.

20 Q Was anybody outside when Randy pulled up to your
21 house?

22 A No, sir.

23 Q What did Brenda say when Randy came to the house?

24 A As you come into my house, you come in through the
25 door. We use the door coming into the kitchen from under

1 the carport. And the window there right over -- right out
2 the kitchen -- we heard a vehicle. And she looked outside
3 and saw who it was and she was very upset. Me -- by then,
4 my husband made it home. I told her I said calm down.
5 I'll take care of it and I went out.

6 Q How did she seem? Was she -- how did she seem?

7 A She was scared.

8 Q Now, did you actually call law enforcement when Randy
9 came to y'all's house?

10 A I think I spoke with Kathleen Street that day and I
11 was informed that he had the all right to be there.

12 Q Okay. Did you make any calls about him being drunk
13 or anything?

14 A There was a call made, but he did not go back through
15 Coward?

16 Q What kind of call did you make when he showed up at
17 your house drunk?

18 A That he had been there. That he was intoxicated and
19 I basically ask -- I thought that he wasn't suppose to
20 come around us either, you know, and like I said, I was
21 told that he could be there.

22 Q Did you call Kathleen Streett?

23 A I'm pretty sure almost positive that's who I talk
24 with that morning.

25 Q Okay. Now ---

1 A That afternoon I'm sorry.

2 Q The week after Thanksgiving did Brenda Miles Bratschi
3 report Randy Bratschi missing?

4 A That Monday -- late that Monday afternoon Frankie
5 came in from work and I guess some people would consider
6 that night, it was probably around 7:30 and said someone
7 had came in the hardware store and said ---

8 MR. OZMENT: Your Honor, we would object to any
9 hearsay.

10 MR. HERRON: Mrs. Matthews, you can't say ---

11 THE COURT: Hold on. Objection sustain. Go
12 ahead, Mr. Herron.

13 BY MR. HERRON:

14 Q I know it's difficult, but you can't say what people
15 said.

16 A Yes, she did report him missing.

17 Q Now, the week after she supposedly kills him and puts
18 him up underneath the trailer, how was she acting?

19 A Normal.

20 Q She act like she had something to hide?

21 A No, sir.

22 Q She act angry?

23 A No, sir.

24 Q And you know her better than anybody?

25 A I like to think I did.

1 MR. HERRON: I don't have any other questions.
2 Thank you, Mrs. Matthews.

3 THE COURT: Cross-examination.

4 CROSS-EXAMINATION

5 BY MR. OZMENT:

6 Q Mrs. Matthews, what time did Brenda and Randy go to
7 court for the protective hearing? Was it morning
8 afternoon?

9 A Seem like it was around right after lunch maybe.

10 Q Okay. And you just testified that it was that
11 afternoon that he came to get the Rodeo?

12 A He came by my house later that afternoon.

13 Q Was he drunk at court then?

14 A I don't know because I wasn't in court.

15 Q Okay. But you had said he was in court after lunch
16 and then he came to get the Rodeo that same afternoon when
17 he was so drunk he couldn't stand up?

18 A I didn't say he couldn't stand up. I said he had to
19 grab ahold to my vehicle because he was stumbling.

20 Q So he could stand up, but he was also stumbling?

21 A Yes, sir.

22 Q Okay. Now, did he get the Rodeo that day?

23 A Yes, sir.

24 Q Did he take it with him?

25 A Yes, sir.

1 Q How did he get to your house?

2 A I think a friend dropped him off.

3 Q Okay. So he wasn't there by himself?

4 A I didn't -- I stepped out on my back doorsteps and

5 couldn't see on around the house. I don't know whether

6 the friend went ahead left or what.

7 Q But somebody took him there?

8 A Yes, sir, someone dropped him off.

9 Q So he wasn't by himself?

10 A No, sir.

11 Q Okay. You don't know who brought him by?

12 A No, sir.

13 Q Okay. Now, you said you called Kathleen Streett

14 after that?

15 A I called the sheriff's department and I'm not

16 100 percent sure who I talk with, but I ask about him

17 being up there. And I was told that because he was given

18 the vehicle that he was allowed to come and get it.

19 Q Okay. Now, did you also call the Coward police?

20 A He was called and they asked to look for him. Yes,

21 sir.

22 Q Did you call the Coward police?

23 A No, sir.

24 Q Do y'all live in Coward?

25 A Right out the town limits.

1 Q So you live in the county?

2 A Uh-huh.

3 Q Okay. Did you call 9-1-1?

4 A No, sir.

5 Q Okay. Now, you testified that the week after Randy
6 went missing that Brenda was acting normal?

7 A Yes, sir.

8 Q Was she, I mean, just her normal old self?

9 A Yes, sir.

10 Q Okay. But now you also testified that before Randy
11 went missing she was upset and scared, right?

12 A No, sir. What I testified is that the day that he
13 came to the house to pick the Rodeo up, she was afraid.

14 Q Okay. In the interim though, was she ever afraid of
15 Randy?

16 A She wasn't around him so long as she was with us she
17 was fine.

18 Q Okay.

19 MR. OZMENT: No further questions, Your Honor.

20 THE COURT: Mr. Herron.

21 MR. HERRON: No questions. I would ask that the
22 witness be excused please.

23 THE COURT: Any objections?

24 MR. OZMENT: No objection, Your Honor.

25 THE COURT: Ma'am, you may step down. You have

1 no further responsibilities under your subpoena. You're
2 free to leave if you so desire.

3 (WHEREUPON, the witness leaves the witness
4 stand.)

5 MR. HERRON: Your Honor, they're going to get my
6 next one.

7 THE COURT: Can lawyers approach while we
8 waiting on the next witness?

9 (WHEREUPON, a bench conference was held in the
10 presence of the jury, but out of the hearing of the
11 jury.)

12 THE CLERK: If you will, sir, go to the witness
13 stand, place your left hand on the Bible, raise your right
14 hand. Do you swear to tell the truth, the whole truth,
15 and nothing but the truth so help you God?

16 THE WITNESS: I do.

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

19 THE WITNESS: Ma'am.

20 THE COURT: State your full name for the record
21 please.

22 THE WITNESS: William Luther Miles.

23 THE COURT: Thank you, sir.

24 MR. HERRON: Thank you, Your Honor.

25 WHEREUPON,

1 William L. Miles,
2 after first having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. HERRON:

5 Q How you doing, Mr. Miles?

6 A Good.

7 Q What do you do for a living?

8 A I did farm.

9 Q What do you do now?

10 A Really nothing.

11 Q Did you know -- what's your relationship to Brenda
12 Bratschi?

13 A She's my niece.

14 Q Okay. Did you know Randy Bratschi?

15 A Yeah.

16 Q How long did you know Randy?

17 A Well, off and on the whole time they was together.

18 Q They were together about two or three years?

19 A I guess.

20 Q Mr. Miles, I'm going to ask you a simple question.
21 The Sunday after Thanksgiving can you tell this jury what
22 you saw?

23 A He pulled up to a stop sign and I rode by him in my
24 passenger side. I was on the side right in here when he
25 pulled up.

1 Q Mr. Miles, stop you there. Who you talking about
2 when you say he pulled up at the stop sign on Sunday?

3 A Randy.

4 Q Randy Bratschi?

5 A Uh-huh. He spoke to me and I spoke to him by fingers
6 hand not by mouth, throw the hand up.

7 Q Like you do in the country?

8 A Uh-huh.

9 Q Are you 110 percent sure that you saw Randy Bratschi
10 alive on the Sunday after Thanksgiving?

11 A Yeah.

12 MR. HERRON: Thank you, Mr. Miles. No further
13 questions.

14 THE COURT: Cross-examination.

15 CROSS-EXAMINATION

16 BY MR. OZMENT:

17 Q How are you, Mr. Miles?

18 A Good.

19 Q How well did you know Randy?

20 A Not real good, but I saw him several times.

21 Q Okay. What was he driving that day?

22 A It was a black, I believe it was called a Rodeo or
23 something, wagon-like thing.

24 Q Okay. Was it a four-way stop where you saw him?

25 A No, this a dead end.

1 Q Okay. Was he stopped or were you stopped?

2 A He stopped. He came up to the stop sign and I went
3 by him.

4 Q Okay. And were you going the speed limit?

5 A Was I going the speed limit?

6 Q How fast were you going?

7 A I say 20, 25 because right at the Bible Temple Church
8 right there, everything right there together.

9 Q Okay. What exactly the area this is in in the
10 county?

11 A Coward right in the city limit of Coward.

12 Q Okay. Have you seen Mr. Bratschi since then?

13 A No.

14 MR. OZMENT: No further questions, Your Honor.

15 MR. HERRON: Your Honor, I have no questions. I
16 would respectfully ask that the witness be excused.

17 THE COURT: Mr. Ozment, any objection?

18 MR. OZMENT: No objection, Your Honor.

19 THE COURT: Sir, you may step down. You are
20 free to go. You have no further responsibilities under
21 your subpoena.

22 (WHEREUPON, the witness leaves the witness
23 stand.)

24 THE COURT: Hold on, Mr. Herron. Can you and
25 Mr. Ozment approach?

1 (WHEREUPON, a bench conference was held in the
2 presence of the jury, but out of the hearing of the
3 jury.)

4 THE COURT: Can the lawyers approach a minute
5 please.

6 (WHEREUPON, a bench conference was held in the
7 presence of the jury, but out of the hearing of the
8 jury.)

9 THE COURT: Ladies and gentlemen, I'm going to
10 have to ask you to step to the jury room for a minute. Do
11 not discuss the case. Do not discuss the case. And I'll
12 get you back out here as quickly as I can, okay. Thank
13 you.

14 (WHEREUPON, the jury retire to the jury room.)

15 THE COURT: We'll stand at ease for just a
16 minute. My understanding Mr. Anderson, who is Mr. Miles'
17 attorney, is downstairs on ten picking a jury. So we're
18 going to stand at ease until he finishes that and we can
19 get him up here, okay. Please stay close by.

20 (WHEREUPON, a break was taken.)

21 THE COURT: Is the State ready to proceed?

22 MR. OZMENT: Yes, Your Honor.

23 THE COURT: Defense counsel ready to proceed?

24 MR. HERRON: We are, Your Honor.

25 THE COURT: Mr. Herron, let me talk to you and

1 Mr. Ozment for just a second.

2 (WHEREUPON, a bench conference was held.)

3 THE COURT: All right. Ms. Joe, bring us the
4 jury please, ma'am.

5 (WHEREUPON, the jury came into open court.)

6 THE COURT: All right. Mr. Foreman, ladies and
7 gentlemen of the jury, thank you for your patience.

8 Mr. Herron, you recognize call your next witness please.

9 MR. HERRON: The State will call Frankie Miles
10 to the stand.

11 THE CLERK: If you will, sir, stop right there.
12 Place your left hand on the Bible and raise your right
13 hand. Do you swear to tell the truth, the whole truth,
14 and nothing but the truth so help you God?

15 THE WITNESS: I do.

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

18 THE WITNESS: Frankie Joel Miles.

19 MR. HERRON: May I approach the witness, Your
20 Honor?

21 THE COURT: Yes, sir.

22 WHEREUPON,

23 Frankie J. Miles,

24 after first having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. HERRON:

2 Q Mr. Miles, do you recognize this document?

3 A I invoke my Fifth Amendment Rights. I don't want to
4 answer any questions at this time.

5 THE COURT: All right. Ladies and gentlemen of
6 the jury, Mr. Miles, Frankie Miles, who has been called as
7 a witness in this case has a right under the United States
8 Constitution -- Fifth Amendment to the United States
9 Constitution to invoke his right not to testify against
10 himself. No person under the Fifth Amendment to the
11 Constitution, no person that -- provides that no person
12 shall be compelled in any criminal case to be a witness
13 against himself.

14 Mr. Herron.

15 BY MR. HERRON:

16 Q Were you at Randy Bratschi's house on the Sunday
17 after Thanksgiving?

18 A I invoke my Fifth Amendment Rights. I do not want to
19 answer any questions.

20 MR. HERRON: One moment, Your Honor.

21 BY MR. HERRON:

22 Q Mr. Miles, did you have something to do with the
23 disappearance of Mr. Randy Bratschi?

24 A I invoke my Fifth Amendment Rights. I do not wish to
25 answer any questions.

1 MR. HERRON: I don't have any other questions,
2 Your Honor.

3 THE COURT: Mr. Ozment.

4 MR. OZMENT: The State has no questions as far
5 as this witness, Your Honor.

6 THE COURT: Sir, you may step down.

7 (WHEREUPON, the witness leaves the witness
8 stand.)

9 THE COURT: Ladies and gentlemen, I will remind
10 you again that under the Fifth Amendment to the
11 Constitution no person, which the Fifth Amendment to the
12 Constitution states in part that no person shall be
13 compelled in any criminal case, in any criminal case to be
14 a witness against himself. Mr. Miles has invoked his
15 rights under the Fifth Amendment to the Constitution and
16 he has the right to do that.

17 All right. Mr. Herron, call your next witness.

18 MR. HERRON: Your Honor, that would be the
19 defense case.

20 THE COURT: All right. Anything further from
21 the defense at this time?

22 MR. HERRON: Other than motions, Your Honor,
23 nothing.

24 THE COURT: All right. So noted for the record
25 that you have renewed your previous motions which have

1 been denied at this time. I'm going to turn it back to
2 Mr. Ozment. Any reply witnesses for yourself?

3 MR. OZMENT: Yes, Your Honor.

4 THE COURT: Call your first reply witness.

5 MR. OZMENT: Your Honor, the State would call
6 Mr. Edison Arnette to the stand.

7 THE COURT: Who is that again?

8 MR. OZMENT: Edison Arnette.

9 MR. HERRON: Your Honor, can I retrieve that
10 note. I'm sorry, I couldn't move it into evidence.

11 THE CLERK: If you will, sir, go to the witness
12 stand, stop right there, sir. Place your left hand on the
13 Bible and raise your right hand. Do you swear to tell the
14 truth, the whole truth, and nothing but the truth so help
15 you God?

16 THE WITNESS: I do, ma'am.

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

19 THE WITNESS: Carly Edison Arnette, Jr.

20 WHEREUPON,

21 Carly E. Arnette, Jr.,
22 after first having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. OZMENT:

25 Q Mr. Arnette, how are you doing today?

1 A Doing fine, sir.

2 Q Good. What do you do for a living?

3 A I'm a high school principal at Lake View High School
4 Dillon School District Number Four.

5 Q All right. How long have you been in education?

6 A Since 1983, been a principal since '91?

7 Q All right. The Friday after Thanksgiving in 2004
8 what were you doing that evening?

9 A I -- we had been deer hunting in the community
10 hunting club in Pamplico, South Carolina, that night
11 around dark, right after dark we were hunting dogs that
12 had gone across the river. We were tracking them with
13 tracking collars.

14 Q Okay. Did you go to Dewitts Bluff Landing that
15 night?

16 A Yes, sir.

17 Q About what time did you go to Dewitts Bluff Landing
18 that night?

19 A I don't know exactly, sir, but sometime right after
20 dark probably around eight o'clock.

21 Q But it was dark?

22 A It was dark, yes, sir.

23 Q When you were at Dewitts Bluff Landing that night,
24 did you see any vehicles there?

25 A It was one vehicle at the landing.

1 Q What vehicle was that?

2 A Rodeo Isuzu it was dark in color, not sure if it was
3 dark blue or black.

4 Q Okay. Where was it parked at the landing?

5 A To the right of the floating dock near the picnic
6 shelter.

7 Q All right.

8 MR. OZMENT: May I approach, Your Honor?

9 THE COURT: Yes, sir.

10 MR. OZMENT: Actually, no, I don't need to
11 approach.

12 BY MR. OZMENT:

13 Q Okay. So if I was standing up by the landing, would
14 it be close to the river or close to where I come in.

15 A Came down the road the landing straight ahead of you,
16 the parking lot kind of goes to the right. So it was to
17 the right space on the river right on the front row.

18 Q Okay. Is there a pavilion there?

19 A Yeah, it's a picnic shelter, yes, sir.

20 Q Was the Rodeo near the picnic shelter?

21 A Yes, sir.

22 Q Okay. Did you come back to the landing at all that
23 weekend?

24 A We were hunting there. Saturday also still looking
25 for dogs. We look Saturday and Sunday and the vehicle was

1 there both days.

2 Q It was there Saturday and Sunday?

3 A Saturday and Sunday.

4 Q Do you recall what times you saw it on Saturday and
5 Sunday?

6 A Afternoon Saturday, Sunday morning between ten and
7 11, if I remember correctly.

8 Q All right. And the times you saw it did you ever
9 hear the vehicle move?

10 A Had not moved, no, sir, didn't look like it had, look
11 like it was locked, thought someone might be camping or
12 duck hunting.

13 MR. OZMENT: All right. No further questions
14 for this witness, Your Honor.

15 THE COURT: Cross-examination.

16 MR. HERRON: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. HERRON:

19 Q Mr. Arnette, how you doing?

20 A Doing fine, sir.

21 Q When you said you went hunting that day?

22 A We were hunting on Friday and Saturday and looking
23 for dogs Friday night, Saturday and Sunday.

24 Q Okay. Did you park at the landing?

25 A Yes, sir.

1 Q Okay. So you parked your car at the landing. Y'all
2 got done hunting and then you came back?

3 A No, sir.

4 Q I don't want to put words in your mouth.

5 A When we were looking for the dogs, we would drive
6 through the landing. We had two dogs across the river in
7 Wahee Hunting Club and we had tracking collars on them.
8 And when we would park long enough to call for the dogs,
9 track the dogs to see how close they were to the river --
10 actually, we retrieved one dog from across the river, but,
11 you know, we didn't leave. I didn't leave my vehicle
12 there for any length of time.

13 Q Okay. How about Saturday?

14 A No, sir.

15 Q Okay.

16 A Not leaving the vehicle there stopping and calling
17 the dogs, yes, sir.

18 Q Is that landing where you say you saw the Rodeo? Did
19 people sometimes park there and go fishing and go hunting?

20 A Sure, yes, sir, duck hunting, fishing sometimes
21 camping various other reasons.

22 Q So just so we clear for the jury, people park there
23 to go hunting and fishing; is that correct?

24 A If a public landing for people to boats in to go
25 hunting, yes, sir.

1 Q And is it possible that the Rodeo that you saw the
2 next day was someone had just like you did came to the
3 landing several days and went hunting, came home and then
4 came back the next day; isn't that possible?

5 A Sure that's possible.

6 MR. HERRON: Thank you, Mr. Arnette.

7 MR. OZMENT: Nothing further for this witness,
8 Your Honor.

9 THE COURT: Sir, you may step down. Thank you.

10 MR. OZMENT: We would ask that he be released
11 from his subpoena.

12 THE COURT: Any objection?

13 MR. HERRON: No objection.

14 THE COURT: Sir, you are free to go. Thank you
15 for being here.

16 (WHEREUPON, the witness leaves the witness
17 stand.)

18 THE COURT: Next witness.

19 MR. OZMENT: Your Honor, at this time, the State
20 would call Billy King to the stand.

21 THE CLERK: If you will, sir, place your left
22 hand on the Bible and raise your right hand. Do you swear
23 to tell the truth, the whole truth, and nothing but the
24 truth so help you God?

25 THE WITNESS: Yes, I do.

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

3 THE WITNESS: Billy King.

4 WHEREUPON,

5 Billy King,
6 after first having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. OZMENT:

9 Q How are you today, Mr. King?

10 A Doing fine.

11 Q Good. What do you do for a living?

12 A I work for CSX Railroad.

13 Q All right. Are you from this area?

14 A Lake View.

15 Q Okay. Back in 2004 the weekend after Thanksgiving
16 what were you doing that weekend?

17 A We were deer hunting around Dewitts Bluff.

18 Q Did you go to the actual landing that weekend?

19 A Yes, I did.

20 Q Did you go on Friday?

21 A Yes, I did.

22 Q What times were you there on Friday?

23 A It was six o'clock and again around 8:30.

24 Q All right. When you were there at six o'clock, did
25 you see any vehicles at the landing?

1 A There were several vehicles with boat trailers and it
2 was one over to the side.

3 Q Okay. What was that one over to the side?

4 A A Rodeo.

5 Q What color was it?

6 A Dark black or blue.

7 Q Okay. Was this in the morning or afternoon?

8 A Afternoon.

9 Q Okay. And then -- what time did you say you came
10 back?

11 A It was around 8:30 that night.

12 Q Okay. Did you see the Rodeo at the landing when you
13 came back?

14 A Yes, it was.

15 Q Did it appear to have moved?

16 A No, it hadn't.

17 Q Where was it -- you know, understanding if the road
18 may be facing the river coming into the landing where was
19 it?

20 A Over to the right near the picnic area.

21 Q Okay. Was it facing the river or ---

22 A Facing the river.

23 Q Okay. Did you go back to the landing at all after
24 that?

25 A Saturday.

1 Q When did you go on Saturday?

2 A It was Saturday afternoon.

3 Q Okay. Did you see the Rodeo there on Saturday
4 afternoon?

5 A Yes, it was in the same place.

6 Q Did it appeared to have moved at all?

7 A No, it had not.

8 Q Okay. Did you go back to the landing at all after
9 Saturday?

10 A Sunday.

11 Q What time were you at the landing on Sunday?

12 A It was Sunday around four o'clock, four p.m.

13 Q In the afternoon?

14 A Yes.

15 Q Was the Rodeo there at four p.m. on Sunday?

16 A Yes.

17 Q Did it appear to have moved?

18 A No, it had not.

19 MR. OZMENT: No further questions, Your Honor.

20 THE COURT: Mr. Herron.

21 MR. HERRON: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. HERRON:

24 Q How you doing, Mr. King?

25 A Doing fine.

1 Q I think you said on direct examination that this is a
2 pretty public landing?

3 A Right.

4 Q A bunch of people go there?

5 A Right.

6 Q A bunch of people go hunting?

7 A Yes.

8 Q A bunch of people go fishing?

9 A Right.

10 Q A bunch of people park there to go camping?

11 A Yes.

12 Q Is it unusual that a car would be left in a parking
13 lot if somebody was down the river camping?

14 A No, it would not be.

15 MR. HERRON: Thank you. No further questions,
16 Your Honor.

17 THE COURT: Mr. Ozment.

18 MR. OZMENT: Nothing further for this witness,
19 Your Honor.

20 THE COURT: Sir, you may step down. Thank you.

21 (WHEREUPON, the witness leaves the witness
22 stand.)

23 MR. OZMENT: Your Honor, we would call Robbie
24 Stone to the stand.

25 THE CLERK: Place your left hand on the Bible

1 and raise your right hand. Do you swear to tell the
2 truth, the whole truth, and nothing but the truth so help
3 you God?

4 THE WITNESS: I do.

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

7 THE WITNESS: My name is Officer Robbie Stone
8 with the Pamplico Police Department.

9 WHEREUPON,

10 Robbie Stone,
11 after first having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. OZMENT:

14 Q How are you today, Mr. Stone?

15 A Doing good.

16 Q Good. How long have you been with the Pamplico
17 Police Department?

18 A Almost four years now.

19 Q Were you law enforcement before that?

20 A Yes, sir.

21 Q Where were you then?

22 A Sheriff's office.

23 Q How long were you at the sheriff's office?

24 A Three years.

25 Q Okay. Were you working with the sheriff's office

1 back in -- around Thanksgiving of 2004?

2 A Yes, sir.

3 Q Okay. On the Saturday after Thanksgiving of 2004,
4 did you go to Dewitts Bluff Landing.

5 A Yes, sir.

6 Q What time of day was that?

7 A I believe it was around eight o'clock at night, 8:03.

8 Q Okay. Did you see any vehicles at the landing at
9 that time?

10 A Yes, sir. I run the tag on it, logged it in with our
11 dispatch when I saw it out there.

12 Q Okay. And when you ran the tag on it, did you know
13 what tag number that vehicle was?

14 A I have it on the print-out sheet, but I couldn't
15 remember.

16 Q Is that the print out created at the time it was ran?

17 A Yes, sir.

18 Q What do you have on the printout sheet?

19 A It was 152 NZF.

20 Q All right. And when you ran it through dispatch, did
21 anything come back to get any results?

22 A No, sir.

23 Q What does that mean if you don't get any results?

24 A It just means at the time it's not stolen or anything
25 may just make a log of it, so if it does come back up

1 later as stolen we have record of it.

2 Q Okay. And what make and model a vehicle was it?

3 A I don't remember if it was -- seem like it was maybe
4 a Nissan Pathfinder. It's been so long.

5 Q You remember what color it was?

6 A I think it was black, but like I said, it was '04 I
7 seen it for about five minutes running the tag and I was
8 gone afterwards.

9 MR. OZMENT: Okay. No further questions for
10 this witness, Your Honor.

11 THE COURT: Mr. Herron.

12 MR. HERRON: One moment, please, Your Honor.

13 (WHEREUPON, a pause in the proceedings.)

14 CROSS-EXAMINATION

15 BY MR. HERRON:

16 Q How you doing, Officer Stone?

17 A Good.

18 Q Did you ever come back Sunday to the landing see if
19 the Rodeo was there?

20 A No, sir.

21 Q Did you ever come back Monday to see if the Rodeo was
22 there?

23 A No, sir, I was off.

24 Q Just so we clear for the jury, you saw a Rodeo at the
25 landing Sunday -- I mean excuse me Saturday, it was a

1 Saturday night?

2 A Saturday around eight o'clock I think.

3 Q But you can't tell this jury whether or not that
4 Rodeo was still there Sunday or Monday?

5 A No, sir.

6 Q Okay. And where this landing was is it a pretty well
7 visited landing?

8 A Yes, sir.

9 Q A bunch of people go there to hunt, fish and camp?

10 A Yes, sir.

11 Q Okay. Did you have any other -- other than the
12 running the tag, have you had any other -- were you
13 involved in the missing case of Randy Bratschi any
14 further?

15 A No, sir.

16 Q Okay. So you don't have any evidence of how Randy
17 Bratschi got killed?

18 A No, sir, run that one tag that night was it.

19 Q You wouldn't know where he got killed?

20 A Uh-huh.

21 Q When he got killed?

22 A No, sir.

23 Q And you don't have any evidence of who would kill
24 him?

25 A No, sir.

1 Q I do want to ask you one other question. Did you see
2 anything unusual when you saw the Rodeo Saturday night?

3 A Other than it was just a beer can that was all.

4 Q Okay. Is it unusual for people to leave their cars
5 parked there overnight if they're going hunting, duck
6 hunting or going camping?

7 A I don't usually see them leave it there overnight.

8 MR. HERRON: Okay, thank you, appreciate it.

9 THE COURT: Mr. Ozment.

10 MR. OZMENT: Very briefly, Your Honor. May I
11 approach the witness?

12 THE COURT: Yes.

13 REDIRECT EXAMINATION

14 BY MR. OZMENT:

15 Q Officer, I'm showing you what is in evidence as
16 State's Exhibits 31, 32 and 33. Do you remember would
17 that be the vehicle where it was parked when you saw it?

18 A Yes, sir.

19 Q That's it?

20 A That's it.

21 MR. OZMENT: No further questions, Your Honor.

22 THE COURT: Mr. Herron, anything else?

23 MR. HERRON: No, sir, Your Honor.

24 THE COURT: All right. Thank you, sir. You may
25 step down.

1 (WHEREUPON, the witness leaves the witness
2 stand.)

3 THE COURT: Mr. Ozment.

4 MR. OZMENT: Your Honor, we call Donnie Huggins
5 to the stand.

6 THE CLERK: If you will, sir, place your left
7 hand on the Bible and raise your right hand. Do you swear
8 to tell the truth, the whole truth, and nothing but the
9 truth so help you God?

10 THE WITNESS: I do.

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

13 THE WITNESS: Donald Dale Huggins.

14 WHEREUPON,

15 Donald D. Huggins,
16 after first having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. OZMENT:

19 Q How are you today?

20 A Doing fine.

21 Q Good. How long have you been in law enforcement?

22 A Thirty years.

23 Q All right. How long have you been with the Florence
24 County Sheriff's Office?

25 A Thirty years.

1 Q All right. Were you working for the Florence County
2 Sheriff's Office back in November of 2004?

3 A Yes, I was.

4 Q Okay. Did you have occasion to call in a tag
5 concerning a vehicle that was at Dewitts Bluff Landing?

6 A I called a concern citizens stop at my farm where I
7 was at on a Sunday, told me there was a suspicious looking
8 vehicle at Bluff's Landing and I called into the sheriff's
9 office and advised whoever was working the lower end that
10 day to go down there and check and make sure run the tag
11 on it.

12 Q What day was this that you heard the report that's on
13 and seen the vehicle at the landing?

14 A Sunday.

15 Q Okay. Did you have a tag number for that vehicle?

16 A No, I don't have the tag.

17 Q You remember any description of that vehicle?

18 A Yes, a citizen told me it was black, some kind of
19 black SUV.

20 Q And this was the Saturday after Thanksgiving?

21 A Sunday.

22 Q Sunday after Thanksgiving?

23 A Uh-huh.

24 MR. OZMENT: No further questions, Your Honor.

25 THE COURT: Mr. Herron.

1 MR. HERRON: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. HERRON:

4 Q What time was it Sunday when somebody came?

5 A 3:23.

6 Q In the afternoon?

7 A Uh-huh.

8 MR. HERRON: Thank you, appreciate you being
9 here.

10 THE COURT: Is that a yes or a no?

11 THE WITNESS: Yes, sir.

12 THE COURT: Thank you.

13 BY MR. HERRON:

14 Q I want to ask you one other question. Did anybody
15 report any suspicious Rodeo at the landing on Saturday?

16 A Not to me.

17 MR. HERRON: Thank you, appreciate it.

18 THE COURT: Mr. Ozment.

19 MR. OZMENT: No further questions.

20 THE COURT: Sir, you may step down. Thank you.

21 (WHEREUPON, the witness leaves the witness
22 stand.)

23 MR. OZMENT: Your Honor, the State would call
24 Investigator Alvin Powell to the stand.

25 THE CLERK: If you will, sir, place your left

1 hand on the Bible and raise your left hand. Do you swear
2 to tell the truth, the whole truth, and nothing but the
3 truth so help you God?

4 THE WITNESS: Yes, ma'am.

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

7 THE WITNESS: Alvin Powell.

8 WHEREUPON,

9 Alvin Powell,
10 after first having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. OZMENT:

13 Q Investigator Powell, what do you do for a living?

14 A An investigator for the Florence County Sheriff's
15 Office.

16 Q How long have you been in law enforcement?

17 A Fifteen years.

18 Q How long in Florence County?

19 A All 15.

20 Q All right. Were you working for Florence County
21 Sheriff's Office back around Thanksgiving of 2004?

22 A Yes, sir.

23 Q On the Monday after Thanksgiving, did you have
24 occasion to go to Dewitts Bluff Landing?

25 A I did.

1 Q Did you see anything at Dewitts Bluff Landing?

2 A I observed a small dark color SUV at the landing I
3 did.

4 Q Okay. Did you call in that SUV?

5 A I did.

6 Q Did anything come back when you called in the SUV?

7 A The information came back on the tag where it wasn't
8 stolen or anything of that nature, so it didn't look
9 suspicious so I cleared the Bluff.

10 Q What was the tag number on that SUV?

11 A It was 152 NZF.

12 MR. OZMENT: May I approach the witness, Your
13 Honor?

14 THE COURT: Yes, sir.

15 BY MR. OZMENT:

16 Q Investigator Powell, I'm showing you what has been
17 marked State's Exhibits 31, 32, and 33. Would you look at
18 those and tell me if that's the SUV you saw there on
19 Monday?

20 A Yes, sir.

21 MR. OZMENT: Thank you, Investigator Powell.
22 Please answer any questions Mr. Herron may have for you.

23 THE COURT: Mr. Herron.

24 MR. HERRON: Thank you, Your Honor.

25 CROSS-EXAMINATION

1 BY MR. HERRON:

2 Q How you doing, Investigator Powell?

3 A Doing well.

4 Q When you observed the SUV, did you see anything out
5 of the ordinary?

6 A No, sir.

7 Q Any blood?

8 A No, sir.

9 Q Any broken windows?

10 A No, sir.

11 Q Did you look in the SUV?

12 A I glance through the window.

13 Q Anything out of ordinary?

14 A No, sir.

15 Q Were you involved in any other capacity in regards to
16 the disappearance of Randy Bratschi?

17 A No, sir.

18 Q Okay. So you just basically -- and this was Monday?

19 A This was on a Monday, yes, sir, the 29th?

20 Q Okay. Monday on the 29th that's when the car was
21 seen there?

22 A Yes, sir.

23 Q Nobody reported it to you on Sunday or Saturday?

24 A No, I was on shift working Monday.

25 MR. HERRON: One moment, Your Honor.

1 (WHEREUPON, a pause in the proceedings.)

2 MR. HERRON: Okay. Thank you, Investigator
3 Powell, I appreciate it.

4 MR. OZMENT: Nothing further of this witness,
5 Your Honor.

6 THE COURT: Sir, you may step down. Thank you.

7 (WHEREUPON, the witness leaves the witness
8 stand.)

9 MR. OZMENT: Your Honor, at this time the State
10 call would call Rollins Rhodes to the stand.

11 THE CLERK: Do you swear to tell the truth, the
12 whole truth, and nothing but the truth so help you God?

13 THE WITNESS: I swear.

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

16 THE WITNESS: Michael Rollins Rhodes.

17 WHEREUPON,

18 Michael Rollins Rhodes,
19 after first having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. OZMENT:

22 Q How are you, Investigator Rhodes?

23 A Doing good thank you.

24 Q Did you think you were done with this courtroom
25 yesterday?

1 A I did.

2 Q Going back to November of 2004 were you working with
3 the sheriff's office at that time?

4 A I was?

5 Q Okay. The weekend after the Thanksgiving did you go
6 to Dewitts Bluff Landing at all?

7 A I did.

8 Q Which day was that?

9 A The 28th maybe.

10 Q The 28th?

11 A Yeah, that's what the record show, I think it was the
12 28th.

13 Q What record are you referring to?

14 A The report that our dispatch center keeps.

15 Q And was that generated at the time you were there?

16 A Yes.

17 Q Okay. Would the 28th be Sunday?

18 A I think so, yes.

19 Q Okay. Did you see anything suspicious that Sunday
20 when you were at Dewitts Bluff Landing?

21 A There was a vehicle parked at the landing. I think
22 it was the only vehicle there.

23 Q Okay. Do you recall the tag number on that vehicle?

24 A 152 NZF.

25 Q What color was that vehicle?

1 A It was black.

2 Q Okay. Where was it parked?

3 A If I can recall, it was parked near if I'm correct
4 kind of to the right of the landing kind of facing the
5 water.

6 Q All right. What time did you go to the landing and
7 call it in?

8 A The record shows around five maybe, I think.

9 Q Is that am or pm?

10 A Pm.

11 MR. OZMENT: All right. May I approach, Your
12 Honor?

13 THE COURT: Yes, sir.

14 BY MR. OZMENT:

15 Q Investigator Rhodes, I'm showing you State's Exhibits
16 31, 32 and 33. You look at those pictures and tell me if
17 that's the vehicle you saw that day?

18 A It is.

19 MR. OZMENT: Thank you. No further questions
20 for this witness, Your Honor.

21 THE COURT: Mr. Herron.

22 MR. HERRON: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. HERRON:

25 Q Mr. Rhodes, we had so many witnesses, I apologize if

1 I'm going to ask you some of the same questions. But were
2 you one of the investigators that work the assault and
3 battery with intent to kill?

4 A I was the patrol deputy that took the initial report.

5 Q And Brenda Bratschi was bleeding from the hand I
6 believe you said.

7 A Thumb. I didn't see any blood, I just remember a
8 laceration that I recall.

9 Q Okay. And she was driving a Isuzu Rodeo at the time?

10 A I don't remember. I don't remember what she was
11 driving. I met her at the police department initially.

12 Q Now, was there anything suspicious about the Rodeo
13 anything -- windows broken?

14 A No.

15 Q Blood scattered around?

16 A Didn't see any blood.

17 Q Bullet hole?

18 A No, sir.

19 Q Broken glass?

20 A No, sir.

21 Q Dirt in the back?

22 A I don't remember.

23 Q It was nothing that at least in your mind stood out
24 to, hey, we need to get somebody here and look at this
25 thing, right?

1 A No.

2 Q Now, when you -- as part of the investigation from
3 the -- as far as the disappearance goes?

4 A No.

5 Q You just worked the assault and battery?

6 A I did the initial report for the assault and battery.

7 Q Okay. Did you come back out there when the remains
8 were found up underneath the trailer?

9 A I don't know that I went into the crime scene. I do
10 remember being there, but not -- I don't think -- I don't
11 remember going in the crime scene.

12 Q Okay. Were you aware of any physical evidence that
13 shows how Randy Bratschi died?

14 MR. OZMENT: Your Honor, we object. This is
15 outside the scope of the reply witness. He also ask this
16 during -- when the first time the officer ---

17 MR. HERRON: I'm not sure if I did or not.

18 THE COURT: I'll allow this question go ahead.

19 BY MR. HERRON:

20 Q Investigator Rhodes, as being part of the
21 investigative team, are you aware of any physical evidence
22 to tell us how Randy Bratschi died?

23 A I wasn't a part of that investigation.

24 Q Are you aware of any physical evidence that tells us
25 where Randy Bratschi died?

1 A I don't have any.

2 Q Okay. Are you aware of any physical evidence that
3 tell us when Randy Bratschi died?

4 A I wouldn't have been part of that.

5 Q You said earlier that you did go out to the crime
6 scene when the remains were found; is that correct?

7 A Yes.

8 Q So if there was something out, you would have been
9 out there to see it?

10 A I don't know what was out there. I didn't actually
11 go into the crime scene.

12 Q Okay, that's what I'm asking. And as you sit here
13 right now, there is no physical evidence as to who killed
14 Randy Bratschi; is that correct?

15 A I don't know.

16 MR. HERRON: No further questions.

17 THE COURT: Mr. Ozment.

18 MR. OZMENT: Nothing further from this witness.

19 THE COURT: Sir, you may step down.

20 (WHEREUPON, the witness leaves the witness
21 stand.)

22 MR. OZMENT: Your Honor, the State would call
23 Billy Sweat to the stand.

24 THE CLERK: If you will, sir, place your left
25 hand on the Bible and raise your right hand. Do you swear

1 to tell the truth, the whole truth, and nothing but the
2 truth so help you God?

3 THE WITNESS: I do.

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

6 THE WITNESS: William Sweat.

7 WHEREUPON,

8 William Sweat,

9 after first having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. OZMENT:

12 Q How are you today, Mr. Sweat?

13 A Good.

14 Q What do you do for a living?

15 A I'm the operations manager of Florence County 9-1-1.

16 Q All right. In your position, I guess, explain to me
17 what exactly you do?

18 A I oversee day-to-day operations of 9-1-1.

19 Q Okay. And when someone calls 9-1-1 or reports
20 something, do y'all keep a record of that?

21 A We do.

22 Q Explain to me how that works?

23 A Any call that we receive that comes from 9-1-1 is
24 logged into the computer aided dispatch, so that there's a
25 written record that can be maintain for later in the event

1 it's needed.

2 Q Okay. Have you had an opportunity to go back and
3 look at the records for Hicks Road right outside Coward
4 for the fall of 2004?

5 A I have.

6 Q Looking at those records, particularly in the month of
7 October and November, were there any calls on Hicks Road
8 for a drunk and disorderly person?

9 A No, sir.

10 Q Were there any calls about perhaps a trespasser that
11 wouldn't leave?

12 A No, sir.

13 Q Okay. Is this in the Coward city limits or is this
14 in the county?

15 A This is in the county.

16 Q So who would be the appropriate agency to respond to
17 something on Hicks Road?

18 A The sheriff's office.

19 MR. OZMENT: No further questions, Your Honor.

20 THE COURT: Mr. Herron.

21 MR. HERRON: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. HERRON:

24 Q Mr. Sweat, are you familiar with records from
25 Pamplico Police Department?

1 A What you mean?

2 Q Would you be -- would you know anything about the
3 call, any calls that were made to Pamplico Police
4 Department?

5 A If they're called in through 9-1-1, they would come
6 directly to us.

7 Q I understand. If they're not called in through 9-1-1
8 somebody just picks up the phone and calls the Coward
9 Police Department would you know about that?

10 A No.

11 Q Would you know about if somebody picked up the phone
12 and called the Pamplico Police Department?

13 A No.

14 MR. HERRON: Thank for being here.

15 REDIRECT EXAMINATION

16 BY MR. OZMENT:

17 Q The addresses on Hicks Road are they in Pamplico?

18 A No, don't appear to be.

19 Q And so would a Pamplico police officer respond out
20 there?

21 MR. HERRON: Your honor, this is outside the
22 scope of my cross. I asked two simple questions.

23 THE COURT: I'm going to allow him to answer
24 that question. Now, I'll overrule the objection.

25 A What was it one more time?

1 Q Would it be appropriate for a Pamplico police officer
2 to respond out there?

3 A I probably couldn't answer that question. I don't
4 know.

5 MR. OZMENT: No further questions, Your Honor.

6 THE COURT: Anything further, Mr. Herron?

7 MR. HERRON: Nothing, Your Honor.

8 THE COURT: All right. Sir, you may step down.

9 Thank you.

10 (WHEREUPON, the witness leaves the witness
11 stand.)

12 THE COURT: Mr. Ozment.

13 MR. OZMENT: Your Honor, the State has no more
14 reply witnesses.

15 THE COURT: All right, could the lawyers
16 approach please.

17 (WHEREUPON, a bench conference was held in the
18 presence of the jury, but out of the hearing of the
19 jury.)

20 THE COURT: All right. Ladies and gentlemen,
21 you have heard all the testimony that you're going to hear
22 in this case. The only remaining things to do in this
23 case is arguments of counsel and a charge on the law by
24 the Court. There's some matters that we need to take up
25 right now and it's about 11:35. What I'm going to do is

1 I'm going to cut you all loose for right now for lunch.
2 I'm going to give you an early lunch break. If you eating
3 out, you may be beating the lunch crowd so to speak. I'm
4 going to ask that you be back in here at 1:30, at 1:30.
5 And we will resume and conclude the trial of this case
6 this afternoon. So please be back in here in your jury
7 room at 1:30. My instructions throughout remain the same
8 that you are not to discuss this case with anyone. You
9 are not to do any independent investigation on your own.
10 You are to decide this case based solely upon the evidence
11 that's been presented in here. If anyone attempts to talk
12 to you about this case during our break or recess, you are
13 to let Mr. Privette, your foreman, know and he is to let
14 me know immediately so that I can take the appropriate
15 steps to take care of that. Again, do not discuss the
16 case with anybody until you're instructed to do so. You
17 all are free to leave please be back in your jury room at
18 1:30.

19 Everybody else remain seated while the jury
20 leaves the courtroom.

21 (WHEREUPON, the jury excuse for a lunch break.)

22 THE COURT: Okay. For the record, I'm going to
23 go ahead and put this on the record. While we were taking
24 our earlier break and waiting on Mr. Frankie Miles
25 attorney, Mr. Anderson, to come up here, myself along with

1 State's attorney Mr. Ozment and Mr. Herron and
2 Mrs. Fraley, who represents the defendant in this case,
3 had a conference with regards to the proposed charge on
4 the law as it applies to this case. From my understanding
5 after reviewing the proposed charge with the attorneys
6 involved in this case, it's my understanding that there
7 are no objections to the charge by the State; is that
8 correct, Mr. Ozment?

9 MR. OZMENT: That's true, Your Honor, I think
10 the reasons for the charge are reasonable and we
11 reasonably decided on those reasons.

12 THE COURT: Thank you, sir.

13 Mr. Herron.

14 MR. HERRON: No objection.

15 THE COURT: Thank you. We will stand at ease
16 until 1:30.

17 (WHEREUPON, a lunch break was taken.)

18 THE COURT: We are getting ready to bring the
19 jury back out for closing arguments and charge. It's my
20 policy that once closing arguments begin that no one is to
21 exit or enter the courtroom until after my charge is
22 complete, until after my charge on the law is complete.
23 If anybody feels like they need to go to the bathroom
24 right now, you better go. You not gone come back in.
25 Mr. Propps, please make sure nobody exits the courtroom or

1 come in, also this door right here right behind you.

2 MR. HERRON: Your Honor, I don't know if I
3 renewed my previous motion of directed verdict. I like to
4 just do that on the record.

5 THE COURT: All right, so noted.

6 Anything from the State before we bring the jury
7 out?

8 MR. OZMENT: Nothing from the State, Your Honor.

9 THE COURT: From the defense?

10 MR. HERRON: Nothing, Your Honor.

11 THE COURT: Mr. Herron, you going to open with
12 closing arguments.

13 And you going to conclude, Mr. Ozment?

14 MR. OZMENT: That's correct, Your Honor. The
15 State would waive closing on the law.

16 THE COURT: All right, bring us the jury please,
17 ma'am.

18 (WHEREUPON, the jury came into open court.)

19 THE COURT: Mr. Foreman, ladies and gentlemen of
20 the jury, we are now going to move forward with closing
21 arguments and follow that with a charge on the law by
22 myself. I remind you, ladies and gentlemen, that closing
23 arguments is not evidence in this case. It's not evidence
24 in this case.

25 Mr. Herron, you're recognized for closing

1 arguments, sir.

2 MR. HERRON: Thank you, Your Honor. Are you
3 going to presume Brenda Bratschi guilty or are you going
4 to presume that Brenda Bratschi is innocent. Now, the
5 judge is going to instruct you that according to our rules
6 the defendant is always presumed innocent until the State
7 prove them guilty beyond a reasonable doubt.

8 Now, in all ordinary every day lives when is the
9 last time that you can honestly remember that you presume
10 somebody innocent. If you see somebody on the news
11 crying, let's say someone is charged with slaughtering
12 five dogs for no reason when is the last time you looked
13 at their picture on the news and said I wonder why the
14 cops arrested that innocent person. When is the last time
15 you said, I wonder why the cops arrested an innocent
16 person, nobody does that. I don't do that. What's our
17 first reaction? How in the hell can somebody hurt five
18 dogs for no good reason? That's our natural ordinary
19 reaction when we hear and see something and that's okay in
20 our ordinary every day lives.

21 Ladies and gentlemen of the jury, y'all have an
22 obligation. Y'all took an oath. Y'all swore a promise
23 to the man in charge. I ain't talking about the judge.
24 Y'all took an oath to the man in charge that y'all were
25 going to uphold the law the way the judge gives it to you

1 and the judge is going to instruct you that you have to
2 presume Brenda Bratschi innocent until the State proves
3 her guilty beyond a reasonable doubt. We say that all the
4 time. You hear it on the news. You watch it in the
5 movies, read it in the books, but think about what that
6 means. It means what it says beyond a reasonable doubt.
7 Doesn't say had to prove guilt beyond 20 doubts. It
8 doesn't say ten doubts, doesn't say three doubts, doesn't
9 say two doubts. It says beyond a reasonable doubt.

10 Now, the State of South Carolina has accused Ms.
11 Bratschi of murder, killing somebody. Not only that, but
12 killing them and burying them the body underneath a
13 trailer. They have to answer all the reasonable questions
14 that y'all have. And I think at the beginning of this
15 case I tried to make y'all a promise that I wasn't going
16 to be tricky. I wasn't going to try and trip people up.
17 I wasn't going to be that slick lawyer you see on TV. I
18 was going to ask reasonable questions. And my reasonable
19 question I hope we can all agree were real simple. I know
20 y'all got tired of hearing them how, where, when and who.
21 Isn't that reasonable questions that the State needs to
22 ask before they ask you to take away something priceless
23 from Brenda Bratschi. They're asking you to take away her
24 freedom by returning a guilty verdict. Somebody steals
25 your car and you go buy a new car. Somebody takes your

1 money, you go make more money. You don't make more
2 freedom. You can't get more freedom. Once that's gone,
3 it's taken for good.

4 They're asking you to take away that woman's
5 freedom and they're doing that without having to answer
6 the basic questions. And nobody that got on that stand, I
7 mean, nobody. We heard from -- I kept a list at least 15
8 or 20 witnesses. And I know y'all got tired of hearing me
9 ask everybody questions, but I thought it was important.
10 Do you have any evidence, any evidence of how Randy
11 Bratschi died? No. You have any evidence of when Randy
12 Bratschi died? Nope. Where Randy Bratschi died? Nope.
13 But the most important, the most fundamental question that
14 nobody on that stand could answer is was there any
15 evidence whatsoever that Brenda Bratschi murdered Randy
16 Bratschi. Did you hear anybody from law enforcement
17 answer that question yes? You didn't. Kathleen Streett,
18 the head investigator, the one that has been working on
19 this case since 2004 said no.

20 Now, let's talk about this time line in my
21 technological props that I like to use. They have spent
22 the better part over half this trial. Now, this is
23 suppose to be a murder trial by the way. The first two
24 days were spent on something that didn't have nothing to
25 do with this murder trial. This first two days of this

1 trial was nothing but trying Ms. Bratschi for something
2 that she was already charged with. She was charged with
3 assault and battery with intent to kill because Kathleen
4 Streett, Kathleen Streett said there was an assault and
5 battery with intent to kill. And she said the reason it
6 was assault and battery with intent to kill is because the
7 extent of his injuries. Why was it an assault and
8 battery? Because of what the injuries were, it had to
9 show intent to kill. They put Dr. Atkinson on the stand.
10 Now, they can show all the pictures and all this other
11 stuff.

12 They put Dr. Atkinson on the stand, a doctor
13 medical. Question, Doctor, were his injuries life
14 threatening? They ask that question. I didn't. And they
15 got an answer they didn't want to hear. Dr. Atkinson got
16 on that stand and when they asked were his injuries life
17 threatening. No. Regardless of how they look, were the
18 injuries life threatening. No. But nevertheless, we
19 spent two days talking about that assault and battery with
20 intent to kill. Now, ask yourself this question and y'all
21 got common sense, that's why we choose jurors. Why would
22 the State not have tried Brenda Bratschi -- now, this
23 supposed assault and battery with intent to kill happen
24 back in 2004, why would they have not tried her -- this is
25 a supposedly a woman that tried to beat her husband to

1 death with a bat. Why would you let her just sit there
2 and not try her for a period of eight years and then in
3 2012 they bring up something that happen way back here in
4 2004. I think you can figure it out, but let me tell you
5 what I think. They knew that if they would have tried
6 Brenda Bratschi for that assault and battery with intent
7 to kill and they knew if a jury found her not guilty on
8 that, well, that would have made this trial a lot shorter
9 cause we wouldn't have had two days of testimony of
10 assault and battery with intent to kill cause a jury would
11 have said she ain't guilty and they could have not used
12 that in this trial. So what they have done is they put
13 the cart before the horse. And they know that assault and
14 battery with intent to kill case is weak. So instead of
15 taking the chance that a jury might find her not guilty on
16 that and if they find her not guilty they couldn't present
17 evidence what they say to themselves. Well, I tell you
18 what we'll say that was the motive. We will say that was
19 the motive of why Brenda Bratschi killed Randy Bratschi.
20 She tried to kill him before, she finally succeeded.

21 Now, why did she supposedly kill him? According
22 to their theory of the case, Brenda Bratschi's a gold
23 digger. She's gold digger. She tried to beat a man half
24 to death with a baseball bat and they had -- she had -- I
25 mean, I'm not going to pull it out, but y'all saw the

1 ammunition. It takes one of these to kill, takes one of
2 those to kill. She was living in that house with Randy
3 Bratschi. He had five, six, seven guns. Ladies and
4 gentlemen of the jury, if Brenda Bratschi truly wanted
5 Randy Bratschi dead, do you really think she would try
6 would try to beat a bigger man half to death with a
7 baseball bat when all she had to do is go in there and
8 grab a gun, shot him in the back of the head and be done
9 with it. Does that make common sense to you guys if a
10 woman tried to beat a man half to death with a baseball
11 bat when she had an entire arsenal and seven guns she
12 could use any one of them to shoot him and be done with
13 it, but that's the State's theory.

14 Now, the State's theory says the reason she did
15 that is because they had money problems and she wanted
16 money from him. Let's stop right there. She wanted money
17 from Randy Bratschi. Their theory is she beats him half
18 to death with a baseball bat because he's gone confront
19 her about money. Okay, great, we go along with that.
20 When she finally succeed to the deed as they would say,
21 what did Brenda Bratschi get out of all her trouble for
22 having killed Randy Bratschi and put him up underneath the
23 trailer. Testimony told you that as soon as Randy
24 Bratschi died -- they're married. Everybody knows that
25 when a husband dies, the wife gets the property. When the

1 wife dies, the husband gets the property. So this gold
2 digger, this woman that beats a man half to death for no
3 good because she wants money when it comes time to finally
4 get a brand new car, a brand new Rodeo, a brand new boat,
5 a brand new four wheeler, a paid for house, paid for land,
6 it comes time to get this money and she doesn't get none
7 of it. Life insurance she doesn't get none of it. The
8 State's gone say, well, the reason she didn't want to get
9 life insurance is because she could have been charged with
10 fraud. Do you think someone that would beat a man to
11 death and put him up underneath a trailer or kill him, put
12 him up underneath a trail gone give a damn about getting a
13 fraud charge for money. I mean, this is a derange woman.
14 She killed a man, put him up underneath a trailer. You
15 really think she's gone care about maybe someone might
16 bring a fraud charge against her. Does it make sense? It
17 can't make sense because the evidence does not support it.
18 You can't put a square object in a round hole, it don't
19 fit regardless of what they say.

20 Now, let's talk about all this evidence that
21 they got. This is a crime scene entry log that don't tell
22 us nothing. This is the skeletal remains that were found
23 at the trailer, that doesn't tell us anything about who
24 killed Randy Bratschi. This is a family protective order.

25 Now, the family protective order is kind of a

1 strange thing because we heard from the family law clerk.
2 They want it to sound like he was so terrified, that he
3 had to go get a family court order. They want it to
4 sound like a judge believe every word of him, every word
5 of what he said. A family law clerk -- y'all remember
6 this actually my partner cross examined her, Mrs. Fraley,
7 how easy is a family court order of protection to get.
8 She says it's fairly easy. You want to get one you go in
9 there and say, hey, my wife hit me upside the head, I want
10 her to stay away, judge, says okay, sign it, that's it.
11 That doesn't tell us anything. All these pictures are
12 non-life threatening. And they go to the assault and
13 battery with intent to kill. They don't tell you anything
14 about the murder, pictures of the fight, forgot to talk
15 about the bloody telephone. Remember now she beat him
16 about half to death and, you know, we got a bloody
17 telephone. None of these pictures tell us anything at all
18 about the murder, nothing.

19 Now, the remains. Let's talk about how the body
20 was found. We had discuss this. And I thought I had a
21 pretty good idea of what went down, but I was mistaken. I
22 didn't know we had a shallow grave underneath a deer stand
23 until they got on the stand and start talking about this,
24 that's the first time I ever heard of a shallow grave by
25 the deer stand. But everybody on that stand testified how

1 deep was that body up underneath that trailer. They said
2 it was real shallow, said about eight inches. I laid down
3 and gave y'all an idea about eight inches, a shallow
4 grave. Kathleen Streett, the lead investigator been on
5 the case since day one, she testified she went up
6 underneath the trailer the day they were looking for Randy
7 and didn't see anything. Didn't see anything. Did you
8 see any loose dirt? No. Did cadaver dogs see anything?
9 No. So we don't even know when Randy Bratschi was put
10 underneath that trailer because according to Kathleen
11 Streett he wasn't there cause you could see a shallow
12 grave. Everybody knows when you dig up dirt it's going to
13 leave loose material and that she -- think about this she
14 went out there the week after Randy Bratschi went missing.
15 So if you dig up loose dirt and use your common sense you
16 take a shovel or dig it with your hands, are you going to
17 see loose dirt on top, absolutely especially underneath a
18 trailer. She didn't see any of that, but we see this
19 shallow grave with nothing in it, no forensics or
20 anything. So I don't understand where the shallow graves
21 coming from. Maybe, Mr. Ozment can enlighten us. I don't
22 understand. To me, to me, y'all heard testimony Brenda
23 Bratschi had 4300 acres of better places to put Randy
24 Bratschi if she did indeed kill him, 4300 acres. Her
25 family farms, everybody know Coward, Pamplico it's a

1 wooded area, a bunch of fields, a bunch of woods. One of
2 the guys said wouldn't it be better talking about
3 searching the river, he said it's treacherous, treacherous
4 you can't search it. That be a good place to go to put a
5 body, absolutely because it's treacherous, you never find
6 it. So you got 4300 acres of better places to put
7 something. You got a big river with a current to put
8 something, but they want you to believe that she is so
9 smart because remember now she's smart enough to report
10 him missing, that's how guilty people get off. If you
11 report him missing, that way they don't suspect you. What
12 would an innocent person do? An innocent person would
13 report their husband or wife missing. So can you presume
14 her guilty and say, yes, she didn't cover her tracks
15 absolutely, but the judge is gone tell you presume her
16 innocent. And I'm telling you that your common sense
17 tells you that when you presume somebody innocent, did she
18 act like a innocent person. Did she pick up the phone and
19 say, hey, everybody's been calling me wanting to know
20 where Randy is, I can't find him. Y'all need to look for
21 him. She went to the sheriff's department and reported
22 him missing, not Squirrel his friend of 15 years, not any
23 of these other people. She's the one. So if you presume
24 her innocent, she did something that an innocent person
25 would do consistent with it. They would say, oh, she's

1 covering her tracks. She's covering her tracks. So she's
2 so smart to throw them off their tracks by saying, okay,
3 I'm going to call them up and report him missing that way
4 they want know it's me. But she's stupid enough to put
5 the man up underneath the trailer of the house that you
6 both use to live in and dig him an eight and half inch
7 grave, that is dump, that is dumb. And not only that when
8 she had access to that trailer, remember now when he comes
9 up missing we don't find the body until 2009. Kathleen
10 Streett said after that year of protection goes up, she
11 was going to be waiting on Brenda Bratschi to come back to
12 the house. So Brenda remember now she killed him and put
13 him up underneath the trailer knows good and well she can
14 come back to the trailer. It's a free trailer by the way
15 house, car, boat, four wheeler. She doesn't do any of
16 that and it was paid for. So she would have just moved
17 back in, they hadn't found his body. All she would have
18 to have had to done, and they would have never found him,
19 is to move in, pay the taxes on it, they would have never
20 moved the trailer. They would have never found Randy
21 Bratschi, period. But she's so stupid to let somebody
22 sell it at a tax sell whatever and then come in and move
23 it. She's smart, but she's smart. But on the other hand,
24 she's real real dumb. She's a real dumb killer. She's
25 real dumb as far as trying to get away with things.

1 Now, got some more pictures, pictures of the
2 remains where everything was found. And remember these
3 don't tell us anything, got a picture of the tarp. Let's
4 talk about the tarp. Let's talk about the body in
5 general. I did ask Frankie Miles some questions. I was
6 quite surprised by Frankie Miles to say the least. I ask
7 Frankie Miles -- well, first of all, there was -- y'all
8 heard about a note that y'all not gone get to see cause
9 it's not in evidence. The State hasn't put it into
10 evidence. I didn't put it into evidence. Frankie Miles
11 wouldn't let me. Think about this, ladies and gentlemen,
12 use your common sense. And y'all might even want to do
13 this in the jury room. Randy Bratschi supposedly weighed
14 195 pounds, 175, 195, I think people said both ways. You
15 stand up in the back. I'm 175, 195 pounds of dead weight,
16 literally dead weight. I'm wrapped in a tarp. Is a woman
17 Brenda Bratschi going to be able to physically drag me the
18 distance going to be needed and then put me up underneath
19 a trailer, dig the hole? Is she going to be able to do
20 that? Does common sense tell you, yeah, that's easy for
21 her to do. I wanted to ask Frankie Miles.

22 MR. OZMENT: Your Honor, we ---

23 THE COURT: Hold on a minute.

24 (WHEREUPON, a bench conference begins.)

25 MR. OZMENT: He's arguing third-party guilt.

1 THE COURT: All of that which is in evidence and
2 a reasonable inference and warrant your profanity.

3 MR. HERRON: Okay.

4 (WHEREUPON, bench conference ends.)

5 MR. HERRON: We didn't hear any of those
6 questions answered. Now, these pictures don't show the
7 same thing. Now, these are in evidence. The way the body
8 was found doesn't tell us anything, more pictures of the
9 body, the bodily remains. The picture of the crime scene
10 doesn't tell us anything. She's a gold digger.

11 Now, the Rodeo, the Rodeo what does the Rodeo
12 tell us? Testimony was every now and then Randy would
13 want to clear out his mind and everybody that knew Randy
14 when I asked them sometime he drive to the bluff. Yeah,
15 he drive to the bluff to clear out his mind. So I don't
16 understand what the Rodeo tell us. Here's what the Rodeo
17 doesn't tell us? Doesn't give us any indication of a
18 struggle and I asked everybody this is anything out of the
19 ordinary? No. So pictures of the Rodeo don't tell us
20 anything, picture of Bluff Landing. And here's another
21 thing, it's a very public landing. I mean, that's a well
22 used landing. Just seem to me that if you were going to
23 put a body somewhere, that be a silly place to do it. Pee
24 Dee River diagram doesn't tell us anything.

25 Now, Jerome Eaddy, y'all remember when Jerome

1 Eaddy said picked out the person that he supposedly gave a
2 ride to said did it right away. If you show me six
3 pictures, I show you six pictures, and I have six
4 strangers and one of those pictures are of Angelina Jolie,
5 which one are you going to say look familiar, Angelina
6 Jolie. Now, when Randy Bratschi went missing this was a
7 big news story in a small town like Coward Pamplico, big
8 news story. It's pictures on the news, newspaper.
9 Brenda's pictures on the newspaper. So obviously, I don't
10 have any doubt that Jerome Eaddy looked at this picture
11 and said I recognize her. She's been on the news,
12 newspaper, on the evening news, so I have no doubt Jerome
13 Eaddy picked her out. I have no doubt at all. Again,
14 more pictures of Randy Bratschi's injuries that tells us
15 nothing. And this is the assault and battery with intent
16 to kill.

17 Something that I do want to talk about is the
18 murder affidavit. This is what Kathleen Streett believes
19 happened. And it says that on or about November 26th,
20 27th, that would be either that Friday or Saturday, either
21 that Friday or Saturday the defendant -- this is what they
22 believe, this is her affidavit. Brenda Bratschi did
23 commit the offense of assault and battery with intent to
24 kill upon Randy Bratschi -- looking for the murder
25 affidavit. There it is. That on or about November 26th,

1 27th, Brenda Bratschi murdered Randy Bratschi. How? I
2 don't know, but she murdered him. How, where, when? She
3 murdered him, okay. And she believes this based on the
4 following: Randy Bratschi was reported missing on
5 November 30th. She reported him missing. He was last
6 seen alive the morning of the 26th, not true, not true
7 based on the evidence you seen. That's not true, that's
8 not a true saying at all. Cause Heath Matthews got on the
9 stand and testified that when he and Frankie were on the
10 way back from the landing, he hand excuse me -- Frankie
11 had Randy's boat. Heath remembered Frankie talking on the
12 phone and Heath remembers that being Randy Bratschi
13 talking about the boat. So we know at least from Heath
14 Matthews that Randy Bratschi was alive on Saturday. Now,
15 is it possible that -- I can tell you what they're going
16 to say. Heath Matthews is family, he's going to lie for
17 family. He's gone lie for blood. He's a nephew. He got
18 on the stand took an oath you can either believe him or
19 you cannot believe him. He didn't say Randy Bratschi was
20 alive on Monday. He didn't say he saw Randy Bratschi
21 alive on Tuesday. He said I heard him talking on the
22 phone Saturday. So that is -- Kathleen Streett would say,
23 well, she murdered him later that Saturday night. That
24 can't be that way either. It can't be that way cause who
25 else did he hear from. We heard from people that saw

1 Randy Bratschi on Sunday. Y'all remember Bubba Miles, the
2 older guy that was kind of hard of hearing. I was trying
3 to speak up so he could hear. Bubba Miles said, yeah, I
4 seen him coming this way, I gave him a whatever. You sure
5 it was him, 100 percent sure. Yeap. So for you to
6 believe the facts as laid out by the Solicitor's office,
7 you would have to disbelieve all of the witnesses that
8 have been presented by the defense. You would have to
9 believe that they are all telling the same lie. It's not
10 even the same lie because Bubba said he saw him on Sunday.
11 Heath said he saw him on Saturday. Dennie Matthews said
12 he saw him on Sunday, so you would have to believe that
13 they all got together somehow and said okay we gone do --
14 if they all wanted to lie, if they wanted to get together,
15 they wanted to tell a better lie, I would say y'all need
16 to get in here and say y'all saw him alive on Sunday night
17 cause then it takes it way out of the time line that they
18 have, but they didn't do that. Some saw him on Saturday,
19 some heard from him. Some people saw him on Sunday. So
20 it don't even fit in what the time line they believe and
21 this is in the murder affidavit cause we don't know when
22 Randy Bratschi died. If I had witnesses that observed the
23 defendant leaving the victim's property during this time
24 in violation of an order of protection, which was
25 prohibited. Now, remember Kathleen Street said Randy

1 Bratschi was terrified, that was her word. Terrified of
2 Brenda Bratschi. After all, Brenda Bratschi about beat
3 him half to death with a bat, with no good reason. I be
4 terrified of a woman like that too. She's terrifying.
5 Randy Bratschi is terrified of Brenda Bratschi.

6 Now, if a husband is cheating on a woman,
7 cheating on his wife, is it reasonable to assume that that
8 wife's going to be upset. Y'all can ask the women in the
9 jury this later on. Is it reasonable that a woman's gone
10 be upset? Absolutely. Is it gone be reasonable that a
11 woman wants to find out more about the woman that her
12 husband is seeing? Absolutely. So that night, that
13 night, she goes -- she catches Sue Hill red handed. Now,
14 she goes up to the house. Now, remember caught red handed
15 now. Now, this is a woman -- keep in mind, this is a
16 woman that almost beat her husband half to death with a
17 baseball bat for no good reason. She's a violent woman.
18 She wanted him dead. That's their theory. She catches
19 her husband late at night getting ready to go into his
20 girlfriend's house. Now, should she have been there? No.
21 She shouldn't have been there. Is it reasonable to
22 believe she wanted to be there to see it with her own
23 eyes? Yes. But what's more important is what happened
24 and nobody has disputed this. What happened? This
25 psychopath, this violent woman that beats people half to

1 death for no reason. She goes up to him and she's so
2 upset. She says -- no, what she do? She shines a
3 flashlight on him and says I wonder how long this has been
4 going on, walks away. They can't have it both ways. She
5 can't be somebody that beats somebody half to death with a
6 baseball bat for no good reason and then when she has
7 every reason in the world to whip his butt, she simply
8 just goes up and says I wonder how long this has been
9 going on and walks away. I don't understand their theory
10 of that. What else does she do? Does she act in
11 accordance of what a normal woman would do? She calls up
12 the house where they're at, she's upset. Does she say I
13 want to kill you and I'm going to kill that sorry S-O-B,
14 nope. What does she do? She calls Sue Hill up and says,
15 well, I hope you had fun with my husband, hangs up. Now,
16 this is a woman that's so violent she almost beat a man
17 half to death for no reason. Hope you had fun with my
18 husband.

19 Now, get back to the terrified part. Randy
20 Bratschi so terrified of Brenda Bratschi, remember
21 according to their theory she almost beat him half to
22 death for no reason. He's so terrified of Brenda Bratschi
23 she caught him red handed in the act. So terrified what
24 did they do that night, they call Kathleen Streett.
25 Kathleen, she's out here again and I don't know what she's

1 going to do. Please send somebody, please I don't want
2 her to kill him. Any call, hey, you need to send somebody
3 out here. Any call to law enforcement? Randy Bratschi is
4 so terrified of Brenda Bratschi what did they do that
5 night? He goes to the bar with his girlfriend and drinks,
6 Sue Hill. They went out and drink, had a good time, but
7 he's terrified of her. It don't fit -- their theory of
8 the case does not fit into the facts and it doesn't make
9 sense.

10 Now, ladies and gentlemen of the jury, if it
11 doesn't make sense, then you have to have doubts as to
12 what they're saying exactly happened. Because the truth
13 of the matter is we do not know what happened to Randy
14 Bratschi and that is the simple facts.

15 Now, they're gone say that this case is
16 circumstantial evidence, what's what they're going to say.
17 They even going to have to admit there's no physical
18 evidence. They're going to say it's a circumstantial
19 evidence case. And they may use an analogy of like if
20 three people come into the back of this courtroom with
21 umbrellas and they look wet, you can infer that it's
22 raining. I like to look at it a different way
23 circumstantial evidence. If five to ten people come into
24 the back of the courtroom with umbrella's and they're wet,
25 and I say, hey, I got an idea. I'll bet you \$5,000 that

1 it's not raining out there. And you see five people with
2 umbrellas wet, five more people. Well, I'll make a beat
3 with you. I bet you \$5,000 it's not raining out there.
4 And you may even hear something that sounds like rain.
5 \$5,000 bet because you know it's a good beat because,
6 guess what, you got a good idea from the circumstantial
7 evidence that it's raining. Before you shake my hand for
8 that bet, what are you assuming you are going to do, some
9 of you are going to be like hang one second. You gone
10 look out that window cause you ain't gone care if 20
11 people come in there. \$5,000 is a lot of money, you gone
12 say hang on one minute. You gone look out that window,
13 some of you may roll the window down and say -- put your
14 hand out there, you know, why \$5,000 is a lot of money.
15 And you're not going to make that kind of wager on ten
16 people coming in the back of the room that look wet and
17 got an umbrella.

18 Brenda Bratschi's freedom is something priceless
19 is before you. It's in your hands. And the only thing
20 that they can say is certain aspects of this case look bad
21 for Brenda Bratschi. They look bad. That's the best that
22 they can hope. They use the incident that supposedly
23 happened back here to try to make it look bad to make it
24 look like a reason that she would kill him, that she's
25 violent. But her actions that you know -- now, admittedly

1 the fight was a he said she said and I told y'all at the
2 beginning that he said she said there's three sides. He
3 said she said true. I think the fight was a little
4 mixture of he and she. I think there's a truth in the
5 middle. But they never tried her for that cause they want
6 you to convict her on the basis of she supposedly tried to
7 kill him. And I want you to understand one thing she's
8 still charged with that crime assault and battery with
9 intent to kill. We spent two days talking about that
10 assault and battery with intent to kill, two days. She is
11 still charged with that. She's still going to have to
12 face a jury for those charges. What I'm respectfully
13 going to ask you to do is if you think she beat her
14 husband half to death even though I don't think that
15 happened, keep that separate from the murder. Because
16 this case is about murder and they can't answer the basic
17 questions. We been going on long. I'm getting ready to
18 sit down, I've talked enough. But I'll tell you what if I
19 had to talk seven days straight to ensure that that woman
20 right there gets to go home, I would.

21 I do want to leave you with two things. First,
22 after y'all leave here this week if y'all have your
23 verdict today, you get to go home and the judge is gone
24 tell you you can talk to whoever you want to. Some of
25 your friends are going to call you up on the phone or

1 Facebook you or whatever, text message you, hey, what
2 happened? What was the trial about? Cause I know you
3 wasn't supposed to tell it. Oh, it was a murder case.
4 Well, what happened? Oh, some lady was accused of killing
5 her husband, putting him underneath a trailer. Oh, how
6 did she do it? I don't know. When she do it? Oh, I
7 don't know. Well, where did she kill him? I don't know.
8 What did y'all rule? Oh, we found her guilty. What are
9 your friends initial reaction gone be? They're gone go,
10 You found her guilty. You found her guilty. On what? On
11 what?

12 This is my last thing then I'm going to sit
13 down. When I was in law school, a famous lawyer came and
14 talked to our class. I can tell you who he was, it
15 doesn't matter. What he said matters. He represented
16 criminal clients all the time very famous. Tell you who
17 it was doesn't matter. What matters is what he said. A
18 lady put up her hand in class, fellow classmate said, How
19 can you represent guilty people? You can tell he had that
20 question asked a million times. He said young lady let me
21 tell you something representing guilty people is easy.
22 Representing innocent people that's hard. Ladies and
23 gentlemen, that's hard.

24 I want you to do what's right. I want you to
25 use your common sense. And I want you to tell the State

1 they have not carried their burden of proof in this case
2 beyond a reasonable doubt and I want you to send Brenda
3 Bratschi home today. Thanks.

4 THE COURT: Mr. Ozment.

5 MR. OZMENT: Thank you, Your Honor. May it
6 please the Court. Mr. Herron. At the beginning of this
7 trial, I asked you to use your common sense. This case is
8 about common sense. This case is about what makes sense.
9 That's all I'm still asking you just to use your common
10 sense in this case.

11 Now, I'm going to go through the evidence, go
12 through the case we presented and kind of tell you what I
13 think that means. We started with the assault and battery
14 with intent to kill. Mr. Herron said that doesn't matter,
15 I think it does. I think the assault and battery with
16 intent to kill is the first time Brenda Bratschi tried to
17 kill Randy Bratschi.

18 Now, he made a big deal over we haven't tried
19 the assault and battery with intent to kill. That's easy
20 to explain. The reason we haven't tried the assault and
21 battery with intent to kill is the main witness in the
22 assault and battery with intent to kill is dead. He was
23 found under Brenda and Randy Bratschi's trailer as a
24 skeleton. It's awfully hard to try a case when your lead
25 witness is dead, awfully hard. So I mean I think common

1 sense will tell you we did not try it because -- it wasn't
2 any grand master strategy, it's not any, you know, trying
3 to sneak this or sneak that in. It's simple. That would
4 be a hard case to try, that would be a hard case to win
5 because the man who was almost killed can't take the
6 witness stand.

7 Now, let's say what would make sense with this
8 assault and battery with intent to kill. We've shown that
9 the Bratschi's once they were married had some money
10 problems. Kathleen Streett told you that previous in
11 their marriage one time the checking account was overdrawn
12 over \$2,000. And Randy confronted Brenda about it and was
13 upset. We then went to the day that this happened. The
14 checking account was overdrawn again. Randy said let's go
15 to the credit union and get to the bottom of this. Brenda
16 Bratschi didn't want to go to the credit union. As you
17 heard Kathleen tell you, what the credit union is going to
18 say. All of the transactions before that checks for cash,
19 check for cash, check for cash. Every one from Brenda.
20 The gig was up. So, you know, Brenda didn't have time at
21 that point to think out some grand scheme. She didn't
22 realize she was about to get caught. She grabbed the tire
23 thumper that was right there and attacked Randy. She beat
24 him on the head again and again. She broke all the bones
25 in his face. You heard Dr. Atkinson say she hit him so

1 heard right here at the temple not only here but at this
2 bone. It knock the bones down in his ear out of place.
3 And Dr. Atkinson said, yes, these injuries -- I think he
4 actually said they probably were not life threatening, but
5 he did say if one of those landed on the back of the head,
6 he would have died right then, that would have been it.
7 You know, he was a few inches from dying that day or if
8 one of those blows hit him on the head.

9 Now, let's look at her injuries. Her injuries
10 were on her thumb. You heard testimony that nobody saw
11 her get treatment at the hospital. Nobody could find the
12 medical records she had any treatment at the hospital. We
13 also heard that those tire thumpers they do break. They
14 break when truckers use them. They'll pop back and hit
15 you in the head, pop back hit you in the arm, pop back and
16 hit you in the hand. We know the tire thumper broke. We
17 have both pieces of it. On the 9-1-1 call Randy said,
18 she hit me with it and hit me with it until it broke. And
19 then I was able to grab a hoe and call 9-1-1 and he was
20 scared to death.

21 Mr. Herron keeps saying it's over nothing. What
22 makes sense? It makes sense she was about to get caught
23 spending all the money. It doesn't make any sense that
24 Randy just randomly attacked her. Now, after that assault
25 and battery with intent to kill, he went and got a

1 restraining order. What does that restraining order mean?
2 It meant for one year Brenda couldn't go to the house,
3 couldn't use the cars, couldn't call Randy, couldn't write
4 him a letter, couldn't write him an e-mail, couldn't do
5 anything. She had to leave him alone. That was it.
6 Simple. She had to leave him alone. When she almost
7 killed him, Randy decided, you know what, this isn't a
8 good relationship. This isn't a safe place for me to be.
9 I need to move on. He filed that restraining order. He
10 didn't want to be around her.

11 What was the next step? I think it be safe to
12 assume that he would continue to move on with his life
13 without her and probably initiate a divorce. Well, what
14 did Brenda do? She follow the restraining order. She
15 showed up at Sue Hill's house confronted Randy. How did
16 she know he was at Sue Hill's house? She was obviously
17 watching him and following him she knew somehow. She was
18 doing something. She obviously was following him around.
19 She called Ed Jeffcoat left a message said, Hey, you know
20 about Randy and Sue that make you mad. Ed say I moved on
21 I wasn't worried about Sue Hill any more. She was trying
22 to rally the neighborhood a little bit. She went over and
23 told Kathy Merrill I've hired a P.I. You know, I'm taking
24 pictures. Do you think that's what the family court order
25 intended for her to say she can hire a P.I. and go have

1 pictures taken and follow him around. That's not what
2 that order says. That order said leave him alone. That
3 night at Sue's Mr. Herron makes a big deal that she didn't
4 kill him that night and that would have been reasonable
5 that she would have killed him that night. That night at
6 Sue's was the same week he went missing, that was the
7 beginning of the week. By Friday, he was dead. So, yeah,
8 I think it does make sense that she saw him at Sue's and
9 made up her mind then if she hadn't already made it up
10 what she was going to do with Randy.

11 Now, let's look at how Randy died what we could
12 tell from it. You heard Squirrel, Mr. Merrill. You heard
13 him tell us that at Smurfit-Stone you got to wear a steel
14 toe boot. They're uncomfortable you don't like to wear
15 them all the time. You heard him also say it when Randy
16 wasn't at work, he usually didn't wear his steel toes
17 unless he was just running to go get gas something like
18 that. He wear those kind of rubber duck boots. I have a
19 pair of those and they are much more comfortable than
20 steel toe boots. You heard him say Randy only wore steel
21 toes when he was at work. What else did Squirrel tell us?
22 He told us when he went to the door that Friday night and
23 couldn't find Randy, Bud little dog was inside running
24 back and forth. And Bud had had a mess right there where
25 you can see it in the door. He said Randy in general kept

1 his house fairly clean. Certainly, didn't leave dog mess
2 laying around. Well, what's the first thing Randy would
3 have done when he came home from work. We know he got his
4 lunch pail inside. We know he didn't get his boots
5 changed. I bet he would have let the dog out. I have two
6 dogs, they stay inside when I'm at work. And when I get
7 home this afternoon, before I take my shoes off, before I
8 take my coat off, I let the dogs out in the backyard
9 because I know they been inside all day. But Bud didn't
10 get let outside because he didn't go in the house. What
11 else can we tell from the way Randy was found, about how
12 Randy died. Randy didn't wrap himself in a tarp. Randy
13 didn't tape the outside of the tarp. Randy didn't put
14 himself under that trailer in a shallow grave and cover
15 himself up with dirt. We know that. We also talked about
16 this other grave site.

17 You know, Mr. Herron even admitted, you know, if
18 Brenda done this she would have tried to bury him on her
19 family's property 4,000 acres. What did Phil Hanna tell
20 you? That grave was found on the closest part of that
21 4,000 acres to the Bratschi property. It was found on the
22 closet part. Now, Randy and Brenda -- Randy was bigger
23 than Brenda. He was 175 to 190. You see how big Brenda
24 is. I'll tell you what I think happened. I think Randy
25 came home from work. Before he could get his boots off,

1 before he could let Bud out of the house, Brenda ambushed
2 him. Brenda knew the property. She knew it was 22 acres.
3 She knew where she could hide. She knew Randy's habits.
4 She was going to bury him over on the family property,
5 eighth to a quarter of a mile away where she had dug a
6 grave. But Randy was big enough she couldn't -- that
7 wasn't as easy as she thought when she was picking up that
8 body. She had to do something with him. She wrapped him
9 in a tarp, she taped him up. She got under that trailer,
10 dug a hole, put him in there and covered him up and that's
11 where he laid for the next five years. Think about it,
12 Mr. Herron keeps talking about how Brenda never wanted to
13 go to the house. And then when she could have the house,
14 she didn't go back. She didn't want anything from this.
15 You're dang right if I buried somebody under my house, I'm
16 not going to live there with a dead body under the floor,
17 especially thinking I'm going to be the chief suspect.
18 I'm not going to live on top of the body for when they
19 found it, I'm sitting up camp on top of it, that doesn't
20 make sense to me. You're dang right I wouldn't have gone
21 back to that trailer, I would have never gone near that
22 trailer.

23 Now, what else could we tell about the way --
24 you know, the way the body was found. Think about what
25 it's like under a trailer, it's low, it's small. It makes

1 sense that Brenda could have gotten under there. You
2 know, Brenda is not six feet tall, she's not 300 pounds.
3 You know, she could fit under there. You heard there was
4 boards and stuff. She could dig a shallow grave. And now
5 if Randy's in a tarp, he's going to slid easier. 190
6 pounds is going to slid across the ground up under that
7 trailer. She's going to be able to cover him up with dirt
8 and leave him there.

9 Now, how could the investigators have missed
10 this, you know. Well, the cadaver dogs couldn't go under
11 the trailer, it was too low. He heard the cadaver dogs
12 never got to go under the trailer. You also heard cadaver
13 dogs aren't perfect, they're a dog. If Randy was under
14 dirt and he's under a trailer now, so it's not like
15 people walk on it. It's not like there's rain. You know,
16 under a trailer there's going to be little mounds of dirt.
17 There's going to be debris. We heard they're kind of
18 building debris, what not. I mean, it makes sense you
19 look under there. You kind of say I see boards, see this
20 and that. It's not like it's going to be perfectly
21 smooth, here's the obvious grave and it's perfectly
22 smooth. It's going to be under a trailer. You're going
23 to look and see some debris, not really see if anything
24 been moved. I think that's perfectly understandable. And
25 he was found eventually five years later. He was right

1 where he was for the last five years. He was right where
2 Brenda put him right under that trailer in that tarp.

3 Now, let's talk about what Mr. Eaddy said. I
4 brought Mr. Eaddy up here and looked at this map. And it
5 took him a few seconds, but he eventually told us where
6 his house was. He said his house was right over here. In
7 fact, here is the line he draw right there. I asked him
8 where the Bluff was and where Bluff Road was and he said,
9 well, here's Bluff Road right here. Here's the Bluff.
10 And that's not very far you can see it use from this
11 scale. You can tell it's a house trailer. You could walk
12 this pretty easy, you know, just here to here, that's not
13 very far.

14 Now, Mr. Eaddy said he immediately picked
15 Ms. Bratschi up excuse me -- pick Ms. Bratschi out of a
16 photo lineup. It's over here now. Now, Mr. Herron would
17 have you believe that just because she was in the news so
18 much he couldn't help but pick her up. Mr. Eaddy doesn't
19 know who Brenda Bratschi is. He said I have no idea who
20 she is. I have no idea who Randy Bratschi is. So you
21 watch the news? No, I don't know anything about this
22 case. I don't have a dog in this fight. All I'm saying
23 is I saw a person who I originally thought was a man, in
24 fact, walking down the street in darkness near Bluff
25 Landing in full camouflage the night that we been talking

1 about Randy Bratschi went missing and, you know, I gave
2 him a ride. When I saw him, oh, I was like that's not a
3 man, that's a woman in full camouflage he described her.
4 As soon as the sheriff's office come talk to him, he
5 described her again. And I look at that photo lineup,
6 it's not like they're five regular people and Angelina
7 Jolie in that photo lineup. You're going to see six women
8 that look very similar. And he was able to pick out
9 that's Brenda Bratschi right there, that's the one I gave
10 a ride to that night. I don't know her from Adam, that's
11 the one I picked up that night.

12 Now, let's talk about the Rodeo. Mr. Herron
13 says that what we said about the Rodeo doesn't make sense
14 because Brenda's family saw it drive around that weekend.
15 Well, what does make sense about the Rodeo? Mr. Herron
16 kept saying, well, didn't Randy like to go to the landing
17 and park and get away from it all. He ask that to all
18 Randy's friends and all of them said I don't know what
19 you're talking about. Kathleen Streett said, yeah, Randy
20 told me he did that sometimes, but obviously, you know,
21 not something he did a lot. Let's see where was Randy
22 found? Randy was found wrapped in the tarp, covered in
23 tape, buried under his trailer. Where was the Rodeo
24 found? It was found at the landing. Now, if Randy had
25 driven to the landing to get away from it all, how did he

1 somehow then end up dead under his trailer in a tarp
2 several miles away, if he was at the landing getting away
3 from it all and just left his Rodeo there, that doesn't
4 make sense. What makes sense is what Jerome Eaddy says?
5 What makes sense is that she put him under the tarp, put
6 the car at the landing because what Mr. Herron said, well,
7 it's up to 4,000 acres. We know she tried to dig a grave
8 there. What is the other place she should bury him --
9 bury a body? What is the logical place be? Dump him in
10 the river? If I put his car at the river, the sheriff's
11 office is going to look at the river. They're going to
12 think he died in the river. Maybe, he went camping and
13 got lost and drowned. We know that's not what happened.
14 The body was under a trailer in a tarp under -- taped up.

15 Now, also Mr. Herron had all these people come
16 say, oh, I saw Randy driving around all this. Again, it
17 just doesn't make sense. We know where Randy was found.
18 We know he didn't kill himself. We know where the Rodeo
19 was found. So, I mean, he drove around. He didn't go to
20 work Saturday and Sunday, we know that too. But he was
21 just driving around nobody saw him except driving around
22 and he somehow ended up dead up under a trailer, that
23 doesn't make sense. And everybody said they saw Randy.
24 They said, yeah, I really didn't know him well, but I'm
25 pretty sure that was Randy. And what did Mr. Edis

1 Arnette, the principle at Lake View High School say, what
2 did his friends say was hunting there with him? What did
3 law enforcement say? I saw the black Rodeo -- I think one
4 said it was a Honda Passport. They all said I saw a black
5 SUV parked the same place on that landing Friday night,
6 Saturday, Sunday, and Monday. On Tuesday, is when it had
7 gone into NCIC, which is the missing person car thing and
8 that's when Bradley Bazen said, he was up here the bald
9 guy said, I ran it and it came up as a missing person,
10 that Rodeo never moved from Friday night. From that night
11 Jerome Eaddy said he gave Brenda Bratschi a ride back,
12 that Rodeo never moved. It stayed parked at that landing.
13 Now, I'm not saying all these people came up here and lied
14 for Brenda. I'm not -- that's not what I'm saying. What
15 I'm saying is that they all said I didn't really know
16 Randy that well. I see him a few times, I seen him with
17 Brenda. I didn't know him that well. I just don't think
18 they saw the right dark SUV with Randy in it.

19 Now, Brenda doing a missing person's report --
20 earlier we talked about that protective order. How would
21 Brenda have known Randy was missing? Nobody testified
22 that they called Brenda and said, hey, Brenda, have you
23 heard anything from Randy, he's missing. I didn't hear
24 anything about anybody any way Brenda would have known
25 he's missing.

1 Now, if she had said killed him and put him
2 under the trailer, she would have know he was missing.
3 But I can't figure out in any way that Brenda would have
4 known he was missing. In fact, there was an order from
5 the family court you need to leave him alone, don't talk
6 to him, don't look for him, don't go to his house. Quite
7 possibly maybe he was missing unless she knew why he was
8 missing. It makes sense.

9 Now, let's talk about what Mr. Herron keeps
10 bringing up, that we can't tell who, why, what all that.
11 I can tell you it was Brenda Bratschi. I can you tell
12 why. We've gone over motive. I'm going to touch on that
13 in just another minute. Now, how did she kill him? She
14 killed him when he came home from work on Friday morning
15 when he worked all night, didn't even have time to let Bud
16 out.

17 MR. HERRON: Your Honor, I object closing
18 arguments is suppose to be about evidence that's been
19 presented not hypotheticals that Mr. Ozment is coming up
20 with.

21 THE COURT: Can y'all approach please?

22 (WHEREUPON, a bench conference was held in the
23 presence of the jury, but out of the hearing of the
24 jury.)

25 MR. OZMENT: Where was I? He didn't have time

1 to let Bud out. Now, what else do we have? We have the
2 guy from Texas who did the power points display, he's a
3 very smart guy. But all I'm looking to focus on is all he
4 said other than I think he can conclude that the body was
5 Randy's. He was pretty clear that on this body because it
6 was so old, because it was so long, because it was an
7 incomplete skeleton. It's not that he wasn't shot. It's
8 not that he wasn't stabbed because it just took so long to
9 find the body. It had rotted to the point it was just an
10 impartial skeleton. We can't tell from looking at the
11 body how it happened. That doesn't mean he wasn't
12 murdered, that doesn't mean he wasn't killed and wrapped
13 in a tarp, taped up and buried under a trailer.

14 What does the State have to prove in this case.
15 I want you to listen very carefully when the judge charges
16 on murder. He's going to tell you what we have to prove
17 on murder. You will know that's what he says that the
18 victim was killed with malice aforethought. What that
19 means is she planned it. She intentionally killed him.
20 The judge is not going to say the State has to prove that
21 Randy Bratschi was killed with a gun, not going to say
22 that. The State has to prove that Randy was killed with a
23 knife, not going to say that. Would I like to have the
24 murder weapon in this case? Sure. But that doesn't
25 matter. It doesn't change the fact that Brenda killed

1 Randy, it does not change that one bit.

2 Now, in closing, at the beginning of this trial,
3 I said that this case was about motive, means and
4 opportunity. Now, you've heard all about that. Let's
5 look at the motive Brenda had. She had just assaulted him
6 five weeks before this. What was she looking at? She was
7 first of all probably getting a divorce. He said I don't
8 want you near me for a year. He was going to divorce her,
9 so she's going to lose or husband. Well, we had testimony
10 that Brenda maybe work part-time, wasn't really working.
11 She was going to lose her income, her way of life.
12 Lastly, why hadn't we tried the ABWIK trial because Randy
13 Bratschi can't take this witness stand. If we had tried
14 that ABWIK trial and Randy Bratschi was here, yeah, she
15 probably would be convicted. She was looking at prison
16 time. If Randy Bratschi was alive, she was looking at
17 losing her husband, her way of life and going to prison.
18 So she did something to change that, she did something
19 where she could change that she wouldn't go to prison.
20 That, you know, she wouldn't lose him because if she
21 didn't have him, nobody else could. Sue Hill couldn't
22 have him, nobody could. There's been no evidence that
23 Randy was doing anything wrong in his marriage before
24 Brenda almost killed him. Sue was very clear about that.
25 Anybody that Mr. Herron questions said, no, they knew each

1 other, but certainly no affair was going on with Randy
2 Bratschi.

3 Now, let's look at the meanings. We've talked a
4 little bit about Brenda. Their size different wasn't that
5 great. And she almost killed him once. She was a few
6 inches of killing him once before those blows landed on
7 his head. She almost killed him once. She hunted, she
8 fished. This wasn't a little woman at the country club
9 that played tennis and that was about it. No. This is
10 somebody that every bit of the ability to kill Randy
11 Bratschi. She proved that when she almost did it the
12 first time. And she made dang sure the second time that
13 she killed him, opportunity. Who else knew his habits?
14 Who else knew that property? Who else knew that he would
15 get off from work on Friday come in and she would be
16 laying in wait. Remember, he was suppose to work Saturday
17 and Sunday and never showed up. But those were overtime.
18 Those were fill in for holiday of Thanksgiving. As far as
19 Brenda knew if she killed him Friday, he wasn't going to
20 go to work until Monday. She had him all weekend to cover
21 her tracks to move the Rodeo, to bury him. She didn't
22 know he was working Saturday and Sunday. She had that
23 protective order. She would have thought when is the
24 first perfect time to kill him when he's working night
25 shifts on a Friday morning. That gives me all weekend, a

1 long weekend to cover myself. What makes sense? Does it
2 make sense that to protect her life, to protect her
3 liberty, protect herself from, you know, embarrassment
4 that she would kill Randy, bury him under the trailer,
5 exactly where the body was found. We know he didn't kill
6 himself, move the Rodeo to the landing or Jerome Eaddy
7 took her right back to the crime scene. Does that make
8 sense or does it make sense that somehow the Rodeo's at
9 the crime scene because the Rodeo is at the landing
10 because that's where he went to get away. And he was
11 driving around all weekend and somehow his body under the
12 trailer, that doesn't make sense. There is no cohesive
13 story that you've heard from the defense in this case.
14 They may try to hit us here in this story and hit us over
15 there, but it all flows. It all makes sense. You know
16 why because not only this evidence here, but the witnesses
17 right here, this is evidence. Everything you heard from
18 this witness stand and that's not just a story, that's the
19 truth in this case. When you think about the truth in
20 this case, there's only one verdict you can return and
21 that verdict is guilty. It's only one verdict that's
22 proper in this case that explains why Randy Bratschi died,
23 that explains why the body was under a trailer, wrapped in
24 a tarp, taped up in a shallow grave. And that's that
25 Brenda Bratschi killed him and that verdict is guilty.

1 Thank you very much.

2 THE COURT: All right, ladies and gentlemen, it
3 is now my duty as the trial judge under the constitution
4 of this state to charge and instruct you on the law
5 applicable to this case. It is your duty as jurors to
6 accept and apply the law as I will now state it to you.
7 Furthermore, it is your exclusive duty to decide all the
8 issues of fact in this case and to determine the effect,
9 value, weight and truth of the evidence. Both the State
10 and the defendant have a right to expect that you will
11 carefully consider and evaluate the evidence and apply the
12 law of this case to it, so that in the end both the State
13 of South Carolina and the defendant will receive a fair
14 and impartial trial. I want you to understand that when I
15 use the word defendant, I refer to Ms. Brenda Miles
16 Bratschi. Furthermore, it is important to understand that
17 the indictment in this case alleges two different offenses
18 against the defendant. The charges alleged in the
19 indictment are murder and burying a body without notice or
20 inquiry.

21 To these charges, the defendant has entered a
22 plea of not guilty. The plea of not guilty places the
23 burden of the proof on the State to prove the guilt of the
24 defendant to you, the jury, beyond a reasonable doubt. As
25 I mentioned above the indictment in this case alleges two

1 THE COURT: Madam clerk, you may publish the
2 verdict.

3 THE CLERK: The State of South Carolina vs.
4 Brenda Miles Bratschi, indictment 2010-GS-21-661, as to
5 the count -- as to the charge of murder, we, the jury
6 unanimously find the defendant, Brenda Miles Bratschi
7 guilty. As to the charge of burying a body without notice
8 or inquiry, we, the jury, unanimously find the defendant
9 guilty. Dated April the 19th 2012, sign Marvin Privette.

10 Members of the jury, if this is your verdict,
11 please raise your right hand?

12 That's everyone, Judge.

13 (WHEREUPON, all jurors' hands were raised.)

14 THE COURT: Anything from defense counsel with
15 regards to the verdict at this time?

16 MR. HERRON: Can we poll the jury, Your Honor?

17 THE COURT: Yes, madam clerk.

18 THE CLERK: Members of the jury, I will call
19 your name and ask you two questions. Please respond to
20 both of my questions. Joyce Moore, was this your verdict
21 then?

22 JUROR: Yes.

23 THE CLERK: Is it still your verdict now?

24 JUROR: Yes.

25 THE CLERK: Philip Lloyd, was this your verdict

1 this state, this country and this county appreciate your
2 service. I appreciate your attentiveness throughout this
3 week. Individuals such as yourself in our jury service is
4 what makes this country a great country that it is. We
5 cannot call you back up here for jury service any time
6 over the next three years in circuit court. Now, if you
7 get called to federal court, city court or magistrate's
8 court, there's nothing I can do to help you. But if you
9 get called up here, you do not have to serve at least for
10 the next three years.

11 Again, I want to thank you for your service. It
12 is my understanding that your checks for your service this
13 week will be mail to you. Those checks will also include
14 a work excuse in case you need that. The check that you
15 receive is not a substantial amount of money. There is no
16 price tag that our State and our country can put on the
17 value of your service this country and this community. I
18 want to thank you again for your service. And you are
19 free to go at this time.

20 (WHEREUPON, the jury is dismissed.)

21 THE COURT: All right. The State ready to
22 proceed at this time?

23 MR. OZMENT: Your Honor, Michelle just went to
24 get the sentencing sheets. Maybe, give us just a minute.

25 THE COURT: While we're waiting on that,

1 Mr. Herron, any post trial motions?

2 MR. HERRON: Yes, Your Honor, at this time make
3 a motion for new trial judgment notwithstanding the
4 verdict. Your Honor, all the State has done with their
5 evidence is raise a mere suspicion that Brenda Bratschi
6 had something to do with this crime. There's absolutely
7 no physical evidence that linked Brenda Bratschi to the
8 murder of Randy Bratschi. I believe with all due respect
9 to the Court, it was unfairly prejudicial that the assault
10 and battery with intent to kill charge was allowed to be
11 basically tried in this case. It turned into a case
12 within a case. A trial within a trial. Without that,
13 they wouldn't even have motive. And in that case, it
14 hadn't been tried and it was actually a case that
15 supposedly occurred before the murder.

16 On those grounds, Your Honor, I would
17 respectfully ask that you grant a new trial on judgment
18 notwithstanding verdict. All they have done is raise the
19 suspicion of what happened to Randy Bratschi and nobody
20 can answer where Randy Bratschi died, how he died, when he
21 died and all they can do is make it sound like it looks
22 bad for Brenda Bratschi as to who killed Randy Bratschi.
23 So with all do respect, I would respectfully ask that Your
24 Honor a grant new trial.

25 THE COURT: Mr. Ozment, anything in response?

1 MR. OZMENT: Your Honor, I certainly think that
2 the verdict speaks for itself, it speaks the truth. The
3 prior bad act was properly admitted under Rule 404(b)
4 committed an intent. I believe Your Honor's charge with
5 that address the law as to how that is probative in this
6 case and I believe the verdict speaks the truth.

7 THE COURT: All right. Mr. Herron, I'm going to
8 respectfully deny your motion for a new trial. Under
9 South Carolina law, the trial judge may grant a new trial
10 upon the facts even in the face of conflicting evidence
11 that would prevent a direct verdict, but he may not in the
12 face of conflicting evidence enter a verdict different
13 from that. The jury based upon his own assessment of the
14 facts certainly conflict fact within -- during the course
15 of this trial. This case submitted to the jury and based
16 upon their decision the Court is not going to grant a new
17 trial pursuant to your request.

18 MR. HERRON: Thank you, Your Honor.

19 MR. OZMENT: Your Honor, may I approach?

20 THE COURT: Yes, sir.

21 MR. OZMENT: Your Honor, I prepared two
22 sentencing sheets, one for murder, one for burying a dead
23 body without notice. I've shown them to Mr. Herron and we
24 are in agreement they're correct.

25 THE COURT: Mr. Bellflower, if you'll move that

1 get to see her again after today. I don't --

2 MR. HERRON: Your Honor, may I have my client
3 just sit down?

4 THE COURT: Yes, sir.

5 DEBORAH MILES: But I'm just begging you to
6 please be as lenient as you can. I just -- I'll go to my
7 grave believing Brenda did not do this. I'm sorry for
8 Randy's family, I really am. But I do hope that the
9 guilty person is found. Thank you.

10 THE COURT: Okay. Anything else, Mr. Herron?

11 MR. HERRON: No, sir, Your Honor.

12 THE COURT: All right, I'm going to step down
13 for just a minute, step down just a second, stand at ease
14 for just a second.

15 (WHEREUPON, a short break was taken.)

16 THE COURT: Anything else from the State?

17 MR. OZMENT: Nothing from the State, Your Honor.

18 THE COURT: Anything further from the defense,
19 Mr. Herron?

20 MR. HERRON: No, sir.

21 THE COURT: Now, I've heard the testimony over
22 the last two and a half days of this trial. Prior to this
23 case being tried this week, I heard a motion with defense
24 counsel properly filed on his client's behalf. And that
25 motion being to suppress the statement of Ms. Bratschi. A

1 statement wherein she confessed to having committed the
2 offense against Mr. Bratschi. And the Court because of
3 legal reasons suppress that statement because it was the
4 right thing to do under the law.

5 Jury of 12 individuals have spoken after hearing
6 the testimony in this case this week and they were not --
7 they did not hear the confession of Ms. Bratschi to this
8 offense. Whether this offense was done out of
9 self-defense or what self-defense certainly was not raised
10 in this courtroom this week during the course of this
11 trial. The 12 jurors from this community listen to the
12 evidence this week and rendered a verdict of guilty in
13 approximately an hour and 40 minutes.

14 Sentencing is never easy on any judge even in
15 these circumstances and even in these situations. There
16 are consequences that each of us have as a result of
17 decisions we make day in and day out as consequences can
18 be tremendous or sometimes meaningless. Consequence Ms.
19 Bratschi faces as a result of being convicted of this
20 crime, these crimes is tremendous. Based upon the
21 testimony, the evidence that's been presented in the
22 course of this trial over the last few days, I believe
23 that the following sentence is appropriate.

24 On indictment 2010-GS-21-661, which is burial of
25 the body without proper inquiry, defendant's hereby

1 committed to the state department of corrections for a
2 period of three years. She's given credit for three
3 years, that is essentially a time serve sentence on this
4 particular charge.

5 On indictment 2010-GS-21-661, on the count of
6 murder, the defendant is hereby committed to the state
7 department of corrections for the balance of her nature
8 life. That is the sentence of the Court. Thank you.

9 END OF REQUESTED TRANSCRIPT
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1 Q. Where did that take place?

2 A. At the Florence County Sheriff's Office.

3 Q. Do you recall what date that took place?

4 A. That was on 12/7/2009.

5 Q. All right. Do you recall how long before that they
6 had contacted you about this?

7 A. I think it may have been a day or two. I'm not sure
8 how long.

9 Q. All right. Now, your polygraph examination, what kind
10 of equipment does that require?

11 A. We use a computerized polygraph instrument, and
12 basically it works just the same as an analog, what we call
13 an analog instrument. It just records the tracings
14 electronically on the computer screen and then they are
15 printed out on a, on paper, and it records blood pressure
16 and pulse rate, electrodermal activity, which is sweat
17 gland activity, and respiratory activity breathing.

18 Q. All right. How long does it take to set up that
19 equipment?

20 A. Twenty minutes.

21 Q. Okay. Turning now to when you interviewed Ms.

22 Bratschi, when did you first come into contact with her on
23 December 7th?

24 A. It was when -- it was in an interview room, and it was
25 -- I can't tell you exactly where it is in the sheriff's

WR. CHARLES - DIRECT EXAMINATION BY MR. OZMENT

8

1 office. It was set up as an interview room because it was
2 larger than the normal interview rooms were.

3 And the examination, I can tell you when it started
4 and when it ended. Started the examination at
5 approximately 11:37 AM and the examination portion, which
6 is just the collection of the data from the charts, we
7 ended at 3:48.

8 Q. All right.

9 A. PM.

10 Q. Do you know if Ms. Bratschi was in custody at the time
11 that you did this polygraph examination?

12 A. Yes, she was in custody.

13 Q. All right. Do you know at that time what she was --
14 what charge she was in custody on?

15 A. I knew that the matter being investigated was the
16 homicide or the death of Randy Bratschi, and I assume that
17 that's what she was arrested for.

18 Q. Okay. Had you seen a warrant?

19 A. No, sir, I had not seen a warrant.

20 Q. All right. Before you conducted your polygraph
21 examination and any subsequent questioning, did you go over
22 her Miranda rights?

23 A. Yes, I did.

24 Q. All right. Did you go over with her one of the form
25 Miranda waivers?

1 polygraph examination?

2 A. Yes, we did.

3 Q. All right. What, what, what were some of the
4 questions you asked in that as far as the substantive
5 questions?

6 A. Okay, before we get into the actual polygraph itself,
7 though.

8 Q. All right.

9 A. We go over a complete explanation of the polygraph:
10 how it works, exactly what it is that we're recording, how
11 a person's body reacts or responds to things. We talk a
12 little bit about physiology, how a person's body reacts. I
13 explain all that. We talk a little bit about the case
14 facts, what we're going to be covering during the test, and
15 then the last thing we do before we get into the test is
16 every single question is reviewed with the examinee ahead
17 of time so they know exactly what the questions are going
18 to be. They're all worded to elicit a yes or no answer,
19 okay, and then we cover those questions to ensure that the
20 meaning has the same thing to both of us, okay.

21 Q. All right, and did you do that with Ms. Bratschi?

22 A. Yes. Yes, I did.

23 Q. Did she seem to understand?

24 A. Yes, she did.

25 Q. Okay.

WR. CHARLES - DIRECT EXAMINATION BY MR. OZMENT

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1 A. As far as the relevant questions that were asked
2 during the examination, question R-4: Do you know for sure
3 who put Randy's body under the trailer, under that trailer?
4 And she responded no. Relevant question number 6: Did you
5 put or help with Randy's body under that trailer? She
6 again responded no. And relevant question 8 was: Do you
7 know how Randy's body got under that trailer? And again
8 she responded no. So, those were the relevant issue
9 questions that were asked.

10 Q. All right.

11 A. During the examination.

12 Q. And when you say that these were the relevant issue
13 questions, what were some -- give me examples of another
14 question that you would ask ---

15 A. Okay, there are ---

16 Q. --- and why you would ask them.

17 A. There are other questions that we call comparison
18 questions that are used to compare against the responses of
19 a relevant issue. There are other questions that we call
20 irrelevant questions. Is today Wednesday? Are the lights
21 on in this room? Do you sometimes drink the water? Those
22 kinds of things.

23 Q. And what's the purpose of those questions?

24 A. Those are basically to bring the person to a normal
25 level. They are non-threatening questions, so we should

1 not be getting any response or any substantial response to
2 those questions.

3 Q. All right, and when you say substantial response,
4 what...

5 A. Well, things that look out of the ordinary.

6 Q. Right.

7 A. Okay.

8 Q. All right. All right. What were -- what was the
9 results of Ms. Bratschi's polygraph in regards to the
10 relevant questions?

11 A. She indicated deception to all the questions, all of
12 the relevant questions.

13 Q. All right.

14 A. And the way that we evaluate the questions, the way
15 that we score the questions, if you are deceptive with one
16 question, one relevant question, you are deceptive to all
17 because of something that we call psychological set. A
18 person will respond to the question that is the most
19 threatening to them. So, she was deceptive across the
20 board to each relevant question.

21 Q. Okay.

22 A. Also our -- every polygraph that I run is quality
23 controlled by other examiners at SLED headquarters who
24 blindly look at the charts to determine did I ask the
25 proper questions to address the issue, did I operate the

M. PRODAN - CROSS-EXAMINATION BY MR. HERRON

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1 your testimony here today, sir?

2 A. Yes, sir.

3 Q. What does save his life when, when you said -- talking
4 to Brenda Bratschi and you said:

5 Brenda, you need to think about Frankie. You
6 need to save his life, save his career.

7 A. Yes, sir.

8 Q. In your opinion, what was the point of that line of
9 questioning or those statements?

10 A. To provide Ms. Bratschi all the information that she
11 needed to make a fully informed decision on whether or not
12 she wanted to continue to speak to us.

13 Q. She was already talking to you.

14 A. Yes, sir.

15 Q. She continued to talk to you.

16 A. But she continued to say with her statement I don't
17 know when, in our opinion during the interview, she was not
18 being forthcoming.

19 Q. So, is it safe to say that you guys cranked it up a
20 notch?

21 A. No, sir.

22 Q. Oh, you didn't? Okay. So, you talked about -- do you
23 know whether or not Investigator Street had ever mentioned
24 Frankie being charged with murder to Brenda Bratschi during
25 her interviews?

1 A. I don't recall, sir.

2 Q. Okay, but it's a fact that you guys did that.

3 A. I'm, I'm afraid I don't understand your question.

4 Q. You guys brought up the fact -- well, let me back up.

5 We now know that your statement to Brenda Bratschi during
6 the interrogation of we've got deputies going out to arrest
7 Frankie; they're going to charge him with murder. Sitting
8 here today, was that a true statement or an untrue
9 statement, sir?

10 A. That was an untrue statement. It was a mistake, sir.

11 Q. Okay. Would Brenda Bratschi have any way of knowing
12 at the time that that was an untrue statement?

13 A. Would she have any way of knowing that it's untrue?

14 Q. Uh-huh.

15 A. I don't believe so. She would have -- my assumption
16 is she would take us at our word.

17 Q. Investigator, some of these aren't tough questions.

18 A. Well, no, sir. I want to make sure that I give you
19 the correct answer.

20 THE COURT: Mr. Herring.

21 A. The answer.

22 THE COURT: He's sitting there thinking about what his
23 answer is going to be.

24 MR. HERRON: Okay.

25 THE COURT: Give him an opportunity to think about

M. PRODAN - CROSS-EXAMINATION BY MR. HERRON

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1 that.

2 MR. HERRON: Okay.

3 BY MR. HERRON:

4 Q. The fact is y'all didn't know. So, there would be no
5 way Brenda Bratschi would know. She's going by what you
6 told her. Is that correct?

7 A. That's an assumption, yes, sir.

8 Q. Okay. It's a reasonable assumption, correct?

9 A. Yes, sir.

10 Q. Okay. Now, what do you think of -- I think
11 Investigator Charles said that the purpose of an
12 interrogation is to be accusatory. In your opinion, what
13 is the purpose of an interrogation?

14 A. To provide an individual the opportunity to tell the
15 truth.

16 Q. Okay, and you do that just by asking them questions?

17 A. That's part of it.

18 Q. What kind of questions do you ask? Do you ask hey,
19 what's the weather like outside, or you ask questions that
20 are relevant to the investigation?

21 A. Both.

22 Q. Okay. Why would you ask somebody hey, what, what's
23 the weather outside? Why would that have anything to do
24 with the interrogation?

25 A. You engage in a conversation with an individual, and

1 if you ask questions such as about the weather or their
2 family or -- you are, you are in a sense forming a -- what
3 some people would call a rapport, what some people would
4 call relationship so the person feels comfortable speaking
5 with you.

6 Second of all, you're getting a read, if you would, as
7 to how the person responds to questions. Obviously if you
8 ask a person how's the weather, how you doing and their
9 response is I don't want to talk about the weather, I don't
10 want to talk about you, obviously you know where this
11 interview may end up going. So, you may have to change
12 your tactics.

13 Q. What was the purpose of asking Brenda Bratschi, a
14 mother, what was the purpose of you guys saying do you love
15 your son? What was the purpose in that question?

16 A. To first of all see if she would answer yes or no.
17 Now, obviously if she answers no, I don't love my son,
18 well, that brings a whole new light on the interview, but
19 if she says yes, then again it gives us a thing about how
20 she feels about another person. Does she have empathy?
21 Does she have sympathy?

22 Q. Does she have a need to protect? Would that be a fair
23 -- what you're trying to get at, does she have a need to
24 protect her son?

25 A. No, sir, I wouldn't go that far. I would just say

M. PRODAN - CROSS-EXAMINATION BY MR. HERRON

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1 does she have empathy or does she have sympathy or
2 relationship or love for an individual.

3 Q. Well, isn't it a fact during some part of the
4 interview that you state, you and the other investigator,
5 that Brenda, quote, needs to protect her son?

6 A. Correct.

7 Q. Protect him from what?

8 A. By her continuing to not tell us the truth may put him
9 in jeopardy.

10 Q. Jeopardy of what?

11 A. His arrest.

12 Q. Death penalty?

13 A. No, sir.

14 Q. No, sir?

15 A. No, sir.

16 Q. Well, you stated -- well, maybe you have a different
17 understanding of the law. If someone's charged with
18 murder, isn't it possible that they'll face the death
19 penalty?

20 A. It is a remote possibility, but there is a lot of
21 factors between advising an individual what the actual
22 lawful penalties are of a crime and actually what's going
23 to happen.

24 Q. Okay, but it's a possibility that someone that's
25 charged with murder will face the death penalty. You would

1 agree with that?

2 A. Depends on the circumstances, but there's a lot of
3 things in between, sir.

4 Q. Okay, but that's a possibility?

5 A. Yes, sir, it is.

6 Q. And you told Brenda Bratschi beginning of the
7 interview or toward, toward the beginning of the interview:
8 We've got deputies going to arrest Frankie and charge him
9 with murder. Isn't that true?

10 A. That's true.

11 Q. Okay, and we've established that death penalty is part
12 of murder. Now -- could be a part of the sentence of
13 murder. Now, at some point in time, don't you say to
14 Brenda Bratschi, even though it's listed as inaudible in
15 the transcript, some point in there don't you say Brenda,
16 we've got to do what's right for Frankie. We have to save
17 his life. Didn't you make that statement, sir?

18 A. I believe so, yes, sir.

19 Q. Okay. Save his life from what?

20 A. His reputation, his future, his career, but not his
21 personal safety.

22 Q. Not, not his personal safety?

23 A. No, sir.

24 Q. So, if Brenda took that to mean hey, I got to -- I get
25 to keep him out of Old Sparky, the electric chair, out of

M. PRODAN - CROSS-EXAMINATION BY MR. HERRON

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1 the gas chamber, could she have taken [sic] that to mean
2 that?

3 A. She did not say that, sir. She -- that would be an
4 assumption that you're making that she made.

5 Q. But, but it's a fact that you said, quote, we need to
6 save his life?

7 A. I believe I said it that way, yes, sir, but not ---

8 Q. And didn't you -- I'm sorry. I didn't mean to cut you
9 off.

10 A. It had nothing to do with the threat of bodily harm.

11 Q. Okay, and that's an assumption that you're making?

12 A. That's, that's how I said it. That's how I said it.
13 That's how I meant it.

14 Q. Okay. So, you set up that he's charged -- they're
15 going to arrest him and charge him with murder. She needs
16 to protect her son, and then you followed up with we need
17 to save his life, but you're telling this court that you
18 didn't mean we need to keep him out, out of the death
19 penalty or keep him out of the electric chair or anything
20 like that?

21 A. If, if I recall the sequence of those statements, they
22 did not come in one sentence as you relate them, sir.

23 Q. They didn't but over the course of the interrogation,
24 were ---

25 A. Over course ---

1 Q. --- those statements made?

2 A. Over the course of the interrogation, we gave Ms.
3 Bratschi all of the information that was true, that she
4 would have all the information necessary to make a fully
5 informed decision.

6 Q. Okay. What was meant by the term putting him in the
7 -- Frankie is in the jackpot? Did you make that statement
8 or did the other make ---

9 A. I made that statement, yes, sir.

10 Q. You made the statement?

11 A. Yes, sir.

12 Q. Tell me what you -- you told this court that life
13 doesn't mean life like personal safety. So, what does in
14 the jackpot mean to you?

15 A. As I recall I previously answered the question was
16 that it is you've won something, and you really don't want
17 it. It's a slang term that I've used before in the past.

18 Q. Okay, and at some point in time, you do state, you and
19 the investigator, that you need -- that we need to, quote,
20 we got to protect your child.

21 A. Yes, sir.

22 Q. Investigator, if -- I mean, you're a father. You're a
23 parent. If someone says we've got to protect your child
24 and to do that, I need you to say the ABCs backwards,
25 forwards, would you, would you say the ABCs backwards,

P. HANNA - DIRECT EXAMINATION BY MR. OZMENT

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1 A. We actually anticipated her wanting to talk to me
2 because I knew that she, she didn't, she didn't like or
3 didn't care to speak with Investigator Kathleen Street or
4 there was a Bert, Investigator Bert Turner at the time. I
5 knew that they had previously talked with her earlier in
6 the investigation, and it didn't provide any help, and I
7 felt she knowing me, us knowing one another, she would be
8 more comfortable speaking with me.

9 Q. Okay. Did you have any awareness of the conversation
10 that had gone on between Ms. Bratschi and Investigators
11 Prodan -- excuse me, Agents Prodan and Charles?

12 A. I was -- some of it but not all of it.

13 Q. Okay. Did you know at least kind of the general
14 content of their conversation?

15 A. Yes.

16 Q. Okay. So, when you began speaking with Ms. Bratschi,
17 was it your understanding that there was the possibility
18 she would give a statement at that time?

19 A. Yeah. My understanding was that she wanted to talk to
20 me to tell me what happened.

21 Q. All right. As you proceeded from there, did she talk
22 to you about what happened that evening?

23 A. Yes, she did.

24 Q. Okay, and obviously it's in the record as we stated,
25 the court's exhibits, but what -- you know, briefly, brief

1 synopsis. Did she tell you had happened?

2 A. Briefly, she on that particular day, she stated that
3 she passed -- she was traveling down the road. She passed
4 Mr. Randy. Mr. Randy stopped in the highway, stopped her.
5 Requested for her to come back to the house. She explained
6 that she had told him she wasn't allowed to. He said don't
7 worry about that. She came. She stated they came back,
8 drilled back to his house that morning and ---

9 Q. Let me interject. His house, is that ---

10 A. I'm sorry.

11 Q. --- the trailer that the body was found in?

12 A. Yeah, the same house, Mr. Randy and Brenda's house
13 where the body was found.

14 Q. Continue.

15 A. Went back to that residence, and she stated that once
16 he got there -- I mean, once they got there, his attitude
17 changed, and he brandished a handgun and she lunged for the
18 handgun. They were struggling over it. It went off. He
19 collapsed, fell on top of her. She ultimately drug him up
20 under the house where he was buried in a tarp and buried up
21 under the house.

22 Q. Okay. Following -- and as you went through this with
23 her, did you at any time ask her about Frankie's
24 involvement?

25 A. At some point I -- it was -- I don't know if I asked

K. STREET - DIRECT EXAMINATION BY MR. OZMENT

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1 warrant for for Ms. Bratschi?

2 A. It was for murder.

3 Q. All right, and it had been obviously a number of years
4 between signing the warrant and when the -- Mr. Bratschi
5 went missing. What factors went into the probable cause
6 statement for you to sign that warrant?

7 A. We discovered the body in July of 2009.

8 Q. All right, and then going to Mr. Miles's warrant, what
9 was his warrant sworn out for?

10 A. Misprision of a felony.

11 Q. All right. What, what factors led you to charge him
12 with that?

13 A. Mr. Miles had failed a polygraph, number one. Number
14 two, he had given information to Investigator Bert Turner
15 and I that he had spoken to Randy at a certain date, on a
16 certain date at a certain time, and he had also given that
17 same information to another witness in the case also.

18 Q. And what's the significance that he had spoken to
19 Randy at a certain date and a certain time?

20 A. There was no way possible because he had already
21 disappeared by that time.

22 Q. All right. Do you recall when the warrants were
23 signed?

24 A. It was a couple of days before the arrest. I believe
25 it was on the 4th of December.

1 page 10 the defendant says that she looked out the window
2 and she saw Investigator Phil: And I felt, I felt better
3 for some reason. She says: I've always trusted Phil. And
4 then Officer Hanna states: Well, technically we stopped
5 them from going to get him.

6 Which by inference the court believes, whether that's
7 a typo or not, would lead the court to believe -- I don't
8 know whether they're talking about Frankie or not. But if
9 you go down, Office Charles says: Yeah. And then Hanna
10 says: They had already left, and I had told them don't do
11 it.

12 I say all of that to say based upon the testimony I've
13 heard here today, the defendant had been questioned on
14 numerous occasions before December 7, 2009, of which she
15 had denied any involvement in this. In my review the
16 transcripts, Frankie, for various reasons throughout, was
17 brought up in some capacity by law enforcement on
18 approximately twenty-two occasions, whether it was by law
19 enforcement or by Ms. Bratschi.

20 The officers that were involved in the interrogation
21 of Ms. Bratschi, Officer Prodan and Officer Charles,
22 testified -- one of them, maybe both of them -- testified
23 that they did to some degree have a conference prior to the
24 polygraph and interrogation of Ms. Bratschi. Each of them
25 were in the best position to know exactly what her son was

1 charged with but, in fact, conveyed to her that her son was
2 being charged with murder and that law enforcement was
3 going to get him.

4 There was never any -- when Ms. Bratschi spoke to
5 Investigator Hanna or anybody else, there was never any, I
6 guess, curative statement, so to speak, to Ms. Bratschi
7 about the inaccurate statement of him being -- of him
8 getting ready to be arrested for murder. There was never
9 any correction on that which may have negated some of the
10 impact, potential impact on the defendant.

11 I also want to say this. It's apparent in my viewing
12 of the video that when they, law enforcement, did convey to
13 her that they are going to arrest her son and charge him
14 for murder, that it clear that at the moment of that
15 statement, the defendant appeared to be, from what I could
16 tell, to be upset about the statement being made to her by
17 law enforcement.

18 I certainly understand, Mr. Ozment, your position
19 about her having prior arrests, her being charged with
20 various offenses, but I do not believe...

21 (A PAUSE.)

22 THE COURT: That under the, under the totality of the
23 circumstances and my review of the case law, what I've
24 heard here today, I believe that it would warrant that her
25 statement to law enforcement be suppressed.

1 Now, anything further, Mr. Ozment?

2 MR. OZMENT: Could you, could you -- I'm sorry. Could
3 you state your ruling one more time, Your Honor? Sorry.

4 THE COURT: Well, I've gone through all the facts.

5 MR. OZMENT: Right, right, and just the last sentence
6 was really what I need. I...

7 THE COURT: I'm granting defendant's motion ---

8 MR. OZMENT: All right.

9 THE COURT: --- to suppress her statement.

10 MR. OZMENT: That's, that's what I thought, Your
11 Honor. Also, the state ---

12 THE COURT: Based upon from what I see in the case
13 law, and based upon my review of all the cases, and based
14 upon what I've heard here today, and I've put all those
15 facts on the record. I'm granting defendant's motion to
16 suppress the statement.

17 MR. OZMENT: Thank you, Your Honor. Obviously the
18 state would take exception to that ruling to the extent
19 that it errs as to the law.

20 THE COURT: Well, I don't think it does, and if I've
21 made a mistake on that, certainly the Court of Appeals or
22 Supreme Court can address that, and even just relying on
23 the *Korns* case, the court does not go into all these other
24 circumstances or the totality of the circumstances, so to
25 speak. It says simply that that threat -- I mean, that was

1 a threat of future conduct. This was a threat of present
2 conduct. That we're going to do it now.

3 And based upon that, and based upon my review the
4 cases and everything else I've seen, the only situation,
5 again, where I see that the court has allowed such to be
6 stated by law enforcement is when there's probable cause to
7 go arrest them for what they're going to arrest them for.
8 In this case, the threat was murder. There wasn't probable
9 cause to arrest him for that; there was never a warrant for
10 that. There was never probable cause.

11 And my reading of *Korns* is probable cause was not even
12 warranted in that situation. The veiled threat of it is
13 improper and would warrant the statement involuntary, and
14 that's my ruling.

15 MR. OZMENT: Thank you.

16 THE COURT: Okay, and this is a good case the Court of
17 Appeals or Supreme Court may need to look at.

18 MR. HERRON: Your Honor, we got another issue. I
19 don't know if Your Honor wanted to take a break or take it
20 up now. It's the 404(b) character evidence.

21 (A PAUSE.)

22 THE COURT: All right, we'll resume at 3:00.

23 (OFF THE RECORD.)

24 (TRANSCRIPT OF STATEMENT MARKED INTO EVIDENCE AS
25 COURT'S EXHIBIT NUMBER 2.)

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE)

IN THE COURT OF GENERAL SESSIONS
 INDICTMENT # 2010-GS-12-661

STATE OF SOUTH CAROLINA,)

vs.)

BRENDA BRATSCHI,)

Defendant.)

DEFENDANT'S MEMORANDUM IN
 SUPPORT OF MOTION FOR DIRECTED
 VERDICT

FILED
 2012 APR 19 PM 12:40
 SONNIE REEL-SHEARER
 CLERK
 COURT OF GENERAL SESSIONS
 FLORENCE COUNTY, SOUTH CAROLINA

**MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR DIRECTED
 VERDICT**

If you view the evidence in light most favorable to the State, it is clear that the State has failed to present any evidence that the Defendant murdered the decedent.

**THE COURT SHOULD GRANT A DIRECTED VERDICT BASED ON THE
 SOUTH CAROLINA SUPREME COURT'S HOLDING IN *THE STATE v. KEVIN
 CORNELIOUS ODEMS***

The South Carolina Supreme Court holding in *The State v. Kevin Cornelious Odems*, is most applicable to the facts of the State's case against Brenda Bratschi. In the *Odems* case, the South Carolina Supreme Court made it clear that, "A circuit judge should grant a directed verdict motion when the evidence merely raises a suspicion the accused is guilty. *State v. Shrock*, 283 S.C. 129, 132, 322 S.E.2d 450, 451-52 (1984)." *The State v. Kevin Cornelious Odems*, Opinion No. 27084.

In the *Odems* case, the State relied upon circumstantial evidence at the trial of the Defendant, Mr. Odems. Specifically, the State relied on the following set of facts:

"On March 21, 2005, Margaret Burns noticed a brown car she did not recognize turning into her cousin's driveway. Burns telephoned law enforcement while she continued to watch the car from her own vehicle parked across the street from the house. Burns observed two men knocking on the door of her cousin's house, and later observed one of the men place something in the car's trunk. Burns

unsuccessfully attempted to follow the car once it departed.

Approximately ninety minutes after Burns notified police, a nearby sheriff's deputy spotted a brown Cadillac. The sheriff's deputy pulled the car over, and ordered the driver out of the car. The driver, Derrick Dawkins, exited the car, as he spoke to two men located inside the car, Petitioner and Frederick Bell. Dawkins testified at trial that he told Petitioner that his license had been suspended, and that shortly thereafter "everybody ran."

A short time later Petitioner knocked at the door of Donna Beane. Petitioner informed Beane that he needed a ride. Beane did not know Petitioner, but allowed him to use her telephone to call for a ride. Petitioner did not call for a ride, but told Beane that if police arrived she should inform them that he was her boyfriend. Beane claimed that Petitioner told her "he was with somebody that didn't have a driver's license or that had a suspended driver's license and that the person had gotten pulled over and that he didn't want to get in any trouble." Beane refused Petitioner's request just as police officers arrived. Police took Petitioner into custody as well as Dawkins and Bell who were found hiding in Beane's backyard.

A police search of the Cadillac recovered several items identified as stolen from the victim's home, including a camcorder, a money jar containing between \$300 and \$400, a camera, three watches, and a gun. The estimated total value of the stolen items was over \$1,000.

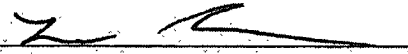
The York County grand jury indicted Petitioner for first degree burglary, grand larceny, criminal conspiracy, and malicious injury to an electric utility system. At trial, Petitioner moved for a directed verdict at the close of the State's evidence. The circuit court denied the motion. The jury convicted Petitioner of the four charges, and the circuit court sentenced Petitioner to fifteen years imprisonment. The court of appeals affirmed Petitioner's convictions, holding the circuit court did not err in refusing to grant a directed verdict on the charges."

The State v. Kevin Cornelious Odems, Opinion No. 27084. In its holding, The South Carolina Supreme Court stated, "Petitioner's overall actions may appear suspicious, but mere suspicion is insufficient to support a guilty verdict." *Id.* Taken in the light most favorable to the State, the State has only presented testimony from Jerome Eaddy that he "gave a ride" to a woman he identified as Brenda Bratschi. Mr. Eaddy gave her a ride

late one night but was uncertain of the specific date. Of course, there has simply not been any physical evidence admitted into evidence that would lead a reasonable jury to conclude that Ms. Bratschi had anything to do with the death of the decedent in this case. At best, all the State can argue is that it appears suspicious. However, given the South Carolina Supreme Court's clear holding in *Odems*, proving that something appears "suspicious" is not enough to deny a Defendant's Motion for Directed Verdict.

CONCLUSION

Given the South Carolina Supreme Court's decision in the *Odems* case, the Defendant respectfully asserts there is simply no reason why this Court should deny the Defendant's Motion for Directed Verdict.



H. Lee Herron
HERRON & FRALEY, LLC
518 West Palmetto Street
Florence, SC 29501
(843) 407-1140

ATTORNEY FOR DEFENDANT

April 19, 2012

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of General Sessions

Craig Brown, Circuit Court Judge

Case No. 2010-GS-12-661

The State,

Respondent,

v.

Brenda Bratschi,

Appellant.

NOTICE OF APPEAL

Brenda Bratschi appeals her conviction and sentence in this case. The sentence was imposed by the Honorable Craig Brown on April 16, 2012.

April 25, 2012

s/ H. Lee Herron
H. Lee Herron
518 West Palmetto Street
Florence, SC 29501
(843) 407-1140
Attorney for Appellant

Other Counsel of Record:
Matt Ozment
Assistant Solicitor
180 North Irby Street, Room 1101
Florence, South Carolina 29501
(843) 665-3091
Attorney for Respondent

2012 APR 27 AM 11:42
SHEARIN
STEELE & ASSOCIATES
FLORENCE COUNTY, SC

WITNESSES

Kathleen Streett

Florence County Sheriff

E. L. CLEMENTS, III

ARREST WARRANT NUMBER

2010GS2100661

2010GS210661A

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-21-0661

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

JUNE

TERM

2010

THE STATE

vs.

BRENDA MILES BRATSCHI

Indictment for

MURDER

AND

BURYING BODY WITHOUT NOTICE OR
INQUIRY

FILED

2010 JUN -3 PM 12:45

ANNIE REEL-SHEARIN
CLERK
2010 JUN 3
FLORENCE COUNTY, SC

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE)

INDICTMENT FOR
 MURDER
 AND
 BURYING BODY WITHOUT NOTICE OR INQUIRY

At a Court of General Sessions, convened on JUNE 03, 2010 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- MURDER

CDR: 0116

16-03-0010,0020, 16-01-0060

That BRENDA MILES BRATSCHI did in Florence County on or about November 26-27, 2004, feloniously, willfully and with malice aforethought kill one Randy Bratschi, and hid his body by burying him underneath his mobile home at [REDACTED] Georgetown Road, Coward, SC.; in violation of Sections 16-03-0010, 0020, and 16-01-0060, S.C. Code of Laws, 1976, as amended.

COUNT TWO- BURYING BODY WITHOUT NOTICE OR INQUIRY

CDR: 0758

17-07-0510

That BRENDA MILES BRATSCHI did in Florence County on or about November 26-27, 2004, after killing one Randy Bratschi with malice aforethought in a violent manner, did willfully and unlawfully bury, or cause to be buried, the dead body of Randy Bratschi, a person supposed to have come to a violent death, before notice to the coroner to examine the body and before inquiry is made into the manner and circumstances of the death; in violation of Section 17-07-0510, S.C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 E.L. Clements, III
 TWELFTH CIRCUIT SOLICITOR

694--

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Florence

VS.

Brenda Miles Bratschi

AKA:

Race: W Sex: F Age: 48

DOB: SS#:

Address:

City, State, Zip: COWARD, SC 29530

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder / Murder

INDICTMENT/CASE#: 2010-GS-21-0661

A/W#: 2010GS2100661

Date of Offense: 11/26/2004

S.C. Code § : 16-03-0010; 16-03-0020

CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010; 16-03-0020 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lowd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Ozment, Matthew R.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of Life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fec: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
1% to County (if paid in installments)		\$
TOTAL		\$ 105.00

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,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

CCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

COUNTY OF Florence
 STATE VS.
Brenda Miles Bratschi

AKA: _____

Race: W Sex: F Age: 48

DOB: _____ SS#: _____

Address: _____

City, State, Zip: COWARD, SC 29530

DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Body / Bury dead body supposed to have come to violent death without notice or inquiry

INDICTMENT/CASE#: 2010-GS-21-0661

A/W#: 2010GS2100661A

Date of Offense: 11/26/2004

S.C. Code §: 17-07-0510

CDR Code #: 0758

SENTENCE SHEET

in violation of § 17-07-0510 of the S.C. Code of Laws, bearing CDR Code # 0758
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lowd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Matthew R 00072

Ozment Matthew R

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 3 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. 3 years

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

Fine: _____

14-1-206 (Assessments 107.5%) \$ _____

14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

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56-5-2995 (DUI Assessment) \$12 \$ _____

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56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

% to County (if paid in installments) \$ _____

TOTAL \$ 105.00

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,

§ 47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge P. [Signature]

Judge Code: 200

Sentence Date: 4-19-12

Clerk of Court/Deputy Clerk

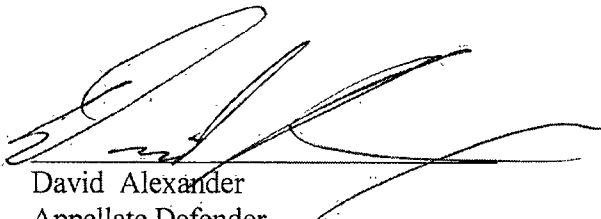
Court Reporter: [Signature]

CA/217 (03/2011)

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

April 14th, 2014



David Alexander
Appellate Defender

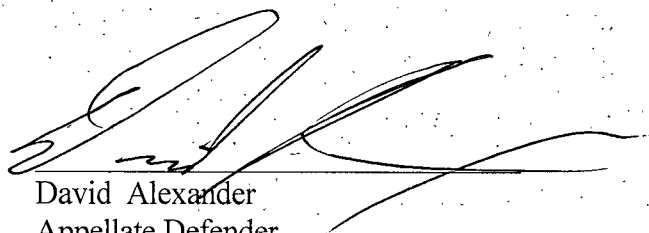
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

April 14th, 2014



David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Chester County

D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

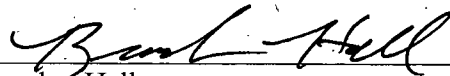
V.

BRENDA BRATSCHI,

APPELLANT

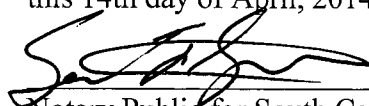
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Kaycie S. Timmons, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 14th day of April, 2014.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 14th day of April, 2014.



(L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2022

RECEIVED

APR 14 2014

SC Court of Appeals