

VOLUME ONE OF SIX

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

R. Knox McMahon, Circuit Court Judge

RECEIVED

JUL 2 2014

S.C. Supreme Court

STANLEY OLIVER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-002211

APPENDIX

KATHRINE H. HUDGINS
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
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Columbia, SC 29211-1589

ATTORNEY FOR PETITIONER

ALAN WILSON
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Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT (dated December 3-7, 10-14, 17-18, 2007)	1
INDICTMENTS AND SENTENCE SHEETS	2355
APPLICATION FOR POST-CONVICTION RELIEF	2373
RETURN	2379
APPLICANT'S TRIAL BRIEF	2386
POST-CONVICTION RELIEF HEARING TRANSCRIPT (dated August 13, 2012)	2389
ORDER OF DISMISSAL	2506

ORIGINAL

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

05-GS-40-09496, 09636, 09967-09972
11469-11471, 11473, 11480-11491 (Joy)
05-09699-09701, 09695-09698, 11581 (Gallman)
05-11411-11414, 11416-11417, 11582 (Oliver)

State of South Carolina)
)
 vs.) TRANSCRIPT OF RECORD
) (Trial)
)
 Kenneth Joy, Dominic Gallman,)
 Stanley Oliver,)
)
 Defendants.)

December 3, 4, 5, 6, 7; 10, 11, 12, 13, 14; 17, 18, 2007
Columbia, South Carolina

BEFORE:

THE HONORABLE G. THOMAS COOPER, JR., JUDGE

APPEARANCES:

JOHN MEADORS, ASSISTANT SOLICITOR
DAVID ROSS, ASSISTANT SOLICITOR
JOANNA MCDUFFIE, ASSISTANT SOLICITOR
Attorneys for the State

DOUGLAS S. STRICKLER, PUBLIC DEFENDER
MARY LAFAVE, DEPUTY PUBLIC DEFENDER
Attorneys for Defendant Stanley Oliver

JONATHAN MILLING, ATTORNEY AT LAW
Attorney for Defendant Dominic Gallman

JOHN DELGADO, ATTORNEY AT LAW
Attorney for Defendant, Kenneth Joy

JENNY H. WILLIAMS
Official Circuit Court Reporter
(803) 576-1743

INDEX OF WITNESSES

MITCH WILKERSON

Direct By Mr. Meadors	148
Cross By Mr. Strickler	161
Redirect By Mr. Meadors	171
Recross By Mr. Strickler	179
Cross By Mr. Milling	180
Redirect By Mr. Meadors	183

JAMES ABRAHAM

Direct By Mr. Ross	198
Cross By Mr. Strickler	205
Redirect By Mr. Ross	209
Cross By Mr. Strickler	210

TRAVIS HOLDORF

Direct By Mr. Meadors	226
Cross By Mr. Milling	235

ROBIN DUTTON

Direct By Mr. Ross	500
Cross By Mr. Strickler	510
Cross By Mr. Milling	518

WILLIAM S. FELDER

Direct By Mr. Meadors	524
Cross By Ms. LaFave	527

KENNETH D. PARKER

Direct By Mr. Meadors	531

1	Cross By Mr. Strickler	543
2	Cross By Mr. Milling	551
3	Redirect By Mr. Meadors	555
4	CHRISTOPHER D. COCHRAN	
5	Direct By Mr. Ross	561
6	Cross By Ms. LaFave	577
7	Cross By Mr. Milling	587
8	Cross By Mr. Delgado	590
9	ZONDRIA L. MCKIE	
10	Direct By Ms. McDuffie	593
11	Cross By Ms. LaFave	602
12	Cross By Mr. Delgado	608
13	PETER CURRIE	
14	Direct By Mr. Meadors	615
15	Cross By Mr. Strickler	695
16	Cross By Mr. Milling	718
17	Cross By Mr. Delgado	727
18	Redirect By Mr. Meadors	731
19	WALTER ROSE	
20	Direct By Mr. Ross	735
21	Cross By Ms. LaFave	748
22	Cross By Mr. Milling	751
23	Cross By Mr. Delgado	753
24	Redirect By Mr. Ross	757
25	Recross By Mr. Milling	762

1	Recross By Mr. Delgado	764
2	JOSEPH ANGELINO	
3	Direct By Ms. McDuffie	765
4	Cross By Mr. Milling	769
5	LATAVISH ULMER	
6	Direct By Mr. Ross	771
7	Cross By Mr. Milling	775
8	ROBERT OATES	
9	Direct By Mr. Ross	776
10	Cross By Ms. LaFave	798
11	Cross By Mr. Milling	805
12	RENATA WILLIAMS	
13	Direct By Mr. Meadors	825
14	Cross By Ms. LaFave	847
15	Redirect By Mr. Meadors	864
16	Recross By Ms. LaFave	872
17	ULICEN C. ALLEN	
18	Direct By Mr. Meadors	888
19	Cross By Mr. Strickler	935
20	Cross By Mr. Milling	946
21	Cross By Mr. Delgado	951
22	Redirect By Mr. Meadors	988
23	Recross By Mr. Delgado	1001
24	TATANISHA ROBINSON	
25	Direct By Mr. Meadors	1012

1. **LETICIA P. JONES**sworn

2	Direct By Mr. Ross	1024
3	Cross By Mr. Strickler	1040
4	Cross By Mr. Milling	1044
5	Cross By Mr. Delgado	1050
6	Redirect By Mr. Ross	1053
7	Recross By Mr. Milling	1054

8 **GLENN ROSS**

9	Direct By Mr. Ross	1065
10	Cross By Mr. Strickler	1069
11	Cross By Mr. Delgado	1071
12	Redirect By Mr. Ross	1072

13 **OMEKAS L. MOANEY**

14	Direct By Mr. Meadors	1073
15	Cross By Mr. Strickler	1097
16	Cross By Mr. Milling	1113
17	Cross By Mr. Delgado	1126
18	Redirect By Mr. Meadors	1139
19	Recross By Mr. Strickler	1150
20	Recross By Mr. Milling	1154
21	Recross By Mr. Delgado	1155

22 **RONALD WITT**

23	Direct By Ms. McDuffie	1160
24	Cross By Mr. Milling	1162

25 **SHEQUITTA M. EVANS**

1	Direct By Mr. Ross	1163
2	Cross By Ms. LaFave	1168
3	Cross By Mr. Delgado	1169
4	TATANISHA ROBINSON	
5	Direct By Mr. Meadors	1188
6	Cross By Mr. Strickler	1254
7	Cross By Mr. Milling	1269
8	Cross By Mr. Delgado	1271
9	Redirect By Mr. Meadors	1280
10	Recross By Mr. Strickler	1286
11	Recross By Mr. Delgado	1288
12	GEORGE NICHOLSON	
13	Direct By Ms. McDuffie	1292
14	Cross By Mr. Strickler	1295
15	Cross By Mr. Milling	1297
16	DAVID IDE	
17	Direct By Ms. McDuffie	1298
18	Cross By Mr. Strickler	1300
19	Cross By Mr. Milling	1301
20	Cross By Mr. Delgado	1301
21	DAN JENSEN	
22	Direct By Ms. McDuffie	1305
23	JERRY A. RUSSELL	
24	Direct By Mr. Ross	1308
25	Cross By Mr. Strickler	1314

1	Cross By Mr. Milling	1316
2	Redirect	1318
3	STEVEN CURTIS	
4	Direct By Mr. Ross	1330
5	Cross By Mr. Strickler	1339
6	Cross By Mr. Milling	1344
7	KEN DAVIS	
8	Direct By Ms. McDuffie	1345
9	Cross By Mr. Milling	1347
10	Cross By Mr. Delgado	1349
11	DAVID J. COLLINS	
12	Direct By Mr. Ross	1354
13	Cross By Mr. Strickler	1362
14	Cross By Mr. Milling	1366
15	FRANK D. DEFREESE	
16	Direct By Mr. Ross	1369
17	Cross By Mr. Strickler	1390
18	Redirect By Mr. Ross	1396
19	CHRISTINE BENSON	
20	Direct By Mr. Ross	1399
21	Cross By Ms. LaFave	1401
22	JASON BROWN	
23	Direct By Mr. Meadors	1404
24	Cross By Mr. Strickler	1422
25	Cross By Mr. Milling	1444

1	Redirect By Mr. Meadors	1447
2	PATTIE B. RUFF	
3	Direct By Mr. Ross	1463
4	Cross By Mr. Strickler	1465
5	Direct By Mr. Ross	1466
6	Cross By Mr. Strickler	1472
7	JOHN C. BARRON	
8	Direct By Mr. Ross	1476
9	Cross By Mr. Strickler	1487
10	Cross By Mr. Delgado	1503
11	KENNETH L. BOGAN	
12	Direct By Mr. Ross	1506
13	Cross By Mr. Strickler	1516
14	Cross By Mr. Delgado	1517
15	DR. JANICE E. ROSS	
16	Direct By Mr. Ross	1521
17	Cross By Mr. Strickler	1532
18	Cross By Mr. Milling	1535
19	JOSEPH D. POWELL	
20	Direct By Mr. Meadors	1536
21	Cross By Mr. Strickler	1552
22	Cross By Mr. Milling	1557
23	LINDA DUPREE	
24	Direct By Mr. Ross	1586
25	Cross By Mr. Milling	1589

MITCH WILKERSON

1		
2	Direct By Mr. Meadors	1591
3	Cross By Mr. Strickler	1622
4	Cross By Mr. Milling	1637
5	Cross By Mr. Delgado	1641
6	Redirect By Mr. Meadors	1660
7	Recross By Mr. Delgado	1661

GERTRUDE BURNS

9	Direct By Mr. Meadors	1669
10	Cross By Mr. Delgado	1677
11	Redirect By Mr. Meadors	1680
12	Cross By Mr. Milling	1682
13	Recross By Mr. Delgado.	1685
14	Redirect By Mr. Meadors	1685

DR. CLAY A. NICHOLS

16	Direct By Mr. Meadors	1690
17	Cross By Mr. Strickler	1717
18	Cross By Mr. Milling	1725
19	Cross By Mr. Delgado	1726
20	Recross By Mr. Strickler	1731

DANA OUTEN

22	Direct By Ms. McDuffie	1737
23	Cross By Mr. Strickler	1739
24	Cross By Mr. Milling	1740
25	Cross By Mr. Delgado	1741

1	Redirect By Ms. McDuffie	1744
2	Recross By Mr. Strickler	1746
3	Recross By Mr. Milling	1751
4	Recross By Mr. Delgado	1753
5	DANA OUTEN	
6	Direct By Ms. McDuffie	1772
7	Cross By Mr. Strickler	1774
8	Cross By Mr. Delgado	1775
9	PAUL J. MEAD	
10	Direct By Mr. Strickler	1835
11	Cross By Mr. Milling	1855
12	Cross By Mr. Delgado	1862
13	Cross By Mr. Meadors	1873
14	Redirect By Mr. Strickler	1886
15	Recross By Mr. Milling	1887
16	Recross By Mr. Delgado	1888
17	LEE CONNELLY	
18	Direct By Mr. Milling	1910
19	KENNETH JOY	
20	Direct By Mr. Delgado	1922
21	Cross By Mr. Meadors	1984
22	Cross By Mr. Strickler	2046
23		
24		
25		

	STATE'S EXHIBITS			
	NO	DESCRIPTION	ID	EV
1				
2				
3	1	Photograph	22	508
4	2	Photograph	22	508
5	3	Photograph	22	624
6	4	Photograph	22	624
7	5	Photograph	22	508
8	6	Photograph	22	508
9	7	Photograph	22	508
10	8	Photograph	22	508
11	9	Photograph	22	627
12	10	Photograph	22	627
13	11	Photograph	22	627
14	12	Photograph	23	627
15	13	Photograph	23	657
16	14	Photograph	23	657
17	15	Photograph	23	652
18	16	Photograph	23	653
19	17	Photograph	23	653
20	18	Photograph	23	653
21	19	Photograph	23	632
22	20	Photograph	23	632
23	21	Photograph	23	632
24	22	Photograph	23	632
25	23	Photograph	23	641

1	24	Photograph	23	641
2	25	Photograph	24	641
3	26	Photograph	24	641
4	27	Photograph	24	641
5	28	Photograph	24	
6	29	Photograph	24	648
7	30	Photograph	24	648
8	31	Photograph	24	648
9	32	Photograph	24	648
10	33	Photograph	24	648
11	34	Photograph	24	648
12	35	Photograph	24	637
13	36	Photograph	24	637
14	37	Photograph	25	637
15	38	Photograph	25	
16	39	Photograph	25	635
17	40	Photograph	25	635
18	41	Photograph	25	657
19	42	Photograph	25	658
20	43	Photograph	25	658
21	44	Photograph	25	658
22	45	Photograph	25	658
23	46	Photograph	25	658
24	47	Photograph	25	658
25	48	Photograph	25	683

1	49	Photograph	26	683
2	50	Photograph	26	684
3	51	Photograph	26	684
4	52	Photograph	26	746
5	53	Photograph	26	746
6	54	Photograph	26	746
7	55	Photograph	26	746
8	56	Photograph	26	741
9	57	Photograph	26	741
10	58	Photograph	26	741
11	59	Photograph	26	1695
12	60	Photograph	26	1695
13	61	Photograph	27	1698
14	62	Photograph	27	1694
15	63	Photograph	27	1698
16	64	Photograph	27	
17	65	Photograph	27	
18	66	Photograph	27	1702
19	67	Advice Form	149	1600
20	68	Advice Form	226	
21	69	Statement	226	
22	70	Photograph	320	
23	71	Photograph	320	
24	72	Photograph	320	1703
25	73	Photograph	320	

1	74	Photograph	320	1716
2	75	Photograph	320	
3	76	Photograph	320	
4	77	Photograph	320	
5	78	Photograph	320	
6	79	Photograph	321	788
7	80	Photograph	321	
8	81	Photograph	321	
9	82	Photograph	321	788
10	83	Photograph	321	
11	84	Photograph	321	788
12	85	Photograph	321	
13	86	Photograph	321	774
14	87	Photograph	321	774
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16	89	Photograph	321	
17	90	Photograph	321	
18	91	Photograph	321	
19	92	Photograph	322	788
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4	102	Photograph	322	
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6	104	Photograph	323	
7	105	Photograph	323	
8	106	Photograph	323	
9	107	Photograph	323	
10	108	Photograph	323	789
11	109	Photograph	323	1708
12	110	Photograph	323	1708
13	111	X-Ray	323	1708
14	112	X-Ray	323	1709
15	113	X-Ray	323	1709
16	114	X-Ray	323	1709
17	115	Photograph Photograph	324	1709 324
18	116	Photograph	324	1709
19	117	Photograph	324	1526
20	118	Photograph	324	1527
21	119	Photograph	324	
22	120	Photograph	324	
23	121	Photograph	324	
24	122	Photograph	324	1698
25	123	Photograph	324	

1	124	Photograph	324	
2	125	Photograph	324	795
3	126	Photograph	325	795
4	127	Photograph	325	
5	128	Photograph	325	795
6	129	Photograph	325	
7	130	Photograph	325	
8	131	CD	531	539
9	132	CD	531	542
10	133	Shoebox	559	647
11	134	Shoebox	559	647
12	135	Box of Checks	559	644
13	136	Shoebox	559	647
14	137	Shoebox	559	647
15	138	Shoebox	559	647
16	139	Shoebox	559	841
17	140	Receipt	559	576
18	141	Comparison	611	677
19 681	142	Drawing	611	629
20	143	Scale & Glasses	611	655
21	144	Bag	611	684
22	145	Money	611	1068
23	146	Fingerprints	611	672
24	147	GSR Kit	611	1069
25	148	Container	611	636

1	149	Container	611	
2	149-B			744
3	149-D			761
	149A			1068
4	149C			1068
	149E			1777
5	150	Cigarette	612	1068
6	151	Cocaine	612	656
7	152	Verizon Records	612	
8	153	Cellphone	612	
9	154	Adapter	612	
10	155	Cuttings	612	1468
11	156	CD Case	612	662
12	157	Photograph	612	690
13	158	Photograph	612	758
14	159	Safe	612	639
15	160	Driver's License	612	660
16	161	Shoebox	612	651
17	162	Shoebox	613	651
18	163	"Boost" Carton	613	651
19	164	Box	613	651
20	165	Box	613	651
21	166	Can	613	651
22	167	Can	613	651
23	168	Shell Casing	613	630
24	169	Checkbook	613	660
25	170	Paper Towels	613	661

1	171	Beer Cans	613	661
2	172	Aerial Photograph	767	767
3	173	Sketch	790	790
4	174	Receipt	811	842
5	175	Receipt	811	843
6	176	Statement	864	
7	177	Statement	864	
8	178	Calendar	900	901
9	179	Statement	988	
10	180	Letter	994	1000
11	181	Motion	1140	1141
12	182	Statement	1140	
13	183	Phone Records	1160	1162
14	184	Statement	1194	
15	185	Hotel Receipt	1194	1196
16	186	Phone Records	1291	1299
17	187	Phone Records	1292	1306
18	188	Phone Records	1292	1295
19	189	Slides	1307	1310
20	190	Clippings, Hair, Earrings	1307	1311
21	191	Fragment	1307	1312
22	192	Swabs	1308	1313
23	193	Dress	1308	1314
24	194	Hair Cuttings	1308	1481
25	195	Panties	1308	1314

1	196	Bullet Fragment	1318	
2	197	Statement	1398	
3	198	Statement	1398	
4	199	Report	1486	1487
5	200	DNA Card	1505	1508
6	201	DNA Card	1505	1508
7	202	Styrofoam Head	1531	1532
8	203	Redacted Statement	1609	1620
9	204	Aerial Photograph	1620	1621
10	205	Photo Line-up	1673	
11	206	Diagram	1699	1712
12	207	Diagram	1699	1711
13	208	Diagram	1699	1701
14	209	Styrofoam Head	1699	1701
15	210	Styrofoam Head	1700	1715
16	211	Calendar	1771	1778
17	212	Summary	1771	1773
18	214	Letter	1986	1989
19	215	Photograph	2044	2044

20

21

22

23

24

25

1	DEFENDANT GALLMAN'S EXHIBITS			
2	NO	DESCRIPTION	ID	EV
3	1	Plea Agreement	1126	1126
4	DEFENDANT OLIVER'S EXHIBITS			
5	1	Statement	1265	
6	2	PCR Application	1433	
7	3	BOLO	1842	1843
8	4	Redacted Application	2061	2061
9	DEFENDANT JOY'S EXHIBITS			
10	1	Photograph	1915	2046
11	2	Photograph	1915	2046
12	3	Photograph	1915	2046
13	4	Photograph	1915	2046
14	5	Photograph	1915	2046
15	COURT'S EXHIBITS			
16	1	Oliver's Requests	34	
17	2	Note from Juror	370	
18	3	Note from Juror	370	
19	4	Instruction	374	
20	5	Report	383	
21	6	Report	383	
22	7	Note from Juror	389	
23	8	Note from Juror	393	
24	9	Note from Juror	559	
25	10	Note	1020	

1	11	Agreement	1171
2	12	Agreement	1171
3	13	Agreement	1171
4	14	Note from 12-13	1915
5	15	Rule 5	1921
6	16	Oliver's Requests	2075
7	17	Gallman's Requests	2080
8	18	Note	2324
9	19	Note	2324
10	20	Note	2324
11			
12			
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Monday, December 3, 2007

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10 identification.)

11 (WHEREUPON, State's Exhibit No. 66 is marked for
12 identification.)

13 **THE COURT:** All right. Solicitor, call your
14 case.

15 **MR. ROSS:** Your Honor, the first case for trial
16 is The State vs. Stanley Oliver, 2005-GS-40-11411,
17 burglary in the first degree; 2005-GS-40-11412,
18 kidnapping; 2005-GS-40-11413, armed robbery;
19 2005-11414, armed robbery; 2005-11415, armed robbery;
20 2005-11416 for murder, 2005-11417 for murder,
21 2005-11582 for murder.

22 **THE COURT:** Is that all?

23 **MR. ROSS:** That's all for Mr. Oliver.

24 **THE COURT:** The State ready to proceed on those
25 charges?

1 **MR. ROSS:** Yes, Your Honor.

2 **THE COURT:** Defense ready to proceed?

3 **MR. STRICKLER:** Yes, sir.

4 **THE COURT:** All right. Next case.

5 **MR. ROSS:** Your Honor, The State vs. Dominic
6 Gallman, 2005-GS-40-9696 for armed robbery,
7 2005-9696, burglary in the first degree; 2005-9697
8 for armed robbery; 2005-9698 for armed robbery,
9 2005-9699 for kidnapping, 2005-9700 for murder,
10 2005-9701 for murder, 2005-11581 for murder. That's
11 for Mr. Gallman, Your Honor.

12 **THE COURT:** All right. The State ready to
13 proceed on the Gallman case?

14 **MR. ROSS:** Yes, your Honor.

15 **THE COURT:** Defense ready to proceed?

16 **MR. MILLING:** Yes, Your Honor.

17 **THE COURT:** All right.

18 **MR. ROSS:** Your Honor, this is State vs. Kenneth
19 Joy, 2007-GS-40-11469, accessory before the fact of
20 murder; 2007-11470, accessory before the fact of
21 murder; 2007-11471, accessory before the fact of
22 murder; 2007-11473, accessory before the fact of
23 kidnapping; 2007-11480, accessory before the fact of
24 armed robbery; 2007-11481, accessory before the fact
25 of armed robbery; 2007-11482, accessory before the

1 fact of armed robbery; 2007-11483, accessory before
2 the fact of burglary first; 2007-11484, accessory
3 after the fact of murder; 2007-11485, accessory after
4 the fact of murder; 2007-11486, accessory after the
5 fact of murder; 2007-11487, accessory after the fact
6 of kidnapping; 2007-11488, accessory after the fact
7 of burglary first; 2007-11489, accessory after the
8 fact of armed robbery; 2007-11490, accessory after
9 the fact of armed robbery; 2007-11491, accessory
10 after the fact of armed robbery. That's for Mr. Joy.

11 **THE COURT:** Is the State ready to proceed on
12 those charges?

13 **MR. ROSS:** Yes, Your Honor.

14 **THE COURT:** Defense ready to proceed?

15 **MR. DELGADO:** Yes, Your Honor.

16 **THE COURT:** All right. Thank you. All right.
17 As to the proposed Voir Dire, Voir Dire submitted on
18 behalf of the Defendant, Oliver, I have reviewed the
19 Voir Dire. I consider it generally what my standard
20 Voir Dire would be but with some exceptions. Does
21 the State have any objections to the proposed Voir
22 Dire on behalf of Stanley Rasheem Oliver?

23 **MR. MEADORS:** Yes, sir.

24 **THE COURT:** Mr. Meadors, before you begin, just,
25 I think you're familiar with my general Voir Dire.

1 **MR. MEADORS:** Sure.

2 **THE COURT:** And I may not ask this question by
3 question.

4 **MR. MEADORS:** I understand.

5 **THE COURT:** The way it's drafted. But my
6 intentions would be to cover the substance of most
7 all, if not all, of these questions.

8 **MR. MEADORS:** Then I think if Your Honor is
9 doing your general Voir Dire, obviously the State
10 doesn't have a problem with it. Specifically though,
11 just to go through it briefly for the record, so as
12 to pre-trial publicity under number 2-A through
13 whatever it is, Your Honor is going to cover that in
14 your general Voir Dire, correct?

15 **THE COURT:** Yes, sir.

16 **MR. MEADORS:** Okay. I mean, not as Mr.
17 Strickler has it but what you usually do. And, Your
18 Honor, he requests individual Voir Dire. We would
19 again, you know, like we always do, Judge, if
20 somebody has got a problem or if they feel like they
21 need to come up, other than that are you going to try
22 to address it among the whole group? I guess that
23 was my ...

24 **THE COURT:** Well, I think the some of the
25 questions may require an individual Voir Dire. Some

1 may not. For example, if you heard or know about the
2 case, I certainly don't propose that any prospective
3 juror would stand up and tell what they know about
4 it. I would examine them separately so that the rest
5 of the jury panel would not be exposed to that. That
6 would be my practice. Is that satisfactory or not
7 satisfactory with the defense?

8 **MR. STRICKLER:** Your Honor, as to what I'm
9 trying to achieve in this, it's to avoid any
10 collusion of the panel as a whole when I ask that we
11 deal with these individuals individually. Again, my
12 concern is that we get someone you're asking in
13 general, have you heard anything about the case, I
14 have seen it happen. They jump up; yeah, I read
15 about it and started to go into details, and the bell
16 is rung at that point.

17 **THE COURT:** I understand. It's not necessarily
18 rung. But go ahead. I understand your concern.

19 **MR. STRICKLER:** Certainly as to any discussions,
20 any opinions, all those things, I think that's why
21 I've phrased it as I have, that if they have a
22 concern, then we make note of them and we deal with
23 whatever information they have at side bar so that we
24 avoid any possibility of polluting the panel as a
25 whole.

1 **THE COURT:** All right. I have no problem with
2 that.

3 **MR. STRICKLER:** Yes, sir.

4 **THE COURT:** Go ahead.

5 **MR. MEADORS:** I think we're on the same page,
6 Judge. As far as just going to number 10,
7 misconceptions regarding the law, I think we pretty
8 much object to all of those, respectfully.

9 **THE COURT:** Well, those are -- you run into this
10 all the time. I mean, those are preliminary
11 instructions that the jury gets.

12 **MR. MEADORS:** Well, Judge, some of them about,
13 would you give more weight to the testimony of a
14 police officer versus another witness, I think
15 there's a case on that. That shouldn't be charged.
16 We just ask you not charge that, Judge. That's
17 number 22.

18 As far as requiring number 20, I think if Your
19 Honor does what he does in his general charge, the
20 State is happy with that. This goes a little bit
21 further in my opinion than what Your Honor generally
22 does. If you're going to request your general
23 instructions, Your Honor, is what we'd like. If
24 that's what Your Honor is saying at the outset, we're
25 fine with it. But we would specifically object to

1 20, 21, 22 and 23 as written.

2 MR. STRICKLER: Which numbers? I'm sorry.

3 MR. MEADORS: 20 through 23. The misconceptions
4 portion.

5 MR. STRICKLER: The entire Section 5?

6 MR. MEADORS: Sure. Respectfully.

7 THE COURT: I think 23 has to be given as a
8 separate --

9 MR. MEADORS: Yes, sir. And I don't disagree
10 with that. But again, if Your Honor starts going
11 into -- I don't want a charge on the facts, Judge.
12 Obviously you could say it in the general
13 instructions without being specific, but obviously we
14 trust your judgment on that.

15 THE COURT: All right. If there are any
16 concerns following the Voir Dire, you can certainly
17 make it a part of the record.

18 MR. MEADORS: Here's State's I think that are
19 reciprocal shown to all the parties.

20 THE COURT: You supplied these?

21 MR. MEADORS: Yes, sir. Those are just
22 basically reciprocal requests.

23 THE COURT: You supplied these to the defense?

24 MR. MEADORS: Yes, sir.

25 MR. STRICKLER: And I'm sorry, Your Honor. If I

1 could, please. Just as a matter of housekeeping, I
2 have my original that I hand to Madam Clerk and ask
3 that she make it part of the record. And I have a
4 copy that I would ask that Madam Court Reporter with
5 leave of the Court mark as a Court's Exhibit so we'll
6 have that available.

7 **THE COURT:** Absolutely.

8 **MR. STRICKLER:** Thank you, sir.

9 (WHEREUPON, Court's Exhibit No. 1 is marked for
10 identification.)

11 **MR. STRICKLER:** The record reflects the State
12 and the co-defendants, and Your Honor is obviously
13 supplied with a copy, Judge.

14 **MR. MEADORS:** Judge, as far as --

15 **MR. MILLING:** Your Honor, I just wanted to note
16 with respect to Mr. Oliver's request for Voir Dire
17 number 23 which is what we were just talking about, I
18 think that's specifically tailored to evidence that
19 might be admitted against Mr. Gallman or Mr. Joy,
20 cannot be construed as against Mr. Oliver. We would
21 just ask that that go the reverse as well, anything
22 that might be admitted against Mr. Oliver, so on and
23 so forth.

24 **THE COURT:** Sure. Anything from Mr. Joy?

25 **MR. DELGADO:** Yes, Your Honor. I go along with

1 the objection Mr. Milling makes as relates to Kenneth
2 Joy as well.

3 **THE COURT:** Sure.

4 **MR. MEADORS:** Judge, I just don't think it's the
5 appropriate time to do 23. We're talking about jury
6 trial qualifications, whether they can be fair and
7 impartial. That goes more into the charge of the
8 facts which will be handled later in Your Honor's
9 instruction to the jury. We're just trying to get a
10 fair and impartial jury now. I just think that goes
11 beyond what needs to be asked at this point.

12 **THE COURT:** Well, I think I'm going to ask it.
13 I'm going to ask it. It's fairly benign. And I
14 think they need to be thinking in those terms at this
15 stage of the proceedings.

16 **MR. MILLING:** Your Honor, one other thing I was
17 going to point out, just a housekeeping matter with
18 regard to the State's requested Voir Dire. And I've
19 mentioned this to Mr. Meadors. In number 7 and
20 number 8, they've got my old firm referenced in
21 those. I don't know what might be on the copy that
22 you have. Rather than Smith, Stuckey & Ellis, it's
23 the Milling Law Firm.

24 **THE COURT:** Well, I'll give them both.

25 **MR. MILLING:** Okay.

1 **MR. MEADORS:** And Mr. Gallman represented by Mr.
2 Milling, as far as his request, Your Honor, we do
3 have an objection to two of those.

4 **THE COURT:** All right. Namely?

5 **MR. MEADORS:** Number 4. I just think it's
6 inappropriate, respectfully again. Your Honor is
7 already charging on some organizations. I think that
8 Mr. Strickler's charges, you know, law enforcement
9 related or are victim related. I think it just goes
10 way beyond --

11 **THE COURT:** I probably agree. Any problem with
12 number 4? I mean, what's the purpose?

13 **MR. MILLING:** Your Honor, the purpose is to make
14 sure that we don't have someone who is seated on this
15 jury panel who is predisposed trying to curtail crime
16 and cannot be fair and impartial here and come into
17 this courtroom.

18 **THE COURT:** You could be both, couldn't you?
19 You could be both, couldn't you?

20 **MR. MILLING:** Potentially could be I guess.

21 **THE COURT:** How about bumper stickers?

22 **MR. MEADORS:** We'd object to that, Judge. I've
23 never seen it in a non death penalty trial. I don't
24 know what the purpose of it is, how that would go to
25 show fair and impartial. We would object.

1 **MR. MILLING:** Your Honor, I think that it can go
2 to show a lot of things. It's a standard request in
3 Federal Court. And I think it's entirely appropriate
4 to give us an idea as to the frame of mind of this
5 potential juror.

6 **MR. MEADORS:** Judge, I just don't think -- this
7 isn't Federal Court. It's State's court. It's your
8 court. We'd respectfully ask it not be charged. As
9 to somebody's bumper stickers, Your Honor can ask
10 them if they can be fair and impartial. And I think
11 that's kind of the key issue.

12 **THE COURT:** I think I'll not charge it. All
13 right. I'm just trying to go around the room. Mr.
14 Delgado.

15 **MR. DELGADO:** Your Honor, I did not receive the
16 solicitor proposed Voir Dire. But I liberated it
17 from Mr. Milling. Is the Court inclined to allow the
18 mention of the merits of the Civil Liberties Union as
19 some sort of defendant's rights group? I think you
20 defend the Constitution.

21 **MR. MEADORS:** You can take it off, are you a
22 member of ACLU.

23 **MR. DELGADO:** No. Are you a member of any --

24 **THE COURT:** I've never given it. Let's put it
25 that way. I mean, I've listed numerous

1 organizations.

2 **MR. DELGADO:** Sure.

3 **MR. MEADORS:** I think it's all organizations,
4 Mr. Delgado.

5 **THE COURT:** Do you see the EV? That covers it.
6 All right. Mr. Strickler.

7 **MR. STRICKLER:** If I could, please.

8 **THE COURT:** State's Voir Dire. Is that where we
9 are?

10 **MR. STRICKLER:** I think so. I was going to
11 respond as to State's and as to Mr. Milling's. The
12 State's Voir Dire, I would have the same objection
13 that Mr. Delgado just lodged regarding the request
14 number 1.

15 **THE COURT:** 1. Any organization.

16 **MR. STRICKLER:** And as to Mr. Milling's Voir
17 Dire for Mr. Oliver, we would join in his requests.
18 We would join in all of his requests. I think the
19 others are covered in my own. But we would
20 specifically join in questions 4 and 5 as set forth
21 in his requested Voir Dire.

22 **THE COURT:** All right.

23 **MR. MEADORS:** Again, my objection specifically
24 to 5 is this is not developing a jury profile, Your
25 Honor. So again, we again would object to that one.

1 **THE COURT:** All right. Anything further before
2 we bring the jury?

3 **MR. MEADORS:** Beg the Court's indulgence. Oh.
4 Yes, sir. Judge, I know the State has provided a
5 list of potential witnesses. We'd ask that any of
6 the Defendants -- I don't know if they have I haven't
7 got a copy -- would provide the Court any potential
8 witnesses that they may call.

9 **THE COURT:** Well, they don't list any. So --

10 **MR. DELGADO:** Your Honor, I'm trying to do that
11 as we speak.

12 **THE COURT:** All right.

13 **MR. DELGADO:** And I have a copy for you. I
14 forgot to make one for the solicitor. I'll do it
15 right now.

16 **MR. MEADORS:** Yes, sir. Thank you.

17 **THE COURT:** It's going to take me all afternoon
18 to read the list.

19 **MR. STRICKLER:** If I may, Your Honor, while Mr.
20 Delgado is working, if I could, just a couple of
21 matters. First of all I have a list. I would submit
22 that we don't have to provide the Court a copy of our
23 list as it's clearly our right to go ahead as
24 attorney/client privilege and reveal details of the
25 defense. We have one available should the Court

1 order us. It would be over my objection, sir. Thank
2 you.

3 **MR. MEADORS:** Judge, I don't know how we can get
4 a fair and impartial jury if they're going to call
5 people. And we have to call people and see if people
6 know them or are related to them. I think they
7 should have to do the same thing.

8 **THE COURT:** What's wrong with that argument? I
9 mean, what's the fallacy of that argument, that these
10 jurors need to know who all is going to be called?
11 And for all we know, they could be the first cousin.
12 I reveal that prior to today until this moment you
13 need not disclose that. But I've always taken the
14 position that if a juror knows somebody on the list,
15 then we need to inquire. It needs to be fair to both
16 sides.

17 **MR. STRICKLER:** Yes, sir.

18 **THE COURT:** So I would order you to produce that
19 list if you have one.

20 **MR. STRICKLER:** And I do. Let the record
21 reflect I'm providing Mr. Solicitor a copy of it.

22 **THE COURT:** Over your objection.

23 **MR. STRICKLER:** And your Honor obviously a copy
24 of it.

25 **THE COURT:** I wonder if they're duplicates.

1 **MR. STRICKLER:** They probably are. Counsel for
2 both co-defendants got copies of it. And, Your
3 Honor, ...

4 (Whereupon, a fire alarm goes off and a break is
5 taken)

6 **MR. MILLING:** Your Honor, during the recess I
7 had an opportunity to write down one name who may be
8 a potential witness on behalf of Mr. Gallman.
9 Quentin Gallman. And we would reserve the right, and
10 I've served a copy on all opposing --

11 **THE COURT:** What?

12 **MR. MILLING:** I've served a copy on the State
13 and co-defendant's counsel. We would just reserve
14 the right to call any other witnesses who might be
15 identified as other on the potential witness list.

16 **THE COURT:** All right. Let's come back to
17 order. Anything further before we bring the jury?

18 **MR. MEADORS:** No, sir.

19 **THE COURT:** From the defense?

20 **MR. STRICKLER:** Yes, sir.

21 **THE COURT:** Yes, sir.

22 **MR. STRICKLER:** Just a few other things, if I
23 could, please. Your Honor, the record should reflect
24 that we met in chambers and discussed among other
25 things sequence or order of examination of witnesses

1 among the three defendants here when we left prior to
2 the lunch break. We want to discuss it some more.

3 And I believe the defendants are in agreement
4 now that the order of examination will be by the
5 attorneys for Mr. Oliver, then by the attorney for
6 Mr. Gallman, then by the attorney for Mr. Joy, which
7 is exactly backwards from the way we had it when we
8 discussed it in chambers. But I believe we're in
9 agreement on that.

10 **THE COURT:** Does that apply to jury strikes as
11 well?

12 **MR. STRICKLER:** Yes, sir. My understanding is
13 whatever takes effect takes effect immediately.

14 **THE COURT:** Well, you also discussed I believe
15 over the lunch hour a method of striking.

16 **MR. STRICKLER:** Yes, sir.

17 **THE COURT:** Do we need to put that on the
18 record?

19 **MR. STRICKLER:** I just ask that the record
20 reflect that I am requesting that we employ a strike
21 system that will give us some short period of time,
22 no more than about ten minutes, to go ahead and after
23 the Voir Dire is concluded to decide on the strikes
24 that will be employed. We have an odd number of
25 strikes, et cetera. And I think things will move

1 much smoother if we go ahead and proceed in that
2 fashion.

3 **THE COURT:** And following that, will one
4 designee strike for the defense?

5 **MR. STRICKLER:** We would strike --

6 **THE COURT:** You would rotate?

7 **MR. STRICKLER:** We would rotate. Yes, sir.
8 Beginning with the attorney for Mr. Oliver, then the
9 attorney for Mr. Gallman and the attorney for Mr.
10 Joy.

11 **THE COURT:** Until we reach 20.

12 **MR. STRICKLER:** Until we reach 20. Yes, sir.

13 **THE COURT:** All right.

14 **MR. STRICKLER:** The second thing also, Your
15 Honor, also off the record but I need to get it on
16 the record. I had told the Court we discussed the
17 possibility or the situation regarding alternates.
18 And Your Honor has already found the statute. The
19 record should reflect I'm of the opinion that we
20 cannot seat more than two alternates and cite in
21 support of that Section 14-7-320 which states, et
22 cetera, "The Court shall direct the calling of one or
23 two additional jurors in its discretion to be known
24 as alternate jurors."

25 The statute is very precise in that regard, one

1 or two. Had the Legislature wanted to say more than
2 two, they could have said any number of alternates or
3 a number -- they could have used some other form of
4 language. This is very specific. One or two is the
5 language. So I would submit that because of the
6 statute, we are restricted to selecting two alternate
7 jurors.

8 **THE COURT:** All right. I will point out again
9 for the record that the court-adopted Rules of Civil
10 Procedure allow for the impaneling of up to six
11 alternate jurors. Now, one might question why it's
12 six in civil court, two by statute in the Court of
13 General Sessions.

14 But I've looked at the statutes that you have
15 referred to and have looked at the case law under
16 that. Following that statute, in the case of State
17 V. McEntire, and this goes back a considerable number
18 of years, when the question was whether or not the
19 Court erred in directing that an alternate or a 13th
20 juror should be selected when the Constitution
21 provides that a jury shall consist of 12 men.

22 And the court said that that was not a
23 Constitutional error and that the code section is
24 remedial and intended to prevent mistrials in
25 criminal cases of long duration where a juror dies or

1 becomes so ill is unable to continue his or her
2 duties.

3 So I am going to take the position that this is
4 anticipated to be a long trial and that the statute
5 is not binding, despite the language that says:
6 "Shall draw one or two".

7 **MR. STRICKLER:** Thank you, sir. I just ask the
8 Court note my objection for the record.

9 **THE COURT:** Yes, sir.

10 **MR. STRICKLER:** And reverting just briefly to
11 our requested Voir Dire, this is also something we
12 discussed in chambers. My last question in my
13 requested Voir Dire relates to the length of the
14 trial. And I would adopt Your Honor's reasoning back
15 in chambers in suggesting that perhaps that would be
16 an appropriate question to ask the jurors first
17 rather than last so that we can weed out any problems
18 in that regard.

19 **THE COURT:** Well, the reasoning is convincing
20 that there's no sense in going through a complete
21 Voir Dire and qualification process if at the end
22 it's going to be somewhat futile if people can't stay
23 for the length of the trial.

24 **MR. STRICKLER:** Yes, sir. Lastly, Your Honor,
25 the record should reflect that Mr. Oliver is here.

1 He is in leg irons. I object to him being held in
2 court with leg irons on. The standard procedure will
3 be during the course of Voir Dire for the Court to
4 ask him to stand, face the jury panel. Of course we
5 have no problem with him doing so.

6 The jury panel at that point in time if at no
7 other point in time, at least some members of the
8 jury panel I submit will be able to see that he's in
9 leg irons. I have heard no showing to the effect
10 that he is a danger to anyone in this courtroom. I
11 fully appreciate the concerns of law enforcement. I
12 understand they are doing their job, and I don't have
13 a problem in that regard.

14 However, Mr. Oliver is here. He's in leg irons.
15 I submit he doesn't need to be in leg irons. I
16 submit that holding him in leg irons psychologically
17 impairs his ability to participate fully in his
18 defense in this trial and affects his entire
19 perspective he has on the criminal justice system,
20 and it does so negatively.

21 So, Your Honor, with all due respect to you,
22 sir, and of course with all due respect to law
23 enforcement here, I would ask that he not be forced
24 to wear leg irons in the course of these procedures.

25 **MR. MILLING:** Your Honor, we would join in that

1 request.

2 **MR. DELGADO:** As would Mr. Joy.

3 **THE COURT:** All right. Well, I have consulted
4 with security forces, the Sheriff's Department,
5 people that are charged with the security in this
6 courtroom. And the mere -- perhaps the most
7 significant argument that's been made to me is this
8 is a multi-defendant trial, and they feel it is
9 necessary for their security and the security of the
10 courtroom or the security of the courtroom and their
11 security, everybody's security, that your clients
12 have some restraint. And the least obvious method of
13 doing that is with leg restraints. And I must
14 respectfully deny your motion.

15 **MR. STRICKLER:** Thank you, sir. I just ask that
16 you note my objection for the record.

17 **THE COURT:** Yes, sir. Absolutely.

18 **MR. STRICKLER:** And with that, I'm done.

19 **THE COURT:** Anything from Mr. Gallman? Anything
20 further from Mr. Gallman?

21 **MR. MILLING:** No, Your Honor.

22 **THE COURT:** From Mr. Joy?

23 **MR. STRICKLER:** Yes, Your Honor, there is.

24 **THE COURT:** Yes, sir.

25 **MR. DELGADO:** I say this to you as an officer of

1 the court, Your Honor, simply to preserve Mr. Joy's
2 rights to a fair trial. Forty minutes or so ago when
3 we were about ready, I think you had even instructed
4 the bailiffs to bring the jury up when we had to exit
5 the courthouse and the courtroom based on a fire
6 alarm.

7 As I was walking downstairs with someone that
8 I'm familiar with here in the courthouse, I said,
9 "Has this ever happened before?" I was just trying
10 to make conversation. It never happened before with
11 me. And that individual said to me, "Well, I think
12 your clients did it."

13 **THE COURT:** Said what?

14 **MR. STRICKLER:** Said, "I think your clients did
15 it." Now, I don't know how that was said.

16 **THE COURT:** Oh. You mean set the alarm?

17 **MR. DELGADO:** Yes. And I turned to them and
18 said, "Look. If that's the case, his voice is on a
19 tape recording in the Richland County Detention
20 Center." I mean, I just discounted that immediately.
21 But as I walked further I thought to myself, "Oh, my
22 goodness. What if somebody on this jury thinks
23 that?"

24 **THE COURT:** That was not a juror that approached
25 you?

1 **MR. DELGADO:** Oh, no, sir. Your Honor, here is
2 what I'm saying. I don't know whether or not that
3 rises to the point of a mistrial. And to be candid
4 with you, Mr. Joy does not wish that. What I would
5 like the Court to consider after the jury is
6 impaneled, to say something to them about anything,
7 any disruption in the normal process today was just
8 an absolute mechanical, somebody tripped a switch.
9 There was no intent, something, just to calm that to
10 the point where no one thinks there was anything
11 amiss.

12 **THE COURT:** Well, I have no problem with that,
13 although it may call more attention to the fact than
14 you wish to be called.

15 **MR. DELGADO:** I understand that, Your Honor.

16 **THE COURT:** Anybody have any problem with that?

17 **MR. MILLING:** Your Honor, I've had an
18 opportunity to speak with Mr. Gallman, and I think he
19 would be in favor of that as well.

20 **MR. STRICKLER:** And, Your Honor, I would object
21 to that.

22 **THE COURT:** All right. And I assume the State
23 has a position?

24 **MR. MEADORS:** We defer to your wisdom.

25 **THE COURT:** Thank you. All right. Let's

1 attempt to seat this jury.

2 **MR. STRICKLER:** Oh. Excuse me, Your Honor. The
3 last thing. I apologize. The one thing not resolved
4 is the issue for the number of strikes for alternate
5 jurors. Your Honor actually had the section up there
6 which says two and one. I would submit that that
7 statute needs to be interpreted in conjunction with
8 the statute relating to number of strikes in multiple
9 defendant trials which says in this situation, given
10 the nature of the charges, doubles -- any situation,
11 doubles the number of strikes available for the
12 defense and for the prosecution. So at least in this
13 case for the prosecution. So I submit that the
14 correct number of strikes would be four and two for
15 alternates.

16 **THE COURT:** Any problem with that? I mean, it's
17 statutory.

18 **MR. MEADORS:** I don't care. No, sir.

19 **THE COURT:** All right. I agree with you, Mr.
20 Strickler. Two and four on each alternate.

21 **MR. STRICKLER:** Yes, sir. Thank you.

22 **THE COURT:** Now, the big question is whether any
23 of the jurors came back into the courthouse. Bring
24 the jury, please.

25 **THE CLERK:** Yes, sir.

1 (Pause)

2 **THE BAILIFF:** The jury panel is all present,
3 Your Honor.

4 **THE COURT:** Thank you very much. Good
5 afternoon, ladies and gentlemen. I don't know what
6 that was. I do want to assure you that the recent
7 events here in the courthouse had nothing to do with
8 this trial or nothing to do with me.

9 I have a feeling if you can smell popcorn,
10 somebody might have gotten a little too close to a
11 smoke detector or something. We don't know what
12 happened. That's very unusual for us to have -- it
13 was not a drill, by the way. They told me it was not
14 a drill. So something happened somewhere. It's my
15 understanding something happened on the fourth floor
16 that caused the alarm to go off. And so I appreciate
17 your patience. And I also appreciate all of you
18 returning to the courthouse. I thought maybe we'd
19 lose some of you. Anyway, we're ready to begin a
20 trial today.

21 So I want to welcome you to the Court of General
22 Sessions. This is the criminal division of our court
23 system. Those of you who are familiar with the
24 courts probably know that our civil court is a court
25 called the Court of Common Pleas. This court, the

1 criminal court, is called the Court of General
2 Sessions. These are names that have been with us
3 since Colonial times; and like so many other things
4 in South Carolina, we just don't change things too
5 quickly.

6 So, what I mean by that is those of you who are
7 seated on this jury today will be sitting on a
8 criminal case. And I'm going to tell you something
9 about it. I'm going to tell you quite a bit about
10 it. I'm going to introduce the parties to you; that
11 is, the people who are involved in this trial.

12 But before I do that I want you to be thinking
13 about something. And we'll draw the full jury panel
14 up here today because I think we're going to need the
15 full jury panel to seat a jury of 12 people and of
16 three alternates. So there will be 15 of you who are
17 selected on this jury today.

18 The case involves three different defendants
19 each of whom are charged with serious crimes. It's
20 unusual to have that many defendants in a trial, but
21 that's where we are today. And based on that and my
22 sort of pre-reading of the facts in this case to the
23 limited extent that I have done so, and in talking
24 with the attorneys, it appears that this case may run
25 over into next week.

1 getting ready to go through a qualification process,
2 and I told you this morning it would be a
3 qualification process related specifically to this
4 trial and the events that bring us here today. And
5 without going into that, I think I need to know on
6 the front end if there are any jurors that feel that
7 for legitimate reasons -- and I told you this morning
8 inconvenience is not a reason to excuse you -- but I
9 will at this point in time if any of you have those
10 concerns about working into next week.

11 And as I say, it's a multi-defendant trial.
12 It's a multi count trial that I will tell you more
13 about it in just a minute. But I think it would
14 be -- it's only fair to you to tell you in advance
15 exactly what I see or anticipate in terms of the
16 length of this trial.

17 So, let me ask you, I'm going to ask you that
18 question. But let me ask you to do one thing.
19 Before I even ask you to do that, we've been sort of
20 experimenting this year in Richland County with
21 identifying jurors by their number; in other words,
22 not by name. And particularly in the criminal court
23 system we've found that jurors feel a little more
24 comfortable in being identified by number and not
25 necessarily by name.

1 Now, I don't know -- I know I told you this
2 morning that your jury service would be for one week.
3 But let me say this. This is a serious matter. It
4 must be -- we must deal with it in the Court of
5 General Sessions. These individuals are titled to a
6 trial. They're entitled to a fair trial, as is the
7 State. And if it runs over into the next week,
8 obviously we don't want to; if you have plane tickets
9 to go to Hawaii, we don't want to you have to change
10 those arrangements.

11 I know this must be asking somewhat of a
12 sacrifice on your. I'm sure it is a sacrifice on
13 your part to be seated for more than one week. But
14 as you can tell, it's already 4:00 on Monday. We're
15 basically going to have only have four days left in
16 this week, and I just anticipate without knowing for
17 certain that it's going to last past Friday.

18 What we'll generally do during the course of the
19 week is to basically run hard, so to speak, from 9 to
20 5 or 9 to a little after 5; and then if the case were
21 to go over, we would take the weekend and adjourn
22 over the weekend and ask you to come back on Monday
23 to complete the trial.

24 Now, if that's going to be a problem for any of
25 you, I guess I need to know it now because we're

1 Now, maybe that's not significant to you, but
2 we're going to continue to do that through the end of
3 the year and then try to evaluate whether jurors
4 prefer to be identified by number as opposed to name.

5 So any time any questions I ask you during the
6 course of this examination and this question and
7 answer period, if you stand, if you need to tell me,
8 to respond to any of the questions, if you will
9 identify yourself by number. You all probably know
10 your number by now. Just identify yourself by
11 number, and we will respect the fact that you may not
12 wish to have your name called out, your name in open
13 court.

14 So now, so I'll just make that the first
15 question. Does any member of the jury panel feel
16 that they have matters and things that are going to
17 prevent them from serving past Friday of this week?
18 And I'll allow you to, if you'll just stand and I'll
19 call your -- just stand up and I'll identify you.
20 And, please, don't everybody stand. All right. The
21 gentleman to my left with the blue shirt on, your
22 number, please?

23 **JUROR:** 21.

24 **THE COURT:** Blue shirt.

25 **JUROR:** 85.

1 **THE COURT:** Blue shirt. Blue jacket. Sir?

2 **JUROR:** 85.

3 **THE COURT:** Number 85. All right. Mr. 85, can
4 you tell me what your conflict is?

5 **JUROR:** My what?

6 **THE COURT:** Conflict.

7 **JUROR:** I have pre-operation testing Monday.
8 I've been waiting for a shoulder operation. I've got
9 to go in and take blood tests and all that.

10 **THE COURT:** You've got surgery on Monday?

11 **JUROR:** No. Pre-op tests and all that.

12 **THE COURT:** Pre-op. I've got to ask you, is
13 there any way to move that since it's not the
14 operation itself, to move that to a different time?

15 **JUROR:** I could call sometime this week, you
16 know, in a break and find out if I could.

17 **THE COURT:** Can I ask you, when is surgery
18 actually scheduled?

19 **JUROR:** Surgery is the 19th.

20 **THE COURT:** The 19th of this month?

21 **JUROR:** Yes, sir.

22 **THE COURT:** Would you mind?

23 **JUROR:** Am I what?

24 **THE COURT:** Would you mind going ahead and
25 calling now?

1 **JUROR:** No. I'll call my doctor and see if they
2 can change it.

3 **THE COURT:** All right. I'm going to ask the
4 clerk to take you to a phone. And just check and see
5 if it can be rearranged. If not, I understand.

6 **JUROR:** Okay.

7 **THE COURT:** All right. Thank you, Mr. 85. Now
8 the gentleman with the blue jacket.

9 **JUROR:** 108.

10 **THE COURT:** Yes, sir.

11 **JUROR:** At work it's only me and my manager.
12 And this is the fourth quarter. And I scheduled
13 everything for next week instead of this week already
14 working around this week's schedule. And it's just
15 me and him, and I already got some trucks scheduled
16 to come in.

17 **THE COURT:** All right. It's just the two of
18 you?

19 **JUROR:** Yes, sir.

20 **THE COURT:** All right, Mr. 108. I'm probably
21 going to excuse you based on that. But just have a
22 seat. Okay. The gentleman with the black shirt,
23 green shirt.

24 **JUROR:** Right here? Number 80. I have airline
25 tickets purchased Monday morning, from Monday through

1 Friday for a business appointment next week.

2 **THE COURT:** And that's prescheduled?

3 **JUROR:** Prescheduled. Yes, sir.

4 **THE COURT:** You're number 80?

5 **JUROR:** Number 80. Yes, sir.

6 **THE COURT:** All right. Have a seat, Mr. 80.

7 We're going to consider that. Yes, ma'am; with the
8 blue sweater.

9 **JUROR:** I work retail.

10 **THE COURT:** Number?

11 **JUROR:** Oh. I'm sorry. Number 145.

12 **THE COURT:** Yes, ma'am.

13 **JUROR:** I work retail and I've been out -- I'll
14 be out all of this week without pay and --

15 **THE COURT:** You will not be paid?

16 **JUROR:** No. No. I will not be paid this week.
17 And if it goes into next week, it will be too much.

18 **THE COURT:** All right. And are you the sole
19 support of your family?

20 **JUROR:** I am, yeah. I'm the only one.

21 **THE COURT:** You're it?

22 **JUROR:** I'm a widow.

23 **THE COURT:** You're it?

24 **JUROR:** Yes, sir.

25 **THE COURT:** The breadwinner.

1 **JUROR:** I'm it.

2 **THE COURT:** Okay. All right. Thank you,
3 Ms. 105.

4 **JUROR:** 145.

5 **THE COURT:** 145. I'm sorry. I've got it. It's
6 145. All right. Just have a seat. Yes, ma'am.

7 **JUROR:** Number 60.

8 **THE COURT:** 60?

9 **JUROR:** Yes, sir. I changed my doctor's
10 appointment from this week to next week. And if I
11 don't have the paperwork turned in on Tuesday, I will
12 lose my job.

13 **THE COURT:** And who are you? 60?

14 **JUROR:** 60.

15 **THE COURT:** Okay. And tell me again, you've got
16 medical paperwork that you need to turn in next
17 Tuesday?

18 **JUROR:** Yes, sir. It's a --

19 **THE COURT:** I'm not worried about the medical
20 part. I'm worried about the job part.

21 **JUROR:** I changed my date from this week to next
22 week and I have to turn in the paperwork on Tuesday.

23 **THE COURT:** Okay. And nobody else can do that?

24 **JUROR:** Pardon?

25 **THE COURT:** Nobody else can do that for you?

1 **JUROR:** No. I have to go to the doctor for him
2 to fill out paperwork.

3 **THE COURT:** Oh. So you've got a doctor's
4 appointment?

5 **JUROR:** Yes, sir.

6 **THE COURT:** All right. Thank you, Ms. Number
7 60. Yes, sir, with the vest on.

8 **JUROR:** Juror number 8.

9 **THE COURT:** 8?

10 **JUROR:** 8, sir.

11 **THE COURT:** I'm coming to you. Yes, sir.

12 **JUROR:** I am self-employed commercial
13 photographer. I'm in the middle of a corporate
14 identity project. And with this week being
15 abbreviated, the deadline is Tuesday of next week;
16 and if I have to work next Tuesday, they will have to
17 hold the press and there will not be happy people.

18 **THE COURT:** Thank you, Mr. 80. Yes, sir.

19 **JUROR:** 235.

20 **THE COURT:** I've got a big long list here. I've
21 got to find you on the list. Yes, sir, Mr. 235.

22 **JUROR:** I have Wednesday a scheduled vacation
23 out of town.

24 **THE COURT:** Wednesday of next week?

25 **JUROR:** Wednesday of next week. And my wife is

1 in the medical field and this is the second time we
2 have rescheduled it.

3 **THE COURT:** All right. Thank you very much,
4 Mr. 235. Just have a seat. Yes, ma'am.

5 **JUROR:** Number 101.

6 **THE COURT:** Yes, ma'am.

7 **JUROR:** I'm a school teacher and I have plans
8 for my students prior to them getting out for the
9 Christmas holidays and I need to be at school next
10 week.

11 **THE COURT:** Okay. You could have come up this
12 morning. I could have moved you.

13 **JUROR:** Yeah. I mean, this week is --

14 **THE COURT:** Oh, this week is okay.

15 **JUROR:** Because I've already got things taken
16 care of.

17 **THE COURT:** Thank you, ma'am. Just have a seat.
18 Yes, sir. Yes, sir.

19 **JUROR:** Number 226.

20 **THE COURT:** Yes, sir.

21 **JUROR:** And I have a major plan that I've been
22 working on for two years that's starting up this
23 week. And we've had some opportunities where it's
24 not working as well. And I want to do this. I would
25 like to postpone this. But if I could postpone to

1 another period, that would be good. And I was
2 requested by my boss at lunchtime to request a --

3 **THE COURT:** How strong was that request?

4 **JUROR:** He said, "Can you please talk to the
5 judge about what's going on?"

6 **THE COURT:** I just want to make sure it wasn't:
7 "Either get a continuance or don't come back to
8 work."

9 **JUROR:** It was not.

10 **THE COURT:** It was not quite that strong?

11 **JUROR:** No, it was not.

12 **THE COURT:** All right. Thank you, Mr. 226.
13 I'll let you know in just a minute.

14 **JUROR:** Thank you.

15 **THE COURT:** And your number again, sir?

16 **JUROR:** 85.

17 **THE COURT:** Yes, sir. Mr. 85, what did you find
18 out?

19 **JUROR:** We got it switched.

20 **THE COURT:** All right. Thank you very much.
21 Blame it on me.

22 **JUROR:** I did.

23 **THE COURT:** Okay. All right, counsel. Let me
24 talk to these lawyers and see if they'll let you out
25 of it.

1 (Whereupon, a bench conference is had)

2 **THE COURT:** All right, ladies and gentlemen. As
3 they say: Listen up. Those of you who spoke up who
4 have conflicts next week, I'm going to excuse you
5 from the trial of this case. I'm going to ask you to
6 return to the jury assembly room. But just to be
7 certain now, I'm going to call out your numbers and
8 as I call out your number, you're free to leave and
9 as I say return to the jury assembly room. There may
10 be some other assignments that you can be worked into
11 this week. I'm not sure. I don't know what else is
12 going on here in the courthouse. But if you'll
13 report back down there, they may give you further
14 instructions.

15 Number 8, number 60, number 80, number 101,
16 number 108, number 145, number 226, number 235. And
17 that's it. Is there anyone else that stood up? All
18 right. All right. Thank you very much, ladies and
19 gentlemen.

20 Now, as in all criminal cases, the prosecuting
21 entity; that is, the office that prosecutes cases is
22 in South Carolina is known as the Solicitor's Office.
23 In other jurisdictions it's known as the State's
24 Attorney or the District Attorney, but in South
25 Carolina we know our prosecuting entity as the

1 Solicitor's Office. And this case is no different.

2 There are three members of the staff of the
3 solicitor; that is, your elected solicitor,
4 Mr. Barney Giese, who will be actually trying this
5 case and presenting this case for you this week.
6 They are Mr. John Meadors, Mr. David Ross, and
7 Ms. Joanna McDuffie.

8 I need to ask if any member of the jury panel is
9 related by blood, connected by marriage or employment
10 or a close personal acquaintance of either or any of
11 these three attorneys? If so, please stand. Anybody
12 know or acquainted with any member of this
13 Solicitor's staff? And again, your number, please?

14 **JUROR:** Number 17. Not a close personal
15 acquaintance, but I have met Mr. Meadors.

16 **THE COURT:** All right. In a business setting or
17 a social setting or religious?

18 **JUROR:** Yes. Business, yes.

19 **THE COURT:** In a business setting?

20 **JUROR:** Yes.

21 **THE COURT:** All right. Madam 17, that
22 relationship with Mr. Meadors, would that in any way
23 interfere with your ability to give both the State
24 and the defendants a fair and impartial trial in this
25 case?

1 **JUROR:** No.

2 **THE COURT:** All right. Thank you very much,
3 ma'am. Anybody else? Any member of the jury panel
4 or any member of your family connected in any way
5 with Mr. Barney Giese; that is, the actual elected
6 solicitor for the Fifth Judicial Circuit? Yes, sir.
7 If you'll stand and give me your number, please.

8 **JUROR:** 211.

9 **THE COURT:** Yes. Mr. 211, how do you know
10 Mr. Giese?

11 **JUROR:** Our children go to school together and
12 we go to the same church.

13 **THE COURT:** Other than you going to the same
14 church and you say your children go to the same
15 school together, do you have any other more social
16 relationship with him than that, or is it limited
17 pretty much to that?

18 **JUROR:** That's it, pretty much it; but I do know
19 him and his family.

20 **THE COURT:** Well, let me ask you this. Would
21 that fact in any way interfere with your ability to
22 give both the State and the defendants a fair and
23 impartial trial in this case?

24 **JUROR:** I don't think so.

25 **THE COURT:** Thank you very much, Mr. 211. Take

1 that one step further. Is any member of the jury
2 panel or any member of your family connected in any
3 way with the staff of the Solicitor's Office here in
4 Richland County? Any member of the jury panel know
5 any member of the staff of Mr. Barney Giese that
6 works here in the courthouse? Any member of the jury
7 panel? And Mr. 211, again.

8 **JUROR:** Paulette Colette Andrews.

9 **THE COURT:** Paulette.

10 **MR. MEADORS:** Andrews.

11 **THE COURT:** That's what I said. Collette
12 Andrews. Do you know that individual also?

13 **JUROR:** Yes, sir.

14 **THE COURT:** And what's that relationship? Is it
15 similar to your relationship with Mr. Giese?

16 **JUROR:** A little closer than with Barney. I
17 know the family children went to school together,
18 played basketball together with her husband.

19 **THE COURT:** I'll ask you the same question.

20 **JUROR:** I don't think so.

21 **THE COURT:** Anybody else know any member of the
22 staff of the Solicitor's Office?

23 **THE BAILIFF:** Stand.

24 **THE COURT:** Oh. Yes, ma'am.

25 **JUROR:** Number 115. I know Eden Harvey and Dan

1 Goldberg. We were co-workers, see each other
2 socially.

3 **THE COURT:** Okay. Ms. 115, would that -- do you
4 think that would interfere with your ability to give
5 both the State and these defendants a fair and
6 impartial trial?

7 **JUROR:** No, sir.

8 **THE COURT:** Thank you very much, Ms. 115. Oh.
9 Okay. Yes, ma'am.

10 **JUROR:** 22. I'm friends with several of the
11 lawyers that work at the Solicitor's Office.

12 **THE COURT:** All right. Could you just
13 generally, not specifically, could you give me their
14 names?

15 **JUROR:** Kendall Corley is a good friend of mine.
16 Dolly Justice, Vanessa Cooper. They have married
17 names. I'm not sure what their married names are but
18 they're friends of mine.

19 **THE COURT:** That's all right. And that's
20 basically a social relationship?

21 **JUROR:** It is.

22 **THE COURT:** Madam 22, would that interfere with
23 your ability to give both the State and the
24 defendants a fair and impartial trial?

25 **JUROR:** No, it would not.

1 **THE COURT:** Thank you very much, Madam 22. Yes,
2 sir.

3 **JUROR:** Number 84. I went to school with Eden
4 Harvey.

5 **THE COURT:** Sir?

6 **JUROR:** I went to school with Eden Harvey.

7 **THE COURT:** Okay. Would that fact in any way
8 interfere with your ability to give both the State
9 and the defendant a fair and impartial trial?

10 **JUROR:** No, sir, Your Honor.

11 **THE COURT:** Thank you very much, Mr. 84.
12 Anybody else?

13 **JUROR:** I guess I should -- number 17. I also
14 similarly know Luck Campbell, Dolly Justice, Kendall
15 Corley and various of the attorneys through my
16 profession.

17 **THE COURT:** Through your profession?

18 **JUROR:** Yes.

19 **THE COURT:** And those are -- are those all
20 business relationships primarily?

21 **JUROR:** Yes. Yes.

22 **THE COURT:** All right. I'll ask you again,
23 Ms. 17, would that fact in any way interfere with
24 your ability to give both the State and the
25 defendants a fair and impartial trial?

1 **JUROR:** No, it would not.

2 **THE COURT:** Thank you very much. Anybody else?
3 Does one of the jurors I believe on the front row
4 know any member of the staff that's in here today? I
5 think this lady -- I thought I saw you. Could you
6 stand up? Tell me your number, please.

7 **JUROR:** I know Dana.

8 **THE COURT:** Ma'am?

9 **JUROR:** Dana. We live in the same --

10 **THE COURT:** Well, that counts.

11 **JUROR:** Used to live in the same neighborhood.

12 **THE COURT:** And your number, please?

13 **JUROR:** 239.

14 **THE COURT:** 239. Ms. 239, you say you used to
15 live in the same neighborhood?

16 **JUROR:** Yes.

17 **THE COURT:** All right. Do you see much of her
18 since --

19 **JUROR:** No.

20 **THE COURT:** -- either you moved or she moved?

21 **JUROR:** She moved. I don't see her any at all.

22 **THE COURT:** Okay. Would that fact in any way
23 interfere with your ability to give both State and
24 these defendants a fair and impartial trial?

25 **JUROR:** No.

1 **THE COURT:** All right. Thank you very much,
2 ma'am. Anybody else? Sort of an allied question.
3 Since the Solicitor's Office is often in a place of
4 representing, with law enforcement, in representing
5 trials, I need to ask you if you or any member of
6 your family is involved in law enforcement or works
7 in law enforcement in some capacity?

8 Now, that may be anything from the Richland
9 County Sheriff's Department, the State Law
10 Enforcement Division, the City of Columbia Police
11 Department; as I said, the State Law Enforcement
12 Division, the FBI, any military police force, Forest
13 Acres police force? Any police force, law
14 enforcement agency that either you or any member of
15 your family is employed in? Any member of the jury
16 panel? Yes, ma'am. I don't remember your numbers.
17 I'm going to try to --

18 **JUROR:** 22. My husband is a State Trooper.

19 **THE COURT:** In Richland County, ma'am?

20 **JUROR:** Yes, sir.

21 **THE COURT:** All right. Again, would that fact
22 in any way interfere with your ability to give both
23 the State and the defendants a fair and impartial
24 trial?

25 **JUROR:** No, it would not.

1 **THE COURT:** Let's take the gentleman on the back
2 row with the green shirt.

3 **JUROR:** Number 87.

4 **THE COURT:** Number 87. Yes, sir.

5 **JUROR:** I have close friends in Richland County,
6 another close friend that just left Richland County
7 to go back to Lexington County as a Sheriff's Deputy.
8 I have an uncle that's a State Trooper.

9 **THE COURT:** All right. Would those family
10 relationships in any way interfere with your ability
11 to give the State and the defendants a fair and
12 impartial trial?

13 **JUROR:** No, sir.

14 **THE COURT:** All right. You feel you could be
15 first to both sides?

16 **JUROR:** Yes, sir.

17 **THE COURT:** Thank you very much, sir. I'm going
18 to take the lady in the far back in the back jacket.

19 **JUROR:** Number 88. I have a relative that's a
20 member of the Sheriff's Department, warrant
21 department within the Sheriff's Department.

22 **THE COURT:** In Richland County?

23 **JUROR:** Richland County. Yes.

24 **THE COURT:** Works for the warrant division of
25 the Sheriff's Office?

1 **JUROR:** Yes.

2 **THE COURT:** And it's a friend or a family
3 member?

4 **JUROR:** Family member.

5 **THE COURT:** Family member. All right, Ms. 88.
6 Would that fact in any way interfere with your
7 ability to give the State and the defendants a fair
8 and impartial trial?

9 **JUROR:** No, sir.

10 **THE COURT:** Thank you very much, Ms. 88. And
11 the gentleman with the white shirt on.

12 **JUROR:** Juror number 75.

13 **THE COURT:** Number 75.

14 **JUROR:** My father is a retired FBI agent and was
15 also an instructor at the South Carolina Criminal
16 Justice Academy.

17 **THE COURT:** What's your number again?

18 **JUROR:** 175.

19 **THE COURT:** Oh. I'm sorry. I went to 75 and I
20 knew that was not you. He's a lawyer. That's how I
21 knew. Mr. 75, would that fact in any way interfere
22 with your ability to give both the State and the
23 defendants a fair and impartial trial?

24 **JUROR:** No, sir.

25 **THE COURT:** Thank you very much, Mr. 175. With

1 the black shirt on here.

2 **JUROR:** 179.

3 **THE COURT:** 179. Yes, sir.

4 **JUROR:** My nephew works for the Columbia Police
5 Department.

6 **THE COURT:** Presently?

7 **JUROR:** Right.

8 **THE COURT:** Would that fact interfere with your
9 ability to give the State and the defendants a fair
10 and impartial trial in this case?

11 **JUROR:** No, sir.

12 **THE COURT:** Thank you very much, Mr. 179. The
13 gentleman; yes, sir.

14 **JUROR:** 211.

15 **THE COURT:** 211.

16 **JUROR:** I have a brother-in-law that works for
17 the City of Columbia Police Department.

18 **THE COURT:** Brother-in-law?

19 **JUROR:** Brother-in-law.

20 **THE COURT:** Again, would that fact in any way
21 interfere with your ability to give both the State
22 and the defendants a fair and impartial trial in this
23 case?

24 **JUROR:** No, sir.

25 **THE COURT:** Thank you very much. Yes, sir. In

1 the front row.

2 **JUROR:** Number 20. My brother is a state
3 Highway Patrolman.

4 **THE COURT:** In Richland County?

5 **JUROR:** Actually he's on a drug unit. So he
6 covers the entire state.

7 **THE COURT:** All right. Would that fact in any
8 way interfere with your ability to give both the
9 State and the defendants a fair and impartial trial?

10 **JUROR:** No, sir.

11 **THE COURT:** Thank you very much. All right.
12 I'm going to take it one step further. I'm going to
13 ask if any member of the jury panel is a member of or
14 a contributor to any group which has as its primary
15 concern the promotion of law enforcement or the
16 protection of victims' rights?

17 Now, let me give you some examples. Some of
18 those groups might be Mothers Against Drunk Driving
19 or Students Against Drunk Driving or Citizens Against
20 Violence. I think there's a group, I think it's
21 called CAVE, C-A-V-E, or Citizens Against Violent
22 Crime. I think that's the name of it. Or the South
23 Carolina Victim Assistance Network or Sister Care.

24 In other words, any of these groups that you
25 support on a regular or fairly regular basis either

1 by your contributions or acting as a volunteer?
2 There are -- I know some Sheriff's Offices have an
3 Explorer Program or a Neighborhood Watch Program,
4 things of that nature.

5 So I need to know if any member of the jury
6 panel either contributes to or participates in any of
7 these groups again that have as their primary
8 function the support of law enforcement or the
9 protection of victims' rights, things of that nature?
10 Any member of the jury panel? Yes, ma'am.

11 **JUROR:** 22. I'm a --

12 **THE COURT:** Number 22.

13 **JUROR:** -- contributor to the South Carolina
14 Troopers Association.

15 **THE COURT:** That's another group that I would
16 ask about. If you donate to the Troopers Association
17 or if you donate to the Sheriff's Association. Any
18 of again those types of groups? I just thank you for
19 reminding me, Ms. 22. And again, Ms. 22, would that
20 fact in any way interfere with your ability to give
21 the State and the defendants a fair and impartial
22 trial?

23 **JUROR:** It would not, Your Honor.

24 **THE COURT:** Thank you very much, Madam 22. Yes,
25 ma'am. And your number, please?

1 **JUROR:** 30.

2 **THE COURT:** 30?

3 **JUROR:** Yes, sir.

4 **THE COURT:** Yes, ma'am.

5 **JUROR:** I support Sister Care.

6 **THE COURT:** All right. You volunteer or
7 financially?

8 **JUROR:** Both.

9 **THE COURT:** Both? All right. Thank you very
10 much, Ms. 30. Would that fact in any way interfere
11 with your ability to give both the State and the
12 defendants a fair and impartial trial in this case?

13 **JUROR:** No, sir.

14 **THE COURT:** Thank you very much, Madam 30.

15 **JUROR:** 115.

16 **THE COURT:** 115.

17 **JUROR:** I contribute to Sister Care, and I was a
18 volunteer and a board member in the past.

19 **THE COURT:** Would that life experience, that
20 involvement in any way interfere with your ability to
21 give both the State and defendants a fair and
22 impartial trial in this case?

23 **JUROR:** No, sir.

24 **THE COURT:** Thank you very much, Madam 115. And
25 back on the back with the black jacket.

1 **JUROR:** 88.

2 **THE COURT:** 88?

3 **JUROR:** Uh-huh (affirmative). I'm the director
4 of the Parents Television Council here in Columbia.
5 And it's a local chapter where we advocate protection
6 of children and things, you know, sexual and that
7 type of thing. And I also support child abuse and
8 the Child Abuse Association.

9 **THE COURT:** All right. Madam 88, would those
10 associations and that life experience you have, would
11 that in any way interfere your ability to give the
12 State and the defendants a fair and impartial trial?

13 **JUROR:** No, sir.

14 **THE COURT:** Thank you very much. Yes, ma'am.

15 **JUROR:** Juror number 19. I make contributions
16 to Sister Care and the Troopers Association, in the
17 past.

18 **THE COURT:** All right. The support of those
19 groups, would that in any way interfere with your
20 ability to give both the State and the defendants a
21 fair and impartial trial?

22 **JUROR:** No.

23 **THE COURT:** Thank you very much. All right,
24 ladies and gentlemen. I'm going to introduce you to
25 the defendants in this case and I'm going to indicate

1 to you a little bit about what this case is about at
2 this time.

3 Now, let me say to begin with that what I'm
4 going to tell you and what I'm going to read to you
5 are what's known as indictments. There are several
6 indictments in this case. The indictments are merely
7 pieces of paper brought into this court. They are
8 not evidence of anything. So when I read them to
9 you, you are not to assume anything with regard to
10 the guilt or the innocence of any of these defendants
11 based on the indictments.

12 The law of this state, the law of the United
13 States provides that any individual, any defendant
14 who is charged in an indictment is presumed innocent
15 of the charges contained in that indictment until
16 proven by a preponderance -- by the -- proven to you
17 beyond a reasonable doubt -- it slipped my mind -- to
18 a jury.

19 In other words, you are not to presume anything
20 from these indictments other than the fact that I'm
21 telling you what these defendants are charged with.
22 As I say, no defendant is required to prove himself
23 innocent. The burden becomes that of the State to
24 prove any indictment, the terms of any indictment
25 beyond a reasonable doubt.

1 There are three defendants as I explained to you
2 earlier, and I'm going to introduce each of them to
3 you in order, or in random order I should say, not in
4 terms of anything other than the fact that I'm going
5 to go from my right to my left in terms of
6 introducing these defendants.

7 The first defendant is Mr. Stanley Oliver. Mr.
8 Oliver, if you'll stand and face the jury, please.
9 Any member of the jury panel related by blood,
10 connected by marriage or employment or a close
11 personal acquaintance of Mr. Stanley Oliver? If so,
12 please stand. Anybody know Mr. Oliver? Thank you
13 very much, Mr. Oliver.

14 **JUROR:** I think I've seen him somewhere before.

15 **THE COURT:** Wait a minute. Hold it. What is
16 your name, number? Yes, sir.

17 **JUROR:** Lewis Richardson.

18 **THE COURT:** No. I mean, what's your number?

19 **JUROR:** Oh. My -- hold on a second. My number
20 is 194.

21 **THE COURT:** All right, Mr. 194. Mr. Oliver, you
22 can have a seat. You say you think you've seen him?

23 **MR. MEADORS:** Judge, would you like to approach?

24 **THE COURT:** Well, if you care to. Yeah. Let me
25 talk to you. Mr. 194, let me just ask, I'm going to

1 ask you where you've seen him. But I need you to
2 come up here and tell me about it. Okay?

3 **JUROR:** All right.

4 **THE COURT:** Just come on.

5 (Whereupon, a bench conference is had)

6 **MR. STRICKLER:** Is that 194?

7 **THE COURT:** 194. Anybody else know Mr. Oliver?
8 All right. Mr. Oliver is represented in this matter
9 today by Mr. Douglas Strickler and Ms. Mary LaFave.
10 I'll ask if any member of the jury panel is related
11 by blood, connected by marriage or personal
12 employment or a personal acquaintance of either
13 Mr. Douglas Strickler, Ms. Mary LaFave, the attorneys
14 who are representing Mr. Oliver? If so, please
15 stand. Now, I've got your number. 22.

16 **JUROR:** I was a public defender into the
17 nineties, worked with Doug very closely, Mr.
18 Strickler.

19 **THE COURT:** All right. Madam 22, I keep asking
20 this question.

21 **JUROR:** I think have a pretty good balance on
22 both sides.

23 **THE COURT:** You think you could be fair and
24 impartial?

25 **JUROR:** Yes, sir.

1 **THE COURT:** Thank you very much, Ms. 22. All
2 right. The second defendant, ladies and gentlemen,
3 is Mr. Dominic Gallman. I need to ask if any member
4 of the jury panel is related by marriage or a close
5 personal acquaintance of Mr. Dominic Gallman? If so,
6 please stand. All right. Have a seat, Mr. Gallman.
7 Yes, ma'am. And your number, please?

8 **JUROR:** 220.

9 **THE COURT:** 220. And could you come up here and
10 just tell me, ma'am, how you know Mr. Gallman?
11 That's all I'm going to ask you.

12 (Whereupon, a bench conference is had)

13 **THE COURT:** Thank you very much, Ms. 220.
14 Anybody else know Mr. Gallman? Mr. Gallman is
15 represented in this matter today by Mr. Jonathan
16 Milling who practices law here in Columbia. I need
17 to ask if any member of the jury panel is connected
18 by blood or in any way connected with Mr. Milling.
19 And, Ms. 220, you told me that you know of Mr.
20 Milling. Anybody else know Mr. Milling? Any member
21 of the jury panel ever been represented by Mr.
22 Milling or any member of his firm? He is now the
23 Milling Law Firm but his firm used to be Smith,
24 Stuckey & Ellis. Any member of the jury panel ever
25 been represented by that firm or Mr. Milling or any

1 member of that firm? All right. Thank you very
2 much, ladies and gentlemen.

3 The third defendant in this case today is
4 Mr. Kenneth Joy. Mr. Joy. I'll ask if any member of
5 the jury panel related by blood, connected by
6 marriage or a close personal acquaintance of
7 Mr. Kenneth Joy? If so, please stand. Anybody know
8 Mr. Joy? And, Madam 220, I think you've already
9 indicated to me how you feel about that, that you may
10 know Mr. Joy. Anybody else?

11 Mr. Joy is represented in this matter today by
12 Attorney John Delgado. I'll ask if any member of the
13 jury panel is related by blood, connected by marriage
14 or employment or a close personal acquaintance of
15 Mr. John Delgado or perhaps have been represented by
16 him or any member of his firm either presently or in
17 the past? Any member of the jury panel? And Madam
18 22.

19 **JUROR:** Yes, Your Honor. I've known Mr. Delgado
20 socially and professionally for a number of years.

21 **THE COURT:** Thank you very much, Madam 22.
22 Again, --

23 **JUROR:** I can be impartial.

24 **THE COURT:** Fair and impartial. Madam 22, why
25 don't you just get up here? All right. Any member of

1 the jury panel know anybody or related to anybody
2 that works in the Public Defender's Office of
3 Richland County? If so, please stand. And, Madam
4 22, I understand. Anybody else?

5 Now, ladies and gentlemen, I'm going to tell you
6 what the indictments allege against each of these
7 three individuals. And again, this is not evidence
8 in the case. These are merely the documents by which
9 the cases are brought into court.

10 As to Mr. Oliver, the indictments allege -- let
11 me just double check here -- that on or about
12 September 4th, 2005 September 4th, 2005, Mr. Oliver
13 did commit the crime of murder. September 4th, 2005.
14 And what's the alleged location of this event?

15 **MR. ROSS:** It's two locations, your Honor. One
16 is 4213 Mildred Avenue. It's in the City of
17 Columbia.

18 **THE COURT:** 4213 what?

19 **MR. ROSS:** Mildred Avenue.

20 **THE COURT:** Mildred. Okay.

21 **MR. ROSS:** The other is Nina Lee Drive in
22 Richland County.

23 **THE COURT:** Nina Lee Drive. All right. Now,
24 ladies and gentlemen, I can't tell you what took
25 place at what location, but I asked the solicitor for

1 those locations just because you may or may not -- I
2 don't know where you live. You may live in some
3 proximity to some of the matters that are alleged in
4 these indictments. So, as I say, I don't know where
5 any of you live and I don't know which indictment
6 applies to which location, but keep that in mind as
7 we go through this.

8 As I say, the first indictment charges Stanley
9 Oliver on or about September 4th, 2005, with murder
10 in that he did feloniously and willfully and with
11 malice aforethought killing one Desiree Felder by
12 means of shooting the victim.

13 The second indictment charges Mr. Stanley on or
14 about September 4th, 2005 with murder in that he did
15 feloniously and willfully and with malice
16 aforethought kill one Kevin Miller by shooting the
17 victim.

18 The third indictment charges Mr. Stanley on or
19 about September 4th, 2005 with murder in that he
20 willfully and with malice aforethought killed one
21 George Batie or Batty (phonetic), B-A-T-I-E, by
22 shooting the victim. So there are three charges of
23 murder as to Mr. Stanley.

24 There is a charge of kidnapping as to
25 Mr. Stanley, that on or about September 4th, 2005 he

1 did kidnap Desiree Felder, one of the named
2 individuals in the murder indictment.

3 The fourth indictment charges Mr. Oliver on or
4 about September 4th, 2005 with committing an armed
5 robbery. And there are three counts of armed
6 robbery, each of which applies to each of the
7 murders. In other words, that he on or about that
8 date committed an armed robbery of Kevin Miller,
9 Desiree Felder and George Batie. So there are three
10 separate indictments for armed robbery connected at
11 the same time, and I'm assuming at the same place
12 with the three murder indictments and the kidnapping
13 indictment.

14 And the eighth indictment as to Mr. Oliver is
15 for burglary in the first degree in that on or about
16 September 4th, 2005 Mr. Oliver did unlawfully enter
17 the dwelling of George Batie without the consent of
18 George Batie with an intent to commit a crime in
19 that -- I'm assuming that's a residence of Mr. George
20 Batie.

21 So there are eight separate charges as to Mr.
22 Oliver. There are three murder charges, three armed
23 robbery charges, one kidnapping charge and one
24 burglary in the first degree charge.

25 As to Dominic Gallman, and again, these are

1 indictments which are not evidence of anything in
2 this case. They are merely the documents by which
3 the cases are brought into court. Mr. Gallman is
4 charged similarly, in that on or about the same dates
5 and places he is charged with the murder of first
6 Mr. Kevin Miller in one indictment.

7 The second indictment is he is charged with
8 murder by willfully and with malice aforethought
9 killing one Desiree Felder by means of shooting the
10 victim, and the first one that I referred to is again
11 with malice aforethought on that date killing one
12 Kevin Miller by means of shooting the victim.

13 And the third indictment as to Mr. Gallman is
14 for murder also in that he did feloniously, willfully
15 and with malice aforethought kill one George Batie by
16 means of shooting. So there are three similar
17 indictments as to Mr. Gallman in this case.

18 The fourth indictment charges Mr. Dominic
19 Gallman with kidnapping of Desiree Felder on the same
20 date as the other indictments alleged. Mr. Gallman
21 is also charged on September 4, 2005, with committing
22 an armed robbery as to Kevin Miller, an armed robbery
23 as to Desiree Felder and an armed robbery as to
24 George Batie. So there are three again similar
25 indictments as to armed robbery as to Mr. Gallman.

1 And the eighth indictment as to Mr. Gallman is
2 that he did commit a burglary in the first degree,
3 entering the dwelling of George Batie without the
4 consent of -- willfully and without consent of
5 Mr. George Batie. That is the eighth indictment as
6 to Mr. Gallman.

7 Mr. Joy is charged in a similar but different
8 set of charges but they all take place at that same
9 time and I'm assuming at the same location, but I'm
10 not sure what the location of these indictments is.
11 But Mr. Joy is charged on September 4th, 2005 as an
12 accessory before the fact of murder in that he did
13 counsel or procure the commission of the murder of
14 Mr. Kevin Miller. He is charged in a second
15 indictment with accessory before the fact of murder
16 in that he's charged on September 4th he did counsel
17 or procure the commission of murder as to George
18 Batie. And he is also charged in a third indictment
19 with on September 4th, 2005 with counseling or
20 procuring the commission of a murder as to Desiree
21 Felder. So there are three charges of accessory
22 before the fact of murder.

23 He is charged with -- Mr. Kenneth Joy is charged
24 with being an accessory before the fact of kidnapping
25 in that on September 4th, 2005 he did counsel or

1 procure the kidnapping of Desiree Felder. I'm losing
2 my voice. He is charged in a fifth indictment with
3 accessory before the fact of armed robbery in that on
4 or about September 4th, 2005 he did counsel or
5 procure the commission of an armed robbery as to
6 Kevin Miller.

7 He's charged in a fifth indictment with
8 accessory before the fact of armed robbery as to
9 Desiree Felder and an accessory before the fact of
10 armed robbery of George Batie. In other words, these
11 are all the same three named individuals in the
12 indictments. He is charged with accessory before the
13 fact of each of the charges that the other
14 individuals are charged with. That's three charges
15 with accessory before the fact of armed robbery.

16 He's charged with accessory before the fact of
17 burglary in the kidnapping in that he did procure or
18 counsel the commission of a burglary in the first
19 degree against Mr. George Batie. He's also charged
20 with accessory after the fact of murder. And that is
21 on or about sometime between September 4th, 2005 and
22 September 14th, 2005 that he did assist the
23 completion of the felony; that is, the murder of
24 George Batie. He did aid, harbor or assist one or
25 more of the other defendants to escape detection or

1 arrest.

2 So he's charged with accessory after the fact of
3 murder as to Mr. Stanley Oliver and Dominic Gallman.
4 He's charged with being somewhat of an accessory
5 after the fact to assist them, those two individuals.

6 He's charged with a second accessory after the
7 fact charge, that sometime between September 4th and
8 September 14th he did assist the other two
9 individuals with regard to the murder of Kevin
10 Miller. He's charged in the next indictment with
11 assisting the other two defendants as an accessory
12 after the fact of Desiree Felder. And he is also
13 charged with being an accessory after the fact of
14 kidnapping in that he did aid, harbor or assist Mr.
15 Oliver and Mr. Gallman to either escape detection or
16 avoid arrest; that being after the fact of the
17 kidnapping of Desiree Felder.

18 He's charged with being an accessory after the
19 fact of burglary in the first degree in that same
20 time period, September 4th, September 14th, assisting
21 Stanley Oliver and Dominic Gallman after the burglary
22 of George Batie. He is charged then with three
23 counts of accessory after the fact of armed robbery.
24 And again, it goes back to the same, assisting the
25 same two defendants, Stanley Oliver, Dominic Gallman,

1 after the armed robbery of Desiree Felder, after the
2 armed robbery of George Batie and after the armed
3 robbery of Kevin Miller.

4 So there are numerous charges against Mr. Joy --
5 again, they are charges only -- that he somehow
6 assisted the other two defendants in some manner
7 either before or after their alleged crimes. And
8 those are the charges against Mr. Joy.

9 Now, I've told you a little bit about it. I've
10 introduced the parties to you. I need to know if any
11 member of the jury panel knows anything about this
12 case. In other words, I don't know where you live.
13 I don't know what the -- this is over two years ago
14 now. I don't honestly know what the press accounts
15 of this case were, if there were any press accounts
16 of it. I don't know what you may have seen or heard,
17 if anything, either in the media or from your
18 neighbor or from people where you may go to church or
19 any of your activities that you may have interacted
20 with somebody that told you something about this.

21 So I need to know, has any member of the jury
22 panel seen, heard, read or know anything about this
23 case whatsoever? Any member of the jury panel? All
24 right. Two years ago. Well, it takes a while to
25 sort of sink in.

1 **JUROR:** I'm 103. And that's what I'm trying to
2 remember. A friend of mine may have --

3 **MR. MEADORS:** Judge, do you want us to approach?

4 **THE COURT:** Just come on up here and you can
5 tell me what you may or may not remember about this
6 case, Madam 103.

7 (Whereupon, a bench conference is had)

8 **THE COURT:** Anybody else? All right. Ladies
9 and gentlemen, I don't know if I asked you a few
10 minutes ago; when I introduced the defendants to you,
11 that being Mr. Oliver, Mr. Gallman and Mr. Joy, I
12 think I asked you if any member of the jury panel
13 knew any of the defendants. Let me just to be on the
14 safe side ask if any member of the jury panel -- and
15 I know the answers that Ms. 220 gave, any other
16 member of the -- and the gentleman with the red shirt
17 on, I recall his responding.

18 But any member of the jury panel know any
19 members of the family of either of these defendants?
20 I don't know that I asked that a few minutes ago when
21 I asked you if you knew them. But that was -- I
22 should have asked you also if you knew any members of
23 their families one way or the other. Okay. All
24 right. Thank you very much.

25 All right, ladies and gentlemen. Any member of

1 the jury panel or any member of your family ever been
2 the victim of a violent crime? And what I'm going to
3 ask you to do is just stand and tell me what it was
4 and if it was you or a member of your family and how
5 long ago it took place.

6 Now, if you feel uncomfortable giving me that
7 information sort of in open court here, I'll allow
8 you to come forward and tell me about it. Some
9 things can be rather personal. So I need you -- but
10 I do need to know if any member of the jury panel or
11 any member of your family has ever been the victim of
12 a violent crime? And let me just maybe -- well, just
13 let's leave it at that. I was going to say that
14 included a firearm. But that would, I think without
15 saying, if it involved a firearm, it would be -- you
16 would consider it a crime of violence. Any member of
17 the jury panel? Let me take a drink. All right.
18 Let's start on the front row. Yes, sir.

19 **JUROR:** Number 75.

20 **THE COURT:** Number 75.

21 **JUROR:** Yes.

22 **THE COURT:** Let me look it up. And, yes, sir,
23 Mr. 75.

24 **JUROR:** I had a cousin who was shot to death.

25 **THE COURT:** And how long ago?

1 **JUROR:** It's been about five years.

2 **THE COURT:** In Richland County?

3 **JUROR:** I believe it was. Either Richland or
4 Lexington.

5 **THE COURT:** All right. Mr. 75, would that fact
6 in any way interfere with your ability to give both
7 the State and the defendants a fair and impartial
8 trial in this case?

9 **JUROR:** I don't think so.

10 **THE COURT:** Thank you very much, sir. Yes,
11 ma'am, with the black dress on.

12 **JUROR:** I had two nephews that were shot.

13 **THE COURT:** Your number, please?

14 **JUROR:** 178.

15 **THE COURT:** 178. Yes, ma'am. And how long ago?

16 **JUROR:** About ten years ago.

17 **THE COURT:** Were they deceased?

18 **JUROR:** No.

19 **THE COURT:** Ten years ago?

20 **JUROR:** Mm-hmm (affirmative).

21 **THE COURT:** And where did that take place?

22 **JUROR:** In New York.

23 **THE COURT:** In New York. Thank you very much.

24 Ms. 178. Let me ask you, would that fact in any way
25 interfere with your ability to give the State and

1 defendants a fair and impartial trial?

2 **JUROR:** No.

3 **THE COURT:** Thank you very much. Yes, ma'am.

4 **JUROR:** 206.

5 **THE COURT:** 206.

6 **JUROR:** And I've been a victim twice.

7 **THE COURT:** You have personally?

8 **JUROR:** Yes. First this January there was an
9 ABHAN and a couple of other charges; and the other
10 one was about seven years ago, another ABHAN and
11 three other charges on that one.

12 **THE COURT:** All right. The most recent one,
13 ma'am, has that one been resolved yet?

14 **JUROR:** Yeah. It was just a couple of months
15 ago.

16 **THE COURT:** Was that resolved?

17 **JUROR:** Yes. Yeah.

18 **THE COURT:** Would that fact interfere with your
19 ability to give both the State and the defendants a
20 fair and impartial trial?

21 **JUROR:** Yes.

22 **THE COURT:** Thank you very much, Ms. 206. Yes,
23 ma'am, with the striped blouse on.

24 **JUROR:** 186.

25 **THE COURT:** 186. Yes, ma'am.

1 **JUROR:** My great aunt was a victim of homicide
2 approximately three years ago in the City of
3 Columbia.

4 **THE COURT:** Columbia?

5 **JUROR:** Mm-hmm (affirmative).

6 **THE COURT:** All right. Ms. 186, would that fact
7 in any way interfere with your ability to give both
8 the State and these defendants a fair and impartial
9 trial in this case?

10 **JUROR:** No, sir.

11 **THE COURT:** Thank you very much, Ms. 186. Yes,
12 ma'am.

13 **JUROR:** 26.

14 **THE COURT:** 26.

15 **JUROR:** Two first cousins both were murdered
16 right here in Richland County.

17 **THE COURT:** Two first cousins in Richland
18 County?

19 **JUROR:** Yes.

20 **THE COURT:** Ms. 26, that life experience, would
21 that in any way interfere with your ability to give
22 both the State and the defendants a fair and
23 impartial trial?

24 **JUROR:** Not at all.

25 **THE COURT:** Thank you very much, Madam 26.

1 Okay. Yes, ma'am.

2 **JUROR:** 240.

3 **THE COURT:** 240?

4 **JUROR:** Mm-hmm (affirmative).

5 **THE COURT:** Yes, ma'am.

6 **JUROR:** In Greenwood, South Carolina, my niece
7 was shot by her husband.

8 **THE COURT:** And was that a homicide?

9 **JUROR:** Then he turned it onto hisself (sic) and
10 shot himself. And then he shot himself.

11 **THE COURT:** Okay. In Greenwood?

12 **JUROR:** In Greenwood, sir. Yes.

13 **THE COURT:** Ma'am, would that fact in any way
14 interfere with your ability to give both the State
15 and the defendants a fair and impartial trial?

16 **JUROR:** No, sir.

17 **THE COURT:** Thank you very much. Lady with the
18 striped sweater.

19 **JUROR:** I am juror number 40.

20 **THE COURT:** 40?

21 **JUROR:** And my grandfather was murdered about 14
22 years ago.

23 **THE COURT:** And where did that take place?

24 **JUROR:** I think it was Lexington County.

25 **THE COURT:** Grandfather?

1 **JUROR:** Mm-hmm (affirmative). And I've been a
2 victim of a domestic violence as well.

3 **THE COURT:** All right. How long ago?

4 **JUROR:** That was like five. But he didn't --

5 **THE COURT:** Ma'am? Five years?

6 **JUROR:** About five years ago. But it didn't --
7 we didn't go to court.

8 **THE COURT:** With those life experiences, ma'am,
9 do you think you could be fair and impartial to both
10 the State and the defendants in this case?

11 **JUROR:** I believe so.

12 **THE COURT:** Thank you very much, Madam 40. With
13 the blue shirt on.

14 **JUROR:** Juror 100.

15 **THE COURT:** 100?

16 **JUROR:** Yeah. A cousin committed murder about
17 20 years ago.

18 **THE COURT:** A cousin did what?

19 **JUROR:** Committed murder.

20 **THE COURT:** Committed murder. Okay. And where
21 did that take place?

22 **JUROR:** Club Cabaret.

23 **THE COURT:** Sir?

24 **JUROR:** Club Cabaret in Columbia.

25 **THE COURT:** Oh, it's in Columbia. Okay.

1 Richland County.

2 **JUROR:** Yes, sir.

3 **THE COURT:** Would that fact in any way interfere
4 with your ability to give both the State and the
5 defendants a fair and impartial trial?

6 **JUROR:** No, sir.

7 **THE COURT:** Thank you very much, Mr. 100. Yes,
8 ma'am.

9 **JUROR:** Juror number 227.

10 **THE COURT:** Yes, ma'am.

11 **JUROR:** Step grandfather that was murdered in
12 Georgia over 20 years ago.

13 **THE COURT:** Would that fact in any way interfere
14 with your ability to give both the State and
15 defendants a fair and impartial trial?

16 **JUROR:** No, sir.

17 **THE COURT:** Thank you very much, ma'am. Lady
18 with the --

19 **JUROR:** Burgundy.

20 **THE COURT:** -- burgundy. I started to say
21 garnet but --

22 **JUROR:** Juror number 118.

23 **THE COURT:** 118?

24 **JUROR:** Yes, sir. And I could just let you know
25 down there?

1 **THE COURT:** All right. Come on. Yes, ma'am,
2 come on down.

3 (Whereupon, a bench conference is had)

4 **THE COURT:** Yes, sir. With the green shirt.

5 **JUROR:** Juror 87, sir.

6 **THE COURT:** Number 87?

7 **JUROR:** Yes, sir.

8 **THE COURT:** What happened?

9 **JUROR:** I was in a vehicle and assault and
10 battery of a high and aggravated nature with pointing
11 and presenting a firearm 14 years ago in Calhoun
12 County.

13 **THE COURT:** In what county?

14 **JUROR:** Calhoun..

15 **THE COURT:** Isn't that just Saturday night in
16 Calhoun County?

17 **JUROR:** Pardon?

18 **THE COURT:** Strike that from the record.
19 There's bound to be people in here from Calhoun
20 County and I'm going to get in trouble. And that you
21 say was 14 years ago, sir?

22 **JUROR:** 14 years ago, sir. Yes, sir.

23 **THE COURT:** Let me ask you again, would that
24 fact in any way interfere with your ability to give
25 both the State and the defendants a fair and

1 impartial trial?

2 **JUROR:** I don't think so.

3 **THE COURT:** Thank you very much, Mr. 87. Yes,
4 sir.

5 **JUROR:** Juror 244.

6 **THE COURT:** 244.

7 **JUROR:** May I approach, Your Honor?

8 **THE COURT:** Yes, sir. Please do.

9 (Whereupon, a bench conference is had)

10 **THE COURT:** Anybody else?

11 **JUROR:** It's 115.

12 **THE COURT:** 115. Yes, ma'am.

13 **JUROR:** A group of friends and I were robbed at
14 gunpoint in Richland County. It was in Richland
15 County within the last five years.

16 **THE COURT:** Within the last five years?

17 **JUROR:** Three to five years ago.

18 **THE COURT:** Is the matter disposed of now to the
19 best of your knowledge?

20 **JUROR:** No. I don't think so.

21 **THE COURT:** Okay. I guess that begs the
22 question, it may be a pending case.

23 **JUROR:** I don't think so. I think they -- I
24 don't know.

25 **THE COURT:** Okay. That's good enough. You

1 don't know, you don't know. Again, Madam 115, would
2 that fact in any way interfere with your ability to
3 give the State and these defendants a fair and
4 impartial trial?

5 **JUROR:** No, sir.

6 **THE COURT:** Thank you very much. Anybody else?
7 The opposite. And I think one or two of you may have
8 already told me of being a victim. Any member -- and
9 as I say, a couple of you have told me; you don't
10 have to repeat it -- any member of the jury panel or
11 any member of your family ever been accused of
12 committing a violent crime? There were two, at least
13 two people who told me that a member of their family
14 was accused. So you don't need to stand up again.
15 Any other members of the jury panel whose family
16 either individually, either you or any member of your
17 immediate family been charged with committing a
18 violent crime? If so, please stand. All right.
19 Numbers again.

20 **JUROR:** 179.

21 **THE COURT:** Yes, sir.

22 **JUROR:** May I approach, Judge?

23 **THE COURT:** Yes, sir. Ma'am, would you like to
24 come up also?

25 **JUROR:** I can say it out loud.

1 **THE COURT:** Okay. I'm just trying to save time.

2 (Whereupon, a bench conference is had)

3 **THE COURT:** Yes, ma'am. And your number,
4 please?

5 **JUROR:** 124.

6 **THE COURT:** 124. Yes, ma'am.

7 **JUROR:** I had two cousins accused of committing
8 murder.

9 **THE COURT:** And how long was that?

10 **JUROR:** About five years ago.

11 **THE COURT:** Five years. In Richland County?

12 **JUROR:** Darlington County.

13 **THE COURT:** Okay. Two cousins. Did you say
14 cousins or nephews?

15 **JUROR:** Cousins.

16 **THE COURT:** Would that fact in any way, Madam
17 124, interfere your ability to give both the State
18 and the defendant a fair and impartial trial?

19 **JUROR:** No, sir.

20 **THE COURT:** Thank you very much. Anybody else?
21 All right, ladies and gentlemen. We're getting --
22 we're getting there. Any member of the jury panel --
23 and I'm sort of paraphrasing from what the attorneys
24 have told me. There may be some testimony in this
25 case about drug use or drug distribution, things of

1 that nature. I have no idea what that evidence is or
2 what that evidence will show. But I need to ask
3 members of the jury if any member of the jury panel
4 feels that because drug use or drug distribution
5 might be involved in the testimony in this case,
6 might be evidence in this case, if that in any way
7 would impair your ability to be fair to both parties;
8 in other words, that you have such a bias or
9 prejudice one way or the other about either drug use
10 or drug distribution that you couldn't be fair and
11 judge the case as to each individual based on the
12 evidence presented here in this courtroom? Any
13 member of the jury panel feel that way?

14 All right. Now, as I told you, ladies and
15 gentlemen, no defendant is required in this courtroom
16 or anywhere to prove his or her innocence. That's a
17 basic premise of our law. Any member of the jury
18 panel feel that they don't understand that or cannot
19 recognize that as a principle of our law?

20 Any member of the jury panel feel that because
21 law enforcement might testify to something that might
22 be different from some other witness that you would
23 have some sort of a bias? And I guess this goes back
24 to the question about people whose families are
25 involved in law enforcement, that you would tend to

1 believe law enforcement before you would believe
2 other defendants; in other words, that you would not
3 weigh the evidence presented from any defendants in
4 the same impartial manner, whether it be a police
5 officer or a defendant or any other witness; in other
6 words, that you feel that you would have to give some
7 sort of extraordinary weight to the testimony of a
8 law enforcement officer rather than the testimony of
9 any other individual who may testify in the course of
10 the trial?

11 Any member of the jury panel feel so strongly
12 that they would have to believe one or the other, one
13 above the other is what I'm trying to ask in the
14 question? Yes, ma'am. And your number, please?

15 **JUROR:** 186.

16 **THE COURT:** 186.

17 **MR. MEADORS:** Can we approach, Judge?

18 **THE COURT:** Yes, ma'am. Come on up, ma'am.

19 (Whereupon, a bench conference is had)

20 **THE COURT:** Anybody else? All right now, ladies
21 and gentlemen. We're going to wind up here pretty
22 soon. But I do need to read to you a list of
23 witnesses or of potential witnesses in this case,
24 people who may testify. And they need to know if any
25 member of the jury panel -- and, Ms. 186, I

1 understand your -- you don't have to stand every
2 time. I need to ask you if you know any of these
3 individuals as I read their names.

4 And whether you -- you may be married -- I mean,
5 you may have kin to them or you may just know them as
6 friends or go to church with them or something. But
7 I'm just going to ask. And if any of these witnesses
8 are present in the courtroom, I'll ask you to stand
9 so the jury can try to identify you. Mike Ulicen.

10 **MR. MEADORS:** Ulicen.

11 **THE COURT:** Ulicen Allen. Mike Ulicen Allen,
12 Joseph Angelino, Jason Brown, Chris Cochran, Steve
13 Conley, Kenneth Davis, Linda Dupree, Shequitta Evans.
14 Yes, sir. And your number, please?

15 **JUROR:** 175. I know Mr. Conley.

16 **THE COURT:** You know Mr. Conley. What does Mr.
17 Conley do? Is he a --

18 **MR. MEADORS:** Conley is now I think working with
19 the Feds.

20 **THE COURT:** He is law enforcement?

21 **MR. MEADORS:** Yes, sir. Retired city law
22 enforcement with the Feds now.

23 **THE COURT:** All right. Mr. 175, how do you know
24 Mr. Conley?

25 **JUROR:** I think he was friends with one of my

1 law partners 20 years ago.

2 **THE COURT:** Okay. Would that fact in any way
3 interfere with your ability to give both the State
4 and the defendants a fair and impartial trial?

5 **JUROR:** No, sir.

6 **THE COURT:** Thank you very much. Robert Favor,
7 F-A-V-O-R. William Felder. Mr. Felder.

8 **JUROR:** Your Honor.

9 **THE COURT:** Yes, sir.

10 **JUROR:** I am number 36.

11 **THE COURT:** Number 36. Yes, sir.

12 **JUROR:** I recognize the victim. I'm trying to
13 think he might be a customer of mine.

14 **THE COURT:** All right. Let me find you on the
15 list. You say he might be a customer. What type
16 business are you in?

17 **JUROR:** I'm in the restaurant business.

18 **THE COURT:** You're in the restaurant business?

19 **JUROR:** Yes, sir.

20 **THE COURT:** You say Mr. Felder might be a
21 customer of yours?

22 **JUROR:** Yes, sir.

23 **THE COURT:** I don't know how Mr. Felder is
24 involved in this case. I'm not going to inquire.
25 But I need to ask you, would that fact interfere with

1 your ability in any way to give both the State and
2 the defendants a fair and impartial trial?

3 **JUROR:** No, sir.

4 **THE COURT:** Thank you very much, Mr. 36.
5 Pongelia Fryson, or Pongelia. Albert Gallman, Rodney
6 Gallman, Yolanda Gallman, Katina Hart, H-A-R-T. Yes,
7 ma'am.

8 **JUROR:** I know Ms. Gallman.

9 **THE COURT:** Ms. Gallman. All right. And your
10 number again, please?

11 **JUROR:** Oh. 220.

12 **THE COURT:** 220. All right. Thank you, Madam
13 220. Well, I need to ask you on the record, would
14 that fact in any way interfere with your ability to
15 give both the State and the defendants a fair and
16 impartial trial?

17 **JUROR:** No, sir.

18 **THE COURT:** Number 22.

19 **JUROR:** May I approach, Your Honor?

20 **THE COURT:** Yes, ma'am.

21 (Whereupon, a bench conference is had).

22 **THE COURT:** I think I called Katina Hart. Dean
23 Henry, Horace Holmes, Leticia Jones, Zondria McKie,
24 Corinthian McMillan, John McLean, Omekas Moaney,
25 Ombey Mobley, Kenny Parker, Aretha Petty, Sylvia

1 Pickett, Tatanisha Robinson, Jan Samuels. Officer
2 William J. Scott with the Columbia Police Department.

3 Anita Sinclair, Natalie Singleton, Monique
4 Smith, Gary Timmons, Renata Williams, Francis
5 Williams, Ted Treatt or Threatt (phonetic) with
6 Wachovia. Edward Dabkowski with the federal
7 government, ATF. Officer Sweatt, Alvin S. Glenn.

8 **JUROR:** Your Honor. Number 36 again.

9 **THE COURT:** 36.

10 **JUROR:** I know Officer Sweatt. I used to work
11 for Richland County Sheriff's Department and I know
12 Officer Sweatt.

13 **THE COURT:** All right. Mr. 36, would that --
14 let me ask you, how do you know him? Does he come to
15 your restaurant, too?

16 **JUROR:** I used to work for the detention center.

17 **THE COURT:** I understand.

18 **JUROR:** And I know Officer Sweatt from there.

19 **THE COURT:** Okay. Why doesn't he come to your
20 restaurant? Now, don't answer that. Would that fact
21 interfere with your ability in any way to give the
22 State and the defendants a fair and impartial trial?

23 **JUROR:** No, sir.

24 **THE COURT:** Thank you very much. And, Madam
25 220; yes, I understand.

1 **JUROR:** Okay.

2 **THE COURT:** John Ewing formerly of Richland
3 County Sheriff's Department. C. O. Clarke, Columbia
4 Police Department. This next -- about the next ten
5 I'm going to list are all with Columbia Police
6 Department, ladies and gentlemen. Pete Currie, Tracy
7 Dixon, Corporal Robin Dutton, Officer T. W. Fraser,
8 G. M. Gates, Mike E. Johnson, Joanne Lewis, Donna
9 Martin, Investigator Gertrude Burns, used to be with
10 Columbia Police Department. Investigator Mitch
11 Wilkerson, Investigator Paul Mead, J. Kemfort,
12 formerly with Columbia Police, Steve Rice, Buddy
13 Rose, Lieutenant Gerry Steedly.

14 Reginald Stephen. George Nicholson with
15 BellSouth. Heather Ramos, Sprint. David Ide,
16 Suncom. Sue Johnson, T-Mobile. Jay Russell, Forest
17 Acres police. Alicia Akbar. Glenn Ross. Dr. Clay
18 Nichols. Joseph Angelino, Trevor Redden, Christine
19 Benson, Dr. Ross with Newberry Pathology, Ted Powell,
20 Sergeant Tom Amarro.

21 **MR. MEADORS:** Amarro.

22 **THE COURT:** Amarro, Richland County Sheriff's
23 Department. John Barron, Richland County Sheriff's
24 Department.

25 Now I moved into Richland County Sheriff's

1 Office personnel at this point, ladies and gentlemen.
2 M. Bouknight, Officer D. Brown, Investigator Anna
3 Clemens, Investigator David Collins, Beverly Crane,
4 Tena Goff, Investigator Travis Holdorf, Kevin Hughes,
5 Investigator Brian Jones, Investigator Robert Oates.
6 Zane Padgett, Mike Poole, Patricia Reed-Enzor, Don
7 Robinson, Captain Stan Smith, Investigator Dow
8 Thompson, L. Ulmer, Mark Austin. Did Mr. Austin come
9 back?

10 All right, ladies and gentlemen. Now I'm going
11 to move into the State Law Enforcement Division. Ken
12 Bogan, Steven Curtis, Dan DeFreese, Joe Powell, James
13 Abraham, Sherry Brown. I'm sorry, Mr. Abraham. I
14 didn't mean to run past you. Anybody know
15 Mr. Abraham? Yes, sir. And your number, please?
16 Oh, you're going not going to get a star by your
17 name.

18 **JUROR:** James A. Branham. We live in the same
19 neighborhood.

20 **THE COURT:** All right. And your number, please?

21 **JUROR:** 127.

22 **THE COURT:** 127.

23 **JUROR:** Yes, sir.

24 **THE COURT:** All right. You and Mr. Abraham live
25 in the same neighborhood?

1 **JUROR:** Yes, sir.

2 **THE COURT:** Do you see him on a regular basis?

3 **JUROR:** Not that much.

4 **THE COURT:** In other words, no other business
5 relationship or social relationship other than just
6 you know he lives in the neighborhood?

7 **JUROR:** We used to talk on occasions, not that
8 much though.

9 **THE COURT:** Do you want me to ask him? All
10 right. Mr. 127. Would that fact in any way
11 interfere with your ability to give both the State
12 and the defendants a fair and impartial trial?

13 **JUROR:** No, sir.

14 **THE COURT:** Thank you very much. Mr. 175.

15 **JUROR:** Yes, sir. Your Honor, you called out
16 one officer from Forest Acres. I have represented
17 Forest Acres in several civil matters involving their
18 police department. I did not know that officer you
19 called out.

20 **THE COURT:** All right. Thank you very much,
21 Mr. 175. Back to State Law Enforcement Division.
22 Carol Brooks, Denise Eargle, Officer Merrill,
23 Christine Barrickman. Barrickman. Christine
24 Barrickman. Emily Norris, Katie Corley, Amy
25 Stephens, Selena Kinard, Patti Ruff, Marie Brown.

1 Nikki Brown with the Richland County Coroner's
2 office. Nikki Perry. Karonda Williams. Randolph
3 Tyler.

4 We're back to the Sheriff's Department now.
5 Raul Ortiz, Jane Taylor, Cathy Rawl, Mr. S. Soto.

6 **JUROR:** Would that be David Soto?

7 **THE COURT:** I've got an S.

8 **MR. MEADORS:** Scott Soto.

9 **THE COURT:** Scott Soto.

10 **JUROR:** Okay.

11 **THE COURT:** J. McMillan, lee Connelly, Alfonso
12 Simmons, Latrice Williams, Norman Mitchell, Renata
13 Williams, William Geddings, John McLean or perhaps
14 John McLane. Jarvis Craft, Investigator Kevin
15 Hughes. I don't know if I have already called that,
16 Ken Parker. William Felder. I'm sorry.

17 **MR. STRICKLER:** You have.

18 **THE COURT:** What was your name again?

19 **THE WITNESS:** William Felder.

20 **THE COURT:** I'd already called your name.

21 **THE WITNESS:** Yes, sir.

22 **THE COURT:** Thank you very much. These lists --
23 I've got two lists here and they may have some
24 duplications, so just bear with me. We're almost
25 finished. Ethel Pickett, Chris Cochran, Orlando

1 Crumpton, Joseph Cummings, Robert Favor. I'm sorry.
2 Mr. Cummings. Okay. Anybody know Mr. Cummings? All
3 right. Thank you, sir.

4 William Gedsen, Stewart Henry, Zondria McKie,
5 Barbara Lewis, Donna Kohn, Rasheed Rucker, Monique
6 Smith, Kenneth Joy, Gary Watts. Is that the coroner?

7 **MR. DELGADO:** Yes, Your Honor.

8 **THE COURT:** Okay. David Byrd, John Tate.

9 **THE BAILIFF:** Your Honor.

10 **THE COURT:** What?

11 **JUROR:** David Byrd.

12 **THE COURT:** Oh. Yes, ma'am.

13 **JUROR:** If it's the same David Byrd.

14 **THE COURT:** Well, let me find out.

15 **JUROR:** I'm sorry. I'm juror number 227.

16 **THE COURT:** Let me find out which David Byrd
17 this is.

18 **MR. DELGADO:** Your Honor, he's the former Police
19 Chief of South Carolina. He now is a private real
20 estate agent I believe.

21 **JUROR:** I know David Byrd.

22 **THE COURT:** And your number again is?

23 **JUROR:** 227.

24 **THE COURT:** 227. How do you know Mr. Byrd?

25 **JUROR:** I used to audit the town of Irmo when he

1 was Police Chief.

2 **THE COURT:** All right. Any other relationship,
3 I mean social relationship outside the business
4 aspect of it and sort of --

5 **JUROR:** I've met his wife and I can't remember
6 where.

7 **THE COURT:** Okay. Well, let me ask you this,
8 Ms. 227. Again, would that fact in any way interfere
9 with your ability to give both the State and the
10 defendants a fair and impartial trial?

11 **JUROR:** No, sir.

12 **THE COURT:** Thank you very much. John Tate.
13 Willie Reeder, Godfrey Brown and Quentin Gallman.

14 Now, ladies and gentlemen, obviously that's a
15 lengthy list. I don't want to intimidate you with
16 the size of that list. These are people who may be
17 called as witnesses. They're not necessarily going
18 to all be called. And even though as I say I
19 anticipate this trial going over, I certainly don't
20 anticipate all of these witnesses will be called.
21 But then again, I don't know. I'm just passing that
22 on as a comment.

23 Now, ladies and gentlemen, because this is a
24 joint trial, I need you to understand however -- and
25 if anybody has a problem with this let me know --

1 that each of these defendants needs to be judged
2 individually as to their own case and not because of
3 the testimony of or the testimony regarding the guilt
4 or innocence of any other defendant. In other words,
5 they are to be treated separately.

6 And that's why they're separate indictments.
7 They're separate charges. They happen to be going to
8 trial together but they are to be considered
9 independent in the defenses, if presented; and the
10 State's evidence as presented needs to be considered
11 independently as to each of the defendants. I need
12 to know if any member of the jury panel feels they
13 could not view this case or judge this case in that
14 manner. All right.

15 Now, I told you I'm about to run out of my
16 voice. I've told you about everything I know about
17 this case at this point. I need to know if there's
18 anything, any reason whatsoever other than those that
19 you've already expressed either to me at the bench or
20 in my questions to you as a group, any reason, other
21 reason why any member of this jury panel feels they
22 could not sit, be fair to the state of South Carolina
23 as represented by the Solicitor's Office and each of
24 these defendants as represented by their respective
25 counsel?

1 Any reason that you feel that you could not be
2 fair and give both or all these parties your
3 undivided attention and your unbiased opinion and
4 judgment as to each of the three? Any member of the
5 jury panel know of any reason other than those
6 previously expressed? All right. Thank you very
7 much. Any further questions from the State?

8 **MR. MEADORS:** No, sir.

9 **THE COURT:** Anything from Mr. Oliver?

10 **MR. STRICKLER:** Beg the Court's indulgence, Your
11 Honor, one moment, please.

12 **THE COURT:** Sure.

13 (Pause)

14 **MR. STRICKLER:** Your Honor, I'd direct the
15 Court's attention to my request number 9 and to my
16 request number 10 as it relates to the prosecution
17 agencies other than the Solicitor's Office.

18 **THE COURT:** Oh, okay.

19 **MR. STRICKLER:** And as to --

20 **THE COURT:** I think I covered number 9. I
21 believe I did.

22 **MR. STRICKLER:** Okay.

23 **THE COURT:** I came back to it.

24 **MR. STRICKLER:** Did you?

25 **THE COURT:** Yes.

1 **MR. STRICKLER:** I may have missed that one.
2 Co-counsel tells me you're correct, Your Honor.
3 Obviously, Your Honor. Number 13, Your Honor.

4 **THE COURT:** All right. I looked over that. I
5 omitted that one, not intentionally.

6 **MR. STRICKLER:** Yes, sir. That would be all I
7 would have, sir.

8 **THE COURT:** All right. Ladies and gentlemen,
9 and I had a number of questions. I just overlooked
10 two of them as pointed out by counsel. I asked if
11 any member of the jury panel was or any member of
12 your family was employed by or a close personal
13 acquaintance with the Solicitor's Office.

14 I need to expand that just to include the office
15 of the Attorney General of South Carolina. That
16 would be Mr. McMaster's office or the United States
17 Attorney's Office. That would be Mr. Lloyd's office.
18 Any member of the jury panel or any member of your
19 family have any close connection with any member of
20 the staff of the South Carolina Attorney General or
21 Attorney General's Office or the United States
22 Attorney's Office? Well, --

23 **JUROR:** Number 84.

24 **THE COURT:** Mr. 84. Yes, sir.

25 **JUROR:** I worked for the Attorney General prior

1 to his being at the Attorney General's Office.

2 **THE COURT:** You worked for the attorney --

3 Mr. McMaster?

4 **JUROR:** Yes, sir, Your Honor.

5 **THE COURT:** Prior to his being -- all right.

6 That's number 84. Did you say 84?

7 **JUROR:** Yes, sir. Yes, sir, Your Honor.

8 **THE COURT:** Would that fact in any way interfere
9 with your ability to give both the State and the
10 defendants a fair and impartial trial?

11 **JUROR:** No, sir.

12 **THE COURT:** Thank you. Yes, ma'am. Your
13 number.

14 **JUROR:** 227.

15 **THE COURT:** 227. Right.

16 **JUROR:** Attorney General McMaster's wife is a
17 former client.

18 **THE COURT:** Would that fact interfere with your
19 ability in any way to give both the State and the
20 defendants a fair and impartial trial?

21 **JUROR:** No, sir.

22 **THE COURT:** Thank you very much. Yes, sir.

23 **JUROR:** Number 87, Your Honor.

24 **THE COURT:** 87. All right.

25 **JUROR:** Mr. McMaster was the advisor from the

1 fraternity that I was in at the University of South
2 Carolina.

3 **THE COURT:** Advisor for the fraternity?

4 **JUROR:** For the fraternity. Yes, sir.

5 **THE COURT:** I believe he is still in that
6 fraternity. Better strike that, too, Jenny. Would
7 that fact in any way interfere with your ability to
8 give both the State and the defendants a fair and
9 impartial trial?

10 **JUROR:** No, sir.

11 **THE COURT:** Mr. 175.

12 **JUROR:** Yes, sir. Several of my close friends
13 are in the U.S. Attorneys' Office. I could be fair
14 and impartial in this case.

15 **THE COURT:** Thank you very much, Mr. 175. And
16 another question I overlooked. Any member of the
17 jury panel employed by or have any business
18 relationship with either the Richland Memorial
19 Hospital or Richland County EMS service, have any
20 business relationship with the hospital, I guess in
21 terms of -- well, I don't know. Any business
22 relationship with the Richland Memorial Hospital or
23 the EMS service. And your number again, please?

24 **JUROR:** 75.

25 **THE COURT:** Mr. 75. Yes, sir. And what --

1 **JUROR:** I work for the University and we have a
2 number of relationships with Richland Memorial
3 Hospital.

4 **THE COURT:** All right. Would that fact in any
5 way interfere with your ability to give both the
6 State and these defendants a fair and impartial
7 trial?

8 **JUROR:** No, sir.

9 **THE COURT:** Thank you very much, Mr. 75. Yes,
10 ma'am. Number? Yes.

11 **JUROR:** 171.

12 **THE COURT:** Yes, ma'am.

13 **JUROR:** I'm a nurse manager at Richland Memorial
14 Hospital.

15 **THE COURT:** All right. Would that fact in any
16 way interfere with your ability to give both the
17 State -- I don't even know how they are involved in
18 this case. But do you think you could be fair and
19 impartial to both parties?

20 **JUROR:** Yes, sir.

21 **THE COURT:** Thank you, Ms. 171. Yes, ma'am.

22 **JUROR:** Number 240.

23 **THE COURT:** Yes, ma'am.

24 **JUROR:** I'm employed by Palmetto Health
25 Richland.

1 **THE COURT:** All right. Would that in any way
2 interfere with your ability to give both the State
3 and the defendants a fair and impartial trial?

4 **JUROR:** No, sir.

5 **THE COURT:** Thank you very much. Yes, ma'am.
6 Your number, please.

7 **JUROR:** 162. And I am employed with the
8 Palmetto Health Richland.

9 **THE COURT:** All right. Would you be --

10 **JUROR:** No, it wouldn't.

11 **THE COURT:** Ma'am?

12 **JUROR:** It would not interfere.

13 **THE COURT:** You don't even let me ask the
14 question. If you know what the question is --

15 **JUROR:** No, sir.

16 **THE COURT:** Thank you very much, Ms. 162.
17 Anything from the defendant, Gallman?

18 **MR. MILLING:** Nothing, Your Honor.

19 **THE COURT:** From the defendant, Joy?

20 **MR. DELGADO:** No, Your Honor. Thank you.

21 **THE COURT:** All right. All right, counsel.
22 Approach the bench, please.

23 (Whereupon, a bench conference is had)

24 **THE COURT:** All right. Counsel, do you need a
25 few minutes?

1 **MR. STRICKLER:** Yes, sir.

2 **THE COURT:** Anything else on the record?

3 **MR. STRICKLER:** No, sir. Not at this point in
4 time.

5 **THE COURT:** All right. I don't know how I'm
6 going to do this. Do you want to be excused?

7 **MR. STRICKLER:** If we could just step outside
8 for five minutes or so.

9 **THE COURT:** All right. Ladies and gentlemen,
10 we're just about ready to select this jury. And what
11 I'm going to ask you to do when your name is called,
12 and the clerk is going to tell you to come forward,
13 state your juror number and your occupation and we
14 will go through the selection process.

15 Before we do that, the attorneys need about five
16 or ten minutes to consider what you've told them.
17 They have probably -- contrary to public perception,
18 they don't have a right to select the jury. They
19 have a right to have a certain number of what we call
20 strikes or for one reason or another they might feel
21 that you might not be an appropriate juror, not -- it
22 may be for any reason, for whatever reason. But they
23 need just a few minutes to consider that, those
24 matters.

25 So I'm going to -- if you'd like to take a

1 break, please don't -- Mr. Price, let's lock the
2 front door. You can make a phone call if you need
3 to. But I'm going to ask you to be back in your
4 seats in about ten minutes. It will probably be more
5 like fifteen. But I'm going to ask you -- and we'll
6 do the selection process and we'll be through. But
7 I'm going to ask you to be back in your seats in --
8 let's say in 15 minutes. That will give you a chance
9 to just stretch your legs, relax for a minute, make a
10 phone call if you need to do so. And we'll be ready
11 for jury selection at that time.

12 (Jury out at 5:42 p.m.)

13 **MR. STRICKLER:** May we approach?

14 **THE COURT:** Yeah.

15 (Whereupon, a bench conference is had)

16 **THE COURT:** I'm going to ask all the jurors if
17 you'll just step outside while we do this, please.
18 Just jurors.

19 **MR. MEADORS:** Judge, can I ask you something?

20 (Whereupon, a bench conference is had)

21 **THE COURT:** Keep the jury outside until we move
22 everybody around. Do you understand, Mr. Price?

23 **DEPUTY:** Yes, sir.

24 **THE COURT:** These defendants need to be moved.

25 **MR. MEADORS:** What time in the morning? Just

1 9:30?

2 **THE COURT:** Probably. Yeah.

3 **MR. MEADORS:** Thank you.

4 (Whereupon, a break is taken)

5 **MR. MEADORS:** Can we approach?

6 (Whereupon, a bench conference is had)

7 **MR. MEADORS:** Your Honor, we're going to keep
8 using numbers, correct, when you call them?

9 **THE COURT:** Yes. I indicated earlier the jurors
10 are going to be called by number. They're going to
11 state their number, state their occupation; and
12 strike accordingly.

13 **MR. MEADORS:** Yes, sir.

14 **THE COURT:** Ten and twenty, in sequence as
15 previously agreed upon. Madam Clerk.

16 **THE CLERK:** Yes, sir.

17 **THE COURT:** Give us the jury.

18 **THE CLERK:** Ladies and gentlemen of the jury
19 panel, as I call your number, if you'll please come
20 to the microphone at the center of the courtroom,
21 bringing any personal belongings with you. Just
22 state your number only and your occupation. If you
23 are to my left, to your right, if you'll please come
24 around down this aisle, please. Number 26.

25 (Black female)

1 **JUROR:** Number 26. Self-employed.

2 **THE CLERK:** In what profession?

3 **JUROR:** Sorry. Lifestyle Fashions.

4 **THE CLERK:** What says the State?

5 **MR. MEADORS:** Please excuse number 26.

6 **THE CLERK:** Please have a seat in the back of
7 the courtroom. Number 148.

8 (Black female)

9 **JUROR:** 148. Benedict College.

10 **THE CLERK:** What says the State?

11 **MR. MEADORS:** Please present 148.

12 **THE CLERK:** What says Oliver defense?

13 **MR. STRICKLER:** Please swear madam juror.

14 **THE CLERK:** What says Gallman defense?

15 **MR. MILLING:** Please swear this juror.

16 **THE CLERK:** What says Joy defense?

17 **MR. DELGADO:** Please swear the juror.

18 **THE CLERK:** Please have a seat in the jury box.
19 Number 19.

20 (White female)

21 **JUROR:** Juror 19. I'm a marketing director for
22 a forensic engineering firm.

23 **THE CLERK:** What says the State?

24 **MR. MEADORS:** Please present juror 19.

25 **THE CLERK:** What says Oliver defense?

1 **MR. STRICKLER:** Please excuse madam juror from
2 the trial of this case.

3 **THE CLERK:** Please have a seat in the back of
4 the courtroom. Number 197.

5 (Black female)

6 **JUROR:** 197, customer service representative for
7 Verizon Wireless.

8 **THE CLERK:** What says the State?

9 **MR. MEADORS:** Please present 197.

10 **THE CLERK:** What says Oliver defense?

11 **MR. STRICKLER:** Please swear madam juror.

12 **THE CLERK:** What says Gallman defense?

13 **MR. MILLING:** Please swear this juror.

14 **THE CLERK:** What says Joy defense?

15 **MR. DELGADO:** Please swear this juror.

16 **THE CLERK:** Please have a seat in the jury box.
17 Number 207.

18 (White female)

19 **JUROR:** I'm 207 and a stay-at-home mom.

20 **THE CLERK:** What says the State?

21 **MR. MEADORS:** Please present 207.

22 **THE CLERK:** What says Oliver defense?

23 **MR. STRICKLER:** Please swear madam juror.

24 **THE CLERK:** What says Gallman defense?

25 **MR. MILLING:** Please excuse this juror.

1 **THE CLERK:** Please have a seat in the back of
2 the courtroom. Number 211.

3 (White male)

4 **JUROR:** Number 211, general manager of North
5 Point Heating and Air.

6 **THE CLERK:** What says the State?

7 **MR. MEADORS:** Please present juror 211.

8 **THE CLERK:** What says Oliver defense?

9 **MR. STRICKLER:** Please swear Mr. Juror.

10 **THE CLERK:** What says Gallman defense?

11 **MR. MILLING:** Please swear this juror.

12 **THE CLERK:** What says Joy defense?

13 **MR. DELGADO:** Excuse this juror for this trial,
14 please.

15 **THE CLERK:** Please have a seat in the back of
16 the courtroom. Number 229.

17 (White male)

18 **JUROR:** I'm number 229. Excuse me. Director of
19 transportation, Richland County School District One.

20 **THE CLERK:** What says the State?

21 **MR. MEADORS:** Please present juror 229.

22 **THE CLERK:** What says Oliver defense?

23 **MR. STRICKLER:** Please swear Mr. Juror.

24 **THE CLERK:** What says Gallman defense?

25 **MR. MILLING:** Please swear this juror.

1 **THE CLERK:** What says Joy defense.

2 **MR. DELGADO:** Please swear this juror.

3 **THE CLERK:** Please have a seat in the jury box.
4 Number 216.

5 (White male)

6 **JUROR:** Juror number 216, retired PMS Fire
7 Supply.

8 **THE CLERK:** What says the State?

9 **MR. MEADORS:** Please present juror 216.

10 **THE CLERK:** What says Oliver defense?

11 **MR. STRICKLER:** Please swear Mr. Juror.

12 **THE COURT:** What says Gallman defense?

13 **MR. MILLING:** Please swear this juror.

14 **THE CLERK:** What says Joy defense?

15 **MR. DELGADO:** Please swear this juror.

16 **THE CLERK:** Please have a seat in the jury box.
17 Number 115.

18 (White female)

19 **JUROR:** 115. I'm a paralegal with Lewis &
20 Babcock.

21 **THE CLERK:** What says the State?

22 **MR. MEADORS:** Please excuse 115.

23 **THE CLERK:** Please have a seat in the back of
24 the courtroom. Number 1.

25 (Black male)

1 **JUROR:** Juror number 1, and I'm an employee at
2 Shaw Anderson.

3 **THE CLERK:** Where? I'm sorry.

4 **JUROR:** Shaw Anderson.

5 **THE CLERK:** What says the State?

6 **MR. MEADORS:** Please present juror one.

7 **THE CLERK:** What says Oliver defense?

8 **MR. STRICKLER:** Please swear Mr. Juror.

9 **THE CLERK:** What says Gallman defense?

10 **MR. MILLING:** Swear this juror.

11 **THE CLERK:** What says Joy defense?

12 **MR. DELGADO:** Please swear the juror.

13 **THE CLERK:** Please have a seat in the jury box.

14 Number 66.

15 (White male)

16 **JUROR:** Number 66. Self-employed countertop
17 fabricator and installer.

18 **THE CLERK:** What says the State?

19 **MR. MEADORS:** Please excuse 66.

20 **THE CLERK:** Please have a seat in the back of
21 the courtroom. Number 189.

22 (White female)

23 **JUROR:** 189. Part-time dental assistant.

24 **THE CLERK:** What says the State?

25 **MR. MEADORS:** Please present 189.

1 **THE CLERK:** What says Oliver defense?

2 **MR. STRICKLER:** Please excuse madam juror from
3 the trial of this case.

4 **THE CLERK:** Please have a seat in the back of
5 the courtroom. Number 103.

6 (White female)

7 **JUROR:** 103. I'm a math instructional assistant
8 in Lexington District Five.

9 **THE CLERK:** What says the State?

10 **MR. MEADORS:** Please present 103.

11 **THE CLERK:** What says Oliver defense?

12 **MR. STRICKLER:** Please swear madam juror.

13 **THE CLERK:** What says Gallman defense?

14 **MR. MILLING:** Please excuse this juror.

15 **THE CLERK:** Please have a seat in the back of
16 the courtroom. Number 168.

17 (White female)

18 **JUROR:** Number 168, Richland School District Two
19 cafeteria manager.

20 **THE CLERK:** What says the State?

21 **MR. MEADORS:** Please present 168.

22 **THE CLERK:** What says Oliver defense?

23 **MR. STRICKLER:** Please swear madam juror.

24 **THE CLERK:** What says Gallman defense?

25 **MR. MILLING:** Please swear this juror.

1 **THE CLERK:** What says Joy defense?

2 **MR. STRICKLER:** Please swear the juror.

3 **THE CLERK:** Please have a seat in the jury box.

4 Number 36.

5 (Black male)

6 **JUROR:** Number 36. I'm a restaurant manager.

7 **THE CLERK:** What says the State?

8 **MR. MEADORS:** Please excuse 36.

9 **THE CLERK:** Please have a seat in the back of
10 the courtroom. Number 118.

11 (White female)

12 **JUROR:** I am juror 118. I'm a substitute
13 teacher/counselor.

14 **THE CLERK:** What says the State?

15 **MR. MEADORS:** Please present 118.

16 **THE CLERK:** What says Oliver defense?

17 **MR. STRICKLER:** Please swear madam juror.

18 **THE CLERK:** What says Gallman defense?

19 **MR. MILLING:** Please swear this juror.

20 **THE CLERK:** What says Joy defense?

21 **MR. DELGADO:** Excuse this juror from this trial,
22 please.

23 **THE CLERK:** Please have a seat in the back of
24 the courtroom. Number 44.

25 (White male)

1 **JUROR:** Juror 44. Disabled. Social security
2 disabled.

3 **THE CLERK:** What says the State?

4 **MR. MEADORS:** Please present juror 44.

5 **THE CLERK:** What says Oliver defense?

6 **MR. STRICKLER:** Please excuse juror 44 from the
7 trial of this case.

8 **THE CLERK:** Please have a seat in the back of
9 the courtroom. Number 100.

10 (Black male)

11 **JUROR:** Juror 100. M. B. Kahn Construction
12 manager, minister of the gospel.

13 **THE CLERK:** What says the State?

14 **MR. MEADORS:** Please excuse juror 25.

15 **THE CLERK:** Please have a seat in the back of
16 the courtroom.

17 **THE COURT:** Number 100?

18 **MR. MEADORS:** I apologize. Excuse the juror. I
19 was looking at the wrong number.

20 **THE CLERK:** Number 40.

21 (White female)

22 **JUROR:** Juror 40, and I'm a paralegal with the
23 firm of Lee, Eadon & Isgett.

24 **THE CLERK:** What says the State?

25 **MR. MEADORS:** Please present juror 40.

1 **THE CLERK:** What says Oliver defense?

2 **MR. STRICKLER:** Please swear madam juror.

3 **THE CLERK:** What says Gallman defense?

4 **MR. MILLING:** Please excuse this juror.

5 **THE CLERK:** Please have a seat in the back of
6 the courtroom. Number 192.

7 (Black female)

8 **JUROR:** Juror number 192, retired.

9 **THE CLERK:** What says the State?

10 **MR. MEADORS:** Please present juror 1992.

11 **THE CLERK:** What says Oliver defense?

12 **MR. STRICKLER:** Please swear madam juror.

13 **THE CLERK:** What says Gallman defense?

14 **MR. MILLING:** Please swear this juror.

15 **THE CLERK:** What says Joy defense?

16 **MR. DELGADO:** Please swear the juror.

17 **THE CLERK:** Please have a seat in the jury box.
18 Number 171.

19 (White female)

20 **JUROR:** Juror 171, a nurse manager in the CCU at
21 Palmetto Heart Health Hospital.

22 **THE CLERK:** What says the State?

23 **MR. MEADORS:** Please present 171.

24 **THE CLERK:** What says Oliver defense?

25 **MR. STRICKLER:** Please swear madam juror.

1 **THE CLERK:** What says Gallman defense?

2 **MR. MILLING:** Please swear this juror.

3 **THE CLERK:** What says Joy defense?

4 **MR. DELGADO:** Please swear the juror.

5 **THE CLERK:** Please have a seat in the jury box.

6 Number 239.

7 (Black female)

8 **JUROR:** 239, retired, Square D Company.

9 **THE CLERK:** What says the State?

10 **MR. MEADORS:** Please present juror 239.

11 **THE CLERK:** What says Oliver defense?

12 **MR. STRICKLER:** Please swear madam juror.

13 **THE CLERK:** What says Gallman defense?

14 **MR. MILLING:** Please swear this juror.

15 **THE CLERK:** What says Joy defense?

16 **MR. DELGADO:** Please excuse this juror.

17 **THE CLERK:** Please have a seat in the back of
18 the courtroom. Number 234.

19 (Black male)

20 **JUROR:** 234. I'm not employed.

21 **THE CLERK:** What says the State?

22 **MR. MEADORS:** Please excuse juror 234.

23 **THE CLERK:** Please have a seat in the back of
24 the courtroom. Number 204.

25 (White male)

1 **JUROR:** I am juror 204, a data processing
2 manager for Cox & Tool.

3 **THE CLERK:** What says the State?

4 **MR. MEADORS:** Please present juror 204.

5 **THE CLERK:** What says Oliver defense?

6 **MR. STRICKLER:** Please swear Mr. Juror.

7 **THE CLERK:** What says Gallman defense?

8 **MR. MILLING:** Please swear this juror.

9 **THE CLERK:** What says Joy defense?

10 **MR. DELGADO:** Please swear the juror.

11 **THE CLERK:** Please have a seat in the jury box.
12 Number 22.

13 (White female)

14 **JUROR:** 22. I'm an attorney with Rogers,
15 Townsend & Thomas.

16 **THE CLERK:** What says the State?

17 **MR. MEADORS:** Please excuse juror 22.

18 **THE CLERK:** Please have a seat in the back of
19 the courtroom. Number 41.

20 (White male)

21 **JUROR:** Number 41. I work for GNK Associates
22 Design and Build. I am a construction project
23 manager.

24 **THE CLERK:** What says the State?

25 **MR. MEADORS:** Please present juror 41.

1 **THE CLERK:** What says Oliver defense?

2 **MR. STRICKLER:** Please swear Mr. Juror.

3 **THE CLERK:** What says Gallman defense?

4 **MR. MILLING:** Please swear this juror.

5 **THE CLERK:** What says Joy defense?

6 **MR. DELGADO:** Swear the juror.

7 **THE CLERK:** Please have a seat in the jury box.

8 Number 199.

9 (White female)

10 **JUROR:** I'm juror 199, and I am a supervisory
11 cytotechnologist.

12 **THE CLERK:** What says the State?

13 **MR. MEADORS:** Please present juror 199.

14 **THE CLERK:** What says Oliver defense?

15 **MR. STRICKLER:** Please swear madam juror.

16 **THE CLERK:** What says Gallman defense?

17 **MR. MILLING:** Beg the Court's indulgence one
18 moment.

19 (Pause)

20 **MR. MILLING:** Please excuse this juror.

21 **THE CLERK:** Please have a seat in the back of
22 the courtroom. Number 241.

23 (White male)

24 **JUROR:** Juror 243, outside sales rep, United
25 Rentals North America.

1 **THE CLERK:** What says the State?
2 **MR. MEADORS:** Please present juror 241.
3 **THE CLERK:** What says Oliver defense?
4 **MR. STRICKLER:** Please swear Mr. Juror.
5 **THE CLERK:** What says Gallman defense?
6 **MR. MILLING:** Please swear this juror.
7 **THE CLERK:** What says Joy defense?
8 **MR. DELGADO:** Please swear the juror.
9 **THE CLERK:** Please have a seat in the jury box.
10 number 162. Number 162.
11 (Black female)
12 **JUROR:** 162. Staff nurse, Palmetto Health
13 Richland.
14 **THE CLERK:** What says the State?
15 **MR. MEADORS:** Please present juror 162.
16 **THE CLERK:** What says Oliver defense?
17 **MR. STRICKLER:** Please swear madam juror.
18 **THE CLERK:** What says Gallman defense?
19 **MR. MILLING:** Please swear this juror.
20 **THE CLERK:** What says Joy defense?
21 **MR. DELGADO:** Please swear the juror.
22 **THE CLERK:** Please have a seat in the jury box.
23 Number 20.
24 **THE COURT:** These are alternates. Three
25 alternates.

1 **THE CLERK:** Yes, sir. Number 20.

2 (White male)

3 **JUROR:** Number 20. Self-employed in the
4 telecommunications industry.

5 **THE CLERK:** What says the State?

6 **MR. MEADORS:** Please present juror number 20.

7 **THE CLERK:** What says Oliver defense?

8 **MR. STRICKLER:** Please excuse juror 20 from the
9 trial of this case.

10 **THE CLERK:** Please have a seat in the back of
11 the courtroom. Number 220.

12 (Black female)

13 **JUROR:** Juror 220. Work with DHEC as a lead
14 investigator.

15 **THE CLERK:** What says the State?

16 **MR. MEADORS:** Please excuse juror 220.

17 **THE CLERK:** Please have a seat in the back of
18 the courtroom. Number 84.

19 (White male)

20 **JUROR:** Number 84, and I'm an attorney with the
21 House of Representatives.

22 **THE CLERK:** What says the State?

23 **MR. MEADORS:** Please excuse juror 84.

24 **THE CLERK:** Please have a seat in the back of
25 the courtroom. Number 227.

1 (White female)

2 **JUROR:** Number 227. I'm a Certified Public
3 Accountant.

4 **MR. MEADORS:** Please present 227.

5 **THE CLERK:** What says Oliver defense?

6 **MR. STRICKLER:** Please swear madam juror.

7 **THE CLERK:** What says Gallman defense?

8 **MR. MILLING:** Please excuse this juror.

9 **THE CLERK:** Please have a seat in the back of
10 the courtroom. Number 61.

11 (White male)

12 **JUROR:** Juror number 61. Graphics designer.

13 **MR. MEADORS:** Please present juror 61.

14 **THE CLERK:** What says Oliver defense?

15 **MR. STRICKLER:** Please swear Mr. Juror.

16 **THE CLERK:** What says Gallman defense?

17 **MR. MILLING:** Please swear the juror.

18 **THE CLERK:** What says Joy defense?

19 **MR. DELGADO:** Please swear the juror.

20 **THE CLERK:** Please have a seat in the jury box.
21 Number 76.

22 (White female)

23 **JUROR:** Number 76. Registered nurse, project
24 director.

25 **THE CLERK:** What says the State?

1 **MR. MEADORS:** Please present juror number 76.

2 **THE CLERK:** What says Oliver defense?

3 **MR. STRICKLER:** Please swear madam juror.

4 **THE CLERK:** What says Gallman defense?

5 **MR. MILLING:** Please swear this juror.

6 **THE CLERK:** What says Joy defense?

7 **MR. DELGADO:** Please swear the juror.

8 **THE CLERK:** Please have a seat in the jury box.

9 Number 88.

10 (Black female)

11 **JUROR:** Number 88. I own my own business,
12 Bequeath, Incorporated, as a consultant and a
13 counseling practice.

14 **THE CLERK:** What says the State?

15 **MR. MEADORS:** Please present juror 88.

16 **THE CLERK:** What says Oliver defense?

17 **MR. STRICKLER:** Please swear madam juror.

18 **THE CLERK:** What says Gallman defense?

19 **MR. MILLING:** Please swear this juror.

20 **THE CLERK:** What says Joy defense?

21 **MR. DELGADO:** Excuse this juror from this trial,
22 please.

23 **THE CLERK:** Please have a seat in the back of
24 the courtroom. Number 158.

25 (White male)

1 **JUROR:** I'm juror 158, a territory manager for
2 Mel Foods.

3 **THE CLERK:** What says the State?

4 **MR. MEADORS:** Please present juror 158.

5 **THE CLERK:** What says Oliver defense?

6 **MR. STRICKLER:** Please swear Mr. Juror.

7 **THE CLERK:** What says Gallman defense?

8 **MR. MILLING:** Please swear this juror.

9 **THE CLERK:** What says Joy defense?

10 **MR. DELGADO:** Please swear the juror.

11 **THE CLERK:** Please have a seat in the jury box.

12 All right, counsel. Any objection to the jury
13 selection process? From the State?

14 **MR. MEADORS:** No, sir.

15 **THE COURT:** From the defense? Mr. Oliver?

16 **MR. STRICKLER:** Beg the Court's indulgence one
17 moment, please.

18 **THE COURT:** Yes, sir.

19 **MR. STRICKLER:** No, sir. Thank you.

20 **THE COURT:** From Mr. Gallman?

21 **MR. MILLING:** No, Your Honor.

22 **THE COURT:** From Mr. Joy?

23 **MR. DELGADO:** No, Your Honor. Thank you.

24 **THE COURT:** All right. Ladies and gentlemen of
25 the jury panel who were not selected on this jury,

1 I'm going to obviously excuse you now. I'm going to
2 ask you to meet with Ms. Kirby, the lady in the back,
3 deputy clerk, Ms. Kirby with the pink blouse on. She
4 is going to give you further instructions for this
5 week. She'll probably talk to you about your badges
6 and give you further instructions for this week.

7 However, before you leave, I do want to thank
8 all of you for coming. I tell jurors all the time
9 this system -- you've been most patient with me
10 today, and I certainly appreciate that, as do all of
11 the litigants in this case. But I always tell jurors
12 this system can work without me; this system can work
13 without these attorneys, but this system cannot work
14 with you -- without you. You are such a vital part
15 of the -- I didn't mean that. It's getting late.

16 Down in Calhoun County they say it's bull bat
17 time. I won't tell you what that means. But anyway,
18 I do want to tell you seriously that the system
19 cannot do without you. You are such a vital and
20 integral part of this system. We cannot operate the
21 court system without jurors who are willing to come
22 sit and give of their time to resolving these
23 matters.

24 As these are important matters in our community,
25 they need to be resolved, and I do appreciate your

1 willingness to be here and to do that. So, good luck
2 to all of you. I don't know if I'll see you later in
3 the week. I kind of doubt it. But have a pleasant
4 evening. And if you need assistance going across the
5 street, I'm sure the deputies will be available to
6 escort you if you feel that you need to do so. Thank
7 you very much. You may be excused at this time.

8 (Pause)

9 **THE COURT:** All right, Ladies and gentlemen of
10 the jury panel, as I indicated earlier, we're going
11 to adjourn for the evening now. I assure you that
12 every evening will not be as late as this. Just we
13 had to go ahead and get this jury selected. And I
14 appreciate your patience also.

15 I'm going to ask you to do several things for
16 me. First off, when you return to the jury room
17 tomorrow, I'm going ask you to return up here to the
18 third floor to the jury room. The bailiffs are going
19 to show you where your jury room is. That will be
20 your home away from home for the next few days. If
21 you return back downstairs to the jury assembly room,
22 I'll just have to come looking for you. So, if you
23 will return to the jury room when you return
24 tomorrow.

25 I'm going to ask you to return tomorrow at 2:00.

1 Now, there's a reason for this. There are a number
2 of matters that I need to take up with these
3 attorneys because of the -- as you've seen, the
4 number of the indictments, the number of witnesses, I
5 need to just sort of work with them to assure that
6 the trial goes smoothly and that things are all in
7 order for presentation to you. So, I'm going to --
8 the attorneys and I are going to meet at 9:30. We're
9 going to go over all those matters. And we'll be
10 ready for you to return at 2:00.

11 I'm going to ask you when you return to elect
12 one of your members. Obviously it doesn't matter
13 which one it is, although it cannot be any one of the
14 last three who were selected who are serving as our
15 alternates on this jury panel. But I do need one of
16 the jury members -- and you select who that might
17 be -- to serve as Foreperson of the Jury.

18 Now, the Foreperson will take the seat occupied
19 by the lady on the front row to my left with the
20 olive suit on and will maintain that seat throughout
21 the course of the trial. The rest of the seats don't
22 have any names on them. I want you to sit where
23 you're most comfortable, where you can see what goes
24 on in the courtroom. The witnesses will be talking
25 from this witness box right here. So if you have a

1 problem hearing or anything like that, just sit where
2 it's most comfortable to you.

3 I'm going to ask you further not to discuss the
4 case among yourselves when you return to the jury
5 room. You know very little about it. I don't know
6 any more about it than you do at this point. I've
7 just read the indictments as you've heard me read
8 them. And it would be improper to start any kind of
9 discussion about the case prior to hearing all the
10 evidence and my charge on the law of the state of
11 South Carolina as it applies to this case and
12 numerous other reasons why it would be improper to
13 discuss the case at this stage.

14 I'm going to ask you not to discuss it with
15 anyone else over the evening hours, including your
16 family and friends. The reason for that obviously
17 might be that somebody might know something about it,
18 might try to tell you something about it or influence
19 you in one way or the other.

20 I don't believe there are going to be any press
21 reports. I haven't seen any press that I know of in
22 the courtroom today. But if there were, I'd ask you
23 to also avoid any press reports of the trial, because
24 you are the ones that are going to hear the evidence
25 right here. What the reporter might hear and what

1 you hear might be two different things. So I want
2 you to rely on your own senses and recollection.

3 I'm going to provide you with pads and pencils
4 in the morning so you can keep up with, as I say, the
5 numerous witnesses and numerous indictments in this
6 case. They are to be used for your own benefit. You
7 are certainly welcome to take notes during the course
8 of the trial.

9 And with that I'm going to wish you a pleasant
10 evening. We'll see you at 2:00 tomorrow and we'll
11 begin the trial at that time. Thank you very much.

12 (Jury out at 6:47 p.m.)

13 **THE COURT:** Anything further before we adjourn?

14 **MR. MEADORS:** No, sir.

15 **MR. STRICKLER:** Not from Defendant Oliver, sir.

16 **MR. MILLING:** Nothing from Mr. Gallman.

17 **MR. DELGADO:** Nothing, Your Honor. Thank you.

18 **THE COURT:** 9:30. Will counsel approach the
19 bench?

20 (Whereupon, a bench conference is had)

21 **THE COURT:** 9:30.

22 (Whereupon, the proceedings are concluded for
23 the day, to be reconvened tomorrow morning)

24

25

Tuesday, December 4, 2007

THE COURT: It's my understanding there are some pre-trial matters that need to be decided prior to the beginning of this trial. And in chambers yesterday several motions were mentioned, just the primary -- well, not necessarily a Lyle issue or Lyle issues, but it's my understanding the State wishes to offer Lyle evidence and that matter needs to be resolved.

I was told there are Bruton issues, Crawford issues, Biggers issues, Denno issues. I have no road map for addressing these. So if somebody, any party will give me an idea of how you wish to proceed.

MR. MEADORS: I would certainly be one to suggest a starting point, Judge. We've got Mitch Wilkerson here who is no longer with the City but he's back. And I would like to start with the oral statement Stanley Oliver gave to him if you wouldn't mind. And we can get Mitch out of here today. And that would be a starting point. Then we could go from there if you don't mind.

THE COURT: This is a Denno?

MR. MEADORS: No, sir, just -- yes, sir. Yes, sir. Yes, sir.

THE COURT: Oral statement given by Mr. Oliver.

1 **MR. MEADORS:** Stanley Oliver to Mitch --

2 **THE COURT:** To whom?

3 **MR. MEADORS:** -- Wilkerson September 13th, 2005.

4 And we are ready to go.

5 **THE COURT:** All right. Call your first witness.

6 **MR. MEADORS:** Mitch Wilkerson.

7 MITCH WILKERSON, after being duly sworn,
8 testifies as follows:

9 **THE CLERK:** Thank you. Please have a seat in
10 the witness stand and state your full name for the
11 record.

12 **THE WITNESS:** It's Mitch Wilkerson.

13 DIRECT EXAMINATION

14 **BY MR. MEADORS**

15 **Q** Good morning, Mitch.

16 **A** Good morning.

17 **Q** Very briefly, how long were you with the -- how long
18 were you in law enforcement?

19 **A** Twenty-five years.

20 **Q** And what period of -- how long of that were you at
21 the Columbia Police Department?

22 **A** The total of 25 years.

23 **Q** And did you work your way up, so to speak?

24 **A** Yes.

25 **Q** When you left, what was your rank and role?

1 **A** I was a Sergeant supervisor in the investigative
2 division.

3 **Q** When did you leave, Mitch?

4 **A** The first part of 2006.

5 **Q** Your Honor, we pre-marked a bunch of stuff. And just
6 beg the Court's indulgence. Let me -- Your Honor, if
7 we might, it might just result in a smoother flow if
8 you'll give us a minute. We've marked most of them
9 at the request of the court reporter.

10 (WHEREUPON, State's Exhibit No. 67 is marked for
11 identification.)

12 (Pause)

13 **Q** Judge, I'll move on 'til we get back to that. Did
14 you have an occasion on September 13th of 2005 to
15 meet with Stanley Oliver?

16 **A** Yes, I did.

17 **Q** What I'm going to ask you now, specifically and
18 exclusively related or pertaining to your
19 conversation with Stanley Oliver on that date. Okay?

20 **A** Yes.

21 **Q** Can you tell His Honor where that happened?

22 **A** It happened in the investigative division on the
23 second floor of the main headquarters. It was in an
24 interview room there.

25 **Q** How had Stanley Oliver gotten there?

1 **A** He was transported there by one of our officers.

2 **Q** And where?

3 **A** I'm sorry. I'm sorry. I think that was just after

4 he turned himself in. I'm sorry.

5 **Q** Okay. Do you know who was with him when he turned

6 himself in?

7 **A** Mike Allen I believe.

8 **Q** So he turns himself into the Columbia Police

9 Department. Where is he taken from there?

10 **A** Are you referring to after the interview?

11 **Q** No. Before the interview. Where do you interview

12 him?

13 **A** He is then taken to the interview room where I

14 interviewed him.

15 **Q** Describe for His Honor the interview room?

16 **A** It's just a basic room, has a couple of chairs, a

17 desk. That's pretty much about it. We were using --

18 **Q** Is this the form you've used before?

19 **A** Right. Sits five or six feet from our clerks where

20 they work at. And actually it's an adjoining wall,

21 my office.

22 **Q** Describe his demeanor, Stanley Oliver's demeanor when

23 you get in that room?

24 **A** Well, I've taken notes. Should I refer to them? I

25 have it. I met with him at 2:45 p.m. on the 13th of

1 September 2005. I met with him in the interview room
2 there. He was advised of his rights at 2:45 and
3 signed the advice of rights form 2:55 p.m. And he
4 stated his willingness to state speak with
5 investigators without an attorney present. He
6 appeared to be bright, alert, clearly understanding
7 the advice of rights form. He didn't appear to be
8 under the influence of any alcohol or drugs. And the
9 advice of rights was read to Oliver as he looked on,
10 and he demonstrated his ability to both read and
11 write to me during the interview.

12 **Q** And these notes you had taken contemporaneously?

13 **A** Yes.

14 **Q** Your custom and practice?

15 **A** Yes. Very much so.

16 **Q** Now, what's now been marked as 67 at this point for
17 I.D.; State's 67, do you recognize that?

18 **A** Yes. It's a standard advice of rights form that we
19 use in the Department. And this is the advice of
20 rights form that I used on that particular day with
21 Stanley Oliver.

22 **Q** Down at the bottom of this form -- and I'm going to
23 call you investigator just because I always have.

24 **A** Fine.

25 **Q** What if anything did you do to determine how far he,

1 being Stanley Oliver, had been in school?

2 **A** I asked him and he related to me that he had reached
3 the tenth grade.

4 **Q** Did you make a note of that on here?

5 **A** I did.

6 **Q** You said -- I think there's a notation, too:

7 "Demonstrated ability to read and write." How did he
8 do that?

9 **A** Routinely I would have him read a line or two of the
10 form itself to make sure they can read. And then he
11 told me he could write. And also by signing the
12 form.

13 **Q** Let's go through the form now with His Honor as you
14 did that day on September 13th at 2:45 at the
15 Columbia Police Department. You read him his rights.
16 Specifically how did you do it? What did you do?

17 **A** I read it straight from this form as I usually do.
18 "Before we ask you any questions, you must understand
19 your rights. You have the right to remain silent.
20 Anything you say can be used against you in court.
21 You have the right to talk to a lawyer for advice
22 before we ask you any questions and to have him with
23 you during questioning."

24 **Q** Let me stop you. As a lawyer, reading Stanley Oliver
25 these rights, Investigator, "you have the right to

1 remain silent", did he indicate to you in any form or
2 fashion that he understood that right?

3 A Yes.

4 Q How did he do that?

5 A He is reading on, looking on, and each line I would
6 make sure, make -- he would nod or --

7 Q Indicate that he understood?

8 A He indicated that he understood.

9 Q Were his responses to you timely? I mean, if you
10 said, "do you understand that right, Stanley
11 Oliver" --

12 A Yes.

13 Q -- would it be a timely response?

14 A Yes.

15 Q Could you understand his response?

16 A Yes. And like I said, I normally go through each of
17 the lines with each person to make sure they
18 understand that.

19 Q Would it be an appropriate response? Like: "You
20 have the right to remain silent. Do you understand
21 that?" Would it be a response like yes versus blue
22 or green or purple? It was an appropriate response
23 to the question?

24 A He would basically be nodding. Yes, sir.

25 Q Did he appear to understand your questions based on

1 his answers to them?

2 A Yes.

3 Q So you read each one of these rights to him?

4 A Yes.

5 Q And did he indicate to you that he understood his
6 rights?

7 A Yes, he did.

8 Q Finish reading them, please.

9 A "If you cannot afford a lawyer, one will be appointed
10 for you before any questioning if you wish. If you
11 decide to answer questions now without a lawyer
12 present, you will still have a right to stop
13 answering at any time. You also have the right to
14 stop answering at any time until you talk to a
15 lawyer."

16 The second page is waiver of rights. "I have
17 read this statement of my rights. I understand what
18 my rights are. I am willing to make a statement and
19 answer questions. I do not want a lawyer at this
20 time. I understand and know what I am doing. No
21 promises or threats have been made to me. No
22 pressure or coercion of any kind has been used
23 against me."

24 Q And during the reading of that waiver of rights, did
25 he, Stanley Oliver, appear to understand what you

- 1 were reading him?
- 2 **A** Yes, he did. And as I noted, before he agreed to
- 3 talk to me without an attorney present.
- 4 **Q** So did he indicate to you he understood his rights
- 5 and that he in fact waived his rights?
- 6 **A** That's correct.
- 7 **Q** And in addition to orally telling you that, did he
- 8 also sign on the form that he understood them?
- 9 **A** Yes, he did. He signed on the form.
- 10 **Q** It's got an X there. Whose name is beside that?
- 11 **A** Stanley Oliver. That's his signature.
- 12 **Q** Did you make him sign that?
- 13 **A** No, I did not.
- 14 **Q** Who is next to him on the left?
- 15 **A** I signed it as a witness and indicated the time of
- 16 2:55 p.m.
- 17 **Q** What time is up here when you start reading him the
- 18 rights?
- 19 **A** 2:45 p.m.
- 20 **Q** What time is it down here at the end?
- 21 **A** 2:55 p.m.
- 22 **Q** At any time during the reading of these rights and
- 23 him telling you he understood his rights, did you
- 24 threaten him?
- 25 **A** Not at all.

1 Q Did you coerce him?

2 A Never raised my voice, never coerced him in any way.

3 Q Did you hold out any hope of reward or promise in
4 exchange for any statement he might give you?

5 A No.

6 Q Did you cheat?

7 A No.

8 Q And after he had signed these rights, did you have
9 occasion -- did he ever tell you, "I don't want to
10 talk"?

11 A There was a point at the end of the interview, that's
12 when it ceased.

13 Q But in the point of you reading his rights to him,
14 did he tell you, "Mitch, I don't want to talk to you.
15 I want a lawyer"?

16 A No, no, no.

17 Q If he had, what would you have done?

18 A I would have ceased, like we did later in the
19 interview.

20 Q You are familiar with his criminal background. Based
21 on your experience and training, he understood the
22 system?

23 A Oh, yes.

24 Q He'd been through it a few times before?

25 A Oh, yes.

1 **Q** All right. So is there any doubt in your mind that
2 he understood his rights?

3 **A** Yes. No doubt in my mind.

4 **Q** Now, you made some notes here. After you read him
5 his rights and you said he waived them, did you have
6 an occasion to talk with Stanley Oliver?

7 **A** Yes, I did.

8 **Q** Tell the judge, please refer to your notes if you
9 need to, tell him about your conversation in total?

10 **A** Well, on September 13th of '05, I was very familiar
11 with the case, being a supervisor there. So I had
12 certain questions that I wanted to ask him and that I
13 was curious about asking him. And this is what some
14 of the questions were and some of the notes involve.
15 Oliver said that he telephoned Investigator Burns
16 earlier from a woman's house he knows.

17 **THE COURT:** Sir, I can't write as fast as you
18 can read.

19 **THE WITNESS:** Okay.

20 **MR. STRICKLER:** I was just getting ready to ask:
21 Is Mr. Wilkerson referring to notes made at this
22 point in time?

23 **THE COURT:** I don't know.

24 **MR. STRICKLER:** If he is, I would object to that
25 until an adequate foundation is laid for his

1 reference to notes as opposed to referencing his own
2 independent recollection that he has.

3 Q I think we'd done that earlier. Did you prepare
4 notes?

5 A Yes. I prepared notes from the conversation I --

6 Q And would that aid you in your testimony today?

7 A I'm sorry?

8 Q Would that aid you in your testimony today?

9 A Yes.

10 MR. STRICKLER: I still object. The foundation
11 is not laid.

12 MR. MEADORS: Your Honor, for these purposes, it
13 clearly is. Hearsay is admissible. We're talking
14 about -- the issue is whether it's freely and
15 voluntarily given. That's the issue. It's not even
16 an issue of what in his statement, quite frankly.
17 I'm doing this to --

18 THE COURT: Sir, if you can recollect, just
19 don't read your notes. That's basically the
20 objection, that you're not relying on your own
21 memory, that you're just reading the -- just
22 reiterating what you wrote.

23 MR. MEADORS: Your Honor, that's fine. We don't
24 even need to go into this now. It's just an issue of
25 freely and voluntarily. It's not an issue of what

1 was in the statement. That's fine.

2 **THE COURT:** Well, let's do that.

3 **Q** Now, at any point during the giving of his oral
4 statement, at any point during the giving of his
5 statement, did he tell you, "I don't want to talk to
6 you"?

7 **A** No, he did not.

8 **Q** Until the end?

9 **A** Until the end.

10 **Q** At the end did he say, "I want a lawyer"?

11 **A** "I want a lawyer." He named a lawyer at that time.

12 **Q** At that point did you cease talking to him?

13 **A** I sure did. As a matter of fact, the interview
14 ended. I went right around the corner to my office
15 and made notes of the conversation.

16 **Q** In making your notes, is that how you -- you type
17 them? You use the computer?

18 **A** Yes.

19 **Q** Those are your notes you made?

20 **A** That's correct.

21 **Q** Contemporaneously to this conversation?

22 **A** Yes. Immediately after I left the interview room, I
23 went around the corner and typed them. Yes, sir.

24 **Q** And at no time until the last question I think when
25 asked how his fingerprints would have been at the

1 crime scene, he said he'd better talk to his
2 attorney?

3 A Yes.

4 Q And that attorney he identified as who? Jimmy
5 Rogers?

6 A Jimmy Rogers.

7 Q Then you had the interview ceased at 3:52?

8 A That's correct.

9 Q All right. So from 2:55 to 3:52, did he appear to
10 understand your questions? Did he give you responses
11 that were appropriate to your questions?

12 A Yes.

13 Q And at any time during that time period did he appear
14 to be under the influence of alcohol or drugs?

15 A No. Not at all.

16 Q Could you understand his responses?

17 A Yes, I could.

18 Q And prior to the Jimmy Rogers reference, did he ask
19 for a lawyer?

20 A No, he did not.

21 Q At any time during the taking of this oral statement
22 did he say -- prior to that, did you threaten, coerce
23 him, hold out any promise or hope of reward?

24 A Not in any way.

25 Q The person who gave you an oral statement on

Mitch Wilkerson - Direct by Mr. Meadors (In Camera)

161

1 September 13th at 2:55, is he in the courtroom?

2 **A** Yes, he is. Mr. Oliver --

3 **Q** Please point him out?

4 **A** Mr. Oliver is sitting next to Mr. Strickler.

5 **MR. MEADORS:** The record will reflect he's
6 pointed out Stanley Oliver.

7 **THE COURT:** The witness has identified the
8 Defendant, Oliver.

9 **MR. MEADORS:** That's all we have as to the free
10 and voluntary statement.

11 **THE COURT:** Mr. Strickler.

12 **MR. STRICKLER:** Thank you, Your Honor. May it
13 please the Court.

14 CROSS EXAMINATION

15 **BY MR. STRICKLER**

16 **Q** Good morning, Mr. Wilkerson.

17 **A** Good morning.

18 **Q** I may have it wrong. I'll probably refer to you as
19 Sergeant Wilkerson rather than Investigator
20 Wilkerson.

21 **A** Yes, sir. Correct.

22 **Q** It's a force of habit on my part. I'd like to go
23 back through the events of September 13th if I could
24 with you, please. My understanding is, first of all,
25 and this may have been cleared up at the end of Mr.

1 Meadors' questioning. You are referring to written
2 notes that you made?

3 A That's correct.

4 Q May I take a look at those, please?

5 (Document handed to Mr. Strickler)

6 Q These are typewritten notes then, correct?

7 A Yes, sir.

8 Q Okay. Because I was a little confused earlier in
9 your testimony when you said contemporaneously made
10 notes. I was thinking about the kind of scrawl that
11 I'm making contemporaneously with your testimony.
12 Your testimony then would be that the contemporaneous
13 notes refers to notes as you said at the end of your
14 testimony that you made immediately subsequent to the
15 end of the interview?

16 A I immediately left the interview, went probably ten
17 feet away immediately and typed the notes of the
18 conversation I had with Mr. Oliver.

19 Q So it's your testimony that you do not have any
20 contemporaneously made hand made notes?

21 A No handwritten notes, no.

22 Q So what you typed immediately after the interview,
23 you know, within minutes or seconds --

24 A Seconds. Yes, sir.

25 Q -- of 3:52 in the afternoon was typed from memory and

1 not from your notes that you made during the course
2 of an interview that lasts from 2:45 in the afternoon
3 when the advice of rights began and ended at 3:52?
4 **A** That's correct.
5 **Q** For a period in excess of an hour, correct?
6 **A** From 2:55 to 3:52. Yes, sir.
7 **Q** Now, the location that this interview took place was
8 where?
9 **A** It's an interview room on the second floor. It's
10 right across from where the secretaries sit answering
11 the telephones and that kind of thing.
12 **Q** And present at that interview were you and Mr.
13 Oliver, I take it?
14 **A** That's correct.
15 **Q** No one else was present?
16 **A** That's correct.
17 **Q** Okay. You didn't have a second officer in the room?
18 **A** No, I did not.
19 **Q** During the course of this advice of rights and
20 interview, no other officer came in the room and then
21 left?
22 **A** No.
23 **Q** So during the period of time from 2:45 through 3:52
24 it was you and Mr. Oliver and no one else in that
25 room, correct?

- 1 **A** That's correct.
- 2 **Q** Correct?
- 3 **A** That's correct.
- 4 **Q** Now, was the door closed to the room?
- 5 **A** Yes.
- 6 **Q** Mr. Oliver -- at that point in time did you have
- 7 warrants for Mr. Oliver's arrest?
- 8 **A** Yes. I believe so.
- 9 **Q** Had he been served yet?
- 10 **A** I am not certain at that time. I'd have to check the
- 11 records of when he was actually on -- on the warrant,
- 12 when he was actually served.
- 13 **Q** Well, certainly you would have had an understanding
- 14 as to whether he understood he was being charged
- 15 with --
- 16 **A** Oh, yes.
- 17 **Q** -- this charge, right?
- 18 **A** Yes. If he wasn't officially charged, we were
- 19 intending to charge him.
- 20 **Q** Mr. Oliver and you were seated at a desk?
- 21 **A** No. No.
- 22 **Q** No?
- 23 **A** There's a desk in the room.
- 24 **Q** Okay.
- 25 **A** I try to make it very informal. He was in a chair.

1 I pulled up a chair in front of him. We sat just
2 having a conversation.

3 Q Okay.

4 A I was not wearing a gun or weapon. He was not
5 handcuffed.

6 Q During the course of this interview, did you tape
7 record the process?

8 A No, I didn't.

9 Q Is the Columbia Police Department possessed of such
10 an item as a tape recorder?

11 A Yes. Probably. But I handled the interview the way
12 I have for 25years. So, the same way.

13 Q What is the policy of the Columbia Police Department
14 regarding tape recording or video recording
15 interviews with individuals?

16 A There is no policy saying that there is a -- that
17 there is a requirement to do that.

18 Q And I'm sorry, Sergeant. For how long were you
19 employed with CPD?

20 A Twenty-five years.

21 Q Twenty-five years?

22 A (Nods head affirmatively).

23 Q And during that period of time, would it be safe to
24 say that you've taken or conducted hundreds of
25 interviews?

1 **A** Oh. Very much so. Yes, sir.

2 **Q** Thousands possibly?

3 **A** Probably.

4 **Q** And of those thousands of interviews, how many have
5 been memorialized by tape recording or video
6 recording?

7 **A** None.

8 **Q** None. Okay. To your knowledge, you know,
9 investigators and Sergeants, I guess supervisors,
10 more often in a supervisory capacity than the
11 investigator; certainly gets involved in
12 investigations, is aware of the practices and
13 procedures of his fellow officers. How often are you
14 aware of other officers in the City of Columbia
15 Police Department tape recording or video recording
16 interviews with suspects?

17 **A** I'm not aware of it really. No.

18 **Q** To your knowledge --

19 **A** To my knowledge --

20 **Q** -- it doesn't happen?

21 **A** -- that I recall and during the course of my career,
22 there may have been, you know, one or two or
23 something like that. I don't know. But to my
24 knowledge.

25 **MR. STRICKLER:** Now, Your Honor, at this point

1 in time I understand why we're here as far as the
2 Denno hearing goes. If Mr. Wilkerson or if the
3 State's intent is to have Mr. Wilkerson leave and
4 come back at some later point in time, there are
5 issues independent of Denno that we will have, since
6 this is an oral statement alleged to have been made,
7 that we will have to deal with that can only be dealt
8 with via knowing and understanding the contents of
9 the alleged statement. Now, I don't have to take
10 that up now. We can stop the trial at some point
11 other point in time and then we can deal with it as
12 it comes up.

13 **THE COURT:** Well, I am curious, as you are, Mr.
14 Strickler. And obviously I don't know what the
15 statement contains. But if it contains accusations
16 against these other two defendants, then it moves on
17 from voluntariness to other issues.

18 **MR. STRICKLER:** Yes, sir.

19 **THE COURT:** Now, I suspect that's what's going
20 on. But I don't know that.

21 **MR. STRICKLER:** I'm not trying to be too oblique
22 at all, Your Honor. That's precisely what I'm
23 talking about.

24 **THE COURT:** Well, let's do this.

25 **MR. MEADORS:** Your Honor, if he wants to go into

1 it, ask him.

2 **THE COURT:** Just -- I'm not going to force him
3 into that testimony. At this point in time are you
4 finished on this issue?

5 **MR. STRICKLER:** Beg the Court's indulgence one
6 moment.

7 **THE COURT:** Because I want to give the other
8 counsel an opportunity --

9 **MR. STRICKLER:** Yes, sir. Of course. As far as
10 the facts and circumstances surrounding the
11 interrogation itself, I'm done, Your Honor. Yes,
12 sir.

13 **THE COURT:** You don't want to stipulate to
14 anything, do you?

15 **MR. STRICKLER:** No, sir.

16 **THE COURT:** As to Mr. Gallman, any questions of
17 this witness on the issue of voluntariness of his
18 statement, whatever the statement is?

19 **MR. MILLING:** No, Your Honor.

20 **THE COURT:** From Mr. Joy?

21 **MR. DELGADO:** No, Your Honor.

22 **THE COURT:** All right. Thank you. Now Mr.
23 Meadors, I'm just assuming without knowing that this
24 statement contains some inculpatory, accusatory, some
25 statements that you are going to want to get into the

1 record in front of this jury. Without knowing what
2 that is, he can either -- he can -- I mean, I can
3 make a finding right now that the statement is
4 voluntary and will admit the statement subject to
5 other objections, which I don't know what they might
6 be.

7 **MR. MEADORS:** Judge, that's fine with me.
8 Investigator, if you want to tell the judge what he
9 told you, go ahead. What did he tell you?

10 **THE WITNESS:** I'd have to refer to my notes.

11 **MR. MEADORS:** Go ahead.

12 **THE COURT:** Well, does he need an opportunity to
13 review his notes?

14 **MR. MEADORS:** Yes, Your Honor. I thought that
15 to start with. I didn't know we were playing games
16 here. This is an in camera hearing.

17 **MR. STRICKLER:** Your Honor, I object to that
18 characterization.

19 **THE COURT:** We're not playing games. We don't
20 have a jury. He needs to be able to testify from his
21 own knowledge even if it's after review of his notes
22 that he made contemporaneously with his statement.
23 That's all. Rather than just read the statement in
24 the record. All I'm offering you is an opportunity
25 for him to have time to review those so that he can

1 testify and be cross examined about what he remembers
2 from his notes.

3 **MR. MEADORS:** Yes, sir. And that I thought
4 that's where we were earlier. Would it help you
5 to --

6 **THE COURT:** We're not quite there. I assume
7 he's read his notes before he came in here. But ...

8 **MR. MEADORS:** Yes, sir. He has.

9 **THE WITNESS:** Would reading -- can I refer to
10 the notes then for review?

11 **THE COURT:** The objection is that you were
12 reading from your notes, without any hint of an
13 independent knowledge of what you were talking about,
14 that you were just reading them.

15 **MR. MEADORS:** Do you have any knowledge of this
16 without referring to your notes?

17 **THE COURT:** Recollection.

18 **THE WITNESS:** Okay. Well, he had -- I had asked
19 him -- I was asking him certain questions that I
20 wanted to ask him.

21 **THE COURT:** Okay. Is this subject to your
22 objection, Mr. Strickler? If it is, I'm going to
23 allow it. For the record, if you object to it,
24 then --

25 **MR. STRICKLER:** Yes, sir. Just to be clear

1 regarding the games that I'm playing --

2 **MR. MEADORS:** I apologize about that.

3 **MR. STRICKLER:** -- my objection is pursuant to
4 83-03-5.

5 **MR. MEADORS:** And I apologize for that
6 statement, Judge. But as far as the in camera, I
7 thought the point of this was to find out what the
8 statements were. Let's decide what comes in and out
9 and I understand it goes in front of the jury
10 separately.

11 **MR. STRICKLER:** Your Honor, I would submit that
12 it's still unclear as to whether he has testified
13 that he has insufficient recollection to enable the
14 witness to testify fully and accurately.

15 **MR. MEADORS:** And I thought I just asked if you
16 have any independent recollection.

17 **THE COURT:** Let's find out what he knows.

18 REDIRECT EXAMINATION

19 **BY MR. MEADORS**

20 **Q** And would you like or need to refer to your notes?

21 **A** I'd like to refer to my notes.

22 **Q** Please do.

23 **A** I can have recollection after I refer to my notes.

24 **THE COURT:** Go ahead.

25 **A** Like I said, I asked him -- I was asking him some

1 questions about the case. And he was telling me that
2 both he and -- that he knew Mr. Batie, the victim,
3 became acquainted to him from a bootlegger's house,
4 that he and Dominic Gallman met him there, that he --
5 it was about two months earlier, and that he and
6 Gallman then were invited to Jim's house by Jim and
7 they visited.

8 **THE COURT:** Who is Jim?

9 **THE WITNESS:** I'm sorry?

10 **THE COURT:** Who is Jim?

11 **A** Jim Batie. I'm sorry. George Batie. They refer to
12 him as Jim. And that was about two months ago. And
13 then he and Dominic Gallman were invited there by Jim
14 to the house. They visited once during the daytime.
15 He indicated also that he only stayed in the house
16 for a few minutes and they never went to the back
17 portion of the house, and that included the bedroom
18 area and the hallway area. He never spent the night
19 there he told me. He never returned after his
20 initial visit. He didn't know Mr. Batie's last name,
21 whether he was married or had any children, whether
22 anyone lived with him, his phone number or how long
23 Mr. Batie had lived at that house.

24 **Q** Prior to that, had he, that being Stanley Oliver,
25 told you anything about having a telephone

1 conversation with Investigator Burns, Gertrude Burns?

2 A Yes. He told me that he had had a conversation. He
3 had telephoned Investigator Burns from a lady's house
4 that he identified as Quitta who lived way up North
5 Main Street.

6 Q Is that Q-U-I-D-A, Quitta?

7 A Yes. And he had no further information about her or
8 his relationship with her except that she drove a
9 champagne colored car. He said also that he had
10 spoken to his girlfriend, Renata Williams, about an
11 earlier interview she had with police. And that's
12 how he assumed he was being sought by police for
13 questioning.

14 Q So as a result of that he assumed, by your notes, why
15 the police were questioning him?

16 A Yes. And he also indicated that he had seen the face
17 on the news, and that's when he told me also that he
18 was acquainted with Mr. Batie, recognized him from
19 meeting him at the bootlegger's house.

20 Q Did you ask him, or did he tell you, where he was at
21 the time of the murders?

22 A Yes. He said at the time of the murders he was at
23 his girlfriend's house, Renata Williams, at the
24 Palmetto Trace Apartments or visiting a friend,
25 Mr. William Gedson on Tremain Street. And I reminded

1 him or I told him that we had already checked with
2 those two individuals concerning his whereabouts at
3 the time of the murders and had been told by
4 investigators by both of them that he was not with
5 them.

6 Q And after you had told him that you checked with
7 these two people and they told you that he was not
8 with them, what if anything did Stanley Oliver do
9 after that?

10 A Mr. Oliver just kind of smiled and sat back in his
11 chair. And he said, "I guess I don't have an answer
12 then."

13 Q Did he indicate whether or not he knew Dominic
14 Gallman?

15 A Yes, he did. He said he met Mr. Gallman in prison at
16 the Lee County Correctional Institute and knew him
17 also by the nickname "Freaky". He indicated he
18 didn't know where he lived but he thought in the Two
19 Notch Road area.

20 Q Did you have a conversation with him about his
21 fingerprint being found in the residence?

22 A Well, I asked him if -- that -- whether his
23 girlfriend, Renata Williams, had told him about the
24 fingerprint being discovered at the scene and was
25 that why he was indicating that he and Mr. Gallman

1 had been to Mr. Batie's residence before. And again
2 he just smiled and said he didn't want to answer that
3 question.

4 Q And how far apart were you all from him,
5 Investigator? When you were in this room, were you
6 at a table?

7 A Yes. Probably just a couple of feet apart. And
8 there's no barrier inbetween us or anything like
9 that.

10 Q Had you known him before this?

11 A No, never met him.

12 Q Did he say anything about Road?

13 A He said that his great aunt, Dorothy McGorter, lived
14 at and that he used it as a
15 residence on occasion. And he lived there also, that
16 he had lived there on occasion and knows the area
17 around it quite well.

18 Q Were you familiar there as a sergeant and being
19 involved with kind of overall the murders about the
20 August 24th, 2005 arrest involving a nine millimeter
21 and Stanley Oliver?

22 A Yes, I was.

23 Q Did you have an occasion to ask him about that on
24 September 13th?

25 A Yes. I asked him about his possession, that he was

1 caught in possession of a nine millimeter pistol
2 there on the of and that
3 at that time had information that he had given a
4 statement to Investigator Hughes that he claimed that
5 he needed the weapon for protection because he robbed
6 drug dealers. He became angry at that, at my comment
7 about that. He claimed he didn't recall telling
8 Investigator Hughes that statement. And --

9 Q What about cars? Did you ask him about cars?

10 A I asked him about cars. And he would normally drive
11 whatever cars he could get his hands on and usually
12 cars of friends and acquaintances.

13 THE COURT: Of what?

14 A Usually he would usually use cars of friends and
15 acquaintances.

16 Q Now, had there been a large amount of money taken
17 from the Mildred Avenue murder scene?

18 A We suspect so; yes, sir.

19 Q And at this point in the investigation did you have
20 any information that he had been spending some larger
21 denomination of bills?

22 A Yes, I did.

23 Q Did you have an occasion to ask him about that?

24 A Well, I asked him that, you know, back in August, I
25 referred to the case back in August when he was

1 arrested with the gun, that he didn't have any cash
2 or any money on him then. Now he seemed to be in
3 possession of a great deal of cash. I commented
4 about him buying new clothes, earrings, a brand new
5 pair of Timberland boots with a \$100 bill. He paid
6 for a motel room, dinner for himself and his
7 girlfriend, Renata Williams, on September 7th, and
8 that he bought Renata and himself several DVD's. He
9 also paid a bonding company an outstanding bill that
10 he owed \$158 in cash on September 6th. And I asked
11 him how did, he without a job, no other means of
12 income, did he come into a sum of money like that.
13 And he would not elaborate on that further. And I
14 again asked him at the end here about how his
15 fingerprint would have been found at the crime scene.
16 Q Prior to you -- and refer to your notes if you need
17 to for your recollection. "I asked him how did he
18 suddenly come into a lot of money and no job or other
19 means of income?" What did he say after that?
20 A He said he had to do what he had to do out on the
21 street. But he wouldn't elaborate further on that.
22 Q And then you said what about fingerprints?
23 A I asked him about how the fingerprint was found at
24 the crime scene, and he said he had better talk to
25 his lawyer. He then identified his lawyer as Jimmy

1 Rogers, and the interview ceased at that point.

2 Q So when you asked him about his fingerprint, when
3 asked how his fingerprint would have been at the
4 crime scene, that's when he said, "I'd better talk to
5 my attorney"?

6 A He said he'd better talk to his attorney. And then
7 at that point --

8 Q And at that point, did you ask him anything else?

9 A No. That was the end of the interview. I left the
10 interview room immediately, went right around to type
11 up the notes.

12 Q And I guess I have a different interpretation. Mine
13 might be wrong or contemporaneous. But right after
14 that --

15 A Right.

16 Q -- did you go make these notes?

17 A Right. I considered -- I'm sorry. I considered it
18 as part of the interview session.

19 Q Did you ever -- you wouldn't have denied access to a
20 bathroom, food or drink? If he'd have wanted to get
21 something to eat or use the bedroom, would you have
22 let him?

23 A Oh, certainly. As a matter of fact, the bathroom was
24 probably a few steps away. And a water fountain
25 also.

1 Q And is this the sum and substance of everything that
2 Stanley Oliver told you on September 13th?

3 A Yes. And those are the notes that I took of that
4 conversation.

5 Q That's all. Thank you, Judge.

6 THE COURT: Any cross examination?

7 MR. STRICKLER: Just a couple, please, Your
8 Honor.

9 RECROSS EXAMINATION

10 BY MR. STRICKLER

11 Q Sergeant, would it be fair to characterize what
12 you've done here today regarding as far as what the
13 substance of the conversation is that you have
14 summarized or actually read from your typed notes
15 beginning at the second paragraph which is where it
16 begins after your description of the advice of rights
17 and read through that page of notes and to the end of
18 the notes on the second page?

19 A Are you -- I'm sorry. Your question again was ...?

20 Q You've read your notes to the Court from the
21 beginning on the second paragraph because the first
22 paragraph relates to the advice of rights. So as to
23 what was said, you have read from paragraph 2 on the
24 first page of your notes through the end of your
25 notes, correct?

1 **A** Correct.

2 **MR. STRICKLER:** And that's all I have for the
3 purpose of Mr. Wilkerson. At some point in time we
4 do need to talk about the import of it.

5 **THE COURT:** Yes, sir.

6 **MR. MILLING:** Thank you, Your Honor. May it
7 please the Court.

8 CROSS EXAMINATION

9 **BY MR. MILLING**

10 **Q** Good morning, Investigator.

11 **A** Good morning.

12 **Q** As you know, I represent Dominic Gallman. And you
13 just testified that Mr. Oliver made certain
14 statements about Mr. Gallman when he spoke with you,
15 correct?

16 **A** That's correct.

17 **Q** Are these all of the statements that he made about
18 Mr. Gallman?

19 **A** That's correct.

20 **Q** Did he say anything other than just what you've put
21 in here?

22 **A** Nothing other than what I've put into it. And it's
23 all here. And the information or the interview
24 ceased when he asked for an attorney.

25 **Q** Is this the only interview that you've done with Mr.

1 Oliver?

2 A That is correct.

3 Q Are you aware of whether or not Mr. Oliver made any
4 other statements?

5 A I am not aware.

6 Q Now, did you take any notes whatsoever during this
7 interview?

8 A No.

9 Q Okay. You indicated that according to your
10 typewritten notes which were done after the interview
11 was ceased that Mr. Oliver implicated Mr. Gallman as
12 having known Jim Batie, correct?

13 A That's correct. That's what he told me.

14 Q That Mr. Oliver implicated Mr. Gallman as having been
15 to Mr. Batie's house before?

16 A That's correct. That's what he told me.

17 Q That Mr. Oliver indicated to you that Mr. Gallman had
18 been in prison before with him?

19 A That's correct.

20 Q He talked about Mr. Gallman's anything nickname?

21 A That's correct.

22 Q But also indicated that he didn't know where he
23 lived?

24 A Except for perhaps the Two Notch Road area.

25 Q But that was a guess?

1 **A** Yes. Just general. Yes, sir.

2 **Q** That he implicated Mr. Gallman when you asked about
3 the fingerprints and where he and Mr. Gallman might
4 have been?

5 **A** I'm sorry. Did he?

6 **Q** Yes.

7 **A** He didn't mention Mr. Gallman at that point.

8 **Q** I point your attention to the next to the last
9 paragraph in the first page of your statement.

10 **A** Well, yeah. He indicated that -- that's when he
11 indicated they had been in the residence together
12 before. Yes, sir.

13 **Q** Okay.

14 **A** As you said.

15 **THE COURT:** He didn't testify about that either
16 on his direct or cross. So, I mean, what are you
17 referring to?

18 **MR. MILLING:** I'm just trying to find out what
19 all he said about my client and make sure that --

20 **THE COURT:** Well, he's testified about two
21 things he said about your client. Now you just
22 raised a third thing that he did not testify about.

23 **MR. MILLING:** Well, Your Honor, I think it's in
24 the next to the last --

25 **THE COURT:** I don't know.

1 **MR. MILLING:** I think that he did.

2 **THE COURT:** I don't know where it is.

3 **MR. MILLING:** Beg the Court's indulgence.

4 **THE COURT:** He might testify about it later, but
5 he didn't testify about it now.

6 **Q** And again, there was nothing else that Mr. Oliver
7 said about Mr. Gallman other than what you've
8 testified to?

9 **A** Other than what I've testified to. Yes, sir.

10 **MR. MILLING:** Nothing further, Your Honor.

11 **THE COURT:** Did he testify about fingerprints in
12 the house, or did he not testify about fingerprints
13 in some house? I mean, he did not testify about that
14 in his direct examination. Now, you've raised it as
15 being somewhere in his statement. And he may -- all
16 right. Well, let's just move on. As to --

17 **MR. MEADORS:** Your Honor, --

18 **MR. DELGADO:** Nothing from Mr. Joy, Your Honor.

19 **THE COURT:** Nothing from Mr. Joy. All right.
20 Solicitor.

21 **MR. MEADORS:** Just quick follow-up.

22 REDIRECT EXAMINATION

23 **BY MR. MEADORS:**

24 **Q** State's 67 for I.D., you remember the incident of him
25 coming down there, right?

1 **A** Yes, I do.

2 **Q** You once had full recollection of the entire
3 incident, correct?

4 **A** Yes, I did.

5 **Q** But it is your testimony now, or do you have
6 insufficient recollection to enable you to testify
7 fully and accurately without utilizing that document?

8 **A** No. It's been two years, and I've been retired for
9 almost two years. So --

10 **Q** It's been two years. You've been retired for almost
11 two years, correct?

12 **A** That is correct.

13 **Q** And was this document made or adopted by you when it
14 was fresh --

15 **A** Very much so.

16 **Q** -- in your memory?

17 **A** Very much so. Yes, sir.

18 **Q** Thank you.

19 **THE COURT:** Do you plan to offer the statement?

20 **MR. MEADORS:** Yes, sir.

21 **THE COURT:** Any objections to the statement?

22 **MR. STRICKLER:** First of all --

23 **THE COURT:** Other than voluntariness?

24 **MR. STRICKLER:** Well, first of all, as to
25 voluntariness, Your Honor, I would object. I would

1 submit the standard has not been met.

2 **THE COURT:** I'm going to rule that the defendant
3 was in custody. He was being interrogated. He was
4 advised of his rights under the Fifth and Sixth
5 Amendments to the Constitution of the United States.
6 He was advised of his Constitutional safeguards
7 required by Miranda. As indicated by the advice of
8 rights, he was fully advised of his rights, and I
9 find that this statement was voluntarily given.

10 And once the -- I find there were no unusual
11 circumstances, the deprivation of water or no
12 extenuating circumstances which would lead me to
13 believe it was anything less than voluntary.

14 And in addition, when the defendant stopped the
15 questioning subject to or subsequent to some mention
16 of fingerprints, the officer says he immediately
17 ceased the interrogation. The Defendant, Oliver,
18 requested an attorney and at that point in time the
19 interrogation ceased. And I find all of these
20 conclusions by a preponderance of the evidence.
21 Therefore, I find the statement admissible and the
22 evidence under Miranda as a voluntary statement.

23 As to the contents of the statement, is there
24 any objection?

25 **MR. STRICKLER:** First of all, Your Honor, it's

1 not a statement. It's his recorded recollections of
2 a statement.

3 **THE COURT:** All right.

4 **MR. STRICKLER:** So that point was made.
5 Secondly, I mean, I'll obviously let any other
6 attorneys speak as to the problems with their people
7 regarding their clients. But I would object myself
8 to the admission of any references to co-defendants
9 in this case under Bruton. But with that, no. To
10 the publishing of the documents, entering evidence by
11 the publishing of them --

12 **THE COURT:** You talking about the written
13 document?

14 **MR. STRICKLER:** I'm definitely talking about
15 objection to the written document.

16 **THE COURT:** I agree.

17 **MR. STRICKLER:** You know. And subject to full
18 cross examination regarding publishing his recorded
19 recollections or whatever, no objections beyond
20 the -- excuse me while I consult with co-counsel.
21 But as far as publishing, but for -- and thank you,
22 Ms. LaFave, because there is a separate issue
23 contained -- let me see here.

24 The testimony regarding his arrest on
25 August 24th, the possession of a pistol, and that

1 would be subject to objection under Lyle that we'll
2 have to deal with later, at a later point in time.
3 You know, I hesitate to make any suggestions to
4 anyone. Perhaps Your Honor, while this is not a
5 written statement, it might be best served by having
6 access to a copy of the page and a half worth of
7 notes that he's reading verbatim into the record so
8 that we'll all be on the same page as to what we're
9 talking about. But that's just me.

10 **THE COURT:** I'll be glad to review that.

11 **MR. MEADORS:** Has somebody got an extra copy?

12 **THE COURT:** I don't know if I need it at this
13 point. But it's marked as I.D. I can take the
14 original.

15 **MR. STRICKLER:** Yes, sir. So, but for that
16 segment dealing with the arrest on the pistol charge,
17 --

18 **THE COURT:** Yes, sir.

19 **MR. STRICKLER:** -- no other objections.

20 **THE COURT:** All right. As to Mr. Gallman.

21 **MR. MILLING:** Yes, Your Honor. I would join in
22 Mr. Strickler's first objection. And this is the
23 written statement. It should not come in. I think
24 Your Honor has already ruled on that.

25 As to the references that the statement makes to

1 my client, Mr. Gallman, I think that we've got a
2 whole host of problems. I think we've got a Bruton
3 problem. I think we've got a Crawford problem.
4 We've got a Lyle problem. We've got a relevancy
5 problem.

6 **THE COURT:** Well, what if we just redact it?
7 Doesn't that solve it?

8 **MR. MILLING:** If we take everything out dealing
9 with Mr. Gallman, I think that it probably does. But
10 I'd like to see what is going to be redacted.

11 **THE COURT:** Any reference to Mr. Gallman.

12 **MR. MEADORS:** I'm sorry?

13 **THE COURT:** Gallman is suggesting that,
14 primarily in my opinion because of Crawford, that the
15 statements regarding -- from the Defendant, Oliver,
16 regarding the statements regarding the -- implicating
17 Defendant Gallman that those two references that I've
18 heard be redacted from this testimony. That's all.

19 **MR. MEADORS:** The fact they knew each other?

20 **THE COURT:** Sir?

21 **MR. MEADORS:** The fact they knew each other?

22 **THE COURT:** No. He says they went to Batie's
23 house. Now, Batie is one of the deceased victims in
24 this case. And, secondly, that he met Gallman in
25 prison and knew him as "Freaky".

1 **MR. MEADORS:** I think you've got a different
2 issue there about prison. But as far as he met Batie
3 and they went to a bootlegger's house, he's saying
4 two months prior to this incident, is what he's
5 saying. So that's his statement. So, I mean, I
6 don't know. If he objects to that --

7 **THE COURT:** If it were just a bootlegger, I
8 would agree with you. But he happens to be a dead
9 bootlegger. And that's the subject of this trial.

10 **MR. MEADORS:** I don't know how that's
11 implicating Mr. Gallman saying he was there two
12 months prior to the killing. And the other thing, as
13 far as he met him, clearly he indicated he'd met
14 Dominic Gallman, that can come in I think. The fact
15 of whether he met him in prison, you know, that's
16 another issue that maybe we would concede if we're
17 going to have to somehow figure out how to say it. A
18 lot of this time and a lot of witnesses' testimony is
19 going to come from when they knew these fellows in
20 prison. And there's a home to a lot of them, their
21 lives. And we're going to have to figure out how to
22 do that. But I will address all that.

23 **THE COURT:** We're not there yet.

24 **MR. MEADORS:** But to this, we are on this issue.

25 **THE COURT:** If he says he met Mr. Gallman, I

1 think that's admissible. It's not inculpatory, or
2 it's not testimonial. It's probably testimonial, but
3 it's not -- it doesn't implicate him in anything, the
4 mere fact that he knew your client. All right. As
5 to Mr. Joy.

6 **MR. DELGADO:** Your Honor, see, what that does
7 now is raises a 403 problem as far as Mr. Joy is
8 concerned.

9 **THE COURT:** How is that?

10 **MR. DELGADO:** If he says he went with someone
11 else or he went with X; however, you delete the
12 second name pursuant to a Bruton problem, then the
13 jury may think it was Ken Joy who went with him,
14 which under Rule 4 --

15 **THE COURT:** Willie?

16 **MR. DELGADO:** What's that, sir? Well, Willie is
17 not on trial here. That's the problem I guess.

18 **THE COURT:** That's a 403 objection?

19 **MR. DELGADO:** Yes, sir. Not necessarily the
20 prejudice prong of that but the other aspect about
21 misleading the jury, that prejudicial aspect.

22 **THE COURT:** Overruled.

23 **MR. DELGADO:** All right, sir.

24 **THE COURT:** All right. It's the Court's ruling
25 that the references to Gallman by this witness, by

1 this defendant, that he and Gallman went to Batie's
2 house and that he met Gallman in prison are
3 inadmissible and should be redacted from this
4 statement.

5 Now, the fact that he knew Mr. Gallman, I don't
6 see that as a violation of either Bruton or of
7 Crawford. And I deny your motion as to his knowledge
8 of Mr. Gallman. It could come from high school. It
9 could come from singing in the church choir.

10 Anything further from this witness?

11 **MR. MEADORS:** Beg the Court's indulgence one
12 second. Let me just make sure I've got my notes
13 right, I mean, just so I won't mess up later. He
14 said in here he knew that Gallman's nickname was
15 Freaky, I don't know if that was talked about, but we
16 certainly know him by the nickname.

17 **THE COURT:** No. I think the "in prison" was the
18 objection. There's a separate objection as to
19 Freaky.

20 **MR. MEADORS:** I understand that. But I didn't
21 know if --

22 **THE COURT:** If that's his street name, then
23 that's his street name. I don't see that -- I'd
24 overrule the objection as to "Freaky".

25 **MR. MEADORS:** Thank you.

1 **THE COURT:** That was brought up in -- chances
2 are everybody in this case is going to have some sort
3 of street name. I don't know that. I don't think
4 it's prejudicial one way or the other.

5 **MR. MEADORS:** And to follow with what I think
6 Mr. Delgado was saying, when this is orally presented
7 to the jury; and for the record, it's an oral
8 statement, it is a statement, he and blank were
9 invited to --

10 **THE COURT:** He and what?

11 **MR. MEADORS:** I mean, what's the investigator
12 going to say? He and blank were invited to Jim
13 Batie's house two months ago? Another person?

14 **THE COURT:** Fill in the blank, yeah.

15 **MR. MEADORS:** I understand.

16 **MR. STRICKLER:** I'm sorry, Your Honor. I'd have
17 to interpose an objection as far as that goes.

18 **THE COURT:** All right.

19 **MR. STRICKLER:** Well, just so it's clear, part
20 and parcel of the State's case of course is putting
21 these three individuals together in some way, shape,
22 form or fashion. And when the statement is made --
23 so I guess I'm probably joining Mr. Milling's
24 objection -- the statement is made regarding he and
25 Gallman going to the house together, that puts them

1 at the house together, that --

2 **THE COURT:** I've already excluded that.

3 **MR. STRICKLER:** Well, he was just referring it's
4 he and blank. And then to the extent that you --

5 **MR. MEADORS:** He and another person.

6 **MR. STRICKLER:** Well, you know, the Bruton
7 violation is such that you have to exclude any
8 reference to anyone else. I mean, we may be
9 operating so far as Bruton, March v. Richardson or
10 Richardson v. March.

11 **THE COURT:** So you think it ought to be: "I
12 went to the house"?

13 **MR. STRICKLER:** That's the clear understanding
14 to reading of Bruton. Yes, sir.

15 **MR. MEADORS:** Your Honor, that is not clear.
16 That is not the case law.

17 **MR. ROSS:** Your Honor, that is not the South
18 Carolina case law at all.

19 **MR. STRICKLER:** I am relying on the United
20 States Supreme Court.

21 **MR. MEADORS:** We rely on Chief Justice Toal.

22 **THE COURT:** That's on the record.

23 **MR. MEADORS:** Yes, sir.

24 **THE COURT:** Be careful.

25 **MR. MEADORS:** I want it to be.

1 **MR. MILLING:** Your Honor, I would have to join
2 in Mr. Strickler's objection.

3 **THE COURT:** I'm sure. Overruled. I think he
4 can say he went to the house with somebody else.
5 That doesn't implicate anybody else in this trial.

6 **MR. STRICKLER:** Your Honor, just so I'm clear as
7 to the bases for the objection of course, that it's
8 clear under Bruton and Bruton's progeny, and I guess
9 Mr. Milling's problem more appropriately it is
10 situated is for him to be clear in that regard; but
11 my contention is that the line of Bruton cases
12 specifically -- I think it's Gray vs. Virginia.
13 There may be another one in there. I'd have to sit
14 down and pull them out and take a look at them.

15 **THE COURT:** That's all right. Just give me your
16 interpretation of the wholeness.

17 **MR. STRICKLER:** It that the statement must be
18 redacted such that it cannot be read to include the
19 existence of anyone else, not just the identity of
20 anyone else. I understand your ruling. I'm not
21 arguing with your ruling at all, Your Honor. I just
22 want to be clear in that regard.

23 **MR. MILLING:** And, Your Honor, I would take it
24 one step further, because Mr. Gallman is the only
25 other one who you're allowing this witness to testify

1 that Mr. Oliver knew. And so the jury is going to be
2 left with the inescapable conclusion that if Mr.
3 Oliver and another person went to Mr. Batie's house
4 and he knows Mr. Gallman, then Mr. Gallman was that
5 other person. I think it's more appropriate under
6 the case law, I think it's more appropriate under the
7 facts of this case to say that Mr. Oliver said that
8 he had been to Mr. Batie's house before and exclude
9 any reference to "with someone else."

10 **THE COURT:** All right.

11 **MR. DELGADO:** And I concur with my colleague,
12 Your Honor, on behalf of Mr. Joy as to their
13 arguments concerning the identification of anybody
14 else, anyone else.

15 **THE COURT:** All right. Anything further?

16 **MR. MEADORS:** Your Honor, we've just got some
17 case law here.

18 **THE COURT:** Go ahead and put it on the record.

19 **MR. MEADORS:** "Me and some other guys did it"
20 instead of "me and blank and blank did it." It would
21 be permissible to redact that confession in that
22 case, Gray vs. Maryland. Judge, as long as it
23 doesn't on its face incriminate the defendant it can
24 be properly admitted. That's Richardson vs.
25 Morrison, Your Honor. It's clearly -- I'll hand all

1 these cases up, Your Honor. As long as that refers
2 specifically --

3 **THE COURT:** I've already ruled. I've already
4 ruled. I've already ruled in your favor.

5 **MR. MEADORS:** Thank you. Yes, sir.

6 **THE COURT:** Anything further from this witness?

7 **MR. MEADORS:** No, sir. Thank you.

8 **THE COURT:** You may come down.

9 **MR. STRICKLER:** And if I may, Your Honor, I have
10 a question for the Court.

11 **THE COURT:** Yes, sir.

12 **MR. STRICKLER:** Will we be limited to one
13 attorney per witness?

14 **THE COURT:** Not that I ...

15 **MR. STRICKLER:** No? In other words, Ms. LaFave
16 is free to stand up and make arguments to the Court?

17 **THE COURT:** Oh, oh, oh, I'm sorry. I thought
18 you meant -- I thought you meant one attorney per
19 witness on the stand.

20 **MR. STRICKLER:** No, sir.

21 **THE COURT:** Now, what did you mean?

22 **MR. STRICKLER:** Well, there is a Circuit Court
23 rule that says one attorney per witness, not the
24 rules of criminal procedure because we don't have
25 much in there.

1 **THE COURT:** That's right. What are you seeking?

2 **MR. STRICKLER:** My understanding is that it's
3 one attorney per witness.

4 **THE COURT:** Right.

5 **MR. STRICKLER:** Well, we haven't had one
6 attorney per witness in this instance. Mr. Ross has
7 interjected himself into the argument.

8 **THE COURT:** Okay. All right. Well, I think
9 only one attorney per witness is the rule. But I am
10 going to be flexible enough when there are
11 Constitutional issues or legal arguments to allow one
12 or more -- I think that's just my practice.

13 **MR. STRICKLER:** Your Honor, I don't have any
14 problem. I just want to make sure we do it.

15 **THE COURT:** As long as only one person talks at
16 a time.

17 **MR. STRICKLER:** Yes, sir.

18 **THE COURT:** And if it gets out of hand, I'll
19 deal with it.

20 **MR. STRICKLER:** Yes, sir. Thank you.

21 **THE COURT:** Next witness.

22 **MR. ROSS:** The State calls officer Abraham.

23 JAMES ABRAHAM, after being duly sworn, testifies
24 as follows:

25 **THE CLERK:** Thank you. Please have a seat in

1 the witness stand and date your full name for the
2 record.

3 **THE WITNESS:** James Abraham.

4 DIRECT EXAMINATION

5 **BY MR. ROSS**

6 **Q** Officer Abraham, where are you employed?

7 **A** Richland County Sheriff's Department.

8 **Q** How long have you been employed there?

9 **A** Nine years.

10 **Q** What's your position for the Sheriff's Department?

11 **A** Narcotics investigator.

12 **Q** Were you working on August 24th of 2005?

13 **A** Yes, sir, I was.

14 **Q** And did you have occasion to come into contact with
15 Mr. Stanley Oliver on that day?

16 **A** Yes, sir, I did.

17 **Q** Do you recall approximately what time that was?

18 **A** It's approximately 1730 which is 5:30.

19 **Q** Okay. And what location were you at when you came
20 into contact with Mr. Oliver?

21 **A** We were on Road. He we were going to
22 apartment to execute a lawful search warrant.

23 **Q** Were you by yourself, or were you with other
24 deputies?

25 **A** I was with other agents.

1 Q Do you recall what other agents were with you?

2 A Yes, sir. It was myself, Kevin Hughes, Agent Lutz,
3 Dana Robertson, Marcus Brown, Robbie Craven; and if
4 I'm not mistaken, Anthony Brown.

5 Q And you were there to execute a search warrant?

6 A Yes, sir.

7 Q But was that on Mr. Oliver's residence or another
8 residence?

9 A Another residence.

10 Q Okay. And how did you come into contact with Mr.
11 Oliver?

12 A As we passed, we observed Mr. Oliver walking by the
13 location; well, walking by the parking lot in front
14 of a car where we were going to stop. Once we
15 stopped, the sliding door opened on the van, I exited
16 the van, and the first person that I encountered was
17 Mr. Oliver. I observed him pull something from his
18 waist band and toss it under the car. At that point
19 in time I stopped, drew my weapon on Mr. Oliver,
20 advised him to get on the ground, and I handcuffed
21 him at that time.

22 Q Was he by himself, or was somebody else standing with
23 him?

24 A Nah. He was by himself. Everybody else that was --
25 when they seen the van crest the hill, they started

1 to spread out.

2 Q Okay. And this is in the parking lot of the
3 apartment complex?

4 A Yes, sir.

5 Q All right. And he throws something under a car?

6 A Yes, sir.

7 Q You draw your weapon, place Mr. Oliver on the ground
8 and handcuff him?

9 A Correct.

10 Q Okay. And what happened after that?

11 A Shortly after that I looked under the vehicle and I
12 noticed a weapon that was under the vehicle.

13 Q What type of weapon?

14 A It was a handgun.

15 Q Okay.

16 A It appeared to be some, like a small, like a nine
17 millimeter. I couldn't really tell until we actually
18 picked it up.

19 Q Okay.

20 A At that time I picked Mr. Oliver up off the ground,
21 conducted a search of his person and placed him in
22 the van.

23 Q Okay. Was he told he was under arrest at that point?

24 A Yes, sir, he was.

25 Q Okay. And what was he told he was under arrest for?

1 **A** Unlawful carrying of a pistol.

2 **Q** All right. And when you placed him in the van, this
3 is the van that you all rode into the apartment
4 complex in?

5 **A** Yes, sir, it is.

6 **Q** And was he handcuffed at that point?

7 **A** Yes, sir, he was.

8 **Q** All right. Then what happened after that?

9 **A** After that I advised the case agent what I observed
10 and where the weapon was. He photographed it and
11 collected the weapon at that time. Mr. Oliver --

12 **Q** What type of weapon did it end up being once it was
13 collected?

14 **A** It was a nine millimeter. I don't remember the
15 model.

16 **Q** Okay. And which case agent are you referring to?

17 **A** Kevin Hughes.

18 **Q** Okay. And after you informed him and the item was
19 photographed and collected, what happened after that?

20 **A** He collected the item. I was in the van with Mr.
21 Oliver. I pulled out my wallet. He sat across from
22 me. And I read him his Miranda rights off of my
23 card.

24 **Q** Was anybody else in the van with you?

25 **A** Not at that time. No, sir.

1 Q Okay. And do you have that card with you?

2 A Yes, sir, I do.

3 Q Okay. Could you pull that card out? Before we get
4 to that, Mr. Oliver, did he appear to be under the
5 influence of drugs or alcohol when you were talking
6 to him?

7 A No, sir.

8 Q Did he understand or appear to understand your
9 questions?

10 A Yes, sir. He answered my questions.

11 Q All right. And when you read him the Miranda rights,
12 you read it exactly verbatim off the card?

13 A Yes, sir, I do.

14 Q Okay. Go ahead and advise the Court the rights that
15 you read to him.

16 A I advised him, I said, number one, "You have the
17 right to remain silent and refuse to answer
18 questions. Do you understand?" I looked him in his
19 eyes and he stated yes. I said, number two,
20 "Anything you do say may be used against you in a
21 court of law. Do you understand?" Again I looked
22 him in the eyes and he said yes. "You have the right
23 to consult an attorney before speaking to the police
24 and to have an attorney present during questioning
25 now or in the future. Do you understand?" He stated

1 yes again.

2 "If you can't afford an attorney one will be
3 appointed for you before any questions if you wish.
4 Do you understand?" He stated yes. "If you decide
5 to answer questions now without an attorney present,
6 you still have the right to stop answering at any
7 time until you talk to an attorney. Do you
8 understand?" He stated yes. "Knowing and
9 understanding your rights as I have explained them to
10 you, are you willing to answer my questions without
11 an attorney?" He advised me -- he said, "What
12 questions do you have to ask me?"

13 Q Okay. And did he give appropriate responses as you
14 read the card?

15 A Yes, sir, he did.

16 Q All right. And did he ever ask for an attorney?

17 A No, sir, he did not.

18 Q Did you promise him anything in order to get him to
19 answer your questions?

20 A No, sir, I did not.

21 Q Did you threaten or coerce him in any way in order to
22 get him to answer your questions?

23 A No, sir, I did not.

24 Q Did he ever stop, want to stop the interview? Did he
25 ever refuse to answer your questions, in other words?

1 **A** Not to me. No, sir.

2 **Q** Did he appear to freely and voluntarily answer your
3 questions?

4 **A** Yes, sir, he did.

5 **Q** And what questions did you ask him?

6 **A** Basically, I didn't ask him anything pertaining to
7 the weapon that he had. I was just asking him
8 general questions for paperwork, such as his name,
9 social security number, his date of birth, where he
10 resided at.

11 **Q** Okay. And all those were appropriate responses?

12 **A** Yes, sir.

13 **Q** All right. And did he make any statement -- not
14 necessarily in response to your question, but did he
15 make any statement about that nine millimeter pistol,
16 as to why he was carrying it?

17 **A** Yes, sir, he did.

18 **Q** And how did that come about?

19 **A** If I'm not mistaken, I think Investigator Hughes was
20 talking to him in reference to that and I was in the
21 van as well.

22 **Q** Okay. So at some point Investigator Hughes came into
23 the van?

24 **A** Yes, sir.

25 **Q** All right. Was anybody else in the van at that time?

1 **A** It was myself, Investigator Hughes; and if I'm not
2 mistaken, the guy that scribed the warrant, Damon
3 Robertson.

4 **Q** Okay. All right. So Investigator Hughes is talking
5 with Mr. Oliver. And what occurred?

6 **A** He asked Mr. Oliver in reference to the weapon why
7 did he have it. Mr. Oliver made the statement that,
8 you know, he used to rob drug dealers back in the day
9 and he carried a weapon for his protection because
10 you know how the streets are. Streets come back
11 around. They may say things are fine at that point
12 in time, but as you walk off they will turn around
13 and shoot you in your back.

14 **Q** Did he make any other statements regarding why he was
15 carrying that weapon?

16 **A** No, sir.

17 **MR. ROSS:** That's all the questions I have, Your
18 Honor.

19 **THE COURT:** Cross examination.

20 **MR. STRICKLER:** Beg the Court's indulgence one
21 moment, Your Honor.

22 CROSS EXAMINATION

23 **BY MR. STRICKLER**

24 **Q** Good morning, Deputy Abraham.

25 **A** How are you?

1 Q Have you made any reference to any notes while you've
2 been testifying up there?

3 A No, sir.

4 Q No? Okay. What notes did you prepare in relation to
5 this case?

6 A I have none.

7 Q What report did you prepare in relation to this case?

8 A None.

9 Q What independent notes or notes did you make
10 contemporaneous with this conversation you allege to
11 have overheard between Mr. Hughes and Mr. Oliver on
12 August 24th, 2005, in excess of two years ago?

13 A I have looked at the incident report that was
14 prepared.

15 Q You looked at the incident report that was prepared?

16 A Yes, sir.

17 Q Do you have that present with you?

18 A No, sir, I do not.

19 Q Okay. Let me show you these items right here and ask
20 if you'll take a look at them. Is that what you're
21 referring to?

22 A There was another report that's in our computer
23 system that is a follow-up. That's what was with
24 that report there.

25 Q Okay. And in which of the reports is it reflected

1 that Mr. Hughes was told by Mr. Oliver that he robbed
2 drug dealers?

3 **A** Investigator Hughes did not document that in his
4 follow-up. But he had mentioned that, why he carried
5 a weapon.

6 **Q** So just so we're clear, in none of the reports that
7 you referred to did Mr. Hughes document that the
8 statement was made that "I robbed drug dealers"?

9 **A** No, sir. That statement was not made.

10 **Q** That statement is not made. You've made no report to
11 that effect, correct?

12 **A** No, sir, I have not.

13 **Q** Okay. In fact, the incident report right here
14 prepared by Investigator Hughes reflects: "The
15 suspect stated that he thought the agents were there
16 for him and he just dropped the gun. He further
17 stated after being read his Miranda rights by Agent
18 J. Abraham" -- that would be you, correct?

19 **A** Yes, sir. That is correct.

20 **Q** "In the presence of other agents that he knew he was
21 not supposed to be in possession of a gun because he
22 was convicted of a crime of violence. He further
23 stated he thought the gun might be stolen since he
24 bought it off a crackhead off of the street." Is
25 that correct?

- 1 **A** Yes, sir. That statement was made as well.
- 2 **Q** I'm sorry?
- 3 **A** That was made as well. Yes, sir.
- 4 **Q** And that's what's reflected in the incident report
- 5 from Investigator Hughes?
- 6 **A** Yes, sir. That's part of the incident report.
- 7 **Q** Okay. And in no place in that incident report is
- 8 there reference made to: "I robbed drug dealers"?
- 9 **A** Not in that report. No, sir.
- 10 **Q** In another report from Investigator Hughes there is
- 11 referenced "I robbed drug dealers"?
- 12 **A** No, sir. It states about how he carried a weapon
- 13 because of what he did in the streets.
- 14 **Q** Right.
- 15 **A** And from my assumption, that's what Kevin Hughes
- 16 summed up. I did not write the report.
- 17 **Q** Right.
- 18 **A** He summed it up as that.
- 19 **Q** And you've read that report also?
- 20 **A** Yes, sir, I have.
- 21 **Q** And that report does not contain reference to "I
- 22 robbed drug dealers"?
- 23 **A** No, sir, it does not.
- 24 **Q** Thank you.
- 25 **THE COURT:** Anything from Mr. Gallman?

1 **MR. MILLING:** No, Your Honor.

2 **THE COURT:** Mr. Joy?

3 **MR. DELGADO:** Nothing for Mr. Joy. No, sir.

4 **MR. ROSS:** I've just got one follow-up, Your
5 Honor.

6 REDIRECT EXAMINATION

7 **BY MR. ROSS**

8 **Q** Officer Abraham, how do you remember that particular
9 statement: "I carried the gun because I used to rob
10 drug dealers"?

11 **A** During the time we were sitting, I remember Mr.
12 Oliver precisely because he was very violent when we
13 were in the van after a short period of time, saying
14 that he would kick officers' behinds and if we didn't
15 get him out of handcuffs and get him down to
16 headquarters that he is going to turn the van out.
17 And it was just little small things that he said that
18 I remember. So it wasn't like, you know, anything
19 that wasn't normal. I remember specific things about
20 certain cases.

21 **Q** And there's no doubt in your mind that that
22 information that you've relayed to the Court that he
23 carried the gun to rob drug dealers, that's correct?

24 **A** That is correct; yes, sir.

25 **THE COURT:** Anything further?

1 **MR. STRICKLER:** Just a couple of things.

2 CROSS EXAMINATION

3 **BY MR. STRICKLER**

4 **Q** I thought you had indicated at first that you
5 remembered it because it's in the report and then you
6 that remembered it because you talked with
7 Investigator Hughes about it. And now you remember
8 it because of this situation in this van. How do you
9 happen to remember that statement having been made?

10 **MR. ROSS:** Your Honor, that's four questions in
11 one, and that's not what he testified to.

12 **THE COURT:** All right. All you have to say is
13 "I object". Separate your question.

14 **Q** What is the basis for your recollection of that
15 statement?

16 **A** I remember Mr. Oliver and some of the statements that
17 he made. I advised Investigator Hughes that he
18 needed to place those in the report. Now, whether he
19 did or not, I have no control over that.

20 **Q** And this was August the 24th, 2005?

21 **A** Yes, sir, it was.

22 **Q** And by whom are you employed now?

23 **A** Richland County Sheriff's Department.

24 **Q** Okay. So you've been continuously employed since
25 that time with the Sheriff's Department, correct?

1 **A** Yes, sir, I have.

2 **Q** In what capacity do you work with the Sheriff's
3 Department?

4 **A** Narcotics investigator.

5 **Q** Okay. And that involves going out and participating
6 in narcotics arrests and raids and the same sort of
7 thing you were doing on that day, right?

8 **A** Yes, sir, it does.

9 **Q** So it's a fairly active job, right?

10 **A** Very.

11 **Q** How many people have you had arrested between
12 August 24th, 2005 and today? Roughly. I don't want
13 an exact number.

14 **A** About 45.

15 **Q** About 45?

16 **A** Yes, sir.

17 **Q** How many raids have you participated in in that time
18 period, the past two and a half, over two years?

19 **A** Over two years?

20 **Q** Yes, sir.

21 **A** Oh. Numerous.

22 **Q** Numerous?

23 **A** Over 100.

24 **Q** Over 100?

25 **A** Yes, sir.

1 Q And have made 45 arrests?

2 A Yes, sir.

3 Q How many people as opposed to arresting have you
4 participated in taking into custody during that
5 period of time?

6 A Approximately the same number, 45.

7 Q How many people have you advised of their rights in
8 this in this period?

9 MR. ROSS: Your Honor, I'm going to object.

10 THE COURT: Overruled.

11 MR. ROSS: I don't know what the relevance of
12 this is.

13 THE COURT: Overruled. Go ahead.

14 Q How many people have you advised of their rights
15 during that period of time?

16 A Forty-five.

17 Q All right, sir. Thank you.

18 THE COURT: You may come down, sir. Thank you
19 very much. Any objection to the statement?

20 MR. STRICKLER: The objection to the statement
21 is wrapped up in the Lyle issue that we have to take
22 up and argue. That's going to be Ms. Lafave's
23 territory.

24 THE COURT: That's the Lyle as to the arrest
25 itself in this case? Is that what you're telling me?

1 **MR. STRICKLER:** Well, as to the arrest of this
2 case; I mean, introducing this arrest in this case,
3 that is a Lyle issue.

4 **THE COURT:** I said is that the objection?

5 **MR. STRICKLER:** Yes, sir.

6 **THE COURT:** Not Lyle contained within the
7 statement.

8 **MR. STRICKLER:** Oh. No, not --

9 **THE COURT:** All right. That's fine.

10 **MR. STRICKLER:** No. And then the statement:
11 "that I robbed drug dealers" is an independent Lyle
12 issue.

13 **THE COURT:** That's what I was asking.

14 **MR. STRICKLER:** Okay. I'm sorry. There are two
15 Lyle issues. And I'm sorry. This witness I had down
16 for myself, and these issues are hers.

17 **THE COURT:** All right.

18 **MR. MEADORS:** We have no objection to both of
19 them arguing.

20 **THE COURT:** This is the two-lawyer rule. Well,
21 let me first find on the record that the statement
22 was voluntarily given on August 24th, 2005 in the
23 presence of Mr. Abraham.

24 **MR. STRICKLER:** I ask the record to reflect on
25 that issue, it's over my objection.

1 **THE COURT:** That what?

2 **MR. STRICKLER:** Over my objection, sir.

3 **THE COURT:** Over your objection.

4 **MR. STRICKLER:** Yes, sir.

5 **THE COURT:** On voluntariness.

6 **MR. STRICKLER:** Yes, sir.

7 **THE COURT:** All right. I find the statement is
8 voluntarily given after the -- well, let's just start
9 at the beginning. The defendant was obviously in
10 custody. He was being interrogated. He was given
11 his Miranda rights, reading from the standard card
12 which the police officers normally carry. He was
13 advised of his rights.

14 He certainly was held at the scene. He was not
15 held under any unusual circumstances that would
16 prevent him from freely and voluntarily speaking with
17 the officers, subject to no coercion, or apparently
18 under no drugs. The officer testified he freely gave
19 a statement following the Miranda warnings and that
20 he spoke with him. He knew his name and address. He
21 conversed with him and understood everything. He
22 understood everything Mr. Oliver said. He got
23 appropriate responses from Mr. Oliver to his
24 questions.

25 He was in the van with another officer when the

1 statement was made regarding the nine millimeter,
2 where it came from. And I find that the statement is
3 admissible, and I find so by a preponderance of the
4 evidence. I find it was voluntarily given.

5 Now, as to the -- what's the objection to the
6 statement other than on the grounds of voluntariness?

7 **MS. LAFAVE:** Your Honor, the objection is to the
8 arrest itself under Lyle. It's a prior bad act.

9 **THE COURT:** Mm-hmm (affirmative).

10 **MS. LAFAVE:** And if the State does wish to
11 introduce it at trial, I believe they need to explain
12 to the Court exactly what their purpose is in
13 introducing it. Additionally, I think we have to
14 deal with that issue before we can deal with the "I
15 robbed drug dealers" statement since it directly
16 flows from that arrest.

17 **THE COURT:** All right. What is the purpose in
18 offering a statement made by the -- an admission,
19 shall we say, made by the defendant August 24th, '05
20 when he was arrested for possession of a nine
21 millimeter? I'm assuming -- and I don't know.
22 Factually I'm deficient. But I'm assuming that the
23 nine millimeter was confiscated and it's not the same
24 nine millimeter that was used in the murder or
25 murders or whatever took place September 4th, 2005.

1 I mean, is there any linkage? What makes this
2 statement not a prior bad act that's subject to a 404
3 objection?

4 **MR. ROSS:** Your Honor, the gun was not used in
5 these murders.

6 **THE COURT:** Okay.

7 **MR. ROSS:** The statement is a statement against
8 interest just by itself.

9 **THE COURT:** I understand that. How does that
10 make it admissible?

11 **MR. ROSS:** Because it goes to motive and it goes
12 to intent. He carries a gun because he robs drug
13 dealers. Ten days later he goes and robs and murders
14 a drug dealer.

15 **THE COURT:** Well, he said he did it in the day.
16 I mean, I don't know what that means, but I think I
17 know that that means in the past.

18 **MR. ROSS:** I don't know what that means either.
19 To him that might mean the day before. I don't know.
20 But the statement is that he robbed drug dealers. He
21 hadn't robbed a drug dealer that day apparently, but
22 he had robbed drug dealers, and he carried a gun for
23 protection. Ten days later he goes and robs a drug
24 dealer. That goes to his motive --

25 **MS. LAFAVE:** Your Honor, --

1 **MR. ROSS:** And it goes to his intent.

2 **THE COURT:** Let him finish.

3 **MS. LAFAVE:** My apologies, Your Honor.

4 **THE COURT:** That's all right.

5 **MR. ROSS:** That's the basis for admitting the
6 statement, Your Honor.

7 **THE COURT:** Motive. What's the motive? Where
8 is the motive?

9 **MR. ROSS:** His motive is that he commits
10 robberies and that he specifically commits robberies
11 against drug dealers. He targets drug dealers to
12 rob.

13 **THE COURT:** He doesn't say that. He didn't say
14 that to this officer. He said he used to rob drug
15 dealers.

16 **MR. ROSS:** Yes, sir.

17 **THE COURT:** Does that mean he's going to rob
18 drug dealers?

19 **MR. ROSS:** Yes, sir. It shows his state of
20 mind. It shows his intent.

21 **THE COURT:** All right. It doesn't show motive.
22 I mean, it doesn't show that he even knew the
23 deceased. I mean, if he said Mr. Batie is a drug
24 dealer and I have killed drug dealers in the past, I
25 might think you were on to something.

1 **MR. ROSS:** That by itself, yes, sir. But ten
2 days later, we're talking about ten days.

3 **THE COURT:** I know we're talking about ten days.

4 **MR. ROSS:** Ten days later. Not a year, not two
5 years. Ten days later he uses a firearm and robs a
6 drug dealer. And he admits. And we've already
7 covered that. He admits that he knew Jim Batie.

8 **MR. MEADORS:** Judge, just since we're okay
9 doubling up here, we're not looking to get that in.

10 **THE COURT:** Not what?

11 **MR. MEADORS:** We're not looking to get the
12 arrest in. We're looking to get the statement in as
13 a statement against interest, "that I robbed drug
14 dealers".

15 **THE COURT:** I don't see how you get it in
16 without the arrest. That's all part and parcel. All
17 right. Ms. LaFave.

18 **MS. LAFAVE:** Thank you, Your Honor.

19 **THE COURT:** Tell me why it should not come in.

20 **MS. LAFAVE:** Your Honor, this statement cannot
21 be separated from the prior arrest. The fact is is
22 that the minute that an officer testifies that this
23 statement was made was on August the 24th, it's going
24 to be a law enforcement officer testifying. It's
25 going to imply that my client had prior contact with

1 law enforcement; and, thus, he has a prior criminal
2 record. It's inadmissible, Your Honor.

3 **THE COURT:** Okay.

4 **MS. LAFAVE:** And I agree with Your Honor's
5 argument that if his statement had been: I'm going
6 to rob a drug dealer or I'm going to rob Jim Batie,
7 this would go towards intent, Your Honor.

8 **THE COURT:** Motive or intent.

9 **MS. LAFAVE:** I don't believe that they can be
10 separated, Your Honor. And, therefore, they are
11 inadmissible under 404, and they don't come in under
12 the Lyle exception to prior bad acts.

13 **THE COURT:** Well, that's pretty straightforward.
14 One says yes; one says no.

15 **MR. MILLING:** Your Honor, if I may be heard just
16 briefly on this, because since we've got a joint
17 trial, I think that Mr. Gallman has a vested
18 interest.

19 **THE COURT:** Tell me what your client's interest
20 in this issue is.

21 **MR. MILLING:** Yes, sir. Your Honor, his
22 interest is they're all charged with the same crime.
23 And if the jury believes that Mr. Oliver is involved
24 with robbing drug dealers, then they very well could
25 believe based upon your ruling earlier that his

1 statement that he and somebody else went to Mr.
2 Batie's house that my client or Mr. Joy, for that
3 matter, would be along with him.

4 Secondly, Your Honor the statement as I heard it
5 was not as Mr. Ross has suggested, "that I robbed
6 drug dealers"; it's that in the past or back in the
7 day I did it. I'm out carrying it for protection
8 purposes in case somebody who I might have robbed in
9 the past may come after me.

10 I don't see first off how that is related
11 whatsoever to this particular crime, and it sounds
12 like the State is trying to piece together whether it
13 was motive, intent or common scheme or plan, they
14 don't really fall under any elements of the crime.
15 They're lumping it all together.

16 I don't think -- and the case law is pretty
17 clear that there must be a close degree of similarity
18 or connection between the prior bad act and the crime
19 for which the defendant is on trial and is requested
20 to support the admissibility under the common scheme
21 or plan exception. You know, that's --

22 **THE COURT:** Now, just hold on. Now, let's just
23 get something straight. I'm not going to have three
24 lawyers arguing one defendant's position; I mean,
25 three independent lawyers. As it applies to your

1 client --

2 **MR. MILLING:** Yes, sir.

3 **THE COURT:** -- you can argue how it applies to
4 your client. But just for the sake of this trial --

5 **MR. MILLING:** Yes, sir, Your Honor.

6 **THE COURT:** -- you represent Mr. Gallman, and
7 I'm not going to allow you to be arguing substantive
8 issues as to Mr. Oliver. I have heard Mr. Oliver's
9 argument. I'll hear your argument as to your client.

10 **MR. MILLING:** Yes, sir.

11 **THE COURT:** But we're not going to have all
12 three of the defendants' lawyers arguing each others'
13 objections.

14 **MR. MILLING:** Yes, sir, Your Honor. I
15 apologize.

16 **THE COURT:** I know the law.

17 **MR. MILLING:** Yes, sir. As to Mr. Gallman, I
18 don't think that it is relevant to the trial of this
19 case. Because it deals with the statement, if it's
20 to be believed, dealing with robbing people in the
21 past as opposed to in the present. Therefore, I
22 don't think it is relevant, and it's also too highly
23 prejudicial.

24 **THE COURT:** Okay. As to Mr. Joy.

25 **MR. DELGADO:** Your Honor, as to Mr. Joy, as

1 things stand now, he is supposedly the individual
2 that puts this together because he is alternately
3 both an accessory before the fact and then again
4 after the fact. It relates to him in that respect.

5 **THE COURT:** This statement?

6 **MR. DELGADO:** Yes, sir. "I robbed drug dealers"
7 or "I robbed a drug dealer", if there's a ten-day
8 window of opportunity there, they will say that Ken
9 Joy is part and parcel of that scheme because he is
10 charged with an accessory before the fact.

11 **THE COURT:** Well, unfortunately, I may agree
12 with you that the brush, they want to paint a broad
13 picture. And that's what I'm confronted with.

14 **MR. DELGADO:** All right, sir.

15 **THE COURT:** And you need to make your objections
16 clear on the record that every implication as to one
17 defendant may be an implication or suggestion as to
18 the other defendant. But I don't know any way to
19 separate that out.

20 **MR. DELGADO:** I understand.

21 **THE COURT:** Without -- I mean, I've got to deal
22 with the issue with regard to Mr. Oliver and the
23 statement he made. And if it brushes your client,
24 then be that as it may. But that's I guess --

25 **MR. DELGADO:** I understand. I just want you to

1 know that I'm just -- I don't wan to overstay my
2 welcome with you, but I just need to place it on the
3 record.

4 **THE COURT:** No, no. You're not overstaying your
5 welcome at all. But there's some things that I
6 can't -- I mean, we might as well set this ground
7 rule. I can't exclude a statement because it may
8 apply to your client when it clearly should apply --
9 I mean, when clearly it's admissible as to that one.
10 We'll try to protect you from the Crawford standpoint
11 and the Bruton standpoint and any other way that I
12 can. But I just can't -- because they're being tried
13 together, there is no way I can --

14 **MR. DELGADO:** I understand, Your Honor.

15 **THE COURT:** -- make this jury -- I've instructed
16 them. I will instruct them to keep the parties
17 straight.

18 **MR. DELGADO:** That's exactly right. I just
19 wanted to reiterate it. Thank you.

20 **THE COURT:** Okay. Thank you. At this stage,
21 this preliminary stage, Mr. Ross, I am not sure how
22 this relates at all to the crimes charged in these
23 indictments. I'm just going to withhold ruling on it
24 at this time. I am not going to tell you yes or no.
25 At some point in time during this trial it may come

1 into clearer focus. It is not in clear focus at this
2 point.

3 You can put up Hughes, and I'll have the same
4 ruling I'll have to rule on again if you put up
5 Hughes as to the voluntariness of the statement. But
6 at this point in time I'm going to take it under
7 advisement. I am just going to withhold ruling on
8 that at this time.

9 **MR. ROSS:** Thank you, Your Honor.

10 **MS. LAFAVE:** Thank you, Your Honor. And if I
11 may, if I could just address one issue very briefly.
12 There are also -- in the discovery of this case,
13 there is an indication that there are several
14 witnesses that the State may intend to call so as to
15 introduce statements which I would deem which would
16 be some sort of reference to reputation on the behalf
17 of these three defendants, that they together rob
18 drug dealers.

19 There is probably I would say at least four that
20 I can think of that would have directly referenced in
21 their statements that these three defendants, one or
22 both or all three of them, rob drug dealers. And if
23 the State is intending on admitting this into
24 evidence, I'd like for us to take it up now under
25 Lyle instead of waiting until --

1 **THE COURT:** Well, if they've got a witness that
2 says they saw all three clients rob drug dealers,
3 then you'd better believe they're going to put it up.

4 **MS. LAFAVE:** Well, yes, Your Honor. But Mr.
5 Oliver's argument is that that is a prior bad act.
6 And if the State wants to get that prior bad act in,
7 they need to prove it through Lyle. They have to
8 meet an exception to Lyle and then we have the clear
9 and convincing standard. So I'd ask that the State
10 reveal what witnesses they would intend to call in
11 that regard, Your Honor.

12 **MR. MEADORS:** Your Honor, can we go to Gallman's
13 statement next, just to get the defendants'
14 statements out before we get to that?

15 **THE COURT:** Go to what?

16 **MR. MEADORS:** We have a statement that Mr.
17 Gallman gave. We're through with that issue. We'd
18 like to go ahead and just call Holdorf and get that
19 out of the way, if you don't mind.

20 **THE COURT:** Well, --

21 **MR. ROSS:** We can't address that at this stage.

22 **THE COURT:** Sir, you run your case the way you
23 want to. It's the State's case. I can't tell you
24 who to call --

25 **MR. MEADORS:** Investigator Holdorf.

1 **THE COURT:** -- or when to call them. If we've
2 got Lyle issues, we'll have to deal with them. We'll
3 have to send this jury home until tomorrow.

4 TRAVIS HOLDORF, after being duly sworn,
5 testifies as follows:

6 **THE CLERK:** Thank you. Please have a seat in
7 the witness stand and state your full name for the
8 record.

9 **THE WITNESS:** Travis Holdorf.

10 (WHEREUPON, State's Exhibit No. 68 is marked for
11 identification.)

12 (WHEREUPON, State's Exhibit No. 69 is marked for
13 identification.)

14 DIRECT EXAMINATION

15 **BY MR. MEADORS**

16 **Q** Very briefly and generally tell Your Honor how long
17 you've been in law enforcement; and in what capacity
18 are you employed now for Sheriff Leon lot at the
19 Richland County Sheriff's Department?

20 **A** I've been with the Richland County Sheriff's
21 Department approximately 13 years. I am currently a
22 major crimes, assault, homicide and arson
23 investigator.

24 **Q** I'm going to ask you at this time, Investigator,
25 about an opportunity you had talk with one Dominic

1 Gallman on September 22nd of 2005.

2 **A** Yes, sir.

3 **Q** I put the stickers on the wrong one. Hold on one
4 second.

5 **MR. MILLING:** Your Honor, while he is handling
6 the marking of exhibits, I would have the same
7 objection Mr. Strickler raised earlier concerning the
8 reading of the statement into the record. If he
9 could just testifies to what he knows.

10 **THE COURT:** Yes, sir.

11 **MR. MEADORS:** I don't know what he's talking
12 about. This is the defendant's statement, Your
13 Honor. It's totally different.

14 **Q** But, anyway, looking at State's 68 -- well, first of
15 all, where did you have an occasion to meet with Mr.
16 Gallman?

17 **A** Mr. Gallman was already in custody. He was brought
18 up to the Richland County Sheriff's Department
19 headquarters, to the C.I.D. area.

20 **Q** Explain specifically where you met with him?

21 **A** It was in a supervisor's office. I believe it was
22 Captain Smith's office.

23 **Q** Stan Smith?

24 **A** Yes, sir.

25 **Q** There's a chair in there? There's a desk?

1 **A** Yes, sir.

2 **Q** And who all was present when you met with Mr.
3 Gallman?

4 **A** Myself, Investigator Jones and Investigator Gallman.
5 Or excuse me. Dominic Gallman.

6 **Q** And at that point was Mr. Gallman a party under
7 arrest you said?

8 **A** Yes, sir.

9 **Q** Did you have an occasion to read him his Miranda
10 rights?

11 **A** Yes, sir, I did.

12 **Q** Is that State's Exhibit 68 for I.D.?

13 **A** Yes, sir, it is.

14 **Q** What's it got at the top as far as the date?

15 **A** It is dated September 22nd, 2005.

16 **Q** What time is on there?

17 **A** 10:20.

18 **Q** All right. Read your rights as you read them --

19 **THE COURT:** Say that again?

20 **A** 10:20.

21 **THE COURT:** P.M.?

22 **A** A.M., sir.

23 **THE COURT:** A.M.

24 **Q** Just speak in there so His Honor can hear you. Read
25 the rights as you read them to Dominic Gallman on

1 September 22nd for the judge?

2 **A** "Before we ask you any questions, you must understand
3 your rights. You have the right to remain silent.
4 Anything you say can be used against you in court.
5 You have the right to talk to a lawyer for advice
6 before we ask you any questions and to have a lawyer
7 with you during any questioning. If you cannot
8 afford a lawyer, one will be appointed to you before
9 any questioning if you wish. If you decide to answer
10 questions now without a lawyer present, you still
11 have the right to stop answering at any time. You
12 also have the right to stop answering at any time
13 until you talk to a lawyer."

14 The second part of this is the waiver of rights.
15 It states: "I have read this statement of my rights
16 and I understand what my rights are. I am willing to
17 talk and answer questions. I understand and know
18 what I am doing. No promises have been made to me
19 and no pressure or coercion of any kind has been used
20 against me."

21 **Q** 10:20 in the morning?

22 **A** Yes, sir.

23 **Q** Did the defendant, Dominic Gallman, appear to be
24 under the influence of alcohol or drugs or any other
25 intoxicant?

- 1 **A** No, sir.
- 2 **Q** Did he appear to you to understand his surroundings?
- 3 **A** Yes, sir.
- 4 **Q** Did he appear to you to understand your questions
- 5 when you asked him?
- 6 **A** Yes, sir.
- 7 **Q** Did you understand his answers when he responded to
- 8 your questions?
- 9 **A** Yes, sir.
- 10 **Q** Were they clear?
- 11 **A** Yes, sir.
- 12 **Q** Were they appropriate?
- 13 **A** Yes, sir.
- 14 **Q** Were they timely?
- 15 **A** Yes, sir.
- 16 **Q** And you could actually understand his answers,
- 17 correct?
- 18 **A** Yes, sir.
- 19 **Q** His responses, you said he understood your questions?
- 20 **A** Yes, sir.
- 21 **Q** After reading each one of these rights, you have a
- 22 little check in there, right?
- 23 **A** Yes, sir.
- 24 **Q** What's that mean?
- 25 **A** As you read them you check them.

- 1 Q You check them off. All right. And did the
2 defendant tell you whether or not he understood his
3 rights? In that first part before you get to the
4 waiver of rights, did he indicate to you he
5 understood them?
- 6 A Yes, sir.
- 7 Q And did he do that orally?
- 8 A Yes, sir.
- 9 Q And did he also indicate on this form in any way how
10 also that he understood them?
- 11 A He initialed by each right.
- 12 Q Each one of them. All right. And at the end of
13 reading him his rights, you and Jones signed. And
14 who is that signed over here?
- 15 A That's Dominic Gallman's signature.
- 16 Q You saw him do that?
- 17 A Yes, sir.
- 18 Q Okay. Did you know anything about his background?
- 19 A I ran his criminal history.
- 20 Q Okay. Had he been through the system before?
- 21 A Yes, sir.
- 22 Q So based on your reading him his rights, he appeared
23 to understand them?
- 24 A Yes, sir.
- 25 Q At any time during the reading of his rights, did he

1 say, I don't want to talk to you?

2 **A** No, sir.

3 **Q** Did he say, give me a lawyer?

4 **A** No, sir.

5 **Q** Did you hold out any hope of reward or promise?

6 **A** No, sir.

7 **Q** Did you threaten or coerce him?

8 **A** No, sir.

9 **Q** After that you said you read him his waiver of
10 rights?

11 **A** Yes, sir.

12 **Q** Did he appear to understand those?

13 **A** Yes, sir.

14 **Q** Did he say, "I understand them"?

15 **A** Yes, sir.

16 **Q** And did he sign his initials that he understood them?

17 **A** Yes, sir.

18 **Q** And underneath that is his signature there along with
19 the investigator's?

20 **A** Yes, sir.

21 **Q** Any time during that did he say, don't talk to me,
22 give me a lawyer, give away his rights?

23 **A** No, sir.

24 **Q** Did you threaten or coerce him there?

25 **A** No, sir.

1 Q Did you deny him access to the bedroom or food or
2 anything else?

3 A No, sir.

4 Q You'd read him those rights. Your testimony is he
5 appeared to understand them. Did you take a
6 statement from him?

7 A Yes, sir.

8 Q And tell the judge your practice, and what do you do?
9 How did you take the statement?

10 A Before you take a written statement you talk with
11 someone. Based upon the time we advised him of his
12 rights and the time of the statement, that was
13 approximately two hours before we started the written
14 statement. And then we type up the written statement
15 doing a question and answer format. After that's
16 done, it's spell checked, printed out. Mr. Gallman
17 had an opportunity to review it. If he wants to
18 change anything, we make changes. Once he agrees
19 that is his statement and how he wants to state it,
20 it is signed and witnessed and notarized.

21 Q And looking on page 1, how many times does his
22 signature appear on page 1 of this statement?

23 A Two times.

24 Q And is your signature and Jones' signature on here?

25 A Yes, it is.

- 1 Q So after he's given the statement, you've typed it
2 up, and you go over it with him?
- 3 A Yes, sir.
- 4 Q He reads over it and confirms this is my statement?
- 5 A Yes, sir.
- 6 Q And does he sign page 2?
- 7 A Yes, sir.
- 8 Q Page 3?
- 9 A Yes, sir.
- 10 Q Page 4?
- 11 A Yes, sir.
- 12 Q And page 5?
- 13 A Yes, sir.
- 14 Q At any time during the taking of this statement when
15 you're -- and/or when you are reading over it, did he
16 ever tell you, I don't want to talk to you?
- 17 A No, sir.
- 18 Q Did you still or could you understand his responses
19 when he was telling you these?
- 20 A Yes, sir.
- 21 Q He's pretty specific on some of these, isn't he?
- 22 A Very.
- 23 Q About where he was and times and all that, correct?
- 24 A Yes, sir.
- 25 Q And did you have any trouble understanding him?

1 **A** No, sir.

2 **Q** Dominic Gallman? Did he ever say, I want a lawyer?

3 **A** No, sir.

4 **Q** If he had, what would you have done?

5 **A** We would have stopped.

6 **Q** Your Honor, this 68 and 69 for I.D. at this point.

7 After cross examination I have gone through and

8 marked what I think ought to be redacted, and then we

9 can all go over that. But I guess we could save that

10 after cross and the voluntariness. Is the person who

11 gave you -- that you read the rights to in State's 68

12 and you said he understood them and the person who

13 gave you the statement, State's 69 for I.D., is that

14 person in the courtroom?

15 **A** Yes, sir.

16 **Q** Please point him out for His Honor?

17 **A** The white shirt, the second table, in the middle.

18 **MR. MEADORS:** Please ask the record to reflect

19 he's pointed out Dominic Gallman.

20 **THE COURT:** The record will reflect the witness

21 identified the Defendant, Gallman.

22 CROSS EXAMINATION

23 **BY MR. MILLING**

24 **Q** Investigator Holdorf, you indicated that you and

25 Investigator Jones interviewed my client, went back

1 to a computer, typed it, spell checked it before it
2 was shown to Mr. Gallman, correct?

3 A It's all in the same office. It's all in the same
4 area.

5 Q A course of how long from start to finish?

6 A I don't have the end time for the statement. I think
7 I'm an efficient typer. I'm not a speeder. But I'd
8 say it's a four-page statement. It would probably
9 take about an hour to actually write out.

10 Q So you interviewed him for about two hours I think
11 you testified to earlier. Is that correct?

12 A Yes, sir.

13 Q An hour to type it up?

14 A Ballpark; yes, sir.

15 Q So three hours, give or take?

16 A Yes, sir.

17 Q Okay. Did at any point in time he stop to go to the
18 restroom during this?

19 A He was offered to go to the restroom. In my notes,
20 when he was first offered, he declined. If he had to
21 go, it was made clear that if he needed a break he
22 could take one.

23 Q Okay. Give him any water?

24 A I don't recall.

25 Q How about anything to drink? I mean anything to eat?

1 **A** He was offered it.

2 **Q** What time was he offered something to eat?

3 **A** When we first started.

4 **Q** So at 10:20 you all offered him something to drink?

5 **A** Yes, sir.

6 **Q** Or something to drink and something to eat?

7 **A** Yes, sir.

8 **Q** The last three hours, that puts you beyond the lunch

9 hour, correct?

10 **A** Yes, sir.

11 **Q** Do you all give him lunch?

12 **A** I don't have it in my notes if we did.

13 **Q** Speaking of notes, what notes do you have?

14 **A** I have my investigative follow-up.

15 **Q** Okay. Could we see those, please?

16 **A** I don't have them with me. It's on the table.

17 **Q** Okay. Have you provided a copy of those notes to the

18 Solicitor's Office?

19 **A** Yes, sir.

20 **Q** Okay. And those are the notes you took from that

21 interview?

22 **A** During an interview like this, I didn't write any

23 notes down per se. There's going to be -- Mr. Jones

24 may have taken some. You have kind of a person who

25 is primarily doing the questioning and asking. Then

1 the second person will try to jot down some
2 information here and there to use as a reference.

3 Q And which role were you during this interview?

4 A I was doing the asking of questions.

5 Q So you were asking the questions, and Investigator
6 Jones may or may not have taken notes?

7 A Yes, sir.

8 Q Have you looked at any notes of Investigator Jones?

9 A Yes, sir.

10 Q Okay. So you do know that he's taking some notes?

11 A I know he's taking notes. I'm not sure if it was on
12 this interview exactly or not. It's a large case.

13 Q Okay. What did you -- this is a five-page statement,
14 correct?

15 A I believe. Yes, sir.

16 Q Taken over two hours. What did you use to go back
17 and cover the items which were first discussed during
18 the interview?

19 A It was just going back in the timeline, what happened
20 on this date, this, going through the timeline of
21 Labor Day weekend, then going back to the people who
22 we knew were involved in the case or felt were
23 involved in the case and how they were known or not
24 known.

25 Q Okay. But you didn't have any notes that you took

1 that you referred back to when you were typing it up?

2 **A** No, sir. Not handwritten notes.

3 **Q** Did you all tape record this?

4 **A** No, sir.

5 **Q** Was there a tape recorder available in the Sheriff's
6 Department?

7 **A** Yes, sir.

8 **Q** Okay. But you all chose not to do that?

9 **A** It's standard practice we don't record interviews.

10 **Q** And why is that?

11 **A** My understanding, and it's pretty much at the police
12 academy level, that once you start recording
13 interviews, then you have a problem if you don't have
14 one that is recorded.

15 **Q** Okay. How is it that you all came to go down to the
16 detention center and bring my client up to the
17 Sheriff's Department?

18 **A** It was a transport vehicle. A paddy wagon per se
19 brought Mr. Gallman up to the Sheriff's Department
20 headquarters.

21 **Q** Let me ask you this. Why did you all go down there
22 and pick him up?

23 **A** So he could be interviewed.

24 **Q** I mean, why didn't you all just go down there?

25 **A** It was a case where someone needs to be interviewed.

1 He needed to be interviewed.

2 Q But he was already under investigation, correct? I
3 mean, he was already charged?

4 A It was right after he was charged that I believe he
5 was brought up to our headquarters.

6 Q Okay. But he didn't request to be interviewed, did
7 he?

8 A No, sir.

9 Q Okay. So you all just took it upon yourselves to go
10 down there, pick him up and drive him up there?

11 A He was ordered, or the transport wagon picked him up
12 and brought him up there. I didn't actually go down
13 to pick him up; no, sir.

14 Q Was he told back at the detention center that he
15 didn't have to go up there?

16 A I don't believe so.

17 Q Okay. Do you know who it was that picked him up?

18 A I don't know off the top of my head. No, sir.

19 Q Okay. So you don't know what would have been told to
20 him at that point in time?

21 A Nothing should have been. I mean, it was we're going
22 to headquarters. I mean, that's --

23 Q But you don't know what might have been told to him
24 during that, when they picked him up, when they
25 dressed him out or when they drove him over?

- 1 **A** I don't know.
- 2 **Q** Okay. Beg the Court's indulgence one moment. But
- 3 you weren't the one who picked him up?
- 4 **A** No, sir.
- 5 **Q** Jones wasn't the one who picked him up?
- 6 **A** No, sir.
- 7 **Q** Some third party that you don't know who it was?
- 8 **A** I believe it was the City of Columbia transport
- 9 vehicle had him picked up.
- 10 **Q** So the City would have picked him up and taken him to
- 11 the Sheriff's Department?
- 12 **A** It was arranged. After speaking with the City
- 13 detectives, I believe they were already tied up in
- 14 something where they could not break free. And
- 15 myself and Jones working on the other side of the
- 16 case were able to do an interview. So it was
- 17 arranged where he came to the Sheriff's Department.
- 18 **Q** So you don't know what the City might have told him?
- 19 **A** The City wouldn't have told him anything. It was
- 20 between the detectives who had free time to do an
- 21 interview and who didn't.
- 22 **Q** But he was picked up on a City warrant, correct?
- 23 **A** Yes, sir.
- 24 **Q** So you don't know what the City would have told him
- 25 when he was picked up?

1 **A** No, sir.

2 **MR. MILLING:** Nothing further, Your Honor.

3 **MR. MEADORS:** Nothing further.

4 **MR. DELGADO:** Nothing from Mr. Joy.

5 **MR. STRICKLER:** No, sir. Nothing in that
6 regard.

7 **THE COURT:** All right. Anything further from
8 this witness?

9 **MR. MEADORS:** No.

10 **MR. MILLING:** Your Honor, I would move to
11 suppress this. I don't think that this was a
12 voluntary statement. They don't have any evidence to
13 show what --

14 **THE COURT:** Do you have any witnesses?

15 **MR. MILLING:** No, sir.

16 **THE COURT:** Okay. Go ahead.

17 **MR. MILLING:** Your Honor, we're in a situation
18 where somebody; we don't know who, picked him up from
19 the detention center. Somebody; we don't know who,
20 drove him up there. We don't know what was said to
21 him. We don't know -- there are just too many holes
22 to be filled in. He was under arrest. He didn't
23 request it. He wasn't given water. He wasn't given
24 food. This extended over the course of three hours.

25 Your Honor, I would just submit that this was

1 not a voluntary statement. And obviously we've got
2 some other discussions if the Court is inclined to
3 find it was voluntary just related to what might be
4 included in the statement. But as an initial matter,
5 Your Honor, I don't think that the government has
6 established that it was a voluntary statement because
7 there are too many gaps here.

8 **THE COURT:** All right, sir. Well, I find the
9 defendant was under arrest, was in custody, was
10 subject to interrogation, was given his Miranda
11 warnings as provided by the Fifth and Sixth
12 Amendments to the Constitution, that the defendant
13 voluntarily gave the statement to this officer and
14 Officer Jones after signing the waiver of rights and
15 after having read the statement and signing the
16 statement. Let me look at it just to make sure I'm
17 not saying something that I have no personal
18 knowledge of.

19 (Documents handed to the Court)

20 **THE COURT:** It appears to be Dominic Gallman's
21 signature on the advice of rights form dated
22 September 22nd, '05 at 10:20 a.m. It appears to be
23 the same signature on the statement of Dominic
24 Antonio Gallman consisting of five pages dated
25 September 22nd, 2005 at 12:20 hours which was two

1 hours after the initial advice of rights, witnessed,
2 notarized. Those are Exhibits 68 and 69.

3 I find that the statement was given voluntarily
4 by a preponderance of the evidence and it's
5 admissible into evidence on a voluntariness basis. I
6 have no idea what's contained in the statement and
7 whether there are any other objections to what's
8 contained in the statement. Does the State wish to
9 offer the statement?

10 **MR. MEADORS:** Judge, I don't know if we'll offer
11 it at trial or not. But at this point I just want to
12 go ahead and if we do decide to offer it just go
13 ahead and read out what I believe the redaction will
14 be. There's also another officer who was there, and
15 it's in his notes. I think he might have just gone
16 into more detail about drug transactions. He's
17 having a baby today. Excuse me. His wife is having
18 a baby.

19 **THE COURT:** Is that Jones?

20 **MR. MEADORS:** Yes, sir. So, I mean, he will
21 have to be brought in at a later date for those
22 comments. But that's why he's not here. But I'm
23 happy to go through this statement now.

24 **THE COURT:** I think they're entitled to know
25 whether you plan to use it or not.

1 **MR. MEADORS:** I can't answer that right now,
2 Judge. I have no idea. I don't think I can tell
3 them now if I want to use it. I mean, I really don't
4 think I have to tell them whether I'm going to. I
5 might. But I'm willing to go forward and show what I
6 believe the redactions (sic) should be.

7 **THE COURT:** Redactions as to what?

8 **MR. MEADORS:** This statement. Just to save
9 time.

10 **THE COURT:** Subject matter is what I'm talking
11 about. Are you voluntarily redacting something? I
12 don't know what you're talking about.

13 **MR. MEADORS:** Yeah. I'm trying to do what we
14 just did a minute ago and see if we can go through it
15 and agree on page 1, yes. And I can say for the
16 record this is what we'd offer. If we offer it, this
17 will be the statement we're attempting to offer.

18 **THE COURT:** We'll get it cleared up right now.

19 **MR. MEADORS:** Will you all look on page 1. I
20 don't see a problem on page 1.

21 **MR. STRICKLER:** I disagree.

22 **MR. MEADORS:** Okay. Then let's start.

23 **MR. STRICKLER:** Does your Honor have the
24 statement in front of you? The question is: "How do
25 you know Big Jim?"

1 **THE COURT:** Hold on. Where are you?

2 **MR. STRICKLER:** I'm sorry. Never mind.

3 **THE COURT:** I'm on page 2.

4 **MR. STRICKLER:** I'm on page 2. Strike that.

5 **MR. MILLING:** Your Honor, my objection to page 1
6 is there is a statement in the second question:
7 "Where were you during the Labor Day weekend?" The
8 third line down: "I sat on the porch and smoked a
9 couple of blunts." I think that that has nothing to
10 do with this case. I think that ought to be
11 redacted. It's a suggestion of prior bad acts, him
12 smoking marijuana. It has no relevance to this case
13 whatsoever.

14 **MR. MEADORS:** Judge, it's his words. I mean, if
15 he said, I killed somebody, that would be bad, too.
16 That's his words. It's a statement against interest.
17 You'd redact everything if that's --

18 **MR. MILLING:** Well, but it not relevant to this
19 case. That's the problem.

20 **MR. MEADORS:** Your Honor.

21 **MR. MILLING:** He's not charged with smoking --

22 **MR. MEADORS:** Go ahead and address it. I'll
23 wait until you finish.

24 **THE COURT:** I've said it. I'll say it again.

25 The court reporter can't take down two of you talking

1 at the same time. Let's just, rather than Mr.
2 Meadors anticipating what the objections are going to
3 be, let me just hear what your objections are and
4 then we'll deal with it. From Mr. Gallman.

5 **MR. MILLING:** Thank you, Your Honor. May it
6 please the Court. As an initial matter -- and I
7 don't know if you've had an opportunity yet to review
8 the statement.

9 **THE COURT:** I have not. I just picked it up.

10 **MR. MILLING:** Yes, sir.

11 **THE COURT:** I just said it's voluntary.

12 **MR. MILLING:** Yes, sir. This statement does not
13 implicate Mr. Gallman in this trial. There are no
14 admissions to being involved in this robbery. It's
15 in its entirety an out-of-court hearsay statement
16 does not fall within any of the exceptions or any of
17 the determinations that it's non hearsay.

18 As to page 1 dealing with what I just brought up
19 when he says, "I smoked a couple of blunts", that is
20 not an admission against interest as to this charge.
21 It would be seen as a prior bad act that should not
22 properly be introduced. It's too prejudicial and it
23 shows prior criminal conduct that has no bearing
24 whatsoever on this case.

25 **THE COURT:** Move on. Keep going.

1 **MR. MILLING:** I've got a similar objection on
2 page 2 at the bottom or at the end of the first
3 paragraph. He again says, "I smoked reefer" on a
4 different occasion over that weekend. The same
5 objection.

6 Your Honor, later on on that page there is a
7 mention to: "How do you know Big Jim?" Again, there
8 is a prior --

9 **THE COURT:** Show me where you're talking about.

10 **MR. MILLING:** The question: "How do you know
11 Big Jim" down at the bottom of page 2.

12 **THE COURT:** Who is Big Jim?

13 **MR. MILLING:** Jim Batie, the deceased in this
14 case.

15 **THE COURT:** All right.

16 **MR. MILLING:** Answer: "I met him a few months
17 back. Big Jim showed us a nice sized bag of cocaine
18 that we bought from him."

19 **THE COURT:** Bought?

20 **MR. MILLING:** "I went to big Jim's house about
21 two weeks later and I bought \$60 worth of cocaine for
22 \$30." Again, Your Honor, our objection would be that
23 these are prior bad acts, drug transactions; not just
24 that he knew Jim Batie, but they are prior drug
25 transactions prior to this occasion which are not

1 relevant to this particular case and also are
2 objectionable under Lyle and 404(b).

3 On page 3, the second full question: "How do
4 you know Stanley Oliver?" "From prison." I think
5 that reference as to how the individuals may have
6 known each other being from prison; again, prior bad
7 acts, should probably be excluded.

8 On page 4 at the top of the page there is an
9 answer to the questions on the preceding question.

10 "Q Do you know where Stanley Oliver got his guns?

11 "A I gave him the nine millimeter that he got
12 caught with for free."

13 Again, that's a prior bad act that should
14 properly be excluded and again has no relevance to
15 this case.

16 **THE COURT:** Is that with reference to the arrest
17 in August?

18 **MR. MILLING:** I believe so, Your Honor. Your
19 Honor, those are the Lyle objections I would have, as
20 well as the relevancy and hearsay objection as a
21 whole.

22 **THE COURT:** Does Mr. Oliver have any objections
23 to the statement?

24 **MR. STRICKLER:** With all due respect.

25 **MR. DELGADO:** Mr. Joy does not.

1 **THE COURT:** Well, Joy. I think it's -- you're
2 right. It's Mr. Joy's turn.

3 **MR. STRICKLER:** No objections, Mr. Delgado?

4 **MR. DELGADO:** No. I'm sorry, Your Honor. No.

5 **MR. STRICKLER:** Thank you. May it please the
6 Court, sir. First of all, I would join in Mr.
7 Gallman's position that this is not a statement such
8 that it falls under an exception to the hearsay rule.

9 **THE COURT:** Well, is it hearsay? Go ahead.

10 **MR. STRICKLER:** Okay. However, assuming we pass
11 that point, then we start to deal with the objections
12 that Mr. Oliver may have as opposed to anyone else.
13 The second page of the statement in response to the
14 last question: "How do you know Big Jim?" The
15 second sentence: "Solo and I met him at a
16 bootlegger's house on Carnegie Street." I would
17 assume that at some point in time we will get
18 evidence in this case that Mr. Oliver who is
19 operating in conjunction with these two other people,
20 nickname is "Solo", interesting enough.

21 So, "Solo and I met him at a bootlegger's house
22 on Carnegie Street. Big Jim" -- who indeed I believe
23 everyone would concede is Jim Batie -- "showed us a
24 nice sized bag of cocaine and we bought it from him."
25 Those two sentences are statements by Mr. Gallman

1 regarding Mr. Oliver. They are testimonial. Mr.
2 Gallman is not available for cross examination. And
3 they are Crawford and I submit must be stricken as a
4 result of that.

5 Turning to the second page --

6 **THE COURT:** I was on the second page.

7 **MR. STRICKLER:** Oh, I'm sorry. The third page.
8 The second page, we had it marked as being of
9 interest to me. Question one: "Did Stanley Oliver
10 ever go to Big Jim's house?" "Not that I know of."
11 That, too. I can't cross him about that. It's luck
12 as whether or not I'd like that statement in, it
13 doesn't matter.

14 Next question: "How do you know Stanley
15 Oliver?" As to anything regarding Stanley Oliver, I
16 have to have the ability to cross examine this person
17 in that regard. There is nothing that implicates him
18 in the crime directly in these statements. The
19 problem is a confrontation clause problem in relation
20 to my ability to ask any questions of Mr. Gallman.

21 So the first question: "Did Stanley Oliver ever
22 go"; the second question: "How do you know Stanley
23 Oliver"; the third question: "Have you ever seen
24 Stanley with a gun"; fourth question: "What did
25 Stanley do for a living"; fifth question: "Do you

1 know about Stanley doing any robberies"; the six
2 question: "When was the last time you saw Stanley";
3 the seventh question: "Have you ever seen Stanley
4 driving any cars"; the eighth question: "Do you know
5 where Stanley got his guns", those have changed from
6 having seen him once with a gun to knowing where he
7 got his guns, plural.

8 And then we turn to the following page, and
9 there are questions regarding Kenneth Joy, some of a
10 man named Blue. And the response to the final
11 question on the preceding page is contained in the
12 first paragraph on that page. And then page 5 of the
13 statement: "Have you done any robberies with
14 Stanley?"

15 **THE COURT:** Where is that?

16 **MR. STRICKLER:** That's page 5 of the statement.

17 **THE COURT:** Page 5?

18 **MR. STRICKLER:** Yes, sir.

19 **THE COURT:** Okay. I'm still on 4.

20 **MR. STRICKLER:** The first question. And then
21 the fifth question on that page: "Have you ever seen
22 Stanley or K.I. with a lot of money"; and the sixth
23 question: "Has Stanley or anyone else talked with
24 you about the murders", all those are questions asked
25 in a testimonial context of someone who is

1 unavailable and who I have a right to question
2 regarding those under the United States Constitution.
3 And I'd submit this needs to be redacted in that
4 regard.

5 **MR. DELGADO:** Now I have an objection, Your
6 Honor. That I have to object to as well. The
7 voluntariness I thought is what we were addressing
8 before.

9 **THE COURT:** Correct.

10 **MR. DELGADO:** I don't have I don't believe even
11 standing to be able to object to that. As relates to
12 Bruton and Crawford, I do object.

13 **THE COURT:** Specifically.

14 **MR. DELGADO:** Specifically, any reference in the
15 statement by Mr. Gallman to Mr. Holdorf concerning
16 Ken, Ken Joy or a name that theoretically they will
17 appendage to him called K.I., little k, that's
18 included in that statement.

19 **MR. MILLING:** And, Your Honor, if I may just
20 briefly before I turn it over to Mr. Meadors. There
21 was another reference on page 4 when Mr. Gallman was
22 asked whether or not he knew, quote, Blue. "Yeah.
23 I've also known him", that would be subject to Lyle.
24 We would object to that question.

25 **THE COURT:** Who is Blue?

1 **MR. MILLING:** I think his name would be Omekas
2 Moaney, another individual who you may hear from at
3 some point in time.

4 **MR. STRICKLER:** An individual in the Buckner
5 Federal Correctional Institution in North Carolina.

6 **THE COURT:** That's more information than I
7 wanted.

8 **MR. MEADORS:** And involved in drugs.

9 **MR. STRICKLER:** Another drug dealer.

10 **THE COURT:** So we've got Blue, Solo, Freaky.

11 **MR. DELGADO:** And Ken Joy. Excuse me. K as
12 opposed to J.D., John Delgado, I guess.

13 **THE COURT:** So far.

14 **MR. MEADORS:** I'm prepared.

15 **THE COURT:** How about this witness?

16 **MR. MEADORS:** Yes, sir. I was going to follow
17 up to their arguments.

18 **THE COURT:** Well, is this witness -- is
19 anybody --

20 **MR. MEADORS:** Oh. I think we're through with
21 him; yes, sir.

22 **THE COURT:** This witness is finished, isn't he?
23 You may come down, Mr. Holdorf.

24 **THE WITNESS:** Thank you, Judge.

25 **THE COURT:** All right. Mr. Meadors, this

1 statement appears to be rife with Crawford issues;
2 that is, people who are named by the declarant
3 implicating other persons in crimes for which he
4 cannot be cross examined; or they cannot, the
5 declarant cannot be cross examined about his
6 knowledge of these things and his credibility and
7 everything else.

8 **MR. MEADORS:** Respectfully, there are some. I
9 certainly think we can work through them. I don't
10 think there are as many as these gentlemen and lady
11 think. I guess we're all in agreement; as far as
12 Crawford, page 1 is fine. I didn't hear any other
13 reference to page 1.

14 **THE COURT:** Her note was with reference to page
15 1.

16 **MR. MEADORS:** Page 2, I would agree with Mr.
17 Strickler. On the: "How did you know Big Jim", I
18 would suggest -- and that's where I was heading
19 earlier -- "another person and I met him at the
20 bootlegger's house on Carnegie Street", which would
21 be consistent with Your Honor's ruling and would not
22 directly say Solo.

23 **THE COURT:** All right. Let me do something,
24 pose something.

25 **MR. MEADORS:** Sure.

1 **THE COURT:** Can you redact, can you redact it if
2 you know and understand -- and I know you do -- what
3 Crawford says about implicating other people in this
4 statement? I mean, give me or give everybody a
5 draft, so to speak, of what you feel is admissible.

6 **MR. MEADORS:** Sure.

7 **THE COURT:** Because I'm not going to mark this
8 up.

9 **MR. MEADORS:** I think I've done that in another
10 case with Your Honor or maybe with Mr. Strickler, I'm
11 not sure, where we did that. We redrafted it first
12 thing and had another --

13 **THE COURT:** Done it many times. Done it many
14 times.

15 **MR. MEADORS:** Sure. Could do that quite easily.

16 **THE COURT:** It would seem to me it would be a
17 lot easier than trying to --

18 **MR. MEADORS:** You still would have the issue --

19 **THE COURT:** -- talk about this on the record.

20 **MR. MEADORS:** That's fine.

21 **THE COURT:** Let's not talk about it.

22 **MR. MEADORS:** I think I can go through it. But
23 that's fine. We'll do that.

24 **THE COURT:** Any objection to that procedure?

25 **MR. MILLING:** Your Honor, I wouldn't have an

1 objection to that as long as we've got an opportunity
2 to address the other issues afterwards.

3 **THE COURT:** Sure you would. Sure you will. I
4 mean, if he leaves something in that you think
5 shouldn't be in there--

6 **MR. MEADORS:** A lot of that, I agree with Mr.
7 Strickler. I don't think it would be that difficult.
8 There are three or four that I think Your Honor will
9 have to rule on. But other than that, I think most
10 of these are obvious.

11 **THE COURT:** It probably applies to all of these
12 defendants. So let's do that.

13 **MR. MEADORS:** We have already marked them. So
14 we can start doing that immediately.

15 **THE COURT:** Is that satisfactory? Any objection
16 to that procedure?

17 **MR. STRICKLER:** No, sir. Not from Mr. Oliver.

18 **THE COURT:** Thank you.

19 **MR. MEADORS:** Your Honor, I'd have another
20 problem when we get to trial.

21 **THE COURT:** From Mr. Gallman?

22 **MR. MILLING:** No, sir.

23 **THE COURT:** From Mr. Joy?

24 **MR. DELGADO:** No, Your Honor. No problem.

25 **MR. MEADORS:** When we get to trial --

1 **THE COURT:** If we get to trial.

2 **MR. MEADORS:** Yes, sir. The testimony about Mr.
3 Gallman's signature is going to be on every page.
4 And if that doesn't go back to the jury as it has a
5 right to, somehow getting that to -- well, I think it
6 does, the statement. The fact that he did sign it,
7 respectfully, and I don't want to -- I don't know.
8 That's another issue I guess we'll have to address.

9 **THE COURT:** All right. Why don't we take a
10 ten-minute break and then figure out what's next.
11 The jury is coming at 2. I mean, I'm ready to work
12 straight through until 2:00.

13 **MR. MEADORS:** Sure.

14 **THE COURT:** Not right this minute.

15 **MR. MEADORS:** But we're going to revisit this
16 later you're saying about retyping this. You don't
17 want that in ten minutes?

18 **THE COURT:** No, sir. I want a comfort break for
19 ten minutes. Ms. Falcone is sitting on the edge of
20 her chair.

21 (Whereupon, a break is taken)

22 **MR. MEADORS:** We're going to briefly call
23 Investigator Holdorf back. We called Investigator
24 Jones trying to get him up here. He may be, may not
25 be at places where we may be able to get him here

1 this afternoon. If we're going to try to do it all
2 today, we'll try to get him.

3 **THE COURT:** My question at this point is, do we
4 let this jury go until tomorrow? How much more
5 pre-trial is anticipated? And this is only for the
6 jury's convenience. I'm here to work until midnight
7 tonight if that's what it takes. But I'm not
8 suggesting we do that.

9 **MR. MEADORS:** I guess I'll let them speak. I
10 don't know if I can go the rest of the day in
11 retrial. If they're saying they think we need to,
12 I'll defer to them.

13 **THE COURT:** Well, what else do you plan to
14 offer? It's up to the State I think in knowing what
15 you plan to offer.

16 **MR. MEADORS:** Holdorf is going to get back.
17 There are some oral statements that he and/or Jones
18 heard. I was waiting for Jones to get here. I
19 thought his baby was being born today. He's coming
20 later in the week. Now we're trying to get him here
21 today if we went ahead with all this today. I don't
22 know. But beyond that, I don't know what else we
23 have to do except argue the stuff like Ms. LaFave
24 brought up when witnesses get up and say they're all
25 three drug dealers, that kind of thing. I think

1 that's it, besides going and getting the other
2 statement redacted. If I'm wrong, that's all I know
3 of.

4 **THE COURT:** Okay. Is that your perception of
5 what needs to take place prior to swearing this jury?

6 **MR. STRICKLER:** I have nine other matters that
7 need to take place prior to swearing the jury, the
8 first of which with all due respect to the Court
9 regards whether or not we work normal court hours or
10 not.

11 **THE COURT:** All right.

12 **MR. STRICKLER:** You know, and with all due
13 respect, I mean, this is not a sprint. This is more
14 of a long distance race. And normal court hours to
15 me includes breaking for lunch. It includes breaking
16 at a normal point in time for the evening hours. The
17 jury has already said they can be here next week.
18 And I'm not trying to drag it out. I'm trying to
19 make sure that I make it through the process.

20 **THE COURT:** All right. Number two. I respect
21 that. Go ahead.

22 **MR. STRICKLER:** Well, that would just be one
23 that I need to deal with.

24 **THE COURT:** If anybody else has any specific
25 time restraints, let me know. Otherwise, we'll work

1 normal business hours. That's my --

2 **MR. MEADORS:** Well, the other nine didn't answer
3 the first question about this afternoon then. I
4 don't know what his other eight are. But I trust
5 Doug's judgment. If he's going to say that's going
6 to take a while, I --

7 **THE COURT:** We're going to have to tell the jury
8 to come back tomorrow. I don't know that.

9 **MR. STRICKLER:** I'm not going to get put in the
10 hot seat in saying they are going to take -- they are
11 not of the same substance as these. I don't think
12 we'll finish -- you know, I don't think we'll break
13 for lunch and finish the current thing and those by
14 2:00. I just don't think that's going to happen.

15 **THE COURT:** That's all I'm asking. Tell the
16 jury to go home and come back tomorrow?

17 **MR. MEADORS:** Judge, if we finished -- and I
18 don't want to be guilty. If we finished at 3 or
19 3:15, I don't want you to get upset. I want to put
20 Holdorf back up for the oral statement. I was going
21 to wait until Brian got here, Brian Jones. But
22 besides that, I ain't got anything else. I just want
23 the record, the judge to be clear.

24 **THE COURT:** That's fine. If we finish at 3:30,
25 I don't think we'd start until tomorrow anyway.

1 **MR. MEADORS:** Do you want to open?

2 **THE COURT:** It's not necessary. It's not
3 necessarily. All right. The consensus seems to be
4 that we'll let the jury go until tomorrow.
5 Ms. Falcone, can you handle that?

6 **THE CLERK:** I can do that. Yes, sir.

7 **THE COURT:** 9:30.

8 **THE CLERK:** Yes, sir.

9 **THE COURT:** Tell them that things -- we're still
10 working on it. And I don't know how you're going to
11 get in touch with them other than wait until they
12 appear at the jury room.

13 **THE CLERK:** Well, I know they have got to scan
14 in. So maybe I'll just go down there first.

15 **THE COURT:** That might be a good idea.

16 **THE CLERK:** Yes, sir.

17 **THE COURT:** All right. Thank you. Recall. Mr.
18 Meadors, are you recalling Mr. Holdorf?

19 **MR. MEADORS:** Yes, sir. She's now talking about
20 a witness. Can you just give me one second about a
21 witness? Your Honor, we've just got some witness
22 schedule issues that I may ...

23 (Pause)

24 **MR. MEADORS:** Judge, since we're not going 'til
25 tomorrow, we've got to make a quick change in a

1 couple of flight schedules or we might be in trouble.
2 We need to do that real quickly. If you'll go do
3 that, we just need to do that very quickly.

4 **THE COURT:** Do you want to do it now?

5 **MR. MEADORS:** I think we need to.

6 **THE COURT:** This is we or somebody in your
7 office?

8 **MR. ROSS:** I need to go check on the flight
9 schedule for one of our witnesses that is here today,
10 and I don't know when her flight leaves to go back.

11 **THE COURT:** What do you want me to do?

12 **MR. ROSS:** I just need some time to figure it
13 out. Is the jury gone?

14 **THE COURT:** The jury is not even here yet.

15 **MR. ROSS:** No, no. As far as being told not to
16 come.

17 **MR. MEADORS:** We need ten minutes. We need
18 minutes to make sure we're all on the same page and
19 we don't lose a witness.

20 **THE COURT:** Why don't you take 30 minutes and
21 get a bite to eat. How would that suit you?

22 **MR. MEADORS:** I don't care. I mean, thank you.

23 **THE COURT:** We'll stand at ease for another 30
24 minutes, 45 minutes if we've got to move the
25 defendants up and down. Reconvene at 1:30.

1 (Whereupon, a lunch break is taken)

2 **THE COURT:** All right. Who is next?

3 **MR. MEADORS:** Eight copies that will be coming
4 in here momentarily of the redacted form. My copier
5 was broken and that's all we could make.

6 **THE COURT:** All right.

7 **MR. MEADORS:** So beyond that, at this point I
8 think we can move to their motions, to save time.

9 **THE COURT:** All right. Is the defense prepared
10 to go forward?

11 **MR. STRICKLER:** Yes, sir.

12 **THE COURT:** Sir?

13 **MR. STRICKLER:** Your Honor, at this point in
14 time for Mr. Oliver we would renew our previously
15 filed discovery motion in this case, specifically
16 seeking -- and we've gone through discovery and gone
17 through discovery and gone through discovery. But we
18 would specifically ask at this point in time for the
19 copies, if the State is in possession of them, of the
20 bank records for the alleged victim, Mr. Jim Batie.

21 And we would specifically ask for any crime
22 scene log relating to the Mildred Avenue. There are
23 two crime scenes involved in this case. Mildred
24 Avenue is the location worked by the City of
25 Columbia. The other crime scene was worked by the

1 Richland County Sheriff's Department.

2 **THE COURT:** Which? Which is which? Mildred
3 Avenue?

4 **MR. STRICKLER:** Mildred Avenue is the crime
5 scene where Mr. Batie and Mr. Miller's bodies were
6 recovered. The Sheriff's Department's crime scene is
7 a wooded area, and that's where --

8 **THE COURT:** That's Mildred Avenue?

9 **MR. STRICKLER:** Yes, sir. Yes, sir. Ms.
10 Felder's body was recovered there.

11 **THE COURT:** That's Mildred Avenue.

12 **MR. STRICKLER:** No. No. Mildred Avenue is Mr.
13 Batie and Mr. --

14 **THE COURT:** Batie. That's Richland County.

15 **MR. STRICKLER:** That's City of Columbia. That's
16 the first crime scene that was discovered.

17 **THE COURT:** All right. And the second is ...?

18 **MR. STRICKLER:** What's the address? Is Nina Lee
19 Drive.

20 **THE COURT:** Nina Lee Drive.

21 **MR. STRICKLER:** Yes, sir.

22 **THE COURT:** And that is as to Ms. Felder.

23 **MR. STRICKLER:** Ms. Felder's body was recovered
24 from there. Yes, sir.

25 **THE COURT:** And that is Richland County.

1 **MR. STRICKLER:** That is Richland County; yes,
2 sir. And we received a crime scene log on that.
3 When? Yesterday? Yesterday.

4 **THE COURT:** You don't have one on Mildred
5 Avenue?

6 **MR. STRICKLER:** Yes, sir. That's correct. We
7 do not.

8 **THE COURT:** All right.

9 **MR. STRICKLER:** We do not have copies of the
10 bank records of the alleged victim, Jim Batie.

11 **THE COURT:** What kind of bank records? What are
12 you seeking?

13 **MS. LAFAVE:** Your Honor, there is a bank receipt
14 that is in the discovery. There is --

15 **THE COURT:** A receipt?

16 **MS. LAFAVE:** A receipt from some sort of
17 transaction inside of a bank.

18 **THE COURT:** Like an ATM receipt?

19 **MS. LAFAVE:** It could be. But it's from Bank of
20 America specifically. And there was a subpoena in
21 the crime scene summary notes. Or the investigative
22 notes. I'm sorry. And there is no evidence that we
23 have that there were any records received from it.
24 That may be the case if there has never been any
25 records received --

1 **THE COURT:** From the subpoena?

2 **MS. LAFAVE:** From the subpoena we issued.

3 **THE COURT:** Who issued the subpoena?

4 **MR. STRICKLER:** There was a search warrant. I'm
5 sorry, Your Honor. I'm looking again. There was a
6 search warrant issued for the bank accounts of Mr.
7 Batie and Ms. Felder. And it was issued on
8 September 6th, 2005. We have never received any
9 items that were supplied from the police in response
10 to that subpoena. Now, perhaps no items were
11 supplied.

12 **THE COURT:** Well, we're going to find out.

13 **MR. STRICKLER:** Yes, sir. So I am renewing the
14 discovery motion in general. I am going through just
15 a few specifics that we can point out, and those
16 being two of them.

17 **THE COURT:** Anything else you're aware of?

18 **MR. STRICKLER:** Not that I'm aware of.

19 **THE COURT:** All right. What's the status of --
20 well, let me ask; with respect to Mr. Gallman, is
21 there any question about outstanding discovery from
22 Mr. Gallman?

23 **MR. MILLING:** Your Honor, we would again renew
24 our motions, just as Mr. Oliver's counsel has, and
25 would join also in Mr. Oliver's motions in this

1 regard. I am going back right now just to double
2 check to make sure that there's no additional
3 information which we have not -- that we can identify
4 which we have not come into possession of. But, Your
5 Honor, --

6 **THE COURT:** At this time you don't know of any.

7 **MR. MILLING:** That's right, Your Honor. And
8 discovery has been something that we brought to the
9 Court's attention back in August. So it's been an
10 ongoing --

11 **THE COURT:** I understand. It is what it is. As
12 to Mr. Joy, any specific discovery you're aware of
13 that you have not been provided?

14 **MR. DELGADO:** It may have been covered
15 generally, Your Honor, when we talked in chambers
16 yesterday relating to information from any jailhouse
17 informants vis-a-vis promises in exchange for
18 information.

19 **MR. STRICKLER:** I was going to go into that
20 later.

21 **MR. DELGADO:** I'm sorry. You were going to go
22 into that?

23 **MR. STRICKLER:** Yes.

24 **MR. DELGADO:** I'm sorry. Then I don't believe
25 there is anything else from Mr. Joy, except to concur

1 with the two discovery motions of my two colleagues.

2 **THE COURT:** All right. Addressing that issue,
3 Mr. Ross, are you aware of any discovery that's not
4 been provided to the defendants and specifically
5 whether a crime scene log as to the Mildred Avenue
6 investigation exists and whether or not bank records
7 as a result of a subpoena issued September 6th, 2005
8 exists?

9 **MR. ROSS:** There are bank records of Jim Batie.
10 They were referring to a Bank of America receipt, but
11 I think they already have a copy of that receipt
12 maybe.

13 **THE COURT:** They do. They say there's a
14 subpoena I assume for all bank records, but I don't
15 know that.

16 **MR. ROSS:** Right. But I --

17 **THE COURT:** I haven't seen a subpoena.

18 **MR. ROSS:** I don't know what they want from the
19 bank records.

20 **THE COURT:** Well, do you have the bank records?

21 **MR. ROSS:** They're not entitled to anything.
22 Just because they request it does not mean they're
23 entitled to it. I don't know what they want exactly.

24 **THE COURT:** Well, what do you have?

25 **MR. ROSS:** They already have the receipt.

1 **THE COURT:** What do you have?

2 **MR. ROSS:** We have Jim Batie's bank records.
3 The receipt they have is a receipt related to Desiree
4 Felder. We don't have any Desiree Felder bank
5 records.

6 **THE COURT:** You have bank records from when to
7 when?

8 **MR. ROSS:** I don't know, Your Honor. We didn't
9 get them. The CPD obtained them, obtained the bank
10 records. There is not anything that I know of that's
11 relevant about Jim Batie's bank records to this case.

12 **THE COURT:** Well, unfortunately you don't get to
13 make that decision.

14 **MR. ROSS:** They can subpoena bank records just
15 like anybody else. I mean, they're not limited to
16 going through us for bank records. I mean, they're
17 entitled to discovery under the rule and they're
18 entitled to stuff that's exculpatory. They're not
19 entitled to anything they want.

20 **THE COURT:** Where is it?

21 **MR. ROSS:** The bank records?

22 **THE COURT:** Yes.

23 **MR. ROSS:** In my office.

24 **THE COURT:** He says you're not entitled to it.

25 **MR. ROSS:** I don't mind them looking at them.

1 That's fine with me. I don't care.

2 **THE COURT:** Well, then what are we arguing
3 about?

4 **MR. ROSS:** I don't know. All they've got to do
5 is ask me. They didn't ask.

6 **THE COURT:** They're asking now. When will they
7 be available?

8 **MR. ROSS:** They can look at them today.

9 **THE COURT:** Mr. Strickler, does that solve the
10 bank records problem, not to your satisfaction but
11 ...

12 **MR. STRICKLER:** Beg the Court's indulgence. Beg
13 the Court's indulgence. As to the response to that,
14 Your Honor, I don't know whether they're relevant to
15 the defense or not. I can't make that determination
16 until I see them.

17 **THE COURT:** Right.

18 **MR. STRICKLER:** Obviously if we'll have the
19 opportunity to look at them, I appreciate that, and
20 we can resolve that issue to our satisfaction. And
21 if they turn out to be relevant and end up
22 necessitating some other actions on our part, then
23 there we have it.

24 **THE COURT:** All right. How about the crime
25 scene report, Mr. Ross?

1 **MR. ROSS:** Your Honor, I don't know of a --
2 Investigator Mead is here in the courtroom. I don't
3 know of a detailed crime scene log by the City. They
4 list in their initial incident report a list of
5 officers that were present at the scene that I've
6 been trying to obtain. Ms. LaFave made a request
7 about --

8 **MS. LAFAVE:** November the 16th, Your Honor.
9 There was information.

10 **MR. ROSS:** They've made a request about trying
11 to obtain -- the scene was processed on September the
12 4th going into September the 5th. And there was a
13 period of time where different officers were just
14 sitting on the house. It had already been taped off.
15 It had already been secured. I've been trying to get
16 that information from the City. I think we have some
17 of those items. I'll be glad to turn over what we
18 have. That's all I know.

19 **THE COURT:** Okay.

20 **MR. ROSS:** But again, I go to, they're not
21 entitled to stuff just because they ask. I'm going
22 above and beyond what we have to do.

23 **THE COURT:** Well, we are thrashing around in the
24 water here. But Rule 5(a)(1)(c) says: "Upon request
25 of the defendant the prosecution shall permit the

1 defendant" -- I'm reading to you the rule that you
2 know -- "to inspect and copy books, papers,
3 documents, photographs, tangible objects, buildings
4 or places or copies or portions thereof which are in
5 the possession, custody or control of the prosecution
6 which are material to the presentation of his defense
7 or are intended for use by the prosecution as
8 evidence in chief at the trial or were obtained from
9 or belonged to a defendant."

10 Now, that's a pretty broad rule. And
11 determining what's relevant and not relevant may be
12 up to the Court. It may be up to the defense.

13 **MR. ROSS:** I have not been in the possession of
14 those documents ever. I'm trying to get those per
15 Ms. Lafave's request.

16 **THE COURT:** That's the crime scene log.

17 **MR. ROSS:** Yes, sir.

18 **MR. STRICKLER:** And, Your Honor.

19 **THE COURT:** Yes, sir.

20 **MR. STRICKLER:** Kyles v. Whitley stands for the
21 proposition that he is in possession of them. If the
22 police are in possession of them, he is in possession
23 of them. Perhaps that's too glib a statement in that
24 regard, but that's my understanding.

25 **THE COURT:** Well, --

1 **MR. ROSS:** There is no document like they want.
2 What they want is a crime scene log. There isn't
3 one.

4 **THE COURT:** All right. That's all we need to
5 know.

6 **MR. STRICKLER:** If none exists, that's fine.

7 **THE COURT:** It does not exist.

8 **MR. STRICKLER:** Thank you, sir.

9 **THE COURT:** Now, wait a minute. Let me --

10 **MR. STRICKLER:** I'm sorry.

11 **THE COURT:** -- inquire of Mr. Ross. Is there
12 anything else you know of that's not been turned over
13 to the defense that has been requested or is required
14 by Rule 5?

15 **MR. ROSS:** The only thing I'm aware of, there's
16 some still pictures that we had made off of the video
17 that they already have of Kevin Miller withdrawing
18 \$80 from a Wachovia teller machine. I have copies of
19 those still photos that are taken straight from the
20 video along with the transaction record from the bank
21 which they already -- this is just a snapshot of that
22 video basically.

23 **THE COURT:** All right. Well, if you've got
24 copies of it, let him have it.

25 **MR. STRICKLER:** Thank you, sir.

1 **THE COURT:** All right, Mr. Strickler. Next.

2 **MR. STRICKLER:** Thank you, sir. May it please
3 the Court. Another item related, of a related
4 nature. Mr. Delgado started to reference it. If I
5 might address it separately. There are, or at least
6 we anticipate, there will be testimony from two
7 jailhouse informants in this case.

8 **THE COURT:** Two?

9 **MR. STRICKLER:** Yes, sir. One Jason Brown and
10 one Horace Holmes. Mr. Brown is currently housed by
11 the South Carolina Department of Corrections. The
12 last place I knew of him was in Allendale
13 Correctional Institution. Mr. Holmes I believe is
14 still down at the Richland County Detention Center.
15 Both of whom gave statements regarding Mr. Oliver.
16 And I'll let other people deal with statements
17 regarding their clients. Their statements relate to
18 statements alleged to have been made to them by
19 Stanley Oliver; Mr. Brown, one statement and Mr.
20 Holmes, two statements.

21 Now, I filed for discovery in this matter and
22 was never provided those statements. Let's just say,
23 to summarize them, that they are of an inculpatory
24 nature, Judge, extremely inculpatory nature.

25 **THE COURT:** Do you take it they're written or --

1 **MR. STRICKLER:** The statements by Messers Brown
2 and Holmes are written. They're reduced. They're
3 given to officers from the Sheriff's Department.
4 Okay. They reflect what they claim to have been oral
5 statements on the part of Stanley Oliver. I filed
6 for discovery, I don't know, let's just say a long
7 time ago, in September of 2005.

8 These statements arose in November to
9 January 2005, 2006, somewhere in that timeframe,
10 shortly after I got the case, close to two years ago.
11 I was never provided copies of these statements in
12 response to my discovery motion. I learned of the
13 existence of these statements through communications
14 from counsel for one of the other defendants in this
15 case who had been provided copies of these statements
16 in response to his discovery motion.

17 When this fall we began, or this late summer
18 when we began pursuing discovery issues in this case,
19 Mr. Meadors indicated he never intended to supply
20 those statements to anyone. And concern for people's
21 safety was expressed by him. And in the statements
22 there are allegations that Stanley Oliver was trying
23 to get someone to kill people in relation to this
24 case. Okay.

25 Now, it turns out that not only were there

1 statements from Jason Brown and Horace Holmes but
2 there was a second statement from Horace Holmes which
3 co-counsel or counsel for another defendant in this
4 case had not received which we finally received at
5 some point this fall. During the time when we were
6 trying to hash through discovery issues this fall, we
7 specifically asked whether or not there were
8 statements from anyone additional, any additional
9 jailhouse informant statements. We were informed at
10 that point in time that there were not.

11 We were also informed at that point in time
12 that, you know, out of concerns for people's safety
13 Mr. Meadors was not sure whether he would provide
14 them even if they existed. As a rather long
15 predicate, Your Honor, but at this point in time we
16 have no additional statements. At this point in
17 time.

18 **THE COURT:** Additional statements. What do you
19 mean additional statements?

20 **MR. STRICKLER:** Any statements other than the
21 three that I've related to you, the two from Mr.
22 Holmes and one from Mr. Brown. So at this point in
23 time I am asking the State if they are in possession
24 of any additional statements from jailhouse
25 informants either as to statements by Mr. Oliver, Mr.

1 Gallman or Mr. Joy. And if so, I'd ask they be
2 provided to us.

3 **THE COURT:** Yes, sir.

4 **MR. MILLING:** Your Honor, if I may take that one
5 further step. And I think actually there were two
6 statements from Mr. Brown and one from Mr. Holmes.

7 **THE COURT:** That's what he said. Two from Brown
8 and one from Holmes?

9 **MR. MILLING:** Yes, sir.

10 **THE COURT:** He said it the other way around.

11 **MR. STRICKLER:** I apologize, Your Honor. My
12 bad.

13 **MR. MILLING:** The premise behind Kyles in the
14 second step to this question which is something that
15 we requested in our Kyles v. Whitley motion is not
16 only do we need to find out who may have given
17 inculpatory statements about our clients but also
18 anybody they may have spoken with whether they be
19 jailhouse informants or persons on the street who may
20 have provided exculpatory statements about our
21 clients or who may have been consulted by law
22 enforcement and they said, look, I don't know
23 anything about this despite your efforts to push this
24 on me.

25 And so, from that standpoint, Your Honor, I

1 would ask as a second part of Mr. Strickler's motion
2 on behalf of Mr. Gallman that we find out whether or
3 not there's anybody else that law enforcement talked
4 to because I think that falls squarely within Kyles
5 v. Whitley.

6 **THE COURT:** Mr. Delgado.

7 **MR. DELGADO:** I agree and concur, Your Honor.
8 This has been an ongoing salient problem.

9 **MR. MEADORS:** What kind of problem? I just
10 didn't hear you.

11 **THE COURT:** Salient.

12 **MR. DELGADO:** Salient. Yes, sir. Significant.
13 And as an example, Your Honor, Mr. Holdorf was on the
14 stand as the last live witness for the State. After
15 he was excused, after we had some sort of a break,
16 the solicitor came back in and said, oh, there's
17 something else we want to talk about about some other
18 oral statements that he may or may not have been
19 privy to. I don't know what those oral statements
20 are. They haven't called him back. I don't know if
21 that's discoverable or not, if it relates to Mr. Joy
22 or it doesn't. It's just one thing after another.

23 **THE COURT:** Well, I'm sort of getting that
24 impression.

25 **MR. MEADORS:** What did Your Honor say?

1 **THE COURT:** I said I am getting that impression,
2 that -- now, let's talk about specifically --

3 **MR. MEADORS:** I'll be happy to.

4 **THE COURT:** -- the two statements.

5 **MR. MEADORS:** I'm going to respond briefly to
6 Mr. Delgado's --

7 **THE COURT:** Two individuals.

8 **MR. MEADORS:** -- last statement, Your Honor.
9 The oral statement, that Holdorf was going to be
10 called. We just went through a written statement.
11 His summary basically summarizes that. The other
12 oral statement was contained in Jones'. And if he
13 can read, it's in Jones' statement. And he knows
14 that. There was an addition. About 15 to 43 was the
15 only addition to it, Judge. Jones is having a baby.
16 His wife is in contraction. We tried to get him here
17 now. That's separately. Now, that's not a game or
18 anything else. And I resent his implication: "One
19 thing after another." And I'd like for the record to
20 reflect that. I take that personally.

21 Second of all, Mr. Strickler said we met right
22 out here. I've got it right out here by the
23 elevator, Your Honor, right out here. And Mr.
24 Strickler said that I never intended to supply some
25 statements to anyone. That's not what I said. I

1 said there are situations that arise when folks'
2 lives might be in danger. If it's not exculpatory
3 under the rules, we don't have to. Because whether
4 they like it or not, there may be certain cases where
5 the State as the minister of justice trying to seek
6 justice, if it feels like somebody's life is in
7 danger and doesn't have to turn it over, we will then
8 turn it over to the Court at the appropriate time.
9 That's what I told him I'd do. That's word-for-word.
10 I never said I didn't intend to ever not turn it
11 over. And we talked about that in detail.

12 As far as the Jason Brown statement, it was
13 turned over to one of their attorneys. Ms. Outen
14 turned it over to one and not the other. That,
15 clearly, we're not trying to hide it. There are two
16 different jurisdictions. Clearly one had it and one
17 didn't. They've been talking. So clearly it wasn't
18 an intent to hide it. Were we just going to hide it
19 from Mr. Strickler and not from anybody else? That
20 doesn't make any sense when they're all doing it.

21 So once we discovered that, they do have Jason
22 Brown's. There were two statements there. And there
23 is one for Holmes, not two. Mr. Strickler spoke
24 inadvertently about that.

25 And, Judge, let me just for the record, and I

1 think this goes to the heart of the issue, in Stanley
2 Oliver's second statement to Jason Brown, he
3 basically says to Jason Brown he wants Renata killed
4 and Mike Ulicen Allen killed for giving a statement.
5 Now, I don't think they're going to do it. I'm not
6 worried about it. They're not worried about it. But
7 that's a direct threat. Some of these ladies might
8 be worried about it.

9 Am I concerned about that as a prosecutor? Yes,
10 sir; you're doggone right I am. And if there is a
11 statement out there that needs to be held back so
12 somebody won't get killed, well, I think they would
13 do the same thing if they were prosecutors. I hope
14 they would. I know Mr. Delgado would.

15 So, yes, sir. If a statement, if it can be held
16 out and it's not exculpatory and for Your Honor to
17 decide and save somebody's life, I'll do it every
18 day. In this case they had both of them. They had
19 them. And I did make the statement if they -- and,
20 Your Honor, they were asking me: Do you know about
21 another statement? I didn't know about another
22 statement. I told them then somebody had contacted
23 Holdorf or Stan Smith about they might have some
24 information. That's all I knew. I'll put my hand on
25 a Bible and state that's all I did know. That's all

1 I knew about it. I said at the appropriate time, if
2 something came up, if I felt like somebody's life was
3 in danger from a statement, I would tell the Court,
4 as I think I must do if I feel like somebody's life
5 is in danger. And I guess now is the appropriate
6 time. We'd like to meet Your Honor in chambers.

7 **THE COURT:** Do what?

8 **MR. MEADORS:** We'd like to see Your Honor in
9 chambers, let Your Honor decide.

10 **THE COURT:** You mean the statements have still
11 not been turned over? Is that what you're saying?
12 Is that what you're saying?

13 **MR. MEADORS:** It's not a written statement,
14 Judge.

15 **THE COURT:** I was just told that there were
16 three written statements, two by Jason Brown.

17 **MR. MEADORS:** No, sir. That's a separate issue.
18 I apologize. They have Jason Brown.

19 **THE COURT:** Can I finish my sentence?

20 **MR. MEADORS:** I'm sorry.

21 **THE COURT:** I mean, you all can stay here all
22 day and all night and all day tomorrow and all day
23 the next day and throw barbs at each other and
24 contradict each other. We're not making any
25 progress. I'm just telling you that right now. I'm

1 trying to move this case along.

2 **MR. MEADORS:** I'm sorry.

3 **THE COURT:** And we're not making any progress.
4 We're making speeches. That's all we're doing. I
5 was just told that there are three written
6 statements, two from Jason Brown and one from Horace
7 Holmes that had been turned over to one counsel for
8 the defendant.

9 **MR. STRICKLER:** And we all three of us have
10 those statements at this point in time, Your Honor.

11 **THE COURT:** Well, then why are we bringing it
12 up?

13 **MR. STRICKLER:** I'm asking whether there are any
14 additional statements.

15 **THE COURT:** Are there any other additional
16 statements to those?

17 **MR. MEADORS:** And that's what I just said. It's
18 a non-exculpatory statement which we do not think we
19 have to turn over. Yes, sir.

20 **THE COURT:** Then the answer is yes.

21 **MR. MEADORS:** Yes. I'm trying to do that. Yes,
22 sir.

23 **THE COURT:** No, sir. You're making a speech.

24 **MR. MEADORS:** No, sir. I was just responding to
25 Mr. Delgado. And I apologize for involving the

1 Court. There is a non-exculpatory statement that I
2 feel like somebody's life is in danger that we do not
3 believe we have to turn over we want to meet with
4 Your Honor in chambers.

5 **THE COURT:** Fine. We'll deal with it. We don't
6 have to deal it with right now.

7 **MR. MEADORS:** Yes, sir.

8 **THE COURT:** Only one. Only one?

9 **MR. MEADORS:** Beg the Court's indulgence.

10 **MS. MCDUFFIE:** Yes, Your Honor.

11 **THE COURT:** We'll deal with it. Next on your
12 list.

13 **MR. STRICKLER:** All right. Well, then I would
14 follow up with the question as to whether the State
15 is in possession of any exculpatory statements,
16 written or verbal, which have not been supplied us.

17 **THE COURT:** Simple question.

18 **MR. STRICKLER:** Yes, sir.

19 **THE COURT:** Either Mr. Ross or Mr. Meadors, any
20 exculpatory statements in the possession of the State
21 which have not been supplied? Yes or no?

22 **MR. ROSS:** Your Honor, there is one other
23 matter. But I don't want to put it out here on the
24 record. I'd like to address it in chambers, Your
25 Honor, because I don't know how to characterize it.

1 But if I can explain it to you in chambers.

2 **THE COURT:** Is it in response to that question?

3 **MR. ROSS:** Yes, sir. Yes, sir.

4 **THE COURT:** And it's one or multiple?

5 **MR. ROSS:** No. One.

6 **THE COURT:** All right.

7 **MR. STRICKLER:** All right.

8 **THE COURT:** All right? Next question.

9 **MR. ROSS:** Let me say --

10 **MR. STRICKLER:** Yes, sir.

11 **MR. ROSS:** -- I wouldn't even describe it as
12 exculpatory. I don't know what you'd call it. But
13 I'll run it past you.

14 **MR. STRICKLER:** Lastly, on this area, and I
15 promise lastly, we also as we attempted to resolve
16 discovery issues late summer, early fall asked and
17 repeatedly asked and we have repeatedly received the
18 same response I think. Has there been contact made
19 on the part of the investigating agencies in this
20 case with inmates at the county jail in an attempt to
21 obtain information on my part, on the part of Mr.
22 Oliver; and I assume co-counsel for the co-defendants
23 would also ask on the part of information regarding
24 Mr. Gallman or Mr. Joy.

25 In other words, have agents of the state engaged

1 in a fishing expedition down at the county jail in an
2 attempt to generate additional statements against
3 these defendants? And, if so, please supply us with
4 the details. We have been told that we've been
5 supplied with all the details regarding contact, that
6 there were.

7 **THE COURT:** Is that still the case?

8 **MR. MEADORS:** That is correct. Our answer was
9 the same then as it is now. There has been no
10 fishing expedition, whatever you said.

11 **MR. MILLING:** Expedition.

12 **MR. STRICKLER:** Okay. That's it on that line of
13 questioning.

14 **THE COURT:** For you. And that line of
15 questioning you would characterize as discovery
16 issues.

17 **MR. STRICKLER:** Yes, sir. I do believe I'm done
18 with that. We get into some hopefully simpler
19 matters, Your Honor. But I would move that we
20 sequester the witnesses in this case, both State and
21 defense.

22 **THE COURT:** Any problem with that?

23 **MR. MEADORS:** No, sir. If we could have
24 somebody posted or we'll try to do it with the
25 witness list maybe outside. It's extensive.

1 **THE COURT:** Sure.

2 **MR. MEADORS:** In addition to that, Judge, I
3 guess we're allowed to have the City and county since
4 it's double jurisdiction.

5 **MR. STRICKLER:** I have no problems with the
6 chief investigators, whichever jurisdiction that is.

7 **MR. MEADORS:** And the victims.

8 **THE COURT:** Non-testifying? Non-testifying?

9 **MR. MEADORS:** Sure. There may be one timeline.
10 But I think actually he'll be the first witness.
11 That's not a problem.

12 **THE COURT:** The motion is granted. Let's move
13 on.

14 **MR. STRICKLER:** Thank you. I would move the
15 State go ahead and conduct record checks on all their
16 lay witnesses and provide them to us prior to that
17 person testifying and preferably prior to the moment
18 they take the stand.

19 **THE COURT:** All right.

20 **MR. MEADORS:** It's more than fair. We just ask
21 the same when they call theirs.

22 **MR. STRICKLER:** And, Your Honor, I apologize for
23 you having gotten the number of statements
24 flip-flopped on Mr. Brown and Mr. Holmes.

25 **THE COURT:** You need not do that. Move on.

1 **MR. STRICKLER:** At this point in time Mr. Brown
2 is currently doing 25 years in prison, is my
3 understanding, on an armed robbery conviction. Mr.
4 Holmes has a pending trial on murder, armed robbery
5 and some other charges I think. At this point in
6 time I would ask whether there has been any agreement
7 between the State and either or both of these
8 gentlemen; and, if so, what's the nature of the
9 agreement?

10 **THE COURT:** Any deals with either Mr. Brown or
11 Mr. Holmes.

12 **MR. MEADORS:** May it please the Court. I don't
13 think Jason Brown is doing 25. You may be right. I
14 think it's less than that.

15 **THE COURT:** It doesn't matter. That's not the
16 question.

17 **MR. MEADORS:** I was just following up with what
18 he said so the record will be clear. No. No deals
19 whatsoever. Jason Brown has been sentenced. So, no
20 deals. Horace Holmes, there have been no -- any
21 negotiations with him at all to this date. If there
22 is some, prior to him taking the stand I'll bring it
23 out and I'll let Mr. Strickler know and these other
24 attorneys. Nothing has been agreed with either of
25 them.

1 **MR. STRICKLER:** Similarly, regarding one -- I'm
2 going to mispronounce this -- Omekas Moaney currently
3 at the Buckner Correctional Institution, Federal
4 Institution, whether the state of South Carolina has
5 been involved in any form of contact with the federal
6 authorities regarding reduction in sentence on his
7 part.

8 **MR. MEADORS:** None whatsoever, I can assure you.

9 **THE COURT:** Let me get that name again.

10 **MR. STRICKLER:** Blue. It's Omekas I believe.

11 **MR. ROSS:** It's Omekas.

12 **MR. STRICKLER:** Omekas. Excuse me.

13 **MR. ROSS:** But sometimes it's misspelled.

14 Omekas.

15 **THE COURT:** Where is it on your list? Page 1, 2
16 or 3? Oh, there it is. O-M-E-S-K-A? M-O-A-N-E-Y.

17 **MR. STRICKLER:** Yes, sir.

18 **THE COURT:** Is that a male or a female?

19 **MR. STRICKLER:** He's a male.

20 **THE COURT:** All right.

21 **MR. STRICKLER:** All right, sir. Your Honor, I
22 think it brings us around to a couple of items that I
23 would like Ms. LaFave to address. Just by way of
24 predicate to them, there are potentially several
25 other lay witnesses who could be offered by the State

1 regarding statements, the same sort of statements,
2 the same sort of lifestyle as far as robbing drug
3 dealers goes. Okay.

4 And we would seek to determine at this point in
5 time whether or not the State intends to introduce
6 those people for that purpose. And if so, we'll need
7 to go ahead and have a hearing in that regard. If we
8 can't have it now, we're going to have to have it at
9 some point in time in the trial. I'm just trying to
10 figure out whether we're going to need to revisit
11 this issue or not. Ms. LaFave is prepared to address
12 that with the court.

13 **MS. LAFAVE:** Your Honor, as I addressed the
14 Court this morning, you had instructed that you're
15 not going to tell the State how to try their case,
16 and I understand that. But I do actually have
17 specific people I would like the Court to inquire as
18 to whether they're going to assert this robbing drug
19 dealers scheme. And I think we do need to take that
20 up under Lyle, Your Honor. I think we have to do it
21 before openings begin. And I would request that the
22 Court make an inquiry into that regard.

23 **THE COURT:** Who are you talking about?

24 **MS. LAFAVE:** I'm talking about one Tatanisha
25 Robinson.

1 **THE COURT:** Tatanisha. Let me take these down.

2 **MR. MEADORS:** Tata.

3 **THE COURT:** Huh?

4 **MR. MEADORS:** Tatanisha, T-A-T-A-N-I-S-H-A.

5 **THE COURT:** Oh, Tatanisha. You say she gave a
6 statement or you believe she has?

7 **MS. LAFAVE:** She gave a written statement --

8 **THE COURT:** A written statement.

9 **MS. LAFAVE:** -- on September 21st.

10 **THE COURT:** Okay. Wait a minute. 9-21. What
11 year?

12 **MS. LAFAVE:** '05.

13 **THE COURT:** '05?

14 **MS. LAFAVE:** Yes, Your Honor.

15 **THE COURT:** A written statement?

16 **MS. LAFAVE:** Yes, Your Honor.

17 **THE COURT:** Okay. Go ahead.

18 **MS. LAFAVE:** The next person is Shequitta Evans
19 also known as --

20 **THE COURT:** What was the nature of Robinson's
21 statement?

22 **MS. LAFAVE:** The nature of Ms. Robinson's
23 statement, Your Honor, is that Stanley Oliver, she
24 alleges that Stanley Oliver and Dominic Gallman
25 robbed drug dealers and that's their thing.

1 **THE COURT:** Okay.

2 **MS. LAFAVE:** She also claims to have been
3 present during prior robberies.

4 **THE COURT:** Okay. Next.

5 **MS. LAFAVE:** Next is Shequitta Evans, also
6 referred to as Quitta Evans.

7 **THE COURT:** And ...?

8 **MS. LAFAVE:** Her statement was given September
9 the 16th, 2005.

10 **THE COURT:** Written?

11 **MS. LAFAVE:** Yes, Your Honor. The nature of her
12 statement was that Stanley Oliver and Dominic Gallman
13 robbed people, quote, "if a guy is by himself."

14 **THE COURT:** Okay.

15 **MS. LAFAVE:** Third is Omekas Moaney. Omekas
16 Moaney.

17 **THE COURT:** Is that the one we just referred to?

18 **MR. STRICKLER:** Yes, sir.

19 **MS. LAFAVE:** As Blue, Your Honor. Yes.

20 **THE COURT:** Okay.

21 **MS. LAFAVE:** He gave a statement October 11th of
22 2005. It's the same general vein as it's their
23 thing.

24 **THE COURT:** It's written?

25 **MS. LAFAVE:** Yes, Your Honor.

1 **THE COURT:** He purported to have been present,
2 witnessed it?

3 **MS. LAFAVE:** No. He wasn't asserting that he
4 had been present. He just said it was their thing,
5 was to rob, rob people. Additionally, Your Honor,
6 Horace Holmes, the jailhouse, concerned citizen as
7 Mr. Meadors said --

8 **THE COURT:** Have we been through that?

9 **MS. LAFAVE:** No. This is -- he specifically
10 talks that Stanley Oliver brags about robbing drug
11 dealers. And those are the four people, Your Honor,
12 I'd like to know about. He gave a written statement,
13 Your Honor, on January 31st that's pertinent, of '06.

14 **MR. MILLING:** And, Your Honor, if I may, we
15 would have that same motion or those same objections.
16 In addition --

17 **THE COURT:** What was the date again?

18 **MS. LAFAVE:** January the 31st of 2006.

19 **THE COURT:** Yes, sir.

20 **MR. MILLING:** We would also have an additional
21 issue with many of these witnesses because they make
22 certain statements or certain representations that
23 Mr. Oliver told them this. So, in addition to the
24 Lyle 404(b) scenario related to these questions, we
25 also have a Bruton, Crawford issue as well as it

1 relates to Mr. Gallman.

2 **THE COURT:** Well, these are not unavailable
3 witnesses, are they?

4 **MR. MILLING:** I don't know if they're available
5 or unavailable. But with respect to whether or not
6 Mr. Oliver told these people that he and Mr. Gallman
7 did these crimes or did this conduct, I think that's
8 where we get into Bruton and Crawford because Mr.
9 Oliver is the one who is actually making the
10 testimony.

11 **THE COURT:** No. He's the one that's
12 unavailable.

13 **MR. MILLING:** Yes, sir.

14 **THE COURT:** Mr. Delgado.

15 **MR. DELGADO:** Yes, sir. I concur with each of
16 those motions by counsel for Mr. Oliver and Mr.
17 Gallman.

18 **THE COURT:** All right. Anything else?

19 **MS. LAFAVE:** Your Honor, the only other thing
20 that I have for the Court at this time is that the
21 court, it's my understanding the court is under
22 advisement as to whether the admission of the
23 August 24th arrest, any statement "I robbed drug
24 dealers" is admissible. And, Your Honor, I do have
25 some case law in that regard for the Court's review.

1 **THE COURT:** Okay. This is as to the intent and
2 motive?

3 **MS. LAFAVE:** Yes, Your Honor.

4 **THE COURT:** 404(b).

5 **MS. LAFAVE:** I believe these cases are on point,
6 Your Honor.

7 **THE COURT:** I'm sure they are.

8 **MS. LAFAVE:** I respectfully request that the
9 Court review these. And let the record reflect, Your
10 Honor, that I've supplied opposing counsel and
11 co-counsel with copies of such.

12 **THE COURT:** You haven't submitted Cheeseboro.

13 **MS. LAFAVE:** No, Your Honor.

14 **THE COURT:** Cheeseboro is authority for most
15 anything you want to give me.

16 **MS. LAFAVE:** Yes, Your Honor. I understand.

17 **THE COURT:** Now, Mr. Ross, how do you wish to
18 handle, if at all, the Moaney, Holmes statements?

19 **MR. ROSS:** I think Mr. Meadors is going to
20 address that, Your Honor.

21 **MR. MEADORS:** Didn't you all leave out one?

22 **THE COURT:** I hope not. That's four.

23 **MR. MEADORS:** I mean Renata.

24 **MS. LAFAVE:** I didn't think she knew anything.

25 **MR. MEADORS:** She refers to them as, she is the

1 one that actually said -- we have another witness who
2 said, referred to them as drug dealers and also said
3 she had been with them on a few. So I figure that
4 would be the same issue I would think.

5 **THE COURT:** Who is that?

6 **MS. LAFAVE:** Renata? You're saying Renata is
7 saying that she was with them?

8 **MR. MEADORS:** No. That's Tata. I'm sorry.

9 **MS. LAFAVE:** That's Tatanisha.

10 Renata did refer to them as drug dealers I
11 think.

12 **MR. STRICKLER:** She was tailoring her comments
13 to robbing drug dealers as opposed to being drug
14 dealers.

15 **MS. LAFAVE:** Yes. That's correct.

16 **MR. MEADORS:** My bad.

17 **MS. LAFAVE:** No. As long as we're on the same
18 page.

19 **MR. MEADORS:** I guess there are several issues
20 here. We divide up between statements that have come
21 from one of these co-defendants to a concerned
22 citizen, as you just said, that happens to be
23 incarcerated, that references the other two. Clearly
24 there's a Bruton problem there. I don't dispute
25 that. I think that may resolve some of the other

1 problems as to the jailhouse witness.

2 So if we will just separate those, then, which
3 would be Horace Holmes I would think out of this list
4 before us, as far as Tatanisha's statement, I mean,
5 they can cross examine her. So, yes, we would be
6 offering her, like pretty much their business card,
7 you know, drug dealer robbers. So I guess that is
8 something we need to address. That's how she knows
9 them. That's not my whole purpose we are offering it
10 for obviously. But she knows them. Obviously the
11 fact that they are together we think ought to come
12 in. They know each other. They hang together. They
13 socialize.

14 **THE COURT:** She's seen them?

15 **MR. MEADORS:** Yes, sir.

16 **THE COURT:** She has seen them together?

17 **MR. MEADORS:** Yes, sir. I don't really
18 understand the question here, Judge. And I
19 apologize.

20 **THE COURT:** Well, the issue is it's either a
21 hearsay issue, that she knows they rob -- well, one,
22 two, three, four, five lawyers are on their feet. I
23 don't know why. But --

24 **MS. MCDUFFIE:** Your Honor, if I may. With
25 Tatanisha Robinson, she specifically states that she

1 has robbed drug dealers with them before. So she is
2 present and has personal knowledge of the event. So
3 there is a whole different issue.

4 **THE COURT:** That may they solve that small
5 issue.

6 **MS. MCDUFFIE:** Yes, sir. It does. It terms of
7 Shequitta Evans, Omekas Moaney and Horace Holmes,
8 those then get into the statement that they have the
9 representation of robbing drug dealers. And they
10 make the statement. However, Ms. Robinson has
11 personal knowledge.

12 **MR. MEADORS:** She's handling those three. I'm
13 just handling the one on Tata.

14 **MR. STRICKLER:** And our position simply is that
15 we would submit the Court can't arrive at a
16 conclusion in that regard until the Court hears what
17 they actually have to say.

18 **THE COURT:** Well, maybe just do it and proffer
19 it.

20 **MR. MEADORS:** We're fine with that.

21 **MR. STRICKLER:** Well, if that's the case, if
22 that's what they intend to offer, we'll just have to
23 stop the trial at that point in time and do it at
24 that point.

25 **MR. MEADORS:** And, Your Honor, --

1 **THE COURT:** Well, as you said, it's not a race.

2 **MR. STRICKLER:** I couldn't agree with you more,
3 Judge.

4 **MR. MEADORS:** Judge, there was one other issue.
5 And I just got the young ladies confused in my mind.
6 And I apologize. I think through Mr. Delgado's
7 client, Ms. Tatanisha Robinson now has Bill Nettles
8 is what I've been informed as a lawyer. So he is her
9 lawyer. And so, I guess before we talk any more
10 about her, and I just had her reversed in my mind, he
11 is representing her. So I don't know what that would
12 entail when she is called to the stand. I don't know
13 if I can say that any clearer. But that's another
14 issue when we get to that.

15 **THE COURT:** Okay.

16 **MR. STRICKLER:** Well, my understanding, and
17 we'll certainly deal with it prior to her being
18 called to the stand, is that she through Mr. Nettles
19 has informed Mr. Meadors that she intends to assert
20 her Fifth Amendment privilege. In which case she
21 can't be called to the stand in front of the jury.

22 **THE COURT:** I understand.

23 **MR. MEADORS:** So all those other issues --

24 **THE COURT:** We'll have to deal with it when we
25 get there. I don't know we can do that pre-trial.

1 **MR. STRICKLER:** Yes, sir.

2 **THE COURT:** We can't even find Mr. Nettles. All
3 right. Does that satisfy you, Ms. LaFave?

4 **MS. LAFAVE:** Just for clarification, Your Honor,
5 we'll revisit the Lyle issue as to these people when
6 we come around as well? Because it's my
7 understanding that's what we were addressing at this
8 point.

9 **THE COURT:** You can address anything that you
10 wish when we get to them if they decide to call them.

11 **MS. LAFAVE:** Yes, Your Honor. Thank you.

12 **THE COURT:** We may have to do all of their
13 testimony in camera.

14 **MS. LAFAVE:** Thank you, Your Honor.

15 **THE COURT:** They may never call them. Yes, sir.

16 **MR. STRICKLER:** As far as pre-trial that needs
17 to be taken up, I think I'm done at this point,
18 Judge. I'm done. I don't know about these fellows.

19 **THE COURT:** All right. From Mr. Gallman,
20 anything further of a pre-trial nature?

21 **MR. MILLING:** Yes, sir, we do. Specifically as
22 to Mr. Gallman, in addition to these statements which
23 Ms. LaFave has already referenced, Mr. Gallman does
24 have a prior armed robbery conviction that because it
25 is an armed robbery he is currently charged with

1 armed robbery, we are requesting that the State be
2 required to inform us at this point in time whether
3 or not they plan on trying to introduce that. We
4 don't think it's appropriate.

5 **THE COURT:** It's a conviction?

6 **MR. MILLING:** Yes, sir.

7 **THE COURT:** How old?

8 **MR. MILLING:** The conviction was -- beg the
9 Court's indulgence. I am informed it was July of
10 1996 for the conviction.

11 **THE COURT:** When was he --

12 **MR. MILLING:** An arrest in '94. So more than
13 ten years prior to.

14 **THE COURT:** When was he released?

15 **MR. MILLING:** '03. October of '03.

16 **THE COURT:** All right. Do you plan to offer
17 that?

18 **MR. MEADORS:** I mean, obviously I couldn't
19 unless he took the stand. I mean, I don't know what
20 the question is. If he takes the stand, clearly I'm
21 going to ask him about it. Yes, sir.

22 **MR. MILLING:** Yes, sir. And I wasn't inquiring
23 about that. I was inquiring as to --

24 **MR. MEADORS:** If Your Honor will let me
25 introduce it to that extent; yes, sir. But I don't

1 think I can.

2 **MR. MILLING:** I don't think you can either. I
3 just want clarification.

4 **THE COURT:** Anything else from Mr. Gallman?

5 **MR. MILLING:** Your Honor, we have other Bruton
6 and/or Crawford issues relating to several witnesses
7 in this case.

8 **THE COURT:** For example?

9 **MR. MILLING:** Renata Williams.

10 **THE COURT:** Renata Williams. And what did she
11 do?

12 **MR. MILLING:** Ms. Williams has given two
13 statements.

14 **THE COURT:** Written statements?

15 **MR. MILLING:** Two written statements to law
16 enforcement, Your Honor. In the second which was
17 given on September the 19th of 2005, Ms. Williams
18 tells law enforcement, it looks like Investigator
19 Wilkerson with the City police, that he, Stanley,
20 said that he and Dominic Gallman had done a lick.
21 And that's in response to a question about this
22 murder.

23 **THE COURT:** This murder?

24 **MR. MILLING:** This murder.

25 **THE COURT:** She says Oliver told her --

1 **MR. MILLING:** That Oliver told --

2 **THE COURT:** -- that Oliver and Gallman had done
3 a lick.

4 **MR. MILLING:** Yes, sir. And that's on page --
5 it looks like the second page of her statement. It
6 was six pages.

7 **MR. MEADORS:** Your Honor, we might as well have
8 Bruton and Crawford on the witness list. That's
9 going to be addressed in every one of these. I don't
10 disagree with that. At that point it would have to
11 be that Oliver and another person -- I think there's
12 some case law that would be able to address it. And
13 we'd inform our witnesses of that. So I'm aware of
14 that and will certainly -- you know, it may be that
15 we have go over this with every one of them
16 beforehand, Judge. But I don't disagree that that
17 issue has to be handled.

18 **THE COURT:** Okay.

19 **MR. MILLING:** And, Your Honor, I know that Mr.
20 Meadors would like for it to be Mr. Oliver and
21 another person did this.

22 **THE COURT:** We've already been through that.

23 **MR. MILLING:** I understand that, Your Honor.
24 And I would just like to for the record with respect
25 to this one, I had an opportunity during the lunch to

1 further reflect upon how this impacts the case. It
2 puts Mr. Joy in a situation where he might be in a
3 position where he could inquire of the witness
4 whether or not he was that other person. And if the
5 witness says no, he wasn't, then that puts us in the
6 position where we can't ask that same witness the
7 question.

8 So we're back to the Crawford problem where we
9 can't properly confront the witness who has made this
10 statement. It's a circular problem. And I think the
11 only way that we can resolve this problem is for Mr.
12 Oliver or for this statement to be cut back to Mr.
13 Oliver said that he did it, the same way with each
14 and every one of these statements. When Mr. Oliver
15 says that he and another person did this, it's going
16 to be a problem no matter what, no matter what until
17 and unless we cut it back to just Mr. Oliver.

18 **MR. STRICKLER:** And if I could, Your Honor, just
19 interject. The answer to that problem I believe is
20 Lillie vs. Virginia which talks about the degree of
21 redactions and why the redaction has to be to that
22 degree which is subsequent to Gray vs. Virginia.

23 **THE COURT:** Okay. I understand.

24 **MR. MEADORS:** Your Honor, I have State v. Evans,
25 450 s.e.2d 487. What they are suggesting would

1 unduly handcuff me, the government, in my ability to
2 introduce admissible confessions and statements
3 against a declarant in a joint trial.

4 **THE COURT:** Anything else?

5 **MR. MILLING:** Your Honor, we still have the
6 Crawford problem, which these cases deal with Bruton
7 as opposed to Crawford which is a relatively recent
8 case.

9 **THE COURT:** He said he is aware of Bruton and
10 Crawford.

11 **MR. MILLING:** Yes, sir. Ms. Williams goes on in
12 her statement, and it looks like the third page of
13 her statement, to say: "A while later on Stanley
14 called Freaky and told him to pick him up at my
15 place. Freaky must have come by to get Stanley
16 because Stanley is gone a little later."

17 **THE COURT:** Is what?

18 **MR. MILLING:** "Gone a little later." And again,
19 before she testifies, I think perhaps the easiest way
20 for clarification of that statement is to get her to
21 proffer it as to whether or not she heard the phone
22 call being placed to my client or whether or not Mr.
23 Oliver told her that. Because obviously if Mr.
24 Oliver told her that, it falls squarely within
25 Bruton. The latter part of it: "He must have come

1 by to get Stanley because he's gone a little while
2 later", that's entirely speculation, and that can't
3 come in.

4 **THE COURT:** Okay.

5 **MR. MILLING:** I think that's it with respect to
6 Ms. Williams. Your Honor, we may have a similar
7 problem. And I think we've already talked to Ms.
8 Robinson as to whether or not she would assert her
9 Fifth Amendment rights or not. But I think we would
10 have to get her to proffer her testimony to determine
11 whether or not any of her knowledge that she has
12 enunciated in her statements comes from direct
13 personal knowledge or whether it comes from
14 statements that Mr. Oliver may have allegedly made to
15 her. I think that is most properly addressed when we
16 have Ms. Robinson here and determine whether or not
17 she is going to take the stand and testify or assert
18 her Fifth Amendment rights.

19 **THE COURT:** Okay.

20 **MR. MILLING:** The next witness would be
21 Shequitta Evans.

22 **THE COURT:** We've already been through her.

23 **MR. MILLING:** There is also a Bruton, Crawford,
24 problem. There are statements that she has made in
25 here in the second page of her statement, and again a

1 written statement, saying she's heard about Stanley
2 performing robberies with Dominic. And again, I
3 think we would need to call her to the stand as a
4 witness to determine whether or not that's something
5 that Mr. --

6 **THE COURT:** Do you want to call her? Do you
7 want to call her?

8 **MR. MILLING:** I think that she ought to be
9 required to proffer her testimony so that we can
10 determine --

11 **THE COURT:** I've already ruled that's what we're
12 going to do. I haven't ruled that. I've suggested
13 that's what we're going to do. With regard to
14 Tatanisha Robinson, Shequitta Evans, Omekas Moaney,
15 Horace Holmes and now Renata Williams.

16 **MR. MILLING:** I think Jason Brown is another
17 person who falls within this category because
18 Mr. Brown is someone who Mr. Oliver was in a cell
19 with who Mr. Oliver allegedly made statements to.
20 And his statement is just a two-pager. The first
21 statement is just a two-page statement from
22 December 22nd of 2005 wherein he discusses Mr. Oliver
23 and Mr. Gallman having performed this robbery
24 together. Obviously that's based on information that
25 Mr. Oliver allegedly provided to Mr. Brown. Anything

1 that Mr. Oliver provided to Mr. Brown relating to Mr.
2 Gallman again falls within Bruton and Crawford.

3 The same thing with Horace Holmes.

4 And I think that may cover it as far as these
5 witnesses, Your Honor. But we would reserve the
6 right obviously if other witnesses have their
7 testimony proffered, too, and these issues arise, to
8 raise some objections. And with those, Your Honor,
9 --

10 **THE COURT:** Mr. Joy.

11 **MR. DELGADO:** Yes, Your Honor. Your Honor, I
12 join in the motions of my colleagues relating to
13 overlays of Bruton and Crawford as relates to Mr. Joy
14 and as relates to all the previously mentioned
15 witnesses, Robinson, Evans, Moaney, Holmes, Williams
16 and Brown.

17 Yesterday, Your Honor, in chambers I believe we
18 discussed raising with the Court the issue of
19 prejudicial photographs of the victims. We may have
20 talked about that ourselves. If we did not raise
21 that with the Court. I'd like to --

22 **THE COURT:** It's not raised on the record.

23 **MR. DELGADO:** I'm sorry, sir?

24 **THE COURT:** It's not on the record.

25 **MR. DELGADO:** No, sir. Maybe it's not. I would

1 then like to ask the Court to inquire with the State
2 as to what photographs they intend to introduce so we
3 can at least deal with that now rather than during
4 the course of their presentation.

5 **MR. STRICKLER:** And, Your Honor, the only reason
6 it wasn't raised earlier is because I told Ms. LaFave
7 that we didn't need to take care of that now. That's
8 my bad.

9 **MR. DELGADO:** Okay. Well, --

10 **THE COURT:** Do you want to take care of it now
11 or not?

12 **MR. MEADORS:** Judge, we have pretty much the
13 first few witnesses, the photographs are ready on
14 what we plan on doing. So we could go through that.
15 Sure. Sure is my response.

16 **THE COURT:** Do it.

17 **MR. MEADORS:** And we also -- I know everybody
18 has been anticipating -- we now have the redacted
19 version of Mr. Gallman's statement.

20 **THE COURT:** Please distribute it.

21 **MS. MCDUFFIE:** Your Honor, while Mr. Delgado may
22 have in chambers yesterday discussed his client's
23 record and settling that, we checked that, and we
24 will not be introducing Mr. Joy's prior record if he
25 chooses to testify.

1 **MR. DELGADO:** His prior record, I think it had
2 to do with traffic things.

3 **MS. MCDUFFIE:** Yes, sir. It's an expired tag.

4 **MR. DELGADO:** Expired tag. Yes. That's
5 correct.

6 **THE COURT:** Photos.

7 **MR. DELGADO:** Your Honor, in an attempt to make
8 certain I placed -- I'm sorry.

9 **THE COURT:** Just so they can hear you.

10 **MR. DELGADO:** Sure. Absolutely.

11 **THE COURT:** Mr. Delgado.

12 **MR. DELGADO:** Your Honor, one thing, before
13 we -- I want to object to my even having to stand.
14 It seems like I am the last person that has to talk
15 with the Court about this. There's an issue I know
16 that we talked about this in chambers yesterday
17 relating to gang membership.

18 **THE COURT:** Yes, sir.

19 **MR. DELGADO:** Various members of the aforesaid
20 plethora of witnesses, either Robinson, Evans,
21 Moaney, Brown and Renata Williams, talk about these
22 three individuals being members of a gang or this
23 being a gang activity. And it seems to me, Your
24 Honor, that not only is that a Lyle issue, that the
25 prejudicial nature of that is such, especially, Your

1 Honor, let me --

2 **THE COURT:** Well, it's a 403 issue. I don't
3 know if it's a Lyle issue.

4 **MR. DELGADO:** Exactly.

5 **THE COURT:** But go ahead.

6 **MR. DELGADO:** Your Honor, and just as an example
7 in how this would impact this community, this jury.
8 Sunday I was watching television. There was a
9 television account Sunday night about a shooting on
10 Hard Scrabble Road. No. Clemson Road. That law
11 enforcement, the Sheriff's Department, talked about
12 being gang related. Well, it wasn't gang related but
13 there were members of a gang. It impacts this
14 community every time we mention that. It's not
15 something that is distant in time and space from what
16 have impact. I ask the Court to inquire whether or
17 not that is relevant and object to it on that basis.

18 **THE COURT:** Whether or not what?

19 **MR. DELGADO:** Whether or not any of that is
20 relevant, whether or not witnesses have to be asked
21 that. And, more importantly, Your Honor, what the --

22 **THE COURT:** Is it in their statement? Does the
23 word "gang" appear in their statements?

24 **MR. DELGADO:** It's in the just gangs, but it may
25 also be the specific gang, The Bloods. For he is a

1 Blood or they are Bloods. It's something along those
2 lines.

3 **THE COURT:** In which statements? Is it in all
4 of the statements?

5 **MR. MILLING:** It's not in all of them.

6 **THE COURT:** I'm talking to Mr. Delgado. Please,
7 one at a time.

8 **MR. DELGADO:** Your Honor, in Ms. Shequitta
9 Evans' statement of September the 15th.

10 **THE COURT:** Mm-hmm (affirmative).

11 **MR. DELGADO:** Here is the point, Your Honor. It
12 relates sometimes to Mr. Joy, sometimes to Mr.
13 Oliver, sometimes to Mr. Gallman. The first page of
14 Ms. Evans' statement of September 15th: "How long
15 have you known Stanley?" Answer: "Almost two years.
16 I met him on the streets. He obviously is a Blood
17 gang member and calls him O.G.D. and Damoos."

18 **THE COURT:** O.G.D.?

19 **MR. DELGADO:** Yes, sir.

20 **THE COURT:** Damoos?

21 **MR. DELGADO:** And Damoos, D-A-M-O-O-S.

22 **THE COURT:** Okay. She says that he calls
23 himself -- that he says he's in a gang?

24 **MR. DELGADO:** It doesn't say. She just comes to
25 the conclusion and makes the statement he is a Blood

1 gang member.

2 **THE COURT:** He is a Blood gang member.

3 **MR. DELGADO:** Now, that relates to Mr. Oliver.
4 So I'm not certain that I have to stand and be able
5 to say that. But it goes in effect to Mr. Joy as
6 well, Your Honor. Tatanisha Robinson says that as
7 well, Your Honor. I'm looking for it.

8 **THE COURT:** Well, I'll take it at face value.
9 Just give me the page. If you say she said that.

10 **MR. DELGADO:** Yes, sir. Page 6 of her statement
11 I'm informed by my colleague. Your Honor, Mr. Omekas
12 Moaney in his statement dated October the 11th, 2005,
13 on page 3 of that tape recorded, typed statement; I'm
14 sorry, he mentions, "Have you ever seen them with
15 guns?" Question. Answer: "Not that I can recall.
16 That is something I am uneasy with. I knew it was
17 something they would have access to by being in the
18 gang."

19 I am unclear whether or not he is specific about
20 gang or gang members earlier in his statement. But
21 at least, Your Honor, as far as I can relate, at
22 least those individuals discuss that issue.

23 **THE COURT:** All right. What is the State's
24 position with regard to testimony or evidence in
25 these statements as to gang membership?

1 **MR. ROSS:** Your Honor, it's how they -- it goes
2 to that they all hang around together. And most of
3 the time when they're --

4 **THE COURT:** Why can't you say that?

5 **MR. ROSS:** When they're referring to them, they
6 refer to, they all hang around together, they're in a
7 gang, they're in the Bloods.

8 **THE COURT:** Well, there's a difference --

9 **MR. ROSS:** That's how they know them.

10 **THE COURT:** Is this a gang of people or an
11 organized gang in the law enforcement sense that has
12 identifiable characteristics, including symbols, et
13 cetera, et cetera, et cetera? I mean, --

14 **MR. ROSS:** Nobody talks about that. There might
15 be one person, and I can't remember, who talks about
16 gang talk, symbols, all that kind of stuff. But this
17 is not a gang. This is not a crime that was planned
18 as a gang activity. It's just that the witnesses
19 know them.

20 **THE COURT:** So what's the relevance of it if
21 that's the case?

22 **MR. ROSS:** They are just asking if we are going
23 to put it in, or they're objecting to us asking a
24 question about gangs.

25 **THE COURT:** Right. I asked what's --

1 **MR. ROSS:** To say in one broad stroke whether it
2 is or is not relevant in general, because each
3 witness has their own way of describing how they knew
4 these people.

5 **THE COURT:** Well, if it's not relevant, it's not
6 admissible.

7 **MR. ROSS:** I understand. But it could be
8 relevant with one witness and not relevant with
9 another. I can't say as a general rule, oh, yeah,
10 it's all relevant, or, no, none of it's relevant. I
11 don't know why we can't take that issue up when we're
12 taking up all this other stuff with each witness.

13 **THE COURT:** I think you probably can. We
14 probably can. I think they're just putting you on
15 notice they're going to have some objection I assume
16 to the reference --

17 **MR. ROSS:** Because it boils down to how they
18 know them. I mean, each witness knows them in
19 different ways. They don't all --

20 **THE COURT:** I mean, I think you'd have a hard
21 time proving that that's how they know them, because
22 then you'd have to get into who the gang is, where
23 the gang is, how they -- what the organization of the
24 gang is and that's how we put them together.

25 **MR. ROSS:** Some of them talk about, you know,

1 they know them from Gonzales Gardens. They were
2 Blood gang members. I mean, I think that it would be
3 best to address each witness individually. I don't
4 think we can address that altogether.

5 **THE COURT:** All right. That's fine. We'll deal
6 with it as we have to deal with it. Anything further
7 from Mr. Joy?

8 **MR. DELGADO:** Nothing, Your Honor. Thank you.

9 **THE COURT:** All right. It appears that --

10 **MR. MEADORS:** Everybody has got a copy.

11 **THE COURT:** -- Mr. Strickler has concluded his
12 pre-trial. Mr. Milling has concluded his pre-trial.
13 Mr. -- I'm getting tired.

14 **MR. DELGADO:** Mr. Joy, Your Honor.

15 **THE COURT:** Mr. Joy has completed his pre-trial.
16 There are a few matters that need to be resolved.
17 First, the pictures; second, the redacted statement;
18 third -- these are the things we can take up
19 pre-trial -- a statement involving somebody's life
20 being in danger, an exculpatory statement, both of
21 which will be taken up in chambers; and the
22 availability of bank records for inspection by the
23 defendants. Are there any other outstanding matters
24 that need to be resolved?

25 **MR. STRICKLER:** Not that I'm aware of, sir.

1 **THE COURT:** I tried to write them down.

2 **MR. MILLING:** Your Honor, the only other thing
3 we have is, with respect to each individual witness,
4 we think we've got to look at the Bruton, Crawford,
5 Lyle and gang issues.

6 **THE COURT:** Yes, sir. I'm talking about what we
7 can do now.

8 **MR. MILLING:** Yes, sir.

9 **THE COURT:** All right. How about -- the
10 pictures ought to be easy, simple to -- at least I
11 think it should be simple. These are photographs of
12 what?

13 **MR. ROSS:** Crime scene photos and also autopsy
14 photos.

15 **MR. MEADORS:** Could you and Mr. Milling and Mr.
16 Delgado and Mr. Strickler come over here?

17 (Pause - attorneys reviewing photographs)

18 **MR. MEADORS:** Beg the Court's indulgence. All
19 right, Judge. I think we made tremendous progress.
20 Thank you.

21 **THE COURT:** We'll see.

22 (Pause)

23 **MR. MILLING:** Your Honor, if I may. While
24 they're marking these pictures, I wonder if we might
25 take a restroom break just to give them an

1 opportunity to do that.

2 **THE COURT:** You want a restroom break for their
3 sake?

4 **MR. MILLING:** No, sir. For my client's sake
5 while they're doing that.

6 **THE COURT:** That's really what you're asking.

7 **MR. MILLING:** Yes, sir.

8 **THE COURT:** I don't know how long we're going to
9 be.

10 **MR. MEADORS:** We've got all of them, most of
11 them marked, except just these few last ones I think
12 they've objected to. I have no objection. I have
13 never had an objection to a restroom break, Judge.
14 Whatever.

15 **THE COURT:** Reciprocal. All right. Well, if we
16 do that, when we return, I want you to be prepared to
17 address the redacted statement. Why don't we just go
18 ahead while we're in break meet in chambers and
19 discuss these matters the solicitor wants to take up.
20 And the issue of the bank statements can wait until
21 we conclude this proceeding today. Any objection to
22 that procedure?

23 **MR. STRICKLER:** Not from Mr. Oliver, Your Honor.

24 **MR. MILLING:** No, sir, Your Honor.

25 **MR. DELGADO:** No, sir.

1 **THE COURT:** All right. Well, let's take about a
2 ten-minute break, get the photos straightened out.
3 At the end of that we'll meet in chambers before we
4 return to the courtroom.

5 (Whereupon, a break is taken)

6 (WHEREUPON, State's Exhibit No. 70 is marked for
7 identification.)

8 (WHEREUPON, State's Exhibit No. 71 is marked for
9 identification.)

10 (WHEREUPON, State's Exhibit No. 72 is marked for
11 identification.)

12 (WHEREUPON, State's Exhibit No. 73 is marked for
13 identification.)

14 (WHEREUPON, State's Exhibit No. 74 is marked for
15 identification.)

16 (WHEREUPON, State's Exhibit No. 75 is marked for
17 identification.)

18 (WHEREUPON, State's Exhibit No. 76 is marked for
19 identification.)

20 (WHEREUPON, State's Exhibit No. 77 is marked for
21 identification.)

22 (WHEREUPON, State's Exhibit No. 78 is marked for
23 identification.)

24 (WHEREUPON, State's Exhibit No. 79 is marked for
25 identification.)

1 (WHEREUPON, State's Exhibit No. 80 is marked for
2 identification.)

3 (WHEREUPON, State's Exhibit No. 81 is marked for
4 identification.)

5 (WHEREUPON, State's Exhibit No. 82 is marked for
6 identification.)

7 (WHEREUPON, State's Exhibit No. 83 is marked for
8 identification.)

9 (WHEREUPON, State's Exhibit No. 84 is marked for
10 identification.)

11 (WHEREUPON, State's Exhibit No. 85 is marked for
12 identification.)

13 (WHEREUPON, State's Exhibit No. 86 is marked for
14 identification.)

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10 for identification.)

11 **MR. MEADORS:** If it please the court.

12 **THE COURT:** Yes, sir.

13 **MR. MEADORS:** As to photographs --

14 **MR. STRICKLER:** I'm sorry, Your Honor. If I
15 could, I just need the record to reflect we did meet
16 in chambers --

17 **THE COURT:** Sure.

18 **MR. STRICKLER:** -- to review those two items.

19 **THE COURT:** Yes, sir.

20 **MR. STRICKLER:** -- specifically reviewed the two
21 items that the State wished to discuss with you in
22 chambers.

23 **THE COURT:** Yes, sir.

24 **MR. STRICKLER:** And I'd just like the record to
25 reflect that as to the one item that the Court termed

1 as inculpatory in our discussions here on the record
2 that I am lodging an objection.

3 **THE COURT:** Perhaps inculpatory.

4 **MR. STRICKLER:** Pardon me, sir?

5 **THE COURT:** I made no decision that they were
6 inculpatory. I just said that's the way it was
7 phrased when it was presented.

8 **MR. STRICKLER:** Yes, sir. I mean, we referred
9 to them in that fashion. We referred to that one in
10 that fashion. As to that, there evidently is a
11 non-written statement in possession of the State I
12 would assume is not exculpatory and that the State is
13 refusing to supply to us for reasons that they've
14 already put on the record. And I want the record to
15 reflect I object to that and that should that person
16 be called to testify and the State then supply us
17 with it, we'll take whatever remedies are necessary
18 at that point in time, up to and including a motion
19 for continuance or a mistrial in this matter. Thank
20 you.

21 **THE COURT:** All right. Thank you. And as to
22 the other matter --

23 **MR. STRICKLER:** The other matter, it was also
24 discussed, and to my complete satisfaction. I don't
25 have anything to put on the record in that regard.

1 **MR. MILLING:** Your Honor, we would join in that
2 motion on behalf of Gallman.

3 **MR. DELGADO:** As does Defendant Joy, Your Honor.

4 **MR. STRICKLER:** And I'm sorry for interrupting
5 the solicitor.

6 **THE COURT:** Now, Solicitor.

7 **MR. MEADORS:** Thank you. In one follow-up, I
8 clearly knew that related to in chambers, a
9 reciprocal discovery motion was filed, the State of
10 South Carolina vs. Dominic Gallman, December 21st of
11 2005. It was filed in this clerk's office, served on
12 the attorney at that time. So a reciprocal was filed
13 against Mr. Dominic Gallman. There had been comments
14 back there that it had not been filed. It certainly
15 has been filed and served on the attorney at that
16 time. I don't know. Have you gotten a copy of the
17 clerk's file at all?

18 **MR. MILLING:** I have not, Your Honor. That's
19 why I said I have not been served with the reciprocal
20 discovery. And that's specifically what I said back
21 there. I have not been.

22 **MR. MEADORS:** Did you know his former attorneys
23 had been?

24 **MR. MILLING:** There are things that I received
25 from Ms. Hudgins. There are things that I didn't

1 receive from Ms. Hudgins. I don't recall
2 specifically having seen that.

3 **MR. MEADORS:** But you could have received it.
4 And Ms. Hudgins, Your Honor, obviously was served.
5 So for the record, he has been served December of
6 2005. We'd like the record to reflect that.

7 **MR. MILLING:** And, Your Honor, again, I have not
8 been served. And I think that's what the rule
9 requires, is when I file for discovery, which I
10 have -- now I've received a copy of it.

11 **MR. MEADORS:** Judge, as far as the photos, if
12 anybody wants to stop me, they can. We have looked
13 through. And 1 through 28 subject to a proper
14 foundation being laid are agreed to, Your Honor. As
15 far as again 29 the State has withdrawn. These would
16 all be photos inside the house at Mildred Avenue.

17 **THE COURT:** Just hold on a minute. 1 through
18 28 --

19 **MR. MEADORS:** Subject to a foundation, there
20 will be no objection from a defendant.

21 **THE COURT:** Is that correct, Mr. Oliver?

22 **MS. LAFAVE:** Yes, Your Honor.

23 **THE COURT:** Mr. Gallman?

24 **MR. MILLING:** Yes, Your Honor.

25 **THE COURT:** Mr. Joy?

1 **MR. DELGADO:** Yes, Your Honor.

2 **THE COURT:** Thank you. Now.

3 **MR. MEADORS:** Just to make sure we're on the
4 same page.

5 **THE COURT:** All right.

6 **MR. MEADORS:** And maybe I'm right. 1 through 27
7 are in and 28 is out. I apologize. I looked at that
8 one wrong. 1 through 27 is in and 28 is out. Come
9 and double check if you want to. Your Honor, it's a
10 picture of the same thing. 28 is out.

11 (Pause)

12 **MR. MEADORS:** Judge, here is the bottom line.
13 Two pictures of Mr. Batie lying in the hallway, one
14 of them has got a far out picture. One of them has
15 got it close. We're taking out 28. That will solve
16 it. The other thing, and I'll go back and correct
17 this with the court reporter, we're also taking out
18 No. 38. 28 and 38. 38 was the picture where it was
19 dark and light. And we're going with one of those.
20 There are two duplicative pictures. We're taking out
21 28 and 38.

22 **THE COURT:** Only 1 through 27 are in.

23 **MR. MEADORS:** Right. Yes, sir. So then it
24 would be --

25 **THE COURT:** Well, what happened from 28 to 38?

1 **MR. MEADORS:** Your Honor, 28 to 37 would then be
2 in without objection.

3 **MR. MILLING:** No. 28 is pulled. 29 through 37.

4 **THE COURT:** So 29 to 37 are in.

5 **MR. MEADORS:** Correct.

6 **THE COURT:** All right.

7 **MR. MEADORS:** 38 is out. On my cut, Judge, 39
8 to 55.

9 **THE COURT:** What about them?

10 **MR. MEADORS:** They would be in subject to a
11 proper foundation. They'd be in without objection.
12 We're working on that.

13 **THE COURT:** 39 to --

14 **MS. LAFAVE:** 55.

15 **THE COURT:** -- 55, in.

16 **MR. MEADORS:** Then 56 through 58 are in subject,
17 Your Honor.

18 **THE COURT:** Fifty --

19 **MR. MEADORS:** Six, 57, 58.

20 **THE COURT:** Well then, all right.

21 **MR. MEADORS:** Your Honor, that leaves the last
22 ones. We'll be glad to go over them. 59. 59 and 60
23 and 62, Judge. We'll go back to 61. 59, 60 and 62
24 are in without objection subject to a proper --

25 **THE COURT:** 59, 60 and --

1 **MR. MEADORS:** And 62. Which leaves, the only
2 other ones in question as to my part are 61, 63, 64,
3 65 and 66. And I'm positive that's right. Judge, --

4 **THE COURT:** Those are out?

5 **MR. MEADORS:** These are the ones we have the
6 contention. These are the ones we need Your Honor to
7 decide. They're basically --

8 **THE COURT:** All right. Let me go back. 61.

9 **MR. MEADORS:** 63.

10 **THE COURT:** 63.

11 **MR. MEADORS:** 64.

12 **THE COURT:** All right.

13 **MR. MEADORS:** 65 and 66.

14 **THE COURT:** All right.

15 **MR. MEADORS:** That's all we need Your Honor to
16 decide for us.

17 **MR. MILLING:** I believe there were some other
18 ones.

19 **MR. MEADORS:** My fault. My fault, Judge. I
20 apologize. As far as, Your Honor, if I could just
21 summarize 61 and 63, Kevin Miller is shot in the back
22 of the head, Your Honor. It's an entrance and an
23 exit. 64 and 65 is also a shot of the back.

24 **THE COURT:** Wait a minute.

25 **MR. MEADORS:** 64 and 65 are basically duplicates

1 of that same back to the front shot. We would like
2 to offer one of these two, either 61 or 63.

3 **THE COURT:** As a pair?

4 **MR. MEADORS:** Or 64, 65. I don't know if there
5 are objections. They are duplicates. But it may go
6 beyond that. We think they are relevant. They're
7 not that gruesome, Your Honor. Do you care to
8 inspect them?

9 **THE COURT:** All right. Let me just -- you're
10 asking for one set or the other set?

11 **MR. MEADORS:** I want all four. They're
12 objecting. I assume they're objecting because
13 they're showing the same thing. If you jump ahead,
14 if that's true, we'd offer one of the two sets.

15 **THE COURT:** And what is 66?

16 **MR. MEADORS:** That's a separate issue. It's the
17 hand of Kevin Miller which actually has the phone
18 number of Ms. Felder written in his palms. That's
19 why would like to offer that photo.

20 **COURT REPORTER:** You're not going to offer it?

21 **MR. MEADORS:** We would like to offer that.

22 **THE COURT:** The hand of Kevin Miller.

23 **MR. MEADORS:** Yes, Your Honor. You can see the
24 number in there, Judge.

25 **THE COURT:** Where is that? I don't have it.

1 **MR. MEADORS:** Oh, I'm sorry. I'm sorry. It's
2 up here. I didn't hand it to you.

3 (Document handed to the Court)

4 **THE COURT:** Well, I frankly don't see much
5 difference between 61, 63 and 64, 65.

6 **MR. MEADORS:** I agree.

7 **THE COURT:** So you choose and then I'll take it
8 up with the defense. I would have to rule that they
9 are duplicates.

10 **MR. MEADORS:** I don't think it really matters,
11 Judge.

12 **THE COURT:** It's your case.

13 **MR. MEADORS:** Yes, sir. 61 and 63, Your Honor.

14 **THE COURT:** First let me ask you, what's the
15 relevance of these photographs? And where were they
16 taken? Are these autopsy photos or --

17 **MR. MEADORS:** Yes, sir. Yes, sir.

18 **THE COURT:** And how would they be offered?
19 Would they be offered by the medical examiner?

20 **MR. MEADORS:** Yes, sir.

21 **THE COURT:** And do you purport that this is the
22 cause of death?

23 **MR. MEADORS:** Without question, that's the cause
24 of death. Yes, sir.

25 **THE COURT:** I just need it for the record. Now,

1 any objection to 61 and 63 from Mr. Oliver?

2 **MS. LAFAVE:** Yes, Your Honor. I have a two-fold
3 objection to those two particular photographs.
4 First, I submit to Your Honor that they are
5 cumulative in nature. The people who conducted the
6 autopsy, those people who were at the scene, police
7 officers and the like, a litany of which will testify
8 that they saw that Kevin Miller was shot in the head,
9 Your Honor. I don't think that that adds any
10 material fact to the prosecution's case that would
11 assist them in proving their case. Moreover, I think
12 it is just a repetition of evidence that will be
13 testified to.

14 Second, Your Honor, the head shots taken during
15 autopsy I submit are gruesome and they, with all due
16 respect, because of their cumulative nature would be
17 entered into evidence to evoke emotion from the
18 jurors and to scare them to some extent, Your Honor.
19 Those are my two objections, Your Honor.

20 **THE COURT:** All right. Anything from Gallman?

21 **MR. MILLING:** The same objection, Your Honor.

22 **MR. MEADORS:** The same objection for Mr. Joy.

23 **THE COURT:** All right. If they're offered by
24 the medical examiner to somehow relate to the cause
25 of death, I think they're relevant and admissible. I

1 don't find them to be unusually gruesome or --
2 they're fairly clinical in my opinion. There's not a
3 lot of blood shown. They seem to be, as portrayed,
4 entrance and exit wounds. Although I can't tell
5 which is which, it doesn't matter what I think. But
6 I do think they would be relevant under the
7 circumstances as proposed by the State.

8 As to -- what is the relevance of 66?

9 **MR. MEADORS:** Your Honor, if Your Honor would
10 look at it closely, the hand there of Kevin Miller,
11 you see a number 422 something. And I believe the
12 pathologist will tie up and give that whole phone
13 number. It's the phone number of one of the other
14 deceased in this case, Ms. Felder. That's her phone
15 number. So it's relevant. He is going to that
16 residence. Her phone number is in his hand. So we
17 clearly think it's relevant and something that ought
18 to go before the jury. It's not offered to arouse
19 the passions or prejudice of the jury. It's just a
20 hand.

21 **THE COURT:** Well, it's not just a hand. It's a
22 bloody hand.

23 **MR. MEADORS:** Yes, sir. That's got a phone
24 number of another murdered victim.

25 **THE COURT:** Although I can't tell -- was there

1 any damage to this hand as a result of any of these,
2 whatever took place those days? I mean, no injury to
3 this hand? This is obviously -- well, I would
4 speculate. All right. What's the objection to No.
5 66?

6 **MS. LAFAVE:** Your Honor, there is several pieces
7 of evidence that show what Desiree Felder's phone
8 number is. We're not arguing that it was not her
9 phone number. And, Your Honor, I believe that it is
10 going to be admitted to inflame the jury and
11 prejudice them towards my client. It is a very
12 bloody hand, Your Honor. And there is no injury to
13 the hand, and I don't see how it adds a material fact
14 to the case, Your Honor. Thank you.

15 **THE COURT:** Mr. Gallman.

16 **MR. MILLING:** Your Honor, I would join in that
17 and also add that I don't know, and I'd have to go
18 back and look at the pictures again, but I don't
19 think it even shows where you can read the entire
20 phone number. I think they're going to have to
21 supplement that with testimony from other witnesses.
22 And from that standpoint, it's duplicative as well.

23 So I think that it's certainly appropriate for
24 them to have the other witnesses testify as to Mr.
25 Miller's hand having the telephone number of Desiree

1 Felder and publish that phone number. But because
2 this picture does not show the full phone number,
3 because of the bloody nature of it, I don't think it
4 adds anything.

5 **THE COURT:** Mr. Joy.

6 **MR. DELGADO:** I agree with my colleagues.

7 **THE COURT:** All right. Well, it appears to have
8 some relevance to one of the other victims in this
9 case. And factually, I don't know how it links up or
10 the time when these various activities took place or
11 what the relationship with them is. I might wait and
12 rule on this after I hear the testimony of the
13 medical examiner or somebody to link this to the
14 crime or to the scene.

15 **MR. MEADORS:** We certainly won't publish it
16 before you do. Yes, sir.

17 **THE COURT:** So don't publish it. I will
18 withhold ruling on that until there's some relevance
19 shown as to the --

20 **MR. MEADORS:** Mr. Ross has got everything else.

21 **THE COURT:** However, let me just say that I
22 don't find it to be unusually provocative or out of
23 the ordinary when you're dealing with a murder case.
24 So if you tie it up on relevance.

25 **MR. ROSS:** Your Honor, on Exhibits No. 70

1 through 108, defense counsel has had an opportunity
2 to look at these photos. I believe there is no
3 objection to these.

4 **MS. LAFAVE:** Your Honor, 70 through 108 is
5 without objection as to Mr. Oliver.

6 **MR. MILLING:** We concur on that on behalf of Mr.
7 Gallman, Your Honor.

8 **MR. DELGADO:** And on behalf of Mr. Joy.

9 **MR. STRICKLER:** Subject to the proper foundation
10 being laid, Your Honor, obviously.

11 **MR. ROSS:** Your Honor, Exhibits 117 through 122
12 defense counsel has viewed. These are pictures from
13 the autopsy of Desiree Felder. They are objecting to
14 all of these photos. I hand them up for Your Honor.
15 These are all --

16 **THE COURT:** 117 through 122?

17 **MR. ROSS:** Yes, sir. These are all relevant to
18 show injuries documented at the autopsy. There is
19 some of the actual body and then several x-rays.

20 **THE COURT:** Is this the victim who was
21 discovered in the woods?

22 **MR. ROSS:** Yes, sir.

23 **THE COURT:** Some number of days later?

24 **MR. ROSS:** Yes, sir.

25 **THE COURT:** There's objection to all of these.

1 Is that correct?

2 MS. LAFAVE: Yes, Your Honor.

3 THE COURT: Okay.

4 MS. LAFAVE: On behalf of Mr. Oliver.

5 THE COURT: Well, let's go down the list. 117,
6 what's the objection? Do you want to see it?

7 MS. LAFAVE: Your Honor, to be honest, there's
8 so many, it's hard to --

9 THE COURT: We only have five of them. Yes. I
10 thought you had an objection.

11 MS. LAFAVE: Yes, Your Honor. First, Your
12 Honor, I believe that the pictures are prejudicial;
13 one, to inflame and invoke emotion and prejudice upon
14 the jury, that lay people cannot distinguish between
15 the crime itself and the injuries.

16 But, moreover, the change in Ms. Felder's body
17 from the time that she was killed until the time that
18 those pictures were taken, I think that the jury
19 would have a problem distinguishing between the
20 injuries that was caused as a part of the crime and
21 then the condition her body was found, which is a
22 continuing objection that I have to any autopsy
23 photos of Ms. Felder's body.

24 I would suggest, Your Honor, that those would be
25 cause for improper basis for a verdict, that my

1 client is charged with murder. He's not charged with
2 desecration of a corpse or anything of the sort, Your
3 Honor. And I think that the effects on Ms. Felder
4 after the crime are depicted in that photograph and
5 the other photographs, and I don't believe that they
6 are relevant. And, Your Honor, I believe it's, you
7 know, among other things confusion of the issues and
8 again improper basis for a verdict.

9 **THE COURT:** Is this your objection to all of
10 them?

11 **MS. LAFAVE:** Yes, Your Honor. I'm just going to
12 make an objection to all of them. They are all
13 autopsy photos.

14 **THE COURT:** Well, just out of curiosity, what
15 are your objections to the pictures of the x-rays?

16 **MS. LAFAVE:** Your Honor, I actually --

17 **THE COURT:** How are they inflammatory?

18 **MS. LAFAVE:** Actually, Your Honor, when we went
19 through the pictures, I -- the two pictures of the
20 x-rays --

21 **THE COURT:** Three.

22 **MS. LAFAVE:** I do see the evidentiary value of
23 those, Your Honor. However, I am objecting to them
24 as autopsy photos. But my objection is not the same
25 to those I guess as the other two, other three.

1 **THE COURT:** But you are objecting to these skull
2 x-rays?

3 **MS. LAFAVE:** I'm objecting to the fact that
4 there are three that are being entered into evidence,
5 Your Honor. I think they're duplicative. I think
6 one would do what the other two suggest. Two of
7 those are actually the exact same picture. There's
8 just different lighting on them.

9 **THE COURT:** I agree with that. But the other
10 one, it clearly shows some mass, what appears to be a
11 mass which I assume is the lead fragment or something
12 like that inside the cranium. It seems to me that's
13 very relevant if it goes to cause of death.

14 **MS. LAFAVE:** Yes, Your Honor.

15 **THE COURT:** What's the difference between 121
16 and 120?

17 **MR. ROSS:** Your Honor, I'm not sure about
18 whether there is a difference or not without having a
19 doctor review those photos.

20 **THE COURT:** What's the cause of death?

21 **MR. ROSS:** Gunshot wound to the head.

22 **THE COURT:** Because there appears to be -- I've
23 got no business doing this. But it appears there may
24 be some -- there's no blow to the head, no blunt
25 force trauma?

1 **MR. ROSS:** No.

2 **THE COURT:** Other than gunshot wound?

3 **MR. ROSS:** Right. There is no evidence of any
4 other blow to the head. The skull came apart. How
5 the skull came apart can't really be determined. But
6 the gunshot is the major contributor towards that.

7 **MR. MILLING:** And, Your Honor, that's precisely
8 what Mr. Gallman's objection would be. There is no
9 evidence there was trauma to her head other than the
10 gunshot wound.

11 **THE COURT:** Well, I think the medical examiner
12 will explain that. So I'll find 120, 121, 122 are
13 admissible, relevant and may be duplicative, but that
14 in and of itself is not a grounds to rule them
15 inadmissible. Now, as to --

16 **MR. ROSS:** Your Honor, those are the least
17 gruesome photos. There is much more, much more
18 gruesome photos than those.

19 **THE COURT:** Well, that's not grounds for
20 admissibility.

21 **MR. ROSS:** I'm just saying we don't have
22 anything else. I mean, that's the least --

23 **THE COURT:** I'm just going to -- as in 1 and 66,
24 I think I'll wait for the medical examiner to link
25 these up before they're published to the jury.

1 **MR. ROSS:** Yes, sir.

2 **MS. LAFAVE:** 117, 118 and 119, Your Honor?

3 **THE COURT:** Yes. I think the other three are
4 clearly admissible.

5 **MS. LAFAVE:** Thank you, Your Honor.

6 **THE COURT:** 117, 118 and 119, yeah. There's
7 clearly some outside forces that created the
8 condition to the body other than the alleged gunshot
9 wound.

10 **MR. ROSS:** Your Honor, the next group of photos
11 is Exhibits No. 123 through 130. These are crime
12 scene photos of Desiree Felder.

13 **THE COURT:** 1 what?

14 **MR. ROSS:** 123 through 130.

15 **THE COURT:** All right.

16 **MR. ROSS:** These are crime scene photos of
17 Desiree Felder as she is found in the woods.

18 **THE COURT:** And ...?

19 **MR. ROSS:** They need a moment to review those,
20 Your Honor. They have an objection to all those
21 photos.

22 **THE COURT:** Mr. Ross, are they marked?

23 **MR. DELGADO:** 123 through 130 I believe are.

24 **THE COURT:** All right. Any objection?

25 **MS. LAFAVE:** Yes, Your Honor. If I may, Your

1 Honor, 123 through 127.

2 **THE COURT:** All right. Just hold on. Start
3 with 123.

4 **MS. LAFAVE:** If I am remembering this correctly,
5 Your Honor, 123 through 127 are pictures of the
6 position of Ms. Felder's body in accordance to the
7 woods where she was laying.

8 **THE COURT:** Okay.

9 **MS. LAFAVE:** And --

10 **THE COURT:** She's laying in the woods.

11 **MS. LAFAVE:** Yes, Your Honor. And there are
12 many other pictures that I have not objected to that
13 are going to show her position in the woods as to the
14 relationship to the road, law enforcement and the
15 path that was used. But, Your Honor, because the
16 position of the body at the crime scene was so
17 detailed in CSI reports, I submit to the Court that
18 they're more prejudicial than probative due to the
19 decomposition of Ms. Felder's body.

20 **THE COURT:** 123 doesn't -- I don't know what 123
21 is purporting to even show.

22 **MR. ROSS:** There's a little piece of blue
23 material right there in the straw and they were
24 documenting that.

25 **THE COURT:** A piece of blue material in the

1 straw. Yes, I see that.

2 MR. ROSS: And the hands being bagged. That's
3 all that shows.

4 THE COURT: There are hands in those bags?

5 MR. ROSS: Yes, sir.

6 THE COURT: Is that a bag?

7 MR. ROSS: Yes, sir.

8 MS. LAFAVE: If I may, Your Honor, there is
9 another --

10 THE COURT: Law enforcement did that, didn't
11 they?

12 MR. ROSS: Yes, sir.

13 MS. LAFAVE: If I may, Your Honor, there is
14 another picture showing the blue material along with
15 a couple of other materials that are found.

16 THE COURT: What's your objection to this?

17 MS. LAFAVE: Your Honor, my objection is that
18 it's duplicative.

19 MR. DELGADO: Your Honor, in the corner, if
20 you'll look at that, may I show you?

21 THE COURT: Yeah.

22 MR. DELGADO: See this right here?

23 THE COURT: It's something.

24 MR. DELGADO: Yeah. That's her.

25 THE COURT: It's something.

1 **MR. DELGADO:** Well, no. It's duplicative of her
2 body. It shows the decomposition of the body. What
3 is it relevant to except to inflame and prejudice the
4 jury?

5 **THE COURT:** Okay. 124, 125, 126, 127. I guess
6 that's -- yeah. 128. What is 128?

7 **MR. ROSS:** Let me see, Your Honor.

8 **THE COURT:** Is that a hand with something in it?

9 **MR. ROSS:** Yes, sir. She had some what appear
10 to be crack cocaine in a piece of notebook paper in
11 her hand. That's what that shows.

12 **THE COURT:** What's that relevant to?

13 **MR. ROSS:** Documenting just the fact that she's
14 out in the woods with that crack cocaine clutched in
15 her hand.

16 **THE COURT:** That's a fact, but what's it
17 relevant to?

18 **MR. ROSS:** It's relevant to show that she was
19 found in that position, that she had no shoes on, yet
20 she has this crack cocaine in her hand.

21 **THE COURT:** That's what it shows?

22 **MR. ROSS:** Yes, sir. I mean, it's relevant
23 because that's how she was found. I mean, that's how
24 she was found in this case.

25 **THE COURT:** Oh.

1 **MR. ROSS:** The fact that she was found that way
2 is relevant.

3 **THE COURT:** The cocaine is not relevant to
4 anything?

5 **MR. ROSS:** I don't know whether it is or not.
6 I'm just saying that she was found with the crack
7 cocaine in her hand.

8 **THE COURT:** Well, you know, there are probably
9 100 photographs of deceased people in murder cases
10 and they may be offered for the State on the grounds
11 that that's the way they were found, but there's got
12 to be some relevance. In other words, you've got six
13 or eight of them showing how she was found.

14 **MR. ROSS:** Right. But they don't document the
15 position of her hand with the crack cocaine. She is
16 kidnapped, taken out from her house. She's found in
17 the woods with no shoes on.

18 **THE COURT:** One, two, three, four pictures show
19 that she's got crack cocaine in her hand.

20 **MR. ROSS:** It's just close up, Your Honor. I
21 mean, it's not a --

22 **THE COURT:** I know that.

23 **MR. ROSS:** It's not a gruesome photo.

24 **THE COURT:** You just can't wait to say
25 something, can you, Ms. LaFave?

1 **MS. LAFAVE:** I'm sorry, Your Honor. I was going
2 to try to compromise on these hand pictures with the
3 crack cocaine.

4 **THE COURT:** That would speed things up.

5 **MS. LAFAVE:** Your Honor, this is a picture of
6 her holding the crack cocaine that you were just
7 showing. And I believe I'd like to look at it just
8 to get the number.

9 **THE COURT:** That one, that one, that one and
10 perhaps that one all show a hand with crack cocaine
11 and perhaps even others from a distance.

12 **MS. LAFAVE:** Your Honor, if this solves the
13 problem, I'll withdraw my objection as to 128 and ask
14 that the others be excluded as duplicative.

15 **MR. ROSS:** That doesn't solve the problem.
16 These three photos are -- I'm not trying to introduce
17 these to show crack cocaine. If necessary, I'll
18 withdraw 129 to solve that problem. But 127 and 130
19 show her position as how she is falling. She's just
20 not laying in the woods. She has fallen inbetween a
21 tree and she's wedged into the tree. And you'll see
22 how her arm --

23 **THE COURT:** Yeah. That's shown on the other
24 three photographs.

25 **MR. ROSS:** Yes, sir. They're just further away

1 and then going close up.

2 **THE COURT:** All right. Anything further?

3 **MS. LAFAVE:** I do not believe, Your Honor. Here
4 is the photograph that I'm willing to withdraw my
5 objection to.

6 **THE COURT:** So the objection to 128 is
7 withdrawn. And 129 is withdrawn, is withdrawn. So
8 128 is in. 129 is out at the present based on the
9 agreement of counsel.

10 **MS. LAFAVE:** Yes, Your Honor.

11 **THE COURT:** Subject to. So now we've got 127,
12 120. Did you pull 129 out?

13 **MR. ROSS:** Yes, sir.

14 **THE COURT:** All right. I'm going to look at
15 them and I'll let you know. I won't do it right now.

16 **MR. ROSS:** The last photos, Your Honor, is
17 autopsy photos of George, also known as Jim Batie.

18 **THE COURT:** What numbers?

19 **MR. ROSS:** Exhibits 109 through 116.

20 **THE COURT:** Has counsel looked at them?

21 **MR. ROSS:** They've looked at them, Your Honor.
22 This is also photos and x-rays.

23 **THE COURT:** I'd suggest that all of these, we
24 just wait until the medical examiner gets here. He
25 can testify as to whether they're relevant or not.

1 And there's no way I can make a decision whether an
2 autopsy photo is relevant until I hear what the
3 examiner is going to say because I don't know what
4 the examiner is going to say.

5 **MR. ROSS:** That's fine with the State, Your
6 Honor.

7 **THE COURT:** The same objection?

8 **MS. LAFAVE:** The same objection, Your Honor, as
9 to the autopsy photos.

10 **THE COURT:** All right. I mean, I think the
11 ones, these are more proper for the Court to consider
12 and rule on than autopsy photographs at this time. I
13 haven't heard the first word of testimony yet.

14 **MS. LAFAVE:** Thank you, Your Honor.

15 **THE COURT:** Any other? Is that it on the
16 photos?

17 **MR. ROSS:** Yes, sir.

18 **THE COURT:** Anything else other than the bank
19 records?

20 **MR. MEADORS:** The State --

21 **MR. STRICKLER:** The statement, Your Honor.

22 **THE COURT:** And the statement. You're right.
23 The redacted statement. Is --

24 **MR. MILLING:** Your Honor, one thing I'd like to
25 point out before we get to the statement, and I hate

1 to belabor this point, but the reciprocal discovery
2 which was just signed over to me is signed by Dana
3 Outen who is a parallel with the Solicitor's Office,
4 not signed by a lawyer.

5 **THE COURT:** All right. Thank you very much.

6 **MR. STRICKLER:** Your Honor, I assume you have a
7 copy of the proposed redaction on the part of the
8 State?

9 **THE COURT:** I have the original statement and
10 the proposed redaction.

11 **MR. STRICKLER:** Yes, sir. On behalf of Mr.
12 Oliver, if I could, please, on page 2, the last
13 question having to do with Jim, a direct reference
14 that Mr. Oliver has been placed by another person at
15 another person's house.

16 **THE COURT:** Another person I met at -- okay.

17 **MR. STRICKLER:** Okay. And frankly I could argue
18 about that, but I don't care.

19 **THE COURT:** Okay. All right.

20 **MR. STRICKLER:** Now, as to page 3: "Did Stanley
21 Oliver ever go to Big Jim's house?" "Not that I know
22 of." Well, I need to be able to ask him about that,
23 proffer it. How did he know Stanley Oliver?
24 Whatever his response is, I need to be able to cross
25 examine him about that. I can go through why I need

1 to or what I would propose to ask him, but I can't.
2 He's not available. This is testimonial. It's
3 Crawford. "When was the last time you saw Stanley?"
4 Sorry. I get to ask him about that. By him I mean
5 Mr. Gallman. I get to cross examine him about his
6 statements about the last time he saw Stanley. I get
7 to do that, proffer it.

8 **THE COURT:** All right. I understand.

9 **MR. STRICKLER:** As to each and every one. And
10 that starts at the first question and runs down to
11 the one right before: "How do you know Kenneth Joy?"

12 **THE COURT:** All right. I understand.

13 **MR. MEADORS:** I guess earlier Stanley -- and I'm
14 not going to hurt myself on this -- but Stanley
15 Oliver's statement is referencing to Gallman, the
16 fact that he knew him we said could come in or Your
17 Honor said could come in.

18 **THE COURT:** Yeah. But that doesn't open the
19 door --

20 **MR. MEADORS:** No, sir. I'm not saying it does.

21 **THE COURT:** -- to this whole line of Crawford
22 related questions.

23 **MR. MEADORS:** Beg the Court's indulgence.

24 **THE COURT:** I just think there is an
25 insufficient redaction here.

1 **MR. MEADORS:** Judge, just give me one second.

2 **THE COURT:** Sure.

3 **MR. MEADORS:** Please.

4 (Pause)

5 **MR. MEADORS:** Judge, just line-by-line we'll
6 agree: "Did Stanley Oliver ever go to Big Jim's
7 house?" We'll agree to take that out. Question and
8 answer. Then, Your Honor, I don't know how "How did
9 you know Stanley Oliver", I mean, it's just like if
10 you know him. Yeah, I know him. I met him through
11 Solo. I don't see how that -- Doug wants to say
12 something. Go ahead.

13 **MR. STRICKLER:** Yeah. I do. And I don't know
14 that I chimed in on whatever earlier conversation
15 there was. It does not have to be an inculpatory
16 statement about him under Crawford. It has to be a
17 testimonial statement and the maker of the statement
18 has to be unavailable to testify. Mr. Gallman is
19 unavailable to testify. This under Crawford is one
20 of the specific class of statements, those given in
21 response to police interrogation that are
22 prototypically testimonial in nature. The only --

23 **THE COURT:** You don't have to raise your voice.

24 **MR. STRICKLER:** I am sorry, Your Honor.

25 **THE COURT:** I understand that.

1 **MR. STRICKLER:** I'm sorry. Then I don't
2 understand why I have to have this conversation.
3 It's a statement by Mr. Gallman. He is unavailable.

4 **THE COURT:** I just told the solicitor that.

5 **MR. STRICKLER:** Yes, sir.

6 **THE COURT:** It's not the inclusion of the
7 question and answer as being exculpatory or
8 inculpatory. It's whether or not there is a
9 confrontation issue that is testimony. It's clearly
10 testimony. I mean, that goes without saying it's
11 testimonial. And all of these witnesses are
12 unavailable.

13 So if I have to do it, I'll do it. But I think
14 involving any of the -- Mr. Gallman involving either
15 of the other two defendants in his colloquy and his
16 statement with police is a violation of Crawford, and
17 especially when you go down to: "Where did Stanley
18 get his gun?"

19 **MR. MEADORS:** I don't disagree on that one.

20 **THE COURT:** Sir? I mean, just --

21 **MR. MEADORS:** This is an initial reference just
22 to get the actual names out, Judge. This is a work
23 in progress is what it is.

24 **THE COURT:** Well, maybe you'd better go back and
25 work it again.

1 **MR. MEADORS:** Well, that's what I think we're
2 doing, Judge. We took the names out and tried to do
3 it right. That's what we did. I don't know how else
4 to do it.

5 **THE COURT:** Well, Crawford is not that hard to
6 understand, I don't think. And if I am reading
7 Crawford wrong, then tell me. But does anybody
8 disagree this is a testimonial statement? No. Does
9 anybody disagree that these defendants are
10 unavailable? No. So how can one defendant testify
11 against the other regarding anything unless he was
12 there, saw it and --

13 **MR. MEADORS:** Let's move on to page 4 then,
14 Judge.

15 **THE COURT:** Sir?

16 **MR. MILLING:** Your Honor, if I may.

17 **THE COURT:** Is your objection the same thing as
18 Mr. --

19 **MR. MILLING:** It goes back to Mr. Oliver's
20 statement. And I think that while the Court has
21 already ruled on that, I think the Court was going to
22 allow the investigating officer to provide testimony
23 that Mr. Oliver said that he knew Mr. Gallman. And I
24 think that's the same problem that the Court has just
25 ruled upon with respect to Mr. Oliver, that it can't

1 come in with respect to Mr. Gallman saying that he
2 knew Mr. Oliver. And I would just ask for the same
3 thing in reverse.

4 **THE COURT:** Thank you. Does mr. Joy have a
5 position? Do you agree with your co-counsel?

6 **MR. DELGADO:** See, I'm in a difficult position.
7 I can waive that confrontational right. That helps
8 my case, Judge. Everything about Ken Joy that's in
9 that statement helps me. Could I --

10 **THE COURT:** Sure.

11 **MR. DELGADO:** -- just defer a motion on that?

12 **THE COURT:** Sure. I offered you a solution
13 yesterday.

14 **MR. DELGADO:** Well, I understand.

15 **THE COURT:** Strike that. Strike that. Strike
16 that.

17 **MR. MEADORS:** Your Honor, they do have other
18 options available.

19 **THE COURT:** I understand.

20 **MR. MEADORS:** So that's a decision they have
21 to --

22 **THE COURT:** Mr. Joy has a lot of options.

23 **MR. STRICKLER:** Thank you, sir. We just
24 finished talking about page 3. And I think it would
25 be fair to say between Mr. Oliver and Mr. Gallman,

1 all of page 3 is properly subject to redaction. As
2 to page 4, the one, two, three, four, the fifth
3 question and answer as far as they relate to Mr.
4 Oliver.

5 **MR. MEADORS:** Doug, what's the page number
6 again?

7 **MR. STRICKLER:** Page 4, the fifth question and
8 answer.

9 **MR. MEADORS:** I've got you. I've got you. I've
10 got you.

11 **MR. STRICKLER:** And then the ninth question and
12 answer and the tenth question and answer as to Mr.
13 Oliver, sir.

14 **MR. MEADORS:** Okay. I've got them marked.

15 **THE COURT:** All right. What is the objection?
16 Anything further? Objection?

17 **MR. MILLING:** Yes, sir, Your Honor. To begin
18 with, we had objected as to Mr. Gallman's statement
19 as an initial matter as to whether or not it was
20 relevant or inadmissible hearsay. And I don't recall
21 that the Court has ruled upon that.

22 **THE COURT:** I don't recall your motion on the
23 grounds that the sworn statement is hearsay.

24 **MR. MILLING:** It's an out-of-court statement
25 offered for the truth of the matter.

1 **THE COURT:** Right.

2 **MR. MILLING:** It does not fall under any of the
3 exceptions. It is not against interest. Nothing in
4 here --

5 **THE COURT:** I don't know that.

6 **MR. MILLING:** That's our objection, is they do
7 not -- Mr. Gallman does not admit to any involvement
8 in these robberies. He does not admit any
9 involvement in the murders, the kidnappings, the
10 burglary.

11 **THE COURT:** All right.

12 **MR. MILLING:** And, Your Honor, we also have the
13 same objection that we did discuss earlier, the Lyle
14 issue dealing with use of illegal drugs which is
15 included on page 1 and 2 and 4.

16 Your Honor, specifically if I may, on page 1:
17 "What were you going on Labor Day weekend?" And his
18 answer the fourth line down: "I was out on the porch
19 smoking a couple of blunts." I don't think that's
20 relevant at all to this situation. It's character
21 evidence. It's also evidence of a crime.

22 The same thing on page 2. The next to last line
23 of the first photograph, it says he smoked some
24 reefer and talked to T. C. The third question on
25 that page: "How do you know Big Jim?" "We ended up

1 getting some cocaine from him. He showed us a nice
2 sized bag of cocaine that we bought from him. We
3 bought \$60 worth of cocaine for \$30. He showed me
4 how much the cocaine weighed on the scale, and I said
5 okay. I paid him and left."

6 And then on page 4, the second question: "Do
7 you know Blue?" "Yeah. I bought some reefer from
8 him down by the open air market."

9 **THE COURT:** What about the alleged prior bad
10 acts in the statement?

11 **MR. MEADORS:** Judge, it's a statement made
12 against his interest at the time it's made. I don't
13 see how "I bought cocaine from Big Jim in the past"
14 is not relevant against his interest in this case.
15 The whole theme of this case is that these guys
16 robbed Big Jim for his money. Something happened and
17 three people were dead, Your Honor. I think this is
18 relevant and against his interest.

19 **THE COURT:** How about I smoked some reefer or I
20 smoked some blunts?

21 **MR. MEADORS:** Well, Judge, those are his words
22 against his interest at the time. Now to come back
23 and say it's prejudicial, it's his words at the time
24 after being advised of his rights.

25 **THE COURT:** He's not charged with possession of

1 drugs.

2 **MR. MEADORS:** He doesn't have to be.

3 **THE COURT:** Sir.

4 **MR. MEADORS:** He doesn't have to be. He says
5 he's been to Jim's one time, has got a connection
6 there.

7 **THE COURT:** Who is Devon?

8 **MR. MEADORS:** Who? I'm sorry, Judge. I
9 couldn't hear you. I'm sorry.

10 **THE COURT:** Who is Devon? "I smoked a couple of
11 blunts with a guy named Devon." Is he involved?

12 **MR. MEADORS:** Judge, I don't know. Those are
13 his words.

14 **THE COURT:** I'm just asking you.

15 **MR. MEADORS:** I don't know.

16 **THE COURT:** He's not a witness?

17 **MR. MILLING:** Your Honor, I don't believe there
18 are any allegations that Devon is involved or a
19 witness in this case.

20 **THE COURT:** How about T. C.?

21 **MR. MILLING:** I'm not aware of any allegations
22 against this individual either.

23 **THE COURT:** All right. Anything further? I'll
24 take it under advisement then.

25 **MR. MEADORS:** Judge, again, for the record, the

1 allegations are that Jim Batie was robbed because he
2 had drugs. He got killed along with a customer and
3 his girlfriend, Ms. Desiree Felder. This talks about
4 his relationship, his being related to Gallman and
5 Oliver in drugs.

6 **THE COURT:** Anything further?

7 **MR. MEADORS:** Did Mr. Delgado finish on his
8 statement?

9 **THE COURT:** Sir?

10 **MR. MEADORS:** I don't know if he withdrew -- did
11 he have any other objections at all?

12 **THE COURT:** I'm sorry. He said he'd defer at
13 this time.

14 **MR. MEADORS:** Okay. I'm sorry.

15 **MR. STRICKLER:** Nothing further in this regard
16 from Mr. Oliver, Judge.

17 **THE COURT:** The only thing outstanding is the
18 bank records?

19 **MR. STRICKLER:** Yes, sir.

20 **THE COURT:** Somebody from your office will
21 review?

22 **MR. STRICKLER:** Yes, sir.

23 **MR. MEADORS:** Your Honor, just to revisit this
24 last issue, I'm going back and ask Ms. Outen to
25 redact again with the same format, taking out what

1 Your Honor just ruled will not come in, pass it to
2 everybody tomorrow so everybody can see that
3 tomorrow.

4 **THE COURT:** That will be great. Now, the jury
5 will be here at 9:30. If there's -- why don't we
6 convene at 9. You think you can work that out,
7 Jessie?

8 **DEPUTY:** Yes, sir. The jail will transport one
9 and then we've got two other officers picking up the
10 other two first thing in the morning.

11 **THE COURT:** That seems to have been a little bit
12 of a hangup so far.

13 **DEPUTY:** It will be taken care of.

14 **THE COURT:** We can get that worked that out?

15 **DEPUTY:** It can be taken care of.

16 **THE COURT:** Thank you, counsel.

17 (Whereupon, the proceedings are concluded for
18 the day, to be reconvened tomorrow morning)
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Wednesday, December 5, 2007

THE COURT: Counsel, the jury is not present yet in its entirety. And I have two notes from jurors that you may want to review. I've shared one of them.

MR. STRICKLER: May I approach, Your Honor?

THE COURT: Come on. With defense counsel, just because they were in here a few minutes ago when the first one arrived.

(Whereupon, a bench conference is had)

MR. MEADORS: Judge, we maybe want to request an alternate. I don't even know what juror that is.

THE COURT: No. He doesn't say.

MR. MEADORS: He disclosed that their child had been represented by Mr. Delgado. I certainly would have struck that juror.

THE COURT: Eleven years ago. Go ahead.

MR. STRICKLER: I'm sorry. Could I ask just one thing before we proceed? I know we're going to eventually, but could we get those marked as Court's Exhibits so I'll know which ones we're referring to?

COURT REPORTER: I've already got a Court's 1, Your Honor.

THE COURT: Whatever number she puts on there, we'll have all notes from the jurors marked.

1 **MR. STRICKLER:** Yes, sir.

2 **THE COURT:** The first note refers to Mr.
3 Delgado. An error refers to him as the defendant.
4 But he also indicates that Mr. Delgado represented
5 his daughter ten to eleven years ago. I can't read
6 his signature, so it would be even probably difficult
7 for Mr. Delgado to know who it is or who -- I don't
8 know that until we know who he is.

9 But the second thing is that the juror has the
10 right to serve. If requested I will Voir Dire him
11 about his connection in this case and if he feels he
12 could be fair and impartial, if the State wishes me
13 to do that.

14 **MR. MEADORS:** Without question.

15 **THE COURT:** I don't think it's cause at this
16 point.

17 **MR. MEADORS:** I don't think I can respond to
18 that until after your inquiry. We would request an
19 inquiry. Sure.

20 **THE COURT:** All right. Do you want that in open
21 court, or do you want me to do that privately?

22 **MR. MEADORS:** Let me think a second.

23 **THE COURT:** Or I'll do it not on the record with
24 counsel present.

25 **MR. MEADORS:** Judge, you're saying let's all go

1 back in chambers? I'm not following you.

2 **THE COURT:** I said we've got three options. We
3 can bring the jury in here, examine him on the
4 record, all counsel in my chambers and examine him
5 off the record, or I will examine him by myself.

6 **MR. MEADORS:** Let's just bring him in here. I
7 say we bring him in here. For time purposes, Your
8 Honor, it might be easier for everybody.

9 **THE COURT:** You say do what?

10 **MR. MEADORS:** Just bring him in here.

11 **THE COURT:** All right. Any objection?

12 **MR. STRICKLER:** Your Honor, first, as to this,
13 which I believe there's already Court's 1 being
14 something I entered; Court's No. 2 referencing Mr.
15 Delgado, I don't think it arises to cause at this
16 point. I would propose examining him. And I would
17 request that if he is brought into court to be
18 examined that he be informed that it's at the request
19 of the state of South Carolina that he is being
20 examined because I don't want to be associated by him
21 with putting him on the spot about being honest about
22 what's going on on his part. I don't think that's
23 right to put us on the spot or me on the spot in that
24 regard, Mr. Oliver.

25 **MR. MEADORS:** Your Honor, it's at the Court's

1 request. I think the Court is obligated. He comes
2 out on his own. I give the juror credit in saying I
3 didn't realize it until today. I think by law you've
4 got to ask him if he could be fair and impartial.

5 **THE COURT:** There's no question about that.

6 **MR. MEADORS:** It's not the State's request. I
7 mean, we totally object to that. Or if that's the
8 case, I think we have the right to exercise one of
9 our strikes if Your Honor puts an alternate on if we
10 don't like him if you're going to do that.

11 **THE COURT:** Say what?

12 **MR. MEADORS:** If he's going to do that, then
13 we'd like Your Honor to put an alternate on if we
14 don't like him or we don't like his response, his
15 answers, if we don't like what he says out here.

16 **THE COURT:** Well, that's my decision. It's not
17 the State's decision. I think that the better
18 practice is to examine the juror in the presence of
19 counsel and then let you put whatever you want in the
20 record rather than bringing him into a strange
21 courtroom. The trial hasn't even started. He's
22 never even been in here except for qualifications.
23 And that's the procedure I will follow.

24 **MR. MEADORS:** Fine with me, Judge.

25 **THE COURT:** All right.

1 **MR. STRICKLER:** So that will be in chambers,
2 Your Honor?

3 **THE COURT:** Well, we'll do it in the hall or in
4 chambers off the record. Let's just put it that way.

5 **MR. STRICKLER:** And as to the second note, Your
6 Honor, which would be Court's 3, that related to
7 blood sugar and the necessity to have something to
8 eat at some times during trial. For Mr. Oliver, I
9 have no objection to that.

10 **THE COURT:** The State have any objection?

11 **MR. MEADORS:** No, sir.

12 **MR. MILLING:** We would have no objection.

13 **MR. DELGADO:** Thank you, Your Honor.

14 **THE COURT:** If he brings a package of Saltines
15 with him?

16 **MR. DELGADO:** Your Honor, may I just, as relates
17 to Court's Exhibit No. 1?

18 **THE COURT:** 2. Now, Mr. Strickler has
19 designated the exhibit numbers.

20 **MR. STRICKLER:** It is to be 2 because No. 1 was
21 my requested Voir Dire that I submitted to Madam
22 Court Reporter.

23 **THE COURT:** I rely on the court reporter to
24 assign numbers.

25 **MR. DELGADO:** The Court Exhibit that today

1 referenced me; Your Honor, I just want to say to you
2 as an officer of the Court, I don't know who that
3 individual is. I didn't see anybody that I knew
4 during the qualifications yesterday. I'm at a
5 complete loss as to who the client may have been or
6 what it might have involved.

7 **THE COURT:** Well, you obviously made an
8 impression because they're still referring to you a
9 the defendant.

10 **MR. DELGADO:** Your Honor, it's one of very times
11 if I did.

12 **THE COURT:** All right. We still don't have a
13 full complement of jurors. Are there matters that
14 need to be resolved before the commencement of the
15 trial?

16 **MR. MEADORS:** I don't know if we can resolve
17 this now, but it's one issue we didn't get to
18 yesterday. There is another statement. I know Your
19 Honor was wondering if Mr. Joy said anything. There
20 is a non-custodial statement Kenneth Joy gave to one
21 Gertrude Burns. At some point we need to go over
22 that, the same issues I think that these lawyers will
23 have on that. I don't think we have time now, but I
24 just want to obviously before she testifies. They
25 would be the same types of objections I would expect.

1 **THE COURT:** Give it to me again. Kenneth Joy?

2 **MR. MEADORS:** Yes, sir. He gave a --

3 **THE COURT:** And who is he?

4 **MR. DELGADO:** The Defendant, Joy, Your Honor.

5 **MR. MEADORS:** Mr. Delgado's client. He gave an
6 oral non-custodial statement to Gertrude Burns.

7 **THE COURT:** To Gertrude Burns. Who is she?

8 **MR. MEADORS:** She is a retired investigator from
9 the Columbia Police Department.

10 **THE COURT:** Was she an investigator at the time?

11 **MR. MEADORS:** Yes, sir. So obviously we will go
12 over that before we call her. I think we'll have the
13 same issues. It was an oral statement.

14 **THE COURT:** She is going to testify?

15 **MR. MEADORS:** Yes, sir. Mr. Ross will handle
16 that.

17 **THE COURT:** Sir? Okay.

18 **MR. ROSS:** Your Honor, there are some additional
19 names that we'd like the Court to inquire of the
20 jurors if they have any relationship to them. Most
21 of them are out-of-state witnesses we had to
22 coordinate; because of the length of the trial,
23 trying to coordinate witnesses from a couple of
24 cellphone providers.

25 **THE COURT:** These are witnesses that are not on

1 your list?

2 **MR. ROSS:** Cellphone providers. Right. Because
3 they only send certain people during certain times.
4 And then there's three officers that I learned of
5 yesterday that shouldn't be called as witnesses but
6 potentially could be for chain of custody that I
7 didn't know about until yesterday.

8 **THE COURT:** All right. I'll do that. All
9 right. Anything else?

10 (WHEREUPON, Court's Exhibit No. 2 is marked for
11 identification.)

12 (WHEREUPON, Court's Exhibit No. 3 is marked for
13 identification.)

14 **MR. MILLING:** Your Honor, on behalf of Mr.
15 Gallman, we would just object to the State being
16 allowed to call these witnesses. This is an untimely
17 request on their part. It's something that should
18 have been taken care of a long time ago. On behalf
19 of Mr. Gallman we would object.

20 Additionally, Your Honor, I think that we still
21 have the issue relating to Mr. Gallman's statement.
22 I think the State was supposed to be providing us
23 with an updated redacted copy. Since they have not,
24 I can only assume that they are not planning on
25 trying to introduce that statement.

1 **THE COURT:** You cannot assume anything in this
2 case.

3 **MR. MILLING:** Yes, sir. But I guess for
4 purposes of this point in time --

5 **THE COURT:** At this point in time it's still --

6 **MR. MILLING:** For the record, we have not been
7 provided --

8 **THE COURT:** It hasn't been considered and I
9 don't know what's going to happen.

10 **MR. MEADORS:** We've been working pretty much
11 around the clock. It will be here shortly.

12 **THE COURT:** Well, that's fine. On behalf of Mr.
13 Joy.

14 **MR. DELGADO:** On behalf of Mr. Joy, Your Honor,
15 as relates to the redacted statement concerning the
16 co-defendant, Dominic Gallman, after conferring with
17 Mr. Joy, we would waive the confrontation of Mr.
18 Gallman as to that redacted statement.

19 **THE COURT:** As to Mr. Joy.

20 **MR. DELGADO:** As to Mr. Joy. That's correct.

21 **THE COURT:** So if the redaction changes, it's a
22 fluid thing.

23 **MR. MEADORS:** Your Honor, we're going to have to
24 I think at some point go over all of that.

25 **THE COURT:** So we'll have to do it again. All

1 right. That's fine. I think Mr. Milling still has a
2 motion to exclude it in its entirety because he says
3 it's hearsay. That's what he says. Correct?

4 **MR. MEADORS:** You talking about his own client's
5 statement?

6 **MR. MILLING:** Your Honor, my objection is that
7 it's hearsay and that it's not relevant and there is
8 no probative value here.

9 **MR. MEADORS:** You could rule on that now, Judge,
10 couldn't you?

11 **THE COURT:** No. Not until I see it. So far
12 we've got -- about the only thing we've agreed on is
13 his name and address.

14 **MR. STRICKLER:** And, Your Honor, just as to Mr.
15 Milling's response, I will join in his response
16 regarding the additional witnesses, opposed to adding
17 the witnesses to the list on the same basis that he
18 states.

19 I do have a couple of additional matters myself
20 very briefly. First of all, to bring to the Court's
21 attention the nature of the transport in this case as
22 much as anything else, Mr. Oliver, and I would assume
23 Mr. Gallman and Mr. Joy may, but I specifically speak
24 on behalf of Mr. Oliver, is not being returned to the
25 county jail in time to get any kind of proper dinner.

1 He gets a warm meal in the morning and some form of
2 mystery meat sandwich at night.

3 I would ask the Court direct the detention
4 center to make arrangements to feed Mr. Oliver, and
5 if the other gentlemen want to join in this, you
6 know, an appropriate dinnertime meal after what is
7 anyone would agree an exhausting process.

8 It reinforces what I proposed earlier, the
9 shackling which is treating him in such fashion that
10 is not becoming to him as a human being or to this
11 judicial system that we're operating under. So I
12 just bring that to the Court's attention, ask for
13 relief from the Court.

14 **THE COURT:** I'll look into it, Mr. Strickler.

15 **MR. STRICKLER:** Thank you, sir.

16 **MR. MILLING:** Your Honor, we would join in that.
17 And I guess in a similar vein, it's my understanding
18 that down at the detention center the inmates are
19 only provided razor blades at certain times during
20 the week on a limited basis for purposes of shaving.
21 Appearance means a lot during the trial. And so on
22 behalf of Mr. Gallman we would request that he be
23 given an opportunity to shave every day so that the
24 jury not draw any improper inference from him being
25 unable to do so. That may go for the other two

1 defendants or not. I don't know what their
2 preference would be. But at least on behalf of Mr.
3 Gallman he requests to be given this.

4 **MR. DELGADO:** Your Honor, on behalf of Mr. Joy,
5 I join in that motion relating to their appearance,
6 and I also join into the motion by Mr. Milling and
7 Mr. Strickler relating to the calling of these
8 witnesses. They've listed, five, six, seven, eight
9 different witnesses that were noticed this morning.

10 **THE COURT:** All right. I'll let you maintain
11 that objection and I'll rule on it if and when they
12 are called.

13 **MR. STRICKLER:** Thank you, Your Honor. I have
14 one other matter, and that is a requested limiting
15 instruction from the Court. I'm passing it up to the
16 Court, Your Honor, copies for counsel of the
17 co-defendants, counsel for the State, a copy for
18 Madam Clerk I ask that she file with the court with
19 the clerk's file, a copy for Madam court reporter.
20 I'd ask that she make it a Court's Exhibit.

21 (WHEREUPON, Court's Exhibit No. 4 is marked for
22 identification.)

23 **MR. STRICKLER:** It's a limiting instruction
24 regarding evidence admitted against one defendant in
25 the trial. It's not applicable to other defendants

1 in the trial. I will certainly be asking for the
2 charge at the end of case and I'm specifically asking
3 that at such point in time as I make an objection
4 that the evidence is being offered against only one
5 or the other defendants in the trial, I'm asking the
6 Court deliver this instruction each and every time
7 that occurs to point out to the jury which pieces of
8 evidence are being offered solely against one or the
9 other defendants in this trial.

10 **THE COURT:** Okay.

11 **MR. STRICKLER:** That's my motion.

12 **THE COURT:** Any objection to that? It may not
13 be in that rote rhetoric every time, but I intend to
14 remind them.

15 **MR. STRICKLER:** All right. Thank you, sir.

16 **MR. MEADORS:** Judge, you're not going to remind
17 them every time a witness says something?

18 **THE COURT:** No.

19 **MR. MEADORS:** I would certainly object to that.

20 **THE COURT:** Well, if you object to the way I
21 manage the trial, then you can put it on the record.

22 **MR. MEADORS:** I've never objected to you. I'm
23 not saying that, Judge. But this specific, I thought
24 he said whenever it came up. We certainly would
25 object to that.

1 **THE COURT:** Well, within reason.

2 **MR. STRICKLER:** And that is my motion.

3 **THE COURT:** I'm going to try to attempt to
4 protect every defendant.

5 **MR. STRICKLER:** Thank you, sir.

6 **THE COURT:** From evidence that may apply only to
7 another defendant. Now, I don't know what the
8 State's plan is for opening. As far as I know, we
9 still don't have a jury.

10 **THE CLERK:** They're all here, Your Honor.

11 **THE COURT:** Oh, they are?

12 **THE CLERK:** Yes, sir.

13 **THE COURT:** All right. But I would like to
14 revisit the issue of the arrest of the Defendant
15 Oliver on the possession of a pistol charge and the
16 desire of the State to introduce that evidence during
17 the course of this trial. If I remember correctly, I
18 took that matter under advisement, and I am ready to
19 revisit that issue at the present time. It's my
20 understanding that the State wishes to introduce that
21 evidence. State your grounds for, Mr. Ross, offering
22 that evidence.

23 **MR. ROSS:** Your Honor, we were going to
24 introduce that statement that Stanley Oliver carried
25 a gun because he robbed --

1 **THE COURT:** Well, you were going to offer the
2 arrest also, were you not?

3 **MR. ROSS:** Yes, sir.

4 **THE COURT:** There were two things.

5 **MR. ROSS:** You can't separate the two. Because
6 of the arrest the statement was made that he had a
7 gun and he carried it because he robbed drug dealers
8 and he needed it for protection.

9 **THE COURT:** All right. Now, the defense takes
10 the position that that is not allowable under 404,
11 character evidence. Is that correct?

12 **MS. LAFAVE:** Yes, Your Honor. On behalf of Mr.
13 Oliver, this would cause the jury to draw an improper
14 assumption that Mr. Oliver is the type of person to
15 carry weapons. As Mr. Ross stated yesterday, this
16 weapon is not being alleged to have been used in both
17 crimes. It was seized. And, yes, Your Honor; we
18 would submit that it is character evidence and that
19 Mr. Oliver would be seen as a person who is carrying
20 guns.

21 **THE COURT:** Well, 404 provides that evidence of
22 other crimes, wrongs or acts is not admissible to
23 prove character of a person but in order to show
24 action in conformity therewith. And here we have an
25 arrest ten days prior to the alleged murders for

1 possession of a pistol. The fellow is walking down
2 the street with a pistol in his pants or his belt.

3 The charge in this case is murder, armed
4 robbery, kidnapping. It does not seem to me that the
5 arrest for possession of a pistol is an effort to
6 prove conformity. In other words, I think conformity
7 is the issue here, and by proving that he was
8 arrested for having a pistol, it doesn't naturally
9 flow that he committed a murder.

10 If he had been arrested for assault and battery
11 with intent to kill, that's the purpose of 404 for
12 excluding this type of evidence, because if he did it
13 once he'd do it again. If he did it once he's do it
14 again. That's the danger that 404 seeks to protect.
15 And that's why the rule reads "in order to show
16 action in conformity therewith."

17 If he'd been arrested for failure to stop for a
18 blue light instead of carrying a pistol and made the
19 same representations, there might be no -- well,
20 there might be an objection, but there'd be no reason
21 to exclude that evidence under 404, under 404(b).

22 So it's my opinion that this is not a 404 issue
23 at all. It's more an issue of relevance or a 403
24 issue; that is, a prejudice issue. So if I try to
25 analyze this, or as I've tried to analyze it, I think

1 I have to go back to is this arrest, regardless of
2 what the defendant said as a result of that arrest,
3 is this arrest with a gun ten days prior to the
4 alleged murders, is it relevant?

5 And relevance is defined, as we all know, as
6 any, any evidence or evidence having any tendency to
7 make the existence of any fact, broadly speaking, any
8 tendency to make the existence of any fact that's of
9 consequence to the determination of the action more
10 probable or less probable than it would be without
11 the evidence. If I analyze it purely on a relevance
12 basis, I would have to say it has some maybe minimal
13 relevance to this case.

14 Then the next inquiry, and I think the final
15 inquiry, has to be, is it more prejudicial than
16 probative under 403? It's hard to separate out what
17 he said, allegedly said, from the arrest. And maybe
18 that needs to be analyzed in the same manner or in a
19 similar vein. But it seems to me that the probative
20 value outweighs the prejudicial effect of an arrest.
21 There's no question it's prejudicial. But then
22 again, any evidence that's brought into this court is
23 generally prejudicial to one side or the other. But
24 I think its probative value outweighs the prejudicial
25 value.

1 And the rule says that the prejudicial value
2 must substantially, substantially outweigh the
3 probative value. I think it's probative, I think
4 it's relevant, and I don't think it's a 403 character
5 issue.

6 Now, I will hear your arguments on that. But I
7 am inclined at this point -- and I only bring it up
8 at this stage of the proceedings because the State
9 may wish to use it in its opening arguments. But I
10 am inclined to admit the arrest. The statement made
11 by the defendant to the officer after Miranda
12 warnings is certainly -- is what -- I think that's a
13 credibility issue with the officer.

14 It seems to me that even if I weighed that on a
15 403 basis; that is, "I used to rob drug dealers back
16 in the day and I need the gun for protection", that's
17 extremely prejudicial, but it's also extremely
18 probative. And it would be difficult to weigh or to
19 say the prejudicial value substantially outweighs the
20 probative value of that statement.

21 Now, that's my analysis of that whole
22 August 24th, '05 arrest by Officer Abraham and his
23 ability to testify as to that issue. But I'll hear
24 from counsel for Mr. Oliver.

25 **MS. LAFAVE:** Your Honor, my response, I

1 understand the Court's ruling. With all due respect,
2 Your Honor, my response is two fold. First, Your
3 Honor, as to the arrest itself, although the Court is
4 making a determination under the motive exception, an
5 intent exception here --

6 **THE COURT:** No. No, no, no. No, I'm not. It's
7 got nothing -- I'm saying 403 does not even apply.
8 And so forget about motive and intent. I'm saying
9 that this is not action being used to prove
10 conformity therewith. It's the other half of the
11 rule. I go back. We're not talking about the
12 exceptions. I'm not talking about the exceptions to
13 404. I say 404 doesn't apply because this is not a
14 crime or a prior bad act that is being offered to
15 prove that he committed a murder.

16 This is merely offered, or this is offered, as a
17 prior arrest, as a prior arrest. But it's not being
18 offered to prove conformity therewith; that is, to
19 prove that he committed a murder, that if he was
20 arrested -- as I say, if I can take any other
21 criminal activity, if he is arrested, the State would
22 be able to use that or to offer that if it were
23 relevant and if it were probative.

24 It's, as I said, I used the example; if it were
25 a charge of failure to stop for a blue light, if it

1 were relevant and it were probative, the State would
2 be able to offer it. On the other hand, if it were
3 assault and battery with intent to kill, 404 would
4 clearly apply because it's being offered to prove
5 conformity therewith in the murder case. So I don't
6 think I'm splitting hairs.

7 **MR. STRICKLER:** If I may, Your Honor.

8 **THE COURT:** Absolutely. I want you to put it on
9 the record.

10 **MR. STRICKLER:** Yes, sir. You've indicated both
11 counsel may speak on this particular issue. I
12 understand what you're saying with all due respect,
13 Your Honor, I disagree with you entirely. This is a
14 404 issue. The 404(b) says evidence, as you stated:
15 "Evidence of the crimes, wrongs or acts not
16 admissible to prove character of the person nor to
17 show action in conformity therewith." Okay. So
18 clearly it's never admissible for that purpose.

19 **THE COURT:** Right.

20 **MR. STRICKLER:** So the question becomes, when is
21 it admissible? When is it admissible to go ahead and
22 prove other crimes, wrongs or acts? It is admissible
23 only to prove in this particular case what Your Honor
24 highlighted as motive and intent. Those are the only
25 reasons it's admissible. I mean, it may very well be

1 relevant under the other analysis that you did. And
2 prejudicial, probative, I guess I can address that a
3 little bit later on.

4 But on the outset, from the outset I have to
5 disagree with Your Honor. It is clearly a 404(b)
6 issue in that such evidence is never admissible
7 unless it is introduced to prove in this particular
8 case motive or intent. So I will object to Your
9 Honor's ruling in that regard.

10 And, Your Honor, when you consider -- of course
11 we didn't know Your Honor was going to go ahead and
12 come down with your ruling at this point in time. I
13 have two packets. I don't have this in reference to
14 Mr. Lutz's report. I have two documents I'd like to
15 have marked as Court's Exhibit here.

16 (WHEREUPON, Court's Exhibit No. 5 is marked for
17 identification.)

18 (WHEREUPON, Court's Exhibit No. 6 is marked for
19 identification.)

20 **MR. STRICKLER:** The first would be a report by
21 Investigator Hughes who was the investigating officer
22 in the arrest on the pistol charge referenced by Mr.
23 Abraham who testified yesterday. That is marked as
24 Court's 5, Your Honor. The second is an
25 investigative report from Investigator John Lutz who

1 was also involved in the incident leading up to the
2 arrest?

3 **MR. ROSS:** Your Honor, I'm going to object to
4 him just putting in reports through no witness, no
5 testimony, no anything. We already have a witness.
6 We already had a hearing. We already had testimony.

7 **MR. STRICKLER:** Yes, sir. If I may, this is
8 marked as Court's 6. Now, anyone, Your Honor could
9 certainly restrict me from going on, but those are
10 going to be in the record because I am proffering
11 them at this point in time. And I would proffer the
12 testimony and intended to proffer the testimony at
13 such point in time as we had an opportunity to do so.
14 I frankly expected that the actual arresting officer
15 involved, Mr. Hughes, would be called by the State to
16 go ahead and talk about this issue.

17 You had Mr. Abraham indicate on the stand that
18 he reviewed the investigative reports; that, one, he
19 heard what he heard I guess, but he also reviewed
20 Mr. Hughes' investigative reports. They are in front
21 of you. Nowhere do they reference a statement being
22 made about robbing drug dealers.

23 Investigator Lutz's report is in front of you,
24 and it specifically directly quotes what is said in
25 quote marks and does not include robbing drug dealers

1 in that. Now, there becomes an issue of credibility.

2 **MR. ROSS:** Your Honor, I'm going to object to
3 him referring to reports that are not in evidence.
4 Nobody testified to --

5 **THE COURT:** All right, Mr. Ross, Mr. Ross, I'm
6 going to hear him out. Go ahead. It's a critical
7 issue in the case.

8 **MR. ROSS:** Well, then I want to put on the
9 record that Officer Hughes and Officer Lutz would
10 have made the same statements that Officer Abraham
11 would have made and would testify that he did make
12 the statement about robbing drug dealers.

13 **THE COURT:** Let me hear Mr. Strickler's
14 argument.

15 **MR. STRICKLER:** I want those on the record. I
16 want to submit them, Your Honor. And I understand
17 they're not in evidence.

18 **THE COURT:** They're not in evidence. I'll
19 accept them as Court's Exhibits.

20 **MR. STRICKLER:** I would be remiss in my duty if
21 I did not bring the full facts and circumstances
22 surrounding this to the Court's attention as I
23 understand them. I'll be happy to develop them in
24 front of the Court or in front of the jury. I guess
25 I'm asking that you not go ahead and make this ruling

1 until such time as we have an opportunity to hear the
2 evidence.

3 **THE COURT:** I will tell you that's my
4 inclination. That's why I brought it up at this
5 stage of the proceeding. I will not -- if you
6 interpreted that, I think I said it was my intention
7 or my inclination or my analysis of this issue. I'll
8 withhold a final ruling on it until such time as its
9 presented from the witnesses.

10 **MR. MEADORS:** Judge, everything Mr. Strickler
11 just talked about is -- he can go all day on
12 credibility, like you could any other witness.
13 That's a separate issue.

14 **THE COURT:** We've got to wait.

15 **MR. MEADORS:** We were going to mention this in
16 our opening, Judge. So if you ruled just a minute
17 ago, we'd like to roll on, say this is what we
18 believe the evidence will show. I thought that's why
19 Your Honor ruled.

20 **THE COURT:** Well, I certainly brought it up
21 because I thought it was an issue that should be
22 discussed prior to opening. I agree with that. Mr.
23 Strickler's argument may be persuasive. I don't
24 know. I haven't read any of this stuff. I don't
25 know what these people would say. My inclination is

1 still that it's not a 404 issue.

2 And what we may be doing is separating, I'm not
3 clear, separating the arrest from the statement. And
4 they may need to be treated differently. That gets
5 kind of complicated when you start treating a
6 statement made by a defendant, A, with the arrest
7 admissible; and, B, what he said, is that admissible?
8 So at this point in time I'll withhold a final ruling
9 on both of those issues.

10 **MR. MEADORS:** It does state, whatever he marked
11 this as, it does say in this report he's robbed
12 people, Your Honor. Investigator Abraham said he
13 robbed drug dealers. So I want to be clear on that.

14 **THE COURT:** I'll read it. Just reserve opening
15 on that issue. Anything further?

16 **MR. STRICKLER:** Nothing from me, Your Honor.

17 **THE COURT:** Ready for the jury?

18 **MR. MILLING:** On behalf of Mr. Gallman I would
19 just like to lodge an objection as to 403(b). When
20 the State elected to proceed with it, Mr. Gallman
21 does have rights to make sure that whatever probative
22 value there may be in the arrest not so much but
23 certainly the statement, there is a great prejudicial
24 or prejudice to Mr. Gallman in regards to this
25 statement in the case.

1 **THE COURT:** All right.

2 **MR. ROSS:** And you're going to go over the
3 witness names with the jurors?

4 **THE COURT:** Yes.

5 **MR. MEADORS:** And we still have to do the other
6 matter in the hallway.

7 **THE COURT:** I know that.

8 **MR. MEADORS:** Okay. I'm sorry. Yes, sir.

9 **THE COURT:** Juror number 229 is the Foreperson.
10 Mr. Bowen, will you find out who wrote this note?
11 No. Here. Take it. Just ask for the juror number
12 and ask that juror to step out on the hall. Counsel,
13 if you'll join me, we'll inquire as to the extent of
14 the juror's relationship with Mr. Delgado.

15 (Whereupon, a break is taken)

16 **THE COURT:** All right, counsel. I advised juror
17 number 192 that she could, depending on whatever her
18 medical condition was, she certainly was free to
19 snack during court if she has problems with her blood
20 sugar.

21 Now, for the record, as to juror number 204,
22 after a conference with the juror with all counsel
23 present off the record, the juror expressed his
24 ambivalence about being able to sit and decide this
25 matter impartially. He didn't say he couldn't. He

1 didn't say he could. He was just ambivalent when
2 asked that question.

3 After consulting with counsel I have removed
4 that juror from the jury panel and will seat an
5 alternate. The alternate will be seated by lot
6 according to the statute. And, Ms. Falcone knows how
7 to do that because we've done it before.

8 However -- you can go ahead and be preparing the
9 three alternate draws -- the juror also indicated
10 that he had some conversation with the remainder of
11 the jury panel when he arrived here this morning. I
12 don't know what the extent of it was.

13 **MR. MEADORS:** Another note from them.

14 **THE COURT:** I am going to stop providing pads
15 and pencils. Approach the bench.

16 (Whereupon, a bench conference is had)

17 (WHEREUPON, Court's Exhibit No. 7 is marked for
18 identification.)

19 **THE COURT:** As I was saying, the juror indicated
20 that he had to some degree discussed his concerns or
21 his potential conflict with the remainder of the
22 jury. We have obviously conscientious jurors. As I
23 was saying, juror number 204 indicated he had some
24 discussion of his concerns with the remainder of the
25 jury panel. Is there any concern about going forward

1 with this panel? From the State?

2 **MR. MEADORS:** About going forward, Your Honor?
3 Your Honor, I've been reviewing the law. And as Your
4 Honor knows obviously -- well, is there a motion not
5 to -- are you asking -- I don't think it's my -- I am
6 not moving --

7 **THE COURT:** I said do you have any objection to
8 going forward with this panel?

9 **MR. MEADORS:** No, sir. The State does not, is
10 prepared to go forward.

11 **THE COURT:** From Mr. Oliver?

12 **MR. STRICKLER:** Yes, sir, I do. I would move at
13 this point in time we need to declare a mistrial as a
14 result of the communication. I understand that the
15 juror himself is going to be replaced. I think in
16 the discussion back in the hall, I agreed that that
17 was appropriate as to him individually. However, he
18 did indicate that he had shared his concerns. We
19 didn't get into any depth as to the precise nature of
20 what he may have said and of I believe a conversation
21 amongst the panel regarding this. That was my
22 understanding of what he had to say in the hall.

23 So the entire panel has discussed the fact,
24 something regarding Mr. Delgado's representation of
25 his family, something regarding discussing the case

1 with his wife which is the initial regard for
2 concern. And we have now seen two more notes come
3 out to the Court just in the time that Your Honor has
4 been on the bench discussing this matter indicating
5 other concerns.

6 I would simply submit that the jury panel as a
7 whole at this point is tainted, that we will just be
8 trying to shoehorn them into continuing this trial
9 from this point forward. And my motion is that Your
10 Honor grant a mistrial in this matter and we try it
11 again at a later date and time.

12 **MR. MILLING:** Your Honor, on behalf of Mr.
13 Gallman, I would join in that motion. I think that
14 the prejudicial impact of the first juror's statement
15 and discussion with the jury panel has now become an
16 elephant and revealed itself with these other two
17 notes which have come forward. We would just move
18 for a mistrial.

19 **THE COURT:** Mr. Joy.

20 **MR. DELGADO:** Your Honor, I am unclear of what
21 to advise the Court about Mr. Joy's situation. I
22 think the only way for the Court to resolve it is to
23 call the panel out individually and ask them what was
24 said to them, how it impacted on them. And then
25 maybe those two that have sent other notes, they may

1 be completely irrelevant and independent. I think
2 that that's the fairest way to be able to discern
3 whether or not I should move for a mistrial as a
4 result.

5 **THE COURT:** All right. Let me do this. And
6 I'll do it with counsel present off the record. The
7 last note says: "I have a concern I'd like to share
8 with the judge." I'd like to know what that concern
9 is before considering a mistrial as it applies to the
10 entire jury.

11 **MR. MEADORS:** We have no objection to that. We
12 would like to argue if you are entertaining a
13 mistrial at the conclusion of all this.

14 **THE COURT:** I understand.

15 **MR. MEADORS:** But we have no objection to that.
16 Yes, sir.

17 **THE COURT:** And the other note, something about
18 "I might know a witness", inquire as to that also.
19 Does counsel wish to be present for each of these
20 discussions?

21 **MR. STRICKLER:** I would for Mr. Oliver, Your
22 Honor.

23 **MR. MILLING:** I would, Your Honor.

24 **MR. DELGADO:** And for Mr. Joy.
25

1 (WHEREUPON, Court's Exhibit No. 8 is marked for
2 identification.)

3 **THE COURT:** All right. Let's go meet with these
4 jurors.

5 (Whereupon, a break is taken)

6 **THE COURT:** All right. As to juror number 162,
7 the Court off the record and with counsel present met
8 with juror 162 who indicated that she worked with --
9 she believes she worked with the witness, Zondria
10 McKie, in either a hospital or in some health care
11 setting. She indicated that she had a similar type
12 job as did the juror, 162, and that at some point in
13 time, approximately a year ago, or that was the best
14 of her memory, the witness, Zondria McKie, came into
15 her place of employment distraught because either her
16 boyfriend or a friend of her boyfriend, I can't
17 remember what she said, had been killed. As a result
18 of that upsetting situation, Ms. McKie was asked to I
19 guess leave the workplace. And I don't know what
20 happened after that. It doesn't matter what happened
21 after that.

22 But she indicated that she knew Zondria McKie,
23 not well, but from the workplace. She worked for a
24 different employer but both were in the same health
25 care facility when this incident occurred.

1 She indicated she could be fair and impartial
2 but felt it was necessary to bring this to the
3 Court's attention. Any objection to the continued
4 seating of juror number 162 from the State?

5 **MR. MEADORS:** No, sir. And very briefly, Your
6 Honor, she did indicate that she could be fair and
7 impartial. The witness she said she knew is really
8 just going to be a witness that came and found the
9 bodies and then called law enforcement. That's
10 really her total involvement in the case.

11 But she did indicate that she could be fair and
12 impartial. I watched her. After hearing her talk
13 for a while, we've all watched her. And she did say
14 that she could be fair and impartial. And, Judge, I
15 don't think it's any different if she had realized
16 the name out here. She just didn't realize it until
17 she gets back there. And Your Honor asking her back
18 there is the same as you asked her here Monday; yes,
19 I can be fair and impartial. I think that's what the
20 question is. And is there any prejudice? And I
21 don't think there is any. So we'd ask that she stay.
22 Thank you.

23 **THE COURT:** From Defendant Oliver.

24 **MR. STRICKLER:** Your Honor, of course I would
25 oppose continuing her on the panel. She knew a

1 witness in this case. Had we had that information, I
2 would have exercised one of our peremptory challenges
3 and struck her from the jury panel in this case. We
4 had, I don't have the exact count in front of me, but
5 half our challenges remaining. We had plenty of
6 preemptories. Striking her would have affected any
7 other additional strikes after her. And we could
8 well have ended up with an entire different jury
9 panel than we have at this point in time.

10 Additionally, when she walked in -- well, while
11 she said she could be fair and impartial, she had
12 some very definite memories about Ms. McKie's
13 demeanor at the time, including some remarks about
14 they wanted to hook me up in this situation,
15 something to that effect. Of course we weren't on
16 the record back there. But she made some comments as
17 I remember them in that regard.

18 Regardless, had I known that she knew a witness
19 in this case I would have exercised a challenge on
20 behalf of Mr. Oliver. So she should be excluded.
21 And we should declare a mistrial in this case.

22 **THE COURT:** Mr. Milling.

23 **MR. MILLING:** Your Honor, we would likewise
24 object to this juror continuing on in jury service in
25 this case. We would also renew our motion for a

1 mistrial for the same grounds that Mr. Strickler just
2 enunciated.

3 **MR. DELGADO:** Your Honor, at this time I not
4 only agree that this juror ought to be struck from
5 further participation in this matter; I now also
6 believe that a motion for a mistrial on behalf of Mr.
7 Joy is required.

8 **MR. MEADORS:** Judge, could I cite some case law
9 for the record?

10 **THE COURT:** Well, let's -- yeah.

11 **MR. MEADORS:** Which I think is relevant to this
12 question, Judge.

13 **THE COURT:** This witness? I mean this juror?

14 **MR. MEADORS:** Yes, sir. Yes, sir. Yes, sir.

15 **THE COURT:** Then we've got to go to the next
16 juror, too.

17 **MR. MEADORS:** Oh. Do you want me to just save
18 it for all of them?

19 **THE COURT:** You might as well. I assume it will
20 be the same.

21 **MR. MEADORS:** Without question. Yes, sir.

22 **THE COURT:** All right. As to juror number 41,
23 the Court met with Mr. 41, juror number 41 off the
24 record with all counsel present. Mr. -- I shouldn't
25 say Mr. That identifies him. But juror number 41

1 stated that he shared the fact that he was involved
2 with this trial to his family. And I'm not sure
3 whether he indicated he -- I think he said he did not
4 relay the names of people that were involved in this
5 trial to his family.

6 But, nevertheless, he got a phone call from his
7 daughter who lives in Greenwood who told him that she
8 believed that he was sitting on a case that involved
9 the murder of the brother of a friend of hers, I
10 think the brother of a friend of hers, whom she
11 identified the friend being -- she gave the name
12 Cameron to the juror. And when the name Kevin Miller
13 was mentioned, he indicated that he felt that that
14 was the -- he felt that his daughter was telling him
15 or implying that Kevin Miller was the brother of
16 Cameron who is her friend and to some extent
17 discussed the case with her father, the juror.

18 Now, that's my recollection of his discussion.
19 And is there any objection to -- he also, I want to
20 put on the record, stated that he could be fair and
21 impartial.

22 **MR. MEADORS:** Judge, he did. And the fact he's
23 coming forward with this then I think shows what type
24 of person he is, that he wants to let everybody know.
25 I think his words were he didn't want this to come

1 out at the end and it be a problem. He has disclosed
2 it. So I think that says something about his
3 character, if you will, or he was worried about it.

4 And then finally, just watching his demeanor, I
5 can't speak for everybody, but certainly when he said
6 it and the way he said it, clearly he doesn't want to
7 serve just because like a lot of jurors don't. But
8 he said, yes, there's no question I'd be fair and
9 impartial. The way he said it and the way his
10 mannerisms kind of expressed to me I think he clearly
11 can. So we'd like for -- I think he should remain.

12 **THE COURT:** Defendant Oliver.

13 **MR. STRICKLER:** Thank you, Your Honor. And I
14 think he should be stricken from the panel and that
15 we should again ask on a third ground individually
16 and collectively a mistrial and Your Honor should
17 declare a mistrial in this matter.

18 I would just note that this is the second of
19 three jurors that we've heard from who have indicated
20 that they've discussed with their family what they're
21 doing this week, which is in direct contravention to
22 even the most general instructions to the panel. I
23 am not contributing any ill motive to them. And I
24 can certainly understand it's a big deal. But they
25 directly contravened the instructions of this Court.

1 He has been contacted. He has been exposed to a
2 discussion regarding the facts of this case from
3 outside this courtroom which clearly is
4 impermissible. He had an extensive conversation. I
5 believe he said it even ended up being -- his
6 daughter ended up being disgruntled with her brother,
7 that he ended up having this extensive conversation
8 regarding facts in the case, including the guy coming
9 to the door and he being in the wrong place at the
10 wrong time and being shot which is factually a
11 theory.

12 I submit that whenever we get around to getting
13 to the end of the case, it will still be a theory.
14 So, I mean, he's polluted as polluted can be. He
15 also indicated, just for the record, that juror 204,
16 the first juror that we started with, had discussed
17 fully his situation with the entire jury pool. So I
18 would submit he should be dismissed; and again, on
19 the basis of his problems, we should quash the jury
20 panel and Your Honor should declare a mistrial. On
21 the basis of the three problems, you should go ahead
22 and declare a mistrial on the two separate bases.

23 **MR. MILLING:** Your Honor, on behalf of Mr.
24 Gallman we would likewise move for a mistrial. We
25 submit that individually each of these three jurors

1 support a mistrial of the case. As a whole,
2 collectively, they certainly do.

3 Continuing what Mr. Strickler just said, after
4 hearing the previously excused juror discuss his
5 situation, I believe this juror also said that he
6 told the panel back there that he had an issue
7 likewise that he needed to discuss with the Court.

8 When he did come out and discuss it with us, he
9 said that in my mind of what happened, I understand
10 that I'm going to have to listen to what the evidence
11 is that's presented, but in my mind this is what
12 happened. That's after he discussed it with his
13 family and had these extensive discussions.

14 Your Honor, as Mr. Strickler said, he has
15 discussed the substance of this case with his family
16 before today. He discussed it extensively over the
17 telephone, the facts of the case. This case has
18 already received some pre-trial publicity. There was
19 an article in yesterday's paper discussing this case.
20 He has already polluted himself. He has already
21 polluted the panel as a whole by telling them that he
22 had an issue. And had we known that he had some
23 prior, or that his family had some connection with
24 one of the victims in this case, I would have
25 exercised one of my strikes to remove this juror as a

1 potential juror in the case.

2 **MR. DELGADO:** Your Honor.

3 **THE COURT:** Mr. Joy.

4 **MR. DELGADO:** I concur and agree. I'd like to
5 be able to amplify the statement of the last juror.
6 That juror says to the entire panel in the jury room
7 he now has an issue that he wishes to bring up. It
8 may very well be, Your Honor, and I'm not trying to
9 inject this, it's always my feeling that I've
10 represented someone who has violated the rights of a
11 juror or their family. That's always been a problem
12 with me. It's not that I was lucky enough to
13 represent one of their family members or hopefully
14 even done a job significant enough for them to say
15 that helped out a daughter, as the first note
16 indicated.

17 Is there some member of that jury that's saying,
18 oh, my goodness, this second juror, the last juror we
19 talked to, has an issue with defense counsel for Mr.
20 Joy because he did something that was not appreciated
21 by that juror? Is that a virus that may now impact
22 our jury? There's no way of being able to tell that.
23 I urge the Court to dismiss this juror as well as
24 declare a mistrial.

25 **THE COURT:** Mr. Meadors.

1 **MR. MEADORS:** If it pleases Your Honor. Your
2 Honor, I think I've got a three-part argument. And I
3 wasn't quite sure sitting back there in the hallway,
4 to tell you the truth, but thinking about it and
5 reviewing the case law, the State does want to go
6 forward.

7 The first question, Your Honor, is State v.
8 Kelly. The Court there held defendants have the
9 right to a trial by an impartial jury. We spent
10 extensive time here Monday with Voir Dire questions
11 from all the parties, with Voir Dire from the State,
12 and we asked all the potential jurors if they were
13 aware of any bias or prejudice against the parties.
14 They said they weren't. That hasn't changed.

15 Second, Your Honor, the inquiry, the inquiry
16 here respectfully before Your Honor is Thompson
17 O'Rourke, 339 s.e.2d 505. And it's a two-part
18 analysis I think the Court must consider. When a
19 juror conceals information inquired into during Voir
20 Dire, whether you knew any of the witnesses, a new
21 trial was required only when the Court finds the
22 juror intentionally concealed the information,
23 intentionally concealed. That's number one, Your
24 Honor. I don't think it's in dispute at all that
25 these jurors intentionally concealed anything.

1 And -- it's two-part. And the information
2 concealed would have supported a challenge for cause
3 or would have been a material factor in the use of
4 the party's peremptory challenges. But it's got to
5 be both: Intentional and. There is not intentional
6 here, Judge.

7 **THE COURT:** I think that case is talking about
8 striking the juror not at this stage of the
9 proceeding but after the jury of 12 and then you find
10 out what was taking place. So --

11 **MR. MEADORS:** Well, I think the analysis of the
12 State, we're still looking for a fair and impartial
13 jury, Your Honor.

14 **THE COURT:** I understand that.

15 **MR. MEADORS:** And they have both said they could
16 be fair and impartial. This was inadvertent. And as
17 far as the don't discuss the case, there wasn't a
18 case to discuss. They don't know any facts. They
19 didn't come in and say we got this testimony today
20 and we discussed it. They don't know anything about
21 it. And I am assuming they didn't read the paper.

22 So I think it's a gray area, respectfully, that
23 the actual facts of this case they couldn't have
24 discussed because they didn't know about it.

25 Now, the inquiries they had from other family

1 members, all I know is what happened back there. But
2 they both said they could be fair and impartial. I
3 observed their demeanor. There was no intentional --
4 and, Judge, I think the fact in and of itself that
5 they've come forward with this information, that fact
6 that they sat back there and are concerned enough to
7 say, hey, I don't want this to be a problem, speaks
8 volumes about what kind of -- that's the kind of
9 jurors we want. Hey, I really should have told you
10 all this, but I promise you I can be fair and
11 impartial. That's a great American juror right
12 there.

13 The fact they came forward I think shows they
14 can be fair and impartial. And it may work against
15 the State at this point if they want to be overly
16 fair and impartial. But I don't know. That's all
17 I'd have. We'd ask to go forward. We'd ask Your
18 Honor deny a mistrial.

19 And, Judge, as far as any other questions as to
20 whether the panel, there's a virus, we'd ask at this
21 point for, I don't know about individual Voir Dire,
22 but request Your Honor inquire as to the rest of the
23 jury panel; after all of this, do they still feel
24 they could be fair and impartial. And if Your Honor
25 is satisfied with their response, we'd ask to go

1 forward.

2 **THE COURT:** Well, let me ask you, Mr. Meadors;
3 as to juror number 162, the juror who said she knew a
4 witness --

5 **MR. MEADORS:** Yes, sir. That was Andrea McKie I
6 think she said she knew.

7 **THE COURT:** The defense is asking first that she
8 be disqualified based on her knowledge of the
9 witness. I take it your position is that following
10 that discussion she said she could be fair and
11 impartial.

12 **MR. MEADORS:** Yes, sir. And the incident, I
13 agree with Mr. Strickler, I don't think it really
14 matters in either one of the jurors' situations
15 whether it's relevant to this case or not. The issue
16 is whether they thought it was. So I don't disagree
17 with that. I don't think the incident she is talking
18 about is related to this case. But be that as it
19 may; yes, sir, she expressed that she could be fair
20 and impartial. I think that's the only way --

21 **THE COURT:** And next, as to number 41, is it
22 your same position that he should continue to be
23 seated?

24 **MR. MEADORS:** The fact that he did not
25 intentionally withhold the information, he came back

1 and told us, hey, it's bothered me, but he did say
2 clearly I could be fair and impartial; yes, sir, we'd
3 like for him to continue to be seated. Thank you.

4 **THE COURT:** All right. Anything further for the
5 record?

6 **MR. MEADORS:** No, sir. Not from us.

7 **THE COURT:** All right. We'll take a ten-minute
8 break.

9 (Whereupon, a break is taken)

10 **THE COURT:** All right. I have considered the
11 motions of the defense counsel. As to juror number
12 41, the juror who expressed the fact that he had
13 discussed this case with his daughter, quite frankly,
14 I felt in that off-the-record discussion that the
15 juror knew more about this case than I do, or at
16 least he was aware of alleged facts that did not come
17 to light so far in this trial.

18 So, despite the fact that he feels that he could
19 be fair and impartial, and he has had -- A, he's had
20 a discussion with his family about it, brought it up
21 with his family after I had cautioned him not to do
22 so and actually probably explained the very reasons
23 for that instruction that has now occurred.

24 And the fact that he discussed it with his
25 family, then got a phone call from his daughter

1 detailing considerable facts in this case and perhaps
2 sharing her concern for him and perhaps his concern
3 for her due to the nature of the charges in this
4 case, I feel that he clearly must be stricken as an
5 alternate juror or removed as an alternate juror.

6 As to juror number 162, her -- I don't know how
7 to characterize her relationship with the witness,
8 Zondria McKie. And let me just say for the record
9 she did not even know if that was the person that she
10 was referring to. She only knew the co-worker as
11 "Z". Now, certainly Zondria starts with a "Z". It's
12 likely that that is the witness and that's the
13 co-worker of hers.

14 But she described a tragic incident that she did
15 not identify as being connected with this trial and
16 these alleged crimes. She just -- she indicated that
17 she had a -- she was distraught over the death of her
18 brother or her boyfriend or something; I can't
19 remember, but a male; and described her resultant
20 dismissal from her job for whatever reason.

21 She indicates she could be fair and impartial.
22 I do not feel that she needs to be stricken, does not
23 need to be removed as an alternate juror; I mean as a
24 juror in this case.

25 Now, as it stands we have 12 jurors and one

1 alternate if we draw a second alternate for number
2 41.

3 As to the entire jury panel, and the motion for
4 mistrial, based on the comments of juror number 202
5 this morning, it's the Court's intention to examine
6 each juror individually on the record to find out the
7 nature of any, to use counsel's terms, virus or
8 taint. And I will do that at this time and following
9 that process will revisit the issue of mistrial.

10 So, Madam Clerk, if you will get the jurors'
11 numbers, the list of jurors; I mean the remaining --
12 I'm going to dismiss 41. Do not -- maybe I'd better
13 go ahead and dismiss 41 now. I'm going to dismiss 41
14 now. Any objection, just for the record?

15 **MR. MEADORS:** Subject to my other arguments,
16 Judge, I certainly respect your opinion, your ruling.

17 **THE COURT:** Anything further for the record on
18 number 41?

19 **MR. STRICKLER:** On number 41, no, sir.

20 **THE COURT:** All right. At this time I would
21 remove 41 just so he not stay in the jury room while
22 this process takes place.

23 **MR. STRICKLER:** And, Your Honor, I'm sorry. The
24 first juror who started this ball rolling, was that
25 202 or 204?

1 **THE CLERK:** 204.

2 **MR. STRICKLER:** 204?

3 **THE COURT:** I'm sorry. I didn't have it in
4 front of me.

5 **MR. STRICKLER:** That's fine. 204, he's gone
6 already.

7 **THE COURT:** He's left the building.

8 **MR. STRICKLER:** Thank you, sir.

9 **THE COURT:** Number 41.

10 (Whereupon, the judge goes to the jury room to
11 excuse juror number 41).

12 **THE COURT:** Keep your seats. All right. The
13 clerk is going to basically ask the jurors, I assume
14 in the order in which they were drawn --

15 **MR. MEADORS:** Judge, where are you going to have
16 them?

17 **THE COURT:** Sir?

18 **MR. MEADORS:** Never mind.

19 **THE COURT:** No cross examination.

20 **MR. MEADORS:** Yes, sir. I understand.

21 **THE COURT:** Sure.

22 **THE CLERK:** Number 229.

23 **THE COURT:** 229.

24 (Whereupon, juror 229 enters the courtroom)

25 **THE COURT:** Oh, Mr. 229, how are you?

1 **JUROR:** Just fine, sir.

2 **THE COURT:** Good morning. We've had some
3 questions this morning about -- as you're probably
4 aware from the fact that I've had some questions of
5 individual jurors. One of the jurors expressed the
6 fact that he had returned to the jury room or come to
7 the jury room this morning and had some discussion
8 with the jury as a whole about his dilemma or his
9 concerns about proceeding in this trial. Is that --
10 is that -- do you recall that?

11 **JUROR:** Yes, sir.

12 **THE COURT:** Okay. Can you tell me the nature of
13 that discussion? And I'm going to ask every member
14 of the jury this same question. I'm not singling you
15 out for anything. But it's important that we know
16 what discussions may or may not have taken place in
17 the jury room this morning. Obviously you haven't
18 been in there prior to this morning.

19 So, can you tell me what discussions have taken
20 place? Two things: One, in response to that juror's
21 concerns; and, secondly, any other discussions that
22 may have taken place about this case in the jury room
23 this morning. Could do you that for me?

24 **JUROR:** Yes, sir.

25 **THE COURT:** All right. You can stay seated.

1 **JUROR:** The juror mentioned that he was -- that
2 his -- he wasn't sure whether the lawyer, he
3 mentioned speaking to his wife about the lawyer that
4 may have represented his daughter some 11 years ago.
5 And he mentioned the name Delgado.

6 **THE COURT:** Right.

7 **JUROR:** And he had -- that was his dilemma, that
8 he did not realize that this particular lawyer had
9 represented his daughter 11 years ago. That was the
10 extent of the -- he was just informing us that he had
11 written a letter to you to let you know that.

12 **THE COURT:** Right. He did. And did that
13 engender any other discussion among the remaining
14 members of the jury?

15 **JUROR:** No, sir.

16 **THE COURT:** Okay. All right. Then the second
17 question: Has -- and you probably know we've --
18 other jurors have also expressed some concerns, not
19 necessarily concerns, but things that they felt
20 needed to be brought to the attention of the Court.
21 Have any of those actions on their part, have they
22 engendered any discussion about the case? And, well,
23 let me just leave it at that. Any other discussions
24 among the jurors about the case?

25 **JUROR:** The only thing that I saw was the fact

1 that they had written notes to you.

2 **THE COURT:** Right.

3 **JUROR:** What those notes were about, I have no
4 knowledge about that.

5 **THE COURT:** Didn't discuss them?

6 **JUROR:** I didn't, no.

7 **THE COURT:** I mean, they didn't discuss them
8 with the entire jury panel?

9 **JUROR:** No, sir.

10 **THE COURT:** Then I guess the final question just
11 as far as the case in general, since you know what
12 the indictments are and you know whether you can
13 recall or not, but who the individuals are, has there
14 been any other discussion in the jury room about this
15 case this morning?

16 **JUROR:** The only other thing that we talked
17 about is what process we were going to go through,
18 not discussing --

19 **THE COURT:** Not the facts of the case?

20 **JUROR:** No, sir.

21 **THE COURT:** All right. And the final question:
22 As a result of the discussion with -- and I'm going
23 to call him juror 204, I don't really recall his
24 name, do you still feel that you can be fair and
25 impartial in this case?

1 **JUROR:** Yes, sir.

2 **THE COURT:** To both the State and the
3 defendants?

4 **JUROR:** Yes, sir.

5 **THE COURT:** Thank you very much, sir. And your
6 number again was what?

7 **JUROR:** 229, sir.

8 **THE COURT:** All right. Thank you very much,
9 Mr. 229.

10 (Whereupon, juror 229 leaves the courtroom)

11 **THE COURT:** Pat, why did she jump to 2 --

12 **MR. MEADORS:** Judge, could you ask her to wait
13 before she brings the next one?

14 **THE COURT:** Well, hold it just a minute. Yes,
15 sir. Go ahead.

16 **MR. MEADORS:** With all due respect, just, Judge,
17 I've been through the reverse on this after a verdict
18 in State vs. Chris Pittman.

19 **THE COURT:** What?

20 **MR. MEADORS:** I've been through the reverse on
21 this after discussing about the jury's conversation.
22 And there's a rule, specifically 606, about what a
23 juror can and cannot go into. I would
24 respectfully -- I know we're inquiring as to the one
25 juror's comments and what influence that had on them.

1 Other than that, Your Honor, I think the only issue
2 is, was there any other extraneous, prejudicial
3 information that was brought before them. I just
4 would again respectfully object to --

5 **THE COURT:** What rule are you looking at?

6 **MR. MEADORS:** Well, it actually applies to a
7 jury's verdict afterwards. That is the only thing.
8 I'm trying to argue it in reverse.

9 **THE COURT:** You cited a rule.

10 **MR. MEADORS:** 606.

11 **THE COURT:** What rule I mean?

12 **MR. MEADORS:** 606, Your Honor. Competency of
13 jurors as witnesses. It talks about jurors' ability
14 to discuss what went on in the jury room. It
15 actually says it's sanctimonious, if you will, as far
16 as their processes. And I'm just objecting to just
17 opening it up: Was there anything else that happened
18 in there? I think Your Honor's inquiry should be
19 limited to this juror's discussion of his
20 relationship or how he knew Mr. Delgado and was there
21 any other outside extraneous, prejudicial information
22 and leave it at that. That's all I was suggesting to
23 the Court, citing Rule 606, 606(b).

24 **THE COURT:** Well, they haven't heard any
25 evidence. So I can't ask them about evidence they've

1 heard.

2 **MR. MEADORS:** No, sir. And I'm only talking
3 about just their -- I don't think -- and if I'm
4 wrong, I'm wrong. But I think just as to their
5 general discussions in there, I don't think we're
6 allowed to ask that, just to say, hey, what are you
7 all --

8 **THE COURT:** Why not? They're not even a jury
9 yet. They're not even sworn.

10 **MR. MEADORS:** Well, that's an argument. That's
11 a good point that's made. But I'm citing Rule 606.

12 **THE COURT:** What I'm trying to do is --

13 **MR. MEADORS:** I think the analysis is still
14 there though, Judge. But anyway, they are a jury and
15 are entitled to certain protections as jurors. So I
16 think the question here was, did it affect them, did
17 the juror saying that Mr. Delgado represented them,
18 is there any other extraneous, prejudicial
19 information that came to them that would keep them
20 from being fair and impartial? That's what we'd like
21 the inquiry to be. That's all we'll say. Thank you.

22 **THE COURT:** Anything from the defense?

23 **MR. STRICKLER:** No, sir.

24 **MR. MILLING:** No, Your Honor.

25 **MR. DELGADO:** Your Honor, yes. I'm sorry to

1 have to be just so absolutely typical, I mean
2 technical. I think jurors take their lead from the
3 bench. If the Court says, "Was there any other
4 discussion", it's not leading per se, but I think the
5 answer is implicit there. If the Court asks -- and I
6 say this to you with all respect and sensitivity for
7 this very unique proceeding -- if you ask what
8 discussion was had, it leaves it open ended for a
9 juror to respond one way or the other. I guess the
10 use of the verb kind of directs the end of the
11 question.

12 **THE COURT:** Are you agreeing with Mr. Meadors?

13 **MR. DELGADO:** No, sir. I am simply saying, in
14 your phrasing to the jury -- I'm agreeing with you I
15 think.

16 **THE COURT:** Let's consider that a test run.

17 **MR. DELGADO:** That's what I'm asking the Court
18 to do; yes, sir.

19 **THE COURT:** To do what?

20 **MR. DELGADO:** To from now on: "What discussion
21 was had", as opposed to: "Was there any discussion?"

22 **THE COURT:** Oh.

23 **MR. MEADORS:** Your Honor, I'd like the record to
24 reflect I think he was agreeing with me.

25 **THE COURT:** No comment.

1 **MR. DELGADO:** Further deponent sayeth not.

2 **THE COURT:** Sayeth not. All right. Now, has
3 she gotten 148? Do you know who she's got next? It
4 doesn't matter. Just bring in whoever.

5 **THE BAILIFF:** 148, Your Honor.

6 (Whereupon, juror 148 enters the courtroom)

7 **THE COURT:** Good morning, Madam 148.

8 **JUROR:** Good morning.

9 **THE COURT:** We're having a little trouble
10 getting started this morning. It was brought to my
11 attention -- and you probably; I'm sure you're aware
12 of this -- that one of the jurors felt he may have
13 had a -- should have brought it to the Court's
14 attention his prior relationship with one of the
15 attorneys in this case. Do you recall that? Did he
16 indicate that he brought that up in the presence of
17 the entire jury?

18 **JUROR:** No.

19 **THE COURT:** Do you recall him saying anything
20 about that?

21 **JUROR:** No. I don't remember that.

22 **THE COURT:** Okay. Well, as a result of --

23 **JUROR:** It may have gone across my head.

24 **THE COURT:** Ma'am?

25 **JUROR:** I said it may have gone across my head.

1 **THE COURT:** Well, you may not have --

2 **JUROR:** Paid it any attention.

3 **THE COURT:** Okay.

4 **JUROR:** Okay.

5 **THE COURT:** He -- because of that -- and it's
6 not -- it's not a bad thing or a fault of his own,
7 but he has been dismissed from the jury, as you
8 probably know.

9 **JUROR:** Mm-hmm (affirmative).

10 **THE COURT:** He's -- we'll assign him to another
11 case later on.

12 **JUROR:** Mm-hmm (affirmative).

13 **THE COURT:** What discussions, if any, have taken
14 place in the jury room regarding his comment?

15 **JUROR:** To be totally honest with you, I really
16 wasn't paying him much attention.

17 **THE COURT:** That's what I want, total honesty.

18 **JUROR:** I really wasn't. I know he was talking
19 but I wasn't really paying him any attention. I had
20 some other things on my mind. Other than him talking
21 to me about some contracting business, that was all.

22 **THE COURT:** Some contract business?

23 **JUROR:** Yes.

24 **THE COURT:** It had nothing to do with this case?

25 **JUROR:** No.

1 **THE COURT:** Okay. Have any other discussions
2 taken -- without telling me what -- have any other
3 discussions taken place about this case?

4 **JUROR:** No. We knew that we wasn't supposed to
5 discuss it.

6 **THE COURT:** Thank you very much. And you still
7 feel that you could be fair and impartial to both
8 parties in this case?

9 **JUROR:** Definitely.

10 **THE COURT:** Thank you very much, Ms. 148.

11 **JUROR:** No problem.

12 (Whereupon, juror 148 leaves the courtroom)

13 **THE BAILIFF:** 197, Your Honor.

14 **THE COURT:** Is that sufficiently modified?

15 **MR. DELGADO:** Thank you very much. Yes, sir.

16 **THE COURT:** Yes, sir. Bring 197.

17 (Whereupon, juror 197 enters the courtroom)

18 **THE COURT:** Good morning, Ms. 197.

19 **JUROR:** Good morning.

20 **THE COURT:** Earlier in the morning it's come to
21 my attention that one of the jurors expressed in the
22 jury room, whether it was to the entire jury or just
23 to some members of the jury, the fact that his family
24 may have been represented by one of the lawyers in
25 this case. Were you aware of that?

1 **JUROR:** When he told us this morning.

2 **THE COURT:** Yeah. So you heard it when he said
3 that?

4 **JUROR:** Uh-huh (affirmative).

5 **THE COURT:** Okay. What discussions, if any,
6 took place as a result that you know of or you heard
7 as a result of that discussion on his part?

8 **JUROR:** You mean just was anything said after he
9 told us?

10 **THE COURT:** Yeah.

11 **JUROR:** No. Hmm-mm (Negative).

12 **THE COURT:** Okay.. And have any other
13 discussions taken place in the jury room about this
14 case?

15 **JUROR:** No.

16 **THE COURT:** Okay. You still feel you could be
17 fair and impartial to both parties in this case?

18 **JUROR:** Yes.

19 **THE COURT:** Thank you very much, Ms. 140 --
20 I'm --

21 **JUROR:** 197.

22 **THE COURT:** 197. Right.

23 (Whereupon, juror 197 leaves the courtroom)

24 **THE BAILIFF:** 216.

25 (Whereupon, juror 216 enters the courtroom)

1 **THE COURT:** Good morning, Mr. 216.

2 **JUROR:** Good morning.

3 **THE COURT:** How do you do? Well, it's almost
4 getting to afternoon. Earlier this morning it's come
5 to my attention that one of the members of the jury
6 came into the jury room this morning and had some
7 discussion or comment about the fact that his family,
8 a member of his family may have been represented by
9 one of the attorneys in this case. Are you aware of
10 that?

11 **JUROR:** I was; yes, sir.

12 **THE COURT:** Sir?

13 **JUROR:** I was aware.

14 **THE COURT:** Okay. As a result of him telling
15 you that, did that engender any particular -- any
16 discussion among the jurors about his dilemma, shall
17 we say?

18 **JUROR:** I would say that the only discussion
19 that I was -- that I thought was any discussion about
20 it at all was the fact that perhaps he was uneasy
21 with it. And that was basically it.

22 **THE COURT:** Okay. Have any other discussions
23 taken place; or what discussions, if any, have taken
24 place about the case as a whole?

25 **JUROR:** We're being pretty diligent about that.

1 It's been a lot of conversations about squirrels and
2 alligators.

3 **THE COURT:** And let me commend you for that. I
4 mean, honestly. The jury is following the Court's
5 instructions. And believe me, we want to get this
6 matter under way if we can. You still feel that you
7 can be fair and impartial to both parties in this
8 case?

9 **JUROR:** Absolutely.

10 **THE COURT:** Thank you very much, Mr. 216.
11 (Whereupon, juror 216 leaves the courtroom)

12 **THE BAILIFF:** Juror 168.

13 (Whereupon, juror 168 enters the courtroom)

14 **THE COURT:** Madam 168.

15 **JUROR:** Yes, sir.

16 **THE COURT:** Good morning.

17 **JUROR:** Good morning.

18 **THE COURT:** It came to the Court's attention
19 earlier this morning that one member of the jury
20 panel might have expressed some concern to the entire
21 jury panel about the fact that one of the attorneys
22 in this case may have represented a member of his
23 family at some time in the past. Were you aware of
24 that?

25 **JUROR:** No.

1 **THE COURT:** Okay. You had no discussion with
2 him about that?

3 **JUROR:** No, sir. No, sir.

4 **THE COURT:** Or with any other jurors about that?

5 **JUROR:** No, sir.

6 **THE COURT:** Okay. Have any other -- what
7 discussions, if any, have taken place in the jury
8 room concerning this case?

9 **JUROR:** This case, nothing.

10 **THE COURT:** All right. You still feel you could
11 be fair and impartial to both parties in this case?

12 **JUROR:** Yes, sir.

13 **THE COURT:** Thank you very much, Ms. 168.

14 (Whereupon, juror 168 leaves the courtroom).

15 **THE BAILIFF:** Number 1, Your Honor.

16 **THE COURT:** Good morning, number 1.

17 **JUROR:** Good morning.

18 **THE COURT:** How do you, sir?

19 **JUROR:** All right.

20 **THE COURT:** Mr. number 1, it came to my
21 attention, the Court's attention earlier this morning
22 that one of your jurors, one of the members of the
23 jury panel on arrival expressed some concern about
24 his serving on this jury panel because of his
25 relationship with one of the attorneys in this case

1 who may have represented a member of his family.
2 Were you aware of that discussion?

3 **JUROR:** Yes.

4 **THE COURT:** Okay. As a result of hearing that
5 or knowing that, did any discussions take place among
6 the jurors about his problem?

7 **JUROR:** No. Hmm-mm (Negative).

8 **THE COURT:** Okay. And have any other
9 discussions; or what discussions have taken -- if
10 any, have taken place about this case since you've
11 been in there this morning?

12 **JUROR:** Nothing.

13 **THE COURT:** All right, sir. Do you still feel
14 you could be fair and impartial to both parties in
15 this case?

16 **JUROR:** Yes.

17 **THE COURT:** Thank you very much, number 1.

18 **JUROR:** All right.

19 (Whereupon, juror number 1 leaves the courtroom)

20 **THE BAILIFF:** 192. 192.

21 (Whereupon, juror 192 enters the courtroom)

22 **THE COURT:** Good morning, Ms. 192.

23 **JUROR:** Good morning.

24 **THE COURT:** Ms. 192, earlier this morning a
25 member of the jury panel brought to my attention that

1 he had mentioned in the jury room that he felt -- he
2 may have felt uncomfortable about proceeding with
3 this case due to the fact that he believed one of the
4 attorneys in this case had represented a member of
5 his family. Were you aware of that discussion?

6 **JUROR:** Yes, I am.

7 **THE COURT:** Okay. And as a result of that
8 discussion and his comment to the jury, was any
9 discussion -- did that generate any discussion about
10 his problem?

11 **JUROR:** I was in the restroom when he was
12 discussing it.

13 **THE COURT:** Okay. So you didn't -- you're aware
14 of it but didn't hear it?

15 **JUROR:** I didn't hear it.

16 **THE COURT:** Okay. Well, when you returned from
17 the restroom, was there any further discussion about
18 that issue?

19 **JUROR:** No.

20 **THE COURT:** Okay. What, if any, other
21 discussions have taken place in the jury room
22 concerning this case this morning?

23 **JUROR:** None.

24 **THE COURT:** All right. Do you still feel you
25 could be fair and impartial to both parties in this

1 case?

2 **JUROR:** Yes, I can.

3 **THE COURT:** Thank you very much, Ms. 192.

4 Return to the jury room.

5 (Whereupon, juror 192 leaves the courtroom)

6 **THE BAILIFF:** Juror 171, 1-7-1.

7 (Whereupon, juror 171 enters the courtroom)

8 **THE COURT:** Good morning, Ms. 171.

9 **JUROR:** Hi. Good morning.

10 **THE COURT:** Earlier this morning it came to my,
11 the Court's, attention that one member of the jury
12 panel upon his arrival I assume disclosed to some
13 members of the jury that he felt he might have some
14 sort of concerns about the fact that one of the
15 attorneys in this case may have represented one of --
16 a member of his family. Were you aware of that
17 discussion?

18 **JUROR:** Yes.

19 **THE COURT:** Okay. Did you actually hear him --

20 **JUROR:** Yes.

21 **THE COURT:** Okay. And as a result of that
22 comment by that juror, did that engender any
23 discussion among members of the jury as to what --
24 about his situation?

25 **JUROR:** No.

1 **THE COURT:** Okay. What, if any, other
2 discussions have taken place in the jury room with
3 regard to this case this morning?

4 **JUROR:** I don't recall any.

5 **THE COURT:** All right.

6 **JUROR:** We talked a lot about other things.

7 **THE COURT:** That's fine.

8 **JUROR:** Weird things, squirrels and some really
9 strange things, geography.

10 **THE COURT:** We need not get into strange things.

11 **JUROR:** Okay.

12 **THE COURT:** Do you feel that you could -- do you
13 still feel that you could be fair and impartial to
14 both parties in this case?

15 **JUROR:** Yes, Your Honor.

16 **THE COURT:** Thank you very much, Ms. 171.

17 **JUROR:** Okay.

18 (Whereupon, juror 171 leaves the courtroom)

19 **THE COURT:** They are consistent.

20 **THE BAILIFF:** 242. 243.

21 **THE COURT:** 243.

22 **THE BAILIFF:** 243.

23 (Whereupon, juror 243 enters the courtroom)

24 **THE COURT:** Good morning, Mr. 243.

25 **JUROR:** Good morning.

1 **THE COURT:** Mr. 243, it came to the Court's
2 attention earlier today that a member of the jury
3 panel upon arrival I assume expressed some concern to
4 the members of the jury panel about the fact that a
5 member of his family may have been represented by one
6 of the attorneys in this case. Were you aware of
7 those discussions?

8 **JUROR:** Yes, sir.

9 **THE COURT:** All right. And as a result of that
10 discussion, did that engender any further discussion
11 among the jurors about how to handle it or anything
12 of that nature?

13 **JUROR:** Not that I can recall. I was sitting
14 kind of in the back corner, so I wasn't involved in
15 it.

16 **THE COURT:** Okay. And a second question. What,
17 if any, discussions have taken place in the jury room
18 this morning about this case?

19 **JUROR:** None.

20 **THE COURT:** All right. Do you still feel you
21 could be fair and impartial to both parties in this
22 case?

23 **JUROR:** Yes, sir.

24 **THE COURT:** Thank you very much, Mr. 243.

25 (Whereupon, juror 243 leaves the courtroom)

1 **THE BAILIFF:** Juror 162, 1-6-2.

2 (Whereupon, juror 162 enters the courtroom)

3 **THE COURT:** Good morning, Ms. 162.

4 **JUROR:** Good morning.

5 **THE COURT:** Ms. 162, it came to my attention
6 this morning that a member of the jury upon arrival
7 expressed some concern about the fact that he may
8 have some concerns because he felt that or he
9 believed that an attorney who is one of the attorneys
10 in this case may have represented a family member at
11 some time in the past. Were you aware of those
12 discussions?

13 **JUROR:** No, I wasn't.

14 **THE COURT:** Okay. All right. Since the jury
15 arrived this morning, have there been any other
16 discussions; or what, if any, discussions have taken
17 place about this case?

18 **JUROR:** No, sir.

19 **THE COURT:** No discussions?

20 **JUROR:** None.

21 **THE COURT:** Do you still feel you could be fair
22 and impartial to both parties in this case?

23 **JUROR:** I believe I can.

24 **THE COURT:** Thank you very much, Ms. 162.
25 You're free to return to the jury room.

1 (Whereupon, juror 162 leaves the courtroom)

2 **THE BAILIFF:** Juror 61. 6-1.

3 (Whereupon, juror 61 enters the courtroom)

4 **THE COURT:** Just have a seat right there,
5 wherever it's convenient. Mr. 61, it came to the
6 Court's attention this morning that one of the
7 members of the jury upon arrival expressed some
8 concern to the jury or some members of the jury panel
9 about the fact that a member of his family may have
10 been represented by one of the attorneys in this
11 case. Were you aware of that?

12 **JUROR:** Not until he mentioned something.

13 **THE COURT:** Oh, I mean that's what I meant.
14 When he mentioned it, he made you aware of that?

15 **JUROR:** Yes.

16 **THE COURT:** As a result of that, we'll call it a
17 disclosure on his part, did that engender any
18 discussion among you or any other members of the jury
19 as to how to handle it or anything of that nature?

20 **JUROR:** Not upon me, no.

21 **THE COURT:** Have any other discussions taken
22 place in the jury room, or what other discussions
23 have taken place in the jury room with regard to
24 this case, the case?

25 **JUROR:** None. I wouldn't myself. I wasn't

1 paying that much attention to anything about the
2 case.

3 **THE COURT:** So do you know of any other
4 discussions that may have taken place about this case
5 this morning in the jury room?

6 **JUROR:** No, sir.

7 **THE COURT:** Thank you very much. One other
8 question, Mr. 61. Do you still feel that you could
9 be fair and impartial to both parties in this case?

10 **JUROR:** Yes, sir.

11 **THE COURT:** All right. Thank you very much,
12 Mr. 61.

13 (Whereupon, juror 61 leaves the courtroom)

14 **THE BAILIFF:** Number 76, 7-6.

15 (Whereupon, juror 76 enters the courtroom)

16 **THE COURT:** Good morning, Ms. 76.

17 **JUROR:** Good morning.

18 **THE COURT:** Ms. 76, earlier today one of the
19 jurors expressed, came to the Court and expressed the
20 fact that he had had a discussion in the jury room or
21 some mention in the jury room about the fact that he
22 was concerned because he realized that one of the
23 attorneys in this case may have represented a member
24 of his family at some time in the past. Were you
25 aware of that discussion?

1 **JUROR:** Yes, sir.

2 **THE COURT:** All right. And as a result of that
3 comment on his part, did that engender or generate
4 any other discussion among the jurors about his
5 situation?

6 **JUROR:** No, sir.

7 **THE COURT:** All right. This morning what, if
8 any, discussions have taken place about the case
9 itself this morning?

10 **JUROR:** I'm sorry?

11 **THE COURT:** Have any discussions taken place
12 about the nature of this case this morning in the
13 jury room?

14 **JUROR:** Other than the fact that the gentleman
15 said that he wrote a letter to you.

16 **THE COURT:** Right.

17 **JUROR:** And that a couple of people in the room
18 said, well, that was the right thing for you to do,
19 to let the judge know.

20 **THE COURT:** Right. But any other discussions
21 about the case?

22 **JUROR:** No, sir.

23 **THE COURT:** All right.

24 **JUROR:** Not that I recall.

25 **THE COURT:** Ms. 76, do you still feel you could

1 be fair and impartial to both parties in this case?

2 **JUROR:** Yes, sir.

3 **THE COURT:** Thank you very much, Ms. 76.

4 (Whereupon, juror 76 leaves the courtroom)

5 **THE BAILIFF:** 1-5-8, 158.

6 (Whereupon, juror 158 enters the courtroom)

7 **THE COURT:** I don't know why I'm losing my
8 voice. Mr. 158, good morning.

9 **JUROR:** Good morning.

10 **THE COURT:** Earlier today a member of the jury
11 panel came to the Court or let the Court know that he
12 had some concerns about the fact that one of the
13 attorneys in this case may have represented a member
14 of his family in the past and he said he expressed
15 that to one or more members of the jury. Were you
16 aware of that? Were you aware of that fact, that he
17 discussed that with the jury?

18 **JUROR:** I did hear that. Yes, sir.

19 **THE COURT:** Okay. And as a result of that
20 disclosure on his part, did that generate any
21 discussion among the jurors about his situation?

22 **JUROR:** Not that I'm aware of.

23 **THE COURT:** Okay. Have any other discussions
24 taken place; or what discussions, if any, have taken
25 place about this case in general in the jury room

1 this morning?

2 **JUROR:** No other discussions that I'm aware of.

3 **THE COURT:** All right. Do you still feel you
4 could be fair and impartial to both parties in this
5 case?

6 **JUROR:** Yes, sir.

7 **THE COURT:** Thank you very much, Mr. 158.

8 (Whereupon, juror 158 leaves the courtroom)

9 **THE COURT:** That's 13 jurors polled, all of whom
10 say they can be fair and impartial. They say no
11 other discussion has been generated as a result of
12 number 204's disclosure and that no other discussions
13 about this case have taken place in the jury room
14 this morning. Any comments before the Court rules on
15 the defendant's motion for a mistrial?

16 **MR. MEADORS:** Your Honor, I think the record
17 speaks for itself. Their voices, their words and
18 their demeanor, I think they've all expressed they
19 can be fair and impartial. And the State is ready to
20 proceed. So we'd ask you deny their motions.

21 **THE COURT:** Oliver, anything further?

22 **MR. STRICKLER:** Yes, sir. First, as to Your
23 Honor's declining to remove juror number 162, I just
24 want the record to reflect that as it will -- that we
25 asked for her removal and just ask the record to

1 reflect we except to Your Honor's decision to decline
2 to remove her.

3 And, furthermore, in support of that, and the
4 basis for us asking to remove her was that had we
5 known of her contact with the witness in this case we
6 would have exercised one of the numerous peremptory
7 challenges we had available to us.

8 Further support of that is contained in her
9 response here just a couple of minutes ago to your
10 question as to whether or not she could be fair and
11 impartial; and her response was, "I believe I can."
12 The record should reflect that.

13 And it doesn't -- because this was at side bar
14 and I didn't bring it up earlier, that when all the
15 attorneys approached Your Honor regarding a series of
16 names yesterday, responses to a series of questions
17 mostly related to crimes of violence, I had moved to
18 have one of the potential jurors removed because her
19 response was: "I believe I can."

20 Your Honor, that was the only one. Your Honor
21 declined to remove of all the ones that we discussed.
22 I didn't raise it and preserve it later on because we
23 then exercised a peremptory challenge and removed
24 that lady. And since we had sufficient strikes to do
25 that, then it's no harm, no foul; there is nothing to

1 appeal on in that regard.

2 However, she has now used the same language in
3 describing the strength of her belief that she could
4 be fair and impartial in this case in her response to
5 Your Honor that that previous witness who we did
6 exercise a peremptory challenge to remove used,
7 further supporting the fact that had we known of her
8 relationship with the witness in this case, who by
9 the way will be the person who came, wandered in the
10 front door to the crime scene and found the dead
11 bodies, it's not just some peripheral, off in the
12 distance, may or may not be the first witness called
13 in the case. Had we known that, we would have struck
14 her. So then as to that, that covers 162.

15 And, Your Honor, with all due respect, I don't
16 guess I have anything to add to my motion for
17 mistrial. I think I -- you know, we've already had
18 all that going on, what was not asked by the Court.
19 And I'm not going to sit and ask the Court to pry
20 into each and every juror's personal lives as to how
21 many of them also had conversations with their family
22 when they went home in direct contravention of the
23 orders of this Court. We know at least two of them
24 did. And were I a betting man, I'd bet more did.

25 **THE COURT:** That's all?

1 **MR. STRICKLER:** Yes, sir.

2 **THE COURT:** Mr. Gallman.

3 **MR. MILLING:** Thank you, Your Honor. May it
4 please the Court. We would join in Mr. Oliver's
5 motion and objection as to juror 162. We would go on
6 for the record to state that because of the nature of
7 the witness, Ms. McKie, who is going to be called and
8 her involvement in this case, and because of Ms.
9 juror 162's relationship, prior relationship with
10 that witness and the apparent compassion that she
11 expressed to that witness after she discussed a death
12 of a friend is going to severely limit our ability to
13 cross examine that witness for fear of ramifications
14 by that particular juror because of that prior
15 relationship with Ms. McKie.

16 Your Honor, as to the mistrial, we would rest on
17 our earlier arguments and the prejudice even
18 discussing this case with the jury panel as a whole
19 could have on our clients.

20 Your Honor, another thing that I would ask, and
21 I think this is something that needs to be polled to
22 the jurors individually, but I would suggest each
23 morning, because of the length of this case and
24 because of the pre-trial publicity already, we would
25 ask that the jurors be inquired of as to whether or

1 not they have discussed the case every morning. And
2 Your Honor may already do this, every morning discuss
3 whether or not they have seen any reports, newspaper
4 or otherwise, and also caution them at the end of the
5 day not to discuss the case.

6 **THE COURT:** Mr. Joy.

7 **MR. DELGADO:** Your Honor, on behalf of Mr. Joy,
8 I concur. And just so the record is completely clear
9 for the Court as is possible, all four defense
10 counsel have attempted to evaluate which witness of
11 the hundred or more that the State is going to call,
12 which witness would they call first. Absolutely
13 coincidentally, Your Honor, it's going to be, we
14 always thought, and very likely if she's not the
15 first, she's going to be second or third, it was
16 Ms. Zondria McKie.

17 Ms. Zondria McKie is the individual who calls
18 EMS or 911. Zondria McKie is the individual who goes
19 into the home at Mildred Avenue and finds Mr. Batie
20 and Mr. Miller.

21 There were avenues of cross examination, as Mr.
22 Milling has said, that now we may have to evaluate
23 and now no longer be able to employ simply because
24 number 162 has not been removed. I ask the Court to
25 reconsider its previous motion. And I concur with

1 Mr. Strickler in saying she was the only one of the
2 13 jurors you just questioned that said "I believe I
3 can." The only one. Thank you.

4 **THE COURT:** All right. As to the
5 disqualification -- I have lost my notes, the juror
6 notes. Any juror notes over there?

7 **COURT REPORTER:** I don't have them. No, sir.

8 **THE COURT:** There we go. The motion as to
9 removal of juror 162, I must respectfully deny it. I
10 deny the motion to remove juror 162. I feel she can
11 be fair and impartial. She was questioned off the
12 record about her contact with a witness she
13 identified as Z. And I don't think it rises to the
14 level of disqualification. As to all motions for
15 mistrial, the motions are denied.

16 **MR. DELGADO:** Your Honor.

17 **THE COURT:** I may be wrong, but you can take it
18 up at the Court of Appeals. The motion is denied.

19 **MR. DELGADO:** Your Honor, may I ask this? And I
20 ask this. It just came to me. And this whole case
21 has had so many ups and downs. And I understand a
22 juror's right to serve. Would the Court consider
23 placing number 162 as the alternate?

24 **THE COURT:** Well, I'll consider anything.
25 What's the State's position?

1 **MR. MEADORS:** I hate for these words to get on
2 the record, but that actually was just going through
3 my mind. I hate to say that I was thinking the same
4 thing Mr. Delgado was. I'm not saying I'm in favor
5 of it. But wondering what Your Honor was going to
6 do, we were actually wondering if that was a
7 possibility. Before he said that, I asked Ms.
8 McDuffie, "Can you do that? Do they either have to
9 be on or off if they're already seated?" Because
10 usually when you replace a sitting juror with an
11 alternate, that means they leave. So I don't know.
12 It's one of those things. Can we do that?

13 **THE COURT:** Well, certainly you can do it by
14 consent. And if you say you have no objection, there
15 are two other votes.

16 **MR. MEADORS:** Well, I guess it raises the other
17 question. If something happens to a juror, wreck,
18 heart attack --

19 **THE COURT:** She comes back.

20 **MR. MEADORS:** -- whatever, are they consenting
21 then they will waive that if she comes down?

22 **THE COURT:** He is not giving up anything. He is
23 just suggesting, as I interpret his suggestion, that
24 that juror, if all other 12 remain hale and hearty
25 that that juror would not take place in discussions

1 when the case is complete. I think that's what he is
2 suggesting. And he made it in the form of a motion.

3 **MR. MEADORS:** I'd like to hear the other defense
4 counsel's argument while I think about it.

5 **THE COURT:** No. I think you need to --

6 **MR. MEADORS:** I need a few minutes.

7 **THE COURT:** -- state your position.

8 **MR. MEADORS:** Can you give me a few minutes?
9 This is really a new area. Can you just give me a
10 minute to think about it?

11 **THE COURT:** Sure.

12 **MR. MEADORS:** Respectfully?

13 (Pause)

14 **MR. MEADORS:** Judge, I don't know what to say
15 right now. I'm torn between it's a juror's right to
16 serve --

17 **THE COURT:** She'd still serve.

18 **MR. MEADORS:** Well, as a juror, and she's been
19 picked that way; do I have the right to consent to
20 her not -- I need more time with this, Your Honor.
21 I'm sorry. I can't answer right now. I don't know
22 what else to say. If you need me to take no
23 position -- my co-counsel does, it looks like she's
24 being punished. If Your Honor has made his ruling, I
25 cannot take a position on that. I need more time to

1 think about it. So I do not consent either way.

2 **THE COURT:** So you do not consent. I mean,
3 that's the --

4 **MR. MEADORS:** At this point I don't. No, sir.
5 I am sorry.

6 **THE COURT:** All right. Mr. Oliver.

7 **MR. STRICKLER:** Well, if it can only be done by
8 consent and he does not consent now --

9 **THE COURT:** Do you have a position?

10 **MR. STRICKLER:** I would consent. But he has to
11 answer first. This is the order of examination now.
12 It's his motion. He needs to reply.

13 **THE COURT:** He did not consent. We need not
14 raise your voice.

15 **MR. STRICKLER:** I'm sorry, Your Honor.

16 **THE COURT:** He did not consent. That's the
17 answer.

18 **MR. STRICKLER:** Yes, sir.

19 **THE COURT:** Do you consent? How about Mr.
20 Gallman?

21 **MR. MILLING:** Your Honor, a concern that I have
22 is the --

23 **THE COURT:** Do you consent or not?

24 **MR. MILLING:** I don't know that I can.

25 **THE COURT:** All right. Two to two. Sorry, Mr.

1 Delgado.

2 **MR. DELGADO:** Thank you, Your Honor.

3 **THE COURT:** Now, she'll be seated as a regular
4 juror. Any suggestions as to how to proceed at
5 12:30?

6 **MR. MEADORS:** I would ask the jurors not to the
7 discuss the case if you release them for lunch. But
8 other than that --

9 **THE COURT:** Well, I probably should do that,
10 because I have a feeling that openings are going to
11 be protracted.

12 **MR. STRICKLER:** Since you asked for suggestions,
13 Your Honor, I would suggest we break for lunch, come
14 back at 2:00 and proceed with openings.

15 **THE COURT:** All right.

16 **MR. STRICKLER:** That's my suggestion.

17 **MR. MEADORS:** We have no objection.

18 **THE COURT:** Any objection?

19 **MR. MILLING:** No objection.

20 **THE COURT:** Any objection?

21 **MR. DELGADO:** None.

22 **THE COURT:** We're going to draw the alternate.
23 All right. Two remaining things. We've got to draw
24 the alternates and let the -- do we have a young boy
25 or a blind girl or a blind person?

1 **MR. STRICKLER:** For Mr. Oliver I will waive that
2 requirement. I don't know about them.

3 **THE COURT:** Is there anybody in this courtroom
4 that's neutral? All right. I'll let the clerk do
5 it, the deputy clerk. The three alternates are --

6 **THE CLERK:** Are in there.

7 **MR. STRICKLER:** Don't we only have two
8 alternates now?

9 **THE COURT:** I haven't dismissed any alternates.
10 Have I?

11 **THE CLERK:** No, sir.

12 **THE COURT:** I thought I dismissed two jurors.

13 **MR. STRICKLER:** You referred to 41 as an
14 alternate. I don't have my strike sheet in front of
15 me, so I don't know.

16 **THE CLERK:** 41 was a regular. 61, 76 and 158
17 are the alternates.

18 **MR. STRICKLER:** Right. I apologize, Your Honor,
19 about that.

20 **THE COURT:** All right. So the first alternate,
21 the first drawn alternate who will take a seat as a
22 regular juror, a juror, is number -- read it.

23 **THE CLERK:** Number 76.

24 **THE COURT:** The second alternate who will be
25 drawn as a regular juror is ...?

1 **THE CLERK:** Number 158.

2 **THE COURT:** Those happened to be the last two
3 drawn. All right. I plan to bring the jury, give
4 them the additional names with witnesses who may be
5 called and then dismiss them for lunch. Please don't
6 everybody jump. Bring the jury, please.

7 **THE BAILIFF:** We're going to have to get them
8 out of another courtroom because when you questioned
9 them we sent individuals down to the other courtroom.

10 **THE COURT:** That's fine. You're way ahead of
11 me.

12 (Jury in at 12:27 p.m.)

13 **THE BAILIFF:** The jury panel is all present,
14 Your Honor.

15 **THE COURT:** All right. Thank you very much.
16 Ladies and gentlemen, let me say first, thank you for
17 your patience. This has just been somewhat of a
18 difficult process to get under way but we are
19 prepared to start the trial.

20 Now, let me just take care of a couple of
21 housekeeping matters. I'm going to ask juror number
22 158, alternate juror number 158 and alternate juror
23 number 76 to take their place, a place in the regular
24 jury panel. We have lost two members of the jury so
25 far at this point in time due to my rulings on

1 several issues and they will not be with us. They
2 didn't do anything wrong. It's just a matter of the
3 process and the fact that I felt that they needed to
4 be excused. That will leave juror number 161 as our
5 only remaining alternate.

6 So with that done, the second thing I need to do
7 is go over -- well, I just had them -- a list of just
8 a few additional witnesses who have been supplied to
9 the Court since I first examined you about your
10 knowledge of any witnesses in the case. And again,
11 these are potential witnesses. They may be called;
12 they may not. But we just need to know if you're
13 aware or know any of these witnesses.

14 The first one is Dan Jensen, employed by Sprint;
15 Eric Tyrell, also employed by Sprint; Arnold --
16 Andrew Arnold employed by Sprint; Natalie Erdossy or
17 Erdocey (phonetic), also employed by Sprint; Jewel
18 Jenkins formerly with the Columbia Police Department,
19 M. D. Wines, W-I-N-E-S, employed by the Columbia
20 Police Department; and N, initial N, Dow, D-O-W,
21 employed by the Columbia Police Department. Any
22 member of the jury panel know or have any
23 relationship to any of these witnesses?

24 **MR. ROSS:** There's also Ron Witt, Your Honor,
25 with T-Mobile.

1 **THE COURT:** I'm sorry. I jumped over that one.
2 The name Ron Witt, W-I-T-T, employed by T-Mobile.
3 All right.

4 **MR. STRICKLER:** And, Your Honor, would you
5 inquire as to Investigator Lutz, L-U-T-Z, employed by
6 the Richland County Sheriff's Department?

7 **THE COURT:** Yes, sir.

8 **MR. STRICKLER:** Thank you.

9 **THE COURT:** Investigator Lutz, L-U-T-Z, employed
10 by the Richland County Sheriff's Department. All
11 right.

12 All right, ladies and gentlemen. As we start
13 the trial I need to give you some basic instructions
14 and some basic guidelines as to how the trial will
15 proceed following which the attorneys will make their
16 opening statements to you. And that process is going
17 to take some time. And it's now 12:30.

18 And you've been sitting here in the jury room
19 since 9:30 this morning. We've been out here since
20 9:30 this morning. I think it's best to go ahead and
21 take a lunch break at this time. I know we haven't
22 gotten started as quickly as I thought we would have.
23 I will caution you throughout the course of this
24 trial, don't ever believe me when I tell you it will
25 only be ten minutes or we'll be a short period of

1 time. And I hope you will take that somewhat
2 lightly.

3 But we are dealing with quite a number of people
4 and a number of defendants and a number of lawyers,
5 and I'm trying to do the best we can to move this
6 case along. And so just bear with us. We will get
7 it before you.

8 Now, again, I'm going to ask you not to -- and
9 again, I'm going to ask you not to discuss the case
10 among yourselves while you're at lunch or with anyone
11 else at lunch or even if you take lunch together or
12 when you return to the jury room. When you return to
13 the jury room at 2:00 we will begin this trial. All
14 right. Thank you very much, ladies and gentlemen.
15 You're now excused to go to lunch.

16 (Jury out at 12:33 p.m.)

17 **THE COURT:** All right, counsel. As to the
18 photographs, I've reviewed the photographs. And my
19 ruling is that photograph No. 123, 124, 127 and 130
20 are inadmissible. 127 and 130 are duplicative. 124
21 is duplicative of 125. 123, I fail to see any
22 evidentiary value of that photograph. It's a close
23 up of the bagged hands. And unless something comes
24 to light during the course of the trial, I rule that
25 photograph inadmissible.

1 As to photographs 125, the photograph of the
2 location of the body, and 128, the photograph of the
3 cocaine, allegedly cocaine, handful of cocaine in the
4 deceased's left hand, that may have some relevant
5 value, and I'll admit that. It's not it's merely the
6 picture of a hand. It's not gruesome. It's not in
7 any way -- I don't see how it could inflame the
8 passion of the jury.

9 As to No. 126 which is a photograph of the
10 deceased and a fairly close-up photograph, it shows
11 not only the fact that the deceased was wedged
12 somewhat between two trees, but it also depicts the
13 state of decomposition of the body, that photograph
14 may be relevant when, may be made relevant by the
15 medical examiner for some reason.

16 If the date or the time or the time of death is
17 relevant and the medical examiner can determine that
18 time of death from the State of decomposition of the
19 body, it may become relevant if it's relevant in this
20 case. I don't know at this point. So I would
21 withhold the ruling on 126 subject to the testimony
22 of the medical examiner as to what the relevance of
23 it is. " Anything?

24 **MR. MEADORS:** Thank you.

25 **THE COURT:** Anything further?

1 **MR. STRICKLER:** Your Honor, if my notes are
2 correct, and they're usually not, but you also have
3 109 through 116 that are still pending contingent on
4 what the medical examiner's testimony is.

5 **THE COURT:** Yes. There are a number of
6 photographs that are contingent upon the testimony of
7 the medical examiner.

8 **MR. STRICKLER:** Thank you, sir.

9 **THE COURT:** 2:00.

10 **MR. MEADORS:** Thank you.

11 (Whereupon, a lunch break is taken)

12 **THE COURT:** The State ready for the jury?

13 **MR. MEADORS:** The State's ready.

14 **THE COURT:** Defense ready for the jury?

15 **MR. STRICKLER:** Mr. Oliver is, sir.

16 **THE COURT:** Defense. Mr. Gallman? You ready
17 for the jury?

18 **MR. MILLING:** Yes, Your Honor.

19 **MR. DELGADO:** Yes, Your Honor.

20 **THE COURT:** Bring the jury, please.

21 (Jury in at 2:13 p.m.)

22 **THE BAILIFF:** The jury panel is all present,
23 Your Honor.

24 **THE COURT:** All right. Thank you, ladies and
25 gentlemen. Good afternoon. We are now ready to

1 commence the trial. Madam Clerk, will you swear the
2 jury?

3 **THE CLERK:** Yes, sir. Ladies and Gentlemen of
4 the Jury, if you'll please stand and raise your right
5 hand to be sworn. After this oath, please
6 acknowledge by answering I do.

7 (Whereupon, the jury is sworn)

8 **THE CLERK:** Thank you. You may be seated. All
9 right, ladies and gentlemen. As I indicated before
10 the lunch break, just a few things I want to go over
11 with you before the attorneys make their opening
12 remarks. First off I want to tell you this trial may
13 be different from what you might expect. It may
14 already be different from what you might expect.

15 Many people do not have the chance to attend
16 actual court sessions as you are now doing and may
17 think from watching television or reading books or
18 watching movies that trials are always full of a lot
19 of drama and a lot of action, that sort of thing.

20 And while all these things may be true at times,
21 this trial is not for entertainment. It's a
22 fundamental part of our democracy. It's a search for
23 the truth in an effort to make sure that justice is
24 done to the parties that are appearing before you in
25 court today. And searching for the truth and making

1 sure that justice is done is often a slow, deliberate
2 and repetitive process, the opposite of what you
3 might have seen on television or in movies or read in
4 books.

5 This courtroom is a place of honor dedicated to
6 the protection and preservation of citizens' rights
7 through what many have called the greatest justice
8 system ever devised. The attorneys appearing before
9 you are advocates for the parties they represent, but
10 first and foremost they are officers of this court
11 sworn to uphold the integrity and fairness of our
12 judicial system and to help you in a search for the
13 truth.

14 You should expect them to be professional,
15 competent and ethical in the representation of their
16 clients' interests. And remember you've just taken
17 an oath to try this case to reach a fair and just
18 verdict. You are also expected to be professional,
19 reasonable and ethical.

20 So as we begin this trial I want to thank you
21 for accepting this important responsibility to jury
22 service and for your contribution today to our jury
23 system.

24 Now, what I tell you today, or rather, go over
25 with you at this time is merely to be an introduction

1 of the case and sort of a heads up on the process
2 that we will use. These remarks are not a charge on
3 the law. I will instruct you the law as it applies
4 to this case at the end of the trial and before you
5 retire to decide your verdict in this case.

6 You have been selected as 12, 13 fair and
7 impartial jurors. Your purpose is to find and
8 determine the facts. You are the sole judges of the
9 facts. If at any time I make any comment regarding
10 the facts, you must disregard those comments.

11 Now, as I told you when you were with the entire
12 panel, there are a number of indictments in this
13 case. There are three defendants. There are Mr.
14 Oliver, Mr. Gallman and Mr. Joy. As to each of them,
15 there are numerous indictments.

16 But to simplify it in one sense, there are three
17 charges of murder as to each of the three defendants.
18 There are three charges of armed robbery as to each
19 of the three defendants. There is one charge of
20 burglary in the first degree as to the three
21 defendants. I'm going to correct myself in just a
22 minute because that's not -- there are only two. And
23 I'll tell you what I mean by that in just a minute.

24 And there are -- there is a kidnapping charge as
25 to these defendants. And what I mean by what I just

1 said a minute ago, Mr. Joy is in a little bit
2 different situation with regard to the indictments
3 because he is not charged with an actual murder. He
4 is not charged with a burglary or an armed robbery.
5 He is charged with being an accessory.

6 So when I spoke a minute ago about him being
7 charged, three defendants being charged with murder,
8 I misspoke. Mr. Joy is charged with being accessory
9 to the actions of the other two defendants, that
10 being Mr. Oliver and Mr. Gallman.

11 So whenever you consider these indictments,
12 you'll be considering whether Mr. Joy is or is not or
13 was or was not an accessory to murder or an accessory
14 to an armed robbery or an accessory to a kidnapping
15 either before the event or after the event. And that
16 is an important distinction with regard to Mr. Joy.

17 Now, I bring these indictments up again to
18 remind you that they are separate indictments against
19 separate individuals. And the evidence that you hear
20 during the course of this trial, some of the evidence
21 may apply to one. Some of the evidence may apply to
22 both. Some of the evidence may apply to only one.
23 And when you -- and that's certainly one of the
24 reasons that I gave you pencils and papers to take
25 notes.

1 So I'm going ask you to try to be as careful as
2 you can as the evidence is presented to distinguish
3 between what that evidence shows or doesn't show with
4 regard to each of the defendants. Because in the
5 long run and at the end of the day, at the end of
6 this trial you will be asked to decide as to each
7 defendant each charge. Whether you find that that
8 charge applies to another defendant is going to be
9 entirely up to you and how you view the evidence of
10 course at the close of the trial.

11 So I will remind you of this principle of the
12 law as we go through the trial. I'll try to keep
13 reminding you to keep in mind that certain evidence
14 may apply to one, may not apply to the other, because
15 they each have the right to a fair trial as to each
16 of the charges presented against them.

17 And you are to determine the facts in this case
18 from the testimony you hear. And the testimony, as I
19 say, may differ with regard to one defendant or the
20 other. And you should -- any other evidence that is
21 presented during the course of the trial may apply to
22 one, may not apply to all.

23 You should not be influenced by any opinions or
24 statements that you may have heard outside the
25 courtroom. It's especially important that you

1 perform your duty of determining the facts diligently
2 and conscientiously because ordinarily there is no
3 way to correct an erroneous determination of the
4 facts by a jury.

5 When you comply with your oath to impartially
6 determine the facts of this case, you will have
7 fulfilled your duty as jurors, and no one will have
8 the right to criticize your verdict.

9 Now, on the other hand and with equal emphasis,
10 the same law that makes you the judges of the facts
11 makes me the judge of the law. The law as given to
12 you by the Court is the only law you must consider or
13 you may consider. You must accept it and follow it
14 although you may disagree with it. I cannot tell you
15 what the facts are. You should not disagree with me
16 about what the law is or what the law should be.

17 Your job is to take the law as I explain it to
18 you, apply it to the facts as you find them from the
19 testimony of the witnesses and any other evidence
20 that's presented. And after doing that you can
21 render your verdict, a true and just verdict under
22 the solemn oath you just took as jurors.

23 And until I advise you to begin your
24 deliberations you must not discuss this case with
25 anyone, including your fellow jurors, friends, family

1 members or anyone else involved in the case. After
2 the case is submitted to you, you must discuss it
3 only in the jury room with your fellow jurors; that
4 is, after the case has been sent to the jury for
5 deliberation.

6 The attorneys and the parties in this case and
7 the people in the courtroom have been advised that
8 they are not to talk to you at all. If you see
9 anyone involved in the case and they do not even say
10 hello, they're not being unfriendly. They're just
11 following my instructions.

12 Now, during the trial, and I cautioned you about
13 this on Monday, I asked you not to read or listen to
14 any press reports. I again do not know whether or
15 not the press will be following this case or not.
16 But I'm going to ask you not to read, listen to or
17 watch any news reports of this case during the course
18 of the trial. This includes anything that may be in
19 the newspapers or on the Internet, radio or
20 television. You must not consider anything outside
21 the courtroom or that you may have heard or read
22 about the case, whether during or before or during
23 the trial.

24 It's important that you keep an open mind, not
25 decide any issue in this case until all the evidence

1 has been presented, the parties have made their
2 closing arguments and I have instructed you on the
3 law of the case. And as I said, whatever reports in
4 the press, if there are any, would be a reporter's
5 interpretation of what he heard. You are the judges
6 of the facts in this case. You are hearing the
7 evidence. You should -- you will make up your own
8 mind as to the value and weight of the evidence and
9 the credibility of the evidence, not based -- you
10 cannot base your opinion on what some reporter may or
11 may not say about the case. I hope you understand
12 the reason for that rule.

13 Now, in just a minute the attorney for the
14 Plaintiff (sic) will make what's called an opening
15 statement. The attorney will explain what the issues
16 in this case are or at least what the attorney thinks
17 the issues in this case are. The attorney for the
18 defendant will also make an opening statement. And
19 in all likelihood the attorney for each defendant
20 will make an opening statement.

21 They'll tell you in their -- what they tell you
22 in their opening statements is not evidence in this
23 case. It's only their contention as to what the
24 issues are and what the evidence will show. The
25 evidence in the case will be presented to you by the

1 testimony of sworn witnesses from the witness stand
2 and by any exhibits that may be introduced during the
3 course of the trial.

4 Now, with regard to each of these indictments,
5 each of these defendants has pled not guilty to these
6 charges, and that puts the burden on the state of
7 South Carolina therefore to prove each and every
8 element of these cases, of these indictments to you
9 beyond a reasonable doubt. And that burden is on the
10 State. And the defendants have an absolute right to
11 remain silent throughout the course of this trial.
12 That is their Constitutional right. The burden is on
13 the State to prove guilt beyond a reasonable doubt.

14 Now, from time to time, ladies and gentlemen,
15 during the trial you may hear one of the lawyers say
16 something like, I believe we have a question of law
17 to discuss with you or may we approach the bench. Or
18 sometimes I myself might find it necessary to excuse
19 you from the courtroom for a short period of time
20 while the attorneys and I discuss a matter of law.

21 The reason for this is because you are the
22 judges of the facts. Sometimes when I am discussing
23 matters of law with the attorneys it may be necessary
24 for me to make some comment about the facts as to
25 whether a particular law applies or whether that law

1 does not apply.

2 I am not supposed to tell you or even infer to
3 you or insinuate to you what I think the facts are.
4 So I will excuse you from the courtroom while these
5 discussions take place so that in no way will you be
6 in any way influenced by anything that I might say or
7 do in connection with those facts.

8 In determining what the true facts are, you must
9 decide whether or not the testimony of any of the
10 witnesses in this case is believable. It will be my
11 responsibility to rule as a matter of law whether
12 that testimony is admissible; in other words, whether
13 it comes into court. But once that testimony is
14 admitted, once you hear it, whether you believe it or
15 not is solely up to you.

16 In determining whether to believe a witness, you
17 have the right to consider whether that witness has
18 any interest in the outcome of the trial, whether the
19 witness is prejudiced toward either of the parties in
20 this case, the opportunity for the witness to have
21 seen the matters and things about which the witness
22 may testify, and the way the witness acts on the
23 witness stand.

24 You have a right to consider anything that's in
25 this record that will help you evaluate the testimony

1 of the witnesses. That means it's your duty to pay
2 close attention to these witnesses, observe the
3 witnesses, listen to them. Pay close attention to
4 their attorneys and to the Court. Try not to let
5 your thoughts wander, but pay strict attention to the
6 testimony so at the end of the trial you will be able
7 to determine what the true facts are and apply the
8 law to those facts and thus render a true and just
9 verdict.

10 It will be your duty, Mr. Foreman, to preside in
11 the jury room and be the jury's spokesperson here in
12 court.

13 All right, counsel. We're now ready to begin
14 the trial. You may begin with your opening
15 statements.

16 **MR. ROSS:** May it please the Court. Defense
17 counsel. Stanley Oliver, Dominic Gallman and Kenneth
18 Joy set out to commit a robbery. They set out to
19 find an easy target and they found their easy target,
20 Jim Batie. Stanley Oliver, Dominic Gallman and
21 Kenneth Joy and set out to rob a drug dealer and they
22 found a drug dealer, Jim Batie. And that robbery led
23 to kidnapping and murder, the murder of 54-year-old
24 Jim Batie, the murder of 27-year-old Kevin Miller,
25 the kidnapping and murder of 46-year-old Desiree

1 Felder. This case is about money, drugs and murder.
2 Money, drugs and murder.

3 Let me take you back. Labor Day weekend 2005.
4 It's the early morning hours of Sunday morning,
5 September the 4th, the day before Labor Day. These
6 three had a plan they had set into motion. They were
7 going to rob Jim Batie. Jim Batie lived on Mildred
8 Avenue in the City of Columbia.

9 That early morning, Kevin Miller, 27-year-old
10 Kevin Miller, had called Jim Batie around 2:08 a.m.
11 Sunday morning, September 4th. And he was going over
12 to Jim Batie's house to buy some drugs. He was going
13 to buy some cocaine.

14 Before he went there he stopped at a teller
15 machine on Greystone Boulevard, the Wachovia teller
16 machine, Greystone Boulevard. He had left his
17 friend's house over in Whitehall, Chris Cochran. He
18 was using Chris Cochran's teller machine card. He
19 drove from Whitehall to Greystone and at 2:40 a.m. he
20 withdrew \$80 from that teller machine using Chris
21 Cochran's teller machine card.

22 He then left there and arrived at Jim Batie's
23 house on Mildred Avenue. To get there you would go
24 down River Drive. Broad River Road runs down, turns
25 into River Drive. It's about five to ten minutes

1 from Greystone Boulevard. It's back in a little
2 neighborhood over there, Earlewood Subdivision. When
3 he got there we don't know if Mr. Stanley Oliver and
4 Dominic Gallman were already there or not. They
5 might have been. They might have been outside. We
6 don't know.

7 Kenneth Joy had put these two into motion. He
8 was the connection to Jim Batie. He had told these
9 two about Jim Batie, to rob Jim Batie, that he had
10 money and he had drugs. So we don't know if these
11 two were there or not when Kevin Miller arrived, but
12 we do know they were there at some point at the same
13 time. So we don't know if Kevin Miller answered the
14 door. We don't know if they went in when Kevin
15 Miller got there. We don't know.

16 But we do know this. Kevin Miller never made it
17 past the entryway of the front door. He was shot in
18 the back of the head and falls right in the doorway.
19 He never bought his drugs. Killed right there.

20 We don't know this either but we know this
21 happened. We just don't know if it was before or
22 after. These two could have already been in the
23 house and done what I'm fixing to tell you or maybe
24 they did it after. I don't know.

25 But I do know this. And the State will prove

1 that Jim Batie would not tell these two where his
2 money and drugs were. Because they had to shoot him
3 in the legs two times. One bullet goes in, stays in
4 his leg. The other bullet passes through, goes to
5 the other leg. Why do they shoot him? He's got a
6 safe in the house. He won't open the safe. He won't
7 open it.

8 They're going through the house. They are
9 ransacking the house. They're going through the
10 bedrooms. They're going through boxes. They're
11 going through containers. They're going through
12 drawers, kitchen drawers, furniture drawers. They're
13 looking. They can't find what they want. They want
14 Batie to open that safe. After he gets shot he opens
15 it.

16 But that wasn't good enough. That's not good
17 enough for these two. Not good enough. Because what
18 do they do? They shoot him in the top of the head.
19 Down. He's down. They shoot him in the top of the
20 head. It goes through his skull into his shoulder,
21 54-year-old Jim Batie. Kills him. He is found right
22 in front of the safe with the door to the safe open,
23 nothing in it.

24 That's not good enough. Desiree Felder is
25 there, 46-year-old Desiree Felder. What has she seen

1 so far? She's seen Kevin Miller get shot in the
2 head. She's seen Jim Batie get shot in the legs.
3 She's seen Jim Batie get killed by getting shot in
4 the head. But that's not good enough for these two.
5 They kidnap Desiree Felder from the house, put her in
6 the car, drive her from the scene. Why? They want
7 more money. They want more drugs.

8 So what do they do? They know that Jim Batie
9 has a storage building, one of these places that you
10 rent, like a 10-by-12 storage unit that's among a
11 bunch of other storage units. They know this. They
12 know Desiree Felder knows this. They don't know
13 where it is. They want to know. Apparently she
14 won't tell them. She won't tell them.

15 So what do they do with her? Not good enough to
16 kill two people, not good enough stealing stuff out
17 of the house. Not good enough. Oh, no. They drive
18 her out towards Blythewood out Wilson Boulevard to a
19 dirt road, Nina Lee Drive, take her out in the woods
20 with no shoes on, shoot her in the back of the head,
21 kill her. They leave her body there, leave her
22 laying in the woods and they go on.

23 There are a number of things that I'm going to
24 tell you about but not necessarily in order. So I'm
25 going to go a little bit further on in the day, on

1 that September 4th day, and then I'll come back to
2 these three. First I'm going to tell you about how
3 the bodies were found and a little bit about that,
4 and then I'll come back to what these three were
5 doing.

6 So over on Sunday morning, Kevin Miller,
7 remember I told you he was supposed to go buy some
8 drugs and Chris Cochran knew he was going to buy
9 drugs and he was waiting on him. Well, he never
10 showed up. He never came back. Chris Cochran
11 started wondering, where is he? What's he done? Did
12 he just steal my \$80, take the drugs and just go on?
13 What happened?

14 So he started to call Jim Batie's phone looking
15 for Kevin. "Have Kevin call me. Where is Kevin? He
16 needs to call me." He leaves some messages. Kevin
17 Miller of course doesn't call back. Chris Cochran
18 goes over there to the Mildred Avenue house. Chris
19 Cochran had been there before. He'd bought drugs
20 from there before, bought cocaine.

21 He goes over there, sees Kevin Miller's truck
22 still parked there, sees Jim Batie's and Desiree
23 Felder's car still there, goes to the door, knocks on
24 the door, turns the doorknob. The door is unlocked.
25 He'll tell you he got a bad feeling, didn't open the

1 door and left.

2 But he still wants -- he still thinks Kevin is
3 messing with him. He doesn't know. He takes Kevin's
4 keys out of his truck so he'll have to call him. He
5 takes his cellphone and takes the teller machine
6 receipt that shows he had been at the Greystone
7 teller machine at 2:48. He goes on back home, keeps
8 trying to call, never can get anybody throughout the
9 day. This is sometime in the morning.

10 Later on that day a friend of Desiree Felder's
11 who went to church with Desiree knows that she wasn't
12 in church that day had decided to go by the house
13 that afternoon. So this is Sunday afternoon. Goes
14 by the house, sees the cars there, walks up to the
15 door, sees the Sunday paper on the doorstep, picks it
16 up, opens the door. It's unlocked. She opens the
17 door.

18 She sees Kevin Miller right there in the
19 doorway. She drops the paper, drops her purse, uses
20 the phone, calls 911, waits 'til the police get
21 there. Robin Dutton, the first officer on the scene,
22 you will hear from her. Everything goes from there.
23 They start processing the crime scene. She finds the
24 bodies inside.

25 Let's go back to these two. We'll come back to

1 all three. These two have got money and drugs. Mr.
2 Joy is now back involved again. He wasn't there. He
3 wasn't at the scene. He set it into motion. These
4 two go do it. Then he helps them clean up. He helps
5 them to not get caught.

6 One problem, one problem that they didn't
7 anticipate. They knew there were no witnesses
8 because they killed everybody. But Mr. Oliver here,
9 while they are ransacking the house, going through
10 the boxes, he left his fingerprint in a bedroom on a
11 shoebox. So when the City police process the crime
12 scene they find his fingerprint and they figure out
13 Stanley Oliver has been here.

14 Mr. Oliver goes to a girl. He's got several
15 girlfriends. But he goes to his girlfriend's house.
16 Renata Williams. He goes to Renata Williams' house.
17 He comes on in. This is the next day; not Sunday but
18 Monday morning early, early. He comes in. Something
19 is under his arm. He lays it on the bed. It's cash,
20 lots of cash.

21 He's got a Ziploc baggy full of drugs. Stanley
22 Oliver's brother, Mike Allen, comes over to Renata's,
23 sees the money and drugs, sees him with the money,
24 with the drugs. Mike Allen asks him, "Where did you
25 get that?" His response is, "You don't have to worry

1 about it. They won't be coming after me. They won't
2 be coming after me."

3 Mike Allen also talks to Dominic Gallman, also
4 talks to Kenneth Joy. Mike Allen will tell you what
5 they told him, how they got rid of their clothes, how
6 they won't find the car, how there were no witnesses,
7 how they got rid of the guns. Mike Allen will tell
8 you what happened and what he saw.

9 This is Stanley Oliver's, what they consider to
10 be, they consider themselves to be brothers. Renata
11 Williams also will tell you about Stanley coming over
12 with the drugs and with the money.

13 Another girlfriend of Stanley Oliver's is
14 Tatanisha Robinson. Another girlfriend. She will
15 tell you also Stanley Oliver had money, that Stanley
16 Oliver had drugs. Let me back up. Let me back up.
17 Mike Allen, let's go back to Mike Allen. Because
18 once the police got on to Stanley Oliver and knew he
19 had been there it was in the news about the murders.

20 Remember I had told you that he had told Mike
21 Allen, he said, "Where did you get that?" "They
22 won't be after me." Well, once it was on the news,
23 then Stanley Oliver makes the statement to Mike
24 Allen, "I robbed the guy but I didn't kill the
25 woman." That's what he tells Mike Allen. This is a

1 couple of days later. "I robbed the guy but I didn't
2 kill the woman."

3 Tatanisha Robinson, she talks to all three of
4 these folks. Dominic told Tatanisha he wasn't
5 worried about the fingerprint and if all three of
6 them kept quiet they wouldn't get caught. Kenneth
7 Joy wanted to know from Tatanisha where was Stanley's
8 money. Kenneth Joy told Tatanisha the cops would
9 never find the watch because they destroyed it.

10 Kevin Miller had an expensive watch, a Tag
11 watch. The watch was not found on him when they
12 found the body. Kenneth Joy says, "We destroyed the
13 watch." Kenneth Joy also tells Tatanisha Robinson,
14 "We took the drugs to Blue." Blue is a drug dealer,
15 another drug dealer.

16 I'm not going to go through every witness of
17 what everybody is going to say in this case. There
18 is more witnesses than just that. But that's just to
19 give you an idea of what the State is going to
20 present.

21 But the timeline is that Kevin Miller after
22 2:40 a.m. ends up at the Mildred Avenue house. So if
23 he left directly from Greystone, it would take him
24 five or ten minutes. So somewhere around 3 a.m. All
25 this occurred after that.

1 One more important -- on September the 7th
2 Renata Williams and Stanley Oliver spent the night at
3 the Marlboro Inn. When the news came on about the
4 murders, Stanley got upset and asked Renata, "If I
5 got put away for life, would you still tell other men
6 I was your husband?" That was his statement.
7 Statements by all three admitting their guilt to
8 girlfriends and his own brother.

9 Let's go back to the crime scene. You will
10 learn that there were two different types of weapons
11 used in these murders. One was a .40 caliber
12 semi-automatic pistol. There were two shell casings
13 found at the Mildred Avenue crime scene, one on the
14 couch. A .40 caliber was used to kill Kevin Miller.
15 Another .40 caliber shell casing found in a closet on
16 the floor near Jim Batie's body where he was shot in
17 the head with a .40 caliber. Then two rounds, two
18 bullets found from the legs which were either a .38
19 or .357. You'll learn later that .38's can be shot
20 in a .357. So they're similar in size.

21 Desiree Felder was also shot with a .38 caliber
22 weapon. The same weapon that shot Jim Batie in the
23 legs; not the same type of weapon, the same weapon,
24 the same weapon that shot Jim Batie in the legs also
25 shot Desiree Felder in the head. Those bullets are

1 matched. So the one gun was used at Mildred Avenue
2 and also on Nina Lee Drive. A .40 caliber was used
3 at Mildred Avenue. Two guns, two murderers.

4 Stanley Oliver and Dominic Gallman are charged
5 with the same type crimes. They're both indicted for
6 burglary in the first degree, kidnapping, armed
7 robbery and murder. Burglary, just briefly; we'll go
8 over the law in a lot more detail later, but burglary
9 is the unlawful entry into a dwelling with the intent
10 to commit a crime therein.

11 So if I go in a house with guns intending to
12 rob, that's a burglary. That's an unlawful entry.
13 That's the intent to commit a crime. Kidnapping,
14 taking someone against their will. Armed robbery,
15 taking somebody's money or property using a weapon.

16 Mr. Joy is charged with those same crimes except
17 accessory before the fact and accessory after the
18 fact. So accessory before the fact of murder and
19 accessory after the fact of murder, accessory before
20 the fact of kidnapping, accessory after the fact.
21 Accessory before the fact to all those charges.

22 Accessory before the fact means he counseled, he
23 aided, he told them to do it, he helped them set it
24 up, those type of things. Accessory after the fact,
25 he helped cover it up. He helped get rid of clothes.

1 He helped get rid of weapons. He helped them go
2 undetected.

3 Ladies and gentlemen, we have to prove this case
4 beyond a reasonable doubt. It's a reasonable doubt,
5 not beyond all doubt. It's not beyond a shadow of a
6 doubt. It's beyond a reasonable doubt. That's the
7 common-sense standard. There are some things that
8 can't be answered. So it's whether it's beyond a
9 reasonable doubt. So keep that in mind during the
10 trial and use your common sense. It's not beyond all
11 doubt, a shadow of a doubt. It's beyond a reasonable
12 doubt. That's the standard. And we'll gladly meet
13 that standard. And you'll find that in this case
14 that standard is going to be met. We will prove
15 these crimes beyond a reasonable doubt.

16 The judge kind of touched on it earlier. This
17 trial is not like TV. It's not going to be like TV.
18 It's not going to be like CSI when you hear the
19 police testify. And if you have seen that show,
20 that's not real life. This trial is not going to be
21 like Law and Order. If anybody has watched Law and
22 Order, this trial won't be like that. For one thing,
23 it's going to last a lot longer than an hour. If it
24 was like TV, I'd be a lot better looking.

25 Let me introduce who is prosecuting this case

1 with me. Seated right here is Deputy Solicitor John
2 Meadors, Ms. Joanna McDuffie, Investigator Mead with
3 the City police department, Investigator Holdorf,
4 Richland County Sheriff's Department, Stan Smith,
5 Richland County Sheriff's Department.

6 We want to thank you. Thank you in advance for
7 your attention. Thank you in advance for being
8 attentive, for being conscientious. And I know
9 people say "willing to serve". I know you're not
10 willing to serve. You were called here to serve. I
11 know what it's like to be a juror. I have served as
12 juror before.

13 But this is an important case. It's an
14 important case to these defendants, it's an important
15 case to the State, and it's an important case to the
16 victims and the victims' families. The victims'
17 families. Thank you.

18 **THE COURT:** Ms. LaFave.

19 **MS. LAFAVE:** Thank you, Your Honor. If it
20 pleases the Court. Counsel. Good afternoon, ladies
21 and gentlemen. Let's start with something simple.
22 And I know that might shock you because, as we're
23 just getting started, this case is far from simple.
24 But let's start with the definition of truth. Since
25 biblical times, academic scholars and the like have

1 debated on the definition of truth. What is truth?
2 Libraries are devoted to such debate.

3 Well, this morning, or actually this afternoon,
4 I'm going to give you three truths before I really
5 get into the heart of this case. First, the truth is
6 is that Stanley Oliver is an innocent man. Second,
7 you're about to see what little evidence it takes to
8 be charged with murder in South Carolina. Third, the
9 truth is the reason why we're here is because of
10 tunnel vision on the part of law enforcement.

11 Ladies and gentlemen, this is going to be a
12 difficult and a very detail-oriented case. There are
13 three people who have been killed and there are three
14 people who are on trial. But of all the information
15 that you're going to hear, you're still not going to
16 know what happened. You're not going to know the
17 story. You're not going to know the truth of what
18 happened on that fateful night.

19 Now, the State, as Mr. Ross explained, has to
20 prove their case beyond a reasonable doubt. That's
21 the standard. That is the highest standard in our
22 judicial system. What they use is evidence. The
23 State is going to attempt to prove their case using
24 evidence and testimony.

25 So ask yourselves, what kind of evidence would

1 you expect to see in a murder trial? Maybe you would
2 expect to see a murder weapon. Maybe a get-away car.
3 How about a confession? What can he confess to if he
4 didn't do it? What about DNA evidence? What about
5 the property of any of these victims? Mr. Ross has
6 talked about drugs. He's talked about money.
7 Stanley Oliver is charged with three counts of armed
8 robbery, but you aren't going to see any property of
9 the victims, not that can be related to Stanley
10 Oliver.

11 I will tell you what you are going to see. And
12 Mr. Ross touched on this. You're going to see one
13 fingerprint, one fingerprint. So, let's talk about
14 the history behind that fingerprint, the story of
15 that fingerprint.

16 September 5th, 2005 the Columbia Police
17 Department received a phone call, a frantic woman on
18 the phone who had found two people dead at Mildred
19 Avenue. She had found Kevin Miller and George Batie
20 dead in that house. It was a horrific and tragic
21 scene.

22 They were respond to the scene. They began
23 collecting evidence. They began collecting DNA
24 samples, blood evidence. They're looking for signs
25 of forced entry. And they do. They collect quite a

1 bit of evidence. They collect shell casings. They
2 collect a number of things.

3 And this case is in the media, as Mr. Ross told
4 you. It's on the news. We've all seen WIS-TV where
5 they show people who are persons of interest in
6 different crimes around the Midlands. And this is
7 one of those. So the case is in the media and the
8 neighbors are scared, citizens are concerned, and the
9 community wants answers. People want to know what
10 happened. Two people are dead and one person is
11 missing. But the Columbia Police Department doesn't
12 have an answer for that. Not yet.

13 Desiree Felder's body is found on September the
14 7th. And now the stakes are much higher. There are
15 three people who are dead; not two, but three.
16 They've got to come up with an answer. They've got
17 to find something. The community is looking for them
18 to find an answer.

19 Now, back to this fingerprint. The fingerprint
20 is found on a shoebox. It's found in a bedroom on a
21 shoebox. But this bedroom is full of tons of things.
22 It's ransacked. There's not one shoebox in there.
23 There is tons of shoeboxes in there, all empty
24 shoeboxes. This is one shoebox among a pile of
25 things in this room.

1 It's not a fingerprint on a shell casing. It's
2 not a fingerprint in blood, on a murder weapon or
3 even on a victim's body. This is a benign
4 fingerprint on an empty shoebox.

5 Now, the State's going to tell you a lot about
6 this print. They're going to be bringing experts in
7 to tell you this about the print and that about the
8 print. It's going to be a big deal for their case.
9 So I'm going to tell you now what you're going to
10 find out later, and the truth is that's Stanley
11 Oliver's print. That is his fingerprint. Yes,
12 ma'am. Yes, sir. That is his print. It is. It's
13 his print.

14 But law enforcement, they get this print back.
15 It comes back as Stanley Oliver's print. And at this
16 point they've developed a couple of names. They've
17 had to. Stanley Oliver is in the news. Everybody
18 that's ever known him thinks he could be responsible
19 for this horrific crime.

20 Now, what does law enforcement do after this
21 print comes back as Stanley Oliver's? Do they look
22 at suspicious vehicle tag numbers? No. What about
23 other fingerprints that are linked to people that
24 refuse to answer any questions? No, they don't look
25 into that either. What about a woman who's said to

1 be at the scene? She denies everything. They don't
2 really check up on her. They take her word for it.

3 I'll tell you what they do. They look down that
4 tunnel at Stanley Oliver. That's what they do. And
5 they ignore everything else. They arrest him and
6 they hope that the details are going to fall into
7 place later. But they don't. They don't.

8 So they start interrogating people,
9 re-interrogating people they've already spoken with:
10 Family, friends. They conduct search warrants on
11 every place that Stanley Oliver has ever lived. They
12 still aren't coming up with a lot.

13 But the interrogations do reveal something. The
14 police, they are cussing at people. They're showing
15 people pictures of dead bodies and threatening them
16 with being charged with murder. They're telling them
17 that the same thing will happen to them if they don't
18 tell them what they want to hear.

19 So now, now they've got what they want. They've
20 got a fingerprint and they've got people saying what
21 they want to hear. Stanley Oliver turns himself in.
22 He agrees to answer questions with the police. Now,
23 remember. I told you you're not going to see a
24 confession in this case. And you're not. Stanley
25 Oliver spoke with law enforcement. He told them what

1 he knew, which was nothing. But he was arrested
2 anyway because the police, they were impatient, they
3 were desperate, and, ladies and gentlemen, they were
4 wrong. Stanley Oliver is an innocent man.

5 Now, in September of 2005 three people lost
6 their lives. Desiree Felder, George Batie, and Kevin
7 Miller were tragically murdered. There is no doubt
8 about that. And those three people and their
9 families, do they deserve justice? They absolutely
10 do. But justice is not served by putting an innocent
11 man in prison. That is not justice. Stanley Oliver
12 is on trial and he deserves justice as well.

13 Be diligent in your efforts. We ask that you
14 formulate no opinion until you have heard all of the
15 evidence and all of the testimony in this case.
16 Ladies and gentlemen, I'm asking you to not do what
17 law enforcement has done. I am asking you to ask the
18 right questions and demand to a right answer. A
19 simple "we'll never know" is not good enough, not
20 good enough. Not when you're innocent. It's not
21 good enough.

22 The police interrogated people. And as much as
23 this is not a situation that's like CSI or Law and
24 Order, we're talking about good cop/bad cop tactics;
25 we're talking about putting people in rooms for hours

1 at a time, scaring them. This investigation was
2 sloppy. Evidence was ignored and leads were
3 manufactured. That is what has led us here today.
4 That is the truth, ladies and gentlemen. That is the
5 truth.

6 We're going to approach you again at the end of
7 this case after all the testimony and all the
8 evidence has been entered and put before you. And
9 we're going to ask that you return a verdict of not
10 guilty on all counts for Stanley Oliver.

11 Ladies and gentlemen, my name is Mary LaFave,
12 and I along with Douglas Strickler represent Stanley
13 Oliver. I thank you for your time this morning.
14 This afternoon. Excuse me. Thank you, Your Honor.

15 **THE COURT:** Mr. Milling.

16 **MR. MILLING:** Thank you, Your Honor. May it
17 please the Court. Counsel. Ladies and Gentlemen of
18 the Jury, my name is Jonathan Milling, and I
19 represent Dominic Gallman in this case. Innocence is
20 a theme that you heard Ms. LaFave talk about. It's a
21 theme you're going to hear me talk about because my
22 client, like Ms. LaFave said concerning her client,
23 is innocent. Not only is he innocent of this case,
24 but he also sits here innocent of the charges under
25 our law here in South Carolina.

1 You heard Mr. Ross refer to the State bearing
2 the burden of proof. And that's true. The State has
3 the burden of proving anybody they charge guilty
4 beyond a reasonable doubt. And they do that, as he
5 mentioned, from the witness stand and through
6 evidence.

7 It's your jobs as jurors to look at the
8 evidence, not only the evidence that is presented but
9 also the evidence that isn't presented. Mr. Ross
10 indicated that this is not like CSI or Law and Order,
11 but understand that those shows are based on real
12 life. It is not manufactured.

13 There are scientific techniques which are
14 available today which help law enforcement link
15 individuals to crime scenes. But you're not really
16 going to hear about those in this case.

17 What are the pieces of evidence that we would
18 look for in a murder case? Think about something
19 that you've heard about already. You're not going to
20 hear about my client, Dominic Gallman's, fingerprint
21 being anywhere. DNA evidence, you are not going to
22 hear any evidence suggesting that my client's DNA was
23 anywhere at the scene.

24 The flip side. We know that when we walk
25 through rooms that we carry things from those rooms,

1 fabric samples and things like that. There were
2 search warrants which were executed in this case on
3 the various different residences. You are not going
4 to hear that any samples from Mildred Avenue were
5 found either on my client or my client's residence.

6 You heard testimony -- you've heard Mr. Ross
7 suggest that one of the co-defendants in this case,
8 Mr. Oliver, allegedly was seen with money and drugs.
9 You won't hear that about my client, because he had
10 nothing to do with this, ladies and gentlemen.

11 There are a lot of things that you are not going
12 to hear about. But like Ms. LaFave said, it shows
13 you just how little evidence is required in this
14 state for someone to be charged. And that's all they
15 are right now, ladies and gentlemen. Charged.

16 Law enforcement developed a theme in this case.
17 The prosecution, the Solicitor's Office, has a theme
18 in this case. Their theme as you heard Mr. Ross talk
19 about it is that a drug dealer was robbed for drugs
20 and for money. None of those things can be linked to
21 my client. My client was not found with drugs. My
22 client was not found with a large amount of money.
23 Period.

24 Ladies and gentlemen, this is a situation where
25 law enforcement, like Ms. LaFave said, honed in on

1 one thing, ignoring other things, ignoring other
2 pieces of evidence. Mr. Ross in talking about the TV
3 shows, in talking about CSI, doesn't want you to be
4 thinking about those shows, doesn't want you to be
5 thinking about that type of scientific evidence,
6 because if you're focusing on that you're going to
7 see just how lacking their case is, how little
8 evidence, if any, there is support their theory of
9 the case.

10 And, ladies and gentlemen, this is a theory
11 which has changed. I submit to you that you are
12 going to hear some testimony that one of the
13 co-defendants has recently had the charges changed
14 him because they had to change their theory of the
15 case because it wouldn't fit with what their view of
16 the evidence was.

17 Ladies and gentlemen, it's your job as jurors to
18 view this evidence, to look at all of this evidence
19 and determine with your discerning eye whether or not
20 the State has met their burden of proof, has been
21 able to demonstrate beyond a reasonable doubt that my
22 client, Dominic Gallman, is guilty of three counts of
23 armed robbery, three counts of murder, one count of
24 burglary and one count of kidnapping, despite the
25 fact that there is no physical evidence linking him

1 to the scene. There is no physical evidence linking
2 the Mildred Avenue address to him. Nothing.

3 Mr. Ross said that the house was ransacked, that
4 the people who did this went through each room and
5 turned everything over. Lo and behold, my client's
6 fingerprints weren't found there. Nothing about my
7 client was found there, ladies and gentlemen. And
8 yet here he sits charged with these heinous crimes.

9 It truly is a tragedy that these three
10 individuals are no longer with us. But an equally
11 tragic occurrence is the fact that my client is
12 charged with them when he had nothing to do with
13 them.

14 Ladies and gentlemen, the TV shows, CSI, Law and
15 Order, all have actors, actors who have scripts
16 written for them and have put on a show. Ladies and
17 gentlemen, as you heard Ms. LaFave suggest, I ask you
18 to watch the witnesses as they testify as they are
19 cross examined to determine whether or not a script
20 has been written them for. And I submit to you that
21 you all will find that many of these witnesses are
22 actors, that they are not able to testify truthfully
23 in this case. And it's up to you to look at them, to
24 determine who you believe and who you don't believe,
25 what evidence you believe and what evidence you don't

1 believe, what evidence exists and what evidence
2 should exist.

3 Ladies and gentlemen, back in the early to
4 mid-eighties there was a commercial that came out. I
5 think it was a commercial for Wendy's where two
6 grandmotherly women were shown asking: "Where's the
7 beef?" You had a big bun and a little burger.
8 That's similar to what you all need to be asking with
9 every witness and with every piece of evidence that
10 is shown. Where is the evidence? Where is the
11 evidence that shows that Dominic Gallman had anything
12 to do with this? Where is the evidence that
13 implicates him with the crime scenes? Where is the
14 evidence that implicates him with knowing anything
15 about this crime?

16 Ladies and gentlemen, I submit to you that after
17 you've looked at this evidence, after you've heard
18 all of the testimony, there will be but one
19 inescapable conclusion, and that's that Dominic
20 Gallman did not have involvement in this case.

21 You have heard Mr. Ross say and point, yes, he
22 did it; yes, they did it; this is what they did. As
23 you heard Judge Cooper indicate earlier, statements
24 from counsel at the beginning of trial and after
25 trial are just that, statements.

1 We're advocates for our clients and it's our job
2 to try and point out to you what we think the
3 evidence will show, what we think that it won't show.
4 And it's up to you to determine what you think it
5 shows and what you think it doesn't. And I submit to
6 you that there is not going to be evidence to show
7 that Mr. Gallman was involved in this.

8 Mr. Ross said there were two individuals
9 involved there at the scene. One fingerprint. Even
10 if he is at fault. And I submit to you that he
11 probably isn't. He says because there were two guns
12 involved that shows there were two people.

13 Ladies and gentlemen, I ask you to look and say,
14 what evidence is there that more than one person was
15 involved in this? You've got two guns or two hands,
16 two guns. What evidence is there to show that there
17 was more than one person there? We don't have any
18 physical evidence.

19 Ladies and gentlemen, again, I ask you to look
20 at the evidence which has been presented, or which
21 will be presented in this case, with your discerning
22 eyes. After looking at the evidence render a
23 verdict. And verdict means to speak the truth.
24 Speak the truth at the end of this case. Return the
25 truth, a proper verdict, a verdict of not guilty,

1 because the government will not be able to establish
2 that my client, Dominic Gallman, had anything to do
3 with this case.

4 Ladies and gentlemen, I thank you in advance for
5 your participation in this case. I thank you in
6 advance for looking at the evidence carefully and for
7 giving my client a fair trial. Thank you.

8 **THE COURT:** Mr. Delgado.

9 **MR. DELGADO:** If it pleases the court. Ladies
10 and gentlemen, I want to share with you something I
11 read that I thought may be applicable to my role with
12 you and for Ken Joy. I'm not smart enough to think
13 this up. I'm not going to tell you that. It's a
14 quote from a Roman philosopher, Seneca. "Everyone
15 prefers belief to the exercise of judgment." Let me
16 say it to you again. "Everyone prefers belief to the
17 exercise of judgment."

18 Ladies and gentlemen, my name is John Delgado.
19 I'm a lawyer. I live and work here in Columbia.
20 It's my role today and for the rest of this week and
21 however long this case takes to represent that man.
22 His name is Ken Joy.

23 And I find myself in the position -- I've never
24 said this to a jury before in my life, but I thought
25 it was applicable because I just seem to think in

1 this case that it made sense. So please bear with me
2 here. I find myself to be in the position of a
3 quality control inspector in this matter. Please
4 listen to me when I say that to you.

5 As a quality control inspector there are going
6 to be some times when I want to say to you, that
7 can't be believed. See, it's just easy to believe
8 and withdraw from judging fairly and evaluating
9 accurately. Oh, belief is easy; but that's my role
10 to say to you as a quality control inspector, that's
11 not so.

12 Let me say that to you. I'm going to say it to
13 you again. That is not so, what Mr. Ross said. And
14 that's easy to say for the state of South Carolina.
15 What I do as a quality control inspector is to
16 produce something in this courtroom. You can't put
17 your hands on it, you can't touch it; but it's real.
18 You can't put it in a test tube and shake it up and
19 pour it out, but you know it when it exists.

20 Corny as it sounds, I help produce justice. Not
21 me, but the system. Now, that's exactly what you
22 expect a lawyer to say. Oh, justice. Okay. But in
23 arriving at this product, at arriving at this ideal
24 that we see, I want to say this to you. Justice is
25 not a game. This is nothing with competition. This

1 is a virtue. This is a goal that we in the system
2 seek to achieve for you.

3 But let me just state the obvious. And I think
4 you may have heard it just a while ago. In getting
5 to this point; that is, achieving justice,
6 manufacturing justice, producing justice for you, we
7 are never going to lose sight of those three lives
8 that were lost. Whatever else they were, they were
9 loved by their families. Whatever else they did,
10 their families miss them. And they're in agony,
11 those folks right here. We are not going to
12 intentionally disrespect that memory because they,
13 like all of us, were children of God, too.

14 Let me say to you something that has been
15 alluded to, stated by Mr. Ross and even by Judge
16 Cooper. How does the state of South Carolina come to
17 this point in time on, this is December the 5th,
18 December the 5th, 2007. It comes to this position
19 through 16 indictments against Ken Joy. Sixteen.

20 I'm going to put it in handwriting. I'm not
21 going to spell it all out. Accessory before the
22 fact, accessory after the fact. Again, that's what
23 they've said. This is 16 indictments. This
24 occurred, ladies and gentlemen, as the prosecution
25 said to you, on the early morning hours of Sunday,

1 September 4th, 2005.

2 Ken Joy was arrested the facts are going to show
3 on September the 23rd of 2005 when he turned himself
4 in. He has been in jail almost 27 months now. You
5 know when these indictments were returned against
6 him? Three weeks ago. Let me say that to you again
7 now. Hold on. I want to say that to you again.

8 Three weeks ago today Ken Joy was charged with
9 these because he was charged with the same things
10 that Mr. Oliver and Mr. Gallman were charged with for
11 two years and what, 24 months? 25 months? 26
12 months? Something changed three weeks ago.
13 Something changed. Isn't that something?

14 He was charged with murder, three counts of
15 murder. He was charged with three counts of armed
16 robbery. He was charged with a count of burglary.
17 He was charged with a count of kidnapping because
18 they thought, see, their belief was he was there, he
19 did it, he was involved with it. Oh, that's because
20 it's easier to believe than it is to evaluate, don't
21 you see.

22 November the 14th, 2007, that's when they come
23 back with these, all of these 16 against Ken.
24 Something has changed. Let me tell you what has
25 changed. His God-given name, I guess, is Ulicen

1 "Mike" Allen. You all remember when I said something
2 about being a quality control inspector for you?

3 There are perhaps only two things that you'll
4 dislike about Ulicen "Mike" Allen. Only two things
5 possible. Do you know what that is? His face. Hear
6 me again when I say that to you. There's only two
7 things you may dislike about him. That is his face.
8 Because it all depends on who is asking the question,
9 what he wants and what it's going to get him.

10 Right there, that's what changed. See, this
11 man, this man, Ulicen "Mike" Allen, says Ken is
12 guilty back in September of 2005. That's the reason
13 Ken was charged with murder, three counts, three
14 counts of armed robbery, burglary, kidnapping until
15 Mike Allen about four weeks ago, the last part of
16 October, all of a sudden he changes his testimony.
17 Well, I don't know whether he was there or not but I
18 know that he burned, he burned up the wallet.

19 Show us some evidence of that. I know he got
20 rid of the clothes. Show us something. How does a
21 car disappear? Folks, let me tell you. Stand up,
22 Ken. You see this man right here? That's David
23 Copperfield. That's David Copperfield, if you listen
24 to Ulicen "Mike" Allen. He makes everything
25 disappear. A car disappears. We don't know where it

1 was, don't know what kind of car it was. It just
2 disappears off the face of the earth. Sit down, Ken.

3 The clothes that these three folks were wearing,
4 gone. The watch that this young man, Mr. Miller, had
5 is gone, destroyed somewhere, somehow. The guns,
6 they're gone. Somehow, some way everything is gone
7 if you listen to this man. You all wait for him.
8 Trust me, folks. They don't know what they've got
9 until they call this fellow to the stand. Here and
10 now on Wednesday afternoon, you'll remember this when
11 he comes on the stand. They don't know what they've
12 got. Just remember that name when he gets up here.
13 Just remember that face.

14 Now, the rest of their case, they've got a
15 fellow, Omekas Moaney. Omekas Moaney. M-A-O-N-E-Y.
16 It's hard to pronounce. This is what he goes by.
17 His nickname is Blue. And he, like some of the other
18 members that form the core prosecution; and I don't
19 mean to disrespect anybody, but I've got a
20 responsibility to you as a quality control inspector
21 to say to you, he is as pure as the driven slush.

22 You hear me? He's in federal prison right now
23 for, interestingly enough, drug dealing. And he's
24 going to come down here and he's going to tell you
25 some things that supposedly involve Ken. Let me tell

1 you about him. In 2005 -- now he's almost 40 -- he
2 was 37 years old. He's from Memphis, Tennessee. He
3 got a football scholarship.

4 **MR. MEADORS:** Your Honor, objection.

5 **THE COURT:** What's the objection?

6 **MR. MEADORS:** Objection. He's arguing and going
7 into some matters that are only appropriate in other
8 ways.

9 **THE COURT:** Mr. Delgado, don't argue your case.
10 You certainly know how to make an opening
11 statement --

12 **MR. DELGADO:** All right, sir.

13 **THE COURT:** -- that does not contain argument.
14 Arguments is for the jury when the case is concluded.

15 **MR. DELGADO:** Thank you.

16 **THE COURT:** Please confine your opening to
17 probative matters.

18 **MR. DELGADO:** Thank you, sir. The evidence is
19 going to show that Ken owned and ran a business here
20 in Columbia called Advantage Building Systems. The
21 evidence is going to show you a six-year veteran in
22 the United States Army. He came to Columbia after --
23 wait a minute now -- after he gets a degree from the
24 University of Maryland while in the United States
25 Army.

1 The evidence is going to show that he was a
2 retail I mean a loan officer for a retail company
3 here, had various other economic enterprises. He
4 starts the business called Advantage Building Systems
5 here in Columbia, headquartered on Tremain Street off
6 Two Notch Road here in Columbia.

7 And he employed some folks that may not have
8 been employable otherwise. And he tried to do the
9 best he could with that little business of his. He
10 employed various -- he had maintenance contracts with
11 various apartment complexes here in Columbia. He had
12 contracts with three different postal offices, post
13 offices some of us have been in to do cleaning at
14 night after hours; one on Monticello Road, one in
15 Five Points. I can't recall where the other one is.

16 And he lent a hand down to some other folks that
17 needed a hand up. As a result of that, he comes to
18 know Mr. Stanley Oliver. Now, folks, let me just say
19 this to you as well now. With all those things about
20 Ken, let me just say this to you, too. I've got to
21 also say to you he smokes marijuana. He has smoked
22 some marijuana. And you know what he may also have
23 done? He also may have run around on his girlfriend.
24 I just want to tell you that. And he may have gotten
25 some marijuana from Blue.

1 But what you're required to do when you exercise
2 your judgment is don't just disbelieve but evaluate
3 independently for Ken. Measure the evidence
4 separately for Ken Joy. Evaluate this evidence
5 individually for Ken and come to your decision
6 because that's what's required of you.

7 At the close of this case I'm going to come and
8 stand in front of you again on behalf of Ken. And
9 I'm going to say to you once more, justice is not a
10 game. It's an ideal. And we hold that ideal sacred.

11 And I say to you as a quality control inspector
12 that I will hold up to you as the quality control
13 supervisors to evaluate independently, separately and
14 individually for Ken whether he is guilty of all of
15 that.

16 Because I say to you that -- I say it to you now
17 and I'm going to say it to you when I come back up
18 here again; the only true verdict for Ken Joy, the
19 only verdict that is true, the only verdict that is
20 just is not guilty, all 16 of those counts. Because
21 remember now, it's easier to prefer belief than
22 exercise judgment. Not guilty for Ken. Thank you.
23 Thank you, Your Honor.

24 **THE COURT:** All right, Solicitor. Call your
25 first witness.

1 **MR. STRICKLER:** Your Honor, may I approach?

2 **THE COURT:** Yes, sir.

3 **MR. STRICKLER:** Not very long.

4 (Whereupon, a bench conference is had)

5 **THE COURT:** All right, ladies and gentlemen.

6 I'm just trying to get an idea about scheduling with
7 the attorneys. So let's take a short break at this
8 time. And I anticipate -- well, I told you we plan
9 to work normal, what I'd call normal business hours.
10 Depending on the witnesses and the length of the
11 witnesses, we'll probably generally -- don't hold me
12 to it, adjourn around 5, 5:30 or probably at the
13 latest 6:00.

14 If anybody has a problem with that, if you'll
15 just send me a note and I'll see what I can do to
16 accommodate you. I don't know if any of you have any
17 child care problems, things of that nature, daycare I
18 meant problems, things of that nature. If you will
19 let me know, we'll try to accommodate your schedule
20 throughout the course of the trial. So let's take
21 about a ten-minute break and we'll call you when
22 we're ready.

23 (Jury out at 3:35 p.m.)

24 **THE COURT:** Where is Jessie? Is Jessie here?

25 **DEPUTY:** He stepped out.

1 **THE COURT:** All right. Let me see you just a
2 minute, counsel, before we break.

3 (Whereupon, a bench conference is had)

4 **THE COURT:** Counsel, let me see you just one --
5 just housekeeping.

6 (Whereupon, a bench conference is had)

7 **THE COURT:** The State ready for the jury?

8 **MR. ROSS:** Yes, your Honor.

9 **THE COURT:** Defense ready?

10 **MR. STRICKLER:** The only thing I need to do,
11 Your Honor, was put on the record that which I
12 approached the bench on. And that would be that I'd
13 move for a mistrial at this point in time. I submit
14 that the State during the course of their opening
15 statement failed to publish the indictments to the
16 jury in this matter. I'd submit that they need to
17 publish the indictments to the jury. They did
18 reference a number of charges or the specifics of the
19 indictments as far as Mr. Oliver. So I just move for
20 a mistrial on that basis.

21 **MR. MILLING:** And, Your Honor, we would join in
22 that motion as well.

23 **MR. DELGADO:** The same for Joy, Your Honor.

24 **THE COURT:** The motion is denied.

25 **MR. STRICKLER:** Thank you, sir.

1 **MR. ROSS:** Your Honor, one other matter. Our
2 first witness is Robin Dutton. She was the officer
3 with the Columbia Police Department. She has got a
4 flight at 6:55. I am afraid if we do not put her up
5 out or order she is going to miss her flight. She
6 lives in Pensacola, Florida.

7 **THE COURT:** Put up whoever you want whenever you
8 want.

9 **MR. ROSS:** Yes, sir.

10 **MR. MEADORS:** And, Judge, to follow up, just to
11 save time, I've handed the criminal history sheets on
12 the witness after that. I can tell you the witness
13 after that is going to be Mr. Felder, which does not
14 have a criminal conviction, a very brief timeline
15 witness. The next witness is Kenny Parker. They
16 have that. And I believe after my review there's
17 only a shoplifting and a fraudulent check which
18 should come in. If we need to discuss that, we ought
19 to do that now I think instead of breaking. That's
20 the one I handed you to start with.

21 **MR. STRICKLER:** Right. Which I didn't have a
22 chance to review prior to you handing me the other
23 stack, you know. So --

24 **THE COURT:** All right. I'll ask you to approach
25 the bench at that time. I won't excuse the jury.

1 We'll try to work it out at the bench in side bar.

2 **MR. STRICKLER:** Thank you.

3 **THE COURT:** Bring the jury.

4 (Jury in at 3:58 p.m.)

5 **THE BAILIFF:** The jury is all present, Your
6 Honor.

7 **THE COURT:** All right. Thank you very much.
8 Solicitor, call your first witness.

9 **MR. ROSS:** Your Honor, the State calls Robin
10 Dutton.

11 ROBIN DUTTON, after being duly sworn, testifies
12 as follows:

13 **THE CLERK:** Thank you. Please have a seat in
14 the witness stand and state your full name for the
15 record. And please spell your last name.

16 **THE WITNESS:** My name is Robin Dutton. The last
17 name, the spelling is D-U-T-T-O-N.

18 DIRECT EXAMINATION

19 **BY MR. ROSS**

20 **Q** Ms. Dutton, where do you live now?

21 **A** In Pensacola, Florida.

22 **Q** And how long have you lived there?

23 **A** Approximately eight months.

24 **Q** And where did you live before that?

25 **A** In the City of Columbia.