

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

\_\_\_\_\_  
Appeal from York County

John C. Hayes, III, Circuit Court Judge  
\_\_\_\_\_

**RECEIVED**

JUL - 7 2014

**S.C. Supreme Court**

CHRISTOPHER A. WOODY,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-001686

\_\_\_\_\_  
APPENDIX  
\_\_\_\_\_

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1 OUR ANALYSIS. AND NORMALLY WHEN WE GET THE KIT IN THIS IS  
2 THE FIRST PART OF THE KIT THAT WE ACTUALLY ANALYZE.

3 Q. OKAY. AND THE INSTRUCTIONS, DO THEY TELL THEM HOW TO  
4 GO THROUGH THE EVIDENCE COLLECTION, HOW TO GO THROUGH EACH  
5 PLACE AND EACH STEP AND --

6 A. RIGHT. IT SHOWS A FIGURE -- IT TELLS THEM HOW TO  
7 COLLECT IT, IN WHICH ORDER AND WHICH AREA OF THE HAND TO  
8 COLLECT IT FROM.

9 Q. OKAY. YOU INDICATED THE AREA OF THE HAND THAT YOU FIND  
10 SOMETHING ON -- I GUESS YOU'VE GOT LEFT, RIGHT, INSIDE AND  
11 OUTSIDE; IS THAT CORRECT?

12 A. LEFT AND RIGHT PALM, BACK.

13 Q. OKAY. PALM AND BACK. DOES THE AREA THAT YOU FIND GSR  
14 ON OR LOOK FOR, DOES IT GIVE YOU ANY INDICATION BASED ON  
15 YOUR EXPERIENCE OF HOW IT WAS DEPOSITED?

16 A. NORMALLY IF WE FIND GUNSHOT RESIDUE THAT'S ON THE PALM  
17 OF THE PERSON, THAT'S MORE CONSISTENT WITH THEM BEING  
18 EXPOSED BY TOUCHING SOMETHING THAT HAD GUNSHOT RESIDUE ON IT  
19 OR FROM HANDLING A GUN, BECAUSE IF THEY HAD FIRED A WEAPON  
20 OR WERE IN THE CLOUD WHEN THAT WEAPON WAS FIRED, WE'D EXPECT  
21 TO SEE IT ON THE BACKS OF THE HANDS ALSO. IF SOMEONE HAS IT  
22 ON THE PALMS AND BACKS, IT'S MORE THAN LIKELY THEY FIRED  
23 THAT WEAPON OR THEY WERE NEAR THE WEAPON WHEN IT WAS FIRED  
24 AS OPPOSED TO JUST HANDLING IT.

25 Q. OKAY. AND IS THERE A TIME FRAME AS FAR AS HOW LONG GSR

1 REMAINS? WHEN YOU TALKED ABOUT HANDLING A GUN, I -- EARLIER  
2 TODAY I'VE HANDLED THE WEAPON IN EVIDENCE. IS THERE A  
3 CERTAIN TIME FRAME OR FACTORS THAT AFFECT IT BEING PRESENT  
4 OR NOT?

5 A. IF YOU HANDLE A WEAPON, THAT RESIDUE CAN STAY ON YOUR  
6 HANDS FOR UP TO SIX HOURS. NOW, THAT'S BARRING THAT YOU  
7 DON'T WASH YOUR HANDS, THAT YOU DON'T SWEAT PERFUSELY, JUMP  
8 IN THE RIVER OR RUN OR DO -- WHATEVER YOU DO IS GOING TO  
9 REMOVE IT. SO SIX HOURS IS LIKE THE -- WE KIND OF GIVE A  
10 LITTLE BIT MORE TIME. THE FBI, I THINK, ONLY DOES IT THREE  
11 TO FOUR HOURS. WE KIND OF GIVE A LONGER RANGE JUST TO COVER  
12 THE HIGHER CALIBER WEAPONS, BUT ANYTHING YOU DO IS GOING TO  
13 REMOVE THAT RESIDUE. SO IT'S KIND OF LIKE IF YOU BAKE A  
14 CAKE AND YOU HAVE FLOUR ON YOUR HANDS AND BRUSH IT OFF, IT'S  
15 GOING TO COME OFF. IT'S VERY FRAGILE EVIDENCE. YOU CAN'T  
16 SEE IT, BUT WE -- IF YOU HANDLE A GUN, SIX HOURS LATER WE  
17 MAY STILL BE ABLE TO FIND THAT RESIDUE ON A LIVING PERSON.  
18 ON A DECEASED PERSON, SINCE ALL BODY ACTIVITY IS STOPPED,  
19 THEY'RE NOT ABSORBING THE RESIDUE, THEY'RE NOT MOVING,  
20 THEY'RE NOT WASHING THEIR HANDS, IT WILL STAY ON THEIR HANDS  
21 'TIL IT'S PHYSICALLY REMOVED BY AN OUTSIDE SOURCE.

22 Q. AND WHICH MAY BE DRAWN FROM TESTS; IS THAT CORRECT? I  
23 MEAN, IT CAN BE REMOVED FROM THE TESTING PROCEDURE OF WIPING  
24 IT?

25 A. WITH THIS?

1 Q. RIGHT.

2 A. YES. WE CAN PULL IT OFF THE HANDS, I THINK, UP TO TWO  
3 DAYS ON A DECEASED INDIVIDUAL.

4 Q. NOW, OTHER THAN THE SIX-HOUR WINDOW, IS THERE A WAY TO  
5 PUT A TIME FRAME ON GSR? IN OTHER WORDS, I'VE MENTIONED I  
6 HELD A GUN EARLIER. WOULD YOU BE ABLE TO TELL IF I JUST DID  
7 IT VERSUS WHETHER IT HAPPENED SIX HOURS AGO AT SOME OTHER  
8 LOCATION?

9 A. NOT REALLY BECAUSE OF THE DIFFERENT CALIBER WEAPONS. A  
10 HIGHER CALIBER WEAPON WILL LEAVE MORE RESIDUE THAN A SMALLER  
11 CALIBER WEAPON, SO I CAN'T TELL YOU IF IT'S DECREASED ON  
12 YOUR HANDS BECAUSE OF THE TIME FRAME OR IF IT WAS JUST A  
13 SMALLER CALIBER WEAPON THAT YOU HANDLED.

14 Q. IN THIS PARTICULAR CASE, FIRST, BEFORE WE TALK  
15 SPECIFICALLY ABOUT THE GSR KIT, YOU RECEIVED THE CLOTHING OF  
16 MR. WOODY AND MR. CAMPBELL; IS THAT CORRECT?

17 A. YES.

18 Q. OKAY. WHAT, IF ANY, TESTS DID YOU PERFORM ON THAT?

19 A. I DID NOT PERFORM AN EXAMINATION ON THE CLOTHING.  
20 THERE WAS A GUNSHOT RESIDUE EXAMINATION REQUEST FOR THE  
21 CLOTHING, BUT WE WERE UNABLE TO DO THE EXAMINATION. THE  
22 REASON FOR THIS IS WHEN YOU -- WHEN YOU FIRE A WEAPON YOU  
23 EXPECT TO FIND IT ON YOUR HANDS AND WE'VE HAD TESTING LONG-  
24 SLEEVE CLOTHING TO FIND GUNSHOT RESIDUE ON CLOTHING. IN  
25 THIS CASE THEY WERE SHORT-SLEEVED CLOTHING, SO THERE WAS

1 NOTHING I DO WITH THE EVIDENCE.

2 Q. FROM THE GSR KIT STANDPOINT OF MR. WOODY OR MR.  
3 CAMPBELL, DID YOU RECEIVE A GSR KIT FROM EITHER ONE OF THEM?

4 A. I DID NOT. THE ONLY KIT I RECEIVED WAS FROM ARVELL  
5 BAGLEY.

6 Q. OKAY. AND DOES SLED HAVE A PROTOCOL? YOU TOUCHED ON  
7 THE SIX-HOUR WINDOW, BUT DOES SLED HAVE A PROTOCOL, IN OTHER  
8 WORDS, IF THE CRIME HAPPENED AT NINE O'CLOCK AND THEY WERE  
9 ARRESTED AT FOUR OR FIVE IN THE MORNING, IS THERE A WINDOW  
10 IN WHICH YOU DON'T ACCEPT GSR KITS OR THAT YOU WOULD NOT  
11 TAKE A GSR KIT?

12 A. WE DON'T ACCEPT THEM -- ON EACH FORM THAT THEY FILL OUT  
13 WHEN THEY COLLECT THE KIT, THEY GOT A TIME FOR THE INCIDENT  
14 AND A TIME FOR COLLECTION. IF WE GET THE KIT IN AND THAT  
15 TIME PERIOD IS GREATER THAN SIX HOURS, WE DON'T ANALYZE THE  
16 EVIDENCE AND THAT'S BASICALLY TO -- IT'S CONSERVATIVE ON OUR  
17 PART BECAUSE IF WE FIND EVIDENCE AFTER SIX HOURS, WE CAN'T  
18 SCIENTIFICALLY SAY IT CAME FROM THAT SHOOTING. IT COULD  
19 HAVE COME FROM A LATER SHOOTING THAT HAPPENED AFTER THAT.

20 Q. AND SO IN THIS PARTICULAR CASE, HAD LAW ENFORCEMENT  
21 BROUGHT YOU GSR KITS ON THE DEFENDANT, BASED ON YOUR  
22 PROTOCOL YOU WOULD NOT HAVE TESTED THEM?

23 A. IF THEY HAD BEEN COLLECTED BEYOND SIX HOURS.

24 Q. CORRECT. NOW, I CALL YOUR ATTENTION TO THE GSR KIT  
25 THAT YOU DID IN FACT RECEIVE. I BELIEVE IT'S THERE IN FRONT

JENNIFER STONER - DIRECT BY MR. POPE:

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1 OF YOU, STATE'S EXHIBIT --

2 A. ONE TWENTY.

3 Q. ONE TWENTY?

4 A. IS THAT 120? YES.

5 Q. ONE TWENTY. AND THAT ITEM, DID YOU ACTUALLY CONDUCT  
6 YOUR GSR TEST ON THAT?

7 A. ON THIS KIT I CONDUCTED THE GSR KIT ON THE SWABS THAT  
8 WERE COLLECTED. I DID NOT ANALYZE THE PARTICLE LIFTS IN  
9 THIS CASE.

10 Q. AND IN CONDUCTING YOUR TEST ON THE SWABS, AND THIS IS  
11 MR. BAGLEY, THE VICTIM, WOULD YOU EXPECT TO SEE GUN POWDER  
12 ON -- RESIDUE ON A VICTIM BASED ON YOUR EXPERIENCE?

13 A. NORMALLY OUR EXPERIENCE AND FROM JUST THE STATISTICS IN  
14 OUR OWN LABORATORY, WE HAVE FOUND THAT THE MAJORITY OF OUR  
15 SHOOTING VICTIMS, PEOPLE WHO HAVE BEEN SHOT, ARE GOING TO  
16 HAVE SOME KIND OF GUNSHOT RESIDUE ON THEIR HANDS.

17 Q. AND IN THIS PARTICULAR CASE WHAT DID YOU FIND ON THE  
18 TESTING? I THINK YOU'RE TESTING LEFT AND RIGHT PALM AND  
19 BACK; IS THAT --

20 A. UH-HUH.

21 Q. -- PALM AND BACK; IS THAT CORRECT?

22 A. YES. IN THIS CASE I FOUND THAT THE QUANTITY OF THE  
23 METALS DETECTING ON THE LEFT PALM MAY BE ASSOCIATED WITH  
24 GUNSHOT RESIDUE.

25 Q. OKAY. AND WHEN YOU SAY THE QUANTITIES MAY BE

1 ASSOCIATED WITH GUNSHOT RESIDUE, COULD YOU TELL THE JURY  
2 WHAT THAT MEANS IN LAYMAN'S TERMS?

3 A. WHEN I TALKED ABOUT THE PRIMER COMPOSITION AND WE HAD  
4 THE LEAD STIFFNATE, THE BARIUM NITRATE AND ANTIMONY SULFIDE,  
5 WE LOOK FOR BARIUM, ANTIMONY AND LEAD. THESE ELEMENTS CAN  
6 OCCUR IN THE ENVIRONMENT, BUT IT'S LESS AND LESS DUE TO  
7 THEIR TOXICITY. USUALLY WHEN WE FIND THESE, THEY'RE  
8 ASSOCIATED WITH GUNSHOT RESIDUE, BUT WE HAVE HAD SEVERAL  
9 CASES WHERE A PERSON HAS WORKED IN A PLANT WHERE THEY WERE  
10 DOING GRINDING CERTAIN BELTS ALL DAY AND WE COULD FIND -- WE  
11 FOUND THESE METALS ON THEIR HANDS ALSO, BUT YOU SEE A  
12 DIFFERENCE IN THE METALS THAT YOU FIND. SINCE I DIDN'T RUN  
13 THE SECOND PART OF THE TEST AND I EXPECTED TO FIND SOMETHING  
14 ON HIS HANDS BECAUSE HE WAS A SHOOTING VICTIM, I CONSIDERED  
15 THESE METALS -- THEY CAN BE ASSOCIATED WITH GUNSHOT RESIDUE.  
16 IT'S A POSSIBILITY IT'S GUNSHOT RESIDUE.

17 Q. NOW, THAT WAS ON THE LEFT---

18 A. LEFT PALM.

19 Q. ---PALM? OKAY. IS THE FACT THAT HE HAS A GUNSHOT  
20 WOUND, A .45 CALIBER GUNSHOT WOUND IN HIS LEFT ARM, CAN  
21 METAL BE TRANSFERRED FROM A WOUND AREA?

22 A. IT CAN BE TRANSFERRED FROM A WOUND AREA. USUALLY IF  
23 YOU TOUCH IT IT CAN BE TRANSFERRED. DEPENDING ON HOW CLOSE  
24 HE WAS TO THE GUN WHEN HE WAS SHOT, HE COULD HAVE GOT SOME  
25 OF THAT FROM THE CLOUD ON HIS PALM, BUT I DON'T HAVE ANY

JENNIFER STONER - DIRECT BY MR. POPE:

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1 KNOWLEDGE OF THAT.

2 Q. OKAY. LIKewise, YOU WERE EXPLAINING HOW THE BULLET  
3 ITSELF WOULD HAVE THE SAME BARIUM, LEAD AND ANTIMONY ON IT  
4 ALSO; IS THAT CORRECT?

5 A. YES, IT CAN.

6 Q. OKAY. IN YOUR OPINION, WOULD THE LEVELS YOU'RE SEEING  
7 AND THE LOCATIONS -- YOU'RE ONLY SEEING -- YOU'RE NOT SEEING  
8 ANYTHING FRONT OR BACK LEFT -- I MEAN, RIGHT HAND; CORRECT?

9 A. RIGHT; CORRECT.

10 Q. YOU'RE NOT SEEING ANYTHING ON THE BACK OF THE---

11 A. LEFT HAND.

12 Q. ---LEFT HAND; CORRECT?

13 A. CORRECT.

14 Q. IN YOUR OPINION, WOULD THAT BE CONSISTENT WITH TOUCHING  
15 A GUNSHOT WOUND? IN OTHER WORDS, I RECEIVE A GUNSHOT WOUND  
16 AND I DRAW MY HAND TO THE CHEST. WOULD THAT BE CONSISTENT?

17 A. THAT IS ONE OF THE POSSIBILITIES IT COULD BE CONSISTENT  
18 WITH.

19 Q. OKAY. IN YOUR EXPERT OPINION BASED ON WHAT YOU'VE SEEN  
20 IN THE LAB AND YOU -- YOUR END RESULTS WERE, IN YOUR  
21 OPINION, IS THE EVIDENCE YOU FOUND CONSISTENT WITH THE  
22 VICTIM HAVING FIRED A WEAPON?

23 A. I DON'T FEEL IT'S CONSISTENT WITH HIM HAVING FIRED A  
24 WEAPON, BUT I CAN'T RULE OUT THAT HE HANDLED A WEAPON,  
25 BECAUSE IT'S ON THE PALMS, SO --

JENNIFER STONER - CROSS BY MR. DELGADO:

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1 Q. AND WHEN YOU SAY YOU CAN NOT RULE OUT HANDLING A  
2 WEAPON, IS HANDLING A WEAPON OR TOUCHING A WOUND OR BEING IN  
3 PROXIMITY TO BEING SHOT THE SAME THING?

4 MR. DELGADO: OBJECTION, YOUR HONOR. LEADING.

5 THE COURT: WELL, I THINK HE'S BASICALLY ASKING THE  
6 QUESTION OF AN EXPERT. I WILL ALLOW IT. GO AHEAD.

7 Q. MY QUESTION IS THE VARIOUS SCENARIOS YOU SAID, SO IT  
8 COULD BE ONE OF EITHER OF THOSE? IT COULD BE TOUCHING, IT  
9 COULD BE -- I'M SORRY. WHAT THINGS COULD IT BE?

10 A. YOU COULD GET THAT FROM TOUCHING A GUN, FROM HANDLING A  
11 GUN OR FROM ACTUALLY TOUCHING A WOUND SITE AND PICKING UP  
12 THE RESIDUE FROM THE WOUND, BUT IF YOU HAD FIRED A WEAPON  
13 YOU WOULD EXPECT TO SEE IT ON THE BACKS OF THE HAND AND --  
14 OR MORE ON THE PALMS ALSO, SO --

15 Q. AND THAT WAS NOT PRESENT IN THAT QUANTITY?

16 A. I ONLY HAD IT ON THE LEFT PALM.

17 MR. POPE: THANK YOU.

18 CROSS-EXAMINATION

19 JENNIFER M. STONER BY MR. DELGADO:

20 Q. MS. STONER, HOW ARE YOU, MA'AM?

21 A. FINE. HOW ARE YOU?

22 Q. FINE. MS. STONER, LET'S SUPPOSE THAT, AS IN THIS CASE,  
23 ON MY LEFT PALM GUNSHOT RESIDUE AND IN FACT, MA'AM, THERE  
24 ARE -- HOW DID YOU DESCRIBE THE LEVELS THAT YOU FOUND ON  
25 YOUR TESTING, THE PERCENTAGES THAT YOU TALKED TO ME ABOUT?

1 A. HOW DID I FIND THE LEVELS?

2 Q. YES, MA'AM. IN OTHER WORDS, WHAT LEVELS WERE NECESSARY  
3 AND WHAT DID YOU FIND TO MAKE CERTAIN THAT IT WAS BARIUM,  
4 LEAD AND ANTIMONY?

5 A. DURING THE COURSE OF -- BEFORE I CAME INTO THE LAB MY  
6 SUPERVISOR AND SEVERAL OF THE OTHER ANALYSTS DID NUMEROUS  
7 TEST FIRINGS AND TESTING OF THE HANDS TO FIND OUT WHAT THEY  
8 WOULD FIND ON THEIR HANDS FROM DIFFERENT CALIBER GUNS. WE  
9 TOOK THE LOWEST AMOUNT THAT WE FOUND SHOOTING A .22 AND THEN  
10 STARTED OUR LEVELS FROM THERE AND WHAT WE WOULD EXPECT TO  
11 FIND AFTER FIRING A WEAPON AS OPPOSED TO WHAT IS JUST  
12 NORMALLY FOUND ON YOUR HANDS. AND WE STILL PERIODICALLY RUN  
13 -- I'LL DO A GUNSHOT RESIDUE KIT ON MY HANDS JUST TO SEE  
14 WHAT LEVELS I HAVE ON MY HANDS JUST NORMALLY TO MAKE SURE  
15 WE'RE STILL IN THE BALL PARK..

16 Q. NOW, WHAT YOU FOUND WERE SIGNIFICANT ENOUGH FOR YOU TO  
17 PUT IN STATE'S EXHIBIT -- I'M SORRY, MA'AM. WHAT IS THAT  
18 NUMBER THERE? YOUR REPORT SAID THAT IN THE SAMPLE SUBMITTED  
19 IN THE KIT LABELLED BAGLEY, ARVELL, THE QUANTITIES OF METALS  
20 DETECTED ON THE LEFT PALM MAY BE ASSOCIATED WITH GUNSHOT  
21 RESIDUE; IS THAT RIGHT?

22 A. YES, BECAUSE THOSE -- THEY MET THE THRESHOLD THAT WE  
23 NEEDED FOR THAT REPORT.

24 Q. OKAY. NOW, LET ME ASK YOU THEN, MR. POPE SAID THAT YOU  
25 COULD POSSIBLY GET THAT BY HANDLING A WEAPON THAT'S BEEN

1 FIRED; CORRECT, MA'AM?

2 A. THAT'S CORRECT.

3 Q. ALL RIGHT. YOU CAN'T RULE OUT THAT BASED ON THE TYPE  
4 OF WEAPON THAT HE MAY HAVE HAD, THAT HE COULD HAVE BEEN  
5 SIMPLY ON THE LEFT PALM AND FOR WHATEVER REASON SOMETHING  
6 TOOK OFF ANY GUNSHOT RESIDUE ON THE OUTSIDE OF THE PALM.  
7 WOULD THAT BE FAIR?

8 A. THAT'S FAIR, BECAUSE I CAN'T -- I DON'T KNOW WHAT  
9 HAPPENED PRIOR TO -- IF HE HANDLED A WEAPON OR FIRED A  
10 WEAPON. I DON'T KNOW WHAT -- THE CIRCUMSTANCES.

11 Q. I UNDERSTAND. SO WHAT I'M SAYING TO YOU IS, MA'AM,  
12 SIMPLY FINDING IT IN THE PALM DOESN'T MEAN HE -- THE  
13 DECEASED DIDN'T FIRE A WEAPON?

14 A. THAT'S CORRECT. IT'S MORE CONSISTENT WITH THE OTHER  
15 SCENARIOS, BUT I CAN'T RULE OUT FIRING.

16 Q. ALL RIGHT. IT IS ALSO CONSISTENT WITH HANDLING A  
17 WEAPON THAT HAD PREVIOUSLY BEEN FIRED AND IT HAD GUNSHOT  
18 RESIDUE ON IT?

19 A. THAT'S CORRECT.

20 Q. ALL RIGHT. MR. POPE WOULD ASK ANOTHER SCENARIO AND  
21 THAT IS THAT POSSIBLY IT WAS TRANSFERRED. LET'S JUST SAY,  
22 MA'AM, THAT I WAS SHOT IN THE CHEST AND THAT I GRABBED MY  
23 CHEST, ALL RIGHT, AND THAT SOMEHOW THE GUNSHOT RESIDUE WOULD  
24 BE TRANSFERRED TO MY HAND.

25 A. IT CAN BE.

1 Q. ALL RIGHT. BUT THAT WOULD REQUIRE BEING WITHIN SIX  
2 INCHES OF THAT SHOT, WOULD IT NOT, MA'AM?

3 A. NOT SIX INCHES. WE'VE HAD -- YOU CAN -- IT CAN TRAVEL  
4 A GREATER DISTANCE. I'VE SEEN IT THREE TO FOUR FEET,  
5 THOUGH, BUT I CAN'T -- I DON'T KNOW ABOUT RANGES WITH  
6 DIFFERENT GUNS, SO I CAN'T SAY. I MEAN, IT CAN'T BE A  
7 DRIVE-BY SHOOTING FROM A VEHICLE ONTO A PORCH. YOU'RE NOT  
8 GOING TO SEE IT FROM THAT, BUT --

9 Q. THE POINT BEING THAT IT WOULD DEPEND ON THE LEVEL, THE  
10 CLOSER, THE MORE GUNSHOT RESIDUE THERE WOULD BE ON THE  
11 WOUND; CORRECT, MA'AM?

12 A. THAT IS CORRECT.

13 Q. ALL RIGHT. ALSO, IF THERE WAS ANYTHING THAT WIPED THE  
14 WOUND AWAY, BY THAT I MEAN BLOOD MAY TAKE OFF WHAT GUNSHOT  
15 RESIDUE -- LET'S SAY IF THERE WAS BLOOD IN THE PALM OF THE  
16 HAND, THAT COULD REMOVE IT AS WELL; CORRECT, MA'AM?

17 A. FOR THE TWO PARTS OF THE KIT?

18 Q. YES, MA'AM.

19 A. THE FIRST PART OF THE KIT, THE PARTICLE LIFTS, YES.  
20 THE BLOOD WILL NOT -- THE BLOOD DISSOLVES THE PARTICLES THAT  
21 WE NEED TO LOOK AT, BUT WHEN YOU SWAB THE BLOOD DOESN'T  
22 AFFECT IT BECAUSE WE'RE JUST LOOKING TO SEE IF THE METALS  
23 ARE PRESENT. WE'RE NOT LOOKING AT THE MORPHOLOGY OF THE  
24 PARTICLES, BUT IT CAN -- BLOOD CAN REMOVE IT FROM THE WOUND  
25 TO SOMEWHERE ELSE ON THE BODY.

JENNIFER STONER - RE-DIRECT BY MR. POPE:

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1 Q. WHAT IF I SAID TO YOU, MA'AM, THAT THERE WAS NO BLOOD  
2 IN THE PALM OF THE HAND WHERE IT WAS SWABBED AND THAT'S  
3 WHERE THE SWAB WAS TAKEN. THAT WOULD INDICATE TO YOU IT WAS  
4 NOT A TRANSFER, WOULDN'T IT, MA'AM?

5 A. I WOULD SAY IT WAS NOT IN CONTACT WITH BLOOD, NO, BUT I  
6 ALSO DON'T KNOW IF EMS DID ANYTHING ON HIM TO WIPE OFF THE  
7 BLOOD, BUT IF THERE WAS NO BLOOD I WOULDN'T HAVE EXPECTED TO  
8 HAVE TOUCHED IT.

9 MR. DELGADO: THANK YOU, MA'AM. THAT'S ALL THE  
10 QUESTIONS I HAVE. THANK YOU.

11 RE-DIRECT EXAMINATION

12 JENNIFER M. STONER BY MR. POPE:

13 Q. MA'AM, BASED ON YOUR EXPERIENCE, AN INDIVIDUAL THAT HAD  
14 FOUR GUNSHOT WOUNDS, WAS SHOT FOUR TIMES, WOULD YOU EXPECT  
15 TO SEE GUNSHOT RESIDUE ON THEM?

16 A. I WOULD EXPECT TO FIND IT ON A VICTIM THAT WAS SHOT;  
17 YES.

18 MR. POPE: ALL RIGHT. THANK YOU.

19 RE-CROSS EXAMINATION

20 JENNIFER M. STONER BY MR. DELGADO:

21 Q. YOU WOULD EXPECT -- I'M SORRY, DEAR. I DID NOT GET  
22 THAT. SAY THAT AGAIN.

23 A. I SAID I DO EXPECT TO FIND GUNSHOT RESIDUE ON SHOOTING  
24 VICTIMS.

25 Q. ALL RIGHT. THE POINT BEING, MA'AM, DISTANCE IS ONE OF

1 THOSE; CORRECT? IS A FACTOR IN THAT; CORRECT, MA'AM?

2 A. DISTANCE IS A FACTOR, CALIBER'S A FACTOR.

3 Q. YES, MA'AM. AND --

4 A. WEATHER.

5 Q. AND IF YOU WOULD FIND IT, YOU WOULD FIND IT POSSIBLY ON  
6 BOTH SIDES, ON BOTH HANDS AND OTHER LIKELY CLOTHING;  
7 CORRECT?

8 A. IF IT WAS LONG-SLEEVE CLOTHING AND I COULD TEST IT, I  
9 COULD LOOK AT THAT, BUT OTHER THAN THAT I DON'T TEST THE  
10 CLOTHING FOR --

11 Q. OR A SHIRT?

12 A. IF IT'S LONG-SLEEVED, YES, SIR.

13 Q. OKAY. BUT TO FIND IT IN THE PALM OF THE HAND AT LEAST  
14 WAS SIGNIFICANT ENOUGH FOR YOU TO SAY IT'S MORE CONSISTENT  
15 WITH HIM HANDLING A WEAPON?

16 A. MORE CONSISTENT WITH HANDLING OR TOUCHING SOMETHING  
17 THAT HAD GUNSHOT RESIDUE ON IT.

18 MR. DELGADO: THANK YOU, MA'AM.

19 RE-DIRECT EXAMINATION

20 JENNIFER M. STONER BY MR. POPE:

21 Q. I'M SORRY. MORE CONSISTENT THAN WHAT, MA'AM? I'M  
22 SORRY.

23 A. WHEN WE FIND IT ON THE PALMS WE SAY IT'S MORE  
24 CONSISTENT WITH HANDLING AS OPPOSED TO FIRING. EVEN THOUGH  
25 THAT RESIDUE CAN BE WIPED OFF, IF WE SEE IT'S ON A DECEASED

1 INDIVIDUAL SO OBVIOUSLY THEY CEASED LIVING AND CEASED  
2 MOVING, SO IF I HAVE IT ON THE PALMS, MORE THAN LIKELY I  
3 DIDN'T HAVE IT ON THE BACK OF THE HAND, BUT I CAN'T TAKE  
4 INTO FACTOR WHAT EMS DID---

5 Q. I UNDERSTAND.

6 A. ---OR WHAT THE WEATHER CONDITIONS WERE AT THAT TIME.

7 Q. WHEN YOU SAID MORE CONSISTENT, YOU'RE SAYING MORE  
8 CONSISTENT THAT IT WAS MR. DELGADO'S SCENARIO OF HANDLING A  
9 WEAPON, TOUCHING A WOUND OR BEING SHOT THAN FIRING IT.  
10 THAT'S WHAT YOU'RE SAYING?

11 A. YES.

12 Q. OKAY.

13 MR. POPE: THANK YOU, MA'AM.

14 MR. DELGADO: NOTHING FURTHER. THANK YOU.

15 THE COURT: THANK YOU, MA'AM.

16 MR. POPE: ASK THAT THIS WITNESS BE EXCUSED, YOUR  
17 HONOR.

18 MR. DELGADO: YES, SIR.

19 THE COURT: THANK YOU FOR COMING, MA'AM. YOU MAY BE  
20 EXCUSED.

21 THE WITNESS: THANK YOU.

22 MR. POPE: THE STATE WOULD CALL SUZANNE CROMER.

23 THE CLERK: PLEASE RAISE YOUR RIGHT HAND AND PLACE YOUR  
24 LEFT HAND ON THE BIBLE.

25 (SUZANNE F. CROMER, BEING FIRST DULY SWORN, WAS

1 EXAMINED AND TESTIFIED AS FOLLOWS):

2 DIRECT EXAMINATION

3 SUZANNE F. CROMER BY MR. POPE:

4 Q. AGENT CROMER, IF YOU WOULD, STATE YOUR NAME AND SPELL  
5 YOUR LAST NAME FOR THE COURT REPORTER.

6 A. SUZANNE F. CROMER, C-R-O-M-E-R.

7 Q. OKAY. AND COULD YOU TELL THE JURY WHERE YOU'RE  
8 EMPLOYED?

9 A. I WORK FOR THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION  
10 COMMONLY KNOWN AS SLED.

11 Q. AND SPECIFICALLY WITHIN SLED, WHERE ARE YOU EMPLOYED?

12 A. I WORK IN THE FIREARM AND TOOL MARKS DEPARTMENT.

13 Q. AND FIREARM AND TOOL MARKS, CAN YOU TELL THE JURY A  
14 LITTLE BIT ABOUT WHAT YOU DO DAY TO DAY?

15 A. YES, SIR. I DEAL PRIMARILY WITH FIREARM EVIDENCE,  
16 HANDGUNS, LONG GUNS, AMMUNITION COMPONENTS, TOOL MARKS. IF  
17 A CHAIN LINK FENCE HAS BEEN CUT, IF A SAFE'S BEEN PRIED  
18 OPEN, THOSE TYPE OF THINGS. WE ALSO DO SERIAL NUMBER  
19 RESTORATION AND WE DO DESTRUCTION OF NOT USED WEAPONS OR  
20 CONFISCATED WEAPONS.

21 Q. OKAY. AND HOW LONG HAVE YOU BEEN DOING THIS KIND OF  
22 WORK?

23 A. I'VE BEEN EMPLOYED THERE FOR A LITTLE OVER SIX YEARS.

24 Q. OKAY. COULD YOU TELL THE JURY JUST BRIEFLY YOUR  
25 BACKGROUND AND TRAINING? IS FIREARMS AND TOOLS MARK IS IT

1 KIND OF AN APPRENTICESHIP SITUATION LIKE WE HEARD EARLIER?

2 A. YES, SIR. THERE'S REALLY NO COLLEGE COURSES THAT YOU  
3 CAN TAKE TO LEARN HOW TO BE A FIREARMS EXAMINER. I GOT MY  
4 BACHELOR'S DEGREE AT CLEMSON UNIVERSITY IN PSYCHOLOGY. I  
5 DID SOME POST-GRADUATE WORK AT THE UNIVERSITY OF SOUTH  
6 CAROLINA IN CRIMINAL JUSTICE WHERE I DID A INTERNSHIP IN THE  
7 FIREARMS DEPARTMENT. SINCE THEN I HAVE -- WAS HIRED ON IN  
8 THE FIREARMS DEPARTMENT. I HAVE COMPLETED THEIR IN-HOUSE  
9 TRAINING PROGRAM, WHICH IS ABOUT THREE TO FIVE YEARS AND  
10 IT'S EXTENSIVE TRAINING UNDER SIX COURT QUALIFIED EXAMINERS.  
11 I AM A MEMBER OF THE ASSOCIATION OF FIREARMS AND TOOL MARK  
12 EXAMINERS, WHICH IS A INTERNATIONAL ASSOCIATION AND THEY DO  
13 PUBLICATIONS FOUR TIMES A YEAR JUST TO SHARE THE ADVANCES IN  
14 TECHNOLOGY. I'M ALSO A MEMBER OF THE SOUTH CAROLINA CHAPTER  
15 OF THE INTERNATIONAL ASSOCIATION OF IDENTIFICATION AND I  
16 HAVE ATTENDED SOME SEMINARS THROUGH THEM: SHOOTING SCENE  
17 RECONSTRUCTION, PATHOLOGY OF GUNSHOT WOUNDS. I'VE ALSO  
18 ATTENDED THE CRIMINAL JUSTICE ACADEMY AND I AM CERTIFIED TO  
19 WORK ON IBIS MACHINE, WHICH IS THE INTERNATIONAL OR  
20 INTEGRATED BALLISTICS IDENTIFICATION SYSTEM.

21 Q. OKAY. AND IN THIS AREA OF FIREARMS AND I WILL NARROW  
22 IT DOWN A LITTLE BIT. WE DON'T HAVE TOOL MARK ISSUES HERE,  
23 BUT---

24 A. RIGHT.

25 Q. ---IN THE FIREARMS IDENTIFICATION YOU'VE TESTIFIED AS

1 AN EXPERT IN THE PAST; IS THAT CORRECT?

2 A. YES, SIR, I HAVE.

3 MR. POPE: YOUR HONOR, AT THIS TIME I WOULD TENDER  
4 AGENT CROMER AS AN EXPERT IN FIREARMS IDENTIFICATION.

5 MR. DELGADO: YES. THAT'S VERY SO.

6 THE COURT: OKAY. WITHOUT OBJECTION, SHE'S SO  
7 QUALIFIED.

8 Q. AGENT CROMER, YOU RECEIVED A NUMBER OF ITEMS OF  
9 EVIDENCE IN THIS PARTICULAR CASE; IS THAT CORRECT?

10 A. THAT'S CORRECT.

11 Q. OKAY. FROM A FIREARMS STANDPOINT, CAN YOU TELL THE  
12 JURY JUST IN GENERAL, OF COURSE, WE'LL TALK ABOUT THE  
13 SPECIFIC EVIDENCE, BUT JUST IN GENERAL THE KIND OF THINGS  
14 YOU'RE LOOKING FOR AND WHAT YOU'RE TRYING TO DETERMINE IN  
15 YOUR WORK?

16 A. THE FIRST THING I DO WHEN I RECEIVE FIREARMS EVIDENCE,  
17 USUALLY I -- IF I HAVE FIREARMS LIKE I DID IN THIS CASE, I  
18 WILL OPEN THEM UP FIRST. THE FIRST THING I DO IS LOOK AT  
19 THEM FOR TRACE EVIDENCE, HAIR, FIBER, BLOOD. IF THEY'RE --  
20 IF IT'S THERE I WILL COLLECT IT. IF IT'S NOT, THEN I TEST  
21 THE WEAPON TO MAKE SURE THAT IT WILL FUNCTION. IF IT'S  
22 AMMUNITION COMPONENTS, I LOOK AT THEM. I CHECK THEM FOR  
23 TRACE EVIDENCE, TRY TO DETERMINE CALIBER, WHAT TYPE OF  
24 AMMUNITION IT IS.

25 Q. OKAY. ONCE YOU THEN DO THAT INITIAL OBSERVATION AND

1 BASICALLY YOU'RE SEEING IF THERE'S ANYTHING ELSE TO PRESERVE  
2 BEFORE YOU DO YOUR WORK; IS THAT CORRECT?

3 A. THAT'S CORRECT.

4 Q. OKAY. DO YOU NEXT MAKE DETERMINATIONS ABOUT THE WEAPON  
5 ITSELF OR THE WEAPONS THEMSELVES AS FAR AS WHETHER THEY'RE  
6 OPERABLE OR NOT?

7 A. YES, I DO.

8 Q. OKAY. ONCE YOU MAKE THAT DETERMINATION, WHAT IF  
9 ANYTHING DO YOU DO AS FAR AS DETERMINING EVIDENCE THAT WAS  
10 FOUND? IN OTHER WORDS, WHAT TYPE OF EVIDENCE WOULD YOU SEE  
11 FROM A FIREARMS CASE? WHAT KIND OF THINGS DO YOU RECEIVE?

12 A. I RECEIVE BULLETS, FRAGMENTS, PIECES OF BULLETS,  
13 CARTRIDGE CASES. THAT'S USUALLY WHAT I SEE AND WHAT I DO  
14 WHEN I RECEIVE A FIREARM IS FIRST I MAKE SURE THAT IT  
15 FUNCTIONS AND THEN I WILL TEST FIRE IT SO I HAVE ACTUAL  
16 BULLETS AND CARTRIDGE CASES THAT I FIRED FROM THAT FIREARM  
17 KNOWINGLY THAT I COULD COMPARE TO MY UNKNOWN EVIDENCE.

18 Q. OKAY. AND YOU DO THE KNOWN CARTRIDGES AND COMPARING TO  
19 THE UNKNOWN. WHAT DO YOU USE TO COMPARE THEM?

20 A. WHEN YOU LOOK AT FIREARMS EVIDENCE, THERE ARE  
21 MANUFACTURING MARKS LEFT INSIDE THAT GUN. USUALLY MOST OF  
22 THEM ARE LEFT INSIDE THE BARREL. WHEN A FIREARM IS MADE  
23 THAT BARREL IS A COMPLETE ROD OF STEEL USUALLY, BUT A VERY  
24 STRONG METAL AND IT TAKES DIFFERENT MANUFACTURING PROCESSES  
25 TO PUT THE HOLE IN THE BARREL AND THEN PUT RIFLING IN THE

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1 BARREL AND RIFLING IS A SERIES OF ENGRAVED OR INDENTED AREAS  
2 AND THEN A CORRESPONDING RAISED AREAS, WHICH WE CALL LANS  
3 AND GROOVES AND WHAT THAT DOES IS IT STABILIZES THE BULLET.  
4 JUST LIKE A QUARTERBACK, WHEN HE THROWS THE FOOTBALL, HE  
5 THROWS IT IN A TIGHT SPIRAL SO THAT WAY IT GETS TO THE  
6 TARGET OR THE RECEIVER MORE ACCURATELY. THAT'S WHAT THE  
7 RIFLING INSIDE OF A GUN BARREL DOES. IT MAKES IT STABLE SO  
8 THAT WAY IT GOES TO THE TARGET MORE ACCURATELY AND QUICKER.

9 Q. WHEN YOU SAID IT GOES, IS THERE A CERTAIN PART OF THE  
10 BULLET -- AND I KNOW I MIXED UP THE NOMENCLATURE, BUT THE  
11 ACTUAL PART THAT COMES OUT THE END OF THE GUN, YOU CALL THAT

12 A --

13 A. A BULLET.

14 Q. -- A BULLET. OKAY. WHEN YOU TALK -- IS THAT THE  
15 FOOTBALL SO TO SPEAK?

16 A. CORRECT.

17 Q. OKAY. AND WHEN IT COMES OUT OF THE GUN AND IT PASSES  
18 THROUGH -- THE FOOTBALL PASSES THROUGH THE BARREL, LOOKING  
19 AT STATE'S EXHIBIT 135, WHEN THAT COMES OUT AND PASSES  
20 THROUGH THE BARREL, WHAT HAPPENS AS FAR AS THAT BULLET WITH  
21 THE INSIDE OF THE BARREL?

22 A. ANY IMPERFECTION FROM THOSE TOOLS THAT'S LEFT IN THE  
23 INSIDE OF THAT BARREL WILL BE PASSED ON TO THAT BULLET AND  
24 IT ENGRAVES IT, KIND OF LIKE SCRATCHES IT AND THAT'S  
25 BASICALLY WHAT WE LOOK AT. THERE ARE MICROSCOPIC SCRATCHES

1 ON THE SURFACE OF THAT BULLET.

2 Q. AND WHAT TOOL DO YOU ACTUALLY USE IN THE LAB TO LOOK AT  
3 THAT?

4 A. I USE A COMPARISON MICROSCOPE. IT'S KIND OF LIKE A  
5 PAIR OF BINOCULARS. YOU HAVE TWO EYE PIECES THAT YOU CAN  
6 LOOK THROUGH AND YOU HAVE TWO STAGES WHERE I CAN PUT TWO  
7 BULLETS AND LOOK AT THEM AT THE SAME TIME IN COMPARISON TO  
8 EACH OTHER.

9 Q. OKAY. AND WHEN YOU'RE LOOKING AT THOSE, YOU ARE  
10 ACTUALLY LOOKING FOR THE LAND AND GROOVE MARKS THAT THE GUN  
11 MAKES?

12 A. CORRECT. I LOOK AT THE LAND AND GROOVES AND THEN I  
13 LOOK AT THE MARKINGS OR THE STRIATIONS INSIDE OF THOSE LANS  
14 AND GROOVES.

15 Q. AND THE THINGS YOU'RE COMPARING ARE THE ONES YOU DON'T  
16 KNOW -- ALMOST LIKE FINGERPRINTS. YOU'RE LOOKING AT THE  
17 ONES YOU DON'T KNOW WITH THE ONES YOU DO KNOW?

18 A. CORRECT. WHAT I DO FIRST IS I LOOK AT MY TEST FIRES TO  
19 SEE HOW CONSISTENTLY THEY MARK AND SEE IF ANYTHING JUST LIKE  
20 A MAJOR DEFECT JUMPS OUT AT ME AND THAT'S WHERE -- THAT WILL  
21 BE STARTING POINT TO GO BY TO LOOK AT THE UNKNOWN OR THE  
22 EVIDENCE.

23 Q. LET ME ASK YOU THIS: DO ALL OF THE SAME GUN THAT CAME  
24 OFF THE ASSEMBLY LINE, SAY, THE SAME DAY, DO THEY MAKE THE  
25 SAME LANS AND GROOVES?

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1 A. IT DEPENDS ON THE FACTORY. NOW, DIFFERENT  
2 MANUFACTURERS USE DIFFERENT NUMBERS OF LANS AND GROOVES.  
3 YOU CAN HAVE A GUN WITH NINE LANS AND GROOVES WITH A LEFT  
4 TWIST. THAT MEANS THE BULLET WILL SPIN TO THE LEFT OR LIKE  
5 IN THIS CASE YOU CAN HAVE GUNS WITH SIX LANS AND GROOVES  
6 WITH A RIGHT TWIST AND THERE ARE SOME MANUFACTURERS THAT  
7 FAVOR FIVE WITH A RIGHT TWIST. IT'S JUST VARYING. AND WE  
8 USE THAT NUMBER OF LANS AND GROOVES AS KIND OF AN  
9 ELIMINATION PROCESS. WE HAVE GENERAL RIFLING  
10 CHARACTERISTICS AND THAT'S PART OF THAT. YOUR CALIBER IS  
11 PART OF THAT, SO THAT'S WHAT ALL WE DETERMINE BEFORE WE  
12 ACTUALLY GET TO LOOKING AT TEST FIRES VERSUS EVIDENCE.

13 Q. SO THAT KIND OF BRINGS IT DOWN TO WHAT YOU'RE FOCUSING  
14 WHEN YOU'RE IDENTIFYING IT; IS THAT CORRECT?

15 A. CORRECT.

16 Q. I GUESS THE MORE DIRECT QUESTION WOULD BE CAN YOU MATCH  
17 AMMUNITION TO A GIVEN WEAPON ALMOST LIKE WE TALKED ABOUT THE  
18 FINGERPRINTS OR CAN YOU ONLY SAY IT'S THIS KIND OF WEAPON?

19 A. NO. YOU -- WHEN YOU FIRE A BULLET THROUGH A GUN BARREL  
20 IT'S VERY MUCH LIKE A SIGNATURE, KIND OF LIKE EVERY TIME YOU  
21 SIGN YOUR NAME. IT MIGHT BE A LITTLE DIFFERENT, BUT YOU  
22 KNOW THAT IT'S YOUR SIGNATURE. THAT'S WHAT IT'S LIKE TO  
23 FIRE A GUN OR FIRE A BULLET THROUGH A GUN BARREL. YOU CAN  
24 MATCH BACK THAT BULLET TO THAT GUN AND YOU CAN SAY THAT THIS  
25 GUN FIRED THIS BULLET AND NO OTHER GUN IN THE WORLD COULD

1 HAVE, BECAUSE I KNOW THAT THIS ONE DID.

2 Q. AND THAT WOULD BE TRUE IF I HAD TWO GLOCKS AND THEY  
3 WERE SERIAL NUMBERED ONE DIGIT APART AND WE FIRED THEM BOTH,  
4 YOU WOULD BE ABLE TO TELL WHICH BULLETS CAME FROM---

5 A. CORRECT.

6 Q. ---WHICH GUN?

7 A. CORRECT. GLOCKS ARE KIND OF HARD 'CAUSE THEY HAVE  
8 DIFFERENT TYPES OF RIFLING, BUT THE CARTRIDGE CASES ARE  
9 USUALLY WHAT ARE USED TO IDENTIFY GLOCKS.

10 Q. AND THAT BRINGS ME TO THE NEXT -- THE CARTRIDGE CASE,  
11 THE SPENT CASE SO TO SPEAK, IS THIS GOLD OR SOME PEOPLE CALL  
12 IT THE BRASS; IS THAT CORRECT?

13 A. CORRECT.

14 Q. NOW, IT DOES NOT TRAVEL DOWN THE BARREL; IS THAT RIGHT?

15 A. NO. IT'S USUALLY -- IN SEMI-AUTOMATIC WEAPONS IT'S  
16 USUALLY EJECTED.

17 Q. OKAY. AND WHERE DOES THE MARKING OR A UNIQUE MARKING  
18 FROM THE WEAPON COME ON THE BRASS PART OF IT OR THE  
19 CARTRIDGE PART OF IT?

20 A. ON CARTRIDGE CASES THAT WERE FIRED THROUGH SEMI-  
21 AUTOMATIC WEAPONS THERE IS FIVE CARDINAL PLACES FOR FIREARM  
22 MARKINGS. THERE IS THE BREACH FACE, WHICH IS THE HEAD OF  
23 THE CARTRIDGE WHERE YOUR PRIMER IS. THERE IS YOUR FIRING  
24 PIN IMPRESSION WHERE THE ACTUAL FIRING PIN HIT THAT PRIMER.  
25 THERE'S ALSO THE EXTRACTOR, WHICH IS THAT LITTLE CLAW THAT

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1 HANGS OVER THAT LITTLE GROOVE RIGHT THERE THAT PULLS IT OUT  
2 OF THE CHAMBER AND THEN YOU HAVE YOUR EJECTOR MARK, WHICH  
3 ACTUALLY HITS THE CARTRIDGE CASE WHILE IT'S BEING PULLED OUT  
4 TO MAKE IT LEAVE THE FIREARM.

5 Q. AND ARE YOU ABLE TO, AGAIN, DO TEST FIRINGS AND COMPARE  
6 WITH UNKNOWN EVIDENCE TO DETERMINE IF THE CARTRIDGES CAME  
7 FROM A PARTICULAR WEAPON?

8 A. YES, WE ARE.

9 Q. OKAY. NOW, IN THIS PARTICULAR CASE YOU RECEIVED TWO  
10 WEAPONS; IS THAT CORRECT?

11 A. THAT'S CORRECT.

12 Q. OKAY. I BELIEVE ONE IS A .25 CALIBER AND ONE IS A .45  
13 CALIBER; IS THAT CORRECT?

14 A. THAT'S CORRECT.

15 Q. OKAY. WHAT I'D LIKE TO DO IS TO FOCUS ON ONE WEAPON  
16 FIRST AND THEN THE OTHER. I WANT TO CALL YOUR ATTENTION  
17 FIRST TO THE .25 CALIBER, WHICH IS LARGER, .25 CALIBER OR  
18 .45 CALIBER?

19 A. FORTY-FIVE CALIBER IS LARGER AND .25 IS USUALLY -- HOW  
20 IT -- HOW YOU DETERMINE IT'S .250 OF AN INCH AND .45 IS  
21 USUALLY .45 OF AN INCH.

22 Q. I'M GOING TO CALL YOUR ATTENTION NOW TO THE ITEMS YOU  
23 RECEIVED AND DURING THE PREVIOUS BREAK YOU'VE HAD AN  
24 OPPORTUNITY TO LOOK AT THE ITEMS OF EVIDENCE; IS THAT  
25 CORRECT?

1 A. THAT'S CORRECT.

2 Q. OKAY. IN ADDITION, DO YOU MARK THEM WHEN YOU RECEIVE  
3 THEM FROM THE LABORATORY?

4 A. WHEN I RECEIVE THEM I MARK THEM OR ENGRAVE ON THEM MY  
5 CASE NUMBER, MY ITEM NUMBER AND MY INITIALS.

6 MR. POPE: WITH THE COURT'S PERMISSION, I WOULD ASK  
7 THIS WITNESS TO STEP DOWN.

8 Q. FIRST I WANT -- FIRST I'D ASK IF YOU COULD SHOW THE  
9 JURY WHAT'S BEEN MARKED AS STATE'S EXHIBIT 99. IF YOU CAN  
10 TELL WHAT THAT ITEM IS AND WHAT YOU OBSERVED ON IT.

11 A. THIS ITEM IS A RAVEN ARMS SEMI-AUTOMATIC PISTOL, MODEL  
12 P25 AND .25 AUTO CALIBER.

13 Q. DID IT APPEAR TO BE IN WORKING ORDER?

14 A. YES, SIR. IT WAS IN WORKING ORDER. AS A MATTER OF  
15 FACT, I TEST FIRED IT FIVE TIMES.

16 Q. OKAY. AND THEN YOU USED THOSE TEST FIRED CARTRIDGES  
17 AND THE BULLETS FOR YOUR TESTING PURPOSES?

18 A. CORRECT.

19 Q. OKAY. IN ADDITION TO RECEIVING THAT WEAPON, DID YOU  
20 ALSO RECEIVE A NUMBER OF UNFIRED .25 AUTO CARTRIDGES?

21 A. I BELIEVE I RECEIVED SEVEN WITH THE FIREARM AND A  
22 MAGAZINE.

23 Q. OKAY. AND WITH THE FIREARM, -- I MEAN, WITH THE SEVEN  
24 CARTRIDGES, WHAT CAN YOU TELL THE JURY -- DESCRIBE THOSE  
25 CARTRIDGES, NOW YOU DESIGNATE THOSE. ARE THEY DIFFERENT

1 TYPES? ARE THEY ALL THE SAME OR --

2 A. THESE ARE ALL THE SAME, ROUND-NOSED, WHICH IS VERY  
3 COMMON, THIS SPOT, BECAUSE IT HAS -- LOOKS LIKE A ROUNDED  
4 NOSE ON THE BULLET. THEY ARE BRASS JACKETED OR BRASS CASED  
5 WITH A COPPER JACKET AND BY WAY OF A KNOWN STANDARD I TOOK  
6 ONES THAT LOOK EXACTLY LIKE THIS AND ONE THAT -- ONE OF  
7 THESE. THESE ARE FIFTY GRAINS FMJ'S, WHICH MEANS FULL METAL  
8 JACKET. THAT MEANS THE COPPER JACKET GOES ALL AROUND THE  
9 BODY OF THE BULLET EXCEPT FOR AT THE BASE.

10 Q. NOW, WHAT IS THE HEAD STAMP?

11 A. THE HEAD STAMP IS W-Y-N .25 AUTO AND THAT JUST MEANS  
12 THIS IS WYNCHESTER BRAND AMMUNITION.

13 Q. OKAY. CAN YOU SHOW THE JURY -- WHEN YOU'RE SAYING HEAD  
14 STAMP, WHAT IS IT YOU'RE REFERRING TO?

15 A. YES. IT'S RIGHT HERE.

16 COURT REPORTER: I'M SORRY. I CANNOT HEAR HER.

17 Q. OKAY.

18 A. THE MARKINGS RIGHT HERE ON THE HEAD OF THE BULLET.

19 Q. OKAY. IF YOU STEP BACK, I CAN PROBABLY PUT IT ON THE  
20 PRESENTER AND YOU WOULD BE ABLE TO INDICATE -- MATTER OF  
21 FACT, AS WE BEGIN, IF YOU COULD INDICATE ON THE DIAGRAM  
22 STATE'S EXHIBIT 135.

23 A. THE HEAD STAMP WOULD USUALLY BE RIGHT IN THIS AREA HERE  
24 AROUND THE PRIMER AND WHAT THAT -- THAT INFORMATION, IT  
25 USUALLY TELLS US WHO MANUFACTURED THE AMMUNITION AND WHAT

1 CALIBER IT IS.

2 Q. AND THE HEAD STAMP ON THESE ITEMS, I GUESS UNLESS YOU  
3 TURN IT UP SIDEWAYS, IT'S ACTUALLY ON THE OPPOSITE OR THE  
4 BUSINESS END OF THE BULLET; CORRECT?

5 A. CORRECT.

6 Q. OKAY. AND DID ALL OF THESE APPEAR TO BE THE SAME -- I  
7 THINK YOU SAID WYNCHESTER .25? DID EVERYONE OF THOSE APPEAR  
8 TO BE THE SAME?

9 A. YES, THEY DID.

10 Q. DID YOU ALSO RECEIVE A NUMBER OF SEPARATELY PACKAGED  
11 UNFIRED .25'S? HERE'S --

12 A. YES. YES, SIR.

13 Q. THAT IS STATE'S EXHIBIT 100, INDICATED ON THE HEADBOARD  
14 IN THE BEDROOM. ARE THOSE OF THE SAME MAKE AND MODEL OR  
15 HEAD STAMP AS THE OTHER .25'S?

16 A. YES, THEY ARE. THEY ARE THE SAME.

17 Q. DID IT ALL APPEAR TO BE PROPER AMMUNITION FOR THIS  
18 PARTICULAR WEAPON?

19 A. YES, IT DID. THEY WERE .25 AUTO CALIBER CARTRIDGES AND  
20 THIS IS A .25 AUTO CALIBER GUN.

21 Q. OKAY. NEXT I WOULD LIKE TO SHOW YOU WHAT'S BEEN  
22 DESIGNATED AS STATE'S EXHIBIT 115 INDICATED AS THE .25  
23 CALIBER BULLET TO THE RIGHT CHEST. WOULD YOU LOOK AT THAT  
24 AND TELL ME IF YOU CAN IDENTIFY THAT ITEM?

25 A. YES, SIR.

1 Q. OKAY. AND WHAT WERE YOU ABLE TO DETERMINE -- FIRST, IS  
2 THAT OF THE SAME CALIBER AS ALL THE OTHER AMMUNITION?

3 A. YES. JUST BASICALLY IT'S THE SAME WEIGHT AND THE SAME  
4 TYPE OF AMMUNITION. WHAT WAS I ABLE TO DETERMINE, STATE'S  
5 EXHIBIT 115 WAS FIRED BY THIS FIREARM AND NO OTHER FIREARM  
6 IN THE WORLD.

7 Q. SHOW YOU NEXT WHAT'S BEEN MARKED AS STATE'S EXHIBIT  
8 113. I THINK IT'S YOUR ITEM 22.

9 A. YES, SIR.

10 Q. AGAIN, IT'S OBVIOUSLY NOT THE CHUNK OF WOOD, BUT---

11 A. RIGHT.

12 Q. ---THE FIRE BULLET, WHAT CAN YOU TELL US ABOUT THAT?

13 A. FIRST I WANT TO MAKE SURE THAT IT WAS -- STATE'S  
14 EXHIBIT 22 WAS ALSO FIRED BY THE RAVEN ARMS P25.

15 Q. AND, AGAIN, AS YOU SAID A MOMENT AGO, THAT'S TO THE  
16 EXCLUSION OF ANY OTHER WEAPON?

17 A. TO THE EXCLUSION OF ANY OTHER FIREARM.

18 Q. AND, AGAIN, WAS THAT BULLET ALSO CONSISTENT WITH THE  
19 LIVE AMO THAT YOU HAD?

20 A. CORRECT. IT'S A ROUND-NOSED FULL METAL JACKET, FIFTY  
21 GRAIN.

22 Q. NEXT I'LL SHOW YOU STATE'S EXHIBIT 114 INDICATED THE  
23 PROJECTILE THAT WAS PULLED FROM THE BEDROOM WALL. CAN YOU  
24 TELL ME WHAT YOU WERE ABLE TO DETERMINE FROM THAT?

25 A. WITH 114 IT'S CONSISTENT WITH THE ROUND NOSE, THE FIFTY

1 GRAIN, COPPER JACKETED, BUT I COULD NOT SAY THAT THIS GUN  
2 FIRED IT, BUT I COULD NOT EXCLUDE THIS GUN, EITHER. IT  
3 COULD HAVE BEEN FIRED BY THIS FIREARM. IT'S JUST THE  
4 MARKINGS WERE SO DAMAGED, I COULD NOT TELL.

5 Q. AND WHEN YOU SAY SO DAMAGED, OF COURSE, THE JURY'S  
6 AWARE THIS WAS RECOVERED FROM WITHIN A WALL. WHAT -- WHEN  
7 YOU SAY SO DAMAGED, WHAT IS IT THAT CHANGES YOUR ABILITY TO  
8 IDENTIFY?

9 A. WELL, I COULD POSSIBLY IDENTIFY IT, BUT WHEN WE SAY  
10 THAT SOMETHING WAS FIRED BY, WE WANT THREE HUNDRED AND SIXTY  
11 DEGREES OF SUFFICIENT AGREEMENT. WE DON'T LIKE ONE LAND TO  
12 LOOK REALLY GOOD AGAINST ANOTHER LAND. WE LIKE TO HAVE THE  
13 TOTALITY AND ON THIS -- ON THIS BULLET I JUST DIDN'T FEEL  
14 COMFORTABLE THAT THERE WAS ENOUGH TO SAY THAT IT WAS FIRED  
15 BY THIS FIREARM.

16 Q. AND THAT'S BECAUSE THE VERY THINGS YOU'RE TRYING TO  
17 MATCHED WHERE DAMAGED WHEN IT --

18 A. CORRECT.

19 Q. OKAY. WHEN YOU SAY IT COULD BE, NOTHING HERE IS  
20 INCONSISTENT WITH THE TYPE OF AMO OR ANYTHING OF THAT  
21 NATURE?

22 A. NO. IT'S ALL THE SAME, ROUND NOSED.

23 Q. OKAY. AND, CLEARLY, THIS WAS NOT FIRED FROM THE .45  
24 THAT YOU RECEIVED. THIS IS NOT .45 AMMUNITION?

25 A. NO, IT'S NOT.

1 Q. I'LL NOW SHOW YOU WHAT'S MARKED AS YOUR SLED NUMBER 13  
2 THROUGH 18 AND THIS IS STATE'S EXHIBITS 101, 102, I'M  
3 ASSUMING 13, 14, 15 AND 16 AND YOU HAD AN OPPORTUNITY TO  
4 PREVIOUSLY LOOK AT THIS EVIDENCE, AND THESE ARE INDICATED  
5 THE CARTRIDGES THAT WERE RECOVERED, THE .25 SPENT  
6 CARTRIDGES. CAN YOU TELL WHAT RESULTS YOU HAD ON THOSE?

7 A. THESE WERE ALL BASIC -- FIRED BY THIS FIREARM AND NO  
8 OTHER FIREARM EVER MADE AND THEY WERE ALSO THE SAME BRAND OF  
9 AMMUNITION AS THE UNFIRED CARTRIDGES.

10 Q. AND, AGAIN, MAYBE IF YOU COULD USE THE -- I THINK ONE  
11 OF THEM'S OVER HERE AND I APOLOGIZE. STATE'S 106. IF YOU  
12 COULD SHOW THE JURY THE CASING AND THE AREA -- IF YOU COULD  
13 HOLD IT UP WHERE THEY. -- THE AREA THAT YOU WOULD LOOK AT  
14 WHEN YOU'RE TALKING ABOUT THE BACK OF THE EXTRACTOR ROD OR  
15 WHAT KIND OF THINGS YOU'RE --

16 A. THIS IS THE HEAD OF THE CARTRIDGE CASE. THIS IS  
17 USUALLY THE MOUTH. THIS IS WHERE THE BULLET IS. THIS IS  
18 WHERE, NATURALLY, ON THE HEAD IS WHERE YOUR HEAD STAMP IS  
19 AND AS YOU SEE, W-Y-N .25. I DON'T KNOW IF Y'ALL CAN SEE  
20 THAT. THIS IS YOUR PRIMER. THAT'S WHERE YOUR FIRING PIN  
21 HITS AND CRUSHES THAT PRIMING COMPONENT IN BETWEEN THAT  
22 LITTLE -- THIS IS THE ANVIL AND THE FIRING PIN, WHAT IT DOES  
23 IT CRUSHES THIS PRIMING COMPOUND, WHICH IS AN EXPLOSIVE AND  
24 WHEN THE FIRING PIN HITS IT LEAVES AN INDENTION IN THAT  
25 PRIMER. WE LOOK AT THAT. THIS IS YOUR HEAD. THAT'S WHERE

1 YOUR HEAD STAMP IS AND THAT'S THE PRIMER. THAT DIVOT IS  
2 YOUR FIRING PIN IMPRESSION AND YOUR BREACH FACE MARKINGS,  
3 THAT IS WHERE ON THIS PART OF THE GUN -- I DON'T KNOW IF ANY  
4 OF YOU CAN SEE THAT, BUT THAT'S HERE. WHEN THAT PART IS  
5 MADE IT'S KIND OF MILLED OR MACHINED, SO WHEN THAT CARTRIDGE  
6 CASE IS BEING FIRED, IT'S BEING BLOWN BACK AGAINST THAT PART  
7 OF THE GUN WITH SUCH FORCE THAT ANYTHING LEFT ON THERE IS  
8 BEING IMPRINTED ON THAT PART OF THE CARTRIDGE CASE AND  
9 THAT'S WHERE WE GET A BREACH FACE IMPRESSION.

10 Q. AND SO AS TO EACH OF THE .25 CARTRIDGES THAT WERE FOUND  
11 THERE IN THE PARKING LOT, AGAIN, WHAT WERE YOUR RESULTS FROM  
12 THOSE?

13 A. BASED ON THE FIRING PIN IMPRESSION, THIS FIRING PIN HAS  
14 A UNIQUE DEFECT IN IT THAT WAS PRESENT IN ALL OF MY TESTS  
15 AND WAS PRESENT ON ALL THE FIRED CARTRIDGE CASES. I COULD  
16 SAY THAT THEY WERE FIRED BY THIS FIREARM AND NO OTHER  
17 FIREARM EVER MADE.

18 Q. OKAY. AND CONCERNING THE -- AND THAT WAS AS TO ALL SIX  
19 OF THOSE?

20 A. ALL SIX.

21 Q. OKAY. IF WE COULD, WE'LL PACKAGE THESE ITEMS UP NOW.  
22 OKAY. AND I WOULD NOW DIRECT YOUR ATTENTION TO THE .45,  
23 WHICH HAS BEEN MARKED AS STATE'S EXHIBIT 107 AND ASK IF YOU  
24 COULD INDICATE TO THE JURY WHAT YOU OBSERVED IN TESTING IN  
25 REGARDS TO THE .45.

1 A: WHEN I FIRST OPENED THE .45 AND EXAMINED IT I LOOKED AT  
 2 IT UNDER A STEREO MICROSCOPE, WHICH ACTUALLY GIVES THE  
 3 MAGNIFICATION AND BRIGHT LIGHT. THAT'S ALL IT BASICALLY  
 4 DOES AND I FOUND SOME POSSIBLE BLOOD EVIDENCE, SO I SWABBED  
 5 IT, AIR-DRIED IT AND REPACKAGED IT WITH THE FIREARM AND THEN  
 6 I CLEANED THE FIREARM WITH A FOAMICIDE, WHICH IS A HOSPITAL  
 7 GRADE DISINFECTANT. THEN I DETERMINED THAT IT WOULD  
 8 FUNCTION. I LOOKED AT WHAT OTHER TYPE OF EVIDENCE I HAD AND  
 9 TEST FIRED THIS FIREARM FIVE TIMES.

10 Q. OKAY. AND DID IT -- IT APPEARED THAT THE TEST FIRING,  
 11 YOU SAID IT WOULD FUNCTION? IT WAS IN PROPER WORKING ORDER?

12 A. THAT'S CORRECT.

13 Q. AND THE AMMUNITION THAT YOU RECEIVED WHEN YOU RECEIVED  
 14 THE FIREARM, WHAT DID YOU RECEIVE IN THIS INITIAL ITEM  
 15 STATE'S EXHIBIT 107?

16 A. I RECEIVED FOUR JACKETED HOLLOW POINT .45 CALIBER CORE  
 17 BOND PIECES OF AMO.

18 Q. AND, AGAIN, CORE BOND, IS THAT INDICATED ON THE HEAD  
 19 STAMP AREA MUCH LIKE THE WYN .25 WOULD BE?

20 A. YES, SIR. CORE BOND IS ANOTHER AMMUNITION MANUFACTURER  
 21 JUST LIKE WYNCHESTER.

22 Q. OKAY. AND, NOW, WHAT IS THE MAGAZINE?

23 A. THIS IS WHAT WE CALL A DETACHABLE BOX MAGAZINE, 'CAUSE  
 24 IT LOOKS LIKE A BOX AND IT'S MADE TO FIT IN TO THE MAGAZINE  
 25 WELL.

SUZANNE F. CROMER - DIRECT BY MR. POPE:

532

1 Q. OKAY. AND DID YOU ALSO RECEIVE AN ADDITIONAL MAGAZINE?

2 A. YES, I DID.

3 Q. OKAY. AND WAS IT ALSO FUNCTIONAL OR APPEARED TO WORK  
4 WITH THE SAME WEAPON?

5 A. YES, IT DID. IT WAS -- IT'S A TAURUS MAGAZINE MADE FOR  
6 THE PT145 MILLENNIUM MODEL FIREARM.

7 Q. OKAY. AND DOES CORE BOND .45 AUTO PLUS P, WAS THIS THE  
8 APPROPRIATE AMMUNITION TO BE FIRED FROM THIS WEAPON?

9 A. YES, IT IS.

10 Q. DID YOU ALSO RECEIVE STATE'S EXHIBIT 108, A LIVE .45  
11 CALIBER ROUND FROM THE CENTER CONSOLE OF THE NISSAN, DID YOU  
12 RECEIVE THAT ITEM ALSO?

13 A. YES, I DID. MAY I OPEN IT?

14 Q. YES, MA'AM.

15 A. AND IT WAS ANOTHER .45 PIECE OF AMMUNITION THAT WAS  
16 CORE BOND PLUS P, WHICH IS JACKETED HOLLOW POINT. IT WAS  
17 THE SAME TYPE OF AMMUNITION THAT WAS RECEIVED WITH THE  
18 FIREARM.

19 Q. AND, AGAIN, IT FUNCTIONED APPROPRIATELY AND WAS  
20 CONSISTENT WITH THE OTHER AMMUNITION?

21 A. YES, SIR.

22 Q. DID YOU ALSO RECEIVE A NUMBER OF ITEMS THAT I WOULD  
23 CALL BULLETS, THE ACTUAL INTERIOR OF -- IN OTHER WORDS, THE  
24 INSIDE PART, THE EXPELLED PART OF THE BULLET? DID YOU  
25 ACTUALLY RECEIVE -- WHAT DO YOU CALL THOSE ITEMS? WHAT DO

1 YOU CALL THIS?

2 A. THAT'S A BULLET.

3 Q. OKAY. DID YOU RECEIVE A NUMBER OF BULLETS?

4 A. YES, SIR, I DID. I BELIEVE I RECEIVED FOUR.

5 Q. I WANT TO CALL YOUR ATTENTION FIRST TO WHAT'S BEEN

6 MARKED AS YOUR EXHIBIT NINE, OUR STATE'S EXHIBIT 117

7 INDICATED AS RECOVERED FROM THE RIGHT UPPER THIGH, BUTTOCK

8 AREA, A BULLET. DID YOU RECEIVE THAT AND TELL THE JURY

9 WHAT, IF ANY, TESTING YOU WERE ABLE TO DO ON THAT.

10 A. YES, I DID RECEIVE THIS AND I DETERMINED AFTER

11 COMPARING IT TO MY TEST FIRES FROM THIS FIREARM THAT IT WAS

12 FIRED BY THIS FIREARM AND NO OTHER FIREARM EVER MADE.

13 Q. AND I WILL NOW SHOW YOU WHAT'S BEEN MARKED AS YOUR 10,

14 STATE'S EXHIBIT 118 INDICATED A BULLET, THE PROJECTILE FROM

15 THE VICTIM'S HEAD AREA, SKULL. CAN YOU INDICATE WHAT THOSE

16 ITEMS ARE?

17 A. YES. THIS IS A COPPER JACKET FRAGMENT AND IT APPEARS

18 BLACK IN COLOR AND I CAN'T REALLY EXPLAIN WHY IT'S BLACK IN

19 COLOR. WHEN WE RECEIVE BULLETS FROM AUTOPSY, ESPECIALLY

20 FROM THE HEAD OR FROM THE STOMACH, SOMETIMES THEY TURN BLACK

21 JUST BECAUSE OF THE CHEMICALS IN THE BODY MAKE IT TURN BLACK

22 AND THAT MAKES IT UNSUITABLE FOR IDENTIFICATION. THE OTHER

23 PIECES THAT ARE ALONG WITH IT ARE PIECES OF THE CORE, THE

24 RED CORE, AND THAT RED CORE'S INSIDE THAT COPPER JACKET.

25 Q. OKAY. SO THE COPPER JACKET WOULD BE THE AREA THAT YOU

1 WOULD NORMALLY LOOK FOR THOSE LANS AND GROOVES---

2 A. RIGHT.

3 Q. ---AND STRIATIONS?

4 A. BECAUSE THE JACKET IS THE PART THAT COMES IN CONTACT  
5 WITH THE INSIDE OF THE GUN BARREL.

6 Q. AND THAT WOULD BE, WHEN YOU'RE SAYING THE JACKET, IS  
7 THE COPPER PART THAT'S HERE?

8 A. CORRECT.

9 Q. AND SO BECAUSE OF THE CHEMICAL NATURE, YOU CAN'T LOOK  
10 AT THE LANS AND GROOVES ON THE BLACK ONE?

11 A. CORRECT.

12 Q. OKAY. BASED ON YOUR OBSERVATION OF THIS AMO AND YOUR  
13 TEST AMO, DOES IT SEEM TO BE THE SAME COMPONENTS? IN OTHER  
14 WORDS, IS IT CONSISTENT WITH THE JACKET TYPE AND THE SIZE  
15 AMO?

16 A. YES, IT WAS. THESE HAVE A -- THESE ARE A JACKETED  
17 HOLLOW POINT LIKE A SIX PETAL NOSE. THIS IS CONSISTENT WITH  
18 A HOLLOW POINT WITH A SIX PETAL NOSE.

19 Q. OKAY. NEXT I'LL CALL YOUR ATTENTION TO WHAT'S MARKED  
20 AS YOUR STATE'S EXHIBIT -- YOUR EXHIBIT 12, STATE'S EXHIBIT  
21 119 AND ASK IF YOU CAN LOOK AT THIS. THIS IS INDICATED AS  
22 THE BULLET JACKET AND FRAGMENTS FROM THE VICTIM'S ARM. IF  
23 YOU COULD TELL ME IF YOU CAN IDENTIFY THAT.

24 A. YES, I CAN. AND AS Y'ALL CAN SEE, WE DIDN'T GET MUCH  
25 RECEIVED IN THIS ONE AND THIS WAS UNSUITABLE FOR

SUZANNE F. CROMER -- DIRECT BY MR. POPE:

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1 IDENTIFICATION. I COULD NOT EVEN RELIABLY DETERMINE THE  
2 CALIBER OF THIS BULLET, BUT I WOULD SAY THAT IT'S MORE  
3 CONSISTENT WITH A HOLLOW POINT BECAUSE OF IT BEING  
4 FRAGMENTED.

5 Q. OKAY. AND WHEN YOU TALKED -- YOU SAID SOMETHING ABOUT  
6 WAS IT PETALED. AM I SAYING THAT RIGHT?

7 A. RIGHT.

8 Q. YOU WERE TALKING ABOUT PETALED. WHAT ARE YOU TALKING  
9 ABOUT IN THERE?

10 A. IF YOU ACTUALLY LOOK AT THIS PIECE OF AMMUNITION,  
11 HOLLOW POINTS ARE DESIGNED FOR PERSONAL DEFENSE. WHEN  
12 THEY'RE MADE THEY'RE MADE TO HIT THE TARGET AND EXPEND ALL  
13 THEIR ENERGY OR OPEN UP INSIDE THEIR TARGET. SO IF YOU LOOK  
14 AT THIS PIECE OF EVIDENCE, YOU CAN SEE LITTLE SLITS. THAT'S  
15 WHAT WE CALL PETALS ON THE NOSE OF THE BULLET. LIKE I SAID,  
16 IT'S MADE TO HIT THAT TARGET, EXPEND ALL THAT ENERGY INSIDE  
17 THE TARGET. IT'S NOT MADE TO GO THROUGH. I DON'T KNOW IF  
18 Y'ALL CAN SEE IT BACK THERE.

19 Q. SO WITH THE ELBOW, YOU WERE NOT ABLE TO GET ENOUGH TO  
20 PIECE IT TOGETHER, BUT WAS IT PARTS AND PIECES OF --

21 A. IT COULD HAVE BEEN.

22 Q. OKAY. AND, FINALLY, I CALL YOUR ATTENTION TO STATE'S  
23 EXHIBIT 116, WHICH WAS RECOVERED ON THE GROUND AT THE SCENE,  
24 YOUR ITEM 124, AND ASK WHAT YOU CAN TELL ME ABOUT THAT ITEM.

25 A. LIKE I SAID BEFORE, THE JACKET IS THE PART THAT COMES

1 IN CONTACT WITH THE GUN BARREL. SO I COULD RELIABLY  
2 DETERMINE THAT THIS JACKET WAS FIRED THROUGH THIS FIREARM  
3 AND NO OTHER FIREARM EVER MADE, BUT SINCE THE CORE IS  
4 PROTECTED BY THAT JACKET, I COULD NOT SAY WHERE THE CORE  
5 CAME FROM. I COULD ONLY ASSUME THAT THESE ARE PART OF ONE  
6 PIECE OF AMMUNITION.

7 Q. FINALLY, I CALL YOUR ATTENTION TO STATE'S EXHIBIT 111,  
8 112, AND 110 DESIGNATED AS THREE EMPTY .45 CALIBER CASINGS  
9 RECOVERED AT THE SCENE. COULD YOU RELATE TO THE JURY WHAT  
10 DETERMINATIONS YOU MADE CONCERNING THOSE?

11 A. YES. THESE CARTRIDGE CASES WERE ALL FIRED BY THIS  
12 FIREARM AND NO OTHER FIREARM EVER MADE AND THEY'RE ALSO THE  
13 SAME BRAND AND TYPE AS THIS AMMUNITION I RECEIVED WITH THE  
14 FIREARM.

15 Q. ALL THE .45 AMMUNITION THAT YOU RECEIVED, WAS IT ALL OF  
16 THE SAME BRAND AND TYPE?

17 A. YOU CAN'T RELIABLY DETERMINE THE TYPE ON THE FIRED  
18 BULLETS, BUT THEY WERE CONSISTENT WITH THE CORE BOND  
19 AMMUNITION THAT I RECEIVED.

20 Q. AND THE SAME WITH THE .25, WERE THEY ALL CONSISTENT  
21 WITH THE WYN .25?

22 A. YES, THEY WERE.

23 Q. OKAY. THANK YOU. YOU CAN HAVE A SEAT. PURSUANT TO MY  
24 REQUEST OVER LUNCH, DID YOU CONTACT THE STATE LAW  
25 ENFORCEMENT DIVISION CONCERNING A CONCEALED WEAPONS PERMIT?

1 A. YES, I DID.

2 Q. DID YOU DETERMINE, DOES MR. WOODY HAVE A CONCEALED  
3 WEAPONS PERMIT IN SOUTH CAROLINA?

4 A. NO, HE DOES NOT.

5 MR. POPE: THANK YOU, MA'AM. ANSWER ANY QUESTIONS MR.  
6 DELGADO MAY HAVE.

7 MR. DELGADO: MS. CROMER, I HAVE NO QUESTIONS. THANK  
8 YOU.

9 THE COURT: THANK YOU, MA'AM. YOU MAY STAND DOWN,  
10 MA'AM. WOULD YOU LIKE THIS WITNESS EXCUSED, SOLICITOR?

11 MR. POPE: THE STATE WOULD.

12 THE COURT: ANY OBJECTION, MR. DELGADO?

13 MR. DELGADO: NO OBJECTION.

14 THE COURT: THANK YOU FOR COMING, MA'AM. YOU MAY BE  
15 EXCUSED AT THIS TIME.

16 MR. POPE: YOUR HONOR, THE STATE WOULD REST.

17 THE COURT: ALL RIGHT. IF COUNSEL WOULD APPROACH JUST  
18 A MINUTE FOR SCHEDULING PURPOSES.

19 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE PRESENCE  
20 OF THE COURT REPORTER AND THE JURY, BUT OUT OF THE HEARING  
21 OF THE COURT REPORTER AND THE JURY.)

22 THE COURT: MADAM FORELADY, MEMBERS OF THE JURY PANEL,  
23 IT'S NOW A LITTLE AFTER 3:30 BY THE COURTROOM CLOCK.  
24 THERE'S SOME MATTERS THAT I'M GOING TO NEED TO TAKE UP WITH  
25 COUNSEL OUT OF YOUR PRESENCE. THERE'S NO SENSE YOUR SITTING

1 BACK IN THE JURY ROOM WHILE WE DO THAT. SO WHAT WE'RE GOING  
2 TO DO IS -- IT'S GETTING FAIRLY LATE IN THE DAY. WE'RE  
3 GOING TO GO AHEAD AND ADJOURN FOR THE DAY, MAKE SURE YOU'RE  
4 NOT JUST SITTING BACK THERE FOR SOME CONSIDERABLE PERIOD OF  
5 TIME AND EXCUSE YOU FOR THE BALANCE OF THE DAY. I WOULD ASK  
6 THAT YOU BE BACK IN THE JURY ROOM IN THE MORNING AT 9:30  
7 READY TO GO AT THAT TIME.

8 ON THE OVERNIGHT RECESS, I WANT TO REMIND YOU AGAIN,  
9 PLEASE DO NOT DISCUSS THIS CASE AMONG YOURSELVES OR WITH  
10 ANYONE ELSE YOU MIGHT SEE ON AN OVERNIGHT RECESS FROM THE  
11 COURT AND THAT INCLUDES FAMILY, FRIENDS OR ANYONE ELSE YOU  
12 MIGHT TALK TO YOU -- TRY TO TALK TO YOU ABOUT IT. IF THEY  
13 TRY TO TALK TO YOU ABOUT IT, PLEASE DON'T DO THAT. JUST  
14 TELL THEM YOU CAN'T TALK ABOUT IT. YOU'LL DISCUSS IT WITH  
15 THEM AFTER THE TRIAL.

16 IF THERE SHOULD BE ANY MEDIA COVERAGE OF THIS TRIAL AND  
17 THERE MAY VERY WELL BE MEDIA COVERAGE OF THE TRIAL, PLEASE  
18 DO NOT READ, LISTEN TO OR WATCH ANY MEDIA ACCOUNT OF THIS  
19 TRIAL UNTIL AFTER IT'S OVER. IT'S VERY IMPORTANT THAT YOU  
20 MAKE YOUR DECISION SOLELY ON THE SWORN TESTIMONY AND  
21 EVIDENCE THAT COMES IN THROUGH THE TRIAL AND NOT FROM ANY  
22 OTHER SOURCE. THAT'S VERY, VERY IMPORTANT, SO PLEASE ABIDE  
23 BY THAT. THANK YOU. PLEASE HAVE A PLEASANT EVENING TONIGHT  
24 AND PLEASE BE BACK IN THE JURY ROOM IN THE MORNING AT 9:30.  
25 THANK YOU.

1 (JURY OUT AT 3:35 P.M.)

2 THE COURT: ALL RIGHT. COUNSEL, I THINK WHAT WE NEED  
3 TO DO IS DECIDE WHICH POTENTIAL WITNESS MIGHT BE CALLED.  
4 WELL, LET'S -- LET ME GET THE CART BEFORE THE HORSE. LET ME  
5 HEAR FROM EITHER PARTY AS TO ANY MOTIONS YOU MIGHT MAKE --  
6 WISH TO MAKE AT THIS TIME. ANYTHING FROM THE STATE?

7 MR. POPE: NOTHING FROM THE STATE, YOUR HONOR.

8 THE COURT: FROM THE DEFENSE, MR. DELGADO?

9 MR. DELGADO: YOUR HONOR, I RESPECTFULLY REQUEST THAT  
10 THE COURT DIRECT A VERDICT ON THE CHARGE OF CONSPIRACY.  
11 FIRST, THERE HAS BEEN NO TESTIMONY FROM ANY OTHER  
12 CONSPIRATOR, NUMBER 1. NUMBER 2, THE ONLY THING RELATING TO  
13 THE FACTS OF THE CASE INTRODUCED BY THE STATE IS A STATEMENT  
14 BY THE DEFENDANT. THE CONSPIRACY COUNT ALLEGES PROOF OF  
15 CONSPIRACY TO MURDER. SPECIFICALLY, MR. WOODY'S STATEMENT  
16 SAYS -- IF I CAN FIND IT. YOUR HONOR, I FORGET THE EXAMPLE  
17 OF THE IDENTIFICATION NUMBER POSED BY THE GOVERNMENT WHEN  
18 THEY INTRODUCED THIS THROUGH MS. BLACKWELDER YESTERDAY  
19 AFTER-- -- YESTERDAY EVENING.

20 YOUR HONOR, THERE IS NO INTENT EVIDENCED THROUGH THAT  
21 STATEMENT TO MURDER. THERE'S NOTHING TO INDICATE -- THE  
22 ONLY THING IN ANY SHAPE, FORM OR FASHION, AS I WAS DRIVING  
23 AT FIRST, BUT THEN I WAS TOO DRUNK TO DRIVE AND I PULLED  
24 OVER AND EITHER DESMOND OR DEBREZIO DROVE. I DON'T KNOW  
25 WHICH ONE. I THINK I GOT IN THE BACK SEAT. I DON'T

1 REMEMBER GETTING IN OR OUT OF THE CAR. 'BREZIO STATED THERE  
2 GOES THE N THAT SNUCKED ME. I HAD MY GUN IN MY PANTS. IT  
3 WAS A .45 AUTO. WHOEVER WAS DRIVING DID A U-TURN AND THEN  
4 WE GOT OUT OF THE CAR AND ALL I SAW WAS THIS N REACHING AND  
5 PULLING BACK. HE WAS LIKE REACHING IN HIS BACK AND WAS LIKE  
6 YO, AND HE WAS BACKING UP AND THEN MY GUN CAME OUT AND I  
7 FIRED THREE SHOTS. FURTHER IN THAT STATEMENT, 'BREZIO  
8 CALLED ME LIKE A COUPLE OF DAYS BEFORE AND TOLD ME ABOUT  
9 THIS N SNUCKING HIM AND I WAS LIKE DO I KNOW THE N AND HE  
10 TOLD ME THAT I HAD SEEN HIM ONE TIME IN STONE HAVEN. I  
11 THOUGHT THAT THIS WAS GOING TO BE A FIGHT, BUT THEY TOLD ME  
12 THAT THE DUDE WAS A DRUG DEALER AND HE HAD BAD BOYS.

13 YOUR HONOR, IT SEEMS TO ME THAT THAT CASE, UNDER THE  
14 RELATIVE CASE LAW, FROM MY RECOLLECTION OF THE CASE FROM  
15 ORANGEBURG COUNTY CLERK WAS SCHROCK, SOMETHING LIKE THAT, IT  
16 INDICATES WHETHER IT'S SUSPICION AS OPPOSED TO PROOF EVEN IN  
17 A LIGHT MOST FAVORABLE TO THE GOVERNMENT, WHERE THERE SIMPLY  
18 IS SUSPICION OF PROOF OF CONSPIRACY TO MURDER, NOT TO DO  
19 ANYTHING ELSE, CONSPIRACY TO MURDER, THE COURT MUST SHOW AND  
20 MUST DIRECT A VERDICT OF NOT GUILTY MEANING IN -- ON THAT  
21 CONSPIRACY COUNT. I ASK THE COURT TO DO THAT.

22 THE COURT: STATE WISH TO BE HEARD ON THE MOTION?

23 MR. POPE: YOUR HONOR, JUST BRIEFLY. IF YOU TAKE THAT  
24 IN CONJUNCTION WITH THE PHYSICAL EVIDENCE, THE ATTEMPT TO  
25 CATCH HIM BEFORE HE GOES IN THE APARTMENT. THEY BASICALLY

1 AMBUSHED HIM AND WORKING IN CONCERT, I THINK BASICALLY JUST  
2 WHAT MR. DELGADO READ WOULD BE SUFFICIENT TO CARRY THE --  
3 BUT THERE'S AN ABUNDANCE OF PHYSICAL EVIDENCE PAST THAT THAT  
4 THEY WERE WORKING IN CONCERT FOR THIS PURPOSE.

5 THE COURT: CONSPIRACY IS DEFINED AS A COMBINATION  
6 BETWEEN TWO OR MORE PERSONS FOR THE PURPOSE OF ACCOMPLISHING  
7 AN UNLAWFUL OBJECT OR UNLAWFUL OBJECT BY UNLAWFUL MEANS AND  
8 SO LOOKING AT THE EVIDENCE IN A LIGHT MOST FAVORABLE TO THE  
9 STATE, WHICH THE COURT IS REQUIRED TO DO ON A MOTION FOR  
10 DIRECTED VERDICT, I FIND THAT THERE IS SUBSTANTIAL EVIDENCE  
11 FROM WHICH THE JURY COULD INFER FROM THE EVIDENCE THAT THE  
12 STATE HAD PROVEN THE ELEMENTS OF THIS OFFENSE BEYOND A  
13 REASONABLE DOUBT.

14 NOW, YOU GOT THE STATEMENT OF THE DEFENDANT IN THIS  
15 CASE, MR. WOODY, AND HE INDICATES -- CONSPIRACY DOESN'T HAVE  
16 TO BE FOR ANY CONSIDERABLE PERIOD OF TIME AS I UNDERSTAND  
17 IT, BUT WE HAVE FROM HIS OWN STATEMENT THAT HE HAD DISCUSSED  
18 THE ALLEGED VICTIM AND SOMETHING THAT HAPPENED BETWEEN  
19 DEBREZIO CAMPBELL AND THE ALLEGED VICTIM A COUPLE OF DAYS  
20 BEFORE, THAT HE HAD DISCUSSED THAT WITH HIM AND SO -- AND ON  
21 THIS PARTICULAR NIGHT HIS STATEMENT WAS THAT WE SAW HIM,  
22 THAT WE TURNED AROUND AND WE WENT BACK THERE AND THEN WE'VE  
23 GOT TESTIMONY FROM A WITNESS, THE FIRST WITNESS THAT  
24 TESTIFIED, KIMBERLY BOWDEN. MS. BOWDEN TESTIFIED THAT SHE  
25 FOLLOWED THE ALLEGED VICTIM INTO THE PARKING AREA OR INTO

1 THE APARTMENT AREA AND INTO THE PARKING AREA OF THE  
2 APARTMENTS WHERE THEY BOTH LIVED CLOSE TO EACH OTHER, THAT  
3 SHE WAS FOLLOWING THE ALLEGED VICTIM IN AND THEN THIS CAR  
4 SUDDENLY TURNED AROUND AND GOT BEHIND HER RIGHT ON HER  
5 BUMPER WITH THE BRIGHT LIGHTS ON AND FOLLOWED HER ALL THE  
6 WAY IN, THAT SHE PARKED HER CAR, THE ALLEGED VICTIM PARKED  
7 HIS CAR, HE YELLED AT HER AND THEY STARTED WALKING TOWARDS  
8 EACH OTHER, HE WALKING DOWN FROM WHERE HE PARKED HIS CAR,  
9 SHE WAS WALKING UP FROM WHERE SHE PARKED HER CAR AND THEY  
10 WERE GOING TO ENGAGE JUST IN A GENERAL CONVERSATION.

11 HER TESTIMONY WAS THAT SHE SAW THIS OTHER CAR THEN COME  
12 ON UP BEHIND THE ALLEGED VICTIM AND SHE THOUGHT THAT WAS  
13 SOMEONE WHO JUST WANTED TO TALK HIM. SHE -- I THINK SHE  
14 SAID HOME BOYS OR SOMETHING, SOME PEOPLE, SOME FRIENDS OF  
15 HIS HE KNEW, I TAKE IT FROM HER TESTIMONY, AND THAT SHE  
16 DIDN'T WANT TO INTERFERE WITH THAT, SO SHE JUST TURNED  
17 AROUND AND WENT BACK TOWARDS HER APARTMENT AND THAT THE  
18 ALLEGED VICTIM WAS WALKING TOWARDS HER, HAD HIS BACK TO THEM  
19 AND TO HER KNOWLEDGE OR HER IMPRESSION WAS HE DIDN'T EVEN  
20 KNOW THEY WERE THERE. SHE SAYS ALMOST IMMEDIATELY THERE  
21 WERE GUNSHOTS.

22 WE'VE GOT TESTIMONY AND PHYSICAL EVIDENCE WHICH SHOWS  
23 THERE WERE TWO DIFFERENT WEAPONS USED BY TWO DIFFERENT  
24 PEOPLE, ONE I THINK IS INDICATED TO BE IN THE POSSESSION OF  
25 DEBREZIO CAMPBELL, THE OTHER ONE IN POSSESSION OF MR. WOODY

1 AND OWNED BY HIM, BUT THEN THERE'S PHYSICAL EVIDENCE THAT  
2 THE SHOTS WERE FIRED FROM BOTH OF THOSE WEAPONS THERE ON THE  
3 SCENE FROM SLIGHTLY DIFFERENT ANGLES AND FAIRLY CLOSE TO  
4 WHERE THE ALLEGED VICTIM LAY.

5 I THINK THERE IS SUBSTANTIAL EVIDENCE FROM WHICH THE  
6 JURY COULD INFER THAT THE PARTIES CONSPIRED TOGETHER TO  
7 COMMIT THE MURDER. I THINK THAT IT'S UP TO THE JURY.  
8 OBVIOUSLY THE COURT DOES NOT WEIGH THE EVIDENCE. THE JURY  
9 WEIGHS THE EVIDENCE. THE FUNCTION OF THE COURT IS TO DECIDE  
10 WHETHER THERE IS ANY SUBSTANTIAL EVIDENCE FROM WHICH THE  
11 JURY COULD INFER THAT THE STATE HAD PROVEN ITS CASE BEYOND A  
12 REASONABLE DOUBT. I FIND THERE IS SUBSTANTIAL EVIDENCE. I,  
13 THEREFORE, DENY YOUR MOTION FOR A DIRECTED VERDICT ON THE  
14 CRIMINAL CONSPIRACY ISSUE.

15 MR. DELGADO: YOUR HONOR, IS THERE ANYTHING ELSE I NEED  
16 TO DO TO PRESERVE THAT ISSUE?

17 THE COURT: I THINK YOU'VE SUBSTANTIALLY PRESERVED IT  
18 FOR THE RECORD; YES, SIR.

19 MR. DELGADO: THANK YOU. YOUR HONOR, SINCE OUR LAST IN  
20 CAMERA GET TOGETHER, THERE'S SOMETHING I WANT TO DISCUSS  
21 WITH MY CLIENT THAT I THINK THAT I NEED FIVE MINUTES WITH  
22 HIM. WOULD THAT -- BEFORE WE BRING IN THE CAMPBELLS.

23 THE COURT: WELL, LET ME BE SURE THAT I'VE GIVEN YOU  
24 EVERY OPPORTUNITY. ARE THERE ANY OTHER MOTIONS YOU WISH TO  
25 MAKE AT THIS TIME?

1 MR. DELGADO: OH, I'M SORRY, YOUR HONOR. NO, THERE'S  
2 NO OTHER MOTIONS.

3 THE COURT: NO OTHER MOTIONS. ALL RIGHT, SIR. YEAH, I  
4 WILL DO THAT. LET'S TAKE ABOUT FIVE MINUTES OR SO AND I'LL  
5 STEP BACK JUST A MINUTE AND THEN I DON'T KNOW HOW WE'RE  
6 GOING TO COORDINATE THIS. LET ME SAY I HAVE COUNSEL FOR THE  
7 CAMPBELLS PRESENT. WHICHEVER ONE IS PRESENT, I THINK WE  
8 NEED TO BRING THEM OUT AND PLACE THEM UNDER OATH AND FIND  
9 OUT FROM THEM THEIR POSITION AS TO THEIR TESTIFYING IN THIS  
10 CASE. WE'LL DO THAT ONE AT A TIME. I CERTAINLY WANT THE  
11 ATTORNEYS PRESENT WHEN WE'RE DOING THAT AND WHICHEVER ONE IS  
12 AVAILABLE FIRST, WE CAN DO THAT. LET'S JUST TAKE ABOUT FIVE  
13 OR TEN MINUTES, WE'LL COME BACK AND THEN WE'LL DO THAT.

14 (WHEREUPON, A BRIEF RECESS WAS OBSERVED.)

15 THE CLERK: SIR, PLEASE RAISE YOUR RIGHT HAND, PLACE  
16 YOUR LEFT HAND ON THE BIBLE.

17 (DESMOND CAMPBELL, BEING FIRST DULY SWORN, WAS EXAMINED  
18 BY THE COURT AND TESTIFIED AS FOLLOWS):

19 THE COURT: MR. CAMPBELL, PLEASE HAVE A SEAT IN THE  
20 WITNESS CHAIR SO WE -- WE NEED TO RECORD YOUR TESTIMONY.  
21 MR. CAMPBELL, WE ARE CLOSE TO THE POINT IN THIS TRIAL IN  
22 WHICH YOU'RE WELL AWARE THAT IS GOING ON AT THIS TIME AND  
23 YOU MAY BE CALLED AS A WITNESS IN THIS TRIAL. MY QUESTION  
24 TO YOU IS IF YOU ARE CALLED AS A WITNESS IN THIS TRIAL, DO  
25 YOU PLAN TO TESTIFY IN THIS TRIAL?

1 MR. DESMOND CAMPBELL: YES, SIR.

2 THE COURT: YOU PLAN TO TESTIFY?

3 MR. DESMOND CAMPBELL: (NODS HEAD AFFIRMATIVELY)

4 THE COURT: AND YOU'VE DISCUSSED THAT WITH YOUR  
5 ATTORNEY?

6 MR. DESMOND CAMPBELL: YES, SIR.

7 THE COURT: AND YOU PLAN TO TESTIFY; IS THAT CORRECT?

8 MR. DESMOND CAMPBELL: YES, SIR.

9 THE COURT: ALL RIGHT. THAT'S ALL THE QUESTIONS I HAVE  
10 AT THIS TIME FOR MR. CAMPBELL. ALL RIGHT. MR. CAMPBELL,  
11 YOU CAN STAND DOWN, SIR.

12 MR. POPE: WE HAVE NO QUESTIONS.

13 THE COURT: WELL, MY ONLY PURPOSE IN CALLING HIM AT  
14 THIS TIME IS JUST TO DETERMINE IF HE PLANS TO TESTIFY.  
15 THANK YOU.

16 NOW, I GUESS WE'LL HAVE TO THEN GET MR. DEBREZIO  
17 CAMPBELL OVER AND WE'LL DO THAT. ASK THEM HOW LONG IT WOULD  
18 TAKE TO GET DEBREZIO CAMPBELL OVER. HE NEEDS TO TAKE  
19 DESMOND CAMPBELL BACK AND BRING MR. DEBREZIO CAMPBELL. HOW  
20 LONG WILL IT TAKE FOR THAT?

21 MR. STALEY: YOUR HONOR, MAY I TAKE A MATTER UP WITH  
22 YOU IN CHAMBERS?

23 THE COURT: YES, SIR.

24 (WHEREUPON, AN IN CAMERA HEARING WAS HELD OUT OF THE  
25 PRESENCE OF THE COURT REPORTER.)

1 THE CLERK: PLEASE RAISE YOUR RIGHT HAND, PLACE YOUR  
2 LEFT HAND ON THE BIBLE.

3 (DEBREZIO CAMPBELL, BEING FIRST DULY SWORN, WAS  
4 EXAMINED AND TESTIFIED AS FOLLOWS):

5 THE COURT: HAVE A SEAT RIGHT HERE, PLEASE, SIR, IN THE  
6 WITNESS STAND. SIR, FOR THE RECORD YOU'RE DEBREZIO  
7 CAMPBELL; IS THAT CORRECT?

8 MR. DEBREZIO CAMPBELL: YES.

9 THE COURT: MR. CAMPBELL, WE'RE TO THE PART OF THE  
10 TRIAL, AND YOU'RE AWARE OF THE TRIAL THAT'S GOING ON, AND  
11 WE'RE TO THAT PART OF THE TRIAL OR SOON WILL BE WHERE YOU  
12 MAY BE CALLED AS A WITNESS IN THIS CASE. IF YOU WERE TO BE  
13 CALLED AS A WITNESS IN THIS CASE BY EITHER SIDE OF THE CASE,  
14 DO YOU PLAN TO TESTIFY IN THE CASE?

15 MR. DEBREZIO CAMPBELL: NO.

16 THE COURT: YOU DO NOT PLAN TO TESTIFY?

17 MR. DEBREZIO CAMPBELL: NO.

18 THE COURT: ALL RIGHT. THANK YOU, SIR. THAT'S THE  
19 ONLY QUESTION I HAD FOR TODAY. THAT WAS OUR ONLY PURPOSE,  
20 TO DETERMINE WHETHER YOU PLAN TO TESTIFY OR NOT TESTIFY.  
21 ALL RIGHT. THANK YOU, SIR. YOU MAY RETURN. THANK YOU.  
22 YOU WOULD -- IF YOU WERE TO BE CALLED, IT WOULD BE IN ALL  
23 LIKELIHOOD TOMORROW, BUT YOU MAY NOT BE CALLED AS A WITNESS.  
24 OKAY.

25 DEPUTY: SO I CAN SEND HIM BACK NOW?

1 THE COURT: YES, SIR. NOW WE KNOW WHERE WE ARE AND  
2 IT'S NOT EXACTLY WHAT YOU EXPECTED, IS IT, COUNSEL?

3 MR. DELGADO: YOUR HONOR, I STOPPED EXPECTING ANYTHING  
4 IN THIS CASE.

5 THE COURT: OKAY.

6 MR. DELGADO: CAN WE NOW TALK ABOUT WHETHER OR NOT HIS  
7 STATEMENTS COME IN, IN OTHER WORDS, UNDER THE RULE AS  
8 OPPOSED TO THE -- IF I SAY THE RULE, I GUESS I'M TALKING  
9 ABOUT THE NON-HEARSAY STATEMENT BY A WITNESS WHO'S  
10 UNFAVORABLE OR THE CONSTITUTIONAL ASPECT OF CONFRONTATION OR  
11 OF DUE PROCESS.

12 THE COURT: LET ME EXPLAIN, THERE ARE A COUPLE OF  
13 CONCERNS. WE'RE BREAKING INTO SOME NEW AREA OF THE LAW.  
14 I'M PRETTY MUCH UP ON IT. I'M NOT SURE COUNSEL IS UP ON IT.  
15 HERE'S THE THING: IT'S NOT -- YOU'RE NOT TALKING ABOUT A  
16 STATEMENT AGAINST THE INTEREST OF THE DEFENDANT IN THIS  
17 CASE. YOU'RE NOT TALKING ABOUT THAT, SO YOU -- IF YOU WERE  
18 TALKING ABOUT A STATEMENT WHICH WOULD BE HARMFUL TO THE  
19 DEFENDANT, OBVIOUSLY YOU'D WANT THE RIGHT TO CONFRONTATION  
20 WITH REGARD TO THAT. IS THAT CORRECT, COUNSEL?

21 MR. DELGADO: YES, SIR.

22 THE COURT: IN THIS CASE WHAT YOU'RE SEEKING TO HAVE  
23 INTRODUCED IS A STATEMENT BY DEBREZIO CAMPBELL WHICH IS --  
24 MAY OR MAY NOT BE, I ASSUME, AS FAVORABLE TO YOU. SO YOU'RE  
25 SEEKING TO GET THAT IN AS OPPOSED TO TRYING TO STOP A

1 STATEMENT FROM COMING IN; IS THAT CORRECT

2 MR. DELGADO: THAT'S CORRECT.

3 THE COURT: SO OBVIOUSLY IT'S NOT A CONFRONTATION ISSUE  
4 WITH YOU; CORRECT?

5 MR. DELGADO: THAT'S CORRECT.

6 THE COURT: THAT'S RIGHT. BUT IT IS A CONFRONTATION  
7 ISSUE FOR THE STATE. SO THE REAL QUESTION IS YOU WOULD SAY  
8 -- SAID TO ME EARLIER THAT YOU THINK IT'S A SIXTH AMENDMENT  
9 ISSUE ONLY INSOFAR AS THE DEFENDANT IS CONCERNED, BUT I SEE  
10 THIS AS BEING A NEW EVIDENCE RULE ESSENTIALLY, NOT A RULE AS  
11 SUCH, BUT AN EVIDENCE -- PURSUANT TO CASE LAW WHICH SAYS  
12 THAT -- CHANGES THE LAW AS WE'VE KNOWN IT FOR YEARS AND  
13 WHEREAS PREVIOUSLY IF A WITNESS IS UNAVAILABLE TO TESTIFY  
14 FOR WHATEVER REASON, INTENTIONALLY OR OTHERWISE. MAYBE THEY  
15 WERE DEAD, MAYBE THEY'VE MOVED AWAY YOU COULDN'T LOCATE  
16 THEM, BUT THEY HAD MADE A STATEMENT UNDER OATH. THE OTHER  
17 SIDE OF THAT STATEMENT HAD A RIGHT OF CONFRONTATION OF THAT  
18 WITNESS TO CROSS-EXAMINE THAT PERSON CONCERNING THAT  
19 STATEMENT AND THAT'S AN IMPORTANT RIGHT. THERE ARE  
20 EXCEPTIONS TO THAT THAT THE COURT COULD CONSIDER. ONE OF  
21 THOSE WAS RELIABILITY. OTHERS WOULD BE USUAL EXCEPTIONS TO  
22 THE HEARSAY RULE WHICH MIGHT BE PRESENT SENSE IMPRESSION OR  
23 OTHER VARIOUS AND SUNDRY EXCEPTIONS TO THE RULE. ONE OF  
24 THOSE, OF COURSE, JUST BEING IF THE COURT FOUND THAT THE  
25 STATEMENT WAS OTHERWISE RELIABLE. IT MIGHT BE A STATEMENT

1 AGAINST INTEREST. VARIOUS OTHER REASONS THAT THE COURT  
2 MIGHT LOOK TO SEE IF IT WAS A RELIABLE STATEMENT.

3 AS I UNDERSTAND THE LAW, -- LET ME FIND THE CASES.  
4 UNITED STATES SUPREME COURT IN CRAWFORD VERSUS WASHINGTON  
5 ESSENTIALLY CHANGED THE LAW WITH REGARD TO ADMISSION OF  
6 HEARSAY STATEMENTS WHEN A WITNESS WAS OTHERWISE UNAVAILABLE  
7 FOR TESTIFYING TO BE CROSS-EXAMINED ON A STATEMENT AND THAT  
8 CASE WAS DECIDED MARCH THE 8TH, 2004, IS FOUND AT 124 2d.  
9 SUPREME COURT 1354 541 U.S. 36 158 LAWYER'S EDITION 2d. 177,  
10 ET CETERA. IT'S ALSO CITED UNDER THE 63 FEDERAL RULES OF  
11 EVIDENCE SERVICE IN 1077.

12 IN THIS CASE, ESSENTIALLY WHAT THE UNITED STATES  
13 SUPREME COURT SAYS IS THAT THEY WERE GOING TO DIVIDE THAT  
14 THE USUAL RULE THAT WAS OBSERVED BY THE COURTS, I THINK, IN  
15 THE ROBERTS CASE THAT HAD BEEN OBSERVED FOR A NUMBER OF  
16 YEARS WOULD NO LONGER BE OBSERVED AND THEY WOULD CHANGE THE  
17 RULE INSOFAR AS OUT-OF-COURT STATEMENTS MADE BY A PERSON AND  
18 THE DETERMINATION OF WHETHER THERE WAS A RIGHT TO  
19 CONFRONTATION, WHETHER THE STATEMENT COULD BE ADMITTED OR  
20 NOT, WOULD DEPEND ON WHETHER THE STATEMENT WAS CLASSIFIED AS  
21 TESTIMONY OR NON-TESTIMONY AND THE COURT DIDN'T GO INTO A  
22 GREAT DEAL OF DETAIL AND THE GUIDANCE IS NOT ALTOGETHER  
23 COMPLETE INSOFAR AS THAT CASE IS CONCERNED. SOME CASES ARE  
24 GOING TO HAVE TO BE TAKEN ON A CASE-BY-CASE BASIS ON SOME OF  
25 THESE OTHER HEARSAY ISSUES AS TO WHETHER THEY WERE

1 TESTIMONIAL OR NON-TESTIMONIAL.

2 MOST CERTAINLY THOSE CASES WHICH WERE INTENDED TO BE  
3 USED IN COURT ARE TESTIMONIAL AND, THEREFORE, THE  
4 CONFRONTATION REQUIREMENTS OF THE SIXTH AMENDMENT ARE  
5 REQUIRED AND SO YOU CANNOT PUT IN A STATEMENT BY A PERSON  
6 WHO IS OTHERWISE UNAVAILABLE TO TESTIFY IF IT WAS A  
7 TESTIMONIAL STATEMENT, THAT IS, INTENDED OR AT THE TIME IT  
8 WAS GIVEN THERE WAS AN INTENTION OR UNDERSTANDING THAT IT  
9 WOULD PROBABLY BE USED IN COURT. SO THAT'S THE LINE.

10 NOW, WHERE CASES, INDIVIDUAL SITUATIONS, FALL ON THE  
11 LINE, ABOVE THE LINE, OR BELOW THE LINE IS GOING TO HAVE TO  
12 DONE ON A CASE-BY-CASE BASIS, BUT I WOULD SAY THAT CERTAINLY  
13 THERE'S NO QUESTION BUT WHAT STATEMENTS MADE WITH THE  
14 UNDERSTANDING THEY'RE PROBABLY GOING TO BE USED IN COURT AND  
15 INTENDED FOR COURT ARE TESTIMONIAL IN NATURE AND, THEREFORE,  
16 SUBJECT TO THE CONFRONTATION RULE, NOT ADMISSIBLE UNLESS THE  
17 WITNESS IS AVAILABLE FOR CROSS-EXAMINATION BY THE OTHER SIDE  
18 OF THE ISSUE. SO THAT'S THE WAY I SEE IT.

19 NOW, AFTER CRAWFORD WAS DECIDED -- LET ME GET THESE  
20 SEPARATED OUT. THAT'S IN ANOTHER ISSUE. OUR STATE SUPREME  
21 COURT DECIDED THE STATE VERSUS DUSHUN, D-U-S-H-U-N, STATEN,  
22 S-T-A-T-E-N, WHICH CASE WAS DECIDED MARCH THE 7TH, 2005 IN  
23 OPINION NUMBER 3955. THIS WAS ONLY DECIDED LESS THAN TWO  
24 MONTHS AGO. I BEG YOUR PARDON. THIS IS A COURT OF APPEALS  
25 CASE WRITTEN BY JUDGE ANDERSON AND IT GOES THROUGH A HISTORY

1 OF THE CONFRONTATION CLAUSE AND ADMISSIBILITY OF STATEMENTS  
2 THAT WOULD OTHERWISE BE HEARSAY STATEMENTS, AND READING FROM  
3 PAGE FOUR OF THE COURT'S OPINION IN THAT CASE, IT STATES IN  
4 REJECTING THE ROBERTS, WHICH IS THE PRIOR CASE THAT WOULD  
5 GOVERN THE RELIABILITY ISSUE INsofar AS OUT-OF-COURT  
6 STATEMENTS AND IT SAYS, IN REJECTING THE ROBERTS INDICIA  
7 RELIABILITY TEST, THE COURT HELD -- THIS IS IN, OF COURSE,  
8 THE WASHINGTON VERSUS CRAWFORD CASE OR CRAWFORD VERSUS  
9 WASHINGTON, I BEG YOUR PARDON, THAT THE SIXTH AMENDMENT BARS  
10 AN OUT-OF-COURT STATEMENT BY A WITNESS THAT IS TESTIMONIAL  
11 IN NATURE UNLESS THE WITNESS IS UNAVAILABLE AND THE  
12 DEFENDANT HAD A PRIOR OPPORTUNITY TO CROSS-EXAMINE HIM.  
13 WHERE TESTIMONY OR STATEMENTS ARE AT ISSUE, THE ONLY  
14 INDICIUM OF RELIABILITY SUFFICIENT TO SATISFY CONSTITUTIONAL  
15 DEMANDS IS THE ONE THE CONSTITUTION ACTUALLY PRESCRIBES,  
16 CONFRONTATION. FOR TESTIMONIAL STATEMENTS THE COURT  
17 FIGURATIVELY ERECTED A STOP SIGN AS TO ADMISSIBILITY IN THE  
18 ABSENCE OF CONFRONTATION, AND THERE HE CITES AUTHORITY THERE  
19 IN THE OPINION FOR THAT OPINION. FOR STATEMENTS IN THIS  
20 CATEGORY, CRAWFORD FIRMLY REJECTED THE RELIABILITY OR  
21 TRUSTWORTHINESS MOTIVE ANALYSIS ADOPTED BY OHIO VERSUS  
22 ROBERTS.

23 THE COURT GOES ON ON PAGE FIVE, ITEM B, IN THE WAKE OF  
24 THE CRAWFORD DECISION, THE CRUCIAL INQUIRY AS WHETHER A  
25 PARTICULAR STATEMENT IS TESTIMONIAL OR NON-TESTIMONIAL, MANY

1 COURTS ARE GRAPPLING WITH THE DISTINCTION CRAWFORD CREATED  
2 BETWEEN TESTIMONIAL AND NON-TESTIMONIAL HEARSAY, AND HE  
3 CITES SEVERAL ARTICLES. AND HE GIVES THIS TEST FROM THE 56  
4 SOUTH CAROLINA LAW REVIEW ARTICLE, PAGE 185 IN 2004. IN  
5 DETERMINING WHETHER A STATEMENT IS TESTIMONIAL OR NON-  
6 TESTIMONIAL, COURTS ARE CONSISTENTLY APPLYING THE CRAWFORD  
7 TWO-PRONGED ANALYSIS TO OTHERWISE ADMISSIBLE HEARSAY  
8 STATEMENTS. FIRST, WAS THE STATEMENT MADE TO A GOVERNMENT  
9 AGENT OR IN RESPONSE TO QUESTIONING FROM A GOVERNMENTAL  
10 AGENT. SECOND, WOULD THE DECLARANT EXPECT HIS OR HER  
11 STATEMENT TO LATER BE USED AT TRIAL. THAT'S THE TWO-PRONG  
12 TEST NOW WITH REGARD TO WHETHER IT'S A TESTIMONIAL  
13 STATEMENT.

14 AS I SAY, THE COURTS ARE -- THEY HAVE TO BE DECIDED ON  
15 A CASE-BY-CASE BASIS, BUT CERTAINLY I THINK STATEMENTS MADE  
16 OR EXPECTED TO BE USED IN COURT CERTAINLY WOULD BE  
17 CONSIDERED TO BE TESTIMONIAL IN NATURE AS OPPOSED TO AN  
18 EXCITED UTTERANCE OR A STATEMENT JUST MADE IN THE COURSE OF  
19 JUST STANDING AND TALKING BETWEEN INDIVIDUALS AND THAT SORT  
20 OF THING.

21 NOW, THE QUESTION IN THE COURT'S MIND, THOUGH, IS --  
22 AND LET'S TAKE THE FACTUAL SITUATION IN THIS CASE AND THAT  
23 IS WHERE THE DEFEND- -- EXCUSE ME -- THE WITNESS, WHO IS A  
24 CO-DEFENDANT IN THIS CASE ORIGINALLY, GAVE A STATEMENT UNDER  
25 OATH, ALLEGEDLY GAVE A STATEMENT, VOLUNTARY STATEMENT, UNDER

1 OATH TO THE STATE AND THEN LATER ACKNOWLEDGED THE  
2 TRUTHFULNESS OF THAT STATEMENT AND THE FACTS STATED THEREIN  
3 IN A PLEA HEARING UNDER OATH BEFORE THE COURT. SO THERE ARE  
4 TWO SEPARATE OCCASIONS OF MAKING STATEMENTS UNDER OATH.  
5 THEN MAKES A STATEMENT THAT MAY NOT BE IN AGREEMENT OR  
6 CONCERT WITH THOSE TWO STATEMENTS AND THEN, THEREFORE, IS  
7 THE STATE ENTITLED TO THE SAME PRIVILEGE OF CONFRONTATION  
8 WITH REGARD TO A STATEMENT WHICH IS IN CONTRADICTION OF THE  
9 STATEMENT, SWORN STATEMENT PREVIOUSLY GIVEN WHICH MAY BE  
10 OFFERED BY THE DEFENSE. CERTAINLY IT PUTS THE STATE AT A  
11 DECIDED DISADVANTAGE IF A STATEMENT, LATER STATEMENT, WAS  
12 ENTERED INTO EVIDENCE AND THEY HAD NO RIGHT TO CROSS-EXAMINE  
13 THE WITNESS AS TO WHY THAT WITNESS CHANGED THAT STATEMENT OR  
14 WHAT CHANGED FROM THE TIME THEY GAVE PREVIOUS SWORN  
15 STATEMENTS.

16 NOW, OBVIOUSLY THE STATE IS PLACED AT A DISTINCT  
17 DISADVANTAGE IN THAT CASE BY NOT BEING ABLE TO ASK THOSE  
18 QUESTIONS, THEREFORE, THE RIGHT OF CONFRONTATION OF THE  
19 WITNESS BEFORE PUTTING THE WITNESS'S STATEMENT IN. SO I  
20 DON'T THINK THERE'S ANY QUESTION BUT WHAT THE STATE IS  
21 DISADVANTAGED IN THAT REGARD.

22 NOW, THE QUESTION IS, I WOULD ASSUME, WHETHER THE SIXTH  
23 AMENDMENT RIGHT TO CONFRONTATION, THEN, ESSENTIALLY UNDER  
24 CRAWFORD VERSUS WASHINGTON IS AN EVIDENTIARY WAY TO RECEIVE  
25 EVIDENCE OR NOT RECEIVE EVIDENCE THAT APPLIES TO BOTH THE

1 STATE AND THE DEFENDANT IN THE CASE OR ONLY APPLIES AGAINST  
2 THE STATE IN FAVOR OF THE DEFENDANT. I GUESS THAT'S THE  
3 ISSUE. IF IT APPLIES TO BOTH THE STATE AND THE DEFENDANT,  
4 THEN THE STATEMENT WOULD APPEAR TO THE COURT, AND I'LL BE  
5 GLAD TO HEAR FROM THEM ON IT, A TESTIMONIAL STATEMENT IN  
6 NATURE, IT WOULD NOT BE ADMISSIBLE WITHOUT THE RIGHT TO  
7 CROSS-EXAMINE.

8 NOW, THIS IS A LITTLE UNUSUAL BECAUSE IT IS NOT JUST A  
9 STATEMENT GIVEN TO THE DEFENSE AND THE WITNESS IS NOT  
10 AVAILABLE ANY MORE. IT'S NOT JUST THAT THAT THE DEFENSE  
11 WOULD SEEK TO ENTER. IT'S A STATEMENT WHICH MAY BE --  
12 CONTROVERT PREVIOUS STATEMENTS GIVEN TO THE STATE AND TO THE  
13 COURT UNDER OATH AND SO -- AND THAT ADDS ITS OWN FACTUAL  
14 DIFFERENCES. SO THAT'S -- THAT'S WHERE I SEE WE ARE.

15 IT WOULD APPEAR TO ME THAT THIS IS ESSENTIALLY AN  
16 EVIDENTIARY ISSUE THAT OUGHT TO APPLY ACROSS THE BOARD, THAT  
17 IS, IF IT'S AN EVIDENTIARY ISSUE AND THE COURT IS NO LONGER  
18 TO RECEIVE STATEMENTS MADE BY AN OUT-OF-COURT DECLARANT,  
19 WHICH WOULD BE CONSIDERED AS TESTIMONIAL IN NATURE, THEN IF  
20 THE COURT DOESN'T ADMIT THOSE STATEMENTS WITHOUT THE RIGHT  
21 TO CONFRONTATION OR CROSS-EXAMINE ON THAT STATEMENT, IF IT'S  
22 EVIDENTIARY IN NATURE, THEN IT OUGHT TO APPLY TO BOTH SIDES,  
23 BOTH THE STATE AND THE DEFENDANT, AND IF IT IS NOT AND IS  
24 ONLY A CONSTITUTIONAL RIGHT OF THE DEFENDANT NOT TO HAVE IT  
25 ADMITTED, THEN THE STATE WOULDN'T HAVE THAT RIGHT. THAT'S

1 THE ISSUE. I'LL BE GLAD TO HEAR FROM YOU ON IT. AND STATE  
2 WISH TO BE HEARD ON IT?

3 MR. POPE: YES, SIR. I'M DOING BASICALLY THE SAME  
4 THING YOU'VE DONE IN THE COURT IS TRYING TO READ THE LATEST,  
5 WHICH WAS STATE VERSUS DAVIS.

6 THE COURT: WELL, I WAS GOING GO INTO THAT AND I DO  
7 HAVE STATE VERSUS DAVIS.

8 MR. POPE: AND MIRRORED MANY OF THE SAME THINGS YOU  
9 WERE QUOTING. I GUESS IN WRESTLING FROM OUR CONVERSATIONS  
10 AND WHAT'S HAPPENED THE LAST WEEK OR TWO AND COMING TO TERMS  
11 WITH WHERE WE'RE AT, AS WE STAND HERE TODAY AND, AGAIN, YOUR  
12 HONOR, I APOLOGIZE I'M KIND OF RECITING THE SAME THINGS YOU  
13 SAID. DESMOND CAMPBELL HAS NOW SAID THAT HE WILL TESTIFY.  
14 DESMOND CAMPBELL HAS MADE A WRITTEN STATEMENT TO LAW  
15 ENFORCEMENT. HE IS -- A SWORN STATEMENT TO LAW ENFORCEMENT.  
16 CERTAINLY THAT'S TESTIMONY. HE HAS AFFIRMED THAT STATEMENT  
17 IN COURT AT SOME SUBSEQUENT TIME AND THEN INDEPENDENTLY THE  
18 INFORMATION THAT WE'VE PROVIDED MR. DELGADO IN PREPARATION  
19 FOR COURT WHEN HE SPOKE TO MR. THOMPSON AND MS. COLLINS MADE  
20 THE NOTES OF THE INFORMATION WE PROVIDED TO MR. DELGADO THAT  
21 HE WOULD LIKE TO GET IN, I SUBMIT THAT THAT ALSO IS  
22 TESTIMONIAL, BECAUSE IT WAS CLEARLY IN PREPARATION FOR  
23 COURT. THAT WAS THE WHOLE PURPOSE FOR TALKING TO HIM AND,  
24 OF COURSE, WE WERE REQUIRED UNDER A WHOLE NEW -- I MEAN,  
25 DIFFERENT SET OF RULES TO DISCLOSE THAT UNDER KYLES TO THE

1 DEFENSE. SO RIGHT NOW, AT LEAST AS WE STAND TODAY, THIS  
2 AFTERNOON, MR. DESMOND CAMPBELL I WOULD SUBMIT COMES,  
3 TESTIFIES TO WHATEVER HE MAY BE ASKED, IT WOULD BE SUBJECT  
4 TO CROSS OR DIRECTION OR WHATEVER THE CASE MAY BE FROM MR.  
5 DELGADO OR THE STATE ON THE PREVIOUS STATEMENTS HE'S MADE,  
6 BECAUSE HE'D BE PRESENT AND WE'D BE ABLE TO ADDRESS THAT.

7 AS TO DEBREZIO CAMPBELL, I WOULD SUBMIT FOLLOWING THE  
8 SAME LOGIC THAT BOTH ARE TESTIMONIAL. AND I SAY BOTH, OF  
9 COURSE, THERE'S THE STATEMENT, THE AFFIRMATION AND THEN --  
10 THE SAME STATEMENT AND THEN THE SIMILAR SITUATION PREPARING  
11 FOR COURT AND THE JAIL STATEMENT. I WOULD SUBMIT THAT  
12 THAT'S TESTIMONIAL ALSO. AND SO THE QUESTION, AT LEAST  
13 SETTING CRAWFORD ASIDE JUST A SECOND AND THE WHOLE ISSUE OF  
14 WHETHER ONLY THE DEFENDANT HAS A CONFRONTATION CLAUSE  
15 OPPORTUNITY, I'M NOT SURE THAT THE -- MR. DEBREZIO  
16 CAMPBELL'S SECOND STATEMENT -- AND CERTAINLY I'D AGREE I  
17 CAN'T USE HIS FIRST STATEMENT IF HE'S NOT HERE. I CLEARLY  
18 UNDER CRAWFORD CAN'T USE THAT STATEMENT IF HE'S NOT HERE,  
19 BUT HIS SECOND STATEMENT, IF YOU LOOK AT RULE 804 UNDER  
20 HEARSAY, THE FIRST THING WE DECIDE IS HE UNAVAILABLE AND I'D  
21 SUBMIT, YOU KNOW, EVEN THOUGH WE MAY NOT BE ARTICULATING IT  
22 EXACTLY UNDER WHETHER HE'S PLEADING THE FIFTH OR NOT  
23 TESTIFYING OR WHETHER YOU'VE ORDERED HIM TO TESTIFY, I'D  
24 SUBMIT FOR PURPOSE OF THIS ARGUMENT NOW THAT HE IS  
25 SUFFICIENTLY UNAVAILABLE FOR THE PURPOSE OF THIS ARGUMENT.

1 THE COURT: I THINK THAT'S CORRECT.

2 MR. POPE: OKAY. THEN THE ISSUE COMES, THEN, OKAY IF  
3 HE IS UNAVAILABLE, WHERE IS HIS EXCEPTION? OF COURSE,  
4 ARGUABLY IF YOU LOOK UNDER (B), EXCEPTION TO HEARSAY, ONE OF  
5 THEM IS A STATEMENT AGAINST INTEREST AND IF YOU SAY THE FACT  
6 THAT HE NOW SAYS IN ADDITION TO ALL THE OTHER THINGS HE SAID  
7 AGAINST INTEREST, IF YOU NOW SAY THIS LATTER STATEMENT WHERE  
8 HE NOW SAYS THAT WHATEVER THE CONTENT OF HIS SECOND  
9 STATEMENT WAS THAT IT SOMEHOW -- THAT'S AGAINST INTEREST.  
10 WELL, IF YOU READ THAT IN ITS ENTIRETY, THE STATEMENT WHICH  
11 AT THE TIME OF THE MAKING SO FAR CONTRARY TO PECUNIARY AND  
12 PROPRIETARY INTERESTS ARE SO FAR INTENDED TO SUBJECT THE  
13 DECLARANT TO CIVIL OR CRIMINAL LIABILITY TO RENDER INVALID A  
14 CLAIM BY THE DEFENDANT AGAINST ANOTHER THAT A REASONABLE  
15 PERSON IN DECLARANT'S POSITION WOULD NOT HAVE MADE THE  
16 STATEMENT UNLESS BELIEVING IT TO BE TRUE, IN OTHER WORDS, SO  
17 COUNTER HIS INTEREST.

18 ONE, I SUBMIT BASED ON WHERE HE'S ALREADY GONE AND  
19 THROUGH THE STATEMENTS HE'S ALREADY MADE, IT'S NOT  
20 NECESSARILY SO FAR REMOVED FROM HIS INTEREST, BUT EVEN SO,  
21 THAT STATEMENT -- I'M NOW TALKING ABOUT THE SECOND STATEMENT  
22 -- TENDING TO EXPOSE THE DECLARANT, DEBREZIO CAMPBELL, TO  
23 CRIMINAL LIABILITY AND OFFER TO EXCULPATE THE ACCUSED IS NOT  
24 ADMISSIBLE UNLESS CORROBORATING CIRCUMSTANCES CLEARLY  
25 INDICATE -- CLEARLY INDICATE THE TRUSTWORTHINESS OF THE

1 STATEMENT.

2 I WOULD SAY INDEPENDENT OF CRAWFORD, ON THAT ISSUE ON  
3 THAT JAIL STATEMENT, YOU KNOW, THE FACT THAT HE LATER CAME  
4 UP WITH A DIFFERENT STORY TO HELP OUT MR. WOODY OR WHATEVER  
5 HIS MOTIVATION WAS -- THAT'S OBVIOUSLY WHY MR. DELGADO WOULD  
6 WANT IT TENDERED -- IS NOT ADMISSIBLE UNLESS ITS  
7 CORROBORATED CIRCUMSTANCES CLEARLY INDICATE THE  
8 TRUSTWORTHINESS. I WOULD SUBMIT THAT THE COURT CAN MAKE  
9 THIS DETERMINATION HERE AND REMOVES IT FROM BEING A CRAWFORD  
10 ISSUE BY MAKING THE DETERMINATION THAT IT NEVER GETS PAST  
11 THE HEARSAY SECTION FOR TRUSTWORTHINESS TO BE ABLE TO BE  
12 TENDERED WITHOUT HIM BEING PRESENT OR NOT AND IT TAKES YOU  
13 AWAY FROM THE CONFRONTATION ISSUE TOTALLY.

14 MR. DELGADO: YOUR HONOR, I THINK I'M SAILING IN SOME  
15 REAL MURKY WATERS HERE. I'D PROBABLY BE BETTER PREPARED FOR  
16 THIS TOMORROW. ALL I KNOW IS THAT I'VE SEEN SOME WEBSITES  
17 WITH CRAWFORD DECISIONS FROM, AS YOU'VE SEEN, ON A CASE-BY-  
18 CASE BASIS BECAUSE I THINK THAT'S HOW THIS IS MADE. I THINK  
19 I'LL BE BETTER PREPARED TO ARGUE THAT TO YOU TOMORROW.

20 IT JUST SEEMS TO ME, YOUR HONOR, THAT THE STRICT  
21 CONSTRUCTIONIST THAT I AM, THE SIXTH AMENDMENT SAYS IN ALL  
22 CRIMINAL PROSECUTIONS THE ACCUSED SHALL ENJOY THE RIGHT.  
23 DOESN'T SAY ANYTHING ABOUT THE GOVERNMENT. I'M NOT TRYING  
24 TO TALK ABOUT FUNDAMENTAL FAIRNESS. I'M SIMPLY SAYING IF  
25 THAT CONSTITUTIONAL AMENDMENT SAYS WHAT IT SAYS, I'M NOT

1 TALKING ABOUT THE EVIDENCE RULES, IN ALL CRIMINAL  
2 PROSECUTION THE ACCUSED SHALL ENJOY THE RIGHT TO A SPEEDY,  
3 PUBLIC TRIAL BY AN IMPARTIAL JURY, IN THE STATE AND DISTRICT  
4 WHERE THE CRIME WAS COMMITTED, IT SHALL HAVE BEEN PREVIOUSLY  
5 ASCERTAINED BY LAW AND BE INFORMED OF NATURE AND CAUSE OF  
6 THE ACCUSATION TO BE CONFRONTED WITH THE WITNESSES AGAINST  
7 HIM, THAT HIM HAS TO BE --

8 THE COURT: ASSUMING -- I WOULD AGREE WITH YOU. MR.  
9 CAMPBELL'S NOT A WITNESS AGAINST HIM.

10 MR. DELGADO: I UNDERSTAND.

11 THE COURT: HE'S NOT A WITNESS AGAINST HIM. IF THEY  
12 WERE TRYING TO PUT HIS STATEMENTS IN, HE WOULD BE. THEY'RE  
13 NOT TRYING TO PUT HIS STATEMENT -- THEY UNDERSTAND THAT THEY  
14 CANNOT PUT THEM IN BECAUSE OF VIOLATION OF HIS SIXTH  
15 AMENDMENT RIGHT TO CONFRONTATION. NO QUESTION ABOUT THAT.  
16 THEY'RE NOT THE ONE TRYING TO GET THE STATEMENT IN, THE  
17 DEFENDANT'S TRYING TO GET IT IN.

18 MR. DELGADO: YES, SIR.

19 THE COURT: SO IT'S NOT A VIOLATION OF HIS  
20 CONFRONTATION RIGHTS OF A STATEMENT THAT THE STATE IS  
21 SEEKING TO PUT IN.

22 MR. DELGADO: WELL, GOING ON---

23 THE COURT: YES, SIR.

24 MR. DELGADO: ---TO SAY IN THE EFFORT TO COMPULSORY  
25 PROCESS FOR OBTAINING WITNESSES IN HIS FAVOR. NOW, I THINK

1 WE'VE SAID THAT —

2 THE COURT: COMPULSORY PROCESS TO HAVE WITNESSES IN HIS  
3 FAVOR. THAT'S RIGHT. OKAY.

4 MR. DELGADO: IN OTHER WORDS, DOES HE HAVE A RIGHT TO  
5 CALL THIS MAN, BOTH OF THEM. LET'S TALK ABOUT THEM ONE AT A  
6 TIME. IF MR. DESMOND CAMPBELL COMES IN, WHAT THEY WILL  
7 ATTEMPT TO SAY IS WHAT HE HEARD HE WASN'T A PARTY TO. WELL,  
8 LET ME BACK UP EVEN FURTHER, YOUR HONOR.

9 YOUR HONOR, FOR THE SANCTITY OF THIS RECORD I THINK IT  
10 WOULD WISE FOR US ALL TO MAKE AS A COURT EXHIBIT THE  
11 STATEMENTS BY BOTH — I'M NOT CERTAIN THAT MR. POPE HAS MADE  
12 PART OF THE RECORD THE TWO WRITTEN STATEMENTS BY THE  
13 CAMPBELL BROTHERS MADE TO LAW ENFORCEMENT HERE IN YORK  
14 COUNTY OR ROCK HILL ON THEIR ARREST. SECONDLY, MAYBE WE  
15 OUGHT TO ADOPT AND ADAPT FOR THE PURPOSES OF MR. POPE THE  
16 GUILTY PLEA COLLOQUY BETWEEN THE COURT AND DEFENSE COUNSEL  
17 AND THE DEFENDANTS, BUT THIRDLY, I THINK WE ALSO HAVE TO  
18 HAVE THE STATEMENTS TAKEN BY INVESTIGATORS FROM THE  
19 SOLICITOR'S OFFICE OF BOTH CAMPBELLS MADE A LITTLE OVER A  
20 WEEK AGO NOW, ONE ON TUESDAY — MAYBE ON MONDAY AND THEN THE  
21 OTHER ON THURSDAY. I THINK WE NEED THAT AND I'D LIKE MOVE  
22 THAT FOR THE COURT'S REVIEW SIMPLY BECAUSE I'M NOT CERTAIN  
23 THE COURT'S EVER SEEN THESE THINGS.

24 THE COURT: WELL, I BELIEVE I HAVE AT SOME TIME PRIOR  
25 SEEN THE STATEMENTS OF BOTH CAMPBELLS. AT SOME POINT IN

1 TIME IN THE PAST I'VE SEEN THEIR -- I BELIEVE I'VE SEEN  
2 THEIR STATEMENTS AND I BELIEVE -- DID ONE OR BOTH OF THEM  
3 APPEAR BEFORE ME FOR THEIR PLEA?

4 MR. POPE: THEY BOTH PLED BEFORE YOU, YOUR HONOR.

5 THE COURT: BOTH OF THEM DID? I THOUGHT THEY DID.  
6 OKAY.

7 MR. POPE: AND I THINK THE STATEMENTS MAY HAVE BEEN  
8 READ. I HAVE NO OBJECTION TO THE COURT MAKING A PART OF THE  
9 RECORD -- IF I'M UNDERSTANDING WHAT MR. DELGADO'S SAYING --  
10 BOTH OF THEIR STATEMENTS, THE TRANSCRIPT. I WILL NOTE THE  
11 INFORMATION THAT WE PROVIDED UNDER KYLES THAT WAS BASICALLY  
12 THE TWO TRIPS THAT MR. THOMPSON AND MS. COLLINS MADE --  
13 WE'RE FORTUNATE MS. COLLINS MADE DETAILED NOTES, BUT IT'S  
14 NOT A FORMAL STATEMENT, YOU KNOW, IN THE REGARD, YOU KNOW, A  
15 SWORN STATEMENT. IT WAS MERELY A TRANSCRIPTION OF WHAT  
16 OCCURRED TO THE BEST OF HER ABILITY AND WE PROVIDED THAT TO  
17 MR. DELGADO, BUT, AGAIN, TO THE EXTENT IT IS WHAT WAS HEARD  
18 AND WHAT THEY HEARD, I -- AND I'VE DISCLOSED TO MR. DELGADO  
19 I HAVE NO PROBLEM WITH ATTACHING THAT.

20 THE COURT: WELL, WHY DON'T WE MAKE THOSE ALL COURT  
21 EXHIBITS AND IF YOU -- HAVE YOU GOT COPIES OF THEIR  
22 STATEMENTS THAT THE COURT COULD MAKE --

23 MR. POPE: I'LL GET EVERYTHING THAT MR. DELGADO JUST  
24 MENTIONED, I SHOULD BE ABLE TO GET TOGETHER AND MAKE A  
25 COURT'S EXHIBITS, PUT IN YOUR HAND IN SHORT ORDER.

1 THE COURT: ALL RIGHT, SIR.

2 MR. DELGADO: YOUR HONOR, I PROBABLY OUGHT TO RESEARCH  
3 THIS BEFORE WE GET STARTED ON THIS 'CAUSE WE KNEW THAT WAS  
4 COMING -- I MEAN, THAT THAT WAS GOING TO BE AN ISSUE. I  
5 HADN'T GOTTEN TO THAT POINT YET IN MY PREPARATION. I THINK  
6 I'LL BE BETTER PREPARED TO ARGUE THIS TO YOU MORE FULLY  
7 TOMORROW AND I THINK, AS WE SAID, UNLESS YOU'RE MAKING A  
8 RULING NOW I WON'T ADDRESS IT ANYMORE.

9 THE COURT: WELL, HERE'S THE THING, COUNSEL, YOU KNOW,  
10 WE KNEW THESE ISSUES WERE COMING. WE'VE BEEN DISCUSSING  
11 THEM SINCE BEFORE THE CASE EVEN STARTED. AS A MATTER OF  
12 FACT, YOU KNOW, TRIED TO GET SOME INFORMATION AVAILABLE FOR  
13 THE COURT TO SEE IF WE WOULD NEED TO CONTINUE THIS CASE OR  
14 WHETHER WE CAN GO FORWARD WITH IT AND WE DECIDED --  
15 EVERYBODY DECIDED WE CAN GO FORWARD WITH IT, SO WE WENT  
16 FORWARD WITH IT, SO WE'RE THERE NOW. AND SO THESE ISSUES  
17 WE'VE KNOWN ABOUT AT LEAST SINCE BEFORE THE TRIAL STARTED.  
18 ON MONDAY WE WERE DISCUSSING THESE ISSUES AND MY CONCERN IS  
19 I DON'T WANT TO BRING THE JURY IN HERE IN THE MORNING AT  
20 9:30 AND LET THEM SIT THERE 'TIL NOON WHILE WE'RE TRYING TO  
21 FIGURE OUT WHAT WE'RE GOING TO DO.

22 MR. DELGADO: SURE; I UNDERSTAND.

23 THE COURT: AND THEN WIND UP NOT GETTING STARTED BACK  
24 WITH THIS CASE 'TIL TOMORROW AFTERNOON SOMETIME WHILE THE  
25 JURY SITS IN THERE AND COOLS THEIR HEELS FOR HALF THE DAY.

1 I DON'T WANT TO BE PUT IN THAT POSITION. AT THE SAME TIME,  
2 I'M PERFECTLY WILLING TO LISTEN TO YOU AND LISTEN TO YOUR  
3 ARGUMENTS TO HEAR WHAT YOU HAVE. I WANT TO HEAR WHAT YOU'VE  
4 GOT TO SAY AND ALLOW YOU TO MAKE THAT PART OF THE RECORD AND  
5 I'M INTERESTED IN YOUR POSITION SO I CAN MAKE A DECISION. I  
6 WANT TO BE SURE THAT I'M FULLY INFORMED AS TO YOUR POSITION  
7 AS WELL AS THE STATE'S.

8 MR. DELGADO: ALL RIGHT, SIR. WELL, THEN I'LL SAY TO  
9 YOU AT THIS STAGE THAT UNDER THE FIFTH AMENDMENT'S DUE  
10 PROCESS RIGHT, SIXTH AMENDMENT'S COMPULSORY PROCESS RIGHT,  
11 THE FOURTEENTH AMENDMENT'S DUE PROCESS, THAT IT IS UNFAIR  
12 FOR THE DEFENDANT NOT TO BE ABLE TO CALL BOTH OF THOSE  
13 DEFENDANTS. AND LET ME JUST SAY TO YOU STRATEGICALLY, YOUR  
14 HONOR, AND I THINK I MAY HAVE SAID THIS TO MR. POPE, I WAS  
15 GOING TO CALL BOTH OF THEM IF THEY WERE GOING TO TESTIFY.  
16 TO BE CANDID WITH YOU, I THINK PROBABLY YESTERDAY AT THIS  
17 TIME EVERYBODY THOUGHT IT WAS GOING TO BE REVERSED AND MR.  
18 DEBREZIO CAMPBELL WOULD TESTIFY AND NOT MR. DESMOND  
19 CAMPBELL, BUT BE THAT AS IT MAY. I WAS GOING TO CALL BOTH  
20 OF THEM AND PLACE BEFORE THE JURY BOTH SETS OF STATEMENTS,  
21 THE WRITTEN STATEMENT TO LAW ENFORCEMENT ON THE 27TH AS WELL  
22 AS THE STATEMENTS THEY MADE TO THE INVESTIGATOR THIS PAST  
23 WEEK. I WAS GOING TO DO BOTH. I WASN'T GOING TO GET  
24 TRUMPED BY THAT. I WAS GOING TO BRING IT ALL TO THE JURY.  
25 NOW, I THINK WITHOUT MY ABILITY TO DO THAT DEPRIVES MY

1 CLIENT OF A RIGHT TO A FAIR TRIAL. IT SEEMS TO ME, YOUR  
2 HONOR, THAT NO MATTER WHETHER IT IS A CONFRONTATION RIGHT OR  
3 A COMPULSORY PROCESS RIGHT, WHETHER IT'S A FAIR TRIAL RIGHT  
4 OR AN EVIDENTIARY RULE, I NEED TO BE ABLE TO HAVE THAT  
5 INFORMATION BROUGHT BEFORE THE JURY.

6 THE COURT: COUNSEL, LET ME SAY -- AND I DON'T MEAN TO  
7 INTERRUPT YOU TO SAY YOU DON'T HAVE ANY MORE RIGHT AND YOUR  
8 CLIENT DOESN'T HAVE ANY MORE RIGHT THAN THE STATE AND ANY  
9 DEFENDANT TO A FAIR TRIAL BASED ON THE RULES OF EVIDENCE AND  
10 PROCEDURE.

11 MR. DELGADO: YES, SIR.

12 THE COURT: THAT'S WHAT YOU'RE ENTITLED TO.

13 MR. DELGADO: YES, SIR.

14 THE COURT: NOW, I WANT -- AND I CERTAINLY WANT TO TRY  
15 TO GIVE YOU THAT, BUT TO COUCH IT IN GENERAL TERMS OF THAT.  
16 IT'S GOT TO BE RELIABLE EVIDENCE IF YOU'RE ENTITLED TO GET  
17 IT IN UNDER THE RULES. SO THAT'S WHAT I'D LIKE FOR YOU TO  
18 COUCH YOUR ARGUMENT IN, YOU KNOW, IS WHY YOU'RE ENTITLED TO  
19 GET IT IN.

20 MR. DELGADO: ALL RIGHT.

21 MR. THOMPSON: PLEASE THE COURT, YOUR HONOR. I BELIEVE  
22 COURT'S EXHIBITS ONE THROUGH FOUR, IF I'M NOT MISTAKEN,---

23 THE COURT: WE HAD SOME OF THEM --

24 MR. THOMPSON: ---BOTH DEFENDANTS' STATEMENTS TO THE  
25 ROCK HILL POLICE DEPARTMENT AND THE SUMMARY OF THE NOTES

1 FROM BOTH DEFENDANTS HAVE BEEN INTRODUCED.

2 THE COURT: WE INTRODUCED THEM ORIGINALLY IN THE  
3 ORIGINAL HEARING. YOU STILL HAVE THOSE AS COURT EXHIBITS,  
4 MADAM COURT REPORTER?

5 COURT REPORTER: THEY SHOULD BE IN THE BOX.

6 THE COURT: I THINK WE STILL HAVE THEM AS COURT  
7 EXHIBITS FROM THE HEARING, PRE-TRIAL HEARING.

8 MR. THOMPSON: YOUR HONOR, I HAVE A COPY OF THE  
9 TRANSCRIPT OF THE PLEA THAT I CAN PUT IN AT THIS TIME.

10 THE COURT: HAVE HER MARK THAT AS A COURT EXHIBIT AND  
11 WE'LL HAVE IT, AND IF YOU'LL HAND THOSE ALL TO ME, PLEASE,  
12 SIR.

13 MR. THOMPSON: SURE.

14 MR. DELGADO: I DON'T KNOW WHAT MR. DESMOND --

15 THE COURT: WAIT JUST A MINUTE.

16 MR. THOMPSON: THESE ARE DEBREZIO CAMPBELL'S AND  
17 THEY'RE COURT'S EXHIBITS ONE AND TWO.

18 (WHEREUPON, DISCUSSION WAS CONDUCTED OFF THE RECORD.)

19 MR. THOMPSON: YOUR HONOR, DESMOND CAMPBELL, HERE ARE  
20 HIS NOTES AND THE STATEMENT AS WELL, COURT'S EXHIBIT FOUR  
21 AND FIVE.

22 THE COURT: COUNSEL, I THINK YOU HAVE A RIGHT TO CALL  
23 THESE WITNESSES IF THEY'RE WILLING TO TESTIFY CERTAINLY.  
24 THAT'S YOUR RIGHT UNDER -- AS YOU'VE READ, UNDER THE  
25 CONSTITUTION, TO CALL WITNESSES THAT WOULD BE FAVORABLE TO

1 HIM, YOU HAVE A RIGHT TO CALL. NO GUARANTEE THAT THEY'RE  
2 GOING TO BE AVAILABLE TO TESTIFY. TO BE CALLED AS A WITNESS  
3 THE RULE REQUIRES THAT THEY BE AVAILABLE FOR CROSS-  
4 EXAMINATION BY THE OTHER SIDE IF THEY'RE CALLED AS A  
5 WITNESS. YOU HAVE A RIGHT TO CALL THEM AS A WITNESS. IF  
6 THEY DON'T ANSWER QUESTIONS, OBVIOUSLY --

7 MR. DELGADO: ALL RIGHT. LET ME BACK UP AND ASK THIS:  
8 BECAUSE OF THE VERY FLUID NATURE OF THIS MATTER, AND I'M  
9 GLAD MR. DEST IS HERE, DO WE NEED TO PURSUE THIS WITH MR.  
10 DEBREZIO CAMPBELL AGAIN TOMORROW? NOW, EVEN IF HE SAID HE'S  
11 NOT TODAY, JUST LIKE I SAID, TWENTY-FOUR HOURS AGO I THINK  
12 WE THOUGHT IT WAS GOING TO BE THE REVERSE, BUT DO WE NEED TO  
13 DO THAT AGAIN, NUMBER 1. NUMBER 2, IS THAT A STATEMENT  
14 AGAINST INTEREST THAT WOULD OTHERWISE COME IN? I SUBMIT IT  
15 IS.

16 UNDER THE CIRCUMSTANCES, YOUR HONOR, IF THE COURT SAYS  
17 THAT THERE WAS -- IN DENYING THE MOTION FOR DIRECTED  
18 VERDICT, IF THERE WAS A SUBSTANTIAL EVIDENCE OF THAT, OF A  
19 CONSPIRACY TO COMMIT MURDER, THEN I WOULD SUBMIT TO THE  
20 COURT THAT THE STATEMENT OUGHT TO COME IN BECAUSE WHAT HE'S  
21 GOING TO -- LET'S JUST SAY THAT DESMOND CAMPBELL SAYS THE  
22 THINGS THAT THE SECOND STATEMENT SAYING HE SAYS, THAT MR.  
23 ARVELL BAGLEY, HE WAS A DRUG DEALER WITH ARVELL BAGLEY  
24 WORKING FOR ARVELL BAGLEY. HE KEPT BOOKS FOR ARVELL BAGLEY.  
25 THAT'S WHAT'S IN THE STATEMENT, THAT HIS BROTHER AND HE,

1 ALONG WITH CHRIS WOODY, GO TO THE SCENE TO PAY OFF MR.  
2 BAGLEY. THAT'S WHAT'S IN THE STATEMENT, \$5,000. HOW IS  
3 THAT NOT A STATEMENT AGAINST INTEREST?

4 THE COURT: YOU GOT TO GO A LITTLE FURTHER THAN THAT.  
5 ARE YOU TALKING ABOUT UNDER 804(B)?

6 MR. DELGADO: 804(B)3, YOUR HONOR.

7 THE COURT: THREE? READ THE LAST SENTENCE.

8 MR. DELGADO: I UNDERSTAND. I UNDERSTAND.

9 THE COURT: A STATEMENT TENDING TO EXPOSE THE FACT OF  
10 CRIMINAL LIABILITY AND OFFERED TO EXCULPATE THE ACCUSED IS  
11 NOT ADMISSIBLE UNLESS CORROBORATING CIRCUMSTANCES CLEARLY  
12 INDICATE THE TRUSTWORTHINESS OF THE STATEMENT. I DON'T FIND  
13 IT'S TRUSTWORTHY, COUNSEL. I DON'T FIND IT'S TRUSTWORTHY.

14 MR. DELGADO: ALL RIGHT, SIR. WOULD YOU HELP THEN, HOW  
15 CAN I ANSWER WHY IT'S NOT TRUSTWORTHY FOR THE COURT? HOW  
16 CAN I --

17 THE COURT: WELL, IT'S NOT TRUSTWORTHY 'CAUSE HE'S  
18 ALREADY GIVEN TWO SWORN STATEMENTS TO SOMETHING CONTRARY TO  
19 THIS AND HE APPEARS TO BE TRYING TO HELP SOMEBODY AND  
20 OBVIOUSLY IF IT HELPS SOMEBODY, IT COULD ULTIMATELY WIND UP  
21 HELPING HIM PERHAPS ON SOME KIND OF AN APPEAL OR SEEKING A  
22 NEW TRIAL IN THE CASE. IN OTHER WORDS, IF THIS DEFENDANT  
23 WAS SUCCESSFUL, HE MIGHT ALSO COME BACK AND TRY TO BE  
24 SUCCESSFUL, OR HE MAY JUST -- IF HE FEELS LIKE THERE'S NO  
25 OTHER HARM -- EVEN IF NO OTHER HARM WOULD COME TO HIM OR NO

1 MORE EXPOSURE OR LIABILITY TO HIM, HE NEVERTHELESS COULD  
2 HELP A FRIEND AND A CO-DEFENDANT IN THIS CASE.

3 MR. DELGADO: I HEAR YOU. I UNDERSTAND.

4 THE COURT: THAT'S WHY IT MIGHT NOT BE TRUSTWORTHY.

5 MR. DELGADO: WELL, THEN, YOUR HONOR, DOES THAT THEN  
6 OPEN UP OTHER MATTERS RELATING TO MATTERS WE'VE TAKEN UP  
7 OUTSIDE THE COURT ABOUT TRUSTWORTHINESS OR SOME OF THE  
8 STATEMENTS THAT HE'S MADE? YOU UNDERSTAND WHAT I'M SAYING.  
9 WE DISCUSSED BACK IN CHAMBERS SOME THINGS THAT THE COURT  
10 SAID TO ME THAT WERE -- MAY NOT BE COMING INTO EVIDENCE. DO  
11 I THEN HAVE THE RIGHT TO BE ABLE TO MAKE THAT OFFER TO THE  
12 COURT AGAIN? IN OTHER WORDS, TO SUBSTANTIATE WHAT THEY'RE  
13 SAYING ABOUT THIS BEING A DRUG DEAL BETWEEN THE CAMPBELL  
14 BROTHERS AND MR. BAGLEY. DO I THEN HAVE A RIGHT TO BRING IN  
15 THAT SORT OF EVIDENCE AS WE DISCUSSED BACK IN CHAMBERS?  
16 DOES THAT MAKE IT TRUSTWORTHY, I GUESS, IS WHAT I'M SAYING.  
17 DOES THAT --

18 THE COURT: NOTHING I HEARD BACK THERE WOULD INDICATE  
19 THAT, BUT I'LL -- IF YOU WANT TO TALK ABOUT THAT IN CAMERA,  
20 I'LL BE GLAD TO LISTEN TO YOU, YOU AND THE SOLICITOR. IF  
21 YOU-ALL WANT TO DISCUSS THAT IN CAMERA, I'LL BE GLAD TO  
22 LISTEN TO YOU.

23 MR. DELGADO: I HEAR YOU. DO YOU UNDERSTAND WHAT I'M  
24 SAYING? IN OTHER WORDS, HOW CAN I HELP YOU UNDERSTAND OR  
25 MAKE IT CLEAR FROM OUR POINT OF VIEW THAT IT IS TRUSTWORTHY.

1 DOES THE GUNSHOT RESIDUE, YOUR HONOR, DOES THAT MAKE IT --  
2 DOES THAT HAVE ANY SIGNIFICANCE TO THE COURT? IN OTHER  
3 WORDS, IF THAT GUNSHOT RESIDUE ON THE PALM OF THE  
4 GENTLEMAN'S HAND INDICATES THAT HE HELD A GUN --

5 THE COURT: THERE WAS AN EXPLANATION GIVEN FOR THAT AND  
6 THERE IS NO OTHER EVIDENCE THAT HE HAD A GUN AND THERE'S AN  
7 ALTERNATE EXPLANATION FOR HOW THAT GOT ON HIS HAND.

8 MR. DELGADO: EXCEPT WHAT THE CAMPBELL BROTHERS SAY  
9 THAT HE HAD A GUN. THE SOLICITOR JUST GAVE US TAPES, YOUR  
10 HONOR, OF TELEPHONE CALLS FROM THE YORK COUNTY DETENTION  
11 CENTER WHERE BOTH DEBREZIO -- I THINK IT'S BOTH DEB-- --  
12 DEBREZIO CAMPBELL SAYS, YOUR HONOR, --

13 THE COURT: WAIT A MINUTE NOW. I DON'T KNOW WHAT  
14 YOU'RE TALKING ABOUT. THAT'S SOMETHING I HAVEN'T HEARD  
15 ABOUT. I DON'T WANT TO PUT ANYTHING ON THE RECORD ABOUT  
16 SOMETHING I DON'T KNOW ANYTHING ABOUT.

17 MR. DELGADO: CAN I TELL YOU WHAT IT'S ABOUT?

18 THE COURT: WELL, APPROACH JUST A MINUTE. LET ME SEE  
19 WHAT YOU'RE TALKING ABOUT FIRST.

20 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE PRESENCE  
21 OF THE COURT REPORTER, BUT OUT OF THE HEARING OF THE COURT  
22 REPORTER.)

23 MR. DELGADO: YOUR HONOR, AT THE SIDE BAR WE DISCUSSED  
24 SOME EVIDENCE THAT THE STATE HAS PROVIDED TO ME RELATING TO  
25 TAPED TELEPHONE CALLS. I THINK WITH THE SOLICITOR'S

1 CONCURRENCE, MAYBE THE BEST WAY FOR ME TO SHOW TO THE COURT,  
2 THE COURT CAN VIEW THAT AS IT WILL, WHETHER OR NOT IT'S MORE  
3 TRUSTWORTHY OR LESS TRUSTWORTHY, BUT WE AGREE IN PERHAPS  
4 GIVING YOU SOME SYNOPSIS POSSIBLY VERBATIM SYNOPSIS FROM  
5 THOSE RECORDED DISCS THAT WOULD HELP THE COURT DECIDE  
6 WHETHER OR NOT THAT REALLY IS A STATEMENT AGAINST INTEREST  
7 OR WHETHER OR NOT IT CORROBORATES CERTAIN ASPECTS OF THE  
8 STATEMENTS MADE LAST WEEK TO MS. COLLINS, THE INVESTIGATOR.  
9 BY THAT I MEAN THAT MR. BAGLEY HAD A GUN, THAT  
10 SUBSTANTIATED, WE BELIEVE, IF NOTHING MORE, YOUR HONOR, IF  
11 NOT DIRECT EVIDENCE, AT LEAST STRONGLY CIRCUMSTANTIAL  
12 EVIDENCE. THAT'S THE REASON YOU HAVE THE GUNSHOT RESIDUE ON  
13 THE PALM OF HIS LEFT HAND. NUMBER 2, WHETHER OR NOT MR.  
14 BAGLEY WAS INVOLVED AS A DRUG DEALER AND WHETHER OR NOT  
15 THEIR STATEMENT THEN IS CORROBORATED, ENHANCED, AS TO  
16 WHETHER OR NOT WHAT THEY ARE SAYING ABOUT WHY THEY WERE  
17 THERE, WHAT THEY DID, WHAT THEY WERE ATTEMPTING TO GIVE BACK  
18 TO HIM INCREASES THE RELIABILITY OF THEIR STATEMENTS AND  
19 THEREFORE MAKE IT AN EXCEPTION TO THE HEARSAY RULE.

20 THE COURT: WELL, I THINK I'D ALSO HAVE TO CONSIDER ANY  
21 STATEMENTS THAT THEY MADE IN THAT REGARD WITH REGARD TO THE  
22 EVIDENCE THAT ACTUALLY CAME IN DURING THE COURSE OF THE  
23 TRIAL AS WELL IN DETERMINING WHETHER IT'S RELIABLE OR NOT.  
24 I HAVE TO LOOK AT THE WHOLE FACTUAL PICTURE. I HAVE TO  
25 CONSIDER ALL OF THE EVIDENCE AND TESTIMONY FROM THE OTHER

1 WITNESSES. AND THAT SORT OF THING IN DECIDING WHETHER IT'S  
2 RELIABLE OR NOT -- TRUSTWORTHY OR NOT---

3 MR. DELGADO: I UNDERSTAND.

4 THE COURT: ---BECAUSE IF IT -- OBVIOUSLY IF IT GOES  
5 AGAINST EVERYTHING THAT'S BEEN INTRODUCED INTO EVIDENCE,  
6 THEN CERTAINLY THE COURT WANTS TO CONSIDER THAT ON WHETHER  
7 ITS TRUSTWORTHINESS OR NOT, WHAT MOTIVE MIGHT BE THERE.

8 ALL RIGHT. WHY DON'T YOU DO -- I'LL ALLOW YOU TO DO  
9 THIS: I UNDERSTAND THE TAPES ARE VOLUMINOUS AND NUMEROUS AND  
10 IT WOULD BE DIFFICULT TO TRY TO LISTEN TO ALL OF THEM. IF  
11 YOU CAN AGREE MAYBE ON PUTTING IT IN THE FORM OF --  
12 STIPULATING SOME FORM OF SYNOPSIS IF YOU WANTED TO DO THAT.  
13 IT'S UP TO YOU. PUT IT IN SOME KIND OF WRITTEN FORM TO  
14 PRESENT TO THE COURT, IF YOU CAN DO THAT. I HAVE NO IDEA  
15 THE EXTENT OF THE TAPES OR HOW HARD THAT WOULD BE ABLE TO  
16 DO, BUT IF YOU CAN THAT AND, YOU KNOW, YOU CAN AGREE ON IT,  
17 I'LL CONSIDER IT.

18 MR. POPE: YOUR HONOR, AND I REALIZE THAT WAS WHAT WAS  
19 DISCUSSED AT THE SIDE BAR AND WHAT MAYBE -- I REALIZE MR.  
20 DELGADO'S BEEN IN MUCH THE SAME BOAT WE HAVE AND HE'S HAD  
21 MEMBERS OF HIS STAFF TRYING TO LISTEN TO THOSE WHILE WE'VE  
22 BEEN MOVING FORWARD ON THE CASE. I'M NOT OPPOSED TO TRYING  
23 TO GET PERHAPS -- AND I'M TENDERING THIS TO MR. DELGADO ALSO  
24 -- PERHAPS SOME SYNOPSIS TO THE BEST OF OUR ABILITY ON WHAT  
25 WE HAVE AND I REALIZE THAT HIS CO-COUNSEL HAS BEEN WORKING

1 ON THE SAME THING AND MAYBE WE CAN COMPILE THOSE, TOO, AND  
2 PROVIDE THEM. YOU KNOW, IN FAIRNESS TO THE COURT, I'LL TELL  
3 YOU BASED ON THE VOLUME, AS MR. DELGADO SAID, I CAN'T SAY  
4 THAT IT WOULD BE IN TOTALITY, BUT IT WOULD GIVE A FLAVOR TO  
5 THE STATE OF THE THINGS THAT HE FEELS SUPPORTS HIS AND, OF  
6 COURSE, LIKEWISE WE WOULD DO THAT AND, QUITE CANDIDLY, I  
7 THINK WE HAVE AN OBLIGATION IF WE SEE THE OPPOSITE. YOU  
8 KNOW, IF WE SEE SOMETHING THAT MAKES IT MORE CREDIBLE, THEN  
9 CERTAINLY WE WOULD BRING THAT FORWARD TO THE COURT, TOO.

10 MR. DELGADO: YOUR HONOR, IN VIEW OF THAT, YOUR HONOR,  
11 I GUESS THERE WAS MAYBE EIGHT CD'S THAT MR. POPE GAVE ME ON  
12 SUNDAY AFTERNOON. SO EITHER DO A SYNOPSIS OR WE PUT THAT IN  
13 THE RECORD AND HAVE IT PRESERVED JUDICIALLY FOR REVIEW, I  
14 GUESS, IS THE ONLY OTHER WAY I CAN THINK TO DO IT. BUT WHY  
15 DON'T WE SEE IF WE CAN WORK THAT OUT AND MAYBE USE THAT AS A  
16 LAST ALTERNATIVE.

17 THE COURT: ALL RIGHT, SIR.

18 MR. POPE: YOUR HONOR, WE --

19 THE COURT: OBVIOUSLY I CAN'T CONSIDER SOMETHING I  
20 DON'T HEAR.

21 MR. POPE: YES, SIR.

22 THE COURT: AND I'M NOT GOING TO MAKE PART OF THE  
23 RECORD SOMETHING I DON'T HEAR; I CAN ASSURE YOU OF THAT. SO  
24 -- UNLESS YOU--ALL AGREE. IF YOU STIPULATE, THEN I'LL BE  
25 GLAD TO CONSIDER THE STIPULATION.

1 MR. DELGADO: YOUR HONOR, MAY I BRING ONE OTHER MATTER  
2 TO YOU?

3 THE COURT: YES, SIR.

4 MR. DELGADO: MAYBE IT'S NOT HEARSAY AFTER ALL. LET ME  
5 ASK THE COURT TO REVIEW WITH ME. IN OTHER WORDS, WE WERE  
6 TALKING ABOUT, YOUR HONOR, 804(B)3, A STATEMENT AGAINST  
7 INTEREST OF WHAT MR. POPE WAS DISCUSSING.

8 YOUR HONOR, UNDER THE RULE, UNDER 801(D)1, A PRIOR  
9 STATEMENT BY A WITNESS, A STATEMENT IS NOT HEARSAY IF THE  
10 DECLARANT TESTIFIES AT THE TRIAL OR HEARING AND IS SUBJECT  
11 TO CROSS-EXAMINATION CONCERNING THE STATEMENT AND THE  
12 STATEMENT IS -- NOT A BUT THE -- IS CONSISTENT WITH THE  
13 DECLARANT'S TESTIMONY AND IS OFFERED TO REBUT AN EXPRESSED  
14 OR IMPLIED CHARGE AGAINST THE DECLARANT OF A RECENT  
15 FABRICATION OR IMPROPER INFLUENCE OR MOTIVE. BY THAT I  
16 MEAN, YOUR HONOR, THAT HE DID NOT ACT IN SELF-DEFENSE, THAT  
17 IS, MR. DEBREZIO CAMPBELL.

18 THE COURT: YOU'RE WAY OUT IN LEFT FIELD WITH THAT IT  
19 APPEARS TO ME, COUNSEL, BECAUSE IF HE DOESN'T COME IN AND  
20 TESTIFY HOW CAN IT BE CONSISTENT WITH THE DECLARANT'S  
21 TESTIMONY IF HE DOESN'T TESTIFY?

22 MR. DELGADO: I'M THINKING ABOUT MR. DEBREZIO -- I  
23 MEAN, MR. DESMOND CAMPBELL, YOUR HONOR.

24 THE COURT: WELL, I -- AND I'M LOOKING AT DEBREZIO  
25 CAMPBELL AT THIS POINT. I DON'T KNOW WHAT DESMOND CAMPBELL

1 IS GOING TO TESTIFY TO 'CAUSE HE HAS NOT TESTIFIED YET. HE  
2 SAID HE'S GOING TO TESTIFY.

3 MR. DELGADO: YES, SIR.

4 THE COURT: AND I DON'T KNOW WHAT HE'S GOING TO TESTIFY  
5 TO.

6 MR. DELGADO: I KNOW. IF HE TESTIFIES ALONG THE LINES  
7 THAT HE TOLD THE SOLICITOR LAST WEEK, DOESN'T IT THEN COME  
8 IN THAT WAY?

9 MR. POPE: I MAY BE ABLE TO CONCEDE -- IF I UNDERSTAND  
10 WHAT HE'S SAYING, IF DESMOND CAMPBELL COMES IN TOMORROW AND  
11 TESTIFIES TO WHATEVER VERSION, BASICALLY, THE GLOVES ARE OFF  
12 AND MR. DELGADO CAN ASK HIM ABOUT, WELL, DIDN'T YOU SAY  
13 SOMETHING BEFORE THE -- IS THAT WHAT YOU'RE SAYING, THE  
14 SELF-DEFENSE OR AS TO DESMOND CAMPBELL? HE CAN CERTAINLY  
15 ASK HIM IF THAT'S A PRIOR INCONSISTENT STATEMENT IF -- IT  
16 MAY FIT SEVERAL OF THE DIFFERENT RULES. LIKEWISE, WE COULD  
17 ASK HIM ABOUT THE STATEMENTS THAT HE FULLY ATTESTED TO IF  
18 HE'S PRESENT FOR CROSS-EXAMINATION, IF I UNDERSTOOD THAT  
19 THAT'S WHAT MR. DELGADO'S SAYING.

20 MR. DELGADO: YES, SIR.

21 THE COURT: MY THINKING IS IF HE COMES IN AND TESTIFIES  
22 SUBJECT TO CROSS-EXAMINATION, THEN IF HE GAVE INCONSISTENT  
23 STATEMENTS, CERTAINLY THOSE WOULD BE -- HE COULD BE ASKED  
24 ABOUT THOSE AND IN TURN HE COULD BE ASKED ABOUT CONSISTENT  
25 STATEMENTS THAT FALL WITHIN THE RULES, NO QUESTION ABOUT

1 THAT. SO IF YOU'RE TALKING ABOUT SOMETHING THAT'S  
2 TESTIFYING, CERTAINLY WE'RE IN A DIFFERENT SITUATION THERE.  
3 WHAT I WAS ASSUMING YOU'RE TALKING ABOUT IS DEBREZIO  
4 CAMPBELL, IF HE CHOOSES, AS HE SAID TODAY, NOT TO TESTIFY.

5 MR. DELGADO: I'M SORRY. I DIDN'T --

6 THE COURT: OBVIOUSLY IF HE CHOOSES TO TESTIFY TOMORROW  
7 AND YOU WANT TO CALL HIM, YOU CAN DO THAT, BUT IF HE  
8 TESTIFIES -- IF HE REFUSES TO TESTIFY OR DOES NOT CHANGE HIS  
9 MIND AND DECIDE TO TESTIFY -- I THOUGHT THAT'S WHERE WE  
10 WERE, USING HIS STATEMENT.

11 MR. DELGADO: I'M SORRY. I MEANT MR. DESMOND CAMPBELL,  
12 NOT DEBREZIO -- I MEAN, I'M THINKING DEBREZIO CAMPBELL.

13 THE COURT: WELL, DESMOND CAMPBELL, I THINK IF HE  
14 TESTIFIES, THAT'S A WHOLE DIFFERENT SCENARIO. I'M THINKING  
15 -- I WAS THINKING IN TERMS OF DEBREZIO CAMPBELL.

16 MR. DELGADO: NO, SIR. I'M SORRY.

17 THE COURT: OKAY. AND SO IF DESMOND CAMPBELL  
18 TESTIFIES, WE'RE IN A DIFFERENT SITUATION. WE'RE NOT IN THE  
19 -- WE'RE REALLY NOT IN THE HEARSAY RULE. WE CAN GET INTO  
20 THE OTHER RULES WITH REGARD TO PRIOR STATEMENTS, SO --

21 MR. POPE: AND I THINK WHEN WE GET TO THAT ISSUE, IF  
22 I'M UNDERSTANDING WHAT MR. DELGADO'S SAYING, OKAY, HE  
23 TESTIFIES AT TRIAL OR A HEARING, HE'S SUBJECT TO CROSS-  
24 EXAMINATION, WHICH HE WOULD BE AND THE STATEMENT IS  
25 CONSISTENT WITH HIS PRIOR -- IN OTHER WORDS, THE STATEMENT

1 IS CONSISTENT WITH HIS PRIOR TESTIMONY AND OFFERED TO REBUT  
2 AN EXPRESSED OR IMPLIED CHARGE. IN OTHER WORDS, AS MR.  
3 DELGADO SAID, IF HE COMES TOMORROW AND TELLS THE IT WAS A  
4 DRUG DEAL, SELF-DEFENSE STORY, THEN THE ISSUE'S SAYING CAN  
5 HE THEN SAY, WELL, HE SAID THAT LAST WEEK PROVIDED HOWEVER  
6 THE STATEMENT MUST HAVE BEEN MADE BEFORE THE ALLEGED  
7 FABRICATION OR BEFORE THE ALLEGED IMPROPER INFLUENCE OR  
8 MOTIVE AROSE.

9 THE COURT: FROM A PRIOR CONSISTENT STATEMENT; YOU'RE  
10 RIGHT.

11 MR. POPE: PRIOR CONSISTENT STATEMENT. I'M SAYING THIS  
12 ALL FABRICATION APPARENTLY CAME ABOUT SOME TIME POST AFTER  
13 STANDING IN FRONT OF YOU AND PLEADING GUILTY AND SO I'D SAY  
14 THE ONLY KIND OF STATEMENT THAT FALLS IN UNDER THAT REGARD  
15 WOULD BE SOMETHING HE HAD SAID AT SOME OTHER TIME THAT THERE  
16 WAS, YOU KNOW, CLEAR EVIDENCE OF. IN OTHER WORDS, SOME TIME  
17 WHERE HE HAD TOLD THAT STORY PRIOR TO SETTING FOOT IN HERE  
18 OR PRIOR TO FABRICATING IT OVER THE LAST WEEK OR TWO.

19 THE COURT: THAT'S WHAT THAT RULE IS DESIGNED FOR,  
20 COUNSEL.

21 MR. DELGADO: ALL RIGHT, YOUR HONOR. NOT CONCEDING,  
22 JUST PLEASE UNDERSTAND THAT. LET ME ASK YOU TO ADDRESS  
23 THIS, YOUR HONOR, THEN WHY ISN'T THE STATEMENT ADMISSIBLE?  
24 I THINK I KNOW WHERE MR. POPE'S GOING TO GO TOMORROW. HE'S  
25 GOING TO OBJECT THAT MR. DESMOND CAMPBELL, AND UNLESS THE

1 COURT KNOWS THE STATEMENT THAT MR. DESMOND CAMPBELL MADE  
2 LAST WEEK, MAY NOT UNDERSTAND THIS NECESSARILY.

3 THE COURT: I DO NOT KNOW OF -- I'VE JUST GOTTEN A  
4 GENERAL IDEA.

5 MR. DELGADO: MR. DESMOND CAMPBELL IS GOING TO SAY HE  
6 WAS DRIVING THE CAR, THAT HE DOESN'T SEE WHAT GOES ON. HE  
7 HAD DRIVEN THE CAR TO ANOTHER LOCATION AND MR. POPE CAN  
8 PLEASE CORRECT ME IF I'M OVER THE TOP AT ALL, THAT CHRIS  
9 WOODY AND DEBREZIO LEAVE AND COME RUNNING BACK AFTER HEARING  
10 SHOTS. DEBREZIO CAMPBELL SAYS TO DESMOND CAMPBELL -- YOUR  
11 HONOR, MAYBE I NEED TO REFRESH MYSELF. I NEED TO MAKE  
12 CERTAIN THAT I'M NOT MISSTATING ANYTHING.

13 MR. THOMPSON: HE'S SOMEWHAT CORRECT ABOUT THAT, YOUR  
14 HONOR. THE DEFENDANT STARTS OFF WHEN HE STARTED TO US  
15 SAYING THAT HE STAYED IN THE CAR, THAT THEY PARKED UP -- NOT  
16 THE -- YOU'VE SEEN THE PHOTOGRAPHS. IT'S BASICALLY LIKE A  
17 TRIANGLE WHERE THAT COMPLEX IS. IN THE FAR END OF THE  
18 TRIANGLE NEAR THE TIP IS WHERE THE INCIDENT OCCURS. HE SAYS  
19 WHEN THEY WENT STRAIGHT AND THE YOUNG LADY, KIM BOWDEN,  
20 TURNED OFF TO THE LEFT, THAT THEY PARKED THE CAR RIGHT  
21 THERE. HE SAID I COULDN'T EVEN SEE DOWN TO THE OTHER SIDE,  
22 THAT HE STOOD OUT THERE, OUTSIDE THAT CAR, AND TALKED TO  
23 SOME WHITE WOMAN WHO WAS THERE UNLOADING GROCERIES AND THEN  
24 HE HEARD SHOTS. HE JUMPED IN THE CAR AND HE STARTED PULLING  
25 AROUND, THAT THEY RAN UP AND SAID DON'T GO DOWN THERE

1 THEY'RE SHOOTING AT US AND THAT HE TURNED AROUND AND DROVE  
2 OFF AND THAT'S ALL HE SAW, BUT THEN HE WENT INTO GREAT  
3 DETAIL OF EVERYTHING THAT HAPPENED, BECAUSE THAT'S WHAT THE  
4 CO-DEFENDANTS TOLD HIM.

5 MR. DELGADO: WHICH, YOUR HONOR, BECAUSE THEY CHARGED  
6 HIM WITH CONSPIRACY IS THE 801(D)2E EXCEPTION TO HEARSAY IN  
7 FURTHERANCE OF THE CONSPIRACY.

8 MR. THOMPSON: THE DEFENSE IS PRESENTING THAT OR WOULD  
9 BE PRESENTING IT IN FURTHERANCE OF CONSPIRACY.

10 MR. DELGADO: THE COURT UNDERSTANDS WHAT I'M SAYING.  
11 IN OTHER WORDS, IT'S BEING OFFERED AGAINST THE --

12 THE COURT: YOU'RE OFFERING IT TO PROVE CONSPIRACY?

13 MR. DELGADO: NO. CONSPIRACY BY THE TWO BROTHERS.  
14 THEY WERE BOTH CHARGED WITH CONSPIRACY. DESMOND SAYS TO --  
15 EXCUSE ME. DEBREZIO SAYS TO DESMOND, I TRIED TO GIVE HIM  
16 \$5,000 -- \$2,500, HE WOULDN'T TAKE IT. HE THREW IT ON THE  
17 GROUND OR THREW IT IN MY FACE. I BENT DOWN TO PICK IT UP.  
18 HE PULLED A GUN -- AGAIN, YOUR HONOR, LET ME MAKE CERTAIN  
19 THAT I -- DEBREZIO TOLD BAGLEY, I'M SHORT. I ONLY HAVE  
20 2,500 AND HANDED IT TO BAGLEY. SAID BAGLEY THREW IT IN  
21 DEBREZIO -- OR THREW IT BACK IN DEBREZIO'S FACE, SAID THEY  
22 EXCHANGED WORDS AND THEN BAGLEY PULLED A SILVER AUTOMATIC  
23 PISTOL OUT AND SHOT AT THEM. THEY THEN RAN AND DEBREZIO RAN  
24 AWAY AND WAS SHOOTING BEHIND HIM, NOT LOOKING AS HE RAN FROM  
25 THE VICTIM. SAID THAT -- SAID WOODY WAS TWO CARS OVER

1 SHOOTING AT BAGLEY, SAID AT THIS POINT TROY WALKED OUT AND  
2 BUST HIS GUN AT THEM AS THEY WERE RUNNING AWAY. SO IN OTHER  
3 WORDS, YOUR HONOR, WHY DOESN'T IT COME IN SIMPLY BECAUSE  
4 THEY CHARGED HIM WITH CONSPIRACY? WHY DOESN'T IT COME IN AS  
5 A CO-CONSPIRATOR'S EXCEPTION TO THE HEARSAY RULE UNDER  
6 801(B)2E?

7 THE COURT: WELL, I -- IF THE STATE WANTED TO OFFER IT  
8 FOR THAT PURPOSE, I SUPPOSE, BUT HE'S NOT ON TRIAL HERE.

9 MR. POPE: YOUR HONOR, I'D SUBMIT --

10 THE COURT: NEITHER OF THEM'S ON TRIAL HERE.

11 MR. POPE: IT HAS TO BE -- TO BE AN EXCEPTION OF A CO-  
12 CONSPIRATOR'S STATEMENT, IT'S GOT TO BE IN FURTHERANCE OF  
13 THE CONSPIRACY. TELLING ABOUT WHAT HAPPENED AFTER THE FACT  
14 HAS NOTHING TO DO WITH THE FURTHER -- STATEMENTS OF, OKAY,  
15 AND WHEN WE GET THERE YOU GO TO THE LEFT AND I GO TO THE  
16 RIGHT AND YOU DRIVE DOWN THE HILL AND I'LL DO THIS AND THAT  
17 IS IN FURTHERANCE OF A CONSPIRACY. AFTER THE FACT TELLING  
18 WHAT HAPPENED, THE CONSPIRACY WAS COMPLETE WHEN HE WAS  
19 DROPPED ON THE GROUND AND KILLED, 'CAUSE IT'S CONSPIRACY TO  
20 MURDER, SO THAT CONSPIRACY WAS COMPLETE. SO IF ANY  
21 STATEMENTS WOULD BE ADMISSIBLE IT WOULD BE IF THEY -- WHEN  
22 THEY LEFT THERE OVER AT WOODHAVEN OR WOOD POINT OR STONE  
23 POINTE AND SAID WE'RE GOING TO GO OVER THERE AND WE'RE GOING  
24 TO DO THIS AND THEN WOODY SAID THIS AND THEN DEBREZIO SAID  
25 THIS, BUT THAT'S NOT WHAT YOU HAVE HERE. WHAT YOU HAVE

1 AFTER THE FACT, THEY'RE SAYING, YOU KNOW, LET ME TELL YOU  
2 WHAT WENT ON DOWN THERE, WHICH HAS GOT ABSOLUTELY NOTHING TO  
3 DO WITH CONSPIRACY.

4 MR. DELGADO: WHICH COVERS UP -- WHICH COVERS UP THE  
5 OBJECT OF THE CONSPIRACY, DOES IT NOT, JUDGE? THEY THEN  
6 DRIVE AWAY, DON'T REPORT ANYTHING? DEBREZIO CAMPBELL -- I  
7 MEAN, DESMOND CAMPBELL DOESN'T IMMEDIATELY GO TO LAW  
8 ENFORCEMENT AND TELL THEM I WANT TO TELL YOU WHAT HAPPENED.  
9 HE KEEPS QUIET. ISN'T THAT IN FURTHERANCE OF THE  
10 CONSPIRACY?

11 THE COURT: NOT A CONSPIRACY TO COMMIT MURDER, IT'S  
12 NOT.

13 MR. DELGADO: IT'S NOT?

14 THE COURT: IT MIGHT BE ACCESSORY AFTER THE FACT OF  
15 MURDER FOR NOT DOING ANYTHING TO REVEAL IT OR REPORT IT.

16 MR. DELGADO: CONSPIRACY TO BE AN ACCESSORY AFTER THE  
17 FACT THEN.

18 THE COURT: THAT'S BASICALLY WHAT ACCESSORY AFTER THE  
19 FACT IS IS CONSPIRACY TO COVER IT UP OR NOT REPORT IT OR  
20 WHATHAVEYOU, BUT I DON'T THINK IT FALLS WITHIN THE  
21 CONSPIRACY, IN FURTHERANCE OF CONSPIRACY.

22 MR. DELGADO: ALL RIGHT. YOUR HONOR, IF THAT IS THE  
23 CASE, THEN IF IT DOES NOT COME IN UNDER 801(D)1B OR 801(D)2E  
24 AND IF IT DOESN'T COME IN UNDER 804(B)3, I SIMPLY ASK THE  
25 COURT THAT I -- SIMPLY SAY TO THE COURT THAT THAT IS AN

1 ERROR OF LAW RELATED TO WHAT IS ALLOWABLE. I SUBMIT TO THE  
2 COURT THAT IS ERROR AND I ASK THE COURT TO CONSIDER THAT IN  
3 MAKING YOUR RULING. IF THE COURT HAS RULED, FINE. I'LL  
4 CEASE AND DESIST, BUT I SIMPLY WANTED TO PLACE THAT ON THE  
5 RECORD.

6 THE COURT: MY THOUGHTS AT THE TIME ARE THAT WE REALLY  
7 ARE NOT -- THIS IS NOT SOMETHING THAT'S OFFERED BY THE STATE  
8 AGAINST THE DEFENDANT, SO WE'RE NOT REALLY ESSENTIALLY INTO  
9 A CONFRONTATION ISSUE EXCEPT THAT THE STATE IS PREVENTED  
10 FROM CROSS-EXAMINING -- WELL, THAT'S DIFFERENT. I DON'T  
11 WANT TO CONFUSE THE TWO MYSELF, BECAUSE I'VE BEEN TALKING  
12 ABOUT DEBREZIO CAMPBELL AND WHERE WE MIGHT GO THERE AS  
13 OPPOSED TO DESMOND CAMPBELL. I THINK WE HAVE TO WAIT ON  
14 DESMOND CAMPBELL FOR THE COURT'S RULING UNTIL WE SEE WHERE  
15 WE'RE GOING.

16 IT APPEARS TO ME THAT IF IT'S NOT THE STATE OFFERING AN  
17 OUT-OF-COURT HEARSAY STATEMENT BY A WITNESS WITHOUT THE  
18 DEFENSE ALLOWED TO CONFRONT AND CROSS-EXAMINE THE WITNESS,  
19 THEY'RE NOT DOING THAT IN THIS CASE AND SO WE REALLY DON'T  
20 GET INTO THAT ISSUE. SO MAYBE IT DOES COME INTO WHETHER THE  
21 DEFENDANT OR WHETHER IF THE DEFENSE SEEKS TO OFFER A  
22 STATEMENT OF A WITNESS WHICH WOULD BE FAVORABLE TO HIM, BUT  
23 IS ESSENTIALLY A HEARSAY STATEMENT AND OTHERWISE DOESN'T  
24 MEET ANY EXCEPTION TO THE HEARSAY RULE, THEY DON'T COME IN.  
25 MAYBE THAT'S WHERE WE ACTUALLY ARE AND WE DON'T HAVE TO EVEN

1 GET INTO THE CONFRONTATION ISSUE, BECAUSE ESSENTIALLY THAT  
2 IS CORRECT. THAT IS SET UP -- THE CONSTITUTION AMENDMENT'S  
3 SET UP TO PROTECT THE DEFENDANT WHO IS CHARGED WITH A CRIME,  
4 BUT THE RULES OF EVIDENCE, OF COURSE, APPLY TO EVERYONE  
5 ACROSS THE BOARD. SO I GUESS THAT'S REALLY WHERE WE ARE IN  
6 THIS CASE INsofar -- PARTICULARLY WITH A WITNESS WHO  
7 TESTIFIES SUCH AS DESMOND. SO I GUESS WE ARE INTO THAT  
8 CATEGORY. SO I THINK IT PROBABLY DOES NOT COME IN UNDER ANY  
9 OF THESE EXCEPTIONS, ALTHOUGH I'M GOING TO THINK ABOUT IT  
10 SOME MORE. I'M NOT GOING TO MAKE AN ABSOLUTE RULING, RATHER  
11 I'M GOING TO THINK ABOUT IT OVER NIGHT AND REVIEW SOME OF  
12 THESE EVIDENTIARY RULES, BUT I BELIEVE THAT IS WHERE WE ARE  
13 INsofar AS DESMOND CAMPBELL IS CONCERNED, ANY STATEMENTS HE  
14 MIGHT HAVE MADE AND I REALLY NEED TO READ THESE STATEMENTS.  
15 I'M GOING TO READ THEM OVER AGAIN TO REVIEW ALL OF THIS.  
16 I'LL BE PREPARED TO MAKE A RULING FIRST THING IN THE  
17 MORNING. I'LL BE HERE AT NINE O'CLOCK AND WE'LL TRY TO GET  
18 STARTED. I HAVE THE JURY COMING AT 9:30, SO WE'LL HAVE A  
19 LITTLE TIME TO PUT A FEW THINGS ON THE RECORD. I JUST DO  
20 NOT WANT TO TIE THE JURY UP ALL DAY AND I WANT TO KEEP GOING  
21 WITH THIS CASE SO WE DON'T EXTEND IT INTO THE WEEKEND AND SO  
22 I WILL TRY TO REVIEW ALL THIS. I'LL BE AVAILABLE AT NINE  
23 O'CLOCK IF THERE'S SOMETHING ELSE YOU WANT ME TO CONSIDER,  
24 BUT THEN I'LL BE PREPARED TO PUT RULING ON BEFORE WE BRING  
25 THE JURY IN. ALTHOUGH, QUITE HONEST WITH YOU, I MAY HAVE TO

1 WAIT ON DESMOND TO SEE WHAT YOU MIGHT OFFER WITH REGARD TO  
2 HIM AFTER HE TESTIFIES, 'CAUSE I HAVE NO IDEA WHAT HE'S  
3 GOING TO TESTIFY TO WHEN HE DOES TESTIFY.

4 MR. POPE: YOUR HONOR, AND I APOLOGIZE; I KNOW WE'VE  
5 JUMPED FROM DEBREZIO TO DESMOND. IT'S OUR UNDERSTANDING,  
6 WHERE THE COURT'S AT NOW, CORRECT ME IF I'M WRONG,  
7 DEBREZIO'S UNAVAILABLE.

8 THE COURT: HE'S UNAVAILABLE.

9 MR. POPE: OKAY. HE'S UNAVAILABLE AND BASED ON THE  
10 RULES OF EVIDENCE, IT CAN'T BE TENDERED ON THE HEARSAY ISSUE  
11 AS FAR AS DEBREZIO? IF I TRIED TO TENDER IT IT WOULD BE A  
12 CRAWFORD ISSUE CERTAINLY AND IF THE DEFENSE TRIES TO TENDER  
13 IT IT WOULD BE A HEARSAY ISSUE AND CREDIBILITY AND ALL THOSE  
14 ISSUES.

15 NOW, AS TO DESMOND, IF I UNDERSTAND, TOMORROW -- WE'RE  
16 BASICALLY GOING TO CROSS THE BRIDGE WHEN HE COMES BASED ON  
17 WHAT FORM HIS TESTIMONY TAKES.

18 THE COURT: RIGHT.

19 MR. POPE: THANK YOU, SIR.

20 THE COURT: AND MR. DELGADO, IN ALL FAIRNESS, I'M GOING  
21 TO LOOK AT THIS OVERNIGHT. IF THERE'S SOMETHING YOU WANT ME  
22 TO CONSIDER FIRST THING IN THE MORNING, I'LL DO THAT. IF  
23 YOU COME UP WITH SOMETHING THAT YOU THINK I OUGHT TO  
24 CONSIDER AND THE SAME WAY WITH THE STATE OBVIOUSLY. IF I  
25 GIVE THE OPPORTUNITY TO ONE SIDE, I'M GOING TO GIVE IT TO

1 THE OTHER. SO I'M GOING TO LOOK AT IT. I'M GOING TO SPEND  
2 SOME TIME LOOKING AT IT TONIGHT AND THEN IN THE MORNING  
3 HOPEFULLY I'LL BE READY TO RULE, BUT IF THERE'S SOMETHING  
4 YOU WANT ME TO -- SOMETHING ELSE YOU WANT ME TO LOOK AT,  
5 I'LL DO THAT FIRST THING IN THE MORNING. I'LL BE HERE BY  
6 NINE. ALL RIGHT. ANYTHING ELSE WE NEED TO TAKE UP AT THIS  
7 TIME THAT YOU CAN THINK OF?

8 MR. POPE: BEG THE COURT'S INDULGENCE. NO, SIR, YOUR  
9 HONOR..

10 THE COURT: MR. DELGADO?

11 MR. DELGADO: NO, YOUR HONOR. THANK YOU.

12 THE COURT: ALL RIGHT. WELL, LET'S ADJOURN THEN AND  
13 I'LL ASK COUNSEL TO BE AVAILABLE ABOUT NINE IN THE MORNING  
14 AND THE COURT REPORTER. THANK YOU.

15 MR. POPE: YES, SIR.

16 (WHEREUPON, COURT WAS ADJOURNED FOR THE DAY AT 5:30  
17 P.M. AND RECONVENED ON MAY 5, 2005 AT 10:15 A.M.)

18 (END OF VOLUME III)  
19  
20  
21  
22  
23  
24  
25

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF YORK )

IN THE  
COURT OF GENERAL SESSIONS  
CASE NO.: 05-GS-46-0858

STATE OF SOUTH CAROLINA, )  
 )  
 ) PLAINTIFF, )  
 )  
-VS- )  
 )  
CHRISTOPHER WOODY, )  
 )  
 ) DEFENDANT. )

TRANSCRIPT OF RECORD  
VOLUME IV OF V

MAY 5, 2005  
YORK, SOUTH CAROLINA

B E F O R E:

HONORABLE LEE S. ALFORD, JUDGE, AND A JURY.

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

MR. THOMAS E. POPE  
YORK COUNTY SOLICITOR  
MR. WILLY THOMPSON  
ASSISTANT SOLICITOR  
ATTORNEYS FOR THE STATE  
YORK, SOUTH CAROLINA

MR. JOHN DELGADO  
ATTORNEY AT LAW  
ATTORNEY FOR THE DEFENDANT WOODY  
COLUMBIA, SOUTH CAROLINA

MR. HAROLD STALEY  
ATTORNEY AT LAW  
ATTORNEY FOR DEFENDANT DESMOND CAMPBELL  
ROCK HILL, SOUTH CAROLINA

SHANNON MCGILBERRY  
COURT REPORTER

ORIGINAL

1 THE COURT: COUNSEL, I WANT TO GO AHEAD NOW. I RESERVED  
2 RULING ON WHETHER THE HEARSAY STATEMENTS MADE TO THE  
3 SOLICITOR'S OFFICE BY DEBREZIO CAMPBELL AND DESMOND CAMPBELL,  
4 STATEMENTS MADE TO THE SOLICITOR'S OFFICE WHICH WERE THEN --IN  
5 PREPARATION FOR TRIAL, WHICH WERE THEN PROVIDED TO THE  
6 DEFENSE, THOSE STATEMENTS, WHICH ARE HEARSAY STATEMENTS, THE  
7 COURT WOULD DETERMINE THAT THEY ARE TESTIMONIAL IN NATURE,  
8 TESTIMONIAL HEARSAY STATEMENTS.

9 THE COURT FINDS THAT CRAWFORD VERSUS WASHINGTON, STATE  
10 VERSUS DAVIS, WHICH WE'VE PREVIOUSLY ALLUDED TO AND THE STATE  
11 VERSUS DESHAWN STATEN, NONE OF THOSE CASES CHANGED THE LAW  
12 INSOFAR AS TESTIMONIAL HEARSAY STATEMENTS ARE CONCERNED EXCEPT  
13 WHEN OFFERED BY THE STATE AGAINST AN ACCUSED. THEREFORE, IT  
14 DOES NOT ADDRESS THAT ISSUE. THE ISSUE MAY BE ADDRESSED  
15 INSOFAR AS THE DEFENSE OFFERING SUCH STATEMENTS AT SOME POINT  
16 IN TIME, BUT THAT'S A MATTER BETTER LEFT TO THE APPELLATE  
17 COURTS AND THIS COURT'S CERTAINLY NOT GOING TO -- WILL NOT  
18 CONSIDER IT. SO, THEREFORE, WE ARE LEFT WITH THE LAW AS IT  
19 PREVIOUSLY EXISTED WITH REGARD TO HEARSAY STATEMENTS. HEARSAY  
20 STATEMENTS ARE NOT ADMISSIBLE UNLESS THE PERSON WHO MADE THE  
21 STATEMENT OUT OF COURT TESTIFIES AND IS SUBJECT TO CROSS-  
22 EXAMINATION. THERE ARE CERTAIN EXCEPTIONS TO HEARSAY. AS I  
23 UNDERSTAND IT, THE HEARSAY EXCEPTION CITED BY THE DEFENSE IS  
24 THAT THE STATEMENTS ARE TRUSTWORTHY AND RELIABLE AND SHOULD BE  
25 ALLOWED BY -- IN BY THE COURT ON THAT BASIS IN FAIRNESS TO THE

1 DEFENDANT.

2 THE COURT FINDS THAT THESE STATEMENTS ARE NOT RELIABLE  
3 AND NOT TRUSTWORTHY AND, THEREFORE, NOT ADMISSIBLE UNDER THAT  
4 PART OF THE HEARSAY RULE. THERE ARE A NUMBER OF REASONS FOR  
5 THAT, NOT THE LEAST OF WHICH IS PRIOR STATEMENTS OF THE  
6 CAMPBELLS, THE STATEMENT INTRODUCED INTO EVIDENCE THAT MR.  
7 WOODY MADE ORIGINALLY, TESTIMONY THAT I'VE HEARD THUS FAR IN  
8 THIS CASE IN THE STATE'S CASE, THE GUILTY PLEA AFFIRMATIONS BY  
9 EACH OF THE CAMPBELLS OF THEIR PREVIOUS STATEMENTS UNDER OATH  
10 AND TESTIMONY PROVIDED TO THE COURT IN THOSE GUILTY PLEAS.  
11 THE COURT HAS CONSIDERED ALL THAT.

12 THE COURT HAS ALSO CONSIDERED THE NATURE AND THE CONTENTS  
13 OF THOSE PARTICULAR STATEMENTS IN MAKING THAT DECISION. THE  
14 COURT ALSO HAS BEEN ASKED TO LISTEN TO TAPES MADE BY THE  
15 DEFENDANT — EXCUSE ME — BY THE CAMPBELLS, DESMOND AND  
16 DEBREZIO CAMPBELL, TO THEIR PARENTS, AND DISCUSSIONS WITH  
17 THEIR PARENTS AND EVERYONE IS INFORMED AT THE BEGINNING THAT  
18 THOSE ARE TAPES AND THE FATHER CERTAINLY INDICATES AT SOME  
19 POINT IN TIME THAT THEY'RE BEING RECORDED, THOSE CONVERSATIONS  
20 ARE BEING RECORDED AND IT'S EVIDENCE IN THE BEGINNING OF THOSE  
21 CONVERSATIONS WHEN THE FATHER IMPORES DEBREZIO CAMPBELL TO  
22 TELL HIM THE TRUTH, AND ALSO DESMOND CAMPBELL, ABOUT WHETHER  
23 THE DECEASED HAD A WEAPON OR NOT OR PULLED A WEAPON OR SHOT A  
24 WEAPON AT THEM AND HE SAID HE IMPORED WITH THEM FIRST, JUST  
25 TELL ME THE TRUTH, DON'T LIE TO ME, TELL THE TRUTH AND HE

1 SAID, WELL, DADDY, HE REACHED AND -- HE REACHED. SO THAT WAS  
2 HIS TEST-- -- THAT WAS WHAT HE STATED TO HIS FATHER AT THAT  
3 TIME WHEN THE FATHER HAD GOTTEN SOME INFORMATION HE SAID THAT  
4 CAUSED HIM SOME CONCERN. THAT INFORMATION TURNED OUT TO --  
5 LATER IN THE -- LATER ON ANOTHER CONVERSATION TO HAVE COME  
6 FROM AN INVESTIGATOR ON BEHALF OF MR. WOODY WHO HAD PROVIDED  
7 THAT INFORMATION TO THE FATHER AND SO THAT'S WHAT INITIATED  
8 THAT.

9 IN ANY EVENT, BASED ON STATEMENTS LATER MADE BY DEBREZIO  
10 CAMPBELL TO HIS PARENTS, WHICH WERE SOMEWHAT GUARDED  
11 OBVIOUSLY, BECAUSE HE KNEW THEY WERE BEING RECORDED. IT WAS  
12 OBVIOUS THAT HE TIED HIS FATE TO THAT OF MR. WOODY AND FELT  
13 THAT IF MR. WOODY WAS ABLE TO GET OFF ON A SELF-DEFENSE CLAIM  
14 OR WAS ABLE TO GET OUT, THAT HE WOULD ALSO SOMEHOW GET OUT  
15 BECAUSE OF THAT. SO FOR ALL THESE REASONS THE COURT FINDS  
16 THAT THEY'RE NOT RELIABLE OR TRUSTWORTHY AND SHOULD NOT BE  
17 ALLOWED IN UNLESS, OF COURSE, OBVIOUSLY THE PERSON WHO MADE  
18 THE STATEMENT, THE DECLARANT, TESTIFIES, THEN THEY COULD BE  
19 DEPENDING ON THE RULE. ANYTHING ELSE ABOUT THAT?

20 MR. POPE: NOTHING FROM THE STATE, YOUR HONOR.

21 MR. DELGADO: YOUR HONOR, JUST AS RELATES TO THE 801  
22 DECISION BY THE COURT, I WOULD JUST ASK RESPECTFULLY JUST NOTE  
23 THAT AND JUST TO NOTE MY OBJECTION TO THAT, YOUR HONOR, BUT I  
24 MUST SAY TO YOU IN CANDOR THE BUSINESS ABOUT CARPENTER VERSUS  
25 WASHINGTON, AFTER REVIEWING THAT LAST NIGHT, I THINK THE COURT

1 IS CORRECT. I WITHDRAW ANY ARGUMENT OR OBJECTION I MADE ABOUT  
2 THAT. I THINK I WAS INCORRECT.

3 THE COURT: ALL RIGHT. WELL, WE'RE STILL LEARNING ABOUT  
4 THAT LINE OF CASES, WHERE WE'RE GOING FROM THERE AND THERE  
5 WILL BE CASES DEVELOPED, BUT CLEARLY IT ADDRESSES ONLY THE  
6 STATE'S OFFER OF A OUT-OF-COURT STATEMENT, HEARSAY STATEMENT,  
7 THAT'S TESTIMONIAL NATURE AND THE CONFRONTATION RIGHT OF A  
8 DEFENDANT OR AN ACCUSED AND SO CLEARLY IT ONLY DEALS WITH THAT  
9 ISSUE AND THAT AND SO IT DOES NOT APPLY TO THE ISSUES IN THIS  
10 CASE OR THE STATEMENTS IN THIS PARTICULAR CASE, SO WE RELY ON  
11 THE RULES OF EVIDENCE AS THEY EXIST OR HAVE EXISTED. SO  
12 THAT'S THE BASIS FOR THE RULING. I WANT TO MAKE SURE THE  
13 RECORD'S CLEAR ON THAT, THAT THE ONLY THING I HAVE CONSIDERED  
14 IS THE RULES OF EVIDENCE. ALL RIGHT. ANYTHING ELSE, THEN,  
15 BEFORE WE BRING THE JURY IN AND GET STARTED?

16 MR. POPE: NOTHING FROM THE STATE, YOUR HONOR.

17 MR. DELGADO: NOTHING FROM THE DEFENSE, YOUR HONOR.

18 THE COURT: ALL RIGHT. SIR, PLEASE BRING THE JURY IN.

19 (JURY IN AT 10:25 A.M.)

20 THE COURT: GOOD MORNING, MADAM FORELADY, MEMBERS OF THE  
21 JURY PANEL. I APOLOGIZE AGAIN FOR THE DELAY IN GETTING YOU  
22 OUT; JUST SOMETIMES THAT OCCURS. WE TRY TO KEEP IT FROM  
23 OCCURRING, BUT IT DOES OCCUR. I APOLOGIZE FOR THE DELAY AND  
24 KEEPING YOU IN THE JURY ROOM, BUT THERE'S MATTERS I NEED TO  
25 TAKE UP WITH COUNSEL. WE HAVE BEEN HERE AND WORKING, BUT SOME

1 MATTERS I NEED TO TAKE UP WITH THEM AND SO WE'RE READY NOW TO  
2 RESUME WITH THE TRIAL.

3 I WOULD LIKE, BEFORE BEGINNING, I'D LIKE TO ASK IF ANY  
4 MEMBER OF THE JURY PANEL READ THE ARTICLE, NEWSPAPER ARTICLE,  
5 THAT APPEARED IN THE HERALD THIS MORNING. IF YOU READ THAT  
6 ARTICLE OR SOMEONE READ IT TO YOU OR DISCUSSED IT WITH YOU,  
7 PLEASE RAISE YOUR HAND AT THIS TIME. LET THE RECORD REFLECT  
8 THAT NO ONE RAISES THEIR HAND.

9 ALL RIGHT. COUNSEL, READY TO PROCEED?

10 MR. DELGADO: YES, SIR, YOUR HONOR. THANK YOU.

11 MR. POPE: STATE'S READY.

12 MR. DELGADO: YOUR HONOR, THE DEFENSE CALLS AS ITS FIRST  
13 WITNESS MR. DESMOND CUNNING-- EXCUSE ME -- DESMOND CAMPBELL.

14 THE COURT: YES, SIR. MR. CAMPBELL.

15 THE CLERK: PLEASE RAISE YOUR RIGHT HAND, PLACE YOUR LEFT  
16 HAND ON THE BIBLE.

17 (DESMOND CAMPBELL, BEING FIRST DULY SWORN, WAS EXAMINED  
18 AND TESTIFIED AS FOLLOWS):

19 DIRECT EXAMINATION

20 DESMOND CAMPBELL BY MR. DELGADO:

21 Q. YOU ARE DESMOND CAMPBELL; IS THAT CORRECT, SIR?

22 A. YES, SIR.

23 Q. MR. CAMPBELL, HOW OLD ARE YOU, SIR?

24 A. TWENTY-THREE.

25 Q. WHERE WERE YOU BORN AND WHERE DID YOU GO TO SCHOOL?

- 1 A. CHESTER, SOUTH CAROLINA.
- 2 Q. HOW FAR DID YOU GO IN SCHOOL?
- 3 A. SEVENTH, PUBLIC SCHOOL AND --- (INAUDIBLE) --- FOUR YEARS.
- 4 Q. YOUNG MAN, YOU'RE GOING TO HAVE TO SPEAK UP. MAYBE YOU
- 5 CAN GET CLOSER TO THAT MICROPHONE THERE SO EVERYBODY CAN HEAR
- 6 YOU.
- 7 A. THIS CHAIR WON'T MOVE.
- 8 Q. WELL, THEN BRING THIS DOWN. SAY THAT AGAIN, SIR. YOU'RE
- 9 TWENTY-THREE YEARS OLD?
- 10 A. YES, SIR.
- 11 Q. WHERE DID YOU GO TO SCHOOL?
- 12 A. CHESTER, SOUTH CAROLINA.
- 13 Q. MR. CAMPBELL, LET'S ASK THIS: HAVE YOU AND I EVER MET
- 14 BEFORE?
- 15 A. NO, SIR.
- 16 Q. HAVE I EVER, BEFORE YOU WENT ON THAT STAND, EVER SAID ONE
- 17 WORD TO YOU?
- 18 A. NO, SIR.
- 19 Q. MR. CAMPBELL, YOU HAVE A BROTHER; IS THAT CORRECT?
- 20 A. YES, SIR.
- 21 Q. THAT INDIVIDUAL IS NAMED WHAT?
- 22 A. DEBREZIO.
- 23 Q. HOW OLD IS HE?
- 24 A. TWENTY-ONE.
- 25 Q. YOU'RE THE OLDER OF THE TWO?

- 1 A. SIR, YEAH, I'M OLDER THAN HIM.
- 2 Q. DO YOU HAVE ANY OTHER BROTHERS AND SISTERS?
- 3 A. YES. I HAVE TWO MORE BROTHERS.
- 4 Q. YOUNGER, OLDER, WHAT?
- 5 A. TWO MORE OLDER.
- 6 Q. OKAY. MR. CAMPBELL, DO YOU KNOW AN INDIVIDUAL BY THE
- 7 NAME OF CHRISTOPHER WOODY?
- 8 A. YES, SIR.
- 9 Q. HOW DID YOU COME TO MEET HIM?
- 10 A. AT WORK AT BLACK AND DECKER.
- 11 Q. YOU MET AT WORK AT BLACK AND DECKER IN FORT MILL?
- 12 A. YES, SIR.
- 13 Q. HOW LONG HAD YOU BEEN WORKING THERE BEFORE YOU MET CHRIS
- 14 WOODY?
- 15 A. ABOUT FOUR MONTHS.
- 16 Q. ALL RIGHT. DO YOU RECALL WHEN YOU FIRST MET HIM?
- 17 A. SIR, ABOUT MAY IN '04.
- 18 Q. I'M SORRY. SAY IT AGAIN.
- 19 A. ABOUT MARCH IN '04.
- 20 Q. MARCH THE YEAR 2004?
- 21 A. YES, SIR.
- 22 Q. ALL RIGHT. AND YOU MET HIM THERE AT BLACK AND DECKER?
- 23 A. YES, SIR.
- 24 Q. DID THE TWO OF Y'ALL BECOME TIGHT? Y'ALL BECOME FRIENDS?
- 25 A. YES, SIR.

1 Q. WHERE IS HE FROM?

2 A. VIRGINIA.

3 Q. WHERE WAS HE LIVING?

4 A. IN CHARLOTTE.

5 Q. AND WORKING AT FORT MILL?

6 A. YES, SIR.

7 Q. I WANT TO ASK YOU NOW, SIR, FROM TIME THAT YOU MET HIM  
8 UNTIL THE TIME THAT -- 'TIL THE JUNE 26TH, SATURDAY NIGHT,  
9 JUNE 26TH OF 2004, DO YOU RECALL AN OCCURRENCE WHEREIN YOU  
10 WERE PULLING INTO STONE HAVEN APARTMENTS WITH MR. WOODY COMING  
11 BACK FROM WORK?

12 A. YES, SIR.

13 Q. AND AN INDIVIDUAL BY THE NAME OF ARVELL DARRELL BAGLEY  
14 WAS PULLING OUT?

15 A. YES, SIR.

16 Q. YOU HAD SOME CONVERSATIONS WITH MR. BAGLEY?

17 A. YES, SIR.

18 Q. ALL RIGHT. TWO CARS, ONE PULLING IN, YOURS AND CHRIS?

19 A. YES, SIR.

20 Q. WAS HE DRIVING OR YOU DRIVING?

21 A. CHRIS WAS DRIVING.

22 Q. ANOTHER CAR PULLING OUT; WHO WAS DRIVING THAT CAR?

23 A. TROY TOBIAS.

24 Q. AND WHO WAS ON THE OTHER SIDE OF THE CAR?

25 A. DARRELL.

1 Q. THE TWO CARS STOPPED AND THE FOLKS ON EITHER SIDE OF THE  
2 CAR HAD A CONVERSATION OVER THE TWO FOLKS THAT WERE DRIVING?

3 A. YES, SIR.

4 MR.. THOMPSON: YOUR HONOR, I'M GOING TO OBJECT TO THE  
5 LEADING.

6 THE COURT: YOUR WITNESS, COUNSEL. PLEASE AVOID THE  
7 LEADING.

8 MR. DELGADO: WELL, YOUR HONOR, WE NEED TO TAKE THAT UP  
9 AND LET THEM SEE. I THINK --

10 THE COURT: PLEASE -- IT'S YOUR WITNESS, COUNSEL. PLEASE  
11 AVOID THE LEADING.

12 MR. DELGADO: ALL RIGHT, SIR.

13 Q. THAT CONVERSATION HAD TO DO WITH ILLEGAL ACTIVITY, DID IT  
14 NOT?

15 A. YES, SIR.

16 Q. ILLEGAL ACTIVITY CONCERNING WHAT?

17 MR. THOMPSON: YOUR HONOR, I'M GOING TO OBJECT TO THE  
18 LEADING AGAIN. I ASK THAT HE ASK HIM A QUESTION AND LET HIM  
19 ANSWER.

20 MR. DELGADO: ALL RIGHT, YOUR HONOR. WE MAY NEED TO HAVE  
21 A HEARING ON THIS ASPECT. I'M SORRY. WE DIDN'T GET THIS  
22 RESOLVED BEFORE.

23 THE COURT: ALL RIGHT. MADAM FORELADY, MEMBERS OF THE  
24 JURY PANEL, IF YOU'LL RETIRE TO THE JURY ROOM FOR A BRIEF  
25 TIME. THIS WILL BE VERY BRJEF. WE'LL BRING YOU BACK IN JUST

1 A MINUTE.

2 (JURY OUT AT 10:35 A.M.)

3 MR. DELGADO: YOUR HONOR, I'LL SUBMIT TO THE COURT THAT  
4 UNDER 611(C) --

5 THE COURT: YES, SIR. YOU HAVEN'T ESTABLISHED THAT HE IS  
6 A HOSTILE WITNESS OR OPPOSED TO YOUR POSITION. SO FAR HE'S  
7 INTENDED TO AGREE WITH YOU ON JUST EXACTLY WHAT THE QUESTION  
8 YOU ASKED HIM TO AGREE WITH YOU ON. YOU'VE TESTIFIED SO FAR  
9 AND HE'S AGREE WITH YOU THUS FAR, BUT THOSE ARE LEADING  
10 QUESTIONS. HE NEEDS TO TESTIFY---

11 MR. DELGADO: YES, SIR.

12 THE COURT: ---IF HE'S GOING TO TESTIFY. YOU HAVEN'T  
13 ESTABLISHED THAT HE'S A HOSTILE WITNESS OR THAT HE IS NOT  
14 ANSWERING YOUR QUESTIONS OR EVADING YOUR QUESTIONS AND YOU  
15 NEED TO THAT IN ORDER TO BE ABLE TO PUT HIM IN AS A HOSTILE  
16 WITNESS.

17 MR. DELGADO: THE WAY I'LL BE ABLE TO DO THAT THEN, YOUR  
18 HONOR, IS I WILL ASK HIM WHETHER HE HAS SIGNED AND ENTERED  
19 INTO A PLEA AGREEMENT WITH THE STATE.

20 THE COURT: WELL, THAT DOESN'T ESTABLISH ANYTHING.

21 MR. DELGADO: WELL, IT GOES TO THE WITNESS IDENTIFIED  
22 WITH AN ADVERSE PARTY INTERROGATION MAY BE MADE BY THE --

23 THE COURT: WELL, THAT DOESN'T AUTOMATICALLY -- IF HE  
24 COMES IN AND IS TESTIFYING SOMETHING DIFFERENT THAN WHAT HE  
25 PLED GUILTY TO OR TESTIFIED TO THERE, IT WOULDN'T SHOW THAT HE

1 WAS WITH AN ADVERSE PARTY, WOULD IT?

2 MR. DELGADO: I THINK THE PLEA AGREEMENT, THE TWO  
3 INCIDENCES OF TESTIMONY THAT WOULD NOT HELP THE DEFENDANT,  
4 WHICH I INTEND TO GET INTO, --

5 THE COURT: COUNSEL, I'M GOING TO RULE THAT YOU CANNOT  
6 LEAD HIM UNLESS AND UNTIL YOU CAN ESTABLISH THAT HE IS AN  
7 ADVERSE WITNESS TO YOU AND YOUR POSITION. SO FAR HE'S AGREED  
8 WITH YOU'VE TESTIFIED TO AND ASKED HIM IF THAT'S CORRECT AND  
9 I DON'T MEAN THAT IN A -- TO BE CRITICAL, BUT I'M SAYING SO  
10 FAR YOU'VE MADE STATEMENTS AND ASKED HIM AND HE AGREED.

11 MR. DELGADO: I THINK YOU'RE RIGHT, YOUR HONOR.

12 THE COURT: AND HE'S AGREED WITH YOU SO FAR AND SO YOU  
13 HAVEN'T ESTABLISHED THAT HE'S A HOSTILE WITNESS OR YOU HAVE A  
14 RIGHT TO TESTIFY AND ASK HIM IF HE AGREES WITH YOU.

15 MR. DELGADO: I UNDERSTAND.

16 THE COURT: NOW, IF THAT CHANGES, THEN YOU CAN RENEW YOUR  
17 MOTION AT THAT TIME AND I'LL CERTAINLY LISTEN TO YOU.

18 MR. DELGADO: I'LL -- WHAT I'LL DO, YOUR HONOR, IS THEN  
19 I'LL BRING IN THE PLEA AGREEMENT AND THE GUILTY PLEA NOW AND  
20 THEN IDENTIFY HIM AS A WITNESS IDENTIFIED WITH AN ADVERSE  
21 PARTY.

22 THE COURT: NO, SIR. WELL, YOU CAN DO IT -- IF YOU WANT  
23 TO PROFFER THEM FOR THE RECORD, I THINK THEY'RE ALREADY ON THE  
24 RECORD AS COURT EXHIBITS, SO YOU'RE NOT GOING TO GET THEM IN  
25 BEFORE THE JURY.

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1 MR. DELGADO: I GUESS I DID NOT KNOW THAT.

2 THE COURT: YES, SIR; THEY'RE COURT EXHIBITS. THAT WAS  
3 DONE YESTERDAY AFTERNOON. THAT'S PART OF WHAT THE COURT  
4 CONSIDERED IN DETERMINING WHETHER THE STATEMENTS WERE --

5 MR. DELGADO: THE TRANSCRIPT OF THE PLEA WAS AS WELL?  
6 I'M SORRY.

7 THE COURT: YES, SIR. THAT'S ALL PART OF THE RECORD.

8 MR. DELGADO: OKAY. I STAND CORRECTED. OKAY. THANK  
9 YOU. YOUR HONOR, THEN SHOULD WE GO INTO THIS NOW WITH THIS  
10 WITNESS? OR WE WANT TO DO IT BACK ON THE RECORD WITH THAT  
11 JURY? I MEAN, NOT ON THE RECORD, IN FRONT OF THE JURY.

12 THE COURT: IT'S A COURT EXHIBIT.

13 MR. DELGADO: I UNDERSTAND.

14 THE COURT: IT'S NOT -- YOU'RE NOT GOING INTO IT PERIOD  
15 BEFORE THE JURY, THOSE STATEMENTS, BECAUSE THEY'RE NOT PART OF  
16 THE RECORD FOR THE JURY. THEY'RE COURT EXHIBITS AND PART OF  
17 THE RECORD FOR APPEALS PURPOSES, BUT THEY'RE NOT SOMETHING FOR  
18 THE JURY.

19 MR. DELGADO: OH, I UNDERSTAND THAT. I UNDERSTAND THAT.

20 THE COURT: SO WHAT ARE YOU ASKING ME?

21 MR. DELGADO: I'M ASKING DO YOU WANT TO DO THIS NOW, IN  
22 OTHER WORDS, JUST USING THE COURT EXHIBITS AS AN INDICATION OF  
23 WHEN I PUT IT IN FRONT OF THE JURY? IN OTHER -- DO YOU WANT  
24 ME TO DO A DRY RUN WITH YOU NOW SO THAT YOU CAN MAKE A  
25 DECISION ABOUT WHETHER OR NOT HE'S AN ADVERSE WITNESS --

1 EXCUSE ME -- WHETHER HE'S A WITNESS IDENTIFIED WITH AN ADVERSE  
2 PARTY. I'M JUST TRYING TO BE HELPFUL. I'M NOT TRYING TO  
3 SANDBAG.

4 THE COURT: COUNSEL, -- STATE WISH TO BE HEARD?

5 MR. POPE: YES, SIR, JUST BRIEFLY. OF COURSE, THE RULE  
6 SAYS MAY, BUT IT'S CERTAINLY IN YOUR DISCRETION. IF THE POINT  
7 GETS TO, AND I DON'T WANT TO LEAD MR. CAMPBELL NOW, BUT IF THE  
8 POINTS GETS TO MR. CAMPBELL IS ADVERSARIAL TO MR. DELGADO,  
9 THAT'S WHY THE RULE THEN ALLOWS HIM TO SAY, BUT ISN'T IT TRUE,  
10 BUT ISN'T IT -- THAT'S WHEN IT ALLOWS HIM TO LEAD, BUT RIGHT  
11 NOW HE'S BEING COOPERATIVE. SO AT THIS JUNCTURE, ON DIRECT,  
12 HE NEEDS TO ASK HIM QUESTIONS. MR. DELGADO SHOULDN'T BE  
13 ALLOWED TO TESTIFY AT THIS JUNCTURE. YOU KNOW, JUST THE FACT  
14 THAT AT SOME POINT IN THE PAST HE HAS IDENTIFIED THAT HE WAS  
15 COOPERATIVE WITH THE STATE AND -- RIGHT NOW, AS WE SIT HERE  
16 TODAY, HE IS BEING COOPERATIVE WITH MR. DELGADO AND MR.  
17 DELGADO'S ON DIRECT.

18 THE COURT: I AGREE AND THAT'S GOING TO BE THE BASIS OF  
19 MY RULING. I THINK IF HE BECOMES A HOSTILE WITNESS, A  
20 UNCOOPERATIVE WITNESS, COUNSEL, CERTAINLY THEN THE COURT WOULD  
21 TAKE THAT IN CONSIDERATION IF YOU SEEK TO -- THEN TO TREAT HIM  
22 AS AN ADVERSE WITNESS. THUS FAR THAT HAS NOT HAPPENED, BUT I  
23 DON'T THINK THE RULE WAS INTENDED FOR AN ATTORNEY TO BE ABLE  
24 TO MAKE STATEMENTS AND TESTIFY AND THEN JUST SIMPLY ASK A  
25 DEFENDANT EVEN IF -- ISN'T THAT TRUE AND I DON'T THINK THE

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1 RULE WAS MEANT TO DO THAT. I THINK THE RULE STILL IS INTENDED  
2 FOR A WITNESS TO BE ABLE TO TESTIFY AND YOU TO BE ABLE TO GET  
3 THAT TESTIMONY OUT, BUT I'LL ALLOW YOU TO DO THAT. IF HE --  
4 IF THE WITNESS BECOMES HOSTILE OR ADVERSE, THEN YOU CAN THEN  
5 RENEW YOUR MOTION AND ASK THE COURT TO BE ALLOWED TO TREAT HIM  
6 AS AN ADVERSE WITNESS OR ONE IDENTIFIED WITH THE OTHER  
7 SIDE.

8 MR. DELGADO: YES; YOUR HONOR. THAT LAST PART SAYS OR  
9 IDENTIFIED WITH AN ADVERSE WITNESS.

10 THE COURT: YES, SIR.

11 MR. DELGADO: I UNDERSTAND. YOUR HONOR, I JUST WANT TO  
12 TAKE A GENERAL EXCEPTION TO THAT, BUT I UNDERSTAND YOUR  
13 RULING.

14 THE COURT: WELL, YOUR OBJECTION'S NOTED FOR THE RECORD  
15 AND --

16 MR. DELGADO: AND WHAT I'LL DO NOW IS GO INTO -- AS SOON  
17 AS THE JURY COMES BACK, I'LL THEN GO INTO THE STATEMENTS HE  
18 MADE TO LAW ENFORCEMENT.

19 THE COURT: NO, SIR. YOU'RE NOT GOING INTO THOSE AT ALL.

20 MR. DELGADO: HIS STATEMENT THAT HE MADE TO LAW  
21 ENFORCEMENT ON HIS ARREST AND THEN THE PLEA AGREEMENTS TO SHOW  
22 THAT HE IS A WITNESS IDENTIFIED WITH THE STATE.

23 THE COURT: HE IS HERE; HE CAN TESTIFY. YOU CAN ASK HIM  
24 QUESTIONS ABOUT HIS TESTIMONY.

25 MR. DELGADO: OKAY. OKAY.

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1 THE COURT: YOU CAN ASK HIM QUESTIONS ABOUT HIS  
2 TESTIMONY. NOW, IF YOU WANT TO USE PRIOR STATEMENTS, THEY  
3 HAVE TO BE USED ACCORDING TO THE RULES AND THAT IS TO IMPEACH  
4 WITH IF HE TESTIFIES TO SOMETHING DIFFERENT. THEN YOU HAVE A  
5 RIGHT TO IMPEACH HIM.

6 MR. DELGADO: ALL RIGHT.

7 THE COURT: BUT TODAY HE'S HERE AND HE'S AVAILABLE TO  
8 TESTIFY AND BE CROSS-EXAMINED.

9 MR. DELGADO: ALL RIGHT.

10 MR. POPE: YOUR HONOR, WHILE THE JURY'S OUT, IT SHOULDN'T  
11 TAKE JUST A SECOND, THE QUESTION MR. DELGADO HAD, IF I  
12 UNDERSTOOD CORRECTLY, WAS TWO CARS, FOUR INDIVIDUALS, MR.  
13 WOODY, MR. CAMPBELL, THE VICTIM AND TROY TOBIAS. I BELIEVE HE  
14 SAID HE WOULD TESTIFY AS TO WHAT ANYBODY ELSE SAID, BECAUSE  
15 IT'S NOT USED AGAINST THE DEFENDANT NOW. ANY OF THAT  
16 STATEMENT MADE WOULD BE HEARSAY UNLESS, AGAIN, THERE'S AN  
17 EXCEPTION THAT MR. DELGADO'S PROFFERING UNDER. I'M JUST  
18 SAYING WHILE THE JURY'S OUT RATHER THAN HAVE TO JUMP UP THE  
19 SECOND THEY COME BACK IN --

20 THE COURT: ALL RIGHT.

21 MR. DELGADO: CERTAINLY WHAT IT DOES IT WILL LEND THAT  
22 THIS IS WHAT MR. WOODY WILL TESTIFY TO. IT WILL LEND  
23 SUBSTANCE TO THE EXACT CONVERSATION MR. WOODY WILL BE ABLE TO  
24 TESTIFY TO WHEN HE TAKES THE STAND AS TO HAVING KNOWLEDGE OF  
25 MR. BAGLEY BEING A DRUG DEALER.

1 THE COURT: I MISSED THAT SOMEWHERE. I'M MISSING -- I  
2 DON'T UNDERSTAND YOU.

3 MR. DELGADO: LET ME BACK UP AND SEE IF I CAN PUT IT IN  
4 FULLER CONTEXT.. THE ONLY STATEMENT THAT IS BEFORE THIS JURY  
5 NOW CONCERNING MR. BAGLEY IN REGARD TO ILLEGAL DRUG ACTIVITY  
6 IS A STATEMENT BY CHRIS WOODY THAT WAS TAKEN BY MS.  
7 BLACKWELDER WHERE HE TESTIFIED I KNEW THAT HE WAS A DRUG  
8 DEALER. I'D NOW GO INTO THAT WITH MR. CAMPBELL TO ASK THE  
9 BASIS AND THE CONTEXT WITHIN WHICH HE FIRST LEARNED THAT AND  
10 THIS IS THAT FIRST INSTANCE.

11 MR. POPE: AND THE STATE'S POSITION IS IT'S STILL -- I  
12 UNDERSTAND WHY HE WANTS TO USE IT, BUT IT'S STILL HEARSAY.  
13 NOW, AGAIN, HE CAN SAY WHAT HE OBSERVED, WHAT HE DID, BUT HE  
14 CAN'T SAY WHAT THESE OTHER GUYS SAID, EVEN INCLUDING MR. WOODY  
15 IN THIS CONTEXT.

16 MR. DELGADO: WHY ISN'T THAT NOT ADMISSION OF A PARTY  
17 OPPONENT? WHY ISN'T THAT SOMETHING THAT SHOWS HOW HE CAME TO  
18 THE BASIS OF HIS INFORMATION? WHAT MY FRIEND'S GOING -- MR.  
19 POPE'S GOING TO SAY IS, WELL, HE DIDN'T HAVE ANY INFORMATION  
20 ABOUT HIM BEING A DRUG DEALER. WELL, I'M TRYING TO ADVANCE  
21 THAT RIGHT NOW TO SHOW THE CONTEXT IN WHICH HE CAME TO LEARN  
22 THAT INFORMATION AS WELL AS WHEN IT FIRST STARTED TO  
23 SUBSTANTIATE THE WRITTEN STATEMENT THAT HE'LL BE CROSS-  
24 EXAMINED ON VERY THOROUGHLY BY MR. POPE.

25 THE COURT: WELL, YOU'VE GOT TO DO THAT SOME WAY OTHER

1 THAN HEARSAY OR -- UNLESS IT FALLS INTO AN EXCEPTION TO THE  
2 HEARSAY RULE. IT'S STILL SUBJECT TO THE RULES OF EVIDENCE.  
3 ALL RIGHT, SIR. NOW, HE CAN TESTIFY AS TO WHAT HE KNOWS AND  
4 WHAT HE DID.

5 MR. DELGADO: AS LONG AS HE, THEN, MR. CAMPBELL, SAYS --  
6 AS LONG AS HE SAYS WITHOUT ANY HEARSAY, HE CAN TESTIFY TO WHAT  
7 HE HIMSELF, DESMOND CAMPBELL, SAID.

8 MR. POPE: CERTAINLY. WHAT HE SAID.

9 THE COURT: AS LONG HE DOESN'T TESTIFY AS TO WHAT  
10 SOMEBODY SAID TO HIM, THAT'S CORRECT, OUT OF COURT. ALL  
11 RIGHT. WE READY TO BRING THE JURY BACK IN NOW?

12 MR. POPE: THE STATE'S READY, YOUR HONOR.

13 THE COURT: ALL RIGHT, SIR. PLEASE BRING THE JURY BACK.

14 MR. POPE: I'D RESPECTFULLY REQUEST IF MR. DELGADO IS  
15 GOING TO USE THIS BOARD AGAIN THAT HE USED IN HIS OPENING  
16 STATEMENT, THAT IT BE MOVED.

17 MR. DELGADO: OH, SURE; SURE.

18 (JURY IN AT 10:45 A.M.)

19 THE COURT: YOU MAY PROCEED, COUNSEL.

20 MR. DELGADO: THANK YOU, YOUR HONOR.

21 Q. MR. CAMPBELL, I WAS ASKING YOU SOME QUESTIONS ABOUT AN  
22 OCCURRENCE WHERE YOU WERE WITH CHRIS AND TWO OTHER FELLOWS IN  
23 ANOTHER CAR; CORRECT, SIR?

24 A. YES, SIR.

25 Q. CAN YOU TELL US GENERALLY DURING WHAT MONTH OF THE YEAR

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- 1 THAT MAY HAVE BEEN?
- 2 A. NO, SIR, I CAN'T.
- 3 Q. IT WAS AFTER YOU CAME -- WAS IT BEFORE OR AFTER YOU CAME  
4 TO KNOW CHRIS WOODY?
- 5 A. AFTER I KNEW HIM.
- 6 Q. WHERE WERE YOU COMING FROM OR WHERE WERE YOU HEADED WITH  
7 CHRIS WOODY?
- 8 A. I WAS COMING FROM WORK AND I NEEDED A RIDE HOME. HE WAS  
9 GIVING ME A RIDE HOME.
- 10 Q. HE WAS GIVING YOU A RIDE HOME?
- 11 A. (NODS HEAD AFFIRMATIVELY)
- 12 Q. WHERE WERE YOU LIVING AT THAT TIME?
- 13 A. STONE HAVEN.
- 14 Q. NOW, THE STONE HAVEN APARTMENTS ARE RIGHT OFF OF CELANESE  
15 ROAD IN ROCK HILL?
- 16 A. YES, SIR.
- 17 Q. IN YORK COUNTY?
- 18 A. YES, SIR.
- 19 Q. DO YOU REMEMBER WHAT TIME OF DAY -- WHAT SHIFT DID YOU  
20 AND CHRIS WORK?
- 21 A. THIRD. ELEVEN AT NIGHT TO SEVEN IN THE MORNING.
- 22 Q. ALL RIGHT. THIS OCCURRED AT WHAT TIME APPROXIMATELY ON  
23 THIS DAY?
- 24 A. 7:30.
- 25 Q. AFTER YOU GOT OFF WORK?

1 A. (NODS HEAD AFFIRMATIVELY)

2 Q. NOW, YOU HAD A CONVERSATION. FOR THE PURPOSES OF THIS  
3 HEARING I WANT YOU SIMPLY TO SAY WHAT DID YOU SAY AND TO WHOM  
4 DID YOU DIRECT THE COMMENTS THAT YOU MADE?

5 A. I SAID WHAT'S UP TO DARRELL, WHO YOU WAITING ON. HE WAS  
6 LIKE MY RIDE RIGHT THERE. I ASKED, SAID, MAN, CAN YOU FRONT  
7 ME SOME? HE WAS LIKE I'M WAITING ON THIS EIGHT BALL.

8 MR. THOMPSON: OBJECTION, YOUR HONOR, AS TO -- OBJECTION  
9 AS TO WHAT --

10 THE COURT: HE CAN'T TESTIFY AS TO WHAT ANYBODY ELSE  
11 SAID, COUNSEL.

12 Q. ALL RIGHT. LET'S BACK UP FOR ONE SECOND.

13 MR. DELGADO: YOUR HONOR, I TAKE EXCEPTION TO THAT UNDER  
14 THE RULE, BUT I -- I'LL MOVE ON.

15 THE COURT: ALL RIGHT.

16 MR. DELGADO: I THINK IT'S AN ADMISSION OF A PARTY  
17 OPPONENT, BUT I STAND DIRECTED BY YOUR RULING.

18 THE COURT: YES, SIR.

19 Q. WHEN YOU SAY THE WORDS DIRECTED TO MR. BAGLEY, CAN YOU  
20 FRONT ME SOME?

21 A. YES, SIR.

22 Q. EXPLAIN THAT TO THE JURY, WHAT THAT MEANS.

23 A. FRONT ME SOME MEAN LIKE CAN YOU FRONT ME SOME DRUGS, I'LL  
24 PAY YOU BACK. YOU AIN'T GOT TO GIVE HIM THE MONEY UP FRONT,  
25 YOU JUST GIVE HIM YOUR WORD.

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- 1 Q. YOU GIVE HIM THE WORK?
- 2 A. YOU GET THE DRUGS.
- 3 Q. THAT MEANS THAT YOU WOULD RECEIVE DRUGS THAT WOULD BE  
4 PAID FOR WHEN? THAT YOU WOULD PAY FOR THEM WHEN?
- 5 A. YOU KNOW, WHENEVER YOU GOT RIGHT, YOU KNOW WHAT I'M  
6 SAYING.
- 7 Q. WHAT DO YOU MEAN BY THAT?
- 8 A. WHEN I GOT THE MONEY. YOU KNOW, YOU DIDN'T HAVE THE  
9 MONEY RIGHT THEN.
- 10 Q. WHY DID YOU ASK THAT OF MR. DARVELL -- ARVELL DARRELL  
11 BAGLEY?
- 12 A. I MEAN, YOU KNOW, HE KNOWS MY MAN. I MEAN, WE'D BEEN  
13 FRIENDS.
- 14 Q. WHAT DID YOU KNOW ABOUT HIM? WHY WOULD YOU ASK THAT  
15 QUESTION TO HIM?
- 16 A. 'CAUSE I HAD GOT DRUGS FROM HIM BEFORE.
- 17 Q. ON HOW MANY OCCASIONS?
- 18 A. I CAN'T EVEN COUNT THEM.
- 19 Q. BEFORE OR AFTER THE TIME THAT YOU FIRST MET CHRIS WOODY?
- 20 A. IT WAS BEFORE I MET WOODY. I'VE BEEN DEALING WITH  
21 DARRELL SINCE I WAS YOUNG.
- 22 Q. WHERE WERE YOU DEALING WITH HIM?
- 23 A. ON MILLS STREET.
- 24 Q. ON WHERE?
- 25 A. MILLS STREET IN CHESTER.

1 Q. WHERE ELSE?

2 A. THAT'S ABOUT IT. IT WAS MOSTLY AROUND CHESTER.

3 Q. WHEN YOU SAY DEALING WITH HIM, WHAT DO YOU MEAN BY THAT?

4 A. COMING OVER, GETTING DRUGS FROM HIM, SEEING HIM AT THE  
5 CLUB, CHILLING WITH HIM, DRINKING WITH HIM OVER AT HIS COUSIN  
6 HOUSE.

7 Q. WHAT TYPE OF DRUGS?

8 A. COCAINE ROCKED UP.

9 Q. WHAT IS THE DIFFERENCE BETWEEN COCAINE AND ROCKED-UP  
10 COCAINE?

11 A. COCAINE IS LIKE A POWDER AND ROCKED UP IS COOKED UP INTO  
12 A FORM OF SOLID.

13 Q. IS THAT WHAT IS KNOWN AS CRACK COCAINE?

14 A. YES, SIR.

15 Q. OF THOSE TWO SUBSTANCES, WHAT DID YOU RECEIVE FROM HIM  
16 OVER THE TIME YOU KNEW HIM?

17 A. CRACK.

18 Q. WHAT WOULD YOU DO WITH THE CRACK?

19 A. I WOULD SELL IT.

20 Q. DID YOU EVER USE ANY OF IT?

21 A. NO, SIR.

22 Q. YOU SOLD IT WHERE?

23 A. FORT LAWN.

24 Q. DID YOU EVER SELL ANY IN YORK COUNTY?

25 A. YES, SIR.

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1 Q. WHERE DID YOU GET THOSE DRUGS?

2 A. FROM DARRELL.

3 Q. THE DAY THAT THIS OCCURRED, WHAT ELSE DID YOU SAY TO HIM  
4 ABOUT CAN YOU FRONT ME SOME? WHAT WAS YOUR PURPOSE? WHAT  
5 WERE YOU ATTEMPTING TO DO OR GET?

6 A. I WAS ATTEMPTING TO GET ABOUT A OUNCE, BUT HE ONLY HAD A  
7 EIGHT BALL.

8 Q. EXPLAIN WHAT AN EIGHT BALL IS.

9 A. EIGHT BALL IS LIKE 3.5. YOU CAN MAKE, LIKE, THREE FIFTY,  
10 FOUR HUNDRED DOLLARS OFF IT.

11 Q. THREE POINT FIVE WHAT?

12 A. GRAMS.

13 Q. HOW MANY GRAMS IN AN OUNCE?

14 A. FOURTEEN.

15 MR. DELGADO: YOUR HONOR, THE COURT CAN TAKE JUDICIAL  
16 NOTICE OF THE FACT THAT THERE'S TWENTY-EIGHT GRAMS IN AN  
17 OUNCE.

18 THE COURT: YES, SIR.

19 Q. THREE POINT FIVE TIMES EIGHT IS APPROXIMATELY WHAT, SIR?  
20 DO YOU KNOW?

21 A. NO, SIR.

22 Q. ALL RIGHT. THREE POINT FIVE GRAMS IS KNOWN AS A WHAT?

23 A. EIGHT BALL.

24 Q. WHAT DID DARRELL HAVE THAT DAY?

25 A. HE SAID HE HAD AN EIGHT BALL.

- 1 Q. AND WHAT DID YOU WANT?
- 2 A. I WANTED AN OUNCE.
- 3 Q. THAT'S MORE THAN AN EIGHT BALL?
- 4 A. YES, SIR.
- 5 Q. WHAT WERE YOU GOING TO DO WITH IT?
- 6 A. GIVE SOME TO MY BROTHER AND KEEP THE REST.
- 7 Q. WHICH BROTHER?
- 8 A. DEBREZIO.
- 9 Q. WHY?
- 10 A. 'CAUSE I WORKED AND HE DIDN'T WORK, SO HE COULD STAY UP
- 11 AND HUSTLE HIS OWN DRUGS.
- 12 Q. YOU WERE GOING TO GIVE SOME -- SAY THAT AGAIN. YOU WERE
- 13 GOING TO GIVE SOME TO DEBREZIO---
- 14 A. YEAH.
- 15 Q. ---SO THAT HE COULD WHAT? I'M SORRY.
- 16 A. SO HE COULD SELL IT.
- 17 Q. WAS DEBREZIO ALSO INVOLVED IN DRUG DEALINGS WITH ARVELL
- 18 BAGLEY?
- 19 A. YES, SIR.
- 20 Q. FOR HOW LONG A PERIOD OF TIME?
- 21 A. SINCE HE PROBABLY BEEN LIKE FIFTEEN.
- 22 Q. IN JUNE OF 2004 HOW OLD WOULD HE HAVE BEEN?
- 23 A. TWENTY.
- 24 Q. AND YOU WERE, WHAT, TWENTY-THREE? NO, TWENTY-ONE.
- 25 TWENTY-TWO?

- 1 A. TWENTY-TWO.
- 2 Q. DURING THAT -- DID YOU EVER RECEIVE THAT EIGHT BALL FROM
- 3 ARVELL BAGLEY?
- 4 A. NO, SIR.
- 5 Q. WAS THERE ANY MORE TO THAT CONVERSATION BETWEEN YOURSELF
- 6 AND ARVELL BAGLEY FROM YOUR SIDE OF THE CONVERSATION?
- 7 A. YES, SIR.
- 8 Q. WHAT ELSE?
- 9 A. I ASKED HIM WHAT HAPPENED TO HIS EYE.
- 10 Q. WHAT DID YOU OBSERVE ON HIS FACE?
- 11 A. HIS EYE WAS RED.
- 12 Q. ANY OTHER CONVERSATION?
- 13 A. YES, SIR. I ASKED HIM WHAT HE GOING TO DO ABOUT
- 14 SOMETHING.
- 15 Q. GOING TO DO ABOUT WHAT?
- 16 A. THEY GUY WHO HIT HIM IN HIS EYE.
- 17 Q. DID YOU RECEIVE AN ANSWER BACK?
- 18 A. YES, SIR.
- 19 Q. NOT WHAT IT WAS. DID YOU RECEIVE AN ANSWER BACK?
- 20 A. YES, SIR.
- 21 Q. WHAT DID YOU SAY OR DO NEXT?
- 22 A. I ASKED HIM HOW MUCH.
- 23 Q. THEN WHAT DID YOU SAY? WHAT DID YOU DO?
- 24 A. HE DIDN'T TELL ME HOW MUCH.
- 25 Q. THEN WHAT?

1 A. HE SAID I'LL HOLLER AT YOU.

2 Q. EXPLAIN THAT. WHAT DOES I'LL HOLLER AT YOU MEAN?

3 A. IT MEANS I'LL SEE YOU LATER OR CATCH YOU AT A LATER TIME.

4 Q. AND THEN WHAT HAPPENED?

5 A. CHRIS DROVE ME HOME.

6 Q. NOW, IN THOSE TWO CARS WERE YOURSELF, CHRIS WOODY, ARVELL  
7 BAGLEY AND TROY TOBIAS?

8 A. YES, SIR.

9 Q. NOW, IF YOU CAN, HOW LONG BETWEEN THE TIME THAT INCIDENT  
10 OCCURRED AND THE SHOOTING ON JUNE THE 26TH? I'M NOT TRYING TO  
11 MAKE IT SPECIFIC. I'M SIMPLY SAYING WAS IT A WEEK? WAS IT A  
12 MONTH?

13 A. ABOUT A COUPLE OF WEEKS, I THINK.

14 Q. ALL RIGHT. POSSIBLY -- IF THE SHOOTING TOOK PLACE ON  
15 JUNE 26TH, THIS COULD HAVE BEEN IN JUNE ITSELF; IS THAT RIGHT?

16 A. YES, SIR.

17 Q. ALL RIGHT. MR. CAMPBELL, I WANT TO JUMP NOW TO THE  
18 AFTERMATH, THE AFTERMATH, THINGS THAT HAPPENED AFTER JUNE THE  
19 26TH. WERE YOU ARRESTED ON SUNDAY, JUNE 27TH? NO, EXCUSE ME.  
20 YOU WERE ARRESTED ON SATURDAY NIGHT, JUNE 26TH; IS THAT  
21 CORRECT?

22 A. YES, SIR.

23 Q. WHERE WERE YOU ARRESTED?

24 A. AT ROCK HILL POLICE DEPARTMENT.

25 Q. AS A RESULT OF THAT ARREST, WHAT WERE YOU ARRESTED FOR?

DESMOND CAMPBELL - DIRECT BY MR. DELGADO:

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1 A. THEY SAID I HAD BEEN INVOLVED IN A SHOOTING.

2 Q. WHAT WERE YOU CHARGED WITH OFFICIALLY?

3 A. MURDER, TWO GUN CHARGES AND CONSPIRACY TO COMMIT MURDER;  
4 SOMETHING LIKE THAT.

5 Q. THAT'S ON THE NIGHT, SATURDAY, JUNE 26TH?

6 A. YES, SIR.

7 Q. ALL RIGHT. NOW, LET ME JUMP AHEAD. DID YOU MAKE A  
8 WRITTEN STATEMENT PROBABLY TO MS. BLACKWELDER OVER HERE OR  
9 SOMEBODY WITH THE ROCK HILL POLICE DEPARTMENT ABOUT WHAT YOU  
10 OBSERVED AND WHAT YOU SAW ON THE NIGHT OF JUNE 26TH?

11 A. I WAS WILLING TO, BUT THE OFFICER SAID I WAS TOO DRUNK TO  
12 WRITE.

13 Q. DID YOU EVENTUALLY MAKE A STATEMENT?

14 A. YES, SIR.

15 Q. WHEN DID YOU MAKE THAT?

16 A. THE SAME NIGHT I CAME IN.

17 Q. IF I TOLD YOU YOU DIDN'T MAKE IT UNTIL THE MORNING OF THE  
18 27TH, ON SUNDAY MORNING, WOULD THAT BE FAIR?

19 A. NO, SIR.

20 Q. DO YOU REMEMBER WHEN YOU MADE IT?

21 A. YES, SIR.

22 Q. WHEN? WHAT DAY? DO YOU REMEMBER?

23 A. WHEN I FIRST WENT THERE THAT SATURDAY.

24 Q. OKAY. THAT SATURDAY. I WANT TO HAND YOU SOMETHING.

25 MR. DELGADO: YOUR HONOR, I'M NOT ATTEMPTING TO INTRODUCE

1 THIS. I SIMPLY WANT TO MAKE CERTAIN HE RECOGNIZES HIS  
2 SIGNATURE.

3 Q. MR. CAMPBELL, LOOK AT THAT -- THOSE THREE PIECES OF  
4 PAPER. FIRST OF ALL, HAVE YOU EVER SEEN THAT BEFORE AS BEST  
5 YOU KNOW?

6 A. YES, SIR.

7 Q. WHAT IS THAT?

8 A. THIS IS WHAT THE OFFICER TYPED AND THIS IS WHAT I SIGNED.

9 Q. OKAY. IS THAT WHAT THEY TYPED AS A RESULT OF WHAT YOU  
10 TOLD THEM?

11 A. NO, SIR. LIKE I TOLD MY LAWYER, SOME THINGS IN THE  
12 STATEMENT WAS ADDED AND SOME THINGS WAS TAKEN OUT.

13 Q. LET ME SEE I CAN BACK UP. SO IT'S YOU AND A POLICE  
14 OFFICER AT THE ROCK HILL POLICE DEPARTMENT TALKING?

15 A. A DETECTIVE, YES, SIR.

16 Q. A DETECTIVE. DO YOU REMEMBER THE NAME OF THAT DETECTIVE?

17 A. HUTCHINSON.

18 Q. ALL RIGHT, SIR. A BLACK GENTLEMAN; IS THAT RIGHT?

19 A. YES, SIR.

20 Q. ALL RIGHT. MR. HUTCHINSON TOOK THE STATEMENT. YOU TOLD  
21 HIM WHAT OCCURRED; CORRECT?

22 A. NO, SIR. IT WAS YES OR NO ANSWERS.

23 Q. DID HE BELIEVE WHAT YOU SAID TO BE THE TRUTH?

24 A. NO, SIR.

25 Q. HE DIDN'T BELIEVE IT?

1 A. NO, SIR.

2 Q. DID YOU SIGN IT AS BEING THE TRUTH?

3 A. I HAD NO CHOICE. YES, SIR.

4 Q. YOU SIGNED YOUR NAME TO THOSE THREE PIECES OF PAPER ABOUT

5 WHAT YOU OBSERVED OR WHAT YOU SAW AT PACES RIVER AND THE

6 EVENTS AFTER THAT; CORRECT?

7 A. YES, SIR.

8 Q. WHICH INVOLVED THE MURDER OF MR. ARVELL BAGLEY, THE

9 ACTIONS OF YOUR BROTHER AND CHRIS WOODY; IS THAT CORRECT?

10 A. YES, SIR.

11 Q. ALL RIGHT. LET ME STEAL THAT BACK FROM YOU: MR.

12 CAMPBELL, ON MARCH THE 3RD OF THIS YEAR, 2005, DID YOU HERE

13 BEFORE JUDGE ALFORD, DID YOU PLEAD GUILTY TO THE CHARGE OF

14 ACCESSORY AFTER THE FACT OF MURDER?

15 A. I HAD NO CHOICE. YES, SIR.

16 Q. WELL, LET ME BACK UP A MINUTE. WHAT DOES THE CHARGE OF

17 MURDER BRING?

18 A. LIFE.

19 Q. DO YOU KNOW WHAT THE MINIMUM AMOUNT OF SENTENCE IS?

20 A. THIRTY.

21 Q. THAT'S WHAT YOU WERE CHARGED WITH; CORRECT?

22 A. YES, SIR.

23 Q. YOU WERE CHARGED WITH MURDER?

24 A. YES, SIR.

25 Q. YOU WERE CHARGED WITH CONSPIRACY TO COMMIT MURDER?

DESMOND CAMPBELL - DIRECT BY MR. DELGADO:

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1 A. YES, SIR.

2 Q. DO YOU KNOW HOW MUCH THAT BRINGS IN JAIL?

3 A. NO, SIR.

4 Q. WHAT ELSE WERE YOU CHARGED WITH?

5 A. UNLAWFUL CARRYING.

6 Q. DO YOU KNOW HOW MUCH THAT BRINGS?

7 A. NO, SIR.

8 Q. UNLAWFUL CARRYING WHAT, SIR?

9 A. FIREARM.

10 Q. MR. CAMPBELL, FOR THE OCCURRENCES OF JUNE THE 26TH, 2004,  
11 YOU WERE CHARGED WITH THESE THREE THINGS; CORRECT, SIR?

12 A. AND ONE MORE.

13 Q. WHAT ELSE? I'M SORRY.

14 A. USING A FIREARM DURING A VIOLENT CRIME. SOMETHING LIKE  
15 THAT.

16 Q. DO YOU KNOW HOW MUCH THAT BRINGS?

17 A. NO, SIR.

18 Q. ON MARCH THE 3RD, 2005 YOU PLED GUILTY. OF THE FOUR  
19 CHARGES THAT WERE PRESSED AGAINST YOU, WHAT DID YOU PLEAD  
20 GUILTY TO?

21 A. ACCESSORY AFTER THE FACT.

22 Q. HOW MUCH TIME WERE YOU SENTENCED TO FOR THAT?

23 A. FIFTEEN YEARS NON-VIOLENT.

24 Q. ACCESSORY AFTER THE FACT OF WHAT?

25 A. TO MURDER.

DESMOND CAMPBELL - DIRECT BY MR. DELGADO:

615

1 Q. MARCH THE 5TH YOU WERE SENTENCED TO FIFTEEN YEARS IN  
2 JAIL; IS THAT CORRECT, SIR?

3 A. YES, SIR.

4 Q. WHEN YOU CAME BEFORE A JUDGE, YOU DID SO AS A RESULT OF  
5 YOU AND YOUR ATTORNEY SIGNING AN AGREEMENT WITH THE STATE OF  
6 SOUTH CAROLINA, DID YOU NOT?

7 A. YES, SIR.

8 Q. BY THE STATE OF SOUTH CAROLINA I MEAN WHO?

9 A. WILLY THOMPSON.

10 Q. THE SOLICITOR'S OFFICE?

11 A. YES, SIR.

12 Q. THAT'S CALLED -- DO YOU KNOW WHAT THAT TYPE OF  
13 AGREEMENT'S CALLED?

14 A. NO, SIR.

15 Q. IF I TOLD YOU IT'S CALLED A PLEA AGREEMENT, WOULD THAT BE  
16 FAIR?

17 A. YES, SIR.

18 Q. THAT PLEA AGREEMENT WAS SIGNED BY THE STATE THROUGH  
19 EITHER MR. THOMPSON OR MR. POPE AND WHO ELSE?

20 A. AND ME.

21 Q. AND WHO ELSE?

22 A. MY LAWYER.

23 Q. ALL RIGHT. JUNE THE 26TH OR JUNE THE 27TH YOU MADE A  
24 STATEMENT TO MR. HUTCHINSON THAT YOU SIGNED; CORRECT, SIR?

25 A. YES, SIR.

DESMOND CAMPBELL - DIRECT BY MR. DELGADO:

616

1 Q. IN THAT STATEMENT IT SAYS THAT YOU MADE THE STATEMENT TO  
2 MR. HUTCHINSON ON JUNE 26TH FREELY, OF YOUR OWN WILL AND  
3 ACCORD. REMEMBER THAT?

4 A. YES, SIR.

5 Q. YOU WANT TO READ IT?

6 A. NO, SIR.

7 Q. WITHOUT HOPE OF REWARD -- WITHOUT REWARD OR HOPE OF  
8 REWARD. I HAVE NOT BEEN MISTREATED OR THREATENED IN ANY WAY.  
9 ALL OF THE ABOVE IS THE TRUTH AND NOTHING BUT THE TRUTH SO  
10 HELP ME GOD. REMEMBER THAT?

11 A. YES, SIR.

12 Q. DID YOU SIGN YOUR NAME RIGHT UNDERNEATH THAT?

13 A. YES, SIR.

14 Q. WAS THAT THE TRUTH OR NOT? WHAT YOU HAD JUST SAID HERE?

15 A. NO, SIR.

16 Q. MARCH THE 3RD, 2005 IN THIS COURTHOUSE, POSSIBLY IN THIS  
17 COURTROOM, YOU PLED GUILTY TO ACCESSORY AFTER THE FACT OF  
18 MURDER?

19 A. YES, SIR.

20 Q. DO YOU RECALL THE JUDGE ASKING YOU QUESTICNS BEFORE YOU  
21 WERE SENTENCED?

22 A. YES, SIR.

23 Q. HE ASKED YOU QUESTIONS ABOUT WHETHER OR NOT YOU KNEW WHAT  
24 YOU WERE DOING; RIGHT?

25 A. YES, SIR.

DESMOND CAMPBELL - DIRECT BY MR. DELGADO:

617

1 Q. THAT YOU WERE PLEADING GUILTY FREELY, NOBODY MAKING YOU  
2 DO THAT; CORRECT?

3 A. NO ONE WAS MAKING ME, BUT I HAD NO CHOICE.

4 Q. YOU HAD A CHOICE NOT TO PLEAD GUILTY. YOU ALWAYS HAD  
5 THAT CHOICE.

6 A. I HAD A CHOICE OR GETTING LIFE IN PRISON OR GETTING  
7 FIFTEEN NON-VIOLENT.

8 Q. SO YOU MADE A DECISION IN YOUR MIND WHAT WAS BEST FOR  
9 DESMOND CAMPBELL?

10 A. YES, SIR.

11 Q. SO YOU DID HAVE A CHOICE; RIGHT?

12 A. YES, SIR.

13 Q. DID THE JUDGE PUT YOU UNDER OATH LIKE WE'VE DONE TODAY?

14 A. YES, SIR.

15 Q. I'M CERTAIN THAT THE JUDGE ASKED YOU OR THE CLERK ASKED  
16 YOU QUESTIONS AND SWORE YOU SAYING THAT WHAT YOU WERE GOING TO  
17 TELL WAS THE TRUTH; CORRECT?

18 A. YES, SIR.

19 Q. DID YOU TELL THE TRUTH THAT DAY?

20 A. NO, SIR.

21 Q. TWO DIFFERENT TIMES YOU DIDN'T TELL THE TRUTH SWORN UNDER  
22 OATH?

23 A. YES, SIR.

24 Q. LET'S GO BACK TO THE NIGHT OF JUNE THE 26TH. START  
25 AROUND NOON THAT DAY AND TELL US WHERE YOU WERE, WHO YOU WERE

1 WITH, WHAT HAPPENED.

2 A. I WAS IN CHESTER ON FREDERICK PARK DRIVE WITH A FEMALE  
3 FRIEND NAMED SHONTAY STARKS.

4 Q. ALL RIGHT. YOU CAN SPEAK LOUDER, JUST SPEAK SLOWER.

5 A. I WAS IN CHESTER ON FREDERICK PARK DRIVE OVER AT A FRIEND  
6 HOUSE NAMED SHONTAY STARKS.

7 Q. WHEN DID YOU LEAVE CHESTER AND WITH WHOM DID YOU LEAVE,  
8 IF YOU LEFT WITH ANYONE?

9 A. I LEFT CHESTER AROUND 5:30, SIX AND I LEFT WITH SHONTAY  
10 STARKS.

11 Q. WHERE DID YOU GO?

12 A. TO ROCK HILL.

13 Q. WHAT TIME DID YOU GET HERE?

14 A. I GOT TO ROCK HILL AROUND SEVEN.

15 Q. WHERE DID YOU GO?

16 A. I WENT TO MY BROTHER'S GIRLFRIEND HOUSE, STONE HAVEN  
17 APARTMENTS.

18 Q. NOW, WHICH BROTHER?

19 A. DEBREZIO.

20 Q. YOUR YOUNGER BROTHER, DEBREZIO CAMPBELL?

21 A. YES, SIR.

22 Q. THE YOUNGEST OF THE FOUR?

23 A. YES, SIR.

24 Q. YOU WENT OVER TO HIS GIRLFRIEND'S HOUSE WHERE? WHAT  
25 APARTMENTS?

DESMOND CAMPBELL - DIRECT BY MR. DELGADO:

619

1 A. STONE HAVEN APARTMENTS.

2 Q. THAT'S WHERE YOU HAD PREVIOUSLY --

3 A. NO. I STILL HAD MY APARTMENT THERE, BUT I JUST WASN'T  
4 STAYING THERE.

5 Q. OKAY. IT'S THE SAME APARTMENT COMPLEX THAT YOU WERE  
6 DRIVING IN WHEN SOMEBODY ELSE WAS DRIVING OUT; RIGHT?

7 A. YES, SIR.

8 Q. DID YOU GO TO YOUR APARTMENT OR NOT?

9 A. NO, SIR.

10 Q. SO YOU WERE WITH SOME OTHER GIRL, BUT YOU COME BACK TO  
11 YOUR GIRLFRIEND'S APARTMENT AT STONE HAVEN?

12 A. I WENT TO DEBREZIO'S GIRLFRIEND APARTMENT.

13 Q. I'M SORRY. THAT'S CORRECT. DEBREZIO'S GIRLFRIEND'S  
14 APARTMENT. WHAT IS HER NAME?

15 A. I KNEW HER BY NINI.

16 Q. IF I TOLD YOU HER REAL NAME WAS SHAQUAVIOUS ROBINSON, DO  
17 YOU ALSO KNOWN NINI BY THAT NAME?

18 A. YES, SIR.

19 Q. THAT'S THE YOUNG LADY THAT YOUR BROTHER WAS EITHER  
20 LIVING WITH, STAYING WITH, BOYFRIEND/GIRLFRIEND?

21 A. YES, SIR.

22 Q. DO YOU REMEMBER THE NUMBER OF THE APARTMENT AT STONE  
23 HAVEN?

24 A. NO, SIR.

25 Q. YOU GOT THERE AT SEVEN. WHO DID YOU MEET THERE? WHO DID

1 YOU SEE THERE?

2 A. WHEN I GOT OUT OF THE CAR I SEEN WOODY ON THE BALCONY.

3 Q. YOU SEEN WOODY ON THE BALCONY OF WHOSE APARTMENT?

4 A. NINI'S.

5 Q. HAD YOU EVER SEEN HIM THERE AT THAT APARTMENT BEFORE?

6 A. NO, SIR.

7 Q. WHO WAS HE THERE WITH?

8 A. HE WAS THERE BY HISSELF. MY BROTHER HAD HIS CAR.

9 Q. YOUR BROTHER DEBREZIO HAD WHOSE CAR?

10 A. WOODY'S CAR.

11 Q. SOMETIME AFTER THAT PERIOD, SEVEN, 7:30, DID THE THREE OF  
12 YOU-ALL -- NO, BEFORE WE GET TO THAT, DID YOU HAVE ANYTHING TO  
13 DRINK ON SATURDAY THE 26TH?

14 A. YES, SIR.

15 Q. WHO ALSO HAD SOMETHING TO DRINK THAT WAS IN YOUR SPHERE  
16 OF CONTACT?

17 A. DEBREZIO, MY LITTLE BROTHER, AND WOODY WAS DRINKING ALSO.

18 Q. WHEN DID THE THREE OF YOU-ALL, THAT'S YOURSELF, YOUR  
19 BROTHER DEBREZIO, AND CHRIS, THE THREE OF Y'ALL GET TOGETHER  
20 AND TELL US WHAT YOU DID.

21 A. DEBREZIO PULLED BACK UP AS I WAS GOING UP THE STEPS AND  
22 I ASKED WOODY WHY HE HAD HIS CAR. WOODY SAY DEBREZIO HAD TO  
23 GO MAKE A DROP-OFF. DEBREZIO CAME IN THE HOUSE. THEY HAD TWO  
24 BIG BOTTLES OF CROWN ROYAL ON THE TABLE. WE BEGAN DRINKING.  
25 WE SAT THERE LISTENING TO MUSIC AND WE WAS PLAYING DOMINOS.

1 WE DRANK THE TWO BOTTLES UP. WOODY WAS LIKE HE DON'T WANT NO  
2 MORE, HE GOING TO THE CLUB TONIGHT. I KEPT TALKING TO HIM,  
3 GOT HIM TO CARRY ME TO THE LIQUOR STORE ON CHERRY ROAD TO GET  
4 ANOTHER BOTTLE. I BOUGHT A BOTTLE OF CROWN ROYAL.

5 Q. WHO DROVE?

6 A. WOODY DROVE.

7 Q. YOU GOT OUT AND GOT ANOTHER THIRD BOTTLE OF CROWN ROYAL?

8 A. YES, SIR.

9 Q. WHO DRANK SOME OF THAT?

10 A. AT FIRST WOODY DIDN'T WANT NONE 'CAUSE HE WAS ALREADY  
11 DRUNK, BUT I KEPT TELLING HIM, YOU KNOW, IF YOU STOP DRINKING  
12 YOU'RE GOING TO FEEL SICK. JUST KEEP SIPPING. SO ALL OF US  
13 STARTED DRINKING THAT.

14 Q. KEEP DRINKING SO YOU WON'T GET DRUNK?

15 A. NO. HE WAS JUST SAYING HE WAS -- YOU KNOW, HE WAS  
16 FEELING SICK AND DRUNK. I WAS TELLING HIM TO KEEP SIPPING ON  
17 IT SO HE WON'T JUST --

18 Q. LET'S ADVANCE THE BALL A LITTLE BIT. TELL US WHAT  
19 HAPPENED AT 7:30, EIGHT O'CLOCK, 8:30, NINE O'CLOCK. WHERE  
20 WERE YOU? WHAT DID YOU DO? WHO WERE YOU WITH?

21 A. WE WERE ON CHERRY ROAD, ME AND 'BREZIO AND WOOD. WE WERE  
22 DRINKING. WE WERE RIDING AROUND, TALKING TO GIRLS.

23 Q. LET ME STOP YOU RIGHT THERE. HOLD IT JUST ONE MINUTE.  
24 AT THAT MOMENT, DRIVING AROUND LOOKING FOR GIRLS ON CHERRY  
25 ROAD, WHAT INTENT WAS THERE TO KILL ANYBODY?

1 A. THERE WASN'T.

2 Q. THE THREE OF Y'ALL HAD NEVER -- WHAT WAS THE INTENT OF  
3 THE OTHERS?

4 A. THERE WASN'T.

5 MR. THOMPSON: OBJECTION, YOUR HONOR.

6 THE COURT: SUSTAINED, COUNSEL.

7 MR. DELGADO: I THINK I -- I APOLOGIZE, YOUR HONOR.  
8 YOU'RE RIGHT.

9 Q. WAS THERE ANYTHING EVER SAID IN YOUR -- YEAH -- IN YOUR  
10 PRESENCE ABOUT KILLING ANYBODY TONIGHT?

11 A. NO, SIR.

12 Q. DID DEBREZIO HAVE A GUN ON HIM OR DID YOU SEE A GUN ON  
13 HIM?

14 A. HE HAD ONE ON HIM, BUT I DIDN'T SEE IT.

15 Q. HOW DO YOU KNOW HE HAD IT ON HIM?

16 A. 'CAUSE DEBREZIO, WHEN HE HUSTLED, HE KEPT HIS GUN ON HIM.

17 Q. WHEN YOU SAY HUSTLED, WHAT DO YOU MEAN BY HUSTLED?

18 A. DEBREZIO WAS SELLING DRUGS, SO HE KEPT HIS GUN ON HIM.

19 Q. DO DRUG DEALERS DO THAT?

20 A. YES, SIR.

21 Q. OR JUST YOUR BROTHER?

22 A. I MEAN, THE DRUG DEALERS I KNOW, THEY DO IT.

23 Q. DO YOU KNOW THE CUSTOM OF ARVELL BAGLEY FOR HAVING A GUN,  
24 THE HABIT OF ARVELL BAGLEY FOR HAVING A GUN?

25 A. YES, SIR.

- 1 Q. WHAT IS THAT CUSTOM OR HABIT?
- 2 A. KEEPING HIS GUN.
- 3 Q. SAY THAT AGAIN.
- 4 A. KEEPING HIS GUN.
- 5 Q. KEEPING HIS GUN WHERE?
- 6 A. ON HIM.
- 7 Q. WOULD ARVELL BAGLEY ALWAYS HAVE A GUN ON HIM?
- 8 MR. THOMPSON: OBJECTION, YOUR HONOR.
- 9 THE COURT: SUSTAINED.
- 10 Q. ARVELL -- EXCUSE ME. DEBREZIO HAS A GUN 'CAUSE HE'S A
- 11 HUSTLER?
- 12 A. YES, SIR.
- 13 Q. DID YOU EVER SEE ANOTHER GUN IN THAT CAR DRIVEN BY CHRIS
- 14 WOODY? OR WAS CHRIS WOODY DRIVING THAT CAR?
- 15 A. YES, SIR.
- 16 Q. THAT WAS CHRIS WOODY'S CAR?
- 17 A. YES, SIR.
- 18 Q. DO YOU REMEMBER THE COLOR, MAKE, MODEL?
- 19 A. IT WAS AROUND, LIKE, A '99 MAXIMA, LIKE, A PURPLE LOOKING
- 20 COLOR.
- 21 Q. PURPLE IN COLOR?
- 22 A. YES, SIR.
- 23 Q. OKAY. DID YOU EVER SEE A GUN IN THAT CAR?
- 24 A. YES, SIR.
- 25 Q. WHERE WAS IT?

1 A. WOODY KEPT HIS GUN WHERE YOU COULD SEE IT.

2 Q. WHERE WAS IT WHERE YOU COULD SEE IT?

3 A. UP UNDER HIS CD PLAYER.

4 Q. SAY WHAT?

5 A. UNDERNEATH HIS CD PLAYER, LIKE, YOU KNOW, --

6 Q. UNDER THE CD PLAYER?

7 A. YES, SIR.

8 Q. I'M SORRY. I DIDN'T HEAR YOU. WHY IS THAT?

9 A. 'CAUSE HE SAID IF HE WAS TO GET STOPPED AND IT WAS LIKE  
10 UNDER HIS SEAT OR, YOU KNOW, HE'LL GET CHARGED WITH-SOMETHING.

11 Q. DO YOU KNOW THAT IS OR IS NOT THE LAW IN THE STATE OF  
12 SOUTH CAROLINA?

13 A. I DON'T KNOW.

14 Q. DO YOU KNOW IF THAT'S THE LAW IN THE STATE OF VIRGINIA  
15 WHERE HE WAS FROM?

16 A. I DON'T KNOW THAT, EITHER.

17 Q. BUT HE TOLD YOU IF YOU KEEP IT OUT WHAT?

18 A. THEY'D PROBABLY JUST ASK FOR SOME PAPERS OR SOMETHING.

19 Q. I'M SORRY. SAY THAT AGAIN.

20 A. THEY'D ASK FOR THE PAPERS ON THE GUN IF THEY SEEN IT.

21 Q. OKAY. IS THERE A TIME WHEN THE THREE OF YOU--ALL IN CHRIS  
22 WOODY'S CAR DRIVE TO A PLACE CALLED PACES RIVER APARTMENTS?

23 A. YES, SIR.

24 Q. WHERE IS PACES RIVER APARTMENTS LOCATED?

25 A. ON CELANESE ROAD DOWN BELOW HOOTERS.

DESMOND CAMPBELL - DIRECT BY MR. DELGADO:-

625

1 Q. TELL US WHAT HAPPENED THE FIRST TIME YOU CAME THROUGH.

2 A. DEBREZIO -- DEBREZIO WAS LIKE, WOODY, CARRY ME AROUND BY  
3 MAN'S HOUSE, BEING DARRELL.

4 Q. WAIT; WAIT. CARRY YOU BY MAN'S HOUSE. WHO IS MAN'S  
5 HOUSE? WHO IS THAT?

6 A. DARRELL.

7 Q. WHY DID HE CALL HIM MAN?

8 A. 'BREZIO SAY MY MAN AS HIM BEING A FRIEND.

9 Q. HOW WOULD WOODY KNOW WHO MY MAN IS?

10 A. WOODY DIDN'T KNOW.

11 Q. DID HE ASK?

12 A. YEAH.

13 Q. HE DIDN'T EVEN KNOW WHO MY MAN, ACCORDING TO DEBREZIO,  
14 WAS?

15 A. HE DIDN'T KNOW.

16 Q. DID YOU KNOW WHO IT WAS?

17 A. YES, SIR.

18 Q. WHY WAS HE DEBREZIO'S MAN?

19 A. 'CAUSE THAT'S WHO FRONTED 'BREZIO WORK. THAT'S WHERE  
20 'BREZIO GOT HIS WORK FROM.

21 Q. BUT IT'S NOT WORK, IT'S DRUGS; RIGHT?

22 A. IT'S DRUGS. YES, SIR.

23 Q. WHEN YOU SAY WORK, YOU'RE TALKING ABOUT ILLEGAL  
24 CONTRABAND, NARCOTICS?

25 A. YES, SIR.

- 1 Q. CRACK OR POWDER COCAINE?
- 2 A. YES, SIR.
- 3 Q. DEBREZIO SAYS, WOODY, DRIVE ME BY MY MAN'S HOUSE?
- 4 A. (NODS HEAD AFFIRMATIVELY)
- 5 Q. WHO DIRECTED HIM TO PACES RIVER?
- 6 A. DEBREZIO.
- 7 Q. DID YOU GO INTO PACES RIVER APARTMENTS AND WHERE DID YOU
- 8 GO?
- 9 A. TO DARRELL'S APARTMENT.
- 10 Q. DO YOU KNOW WHERE DARRELL'S APARTMENT IS LOCATED?
- 11 A. YES, SIR.
- 12 Q. OKAY. HAD YOU BEEN THERE BEFORE?
- 13 A. NO, SIR.
- 14 Q. HOW DID YOU KNOW WHERE IT WAS THEN?
- 15 A. DEBREZIO SHOWED US.
- 16 Q. OKAY. NOW, YOU HAD WORKED FOR ARVELL DARRELL BAGLEY IN
- 17 THIS ILLEGAL DRUG ACTIVITY, WERE YOU NOT?
- 18 A. YES, SIR.
- 19 Q. WHAT WERE YOU DOING AS PART OF HIS ACTIVITIES?
- 20 A. SELLING DRUGS FOR HIM AND ALSO KEEPING NOTES.
- 21 Q. KEEPING WHAT?
- 22 A. KEEPING NOTES OF HOW MUCH DRUGS WERE BEING GIVEN OUT TO
- 23 WHO, HOW MUCH MONEY IS COMING BACK IN.
- 24 Q. SO YOU ARE THE BOOKKEEPER?
- 25 A. YOU COULD SAY THAT.

DESMOND CAMPBELL - DIRECT BY MR. DELGADO:

627

1 Q. WHERE WOULD YOU KEEP THESE NOTES?

2 A. I HAD -- I HAD THEM IN MY DOUBLE-WIDE TRAILER BEHIND MY  
3 PARENTS IN RICHBURG, SOUTH CAROLINA.

4 Q. AND YOU WOULD MAKE ADDITIONS TO THOSE NOTES OR SUBTRACT.  
5 WHAT WOULD YOU DO WITH THE NOTES?

6 A. DARRELL WOULD TELL ME WHO, YOU KNOW, WHO HAD MONEY AND  
7 WHO OWED HIM WHAT. THAT'S WHY I WOULD WRITE DOWN HOW MUCH  
8 MONEY WAS COMING BACK IN. I WOULD WRITE THAT DOWN, TOO, OR  
9 WHO CAME UP SHORT ON WHAT.

10 Q. WHEN DEBREZIO SAID HE WANTED TO GO TO MY MAN OR MAN'S  
11 HOUSE, WHAT WAS HIS PURPOSE IN GOING?

12 A. DROP OFF SOME MONEY.

13 Q. WAS THIS LEGAL MONEY? I MEAN, IT'S ALWAYS LEGAL MONEY.  
14 THE POINT IS WAS IT MONEY AS A RESULT OF HARD WORK BY YOUR  
15 BROTHER?

16 A. HE DIDN'T HAVE A JOB.

17 Q. SO WHERE DID THE MONEY COME FROM?

18 A. SELLING DRUGS.

19 Q. HOW MUCH MONEY?

20 A. DEBREZIO -- I DIDN'T KNOW HOW MUCH, BUT HE HAD TOLD ME IT  
21 WAS LIKE TWENTY-SEVEN HUNDRED.

22 Q. NOW, THIS IS BEFORE THE SHOOTING DEBREZIO TELLS YOU HE IS  
23 GOING TO BE THERE TO DROP OFF TWENTY-SEVEN HUNDRED DOLLARS?

24 A. YES, SIR.

25 Q. AS THE THREE OF Y'ALL RIDE BY, WHO STOPS? WHAT -- WHO

DESMOND CAMPBELL - DIRECT BY MR. DELGADO:

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1 TALKS TO WHO? DOES ANYBODY GET OUT OF THE CAR?

2 A. YES, SIR. WE GO INTO PACES RIVER---

3 Q. WAIT A MINUTE. GO AHEAD.

4 A. ---AND WOODY ASKED HIM I THOUGHT YOU HAD MY CAR EARLIER  
5 AND I THOUGHT YOU HAD DROPPED THIS OFF EARLIER AND 'BREZIO  
6 TOLD WOODY THAT WHEN HE WENT IN THERE EARLIER THAT HE WASN'T  
7 THERE SO HE WENT BACK AND 'BREZIO RAN UPSTAIRS AND HE SAY HE  
8 TALKED TO TROY. DARRELL STILL WASN'T THERE. DEBREZIO SAID  
9 TROY DID NOT WANT TO RECEIVE THE MONEY BECAUSE ALL OF THE  
10 MONEY WASN'T THERE. SO AS WE WERE LEAVING OUT DARRELL WAS  
11 COMING IN.

12 Q. ALL RIGHT. AS YOU-ALL ARE LEAVING PACES RIVER THE FIRST  
13 TIME, THE THREE OF Y'ALL ARE IN A CAR?

14 A. YES, SIR.

15 Q. YOU'RE COMING BACK DOWN TOWARD CELANESE?

16 A. NO, SIR. WE'RE JUST NOW LEAVING OUT OF PACES RIVER. YOU  
17 KNOW WHAT I'M SAYING, THE ROAD IT'S ON. I DON'T KNOW THE NAME  
18 OF THAT ROAD.

19 Q. ALL RIGHT. WHAT DID YOU SEE?

20 A. WE SEEN DARRELL AND THREE CARS -- ABOUT TWO CARS BEHIND  
21 HIM.

22 Q. DARRELL AND TWO CARS BEHIND HIM?

23 A. YES, SIR.

24 Q. WHAT DID Y'ALL DO IN YOUR CAR?

25 A. DEBREZIO REACHED OVER WOODY AND HIT THE LIGHTS.

DESMOND CAMPBELL - DIRECT BY MR. DELGADO:

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- 1 Q. HIT THE LIGHTS FOR WHAT?
- 2 A. AS IN TRYING TO STOP DARRELL OR GET HIS ATTENTION.
- 3 Q. WERE YOU ABLE TO GET HIS ATTENTION?
- 4 A. HE SLOWED DOWN, LOOKED UP IN THE CAR AND DID LIKE THIS.
- 5 Q. DID LIKE WHAT? DESCRIBE FOR THE COURT REPORTER WHAT
- 6 YOU'RE DOING WHEN YOU SAY LIKE THIS.
- 7 A. WHEN DEBREZIO HIT THE LIGHTS DARRELL SLOWED DOWN, LOOKED
- 8 UP IN THE CAR AND HE SEEN DEBREZIO AND HE DID HIS HANDS LIKE
- 9 THAT, ASKING WHAT'S UP, DARRELL DOING LIKE THIS AS IN TURN
- 10 AROUND.
- 11 Q. DID YOU, CHRIS WOODY, AND DEBREZIO TURN AROUND?
- 12 A. YES, SIR.
- 13 Q. WHO WAS DRIVING?
- 14 A. WOODY.
- 15 Q. WHAT -- WHERE DID THE CAR GO THEN, THE CAR, THE MAZDA
- 16 DRIVEN BY CHRIS WOODY?
- 17 A. WE JUST TURNED AROUND, WENT OUT TO THE V AND JUST TURNED
- 18 BACK IN. THEN AS WE WAS TURNING IN I SEEN A FEMALE.
- 19 Q. YOU SEEN A -- SAW WHAT?
- 20 A. I SEEN A FEMALE, SO I TOLD WOODY TO FOLLOW THE CAR.
- 21 Q. YOU SAW WHAT FEMALE?
- 22 A. I DON'T KNOW HER NAME. I MEAN, SHE WAS GOING IN PACES
- 23 RIVER.
- 24 Q. WHAT DID YOU DO WITH THIS FEMALE? WHERE DID YOU GO?
- 25 A. I TOLD WOODY TO FOLLOW THE CAR AND WOODY WENT TO THE

1 RIGHT, THE TWO CARS IN FRONT OF HIM WENT TO THE LEFT. WOODY  
2 THEN BACKED UP AND PARKED BESIDE THE FEMALE. I ROLLED DOWN MY  
3 WINDOW TO TALK TO HER. DEBREZIO HOPPED OUT OF THE CAR, HE  
4 WALKED DOWN AND HE YELLED BACK AT WOODY, WOODY, COME ON, MAN.  
5 WOODY GAVE A DEEP BREATH LIKE HUH AND GOT OUT OF THE CAR AND  
6 RAN DOWN TOWARDS 'BREZIO.

7 Q. WHERE DID YOU STAY?

8 A. I STAYED THERE TALKING TO THE FEMALE.

9 Q. WHAT NEXT DID YOU HEAR?

10 A. THEY WERE DOWN THERE, LIKE, FIFTEEN OR TWENTY MINUTES.

11 Q. FIFTEEN OR TWENTY MINUTES?

12 A. YES, SIR.

13 Q. THEN WHAT HAPPENED?

14 A. THEN I HEARD SHOTS.

15 Q. HOW MANY SHOTS?

16 A. I CAN'T REMEMBER.

17 Q. WHAT DID YOU NEXT SEE?

18 A. THE FEMALE RAN, GRABBED HER SON. SHE RAN IN HER  
19 APARTMENT. I --

20 Q. NOW, THIS FEMALE WITH HER SON, THIS WAS A YOUNG LADY WITH  
21 A CHILD?

22 A. YES, SIR.

23 Q. DO YOU KNOW HER NAME?

24 A. NO, SIR.

25 Q. SHE RAN INSIDE WITH HER CHILD?

DESMOND CAMPBELL -- DIRECT BY MR. DELGADO:

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1 A. YES, SIR.

2 Q. WHAT DID YOU DO WHEN YOU HEARD SHOTS?

3 A. I CLIMBED FROM THE BACK SEAT TO THE FRONT AND CRUNK UP  
4 WOODY CAR AND I PULLED -- I WAS DRIVING DOWN WHERE THEY HAD  
5 WALKED TO.

6 Q. AT THE TIME THAT THE TWO FELLOWS GOT -- DEBREZIO FIRST  
7 AND THEN WOODY GOT OUT OF THE CAR, WHAT EXPRESSED INTENT, WHAT  
8 HAD ANYBODY SAID IN YOUR PRESENCE ABOUT KILLING ANYBODY THAT  
9 NIGHT?

10 A. DIDN'T ANYONE SAY ANYTHING LIKE THAT.

11 Q. HAD ANYBODY EVER TALKED ABOUT IT?

12 A. NO, SIR.

13 Q. YOU GOT IN THE CAR AND DROVE AROUND. DROVE AROUND WHERE?

14 A. IT WAS LIKE SOME PARKING SPACES OVER THERE, SOME WOODS,  
15 AND SOME MORE PARKING SPACES. IT WENT LIKE IN A U.

16 Q. HOLD ON FOR A MINUTE. MR. CAMPBELL, I'M GOING TO HAND  
17 YOU A PHOTOGRAPH AND SEE IF YOU CAN IDENTIFY THIS PHOTOGRAPH.  
18 JUST LOOK AT IT FIRST. JUST LOOK AT IT FIRST. DO YOU KNOW  
19 WHAT THAT IS, WHERE THAT IS?

20 A. IS THIS PACES RIVER APARTMENT? THEY LOOK THE SAME TO ME.

21 Q. OKAY.

22 MR. DELGADO: YOUR HONOR, MAY I MARK THIS -- I BELIEVE  
23 THIS IS DEFENDANT'S EXHIBIT 4 WITHOUT OBJECTION BY THE  
24 SOLICITOR.

25 MR. POPE: CORRECT, YOUR HONOR. I WOULD LIKE TO---

1 MR. DELGADO: SURE.

2 MR. POPE: ---DETERMINE WHICH NUMBER IT IS SO I CAN---

3 MR. DELGADO: YES, SIR.

4 MR. POPE: ---LOOK AT IT, BUT I COULD NOT FIND IT IN --  
5 BEG THE COURT'S INDULGENCE. YOUR HONOR, THIS IS ONE OF THE  
6 DAYLIGHT PICTURES. I DON'T THINK IT'S IN THE SET OF WHAT WE  
7 GAVE -- I STILL HAVE NO OBJECTION TO IT. I JUST -- IT'S JUST  
8 NOT THERE TO BE PRESENTED. I CAN TURN THIS ON IF YOU NEED IT.

9 THE COURT: ARE YOU OFFERING IT FOR ADMISSION, COUNSEL?

10 MR. DELGADO: YES, SIR, I AM.

11 THE COURT: AS A DEFENDANT'S EXHIBIT?

12 MR. DELGADO: YES, SIR.

13 THE COURT: ALL RIGHT. NO OBJECTION, COUNSEL?

14 MR. POPE: NO OBJECTION, YOUR HONOR.

15 THE COURT: ADMITTED WITHOUT OBJECTION, COUNSEL. PLEASE  
16 HAVE IT MARKED BY THE COURT REPORTER.

17 MR. DELGADO: YES, SIR.

18 Q. MR. CAMPBELL, DEFENDANT'S EXHIBIT NUMBER 4, --

19 MR. DELGADO: CAN WE PLACE IT HERE FOR ALL OF US TO VIEW?  
20 MISS CLERK, LET'S GO AHEAD AND TURN THE LIGHT OFF SO WE CAN --  
21 GO AHEAD AND TURN THE LIGHT OFF.

22 Q. CAN YOU SEE FROM THERE, YOUNG MAN?

23 A. YES, SIR.

24 Q. THAT'S DEFENDANT EXHIBIT NUMBER 4 IN THE BOTTOM RIGHT-  
25 HAND CORNER. DO YOU SEE THAT, THAT LITTLE STICKER?

1 A. NO, SIR.

2 Q. WELL, I'M TELLING YOU IT IS. DO YOU KNOW WHAT THAT  
3 APARTMENT IS THAT THE CAMERA IS FACING? YOU SAY ALL OF THEM  
4 LOOK ALIKE TO YOU?

5 A. YES, SIR.

6 Q. ALL RIGHT. DO YOU KNOW THAT AS PACES RIVER APARTMENTS?  
7 DO YOU KNOW THAT?

8 A. NO, SIR.

9 Q. ALL RIGHT. YOU WERE IN A CAR. DEBREZIO AND THEN WOODY  
10 HAD LEFT AND YOU HEAR SOMETHING?

11 A. YES, SIR.

12 Q. GO FROM THERE. WHAT DID YOU HEAR? HOW MUCH DID YOU  
13 HEAR? WHERE DID YOU GO? WHAT DID YOU DO? WHO DID YOU SEE?

14 A. I HEARD SOME SHOTS. I DON'T KNOW HOW MANY. I THEN  
15 CLIMBED FROM THE BACK SEAT TO THE FRONT, CRUNK UP WOODY CAR.  
16 I WAS DRIVING AROUND WHERE THEY WALKED TO. I SEEN 'BREZIO AND  
17 WOODY RUNNING TOWARD THE CAR, TELLING ME TO BACK UP. 'BREZIO  
18 AND WOODY GOT INTO THE CAR. I HEARD TWO MORE SHOTS AS I WAS  
19 LEAVING PACES RIVER.

20 Q. NOW, LET'S DO THIS: DID YOU LEARN FROM YOUR BROTHER WHAT  
21 HAD OCCURRED DOWN HERE?

22 A. YES, SIR.

23 Q. WHAT DID HE TELL YOU WHEN HE GOT BACK TO THE CAR?

24 MR. THOMPSON: OBJECTION, YOUR HONOR. THERE'S NO  
25 FOUNDATION LAID AT THIS POINT TO TESTIFY TO THAT.

1 MR. DELGADO: YES, YOUR HONOR. I'LL BACK UP JUST A  
2 MINUTE.

3 Q. YOUR BROTHER WAS THERE FOR A CERTAIN PURPOSE?

4 A. YES, SIR.

5 Q. THAT PURPOSE WAS WHAT AGAIN?

6 A. TO DROP OFF SOME MONEY.

7 Q. THE MONEY WAS TWENTY-SEVEN HUNDRED DOLLARS?

8 A. YEAH; THAT'S WHAT HE SAID. I DIDN'T COUNT IT.

9 Q. DID YOU SEE IT?

10 A. I SEEN SOME MONEY, YEAH, 'CAUSE HE -- HE WAS BUYING  
11 THINGS, SO I SEEN HIM WITH A LOT OF MONEY.

12 Q. WHEN YOU SAW THE MONEY WHEN HE CAME BACK TO -- RUNNING  
13 BACK TO THE CAR, WHAT DID HE TELL YOU ABOUT THE MONEY?

14 MR. THOMPSON: OBJECTION, YOUR HONOR. IT WOULD BE  
15 HEARSAY. I DON'T KNOW WHY THAT COMES IN.

16 THE COURT: WELL, --

17 MR. DELGADO: THAT'S PRESENT SENSE IMPRESSION, I THINK,  
18 YOUR HONOR.

19 THE COURT: BUT YOU NEED TO LAY YOUR FOUNDATION. YOU'RE  
20 ASKING SPECIFICALLY ABOUT ONE THING.

21 MR. DELGADO: OKAY. WELL, LET ME BACK UP.

22 THE COURT: ALL RIGHT, SIR. JUST LAY YOUR FOUNDATION,  
23 PLEASE.

24 MR. DELGADO: ALL RIGHT.

25 Q. MR. CAMPBELL, YOU SAW DESMOND RUNNING -- EXCUSE ME --

DESMOND CAMPBELL - DIRECT BY MR. DELGADO:

635

1 DEBREZIO RUNNING BACK TO THE CAR?

2 A. YES, SIR.

3 Q. WHEN YOU SAW HIM COME BACK TO THE CAR, WHO SAID ANYTHING  
4 TO YOU? WHICH PEOPLE TALKED TO YOU?

5 A. BOTH WOODY AND MY BROTHER DEBREZIO.

6 Q. STATE WHAT DEBREZIO SAID TO YOU ABOUT THE MONEY.

7 MR. THOMPSON: YOUR HONOR, I'M GOING TO OBJECT. HE STILL  
8 HASN'T LAID THE PROPER FOUNDATION FOR THAT TO COME IN THROUGH  
9 ANY HEARSAY EXCEPTION AT THIS POINT.

10 THE COURT: COUNSEL, -- APPROACH JUST A MINUTE, COUNSEL.

11 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE PRESENCE  
12 OF THE COURT REPORTER AND THE JURY, BUT OUT OF THE HEARING OF  
13 THE COURT REPORTER AND THE JURY.)

14 Q. LET ME BACK UP AGAIN. FROM THE TIME YOU HEARD THE FIRST  
15 SHOT TO THE TIME DEBREZIO SAID SOMETHING TO YOU, HOW LONG A  
16 PERIOD OF TIME WAS THAT?

17 A. I'M NOT UNDERSTANDING YOU.

18 Q. OKAY. YOU'RE UP IN THE CAR TALKING TO SOME GIRL WITH A  
19 BABY?

20 A. YES, SIR.

21 Q. YOU HEAR A SHOT. YOU HEAR SOMETHING THAT DRAWS YOUR  
22 ATTENTION?

23 A. YES, SIR.

24 Q. FROM THE TIME YOU HEAR THAT UNTIL DEBREZIO FIRST SAYS --  
25 DON'T SAY WHAT HE SAID -- TO THE TIME DEBREZIO FIRST SAYS

1 SOMETHING TO YOU, HOW LONG A PERIOD OF TIME WAS THAT?

2 A. WELL, IT WASN'T LONG.

3 Q. THIRTY SECONDS, FIFTEEN SECONDS?

4 A. YEAH, SOMETHING LIKE THAT.

5 Q. WHAT WAS HIS TONE OF VOICE? WAS HE EXCITED? WAS HE --

6 WAS HE CALM, HOW?

7 A. LIKE SCARED.

8 Q. WHAT DID HE SAY TO YOU?

9 A. I ASKED HIM WHAT HAPPENED.

10 Q. AND WHAT DID HE SAY?

11 A. HE WAS LIKE THE MONEY WASN'T RIGHT, HE THREW IT IN MY

12 FACE, I WALKED TO HIM LIKE I WAS GOING TO HIT HIM, HE PULLED

13 --

14 Q. SLOW DOWN. SAY THAT AGAIN SLOWER, BUT LOUDER. YOU ASKED

15 HIM WHAT HAPPENED AND HE SAID WHAT? THAT IS, DEBREZIO SAYS TO

16 YOU WHAT?

17 A. HE THROWS THE MONEY IN MY FACE.

18 Q. WHO IS HE?

19 A. DARRELL.

20 Q. THREW THE MONEY IN WHOSE FACE?

21 A. DEBREZIO.

22 Q. WHAT DID DEBREZIO DO?

23 A. WALKED TOWARDS HIM AS HE WAS GOING TO HIT HIM.

24 Q. WAS GOING TO WHAT?

25 A. WALKED TOWARDS HIM AS HE MIGHT FIGHT -- BE FIGHTING OR

1. SOMETHING.

2 Q. AND THEN WHAT HAPPENED?

3 A. HE SAY DARRELL DROPPED WHAT HE HAD IN HIS HAND AND  
4 REACHED TO PULL THE BACK OF HIS SHIRT UP.

5 Q. WHEN HE DID THAT, WHAT DID DEBREZIO DO?

6 A. DEBREZIO THEN -- HE HEARD A SHOT. HE SAY THEN HE REACHED  
7 IN HIS POCKET, PULLED HIS GUN, STARTED RUNNING AND WAS  
8 SHOOTING.

9 Q. WHEN ARVELL BAGLEY WENT BEHIND HIS BACK UNDER HIS SHIRT;  
10 IS THAT RIGHT?

11 A YES, SIR.

12 Q. DID HE SAY WHICH HAND?

13 A. NO, SIR.

14 Q. ARVELL BAGLEY MADE A MOTION; IS THAT CORRECT?

15 A. YES, SIR.

16 Q. HOW WAS THAT MOTION RECEIVED BY YOUR BROTHER DARRELL --  
17 DEBREZIO?

18 A. DEBREZIO WAS SAYING AS IN LIKE HE WAS PULLING A PISTOL.

19 Q. IS THAT A COMMON PLACE WHERE ARVELL BAGLEY WOULD HAVE  
20 KEPT A PISTOL?

21 A. I CAN'T --

22 MR. THOMPSON: OBJECTION, YOUR HONOR.

23 THE COURT: COUNSEL, I SUSTAIN THE OBJECTION NOW, 'CAUSE  
24 YOU KNOW --

25 MR. DELGADO: ALL RIGHT.

1 THE COURT: -- YOU KNOW, SO -- ALL RIGHT.

2 MR. THOMPSON: YOUR HONOR, I OBJECT TO THE LEADING AND  
3 ASK THAT THAT STOP AS WELL.

4 THE COURT: PLEASE AVOID THE LEADING, COUNSEL. IT'S YOUR  
5 WITNESS. OKAY.

6 Q. AT ANY TIME THAT YOU HAD SEEN ARVELL BAGLEY BEFORE, WHERE  
7 HAD YOU SEEN HIM CARRY A GUN AND IN WHAT MANNER?

8 A. BEHIND HIS BACK.

9 Q. DID HE HAVE A HOLSTER?

10 A. NO, SIR.

11 Q. WHY DID YOU PUT YOUR FACE UP LIKE THAT WHEN I ASKED YOU  
12 THAT QUESTION? Y'ALL --

13 A. 'CAUSE I MEAN, IT AIN'T COWBOYS.

14 Q. THAT'S WHAT WHITE FOLKS THINK; RIGHT?

15 A. YEAH..

16 Q. YEAH. YOU CARRY IT IN A HOLSTER; RIGHT?

17 MR. THOMPSON: OBJECTION, YOUR HONOR. HE'S---

18 MR. DELGADO: ALL RIGHT. I APOLOGIZE.

19 MR. THOMPSON: ---LEADING.

20 Q. HAD YOU EVER SEEN A HOLSTER WITH A GUN WITH ARVELL BAGLEY  
21 ASSOCIATED?

22 A. NO, SIR.

23 Q. DEBREZIO RUNS BACK TO THE CAR AND TELLS YOU THE THINGS  
24 THAT YOU JUST RECOUNTED, YOU JUST SAID?

25 A. YES, SIR.

DESMOND CAMPBELL - DIRECT BY MR. DELGADO:

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1 Q. WHERE'S CHRIS WOODY?

2 A. HE WAS IN THE CAR ALSO.

3 Q. WHO COMES BACK TO THE CAR FIRST?

4 A. DEBREZIO BEAT WOODY 'CAUSE WOODY BIGGER THAN HIM. I  
5 MEAN, BOTH WAS RUNNING FAST, BUT 'BREZIO GOT THERE FIRST.

6 Q. INTO WHAT SEAT DID DEBREZIO SIT?

7 A. HE HOPPED IN THE BACK.

8 Q. WHERE DID CHRIS WOODY SIT?

9 A. IN THE FRONT.

10 Q. WHERE DID THE CAR GO THEN?

11 A. I PUT IT IN REVERSE AND BACKED UP.

12 Q. PUT IT IN REVERSE?

13 A. YES, SIR.

14 Q. AND BACKED UP WHERE?

15 A. FROM WHERE I HAD CAME FROM.

16 Q. THROUGH THE FRONT OF YOUR -- AS YOU'RE DRIVING AS YOU  
17 LOOK THROUGH THE -- THROUGH YOUR WINDSHIELD, ARE YOU LOOKING  
18 AT DEFENDANT'S EXHIBIT 4?

19 A. IF THAT'S WHERE IT TOOK PLACE AT, YES, SIR.

20 Q. YOU BACK UP?

21 A. YES, SIR.

22 Q. WHEN YOU BACKED UP, THEN WHERE DID YOU GO?

23 A. BACK OUT THE OTHER WAY.

24 Q. OTHER WAY AND WHERE DID YOU GO?

25 A. TO STONE HAVEN.

1 Q. WHEN YOU GOT TO STONE HAVEN, WHAT HAPPENED?

2 A. WOODY WAS STILL DRINKING. HE WAS NERVOUS. 'BREZIO WAS  
3 SAYING DIFFERENT STUFF AND I WAS TELLING 'BREZIO TO CALM DOWN  
4 AND TELL ME WHAT HAPPENED. WE THEN ROLLED TO THE GAS STATION  
5 AND GOT SOME GAS AND AS WE WAS ON THE WAY TO GET SOME GAS, YOU  
6 KNOW, DEBREZIO WAS TELLING ME HOW IT ALL WENT DOWN.

7 Q. HE TOLD YOU A SECOND TIME?

8 A. YES, SIR.

9 Q. DID IT DIFFER FROM THE FIRST TIME THAT HE TOLD YOU ABOUT  
10 IT?

11 A. NO, SIR.

12 Q. WAS CHRIS WOODY STILL IN THE CAR?

13 A. YES, SIR.

14 Q. EXPLAIN WHAT CHRIS'S PHYSICAL CONDITION WAS LIKE THEN.

15 A. HE WAS -- HE WAS DRUNK, BUT HE STILL WAS DRINKING,  
16 DRIVING FAST, RUNNING RED LIGHTS, DRIVING CLOSE UP ON CARS.  
17 I'M TELLING HIM, YOU KNOW, DON'T DRIVE THAT FAST. HE WAS  
18 NERVOUS. HE WAS SAYING HE COULD HAVE BEEN KILLED. HE WAS  
19 SAYING STUFF LIKE THAT.

20 Q. CHRIS WOODY SAID HE COULD HAVE BEEN KILLED?

21 A. YES, SIR.

22 Q. WHY?

23 A. I GUESS WHEN DARRELL PULLED THE GUN OUT --

24 MR. THOMPSON: OBJECTION, YOUR HONOR, AS TO WHAT HE SAID.

25 THE COURT: SUSTAIN THE OBJECTION, COUNSEL.

- 1 Q. HIS WORDS TO YOU WERE I, THAT IS CHRIS, I COULD HAVE BEEN  
2 KILLED?
- 3 A. YES, SIR.
- 4 Q. HE SAID THAT TO YOU?
- 5 A. TO ME AND MY BROTHER.
- 6 Q. MR. CAMPBELL, LET ME ASK YOU THIS: THIS STORY THAT YOU  
7 JUST RECOUNTED, ---
- 8 A. YES, SIR.
- 9 Q. ---THAT'S NOT IN THE WRITTEN STATEMENT THAT YOU GAVE MR.  
10 HUTCHINSON, IS IT?
- 11 A. THAT'S NOT A WRITTEN STATEMENT, SIR.
- 12 Q. WELL, NOT THE WRITTEN -- I'M SORRY. THE STATEMENT THAT'S  
13 TYPED OUT BY MR. HUTCHINSON, SIGNED BY YOURSELF.
- 14 A. YES, SIR.
- 15 Q. THAT'S NOT IN THERE AT ALL, IS IT?
- 16 A. NO, SIR.
- 17 Q. WHAT REASON DO YOU HAVE FOR EXPLAINING WHY THIS AIN'T THE  
18 TRUTH?
- 19 A. HE DIDN'T BELIEVE THE STORY I GAVE HIM. HE DIDN'T  
20 BELIEVE IT ONE BIT.
- 21 Q. HAVE YOU TOLD HIM THIS SAME STORY?
- 22 A. YES, SIR.
- 23 Q. WHEN YOU TOLD HIM THIS SAME STORY, WHY DID HE TYPE  
24 SOMETHING DIFFERENT?
- 25 A. I THOUGHT HE WAS TYPING WHAT I WAS TELLING HIM 'CAUSE AS

1 I WAS SPEAKING HE WAS TYPING.

2 Q. DID YOU NOT READ THIS STATEMENT?

3 A. NO, SIR.

4 Q. YOU SIGNED SOMETHING YOU DIDN'T EVEN READ?

5 A. YES, SIR. I MEAN, I NEVER BEEN IN TROUBLE BEFORE. I  
6 DIDN'T KNOW BY ME SIGNING THIS TYPED STATEMENT COULD HURT ME.  
7 I DIDN'T KNOW THAT.

8 Q. THE STATEMENT YOU GAVE AT YOUR GUILTY PLEA AS A RESULT OF  
9 YOUR PLEA AGREEMENT WITH THE SOLICITOR'S OFFICE, THAT'S NOT  
10 THIS STORY THAT YOU'RE TELLING HERE TODAY, EITHER, IS IT?

11 A. WHICH STATEMENT DID I GIVE AT MY GUILTY PLEA?

12 Q. THAT YOU WERE AN ACCESSORY AFTER MURDER OF MR. DARVELL  
13 (SIC) BAGLEY, THAT YOU PLED GUILTY TO THAT, THAT IT WAS A  
14 MURDER OF MR. DARVELL (SIC) BAGLEY. DIDN'T YOU AGREE WITH ALL  
15 THOSE FACTS AND CIRCUMSTANCES?

16 A. YES, SIR.

17 Q. DIDN'T THE JUDGE TELL YOU ABOUT THAT BEFORE I CAN GET YOU  
18 TO -- I CAN SAY THAT YOU'RE GUILTY, YOU'VE GOT TO UNDERSTAND  
19 WHAT FACTS THEY'RE PRESENTING. YOU REMEMBER THAT?

20 A. YES, SIR..

21 Q. AND YOU AGREED WITH THOSE FACTS, DID YOU NOT?

22 A. YES, SIR.

23 Q. YOU DIDN'T TELL THE STORY THAT YOU'RE TELLING TODAY, DID  
24 YOU?

25 A. NO, SIR.

1 Q. YOU DIDN'T SAY ANYTHING ABOUT THIS TODAY, DID YOU?

2 A. NO, SIR.

3 Q. THE FIRST TIME YOU'VE EVER TOLD THIS STORY WAS WHEN?

4 A. NOW. NO, NO, NO, NO. TWO TIMES.

5 MR. THOMPSON: OBJECTION, LEADING.

6 THE COURT: SUSTAINED.

7 Q. WHEN WAS THIS STORY FIRST TOLD?

8 A. WHICH ONE YOU TALKING ABOUT, SIR?

9 Q. I'M TALKING ABOUT THAT DARRELL THREW BACK TWENTY-SEVEN  
10 HUNDRED DOLLARS, WENT BEHIND HIM --

11 THE COURT: COUNSEL, APPROACH JUST A MINUTE.

12 MR. DELGADO: OH.

13 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE PRESENCE  
14 OF THE COURT REPORTER AND THE JURY, BUT OUT OF THE HEARING OF  
15 THE COURT REPORTER AND THE JURY.)

16 MR. DELGADO: WITHDRAW THE QUESTION, YOUR HONOR.

17 Q. YOU PLED GUILTY ON MARCH 3RD, 2005; CORRECT?

18 A. YES, SIR.

19 Q. THE STORY THAT YOU AGREED WITH THEN, MARCH THE 3RD, 2005,  
20 IS THAT OR IS THAT NOT THE STORY THAT YOU'VE TOLD TODAY?

21 A. IT'S NOT.

22 Q. WHY?

23 A. 'CAUSE THE DETECTIVE DIDN'T TYPE IT UP.

24 Q. DID YOU LIE ON MARCH THE 3RD, 2005?

25 A. I DID NOT, BUT I PLED TO SOMETHING THAT WAS UNTRUE.

1 Q. YOU PLED TO SOMETHING THAT WAS UNTRUE?

2 A. YES, SIR.

3 Q. WHY?

4 A. BECAUSE MY LAWYER TOLD ME I COULD EITHER PICK A JURY  
5 THAT'S GOING TO BE MAJORITY WHITE AND I'D BE LUCKY TO HAVE TWO  
6 AFRICAN AMERICANS ON MY JURY HE SAY YOU GOT A SLIGHT CHANCE OF  
7 WINNING AND HE ASKED ME WHO DO I THINK THE JURY GOING TO  
8 BELIEVE, ME OR THE SOLICITOR OFFICE, AND I GOT SCARED AND THE  
9 FIFTEEN NON-VIOLENT SOUNDED GOOD. I GOT A SON AND I TOOK THE  
10 FIFTEEN NON-VIOLENT, WHICH IS PAROLABLE TIME.

11 Q. YOU HAVE BEEN, AS A RESULT OF YOUR SENTENCE FROM MARCH  
12 THE 3RD FOR FIFTEEN YEARS, YOU'VE BEEN IN THE SOUTH CAROLINA  
13 DEPARTMENT OF CORRECTIONS FOR A PERIOD OF TIME SINCE MARCH  
14 3RD; CORRECT?

15 A. YES, SIR.

16 Q. WERE YOU THERE WITH YOUR BROTHER?

17 A. YES, SIR.

18 Q. WHERE WERE Y'ALL LOCATED? WHAT INSTITUTION?

19 A. KIRKLAND R AND E.

20 Q. TO YOUR KNOWLEDGE, DID CHRIS WOODY KNOW THAT DARRELL --  
21 EXCUSE ME -- THAT YOUR BROTHER WAS TO PAY MR. BAGLEY SOME  
22 MONEY?

23 A. I CAN'T REALLY SAY. I KNOW HE SAYING HE HAD TO MAKE A  
24 DROP-OFF.

25 Q. WE'RE NOT TALKING ABOUT ANY DROP-OFF THAT'S LEGAL. WE'RE

DESMOND CAMPBELL - DIRECT BY MR. DELGADO:

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1 TALKING ABOUT A DROP-OFF THAT'S ILLEGAL; IS THAT RIGHT?

2 A. YES, SIR.

3 Q. OUTSIDE OF THE ONE TIME THAT YOU WERE IN THE CAR WITH  
4 CHRIS WOODY TALKING TO ARVELL BAGLEY IN THE CAR DRIVEN BY TROY  
5 TOBIAS, WHAT HAD YOU TOLD CHRIS WOODY -- WHAT HAD YOU TOLD  
6 CHRIS WOODY ABOUT YOUR ILLEGAL DRUG ACTIVITY?

7 A. I JUST TOLD HIM TO BRING ME SOME WORK. I MEAN, I NEED  
8 SOME DRUGS. THAT'S WHY I WAS HOLLERING AT HIM, 'CAUSE HE'S MY  
9 MAN.

10 MR. DELGADO: JUST ONE SECOND, PLEASE, YOUR HONOR. YOUR  
11 HONOR, MAY WE APPROACH THE BENCH JUST ONE MINUTE?

12 THE COURT: YES, SIR.

13 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE PRESENCE  
14 OF THE COURT REPORTER AND THE JURY; BUT OUT OF THE HEARING OF  
15 THE COURT REPORTER AND THE JURY.)

16 Q. MR. CAMPBELL, ONE LAST QUESTION. KNOWING MR. ARVELL  
17 BAGLEY SINCE YOU WERE FIFTEEN,---

18 A. YES, SIR.

19 Q. ---HOW LONG A PERIOD IS THAT BEFORE HIS DEATH IN JUNE OF  
20 2004 HAD YOU KNOWN HIM? HOW MANY YEARS?

21 A. THAT'S LIKE, WHAT, EIGHT YEARS.

22 Q. OKAY. IN THE EIGHT YEARS THAT YOU'VE KNOWN HIM, HAVE YOU  
23 COME TO -- DO YOU KNOW OF HIS REPUTATION FOR VIOLENCE?

24 A. YES, SIR.

25 Q. WHAT IS THAT REPUTATION?

1 A. FIGHTING, GUN PLAY. I MEAN, HE WAS JUST A -- HE WAS JUST  
2 A HARD CORE --

3 MR. THOMPSON: YOUR HONOR, I'M GOING TO OBJECT. IT'S  
4 IMPROPER.

5 THE COURT: SUSTAINED, COUNSEL.

6 MR. DELGADO: ALL RIGHT, SIR. THAT'S ALL THE QUESTIONS  
7 I HAVE.

8 THE COURT: ALL RIGHT, SIR.

9 MR. DELGADO: THANK YOU, SIR. THAT'S ALL, YOUR HONOR.

10 THE COURT: COUNSEL, SOME OF US HAVE BEEN AT FOR A LONG  
11 WHILE AND THE COURT PERSONNEL PROBABLY NEED A SHORT BREAK AT  
12 THIS TIME. MADAM FORELADY, MEMBERS OF THE JURY PANEL, WE'LL  
13 TAKE A SHORT RECESS OR WE'LL TAKE A RECESS AT THIS TIME. YOU  
14 MAY REFRESH YOURSELVES DURING THE BREAK. THOSE THAT WOULD  
15 LIKE TO SMOKE DURING THIS BREAK, I'LL ALLOW YOU TO DO THAT.  
16 WE'LL PROBABLY TAKE ABOUT TEN MINUTES OR SO, SO IF YOU GO OUT  
17 TO SMOKE, PLEASE FINISH AND COME BACK AS SOON AS YOU CAN.  
18 THANK YOU. PLEASE RETIRE TO THE JURY ROOM.

19 (JURY OUT AT 11:40 A.M.)

20 THE COURT: ALL RIGHT. WE'LL TAKE A SHORT RECESS AT THIS  
21 TIME. NOW, MR. CAMPBELL, OF COURSE, YOU WILL GO BACK HERE  
22 DURING THE BREAK. WHEN YOU COME BACK, YOU'LL COME BACK FOR  
23 FURTHER TESTIMONY, YOU CANNOT DISCUSS YOUR TESTIMONY WITH  
24 ANYBODY DURING THE BREAK, OKAY, AS THOUGH YOU'RE STILL ON THE  
25 STAND FOR THAT PURPOSE. ALL RIGHT? THANK YOU. ALL RIGHT.

DESMOND CAMPBELL - CROSS BY MR. THOMPSON:

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1 WE'LL TAKE -- COUNSEL, WE'LL TAKE ABOUT TEN MINUTES OR SO.

2 (WHEREUPON, A BRIEF RECESS WAS OBSERVED.)

3 THE COURT: ALL RIGHT. COUNSEL, READY TO PROCEED?

4 MR. THOMPSON: THE STATE'S READY, YOUR HONOR.

5 THE COURT: PLEASE BRING THE JURY IN.

6 (JURY IN AT 11:57 A.M.)

7 THE COURT: ALL RIGHT. COUNSEL, READY TO PROCEED.

8 MR. THOMPSON: YES, YOUR HONOR. THANK YOU. PLEASE THE  
9 COURT.

10 THE COURT: YES, SIR.

11 CROSS-EXAMINATION

12 DESMOND CAMPBELL BY MR. THOMPSON:

13 Q. MR. CAMPBELL, YOUR BROTHER DEBREZIO, HE'S WHAT, ABOUT  
14 YOUR SIZE; RIGHT? ABOUT THE SAME SIZE, GIVE OR TAKE AN INCH  
15 OR TWO?

16 A. HE'S A LITTLE BIGGER.

17 Q. OKAY. YOU COULD PROBABLY EVEN SHARE THE SAME CLOTHES IF  
18 YOU WANTED TO; RIGHT?

19 A. IF WE WANTED, YEAH.

20 Q. OKAY. BUT MR. WOODY'S MUCH BIGGER THAN BOTH OF Y'ALL;  
21 RIGHT?

22 A. YES, SIR.

23 Q. AND, OF COURSE, EVEN BACK THEN HE WAS MUCH BIGGER THAN  
24 BOTH OF Y'ALL, BACK IN JUNE OF LAST YEAR?

25 A. YES, SIR.

1 Q. NOW, LET'S GO BACK TO TWO MONTHS AGO, MARCH THE 3RD OF  
2 THIS YEAR. ON MARCH THE 3RD OF THIS YEAR YOU STOOD IN THIS  
3 COURTROOM RIGHT ABOUT HERE, DIDN'T YOU?

4 A. YES, SIR.

5 Q. AND HERE IN FRONT OF THE JUDGE WITH YOUR ATTORNEY WITH  
6 YOU, YOU PLED GUILTY TO THE CHARGE OF ACCESSORY AFTER THE FACT  
7 OF MURDER, DIDN'T YOU?

8 A. YES, SIR.

9 Q. AS A MATTER OF FACT, YOU AGREED TO ALL THE FACTS THAT  
10 WERE GIVEN ON THE RECORD AS BEING THE FACTS THAT HAPPENED IN  
11 YOUR CASE, DIDN'T YOU?

12 A. YES, SIR.

13 Q. AND NOWHERE IN THOSE FACTS WAS THERE EVER MENTIONED THAT  
14 ARVELL BAGLEY HAD A GUN, WAS THERE?

15 A. NO, SIR.

16 Q. AND NOWHERE IN THOSE FACTS WAS IT EVER MENTIONED THAT  
17 SHOTS WERE FIRED AT Y'ALL, WAS THERE?

18 A. NO, SIR.

19 Q. AND IN THOSE FACTS THERE WAS NOTHING EVER MENTIONED ABOUT  
20 DRUG DEALING, WAS THERE?

21 A. NO, SIR.

22 Q. YOU NEVER MENTIONED THAT YOU WERE A DRUG DEALER, DID YOU?

23 A. YOU DIDN'T ASK, SIR.

24 Q. YOU NEVER MENTIONED THAT CHRISTOPHER WOODY WAS INVOLVED  
25 IN LENDING HIS CAR TO BE USED TO DROP OFF DRUGS, DID YOU?

DESMOND CAMPBELL - CROSS BY MR. THOMPSON:

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1 A. THAT WASN'T ASKED EITHER, SIR.

2 Q. AND I GUESS THAT MAY BE THE POINT. IT WASN'T ASKED  
3 BECAUSE YOU NEVER SAID THAT BEFORE, DID YOU?

4 A. YES, SIR, I DID.

5 Q. AND YOU SAID THAT TO WHO?

6 A. LIEUTENANT HUTCHINSON.

7 Q. TO DETECTIVE HUTCHINSON BACK ON THE DAY THAT YOU WENT TO  
8 THE POLICE DEPARTMENT. THE DAY THIS HAPPENED, YOU TOLD ALL OF  
9 THIS TO DETECTIVE HUTCHINSON?

10 A. YES, SIR.

11 Q. EVERYTHING THAT YOU'VE TOLD US TODAY?

12 A. YES, SIR.

13 Q. BUT HE DIDN'T WRITE THAT DOWN; RIGHT?

14 A. HE WASN'T WRITING, HE WAS TYPING.

15 Q. HE DIDN'T TYPE THAT DOWN, EITHER?

16 A. NO, SIR.

17 Q. SO THAT WASN'T IN YOUR STATEMENT AT THAT TIME; CORRECT?

18 A. CORRECT.

19 Q. SO ALSO IN THIS TRANSCRIPT WHEN THE JUDGE ASKED YOU  
20 REPEATEDLY IF YOU UNDERSTOOD THE CHARGES AGAINST YOU AND THE  
21 MAXIMUM PENALTY YOU COULD RECEIVE. HE ASKED YOU HOW YOU PLED,  
22 GUILTY OR NOT GUILTY AND YOU SAID GUILTY, DIDN'T YOU?

23 A. YES, SIR.

24 Q. AND HE ASKED IF YOU WERE PLEADING GUILTY BECAUSE YOU ARE  
25 GUILTY, YOU SAID YES?

DESMOND CAMPBELL - CROSS BY MR. THOMPSON:

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1 A. YES, SIR.

2 Q. AND WHEN HE ASKED YOU ARE YOU PLEADING GUILTY TODAY OF  
3 YOUR OWN FREE WILL, MR. DESMOND CAMPBELL, YOU SAID YES, SIR,  
4 DID YOU NOT?

5 A. YES, SIR.

6 Q. WHEN HE ASKED YOU ARE YOU IN FACT GUILTY, MR. DESMOND  
7 CAMPBELL, ARE YOU GUILTY OF ACCESSORY AFTER THE FACT OF  
8 MURDER, YOU SAID YES, SIR?

9 A. YES, SIR.

10 Q. AND IN THE FACTS THAT WERE READ TO THE COURT THAT DAY, IT  
11 EVEN WENT INTO THE FACT THAT THE THREE OF YOU ULTIMATELY WENT  
12 OUT LOOKING FOR MR. BAGLEY, DIDN'T IT?

13 A. THAT WAS NOT IN IT, I MEAN, BUT IF YOU READ IT, I DIDN'T  
14 REALLY CATCH THAT.

15 Q. AND YOU WERE SWORN IN THEN JUST LIKE YOU WERE TODAY THAT  
16 YOU SWORE TO TELL THE TRUTH AND THE WHOLE TRUTH AND NOTHING  
17 BUT THE TRUTH THAT DAY, DIDN'T YOU?

18 A. YES, SIR.

19 Q. BUT TODAY YOU'RE TELLING US YOU'RE NOT GUILTY OF  
20 ACCESSORY AFTER THE FACT OF MURDER; ISN'T THAT CORRECT?

21 A. I DON'T UNDERSTAND WHAT YOU'RE --

22 Q. TODAY YOU'RE TELLING US YOU'RE NOT GUILTY OF ACCESSORY  
23 AFTER THE FACT OF MURDER; ISN'T THAT CORRECT?

24 A. I CAN'T ANSWER THAT QUESTION, SIR.

25 Q. ARE YOU STILL GUILTY OF ACCESSORY AFTER THE FACT OF

1 MURDER?

2 A. CAN I SPEAK TO MY LAWYER, PLEASE?

3 THE COURT: MR. STALEY, WOULD YOU MEET WITH YOUR CLIENT  
4 JUST A MINUTE.

5 MR. STALEY: YOUR HONOR, BEFORE I APPROACH THIS WITNESS,  
6 I NEED TO TAKE UP A MATTER UP OUTSIDE THE PRESENCE OR MAY I  
7 APPROACH WITH OTHER COUNSEL?

8 THE COURT: WHY DON'T WE JUST LET THE JURY TAKE A SHORT  
9 RECESS. MADAM FORELADY, MEMBERS OF THE JURY PANEL, WE'LL TAKE  
10 A VERY SHORT RECESS AT THIS TIME. PLEASE RETIRE TO THE JURY  
11 ROOM. PLEASE DO NOT, OF COURSE, DISCUSS THE CASE. THANK YOU.

12 (JURY OUT AT 12:05 P.M.)

13 MR. STALEY: JUDGE,---

14 THE COURT: YES, SIR.

15 MR. STALEY: ---BEFORE I TAKE MR. CAMPBELL OUT OF THE  
16 COURTROOM AND SPEAK TO HIM, I JUST WANT TO PUT ON THE RECORD  
17 ONE OF THE CONCERNS I HAVE IS UNDER THE ETHICS RULES OF SOUTH  
18 CAROLINA, I'M PRECLUDED FROM PARTICIPATING, THE WAY I READ THE  
19 ETHICS RULES, OR HELPING OR ASSISTING SOMEONE TO SUBMIT  
20 PERJURED TESTIMONY.

21 JUDGE, I CERTAINLY DON'T MIND TALKING TO MR. CAMPBELL.  
22 I'VE BEEN HERE ALL WEEK AS HIS ATTORNEY PRIMARILY, I THINK,  
23 BECAUSE AT THIS POINT IT WOULD HAVE BEEN VERY DIFFICULT TO  
24 BRING ANYBODY UP TO SPEED THAT WOULD KNOW WHAT WAS GOING ON.  
25 I AM DOING SO. I'M GOING TO SPEAK TO HIM. I JUST WANTED THE

DESMOND CAMPBELL - CROSS BY MR. THOMPSON:

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1 RECORD TO BE CLEAR THAT WE JUST BRIEFLY DISCUSSED THAT AND  
2 YOU'VE ASKED ME TO CONTINUE TO REPRESENT HIM.

3 THE COURT: OKAY. AND LET ME MAKE CLEAR ON THE RECORD  
4 WHAT I WOULD LIKE YOU TO DO AND THE RECORD WILL REFLECT THAT  
5 THE ATTORNEY FOR DESMOND CAMPBELL AND ALSO THE ATTORNEY FOR  
6 DEBREZIO CAMPBELL, AT ANY TIME THEY'VE APPEARED IN THE  
7 COURTROOM OR BEEN ASKED ANY QUESTIONS UNDER OATH AND THAT OR  
8 HAVE BEEN PARTICIPATING IN ANY WAY IN THIS COURT PROCEEDING  
9 EVEN OUT OF THE PRESENCE OF THE JURY, THAT THEY'VE BEEN --  
10 THEIR ATTORNEYS HAVE BEEN HERE AND PRESENT AND AVAILABLE TO  
11 ANSWER QUESTIONS FOR THEM AND EVEN THOUGH THERE ARE QUESTIONS  
12 CONCERNING THEIR -- AT LEAST AT THIS POINT MR. DESMOND  
13 CAMPBELL RECANTING HIS PRIOR TESTIMONY THAT HE GAVE UNDER OATH  
14 AND I UNDERSTAND THAT.

15 WHAT I'M NOT ASKING YOU TO DO IS YOU'RE NOT PUTTING THE  
16 WITNESS ON THE STAND AND YOU'RE NOT ASKING HIM ANY QUESTIONS  
17 OR PRESENTING ANY INFORMATION THAT -- WITH WHICH YOU MAY FEEL  
18 IS -- MAY NOT BE TRUE OR IS IN CONFLICT WITH WHAT HE'S GIVEN  
19 BEFORE OR TOLD YOU BEFORE. WHAT I'M ASKING YOU TO DO IS WHAT  
20 -- IS JUST ADVISE HIM. HE IS NOT SURE, I GUESS, WHAT  
21 ACCESSORY AFTER THE FACT OF MURDER IS AND HE'S BEEN ASKED IF  
22 HE UNDERSTANDS -- IF HE'S SAYING NOW THAT HE'S NOT GUILTY OF  
23 THAT. THE ONLY THING I WOULD ASK YOU TO DO IS TO ADVISE HIM  
24 WHAT ACCESSORY AFTER THE FACT IS IN THE EVENT THAT HE'S  
25 FORGOTTEN THAT AND THAT'S ALL. THAT'S WHAT I WOULD ASK YOU TO

DESMOND CAMPBELL - CROSS BY MR. THOMPSON:

1 DO.

2 MR. POPE: YOUR HONOR, IF IT WOULD BE OF ANY ASSISTANCE  
3 TO MR. CAMPBELL OR HIS COUNSEL, I'VE DISCUSSED WITH MR.  
4 THOMPSON, WE WOULD JUST WITHDRAW THE QUESTION CONCERNING, YOU  
5 KNOW, WHERE YOU STAND ON YOUR PLEA AS FAR AS YOUR PLEA NOW AND  
6 JUST MOVE ON TO OTHER QUESTIONS IF THAT ADDRESSES IT.

7 THE COURT: ALL RIGHT, SIR.

8 MR. POPE: I UNDERSTAND THE WHOLE ISSUE, THE CONCERNS DO  
9 I WITHDRAW MY PLEA, DO I NOT WITHDRAW MY PLEA AND I'VE  
10 DISCUSSED IT WITH MR. THOMPSON AND I THINK WE WOULD JUST LEAVE  
11 IT AS IS.

12 THE COURT: ALL RIGHT. THE ONLY REASON I -- AS I SAY,  
13 MR. STALEY, WAS JUST TO ANSWER A LEGAL QUESTION ABOUT THE  
14 CHARGE ITSELF AS TO WHAT THE ELEMENTS OF IT ARE IN THE EVENT  
15 HE DIDN'T KNOW THAT, BUT -- AND THAT'S ALL THAT I WOULD ASK  
16 HIM TO COUNSEL HIM ABOUT, BUT IN ANY EVENT, THEY'RE GOING TO  
17 WITHDRAW THE QUESTION. YOU'RE GOING TO WITHDRAW THE QUESTION  
18 WHEN THE JURY COMES BACK, I GUESS, SOLICITOR?

19 MR. THOMPSON: YES, YOUR HONOR.

20 THE COURT: OKAY.

21 MR. STALEY: THANK YOU, JUDGE.

22 THE COURT: ALL RIGHT. YOU MAY RETURN TO YOUR SEAT. I'D  
23 ASK YOU, PLEASE, TO STAY PRESENT.

24 MR. POPE: AND I GUESS IT WOULD BE APPROPRIATE TO INQUIRE  
25 OF MR. CAMPBELL IF THAT ADDRESSES HIS CONCERNS WITH MR. STALEY

1 SINCE HE REQUESTED TO SPEAK TO HIS ATTORNEY.

2 THE COURT: YES, SIR. WELL, THEY'RE WITHDRAWING THE  
3 QUESTION. YOU DON'T HAVE TO ANSWER THAT QUESTION. DOES THAT  
4 SATISFY YOU?

5 MR. DESMOND CAMPBELL: YES, SIR.

6 THE COURT: ALL RIGHT, SIR. HE'S SATISFIED. PLEASE  
7 BRING THE JURY IN.

8 (JURY IN AT 12:10 P.M.)

9 THE COURT: READY TO PROCEED, COUNSEL.

10 MR. THOMPSON: PLEASE THE COURT, YOUR HONOR. THE STATE  
11 WOULD WITHDRAW THAT QUESTION. I'LL APPROACH THAT SUBJECT  
12 LATER ON AND TRANSITION INTO SOMETHING ELSE AT THIS TIME.

13 Q. MR. CAMPBELL, LET'S TALK ABOUT YOUR TESTIMONY SO FAR  
14 TODAY. YOU'RE SAYING THAT BACK ON JUNE 26TH WHEN ARVELL  
15 BAGLEY WAS KILLED, THAT YOU'RE IN A CAR AND THIS IS MR.  
16 WOODY'S CAR; RIGHT?

17 A. YES, SIR.

18 Q. AND THAT'S THAT SILVER NISSAN MAXIMA?

19 A. YES, SIR.

20 Q. IT HAD THE SHINY RIMS ON IT?

21 A. YES, SIR.

22 Q. AND HE KEPT HIS GUN IN THAT CAR; RIGHT?

23 A. YES, SIR.

24 Q. AND HE KEPT IT KIND OF IN THE CONSOLE SO IT COULD BE OUT,  
25 SO IT COULD BE SEEN; CORRECT?

DESMOND CAMPBELL - CROSS BY MR. THOMPSON:

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- 1 A. YES, SIR.
- 2 Q. HE ALSO HAD LIKE A SECOND CLIP FOR IT SITTING IN THERE,  
3 DIDN'T HE? DID YOU KNOW ABOUT THAT?
- 4 A. NO, SIR.
- 5 Q. OKAY. WELL, IT'S WOODY DRIVING RIGHT NOW; CORRECT?
- 6 A. YES, SIR.
- 7 Q. AND HE'S NOT FEELING TOO GOOD 'CAUSE HE'S BEEN DRINKING  
8 A LOT, AS WELL AS ALL OF YOU; RIGHT?
- 9 A. YES, SIR.
- 10 Q. NOW, HAD -- YOU'D BEEN DOING DRUGS, TOO, THAT DAY; RIGHT?
- 11 A. POPPING LITTLE PILLS, ECSTASY PILLS.
- 12 Q. YOU WERE POPPING ECSTASY PILLS?
- 13 A. YES.
- 14 Q. OKAY. SO YOU WERE DOING THAT. WAS WOODY DOING THAT AS  
15 WELL?
- 16 A. YES, SIR.
- 17 Q. AND HOW ABOUT DEBREZIO, WAS HE DOING THAT AS WELL?
- 18 A. YES, SIR.
- 19 Q. OKAY. AND WAS THERE ANY OTHER DRUGS THAT Y'ALL WERE  
20 DEALING WITH OR TAKING AT THAT TIME?
- 21 A. MAYBE A LITTLE BIT OF COCAINE, A LITTLE POT.
- 22 Q. YOU HAD A LITTLE BIT OF POWDER COCAINE?
- 23 A. (NODS HEAD AFFIRMATIVELY)
- 24 Q. AND Y'ALL WERE DOING THAT, TOO, RIGHT?
- 25 A. YES, SIR.

1 Q. OKAY. SO THAT KIND OF COMPOUNDS WITH YOUR DRINKING AND  
2 DOING THAT. NOW, WHAT WERE YOU DRINKING EXACTLY AGAIN?

3 A. CROWN ROYAL.

4 Q. OKAY. AND Y'ALL HAD HAD A GOOD BIT OF THAT TO DRINK AT  
5 THIS POINT; IS THAT RIGHT?

6 A. YES, SIR. WE HAD THREE PINTS.

7 Q. ALL RIGHT. BUT THEN YOU DROVE AROUND -- YOU WERE JUST  
8 GOING TO DRIVE AROUND CHERRY ROAD AND TALK TO GIRLS; IS THAT  
9 RIGHT?

10 A. NO. THAT'S WHEN WE -- THAT'S WHEN WE WENT TO GET MY  
11 BOTTLE, THE THIRD BOTTLE.

12 Q. THAT'S WHEN YOU WERE GOING TO GET YOUR THIRD BOTTLE?

13 A. YEAH.

14 Q. OH, OKAY. WHAT THEN PUT YOU IN THE APARTMENT COMPLEX  
15 AGAIN ON PACES RIVER?

16 A. THAT'S WHEN WE WAS -- THAT'S WHEN WE GOT THE BOTTLE OF  
17 LIQUOR, WE RODE AROUND CHERRY ROAD, STOPPED AT THE LIQUOR  
18 STORE ON CHERRY ROAD. WE WAS HEADED BACK TO STONE HAVEN. AS  
19 WE GOT TO THE RED LIGHT, DEBREZIO ASKED WOODY TO KEEP STRAIGHT  
20 INSTEAD OF MAKING A LEFT.

21 Q. OKAY. SO AT THE -- YOU'RE TALKING ABOUT WHEN YOU'RE  
22 COMING BACK WHAT ROAD ARE YOU ON THAT YOU'RE KEEPING STRAIGHT  
23 ON INSTEAD MAKING A LEFT?

24 A. I DON'T KNOW. IT'S -- YOU TURN OFF CHERRY ROAD. IT'S  
25 THE ROAD BESIDE HARRELSON NISSAN -- HARRELSON TOYOTA.

DESMOND CAMPBELL - CROSS BY MR. THOMPSON:

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1 Q. OKAY. THE ROAD THAT GOES STRAIGHT TO THE COMPLEX, DOWN  
2 BY HOOTERS AND INTO --

3 A. YES, SIR.

4 Q. ---PACES RIVER. I THINK IT'S CALLED RIVER CHASE. THAT  
5 ROAD RIGHT THERE---

6 A. YES, SIR.

7 Q. ---THAT GOES DOWN TO PACES RIVER. OKAY. SO YOU'RE ON  
8 THAT ROAD. AND SO INSTEAD OF TURNING Y'ALL GO STRAIGHT  
9 THROUGH?

10 A. YES, SIR.

11 Q. AND YOU'RE GOING STRAIGHT THROUGH WHY?

12 A. DEBREZIO ASKED HIM TO TAKE HIM TO HIS MAN'S HOUSE.

13 Q. OKAY. AND YOU KNEW THAT WAS BECAUSE HE HAD TO GIVE HIM  
14 MONEY; RIGHT?

15 A. YES, SIR. DEBREZIO SAID HE GOT TO MAKE A DROP-OFF.

16 Q. OKAY. BUT YOU ALSO KNEW THAT 'CAUSE YOU KEPT HIS BOOKS;  
17 RIGHT?

18 A. YES, SIR.

19 Q. SO YOU WOULD HAVE HAD IT WRITTEN DOWN HOW MUCH DEBREZIO  
20 OWED---

21 A. YEAH.

22 Q. ---ARVELL BAGLEY? HOW MUCH DID DEBREZIO OWE ARVELL  
23 BAGLEY?

24 A. FIVE G'S.

25 Q. SO HE OWED HIM FIVE THOUSAND DOLLARS?

1 A. YES, SIR.

2 Q. OKAY. AND WHEN -- AND THIS IS FOR DRUGS THAT YOU'RE  
3 SAYING THAT ARVELL BAGLEY FRONTED TO HIM, RIGHT, GAVE HIM  
4 AHEAD OF TIME AND THEN HE GOES AND SELLS THEM? IS THAT --

5 A. HE GOES AHEAD AND SELLS IT; YEAH.

6 Q. ALL RIGHT. SO WE'RE TALKING ABOUT -- AND YOU KNOW 'CAUSE  
7 YOU -- LIKE YOU SAID, YOU SOLD DRUGS. WHEN YOU SELL DRUGS YOU  
8 DON'T REALLY SELL HUGE QUANTITIES AT ONE TIME. YOU SELL A  
9 COUPLE OF ROCKS USUALLY; RIGHT?

10 A. DEBREZIO SOLD ANY WAY YOU WANT IT.

11 Q. WHY WOULDN'T YOU SELL THAT WAY, TOO? YOU SAID YOU SOLD  
12 AS WELL. YOU SAID YOU GENERALLY SELL A ROCK OR TWO AND IT'S  
13 USUALLY LIKE TWENTY BUCKS A ROCK; RIGHT?

14 A. YOU CAN GET THAT.

15 Q. RIGHT. SO YOU GET ABOUT TWENTY BUCKS A ROCK. AND SO,  
16 GENERALLY, WHEN YOU HAVE MONEY THAT YOU'VE GOTTEN FROM SELLING  
17 DRUGS, IT'S GOING TO BE PRETTY MUCH IN TENS AND TWENTIES,  
18 RIGHT, SOMETHING LIKE THAT? MOST OF THE QUANTITIES OF THE  
19 MONEY ARE TEN OR TWENTY DOLLAR BILLS, WOULDN'T IT?

20 A. DEPENDS HOW YOU SELL IT.

21 Q. OKAY. WELL, HOW ARE YOU SAYING YOU SELL IT THEN? DO YOU  
22 SELL IT IN LARGER QUANTITIES THAN THAT?

23 A. IT DEPENDS HOW YOU WANT IT. YES, I DID.

24 Q. OKAY. BUT YOU WOULDN'T SELL NECESSARILY ALL OF IT IN  
25 LARGER QUANTITIES. BASICALLY, IF YOU HAD FIVE THOUSAND

DESMOND CAMPBELL - CROSS BY MR. THOMPSON:

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1 DOLLARS WORTH OF CRACK, YOU'D BE SELLING SOME AS TWENTIES, YOU  
2 MIGHT SOMEONE FORTY DOLLARS WORTH, YOU MIGHT SOMEONE SELL  
3 SOMEONE EIGHTY DOLLAR WORTH.

4 A. I PREFERRED TO SELL IN LARGE AMOUNTS. I DIDN'T HAVE TIME  
5 'CAUSE I WORKED.

6 Q. OH, OKAY. SO YOU SOLD LARGE AMOUNTS. SO HOW LARGE ARE  
7 THE LARGE AMOUNTS YOU'D SELL?

8 A. WHATEVER YOU CAME AND ASKED ME FOR.

9 Q. WHATEVER PEOPLE CAME AND ASKED YOU FOR?

10 A. YES.

11 Q. SO PEOPLE IN THE COMMUNITY WOULD KNOW IF I NEED DRUGS, I  
12 CAN GO TO DESMOND; RIGHT?

13 A. NO, OR DEBREZIO. I WASN'T OUT LIKE THAT. I DIDN'T HAVE  
14 MY FACE OUT LIKE THAT.

15 Q. OKAY. BUT YOU'RE SELLING -- YOU SOLD DRUGS AND YOU LIKED  
16 TO SELL IN LARGE QUANTITIES?

17 A. YES.

18 Q. TO WHOEVER CAME AND ASKED YOU FOR IT?

19 A. YES, SIR.

20 Q. OKAY. 'CAUSE YOU DON'T PUT OUT A SIGN SAYING I'M A CRACK  
21 DEALER; RIGHT?

22 A. YEAH; YOU'RE RIGHT.

23 Q. ALL RIGHT. SO BUT PEOPLE KNOW. THEY KNOW THEY CAN COME  
24 TO YOU IF THEY NEED SOME DRUGS; RIGHT?

25 A. CERTAIN PEOPLE.

1 Q. OKAY. AND THEY KNOW THEY CAN COME TO DEBREZIO IF THEY  
2 NEED SOME DRUGS, TOO; RIGHT?

3 A. YES, SIR.

4 Q. AND ENOUGH THAT YOU WERE AT LEAST ABLE TO SELL FIVE  
5 THOUSAND DOLLARS WORTH; RIGHT?

6 A. DEBREZIO?

7 Q. YES.

8 A. YES.

9 Q. AND YOU SOLD LARGE AMOUNTS, TOO, LIKE YOU -- YOU LIKED TO  
10 SELL LARGE AMOUNTS, TOO?

11 A. YES, SIR.

12 Q. 'CAUSE TIME WISE THAT'S MORE EFFICIENT; RIGHT?

13 A. (NODS HEAD AFFIRMATIVELY)

14 Q. OKAY. AND YOU WERE MENTIONING THAT YOU HAD -- YOU KEPT  
15 THE BOOKS AND YOU SOLD DRUGS ON OCCASION; RIGHT?

16 A. YES, SIR.

17 Q. NOW, DO YOU HAVE THOSE BOOKS HERE WITH YOU TODAY?

18 A. MY CRIB WAS BURNT DOWN, SO WAS THE BOOKS.

19 Q. OH, OKAY. NOW, THAT WASN'T -- WELL, YOU STILL HAD THE  
20 BOOKS THE DAY YOU WERE ARRESTED; RIGHT?

21 A. YES, SIR.

22 Q. OKAY. DID YOU TELL DETECTIVE HUTCHINSON ABOUT THE BOOKS  
23 THEN?

24 A. I DON'T THINK I MENTIONED THE BOOKS.

25 Q. OKAY. BUT YOU TOLD HIM EVERYTHING ELSE? YOU TOLD HIM

DESMOND CAMPBELL - CROSS BY MR. THOMPSON:

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- 1 YOU WERE THE BOOKKEEPER; RIGHT?
- 2 A. I DON'T THINK I TOLD HIM THAT.
- 3 Q. OH, OKAY. WELL, DID YOU TELL HIM YOU DISTRIBUTED DRUGS?
- 4 A. YES, SIR.
- 5 Q. YOU TOLD HIM YOU DID DISTRIBUTE DRUGS?
- 6 A. AT FIRST I DIDN'T TELL HIM AND HE WAS LIKE I KNOW
- 7 DARRELL, I KNOW HE DOING IT, SO IT CAME OUT.
- 8 Q. AND WOODY WAS YOUR PAL; RIGHT?
- 9 A. YEAH, HE'S A FRIEND.
- 10 Q. YOU WORKED WITH HIM A LOT; RIGHT?
- 11 A. YES, SIR.
- 12 Q. YOU HANG OUT WITH HIM; RIGHT?
- 13 A. YES, SIR.
- 14 Q. WOODY DIDN'T SELL DRUGS; RIGHT?
- 15 A. I NEVER SOLD NONE AROUND WOODY. I CAN SAY HE SEEN ME
- 16 WITH EXTRA MONEY 'CAUSE WE MAKE THE SAME AMOUNT, BUT I NEVER
- 17 SOLD NO DRUGS AROUND HIM.
- 18 Q. OKAY. BUT HE KNEW, DIDN'T HE?
- 19 A. I CAN'T SAY WHAT HE KNEW, BUT I NEVER SOLD NONE AROUND
- 20 HIM.
- 21 Q. OKAY. WELL, HE KNEW DEBREZIO SOLD DRUGS; RIGHT?
- 22 A. OH, YEAH, HE KNEW THAT.
- 23 Q. 'CAUSE HE KNEW THAT Y'ALL WERE GOING TO PAY DEBREZIO --
- 24 OR THAT Y'ALL WERE GOING TO PAY ARVELL BAGLEY OFF THAT DAY;
- 25 RIGHT?

1 A. ALSO, HE HAD -- HE HAD SEEN PEOPLE COME TO MY APARTMENT  
2 LOOKING FOR DEBREZIO.

3 Q. OKAY. DID YOU SEE THE TWENTY-SEVEN HUNDRED DOLLARS THAT  
4 THEY WERE GIVING TO BAGLEY?

5 A. I SEEN SOME MONEY.

6 Q. OKAY. AND IT WOULD HAVE BEEN A LOT OF MONEY; RIGHT?

7 A. YES, SIR. IT WAS A GOOD LITTLE BIT.

8 Q. ALL RIGHT. 'CAUSE IT'S IN A VARYING NUMBER OF BILLS.  
9 IT'S NOT ALL IN HUNDRED DOLLAR BILLS; RIGHT?

10 A. I CAN'T SAY. I DIDN'T FLIP THROUGH HIS MONEY.

11 Q. OKAY. BUT IT LOOKED LIKE A LOT OF MONEY?

12 A. YES, SIR.

13 Q. OKAY. NOW, WHEN Y'ALL PULLED IN, DID YOU DRIVE DOWN  
14 FIRST AND GO DOWN AROUND THE CIRCLE AND SEE THAT HIS CAR WAS  
15 THERE OR NOT?

16 A. NO, SIR. WE RODE AROUND. WOODY -- DEBREZIO TOLD WOODY  
17 WHERE TO STOP AT.

18 Q. OKAY. SO AS YOU -- BUT NOW YOU'RE SAYING YOU DON'T --  
19 YOU DIDN'T EVEN KNOW WHICH APARTMENT THAT ARVELL BAGLEY LIVED  
20 IN; RIGHT?

21 A. THAT'S RIGHT.

22 Q. OKAY. BUT YOU DID HIS BOOKS; RIGHT?

23 A. YES, SIR.

24 Q. SO YOU DIDN'T KNOW HIS APARTMENT COMPLEX WAS DOWN HERE AT  
25 THE FAR CORNER?

DESMOND CAMPBELL - CROSS BY MR. THOMPSON:

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1 A. EVERY TIME I DEAL WITH DARRELL IT WAS EITHER ON MILLS  
2 STREET OR AT CRYSTAL HOUSE.

3 Q. OKAY. SO WHEN Y'ALL PULLED IN TO PAY, --  
4 MR. THOMPSON: IF YOU COULD GO TO NUMBER 5, PLEASE.

5 Q. WHEN Y'ALL PULLED IN TO PAY, YOU PULLED OFF THIS WAY;  
6 RIGHT? IF YOU COULD STEP DOWN JUST A LITTLE BIT, YOU CAN --

7 A. YEAH, I CAN SEE.

8 Q. OKAY. WHEN Y'ALL PULLED IN, YOU PULLED OFF THIS WAY,  
9 RIGHT, TO THIS PART OF THE PARKING LOT?

10 A. WHICH TIME -- WHAT TIME YOU TALKING ABOUT?

11 Q. ON THE 26TH WHEN Y'ALL WENT DOWN THERE -- WELL, I TELL  
12 YOU, THE FIRST TIME -- YOU WENT THERE TWICE THE 26TH; RIGHT?

13 A. YES, SIR.

14 Q. OKAY. THE FIRST TIME WHERE DID YOU GO? HOW DID YOU COME  
15 IN? DID YOU COME DOWN FROM THIS WAY OR DID YOU COME AROUND?

16 A. YES, SIR.

17 Q. OH, YOU CAME THIS WAY?

18 A. YES, SIR, TO THE LEFT.

19 Q. AND YOU DROVE AROUND. NOW, YOU KNEW ARVELL BAGLEY DROVE  
20 A LEXUS; RIGHT?

21 A. YES, SIR.

22 Q. SO IS THAT WHAT Y'ALL WERE LOOKING FOR TO SEE IF THAT WAS  
23 THERE?

24 A. NO, SIR. DEBREZIO GOT OUT OF THE CAR.

25 Q. OKAY. SO DID Y'ALL PARK IT SOMEWHERE HERE?

1 A. NO, SIR.

2 Q. WHAT DID YOU DO, STOP IN THE MIDDLE OF THE ROAD?

3 A. RIGHT THERE, JUST STOPPED.

4 Q. RIGHT HERE?

5 A. YES, SIR.

6 Q. OKAY. AND THEN DEBREZIO GOT OUT. DID HE GO INSIDE?

7 A. NO, SIR. HE WENT TO THE -- HE WENT UP SOME STEPS. HE  
8 DIDN'T GO INSIDE.

9 Q. OKAY. HE RAN UP THE STEPS?

10 A. (NODS HEAD AFFIRMATIVELY)

11 Q. OKAY. WHAT DID HE DO AFTER HE RAN UP THE STEPS?

12 A. I SEEN HIM TALKING TO TROY.

13 Q. OKAY. AND HE WAS TALKING TO TROY, THEN HE COMES BACK TO  
14 YOU?

15 A. HE CAME TO THE CAR.

16 Q. OKAY.. AND THEN Y'ALL -- YOU COULDN'T DELIVER THE MONEY  
17 THEN; RIGHT?

18 A. HE SAID HE COULDN'T. TROY WOULDN'T TAKE IT.

19 Q. SO Y'ALL DROVE BACK -- DID YOU DRIVE AROUND THIS WAY AND  
20 PULL OUT?

21 A. YES, SIR.

22 Q. OKAY. NOW, IS THAT -- WHEN YOU CAME OUT OF THERE, IS  
23 THAT WHEN YOU ULTIMATELY SAW DARRELL COMING IN AND YOU TURNED  
24 AROUND TO COME BACK IN?

25 A. YES, SIR.

DESMOND CAMPBELL - CROSS BY MR. THOMPSON:

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1 Q. OKAY. SO THIS IS CLOSE TO NINE O'CLOCK WHEN THIS  
2 HAPPENED OR RIGHT AT NINE O'CLOCK, SOMEWHERE IN THAT AREA?

3 A. I CAN'T REMEMBER THE TIME.

4 Q. JUST AS IT WAS GETTING DARK?

5 A. IT WAS DARK.

6 Q. IT WAS DARK. OKAY. AND IT PRETTY MUCH HAD JUST GOTTEN  
7 DARK ABOUT THAT TIME; RIGHT?

8 A. IT WAS DARK.

9 Q. OKAY. NOW, WHEN YOU CAME OUT TO THAT U-TURN, THAT'S WHEN  
10 Y'ALL SAW DARRELL; CORRECT?

11 A. YES, SIR.

12 Q. AND NO ONE WAS IN THE CAR WITH HIM AT THAT POINT, WAS  
13 THERE?

14 A. NO, SIR.

15 Q. ALL RIGHT. AND Y'ALL WANTED TO GO BACK AROUND. YOU'RE  
16 SAYING THAT'S WHEN HE MADE THE MOTION TO COME ON BACK?

17 A. THAT'S WHEN 'BREZIO REACHED OVER WOODY AND HIT THE  
18 LIGHTS.

19 Q. OKAY.

20 A. THAT'S WHEN HE SEEN DARRELL.

21 Q. OKAY. SO THAT'S WHEN HE MOTIONED TO GO --

22 A. THAT'S WHEN DARRELL HIT THE BRAKES AND --

23 Q. ALL RIGHT. NOW, WHEN HE DOES THAT AND Y'ALL START -- YOU  
24 GO TO MAKE A U-TURN, HOW MANY CARS GET IN BETWEEN YOU AND HIM  
25 ON THE WAY BACK?

DESMOND CAMPBELL - CROSS BY MR. THOMPSON:

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- 1 A. TWO CARS.
- 2 Q. TWO CARS? AND YOU'RE SAYING ONE OF THOSE CARS WAS THE  
3 LADY THAT YOU ULTIMATELY ENDED UP TALKING TO?
- 4 A. YES, SIR.
- 5 Q. DID YOU KNOW HER?
- 6 A. NO, SIR.
- 7 Q. YOU DIDN'T KNOW HER? OKAY. NOW, BUT SHE HAD A CHILD  
8 WITH HER?
- 9 A. SHE HAD A SON WITH HER.
- 10 Q. SHE HAD A SON. OKAY. AND SO WHEN YOU COME IN THIS TIME  
11 WOODY'S STILL DRIVING?
- 12 A. YES, SIR.
- 13 Q. AND Y'ALL COME HERE TO THE RIGHT; CORRECT?
- 14 A. I TOLD WOODY TO PARK THE CAR TO THE RIGHT.
- 15 Q. OKAY. SO YOU TELL WOODY TO COME TO THE RIGHT 'CAUSE WHAT  
16 YOU --
- 17 A. I WAS TRYING --
- 18 Q. -- YOU WANTED HIM TO PARK THE CAR OVER THERE WHY?
- 19 A. TALK TO THE GIRL.
- 20 Q. TALK TO THE GIRL? ALL RIGHT. DID YOU SEE WHICH WAY MR.  
21 BAGLEY HAD GONE? YOU SAW WHERE HE WENT AROUND --
- 22 A. YEAH. HE WENT TO THE -- TO THE LEFT.
- 23 Q. OH, HE WENT TO THE LEFT. SO HE CAME AROUND TO THE LEFT.  
24 AND PARKED HIS CAR?
- 25 A. HIM AND THE CAR -- THE FIRST CAR BEHIND HIM.

1 Q. AND THE FIRST CAR BEHIND HIM WENT TO THE LEFT, TOO?

2 A. YES, SIR.

3 Q. OKAY. DID YOU KNOW THAT CAR BEHIND HIM, WHO WAS IN THAT  
4 CAR?

5 A. NO, SIR.

6 Q. ALL RIGHT. SO Y'ALL PARKED HERE AND YOU PARKED FACING  
7 THIS SET OF WOODS RIGHT HERE OR THIS SET OF TREES?

8 A. NO. WOODY PULLED IN.

9 Q. PULLED IN THIS WAY?

10 A. YES, SIR, TO THE RIGHT.

11 Q. OKAY. SO YOU PULLED TO THE RIGHT AND ARE YOU PARKED FACE  
12 IN AT THAT POINT?

13 A. YES, SIR.

14 Q. OKAY. AND THEY GET OUT AT THAT POINT; RIGHT?

15 A. 'BREZIO GETS OUT.

16 Q. 'BREZIO GETS OUT. OKAY. 'BREZIO GETS OUT AND YOU KNOW  
17 'BREZIO HAS HIS GUN 'CAUSE HE ALWAYS HAS HIS GUN; RIGHT?

18 A. YES, SIR.

19 Q. AND WHEN HE PULLS OUT OR WHEN HE GETS OUT, WOODY  
20 ULTIMATELY GETS OUT, TOO, 'CAUSE HE ASKED HIM TO; RIGHT?

21 A. 'BREZIO WALKED DOWN AND SAID -- YELLED BACK, WOOD, COME  
22 ON, MAN. YOU KNOW, WOOD, COME WITH ME, MAN.

23 Q. ALL RIGHT. WELL, WOOD GOT OUT -- WOOD GOT HIS GUN THEN;  
24 RIGHT?

25 A. I DIDN'T SEE HIM GETTING IT 'CAUSE I WAS TALKING TO THE

1 FEMALE AT THAT TIME.

2 Q. OKAY. BUT THE GUN HAD BEEN SITTING OUT; RIGHT?

3 A. YES, SIR.

4 Q. SO YOU'RE IN THE BACK SEAT, YOU GET OUT AND START TALKING  
5 TO THIS GIRL THAT'S THERE NOW?

6 A. I MEAN, I'M NOT OUT. THE WINDOW'S ROLLED DOWN.

7 Q. OKAY. THE WINDOW'S ROLLED DOWN. SO YOU'RE SITTING IN  
8 THE BACK SEAT TALKING TO HER AND YOU TALKED FOR, WHAT,  
9 FIFTEEN, TWENTY MINUTES?

10 A. YES, SIR.

11 Q. AND SHE HAS A LITTLE CHILD WITH HER?

12 A. YES, SIR.

13 Q. WHAT, ABOUT THREE?

14 A. I CAN'T SAY. I KNOW HE WAS YOUNG.

15 Q. YOU MEAN SMALL LIKE SCHOOL AGE OR SMALL LIKE LESS THAN  
16 SCHOOL AGE?

17 A. LESS THAN SCHOOL AGE 'CAUSE HE WAS PLAYING AROUND, YOU  
18 KNOW, HE WAS JUST --

19 Q. OKAY. AND SO FIFTEEN OR TWENTY MINUTES YOU'RE SITTING  
20 THERE AND EVERYTHING'S OKAY, TALKING TO THIS LADY. SHE STANDS  
21 THERE AND TALKS TO YOU. NOW, WAS SHE TAKING OUT GROCERIES OR  
22 ANYTHING?

23 A. YES, SIR.

24 Q. SHE WAS TAKING OUT GROCERIES? WAS SHE WALKING THEM INTO  
25 HER APARTMENT?

- 1 A. YES, SIR.
- 2 Q. SO SHE WAS COMING BACK AND FORTH FROM HER APARTMENT?
- 3 A. YES, SIR.
- 4 Q. BUT CERTAINLY SHE FINISHED WITHIN FIFTEEN MINUTES; RIGHT?
- 5 A. YEAH.
- 6 Q. SO SHE MUST HAVE JUST COME BACK OUT AND TALKED TO YOU,
- 7 THEN?
- 8 A. YEAH. HER CAR DOOR STILL WAS OPEN.
- 9 Q. OKAY. SO SHE APPARENTLY JUST STAYED THERE TO TALK TO YOU
- 10 AT THAT POINT?
- 11 A. YEAH.
- 12 Q. OKAY. SO THEN YOU HEARD SHOTS; RIGHT?
- 13 A. YES, SIR.
- 14 Q. AND YOU DON'T KNOW HOW MANY; RIGHT?
- 15 A. (NODS HEAD AFFIRMATIVELY)
- 16 Q. AND THEN AFTER THE SHOTS ARE FIRED THAT'S WHEN YOU CLIMB
- 17 OVER THE -- FROM THE BACK SEAT AND GET IN THE FRONT; RIGHT?
- 18 A. YES, SIR.
- 19 Q. YOU HAD THE KEYS TO THE CAR?
- 20 A. THE KEY WAS IN THE IGNITION.
- 21 Q. THEY WERE IN THE IGNITION. WAS THE CAR STILL RUNNING?
- 22 A. NO, SIR.
- 23 Q. WERE THE LIGHTS OFF ON THE CAR?
- 24 A. YES, SIR.
- 25 Q. NOW, AFTER ALL THAT, THEN, Y'ALL GO BACK DOWN OR YOU

DESMOND CAMPBELL - CROSS BY MR. THOMPSON:

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1 START TO GO, WHAT, STRAIGHT AT THAT POINT? YOU START GOING  
2 STRAIGHT THIS WAY?

3 A. I PULLED DOWN AND MADE A RIGHT GOING AROUND THE CURVE.

4 Q. YOU STARTED TO MAKE A LEFT TO COME AROUND THE CURVE, BUT  
5 YOU DIDN'T GO ALL THE WAY AROUND THE CURVE, DID YOU?

6 A. NO. I MET 'BREZIO AND WOODY RUNNING.

7 Q. ALL RIGHT. THEY'RE UP TOP ALREADY UP HERE BY THE TIME  
8 YOU GET TO THERE; RIGHT?

9 A. YES, SIR.

10 Q. AND THEY TELL YOU --

11 A. THEY TELL ME TO BACK UP AND TURN AROUND, HE'S SHOOTING.

12 Q. HE'S SHOOTING. OKAY. AND SO THAT'S WHAT YOU DO. THEY  
13 HOPPED IN, YOU BACK UP, TURN AROUND---

14 A. YES, SIR.

15 Q. ---AND COME BACK OUT THIS WAY? OKAY. DID YOU ACTUALLY  
16 SEE ANYBODY SHOOTING?

17 A. NO, SIR. I JUST HEARD THE SHOTS.

18 Q. HOW MANY SHOTS DID YOU HEAR AT THAT POINT?

19 A. WHEN WOODY AND 'BREZIO ENTERED THE CAR, AS I WAS LEAVING  
20 OUT OF PACES RIVER, I HEARD TWO MORE SHOTS.

21 Q. YOU HEARD TWO MORE SHOTS. AND YOU DIDN'T SEE WHERE THEY  
22 WERE COMING FROM OR WHO WAS SHOOTING?

23 A. THEY WAS COMING FROM THE LEFT SIDE.

24 Q. SOUNDED LIKE THEY WERE COMING FROM THIS AREA OVER HERE?

25 A. YES, SIR.

- 1 Q. AS YOU'RE DRIVING OUT?
- 2 A. (NODS HEAD AFFIRMATIVELY)
- 3 Q. OKAY. DID YOU LOOK BACK DOWN THIS WAY AS YOU DROVE OUT?
- 4 A. YES, SIR.
- 5 Q. AND YOU DIDN'T SEE ANYBODY?
- 6 A. I SEEN A GUY RUNNING TOWARDS US.
- 7 Q. NOW, YOU SAW A GUY RUNNING TOWARD YOU. AND DID HE LOOK
- 8 LIKE HE WAS SHOOTING AT YOU OR WHAT?
- 9 A. WHEN I LOOKED AT THE GUY I JUST KEPT DRIVING FAST, SO I
- 10 CAN'T REALLY SAY WAS HE SHOOTING OR NOT.
- 11 Q. OKAY. NOW, WHO WAS THE GUY THAT WAS SHOOTING AT YOU AT
- 12 THAT TIME?
- 13 A. I CAN'T -- I DIDN'T SEE HIS FACE. IT WAS DARK.
- 14 Q. OKAY. BUT YOU HAD JUST SEEN -- WELL, YOU HAD JUST SEEN
- 15 TROY A FEW MINUTES BEFORE; RIGHT?
- 16 A. WHERE DID I SEE -- WHERE DID I SEE TROY AT?
- 17 Q. YOU SAW TROY WHEN DEBREZIO WENT UP THE STEPS AND TALKED
- 18 TO HIM; RIGHT?
- 19 A. 'BREZIO SAID TROY CAME TO THE DOOR. THERE'S NO WAY YOU
- 20 COULD SEE THE DOOR.
- 21 Q. SO YOU NEVER SAW TROY EITHER OF THOSE TIMES?
- 22 A. NO, SIR.
- 23 Q. NOW, YOU SAID YOU WORKED FOR ARVELL BAGLEY. HOW LONG YOU
- 24 BEEN WORKING FOR HIM AGAIN?
- 25 A. SINCE I WAS FIFTEEN OFF AND ON, 'CAUSE I MOVED A LOT.

1 Q. OKAY. BUT HE TRUSTED YOU ENOUGH TO KEEP HIS BOOKS;  
2 RIGHT?

3 A. YEAH.

4 Q. SO YOU WERE KIND OF LIKE IS RIGHT-HAND MAN IF YOU'RE  
5 KEEPING HIS BOOKS; RIGHT?

6 A. NO, SIR.

7 Q. SO YOU'RE THE MAN WHO MAKES SURE THE MONEY FLOW KEEPS  
8 COMING; RIGHT?

9 A. YES, SIR.

10 Q. SO YOU'RE KIND OF LIKE HIS RIGHT-HAND MAN THEN, AREN'T  
11 YOU?

12 A. NO, SIR.

13 Q. NOW, YOU WERE ABLE TO CALL ARVELL BAGLEY WHEN YOU WANTED  
14 TO; RIGHT?

15 A. NO, SIR.

16 Q. YOU DIDN'T HAVE HIS CELL NUMBER?

17 A. NO, SIR.

18 Q. YOU HAD A CELL PHONE, DIDN'T YOU?

19 A. NO, SIR.

20 Q. BUT YOU HAD A PHONE IN YOUR APARTMENT?

21 A. NO, SIR.

22 Q. YOUR BROTHER HAD A CELL PHONE?

23 A. NO, SIR.

24 Q. THERE WAS A CELL PHONE IN THE CAR Y'ALL WERE DRIVING THAT  
25 DAY, WASN'T THERE?

DESMOND CAMPBELL - CROSS BY MR. THOMPSON:

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- 1 A. YES, SIR.
- 2 Q. Y'ALL HAD ACCESS TO A PHONE IN OTHER WORDS?
- 3 A. OH. YES, SIR.
- 4 Q. OKAY. BUT YOU DON'T KNOW HOW TO CALL ARVELL BAGLEY?
- 5 A. NOPE. I DON'T KNOW NO PHONE NUMBERS TO REACH HIM AT.
- 6 Q. SO YOU'RE HIS BOOK MAN AND YOU CONTROL HIS MONEY, BUT HE
- 7 DOESN'T HAVE ANY GOOD WAY OF GETTING IN TOUCH WITH YOU?
- 8 A. OH. I KNOW -- HE KNOW HOW TO GET IN TOUCH WITH ME, I CAN
- 9 GET IN TOUCH WITH HIM, BUT NOT THROUGH A PHONE.
- 10 Q. OH, OKAY. HOW DO Y'ALL GET IN TOUCH WITH EACH OTHER?
- 11 A. I CAN EITHER GO TO CRYSTAL APARTMENT, WHICH IS IN STONE
- 12 HAVEN, OR I CAN GET UP WITH HIM ON MILLS STREET OVER AT HIS
- 13 COUSIN HOUSE.
- 14 Q. OKAY. SO YOU DEAL WITH HIM IN PERSON THEN?
- 15 A. YES, SIR.
- 16 Q. OKAY. AND IS THAT WHAT DEBREZIO DOES AS WELL?
- 17 A. I CAN'T SAY.
- 18 Q. OKAY. NOW, WOODY, HE DIDN'T KNOW ARVELL BAGLEY, DID HE?
- 19 A. NO, SIR.
- 20 Q. MATTER OF FACT, HE REALLY DIDN'T KNOW ANYTHING ABOUT
- 21 ARVELL BAGLEY?
- 22 A. WOODY KNOW HE -- WOODY KNOW HE SOLD DRUGS.
- 23 Q. HE ALSO KNOWED -- KNEW THAT DEBREZIO SOLD DRUGS?
- 24 A. YEAH.
- 25 Q. AND THAT YOU SOLD DRUGS?

- 1 A. YEAH.
- 2 Q. OKAY. AND HE KNEW THAT DEBREZIO CARRIED A GUN; RIGHT?
- 3 WOODY KNEW THAT?
- 4 A. YEAH.
- 5 Q. AND Y'ALL KNEW THAT WOODY CARRIED A GUN?
- 6 A. YEAH.
- 7 Q. MATTER OF FACT, IT WAS A .45, WASN'T IT?
- 8 A. I THINK SO.
- 9 Q. IT WAS A BLACK .45?
- 10 A. YES, SIR.
- 11 Q. IT WAS BLACK AND IT WAS SEMI-AUTOMATIC. IT'S ONE YOU
- 12 STICK A CLIP IN; CORRECT?
- 13 A. YEAH.
- 14 Q. AND, NOW, DEBREZIO'S GUN, IT WAS A .25, WASN'T IT?
- 15 A. YES, SIR.
- 16 Q. AND IT WAS A SILVER COLOR, IT WAS SHINY?
- 17 A. YES, SIR.
- 18 Q. BUT IT'S ALSO A SEMI-AUTOMATIC, ONE YOU JAM THAT CLIP IN?
- 19 A. YES, SIR.
- 20 Q. AND BOTH OF THEM KEPT THOSE GUNS LOADED, DIDN'T THEY?
- 21 A. I CAN'T SAY.
- 22 Q. WELL, YOU WOULD HAVE SEEN WOODY'S GUN SITTING IN THE
- 23 CONSOLE. IT HAD A CLIP IN IT, DIDN'T IT?
- 24 A. WOODY KEPT HIS CLIP OUT. HE SAID HE WOULD GET CHARGED
- 25 FOR THE GUN BEING LIKE THAT.

DESMOND CAMPBELL - CROSS BY MR. THOMPSON:

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1 Q. HE KEPT HIS CLIP OUT. SO THAT NIGHT WHEN HE WOULD HAVE  
2 GOTTEN THE GUN OUT OF THE CAR, HE WOULD HAVE HAD TO GET THE  
3 GUN AND THE CLIP?

4 A. I BELIEVE SO.

5 Q. OKAY. NOW, LET'S GO TO THAT STATEMENT IN ROCK HILL THAT  
6 YOU GAVE TO DETECTIVE HUTCHINSON. SHOW YOU STATE'S EXHIBIT  
7 NUMBER 136, ASK YOU TO LOOK AT THAT. IT'S THREE PAGES. LOOK  
8 AT EACH PAGE AND TELL ME WHAT THAT IS.

9 A. THIS IS WHAT HE TYPED AND THIS IS WHAT I SIGNED.

10 Q. OKAY. AND YOU SIGNED THIS BACK ON JUNE 27TH, 2004;  
11 RIGHT?

12 A. I SIGNED THIS THE DAY OF THE -- OF THE SHOOTING.

13 Q. OKAY. BUT SO YOU WERE AT THE POLICE DEPARTMENT ALL  
14 THROUGH THAT NIGHT THROUGH THE NEXT MORNING; RIGHT?

15 A. (NO RESPONSE)

16 Q. SO IT'S VERY POSSIBLE IT STILL COULD HAVE BEEN THE 27TH  
17 WHEN YOU SIGNED THIS?

18 A. BUT I KNOW I WAS AT THE POLICE DEPARTMENT, LIKE, FIVE,  
19 SIX HOURS AND I KNOW I SIGNED THIS LESS THAN THIRTY MINUTES I  
20 WAS THERE.

21 Q. RIGHT. BUT YOU DIDN'T GET TO THE POLICE DEPARTMENT 'TIL,  
22 WHAT, ABOUT ELEVEN?

23 A. NO. I GOT TO THE POLICE DEPARTMENT AROUND TEN.

24 Q. AROUND TEN? SO WITHIN AN HOUR OF THIS HAPPENING YOU WERE  
25 AT THE POLICE DEPARTMENT?

- 1 A. YES, SIR.
- 2 Q. OKAY. NOW, WHEN Y'ALL LEFT OUT OF THERE Y'ALL WENT,  
3 WHAT, BACK TO YOUR APARTMENT?
- 4 A. LEFT OUT OF WHERE?
- 5 Q. I'M SORRY. WHAT?
- 6 A. LEFT OUT OF PACES RIVER?
- 7 Q. YEAH. WHEN YOU LEFT PACES RIVER, WHERE DID Y'ALL GO BACK  
8 TO, STONE HAVEN?
- 9 A. STONE HAVEN.
- 10 Q. AND THAT WAS TO NINI'S HOUSE; RIGHT?
- 11 A. YEAH. LIKE, IN FRONT OF THE HOUSE, SITTING OUT FRONT.
- 12 Q. BUT SHE WASN'T HOME, WAS SHE?
- 13 A. NO, SIR.
- 14 Q. BUT Y'ALL DIDN'T HANG AROUND THERE THAT MUCH LONGER, DID  
15 YOU? YOU WENT SOMEWHERE ELSE, TOO, DIDN'T YOU?
- 16 A. WENT AND GOT SOME GAS, CAME RIGHT BACK.
- 17 Q. YOU WENT AND GOT SOME GAS AND CAME RIGHT BACK. AFTER YOU  
18 DID THAT Y'ALL STARTED DRINKING THE REST OF THE LIQUOR YOU  
19 HAD; RIGHT?
- 20 A. YES, SIR.
- 21 Q. SO YOU DRANK A GOOD BIT AFTER ALL THIS HAPPENED?
- 22 A. NO. WE ONLY HAD A LITTLE BIT LEFT IN THE LAST BOTTLE  
23 THAT I BOUGHT AFTER THIS HAPPENED.
- 24 Q. OKAY. AND YOU BOUGHT THE BOTTLE AFTER THIS HAPPENED?
- 25 A. I BOUGHT THE BOTTLE BEFORE THE SHOOTING HAPPENED.

DESMOND CAMPBELL - CROSS BY MR. THOMPSON:

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1 Q. OKAY. SO YOU JUST HAD A LITTLE BIT LEFT AND Y'ALL SHARED  
2 THAT?

3 A. YES, SIR.

4 Q. OKAY. DID YOU TAKE ANY OTHER DRUGS AT THAT POINT?

5 A. NO, SIR.

6 Q. BUT Y'ALL ARE UP AT HER APARTMENT; RIGHT?

7 A. OUTSIDE THE APARTMENT.

8 Q. OUTSIDE THE APARTMENT. AND AT SOME POINT YOU CALL YOUR  
9 GIRLFRIEND DOWN IN CHESTER; RIGHT?

10 A. YES, SIR.

11 Q. AND SO SHE HAS TO DRIVE UP FROM CHESTER TO COME PICK YOU  
12 UP?

13 A. YES, SIR.

14 Q. AND IT WAS ULTIMATELY THAT'S HOW YOU ENDED UP BACK AT THE  
15 POLICE DEPARTMENT; RIGHT? SHE ENDED UP TAKING YOU THERE.

16 A. YEAH. AFTER WE WAS BEING SHOT AT -- AFTER WE WAS BEING  
17 SHOT AT WE WENT TO THE POLICE DEPARTMENT.

18 Q. NOW, SO Y'ALL WERE ABLE TO DO ALL THAT BY TEN O'CLOCK?  
19 YOU WERE ABLE TO GET BACK TO THE POLICE DEPARTMENT BY TEN  
20 O'CLOCK AFTER YOU WENT BACK TO THE APARTMENT, WENT AND GOT  
21 GAS, WENT BACK TO THE APARTMENT AND DRANK SOME AND CALLED HER  
22 UP IN CHESTER AND THEN --

23 A. WELL, I'M NOT SURE IT WAS EXACTLY TEN O'CLOCK, BUT IT WAS  
24 AROUND THAT TIME, TEN, 10:30.

25 Q. OKAY. NOW, YOU'RE SAYING THAT YOU TOLD THE POLICE

1 IMMEDIATELY AS SOON AS YOU WALKED IN THE DOOR OF THE POLICE  
2 STATION THAT THIS IS WHAT HAPPENED?

3 A. NO, SIR. THEY ASKED ME WHO WAS THE GUY SHOOTING AT US  
4 AND I BEGAN TO TELL HIM AND HE WAS LIKE YOU WERE PROBABLY  
5 BEING SHOT AT 'CAUSE YOU WAS INVOLVED IN A MURDER.

6 Q. ALL RIGHT.

7 A. AND IT WENT FROM THERE.

8 Q. DID YOU TELL HIM THE NAMES OF WHO WAS SHOOTING AT YOU?

9 A. YES, SIR.

10 Q. YOU TOLD HIM THE NAMES OF WHO WAS SHOOTING AT YOU?

11 A. YES, SIR, AND I ALSO TOLD HIM THAT ONE OF THE GUYS JUST  
12 WALKED IN THE POLICE DEPARTMENT.

13 Q. SO YOU KNEW THAT NIGHT WHO WAS SHOOTING AT YOU?

14 A. YES, SIR.

15 Q. AND IT'S SOMEONE WHO WALKED IN THE POLICE DEPARTMENT THAT  
16 NIGHT?

17 A. YES, SIR.

18 Q. AND YOU POINTED THAT OUT TO THE POLICE THAT NIGHT?

19 A. YES, SIR.

20 Q. TO DETECTIVE HUTCHINSON?

21 A. YES, SIR.

22 Q. AND YOU TOLD DETECTIVE HUTCHINSON THE NAME OF WHO WAS  
23 SHOOTING AT YOU?

24 A. YES, SIR.

25 Q. DID YOU TELL YOUR GIRLFRIEND, TOO?

DESMOND CAMPBELL - CROSS BY MR. THOMPSON:

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1 A. NO, 'CAUSE THEY -- THEY SEPARATED US SOON AS WE GOT IN  
2 THE POLICE DEPARTMENT. SHE WAS DRIVING. SHE DIDN'T REALLY  
3 SEE WHO WAS SHOOTING.

4 Q. BUT YOU DIDN'T TELL HER BEFORE YOU GOT TO THE POLICE  
5 DEPARTMENT WHO WAS SHOOTING AT YOU?

6 A. NO, 'CAUSE SHE WAS CRYING AND SCREAMING. I COULDN'T EVEN  
7 TALK TO HER.

8 Q. LET'S GO BACK. OKAY. SO WHEN YOU'RE IN THE POLICE  
9 DEPARTMENT, AT ANY RATE, YOU GIVE A STATEMENT AT THAT POINT.  
10 YOU START TALKING TO DETECTIVE HUTCHINSON; CORRECT?

11 A. YES, SIR.

12 Q. AND ACTUALLY IN THAT STATEMENT YOU DON'T MENTION ANYTHING  
13 ABOUT DRUG DEALING, DO YOU?

14 A. I DO, BUT IT'S NOT TYPED UP.

15 Q. OKAY. WELL, LET'S LOOK AT THAT. IT STARTS OUT, JUST AS  
16 MR. DELGADO WAS SAYING, WITH THEM READING YOU YOUR RIGHTS.  
17 YOU UNDERSTOOD THOSE RIGHTS, DIDN'T YOU?

18 A. I DIDN'T EVEN READ THIS.

19 Q. THEY READ THEM TO YOU OR YOU READ THEM; RIGHT? YOU  
20 SIGNED IT?

21 A. THIS WAS READ TO ME AFTER I WAS BEING TAKEN TO THE BACK  
22 TO GET DRESSED OUT.

23 Q. OKAY. BUT BEFORE YOU SIGNED IT?

24 A. BEFORE I SIGNED WAS NOTHING READ TO ME.

25 Q. OKAY. SO YOU SIGNED THIS BEFORE YOU EVER READ IT OR HAD

1 IT READ TO YOU?

2 A. YES, SIR.

3 Q. HOW ABOUT WITH THE STATEMENT OF RIGHTS SHOWN UNDERNEATH  
4 IT THAT SAYS THAT YOU CAN STOP TALKING TO -- THIS IS A  
5 POLICE OFFICER, YOU CAN STOP TALKING TO THEM AT ANY TIME. YOU  
6 DIDN'T READ THAT, EITHER?

7 A. NO, SIR. I WAS GIVEN THIS PAPER AND A PEN AND SAY SIGN  
8 HERE, SIGN HERE, SIGN HERE AND SIGN HERE.

9 Q. OKAY. SO YOU JUST SIGNED IT JUST BECAUSE?

10 A. YES, SIR.

11 Q. NOW, WITH THE SECOND PAGE THAT COMES AFTER THE STATEMENT,  
12 SAYING SIGNATURE OF PERSON GIVING STATEMENT, YOU SIGNED THAT  
13 TOO WITHOUT READING IT?

14 A. YES, SIR.

15 Q. AND THE THIRD PAGE, WHERE YOU SIGNED IT AND IT SAYS ON  
16 THAT PAGE, PERSON APPEARS BEFORE ME, ANTOINE JAMAR -- I'M  
17 SORRY. GET THIS RIGHT. I MAKE A STATEMENT OF MY OWN FREE  
18 WILL AND ACCORD WITHOUT REWARD OR HOPE OF REWARD. I HAVE NOT  
19 BEEN MISTREATED OR THREATENED IN ANY WAY. ALL OF THE ABOVE IS  
20 THE TRUTH AND NOTHING BUT THE TRUTH SO HELP ME GOD. I HAVE  
21 READ OR HAD READ TO ME THE ABOVE STATEMENT CONSISTING OF TWO  
22 PAGES AND HAVE RECEIVED A COPY OF THE SAME AND IT'S SIGNED  
23 DESMOND CAMPBELL, IS IT NOT?

24 A. YES, SIR.

25 Q. AND THAT'S YOUR SIGNATURE. AND YOU'RE SAYING YOU SIGNED

1 THAT WITHOUT READING IT?

2 A. YES, SIR.

3 Q. BUT ULTIMATELY YOU DID READ YOUR STATEMENT, DIDN'T YOU?

4 A. YES, SIR. WHEN I WAS GIVEN MY MOTION OF DISCOVERY.

5 Q. OKAY. AND SO YOU'VE READ THE STATEMENT AND YOU AGREE  
6 THAT THIS STATEMENT IS TRUE?

7 A. WHEN I PLEADED.

8 Q. I'M ASKING NOW. DO YOU AGREE THAT THIS STATEMENT IS  
9 TRUE?

10 A. SOME OF IT IS AND SOME OF IT ISN'T.

11 Q. OKAY. BUT AT THE PLEA YOU AGREED THAT ALL OF THIS  
12 STATEMENT WAS TRUE; CORRECT?

13 A. YES, SIR. THAT'S THE WAY I HAD TO GET MY PLEA.

14 Q. AND THIS STATEMENT -- AS A MATTER OF FACT, YOU DON'T  
15 MENTION THIS IS OVER DRUGS; YOU SAY THIS IS OVER A FIGHT OVER  
16 NINI; CORRECT? OR NOT OVER NINI, BUT OVER A -- I GUESS IT'S  
17 CRYSTAL -- OR CHRISTA; RIGHT?

18 A. WHERE BY MY STATEMENT I SAY THAT?

19 Q. WELL, YOU TALK ABOUT HOW -- LET ME CHANGE IT. YOU TALK  
20 ABOUT HOW IT'S OVER A DISPUTE THAT DEBREZIO HAD WITH DARRELL  
21 AT STONE HAVEN APARTMENTS AND YOU GO ON TO SAY IN THE SECOND  
22 SENTENCE DEBREZIO SAID HE WAS WALKING TO HIS GIRLFRIEND'S  
23 HOUSE, NINI, AND DARRELL JUST DROVE UP ON HIM IN A CAR AND GOT  
24 OUT AND HIT HIM. DEBREZIO WAS VERY UPSET. HE SAID THAT HE  
25 HAS GOT TO HANDLE THAT AND THAT'S PUT IN QUOTES, 'CAUSE THAT'S

1 A QUOTE FROM DEBREZIO SAYING HANDLE THAT, MEANING GET DARRELL  
2 BACK. THAT'S PART OF YOUR STATEMENT, ISN'T IT?

3 A. YES, SIR.

4 Q. AND BY SIGNING IT, YOU SWORE THAT THAT WAS THE TRUTH;  
5 CORRECT?

6 A. YES, SIR.

7 Q. AND AT THE TIME THAT YOU PLED GUILTY YOU SAID THAT THAT  
8 WAS THE TRUTH; CORRECT?

9 A. YES, SIR.

10 Q. THEN YOU WENT ON TO SAY THAT DEBREZIO HAD BOUGHT A .25  
11 CALIBER GUN AND IT SAYS THAT HE HAD IT ON HIM THE DAY DARRELL  
12 HIT HIM. THE ONLY REASON DEBREZIO DIDN'T GET HIM WAS BECAUSE  
13 DARRELL RAN. DEBREZIO SAID HE WAS DRUNK. IT SAYS THAT TOO,  
14 DOESN'T IT?

15 A. YES, SIR.

16 Q. AND THEN IT SAYS I TOLD MY FRIEND CHRIS WOODY, WOODS,  
17 WHAT HAPPENED TO DEBREZIO -- OR I TOLD MY FRIEND CHRIS WOODY,  
18 WOODS, WHAT HAPPENED TO DEBREZIO AT WORK. THEN WE WERE LIKE  
19 WHAT IS DEBREZIO GOING TO DO. I TOLD WOODY THAT DEBREZIO SAID  
20 HE WAS GOING TO HANDLE THAT. WOODY SAID ALL RIGHT. THEN  
21 AFTER A COUPLE OF WEEKS PASSED, THE NIGHT WE HAD A COUPLE OF  
22 DRINKS AND WOODY HAD HIS .45 CALIBER HANDGUN AND DEBREZIO HAD  
23 HIS .25 CALIBER HANDGUN; RIGHT?

24 A. YES, SIR.

25 Q. IT SAYS WE DROVE BY CELANESE ROAD AT PACES RIVER AROUND

1 NINE O'CLOCK P.M. AND SEEN DARRELL IN HIS WHITE LEXUS ON PACES  
2 RIVER OR GO INTO PACES RIVER; CORRECT?

3 A. YES, SIR.

4 Q. WOODY WAS DRIVING HIS SILVER MAXIMA. DEBREZIO WAS IN THE  
5 PASSENGER SIDE AND I WAS SITTING IN THE BACK. AFTER WE  
6 FOLLOWED DARRELL INTO PACES RIVER WE PARKED -- WE PARKED  
7 WOODY'S CAR. THAT'S RIGHT?

8 A. YES, SIR.

9 Q. THEN WOODY AND DEBREZIO RAN DOWN TOWARDS DARRELL WITH THE  
10 GUNS. YOU SAID THAT; RIGHT?

11 A. NO, SIR.

12 Q. BUT IT'S IN THE STATEMENT, ---

13 A. YES, IT'S IN THE STATEMENT.

14 Q. ---THE STATEMENT YOU SIGNED?

15 A. YES, SIR.

16 Q. AND SWORE THAT IT WAS THE TRUTH?

17 A. YES, SIR.

18 Q. AND THEN YOU SWORE AGAIN THAT IT WAS THE TRUTH RIGHT HERE  
19 IN THIS COURTROOM, DIDN'T YOU?

20 A. YES, SIR.

21 Q. AS A MATTER OF FACT, THERE WAS A PLEA AGREEMENT THAT YOU  
22 SIGNED IN WHICH YOU ALSO SAID IT WAS THE TRUTH; ISN'T THAT  
23 CORRECT?

24 A. YES, SIR.

25 Q. SO ON THOSE THREE SEPARATE OCCASIONS YOU SAID THIS

1 STATEMENT IS CORRECT?

2 A. YES, SIR.

3 Q. AND THEN YOU SAID DARRELL HAD WALKED BETWEEN THE CARS  
4 NEAR HIS APARTMENT AND THEY HAD TO HURRY BECAUSE HE WAS  
5 GETTING NEAR HIS APARTMENT. ISN'T THAT TRUE?

6 A. THAT'S WHAT HE GOT TYPED.

7 Q. AND THAT'S WHAT YOU SIGNED AS BEING TRUE?

8 A. YES, SIR.

9 Q. THAT'S WHAT YOU SWORE TO BEING TRUE?

10 A. YES, SIR.

11 Q. THEY STARTED SHOOTING AT HIM. AFTER THE SHOOTING THEY  
12 RAN BACK UP TO THE CAR; ISN'T THAT CORRECT?

13 A. YES, SIR.

14 Q. I HAD GOTTEN FROM THE BACK SEAT INTO THE DRIVER'S SEAT.  
15 DEBREZIO GOT INTO THE BACK SEAT OF THE CAR AND WOODY RAN UP  
16 AFTERWARDS AND JUMPED INTO THE FRONT PASSENGER SEAT. I DROVE  
17 THEM OFF AND WE WENT TO STONE HAVEN APARTMENTS AGAIN. WE WENT  
18 TO DEBREZIO'S GIRLFRIEND'S APARTMENT, NAMED NINI; IS THAT  
19 CORRECT?

20 A. YES, SIR.

21 Q. NINI WAS NOT AT HOME. DEBREZIO WAS SCARED AND TRIPPING.  
22 HE KEPT THINKING HE WAS HEARING SOMETHING AND TELLING US TO  
23 LISTEN. WE NEVER WOULD HEAR ANYTHING. WE NEEDED TO GET OUT,  
24 SO WE LEFT THE APARTMENT AND I DROVE TO THE PHILLIPS 66  
25 STATION ON 21 BYPASS ACROSS FROM THE CAMPER TOP PLACE TO GET

DESMOND CAMPBELL - CROSS BY MR. THOMPSON:

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1 SOME GAS. IS THAT RIGHT?

2 A. YES, SIR.

3 Q. WE DROVE BACK FROM THE STATION AND PUT HIS .45 CALIBER  
4 HANDGUN ON THE SIDE OF THE SEAT OF THE DRIVER'S DOOR. AND  
5 THAT'S CORRECT, TOO; RIGHT?

6 A. YES, SIR.

7 Q. AND HE PUT IT THERE EVEN THOUGH HE USUALLY KEEPS IT IN  
8 THE CONSOLE; RIGHT?

9 A. YES, SIR.

10 Q. WE GOT BACK TO NINI'S APARTMENT. SHE CAME IN AFTERWARDS.  
11 NINI WAS WORRIED ABOUT US. SHE STARTED TALKING TO DEBREZIO.  
12 SHE WAS MAD AT DEBREZIO FOR WHAT HE HAD DONE TO DARRELL. SHE  
13 WAS MAD AT HIM FOR FUCKING UP. I WENT OUTSIDE BECAUSE I HAD  
14 CALLED A GIRL TO PICK ME UP. THAT'S CORRECT; RIGHT?

15 A. YES, SIR.

16 Q. WOODY STAYED INSIDE. AFTER MY GIRL CAME AROUND AND  
17 PICKED ME UP WE DROVE TOWARDS I-77 TO GO BACK TO CHESTER. HER  
18 COUSIN OMAR FEASTER WAS IN THE CAR WITH US. SO HE RODE UP  
19 WITH HER; RIGHT?

20 A. YES, SIR.

21 Q. HE CAME UP AND HER -- WITH HER TO PICK ME UP. WHILE  
22 DRIVING DOWN I-77 TOWARDS DAVE LYLE BOULEVARD A BURGUNDY HONDA  
23 DROVE UP UPON US AND STARTED SHOOTING AT US IN THE CAR. WE  
24 GOT DOWN IN THE SEATS. THE CAR CHASED US. WE DROVE TOWARDS  
25 THE POLICE DEPARTMENT HOPING THE CAR WOULD STOP CHASING US.

1 WE WERE ALL SCARED. WE MADE IT TO THE POLICE DEPARTMENT AND  
2 REPORTED THE SHOOTING TO THE POLICE AND THAT'S WHERE YOUR  
3 STATEMENT ENDS; CORRECT?

4 A. YES, SIR.

5 Q. NOW, AFTER DETECTIVE HUTCHINSON WAS TYPING UP THE  
6 STATEMENT AND TALKING TO YOU, DIDN'T HE READ THROUGH IT AND  
7 TELL YOU WHAT IT SAID? DIDN'T HE GIVE THE OPPORTUNITY TO LOOK  
8 AT IT?

9 A. NO, SIR. HE JUST TOLD ME TO SIGN HERE, HERE, HERE AND  
10 HERE.

11 Q. AS A MATTER OF FACT, HE EVEN ASKED YOU IF THERE WAS  
12 ANYTHING YOU WANTED TO ADD OR CHANGE IN THIS, DIDN'T HE?

13 A. NO, SIR. I DON'T REMEMBER THAT.

14 Q. AND THERE WASN'T ANYTHING YOU WANTED TO ADD OR CHANGE,  
15 WAS THERE?

16 A. LIKE I SAID, I DON'T REMEMBER HIM ASKING ME THAT.

17 Q. SO YOU'RE TELLING US YOU SIMPLY SIGNED THIS STATEMENT  
18 JUST BECAUSE?

19 A. YES, SIR.

20 Q. AND YOU DIDN'T MENTION AT THAT TIME ANYTHING ABOUT THE  
21 DRUGS; RIGHT?

22 A. EVERYTHING WAS MENTIONED TO HIM. IT JUST WASN'T TYPED  
23 UP.

24 Q. OKAY. SO BUT NONE OF THAT'S IN THE STATEMENT ABOUT  
25 DRUGS?

- 1 A. OH, NO, SIR. IT'S NOT IN THE STATEMENT, NO.
- 2 Q. NOTHING ABOUT MONEY?
- 3 A. NO, SIR.
- 4 Q. NOTHING ABOUT KEEPING BOOKS?
- 5 A. NO, SIR.
- 6 Q. NOTHING ABOUT TALKING TO A LADY?
- 7 A. NO, SIR.
- 8 Q. NOTHING ABOUT NOT SEEING ANYTHING?
- 9 A. NO, SIR.
- 10 Q. AS A MATTER OF FACT, YOU'RE SAYING IN THIS STATEMENT --
- 11 BY THIS STATEMENT YOU'RE SAYING YOU SAW WHAT HAPPENED; RIGHT?
- 12 A. NO, SIR.
- 13 Q. YOU'RE NOT?
- 14 A. WHERE YOU GET THAT AT?
- 15 Q. WELL, YOU'RE DESCRIBING IT AS IT HAPPENED. YOU'RE
- 16 DESCRIBING HOW HE RAN DOWN, HOW THEY HAD TO CATCH HIM BEFORE
- 17 HE GOT TO HIS APARTMENT, HOW THEY STARTED SHOOTING HIM,
- 18 BECAUSE YOU WERE IN THE CAR DRIVING AT THAT POINT, WEREN'T
- 19 YOU? YOU HAD HOPPED INTO THE DRIVER'S SEAT WHEN ALL THAT
- 20 STARTED GOING DOWN?
- 21 A. NO, SIR. AFTER THE SHOOTING, THAT'S WHEN I GOT IN THE
- 22 DRIVER'S SEAT.
- 23 Q. AND ACCORDING TO THIS STATEMENT, YOU WOULD HAVE COME
- 24 AROUND AND PICKED THEM UP AND DRIVEN OUT, WOULDN'T YOU?
- 25 A. NO, SIR.

1 Q. SO YOU'RE SAYING YOU NEVER CAME AROUND THAT CORNER AND  
2 DROVE OUT?

3 A. NO, SIR.

4 Q. NOW, SINCE YOU'VE BEEN INCARCERATED YOU'VE BEEN ABLE TO  
5 TALK TO YOUR BROTHER DEBREZIO; RIGHT?

6 A. SOMETIMES, YEAH.

7 THE COURT: COUNSEL, APPROACH JUST A MINUTE.

8 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE PRESENCE  
9 OF THE COURT REPORTER AND THE JURY, BUT OUT OF THE HEARING OF  
10 THE COURT REPORTER AND THE JURY.)

11 Q. YOU WERE ABLE TO TALK WITH DEBREZIO SINCE YOU'VE BEEN  
12 INCARCERATED; RIGHT?

13 A. YES, SIR, SOMETIMES.

14 Q. AS A MATTER OF FACT, THERE'S BEEN TIMES YOU'VE BEEN ABLE  
15 TO TALK TO WOODY SINCE YOU'VE BEEN INCARCERATED; RIGHT?

16 A. NO, SIR.

17 Q. ARE YOU TELLING ME IN THE LAST TWO WEEKS YOU'VE HAD NO  
18 CONTACT WHATSOEVER WITH MR. WOODY?

19 A. NO, SIR.

20 Q. NOW, WHEN YOU'RE DOWN IN THE DETENTION CENTER, WHICH I  
21 BELIEVE YOU WERE BROUGHT UP FROM THE DEPARTMENT OF  
22 CORRECTIONS, WHAT, ABOUT A WEEK AND A HALF, TWO WEEKS AGO;  
23 RIGHT?

24 A. YES, SIR.

25 Q. AND WHEN YOU'RE AT THE DETENTION CENTER HERE Y'ALL CAN

DESMOND CAMPBELL - CROSS BY MR. THOMPSON:

1 MAKE PHONE CALLS; RIGHT?

2 A. YES, SIR.

3 Q. AND THE PHONE CALLS START OFF SAYING THAT THIS IS A  
4 COLLECT CALL FROM AND THEN YOUR NAME COMES IN AND YOU'LL SAY  
5 DES; RIGHT?

6 A. YES, SIR.

7 Q. AND IT'LL SAY THAT -- ASK THE PERSON IF THEY WANT TO  
8 ACCEPT THE CHARGE AND WHAT NUMBER TO PRESS. IF THEY PRESS  
9 THAT NUMBER, THEN IT HOOKS IN WITH THEM AND SAYS THAT THESE  
10 CALLS ARE SUBJECT TO MONITORING AND RECORDING; CORRECT?

11 A. YES, SIR.

12 Q. SO YOU KNOW THE PHONE CALLS CAN BE RECORDED FROM THE  
13 DETENTION CENTER; RIGHT?

14 A. YES, SIR.

15 Q. AND YOU'VE MADE PHONE CALLS FROM THE DETENTION CENTER IN  
16 THE LAST TWO WEEKS, HAVEN'T YOU?

17 A. YES, SIR.

18 Q. YOU'VE TALKED TO YOUR MOM AND DAD?

19 A. YES, SIR.

20 Q. AND IN DOING SO YOU'VE TOLD THEM THAT YOU'VE HAD CONTACT  
21 WITH WOODY, HAVEN'T YOU?

22 A. I MEAN, A OFFICER HERE HAD TOLD ME THINGS THAT WOODY  
23 SAID, YEAH.

24 Q. I'M SORRY WHAT?

25 A. THERE A OFFICER HERE HAS TOLD ME THINGS THAT WOODY SAID

DESMOND CAMPBELL - CROSS BY MR. THOMPSON:

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1 SUCH AS, HEY, HOW YOU DOING.

2 Q. AN OFFICER HAS?

3 A. YEAH.

4 Q. SO Y'ALL ARE DOING COMMUNICATION THROUGH AN OFFICER?

5 A. YOU COULD SAY THAT.

6 Q. YOU'RE ABLE TO SEND, BASICALLY, LITTLE MESSAGES BACK AND  
7 FORTH BECAUSE ONE OF THE DETENTION GUARDS ARE COMING BACK AND  
8 FORTH?

9 A. YES, SIR.

10 Q. OKAY. NOW, IN ONE OF THE PHONE CALLS OR ACTUALLY MORE  
11 THAN ONE YOU ALSO MENTION THAT Y'ALL -- WELL, THERE'S A  
12 CERTAIN DRAIN OUT -- WHEN YOU GO OUT IN THE REC. AREA; RIGHT?

13 A. (NO RESPONSE)

14 Q. AND SOMETIMES YOU CAN TALK IN THAT DRAIN AND HEAR EACH  
15 OTHER?

16 A. I'VE SEEN GUYS DO IT.

17 Q. AND YOU'VE CONTACTED WOODY THAT WAY, HAVEN'T YOU?

18 A. NO, SIR.

19 Q. YOU HAVEN'T SAID THAT IN YOUR PHONE CALL YOU'VE HAD THAT  
20 CONTACT WITH WOODY?

21 A. I DON'T KNOW WHAT I SAID IN A PHONE CALL, BUT I HAVEN'T  
22 HAD CONTACTED WOOD THROUGH NO DRAIN.

23 Q. WHAT OTHER WAYS DO YOU CONTACT HIM IN THE DETENTION  
24 CENTER?

25 A. I MEAN, IF A OFFICER COMING THROUGH I TELL HIM, YOU KNOW,

DESMOND CAMPBELL - CROSS BY MR. THOMPSON:

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1 TELL WOOD I SAID WHAT'S UP, KEEP HIS HEAD UP, STUFF LIKE THAT.

2 Q. ALL RIGHT. BUT YOU'VE ACTUALLY RECEIVED INFORMATION FROM  
3 WOODY ABOUT PARTICULAR FACTS IN THE CASE, HAVEN'T YOU?

4 A. NO, SIR.

5 Q. YOU HAVEN'T? WOODY NEVER CONTACTED YOU IN SOME FORM OR  
6 FASHION OR YOU'VE NEVER SAID THAT WOODY CONTACTED YOU IN SOME  
7 FORM OR FASHION AND TOLD YOU ABOUT CERTAIN EVIDENCE IN THE  
8 CASE?

9 A. I MEAN, GUYS HAVE CAME TO ME AND SAY THAT, YOU KNOW, SAID  
10 STUFF, BUT WOODY HASN'T TOLD ME ANYTHING.

11 Q. AS A MATTER OF FACT, THERE ARE THINGS LIKE YOUR LAWYER'S  
12 LIED TO YOU. THAT'S THE KIND OF THING HE RELAYED TO YOU.

13 A. SOME GUYS HAVE TOLD ME THAT.

14 Q. AND ACTUALLY YOU RECEIVED THAT INFORMATION FROM WOODY,  
15 TOO; RIGHT?

16 A. I CAN'T SAY THAT WAS WOODY VOICE. I CAN'T SAY THAT. I  
17 CAN'T SAY THAT IT CAME FROM WOODY.

18 Q. SO YOU'RE TALKING ABOUT A VOICE THAT YOU'RE TALKING TO  
19 SOMEONE THROUGH THE DRAIN?

20 A. I WAS TALKING ABOUT A PERSON THAT CAME TO ME AND SAID I  
21 HEARD YOUR LAWYER HAVE LIED TO YOU. I CAN'T SAY THAT WOODY  
22 TOLD THAT PERSON TO TELL ME THAT.

23 Q. AND THERE WAS A TIME THAT YOU SAID THAT -- MATTER OF  
24 FACT, I BELIEVE YOUR DAD ASKED YOU OR THEY ASKED YOU, HAVE  
25 Y'ALL SEEN OR TALKED TO WOOD AND YOU SAID WE TALK TO HIM

1 THROUGH THE DRAIN. HE SAID HOW YOU TALK TO HIM OUTSIDE? HE  
2 SAID HOW YOU TALK TO HIM? YOU SAID, OUTSIDE THROUGH THE DRAIN  
3 PIPE.

4 A. DO YOU HAVE THAT TAPE?

5 Q. YES.

6 (WHEREUPON, TAPE WAS PLAYED.)

7 MR. THOMPSON: WITH THE COURT'S PERMISSION, I WOULD ASK  
8 TO FORWARD IT TO THAT SPOT RATHER THAN LISTEN TO TEN MINUTES  
9 BEFORE WE GET TO IT.

10 THE COURT: YES, SIR.

11 (TAPE CONTINUED PLAYING)

12 A. I DON'T RECALL THAT CONVERSATION.

13 Q. YOU DON'T RECALL THAT CONVERSATION, BUT THAT WAS YOU,  
14 WASN'T IT?

15 A. NO, SIR.

16 Q. AND YOU WERE SAYING YOU TALKED TO DEBREZIO -- OR YOU  
17 TALKED TO WOODY THROUGH THE DRAIN, DIDN'T YOU?

18 A. NO, SIR.

19 Q. YOU DIDN'T SAY THAT IN THIS CONVERSATION?

20 A. I MEAN, THAT DOESN'T EVEN SOUND LIKE ME. YOU KNOW, I  
21 SAID DES AT THE VERY BEGINNING, BUT IT MUST -- IT DON'T EVEN  
22 SOUND LIKE MY VOICE.

23 Q. BUT THAT WAS YOUR DAD; RIGHT?

24 A. THAT DON'T EVEN SOUND LIKE MY DADDY.

25 Q. THAT DOESN'T SOUND LIKE YOUR DAD?

DESMOND CAMPBELL - CROSS BY MR. THOMPSON:

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1 A. (NO RESPONSE)

2 Q. THE FACT IS YOU HAVE CONTACTED WOODY WHILE YOU'VE BEEN IN  
3 THE DETENTION CENTER THE LAST TWO WEEKS, HAVEN'T YOU?

4 A. LIKE I SAY, A OFFICER HAVE TOLD ME THINGS LIKE WOODY SAID  
5 HEY, HOW YOU DOING, HOW WAS IT DOWN THERE IN COLUMBIA, STUFF  
6 LIKE THAT.

7 Q. AS A MATTER OF FACT, AT THE BEGINNING OF THOSE TWO WEEKS  
8 YOU WERE BEING HOUSED ALONG WITH YOUR BROTHER; RIGHT?

9 A. YES, SIR.

10 Q. SO YOU WERE ALL TALKING ABOUT IT, TOO. AS A MATTER OF  
11 FACT, ON SOME OF THE PHONE CALLS Y'ALL PASS THE PHONE BACK AND  
12 FORTH, DON'T YOU?

13 A. YES, SIR.

14 Q. AND ISN'T IT TRUE THAT THE FIRST TIME THE STORY THAT  
15 YOU'VE GIVEN TODAY, THE FIRST TIME THAT YOU REMOTELY TOLD THE  
16 PROSECUTION ANYTHING ABOUT THIS STORY WAS LAST WEEK; ISN'T  
17 THAT TRUE?

18 A. NO. THE FIRST TIME WAS WITH LIEUTENANT HUTCHINSON.

19 Q. I'M TALKING ABOUT TO THE PROSECUTOR'S OFFICE.. YOU SAID  
20 YOU TOLD LIEUTENANT HUTCHINSON.

21 A. OH, YEAH, WITH Y'ALL.

22 Q. THE FIRST TIME YOU TOLD THE PROSECUTION OFFICE WAS LAST  
23 WEEK, WASN'T IT?

24 A. THE FIRST TIME WE MET.

25 Q. AND ALL THE TIMES BEFORE THAT, ALL YOUR DEALINGS WITH THE

1 PROSECUTION HAVE BEEN THROUGH YOUR ATTORNEY; CORRECT?

2 A. YES, SIR.

3 Q. AND YOU SIGNED THE PLEA AGREEMENT THAT SAYS THAT YOU  
4 SWEAR THE STATEMENT YOU GIVE IS TRUE?

5 A. YES, SIR.

6 Q. AND THE PLEA YOU DID UP HERE WHERE YOU SAID THE STATEMENT  
7 I GAVE WAS TRUE?

8 A. YES, SIR.

9 Q. THIS STATEMENT ITSELF IT SAYS IS TRUE; CORRECT?

10 A. THAT'S WHAT I SIGNED.

11 Q. AND NOW YOU'RE TELLING US IT'S ALL DIFFERENT?

12 A. NO. WHAT I'M SAYING SOME HAS BEEN ADDED, SOME HAS BEEN  
13 TAKEN OUT.

14 Q. OKAY. BUT WHAT IT COMES DOWN TO -- WHAT YOU'RE TELLING  
15 US TODAY IS WHAT ACTUALLY HAPPENED IN FRONT OF THAT APARTMENT  
16 THAT DAY, YOU DIDN'T SEE?

17 A. NO, SIR.

18 Q. DID YOU SEE IT?

19 A. NO, SIR, I DIDN'T SEE.

20 Q. SO YOU'RE TELLING US TODAY YOU DON'T KNOW OF YOUR OWN  
21 PERSONAL KNOWLEDGE WHAT HAPPENED AT THAT APARTMENT; CORRECT?

22 A. NO, SIR. I DON'T KNOW WHAT HAPPENED.

23 Q. AND, ACTUALLY, IN THE PLEA AGREEMENT THAT YOU DID, IT  
24 WASN'T AUTOMATIC THAT YOU GOT FIFTEEN YEARS, WAS IT?

25 A. WHAT YOU MEAN BY THAT?

1 Q. YOU WERE SENTENCED IN THE DISCRETION OF THE COURT. YOU  
2 WOULD HAVE GOTTEN ANYWHERE FROM PROBATION TO FIFTEEN YEARS,  
3 COULDN'T YOU?

4 A. YEAH, BUT MY LAWYER HAD ALREADY TOLD ME THE JUDGE GOING  
5 TO GIVE ME THE MAX. HE THINK THE JUDGE GOING TO GIVE ME THE  
6 MAX.

7 Q. OKAY. BUT IT WAS UP TO THE COURT AT THAT POINT; CORRECT?

8 A. YES, SIR.

9 Q. SO WHEN YOU CAME IN YOU ASKED TO GET LESS THAN FIFTEEN?

10 A. I DIDN'T SAY ANYTHING LIKE THAT.

11 Q. YOUR ATTORNEY---

12 A. I WAS HOPING --

13 Q. ---ASKED ON YOUR BEHALF THAT YOU GET LESS THAN FIFTEEN?

14 A. I DIDN'T HEAR HIM SAY NOTHING LIKE THAT.

15 Q. BUT YOU DID NOT, DID YOU? YOU GOT FIFTEEN?

16 A. YES, SIR.

17 Q. AND ISN'T IT TRUE THAT THIS STORY THAT YOU'VE CONCOCTED  
18 NOW, THE REASON IT COMES OUT NOW IS BECAUSE NOW YOU HAVE THE  
19 HOPE THAT YOU CAN GET OUT OF YOUR FIFTEEN YEARS?

20 A. NO, SIR.

21 Q. WELL, LET'S WALK THROUGH THAT JUST A LITTLE BIT. IF  
22 WOODY GETS OFF AND THERE'S NO MURDER, THEN HOW CAN YOU BE AN  
23 ACCESSORY AFTER THE FACT TO MURDER?

24 A. MY LAWYER TOLD ME THAT I WOULD STILL HAVE MY FIFTEEN  
25 'CAUSE I SIGNED THE PLEA AGREEMENT.

1 Q. BUT THEN YOU'RE LOOKING THAT THEN MAYBE THERE'S A WAY  
2 OUT, ISN'T THERE?

3 A. MY LAWYER HAS TOLD ME THAT IF WOODY WALKS, THAT MY PLEA  
4 IS STILL FIFTEEN NON-VIOLENT.

5 Q. AND YOU AND YOUR BROTHER LOOK AT IT AS IF HE GETS OFF,  
6 YOU GET OFF.

7 A. MY LAWYER HAS TOLD ME HE GET OFF OR NOT, I --

8 Q. THAT'S WHAT YOU HOPE, ISN'T IT?

9 MR. DELGADO: OBJECTION, YOUR HONOR.

10 A. MY HOPES AND MY LAWYER TELLING ME --

11 THE COURT: EXCUSE ME JUST A MINUTE. WE GET AN  
12 OBJECTION, LET ME RULE ON THE OBJECTION FIRST. I OVERRULE  
13 YOUR OBJECTION. THIS IS CROSS-EXAMINATION. YOU MAY FINISH.

14 Q. THAT'S WHAT YOU HOPE, ISN'T IT, THAT YOU CAN GET OFF?

15 A. MY ONLY HOPE, SIR, MY LAWYER SITTING HERE TELLING ME IF  
16 HE GET OFF OR NOT I'M STILL GOING TO HAVE MY FIFTEEN NON-  
17 VIOLENT.

18 Q. BUT YOU HOPE YOU CAN GET OFF?

19 A. IT'S TOO LATE FOR THAT.

20 MR. THOMPSON: COURT'S INDULGENCE, YOUR HONOR.

21 Q. TODAY YOU STILL CONSIDER WOODY YOUR FRIEND, DON'T YOU?

22 A. YEAH. HE'LL ALWAYS BE MY FRIEND.

23 MR. THOMPSON: THANK YOU. NO FURTHER QUESTIONS.

24 MR. DELGADO: YOUR HONOR, I CAN -- FOR THE SAKE OF THE  
25 JURY, WE COULD TAKE OUR BREAK AND THEN COME BACK.

DESMOND CAMPBELL - RE-DIRECT BY MR. DELGADO:

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1 THE COURT: LET'S FINISH WITH THIS WITNESS, PLEASE, SIR.

2 MR. DELGADO: ALL RIGHT.

3 RE-DIRECT EXAMINATION

4 DESMOND CAMPBELL BY MR. DELGADO:

5 Q. STATE WHETHER OR NOT, MR. CAMPBELL, YOU KNEW THAT CHRIS  
6 WOODY LENT HIS CAR TO YOUR BROTHER TO DROP OFF DRUGS. DID YOU  
7 KNOW THAT?

8 A. NO, SIR. AS I WAS PULLING UP I SEEN MY BROTHER COME BACK  
9 IN.

10 Q. TELL US ABOUT YOUR CRIB BEING BURNED DOWN AND SO WERE THE  
11 BOOKS. WHAT IS A CRIB?

12 A. MY HOME. I HAD A DOUBLE-WIDE.

13 Q. AND WHERE WAS THAT HOME, THAT DOUBLE-WIDE?

14 A. IT WAS LOCATED IN RICHBURG, SOUTH CAROLINA.

15 Q. CHESTER COUNTY?

16 A. YES, SIR.

17 Q. WHAT HAPPENED TO THE HOME?

18 A. IT WAS BURNED DOWN AND MY PARENTS' ALSO.

19 Q. TWO HOMES WERE BURNED? WHEN DID THAT HAPPEN?

20 A. SHORTLY AFTER THE MURDER.

21 Q. DO YOU KNOW WHETHER THE CHESTER COUNTY SHERIFF'S  
22 DEPARTMENT CONSIDERS THAN AN ARSON OR NOT, IF YOU KNOW?

23 A. I DON'T KNOW.

24 Q. MR. POPE ASKED YOU ABOUT WHETHER OR NOT YOU WERE THE  
25 RIGHT-HAND MAN. YOU WOULD -- YOU DIDN'T HAVE A CELL PHONE,

1 BUT YOU KNEW HOW TO GET IN TOUCH WITH HIM 'CAUSE YOU WOULD  
2 CALL OR GO BY CHRISTA GRAY'S HOUSE; IS THAT RIGHT?

3 A. YES, SIR.

4 Q. AND CHRISTA GRAY WOULD RELAY INFORMATION BETWEEN YOU  
5 ABOUT DRUGS TO HIM?

6 A. EITHER THAT OR SHE WOULD GIVE THE MONEY TO HIM OR SHE  
7 WOULD TELL HIM I NEED TO SEE HIM OVER THERE.

8 Q. SAY THAT AGAIN. WHO WOULD GIVE THE MONEY TO HIM?

9 A. CRYSTAL WOULD EITHER GIVE HIM THE MONEY.

10 Q. WHAT'S THE NAME AGAIN? SLOW DOWN.

11 A. CRYSTAL.

12 Q. CRYSTAL WHO? WHAT'S THE LAST NAME?

13 A. GRAY.

14 Q. THAT'S THE GIRLFRIEND?

15 A. I WOULDN'T SAY THAT. YOU CAN CALL CRYSTAL A PARTY GIRL.  
16 THE RIGHT TYPE OF DRUG, YOU KNOW, SHE WHATEVER.

17 MR. THOMPSON: OBJECTION, YOUR HONOR.

18 THE COURT: SUSTAINED.

19 Q. YOU SAID TO MR. THOMPSON THAT THE NIGHT -- THE NIGHT,  
20 NOW, AFTER THE SHOOTING AT PACES RIVER, THE CAR THAT YOU WERE  
21 IN WAS SHOT AT.

22 A. YES, SIR.

23 Q. YOU WERE ON YOUR WAY BACK TO WHERE?

24 A. I WAS HEADED TOWARDS RICHBURG.

25 Q. CHESTER COUNTY?

1 A. YES, SIR.

2 Q. ON 177?

3 A. YES, SIR.

4 Q. WHAT HAPPENED?

5 A. THE CAR FOLLOWED US OUT OF STONE HAVEN ONTO CHERRY ROAD,  
6 ONTO THE INTERSTATE AND BEGAN TO SHOOT.

7 Q. YOU DIDN'T TELL -- DID YOU TELL THE NAMES OF WHO THOSE  
8 FOLKS WERE?

9 A. YES, SIR.

10 Q. WHEN DID YOU TELL THEM?

11 A. I TOLD THEM AS SOON AS WE SENT IN AND I TOLD THEM ONE OF  
12 THE GUYS JUST WALKED IN.

13 Q. YOU TOLD THEM WHAT?

14 A. I TOLD LIEUTENANT HUTCHINSON THAT ONE OF THE GUYS WHO WAS  
15 IN THE CAR SHOOTING JUST WALKED IN THE POLICE DEPARTMENT.

16 Q. WHO WERE THE FOLKS THAT WERE SHOOTING AT YOU?

17 A. THIS GUY, RODNEY BROWN, DARRELL COUSIN, AND HIS COUSIN  
18 DEMETRIUS HARDIN, A/K/A BONE.

19 Q. DEMETRIUS HARDIN IS KNOWN -- WHAT'S HIS NICKNAME?

20 A. BONE.

21 Q. WHEN YOU WOULD TALK TO YOUR MOM AND DAD BY THE PHONE FROM  
22 OVER HERE AT THE DETENTION CENTER, ---

23 A. YES, SIR.

24 Q. ---SOME OF THE TIMES YOU AND YOUR BROTHER DEBREZIO ARE  
25 RIGHT -- HOLDING THE SAME PHONE BASICALLY?

1 A. YES, SIR.

2 Q. THE TELEPHONE CONVERSATION YOU JUST HEARD, THE PERSON  
3 THAT CALLED IN SAYING THIS IS A COLLECT TELEPHONE CALL FROM,  
4 WAS THAT YOUR VOICE?

5 A. NO, SIR.

6 Q. WHOSE VOICE WAS IT?

7 A. I CAN'T REALLY SAY.

8 Q. YOU MET WITH MR. THOMPSON LAST WEEK?

9 A. YES, SIR.

10 Q. AND YOU TOLD MR. THOMPSON AND ONE OF HIS INVESTIGATORS  
11 WHAT ABOUT WHAT HAPPENED ON THE NIGHT OF JUNE 26TH?

12 A. YES, SIR. HE ASKED ME, HE SAY, YOUR STATEMENT DOESN'T  
13 REALLY SAY WHY Y'ALL WENT OVER THERE AND HE ASKED WHY AND I --

14 Q. AND WHY?

15 A. I TOLD HIM AND --

16 Q. TOLD HIM WHAT?

17 A. ABOUT, YOU KNOW, DEBREZIO ASKED WOODY TO, YOU KNOW, TAKE  
18 HIM TO MAKE THE DROP-OFF, YOU KNOW WHAT I'M SAYING, THE MONEY  
19 AND THEY GOT UP AND WALKED OUT. NEXT THING I KNOW MY PLEA'S  
20 REVOKED.

21 Q. WAIT A MINUTE. YOU TOLD THESE FOLKS WHAT AGAIN?

22 A. I TOLD THEM WHY WE WAS --

23 Q. YOU TOLD THEM WHAT?

24 A. WHY WE WAS OVER THERE, ABOUT DEBREZIO ASKED WOODY TO TAKE  
25 HIM TO MAKE A DROP-OFF. THEY ASKED ME HOW MUCH MONEY IT WAS

DESMOND CAMPBELL -- RE-CROSS BY MR. THOMPSON:

1 AND I TOLD THEM. THEY TOLD ME WHAT DEBREZIO DID TO GET THAT  
2 MONEY, I TOLD THEM AND THEY JUST LIKE OKAY, THANK YOU AND  
3 WALKED OUT.

4 MR. DELGADO: THAT'S ALL THE QUESTIONS I HAVE, YOUR  
5 HONOR. THANK YOU. YOUR HONOR, ONE THING. I'M SORRY.

6 Q. BEFORE YOU ASK -- LET ME ASK YOU THIS: DO YOU KNOW WHAT  
7 THE WORD ARSON MEANS?

8 A. YES, SIR. WHEN -- IT MEANS TO BURN DOWN SOMETHING.

9 Q. OKAY. YOU KNOW WHAT THAT MEANS?

10 A. YES, SIR.

11 Q. OKAY. ALL RIGHT. THANK YOU.

12 MR. DELGADO: THAT'S ALL THE QUESTIONS WE HAVE. THANK  
13 YOU.

RE-CROSS EXAMINATION

14  
15 DESMOND CAMPBELL BY MR. THOMPSON:

16 Q. AND YOU WERE REFERRING TO WHEN YOU TALKED TO US DOWN IN  
17 THE DETENTION CENTER LAST WEEK; CORRECT?

18 A. YES, SIR.

19 Q. AT THAT TIME YOU TOLD US THAT THEY WALKED THROUGH THE  
20 WOODS TO GET DOWN TO THE APARTMENT, DIDN'T YOU?

21 A. NO, SIR. I TOLD YOU THEY WALKED AROUND THE CURVE. I  
22 TOLD YOU SOME WOODS BETWEEN WHERE THEY WALKED TO AND BETWEEN  
23 WHERE WOODY HAD PARKED AT.

24 Q. YOU DIDN'T TELL US ANYTHING ABOUT SEEING SOMEBODY  
25 SHOOTING AT YOU; RIGHT?

1 A. YES, SIR, I DID. YOU ASKED ME WHO WAS IT AND I TOLD YOU  
2 I DIDN'T SEE HIS FACE. THAT'S WHY I COULDN'T GIVE NO NAME.

3 Q. YOU MENTIONED THAT THERE WERE SHOTS THAT EVENING, BUT YOU  
4 DIDN'T MENTION WHO; CORRECT?

5 A. (NODS HEAD AFFIRMATIVELY)

6 Q. AND YOU SAID THAT BAGLEY WAS YOUR BOSS; ISN'T THAT RIGHT?

7 A. YOU COULD SAY THAT; YES, SIR.

8 Q. INTERESTINGLY ENOUGH, Y'ALL WOULD DEAL WITH HIM A LOT  
9 THEN IF YOU SELL THIS MUCH DRUGS FOR HIM; RIGHT?

10 A. LIKE I DONE TOLD YOU, I HAD A JOB, SO I REALLY DIDN'T  
11 SELL LIKE THAT. MY BROTHER WAS REALLY THE ONE THAT SOLD ON A  
12 REGULAR BASIS.

13 Q. ALL RIGHT. SO NOW YOU DIDN'T SELL ON A REGULAR BASIS?

14 A. NO, SIR, I DIDN'T.

15 Q. OKAY. BUT YOU'RE TELLING US YOU DID SELL?

16 A. YES, SIR.

17 Q. AND Y'ALL WOULD GIVE HIM MONEY ALL THE TIME FOR WHAT YOU  
18 SOLD; RIGHT?

19 A. WHAT DO YOU MEAN, GIVE HIM MONEY? WE MADE THE MONEY WE  
20 ALREADY HAD.

21 Q. IF YOU MAKE MONEY, YOU'VE GOT TO HIM THE MONEY FOR WHAT  
22 YOU SELL FOR HIM; RIGHT?

23 A. YES, SIR.

24 Q. BUT YOU DON'T GIVE HIM ALL THE MONEY 'CAUSE YOU GET PAID  
25 SOMETHING; RIGHT?

DESMOND CAMPBELL - RE-CROSS BY MR. THOMPSON:

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- 1 A. YES, SIR.
- 2 Q. HOW MUCH DO YOU KEEP OUT OF EACH TWENTY BUCKS YOU MAKE?
- 3 A. I CAN'T REALLY SAY.
- 4 Q. WHAT DID HE PAY FOR YOU FOR KEEPING THE BOOKS?
- 5 A. WHAT DID HE PAY ME FOR KEEPING THE BOOKS? REALLY
- 6 NOTHING. IT WAS MY JOB. TO BE IN THAT M-UNIT FAMILY YOU HAD
- 7 TO HAVE SOME KIND OF POSITION.
- 8 Q. OH, THE M-UNIT FAMILY. NOW THAT'S WHAT YOU CALL IT?
- 9 A. THAT'S --
- 10 Q. THE M-UNIT?
- 11 A. YEAH.
- 12 Q. BUT YOU WOULD KNOW HOW ARVELL BAGLEY WOULD REACT IF Y'ALL
- 13 DIDN'T HAVE THE MONEY; RIGHT?
- 14 A. WHAT YOU MEAN? I DIDN'T OWE HIM ANYTHING. DEBREZIO --
- 15 Q. BUT AT TIMES YOU OWED HIM STUFF?
- 16 A. ME AND HIM NEVER HAD A PROBLEM WITH THAT.
- 17 Q. BUT YOU'RE THE BOOK MAN. YOU'D STEP IN FOR YOUR BROTHER
- 18 IF SOMETHING BAD WAS GOING TO HAPPEN, WOULDN'T YOU?
- 19 A. I DON'T KNOW WHEN SOMETHING BAD -- WHENEVER MY BROTHER
- 20 TOLD ME HE WAS GOING TO TELL DARRELL SOMETHING ABOUT GIVE HIM
- 21 ANOTHER PACKAGE. WHAT I OWE YOU, JUST TAKE IT OUT OF THAT.
- 22 I'LL MAKE SOME MONEY UP. EVERYTHING'S GOING TO BE ALL COOL.
- 23 Q. AND YOU THOUGHT IT WAS GOING TO BE ALL COOL; RIGHT?
- 24 A. I WAS DRUNK. I WAS REALLY THINKING ANYTHING.
- 25 Q. RIGHT. YOU WEREN'T EXPECTING ANYTHING BAD TO HAPPEN,

1 WERE YOU?

2 A. NO, SIR.

3 Q. YOU THOUGHT IT WOULD BE ALL COOL. YOU THOUGHT THAT  
4 ARVELL BAGLEY WON'T BE MAD, 'CAUSE YOU KNOW HIM? YOU KNOW  
5 DARRELL. HE WON'T BE MAD. WE'LL TELL HIM WHAT WE'LL WE DO  
6 FOR HIM AND HE'LL KNOW WE'LL DO IT 'CAUSE WE'RE FAITHFUL TO  
7 HIM; RIGHT?

8 A. YOU COULD SAY THAT.

9 Q. AND SO YOU WEREN'T WORRIED GOING DOWN THERE, NEITHER WAS  
10 ANYONE ELSE; RIGHT?

11 A. I THINK DEBREZIO WAS A LITTLE WORRIED. THAT'S WHY HE  
12 ASKED WOOD TO GET OUT AND WALK WITH HIM. I THINK HE THOUGHT  
13 DARRELL WAS GOING TO TRY TO JUMP ON HIM OR SOMETHING. I DON'T  
14 KNOW, BUT I KNOW HE ASKED WOOD TO WALK DOWN THERE WITH HIM.

15 Q. NOW, THEY STILL HAVE THE MONEY WHEN THEY CAME BACK?

16 A. YES. 'BREZIO HAD THE MONEY.

17 Q. OKAY. AND HE TOOK IT WITH HIM TO NINI'S; RIGHT?

18 A. YEAH.

19 Q. SO IT SHOULD HAVE BEEN IN THAT APARTMENT THAT NIGHT WHEN  
20 THE POLICE CAME AND ARRESTED HIM, SHOULDN'T IT?

21 A. I CAN'T SAY. WHAT TIME THE POLICE COME IN THERE, FIVE IN  
22 THE MORNING? I LEFT 'BREZIO AROUND 10:30. WHAT CAN I SAY HE  
23 DID BETWEEN 10:30 AND FIVE IN THE MORNING?

24 Q. AS FAR AS YOU KNOW, IT WOULD HAVE BEEN IN THE APARTMENT;  
25 RIGHT?

DESMOND CAMPBELL -- RE-CROSS BY MR. THOMPSON:

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1 A. FAR AS I KNOW, WHEN I LEFT HIM HE HAD IT ON HIM.

2 Q. OKAY. AND YOU WOULD HAVE A FAIR AMOUNT OF MONEY ON YOU,  
3 TOO, WOULDN'T YOU?

4 A. WHY WOULD YOU SAY THAT? I WASN'T GIVING UP NO MONEY.

5 Q. NO, BUT YOU'RE WITH THE M-UNIT. YOU'RE THE RIGHT-HAND  
6 BOOK MAN.

7 A. I GOT A APARTMENT BILL AND A DOUBLE-WIDE BILL I GOT TO  
8 PAY.

9 Q. BUT YOU GOT A JOB AND YOU'VE GOT THIS MONEY COMING IN ON  
10 THE DRUGS. YOU GOT LOTS OF MONEY.

11 A. WHAT DOES THAT MEAN? JUST LIKE I SAID, --

12 Q. YOU WOULD CARRY MONEY ON YOU THEN, WOULDN'T YOU?

13 A. JUST BECAUSE YOU A DRUG DEALER DON'T MEAN YOU CARRY  
14 MONEY.

15 Q. YOU WOULD CARRY MONEY ON YOU, WOULDN'T YOU? YOU HAD  
16 MONEY WITH YOU ALL THE TIME 'CAUSE THEN WHEN YOU DO MEET A  
17 GIRL THAT YOU'D LIKE TO TALK TO, YOU WANT TO SPEND A LITTLE  
18 BIT OF IT, DON'T YOU?

19 A. NO. I DON'T BUY GIRLS.

20 Q. YOU WANT TO FLASH A LITTLE BIT OF IT, DON'T YOU?

21 A. I DON'T BUY GIRLS.

22 MR. DELGADO: IF HE COULD JUST LET THE WITNESS ANSWER THE  
23 QUESTION.

24 THE COURT: LET HIM COMPLETE HIS ANSWER FIRST, PLEASE,  
25 SIR.

1 MR. THOMPSON: CERTAINLY.

2 Q. I'M NOT ASKING YOU IF YOU BUY GIRLS. I'M JUST ASKING YOU  
3 WHEN YOU A MEET GIRL, YOU'D BE ABLE TO TAKE HER OUT TO DINNER.  
4 YOU COULD SHOW HER THE MONEY YOU HAD, YOU COULD SHOW HER  
5 THINGS.

6 A. LIKE I SAID, I DON'T BUY FEMALES.

7 Q. OH. YOU SAID THAT WOODY -- THAT WOOD DON'T DRINK WHEN  
8 YOU TALKED TO US DOWN THERE, DIDN'T YOU?

9 A. NO. WOODY --

10 Q. THAT'S WHY HE WAS SO DRUNK.

11 A. WHAT DID YOU SAY? REPEAT THAT.

12 Q. AND THAT'S WHY HE WAS SO DRUNK. YOU SAID WOOD DON'T  
13 DRINK, THAT'S WHY HE WAS SO DRUNK.

14 A. HE REALLY DON'T DRINK, 'CAUSE HE USUALLY PLAYED FOOTBALL,  
15 WORK-OUT TYPE OF GUY.

16 Q. OKAY. HE CAN'T HANDLE HIS LIQUOR.

17 MR. THOMPSON: NO FURTHER QUESTIONS.

18 MR. DELGADO: YOUR HONOR, THERE IS ONE THING JUST BROUGHT  
19 UP IN RE-DIRECT -- RE-CROSS.

20 RE-DIRECT EXAMINATION

21 DESMOND CAMPBELL BY MR. DELGADO:

22 Q. WHAT IS THIS M-U UNIT? WHAT IS THAT?

23 A. THAT'S MILLS STREET WHERE MOST OF HIS FAMILY STAY AND  
24 THAT'S WHAT THEY CALL THEYSELF. THEY HAVE IT ON THEIR CARS  
25 AND STUFF.

1 Q. M-U- --

2 A. M-UNIT.

3 Q. THE M-UNIT?

4 A. YEAH, THE FAMILY.

5 Q. THAT'S FOR THE MILLS --

6 A. MILLS STREET.

7 Q. ---STREET UNIT. THAT'S IN CHESTER?

8 A. YES, SIR.

9 Q. AND THAT'S WHAT HE HEADED UP, ARVELL?

10 A. THAT'S WHAT -- HE WAS ONE OF THE HEADS OF IT, BUT IT'S A  
11 LOT MORE PEOPLE INVOLVED.

12 Q. THIS M-U OR THIS M-UNIT, WHAT WAS THEIR PURPOSE? WHAT  
13 WAS -- WHAT WERE THEY ORGANIZED FOR?

14 A. SELLING DRUGS.

15 MR. DELGADO: THANK YOU, YOUR HONOR.

16 THE COURT: THANK YOU, SIR. YOU MAY STAND DOWN, SIR.  
17 YOU MAY STAND DOWN, SIR. ALL RIGHT. PROBABLY A GOOD TIME TO  
18 GET LUNCH NOW.

19 MADAM FORELADY, MEMBERS OF THE JURY PANEL, WE'RE GOING TO  
20 RECESS FOR LUNCH AT THIS TIME. I'M GOING TO ASK YOU TO BE  
21 BACK IN THE JURY ROOM READY TO GO AT 2:30. BY THE COURTROOM  
22 CLOCK IT'S ALMOST 1:15, SO IF YOU CAN BE BACK IN THE JURY ROOM  
23 READY TO GO AT 2:30, WE'LL TRY TO GET STARTED PROMPTLY THEN.

24 AGAIN, I WANT TO KEEP REMINDING YOU, WE'VE GONE THROUGH  
25 A GOOD BIT OF THE CASE NOW, BUT WE'VE STILL NOT -- HAVE NOT

1 TAKEN ALL OF THE TESTIMONY AND I'VE NOT INSTRUCTED YOU UPON  
2 THE LAW, SO PLEASE DO NOT BEGIN DISCUSSING THE CASE, ALTHOUGH  
3 YOU MIGHT BE TEMPTED TO DO THAT, PLEASE DO NOT BEGIN  
4 DISCUSSING IT UNTIL I INSTRUCT YOU TO DO SO. THANK YOU.  
5 PLEASE RETIRE FOR LUNCH AND BE BACK IN THE JURY ROOM AT 2:30.

6 (JURY OUT AT 1:15 P.M.)

7 THE COURT: ALL RIGHT. ANY MATTER WE NEED TO TAKE UP OUT  
8 OF THE PRESENCE OF THE JURY AT THIS TIME FROM THE STATE?

9 MR. POPE: NOTHING FROM THE STATE, YOUR HONOR.

10 THE COURT: FROM THE DEFENSE?

11 MR. DELGADO: YOUR HONOR, MAY WE APPROACH FOR JUST ONE  
12 SECOND?

13 THE COURT: LET ME ASK YOU, IF DEBREZIO CAMPBELL'S HERE  
14 WE COULD GO AHEAD AND TAKE CARE OF THAT MATTER BRIEFLY IF HE'S  
15 HERE. DO YOU KNOW IF HE'S HERE OR NOT? DO YOU KNOW IF  
16 THEY'VE BROUGHT DEBREZIO CAMPBELL OVER?

17 DEPUTY: I DON'T KNOW.

18 THE COURT: THEY PROBABLY MAY NOT HAVE BROUGHT HIM YET.  
19 I'M NOT SURE. SEE IF HE'S -- IF HE'S NOT THERE, LET'S DO THAT  
20 FIRST THING AFTER LUNCH, HAVE HIM BROUGHT OVER.

21 (WHEREUPON, DISCUSSION WAS CONDUCTED OFF THE RECORD.)

22 THE COURT: COUNSEL NEED TO APPROACH FOR A MINUTE? IS  
23 THAT WHAT YOU SAID?

24 MR. DELGADO: YES, SIR.

25 THE COURT: ALL RIGHT.

1 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE PRESENCE  
2 OF THE COURT REPORTER, BUT OUT OF THE HEARING OF THE COURT  
3 REPORTER, AFTER WHICH COURT WAS ADJOURNED FOR LUNCH AT 1:20  
4 P.M. AND RECONVENED AT 2:50 P.M.)

5 THE COURT: ALL RIGHT. COUNSEL READY TO PROCEED?

6 MR. POPE: STATE'S READY.

7 MR. DELGADO: YOUR HONOR, THANK YOU.

8 THE COURT: YES, SIR.

9 MR. DELGADO: YOUR HONOR, AS I EXPLAINED TO YOU AND THE  
10 SOLICITOR IN CHAMBERS, WE ARE NOT -- REPEAT, WE ARE NOT GOING  
11 TO CALL DEBREZIO CAMPBELL TO THE STAND, THEREFORE, THERE IS NO  
12 NECESSITY FOR EVEN HAVING TO CALL HIM OUT TO INQUIRE WHETHER  
13 OR NOT HE INVOKES HIS FIFTH AMENDMENT RIGHT.

14 THE COURT: ALL RIGHT, SIR. THANK YOU. HAS THE -- MR.  
15 WOODY MADE A DECISION AS TO WHETHER HE WISHES TO TESTIFY OR  
16 NOT TESTIFY IN HIS CASE, SIR?

17 MR. DELGADO: YES, SIR, HE HAS.

18 THE COURT: ALL RIGHT, SIR. WOULD YOU PLEASE BRING HIM  
19 UP TO THE BENCH AND LET ME QUESTION HIM ABOUT THAT RIGHT.

20 THE CLERK: SIR, PLEASE RAISE YOUR RIGHT HAND AND PLACE  
21 YOUR LEFT HAND ON THE BIBLE.

22 (CHRISTOPHER ALAN WOODY, BEING FIRST DULY SWORN, WAS  
23 EXAMINED AND TESTIFIED AS FOLLOWS):

24 THE COURT: SIR, FOR THE RECORD, YOU'RE CHRISTOPHER  
25 WOODY; IS THAT CORRECT?

1 MR. WOODY: YES, SIR.

2 THE COURT: MR. WOODY, WE'VE REACHED THE STAGE OF YOUR  
3 TRIAL WHERE YOU MAY PRESENT YOUR DEFENSE. YOU HAVE THE RIGHT  
4 TO TESTIFY IN YOUR OWN BEHALF, HOWEVER, NO ONE CAN MAKE YOU  
5 TESTIFY. IN THE EVENT YOU HAVE A RECORD FOR ANY CONVICTION  
6 INVOLVING DISHONESTY OR FALSE STATEMENT OR FOR A CRIME  
7 PUNISHABLE BY IMPRISONMENT FOR MORE THAN ONE YEAR AND THIS  
8 COURT DETERMINES THAT THE PROBATIVE VALUE OF ADMITTING THIS  
9 EVIDENCE OUTWEIGHS ITS PREJUDICIAL EFFECT TO YOU, THE  
10 SOLICITOR WILL BE ABLE TO INTRODUCE THIS RECORD FOR  
11 IMPEACHMENT PURPOSES TO ATTACK YOUR CREDIBILITY.

12 IF YOU ELECT NOT TO TAKE THE STAND, I WILL CHARGE THE  
13 JURY THAT THEY ARE NOT TO GIVE THE FACT THAT YOU DID NOT  
14 TESTIFY ANY CONSIDERATION WHATSOEVER AND THERE IS TO BE  
15 ABSOLUTELY NO PREJUDICE TO YOU BECAUSE YOU DID NOT TESTIFY.  
16 IT IS LEFT ENTIRELY UP TO YOU WHETHER OR NOT YOU TESTIFY. YOU  
17 MAY TALK WITH YOUR ATTORNEY, YOUR FAMILY, FRIENDS OR ANYONE  
18 ELSE, BUT THE ULTIMATE DECISION IS LEFT ENTIRELY UP TO YOU.  
19 DO YOU UNDERSTAND THAT IS YOUR DECISION AS TO WHETHER YOU WILL  
20 OR WILL NOT TESTIFY IN YOUR CASE?

21 MR. WOODY: YES, SIR.

22 THE COURT: HAVE YOU DISCUSSED WITH YOUR ATTORNEY THE  
23 ADVANTAGES AND DISADVANTAGES OF TESTIFYING?

24 MR. WOODY: YES, SIR.

25 THE COURT: AND DO YOU WISH TO TESTIFY, SIR?

1 MR. WOODY: NO, SIR.

2 THE COURT: SIR? YOU DO NOT WISH TO TESTIFY? IS THAT  
3 YOUR DECISION, SIR?

4 MR. WOODY: YES, SIR.

5 THE COURT: THANK YOU, SIR. YOU MAY RETURN TO YOUR SEAT.  
6 THANK YOU. ARE WE OTHERWISE READY TO PROCEED THEN WITH THE  
7 NEXT WITNESS?

8 MR. POPE: THE STATE'S READY, YOUR HONOR.

9 MR. DELGADO: YES, YOUR HONOR. OKAY. I'M SORRY. I'M  
10 SORRY. YOUR HONOR, MAY WE BE ALLOWED — HOLD THE JURY FOR  
11 A SECOND WHILE THE SOLICITOR AND I TO COMMUNICATE FOR MY  
12 BEHALF?

13 MR. POPE: HE'S WANTING THE ACTUAL ITEM. I  
14 MISUNDERSTOOD. I THOUGHT HE WAS JUST WANTING HER TO  
15 TESTIFY.

16 THE COURT: OKAY. WE READY NOW TO PROCEED?

17 MR. POPE: I BELIEVE SO, YOUR HONOR.

18 THE COURT: DEFENSE READY, COUNSEL? PLEASE BRING THE  
19 JURY IN, SIR.

20 (JURY IN AT 3:00 P.M.)

21 THE COURT: GOOD AFTERNOON, MADAM FORELADY, MEMBERS OF  
22 THE JURY PANEL. WE'RE READY NOW TO RESUME WITH THE TRIAL.  
23 COUNSEL READY TO PROCEED.

24 MR. DELGADO: THANK YOU, YOUR HONOR. YOUR HONOR, WE CALL  
25 INVESTIGATOR CHARLENE BLACKWELDER, PLEASE.

1 THE COURT: MA'AM, YOU'VE PREVIOUSLY BEEN SWORN IN THIS  
2 CASE AND YOU'D STILL BE UNDER OATH FOR YOUR TESTIMONY AT THIS  
3 TIME. THANK YOU.

4 MS. BLACKWELDER: YES, SIR.

5 (CHARLENE BLACKWELDER, BEING PREVIOUSLY DULY SWORN, WAS  
6 EXAMINED AND TESTIFIED AS FOLLOWS):

7 DIRECT EXAMINATION

8 CHARLENE BLACKWELDER BY MR. DELGADO:

9 Q. MS. BLACKWELDER, JUST TO REFRESH EVERYONE'S MEMORY, YOU  
10 ARE THE CASE AGENT INVOLVED IN THE PROSECUTION OF THIS MATTER;  
11 IS THAT CORRECT?

12 A. YES, SIR. KEEPER OF THE RECORDS. YES, SIR.

13 Q. YOU, MA'AM, WORK FOR ROCK HILL POLICE DEPARTMENT?

14 A. YES, SIR.

15 Q. MA'AM, ON THE NIGHT OF JUNE THE 26TH, POSSIBLY INTO THE  
16 MORNING OF SUNDAY, JUNE THE 27TH, 2004, THERE WAS EITHER A  
17 CONSENT TO SEARCH OR A SEARCH WARRANT OR BOTH ALLOWING LAW  
18 ENFORCEMENT INVOLVED IN THIS MATTER TO SEARCH THE RESIDENCE AT  
19 PACES RIVERS; IS THAT CORRECT, MA'AM?

20 A. YES, SIR. BOTH OF THEM.

21 Q. THAT APARTMENT AT PACES RIVER IS THE APARTMENT INHABITED  
22 BY MR. ARVELL DARRELL BAGLEY,---

23 A. YES, SIR.

24 Q. ---MR. TROY TOBIAS AND MR.---

25 A. FLOYD GRANT.

1 Q. ---FLOYD GRANT; RIGHT, MA'AM?

2 A. YES, SIR.

3 Q. AS A RESULT OF THAT, IN FACT, THE JURY HAS SEEN PICTURES  
4 OF SOME OF YOUR COLLEAGUES LOOKING AT A BULLET THAT CAME  
5 THROUGH THE WALL AND THAT SORT OF THING---

6 A. YES, SIR.

7 Q. ---AND SOMETHING ON THE OUTSIDE. YOUR AGENTS FOUND SOME  
8 OTHER THINGS AT THAT HOUSE, DID THEY NOT, MA'AM?

9 A. YES, SIR.

10 Q. AS A MATTER OF FACT, THE LAW ENFORCEMENT FOUND SOME CRACK  
11 COCAINE AT THAT HOUSE, DID THEY NOT, MA'AM?

12 A. THEY FOUND TWO WHITE ROCKS BELIEVED TO BE; HAVE NOT BEEN  
13 TESTED YET.

14 Q. OKAY. WOULD YOU LOOK AT YOUR --

15 A. YES, SIR.

16 Q. AND SEE IF YOU CAN IDENTIFY THIS BY NUMBER, PLEASE,  
17 MA'AM.

18 A. DEFENSE EXHIBIT NUMBER 5.

19 Q. AND DOES THAT -- IS THAT THE CRACK COCAINE THAT WAS FOUND  
20 AT THE RESIDENCE ON PACES RIVER APARTMENTS ON THE MORNING OF  
21 THE 27TH OF JUNE?

22 A. YES, SIR. THIS IS THE WHITE ROCKS BELIEVED TO BE CRACK  
23 COCAINE FOUND AT THE RESIDENCE, BUT, AGAIN, IT HAS NOT BEEN  
24 ANALYZED YET.

25 Q. OKAY. CAN YOU TELL US, MA'AM, HOW YOU FOUND THIS? IN

1 OTHER WORDS, WHERE WAS THIS RETRIEVED?

2 A. AS A RESULT OF THE SEARCH FROM THE VICTIM'S RESIDENCE,  
3 [REDACTED] PACES RIVER, [REDACTED] [REDACTED], DETECTIVE DAVID  
4 HANOKA AND DETECTIVE CHUCK GUYTON EXECUTED A SEARCH WARRANT AT  
5 THAT RESIDENCE.

6 Q. OKAY. DID THEY INDICATE ON YOUR RECORDS, MA'AM, WHERE  
7 THIS WAS FOUND, THIS---

8 A. YES, SIR.

9 Q. ---EXHIBIT NUMBER 5?

10 A. IT WOULD HAVE BEEN, I BELIEVE, IN THE -- IT JUST  
11 INDICATES THE RESIDENCE, THE VICTIM'S -- ONE OF THE BEDROOMS  
12 INSIDE THE VICTIM'S RESIDENCE.

13 Q. OKAY.

14 A. I BELIEVE THAT -- IF I MAY SEE THAT.

15 Q. SURE.

16 A. TOP -- THE TOP CHEST OF DRAWER OF THE FRONT BEDROOM IS  
17 ALL IT INDICATES OF THE VICTIM'S RESIDENCE.

18 Q. I GUESS WHAT I'M SAYING, MA'AM, THIS MATTER WAS NOT FOUND  
19 IN THE SUGAR BOWL. THIS WAS NOT FOUND WHERE THE SALT IS  
20 LOCATED. THIS WOULD GIVE AN INDICATION THAT THIS IN FACT AND  
21 IN TRUTH IS CRACK COCAINE, WOULD THAT NOT, MA'AM?

22 A. I CAN'T SAY THAT; NO, SIR.

23 Q. OKAY.

24 MR. DELGADO: YOUR HONOR, THAT'S ALL THE QUESTIONS I  
25 HAVE. THANK YOU VERY MUCH.

CROSS-EXAMINATION

CHARLENE BLACKWELDER BY MR. POPE:

1  
2  
3 Q. OFFICER BLACKWELDER, THE SEARCH THAT YOU'RE REFERRING TO  
4 IS THE SEARCH CONDUCTED THERE AT PACES RIVER; IS THAT CORRECT?

5 A. YES, SIR.

6 Q. AND IS THE SEARCH IN THE HOUSE OR THE APARTMENT WHERE THE  
7 BULLET HOLES WERE IN THE WALL; IS THAT CORRECT?

8 A. YES, SIR; THAT'S CORRECT.

9 Q. OKAY. AND YOU RECEIVED A SEARCH WARRANT TO SEARCH THAT  
10 RESIDENCE; CORRECT?

11 A. YES, SIR.

12 Q. AND YOU ALSO HAD THE CONSENT OF THE OCCUPANTS TO SEARCH  
13 THAT RESIDENCE; CORRECT?

14 A. YES, SIR.

15 Q. AND THE OCCUPANTS BEING MR. TROY TOBIAS, I BELIEVE, AND---

16 -

17 A. YES, SIR; THAT'S CORRECT.

18 Q. ---THE VICTIM MR. BAGLEY'S FATHER; IS THAT CORRECT?

19 A. YES, SIR.

20 Q. OKAY. AND THIS WAS A THREE-BEDROOM APARTMENT?

21 A. YES, SIR.

22 Q. OKAY. AND AMONG THE OTHER ITEMS, YOU RECOVERED THE  
23 BULLETS FROM THE WALL OR FSU RECOVERED THE BULLETS FROM THE  
24 WALL IN THIS CASE; RIGHT?

25 A. THAT'S CORRECT.

1 Q. OKAY. IN ADDITION, YOU SEIZED THIS PARTICULAR ITEM. YOU  
2 SAID INDICATES IN THE TOP DRAWER OF A CHEST IN THE FRONT  
3 BEDROOM?

4 A. YES, SIR.

5 Q. OKAY.

6 MR. POPE: CAN WE MARK THIS, PLEASE, MA'AM?

7 Q. STATE'S EXHIBIT 137. DOES THAT PICTURE ACCURATELY DEPICT  
8 THE CHEST -- THE DRAWER WHERE THAT WAS LOCATED?

9 A. YES, SIR.

10 Q. OKAY.

11 MR. POPE: WE MOVE 137 INTO EVIDENCE.

12 THE COURT: WITHOUT OBJECTION?

13 MR. DELGADO: YES, SIR, WITHOUT OBJECTION.

14 Q. AND STATE'S EXHIBIT 137 AND, OF COURSE, THE JURY WILL  
15 HAVE IT IN THE JURY ROOM, CAN YOU TELL ME WHAT THIS ITEM  
16 DEPICTS?

17 A. THAT'S THE PHOTOGRAPH THAT YOU JUST SHOWED ME WHERE THE  
18 WHITE ROCKS WERE FOUND INSIDE THE CHEST OF DRAWER.

19 Q. IN ONE OF THE BEDROOMS OF THE THREE-BEDROOM APARTMENT?

20 A. YES, SIR; THAT'S CORRECT.

21 Q. OKAY. AND, AGAIN, YOU HAD CONSENT AND YOU HAD A SEARCH  
22 WARRANT --

23 A. YES, SIR.

24 Q. -- A SEARCH WARRANT; CORRECT? OKAY. NOW, IN THAT  
25 APARTMENT WITH THAT SEARCH WARRANT YOU LOCATED HOW MANY

CHARLENE BLACKWELDER - DIRECT BY MR. DELGADO:

717

1 WEAPONS?

2 A. IN THE VICTIM'S? NONE.

3 Q. OKAY. AND YOU LOCATED HOW MUCH LARGE QUANTITY OF MONEY?

4 A. NONE.

5 Q. OKAY. AND YOU LOCATED HOW MUCH OTHER LARGE QUANTITY OF  
6 DRUGS OTHER THAN THIS ARGUABLY CRACK COCAINE?

7 A. NONE.

8 Q. OKAY. YOU ALSO HAD THE OPPORTUNITY TO SEARCH THE  
9 VICTIM'S LEXUS; IS THAT CORRECT?

10 A. YES, SIR.

11 Q. I THINK HIS FATHER GAVE YOU THE OPPORTUNITY TO SEARCH  
12 THAT; RIGHT?

13 A. YES, SIR.

14 Q. AND IT WAS IN PART OF THE CRIME SCENE AS FAR AS WHEN LAW  
15 ENFORCEMENT HAD ARRIVED AND THEY SECURED IT; RIGHT?

16 A. THAT'S CORRECT.

17 Q. OKAY. AND IN THAT VEHICLE TELL THE JURY HOW MUCH DRUGS  
18 OR PURPORTED DRUGS YOU FOUND IN THAT VEHICLE.

19 A. NONE.

20 Q. OKAY. AND TELL THEM HOW MUCH OF A LARGE QUANTITY OF CASH  
21 YOU FOUND IN THAT VEHICLE.

22 A. NONE.

23 Q. OKAY. AND TELL THEM HOW MUCH IN TERMS OF WEAPONS YOU  
24 FOUND IN THAT VEHICLE.

25 A. NONE.

1 Q. LOOKING AT YOUR RECORDS, DID YOU HAVE AN OPPORTUNITY TO  
2 DETERMINE ON THE VEHICLE, MR. BAGLEY, ON HIS PERSON WHEN HIS  
3 CLOTHES WERE TAKEN INTO CUSTODY AT AUTOPSY,---

4 A. YES, SIR.

5 Q. ---HOW MUCH CASH DID HE HAVE ON HIS PERSON WHEN HIS  
6 CLOTHES WERE TAKEN AT AUTOPSY?

7 A. APPROXIMATELY ONE DOLLAR AND NINETY-THREE CENT.

8 Q. OKAY. AND HOW MANY WEAPONS DID HE HAVE ON HIS PERSON?

9 A. NONE.

10 Q. OKAY. AND HOW MUCH DRUGS OR THINGS THAT YOU EVEN BELIEVE  
11 WOULD BE DRUGS DID HE HAVE ON HIS PERSON?

12 A. NONE.

13 Q. THE CRIME SCENE WAS PROCESSED THAT NIGHT WHERE THE CASING  
14 THAT MR. GARDNER OF THE FSU PROCESSED,---

15 A. YES, SIR.

16 Q. ---DO YOUR RECORDS REFLECT HOW MUCH CASH WAS RECOVERED  
17 FROM THE PARKING LOT?

18 A. NONE, SIR.

19 Q. OKAY. HOW MUCH DRUGS WAS RECOVERED FROM THE PARKING LOT?

20 A. NONE.

21 Q. OKAY. AND HOW MANY WEAPONS WERE RECOVERED FROM THAT  
22 PARKING LOT?

23 A. NONE.

24 Q. SUBSEQUENTLY ON THE ARREST OF THE THREE DEFENDANTS, MR.  
25 DESMOND CAMPBELL, MR. DEBREZIO CAMPBELL AND MR. CHRISTOPHER

1 WOODY, AS TO DESMOND -- I MEAN, AS TO DEBREZIO AND MR. WOODY,  
2 THAT SEARCH TOOK PLACE OVER AT STONEYPOINTE; IS THAT CORRECT?

3 A. YES, SIR.

4 Q. OKAY. AND OTHER THAN THE PICTURE THE JURY'S SEEN OF THE  
5 APPROXIMATELY TEN DOLLARS IN THAT APARTMENT, WHAT LARGE  
6 QUANTITY OF MONEY WAS RECOVERED THERE?

7 A. NONE.

8 Q. AND WHAT LARGE QUANTITY OR EVEN INDICATION OF DRUGS WAS  
9 RECOVERED THERE?

10 A. NONE.

11 Q. WHEN THEY WERE ARRESTED -- I'M NOW TALKING ABOUT DESMOND  
12 CAMPBELL, DEBREZIO CAMPBELL AND CHRISTOPHER WOODY, WHEN THEY  
13 WERE BOOKED IN, WHAT LARGE QUANTITY OR WHAT QUANTITY PERIOD OF  
14 MONEY DID MR. DESMOND CAMPBELL HAVE ON HIS PERSON BASED ON  
15 YOUR RECORDS?

16 A. NONE.

17 Q. WHAT QUANTITY OF MONEY DID MR. DEBREZIO CAMPBELL HAVE ON  
18 HIS PERSON BASED ON YOUR RECORDS?

19 A. NONE.

20 Q. AND WHAT QUANTITY DID MR. WOODY HAVE BASED ON YOUR  
21 RECORDS?

22 A. NONE.

23 MR. POPE: BEG THE COURT'S INDULGENCE. THANK YOU.

24 MR. DELGADO: NOTHING FURTHER. THANK YOU.

25 THE COURT: THANK YOU, MA'AM. ANYTHING FURTHER, COUNSEL?

1 MR. DELGADO: THANK YOU. NO. THE DEFENSE RESTS, YOUR  
2 HONOR. THANK YOU.

3 THE COURT: SOLICITOR, ANYTHING IN REPLY?

4 MR. POPE: NO, SIR, YOUR HONOR.

5 THE COURT: ALL RIGHT. WELL, MADAM FORELADY, MEMBERS OF  
6 THE JURY PANEL, THIS CONCLUDES ALL THE TAKING OF TESTIMONY AND  
7 EVIDENCE IN THIS CASE. WE HAVE YET REMAINING MY FINAL  
8 INSTRUCTION TO YOU WITH REGARD TO THE LAW THAT APPLIES TO THE  
9 ISSUES IN THIS CASE AND ALSO FINAL ARGUMENT OF COUNSEL IN THIS  
10 CASE. EVEN THOUGH YOU'VE HEARD ALL THE TESTIMONY AND EVIDENCE  
11 IN THE CASE, YOU ARE NOT YET READY TO BEGIN YOUR  
12 DELIBERATIONS, BECAUSE YOU STILL NOT -- HAVE NOT HEARD MY  
13 INSTRUCTION TO YOU WITH REGARD TO THE LAW YOU MUST APPLY TO  
14 THE FACTS IN THIS CASE IN REACHING YOUR VERDICTS IN THIS CASE.

15 WE ARE -- HAD PLANNED TO START FINAL ARGUMENTS AND CHARGE  
16 IN THIS CASE FIRST THING IN THE MORNING. THERE ARE SOME OTHER  
17 MATTERS THAT I'M GOING TO NEED TO TAKE UP WITH COUNSEL AND  
18 SOME OTHER THINGS WE NEED TO DO, SO WE'RE NOT GOING TO GET  
19 STARTED THIS LATE IN THE DAY WITH ARGUMENTS AND CHARGE AND  
20 DELIBERATIONS. WHAT WE'LL DO INSTEAD IS WE WILL EXCUSE YOU  
21 UNTIL -- I'M GOING TO SAY NINE O'CLOCK IN THE MORNING. I'LL  
22 ASK YOU TO BE BACK IN THE JURY ROOM READY TO GO AT NINE  
23 O'CLOCK.

24 ON THE OVERNIGHT RECESS PLEASE DO NOT DISCUSS THIS CASE  
25 AMONG YOURSELVES. PLEASE DO NOT DISCUSS IT, AGAIN, WITH

1 FAMILY AND FRIENDS. EVEN THOUGH YOU'VE HEARD THE TESTIMONY  
 2 AND EVIDENCE, AS I SAY, YOU STILL NEED TO HEAR MY INSTRUCTION  
 3 TO YOU WITH REGARD TO THE LAW TO HAVE ALL THE INFORMATION YOU  
 4 NEED TO DECIDE THIS CASE.

5 AGAIN, IF THERE SHOULD BE ANY MEDIA COVERAGE OF THIS  
 6 TRIAL, AND THERE MAY VERY WELL BE, IF THERE IS, PLEASE DO NOT  
 7 READ, LISTEN TO OR WATCH ANY MEDIA ACCOUNT OF THE TRIAL UNTIL,  
 8 AGAIN, AFTER THE TRIAL IS OVER. IF SOMEONE WANTS TO SAVE IT  
 9 AND PUT IT BACK FOR YOU UNTIL AFTER THE TRIAL, THAT'S FINE.  
 10 YOU'RE WELCOME TO READ, LISTEN TO OR WATCH ANY MEDIA ACCOUNT  
 11 AFTER THE TRIAL IS OVER AND THE VERDICT IS IN, BUT IN THE  
 12 MEANTIME, PLEASE DO NOT DO THAT. THAT'S VERY, VERY IMPORTANT.

13 ALL RIGHT. I'M GOING TO EXCUSE YOU AT THIS TIME, AGAIN,  
 14 AND ASK YOU TO BE BACK IN THE JURY ROOM IN THE MORNING AT NINE  
 15 O'CLOCK AND WE'LL TRY TO GET STARTED PROMPTLY AT NINE O'CLOCK.  
 16 THANK YOU.

17 (JURY OUT AT 3:15 P.M.)

18 THE COURT: ALL RIGHT. ANY MATTER WE NEED TO TAKE UP OUT  
 19 OF THE PRESENCE OF THE JURY AT THIS TIME FROM THE STATE?

20 MR. POPE: NOTHING FROM THE STATE, YOUR HONOR.

21 THE COURT: FROM THE DEFENSE?

22 MR. DELGADO: NO, YOUR HONOR.

23 THE COURT: WELL, I WANT TO BE SURE I GIVE YOU THE  
 24 OPPORTUNITY TO PRESENT ANY MOTIONS. YOU HAVE ANY MOTIONS AT  
 25 THIS TIME?

1 MR. DELGADO: EXCUSE ME, YOUR HONOR. I'M SORRY. I  
2 REALLY APPRECIATE THAT. YES, YOUR HONOR. AGAIN, WE ASK THE  
3 COURT TO REVISIT THE ISSUE OF THE CONSPIRACY AS WELL AS THE  
4 OTHER CHARGES AND DIRECT A VERDICT AS WELL AS UNLAWFUL WEAPONS  
5 DURING THE COMMISSION OF A VIOLENT OFFENSE AND UNLAWFUL  
6 POSSESSION OF WEAPONS.

7 THE COURT: ALL RIGHT, SIR. THE STATE WISH TO BE HEARD  
8 AT ALL?

9 MR. POPE: NO, SIR, YOUR HONOR.

10 THE COURT: I WILL DENY THE MOTIONS PREVIOUSLY MADE FOR  
11 THE SAME REASONS I GAVE AND DENY YOUR OTHER MOTIONS AT THIS  
12 TIME. I FIND THERE IS SUBSTANTIAL EVIDENCE FROM WHICH THE  
13 JURY COULD INFER THAT THE STATE HAD PROVEN THE ELEMENTS OF  
14 THOSE OFFENSES BEYOND A REASONABLE DOUBT.

15 I'M GOING TO MAKE THIS ONE NOTE I HAD FROM THE FOREPERSON  
16 OF THE JURY ABOUT THEIR CONCERN ABOUT SOME COMMENTS BEING MADE  
17 TO THEM, I NEVER MADE THIS PART OF THE RECORD. I'M GOING TO  
18 MAKE IT A COURT EXHIBIT FOR THAT PURPOSE, 'CAUSE SOMETHING ON  
19 THE RECORD ABOUT IT AND I THINK I NEED TO DO THAT, SO WE'LL  
20 MAKE THAT A COURT EXHIBIT. ALL RIGHT. ANYTHING ELSE WE NEED  
21 TO ADDRESS AT THIS TIME?

22 MR. POPE: NOTHING FROM THE STATE.

23 MR. DELGADO: NOTHING FROM THE DEFENSE.

24 THE COURT: ALL RIGHT. THEN IF YOU WANT TO TAKE A FEW  
25 MINUTES TO DO THAT AND WHENEVER YOU GET READY, YOU-ALL GET

1 TOGETHER AND COME BACK AND LET'S HAVE A CHARGE CONFERENCE BACK  
2 IN MY CHAMBERS. THANK YOU.

3 MR. POPE: THANK YOU, SIR.

4 (WHEREUPON, COURT WAS ADJOURNED FOR THE DAY AT 3:30 P.M.  
5 AND RECONVENED ON MAY 6, 2005 AT 9:15 A.M.)

6 (END OF VOLUME IV)

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1 THE COURT: ALL RIGHT. COUNSEL, WE'LL BE OTHERWISE  
2 READY TO PROCEED OR YOU NEED A MINUTE?

3 MR. DELGADO: NO, SIR, YOUR HONOR.

4 MR. POPE: STATE'S READY, YOUR HONOR.

5 THE COURT: PLEASE BRING THE JURY IN, SIR.

6 (JURY IN AT 9:20 A.M.)

7 THE COURT: GOOD MORNING, MADAM FORELADY, MEMBERS OF  
8 THE JURY PANEL. I HOPE YOU HAD A PLEASANT EVENING LAST  
9 NIGHT. BEFORE WE GET STARTED BACK WITH THE TRIAL, I NEED TO  
10 ASK WHETHER ANY MEMBER OF THE JURY PANEL READ AN ARTICLE  
11 WHICH APPEARED IN THE HERALD THIS MORNING WITH REGARD TO  
12 THIS CASE. IF ANYONE READ THAT ARTICLE OR DISCUSSED IT WITH  
13 ANYONE OR HAD ANYBODY READ IT TO THEM, IF YOU'D PLEASE RAISE  
14 YOUR RIGHT HAND NOW. LET THE RECORD REFLECT THAT NO JUROR  
15 RAISED THEIR HAND.

16 ALL RIGHT. WE'RE READY NOW TO RESUME WITH THE TRIAL  
17 AND WE'RE TO THAT PART OF THE TRIAL WHERE COUNSEL WILL  
18 ADDRESS YOU IN FINAL ARGUMENT. I ASK THAT YOU LISTEN  
19 ATTENTIVELY AS COUNSEL ADDRESS YOU IN FINAL ARGUMENT.  
20 COUNSEL, READY TO PROCEED.

21 MR. DELGADO: THANK YOU, YOUR HONOR. MAY IT PLEASE THE  
22 COURT.

23 THE COURT: YES, SIR.

24 MR. DELGADO: SOLICITOR. LADIES AND GENTLEMEN, LET ME  
25 START THIS CLOSING, THIS PART OF THE TRIAL, WITH THESE

1 THOUGHTS TO YOU AND FOR YOU. WE WILL NEVER -- WE WILL NEVER  
2 DEMEAN THE LOSS OF LIFE. LIFE IS SACRED. LIFE IS GIVEN TO  
3 US FROM ABOVE. IT IS A GIFT OF GRACE. WHAT WE DO WITH THAT  
4 LIFE IS THE HUMAN CONDITION. I WILL NOT BE ABLE TO ANSWER  
5 EVERY QUESTION THAT YOU'LL HAVE ABOUT THIS CASE, CAN'T DO  
6 THAT. I DON'T KNOW IF ANYBODY CAN. SO I CAN'T ANSWER  
7 EVERYTHING YOU MAY HAVE, TALK ABOUT AND WILL THINK ABOUT  
8 TOGETHER, BUT I WILL ASK SOME HARD QUESTIONS IF I CAN AND WE  
9 WILL NEVER DEMEAN THE LIFE OR THE LOSS OF LIFE OF ARVELL  
10 DARRELL BAGLEY, BUT I WILL ASK HARD QUESTIONS ABOUT THAT  
11 LIFE.

12 LET ME START WITH THE GENERAL PROPOSITION, THE GENERAL  
13 AREAS OF THE LAW THAT YOU'VE HEARD FROM THE JUDGE THAT WE  
14 HAVE TALKED ABOUT AND THAT NOW WE WILL TALK ABOUT AGAIN.  
15 PROOF BEYOND A REASONABLE DOUBT, PROOF BEYOND ANY REASONABLE  
16 DOUBT. LET ME SAY THAT TO YOU AGAIN. IF THERE'S ONE THING  
17 I CAN ENDEAVOR TO GIVE TO YOU ALL OR GIVE YOU ALL, IF I  
18 COULD SOMEHOW I WOULD GLOSS THAT ON THE FRONT OF YOUR HEAD.  
19 THAT IS YOUR RESPONSIBILITY TO ASK MY FRIENDS TO PROVE  
20 BEYOND EVERY REASONABLE DOUBT THAT EXISTS IN THIS CASE THAT  
21 CHRIS WOODY DIDN'T ACT IN SELF-DEFENSE. LET ME SAY THAT TO  
22 YOU AGAIN. HOLD THEM -- IF I -- I THOUGHT ABOUT GETTING  
23 SOME BIG CERAMIC STONES AND PUTTING THEM RIGHT HERE ON THEIR  
24 DESK AND ASK THEM TO REMOVE THAT STONE AS AN EXAMPLE, A  
25 VISUAL EXAMPLE, OF THE REASONABLE DOUBT; COULDN'T GET TO IT.

1 BUT EVERY TIME WE TALK ABOUT PROOF BEYOND A REASONABLE  
2 DOUBT, THAT'S WHAT THAT REALLY IMPLIES AND IT'S THEIR  
3 BURDEN. THEY WILL SAY THAT THEY WILL ACCEPT THAT AND THEY  
4 SHOULD. THAT'S WHAT THEY'RE REQUIRED TO DO. THAT'S THE WAY  
5 OUR LAW WORKS. IT'S NOT JUST THIS CASE. THIS IS EVERY CASE  
6 AND ANY CASE, IN A CRIMINAL CASE. THAT'S WHAT THEY HAVE TO  
7 DO.

8 NOW, WHAT IS A REASONABLE DOUBT? IT KIND OF DEFINES  
9 ITSELF, DOESN'T IT? REASONABLE DOUBT IS THAT KIND OF A  
10 DOUBT THAT WOULD CAUSE A REASONABLE PERSON, LIKE YOU-ALL, TO  
11 HESITATE TO ACT. LET ME SAY THAT TO YOU AGAIN.. THAT KIND  
12 OF DOUBT THAT WOULD CAUSE A REASONABLE PERSON TO HESITATE TO  
13 ACT.

14 I DON'T KNOW HOW MANY OF Y'ALL ARE MARRIED, BUT WHEN  
15 YOU GET MARRIED THAT'S A VERY SIGNIFICANT DECISION IN YOUR  
16 LIFE AND YOU MAY GO BACK AND FORTH, IS THIS MR. RIGHT, IS  
17 THIS THE WOMAN I WANT TO BE THE MOTHER OF MY CHILDREN, A  
18 QUESTION LIKE THAT AND IF YOU HESITATE WHEN YOU'RE THINKING  
19 IT THROUGH, THAT'S WHAT YOU'RE TALKING ABOUT A REASONABLE  
20 DOUBT. THE MONUMENTAL DECISIONS IN YOUR LIFE, WHETHER TO  
21 HAVE A CHILD, WHETHER TO BUY A HOME. DOES IT CAUSE YOU TO  
22 HESITATE TO ACT. MAYBE YOU CAN GET A LOWER PRICE. DO WE  
23 REALLY HAVE THE INCOME TO BE ABLE TO THINK ABOUT A SECOND  
24 CHILD. YOU SEE. THAT'S WHAT A REASONABLE DOUBT IS THAT  
25 WOULD CAUSE A REASONABLE PERSON TO HESITATE TO ACT AND

1 THAT'S WHAT THEY'VE GOT TO DISPROVE FOR YOU.

2 YOU SEE THIS HERE, THE PRESUMPTION OF INNOCENCE.

3 THAT'S THE REASON THAT THEY'VE GOT TO REMOVE ALL THESE

4 THINGS, BECAUSE CHRIS WOODY RIGHT NOW AND DURING YOUR

5 DELIBERATIONS BACK IN THE JURY ROOM IS PRESUMED INNOCENT.

6 HOW ABOUT THIS: YOU KNOW, THE CHALKBOARD THAT Y'ALL

7 HAVE OR THE GREASE BOARD Y'ALL HAVE BACK THERE IN YOUR JURY

8 ROOM, MAYBE THE FIRST THING YOU WANT TO DO WHEN YOU GET BACK

9 THERE IS PUT THIS UP, THIS WORD, THESE TWO WORDS, REASONABLE

10 DOUBT. HOW ABOUT THAT? JUST FOCUS YOURSELF ON WHAT YOUR

11 ROLE IS TO DO, BECAUSE THOSE ARE THE GUIDE STICKS. THOSE

12 ARE THE MEASURING MARKS THAT THEY'VE GOT TO MEET FOR YOU,

13 PROOF BEYOND A REASONABLE DOUBT, BECAUSE HE'S PRESUMED

14 INNOCENT, IS THE DOUBT THAT WOULD CAUSE A REASONABLE PERSON

15 TO HESITATE TO ACT. IS THERE A REASONABLE DOUBT IN YOUR

16 MIND THAT HE DIDN'T ACT IN SELF-DEFENSE?

17 SEE, WHEN THIS CASE STARTED THERE WERE SOME THINGS THAT

18 I'D HOPED I WOULD BE ABLE TO BRING BEFORE YOU AND IT WASN'T

19 CLEAR AT THE START, SURE IT WASN'T, BUT MAYBE IT'S A BIT

20 CLEARER NOW AND, AGAIN, LADIES AND GENTLEMEN, I DON'T HAVE

21 ALL THE ANSWERS. I CAN'T ANSWER EVERYTHING ABOUT MS.

22 BOWDEN. I CAN'T ANSWER THINGS ABOUT THE MARRIED COUPLE WITH

23 THE BABY, ETTA GIBSON AND HER HUSBAND. I CAN'T ANSWER

24 EVERYTHING. I'M NOT GOING TO. ANYWAY, I CAN'T. I DON'T

25 KNOW THE ANSWER TO THINGS, BUT I'VE GOT SOME QUESTIONS ABOUT

1 THIS CASE THAT I'VE GOT TO IMPOSE ON YOU TO ASK YOU TO ASK  
2 THEM SO THAT YOU CAN ANSWER YOUR REASONABLE DOUBT BACK IN  
3 YOUR JURY ROOM.

4 PUT THIS ON THE BLACKBOARD. SELF-DEFENSE. THERE'S  
5 FOUR PARTS TO SELF-DEFENSE THE JUDGE WILL TELL YOU. WHEN WE  
6 BRING YOU EVIDENCE OF THOSE FOUR PARTS OF SELF-DEFENSE, THEY  
7 HAVE TO REBUT THEM. THEY'RE GOING TO SAY ALL WE HAVE TO DO  
8 IS REBUT EVERY ONE OF THEM. OKAY. LET'S GO THROUGH THEM,  
9 THAT CHRIS WAS WITHOUT FAULT IN BRINGING ON THE IMMEDIATE  
10 DIFFICULTY.

11 NOW, HEAR ME FOR A MINUTE, FOR US TO BE ABLE TO SHOW TO  
12 YOU SELF-DEFENSE WE SIMPLY BRING YOU THIS. THEY HAVE TO  
13 DISPROVE THAT BEYOND A REASONABLE DOUBT. I'M GOING TO SAY  
14 IT NOW JUST SO I DON'T FORGET IT. I WAS, OF COURSE, GOING  
15 TO PUT IT IN A DIFFERENT PART OF THIS IN JUST A MINUTE, BUT  
16 I MAKE CERTAIN THAT YOU UNDERSTAND. WHEN DESMOND WAS ON THE  
17 STAND YESTERDAY MORNING, DESMOND CAMPBELL, YOU KNOW WHY I  
18 ASKED HIM ABOUT KNOWING DARRELL CARRIED A GUN? AND I'LL BE  
19 CANDID WITH YOU. I WAS TRYING TO BE SMART WITH HIM. DID HE  
20 CARRY IT IN A HOLSTER. DID YOU SEE MR. CAMPBELL'S FACE LIKE  
21 A HOLSTER? YOU SEE, BECAUSE HE KNEW THE REALITY OF DARRELL  
22 BAGLEY. WHATEVER ELSE, HE KNEW THE REALITY. HE DIDN'T  
23 CARRY NO DADGUM HOLSTER. THAT'S THE REASON I SAID, OH,  
24 THAT'S WHAT WHITE FOLKS THINK, CARRY IT IN A HOLSTER.  
25 THAT'S NOT RIGHT. HE KNEW THAT AND HE SHOWED YOU WITH HIS

1 FACE, 'CAUSE THAT'S THE REALITY. WHO BROUGHT ON THE  
2 IMMEDIATE DIFFICULTY?

3 LADIES AND GENTLEMEN, WHEN WE STARTED --- WAS IT MONDAY  
4 OR TUESDAY MORNING? I SAID TO YOU MY FRIENDS, MY WONDERFUL  
5 COMPETENT, RESPONSIBLE, RESPECTED COLLEAGUES ON THE OTHER  
6 SIDE OF THIS CASE, THEY CAN'T SANITIZE IT. THEY CAN'T  
7 SANCTIFY IT, CAN'T STERILIZE IT. Y'ALL DIDN'T KNOW THAT  
8 THEN. YOU DIDN'T KNOW WHAT YOU WOULD BE LATER CONFRONTED  
9 WITH IT OR WHAT YOU'D BE TOLD ABOUT THIS.

10 LADIES AND GENTLEMEN, THEY DIDN'T WANT TO SHOW YOU  
11 THIS. SEE, THAT'S FOUND IN THE FRONT BEDROOM. THAT'S CRACK  
12 COCAINE. WELL, AIN'T THAT AMAZING? DON'T CONFUSE ME WITH  
13 THE FACTS 'CAUSE MY MIND'S MADE UP. I'M GOING TO PUT THOSE  
14 BLINDERS ON. KEEP THAT MULE TRUCKING RIGHT DOWN THE ROAD.  
15 DO YOU THINK THAT'S POWDERED SUGAR? THAT'S CRACK COCAINE.  
16 WE DIDN'T EVEN ANALYZE IT, AND YOU KNOW WHY? 'CAUSE IF WE  
17 ANALYZE IT, THEN THAT PUTS KIND OF AN ONUS ON THE MEMBERS OF  
18 THE FOLKS THAT LIVED IN THAT APARTMENT, THAT TROY TOBIAS AND  
19 MR. GRANT AND ARVELL BAGLEY. CRACK COCAINE. DIDN'T EVEN  
20 ANALYZE IT.

21 I THINK -- Y'ALL LISTEN, FOLKS, SOMETIMES LAWYERS, WE  
22 JUST THINK WE KNOW IT ALL. WE GOT ALL THE ANSWERS AND Y'ALL  
23 JUST SIT THERE LIKE, YOU KNOW, KNOTS ON A LOG AND YOU KNOW  
24 WHAT THIS CASE IS ABOUT. YOU KNOW IT. YOU'VE SEEN IT FOR A  
25 WHILE AND ALL OF A SUDDEN IT'S JUST OF CLEARER AND CLEARER,

1 AND ALL OF A SUDDEN IT'S JUST COME IN REAL PERSPECTIVE FOR  
2 YOU. IT'S ABOUT THAT. IT'S ABOUT MONEY, IT'S ABOUT FOUR  
3 THOUSAND DOLLARS OF RIMS. OKAY.

4 FOLKS, YOU CAN LEAD YOUR LIFE ALL YOU WANT TO. YOU  
5 CAN'T LEAD IT ILLEGALLY, YOU CAN'T LEAD IT UNLAWFULLY. AND  
6 FOR THE MEMBERS OF HIS FAMILY WE'RE SORRY. THEY NEED TO  
7 HEAR THAT. THEY DON'T HAVE TO ACCEPT THAT, BUT THEY NEED TO  
8 HEAR THAT FROM US.

9 WHO BROUGHT ON THE IMMEDIATE DIFFICULTY? TWENTY-FIVE  
10 OR TWENTY-SEVEN -- WHAT WAS IT, TWENTY-SEVEN HUNDRED DOLLARS  
11 THAT MR. DES SAID HIS BROTHER HAD TO PAY, BUT IT WASN'T  
12 ACCEPTED BECAUSE IT WASN'T ALL THE MONEY; HAD TO BE FIVE  
13 THOUSAND. I AIN'T TAKING A DOWN PAYMENT -- NO WAIT A  
14 MINUTE. I'M NOT GOING TO DO THAT. WITHOUT FAULT IN  
15 BRINGING ON THE IMMEDIATE DIFFICULTY. REMEMBER WHEN I ASKED  
16 DESMOND, YOU KNOW, AT SIX O'CLOCK THAT DAY, SEVEN O'CLOCK  
17 THAT NIGHT, EIGHT O'CLOCK THAT -- WHERE WAS THE INTENT TO  
18 KILL ARVELL BAGLEY. THERE WAS NO INTENT. THEY WERE THREE  
19 YOUNG MEN ON A SATURDAY NIGHT LOOKING FOR GIRLS. THAT'S  
20 EXACTLY WHAT IT WAS. CHRIS WAS NEW IN TOWN. HE LIVES IN  
21 CHARLOTTE, IS WORKING AT BLACK AND DECKER IN FORT MILL AND  
22 HE MET DESMOND CUNNINGHAM -- DESMOND CAMPBELL AND THEY  
23 BECAME FRIENDS. HE'S BEEN HERE MONTHS. HE WAS LOOKING FOR  
24 COMPANIONSHIP. HE WAS LOOKING FOR OTHER FRIENDS, LOOKING  
25 FOR GIRLS. HE'S FROM DANVILLE, VIRGINIA.

1           WITHOUT FAULT IN BRINGING ON THE IMMEDIATE DIFFICULTY?  
2   REMEMBER WHAT DESMOND SAID? DESMOND SAID, COME ON, CHRIS,  
3   COME ON DOWN WITH ME. HE WENT OH. REMEMBER THE SIGH,  
4   'CAUSE HE WAS DRUNK. HE MAY HAVE BEEN HIGH. OH, MAN, I  
5   DON'T WANT TO GET OUT OF THE CAR. AND HE TOOK HIS GUN.  
6   YEAH, SURE DID.

7           NOW, LISTEN, I WANT TO SAY THIS TO YOU, THIS CASE AIN'T  
8   ABOUT WHAT? OKAY. I'M GOING TO EXPLAIN THAT TO YOU IN JUST  
9   A MINUTE. THERE'S A LOT OF W QUESTIONS IN THIS CASE, A LOT  
10   OF WHATS AND WHYS AND WE DON'T HAVE TO WORRY ABOUT THE WHATS  
11   OF THAT MAN. I'M TELLING YOU AS HIS LAWYER, HE OWNS A .45.  
12   THAT'S WHAT THIS ALCOHOL, TOBACCO AND FIREARMS -- HE BOUGHT  
13   IT. HE BOUGHT IT IN DANVILLE, VIRGINIA, WHAT, A YEAR AND A  
14   HALF BEFORE THIS? BOUGHT IT NOT AT -- YOU KNOW, NOT ON THE  
15   STREET, NOT SOME SORT OF CASH ON THE CORNER, BOUGHT IT AT A  
16   LAWFULLY REGISTERED FIREARMS DEALER AS IS REQUIRED BY LAW.  
17   AND HE WENT DOWN THERE AND I CAN'T ANSWER ALL THE QUESTIONS.  
18   I CAN ONLY TELL YOU, REMIND YOU ABOUT WHAT DESMOND SAID WHEN  
19   HE CAME BACK UP AND WHAT CHRIS SAID, I COULD HAVE BEEN  
20   KILLED, HIS WORDS FROM THAT WITNESS YESTERDAY. HE WAS  
21   WITHOUT FAULT IN BRINGING ON THE IMMEDIATE DIFFICULTY. HE  
22   BELIEVED IN GOOD FAITH IN THE IMMINENT HARM TO HIMSELF.

23           NOW, FOLKS, YOU HAVE TO VIEW THAT AS A REASONABLE  
24   PERSON WOULD VIEW IT. IN OTHER WORDS, NOT SOMEBODY WHO, YOU  
25   KNOW, IS SUSPICIOUS OR SOMEBODY WHO'S ALWAYS LOOKING FOR

1 TROUBLE, SOMEBODY WHO'S REASONABLE. MAYBE CHRIS HAD SPOKE  
2 TO DARRELL BAGLEY. YOU HAVE TO BELIEVE IN GOOD FAITH -- OR  
3 IN THE LEFT HAND, 'CAUSE HE HAD THE BOTTLE OF WHATEVER IT  
4 WAS IN HIS RIGHT HAND, .199 PERCENT BLOOD ALCOHOL IN MR.  
5 BAGLEY. REMEMBER WHAT I TOLD YOU ABOUT THE GUNSHOT RESIDUE  
6 DURING THAT FIRST LITTLE SPEECH I GAVE, BARIUM, LEAD AND  
7 ANTIMONY? THAT'S WHAT THIS IS ABOUT. I SAID IT TO YOU FROM  
8 THE START AND IT STILL IS. I'M GOING TO TALK TO YOU ABOUT  
9 THAT IN JUST A MINUTE.

10 BELIEVE IN GOOD FAITH IN THE IMMINENT HARM TO SELF, I  
11 COULD HAVE BEEN KILLED DOWN THERE, HIS WORDS IMMEDIATELY  
12 AFTERWARDS. ALL WITHIN TEN SECONDS, NOT SOMETHING  
13 CONTRIVED, LIKE, DES, REMEMBER TO SAY THIS FOR ME, MAN, AT  
14 MY TRIAL. IT WAS A REASONABLE BELIEF.

15 OKAY. FOLKS, JUST HAVING TO SEE THE GUNS THAT HAVE  
16 BEEN HERE IN THE COURTROOM, THAT'S -- THOSE ARE DIFFICULT  
17 THINGS TO LOOK AT, 'CAUSE THERE'S ONLY ONE REASON FOR IT.  
18 WELL, I GUESS TARGET SHOOTING. BUT YOU DON'T HUNT WITH  
19 THOSE. YOU DON'T HUNT BIRDS, YOU DON'T HUNT LARGE ANIMALS  
20 WITH THOSE. THAT'S FOR PROTECTION. THAT'S WHAT THE SECOND  
21 AMENDMENT TO THE CONSTITUTION ALLOWS ANYBODY TO DO. SOME OF  
22 Y'ALL HAVE THOSE. YOU HAVE A RIGHT TO THOSE. THAT'S YOUR  
23 ABSOLUTE RIGHT, BUT THAT'S WHAT THEY'RE FOR, THEY'RE FOR  
24 SELF-PROTECTION. SOMEONE WITH A REASONABLE BELIEF WHEN HE  
25 WENT HE LIKE THIS, KNOWING WHAT HE KNEW OF DARRELL BAGLEY?

1           YOU REMEMBER WHAT DES SAID ABOUT THE HOLSTER, MAN, HE'S  
2 ALWAYS CARRYING A GUN. HE'S ALWAYS BEATING UP ON PEOPLE.  
3 Y'ALL KNOW SOME FOLKS LIKE THAT. YOU'VE HEARD OF PEOPLE  
4 LIKE THAT AND, FOLKS, LET ME TELL YOU SOMETHING ABOUT THE M-  
5 UNIT, WITH ALL DUE RESPECT, YOU KNOW THEY CALL IT THE MILLS  
6 STREET UNIT, IT MIGHT THE MOSTLY UNDESIRABLES, TOO. YOU  
7 HEAR ME?

8           IMMEDIATELY AFTER ONE OF THE MAIN MEN IN THE M-UNIT, IF  
9 NOT THE LEADER, IS SHOT AND KILLED, DESMOND HAS HIS CAR SHOT  
10 UP RIGHT HERE ON I-77. THEY HAVE TO HIGHTAIL IT IN TO THE  
11 POLICE DEPARTMENT. AIN'T THAT SOMETHING. AND THEN THE MOM  
12 AND DADDY'S HOME IS BURNED DOWN IN RICHBURG, DOWN IN CHESTER  
13 COUNTY, SOUTH CAROLINA. AIN'T THAT AN AMAZING COINCIDENCE?  
14 NOT ONE TRAILER, BUT TWO TRAILERS, TWO TRAILERS. THE  
15 PARENTS AND THEN HIS TRAILER WHERE HE HAD HIS RECORDS.  
16 AIN'T THAT AN AMAZING COINCIDENCE? REASONABLE BELIEF? AND  
17 THE HEAD OF THAT CROWD? COME ON. YOU KNOW WHAT YOU'RE  
18 DEALING WITH. IT'S HARD QUESTIONING AND IT'S HARSH  
19 QUESTIONING, BUT IT'S WHAT MUST BE DONE BECAUSE YOU ARE  
20 JURORS. A REASONABLE BELIEF AND THAT HE HAD NO OTHER SAFE,  
21 ADEQUATE MEANS EXCEPT TO ACT AS HE DID. OH, LET'S SEE.  
22 HEY, DARRELL, HEY, MAN. NO, MAN, AIN'T NO PROBLEM; NO, HUH-  
23 UH. IF HE'S DRUNK AND HE'S GOT A GUN — OH, THEY GOING TO  
24 SAY WHAT GUN? WELL, I SAY WHERE DO YOU THINK THAT CAME  
25 FROM? THE BARIUM, THE LEAD AND THE ANTIMONY ON A CLEAN

1 PALM. SEE, WHAT THEY'RE GOING TO TRY TO SAY, OH, HE GRABBED  
2 HERE OR GRABBED THERE. HE COULD HAVE TRANSFERRED SOME OF  
3 THAT GSR, THE BARIUM, THE LEAD AND THE ANTIMONY AND HE COULD  
4 HAVE HAD IT HERE.

5 WHAT DO YOU SEE ON THE HAND, LADIES AND GENTLEMEN?  
6 YOU'LL HAVE THIS BACK THERE. IT'S IN EVIDENCE. YOU'VE GOT  
7 -- THERE'S A LITTLE BIT HERE, BUT SEE THEY SWABBED THE PALM.  
8 IT'S WHAT THEY CALL IN THEIR TERMINOLOGY THE PALMER SURFACE.  
9 OKAY. THAT'S WHAT WE'RE TALKING ABOUT HERE.

10 DO YOU THINK HE COULD HAVE RETREATED? DO YOU THINK HE  
11 COULD HAVE REASONED, RATIONED WITH DARRELL BAGLEY AFTER WHAT  
12 DESMOND SAID HAD HAPPENED DOWN THERE? WOULD YOU?

13 LET ME ASK A QUESTION. THEY'VE GOT TO DISPROVE,  
14 DISPROVE SELF-DEFENSE BEYOND ANY REASONABLE DOUBT. IF YOU  
15 HAVE A DOUBT AS TO WHETHER OR NOT SELF-DEFENSE EXISTS IN  
16 THIS CASE, YOU'VE GOT TO SAY NOT GUILTY. LET ME BACK UP AND  
17 I'M GOING TO TELL YOU ONE THING. I'M GOING TO TELL YOU THIS  
18 IS THE TRUTH. HE HAD THE GUN UNLAWFULLY. HE DIDN'T HAVE A  
19 CONCEALED WEAPONS PERMIT. HE DIDN'T HAVE IT IN THE CAR LIKE  
20 IT'S SUPPOSED TO BE. HE IS GUILTY OF CARRYING A WEAPON  
21 UNLAWFULLY. THAT INDICTMENT YOU SHOULD AND MUST RETURN A  
22 VERDICT OF GUILT. SAY THAT TO YOU AGAIN. HE CARRIED THE  
23 WEAPON UNLAWFULLY DOWN TO WHERE THE SHOOTING TOOK PLACE  
24 'CAUSE HE DIDN'T HAVE A CONCEALED WEAPONS PERMIT. THAT'S  
25 WHAT THAT CWP, YOU REMEMBER ON THIS? THAT'S WHAT YOU HAVE

1 TO HAVE IN THE STATE OF SOUTH CAROLINA.. AND IF YOU REMEMBER  
2 WHAT DESMOND SAYS, HE ALWAYS CARRIED IT OUT IN THE CAR  
3 BECAUSE IF NOT, IN VIRGINIA AND NORTH CAROLINA WHERE HE'S  
4 FROM, THAT IS AGAINST THE LAW. SEE, BUT HE AIN'T IN NORTH  
5 CAROLINA OR VIRGINIA ANY MORE, HE'S HERE AND IT CHANGES AS  
6 SOON AS YOU COME ACROSS THE RIVER. HE'S GUILTY OF THAT, BUT  
7 THAT DOESN'T MEAN HE'S GUILTY OF MURDER. THAT'S DOESN'T  
8 MEAN HE'S GUILTY OF THE USE OF THE WEAPON DURING THE  
9 COMMISSION OF A VIOLENT OFFENSE.

10 THE JUDGE WILL TELL YOU IF YOU FIND THAT HE ACTED IN  
11 SELF-DEFENSE AND THEREFORE NOT GUILTY, HE'S NOT GUILTY OF  
12 UNLAWFUL WEAPONS DURING THE COMMISSION OF A VIOLENT OFFENSE.  
13 THOSE TWO GO TOGETHER. THEY'VE GOT TO DISPROVE EVERY BIT OF  
14 THE SELF-DEFENSE THAT WE'RE GOING TO SHOW YOU AND HAVE SHOWN  
15 YOU ABOUT THIS CASE. HOLD THEM TO IT. HOLD THEM TO THAT.  
16 ASK HIM, MR. POPE, WHAT ABOUT THAT GUNSHOT RESIDUE? YOU  
17 KNOW, THAT'S -- THAT MAKES ME HESITATE TO ACT, MR. POPE.  
18 AND, FOLKS, WE DON'T -- YOU KNOW, WE DON'T MAKE UP FACTS.  
19 WE CAN'T MAKE UP FACTS. WE DEAL WITH FACTS. I ASK YOU TO  
20 ASK THEM TO DEAL WITH THOSE FACTS, BECAUSE THAT'S HARD  
21 FACTS. YOU JUST CAN'T GET AWAY FROM THAT. OH, THEY'RE  
22 GOING TO TRY TO SLIP AND SLIDE, BUT THEY CAN'T GET AWAY FROM  
23 THAT BARIUM, LEAD AND ANTIMONY RIGHT HERE ON HIS HAND.  
24 SELF-DEFENSE, MR. POPE? SELF-DEFENSE, MR. THOMPSON?  
25 THE LAW -- THE JUDGE WILL TELL YOU THAT CHRIS HAD THE

1 RIGHT TO ACT ON APPEARANCES IN DEFENDING HIMSELF. EVERY  
2 TIME I SAY SELF-DEFENSE IT'S KIND OF REVERSE. IT'S DEFENSE  
3 OF SELF, SELF-DEFENSE. HE HAD A RIGHT TO ACT ON WHAT HE SAW  
4 AT THAT MOMENT, CONFRONTED BY THE INDIVIDUAL THAT HE WAS  
5 CONFRONTED WITH. YOU CAN CONSIDER ANY REPUTATION FOR  
6 VIOLENCE BY MR. BAGLEY. WHAT DID DESMOND SAY? YOU DON'T  
7 HAVE TO HAVE ME EMPHASIZE THAT. Y'ALL KNOW WHAT DESMOND'S  
8 LIKE. A HARSH EVALUATION; THERE'S A VIOLENT INDIVIDUAL  
9 WHO'S THE HEAD OF A DRUG ORGANIZATION AND HAD BEEN FOR SOME  
10 PERIOD OF TIME.

11 AND, FOLKS, WITH ALL DUE RESPECT, REMEMBER WHEN MR.  
12 TOBIAS COMES UP AND SAYS, OH, YEAH, HE WAS WORKING FOR HIS  
13 FATHER DOING LANDSCAPING DOWN IN CHESTER. THAT'S RIGHT.  
14 YOU COME UP AND LIVE ON THE NORTH SIDE OF ROCK HILL TO WORK  
15 DOWN DOING LANDSCAPING IN CHESTER, SOUTH CAROLINA AND  
16 WHERE'S ALL YOUR EQUIPMENT? YESTERDAY GETTING A HOTEL,  
17 THERE'S A CROWD OUT THERE, YOU KNOW, PULLED IN. THEY GOT  
18 LAWN MOWERS, THEY GOT BLOWERS, THEY GOT WEED EATERS, THEY  
19 GOT RAKES. I MEAN, A BIG UTILITY VAN BEHIND THIS -- THE  
20 HALF-TON PICKUP. WHERE DO YOU THINK ALL THAT STUFF WAS?  
21 OH, THAT'S RIGHT, MR. TOBIAS. IT WAS IN THE SHOP THAT DAY.

22 FOLKS, LET ME TELL YOU, THAT'S A COVER. OKAY. I CAN  
23 TELL Y'ALL KNOW WHAT I'M TALKING ABOUT. THAT'S A COVER.  
24 THAT DIDN'T HAPPEN. NOT RIGHT, NOT TRUE. HE WAS IN THE  
25 LANDSCAPING BUSINESS. THAT'S HOW YOU AFFORD ALL THAT MONEY,

1 THOSE RIMS AND THAT SORT OF THING.

2 HE HAD A RIGHT TO ACT ON THAT BECAUSE BAGLEY WAS A  
3 VIOLENT INDIVIDUAL. LET ME TELL YOU, LISTEN TO THESE  
4 PHRASES NOW. I'M GOING TO UNDERLINE IT, BECAUSE YOU'LL HEAR  
5 EXACTLY THESE WORDS. CHRIS WOODY IS NOT HELD TO MAKING ---  
6 CAN READ THIS? LET ME --- THERE'S NO REQUIREMENT FOR CHRIS  
7 WOODY TO MAKE A NICE CALCULATION OF THE AMOUNT OF FORCE THAT  
8 WAS NECESSARY. WE DON'T HAVE TO DECIDE WHEN A GUN'S PULLED  
9 ON YOU, YOU THINK A GUN'S PULLED ON YOU FROM A VIOLENT  
10 INDIVIDUAL, YOU DON'T HAVE TO SAY, OH, WAIT A MINUTE NOW.  
11 LET ME SEE IF I CAN CALCULATE COOLLY AND REFLECTIVELY. YOU  
12 HAVE A RIGHT TO ACT ON APPEARANCES TO SAVE YOURSELF. IT'S  
13 THE FIRST RULE OF THE HUMAN SPECIES. AND THERE IT IS RIGHT  
14 THERE. YOU DON'T HAVE TO MAKE A SCIENTIFIC DETERMINATION  
15 AND YOU DON'T HAVE TO WAIT FOR MR. BAGLEY TO GET THE DROP ON  
16 YOU. LET ME REPHRASE THAT. YOU'RE GOING TO HEAR THAT SAME  
17 PHRASE.

18 CHRIS DOESN'T HAVE TO WAIT 'TIL SOMEBODY PULLS THE GUN  
19 AND COMES DOWN ON HIM BEFORE HE MAY ACT. THAT'S NOT THE WAY  
20 IT HAPPENS. THAT'S NOT THE REALITY OF THE LAW. THE LAW  
21 DOESN'T HOLD YOU TO THAT. YOU HAVE THE RIGHT TO ACT ON  
22 APPEARANCES. ASK THEM TO ANSWER THOSE QUESTIONS. ASK THEM  
23 WHY ISN'T THAT A REASONABLE DOUBT, WHY YOU HESITATE TO FIND  
24 THAT HE DIDN'T ACT IN SELF-DEFENSE, 'CAUSE UNLESS THEY  
25 DISPROVE THAT ALL SELF-DEFENSE, UNLESS THEY DISPROVE IT

1 BEYOND A REASONABLE DOUBT THAT ANY OF YOU HAVE, HE'S NOT  
2 GUILTY BY REASON OF SELF-DEFENSE.

3 NOW, LADIES AND GENTLEMEN, THE STATE DOES NOT HAVE TO  
4 PROVE A MOTIVE FOR THIS CRIME. THE STATE NEVER HAS TO --  
5 STATE OF SOUTH CAROLINA HAS TO PROVE A MOTIVE. WON'T BE  
6 ABLE TO DO THAT, CAN'T DO THAT IN SOME CASES. I TELL YOU  
7 WHAT THEY DO HAVE TO DO, THEY HAVE TO PROVE THAT CHRIS HAD A  
8 CRIMINAL INTENT TO MURDER ARVELL BAGLEY AND IF THEY DON'T  
9 PROVE THAT HE INTENDED AND SET OUT WITH A CRIMINAL INTENT AS  
10 OPPOSED TO INSTANTANEOUS DEFENSE OF SELF, THEN YOU'VE GOT TO  
11 PROVE -- YOU'VE GOT TO FIND A VERDICT OF NOT GUILTY OF  
12 MURDER. HE DOESN'T -- THE STATE DOES HAVE TO PROVE CRIMINAL  
13 INTENT BEYOND ANY REASONABLE DOUBT. THE STATE DOES HAVE TO  
14 PROVE WHAT CHRIS INTENDED TO DO BEYOND ANY REASONABLE DOUBT.  
15 WHY WOULD HE GO DOWN THERE TO KILL THE MAN? HE DIDN'T EVEN  
16 KNOW HIM. WHY? WHAT REASON WOULD HE HAVE? BAGLEY NEVER  
17 DONE ANYTHING TO HIM. HAVE ANY OTHER MOTIVE EXCEPT SELF-  
18 DEFENSE? ANY OTHER REASONS? HOLD THEM TO ANSWER THAT.  
19 HOLD THEM TO DISPROVING THAT BEYOND ANY REASONABLE DOUBT  
20 THAT Y'ALL HAVE.

21 LET ME TELL YOU THIS NOW, SOMETHING SOMEBODY BACK IN  
22 THE JURY ROOM MAY SAY, YOU KNOW, I DON'T KNOW THAT'S KIND OF  
23 CAUSING ME SOME PROBLEM. I DON'T KNOW ABOUT THAT. ANOTHER  
24 JUROR GOES, WELL, I'M NOT SO MUCH CONCERNED ABOUT THAT, BUT  
25 I GOT -- THIS KIND OF -- THIS KIND OF INTRIGUED ME. THIS

1 HAS JUST BUGGED ME. I DON'T KNOW ABOUT THAT. SHARE YOUR  
 2 REASONABLE DOUBT. CROSS-POLLINATE YOURSELVES ABOUT  
 3 REASONABLE DOUBT. PUT IT ON THE BLACKBOARD. COUNT THE  
 4 NUMBER OF TIMES THE JUDGE TELLS YOU THAT PHRASE, REASONABLE  
 5 DOUBT.. COUNT IN YOUR HEAD. I BET YOU HE'LL DO IT TWENTY-  
 6 FIVE TIMES, BECAUSE THAT'S THE LAW. THAT'S WHAT'S REQUIRED,  
 7 AND THAT'S WHAT THEY'VE GOT TO DISPROVE. AND THAT'S THE  
 8 WHAT AND WHY QUESTION.

9 THEY ALL START WITH W. THERE AIN'T NO WHAT'S IN THIS  
 10 CASE, FOLKS: CHRIS HAD THE .45; CHRIS OWNED THE .45; CHRIS  
 11 SHOT THE .45. AS A RESULT OF SHOOTING THE .45, MR. BAGLEY  
 12 DIED. THAT'S NOT IN CONTEST. WE'RE NOT CONTESTING THAT.  
 13 ABSOLUTELY. WE SAY THAT'S TRUE, SAY THAT'S SO. WHY? OH.  
 14 NOW, THAT'S A DIFFERENT QUESTION..

15 WHY SACRIFICE YOUR DREAM? A YOUNG MAN, TWENTY-FOUR  
 16 YEARS OLD. WHY SACRIFICE THAT? HE'S COME DOWN HERE TO  
 17 NORTH CAROLINA, WORKING A JOB, PLAYING FOOTBALL. WHY  
 18 SACRIFICE ALL THAT BECAUSE WHY? EXCEPT SELF-DEFENSE. DON'T  
 19 YOU SEE? WHY SAY TO DESMOND WITHIN SECONDS, I COULD HAVE  
 20 BEEN KILLED? WHY WOULD YOU SAY THAT? YOU THINK IN A MOMENT  
 21 LIKE THAT YOU'D MAKE SOMETHING UP AND SAY, THIS MAN'S --  
 22 REMEMBER NOW, I SAID THAT. YOU DON'T THINK -- THAT'S NOT  
 23 THE WAY HUMANS REACT. HE SAID THAT OUT OF THE EMOTION OF  
 24 THE MOMENT. WHY? 'CAUSE THAT'S WHAT HAPPENED. THAT'S THE  
 25 WAY IT HAPPENED. I COULD HAVE BEEN KILLED.

1           LET'S TALK ABOUT MS. BOWDEN FOR ONE SECOND. YOU  
2 REMEMBER HER? SHE'S KNOWN DARRELL OR KNOWN ABOUT DARRELL, I  
3 THINK WERE HER EXACT WORDS, ALL HER LIFE.

4           SHOW YOU THIS PHOTOGRAPH. THAT'S WAY THE GUN -- SEE,  
5 THAT'S ILLEGAL TO KEEP LIKE THAT. THAT'S RIGHT. THEY'RE  
6 ABSOLUTELY RIGHT. YOU CAN'T DO THAT. IT HAS TO BE IN THE  
7 CONSOLE OR IT HAS TO BE IN THE GLOVE BOX. THAT'S THE LAW OF  
8 THE STATE OF SOUTH CAROLINA. IT'S NOT IN OTHER STATES.

9           FOLKS, LET ME JUST ASK THIS ABOUT MS. BOWDEN AND Y'ALL  
10 REMEMBER HER TESTIMONY. SHE SAYS THAT THE SHOOTINGS TOOK  
11 PLACE ALMOST IMMEDIATELY AS SOON AS SHE WANTS TO LET THEM  
12 ENGAGE IN THEIR PRIVACY AND THAT'S AN INTERESTING LITTLE  
13 PHRASE, WASN'T IT? OUT THERE; THEIR PRIVACY. YOU KNOW, I  
14 WONDER IF SHE KNEW, YOU KNOW, I DON'T WANT TO HEAR NOTHING  
15 ABOUT THAT NOW. I MEAN, THAT'S THEIR OWN STUFF. THEY CAN  
16 DO WHATEVER THEY WANT TO DO, BUT YOU KNOW, I'M -- AND SHE  
17 WALKS AWAY. LIKE THAT, IT HAPPENS. JUST EXACTLY LIKE THAT,  
18 BUT SOME FOLKS BELIEVE IF THAT HAPPENS, HOW DOES CHRIS WOODY  
19 -- IF SHE IS -- IF SHE'S JUST BACK UP ON THE PARKING -- UP  
20 HERE GOING TOWARDS HER APARTMENT, WHY DOESN'T SHE CHRIS  
21 WOODY SUPPOSEDLY CIRCLING AROUND BEHIND THE RED CADILLAC TO  
22 SNEAK UP ON HIM? 'CAUSE THAT'S THEIR THEORY THAT ONE OF  
23 THEM DISTRACTED AND CHRIS CAME UP BEHIND HIM, BUT WHY  
24 WOULDN'T SHE SEE THAT IF IT HAPPENS IMMEDIATELY? AND MORE  
25 IMPORTANTLY, LADIES AND GENTLEMEN, WOULDN'T IT BE THE

1 NATURAL REACTION FOR YOU TO TURN TO THE SOUND OF AN  
2 INCIDENT. NO, NOT MS. BOWDEN. SHE JUST RUNS INTO HER  
3 APARTMENT.

4 NOW, SOON AS SHE GETS IN SHE COMES AROUND AND LOOKS  
5 OUT. DO YOU THINK YOU INSTANTANEOUSLY, INSTINCTIVELY WOULD  
6 LOOK WHERE THAT WAS? WELL, NO, SHE DIDN'T DO THAT. I  
7 WONDER IF Y'ALL WOULD. I WONDER IF WE WOULD, AND I'M NOT  
8 TRYING TO CALL HER MOTIVE INTO QUESTION NECESSARILY, BUT  
9 THAT'S SOMETHING THAT I WANT YOU TO CONSIDER, BECAUSE WHAT  
10 THAT DOES IS IT THEN GETS TO THIS WHOLE BUSINESS ABOUT WHERE  
11 THESE SHELL CASINGS WERE FOUND. I'LL TALK ABOUT THAT IN ONE  
12 SECOND.

13 WHY DOESN'T SHE EVER TURN TO THE SOUND OF THE SHOTS  
14 AFTER GIVING PRIVACY? WHY DOESN'T SHE CHRIS SUPPOSEDLY  
15 SNEAK AROUND? I DON'T KNOW. I DON'T HAVE THE ANSWER TO  
16 THAT, UNLESS WHAT SHE'S SAYING IS NOT TRUE AND SHE'S INTO  
17 THE APARTMENT OR RIGHT AT HER APARTMENT WHEN SHE HEARS THAT  
18 AND THEN RUSHES BACK TO HER BLIND AS SHE SAID. WHY WERE .45  
19 SHELL CASINGS FOUND WHERE THEY ARE? WHY NO SLED EJECTOR  
20 TESTING?

21 NOW, FOLKS, SOME OF Y'ALL MAY BE VERY FAMILIAR WITH  
22 HANDGUNS. SOME OF YOU MAY HAVE SHOT SIMILAR GUNS. WHAT  
23 HAPPENS WHEN THE GUN FIRES, AS WAS POINTED OUT, AS MR.  
24 GARDNER POINTED OUT, THE SHELLS EJECT AND WHAT THEY USE, AS  
25 THEY SHOULD, THEY USE THOSE AS MARKERS TO DETERMINE WHAT GUN

1 WAS SHOT WHERE IN THE GENERAL AREA IF IT'S DONE  
2 TRADITIONALLY AS OPPOSED TO ANOTHER WAY. YOU SEE. AND YOU  
3 KNOW WHAT, LADIES AND GENTLEMEN, IF MR. GARDNER IS CORRECT,  
4 YOU SEE, WHAT WE DO SOMETIMES AS ADVOCATES, AS THEY ARE, LAW  
5 ENFORCEMENT, THEY WANT TO KIND OF -- REMEMBER THESE? HE  
6 SAID THESE TWO SHELL CASINGS FOUND BEHIND THE RED CADILLAC  
7 OWNED BY TOBIAS PROVES TO ME THAT HE WAS IN THIS GENERAL  
8 AREA WHEN HE SHOT THE GUN, THE .45. SEE. THAT'S WHAT  
9 THEY'RE TRYING TO SAY TO YOU.

10 IF THAT'S THE CASE, HOW COME THIS .45 SHELL CASING SHOT  
11 BY THE SAME GUN, SAME .45 THAT CHRIS HAD, HOW COMES THAT'S  
12 FOUND UNDER THE WHITE CAR? SEE, THAT'S JUST AN INCONVENIENT  
13 LITTLE FACT THAT WE'LL JUST SMUDGE AND WE'LL SAY, OH, WELL,  
14 WE CAN'T -- YEAH. I'M CERTAIN THAT EMS MUST HAVE KICKED  
15 THAT. HUH-UH. DIDN'T HAPPEN THAT WAY. THE SAME REASON WHY  
16 HE -- WHY THE GUN WAS SHOT RIGHT IN HERE BY CHRIS AND IT  
17 FLIPPED UP, HIT THE CAR AND ROLLED, KNOCKED ONTO THE -- IS  
18 THE SAME REASON IT HIT AND ROLLED RIGHT IN HERE. HE WASN'T  
19 BEHIND. NOBODY SAW THAT, NOT EVEN MS. BOWDEN. WHY DIDN'T  
20 YOU DO TESTING OF THAT AT SLED? THEY CAN DO BITE MARK  
21 EVIDENCE AT SLED. THEY CAN DO DNA EVIDENCE AT SLED. THEY  
22 DO FOOTPRINTS. THEY CAN TAKE A PAINT CHIP -- REMEMBER MS.  
23 STONER? NOW, WE AIN'T GOING TO TAKE THAT GUN IN A MURDER  
24 CASE AND SHOW YOU HOW FAR IT WENT TO THE RIGHT, HOW FAR IT  
25 GOES BEHIND YOU AND TEST IT WITHOUT THE INTERFERENCE OF CARS

1 THERE. WE CAN DO TIRE MARK IMPRESSIONS. WE CAN DO  
2 EVERYTHING AT SLED, BUT WE DIDN'T DO THAT.

3 I'M NOT TRYING TO SAY THAT THEY THOUGHT ABOUT IT, BUT  
4 YOU NEED THAT TO DETERMINE WHERE CHRIS WOODY WAS, BECAUSE  
5 MS. BOWDEN DIDN'T SEE IT. MS. BOWDEN SHOULD HAVE SEEN IT IF  
6 THAT'S WHERE IT WAS. THEY'RE GOING TO MAKE A BIG EMPHASIS  
7 ON THAT. I'M TELLING YOU THAT AND THAT IS JUST SIMPLY NOT  
8 SO. THAT'S JUST NOT PROVABLE. THEY CANNOT PROVE WHERE  
9 THESE SHELL CASINGS, WHY THEY'RE DIFFERENTIATED FROM  
10 PROBABLY FIFTEEN FEET DIFFERENCE, TWENTY FEET DIFFERENCE,  
11 FROM THIS ONE. THAT WAS JUST -- OH, AND YOU REMEMBER HOW HE  
12 SAID IT. OH, I'M CERTAIN SOME EMS FOLKS JUST KIND OF KICKED  
13 THAT ACCIDENTALLY. INTERESTING. SEE. JUST DON'T CONFUSE  
14 ME WITH THE FACTS. MY MIND'S MADE UP, BECAUSE IF IT WAS  
15 SOMEPLACE ELSE, WELL, IT DOESN'T FIT THE THEORY OF OUR CASE.

16 LADIES AND GENTLEMEN, WHY WAS MR. GRANT GOING THROUGH  
17 THE YOUNG MAN'S POCKETS? THAT'S HIS DADDY. WE DON'T MAKE  
18 UP FACTS. ALL WE DO IS REPORT THEM TO YOU AND EMPHASIZE  
19 THEM. REMEMBER WHAT MR. JOHNSON, THE EMS TECHNICIAN SAID?  
20 JOHNSON SAID THAT GRANT, QUOTE, WANTED TO GET SOMETHING FROM  
21 THE VICTIM. WONDER WHAT HE WANTED TO GET FROM THE VICTIM.

22 SEE, NOW, HEAR ME NOW, THAT'S BEFORE ANYBODY SAYS  
23 ANYTHING ABOUT A DRUG DEAL, BEFORE CHRIS MAKES A STATEMENT  
24 TWO DAYS LATER AND SAYS, OH, I KNEW HE WAS A DRUG DEALER AND  
25 RAN WITH BAD BOYS. THAT'S BEFORE DESMOND CUNNINGHAM AND

1 DEBREZIO TELL WHAT THEY TOLD. WONDER WHAT MR. GRANT WAS  
2 LOOKING FOR. IS IT INTEGRAL, IS IT POSSIBLE THAT MAYBE HE  
3 KNEW AND HE KNEW THAT THERE WAS SOME DRUG MONEY THAT WAS  
4 GOING TO BE TRANSFERRED AND HE WANTED TO SEE IF HE COULD GET  
5 TO THAT? HARD QUESTIONS. IS IT A REASONABLE QUESTION? WE  
6 DIDN'T MAKE UP THE FACTS; THEY DIDN'T MAKE UP THE FACTS.  
7 ALL WE DO IS BRING THEM TO YOU AND I CAN ONLY TELL YOU WHAT  
8 MR. JOHNSON SAID. GRANT, QUOTE, WANTED TO GET SOMETHING  
9 FROM THE VICTIM. ISN'T THAT INTERESTING?

10 SO WHY IS BARIUM, LEAD AND ANTIMONY ON THE PALM OF THE  
11 LEFT HAND? WELL, AS MS. STONER SAYS, IT'S MOST CONSISTENT  
12 WITH HOLDING A GUN, HOLDING A GUN THAT HAD BEEN FIRED. SHE  
13 CAN'T EVEN RULE OUT THAT HE MIGHT HAVE FIRED A GUN. LET ME  
14 SAY THAT TO YOU AGAIN. THAT'S THE REASON I PUT BARIUM, LEAD  
15 AND ANTIMONY AT THE VERY START OF THIS CASE. WE'RE GOING TO  
16 END UP WITH IT, TOO, BECAUSE IT'S A HARD FACT FOR THEM TO  
17 DEAL WITH NOW THAT I BRING IT TO YOU AND YOU'RE GOING TO  
18 HAVE A REASONABLE DOUBT AS TO WHETHER OR NOT HE HAD A GUN  
19 BASED ON THAT.

20 FOLKS, YOU DON'T JUST GET BARIUM, LEAD AND ANTIMONY.  
21 YOU GET IT WHEN YOU FIRE A GUN FROM THE GUN POWDER RESIDUE.  
22 THAT'S WHAT IT'S FOR. THAT'S WHY IT'S THERE AND IT ENDS UP  
23 ON THE PALM OF HIS LEFT HAND. WHY? THERE'S ONLY ONE  
24 REASON, ONLY ONE REASON. AIN'T NO BLOOD ON THERE. IF  
25 THERE'S BLOOD, THEN THEY COULD SAY, OH, SURE, THAT'S HOW HE

1 GOT IT THERE, BUT THE GUNSHOT IS A DISTANT SHOT. YOU  
2 REMEMBER THAT? REMEMBER WHAT DR. -- THE DOCTOR, THE  
3 PATHOLOGIST. HE SAID WHY WOULD THERE BE GUN -- I ASKED HIM  
4 WHY WOULD THERE BE GUNSHOT TO THE WOUND IF IT WAS A DISTANT  
5 SHOT? A DISTANT SHOT TO THEM IN THEIR TERMINOLOGY IS MORE  
6 THAN SIX INCHES. IT HAD TO BE MORE THAN SIX INCHES. THERE  
7 WASN'T ANY GUNSHOT RESIDUE THERE. SO WHERE WOULD HE HAVE  
8 GOTTEN THAT? THEY DIDN'T DO ANY TESTING TO SHOW WHERE IT  
9 WOULD HAVE BEEN. IT WASN'T -- THERE'S NO WAY IT COULD HAVE  
10 BEEN CLOSER THAN SIX INCHES. SO HOW COULD IT HAVE GOTTEN  
11 THERE? HOW COULD A GUNSHOT RESIDUE, THE MOST SCIENTIFIC  
12 PARTICLE OF LEAD, BARIUM AND ANTIMONY, HOW CAN IT BE THERE?  
13 IF ANY OF YOU HAVE EVER FIRED A GUN, THAT'S EXACTLY WHAT  
14 YOU'VE GOTTEN, TOO, ON YOUR HAND. WOULDN'T THERE BE A LOT  
15 OF BLOOD IF IT HAD TRANSFERRED THE GUNSHOT RESIDUE?

16 LET ME JUST ASK YOU THIS: YOU REMEMBER MR. TOBIAS, AND  
17 I DIDN'T GET HARSH WITH HIM, BUT I DID TRY TO RAISE MY  
18 VOICE. REMEMBER HE DIDN'T WANT TO DO ANYTHING ABOUT IT. HE  
19 WASN'T GOING TO GO CLOSE TO THE BUSINESS ABOUT WHO WAS GOING  
20 THROUGH WHOSE POCKETS. HUH-UH; I DIDN'T SEE THAT. REAL,  
21 REAL TESTY. AND I THOUGHT IT GAVE AWAY A LITTLE BIT ABOUT  
22 BROTHER TOBIAS, JUST I WONDER WHAT HE'S SO SENSITIVE ABOUT.  
23 NO, I DIDN'T SEE THAT. SEE, BEFORE HE WAS VERY CALM, VERY  
24 MATTER OF FACT, VERY EASY, THEN ALL OF A SUDDEN, HE KNEW  
25 THAT WAS A TOUGH FORT HE HAD TO GET AROUND, BECAUSE THEY

1 DIDN'T -- THEY DIDN'T SAY THIS. THE EMS FOLKS SAID IT. I  
2 DIDN'T SEE HIM GOING THROUGH ANYTHING. NO. WONDER WHAT  
3 THAT SAYS TO YOU ABOUT WHAT HE'S TRYING TO COVER UP.

4 NOW, THIS IS THE SAME TROY TOBIAS WHO'S IN THE CAR WITH  
5 ARVELL BAGLEY THE FIRST TIME THAT CHRIS WOODY EVER SEES HIM.  
6 REMEMBER THAT CONVERSATION? IT'S DES TALKING TO ARVELL  
7 ACROSS THE DRIVER OF THE OTHER TWO CARS IN THE OPPOSITE  
8 DIRECTION WHEN THEY STOPPED AT STONE HAVEN. THAT'S TROY  
9 TOBIAS, FOLKS, BUT HE DIDN'T KNOW ANYTHING ABOUT THAT. NO;  
10 HUH-UH. HE'S FROM CHESTER.

11 WHY'S HE SO DEFENSIVE ABOUT MR. GRANT GOING THROUGH THE  
12 POCKETS? WHY WOULD DESMOND CUNNINGHAM, ALL THESE WHY  
13 QUESTIONS, WHY WOULD DESMOND CUNNINGHAM OPEN HIMSELF UP TO  
14 MORE CHARGES AND GET ON THE STAND AND TELL YOU THIS? WHY  
15 WOULD HE OPEN HIMSELF UP TO THAT? A REASONABLE DOUBT AS TO  
16 THE TRUTH OF -- BUT I CAN'T TELL YOU THAT EVERY PART OF THAT  
17 JIVES. I'M NOT GOING TO KID YOU ABOUT THAT. I DON'T KNOW.  
18 BUT IT SURE DOES BRING REASONABLE DOUBT AS TO WHAT HE SAID,  
19 'CAUSE WHAT HE TELLS YOU IS HE'S A VIOLENT MAN, ALWAYS  
20 CARRIES A GUN, BEATING UP ON PEOPLE, AND A DRUG DEALER.

21 WHY WOULD DESMOND SAY THESE THINGS TO OPEN HIMSELF UP?  
22 WHY WOULD HE PUT HIMSELF IN THIS POSITION? DESMOND  
23 CUNNINGHAM, RIGHT HERE IN FRONT OF YOU. HE OPENS HIMSELF UP  
24 TO A PERJURY CHARGE RIGHT THERE, RIGHT IN THAT STAND  
25 YESTERDAY. WHY WOULD HE DO THAT? IS THAT IN HIS BEST

1 INTEREST? IS THAT IN HIS SELF-INTEREST? THINK ABOUT THAT.

2 OH, LET ME TELL YOU ONE MORE THING. REMEMBER CHRISTA  
3 GRAY, VERY ATTRACTIVE YOUNG WOMAN? DIDN'T DESMOND TELL YOU  
4 SOMETHING VERY INTERESTING ABOUT HERE? OH, PARTY GIRL.  
5 ISN'T THAT SOMETHING. SEE, AND SOMETIMES WHEN HE WAS BEING  
6 HIS MONEY MAN, HE WOULD GET SOME OF THE MONEY FROM CHRISTA.  
7 Y'ALL WOULDN'T HAVE KNOWN THAT JUST LOOKING AT HER, JUST A  
8 SWEET, DECENT, NICE AND SHE'S AN M-U, TOO. WHETHER YOU DO  
9 IT DIRECTLY OR YOU DO IT INDIRECTLY, YOU'RE AN M-U, TOO.  
10 YOU CAN BE AN ASSOCIATE MEMBER. OKAY. AND HE WOULD GET  
11 MONEY FROM CHRISTA GRAY. HOW WOULD DESMOND CUNNINGHAM KNOW  
12 TO MAKE THAT UP ABOUT CHRISTA GRAY? HOW WOULD HE KNOW THAT?  
13 BECAUSE IT'S TRUE. 'CAUSE IT'S REAL. 'CAUSE THAT'S THE  
14 SUBSTANCE OF WHAT'S HAPPENING HERE. YOU KNOW, TWO — NOT  
15 ONE T.V., TWO T.V.'S IN A HEADREST AND A THOUSAND DOLLAR  
16 RIMS ON FOUR WHEELS. BOY, THAT'S NOT BAD ON A LANDSCAPER'S  
17 SALARY.

18 CAN WE QUESTION THE M-U MOTIVES? I'M NOT SAYING MS.  
19 BOWDEN IS. I DON'T KNOW. ALL I CAN TELL IS SHE'S FROM DOWN  
20 THAT WAY, KNOWN HIM ALL HER LIFE, LIVES RIGHT ACROSS THE  
21 HALLWAY FROM HIM, FROM HERE TO THERE. SHE'S GOING TO LET  
22 THEM HAVE THEIR PRIVACY.

23 SO I'LL END ON ANOTHER W QUESTION, NOT A WHY QUESTION,  
24 BUT A WHO QUESTION. WHO GOT THE GUN? I DON'T KNOW. I  
25 CAN'T TELL YOU THAT. I WONDER IF THAT'S WHAT MR. GRANT WAS

1 LOOKING FOR OR IF HE WAS LOOKING FOR THE MONEY.

2 FOLKS, YOU HEARD HIS VOICE. HE WAS AN AGGRIEVED FATHER  
3 CONCERNED OVER THE WELL-BEING OF HIS SON. YOU HEARD IT,  
4 911, COME ON, COME ON, COME ON. AND WE CAN'T MAKE THIS UP,  
5 'CAUSE MR. JOHNSON SAID HE WAS TRYING TO FIND SOMETHING IN  
6 HIS SON'S POCKETS. FOLKS, I DON'T KNOW WHAT THAT WAS. I'M  
7 NOT LOOKING FOR, YOU KNOW, ANYTHING ELSE. REASONABLE DOUBT,  
8 MR. SOLICITOR?

9 YOU CAN TELL I'M THROUGH. MY TIME FOR CHRIS IS OVER.  
10 AIN'T ANYTHING ELSE I CAN SAY FOR HIM. MARY IS NOT WITH US  
11 TODAY, MY LAW CLERK. SHE'S GRADUATING FROM LAW SCHOOL JUST  
12 RIGHT NOW, RIGHT AT THIS TIME. COULDN'T BE HERE. SO I'M  
13 GOING TO -- I'VE DONE EVERYTHING I CAN DO FOR HIM. MY TIME  
14 IS THROUGH AND IN THE SAME WAY THAT MY TIME IS THROUGH, YOUR  
15 TIME -- IT'S SORT OF THE ACTIVE TIME FOR YOU NOW BEGINS,  
16 'CAUSE YOU'LL GO BACK IN YOUR ROOM AFTER THE SOLICITOR AND  
17 AFTER THE JUDGE AND YOU'LL START YOUR DELIBERATIONS.

18 PUT UP ON THAT BLACKBOARD REASONABLE DOUBT. SEE HOW  
19 YOU FEEL ABOUT THIS CASE. HOW DOES IT HIT YOU IN THE GUT?  
20 HUH? WHAT DO YOU THINK? YOU SATISFIED? GOT A QUESTION?  
21 FEEL GOOD ABOUT IT, DO YOU? OH, YEAH, NO, THERE'S NO  
22 QUESTION ABOUT IT. I COULD HAVE BEEN KILLED. THANK YOU.  
23 THANK YOU, YOUR HONOR. I'LL TAKE THIS DOWN.

24 MR. THOMPSON: PLEASE THE COURT, YOUR HONOR.

25 THE COURT: SOLICITOR.

1 MR. THOMPSON: LET'S JUST CUT TO THE CHASE. LET'S JUST  
 2 GET RIGHT DOWN TO THE FACTS. LET'S GET TO WHAT IT ALL BOILS  
 3 DOWN TO. IN ORDER TO BELIEVE THE DEFENSE AND WHAT THEY'VE  
 4 PUT UP, EVERYTHING THEY SAY RESTS ON DESMOND CAMPBELL.  
 5 DESMOND CAMPBELL. YOU HAVE TO BELIEVE EVERYTHING DESMOND  
 6 CAMPBELL SAYS TO BELIEVE THEIR OPINION, BUT LET'S CUT TO THE  
 7 CHASE, LIKE WHEN YOU WERE A KID AND SOMETIMES YOU THOUGHT  
 8 ABOUT THINGS AND MADE THINGS UP AND WHEN YOU PLAY WITH YOUR  
 9 KIDS AND YOU MAKE THINGS UP. LET'S PRETEND TODAY. LET'S  
 10 PRETEND EVERYTHING MR. DELGADO SAYS IS TRUE. LET'S PRETEND  
 11 EVERYTHING THAT DESMOND CAMPBELL SAID ON THAT STAND  
 12 YESTERDAY IS TRUE. CHRISTOPHER WOODY IS STILL GUILTY OF  
 13 MURDER. EVEN IF YOU BELIEVE EVERYTHING THEY'VE SAID, HE IS  
 14 STILL GUILTY OF MURDER.

15 LET'S LOOK AT SELF-DEFENSE AS HE DESCRIBED IT TO YOU  
 16 AND THE JUDGE WILL DESCRIBE IT TO YOU AND LET'S START OUT  
 17 WITH THAT FIRST ELEMENT, THE DEFENDANT NOT AT FAULT IN  
 18 BRINGING ON THE DIFFICULTY. EVEN IF YOU BELIEVE WHAT THEY  
 19 SAY, AND LET'S LOOK AT THAT, THEY STOP THE CAR UP AT THE  
 20 OTHER SIDE OF THE PARKING LOT. NOW, REMEMBER, MOMENTS  
 21 EARLIER THEY SAID THEY HAD DRIVEN AROUND AND ACTUALLY  
 22 STOPPED IN FRONT OF THE APARTMENT, THAT DEBREZIO WENT UP AND  
 23 HE TALKED TO TROY, THAT HE WENT UP THE STEPS AND TALKED TO  
 24 TROY. THAT'S INTERESTING SINCE THEY LIVE IN A BOTTOM  
 25 APARTMENT AND YOU CAN'T SEE THE STEPS FROM ANY OF THOSE

1 PICTURES. WHERE HE WOULD HAVE BEEN, YOU'LL SEE IT ALL THE  
2 PICTURES, YOU CAN'T SEE ANY STEPS. SO HOW IS IT THAT HE  
3 WENT UP THE STEPS TO TALK TO TROY? BUT THEY DROVE AROUND  
4 JUST A FEW MINUTES EARLIER AND THEN THEY DROVE BACK OUT.  
5 NOW, THAT'S INTERESTING, BECAUSE NOW HE SAYS WHEN THEY COME  
6 BACK A SECOND TIME THEY PARK AT THE TOP. WELL, WHY WOULD  
7 THEY DO THAT, PARK AT THE TOP? BECAUSE THEY JUST DROVE DOWN  
8 BEFORE.

9 HE SAID THEY WEREN'T SCARED OF ARVELL BAGLEY OR  
10 DARRELL. HE WAS HIS BOOKKEEPER. HE WAS HIS RIGHT-HAND MAN.  
11 COULDN'T RUN HIS BUSINESS WITHOUT HIM UNLESS HE DIDN'T KNOW  
12 WHERE HE LIVED. THAT WAS THE FIRST TIME HE'D EVER ACTUALLY  
13 BEEN THERE. COULDN'T FIGURE OUT WHICH APARTMENT IT WAS.  
14 HE'S HIS RIGHT-HAND MAN. HE DEALS DRUGS FOR HIM IN LARGE  
15 QUANTITIES, BUT THE SECOND TIME THEY STOPPED WHERE? HERE?  
16 THEY DON'T COME DOWN, 'CAUSE THEY KNOW HE'S HERE NOW. THEY  
17 SAW HIM. THEY MADE A U-TURN. THEY CAME AROUND TO SEE HIM.  
18 SO WHY WOULDN'T YOU JUST DRIVE DOWN TO HIM? HEY, MY MAN,  
19 HOW YOU DOING? HEY, GOT SOMETHING FOR YOU. BUT, NO, THEY  
20 STOPPED RIGHT THERE. THEN WHAT DID THEY HAVE TO DO?  
21 CHRISTOPHER WOODY, WHO IN HIS STATEMENT CLAIMS THAT HE WAS  
22 SO DRUNK HE COULDN'T DRIVE. HE WAS SITTING IN THE BACK, HAS  
23 TO SOMEHOW REACH UP INTO THE FRONT OF THE CAR BEFORE HE GETS  
24 OUT AND GRAB HIS GUN, BUT HE DOESN'T KEEP THE MAGAZINE IN IT  
25 ACCORDING TO DESMOND CAMPBELL. BOOM, HE HAS TO CLIP THAT

1 CLIP THAT WASN'T EVEN IN IT. YOU HEARD -- YOU REMEMBER THE  
2 TESTIMONY. YOU USE YOUR COMMON SENSE. PEOPLE WITH GUNS;  
3 THEN YOU'VE GOT TO RACK IT TO GET THAT BULLET IN THE  
4 CHAMBER. SO HE GOES DOWN READY. NOT JUST HIM, BUT  
5 DEBREZIO, TOO. HIS GUN'S LOADED, IT'S RACKED, IT'S READY.  
6 HE'S READY TO KILL A MAN.

7 WHO HAS THE GUNS HERE? THIS MAN AND HIS BUDDY HAD THE  
8 GUNS. THE MUSCLE OVER HERE, BECAUSE EITHER WAY YOU LOOK AT  
9 IT, HE'S EITHER THE MUSCLE THAT DAY, IF YOU BELIEVE WHAT  
10 DESMOND CAMPBELL SAID, OR EVEN IF YOU DON'T BELIEVE WHAT  
11 DESMOND CAMPBELL SAID AND YOU GO ALONG WITH WHAT REALLY  
12 HAPPENED, HE'S STILL THE MUSCLE. HE'S A BIG GUY THEY  
13 BROUGHT INTO THIS, 'CAUSE THEY WANTED TO GET HIM.

14 THEN THEY GO DOWN AND WHAT MR. DELGADO FAILED TO  
15 MENTION TO YOU WAS THAT PART OF MR. CAMPBELL'S TESTIMONY  
16 WHEN HE SAID THEY TOLD ME THEY THREW THE MONEY -- THAT HE  
17 THREW THE MONEY AT HIM AND THAT'S WHEN HE SAID THAT DEBREZIO  
18 THEN STARTED GOING AT DARRELL TO FIGHT HIM AND THAT'S WHEN  
19 THEY SAID THEY SAW REACHING AND AT THAT POINT, REMEMBER,  
20 WELL, I BOW TO PICK UP MY MONEY, I GUESS, BUT THEN SOMEHOW  
21 I'M ABLE TO GET MY GUN OUT REAL QUICK AND BEAT HIM ON THE  
22 DRAW AND NOT JUST ME, BUT WOODY DID, TOO, AND THEN I'M  
23 RUNNING BACKWARDS NOT LOOKING, AS HE SAID, SHOOTING.

24 YOU SAW WHERE THE SHELL CASINGS WERE. DOES THAT MAKE  
25 SENSE? THAT HE GOT FORTY-SOME FEET AWAY FROM HIM BEFORE HE

1 STARTED SHOOTING? AND SOMEHOW THIS GUY WHO HAD THE DROP ON  
2 HIM DIDN'T GET ONE SHOT OFF. DOESN'T MAKE ANY SENSE. BUT  
3 EVEN IF THAT WERE TRUE, THE DEFENDANT CANNOT BE AT FAULT IN  
4 BRINGING ON THE DIFFICULTY. THE FACT THAT HE'S ATTACKING  
5 ARVELL BAGLEY AT THAT TIME, REMEMBER, THE DEFENDANT'S NOT  
6 THE ONLY ONE ENTITLED TO THE RIGHT TO SELF-DEFENSE. ARVELL  
7 DARRELL BAGLEY IS ENTITLED TO THE RIGHT TO SELF-DEFENSE. IF  
8 WHAT HE SAYS IS TRUE, THEN, ARVELL DARRELL BAGLEY HAD THE  
9 REASONS, HE HAD THE IDEA. HE DIDN'T BRING ON THE  
10 DIFFICULTY. HE WAS JUST COMING HOME. THESE TWO GUYS WITH  
11 THE GUNS, THIS BIG GUY OVER HERE THAT HE DOESN'T EVEN KNOW  
12 AND THEY'RE COMING AT HIM NOW AND THEY'RE GOING TO FIGHT  
13 HIM? SO EVEN IF WHAT THEY SAY IS TRUE AND THERE'S SOME  
14 MAGIC GUN THAT APPEARS ON ARVELL BAGLEY, THEY'RE STILL  
15 GUILTY OF MURDER. THEY BROUGHT ON THE DIFFICULTY. THEY'RE  
16 THE ONES WHO STARTED IT. THEY'RE THE ONES WHO WENT THERE  
17 LOADED FOR BEAR.

18 ONE OTHER THING, THE AND. ALL FOUR OF THESE ELEMENTS  
19 OF SELF-DEFENSE MUST BE FOUND IN ORDER FOR SELF-DEFENSE TO  
20 EXIST. YOU CAN'T JUST HAVE ONE, YOU CAN'T JUST HAVE TWO,  
21 YOU CAN'T JUST HAVE THREE. YOU HAVE TO HAVE ALL FOUR  
22 ELEMENTS OF SELF-DEFENSE TO SHOW THAT SELF-DEFENSE IS VALID.  
23 SO EVERY ONE OF THESE MUST EXIST. SO AND THE DEFENDANT  
24 ACTUALLY BELIEVED HE WAS IN DANGER OF SERIOUS BODILY INJURY  
25 OR LOSING LIFE, AND A REASONABLE BELIEF -- A REASONABLE

1 PERSON WOULD HAVE HAD THE SAME BELIEF, AND THERE'S NO OTHER  
 2 PROBABLE MEANS OF AVOIDING THE DANGER. THAT'S OFTEN  
 3 REFERRED TO AS A DUTY TO RETREAT. IN OTHER WORDS, IF  
 4 THERE'S SOMETHING ELSE YOU CAN DO OTHER THAN KILLING A MAN,  
 5 YOU HAVE A DUTY TO DO THAT. THERE WERE MANY THINGS THEY  
 6 COULD HAVE DONE OTHER THAN KILLING A MAN, BUT ONE THING THEY  
 7 WENT THERE LOADED FOR BEAR. THAT WAS THEIR INTENT WAS  
 8 KILLING A MAN. BUT HE COULD HAVE CALLED, BUT THEN HE SAYS,  
 9 OH, WELL, WE DON'T REALLY CALL HIM. HE'S HIS RIGHT-HAND  
 10 MAN; HE KEEPS ALL THE BOOKS. HE'S THE MONEY SUPPLY  
 11 SUPPOSEDLY FOR THIS DRUG CARTEL FROM CHESTER AND HE DOESN'T  
 12 KNOW HOW TO GET IN CONTACT WITH THE MAN UNLESS HE GOES TO  
 13 HIS GIRLFRIEND'S HOUSE. THAT'S RIDICULOUS.

14 DID YOU HEAR MR. DELGADO ASK ANY QUESTIONS FROM THOSE  
 15 WITNESSES WHO WERE ON THE STAND THE FIRST DAY THAT WE  
 16 PRESENTED? DID HE ASK CHRISTA? DID HE TALK TO HER ABOUT  
 17 ANYTHING LIKE THAT? NO. HE DIDN'T ASK HER QUESTIONS ABOUT  
 18 THAT. DID HE TALK TO ANYONE ELSE? NO. BECAUSE HE COULD  
 19 ONLY FABRICATE THIS WITH ONE PERSON AND THAT WAS MR.  
 20 CAMPBELL. AND REMEMBER MR. CAMPBELL? HE HAS EVERY REASON  
 21 IN THE WORLD TO LIE TO YOU.

22 HE GAVE A STATEMENT TO THE POLICE THAT WAS NOTHING  
 23 LIKE WHAT HE SAID ON THE STAND. HE GAVE THAT STATEMENT  
 24 IMMEDIATELY AFTERWARDS. THAT STATEMENT IS ACTUALLY VERY  
 25 SIMILAR TO THE STATEMENT THAT CHRISTOPHER WOODY GAVE TO THE

1 POLICE TWO DAYS AFTER HIS ARREST. NOW, ISN'T THAT  
2 INTERESTING?

3 IN THAT STATEMENT THEY DON'T MENTION ANYTHING ABOUT  
4 SELF-DEFENSE, ABOUT SOMEHOW PHYSICAL -- 'CAUSE HE WAS --  
5 THEY'D BEEN CHARGED WITH MURDER. GOD FORBID YOU TELL THE  
6 TRUTH AND LET THEM KNOW IT WAS IN SELF-DEFENSE. THEY WAIT  
7 'TIL NOW A WEEK BEFORE THE TRIAL, THE FIRST TIME THEY LET  
8 THE PROSECUTION KNOW THAT THAT'S THE STORY HE'S GOING TO  
9 WEAVE NOW. NOW, NOW IS WHEN THEY WAIT. NOW IS WHEN HE HAS  
10 THE IDEA. NOW IS WHEN HIS MOTIVE IS TO SAY IF I CAN GET  
11 WOODY OFF, THEN I CAN'T BE GUILTY OF ACCESSORY AFTER THE  
12 FACT, 'CAUSE THERE'S NO MURDER AND THERE'S NOTHING TO BE  
13 GUILTY OF ACCESSORY TO. SO HE COMES IN HERE AND WEAVES THIS  
14 GRAND STORY AND YOU DON'T HAVE TO BELIEVE HIM, IF YOU WERE  
15 TO BELIEVE THE DEFENSE'S CASE AT ALL, WEAVES THIS GRAND  
16 STORY HOW HE SWORE TO THE TRUTH, NOT JUST WHEN HE GAVE THE  
17 STATEMENT, BUT WHEN HE STOOD HERE BEFORE THE COURT AND TOLD  
18 THE COURT THAT STATEMENT WAS TRUE, WHEN HE AGREED TO THE  
19 FACTS, THE FACTS THAT WERE PRESENTED BY THE STATE AT THE  
20 PLEA AGREEMENT. HE AGREED TO IT. HE SAID THAT'S CORRECT.  
21 YES, YOUR HONOR, I AM GUILTY. I AM PLEADING GUILTY OF MY  
22 OWN FREE WILL AND NOW HE'S TELLING I HAD NO CHOICE. I HAD  
23 NO CHOICE; I HAD NO CHOICE. HE HAD HIS LAWYER, HE HAD EVERY  
24 CHANCE AND NOW HE'S HAD THE TIME TO MAKE UP A WAY TO TRY AND  
25 GET OUT OF IT. HE'S MAD. HE GOT THAT FULL FIFTEEN AND HE

1 DOESN'T LIKE IT. HE'S LYING TO YOU. HE'S LYING TO YOU.

2       THERE IS NO SELF-DEFENSE. THERE IS NONE. THERE IS NO  
3 SELF-DEFENSE FOR CHRISTOPHER WOODY. LET ME TELL YOU ANOTHER  
4 INTERESTING THING ABOUT THAT. IF I WERE IN CONCERT WITH THE  
5 COURT REPORTER AND DECIDED I WANTED TO TAKE OUT MR. POPE, I  
6 CAN'T COME TO MR. POPE, START A FIGHT WITH HIM TO THE POINT  
7 THAT HE HAS TO PULL A WEAPON ON ME. SHE'S IN CONCERT WITH  
8 ME AND SHE TAKES A GUN AND SHOTS HIM. THAT'S NOT SELF-  
9 DEFENSE FOR HER AND IT'S NOT SELF-DEFENSE FOR ME, BECAUSE  
10 I'M BRINGING ON THE DIFFICULTY. I'M CAUSING THIS TO HAPPEN.  
11 I'M AT FAULT FOR STARTING IT.

12       HERE'S THE CAR THEY WERE IN. NOW, YOU WANT TO THINK --  
13 YOU SEE THOSE WHEELS ON THAT CAR AND EVERY CAR HAS FOUR  
14 WHEELS ON IT, THINK OF THAT FOR SELF-DEFENSE. THERE ARE  
15 FOUR MAIN ELEMENTS. IF YOU TAKE AWAY ONE OF THOSE ELEMENTS  
16 OR ONE OF THOSE WHEELS, YOU CAN'T GET AWAY. THERE'S MORE  
17 THAN ONE OF THOSE WHEELS THAT COULD BE TAKEN AWAY. IF YOU  
18 LOOK AT THE FACTS AND YOU LOOK AT THE CASE, THE CAR'S  
19 STRIPPED OF ITS WHEELS WHEN IT COMES DOWN TO IT IN LEGAL  
20 TERMS. YOU CAN'T MOVE IT. THEY CAN'T GET AWAY.

21       WHO'S ON FIRST? MANY OF YOU MAY HAVE HEARD THE OLD  
22 ABBOTT AND COSTELLO ROUTINE WHO'S ON FIRST AND THEY TALK  
23 ABOUT WHO'S ON FIRST, WHAT'S ON SECOND, I DON'T KNOW'S ON  
24 THIRD AND THEY KEEP GOING BACK AND FORTH AND BACK AND FORTH,  
25 WELL, THAT'S THE KIND OF DEFENSE WE HAVE TODAY, BUT WE CAN

1 CALL IT WHO'S ON TRIAL, BECAUSE THEY'RE TRYING TO DIVERT  
2 YOUR ATTENTION FROM THE FACTS. THEY DON'T WANT TO LET YOU  
3 KNOW WHO'S TRULY ON TRIAL. THEY'RE THROWING OUT ARVELL  
4 BAGLEY; IT'S DARRELL. HE'S THE ONE ON TRIAL. HE'S ON  
5 FIRST, HE'S ON SECOND, HE'S ON THIRD AND HE'S PLAYING THE  
6 OUTFIELD, TOO. THEY'RE POINTING TO EVERYTHING ELSE EXCEPT  
7 WHAT HAPPENED RIGHT HERE. 'CAUSE REMEMBER, ANOTHER PART OF  
8 SELF-DEFENSE, CHRISTOPHER WOODY WOULD HAVE HAD TO HAVE KNOWN  
9 SOME OF THESE THINGS.

10 HE TALKS ABOUT ARVELL BAGLEY BEING A DANGEROUS MAN.  
11 WHO WAS THE PERSON WHO SAID THAT? OH, THAT WAS MR.  
12 CAMPBELL, THE ONE WHO'S TRYING TO GET OUT OF HIS CHARGES,  
13 TOO, HIS BUDDY, THE ONE WHO'S TRYING TO HELP HIM NOW, THE  
14 ONE WHO GIVES THIS STORY FOR THE FIRST TIME WITHIN THE LAST  
15 WEEK AND A HALF. THAT'S WHERE YOU'RE HEARING THIS FROM.

16 WHAT DOES HE ACTUALLY KNOW? HE SAYS IN HIS STATEMENT  
17 HE DIDN'T EVEN KNOW ARVELL BAGLEY, SO HOW DOES HE KNOW THIS  
18 MAN'S REPUTATION? HOW DOES HE KNOW? FROM WHAT MR. CAMPBELL  
19 SAID ON THE STAND? BUT IF THIS IS THE CASE, HE SHOULD HAVE  
20 BEEN MORE AFRAID OF THE CAMPBELL BROTHERS THAN HE SHOULD  
21 HAVE BEEN AFRAID OF ARVELL BAGLEY. CHRISTOPHER WOODY'S ON  
22 TRIAL. MAKE NO MISTAKE ABOUT IT. CHRISTOPHER WOODY'S  
23 GUILTY OF MURDER. HE'S THE ONE YOU HAVE TO CONSIDER TODAY.

24 WHO ARE THE REAL BAD BOYS? AT THE END OF THE STATEMENT  
25 HE THROWS IN A LINE THAT I HEARD HE WAS -- THEY TOLD ME HE

1 WAS A DRUG DEALER AND HAD BAD BOYS. WHO ARE THE REAL BAD  
2 BOYS? WELL, WE KNOW WHO THEY ARE, THE CHRISTOPHER WOODY,  
3 THE DEBREZIO CAMPBELL, AND THE DESMOND CAMPBELL.

4 ONCE AGAIN, IF YOU BELIEVE WHAT DESMOND CAMPBELL SAYS,  
5 THEY TRULY ARE BAD BOYS, BUT THEN YOU GET TO THE REAL -- TO  
6 THE REAL FACTS, THE EVIDENCE THAT WE HAVE BEFORE US THAT'S  
7 REAL, THE THINGS WE HAVE IN FRONT OF US THAT WE CAN TOUCH  
8 AND SEE, THE THINGS WE HAVE FORENSIC EVIDENCE FOR. WHAT ARE  
9 THOSE THINGS? THESE WEAPONS, THE BULLETS OUT OF THE  
10 VICTIM'S BODY, THE SHELL CASINGS, ALL COMING BACK TO THESE  
11 WEAPONS. SO WHO ARE THE REAL BAD BOYS? THEY ARE. FOR THE  
12 NIGHT AND THE TIME PERIOD THAT WE'RE LOOKING IN, THEY'RE THE  
13 BAD BOYS. THEY'RE THE ONES COMING IN. THEY'RE THE ONES  
14 CATCHING HIM. THEY'RE THE ONES GETTING HIM.

15 NOW, MR. POPE WENT OVER THIS BRIEFLY AT THE BEGINNING  
16 AND THE JUDGE WILL CHARGE YOU AGAIN, BUT I WANT TO MAKE THIS  
17 IMPRESSED ON YOU AS TO THE LAW AND HOW WE'RE GOING TO -- HOW  
18 I'D ASK YOU TO APPLY IT TO THIS DEFENDANT AND THE FACTS IN  
19 THIS CASE.

20 MURDER IS THE UNLAWFUL KILLING OF ANOTHER WITH MALICE  
21 AFORETHOUGHT. WHAT IS MALICE? THE JUDGE WILL INSTRUCT YOU  
22 ON THAT, BUT I WANT YOU TO KNOW MALICE AFORETHOUGHT DOESN'T  
23 MEAN THEY HAD TO HAVE SOME GRAND SCHEME OR PLAN. IT DOESN'T  
24 MEAN THAT THEY HAD TO PLAN THIS OUT DAYS IN ADVANCE. IT  
25 DOESN'T MEAN THAT THEY HAD TO INTEND WHEN THEY RAN DOWN THE

1 HILL TO KILL. MALICE CAN BE FORMED AT THE INSTANT JUST  
2 BEFORE HE PULLED THE TRIGGER.

3 THEY COULD HAVE GONE THERE THAT DAY TRULY MEANING JUST  
4 TO KICK HIS REAR END, BUT THEN THEY PULLED A GUN AND START  
5 SHOOTING. MALICE FORMS RIGHT WHEN THEY DECIDE TO FIRE THOSE  
6 SHOTS. MALICE CAN BE INFERRED BY THE USE OF A DEADLY  
7 WEAPON. YOU'VE GOT TWO. IT CAN BE INFERRED BY OTHER FACTS  
8 AND CIRCUMSTANCES, THE FACT THAT THERE'S TWO PEOPLE COMING  
9 DOWN HERE. I'LL GO OVER THAT MORE LATER, BUT THAT'S THE  
10 BASIC PART OF MURDER.

11 CONSPIRACY. THAT'S UNITING, COMBINING WITH SOMEONE  
12 ELSE, ONE OR MORE PEOPLE, WE HAVE THREE HERE, FOR THE  
13 PURPOSE OF COMMITTING AN UNLAWFUL ACT, IN THIS CASE IT WOULD  
14 BE MURDER. HOW DO YOU FIGURE OUT CONSPIRACY? WELL, YOU  
15 LOOK, YOU LOOK AT WHAT THE FACTS ARE, YOU LOOK AT THE  
16 EVIDENCE AND SEEING AS THEY COME IN TOGETHER OR AS THEY  
17 PERFORM ANYTHING TOGETHER AND I'LL GO OVER THAT A LITTLE  
18 MORE RIGHT IN THE END, BUT THAT'S BASICALLY CONSPIRACY.

19 THE POSSESSION OF A FIREARM IN THE COMMISSION OF A  
20 VIOLENT CRIME. WELL, IF YOU FIND HIM GUILTY OF MURDER AND  
21 THEY POSSESSED THESE, THEY'RE GUILTY OF THAT CHARGE. IT'S  
22 THAT SIMPLE. IF YOU DON'T FIND HIM GUILTY OF MURDER, THEN  
23 YOU CAN'T CONVICT HIM OF THAT CHARGE, BECAUSE HE DID NOT  
24 COMMIT A VIOLENT CRIME. BUT I SUBMIT TO YOU THAT WOULD BE  
25 THE EASIEST CHOICE OF ALL IN DECIDING THIS CASE.

1 UNLAWFUL CARRYING. THE DEFENSE HAS ALREADY SAID HE'S  
2 GUILTY OF THAT AND THAT'S ONE POINT I AGREE.

3 NOW, THE HAND OF ONE IS THE HAND OF ALL. THAT'S A  
4 CONCEPT UNDER THE LAW THAT WHEN ONE -- WHEN PEOPLE ARE  
5 ACTING TOGETHER IN CONCERT, WHEN ONE PERSON DOES SOMETHING,  
6 IT'S ATTRIBUTABLE TO ALL. SO THAT IF EVEN IF CHRISTOPHER  
7 WOODY DIDN'T HAVE THE .45 AND SHOOT HIM IN THE BACK THREE  
8 TIMES, THE FACT THAT HE WENT WITH DEBREZIO DOWN TO FIGHT HIM  
9 OR TO KILL HIM IS ENOUGH, BECAUSE MR. DEBREZIO'S ACTS CAN BE  
10 ATTRIBUTED TO MR. WOODY AND LIKewise MR. WOODY'S ACTS CAN BE  
11 ATTRIBUTED TO DEBREZIO CAMPBELL, BECAUSE THE HAND OF ONE IS  
12 THE HAND OF ALL.

13 VOLUNTARY INTOXICATION IS NOT A DEFENSE. YOU CAN'T SAY  
14 THAT I WAS DRUNK AND HIGH, I DIDN'T MEAN TO DO IT. YOU  
15 CAN'T SAY THAT I WAS DRUNK AND HIGH, I WASN'T THINKING  
16 STRAIGHT. YOU CAN'T USE THAT AS A DEFENSE. IT IS NOT A  
17 DEFENSE IN SOUTH CAROLINA. YOU CANNOT CONSIDER THE FACT  
18 THAT THEY WERE INTOXICATED TO ALLOW THEM TO GET AWAY WITH A  
19 CRIME.

20 PROOF BEYOND A REASONABLE DOUBT. NOW, MR. DELGADO  
21 WANTED TO TELL YOU THAT A REASONABLE DOUBT IS A DOUBT THAT  
22 CAUSES A PERSON TO HESITATE TO ACT AND THAT'S TRUE, BUT  
23 THERE'S A MUCH LARGER DEFINITION THAT THE JUDGE WILL GIVE  
24 YOU, BUT DON'T CONFUSE DELIBERATIONS IN THE JURY ROOM,  
25 DISCUSSING THE CASE, TALKING ABOUT THE EVIDENCE, GOING OVER

1 EACH PIECE OF EVIDENCE, HAVING DISCUSSIONS AS TO WHAT  
2 HAPPENED, WHAT YOU THINK IS THE RIGHT THING, DON'T CONFUSE  
3 THAT WITH REASONABLE DOUBT. THAT IS JURY DELIBERATIONS.  
4 THAT'S YOUR JOB. SOMETIMES DELIBERATIONS CAN TAKE A LONG  
5 TIME. THAT DOESN'T AMOUNT TO REASONABLE DOUBT. THAT  
6 AMOUNTS TO THOROUGHLY GOING OVER THE EVIDENCE, SO DON'T  
7 CONFUSE THE TWO.

8 THERE'S A STORY I LIKE TO TELL ABOUT REASONABLE DOUBT  
9 THAT I THINK IS VERY HELPFUL IN UNDERSTANDING KIND OF WHAT  
10 IT MEANS. IT'S A BRIEF STORY. THERE'S A MAN WHO WORKS IN  
11 AN OFFICE COMPLEX. HIS OFFICE, THOUGH, IS IN THE MIDDLE OF  
12 A BIG BUILDING. IT DOESN'T HAVE ANY WINDOWS, ONLY GOT THE  
13 ONE DOOR OUT. HE CAN'T SEE A WINDOW THROUGH THAT DOOR.  
14 THERE'S CUBICLES ALL AROUND HIM. HE CAN'T SEE OUTSIDE AND  
15 WHAT'S GOING ON, BUT HE CAN SEE OVER TO THE OTHER CUBICLE  
16 NEXT TO HIM WHERE ONE OF HIS OFFICE MATES WORKS. AND THAT  
17 FELLOW COMES IN AND -- HE COMES IN, THEY'VE WORKED ALL  
18 MORNING. WHEN THEY CAME IN, HE WAS OUTSIDE AND SAW IT WAS A  
19 LITTLE CLOUDY. HE HADN'T PAID ATTENTION TO THE FORECAST.  
20 IT WAS LITTLE CLOUDY WHEN HE CAME IN. HIS BUDDY -- HE'S  
21 WORKING HARD, HIS BUDDY'S WORKING HARD. THEY'VE BEEN  
22 WORKING HARD AND THEY REALLY HAVEN'T TAKEN A BREAK. COMES  
23 LUNCH TIME HIS BUDDY SAYS, HEY, I'M GOING TO RUN OUT AND GET  
24 SOMETHING TO EAT. YOU WANT SOMETHING? HE'S LIKE, NO, I GOT  
25 A LOT OF WORK TO DO. I BROUGHT SOMETHING. I'M GOING TO SIT

1 RIGHT HERE AND EAT. SO HE SITS THERE AND HE PULLS OUT HIS  
2 SANDWICH AND HE'S STILL WORKING. HASN'T GOTTEN UP, HASN'T  
3 GONE TO LOOK AT ANYTHING, BUT HE HEARS A LITTLE BIT OF  
4 RUMBLING AND IT SOUNDS LIKE THUNDER. HE'S NOT SURE. A  
5 LITTLE BIT LATER HIS BUDDY COMES BACK IN WEARING A RAIN  
6 COAT, GOT AN UMBRELLA. HE'S GOT A BAG FROM HARDEE'S AND HE  
7 CAN SEE THAT THERE'S WATER ALL OVER HIM, LITTLE DROPS DOWN  
8 HIS RAIN COAT, DROPS ONTO HIS LEGS. HIS SHOES LOOK WET, HIS  
9 ARMS, LITTLE DROPS. HIS BAG'S GOT LITTLE DROPS ALL OVER IT.  
10 HIS UMBRELLA'S A LITTLE WET AND HE'S SHAKING IT A LITTLE BIT  
11 BEFORE HE SITS IT DOWN. WHAT DO WE KNOW BEYOND A REASONABLE  
12 DOUBT HAS HAPPENED OUTSIDE WHILE YOUR FRIEND WAS OUTSIDE?

13 WELL, WE KNOW IT'S RAINING AND WE KNOW THAT. THERE'S  
14 NO OTHER REASONABLE EXPLANATION. ARE THERE OTHER  
15 EXPLANATIONS? CERTAINLY. HE COULD HAVE GONE TO THE  
16 BATHROOM, TAKEN WATER AND SPLASHED IT ON HIMSELF, SPLASHED  
17 IT ON HIS BAG AND ON HIS UMBRELLA AND ON HIS SHOES. HE  
18 COULD HAVE DONE THAT. HE COULD HAVE GONE TO THE WATER  
19 FOUNTAIN AND DONE THE SAME. HE COULD HAVE GONE TO THE HOSE  
20 OUTSIDE. HE COULD HAVE RUN UNDER A SPRINKLER. NONE OF  
21 THOSE ARE REASONABLE. NONE OF THOSE ARE REASONABLE. SO WE  
22 KNOW BEYOND A REASONABLE DOUBT THAT IT HAS RAINED OUTSIDE.  
23 REMEMBER THE RUMBLING? THAT COULD HAVE BEEN A TRUCK, BUT IT  
24 SOUNDED LIKE THUNDER. HE SAW CLOUDS EARLIER ON. ALL THIS  
25 EVIDENCE CAME TOGETHER SO HE COULD REASONABLY DEDUCE WITH

1 CERTAINTY THAT IT'S RAINING OUTSIDE AND I SUBMIT TO YOU IN  
2 THIS CASE YOU HAVE MUCH MORE THAN THAT. YOU'VE GOT A HUGE  
3 WINDOW TO WATCH THE ACTION WITH. YOU CAN ACTUALLY LOOK  
4 OUTSIDE AND SEE IT ALL. IT'S ALMOST LIKE HAVING IT ON  
5 VIDEOTAPE.

6 LET'S TALK ABOUT THE DEFENDANTS' STATEMENTS TO THE ROCK  
7 HILL POLICE DEPARTMENT. THEY EACH GAVE ONE. LET'S GO OVER  
8 MR. WOODY'S STATEMENT, AND THIS IS UNCONTROVERTED. THIS IS  
9 HE STATEMENT HE GAVE, THE ONE HERE BY CHRISTOPHER WOODY.  
10 YOU'LL HAVE IT IN EVIDENCE WITH YOU. START FROM THE  
11 BEGINNING TALKING ABOUT DRINKING LIQUOR, HOW THEY WERE OUT  
12 TOGETHER. HE TALKED ABOUT HOW ULTIMATELY THEY WERE AT STONE  
13 HAVEN APARTMENTS AND GUESS WHAT, JUST LIKE CHRISTA GRAY  
14 SAYS, THEY WERE AT STONE HAVEN APARTMENTS, THE THREE OF THEM  
15 AND THAT DESMOND HAD SOME GIRL THERE AND REMEMBER SHE  
16 DESCRIBED WHAT THEY WERE WEARING, HOW CHRISTOPHER WOODY WAS  
17 WEARING A RED T-SHIRT, HOW DEBREZIO CAMPBELL WAS WEARING A  
18 BLACK T-SHIRT, HOW DESMOND WAS WEARING WHAT SHE CALLED A  
19 WIFE BEATER, YOU KNOW, THE WHITE TANK-TOP T-SHIRT. YOU SEE  
20 THE PICTURES OF DEBREZIO AND DESMOND -- I'M SORRY --  
21 DEBREZIO AND WOODY WHEN THEY'RE ARRESTED, THAT'S EXACTLY  
22 WHAT THEY'RE WEARING. SO FAR THE STATEMENT SEEMS ACCURATE.  
23 THEN HE GOES ON TO SAY HE WAS TOO DRUNK TO DRIVE. HE  
24 WAS TOO DRUNK TO DRIVE. SO EITHER DESMOND OR DEBREZIO  
25 DROVE. I DON'T KNOW WHICH ONE. I GOT IN THE BACK SEAT. I

1 DON'T REMEMBER GETTING IN OR OUT OF THE CAR.

2 NOW, THAT'S INTERESTING THAT HE'S SO DRUNK HE CAN'T  
3 DRIVE AND I FIND THAT INTERESTING BECAUSE SOMEHOW HE'S SO  
4 DRUNK THAT HE CAN'T DRIVE, BUT HE IS NOT TOO DRUNK TO TAKE  
5 THIS .45 CALIBER WEAPON, SHOOT THREE SHOTS, HIT HIS TARGET  
6 EACH TIME AND SHOOT HIM IN THE BACK, FROM BEHIND.

7 HE GOES ON TO SAY 'BREZIO STATED THERE GOES THAT NIGGER  
8 THAT SNUCKED ME. I HAD MY GUN IN MY PANTS POCKET. IT WAS A  
9 .45 AUTO. WHOEVER WAS DRIVING DID A U-TURN AND THEN WE GOT  
10 OUT OF THE CAR AND ALL I SAW WAS THAT — WAS THIS NIGGER  
11 REACHING AND PULLING OUT. SO HE'S SAYING IT HAPPENED  
12 INSTANTANEOUS. WHAT DID DESMOND SAY YESTERDAY? IT WAS  
13 FIFTEEN OR TWENTY MINUTES STANDING DOWN THERE. FIFTEEN OR  
14 TWENTY MINUTES IN THE MIDDLE OF A PARKING LOT AT PACES RIVER  
15 WITH TWENTY-SEVEN HUNDRED DOLLARS? THINK ABOUT THAT AGAIN.  
16 WHAT DOES TWENTY-SEVEN HUNDRED DOLLARS LOOK LIKE? IF IT'S  
17 IN TWENTIES, THERE'S A HUNDRED AND THIRTY-FIVE BILLS TO MAKE  
18 TWENTY-SEVEN HUNDRED DOLLARS. IF IT'S IN HUNDREDS, THERE'S  
19 TWENTY-SEVEN BILLS TO MAKE TWENTY-SEVEN HUNDRED DOLLARS.  
20 THINK ABOUT HOW MUCH CASH THAT IS TO GO WAIVING AROUND IN  
21 THE PARKING LOT OF THIS NICE APARTMENT COMPLEX. IS THAT  
22 REASONABLE? NO.

23 HE WAS, LIKE, REACHING IN HIS BACK. HE WAS LIKE, YO,  
24 AND HE WAS BACKING UP AND THEN MY GUN CAME OUT AND I FIRED  
25 THREE SHOTS. MY GUN CAME OUT. YOU KNOW, SOME THINGS ARE

1 MAGIC. HIS GUN CAME OUT AND HE FIRED THREE SHOTS. WE  
2 JUMPED BACK IN THE CAR AND STARTED DRINKING MORE LIQUOR THAT  
3 I HAD IN MY CAR BECAUSE I THOUGHT I HAD KILLED SOMEBODY.

4 LADIES AND GENTLEMEN, I SUBMIT TO YOU HE KNEW HE'D  
5 KILLED SOMEBODY. HE INTENDED TO KILL SOMEBODY. WE WENT  
6 BACK TO THE CRIB AND I WENT TO SLEEP. WHEN I WOKE UP THE  
7 POLICE WERE THERE. 'BREZIO CALLED ME LIKE A COUPLE OF DAYS  
8 BEFORE AND TOLD ME ABOUT THIS NIGGER SNUCKING HIM AND I WAS  
9 LIKE, DO I KNOW THE NIGGER? AND HE TOLD ME THAT I HAD SEEN  
10 HIM ONE TIME IN STONE HAVEN.

11 THERE, ONCE AGAIN, IS THE PROBLEM WITH SELF-DEFENSE.  
12 IF YOU DON'T KNOW HIM, YOU CAN'T KNOW HIS REPUTATION. AND  
13 WHAT DID THEY ALL SAY IN THEIR STATEMENTS? JUST LIKE  
14 CHRISTA SAID WHEN SHE WAS ON THE STAND, THERE WAS A PRIOR  
15 ALTERCATION BETWEEN DEBREZIO AND THE VICTIM DARRELL.  
16 DARRELL HAD COME UP AND SMACKED HIM, JUST LIKE HE SAYS HERE  
17 HE SNUCKED HIM. KIND OF LIKE A SUCKER PUNCH IS WHAT THEY'RE  
18 TALKING ABOUT. AND THEN IN DESMOND'S STATEMENT THAT HE  
19 ORIGINALLY GAVE TO POLICE HE SAYS THE SAME THING, THAT THERE  
20 WAS A -- MATTER OF FACT, HE SAYS DARRELL JUST DROVE UP IN  
21 THE CAR AND GOT OUT AND HIT HIM. GOT OUT AND HIT HIM. AND  
22 THEY'RE SAYING THIS IS WHAT THIS IS ALL ABOUT WHEN THIS  
23 FIRST HAPPENS AND, LADIES AND GENTLEMEN, THAT IS WHAT IT'S  
24 ABOUT, BECAUSE THEY'RE THE BAD BOYS. THEY'RE THE ONES WHO  
25 WANTED TO SHOW THEY CAN'T BE PUSHED AROUND AND THAT'S WHY

1 THEY WENT THERE, LIKE THEY SAID AT THE BEGINNING, THAT'S WHY  
2 THEY WENT THERE THAT DAY.

3 THEN HE SAYS I THOUGHT THAT THIS WAS, LIKE, GOING TO BE  
4 A FIGHT, BUT THEY TOLD ME THE DUDE WAS A DRUG DEALER AND HAD  
5 BAD BOYS. NOW, LET'S THINK ABOUT THAT. UP HERE HE'S SO  
6 DRUNK HE DOESN'T EVEN KNOW WHERE THEY'RE GOING. ALL OF A  
7 SUDDEN HE JUST HEARS HIS BUDDY SAY SOMETHING ABOUT THIS DUDE  
8 WHO SNUCKED ME AND THEY DID A U-TURN. HE'S NOT SAYING WHY  
9 THEY'RE GETTING OUT, WHAT THEY'RE DOING. THEN AT THE END HE  
10 TELLS YOU I THOUGHT THERE WAS GOING TO BE A FIGHT. SO DO  
11 YOU HEAR THE REAL MOTIVATION? WE KNOW THAT THEY WERE AT  
12 LEAST GETTING OUT TO FIGHT DARRELL. YOU CAN'T BRING ON THE  
13 DIFFICULTY AND CLAIM SELF-DEFENSE. THEY WERE COMING OUT TO  
14 FIGHT THIS MAN. THAT IS NOT -- THAT IS NOT SELF-DEFENSE.

15 LOOK AT DESMOND CAMPBELL'S STATEMENT. GOES THROUGH THE  
16 SAME THING, TALKS ABOUT HOW THEY DROVE UP AND HOW DARRELL  
17 JUST HIT DEBREZIO FOR NO REASON. THAT'S WHAT THEY MEAN BY  
18 GETTING SNUCKED. SO THEN HE TELLS US, I TOLD MY FRIEND  
19 CHRIS WOODY, WOOD, WHAT HAPPENED TO 'BREZIO AT WORK AND WE  
20 WERE LIKE WHAT IS DEBREZIO GOING TO DO. I TOLD WOODY THAT  
21 DEBREZIO SAID HE WAS GOING TO HANDLE THAT. WOOD SAID ALL  
22 RIGHT AND AFTER A COUPLE OF WEEKS PASSED, THE NIGHT WE HAD A  
23 COUPLE OF DRINKS AND WOODY HAD HIS .45 CALIBER HANDGUN AND  
24 DEBREZIO HAD HIS .25 CALIBER HANDGUN. WE DROVE UP BY  
25 CELANESE ROAD TO PACES RIVER AROUND NINE O'CLOCK P.M. AND

1 SEEN DARRELL IN HIS WHITE LEXUS INTO PACES RIVER. WOODY WAS  
2 DRIVING HIS SILVER MAXIMA. DEBREZIO WAS ON THE PASSENGER  
3 SIDE. I WAS SITTING IN THE BACK. AFTER WE FOLLOWED DARRELL  
4 INTO PACES RIVER, WE PARKED WOODY'S CAR. THEN WOODY AND  
5 DEBREZIO RAN DOWN TOWARDS DARRELL WITH A GUN. THEY'RE  
6 RUNNING DOWN TOWARDS DARRELL WITH THE GUN. DARRELL HAD  
7 WALKED BETWEEN THE CARS NEAR THE APARTMENT.

8 NOW, REMEMBER THIS. THAT'S RIGHT. ON THAT NIGHT HE  
9 ENDS UP IN THE POLICE DEPARTMENT AND HE GIVES THEM A  
10 STATEMENT EARLY THE NEXT MORNING. HASN'T LEFT, HASN'T SEEN  
11 PHOTOGRAPHS OF THE SCENE, HASN'T SEEN ANYTHING ELSE, BUT  
12 HE'S ABLE TO TELL THEM, AS THE FIRST ONE WHO GIVES A  
13 STATEMENT, THAT DARRELL HAD WALKED BETWEEN THE CARS NEAR HIS  
14 APARTMENT AND THEY HAD TO HURRY BECAUSE HE WAS GETTING NEAR  
15 HIS APARTMENT. THAT TELLS YOU THAT THIS STATEMENT IS TRUE,  
16 'CAUSE THAT'S EXACTLY WHAT THE EVIDENCE HAD SHOWN AND  
17 THERE'S NO WAY HE COULD HAVE KNOWN THAT UNLESS HE SAW IT,  
18 BECAUSE HE'S AT THE POLICE DEPARTMENT NOW. HE'S NOT SEEING  
19 ALL THIS OTHER STUFF. HE'S NOT ABLE TO TALK TO HIS BUDDIES  
20 ANYMORE.

21 THEY STARTED SHOOTING HIM. HE NEVER MENTIONS SELF-  
22 DEFENSE, BUT HE DOES MENTION MURDER, BECAUSE OF THE FACTS  
23 THAT HE'S JUST GIVEN RIGHT HERE AMOUNT TO MURDER AND THESE  
24 ARE THE FACTS THAT COINCIDE WITH ALL THE EVIDENCE THAT'S  
25 BEEN PRESENTED. AFTER THE SHOOTING THEY RAN BACK UP TO THE

1 CAR. I HAD GOTTEN FROM THE BACK SEAT TO THE DRIVER'S SEAT.  
2 DEBREZIO GOT INTO THE BACK SEAT OF THE CAR. WOODY RAN UP  
3 AFTERWARDS AND JUMPED INTO THE FRONT PASSENGER SEAT. I  
4 DROVE OFF AND WE WENT TO STONE HAVEN APARTMENTS.

5 NOW, LET'S COMPARE THEIR STATEMENTS TO THE EVIDENCE.  
6 HERE WE ARE. FROM THAT STATEMENT, FROM ALL THE EVIDENCE WE  
7 HAVE, THEY HAD TO DRIVE AROUND. THEY HAD TO DRIVE AROUND TO  
8 GET BY. THAT FITS IN WITH THE PHYSICAL EVIDENCE THAT WAS  
9 FOUND. THAT FITS IN WITH THE EYEWITNESS TESTIMONY, 'CAUSE  
10 REMEMBER WE HAVE THE GIBSONS WHO SAY THEY HEARD THE SHOTS  
11 ALL AT ONCE AND WE ALSO HAVE TROY WHO SAID HE HEARD THE  
12 SHOTS ALL AT ONCE. WE ALSO HAVE KIMBERLY BOWDEN WHO HEARD  
13 THE SHOTS ALL AT ONCE, BUT SOMEHOW MR. CAMPBELL'S SAYING  
14 THERE WAS EVEN SHOOTING AFTER THEY HAD GOTTEN IN THE CAR  
15 FROM ACROSS THE BACK TOP SIDE OF THE APARTMENT COMPLEX AND  
16 THEN THERE WAS SOMEONE STILL SHOOTING. DIDN'T HAPPEN.  
17 PEOPLE WERE ALREADY OUTSIDE. PEOPLE WERE ALREADY LOOKING.  
18 WE WOULD KNOW ABOUT THOSE SHOTS. THEY DON'T EXIST. IT  
19 DIDN'T HAPPEN. THAT'S JUST ANOTHER LIE.

20 THEY HAD TO GO AROUND, THEY HAD TO DRIVE AROUND. ALL  
21 OF THE WITNESSES TELL YOU THAT AND ALL OF THE WITNESSES  
22 IDENTIFY THE MAXIMA AND ALL THE WITNESSES OR AT LEAST SOME  
23 OF THEM IDENTIFY THE SILVER RIMS OF THE MAXIMA AS WELL.  
24 SOME OF THE WITNESSES WILL TELL — YOU'LL HEAR THE 911 TAPE.

25 AS I'M GOING TO START THIS, LET ME JUST PREFACE THIS A

1 LITTLE BIT. THIS IS THE ONE FROM TROY TOBIAS. HE TELLS  
2 THEM HE SAW THE MAXIMA. HE TELLS THEM HE SAW THREE MEN IN  
3 THE MAXIMA AND YOU'LL NOTICE TROY HAS SAID HE DIDN'T REALIZE  
4 WHO WAS SHOT UNTIL KIMBERLY TOLD HIM. THIS TAPE BEARS THAT  
5 OUT, 'CAUSE AT THE BEGINNING OF THIS TAPE HE TELLS THE 911  
6 OPERATOR SOMEBODY'S BEEN SHOT, SOMEBODY'S BEEN SHOT AND THEN  
7 YOU'LL HEAR HIM SAY, IT'S DARRELL? AND THEN YOU'LL START TO  
8 HEAR HIM TALK ABOUT IT'S MY FRIEND, IT'S MY FRIEND.

9 (WHEREUPON, THE REFERENCED TAPE WAS PLAYED.)

10 AND YOU'LL HAVE THOSE 911 TAPES BACK THERE WITH YOU,  
11 BUT IT APPEARS FROM THE VERY BEGINNING AND AS IS SAID AT THE  
12 BEGINNING OF THE TAPE, IT'S 21:13 AND SOME ODD SECONDS.  
13 THAT'S 9:13 IN THE EVENING. SO IMMEDIATELY WHEN THIS  
14 HAPPENS, THEY'RE CALLING. AND THEN YOU'VE HEARD MUCH ABOUT  
15 THE VICTIM'S FATHER WANTING TO GET IN HIS POCKETS, BUT YOU  
16 HEARD THAT WHEN EMS GOT THERE HE NEVER ACTUALLY GOT IN THE  
17 POCKETS AND IT'S NOT UNUSUAL TO HAVE TO GET RELATIVES OF  
18 SOMEONE WHO'S BEEN SHOT BACK. YOU HAVE A VERY DISTRAUGHT  
19 MAN. HE'S PROBABLY NOT THINKING STRAIGHT AND TO ATTRIBUTE  
20 BAD THINGS TO HIM JUST BECAUSE, RIDICULOUS.

21 THE PEOPLE WHO WERE THERE TOLD YOU, JONATHAN AND ETTA  
22 GIBSON, KIM, TROY, THEY DIDN'T PICK ANYTHING UP. REMEMBER  
23 IT TOOK LAW ENFORCEMENT UNTIL ABOUT 9:18, 9:17. 9:18'S WHEN  
24 EMS ARRIVED. THE CALL COMES IN AT 9:13. THE POLICE ARRIVED  
25 JUST BEFORE EMS, SO MAYBE 9:17, 9:15, JUST A FEW MINUTES

1 THERE. IF THEY REALLY WANTED TO CLEAN UP, THEY'D HAVE  
2 CLEANED UP THEN. IF THERE WAS SOMETHING TO HIDE, IT WOULD  
3 HAVE BEEN DONE THEN. BUT AS YOU KNOW, JONATHAN WAS OUT  
4 THERE, KIM WAS OUT THERE AND WHAT ARE THEY TRYING TO HIDE?  
5 THEY SAW HIM LAYING ON THE GROUND WITH NOTHING OTHER THAN  
6 THE LIQUOR BOTTLE THAT HE WAS CARRYING AND THE CUP. THEY  
7 SAW HIM. THERE'S NOT MONEY STREWN ACROSS THE GROUND.  
8 THERE'S NOT WEAPONS LAYING AROUND. THE ONLY THING KIM  
9 PICKED UP WAS HIS CELL PHONE BECAUSE IT RANG.

10 THAT'S WHERE JONATHAN AND ETTA GIBSON LIVE AND REMEMBER  
11 THEY'RE LOOKING RIGHT OUT THEIR WINDOW. THIS IS SHOT FROM  
12 THE PARKING SPOT RIGHT ABOUT WHERE SOME OF THOSE CASINGS  
13 ARE. REMEMBER THEY ALL SAID THEY SAW SOMEONE GETTING --  
14 THEY SAW SOMEONE GETTING INTO THE BACK SEAT, SOMEONE GETTING  
15 INTO THE BACK SEAT. WHAT DID THE STATEMENT SAY? WHAT DID  
16 CAMPBELL'S STATEMENT SAY TO THE POLICE? THAT FIRST DEBREZIO  
17 GOT IN, THEN WOODY CAME IN AND GOT IN THE BACK SEAT.

18 THIS IS THE ANGLE FROM WHICH TROY TOBIAS WOULD HAVE  
19 LOOKED OUT HIS WINDOW TO SEE THEM PULL OFF. THIS IS THE  
20 ANGLE IN WHICH CHRISTOPHER WOODY WOULD HAVE SEEN WHAT  
21 HAPPENED. CHRISTOPHER WOODY HAD TO COME UP BEHIND THOSE  
22 VEHICLES TO SHOOT HIM. THERE'S THE VEHICLE PARKED NEXT TO  
23 THE RED CADILLAC AND THERE'S LIKELY WHERE HE ENTERED IN,  
24 RIGHT THERE BETWEEN THAT BLUE CAR OR THAT DODGE CAR AND THAT  
25 BUSH WHEN THEY CAME RUNNING DOWN ON HIM. AND AS YOU CAN

1 SEE, HE WENT AROUND TWO CARS AND PROBABLY BEGAN SHOOTING  
2 RIGHT BEHIND THAT CADILLAC AS HE WAS RUNNING TOWARDS  
3 DARRELL. AND YOU SEE FROM THE SHELL CASINGS THEY FIND RIGHT  
4 BEHIND THE CADILLAC -- NOW, LET'S THINK ABOUT THAT. THOSE  
5 ARE, I DON'T KNOW, FOUR FEET OR SO BEHIND THE CADILLAC.  
6 CADILLAC'S A LONG CAR MAYBE FIFTEEN TO EIGHTEEN MAYBE EVEN  
7 TWENTY-ONE FEET. LET'S TRY THAT.

8 IF I'M HERE SHOOTING A GUN, IT DOESN'T MATTER WHICH WAY  
9 I'M SHOOTING IT. I CAN BE HOLDING IT ANY WAY YOU WANT TO  
10 THINK OF, UPSIDE DOWN, ANY WAY YOU WANT TO THINK OF, AND WE  
11 GO ONE, TWO, THREE, FOUR, FIVE -- THAT SHOULD BE ABOUT  
12 FIFTEEN FEET, BUT THE CAR'S PROBABLY A LITTLE LONGER THAN  
13 THAT ACTUALLY, SO WE'LL GO ONE MORE AND GO ABOUT EIGHTEEN  
14 FEET. THAT'S HOW FAR THAT SHELL CASING WOULD HAVE HAD TO  
15 FLY TO HAVE LANDED JUST ON THE OTHER SIDE OF THE CAR. NOW,  
16 LET'S GO ANOTHER FOUR FEET TO WHERE THEY ARE IN THE GRASS.  
17 IT GETS TO BE A LONG WAY AWAY. ONCE AGAIN, USE YOUR COMMON  
18 SENSE. WHAT IS REASONABLE? WHAT IS REASONABLE?

19 MANY OF YOU HAVE SHOT FIREARMS BEFORE, SMALLER  
20 CALIBERS, LARGER CALIBERS THAT EJECT. IS THERE REALLY ANY  
21 WAY THEY EJECT FROM THE FRONT OF THAT CAR TO HERE? AND NOT  
22 JUST ONE, BUT TWO MAGICALLY WORK THEMSELVES OVER THE TOP OF  
23 THE CAR AND TO THE OTHER SIDE INTO THE GRASS. I SUBMIT TO  
24 YOU THAT IT'S NOT REASONABLE. IT'S NOT HAPPENING THAT WAY.  
25 HE WAS BEHIND THAT CAR AND HE WAS NOT ONLY BEHIND THAT CAR,

1 BUT HE CONTINUED MOVING TOWARDS DARRELL, AND BECAUSE HE CAME  
2 FROM BEHIND THE CAR, IF THAT WAS A PARKING SPOT, HE CAME  
3 FROM BEHIND THE CAR SHOOTING, BOOM, ONE, TWO AND THE ON THE  
4 THIRD COMING AROUND OR HE'S COME AROUND ALL THE WAY. ONE OR  
5 THE OTHER, HE'S COMING THROUGH AT THAT POINT. HE FIRED  
6 THREE SHOTS, 'CAUSE REMEMBER, THESE SHOTS AREN'T LONG AND  
7 DRAWN OUT. IT'S NOT OVER SEVERAL MINUTES THAT THERE'S A GUN  
8 BATTLE OR SOMETHING, BECAUSE THERE'S ONLY TWO PEOPLE  
9 SHOOTING AND THEY'RE SHOOTING AT ONE PERSON WHO'S NOT DOING  
10 ANYTHING BUT DYING. BOOM, BOOM, BOOM, AND THEN HE'S GOT TO  
11 GET IN THE CAR. AND REMEMBER WHAT TROY SAID? HE HAD TURNED  
12 AROUND LIKE HE WAS TUCKING SOMETHING IN AND HE GETS IN THE  
13 CAR AND NOW THE CAR'S PULLED AROUND. DESMOND'S THERE,  
14 DESMOND'S WAITING. HE KNOWS WHAT HIS JOB IS IN THIS.  
15 THAT'S HOW THE EVIDENCE SHOWS IT. THAT'S EXACTLY HOW IT  
16 HAPPENED.

17 AS YOU SEE IN THIS PHOTOGRAPH HERE, THIS IS WHAT LAW  
18 ENFORCEMENT PUT TOGETHER AND THEY MAY HAVE PUT THESE A  
19 LITTLE FARTHER BEHIND THE CARS. I WOULD TRUST THE PICTURES  
20 MORE THAN THE DIAGRAM, BUT IT ROUGHLY SHOWS YOU GET THREE IN  
21 A ROW, ONE, TWO, THREE, SO COMING AROUND GETTING IN THE CAR  
22 AND PULLING OUT. AND LET'S LOOK AT THIS OTHER SIDE OVER  
23 HERE. LET'S CONSIDER THIS IS THE ANGLE THAT DEBREZIO HAD  
24 COMING IN ON BETWEEN THE CARS.

25 NOW, REMEMBER, AT THE SAME TIME BEHIND THESE CARS COMES

1. WOODY. DEBREZIO IS THIS WAY. AND HERE ARE HIS SHELL  
2. CASINGS. ONE, TWO, THREE, FOUR, FIVE -- AND I REMEMBER  
3. THERE WAS ONE HERE. AND REMEMBER ONE OTHER THING ABOUT ALL  
4. THESE SHELL CASINGS, EVERY ONE OF THEM, EVERY ONE OF THEM,  
5. THE .25 CALIBERS ALL MATCH TO THIS GUN TO THE EXCLUSION OF  
6. ALL OTHER GUNS MADE. ALL OF THE .45 SHELL CASINGS MATCH TO  
7. THIS GUN TO THE EXCLUSION OF ALL OTHER GUNS MADE. THERE'S  
8. ONLY TWO GUNS THERE AND THESE SHOTS. DOES THAT INDICATE  
9. THAT HE WAS STANDING RIGHT UP HERE ON THE VICTIM AND STARTED  
10. SHOOTING IMMEDIATELY AS HE RAN BACKWARDS? NO. THIS  
11. INDICATES A MOTION OF RUNNING AND SHOOTING AND STEPPING BACK  
12. SHOOTING, 'CAUSE HE'S GOT TO STEP BACK 'CAUSE NOW HE'S IN  
13. THE WAY OF THE CAR. HIS GETAWAY CAR'S COMING, HE'S GOT TO  
14. GET IN IT, SO HE'S GOT TO COME BACK, OR HE COULD HAVE COME  
15. THIS WAY AND COME BACK, BUT ONE WAY OR THE OTHER HE FIRES  
16. THOSE SHOTS. AND AS YOU KNOW, YOU CAN SEE FROM THE LINE,  
17. SOME OF THEM HIT RIGHT IN THESE WINDOWS. ONE WENT THROUGH  
18. ON THE SIDE OF THE WINDOW HERE, ONE WENT THROUGH THE SIDE OF  
19. THE BUILDING HERE AND WOODY COMES RIGHT AROUND HERE.

20. NOW, ONCE AGAIN, LET'S LOOK BACK UP, ONE, TWO, THREE,  
21. AND ONE, TWO, THREE. AND ONCE AGAIN, ON THE DIAGRAM IT  
22. GIVES YOU THE PICTURE. IT'S A PLANNED KILLING. YOU HAVE  
23. ONE MAN FLANKING HIM WHILE ONE MAN TAKES HIM ON THE FRONT.  
24. THAT'S THE PLAN, 'CAUSE IF YOU THINK ABOUT IT, WHEN THEY  
25. WERE RIGHT BEHIND KIM BOWDEN COMING INTO THE APARTMENT

1 COMPLEX, WHY DOES IT TAKE THEM SO LONG TO GET DOWN TO HERE?  
2 WHY WOULD THAT BE? THEY WERE RIGHT BEHIND HER. THEY COULD  
3 HAVE EASILY JUST PULLED RIGHT AROUND. THEY'D HAVE BEEN  
4 RIGHT THERE. SHE HAD TIME TO PARK HER CAR, TO GET OUT OF  
5 HER CAR, TO COME UP. YOU KNOW, SHE PARKS HER CAR DOWN IN  
6 HERE. SHE'S COMING UP BACK UP HERE. SHE GETS ALL THE WAY  
7 UP HERE BEFORE SHE EVEN SEES THAT CAR AGAIN START TO PULL  
8 AWAY.

9 I SUBMIT TO YOU THE REASON FOR THAT IS BECAUSE  
10 CHRISTOPHER WOODY'S GRABBING HIS GUN, PUTTING IN THE CLIP,  
11 RACKING IT AND JUST LIKE DEBREZIO'S STATEMENT TO LAW  
12 ENFORCEMENT THAT HE SWORE TO BE THE TRUTH ALL THE WAY UP  
13 UNTIL YESTERDAY, DARRELL HAD WALKED BETWEEN THE CARS TO THE  
14 APARTMENTS AND THEY HAD TO HURRY BECAUSE HE WAS GETTING NEAR  
15 HIS APARTMENT. THEY STARTED SHOOTING HIM. I SUBMIT TO YOU  
16 DARRELL IS HERE IN THE CAR AND HEARS SOMEONE COMING AND HE  
17 TURNED AROUND AND GOT SHOT. ALL THE SHELL CASINGS MATCH.  
18 ALL THREE OF WOODY'S SHOTS HIT HIS TARGET, ARVELL BAGLEY,  
19 FROM BEHIND.

20 AS YOU SEE IN THE DIAGRAM WITH THE BULLETS TO THE HEAD,  
21 YOU'VE GOT ONE IN THE TOP OF THE HEAD AND AS DR. MAYNARD  
22 DESCRIBED, IT HITS WITH SUCH FORCE THAT WHILE THE BULLET  
23 ITSELF DOESN'T GO IN, BUT IT SPREADS OUT AND DAMAGES THE  
24 SIDE OF THE HEAD AND STAYS -- STAYED UNDER THE SKIN WITH  
25 THAT LUMP IN IT. JUST LIKE KIM TESTIFIED SHE SAW THAT LUMP

1 ON THE BACK OF HIS HEAD. IT BLOWS OUT A LARGE SECTION OF  
2 SKULL AND BLOWS IT INTO THE BRAIN FOR A DEADLY SHOT. THE  
3 PRESSURE'S SO GREAT THAT THE EMS WORKER TOLD YOU THERE WAS  
4 BRAIN MATTER WITHIN IN HIS NOSE AND HIS MOUTH. IT LITERALLY  
5 BLEW HIS BRAINS OUT.

6 THE OTHER SHOT IN THE BACK RIGHT HERE. I SUBMIT TO YOU  
7 IF THERE WAS ANY REACHING TO BE DONE, IT WAS I'M SHOT  
8 REACHING OR I'M SHOT REACHING. THIS ISN'T THE MOVIES. YOU  
9 DON'T GET A WOUND AND BLOOD DOESN'T START SQUIRTING OUT LIKE  
10 SATURDAY NIGHT LIVE. THE BLOOD YOU SEE THERE ON THE ROAD,  
11 THAT BLOOD DRAINED OUT OF HIS BODY AS HE LAID THERE DYING.  
12 IT SLOWLY DRAINED OUT OF FOUR DIFFERENT HOLES. AS THEY  
13 TALKED ABOUT, AS TODD GARDNER TALKED ABOUT THE PERMANENT  
14 CHANNELS, PERMANENT WOUND CHANNELS THAT THESE LARGE BULLETS  
15 CREATE, THAT'S BASICALLY A HOLE WHERE IT TAKES OUT ALL THE  
16 TISSUE, A HOLE WHERE IT TAKES OUT EVERYTHING FROM BEHIND.  
17 HE BLED TO DEATH AND REMEMBER THE OTHER BULLET THAT HIT HIM  
18 IN THE CHEST. THAT WAS THE .25, IT CAME DOWN ACROSS AND  
19 YOU'LL SEE ON THE X-RAY, IT HELPS -- I THINK THE X-RAY HELPS  
20 A LOT ACTUALLY ON THIS, BECAUSE YOU CAN SEE HE'S HIT UP OVER  
21 HERE AND IT COMES DOWN OVER HERE. THAT'S NOT A VERY GREAT  
22 ANGLE. JUST LIKE THERE'S JUST A SLIGHT ANGLE ON THE INCLINE  
23 GOING UP TO WHERE DEBREZIO'S SHELL CASINGS ARE AND THAT  
24 BULLET ENDS UP IN HIS CHEST AND THAT BULLET IS MATCHED TO  
25 THE .25.

1 THE PART THAT SMASHED THROUGH HIS ARM AND YOU'LL HAVE  
2 THE PHOTOGRAPHS OF THE BLOOD AND THE BULLET ON THE GROUND  
3 THAT THEY ULTIMATELY RECOVERED, THAT WAS THE LEAD PIECE THAT  
4 THEY RECOVERED, PART OF THE JACKET IN THE ARM AND, OF  
5 COURSE, SHE SAID THEY CAN'T -- THEY CAN'T TEST ACCORDING TO  
6 THE LEAD BECAUSE THAT'S JUST A BIG BALL OF LEAD. THERE'S  
7 NOTHING SPECIFIC ABOUT THAT TO LOOK AT. IT'S THAT JACKETING  
8 THAT THEY LOOK AT FROM THE -- AND FROM THE ROTATION OF THE  
9 BARREL, HOW THEY CAN PULL OFF THOSE STRIPES FROM THE JACKET  
10 AND MATCH THAT, BUT THE JACKET IS SO DESTROYED THERE IT'S  
11 HARD TO TELL, BUT CERTAINLY THE SIZE AND CALIBER FROM THAT  
12 WOUND IN HIS ARM MATCHED THE .45 AND IT'S THE SAME FOR THE  
13 WOUND TO THE HEAD AS SHE SAID, THE JACKETING TURN AN ODD  
14 COLOR. YOU'LL SEE THAT. IT TURNED AN ODD COLOR AND SHE  
15 WASN'T ABLE TO TEST IT BECAUSE OF THAT, BECAUSE YOU CAN'T  
16 SEE THE STRIPE, THE VARIOUS MARKINGS AND STRIPES ON THAT,  
17 BUT CERTAINLY IT WAS CONSISTENT WITH A .45.

18 WHAT OTHER THINGS DID THEY FIND? WELL, THEY FOUND THE  
19 CAR JUST LIKE PEOPLE SAID THEY WOULD, A MAXIMA WITH THE  
20 SHINY RIMS. DARRELL WASN'T THE ONLY ONE WITH RIMS ON HIS  
21 CAR. WHAT ELSE DID THEY FIND? WELL, THEY FOUND THE .45  
22 THAT BELONGED TO CHRISTOPHER WOODY. THEY ALSO FOUND THAT  
23 .25 RIGHT HERE THAT BELONGED TO MR. CAMPBELL, DEBREZIO  
24 CAMPBELL. AND, AGAIN, RIGHT HERE ON TOP, WHAT IS THAT  
25 AGAIN? WELL, WE HAVE SOME BULLETS AND WE HAVE SOME MONEY

1 AND THAT BRINGS US TO WHAT WAS NOT FOUND. OTHER WEAPONS OR  
2 ANY SIGN OF OTHER WEAPONS.

3 AS THE LADY FROM SLED TOLD YOU, ON THE LEFT HAND -- OF  
4 COURSE, HE'S RIGHT-HANDED SO IT MAKES NO SENSE TO PULL A GUN  
5 WITH YOUR LEFT HAND, BUT WITH THE LEFT HAND AND ONE OTHER  
6 THING YOU GOT TO REMEMBER IF YOU KEEP A GUN IN YOUR BACK,  
7 YOU'RE GOING TO KEEP IT ONE WAY OR THE OTHER. THE HANDLE  
8 WOULD EITHER BE POINTING THAT WAY OR IT'S GOING TO BE  
9 POINTING THAT WAY DEPENDING ON WHICH HAND YOU USE. YOU  
10 DON'T SHOOT WITH YOUR NON-DOMINANT HAND. SO I SUBMIT TO YOU  
11 EVEN IF YOU BELIEVE EVERYTHING THAT MR. CAMPBELL SAYS AND  
12 THERE'S SOME MAGIC GUN HERE, IT WOULD HAVE BEEN POINTED THAT  
13 WAY AND HE WOULD HAVE HAD TO HAVE REACHED WITH HIS RIGHT  
14 HAND. IT MAKES NO SENSE TO REACH WITH THE LEFT HAND TO GET  
15 THAT GUN BECAUSE HE WOULDN'T BE ABLE TO PULL IT OUT AND THEN  
16 ADJUST IT TO SHOOT. NOT TO MENTION IF THAT GUN'S RIGHT  
17 THERE, THAT BULLET THAT HITS HIM RIGHT HERE, THAT HITS THAT  
18 GUN OR HIS HAND GOING FOR THAT GUN. IT DOESN'T GO INTO HIS  
19 BODY LIKE THAT BULLET DID AND CLEAN ENOUGH THAT THEY'RE ABLE  
20 TO MATCH THAT BULLET PERFECTLY TO THIS .45. THINK AGAIN  
21 WHAT IS REASONABLE. IT'S NOT REASONABLE THAT HE HAD A GUN  
22 IN HIS BACK.

23 THERE WERE NO OTHER WEAPONS. THEY SEARCHED THE HOUSE.  
24 REMEMBER EVERYONE ELSE. THEY DIDN'T GO BACK INTO THE  
25 APARTMENT OTHER THAN TO GET THE TOWELS TO TRY TO HELP HIM.

1 THEY ULTIMATELY GO TO THE HOSPITAL AND THEN IN A POLICE CAR.  
2 SO NO ONE'S GOING BACK INTO THE APARTMENT. THE POLICE ARE  
3 THERE. THEY ROPE IT OFF. THEY'RE THE ONES GOING INTO THE  
4 APARTMENT PULLING BULLETS OUT OF THE WALL AND THEN  
5 ULTIMATELY SEARCHING IT WITH THEIR CONSENT AND HE WANTS TO  
6 TELL YOU THAT THIS — THIS LITTLE AMOUNT OF CRACK COCAINE  
7 AMOUNTS TO M-U UNIT DRUG DEALER. ONCE AGAIN, IF YOU'RE  
8 GOING TO HAVE A DRUG DEALER WHAT ARE YOU GOING TO HAVE  
9 THERE? LOTS OF WEAPONS, LOTS OF MONEY, LOTS OF DRUGS AND  
10 THE THINGS YOU USE TO MAKE THE DRUGS OR TO DISTRIBUTE THE  
11 DRUGS. YOU'D HAVE BAGGIES SITTING AROUND. YOU'D HAVE  
12 SCALES, 'CAUSE YOU AT LEAST GOT TO WEIGH THE STUFF. YOU'D  
13 HAVE SOMETHING MUCH MORE THAN THIS. IT'S RIDICULOUS TO  
14 THINK THIS IS SOME KIND OF DRUG DISTRIBUTION CENTER.  
15 RIDICULOUS. AND, ONCE AGAIN, THE SELF-DEFENSE FOR  
16 CHRISTOPHER WOODY WOULD HAVE ANY IDEA THIS WAS IN A DRAWER  
17 SOMEWHERE IN THAT APARTMENT? NO. BUT THEY SEARCHED OTHER  
18 APARTMENTS, TOO, NOT JUST THE VICTIM'S APARTMENT. THEY  
19 SEARCHED WHERE THE DEFENDANT DEBREZIO LIVED. REMEMBER HE'S  
20 THE BIG DRUG DEALER OUT OF THESE THREE GUYS THAT ARE  
21 DEFENDANTS HERE TODAY. HE'S THE BIG ONE ACCORDING TO HIS  
22 BROTHER DESMOND. DID THEY FIND A BUNCH OF DRUGS THERE? NO.  
23 ACTUALLY, THEY FOUND NONE. DID THEY FIND A BUNCH OF MONEY  
24 THERE? WELL, THEY FOUND THAT TEN BUCKS I JUST SHOWED YOU.  
25 WHAT DID ARVELL BAGLEY HAVE ON HIM? A BUCK SOMETHING. SO

1 THESE BIG DRUG DEALERS, BOY, THEY GOT A LOT OF CASH AND  
2 DRUGS SITTING AROUND NOT TO MENTION THE TWENTY-SEVEN HUNDRED  
3 DOLLARS THAT DEBREZIO TOOK BACK WITH HIM SUPPOSEDLY. LARGE  
4 AMOUNTS OF DRUGS, NOT THERE; LARGE AMOUNTS OF MONEY, NOT  
5 THERE. THE DEFENSE'S STORY MAKES NO SENSE.

6 THAT'S WHAT DESMOND OR DEBREZIO WAS WEARING. THAT'S  
7 DEBREZIO RIGHT THERE WITH THE BLACK SHIRT JUST LIKE HE WAS  
8 DESCRIBED AND THAT'S MR. WOODY WITH THIS RED SHIRT JUST LIKE  
9 HE WAS DESCRIBED AND ARRESTED THAT NIGHT. YOU CAN TURN UP  
10 THE LIGHTS, MADAM CLERK.

11 THINK ABOUT IT ONCE AGAIN. THEY'RE COMING LOOKING FOR  
12 HIM JUST LIKE THEIR STATEMENTS SAID. THEY'RE COMING LOOKING  
13 FOR HIM. THEY'RE LOADED DOWN. THEY'VE GOT THESE SEMI-  
14 AUTOMATIC WEAPONS. THEY'VE GOT THEIR CLIPS; THEY'VE GOT  
15 THEM RACKED. THEY'RE READY TO GO. THEY'RE ANGRY BECAUSE  
16 DEBREZIO WAS PUBLICALLY EMBARRASSED BY DARRELL SMACKING HIM.  
17 EVERYONE IN STONE HAVEN KNEW ABOUT IT. HE WAS ANGRY. HE  
18 KEPT SAYING HE WAS GOING TO HANDLE THAT; HE WAS GOING TO  
19 HANDLE THAT. WELL, HE STARTED DRINKING AND THEY DECIDED  
20 LET'S GO HANDLE THAT. SO THEY WENT TO THE APARTMENTS, THEY  
21 DROVE AROUND IT AND WHEN DID THEY WAIT TO GO TO THE  
22 APARTMENTS? 'TIL RIGHT WHEN IT TURNED DARK. THEY'D BEEN  
23 TOGETHER MOST OF THE DAY, BUT WHEN DID THEY WAIT? FOR THE  
24 COVER OF DARK.

25 THEN THEY GO IN, THEY DRIVE AROUND. THEY LOOK FOR HIS

1 VEHICLE. THEY KNOW IT'S NOT THERE. SO THEY KNOW HE'S NOT  
2 THERE. THEY DON'T STOP AND ASK AND TRY TO GIVE MONEY AND  
3 STUFF LIKE THAT. THEY DRIVE THROUGH AND THEY COME BACK OUT.  
4 THAT'S WHERE THEY SEE HIM PULL IN JUST LIKE KIM SAID, SHE  
5 NOTICED THEM NOTICING HIM AND THEN ONE DID A U-TURN REAL  
6 QUICK, BUT THE LIGHT JUST SO WORKED OUT THAT KIM WAS ABLE TO  
7 COME ACROSS RIGHT BEHIND DARRELL. THEY DID A U-TURN AROUND  
8 AND CAME IN RIGHT ON HER TAIL, SO CLOSE ON HER THAT SHE  
9 CAN'T SEE THEIR LIGHTS SOMETIMES AND SHE THOUGHT MAYBE THEIR  
10 BRIGHT LIGHTS WERE ON. RIGHT ON HER TAIL. AND SHE WATCHES  
11 AS DARRELL GOES OFF TO THE RIGHT OF THE COMPLEX AND SHE GOES  
12 TO THE LEFT AND THEY FOLLOW HIM, BUT ONCE AGAIN, THEY DON'T  
13 IMMEDIATELY COME ON AROUND TO THE BOTTOM OF THE COMPLEX.  
14 WHY IS THAT? THAT'S BECAUSE THEY'RE GETTING READY. THAT'S  
15 WHEN THEY'RE FORMULATING EXACTLY HOW THEY'RE GOING TO HANDLE  
16 ARVELL BAGLEY. AND THEY SEE THAT HE'S PULLED IN AND  
17 STOPPED, 'CAUSE YOU'LL BE ABLE TO SEE FROM THE PICTURES AND  
18 PHOTOGRAPHS EVEN IN THE DARK, THE PICTURES THAT SHOW UP IN  
19 THE WOODED AREA, LOOKING AT THIS IT LOOKS LIKE IT'S A BUNCH  
20 OF WOODS. YOU CAN'T SEE HERE. YOU CAN ACTUALLY SEE THROUGH  
21 ALL THOSE WOODS. IT'S NOT LIKE THAT. IT'S JUST LIKE AT THE  
22 GIBSON'S PLACE, YOU CAN SEE THROUGH THOSE TREES, 'CAUSE THE  
23 LEAVES AND EVERYTHING ARE UP HIGH.

24 WHAT ARE THOSE ACTS PROVING TO US? THEY'RE PROVING  
25 CONSPIRACY. A CONSPIRACY DOESN'T HAVE TO BE SPOKEN. IT

1 DOESN'T HAVE TO BE SPOKEN. A CONSPIRACY CAN BE SHOWED BY  
2 THE ACTIONS AND RIGHT NOW YOU HAVE THEM ACTING IN CONCERT TO  
3 GET THIS MAN. MAYBE THIS LOOKS EXACTLY LIKE A HIT BECAUSE  
4 IT IS A HIT. IT'S CONSPIRACY, IT'S MALICE, IT'S INTENT.

5 THEY KEEP GOING. THEY RUN DOWN TO HIM AND I SUBMIT TO  
6 YOU THEY TRULY DID LIKE EVERYONE SAID, FOLLOWED HIM AROUND  
7 ULTIMATELY -- OF COURSE, THEY WAITED LONG ENOUGH TO GET  
8 EVERYTHING READY. THEY'RE READY TO HOP OUT OF THE CAR,  
9 THEY'RE READY TO RUN. THEY COME AROUND THAT CORNER, THEY  
10 STARTED COMING DOWN, WOODY'S OUT AND ALREADY GOING DOWN  
11 AROUND THE CARS. DEBREZIO COMES OUT AND THEN THE SHOOTING  
12 STARTS RIGHT THEN. THERE'S NOTHING ELSE. THERE'S NOTHING  
13 ELSE. HE SAID THAT THERE WAS TWENTY-SEVEN HUNDRED DOLLARS.

14 NOW, REMEMBER I TOLD YOU IF IT WAS ALL IN TWENTIES THAT  
15 WOULD BE A HUNDRED AND THIRTY-FIVE BILLS. HERE'S TWENTY-  
16 SEVEN ONES. IF I'M STANDING HERE WITH THESE TWENTY-SEVEN  
17 ONES SOMEONE'S GIVEN TO ME. IT SEEMS RIDICULOUS THAT YOU  
18 WOULD GIVE SOMEONE TWENTY-SEVEN HUNDRED DOLLARS AND THEY  
19 THROW IT BACK TO -- BACK AT YOU, BUT WE'LL PRETEND. I HAVE  
20 THESE TWENTY-SEVEN ONES AND I LOOK AT IT AND I GO THAT'S NOT  
21 ENOUGH. HOW LONG DOES IT TAKE ME TO PICK ALL THAT UP?  
22 WELL, IF I DO IT FAST, OKAY. BUT SOMEHOW I'M ABLE TO PULL A  
23 GUN AND START SHOOTING, TOO. RIDICULOUS. DIDN'T HAPPEN.  
24 IT'S NOT THE TRUTH. THAT'S JUST TWENTY-SEVEN BILLS. THAT'S  
25 THE FEWEST NUMBER OF BILLS IT COULD HAVE BEEN.

1 LADIES AND GENTLEMEN, THE STORY FROM THE DEFENSE IS  
2 RIDICULOUS. THE EVIDENCE THAT YOU HAVE BEFORE YOU, .45  
3 SHELL CASING IN THE GRASS, .45 SHELL CASING IN THE GRASS,  
4 .45 SHELL CASING UNDER THE CAR, .25 IN THE PARKING LOT,  
5 ANOTHER .25 IN THE PARKING LOT, ANOTHER .25 IN THE PARKING  
6 LOT, ANOTHER .25, ANOTHER .25, ANOTHER .25, BULLET FROM THE  
7 BEDROOM WALL, BULLET FROM THE FRONT OF THE HOUSE, FRAGMENTS  
8 FROM THE SKULL AND THE BULLET FROM HIS SKULL, BULLET  
9 FRAGMENTS FROM THE LEFT ARM, AS WELL AS THE BULLET THAT CAME  
10 THROUGH THE LEFT ARM AND WAS FOUND UNDER HIM, THE BULLET  
11 FROM THE RIGHT UPPER THIGH THAT WENT THROUGH HIS BACK AND  
12 ENDS UP IN HIS THIGH AND THE BULLET THAT WENT THROUGH HIS  
13 CHEST, THROUGH HIS HEART AND KILLED HIM, TOO. THERE'S ALL  
14 OF THAT, THE FACT THAT IT'S MATCHED BACK TO THIS GUN, TO  
15 THIS GUN. YOU HAVE A TRAIL OF GUILT. EVERY ONE OF THESE  
16 TALKS OF CONSPIRACY AND INTENT AND MALICE AND MURDER, AND  
17 CONSPIRACY, INTENT AND MALICE AND MURDER, CONSPIRACY,  
18 INTENT, MALICE, MURDER, CONSPIRACY, INTENT, MALICE, MURDER,  
19 AND MURDER. THERE'S NO QUESTION. THEY PUT A DESPERATE  
20 DEFENSE BECAUSE PEOPLE WHO ARE DESPERATE DO THAT.

21 LADIES AND GENTLEMEN, THIS MOUNTAIN OF EVIDENCE THAT  
22 STANDS BEFORE YOU SPEAKS THE TRUTH, JUST AS YOUR VERDICT  
23 WILL SPEAK THE TRUTH AND THAT'S WHAT VERDICT IN ITS ORIGINAL  
24 FORM MEANS, TO SPEAK THE TRUTH AND THAT'S WHAT I ASK YOU TO  
25 DO. THAT'S WHAT THE JUDGE ASKS YOU TO DO, THAT'S WHAT SOUTH

1 CAROLINA ASKS YOU TO DO AND THAT IS YOUR DUTY TODAY, TO  
2 SPEAK THE TRUTH.

3 LADIES AND GENTLEMEN, THE TRUTH IS CHRISTOPHER WOODY IS  
4 GUILTY OF MURDER. HE'S THE ONE ON TRIAL TODAY. HE'S THE  
5 ONE WE NEED TO BE CONCERNED ABOUT. THANK YOU.

6 THE COURT: MADAM FORELADY, MEMBERS OF THE JURY PANEL,  
7 THAT CONCLUDES THE FINAL ARGUMENTS OF COUNSEL. IT'S NOW  
8 TIME FOR ME TO CHARGE, INSTRUCT, YOU WITH REGARD TO THE LAW  
9 THAT APPLIES TO THE ISSUES IN THIS CASE. YOU'VE BEEN  
10 SITTING THERE LIKE I HAVE FOR ALMOST TWO HOURS AND SO WE'RE  
11 GOING TO TAKE A SHORT BREAK BEFORE I INSTRUCT YOU UPON THE  
12 LAW BECAUSE THAT'S GOING TO TAKE A LITTLE TIME AS WELL. SO  
13 WE'RE GOING TO TAKE A SHORT RECESS AT THIS TIME. WE'RE ONLY  
14 GOING TO TAKE ABOUT TEN MINUTES. I'LL NOT ALLOW YOU TO  
15 SMOKE DURING THIS BREAK. YOU'LL GET A CHANCE TO DO THAT  
16 ONCE WE'VE COMPLETED THE INSTRUCTIONS. I'LL ASK YOU TO GO  
17 TO THE JURY ROOM AND REFRESH YOURSELVES. OF COURSE, DO NOT  
18 BEGIN DISCUSSING THE CASE BECAUSE I HAVE NOT YET INSTRUCTED  
19 YOU UPON THE LAW AND YOU NEED THAT INFORMATION BEFORE YOU  
20 BEGIN DELIBERATING. THANK YOU. PLEASE RETIRE TO THE JURY  
21 ROOM AT THIS TIME.

22 (JURY OUT AT 11:05 A.M.)

23 THE COURT: ALL RIGHT. WE'LL TAKE ABOUT TEN MINUTES.

24 MR. DELGADO: YOUR HONOR,---

25 THE COURT: YES, SIR.

1 MR. DELGADO: ---I'M SORRY TO DO HAVE TO DO THIS AND I  
2 DO IT OUT OF A SENSE OF PROFESSIONALISM FOR MR. THOMPSON. I  
3 MAY HAVE MISHEARD AND I'M BOUND BY WHAT THE COURT SAYS AND  
4 MAYBE WHAT THE COURT REPORTER HEARD. AT THE VERY END, THE  
5 LAST MAYBE TWENTY SECONDS OF MR. THOMPSON'S CLOSING HE SAID  
6 THAT'S WHAT THE LAW ASKS OF YOU TO DO, THAT'S WHAT THE STATE  
7 OF SOUTH CAROLINA ASKS YOU TO DO AND, JUDGE, MY EARS AREN'T  
8 WHAT THEY USED TO BE AND I STAND CORRECTED BY -- I THINK HE  
9 SAID THAT'S WHAT THE JUDGE ASKS YOU DO THEN. I --

10 THE COURT: WELL, HE DID SAY THAT. HE DID SAY THAT.

11 MR. DELGADO: WHAT THE JUDGE ASKS YOU TO DO?

12 THE COURT: TO RENDER A VERDICT THAT SPEAKS THE TRUTH.

13 MR. DELGADO: I --

14 THE COURT: OF COURSE, I HAVEN'T ASKED THEM TO DO  
15 ANYTHING. I'M ABOUT TO INSTRUCT THEM UPON THE LAW.

16 MR. DELGADO: YOU CAN'T --

17 THE COURT: WHAT IS YOUR CONCERN ABOUT THAT?

18 MR. DELGADO: YOU CAN'T SAY TO A JURY IN THAT -- IN THE  
19 CONTEXT THAT'S WHAT THE STATE ASKS YOU TO DO AND THAT'S WHAT  
20 THE JUDGE ASKS YOU TO DO. I MEAN, THAT PUTS YOU, THE  
21 NEUTRAL -- THE NEUTRALNESS OF YOUR POSITION NOW IS ALIGNED  
22 WITH THE STATE. NO, SIR. I DON'T THINK THEY CAN SAY THAT.

23 THE COURT: WELL, I -- OF COURSE, I -- WHAT'S YOUR  
24 POSITION, COUNSEL?

25 MR. DELGADO: MY POSITION IS THAT'S A MISTRIAL.

1 THE COURT: ALL RIGHT, SIR. IF THAT'S YOUR MOTION FOR  
2 A MISTRIAL, I'LL DENY IT.

3 MR. DELGADO: WELL, THEN I ASK THE COURT TO INSTRUCT  
4 THE JURY THAT THAT WAS MISSTATED.

5 THE COURT: I'LL BE GLAD TO DO THAT. I'LL BE GLAD TO  
6 BEGIN MY INSTRUCTION BY SAYING THAT THE SOLICITOR SAID  
7 THAT'S WHAT THE JUDGE WANTS YOU TO DO AND TO INFORM THEM  
8 AGAIN THAT I'M A NEUTRAL PARTY IN THIS CASE AND THAT'S THEIR  
9 DECISION AND TO FOLLOW THE INSTRUCTIONS THAT I GIVE THEM.

10 MR. DELGADO: AND THEN, YOUR HONOR, AFTER YOU DO THAT I  
11 MAY HAVE TO ASK IF -- AND I'M NOT TRYING TO SAY WELL, HOW DO  
12 YOU SAY THAT, BUT I MEAN THAT'S JUST -- I'VE NEVER HEARD  
13 THAT, NEVER HEARD THAT. I DON'T THINK THAT'S PERMISSIBLE.  
14 I JUST DON'T --

15 THE COURT: WELL, COUNSEL, I'VE NEVER HEARD IT, BUT  
16 JUST BECAUSE YOU HAVEN'T HEARD IT DOESN'T MEAN IT'S NOT  
17 PERMISSIBLE. YOU'RE NOT GIVING ME ANY KIND OF BASIS FOR WHY  
18 YOU SAY IT'S IMPERMISSIBLE AND IF YOU TAKE IN HIS OVERALL  
19 STATEMENT, HIS STATEMENT WAS THAT YOU SHOULD TAKE ALL THIS  
20 IN CONSIDERATION AND RENDER A VERDICT THAT SPEAKS THE TRUTH  
21 AND THAT'S WHAT THE -- IN ITS ORIGINAL FORM THE WORD VERDICT  
22 MEANS, TO SPEAK THE TRUTH. THAT'S WHAT THE STATE ASKS YOU  
23 TO DO, THAT'S WHAT THE -- I DON'T KNOW WHO ELSE HE SAID, I  
24 GUESS THE STATE. HE DID SAY THE JUDGE ASKS YOU TO DO AND I  
25 -- OF COURSE, I DIDN'T ASK THEM TO DO THAT. I -- WHAT I'M

1 GOING TO INSTRUCT THEM IS THAT THEY SHOULD RENDER A VERDICT  
2 WHICH SPEAKS THE TRUTH AND SOME JUDGES DO DO THAT.

3 MR. DELGADO: SURE, AND THAT'S UNDERSTANDABLE.

4 THE COURT: TO SPEAK THE TRUTH, TO RENDER A VERDICT---

5 MR. DELGADO: SURE.

6 THE COURT: ---TO RENDER A VERDICT THAT SPEAKS THE  
7 TRUTH. SO I DON'T SEE ANY PROBLEM WITH THAT IN TAKING IT IN  
8 THE OVERALL CONTEXT.

9 MR. POPE: PLEASE THE COURT, YOUR HONOR, IF NEED BE,  
10 AND SHE CAN PLAY IT BACK 'CAUSE, AGAIN, I HEARD. -- I HEARD  
11 WHAT I THINK YOU JUST RECITED THAT MR. THOMPSON SAID THAT,  
12 YOU KNOW, THAT BASICALLY THE SYSTEM, EVERYBODY, OF COURSE,  
13 SAID THAT THE STATE AND THE JUDGE ASKS YOU TO SPEAK THE  
14 TRUTH. THEY DIDN'T ASK YOU -- THE JUDGE DIDN'T ASK TO  
15 RENDER A VERDICT OF GUILT. THE JUDGE ASKS TO SPEAK THE  
16 TRUTH IN LAW. IF WE NEED TO PLAY IT BACK, 'CAUSE MY CONCERN  
17 WITH A CURATIVE INSTRUCTION, IT'S GOING TO GET MESSY IF YOU  
18 SAY, WELL, YOU KNOW, -- YOU KNOW, THAT WAS WRONG AND YOU  
19 SAID 'CAUSE HE SAID THE JUDGE IS GOING TO ASK YOU TO SPEAK  
20 THE TRUTH, THAT'S EXACTLY WHAT YOU'RE GOING TO ASK THEM TO  
21 DO. SO I UNDERSTAND THE DEFENSE OBJECTION, BUT IF WE NEED  
22 TO HEAR EXACTLY WHAT HE SAID, I HAVE CONCERNS ABOUT A  
23 CURATIVE INSTRUCTION 'CAUSE THAT'S --

24 THE COURT: ALL RIGHT. CAN WE PLAY IT BACK?

25 THE COURT REPORTER: IT WILL TAKE ME A MINUTE TO FIND

1 IT.

2 THE COURT: THAT'S FINE. TAKE YOUR TIME.

3 (WHEREUPON, THE TAPE WAS PLAYED, AS REQUESTED.)

4 MR. POPE: YOUR HONOR, I HAVE NO OBJECTION TO --

5 THE COURT: WELL, WAIT. LET'S MAKE SURE SHE -- ARE WE  
6 READY TO RECORD?

7 THE COURT REPORTER: I'M SORRY.

8 THE COURT: OH, OKAY. I'M SORRY. GO AHEAD.

9 MR. POPE: I'M SORRY. I HAVE NO OBJECTION. I THINK  
10 THE COURT ALWAYS SAYS THAT YOU'RE A NEUTRAL PARTY. EVEN  
11 WHEN YOU READ THE ORDER OF THE VERDICTS, YOU TELL THEM, YOU  
12 KNOW, NOTHING YOU SAY INTIMATES ANY -- AGAIN, I JUST OBJECT  
13 TO A CURATIVE INSTRUCTION. I DON'T OBJECT TO YOU EXPLAINING  
14 IN MORE DETAIL THAT YOU'RE A NEUTRAL PARTY, YOU KNOW, AND  
15 BECAUSE ULTIMATELY YOU'RE GOING TO ASK THEM TO SAY THAT. I  
16 UNDERSTAND MR. DELGADO'S CONCERNS ABOUT IT, I SUBMIT, IF  
17 HE'D SAID THE JUDGE ASKS YOU FIND HIM GUILTY TODAY; THAT'S  
18 NOT WHAT HE SAID.

19 MR. DELGADO: IT'S NOT THAT, YOUR HONOR. THAT'S WHAT  
20 THE LAW ASKS YOU TO DO. THAT'S ACCEPTABLE. NOT THAT'S WHAT  
21 THE JUDGE ASKS YOU TO DO.

22 THE COURT: WELL, HE DOESN'T SPEAK FOR THE JUDGE AND  
23 SO, YOU KNOW, AND I'LL SPEAK FOR THE JUDGE---

24 MR. DELGADO: YES, SIR.

25 THE COURT: ---WHEN I ADDRESS THEM AND I WILL ADDRESS

1 THAT ISSUE IF YOU WANT ME TO DO THAT AND I WILL -- CERTAINLY  
2 I HAVE TOLD THEM AT THE BEGINNING BEFORE WE EVER STARTED  
3 THIS TRIAL WHAT THE ROLE OF THE -- MY ROLE AND WHAT THEIR  
4 ROLE WAS. I TOLD THEM AT THE BEGINNING OF IT AND I GAVE  
5 THEM A PRETTY GOOD INSTRUCTION ABOUT THAT BEFORE WE EVER  
6 STARTED THE CASE.

7 I DON'T MIND TELLING THEM AGAIN WHAT MY ROLE AND WHAT  
8 THEIR ROLE IS AND THAT I AM A NEUTRAL PARTY IN THIS CASE AND  
9 WHAT MY RESPONSIBILITY IS. I DON'T MIND TELLING THEM THAT  
10 AND I -- INSTRUCT THEM ON WHAT THEIR ROLE IS, BUT I DON'T  
11 THINK THAT RISES TO THE -- HIS STATEMENT TO THAT EFFECT.

12 IF HE ASKED THEM ANYTHING OTHER THAN THAT THEIR VERDICT  
13 SHOULD SPEAK THE TRUTH AND SAYING THAT HE -- THAT'S WHAT HE  
14 ASKS THEM TO DO, THAT'S WHAT THE JUDGE ASKS THEM TO DO,  
15 THAT'S WHAT THE STATE ASKS THEM TO DO, YOU KNOW, TO RENDER A  
16 VERDICT WHICH SPEAKS THE TRUTH, I DON'T SEE THAT THAT'S  
17 PREJUDICIAL. HE'S NOT ASKING THEM TO FIND HIM GUILTY AND  
18 THAT'S WHAT SOMEBODY --

19 MR. DELGADO: I GUESS WHAT IT DOES, JUDGE, IS BY NOT  
20 INCLUDING THE DEFENDANT, SEE, IN OTHER WORDS, IT'S YOU AND  
21 THE STATE WHAT HE NOTES, THE PRESIDING OFFICER, AS OPPOSED  
22 TO THE LAW THAT WE ALL SERVE IN OUR VARIOUS ROLES, BUT WHEN  
23 HE SAYS THAT'S WHAT THE STATE ASKS YOU TO DO, THAT'S WHAT  
24 THE JUDGE ASKS YOU TO DO, THAT INFERENCE IS MORE THAN JUST  
25 NEUTRAL, JUDGE. YOU CAN'T-- THERE'S NO WAY YOU CAN --

1 THERE'S NO WAY YOU CAN CURE THAT.

2 THE COURT: WELL, I CERTAINLY THINK YOU CAN CURE IT AND  
3 I'M WILLING TO LISTEN TO YOU ON IT, BUT I DON'T THINK IT'S  
4 SOMETHING THAT RISES TO THE LEVEL TO GRANT A MISTRIAL. A  
5 MISTRIAL IS A VERY -- IS A STEP WHICH SHOULD ONLY BE TAKEN  
6 WHEN THERE'S NO OTHER WAY---

7 MR. DELGADO: YES, SIR.

8 THE COURT: ---TO CURE ANY KIND OF PREJUDICE. FRANKLY,  
9 I DON'T THINK THERE'S ANY REAL PREJUDICE THERE TO SAY --  
10 EVEN IF HE DOES SAY THE JUDGE WANTS YOU TO DO RENDER A  
11 VERDICT WHICH SPEAKS THE TRUTH, I DON'T THINK THAT'S  
12 PREJUDICIAL TO THE DEFENDANT IF THE JURY RENDERS A VERDICT  
13 WHICH SPEAKS THE TRUTH OR THE COURT WANTS THEM TO RENDER A  
14 VERDICT WHICH SPEAKS THE TRUTH. I DON'T SEE HOW THAT'S  
15 PREJUDICIAL TO YOUR CLIENT EVEN IF HE WASN'T MENTIONED.

16 MR. POPE: YOUR HONOR, I'D SUBMIT IT'S NO DIFFERENT  
17 THAN WHEN MR. DELGADO SAYS AND THE JUDGE IS GOING TO TELL  
18 YOU THAT YOU HAVE TO FIND REASONABLE DOUBT OR YOU HAVE TO  
19 FIND THIS, SO THE STATEMENT'S REFERRING AGAIN -- BASICALLY  
20 HE'S REFERRING TO WHAT YOU WILL INSTRUCT THEM JUST AS MR.  
21 THOMPSON DID.

22 THE COURT: WELL, I CERTAINLY DON'T THINK IT RISES TO  
23 THE LEVEL OF A MISTRIAL FOR CERTAIN TO SAY THAT EVEN THOUGH  
24 IT WOULD HAVE BEEN -- I'VE NOT HEARD IT SAID BEFORE, EITHER  
25 AND IT WOULD HAVE BEEN BETTER IF HE HAD NOT SAID IT, BUT BE

1 THAT AS IT MAY, I DON'T SEE WHERE IT'S PREJUDICIAL TO THE  
2 DEFENDANT AND I CERTAINLY WILL EXPLAIN MY ROLE AS BEING A  
3 NEUTRAL IN THIS CASE.

4 MR. DELGADO: AS LONG AS MY OBJECTION IS PRESERVED AND,  
5 YOUR HONOR, AND I KNOW WE ARE UNDER THE RULE OF  
6 CONTEMPORANEOUS OBJECTION. MY PROBLEM WITH IT IS IS THAT I  
7 DON'T WANT TO HAVE TO STOP AFTER YOU DEFINE YOUR ROLE AND  
8 SAY, YOU KNOW, HOWEVER YOU SAY IT, I DON'T WANT TO --

9 THE COURT: COUNSEL, IF YOU WANT YOUR OBJECTION ON THE  
10 RECORD, IT'S THERE. ALL RIGHT?

11 MR. DELGADO: THANK YOU.

12 THE COURT: AND NO MATTER WHAT I SAY IT'S GOING TO BE  
13 THERE. THAT'S WHAT YOU'RE TELLING ME.

14 MR. DELGADO: YES, SIR.

15 THE COURT: SO THAT'S FINE. IT'S THERE AND NOTED FOR  
16 THE RECORD.

17 MR. DELGADO: THANK YOU.

18 THE COURT: ALL RIGHT, SIR? DOES THAT TAKE CARE OF IT?

19 MR. DELGADO: YES, SIR.

20 THE COURT: ALL RIGHT. THANK YOU, SO MUCH. WE'LL TAKE  
21 A SHORT BREAK.

22 (WHEREUPON, A BRIEF RECESS WAS OBSERVED.)

23 THE COURT: YOU CAN BRING THE JURY IN.

24 (JURY IN AT 11:30 A.M.)

25 THE COURT: MADAM FORELADY, MEMBERS OF THE JURY PANEL,

1 IT'S NOW TIME FOR ME TO CHARGE OR INSTRUCT YOU WITH REGARD  
2 TO THE LAW THAT APPLIES TO THIS CASE.

3 IN A CRIMINAL CASE IT'S THE STATE'S RESPONSIBILITY TO  
4 PRESENT THE EVIDENCE FOR THE STATE. THE DEFENSE ATTORNEY,  
5 OF COURSE, PRESENTS WHATEVER THE DEFENSE WISHES TO PRESENT  
6 TO YOU AS WELL AND THAT'S THEIR ROLE IN THIS CASE.

7 I EXPLAINED TO YOU AS WE BEGAN THIS CASE THAT THE  
8 JUDGE'S ROLE IS SIMPLY REALLY TO PRESIDE OVER THE CASE AND  
9 TO MAKE SURE THE RULES ARE OBSERVED, ET CETERA, AND MAINTAIN  
10 SOME ORDER IN IT AND MAINTAIN -- AND MAKE SURE THAT THE  
11 TRIAL IS RUN IN AN ORDERLY MANNER. THE JUDGE'S ROLE IS A  
12 NEUTRAL ROLE. LIKE YOU, THE JURY, THE JUDGE IS NEUTRAL IN  
13 THE CASE, HAS NO POSITION ONE WAY OR THE OTHER AND SO I WANT  
14 TO BE SURE YOU UNDERSTAND THAT, THAT THE COURT, LIKE YOU, IS  
15 A NEUTRAL ARBITER. THE COURT IS NEUTRAL IN ANY CASE THAT  
16 COMES BEFORE IT INSOFAR AS THE COURT IS CONCERNED AND WHEN  
17 THE SOLICITOR, I THINK, MENTIONED TO YOU IN HIS FINAL  
18 ARGUMENT, I BELIEVE, THAT HE ASKED THAT YOU RENDER A VERDICT  
19 WHICH SPEAKS THE TRUTH AND HE SAYS THAT THE JUDGE WANTS YOU  
20 TO DO THAT. WELL, LET ME SAY TO YOU THAT YOU SHOULD NOT  
21 INFER FROM THAT IN ANY WAY THAT THE JUDGE IS NOT A NEUTRAL  
22 PARTY IN THIS CASE OR IS ALIGNED WITH ONE SIDE OR THE OTHER.  
23 IN THE CASE, BECAUSE THE JUDGE IS NOT. A JUDGE IS NEUTRAL  
24 IN THE CASE AND SIMPLY SITS TO MAKE SURE THAT THERE'S A FAIR  
25 TRIAL ACCORDING TO THE RULES AND PROCEDURES IN OUR STATE. I

1 WANTED TO BE SURE YOU UNDERSTOOD THAT.

2 NOW, IN THIS CASE THE STATE CHARGES THE DEFENDANT,  
3 CHRISTOPHER WOODY, WITH FOUR SEPARATE OFFENSES. THEY HAVE  
4 CHARGED MR. WOODY WITH THE OFFENSE OF MURDER. THEY CHARGE  
5 HIM WITH POSSESSION OF A FIREARM DURING THE COMMISSION OF A  
6 VIOLENT CRIME. THEY CHARGE HIM WITH CRIMINAL CONSPIRACY AND  
7 THEY CHARGE HIM WITH CARRYING A PISTOL UNLAWFULLY. TO EACH  
8 OF THESE CHARGES THE DEFENDANT HAS PLED NOT GUILTY, WHICH  
9 THEN PLACES UPON THE STATE THE BURDEN OF PROVING THE  
10 DEFENDANT GUILTY OF THESE CHARGES BEYOND A REASONABLE DOUBT.

11 I TELL YOU THAT A PERSON CHARGED WITH COMMITTING A  
12 CRIMINAL OFFENSE IN SOUTH CAROLINA IS NEVER REQUIRED TO  
13 PROVE HIMSELF INNOCENT. I CHARGE YOU THAT IT IS A VITAL,  
14 IMPORTANT RULE OF LAW THAT A DEFENDANT IN A CRIMINAL TRIAL,  
15 NO MATTER HOW GREAT OR SERIOUS MAY BE THE OFFENSE WITH WHICH  
16 HE IS CHARGED, MUST ALWAYS BE PRESUMED INNOCENT UNTIL HIS  
17 GUILT HAS BEEN PROVED BEYOND A REASONABLE DOUBT.

18 THIS PRESUMPTION OF INNOCENCE REMAINS WITH THE  
19 DEFENDANT AT ALL TIMES THROUGHOUT THE TRIAL AND IS ONLY  
20 REMOVED WHEN AND IF THE STATE HAS PROVED GUILT BEYOND A  
21 REASONABLE DOUBT, FOR IT IS YOUR SOLEMN DUTY, LADIES AND  
22 GENTLEMEN, IF NOT CLEARLY CONVINCED OF GUILT BEYOND EVERY  
23 REASONABLE DOUBT TO THE CONTRARY TO FIND THE DEFENDANT NOT  
24 GUILTY. SO THE STATE HAS THE BURDEN OF PROVING THE  
25 DEFENDANT GUILTY BEYOND A REASONABLE DOUBT.

1           SOME OF YOU MAY HAVE SERVED AS JURORS IN CIVIL CASES  
2 WHERE YOU WERE TOLD THAT IT IS ONLY NECESSARY TO PROVE THE  
3 FACT IS MORE LIKELY TRUE THAN NOT, SUCH AS, BY THE GREATER  
4 WEIGHT OR PREPONDERANCE OF THE EVIDENCE. HOWEVER, IN  
5 CRIMINAL CASES, THE STATE'S PROOF MUST BE MORE POWERFUL THAN  
6 THAT. IT MUST BE BEYOND A REASONABLE DOUBT.

7           NOW, LADIES AND GENTLEMEN, PROOF BEYOND A REASONABLE  
8 DOUBT IS PROOF THAT LEAVES YOU FIRMLY CONVINCED OF THE  
9 DEFENDANT'S GUILT. THERE ARE VERY FEW THINGS IN THIS WORLD  
10 THAT WE KNOW WITH ABSOLUTE CERTAINTY AND IN CRIMINAL CASES  
11 THE LAW DOES NOT REQUIRE PROOF THAT OVERCOMES EVERY POSSIBLE  
12 DOUBT.

13           A REASONABLE DOUBT MAY ALSO BE DESCRIBED AS THE KIND OF  
14 DOUBT THAT WOULD CAUSE A REASONABLE PERSON TO HESITATE TO  
15 ACT. IF YOU HAVE SUCH A DOUBT AS TO THE GUILT OF THE  
16 DEFENDANT, THEN HE WOULD BE ENTITLED TO A VERDICT OF NOT  
17 GUILTY.

18           REASONABLE DOUBT MAY ARISE FROM EVIDENCE WHICH IS IN  
19 THE CASE OR FROM THE ABSENCE OR LACK OF EVIDENCE IN THE  
20 CASE. IF, BASED ON YOUR CONSIDERATION OF THE EVIDENCE, YOU  
21 ARE FIRMLY CONVINCED THAT THE DEFENDANT IS GUILTY OF THE  
22 CRIME CHARGED, YOU MUST FIND HIM GUILTY. IF, ON THE OTHER  
23 HAND, YOU THINK THERE IS A REAL POSSIBILITY THAT HE IS NOT  
24 GUILTY, YOU MUST GIVE HIM THE BENEFIT OF THE DOUBT AND FIND  
25 HIM NOT GUILTY. YOU ALONE MUST MAKE THE DETERMINATION OF

1 WHETHER OR NOT REASONABLE DOUBT EXISTS AS TO THE GUILT OF  
2 THE DEFENDANT.

3 MADAM FORELADY, MEMBERS OF THE JURY PANEL, I INSTRUCT  
4 YOU NOW AND EMPHASIZE TO YOU THAT THE FACT THAT THE  
5 DEFENDANT DID NOT TESTIFY ON HIS OWN BEHALF IN THIS TRIAL IS  
6 NOT A FACTOR TO BE CONSIDERED BY YOU IN ANY WAY IN YOUR  
7 DELIBERATION. YOU MUST NOT CONSIDER THE FACT THAT THE  
8 DEFENDANT HAS CHOSEN NOT TO TESTIFY WHEN YOU DETERMINE THE  
9 GUILT OR INNOCENCE OF THE DEFENDANT. IT MUST NOT BE  
10 CONSIDERED BY YOU IN ANY MANNER WHATSOEVER EITHER AGAINST OR  
11 FOR THE DEFENDANT. A DEFENDANT HAS THE CONSTITUTIONAL RIGHT  
12 TO REMAIN SILENT. THE ASSERTION OF THAT CONSTITUTIONAL  
13 RIGHT CANNOT AND MUST NOT BE CONSIDERED BY YOU IN YOUR  
14 DELIBERATIONS. UNDER YOUR OATH, THEN, YOU'RE TO REACH NO  
15 INFERENCE AND DRAW NO CONCLUSION WHATSOEVER FROM THE FACT  
16 THAT THE DEFENDANT DID NOT TESTIFY. THE FACT THAT THE  
17 DEFENDANT DID NOT TESTIFY SHOULD NOT EVEN BE DISCUSSED IN  
18 YOUR JURY ROOM. THE BURDEN OF PROOF, AS I HAVE STATED TO  
19 YOU, IS UPON THE STATE. IT IS NOT THE BURDEN OF THE ACCUSED  
20 TO PROVE HIS INNOCENCE. THE BURDEN OF PROOF REMAINS UPON  
21 THE STATE TO PROVE GUILT BEYOND EVERY REASONABLE DOUBT.  
22 AGAIN, I EMPHASIZE THAT THE FACT THAT THE DEFENDANT DID NOT  
23 TESTIFY IS NOT A FACTOR TO BE CONSIDERED BY YOU IN  
24 DETERMINING THE GUILT OR INNOCENCE OF THE DEFENDANT OR IN  
25 ANY OTHER ASPECT OF YOUR DELIBERATIONS.

1           MADAM FORELADY, MEMBERS OF THE JURY PANEL, I CHARGE YOU  
2 WITH REGARD TO EVIDENCE. THERE ARE TWO TYPES OF EVIDENCE  
3 WHICH ARE GENERALLY PRESENTED DURING A TRIAL, DIRECT  
4 EVIDENCE AND CIRCUMSTANTIAL EVIDENCE.

5           DIRECT EVIDENCE IS THE TESTIMONY OF A PERSON WHO  
6 ASSERTS OR CLAIMS TO HAVE ACTUAL KNOWLEDGE OF A FACT, SUCH  
7 AS, AN EYEWITNESS. CIRCUMSTANTIAL EVIDENCE IS PROOF OF A  
8 CHAIN OF FACTS AND CIRCUMSTANCES INDICATING THE EXISTENCE OF  
9 A FACT.

10           THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN THE  
11 WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR  
12 CIRCUMSTANTIAL EVIDENCE, NOR IS A GREATER DEGREE OF  
13 CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF DIRECT  
14 EVIDENCE. YOU SHOULD WEIGH ALL THE EVIDENCE IN THE CASE.  
15 AFTER WEIGHING ALL THE EVIDENCE, IF YOU ARE NOT CONVINCED OF  
16 THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT, YOU  
17 MUST FIND THE DEFENDANT NOT GUILTY.

18           MADAM FORELADY, MEMBERS OF THE JURY PANEL, UNDER THE  
19 CONSTITUTION OF SOUTH CAROLINA, YOU ARE THE FINDERS OF THE  
20 FACTS IN THIS CASE. I DO NOT HAVE THE RIGHT TO PASS UPON  
21 THE FACTS OR EVEN TO EXPRESS ANY OPINION I MIGHT HAVE AS TO  
22 THE FACTS, NOR MAY I SUGGEST IN ANY WAY WHAT I MAY THINK  
23 ABOUT THE GUILT OR INNOCENCE OF THE DEFENDANT. YOU SHOULD  
24 FORM NO OPINION IN THAT REGARD FROM ANYTHING THAT HAS BEEN  
25 SAID DURING THE COURSE OF THE TRIAL, ANY RULING I HAVE MADE

1 AND THE STATEMENT OF THE SOLICITOR TO YOU IN FINAL ARGUMENT  
2 FOR THAT MATTER.

3 NOW, DURING THE COURSE OF THE TRIAL YOU'VE HEARD THE  
4 TESTIMONY OF WITNESSES WHO HAVE SPECIAL KNOWLEDGE, SKILL,  
5 EXPERIENCE, TRAINING, OR EDUCATION IN A PARTICULAR FIELD AND  
6 WHO HAVE GIVEN OPINIONS AS TO MATTERS IN WHICH THEY ARE  
7 SKILLED. IN DETERMINING THE WEIGHT TO BE GIVEN SUCH  
8 OPINIONS, YOU SHOULD CONSIDER THE QUALIFICATIONS AND  
9 CREDIBILITY OF THE EXPERT WITNESSES AND THE REASONS GIVEN  
10 FOR THEIR OPINIONS. YOU ARE NOT BOUND BY SUCH OPINIONS, BUT  
11 GIVE TO THEM THE WEIGHT, IF ANY, YOU DEEM THEM ENTITLED.

12 MADAM FORELADY, MEMBERS OF THE JURY PANEL, AS THE SOLE  
13 JUDGES OF THE FACTS IN THIS CASE, YOU ARE ALSO NECESSARILY  
14 THE SOLE JUDGES OF THE CREDIBILITY OR BELIEVABILITY OF EACH  
15 OF THE WITNESSES THAT HAVE TESTIFIED DURING THE COURSE OF  
16 THE TRIAL. NOW, THERE ARE A NUMBER OF FACTORS WHICH YOU MAY  
17 CONSIDER IN ARRIVING AT YOUR ASSESSMENT AS TO A PARTICULAR  
18 WITNESS'S CREDIBILITY OR BELIEVABILITY. SOME FACTORS I'M  
19 GOING TO LIST FOR YOU AND SHOULD YOU THINK OF OTHER FACTORS  
20 THAT YOU BELIEVE ALSO OUGHT TO BE CONSIDERED WHEN YOU GO  
21 BACK INTO YOUR JURY ROOM ON THE QUESTION OF CREDIBILITY OR  
22 BELIEVABILITY, THEN YOU SHOULD CONSIDER THOSE FACTORS AS  
23 WELL, BUT YOU MAY CONSIDER THE DEMEANOR OF THE WITNESS FROM  
24 THE WITNESS STAND. WHAT WAS THAT WITNESS'S MANNER OF  
25 APPEARANCE? WAS THE WITNESS STRAIGHT-FORWARD IN ANSWERING

1 QUESTIONS OR HESITANT IN RESPONDING TO QUESTIONS? SIMPLY.  
2 PUT, DO YOU BELIEVE THE WITNESS WAS TELLING THE TRUTH OR NOT  
3 TELLING THE TRUTH? DO YOU BELIEVE THE WITNESS KNEW OF WHAT  
4 THAT WITNESS TESTIFIED OR DID NOT KNOW OF WHAT THAT WITNESS  
5 TESTIFIED?

6 YOU MAY CONSIDER WHETHER OR NOT THE TESTIMONY OF A  
7 WITNESS IS CONSISTENT OR INCONSISTENT WITH THAT WITNESS'S  
8 OWN TESTIMONY OR WITH OTHER TESTIMONY OR EVIDENCE PRESENTED  
9 DURING THE COURSE OF THE TRIAL. YOU MAY ALSO CONSIDER HOW  
10 THE WITNESS CAME TO KNOW THE FACTS TO WHICH HE OR SHE  
11 TESTIFIED. YOU MAY CONSIDER THE OPPORTUNITY THAT A WITNESS  
12 HAD TO OBSERVE OR HEAR, THAT IS, TO PERCEIVE THE EXISTENCE  
13 OF A FACT BY MEANS OF THEIR SENSES. YOU MAY ALSO CONSIDER  
14 WHETHER OR NOT A WITNESS IS BIASED OR PREJUDICED. THAT  
15 SIMPLY MEANS DO YOU FIND THAT A PARTICULAR WITNESS HAD SOME  
16 REASON TO COME INTO COURT AND TESTIFY ONE WAY OR ANOTHER TO  
17 HELP OR HURT ONE SIDE OR THE OTHER. YOU MAY ALSO CONSIDER  
18 WHETHER OR NOT THE TESTIMONY OF A WITNESS WAS STRENGTHENED  
19 OR WEAKENED BY OTHER TESTIMONY OR OTHER EVIDENCE PRESENTED  
20 DURING THE COURSE OF THE TRIAL.

21 NOW, YOU, AS THE FINDERS OF THE FACTS IN THIS CASE AND  
22 YOU AS THE JUDGES OF THE CREDIBILITY OR BELIEVABILITY OF  
23 EACH OF THE WITNESSES THAT HAVE TESTIFIED, MAY BELIEVE AS  
24 MUCH OR AS LITTLE OF WHAT A WITNESS TESTIFIES TO AS YOU DEEM  
25 APPROPRIATE. YOU MAY BELIEVE ALL OF WHAT A WITNESS SAYS,

1 YOU MAY BELIEVE NONE OF WHAT A WITNESS SAYS, OR YOU MAY  
2 BELIEVE ONLY PART OF WHAT A WITNESS SAYS. YOU MAY BELIEVE  
3 ONE WITNESS AS AGAINST SEVERAL OR SEVERAL AS AGAINST ONE.  
4 WHATEVER YOUR GOOD JUDGMENT AND COMMON SENSE TELLS YOU IS  
5 THE MOST BELIEVABLE TESTIMONY IS THE TESTIMONY THAT YOU  
6 SHOULD ACCEPT AND REJECT THAT TESTIMONY WHICH YOU FIND NOT  
7 TO BE CREDIBLE OR BELIEVABLE.

8 MADAM FORELADY, MEMBERS OF THE JURY PANEL, YOU HAVE HAD  
9 INTRODUCED INTO TRIAL A STATEMENT BY MR. WOODY, THE  
10 DEFENDANT IN THIS CASE. YOU MUST DETERMINE THE EXISTENCE,  
11 VOLUNTARINESS, AND WEIGHT OF ANY ALLEGED STATEMENT. YOU  
12 MUST MAKE THE ULTIMATE DETERMINATION OF WHETHER OR NOT MR.  
13 WOODY IN FACT MADE THE ALLEGED STATEMENT. IF YOU DETERMINE  
14 THAT IT WAS MADE, YOU MUST THEN DETERMINE WHETHER IT WAS  
15 MADE VOLUNTARILY AND, FINALLY, YOU MUST DECIDE WHAT WEIGHT,  
16 IF ANY, YOU SHOULD GIVE ANY ALLEGED STATEMENT.

17 YOU MUST DETERMINE WHETHER THE ALLEGED STATEMENT WAS  
18 THE PRODUCT OF AN ESSENTIALLY FREE AND UNCONSTRAINED CHOICE  
19 BY MR. WOODY. THE STATE MUST PROVE THE VOLUNTARINESS OF THE  
20 STATEMENT BEYOND A REASONABLE DOUBT. IF YOU DETERMINE  
21 BEYOND A REASONABLE DOUBT THAT THE STATEMENT WAS GIVEN  
22 FREELY AND VOLUNTARILY, THEN YOU MAY GIVE THE STATEMENT SUCH  
23 FURTHER CONSIDERATION AS YOU DEEM PROPER. IF YOU DETERMINE  
24 THAT THE ALLEGED STATEMENT WAS NOT THE FREE, VOLUNTARY WILL  
25 OR EXPRESSION OF MR. WOODY, THEN YOU SHOULD NOT CONSIDER THE

1 STATEMENT AS EVIDENCE.

2 IN DETERMINING WHETHER A DEFENDANT'S WILL IS OVERCOME  
3 IN OBTAINING THE STATEMENT, THE LAW REQUIRES THAT YOU  
4 CONSIDER WHAT IS KNOWN AS THE TOTALITY OF THE CIRCUMSTANCES.  
5 YOU SHOULD CONSIDER BOTH THE CHARACTERISTICS OF MR. WOODY  
6 AND THE CIRCUMSTANCES SURROUNDING ANY QUESTION OR  
7 INTERROGATION OR ANY STATEMENT. SOME OF THE FACTORS YOU MAY  
8 CONSIDER ARE HIS AGE, EDUCATION, AND OTHER CIRCUMSTANCES  
9 SURROUNDING THE MAKING OF THE ALLEGED STATEMENT YOU BELIEVE  
10 APPROPRIATE.

11 IN DETERMINING THE VOLUNTARINESS OF ANY ALLEGED  
12 STATEMENT, YOU SHOULD CONSIDER WHETHER HE WAS ADVISED OF AND  
13 UNDERSTOOD HIS CONSTITUTIONAL RIGHTS. THE LAW REQUIRES THAT  
14 BEFORE ANY INTERROGATION OR QUESTIONING OF A PERSON IN  
15 CUSTODY MAY BEGIN, LAW ENFORCEMENT MUST ADVISE THE ACCUSED  
16 OF WHAT ARE CALLED MIRANDA RIGHTS. THIS MEANS THAT AN  
17 ACCUSED MUST BE ADVISED BEFORE BEING QUESTIONED, FIRST, THAT  
18 HE OR SHE HAS A RIGHT TO REMAIN SILENT; SECOND, THAT ANY  
19 STATEMENT COULD BE USED AGAINST THE ACCUSED IN A COURT OF  
20 LAW; THIRD, THAT THE ACCUSED HAS THE RIGHT TO HAVE A LAWYER  
21 PRESENT; FOURTH, THAT IF THE ACCUSED COULD NOT AFFORD AN  
22 ATTORNEY OR A LAWYER, THAT ONE WOULD BE APPOINTED TO THEM  
23 FOR REPRESENTATION WITHOUT ANY COST TO THEM; FIFTH AND  
24 FINALLY, THAT THE ACCUSED COULD STOP MAKING A STATEMENT AT  
25 ANY TIME.

1 OTHER FACTORS TO CONSIDER ARE THE PLACE AND LENGTH OF  
 2 ANY QUESTIONING AND THE NATURE OF THE QUESTIONS. YOU MUST  
 3 CAREFULLY SCRUTINIZE ALL OF THE SURROUNDING CIRCUMSTANCES  
 4 BEFORE YOU GIVE ANY WEIGHT TO AN ALLEGED STATEMENT. YOU  
 5 MUST BE SATISFIED BEYOND A REASONABLE DOUBT THAT THE  
 6 STATEMENT WAS MADE BY MR. WOODY UNINFLUENCED BY THE PROMISE  
 7 OF REWARD OR THE THREAT OF HARM.

8 IF YOU FIND BEYOND A REASONABLE DOUBT THAT ANY ALLEGED  
 9 STATEMENT WAS GIVEN VOLUNTARILY, THEN YOU MUST DECIDE WHAT  
 10 WEIGHT, IF ANY, SHOULD BE GIVEN THE STATEMENT. IF YOU FIND  
 11 THE STATEMENT WAS NOT VOLUNTARY, THEN IN THAT EVENT, YOU  
 12 MUST NOT CONSIDER THE STATEMENT AS EVIDENCE FOR ANY PURPOSE  
 13 WHATSOEVER.

14 MADAM FORELADY, MEMBERS OF THE JURY PANEL, THE SAME  
 15 CONSTITUTION THAT MAKES YOU THE FINDERS OF THE FACTS IN THIS  
 16 CASE, MAKES ME THE SOLE AND ONLY INSTRUCTOR IN THE LAW. YOU  
 17 MUST ACCEPT AS CORRECT THE LAW THAT I CHARGE AND APPLY TO  
 18 THE LAW THE EVIDENCE AS YOU FIND IT AND REACH YOUR VERDICT.  
 19 PUT ASIDE ANY CONCEPTIONS YOU MAY HAVE HAD AS TO THE LAW  
 20 BEFORE COMING HERE TODAY AND ACCEPT THE LAW AS I INSTRUCT IT  
 21 TO BE. YOU, FOR PURPOSES OF YOUR DUTY AS JURORS TODAY,  
 22 SHOULD NOT BE CONCERNED ABOUT WHAT THE LAW OUGHT TO BE, BUT  
 23 WHAT I CHARGE YOU THE LAW IS NOW IN THIS STATE.

24 MADAM FORELADY, MEMBERS OF THE JURY PANEL, I CHARGE YOU  
 25 WITH REGARD TO CRIMINAL INTENT. CRIMINAL INTENT IS A

1. NECESSARY ELEMENT OF EACH CRIME THAT MUST BE PROVED BY THE  
2. STATE BEYOND A REASONABLE DOUBT. CRIMINAL INTENT IS ALWAYS  
3. A MATTER THAT MUST DETERMINED BY THE JURY FROM THE  
4. CIRCUMSTANCES SURROUNDING THE SITUATION. THERE IS NO WAY TO  
5. PROVE INTENT TO A MATHEMATICAL CERTAINTY. THERE IS NO WAY  
6. MEDICAL SCIENCE CAN DISSECT A PERSON'S BRAIN AND DETERMINE  
7. WHAT HE HAD IN MIND. SO THE LAW SAYS THAT CRIMINAL INTENT  
8. MAY BE INFERRED FROM THE CIRCUMSTANCES SHOWN TO HAVE  
9. EXISTED. THIS IS HOW THE JURY MAKES A DETERMINATION WHETHER  
10. OR NOT THE ELEMENT REQUIRING INTENT WAS PRESENT.

11. CRIMINAL INTENT IS A STATE OF MIND, WHICH OPERATED  
12. JOINTLY WITH AN ACT, IS THE COMMISSION OF A CRIME. CRIMINAL  
13. INTENT IS A MENTAL STATE, A CONSCIOUS WRONGDOING. SO IT IS  
14. UP TO YOU, THE JURY, TO DETERMINE WHAT THE DEFENDANT  
15. INTENDED TO DO BASED ON THE CIRCUMSTANCES SHOWN TO HAVE  
16. EXISTED. I TELL YOU THAT THE STATE MUST PROVE CRIMINAL  
17. INTENT BEYOND A REASONABLE DOUBT JUST AS THE STATE MUST  
18. PROVE EVERY ELEMENT BEYOND A REASONABLE DOUBT, AS I'VE  
19. PREVIOUSLY EXPLAINED TO YOU.

20. IT IS NOT NECESSARY TO ESTABLISH INTENT BY DIRECT AND  
21. POSITIVE EVIDENCE, BUT INTENT MAY BE ESTABLISHED BY  
22. INFERENCE IN THE SAME WAY AS ANY OTHER FACT BY TAKING INTO  
23. CONSIDERATION THE ACTS OF THE PARTIES AND ALL OF THE FACTS  
24. AND CIRCUMSTANCES OF THE CASE. WHILE THE STATE MAY PROVE  
25. MOTIVE, IT IS UNNECESSARY THAT THE STATE DO SO, HOWEVER, THE

1 STATE MUST PROVE INTENT.

2 NOW, MADAM FORELADY, MEMBERS OF THE JURY PANEL, I'M  
3 GOING TO GO THROUGH WITH YOU NOW THE LAW AS TO EACH OF THE  
4 CHARGES AGAINST THE DEFENDANT IN THIS CASE. I WILL TELL YOU  
5 YOU'RE NOT GOING TO HAVE ANY OF THESE INSTRUCTIONS WRITTEN  
6 DOWN FOR YOU BACK IN THE JURY ROOM TO RELY ON, SO YOU'RE  
7 GOING TO HAVE TO CALL ON YOUR COLLECTIVE MEMORIES AS TO WHAT  
8 THE LAW IS AS I CHARGE IT TO YOU, ALTHOUGH, IF YOU GET BACK  
9 AND YOU START YOUR DELIBERATIONS AND YOU'RE NOT SURE ABOUT  
10 WHAT I INSTRUCTED YOU ON ANY OF THESE CHARGES OR ALL OF  
11 THESE CHARGES, FOR THAT MATTER, OR ANY PART OF THE LAW AS I  
12 CHARGE YOU AND YOU WISH ME TO FURTHER INSTRUCT YOU ON THAT  
13 OR GO BACK OVER THAT WITH YOU, I'LL BE GLAD TO DO IT. ALL  
14 YOU HAVE TO DO IS REQUEST IT IN WRITING ON A TABLET THAT  
15 WILL BE PROVIDED FOR YOU BACK IN THE JURY ROOM, BUT THE  
16 REASON I TELL YOU THAT IS BECAUSE TO TELL YOU THAT I WANT  
17 YOU TO LISTEN CAREFULLY TO THIS BECAUSE YOU'LL NOT HAVE IT  
18 WRITTEN DOWN FOR YOU BACK IN THE JURY ROOM.

19 I'M GOING TO INSTRUCT YOU FIRST AS TO THE CHARGE OF  
20 MURDER. WHAT IS MURDER? MURDER IS THE WILLFUL, FELONIOUS  
21 KILLING OF A HUMAN BEING BY ANOTHER HUMAN BEING WITH MALICE  
22 AFORETHOUGHT, THAT MALICE BEING EITHER EXPRESSED MALICE OR  
23 INFERRED MALICE.

24 WHAT IS MALICE? MALICE IS HATRED, ILL WILL OR  
25 HOSTILITY TOWARDS ANOTHER PERSON. IT IS THE INTENTIONAL

1 DOING OF A WRONGFUL ACT WITHOUT JUST CAUSE OR EXCUSE AND  
2 WITH AN INTENT TO INFLICT AN INJURY OR UNDER CIRCUMSTANCES  
3 THAT THE LAW WILL INFER AN EVIL INTENT. MALICE AFORETHOUGHT  
4 DOES NOT REQUIRE THAT MALICE EXIST FOR ANY PARTICULAR TIME  
5 BEFORE THE ACT IS COMMITTED, BUT MALICE MUST EXIST IN THE  
6 MIND OF THE DEFENDANT JUST BEFORE AND AT THE TIME OF THE ACT  
7 IS COMMITTED. THEREFORE, THERE MUST BE A COMBINATION OF THE  
8 PREVIOUS EVIL INTENT AND THE ACT.

9 MALICE AFORETHOUGHT MAY BE EXPRESSED OR INFERRED.  
10 THESE TERMS EXPRESSED AND INFERRED DO NOT MEAN DIFFERENT  
11 KINDS OF MALICE, BUT MERELY THE MANNER IN WHICH MALICE MAY  
12 BE SHOWN TO EXIST, THAT IS, EITHER BY DIRECT EVIDENCE OR BY  
13 INFERENCE FROM THE FACTS AND CIRCUMSTANCES WHICH ARE PROVED.

14 EXPRESSED MALICE IS SHOWN WHEN A PERSON SPEAKS WORDS  
15 WHICH EXPRESS HATRED OR ILL WILL FOR ANOTHER OR WHEN THE  
16 PERSON PREPARED BEFOREHAND TO DO THE ACT WHICH WAS LATER  
17 ACCOMPLISHED. FOR EXAMPLE, LYING IN WAIT FOR A PERSON OR  
18 ANY OTHER ACTS OF PREPARATION GOING TO SHOW THAT THE DEED  
19 WAS WITHIN THE DEFENDANT'S MIND WOULD BE EXPRESSED MALICE.

20 MALICE MAY BE INFERRED FROM CONDUCT SHOWING A TOTAL  
21 DISREGARD FOR HUMAN LIFE. INFERRED MALICE MAY ALSO ARISE  
22 WHEN THE DEED IS DONE WITH A DEADLY WEAPON. A DEADLY WEAPON  
23 IS ANY ARTICLE, INSTRUMENT OR SUBSTANCE WHICH IS LIKELY TO  
24 CAUSE DEATH OR GREAT BODILY HARM. THE FOLLOWING ARE  
25 EXAMPLES OF INSTRUMENTS WHICH MAY BE DEADLY WEAPONS: A

1 PISTOL, A SHOTGUN, A RIFLE, A KNIFE AND SO FORTH.

2 I'M GOING TO CHARGE YOU FURTHER WITH REGARD TO MALICE.  
3 EVEN WHERE THERE IS AN ABSENCE OF A SPECIFIC FIXED AND  
4 DELIBERATE INTENT TO TAKE THE LIFE OF A PARTICULAR PERSON OR  
5 THAT OF ANY PERSON, THE LAW SAYS THAT IF IT IS PROVED BEYOND  
6 A REASONABLE DOUBT THAT ONE INTENTIONALLY KILLED ANOTHER  
7 WITH A DEADLY WEAPON OR WITH A DANGEROUS INSTRUMENTALITY,  
8 SUCH AS A GUN OR A KNIFE, AN INFERENCE OF MALICE MAY ARISE.

9 THE USE OF A DEADLY WEAPON PERMITS YOU TO INFER MALICE,  
10 BUT IT DOES NOT REQUIRE YOU TO INFER MALICE. IF FACTS ARE  
11 PROVED BEYOND A REASONABLE DOUBT SUFFICIENT TO RAISE AN  
12 INFERENCE OF MALICE TO YOUR SATISFACTION, THIS WOULD SIMPLY  
13 BE AN EVIDENTIARY FACT TO BE TAKEN INTO CONSIDERATION BY  
14 YOU, THE JURY, ALONG WITH OTHER EVIDENCE IN THE CASE AND YOU  
15 MAY GIVE IT SUCH WEIGHT AS YOU FIND IT SHOULD RECEIVE. YOU  
16 AS JURORS ARE FREE TO ACCEPT OR REJECT THIS PERMISSIVE  
17 INFERENCE DEPENDING ON YOUR VIEW OF THE FACTS. IN OTHER  
18 WORDS, IF SUCH CONDUCT RESULTS DIRECTLY IN THE DEATH OF  
19 ANOTHER AND IF SUCH CONDUCT WAS SO CULPABLE AND INEXCUSABLE,  
20 SO AGGRAVATED AND GROSSLY RECKLESS AS TO SHOW AN ACT OF  
21 INTENTIONAL DISREGARD OF THE CONSEQUENCES OF HUMAN LIFE,  
22 THUS DENOTING A MALIGNANT SPIRIT, A HEART DEVOID OF SOCIAL  
23 DUTY AND FATALLY BENT ON MISCHIEF, INFERENCE OF MALICE MAY  
24 ARISE.

25 FURTHERMORE, IT IS NOT JUST CARELESSNESS, NOT MERE

1 RECKLESSNESS OR A PASSIVE INDIFFERENCE TO THE SAFETY OF  
2 OTHERS. THIS CONDUCT, WHEN IT SHOWS A DELIBERATE AND  
3 INTENTIONAL DESIGN TO SO USE OR EMPLOY OR HANDLE A DEADLY  
4 WEAPON OR DANGEROUS INSTRUMENTALITY SO AS TO ENDANGER THE  
5 LIFE OF ANOTHER OR OF OTHERS WITHOUT JUST CAUSE OR EXCUSE  
6 MAY BE SUFFICIENT TO RAISE THE INFERENCE. HOWEVER, IT IS  
7 FOR YOU, THE JURY, TO DECIDE BEYOND A REASONABLE DOUBT  
8 WHETHER UPON ALL THE FACTS AND CIRCUMSTANCES OF THIS CASE  
9 THE DEFENDANT'S ALLEGED USE OF A DEADLY WEAPON DEMONSTRATED  
10 SUCH AN INTENTIONAL DISREGARD FOR HUMAN LIFE THAT MALICE MAY  
11 BE INFERRED FROM THE USE OF A DEADLY WEAPON AND IT IS FOR  
12 YOU, THE JURY, TO DECIDE WHAT WEIGHT, IF ANY, SHOULD BE  
13 GIVEN THIS FACT. AND, AGAIN, LADIES AND GENTLEMEN, IT WILL  
14 BE OBSERVED THAT MALICE MUST BE AFORETHOUGHT AND WHILE THE  
15 LAW DOES NOT REQUIRE THAT MALICE EXIST ANY PARTICULAR LENGTH  
16 OF TIME BEFORE THE COMMISSION OF THE ACT, IT MUST BE  
17 AFORETHOUGHT. THERE MUST BE A COMBINATION OF THE PREVIOUS  
18 EVIL INTENT AND THE ACT PRODUCING THE FATAL RESULT.

19 IF THE EVIDENCE SHOULD SHOW UNDER WHAT CIRCUMSTANCES A  
20 SHOT WAS FIRED WHICH TOOK THE LIFE OF ANOTHER, THEN YOU, THE  
21 JURY, WOULD HAVE TO DETERMINE WHETHER UNDER SUCH  
22 CIRCUMSTANCES THE ACT WAS MALICIOUS.

23 NOW, MADAM FORELADY, MEMBERS OF THE JURY PANEL, THE  
24 ISSUE OF SELF-DEFENSE HAS BEEN RAISED IN THIS CASE AND I'M  
25 GOING TO INSTRUCT YOU NOW WITH REGARD TO SELF-DEFENSE OR THE

1 DEFENSE OF SELF-DEFENSE.

2       THERE ARE FOUR ELEMENTS OF SELF-DEFENSE OR FOUR  
3 SEPARATE FACTORS OF SELF-DEFENSE. THE FIRST FACTOR IS THAT  
4 THE DEFENDANT WAS NOT AT FAULT IN BRINGING ABOUT THE  
5 IMMEDIATE DIFFICULTY OR THE NECESSITY FOR HIS TAKING OF THE  
6 HUMAN LIFE, AND SECOND, THAT AT THE TIME DEFENDANT FIRED THE  
7 FATAL SHOT HE BELIEVED IN GOOD FAITH THAT HE WAS IN IMMINENT  
8 DANGER OF LOSING HIS LIFE OR SUSTAINING SERIOUS BODILY HARM.  
9 IMMINENT HARM MEANS IMMEDIATE, NOT PAST OR FUTURE AND,  
10 THIRD, THAT SUCH BELIEF WAS REASONABLE AND THAT A REASONABLY  
11 CAREFUL AND PRUDENT MAN, A MAN OF ORDINARY FIRMNESS AND  
12 COURAGE, SITUATED IN LIKE CIRCUMSTANCES WOULD HAVE REACHED A  
13 SIMILAR CONCLUSION AND, FOURTH, WHERE BOTH THE DECEASED AND  
14 THE DEFENDANT ARE ON COMMON GROUND, THAT IS, WHERE THERE  
15 BOTH HAVE A RIGHT TO BE, IT MUST BE SHOWN THAT THE DEFENDANT  
16 HAD NO OTHER REASONABLE SAFE, ADEQUATE OR OBVIOUS MEANS OF  
17 ESCAPE OR WAY OF AVOIDING THE DANGER OF LOSING HIS OWN LIFE  
18 OR SUSTAINING SERIOUS BODILY HARM EXCEPT TO ACT AS HE DID.  
19 I'M GOING TO GO OVER THESE ELEMENTS OF SELF-DEFENSE WITH YOU  
20 NOW IN MORE DETAIL.

21       MADAM FORELADY, MEMBERS OF THE JURY PANEL, THE LAW  
22 RECOGNIZES THE RIGHT OF EVERY PERSON TO DEFEND HIMSELF FROM  
23 DEATH OR SERIOUS BODILY HARM AND TO DO THIS HE MUST USE SUCH  
24 FORCE AS IS NECESSARY EVEN TO THE POINT OF TAKING HUMAN  
25 LIFE. IN OTHER WORDS, SELF-DEFENSE IS A COMPLETE DEFENSE

1 AND ENTITLES ONE CHARGED WITH MURDER TO AN ACQUITTAL IF THE  
2 LEGAL ELEMENTS OF THE PLEA OF SELF-DEFENSE ARE SHOWN TO YOUR  
3 SATISFACTION BY THE EVIDENCE.

4 NOW, AGAIN, THE RIGHT OF SELF-DEFENSE IS A COMPLETE  
5 DEFENSE AND ENTITLES ONE CHARGED WITH UNLAWFUL HOMICIDE TO  
6 AN ACQUITTAL IF THE LEGAL ELEMENTS OF THE PLEA OF SELF-  
7 DEFENSE ARE SHOWN TO YOUR SATISFACTION BY THE EVIDENCE.

8 NOW, THE RIGHT OF SELF-DEFENSE RESTS UPON NECESSITY, EITHER  
9 ACTUAL OR REASONABLY APPARENT AND IN ORDER TO ESTABLISH THE  
10 PLEA OF SELF-DEFENSE IN A HOMICIDE CASE THE JURY MUST BE  
11 SATISFIED, AGAIN, OF FOUR THINGS.

12 NOW, I'VE GONE OVER WITH YOU THOSE FOUR THINGS. I'M  
13 GOING TO GO OVER THEM WITH YOU A LITTLE MORE IN DETAIL, BUT  
14 THE FIRST ELEMENT WAS THAT THE DEFENDANT WAS NOT AT FAULT IN  
15 BRINGING ABOUT THE IMMEDIATE DIFFICULTY OR THE NECESSITY FOR  
16 HIS TAKING THE HUMAN LIFE. OBVIOUSLY ONE CANNOT, THROUGH  
17 HIS OWN FAULT, BRING ON A DIFFICULTY AND THEN CLAIM THE  
18 DEFENSE OF SELF-DEFENSE.

19 THE SECOND ELEMENT WAS THAT AT THE TIME THE DEFENDANT  
20 FIRED THE FATAL SHOT HE BELIEVED IN GOOD FAITH THAT HE WAS  
21 IN IMMINENT DANGER OF LOSING HIS LIFE OR SUSTAINING SERIOUS  
22 BODILY HARM. IMMINENT MEANS IMMEDIATE. NOT PAST OR FUTURE.  
23 BUT PRESENT.

24 MADAM FORELADY, MEMBERS OF THE JURY PANEL, I CHARGE YOU  
25 THAT IF DEFENDANT IS IN IMMINENT DANGER OR IF DEFENDANT'S

1 BELIEF THAT HE IS IN IMMINENT DANGER OF DEATH OR RECEIVING  
2 BODILY HARM IS REASONABLE, DEFENDANT NEED NOT WAIT UNTIL  
3 ACTUAL ATTACK OR INJURY OR UNTIL FORCE IS USED BY THE  
4 AGGRESSOR BEFORE EXERCISING THE RIGHT TO USE DEADLY FORCE IN  
5 SELF-DEFENSE. IN OTHER WORDS, THE DEFENDANT NEED NOT WAIT  
6 UNTIL THE ASSAILANT GETS THE DROP ON HIM IN ORDER TO BE  
7 ENTITLED TO USE FORCE IN SELF-DEFENSE.

8 I CHARGE YOU FURTHER WITH REGARD TO IMMINENT DANGER,  
9 THE SECOND ELEMENT OF SELF-DEFENSE. IF THE DEFENDANT WAS  
10 ACTUALLY IN IMMINENT DANGER -- WELL, LET ME GO BACK OVER  
11 THAT. SECOND ELEMENT WAS -- OF SELF-DEFENSE IS THE  
12 DEFENDANT WAS ACTUALLY IN IMMINENT DANGER OF DEATH OR  
13 SERIOUS BODILY INJURY OR THAT THE DEFENDANT ACTUALLY  
14 BELIEVED HE WAS IN IMMINENT DANGER OF DEATH OR SERIOUS  
15 BODILY INJURY. IF THE DEFENDANT WAS ACTUALLY IN IMMINENT  
16 DANGER, IT MUST BE SHOWN THAT THE CIRCUMSTANCES WOULD HAVE  
17 WARRANTED A PERSON OF ORDINARY FIRMNESS AND COURAGE TO  
18 STRIKE THE FATAL BLOW TO PREVENT DEATH OR SERIOUS BODILY  
19 INJURY. IF THE DEFENDANT BELIEVED HE WAS IN IMMINENT DANGER  
20 OF DEATH OR SERIOUS BODILY INJURY, IT MUST BE SHOWN THAT A  
21 REASONABLY PRUDENT PERSON OF ORDINARY FIRMNESS AND COURAGE  
22 WOULD HAVE HAD THE SAME BELIEF.

23 IN DECIDING WHETHER THE DEFENDANT ACTUALLY WAS OR  
24 BELIEVED HE WAS IN IMMINENT DANGER OF DEATH OR SERIOUS  
25 BODILY INJURY, YOU SHOULD CONSIDER ALL THE FACTS AND

1 CIRCUMSTANCES SURROUNDING THE INCIDENT, INCLUDING THE  
2 PHYSICAL CONDITION AND CHARACTERISTICS OF THE DEFENDANT AND  
3 THE ALLEGED VICTIM.

4 NOW, THE THIRD ELEMENT OF SELF-DEFENSE, THAT SUCH  
5 BELIEF WAS REASONABLE AND THAT A REASONABLE, CAREFUL AND  
6 PRUDENT MAN, A MAN OF ORDINARY FIRMNESS AND COURAGE SITUATED  
7 IN LIKE CIRCUMSTANCES, WOULD HAVE REACHED A SIMILAR  
8 CONCLUSION.

9 THE DEFENDANT DOES NOT HAVE TO SHOW THAT HE WAS  
10 ACTUALLY IN DANGER. IT IS ENOUGH IF THE DEFENDANT BELIEVED  
11 HE WAS IN IMMINENT DANGER AND A REASONABLY PRUDENT PERSON OF  
12 ORDINARY FIRMNESS AND COURAGE WOULD HAVE HAD THE SAME  
13 BELIEF. THE DEFENDANT HAS THE RIGHT TO ACT ON APPEARANCES  
14 EVEN THOUGH THE DEFENDANT'S BELIEFS MAY HAVE BEEN MISTAKEN.  
15 IT IS FOR YOU TO DECIDE WHETHER DEFENDANT'S FEAR OF  
16 IMMEDIATE DANGER OF DEATH OR SERIOUS BODILY INJURY WAS  
17 REASONABLE AND WOULD HAVE BEEN FELT BY A ORDINARY PERSON IN  
18 THE SAME SITUATION.

19 AND THE FOURTH ELEMENT, WHERE BOTH THE DECEASED AND THE  
20 DEFENDANT ARE ON COMMON GROUND, THAT IS, WHERE BOTH HAVE A  
21 RIGHT TO BE, THEN IT MUST BE SHOWN THAT THE DEFENDANT HAD NO  
22 OTHER REASONABLE SAFE, ADEQUATE OR OBVIOUS MEANS OF ESCAPE  
23 OR WAY OF AVOIDING THE DANGER OF LOSING HIS LIFE OR  
24 SUSTAINING SERIOUS BODILY HARM EXCEPT TO ACT AS HE DID.

25 NOW, IF A PERSON IS ASSAULTED AND BEING HIMSELF WITHOUT

1 FAULT, THAT IS MEANT LEGAL FAULT, REASONABLY APPREHENDS  
2 DEATH OR SERIOUS BODILY HARM UNLESS HE KILLS HIS ASSAILANT,  
3 THE KILLING IS EXCUSABLE AND THE ACCUSED IS ENTITLED TO BE  
4 ACQUITTED. THE PARTY ATTACKED IS THE JUDGE OF HIS OWN PERIL  
5 AND CAN ACT SAFELY UPON THE APPEARANCE, FACTS AND  
6 CIRCUMSTANCES SURROUNDING HIM AT THE TIME AND THE SITUATION  
7 SHOULD BE DETERMINED FROM THE STANDPOINT OF THE DEFENDANT.  
8 IT BEING FOR YOU, THE JURY, TO SAY WHETHER OR NOT HIS  
9 APPREHENSION OF IMMEDIATE DANGER OF DEATH OR OF SERIOUS  
10 BODILY HARM WAS REASONABLE AND WOULD HAVE BEEN FELT BY A  
11 PERSON OF ORDINARY -- EXCUSE ME -- ORDINARY REASON AND  
12 FIRMNESS.

13 I CHARGE YOU FURTHER THAT IN DETERMINING WHETHER THE  
14 DEFENDANT ACTED PROPERLY IN SELF-DEFENSE, IT MAY BE  
15 SUFFICIENT THAT HE BELIEVED HE WAS IN IMMINENT DANGER. A  
16 DEFENDANT NEED NOT ACTUALLY BE IN SUCH DANGER, BECAUSE  
17 PEOPLE ARE ENTITLED TO ACT ON APPEARANCES. THE DEFENDANT  
18 ACTS PROPERLY USING FORCE FOR SELF-DEFENSE IF UNDER THE  
19 CIRCUMSTANCES, AS THEY APPEARED TO HIM, HE BELIEVED HE WAS  
20 IN SUCH DANGER AND A REASONABLY, PRUDENT PERSON OF ORDINARY  
21 FIRMNESS AND COURAGE IN THE SITUATION WOULD HAVE ENTERTAINED  
22 THE SAME BELIEF.

23 I CHARGE YOU FURTHER THAT IN DETERMINING WHETHER THE  
24 DEFENDANT HAD A RIGHT TO USE FORCE OF SELF-DEFENSE AGAINST  
25 AN ALLEGED VICTIM, THE CONTINUING NATURE OF THE THREAT, IF

1 ANY, BY THAT VICTIM WHO IS STILL A THREAT DESPITE ACTION BY  
2 DEFENDANT TO THREATEN THE VICTIM MAY BE RELEVANT TO THE  
3 APPARENT OR ACTUAL NEED FOR FORCE FROM SELF-DEFENSE AND TO  
4 THE AMOUNT OF FORCE NEEDED.

5 I CHARGE YOU FURTHER, MADAM FORELADY, MEMBERS OF THE  
6 JURY PANEL, THAT ONE OF THE ELEMENTS OF SELF-DEFENSE IS THAT  
7 THE DEFENDANT MUST HAVE ACTUALLY BELIEVED HE WAS IMMINENT  
8 DANGER OF LOSING HIS LIFE OR SUSTAINING SERIOUS BODILY  
9 INJURY OR HE ACTUALLY WAS IN SUCH IMMINENT DANGER.

10 IN DETERMINING WHETHER THE DEFENDANT HAD A REASONABLE  
11 BELIEF OF SUCH IMMINENT DANGER OR WHETHER DEFENDANT ACTUALLY  
12 WAS IN SUCH IMMINENT DANGER, YOU MAY CONSIDER THE REPUTATION  
13 FOR VIOLENCE OF THE ALLEGED VICTIM.

14 I CHARGE YOU FURTHER THAT AN INDIVIDUAL HAS NO DUTY TO  
15 RETREAT IF BY DOING SO HE WOULD INCREASE HIS DANGER OF BEING  
16 KILLED OR SUFFERING SERIOUS BODILY INJURY.

17 NOW, WHETHER THERE WAS SUCH A REASONABLE APPEARANCE OF  
18 DANGER AS WOULD JUSTIFY THE KILLING IS A QUESTION OF FACT  
19 FOR YOU, THE JURY, AND IN MAKING YOUR DETERMINATION YOU  
20 SHOULD CONSIDER THE CONDITIONS OF BOTH PARTIES. IF THE  
21 APPEARANCE TO THE DEFENDANT AT THE TIME THE FATAL SHOT WAS  
22 FIRED WAS SUCH THAT HE COULD NOT REASONABLY AND SAFELY AVOID  
23 THE TAKING OF THE LIFE OF THE DECEASED AND A PERSON OF  
24 ORDINARY REASON AND COURAGE WOULD HAVE BEEN JUSTIFIED IN  
25 ARRIVING AT THAT CONCLUSION, THEN IT IS NOT NECESSARY FOR

1 HIM TO GO ANY FURTHER AND HE SHOULD BE ACQUITTED IF HE IS  
2 FREE FROM FAULT IN BRINGING ON THE IMMEDIATE DIFFICULTY.

3 MADAM FORELADY, MEMBERS OF THE JURY PANEL, I CHARGE YOU  
4 FURTHER THAT THE REPUTATION OF THE VICTIM AS A VIOLENT  
5 PERSON MAY BE CONSIDERED IN DECIDING WHETHER THERE WAS A  
6 NEED FOR FORCE, WHETHER THE DEFENDANT HAD REASON TO BELIEVE  
7 THERE WAS A NEED FOR FORCE AND WHETHER DEADLY FORCE WAS  
8 REASONABLY NECESSARY.

9 I CHARGE YOU FURTHER, MADAM FORELADY, MEMBERS OF THE  
10 JURY PANEL, THAT THE INTOXICATION OF THE ALLEGED VICTIM MAY  
11 BE CONSIDERED IN DECIDING WHETHER A DEFENDANT'S FEAR OF  
12 DEATH OR BODILY HARM WAS REASONABLE.

13 AS I SAID, ONE HAS A RIGHT TO USE FORCE IN REPELLING  
14 FORCE OR IN PROTECTING HIMSELF AND HE CANNOT BE REQUIRED TO  
15 MAKE A NICE CALCULATION AS TO THE DEGREE OR QUANTITY OR  
16 AMOUNT OF FORCE WHICH MAY BE NECESSARY FOR HIS COMPLETE  
17 PROTECTION FROM LOSS OF HIS LIFE OR SERIOUS BODILY HARM TO  
18 HIMSELF.

19 NOW, WHERE THE DEFENDANT SETS UP, AS HERE, THE PLEA OF  
20 SELF-DEFENSE AND UNDERTAKES TO PRESENT A CASE OF APPARENT  
21 DANGER WHICH IS HONESTLY BELIEVED IN AS A DEFENSE, THE JURY  
22 SHOULD, IN JUSTICE TO THE ACCUSED, CONSIDER ALL THE  
23 SURROUNDING CIRCUMSTANCES AND FACTS CALCULATED TO INFLUENCE  
24 MOTIVE.

25 I CHARGE YOU FURTHER THAT THE STATE HAS THE BURDEN OF

1 DISPROVING SELF-DEFENSE BEYOND A REASONABLE DOUBT. IF YOU  
2 HAVE A REASONABLE DOUBT AS TO WHETHER THE DEFENDANT ACTED IN  
3 SELF-DEFENSE, YOU SHOULD FIND HIM NOT GUILTY. IF YOU FIND  
4 THE STATE HAS PROVEN BEYOND A REASONABLE DOUBT THAT THE  
5 DEFENDANT DID NOT ACT IN SELF-DEFENSE, YOU SHOULD FIND HIM  
6 GUILTY.

7 THAT CONCLUDES THE INSTRUCTION WITH REGARD TO MURDER  
8 AND SELF-DEFENSE. I CHARGE YOU NOW, MADAM FORELADY, MEMBERS  
9 OF THE JURY PANEL WITH REGARD TO THE OFFENSE OF UNLAWFUL  
10 CARRYING OF A PISTOL.

11 THE DEFENDANT IS CHARGED WITH UNLAWFULLY CARRYING OF A  
12 PISTOL. THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT  
13 THE DEFENDANT CARRIED A PISTOL ABOUT HIS PERSON, WHETHER  
14 CONCEALED OR NOT. A WEAPON IS ABOUT THE DEFENDANT'S PERSON  
15 IF IT IS READILY ACCESSIBLE AND CONVENIENT FOR IMMEDIATE  
16 USE. THE PISTOL NEED NOT BE ACTUALLY TOUCHING THE PERSON OF  
17 THE DEFENDANT.

18 I CHARGE YOU FURTHER THAT, MADAM FORELADY, MEMBERS OF  
19 THE JURY PANEL, THAT IF A PERSON ARMS HIMSELF WITH A PISTOL  
20 OUT OF NECESSITY FOR LAWFUL SELF-DEFENSE, HE IS NOT GUILTY  
21 OF UNLAWFULLY CARRYING A PISTOL DURING THAT INCIDENT.

22 MADAM FORELADY, MEMBERS OF THE JURY PANEL, I CHARGE YOU  
23 NOW WITH REGARD TO THE LAW OF CRIMINAL CONSPIRACY. THE  
24 CRIME OF CONSPIRACY IS A COMBINATION BETWEEN TWO OR MORE  
25 PERSONS FOR THE PURPOSE OF ACCOMPLISHING EITHER A CRIMINAL

1 OR UNLAWFUL OBJECT BY WHATEVER MEANS OR AN OBJECT WHICH IS  
2 NEITHER CRIMINAL NOR UNLAWFUL BY CRIMINAL OR UNLAWFUL MEANS.

3 IF TWO OR MORE PERSONS AGREE TO UNITE IN A COMMON  
4 PURPOSE TO COMMIT A CRIMINAL ACT, THEY CONSPIRE. A  
5 CONSPIRACY IS A COMBINATION BETWEEN TWO OR MORE PERSONS TO  
6 DO AN UNLAWFUL ACT OR TO DO A LAWFUL ACT BY CRIMINAL OR  
7 UNLAWFUL MEANS.

8 I CHARGE YOU THAT THERE CAN BE NO CONSPIRACY WHEN ONE  
9 INDIVIDUAL ACTS BY AND FOR HIMSELF ONLY. TO BECOME A PARTY  
10 TO A CONSPIRACY A PERSON MUST COMBINE WITH SOMEONE ELSE TO  
11 EFFECT THE OBJECT OF CONSPIRACY BY THE MEANS AGREED UPON. A  
12 COMMON DESIGN OR PLAN IS ESSENTIAL TO THE CHARGE OF  
13 CONSPIRACY.

14 TO ESTABLISH CONSPIRACY IT IS NECESSARY FIRST THAT AN  
15 AGREEMENT TO COMMIT THE OFFENSE ALLEGED IN THE INDICTMENT BE  
16 ESTABLISHED. WHAT IS REQUIRED FOR AN AGREEMENT IS A SHARED,  
17 SINGLE CRIMINAL OBJECTIVE, NOT JUST SIMILAR OR PARALLEL  
18 OBJECTIVES BETWEEN SIMILARLY SITUATED PEOPLE. WHAT IS  
19 NEEDED IS PROOF THAT THEY INTENDED TO ACT TOGETHER FOR THEIR  
20 SHARED, COMMON -- EXCUSE ME -- THEIR SHARED, MUTUAL BENEFIT  
21 WITHIN THE SCOPE OF THE CONSPIRACY CHARGED.

22 THE STATE MUST PROVE FURTHER THAT ONE OR MORE OF THE  
23 PARTIES ENGAGED IN THE AGREEMENT COMMITTED SOME ACT TO  
24 EFFECT THE OBJECT OF THE CONSPIRACY AS ALLEGED IN THE  
25 INDICTMENT. ALTHOUGH THE OFFENSE OF CONSPIRACY MAY BE

1 COMPLETE WITHOUT PROOF OF AN OVERT ACT, SUCH ACTS MAY  
2 NEVERTHELESS BE SHOWN SINCE FROM THEM AN INFERENCE MAY BE  
3 DRAWN AS TO THE EXISTENCE OR OBJECT OF THE CONSPIRACY.

4 TO CONSTITUTE CONSPIRACY IT IS NOT NECESSARY THAT TWO  
5 OR MORE PERSONS MEET AND ENTER INTO AN EXPRESSED OR FORMAL  
6 AGREEMENT TO DO AN UNLAWFUL ACT, OR THAT THEY SHOULD  
7 DIRECTLY, BY WORDS OR IN WRITING, UNITE BETWEEN THEMSELVES  
8 AS WHAT THE UNLAWFUL OBJECT IS TO BE OR WHAT THE DETAILS OF  
9 THE PLAN ARE OR BY WHAT MEANS THE UNLAWFUL COMBINATION IS TO  
10 BE MADE EFFECTIVE.

11 IT IS SUFFICIENT IF TWO OR MORE PERSONS IN ANY MANNER  
12 OR THROUGH AN CONTRIVANCE POSITIVELY OR TACITLY COME TO A  
13 MUTUAL UNDERSTANDING TO ACCOMPLISH A COMMON AND UNLAWFUL  
14 DESIGN. IN OTHER WORDS, WHEN AN UNLAWFUL END IS SOUGHT TO  
15 BE EFFECTED AND TWO OR MORE PERSONS GET TOGETHER FOR THE  
16 COMMON PURPOSE OF ACCOMPLISHING THAT END AND WORK TOGETHER  
17 IN ANY WAY IN FURTHERANCE OF THE UNLAWFUL SCHEME, EACH OF  
18 THOSE PERSONS BECOMES A MEMBER OF THE CONSPIRACY. THE  
19 SUCCESS OR FAILURE OF CONSPIRACY IS IMMATERIAL, BUT BEFORE  
20 ANY PERSON CAN BE FOUND GUILTY OF THE CHARGE OF CONSPIRACY,  
21 IT MUST APPEAR BEYOND A REASONABLE DOUBT THAT THE CONSPIRACY  
22 WAS FORMED, IN THIS INSTANCE, TO COMMIT MURDER AND THAT THE  
23 PARTICULAR PERSON WAS AN ACTIVE PARTY TO IT. ALTHOUGH THE  
24 OFFENSE OF CONSPIRACY MAY BE COMMITTED WITHOUT PROOF OF  
25 OVERT ACTS, SUCH ACTS MAY NEVERTHELESS BE SHOWN. HERE THE

1 CONSPIRACY ITSELF CONSTITUTES THE OFFENSE AND IT APPEAR FROM  
2 THE EVIDENCE BEYOND A REASONABLE DOUBT BEFORE THE DEFENDANT  
3 MAY BE CONVICTED THAT HE WAS A PARTY TO THE CONSPIRACY.

4 THE MERE FACT THAT THE DEFENDANT NAMED MAY BE ENGAGED  
5 IN THE PERFORMANCE OF ANY OF THE ACTS CHARGED IN THE  
6 INDICTMENT SUCH AS OVERT ACTS IS NOT SUFFICIENT EVIDENCE TO  
7 CONVICT HIM OF CONSPIRACY. YOU MAY NOT CONVICT THE  
8 DEFENDANT OF CONSPIRACY ON THAT FACT ALONE, BUT IT IS  
9 NECESSARY TO SHOW THAT THE DEFENDANT WAS A PARTY TO THE  
10 CONSPIRACY, AN UNLAWFUL AGREEMENT, BEFORE HE IS GUILTY OF  
11 CONSPIRACY.

12 THE EVIDENCE AND PROOF OF THE CONSPIRACY MAY BE  
13 CIRCUMSTANTIAL. THE TERM OVERT ACTS AS I HAVE USED IT MEANS  
14 AN ACT COMMITTED BY ONE OR MORE CONSPIRATORS AS ALLEGED IN  
15 THE INDICTMENT.

16 I CHARGE YOU, LADIES AND GENTLEMEN, THAT THE STATE OF  
17 SOUTH CAROLINA IS REQUIRED TO PROVE ALL THE MATERIAL AND  
18 ESSENTIAL ALLEGATIONS OF THIS CHARGE BEYOND A REASONABLE  
19 DOUBT BEFORE YOU FIND THE DEFENDANT GUILTY OF CONSPIRACY.

20 FINALLY, LADIES AND GENTLEMEN OF THE JURY, I CHARGE YOU  
21 WITH REGARD TO THE OFFENSE OF POSSESSION OF A FIREARM OR  
22 KNIFE DURING THE COMMISSION OF A VIOLENT CRIME.

23 THE DEFENDANT IS ALSO CHARGED IN AN INDICTMENT WITH  
24 POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT  
25 CRIME. SECTION 16-23-490 OF THE SOUTH CAROLINA CODE OF

1 LAWS, 1976 AS AMENDED PROVIDES AS FOLLOWS: IF A PERSON IS IN  
2 POSSESSION OF A FIREARM OR VISIBLY DISPLAYS A FIREARM OR  
3 VISIBLY DISPLAYS A KNIFE DURING THE COMMISSION OF A VIOLENT  
4 CRIME AND IS CONVICTED OF COMMITTING OR ATTEMPTING TO COMMIT  
5 A VIOLENT CRIME AS DEFINED IN SECTION 16-1-60 OF THE SOUTH  
6 CAROLINA CODE AS AMENDED, HE IS GUILTY OF THIS OFFENSE.

7 SECTION 16-1-60 OF THE SOUTH CAROLINA CODE AS AMENDED  
8 DEFINES A VIOLENT CRIME IN SOUTH CAROLINA TO INCLUDE THE  
9 CRIME OF MURDER.

10 YOU MAY NOT CONSIDER THE CHARGE OF POSSESSION OF A  
11 FIREARM DURING THE COMMISSION OF A VIOLENT CRIME UNLESS YOU  
12 FIRST FIND THE DEFENDANT GUILTY OF MURDER. IF YOU DO NOT  
13 FIND HIM GUILTY OF THAT CHARGE, THAT IS TO SAY MURDER, THEN  
14 YOU WOULD FIND HIM NOT GUILTY ON THIS CHARGE AND WOULD NOT  
15 CONSIDER IT IN YOUR DELIBERATIONS. IN OTHER WORDS, A  
16 DEFENDANT MUST BE FOUND GUILTY OF A VIOLENT CRIME AND THE  
17 STATE MUST HAVE PROVED BEYOND A REASONABLE DOUBT THAT THE  
18 DEFENDANT WAS IN POSSESSION OF A FIREARM OR VISIBLY  
19 DISPLAYED A FIREARM DURING THE COMMISSION OF THAT VIOLENT  
20 CRIME BEFORE YOU MAY FIND THE DEFENDANT GUILTY OF THIS  
21 CRIME.

22 MADAM FORELADY, MEMBERS OF THE JURY PANEL, I CHARGE YOU  
23 THAT VOLUNTARY INTOXICATION IS NEVER AN EXCUSE FOR OR A  
24 DEFENSE TO CRIME REGARDLESS OF WHETHER THE CRIME IS ONE  
25 INVOLVING GENERAL OR SPECIFIC INTENT. A PERSON WHO

1 VOLUNTARILY RENDERS HIMSELF INTOXICATED IS NO LESS  
2 RESPONSIBLE FOR HIS ACTS WHILE IN SUCH CONDITION. IF ONE  
3 VOLUNTARILY DRINKS INTOXICATING LIQUORS, WINE OR BEER OR IS  
4 UNDER THE INFLUENCE OF DRUGS AND BECOMES INTOXICATED OF  
5 WHATEVER DEGREE AND IF WHILE IN THAT CONDITION COMMITS AN  
6 ACT WHICH WOULD BE A CRIME IF IT HAD BEEN COMMITTED BY A  
7 SOBER PERSON, THE FACT OF DRUNKENNESS WOULD NOT RELIEVE THE  
8 INTOXICATED PERSON FROM RESPONSIBILITY.

9 MADAM FORELADY, LADIES AND GENTLEMEN OF THE PANEL,  
10 CHARGE YOU WITH REGARD TO THE HAND OF ONE IS THE HAND OF  
11 ALL. IF A CRIME IS COMMITTED BY TWO OR MORE PEOPLE WHO ARE  
12 ACTING TOGETHER IN COMMITTING A CRIME, THE ACT OF ONE IS THE  
13 ACT OF ALL. A PERSON WHO JOINS WITH ANOTHER TO ACCOMPLISH  
14 AN ILLEGAL PURPOSE IS CRIMINALLY RESPONSIBLE FOR EVERYTHING  
15 DONE BY THE OTHER PERSON WHICH OCCURS AS A NATURAL  
16 CONSEQUENCE OF THE ACTS DONE IN CARRYING OUT THE COMMON PLAN  
17 AND PURPOSE.

18 FOR EXAMPLE, TWO PEOPLE CAN BE GUILTY OF KILLING  
19 ANOTHER PERSON WHEN ONLY ONE OF THE TWO HAD A GUN, THERE WAS  
20 ONLY ONE BULLET, AND ONLY ONE OF THE TWO FIRED THE SHOT THAT  
21 CAUSED THE DEATH. IF TWO OR MORE PEOPLE ARE TOGETHER,  
22 ACTING TOGETHER, ASSISTING EACH OTHER IN COMMITTING THE  
23 OFFENSE, THE ACT OF ONE IS THE ACT OF ALL OR IT IS SOMETIMES  
24 SAID, THE HAND OF ONE IS THE HAND OF ALL.

25 PRIOR KNOWLEDGE THAT A CRIME IS GOING TO BE COMMITTED

1 WITHOUT MORE IS NOT SUFFICIENT TO MAKE A PERSON GUILTY OF  
2 THAT CRIME. MERE KNOWLEDGE THAT ANOTHER PERSON IS GOING TO  
3 COMMIT A CRIME, EVEN IF THE DEFENDANT IS PRESENT WHEN THE  
4 CRIME IS COMMITTED IS NOT SUFFICIENT TO CONVICT THE  
5 DEFENDANT AS A PRINCIPLE. GUILT AS A PRINCIPLE IS SHOWN BY  
6 ACTUAL OR CONSTRUCTIVE PRESENCE AT THE SCENE AS A RESULT OF  
7 PRIOR ARRANGEMENT, THEREFORE, A FINDING OF PRIOR ARRANGED  
8 PLAN OR COMMON SCHEME IS NECESSARY FOR A FINDING OF GUILT AS  
9 A PRINCIPLE. THE STATE MUST PROVE BEYOND A REASONABLE DOUBT  
10 BY COMPETENT EVIDENCE THAT THE THEORY OF THE HAND OF ONE IS  
11 THE HAND OF ALL.

12 A PRINCIPLE IN A CRIME IS ONE WHO EITHER ACTUALLY  
13 COMMITS OR THE CRIME OR WHO IS PRESENT, AIDING, ABETTING OR  
14 ASSISTING IN COMMITTING THE CRIME. WHEN A PERSON DOES AN  
15 ACT IN THE PRESENCE OF AND WITH THE ASSISTANCE OF ANOTHER,  
16 THE ACT IS DONE BY BOTH. WHERE TWO OR MORE ACTING WITH A  
17 COMMON PLAN OR INTENT ARE PRESENT AT THE COMMISSION OF A  
18 CRIME, IT DOES NOT MATTER WHO ACTUALLY COMMITS THE CRIME,  
19 ALL ARE GUILTY. THE HAND OF ONE IS THE HAND OF ALL.

20 PRESENT AT THE COMMISSION OF A CRIME MEANS TO BE  
21 SUFFICIENTLY NEAR TO AID AND ABET AND ASSIST IN THE  
22 COMMISSION OF THE CRIME. HOWEVER, MERE PRESENCE AT THE  
23 SCENE OF A CRIME IS NOT SUFFICIENT TO CONVICT ONE AS A  
24 PRINCIPLE ON THE THEORY OF AIDING AND ABETTING.

25 INTENT IS ALSO A NECESSARY ELEMENT, FOR THERE MUST HAVE

1 BEEN A COMMON DESIGN OR INTENT TO COMMIT THE CRIME AND THE  
 2 CRIME MUST HAVE BEEN COMMITTED PURSUANT THERETO WITH THE  
 3 PERSON AIDING AND ABETTING BY SOME OVERT ACT. INTENT MEANS  
 4 INTENDING THE RESULT WHICH ACTUALLY OCCURS, NOT ACCIDENTALLY  
 5 OR INVOLUNTARILY. INTENT MAY BE SHOWN BY ACTS AND CONDUCT  
 6 OF THE DEFENDANT AND OTHER CIRCUMSTANCES FROM WHICH YOU MAY  
 7 NATURALLY AND REASONABLY INFER INTENT. THE STATE MUST PROVE  
 8 THESE ELEMENTS BEYOND A REASONABLE DOUBT.

9 LADIES AND GENTLEMEN OF THE JURY PANEL, THE DEFENDANT  
 10 IN THIS CASE HAS BEEN CHARGED WITH SEPARATE -- FOUR SEPARATE  
 11 OFFENSE. THE FACT THAT HE'S BEEN CHARGED WITH FOUR SEPARATE  
 12 OFFENSES, YOU SHOULD DRAW NO INFERENCE FROM THAT, THE FACT  
 13 THAT HE'S CHARGED WITH FOUR OFFENSES. HE SHOULD NOT BE  
 14 PREJUDICED BY THAT AND YOU SHOULD DRAW NO INFERENCE FROM  
 15 THAT AND THAT SHOULD NOT BE A FACTOR IN YOUR CONSIDERATION.  
 16 AS YOU KNOW, HE IS CHARGED WITH FOUR OFFENSES, THOSE BEING  
 17 MURDER, CRIMINAL CONSPIRACY TO COMMIT MURDER, POSSESSION OF  
 18 A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME AND  
 19 UNLAWFUL CARRYING OF A PISTOL. YOU ARE TO CONSIDER EACH OF  
 20 THESE CHARGES SEPARATELY AND CONSIDER THE EVIDENCE  
 21 SEPARATELY FOR EACH OFFENSE. THEREFORE, IF THE EVIDENCE  
 22 WARRANTS IT, YOU MAY CONVICT THE DEFENDANT ON ALL COUNTS, ON  
 23 ONE AND NOT THE OTHERS AND SO ON OR YOU CAN FIND THE  
 24 DEFENDANT NOT GUILTY ON ALL COUNTS.

25 MADAM FORELADY, YOU WILL WRITE A VERDICT OF GUILTY OR

1 NOT GUILTY FOR EACH OF THE FOUR CHARGES.

2 MADAM FORELADY, MEMBERS OF THE JURY PANEL, NOTHING THAT  
3 I MAY HAVE SAID OR DONE DURING THE COURSE OF THIS TRIAL HAS  
4 BEEN IN ANY WAY INTENDED TO EXPRESS OR SUGGEST A VIEW OF THE  
5 CASE OR AN OPINION AS TO THE FACTS, THE WEIGHT OF THE  
6 EVIDENCE, OR THE CREDIBILITY OF THE WITNESSES. IF ANY OF MY  
7 ACTIONS OR WORDS HAVE SEEMED TO SO INDICATE, AGAIN,  
8 INCLUDING THE STATEMENT BY THE SOLICITOR IN HIS FINAL  
9 ARGUMENTS IN THE CASE, YOU WILL DRAW NO INFERENCE FROM THAT  
10 WHATSOEVER AND YOU WILL DISREGARD SUCH AND FORM YOUR OWN  
11 OPINION AS TO THESE MATTERS. THE COURT IS A NEUTRAL PARTY  
12 IN THESE CASES.

13 NOW, MADAM FORELADY, MEMBERS OF THE JURY PANEL, YOU  
14 HAVE BEEN SELECTED AS FAIR AND IMPARTIAL JURORS. SWORN TO  
15 IMPARTIALLY TRY AND DETERMINE THE FACTS OF THIS CASE AND  
16 WHEN YOU COMPLY WITH YOUR OATH TO DO SO, THEN NO ONE WILL  
17 HAVE A RIGHT TO CRITICIZE YOUR VERDICT AND YOU WILL HAVE  
18 FULLY DISCHARGED YOUR DUTY AS JURORS.

19 YOU ARE TO DECIDE THIS CASE ACCORDING TO THE TESTIMONY  
20 THAT YOU HAVE HEARD FROM THE LIPS OF THE SWORN TESTIMONY,  
21 ALONG WITH THE OTHER EVIDENCE INTRODUCED DURING THE COURSE  
22 OF THE TRIAL.

23 I CHARGE YOU THAT AS JURORS YOU MUST DECIDE THE ISSUES  
24 IN THIS PROCEEDING WITHOUT BIAS AND WITHOUT PREJUDICE TO ANY  
25 PARTY. YOU CANNOT ALLOW YOURSELF TO BE GOVERNED BY

1 SYMPATHY, BY PREJUDICE, BY PASSION, BY PUBLIC OPINION, OR  
 2 ANY OTHER ARBITRARY FACTOR. BOTH THE STATE AND THE  
 3 DEFENDANT HAVE THE RIGHT TO EXPECT THAT EACH OF YOU WILL  
 4 CAREFULLY AND IMPARTIALLY CONSIDER ALL OF THE EVIDENCE IN  
 5 THE CASE AND THAT YOU WILL FOLLOW THE LAW AS I HAVE  
 6 EXPLAINED-IT TO YOU.

7 NOW, MADAM FORELADY, I INSTRUCT YOU THAT ONCE YOU BEGIN  
 8 YOUR DELIBERATIONS THAT YOU MAINTAIN SOME ORDER IN THOSE  
 9 DELIBERATIONS, THAT EVERYONE WHO WISHES TO BE HEARD AND  
 10 PARTICIPATE IN DELIBERATIONS BE ALLOWED TO DO SO. IF FOR  
 11 ANY REASON ANY MEMBERS OF THE JURY PANEL TAKE A BREAK FROM  
 12 THE DELIBERATIONS, ALL SHOULD TAKE A BREAK. BY THAT, I MEAN  
 13 ALL TWELVE JURORS SHOULD BE PRESENT AND DELIBERATING WHEN  
 14 DELIBERATIONS ARE GOING ON.

15 WHATEVER YOUR VERDICT IN THIS CASE, IT MUST BE YOUR  
 16 UNANIMOUS VERDICT. ALL TWELVE OF YOU MUST AGREE ON THE  
 17 VERDICTS, WHICH THE FOREPERSON WILL BE AUTHORIZED TO WRITE  
 18 ON BEHALF OF THE JURY.

19 NOW, MADAM FORELADY, I HAVE PREPARED FOR YOUR USE IN  
 20 THE JURY ROOM FOUR SEPARATE VERDICT FORMS, ONE FOR EACH OF  
 21 THE OFFENSES WITH WHICH THE DEFENDANT'S CHARGED IN THIS  
 22 CASE.

23 ON THIS VERDICT FORM THERE ARE TWO POSSIBLE VERDICTS  
 24 WHICH APPEAR ON EACH OF THEM AND THEY ARE AS FOLLOWS, FOR  
 25 INSTANCE, WITH REGARD TO THE CHARGE FOR MURDER THE POSSIBLE

1 VERDICTS ARE, WE, THE JURY, FIND THE DEFENDANT, CHRISTOPHER  
2 WOODY, GUILTY OF MURDER OR WE, THE JURY, FIND THE DEFENDANT  
3 CHRISTOPHER WOODY, NOT GUILTY. THAT'S THE SAME AS TO EACH  
4 OF THESE CHARGES.

5 LET ME TELL YOU THAT IN PREPARING THE VERDICT FORMS, I  
6 HAVE TO PUT THE POSSIBLE VERDICTS IN SOME ORDER. I DO IT  
7 THE SAME WAY EVERY TIME. YOU SHOULD INFER NOTHING FROM THE  
8 ORDER IN WHICH THE POSSIBLE VERDICTS APPEAR. WHAT YOU  
9 SHOULD DO IS DELIBERATE. ONCE YOU'VE REACHED A UNANIMOUS  
10 VERDICT ON EACH OF THESE CHARGES, YOU WILL SIMPLY THEN GO TO  
11 THE VERDICT FORM, FIND THE VERDICT WHICH CORRESPONDS TO THE  
12 UNANIMOUS VERDICT REACHED BY THE JURY. YOU WILL SIMPLY THEN  
13 PUT A CHECK MARK ON THE BLANK BESIDE THAT PARTICULAR VERDICT  
14 AND THAT WILL BE EASILY UNDERSTOOD ONCE YOU SEE THE VERDICT  
15 FORMS. YOU WILL THEN SIGN YOUR NAME ON THE LINE ABOVE THE  
16 WORD FOREPERSON'S SIGNATURE AND PUT THE DATE. OKAY.

17 ONCE YOU'VE DONE THAT AS TO ALL FOUR OF THESE CHARGES,  
18 YOU WOULD KNOCK ON THE DOOR, LET THE BAILIFF KNOW YOU'VE  
19 REACHED A VERDICT, THE BAILIFF WILL LET ME KNOW AND WE'LL  
20 BRING YOU BACK OUT TO RECEIVE THOSE VERDICTS. YOU WILL HOLD  
21 ON TO THE VERDICT FORM. DON'T GIVE THEM TO THE BAILIFF, BUT  
22 JUST HOLD ON TO THEM 'TIL YOU COME BACK FROM THE JURY ROOM.

23 NOW, I'M GOING TO ASK YOU, IF YOU WILL, AT THIS TIME TO  
24 RETIRE TO THE JURY ROOM, BUT DO NOT YET BEGIN YOUR  
25 DELIBERATIONS. I HAVE TO GIVE COUNSEL AN OPPORTUNITY TO

1 REQUEST ADDITIONAL INSTRUCTIONS ON THE LAW. IF ADDITIONAL  
2 INSTRUCTIONS ARE REQUESTED AND I DEEM ADDITIONAL  
3 INSTRUCTIONS NECESSARY, I WILL BRING YOU BACK OUT AND GIVE  
4 YOU THOSE ADDITIONAL INSTRUCTIONS. IT FOLLOWS, THEN, THAT  
5 YOU SHOULD NOT BEGIN DELIBERATING 'TIL WE MAKE SURE ALL THE  
6 INSTRUCTIONS ARE COMPLETE. IF NO ADDITIONAL INSTRUCTIONS  
7 ARE NECESSARY, I WILL SEND TO YOU, BY MEANS OF THE BAILIFFS,  
8 THE VERDICT FORMS AND ALL EXHIBITS WHICH HAVE BEEN ADMITTED  
9 INTO THE RECORD FOR YOU TO EXAMINE FURTHER.

10 NOW, YOU WILL NOTE THAT THESE FIREARMS HAVE SAFETY  
11 LOCKS ON THEM. YOU ARE NOT, OF COURSE, TO TRY TO TAKE THE  
12 SAFETY LOCKS OFF OR PUT A BULLET IN THE CHAMBER OR ANYTHING  
13 LIKE THAT. I THINK THE SAFETY LOCKS WILL TAKE CARE OF THAT.

14 NOW, IF YOU WILL PLEASE RETIRE TO THE JURY ROOM, BUT DO  
15 NOT BEGIN YOUR DELIBERATIONS UNTIL YOU GET INSTRUCTIONS AND  
16 I'LL SEND THOSE INSTRUCTIONS IF NO ADDITIONAL CHARGES ARE  
17 NECESSARY, ALL EXCEPT THE ALTERNATE. SIR, THIS TIME I'LL  
18 ASK YOU NOT TO GO INTO THE JURY ROOM, BUT TO WAIT JUST  
19 OUTSIDE THE COURTROOM DOOR FOR FURTHER INSTRUCTIONS. ALL  
20 RIGHT. THANK YOU. PLEASE RETIRE TO THE JURY ROOM.

21 (JURY OUT AT 12:20 P.M.)

22 THE COURT: EXCEPTIONS OR ADDITIONAL REQUEST TO CHARGE  
23 FROM THE STATE?

24 MR. THOMPSON: ONLY ONE, YOUR HONOR. IN YOUR CHARGE OF  
25 SELF-DEFENSE, THE COURT WENT OVER ALL FOUR PRONGS OF IT

1 INITIALLY AND THEN DETAILED EACH ONE FOLLOWING THAT.  
2 HOWEVER, THE FOURTH PRONG WAS NEVER DETAILED FOLLOWING THAT.  
3 YOU MENTIONED IT AT THE BEGINNING---

4 THE COURT: I THOUGHT I DID.

5 MR. THOMPSON: ---AND GAVE A BRIEF DESCRIPTION OF IT AT  
6 THAT TIME.

7 THE COURT: WAIT A MINUTE. WELL, LET ME GO BACK TO MY  
8 CHARGE AND --

9 MR. THOMPSON: ALL THE OTHER --

10 THE COURT: LET ME SEE. I CHARGED THEM, THUS,  
11 SOLICITOR, AND FOUR, WHERE BOTH THE DECEASED AND THE  
12 DEFENDANT ARE ON COMMON GROUND, THAT IS, WHERE BOTH HAVE A  
13 RIGHT TO BE, THEN IT MUST BE SHOWN THAT THE DEFENDANT HAD NO  
14 OTHER REASONABLE SAFE, ADEQUATE OR OBVIOUS MEANS OF ESCAPE  
15 OR WAY OF AVOIDING THE DANGER OF LOSING HIS LIFE OR  
16 SUSTAINING SERIOUS BODILY HARM EXCEPT TO ACT AS HE DID.

17 MR. THOMPSON: YES, BUT WHAT MY POINT IS IS THAT I  
18 THINK THERE WAS A BRIEF DESCRIPTION AS TO EACH ONE WHEN YOU  
19 WENT DOWN ONE, TWO, THREE, FOUR.

20 THE COURT: THAT'S ALL I HAD ON THAT. OKAY.

21 MR. THOMPSON: OKAY. WELL, I THOUGHT YOU WERE GOING TO  
22 EXPLAIN, 'CAUSE THEN I THOUGHT IN THE CHARGE CONFERENCE THAT  
23 WE DID YESTERDAY THAT YOU WERE GOING TO EXPLAIN, WHICH I  
24 KNOW WE DIDN'T SPECIFICALLY GO OVER WHAT ALL THE  
25 EXPLANATIONS WERE GOING TO BE, BUT THAT ONE WAS NOT

1 EXPLAINED TO ME AND MY THEORY IS IT MAKES IT SEEM LIKE  
2 SOMEHOW THE OTHER THREE PRONGS ARE MORE IMPORTANT THAN THE  
3 FOURTH.

4 THE COURT: WELL, LET ME JUST SAY TO YOU THAT WHAT I  
5 DID IS I FIRST SET FORTH THE FOUR ELEMENTS, AS I USUALLY DO.

6 MR. THOMPSON: RIGHT.

7 THE COURT: THEN I WENT WITH THEM THE SAME CHARGE I USE  
8 IN EVERY CASE AND I WENT THROUGH THOSE. SOME OF THESE  
9 ADDITIONAL REQUESTS WERE MADE BY THE DEFENSE AND I STUCK  
10 THOSE IN AND WE MADE SOME MODIFICATIONS AS REQUESTED BY THE  
11 STATE, AND SO I DID THAT, BUT I PUT -- HAD NO REQUEST AS TO  
12 THAT PARTICULAR ONE SO I USED WHAT I NORMALLY HAVE. NOW, IF  
13 YOU HAVE AN ADDITIONAL REQUEST -- I KNOW WE DIDN'T GO OVER  
14 THE EXACT LANGUAGE.

15 MR. THOMPSON: IT MAY HAVE JUST BEEN MY ASSUMPTION,  
16 YOUR HONOR, THAT THERE WOULD BE -- 'CAUSE I THOUGHT THE WAY  
17 WE HAD DISCUSSED IT THAT THERE WOULD BE FURTHER  
18 EXPLANATIONS. I DIDN'T KNOW THAT WE --

19 THE COURT: LIKE WHAT? WHAT WOULD YOU EXPECT ME TO  
20 HAVE CHARGED?

21 MR. THOMPSON: WELL, JUST -- BECAUSE OF SOMETHING LIKE  
22 THAT AGAIN, BECAUSE FOR THE SAKE, FOR INSTANCE, THE TWO  
23 MIDDLE ELEMENTS THERE WAS AT LEAST TEN MINUTES OF CHARGE ON  
24 THOSE TWO.

25 THE COURT: WELL, I UNDERSTAND, BUT I CAN'T --

1 MR. THOMPSON: THE FOURTH ONE --

2 THE COURT: I UNDERSTAND THOSE ARE THE MORE IMPORTANT  
3 ONES.

4 MR. THOMPSON: BUT THEY'RE NOT THE MOST IMPORTANT, YOUR  
5 HONOR. THEY'RE ALL EQUALLY IMPORTANT.

6 THE COURT: WELL, DON'T GET ME WRONG. WHEN I SAY --  
7 WHEN I SAY IT'S THE MOST IMPORTANT, THAT'S THE ONE THAT THE  
8 DEFENSE SEIZED UPON AND THE ONE THAT ALL THE REQUESTS WERE  
9 MADE ON. NOW, THE FOURTH ONE, I PUT IN WHAT I NORMALLY  
10 CHARGE AND WHAT I DID IS, ESSENTIALLY, I CHARGED ALL FOUR  
11 ELEMENTS TWICE, THE SECOND TIME IN MORE DETAIL. SOME GOT  
12 MORE DETAIL THAN OTHERS. I DON'T DISAGREE WITH THAT, BUT  
13 THAT'S BECAUSE THOSE ARE THE ONES APPARENTLY THAT -- THOSE  
14 ARE THE ONES THE DEFENDANT REQUESTED SEVERAL REQUESTS ON  
15 THAT WE PLUGGED IN THERE. I MEAN, THEY'RE NOT -- THAT'S NOT  
16 MY CHARGE. THAT'S THEIR REQUEST.

17 IF THERE'S SOMETHING YOU WANT ME TO CONSIDER BECAUSE  
18 YOU THOUGHT I WAS GOING TO CHARGE MORE THAN THAT, I'LL BE  
19 GLAD TO LISTEN TO YOU, BUT I THINK THAT'S PRETTY ADEQUATE.  
20 NO OTHER REASONABLE SAFE, ADEQUATE, OBVIOUS MEANS OF ESCAPE  
21 OR WAY OF AVOIDING THE DANGER OF LOSING HIS LIFE OR  
22 SUSTAINING SERIOUS BODILY HARM THAN TO ACT AS HE DID. I  
23 DON'T KNOW WHAT MORE I CAN SAY ABOUT THAT.

24 MR. THOMPSON: WELL, I THINK -- I JUST DIDN'T HEAR --

25 THE COURT: I SAID IT TWICE. I SAID IT INITIALLY AND

1 THEN I SAID IT -- THAT'S THE LAST THING I CHARGED THEM  
2 BEFORE I WENT INTO THE FINAL BIT, BUT.

3 MR. THOMPSON: ALL RIGHT.

4 THE COURT: YOU THINK --

5 MR. THOMPSON: MAY I DIDN'T HEAR IT RIGHT.

6 THE COURT: I UNDERSTAND. IT SOUNDED OUT OF BALANCE TO  
7 YOU. I UNDERSTAND THAT.

8 MR. THOMPSON: CORRECT.

9 THE COURT: AND IT IS A LITTLE BIT OUT OF BALANCE, BUT  
10 THAT'S BECAUSE THAT'S WHERE THE DEFENDANT'S REQUESTS WERE  
11 AND THAT'S WHERE I PLUGGED THOSE IN, ---

12 MR. THOMPSON: ALL RIGHT.

13 THE COURT: ---BUT YOU GOT TO CONSIDER THE OVERALL  
14 CHARGE, TOO, THE OTHER PARTS OF IT. BUT I CHARGED IT TWICE  
15 JUST LIKE I DID THE OTHERS. THERE WAS MORE DETAIL ON A  
16 COUPLE OF THEM, BUT AGAIN, THAT'S BECAUSE THERE WAS SO MUCH  
17 REQUEST AND SO MUCH LAW ON THOSE PARTICULAR ISSUES. OKAY.

18 MR. THOMPSON: ALL RIGHT. THANK YOU.

19 THE COURT: ANYTHING ELSE FROM THE STATE?

20 MR. POPE: NO, SIR.

21 THE COURT: DEFENSE?

22 MR. DELGADO: DID THE COURT -- COURT MAY HAVE DONE IT  
23 AND I JUST DIDN'T HEAR IT. DID THE COURT INCLUDED THE  
24 CHARGE THE SUM AND THE HANDLING CHARGE THAT WE HAD --

25 THE COURT: YES, SIR.

1 MR. DELGADO: I STAND CORRECTED.

2 THE COURT: THAT'S ALL -- I CHARGED IT, AS I TOLD YOU,  
3 I PUT IT IN WHERE I TOLD YOU I'D PUT IT IN, AT THE END OF  
4 THE UNLAWFUL POSSESSION OF A PISTOL. YOU REMEMBER I PUT  
5 THAT IN?

6 MR. DELGADO: YOU MAY VERY WELL HAVE, JUDGE. IT MAY --  
7 THAT'S ALL RIGHT.

8 THE COURT: I CAN ASSURE YOU I CHARGED THAT. I HAD IT  
9 STUCK IN HERE. I INCLUDED IT AT THE END OF THE UNLAWFUL  
10 POSSESSION OF A PISTOL; I PUT THAT IN. ALL RIGHT. ANYTHING  
11 ELSE FROM THE DEFENSE THEN?

12 MR. DELGADO: NOTHING, YOUR HONOR.

13 THE COURT: ALL RIGHT. THEN, COUNSEL, WHAT I WOULD ASK  
14 YOU TO DO -- THERE ARE CONSIDERABLE EXHIBITS. WHAT I WOULD  
15 ASK YOU TO DO IS GET TOGETHER NOW WITH THE COURT REPORTER  
16 AND LET'S MAKE SURE THAT THE EXHIBITS ARE PRESENT AND ONLY  
17 THOSE EXHIBITS WHICH HAVE ACTUALLY BEEN ADMITTED INTO  
18 EVIDENCE GO BACK TO THE JURY. I WANT THE TWO OF YOU TO GO  
19 OVER THAT WITH HER AND BE SURE YOU'RE IN AGREEMENT IN THAT.  
20 IF NOT, LET ME KNOW. OKAY. IF YOU'LL DO THAT AT THIS TIME  
21 BEFORE IT GOES BACK TO --

22 (WHEREUPON, THE ALTERNATE JUROR WAS DISMISSED AT 12:25  
23 P.M.)

24 THE COURT: ALL RIGHT, SIR. PLEASE BRING THE JURY IN.

25 MR. POPE: YOUR HONOR, ---

1 THE COURT: WAIT JUST A MINUTE.

2 MR. POPE: I -- WHILE THEY'RE COMING IN, AS WE  
3 PREVIOUSLY INDICATED IN CHAMBERS, IT'S ALWAYS IMPORTANT AND  
4 I KNOW IT SEEMS LIKE A SUBTLETY, BUT THE WAY IT READS IN  
5 SUBTLETY AND ON THE FOUR ELEMENTS OF THE --

6 THE COURT: THAT'S PART OF MY CHARGE.

7 MR. POPE: I UNDERSTAND.

8 THE COURT: I ASSUME THAT'S WHERE YOU--ALL GOT IT.

9 MR. POPE: THAT'S EXACTLY WHERE WE GOT IT. IT ALSO  
10 SAYS SEMI-COLON, SO I GETS A LITTLE --

11 (JURY IN AT 1:45 P.M.)

12 THE COURT: MADAM FORELADY, MEMBERS OF THE JURY PANEL,  
13 I HAVE YOUR NOTE REQUESTING THE QUALIFICATIONS FOR SELF-  
14 DEFENSE AND WHAT I NEED TO KNOW FROM YOU, I'M NOT CLEAR  
15 ABOUT THAT, DO YOU NEED THE FOUR ELEMENTS OF SELF-DEFENSE OR  
16 DO YOU WANT MY FULL CHARGE ON SELF-DEFENSE THAT I WENT  
17 THROUGH BEFORE WHEN I CHARGED IT?

18 FORELADY: THE ELEMENTS.

19 THE COURT: THE ELEMENTS IS WHAT YOU NEED? ALL RIGHT.  
20 I'M GOING TO GIVE YOU THAT THEN. IF YOU'LL LISTEN  
21 CAREFULLY. AS I PREVIOUSLY CHARGED TO YOU, THE FOUR  
22 ELEMENTS OF SELF-DEFENSE ARE AS FOLLOWS: FIRST, THAT THE  
23 DEFENDANT WAS NOT AT FAULT IN BRINGING ABOUT THE IMMEDIATE  
24 DIFFICULTY OR THE NECESSITY FOR HIS TAKING OF THE HUMAN LIFE  
25 AND, TWO, THAT AT THE TIME THAT DEFENDANT FIRED THE FATAL

1 SHOT HE BE BELIEVED IN GOOD FAITH THAT HE WAS IN IMMINENT  
2 DANGER OF LOSING HIS LIFE OR SUSTAINING SERIOUS BODILY HARM.  
3 IMMINENT HARM MEANS IMMEDIATE, NOT PAST OR FUTURE AND,  
4 THIRD, THAT SUCH BELIEF WAS REASONABLE AND THAT A REASONABLY  
5 CAREFUL AND PRUDENT MAN, A MAN OF ORDINARY FIRMNESS AND  
6 COURAGE SITUATED IN LIKE CIRCUMSTANCES WOULD HAVE REACHED A  
7 SIMILAR CONCLUSION AND, FOURTH, WHERE BOTH THE DECEASED AND  
8 THE DEFENDANT ARE ON COMMON GROUND, THAT IS, WHERE THEY BOTH  
9 HAVE A RIGHT TO BE, IT MUST SHOWN THAT THE DEFENDANT HAD NO  
10 OTHER REASONABLE SAFE, ADEQUATE OR OBVIOUS MEANS OF ESCAPE  
11 OR WAY OF AVOIDING THE DANGER OF LOSING HIS LIFE OR  
12 SUSTAINING SERIOUS BODILY HARM EXCEPT TO ACT AS HE DID.  
13 NOW, THOSE ARE THE FOUR ELEMENTS. NOW, DO YOU NEED ANY MORE  
14 THAN THAT?

15 FORELADY: WOULD YOU READ BACK THE FOURTH ELEMENT  
16 AGAIN?

17 THE COURT: OKAY. WHERE BOTH THE DECEASED AND THE  
18 DEFENDANT ARE ON COMMON GROUND, THAT IS, WHERE THEY BOTH  
19 HAVE A RIGHT TO BE, IT MUST BE SHOWN THAT THE DEFENDANT HAD  
20 NO OTHER REASONABLE SAFE, ADEQUATE OR OBVIOUS MEANS OF  
21 ESCAPE OR WAY OF AVOIDING THE DANGER OF LOSING HIS LIFE OR  
22 SUSTAINING SERIOUS BODILY HARM EXCEPT TO ACT AS HE DID.

23 FORELADY: WOULD YOU READ IT ONE MORE TIME.

24 THE COURT: ONE MORE TIME. OKAY. WHERE BOTH THE  
25 DECEASED AND THE DEFENDANT ARE ON COMMON GROUND, THAT IS:

1 WHERE THEY BOTH HAVE A RIGHT TO BE, IT MUST BE SHOWN THAT  
2 THE DEFENDANT HAD NO OTHER REASONABLE SAFE, ADEQUATE OR  
3 OBVIOUS MEANS OF ESCAPE OR WAY OF AVOIDING THE DANGER OF  
4 LOSING HIS LIFE OR SUSTAINING SERIOUS BODILY HARM EXCEPT TO  
5 ACT AS HE DID. OKAY. IS THAT SUFFICIENT OR DO YOU NEED  
6 MORE?

7 FORELADY: I THINK THAT'S SUFFICIENT.

8 THE COURT: OKAY. WHY DON'T YOU RETURN AND RESUME YOUR  
9 DELIBERATIONS. IF YOU NEED MORE INFORMATION OR A RE-CHARGE  
10 OF THIS, I DON'T MIND DOING THAT IF THAT'S WHAT YOU NEED OR  
11 RE-CHARGE ON ALL OF IT IF YOU NEED TO DO THAT, BUT I'LL  
12 LEAVE THAT UP TO YOU. THE FOOD SHOULD BE GETTING HERE  
13 SHORTLY. I THINK IT'S SUPPOSED TO BE READY ABOUT NOW, BUT  
14 IF YOU WILL PLEASE RETIRE BACK TO THE JURY ROOM AND RESUME  
15 YOUR DELIBERATIONS. THANK YOU.

16 (JURY OUT AT 1:50 P.M.)

17 THE COURT: EXCEPTION OR ADDITIONAL -- EXCEPTION?

18 MR. POPE: NOTHING FROM THE STATE.

19 THE COURT: DEFENSE?

20 MR. DELGADO: NOTHING FROM THE DEFENSE, YOUR HONOR.

21 THE COURT: WE'LL MAKE THIS A COURT EXHIBIT. ALL  
22 RIGHT. THEY'LL RESUME DELIBERATING, COUNSEL. WE'LL BE AT  
23 EASE.

24 (WHEREUPON, COURT WAS AT EASE IN THIS MATTER.)

25 THE COURT: ALL RIGHT. LET ME ADDRESS THOSE IN

1 ATTENDANCE AND TELL YOU WE HAVE A JURY VERDICT IN THIS CASE.  
2 I HAVE ABSOLUTELY NO IDEA WHAT THE VERDICT IS, BUT WHATEVER  
3 THE VERDICT IS I'M GOING TO ASK THAT EVERYONE WHO IS HERE  
4 RESPECT THE JURY'S VERDICT, WHATEVER IT MAY BE, AND IF YOU  
5 HAVE ANY EMOTIONS ABOUT THE CASE, WHAT I WOULD ASK YOU TO DO  
6 IS WAIT AND HOLD ONTO THOSE EMOTIONS AND WAIT 'TIL YOU'RE  
7 OUT AND AWAY FROM THE COURTHOUSE BEFORE YOU SHOW THAT  
8 EMOTION. I ASK YOU SIMPLY JUST TO RESPECT THE JURY'S  
9 VERDICT AND WHICHEVER -- WHATEVER THE VERDICT MAY BE, LET'S  
10 RESPECT THE JURY'S VERDICT AND SAVE ANY DISPLAY OF MOTION --  
11 OF EMOTION UNTIL YOU'RE OUT AND AWAY FROM THE COURTHOUSE AND  
12 I'M ALSO, WHEN THIS CASE IS OVER WITH, WHATEVER THE VERDICT  
13 MAY BE, GOING TO SEND THE JURY OUT FIRST AND ASK THAT  
14 EVERYBODY REMAIN SEATED UNTIL THE JURY IS ABLE TO GET OUT  
15 AND LEAVE. I APPRECIATE YOUR COOPERATION ON THIS VERY MUCH.  
16 PLEASE, SIR, IF YOU'LL BRING THE JURY IN.

17 (JURY IN AT 3:40 P.M.)

18 THE COURT: MADAM FORELADY, HAVE YOU AND THE JURY  
19 REACHED A UNANIMOUS VERDICT IN THESE CASES?

20 FORELADY: YES, WE HAVE, YOUR HONOR.

21 THE COURT: PLEASE, MA'AM, IF YOU'D HAND THE VERDICT  
22 FORMS UP TO THE BAILIFF. THE CLERK WILL PLEASE PUBLISH THE  
23 VERDICTS.

24 THE CLERK: 2005-GS-46-858, STATE OF SOUTH CAROLINA  
25 VERSUS CHRISTOPHER WOODY, WE, THE JURY, FIND THE DEFENDANT

1 GUILTY OF MURDER, SIGNED BY FOREPERSON DATED MAY 6TH, -2005.

2 INDICTMENT NUMBER 2005-GS-46-859, STATE OF SOUTH  
3 CAROLINA VERSUS CHRISTOPHER WOODY, WE, THE JURY, FIND THE  
4 DEFENDANT GUILTY OF CRIMINAL CONSPIRACY, SIGNED BY THE  
5 FOREPERSON.

6 INDICTMENT NUMBER 2005-GS-46-858, STATE OF SOUTH  
7 CAROLINA VERSUS CHRISTOPHER WOODY, POSSESSION OF A WEAPON  
8 DURING THE COMMISSION OF A VIOLENT CRIME, WE, THE JURY, FIND  
9 THE DEFENDANT GUILTY OF POSSESSION OF A WEAPON DURING THE  
10 COMMISSION OF A VIOLENT CRIME, SIGNED BY THE FOREPERSON.

11 VERDICT 2005-GS-46-860, STATE OF SOUTH CAROLINA VERSUS  
12 CHRISTOPHER WOODY, WE, THE JURY, FIND THE DEFENDANT,  
13 CHRISTOPHER WOODY, GUILTY OF CARRYING A PISTOL UNLAWFULLY,  
14 SIGNED BY THE FOREPERSON, DATED MAY 6TH, 2005.

15 LADIES AND GENTLEMEN OF THE JURY, IF THESE BE YOUR  
16 VERDICTS, PLEASE SAY SO BY RAISING YOUR RIGHT HANDS. LET  
17 THE RECORD REFLECT ALL JURORS AFFIRMED THIS VERDICT.

18 THE COURT: ANY QUESTIONS OF THE JURY FROM THE STATE?

19 MR. POPE: NOTHING FROM THE STATE, YOUR HONOR.

20 THE COURT: FROM THE DEFENSE?

21 MR. DELGADO: YOUR HONOR, YES. THE DEFENDANT WOULD  
22 LIKE ME TO ASK THE COURT TO POLL THE JURY, PLEASE.

23 THE COURT: YES, SIR. THE CLERK WILL PLEASE POLL THE  
24 JURY.

25 THE CLERK: OKAY. PLEASE STAND AND WHEN YOUR NAME IS

1 CALLED, I'LL ASK YOU A QUESTION AND THEN YOU CAN BE SEATED.  
2 ALL JURORS STAND. NUMBER 201, PAMELA POAG. IS THIS YOUR  
3 VERDICT?

4 JUROR: YES.

5 THE CLERK: IS THIS STILL YOUR VERDICT?

6 JUROR: YES.

7 THE CLERK: YOU MAY BE SEATED. NUMBER 44, FRANK DIXON.  
8 IS THIS YOUR VERDICT?

9 JUROR: GUILTY.

10 THE CLERK: IS THIS STILL YOUR VERDICT?

11 JUROR: YES.

12 THE CLERK: PLEASE HAVE A SEAT. NUMBER 205, CLYDE  
13 TATE.

14 JUROR: YES.

15 THE CLERK: IS THIS YOUR VERDICT?

16 JUROR: YES, MA'AM.

17 THE CLERK: IS THIS STILL YOUR VERDICT?

18 JUROR: YES.

19 THE CLERK: PLEASE HAVE A SEAT. NUMBER 169, ANTHONY  
20 VAN SICKLE.

21 JUROR: YES.

22 THE CLERK: IS THIS YOUR VERDICT?

23 JUROR: YES.

24 THE CLERK: IS THIS STILL YOUR VERDICT?

25 JUROR: YES.

1 THE CLERK: HAVE A SEAT. NUMBER 179, CHARLES WYLIE.

2 JUROR: YES.

3 THE CLERK: IS THIS YOUR VERDICT?

4 JUROR: YES.

5 THE CLERK: IS THIS STILL YOUR VERDICT?

6 JUROR: YES.

7 THE CLERK: HAVE A SEAT. NUMBER 7, AUDRAY BAKER.

8 JUROR: YES.

9 THE CLERK: IS THIS YOUR VERDICT?

10 JUROR: YES.

11 THE CLERK: IS THIS STILL YOUR VERDICT?

12 JUROR: YES.

13 THE CLERK: NUMBER 76, ELIZER HINTON.

14 JUROR: YES.

15 THE CLERK: IS THIS YOUR VERDICT?

16 JUROR: YES.

17 THE CLERK: IS THIS STILL YOUR VERDICT?

18 JUROR: YES.

19 THE CLERK: NUMBER 185, GLORIA CHISHOLM.

20 JUROR: YES.

21 THE CLERK: IS THIS YOUR VERDICT?

22 JUROR: YES.

23 THE CLERK: IS THIS STILL YOUR VERDICT?

24 JUROR: YES.

25 THE CLERK: NUMBER 29, STELLA COOPER.

1 JUROR: YES.

2 THE CLERK: IS THIS YOUR VERDICT?

3 JUROR: YES.

4 THE CLERK: IS THIS STILL YOUR VERDICT?

5 JUROR: YES.

6 THE CLERK: NUMBER 104, JULIA LINDSAY. IS THIS YOUR  
7 VERDICT?

8 JUROR: YES.

9 THE CLERK: IS THIS STILL YOUR VERDICT?

10 JUROR: YES.

11 THE CLERK: NUMBER 126, NATASHA PAIGE.

12 JUROR: YES.

13 THE CLERK: IS THIS YOUR VERDICT?

14 JUROR: YES.

15 THE CLERK: IS THIS STILL YOUR VERDICT?

16 JUROR: YES.

17 THE CLERK: YOU MAY HAVE A SEAT. NUMBER 121, JENNIFER  
18 MONROE. IS THIS YOUR VERDICT?

19 JUROR: YES.

20 THE CLERK: IS THIS STILL YOUR VERDICT?

21 JUROR: YES.

22 THE CLERK: PLEASE BE SEATED.

23 THE COURT: ANY OTHER QUESTIONS OF THE JURY PANEL FROM  
24 THE DEFENSE?

25 MR. DELGADO: NO, YOUR HONOR.

1 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN OF THE  
2 JURY PANEL; THIS WILL CONCLUDE YOUR SERVICE ON THIS CASE.  
3 IT WILL, OF COURSE, ALSO CONCLUDE YOUR SERVICE FOR THE WEEK.  
4 THIS WILL BE, OF COURSE, THE LAST CASE THAT WE WILL TRY THIS  
5 WEEK.

6 (WHEREUPON, THE JURY PANEL WAS EXCUSED AT 3:45 P.M.)

7 THE COURT: ALL RIGHT. SIR, IF YOU'LL BRING THE  
8 DEFENDANT AROUND TO THE BAR. SOLICITOR, BE GLAD TO HEAR  
9 FROM THE STATE.

10 MR. POPE: PLEASE THE COURT, YOUR HONOR. WE HAVE -- AS  
11 THE COURT'S AWARE, THROUGHOUT THIS TRIAL WE'VE HAD A NUMBER  
12 OF FAMILY MEMBERS PRESENT AND WE'VE REDUCED THAT TO THREE  
13 THAT WOULD WISH TO ADDRESS THE COURT AT THE APPROPRIATE TIME  
14 UNDER THE VICTIM'S BILL OF RIGHTS.

15 AS FAR AS MR. WOODY'S PRIOR RECORD, HE HAS TWO WHAT, IN  
16 MY VIEW, WOULD BE A MISDEMEANOR TYPE DRUG OFFENSES. HE HAS  
17 A 1997 POSSESSION OF HASHISH OR MARIJUANA CONVICTION. THAT  
18 APPEARS TO BE A MAGISTRATE'S COURT CHARGE. ALSO FROM 2002,  
19 HE HAS A ATTEMPTED MISDEMEANOR VIOLATION OF DRUG ACT FROM  
20 DANVILLE, VIRGINIA, BUT THAT'S THE EXTENT OF HIS RECORD, TWO  
21 DRUG CHARGES, YOUR HONOR.

22 AGAIN, THE VICTIMS ARE PRESENT. I WOULD LIKE TO BE  
23 HEARD ON THE SENTENCING MATTER AT THE APPROPRIATE TIME. I  
24 DON'T KNOW HOW YOU -- IN WHAT ORDER YOU WANT TO TAKE IT, BUT  
25 I'LL BE GLAD TO ADDRESS THAT.

1 THE COURT: ALL RIGHT. WHY DON'T WE DO THIS: LET ME  
2 HEAR FROM THE VICTIM'S FAMILY FIRST, THEN I'LL HEAR FROM THE  
3 DEFENSE AND THEN I'LL BE GLAD TO HEAR FROM YOU---

4 MR. POPE: THANK YOU.

5 THE COURT: --INSOFAR AS SENTENCING IS CONCERNED.

6 MR. POPE: IF I COULD HAVE DIANA MCNEAL, PLEASE. THIS  
7 IS DIANA MCNEAL AND THIS IS BRANDY? WE'LL BEGIN WITH MS.  
8 BRANDY CROSBY AND SHE WAS THE SISTER OF THE VICTIM. MS.  
9 CROSBY, IF YOU WOULD, STATE YOUR NAME AND SPELL IT FOR THE  
10 COURT REPORTER JUST LIKE THE WITNESSES HAVE DONE AND THEN  
11 YOU MAY ADDRESS THE COURT.

12 MS. CROSBY: MY NAME IS BRANDY CROSBY. MY LAST NAME IS  
13 SPELLED C-R-O-S-B-Y. YOUR HONOR, I'M GOING TO ADDRESS MR.  
14 WOODY IN THE MOST RESPECTFUL WAY BECAUSE I'M IN YOUR  
15 COURTROOM. WHAT YOU TOOK FROM US --

16 THE COURT: YOU NEED TO ADDRESS YOUR COMMENTS TO ME,  
17 PLEASE, MA'AM.

18 MR. POPE: YOU CAN SAY WHAT YOU WANT TO SAY, BUT YOU  
19 NEED TO SAY IT TO THE JUDGE.

20 MS. CROSBY: OKAY. WHAT HE TOOK FROM US WAS A GREAT  
21 SOUL. I MEAN, HE TOOK IT IN THE MOST VICIOUS WAY POSSIBLE  
22 THAT I CAN THINK OF. I MEAN, HE'S LEFT BEHIND KIDS, PEOPLE  
23 THAT LOVE HIM, PEOPLE THAT CRY FOR HIM EVERY DAY. THEY HAVE  
24 TO LOOK AT PICTURES TO REMEMBER HIM. I MEAN, THERE'S NO  
25 WORDS THAT CAN EXPLAIN THE TYPE OF PERSON THAT DARRELL WAS

1 AND THE WAY THEY DID IT; YOU KNOW, AND THE WAY HE ACTED UPON  
2 SOMEONE ELSE'S HATRED FOR DARRELL IS JUST UNSPEAKABLE. I  
3 DON'T THINK THAT HE SHOULD GET ANY LIGHT SENTENCE. HE  
4 SHOULD GET THE MAXIMUM, LIFE WITHOUT PAROLE, SO HE CAN'T  
5 WALK AROUND -- I DON'T WANT TO GET UPSET -- SO HE CAN'T BE  
6 OUT TO WALK AROUND DARRELL'S KIDS. WHEN THEY GET OLDER THEY  
7 DON'T NEED TO BE LOOKING IN THE MAN'S FACE THAT TOOK THEIR  
8 FATHER'S LIFE. THAT'S ALL I HAVE TO SAY.

9 THE COURT: THANK YOU, MA'AM.

10 MR. POPE: YOUR HONOR, NEXT THIS WOULD BE DIANA MCNEAL.  
11 IF YOU COULD STATE YOUR NAME, SPELL YOUR NAME AND YOU WOULD  
12 BE THE AUNT OF THE VICTIM.

13 MS. MCNEAL: UH-HUH. DIANA MCNEAL, M-C-N-E-A-L.  
14 DARRELL WAS MY NEPHEW. NOT ONLY WAS HE A NEPHEW, HE WAS A  
15 BROTHER AND IN SOME WAYS HE WAS A SON TO ME. REGARDLESS OF  
16 A PERSON'S LIFE STYLE OR WHAT THEY'VE DONE IN LIFE IS NO  
17 REASON FOR SOMEONE'S LIFE TO BE TAKEN SO BRUTALLY AND I  
18 WOULD ALSO LIKE TO SAY THAT I THANK GOD THAT JUSTICE HAS  
19 PREVAILED TODAY AND MY HEART AND MY SYMPATHY GOES OUT TO THE  
20 WOODY FAMILY, BECAUSE I KNOW THEY ARE HURT AS WELL AS WE  
21 ARE, BUT I WOULD JUST LIKE TO SAY THAT I WOULD HOPE THAT HE  
22 WOULD AT LEAST GET THE MAXIMUM, WHATEVER THAT IS.

23 THE COURT: THANK YOU, MA'AM.

24 MR. POPE: YOUR HONOR, I'D INDICATED THERE WERE THREE.  
25 AGAIN, THERE WERE A NUMBER OF FAMILY MEMBERS THAT WANTED TO

1 SPEAK AND I'VE EXPLAINED HOW WE TRY TO ADDRESS IT, SO I  
2 THINK THOSE TWO YOUNG LADIES WOULD REPRESENT THE FAMILY AND,  
3 AGAIN, I'LL BE HEARD AT THE APPROPRIATE TIME.

4 THE COURT: ALL RIGHT. BE GLAD TO HEAR YOU.

5 MR. DELGADO: YOUR HONOR, I THINK YOU'VE HEARD BOTH ON  
6 THE RECORD AND BACK IN CHAMBERS ABOUT THIS CASE. CHRIS WAS  
7 TWENTY-FOUR AT THE TIME THIS HAPPENED. HE HAD THREE YEARS  
8 OF COLLEGE AT OLD DOMINION COLLEGE, HAD DROPPED OUT OF  
9 SCHOOL FOR ECONOMIC REASONS TO COME TO CHARLOTTE. WAS ON  
10 THE DAY THIS HAPPENED PRACTICING WITH A SEMI-PRO FOOTBALL  
11 TEAM, THE CHARLOTTE KNIGHTS.

12 MR. WOODY: CARDINALS.

13 MR. DELGADO: CARDINALS. I APOLOGIZE. CHARLOTTE  
14 CARDINALS; THAT'S CORRECT. I THINK EVERYTHING YOU'VE HEARD  
15 ON THE RECORD IS ABOUT THE LENGTH OF TIME HE HAD KNOWN MR.  
16 DESMOND CUNNING-- MR. DESMOND CAMPBELL. HE HAS -- OUTSIDE  
17 THE TWO MINOR VIOLATIONS, THAT'S ALL CHRIS WOODY HAS.

18 YOUR HONOR, THE COURT HAS DISCRETION AND I HOPE THE  
19 COURT WILL BE ABLE TO EXERCISE THAT IN SOMETHING LESS THAN  
20 LIFE IN PRISON.

21 MR. WOODY: CAN I SPEAK?

22 THE COURT: JUST A MINUTE. IF YOUR ATTORNEY'S THROUGH,  
23 YOU CAN.

24 MR. DELGADO: YES, SIR; I'M THROUGH.

25 THE COURT: YES, SIR. MR. WOODY, YOU MAY SPEAK.

1 MR. WOODY: ALL RIGHT. THEY TALK ABOUT THE HATRED THAT  
2 -- THE WAY I TOOK THIS MAN'S LIFE, I DIDN'T KNOW THIS MAN.  
3 I DIDN'T WANT TO TAKE THIS MAN'S LIFE. THEY KNEW HOW HE  
4 WAS. I'M NOT GOING TO SIT HERE AND TRY TO ARGUE THAT POINT  
5 AND THEY KNOW HE HAD A GUN ON HIM. AIN'T NO WAY I'M GOING  
6 TO TAKE NOBODY'S LIFE FOR NO REASON ESPECIALLY FOR A DUDE  
7 THAT I DIDN'T EVEN REALLY LIKE. I DIDN'T EVEN LIKE DEBREZIO  
8 LIKE THAT. YOU KNOW WHAT I'M SAYING? ME AND DESMOND WAS  
9 COOL, BUT YOU KNOW WHAT I'M SAYING, ME AND DEBREZIO HAD FELL  
10 OUT AND EVERYTHING, BUT YOU KNOW WHAT I'M SAYING, WE  
11 DRINKING. I'M GOING TO CHILL WITH HIM. IT'S NOT NO -- I  
12 MEAN, IT WASN'T THAT BUDDY, BUDDY, YOU KNOW WHAT I'M SAYING,  
13 I GO SOMEWHERE WITH HIM ONE NIGHT. AND THEN THEY TALK ABOUT  
14 BECAUSE HE HATED HIM I KILLED HIM. I AIN'T GOT NOTHING TO  
15 DO WITH THAT BEEF, YOU KNOW WHAT I'M SAYING. I WAS  
16 PROTECTING MYSELF. I KNOW THAT THE COURT DIDN'T FIND THAT  
17 TODAY AND I CAN'T REALLY DO NOTHING ABOUT THAT. I GUESS I  
18 GOT TO DEAL WITH THAT, BUT I DIDN'T HAVE NO KIND OF HATE  
19 TOWARDS THEM OR HIS FAMILY. I DIDN'T EVEN KNOW THIS DUDE  
20 AND THAT'S ALL I WANT TO SAY FOR THEIR RECORD.

21 THE COURT: ALL RIGHT. THANK YOU, SIR. ANYONE ELSE?  
22 ANYTHING ELSE FROM THE DEFENSE?

23 MR. WOODY: YOU DON'T WANT TO SAY NOTHING, MOM?

24 THE COURT: MA'AM, YOU HAVE TO COME DOWN HERE, IF YOU  
25 WOULD, PLEASE. PLEASE GIVE US YOUR NAME FOR THE RECORD,

1 MA'AM.

2 MS. MOORE: REGINA MOORE, M-O-O-R-E.

3 THE COURT: YES, MA'AM.

4 MR. WOODY: DON'T CRY, MAMMA. YOU ALREADY KNOW WHAT'S  
5 UP.

6 MS. MOORE: YOUR HONOR, CHRIS IS A -- HE'S A SWEET GUY.  
7 HE'S A MAMMA'S BOY. HE DIDN'T KNOW THIS GUY. HE HAD NO  
8 HATRED FOR HIM, LIKE HE SAID, AND I'VE PRAYED FOR CHRIS AND  
9 I'VE PRAYED FOR THE DARRELL BAGLEY FAMILY AND I'VE PRAYED  
10 FOR THE CAMPBELL BROTHERS, TOO. HE HAD NO HATRED FOR THIS  
11 MAN. HE WAS JUST COMING HERE TO PLAY FOOTBALL, OUT LOOKING  
12 FOR GIRLS. HE HAD -- YOU KNOW, HAS HAD THAT GUN FOR A  
13 COUPLE OF YEARS. HE'S NEVER DONE NOTHING WITH IT.

14 MR. WOODY: AND I HAD ANOTHER ONE BEFORE THAT.  
15 REMEMBER THE LITTLE ONE?

16 MS. MOORE: BUT HE -- HE HAD --

17 MR. WOODY: I DON'T GET IN NO TROUBLE WITH MY GUNS.

18 MS. MOORE: HE'S HAD IT FOR TWO YEARS AND HE NEVER  
19 PULLED IT ON ANYBODY BEFORE. I KNOW THAT HE EVEN PULL THE  
20 GUN IF IT WAS THAT HE THOUGHT SOMEONE WAS GOING TO TAKE HIS  
21 LIFE. HE REALLY IS -- HE'S A GOOD BOY. HE'S REALLY A  
22 MAMMA'S BOY AND HE JUST THOUGHT HE WOULD PLAY FOOTBALL. HE  
23 WAS TRYING TO GROW HIS HAIR LIKE A FOOTBALL PLAYER.

24 MR. WOODY: I DON'T REALLY CARE WHAT THEY THINK.

25 MS. MOORE: BUT, ANYWAY, HE IS A GOOD BOY AND I DO FEEL

1 BAD FOR THE BAGLEY FAMILY. I WOULD NEVER WISH ANYBODY'S  
2 CHILD DEAD NO MATTER WHOSE CHILD IT IS, 'CAUSE IT'S STILL --  
3 THAT'S STILL SOMEBODY'S CHILD. I'LL PRAY FOR ALL OF THEM.

4 THE COURT: THANK YOU, MA'AM. ANYTHING ELSE FROM THE  
5 DEFENSE?

6 MR. DELGADO: NO, SIR.

7 THE COURT: SOLICITOR.

8 MR. POPE: PLEASE THE COURT, YOUR HONOR. I THINK IN  
9 SOME MEASURE THAT MR. WOODY HAS MADE THE POINT THAT I WOULD  
10 WANT TO MAKE. YOU'VE HEARD EVERYTHING. YOU'VE BEEN HERE  
11 THE WEEK. YOU'VE HEARD THE TAPES OF THE BAGLEYS COMING -- I  
12 MEAN THE CAMPBELLS' CALLS. I WOULD TELL YOU THAT HAD MR.  
13 WOODY TESTIFIED, I HAD A TAPE IN WHICH HE CONFIRMED THAT  
14 THEY EXCHANGED MESSAGES BETWEEN THE GUARDS, THAT HE HAS BEEN  
15 IN CONTACT WITH THEM AND I WOULD ASK THAT THE COURT TAKE  
16 THAT IN CONSIDERATION, THAT BASICALLY THERE WAS AN ATTEMPT  
17 TO MANIPULATE THE SYSTEM IN ORDER TO RECEIVE A DIFFERENT  
18 RESULT.

19 I WILL SAY, YOUR HONOR, AGAIN, HE SAID HE BEARS THIS  
20 MAN NO HATRED, AND THAT MAY VERY WELL BE TRUE.  
21 UNFORTUNATELY, THAT MAKES THIS CRIME ALL THE WORSE. YOU  
22 KNOW, THERE ARE TIMES WHEN WE HAVE MANSLAUGHTER. THERE'S  
23 TIMES WHEN WE HAVE HEAT OF PASSION, BUT IT'S CLEAR,  
24 REGARDLESS OF WHAT TESTIMONY HE SAYS ABOUT DRINKING, I  
25 SUBMIT THE DRINKING TOOK PLACE PRIMARILY AFTER THE KILLING,

1 'CAUSE THIS MAN WAS ABLE TO FIRE THREE SHOTS AND EVERY ONE  
2 OF THEM GO IN THE BODY OF DARRELL BAGLEY, A MAN THAT HE  
3 DOESN'T KNOW, HE SAYS HE DOESN'T KNOW, AND HE CHOSE TO FIRE  
4 THREE SHOTS FROM THAT .45 AND IN SOME WAYS THAT MAY EVEN BE  
5 WORSE THAN MR. CAMPBELL WHO ARGUABLY HAD A BONE TO PICK OR  
6 HAD THE FIGHT. HE WENT JUST AS THE MUSCLE, JUST AS A GUN.

7 YOUR HONOR, HE'S -- HIS CONDUCT IN THIS COURTROOM CAN  
8 ALSO BE CONSIDERED, YOUR HONOR, IN THE WAY HE'S ADDRESSED  
9 THE COURT AND THE WAY THAT HE REACTS, YOU CAN CONSIDER THAT,  
10 TOO, AS PART OF HIS Demeanor, MUCH LIKE MR. BAGLEY WAS PUT  
11 ON TRIAL AND HIS Demeanor.

12 YOUR HONOR, YOU'VE SEEN THE EVIDENCE AND WHAT TOOK  
13 PLACE. I'D SUBMIT THE FORENSIC EVIDENCE CLEARLY INDICATES  
14 THAT MR. CAMPBELL'S STATEMENT, DESMOND CAMPBELL'S STATEMENT,  
15 THAT THEY HURRIED TO CATCH HIM BEFORE HE GETS IN THE HOUSE,  
16 WHAT THEY BASICALLY DID AND I'M GOING TO GET TO THE ISSUE  
17 ABOUT WHO IS DARRELL BAGLEY, BUT WHAT THEY BASICALLY DID IS  
18 RAN HIM DOWN AND SHOT HIM. THEY CIRCLED HIM AND THEY SHOT  
19 HIM.

20 YOUR HONOR, THERE WAS NEVER ANY TRUE INDICATION THAT  
21 MR. BAGLEY WAS THIS DRUG DEALER AND, AGAIN, FORTUNATELY FOR  
22 THE STATE YOU GET TO ANALYZE ALL THE EVIDENCE, TOO, FOR THE  
23 PURPOSES OF SENTENCING. YOU HEARD WHAT HIS RAP SHEET  
24 PURPORTEDLY WAS, BUT YOU'VE ALSO HAD AN OPPORTUNITY TO READ  
25 HIS WHOLE RAP SHEET. I WOULD SAY EVEN IF EVERYTHING THE

1 DEFENSE IS SAYING WAS TRUE, DEALING DRUGS IS NOT A DEATH  
 2 PENALTY OFFENSE AND WHAT THIS MAN CHOSE TO DO FOR WHATEVER  
 3 REASON, AND I SUBMIT IT GOES BACK TO THE FIRST REASON OF  
 4 GOING DOWN TO BE THE BAD BOYS AS MR. THOMPSON SAID. HE  
 5 GUNNED A MAN DOWN AND I UNDERSTAND IT'S AN APARTMENT, BUT HE  
 6 GUNNED A MAN DOWN IN HIS YARD WHEN HE WAS COMING FROM HIS  
 7 CAR AND, YOUR HONOR, THAT DESERVES A SENTENCE THAT REFLECTS  
 8 THAT AND WE REQUEST A SENTENCE BOTH IN A CONSECUTIVE MANNER  
 9 AND IN AN ADEQUATE SENTENCE AND A LIFE SENTENCE THAT  
 10 REFLECTS THE CRIME, BECAUSE HE WENT INTO A NEIGHBORHOOD HE  
 11 DIDN'T KNOW TO A MAN HE DIDN'T KNOW AND SHOT HIM IN THE BACK  
 12 THREE TIMES, YOUR HONOR. THANK YOU, SIR.

13 THE COURT: ALL RIGHT. THANK YOU, SOLICITOR.

14 MR. WOODY: HE SAYS FROM MY DEMEANOR? I MEAN, Y'ALL,  
 15 I'M FACING LIKE THIRTY TO LIFE AND I'M SUPPOSED TO BE CALM  
 16 ABOUT IT. I MEAN, I AIN'T GOT NO ATTITUDE. I'M NOT  
 17 BLANKING ON NOBODY, BUT Y'ALL SAYING SOME -- Y'ALL SEEM LIKE  
 18 Y'ALL GOT A LOT OF HATE TOWARDS ME AND I AIN'T EVEN -- I'M  
 19 NOT EVEN FROM HERE. I MEAN, I AIN'T GOT NOTHING TO DO WITH  
 20 NONE OF THESE PEOPLE. MY DEMEANOR. GETTING READY TO GO TO  
 21 PRISON FOR SOMETHING I DIDN'T DO, UNLESS YOU WANT TO CALL IT  
 22 UNLAWFUL CARRYING.

23 THE COURT: ALL RIGHT. ANYTHING ELSE?

24 MR. WOODY: NO. GO AHEAD.

25 THE COURT: YOU KNOW, MR. WOODY, I READ THESE THINGS.

1 I LISTENED TO THE PARENTS OF -- ON TAPE OF CONVERSATIONS  
2 BETWEEN THE PARENTS OF THE TWO OTHER PERSONS WHO WERE  
3 INVOLVED IN THIS, DESMOND AND DEBREZIO CAMPBELL, PARENTS  
4 TALKING TO THEIR SONS AND THAT AND MY HEART KIND OF WENT OUT  
5 TO THOSE FAMILIES. CERTAINLY MY HEART GOES OUT TO THE  
6 FAMILY OF MR. BAGLEY AS WELL AND THEY'VE LOST SOMEONE IN  
7 THEIR FAMILY AND ALL THESE PEOPLE SEEM LIKE NICE PEOPLE AND  
8 I'M SURE YOUR PARENTS ARE, TOO, AND YOUR FAMILY IS, TOO, MR.  
9 WOODY. THEY SEEM LIKE NICE PEOPLE AND WELL-MANNERED PEOPLE,  
10 BUT ALL THREE OF THESE FAMILIES ARE VICTIMS IN THIS -- OF  
11 THIS CASE. ALL OF THEM ARE VICTIMS, BECAUSE THEY'RE ALL  
12 GOING TO HAVE LIVE WITH WHAT'S HAPPENED AND --

13 MR. WOODY: CAN I SAY ONE MORE THING?

14 THE COURT: -- AND LIVE WITH IT FOREVER. NO, SIR.  
15 I'VE GIVEN YOU THE OPPORTUNITY TO SPEAK AND --

16 MR. WOODY: I JUST THOUGHT ABOUT SOMETHING.

17 THE COURT: YES, SIR.

18 MR. WOODY: YOU SAID NO, SIR?

19 THE COURT: I SAID YES, SIR.

20 MR. WOODY: OH, MY FAULT. WHEN HE SAID THAT WE  
21 FABRICATED SOME -- I GOT WITH DESMOND CAMPBELL OR SOMETHING  
22 AND MADE UP THIS STORY, THEY HAD THIS STORY PLANNED WHENEVER  
23 THEY WENT WHEREVER THEY WENT. I DIDN'T HAVE NOTHING TO DO  
24 WITH THAT STORY. I BEEN STICKING TO MY STORY. THIS MAN  
25 PULLED A GUN ON ME. I AIN'T NEVER SAID NOTHING ABOUT NO

1 DRUG DEALER. YEAH, I KNEW HE'S A DRUG DEALER. THEY -- FOR  
2 REAL THEY GLORIFIED IT. YOU KNOW WHAT I'M SAYING, I AIN'T  
3 GOT NOTHING TO DO WITH THAT. I WASN'T SELLING NO DRUGS. I  
4 WAS JUST TRYING TO PLAY FOOTBALL AND Y'ALL TALKING ABOUT WE  
5 CAME UP WITH A STORY TO TRY TO MANIPULATE THE SYSTEM. WE  
6 DIDN'T DO THAT, YOU KNOW WHAT I'M SAYING. I DIDN'T DO THAT.  
7 I DON'T KNOW WHAT THEY DID. THAT'S WHY THEY KEPT GOING IN  
8 AND OUT ON THEY PLEAS OR WHATEVER OR TRYING TO COME UP WITH  
9 SOMETHING. I GUESS THEY WAS TALKING THROUGH THE DRAIN. I  
10 TALKED TO THEM THROUGH THE DRAIN ONE TIME AND TOLD THEM THAT  
11 THEIR LAWYER LIED, WHICH THEY DID. THEIR LAWYER LIED AND  
12 SAID THERE WASN'T NO WITNESS THAT SAW SOMEBODY COME GET THE  
13 GUN, BUT IT WAS AND WE COULDN'T FIND THEM BEFORE THE TRIAL,  
14 YOU KNOW WHAT I'M SAYING. THAT'S WHY -- THAT IS THE ONLY  
15 THING I SAID TO THEM THROUGH THE DRAIN. I DIDN'T TELL THEM  
16 TO MAKE UP NO STORY. I DIDN'T TELL THEM TO DO NOTHING, SO I  
17 DON'T REALLY WANT NO PART OF THAT. THAT'S WHY I DIDN'T GET  
18 ON THE STAND.

19 THE COURT: ALL RIGHT, SIR. ANYTHING ELSE?

20 MR. WOODY: NO. GO AHEAD.

21 MR. POPE: YOUR HONOR, IF I COULD MAKE ONE POINT. YOU  
22 SAID THAT WHEN EACH OF THESE FAMILIES, MR. WOODY'S FAMILY,  
23 TOO IS A VICTIM, BUT THAT COMMUNITY'S A VICTIM. I'M TALKING  
24 ABOUT THERE AT PACES RIVER. YOU KNOW, YOU'VE HAD CITIZENS  
25 COME IN THAT DIDN'T HAVE A DOG IN THIS FIGHT AND THAT'S GOT

1 TO BE REFLECTED, TOO, IN THIS COMMUNITY.

2 THE COURT: WELL, THAT WAS GOING TO BE MY NEXT COMMENT.  
3 WHAT I WAS GOING TO SAY IS THAT I DO FEEL FOR THE FAMILIES.  
4 I CERTAINLY HAVE EMPATHY FOR ALL OF THE FAMILIES, MR.  
5 BAGLEY'S FAMILY, MR. WOODY'S FAMILY, AND THE CAMPBELLS'  
6 FAMILY. I HAVE EMPATHY FOR THEM AND I KNOW THEY'RE GOING TO  
7 GO THROUGH A LOT AND CONTINUE TO GO THROUGH A LOT FOR A LONG  
8 TIME AND I UNDERSTAND THAT AND IT'S A REAL SHAME. YOU KNOW,  
9 IT'S JUST UNFORTUNATE AND I JUST SEE THIS SO MUCH ANY MORE,  
10 BUT YOUNG PEOPLE WITH GUNS AND SETTling THEIR DISPUTES AND  
11 DISAGREEMENTS WITH GUNS. I'M OF THE AGE AND OTHER PEOPLE  
12 ARE IN HERE -- SOME OF US ARE OF THE AGE WHEN BACK WHEN YOU  
13 HAD A DISAGREEMENT WITH SOMEBODY AND YOU HAD A GRUDGE,---

14 MR. WOODY: FIGHT IT OUT.

15 THE COURT: ---YOU WENT AND FOUGHT IT OUT WITH YOUR  
16 FISTS AND IF SOMEBODY GOT A BLACK EYE OR A BUSTED NOSE AND  
17 NINE TIMES OUT OF TEN YOU WERE GOOD FRIENDS AFTER THAT. YOU  
18 BECAME FRIENDS AFTER THAT BECAUSE YOU RESOLVED THAT HARD  
19 FEELINGS, YOU GOT RID OF IT, AND NOW SOME YOUNG PEOPLE JUST  
20 CHOOSE TO CARRY GUNS AROUND WITH THEM ALL THE TIME AND THEY  
21 SETTLE THEIR DISPUTES WITH GUNS AND SNAP THEM OUT AND START  
22 SHOOTING AND THEN THEY'VE DONE SOMETHING --

23 MR. WOODY: THERE WAS NO DISPUTE.

24 THE COURT: SIR, PLEASE DON'T INTERRUPT ME AGAIN. I  
25 WAS COURTEOUS ENOUGH TO LISTEN TO YOU---

1 MR. WOODY: ALL RIGHT. I'M SORRY.

2 THE COURT: ---AND NOW IT'S MY TURN TO SPEAK. OKAY?

3 MR. WOODY: GO AHEAD.

4 THE COURT: ALL RIGHT, SIR. AND THEY SETTLE DISPUTES  
5 -- IF YOU SETTLE THEM WITH YOUR FIST, YOU KNOW, THE WORSE  
6 SOMEBODY CAN GET IS A BUSTED MOUTH OR NOSE OR SOMETHING, BUT  
7 AT LEAST YOU WENT ON ABOUT YOUR BUSINESS AND LIVE ON. NOW  
8 SETTLING DISPUTES WITH PISTOLS LIKE THAT OR CARRYING THEM  
9 AROUND AND PULLING THEM OUT AS SOON AS YOU GET MAD OR ANGRY  
10 OR WHEN YOU'RE DRINKING OR SOMETHING LIKE THAT; THESE ARE  
11 THE KIND OF THE THINGS THAT CAN RESULT AND DECISIONS MADE IN  
12 A VERY AND A JUDGMENT MADE IN A VERY SHORT PERIOD OF TIME  
13 CAN RESULT IN LONG-TERM CONSEQUENCES AND THAT'S JUST THE WAY  
14 IT IS.

15 THE PROBLEM IS HERE THAT THERE WERE OTHER PEOPLE OUT  
16 THERE IN THE COMMUNITY. THERE WERE PEOPLE -- THIS WAS AN  
17 APARTMENT COMPLEX. THERE WERE PEOPLE WHO LIVE THERE. WE  
18 HAD TESTIMONY FROM A COUPLE OF PEOPLE WHO CAME -- WHO THEY  
19 TAKE THEIR KIDS TO PLAY IN THE LITTLE PLAYGROUND THERE NOT  
20 MORE THAN PROBABLY THIRTY, FORTY FEET FROM WHERE THIS  
21 OCCURRED AND THEY TAKE THEIR CHILDREN OUT THERE TO PLAY.  
22 THEY COULD HAVE BEEN OUT THERE PLAYING EVEN WHEN IT WAS DUSK  
23 DARK LIKE THAT. COULD HAVE BEEN PEOPLE WALKING AROUND THE  
24 SIDEWALKS IN THIS NEIGHBORHOOD, COULD HAVE BEEN PEOPLE  
25 JOGGING AROUND IN THAT NEIGHBORHOOD, LIKE YOU OFTEN SEE

1 PEOPLE DOING. I MEAN, THERE COULD HAVE BEEN ANYBODY AND  
2 THERE COULD HAVE BEEN SOMEBODY STANDING ON THEIR FRONT PORCH  
3 OR IN THEIR WINDOW AND ALL OF THESE GUNSHOTS. WHAT WERE  
4 ALTOGETHER EIGHT, NINE, TEN GUNSHOTS FIRED OUT THERE? MOST  
5 OF THEM HIT MR. BAGLEY, BUT SOME OF THEM DIDN'T. A COUPLE  
6 OF THEM WENT INTO AN APARTMENT THERE AND THEY COULD HAVE  
7 GONE ANYWHERE, COULD HAVE SHOT ANYBODY THAT HAPPENED TO BE  
8 ALONG THE SCENE. NO DISCRIMINATION AT ALL, JUST OUT THERE  
9 SHOOTING---

10 MR. WOODY: YOU KNOW WHAT I'M SAYING --

11 THE COURT: ---AND THAT'S WHAT HAPPENED. PUT ANYBODY  
12 THAT HAPPENED TO BE IN THE NEIGHBORHOOD THEIR LIFE IN  
13 DANGER, YOU KNOW, AND THAT'S NOT THE WAY THINGS SHOULD BE  
14 SETTLED. IN ANY EVENT, BE THAT AS IT MAY, IT'S UP TO THE  
15 COURT TO RENDER SENTENCE IN THIS CASE.

16 CASE NUMBER 2005-GS-46-858, CHRISTOPHER ALAN WOODY  
17 HAVING BEEN FOUND GUILTY BY A JURY -- THAT WAS THE JURY'S  
18 DECISION, IT'S NOT MINE AND I -- LET ME SAY, MR. DELGADO, I  
19 THINK YOU DID AN EXCELLENT JOB IN THIS CASE AND DID  
20 EVERYTHING IN THE WORLD YOU COULD TO REPRESENT YOUR CLIENT  
21 AND YOU'VE DONE IT VERY WELL AND THROUGHOUT YOU'VE DONE  
22 THAT. YOU'VE CERTAINLY ASSERTED EVERY POSSIBLE THING YOU  
23 COULD THINK OF ON HIS BEHALF AND YOU DID A GOOD JOB.  
24 LIKewise THE SOLICITOR'S OFFICE DID A GOOD JOB, BUT I  
25 CERTAINLY THINK YOU DID A GOOD JOB AND I CERTAINLY WANTED TO

1 SAY THAT.

2 NOW, AGAIN, CASE NUMBER 2005-GS-46-858, CHRISTOPHER  
3 ALAN WOODY HAVING BEEN FOUND GUILTY OF MURDER BY A JURY,  
4 SENTENCE OF THE COURT IS HE BE COMMITTED TO THE STATE  
5 DEPARTMENT OF CORRECTIONS FOR A DETERMINATE TERM OF LIFE  
6 WITHOUT PAROLE.

7 CASE NUMBER 2005-GS-46-858(A), CHRISTOPHER ALAN WOODY  
8 HAVING BEEN FOUND GUILTY OF POSSESSION OF A FIREARM DURING  
9 THE COMMISSION OF A VIOLENT CRIME, SENTENCE OF THE COURT IS  
10 HE BE COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A  
11 DETERMINATE TERM OF FIVE YEARS. THIS SENTENCE TO RUN  
12 CONCURRENT WITH ALL OTHER SENTENCES THIS DATE AND HE'S GIVEN  
13 CREDIT FOR JAIL TIME SERVED.

14 CASE NUMBER 2005-GS-46-859, CHRISTOPHER ALAN WOODY  
15 HAVING PLED GUILTY TO CONSPIRACY TO COMMIT MURDER BY A JURY,  
16 THE SENTENCE OF THE COURT IS HE BE COMMITTED TO THE STATE  
17 DEPARTMENT OF CORRECTIONS FOR A DETERMINATE TERM OF FIVE  
18 YEARS. THIS SENTENCE TO RUN CONCURRENT WITH ALL OTHER  
19 SENTENCES. HE'S GIVEN CREDIT FOR TIME SERVED.

20 CASE NUMBER 2005-GS-46-860, CHRISTOPHER ALAN WOODY  
21 HAVING BEEN FOUND GUILTY BY A JURY OF UNLAWFULLY CARRYING A  
22 PISTOL, SENTENCE OF THE COURT IS HE BE COMMITTED TO THE  
23 STATE DEPARTMENT OF CORRECTIONS FOR A DETERMINATE TERM OF  
24 ONE YEAR. THIS SENTENCE TO RUN CONCURRENT WITH ALL OTHER  
25 SENTENCES THIS DATE AND HE'S GIVEN CREDIT FOR TIME SERVED.

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(COURT ADJOURNED AT 4:30 P.M.)

(END OF REQUESTED TRANSCRIPT)



STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from York County

Lee S. Alford, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHRISTOPHER A. WOODY,

APPELLANT

FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

The trial judge committed reversible error by denying a mistrial after the Assistant Solicitor argued in essence that the judge expected the jury to find appellant guilty.

STATEMENT OF FACTS

On May 2 through 6, 2005, Christopher Woody stood trial in York County before Judge Lee S. Alford and a jury on indictments charging him with murder, conspiracy, possession of a firearm during the commission of a violent crime and unlawful possession of a firearm. The victim, Darrell Bagley, was shot to death by Woody and Debrezio Campbell. Woody told the police that he had killed Bagley in self-defense. ROA p. 3, line 22 – p. 5, line 14. At trial, Debrezio Campbell's brother, Desmond, substantially corroborated Woody's account. ROA p. 53, line 8 – p. 55, line 8; ROA p. 57, line 14 – p. 58, line 5. The judge instructed the jury on self-defense. Approximately one hour into their deliberations, the jury asked to be reinstructed on the main elements of self-defense. ROA p. 226, line 12 – p. 228, line 7. Nevertheless, two hours later, they found Woody guilty as charged, and the judge imposed concurrent sentences of life without parole for murder, five years for conspiracy, five years for possession of a firearm during the commission of a violent crime and one year for unlawfully carrying a firearm.

ARGUMENT

The trial judge committed reversible error by denying a mistrial after the Assistant Solicitor argued in essence that the judge expected the jury to find appellant guilty.

In his closing argument, the Assistant Solicitor characterized Woody's claim of self-defense as "ridiculous." ROA p. 182, lines 1 and 2. "They put [up] a desperate defense because people who are desperate do that," he added. ROA p. 182, lines 19 and 20. Then he said:

Ladies and gentlemen, this mountain of evidence that stands before you speaks the truth, just as your verdict will speak the truth, and that's what verdict in its original form means, "to speak the truth," and that's what I ask you to do. *That's what the judge asks you to do; that's what South Carolina asks you to do and that is your duty today: to speak the truth.*

ROA p. 182, line 21 – p. 183, line 2 [emphasis added.] Defense counsel moved for a mistrial on the ground the Assistant Solicitor's argument had compromised the judge's neutrality. ROA p. 184, lines 1-25. The result, he stated, was that "your position is now aligned with the State." ROA p. 184, lines 20-22. The judge denied a mistrial and gave the following purported curative instruction:

The judge's role is a neutral role. Like you the jury, the judge is neutral in the case, has no position one way or the other, and so I want to be sure you understand that, that the court, like you, is a neutral arbiter. The court is neutral in any case that comes before it, insofar as the court is concerned, and when the [Assistant] Solicitor, I think, mentioned to you in his final argument, I believe, that he asks that you render a verdict which speaks the truth, and he says that the judge wants you to do that. Well, let me say to you that you should not infer from that in any way that the judge is not a neutral party in this case or is aligned with one side or the other in the case, because the judge is not. A judge is neutral in the case and simply sits to make sure that there's a fair trial

according to the rules and procedures in our state. I wanted to be sure you understood that.

ROA p. 185, lines 1-5; ROA p. 190, lines 4-16; ROA p. 191, line 7 – p. 192, line 1.

The judge committed reversible error by allowing the Assistant Solicitor to compromise his neutrality. The Supreme Court has scrupulously insured that the mechanisms of the criminal justice system do not themselves become factors at trial, regardless of whether the proponent is the Solicitor, defense counsel or even the trial judge. See, for example, *State v. Crisp*, 362 S.C. 412, 608 S.E.2d 429 (2005), and *State v. Owens*, 362 S.C. 175, 607 S.E.2d 78 (2004), as well as *State v. Pierce*, 289 S.C. 430, 346 S.E.2d 707 (1986), and *State v. Gunter*, 286 S.C. 556, 335 S.E.2d 542 (1985). A Solicitor cannot argue that the judge expects the jury to find the defendant guilty. Compare *State v. Woomer*, 276 S.C. 258, 277 S.E.2d 696 (1981), and *State v. Gilbert*, 273 S.C. 690, 258 S.E.2d 890 (1979).

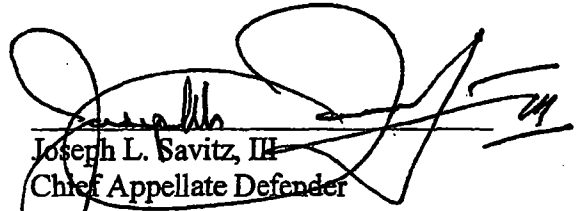
It is doubtful that a closing argument of this type could ever be harmless error, even where the judge attempts to give a curative instruction. Nevertheless, the Assistant Solicitor's argument in the present case is demonstrably prejudicial. "On appeal, an appellate court will review the alleged impropriety of the solicitor's argument in the context of the entire record, including whether the trial judge's instructions adequately cure the improper argument and whether there is overwhelming evidence of the defendant's guilt." *State v. Rudd*, 355 S.C. 543, 586 S.E.2d 153, 157 (Ct. App. 2003). At a minimum, the judge must tell the jury to disregard the improper comments. See, for example, *State v. McCord*, 349 S.C. 477, 562 S.E.2d 689 (Ct. App. 2002).

Here, the evidence presented by both the State and the defense supported a charge on self-defense. The jury itself asked to be reinstructed on self-defense. The judge did not

tell the jury to disregard the Assistant Solicitor's improper argument. Under these circumstances, the error could not have been harmless.

For this reason, the Court of Appeals should reverse Christopher Woody's convictions and remand for a new trial.

Respectfully submitted,



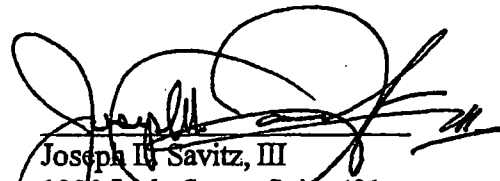
Joseph L. Savitz, III  
Chief Appellate Defender  
ATTORNEY FOR APPELLANT

This 18th day of September, 2007.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief complies with Rule 211(b), SCACR.

September 18, 2007

A handwritten signature in black ink, appearing to read "Joseph L. Savitz, III", is written over the printed name and address.

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STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from York County

Lee S. Alford, Circuit Court Judge

THE STATE,

RESPONDENT,

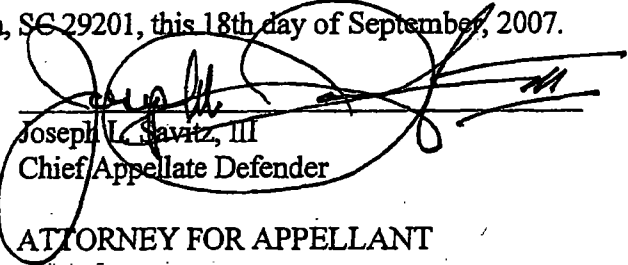
V.

CHRISTOPHER A. WOODY,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon Creighton Waters, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 18th day of September, 2007.

  
Joseph L. Savitz, III  
Chief Appellate Defender  
ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me  
this 18th day of September, 2007.

Karen D. Tollett (L.S.)  
Notary Public for South Carolina  
My Commission Expires: March 19, 2017

**STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

---

Appeal from York County  
Honorable Lee S. Alford, Circuit Court Judge

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**THE STATE,**

Respondent,

v.

**CHRISTOPHER A. WOODY,**

Appellant.

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**FINAL BRIEF OF RESPONDENT**

---

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**STATEMENT OF THE ISSUE ON APPEAL**

THE TRIAL COURT DID NOT COMMIT REVERSIBLE ERROR IN REFUSING TO GRANT A MISTRIAL BASED ON THE SOLICITOR'S ARGUMENTS THAT ALLEGEDLY COMPROMISED THE JUDGE'S NEUTRALITY, WHERE THE COMMENTS DID NOT HAVE SUCH AN EFFECT, AND WHERE THE COURT'S CURATIVE CHARGE RIGHT TO THE HEART OF THE ISSUE AS WELL AS HIS OTHER CHARGES ON NEUTRALITY WERE MORE THAN SUFFICIENT TO CURE ANY ERROR IN THE UNLIKELY EVENT THAT ANY JURORS MISINTERPRETED THE REMARKS.

**STATEMENT OF THE CASE**

At the February 2005 term, the York County Grand Jury indicted Appellant, Christopher Woody, for murder and possession of a firearm during commission of a violent crime (2005-GS-46-0858). Appellant also was indicted for conspiracy to commit murder (2005-GS-46-0859) and unlawful carrying of a pistol (2005-GS-46-0860).

Appellant was represented at the trial level by John Delgado, Esquire. Appellant was tried before the Honorable Lee S. Alford and a jury from May 2<sup>nd</sup>, to 6<sup>th</sup>, 2006. Judge Alford sentenced Appellant to life for murder and a concurrent sentences of five (5) years on the conspiracy and possession charges, and one (1) year on the carrying charge.

A timely notice of appeal was filed and served. This appeal follows.

**ARGUMENT**

**THE TRIAL COURT DID NOT COMMIT REVERSIBLE ERROR IN REFUSING TO GRANT A MISTRIAL BASED ON THE SOLICITOR'S ARGUMENTS THAT ALLEGEDLY COMPROMISED THE JUDGE'S NEUTRALITY, WHERE THE COMMENTS DID NOT HAVE SUCH AN EFFECT, AND WHERE THE COURT'S CURATIVE CHARGE RIGHT TO THE HEART OF THE ISSUE AS WELL AS HIS OTHER CHARGES ON NEUTRALITY WERE MORE THAN SUFFICIENT TO CURE ANY ERROR IN THE UNLIKELY EVENT THAT ANY JURORS MISINTERPRETED THE REMARKS.**

Appellant first contends that one small portion of the assistant solicitor's closing argument compromised the neutrality of the judge and implied that the judge wanted the jury to find Appellant guilty. However, not only did the prosecutor's comments not have that effect, but any jurors who somehow may have thought such a thing were quickly corrected by the judge's instruction right to the heart of the matter.

**A. Events at trial**

This case concerns the shooting of Avrell Darrell Bagley in the parking lot of a apartment complex in York County. The defense contended the victim was a drug dealer and the shooting was done in self-defense, see, e.g. {R. 51-55}.

During closing, the defense argued self-defense and raised the inference that the victim was a violent drug dealer and gang member. **{R. 130-131; 133-134; 137; 144-45; 147-48}**. During his closing, the assistant solicitor concluded his argument as follows:

Ladies and Gentlemen, this mountain of evidence that stands before you speaks the truth, just as your verdict will speak the truth and that's what verdict in its original form means, to speak the truth and that's what I ask you to do. That's what the judge asks you to do, that's what South Carolina asks you to do and that is your duty today, to speak the truth.

Ladies and Gentlemen, the truth is Christopher Woody is guilty of murder. He's the one on trial today. He's the one to be concerned about. Thank you.

**{R. 182 line 21 - 183 line 5}.**

After the jury exited following the assistant solicitor's argument, defense counsel objected, arguing to the judge that the "neutrality of your position is now aligned with the State". Counsel requested a mistrial. The court denied the mistrial, after which the defense asked the court to "instruct the jury that was misstated". The court agreed to do that, and pointed out that "I'm going to instruct them . . . that they should render a verdict that speaks the truth and some judges do that". Defense counsel agreed that instruction was "understandable", and the solicitor asked if the passage could be played back by the court reporter, since he was of the opinion the assistant solicitor only said the judge would ask the jury to speak the truth, not that the judge asked the jury to find the defendant guilty. **{R. 184-86}.**

After the passage was played back, the solicitor stated he had no objection to the court explaining "in more detail" that it was a neutral party, but did object to a curative instruction, since the assistant solicitor did not in fact tell the jury that the judge wanted them to find the defendant guilty. The judge agreed he would instruct the jurors on his role, noting that he had already done so at the beginning of the case, and disagreed with the defense that the assistant solicitor's statement had the effect defense counsel claimed. The court found the comment nonprejudicial. **{R. 187-89}.**

The defense responded that by not including the defense in the list of those who expect the jury to speak the truth, the inference was that the judge was not neutral. The judge responded that such a concern could easily be cured and did not rise to the level of a mistrial. **{R. 188-90}.**

After a brief recess, the jury was called back for the judge's charge on the law. He immediately began his charge by stating:

In a criminal case it's the State's responsibility to present the evidence for the State. The defense attorney, of course, presents whatever the defense wishes to present to you as well and that's their role in this case.

I explained to you as we began this case that the judge's role is simply really to preside over the case and to make sure the rules are observed, et cetera, and maintain some order in it and maintain--and make sure that they trial is run in an orderly manner. The judge's role is a neutral role. Like you, the jury, the judge is neutral in the case, has no position one way or the other and so I want be sure you understand that, that the jourt, like you, is a neutral arbiter. The court is neutral in any case that comes before it insofar as the court is concerned and when the solicitor, I think, mentioned to you in his final argument, I believe, that he asked that you render a verdict which speaks the truth and he says that the judge wants you to do that. Well, let me say to you that you should not infer from that in any way that the judge is not a neutral party in this case or is aligned with one side or the other in the case, because the judge is not. A judge is neutral in the case and simply sits to make sure that there's a fair trial according to the rules and procedure in our state. I wanted be sure you understood that.

**{R. 191 line 3 - 192 line 1}**. At the end of his instructions on the law to the jury, the judge reiterated his neutral role with the standard instruction, in which he also added another reference to the solicitor's comments:

Madam forelady, members of the jury panel, nothing that I may have said or done during the course of this trial has been in any way intended to express or suggest a view of the case or an opinion as to the facts, the weight of the evidence, or the credibility of the witnesses. If any of my actions or words have seemed to so indicate, again, including the statement by the solicitor in his final arguments in the case, you will draw no inference from that whatsoever and you will disregard such and form your own opinion as to these matters. The court is a neutral party in these cases.

**{R. 221 lines 2-12}**. The judge also reminded the jurors that they had to be fair and impartial, that they were only to decide the case based on the evidence presented, and that they were to decide the case free of any prejudice or bias. **{R.221-222}**.

### **B. General Rules**

"The trial court has broad discretion when dealing with the propriety of the solicitor's argument, including the question of whether to grant a defendant's mistrial motion." State v. Copeland, 321 S.C. 318, 324, 468 S.E.2d 620, 624 (1996). The decision to grant or deny a mistrial is within the sound discretion of the trial judge and will not be overturned on appeal absent an abuse of discretion. State v. Beckham, 334 S.C. 302, 310, 513 S.E.2d 606, 610 (1999). A mistrial should be ordered only when an incident is so grievous that prejudicial effect cannot be removed. Id. The test for granting a new trial based on an improper closing argument is whether the defendant was prejudiced to the extent that he was denied a fair trial. State v. Brisbon, 323 S.C. 324, 332, 474 S.E.2d 433, 438 (1996) (citing State v. Durden, 264 S.C. 86, 93, 212 S.E.2d 587, 591 (1975)). An instruction is deemed to have cured an error unless, on the facts of the particular case, it is probable that notwithstanding such instruction or withdrawal the accused was prejudiced. State v. Johnson, 334 S.C. 78, 89-90, 512 S.E.2d 795, 801 (1999). See State v. Vasquez, 364 S.C. 293, 613 S.E.2d 359 (2005) (setting forth the above discussion), overruled on other grounds by State v. Evans, 371 S.C. 27, 637 S.E.2d 313 (2006).

Although Appellant did not make due process arguments at trial and does not make them on appeal, the due process standard is at least instructive. A new trial will not be granted unless the prosecutor's comments so infected the trial with unfairness as to make the resulting conviction a denial of due process. Donnelly v. DeChristoforo, 416 U.S. 637 (1974). This determination requires the court to look to "the nature of the comments, the nature and quantum of the evidence before the jury, the arguments of opposing counsel, the judge's charge, and whether the errors were isolated or repeated." See Bennett v.

Angelone, 92 F.3d 1336, 1345-46 (4th Cir. 1996). See also Boyd v. French, 147 F.3d 319 (4<sup>th</sup> Cir. 1998).

**C. The solicitor's statement was permissible argument and simply did not have the effect claimed by Appellant.**

In addressing due process claims that improper argument rendered a trial fundamentally unfair, Dechristoforo stated that a "court should not lightly infer that a prosecutor intends an ambiguous remark to have its most damaging meaning or that a jury, sitting through lengthy exhortation, will draw that meaning from the plethora of less damaging interpretations". Donnelly v. DeChristoforo, 416 U.S. 637, 647 (1974).

Appellant's argument is engaging in precisely the hyperbolic parsing of the solicitor's argument that Dechristoforo counsels against. It is clear – or at least certainly more likely – that the jury understood the solicitor to be making the entirely permissible argument that: (1) the word "verdict" means to speak the truth, (2) the judge will ask the jurors to deliver a verdict that speaks the truth, and (3) the evidence in the case shows that the truth is Appellant committed murder. Indeed, as the judge in this case pointed out {R. 186 lines 1-2}, it is not uncommon for circuit judges to expressly charge the jury that the word "verdict" comes from the Latin *veredictum* and means "to speak the truth". See, e.g. Black's Law Dictionary p. 1559 (6<sup>th</sup> ed. 1996) (*veredictum* means "a true declaration"). Or, as happened in this case, the judge told the jurors at the beginning that it was solely up to them to determine "the truth of the facts". {R. 1-2}.

The solicitor's argument here was permissible, and the judge correctly determined that the assistant solicitor's statement did not have the improper effect that Appellant claims.

**D. Any error was more than adequately cured by the judge's instruction that went right to the heart of the issue and specifically dispelled any notion that the judge wanted the jury to find Appellant guilty.**

Appellant contends that "it is doubtful that a closing argument of this type could ever be harmless error". {Brief of Appellant p. 6}. Respondent on the other hand would suggest it is hard to conceive of alleged error less harmful than when the trial court itself specifically disavows that it has any interest in a particular outcome. Unlike Appellant's cited cases of State v. Crisp, 362 S.C. 412, 608 S.E.2d 429 (2005), State v. Owens, 362 S.C. 175, 607 S.E.2d 78 (2004), State v. Pierce, 289 S.C. 430, 346 S.E.2d 7070 (1986), or State v. Gunter, 286 S.C. 556, 335 S.E.2d 542 (1985), where the trial judges made comments on their own that abandoned their neutrality or exceeded their authority, here the very entity that was allegedly accused of bias was on hand and immediately disavowed that notion. Perhaps there is no other curative instruction a judge could give that would be more effective than one he or she gives specifically relating to his or her own partiality.<sup>1</sup>

Appellant finds fault with the judge for the failure to specifically instruct the jurors to disregard the solicitor's comments. That was not necessary in the circumstances of this case. The judge was simply ensuring that anyone who somehow misinterpreted the solicitor's comments in the manner suggested by Appellant would be immediately disabused of that improper notion. There was no call for the judge to tell the jury to disregard the comments entirely, because the more reasonable and likely interpretation, discussed in the preceding subsection, was permissible argument. In this regard, the

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<sup>1</sup> In Crisp and Owens, the trial court told a capital defendant that jurors might lie about being able to give the death penalty to get on the jury and return a life sentence. In Pierce and Gunter, the judges' comments to the defendants that the jury would hold their failure to testify against them were improper.

judge's instruction could not have more precisely aimed at the heart of the matter – stopping the jurors from in any way possibly misinterpreting the solicitor's comments in a manner prejudicial to Appellant, by specifically disavowing to them that he had any interest or stake in the outcome.

However, even if a "disregard" portion of the instruction was necessary, the judge did in fact later tell the jury to disregard the solicitor's comments if it had come to an improper conclusion from the remarks:

If any of my actions or words have seemed to so indicate, again, including the statement by the Solicitor in his final arguments in the case, you will draw no inference from that whatsoever and you will disregard such and form your own opinion as to these matters.

{R. 221 lines 2-12}. Moreover, right after jury selection, the judge informed the jurors as part of his opening charge that he was not permitted to have an opinion about the facts or a witness's credibility, and that it was solely up to the jurors to determine "the truth of the facts". {R. 1-2}.

Any error was harmless and cured by the trial court's swift specific instruction as well as its repeated general instructions on the impartiality of the bench. See, e.g. State v. Vasquez, 364 S.C. 293, 613 S.E.2d 359 (2005) (solicitor's argument that defendant could escape and kill again was cured by specific curative instruction to disregard reference to escape), overruled on other grounds by State v. Evans, 371 S.C. 27, 637 S.E.2d 313 (2006); State v. Cooper, 334 S.C. 540, 554, 514 S.E.2d 584, 591 (1999) (deeming the solicitor's impermissible closing remarks about the defendant's failure to present a case cured by the trial court's instructions); State v. Weaver, 361 S.C. 73, 602 S.E.2d 786 (S.C. Ct. App. 2004) (improper comment on right to silence was cured by immediate instruction).

**CONCLUSION**

For the stated reasons, Respondent respectfully submits the convictions and sentences should be affirmed.

Respectfully submitted,

**HENRY DARGAN McMASTER**  
Attorney General

**JOHN W. McINTOSH**  
Chief Deputy Attorney General

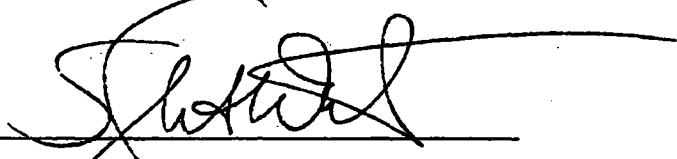
**DONALD J. ZELENKA**  
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Solicitor, Sixteenth Judicial Circuit  
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**ATTORNEYS FOR RESPONDENT.**

By: \_\_\_\_\_



Office of the Attorney General  
Post Office Box 11549  
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(803) 734-6305

September 19, 2007

**STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

---

Appeal from York County  
Honorable Lee S. Alford, Circuit Court Judge

---

**THE STATE,**

Respondent,

v.

**CHRISTOPHER A. WOODY,**

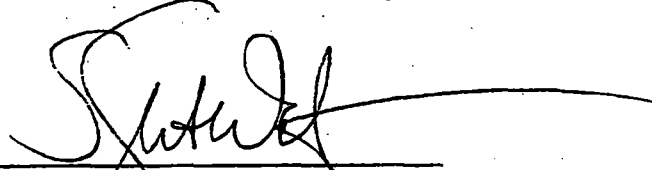
Appellant.

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**CERTIFICATE OF COUNSEL**

---

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR.

  
\_\_\_\_\_  
S. CREIGHTON WATERS  
Assistant Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
ATTORNEY FOR RESPONDENT

September 19, 2007.

**STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

\_\_\_\_\_  
Appeal from York County  
Honorable Lee S. Alford, Circuit Court Judge  
\_\_\_\_\_

**THE STATE,**

Respondent,

v.

**CHRISTOPHER A. WOODY,**

Appellant.

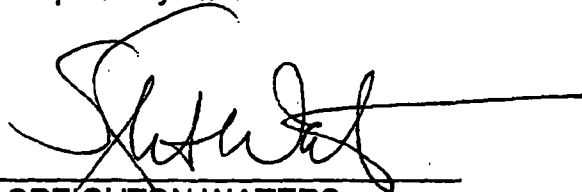
\_\_\_\_\_  
**PROOF OF SERVICE**  
\_\_\_\_\_

I, S. Creighton Waters, Counsel for Respondent, certify that I have this date served the **Final Brief of Respondent**, dated September 19, 2007 by depositing two copies of the same in the United States mail, first class postage prepaid, addressed to his attorney of record:

Joseph L. Savitz, III, Esquire  
Chief Attorney  
SC Commission on Indigent Defense  
Post Office Box 11589  
Columbia, South Carolina 29211

I further certify that I have served all parties required by Rule to be served.

This 19<sup>th</sup> day of September, 2007.



\_\_\_\_\_  
S. CREIGHTON WATERS  
Assistant Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211

ATTORNEY FOR RESPONDENT

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 239(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

The State,

Respondent,

v.

Christopher A. Woody,

Appellant.

---

Appeal from York County  
Lee S. Alford, Circuit Court Judge

---

Unpublished Opinion No. 2008-UP-534  
Submitted September 2, 2008 – Filed September 11, 2008

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**AFFIRMED**

---

Chief Attorney Joseph L. Savitz, III, of Columbia, for  
Appellant.

Attorney General Henry Dargan McMaster, Chief  
Deputy Attorney General John W. McIntosh,  
Assistant Deputy Attorney General Donald J.  
Zelenka, Assistant Attorney General S. Creighton

Waters, all of Columbia; and Solicitor Kevin S. Brackett, of York, for Respondent.

**PER CURIAM:** Christopher A. Woody, appeals his conviction for murder and possession of a firearm during the commission of a violent crime. Woody argues the trial court erred in denying his motion for mistrial based on the solicitor's closing statement. We affirm.<sup>1</sup>

### **FACTS AND PROCEDURAL HISTORY**

During the State's closing argument at trial, the solicitor made the following comment: "Ladies and Gentlemen, this mountain of evidence that stands before you speaks the truth, just as your verdict will speak the truth and that's what verdict in its original form means, to speak the truth and that's what I ask you to do. That's what the judge asks you to do, that's what South Carolina asks you to do and that is your duty today, to speak the truth." The defense objected to the solicitor's comments arguing that the remarks gave the jury the impression that the judge was aligned with the State's position. The defense requested a mistrial, but that request was denied. The judge decided to address the question of his neutrality during his charge on the law. At the beginning of his charge, the judge instructed:

The court is neutral in any case that comes before it insofar as the court is concerned and when the solicitor, I think, mentioned to you in his final argument, I believe, that he asked that you render a verdict which speaks the truth and he says that he judge wants you to do that. Well, let me say to you that you should not infer from that in any way that the judge is not a neutral party in this case or is aligned with one side or the other in the case, because the judge is not.

---

<sup>1</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.

**LAW/ANALYSIS**

On appeal, Woody argues the trial court erred in denying his motion for mistrial based on the solicitor's closing statement. We disagree. "The decision to grant or deny a mistrial is within the sound discretion of the trial judge. A mistrial should only be granted when absolutely necessary, and a defendant must show both error and resulting prejudice in order to be entitled to a mistrial." State v. Ward, 374 S.C. 606, 612, 649 S.E.2d 145, 148 (Ct. App. 2007) (citations omitted). "Generally, a curative instruction is deemed to have cured any alleged error." State v. Patterson, 337 S.C. 215, 226, 522 S.E.2d 845, 850 (Ct. App. 1999). Here, the court thoroughly and meticulously instructed the jury to disregard any impermissible inference they may have drawn from the solicitor's statement and to remember that the judge serves as a neutral party. Consequently, the court did not abuse its discretion in denying Woody's motion for mistrial.

**AFFIRMED.**

**ANDERSON, WILLIAMS, and KONDUROS, JJ., concur.**

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

THE STATE,

RESPONDENT,

V.

CHRISTOPHER A. WOODY,

APPELLANT

---

Appeal from York County

Lee S. Alford, Circuit Court Judge

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Opinion No. 2008-UP-534

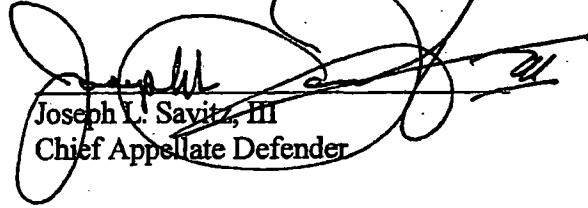
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PETITION FOR REHEARING

---

Pursuant to *Rule 221(a), SCACR*, counsel for Christopher Woody petitions the Court for rehearing because the Court appears to have misapprehended that the trial judge's purported curative instruction actually did not cure the error, as the issue was not the judge's neutrality, but the State's misrepresentation of its own burden of proof. See *United States v. Pine*, 609 F.2d 106 (3<sup>rd</sup> Cir. 1979), cited in *State v. Aleksey*, 343 S.C. 20, 538 S.E.2d 248 (2000). In other words, the judge's instruction did not dispel the impression that he and the State expected the jury to determine "the truth." For this reason, the Court should grant rehearing, reverse Christopher Woody's convictions and remand for a new trial.

Respectfully submitted,



Joseph L. Savitz, III  
Chief Appellate Defender

This 26th day of September, 2008.

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from York County  
Lee S. Alford, Circuit Court Judge  
\_\_\_\_\_

THE STATE,

RESPONDENT,

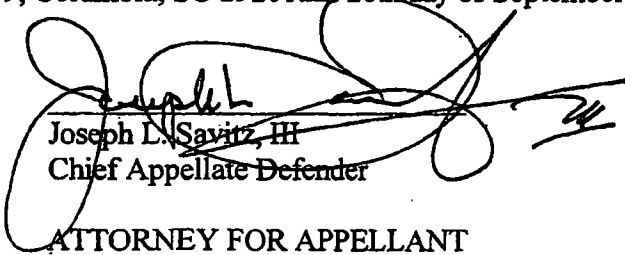
V.

CHRISTOPHER A. WOODY,

APPELLANT

\_\_\_\_\_  
CERTIFICATE OF SERVICE  
\_\_\_\_\_

The undersigned attorney hereby certifies that a true copy of the Petition for Rehearing in the above-entitled case has been served upon S. Creighton Waters, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 26th day of September, 2008.

  
Joseph L. Savitz, III  
Chief Appellate Defender  
ATTORNEY FOR APPELLANT

SWORN TO BEFORE ME this 26th day  
of September, 2008.

Karen D. Elliott (L.S.)  
Notary Public for South Carolina

My Commission Expires: March 19, 2017.

**STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

---

Appeal from York County  
Honorable Lee S. Alford, Circuit Court Judge

---

**THE STATE,**

Respondent,

v.

**CHRISTOPHER A. WOODY,**

Appellant.

---

**RETURN TO PETITION FOR REHEARING**

---

As requested by the Court, Respondent hereby makes its Return to the Petition for Rehearing filed by Appellant and dated September 26<sup>th</sup>, 2008.<sup>1</sup> In his Petition, Appellant contends that this Court misapprehended the law and facts when it ruled that the judge's charge cured any error, because, "the issue was not the judge's neutrality, but the State's misrepresentation of its own burden of proof". {Petition for Rehearing at 1}.

**A. Procedural bar**

As an initial matter, the State's alleged misrepresentation of its burden of proof was simply NOT the issue raised at trial or on appeal – it was always an issue of neutrality. In the Final Brief of Appellant, the issue on appeal asserted the "solicitor argued in essence

---

<sup>1</sup> The petition for rehearing is marked received by this Court on September 30<sup>th</sup>, 2008. Given that the opinion was issued on September 11<sup>th</sup>, 2008, such a date would make the petition untimely. See Rule 221(a), SCACR (rehearing petition must be *received* by the appellate court no later than fifteen days after filing of the opinion). However, the letter from the Clerk of this Court requesting a response states the petition for rehearing was filed on September 26<sup>th</sup>, 2008. If that is correct, then the petition would be timely.

that the judge expected the jury to find appellant guilty". This obviously only refers to an abdication of neutrality by the judge, not anything to do with the burden of proof. In the brief's argument, Appellant noted that "defense counsel moved for a mistrial on the ground that the Assistant Solicitor's argument had compromised the judge's *neutrality*", and that the judge's position was now "aligned with the State". {Final Brief of Appellant p. 5 (quoting ROA 184)} (emphasis added). The brief then went on to argue that the "judge committed reversible error by allowing the Assistant Solicitor to compromise his *neutrality*". {Final Brief of Appellant p. 6} (emphasis added). None of the four of the cases then cited by Appellant in his brief deal with a misrepresentation by the State as to its burden of proof – all of them deal with a trial court exceeding its role. See State v. Crisp, 362 S.C. 412, 608 S.E.2d 429 (2005); State v. Owens, 362 S.C. 175, 607 S.E.2d 78 (2004) (In Crisp and Owens, the trial court told a capital defendant that jurors might lie about being able to give the death penalty to get on the jury and return a life sentence.). See State v. Pierce, 289 S.C. 430, 346 S.E.2d 7070 (1986); State v. Gunter, 286 S.C. 556, 335 S.E.2d 542 (1985) (In Pierce and Gunter, the judges' comments to the defendants that the jury would hold their failure to testify against them were improper.). The next two cases cited dealt with the impermissibility of a solicitor's argument regarding judicial review of the jury's decision to impose death. State v. Woomeer, 276 S.C. 258, 277 S.E.2d 696 (1981); State v. Gilbert, 273 S.C. 690, 258 S.E.2d 890 (1979).

Importantly, at no point did Appellant in his Final Brief cite the opinion now cited in the Petition for Rehearing, State v. Aleksey, 343 S.C. 20, 538 S.E.2d 248 (2000).

Thus, none of the argument made or cases cited in the Final Brief of Appellant dealt

either expressly or implicitly with the State misrepresenting its burden of proof. It is improper to raise new arguments in rehearing, and since Appellant neither preserved these arguments below nor presented them properly on appeal, any issue is procedurally barred as to the alleged misrepresentation by the State regarding its burden of proof. See Toal, Vafai, & Muckenfuss, Appellate Practice in South Carolina pp. 77; 293 (2<sup>nd</sup> ed. 2002) ((A petition for rehearing does not exist for lawyers of losing parties to present points which they may have overlooked or misapprehended, nor does it allow the losing party to try the case in the appellate court for a second time.) (citing Kennedy v. South Carolina Retirement Sys., 349 S.C. 531, 564 S.E.2d 322 (2001) (argument on rehearing will not be considered as it was never presented to the Court prior to the petition for rehearing)).

#### **B. Merits**

In any event, the issue fails on the merits. Appellant contends the State misrepresented its burden of proof, and relies on State v. Aleksey, 343 S.C. 20, 538 S.E.2d 248 (2000), which cited U.S. v. Pine, 609 F.2d 106 (3<sup>rd</sup> Cir. 1979). Neither of those decisions is applicable to this case.

Aleksey dealt with the judge's charge in that case as to the jury's obligation to determine credibility of witnesses, that the jury had "one single objective, and that is to seek the truth". Aleksey noted that in the context of circumstantial evidence or reasonable doubt charges, instructions that the jury should "seek the truth" were disfavored as they might shift the burden to the defendant by telling the jurors they had to seek some explanation other than his guilt. See Aleksey (discussing State v. Needs, 333 S.C. 134, 508 S.E.2d 857 (1998)). However, Aleksey rejected the claim because the "seek" language used there was in the context of a credibility charge, not a circumstantial

evidence or reasonable doubt charge. In U.S. v. Pine, 609 F.2d 106 (3<sup>rd</sup> Cir. 1979), which was part of a long string cite in Aleksey, the court rejected a claim as to the judge's reference that the jurors' basic job was to "evolve the truth" between the government witnesses and the defense witnesses, because the statement was but one sentence and a strong and correct reasonable doubt charge was given.

As apparent from the discussion in Aleksey and Needs, the real issue is the use of the work "seek". Here, however, the judge certainly never used any "seek" language, and neither did the solicitor. The only language used by the solicitor was "*speaks* the truth", not "*seeks* the truth". The challenged comments were simply as follows:

Ladies and Gentlemen, this mountain of evidence that stands before you speaks the truth, just as your verdict will speak the truth and that's what verdict in its original form means, to speak the truth and that's what I ask you to do. That's what the judge asks you to do, that's what South Carolina asks you to do and that is your duty today, to speak the truth.

Ladies and Gentlemen, the truth is Christopher Woody is guilty of murder. He's the one on trial today. He's the one to be concerned about. Thank you.

{R. 182 line 21 - 183 line 5}. It is clear the solicitor was not in any way addressing the burden of proof, but merely stating the obvious position of the State that the "mountain" of evidence presented added up to the "truth" that the defendant committed the crime. Further, the judge never used "seek" language in the charge, either in the credibility charge {R. 196-98} or in the reasonable doubt charge {R. 192-94}.

The "truth", in and of itself, should never be a concept that is off-limits in a criminal trial. Indeed, if anything the manner in which the solicitor used the word implied a burden of 100% correctness, and not anything less. There was no implication of some lesser

more likely than not standard – only a flat and unqualified statement that the evidence did in fact amount to the truth that the defendant was guilty.

There was no error, and as such, the conviction was properly affirmed.

Respectfully submitted,

HENRY DARGAN McMASTER  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

DONALD J. ZELENKA  
Assistant Deputy Attorney General

S. CREIGHTON WATERS  
Senior Assistant Attorney General

ATTORNEYS FOR RESPONDENT

BY: 

Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-6305

October 9, 2008.

**STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

\_\_\_\_\_  
Appeal from York County  
Honorable Lee S. Alford, Circuit Court Judge  
\_\_\_\_\_

**THE STATE,**

Respondent,

v.

**CHRISTOPHER A. WOODY,**

Appellant.

\_\_\_\_\_  
**CERTIFICATE OF SERVICE**  
\_\_\_\_\_

*I, S. Creighton Waters,* hereby certify that I have served Respondent's **Return to Petition for Rehearing**, on Joseph L. Savitz, III, Acting Chief Attorney, South Carolina Office of Appellate Defense, 1205 Pendleton Street, Room 306, Columbia, South Carolina 29201 by depositing two (2) copies in the United States Mail, postage prepaid this 9<sup>TH</sup> day of October, 2008.

  
\_\_\_\_\_  
**S. CREIGHTON WATERS**

# The South Carolina Court of Appeals

The State,

Respondent,

v.

Christopher A. Woody,

Appellant.

The Honorable Lee S. Alford  
 York County  
 Trial Court Case No. 2005-GS-46-00858  
 2005-GS-46-00859  
 2005-GS-46-00860  
 2005-GS-46-0858A

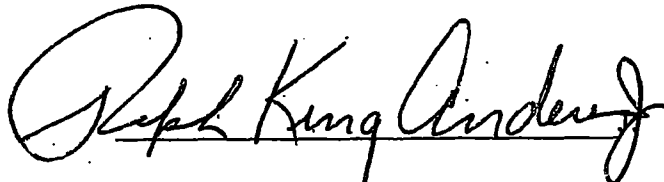
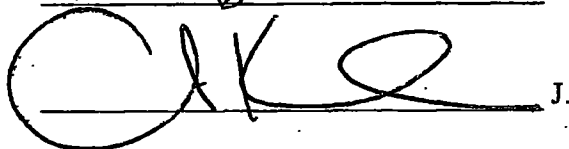
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ORDER

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After a careful consideration of the Petition for Rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded and hence, there is no basis for granting a rehearing.

It is, therefore, ordered that the Petition for Rehearing be denied.

  
 \_\_\_\_\_  
 H. Bill Wilson  
 \_\_\_\_\_  
  
 \_\_\_\_\_ J.

Columbia, South Carolina

December 19, 2008

cc: Chief Appellate Defender Joseph L. Savitz, III  
Christopher A. Woody, # 00309141  
Attorney General Henry Dargan McMaster  
Chief Deputy Attorney General John W. McIntosh  
Assistant Deputy Attorney General Donald J. Zelenka  
Assistant Attorney General S. Creighton Waters  
Kevin Scott Brackett, Esquire

**COPY**

**RECEIVED**

MAR 23 2009

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

\_\_\_\_\_  
Certiorari to Court of Appeals  
\_\_\_\_\_

Opinion No. 2008-UP-534 (S.C. Ct. App. filed 9/11/2008)

Lee S. Alford, Circuit Court Judge

05-GS-46-858 - 860  
\_\_\_\_\_

THE STATE,

RESPONDENT,

v.

CHRISTOPHER A. WOODY,

PETITIONER

\_\_\_\_\_  
PETITION FOR WRIT OF CERTIORARI  
TO THE COURT OF APPEALS  
\_\_\_\_\_

JOSEPH L. SAVITZ, III  
Chief Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1343

ATTORNEY FOR PETITIONER

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STATEMENT OF ISSUE ON APPEAL

The trial judge committed reversible error by denying a mistrial after the Assistant Solicitor argued in essence that the judge expected the jury to find petitioner guilty.

STATEMENT OF FACTS

On May 2 through 6, 2005, Christopher Woody stood trial in York County before Judge Lee S. Alford and a jury on indictments charging him with murder, conspiracy, possession of a firearm during the commission of a violent crime and unlawful possession of a firearm. The victim, Darrell Bagley, was shot to death by Woody and Debrezio Campbell. Woody told the police that he had killed Bagley in self-defense. ROA p. 3, line 22 – p. 5, line 14.

At trial, Debrezio Campbell's brother, Desmond, substantially corroborated Woody's account. ROA p. 53, line 8 – p. 55, line 8; ROA p. 57, line 14 – p. 58, line 5. The judge instructed the jury on self-defense. Approximately one hour into their deliberations, the jury asked to be reinstructed on the main elements of self-defense. ROA p. 226, line 12 – p. 228, line 7. Nevertheless, two hours later, they found Woody guilty as charged, and the judge imposed concurrent sentences of life without parole for murder, five years for conspiracy, five years for possession of a firearm during the commission of a violent crime and one year for unlawfully carrying a firearm.

On direct appeal to the South Carolina Court of Appeals, Woody argued, "The trial judge committed reversible error by denying a mistrial after the Assistant Solicitor argued in essence that the judge expected the jury to find petitioner guilty." The Court affirmed, *State v. Woody*, Unpublished Opinion 2008-UP-534, filed September 11, 2008, and denied rehearing by order dated December 19, 2008.

ARGUMENT

The trial judge committed reversible error by denying a mistrial after the Assistant Solicitor argued in essence that the judge expected the jury to find petitioner guilty.

In his closing argument, the Assistant Solicitor characterized Woody's claim of self-defense as "ridiculous." ROA p. 182, lines 1 and 2. "They put [up] a desperate defense because people who are desperate do that," he added. ROA p. 182, lines 19 and 20. Then he said:

Ladies and gentlemen, this mountain of evidence that stands before you speaks the truth, just as your verdict will speak the truth, and that's what verdict in its original form means, "to speak the truth," and that's what I ask you to do. *That's what the judge asks you to do*; that's what South Carolina asks you to do and that is your duty today: to speak the truth.

ROA p. 182, line 21 – p. 183, line 2 [emphasis added.] Defense counsel moved for a mistrial on the ground the Assistant Solicitor's argument had compromised the judge's neutrality. ROA p. 184, lines 1-25. The result, he stated, was that "your position is now aligned with the State." ROA p. 184, lines 20-22. The judge denied a mistrial and gave the following purported curative instruction:

The judge's role is a neutral role. Like you the jury, the judge is neutral in the case, has no position one way or the other, and so I want to be sure you understand that, that the court, like you, is a neutral arbiter. The court is neutral in any case that comes before it, insofar as the court is concerned, and when the [Assistant] Solicitor, I think, mentioned to you in his final argument, I believe, that he asks that you render a verdict which speaks the truth, and he says that the judge wants you to do that. Well, let me say to you that you should not infer from that in any way that the judge is not a neutral party in this case or is aligned with one side or the other in the case, because the judge is not. A judge is neutral in the case and simply sits to make sure that there's a fair trial according to the rules and procedures in our state. I wanted to be sure you understood that.

ROA p. 185, lines 1-5; ROA p. 190, lines 4-16; ROA p. 191, line 7 – p. 192, line 1.

The judge committed reversible error by allowing the Assistant Solicitor to compromise his neutrality. The Supreme Court has scrupulously insured that the mechanisms of the criminal justice system do not themselves become factors at trial, regardless of whether the proponent is the Solicitor, defense counsel or even the trial judge. See, for example, *State v. Crisp*, 362 S.C. 412, 608 S.E.2d 429 (2005), and *State v. Owens*, 362 S.C. 175, 607 S.E.2d 78 (2004), as well as *State v. Pierce*, 289 S.C. 430, 346 S.E.2d 707 (1986), and *State v. Gunter*, 286 S.C. 556, 335 S.E.2d 542 (1985). A Solicitor cannot argue that the judge expects the jury to find the defendant guilty. Compare *State v. Woomer*, 276 S.C. 258, 277 S.E.2d 696 (1981), and *State v. Gilbert*, 273 S.C. 690, 258 S.E.2d 890 (1979).

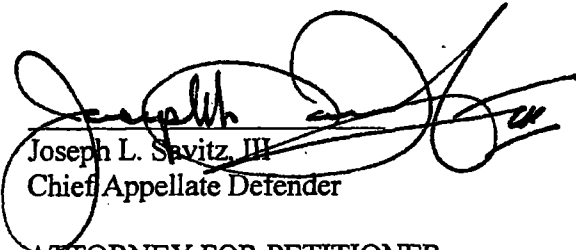
The Court of Appeals held that the judge's instruction had cured the error. However, the issue was not the judge's neutrality, but the State's misrepresentation of its own burden of proof. See *United States v. Pine*, 609 F.2d 106 (3<sup>rd</sup> Cir. 1979), cited in *State v. Aleksey*, 343 S.C. 20, 538 S.E.2d 248 (2000). In other words, the judge's instruction did not dispel the impression that he and the State expected the jury to determine "the truth."

In any case, it is doubtful that a closing argument of this type could ever be harmless error, even where the judge attempts to give a curative instruction. Nevertheless, the Assistant Solicitor's argument in the present case is demonstrably prejudicial. "On appeal, an appellate court will review the alleged impropriety of the solicitor's argument in the context of the entire record, including whether the trial judge's instructions adequately cure the improper argument and whether there is overwhelming evidence of the defendant's guilt." *State v. Rudd*, 355 S.C. 543, 586 S.E.2d 153, 157 (Ct. App. 2003). At a minimum, the judge must tell the jury to disregard the improper comments. See, for example, *State v. McCord*, 349 S.C. 477, 562 S.E.2d 689 (Ct. App. 2002).

Here, the evidence presented by both the State and the defense supported a charge on self-defense. The jury itself asked to be reinstructed on self-defense. The judge did not tell the jury to disregard the Assistant Solicitor's improper argument. Under these circumstances, the error could not have been harmless.

For this reason, the Court should grant certiorari to reverse Christopher Woody's convictions and remand for a new trial.

Respectfully submitted,



Joseph L. Savitz, III  
Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 23rd day of March, 2009

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

\_\_\_\_\_  
Certiorari to York County

Lee S. Alford, Circuit Court Judge  
\_\_\_\_\_

Opinion No. 2008-UP-534 (S.C. Ct. App. filed 9/11/2008)  
05-GS-46-858 - 860  
\_\_\_\_\_

THE STATE,

RESPONDENT,

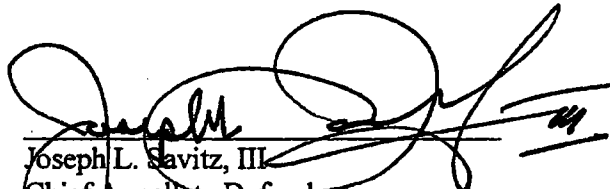
V.

CHRISTOPHER A. WOODY,

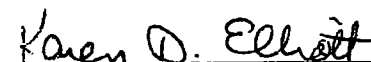
PETITIONER

\_\_\_\_\_  
CERTIFICATE OF SERVICE  
\_\_\_\_\_

I certify that a true copy of the petition for writ of certiorari and a copy of the appendix, in this case has been served on S. Creighton Waters, Esquire, and the S.C. Court of Appeals this 23rd day of March, 2009.

  
Joseph L. Savitz, III  
Chief Appellate Defender  
ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 23rd day  
of March, 2009.

 (L.S.)  
Notary Public for South Carolina  
My Commission Expires: March 19, 2017

**STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT**

---

Appeal from York County  
Honorable Lee S. Alford, Circuit Court Judge

---

**THE STATE,**

Respondent,

v.

**CHRISTOPHER A. WOODY,**

Appellant.

---

**RETURN TO PETITION FOR WRIT OF CERTIORARI**

---

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Attorney General

**JOHN W. McINTOSH**  
Chief Deputy Attorney General

**DONALD J. ZELENKA**  
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**ATTORNEYS FOR RESPONDENT.**

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**ISSUE PRESENTED**

IS THERE A BASIS TO GRANT CERTIORARI EVEN THOUGH: (1) APPELLANT'S ARGUMENTS ARE PROCEDURALLY BARRED; (2) THE COURT OF APPEALS PROPERLY CONCLUDED THAT ANY MISCONCEPTIONS AS TO NEUTRALITY FROM THE SOLICITOR'S ARGUMENT WERE CURED BY THE JUDGE'S CHARGE; AND (3) THE SOLICITOR'S ARGUMENT IN NO WAY MISREPRESENTED THE BURDEN OF PROOF?

**STATEMENT OF THE CASE**

At the February 2005 term, the York County Grand Jury indicted Petitioner, Christopher Woody, for murder and possession of a firearm during commission of a violent crime (2005-GS-46-0858). Petitioner also was indicted for conspiracy to commit murder (2005-GS-46-0859) and unlawful carrying of a pistol (2005-GS-46-0860).

Petitioner was represented at the trial level by John Delgado, Esquire. Petitioner was tried before the Honorable Lee S. Alford and a jury from May 2<sup>nd</sup>, to 6<sup>th</sup>, 2006. Judge Alford sentenced Petitioner to life for murder and a concurrent sentences of five (5) years on the conspiracy and possession charges, and one (1) year on the carrying charge.

A timely notice of appeal was filed and served. Following briefing on both sides, the South Carolina Court of Appeals issued an opinion on September 11<sup>th</sup>, 2008, in which it affirmed the convictions and sentences. **{App. 1}**. Petitioner filed a petition for rehearing on September 26<sup>th</sup>, 2008 **{App. 4}**, and as requested, the State filed a return to the petition for rehearing on October 9<sup>th</sup>, 2008 **{App. 7}**. The Court of Appeals denied the petition for rehearing on December 19<sup>th</sup>, 2008 **{App. 13}**, and Petitioner followed with the instant certiorari petition.

This Return follows.

## ARGUMENT

**THERE IS NO BASIS TO GRANT CERTIORARI BECAUSE: (1) APPELLANT'S ARGUMENTS ARE PROCEDURALLY BARRED; (2) THE COURT OF APPEALS PROPERLY CONCLUDED THAT ANY MISCONCEPTIONS AS TO NEUTRALITY FROM THE SOLICITOR'S ARGUMENT WERE CURED BY THE JUDGE'S CHARGE; AND (3) THE SOLICITOR'S ARGUMENT IN NO WAY MISREPRESENTED THE BURDEN OF PROOF.**

Petitioner makes two contentions as to one small portion of the solicitor's argument: (1) that it compromised the neutrality of the judge, and (2) that it misrepresented the State's burden of proof. The first argument is not preserved as it was not the basis on which Petitioner sought rehearing before the Court of Appeals. Regardless, the solicitor's argument did not compromise the judge's neutrality, and even if it did, any error was cured by the judge's specific curative instruction.

The second argument is not preserved as it was not asserted either at trial or in the final brief to the Court of Appeals. In any event, the argument in no way addressed the burden of proof, and in any event the judge's charge correctly stated the burden of proof.

### **A. Events at trial**

In closing, the defense argued self-defense and raised the inference that the victim was a violent drug dealer and gang member. {R. 130-131; 133-134; 137; 144-45; 147-48}. The assistant solicitor concluded his argument as follows:

Ladies and Gentlemen, this mountain of evidence that stands before you speaks the truth, just as your verdict will speak the truth and that's what verdict in its original form means, to speak the truth and that's what I ask you to do. That's what the judge asks you to do, that's what South Carolina asks you to do and that is your duty today, to speak the truth.

Ladies and Gentlemen, the truth is Christopher Woody is guilty of murder. He's the one on trial today. He's the one to be concerned about. Thank you.

{R. 182 line 21 - 183 line 5}.

After the jury exited, defense counsel requested a mistrial, arguing to the judge that the "neutrality of your position is now aligned with the State". The court denied the mistrial, and the defense requested a curative instruction. {R. 184-88}. In further discussion, the defense contended that by not including the defense in the list of those who expect the jury to speak the truth, the solicitor implied that the judge was not neutral. The judge disagreed, but also responded that such a concern could easily be cured and did not rise to the level of a mistrial. {R. 188-90}.

After a brief recess, the jury was called back for the judge's charge on the law. He immediately began his charge by stating:

In a criminal case it's the State's responsibility to present the evidence for the State. The defense attorney, of course, presents whatever the defense wishes to present to you as well and that's their role in this case.

I explained to you as we began this case that the judge's role is simply really to preside over the case and to make sure the rules are observed, et cetera, and maintain some order in it and maintain--and make sure that they trial is run in an orderly manner. The judge's role is a neutral role. Like you, the jury, the judge is neutral in the case, has no position one way or the other and so I want be sure you understand that, that the court, like you, is a neutral arbiter. The court is neutral in any case that comes before it insofar as the court is concerned and when the solicitor, I think, mentioned to you in his final argument, I believe, that he asked that you render a verdict which speaks the truth and he says that the judge wants you to do that. Well, let me say to you that you should not infer from that in any way that the judge is not a neutral party in this case or is aligned with one side or the other in the case, because the judge is not. A judge is neutral in the case and simply sits to make sure that there's a fair trial according to the rules and procedure in our state. I wanted be sure you understood that.

{R. 191 line 3 - 192 line 1}. At the end of his instructions on the law to the jury, the judge reiterated his neutral role with the standard instruction, in which he also added another reference to the solicitor's comments:

Madam forelady, members of the jury panel, nothing that I may have said or done during the course of this trial has been in any way intended to express or suggest a view of the case or an opinion as to the facts, the weight of the evidence, or the credibility of the witnesses. If any of my actions or words have seemed to so indicate, again, including the statement by the solicitor in his final arguments in the case, you will draw no inference from that whatsoever and you will disregard such and form your own opinion as to these matters. The court is a neutral party in these cases.

{R. 221 lines 2-12}. The judge also reminded the jurors that they had to be fair and impartial, that they were only to decide the case based on the evidence presented, and that they were to decide the case free of any prejudice or bias. {R. 221-222}.

### **B. General Rules**

"The trial court has broad discretion when dealing with the propriety of the solicitor's argument, including the question of whether to grant a defendant's mistrial motion." State v. Copeland, 321 S.C. 318, 324, 468 S.E.2d 620, 624 (1996). The test for granting a new trial based on an improper closing argument is whether the prejudice was so great as to deny a fair trial. State v. Brisbon, 323 S.C. 324, 332, 474 S.E.2d 433, 438 (1996). An instruction is deemed to have cured an error unless under the facts of the case it is probable that despite the instruction the accused was still prejudiced. State v. Johnson, 334 S.C. 78, 89-90, 512 S.E.2d 795, 801 (1999).

### **C. Any argument as to neutrality is not preserved as it was not the basis for rehearing before the Court of Appeals, and any issue as to the burden of proof is not preserved as it was not the basis raised at trial or in the Final Brief before the Court of Appeals.**

As noted before, Petitioner makes two arguments: (1) compromise of neutrality, and (2) misrepresentation of the burden of proof. At trial and on appeal, though, the issue was always one of neutrality. In the Final Brief of Appellant, the issue on appeal asserted the "solicitor argued in essence that the judge expected the jury to find appellant guilty". This

obviously only refers to neutrality, not the burden of proof. In the brief's argument, Petitioner noted that "defense counsel moved for a mistrial on the ground that the Assistant Solicitor's argument had compromised the judge's *neutrality*", and that the judge's position was now "aligned with the State". **{Final Brief of Appellant p. 5 (quoting R. 184)}** (emphasis added). The brief then went on to argue that the "judge committed reversible error by allowing the Assistant Solicitor to compromise his *neutrality*". **{Final Brief of Appellant p. 6}** (emphasis added). None of the four of the cases then cited by Petitioner in his brief dealt with a misrepresentation as to its burden of proof – all of them addressed a trial court exceeding its role. See State v. Crisp, 362 S.C. 412, 608 S.E.2d 429 (2005); State v. Owens, 362 S.C. 175, 607 S.E.2d 78 (2004); State v. Pierce, 289 S.C. 430, 346 S.E.2d 7070 (1986); State v. Gunter, 286 S.C. 556, 335 S.E.2d 542 (1985).<sup>1</sup> Petitioner's next two cited cases dealt with the impermissibility of a solicitor's argument regarding judicial review of the jury's decision to impose death. State v. Woomer, 276 S.C. 258, 277 S.E.2d 696 (1981); State v. Gilbert, 273 S.C. 690, 258 S.E.2d 890 (1979).

However, in his Petition for Rehearing to the Court of Appeals, Petitioner contended that the Court of Appeals erred in believing the issue was neutrality, when the issue was actually the State's alleged misrepresentation of its burden of proof. **{App. 4}**. The State responded that misrepresentation of the burden of proof was never the issue that was raised either at trial or in the brief, and thus it was improper to raise misrepresentation for the first time in a petition for rehearing. **{App. 7-9}**.

---

<sup>1</sup> In Crisp and Owens, the judges told capital defendants that jurors might lie about being able to give the death penalty to get on the jury and return a life sentence. In Pierce and Gunter, the judges told to the defendants that the jury would hold their failure to testify against them.

Since Petitioner only contended on rehearing that the issue was one of misrepresentation, not neutrality, then the neutrality issue is procedurally barred before this Court as it was not the basis asserted for rehearing. Rule 226(d)(1), SCACR ("only those questions raised in the Court of Appeals *and* in the petition for rehearing shall be included in the petition for writ of certiorari as a question presented to the Supreme Court" (emphasis added)).

The misrepresentation issue is procedurally barred as well. As just discussed, the only issue raised at trial and in the Final Brief before the Court of Appeals was neutrality, not misrepresentation of the burden of proof. At no point did Petitioner in his Final Brief before the Court of Appeals cite the opinion now cited in the Petition for Certiorari, State v. Aleksey, 343 S.C. 20, 538 S.E.2d 248 (2000). It is improper to raise new arguments in rehearing, and since Petitioner neither preserved the misrepresentation argument below nor presented it properly to the Court of Appeals, then it is procedurally barred on certiorari. See Toal, Vafai, & Muckenfuss, Appellate Practice in South Carolina pp. 77; 293 (2<sup>nd</sup> ed. 2002) ("A petition for rehearing does not exist for lawyers of losing parties to present points which they may have overlooked or misapprehended, nor does it allow the losing party to try the case in the appellate court for a second time.") (citing Kennedy v. South Carolina Retirement Sys., 349 S.C. 531, 564 S.E.2d 322 (2001) (argument on rehearing will not be considered as it was never presented to the Court prior to the petition for rehearing)).

**D. The solicitor's statement was permissible argument and did not compromise the judge's neutrality.**

The first contention Petitioner makes is that the argument compromised the judge's

neutrality. In the due process context, the United States Supreme Court has stated that a “court should not lightly infer that a prosecutor intends an ambiguous remark to have its most damaging meaning or that a jury, sitting through lengthy exhortation, will draw that meaning from the plethora of less damaging interpretations”. Donnelly v. DeChristoforo, 416 U.S. 637, 647 (1974).

Petitioner’s argument is engaging in precisely the hyperbolic parsing of the solicitor’s argument that Dechristoforo counsels against. It is clear – or at least certainly more likely – that the jury understood the solicitor to be making the entirely permissible argument that: (1) the word “verdict” means to speak the truth, (2) the judge would ask the jurors to deliver a verdict, and (3) the evidence in the case showed that the truth is Petitioner committed murder. Indeed, as the judge pointed out {R. 186 lines 1-2}, some judges expressly charge the jury that the word “verdict” comes from the Latin *veredictum* and means “to speak the truth”. See, e.g. Black’s Law Dictionary p. 1559 (6<sup>th</sup> ed. 1996) (*veredictum* means “a true declaration”). Or, as happened in this case, the judge told the jurors at the beginning that it was solely up to them to determine “the truth of the facts”. {R. 1-2}.

The solicitor’s argument did not imply the judge was not neutral.

**E. The judge’s curative instruction cured any implication in argument that the judge was not neutral.**

Petitioner contends that “it is doubtful that a closing argument of this type could ever be harmless error”. {Petition p. 5}. Respondent on the other hand would suggest it is hard to conceive of alleged error less harmful than when the trial court itself immediately and specifically disavows that it has any interest in a particular outcome. Unlike Petitioner’s cited cases of State v. Crisp, 362 S.C. 412, 608 S.E.2d 429 (2005), State v.

Owens, 362 S.C. 175, 607 S.E.2d 78 (2004), State v. Pierce, 289 S.C. 430, 346 S.E.2d 7070 (1986), or State v. Gunter, 286 S.C. 556, 335 S.E.2d 542 (1985), where the trial judges made comments on their own that abandoned their neutrality or exceeded their authority, here the judge immediately disavowed any notion of impartiality.

Further, it was not necessary to instruct the jurors to disregard the comments. The judge ensured that the remarks were not misinterpreted as a statement of partiality. There was no call for the judge to tell the jury to disregard the comments entirely, because the more reasonable and likely interpretation, discussed above, was permissible argument. However, even if a "disregard" portion of the instruction was necessary, the judge did in fact later tell the jury to disregard any inference of partiality:

If any of my actions or words have seemed to so indicate, again, including the statement by the Solicitor in his final arguments in the case, you will draw no inference from that whatsoever and you will disregard such and form your own opinion as to these matters.

{R. 221 lines 2-12}.

Any error was harmless and cured by the trial court's instruction. See, e.g. State v. Vasquez, 364 S.C. 293, 613 S.E.2d 359 (2005) (solicitor's argument cured by specific curative instruction to disregard reference), overruled on other grounds by State v. Evans, 371 S.C. 27, 637 S.E.2d 313 (2006); State v. Cooper, 334 S.C. 540, 554, 514 S.E.2d 584, 591 (1999) (impermissible closing remarks about the defendant's failure to present a case cured by court's instructions); State v. Weaver, 361 S.C. 73, 602 S.E.2d 786 (S.C. Ct. App. 2004) (improper comment on right to silence was cured by immediate instruction).

**F. The argument did not misrepresent the burden of proof; regardless, any error was harmless as the trial court correctly charged the jury on the burden of proof.**

Petitioner contends the State misrepresented its burden of proof, and relies on State v. Aleksey, 343 S.C. 20, 538 S.E.2d 248 (2000), which cited U.S. v. Pine, 609 F.2d 106 (3<sup>rd</sup> Cir. 1979). Neither of those decisions is applicable to this case.

Aleksey dealt with the judge's charge in that case as to the jury's obligation to determine credibility of witnesses, that the jury had "one single objective, and that is to seek the truth". Aleksey noted that in the context of circumstantial evidence or reasonable doubt charges, instructions that the jury should "seek the truth" were disfavored as they might shift the burden to the defendant by telling the jurors they had to seek some explanation other than his guilt. See Aleksey (discussing State v. Needs, 333 S.C. 134, 508 S.E.2d 857 (1998)). However, Aleksey rejected the claim because the "seek" language used there was in the context of a credibility charge, not a circumstantial evidence or reasonable doubt charge.

In U.S. v. Pine, 609 F.2d 106 (3<sup>rd</sup> Cir. 1979), which was part of a long string cite in Aleksey, the court rejected a claim as to the judge's reference that the jurors' basic job was to "evolve the truth" between the government witnesses and the defense witnesses, because the statement was but one sentence and a strong and correct reasonable doubt charge was given.

As apparent from the discussion in Aleksey and Needs, the real issue is the use of the work "seek". Here, however, the judge certainly never used any "seek" language, and neither did the solicitor. The solicitor's words were "*speaks the truth*", not "*seeks the truth*".

The solicitor was not addressing the burden of proof, but merely stating the obvious position of the State that the "mountain" of evidence added up to the "truth" that the defendant committed the crime. Further, the judge never used "seek" language in the charge, either in the credibility charge {R. 196-98} or in the reasonable doubt charge {R. 192-94}. This would cure any possible misconception.

The "truth", in and of itself, should never be a concept that is off-limits in a criminal trial. Indeed, if anything the manner in which the solicitor used the word implied a burden of 100% correctness, and not anything less. There was no error, and as such, the conviction was properly affirmed.

**CONCLUSION**

For the stated reasons, Respondent respectfully submits certiorari should be denied.

Respectfully submitted,

**HENRY DARGAN McMASTER**  
Attorney General

**JOHN W. McINTOSH**  
Chief Deputy Attorney General

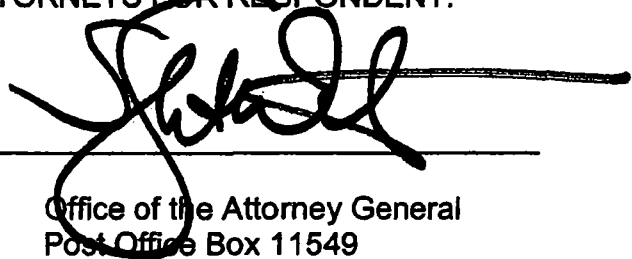
**DONALD J. ZELENKA**  
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**ATTORNEYS FOR RESPONDENT.**

By: \_\_\_\_\_



Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-6305

June 5, 2009

**STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT**

---

Appeal from York County  
Honorable Lee S. Alford, Circuit Court Judge

---

**THE STATE,**

Respondent,

v.

**CHRISTOPHER A. WOODY,**

Appellant.

---

**PROOF OF SERVICE**

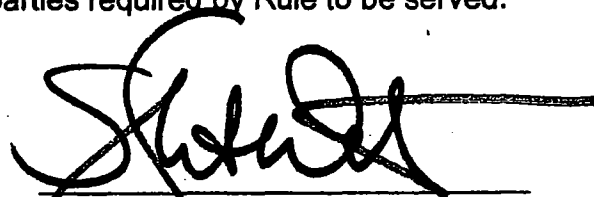
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I, S. Creighton Waters, Counsel for Respondent, certify that I have this date served the **Return to Petition for Writ of Certiorari**, dated June 5, 2009 by depositing two copies of the same in the United States mail, first class postage prepaid, addressed to his attorney of record:

Joseph L. Savitz, III, Esquire  
Chief Attorney  
SC Commission on Indigent Defense  
Post Office Box 11589  
Columbia, South Carolina 29211

I further certify that I have served all parties required by Rule to be served.

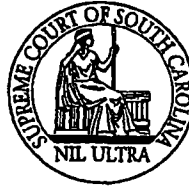
This 5<sup>th</sup> day of June 2009.



---

S. CREIGHTON WATERS  
Senior Assistant Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211

ATTORNEY FOR RESPONDENT



# The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

November 4, 2009

✓ Senior Appellate Defender Joseph L. Savitz, III  
South Carolina Commission on Indigent Defense  
P O Box 11589  
Columbia, SC 29211

Re: The State v. Woody, Christopher  
2005-GS-46-00858, 00859 and 00860

Dear Counsel:

The Court has issued the following Order on your Petition for Writ of Certiorari in the above entitled matter:

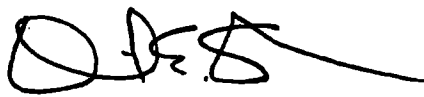
"Petition for Writ of Certiorari Denied.

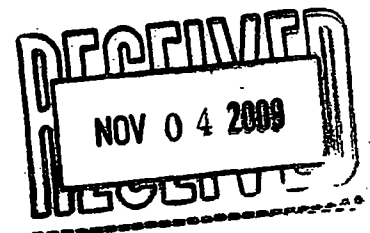
s/ Jean H. Toal C.J.  
For the Court

November 4, 2009."

By copy of this letter we are advising all interested parties of the action of the Court in this matter.

Very truly yours,

  
CLERK



Senior Appellate Defender Joseph L. Savitz, III  
Page Two  
November 4, 2009

cc: Assistant Attorney General S. Creighton Waters  
The Honorable Kevin Scott Brackett  
The Honorable David Hamilton  
The Honorable Jeanette Barber



## The South Carolina Court of Appeals

JEANETTE F. BARBER  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMNER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
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www.sccourts.org

November 9, 2009

### REMITTITUR

The Honorable David Hamilton  
1675 -1G York Highway  
PO Box 649  
York, SC 29745-0649

Re: The State v. Woody, Christopher A.  
2005-GS-46-00858  
2005-GS-46-00859  
2005-GS-46-00860  
2005-GS-46-00858A

Dear Mr. Hamilton:

The above referenced matter is hereby remitted to the lower court. A copy of the judgment of this Court is attached.

Sincerely,

A handwritten signature in cursive script, appearing to read "J. Barber".

Jeanette F. Barber  
Clerk of Court

JFB/tf

cc: Chief Appellate Defender Joseph L. Savitz, III  
Christopher A. Woody, # 00309141  
Assistant Attorney General S. Creighton Waters  
Kevin Scott Brackett, Esquire

STATE OF SOUTH CAROLINA  
County of York

IN THE COURT OF COMMON PLEAS

Case No.: 2010CP4603279

Christopher A. Woody, #309141  
Applicant,

v.

State of South Carolina,  
Respondent.

APPLICATION FOR  
POST-CONVICTION RELIEF

FILED - RECEIVED  
2010 AUG -2 PM 4: 15  
DAVID HAMILTON  
C.C.C.P. & GS  
YORK COUNTY, SC

APPLICATION

1. Place of detention?

South Carolina Department of Corrections  
Perry Correctional Institute  
430 Oaklawn Road  
Pelzer, South Carolina 29669

2. Name and location of Court which imposed sentence?

York County Court of General Sessions  
Nose Justice Center  
1675-1A York Highway  
York, South Carolina 29745

3. Name(s) of codefendant(s)?

Debrezio Campbell,  
Desmond Campbell

4. The indictment number or numbers upon which and the offense for which sentence was imposed?

(1) Indictment No.. 2005-GS-46-0858  
Offense Title : Count One - "Murder,"  
Count Two - "Possession of Firearm During  
Commission of a Violent  
Crime".

(ii) Indictment No.: 2005-GS-46-0859  
 Offense Title : "Conspiracy to Commit Murder".

(iii) Indictment No.: 2005-GS-46-0860  
 Offense Title : "Unlawful Carrying of a Pistol".

5. The date upon which sentence was imposed and the terms of the sentence?

Date: May 6, 2005.

Terms: (1) - [Count One] - Life Imprisonment;  
 - [Count Two] - Five (5) Years [Concurrent];

(ii) - Five (5) Years [Concurrent];

(iii) - One (1) Year [Concurrent].

6. How was a finding of guilt made?

After a Plea of Not Guilty

7. Did you appeal from the judgment of conviction or the imposition of sentence?

Yes

8. If you answered "Yes," to (7), list:

(a) the name of each Court to which you appealed?

(i) Court of Appeal for South Carolina,  
 (ii) Supreme Court of South Carolina (Certiorari Petition).

(b) the result in each such Court to which you appealed?

(i) Convictions Affirmed;  
 (ii) Certiorari Denied.

(c) the date of each such result?

(i) September 11, 2008,  
 (ii) November 4, 2009.

[Note: Remittitur Issued on November 9, 2009]

(d) if known, citations of any written opinion or orders entered pursuant to such results:

(i) See Attachment #1 - Ct.App. "Order";  
 (ii) See Attachment #2 - Sup.Ct. "Order".

9. If you answered "No," to (7), state your reasons for not so appealing:

Answered "Yes" to (7).

10. State concisely, the grounds on which you based your allegations that you are being held in custody unlawfully;

And

11. State the facts which support each of the grounds set forth:

10.(a) The Applicant's Right To "Effective Assistance Of Counsel," As Guaranteed By The Sixth Amendment To The United States Constitution And South Carolina Law Was Violated By The Following Failures And/OR Omissions Made By Trial Counsel:

Issue 1. Trial Counsel Failed to adequately research Constitutional and legal issues material to the trial he prepared and to prudently preserve those material legal issues for Direct Appeal.

Issue 1. Supporting facts:

At the time of the Applicant's trial, a legal issue of critical importance to his defense had been percolating in South Carolina for several years. The issue of controversy was the long practice for trial courts to charge juries in any murder prosecution that the jury may infer malice from the use of a deadly weapon.

The issue specifically came before the Court of Appeals in the case of State v. Johnny R. Belcher. In re, in that case, the jury was instructed that; "... malice may be inferred from the use of a deadly weapon." Belcher was convicted of murder and the related firearm charge. On appeal, Belcher argued that, because the evidence at trial presented a jury question on self-defense, it was error of Constitutional magnitude to charge the jurors that they may infer malice from the use of a deadly weapon.

The Court of Appeals certified Belcher's Appeal to the Supreme Court pursuant to Rule 204(b), SCACR. Following which, the Supreme Court decided that; "... a jury charge instructing that malice may be inferred from the use of a deadly weapon is no longer good law in South Carolina where there is evidence presented that would reduce, mitigate, excuse or justify the homicide." Belcher's convictions were reversed with remand for a new trial. See State v. Belcher, S.C. Sup. Ct., Opinion No.: 26729, filed October 12, 2009.

The Supreme Court in Belcher went on to clarify the "new rule" application of their decision to the extent that they wrote; "... today's ruling is effective ... for all cases which are pending on direct review or not yet final where the issue is preserved." The Applicant's case on direct review became final on November 9, 2009 after the remittitur was issued by the Clerk for the Court of Appeals, which was slightly more than one (1) month after the decision in the Belcher case. Thus, had the issue been preserved at the Applicant's trial it would have been reviewable on the merits as was Belcher's.

The Applicant's case was indistinguishable from Belcher on the identical issue certified to the Supreme Court by the Court of Appeals. The Applicant went to trial on the offense of murder, conspiracy to commit murder, and related firearm charges. The central premise of his defense was that of "self defense" and identical with Belcher, the trial Judge charged the jury that "malice may be inferred by the use of a deadly weapon". While sufficient evidence was submitted to form a question for the jury on self defense. Disturbingly, through deliberations the jury requested the Judge re-explain the "qualifications for self defense". After which the Judge explained the 4th element of self defense to the jury twice before they were satisfied that they understood. (App. p.830-832).

Therefore, the Applicant submits that his trial attorney's failure to be aware of and to subsequently preserve an objection to the Court's "charge on the facts" precluded the Applicant from appealing the issue within the confines of South Carolina's "contemporaneous objection rule." The issue was of sufficient Constitutional dimension that a reviewing Court would have been required to make a determination on the merits of the issue, wherefore, it is reasonable to conclude that likelihood that such a reviewing Court would have decided the issue favorable to the Applicant, and would have reversed the Applicant's conviction with remand for a new trial, as was done in Belcher.

The Applicant's argument is not meant to assert that trial Counsel should have been clairvoyant or that he should have anticipated future favorable developments in the law, but rather, Counsel should have made himself aware of the significant Constitutional ramifications of error underlying the centrality of the defense he was presenting at trial. The issue was well known among criminal trial attorneys to have been percolating in South Carolina for several years, and as such was 'ripe' for review. Had counsel become aware and taken affirmative and prudent steps toward preserving an argument on the issue via of objection, the Applicant would have been virtually guaranteed reversal if the issue was decided before the Applicant's direct review became final. See McNamara v. U.S., 867 F.Supp. 369 (E.D.Va. 1994).

**Issue 2. Trial Counsel Failed to conduct sufficient pretrial research and investigation to adequately evaluate and challenge the State's gunshot residue testimony.**

Issue 2. Supporting facts.

The Applicant's entire defense at trial was that of 'self defense'. The fact that the deceased had gunshot residue on his hands was the single piece of physical evidence that directly corroborated the Applicant's version of facts relative to self defense.

The State presented a SLED 'Trace Evidence' expert, Jennifer M. Stoner, who testified to some very illogical conclusions based on statistics compiled within her laboratory, which were highly rebuttable. For example, Ms. Stoner stated that, '... Just from statistics in our own laboratory, we have found that the majority of shooting victims, people who have been shot, are going to have some kind of gunshot residue on their hands.' Quite simply, that statistical statement is highly misleading without vigorous cross-examination or through rebuttal by another 'Trace Evidence' expert witness.

The State's expert was allowed to generalize her opinion (exampled above) based on statistics which, if true and correct, could only have been derived from a majority of close-range shooting incidents where the victim's hands were in close proximity to the discharging firearm. Thus, Stoner's statistical generalization had no relevance in the Applicant's trial but to unfairly negate the importance of gunshot residue on the deceased's hands against the Applicant's self defense claims. Because, the evidence within the trial at bar was that the deceased was shot outside the realm of close-proximity, and thus, Stoner's statistical conclusion was highly misleading. Trial Counsel should have vigorously rebutted the State's expert witness's opinions and conclusions through the testimony of an independent 'Trace Evidence' expert witness for the defense. Such a witness would have had the expertise to counter the State's expert with scientific authority.

Since it may have been impractical for defense Counsel to have delved into learning the science of 'trace evidence analysis' to the degree necessary to be able to vigorously cross-examine the State's expert in any meaningful way. And, because the issue was so critical to the defense's version of self defense facts, Counsel was Constitutionally deficient for failing to (1) vigorously and aggressively re-examine the gunshot residue reports with a trace evidence expert consultant; (2) read and evaluate the reports in conjunction with interviewing the analyst who rendered the report, then pursue any necessary and prudent next steps, such as retaining the services of an independent expert as a witness, etc.; and (3) investigate the possibility of retesting the samples independent of the State's testing.

To the extent the Jurors credited the State's "Trace Evidence" expert testimony and conclusions, which was critical to the outcome of the trial, defense Counsel's failure to refute the 'trace evidence' report and conclusions transformed an arguable issue into a clear case in favor of the State. See Ard v. Catoe, 642 S.E.2d 590 (S.C. 2007).

Defense Counsel's cross-examination of the State's "Trace Evidence" expert was virtually meaningless. The misleading generalizations opinioned by that State witness were not corrected or rebutted through Counsel's cross-examination, and allowed the Jury to infer that the deceased acquired gunshot residue on his hands from being shot, rather than from having and presenting a firearm himself.

**Issue 3.** Trial Counsel failed to interview the Applicant's codefendant's pretrial. Thus, Counsel was unable to anticipate and prepare to counter, through targeted research and investigation, the difficulties and problems likely to arise through his attempts to introduce "exculpatory" and corroborative evidence from those witnesses.

Issue 3. Supporting Facts:

Initially, defense Counsel intended to introduce "exculpatory" statements made by each of the Applicant's codefendants while expecting little, if any, opposition. However, the trial Judge precluded Counsel from introducing those written statements based on them being declared as improper testimonial hearsay.

Through the discussion and arguments concerning the introduction of those statements, Counsel informed the Court at several points that he was not prepared to argue the issues and needed time to research the matters further. (See Tr.p.544-584).

Following Counsel's inability to persuade the trial Judge to admit the "exculpatory" statements made by the codefendants, Counsel calls codefendant Desmond Campbell as the first witness for the defense. Counsel begins by confirming he has never seen or spoken to this witness before he was called to the witness stand. Which is an admission that Counsel did not interview this witness pretrial. (Tr.p.591).

Counsel's examination of this witness shifts into improper "leading questions" that are vigorously and repeatedly objected to by the Solicitor and sustained by the trial Judge. Following the objections and admonishments by the Judge, Counsel then decided to attempt to have the witness declared as "hostile" so that he could properly ask "leading questions" (Tr.p.594-595). The trial Judge ruled ultimately that he could not lead the witness until he established that the witness was actually an adverse witness. The Judge stated that, up to that point, the witness had been agreeable and cooperative (Tr.p.596).

Next Counsel tried to introduce the written plea agreement made by that witness as a means to declare him as "hostile", yet the Judge also precluded that effort while reminding Counsel that the codefendant plea agreements were already in the Record as Court Exhibits, so Counsel was not going to get them before the Jury. Counsel admits he did not know the plea agreements and the transcript of the guilty pleas were made part of the Record as Court Exhibits yesterday based on his own arguments to introduce the "exculpatory" out-of-court statements made by the codefendants (Tr.p.596, ln.13 -through- p.597, ln.7).

Then immediately after being informed that he was not getting the plea agreement or plea transcript before the Jury, in the next breath, Counsel asks the Court, "... should we go into this now with this witness? Or do we want to do it back on the record with that Jury? I mean, not on the record, in front of the Jury." Whereas, the Court responds again that it was a Court's Exhibit, and it's not going into the record before the Jury.

Counsel then shifts gears and asks the Court if it is best to do a dry run of the questions with this witness (outside the Jury's presence) so the Judge can determine whether or not the witness is "hostile"? (Tr.p.597, ln.9 -through- p.598, ln.3). The Court rules that the witness won't be declared "hostile" until he becomes uncooperative. (Tr.p.598, ln.18 -through- p.599, ln.7).

And again, Counsel informs the Court that as soon as the Jury comes back, "I'll then go into the statements he made to law enforcement ... then the plea agreements to show that he is a witness identified with the State." The Court responds again, "No sir. You're not going into those at all." (Tr.p.599, lns.16-25).

Later during the continuation of questioning of Desmond Campbell, Counsel is again admonished by the Court for (1) improper leading questions (Tr.p.604, lns.8-13); (2) asking speculative interpretation of other person's "intent" (Tr.p.622); (3) introducing evidence without laying a proper foundation (Tr.p.633-634); (4) attempting to introduce improper "hearsay" (Tr.p.634); and other continuous direct examination errors through this witness alone.

Essentially, the difficulties and problems Counsel had with the introduction of critical "exculpatory" evidence through his own intended witness is the result of his failure to interview the witness pretrial along with targeted research and preparation to ensure the admission of desired facts and evidence. See Strickland v. Washington, 466 U.S. 688 (1984); Troedel v. Wainwright, 667 F.Supp. 1456, 1461 (1986), aff'd 828 F.2d 670 (1987).

Therefore, trial Counsel should have made arrangements to interview his intended witnesses pretrial, and/or should have thoroughly researched the "Rules of Evidence" relative to ensuring the evidence he desired to be introduced through those witnesses would indeed be introduced, or if otherwise excluded the issue could be properly preserved for Appeal with a high degree of potential for a favorable Appellate outcome based thereon.

**Issue 4.** Trial Counsel failed to present readily available evidence pertaining to the alleged victim's known reputation for violence. The evidence available was based on incidents that the Police were aware of involving the deceased acting in criminal/drug related matters associated with violence.

Issue 4. Supporting Facts:

During the trial, a Chester Counsel Police Officer was present to testify, if called, to the known violent reputation of the deceased. However, trial Counsel did not call that witness.

Such evidence regarding the alleged Victim's reputation for violence was an essential component of the Applicant's self-defense assertion. Whereas, the trial Judge instructed the Jury that; while they deliberated on the question of whether the Applicant acted properly in self-defense, they were permitted to consider that; "... it may be sufficient that he believed he was in imminent danger. A Defendant need not actually be in such danger, because people are entitled to act on appearances." [Emphasis added at underline by the Applicant].

Specifically, as part of his "self-defense" charge, the trial Judge explained to the Jury that; "In determining whether the defendant had a reasonable belief of such imminent danger or whether the defendant actually was in such imminent danger, you may consider the reputation for violence of the alleged victim." (Tr.p.811, lns.10-13). Additionally, the trial Court also charged the Jury that they could consider the reputation of the Victim in whether there was a need for force, whether the defendant had reason to believe there was a need for force and whether deadly force was reasonable necessary."(Tr.p.812, lns.3-8).

It is a well settled matter of law that, when asserting "self-defense" the Defendant is entitled to present evidence that he "acted on appearances" at the time of the shooting, and those appearances may be enhanced by the knowledge that the alleged Victim had a reputation for violence and for carrying concealed firearms.

Therefore, trial Counsel cannot shield against his failure to call an available Police Officer who was known by Counsel pretrial to be willing to provide highly credible testimony of the alleged Victim's reputation for violence. No legitimate trial strategy or tactic can be fabricated by Counsel to mitigate or excuse his error of omission on this evidentiary issue. See Ingle v. State, 348 S.C. 467, 474, 560 S.E.2d 401, 405 (2002); McNamara v. U.S., 867 F.Supp. 369 (E.D.Va. 1994).

**Issue 5. Trial Counsel Failed to take exception to the overly complex and confusing self-defense Jury charge.**

**Issue 5. Supporting Facts:**

The trial Judge began charging the Jury regarding the law of self-defense at Tr.p.805, ln.23, and concluded his specific charge at Tr.p.813, ln.21. The overall charge itself is both excessively complex and confusing.

The prosecutor takes exception to the self-defense charge at Tr.p.824, ln.22 -through- p.828, ln.20. Specifically, he complained that the Judge explained the four elements of self-defense in an out-of-balance fashion. Specifically, the prosecutor explained that one of the four elements charged to the Jury outlining self-defense was given much more detailed emphasis and explanation, rather than a balanced instruction on all four of the elements.

The trial Judge even expressed that the middle two elements are the most important elements, which triggered the prosecutor to respond that the elements are equally important. (Tr.p.827, lns.2-5). Nevertheless, defense Counsel did not offer any input on the subject.

Later during deliberations, the Jury sent a note to the Judge requesting "the qualifications for self-defense". Following which, the Judge recharged the four elements in their most basic form without any details as in the first charge. (See Tr.p.830, ln.12 -through- p.831, ln.14). After which, the Jury Forelady asked the Judge to read back the fourth element again, for which the Judge did. (Tr.p.831, ln.15 -through- ln.22); And then again, the fourth element was asked to be repeated by the Forelady, to which the Judge complied, (at Tr.p.831, ln.24, -through- p.832, ln.6).

No exceptions or objections were made by either the State or defense, despite witnessing the obvious confusion the Jury was operating under through deliberations. (Tr.p.832, lns.17-23). It appears from the transcript record that defense Counsel had requested several specific instructions on self-defense and the Judge "plugged" those requested additions into his general charge. (Tr.p.827, lns.12-16). Yet, despite the fact that defense Counsel may have requested several additional facets of self-defense instructions based on the facts of the trial, once it became obvious that the Jury was having difficulty with comprehending the charge, Counsel should have taken exception to the method and/or manner in which the Judge "plugged-in" those specific request. Once it became obvious that the Jury was confused, perhaps it was too late to object and request curative measures be taken. Nevertheless, defense Counsel should have taken exception and sought in-depth curative inquiries of the Court to ensure the Jury completely understood all his charges. See McKnight v. State, 661 S.E.2d 354 (S.C. 2008); Lowery v. State, 657 S.E.2d 760 (S.C. 2008).

Notwithstanding, after hearing the Judge's compiled charge on self-defense, and after hearing the State's complaint that the charge "seemed" out-of-balance, defense Counsel should have requested the Judge restructure his charge on self-defense to "balance" his explanations and definitions, and then recharged the Jury. Such would have most likely alleviated the potential for confusion that a typical layperson would have based on such a complex and under the circumstances, confusing matter of law. By failing to requesting such a restructuring and recharging of the self-defense instructions was an issue of ineffective assistance of counsel, that resulted in Jury confusion and repeated recitations of the fourth element on self-defense without the rest of the charge originally given. After such, the charge on self-defense as a whole, had very little meaning.

10.(b) The Applicant's Right To 'Effective Assistance Of Counsel.' As Guaranteed By The Sixth And Fourteenth Amendment To The United States Constitution And South Carolina Law Was Violated By Appellate Counsel's Failures To Appeal The Following Issues:

**Issue 6.:** The Directed Verdict Motion made relative to the 'Conspiracy to Commit Murder' offense.

Issue 6. Supporting Facts:

Trial Counsel moved the Court for a Directed Verdict on the 'Conspiracy to Murder' offense. Counsel supported his Motion by arguing that there was no testimonial evidence to support the allegation on that offense. He cited State v. Schrock for the proposition that, in a light most favorable to the State, the proof on the charge alleging a 'Conspiracy to Murder' rises to the level of a suspicion at best. Thus, the Court should grant a Directed Verdict of acquittal on that offense. (See Tr.p. 539-540).

Following arguments on that Motion, the trial Judge gave an arbitrary analysis of 'Conspiracy to Murder' as it related to the facts in evidence at trial. After which the Judge rules to deny the Motion. (See Tr.p. 541-543).

Appellate Counsel should have raised that issue as one of several issues on Direct Appeal. However, Appellate Counsel chose of his own volition to waive or abandon that well preserved meritorious issue on Direct Appeal, while inversely choosing to raise a single issue that was virtually without any merit at all. Such an unprofessional judgement by Appellate Counsel without consulting and/or communicating with the Applicant prior to making such choices is an indistinguishable matter of Constitutionally "ineffective assistance of counsel" from the principles articulated in Evitts v. Lucey, 105 S.Ct 830 (1985). "Nominal representation on an appeal-of-right, like nominal representation at trial, does not suffice to render the proceedings constitutionally adequate; a party whose counsel is unable to provide effective representation is in no better position than one who has no counsel at all."

**Issue 7.:** The trial Judge's Abuse of Discretion by excluding codefendant's exculpatory statements from the defense's case-in-chief. The trial Judge's decision was a (reversible) prejudicial error of law, as he declared those statements to be 'testimonial hearsay' that was inadmissible under any circumstances.

Issue 7. Supporting Facts:

Beginning at Tr.p 544 ending at p.584, trial Counsel, presented vast array of arguments while discussing the issue of whether or not codefendants would testify, and if not what out-of-court statements made by those codefendants may be introduced at trial as 'exculpatory' evidence for the defense. Counsel is surprised by one of the two codefendants refusal to testify, and goes on to seek a ruling for the admission of 'non-hearsay' statement by a witness who is unfavorable to testify, or the Constitutional aspect of confrontation or due process. (Tr.p.547.)

The trial Judge clarifies without argument that; Counsel is not arguing about a statement against the interest of the defendant coming in, which would be something harmful to the defendant, whereas Counsel would want the right to 'confront' with regard to that. But rather, in this case, Counsel is seeking to introduce a statement by Debrezeo Campbell which is favorable to the defense. So, Counsel is trying to get that in rather than trying to stop a statement from coming in. Thus, the Judge concluded that the issue is not a "confrontation" matter for the defense. (Tr.p.547-548).

Arguments and discussions continue extensively based on that initial clarification. (Tr p.548 through p 584). Following which the Court took the matter under advisement overnight and rendered an analysis beginning at Tr.p. 586, and ultimately rules at Tr.p.588-589 that; the codefendant statements are "... not reliable or trustworthy and should not be allowed in unless, of course, obviously the person who made the statement, the declarant, testifies ..."

Appellate Counsel also should have raised that issue as one of several issues argued on Direct Appeal. However, Appellate Counsel chose of his own volition to waive or abandon that well preserved meritorious issue on Direct Appeal, and chose to raise a single issue that was virtually without any merit at all. Such an unprofessional judgement by Appellate Counsel without consulting and/or communicating with the Applicant prior to making such a decision that resulted in forfeiting the issue is a glaringly obvious example of Constitutionally deficient assistance of counsel. Strickland v. Washington, 466 U.S. 668 (1984).

**Issue 8.** A new non-retroactive watershed rule of law holding that; (A jury charge explaining that 'Malice Aforethought' may be inferred by the use of a deadly weapon is an unconstitutional charge of law when "Self Defense" has been properly and legitimately raised at trial).

Issue 8. Supporting Facts:

The first instance where the Jury is authoritatively informed that; malice may be inferred to exist based on the use of a deadly weapon, occurs

within the State's explanation to the Jury in it's closing argument that; "Malice forms right when they decide to fire those shots. Malice can be inferred by the use of a deadly weapon." (Tr.p.759, lns.5-7).

The second instance comes with the trial Judge's charges to the Jury that; (at Tr.p.803, lns.21-22) - "... Inferred malice may also arise when the deed is done with a deadly weapon..." and (at Tr.p.804, lns.2-8) - "I'm going to charge you further with regard to malice. Even where there is an absence of a specific fixed and deliberate intent to take the life of a particular person or that of any person, the law says that if proved beyond a reasonable doubt that one intentionally killed another with a deadly weapon or with dangerous instrumentality, such as a gun or knife, an inference of malice may arise."

Following the Court's overall inferred malice arising from the use of a firearm charge (at Tr.p.803, ln.20 -through- p.805, ln.22), the Court charges the Jury on the law of "self defense" (at Tr.p.805, ln.23 -though- p.813, ln.8)

For several years prior to the Applicant's trial, the unconstitutional nature in explaining to jurors that, malice may be inferred to exist based on the use of a deadly weapon, as a charge given in any murder trial where a deadly weapon was used, has simmered as a controversy among criminal trial lawyers.

The question was specifically raised on Direct Appeal in the case of State v. Belcher, which was certified up to the Supreme Court by the Court of Appeals. Following which, our Supreme Court decided that; "... a jury charge instructing that malice may be inferred from the use of a deadly weapon is no longer good law in South Carolina where evidence is presented that would reduce, mitigate, excuse or justify the homicide. ..." See The State v. Johnny Rufus Belcher, S.C. Sup.Ct., Opinion No.; 26729, filed 10/12/2009.

At the time the Belcher case was pending resolution before the Court of Appeals and then the Supreme Court, the Applicant's case was still pending Direct Appeal resolution also. Even after Belcher was published on October 12, 2009, the Applicant's case on Direct Review was still not final until nearly a month later when certiorari was denied. Once the Applicant learned of the Belcher questions pending resolution that were directly on point to the unconstitutional ramifications of charges given to his trial Jury, he vigorously communicated with his Appointed Appellate Counsel and requested appellate Counsel intercede and raise the issue while his Direct Appeal was pending. The Applicant's appointed appellate Counsel refused to even attempt to raise the issue, and informed the Applicant that he would have to make challenges on Belcher claims at Post-Conviction Relief.

The Applicant declared to appellate counsel that, his self defense claim at trial was an absolute defense to the offense of murder. He explained further to Counsel that he was "actually innocent" of the murder offense and of conspiracy to commit murder, and that, had the Jury not been instructed that it could infer the existence of malice based on the fact

that the deceased was killed with a firearm, then the Jury would have very likely resolved doubt in favor of the Applicant, and thus, found him not guilty.

Nevertheless, appellate Counsel chose not to attempt to raise the issue as a "fundamental miscarriage of justice" exception to the State's contemporaneous objection rule, while framing his arguments within "actual innocence" parameters. See Murray v. Carrier, 477 U.S. 478 (1986), holding that, a fundamental miscarriage of justice occurs when the person is found guilty of a crime even though the Jury had reasonable doubt. The Jury having reasonable doubt in the Applicant's trial is supported by the Jury request for qualification and re-explanation of the Court's "self defense" charges repeatedly. (See Tr.p.830-832).

Thus, Appellate Counsel again made a volitional decision to forfeit the Applicant's Belcher issues while his case was still pending on Direct Appeal, despite the Applicant specifically requesting counsel make an attempt to raise the appropriate claims. Such choices by appellate counsel clearly constitutes "ineffective assistance" see Wainwright v. Sykes, 433 U.S. 72, 97 S.Ct 2497 (1997). From which, in totality of appellate Counsel's choices and decisions, it becomes disturbingly obvious that counsel's performance was not vigorous and effective advocacy. See Jones v. Barnes, 103 S.Ct. 3306 (1983).

Therefore, Appellate Counsel should have, in the very least, sought leave of the Court to present a challenge to the Applicant's Belcher claims, for which if heard on the merits would have resulted in a virtually guaranteed reversal of his convictions with remand for a new trial

10.(c) The Applicant's Rights To "Due Process" And "Equal Protection" As Guaranteed By The Fifth And Fourteenth Amendments To The United States Constitution And South Carolina Law Was Violated Based On Prosecutorial Misconduct Due To The State's Acquisition Of Indictments By Methods Encompassing The Following Specific Acts:

Issue 9. The Solicitor/Assistant Solicitor acquired the indictments used to prosecute the Applicant by way of a total non-compliance with a mandatory statute that is jurisdictional in nature.

Issue 9. Supporting facts:

The statutory provisions of S.C. Code Ann. §14-9-210, which are pertinent to this issue, mandate that: "The County Solicitor shall prepare and through the presiding judge of the Court of General Sessions submit to the grand jury while in attendance upon the Court of General Sessions, bills of indictment in all cases pending in the County court in which the punishment may exceed a fine of one hundred dollars or imprisonment for thirty days, when such cases have not been previously acted on by the grand jury. The grand jury shall act thereon, and shall report it's action to the presiding judge of the Court of General Sessions and said judge shall direct the Clerk of the Court of General Sessions to report the same to the presiding judge of the County at it's next ensuing term. ..."

The statutory terms above are clear and unambiguous. They require the County Solicitor to prepare and submit bills of indictment through the presiding judge of the Court of General Sessions to a grand jury impaneled under the authority of the Court of General Sessions. No exceptions are specified. Accordingly, §14-9-210 requires strict compliance with it's provisions, and mandates that a grand jury must be impaneled under the jurisdictional umbrella of a sitting Court of General Sessions before the lawful return of a true billed indictment can take place.

The Applicant declares that, on the day his indictments were allegedly presented to a grand jury, there was no General Sessions Court convened or in session by which the grand jury could acquire coexisting jurisdiction to hear matters presented. Thus, [i]f such a grand jury was impaneled when no Court of General Sessions was convened then such a grand jury was unlawfully impaneled, and the information conveyed and willfully printed on the indictments was, therefore, false and misleading. Such publication of false and misleading information was made for the purpose of keeping secret the violations of statutory law, and the underlying violations of criminal laws.

Therefore, recognizing the jurisdictional requirements set forth in S.C. Code Ann. §14-9-210, mandating the only process by which to lawfully impanel a grand jury, the Applicant asserts that he was indicted outside the jurisdiction of the Court of General Sessions and by a mode of procedure that the State had no lawful authority to adopt, wherefore, consequently his indictments must be deemed null & void.

**Issue 10.** The Solicitor/Assistant Solicitor acquired the indictments used to prosecute the Applicant by way of both "intrinsic and extrinsic" fraud.

Issue 10. Supporting facts:

In the case at bar, outside of an outright "forged indictment;" the Solicitor/Assistant Solicitor knowingly and willfully printed false and misleading information on the indictments returned against the Applicant, and acquired the allegedly true billed indictment by an unlawful process.

Thus, based on the unlawful and improper methods by which the State acquired the indictments used to prosecute the Applicant, it becomes apparent that the "true-billed" indictments at bar were derived and published through a combination of intrinsic and extrinsic fraud. Whereas, in a nut shell, "intrinsic fraud" refers to fraud presented and considered in judgement's assailed, to include acts of perjury and forged document presentations at trial. And "extrinsic fraud" refers to frauds which are collateral or external to the matter tried, such as misleading and intentional acts by which, in this case, the State has prevented the Applicant from receiving the normal protections afforded individuals under the principles of due process and equal protection through proper and legitimate grand jury process and procedure.

**Issue 11.** The Solicitor/Assistant Solicitor acquired the indictments by acts of "perjury" as defined by State Law.

Issue 11. Supporting facts:

A criminal indictment is a document required by the law of this State. Our State Supreme Court has determined that an indictment is a "notice document" required by our State Constitution and statutes. See S.C. Const. Art. I, §11; Article V, §22; and S.C. Code Ann. §17-19-10(2003); and State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005).

Based on the fact that indictments are legal documents required by our Constitution and State statutory law, S.C. Code Ann. §16-9-10 - defining "Perjury and Subornation of Perjury" becomes especially pertinent to this issue. (See S.C. Code Ann. §16-9-10, A(2), B(2), and C (2003 Supp.)).

Tying this allegation together, the Applicant contends that as shown, S.C. Code Ann. §14-9-210 mandates that the County Solicitor shall prepare and process bills of indictment through the jurisdiction of a sitting or convened Court of General Sessions. However, the Applicant's indictments were sealed with a "true-bill" stamp, and were signed by the Solicitor/Assistant Solicitor. Those steps were taken while intentionally printing and presenting false information on the face of those indictments declaring that they had been processed, "At a Court of General Sessions, convened on February 17, 2005 ..." Yet, contrary to such information, all Court calendars reflect that no General Sessions Court was convened or in session on February 17, 2005.

In summary, the Applicant has alleged the common sense fact that various officials performed different functions in order to carry out, and make complete, by an act of perjury, a State indictment process. Those same allegations are defined by section 15-17-410, which provides in pertinent part that "... conspiracy is defined as a combination between two or more persons for the purpose of accomplishing ... lawful objects [return of true-billed indictments], by unlawful means [illegal grand jury and act of perjury] (inserts added by the Applicant).

The Applicant requests the list of conspirators in the individuals essential to the State indictment process, whereas, full and proper claims can be determined once the grand jury records have been subpoenaed and the necessary criminal investigation has been completed.

As indicated previously, the Applicant contends that the Solicitor/Assistant Solicitor also contacted several other state judicial and/or court officials in order to impact a grand jury outside the authority and jurisdiction of the General Sessions Court, to complete the return of illegally true-billed indictments and to print and publish false information on the face of those indictments, whereas, 3.C. Code Ann. §15-17-410 is applicable to the allegations within this issue. (See 3.C. Code Ann. §15-17-410, (2003 Supp.))

As indicated previously, the Applicant's case at trial committed the offense of perjury against public justice by willfully printing false information in the Applicant's State indictments.

**Issue 12. Supporting facts:**

**Issue 12.** The Solicitor/Assistant Solicitor acquitted the indictments by acts of defined as "Criminal conspiracy" by State law.

Therefore, the Applicant submits that, instead of discharging his duties and responsibilities in conformity with State law, the Solicitor/Assistant Solicitor procured his acts of office, while intentionally violating the provisions of §14-9-210 and unlawfully processing the Applicant's indictments outside the jurisdiction of the Court of General Sessions, followed by willfully printing false and misleading information in the indictments that incorrectly stated that they had been returned as "true-billed" through a February 17, 2005 grand jury action that was convened through a General Sessions Court that was in session. Thus, the offense of "perjury" was subsequently committed and should be dealt with accordingly.

Thus, the Applicant's "true-billed" indictments violates the provisions of section 15-9-10 A(2), "perjury" in that it specifically sets out that false information included in a "document ... required by State law" to a criminal act constituting perjury.

Accordingly, an offense of Criminal Conspiracy has come before the Court as presented herein. Otherwise, the Solicitor/Assistant Solicitor fabricated the existence of a Grand Jury and outright forged the necessary signatures while printing and publishing the false information thereon.

**Issue 13.** Facts have arisen that implicate whether the Trial Court properly had either "personal" and/or "subject matter" jurisdiction to render judgements and sentences against the Applicant based on the improper and illegally obtained indictments.

Issue 13. Supporting Facts:

As previously stated, acquiring indictments outside the mandatory provisions of S.C. Code Ann. §14-9-210 calls into question several jurisdictional matters. Further, through the actions by which false and misleading information was printed and published within the Applicant's indictments gives rise to a "fraud" on the Court. Whereby, both the Applicant and the Court were lead into a false believe that the Applicant had been legitimately afforded the "accusatory protections" of a full and meaningful presentment before a properly and legally impaneled Grand Jury. Our State's indictment procedures were created to afford criminal defendant's "due process" and "equal protection". Such is a "State created right" entitled protection under the umbrella of the Fourteenth Amendment to the United States Constitution and it's South Carolina Constitutional counterpart.

In addition to the acts that constitute a "fraud" on the Court, the Solicitor/Assistant Solicitor committed specific criminal acts by which to keep secret the illegitimate and illegal indictments. Based thereon, the Applicant asserts that basic and fundamental Constitutional due process dictates, with authority, that under no circumstances can a State commit criminal acts against it's citizens in the name of judicial economy, nor can a conviction and sentence gained through acts of perjury and criminal conspiracy, committed by Officers of the Courts, be declared lawful.

South Carolina indictments are defied as "notice documents" required by our state Constitution and statutes. From that perspective arises one of the questions pertaining to "personal jurisdiction," in that, there is authority that sets aside a judgement for lack of personal jurisdiction based on the improper "service by publication" which is quintessentially the same as "notice" by way of the publication of indictments.

Within the questions arising that pertain to "subject matter jurisdiction," there is significant authority declaring that if a Court lacks statutory authority (based on indictments acquired outside statutory authority) to make a particular Order of Judgement, "such is akin to lack of subject matter jurisdiction" and is subject to a collateral attack thereon.

And so, it follows that a void judgement is one that has been procured by intrinsic and/or extrinsic fraud or entered by a Court that did not have jurisdiction over the subject matter or the parties.

Therefore, since the Applicant challenges both the illegal grand jury process by which null indictments were derived against him, and his convictions founded on those indictments based on the belief that no waiver can be made to absolve the State of it's criminal conduct underlying the acquisition of those indictments, which amount to null indictments of no legal effect and therefore non-binding, it follows that a judgement based on such indictments are void.

14. Applicant's Rights to "Due Process" and "Equal Protection" as Guaranteed By The Fifth and Fourteenth Amendments To The U.S. Const. and State Law was violated by Prosecutorial Misconduct.

Issue 14. Solicitor/Assistant Solicitor's Acts of Perjury And/or which caused Applicant to miss making contemporaneous objection to the grand jury and its indictment, and/or moving for void judgment after conviction.

Supporting Facts: As previously stated, the indictments printed, processed and published by the Solicitor/Assistant Solicitor were products of perjury in that they contained false Court term information. That the false Court term information operated to cover up the fact that the grand jury had been unlawfully convened outside the Court's jurisdiction. Thus because Appellant relied on the correctness of process as demonstrated by the indictments he did not make contemporaneous objection to the grand jury or its indictments or motion for void judgment after conviction.

15. Applicant's Rights to "Effective Assistance of Counsel" as Guaranteed By The Sixth And Fourteenth Amendments of The U.S. Const. and State Law was violated

Issue 15. Trial Counsel Failed To Request Jury Instructions on The lesser Included Offense of Voluntary Manslaughter.

Supporting Facts: Sufficient evidence was presented at trial establishing that the victim's life had been taken without malice and with sufficient legal provocation. Thus Counsel was ineffective for not requesting jury instructions on voluntary manslaughter, because the trial court would have been required by law to give said jury charge.

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law?

No

(b) any petition in State or Federal Courts for habeas corpus or post-conviction relief?

No

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (3)?

No

(d) any other petitions, motions or applications in this or any other Court?

No

13. If you answered "Yes," to any part of (12), list with respect to each petition, motion or application:

Answered "No" to each part of question (12)

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "Yes," to (14) identify:

Answered "No" to (14)

16. If any ground set forth in (10) has not been presented to any Court, State or Federal, set forth the ground(s) and state concisely the reasons why such ground has not previously been presented:

Ground 10.(a): "Ineffective Assistance of Trial Counsel,"  
[Issues 1 through 5]

Were not previously presented due to South Carolina's dual appellate procedure forums. This category of issues, even though based on fundamental Constitutional challenges may only be raised for the first time in a collateral Post-Conviction Relief forum.

Ground 10.(b): "Ineffective Assistance of Appellate Counsel,"  
 [Issues 5 through 8]

Were not previously presented due to South Carolina's dual appellate procedure forums. This category of issues, even though based on Constitutional challenges may only be raised for the first time in a collateral Post-Conviction Relief forum.

Ground 10.(c): "Prosecutorial Misconduct,"  
 [Issues 9 through 13]

Were not previously presented because the bedrock acts underlying these issues were intentionally kept secret by the prosecutors themselves.

The Applicant and his trial Attorney was entitled to a "good faith" reliance that such nefarious and egregious acts would never occur. And yet, through a recent targeted inquiry made by the Applicant himself, he discovered the criminal and illegal acts underlying this category of issues.

Thus, due to the newly discovered nature of the information and facts underlying the issues, and because the Applicant was not permitted to depart from Direct Appeal in order to seek a lower court determination on the matters, this Post-Conviction Relief is his first opportunity to meaningfully raise this category of issues, despite their fundamental Constitutional nature and the jurisdictional questions arising through them.

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea?

Yes

(b) your trial, if any?

Yes

(c) your sentencing?

Yes

(d) your appeal, if any, from the judgement of conviction or the imposition of sentence?

Yes

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

Yes

My Commission Expires: March 27, 2014  
Notary Public for South Carolina

This day of July, 2010.  
Sworn and subscribed to before me

Christoph A. Woody #309141  
Applicant pro se

This day of July, 2010.

I, Christoph A. Woody, SDC #309141, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me at this time for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true to the best of my knowledge and belief.

VERIFICATION

STATE OF SOUTH CAROLINA  
County of Greenville

[Note]: The Applicant hereby reserves all rights and privileges to supplement and/or amend this initial application for post-conviction relief as may become necessary and appropriate in compliance with South Carolina law and procedure.

No.

19. Are you now under sentence from any other court that you have not challenged?  
The Applicant prays that his convictions be reversed with remand instructions for the entry of a judgment of acquittal, or in the alternative, with instructions granting the Applicant a new trial.

20. State clearly the cause you seek in filing this Application:

Mr. John Delgado, Esquire  
1614 Taylor Street  
Columbia, South Carolina 29201  
Represented by:  
Arraignment and Plea:  
Trial:  
Sentencing.  
Mr. Joseph L. Savitz, III  
Division of Appellate Defense  
P.O. Box 11589  
Columbia, South Carolina 29211-1589  
Represented by:  
Direct Appeal:  
Certiorari Petition.

21. If you answer "Yes" to one or more parts of (17), list the name and address of each such attorney who represented you and the proceedings at which each attorney represented you:

APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF

I, Christopher A. Woody, SCDC #309141, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the Applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.



Christopher A. Woody, #309141  
Applicant pro se

Sworn and subscribed to before me.

this 19<sup>th</sup> day of July 2010.

  
\_\_\_\_\_  
Notary Public for South Carolina

My Commission Expires: May 24, 2014

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 239(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

The State,

Respondent,

v.

Christopher A. Woody,

Appellant.

---

Appeal from York County  
Lee S. Alford, Circuit Court Judge

---

Unpublished Opinion No. 2008-UP-534  
Submitted September 2, 2008 – Filed September 11, 2008

---

**AFFIRMED**

---

Chief Attorney Joseph L. Savitz, III, of Columbia, for  
Appellant.

Attorney General Henry Dargan McMaster, Chief  
Deputy Attorney General John W. McIntosh,  
Assistant Deputy Attorney General Donald J.  
Zelenka, Assistant Attorney General S. Creighton

**LAW/ANALYSIS**

On appeal, Woody argues the trial court erred in denying his motion for mistrial based on the solicitor's closing statement. We disagree. "The decision to grant or deny a mistrial is within the sound discretion of the trial judge. A mistrial should only be granted when absolutely necessary, and a defendant must show both error and resulting prejudice in order to be entitled to a mistrial." State v. Ward, 374 S.C. 606, 612, 649 S.E.2d 145, 148 (Ct. App. 2007) (citations omitted). "Generally, a curative instruction is deemed to have cured any alleged error." State v. Patterson, 337 S.C. 215, 226, 522 S.E.2d 845, 850 (Ct. App. 1999). Here, the court thoroughly and meticulously instructed the jury to disregard any impermissible inference they may have drawn from the solicitor's statement and to remember that the judge serves as a neutral party. Consequently, the court did not abuse its discretion in denying Woody's motion for mistrial.

**AFFIRMED.**

**ANDERSON, WILLIAMS, and KONDUROS, JJ., concur.**



# The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1489

November 4, 2009

✓ Senior Appellate Defender Joseph L. Savitz, III  
South Carolina Commission on Indigent Defense  
P O Box 11589  
Columbia, SC 29211

Re: The State v. Woody, Christopher  
2005-GS-46-00858, 00859 and 00860

Dear Counsel.

The Court has issued the following Order on your Petition for Writ of Certiorari in the above entitled matter:

"Petition for Writ of Certiorari Denied.

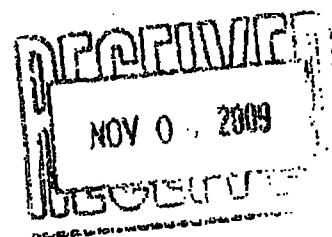
s/ Jean H. Toal C.J.  
For the Court

November 4, 2009."

By copy of this letter we are advising all interested parties of the action of the Court in this matter.

Very truly yours,

CLERK



DES/dmh

Senior Appellate Defender Joseph L. Savitz, III

Page Two

November 4, 2009

cc: Assistant Attorney General S. Creighton Waters  
The Honorable Kevin Scott Brackett  
The Honorable David Hamilton  
The Honorable Jeanette Barber

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF YORK )  
 )  
 )  
 )  
 Christopher A. Woody, #309141, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 SIXTEENTH JUDICIAL CIRCUIT

2010-CP-46-3279

RETURN

The Respondent, making its Return to the application for post conviction relief (PCR) filed August 2, 2010, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for York County. The Applicant was indicted at the February 2005 term of the York County Grand Jury for Murder (2005-GS-46-0858), Possession of a Firearm During the Commission of a Violent Crime (2005-GS-46-0858A), Criminal Conspiracy (2005-GS-46-0859), and Unlawfully Carrying a Pistol (2005-GS-46-0860). He was represented by John Delgado, Esquire. From May 2-6, 2005, the Applicant proceeded to a jury trial and was found guilty as indicted of all charges. The Honorable Lee S. Alford sentenced the Applicant to life without parole for the murder charge, five (5) years for possession of a firearm, five (5) years for conspiracy, and one (1) year for the unlawful carrying charge, all concurrent.

A Notice of Appeal was filed on the Applicant's behalf, and an appeal was perfected by Joseph L. Savitz, III, Esquire. The S. C. Court of Appeals affirmed. State v. Woody, 2008-UP-

534 (filed Sept. 11, 2008). The Petition for Rehearing was denied by Order dated December 19, 2008. The S. C. Supreme Court denied the Applicant's Petition for Writ of Certiorari by Order dated November 4, 2009. The Remittitur was issued on November 9, 2009.

Attached herewith and incorporated herein by reference are the records of the York County Clerk of Court regarding the subject convictions, the Applicant's records from the Department of Corrections, the Applicant's appellate records, and the trial transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## II.

In his current Application, the Applicant alleges he is being held unlawfully for the following reasons:

1. Ineffective assistance of counsel
2. Ineffective assistance of appellate counsel

## III.

The Applicant alleges he received ineffective assistance of counsel. In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable

professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Respondent submits the record fully supports the knowing and voluntary nature of the Applicant's plea. However, the allegation of ineffective assistance of counsel may raise questions of fact that are not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing on these allegations. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

#### IV.

The Applicant alleges he received ineffective assistance of appellate counsel. A defendant is constitutionally entitled to effective assistance of appellate counsel. Evitts v. Lucey, 469 U.S. 387, 105 S.Ct. 830, 83 L.Ed.2d 821 (1985). "However, appellate counsel is not required to raise every non-frivolous issue that is presented by the record." Thrift v. State, 302 S.C. 535, 539, 397 S.E.2d 523 (1990). Appellate counsel has a professional duty to choose among potential issues according to their merit. Jones v. Barnes, 463 U.S. 745 (1983). Where the strategic decision to exclude certain issues on appeal is based on reasonable professional

judgment, the failure to appeal all trial errors is not ineffective assistance of counsel. Griffin v. Aiken, 775 F.2d 1226 (4th Cir. 1985).

The Applicant must show that appellate counsel's performance was deficient and that he was prejudiced by the deficiency. Thrift, at 537; Gilchrist v. State, 364 S.C. 173, 612 S.E.2d 702 (2005); Anderson v. State, 354 S.C. 431, 581 S.E.2d 834 (2003). When a claim of ineffective assistance of counsel is based upon failure to raise viable issues, the court must examine the record to determine "whether appellate counsel failed to present significant and obvious issues on appeal." Gray v. Greer, 800 F.2d 644, 646 (7th Cir. 1986). Generally, the presumption of effective assistance of counsel will be overcome only when the alleged ignored issues are clearly stronger than those actually raised on appeal. Id.

The Respondent contends that the Applicant's appellate attorney rendered effective assistance of counsel. However, this ground for relief may raise factual issues that are not conclusively refuted by the record. The Respondent requests an evidentiary hearing on this allegation.

V.

Each and every allegation contained within the application not hereinbefore expressly admitted, qualified or explained is hereby denied.

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON  
Attorney General

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS

2010-CP-46-3279

CHRISTOPHER A. WOODY, )  
 )  
Applicant, )

vs )

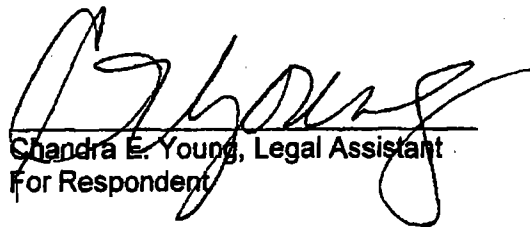
AFFIDAVIT OF SERVICE BY MAIL

STATE OF SOUTH CAROLINA, )  
 )  
Respondent. )

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

James W. Boyd, Esquire  
Post Office Box 36425  
Rock Hill, SC 29732

DATED this 31<sup>st</sup> day of August, 2011.

  
Chandra E. Young, Legal Assistant  
For Respondent

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

CERTIFIED TRUE COPY  
*David Hamilton*  
2013 APR 29 PM 4:48  
*Deputy Clerk*  
DAVID HAMILTON  
CLERK OF COURT  
YORK COUNTY, SC

Christopher Woody, )  
Applicant, )  
)  
V. )  
)  
State of South Carolina, )  
Respondent. )  
\_\_\_\_\_ )

2010-CP-46-3279

AMENDED APPLICATION FOR  
POST-CONVICTION RELIEF

FILED-RECEIVED  
2013 APR 29 PM 4:46  
DAVID HAMILTON  
C.C.P. & G.S. SC  
YORK COUNTY, SC

COMES NOW, by and through undersigned counsel, who moves this Honorable Court with an Amended Application for Post-Conviction Relief, filed August 2, 2010, in the York County Clerk's Office, Rock Hill, South Carolina.

Applicant contends that his Constitutional Rights that are guaranteed unto him as a United States Citizen, and, one who has been arrested, should not have been denied. Applicant asserts that on the 28, June, 2004, he was then appointed Bryson Barrowclough, Esquire, as counsel in his criminal proceedings by the York County Clerk's office. On June 28, 2004, Applicant was brought before the City of Rock Hill Municipal Judge, Ray Jay, for his bond hearing.

Applicant asserts that said appointed counsel, Bryson Barrowclough, had failed to be present at Applicant's bond hearing. Applicant asserts that this violated his Fourteenth Amendment Right of the Constitution. The landmark case

of Betts v. Brady, 316 U.S. 455, 86 L.Ed. 1595, 62 S.Ct. 1252 (1942), Held that the Due Process Clause of the Fourteenth Amendment does not confer an indigent person charged with a crime in a state court and cumstances (no situation, however grave) to have counsel appointed for his defense was overruled in Gideon v. Wainwright, 372, 83 S.Ct. 792, 23 Ohio Ops 2d 258, 93 ALR2d 733, on remand (Fla) 153 So.2d 299, (1942), held that the Fourteenth Amendment makes it obligatory on all states under the provision of the Sixth Amendment, that in all criminal prosecutions, the accused shall enjoy the right to have assistance of counsel for his/her defense. The now recognized Constitutional requirement, that counsel be appointed for all indigent criminal defendants in state cases, applies in non-capital cases as well as capital cases. Pitt v. MacDougall, 239 S.C. 535, 123 S.E.2d 867 (1964); also see. McMann v. Richardson, 397 U.S. 759, 771 n. 14 (1970).

Applicant asserts that when he was being arrested, he requested counsel and repeated that request at the City of Rock Hill County Jail, city county jail, to the Rock Hill Police department personel. Tr. pg. 107, lns. 22-25; Tr. pg. 112, lns. 8-9; and, Tr. pg. 114, lns. 13-25. Applicant asserts that this request was ignored and denied while at the City of Rock Hill Jail, and even during arrest and, before questioning, this constitutes as a violation of his Constitutional Right imposed by law, and the statement(s) that when recieved by detective(s), without Applicant's voluntariness or waiver of his rights, must be deemed as void and null in the interest of justice. Butler v. State, 302 S.C. 466, 387 S.E.2d 87 (1990), held that a denial of justice overcomes potential procedural bar. see. Tr. pg. 117, lns. 17-25; Tr. pg. 118, lns. 1-11; Tr. pg. 119, lns. 11-14; and, AJS Investigation Report, Pg. 3, paragraph 3-5.

Applicant contends that it is a common practice of the law officials, when conducting a interrogation, there be a type of Independent Recollection

or Memorialization, either by Videotape or Audiotape of the criminals as well as law officials, thus, the actions that takes place, may be viewed for all safety reasons. Applicant asserts that by the failure of such, it violates the Due Process of the Constitutional Laws, wherefore, any unseemly conduct that may have accured, is not seen or heard, by the failures of these devices. Tr. pg. 105, lns. 1-25; Tr. pg. 106, lns. 1-25; Tr. pg. 107, lns. 1-25; Tr. pg. 108, lns. 1-25; Tr. pg. 109, lns. 1-25; Tr. pg. 110, lns. 1-16; and, Tr. pg. 118, lns. 2-11.

Applicant asserts that throughout the entire appearance of his trial, trial counsel rendered ineffective assistance, wherefore, the record will demonstrate, that the victim was armed with a gun. Applicant asserts that on the crime scene there were bullet(s) found not matching Applicant's bullet(s) or co-defendant's bullet(s). Tr. pg. 501, lns. 9-24; Tr. pg. 502, lns. 1-21; Tr. pg. 506, lns. 7-18; Tr. pg. 507, lns. 23-25; and, Tr. pg. 640, lns. 14-20.

Applicant asserts that by the failure of trial counsel to motion the court on a specific self-defense or lesser included offense of voluntary mansluaghter instruction on "appearances" and "retreat", where Applicant or Witnesses testified that Applicant viewed a gun, and the victim would have killed him, is cause enough for such motion to be made on record, and trial counsel should have requested such instructions. Battle v. State, 409 S.E.2d 400 (S.C. 1991); Frazier v. State, 410 S.E.2d 572 (S.C. 1991); also. Stone v. State, 294 S.C. 286, 363 S.E.2d 903 (1988).

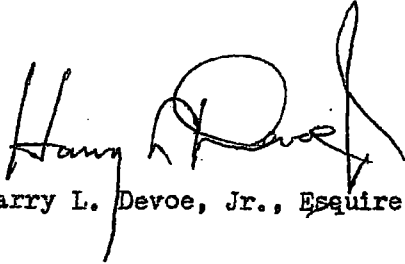
Applicant asserts that the record will demonstrate that Detective Blackwelder, fabricated the statement(s) of Applicant, wherefore, she wrote the statement(s) as she saw the truth to be in her eyes, this amounting up to a miscarriage of justice and violated the laws as they are written. Tr. pg. 113, lns. 23-25; Tr. pg. 637, lns. 1-25; Tr. pg. 638, lns. 1-25; Tr. pg. 639, lns. 1-25; Tr. pg. 640, lns. 1-25; Tr. pg. 641, lns. 1-25; and, Tr. pg. 644, lns. 1-25.

Applicant asserts that trial counsel was ineffective for failure to make meaningful objection to the statement(s), testimony(s), the prosecution withholding evidence and/or suppressing evidence pending that would have establish Applicant's innocence, and evidence counsel knew was false; Trial counsel was ineffective for failing to secure the Applicant a plea bargain; Trial counsel was ineffective for failing to question Susan Cromer about the bullet(s) found at crime scene; Trial counsel was ineffective for failing to call the EMS that was at the crime scene and witness people over victim's body; Trial counsel was ineffective for failing to object to the Trial Judge improperly making evidence unavailable at trial; Trial counsel was ineffective for failing to place on record that Applicant's clothes were not submitted to SLED for the necessary testing; Trial counsel was ineffective for failing to motion the court to have the prosecution conduct necessary testing and investigation on all the evidence that was submitted to the jurors; Trial counsel was ineffective for failing to conduct a pretrial investigation and properly bring forth a meaningful closing argument on behalf of Applicant; Trial counsel was ineffective for failing to question the police/detective(s) about the whereabouts of the other gun at crime scene when bullet(s) were found; Trial counsel was ineffective for failing to question the victim's father and/or girl friend on the whereabouts of victim's phone, when it was said that victim had made call prior to the crime at hand; Trial counsel was ineffective for failing to question the two co-defendants; Trial counsel was ineffective for failing to impeach the witnesses whose statements were changed from that on which they gave under oath as opposed to those given to police/detectives; Trial counsel was ineffective for failing to prepare for trial on behalf of Applicant; Trial counsel was ineffective for failing to motion the court for a mistrial based on the jurors had complained of people taking to them about the trial outside the presence of the defense,

prosecution, and judge.

Applicant asserts that trial counsel was ineffective for failing to bring the Belcher case, (no malice aforethought), and, Trial counsel was ineffective for failing to place on the trial record that the victim had a criminal record that related to violence and gun charges. Tr. pgs. 225; 376; 464; 526; and 536.

WHEREFORE, based upon all the above errors and violations viewed in these pleadings, and the record, Applicant prays the court to vacate this Uncontitutional conviction and sentence in the interest of justice.



Harry L. Devoe, Jr., Esquire

State of South Carolina., )  
)  
)  
)  
)  
)  
County of York. )

In the Common Pleas  
Court of York

Case No.: 2010-CP-46-03279

Christopher Allen Woody., )  
)  
Applicant., )  
)  
-vs- )  
)  
State of South Carolina., )  
)  
Respondent. )

Transcript of Record  
Post Conviction Relief

May 13, 2013  
York, South Carolina

B E F O R E:

The Honorable John C. Hayes, III, judge.

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

Mr. Harry L. Devoe, Junior  
Attorney at Law  
7411 Black River Road  
New Zion, South Carolina 29111  
803-473-2026  
803-473-2028  
harryldevoe@aol.com  
For the Applicant

Mr. J. Rutledge Johnson  
Assistant Attorney General  
Office of Attorney General  
State of South Carolina  
P.O. Box 11549  
Columbia, South Carolina 29211-1549  
803-734-1867  
803-734-4113  
rjohnson@scag.gov  
For the Respondent

ORIGINAL  
**ORIGINAL**

Wanda Nelson, CVR-M  
Official Court Reporter  
Sixteenth Judicial Circuit  
To the Honorable John C. Hayes, III

I-N-D-E-XE-X-A-M-I-N-A-T-I-O N

	<u>WITNESS</u>	<u>BY:</u>	<u>PAGE NO.</u>
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3	B.J. Barrowclough	Mr. Devoe	P.9-16
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5			
6	John Delgado	Mr. Devoe	P.17-42
7			P.48-59
8		Mr. Johnson	P.42-48
9			P.61
10	Steven Howard	Mr. Devoe	P.62-68
11			P.73-80
12			P.82-84
13		Mr. Johnson	P.68-72
14			P.80-81
15			P.84-86
16	Doctor Adel Shaker	Mr. Devoe	P.87-103
17		Mr. Johnson	P.103-105
18	Christopher Woody	Mr. Devoe	P.108-122
19			P.126-127
20		Mr. Johnson	P.122-125
21			P.127
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I-N-D-E-X - CON'T

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
App.1	Curriculum Vitae, . . . . .		P.130
	Adel Shaker, MD		
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Reporter's Note: All Exhibits were filed with the York County Clerk of Court's Office.

1 (COURT IN SESSION IN THE MATTER OF CHRISTOPHER WOODY  
2 VERSUS STATE OF SOUTH CAROLINA MONDAY, MAY 13, 2012 AT  
3 09:54 A.M..)

4 THE COURT: All right, Mr. Johnson.

5 MR. JOHNSON: One second, Your Honor.

6 THE COURT: Good morning, Mr. Devoe.

7 MR. JOHNSON: May it please the Court, Your Honor.

8 This is the case of Christopher Woody versus State of  
9 South Carolina it's Case No. 2010-CP-46-3279. Mr. Woody  
10 was indicted in February 2005 by York County Grand Jury for  
11 murder; possession of a firearm during the commission of a  
12 violent crime; criminal conspiracy and unlawful carrying a  
13 pistol. From May 2nd to the 6th, 2005 he proceeded with a  
14 jury trial and was found guilty as indicted of all charges.  
15 The Honorable Lee S. Alford sentenced him to life without  
16 parole for the murder charge.

17 Five years for possession of a firearm, five years for  
18 conspiracy and one year for the unlawful carrying of a  
19 pistol. A Notice of Appeal was filed on his behalf and the  
20 appeal was perfected. South Carolina Court of Appeals  
21 affirmed and the Supreme Court denied Certiorari on  
22 November 4, 2009. The remittitur was issued on November  
23 9th, 2009.

24 Mr. Woody thereafter filed a timely PCR August 2nd,  
25 2010 and the State filed it's return on August 31st, 2011.

1 And he's represented here today by Mr. Harry Devoe.

2 THE COURT: Mr. Devoe, I'm looking at the application  
3 and it looks like - I'm not gonna go through all of them at  
4 this point but I'm trying to see how many issues but it  
5 looks like eight. No, here we are, ten and eleven.

6 Anyway, I'll let you tell me what the issues are that  
7 you plan to present testimony regarding and we'll move  
8 forward.

9 MR. DEVOE: Thank you, Your Honor.

10 I guess the first issue is I raise, Your Honor, is the  
11 fact that we see a ineffective Jackson v. Denno case  
12 situation hearing in front of the hearing judge in the  
13 trial. Some issues was some information in that case was  
14 not presented to the attorney representing Mr. Woody.

15 THE COURT: You've lost me there. Now you're talking  
16 about Jackson versus Denno. Start over again. There was  
17 something about -

18 MR. WOODY: At the Jackson v. Denno hearing Mr.  
19 Delgado was not presented with some information from the  
20 State that might have changed the outcome of the Jackson v.  
21 Denno hearing.

22 THE COURT: So it's a discovery issues.

23 MR. DEVOE: Yes.

24 THE COURT: Okay.

25 MR. DEVOE: And going on from there we find that the

1 gunshot residue situation in that case was vital to the  
2 case and it was handled by the State and that Mr. Delgado  
3 did not attempt to obtain an expert to counter the State's  
4 testimony in that case. Essentially the defense of the  
5 case was a self defense and at the conclusion of the expert  
6 for Mr. Woody basically striped Mr. Woody's defense of that  
7 defense.

8 Let me go on about the situation where the gun shots  
9 and the pathology either was not provided to Mr. Delgado  
10 and not properly and defended him properly. That will come  
11 up with the expert we have here. We have a gunshot residue  
12 expert here also to testify. We're not sure what the  
13 outcome would have been if it was done properly. Some  
14 items -

15 THE COURT: Anything from the State before Mr. Devoe  
16 calls his first witness?

17 MR. RUTLEDGE: Well the only thing and I will do it  
18 when it comes time but the State is going o object to these  
19 witnesses, Your Honor. And with all due respect Mr. Devoe  
20 has had this case for over a year now and it wasn't until  
21 Thursday at four o'clock that he provided any information  
22 that experts would have been called or will be called. I  
23 had to ask him for their CV's, I have no report and I have  
24 yet had the opportunity to obtain somebody to maybe come in  
25 and counteract or counter their argument or whatever they

1 plan to prove so we're gonna object to both the witnesses  
2 as lack to notice and just lack of preparation.

3 THE COURT: What relief do you seek? What relief,  
4 what do you -

5 MR. RUTLEDGE: To exclude their testimony.

6 THE COURT: I'll take that under advisement but I will  
7 hear their testimony so we'll - -

8 MR. DEVOE: Your Honor, I'll just respond to that  
9 situation.

10 THE COURT: Yes you may.

11 MR. DEVOE: I had not heard anything from Mr. Johnson  
12 at all on this case from the time he continued the case  
13 last year until of course I heard the PCR would be coming  
14 forward this week, today, to you this week several weeks  
15 ago and that was it. And then this week he emailed me and  
16 ask me if I had any witnesses and I just had got them. And  
17 I emailed back the two witnesses and gave their names. And  
18 then he ask me email me their CV's and their  
19 qualifications. I immediately obtained it from my witness  
20 and I have it for him and I emailed those too Mr. Johnson.

21 To you I would say that if you're gonna exclude these  
22 witnesses' then I would ask for a continuance to give Mr.  
23 Johnson more time to get his expert witnesses with my  
24 expert witnesses, the expert witnesses in the trial. Mr.  
25 Woody did, Mr. Delgado did not get him expert witnesses.

1 I'm not sure that's fair play and I think that I didn't  
2 have a witness myself until the middle of -

3 THE COURT: Well I intend to hear the testimony and  
4 take it subject to the objection, unless the State wants a  
5 continuance, and with the understanding that after the  
6 taking of the testimony if the State wants to leave the  
7 record open for a subsequent hearing but I'd rather go  
8 ahead and do as much as we can today rather than continue  
9 the case whether the State thinks its viable to their  
10 position for them to request further time to retain an  
11 expert and reconvene the hearing at a later time. I'll  
12 certainly entertain that. Granted it hasn't been made but  
13 I'll certainly entertain that. I'd rather go forward with  
14 what we have.

15 Call your first witness.

16 MR. DEVOE: Your Honor, my first witness is Mr.  
17 Barrowclough.

18 THE COURT: Okay.

19 MR. DEVOE: I didn't see him come in the courtroom.

20 THE COURT: Put your left hand on the Bible and raise  
21 your right.

22 (WHEREUPON: B.J. BARROWCLOUGH,  
23 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

24 DIRECT EXAMINATION

25 B.J. BARROWCLOUGH BY MR. DEVOE:

B.J. BARROWCLOUGH: BY MR. DEVOE

1 Q. For the record, Mr. Barrowclough, would you give us  
2 your full name.

3 A. My full name is Bryson John Barrowclough.

4 Q. And what do you do for a living?

5 A. I work for the Sixteenth Circuit Public Defender's  
6 office.

7 Q. And you're the Deputy Public Defender?

8 A. Yes, sir. The Deputy yes, sir.

9 Q. And in 2004 what was your position in the Public  
10 Defender's office?

11 A. I was the deputy then as well.

12 Q. Did there become an occasion where you were appointed  
13 one way or another to represent Christopher Woody in the  
14 case we're talking about today?

15 A. Yes our office was appointed to represent Christopher  
16 Woody on June 28th, 2004.

17 THE COURT: Are you having trouble hearing?

18 MADAME COURT REPORTER: I am Mr. Devoe.

19 THE COURT: Yes, Mr. Devoe, you do have a very --

20 MADAME COURT REPORTER: Judge, Judge, may I bring the  
21 podium up for him? May I?

22 THE COURT: Yeah you can.

23 We'll bring the podium and let you come up to the  
24 podium. You do have a very soft voice.

25 (SPEAKER PODIUM MOVED TO CLERK'S BENCH UNDER COURTROOM

1 MIC.)

2 MADAME COURT REPORTER: The mic right there will pick  
3 you up. Thank you, sir.

4 MR. DEVOE: I'll lift my head up so it'll work out all  
5 right.

6 THE COURT: Speak up a little bit and now that you're  
7 closer I think we're okay.

8 BY MR. DEVOE:

9 Q. You said your office was appointed on June 28th?

10 A. Yes June 28th, 2004.

11 Q. That was a Monday I believe.

12 A. I don't know. But I won't disagree with you.

13 Q. And your office represented both Christopher Woody  
14 and some others?

15 A. I believe our office was appointed to represent all  
16 three gentlemen who were charged at the incident which was  
17 both of the Campbell brothers and Mr. Woody.

18 Q. And as a result of being appointed, did you do  
19 anything concerning Mr. Christopher Woody?

20 A. Me? No. When we got the co-defendants the three  
21 appointment packets I believe I ask Mr. Thompson about was  
22 anybody more or less culpable, who they were gonna go for.  
23 Which case was the most serious. And I believe one of the  
24 brothers - not the brother we represented - he would a said  
25 was the less culpable than the other two. Mr. Woody and

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1           Debrezio Campbell was a coin toss so we kept Debrezio  
2           Campbell and did a conflict order for the other two. We  
3           would have sent an investigator down to explain it was a  
4           conflict in that he would be getting another attorney but  
5           that he would not be represented by our office. Checking  
6           the records, the conflict affidavit was done on July 2nd  
7           and it was clocked in the Clerk's office on July 6 and it  
8           was signed by Judge Alford on July 12th.

9           Q.    I have in front of me an affidavit of conflict. The  
10          Clerk did clock it in the clerk's office on July 6. But  
11          what it says in here is it's also clocked in on July 12th  
12          the same affidavit.

13         A.    But I've looked at that, I saw that as well and I went  
14         to the Clerk's office and I ask them about that and what  
15         they do is the 6th date would have been the date that they  
16         clocked it in from our office. And then they bring it to  
17         the judge's office. Once the judge signs it and appoints  
18         someone and it comes back down to the Clerk's office they  
19         reclock it in with the appointment of the private attorney.  
20         So I believe they clocked it in receiving it from us on  
21         July 6th and then when Adrian Cooper was appointed by Judge  
22         Alford they reclocked it on July 12th.

23         Q.    So that period of time attempts were being made to  
24         have him appointed by to an attorney?

25         A.    Right.

1 Q. So when - And - So when Sergeant Blackwell with the  
2 city of Rock Hill Police Department tried to talk to them  
3 would she have known that they had an attorney?

4 A. I can't say what she would have known but there would  
5 be a paper trail of public records of where he was  
6 appointed and, you know, of course the conflict order would  
7 be in the Clerk's office. I mean there would be a paper  
8 trail from that. But I don't know what she knew.

9 Q. And is your office's policy when they get interviewed  
10 by city police in a kind of severe case to be present?

11 A. I'm sorry, I don't understand the question.

12 Q. If the police had tried and interviewed with your  
13 clients do they notice you that they are going to be  
14 interviewing your client?

15 A. Well certainly, you know, we would either try to  
16 prevent the police from interviewing our client or if it  
17 was a cooperation situation we'd definitely be present.  
18 Now, certainly over the years there have been times where  
19 the police have gone to interview public defender clients  
20 and we didn't know about it and that was addressed  
21 subsequently but - I mean yes, we certainly always try to  
22 be either present or prevent any interviews from taking  
23 place.

24 Q. And I realize you have a lot of cases in your office,  
25 but there are not that many cases like this in your office,

B.J. BARROWCLOUGH: BY MR. DEVOE

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1 a murder case. Do you pay more attention to a murder case  
2 situation than you do any others?

3 A. Yeah we would put a priority on a murder case yes.

4 Q. So in that kind of case where they're trying to talk  
5 to your client, isn't it good practice to be there with  
6 your client?

7 A. Of course.

8 Q. Or to make sure the police don't talk to your client  
9 without somebody being present?

10 A. Of course, yes.

11 Q. So if Sergeant Blackwell if she did in the transcript  
12 of the case said that the client didn't have an attorney,  
13 he waived his rights of the possibility to have an attorney  
14 there, is that acceptable?

15 A. I still don't - I don't understand the question. I  
16 mean - No, I mean of course that would not be acceptable.  
17 But I really - I don't know the foundation for your  
18 questioning. I mean when did that transpire.

19 Q. The foundation is that when she tried to talk to Mr.  
20 Woody on the 29th of June.

21 A. Okay.

22 Q. The day after the appointments were made to your  
23 office representing all three of them.

24 A. Okay.

25 Q. And somebody had to leak it. And since the hearing

1 was held in her - the appointments was held in her building  
2 don't you think it's a pretty sad fact that she's trying to  
3 talk to your client?

4 A. Yeah I see what you're saying. Yes. And in fact  
5 probably if that was the case and it was at Rock Hill, he  
6 might not have even been transported over here and we might  
7 not even had the appointment paperwork yet. I don't know.

8 Q. Well the clerk of court here clocked it in on the  
9 day before.

10 A. Right. And it goes from their office to our office.  
11 What I'm saying is that could have all happened  
12 contemporaneously.

13 Q. It could have?

14 A. Yeah.

15 Q. It probably didn't.

16 A. I couldn't say under oath.

17 Q. So when Sergeant Blackwell talks to him and he don't  
18 have an attorney, do you think there is a violation of a  
19 meeting in the tenants of the Supreme Court rule about  
20 clients, defendants having counsel?

21 A. Well sure. If he was appointed an attorney and  
22 they went to interview him after he evoked his right and we  
23 weren't there and we weren't notified, sure I would say  
24 that's a violation.

25 Q. And the fact this information didn't seem to come in

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1 the first trial - I'm not sure you're aware of that  
2 or not but the ---

3 A. I'm not.

4 Q. --- is not part of the record at the first trial to  
5 support him. Isn't that strange?

6 A. I haven't read the transcript so I couldn't say.

7 Q. Its not in the record of something being introduced  
8 in the record of the fact that - some judge's name I can't  
9 read - appointing counsel for representing Christopher  
10 Woody on the 28th of June.

11 A. Yes.

12 Q. And therefore the Jackson v. Denno hearing is  
13 basically denied against Mr. Woody.

14 MR. JOHNSON: Your Honor, these are direct appeal  
15 issues that Mr. Devoe is raising.

16 THE COURT: I know where he's going but I'll let him  
17 continue.

18 BY MR. DEVOE:

19 Q. Would it surprise you somehow or another that some  
20 of this information did not get to the record in the trial  
21 about being appointed an attorney at Rock Hill?

22 A. Yes. I mean, Mr. Devoe, I'm not trying to be  
23 difficult with you but I wasn't a part of that trial and  
24 didn't read the trial transcript.

25 Q. Weren't you part of the trial with Mr. Dest

1 representing Debrezio Campbell?

2 A. Yeah. Right. But we didn't go to trial.

3 Q. But Desmond Campbell did testify at trial?

4 A. Right.

5 Q. Is he your client?

6 A. No. We represented Debrezio Campbell.

7 Q. And Debrezio Campbell came into the trial and refused  
8 to testify.

9 A. Right. That's right.

10 Q. So you were a part of that also.

11 A. I was part of that part yeah.

12 Q. So you were aware ---

13 A. But I was not --

14 q. --- of what was going on?

15 A. Right. But not the Jackson v. Denno hearing.

16 Q. Pardon me?

17 A. I was not present for the Jackson v. Denno hearing  
18 for Mr. Woody.

19 Q. Okay.

20 MR. DEVOE: I have no further questions for you.

21 MR. JOHNSON: Nothing from the State, Your Honor.

22 THE COURT: All right. You can step down.

23 MR. BARROWCLOUGH: Thank you, Your Honor.

24 (WITNESS LEAVING WITNESS STAND.)

25 MR. DEVOE: Your Honor, we call Mr. John Delgado to

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1 the stand.

2 THE COURT: All right.

3 (WHEREUPON: JOHN DELGADO,  
4 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

5 THE COURT: Good morning.

6 MR. DELGADO: Good morning, Judge.

7 THE COURT: All right.

8 DIRECT EXAMINATION

9 JOHN DELGADO BY MR. DEVOE:

10 Q. Mr. Delgado.

11 A. Yes, sir. Good morning.

12 Q. You represented Christopher Woody in the matter at  
13 hand, a trial we're talking about for the murder of April  
14 Bagley.

15 A. I did, sir. Yes.

16 Q. Arvell Bagley, I'm sorry. And you represented him  
17 from beginning to end in that trial?

18 A. Yes, sir, I did.

19 Q. And it was a long trial.

20 A. I don't recall the length, sir. I'm sorry.

21 Q. It was almost about a week I believe.

22 A. It could be.

23 Q. Have you reviewed the transcript of the trial prior  
24 to this PCR hearing?

25 A. I'm sorry, sir.

1 Q. Have you reviewed the transcript of the trial prior to  
2 the PCR hearing?

3 A. Portions of it yes, sir.

4 Q. And your defense in this case was self defense?

5 A. The best as I could construe to be a self defense yes,  
6 sir.

7 Q. Well I don't understand your answer. You construe it.  
8 What do you mean?

9 A. Because it was an imperfect self defense, Mr. Devoe.

10 Q. Pardon me?

11 A. It was an imperfect self defense but that was the  
12 closest defense that we had.

13 Q. If it was an imperfect self defense did you attempt  
14 to work out a deal with the State and plead to a lesser  
15 sentence than he got when you went to trial?

16 A. Yes, sir, I believe I tried to do that and my  
17 recollection, sir, was that the Solicitor had offered a  
18 thirty year - Sir, this has been more than eight years or  
19 more ago, I can't recall specifically, but that there was  
20 an offer of thirty years and the other charges either to be  
21 dropped or to be run concurrent with that, but Mr. Woody  
22 refused to plead guilty to those charges for that sentence.

23 Q. And I believe that Debrezio Campbell did that take  
24 that offer through another attorney for ----- years.

25 A. I can't recall, sir. I'm sorry, I don't recall the

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1           specifics about the other co-defendant.

2           Q.    So your defense in the self defense was the fact that  
3           when this incident happened at the Stone Haven Apartments?

4           A.    I stand corrected if that's not right yes, sir.

5           Q.    Well I know this has been a long time ago and all the  
6           cases were a long time ago they pop up on us.

7           A.    Yes, sir.

8           Q.    But I think it was like a four or five day trial and  
9           it was at the Stone Haven Apartments and Mr. Woody was not  
10          from here ---

11          A.    No, sir, he was from --

12          Q.    --- he was a stranger more or less to Rock Hill and  
13          York County. He lived in Charlotte but he was from  
14          Danville, Virginia?

15          A.    That is correct, yes, sir.

16          Q.    He came down here for a football and he --

17          A.    Yes, sir.

18          Q.    Charlotte semi-pro football?

19          A.    And I think he was also working at some day job as  
20          well.

21          Q.    Black and Decker.

22          A.    Yes, sir.

23          Q.    With one of the Campbell's?

24          A.    As it turned out yes, sir.

25          Q.    That's how he got here because he worked with one of

1 the Campbell's there --

2 A. I believe that's correct yes, sir.

3 Q. And I understand that one of the Campbell's did some  
4 dealings with the deceased ---

5 A. Yes sir, some - -

6 Q. --- Debrezio.

7 A. --- illegal drug activity yes, sir.

8 Q. Mr. Woody did not at that point to your knowledge?

9 A. Well that depends on what you say did not. He loaded  
10 his car to Debrezio to make a drug drop off sometime prior  
11 to this incident so --

12 Q. He had no dealings with the deceased - -

13 MR. JOHNSON: Objection, Your Honor, leading. And  
14 counsel is testifying.

15 A. No, sir, I don't agree with that, sir. The record  
16 what I recall was that prior to this incident Chris had  
17 allowed Debrezio Campbell to use his car to go and make a  
18 drug drop off, were to receive money from the victim at  
19 that Stone Haven Apartments. And that Debrezio had told  
20 him he needed it for a drug - for a drop off. It wasn't  
21 anything legal, it was illegal. So before the incident  
22 Chris had some knowledge that one of the two brothers,  
23 Debrezio, was engaging in some sort of illicit activity. I  
24 don't think he knew the victim at that time but he knew the  
25 victim's name as I recall.

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1 Q. And that was done as it turned out ultimately that  
2 as I understand from the facts of the case Mr. - the two  
3 Campbell brothers and Mr. Woody went over to Stone Haven  
4 Apartments.

5 A. That is correct.

6 Q. And some conflicting testimony and its directed that  
7 one of the Campbell's was going to be paying Mr. Bagley  
8 drug receipts I guess.

9 A. Yes, sir. He was told, Chris was told that on the  
10 night that this happened that Debrezio wanted to go and pay  
11 some money to the victim for some drug activity so that  
12 constituted the conspiracy that was part of the charge that  
13 the prosecution had leveled against him.

14 Q. Or was it the record also shows it might have been  
15 different from that. Dispute over some females?

16 A. I'm sorry.

17 Q. Might be some disputes over some females?

18 A. Well that may be true but I remember what Debrezio  
19 testified to, or which ever the one of the two brothers  
20 stayed in the car, testified at the trial and that there  
21 was prior knowledge by Mr. Woody that there was gonna be  
22 some illicit activity either the receipt of drugs or the  
23 payment for the sell of drugs made by Debrezio Campbell  
24 during the night in question and that is the reason they'd  
25 gone over to the Stone Haven Apartments.

1 Q. Can you recall Desmond's Campbell's testimony?

2 A. Yes, sir.

3 Q. When he testified that he's bringing some money to  
4 Mr. Bagley?

5 A. Yes, sir. And that Chris I'm sorry to say -

6 Q. Drug money?

7 A. Yes. And I'm sorry to say that Chris knew that that  
8 was the purpose.

9 Q. Acknowledges his guilt?

10 A. Well you can't be - You can't use self defense unless  
11 you are without fault in bringing on the incident. If he  
12 voluntarily went there knowing that he was part and partial  
13 of an activity that was not lawful he can't claim that  
14 first element of self defense. That is being without -  
15 that is being free of any illegal activity bringing on the  
16 incident.

17 Q. Well you did claim that in the trial.

18 A. I sure tried to yes, sir.

19 Q. Tried to. I mean that was your defense.

20 A. Sir, in the eyes of the jury I was trying to escape as  
21 best I could on what facts and evidence there was present  
22 because they didn't have any other defense.

23 Q. But the point of fact the end of that nobody was  
24 ever found at the crime scene was there?

25 A. I don't recall that, sir. If you say that's true I

JOHN DELGADO: BY DEVOE

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1 agree with that. My remembrance of it was after the  
2 gunshots several members of the defendant's family - excuse  
3 me, the victim's family came to the scene and if there was  
4 thing there my recollection was I tried to imply they had  
5 taken the money and kept it for themselves. But as far as  
6 law enforcement was concerned there wasn't anything found  
7 as best I recall.

8 A. But in that kind of situation with the time sequence  
9 didn't you realize it was about five to seven minutes  
10 before the gun shot at the time the EMS got there?

11 A. Yes, sir, and I was thinking if any money was  
12 laying around on the ground somebody very probably would  
13 have taken that and kept that and not reported that to the  
14 police.

15 Q. Is it correct EMS when they got there that the  
16 deceased's father was going through the pockets of the  
17 deceased?

18 A. There was something about that, I do recall that yes,  
19 sir.

20 Q. Isn't it true that - -

21 MR. JOHNSON: Objection, leading.

22 THE COURT: Rephrase your question.

23 BY MR. DEVOE:

24 Q. To your memory then you say you didn't quite go  
25 through the transcript. It was eight years ago but your

1 memory do you recall one of the females involved said she  
2 went to the body first and there was a phone lying there  
3 and the phone rang and she answered?

4 A. Mr. Devoe, I'm sorry, I'm having trouble hearing you,  
5 sir. I apologize. Repeat that.

6 Q. She said the phone was lying on the ground near the  
7 body.

8 A. All right, sir.

9 Q. The phone rang and she answered the phone.

10 A. All right.

11 Q. But some female was on the phone said she wasn't  
12 available and hung up. And she took the phone.

13 A. All right, sir, if you say that's what transpired  
14 in the trial and that happened in the trial I feel certain  
15 that was said.

16 Q. And the phone never showed up in the inventory of the  
17 whole case.

18 A. I can't recall that one way or the other. If you say  
19 it did --

20 Q. Its in the record. Its in the record. I can read  
21 the record the record to you but that's fact the cell phone  
22 never showed up in the inventory in the case.

23 A. All right, sir.

24 Q. Then when the police they get some warrants and  
25 searched the apartment of Mr. Bagley.

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1 A. Yes, sir.

2 Q. Do you remember that?

3 A. Yes, sir.

4 Q. Do you remember they found in the apartment they  
5 found some marijuana and some crack?

6 A. Yes, sir.

7 Q. And they also found a bullet.

8 A. A bullet?

9 Q. One bullet.

10 A. I don't recall that, sir. I thought there may have  
11 been some sort of a discharge of a round that either come  
12 through the apartment. I don't recall but that's my  
13 remembrance.

14 Q. The inventory is one bullet.

15 A. Fine, sir.

16 Q. Which was sort of ignored. Because a bullet needs a  
17 gun to go with it and they never found a gun.

18 A. No, sir. As a matter of fact they found two guns.

19 Q. But they didn't find two guns in the apartment.

20 A. I didn't say that. I said they found two guns. One  
21 Mr. Campbell's and one Mr. Woody's.

22 Q. I'm talking about the apartment.

23 A. Sir, I don't recall whether there was a gun at the  
24 apartment. I know there were two guns found.

25 Q. That bullet did not match up with the other two guns.

1 One was a .25 and the other was a .45.

2 A. All right, sir.

3 Q. And my question is, why didn't you explore that little  
4 discrepancy about that bullet?

5 A. Sir, I think - Mr. Devoe, I think I had a lot of  
6 problems with a lot of bullets in this case.

7 Q. That's true.

8 A. The one that really concerned me was the three gun  
9 shot wounds that the victim got from the only .45 that was  
10 present at the scene that was matched to Mr. Woody's  
11 possession. See that's a bigger problem. A .45 to the  
12 back of the head, that shot, the killing shot according to  
13 the pathologist, that was a real big problem and that's - I  
14 don't know if I wanted to accentuate that this was a  
15 shooting raid.

16 Q. You're stating the shot was to the head. It wasn't to  
17 the neck like you're pointing. It was to the skull, scalp

18 --

19 A. Well that makes it worse doesn't it?

20 Q. It didn't penetrate the skull. The bullet was found  
21 in the top of the scape.

22 A. Sir, all I recall is it was a .45 that was shot to  
23 the head that killed the victim and that gun was in  
24 possession of Mr. Woody. That's a bad fact.

25 Q. Well did you engage in your own pathologist to go

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1 over the same facts?

2 A. To go over the what, sir?

3 Q. The same facts of the gun shots and what happened?

4 A. No, sir, I didn't.

5 Q. Do you think it was appropriate to do that?

6 A. Sir, I thought I had enough evidence to be able to  
7 show that this man was killed by a gunshot wound. There  
8 were four different gunshots. Three from the .45 and one  
9 from maybe the .25 that Mr. Campbell was shooting. I  
10 thought that having to relay more of the blood and guts of  
11 what had occurred that evening was not necessarily in the  
12 defense's best efforts or in the best interest. The man  
13 was dead he was dead as a result of gunshot wounds  
14 according to the pathologist and I don't think any  
15 pathologist in the world would have discounted the fact  
16 that it was the .45 that was the shot that - was the shot  
17 took his life.

18 Q. Well actually that's not quite correct.

19 THE COURT: Let's don't argue. You just need to ask  
20 questions. He's your witness, your client's got the burden  
21 of proof and you can't argue with the witness. You're  
22 stuck with his answer.

23 BY MR. DEVOE:

24 Q. The testimony shows that the .25 to the heart was the  
25 killing shot. It was not Mr. Woody's shot.

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1 A. All right, sir.

2 Q. The .45 to the head was a possibility that it killed  
3 him but they didn't say it did kill him.

4 MR. JOHNSON: Your Honor, counsel is testifying. He's  
5 not asking questions he's arguing with my witness.

6 MR. DEVOE: Do you remember he said --

7 A. Sir, I don't recall. The point, Mr. Devoe, is if I'm  
8 having to make those sorts of arguments in front of a jury  
9 a jury is going to use it's common sense and say what was  
10 Woody doing with a loaded .45 without a concealed weapon's  
11 permit when there was - there were all sorts of shots being  
12 fired towards the defendant and we weren't able to find a  
13 weapon - I mean on the victim and we weren't able to find a  
14 weapon on the victim. It was an imperfect self defense and  
15 I thought that - I'm sorry, if the record reflects that the  
16 .45 to the back of the head was not the killing shot, it  
17 certainly didn't help his situation.

18 Q. It also shows that actually the .25 - five bullets  
19 from the .25 hit the body?

20 A. I don't recall, sir. I know there were two different  
21 guns. The .45; there were three different .45 slugs that  
22 was shot at the victim and three were recovered as I  
23 recall.

24 Q. So your self defense is what then?

25 A. Well, sir, the answer is that's in the eye of a jury.

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1           What I was also trying to do was trying to develop that Mr.  
2           Bagley was not exactly a saint. That he had - he was  
3           engaged in illegal activities and Judge Alford and I went  
4           around and around about what extent I was going to be able  
5           to get that sort of information before a jury. I think I  
6           did to the extent that the jury believed that Bagley was  
7           not a saint; that I was trying to parse that in relation to  
8           the self defense to see if the jury would either come to a  
9           lesser charge or mistry this case in hopes of maybe we  
10          could get a better plea offer the second time if the jury  
11          hung up.

12                 But I was trying to through Mr. Campbell who did  
13          testify try to explain that there was - it was for a payoff  
14          for money, that there was drugs - some crack cocaine as I  
15          recall - found in Mr. Bagley's apartment when police  
16          searched it and Mr. Bagley was a criminal. Not saying  
17          that anybody's life needs to be taken as a result of that  
18          but I was trying to escape that find line between self  
19          defense and that this man's moral value to society was such  
20          that a jury might a been able to help us.

21          Q.     Well as I read the record you were not able to get Mr.  
22          Bagley's criminal record into evidence?

23          A.     That is correct, I was not.

24          Q.     He had a twelve page criminal record?

25          A.     I did, sir. I sure tried though.

1 Q. And so the solicitor in his closing argument stated  
2 that he had no record which is a misstatement I think.

3 A. Sir, I don't recall that portion if the solicitor said  
4 that. I do recall that Mr. Bagley had a record. I don't  
5 recall the solicitor saying that, I'm sorry.

6 Q. You say you didn't read this transcript before you  
7 came here today?

8 A. No, sir. As a matter of fact I was reading on the  
9 front row here this morning so I read it this morning and I  
10 read it maybe six months ago.

11 Q. Well your self defense was what exactly? The defense  
12 I'm talking about.

13 A. Sure. We have four elements we have to prove in  
14 self defense. The first element, sir, is that Mr. Campbell  
15 - Excuse me, Mr. Woody, was without fault in bringing on  
16 the incident. Mr. Woody could not make that perfectly  
17 because Mr. Woody took a loaded .45 from his car and  
18 advanced towards the scene of where the shooting took  
19 place.

20 Chris my recollection had been drinking prior to that  
21 incident. Chris did not have a concealed weapons permit  
22 which is required in the State of South Carolina for him to  
23 carry a gun. And that Chris knew that this was going to be  
24 a drug deal or a payment for a drug deal. And further that  
25 Mr. Bagley and Mr. Campbell, the other individual who got

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1 out the car, had had some bad blood between them the last  
2 time they had engaged in a drug deal and that Campbell was  
3 now carrying a gun because he feared Mr. Bagley.

4 Chris gets out of the car with a loaded .45 and  
5 advances towards the scene. All those to my mind indicate  
6 that I had a very difficult problem in trying to satisfy  
7 that first element of self defense. That is that Chris was  
8 without fault in bringing on the incident. That was pretty  
9 hard.

10 So with that, Mr. Devoe, I tried to do the best I  
11 could by calling the - one of the Campbell brothers who  
12 said something about how Chris had said to him "I could  
13 have gotten killed out there." Well that's possibly true  
14 but that still didn't make it a self defense. It was still  
15 an imperfect self defense and I was trying to suppose that  
16 against what I was trying to have the jury believe about  
17 the moral worth I'm sorry to say Mr. Bagley. That was the  
18 very best I had, sir. That was the only strategy I had  
19 going.

20 Q. But wasn't self defense according to your trial that  
21 they thought that Mr. Bagley was reaching behind himself  
22 with his left arm to get a gun?

23 A. That's what Mr. Campbell said. I sure wish that had  
24 been the case, sir. I wish I had been able to find one  
25 person besides Mr. Woody or Mr. Campbell who would have

1           been able to say that. I wish I had been able to find a  
2           gun. We combed through witnesses' at the scene with my  
3           private investigator, two private investigators, to see if  
4           anybody could say that. To see if we could hear of any  
5           other guns being fired towards Mr. Woody's car as it was  
6           leaving and it was speeding away. We couldn't find that.  
7           It may well have been that Bagley had a gun but that it was  
8           removed before police and law enforcement got there. Maybe  
9           his father got it. Maybe some other one of his running  
10          buddies took it away. I don't know but I can't make whole  
11          cloth out of that. It was difficult.

12          Q. Did you hear that from your client that he saw Mr.  
13          Bagley reach behind himself with his left hand and he -

14          A. There was something about him - Yes, sir. The problem  
15          with it is that the only way that's gonna come out is for  
16          Chris to get on the stand and maybe say that and Chris  
17          wouldn't a made a very good witness for himself. I sure  
18          wish Chris could have taken the stand because that would  
19          have amplified what he perceived as a threat but I thought  
20          the cross examination of Chris by Mr. Thompson or Mr. Pope  
21          would have hurt it more than it would have helped.

22          Q. Wasn't this statement from Chris to you sort of helped  
23          out by the fact that the State's expert for gun powder  
24          residue found some gun powder residue in the palm of the  
25          left hand of Mr. Bagley?

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1 A. Yes, sir. And if I could have found and we searched  
2 again high and low for witnesses' that would have been able  
3 to say that Bagley was left handed. I remember asking the  
4 investigator find me somebody that can say that Bagley  
5 writes with his left hand which he would have had the gun  
6 in his left hand shooting or at least had a gun in his hand  
7 shooting and or firing. We weren't able to do that.

8 What may have well have been the case is he gets shot  
9 and doesn't have a weapon he gets shot and because he may  
10 have been shot at close range the gun shot residue that was  
11 either on him as a result of Mr. Campbell or Mr. Woody  
12 shooting was transferred to the palm of his hand when he  
13 put his hand on his chest as it may have been a natural  
14 physiological reaction.

15 Q. Did anybody testify to gunshot powder residue on the  
16 clothing of Mr. Bagley?

17 A. I cannot recall that, sir. I'm sorry I don't recall  
18 that specifically.

19 Q. Did - Was there any other gunpowder residue on Mr.  
20 Bagley other than maybe around the wound?

21 A. Sir, I can't recall that specifically. I'm sorry.

22 Q. To your knowledge did the State attempt to  
23 discovery gunpowder residue on any other place on the  
24 victim?

25 A. Sir, I know that I conferred with the SLED ballistics

1 expert, a woman as I recall it who testified in the trial,  
2 but I can't recall any other testimony about finding it or  
3 attempting to find it. I'm sorry I don't recall that.

4 Q. Well you were using a self-defense defense and isn't  
5 that quite important that you were focusing your efforts to  
6 finding gun powder residue to prove one way or the other  
7 whether Mr. Bagley was really going for a weapon?

8 A. Yes, sir. And I also think that if we had been able  
9 to find a gun or somebody that said we saw someone take the  
10 gun away from the shooting incident, or a gun found by a  
11 body, that would have been much more helpful. But we  
12 weren't and I - the only explanation I have for the gunshot  
13 residue if that was what was on his left palm, was that  
14 that was a transfer of gunshot residue from him attempting  
15 to - well attempting to find out where he was shot and it  
16 had transferred to his hand. That's all I can tell you,  
17 sir.

18 The problem with it, sir, is that gunshot residue  
19 doesn't make it proper for Chris to be holding a weapon to  
20 conspiring with one of these fellows to involve in a drug  
21 activity and then to get out of the car with that when he  
22 didn't have a concealed weapons permit. All of those  
23 things happened before any gunshot residue. And if Chris  
24 hadn't gotten out of the car, if he hadn't been there, he  
25 wouldn't been charged.

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1 Q. Well the fact is there's a bullet found in the  
2 apartment of Mr. Bagley. Does that leave you to believe  
3 there might have been a gun to match to that bullet  
4 somewhere in the world?

5 A. Sir, I - You tell me that and I can't state that's  
6 true or not. If you say that's in the record that's in the  
7 record. I don't recall. I was looking for any other gun,  
8 sir. Anything that I could put in Mr. Bagley's possession  
9 or in his proximity because that would have helped the case  
10 tremendously.

11 Q. Did you think about hiring a gunshot residue expert  
12 for your case?

13 A. I guess I thought about it, sir. I'm unclear as to  
14 how that would have helped me with the first aspect of the  
15 self defense.

16 Q. I think you testified that you said that maybe the  
17 gunshot residue in the palm by touching of the clothing to  
18 find a wound or the bullet hole or whatever it is that was  
19 going on?

20 A. Yes, sir. So in other words, to then show but to then  
21 show that the gunshot residue came from his holding of a  
22 weapon that was then fired to leave the gunshot residue  
23 with the barium and the antimony and the lead particles on  
24 his hand. I -

25 Q. Isn't it true the gun has got to be fired to get

1 residue from a gun onto your hand?

2 A. If it's been fired? Yes, sir.

3 Q. You said what now?

4 A. No, sir. If it's been fired it may have that and it  
5 may transfer to the palm of the hand. Certainly, sure that  
6 could happen.

7 Q. But if you fire a revolver ---

8 A. Yes, sir.

9 Q. --- gunshot residue gets all over the revolver.

10 A. Yes, sir. And if you pick up the revolver later it  
11 may or may not transfer to your hand. Sure, yes, sir.

12 Q. Cleaning the residue off is difficult; is that  
13 correct?

14 A. Say that again, sir. I'm sorry.

15 Q. Gun powder residue on a revolver is difficult to get  
16 off the handle among other places.

17 A. That's not necessarily my experience. Time will  
18 remove it from your hand. If you wash your hands at any  
19 time, if you handle other matters it may transfer those  
20 other matters. I think it would decrease. My recollection  
21 is law enforcement won't test for gunshot residue after a  
22 couple of hours to maybe six hours simply because it  
23 dissipates naturally. But different law enforcement  
24 agencies may have their different theories about how long  
25 that would be.

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1 Q. So you don't think it's necessary to get a gunpowder  
2 expert?

3 A. I didn't see how that helped the self defense that  
4 I needed. If I could had that but what I really wanted,  
5 sir, was another gun that is in the possession of Mr.  
6 Bagley. That would have been much more helpful. But no  
7 one saw it, no one saw it taken away. I did the best with  
8 what - I could with what I had.

9 Q. In this case when the EMS got there.

10 A. All right, sir.

11 Q. They testified they saw Mr. Bagley's father messing  
12 around in the pockets of the victim.

13 A. Yes, sir.

14 Q. And there were some other people hanging around there  
15 also.

16 A. Yes, sir.

17 Q. So it was not a sanitized scene never until the  
18 police got there and even then you might recall from the  
19 transcript I think you would agree until the ambulance got  
20 there some people were allowed to stay there

21 A. Some people were allowed to stay? Well there wasn't  
22 anybody to control the scene until the EMS or law  
23 enforcement got there. And that's what I tried to argue to  
24 the jury that's where the money went. Somebody if he had  
25 thrown Twenty Seven Hundred Dollars on the ground somebody

1 they're not just going to leave that for law enforcement to  
2 take. Somebody in that apartment complex got that money.  
3 If there was a gun as I tried to argue to the jury somebody  
4 took that gun. But without a controlled scene, sir,  
5 anything could have happened and I tried to argue that in  
6 the light most favorable to the defendant ---

7 Q. And I understand also Mr. Floyd Bagley the father - -

8 A. All right. Yes, that was the father.

9 Q. --- also had a record?

10 A. I believe he did yes, sir.

11 Q. Any other inhabitants of this apartment complex or his  
12 apartment ---

13 A. Yes, sir.

14 Q. --- also served time for drugs.

15 A. I believe that's correct.

16 Q. They may have all been involved together?

17 A. Could have been.

18 Q. And they were all out there?

19 A. They were all out?

20 Q. They were all out there on the scene?

21 A. Well yes, sir, I mean there was a shooting involving  
22 his son. I mean I would imagine the father would have come  
23 to his son's side to see what he could have done to assist  
24 him.

25 Q. But he never came to the trial did he?

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1 A. I don't recall that so I don't know one way or the  
2 other.

3 Q. Mr. Delgado, one more time, you felt no need to get  
4 an expert to help you out in the trial?

5 MR. JOHNSON: Ask and answered.

6 THE COURT: Go ahead and answer one more time.

7 A. Sir, I guess I saw a need. Was it the most obvious  
8 thing I could have done to help Chris? We had lots of  
9 problems in this case. I guess I could have tried to blow  
10 more smoke at the jury. I tried to do the best I could  
11 with what I had. I'm not necessarily sure how a gunshot -  
12 a forensic pathologist or a ballistic expert would have  
13 necessarily helped with the self defense I was trying to  
14 create for Chris.

15 Q. We'll go back to the Jackson v. Denno hearing  
16 situation one more time.

17 A. All right, sir.

18 Q. Did you feel that the city of Rock Hill handled the  
19 Jackson v. Denno hearing properly?

20 A. Mr. Devoe, I heard about that aspect of it this  
21 morning in your - in your opening statement to the Court.  
22 I vaguely recall that. I must have cross examined somebody  
23 about that. I mean - As it relates to Mr. Woody? Is that  
24 what you mean, sir?

25 Q. Yes. Yes.

1 A. I recall making some sort of - some sort of remarks  
2 about that but I can't recall. I can't recall anything  
3 more than being perturbed about it. I think the court let  
4 that in no matter what I had said about it. But I don't  
5 recall enough to be able to answer your question fairly,  
6 sir, I'll be candid with you, I'm sorry.

7 Q. Well do you recall the last time we met which was  
8 we had the case continued last year?

9 A. All right.

10 Q. And I handed you a document from the Clerk of Court's  
11 office whereby one was denied and an attorney was  
12 appointed.

13 A. All right, sir, if you say so.

14 Q. On June 28th.

15 A. All right.

16 Q. Which is the day before Sergeant Blackwell of the  
17 Rock Hill City Police interviewed Mr. Woody in her office.

18 A. All right, sir.

19 Q. And she in that interview - I don't have a time stamp  
20 of when it started - but the time was 9:50 and couldn't  
21 tell you how long it lasted. You said about an hour or so.  
22 And in this one little statement its all in it. There's no  
23 answer. It's a transcript of the record, conversation back  
24 and forth with Mr. Woody. Sergeant Blackwell. Do you  
25 remember that?

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1 A. Sir, without being more specific - I'm sorry. You ask  
2 a lot of questions in that one. I recall us meeting. If  
3 you say you gave me something you may have I don't recall  
4 what that was but I recall us talking about this in this  
5 courtroom maybe a year or so ago.

6 Q. But that's what it was. A two page - it's a front and  
7 back of copies, it's two pages.

8 A. All right, sir.

9 Q. Clocked by the Clerk of Court of York County on  
10 July 28th.

11 A. All right.

12 Q. 2004.

13 A. All right, sir. I don't recall necessarily how  
14 - So your point is I should have objected to that coming  
15 into evidence against --

16 Q. No I'm asking you wouldn't that help you in your  
17 Jackson v. Denno hearing if you had that document?

18 A. I - It could have, sir. I don't recall exactly how  
19 that would have deflected whatever Chris said during that  
20 statement. I mean he could have made a voluntary statement  
21 whether or not that - he could have made a voluntary  
22 statement at any time whether or not he was Marandized or  
23 not. But the point being, sir, it possibly could have  
24 helped him.

25 Q. And the Solicitor did not give you a copy of that. In

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BY MR. JOHNSON

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1 your discovery from the Solicitor he didn't give you a copy  
2 of that did he?

3 A. That, sir, I'll be candid with you I can't say to  
4 you truthfully one way or the other that happened. I don't  
5 know the answer to that.

6 Q. Well if you had had it would you have raised that to  
7 the judge at that time of that Jackson v. Denno hearing?

8 A. I think I would have been able to point that out to  
9 the court as to whether or not it was a voluntary statement  
10 or whether or not the statement was made under his  
11 constitutional rights to counsel and to a fair trial and  
12 the Fifth and Sixth Amendments. But I don't recall whether  
13 he had that or whether I got that. I'll be candid with  
14 you, Mr. Devoe, I do not recall.

15 MR. DEVOE: I have no further questions.

16 Thank you.

17 CROSS EXAMINATION

18 JOHN DELGADO BY MR. JOHNSON:

19 Q. Mr. Delgado, how long have you been practicing law?

20 A. Mr. Johnson, it's far too long. Thirty-six,  
21 thirty-seven years.

22 Q. How much of your practice is criminal law?

23 A. Ninety to ninety-five percent of my practice. In  
24 State and Federal Court.

25 Q. And have you tried murder cases before?

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1 A. Yes, sir.

2 Q. Around how many murder cases have you tried?

3 A. A hundred.

4 Q. Have you had trials where gunshot residue was  
5 involved?

6 A. Yes, sir.

7 Q. You're pretty familiar with gunshot residue?

8 A. Yes, sir.

9 Q. Have you hired experts, gunshot residue experts in  
10 the past?

11 A. I've either hired them to testify or hired them to  
12 consult relating to State's evidence.

13 Q. You stated you consulted the SLED expert in this  
14 case.

15 A. I did yes, sir.

16 Q. And what was she able to tell you?

17 A. My recollection, Mr. Johnson, was that in fact she  
18 showed me a photograph of the discharge of - -

19 Your Honor, I believe it was a .9 millimeter that  
20 was taken with some camera that showed the extent of  
21 gunpowder being expelled through the muzzle of the barrel  
22 as you actually saw the slug leaving the end muzzle of the  
23 barrel and how far out gunshot residue may have extended.

24 As an example to be able to show how far possibly the  
25 first two protagonist, that is Mr. Bagley and Mr. Campbell,

1 may or may not been apart from each other. I recall either  
2 inducing that or referring to that in her testimony as I  
3 recall when she was called by the - by Mr. Thompson or Mr.  
4 Pope in this trial.

5 Q. You didn't cross examine her?

6 A. I did.

7 Q. And her testimony in relation to the self defense  
8 that you've been talking about, just to reiterate, how it  
9 is hiring - Well the fact that you would go hire another  
10 gunshot residue expert, does that change the fact that Mr.  
11 Woody brought on this? Basically the first element of self  
12 defense he has to be not at fault in bringing on the  
13 complication.

14 A. That was the whole focus in this case and Mr. Thompson  
15 and Mr. Pope knew exactly where to focus in their  
16 prosecution. And those were facts that were impossible for  
17 me to satisfactorily get around as far as the jury was  
18 concerned obviously. But that's where I tried to make my  
19 stand unsuccessfully I sorry to say.

20 Q. So there is evidence at the trial that Mr. Woody's  
21 - one of the bullets that he fired would have incapacitated  
22 Mr. Bagley?

23 A. Sir, I without again looking at the forensic  
24 pathologist testimony a .45 to the head area no matter - I  
25 mean that's not a good - it's not a good fact for a victim.