

VOLUME TWO OF TWO

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Anderson County

R. Lawton McIntosh, Circuit Court Judge

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JUL 11 2014

S.C. Supreme Court

JOHNNY EARL MAHAFFEY,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-002650

A P P E N D I X

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1 Q And all these items in 36, 37, 38, are items you
2 received through you all's SLED laboratory through
3 Anderson County Sheriff's Office?

4 THE COURT: At this time I move these items into
5 evidence.

6 MR. GAMBLE: No objection.

7 THE COURT: Thirty-six, 37, 38.

8 38 is already in. Thirty-six, 37, admitted, and 38
9 without objection.

10 Q Now, Miss Cromer, looking first at the exhibits for
11 identification 37 state's ID, 37 what exactly are
12 those.

13 A These are eight fired cartridge cases, nine
14 millimeter Ruger.

15 Q And what brand are they?

16 A Winchester.

17 Q Are they all the same type of brand?

18 A Yes, they are.

19 Q Those eight shell casings?

20 A Yes, sir, they are.

21 Q And you can examine each of these shell casings to
22 determine if they were fired from the same gun or
23 different guns?

24 A Yes, sir, I did, and I determined they were all fired
25 by one firearm.

1 Q And looking at item number 36, three bullets. When
2 did you analyze these items right here, these three?

3 A I started on 5-31-07 and I completed the analysis
4 6-4-07.

5 Q And this is initially all you had when you first got
6 these items?

7 A Correct.

8 Q Now, dealing with item 36, what exactly is that?

9 A These are three fired bullets from the autopsy.

10 Q And did you compare each of those to one another to
11 determine if they were fired from the same weapon?

12 A Yes, I did.

13 Q What was your results?

14 A These three items were fired by one firearm.

15 Q Now, at this point you didn't have any firearm to
16 compare these two, item number 37 annd 36 to; is that
17 right?

18 A No. When we receive evidence like this, what I can
19 do is examine the bullets and I take those
20 characteristics that I talked about earlier, the
21 number of lands and groves, the direction of the
22 twist; and then I actually measure the width of these
23 lands and grooves, can plug in to the FBI data base,
24 and it will give me a list of firearms. I can send
25 that back to the investigators as an investigative

1 tool.

2 Q You did that in this case?

3 A Yes, sir, I did.

4 Q Is one of the firearms that these items could have
5 come from, would it be a Ruger?

6 A Yes, sir, it was.

7 Q Now, looking at item number 38, what exactly is that?

8 A That is another fired 9-millimeter Ruger cartridge
9 case, Winchester brand.

10 Q And this round is identical to the eight other fired
11 cartridge cases?

12 A The same type and brand.

13 Q Did you compare this single cartridge casing to the
14 other eight?

15 A Yes, sir, I did.

16 Q As a result of that, what, if anything, did you
17 determine?

18 A This shell casing or cartridge case was fired by the
19 same firearm that fired the eight previous.

20 Q But at this time you did not have an actual weapon to
21 make a comparison to; is that right?

22 A No, I didn't.

23 Q Now, later on -- I'm going to show you what's been
24 marked State's Exhibit 35 and 35B. If you could
25 please identify what this is, ma'am.

1 A This is a Ruger P95DC semi-automatic pistol
2 .9-millimeter Ruger.

3 Q What serial number?

4 A 314-02975.

5 Q And is this the weapon you received in evidence from
6 the Anderson County Sheriff's Department?

7 A Yes, it is.

8 Q And you also received another piece of evidence along
9 with it. Is that correct?

10 A That's correct. It was an unfired 9-millimeter
11 caliber cartridge.

12 MR. CAMPBELL: At this time move these two items into
13 evidence.

14 MR. GAMBLE: No objection.

15 THE COURT: Admitted into evidence without any
16 objection.

17 (WHEREUPON, State's Exhibit No. 35, 35B are admitted
18 into evidence.)

19 Q Now, this pistol that you have is not loaded. Is
20 that correct?

21 A That's correct.

22 Q In fact, it has a safety tie on it?

23 A That's correct.

24 Q Now, when you received this pistol, did it have a
25 magazine or a clip with it?

1 A No. It did not have a magazine.

2 Q This is the condition, the way you received it?

3 A Actually, I received it in a cooler full of water.

4 Q And when you received it, objects such as this pistol
5 that's been under water, is that the proper way you
6 supposed to receive it?

7 A Yes. Any time agency recovers a gun in water, we
8 request they bring it in the water they recovered it
9 in. As soon as you pull it out of the water, the
10 rusting process immediately begins, so we like them
11 to bring it in, in the water.

12 Q And it was done properly in this case?

13 A Yes, it was.

14 Q And when you first received this weapon, what did you
15 do with it?

16 A The first thing I did was take a picture of it in the
17 water. Then I pulled it out of the water, checked to
18 make sure it wasn't loaded. I documented its
19 condition. It was covered in red mud and the hammer
20 was cocked. I moved the slide. Of course, when you
21 receive a firearm in water, you don't expect the
22 slide to move back. I was actually surprised how
23 good a condition this was for being under water. I
24 de-cocked the firearm. And then I field stripped it
25 to clean it. I was not going to test fire it in the

1 condition I received it due to safety hazards.
2 I did, however, dry fire it. Dry firing just means
3 pulling the trigger and see if the firing pin would
4 come forward. And it would in the condition I
5 received it. I field stripped it means removing the
6 slide, the barrel, and the recoil spring. I did that
7 and cleaned it. I soaked it overnight in oil, and
8 that helps loosen up any of the mud or rust of the
9 gun.
10 I came back the next morning. I scrubbed it down,
11 cleaned it again, made sure it was nice and well
12 oiled. But due to safety, the frame still had some
13 damage to it, and I wasn't positive that it would be
14 safe to fire this firearm in the condition it was
15 received. So, for identification purposes I really
16 only needed the slide and the barrel. So I cleaned
17 up the slide and the barrel and placed them on a
18 reference collection gun. At SLED we have about
19 4,000 guns in our reference collection just for these
20 purposes. I received another Ruger P95DC, took its
21 slide and barrel off, replaced it with the slide and
22 barrel I have here and then test fired.
23 When we test fire weapons, what we do is we get
24 ammunition similar to what we have in the case; and
25 in this case I fired two Winchester 9-millimeter

1 Ruger full-metal jacketed, which means there's a
2 jacket over the whole bullet, except for the base is
3 open, 119 grain copper-jacketed bullets and two other
4 cartridges for IVIS' entry purposes. IVIS entry is
5 national data base for computer -- for bullet and
6 cartridge cases. I test fired this four times, also
7 had to use a SLED reference collection magazine; and
8 the magazine is what feeds the cartridges into the
9 chamber. I test fired it four times, and then I took
10 it back and started my microscopic examination.

11 Q I'm going to show you Court's Exhibit -- going to
12 show you what's been marked State's Exhibit 30
13 through 34. Can you please identify those, ma'am?

14 A These are pictures of what this firearm looked like
15 in the water that I had received it in. And one of
16 the serial number.

17 Q Miss Cromer, can you see from there?

18 A Yes.

19 Q Can you see the screen.

20 A Yes.

21 Q Referencing these pictures here, when you received
22 the gun, is that how this pistol looked?

23 A Yes, sir.

24 Q Another view of it, showing the mud, and it was
25 cocked?

- 1 A Yes, sir.
- 2 Q When you received it, was it still cocked?
- 3 A Yes, sir, it was.
- 4 Q Another view of it.
- 5 A Yes.
- 6 Q And this is the same mud you saw when you received
- 7 it?
- 8 A Yes, sir. And that's the bullet. That's the
- 9 cartridge.
- 10 Q The cartridge you had there, exhibit 35B?
- 11 A Yes.
- 12 Q And your serial number?
- 13 A Yes, sir.
- 14 Q And that matches the serial number on that weapon
- 15 right there?
- 16 A Yes, sir, it does.
- 17 Q Now, after you cleaned this weapon up, you said you
- 18 fired four times?
- 19 A Yes, I did.
- 20 Q What, if anything, do you do next to these test
- 21 bullets you fired?
- 22 A I microscopically compared to each other. I do that
- 23 on a comparison microscope, it looks very similar to
- 24 the eye piece to binoculars. I look down and I have
- 25 two stages where I can compare two things side by

1 side.

2 Q Did you do that in this case?

3 A Yes, sir, I did.

4 Q And what, if anything, did your test or results show?

5 A It showed this firearm marked consistently. We just
6 do that to -- it helps give you a basis to know what
7 you're going to look for on your evidence, and it
8 also shows you how the firearm marks. There are
9 different types of breach face markings. This had
10 random breach face markings and it shows you what you
11 should be looking for on evidence.

12 Q And did the eight shell casings that you received in
13 exhibit 37 and the one shell casing you received in
14 exhibit number 38, do those all come from this
15 weapon?

16 A Yes, sir. Those were all fired by this firearm.

17 Q The three bullets you had to compare and analyze in
18 exhibit 36, did you compare them with the test
19 rounds, test cartridges you fired from this weapon?

20 A I compared these from the test bullets; and, yes, sir
21 the three bullets I received from the autopsy were
22 fired from this gun.

23 Q So everything that was fired came from this weapon?

24 A Yes, sir.

25 Q Your Honor, may I have the witness step off the

1 stand?

2 THE COURT: Yes, sir.

3 Q Looking at exhibit 35 -- for the jury's purposes is
4 unloaded and has a safety strap around it -- can you
5 please show the ladies and gentlemen of the jury when
6 you're talking about extraction and the marks, what
7 you're looking for coming out of the weapon.

8 A Okay. Talked about the five different areas that can
9 be marked on a cartridge case. Right here is your
10 breach face, and in the middle is called the firing
11 pin aperture, which is what the firing pin comes out
12 of when you pull the trigger back. That's your
13 breach face. You all can see this is your breach
14 face of the firearm. Right here, like I said, this
15 is your firing pin. It hits your primer in your
16 cartridge case. This right here, you can't really --
17 is your ejector. That's what hits the head of the
18 cartridge when it's being pulled back by your
19 extractor. And that extractor holds that cartridge
20 case while the slides, this is the slide, is being
21 blown backwards. It's holding it because it snaps
22 over the rim of a cartridge and it hits that ejector.
23 The ejector makes a turn to come out the extractor
24 port.

25 Q Which way do these bullets eject out of this?

1 A This is your barrel, and the rifling you can kind of
2 see it in there. This gun has six lands and grooves.

3 Q When a shell is ejected from this, which direction
4 will it be ejected from?

5 A To your right.

6 Q Continue, please.

7 A When you pull the trigger, there's two ways you can
8 fire this. You can cock the hammer, pull the
9 trigger. When you cock the hammer and pull the
10 trigger, you have to use less pressure to fire this
11 firearm. When you don't, you can also pull the
12 trigger, it's called double action. You pull the
13 trigger, it cocks the hammer and releases the firing
14 pin and fires the weapon.

15 Q Please take the stand.

16 (Witness resumes stand.)

17 Now, Miss Cromer, when you received these items from
18 the sheriff's department, do you look at them, see if
19 they have been tampered with or altered, changed in
20 any way, shape, or form?

21 A I check the seal on each piece of evidence. And if
22 the seal is not signed properly, or if it's not
23 sealed, I always make a note and notify the
24 submitter; but that wasn't the case in this.

25 Q In this case everything was presented to you

1 properly?

2 A Yes, sir, it was.

3 Q If it was not, you would not have tested it?

4 A No, I would not have without notifying the submitter
5 first.

6 Q Now, a couple of other questions based upon this
7 Ruger. Is this the kind of weapon that can be fired
8 when the magazine is removed?

9 A Yes -- well, hold on. Let me check. I believe so.
10 I don't have in my notes -- it had a magazine safety.

11 Q When you're referring to magazine safety, is that
12 referring -- you have to have the magazine in the gun
13 in order for the gun to fire?

14 A Correct. That's what a magazine safety is. This
15 firearm has a decocker, which is a safety. If you
16 cock the gun and then decide not to fire it, you pull
17 that lever down.

18 Q And this weapon, in your examination, would it have
19 gone off in its own, without someone pulling the
20 trigger?

21 A No, sir, would not have.

22 Q It appeared to be in proper working condition and
23 order?

24 A Yes, sir.

25 Q So in your opinion, it wouldn't have been an accident

1 for this gun to go off by itself?

2 A No, sir. In the single-action mode it takes six and
3 a half to 7 pounds of pressure. To pull the trigger
4 in double action, which means cocking and pulling, it
5 took 14 and a half to 15 pounds of pressure. If you
6 think, a gallon of milk is roughly 8 pounds of
7 pressure.

8 Q I have no further questions, Miss Cromer. If you
9 would, please answer any questions Mr. Gamble may
10 have.

11 THE COURT: Cross examination, Mr. Gamble?

12 CROSS EXAMINATION

13 BY MR. GAMBLE:

14 Q Were you given any notes with regard to this weapon
15 as to where it was found and whether it was loaded or
16 not?

17 A I received a telephone call from the solicitor's
18 office saying they were bringing me in a firearm
19 with -- in the water.

20 Q Were you informed that it was loaded when they found
21 it?

22 A Yes, I was.

23 Q Now, this magazine for this Ruger 9 millimeter -- a
24 Ruger holds eight cartridges, doesn't it?

25 A I believe so.

- 1 Q And you could have nine in that gun if you jacked one
2 in and reloaded, or put eight -- if you put one
3 manually in and put the magazine in, you'd have nine
4 live rounds in that gun?
- 5 A Correct.
- 6 Q Now, if eight of those rounds are fired successfully,
7 could you then dry fire that gun without it shooting
8 the last round?
- 9 A No. If you're firing successively, one after the
10 other, it should have. If it ejected the last
11 cartridge case, it should have put the new cartridge
12 case into the magazine -- I mean the ninth cartridge
13 into the chamber.
- 14 Q And you could not then click the hammer without
15 shooting that ninth cartridge, can you?
- 16 A Could click the hammer, couldn't pull the trigger.
- 17 Q I mean dry fire. It wouldn't dry fire?
- 18 A No, it would not with one in the chamber.
- 19 Q Okay. With regard to item 14, your item four, I
20 don't know what item it is here.
- 21 A Yes, sir.
- 22 Q I believe that item was found in the cowl of an
23 automobile. The front of the windshield and under
24 the hood. Is there any way to determine how long
25 that casing had been in that cowl?

1 A No, sir.

2 Q Casings are made of brass; isn't that correct?

3 A Yes, sir.

4 Q Brass doesn't corrode?

5 A It gets tarnished.

6 Q Tarnishes, but it doesn't corrode.

7 A Right.

8 Q And tarnishing doesn't tell you a thing with
9 regard --

10 A No, sir.

11 Q So it would be impossible to give a time line on how
12 long that casing had been in that cowl?

13 A It would be impossible?

14 MR. GAMBLE: All I have.

15 THE COURT: Any redirect-examination?

16 MR. CAMPBELL: No, Your Honor.

17 THE COURT: You may step down. Thank you very much.
18 Any reason can't be excused?

19 MR. GAMBLE: No reason at all.

20 THE COURT: All right. Mr. foreman, ladies and
21 gentlemen of the jury, it's 12:20. Be back in the jury
22 room at one, an hour and a half from now. We'll continue
23 at that time. Please don't discuss the case with anyone,
24 read anything about it, or listen to anything about it.
25 See you at ten minutes until two.

1 (Whereupon, the following proceedings were had
2 outside the presence of the jury:)

3 Anything before we take a lunch break.

4 MR. CAMPBELL: Nothing from the state.

5 THE COURT: Anything from the defendant?

6 MR. GAMBLE: No, Your Honor.

7 (WHEREUPON, a lunch break was taken.)

8 AFTERNOON SESSION

9 (WHEREUPON, after the lunch break, court was again in
10 session with all parties present, when the following
11 proceedings were had:)

12 THE COURT: Solicitor, you may call your next witness
13 please, sir.

14 MR. CAMPBELL: Your Honor, the state calls Detective
15 Steve Reeves.

16 STEVEN J. REEVES, being first duly
17 sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. CAMPBELL:

20 A Steven James Reeves, R-E-E-V-E-S.

21 Q Mr. Reeves, where are you currently employed?

22 A Anderson County Sheriff's Office.

23 Q In what capacity are you employed in?

24 A Detective.

25 Q How long you been in law enforcement?

1 A Twelve years.

2 Q How long you been a detective?

3 A Ten.

4 Q And as far as your time as a detective, you work
5 homicides?

6 A Yes, sir.

7 Q And on August 17, 2006, did you have an occasion to
8 work a homicide here in Anderson County?

9 A Yes, sir, I did.

10 Q Where exactly was that?

11 A The incident scene was on 28 bypass between Salem
12 Church Road and Drives Creek.

13 Q What shift were you working on that date?

14 A I was on call.

15 Q Were you lead detective on call that week?

16 A I was.

17 Q And when you got this call, did you go out to the
18 scene?

19 A I did.

20 Q When you arrived at the scene, what did you observe?

21 A When I arrived at the scene, there was already
22 sheriff's office personnel on the scene. I met with
23 Roger Malone. There was a white male laying on the
24 outside, the southbound lane of the bypass -- when I
25 say southbound lane, I mean the direction heading

1 toward Whitehall Road -- had blood pooling up around
2 him and draining with gravity down the slope of the
3 road towards Clemson Boulevard. There was numerous
4 shell casings around the body in close proximity to
5 the body and seemed to have a number of gunshot
6 wounds to the body.

7 Q Can you explain to the ladies and gentlemen of the
8 jury just briefly how you operate at the sheriff's
9 department. If you are the lead detective, what
10 exactly does that entail?

11 A On call tends to change from time to time. But at
12 that time there were two detectives on call, myself
13 and Roger Malone. I was lead detective at that time
14 and actually work homicides. If there had been a
15 burglary or some other type of call come in that I
16 couldn't handle, Roger would have dealt with that,
17 possibly with my assistance; but if it was a homicide
18 or dead body with unusual circumstances, I would have
19 worked that and Roger would have assisted me.

20 Q As part of your job duties as lead detective, you
21 call the shots basically in the case?

22 A Yes.

23 Q Now, at this time while you were on the scene, did
24 you -- were you able to identify who the victim was?

25 A We were.

1 Q What name did you come up with?

2 A Ryan Cox.

3 Q At this point in time did you have any suspects in
4 the case?

5 A No, sir.

6 Q While you were on the scene of 28 bypass, did you
7 learn any other information that helped you further
8 in your case trying to solve this?

9 A As I said, initially got there, talked to Roger
10 Malone, observed what they had already observed.
11 Coroner Greg Shore was already on the scene, and he
12 was talking to a female that I was unfamiliar with
13 several hundred feet down the road in the direction
14 of the, at that time, GMC lot. I talked with Coroner
15 Shore at that time and discovered that that
16 individual Skyler, Skyler Andrews, was Ryan's
17 girlfriend at the time. And from that point we went
18 over to my car and I began interviewing Miss Andrews.

19 Q Let's step back just for a second. Where this
20 killing took place, can you describe for the ladies
21 and gentlemen of the jury the area and the businesses
22 that are around that area?

23 A As I said, most of us here are familiar with 28
24 bypass. It cuts through the outside of town to 81
25 South and Abbeville Highway. The north end of that

1 intersects with Clemson Boulevard or highway 76 at
2 the overpass and continues on Liberty Highway.
3 Directly adjacent, same side of the street, across
4 the street, no areas of any commercial business or
5 anything like that.

6 The closest business is actually the GMC lot, which
7 is .2 miles away going north. The next business
8 going south, or actually is a Church, Salem Road
9 Baptist Church. Salem Baptist Church and several
10 other businesses on either side of the road there.
11 No street lights in that area on either side of the
12 road. The only lights going north are at the GMC
13 lot, which I said, .2 miles away, and the only lights
14 going south are at Clayton Tile Distributing Company.
15 And you cannot see that street light from that crime
16 scene. So it's extremely dark.

17 Q At this point in time did you discuss this matter
18 with Miss Andrews?

19 A I did.

20 Q As a result of your conversation, what, if anything,
21 was done?

22 A I got her basic information, which is customary as to
23 how she came to be in the area. She had told me that
24 Ryan and her had been living together, dating for a
25 few months, at an address in March Creek, which is

1 behind Wal-Mart on 28 bypass; that that night they
2 had left about the same time, actually walked out the
3 building of Olive Garden where they both worked,
4 which is .7 miles away from the crime scene. They
5 had an argument.

6 She advised me that Ryan's current wife, Ixa Cox, was
7 at Anderson Area Medical Center, recently had a
8 child, two days earlier; and that the argument seemed
9 to stem over the fact that he wanted a ride up there.
10 She was working and obviously she couldn't take time
11 off, and they were fussing over that. She advised
12 when they walked out of the back of the restaurant,
13 after she clocked out, he had been clocked out for an
14 hour or more and waited on her.

15 She went to her car and he walked away. She got in
16 her car and read a note he had given her pretty much
17 complaining about how she was acting when it was his
18 son, he wanted to be able to see his son, and this,
19 that, and the other. I think he had mentioned to
20 her, what she told me, he needed to clear his head.

21 She got in her car, what she said was a few minutes,
22 turned around; and by the time she cranked the car
23 and turned around, he was gone, didn't see him
24 anywhere. From that time she assumed, concerning the
25 conversations and Ms. Ixa Cox being at the hospital

1 that he wanted to go to the hospital and see his son.
2 She proceeded to turn right out the parking lot,
3 Olive Garden, to Clemson Boulevard; and right,
4 heading toward the south end of town, presumed he
5 wanted to go to the hospital.
6 She didn't see him, got on the phone with another
7 worker, talking about the problems and wondering
8 where he was. Proceeded to Clemson Boulevard, Mall
9 Road, Whitehall, and back onto Clemson Boulevard at
10 28 bypass and Whitehall Road. At that point she
11 turned right and had the idea maybe he took the
12 bypass walking home or somewhere around the
13 restaurant. So she went back down, actually north on
14 28 bypass.
15 When she got to Salem Church Road, which at that
16 intersection, 28 bypass, you can't see the crime
17 scene.. She did see blue lights. I think her comment
18 to me, there's a lot of wrecks right through there,
19 which I can attest to that, a lot of wrecks in that
20 stretch of road. Didn't want to get caught up in
21 that. She turned down Salem Church road, went down
22 to Clemson Boulevard, in an effort to get back to the
23 restaurant. When she got to the bottom of Salem
24 Church Road and Clemson Boulevard, she noticed
25 several sheriff's cars with blue lights speeding back

1 up the road and it made an impact upon her that maybe
2 something had happened or something was going on.
3 She turned back around, up Salem Church Road,
4 followed the sheriff's office vehicles and came upon
5 the crime scene, Salem Church Road, 28 bypass. And
6 once you crest that hill, you're right at the crime
7 scene.

8 At that point she stopped, didn't get out. She was
9 asked to wait there by a deputy, I believe, and
10 Coroner Shore could get there and that's when I met
11 her.

12 Q Besides the information she gave you verbally, did
13 she also give you any other information?

14 A She did. She had a cell phone. It was a blue cell
15 phone. And she had advised, when I asked her
16 personal information initially, she said she actually
17 had two cell phones. One she had on her person,
18 which was a blue one; and that her boyfriend, Ryan,
19 had the other, which was the pink one. They were
20 both in her name and she gave me those numbers.
21 She said he should still have his cell phone. She
22 had been checking her voice mails and advised me she
23 had received a voice mail from him while she was
24 looking for him. She was on the phone with her
25 friend from work and she knew it was from him because

1 her picture popped up on his phone, which meant her
2 phone was calling the blue phone. They switched that
3 night. I think she advised me he had the pink one
4 because I think would be calling that number from the
5 hospital, giving her update on his son, the birth of
6 his son, this, that, and the other.
7 She advised me could she play that voice mail for me
8 so that I could listen. And she did and she showed
9 me the date and time stamp that was on her phone.

10 Q And as a result of listening to that voice mail, at
11 that point did you develop a person of interest in
12 this case?

13 A I did. Skyler had told me about some situations
14 between herself and Ryan and a Johnny Mahaffey, which
15 was the father of her child, Shilynn, and a former
16 boyfriend, some situations between all three of them.

17 MR. GAMBLE: Object to this on the basis of hearsay.
18 Already testified to this fact also, and it's redundant.

19 THE COURT: Mr. foreman, ladies and gentlemen of the
20 jury, I'm going to ask you to step in the jury room.
21 Don't discuss the case among yourself.

22 (Whereupon, the following proceedings were had
23 outside the presence of the jury:)

24 Where you going? Do you want to proffer it and
25 listen to it? From your question, I couldn't tell what

1 you were trying to elicit, so I have trouble ruling on
2 your motion.

3 MR. CAMPBELL: At this point, getting to the fact how
4 he developed a person of interest in this case.

5 THE COURT: I understand that, but he said certain
6 situations developed between them and the three of them.
7 And he objected. What situations are we talking about?

8 MR. CAMPBELL: We're not going into details.

9 THE COURT: I've excluded the arrest warrants and the
10 criminal charges; but I let Mrs. Andrews testify about
11 occurrences that occurred in their presence. So where we
12 going on this?

13 MR. CAMPBELL: Not going anywhere that direction.

14 THE COURT: Where you going?

15 MR. CAMPBELL: Developing a suspect at this point in
16 time, only way able to develop a suspect.

17 THE COURT: Not going into what Mrs. Andrews told him
18 about the situation in other words?

19 MR. CAMPBELL: No, sir.

20 THE COURT: For the record I'll sustain your
21 objection. If he's going into anything Mrs. Andrews told
22 him about the occurrences she observed.

23 MR. GAMBLE: Or anything else.

24 THE COURT: I think he can go into enough to show the
25 jury how they developed the suspect. I think he's very

1 close to that now.

2 MR. GAMBLE: No, sir. For the record he's done that
3 now. Because he said they were having -- he, as a matter
4 of fact, he said developed a suspect in that Johnny
5 Mahaffey was named.

6 THE COURT: Right, I understand.

7 MR. GAMBLE: The trio. I didn't object at that time.
8 When he started going into the other is when I made the
9 objection.

10 THE COURT: I sustain the objection.

11 MR. GAMBLE: Thank you, your Honor.

12 THE COURT: Anything else before we bring the jury?

13 MR. CAMPBELL: Not at this time, your Honor.

14 THE COURT: Thank you, very much. Bring us the jury
15 please.

16 (Whereupon, the following proceedings were had within
17 the presence of the jury:)

18 Please proceed.

19 BY MR. CAMPBELL:

20 Q Detective Reeves, you were still on the scene at this
21 point in time?

22 A Yes.

23 Q And you developed a person of interest?

24 A Yes.

25 Q Who was that?

1 A Johnny Mahaffey.

2 Q Did you talk to anybody else at the scene at 28
3 bypass to help develop a suspect in this case?

4 A No, sir. Not at that time.

5 Q Did you have any other information that would give
6 you clues or ideas on who the shooter was?

7 A We had some information that developed at that scene
8 that I didn't get that information until we had moved
9 from that scene to another area.

10 Q What information was that?

11 A Detective Winchester, who was on the scene that
12 night. In fact, he was blocking traffic at the GMC
13 lot and diverting it onto another road. He advised
14 me there was an individual unloading cars at the
15 Chevy lot, or GMC lot at that time, upstate Chevy
16 now. He actually heard gunshots. I instructed
17 Detective Winchester at that time, because we were
18 short on manpower, to take a written statement from
19 him, get all his contact information so we could get
20 back in touch with him.

21 Q As a result of that statement, did you learn any
22 other information about a possible shooter in this
23 case?

24 A Mentioned he heard multiple shots and that he heard a
25 loud muffler, from his description, obviously

1 attached to a car moving away from his area as soon
2 as the shots stopped.

3 Q And at that point in time that is all the information
4 that you personally had regarding a possible suspect
5 in this case?

6 A Yes, sir.

7 Q You were still with Mrs. Andrews at this time?

8 A Yes, sir.

9 Q What, if anything, did you do with Mrs. Andrews?

10 A I asked her if she would accompany me back to the
11 sheriff's office, a short ride away, where we could
12 do a gunshot residue test on her hands.

13 Q Did she cooperate?

14 A She did.

15 Q Did she give you a sample for a gunshot residue?

16 A She did.

17 Q Now, after this point in time, when you were dealing
18 with Mrs. Andrews, what, if anything, occurred next
19 in your investigation?

20 A After we finished with Mrs. Andrews, myself and
21 Detective Sergeant Chad Puckhaber met at the office
22 along with captain Tommy Williams, attempted to go
23 through the names and information. We had to try to
24 get an idea exactly where we were.

25 Q As a result of this, what did you all do?

1 A We were able to go through the resources we have and
2 find out some information on as many players as we
3 knew at that point, confirm some addresses we had,
4 obviously on Skyler and Mr. Mahaffey. And from that
5 point Detective Malone, who was still on the scene,
6 went to Mr. Mahaffey's residence which is [REDACTED]
7 Lane.

8 Q Is that, is that in Pendleton or LaFrance?

9 A Pendleton.

10 Q Has a Pendleton mailing address?

11 A Yes, sir, I believe so.

12 Q Now, after that, about what time of the morning is
13 this?

14 A At that time talking approximately around midnight or
15 shortly thereafter.

16 Q Were you able to determine what time this killing
17 took place?

18 A Yes, sir.

19 Q What time was that?

20 A I believe it would have been after 10:30.

21 Q And you did not go to [REDACTED] Lane that night,
22 did you?

23 A No, sir, I did not.

24 Q What was your next involvement in the case?

25 A I was in constant communication with Detective

1 Malone, [REDACTED] Lane. He advised me at that
2 point he had made contact with Mr. Mahaffey at that
3 residence.

4 Q And at some point did Mr. Mahaffey come to the
5 Anderson County Detention Center, Sheriff's Office?

6 A He did. I asked Mr. Malone to ask Mr. Mahaffey if he
7 would come to the office to talk about the situation.
8 He agreed to, and agreed to have Captain Tommy
9 Williams transport him to the sheriff's office.

10 Q You met him at the sheriff's office?

11 A Yes, sir.

12 Q Approximately what time of the morning was this?

13 A I believe this to have been after two.

14 Q Now, when he came to the sheriff's department, was he
15 under arrest?

16 A No, sir.

17 Q Was he in handcuffs?

18 A No, sir.

19 Q Your first appearance of him, how was he acting?

20 A Calm, knew where he was, who he was. We greeted each
21 other. Introduced myself, introduced Detective
22 Puckhaber, because we never met him before.

23 Q At the time did he have a different hair color?

24 A Sir?

25 Q At the time was his hair a different color?

- 1 A Yes, sir.
- 2 Q And what color was that?
- 3 A It was blond.
- 4 Q Is he in the courtroom today, by the way,
- 5 Mr. Mahaffey?
- 6 A Yes, sir.
- 7 Q Can you please identify him?
- 8 A Sitting at the end of the table in the brown shirt.
- 9 Q Now, when he got there, who all talked to him?
- 10 A Myself and Sgt. Puckhaber.
- 11 Q He wasn't under arrest?
- 12 A No, sir.
- 13 Q And did he provide you with any information?
- 14 A We got basic information from him as we do everyone.
- 15 And at that point I kind of wanted to get an idea
- 16 from him of his activities from that evening or that
- 17 afternoon up until the time we had met him.
- 18 Q And what did he tell you?
- 19 A He advised that he had been home with his wife,
- 20 Jamie, that afternoon. The only thing of any
- 21 interest they did or any substance that evening was
- 22 to order a pizza from Mellow Mushroom in Clemson.
- 23 Q He said he had been home all night?
- 24 A Yes, sir.
- 25 Q Did he also mention his activities while he was home,

1 anything he did while he was there?

2 A He advised they did pick up the pizza, him and his
3 wife brought it home, ate the pizza, watched some TV.
4 At that point when they finished the pizza, he asked
5 or told Jamie to go visit her mother, who lives in
6 Homeland Park.

7 Q Did he mention anything about a shower?

8 A He did. He said he had taken a shower at his
9 residence.

10 Q Now during your conversation with him, at this point
11 in time, was he, in your opinion, a suspect in this
12 case?

13 A A person of interest.

14 Q And could you put him at the scene that night?

15 A No, sir.

16 Q Now, did you -- how was he dressed when he came in to
17 see you?

18 A Casually. I think he had on a short-sleeved shirt.
19 Nothing too fancy, nothing too casual.

20 Q Now, did you ever offer him, like you did Mrs.
21 Andrews, to take a gunshot residue kit?

22 A I did not.

23 Q Why is that?

24 A Two basic parts of the interview. At one point we
25 all took a break, Detective Puckhaber offered him

1 water, go to the bathroom, go to the room. When we
2 came back, Detective Puckhaber advised him that there
3 had been a shooting that night that Ryan Cox had been
4 shot. Initially when we asked him if he knew Ryan,
5 he said he didn't.

6 And then when we asked a little bit further, it was
7 almost instantaneous, he said, "Yeah, I do." And
8 went into a little bit of history on how he knew
9 Ryan, how all the players had been interacting over
10 the last year, two years.

11 Q And at some point were you going to ask him about
12 taking any gunshot residue test?

13 A Our strategy was at some point, talking with
14 Detective Puckhaber, that's something we wanted to
15 get to. Being a person of interest, not being a
16 person in custody, we wanted to talk to him first,
17 obviously, and we did that. About that time, it was
18 getting late anyway and we didn't want to interview
19 him anymore. It was early morning, everyone was
20 getting a little tired. He put his head on the table
21 and he jerked his thumb over his head,
22 indicating back to the detention center, said,
23 "Either take me over there or take me home."
24 He was not in custody, there of own his free will. I
25 can't question that. We have to take him back home.

1 And that's what we did. In answer to your question,
2 we never got a chance to do anything else with him at
3 that point.

4 Q Because you were dealing with a homicide, did you
5 look him over to see if he possibly had any injuries
6 on him?

7 A I did.

8 Q What did you observe?

9 A Didn't notice anything to his face or arms or hands.
10 And, obviously, one of the things that we would want
11 to do at the end of the interview with him would be,
12 number one, get it on a statement and/or do all these
13 things. But once he said he wanted to leave, I'm not
14 in a position at that point to argue with him. If he
15 wants to go home, we take him home.

16 Q After this, did you take him home?

17 A Captain Williams did.

18 Q About what time of day was this?

19 A I think that was before 8:00 in the morning.

20 Q So you all had been up quite a while?

21 A Yes.

22 Q What was your next course of action? What did you do
23 to try to determine who was the suspect in this case?

24 A The officers on Jasmine Lane obviously had cleared
25 the scene by the time Mr. Mahaffey wanted to go home.

1 We met up with the ones that were obviously still
2 awake and Captain Williams at the office and kind of
3 gave a to do list to the ones coming on first shift.
4 I know most of them went home to try to grab a little
5 bit of sleep. We had been up a good while.
6 Detective Malone did. I tried to go home. Knowing
7 what other things we were going to be doing that day,
8 I couldn't sleep more than 30 minutes, so I just came
9 back in.

10 Q And what other things did you do in this case in
11 order to try to develop a suspect, at this point in
12 time?

13 A That afternoon I knew from talking to Lt. Scott they
14 towed Mr. Mahaffey's vehicle back to the sheriff's
15 office to process it under the search warrant. I
16 knew about what point in time they would be coming
17 back in to do that, probably one of the reasons I
18 couldn't sleep, I wanted to come back in, see what
19 the results were.

20 When I got back to the office, he was actually
21 finishing up the processing of the car. When he
22 actually found the shell casing in the cowl area,
23 I like to call it, between the firewall and hood
24 spring of the car, if you're facing the car, on the
25 left-hand side.

1 Q And you were present when all this happened?

2 A I was.

3 Q And what did that lead you to believe at that point
4 in time?

5 A We had enough probable cause to get a murder warrant
6 on Mr. Mahaffey because that shell casing was the
7 same caliber and make, which is Winchester, they all
8 were, they were on the crime scene.

9 Q At this point in time did you attempt to obtain any
10 type of records?

11 A I did. As I said, our to-do list that morning when
12 we got there, I asked Michael Sloan, a detective with
13 the sheriff's office, to send off search warrant for
14 three different cell phones at that time, which would
15 have been Johnny Mahaffey's and the two registered
16 under Skyler Andrews' name.

17 Q I show you what's been marked State's Exhibit, if
18 you'd briefly look over, No. 43, 44, 45. What are
19 those?

20 A These are cell phone records from Sprint Nextel, the
21 one registered to Johnny Mahaffey, and two to Skyler
22 Andrews.

23 Q These are records you received as a result, or
24 pursuant to your subpoena?

25 A Yes, sir.

1 Q Now, based upon these records, did you have an
2 opportunity to review them?

3 A Yes, sir.

4 Q And as a result of you reviewing them, what, if
5 anything, did you learn?

6 A Initially with phone records these are copies they
7 mail to us afterwards for court purposes. When we
8 initially send off for a search warrant of these
9 type, we can let subpoena compliance with the phone
10 companies know we are working the theft of a cell
11 phone, which obviously wouldn't be anything to speed
12 them up. Tell them working something like rape or
13 murder case, something like that, they will speed up
14 their process, try to get us some information ahead
15 of time, which might be anywhere between a couple of
16 days to a couple of weeks before they could ever mail
17 it out to us, send us the official court documents.
18 Detective Sloan had talked with Sprint Nextel on
19 Mr. Mahaffey's phone. They advised him what I was
20 interested in, cell phone tower heads. I wanted to
21 know if his cell phone tower anywhere during that
22 time frame hit off a cell tower in that timeframe
23 because he initially told me had been home all night.
24 They initially told me one, had a phone registered to
25 him, hit off cell phone tower on Whitehall Road just

1 down the street from the crime scene.

2 Q And from where the crime scene is located, can you
3 see this tower at Whitehall Road?

4 A No, sir.

5 Q Now, did you also look at Mrs. Skyler Andrews, the
6 two cell phone records that came to her?

7 A I did.

8 Q As a result of that, were you able to confirm
9 approximately what time the call came in from Mr. Cox
10 to her?

11 A Yes, sir.

12 Q Do you recall what time that was?

13 A I think it was 10:42.

14 Q Now, at this point in time did you already have your
15 arrest warrant?

16 A Yes, sir.

17 Q Before we get back into the records, after you had
18 the arrest warrant, what did you do next?

19 A Obviously, we knew Jasmine Lane was a registered
20 address for Mr. Mahaffey. And I sent a detective to
21 that scene to see if he was home. He was not home
22 earlier in the afternoon. I sent a detective to see
23 if he come home. He did. Detective Chad McBride
24 took him into custody that evening, I'm thinking
25 around 7:30, 8:00.

1 Q Now, after you took him into custody, what day was
2 this?

3 A This was the 18th, would have been Friday.

4 Q Approximately what time was it?

5 A I'm thinking between 7 and 8:00 in the evening.

6 Q That he was arrested?

7 A Yes, sir.

8 Q And at that point in time did you speak with him?

9 A Detective McBride contacted me and said he had him in
10 custody, brought him back to the office where I was.
11 Detective McBride served the warrants on him at the
12 sheriff's office, and I asked Detective Stan Ashley,
13 he was on the scene, if he was ever -- if he would
14 accompany me to transport Mr. Mahaffey down to the
15 jail, which is adjacent to our office.

16 Q At some point in time did you talk to him?

17 A We got inside the sally port at the jail, which is a
18 mechanical fence, which it closed behind us. It's
19 secure kind of a box, inside of a box. You can open
20 your car, get out a defendant-suspect that might be
21 in handcuffs, move him over to the main building. So
22 it's a secure area. When we got inside the building,
23 Mr. Mahaffey turned to me, said he wanted to talk to
24 me.

25 I said, "About what?"

1 He said, "All this."

2 At that point we walked out of the building, back out
3 to my car. I sat in the driver's seat, Mr. Mahaffey
4 sat in the back -- in the front passenger seat.
5 Detective Mahaffey sat beside him. Went through his
6 advice and waiver of rights form with Mr. Mahaffey,
7 which he signed off, signature on the proper places,
8 signed off that he understood his rights and he
9 waived them.

10 Q And did he speak to you?

11 A He did.

12 Q What, if anything, did you learn from this
13 conversation?

14 A He was concerned about his wife. He asked me a
15 specific question about her and I said I would be
16 talking to her later on about her statement that she
17 had given us. I was unaware then if he actually knew
18 we had taken a statement from her because he had
19 left. As I believe we were talking with her. We
20 talked about a few things. He seemed to get somewhat
21 emotional. As I recall, I don't actually think he
22 called, seemed to get emotional. I was trying to get
23 him to look at me, get an idea what I wanted to talk
24 to. Immediately that changed and he looked at me,
25 said I didn't understand the magnitude of what was

1 going on.

2 I informed him since I signed the murder warrant, I
3 thought I did, and he said he wanted to go in the
4 jail.

5 Q At that point?

6 A So we did.

7 Q At that point in time you all cease conversation?

8 A We did.

9 Q At that point clearly under arrest, incarcerated at
10 the detention center?

11 A Yes.

12 Q That August 1, 2006?

13 A Yes, sir.

14 Q Now, step back to the crime scene. You observed the
15 body laying on 28 bypass; is that right?

16 A Yes, sir.

17 Q And did you see or observe the blood around Ryan Cox?

18 A I did.

19 Q In your opinion did it appear to be disturbed or
20 messed with or stepped in?

21 A No, sir. All the blood was underneath the body,
22 seeping from the wounds. And, as I said, the slope
23 of that roadway and gravity, all the blood was
24 running down the highway.

25 Q How many shell casings did you find?

1 A I think I counted correctly, eight, before I left.
2 That was at a distance because obviously it was roped
3 off. I didn't want to disturb it. I don't think
4 pictures had been taken at that point.

5 Q These shell casings were scattered out all around the
6 body?

7 A They were.

8 Q Now, did you take some measurements, mile-wise of the
9 distance from Olive Garden to the crime scene that
10 occurred on 28 bypass?

11 A I did.

12 Q What's the distance there?

13 A At that point we didn't know exactly how Ryan had
14 gotten -- other than obviously Skyler telling us that
15 he walked off from her and he never was back in her
16 car.

17 We did wind up interviewing every employee at Olive
18 Garden to what they saw that night, what they knew
19 about Ryan and Skyler, what they might have known
20 about Johnny Mahaffey, if they knew him at all.

21 We had a couple of witnesses, at least one, if not
22 two, that remembered Skyler and Ryan walking out and
23 Ryan walking away, out towards the entrance and up
24 through the parking lot in the direction of Hobby
25 Lobby, which you can make your way back around past

- 1 the Mexican restaurant up 28 bypass. It's kind of a
2 back entrance to that shopping center.
3 The mileage from the parking lot, back up to the back
4 parking lot to the crime scene .7 miles. If you go
5 out on Clemson Boulevard, it's .9.
- 6 Q How you measuring this, by the way?
- 7 A Just my car's odometer.
- 8 Q Did you also try to take measurements from the crime
9 scene to [REDACTED] Lane?
- 10 A Yes, sir.
- 11 Q What was the distance there?
- 12 A Eleven point five miles -- hold on one second. The
13 point from Jasmine Lane to the crime scene or vice
14 versa, if you take Clemson Boulevard, it's 8.5 miles.
- 15 Q That's as the road winds around?
- 16 A Yes, sir.
- 17 Q Not as the crow flies?
- 18 A No, sir.
- 19 Q After he was in custody, did you stop your
20 investigation at that point?
- 21 A No, sir.
- 22 Q What did you do with this case. What were you trying
23 to do at that point in time?
- 24 A A couple of days after the arrest of Mr. Mahaffey,
25 arrested Jamie Mahaffey for misprison of a felony.

1 Q Why did you arrest her?

2 A Because she had given false information to us
3 regarding her statement on the night of -- actually
4 the morning of the incident.

5 Q And were you able to prove that she wasn't telling
6 the truth at that point in time?

7 A Yes, sir.

8 Q How did you all go about proving that?

9 A By her timeframes, because it showed -- and the cell
10 phone records -- it showed that she, as I said, I had
11 the tower information before a lot of other things,
12 showed her phone bouncing off a tower closer to her
13 home than where she said she was at 9:30. So she was
14 actually at home during that time.

15 Q And she was charged in this case?

16 A She was.

17 Q Now, you also subpoenaed her cell phone records as
18 well as her mother's cell phone records. Is that
19 right?

20 A We did.

21 Q Did you review all five cell phone records to get an
22 idea of what was happening that night?

23 A I did.

24 Q I'm going to hand you State's Exhibit 45. This is
25 part of the records that you reviewed?

1 A Yes, sir.

2 Q On those records were you able to determine the cell
3 phone calls and patterns of Mr. Mahaffey dealing with
4 this case --

5 A Yes, sir.

6 Q -- at that time? And what phone number do you have
7 listed for Johnny Mahaffey's cell phone?

8 A That phone was 367-4319.

9 Q And do you recall the number that Ryan Cox was
10 carrying, associated to the cell phone that he was
11 carrying?

12 A 367-4329.

13 Q And how about the phone number of Jamie Mahaffey?

14 A Jamie's was not a Sprint phone; an Alltel phone,
15 958-1930.

16 Q And you reviewed these records in correlation to
17 where the cell phone towers were. Is that correct?

18 A Yes.

19 MR. CAMPBELL: Your Honor, at this time if I could
20 have Officer Reeves come off the stand.

21 THE COURT: Yes, sir.

22 A (Witness steps down.)

23 Q At my direction, did you have a chart made up with
24 the cell phone records.

25 MR. GAMBLE: Objection. Object to introduction of

1 this chart.

2 THE COURT: He hasn't offered it yet.

3 MR. GAMBLE: When he does, I don't want it shown. He
4 has it out.

5 THE COURT: He can use it for demonstrative purposes.
6 I don't know if he's going to even offer it. Go ahead.
7 Objection at this point is overruled.

8 MR. GAMBLE: My objection is, I don't want it in
9 front of the jury at this point in time because of what it
10 shows. I'd like to argue outside their presence at this
11 point in time.

12 THE COURT: At this point in time I overrule your
13 objection. I'll let him use it for demonstrative purposes
14 only at this time.

15 Ladies and gentlemen, the difference between
16 something going into the evidence, if you -- if it goes
17 into evidence, take to the jury room with you, it's in
18 evidence. If someone is using something for demonstrative
19 purposes, they're using it to help explain the testimony
20 to the jury. That's what I'm allowing it for at this
21 time. Please proceed.

22 MR. GAMBLE: Can I put something on the record? I
23 understand, for the record -- I want to be clear for the
24 record. I object because of the pictures on there. We
25 don't know who was using which cell phone at that time.

1 THE COURT: I understand. That goes to weight,
2 sufficiency of the evidence, not admissibility. Please
3 proceed.

4 BY MR. CAMPBELL:

5 Q Detective Reeves, did you have a chart done up based
6 upon exhibit number 45, Johnny Mahaffey's cell phone
7 records?

8 A Yes, sir.

9 Q And who did this chart for you?

10 A SLED.

11 Q SLED produced or generated it?

12 A Yes.

13 Q And have you reviewed this poster board?

14 A I have.

15 Q And have you compared it to Johnny Mahaffey's cell
16 phone records that night?

17 A I have several times.

18 Q Based upon what you reviewed, is the times and names
19 associated with what's in that record?

20 A Yes, sir.

21 Q Now, you based the cell phone times off exhibit 45;
22 is that correct?

23 A Yes, sir.

24 Q Some of the information, other information you put in
25 here, based upon information you received pursuant to

1 your investigation?

2 A Yes, sir.

3 Q Okay. Were you able to determine --

4 THE COURT: What's the problem?

5 FOREPERSON: Some of them back there can't see. Can
6 they move forward?

7 THE COURT: Okay. Bring it around. Can everybody
8 see now? It's okay for them to get up and stand around if
9 they want to. Stand over here and stand where the officer
10 is sitting if they want to, if that would help.

11 You have your glasses? Can you see better there?
12 Can you see okay now? Why don't you go to the other end
13 of the jury box.

14 PROSPECTIVE JUROR: I can make it out here.

15 BY MR. CAMPBELL:

16 Q Now, Detective Reeves, were you able, first, to
17 confirm that Ryan Cox was working at the Olive Garden
18 that day?

19 A Yes, sir.

20 Q And do you know what time he checked out -- clocked
21 in, excuse me?

22 A I think roughly clocked in, several hours before Mrs.
23 Andrews clocked in, an hour before she did.

24 Q What time?

25 A As I recall, about nine when he clocked out. And she

1 clocked out about 10:30.

2 Q Now, after that were you able to determine or
3 actually corroborate what Mr. Mahaffey had already
4 said to you about the Mellow Mushroom?

5 A Yes.

6 Q How did you do that?

7 A They called the Mellow Mushroom from -- the Mellow
8 Mushroom called from cell phone registry to him.

9 Q Were you able to show, confirm that on the records?

10 A Yes.

11 Q In fact show on the records?

12 A Yes.

13 Q The 624-4226 is Mellow Mushroom?

14 A Yes.

15 Q And you confirmed that?

16 A Yes.

17 Q Where is that located or shown on this cartridge?

18 A Here 8/17/2006 that Thursday at 7:51 p.m.

19 Q After that, were you able to look at the records and
20 determine what time Ms. Andrews' cell phone was
21 called from the phone, the 4329 number?

22 A Yes, sir.

23 Q What time was that?

24 A It was the same day, approximately 10:40 p.m.

25 Q And at that point in time, to your knowledge, was

- 1 Mr. Cox still alive?
- 2 A Yes, sir.
- 3 Q And based upon exhibit 45, what's the next entry that
- 4 you were able to observe?
- 5 A The next entry was the phone registered to
- 6 Mr. Mahaffey calling the phone registered to Jamie
- 7 Mahaffey and that time was 10:48 p.m.
- 8 Q And you stated earlier, based upon the cell phone
- 9 records, you were able to determine that he was in a
- 10 certain location?
- 11 A Yes, sir.
- 12 Q What location were you able to determine he was in?
- 13 A Within the coverage area of the Evergreen Hills
- 14 tower, which was at 1411 Whitehall Road, which
- 15 actually sits behind the old Winn Dixie at Whitehall
- 16 and 28 bypass.
- 17 Q That was at 10:48?
- 18 A Yes, sir.
- 19 Q After that, did he make any other phonecalls?
- 20 A At 10:40 -- at 11:14 phone registered to Mr. Mahaffey
- 21 was used to call a phone registered to Mrs. Andrews,
- 22 11:14 p.m. that Thursday.
- 23 Q Where was this phone hitting off of? What cell phone
- 24 tower?
- 25 A That hit off La France tower.

1 Q Did he call her back?

2 A He called her at 11:14, the phone registered to Jamie
3 Mahaffey, called the phone registered to Johnny
4 Mahaffey.

5 THE COURT: Officer Reeves, you need to speak up.

6 The court reporter is having trouble hearing you. Okay?

7 A Yes, sir. They made several phonecalls to each
8 other.

9 Q Were you able to determine which cell towers they
10 were hitting off of?

11 A Yes, sir. As you said, the first one, 10:48 hit off
12 the La France tower. The next call Mr. Mahaffey made
13 hit off the Clemson tower.

14 Q Did you drive this route by the way?

15 A I did.

16 Q Did you, have you looked at these cell phone towers?

17 A Yes, sir.

18 Q Where was Mrs. Andrews, the phone that she has, where
19 were those phonecalls? What towers were they hitting
20 off of?

21 A When she called back, her initial first phone call, I
22 think they have information on the first one. The
23 first one they had information was off the La France
24 tower. Would be the closest tower to her house.

25 Q What time was that?

- 1 A 11:09 p.m.
- 2 Q And you heard her testimony; is that correct?
- 3 A Yes, sir.
- 4 Q And, as you said, they went back and forth calling?
- 5 A Yes, sir.
- 6 Q Is that depicted in this chart?
- 7 A Yes, sir.
- 8 Q Now, at any other point when you reviewed his
- 9 records, these cell phone records to the number
- 10 register 367-4319, at any other place did you see his
- 11 cell phone hitting all the Whitehall Road cell phone
- 12 tower?
- 13 A No, sir.
- 14 Q And the only time you say it was 10:48?
- 15 A Yes, sir.
- 16 Q And that was eight minutes after the phone registered
- 17 to Skyler, the phone Ryan Cox was carrying, dialed
- 18 Mrs. Andrews?
- 19 A Yes, sir.
- 20 Q I want to show you also for exhibit purposes, showing
- 21 these cell phone towers in different colors. Is that
- 22 correct?
- 23 A Yes, sir.
- 24 Q What are they correlating to?
- 25 A The green is the Whitehall Road tower; the blue, La

1 France tower; and the orange is the Clemson tower.

2 Q Show you, for demonstrative purposes, based upon the
3 cell phone records, is this general approximation
4 where the cell phone towers are laid out?

5 A Yes.

6 Q And where, approximately, if you'll mark with a red
7 push pin, did the murder take place?

8 A (Witness complies.)

9 Q And approximately -- this map right here is not to
10 scale. Is that correct?

11 A No, sir.

12 Q This is kind of a blown-out, far view?

13 A It is.

14 Q Overlay?

15 A It is.

16 Q Approximately, using a yellow push pin, can you show
17 where [REDACTED] Lane is? Of course, these aren't
18 100 percent accurate, but that's a general proximate
19 location on this map. Is that right?

20 A Yes, sir.

21 Q So the cell phone tower his cell phone hit off of at
22 10:48 was close to the murder scene?

23 A Yes, sir.

24 Q And based upon your cell phone records, you can show
25 his cell phone, that phone registered to him, was

1 hitting off of those towers?

2 A Yes, sir.

3 Q Since you are already down here, show you this for
4 demonstrative purposes, can you tell the ladies and
5 gentlemen of the jury what this chart or the diagram
6 is depicting?

7 A A blown-up version, not exactly to scale, overlay of
8 this area right here, the crime scene at 28 bypass.
9 This shows by the signs, the orders of the businesses
10 on that side of the road. Carries some significance
11 in this case, GMC lot at that time. It's Upstate
12 Chevy now. And, obviously, Olive Garden at Station
13 Drive. Also show on here, [REDACTED], home of
14 Jamie Mahaffey. Also show a picture of Jamie
15 Mahaffey's address, her address [REDACTED]
16 and [REDACTED], which is Watson Village
17 Shopping Center.

18 Q What is the purpose of the Watson Village shopping
19 center?

20 A In Jamie's statement to me, one of Jamie's statements
21 to me, she advised when she left the house that
22 Johnny had given her a bag of garbage from the back
23 door, and also a bag of garbage in the car. He asked
24 her before she left to dump the bags of garbage
25 before she went to her Mom's house. Idea he wanted

1 her to go to Mom's house, get directions for a trip
2 to New York for a wedding. She advised growing up in
3 Homeland park, said she didn't have garbage pick up.
4 Lot of people use dumpsters, which it happened she
5 pulled in behind the goodwill and post office in the
6 back and dumped the bag of garbage in the dumpster.
7 That's what that depicts.

8 Q And from here, from [REDACTED] Lane to [REDACTED]
9 [REDACTED], how far is that, do you know?

10 A Roughly 27 miles. I can get the exact figures.

11 Q Also you're showing a yellow symbol with a pistol.
12 What is that reference to?

13 A The location we recovered the murder weapon in this
14 case.

15 Q So the crime happened here and the murder location
16 was recovered -- I mean the murder weapon was
17 recovered about right there?

18 A Yes, sir.

19 Q All right. If you'll please take the stand.
20 (WHEREUPON, State's Exhibit No. 53 - 55 are marked
21 for identification.)

22 Q Now, Detective Reeves, at this point in time that's
23 about all the information you had linking
24 Mr. Mahaffey to this crime scene; is that correct?

25 A Yes, sir.

1 Q In fact, you didn't have a whole lot of evidence at
2 this point in time?

3 A No, sir.

4 Q But you continued working the case?

5 A Yes, sir.

6 Q And did you learn any other information besides a
7 call being made from that phone number registered to
8 him off the Whitehall Road tower, and to link him to
9 this murder?

10 A Yes, sir. We had the opportunity, or I did, to
11 interview Jamie Mahaffey again.

12 Q And when was that?

13 A As I recall that was April or May.

14 Q After she had her baby?

15 A Yes, sir.

16 Q At any point in time after you interviewed her, did
17 you consider her as a suspect?

18 A No, sir.

19 Q Why is that?

20 A We didn't have anything linking her with the cell
21 phone towers. Obviously, you mentioned we didn't
22 have much evidence at that point, to knowing they hit
23 off the towers typically closest to where you are,
24 which is the strongest tower. You can almost to a
25 certainty say that the person that's using this phone

1 is in a certain area. Didn't have any information
2 that she was near the crime scene at the initial time
3 we talked with her. So we didn't look at her as a
4 suspect at that point.

5 Q She eventually gave you another statement. Is that
6 correct?

7 A She did.

8 Q In a second statement what did she disclose to you
9 that she hadn't already disclosed before?

10 MR. GAMBLE: Already been into the statement with
11 Mrs. Andrews.

12 THE COURT: I sustain the objection.

13 BY MR. CAMPBELL:

14 Q As a result of taking other statements from Mrs.
15 Andrews, did you attempt to, in any way, shape, or
16 form corroborate what she stated to you?

17 A We did.

18 Q What did you do?

19 A She had advised us --

20 MR. GAMBLE: Again, your Honor.

21 THE COURT: I overrule this time. If you want to
22 state your legal objection, I'll be glad to hear. Sorry,
23 I'll be glad to hear you. What's your legal objection?

24 MR. GAMBLE: Hearsay.

25 THE COURT: Overruled.

1 THE WITNESS: She advised us in a subsequent
2 statement that she had dumped the garbage bags, which she
3 did not mention to us prior to that time. We did go out
4 to that location with her and let her point out the exact
5 dumpster, because there are several behind that dumpster.
6 Because it is emptied -- looking at the schedule with the
7 dumpster company, it had been dumped twice before we ever
8 had an idea to look there.

9 Q Now, let's get right to the matter of it. At some
10 point in time you had another conversation with
11 Mr. Mahaffey?

12 A Yes, sir.

13 Q Do you recall what date that was?

14 A June 11.

15 Q I'm going to show you what's been marked State's
16 Exhibit 53. I'm going to show you what's been marked
17 at this point in time for identification as State's
18 Exhibit 53. Can you please identify what this is,
19 sir?

20 A Yes, sir. This is an advice of rights, sheriff's
21 office advice of rights, Miranda form, waiver form;
22 and a seven-page statement given by Johnny Earl
23 Mahaffey.

24 Q Whose name is on this advice of rights form?

25 A Johnny Earl Mahaffey.

1 Q I want to get into first, how you spoke to
2 Mr. Mahaffey. Can you please tell the ladies and
3 gentlemen of the jury how you came into contact while
4 he was incarcerated at the detention center?

5 A On June 11, which was a Monday, I recall that very
6 well because it's the day before my birthday. My
7 wife and daughter were going to take me out to
8 dinner. We were actually there. My county-issued
9 cell phone went off, and the first thing I hear is a
10 female voice saying, "you're receiving a free call
11 from a local correctional institute."
12 I'll be honest with you, I had not gotten one like
13 that. I know we had a new system at the detention
14 center that had those recordings. I honestly had no
15 clue. I've put numerous people in jail over 12
16 years. I had no idea who it was. I tried to step
17 out the restaurant, make it out, because there was a
18 bad connection. I was able to hear and recognized
19 the voice as Johnny Mahaffey on the other end.

20 Q What did he tell you in this phone call?

21 A He wanted to talk to me. My initial reaction was,
22 obviously, he has counsel, had Mr. Gamble at that
23 point in time. I advised him of that several times.

24 Q And he still wanted to talk to you?

25 A Yes, sir.

1 Q And what action did you take?

2 A I told him, I think that I would; but I prefaced that
3 he did have counsel, I would have to speak with
4 Mr. Campbell. And I think, if I recall the first
5 phone call, that would be something we would have to
6 okay with Mr. Gamble, because he was your counsel at
7 that time.

8 Q As a result of that, did you go talk to him?

9 A Did not.

10 Q Did you have any other contact with Mr. Mahaffey
11 after that?

12 A Exactly a week later, 18th, Monday, again. And I was
13 eating, I was at my church. My daughter had a
14 program going on. I had to walk out of the church.
15 Again, it was a bad connection. Actually had to get
16 out of the building, in some quiet, to make out what
17 he was saying. And it was Mr. Mahaffey again.

18 Q What did that conversation entail?

19 A Again, he wanted to talk to me, wanted me to come
20 down and talk with him. Said he had made several
21 requests of Mr. Gamble to talk with him. And I told
22 him he still had counsel. And I told him, would be
23 something I would have to get in touch with
24 Mr. Campbell, he could get in touch with his attorney
25 and make out some kind of arrangements and make sure

1 that it suited everybody involved.

2 Q And that was done in this case?

3 A I called you that evening to let you know that was
4 the second phone call, obviously, we had inside of a
5 week; and let you know that he had reached out again
6 to make contact with me. And we made a decision then
7 to go down and talk with him that week.

8 Q Did you talk to him that week?

9 A I did.

10 Q What day was that?

11 A On the 21st.

12 Q Now, he was in custody at this point in time?

13 A He was.

14 Q And he had reached out to you twice to ask you to
15 come down and talk to him?

16 A Yes, sir.

17 Q At any point did he want his attorney to be present
18 with him?

19 A No, sir.

20 Q And did you advise him of his rights about talking --

21 A We did.

22 Q -- talking to law enforcement?

23 A Detective Malone accompanied me down for the
24 interview because he had been involved with me on it
25 before. Or up to that point we did the same form

1 that we did on the night of the 17th, which is an
2 advice of rights waiver form. He initialed the areas
3 that I wanted him to initial, which I do it the same
4 way every time. And he signed off that he understood
5 his rights and he signed off on the waiver of his
6 rights.

7 Q Detective Reeves, can you see this from where you're
8 seated?

9 A Yes, sir.

10 Q Is that the advice of rights form shown in State's
11 Exhibit 53?

12 A Yes, sir.

13 Q And it says ACDC. What does that mean?

14 A Anderson County Detention Center.

15 Q The date and time is what? What time did this start?

16 A About 9:05. It took us a little while to get back to
17 the interview room.

18 Q Starting with the questions, what did you tell him in
19 regards to giving the statement?

20 A As pursuant to this document?

21 Q Yes, sir.

22 A Even before we started this, I did advise him again.
23 As I did with the phonecalls. He did have a lawyer.
24 He said he knew that and he wanted to talk to me. I
25 advised him, as I do everyone, obviously, if they're

1 in custody, "You're in custody. We're not at your
2 home, not out at the park, just talking where I could
3 take a statement from you," wouldn't be an issue, I
4 said, "You're in custody, We have to do one of these
5 forms."

6 And he said he understood, went through the two
7 different parts of the form, the advice of rights and
8 the waiver.

9 Q You told him he had a right to remain silent?

10 A Yes, sir.

11 Q And he understood this right?

12 A Yes, sir.

13 Q You tell him anything you say may be used against you
14 in court?

15 A Yes, sir.

16 Q And he appeared to understand that?

17 A Yes, sir.

18 Q Did you tell him he had a right to speak to a lawyer
19 for advice before you asked any questions and have
20 him with you during questioning?

21 A Yes, sir.

22 Q If you cannot afford a lawyer, one will be appointed
23 for you before any questioning if you wish?

24 A Yes, sir. He read that back to me, which that's a
25 point I make on every one of the statements, have

1 them read back a line on one of the statements, have
2 them initial, read it back to me. In this case I
3 didn't need it, it also proved to me the person can
4 read.

5 Q And the last thing you told him, "If you decide to
6 answer questions now without a lawyer present, you
7 will still have the right to stop answering questions
8 at any time. You also have the right to stop
9 answering questions at any time until you speak to a
10 lawyer"?

11 A Yes, sir.

12 Q He understood the rights?

13 A After we got through that portion of each bullet, or
14 each sentence there, I asked, "Do you understand
15 these rights, each portion"? Said, he did.
16 I said, "If you did understand, I need you to put
17 your signature in the first blank there on the top
18 portion."

19 Q He appears to be under the influence of alcohol or
20 drugs at this point in time?

21 A No, sir.

22 Q He appear comfortable?

23 A Yes, sir, recognized me, also recognized Detective
24 Malone from the Jasmine Lane address that night.

25 Q So he was coherent and alert?

1 A Yes, sir.

2 Q And after that, did you have him sign the waiver of
3 rights?

4 A I did, as I do on everyone. I use the form, I read
5 the waiver of rights to them, underline the words,
6 ask if they understand, which is coercion, even if
7 they do or don't, I give them an explanation. I use
8 on everyone and ask them to put their initial. Their
9 initial shows they understand and that nothing like
10 that has been done.

11 Q At any point during this time did you force,
12 threaten, or coerce him in order to get him to make a
13 statement to you?

14 A No, sir.

15 Q And after that, did he voluntarily make a statement
16 to you?

17 A He did. We completed this form. He signed it on the
18 bottom portion of the waiver of rights, and I
19 basically asked him, I said, "You asked me down here.
20 What do you want to do? What am I down here for?"
21 Because it was somewhat vague, obviously, on the
22 phonecalls, other than just come down to see me. I
23 want to talk to you. He said, I want to give a
24 statement.

25 I explained to him how I normally did it. I didn't

1 want to do it any other different way. Verbally we
2 could talk, he could tell me whatever he wanted to
3 tell men. Then I would put down in written form he
4 could review it, add anything, delete anything,
5 whatever he wanted to do, draw smiley faces on it.
6 After got to that point, initial in the proper places
7 and sign his signature as it being his own words.

8 Q Did he sign the statement?

9 A He did.

10 Q Is it memorialized in these seven pages, State's
11 Exhibit 53?

12 A Yes, sir.

13 MR. CAMPBELL: Your Honor, at this point in time I'm
14 going to move this into evidence.

15 THE COURT: What number is that?

16 MR. CAMPBELL: Fifty-three.

17 THE COURT: And 54 and 55, for identification. I
18 thought you had the cell phone.

19 MR. CAMPBELL: We'll do it both ways. That's a
20 waiver, 56, and the statement will be 57.

21 THE COURT: Any objections?

22 MR. GAMBLE: No, sir, I haven't.

23 THE COURT: No one requesting a Jackson v. Denno
24 hearing, either; is that correct?

25 MR. GAMBLE: I don't believe interest for me go into

1 that, acting as his own counsel.

2 THE COURT: Just asking if you want one, if you --

3 MR. GAMBLE: No, sir.

4 THE COURT: Thank you very much. So, State's Exhibit
5 56, the waiver; 57 is the statements, admitted without
6 objection.

7 MR. GAMBLE: I recognize the statement under Edwards
8 versus Arizona for record purposes.

9 (WHEREUPON, State's Exhibit No. 56-57 are marked for
10 identification and received in evidence.)

11 Q Now, Detective Reeves, will you please tell the
12 ladies and gentlemen of the jury what he told you?

13 A When I asked him exactly what he wanted to do, your
14 statement, you can start anywhere you want to,
15 whatever you want to do. Let me back up. Even when
16 we finished the advice of rights, I asked him again
17 and let him know again, I said, "Your attorney has an
18 office right up here above the detention center, and
19 I can either contact Mr. Gamble or Mr. Thomason."
20 And he said, "No," that he wanted to talk to me.
21 And I said, you know, "Tell me what you want to tell
22 me."

23 He went into a little bit about the problems that he
24 had been having with Ryan, specifically an incident
25 that had happened at Olive Garden, that was

1 unreported. But we knew from talking to Skyler that
2 it had been an incident between where the three of
3 them were present he said Ryan had pulled a knife on
4 him at one time. No documentation of that, of
5 course, what he said and what we were able to
6 corroborate. He said in altercation he was able to
7 block the knife and toss it away and was not injured
8 in that. He did say that Ryan had threatened to kill
9 him on more than one occasion. And that he collected
10 knives and swords. He said that at a certain point
11 he felt like he needed protection. In his words I
12 think said, hooked up with a security guard/policeman
13 and he took great, I would just use the term "joy" in
14 telling us that. Smiles. It was the Johnny
15 Mahaffey I met remember, white we in fact confident
16 cool. I even asked, "Why you smiling about that?"
17 "Well, might have been a cop or whatever, even had a
18 University uniform on. I even told him what the
19 patch look like. I you got some more information you
20 need to corroborate what you're telling me. I just
21 said, just by saying that, who did he work for if he
22 had a name badge on? I know you knew who he worked
23 for. He, he didn't want to give more information
24 than that, but said he actually met him in
25 Spartanburg. I actually bought a firearm from him, a

1 Ruger. He mentioned a P-something, he didn't
2 remember the model name; but said that he had met
3 this individual and actually said they went out and
4 test shot the gun before they bought it. But it was
5 a 9 millimeter semi-automatic Ruger P something, said
6 it did hold eight rounds and he purchased a couple of
7 clips with the gun, or magazines, in that case. He
8 said he paid him \$400 cash for the weapon and two
9 clips and a box of ammunition, said the individual in
10 Spartanburg sold him five hundred rounds.

11 Q In fact, on Page 2 he's in there stating that he
12 bought a Ruger P-something and a couple of clips. Is
13 that right?

14 A Yes, sir.

15 Q Is that what you're referring to?

16 A Yes.

17 Q And that he paid cash for it. Is that correct?

18 A Yes, sir.

19 Q States \$400 cash?

20 A Yes, sir.

21 Q Now, he mentioned to you where he kept this gun?

22 A Said he kept it in the glove box of the Honda.

23 Q Which is put down in the first line on the second
24 paragraph, kept the gun in the glove box of the
25 Honda?

- 1 A Yes, sir. But he said he brought it in at night into
2 the house.
- 3 Q And did he admit to you what he did with this pistol?
- 4 A Yes, sir.
- 5 Q What did he admit to you what he had done?
- 6 A The next paragraph he said, "The night I shot Ryan
7 and those were his exact words."
- 8 Q So looking at page two, he admits he had shot Ryan?
- 9 A Yes, sir.
- 10 Q He also admits he went and bought pizza. Is that
11 right?
- 12 A He did.
- 13 Q This says Yellow Mushroom?
- 14 A Yes, sir.
- 15 Q That's supposed to be the Mellow Mushroom?
- 16 A Yes, sir.
- 17 Q And he also gave you information about where they
18 were taking a trip. Is that right?
- 19 A Yes, sir.
- 20 Q And where did he say he was going?
- 21 A He said Rhode Island.
- 22 Q A long distance away?
- 23 A Yes, sir.
- 24 Q And was going to a wedding. Is that right?
- 25 A Yes, sir.

1 Q In fact, he mentioned they were going to a wedding?

2 A Yes, sir.

3 Q Now, did he get into any specifics starting on page
4 three, dealing with the actual shooting in this case
5 of Mr. Cox?

6 A He did.

7 Q In fact, he admitted being on the 28 bypass, did he
8 not?

9 A He did.

10 Q He admitted being on the 28 bypass that night.

11 A Yes, sir.

12 Q And he talked about passing the GM dealership that
13 night?

14 A He did.

15 Q And on that night he recognized Ryan Cox?

16 A He did.

17 Q When you saw the body on 28, was Mr. Cox dressed in
18 Olive Garden shirt?

19 A Yes, sir. I believe he was.

20 Q And tell -- how did he tell you he did this?

21 A He said when he was traveling, he passed someone
22 walking, again, southbound on 28 bypass headed toward
23 Whitehall Road on the side of the GMC lot. And he
24 mentioned he didn't recognize them at that point. He
25 seemed to be waiving, this individual was waiving at

1 Mr. Mahaffey. So he turned around and now he's going
2 in the same direction as the walker, which is going
3 to be Ryan Cox. When he got up, up close enough
4 where the lights illuminated the walker, he said he
5 recognized who it was.
6 He said he pulled off the roadway right next to the
7 guardrail on the southbound side of the guardrail.
8 Obviously no business or any commercial areas on
9 either side of the road, but in the area of the
10 sidewalk. They have the scooped area where a future
11 driveway maybe. That's the area he said he pulled
12 off the road in his car.
13 Q In fact, he put it in here in the statement. Pulled
14 off the roadway on the sloped curve?
15 A Yes, sir.
16 Q At the end of the guardrail?
17 A Yes, sir.
18 Q And that was on the same side as the GMC dealership?
19 A Yes, sir.
20 Q And that's where the body was laying, was it not?
21 A It was.
22 Q He went on to mention that both he and Ryan got into
23 a fight?
24 A He advised he pulled up off the roadway. And Ryan
25 came over to the window. And I had asked him what

1 was said. And he said Ryan was laughing at him about
2 some paperwork that had been served on Skyler that
3 evening at her job at Olive Garden. And he was there
4 to know that because they were both working that
5 night.

6 Q And he mentioned they got into a fight. Is that
7 right?

8 A Yes, sir.

9 Q And at the scene did you see any type of evidence
10 that would lead you to believe that Ryan and Johnny
11 Mahaffey actually got into a physical confrontation?

12 A No, sir.

13 Q And in the statement he further wanted to say that he
14 took the nine millimeter pistol out of the glove box,
15 got into the glove box and retrieved the Ruger 9
16 millimeter, correct?

17 A Yes, sir.

18 Q Further went on to state that he moved the gun from
19 his right hand to his left hand and got two or three
20 quick shots off?

21 A Yes, sir. At that point he said that after the
22 initial conversation, that Ryan reached through the
23 window of the car and grabbed him around the neck.
24 He was able to break free, speaking of Mr. Mahaffey.
25 And instead of leaving, he got out with Mr. Cox and

1 he said there ensued a physical confrontation between
2 the two. He didn't say wrestling on the ground or
3 anything to that extent, just trading blows. He
4 said, you know, I was able to fend off some of the
5 blows, this, that, and other, land a couple; but he
6 got back into his car, speaking of Mr. Mahaffey.
7 When he did, said he reached across the seat, got in
8 driver's side, reached across the seat into the glove
9 box, got the Ruger 9 millimeter out. And as
10 Mr. Campbell said, mentioned in his statement he
11 moved it from his right hand to his left hand and
12 Ryan got in on top of him.
13 So you've got Mr. Mahaffey laying sprawled out on his
14 seat, reached out getting a gun out of the glove box,
15 Ryan Cox on top of him. And I asked Mr. Mahaffey,
16 what's going on? He said, "Well he's trying to hit
17 me in the back of the neck, or back of the head or
18 whatever. But he mentioned it was close quarters, so
19 he wasn't really landing much of anything. But he
20 was able to move the gun from his right hand to left
21 hand and fire off a couple of quick shots back up at
22 Mr. Cox who was on top of him, to get him off of him.
23 He said Mr. Cox did -- he didn't know if he shot him
24 is what Mr. Mahaffey said.
25 I asked him where did he go, and -- "Where did you

1 go?"

2 "He's up off me."

3 I said, "Is he outside on the ground? Outside your
4 car? Was he shot? What was going on?"

5 He said, "We weren't right outside the car, but he
6 was over there."

7 I said, "Where?"

8 He said, "Over there, where you all found him near
9 the curb."

10 And I said, "Well, is he coming at you? You know,
11 has he got a hatchet, machete, or machine gun?" I
12 said, "What was going on?"

13 And he said, not any -- he said he walked over to him
14 and emptied the clip into him.

15 Q That's where he starts over on page four, walked
16 over, started shooting. Shot the gun until it went
17 click, click?

18 A Yes, sir. And he said he thought maybe he dry fired
19 it ten times.

20 Q Ten times. And later in that statement he also
21 confirmed that he did call Jamie shortly thereafter.
22 Is that right?

23 A He did. He eventually got back into the car, the
24 Honda, and drove out of this. He said he went down
25 the cut-through road next to the pool place, which is

1 just up the street. It's the Recreational Warehouse
2 that sits down in a hole, has the swimming pools in
3 front of it and the play sets. And he turned down
4 that cut-through road. And at that point he stopped
5 and he attempted to call Jamie on his phone. That's
6 going to be the call that hit off the tower on
7 Whitehall Road.

8 Q He scratched out, "I called" and put there "I, for a
9 moment," referring to the pool place, and "I called
10 Jamie but did not talk to her."

11 A Right.

12 Q And then he goes on to give a victim's description of
13 the route he took. Is that right?

14 A Yes, sir.

15 Q And he also goes into what he did when he got to the
16 house?

17 A Yes, sir.

18 Q Admits he washed his hands?

19 A Yes, sir, he did.

20 Q And what is the significance of washing hands when it
21 comes to crime scene investigations?

22 A Clean anything off his hands, might connect him to
23 the crime, such as gunshot residue.

24 Q Also mentions after he got him, he collected the
25 trash?

1 A Yes, sir.

2 Q Told her to dump it on the way. Now he was also a
3 little concerned with this car being matched to him.
4 Is that right?

5 A Yes, sir.

6 Q He was afraid that the Honda could be linked back to
7 him that night and he put it in the statements?

8 A Yes, sir.

9 Q In fact, he put in he was worried that a witness had
10 ID'd the car. Is that right?

11 A Yes, sir. His exact words were "It didn't dawn on me
12 until I was walking the dog." Which when he got back
13 to the house, he watered the lawn and walked the dog
14 after killing Mr. Cox. After he walked the dog, he
15 said it didn't dawn on him until after walked the
16 dog, the Honda could be linked back to him by Skyler
17 or a passerby on 28 bypass.

18 Q Initially he's claiming self-defense in this case; is
19 that right, then changes his story on the second set
20 of shots?

21 A Earlier, yes, sir. Initially my thought.

22 Q He told you why we were fighting, the first shots
23 were done in self-defense, right?

24 A He took a point to stop and actually put his hands up
25 like this and said I want to make something real

1 clear, that what happened in the car was
2 self-defense; but what happened out on that road was
3 not. And he wanted to tell me why.

4 Q And that's where he put in his second set of shots?

5 A He said that before they ever started fighting that
6 Ryan had said to him -- this is Ryan Cox speaking to
7 Mr. Mahaffey -- "When your little girl grows up, I'm
8 going to have her like I do her mother." Speaking of
9 Skyler. And he said he took that as a threat against
10 the well being of his daughter and it put him in a
11 different mind set.

12 Q Now, that's his signature at the bottom of this. Is
13 that correct?

14 A Sir?

15 Q On page 6, that's his signature at the bottom?

16 A Yes, sir.

17 Q He signed this after you all went through all this?

18 A Yes, sir.

19 Q He had an opportunity to read all of this statement?

20 A Yes, sir. Made several corrections, took a good long
21 read of the whole statement, even after I had read it
22 back to him.

23 Q And you gave it to him -- cross that out. You gave
24 the statement to him in order to review; is that
25 right?

1 A Yes, sir.

2 Q And did he read over it prior to signing it?

3 A Yes, sir. I read it to him. He read over it. We
4 made corrections. When I read it back to him, made
5 corrections; when he read over it, if wanted to add
6 or delete anything; and, as I recall, before we even
7 read over it, he asked a question, if the victim's
8 family would get an opportunity to read this
9 statement.

10 Q Main thing in this, he admitted he shot and killed
11 Ryan Cox?

12 A Yes.

13 Q Once you got this statement, did you stop and rest at
14 that, saying "case is closed"?

15 A No, sir.

16 Q What did you do next?

17 A Not being a diver, I reached out to some people with
18 more expertise than myself, obviously, and spoke with
19 Ken Blakely, at the sheriff's office, who testified
20 earlier.

21 Q Did he tell you what he done with the gun?

22 A He did.

23 Q Where did he tell you he had thrown it?

24 A He said that he was on his way back home, he took a
25 route that took him out Centerville Road, over Old

1 White City Park Bridge and then thrown it off in the
2 creek. Heading off toward Pendleton, Centerville
3 Road, the middle of the bridge, "I threw it out on
4 the creek side." Which is on the right side.

5 Q Which lake is this?

6 A He threw it in Hartwell lake.

7 Q That's in Anderson County? Do you know how big
8 Hartwell Lake is.

9 A Nine hundred and fifty miles of shoreline.

10 Q How many acres, do you know?

11 A Not exactly sure. Sounds to me like it would be a
12 big number.

13 Q Approximately 950 miles of shoreline?

14 A Yes, sir.

15 Q He told you where he threw the pistol?

16 A Yes, sir.

17 Q As a result of that, did you have the dive team go
18 down in the general location?

19 A I did. Got in touch with Ken Blakely, sheriff's
20 office, because I knew he was a certified diver and
21 dived for us before, for evidence. I don't know
22 anything about the area. I didn't know exactly what
23 we needed to do as far as shutting down boat traffic,
24 don't want divers in the water while there's boat
25 traffic, whatever, would be inherently a danger,

1 didn't know how deep the water was. He was able to
2 put together some resources and divers who went out,
3 as I recall, on Friday of that week.

4 Q And they also went back out on Saturday. Is that
5 right?

6 A Yes, sir.

7 Q As a result of that, they actually found the item,
8 the pistol that's marked State's Exhibit Number 35.
9 Is that correct?

10 A Yes, sir.

11 Q And this is the Ruger P something gun that he's
12 mentioning in his statement?

13 A Yes, sir.

14 Q So at that point you're backing up his statement; is
15 that right?

16 A Yes, sir.

17 Q Now, did you also take a look at the route he stated
18 that he took to go home?

19 A Yes, sir.

20 Q Did you compare this route also to the cell phone
21 towers?

22 A Yes, sir.

23 Q And at my direction, did you have a chart made up on
24 the route he stated he took home based upon his
25 statement?

1 A Yes, sir.

2 THE COURT: All right. Before we get to that, we'll
3 take a short break. We been going an hour and 40 minutes.
4 Mr. Foreman, members of the jury, don't discuss the case
5 among yourselves. We'll take about a 15- or 20-minute
6 break. Let the bailiff know if there are smokers or
7 anything you need.

8 (Whereupon, the following proceedings were had within
9 the presence of the jury:)

10 (WHEREUPON, State's Exhibit No. 58 is marked for
11 identification and received in evidence.)

12 Q Show you what's been marked State's Exhibit 58. What
13 is this a diagram of?

14 A A depiction of the route Mr. Mahaffey said he took
15 after the murder of Ryan Cox.

16 Q What is this based upon?

17 A His statement.

18 Q You have marked down here where the murder took
19 place. Is that correct?

20 A Yeah.

21 Q Would you please describe for the ladies and
22 gentlemen of the jury what the route was that was
23 taken?

24 A As he said in the statement, pulled down --

25 Q You have to speak up?

1 A From that point he continued out to Phil Watson Road,
2 took a left to the intersection of old Pearman Dairy.
3 He took old Pearman Dairy all the way out to, it's
4 intersection at Centerville Road, just below the
5 Shell Station. From that point he continued on down
6 Centerville Road to the Old White City Park Road
7 Bridge, cross over 76 and 23. Says he stopped around
8 about the middle of the bridge threw the gun out,
9 using direction of the car, and heading toward
10 Pendleton, on the right-hand side. That would have
11 been on the actual creek side. And all this is
12 headed toward the big water.
13 From that point said he drove on up Centerville Road,
14 across 85, to Old Denver School Road, made a right
15 back through the back side to Sandy Springs Road into
16 the intersection of Sandy Springs Road and Michelin,
17 a Zeke's Country Store and I think a Pantry across
18 the street. Also at that intersection, Old Sandy
19 Springs Road post office building still is there; but
20 the post office is down the road. At that point took
21 a right -- a left excuse me, on Highway 76, headed
22 towards Clemson. And this is conjecture from 76, you
23 turn onto Williams Road, takes you down by La France
24 Middle School and on around to his subdivision and
25 Jasmine Lane.

1 Q Please take the stand.

2 (Witness resumes the stand.)

3 Detective Reeves, this further corroborated his
4 statement. Is that correct?

5 A Yes, sir.

6 Q You felt from his statement, was he telling the
7 truth?

8 A Yes, sir.

9 Q Now, you mentioned talking about Lake Hartwell, about
10 950 miles of shoreline. Can you give the jury a
11 reference from say from Greenville, South Carolina,
12 how far 950 miles is?

13 A I think Boston Massachusetts is right about that,
14 under a thousand miles. So that distance would be
15 about the shoreline of Hartwell, Hartwell Lake.

16 Q Now, at any point in time any other suspects arisen
17 in this case?

18 A No, sir.

19 Q Any other names come up?

20 A No, sir.

21 Q And after you recovered this gun, did you try to
22 determine who owned this gun?

23 A I did.

24 Q And what method did you use? How did you determine
25 that?

Steve Reeves - Direct by Mr. Campbell

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1 I had Andy Tribble, who is a detective at the
2 sheriff's office, he was formerly a U.S. marshal
3 before he came to the sheriff's office. And he
4 officially does all BATF or Bureau of Alcohol,
5 Tobacco, and Firearms, Explosives, traces on
6 firearms. I gave him the information we had on the
7 weapon: The make, model, serial number, anything we
8 knew about it. And I wanted to know when it was
9 manufactured, where, and the first place it was sold
10 to. In that case would be a business take for
11 example Grady's here in Anderson.

12 Q And as a result of this ATF trace, did you find out
13 who the initial owner of this weapon was?

14 A I did. I discovered that 2/6 of 2001 his firearm was
15 shipped to Fast Cash Pawn Shop in Spartanburg on
16 Chesnee Highway. They sold it the same month, 15
17 days later, 2/16/2001 to Dennis Lee Brown, 220
18 Edgefield Road in Cowpens.

19 From that point was able to get information on Dennis
20 Lee Brown, contact him. He's actually a dispatcher
21 for highway patrol in Spartanburg. I asked if he
22 recalled buying the weapon. He said he did. I
23 wanted to know where it was.

24 At this time what his history, what he called of the
25 weapon since he had it. Advised he purchased the

1 weapon from Fast Cash Pawn and sold it to a William
2 Everia, a friend of his who lived in Gaffney, South
3 Carolina, actually a nurse. From that point I was
4 able to talk to Mr. Everia, asked if he recalled
5 buying the weapon from Mr. Brown and where it might
6 be now.
7 He advised me around about spring or summer of 2006,
8 he had traded it, if you will, or had a Ricky Dean
9 Ivey hold it for him for the amount about 200 or \$300
10 because he needed some cash and he wanted the
11 opportunity to buy it back. After a while he called
12 Mr. Ivey and said, "I'm not going to be able to buy
13 it back. You can do what you want to with it."
14 Sometime in the summer of 2006 Mr. Ivey placed the
15 weapon in the Iwanna paper and advertised the make,
16 model, and caliber, and how much he wanted for it.
17 Mr. Ivey wasn't quite sure exactly how long after he
18 posted it in Iwanna after he got a phone call. He
19 had gotten a phone call from someone, as much as he
20 knew, it was a male, said he was from Anderson, they
21 didn't discuss much about the gun or the price, just
22 said that's what he wanted. And the same day the
23 phone call, Mr. Ivey met a white male at his place of
24 business, Baptist Medical Center, in the parking lot
25 and he sold him a Ruger P95 9 millimeter, serial

1 number 31482975 for \$300 cash.

2 I met up with Mr. Ivey after our initial phone call
3 the next day in Gaffney at a Wal-Mart shopping
4 center, took a statement from him, got as much
5 information as he could remember and presented him
6 with a photo lineup that included Mr. Mahaffey. And
7 he was able to successfully identify him from that
8 photo lineup and point him out and say this is the
9 man that bought the gun from me, the Ruger 9
10 millimeter.

11 Q Mr. Ivey is the individual that testified I believe
12 on Tuesday?

13 A Yes.

14 Q Mr. Mahaffey is the fourth owner of this gun?

15 A Yes.

16 Q Gaffney, South Carolina, is that in Spartanburg
17 County?

18 A It is.

19 Q Just for some follow ups, you looked at the car
20 Mr. Mahaffey owned; is that correct?

21 A Yes, sir.

22 Q The Honda Civic?

23 A Yes, sir.

24 Q Were you able to determine if he was actually the
25 registered owner?

1 A Yes, sir.

2 Q On this car you examined the muffler?

3 A Yes, sir.

4 Q Were there any distinct features about this muffler?

5 A This is one of those type of motors -- if it was a
6 stock Honda, you probably wouldn't hear it idling in
7 your driveway or living room. This is an
8 after-market muffler, you all have heard at two or
9 three in the morning, trying to sleep, it's loud,
10 baffled to be loud when idling or when you mash the
11 accelerator.

12 Q During your investigation, you're trying to determine
13 a suspect and also corroborate everything, did you go
14 back to the businesses in the area where the murder
15 took place and look for video to possibly see this
16 car?

17 A As I said, there's no businesses on either side of
18 the road within a good tenth of a mile. And then it
19 gets more congested. Most of us are familiar with 28
20 bypass. I didn't have a chance to do it that
21 morning. Obviously, nothing was open.
22 By Monday of the next week, before we had arrested
23 Mrs. Mahaffey, I was able to go back. Good many of
24 them don't have any video at all. When I'm not
25 working murder, I work white collar crimes. We kind

1 of keep up with what video is where because that's a
2 lot of times how we make our cases when we have
3 people using a credit card or using a forged check,
4 you have enough to make an arrest or at least to
5 further your case.

6 I knew a lot, knew a lot of these locations on 28
7 bypass did not have any video at all. The few I
8 didn't know about, you know, had video at the back of
9 businesses, over loading docks, nothing shot out onto
10 28 bypass to show us anything that would help us.

11 Q And you heard the audiotapes played over at the jail
12 house recording from Mr. to Mrs. Mahaffey?

13 A Yes, sir.

14 Q In those tapes were you able to bring notice to the
15 sheriff's department about seeking the death penalty?

16 A Yes, sir.

17 Q At some point in time did you mention that to him?

18 A No, sir.

19 Q In fact, this is not a death penalty case, is it?

20 A No, sir. It's not.

21 Q And did you ever think that Mrs. Debra Shirley,
22 Jamie's mother, was a suspect in this case?

23 A No, sir.

24 Q And Jamie, did you ever think she possibly was the
25 one that could have done the shooting in this case?

1 A No, sir.

2 Q And were you also able to pull off text message's
3 from the cell phone call that was made?

4 A Did not.

5 Q And after you talked to Mrs. Mahaffey, she also gave
6 you the letters that you have seen; is that correct?

7 A She did.

8 Q And she has cooperated fully with you?

9 A She has.

10 Q Only suspect ever come up in this shooting is Johnny
11 Mahaffey?

12 A That's correct.

13 MR. CAMPBELL: Your Honor, I have no further
14 questions of this witness. Answer any questions --

15 THE COURT: Cross examination.

16 CROSS EXAMINATION

17 BY MR. GAMBLE:

18 Q Detective Reeves, let's go through this statement
19 with what we know, see what we can find. Page two
20 written, he's talking about purchasing the Ruger from
21 Mr. Ivey?

22 A Yes, sir.

23 Q About the middle of the page. Wherein it says, "I
24 shot a whole clip and it worked fine."

25 Now, when I asked Mr. Ivey about that, the sale took

- 1 place in a hospital parking lot --
- 2 A Yes, sir.
- 3 Q -- isn't that true? So this is not true?
- 4 A Obviously not.
- 5 Q Second, I paid this guy \$400 cash. Do you recall
- 6 what Mr. Ivey said he did?
- 7 A Offered him about three hundred dollars.
- 8 Q Three hundred?
- 9 A Yes, sir.
- 10 Q It's off about a hundred, 300; I asked him if he
- 11 still had the \$300?
- 12 A Yes, sir.
- 13 Q Thirdly, two clips and a box of ammunition. He sold
- 14 five hundred rounds were in this deal?
- 15 A Yes, sir.
- 16 Q Mr. Ivey says how many clips?
- 17 A One.
- 18 Q How much ammunition?
- 19 A None.
- 20 Q All right.
- 21 A Mr. Iberia also said when he sold the gun to Mr. Ivey
- 22 it just had one magazine.
- 23 Q Right. Now, I'm on page four now.
- 24 A Yes, sir.
- 25 Q Where the squiggly scrabbling is right there on the

1 paper. "I was able to rack the gun to chamber a
2 round, move the gun from my right hand to my left
3 hand, and got two or three quick shots off to get him
4 off me."

5 What he's describing there is that Mr. Cox supposedly
6 went through the door or came in the window, I don't
7 know which, and supposedly came on top of him --

8 A Yes, sir.

9 Q -- in the car?

10 A Yes, sir.

11 Q And got off two rounds?

12 A What your client said.

13 Q How many shell casings did you find inside the Honda?

14 A How many shell casings inside the Honda? None.

15 Q The Honda that night basically being used all the
16 time, wasn't it?

17 A Yes, sir.

18 Q And you all got it, meaning the police?

19 A Yes, sir.

20 Q Got it that night and had Taylor come out and get it,
21 Ray Taylor?

22 A Yes, sir.

23 Q So that's not true from the evidence we see; is that
24 correct?

25 A Sir?

1 Q So, what we see from the evidence, physical evidence,
2 those two rounds that were fired from that car?

3 A There were no shell casings found inside the car and
4 no bullet holes from inside the car going out. So no
5 type of evidence of any type of gunfire inside the
6 car.

7 Q Now, he says he told -- this is page five, talking to
8 his wife, Jamie, after the scriggles, the third line
9 of scriggles. "I told her to dump it on the way. I
10 did not put any ammunition in the trash to be
11 dumped." So something is not matching there. Metal
12 hit the trash. We don't know what it was, right?

13 A No, when Mrs. Mahaffey said she heard something, I
14 think her term was a "clinking" in the bottom of the
15 dumpster, she called him. And I think her words
16 were, "What the hell did you just have me throw
17 away?"

18 And he said, "A box of ammo."

19 Q Here he said he didn't put the ammo in there.

20 A That's what he says.

21 Q Here is an interesting part. "When I arrived home,"
22 I'm on the bottom five, "I just wanted Jamie gone.
23 It didn't dawn on me until I was walking the dog that
24 the Honda would be linked back to me by Skyler. I
25 saw two, I think at the entrance to my

1 subdivision" -- which I think means policemen --

2 "told me identify the owner of the car."

3 Do you recall when the officers were watching the
4 house? Lieutenant Looper?

5 A When I left the scene with Mrs. Andrews, went back to
6 my office. I don't think Lieutenant Looper was on
7 the scene on 28 bypass. He and some other narcotics
8 agents were actually in the area and they responded
9 along with Detective Malone to that location.

10 Q Right. Detective Malone relates to us here that they
11 saw him walking a dog.

12 A Yes.

13 Q And he stooped behind something to either tie his
14 shoe or duck?

15 A Yes, sir.

16 Q And that's when they decided to go on into the house?

17 A That's when they decided to approach him and that's
18 when he told me he had been in contact with
19 Mr. Mahaffey.

20 Q What I'm trying to get, when I arrived home, I just
21 wanted Jamie gone. It didn't dawn on me until I was
22 walking the dog that the Honda would be linked back
23 to me by Skyler."

24 A Yes, sir.

25 Q But the Honda, according to what we heard, had

1 already been gone from there. That's what I don't
2 understand. Do you understand it?

3 A I think what he's saying by, linked back to him by
4 Skyler, is that once we identify Ryan and however we
5 found Skyler, one way or another, we would be able to
6 find out, just as we did, to create a person of
7 interest, which would be Mr. Mahaffey, find out what
8 he drives, where he lives. I think that's what he
9 was talking about.

10 Q Okay. Next line 6, bottom of the page, after the "X"
11 where it says, lived: "My wife, Jamie Mahaffey, knew
12 nothing of this incident before, during, or after."
13 That's not really true either, is it?

14 A No, sir. I know she knew something had happened.
15 And I think at the point when Captain Williams
16 brought her home, from her own testimony and his
17 statement, that he walked in and she punched him.
18 Ticked off at him, went to her room and he came in
19 there and told her what he had done.

20 Q Right. According to her?

21 A Yes, sir.

22 Q Now, when he was first interviewed, on that same
23 subject, I'm looking at your supplemental report, I
24 think it is. This is at 22:10 hours, which is the
25 first interview?

1 A We talking about Mr. Mahaffey's?
2 Q Mahaffey 18-2 -- No, this was after the warrant was
3 served. That's a search warrant you started at
4 21:17?
5 A I'm at the bottom of the page. Do you want to find
6 it? Or if you got it?
7 Q This is the interview with Mr. Mahaffey.
8 A Yes, Mr. Mahaffey.
9 Q Actually Detective S. Ashley?
10 A Yes, sir. I've got that.
11 Q You got that?
12 A Yes, sir.
13 Q Now, on that interview, you're the "IO," aren't you?
14 A Yes, sir.
15 Q Investigating officer?
16 A Investigating officer. Yes, sir.
17 Q Now, on that interview did he ask you about his wife
18 Jamie? And was concerned about her?
19 A He did.
20 Q And then you asked what he wanted to talk about?
21 A Yes, sir.
22 Q Is that correct?
23 A Yes, sir.
24 Q And Mahaffey said you wanted to talk about all of
25 this; and that he wanted to put all of this on

1 himself to protect his wife?

2 A Yes, sir.

3 Q At this point in time Jamie had not been arrested?

4 A No, sir.

5 Q Did you understand what he meant, to protect his
6 wife?

7 A Well, it's a husband and wife relationship, granted
8 it's not normal, which not much in this case was
9 normal. Just that he wanted to protect his wife. I
10 think he was concerned about her.

11 Q Now, let's move to your information sheet regarding
12 September 22 '06 at 22:00 hours again. On paragraph,
13 looks like two, don't have paragraphs, but there's a
14 blank says "incident."

15 Are you with me?

16 "Upon entering the intake area of the detention
17 center." Did you find it, Steve?

18 A Is this the same interview with Ashley and myself?

19 Q Yes.

20 A Twenty-two ten hours?

21 Q Yes.

22 A Yes, sir. I'm on this.

23 Q Twenty-two hundred hours, what I got; but this one is
24 by Ashley?

25 A That's Ashley's supplement.

1 Q But you reviewed it as chief officer?

2 A Yes, sir.

3 Q Upon interviewing the intake area, the subject stated
4 to REED, this RO that he wanted to talk in order to
5 prevent any future charges being brought against his
6 wife. You were there when that was said, too?

7 A Let me get to that one. Yes, sir, I'm there.

8 Q Later on down, the subject -- that's Mahaffey, you
9 were there and you heard this, right?

10 A Yes, sir.

11 Q Subject asked on several occasions if it was possible
12 to keep his wife from being arrested and if he could
13 make a plea bargain by cooperating. It was repeated
14 several times by Detective Reeves, sheriff's office,
15 could offer no plea bargain or offer leniency in
16 return for his statement. Is that what you said?

17 A He did mention the plea bargain. He had also
18 mentioned that in the first interview when we talked
19 to him on the morning of the 17th, out of the blue,
20 before we really got into a lot of details. He asked
21 about a plea bargain, what he was looking at, and if
22 he could talk to the district attorney.

23 Q I think you made a misstatement. You said the
24 morning of the 17th?

25 A Morning of the 18th. Morning of the 18th. We had

1 him at the office and he come on his own.

2 Q I understand. He was asking you about specific
3 questions about what went on, what happened, wasn't
4 he?

5 A Yes, sir.

6 Q He wanted to know where this was, where the incident
7 took place?

8 A He was fishing.

9 Q Fishing?

10 A Yeah.

11 Q Now, on this drive you took, going up by the way that
12 cut-through road named Double Tree?

13 A Yes sir.

14 Q And then you go up to Stonewall Woods Road?

15 A Phil Watson.

16 Q Phil Watson?

17 A Yes, sir.

18 Q Left on Phil Watson, then out old Pearman Dairy Road.
19 Did you clock how long it took you to drive from
20 there to [REDACTED] Lane?

21 A No, sir. I don't know how fast he drove.

22 Q Do you know how long it took you?

23 A It just took me a matter of minutes. But, obviously,
24 I didn't clock it one way or another.

25 Q Would you guess about 22 to 25, driving the speed

1 limit?

2 A I think it would be less than that. That's just a
3 guestimate on my part. I did the mileage. I didn't
4 know exactly how much time because I don't know how
5 fast he drove.

6 Q Did you ever do mileage from 142 Jasmine Lane down
7 Lebanon Road to Liberty highway to Brown Road to Reed
8 Road to 81, out 81, going to Homeland Park to
9 Shockley Ferry to behind White Jones, the store, and
10 to Plainview Road by Roosevelt Drive?

11 A No, sir.

12 Q So you have no idea how long it would take to go that
13 route to get to Jamie's mother's house?

14 A No, sir.

15 Q All right. Did you ever clock that route?

16 A No, sir.

17 Q You had it in a statement?

18 A Yes, sir.

19 Q And you knew that's what she said, how she got there?

20 A Yes, sir.

21 Q But you just took that at faith?

22 A I didn't clock it and we didn't do the mileage.

23 Q Would you believe about 35 minutes?

24 A I could see that.

25 Q All right. So, you don't know what time it was from

1 the incident location to Jasmine Lane? I asked you
2 that, you would agree with 22 minutes, 25?
3 A Mileage?
4 Q No, time.
5 A No, sir.
6 Q You would not?
7 A No, sir.
8 Q Okay. Now, why didn't you clock those?
9 A I just didn't. I did the mileage on all these, but I
10 didn't do the time.
11 Q Here you had a woman who told you she left her house
12 at 9:00 at night and got to her mother's house at
13 9:30 at night?
14 A Roughly.
15 Q And her mother verified that she came in 9:30?
16 A Roughly yes, sir.
17 Q Stayed quite a while and left, they argued or
18 discussed who was going to ride with her?
19 A Yes, sir.
20 Q If you run that time line, you run it past 11:00,
21 don't you, from 9:30?
22 A Sir?
23 Q If you run a time line on that, doesn't it run past
24 11:00 at night?
25 A Not that it takes 30 minutes to get there.

- 1 Q And 30 minutes to get back.
- 2 A She's not back until after midnight.
- 3 Q That you know of?
- 4 A Right. I know what time she arrived at the crime
- 5 scene.
- 6 Q But don't know what time she left Jasmine Lane?
- 7 A No, sir, not really.
- 8 Q And can't really. In these statements she said she
- 9 left home sometime after eleven?
- 10 A We know from the phonecalls, from the phone
- 11 registered to her, to the phone registered to your
- 12 client, none of her phonecalls were hitting off any
- 13 of the towers, hitting off 28 bypass, which leads us
- 14 to believe she did take that route.
- 15 Q Leads to my next question. Do you have a picture of
- 16 who was using that phone?
- 17 A No, sir.
- 18 Q You don't know who was using the phone, do you?
- 19 A No, sir.
- 20 Q There were two in their house?
- 21 A Sir?
- 22 Q There were two in their house?
- 23 A Yes, sir.
- 24 Q But we don't know who took what, do we?
- 25 A We do know that because when we arrived on the scene

1 and under the consent and search warrant we have
2 pictures of his phone on the end table. And she had
3 her phone with her when she arrived. So we know
4 those phones were separated.

5 Q That's as far as you know?

6 A Yes, sir.

7 Q You're assuming that?

8 A We know they were separated; but, again, like you
9 said, they're just the phones registered to the
10 individual people.

11 Q According to what your scenario is, he came home
12 after shooting Ryan Cox and gave her the car and it
13 was after 11:00, wasn't it?

14 A Yes, sir.

15 Q And it takes 30 to 35 minutes to drive down this
16 circuitous route to Homeland Park?

17 A Yes, sir.

18 Q Did you ever ask her if she knew the route that goes
19 on old Denver School Road across the lake to 28 then
20 to Homeland Park?

21 A If she knew that route? Yes.

22 Q Did she?

23 A She did.

24 Q Okay. But did you ask her specifically if this Brown
25 Road was the route she took to her mother's that

1 night?

2 A Yes, that's the route she took, she said took to her
3 mother's.

4 Q Not the other road?

5 A No, sir. The way she went was the Brown Road and out
6 81.

7 Q Why did she go into such detail with you?

8 A Seems to be a detailed person, has some intelligence.
9 I said, "I need to know every road you took, and
10 you're turning right or left and where you went."

11 Q All right. You have an hour and a half travel time
12 because she says, and her mother says, they spent
13 about 30 minutes together. Thirty minutes down, 30
14 minutes back, that's an hour and a half. Left at
15 11:15, say; but they're back at 12:45. According to
16 your statement from your investigation she got back
17 about 12:15. There's a 30 minute lag, even in that
18 scenario, isn't there?

19 A Yes, sir.

20 Q But you never once checked Jamie, you never got
21 shoes, did you?

22 A No, sir.

23 Q You never checked her for GSR?

24 A No, sir.

25 Q You never got anything from Jamie other than four

1 statements?

2 A Yes, sir. Four statements and letters. Yes, sir.

3 Q Later a phone call?

4 A Sir?

5 Q And later the phone call?

6 A Yes, sir.

7 Q Now, let's discuss that a minute. All these -- all
8 these people knew, they talked on the phone forever
9 up until this phone call.

10 A Yes, sir.

11 Q They talked personally with each other in the
12 visitation room at the jail, which is not recorded or
13 videoed, is it?

14 A Yes, sir.

15 Q It's videoed?

16 A It's what?

17 Q It's not videoed, not recorded, the visitation room
18 where you sit behind the glass?

19 A No, sir, it's not.

20 Q Well, if that's not recorded and they both knew that
21 the telephone conversation is being recorded. She's
22 a literary person; and I believe somebody said he was
23 a schemer, what did you do to verify this telephone
24 conversation, that it was the truth and not made up?

25 A That it had happened?

1 Q I know it happened --

2 A Yes, sir.

3 Q -- but was it made up? That's my question. Did you
4 do anything to verify it was not made up?

5 A It was simply a phone call between a husband and
6 wife.

7 Q You've got disc after disc of that?

8 A Plenty of phonecalls, plenty of letters.

9 Q Suddenly -- those are all lovey dovey, suddenly it
10 hits, and they knew it was being recorded. So, did
11 they make it up? You don't know that?

12 A No, sir. I don't think so. Sounded genuine to me.
13 Sounded genuine to me.

14 Q I'm going back where you were on that statement. Was
15 there any sign of a struggle inside that Honda?

16 A Inside the Honda was not well kept, pretty nasty.

17 Q Yeah, I've seen it.

18 A Going above and beyond what we talked about earlier,
19 no.

20 Q I see. Did you realize, early on the defense had
21 requested discovery in this case, you know we always
22 do?

23 A Yes, sir.

24 Q And that Mahaffey had copies of all that. We always
25 do?

1 A Yes, sir.

2 Q And that he was privileged to everything Jamie was
3 saying, everything everybody else was saying?

4 A Yes, sir.

5 Q He was in on it. He could read. He could see it.
6 So he knew entirely what your case was?

7 A At that point. Yes, sir.

8 Q Up until his statement?

9 A Yes, sir.

10 Q Right. So what he did then was make a statement that
11 had so many errors in it that glare. Isn't that
12 correct?

13 A He made a statement with a lot of facts in it.

14 Q One fact, pistol. Basically one fact. There was no
15 fight. The gun wasn't brought, like he says it was.
16 There was -- Oh, by the way, look back on the
17 statement. I forgot it. Page three.

18 A Three.

19 Q Three. Starts out "Homeland Park." Do you recall
20 they went to Homeland Park to get some money?

21 A Yes, sir.

22 Q And I tried to find heat shields, but one was unable
23 to. On the way back home I went down 28 bypass, I
24 passed the GMC dealership and noticed a white male
25 waiving his arms on the side of the bypass.

1 A Yes, sir.

2 Q That ain't possible, is it. You coming from Homeland
3 Park, 28 bypass, and you pass GMC, you have then been
4 a quarter mile to half mile beyond where this
5 actually took place?

6 A Point 2 miles.

7 Q Point 2 miles?

8 A Yes, sir.

9 Q I stand corrected. And it's not lit up. There are
10 no lights. There's no lights on that side of the
11 road at all. There may be in that homestead or
12 whatever it is off Elevator Road?

13 A The only lights on the side of the road of the crime
14 scene at that point is the GMC lot, and no other
15 streetlights or anything else up to the crime scene.

16 Q But if he was going up 28, passed the GMC dealership,
17 he wouldn't have seen a man waiving his arms? He was
18 two-tenths of a mile passed him?

19 A He could have passed him. Ryan's walking down the
20 road. As he said, Ryan is headed back wherever he's
21 headed and he passed him. I don't know exactly where
22 he turned around -- could have crossed over the
23 bridge or gone all the way back out Liberty Highway.

24 Q Or even if he did turn around?

25 Now, when he gave you this statement in the jail, it

1 was June 21?

2 A Yes, sir.

3 Q Now, from your conversation with him, you already
4 knew that he and I had fussed a little bit, didn't
5 you?

6 A A little.

7 Q A little.

8 A Yes, sir.

9 Q And you knew that Scott Thomason, who's seated with
10 us, was going out to the jail to talk with him.

11 A Yes, sir. As a matter of fact, I seen him one day
12 when he came down and talked to him.

13 Q You knew he taken that discovery we had down to the
14 solicitor's office?

15 A Yes, sir. I think he advised me of that. Yes, sir.

16 Q Before June 21st. So, he had almost all of it?

17 A You could tell he was getting discovery from you, as
18 you do always, by his letters because he would, in
19 turn, ask Jamie to checkout on certain things like
20 ballistics, whether or not a gun leaves a mark on
21 every shell when you fire it. You can tell when he
22 was getting information related from you, which you
23 do that with all your clients.

24 Q And you can tell because he called you and said you
25 needed to get GSR off the Honda immediately?

1 A I couldn't tell what he was asking me about. Because
2 I had just talked to Jamie in fact that day or the
3 day before; and she was actually using the Honda. I
4 think she was attempting to get maybe a job at that
5 point or doing a job interview, this, that, and
6 another. I couldn't really make out what he wanted
7 me to do.

8 Q I see. I transcribed it or had it transcribed and
9 you can read it. If you use earphones you could hear
10 GSR, but you didn't recognize that?

11 A No, sir. I was in a crowded area. I didn't
12 recognize what he was saying at that point.

13 Q That conversation you stepped outside?

14 A I did. Still the connection was bad --

15 Q I agree with you, it was bad.

16 A -- at the detention center.

17 Q To get that fourth statement from Jamie, did you ask
18 her to come in?

19 A I think we had made some arrangements that after --
20 she was pregnant, obviously, at the time she was in
21 jail. I just found out that week and had mentioned
22 to her, I think I had mentioned to her attorney I
23 would like an opportunity to talk to her again when
24 she was done with the pregnancy.

25 Q Which would have been eight and a half months?

1 A Yes, sir, roughly.

2 Q So, for eight and half months without you, Jamie and
3 Johnny were having constant communication, both with
4 each other by telephone and by letter?

5 A Yes, sir.

6 Q And almost daily?

7 A Yes.

8 Q But you didn't, out at the scene, you didn't use any
9 kind of luminal or anything like that to look for
10 blood spatters around where the casings were, did
11 you?

12 A No, sir, did not do that.

13 Q Did you take any kind of lighting out there? I know
14 the fire truck was out there to give lighting.

15 A When the fire trucks were out there, they lit the
16 scene up like the sun up. We had adequate lighting,
17 all we needed.

18 Q How many officers were out there? It looked like
19 about ten or 12 to me.

20 A Deputy Williams.

21 Q Two highway patrolmen?

22 A Yes, sir. And I think a couple more arrived. I
23 asked Deputy Williams when I arrived, who all is
24 here? Is this all the highway patrolmen? I didn't
25 know what their connection was.

1 And he advised me, said, "all these people arrived
2 after you did, except the one highway patrolman
3 arrived initially, thinking it was a wreck."

4 Q With Officer Bolt?

5 A Deputy Williams testified to initially how the call
6 came out. He roped off the scene, nobody come
7 around, the scene was not contaminated in any way.

8 Q The question was how many were out there?

9 A I recall four state troopers standing by their cars
10 in the median, would have been the whole car length,
11 whatever portion, away from the crime scene and
12 directly across from it. John Williams was on scene.
13 Two forensics, lieutenant Scott and another forensics
14 Officer Roger Malone was there when I arrived. I
15 believe after I arrived I know the sheriff did
16 arrive. He never actually came close to the scene.

17 Q Nine or ten people or forces were there?

18 A Approximately.

19 Q Why did you all get that blue shirt out of the
20 laundry hamper up at 142 Jasmine Lane?

21 A As I recall, I think Mr. Mahaffey said that's the
22 shirt he had changed out of when he took a shower
23 after Jamie had left. I think that was the reasoning
24 behind that.

25 Q Nothing on it though, no tests were run on it, were

1 they?

2 A Sir?

3 Q No tests were run on it?

4 A I asked for those tests.

5 Q I understand, but you heard Ms. Ila Simmons testify?

6 A Ms. Simmons said they weren't doing those tests at
7 that time.

8 Q Yes, sir. So we don't know if anything was on that
9 shirt or not on that shirt?

10 A No, sir, we don't.

11 Q Did you get his shoes out of the closet, off the side
12 of the bed, or out of the bathroom? I know I leave
13 mine beside a chair in the den most of the time.

14 A I did. They did get a pair of shoes, I think they
15 were the Van's brand.

16 Q That was the season shoes, the Van brand?

17 A No, sir. I think there's two pair of shoes because
18 the boots were listed separately with the belt
19 buckle.

20 Q You're right.

21 A Yes, sir.

22 Q But no test was run on the Van brand?

23 A Not at SLED, they were requested by myself.

24 Q Huh?

25 A The tests were requested by myself, but were not run

1 at SLED.

2 Q Were not run?

3 A Yes, sir.

4 Q Same reason?

5 A That's what Miss Simmons told me.

6 Q When did you first learn Miss Simmons knew they

7 couldn't run the test?

8 A When I got back the report that mentioned, I think

9 everything I sent to trace department, which were the

10 swabs from inside, that was my first phone call to

11 her, why those tests were not run.

12 Q How long ago was that? Give me a guess.

13 A I want to say the spring. I'd have to look at that

14 form. I have so many dates in my head.

15 Q I understand. But let me ask you this in follow up

16 to that. You since learned that those tests were not

17 being run?

18 A Yes, sir.

19 Q There's an FBI laboratory in Quanico, Virginia; is

20 that right?

21 A Yes, sir, I believe. I believe so.

22 Q You ever thought of sending the shirt and shoes to

23 the Quanico, Virginia, to FBI?

24 A No, sir.

25 Q Do you have any agreement with the state of Georgia,

1 would let you run the test down there?

2 A I don't know of one.

3 Q You didn't try to do anything, much less learn?

4 A No, sir.

5 Q Huh? Thank you.

6 THE COURT: Any redirect examination?

7 MR. CAMPBELL: Just a couple.

8 REDIRECT EXAMINATION

9 BY MR. CAMPBELL:

10 Q Detective Reeves, in regard to the statement Mr.
11 Mahaffey gave you -- what's on the statement is what
12 he told you; is that correct? You didn't put in any
13 other facts or add to it or take away from it?

14 A No, sir. As I told him, I was there to take his
15 statement.

16 Q Even if you knew that fact not to be true, you put
17 down what he said?

18 A Yes, sir.

19 Q And the part of the statement you could confirm, did
20 you try to confirm?

21 A Yes, sir.

22 Q And you were able to confirm it, weren't you?

23 A Yes, sir.

24 Q And the only way you would have known about the
25 pistol being in the water, where it was located, is

1 if he told you?

2 A Yes, sir.

3 Q I have no further questions.

4 THE COURT: You may step down. Thank you very much.
5 Call your next witness.

6 MR. CAMPBELL: Your Honor, that's the state's case.

7 THE COURT: Let me see the attorneys up here just a
8 second.

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

12 Mr. foreman, ladies and gentlemen of the jury, if you
13 would be back in the jury room at 9:30 in the morning,
14 we'll get started at that time. Please leave your
15 notepads. Don't discuss the case among yourselves don't
16 read anything in the paper. Hold on a second. Nobody
17 read anything in the paper. Everybody understand?

18 Yes, sir. Don't listen to anything on TV or radio.
19 Make your decision on what you hear in the courtroom, not
20 what some reporter puts in the newspaper. Have a good
21 evening. I'll see you in the morning.

22 (Whereupon, at 4:58 p.m. the jury retired for the
23 evening recess.)

24 Any motions from the state?

25 MR. CAMPBELL: None from the state, your Honor.

1 THE COURT: Any from the defendant?

2 MS. WHITE: Move for directed verdict, your Honor.

3 THE COURT: Denied. Anything else?

4 MR. GAMBLE: I want to put the number on that ID
5 exhibit.

6 THE COURT: He hasn't offered any of them.

7 MR. GAMBLE: I wanted ID number on the record.

8 THE COURT: Which one are you talking about?

9 MR. GAMBLE: The pictures.

10 THE COURT: Well, the cell phone chart, number 53, I
11 believe pictures number 54, cell phone tower 55, is the
12 map overview of the crime scene. Fifty-eight is the map
13 of the route, is that what you want?

14 MR. GAMBLE: That's good, all I wanted.

15 THE COURT: And your objection was to 53, the cell
16 phone chart. And I let him use it for demonstrative
17 purposes. None of them have been offered in evidence. Is
18 that what you want?

19 MR. GAMBLE: Yes, sir.

20 THE COURT: Anything else?

21 MR. GAMBLE: No, sir.

22 THE COURT: If you'll have the defendant here in the
23 morning at 9:00 we'll go through some preliminary matters
24 before the jury gets here.

25 Everybody keep your seats, give the jury a chance to

1 get out of the courthouse, five or ten minutes. Everybody
2 keep their seats.

3 (Pause.)

4 See you in the morning at 9:00. If you hang around a
5 minute, I'll have a charge ready you can take a look at.

6 (Whereupon, the proceedings are adjourned for the
7 evening recess.)

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

STATE OF SOUTH CAROLINA,)
 PLAINTIFF,)
 vs.)
)
JOHNNY EARL MAHAFFEY,)
 DEFENDANT.)

TRANSCRIPT OF RECORD
NO: 2006-GS-04-3508

VOLUME III

SEPTEMBER 4, 2007
ANDERSON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE J. C. NICHOLSON, JR, JUDGE; AND A JURY.

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

RAME CAMPBELL, ESQUIRE
ASSISTANT SOLICITOR
ATTORNEY FOR THE STATE

ROBERT A. GAMBLE, PUBLIC DEFENDER
G. SCOTT THOMASON, ASST. PUBLIC DEFENDER
DRUANNE WHITE, ESQUIRE
ATTORNEYS FOR THE DEFENDANT

Donna Brady
Official Court Reporter

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Friday, September 7, 2007

THE COURT: Mrs. White, Mr. Gamble, and Mr. Mahaffey.

MR. WHITE: Yes, sir?

THE COURT: Is Mr. Mahaffey going to testify?

MR. WHITE: No, sir, he does not.

THE COURT: Mr. Mahaffey, stand and raise your right hand, please.

JOHNNY E. MAHAFFEY, being first duly sworn, testified as follows:

BY THE COURT:

Q You may have a seat. All right. Mr. Mahaffey, I'm going to ask you certain questions about your right to testify. And, if you want to consult with your attorney during these questions, please let me know. I'll stop and give you an opportunity, let you talk to your attorney. Okay? Can you do that?

A Yes, sir.

Q Mr. Mahaffey, under the Fifth Amendment to the Constitution, no one can be compelled to testify against himself. Do you understand you have a right to remain silent?

A Yes, sir.

Q Do you understand?

A Yes, sir.

Q You understand that that's a personal privilege you

1 have?

2 A Yes, sir.

3 Q No one can waive that privilege except you. Do you
4 understand?

5 A Yes, sir.

6 Q All right. You have the right to testify, but you
7 also have the right not to testify. Do you
8 understand?

9 A Yes, sir.

10 Q Do you know if you fail or you decide not to testify,
11 that cannot be used against you as an inference of
12 guilt; and I will so instruct the jury. Do you
13 understand?

14 A Yes, sir.

15 Q If you elect to testify, you waive the Fifth
16 Amendment right. Do you understand?

17 A Yes, sir.

18 Q In other words, once you take the stand, you'll have
19 to answer all questions. Do you understand?

20 A Yes, sir.

21 Q In other words, you can't sit on the witness stand
22 and pick and choose which questions you're going to
23 claim the Fifth Amendment to. Do you understand?

24 A Yes, sir.

25 Q You either testify or you don't testify.

1 A Yes, sir.

2 Q It's not like you see on television when you're
3 sitting on the witness stand, claim the Fifth to a
4 question. You either claim the Fifth and not
5 testify, or you take the witness stand and testify.
6 Do you understand?

7 A Yes, sir.

8 Q Has anybody forced you, threatened you, or coerced
9 you to make your decision to testify or not testify?

10 A No, sir.

11 Q Have you had ample opportunities to talk to your
12 attorneys about your decision to testify or not
13 testify?

14 A Yes, sir.

15 Q Do you understand what I have just explained to you
16 concerning the Fifth Amendment?

17 A Yes, sir.

18 Q Do you have any questions about what I have explained
19 to you?

20 A No, sir.

21 Q Do you want to consult with your attorneys about what
22 I have discussed with you or whether or not you want
23 to testify or not testify?

24 A We've already discussed it. Yes, sir.

25 Q Do you need any further time to talk to your

1 attorneys?

2 A No.

3 Q Do you wish to testify?

4 A No, sir.

5 Q Thank you, very much. Does either one -- or any
6 three of Mr. Mahaffey's attorneys like to ask him any
7 questions? I'm happy for you to ask him any
8 questions you would like to ask him.

9 MS. WHITE: No, sir. But I would like to put on the
10 record, I did talk to him yesterday about this; also
11 talked to him today. I explained it would be -- was a
12 decision he would have to make, not a decision the
13 attorneys make; and he decided he did not want to testify.

14 THE COURT: Okay. Mr. Gamble, is that your
15 understanding?

16 MR. GAMBLE: Absolutely, your Honor.

17 THE COURT: Mr. Thomason?

18 MR. THOMASON: Yes, sir. That's my understanding,
19 and that's based on months and months and conversations
20 out at the detention center.

21 THE COURT: Thank you, very much. All right. The
22 jury is not scheduled to come in until 9:30. That's about
23 20 minutes from now. I don't have who is doing closing
24 arguments.

25 MS. WHITE: I'll do it, your Honor.

1 THE COURT: You ready for your closing arguments?

2 MR. CAMPBELL: State's ready.

3 THE COURT: You have to go first -- fully open and
4 close. You won't get a chance for rebuttal; do you
5 understand?

6 MR. CAMPBELL: Yes, sir. I understand.

7 THE COURT: Anything else before we get the jury in
8 here, start closing arguments?

9 MS. WHITE: Not from the defense.

10 THE COURT: We'll recess until 9:30, at least until
11 all the jurors are present, and then we'll get started.

12 (Whereupon, the following proceedings were had within
13 the presence of the jury at 9:40 a.m.)

14 Mr. Foreman, members of the jury, the defendant is
15 not going to offer any testimony. Therefore, we're going
16 to have closing arguments. And after the closing
17 arguments, I will charge you on the law.

18 But before we get to that, I would like to tell you
19 that the fact the defendant elects not to testify on his
20 own behalf cannot and must not be considered against him
21 under any circumstances, in any manner whatsoever. The
22 decision of the defendant not to take the witness stand
23 and testify in his own behalf does not create any
24 inference against him. I tell you now, you must not
25 permit this to weigh even in the slightest degree against

1 the defendant. You should not permit this fact to enter
2 into your discussions or deliberations on a issue in this
3 case.

4 What is going to happen, since the defendant did not
5 put up any testimony -- Normally the state has the last
6 closing argument, but the state will have an opening
7 statement and a closing statement. And then the defendant
8 will have the last argument.

9 Solicitor.

10 CLOSING STATEMENT

11 MR. CAMPBELL:

12 Ladies and gentlemen of the jury, humans understand a
13 lot about biology -- how to prevent illnesses, but we'll
14 never understand what makes a human being do something bad
15 to another person. It's impossible.

16 On the night of August 17, 2006, Johnny Mahaffey --
17 this man right here -- did the most horrible crime a
18 person could commit on another human being. He gunned
19 down and murdered Ryan Cox as he was walking home. This
20 crime is pure hatred, rage; he intended to kill him.

21 How do we know that? You can look. Eight shell
22 casings were found at the scene. Five of them were shot
23 going from left to right, from his arm coming to the other
24 side. Three of them were head shots. And for the
25 ultimate act of humiliation, Dr. Woodard told you, the

1 last three shots, Ryan Cox was on the asphalt on the 28
2 bypass when he pumped the last three rounds in him.

3 Now there's two witnesses to that case, the events
4 took place that night: Johnny Mahaffey and Ryan Cox. And
5 as the state, I'd love to have Ryan Cox walk through the
6 two doors back there, come up here, sit on that stand, and
7 tell you exactly what happened. But the very act that
8 took his life is the reason we're here today, for he has
9 been forever silenced. We can't subpoena the dead. But
10 we can prove who killed him.

11 And how do we do that? Evidence. Testimony. The
12 State has the burden of proving this case to you all
13 beyond a reasonable doubt. Nothing in this life is
14 exactly 100 percent certain; and we're not held to prove
15 that burden, everything beyond a reasonable doubt -- just
16 what's alleged in these indictments: August 17, 2006, he
17 murdered Ryan Cox with a pistol; and, likewise, he
18 possessed a weapon, which is the second charge, to go hand
19 in hand. You have to find him first guilty of murder
20 before you can find him guilty of the other one.

21 Mr. Mahaffey, as his attorneys told you all cross-
22 examining Detective Reeves yesterday, has been
23 incarcerated since this crime took place. He's been in
24 jail since August 18, 2006. And as his attorney stated,
25 he has been getting all the discovery, exactly what we

1 have, all the stuff you see we have and going through. He
2 has had over a year to put a little spin magic on this to
3 make his case meet the facts.

4 A man in his position, what would you try to do?
5 Well, let's see. I could try to claim self-defense first.
6 But the evidence shows -- that I have received -- shows
7 there was no physical confrontation at the scene, no
8 physical confrontation in the car. That scene was not
9 disturbed. There was no fight. There was no weapon
10 around Ryan Cox.

11 And how do they try to do that? First of all, they
12 started with the theory that he used brass knuckles. So
13 first of all, you heard on the stand, they were trying to
14 say, "Well, he had brass knuckles, didn't he? Pulled off
15 that belt buckle and that's what he was using?" You saw
16 the exhibit that was put in, 44. Yeah, there's a sample
17 of brass knuckles. Turn on the back side of it, what do
18 you see? It's a lighter; it's a bottle opener. Has the
19 defense said anything else about this buckle? No, because
20 all of a sudden their theory of that has gone out the
21 window.

22 So, let's go to the second. Let's try something
23 else. Maybe they got into a fight, but there's nothing at
24 the scene that shows there was any confrontation. So,
25 what are we going to do? Let's step back here, punt --

1 we'll get us a theory going here -- try to figure out what
2 we want to do.

3 Their problem is criminals make mistakes. Johnny
4 Mahaffey made mistakes. That's why he's where he is
5 today. No one put him in that chair but himself and his
6 own actions. Little did he realize that on that night one
7 little piece of evidence was going to tie him to that car,
8 to that crime scene, State's Exhibit 38. That 38, that
9 one shell casing right there, that is what got the ball
10 rolling in this case. That's what linked him to begin
11 with.

12 By chance? Maybe. But if you look at where it was
13 found in that car, right there, close-up view of it, right
14 there where everything comes together. Chance? Maybe. I
15 don't think so.

16 This is what the State contends happened. He took
17 this weapon; the last person to hold this until it was
18 found in 30 foot of water was Johnny Mahaffey. And he did
19 pull his car -- I agree with the statements that he pulled
20 his car up alongside the curb. You look at his statement
21 and what he says. You'll see right there is that little
22 entranceway to a driveway. There's the guardrail right
23 there that he mentions in his statement. You see it
24 closer up, right here. And you start to see where all the
25 shell casings are. There's six of the eight. Two were

1 around his head.

2 What did the SLED agent tell you? All guns eject to
3 the right. He is right-handed. He walks, gets out the
4 driver's side of the car; he walks around the front of his
5 car; he starts pulling the trigger. (Demonstrating.)

6 That one shell casing ejected out of this gun, hits his
7 car, and lodges right there. And it ends up right there.

8 And then you can see the rest of them. Not only was
9 he content to stop there, but you can see the number of
10 shell casings just in this one picture. They're scattered
11 all over the place. He's moving. And you think Ryan Cox
12 truly or actually jumped on him when he got there? No.
13 He didn't have a chance. He was defenseless. He was
14 gunned down. He kept pulling the trigger. Every time he
15 pulled that trigger a bullet was going through Ryan Cox's
16 body. Every shot is left to right.

17 Ryan Cox is turning. He probably saw what was
18 happening so he was turning this way. Look, and see the
19 way his body fell. His head is back facing towards the
20 Olive Garden, except for the last three.

21 One of the smallest parts of the human body, but the
22 one that can get you in the most trouble, is your tongue.
23 And from the beginning, Johnny Mahaffey has been talking.
24 He told his wife that night. He told an inmate. He told
25 Detective Reeves what he had done. But, yet, that's the

1 main problem defense counsel has, is getting over that and
2 getting over the fact that we can match -- put him with
3 that gun. They can do their spin magic, but can't shut
4 him up.

5 As his attorney said, "We've had some difficulties."
6 What do you think those difficulties were? Shut up.
7 Don't talk to the cops; but, yet, he's talking.

8 Let's talk about why he is guilty of this. How do we
9 know? Because what's the last thing they want to do if
10 they can't prove self-defense or he assaulted him first?
11 Well, let's try someone else. I've looked at all the
12 evidence: The wife, let's try to pin it on her. Think
13 about it.

14 Lake Hartwell. Lake Hartwell goes from Hartwell,
15 Georgia; to Clemson, South Carolina; covers two states.
16 Detective Reeves stated it's 950 miles worth of shoreline
17 -- that's like going from Greenville to Boston -- that's a
18 lot of distance. You can use your -- imagine how many of
19 this fifty, sixty thousand acres -- yet, in that entire
20 span of water, they were able to find this. And how could
21 they find this without the killer who personally put it
22 there, actually telling it to them? He was telling the
23 truth on that part. He threw it there.

24 And not only did he tell them where he put it. He
25 told them what side of the bridge it was on. Sure enough,

1 they found it on the right side of the bridge.

2 What else links him to it? At the time, I'm sure,
3 when Detective Reeves' office took him home, he was all
4 smug and cocky and arrogant, that he's getting one away --
5 pulling one over on the police; thought they're stupid,
6 they didn't know what they're doing. He didn't realize as
7 a collective team these officers were working hard to put
8 him behind bars. And they're going to make an arrest.

9 I guarantee he didn't think they would go through the
10 efforts shown in this trial. Think about it. Would you,
11 at 1:00 in the morning, when you have cop cars all over
12 your yard, you think at any point in time you would ask
13 one of them "Why are you here?" Do you think that would
14 be nice to know? He didn't ask that. He didn't question
15 anything, because he already knew why they were there.
16 Why question something if you already know the answer.

17 And he was waiting on them. He had already cleaned
18 everything up. He had washed his hands, he'd taken a
19 shower, gotten rid of the trash, hid the ammo. He had
20 already got rid of his clothes, I guarantee it. He knew
21 there was nothing in the house that could link him to the
22 crime scene. One thing he was wrong about was that cell
23 phone.

24 After they found the shell casing, of course they
25 took the warrants out on him. Matched the same type of

1 caliber, those eight shell casings. Take a look at them,
2 all of them are the same, identical brand. They all came
3 out of the same box of ammo.

4 You can look at these cell phone records, and these
5 records show -- you can take a look at them, at the times
6 -- and as the lady said, the Sprint lady, "When you're
7 looking at the cell phone towers, you're looking at the
8 last three digits." And if you look in the back of here,
9 those numbers correspond with the cell phone towers, where
10 they're located: Number 289 is 114 Whitehall Road.

11 Skyler Andrews, as she told you, she received a call
12 from her other telephone number. The one Ryan carried,
13 that 4329. That pink telephone you seen the picture of,
14 that was recovered from his body, dialed her, 356-0533 at
15 22:40, 10:40. And his cell phone was bouncing off that
16 289 when he called. That's that Whitehall cell phone
17 tower.

18 Next, you have they subpoenaed his cell phone
19 records. And the number linked to him is 367-4319. You
20 can look when it's on here. Johnny Mahaffey's cell phone
21 is 367-4319. He's calling his wife, Jamie, whose cell
22 phone number is 958-1930. It didn't go through. He
23 stated he tried to call her, but didn't talk to her at
24 22:48, 10:48, eight minutes later. And what tower is it
25 hitting off of? That Whitehall Road tower. That puts him

1 in the area.

2 And, yes, can be argued that somebody else came in
3 using it. Use common sense. You really think someone
4 else used his phone that night? And when he got home his
5 wife had to go find it for him. And that's the phone and
6 where it was found, right there on that end table there.
7 You can try to make something out of nothing; but using
8 your own everyday experiences, you all know how many times
9 you let someone else use your phone, go off with it.
10 Unless it's your child, you know, it doesn't really
11 happen. That puts him there.

12 And his statement, "I had been home all night," kind
13 of puts -- shoots holes in that. Why would the cell phone
14 number registered to him be hitting off a tower not that
15 far away from the murder scene? And you can look at the
16 records and see the route he took, phone being used as he
17 keeps calling her, going up through LaFrance, Clemson
18 tower. Making that turn around the lake, dumped the
19 weapon, already going back up, going home. You can track
20 him by that.

21 That single shell casing in the car, as the SLED
22 agent told you, matched the eight shell casings on the
23 ground. They all came from the same weapon. The three
24 bullets that were removed from the autopsy out of Ryan
25 Cox's body were all fired from the same weapon. As the

1 SLED agent told you, this is the weapon that they all came
2 from. That right there.

3 Now he was arrested. And I can't tell you why people
4 talk. Sometimes people talk to get things off their
5 chest. In your experiences everyone has done things
6 sometimes they're not super proud of. And you feel better
7 when you tell someone else, get it off your chest. That's
8 one reason why you tell somebody. That's one reason.
9 What's the other? You want to brag, you want to show off.
10 He gets incarcerated April 17, just a couple of days with
11 John Henry Gambrell. John Henry was only with him for a
12 couple of days, and he told him.

13 Why he told? I can't tell you. But ask yourself
14 this: How would John Henry Gambrell, who has been locked
15 up since January of 2006, know facts that only the person
16 who had done it would have known? This isn't stuff that's
17 publicized, that was going in the paper.

18 What did he tell him? "Walking home from the Olive
19 Garden -- I was driving, I saw him walking home from the
20 Olive Garden. We had been having some prior difficulties.
21 Pulled off, I shot him. I left him in the roadway where
22 he was."

23 And now the biggest thing he said is, "Now I need to
24 pin it on someone. I need to put this on someone else."

25 You can look at State's Exhibit 52. And this is what

1 he's looking for: An alibi, someone pointing the finger
2 at someone else. He is offering in this money for someone
3 to come testify, to come lie on his behalf. He'll pay
4 someone \$500 to make a statement, give them another
5 thousand to testify in court. And if it works, if I can
6 convince a jury to let me off, I'll pay you more. What
7 was it up to? Seven thousand dollars? Total, \$7,000.

8 He goes on to give it to his wife, to have her to
9 have this person -- if she can find someone -- give this
10 statement, trying to say that Ryan Cox and Skyler Andrews
11 were in a fight at the scene, trying to pin the blame on
12 someone else.

13 He's, furthermore, realized he didn't think of
14 everything. He realized that his car could be identified
15 to the crime scene. One of the ways was his muffler, it's
16 a loud muffler. It's not your stock muffler. That's got
17 him concerned. His own statement says, "I'm worried about
18 someone ID-ing me through my car."

19 And State's Exhibit 51: He's asking his wife to go
20 have this muffler changed. "I want you to have the
21 muffler changed, buy a normal one." And here he is, he's
22 trying to outthink Steve Reeves. He's getting the
23 discovery and he knows Reeves may be out to record the
24 sound, because he knows one of two things: A neighbor or
25 someone else heard that car. He's quite concerned about

1 it. See, he's trying to think one step ahead.

2 And you can, as Detective Reeves testified, you can
3 read all those notebooks of letters. And as you read
4 those letters, you can see where the discovery -- his
5 attorney stated he got all the discovery -- and as he was
6 reading it, he would write his wife Jamie Mahaffey stuff.
7 Look into cell phone stuff, look into ballistics, look
8 into gunshot residue. He's trying to beat the rap.

9 Let's talk about Jamie Mahaffey, his wife. What did
10 she say, 19, 20, when she was married? You know you can
11 compare basically her and Skyler Andrews together. Skyler
12 said she was what, 16 years old when they started a
13 relationship? Both of them have children with -- both of
14 them you can say at the time were young, naive. He is a
15 lot older, flashy, saying the right things, looking clean
16 cut. It wasn't until they started the relationship they
17 realized he's manipulative, he's arrogant, cocky; he's
18 controlling.

19 And this is what the problems all stem from, Skyler
20 Andrews started fighting back. As the testimony showed,
21 there had been fights back and forth over their daughter,
22 Shilynn, back and forth. Ryan Cox was just in the way.
23 He was siding with Skyler. He was someone to get rid of.
24 It's only when he loses control that he goes crazy; he
25 starts acting this way.

1 Now, when Jamie Mahaffey, who is young and naive at
2 the time she got married -- was thrown into this little
3 whirlwind -- she loved him; believed in him; didn't want
4 to believe he could actually do something like this. He
5 told her that night when he walked through the door.

6 The next morning she told you what she said, "I hit
7 him." What does his statement say? "She hit me; she
8 didn't want to believe this could happen." And he had her
9 cooperating, helping him, be my alibi. There comes a
10 point in everybody's life, grow up, something happens, an
11 event takes place, you change. And for a lot of people,
12 that's becoming a parent.

13 She had a child by him. I guarantee, as parents
14 know, children will change your life. And you heard those
15 conversations on the tapes. You'll have an opportunity,
16 if you want to listen to them again, she is telling him,
17 "Why did you do this? You did this." Not once did he
18 deny it. Even if it's being recorded, you're going to try
19 to be careful what he says. Not once did he deny it.

20 And you could tell, was that staged? Was that done
21 by a professional actress? No. You could tell by
22 hysteria in her voice -- she's hysterical. Her whole
23 world is crashing, she's got a baby. He's asking her to
24 give her child up to help him get out of jail. The only
25 thing he's concerned about: "What evidence did you hear?

1 What do you know?"

2 This is very important. You heard the second call
3 when she says, "I'm no longer going to be your alibi."
4 I'm tired of living with this."

5 He turns on her. "Well, if I'm going down, you're
6 going to go down." So much for this theory of, "I'm
7 trying to protect my wife." No. You're looking at 25
8 years. And you can listen to that tape and can hear him
9 thinking, Well -- because she said "Why everything that
10 law enforcement are basically telling me is a lie, but
11 everything they're telling you is the truth."

12 You can hear the gears turning: "Well, they served a
13 death penalty notice on me; and you have to do this, this
14 and this." That's pretty slick of him. He's still trying
15 to pull on her emotions; get her right where it hurts,
16 using that child. He doesn't care about her or the child.
17 The only thing he wants is out.

18 The main thing the defense has -- the heaviest burden
19 trying to disprove -- is this statement given on June 21,
20 2007. He was advised completely of his rights. As
21 Detective Reeves told you, he called him twice from the
22 jail. Told Mr. Gamble about it. I'm sure Mr. Gamble went
23 down there, told him to shut up. Yet he continued.

24 And he wrote a statement, and you'll have an
25 opportunity to read it. The thing he says is, "I shot

1 Ryan." States in there -- he tries to play it off at the
2 end -- says, "Well, the first two were in self-defense."
3 Even though there's no evidence of that. "The last one is
4 because he deserved it. I don't like his lifestyle, so
5 I'll just take him out."

6 He gave him the exact route he took to go home,
7 corroborated by cell phone numbers hitting off the towers.
8 He told them where the gun was. I guarantee he didn't
9 think they'd go find it, but they found it. And one thing
10 he probably didn't even expect is that not only would they
11 find the gun; but Detective Reeves was still staying on
12 the case he would still try to prove this statement is
13 legitimate because whose words are these? Johnny
14 Mahaffey's.

15 He's not, you know, Detective Reeves told you, "I'm
16 going to put down stuff, even though I know it's not true.
17 I put down exactly what he tells me. Reads over it; he
18 changes it; makes corrections. Granted some of the stuff
19 there may be nonsense, but that's what he said. But we
20 can prove some parts: The part he shot him, the part he
21 had a gun, the part where he threw it.

22 What other part? He said he bought it from a
23 security guard. You heard Ricky Ivey -- I'm sure that's
24 the last thing he'd expected, they'd go through four
25 owners. That gun has been through four different people.

1 The last one, Johnny Mahaffey. Go talk to each one until
2 they find out who sold it to him.

3 You heard Ricky Ivey testify from that stand, "Yeah,
4 I sold it to a white male from Anderson." Picked him out
5 of a photo lineup. He came in here; identifies him in
6 court: "That is the guy I sold the gun to." So now you
7 got the gun in his hand. Kind of refutes his statement:
8 "I've never owned a gun" he told the officers at the house
9 that day. SLED matches it up.

10 You know Ryan Cox didn't have any drugs in his
11 system, no alcohol. This blue sweatshirt -- you know, she
12 stated, Ila Simmons with SLED, 46, tested it; no gunshot
13 on it. The only thing that shows is that the person would
14 have to be wearing it at the time of the shooting in order
15 for gunshot powder to be on that. But you're making an
16 assumption, that's the actual shirt he was wearing.

17 Like this little microcosmic world the defense has
18 been bringing up about blood traces, luminal. Why didn't
19 you look for this, that, and the other? All that is
20 premised on a couple of things. One is the shooter was
21 close enough -- Johnny Mahaffey was close enough to Ryan
22 Cox when he shot him to get blood on him. As Dr. Woodard
23 testified, when the bullet goes in, blood's coming out
24 other side, had to be on the back side of him to get blood
25 that way, which is impossible. Or would have to cough or

1 spit blood up on him. At max that's three feet.

2 Or what's the other reason? He would have to walk
3 through the crime scene. It didn't happen. He didn't
4 walk through. There was no blood disturbed. Furthermore,
5 testing shoes, you don't even know -- you know, they're
6 taking his word on what he had.

7 Ladies and gentlemen, when a man is innocent of a
8 crime, nothing is going to point toward that person's
9 guilt. Sometimes by sheer coincidence, maybe one or two
10 things will point that way, even when a person is
11 innocent. But in this case, how could the defendant be
12 innocent when everything is pointing directly towards him?

13 Trying to blame it on the wife won't cut it.
14 Detective Reeves told you her records show -- the cell
15 phone records show that she was at the house that night.
16 He was the one that sent her away. His own statement
17 says, "I wanted her out of the house and I sent her away."
18 Now he wants to come in here and say the wife did it.

19 You know, Mr. Gamble told you this was a mystery
20 novel, a who done it? This isn't a mystery novel. You
21 all have known in the first couple of chapters who done
22 it. The defense is just blowing smoke to try to confuse
23 the issues to get you off track of what really happened.
24 Johnny Mahaffey is hoping that you're reading a different
25 type of book, that you're reading a book of fantasy. And

1 in his fantasy, he wants you to come back with a verdict
2 of not guilty so he can walk out of this courtroom as a
3 free man, even though he gunned down and murdered Ryan
4 Cox. That is his fantasy. That's the book he's reading.

5 But you have the final word in the final chapter of
6 this great big mystery book. And I'd tell Johnny
7 Mahaffey, 12 reasonable men and women from this community
8 have heard the testimony, has reviewed the evidence; and
9 the final word, the final chapter of this book is guilty.
10 And I thank you all.

11 THE COURT: Ms. White.

12 CLOSING STATEMENT

13 BY MS. WHITE:

14 In the eleventh century a great king and warrior
15 lived. His name was Gingus Kahn. He had conquered much
16 of the known world. Always out there trying to conquer
17 new places successfully. Well, at one point he decided to
18 go out; and he decided, you know, I'm going to go out with
19 my buddies, we're going to go out hunting. And the thing
20 back then was each hunter would have a hawk, and the
21 hawk -- they would go out and tell their hawk to go. If
22 hawk goes soaring and brings back small pray -- kind of
23 how they did it, see which hawk would bring back what.

24 Gingus Kahn on this day took out his favorite hawk
25 ever. Out they went with the buddies, hunted all day in

1 the woods.) Then Gingus Kahn said, "I need a little time
2 to myself, sends his hawk home, come through the woods,
3 through the mountains. So off he goes. Well, as he goes
4 through the mountains, he became very, very dry. He had a
5 cup with him. And he knew there was a spring, he was
6 familiar with the mountains -- he had been hunting before.
7 The problem was, it was so dry, when he got to the spot
8 water normally came down from the spring, the stream there
9 was just a drip, drip, drip.

10 So he took his cup out; put it under the drip, drip,
11 drip. He was very thirsty. Oh, so glad to see water.
12 And the cup slowly filled up. As he slowly started to
13 bring the cup to his mouth to drink it, whirring sounds
14 and the cup was knocked out of his hand. It was his hawk
15 who had come out of nowhere. He wasn't really happy about
16 this. He was thirsty.

17 So put the cup under again. Meanwhile, the hawk went
18 perched on some rocks by the spring. The cup fills up,
19 this time his cup is only halfway full because he is
20 thirsty. He starts to drink. All of a sudden the hawk
21 knocks the drink out of his hand. At this point he is not
22 happy. Basically, the rule of the world, this hawk is
23 being insolent and disobedient. And so he says -- he
24 pulls his dagger out -- tell you one thing, the hawk comes
25 back again, he's getting it.

1 Gingus Kahn puts the cup under again, ready for the
2 hawk this time. Sure enough, the hawk knocked the cup
3 down, the cup falls down the mountain. He can't get it.
4 So he stabs the hawk and kills him. He didn't have the
5 cup anymore, and the hawk is sitting beside him dead. Has
6 no choice but to climb up the mountain, go to the little
7 spring feeding the stream.

8 He gets to the spring and, lo and behold, there is a
9 big, fat, poisonous snake in the spring, and he's floating
10 there dead. And its poison is seeping into the spring.
11 At that point, Gingus Kahn realizes all was not as it
12 seemed at all. Because, in fact, his favorite hawk was
13 not trying to disturb him, was not being insolent and not
14 being disobedient. In fact, he saw from a different view
15 that he had saved his master's life.

16 The police in this case have focused so much on the
17 drip, drip, drip, that they have refused to look in the
18 spring at the rotting snake. Because there are facts in
19 this case that change everything from what it first looks
20 like. You know, one of the problems in this case is that
21 the police never considered another suspect and they
22 admitted on the stand.

23 You have the night that this occurs -- now, don't
24 forget when they arrested Johnny, they had no gun, no
25 statement, nothing. This is what they had: A loud car at

1 the scene. They had Jamie and her mother in that loud
2 car, driving up, alibiing each other, and saying they were
3 in the car and had the car at the time of the killing.
4 And she was never considered a suspect? You've got to be
5 kidding me.

6 He was arrested. That's what they knew at the time.
7 She was never considered a witness. So at that point --
8 or a suspect. At that point they take shortcuts. They
9 make assumptions. And the problem is, there could have
10 been so many witnesses that could have told you what
11 happened.

12 There are witnesses in criminal cases that cannot
13 lie. They are incapable of lying. And let me tell you
14 who those witnesses are. They don't talk, they don't have
15 faces, you can't see them walk up to the stand. It's
16 called physical evidence. Watch TV for goodness' sake.
17 Watch a detective show. There's a reason why it's used in
18 cases. Because it can't lie.

19 There are two rounds of physical evidence. One is
20 what you can easily see. I can see shell casings. I can
21 see a gun. I can see clothes on a body. But there is a
22 whole other realm: That's the realm that the true shooter
23 in these cases does not know about and cannot cover up.
24 When that's brought in, when the results of that are
25 brought in, that can't lie. But it was totally ignored.

1 What witnesses were ignored that could have told you
2 the truth there at the scene that night? For goodness
3 sake, it was roped off. What was that all about? It's on
4 a road, so we couldn't do anything. Oh, yeah. Don't ever
5 do anything on murders outdoors until you rope it off, the
6 cars go around you, process the scene. Did it ever dawn
7 on them that there might have been a struggle? Did they
8 not talk to their own pathologist who said Ryan had
9 contusions and abrasions on him? Could have been from a
10 fall, but it also could have been from a struggle.

11 Do you know what happens in struggles? Let me tell
12 you: Fiber transfer. We got none of that. Remember what
13 Dr. Woodard said? Now, the detective, same one used a
14 wooden swab, didn't think it was necessary to look at all
15 that evidence. Say, "Oh, no. The blood comes out the
16 back."

17 Not what Dr. Woodard said. The pathologist who's
18 done thousands of autopsy's said, "Yeah, comes out at
19 least six to eight inches." Also, he was coughing blood.
20 You know what? There was a lot of blood there. You're
21 telling me you see the shell casings, how close they were
22 to the body. The shooter wasn't anywhere he could have
23 walked even around and got a little bit of blood on his
24 shoe? A pin tip, that's all it takes to get DNA. But we
25 didn't bother. I didn't see any.

1 No, der (phonetic). It's dark out there. You said
2 it's too dark to even see out there. You think you're
3 going to see a thin tip of blood? You have to take time
4 to process it. You have to do it right, so when you come
5 in, ask a jury to find somebody guilty beyond a reasonable
6 doubt of murder, you have taken the time to gather the
7 evidence.

8 What else did they not gather? Hair, fibers, blood?
9 How about the videos? Last I checked, we can't beam in
10 and out of crime scenes. All they have to do was go to
11 the stores up and down the road and ask, "Do you have a
12 video?"

13 Did you hear their response? "It was dark."

14 "I know. That's not what I'm asking you. Did you do
15 it before and after?" This is a commercial area. He
16 hemmed and hawed.

17 I said, "Okay. Name the place you went to, to ask
18 for this video".

19 "None."

20 Wouldn't that have been nice to have, a video of the
21 car with the person in it perhaps?

22 All right. What witnesses are missing? So they go
23 to this crime scene, basically do nothing there. Go over
24 to Jamie and Johnny's house. That's our next stop.

25 Johnny is there. He says, "I been here all night." He

1 said he didn't even ask why we were there. This is
2 Detective Malone, narcotics officer have been over there.
3 You think they just looked at each other and stood in the
4 yard. Had narcotics officers over there? You say why
5 narcotics officers there? They work at night? Only two
6 detectives on call, so they sent the narks over there. Of
7 course they discussed it.

8 The interesting thing is Johnny has no alibi. He
9 says, "I've been here all night." He has no alibi, gives
10 consent to search. They say you can withdraw at any time,
11 he didn't withdraw. They say, "Will you come to the
12 police, sheriff's office?"

13 Absolutely.

14 When asked, "Why didn't you GSR his hands?" Didn't
15 have time? Take his statement; go down talk to him at the
16 Police Department since three in the morning. Been there
17 since somewhere after midnight. No GSR. We know the
18 shirt was in the dirty clothes, was processed. It was
19 negative. We know there were clothes in the washer.
20 Whose? They're implying to you Johnny was washing these
21 bloody clothes. Wouldn't it have been nice to know whose
22 clothes were in the washer? Nobody looked.

23 But we do know one thing. And this is the most
24 important part of the case, right here. While the police
25 were there -- now the last phone call from Jamie's phone

1 comes in at 12:36, so you figure they probably got there
2 somewhere shortly before 1:00, Jamie and her mother.
3 Jamie sat on this stand under oath and looked at you all
4 and said, "I knew nothing about this when my mother and I
5 pulled up that night. Nothing. I didn't know a killing
6 had occurred." That's what she told you.

7 How is it that Jamie and her mother both got out of
8 the car, the car with the loud muffler? How did they both
9 get out of the car, go to separate places immediately
10 where they didn't hear each other's statements. Now they
11 know of nothing they need to cover at all. And the mother
12 says, "Oh, no. No, no."

13 Let's start with Jamie. Jamie gives a statement,
14 says, "I left my house that night. I got to my mother's
15 at 9:30. And we stayed there all night until I'm just now
16 pulling in a few minutes before one."

17 Jamie's mother over here at a separate place says
18 "Jamie got here at 9:30 in this car. She was alone, and
19 she stayed at my house until shortly before one when we
20 drove home."

21 How does that happen? Think about it. You go with
22 somebody that night somewhere, you know nothing has gone
23 wrong, you are unaware a killing occurred at approximately
24 10:40 and the police are at the house and separate both of
25 you and you alibi each other with fake times? The mother

1 was the alibi. The mother -- they were leaving at five on
2 a trip. Why is the mother coming back with Jamie then?
3 They have one car. They have to drive her all the way
4 back across town. Why? Does that even make sense? The
5 mother was her alibi.

6 See, you have to remember something. When Jamie went
7 and got her mother, she had no earthly idea, no idea that
8 the car, the loud car had been identified. She didn't
9 know she was placing herself and the car that had been
10 used -- she thought she was going over here to place
11 herself away with an alibi. And then she backed off it
12 once she realized it wasn't.

13 And I've got another question. Where was mama?
14 Where is she? Why didn't she testify? Are you kidding
15 me? The mother who was supposedly with her that night,
16 can say what time she got there, what she did. Why didn't
17 you hear from mama? Shouldn't you have? It's odd, very
18 odd.

19 But they do a neighborhood canvass. That night when
20 the suspect drives up in the car, did they go to Jamie's
21 mother's house ever? What was there? If Jamie had
22 committed the murder, and then gone to her mother's house
23 -- come by her house -- going to mother's house, what
24 could have been at the mother's house? And don't you
25 think we could have found out what time Jamie got there

1 and left? Mama lives in a neighborhood. Johnny and Jamie
2 live in a neighborhood. This is a loud muffler.

3 Look you have to see the picture. Okay. State's
4 Exhibit Four -- this is the body. The guy hears the
5 muffler down here at this business. All the way down
6 there. And you're telling me you can't go into a
7 subdivision and you can't say, "Did you hear the muffler
8 come and go?" You know, it's too late after that night.
9 Nobody is going to remember. Why wasn't that done at both
10 places? Where did you hear the muffler go? When did you
11 hear it come? But again, none of that was done.

12 Why wasn't Jamie searched? Why no GSR? Why no
13 clothes? Why no shoes? Why wasn't it done? Why wasn't
14 the car processed for fiber, for blood? Why wasn't this
15 done?

16 You know the sad thing is they gathered -- the case,
17 this case is a fiasco. You have chain of custody
18 documents provided to the defense. And what do you have?
19 Wrong dates. Chain of custody. You take something at a
20 crime scene, you've got to show I collected it; I did not
21 tamper with it or alter it at all. I gave it to this
22 person. This person got it this day and time, they didn't
23 tamper or alter it. Then it went here, and then went
24 here. This is the test result.

25 You know, why you have to do that? To say it wasn't

1 messed with. You can't say it was out in the lab a couple
2 of months with hundreds of other cases. Who knows what
3 was tampered with or altered or changed? They, Oh, no, it
4 wasn't October it was entered. Although no other date on
5 the chain of custody documents. Isn't it weird SLED
6 didn't get anything until October, too? And they're
7 saying, and the sheets show -- didn't show anything until
8 October. This is weird. This is a murder case for
9 heaven's sake, but trace wasn't necessary. Isn't that
10 what we heard?

11 But wait a minute. Then why did Dr. Woodard take
12 blood in? Why did he get the clothes of the victim? Why
13 did Detective Malone testify? That would have been nice
14 to have. Yeah, that would have been nice to have. Yeah,
15 wouldn't that have been nice to have?

16 Why did the search warrant with Detective Todd say we
17 want fibers, hair, trace blood? Because you have to have
18 it.

19 Okay. So let's look at the case against Johnny
20 Mahaffey. Let's look at the pieces of evidence. The cell
21 phone. The cell phone, ladies and gentlemen. Jamie went
22 to this scene and did the shooting. And remember, isn't
23 it funny that her -- we've got a cell phone and remember
24 how we just know it's within five miles? The shooting
25 occurs somewhere around 10:40. We have a call on out. We

1 don't know where in this five-mile radius, but we have a
2 call at 10:40.

3 She comes back to the house. And isn't it weird that
4 this night, of all nights, she tells you -- now, she says,
5 "Oh, he came back." We lost the phone. We had this mix
6 up on the phone. I had to find it." There was a mix up
7 on the phone all right. It was in his car all right. And
8 that's when they switched back to the real phones.

9 She headed out to her mother at that point because
10 she was looking for an alibi. She had to get the alibi.
11 She did not know -- it was dark there, it was late at
12 night -- she didn't know anybody had heard about that.
13 And her phone tracks the rest of the way.

14 Where is Jamie's phone? Why didn't somebody do
15 prints on the phone that was at the house? Wouldn't that
16 have answered our questions? Again, physical evidence.
17 It should have been processed for prints. Why didn't
18 somebody get text messages?

19 The gun. He goes out and buys it in broad daylight.
20 Yeah, had to track through four people. He didn't know,
21 had to be tracked; he had no idea it wasn't the original
22 owner, couldn't easily be identified. Why use that gun
23 when he could go out any night of the week on streets down
24 here, buy a hot gun from a drug dealer for ten bucks?

25 The car. He's never been placed in it. Never.

1 The letters, let's talk about the letters. At some
2 point Jamie becomes arrested and we get the letters. Now,
3 they are meeting face to face twice a week with absolutely
4 no monitoring. But he writes letters. And let's look at
5 these letters.

6 Set up an alibi. I'm going to pay thousands of
7 dollars. Okay. We're represented. You heard Scott
8 Thomason. "We're the public defenders. We're free
9 lawyers." He can't afford a lawyer. She's evicted.
10 They're not paying their house payment or their rent.
11 They have no money. That doesn't even make sense.

12 And then go to the second one. Oh, this is a good
13 one. "And go fix the muffler because, gee, I didn't know
14 if the police got the car, that I consented for them to
15 take and look in the day that this occurred." Police
16 already have the car. He knew that. He was there when
17 they took it. That doesn't even make sense. But he knows
18 these letters are going to be opened. Everybody knows
19 they're opened. They're opened. They take nine to ten
20 days to get there. That's a policy of the jail to open
21 all letters.

22 And then you go to the taped telephone call. Jamie
23 admits she's bright; she's creative; she's intelligent.
24 She loves to read mysteries. She loves to read. College
25 in Tennessee. Very well read.

1 This is great role playing on this tape. How do we
2 know that? Let me tell you how we know it. Before every
3 telephone conversation, every single one, when they have
4 made -- and you know they've made zillions of them -- it
5 says this, "This is being recorded. This is being
6 monitored." Remember that monotone voice? Both parties
7 knew what was happening.

8 In the tape Jamie says, "You know the police says
9 they're taping all the tapes." Yeah. But continues to go
10 right on making admissions. But toward the end -- and
11 this is the interesting thing -- toward the end he says,
12 "Jamie, Jamie, just be sure to tell the police the truth,"
13 as if it were unmonitored. Nothing had been said in the
14 taped conversation that couldn't have been said face to
15 face. They were told it was being taped, knew it was
16 being taped.

17 If you think she's not capable of -- let me ask you
18 something else. Did you see her up here? Did you see her
19 demeanor? You don't seriously think she's a helpless,
20 crying, little girl.

21 How about my space: "I'm a swinger. Call me any
22 time," as if the only my friends can get it. Oh, how did
23 I get it? How did my office pull it up? That's one piece
24 of evidence.

25 Let's look at something else. The inmate's

1 testimony. The inmate said he kept to himself; he was
2 very quiet; this isn't a guy blabbing all over the jail.
3 But in one hour he opens up to him and confesses all. And
4 that same inmate, while he was under oath up here, said,
5 "The only reason why I'm doing this is because I had a
6 loved one that was murdered."

7 And the same inmate said under oath, "I didn't expect
8 anything in return. I never asked for anything."

9 Hum, that was interesting because, as it turns out,
10 he had written a law enforcement officer and he had said,
11 "I'm up here in B pod. I'm willing to write statements,
12 testify, whatever you need. They range from killing,
13 rape, gun charges, kidnapping, everything; just look at
14 the roll on B pod. I'm your man. You've helped me so
15 far. Let's help each other. I've seen some cases worse
16 than mine got suspended to probation.

17 I'm willing to give it my all. My wife is even
18 talking right. We have three children that need us
19 together as a family. I need just one break. Will you --
20 I'm at your service. Will you please get me home to my
21 family, and I'll make your name, with God's help, stand
22 out. I'm not asking for anything."

23 Then says, "I never talked to Rame about this." Of
24 course not. He has an attorney. His attorney on the
25 armed robbery would have been the one dealing. Don't talk

1 to the prosecutor. That's not what you do. The attorney
2 does. Just coincidently facing 30 years, victim on three
3 counts of armed robbery, and he walks out, he says seven
4 years. The rap sheets says five years. Minus good time,
5 one-fourth. The victims of those three -- I bet the
6 victims of the three armed robberies weren't happy about
7 that, too.

8 How did he know there had been a shooting on the side
9 of the jail. There are TVs on at the jail. They have
10 newspapers. All the inmates do is gossip. You think for
11 one minute that guy can pick what channel he's going to
12 have the television on when there are all these guys in
13 the pod watching? No, not going to watch anything else.
14 You have to be joking me. They don't all have personal
15 TV's out there.

16 So, let's go to Jamie's testimony. Two things
17 really, really missing from her testimony. One we've
18 already talked about, where is mama? The second one is
19 this: She got up here and she told you that night after
20 Johnny had gone to talk with the police, "I went to Ryan's
21 and my sister went and my brother-in-law went." Now, if
22 he isn't trying to make things up for the police to take
23 the rap for her, where are the sister and brother-in-law?
24 That would be independent evidence. Is there any possible
25 reason the prosecution would not have called them as

1 witnesses? They weren't called because they don't exist.

2 I assure you they would have been called if they did.

3 Four different statements. Yeah, I lied in the first
4 one. I didn't tell all the truth in the second, didn't
5 tell all the truth in the third or the fourth. I had an
6 attorney. Oh, I was prepared. Yeah, I was prepared when
7 I came up here. My attorney negotiates everything, why I
8 have no deals at all. Well, Jamie, why haven't you
9 pleaded guilty then, since you had over a year to do this
10 with two weeks of Court every single week? No good reason
11 for that. She's wanting a deal. She's wanting her
12 charges dismissed, depending on her performance up here.

13 Finally Johnny's statements, let's talk about those.
14 This is where we get the deal or no deal show. Not
15 guilty? For goodness sakes, he talked on a tape about it.
16 How could he possibly not be guilty? Well, this is where
17 you have to go up to the scene to get a different
18 perspective.

19 Johnny tells the officers the day that this occurs,
20 "I want to talk about all of this and I want to put this
21 all on myself to protect my wife." Very shaking and
22 emotional -- save that one for last, because that's very
23 important. "But I want to talk now in order to prevent
24 any future charges from being brought against my wife."
25 He asked on several occasions if it was possible to keep

1 his wife from being arrested.

2 And this is perhaps the most important one. Because,
3 does this even make sense? He's talking to a homicide
4 investigator and he says, "You don't understand the legal
5 ramifications of this." What does that mean? Why would
6 you ever say that to a homicide investigator? This was
7 all done right away.

8 Now, the other interesting thing is he had an
9 attorney. I wasn't on the case, but Robert Gamble was on
10 the case. He's not, he's getting ready for a murder trial
11 and he calls the detective and says, "Come talk to me. I
12 want to talk to you. Come talk to me. I want to talk to
13 you. Come talk to me. I want to talk to you."

14 And don't forget his wife at this point has been
15 arrested and is facing time. He insists that the
16 investigator come talk to him. And what does he do? He
17 gives a confession. But the confession is wrong. It's
18 got all sorts of stuff in it that's not quite right.

19 But the most important part of the confession is, "My
20 wife, Jamie Mahaffey, knew nothing of this incident
21 before, during, or after." They met ten days before they
22 got married. They were smitten. Letters, that thick
23 going back and forth proclaiming love, adoration. "You're
24 my Helen of Troy. You're wonderful." Why on earth would
25 he give a statement? To get away from the drip. When you

1 fly up to the spring, that explains it. That's the only
2 thing that explains it all.

3 They say, "Well, how did he know about the gun and
4 the water?" They had this twice, meetings twice a week
5 face to face. You don't think that was being discussed?
6 What's Jamie's motive? Why would Jamie do this? All
7 right. I don't know. I can't climb into her head and I
8 don't want to based on what she told me; but about people
9 and how they think of her. But I've got two reasons that
10 might be considered. One is, she adored her husband as
11 well and she wanted to protect him. We've got that she --
12 just look at the statement, you'll have it back there.
13 Talking about how threatened her husband, had pulled a
14 knife on her husband. Perhaps she was trying to protect
15 her husband.

16 But this is something else and you know how to put it
17 into words. It's bothered me from the first day I was
18 assigned to this case. It's so weird. Has it not
19 bothered you from the very beginning, how anybody but
20 Skyler knew where he was? Don't forget this wasn't his
21 normal just little fact gets bounced around in my head,
22 yes or no, know how to put my fingers on it. But stop and
23 think about this. Okay.

24 Ryan and Skyler got in a fight in Olive Garden. And
25 didn't you think the testimony was weird, she kept

1 insisting, "Oh, no, we were not fighting over him having a
2 wife with children. We've been living together months, I
3 have no idea he was married."

4 First of all, why would that even be important to lie
5 about? But, second, why would you keep saying "We fought
6 because I wouldn't take him see his wife?" What's he
7 going to do, walk out, tell the patrons, "I hope you're
8 not too hungry. I'll be back in a few hours, I've got to
9 go"? No, he was talking about visiting after work. He
10 waited for her after work. They left together. They
11 weren't fighting over why she would give him a ride. That
12 doesn't even make sense. Why would she lie about that?

13 The next thing is weird about it is, so he walks off
14 in the dark and she says she goes her way. Nobody knew
15 but Skyler that he was walking that night. How would
16 anybody else have known where he was going? You know, now
17 if he goes on his normal pattern da, da, da, da, then,
18 yeah, you know to lie in wait for someone. But this has
19 bothered me since the very beginning. How does anybody
20 know where he is? So, you say, well, maybe Johnny was
21 waiting at Olive Garden and followed him. Folks, you can
22 hear the car with the muffler over a quarter of a mile
23 away. There's no way.

24 And that's another weird thing. Skyler and Jamie
25 come in today or yesterday, whatever it was, and say, yes,

1 he would sneak around and follow them. He has one car
2 that works. It has a muffler you can hear a quarter of a
3 mile away. Why would they both make that up? Isn't that
4 weird? It doesn't add up. There's no way that this car
5 with this muffler could have found out where he was.
6 Because only Skyler knew.

7 And then she comes in and she says, "Yeah, I left and
8 I went driving around looking for him." He has her cell
9 phone. She has a phone. All she has to do is say, "Let
10 me call you right back," to her friend. She calls him and
11 says, where are you, I'm coming to pick you up. Does that
12 make sense? Is she going to drive all around the civic
13 center and all over the place? That doesn't even make
14 sense. Only she knew he left on foot. Only she knew
15 which way he went.

16 Now, we know Skyler isn't going to tip him off.
17 She's in a custody fight with him. Look at the statement.
18 He had served her with papers that day about the custody
19 fight. We know she isn't trying to help him, she came up,
20 tried to send him to jail. She's testifying against him
21 here.

22 But have you noticed Jamie and Skyler out here? I
23 don't know, I can't put my finger on it. But I do know
24 one thing. Swinger, prepaid phones can't be traced. I
25 don't know, it's just weird. There's no possible way in a

1 car with a loud muffler he could have done that.

2 And why was Skyler so adamant about "Oh, no we
3 weren't fighting. We weren't fighting when we left. He
4 wanted to walk home." Seven hours after working a full
5 shift, in the dark or go to hospital, probably 7 miles
6 that way as well, close to that. Why would she lie about
7 that? And did you notice who showed up right when the
8 police got there? Skyler.

9 I don't know you all, it's weird. It's strange. It
10 doesn't make sense. But we do know one thing. Jamie is
11 either very, very creative or she's got some personality
12 problems. You remember the letter? I asked her about her
13 other personalities. And remember what the letter said?
14 She said -- okay, we got to get this straight because
15 she's asked questions by the prosecutor first, then I get
16 up and I ask her about these personalities.

17 She hems and haws, says -- this is interesting
18 because I got a letter where you actually outline this. I
19 actually read it to her. "How do you know what's in my
20 head? How is it you can see it, see them? Sue with brown
21 eyes and Phoebe with blue eyes and all the other things in
22 there. Everyone I have ever known only sees one aspect,
23 only see the part they like and won't accept the existence
24 of the rest. How is it you understand it all; that you
25 accept it like it's normal, like it's okay? I want to

1 tell you about all of it, of that, the crazy in my head."

2 Now, the prosecutor got back up when I got done,
3 "that was out of context. Why didn't they read before and
4 after to show you? I stood up after that, said, "I have
5 another question with that letter. I wasn't permitted to
6 ask her that question. Why didn't they read the rest of
7 the letter, then, if it was out of context? Because it
8 wasn't. It wasn't out of context. This was no literary
9 thing. Listen to what that said. That's part of her.
10 He's accepting part of her.

11 Johnny was willing to take the rap for Jamie, his
12 pregnant wife. That's another thing they said, he doesn't
13 care about his children, really. I thought that's what
14 they're saying this is all about, a custody fight. He's
15 so determined to see his child.

16 But then the "my space" shows up. Then he gives his
17 statements. Once he gives the written statement, she's
18 done with him. She's done. Does it stop? My space goes
19 up. She's swinging now. And, yes, you can call me at 3
20 a.m. in the morning. I will pick you up. I like to
21 drive. I take my kid everywhere.

22 Johnny has pleaded not guilty in this case. There's
23 nothing more we can do. You've heard every bit of
24 evidence that could be presented. When he pleads not
25 guilty, he says, "I did not do this."

1 You're going to hear the judge give you jury
2 instructions on beyond a reasonable doubt. You took an
3 oath that you would not convict unless the state proved
4 this case beyond a reasonable doubt. That means there is
5 no hesitation to act. No hesitation to act.

6 I'm going to ask you one thing. Down the road a few
7 years, would you really be that shocked if Jamie found
8 religion and came out with a press conference carrying a
9 little pair of tennis shoes, saying, I really did it and
10 the blood on these will prove it?

11 JURY CHARGE

12 THE COURT: All right. Mr. Foreman, members of the
13 jury, the State of South Carolina charges the defendant,
14 Johnny Earl Mahaffey, with the murder of Ryan Cox. The
15 State of South Carolina also charges the defendant with
16 possession of a weapon during the commission of a crime or
17 attempt to commit a violent crime.

18 I have permitted you to take notes during the course
19 of this trial. You have not been obligated to take notes;
20 but if you have taken notes, they should be only used as
21 memory aids. You are not to give those precedence over
22 your independent recollection of the evidence. If you
23 have chosen not to take notes, should rely on your own
24 independent recollection of proceedings and you should not
25 be influenced by the notes of other jurors. I emphasize

1 that notes not entitled to any greater weight than the
2 recollection and impression of each juror as to what the
3 testimony may have been. These are your notes. You may
4 destroy them or the Court will destroy them for you after
5 the trial.

6 I will give you a copy of these instructions in
7 written form. During your deliberations you may refer to
8 the instructions to guide your decision making. You must
9 consider the instructions as a whole, not follow some and
10 ignore others. Please return the instructions to the
11 Court after you have reached a verdict.

12 Now, to these indictments the defendant has entered a
13 plea of not guilty, which places upon the state the burden
14 of proving the defendant guilty. A person charged with
15 committing a criminal offense in South Carolina is never
16 required to prove himself innocent. I charge you that it
17 is a vital and important rule of law of evidence that the
18 defendant in a criminal trial, no matter how great or
19 serious the offense with which he is charged, must always
20 be presumed innocent until his guilt has been proved
21 beyond a reasonable doubt.

22 This presumption of innocence remains with the
23 defendant at all times, from the moment of his appearance
24 in this Court, throughout the trial, and until you, the
25 jury, have upon the testimony and evidence presented

1 reached a verdict of guilty beyond a reasonable doubt.
2 For it is the solemn duty of the jury, if not clearly
3 convinced of his guilt beyond a reasonable doubt, to
4 acquit the defendant.

5 So the burden of proof is upon the state to establish
6 by evidence to your satisfaction the guilt beyond a
7 reasonable doubt of this defendant.

8 Now, what is a reasonable doubt? A reasonable doubt
9 is the kind of doubt that would cause a reasonable person
10 to hesitate to act. If you have such a doubt as to guilt
11 of the defendant, then he would be entitled to a verdict
12 of not guilty. Reasonable doubt may arise from the
13 evidence which is in the case or from the absence or lack
14 of evidence in a case. You, alone, must make a
15 determination whether or not reasonable doubt exists as to
16 the guilt of the defendant.

17 The term reasonable doubt should be given its
18 ordinary, everyday, plain ordinary meaning. Proof beyond
19 a reasonable doubt is proof that leaves you firmly
20 convinced of the defendant's guilt. There are very few
21 things in this world we know with absolute certainty. And
22 in criminal cases, the law does not require proof which
23 overcomes every possible doubt. If, based upon your
24 consideration, the evidence firmly convinced the defendant
25 guilt of a crime charged, you must find him guilty. On

1 the other hand, you think there's a real possibility he's
2 not guilty, you must give him the benefit of the doubt and
3 find him not guilty.

4 The evidence from which you are to decide this case
5 consists of the sworn testimony of witnesses, both on
6 direct and cross examination, regardless who called the
7 witness, the exhibits that have been received in evidence,
8 and any facts which the lawyers have agreed to stipulate.

9 Certain things are not evidence. You may not
10 consider them in deciding what the facts are. I will list
11 them for you. Arguments and statements by lawyers are not
12 evidence. The lawyers are not witnesses. What they have
13 said in their opening statements, closing statements, and
14 at other times intended to help you interpret the
15 evidence; but it is not evidence. If the facts as you
16 remember them differ from the way the lawyer stated them,
17 your memory controls.

18 Questions and objections by lawyers are not evidence.
19 Attorneys have a duty to their clients to object when they
20 believe a question is improper under the rules of
21 evidence. You should not be influenced by objections or
22 by the Court's ruling on the objection. Testimony has
23 been excluded or stricken or that you been instructed to
24 disregard is not evidence, must not be considered.
25 Anything you have seen or heard when the Court was not in

1 session is not evidence. You are to decide the case
2 solely on the evidence you receive at trial.

3 Under our constitution and code of laws only you, the
4 jury, can make findings of fact in this case. I'm not
5 permitted to indicated to you how I feel about the
6 testimony and evidence presented. Throughout this trial
7 it has been my intention to be fair and impartial towards
8 each of the parties involved. To determine the facts in
9 this case you will have to evaluate the credibility, which
10 means the believability of each witness.

11 Some of things you may consider as you decide whether
12 or not to believe a witness's testimony about a particular
13 matter include: What was the manner and appearance of the
14 witness that testified? Was he or she straightforward or
15 hesitant in answering? Was the testimony of a witness
16 consistency or inconsistent? How did the witness come to
17 know the facts that he or she testified to? Was the
18 person present at the incident or happen on the scene
19 after it occurred? Is there some reason a witness would
20 want to give testimony which would help or hurt one side
21 or the other? In other words, was the witness biased or
22 prejudiced? Was the testimony of a witness strengthened
23 or weakened by other testimony and evidence?

24 You can believe as much or as little of each witness
25 as you think proper. You may believe the testimony of a

1 single witness against that of many or just the opposite.
2 Of course, you do not determine the truth merely by
3 counting the number of witnesses who testified for each
4 side. Throughout this process you have but one objective,
5 to seek the truth, regardless of its source.

6 There are two types of evidence which are generally
7 presented during a trial: Direct evidence and
8 circumstantial evidence. Direct evidence is the testimony
9 of a person who asserts or claims to have actual knowledge
10 of a facts, such as an eyewitness. Circumstantial
11 evidence is proof of a chain of facts and circumstances
12 indicating the existence of a fact.

13 The law makes absolutely no distinction between the
14 weight or values to be given to either direct or
15 circumstantial evidence, nor is a greater degree of
16 certainly required of circumstantial evidence than of
17 direct evidence. You should weigh all the evidence in the
18 case. On a contested factual issues you may have some
19 direct and some circumstantial evidence. To determine the
20 facts in this case, you have to evaluate the credibility,
21 which means the believability of each witness.

22 The rules of evidence ordinarily do not permit
23 witnesses to testify as to their opinion or conclusions.
24 An exception, however, to this rule does exist as to those
25 who we call expert witnesses. Expert witnesses are

1 witnesses who by education and experience have become
2 expert in some art, science, profession or calling. These
3 witnesses may state their opinion as to some relevant and
4 material matter they profess to be an expert. They may
5 also state their reasons for their opinions.

6 You should consider expert testimony you received in
7 this case, give it such weight as you may think it
8 deserves. You should decide if the opinion of the expert
9 witness not based upon sufficient education and experience
10 or if you should conclude that the reasons given in
11 support of the opinion are not sound; or if you feel
12 outweighed by other evidence, you may disregard the
13 opinion entirely.

14 The same constitution and laws which designate and
15 make you the finders of fact, as I just explained, also
16 make me the sole instructor of the law. You should accept
17 statements of law as I give them to you. Attorneys are
18 not instructors of the law. Please base your decision
19 making on what the law is and not what you think the law
20 should be.

21 What is murder? By definition murder may be defined
22 as the willful, felonious killing of a human being with
23 malice aforethought, that malice being either express
24 malice or implied malice.

25 Malice is a word suggesting wickedness, hatred, and a

1 determination to do what one knows to be wrong, without
2 just cause or excuse or legal provocation. Malice may not
3 be in the mind of the one doing the killing any particular
4 length of time before the act or killing in order to
5 render the killing murder. If it's present in the mind
6 during the killing for any length of time during the act,
7 its presence would be sufficient to render the killing a
8 murder.

9 Malice is said to be expressed where there is
10 manifest a violent, deliberate intention unlawfully to
11 take away the life of another human being. Malice is
12 implied is where one intentionally, deliberately does an
13 unlawful act he or she knows to be wrong, in violation of
14 its duties to another, and no legal excuse -- where no
15 excuse or legal provocation appears. And when
16 circumstances attending a killing show an abandoned heart,
17 a malignant heart fatally bent upon mischief, previous
18 threats of vengeance, or lying in wait, the circumstances
19 show a direct intent to kill is entertained.

20 The jury may also conclude by deductive reasoning in
21 certain circumstances. Malice may arise even though
22 there's no direct or express evidence of intent to kill.
23 Malice may be inferred where there's no express intent to
24 kill provided by direct evidence, may be inferred from the
25 facts and circumstance proved. Malice may be inferred

1 from the willful, deliberate, intentional doing of an
2 unlawful act without just cause and legal excuse. In
3 other words, in its general significance, malice means
4 doing a wrongful act, intentionally without justification
5 or legal excuse. Even if the facts proven are sufficient
6 to raise an inference of malice, this inference is simply
7 an evidentiary fact to be taken into consideration by you.

8 The use of a deadly weapon permits you to infer
9 malice; but does not require that you infer malice. In
10 other words, if such conduct results directly in the death
11 of another, such conduct is so culpable, so inexcusable,
12 so aggravated and grossly reckless as to show an active
13 intentional disregard for the consequences of human life;
14 thus denoting a malignant spirit and a heart devoid of
15 social duty, fatally bent on mischief, the implication of
16 malice may arise.

17 Possession of a weapon during commission of a crime.
18 The defendant is charged with possession of a weapon
19 during the commission of or attempt to commit a violent
20 crime. The state must prove beyond a reasonable doubt
21 that the defendant was in possession of a firearm or
22 visibly displayed what appeared to be a firearm during the
23 commission of a violent crime.

24 A firearm means any machine gun, automatic rifle,
25 revolver, pistol, or any weapon which will or is designed

1 to or may be readily converted to expel a projectile. In
2 order to find a defendant guilty of possession of a weapon
3 used in a violent crime, you must first find the defendant
4 guilty of either committing the violent crime or
5 attempting to commit a violent crime. Murder is a violent
6 crime.

7 A statement alleged to have been made by the
8 defendant has been admitted into evidence in this case.
9 If the defendant did make the statement, you must
10 determine whether the statement was made by the defendant
11 voluntarily and of his own free will. This means that the
12 statement was not caused by pressure, force, fear,
13 threats, coercion, or intimidation; by hope or a promise
14 of leniency or reward of any kind.

15 In determining whether the statement was given
16 voluntary, you should consider both the characteristics of
17 the defendant and the details of the questioning. Some of
18 the factors you must consider are age of the defendant,
19 defendant's education or lack of education, the
20 defendant's mental ability, capacity; the defendant's I.Q.
21 or intelligence; his background or environment, place and
22 length of detention; the nature of the questioning, the
23 advice or lack thereof to the defendant of his
24 constitutional rights, including but not limited to: The
25 right to remain silent, that any statement could be used

1 against him in a Court of law; the right to have a lawyer
2 present; if he could not afford a lawyer, a lawyer would
3 be appointed to represent him without any cost and he
4 could stop making a statement at any time.

5 You must carefully consider all those surroundings
6 circumstances before you give any weight to an alleged
7 statement.

8 The state has the burden of proving beyond a
9 reasonable doubt that the alleged statement was given
10 voluntarily. If you determine it was, give the statement
11 any further consideration that you deem proper; that is,
12 decide what weight, if any, should be given to the alleged
13 statement. If you determine the alleged statement was not
14 free and voluntary statement of the defendant, you should
15 not consider the statement at all.

16 You have been selected as fair and impartial jurors,
17 sworn to impartiality try and determine the facts in this
18 case. When you comply with your oath to do so, no one
19 will have a right to criticize your verdict, you will have
20 fully discharged your duty as jurors. You are to decide
21 the case according to the testimony you heard from the
22 lips of the sworn witnesses, along with other evidence
23 introduced.

24 I charge you that, as jurors, you must decide the
25 issues in this proceeding without bias or prejudice to any

1 parties. You cannot be allow yourself to be governed by
2 sympathy, passion, prejudice, public opinion, or any other
3 arbitrary factor. Both the state and the defendant have
4 the right to expect that each of you will carefully and
5 impartially consider all the evidence in the case and that
6 you will follow the law as I've explained it to you.

7 Nothing I may have said or done during the course of
8 this trial has been in any way intended to express or
9 suggest my view of the case or my opinion as to the facts,
10 weight of the evidence, or credibility of witnesses. If
11 any of my actions, words seem to so indicate, you should
12 disregard such and form your own opinions of these
13 matters.

14 Mr. Foreman, ladies and gentlemen of the jury, I've
15 prepared a verdict form. It has the name of the case,
16 State of South Carolina versus Johnny Earl Mahaffey. It
17 has the case number, it says "We, the jury, find the
18 defendant, Johnny Earl Mahaffey, guilty of murder of Ryan
19 M Cox." Second, "We, the jury, find the defendant, Johnny
20 Earl Mahaffey, not guilty of murder of Ryan Cox."

21 It says if you find the defendant, Johnny Earl
22 Mahaffey, not guilty of murder of Ryan Cox, do not proceed
23 any further. If you find the defendant guilty of the
24 murder, proceed below.

25 "We, the jury, find the defendant, Johnny Earl

1 Mahaffey, guilty of possession of a firearm during the
2 commission of a violent crime."

3 "We, the jury, find the defendant, Johnny Mahaffey,
4 not guilty of possession of a firearm during commission of
5 a violent crime." A place for the foreperson to sign and
6 date. Date it today.

7 The verdict has to be unanimous, all 12 have to
8 agree. I will tell you, it is a collective reasoning
9 process on all 12 of your part. Please consider each
10 other's opinions, review the facts, consider the evidence
11 and arrive at a fair and just verdict.

12 Mr. Foreman, after you've reached the verdict, sign
13 the verdict form, fill it out, sign the form, tell the
14 bailiff you have reached a verdict. I will have you back
15 after that. However, before you begin your deliberations,
16 I want you to wait until the bailiff brings the verdict
17 form, the charge that I just read to you, and all the
18 exhibits that have been admitted into evidence before you
19 begin your deliberations.

20 And the reason I'm asking you to do that, I have to
21 go over the charge with the attorneys. I may have to
22 bring you back and add something, take something away. So
23 I don't want you to begin your deliberations until I had a
24 chance to go through that process with the attorneys and
25 the bailiff brings all the evidence to you in the jury

1 room.

2 All the members of the jury may follow the bailiff to
3 the jury room except for the two alternates. Any
4 exceptions from the state?

5 MR. CAMPBELL: None, your Honor.

6 THE COURT: Any from the defendant?

7 MS. WHITE: Move for mistrial. I'd like to note for
8 the record, the victim's mother or relative apparently is
9 facing the jury with a picture of Ryan Cox, apparently
10 coughed throughout the argument and showed a picture to
11 the jury. And I am moving at this time for a mistrial.
12 Actually, I'm going to move it as double jeopardy, as well
13 your Honor.

14 MS. JONES: I beg your forgiveness, your Honor.

15 THE COURT: Ma'am, be quiet and have a seat.

16 Solicitor, have you seen how long the picture has
17 been there? Or, Mrs. White, have you?

18 MR. CAMPBELL: No, I did not see the picture at all.

19 THE COURT: Mr. Gamble, you did not make the
20 argument. Have you seen how long the picture was there?

21 MR. GAMBLE: I haven't, your Honor. I was looking at
22 you and Mrs. White.

23 THE COURT: Mrs. White, when did you first see the
24 picture.

25 MS. WHITE: Your Honor, I've been looking at it while

1 the jury was there. She was flashing it and coughing. I
2 would ask that we call her.

3 THE COURT: My question to you is real simple. When
4 did you first see the picture?

5 MS. WHITE: After my argument, your Honor.

6 THE COURT: During the charge?

7 MS. WHITE: Yes, sir, during the charge is when I saw
8 it. I would ask that we call her up as a witness.

9 THE COURT: Just answer my questions, first.

10 MS. WHITE: Yes, sir.

11 THE COURT: You saw it during the closing arguments;
12 is that correct?

13 MS. WHITE: Not during the closing arguments, during
14 the charge.

15 THE COURT: During the charge. Mr. Cleveland, let me
16 just ask the bailiffs, excuse me, the two alternates.
17 From your position, can you -- the second question,
18 Mrs. White, was she holding the picture the way she has it
19 now, in her lap?

20 MS. WHITE: No. She was holding it toward the jury,
21 like this. (indicates.) For the record, I'm holding it
22 up. Like toward her chest.

23 THE COURT: Okay. Did any of the alternates, did you
24 see the picture? Or can you see the picture from where
25 the lady is sitting, from where you are sitting now?

1 JUROR: I cannot. The podium blocks my view.

2 THE COURT: How about the lady in back?

3 JUROR: Yes, sir.

4 THE COURT: Pardon?

5 JUROR: Yes, I can see it.

6 THE COURT: Have you noticed it before it was brought
7 to your attention?

8 THE WITNESS: Yes, sir.

9 THE COURT: You did?

10 JUROR: Yes.

11 THE COURT: Okay.

12 Ma'am, come around, just stand by the front gate
13 please, ma'am. Bring the picture. Raise your right hand.

14 JACKIE JONES, being first duly sworn,
15 testified as follows:

16 BY THE COURT:

17 Q What's your name?

18 A Jackie Jones.

19 Q Jackie what?

20 A Jones.

21 Q Who is the picture you're holding up?

22 A This is Ryan.

23 Q How long have you been holding it?

24 A Since the beginning. I was --

25 Q Since the beginning of what?

1 A Just today.

2 Q Today?

3 A After the charges were read and the detective --

4 Q Have you been holding it throughout the closing
5 arguments?

6 A On my lap, like this.

7 Q On your lap?

8 A Pardon?

9 Q How did you hold it?

10 A I was sitting like this. (Indicates.)

11 Q Do you want holding it against your chest sitting
12 down; is that correct?

13 A Yes.

14 Q Were you holding it during the entire time of the
15 closing arguments?

16 A Yes, sir.

17 Q Pardon?

18 A Yes, sir.

19 Q Where is the victim-witness advocate from the
20 solicitor's office?

21 Did you know she was holding it?

22 MS. MILANO: I did not, sir.

23 THE COURT: Pardon?

24 MS. MILANO: I did not.

25 MS. WHITE: Your Honor, may we have it marked as an

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1 exhibit?

2 THE COURT: No, not yet. Have a seat over there on
3 the front row.

4 All right. We'll take a short recess. Other than
5 that, you have any exceptions to the charge? I know you
6 moved for a mistrial. I'm going to rule on it very
7 shortly --

8 MS. WHITE: I have no exception.

9 THE COURT: -- okay? To the charge.

10 Okay. Let me -- the two alternates, the lady in the
11 red, you said you could not see it, you could not see the
12 picture; the lady in the black said she did. All right.
13 What I'm going to ask you to do, I'm going to let the
14 bailiff take you in the grand jury room. Ask you not to
15 discuss the case. Ma'am, what's your name?

16 JUROR MAHAFFEY: Jean Mahaffey.

17 THE COURT: You did not see the picture?

18 JUROR MAHAFFEY: I did not.

19 THE COURT: All right. The lady in the black, you
20 did see the picture; is that correct?

21 JUROR: (Nods head up and down.)

22 THE COURT: Pardon?

23 JUROR: Yes, sir.

24 THE COURT: Go with the bailiff to the grand jury
25 room, please. Ma'am, go back and sit where you were

1 sitting please, ma'am. Would you go bring the jury in the
2 courtroom, please.

3 (Whereupon, the following proceedings were had within
4 the presence of the jury:)

5 Ma'am, are you sitting where you were sitting the
6 entire time?

7 MS. JONES: Yes, sir.

8 THE COURT: You holding the picture the way you were
9 holding the picture?

10 MS. JONES: Yes. On my lap.

11 THE COURT: Anybody else moved from those positions?

12 MS. JONES: No.

13 THE COURT: Behind the solicitor's office. Everybody
14 stay in their same positions.

15 (WHEREUPON, the jury came into open court at
16 approximately 11:22 a.m., when the following
17 proceedings were had:)

18 THE COURT: All right. Ladies and gentlemen, I want
19 to ask you a question. There's a lady sitting on the
20 second row in the jury box -- excuse me, in the audience,
21 did anybody -- now you can look at me -- see the lady
22 sitting on the second row during the closing arguments and
23 the jury charge? Did anybody see the lady? Anybody look
24 at that lady during the closing arguments and the charge?

25 JUROR: Brief glance.

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1 JUROR: I saw her.

2 THE COURT: Anybody else see her?

3 JUROR: I did not.

4 THE COURT: Did you see her?

5 JUROR: I glanced at her briefly.

6 THE COURT: Did you see what she was doing or pay any
7 attention to her?

8 JUROR: I noticed she was holding a picture.

9 THE COURT: The two that saw her, remain in the jury
10 box. The rest of you go to the jury room.

11 (The following proceedings were had outside the
12 presence of the jury:)

13 Do we have a bailiff outside? You take the
14 gentleman, stand right outside with him in the hall.

15 (Bailiff complies.)

16 THE COURT: Yes, ma'am? What's your name?

17 JUROR HILL: Hanna Hill.

18 THE COURT: Hanna what? What's your last name?

19 JUROR HILL: Hill, H-I-L-L.

20 THE COURT: All right. Mrs. Hill, that's juror
21 number 72. You say you glanced at the lady on the second
22 row?

23 JUROR HILL: Yes, sir.

24 THE COURT: Did you see what she was doing?

25 JUROR HILL: I noticed she was holding a picture.

1 THE COURT: Do you know who she is?

2 JUROR HILL: I have no way of knowing for certain.

3 THE COURT: Do you know who she is?

4 JUROR HILL: No, sir.

5 THE COURT: Do you know whose picture she's holding?

6 JUROR HILL: No, sir.

7 THE COURT: All right. You may step out in the hall.

8 Bring the other juror in.

9 (Juror Graham enters courtroom.)

10 How you doing, sir?

11 JUROR GRAHAM: I'm good.

12 THE COURT: What's your name?

13 JUROR GRAHAM: Jim Graham, officially James.

14 THE COURT: Do you know your number?

15 JUROR GRAHAM: Fifty-eight. Yes, sir.

16 THE COURT: Mr. Graham, did you notice the lady

17 sitting in the audience?

18 JUROR GRAHAM: I did, sir.

19 THE COURT: Do you know who she is?

20 JUROR GRAHAM: No, sir.

21 THE COURT: Do you know what she was holding?

22 JUROR GRAHAM: She was holding a picture.

23 THE COURT: You know whose picture it was?

24 JUROR GRAHAM: I can only assume it was a picture of

25 Ryan Cox. I don't know. I'm not sure.

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1 THE COURT: You assume it was a picture of Ryan Cox.

2 JUROR GRAHAM: Yes, sir.

3 THE COURT: But you don't know who she was?

4 JUROR GRAHAM: No, sir.

5 THE COURT: Did you see what she was doing with the
6 picture?

7 JUROR GRAHAM: No, sir.

8 THE COURT: How often did you look at her?

9 JUROR GRAHAM: Maybe three times. Maybe three, maybe
10 two times.

11 THE COURT: Was she holding the picture the entire
12 time?

13 JUROR GRAHAM: I think so.

14 THE COURT: All right. Assuming the picture is of
15 Ryan Cox, and she was holding that picture, how -- would
16 that affect you in any manner in deliberating in this
17 case?

18 JUROR GRAHAM: No, sir. Would it help you to know
19 if, you know, why I thought that's who it was?

20 THE COURT: Yes, sir.

21 JUROR GRAHAM: My wife and I lost a child last year
22 in a motorcycle accident, and we would probably do
23 something similar if we lost a child.

24 THE COURT: If you would, step out in the hall for
25 just a second, please.

1 (Juror Graham exits courtroom.)

2 All right. For the record I'm going to excuse
3 Mr. Graham from service on this jury. And I'm going to
4 place Mrs. Mahaffey, juror number 102, on the jury, who
5 says she did not see the picture because it was blocked by
6 the podium. Would you bring Mr. Graham in and
7 Miss Mahaffey in please.

8 MS. WHITE: Your Honor, may we have the picture put
9 down at this point.

10 THE COURT: Yes, ma'am. Put the picture down. As a
11 matter of fact, would somebody escort her out of the
12 courtroom with the picture, please.

13 MS. WHITE: Your Honor, may we mark it for evidence.

14 THE COURT: No, ma'am. Just sit down.

15 (Alternate jurors enter courtroom.)

16 Mrs. Mahaffey?

17 JUROR MAHAFFEY: Yes, sir.

18 THE COURT: I'm going to place you on the jury.
19 You're now on the jury. Okay? If you'll take
20 Mrs. Mahaffey to the jury room. Mr. Graham, I U denies to
21 you, I'm going to excuse you from any further service on
22 this jury. Okay? If you would stand out in the hall for
23 just a few minutes. Okay.

24 (Juror exits courtroom.)

25 All right. For the record, I have interviewed all 14

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1 jurors. Only one juror identify the picture as Ryan Cox.
2 The other 12 are now on the jury, which includes the
3 alternate, who did not see Mrs. Jones holding her son's
4 picture. Except one lady said she glanced at her, saw the
5 picture, did not know who it was; and did not know who the
6 picture was. So your motion for a mistrial and your
7 motion I believe for jeopardy to attach, whatever your
8 motion was, is denied. Are there any other motions?

9 SOLICITOR: No.

10 THE COURT: Anything the state wants to put on the
11 record concerning this?

12 MR. CAMPBELL: No, Your Honor.

13 THE COURT: Anything the defendant wants to put on
14 the record?

15 MS. WHITE: Yes, sir. The picture, she was on the
16 second row, she's approximately 20 feet or so from the
17 jury. The picture, I would estimate, about 12 by 12, of
18 the victim. She said she's holding it on the lap.

19 THE COURT: I don't have any picture if you want to
20 mark the picture as a court's exhibit.

21 MS. WHITE: Judge it's upright. She's holding it
22 against her chest, upright, not laying flat, just upright.
23 So it was facing the jury and the jury could see it.

24 THE COURT: Would you like me to mark the picture?

25 MS. WHITE: Yes, sir. If we can, please.

1 THE COURT: All right. Would you bring the lady back
2 in please.

3 (Mrs. Jones returns to courtroom.)

4 Ma'am, would you hand the bailiff -- the deputy the
5 picture please, ma'am. All right. I'm going to mark it
6 Court's Exhibit, whatever the next exhibit is. You may
7 have a seat in the courtroom, Miss Jones. Anything else
8 concerning your motion for mistrial that you would like
9 the Court to mark or any other statements you want to make
10 concerning what transpired from the state or the
11 defendant, please do it at this time.

12 MS. WHITE: No, sir.

13 THE COURT: Anything from the state?

14 MR. CAMPBELL: No, Your Honor.

15 THE COURT: Anything from the defendant?

16 MS. WHITE: No, sir.

17 THE COURT: If both parties would come forward, look
18 at the exhibits, put on the record that all the exhibits
19 are present and the bailiff can take them into the jury
20 room and tell the jury to begin their deliberations.

21 Mrs. Jones, if you want to come forward for a moment
22 please, ma'am. Come up here please, ma'am.

23 (Judge speaks with Mrs. Jones at the bench.)

24 MR. GAMBLE: Before we do that, I would suggest we
25 substitute a copy.

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1 THE COURT: The parties have agreed to substitute her
2 photograph in the record as a Court's Exhibit by a copy so
3 that the lady can have her picture of her son back.

4 (WHEREUPON, Court's Exhibit No. 3 is marked for
5 identification.)

6 THE COURT: For the record, all exhibits are present.
7 Tell the jury to begin deliberations.

8 (WHEREUPON, at 11:35 a.m. the jury is instructed to
9 begin deliberating.)

10 VERDICT

11 (WHEREUPON, the jury returns to open court at 12:58
12 p.m. to report its verdict, when the following
13 proceedings were had:)

14 THE COURT: Mr. Foreman, I understand you've reached
15 a verdict; is that correct?

16 THE WITNESS: Yes, sir, your Honor.

17 THE COURT: Could you give the verdict forms to the
18 bailiff, please?

19 (Foreman complies.)

20 Madam clerk, if you'll publish the verdict, please.

21 THE CLERK: Thank you, your Honor. Case number
22 2006-GS-04-3508, State of South Carolina versus Johnny
23 Earl Mahaffey. The verdict of the jury, "We, the jury,
24 find the defendant, Johnny Earl Mahaffey, guilty of the
25 murder of Ryan N Cox."

1 "We, the jury, find the defendant, Johnny Earl
2 Mahaffey, guilty of possession of a firearm during the
3 commission of a violent crime as to the murder of Ryan N.
4 Cox." That's signed W. E. Schrimp, foreman.

5 Mr. Foreman, ladies and gentlemen of the jury, if
6 this is your verdict, would you please indicate by raising
7 your right hand? All hands raised of the jury, your
8 Honor.

9 THE COURT: Thank you, ma'am.

10 Mr. Foreman I have filled out on the indictment:
11 Guilty, dated September 7, 2007. I'm going to ask you if
12 you would sign it right above where it says foreman,
13 please, sir. While the jury is doing that, any motions as
14 to the jury? I'll give you ten days as to any post-trial
15 motions. Any motions as to the jury, from the state?

16 MR. CAMPBELL: No, Your Honor.

17 THE COURT: From the defendant, as to the jury?

18 MS. WHITE: Yes, sir. Ask that they be polled, your
19 Honor.

20 THE COURT: All right. And as I said, I'll give you
21 ten days on any post-trial motions. We won't hear those
22 today.

23 Madam Clerk, if you would poll the jury, please.

24 THE CLERK: Mr. Foreman, ladies and gentlemen of the
25 jury, I'll read the verdicts once again and ask each of

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1 you individually if this was your verdict in the jury room
2 and if it's still your verdict.

3 Case 2006-GS-04-3508, The State of South Carolina
4 versus John Johnny Earl Mahaffey. The verdict, "We, the
5 jury, find the defendant, Johnny Earl Mahaffey, guilty of
6 the murder of Ryan N Cox."

7 "We, the jury, find the defendant, Johnny Earl
8 Mahaffey, guilty of possession of a firearm during the
9 commission of a violent crime as to the murder of Ryan N.
10 Cox."

11 William E Schrimp, was this your verdict and is it
12 still your verdict?

13 PROSPECTIVE JUROR: Yes, it is.

14 THE CLERK: Tecora Hardy, was this your verdict? Is
15 it still your verdict?

16 PROSPECTIVE JUROR: Yes, it is.

17 THE CLERK: Thomas Anderson, was this your verdict?
18 Is it still your verdict?

19 PROSPECTIVE JUROR: Yes.

20 THE CLERK: Cassie Wilson, was this your verdict? Is
21 it still your verdict?

22 PROSPECTIVE JUROR: Yes.

23 THE CLERK: Ginger Poore, was this your verdict? Is
24 it still your verdict?

25 PROSPECTIVE JUROR: Yes.

1 THE CLERK: Hannah Hill, was this your verdict? Is
2 it still your verdict?

3 PROSPECTIVE JUROR: Yes, ma'am.

4 THE CLERK: Shirley Gaines, was this your verdict?
5 Is it still your verdict?

6 PROSPECTIVE JUROR: Yes, it is.

7 THE CLERK: William Roper, was this your verdict? Is
8 it still your verdict?

9 PROSPECTIVE JUROR: Yes, it is.

10 THE CLERK: Natasha Moore, was this your verdict, is
11 it still your verdict?

12 PROSPECTIVE JUROR: Yes.

13 THE CLERK: Christine Carrick, was this your verdict?
14 Is it still your verdict?

15 PROSPECTIVE JUROR: Yes, it is.

16 THE CLERK: John Upton, was this your verdict? Is it
17 still your verdict?

18 PROSPECTIVE JUROR: Yes, it is.

19 THE CLERK: Claudia Mahaffey, was this your verdict?
20 Is it still your verdict.

21 PROSPECTIVE JUROR: Yes.

22 THE CLERK: The jury's been polled; all answer in the
23 affirmative, your Honor.

24 THE COURT: Thank you very much. You have a sentence
25 sheet?

Polling of the Jury

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1 MR. CAMPBELL: Yes, sir, your Honor.

2 THE COURT: Glad to hear anything from the defendant
3 or defendant's counsel concerning sentencing. You can
4 stand where you are. You may come forward, whatever you
5 feel comfortable. Anything, Mr. Gamble?

6 MR. GAMBLE: I think you heard anything we would say
7 as to him from the stand and from this courtroom. He's 27
8 years old, which is now 28, I think. Had no prior record
9 other than a fraudulent check.

10 THE COURT: All right. Mr. Thomason, anything you
11 would like to add?

12 MR. THOMASON: No, sir.

13 THE COURT: Mrs. White?

14 MS. WHITE: No, sir.

15 THE COURT: Mr. Mahaffey, anything you would like to
16 tell the Court prior to sentencing?

17 THE DEFENDANT: Just wanted to say I'm sorry to my
18 wife and my kids.

19 THE COURT: Sorry, for what?

20 THE DEFENDANT: To my wife and my children.

21 THE COURT: Anything else?

22 THE DEFENDANT: No, sir.

23 THE COURT: Mrs. White, Mr. Gamble, Mr. Thomason, any
24 members of the family you would like me to hear from prior
25 to sentencing?

1 MR. GAMBLE: No, sir.

2 THE COURT: Thank you very much.

3 Solicitor, I'm sorry, I did not give the state an
4 opportunity. Anybody you would like me to hear from prior
5 to sentencing?

6 MR. CAMPBELL: Yes, his mother would like to speak,
7 Mrs. Cox. Also the fact, just going over his record. He
8 does not have a criminal record. Today he has been
9 charged with several counts of criminal domestic violence.

10 MS. WHITE: Your Honor, I object to anything that's a
11 charge and not a conviction.

12 THE COURT: He's giving me his criminal history.
13 Okay?

14 MS. WHITE: Yes, sir.

15 THE COURT: I agree it's not admissible at trial; but
16 it's very pertinent now. Please proceed.

17 MR. CAMPBELL: Your Honor, since he's been
18 incarcerated and he had a family court hearing with Miss
19 Skyler Andrews, at that point in time he tried to attack
20 her by throwing a water pitcher at her. He has been
21 charged with assault and battery of a high and aggravated
22 nature in that. It's still pending.

23 Furthermore, a couple of months ago he and another
24 inmate attacked a guard, Mr. Mahaffey choked a guard down
25 until he blacked out, beat him in the head with a

Polling of the Jury

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1 walkie-talkie, in an attempt to escape from the Anderson
2 County Detention Center. In that case he has also been
3 charged with assault and battery with intent to kill,
4 attempt to escape. And that case is also pending.

5 And Mr. Cox's mother would like to speak as well on
6 behalf of the family.

7 THE COURT: She does want to speak?

8 MR. CAMPBELL: Yes, sir.

9 THE COURT: Ask her to come around. I'll be glad to
10 hear from her.

11 (Mrs. Jones steps forward.)

12 State your name for the record.

13 THE CLERK: My name is Jackie Jones, J-O-N-E-S.

14 THE COURT: Yes, ma'am. I'll be glad to hear
15 anything you would like to tell me.

16 MS. JONES: First of all, your Honor, this may sound
17 strange; but I'd liked to thank Johnny Earl Mahaffey for
18 what he did for my family. I will never forgive him for
19 what he did to Ryan; but what he did for my family, I'd
20 like to thank him for.

21 It's been a tough year for us. Not only because of
22 Ryan's death, but I have been through treatments for
23 breast cancer, chemotherapy, mastectomy, radiation
24 therapy, as well as my two-year old niece is going through
25 the same treatment for a neural blastoma. So it has been

1 a tough year for my family.

2 But as loving families, adversity has brought us
3 closer together. I live in New York. And each time that
4 Johnny Mahaffey has requested an appearance in Court, he
5 thought he was in control. He requested a bond hearing,
6 then decided he wanted to change counsel. Then he decided
7 he was going to plead guilty; but he still wanted a change
8 of counsel and didn't plea. Even with this trial, he
9 looked at this as another opportunity to torture my family
10 by making us relive the emotional events of Ryan's death.

11 The truth is that Johnny provided me an opportunity
12 to spend time with my family, an opportunity I wouldn't
13 have had if it weren't for his self-centeredness. In past
14 year other than visits from Jamie, his mom visited maybe a
15 couple of times and a visit from an uncle, other than that
16 he had nobody. And I think that's testimonial to his
17 character. In the meanwhile my family has been spending
18 time together. We were getting closer. We became
19 stronger, both as a whole, and as individuals. And that
20 is something that Johnny Mahaffey can never take away from
21 us.

22 I get a sense of satisfaction knowing that he will
23 never have what we have. I'd also like to thank the
24 solicitor's office for generously reimbursing us for
25 transportation, accommodations, and meals. And I'd like

1 to introduce you to my son, Ryan. And here is a picture
2 of Ryan with his son.

3 THE COURT: Yes, ma'am.

4 MS. JONES: And a picture of Ryan with his brother
5 and sister. If I could hold still, you'd see better.

6 THE COURT: I understand.

7 MS. JONES: I just got these pictures; these are
8 Ryan's children.

9 Your Honor, my son's been murdered. Johnny Earl
10 Mahaffey has admitted to that; he did it, and without the
11 smallest bit of remorse. And I have to deal with that
12 every day of my life. Ryan did not deserve to die. At 24
13 years old he was just beginning to live.

14 Ryan had a love of life. He had a wonderful sense of
15 humor, a little quirky at times; but nonetheless, his
16 coworkers, his friends, and his family enjoyed being with
17 him.

18 Ryan was a very compassionate person. He cared about
19 other people and would do whatever he could to help
20 others. If somebody needed something and he had it, he
21 would readily give it to them. Even if the people he
22 ended up helping, ended up taking advantage of his
23 kindness and generosity, it didn't stop him from helping
24 someone else. I believe he was trying to help Skylar find
25 her way out of the abusive relationship she had with

1 Johnny Mahaffey.

2 As a parent there are times when people let you know
3 that you're doing a good job. When they tell you how
4 polite your kid is, how respectful or friendly they are.
5 It makes you feel good.

6 I was proud of Ryan when the father of a legally
7 blind child told me that when the school bus stopped in
8 front of his house, he would see Ryan get off the bus,
9 help Jimmy across the Street, get on the bus and find a
10 seat. And Ryan would make sure that nobody picked on him.
11 Nobody told him look after that little boy. That's just
12 the kind of person was.

13 Ryan had a heart as big as all outdoors. He had so
14 much love inside of him and he gave it freely. Johnny
15 Earl Mahaffey will never be half the man that Ryan was.

16 Ryan was also very committed to his family: His
17 brother's, his sister's lives have been deeply affected by
18 his death. For as much as they'd fight and squabble
19 amongst themselves, they loved each other dearly. They
20 were best friends. They were protective of each other.
21 If they had a problem with someone else, they knew that
22 their big brother had their back.

23 They would talk to Ryan about their problems.

24 Sometimes he'd tell them what they wanted to hear,
25 sometimes they didn't want to hear what he had to say.

Polling of the Jury

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1 Yet, they knew they had each other for support. Now a
2 piece of them is gone forever and there's no way to
3 replace that. Josh and Sarah, my other two children, have
4 to deal with that every day of their lives.

5 Ryan's son, Mason, was the luckiest kid in the world
6 to have a dad that loved him as much as Ryan did. Mason
7 was daddy's little man. That's what's Ryan called him.
8 They were buds. Ryan loved spending time with Mason,
9 going to the zoo or the park, or just shopping at
10 Wal-Mart. Ryan just carry him around anywhere and he'd do
11 everything in the world to make sure that his little man
12 was happy and safe.

13 Mason doesn't understand why his daddy isn't with him
14 anymore. Mason's speech development skills have been
15 delayed. Specialists told Ixa, Mason's mom, that part of
16 the reason could be due to the trauma of Ryan's death.
17 Mason misses his daddy so much. Sometimes he acts up
18 because he doesn't know how to express his feelings. His
19 feelings are all trapped inside of him and he can't let
20 go.

21 Jonathan was only two days old when Ryan was killed.
22 He'll never know that special unconditional love that a
23 father has for his children. Ryan's wife, Ixa, now has
24 the challenge of raising two little boys without the help
25 of their father. Not because their father doesn't care or

1 can't be bothered, but because their daddy doesn't exist
2 anymore. I know how difficult it can be to be a single
3 mom because that's how I raised my three kids and they all
4 have to deal with Ryan's death everyday.

5 Ryan's murder has affected the lives of so many
6 people. He was close to my sister, Julie. They shared an
7 apartment together, worked together, played together.
8 They were best friends. Julie is the one that had to make
9 the phone call in the middle of the night to let me know
10 that my son had been killed.

11 I cringe every time I hear the phone ring late at
12 night, the same way my mother cringes when she hears the
13 doorbell ring late at night because the police rang the
14 doorbell when they came to tell my parents Ryan had been
15 killed. My father was the one that had to ID Ryan's body.
16 He was forced to see his grandson's head and body riddled
17 with bullet holes.

18 Because of what Johnny Mahaffey did to my son, we had
19 to have a closed casket funeral. Some people, including
20 my mom and dad and Julie and Ixa felt they needed to view
21 Ryan's body before the funeral to help them accept what
22 happened, to say goodbye and get closure -- if that ever
23 really happens when someone is senselessly murdered.

24 I was not one of those people. I was not able to see
25 my son to say goodbye. I didn't want to have that picture

Polling of the Jury

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1 of him in my head. I wanted to remember Ryan bopping into
2 the room with his lopsided grin and his twinkling eyes
3 coming up, picking me up, giving me a bear hug, twirling
4 me around the room. I want to remember him kissing me on
5 top of the forehead and giving me a little pat, pat, pat
6 on top of the head like he always did before he said,
7 "Goodnight, Mom." I want to remember him joking around
8 and having fun with his brother and sister. I want to
9 remember seeing him be a wonderful father. And I want it
10 not to hurt when I wish him a happy birthday or when I
11 tell him I love him.

12 I know that Ryan was in turmoil and hurting when he
13 died. A few days before he was killed I was trying to get
14 a hold of him to tell him I had breast cancer, but he was
15 busy working and he had his phone turned off. His aunt
16 Julie finally got a hold him of him, gave him the bad
17 news. They didn't get a chance to talk because Ryan had
18 to get to work. He had bills to pay.

19 For the next few days Ryan isolated himself from
20 others. He didn't answer his phone or return phonecalls
21 from anyone. He was trying to figure out the answer to
22 all the questions that goes through a person's head when
23 they hear that kind of news. Then on August 17, 2006, he
24 was murdered; and I never had the chance to let him know
25 that his mom was going to be okay.

1 I hope that someday I can find closure to all this.
2 I don't know what it will take or if it will ever happen.
3 What Johnny Earl Mahaffey did is unforgivable. My mom and
4 dad raised us with good Christian values. And I'm
5 supposed to be able to forgive this man for what he did?
6 He's put so much hate in my heart towards him, I'm not
7 able to forgive him ever.

8 What he did was a sick and horrible act of violence
9 and he should pay for what he did. He killed my baby.
10 And why? From talking to Detective Reeves, Johnny says
11 that Ryan was in the way of him getting back with Skylar.
12 He had an abusive relationship with Skylar. Abusive
13 relationship with his first wife. He kicked her out of
14 the house because he wanted a 15 year old from Georgia.
15 He had an abusive relationship with his current wife. He
16 wanted her to take the rap for him. This man is evil.
17 He'll do whatever it takes to get what he wants. It's
18 always about what he wants.

19 I hope some day these women will find the strength
20 within themselves to avoid men like Johnny Mahaffey. And,
21 second, if they do find themselves in an abusive
22 relationship like that, to be able to walk away with their
23 heads held up high.

24 Johnny Earl Mahaffey has a history of violence.
25 Police records show that he had had several altercations

1 with Ryan. There were restraining orders. It didn't
2 matter, he still stalked Ryan and Skylar. He planned this
3 murder. It wasn't a random act of violence. It was
4 premeditated. It was intentional. He watched and waited.
5 And when he saw the opportunity, he took advantage of it
6 and killed my son. And why? Because Ryan was in the way
7 of what he wanted.

8 Johnny Mahaffey has threatened to kill my daughter
9 and her husband. I have no doubt that if his demented
10 little mind finds a way and he sees an opportunity, he'll
11 take advantage of it and commit murder again. I do not
12 believe there is any presence of conscience in Johnny
13 Mahaffey nor any remorse, except for the fact that he got
14 caught.

15 This man is a cold-hearted vicious killer. In his
16 twisted little mind he has justified what he did. The
17 last time we were here in court he said that Ryan got what
18 he deserved. It's not his responsibility or in his power
19 to decide how or when someone should die.

20 If the state of South Carolina had a death penalty,
21 I'd ask that he receive that for his crime. But that may
22 be the easy way out for him. And that is not the case
23 here. He's a despicable worthless shell of a human being
24 and he deserves to spend the rest of his life in prison.
25 He has shown no mercy and he deserves none from the Court.

1 Your Honor, I respectfully ask you give Johnny Earl
2 Mahaffey the most severe sentence this Court can give him
3 so he cannot mutilate another family or destroy another
4 person.

5 THE COURT: Thank you very much. Sorry, for your
6 loss. It's real tragic for your family as well as
7 Mr. Mahaffey's family. It's a tragedy for both parties.
8 Thank you very much for being here. Anything else from
9 the defendant?

10 (No response elicited.)

11 All right. Indictment number 43 -- excuse me 3508,
12 as to Count 1, murder, sentenced to the state department
13 of corrections for a period of life. That's consecutive
14 with count number two. Count two is possession of a
15 pistol during a violent crime: Sentenced to the state
16 department of corrections for five years. That's
17 consecutive to life for murder.

18 Thank you very much.

19 Ladies and gentlemen of the jury panel, I'm going to
20 ask you one more time to go to the jury room, and the
21 clerk will be with you very shortly. If you'll follow the
22 bailiff to the jury room, please. Everyone else please
23 remain seated.

24 Mr. Sam, would you take him on downstairs, please,
25 sir?

1 The members in the audience here on my right, left
2 side of the courtroom, victims, please depart the
3 courthouse now. Please. Everybody else remain seated.
4 We'll adjourn thank you very much.

5 * * * * *END OF REQUESTED TRANSCRIPT OF RECORD * * * * *

CERTIFICATE OF REPORTER

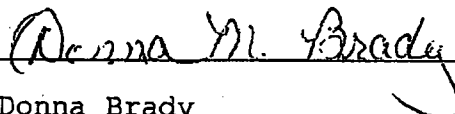
STATE OF SOUTH CAROLINA)

COUNTY OF ANDERSON)

I, Donna M. Brady, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Anderson County, South Carolina, on the 4th through 7th days of September, 2007.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

January 15, 2008


Donna Brady
Circuit Court Reporter

WITNESSES
ACSO, S. REEVES

DOCKET NO. 2006-65-04-3508

The State of South Carolina,

County of ANDERSON

COURT OF GENERAL SESSIONS
NOV 28 2006

TERM

THE STATE

RAM vs.

JOHNNY EARL MAHAFFEY

ARREST WARRANT NO.

I-220924

I-220925

ACSO
PROBATION
BILL

NOV 28 2006

Foreman of Grand Jury
Foreperson

VERDICT

Guilty

Indictment for

Count One - MURDER
16-3-0010/16-3-0020 [0116]

Count Two - POSSESSION OF A FIREARM DURING
THE COMMISSION OF A VIOLENT CRIME
16-23-0490 [0549]

William E. Schuch September 7, 2007
Foreman of Petit Jury Date:

A TRUE COPY

APR 20 2012

Richard A. Hines
CLERK OF COURT

STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)

INDICTMENT FOR

Ct. One - Murder

Ct. Two - Possession of a Firearm During

The Commission of a Violent Crime

NOV 28 2006

At a Court of General Sessions, convened on _____,

the Grand Jurors of ANDERSON County present upon their oath:COUNT ONEMURDER

That Johnny Earl Mahaffey did in Anderson County, South Carolina, on or about August 17, 2006, feloniously, wilfully and with malice aforethought, kill one Ryan N. Cox by means of shooting him with a firearm and the said victim died as a proximate result thereof.

COUNT TWOPOSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME

That Johnny Earl Mahaffey did in Anderson County, South Carolina, on or about August 17, 2006, possess a firearm during the commission of a violent crime, to wit: Murder. All in violation of Section 16-23-490, Code of Laws of South Carolina, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

A TRUE COPY

APR 20 2012

*Richard H. Harty**Rene L. Campbell*
SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS 715

COUNTY OF Anderson
STATE VS.

Johnny Mahaffey

INDICTMENT/CASE#: 2006GS043508 (Count 1)

A/W#: 1220924

Date of Offense: 8/17/2006

S.C. Code § : 16-03-0010.0020

CDR Code #: 0116

AKA:

Race: -

Sex: -

Age: -

DOB: -

SS#: -

Address: -

DL#: -

SID#: -

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Murder / Murder

in violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45

w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor:

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of Life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.☒ CONCURRENT or ☒ CONSECUTIVE to sentence on: Count 2☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS

Recipient: _____

*Fine:

\$

§ 14-1-206 (Assessments 107.5 %)

\$

§ 14-1-211(A)(1) (Conv Surcharge)

\$100

\$100

§ 14-1-211(A)(2) (DUI Surcharge)

\$100

\$

§ 56-5-2995 (DUI Assessment)

\$12

\$

§ 35.13 (Public Def/Prob)

\$500

\$

§ 73.3, 1B TP (Law Enforce. Funding)

\$25

\$25

§ 33.7, 1B TP (Drug Court Surcharge)

\$100

\$

§ 50-21-114(BUI Breath Test Fee)

\$50

\$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea

\$

3% to County (if paid in installments)

\$

TOTAL

\$125

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_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, §35.13 TP☐ Requires \$500 be paid to Clerk during probation.Cathy M. Phillips
Clerk of Court/ Deputy Clerk

Court Reporter: R. Jollison

PRESIDING JUDGE

Judge Code: _____

Sentence Date: 9/2/07

SCCA/217 (9/2/06)

STATE OF SOUTH CAROLINA

COUNTY OF Anderson

VS. Johnny Mahaffey

AKA:

Race: Sex: Age: 28

DOB: SSN:

Address:

DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2006GS043508 (Count 2)

A/W#: 1220925

Date of Offense: 8/17/2006

S.C. Code §: 16-23-0490

CDR Code #: 0549



SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: Weapons / Poss. weapon during violent crime, if not also sen

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor:

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: count 2
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine: \$

§ 14-1-206 (Assessments 107.5 %) \$

§ 14-1-211(A)(1) (Conv Surcharge) \$100 \$ 100

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 35.13 (Public Def/Prob) \$500 \$

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$

§ 50-21-114(BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

3% to County (if paid in installments) \$

TOTAL \$ 125

PTUP

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

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☐ Appointed PD or appointed other counsel \$35.13 TP

Requires \$500 be paid to Clerk during probation.

Cathy M. Phillips

Clerk of Court/ Deputy Clerk

Court Reporter R. Jollison



RESIDING JUDGE

Judge Code:

Sentence Date: 9/17/10

SCCA/217 (0/2006)

FORM 5
FILED-CLERK'S OFFICE
ANDERSON SC

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

2012 APR 20) P 3:04 THE COURT OF COMMON PLEAS

COMMON PLEAS AND
GENERAL SESSIONS
JOHNNY EARL MAHAFFEY SCD# 323863
Full name and prison number (if any) of Applicant.

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

2012-CP-04-01524

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Broad River Correctional Institute
2. Name and location of Court which imposed sentence Anderson County
3. Name(s) of co-defendant(s) (if any) Jaime Beth Mahaffey (Shirley)
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) unknown
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) September 2007
 - (b) 999 year life without parole plus 5 years

A TRUE COPY

APR 20 2012

Libby R. Kelly
CLERK OF COURT

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ☒ _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
YES _____
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. **The South Carolina Court of Appeals** _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. **AFFIRMED due to the attorney failing to properly** _____
- ii. **"preserve" the issue (see attachment 3D)** _____
- iii. _____
- (c) the date of each such result:
- i. **Filed on November 7, 2011** _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. **See attached 3C and 3D (3C has a reverse side of** _____
- ii. **3C-21** _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) The trial court erred in denying motion for a mistrial.
- (b) Ineffective assistance of counsel and legal malpractice.
- (c) There may be many others, but defendant is not an attorney.

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) See attachment 3B
- (b) _____
- (c) _____

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-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? 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:

- (a) the specific nature thereof:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (c) the disposition thereof:
 - i. _____
 - ii. _____
 - iii. _____

11. (a) The judge abused its discretion by refusing to declare a mistrial where a spectator held up a photograph of the decedent for the jury to see during closing arguments and/or the judge's charge on the law. This introduced an impermissible outside factor into the case since it was a plea for a verdict based upon sympathy and passion towards the said spectator and decedent's family, and not on the actual evidence.

(b) Attachment 3D clearly states that because:

"[the attorneys] failed to object to the curative measures or to renew the motion for a mistrial. Therefore, we find this issue to be unpreserved for our review."

And it is because of this ineffective assistance of counsel that a PCR must be filed; otherwise the court of appeals could have reviewed the above issue 'A' and this case would have already been reversed and remanded for a new trial. But because of the ineffective assistance, the appeal was hindered in its proper process and the defendant forced to remain in prison while over the passing of more than half a decade no court has been able to review the above issue 'A'.

(c) The defendant is not, and does not pretend to be, an attorney of any kind. And while there are most likely dozens of other relevant issues in this PCR, an actual attorney (outside of Anderson) would be needed to ensure the due process of the defendant.

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State,

Respondent,

v.

Johnny Mahaffey,

Appellant.

Appeal From Anderson County
J. C. "Buddy" Nicholson, Jr., Circuit Court Judge

Unpublished Opinion No. 2011-UP-494
Heard September 14, 2011 – Filed November 7, 2011

AFFIRMED

Chief Appellate Defender Robert M. Dudek, of
Columbia, for Appellant.

Attorney General Alan Wilson, Chief Deputy
Attorney General John W. McIntosh, Assistant
Deputy Attorney General Donald J. Zelenka,

argument. See State v. Wise, 33 S.C. 582, 590, 12 S.E. 556, 557-58 (1891) (stating an exception based on a misapprehension of the facts was properly abandoned).

3. With respect to Mahaffey's motion for mistrial based on the conduct of the victim's mother, the trial court questioned jurors to determine any prejudicial impact and replaced one juror with an alternate as a result of that process. After these curative steps were taken, Mahaffey failed to object to the curative measures or to renew the motion for a mistrial. Therefore, we find this issue to be unpreserved for our review. See State v. George, 323 S.C. 496, 510, 476 S.E.2d 903, 912 (1996) ("No issue is preserved for appellate review if the objecting party accepts the judge's ruling and does not contemporaneously make an additional objection to the sufficiency of the curative charge or move for a mistrial.").

AFFIRMED.

FEW, C.J., and THOMAS and KONDUROS, JJ., concur.

- iv. _____
- (d) the date of each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
- YES: (a)** _____
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. The trial court erred in denying motion for a mistrial.
- ii. _____
- iii. _____
- (b) the proceedings in which each ground was raised:
- i. In the Court of Appeals
- ii. _____
- iii. _____
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) Court of Appeals could NOT review issue due to counsel.
- (b) Issue is not in the jurisdiction of an appeal.
- (c) An unbiased attorney assigned will find many other PCR issues.
17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? YES
- (b) your trial, if any? YES
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO (or unknown)
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. See attached 5B
- ii. _____
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. See attached 5B
- ii. _____
- iii. _____
19. State clearly the relief you seek in filing this application:
- CONVICTION REVERSED AND THIS CASE REMANDED FOR A NEW TRIAL.
20. Are you now under sentence from any other court that you have not challenged?
- YES: Anderson County, serving a 10 year sentence,
ran concurrent with this case.

18. (a) i. Robert Gamble
Anderson Public Defender
301 Camson Rd.
Anderson, SC 29625
- ii. G. Scott Thomason
Anderson Public Defender
301 Camson Rd.
Anderson, SC 29625
- iii. Druanne White
Druanne White Law Firm
412 Marshall Avenue
Anderson, SC 29621
- iv. Robert M. Dudek
Chief Appellate Defender
Division of Appellate Defense
P.O. Box 11589
Columbia, SC 29211-1589
19. (b) i. All preliminary hearings, bond hearings (one real and one fake), a hearing to relieve himself as counsel requested by him but the judge denied, another fake hearing in which he attempted to coerce me into a plea to avoid a trial. Gamble was forced by the court to be present at all trial proceedings, and I believe he himself filed for the initial appeal after the jury was tampered with by decedent's mother.
- ii. Assisted Gamble in all efforts.
- iii. Was appointed to assist Gamble just a few weeks before trial date, in an attempt to remedy the conflicts between Robert Gamble and myself. Solicitor said to the judge he needed Gamble to remain on the case due to the deals and communications they had already established between them. Druanne White was present at the jury trial.
- iv. Handled all appeal proceedings, attempted to be relieved of counsel, his motion was denied and he was ordered by the court to re-brief the case due to the seriousness of the issues, and was present during an oral argument also ordered by the court due to the seriousness of the issues--where it was later determined by the court that the main issue could not be reviewed due to the above attorneys failure as a group to properly argue and preserve the issue.

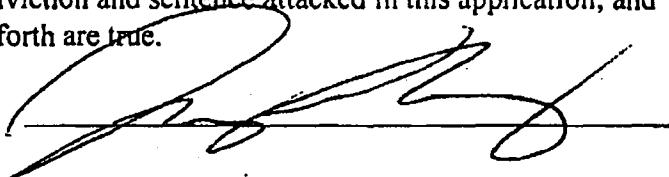
STATE OF SOUTH CAROLINA)

County of **ANDERSON**)

VERIFICATION

Johnny Mahaffey

I, **Johnny Mahaffey**, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.



SWORN to and subscribed before me this 19th
day of April, 2012.

Susan H. Frye (L.S.)
Notary Public

My Commission Expires

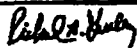
My Commission Expires: March 5, 2018

FILED-CLERK'S OFFICE
ANDERSON SC
2012 APR 20 P 3:44
COMMON PLEAS AND
GENERAL SESSIONS

A TRUE COPY

APR 20 2012

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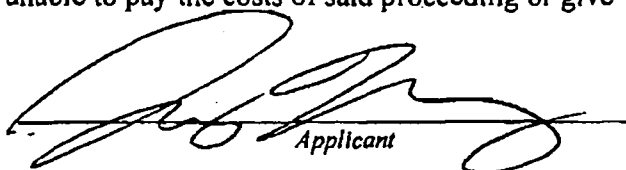

CLERK OF COURT

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

Johnny Mahaffey

I, **/**, 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.


Applicant

SWORN or affirmed to and subscribed before me this

19th day of April, 2012.


Notary Public

My Commission Expires

March 5, 2018

My Commission Expires: _____

FILED-CLERK'S OFFICE
ANDERSON SC
2012 APR 20 P 3:44
COMMON PLEAS AND
GENERAL SESSIONS

A TRUE COPY

APR 20 2012 7



STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

JOHNNY EARL MAHAFFEY
SCDC# 323863

V.

State of South Carolina

IN THE COURT OF COMMON
PLEAS

2012-CP-04-01524

CERTIFICATE OF SERVICE

I certify that on this _____ day of April, 2012: I have mailed to the Anderson County Clerk of Court at P.O. Box 8002, Anderson, SC 29622-8002, an APPLICATION FOR POST-CONVICTION RELIEF, that consists of pages: 1, 2, 3, 3B, 3C, 3C-2, 3D, 4, 5, 5B, 6, 7, and this Certificate of Service.



Johnny Earl Mahaffey
SCDC# 323863
BRCI-Congaree 115
4460 Broad River Rd.
Columbia, SC 29210

SWORN TO BEFORE ME

this 19th day of April, 2012

 (L.S.)

Notary Public for South Carolina

My commission Expires: _____

My Commission Expires

March 5, 2018

A TRUE COPY

APR 20 2012


CLERK OF COURT

FILED-CLERK'S OFFICE
ANDERSON SC
2012 APR 20 P 3:43
COMMON PLEAS AND
GENERAL SESSIONS

Johnny E. Mahaffey
SCDC# 323863
BRCI-Congaree 115
4460 Broad River Rd.
Columbia, SC 29210

2012-CP-04-01524

April 6, 2012

Anderson County
Clerk of Court
P.O. Box 8002
Anderson, SC 29622-8002

Subj: Enclosed PCR application

To Clerk of Court:

Please see that the enclosed PCR is properly filed; I have filled it out to the best of my ability and knowledge at this time. And I would like to also request that a court stamped copy be sent to me as soon as possible, and that I be informed of any hearings or orders pertaining to this PCR.

Thank you for your time and service.

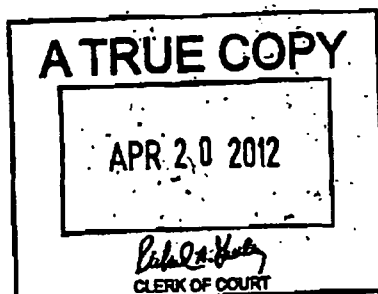
With regards,



Johnny E. Mahaffey

Enl: PCR application,
certificate of service.
CC: For records.

FILED-CLERK'S OFFICE
ANDERSON SC
2012 APR 20 P 3:43
COMMON PLEAS AND
GENERAL SESSIONS



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ANDERSON	)	Case No: 2012-CP-04-01524
	)	
Johnny Earl Mahaffey #323863,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

The Respondent, making its Return to the application for post-conviction relief (PCR) filed April 20, 2012, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Anderson County Clerk of Court. The Applicant was indicted at the November 2006 term of the Anderson County Grand Jury for Murder (2006-GS-04-3508) and, Possession of a Firearm During the Commission of a Violent Crime (2006-GS-04-3508). Applicant was represented by Robert A. Gamble, Esquire and G. Scott Thomason, Esquire. On September 4-7, 2006 the Applicant proceeded to trial and was found guilty. The Honorable J.C. Nicholson sentenced the Applicant to life imprisonment and five (5) years to be served consecutively.

The Applicant filed a timely notice of appeal. The South Carolina Court of Appeals affirmed his conviction by written order filed November 7, 2011. State v. Mahaffey, Op. No. 2011-UP-494 (S.C. Ct. App. Filed November 7, 2011).

Attached herewith and incorporated herein are the records of the Anderson County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, 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 that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
 - a) failure to object to curative measures
 - b) "breach of contract by counselor to plead to probation or time served"
2. The trial court erred in denying motion for a mistrial
 - a) failure to rule a mistrial after a spectator held up a picture of the victim during closing arguments

III.

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. The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The Respondent submits that Applicant's second allegation concerning trial court error should be summarily dismissed for failure to state a claim cognizable under the Post-Conviction Procedure Act, S.C. Code Ann. § 17-27-10 to -160 (2003). An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or

6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy.... S.C. Code Ann. § 17-27-20 (1976).

Even if the facts alleged by the Applicant are true, these facts do not support a cognizable claim for post-conviction relief under any of the statutory grounds. The allegation presented by Applicant raises direct appeal issues that are procedurally barred by S.C. Code Ann. § 17-27-20(b) (1985). Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). The Applicant could have raised these issues at trial or on appeal. His failure to do so has waived these allegations as grounds for relief. Therefore, the Court should summarily dismiss this application for post-conviction relief.

V.

The State therefore requests that this Court convene an evidentiary hearing solely on the issues of ineffective assistance of counsel. As to all other allegations, the State moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VI.

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

VII.

WHEREFORE, having made its Return, the State requests that a hearing be held.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY ELLIOTT
Senior Assistant Deputy Attorney General

KAELOE E. MAY
Assistant Attorney General

By: Kaelon May
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

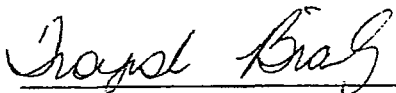
Sept. 17, 2012.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE TENTH CIRCUIT
COUNTY OF ANDERSON	)	
	)	
	)	2012-CP-04-01524
	)	
Johnny Earl Mahaffey, #323863	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Hugh Welborn, Esquire
Post Office Box 173
Anderson, SC 29622

DATED this 17th day of September, 2012



 Troyeshi Brailey, Legal Assistant
 For Respondent

INDEX

WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS
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Welborn	49			

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EXHIBITS

No	DESCRIPTION	ID	EV
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Johnny E. Mahaffey v. State of South Carolina 2012-CP-04-1524
PCR Hearing September 18, 2013
Opening Remarks

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1 (WHEREUPON, court convened with all parties present
2 and the following proceedings were had commencing at
3 approximately 10:01 a.m.)

4 THE COURT: All right. Mr. Whitmire, are you
5 ready?

6 MR. WHITMIRE: May it please the Court, Your
7 Honor. The matter before this Court is John Earl
8 Mahaffey v. State of South Carolina, 2012-CP-04-1524.
9 Mr. Mahaffey was indicted for murder and possession of
10 weapon during a violent offense. The State called the
11 case represented by Mr. Rame Campbell who is present.
12 Mr. Mahaffey was represented by Scott Thomason, Druanne
13 White, and Robert Gamble. Mr. Mahaffey was found guilty
14 as indicted. Judge Nicholson sentenced Mr. Mahaffey to
15 life imprisonment.

16 Mr. Mahaffey did file a notice of appeal. That
17 notice was originally perfected by Robert Dudek in the
18 Office of Appellate Defense pursuant to Anders. The
19 Court of Appeals asked for briefing on three issues. The
20 Court of Appeals ultimately dismissed Mr. Mahaffey's
21 appeal in an unpublished opinion.

22 Mr. Mahaffey has filed an application for post-
23 conviction relief and alleged failure to renew a motion
24 for mistrial. And I believe the second allegation, Your
25 Honor, is breach of contract by counsel or to plead to

Johnny E. Mahaffey v. State of South Carolina 2012-CP-04-1524
PCR Hearing September 18, 2013
Opening Remarks

4

1 probation or time served. Second, Your Honor, I would
2 ask ---

3 THE COURT: Just one second. Failure to renew
4 motion for a mistrial?

5 MR. WHITMIRE: Yes, Your Honor.

6 THE COURT: Breach of contract?

7 MR. WHITMIRE: By counsel to plead to probation
8 or time served. I would ask for summary judgment on that
9 second allegation. It is not a cognizable claim through
10 the Post-conviction Relief Act.

11 THE COURT: All right. Mr. Welborn, any
12 response to the motion to dismiss the breach of contract
13 claim?

14 MR. WELBORN: Your Honor, I was like you. I
15 was writing as fast as I could. If he could state that
16 again.

17 THE COURT: Okay. There are two issues.
18 Failure to renew a motion for a mistrial. The second one
19 was breach of contract of counsel to have a probationary
20 sentence; is that correct?

21 MR. WHITMIRE: Counter plea to probation or
22 time served.

23 THE COURT: Okay. And he made a motion as to
24 the claim for breach of contract as not being cognizable
25 under the Post-conviction Relief Act.

Johnny E. Mahaffey v. State of South Carolina 2012-CP-04-1524
PCR Hearing September 18, 2013
Opening Remarks

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1 MR. WELBORN: Your Honor, I think that my
2 client would still allege that's an ineffective
3 assistance of counsel if he were offered a plea and for
4 whatever reasons his lawyer refused to allow him to plead
5 to that. I think that would be his position.

6 THE COURT: Is he saying failure to relay an
7 offer of a plea or failure to allow him to plea?

8 MR. WELBORN: Failure to allow him to plea.

9 THE COURT: All right. To the extent there's a
10 claim for breach of contract, the motion is granted.
11 I'll let him proceed on these other grounds to see what
12 the evidence establishes. Okay? And that is failure of
13 defense counsel to allow the Applicant to plead. Any
14 other grounds, Mr. Whitmire?

15 MR. WHITMIRE: No, Your Honor. For the Court's
16 edification, this application was filed a year ago. This
17 is the only grounds the State has received. The merits
18 of these grounds were fully addressed in the State's
19 brief on direct appeal which was perfected by Melody
20 Brown in the Office of the Attorney General.

21 At this time, Your Honor, I would also like to
22 announce that Ryan Cox, the victim in this case, his
23 family is here. I believe that Ryan's aunt, mother,
24 grandparents and some other family members are here. And
25 the Cox family is here with Detective Reeves.

Johnny E. Mahaffey v. State of South Carolina 2012-CP-04-1524
PCR Hearing September 18, 2013
Opening Remarks

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1 THE COURT: So you're saying that the issue of
2 failure to renew motion for mistrial was taken up on --
3 by the Court of Appeals on direct appeal?

4 MR. WHITMIRE: It was ultimately dismissed as
5 not preserved.

6 THE COURT: Was it taken up by the Court of
7 Appeals on direct appeal?

8 MR. WHITMIRE: It was taken up, but they found
9 that it was not preserved.

10 THE COURT: I got you.

11 MR. WHITMIRE: However, the merits of the
12 argument were fully addressed by Ms. Brown.

13 THE COURT: I got you.

14 Okay. Mr. Welborn, any statement before you take
15 testimony? Excuse me. Anything you want to state for
16 the record before we take ---

17 MR. WELBORN: Yes, sir. Yes, sir.

18 THE COURT: Okay.

19 MR. WELBORN: Your Honor, there is a somewhat
20 lengthy history of this case with different lawyers and
21 various pleadings. And I took this matter over from a
22 lawyer in August of 2012. That lawyer didn't do PCRs.
23 And I have since then communicated very regularly with
24 Mr. Mahaffey. I've sent him nineteen letters in the
25 period of a year. And some of those letters responded to

Johnny E. Mahaffey v. State of South Carolina 2012-CP-04-1524
PCR Hearing September 18, 2013
Opening Remarks

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1 his. Some of them were simply updating him on what we
2 were doing and asking for other information. I simply
3 state that for the record. Mr. Mahaffey told me earlier
4 today he hadn't received all these letters, and only had
5 about eight of them and seemed to think that there was
6 some monkey business in the mail at the Department of
7 Corrections. But I'm prepared to go forward as best I
8 can. I think he wants to continue this matter. I'll let
9 the Court rule on it. I'm ready ---

10 THE COURT: I'm not going to continue the case.
11 We're going to go forward today.

12 MR. WHITMIRE: And Your Honor, the State
13 vehemently objects. Mr. Mahaffey does have a prison
14 blog. He writes extensively. Any sort of
15 miscommunication he alleges based on theft are frivolous.

16 THE COURT: All right. Would you call your
17 first witness?

18 MR. WELBORN: If it please the Court, I call
19 Mr. Mahaffey.

20 THE COURT: Come around, please, sir.

21 THE DEFENDANT: Your Honor, am I allowed to
22 make a motion?

23 THE COURT: No, sir. You have an attorney here
24 who makes motions on your behalf.

25 THE DEFENDANT: Well, it's involving my

Johnny E. Mahaffey v. State of South Carolina 2012-CP-04-1524
Johnny E. Mahaffey - Direct Examination by Mr. Welborn

8

1 attorney.

2 THE COURT: Sir?

3 THE DEFENDANT: This involves my attorney.

4 THE COURT: I'm not going to let you relieve
5 him as your attorney if that's your motion.

6 THE DEFENDANT: Well, I mean, I've got ---

7 THE COURT: I don't care what -- either you're
8 going to testify today or I'm going to dismiss your case.
9 Okay, sir?

10 (WHEREUPON, the witness was duly sworn.)

11 THE COURT: Would you help him get that
12 microphone a little bit closer?

13 MR. WELBORN: Please the Court.

14 THE COURT: Yes, sir.

15 **JOHN EARL MAHAFFEY,**

16 BEING FIRST DULY SWORN TESTIFIED AS FOLLOWS:

17 DIRECT EXAMINATION

18 BY MR. WELBORN:

19 Q. You're Mr. Mahaffey?

20 A. Yes, sir.

21 Q. Mr. Mahaffey, you were before this Court or a
22 criminal court a few years ago. And I think it's been
23 announced that you were ultimately found guilty of murder
24 and a possession of a firearm during a violent crime.
25 And your sentenced was life in prison plus another five

1 years to run consecutively; is that correct?

2 A. Yes.

3 Q. Now, Mr. Mahaffey, you've alleged that even though
4 you had several lawyers, including Mr. Gamble, you allege
5 that they were ineffective for you. And I'm going to ask
6 at this time, please, that you tell the Court how Mr.
7 Gamble was ineffective for you. What he did not do that
8 you think was ineffective and caused prejudice in your
9 case.

10 THE COURT: Stop for one second. Let me make
11 sure I'm clear for the record. The issue that I have as
12 being the issues in this case are failure to renew a
13 motion for mistrial, and secondly, failure for defense
14 counsel to allow the defendant to plead guilty. Do you
15 agree those are the issues?

16 MR. WELBORN: Yes, sir.

17 THE DEFENDANT: They've misinterpreted one of
18 those.

19 THE COURT: Okay. And I'll let you clarify
20 that.

21 Go ahead.

22 A. Now, the question was how I felt he was ineffective?
23 There were numerous reasons. Number one, the main part
24 was that he wouldn't talk with me. He wouldn't -- he
25 didn't give me a copy of the discovery until almost time

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1 for trial. I'd asked for it and asked for it and asked
2 for it the whole time. I asked for him to speak with my
3 family. My family's here. They can tell you. They
4 tried to communicate with him. He would not communicate
5 with them.

6 The same as they've called your office and tried to
7 communicate with you and can't get a hold of you. I
8 haven't been able to get a hold of you. I've called you,
9 and whoever answers your phone just hangs up. And it's
10 been that the whole time with every attorney. I've never
11 ---

12 MR. WHITMIRE: Objection. Asked and answered.

13 THE COURT: Overruled.

14 A. I've never sat down with an attorney this entire
15 time and had time to speak about anything. I'm thrown
16 into court.

17 And Judge, nobody knows anything about me. They
18 know nothing, and nothing's being presented. And I'm
19 just sitting back just watching all this happen.

20 THE COURT: Just take your time.

21 Q. Continue when you're ready, Mr. Lambert. I'm sorry.
22 Mr. Mahaffey. I thought someone else.

23 THE DEFENDANT: See, he doesn't even know my
24 name.

25 THE COURT: I tell you what. Let's do this.

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1 Mr. Mahaffey, I'm going to let you step down. We're
2 going to bring you back up once you get yourself composed
3 a little bit.

4 Do you have other witnesses you can call?

5 MR. WELBORN: Yes, sir.

6 THE COURT: Okay. Let's do that and let him
7 get his composure back.

8 (WHEREUPON, the witness stepped down from the
9 witness stand.)

10 MR. WELBORN: May I proceed?

11 THE COURT: Yes, sir.

12 MR. WELBORN: I call Robert Gamble.

13 (WHEREUPON, the witness was duly sworn.)

14 MR. WELBORN: May it please the Court.

15 THE COURT: Yes, sir.

16 **ROBERT GAMBLE,**

17 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

18 **DIRECT EXAMINATION**

19 BY MR. WELBORN:

20 Q. Mr. Gamble, when did you become involved in this
21 case roughly?

22 A. (No verbal response)

23 Q. I'll rephrase the question. What number attorney
24 were you in this case?

25 A. I beg your pardon?

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1 Q. Were you his first attorney?

2 A. I think I was, yes. I think he tried to hire
3 somebody before me but was not able to. And then I got
4 it and had a bond hearing on September 20th of '06 and a
5 preliminary hearing on October 6 of '06. Bear with me
6 just a minute. I have my file here. Okay. I received
7 the file on August 22nd of '06.

8 Q. And do you recall or do you know how many times you
9 met with Mr. Mahaffey?

10 A. I don't.

11 Q. Do you have a guesstimate?

12 A. Numerous times. And I don't have an estimate.
13 You're talking about '06 or '07.

14 Q. That's years ago. I understand.

15 A. Years ago. And a lot of water's gone under the
16 bridge since then.

17 Q. All right. In meeting with him, did he give you
18 some background information wherein he alleged he was the
19 victim and asked you to pursue that?

20 A. He ...

21 MR. WHITMIRE: And Your Honor, for the record,
22 I'm going to object. That's a failure to investigate
23 claim which has not been laid out before this Court.

24 THE COURT: Overruled.

25 Go ahead. I said overruled. Go ahead.

1 MR. WELBORN: Thank you, Your Honor.

2 A. No, I have no -- I went to a preliminary hearing.

3 As I said, I had the notes from that. He had -- I have a
4 note from somebody that I need to see Skylar Andrew.

5 Q. Did you?

6 A. I don't recall.

7 Q. That's fine. Did you do what he asked you to do as
8 it related to investigating the case?

9 A. I did what I thought was necessary in the case. And
10 I do have a note where I drove from his house on Jasmine
11 Lane to his mother-in-law's house which was on -- in
12 Homeland Park. It took thirty minutes to get there and
13 thirty minutes to get back to Jasmine Lane. This was to
14 establish that his then wife was at her mother's house
15 when this was supposed to have gone down. There was some
16 indication that she might have been involved with it. So
17 that's why I was doing the driving, to see the time.

18 Q. Now, if you -- let me rephrase this question. Did
19 you do everything for him that you thought needed to be
20 done as it related to the issues in this case?

21 A. Certainly did.

22 Q. Now, do you periodically have clients that ask you
23 to do things that you don't feel to be relevant or
24 material to their case and you tell them you're not going
25 to do those things?

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1 A. I have had that happen.

2 Q. Did you ---

3 A. I don't recall it in this case at all.

4 Q. Okay.

5 A. I do recall a significant factor in this case if you
6 want me to repeat ---

7 Q. Yes, sir. I'd love to hear that factor.

8 A. I got a call from Officer Reeves who said that Mr.
9 Mahaffey had called him on his cell phone while he was at
10 the Ryan's Steak House, I believe it was. And that he
11 didn't want to talk with him without me. And then I got
12 another call from Reeves who said that Mahaffey had
13 contacted him and he told him -- Reeves told Mahaffey,
14 according to his telephone -- that he didn't want to talk
15 to him without me present again. And he said that Reeves
16 said to -- he didn't trust me and he wanted to talk to
17 Officer Reeves. So it was voluntary. And he, Officer
18 Reeves, went and got him from the county jail and they
19 went up to the Sheriff's office and he gave a detailed
20 three-page statement to Officer Reeves. Prior to this,
21 they had nothing really to go on.

22 But he also made a motion before the court that he
23 didn't want me to represent him, that he originally
24 wanted Druanne White. And the Judge ruled that he would
25 have me and Druanne White.

1 Q. I've read that in the transcript as well. So he had
2 not only you, but he had Ms. White and he also had Mr.
3 Thomason; is that correct?

4 A. That's correct.

5 Q. Now, Mr. Gamble, I'm just curious. You were the
6 public defender for many, many years. Is it normal and
7 standard to have three lawyers representing some
8 defendant?

9 A. No. He was being difficult to get along with as far
10 as me. He didn't like me. And I don't care if he liked
11 me or not. I'm not in romance; I'm in law. And so when
12 Ms. White came on, she interviewed him, I assume, and
13 then we talked and talked and talked. But his statement
14 just killed him. That's all there was to it.

15 Q. Let me ask you this, Mr. Gamble. He alleges in here
16 that you were -- his lawyer was ineffective for failure
17 to renew a motion for a new trial. He calls that failure
18 to object to curative measures. Do you know anything
19 about what he's referring to there?

20 THE COURT: Well, let me ask you, is it a new
21 trial or a mistrial?

22 THE APPLICANT: Mistrial.

23 THE WITNESS: Mistrial.

24 MR. WELBORN: Mistrial.

25 THE COURT: Mistrial, okay.

1 A. It was in the courtroom upstairs. There was a
2 person of the family of the deceased, Mr. Cox, who had a
3 picture of him in a frame and was sitting, as I recall,
4 on the left side over where the jury is, on the left side
5 of the courtroom if you're facing the bench. We did move
6 for a mistrial on having that picture in final closing
7 argument before the jury. It was not granted, and they
8 were told to put the picture away. The judge told them
9 to. And that's about all I remember about it.

10 As far as renewal, I'm confused there because there
11 was a ruling before that that said if you make the motion
12 and it was ruled on, then that was it. You didn't have
13 to re-allege the motion to preserve it. Then the Supreme
14 Court changed that somehow or another and said you had to
15 reaffirm the motion in order to preserve it. Well, they
16 go one way, and then they go the other way. You never
17 know. I don't remember which law we were under in 2007
18 or whenever it was.

19 Q. All right. Mr. Mahaffey also alleges that you
20 failed to allow him to plead to some charge. Do you
21 recollect a conversation to that?

22 A. No. No, nothing at all about that. Rame Campbell
23 never offered anything, and we never offered anything. I
24 did try to get him to go to voluntary, but he would not.

25 Q. But you tried to get something less than what this

1 conviction ended up being?

2 A. I always try, yes, sir, or try it. And we had to
3 try this one.

4 Q. So you don't recall there being any additional
5 offers at all?

6 A. No offers were made. You mean from the State?

7 Q. Yes.

8 A. No. There were no offers at all made that I recall.
9 And I would have had them in this master file. There
10 would have been a note of some kind or a call from Mr.
11 Campbell which would have been noted. But there is no
12 notation. And I don't recall specifically any offer at
13 all from Mr. Campbell.

14 Q. Now, Mr. Gamble, did you make -- for my preparation,
15 did you make Mr. Mahaffey's file available to my office?

16 A. I took it to your office and left it with you for
17 about two or three weeks. And I reviewed some of it
18 myself. I read the transcript. And I got -- I did not
19 get in touch with any of the others involved, Ms. White
20 nor Mr. Thomason. Yes, I did give you the file.

21 Q. Did you know or do you know of anything else that
22 you could have done that you didn't do to help Mr.
23 Mahaffey in trying this case and preparing for it?

24 A. No.

25 Q. Okay.

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1 A. I had all the discovery, all the -- everything. And
2 the worst part of his case was his own statement to
3 Detective Reeves.

4 MR. WELBORN: If the Court will bear with me.

5 Q. Thank you. Answer anything opposing counsel or the
6 Court may have.

7 CROSS-EXAMINATION

8 BY MR. WHITMIRE:

9 Q. Good morning, Mr. Gamble.

10 A. Good morning.

11 Q. Mr. Gamble, how long you been practicing criminal
12 law in South Carolina?

13 A. I tried my first criminal case August 28th of 1968
14 and wearing a Class A uniform for the United States Army.
15 A D.U.I. case in magistrate's court.

16 Q. Mr. Gamble, as a criminal defense attorney, you play
17 the cards you're dealt, right, with your clients?

18 A. I beg your pardon?

19 Q. As a criminal defense attorney, don't you play the
20 cards you're dealt by your clients?

21 A. I have to. I can't make anything up.

22 Q. And Mr. Welborn has briefly discussed Mr. Mahaffey's
23 statement with you. But do you recall how Detective
24 Reeves and the police were able to locate the gun used in
25 this offense?

1 A. Sure. Mahaffey gave a statement to Reeves and told
2 him he threw it off the bridge at Centerville Road into
3 Hartwell Lake. That night, they went out and dove for it
4 and couldn't find it. The next day around ten in the
5 morning, they went diving again, and they found the Ruger
6 nine millimeter automatic pistol with one round in the
7 chamber. And eight rounds were on the ground. So that's
8 all they had was nine rounds in a Ruger.

9 Q. And that gun was traced back to Mr. Mahaffey, is
10 that correct, through independent sources?

11 A. They traced it back to the original owner. Worked
12 in the hospital in Spartanburg. He ran an ad to sell the
13 -- the original owner gave it for security to a second
14 owner who was not repaid the money that he lent the first
15 owner. And it was -- he ran an ad in The Tattler, I
16 believe it's called, to sell the gun. Was contacted by
17 Mr. Mahaffey. And he drove up there, met with the fellow
18 and purchased the gun from him. The owner identified
19 him. The second owner identified him as being the person
20 who bought the gun in court.

21 Q. Do you recall anything else that Mr. Mahaffey did
22 during the preparation that hampered your abilities at
23 trial?

24 A. He didn't talk much to me. He said he didn't trust
25 me. And that's when he made the motion himself to

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1 dismiss me and put Ms. White on. Judge Nicholson did the
2 reverse and let two of us on board.

3 Q. Did Mr. Mahaffey -- did you receive in discovery
4 letters that Mr. Mahaffey wrote to Jamie Mahaffey
5 regarding manufacturing an alibi?

6 A. I think I did, yes.

7 Q. And those were presented in trial, if you recall?
8 Do you recall if they were?

9 A. I don't think we went to that because his statement
10 did away with any alibi that you would have or not have.
11 The interesting part of that is that Jamie, his wife,
12 came driving up in a car, a Honda, silver and black or
13 white and black, with a loud muffler. And the car that
14 shot Cox was a loud muffler. And the gun was a nine
15 millimeter. That's all the evidence they had, the State
16 had, at the time.

17 Q. But in discovery, did you get a chance to review the
18 cell phone records of John Mahaffey?

19 A. I don't recall. I recall the cell phone
20 conversations. But the question there, who had which
21 cell phone, because they alternately used each other's
22 cell phones.

23 Q. And regarding the mistrial, did you actually see the
24 spectator holding up that picture?

25 A. Judge Nicholson saw that first. In the court

1 upstairs, the defense attorneys are over here, and we're
2 looking at the jury basically, and the judge. And the --
3 I never, hardly ever look out into the audience. There's
4 no point in it. I'm focused on this side of the rails.

5 Q. Do you recall that Solicitor Campbell also told
6 Judge Nicholson he had no idea the victim's mother was
7 holding up the picture?

8 A. No. He was making his closing argument, I think, at
9 the time when it was done.

10 Q. Do you recall the curative measures that Judge
11 Nicholson took to see if there would be any prejudice?

12 A. I know he replaced one juror, but I don't remember
13 the reason for it right off the bat. I can look in the
14 transcript to see. But I don't recall.

15 Q. Didn't only two of ten jurors actually see the
16 spectator hold the picture?

17 A. I think that's the case. You have the transcript.
18 If you point me to a page, I can tell you.

19 Q. That's okay. Did you do everything in this case to
20 the best of your abilities to represent Mr. Mahaffey?

21 A. I did all that I could do. And once he gave his
22 statement to Reeves, we were shot down. There was
23 nothing else we could do.

24 Q. You tried to keep that statement out in preliminary
25 motions; is that correct?

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1 A. Tried to. I wasn't successful.

2 Q. And I believe -- just one more question. I believe
3 Mr. Welborn touched on it. But there was no plea offers
4 from Mr. Campbell or the State?

5 A. Never.

6 Q. No more questions. Thank you, Mr. Gamble.

7 THE COURT: Any redirect?

8 MR. WELBORN: No, sir. But I would like to
9 reserve the right to recall Mr. Gamble after my client
10 testifies again.

11 THE COURT: All right. Would you remain with
12 us, Mr. Gamble?

13 THE WITNESS: I'd be glad to, Judge.

14 THE COURT: Thank you, sir. You may step down.

15 THE WITNESS: Because if I go home, I'll have
16 to work.

17 (WHEREUPON, the Applicant resumed the witness
18 stand.)

19 MR. WELBORN: May it please the Court.

20 THE COURT: Yes, sir.

21 **JOHN EARL MAHAFFEY,**

22 BEING PREVIOUSLY SWORN, TESTIFIED AS FOLLOWS:

23 DIRECT EXAMINATION

24 CONTINUED BY MR. WELBORN:

25 Q. Mr. Mahaffey, what did you tell Mr. Gamble to do

1 that he didn't do?

2 A. Well, he was trying ---

3 MR. WHITMIRE: Once again, Your Honor, I'm
4 going to renew my objection -- failure to investigate.

5 THE COURT: Thank you. Overruled.

6 Q. Go ahead.

7 A. What they wanted to do, he, Druanne White, all the
8 attorneys wanted to do, was completely different from
9 what I felt should be morally done. What they wanted to
10 do was just completely deny everything and just make it
11 like nothing can be proved so nobody can be charged with
12 anything. That's not what I wanted. I wanted to put
13 every fact out there. Every truth, every piece of
14 evidence, I wanted ---

15 Q. Well, tell me those facts that you told them.

16 A. Well, the main thing that they needed to know was
17 they needed to know that the victim in this case was the
18 actual aggressor.

19 MR. WHITMIRE: Objection, hearsay.

20 A. But there's no ---

21 THE COURT: Overruled.

22 A. There's evidence in the folder he's got in front of
23 his face right now in here that shows that.

24 Q. Well, just tell the Court what -- continue.

25 A. All right. The State has my cell phone. In that

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1 cell phone there's a video of the defendant -- of the
2 victim -- it's hard to even call him that -- the victim
3 attacking. There's video. They didn't even want to show
4 that. They said, oh, well, that shows motive.

5 Q. Let me interrupt you. The victim attacking you?
6 There's a picture on that cell phone. Is that what
7 you're saying?

8 A. Yes. There's a video of it.

9 Q. Did you tell Mr. Gamble about that?

10 A. Yes, I told him that. He didn't want to bring any
11 of that stuff up. The victim had just gotten out of jail
12 from assaulting me, had been convicted of an assault
13 against me.

14 Q. What else did you tell him to do that he didn't do?

15 A. I needed him to talk with -- I had witnesses. I
16 told him these people. I don't know these people's
17 addresses, I don't know their phone numbers. I'm in a
18 jail cell. I don't have access to this stuff. People
19 that had seen these things. People that knew everything
20 that was going on. They broke into my house and
21 kidnapped my daughter. The house had been robbed. And
22 these are pending things that hasn't even been -- this
23 stuff hasn't even closed. There's other charges that
24 he's assigned to me on that's been sitting all these
25 years that are connected to this. All of this stuff is

1 connected. I was in and out of family court because the
2 victim was dating my ex, and they were just tormenting me
3 for months and months and months because I had my
4 daughter and she was trying to get her back. And this
5 was a back-and-forth thing, back-and-forth thing. She's
6 basically siccing him, you know, on me like a dog. And
7 I'm being attacked at different places. These things are
8 documented. He has these things and I wanted to present
9 these things so that I'm not standing in front of a jury
10 looking like a cold-blooded killer that killed someone
11 for no reason. And then I didn't want to deny the gun.
12 I went ahead and I talked to Reeves. And then they left
13 out the fact at the end of the statement -- I'm sure you
14 have a copy of the statement. The statement was given to
15 drop the charges against my wife.

16 MR. WHITMIRE: Objection, hearsay.

17 THE COURT: Overruled. Go ahead.

18 A. I don't see how that scares him. These are
19 documents he has in his folder. At the end of that
20 statement -- I gave that statement to free her, to drop
21 the charges on her. Reeves did not want to even add
22 that. You have a recording of it when he took my
23 statement. He was agitated at me that I wanted to do
24 that. Did not want me to even put that on there in
25 writing. And that was the only reason I was giving that,

1 was to get them to leave her alone because they were
2 tormenting her. Everything I was doing had to do with
3 her because they were messing with her. And she was not
4 psychologically stable. She was pregnant. She was just
5 -- she's kind of a nervous, hysterical -- a little bit,
6 you know. She gets real scared. And they were messing
7 with her.

8 Q. Who's they?

9 THE COURT: Let me clarify something right
10 quick. Mr. Mahaffey, did you say you gave a statement to
11 police to exculpate her?

12 THE WITNESS: Yes.

13 THE COURT: Who's her? Jamie?

14 THE WITNESS: Yes, she was -- they ---

15 THE COURT: Okay.

16 A. They didn't know which one of us had actually done
17 the shooting ---

18 THE COURT: I got you.

19 A. --- because they actually caught her out that night.
20 As Mr. Gamble said, she had pulled up in the car that was
21 used at the murder scene. So they really didn't know
22 which one of us did it.

23 THE COURT: I understand. I understand.

24 A. The phone has a, you know, the car charger that goes
25 to the phone. That's in the car. So they can't really

1 prove who had what phone, her phone, you know. Even the
2 victim had someone else's phone, had his girlfriend's
3 phone or she had his phone. You know how this stuff
4 switches back and forth. That's normal. And I didn't
5 even have a home charger. That's why my charger was in
6 the car. But ...

7 And the gun. I went and bought a gun. I went and
8 bought a gun after I was assaulted by this guy. There's
9 another ---

10 Q. Did you tell Mr. Gamble that?

11 A. Yes.

12 Q. Okay. What else did you tell him that he would not
13 act on?

14 A. I just -- I wanted him to investigate -- just go
15 into this stuff and bring all this stuff out. Talk to
16 the witnesses and all of these things. And he wouldn't.
17 He wouldn't even ---

18 Q. So ---

19 A. He wouldn't even tell me -- I didn't even review the
20 discovery that he had until it was almost court time. I
21 had been asking the whole time, the whole time.

22 Q. What witnesses did you tell him to interview that he
23 didn't interview? You testified about that a moment ago.

24 Who were the ---

25 A. Family members, co-workers, just people that knew

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1 the group of us. You might as well think of this as like
2 a triangle because it's not just me and the victim. It's
3 me, the victim and my ex. So it's like I guess what they
4 call a little love triangle where you have the jealousy
5 thing going on and all that kind of stuff. So it's just
6 back and forth between the three. It's not between two
7 people. It's between three people because there was
8 charges on all of us when we were all back in court.
9 Even when I was arrested, there was a pending thing with
10 the family court here where I had charges against the ex
11 for stalking. That just, I guess, got dropped and threw
12 out after my arrest because I've never been brought in
13 here for it since. You know, when they were following me
14 around and had video of them following me in Wal-Mart.
15 And the judge at that time subpoenaed the video from Wal-
16 Mart. And Wal-Mart said that something was damaged. And
17 so they reset another hearing. The hearing was scheduled
18 for, I think, thirty days after the crime had happened.
19 The night of the crime, the -- my ex had just been served
20 the papers to show up for court for the stalking, and
21 that's what started the fight between the victim and the
22 ex. That's why he was walking on the street because, you
23 know, they don't -- this was just a random thing.
24 They're trying to make this out like this was a
25 premeditated murder. This -- he didn't -- they even had

1 a fight over what had just been served on her because
2 they were trying to move out of the state, take my
3 daughter and go out of state. And I'm trying to get them
4 into family court and preserve my parental rights to see
5 my daughter before they left the state. They actually
6 had it on their website. They admitted, you know, that
7 they were planning to leave there. The father had put on
8 his website that he was looking forward to them coming to
9 wherever it was that he lived, what state or whatever.
10 You know, him coming there and her going -- switching to
11 nursing there. So she was planning to run. And this
12 prevented that. This just like put -- all the other
13 charges, all the other court hearings just kind of -- I
14 don't know what that does with those. They just stopped.
15 And I don't understand that. And this is why I was put
16 in there -- every time I told him I wanted to talk, he
17 would tell me, not right now. This is isn't the time or
18 place.

19 Q. All right. You also allege that he failed to allow
20 you to plead. Tell me about that.

21 A. That's a misinterpretation on your part because ---

22 Q. Okay. Well, let's clear that up then.

23 A. Okay.

24 Q. Go ahead.

25 A. I guess you probably have a copy of my original

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1 filing for this P.C.R. anywhere?

2 Q. Yeah. I'm looking ---

3 A. Not typed. It's a hand ---

4 Q. I've got your original application. Go ahead.

5 A. It's the con -- I'm talking of the breach of
6 contract that the lawyer has with the client overall with
7 everything. It's to communicate, to investigate and
8 things, to do everything that he's supposed to do to
9 either -- you know, as -- part of representing you isn't
10 just representing you and saying to get you off the case.
11 It's to get you to show -- to lessen the charge, you
12 know, just to present everything, to lessen the charge,
13 to lessen it. Because to get, like you're saying with
14 the pleas and things like that. But if he had done what
15 he did, even me facing that charge, I wouldn't have got a
16 life, natural life, sentence no parole, if the jury --
17 the judge didn't even know these things. The judge
18 should have known all this stuff. I was -- this wasn't
19 some cold-blooded murder. And I wasn't even in the car.

20 MR. WHITMIRE: Objection. Asked and answered.

21 THE COURT: Overruled.

22 THE WITNESS: What was that he said?

23 THE COURT: Go ahead with your answer.

24 Q. You can continue. Go ahead.

25 A. You know, this is not -- it didn't make any -- none

1 of it makes any sense to me from just a logical
2 standpoint. I just wanted to go into court, let
3 everything come out on the table. They didn't want to do
4 that because they said, it's going to make you look
5 guilty. I didn't care.

6 Q. Well, let me ask you ---

7 A. I just wanted the truth to come out.

8 Q. So I'm clear on this, you wanted to plead guilty to
9 something?

10 A. No, that's not -- I mean, I -- that's not what I'm
11 -- that's not what it was. It had nothing to do with
12 that.

13 Q. Now, I want the Court to understand what you were
14 wanting to do that Mr. Gamble and your lawyer wouldn't
15 let you do. And I understood that there was some offer
16 of a plea or you wanted to plead. I want to hear about
17 that.

18 A. Well, if he had done it properly, he probably could
19 have showed that if I was guilty of anything, it would
20 have been a manslaughter charge. And they could have
21 showed -- they could have proved that I was the one that
22 actually shot, actually done the shooting.

23 Q. Did you tell them ---

24 A. But I help after. I helped after-the-fact cleanup.
25 They have proof, they have evidence that my wife was at

1 her mother's. She went to her mother's and went right
2 through the crime scene twice. They can put her at the
3 scene. They know that, but they wanted me. They wanted
4 -- Reeves looked in the computer at the Sheriff's office.
5 He saw all those charges between me and these other two,
6 you know, all this back-and-forth stuff.

7 MR. WHITMIRE: Objection. Speculation.

8 THE WITNESS: No, that's not speculation. He
9 said that at the preliminary hearing. If you get the
10 transcripts of the preliminary hearing ---

11 MR. WHITMIRE: You have evidence of it?

12 THE WITNESS: It was here in this courtroom.

13 THE COURT: Excuse me. What did you say?

14 MR. WHITMIRE: I said, speculation.

15 THE COURT: Overruled. Go ahead.

16 A. I'm not making this stuff up. These things are in
17 folders. You people have these things.

18 Q. Mr. Mahaffey, I want you to focus for a moment. I'm
19 going to ask you one more final question here because I
20 appreciate the fact the Judge has given us a lot of
21 leeway here. You're having your day in court. What else
22 did Mr. Gamble and your lawyers not do for you except for
23 what you've already said?

24 A. Well, then let me get to the trial part. They're
25 saying I couldn't have my appeal because they're saying

1 the issue was not properly preserved. Now, the incident
2 he's talking about, the victim's mother -- I got to
3 explain this whole deal. I mean, there's a lot of
4 information. That's why I'm trying to make this as brief
5 as possible. I know everybody wants out of here.

6 But every day, you know, I kind of looked -- I would
7 come into court and kind of look around. My lawyer -- my
8 wife is sitting with the victim's family. She's sitting
9 on that side. You know, she's got a vested interest in
10 this because she's actually the one that done the
11 shooting. And I'm the one that helped her clean up
12 afterwards. They know that she was at the scene. And I
13 helped with this stuff. I helped afterwards. I'm guilty
14 of all this stuff after. I should probably get twenty or
15 thirty years for what I did, but not life for pulling the
16 trigger when I didn't pull the trigger. I bought the gun
17 because I was assaulted. I was in danger. I'd been
18 robbed twice at work at gunpoint. The Sheriff's office
19 has that. I opened the Domino's. I was the general
20 manager of Domino's. People come in there, put a gun to
21 my head. I was a victim of several robberies in this
22 town. And these things affect you.

23 And I've started reading books now about like post-
24 traumatic stress syndrome. And I see that this stuff --
25 I see that it built up, it built up, built up. I went

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1 through the mental health. I asked him to try to get me
2 evaluated to see, you know, does this stuff do this. And
3 then now, looking back and reading it, in hindsight, I
4 see that these things did. All these things mattered.
5 All these things mean something. It's not just nothing.
6 You can't just tell me you can't talk. This is not the
7 time or place. That was the time or place. That screwed
8 everything up by them holding that stuff back. That was
9 the time. And it's lost that time for me. And now I'm
10 stuck in there for life with no parole.

11 The picture. I'm in the courtroom. I'm looking
12 around and everything, looking at the people. I'm not
13 mean looking, not anything like that. I'm just -- I've
14 never been in court. That was the first time and, yeah,
15 it's affected me. I'm looking around to look at my
16 family. I see my family. I'm looking at them and
17 everyone else.

18 The last day the family made a complaint that I was
19 looking at them. So the judge made me an order not to
20 turn around. I believe that's in the transcript. So I'm
21 not supposed to look around. I'm told if I look around
22 I'm going to get zapped because I was wearing that vest
23 that they shock you with. So I have to stay like this
24 and I have to look forward.

25 And I was told by my own attorneys, if I speak,

1 they're going to quit and walk out. And I told them they
2 can't do that. And what they said they would do, they'd
3 put me on the stand. And I told them I wanted to get on
4 the stand. Then they said if I get on the stand, they'd
5 let the solicitor have his -- we won't -- he will have
6 his way with you. So that's -- you know, I look over and
7 he's got his phone. I don't know anything about any of
8 this stuff, so I listened to them. But I was told not to
9 turn around.

10 And then it wasn't the judge that noticed the
11 picture. It was Druanne, one of Druanne White's
12 assistants or investigators, whatever, the girl that
13 worked for her that was sitting further back in court.
14 And that's how she seen it. None of us seen it. Nobody
15 was looking in that direction. Everybody's looking at
16 the witness at the time. They were getting ready for --
17 I can't remember exactly when that -- well, this was
18 right before deliberation.

19 He's giving the instructions for deliberation. And
20 that's when Druanne's assistant or whatever position she
21 is, she came up and whispered in Druanne's ear of what
22 had just happened. And Druanne motioned for the
23 mistrial. Now, he -- I think it's called the polling the
24 jurors.

25 Q. Go ahead.

1 A. Anyway, he had them leave and brought them in one at
2 a time, had the mother stand there and asked them did
3 anything you do or say ---

4 Q. Let me interrupt you just a moment. Your attorneys
5 objected about the picture; is that correct?

6 A. Yes, because it was ---

7 Q. And the judge addressed that issue; is that correct?

8 A. Yes. She was holding -- I mean, these were huge
9 pictures in frames, and she's mouthing something with her
10 mouth. She was moving her mouth.

11 Q. All right. Thank you. Answer anything opposing
12 counsel may have.

13 THE WITNESS: That wasn't all, Your Honor.

14 THE COURT: Go ahead. Go ahead and finish your
15 statement.

16 A. He brought them back in and asked them did anything
17 she do or say -- did you notice anything that would
18 affect your decision. You have the twelve jurors and two
19 alternates. Two people were affected. One was removed,
20 and one was put in. He couldn't use one of the other
21 alternates because they're affected. How can you say any
22 of the other jurors weren't affected? If those are
23 affected, they're all affected. It affected everyone in
24 that courtroom. You can't tell me what those other
25 jurors weren't thinking.

1 When I got to the appeal level, they said they
2 couldn't even view the issue. The solicitor's saying
3 they didn't address that issue. Nobody's addressed that
4 issue. Their excuse for not addressing that issue is
5 that it wasn't properly preserved. They're saying the
6 attorneys failed to object to the judge's remedies, the
7 polling. That that wasn't good enough. I don't know
8 anything about that. But I just know it wasn't right.
9 That doesn't make any sense to me is why -- how you can
10 have something like -- first of all, the attorneys didn't
11 even present me at all. They didn't even ---

12 THE COURT: I've got the issue. Go ahead.

13 CROSS-EXAMINATION

14 BY MR. WHITMIRE:

15 Q. Mr. Mahaffey, do you recall one of your three
16 attorneys reviewing Dr. Woodard, the pathologist's report
17 with you?

18 A. Who?

19 Q. Dr. Woodard, the pathologist who testified regarding
20 Mr. Cox's death. Did any of your ---

21 A. You're talking about the medical examiner?

22 Q. Yes.

23 A. When they finally give me a motion, I remember
24 seeing a piece of paper. They didn't go over it with me,
25 no.

1 Q. Didn't Dr. Woodard testify at trial that Mr. Cox had
2 no defensive wounds on him?

3 A. Had what?

4 Q. Had no defensive wounds on him?

5 MR. WHITMIRE: Page 123, Your Honor.

6 A. These were things that goes for days. This is back
7 and forth for days. I'm not talking about the night of
8 the murder. He'd just gotten out of jail and going to
9 court. He was convicted of the assault before that.

10 Q. Thank you, Mr. Mahaffey.

11 THE COURT: Let me stop you for a second.

12 Here's the way we're going to do this. Listen to the
13 question. Answer the question being asked. If you need
14 to explain it, if your explanation rationally goes to the
15 question being asked, you may do so. But you can't sit
16 there and editorialize, okay, sir?

17 All right. Go ahead.

18 MR. WHITMIRE: Page 118, Your Honor.

19 Q. Didn't Dr. Woodard say that Mr. Cox had been shot
20 eight times?

21 A. I think so. I wasn't sure how many times it was
22 until the attorney told me.

23 Q. And it's your contention today that your three
24 attorneys, none of them reviewed the autopsy report of
25 Dr. Woodard's findings with you?

1 A. Yes. Not with me. I'm sure they did with each
2 other. All they gave me was a piece of paper when I was
3 at the jail.

4 Q. Mr. Mahaffey, didn't you tell other people that
5 you'd committed this crime besides Detective Reeves?

6 A. What do you mean?

7 Q. Didn't you confess to Jamie Mahaffey?

8 A. No. I mean, how would I confess to the killer? She
9 knows what was going -- she's the one that told me where
10 the gun went to.

11 MR. WHITMIRE: Your Honor, page 559 through
12 570.

13 Q. And didn't one of your cell mates in Anderson County
14 testify that you had confessed to him also?

15 A. The one that I had never met, yes. Someone I never
16 seen before they put in the courtroom saying that I had
17 talked to him. But I ain't never seen him before.

18 MR. WHITMIRE: It's 456. And correct me, Your
19 Honor. Jamie Mahaffey's testimony is 393.

20 THE COURT: 393?

21 MR. WHITMIRE: Yes, sir.

22 Q. And didn't you write Jamie Mahaffey numerous letters
23 when you were awaiting your trial?

24 A. Yes. We wrote back and forth. I thought it was odd
25 that they didn't show her letters.

1 Q. Do you recall writing a letter trying to purchase an
2 alibi?

3 A. No.

4 Q. So that's ---

5 MR. WHITMIRE: On page 402, Your Honor.

6 A. There's a mixture of the letters. I tried to get my
7 attorneys to show those to me. I never had access to
8 them. There was a mixture of colors -- see, we only buy
9 yellow paper in the county jail. And there was like
10 regular white pieces of notebook paper. I tied to -- I
11 nudged the attorney. I was like, I want to look over
12 those. I want to see those, see those other papers
13 because she had forged my name on numerous things before.
14 She took car titles ---

15 THE WITNESS: Can I explain this? Can I
16 explain it?

17 THE COURT: I'm sorry. What did you say?

18 THE WITNESS: That she had written stuff from
19 me before. And so then I started thinking -- and she
20 added letters, added pages to these letters.

21 Q. Mr. Mahaffey, didn't Ms. White ---

22 THE WITNESS: But they wouldn't ---

23 Q. --- bring that out on her cross-examination of Jamie
24 Mahaffey?

25 A. Well, I tried to get them to check that, but the

1 attorney wouldn't act. They said, oh, that's not
2 relevant. But I wanted them to check ---

3 Q. Regarding the forgeries that you alleged, didn't Ms.
4 White vigorously bring it up?

5 A. You have copies of documents that I could not
6 properly ---

7 Q. Mr. Mahaffey, just please answer my question yes or
8 no?

9 A. You have documents that came to you through sources
10 ---

11 Q. Thank you, Mr. Mahaffey. And wasn't your cell phone
12 used very close to that Olive Garden location where Mr.
13 Cox was murdered?

14 A. Within five miles of -- within five miles which is
15 also within my house range of the tower.

16 MR. WHITMIRE: Page 304, Your Honor.

17 THE COURT: What page?

18 MR. WHITMIRE: 304.

19 A. Because you've already established the ---

20 Q. Thank you, Mr. Mahaffey.

21 MR. WHITMIRE: Beg the Court's indulgence.

22 Q. Do you recall seeing Mr. Cox's mother holding that
23 picture up?

24 THE COURT: He said he didn't see it.

25 Q. Didn't see it?

1 MR. WHITMIRE: I beg the Court's indulgence for
2 just one moment.

3 THE COURT: Yes, sir.

4 THE WITNESS: Your Honor, I apologize. I just
5 don't -- I don't like giving half answers and half
6 truths.

7 THE COURT: I'm sorry.

8 THE WITNESS: I said I apologize for the over-
9 speak, because I ---

10 THE COURT: That's all right. That's all
11 right.

12 MR. WHITMIRE: One moment, Your Honor.

13 Q. Mr. Mahaffey, do you recall testifying in any
14 Anderson County trials after you were convicted?

15 A. For the -- are you talking about after -- like once
16 I was sent to prison?

17 Q. Coming back here testifying in trials?

18 A. Yes.

19 Q. Whose trial was that?

20 A. It was another murder suspect that had told me where
21 he'd put the shotgun. And I helped out your office by
22 telling them where that was. And you found it because it
23 was pretty much in the same spot.

24 Q. Thank you, Mr. Mahaffey.

25 MR. WHITMIRE: Your Honor, if you'd take

1 judicial notice of State v. Scott, September 10th, 2008.

2 May I approach, Your Honor?

3 THE COURT: Yes, sir.

4 Q. Mr. Mahaffey, I'd like you to read lines 18 through
5 24 of this transcript.

6 A. Yeah, I get what you're trying to misconstrue this
7 as.

8 Q. Can you just read it?

9 THE COURT: Read what it says, Mr. Mahaffey.

10 Q. For the record.

11 A. They'd basically asked me where it was. Where ---

12 THE COURT: Do me a favor. Would you get it
13 and publish it for the record, please, sir?

14 MR. WHITMIRE: Okay.

15 THE WITNESS: I was just trying to put this in
16 context.

17 THE COURT: That's all right. Just go ahead
18 and do that, please, right now.

19 THE WITNESS: Okay.

20 MR. WHITMIRE: Yes, Your Honor.

21 A. They're asking me here ---

22 THE COURT: No, sir. Stop.

23 THE WITNESS: Okay.

24 THE COURT: Get it. And I want you to publish
25 it for the record.

1 MR. WHITMIRE: State's Exhibit -- State's
2 Exhibit 1.

3 THE COURT: Publish it, meaning read it for the
4 record, too.

5 THE WITNESS: Your Honor?

6 Q. Mr. Mahaffey, does this sound correct on line 18
7 during Mr. Scott's trial? "Yes. And the reason that
8 kind of stuck in my head was because that was also the
9 same place where my weapon was. So I was naturally kind
10 of worried at that time, you know, because if he tells me
11 where his is or something, they're going to find mine
12 then because it was exactly -- from the way he described
13 it, it was exactly the same spot."

14 THE COURT: Okay.

15 MR. WHITMIRE: Your Honor, if I could mark this
16 as State's Exhibit 1?

17 THE COURT: Any objection to that coming in as
18 an exhibit?

19 MR. WELBORN: No, sir. It's part of the
20 transcript.

21 THE COURT: Admitted without objection.

22 (WHEREUPON, State's Exhibit Number 1 was marked and
23 admitted into evidence.)

24 MR. WHITMIRE: No further questions, Your
25 Honor.

1 THE COURT: All right. Redirect?

2 MR. WELBORN: No, sir.

3 THE COURT: Thank you, sir. You may step down.

4 Next witness?

5 MR. WELBORN: May it please the Court. We call

6 Druanne White.

7 (WHEREUPON, the witness was duly sworn.)

8 MR. WELBORN: May it please the Court?

9 THE COURT: Yes, sir.

10 **DRUANNE WHITE,**

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 DIRECT EXAMINATION

13 BY MR. WELBORN:

14 Q. Ms. White, you were a former solicitor here for
15 about twenty years; is that correct?

16 A. Around that.

17 Q. And now you're in private practice as a criminal
18 lawyer?

19 A. I am.

20 Q. And you've been practicing law roughly for how many
21 years?

22 A. I graduated from law school in '84, took the bar. I
23 think back then they swore us in in January. So '84,
24 '85, somewhere in there.

25 Q. And your practice consists mainly of family court

1 and criminal law; is that correct?

2 A. Primarily.

3 Q. And did you have occasion then to become the
4 attorney for Mr. Mahaffey?

5 A. I did.

6 Q. And how did that happen?

7 A. I was sitting in my office, and I got a call from
8 Judge Nicholson. Apparently, there had been some
9 dissension with his counsel, and there had been some
10 family court hearing where the Defendant had allegedly
11 attacked a bailiff or something. And I think Judge
12 Nicholson pretty much indicated to me he'd pretty much
13 had it, and he wanted me appointed to the case. So he
14 told me in that phone call -- I don't remember the exact
15 time frame. But I just remember the trial was like a
16 month later. And he said, you're going to be appointed,
17 and you're not going to get a continuance. So I don't
18 know. This -- I don't know many days it was. In fact,
19 in my mind, I was thinking it was about thirty days, but
20 it may have been a little more.

21 Q. So there was no continuance?

22 A. There was no continuance. But in all honesty, if I
23 had thirty years, it wouldn't have changed the result of
24 this. I mean, really and truly, it wouldn't have.

25 Q. Tell the Court the efforts you went to to represent

1 Mr. Mahaffey.

2 A. Well, of course, we, you know, immediately jumped on
3 the case. And the problem, the issue -- I mean,
4 honestly, if he had never written or never talked or
5 never done any of that with the police -- and you know,
6 they record all the calls, of course, out at the jail.
7 If he had just -- he had just made all of these phone
8 calls that were recorded, trying to get people to alibi
9 him and offered to pay money and written letters like
10 this. And of course, given written statements to the
11 police. Honestly, if he'd kept his mouth shut and never
12 said a word, he would have had a great shot at this. But
13 unfortunately, his worst enemy was himself.

14 Q. Did you do everything he asked you to do?

15 A. As far as I know.

16 Q. Did he tell you at any point in time, I want you to
17 do this and you said, no, we're not going to do that?

18 A. I mean, I cannot say under oath that I didn't do
19 that because, honestly, if he'd come up with some crazy
20 thing, I would have said absolutely not. I mean, for
21 instance, I made it very clear in the beginning there
22 wasn't going to be any more yelling in court. There
23 weren't going to be any attacks. There was going to be
24 yes, ma'am, no, ma'am, yes, sir, no, sir, in the
25 courtroom. There wasn't going to be any more of this

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1 drama. So I mean, yeah, I probably told him, no, we're
2 not doing that. Or were not going to act that way or
3 something. But if he wanted me to investigate something,
4 I would have done it. We were just so limited in this
5 case because the evidence was just overwhelming.

6 Q. Ms. White, as a criminal defense attorney, you have
7 won several criminal cases on murder; isn't that correct?

8 A. That's correct.

9 Q. Did you prepare for this one like you did for those
10 you won?

11 A. Absolutely.

12 Q. Thank you.

13 A. We just didn't really have a viable defense. We
14 were left with not much of a viable defense.

15 Q. Thank you. Answer anything opposing counsel may
16 have.

17 MR. WHITMIRE: Nothing, Your Honor.

18 Thank you, Ms. White.

19 THE COURT: May she be excused?

20 MR. WHITMIRE: Thank you, Your Honor. We'd ask
21 that Ms. White be excused.

22 THE COURT: Any objection?

23 MR. WELBORN: No objection.

24 THE COURT: Thank you.

25 You may call your next witness, please.

1 MR. WELBORN: Scott Thomason.

2 (WHEREUPON, the witness was duly sworn.)

3 MR. WELBORN: May it please the Court.

4 THE COURT: Yes, sir.

5 SCOTT THOMASON,

6 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

7 DIRECT EXAMINATION

8 BY MR. WELBORN:

9 Q. Mr. Thomason, what's your role in this case or what
10 was it?

11 A. Well, let me just sum it up like this. I have
12 always admired Robert Gamble. And there was nothing more
13 that I enjoyed than going to court with him and sitting
14 in with him on his trials. I would go so far as to say I
15 think of him as a second daddy to me. And as I said, in
16 on a lot of his murder cases, his big cases, I would go
17 to court with him.

18 In this particular case, I was basically the
19 designated coattail tugger. I sat between Mr. Mahaffey
20 and Druanne and Robert. And if Mr. Mahaffey had a
21 comment that he wanted to make or a question that he
22 wanted to ask, he would tug on my coattail and ask me,
23 and then I would relay that information to them.

24 I did not ask a single question during the entire
25 case. I tried to participate in a limited way as far as

1 if they needed something fetched or they needed me to --
2 you know, offer any opinions or bounce anything off of
3 me, I did that. But that was -- my role in this case was
4 extremely limited.

5 Q. But you were involved by simply being at the defense
6 table and aware of all of the evidence?

7 A. Yes, sir.

8 Q. Is that correct?

9 A. Yes, sir.

10 Q. And for the record, you are a public defender and
11 have been for a number of years here; is that correct?

12 A. That's right.

13 Q. Okay. Did Mr. Mahaffey ask you to do anything in
14 this case personally? Do you recall?

15 A. I don't believe he did.

16 Q. Okay. Now, if he had asked you to do something,
17 would you have tried to follow to the best that you could
18 have?

19 A. What I would have done is I would have gone to Mr.
20 Robert Gamble. And I would have said, Mr. Mahaffey has
21 asked me to do this on his behalf. What do you want me
22 to do?

23 Q. And you were at the defense table during this entire
24 trial; is that correct?

25 A. Yes, sir, I believe I was.

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Closing Remarks

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1 Q. Okay. Thank you. Answer anything opposing counsel
2 may have.

3 MR. WHITMIRE: No questions. Thank you, Mr.
4 Thomason.

5 THE COURT: May Mr. Thomason be excused?

6 MR. WELBORN: Yes.

7 THE WITNESS: Thank you, sir.

8 THE COURT: Next witness, please?

9 MR. WELBORN: If the Court will bear with me?

10 THE COURT: Yes, sir.

11 MR. WELBORN: That's our case, Your Honor.

12 THE COURT: All right.

13 MR. WHITMIRE: Your Honor, the State rests.

14 We'd like an opportunity to make a brief closing argument
15 on the jury issue.

16 THE COURT: Okay. I'll be glad to hear from
17 you.

18 MR. WHITMIRE: Your Honor, State v. Anderson's
19 directly on point. And that's 322 S.C. 89. In Anderson,
20 the victim's sister identified him in front of the jury
21 and asked him why he committed the murder. The Supreme
22 Court determined that that did not warrant a mistrial.
23 The court actually stated the outburst was in large part
24 an expression of grief at the death of the victim, and
25 the jury would understand it as that.

1 Even if Judge Nicholson did not take the
2 extraordinary jury instruction -- measure that he did by
3 dismissing the one juror who inferred that picture to be
4 that of the victim, the actions in this case don't even
5 rise to those in Anderson. I believe Ms. Brown's appeal
6 addresses it much more forward.

7 But that's it, Your Honor. The State believes that
8 Mr. Mahaffey's not met his burden.

9 THE COURT: What's the cite on the Anderson
10 case?

11 MR. WHITMIRE: Your Honor, it is 322 S.C. 89.

12 THE COURT: All right.

13 Mr. Welborn, anything you want to add?

14 MR. WELBORN: Your Honor, you've heard the
15 evidence in this post-conviction relief hearing. I think
16 it's sufficient that my client has met his burden of
17 proof, and I'd ask that you allow him to be granted a new
18 trial.

19 THE COURT: Thank you. As to perceived issues,
20 there's no evidence whatsoever of a plea offer. So to
21 the extent that counsel failed to allow the Defendant to
22 plead guilty, that is denied. There's no evidence of
23 that whatsoever.

24 To the extent that Mr. Mahaffey is alleging that
25 there was a breach of attorney's duty to zealously

1 represent on his behalf, is what I understood him to say,
2 that is denied. It's not cognizable in the Post-
3 conviction Relief Act.

4 The only other issue that I have -- and I wanted to
5 make sure that we're all on board -- is the failure to
6 renew your motion for a mistrial based on the showing of
7 the victim's picture by the family member. Okay. I am
8 going to take that under advisement. I'm going to read
9 Anderson. I will give you my decision once I do. Okay?

10 MR. WHITMIRE: And Your Honor, the packet
11 should contain all the appellate records from Appellate
12 Defense, my office, and also the Court of Appeals'
13 decision.

14 THE COURT: All right. Thank you.

15 Thank you, Mr. Mahaffey.

16 MR. WHITMIRE: Thank you, Your Honor.

17 (WHEREUPON, the hearing ended at approximately 11:04
18 a.m.)

19 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

1 CERTIFICATE OF REPORTER

2 I, the undersigned Renee H. Tollison, Official Court
3 Reporter for the Tenth Judicial Circuit of the State of
4 South Carolina, do hereby certify that the foregoing is a
5 true, accurate, and complete transcript of record of all
6 the proceedings had and evidence introduced in the
7 trial/hearing of the captioned case, relative to appeal,
8 in the Circuit Court for Anderson County, South Carolina,
9 on the 18th day of September 2013.

10 This transcript may contain quoted material. Such
11 material is reproduced as read by the speaker.

12 I do further certify that I am neither of kin,
13 counsel, nor interest to any party hereto.

14 February 4, 2014

15 Renee H. Tollison
16

17 Circuit Court Reporter

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 COUNTY OF ANDERSON ANDERSON SC FOR THE TENTH JUDICIAL CIRCUIT

2013 DEC -3

A 9 32

Case No. 2012-CP-04-1524

Johnny Earl Mahaffey,
 S.C.D.C. No. 323863,

COMMON PLEAS AND
 GENERAL SESSIONS

Applicant,

v.

ORDER OF DISMISSAL

A TRUE COPY

DEC - 3 2013

Robert X. Kiley
 CLERK OF COURT

State of South Carolina,

Respondent.

~~This matter comes to the Court by way of an Application for Post Conviction Relief filed~~

April 20, 2012. The Respondent filed its Return. An evidentiary hearing into the matter was scheduled on September 18, 2013 at the Anderson County Courthouse. Applicant was present and was represented by Hugh Welborn, Esq., and Respondent was represented by Walt Whitmire, Esq., of the Office of the Attorney General. Applicant's three trial attorneys testified at the hearing.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Anderson County Clerk of Court. Applicant was indicted at the November 2006 term of the Anderson County Grand Jury for murder (2006-GS-04-3508) and possession of a firearm during the commission of a violent crime (2006-GS-04-3508). Applicant was represented by Robert Gamble, Esq. "counsel," Druanne White, Esq. "co-counsel" and Scott Thomason, Esq. On September 4-7, 2006 the Applicant proceeded to trial and was found guilty. The Honorable J.C. Nicholson sentenced the Applicant to life imprisonment for murder and five years imprisonment for the weapons offense. The sentences were to be served concurrently.

The Applicant filed a timely notice of appeal. The South Carolina Court of Appeals affirmed his conviction by written order filed November 7, 2011. State v. Mahaffey, Op. No. 2011-UP-494 (S.C. Ct. App. Filed November 7, 2011). Applicant proceeded on the following allegations at his PCR hearing:

1. Ineffective Assistance of Counsel
 - a) failure to investigate
 - b) failure to obtain plea offer
 - c) failure to renew motion for mistrial

SUMMARY OF TESTIMONY

At the hearing, Applicant testified counsel did not consult him in preparation nor gave him a copy of discovery. Applicant claimed his attorneys neglected to investigate his past history of animosity with the victim. Applicant testified that if counsel's representation was adequate, then the state would have made a favorable plea offer to thirty years imprisonment. Last, Applicant testified he was precluded full appellate review because his attorneys failed to renew the motion for mistrial based on misconduct from the gallery during the trial.

At the hearing, counsel testified he met with Applicant on numerous occasions prior to trial and that Applicant was difficult client. Counsel pleaded with Applicant to refrain from waiving his Sixth Amendment right to have counsel in seeking out the police for post-arrest interviews. However, Applicant sought out Detective Reeves on three occasions to discuss the murder. On the third occasions Applicant unambiguously waived his right to counsel and told the Detective that he did not want counsel present. As a result of the interview with the Detective, Applicant gave a three page statement where he confessed to the murder and provided the exact location of where he hid the Counsel testified the statement "killed him." Prior to the statement and discovery of the murder weapon, counsel testified the State's case against Applicant was circumstantial. Counsel testified Applicant continued to hurt his defense. While in pre-trial

detention, the State obtained evidence of Applicant's attempts to purchase an alibi witness. Applicant further made numerous inculpatory phone calls to his wife while in detention. Close to the trial date, Applicant moved to have counsel relieved and specifically requested to have Druanne White appointed on his case. The motion hearing judge partially granted the motion and by appointing White as co-counsel. Counsel's theory of the case was reevaluated in light of Applicant's direct and incidental pre-trial admissions. The attorneys made strategic decisions in light of Applicant's conduct. Counsel made efforts to enter plea negotiation that were rejected by the solicitor. Last, counsel testified he never noticed the gallery member, the victim's mother, holding a picture up a picture of the victim during co-counsel's closing argument. Counsel

recalled the trial judge dismissing the two jurors who noticed the picture after conducting separate voir dire of each juror on the panel. Counsel thought the trial judge's denial of the motion for mistrial was preserved for appellate review.

Co-counsel testified at the PCR hearing. Co-counsel testified she was appointed one month prior to trial. Co-counsel testified the motion hearing judge "had it" with Applicant's behavior after he attacked a bailiff. Co-counsel reviewed the State's evidence and did everything Applicant asked of her. Co-counsel testified if Applicant desired any additional investigation, she would have done it. Co-counsel testified the State's evidence of Applicant's guilt was overwhelming. Applicant wrote numerous inculpatory letters, made inculpatory phone calls, and gave a full confession. Co-counsel testified Applicant's worst enemy was himself.

Scott Thomason testified at the PCR hearing. Thomason testified he would sit second chair to counsel in trials that involved serious offenses. Thomason noted his role was to facilitate communication between Applicant and the two primary attorneys during the trial. Thomason

testified he relayed Applicant's communications to counsel. Thomason testified Applicant did not ask him to do anything during the trial.

APPLICABLE LAW

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, (1984); Butler, 286 S.C. at 441, 334 S.E.2d at 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. at 668, 104 S.Ct. at 2064. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland, *supra*. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court reviewed the Clerk of Court's records regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, the transcripts and exhibits from the prior proceedings, and, and legal arguments of counsel. Pursuant to S.C. Code Ann. §17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

I.

This Court denied Applicant's pro se motion to relieve counsel and pro se motion for a continuance. PCR counsel apprised this Court of his prior communications with Applicant. Respondent further apprised this Court of the case hearing of this Action. This Court finds PCR counsel has a wealth of experience in PCR actions and was prepared to present the merits Applicant's claims at the hearing.

As a matter of general impression, Applicant's testimony was entirely lacking of credibility in comparison to the very credible testimonies provided by his three attorneys. This Court notes Applicant was provided the unusual benefit of being represented by two of the most experienced criminal trial attorneys in this Circuit. In denying and dismissing this Application, this Court further notes the importance of considering a criminal defendant's conduct in evaluating an attorney's representation under Strickland's deficiency prong. See Strickland, 466 U.S. at 691. ("The reasonableness of counsel's actions may be determined or substantially influenced by the defendant's own statements or actions."). Here, the record shows that Applicant on numerous occasions elected to ignore the competent advice of counsel to his own detriment.

A.

This Court finds Applicant has failed to meet his burden to prove his attorneys were ineffective for failing to investigate. In the course of representation, "counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." Strickland, 466 U.S. at 691. "Without a doubt, a criminal defense attorney has a duty to investigate, but this duty is limited to reasonable investigation." Ard v. Catoe, 372 S.C.

318, 331, 642 S.E.2d 590, 597 (2007) (citing Thompson v. Wainwright, 787 F.2d 1447, 1450

(11th Cir. 1986) (internal quotations and citations omitted)). Applicant testified his attorneys

declined to investigate evidence that showed the victim was the actual aggressor. Applicant

testified he purchased the handgun after the victim had attacked him. Applicant testified the

murder resulted from a love triangle and was not premeditated. However, this Court notes

contradictory testimony from Applicant that he confessed in order to protect his wife from

prosecution. Further Applicant stated he stated he was only guilty as an accessory. This Court

finds that the attorneys presented a valid theory of defense that influenced their strategic choices.

Furthermore, Applicant failed to produce witnesses or evidence at the hearing that would have mitigated the State's evidence of malice in the murder. "Failure to conduct an independent

investigation does not constitute ineffective assistance of counsel when the allegation is

supported only by mere speculation as to the result." Moorehead v. State, 329 S.C. 329, 496

S.E.2d 415 (1998) Applicant testified he desired his attorneys meet with unnamed witnesses but

unable to produce their addresses because they were in jail. See Glover v. State, 318 S.C. 496,

458 S.E.2d 538 (1995) (prejudice from trial counsel's failure to interview or call witnesses could

not be shown where the PCR applicant failed to introduce evidence of what the uncalled

witnesses' testimony would have been and an applicant's mere speculation what a witness'

testimony would have been cannot satisfy the applicant's burden of showing prejudice.). All three attorneys testified they would have conducted any additional investigation of facts had Applicant requested.

B.

This Court finds Applicant's allegation that counsel was ineffective for failing to obtain a plea offer is without merit. "Counsel, counsel has duty to communicate to defendant formal plea offers that may have favorable terms and conditions." Missouri v. Frye, __ U.S. __, 132 S.Ct. 1399 (2012). "A defendant does not have a constitutional right to plea bargain, a trial judge is not required to accept a plea bargain, and that ordinarily a plea offer is nothing more than an offer until it is accepted by the defendant by entering a court-approved plea of guilty." Custodio v. State, 373 S.C. 4, 10, 644 S.E.2d 36, 38-39 (2007). This Court finds counsel's testimony that the State never made a plea offer credible. Furthermore, Applicant produced no evidence that showed a plea offer existed. See Dempsey v. State, 363 S.C. 365, 370, 610 S.E.2d 812, 815 (2005) (Mere speculation cannot support a finding of prejudice.). Therefore, this allegation is denied and dismissed.

C.

This Court finds Applicant did not meet his burden to prove ineffective assistance of counsel for failing to preserve the motion for mistrial for appellate review. A defense attorney is not deficient where there is no legal or factual basis for an objection bottomed and premised. Brown v. State, 375 S.C. 464, 485, 652 S.E.2d 765, 776 (Ct. App. 2007). "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). "The granting or refusing of a motion for a mistrial lies within the sound

discretion of the trial court and its ruling will not be disturbed on appeal absent an abuse of discretion amounting to an error of law." This Court finds a motion for a mistrial was not warranted where the trial judge employed extraordinary remedial measures to cure any taint from the gallery member holding a small picture of the victim during the jury charge. Co-counsel made a motion for a mistrial outside the presence of the jury after noticing the victim's mother holding an unidentified and innocuous picture of the victim. This Court finds the trial judge acted soundly within his discretion in denying the motion for a mistrial. This Court further finds there was no evidence of State misconduct in an incident that was not inherently prejudicial. All officers of the Court were questioned by the trial judge. Only co-counsel saw the photograph.

The gallery member sat on the second row some twenty feet from the jury box and held a small photograph to her chest during the jury charge. (Trial Tr. p.679). Subsequently, the trial judge carefully questioned each juror individually regarding the brief incident. (Trial Tr. pp.671-679). Juror number 72, number 58, and one alternate juror noticed the picture. The trial judge dismissed the only juror number 58 who assumed the picture was of the victim. This Court notes the trial judge was in the best position to determine the credibility of the jurors. See State v. Harris, 340 S.C. 59, 63, 530 S.E.2d 626, 628 (2000).

This Court further notes the trial judge's ruling was supported by the record which shows: picture was innocuously held only near the spectator's chest; the podium blocked some of the jurors from seeing the spectator in gallery; none of the attorneys except co-counsel noticed the indictment. This Court notes the present scenario was substantial more harmless than the incident that occurred at trial in State v. Anderson, where the South Carolina Supreme Court held a mistrial was not merited. See State v. Anderson, 322 S.C. 89, 91-92, 470 S.E.2d 103, 105 (1996). Therefore, this allegation is denied and dismissed.

II.

This Court finds Applicant also failed the second prong of Strickland -- that he was prejudiced by the performance of his attorneys. This Court finds there was overwhelming evidence of Applicant's guilt for murder. "Overwhelming evidence of guilt negated any claim that counsel's deficient performance could have reasonably affected the result of defendant's trial." Franklin v. Catoe, 346 S.C. 563, 570, 552 S.E.2d 718, 722 n. 3 (2001). Applicant made a

~~detailed confession that led to the recovery of the gun he had intentionally hid from police.~~

~~Applicant additionally confessed to his wife and to fellow inmate at the Anderson County~~

~~Detention Center. Shell casings from the scene and bullets from the autopsy of the victim~~

~~matched the Applicant's gun. Applicant's cell phone records at the time of the murder showed use in close proximity of the scene. The State presented evidence of Applicant's attempts to destroy evidence and manufacture an alibi.~~

III.

Except as discussed above, this Court finds that the Applicant affirmatively abandons the remaining allegations set forth in his application at the hearing. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

CONCLUSION

Based on all the forgoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a notice of intent to appeal within thirty (30) days from receipt of this Order to secure the appropriate appellate review. See Rule

203, SCACR. Rule 71.1(g), SCRCP; Bray v. State, 336 S.C. 137, 620 S.E.2d 743 (2005), for the

obligation of Applicant's counsel to file and serve notice of appeal. The Applicant's attention is

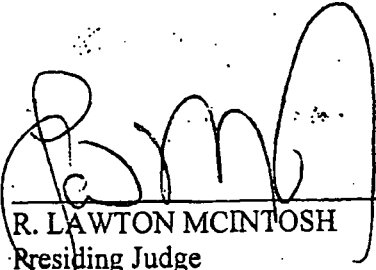
also directed to South Carolina Appellate Court Rule 243 for appropriate procedures after notice

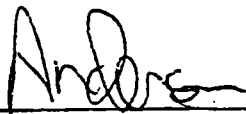
has been timely filed.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. Applicant must be remanded to the custody of Respondent

AND IT IS SO ORDERED this 26 day of NOV, 2013.


R. LAWTON MCINTOSH
Presiding Judge
Tenth Judicial Circuit



, South Carolina

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ANDERSON SC
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